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7-20-79
Vol. 44 No. 141
Pages 42653-42956

Test Report Federal Register

Friday
July 20, 1979

Highlights

- 42653 **Foreign Service Retirement and Disability System** Executive order
- 42655 **Federal Legal Resources** Executive order
- 42744 **School Breakfast Program** USDA/FNS sets the national average payment for 7-1 through 12-31-79; effective 7-1-79
- 42744 **School Lunch Programs** USDA/FNS adjusts the average payment for 7-1 through 12-31-79; effective 7-18-79
- 42743 **Child Care Food Program** USDA/FNS announces national average payment factors and food cost factors for 7-1 through 12-31-79; effective 7-1-79
- 42920 **Federally Funded Grants and Agreements** Labor adds new rules which provide minimum standards; effective 7-20-79 (Part V of this issue)
- 42745 **Nutrition Education** USDA/FNS announces School Breakfast Program expansion
- 42661 **Alternative Work Schedules** OPM requires establishment of a Master Plan containing guidelines and criteria; effective 7-20-79; comment by 9-18-79

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Highlights

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- 42719 Offshore Oil Pollution Compensation Fund** Treasury/IRS proposes rules for collecting fees for funding; comments and hearing requests by 9-17-79
- 42709 Sea Grant Colleges and Regional Consortia** Commerce/NOAA proposes guideline procedures; comments by 8-20-79
- 42681 Pooled Income Funds and Individual Trusts** Treasury/IRS finalizes rules regarding certain valuation dates; effective 7-31-69 and 12-31-78
- 42680 Tax Treatment** Treasury/IRS provides regulations on certain option income of exempt organizations
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- 42755 Subsidization of Motor Fuel Marketing** DOE solicits comments concerning the study until 10-5-79
- 42677 Small-arms Ammunition** CPSC deletes labeling requirements; effective 7-20-79
- 42683 Labor Disputes** Federal Mediation and Conciliation Service provides options to parties connected with the statutory Board of Inquiry fact-finding procedure; effective 8-1-79
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Executive Order 12145 of July 18, 1979

The President

Foreign Service Retirement and Disability System

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 805 of the Foreign Service Act of 1946, as added by Section 503 of Public Law 94-350 (90 Stat. 835; 22 U.S.C. 1065), in order to conform the Foreign Service Retirement and Disability System to certain amendments to the Civil Service Retirement and Disability System, it is hereby ordered as follows:

1-101. (a) The enactment (after January 1, 1974) of certain laws has affected a number of provisions of general applicability in the Civil Service Retirement and Disability System (subchapter III, Chapter 83 of Title 5 of the United States Code) or otherwise affected current or former participants, annuitants, or survivors under that System which, immediately prior to the enactment of such laws, had been substantially identical to corresponding provisions of law affecting participants, former participants, annuitants or survivors under the Foreign Service Retirement and Disability System. Those laws are set forth at Annex I, attached hereto and made a part hereof.

(b) The provisions of the laws referred to in subsection (a) above are extended, as provided by Section 805 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1065), to the Foreign Service Retirement and Disability System in accordance with the provisions of this Order, which provisions shall modify, supersede, or render inapplicable all inconsistent prior provisions of law.

1-102. In accord with Section 1 of Public Law 93-260, Section 804(2) of the Foreign Service Act of 1946, as amended (22 U.S.C. 1064(2)), is deemed to be amended by striking out "two years" wherever it appears and inserting in lieu thereof "one year". This amendment shall apply only in the cases of participants, former participants, or annuitants who died on or after April 9, 1974 but no annuity shall be paid or recomputed, by virtue of this amendment, for any period prior to May 1, 1974.

1-103. In accord with Section 1(b) of Public Law 95-382, Section 811 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1071), shall be deemed to be amended to provide that, "No contribution shall be required for any period for which credit is allowed to persons of Japanese ancestry for being interned or otherwise detained during World War II, as described in Section 1(a) of Public Law 95-382."

1-104. In accord with Section 1 of Public Law 93-273, and notwithstanding any other provision of Section 821 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1076), said Section 821 shall be deemed to be amended to provide for the payment of a minimum annuity as set forth at Section 821-1 of Annex II attached hereto and made a part hereof.

1-105. In accord with Section 2 of Public Law 93-273, Section 821 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1076), shall be deemed to be amended to provide an increase in annuities, which have been computed on the highest five consecutive years of service, as set forth at Section 821-2 of Annex II, attached hereto and made a part hereof.

1-106. In accord with Sections 1(a) and 4 of Public Law 95-317, Section 821 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1076), shall be deemed to be amended to provide for the recomputation of annuities for nonmarried

annuitants as set forth at Section 821-3 of Annex II, attached hereto and made a part hereof.

1-107. (a) In accord with Section 1(c) of Public Law 95-317, the last sentence of Section 821(g) of the Foreign Service Act of 1946, as amended (22 U.S.C. 1076(g)), shall be deemed to be amended to read as follows: "The annuity reduction or recomputation shall be effective the first day of the first month beginning one year after the date of marriage."

(b) The amendment made by paragraph (a) above shall apply with respect to survivor elections received by the Secretary on or after October 1, 1978.

1-108. (a) In accord with Section 2 of Public Law 95-317, Section 821(f) of the Foreign Service Act of 1946, as amended (22 U.S.C. 1076(f)), shall be deemed to be amended by adding at the end thereof the following: "An annuity which is reduced under this subsection or any similar prior provisions of law shall, effective the first day of the month following the death of the beneficiary named under this subsection, be recomputed and paid as if the annuity had not been so reduced."

(b) The amendment made by paragraph (a) above shall apply with respect to annuities which commence before, on, or after October 1, 1978, but no monetary benefit by reason of such amendment shall accrue for any period before October 1, 1978.

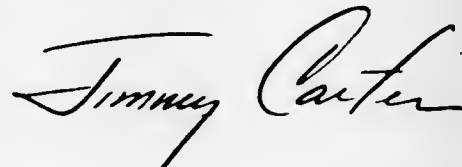
1-109. In accord with Section 3 of Public Law 95-317, Section 821 of the Foreign Service Act, as amended (22 U.S.C. 1076), shall be deemed to be amended to provide a requirement for annual notice to participants, as set forth at Section 821-4 of Annex II, attached hereto and made a part hereof.

1-110. In accord with subsection (c) and (d) of Section 2 of Public Law 95-382, Section 821 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1076), shall be deemed to be amended to provide World War II Internment annuity credit as set forth at Section 821-5 of Annex II, attached hereto and made a part hereof.

1-111. In accord with Sections 1(a) and 2(a) and (b) of Public Law 95-382, Section 851 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1091), shall be deemed to be amended to provide additional creditable service as set forth at Section 851-1 at Annex III attached hereto and made a part hereof.

1-112. In accord with Public Law 94-166 and Public Law 95-366, Section 864 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1104), shall be deemed to be amended to read as set forth at Annex IV, attached hereto and made a part hereof.

1-113. Because the provisions of Executive Order No. 11952 of January 7, 1977, have been incorporated into this Order or its Annexes, Executive Order No. 11952 is revoked.



THE WHITE HOUSE,
July 18, 1979.

ANNEX I

1-101. Section 1 of Public Law 93-260, approved April 9, 1974 (88 Stat. 76).

1-102. Public Law 93-273, approved April 28, 1974 (88 Stat. 93).

1-103. Public Law 94-166, approved December 23, 1975 (89 Stat. 1002).

1-104. Public Law 95-317, approved July 10, 1978 (92 Stat. 382).

1-105. Public Law 95-366, approved September 15, 1978 (92 Stat. 600).

1-106. Public Law 95-382, approved September 22, 1978 (92 Stat. 727).

ANNEX II

Section 821 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1076), shall be deemed to be amended to provide:

821-1. *Payment of Minimum Annuity.*

821-101. The monthly rate of an annuity payable, under Section 821 of the Foreign Service Act of 1946, as amended, to an annuitant, or to a survivor annuitant other than a child, shall not be less than the smallest primary insurance amount, including any cost of living increase added to that amount, authorized to be paid from time to time under Title II of the Social Security Act (42 U.S.C. 401 *et seq.*).

821-102. The monthly rate of an annuity payable, under said Section 821, to a surviving child shall not be less than the smallest primary insurance amount, including any cost of living increase added to that amount, authorized to be paid from time to time under Title II of the Social Security Act (42 U.S.C. 401 *et seq.*), or three times such primary insurance amount divided by the number of surviving children entitled to an annuity, whichever is the lesser.

821-103. The provisions of this Section 821-1 shall not apply to an annuitant or to a survivor who is or becomes entitled to receive from the United States an annuity or retired pay under any other civilian or military retirement system, benefits under Title II of the Social Security Act (42 U.S.C. 401 *et seq.*), a pension, veterans' compensation, or any other periodic payment of a similar nature, when the monthly rate thereof is equal to or greater than the smallest primary insurance amount, including any cost of living increase added to that amount, authorized to be paid from time to time under Title II of the Social Security Act (42 U.S.C. 401 *et seq.*).

821-104. The provisions of this Section 821-1 apply to all annuities, whether commenced before, on, or after August 1, 1974, but no increase in any annuity shall be paid or recomputed under this subsection for any period prior to August 1, 1974.

821-2. *Increase in Annuities.*

821-201. An annuity payable to a former participant which is based on a separation occurring prior to October 20, 1969, is increased by \$240.00.

821-202. In lieu of any increase based on an increase under subsection 201, an annuity to the surviving spouse of a participant or annuitant which is based on a separation occurring prior to October 20, 1969, is increased by \$132.00.

821-203. The provisions of this Section 821-2 shall not apply to annuities payable under Section 523(c) of Public Law 94-350 (90 Stat. 847, 22 U.S.C. 1076 note), or any similar prior provision of law, to the surviving spouse of a participant or annuitant.

821-204. The monthly rate of an annuity resulting from an increase under this Section 821-2 shall be considered as the monthly rate of annuity payable under Section 821 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1076), for purposes of computing the minimum annuity as provided in Section 821-1 of this Annex.

821-205. The provisions of this subsection apply to all annuities, whether commenced before, on, or after August 1, 1974, but no increase in any annuity shall be paid or recomputed under this Section 821-2 for any period prior to August 1, 1974.

821-3. *Recomputation of Annuities for Nonmarried Annuitants.*

821-301. An annuity which is reduced under Section 821(b)(1) of the Foreign Service Act of 1946, as amended (22 U.S.C. 1076 (b)(1)), or any similar prior provision of law shall, for each full month during which a retired participant is not married (or is remarried if there is no election in effect under the following sentence), be recomputed and paid as if the annuity had not been so reduced. Upon remarriage the retired participant may irrevocably elect during such marriage, in a signed writing received in the Department of State within one year after such remarriage, a reduction in the participant's annuity for the purpose of allowing an annuity for the participant's spouse in the event such spouse survives the participant. Such reduction shall be equal to the reduction in effect immediately before the dissolution of the previous marriage, and shall be effective the first day of the first month beginning one year after the date of the remarriage.

821-302. Except as provided in subsection 303 below, the provisions of subsection 301 above shall apply with respect to annuities which commence before, on, or after October 1, 1978, but no monetary benefit by reason of such provision shall accrue for any period before October 1, 1978.

821-303. The provisions in subsection 301 above shall not affect the eligibility of any individual to a survivor annuity under Section 821 of the Foreign Service Act of 1946, as amended, or the reduction therefor, in the case of an annuitant who remarried before October 1, 1978, unless the annuitant notifies the Department of State in a signed writing received in the Department within one year after October 1, 1978, that such annuitant does not desire the spouse of the annuitant to receive a survivor annuity in the event of the annuitant's death. Such notification shall take effect the first day of the first month after it is received in the Department.

821-4. *Annual Notice to Participants.*

The Secretary shall, on an annual basis, inform each participant of such participant's right of election under Section 821-3 of this Annex and under Section 821(g) of the Foreign Service Act of 1946, as amended by Section 1-107 of this Executive Order.

821-5. *World War II Internment Annuity Credit.*

821-501. An annuity or survivor annuity based upon the service of a participant who is of Japanese ancestry and who was interned or otherwise detained during World War II, as described in Section 851-1 of Annex III of this Executive Order, shall, upon application to the

Secretary, be recomputed to provide creditable service for such period of internment or detention, as provided in that Section 851-1 of Annex III of this Executive Order. Any such recomputation of an annuity shall apply with respect to months beginning more than 30 days after the date on which application for such recomputation is received by the Secretary.

821-502. The Secretary shall take such action as may be necessary and appropriate to inform individuals entitled to have any service credited by reason of internment or detention, or to have any annuity recomputed under this subsection of their entitlement to such credit or recomputation.

821-503. The Secretary shall, on request, assist any individual referred to in this Section 821-5 in obtaining from any department, agency or other instrumentality of the United States, such information possessed by such instrumentality as may be necessary to verify the entitlement of such individual to have any service credited by reason of internment or detention or to have any annuity recomputed under this Section.

821-504. Any department, agency, or other instrumentality of the United States which possesses any information with respect to any such internment or other detention of any participant shall, at the request of the Secretary, furnish such information to the Secretary.

ANNEX III

Section 851 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1091), shall be deemed to be amended to provide:

851-1. Additional Creditable Service.

851-101. A participant who is of Japanese ancestry and who, while a citizen of the United States or an alien lawfully admitted to the United States for permanent residence, was interned or otherwise detained at any time during World War II in any camp, installation, or other facility in the United States, or in any territory or possession of the United States, under any policy or program of the United States respecting individuals of Japanese ancestry which was established during World War II in the interests of national security pursuant to:

(A) Executive Order Numbered 9066, dated February 19, 1942;

(B) Section 67 of the Act entitled 'An Act to provide a government for the Territory of Hawaii', approved April 30, 1900 (chapter 339, Fifth-sixth Congress; 31 Stat. 153);

(C) Executive Order Numbered 9489, dated October 18, 1944;

(D) Sections 4067 through 4070 of the Revised Statutes of the United States; or

(E) Any other statute, rule, regulation, or order, shall be allowed credit (as civilian service) for any period during which such participant was so interned or otherwise detained after such employee became 18 years of age.

851-102. For the purpose of this Section 851-1, 'World War II' means the period beginning on December 7, 1941, and ending on December 31, 1946.

851-103. The provisions of this Section 851-1 shall apply with respect to annuities which commence before, on, or after October 1, 1978, but no monetary benefit by reason of such amendments shall accrue for any period before October 1, 1978.

ANNEX IV

Section 864 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1104), shall be deemed to be amended to read:

Sec. 864(a) An individual entitled to an annuity from the Fund may make allotments or assignments of amounts from such annuity for such purposes as the Secretary in his sole discretion considers appropriate.

(b)(1) Payments under this title which would otherwise be made to a participant or annuitant based upon his service shall be paid (in whole or in part) by the Secretary to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

(2) Paragraph (1) shall only apply to payments made under this title after the date of receipt by the Secretary of written notice of such decree, order, or agreement, and such additional information and documentation as the Secretary may prescribe.

(3) As used in this subsection 'court' means any court of any State or the District of Columbia.

(c) None of the moneys mentioned in this title shall be assignable, either in law or equity, except under the provisions of subsections (a) and (b) of this Section, or Section 634(c), or subject to execution, levy, attachment, garnishment, or other legal process, except as otherwise may be provided by Federal laws.

Presidential Documents

Executive Order 12146 of July 18, 1979

Management of Federal Legal Resources

By the authority vested in me as President by the Constitution and statutes of the United States of America, it is hereby ordered as follows:

1.1. Establishment of the Federal Legal Council.

1-101. There is hereby established the Federal Legal Council, which shall be composed of the Attorney General and the representatives of not more than 15 other agencies. The agency representative shall be designated by the head of the agency.

1-102. The initial membership of the Council, in addition to the Attorney General, shall consist of representatives designated by the heads of the following agencies:

(a) The Department of Commerce.

(b) The Department of Defense.

(c) The Department of Energy.

(d) The Environmental Protection Agency.

(e) The Equal Employment Opportunity Commission.

(f) The Federal Trade Commission.

(g) The Department of Health, Education, and Welfare.

(h) The Interstate Commerce Commission.

(i) The Department of Labor.

(j) The National Labor Relations Board.

(k) The Securities and Exchange Commission.

(l) The Department of State.

(m) The Department of the Treasury.

(n) The United States Postal Service and

(o) the Veterans Administration.

1-103. The initial members of the Council shall serve for a term of two years. Thereafter, the agencies which compose the membership shall be designated annually by the Council and at least five positions on the Council, other than that held by the Attorney General, shall rotate annually.

1-104. In addition to the above members, the Directors of the Office of Management and Budget and the Office of Personnel Management, or their designees, shall be advisory members of the Council.

1-105. The Attorney General shall chair the Council and provide staff for its operation. Representatives of agencies that are not members of the Council may serve on or chair subcommittees of the Council.

1-2. Functions of the Council.

1-201. The Council shall promote:

(a) coordination and communication among Federal legal offices;

(b) improved management of Federal lawyers, associated support personnel, and information systems;

(c) improvements in the training provided to Federal lawyers;

(d) the facilitation of the personal donation of *pro bono* legal services by Federal attorneys;

(e) the use of joint or shared legal facilities in field offices; and

(f) the delegation of legal work to field offices.

1-202. The Council shall study and seek to resolve problems in the efficient and effective management of Federal legal resources that are beyond the capacity or authority of individual agencies to resolve.

1-203. The Council shall develop recommendations for legislation and other actions: (a) to increase the efficient and effective operation and management of Federal legal resources, including those matters specified in Section 1-201, and (b) to avoid inconsistent or unnecessary litigation by agencies.

1-3. *Litigation Notice System.*

1-301. The Attorney General shall establish and maintain a litigation notice system that provides timely information about all civil litigation pending in the courts in which the Federal Government is a party or has a significant interest.

1-302. The Attorney General shall issue rules to govern operation of the notice system. The rules shall include the following requirement:

(a) All agencies with authority to litigate cases in court shall promptly notify the Attorney General about those cases that fall in classes or categories designated from time to time by the Attorney General.

(b) The Attorney General shall provide all agencies reasonable access to the information collected in the litigation notice system.

1-4. *Resolution of Interagency Legal Disputes.*

1-401. Whenever two or more Executive agencies are unable to resolve a legal dispute between them, including the question of which has jurisdiction to administer a particular program or to regulate a particular activity, each agency is encouraged to submit the dispute to the Attorney General.

1-402. Whenever two or more Executive agencies whose heads serve at the pleasure of the President are unable to resolve such a legal dispute, the agencies shall submit the dispute to the Attorney General prior to proceeding in any court, except where there is specific statutory vesting of responsibility for a resolution elsewhere.

1-5. *Access to Legal Opinions.*

1-501. In addition to the disclosure now required by law, all agencies are encouraged to make available for public inspection and copying other opinions of their legal officers that are statements of policy or interpretation that have been adopted by the agency, unless the agency determines that disclosure would result in demonstrable harm.

1-502. All agencies are encouraged to make available on request other legal opinions, when the agency determines that disclosure would not be harmful.

1-6. *Automated Legal Research and Information Systems.*

1-601. The Attorney General, in coordination with the Secretary of Defense and other agency heads, shall provide for a computerized legal research system that will be available to all Federal law offices on a reimbursable basis. The system may include in its data base such Federal regulations, case briefs, and legal opinions, as the Attorney General deems appropriate.

1-602. The Federal Legal Council shall provide leadership for all Federal legal offices in establishing appropriate word processing and management information systems.

1-7. *Responsibilities of the Agencies.*

1-701. Each agency shall (a) review the management and operation of its legal activities and report in one year to the Federal Legal Council all steps being taken to improve those operations, and (b) cooperate with the Federal Legal Council and the Attorney General in the performance of the functions provided by this Order.

1-702. To the extent permitted by law, each agency shall furnish the Federal Legal Council and the Attorney General with reports, information and assistance as requested to carry out the provisions of this Order.

THE WHITE HOUSE,
July 18, 1979.

Jimmy Carter

[FR Doc. 79-22727
Filed 7-19-79; 10:40 am]
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Rules and Regulations

Federal Register

Vol. 44, No. 141

Friday, July 20, 1979

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 620

Alternative Work Schedules Experiment

AGENCY: Office of Personnel Management.

ACTION: Interim Master Plan for the Alternative Work Schedules Experimental Program (AWS).

SUMMARY: Pub. L. 95-390 (the "Federal Employees Flexible and Compressed Work Schedules Act of 1978") requires the Office of Personnel Management (OPM) to establish a Master Plan by June 27, 1979, containing the guidelines and criteria by which alternative work schedule experiments in the Federal Government will be evaluated. In order to comply with this statutory requirement, the interim Master Plan is published below.

DATE: Effective date: July 20, 1979 and until a final Master Plan is issued. Comment date: Written comments will be considered if received no later than September 17, 1979.

ADDRESS: Send written comments to Mr. Raymond C. Weissenborn, Director, Compensation Division, Office of Personnel Management, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Dr. Raymond J. Kirk (202) 632-5604.

SUPPLEMENTARY INFORMATION: Public Law 95-390 mandates a 3-year period of controlled experimentation with the use of flexible and compressed work schedules for employees of agencies in the executive branch of the Federal Government. The Office of Personnel Management is charged with the responsibility for establishing the program within which these experiments

will be conducted. Upon completion of the 3-year period, OPM must make a report to the President and the Congress containing recommendations concerning legislation or administrative actions which should be taken, if any, based upon the results of the experiments. The proposed interim Master Plan developed by OPM sets forth the guidelines and criteria by which the program will be directed.

Proposed OPM regulations for the Alternative-Work Schedules Experimental Program were published for comment in the Federal Register on May 22, 1979 (44 FR 29673).

Accordingly, the Office of Personnel Management is establishing an interim Master Plan, as set forth below:

Note.—The master plan will be reprinted as an appendix to 5 CFR Part 620 when Part 620 is adopted as a final rule.

Master Plan for the Alternative Work Schedules Experimental Program

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- III-C. Experimental Control.
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- III-E. Data Collection.
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- III-G. Reports.

Master Plan for the Alternative Work Schedules Experimental Program

The Federal Employees Flexible and Compressed Work Schedules Act of 1978 requires the Office of Personnel Management to establish a program to provide an adequate basis on which to evaluate the effectiveness of alternative work schedules. This Master Plan outlines the research questions, the

experimental design, the data collection procedures, and the analytic techniques which will be used for evaluating the impact of alternative work schedules on the Federal work force.

I. Background

A. General Introduction. The 5-day, 40-hour workweek with fixed starting and ending times has remained the dominant work schedule for the past 40 years. It is only in the past 12 years that organizations have begun to experiment with alternative work schedules, that is, work schedules which allow some flexibility in selection of starting times or which compress the workweek into some period shorter than the traditional 5 days.

The two general categories of alternative work schedules are flexitime and compressed workweeks. Flexitime is a schedule which allows an employee to vary, within constraints set by the organization, the times he or she reports for duty and departs from work. A compressed workweek is one which compresses the 40-hour workweek into less than 5 days, or alternatively the 80-hour biweekly pay period into less than 10 working days. The most common compressed workweek is four, 10-hour days.

In 1967, Messerschmitt-Boelhow-Blohm, an aerospace company in Munich, West Germany, became the first major industrial plant in the world to adopt a flexible working hours arrangement for its 2,000 employees. The impetus behind this first experiment with flexitime was the severe traffic bottleneck around the factory, caused by several thousand workers all starting and leaving work at the same time.

Within 15 months the experiment was judged a success, and flexitime was made permanent. At first slowly, and then later at an increasing pace, other European business firms began trying a variety of scheduling arrangements involving flexible hours.

Although first introduced in the United States in 1971, by 1977 there were an estimated 2.5 to 3.5 million employees (approximately 6 percent of the working population) on flexible schedules, not counting those professionals, managers, salespeople, and self-employed workers who had long set their own work schedules. Additionally, there were 2.1 million

workers on compressed workweeks in 1977.

In a recent review of the empirical literature on flexible hours, Golembiewski and Proehl (Robert I. Golembiewski and Carl W. Proehl, Jr., "A Survey of the Empirical Literature on Flexible Workhours: Character and Consequences of a Major Innovation," *Academy of Management Review*, October 1978, pp. 837-853) found that there is widespread interest in and enthusiasm for these schedules *even though* an empirical basis for adopting them is, for the most part, lacking. Hitherto, there has not been sufficient study—either in numbers, or in rigor to attribute specific differences in results to various ways of structuring or administering such schedules. Few studies used control or comparison groups; few provided a longitudinal perspective or any sort of statistical treatment. Another deficiency of previous studies is that most of these studies were conducted in clerical, white-collar contexts. Furthermore, these studies tended to overlook the impact of alternative work schedules on performance and productivity. Finally, past studies have not been sophisticated enough to take into account the variability that may result from the differences between union and non-union settings.

In summary, previous studies on alternative work schedules have been narrow and limited. In addition to the deficiencies discussed above, they have tended to focus largely on employees' attitudes about such schedules and on macro-behavioral variables, such as effects on the use of vacation time and on tardiness. Conversely, they have paid little attention to managers' attitudes and changes in these attitudes as affected by such schedules.

B. *Pub. L. 95-390*. The President and the Congress have found the evidence on alternative work schedules to be sufficiently encouraging to warrant the enactment of the Federal Employees Flexible and Compressed Work Schedules Act of 1978. *Pub. L. 95-390* mandates a 3-year period of controlled experimentation with the use of flexible and compressed work schedules for employees of agencies in the executive branch of the United States Government. The purpose of the experimentation is to determine the impacts—both positive and negative—which these alternatives to traditional work schedules may have on: (1) Efficiency of Government operations; (2) service to the public; (3) mass transit facilities; (4) energy consumption; (5) increased job opportunities; and (6) the

quality of life for individuals and families.

The experimentation is made possible by the temporary modification of certain premium pay and scheduling provisions of: (1) Title 5, United States Code, and (2) the overtime pay provisions of the Fair Labor Standards Act (FLSA). This modification is applicable only to those agencies or work units participating in a test program; all permanent provisions of title 5 and the FLSA remain in effect for nonparticipating agency activities and employees.

Pub. L. 95-390 further requires that the OPM develop and conduct an experimental program of sufficient depth and diversity to:

... provide an adequate basis on which to evaluate the effectiveness and desirability of permanently maintaining flexible or compressed work schedules within the executive branch. (Section 4(a)(1) of *Pub. L. 95-390*.)

II. Research Questions

This section presents the research questions which the program will address in order to carry out the required evaluation of the impact of alternative work schedules on the Federal work force. While few previous studies have systematically examined the effects of alternative work schedules, there has been a sufficient number of studies, and the pattern of results has been consistent enough to suggest a set of variables for the present research project.

General systems theory provides a heuristic model for examining the interrelationships among the variables. Variables may be classified into one of three types: Inputs, processes, and outputs. A model for the present project is shown in Figure 1. Input variables are those factors which are outside the direct control of the work unit—i.e., they are inputs to the work unit. In the present project, such variables as mission, location and work schedule are examples of inputs. Process variables are those variables which are internal to the work unit and affect the functioning of the work unit—e.g., the organizational climate, the implementation of the alternative work schedule, and the supervisor's behavior. The outputs are the end products, the results of the work unit's activities. In the model presented in Figure 1, the six impact areas specified in *Pub. L. 95-390* are conceptualized as the outputs. The general systems model suggests that there is no simple single answer to the question, "What is the effect of alternative work schedule X?" The variables are all highly interactive, and

the effects of a given schedule will be influenced, or moderated, by the specific inputs and processes operating in the system. For this reason, a series of research questions has been formulated for the present evaluation of alternative schedules in Federal agencies. The specific research questions intended to address the six impact areas are listed below.

Figure 1

Input

Alternative Work Schedule.
Flexitime.
Compressed workweek.
Organizational Characteristics.
Geographic location.
Size of work unit.
Function and technology of work unit.
Presence or absence of bargaining unit.
Transportation Facilities.
Workers' Characteristics.
Labor Market Conditions.

Process

Organizational Climate.
Supervisor Behavior.
Job Satisfaction.
Implementation of AWS.
Abuses of System.
Scheduling.

Output

Efficiency of Government Operations.
Mass Transit and Traffic.
Energy Consumption.
Service to Public.
Employment Opportunities.
Quality of Life.
A. Efficiency of Government Operations.
1. What changes occur in mission accomplishment and work unit costs?
2. How are management tasks affected? What problems develop and how are they solved?
3. What are the effects on organizational climate resulting from AWS?
4. Are efficiency and productivity affected by the type of AWS used, the technology of the work unit, or characteristics of the work force?
B. Mass Transit Facilities and Traffic.
1. Is there a transportation advantage from AWS for either individuals or public transit authorities?
2. What effects do AWS have on the choice of commuters' transportation and on commuting time?
3. What are the effects on car pools and van pool programs?
4. What is the effect on rush hour congestion?

5. Is there a change in recreational travel?

C. Levels of Energy Consumption.

1. Do energy savings result from the effects of AWS on transportation?

2. Is there an increase in energy consumption from building and equipment use as a result of AWS?

3. What is the net energy impact of AWS from transportation and building consumption effects?

D. Service to the Public.

1. Is service to the public increased or decreased in quality or quantity?

2. To what extent is the change in service affected by the AWS, work unit's function, size or location?

E. Opportunities for Full-time and Part-time Employment.

1. What are the labor supply effects of AWS?

2. Will there be new labor force entrants?

3. Is there a shift from part-time to full-time employment?

4. Does moonlighting increase?

5. What types of jobs are best suited for AWS?

6. Do the effects on employment vary with AWS, technology of work units, job performance effects, local labor market conditions, or labor union presence?

7. How do AWS affect the employment opportunities for women and for the handicapped?

F. Quality of Life for Individuals and Families.

1. How is the quality of work life affected?

2. How is the quality of personal and nonwork life affected?

3. Do social, educational, or civic activities change?

4. Do family relationships and child care change?

5. Do the effects on quality of life vary with the AWS used, the personal characteristics of the worker, or the characteristics of the organization?

III. Conduct of the Evaluation

A. *Design*. The effects of alternative work schedules on the impact areas will be analyzed by two types of studies. These are: (1) The broad based, longitudinal and cross-sectional study to which all organizations participating in the experimental program will contribute, and (2) the detailed special studies in which only selected organizations will participate.

Survey data will be collected both cross-sectionally and longitudinally. Data will be cross-sectional in that it will encompass a variety of possible alternative work schedules operating in a diverse sampling of Federal activities. It will be longitudinal in that data will

be collected both prior to the inception of each experiment and at specified times in the same agencies throughout the extended duration of each experiment. All work units participating in the AWS Experimental Program will be required to provide information necessary for these studies.

The first type of study will collect information in four general areas: (1) Agency characteristics, (2) diary of major organizational events, (3) additional surveys of employees in experimental work units, and (4) objective archival data. The effects upon the various impact areas, as determined by statistical analysis of the data, will be correlated with the various alternative work schedules used. Some effects may be detectable soon after the onset of the experiment (e.g., job satisfaction, commuting time, leave usage); others may take longer to appear (e.g., turnover, changes in family roles). Some effects may initially appear and then fade away (e.g., increased morale and supervision problems). The longitudinal nature of the study will permit the tracking of these various possibilities. Specific details are provided in the Data Collection and Analytic Methodology sections below.

In addition to the survey research, OPM will conduct a limited number of special intensive studies. These special, in-depth studies will be tailored to fit the structure and function of the particular organizations selected and to provide data necessary to answer particular research questions. The special studies will be specifically designed by OPM in collaboration with appropriate agency and union officials. Focusing upon the six impact areas outlined above, the special studies will attempt to determine, in a detailed way, the effects of alternative work schedules upon organizations which are considered representative of certain types of Federal work environments. In addition to gathering information on the six impact areas, these special studies will gather information that is pertinent to the successful introduction and administration of an AWS program such as the degree of employee involvement and necessary changes in time and attendance record keeping required for a work schedule change.

The two types of studies will provide a comprehensive evaluation of the AWS program. The longitudinal, cross-sectional study will provide an overview of the effects of AWS in a wide array of organizations. This study will allow general conclusions about AWS in the Federal Government. The special studies will enrich the conclusions of the

longitudinal, cross-sectional study by providing detailed results on specific impact areas. For example, the longitudinal, cross-sectional study will provide results on changes in commuting habits as a function of work schedule. The intensive studies on transportation will supplement those results by providing detailed information on ridership of mass transit, traffic congestion, and changes in work and nonwork related automobile travel.

The OPM will provide data collection instruments, assistance to organizations implementing alternative work schedules, and data analysis. Each participating organization will be responsible for both the day-to-day management of the experimental program and the collection of required data. Organizations should expect to designate one or more individuals to: (1) Serve as the principal point of contact between the organization and OPM; (2) carry out the coordination, planning, and implementation of the organization's alternative work schedules experiment; (3) distribute OPM data collection forms and instruments, assure adequate collection of baseline and followup data from the organization's records and from employee surveys, and forward the raw data to OPM's research staff for analysis; and (4) maintain an organizational diary. Ordinarily, one person would have responsibility for all four tasks and functions, but in larger organizations these functions might be divided among two or more people.

B. *Sample*. Any agency that wishes to test an alternative work schedule may do so, as long as it abides by the regulations prescribed by OPM to guide the experimental program. Thus, the sample is essentially a self-selected one. However, a sufficient number of diverse organizations must participate in the alternative work schedules experimental program. For this reason, *Pub. L. 95-390* gives OPM authority to require selected agencies to experiment with certain work schedules. However, it is not anticipated that this provision will need to be invoked.

To ensure that the requirement of *Pub. L. 95-390* for a sample of organizations of different sizes, geographic locations, functions and activities is met, a factorial design with three levels of organizational size, three categories of functions and activities, two levels of geographic region, two levels of locale, and four types of work schedules, has been developed for the evaluation design. The design calls for three levels of organizational size, i.e., the organization has less than 50 employees,

51 to 100 employees, and greater than 100 employees. Three types of organizational functions and activities will be included. They are routine office activities, such as word processing centers, large clerical operations; professional or staff activities; and prevailing wage job activities such as print shops, building and grounds crews, electricians, etc. Two of the factors deal with geographical location. Region of the country has two levels, sunbelt with little or no severe seasonal variations and frost belt with distinct changes in the weather between summer and winter. The second geographic factor is the locale, i.e., urban vs. rural location of the work site. The last factor is schedule. The work schedule factor is divided into four general types—two variations of flexible work schedules and two variations of compressed work schedules.

This design results in 144 cells. An absolute minimum of two work units in each cell is needed but many more are expected to participate in the experimental program. These experimental work units may be part of a considerably smaller number of experimental organizations. Since effects, in many instances, are to be measured in relation to the functions and activities of a particular unit, data on most variables will be collected at the functional work unit level and aggregated as necessary to answer the different research questions. Thus, an organization might choose to experiment with all of its employees, or in only a few work units, for example, accounting, personnel, or computer center.

A work unit must have a reasonably homogeneous work technology and a single focus of function and activity. Typically it will be a unit headed by a supervisor authorized to certify time and attendance cards. For example, a work unit for purposes of this project might be a mail room, a printing plant, a data processing center, a claims group, or a policy group; however, all employees in a work unit should be on the same type schedule, with the exception of those employees excluded because of personal hardship.

C. Experimental Control. Due to the diversity and complexity of organizations that will be part of the research project, it is not possible to conduct a perfectly controlled experiment. However, several procedures will be used to increase the confidence in inferences made from the data.

First, to the maximum extent possible, control groups will be incorporated into the designs for intensive special studies.

A second "control" will be provided by data from two of the evaluation studies of the Civil Service Reform Act being conducted by the OPM. The first of these is a study of productivity in the Federal sector. The productivity data will be collected on an aggregated basis across organizations. While these data will not allow specific comparisons with the experimental organizations, they will provide a trend line against which changes in productivity in the experimental organizations can be compared. In addition, an attitude survey of 20,000 Federal employees will be conducted annually during the time period of the Alternative Work Schedules Experimental Program. This survey contains organizational climate scales in common with the employee survey which will be used in the Alternative Work Schedules Experimental Program. As with the productivity data, these common scales will provide a trend line of Federal employees' attitudes toward the work place for comparison with the attitudes of employees participating in the experiment.

A third control procedure will be a random sample of 2,000 to 3,000 Federal employees. This sample will be sent portions of the employee survey used in the Alternative Work Schedules Experimental Program which deal with commuting habits, job performance, impact of the job on family and personal life, and so forth. This will allow direct comparisons of differences between employees on alternative work schedules and the Federal work force at large.

An additional control will be the statistical controls made possible by the nature of the longitudinal design. Thus, each work unit will serve as its own control to determine changes over time.

D. Implementation—1. Technical Assistance.—(a) *Orientation sessions.* The Washington AWS program staff is conducting a series of orientation meetings. The purposes of these meetings are to confer with regional officials on plans to implement Pub. L. 95-390; to brief local agency and union representatives on opportunities provided by the legislation and requirements for participation in the experimental program; and to hold planning sessions with representatives of agencies and unions that express an early interest in an AWS experiment.

(b) *Local project and research coordinator training.* During the last half of FY 79, the Washington program staff will develop and issue two guides for agency use: An "Implementation Guide" and a "Supervisor's Guide." Also, during

this period, the staff, in cooperation with regional staff, will assist in training sessions for local agency personnel who are serving as their organization's project leaders and research coordinators.

(c) *Consulting services.* The Washington AWS research and implementation staff will be available throughout the life of the program to provide telephone consulting services and some onsite consultation, if necessary. Regional program staff will also be available to provide advice and consulting services.

(d) *Public information services.* Central office staff will be available to speak before national professional gatherings, union meetings, conferences, or similar groups which desire information about the experimental program. They will also contribute to government or other publications and respond to inquiries from the press, researchers, and practitioners.

2. Educational Materials. A number of educational materials are available from the OPM. These include:

(a) A booklet that briefly describes the Alternative Work Schedules Program. It covers the legislative mandate, the research plan, and the steps to be taken to implement the nonresearch aspects of this mandate.

(b) A slide presentation that explains the requirements of Public Law 95-390, explains the various forms of flexible and compressed work schedules that may be tested under the law and outlines experimental agencies' data collection responsibilities.

(c) An implementation manual that describes a process agencies may follow in planning and implementing an alternative work schedule. This manual emphasizes joint labor-management planning for the experiment and employee participation in analyzing work requirements in their own units so that they may have input into the process by which systems, designed to ensure the adequacy of the work force at any given time, are formulated.

3. Regulations and Guidance. Regulations for the Alternative Work Schedules Program are in Part 620 of the OPM's regulations (title 5, Code of Federal Regulations). These regulations must be used in conjunction with Pub. L. 95-390. The regulations and the additional guidance for administration of alternative work schedule experimental programs is provided in Book 620 of FPM Supplement 990-2.

E. Data Collection. Data will be collected by each organization using the forms and surveys provided by the OPM. OPM will also provide guidance

and advice on establishing data collection procedures. The raw, unanalyzed data will be forwarded to OPM for all data reduction and analysis. All data collected will be treated in a confidential manner. No individuals will be identified. The results of the experiment will be reported as scores aggregated across work units and organizations. Organizations which terminate the experiment prior to the end of the experimental period will provide OPM with data on the reasons for termination as well as other data which may be required.

1. Experimental Studies. The following types of data will be collected from all work units experimenting with AWS.

(a) *Organizational/Work Unit Characteristics.* Descriptive information to be collected prior to the onset of an experiment will include:

—Number of employees in experimental work unit by age, sex, grade

—Location of work unit
—Pre-experimental work schedule and alternative work schedule planned
—Major activities or services of experimental work units (e.g., clerical, produce goods, customer contact, office or plant function)

—Work technology (e.g., machine-paced vs. worker-paced jobs, autonomous vs. interdependent job, nature of supervision and communication)

—Bargaining unit status
—Car pool programs, van pool programs, parking facilities
—Availability of public transportation to organization

(b) *Longitudinal Archival Data.* Organizations should obtain as much of the longitudinal data as possible retrospectively from existing records for the 12-month period preceding the start of the experiment. Data collection procedures should be established to record required information during the 18-month experimental period which is not routinely maintained. Data collected will include the following:

—Productivity measures, if any, currently utilized by the organization
—Turnover

—Sick leave, annual leave, and leave without pay usage (total number of hours per month and number of incidents of leave use per month)

—Number of authorized overtime hours

—Part-time/full-time employee ratio
—Accident rates
—Available utility costs
—Applicants/job openings ratio.

(c) *Employee Survey.* Some attitudinal data and information can be collected only from surveys of employees in the experimental work units (e.g., commuting habits). Four surveys of employees will be conducted. These surveys will take approximately 45 minutes to complete and will be collected prior to the start of the experimental period, 3 months, 12 months, and 18 months into the experimental period. The surveys will collect data on the following areas:

—Organizational climate and quality of working life

—Commuting habits
—Impact on family and personal life
—Job performance
—Job satisfaction
—Time utilization
—AWS utilization
—Perceived abuses of system
—Supervisor's functions
—Scheduling
—Recreational travel habits.

(d) *Diary of Significant Events.* The local Project Director will be required to keep a diary of significant events within the organization which might have an impact on the effects of AWS. Examples of such events might include a move to a new building, a flu epidemic, a change in supervisors (including top level management), changes in work flow, major snow storms, reorganization, or a critical energy shortage.

2. Intensive Special Studies. Because certain, limited types of data may be difficult to obtain on an overall, cross-sectional basis, and because some results may be manifest only in the presence of special factors, some effects of the use of alternative work schedules can be determined only through special studies. As stated in the design section, the intensive special studies will serve to supplement the result of the longitudinal study and provide additional explanatory detail in the final report. These special studies will differ from the major experimental studies in at least one of two ways. They will have more intensive data collection, and/or they will utilize controlled experimental or quasi-experimental designs. The AWS research staff will assist agencies in the establishment and implementation of these intensive studies; further, they will provide limited consultation on the continued administration of the studies.

Specific details of the special studies cannot be determined until the work units that will participate are identified. The special studies' objectives, site selection factors, and data requirements are listed, by impact area, below.

Note.—Agencies wishing additional information on participation in special studies should contact: Alternative Work Schedules Project, Office of Leave and Pay Administration Policy, Office of Personnel Management, 1900 E Street, N.W., Room 3554, Washington, D.C. 20415. (202) 632-5604. FTS 632-5604.

(a) Study #1: *Net efficiency of operations:*

Objectives

—To develop a quantitative estimate of the effects of alternative work schedules on productivity, labor costs, and "overhead" costs (support services);

—To determine the effects of alternative work schedules on the roles of managers and supervisors, and consequent effects upon the efficiency of the organization's operations.

Overview: Work units which participate in this study must fulfill the following criteria:

—They must produce an output which can be measured in physical or monetary units.

—They must be able to measure labor and other input.

—They must be able to measure turnover, absenteeism, tardiness, recruiting and training in "natural" units which can be converted into dollar equivalents. These costs will then be aggregated with total costs for compensation in order to determine net change in such costs, which may then be correlated with the particular alternative work schedule employed.

—If possible, they must provide measurements of costs for utilities and support services to determine what changes, if any, result from implementation of an alternative work schedule.

These measurements will be taken on a work unit basis; data will be collected both prior to the onset of the experiment and during the experimental period. A diversity of work units varying in type of alternative work schedule utilized, function of unit, and location will be included. Examples of such units include a printing shop, a vehicle renovation shop, or a claims examining office.

The AWS Research Staff has primary responsibility for data collection. In addition to the measures described above, data collection might include direct observation of work unit operations and structured interviews with managers and supervisors to determine their perceptions of their roles and functions, and how these are affected by use of an alternative work schedule.

(b) Study No. 2: *Long-run organizational change*

Objectives

—To assess the effects of alternative work schedules on quality of working life and organizational health. Organizational health is defined for this project as the ability of an organization to sustain its capacities and operations without exhausting resources and to continually accomplish its goals regardless of the nature of these goals or how they might change.

The abilities might, in turn, be affected by changes resulting from use of alternative work schedules on the following organizational activities:

- Communication patterns,
- Amount of teamwork,
- Characteristics of interpersonal interactions,
- Nature of decisionmaking,
- Reward allocation, and
- Satisfaction in the organization.

—To identify the mechanisms and conditions for maximizing the successful adoption of an alternative work schedule in an organization.

Overview: Work units which participate in this study must be willing to allow AWS Research Staff involvement during the planning and implementation of an alternative work schedule. Such work units will typically have a complex organizational structure including several organizational levels, such as an entire organization encompassing several bureaus, divisions, and so on.

The implementation of the new work schedule will be directed at improving organizational functioning in the six areas listed above in a way that is designed to meet the specific needs of the work units.

The AWS Research Staff will provide onsite consultation to participating organizations. This consultation will focus on the procedures and decision making processes involved in the implementation of an alternative work schedule. The AWS Research Staff will provide questionnaires and other instruments for the conduct of this study. Part of the data will be gathered by direct observation of the experimental work units and focus group interviews.

(c) Study No. 3: *Labor-management relations*

Objectives

—To determine the impact of the use of alternative work schedules upon labor union concerns;

—To examine the role of labor unions in implementing such schedules; and

—To determine the overall effect of alternative work schedules on labor-management relations.

Overview: Work units which participate in this study must fulfill the following criteria:

- They must have an exclusive bargaining agreement.
- They must have organizations where union and management agree to participate jointly in the implementation of alternative schedules and the planning and conduct of the special study.

The AWS Research staff will provide employee-questionnaires and will conduct detailed interviews with both labor leaders and managers. This data will be gathered both before the inception of the experiment and during the experiment. The AWS Research staff may also gather data by direct observation of the organization's operations.

(d) Study #4: *Rush hours and mass transit*

Objectives

—To estimate the extent to which alternative work schedules can reduce rush hour congestion, and

—To estimate their potential effect on mass transit ridership, revenues, and incremental costs.

Overview: Work units which participate in this study must be located where:

—A large number of workers change from a standard to an alternative work schedule.

—Those workers constitute a large proportion of all automobile transit users in that location.

—Transportation access is limited and some congestion exists.

In some of these locations there should be mass transit facilities. This will usually imply an urban location. Work units must differ by work schedule used and availability and type of mass transit, carpools, and parking, as well as by nature of location.

Measurements will include traffic and passenger counts; modal split, and trip diaries kept by a sample of employees. The local mass transit authority should have use data by route. Measurements will be taken both prior to the experiment and periodically during the experiment by the AWS Research Staff.

(e) Study #5: *Energy consumption of buildings, equipment, and transportation*

Objectives

—To estimate the effects of flexible and compressed schedules on energy

consumption in buildings and for equipment.

—To estimate the effects on energy consumption in transportation (from information obtained in Study #4 and the survey research),

—To determine the effects on different sources of energy, and

—To estimate the net effect on energy consumption.

Overview: Work units that participate in this study must be situated in a building such that the power usage for heating, cooling, lighting, and equipment operation can be separately metered. These work units must differ in building characteristics, climate, work technology, and work schedule used. Aggregations of work units in the same location may be used. Data will be collected monthly, from records of utility costs for a period prior to the experimental period and throughout the experimental period by the AWS Research staff.

(f) Study #6: *The quality of customer service*

Objective: To determine the effect of flexible and compressed schedules on the quality of customer service and the value of that quality change.

Overview: Work units that participate in this study must:

- Have customer service as their primary mission,
- Provide a service whose quality can be measured in physical units, or
- Be willing to conduct an opinion survey of their customers, or allow the use of pseudo-customers. Measurements will be taken at pre-experiment and two post-experimental points by the AWS Research staff. Examples of such units might include job information offices, veterans' counseling activities, or tax consultative services.

(g) Study #7: *Labor demand and supply*

Objectives

—To determine the effect of flexible and compressed schedules on increasing the supply of labor (via new entrants, switches from part-time to full-time employment, or increased moonlighting), and

—To determine the effect on the demand for labor (via substitution with other inputs and changes in output).

Overview: Work units that participate in this study must be able to take quantitative measurements on detailed characteristics of job holders and job applicants. Measurements will be taken at one pre-experiment and one or more post-experiment points by the AWS Research staff. Work units should differ

in work technology and type of work schedule used.

(h) Study #8: *Quality of nonworking life*

Objectives

- To assess the effects of alternative work schedules on family roles, and
- To identify shifts in use of nonwork time.

Overview: Work units that participate in this study must be willing to have data collected from employees within the work unit by personal interviews and questionnaires. Measurements will be needed on personal characteristics such as use of nonwork time for recreational, educational and civic activities, household tasks, family schedules, marital and family status, child care, and other variables. Data will be taken prior to the start of the experiment and periodically during the experiment by the AWS Research staff.

3. Secondary Data

(a) *Existing Information.* Previously published external information will be used to help determine the effects of alternative work schedules on mass transit and traffic, energy consumption, and employment opportunities. These data include:

Mass Transit and Traffic

- Traffic counts on major access routes
- Mass transit service availability
- Mass transit ridership and revenue by route
- Marginal cost of mass transit service
- Modal split.

Energy Consumption

- Relationship of energy consumption to
- Changes in hours of operating
- Building type
- Climate and location
- Commuting time and mode.
- Relationship between end use of energy (heating, cooling, lighting, equipment operation) to source of energy (oil, gas, coal, water, solar)

Employment Opportunities

- Labor market conditions
- Unemployment rates by age, sex, race, occupation
- Labor force participation rates by age, sex, race, marital and family status
- Characteristics of the labor force: Age, sex, race, marital and family status, part-time employment.

(b) *Existing Research.* Research which has previously been conducted on AWS within both the public and private sectors has been reviewed. The results will be used as collateral validation of

the results from the present research project.

F. Analytic Methodology. This section provides an overview of the strategies and techniques which will be used for statistical analyses of the data collected. The purpose of any process of data analysis is to condense information contained in the body of data into a form which can be easily comprehended and interpreted. This is particularly critical to the AWS project, since the purpose of the research is to provide a basis for policy decisions and legislative action.

Sometimes this analytic process is simply used to describe a body of empirical data. In the present project, it is important to go beyond that and search for meaningful patterns of relationships among sets of variables, that is, to build a comprehensive picture of the impact of AWS on the Federal work force. Three types of procedures will be used to analyze the data collected. They are descriptive statistics, trend analysis, and multiple regression.

The descriptive analysis of the data will examine the characteristics of the distribution of each of the independent and dependent variables under investigation. This will be accomplished by using measures of central tendency (e.g., mean, median) and distributions and frequencies, such as the cross-tabulation of two variables. Proportions will be used to describe the data for discrete category variables.

A second type of analysis, trend analysis, will consist of plotting the data points of relevant variables over the time period of the experiment and identifying patterns in the data. Patterns which might be revealed are effects of experience with AWS, patterns of use which vary by the season of the year, and so on.

The third analytical procedure to be used is multiple regression, to include analysis of variance. Multiple regression allows the researcher to study the linear relationships between a set of independent variables and a dependent variable while taking into account the interrelationships among the independent variables. The basic goal of multiple regression is to produce a linear combination of independent variables which will correlate as highly as possible with the dependent variable. This linear combination can then be used to "predict" values of the dependent variable, and the importance of each of the independent variables, in that prediction can be assessed. Using multiple regression it will be possible to determine the most important factors

which influence the success or failure of an AWS program in an organization.

The analytic method and independent and dependent variables are given below for each of the research questions.

For most analyses the level of analysis is the work unit, i.e., data will be aggregated within a work unit and that score will be used to represent the work unit. When a different level of analysis will be used it is indicated below.

1. Efficiency of Government Operations.

(a) What changes occur in mission accomplishment and work unit costs?

—Descriptive statistics and trend analysis of productivity measures, turnover rates, leave usage, accident rates and cost data.

(b) How are management tasks affected? What problems develop and how are they solved?

—Descriptive statistics and trend analysis of survey data, analysis of diaries.

—Analysis of special studies on organizational change.

(c) What are the effects on organizational climate resulting from AWS?

—Regression analysis of change scores for organizational climate and job satisfaction with work schedule used and organizational characteristics as the predictors.

—Descriptive statistics and trend analysis of organizational climate.

—Analysis of special studies on organizational change.

(d) Are efficiency and productivity affected by the type of AWS used, the technology of the work unit, or characteristics of the work force?

—Descriptive statistics of efficiency and productivity measures as a function of (1) work schedule, (2) work unit technology, and (3) work force characteristics.

—Regression analysis of outcome measures with work schedule, work unit technology and work force characteristics as predictors.

2. Mass Transit Facilities and Traffic.

(a) Is there a transportation advantage from AWS for either individuals or public transit authorities?

—Analysis of special studies on rush hours and mass transit.

—Descriptive statistics of survey data on commuting habits. (Level of analysis: individual)

(b) What effects do AWS have on choice of commuting transportation and on commuting time?

—Descriptive statistics of survey data on commuting habits as a function of

AWS and organizational characteristics. (Level of analysis: individual)

3. Levels of Energy Consumption.

(a) Are there energy savings from transportation effects of AWS?

—Regression predictions of reduced use of automobiles with type of AWS as a predictor.

(b) Is there an increase in energy consumption from building and equipment use as a result of AWS?

—Analysis of special studies on energy consumption.

(c) What is the net energy impact of AWS from transportation (a, above) and building (b, above) effects?

—Projections of the energy costs and savings as a function of a particular AWS, and organization characteristics (particularly geographic location and technology).

4. Service to the Public.

(a) Is service to the public increased or decreased in quality or quantity? How much is the gain or loss worth?

—Analysis of special studies on quality of customer service.

(b) How much is the change in service affected by the AWS, work unit's function, size, or location?

—Descriptive statistics of level of customer service as a function of AWS, work unit function, size, and location.

5. Opportunities for Full-time and Part-time Employment.

(a) What are the labor supply effects of AWS?

—Descriptive statistics of applicants/job openings ratio.

—Analysis of special studies on labor demand and supply.

—Descriptive statistics of secondary data from Bureau of Labor Statistics.

(b) Will there be new labor force entrants?

—Analysis of special studies on labor demand and supply.

(c) Is there a shift from part-time to full-time employment?

—Trend analysis of part-time/full-time employee ratio as a function of AWS.

(d) Does moonlighting increase?

—Descriptive statistics of survey data on moonlighting. (Level of analysis: Individual)

—Trend analysis of survey data as a function of AWS.

(e) What types of jobs are best suited for AWS?

—Descriptive statistics of job characteristics by AWS, where outcome measures (e.g., productivity, leave usage, etc.) and employee satisfaction are chief variables.

(f) Do the effects on employment vary with AWS, technology of work unit, job

performance effects, local labor market conditions, or labor union presence?

—Regression analysis of employment opportunities with AWS, work unit technology, job performance effects, local labor market conditions, and labor union presence as predictors.

(g) How do AWS affect the employment opportunities for women and the handicapped?

—Descriptive statistics of employment and turnover rates by sex and by physical and mental handicap.

—Descriptive statistics of survey data on utilization of AWS, and attitudes toward AWS by sex and by physical and mental handicap.

6. Quality of Life for Individuals and Families.

(a) How is the quality of work life affected? What features of work life are affected?

—Descriptive statistics and trend analysis of survey data on organizational climate, job satisfaction and performance. (Level of analysis: individual)

(b) How is the quality of personal and nonwork life affected?

—Descriptive statistics and trend analysis of survey data on impact on family and personal life.

—Analysis of special studies of family roles.

(c) Do social, educational, or civic activities change?

—Descriptive statistics and trend analysis of survey data on impact on family and personal life.

(d) Do family relationships and child care patterns change?

—Descriptive statistics and trend analysis of survey data on impact on family and personal life.

—Analysis of special studies of family roles.

(e) Do the effects on quality of life vary with the AWS used, the personal characteristics of the worker, or the characteristics of the organization?

—Regression analysis of quality of life factors with AWS, worker characteristics, and organization characteristics as predictors.

G. Reports. As required by Pub. L. 95-390, an interim report containing recommendations pertaining to the legislative or administrative action, if any, which should be taken as a result of the AWS Experimental Program will be completed by September 29, 1981. A final report summarizing the results of the AWS Experimental Program will be prepared by the OPM and submitted to the President, the Speaker of the House, and the President pro tempore of the Senate by March 29, 1982.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

July 16, 1979.

[FR Doc. 79-22530 Filed 7-19-79; 8:45 am]

BILLING CODE 5325-01-M

5 CFR Part 890

Federal Employees Health Benefits Program; Disposition of Contingency Reserves Upon Reorganization or Merger of Plans

AGENCY: Office of Personnel Management.

ACTION: Final rulemaking.

SUMMARY: The purpose of this rule is to provide for the disposition of the contingency reserves of discontinued health plans in cases where a successor organization remains, and of parent plans from which one or more plans become severed, in a manner equitable to the continuing enrollees remaining in the successor or severed plans. This regulation will clarify 5 U.S.C. 8909 (d) and (e) and will enable the groups that contribute to the accumulation of the contingency reserves (and special reserves, for experience-rated plans) to benefit from them.

EFFECTIVE DATE: July 20, 1979.

FOR FURTHER INFORMATION CONTACT: Craig B. Pettibone, Chief, Office of Policy Development and Technical Services, Compensation Group, Office of Personnel Management (202-632-4682).

SUPPLEMENTAL INFORMATION: On August 8, 1978, proposed rulemaking was published in the Federal Register (43 FR 35047). Thirteen written comments were received from Federal agencies and FEHB carriers in support of the proposed rulemaking. No unfavorable comments were received.

Accordingly, a new § 890.504 is added to Subpart E of Part 890, Title 5, Code of Federal Regulations, as set out below:

§ 890.504 Disposition of contingency reserves upon reorganization or merger of plans.

Upon reorganization or merger of a plan, the surviving plan shall have credited to it the reserves of the reorganized or merged plan provided, however, if more than one plan survives, the reserves shall be divided among the surviving plans in proportion to the employees and annuitants continuing to subscribe to the surviving plans.

(5 U.S.C. 8913)

Office of Personnel Management.

Beverly M. Jones,

Issuance Systems Manager.

[FR Doc. 79-22077 Filed 7-19-79; 8:45 am]

BILLING CODE 5325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 208]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period July 22-28, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: July 22, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: Findings. This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on July 17, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is very strong.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the

declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, the emergency nature of this regulation warrants publication without opportunity for further public comment, in accord with emergency procedures in Executive Order 12044. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An impact analysis is available from Malvin E. McGaha, 202-447-5975.

§ 910.508 Lemon Regulation 208.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period July 22, 1979, through July 28, 1979, is established at 300,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: July 18, 1979.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-22748 Filed 7-19-79; 11:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletin

AGENCY: Rural Electrification Administration.

ACTION: Final rule.

SUMMARY: REA hereby amends Appendix A—REA Bulletins to include a supplement to REA Bulletin 40-2:340-5 providing for the use of a new REA Form 168c, Contractor's Bond. The Small Business Administration (SBA) administers a guarantee program (Catalog of Federal Domestic Assistance No. 59.016) to encourage surety companies to take more risk and provide construction bonds for small contractors unable to obtain a bond without a guarantee. The new REA form, which is designed to meet SBA requirements, will help minimize the task of small contractors in obtaining surety bonding, thus permitting them to

bid competitively on REA-financed construction projects that do not exceed \$1,000,000.

EFFECTIVE DATE: June 20, 1979.

ADDRESS: Written comments may be addressed to Chief, Borrower's Insurance Staff, Office of Program Development and Analysis, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: John Montague, (202) 447-2800.

SUPPLEMENTARY INFORMATION: In that the material contained herein is a matter relating to the loan program of the Rural Electrification Administration, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date are inapplicable.

In accordance with the spirit of the public policy set forth in 5 U.S.C. 553, interested persons may submit written comments to REA. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal.

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from Mr. John V. Montague, Chief, Borrowers' Insurance Staff, Office of Program Development and Analysis, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated: July 13, 1979.

Robert W. Feragen,

Administrator.

[FR Doc. 79-22562 Filed 7-19-79; 8:45 am]

BILLING CODE 3510-15-M

Animal and Plant Health Inspection Service

9 CFR Part 91

Inspection and Handling of livestock for Exportation; Deletion and Addition to Lists of Ports of Embarkation for Animals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to add the port of Los Angeles, California, and to delete the port of San Francisco, California, from the lists of airports and ocean ports designated as ports of embarkation for animals.

The intended effect of this action is to update the list of ports of embarkation through which animals may be exported.

EFFECTIVE DATE: July 20, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. H. A. Waters, USDA, APHIS, VS, Room 826, Federal Building, Hyattsville, MD 20782, 301-436-8383.

SUPPLEMENTARY INFORMATION: On January 12, 1979, there was published in the Federal Register (44 FR 2600) a proposed rule which would add the port of Los Angeles, California, and delete the port of San Francisco, California, from the lists of airports and ocean ports designated as ports of embarkation for animals.

Two comments were received. One respondent supported the addition of the port of Los Angeles because of the convenience of that port to its animal export activity. The other respondent objected to the revocation of the port of San Francisco as a port of embarkation because of the convenience of San Francisco to its animal export activity. This comment was not directed to the statement in the proposed rule that the export inspection facilities at the port of San Francisco were found not to be in compliance with the standards for approved export inspection facilities designated in § 91.3(c).

After due consideration of all relevant information available, including that submitted in connection with the proposed rule published January 12, 1979, (44 FR 2600), 9 CFR 91.3(a)(1)(i) and (a)(2)(i) are amended to read as follows:

§ 91.3 Ports of embarkation and export inspection facilities.

(a) * * *

(1) *Airports.* (i) Chicago, Illinois; Harrisburg, Pennsylvania; Helena, Montana; Richmond, Virginia; Miami, St. Petersburg, and Tampa, Florida; New Iberia, Louisiana; Brownsville and Houston, Texas; Los Angeles, California; Moses Lake, Washington; and Newburgh, New York.

(2) *Ocean ports.* (i) Richmond, Virginia; Miami and Tampa, Florida; Brownsville and Houston, Texas; and Los Angeles, California.

(Secs. 4, 5, 23 Stat. 32, as amended; sec. 1, 32 Stat. 791, as amended; sec. 10, 26 Stat. 417;

secs. 1, 2, 26 Stat. 833, as amended; secs. 12, 13, 14, 18, 34 Stat. 1263, as amended; 61 Stat. 584, 588, 592; secs. 3 and 11, 76 Stat. 130, 132; sec. 1109, 72 Stat. 799, as amended; (21 U.S.C. 105, 112, 113, 120, 121, 134b, 134f, 612, 613, 614, 618; 46 U.S.C. 466a, 466b); 49 U.S.C. 1509(d); 37 FR 28464, 28477; 38 FR 19141)

This amendment should be implemented immediately, since the export inspection facilities at the Port of San Francisco no longer meet standards adequate to insure that the health status of animals inspected and tested there may be accurately determined.

Further, since San Francisco was the only ocean port designated as a port of embarkation on the West Coast of the United States, and one of only two such airports, the port of Los Angeles should be added immediately as a port of exportation in order to avoid unnecessary restrictions on the exportation of animals.

It does not appear that further public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, good cause is found for making the amendment effective less than 30 days after publication in the Federal Register.

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "improving Government Regulations," and has been classified "significant." An Approved Final Impact Statement is available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD. 20782, 301-436-8695.

Done at Washington, D.C., this 16th day of July 1979.

Pierre A. Chaloux,

Deputy Administrator, Veterinary Services.

[FR Doc. 79-22661 Filed 7-19-79; 8 45 am]

BILLING CODE 3410-34-M

9 CFR Part 92

Importation of Pet Birds

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations (9 CFR 92) concerning the importation of pet birds into the United States and requires importers to reimburse Veterinary Services for all costs incurred which are associated with the importation of such birds. The present regulations are very difficult to administer and have been found to be

inadequate to protect poultry in the United States from the introduction and spread of exotic Newcastle disease from pet birds. The intended effect of this action is to revise the manner in which pet birds are imported into the United States sufficient to prevent the undue risk of spread of disease, and to provide for the recovery of costs incurred by Veterinary Services in providing services required by the importer which are associated with the importation of such birds.

EFFECTIVE DATE: January 15, 1980, except for amendment to § 92.2(a) which is effective August 20, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. E. C. Sharman, USDA, APHIS, VS, Import-Export Staff, Room 817, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION: On January 5, 1979, there was published in the Federal Register (44 FR 1552-1556), a proposed amendment to the regulations (9 CFR 92) which in general would (1) require pet birds imported into the United States to be accompanied by a veterinary health certificate, (2) require that a request for quarantine space be made by the importer and accompanied by a reservation fee prior to the importation of the birds, (3) require that a 30-day quarantine period at the owners expense be completed at a USDA quarantine facility located at specifically designated ports of entry, and (4) would provide for the re-entry of pet birds of United States origin which have not been out of the country for more than 60 days, when such birds are accompanied by a United States veterinary health certificate issued prior to their departure from the United States and they are identified in a manner to confirm that they are the same birds that left the United States within the previous 60 days. Further, pet birds from Canada would continue to be imported under existing requirements of the regulations for the importation of pet birds; and finally, the Deputy Administrator would also be authorized, upon request in specific cases, to permit all types of birds to be brought into or through the United States under such conditions as he may prescribe, when he determines in the specific case that such action will not endanger the livestock or poultry of the United States.

The 60-day period for receipt of comments concerning the proposed amendments to the regulations expired March 6, 1979. A total of 32 comments were received by the Department. Seventeen of these comments opposed

the proposal for one or more reasons: twelve comments supported the proposal; and three comments neither supported nor opposed the proposal, but made suggestions or expressed concerns regarding the importation of birds in general, which were not relevant to the proposed rule.

Twelve of the comments received opposed the proposal to quarantine pet birds in USDA quarantine facilities at the expense of the importer because of the costs involved and the 30-day quarantine period required before the pet birds can be released. The Department has considered both the cost to importers and the quarantine time requirement proposed. However, after careful consideration, the determination has been made that it is essential to quarantine pet birds being imported for the 30-day period proposed in order to allow time for the collection and testing of samples for virus isolation studies and to ascertain that the birds are free of exotic Newcastle disease in order to protect the poultry of the United States from exotic Newcastle disease. The Department has determined that the actual cost for the importation of pet birds should be borne by the importer because pet birds are imported for the benefit and enjoyment of the individual owner and not for the benefit of the general public.

One comment objected to the limitation of two pet birds which may be imported as being arbitrary and questions the Department's right to decide how many pet birds a household should own. The Department has no limitation on the number of birds which may be owned, but the Public Health Service limits the number of pet psittacine birds which may be imported into the United States to two pet psittacine birds per family per year. Therefore, the regulations have been rewritten so that it is clear that the restriction on the number of pet psittacine birds is conditioned upon the regulations of the Public Health Service which restrict the entry of pet birds which are psittacines, to two pet birds per year.

Three comments objected to the advance reservation requirement and the payment of an advance reservation fee on the basis that it is unnecessary, cumbersome, problematic and obnoxious. After considering these comments, the Department has determined that the advance reservation procedure and the deposit of the reservation fee proposed are necessary in order to schedule importations in a manner to insure that quarantine space for pet birds is reserved in advance and

will be available when the birds are presented for entry. The regulations (9 CFR 92(c)(3)(iii)) provide for the handling of pet birds without an advance reservation for space or the deposit of an advance reservation fee if quarantine space is available. However, owners who take the chance of importing pet birds without a reservation must bear the extra expense which may be involved in the movement of the birds to a quarantine facility that does have space available and the risk of space not being available anywhere, if space is not available at the port where the birds are presented for entry.

Two comments suggested that the proposed health certificate requirement for pet birds is unnecessary and should be deleted because the birds will be held in quarantine and observed for a period of 30 days. The Department believes that to require a health certificate will insure that the birds are not diseased at the time of shipment and that such birds will be exported to the United States in accordance with the laws of the country from which they are exported.

One comment objected to the designation of Brownsville, Laredo, and El Paso, Texas; Nogales, Arizona; and San Ysidro, California, as special ports of entry for the importation of pet birds because those ports are not designated by U.S. Fish and Wildlife Service as ports of entry for endangered species. The Department has not altered the final rule in this regard because approximately 71 percent of all pet birds imported into the United States in Fiscal Year 1977 were offered for entry through the nine ports designated as special ports for pet birds, and the use of these special ports is practical, economical and convenient for importers of pet birds.

Some comments indicated that leaving a bird at the port of entry would constitute a hardship on the bird owner because the bird owner would not have access to the bird for the quarantine period or that the owner would have to make arrangements to retrieve his bird at the end of the quarantine period. As noted in the proposal, the Department believes that the quarantine is necessary to prevent the entry of communicable diseases of poultry by pet birds.

One comment suggested keeping the system which is presently in effect. This has not been adopted for the reasons specified in the proposed rulemaking, namely that the present system does not provide adequate control over the birds to insure that the birds do not constitute a threat to introduce communicable

diseases of poultry into the United States.

One comment suggested that the Department perform microscopic examinations of the droppings of birds to determine the presence of disease in one day. The Department does not believe that this would be a sufficiently reliable method of determining the presence of communicable disease because of the intermittent shedding nature of VVND where a bird sheds the disease virus one day and not on other days.

The remainder of the comments were either irrelevant or unintelligible.

After due consideration of all relevant comments received, the Department has decided to publish the regulation as a final rule essentially as proposed except to correct typographical errors and for other minor editorial changes. Further § 92.2(a) has been clarified to indicate that the Deputy Administrator will not use his prerogative to admit animals, products, or birds into the United States in situations where such entry is expressly prohibited by the Tariff Act of 1930 (19 U.S.C. 1306). This is being done in order to remove any ambiguity regarding a potential conflict between the regulations and the statute.

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended in the following respects:

1. In § 92.2, that portion of paragraph (a) following the colon is amended to read:

Provided, That, Except as prohibited by Section 306 of the Act of June 17, 1930, as amended (19 U.S.C. 1306), the Deputy Administrator may upon request in specific cases permit animals or products or birds to be brought into or through the United States under such conditions as he may prescribe, when he determines in the specific case that such action will not endanger the livestock or poultry of the United States.

2. A new footnote 2a is added to read: U.S. Public Health Service Regulations (42 CFR 71.164(e)) restrict the entry of pet psittacine birds to two birds per family per year.

3. In § 92.2, the phrase "or pet birds" is added after the phrase "research birds" in the first sentence of paragraph (f) and paragraph (c) is amended to read:

§ 92.2 General prohibitions; exceptions.

(c)(1) Pet birds offered for entry from Canada and which are not known to be affected with or exposed to any communicable disease of poultry, which are caged (prior to release from the port of entry) and which are personal pets,

may be imported by the owner thereof at any port of entry designated in § 92.3.² *Provided, That*, such birds are found upon port of entry veterinary inspection under § 92.8 to be free of poultry diseases and at the time of entry the owner signs and furnishes to the Deputy Administrator, Veterinary Services, a statement stating that the bird or birds have been in his possession for a minimum of 90 days preceding the date of importation and that during such time such birds have not been in contact with poultry or other birds (for example, association with other avian species at exhibitions or in aviaries).

(2) Pet birds which originated in the United States and have not been outside the country for more than 60 days may be offered for entry under the provisions of § 92.2(c)(1)². *Provided*, that such birds are also accompanied by a United States veterinary health certificate issued prior to the departure of the birds from the United States and the certificate shows the leg band or tattoo number affixed to the birds prior to departure, and *Provided further*, That during port of entry veterinary inspection it is determined that the leg band or tattoo on the bird is the same as the one listed on the health certificate. Lots of pet birds of United States origin which have been outside the United States for more than 60 days or which do not otherwise meet the requirements of paragraphs (c)(1) or (c)(2) of this section may be offered for entry under the provisions of paragraph (c)(3) of this section.

(3) Pet birds which are not known to be affected with or exposed to communicable diseases of poultry may be offered for entry at one of the ports of entry designated in § 92.3(e) under the following conditions:^{2a}

(i) The pet birds shall be accompanied by a veterinary health certificate issued by a national government veterinary officer of the country of export stating that he personally inspected the birds listed on the health certificate and found them to be free of evidence of Newcastle disease, ornithosis, and other communicable diseases of poultry, and that the birds were being exported in compliance with the laws and regulations of the country of export. Certificates in a foreign language must be translated into English at the expense of the importer.

(ii) An advanced reservation fee as required by § 92.4(a)(4) and a request for space which has been confirmed in

writing, at a USDA-operated quarantine facility shall be made with the port veterinarian³ at the port where the birds are to be held for a minimum 30-day isolation in a biologically secure unit separate and apart from all other avian species, except, that birds arriving without an advanced reservation may be handled if an isolation unit is available, provided the reservation fee as required in § 92.4(a)(4) is paid. Pet birds offered for entry at a port of entry that has not been designated as provided, in § 92.3, or pet birds arriving without an advanced reservation at a port of entry designated in § 92.3 but at which isolation units are not available, shall be refused entry at such port. However, such pet birds may be transported at the owner's expense to another port of entry designated in § 92.3 if available quarantine space exists, if the \$40 reservation fee is paid by the importer and the birds are shipped to such other port under conditions deemed sufficient by the Deputy Administrator to prevent the spread of communicable diseases of poultry.

(iii) During the isolation period, the birds shall be subjected to such tests and procedures as required by the Deputy Administrator to determine whether the birds are free from communicable diseases of poultry.

(iv) Following the isolation period, if the birds are found to be free of communicable disease of poultry, the port veterinarian shall issue an agriculture release for entry through U.S. Customs. If the birds are found during port of entry inspection or during quarantine to be infected with or exposed to a communicable disease of poultry, such birds shall be refused entry and handled in accordance with § 92.11(e) of this part.

(v) The owner of the birds is responsible for all costs which result from these procedures and shall reimburse Veterinary Services for governmental expenses in accordance with § 92.12 (b) and (c) of this part.

4. In § 92.3, paragraphs (e) and (f) are relettered (f) and (g) respectively, and a new paragraph (e) is added to read:

§ 92.3 Ports designated for the importation of animals.

(e) *Special ports for pet birds.* New York, New York; Miami, Florida;

^{2a} The names and addresses of the port veterinarians, as well as a fee schedule for quarantine charges, are available from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, Maryland 20782.

Brownsville, Laredo, and El Paso, Texas; Nogales, Arizona; San Ysidro and Los Angeles, California; and Honolulu, Hawaii, are designated as ports of entry for pet birds imported under the provisions of § 92.2(c)(3).

5. In § 92.4, the section heading, the first sentence of paragraph (a)(1), that portion of paragraph (a)(3) preceding the colon, the first sentence of paragraph (a)(4), and the third and fourth sentences of paragraph (b) are amended to read:

§ 92.4 Import permits for ruminants, swine, horses from countries affected with CEM, poultry, poultry semen, animal semen, birds, and for animal specimens for diagnostic purposes,² and special permits for cattle entering Harry S. Truman Animal Import Center.

(a) *Application for permit; reservation required.* (1) For ruminants, swine, horses from countries listed in § 92.2(i)(1) of the regulations, poultry, poultry semen, animal semen, pet birds, commercial birds, research birds, zoological birds, and performing or theatrical birds and animal test specimens for diagnostic screening purposes, intended for importation from any part of the world, except as otherwise provided for in §§ 92.2(b) and (c), 92.19, 92.27, and 92.31, the importer shall first apply for and obtain from Veterinary Services an import permit.

(3) An application for permit to import ruminants, swine, horses from countries listed in § 92.2(i)(1) of the regulations, poultry, poultry semen, animal semen, pet birds, commercial birds, research birds, zoological birds, and performing or theatrical birds, may also be denied because of:

(4) For each lot of poultry or birds which are to be quarantined in facilities maintained by Veterinary Services, a reservation fee of \$40 shall be paid by the importer or his agent at the time the permit or reservation for quarantine space is applied for.

(b) *Permit.* * * * Animals and animal semen and animal test specimens for diagnostic screening purposes for animals intended for importation into the United States for which a permit has been issued, will be received at the specified port of entry within the time prescribed in the permit which shall not exceed 14 days from the first day that the permit is effective for all permits, except that the time prescribed in permits for the importation of pet birds, commercial birds, zoological birds, poultry, or research birds, shall not exceed 30 days, and for

performing or theatrical birds or poultry shall not exceed 90 days.

Ruminants, swine, horses from countries listed in § 92.2(i)(1) of the regulations, poultry, poultry semen, animal semen, animal test specimens, and birds for which a permit is required by these regulations will not be eligible for entry if a permit has not been issued; if unaccompanied by such a permit; if shipment is from any port other than the one designated in the permit; if arrival in the United States is at any port other than the one designated in the permit; if the animals (including poultry and birds) or animal semen, or animal test specimens offered for entry differ from those described in the permit; if the animals or animal semen, or animal test specimens are not handled as outlined in the application for the permit and as specified in the permit issued; or in the case of ruminants and swine, if ruminants or swine other than those covered by import permits are aboard the transporting carrier.

6. In § 92.5, the section heading is amended to insert, "pet birds," between poultry and commercial birds, and the first sentence of paragraph (c) is amended to add "pet birds, except as provided for in paragraphs 92.2 (b) and (c)", between the words All and commercial.

7. In § 92.8, a new paragraph (c) is added to read:

§ 92.8 Inspection at the port of entry.

(c) All pet birds imported from any part of the world, except pet birds from Canada and pet birds meeting the provisions of § 92.2(c)(2), shall be subjected to inspection at the Customs port of entry by a veterinary inspector of Veterinary Services and such birds shall be permitted entry only at the ports listed in § 92.3(e). Pet birds of Canadian origin and those birds meeting the provisions of § 92.2(c)(2) shall be subject to veterinary inspection at any of the ports of entry listed in § 92.3.

8. In § 92.11, in paragraph (e) the phrase "pet birds, except as provided in § 92.2(c)," is inserted before the words "commercial birds."

(Sec. 2, 32 Stat. 792, as amended; secs. 2, 3, 4, and 11, 76 Stat. 129, 130, 132 (21 U.S.C. 111, 134a, 134b, 134c, and 134f); 37 FR 28464, 28477; 38 FR 19141.)

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has

been prepared and is available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782. 301-436-8695.

Done at Washington, D.C., this 12th day of July 1979.

Pierre A. Chaloux,
Deputy Administrator, Veterinary Services.

[FR. Doc. 79-22350 Filed 7-19-79; 8:45 am]

BILLING CODE 3410-34-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 703

Investments and Deposits

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: This rule amends Part 703 by adding a new section 703.3 that restricts the investment activities of Federal credit unions based upon the Administration's determination that certain activities are unauthorized or otherwise unsafe or unsound. The rule prohibits the use of standby commitments, adjusted trading and short sales, sets forth limitations on the purchase and sale of securities, cash forwards, repurchase transactions, reverse repurchase transactions, and future contracts. The purpose of the rule is to prohibit or limit certain types of investment activities that have resulted in substantial financial losses to Federal credit unions that may cause a reduction or loss of dividends to members or otherwise jeopardize the interests of members and may present a potential loss to the National Credit Union Share Insurance Fund.

EFFECTIVE DATE: July 20, 1979.

ADDRESS: National Credit Union Administration, 2025 M Street, N.W., Washington, D.C., 20456.

FOR FURTHER INFORMATION CONTACT: Robert F. Schafer, Office of Examination and Insurance, or Frederick S. Lipton, Office of General Counsel, at the above address. Telephone: (202) 254-8760 (Mr. Schafer) or (202) 632-4870 (Mr. Lipton).

SUPPLEMENTARY INFORMATION: On October 17, 1978, the Administration published a proposed regulation (43 FR 47731) that would restrict Federal credit union involvement in certain investment activities that the Administration believes are unauthorized or otherwise unsafe and unsound. Public comment was invited, to be received on or before December 15, 1978. In response to several comments received, the official comment period was extended to March

15, 1979. Upon review of all comments received and after a thorough reconsideration of the proposed regulation by the Administration, certain changes, as set forth below, have been made. Analysis of Changes:

1. Definitions

Several definitions have been added to those contained in the proposed regulations. Terms such as "trade date", "settlement date" and "maturity date" have been added for clarification purposes. Other terms such as "adjusted trading" and "short sales" have been added for substantive reasons and are discussed below under appropriate headings. For the most part, these definitions agree with those contained in the Analysis and Report on Alternative Approaches to Regulating the Trading of GNMA Securities released by the Government National Mortgage Association (November 7, 1978).

The term "agreement" as used in conjunction with repurchase and reverse repurchase activities, defined in sections 703.3(a)(4) and (5), has been replaced by the term "transaction" since these activities represent financial transactions and the term more accurately describes these activities when they involve borrowing and lending by Federal credit unions. Several commenters suggested that the definitions of repurchase and reverse repurchase transactions are written from the standpoint of a broker or other vendor of securities. The Administration agrees that the above definition describes a transaction with a Federal credit union from the point of view of the party dealing with the credit union. However, for several reasons the Administration has in substance retained the definitions set out in the proposed regulation. Repo's and reverse repo's are often referred to by certain Government agencies and securities brokers in the same manner as set out in the proposed regulation. Further, the Administration has previously issued accounting procedures to all Federal credit unions based upon the terminology set out in the proposed regulation. For these reasons the Administration believes that it would be less confusing for Federal credit unions to retain the definitions of a repurchase and reverse repurchase transaction set out in the proposed regulation.

2. 5-Day Settlement Date

Many commenters objected to the limitation in the proposed regulation that Federal credit unions purchase or sell securities only when the purchase or sale is to be completed within 5

business days after the agreement of purchase or sale is made. The proposed limitation would have generally restricted investments to immediate cash settlement transactions. Ordinarily, however, a settlement period, i.e., a delivery period of up to 30 days, is required in order to facilitate the purchase or sale of U.S. Government and Federal agency securities. Therefore, the 5 business days requirement has been deleted from section 703.3(b)(1) of the final rule, which now provides that the security is to be delivered within 30 days from the trade date.

Some commenters suggested that certain types of securities, e.g., Small Business Administration guaranteed loans, be exempted from any requirement for a limited settlement period due to the irregular issuance or guarantee of these securities. The Administration believes that a 30 day delivery period encompasses the time limits for settlement when such securities are obtained on a "when issued" basis. However, for those securities that may not be capable of settlement within the 30 day period, the final regulation relaxes the originally proposed prohibition on cash forward agreements as discussed below under Cash Forward Agreements.

3. Market Price

"Market price" is defined in section 703.3(a)(13) as the last established price at which a security is sold. Section 703.3(b)(10) of the final rule provides all cash transactions under section 703.3(b)(1) and all cash forward transactions under section 703.3(b)(3) must be at the market price. In the case of an immediate cash purchase or sale of a security, there is no legitimate reason for a Federal credit union to pay a purchase price either above or below the market price. The purchase or sale of a security above its market price is in most cases due to an attempt to hide or defer investment losses, practices not in accord with the "full and fair disclosure" requirement of section 702.3 of the rules and regulations or the Accounting Principles and Standards for Federal Credit Unions. A vendor ordinarily expects a Federal credit union to enter into an offsetting sale or trade in return for selling it a security below market price. Such transactions usually result in a loss for the Federal credit union. Further, the sale of a security below its market price by a Federal credit union results in an immediate loss. Thus, the Administration considers that it is an unsafe and unsound practice for a Federal credit union to enter into a

cash transaction for the immediate purchase or sale of a security either above or below its market price.

The purchase or sale of a security off the market price by a cash forward agreement is unsafe and unsound for the same reasons as are applicable to an immediate cash purchase. Under the final rule the primary purpose of allowing a cash forward agreement is to provide for the purchase of U.S. Government and Federal agency securities. Such purchases when made at the market price avoid speculation and potential losses on the part of a Federal credit union. In addition, the standard of requiring these trades to be at market price is followed by other financial regulatory agencies.

As was suggested by one commenter, the final rule also requires that the purchase price of a security obtained under a repurchase transaction must be at the market price. This change, contained in section 703.3(b)(4), is also adopted for the same reasons that the purchase price of a security obtained by a cash purchase or a cash forward agreement is required to be at the market price.

4. Forward Placement Contracts

Under the proposed regulation, Federal credit unions were prohibited from engaging in both types of forward placement contracts, i.e., standby commitments and cash forward agreements. The final rule also prohibits Federal credit unions from engaging in standby commitments, but permits the purchase and sale of authorized securities by means of a cash forward agreement, as explained below.

a. Standby Commitments

Section 703.3(b)(2) of the proposed regulation contained a general ban on Federal credit unions engaging in standby commitments to purchase or sell securities. Some commenters suggested that Federal credit unions should be permitted to engage in buying and selling standby commitments for authorized securities as a means of hedging against potential losses incurred in the making of real estate loans. The Administration believes that the informal and unorganized nature of the market in standby commitments argues against its use as a hedging device by Federal credit unions.

Since the Administration does not believe that hedging by means of buying and selling standby commitments for authorized securities is necessary to make real estate loans, the final rule contains the same general ban on standby commitments. However, it does

not prohibit a Federal credit union from selling its real estate loans by use of a standby commitment in order to facilitate the making of such loans. This has been accomplished by defining the term "security" as not to include loans to members or residential real estate loans authorized under subsections 701.21-6 and 701.21-8 of Part 701 of the National Credit Union Administration rules and regulations. Such activity would be incidental to the exercise of a Federal credit union's real estate lending authority.

b. Cash Forward Agreements (Forwards)

Some commenters suggested that Federal credit unions be allowed to participate in forwards for the purchase or sale of securities. Comments were also received stating that forwards play an important part in the sale of certain Government securities representing pools of mortgages secured by real estate. Other commenters supported the position of the Administration set out in the proposed regulation that numerous abuses can presently be found in the forwards market and that until such abuses are corrected, Federal credit unions should be prohibited from engaging in any forward transactions.

The Administration has determined that Federal credit unions should be permitted to engage in cash forward agreements. As stated above, commenters have noted that cash forward transactions would support the market for Government securities representing pools of mortgages. The Administration believes that a cash forward agreement for a settlement period not exceeding 120 days from the trade date to the settlement date in the case of a purchase of authorized securities will assist in the sale of mortgage loans secured by real estate and will not subject Federal credit unions to an undue or excessive market risk. Additionally, the Administration is cognizant of the steps taken by the securities industry to implement a scheme of self-regulation of brokers and dealers engaged in the purchase or sale of U.S. Government and Federal agency securities. Should the concept of self-regulation not become a reality and abuses continue, the Administration will necessarily be required to reconsider its position in regard to permitting cash forward agreements.

Therefore, under section 703.3(b)(3) of the final rule, a Federal credit union may enter into a cash forward agreement to purchase a security when delivery is to be made up to 120 days from the trade date. When the delivery of the security is to be made beyond the 30 day period

under section 703.3(b)(1) of the final rule, a Federal credit union will be required to prepare a written cash flow projection evidencing its ability to purchase the security. The accounting procedures for such a purchase will be set out in an NCUA Interpretive Ruling and Policy Statement. This Statement will require that in cases where settlement for the purchase of authorized securities is over 30 days, the mark to the lower cost or market accounting procedure must be applied. Thus, those U.S. Government and Federal agency securities such as SBA guaranteed loans, that cannot be settled within 30 days are not prohibited, but rather are subject to the requirements set out in section 703.3(b)(3) of the final rule.

A cash forward agreement to sell a security is not subject to the 120 day limitation, but a Federal credit union cannot enter into such an agreement unless it presently owns the security. As a further safeguard, and as suggested by many commenters, the final rule imposes a requirement that all cash forward agreements must be settled in cash and, thus, may not be extended or "rolled over" into new contracts that would extend the original settlement date.

5. Repurchase Transaction (Repo)

Some commenters suggested that the proposed regulation was unnecessarily restrictive in prohibiting Federal credit unions from entering into loan-type repurchase transactions with financial institutions other than credit unions. The prohibition in the proposed regulation was based upon section 107(5) of the Federal Credit Union Act ("the Act") (12 U.S.C. 1757(5)), which provides, in part, that a Federal credit union may make loans to its members, other credit unions and credit union organizations. In view of this statutory authority, the prohibition against engaging in loan-type repurchase transactions with other financial institutions has been retained in the final rule.

One commenter suggested that the requirements for delivery of a security purchased under an investment-type repurchase agreement could be best accomplished by utilizing the concept of "delivery" under section 8-313 of the Uniform Commercial Code. The Administration agrees. In order to conform to a "delivery" under section 8-313, the requirement of obtaining a confirmation of the purchase of the security has been added to subsection 703.3(a)(4)(A)(i) of the final rule. Section 8-313 implies that this confirmation be in writing, and such a requirement has

also been added to the above referenced section of the final rule.

Further, the requirement in the proposed regulation that securities sold under an investment-type repurchase transaction be held by the Federal credit union or in a custodial or safekeeping account in a bank or other financial institution has been changed. The final rule requires that there be a written "bailment for hire contract" with the bank or other financial institution. The proposed regulation, by requiring that a bank or other financial institution hold the securities in a custodial or safekeeping account, imposed a bailment for hire contract by operation of law.

Section 703.3(a)(4) of the proposed rule on repurchase transactions has been revised to require that, in the case of an investment-type repurchase transaction, there must be an unrestricted transfer of ownership of the security by the vendor to the Federal credit union or its agent. The proposed regulation had required that the Federal credit union must assume the risk of market fluctuation and must receive the coupon or stated interest, yield or dividend rate. The requirement for an unrestricted transfer of ownership will encompass both of the proposed requirements. Thus, reference to those requirements were deleted as suggested by one commenter. Under the final rule the essential elements of a permissible purchase of a security from a vendor, rather than those of a prohibited loan to a vendor, will be present.

6. Reverse Repurchase Transactions (Reverse Repo's)

Under a reverse repurchase transaction a Federal credit union obtains the use of funds for a fixed period and pledges securities owned by it as collateral. Thus, as set out in section 703.3(b)(6) of the proposed regulation, section 703.3(a)(5) of the final rule defines this activity as a borrowing that is subject to the limitations set out in section 107(9) of the Act (12 U.S.C. 1757(9)) that a Federal credit union may not borrow an aggregate amount exceeding 50 percent of its paid-in and unimpaired capital and surplus.

One commenter suggested that a Federal credit union should exercise care in choosing a securities firm with which to enter into a reverse repo. The commenter also correctly pointed out that if a securities firm is insolvent on the date the reverse repo matures, the credit union may not recover its collateral. Since less than the full amount of the collateral is usually loaned to a credit union in a reverse

repo, the credit union can experience a substantial loss when that collateral is not returned. An NCUA Interpretive Ruling and Policy Statement, to be issued shortly, will provide guidance for Federal credit unions in dealing with securities firms.

Under the proposed regulation, section 703.3(b)(6), a Federal credit union could not enter into a reverse repo with the intent of using the funds so obtained to purchase securities authorized under sections 107(7)(B), (D), (E), (F), (I) or 107(8) of the Act (12 U.S.C. 1757(7)(B), (D), (E), (F), (I) or 12 U.S.C. 1757(8)). (The proposed regulation did not contain a prohibition on investments authorized under 12 U.S.C. 1757(7)(G) and 1757(7)(H). No comments were received in this regard and the Administration finds no basis for excluding such investments from the restrictions contained in the final regulation. In addition, certain sections referred to in the proposed regulation as investments can be deemed to be deposits, i.e., 12 U.S.C. 1757(7)(D) and 1757(8).)

Several commenters suggested that this prohibition not be adopted. Instead, it was suggested that the regulation permit the investment of the obtained funds in certificates of deposit or approved common trust funds. Most of these commenters expressed the opinion that a prohibition against purchasing securities with funds obtained by means of reverse repurchase agreements would deny Federal credit unions the opportunity to maximize the return on their investments.

The Administration believes that the practice of investing funds borrowed by means of a reverse repurchase transaction in new long term securities that may fluctuate in value without using presently held securities that mature prior to the reverse repo date as collateral for the reverse repurchase agreement, is an unsafe and unsound practice. The final rule maintains the prohibition against such a practice, i.e., investment in new long term securities without adequate short term safeguards. The Administration has determined, however, that the blanket prohibition contained in the proposed regulation can be relaxed without compromising the Administration's position on safe and sound operation. This has been accomplished in the final rule by limiting the amount and maturity of investments purchased with reverse repo funds as explained below.

First, either the investments or deposits made with funds obtained through a reverse repurchase transaction or securities collateralizing

that transaction must have a maturity date not later than the settlement date for the reverse repurchase transaction. Second, the amount of funds obtained by means of a reverse repo for investment or deposit purposes is limited to a maximum of 10 percent of the paid-in and unimpaired capital and surplus of the Federal credit union. In other words, under the final regulation, a Federal credit union can borrow funds by means of a reverse repurchase transaction and invest or deposit those funds, up to the 10 percent limitation, in authorized investments or deposits that mature prior to the reverse repo settlement date. Under the proposed regulation, those funds could not have been reinvested in other investments or deposits. Alternatively, under the final regulation, a Federal credit union can borrow funds and make investments that mature after the reverse repo date provided the securities used as collateral on the reverse repo mature prior to the settlement date of the reverse repo. The final regulation does not include investments in service organizations under section 107(7)(I) of the Act. This has been done because those investments are not readily marketable, due to uncertainty as to maturity date, if any, and because the investment in such organizations is designed for capitalization rather than return on investment.

7. Adjusted Trading

The Administration has noted that some Federal credit unions have engaged in certain practices in order to hide or defer losses that have resulted mostly from their overcommitments to purchase securities. Such practices are known as "adjusted trading" or "overtrading" and violate section 702.3 of the rules and regulations, in that the Federal credit union engaged in such practices does not provide "full and fair disclosure" of its financial condition to its members, its creditors, or the Administration. Additionally, adjusted trading violates the Accounting Principles and Standards for Federal Credit Unions in that losses are not recorded during the accounting period when they are incurred. Accordingly, the final rule in the new section 703.3(b)(8) prohibits Federal credit unions from engaging in adjusted trading. Descriptions of various types of adjusted trading will be contained in an NCUA Interpretive Ruling and Policy Statement.

8. Short Sale

The final regulation contains a prohibition against a Federal credit

union engaging in a short sale in section 703.3(b)(9). A short sale is defined in section 703.3(a)(12) as the sale of a security not owned by the seller. A short sale requires the seller to borrow or purchase securities in order to make delivery to the purchaser. The Federal Credit Union Act does not provide the authority for Federal credit unions to sell securities that are not presently owned by them. In addition, engaging in short sales constitutes an unsafe and unsound practice.

9. Accounting Procedures

Numerous comments were received regarding the accounting procedures discussed in the preamble to the proposed regulation. These comments and accounting procedures will be addressed in an NCUA Interpretive Ruling and Policy Statement.

10. Futures Markets

The proposed regulation limited Federal credit union participation in a futures market to the purchase or sale of a futures contract as a hedging device incident to the assembly of a pool of mortgages for sale in the secondary market. The Administration will issue a proposed regulation on that subject. Until that regulation is published in final form, Federal credit unions may not participate in any futures trading.

11. Application to Federally Insured Credit Unions

This Administration has received several comments requesting that the final regulation on investment activities of Federal credit unions also be made applicable to federally insured State chartered credit unions. The Administration has chosen not to take such action at this time. It has been determined that in order to do so, notice of such action would be required in proposed form. Due to the fact that the proposed regulation made no mention of possible expansion of the applicability of the final regulation, federally insured State chartered credit unions and their respective supervisory agencies were not provided with the necessary opportunity for comment. The Administration intends, instead, to rely on the individual state supervisory agencies to appropriately regulate the institutions that fall within their jurisdiction in light of the investment authority contained in state credit union statutes. Where it is determined that necessary regulatory or corrective action is not being pursued at the State level, the Administration will, on a case by case basis, exercise its administrative action authority. The

Administration will, however, as the need arises, review and re-evaluate its position on this issue.

12. Effective Date

Some commenters expressed concern over whether the final rule would be applicable to the transactions entered into before its effective date. The final rule is not retroactive and, therefore, does not affect transactions entered into prior to the effective date.

Federal credit unions that, prior to the effective date of the final rule, have made commitments to purchase securities or have borrowed funds via reverse repurchase transactions should begin to wind-down those activities in a safe and orderly manner.

As a general rule, those Federal credit unions that have previously entered into a suitable commitment to purchase a security even if the commitment is not authorized under the final rule, should meet that commitment. Also, those Federal credit unions that have engaged in reverse repurchase transactions to purchase securities and are unable to repay the borrowed funds may extend the terms of those borrowings, provided, however, that the amount of the borrowings does not exceed the limitations of section 107(9) of the Federal Credit Union Act (12 U.S.C. 1757(9)) and that future borrowings do not violate the new section 703.3(b)(6) of the rules and regulations.

If as a result of their investment activities Federal credit unions have impaired either the liquidity or earnings, they should contact their NCUA Regional Office for guidance in resolving their problems.

Because the final rule relates to the safety and soundness of Federal credit unions and these institutions are insured by this Administration, it is in the public interest that the final rule become effective without delay. Further, the final rule has no retroactive effect; thus, an immediate effective date will not impose a financial burden on Federal credit unions. Therefore, the Administration finds that publication of the final rule for the 30 days specified in 5 U.S.C. 553(d) prior to its effective date is unnecessary, and the final rule shall become effective July 20, 1979.

Accordingly, 12 C.F.R. 703 is amended by adding a new § 703.3 as set forth below.

Lawrence Connell,
Chairman.
July 17, 1979.

Authority: Sec. 107, 91 Stat. 49 (12 U.S.C. 1757); Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).

§ 703.3 Investment activities.

(a) *Definitions.* (1) "Security" means any investment or deposit authorized for a Federal credit union pursuant to sections 107(7) and 107(8) of the Act. For the purpose of this section, the definition of a security shall not mean loans to members or loans authorized under §§ 701.21-6 and 701.21-8 of the rules and regulations.

(2) "Standby commitment" means an agreement to purchase or sell a security at a future date, whereby the buyer is required to accept delivery of the security at the option of the seller.

(3) "Cash forward agreement" means an agreement to purchase or sell a security, at a future date, that requires mandatory delivery and acceptance. The contract for the purchase or sale of a security for which delivery of the security is made in excess of thirty (30) days but not exceeding one hundred and twenty (120) days from the trade date shall be considered to be a cash forward agreement.

(4) "Repurchase transaction" means a transaction in which a Federal credit union agrees to purchase a security from a vendor and to resell a security to that vendor at a later date. A repurchase transaction may be of two types:

(i) "Investment-type repurchase transaction" means a repurchase transaction where:

(A) The Federal credit union purchasing the security takes physical possession of the security, or receives written confirmation of the purchase and a custodial or safekeeping receipt from a third party bank or other financial institution under a written bailment for hire contract identifying a specific security in its possession as owned by the Federal credit union;

(B) There is no restriction on the transfer of the security purchased by the Federal credit union; and

(C) The Federal credit union is not required to deliver the identical security to the vendor upon resale.

(ii) "Loan-type repurchase transaction" means any repurchase transaction that does not qualify as an investment-type repurchase transaction. A loan-type repurchase transaction represents a lending transaction and is subject to the limitations of section 107(5) of the Act.

(5) "Reverse repurchase transaction" means a transaction whereby a Federal credit union agrees to sell a security to a purchaser and to repurchase the same security from that purchaser at a future date, irrespective of the amount of consideration paid by the Federal credit union or the purchaser. A reverse repurchase transaction represents a

borrowing transaction and is subject to the limitations of section 107(9) of the Act.

(6) "Futures contract" means a standardized contract for the future delivery of commodities, including certain government securities, sold on designated commodities exchanges.

(7) "Trade date" means the date a Federal credit union originally agreed, whether verbally or in writing, to enter into the purchase or sale of a security with a vendor.

(8) "Settlement date" means the date originally agreed to by a Federal credit union and a vendor for settlement of the purchase or sale of a security, without any modification or extension of that date.

(9) "Maturity date" means the date on which a security matures, and shall not mean the call date or the average life of the security.

(10) "Adjusted trading" means any method or transaction used to defer a loss whereby a Federal credit union sells a security to a vendor at a price above its current market price and simultaneously purchases or commits to purchase from that vendor another security above its current market price.

(11) "Bailment for hire contract" means a contract whereby a third party bank or other financial institution for a fee agrees to exercise ordinary care in protecting the securities held in safekeeping for its customers.

(12) "Short sale" means the sale of a security not owned by the seller.

(13) "Market price" means the last established price at which a security is sold.

(b) *Limitations.* (1) A Federal credit union may contract for the purchase or sale of a security authorized by section 107(7) of the Act, provided that the delivery of the security is to be made within thirty (30) days from the trade date.

(2) A Federal credit union may not enter into a standby commitment to purchase or sell a security.

(3) A Federal credit union may enter into a cash forward agreement to purchase a security provided that the period from the trade date to the settlement date does not exceed one hundred and twenty (120) days and the credit union has written cash flow projections evidencing its ability to purchase the underlying security. A Federal credit union may not enter into a cash forward agreement to sell a security unless it presently owns the security. All cash forward agreements must be settled on a cash basis at the settlement date.

(4) A Federal credit union may not enter into an investment-type repurchase transaction unless all the conditions cited in § 703.3(a)(4)(A) are met. Any repurchase transaction that does not meet such requirements constitutes a loan-type repurchase transaction subject to the limitations of § 703.3(b)(5). The purchase price of a security obtained under an investment-type repurchase transaction must be at the market price.

(5) A Federal credit union may enter into a loan-type repurchase transaction only with its own members, other credit unions, or approved credit union organizations that are defined in § 701.27-2 of the rules and regulations.

(6) A Federal credit union may enter into a reverse repurchase transaction, provided that the funds obtained are not invested under section 107(7)(I) of the Act. Furthermore, either any investment or deposit made under sections 107(7)(B), (D), (E), (F), (G), (H) or 107(8) of the Act or any security collateralizing the reverse repurchase transaction must have a maturity date not later than the settlement date for the reverse repurchase transaction. The maximum amount of funds that may be borrowed under a reverse repurchase transaction for investment or deposit is 10 percent of paid-in and unimpaired capital and surplus.

(7) A Federal credit union may not buy or sell a futures contract unless the purchase or sale is specifically authorized by a regulation issued by the Administration.

(8) A Federal credit union may not engage in adjusted trading as defined in § 703.3(a)(10).

(9) A Federal credit union may not engage in a short sale as defined in § 703.3(a)(12).

(10) All purchases and sales of securities by a Federal credit union by means of a cash transaction under § 703.3(b)(1) or a cash forward agreement under § 703.3(b)(3) must be at the market price.

[FR Doc. 79-22609 Filed 7-19-79; 8:45 am]
BILLING CODE 7535-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1500

Hazardous Substances and Articles Administration and Enforcement Regulations; Revocation of Ammunition Labeling Provisions

AGENCY: Consumer Product Safety Commission.

ACTION: Revocation of rule.

SUMMARY: Since Congress has specifically withdrawn from the Commission any authority to regulate ammunition, the Commission is deleting from its regulations the labeling requirement that was previously applicable to small-arms ammunition.

EFFECTIVE DATE: The requirement, which has not been enforced since May 11, 1976, is officially deleted as of July 20, 1979.

FOR MORE INFORMATION CONTACT: Alan Shakin, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207; (202) 634-7770.

SUPPLEMENTARY INFORMATION: In 1973 the Consumer Product Safety Commission acquired all functions that the Food and Drug Administration (FDA) had performed under the Federal Hazardous Substances Act (FHSA, 15 U.S.C. 1261 *et seq.*; see 15 U.S.C. 2079(a)). Soon after, the Commission recodified the FDA's existing regulations under the FHSA (38 FR 27012, September 27, 1973).

One of the existing regulations concerned small-arms ammunition packaged in retail containers (16 CFR 1500.83(a)(6)). This regulatory provision exempted such ammunition from the statutory labeling requirements of section 2(p)(1) of the FHSA (15 U.S.C. 1261(p)(1)) as long as it contained specified alternative labeling. Since ammunition "generates pressure" and "may cause substantial personal injury," it was a "hazardous substance" subject to the labeling and other provisions of the FHSA (15 U.S.C. 1261(f)(1)(A)).

In May 1976 the Consumer Product Safety Commission Improvements Act became effective. A provision in that legislation amended the Consumer Product Safety Act so that the Commission would have no authority under the FHSA to regulate specified products, including shells and cartridges (15 U.S.C. 2052(a)(1) and see 26 U.S.C. 4181-82, 4221). In addition, the Improvements Act prohibited the Commission from making any "ruling or order that restricts the manufacture or sale of firearms, firearms ammunition, or components of firearms ammunition . . ." (section 3(e) of Improvements Act, Pub. L. 94-284).

Since the Commission now unambiguously lacks regulatory authority over small-arms ammunition, the alternate labeling requirement at 16 CFR 1500.83(a)(6) can have no effect. Accordingly, pursuant to the Federal Hazardous Substances Act (secs. 2(f,p), 3(a-c), 10; 74 Stat. 372, 374, 375, as

amended; 15 U.S.C. 1261(f,p), 1262(a-c), 1269), the Commission amends Title 16, Chapter II of the Code of Federal Regulations by deleting paragraph (a)(6) of Subchapter C, Part 1500, § 1500.83.

In view of its lack of statutory authority for small-arms ammunition regulation, the Commission finds for good cause that neither the opportunity for public comment nor a delayed effective date is necessary. Therefore, the deletion is effective immediately.

EFFECTIVE DATE: The requirement, which has not been enforced since May 11, 1976, is officially deleted as of July 20, 1979.

Dated: July 13, 1979.

Sadye E. Dunn,
Secretary, Consumer Product Safety Commission.

[FR Doc. 79-22557 Filed 7-19-79; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Parts 176 and 178

[Docket No. 78F-0145]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Paper and Paperboard Components; Emulsifiers and/or Surface-Active Agents

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The food additive regulations are amended to extend the safe use of *n*-alkylsulfonate, an emulsifier, to include vinylidene chloride (VDC) polymer coatings and to increase its use level from that already permitted in components of paper and paperboard in contact with aqueous and fatty foods under certain prescribed conditions.

DATES: Effective July 20, 1979. Objections by August 20, 1979.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

List of substances	Limitations
<i>n</i> -alkylsulfonate (alkyl group is in the range C ₁₂ -C ₁₈ , with not less than 50 percent C ₁₂ -C ₁₄).	For use only: 1. As an emulsifier for vinylidene chloride copolymer coatings and limited to use at a level not to exceed 2 percent by weight of the coating solids.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A notice published in the Federal Register of June 9, 1978 (43 FR 25192) announced that a food additive petition (7B3274) had been filed by Solvay American Corp., 609 Fifth Ave., New York, NY 10017, proposing to amend § 178.3400 *Emulsifiers and/or surface active agents* (21 CFR 178.3400) to provide for the use of *n*-alkylsulfonate (NAS) as an emulsifier for vinylidene chloride copolymer coatings containing a maximum of 2.6 percent by weight of coating solids. The petition further requested that these coatings be regulated for use with any substrate. Only the coating surface would be used to contact all types of food except distilled spirits. The petition also requested that the use level of NAS currently regulated at 2 percent in VDC copolymer coatings under § 176.170. *Components of paper and paperboard in contact with aqueous and fatty foods* be increased to 2.6 percent by weight of coating solids for those food types and use conditions supported by the current petition.

Having evaluated data in the petition and other relevant material, the Food and Drug Administration has concluded that §§ 176.170 and 178.3400 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Parts 176 and 178 are amended as follows:

1. Part 176 is amended in § 176.170 by revising the entry for *n*-alkylsulfonate in the list in paragraph (b)(2) to read as follows:

§ 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods.*

(b) * * *
(2) * * *

List of substances

Limitations

2. As an emulsifier for vinylidene chloride copolymer or homopolymer coatings at levels not to exceed a total of 2.6 percent by weight of coating solids. The finished polymer contacts food only of types identified in paragraph (c) of this section, table 1, under types I, II, III, IV, V, VIA, VIB, VII, VIII, and IX and under conditions of use E, F and G described in table 2 of paragraph (c) of this section.

2. Part 178 is amended in § 178.3400 by adding to the limitations for *n*-alkylsulfonate in the list in paragraph (c) the following item:

§ 178.3400 *Emulsifiers and/or surface-active agents.*

(c) * * *

List of substances

Limitations

n-alkylsulfonate (alkyl group is in the range C₁₂-C₁₈, with not less than 50 percent C₁₂-C₁₄).

For use only

1. * * *

2. * * *

3. As an emulsifier in vinylidene chloride copolymer or homopolymer coatings at levels not to exceed a total of 2.6 percent by weight of coating solids. The finished polymer contacts food only of the types I, II, III, IV, V, VIA, VIB, VII, VIII, and IX as identified in table 1 of § 176.170(c) of this chapter and limited to conditions of use E, F and G described in table 2 of § 176.170 of this chapter.

Any person who will be adversely affected by the foregoing regulation may at any time on or before August 20, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objections is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation.

Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective on July 20, 1979.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: July 13, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-22419 Filed 7-19-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Parts 522 and 558

[Docket No. 76N-0002]

Diethylstilbestrol (DES) in Edible Tissues of Cattle and Sheep; Revocations; Partial Stay of Effective Dates

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is staying the July 20, 1979 effective date of the revocation of the animal drug regulations that provide information about new animal drug applications (NADA's) for the use of DES animal drugs in cattle and sheep and for the manufacture, shipment, and use of feed containing DES. This action is based on the partial stay of the effective dates for the withdrawal of approval of NADA's for DES that

appears elsewhere in this issue of the Federal Register.

EFFECTIVE DATE: July 20, 1979.

FOR FURTHER INFORMATION CONTACT: Constantine Zervos, Scientific Liaison and Intelligence Staff (HFY-31), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4490.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 6, 1979 (44 FR 39618), FDA announced the withdrawal, after an evidentiary hearing, of the approval of NADA's 10421, 10964, 11295, 11485, 12553, 15274, 31446, 34916, 44344, 45981, and 45982. These NADA's are for DES implants and liquid and dry feed premixes for use in cattle and sheep.

Concurrently, in the Federal Register of July 6, 1979 (44 FR 39387), FDA issued a final rule pursuant to 21 U.S.C. 360b(i) amending Chapter I of Title 21 of the Code of Federal Regulations in Part 522 by revoking § 522.640 *Diethylstilbestrol*; and in Part 558 by deleting paragraph (e)(3)(v) in § 558.76 *Bacitracin methylene disalicylate*; by deleting paragraph (e)(3)(iv) in § 558.78 *Bacitracin, zinc*; and by revoking § 558.225 *Diethylstilbestrol*.

The effective date of the rule was set forth as follows:

Effective date: this rule is effective with respect to the manufacture and shipment of DES animal drugs on July 13, 1979; it is effective with respect to the use of DES animal drugs and the manufacture, shipment, and use of feed containing DES on July 20, 1979; it will not be made effective with respect to the edible products of animals treated with DES solely before the effective date for use of DES animal drugs and DES-treated animal feeds.

Elsewhere in this issue of the Federal Register, FDA is announcing the stay, until August 3, 1979, of the July 20, 1979 effective date for the withdrawal of approval of the NADA's for DES listed above. Accordingly, notice is hereby given that the July 20, 1979 effective date for the amendments of Parts 522 and 558 listed above is stayed until August 3, 1979.

(Secs. 512, 82 Stat. 343-351 (21 U.S.C. 360b).)

Dated: July 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-22806 Filed 7-18-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 556

[Docket No. 76N-0002]

Diethylstilbestrol (DES) in Edible Tissues of Cattle and Sheep; Revocation of Test Methods Regulation; Partial Stay of Effective Dates**AGENCY:** Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is staying the July 20, 1979 effective date of the revocation of the animal drug regulation that sets forth the methods of analysis approved for the detection of residues of DES in the edible tissues of cattle and sheep treated with DES. This action is based on the partial stay of effective dates for the withdrawal of approval of NADA's for DES that appears elsewhere in this issue of the Federal Register.

EFFECTIVE DATE: July 20, 1979.

FOR FURTHER INFORMATION CONTACT: Constantine Zervos, Scientific Liaison and Intelligence Staff (HFY-31), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4490.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 6, 1979 (44 FR 39618), FDA announced the withdrawal, after an evidentiary hearing, of the approval of NADA's 10421, 10964, 11295, 11485, 12553, 15274, 31446, 34918, 44344, 45981, and 45982. These NADA's are for DES implants and liquid and dry feed premixes for use in cattle and sheep.

Concurrently, in the Federal Register of July 6, 1979 (44 FR 39388), FDA issued a final rule revoking § 556.190 *Diethylstilbestrol* (21 CFR 556.190), which sets forth the methods of analysis approved for the detection of residues of DES in the edible tissues of cattle and sheep treated with DES.

The effective date of the rule was set forth as follows:

Effective date: This rule is effective with respect to the manufacture and shipment of DES animal drugs on July 13, 1979; it is effective with respect to the use of DES animal drugs and the manufacture, shipment, and use of feed containing DES on July 20, 1979; it will not be made effective with respect to the edible products of animals treated with DES solely before the effective date for use of DES animal drugs and DES-treated animal feeds.

Elsewhere in this issue of the Federal Register, FDA is announcing the stay, until August 3, 1979, of the July 20, 1979 effective date for the withdrawal of approval of the NADA's for DES listed

above. Accordingly, notice is hereby given that the July 20, 1979 effective date for the revocation of § 556.190 is stayed until August 3, 1979.

(Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360B, 371(a)).)

Dated: July 17, 1979.

William F. Randolph,
Acting Associate Commissioner Regulatory Affairs.

[FR Doc. 79-22805 Filed 7-18-79; 10:35 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE INTERIOR**Bureau of Indian Affairs****25 CFR Part 221****Flathead Irrigation Project; Operations and Maintenance Charges; Deletion of Unnecessary Regulations****AGENCY:** Bureau of Indian Affairs, Department of the Interior.**ACTION:** Final rule.

SUMMARY: This document removes provisions related to the operation and maintenance charges on the Irrigation Districts, Flathead Irrigation Project, St. Ignatius, Montana. This action is necessary to reflect amendments providing the Officer-in-Charge with greater flexibility in the day-to-day operation of the Project. The action taken will affect a fair market level of return for the economic benefit of the lessors of the land.

EFFECTIVE DATE: This action shall become effective on July 20, 1979.

FOR FURTHER INFORMATION CONTACT: George L. Moon, Telephone (406) 745-2661.

SUPPLEMENTARY INFORMATION: In the June 14, 1977 Federal Register (42 FR 30361) there was published a notice of final rule on new general regulations governing the operation and maintenance of Indian Irrigation projects. The revision consolidated the regulations for all Indian Irrigation Projects in a new Part 191 of Title 25 of the Code of Federal Regulations the updated provisions provided for the Area Director to publish the annual operation and maintenance rates and related information by general notice document in the Federal Register, and as new rates are announced the corresponding sections in Part 221 of Title 25 of the Code of Federal Regulations would be deleted. The latest notice of water charges and related information of the Flathead Irrigation Project shall be published as a general

notice in the Federal Register on the same date as this Final Rule.

Therefore, 25 CFR Part 221 is amended by deleting the following sections:

Flathead Irrigation Project, Montana

Sections 221.15, 221.16, 221.17, 221.18, 221.19, 221.20, 221.21, 221.22, 221.24, 221.25, 221.25a, 221.26, 221.27, 221.27a, 221.28, 221.29 and 221.29a.

Dated: July 13, 1979.

George L. Moon,

Project Engineer, Flathead Irrigation Project.

[FR Doc. 79-22525 Filed 7-19-79; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Part 1**

[T.D. 7632; EE-172-78]

Tax Treatment of Certain Option Income of Exempt Organizations**AGENCY:** Internal Revenue Service, Treasury.**ACTION:** Final regulations.

SUMMARY: This document provides final regulations relating to the tax treatment of certain option income of exempt organizations. Changes to the applicable tax law were made by the Act of September 3, 1976. The regulations apply to most, but not all, exempt organizations. They provide exempt organizations with guidance needed to determine their unrelated business taxable income.

DATE: The amendments are effective for options which lapse or terminate on or after January 1, 1976.

FOR FURTHER INFORMATION CONTACT: Margie Glass of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3544) (not a toll free number).

SUPPLEMENTARY INFORMATION:**Background**

On November 29, 1978, proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 512(b) of the Internal Revenue Code of 1954 were published in the Federal Register (43 FR 55796). The amendments were proposed to conform the regulations to section 1 of the Act of September 3, 1976 (90 Stat. 1201) and sections 1901(b)(8)(F) and 1951(b)(8)(A)

of the Tax Reform Act of 1976 (90 Stat. 1794, 1839). No comments were received and no public hearing was requested or held. The Treasury decision adopts the proposed amendments with minor clarifying revisions.

Explanation of Regulations

The amendment to section 512(b)(5) provides that gain from the lapse or termination of options occurring after December 31, 1975, will not constitute unrelated business taxable income to exempt organizations if it is in connection with the investment activities of such organizations. However, the amendment does not apply to organizations described in sections 501(c)(7) or 501(c)(9), or certain organizations described in section 501(c)(2). The amendment conforms the regulations to the amendments to section 512(b)(5) and defines what is meant by termination of an option. The amendment also conforms the regulations to reflect changes made to section 512(b) by the Tax Reform Act of 1976.

Drafting Information

The principal author of these regulations is Margie Glass of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of amendments to the Regulations

Accordingly, the proposed amendments to 26 CFR Part 1 are adopted, except that paragraph (d)(2) of § 1.512(b)-1, as set forth in paragraph 3 of the notice of proposed rulemaking, is changed.

§ 1.511 [Deleted]

Paragraph 1. Section 1.511 is deleted.

§ 1.511-2 [Amended]

Par. 1A. Paragraph (a)(3)(iii) of § 1.511-2 is amended by deleting "section 512 (b)(16)", and inserting in lieu thereof "section 512(b)(14)".

§ 1.512 [Amended]

Par. 2. Section 1.512(b) is deleted.

Par. 3. Section 1.512(b)-1 is amended as follows:

1. Paragraph "(d)" is redesignated "(d)(1)" and paragraph (d)(2) is added as set forth below.

2. Paragraph (j)(1) is amended by deleting "educational institution (as defined in section 151(e)(4))" and

inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(iii)".

§ 1.511 [Deleted]

3. Paragraph (j)(1)(iii) is amended by deleting "section 512(b)(17)" and inserting in lieu thereof "section 512(b)(15)".

4. Paragraph (1)(5) is amended by deleting "section 512(b)(15)" each place that it appears, and inserting in lieu thereof "section 512(b)(13)."

§ 1.512(b)-1 Modifications.

(d) *Gains and losses from the sale, etc. of property.* (1) * * *

(2) There shall be excluded from the computation of unrelated business taxable income any gain from the lapse or termination after December 31, 1975, of options to buy or sell securities (as that term is defined in section 1236 (c)). An option is considered terminated when the organization's obligation under the option ceases by any means other than by reason of the exercise or lapse of such option. If the exclusion is otherwise available it will apply whether or not the organization owns the securities upon which the option is written, that is, whether or not the option is "covered." However, income from the lapse or termination of an option is excludable only if the option is written in connection with the organization's investment activities. Thus, for example, if the securities upon which the options are written are held by the organization as inventory or for sale to customers in the ordinary course of a trade or business, the income from the lapse or termination will not be excludable under the provisions of this paragraph. Similarly, if an organization is engaged in the trade or business of writing options (whether or not such options are covered) the exclusion will not be available.

§ 1.514 [Amended]

Par. 4. Section 1.514(b) is deleted.

§ 1.514(b)-1 [Amended]

Par. 5. Paragraphs (b)(2)(ii) and example (3) of (b)(3) of § 1.514(b)-1 are amended by deleting "section 512(b)(15)" each place that it appears and inserting in lieu thereof "section 512(b)(13)".

This Treasury decision is issued under the authority contained in section 7805

of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: July 5, 1979.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 79-22434 Filed 7-19-79; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 1

[T.D. 7633; LR-1350]

Valuation Date for Pooled Income Funds and Applicability of Separate Share Rule to Successive Interests in Trusts**AGENCY:** Internal Revenue Service, Treasury.**ACTION:** Final regulations.

SUMMARY: This document contains final regulations regarding certain valuation dates under section 642(c) of the Internal Revenue Code of 1954. It also contains an amendment eliminating the application of the separate share rule of section 663(c) of the Code to successive interests in point of time. The regulation limits the application of the separate share rule to those concurrent trust interests where distributions closely parallel a distribution pattern that could occur if separate trusts had been created. The amendments affect certain pooled income funds and certain individuals receiving income from non-discretionary, multibeneficiary trusts.

DATES: The regulations dealing with pooled income funds are effective for transfers in trust made after July 31, 1969. The regulations involving separate shares apply in the case of taxable years ending after December 31, 1978.

FOR FURTHER INFORMATION CONTACT: Fred E. Grundeman of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: GG:LR:T, 202-566-3295 (not a toll-free call).

SUPPLEMENTARY INFORMATION:**Background**

On August 29, 1978, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 642(c) and 663(c) of the Internal Revenue Code of 1954 (43 FR 38601). No public hearing was requested or held on the proposed amendments.

This regulation does not meet the Treasury Department criteria for a significant regulation.

Pooled Income Funds

To qualify as a pooled income fund, a trust's assets must be valued periodically. In 1975, the regulations were amended to provide that, where the normal valuation date falls on a Saturday, Sunday, or legal holiday, the valuation may be made on the next succeeding day which is not a Saturday, Sunday, or legal holiday. The amendment to the regulations allows this valuation to be made on the next preceding day which is not a Saturday, Sunday, or legal holiday, provided that the selected practice is followed consistently when applicable. No comments were received on this amendment.

Separate Share Rule

Section 663(c) provides a rule for purposes of applying sections 661 and 662 (relating to income and deductions of "complex" trusts). In the case of a single trust having more than one beneficiary, substantially separate and independent shares of different beneficiaries are treated as separate trusts. The regulations state that the applicability of the separate share rule will generally depend upon whether distributions of the trust are to be made in substantially the same manner as if separate trusts have been created. [§ 1.663(c)-3.] However, paragraph (e) of § 1.663(c)-3 states that the separate share rule may also apply to successive interests in point of time, as for instance in the case of a trust providing for a life estate to A, remainder to B. In that case, in the taxable year of a trust in which the beneficiary dies, items of income and deduction properly allocable under trust accounting principles to the period before the beneficiary's death are attributed to one share and those allocable to the period after the beneficiary's death are attributed to the other share.

Under this rule, in the year of termination, the portion of gross income attributable to the remainderman will be reduced or eliminated by the allocation of all termination expenses to that share. Any excess termination expenses are not allocable against that portion of gross income attributable to the life income beneficiary. Under section 642(h) of the Code, however, the remainderman may carryover only those deductions in excess of the trust's total gross income for the entire year. This results in lost deductions in any case where termination expenses exceed that

portion of gross income attributable to the remainderman.

Three comments were received indicating divided opinions on the deletion of the separate share rule for successive interest.

Those in favor of deletion point out that there is nothing expressly in the statute or legislative history of section 663 to indicate the rule should be applied to other than concurrent interests. Further, the rule is a complication that is little understood and rarely followed and, contrary to the general approach of Subchapter J, increases the probability of wasted deductions.

Those opposed point out that the present rule produces an equitable result and, having been in effect for many years without a change in section 663, should not now be abandoned.

The Treasury Department believes the existing rule creates needless confusion and complexity. Further the Department believes that any potential inequity created by the elimination of the rule can usually be avoided by careful timing of trust transactions. After consideration of all comments regarding the proposed amendments, those amendments are adopted by this Treasury decision except that they are now effective for taxable years ending after December 31, 1978.

Deletion of Sections Merely Reproducing Statutory Material

As part of the effort to reduce the bulk of the Code of Federal Regulations several sections of the regulations which merely reproduce provisions of the Internal Revenue Code are being deleted.

Drafting Information

The principal author of these amendments is Fred E. Grundeman of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, the proposed amendments to 26 CFR Part 1 as set forth in the notice of proposed rulemaking published August 29, 1978 (43 FR 38601) are adopted with the following change:

Section 1.663(c)-3 as set forth in paragraph 3 of the notice of proposed rulemaking is amended by deleting the

date "December 31, 1978" and inserting in its place the date "January 1, 1979".

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: June 26, 1979.

Donald C. Lubick,
Assistant Secretary of the Treasury.
June 26, 1979.

§ 1.642(c)-5 Definition of pooled income fund.

(vi) The term "determination date" means each day within the taxable year of a pooled income fund on which a valuation is made of the property in the fund. The property in the fund shall be valued on the first day of the taxable year of the fund and on at least 3 other days within the taxable year. The period between any two consecutive determination dates within the taxable year shall not be greater than 3 calendar months. In the case of a taxable year of less than 12 months, the property in the fund shall be valued on the first day of such taxable year and on such other days within such year as occur at successive intervals of no greater than 3 calendar months. Where a valuation date falls on a Saturday, Sunday, or legal holiday (as defined in section 7503 and the regulations thereunder), the valuation may be made on either the next preceding day which is not a Saturday, Sunday, or legal holiday or the next succeeding day which is not a Saturday, Sunday, or legal holiday, so long as the next such preceding day or next such succeeding day is consistently used where the valuation date falls on a Saturday, Sunday, or legal holiday.

§ 1.663(c)-3 Applicability of separate share rule.

(e) For taxable years ending before December 31, 1978, the separate share rule may also be applicable to successive interests in point of time, as for instance in the case of a trust providing for a life estate to A and a second life estate or outright remainder to B. In such a case, in the taxable year of a trust in which a beneficiary dies items of income and deduction properly allocable under trust accounting principles to the period before a beneficiary's death are attributed to one share, and those allocable to the period after the beneficiary's death are attributed to the other share. Separate share treatment is not available to a succeeding interest, however, with respect to distributions which would otherwise be deemed distributed in a taxable year of the earlier interest under

the throwback provisions of subpart D (section 665 and following), part I, subchapter J, chapter 1 of the Code. The application of this paragraph may be illustrated by the following example:

Example. A trust instrument directs that the income of a trust is to be paid to A for her life. After her death income may be distributed to B or accumulated. A dies on June 1, 1956. The trust keeps its books on the basis of the calendar year. The trust instrument permits invasions of corpus for the benefit of A and B, and an invasion of corpus was in fact made for A's benefit in 1956. In determining the distributable net income of the trust for the purpose of determining the amounts includible in A's income, income and deductions properly allocable to the period before A's death are treated as income and deductions of a separate share; and for that purpose no account is taken of income and deductions allocable to the period after A's death.

[FR Doc. 79-22432 Filed 7-19-79; 8:45 am]
BILLING CODE 4830-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Part 1420

FMCS Services in Health Care Industry, Labor Disputes

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Promulgation of Final Regulations.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) promulgates Part 1420 of Title 29, CFR, governing FMCS services in health care industry labor disputes. This notice contains the text of the new regulations. The regulations are designed primarily to provide additional options to the parties in connection with the statutory Board of Inquiry factfinding procedure. The regulations provide an option for the parties to have some input to the selection of the individual(s) who may serve as the Board of Inquiry if one is appointed. The regulations also establish a deferral policy under which FMCS will decline to appoint a Board of Inquiry if the parties have their own factfinding or interest arbitration procedure which meets certain conditions.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Scott Kruse, General Counsel, Federal Mediation and Conciliation Service, Washington, D.C., 20427, (202) 653-5305, FTS 653-5305.

SUPPLEMENTARY INFORMATION: On March 13, 1979, An Advance Notice of Proposed Rulemaking was published in

the Federal Register (44 FR 14577) proposing to establish regulations governing optional input by the parties into the Board of the Inquiry selection process and to establish an FMCS policy of deferral to the parties' own factfinding or interest arbitration procedures under certain conditions. The basic concept of these two ideas was set forth. Interested persons were invited to submit comments on these proposals. Numerous oral comments were received from both labor and management representatives, all favoring these proposals.

On this basis, on May 4, 1979, Proposed Regulations were published in the Federal Register (44 FR 26128), setting forth the actual regulations to implement these proposals. Interested persons were again invited to submit comments on these regulations. All comments received were again in favor of the adoption of the regulations. No comments were received regarding the actual language of the proposed regulations. Therefore, no changes have been made in the language of the regulations.

The applicable provisions of Executive Order 12044 have been complied with.

Accordingly, 29 CFR Part 1420 is promulgated as set forth below.

EFFECTIVE DATE: These regulations shall become effective on August 1, 1979.

Adopted by the Federal Mediation and Conciliation Service at its office in Washington, D.C. on the 16th day of July 1979.

Wayne L. Horvitz,
Director.

29 CFR Part 1420 is added to read as follows:

PART 1420—FEDERAL MEDIATION AND CONCILIATION SERVICE—ASSISTANCE IN THE HEALTH CARE INDUSTRY

Sec.

1420.1 Functions of the Service in Health Care Industry Bargaining under the Labor-Management Relations Act, as amended (hereinafter "the Act").

1420.2-1420.4 [Reserved]

1420.5 Optional Input of Parties to Board of Inquiry Selection.

1420.6-1420.7 [Reserved]

1420.8 FMCS Deferral to Parties' Own Private Factfinding Procedures.

1420.9 FMCS Deferral to Parties' Own Private Interest Arbitration Procedures.

Authority: Secs. 8(d), 201, 203, 204, and 213 of the Labor Management Relations Act, as amended in 1974 (29 U.S.C. 158(d), 171, 173, 174 and 183).

§ 1420.1 Functions of the Service in health care industry bargaining under the Labor-Management Relations Act, as amended (hereinafter "the Act").

(a) *Dispute Mediation.* Whenever a collective bargaining dispute involves employees of a health care institution, either party to such collective bargaining must give certain statutory notices to the Federal Mediation and Conciliation Service (hereinafter "the Service") before resorting to strike or lockout and before terminating or modifying any existing collective bargaining agreement. Thereafter, the Service will promptly communicate with the parties and use its best efforts, by mediation and conciliation, to bring them to agreement. The parties shall participate fully and promptly in such meetings as may be called by the Service for the purpose of aiding in a settlement of the dispute. (29 U.S.C. Sections 158(d) and 158(g).)

(b) *Boards of Inquiry.* If, in the opinion of the Director of the Service a threatened or actual strike or lockout affecting a health care institution will substantially interrupt the delivery of health care in the locality concerned, the Director may establish within certain statutory time periods an impartial Board of Inquiry. The Board of Inquiry will investigate the issues involved in the dispute and make a written report, containing the findings of fact and the Board's non-binding recommendations for settling the dispute, to the parties within 15 days after the establishment of such a Board. (29 U.S.C. 183.)

§ 1420.2-1420.4 [Reserved]

§ 1420.5 Optional Input of parties to Board of Inquiry selection.

The Act gives the Director of the Service the authority to select the individual(s) who will serve as the Board of Inquiry if the Director decides to establish a Board of Inquiry in a particular health care industry bargaining dispute (29 U.S.C. 183). If the parties to collective bargaining involving a health care institution(s) desire to have some input to the Service's selection of an individual(s) to serve as a Board of Inquiry (hereinafter "BoI"), they may jointly exercise the following optional procedure: (a) At any time at least 90 days prior to the expiration date of a collective bargaining agreement in a contract renewal dispute, or at any time prior to the notice required under clause (B) of Section 8(d) of the Act (29 U.S.C. 158(d)) in an initial contract dispute, the employer(s) and the union(s) in the dispute may jointly submit to the Service a list of arbitrators or other impartial individuals who would be

acceptable BoI members both to the employer(s) and to the union(s). Such list submission must identify the dispute(s) involved and must include addresses and telephone numbers of the individuals listed and any information available to the parties as to current and past employment of the individuals listed. The parties may jointly rank the individuals in order of preference if they desire to do so.

(b) The Service will make every effort to select any BoI that might be appointed from that jointly submitted list. However, the Service cannot promise that it will select a BoI from such list. The chances of the Service finding one or more individuals on such list available to serve as the BoI will be increased if the list contains a sufficiently large number of names and if it is submitted at as early a date as possible. Nevertheless, the parties can even preselect and submit jointly to the Service one specific individual if that individual agrees to be available for the particular BoI time period. Again the Service will not be bound to appoint that individual, but will be receptive to such a submission by the parties.

(c) The jointly submitted list may be worked out and agreed to by (1) A particular set of parties in contemplation of a particular upcoming negotiation dispute between them, or (2) a particular set of parties for use in all future disputes between that set of parties, or (3) a group of various health care institutions and unions in a certain community or geographic area for use in all disputes between any two or more of those parties.

(d) Submission or receipt of any such list will not in any way constitute an admission of the appropriateness of appointment of a BoI nor an expression of the desirability of a BoI by any party or by the Service.

(e) This joint submission procedure is a purely optional one to provide the parties with an opportunity to have input into the selection of a BoI if they so desire.

(f) Such jointly submitted lists should be sent jointly by the employer(s) and the union(s) to the appropriate regional office of the Service. The regional offices of the Service are as follows:

Region 1, Federal Building, Room 2937, 28 Federal Plaza, New York, NY 10007.

Region 2, Mall Building, Room 401, Fourth and Chestnut Streets, Philadelphia, PA 19108.

Region 3, Suite 400, 1422 West Peachtree Street, N.W., Atlanta, GA 30309.

Region 4, Superior Building, Room 1525, 815 Superior Avenue, N.E., Cleveland, OH 44114.

Region 5, Insurance Exchange Building, 16th Floor, 175 West Jackson Boulevard, Chicago, IL 60604.

Region 6, Chromalloy Plaza, Fifth Floor, 120 South Central Street, St. Louis, MO 63105.

Region 7, Francisco Bay Building, Suite 235, 50 Francisco Street, San Francisco, CA 94133.

Region 8, Fourth and Vine Building, Room 444, 2615 Fourth Avenue, Seattle, WA 98121.

§ 1420.6-1420.7 [Reserved]

§ 1420.8 FMCS deferral to parties' own private factfinding procedures.

(a) The Service will defer to the parties' own privately agreed to factfinding procedure and decline to appoint a Board of Inquiry (BoI) as long as the parties' own procedure meets certain conditions so as to satisfy the Service's responsibilities under the Act. The Service will decline to appoint a BoI and leave the selection and appointment of a factfinder to the parties to a dispute if both the parties have agreed in writing to their own factfinding procedure which meets the following conditions:

(1) The factfinding procedure must be invoked automatically at a specified time (for example, at contract expiration if no agreement is reached).

(2) It must provide a fixed and determinate method for selecting the impartial factfinder(s).

(3) It must provide that there can be no strike or lockout and no changes in conditions of employment (except by mutual agreement) prior to or during the factfinding procedure and for a period of at least seven days after the factfinding is completed.

(4) It must provide that the factfinder(s) will make a written report to the parties, containing the findings of fact and the recommendations of the factfinder(s) for settling the dispute, a copy of which is sent to the Service. The parties to a dispute who have agreed to such a factfinding procedure should jointly submit a copy of such agreed upon procedure to the appropriate regional office of the Service at as early a date as possible, but in any event prior to the appointment of a BoI by the Service. See § 1420.5(f) for the addresses of the regional offices.

(b) Since the Service does not appoint the factfinder under paragraph (a) of this section, the Service cannot pay for such factfinder. In this respect, such deferral by the Service to the parties' own factfinding procedure is different from the use of stipulation agreements between the parties which give to the Service the authority to select and appoint a factfinder at a later date than

the date by which a BoI would have to be appointed under the Act. Under such stipulation agreements by which the parties give the Service authority to appoint a factfinder at a later date, the Service can pay for the factfinder. However, in the deferral to the parties' own factfinding procedure, the parties choose their own factfinder and they pay for the factfinder.

§ 1420.9 FMCS deferral to parties' own private interest arbitration procedures.

(a) The Service will defer to the parties' own privately agreed to interest arbitration procedure and decline to appoint a Board of Inquiry (BoI) as long as the parties' own procedure meets certain conditions so as to satisfy the Service's responsibilities under the Act. The Service will decline to appoint BoI if the parties to a dispute have agreed in writing to their own interest arbitration procedure which meets the following conditions:

(1) The interest arbitration procedure must provide that there can be no strike or lockout and no changes in conditions of employment (except by mutual agreement) during the contract negotiation covered by the interest arbitration procedure and the period of any subsequent interest arbitration proceedings.

(2) It must provide that the award of the arbitrator(s) under the interest arbitration procedure is final and binding on both parties.

(3) It must provide a fixed and determinate method for selecting the impartial interest arbitrator(s).

(4) The interest arbitration procedure must provide for a written award by the interest arbitrator(s).

(b) The parties to a dispute who have agreed to such an interest arbitration procedure should jointly submit a copy of their agreed upon procedure to the appropriate regional office of the Service at as early a date as possible, but in any event prior to the appointment of BoI by the Service. See § 1420.5(f) for the addresses of regional offices.

These new regulations are a part of the Service's overall approach to implementing the health care amendments of 1974 in a manner consistent with the Congressional intent of promoting peaceful settlements of labor disputes at our vital health care facilities. The Service will work with the parties in every way possible to be flexible and to tailor its approach so as to accommodate the needs of the parties in the interest of settling the dispute. This was the motivating principle behind these new regulations which

permit input by the parties to the Board of Inquiry selection and allow the parties to set up their own factfinding or arbitration procedures in lieu of the Board of Inquiry procedure. We encourage the parties, both unions and management, to take advantage of these and other options and to work with the Service to tailor their approach and procedures to fit the needs of their bargaining situations.

[FR Doc. 79-22566 Filed 7-19-79; 8:45 am]

BILLING CODE 6732-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL 1276-6]

Air Quality Control Regions, Criteria, and Control Techniques; Change of Title

AGENCY: Environmental Protection Agency.

ACTION: Administrative revision—change of title of Part 81.

SUMMARY: The current title of Part 81, "Air Quality Control Regions, Criteria, and Control Techniques," gives an incorrect description of its contents. Part 81 includes no criteria or control techniques. This action changes the title of Part 81 to the following: "Designation of Areas for Air Quality Planning Purposes."

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Sableski, Chief, Plans Guidelines Section, Control Programs Development Division (MD-15), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711 (919-541-5437).

EFFECTIVE DATE: July 20, 1979.

SUPPLEMENTARY INFORMATION

Presidential Order 12044 requires government agencies to review existing regulations and determine how to improve such regulations. EPA reviewed the Part 81 regulation and concluded that no language changes are needed in the text, but that the title of the Part should be revised. Part 81, now entitled, "Air Quality Control Regions, Criteria, and Control Techniques," includes no criteria or control techniques, but is composed of three separate lists of air quality planning areas as follows: air quality control regions; areas designated as nonattainment; and the proposed visibility problem areas. Thus, the new title of Part 81 will be, "Designation of Areas for Air Quality Planning Purposes." This action falls within the

exception of 5 U.S.C. 553 which allows an agency to dispense with the notice of proposed rulemaking when taking public comment is impractical or unnecessary. Due to the minor nature of this action, EPA feels that providing opportunity for public comment is unnecessary.

Authority: Section 301(a), Clean Air Act, as amended (42 U.S.C. 7601).

Dated: July 14, 1979.

Edward F. Tuerk,

Acting Assistant Administrator for Air, Noise, and Radiation.

EPA revises Title 40, Chapter I, Subchapter C by changing the title of Part 81 to read as follows:

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

* * * * *

[FR Doc. 79-22438 Filed 7-19-79; 8:45 am]
BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

42 CFR Part 51e

Grants for Demonstrating the Training of Personnel to Provide Home Health Services

AGENCY: Public Health Service, HEW.

ACTION: Final rule.

SUMMARY: This document establishes a regulation which contains the requirements for receiving demonstration grants for the training of personnel to provide home health services. The program is designed to improve the training of these personnel to assure a high quality of health care provided in the home setting.

EFFECTIVE DATE: July 20, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Harold Dame, Director, Home Health Service Programs, Bureau of Community Health Services, Room 7A-42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 (301-443-2270).

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking to implement the program of grants for demonstrating the training of home health professionals and paraprofessionals under section 602(b) of Public Law 94-63 (42 U.S.C. 1395x note, extended by Public Laws 94-460 and 95-83) appeared in the Federal Register on June 20, 1978, with public comment invited (43 FR 26443). Section 207 of the Health

Services and Centers Amendments of 1978, Public Law 95-626, amended the Public Health Service Act by revising section 339 (42 U.S.C. 255) to include the authorization for home health services and home health training grants, previously authorized by Section 602 of Public Law 94-63. Summaries of the substantive comments received, the Department's responses to these comments, and the changes to the proposed regulation follow:

1. Section 51e.202 defines those "personnel" who would be eligible for training as persons who are current employees of home health agencies or home health organizations, or persons who have a written assurance of employment upon completion of training in one of these types of agencies. One respondent requested deletion of the requirement for providing an assurance of employment. The comment indicated that, although in all probability trainees would be employed upon completion of training, he understood that an assurance of a job would mean that the minimum hourly wage must be paid, in accordance with the Fair Labor Standards Act.

The Department of Labor has advised that the requirement that a potential trainee has a written assurance of a job would not mean that the minimum hourly wage would need to be paid under the Fair Labor Standards Act during the training period, for one or more of the following reasons:

(a) An independent training facility, such as an educational or training institution, would not be an employer with respect to the trainees being trained for other organizations, since no employer-employee relationship exists between those being trained and the institution providing the training.

(b) The monetary provisions of the Act would not apply to any city, county, or State health department providing the training, even if the trainees are, or will be, employees of these agencies.

(c) There would be no coverage under the Act for trainees employed or to be employed by a private nonprofit organization, where the training will not be "on-the-job" or "in-service" training.

(d) In those instances where the training organization is a private home health agency and where the training will not be in the nature of "on-the-job" training or "in-service" training, but is similar to that provided by an educational institution, and there are no services provided or work done by the trainees, the Department of Labor will not assert that these trainees would be employees within the meaning of the Fair Labor Standards Act.

Consequently, the Department has concluded that to require personnel, who are not current employees of home health agencies or organizations, to have a written assurance of employment, would not mean that the minimum wage would have to be paid these persons while in training. Therefore, it is not necessary that this requirement be deleted in order to eliminate an anticipated deterrent to the full use of the training program authorized by the statute and this regulation.

2. One commenter recommended that, although the statute limits eligibility for grants to public or nonprofit private entities, the preamble to this regulation states that trainees may come from any certified home health agency or home health organization, regardless of its tax status, i.e., from a private for-profit, as well as from a private nonprofit, entity. When a training project grantee makes training available to trainees of other organizations, the commenter recommended that the grantee be required to provide an assurance that training will not be denied on the basis of the tax status of an employer, that is, on the basis of whether the employer is a private for-profit or a private nonprofit entity.

Through the definition of "personnel" which may be trained (see § 51e.202), this regulation provides for the training of personnel of home health agencies, home health organizations, or of entities under contract with one of these agencies or organizations to provide home health services. Home health agencies are defined as entities which have provider agreements under 42 CFR 405.602. Home health organizations are defined as those entities which intend to become home health agencies. Private (for-profit) entities, if licensed under State law to provide home health services, may have, or intend to have, provider agreements, and hence their employees would be eligible for training under this subpart. In addition, employees of private (for-profit) entities would be eligible for training under this subpart if the entities have contracts with home health agencies or organizations to provide home health services.

The request that an assurance be required from the training project that it will not discriminate against potential trainees on the basis of the employer's tax status has not been accepted. The statute limits the provision of training to those individuals who are or will be employed by home health agencies, or by organizations which are about to become certified as home health

agencies. Private for-profit organizations in certain States are not eligible for certification. Thus, employees from these organizations would not be eligible for training as "home health personnel," unless they are under contract with a home health agency to provide home health services. Furthermore, there is no evidence or experience in any similar health training program to show that there is discrimination among eligible recipients on the basis of the employer's tax status. In the absence of any showing that discrimination on this basis exists, a special provision is not warranted. It is not the purpose of this regulation to presuppose potential discrimination.

3. One respondent recommended that the demographic data relating to the proposed project area, required to be provided by proposed § 51e.204(a)(3)(ii), also include the estimated percentage of handicapped and severely disabled persons in the proposed service area. The Department has reconsidered the requirement that data relating to the total population of the area, the number and percentage of persons aged 65 years and older, and the number and percentage of recipients under Title XIX of the Social Security Act be included in the application, and has concluded that these data are not needed to evaluate the applications. The consideration of these data is more appropriate with respect to the award of grants for home health services under section 339(a) of the Act, as amended, rather than with respect to home health training grants. The number of home health agencies in the area and the number and types of individuals needing training are more appropriate as indicators of the need for these training grants. Consequently, the requirement for provision of the demographic data, which was included in the proposed regulation at § 51e.204(a)(3)(ii), has been deleted. For these reasons, the request that additional data regarding handicapped and disabled persons be provided has been rejected.

4. Four commenters were concerned with the curriculum requirements in proposed § 51e.205(b) (now § 51e.206(b)). One commenter recommended that management training for directors and supervisory personnel be added. This commenter pointed out that a study in HEW Region II had identified management deficiencies as an important obstacle to the expansion of home health services. The Department recognizes that management training for directors and supervisory personnel is needed. However, considering the availability of

resources and the other priorities (See, § 51e.206(b)), management training will not be supported at this time.

Another respondent recommended that projects for the training of home health aides be required to address patients' psychological needs, personal values and attitudes, and emotional problems, which are particularly significant in the care of the terminally ill and are essential to quality health care. These aspects of training are recognized as important, and were required in the proposed regulation to be included in the curriculum for home health aide training. See proposed § 51e.205(b)(2)(i), now § 51e.206(b)(2)(i), which requires that the curriculum be designed to give trainees proficiency with respect to meeting the "needs of people under stress." Therefore, the regulation has not been revised.

A third commenter recommended that the specific requirements for training of supervisory nurses be expanded to include "other comparable professional health personnel," specifically, physical therapists and occupational therapists. This was considered important due to the scarcity of supervisory nurses and the availability of physical therapists in rural areas.

The Department has concluded that, when a preference in funding is announced for training nurses and other health professionals who supervise home health personnel, the training curricula which will be developed by the grantee for these categories of personnel can be based upon the general requirements set forth in this regulation, without the need to meet additional special requirements. Consequently, § 51e.205(b)(3), "Specific requirements for projects for training supervisory nurses in rehabilitation nursing techniques," has been deleted. Since the Department has determined that specific curricula requirements are unnecessary for these categories of supervisory personnel, it is obviously unnecessary to expand the regulation as recommended by this commenter.

The rationale for elimination of these specific requirements, while retaining specific requirements for home health aides, is based upon the fact that all of the other professionals providing home health services are either covered by a licensure law, accredited by a certifying body, or have to meet specific educational requirements under the conditions of participation for Medicare reimbursement. On the other hand, home health aides, with the exception of a few States, do not have to meet similar proficiency requirements.

A fourth respondent suggested that the regulation require that the home health aide training curriculum recommended by the National Council for Homemaker Home Health Aide Services, including practicums, be used by home health training grantees. The Health Services Administration, DHEW, entered into a contract with the National Council for Homemaker Home Health Aide Services to develop a detailed curriculum to serve as a guide to applicants and grantees for developing and conducting a course of training for home health aides. This curriculum meets all of the requirements of the regulation. The guide, entitled *The Model Curriculum and Teaching Guide for Instruction of Homemaker/Home Health Aides*, is available from the DHEW Regional Offices and is highly recommended as minimum course content.

However, the guide is recommended rather than required because requiring that the guide be followed in all its detail would result in undesirable rigidity in the training program. This would prevent the use of professional judgment in meeting the unique needs of home health agencies in training home health aides. Thus, the comment has not been accepted insofar as it calls for a requirement that this guide be followed exactly.

5. Three commenters objected to the priorities listed in proposed § 51e.206(b), now § 51e.207(b), for the evaluation and award of grants. Two objected to "limiting" grants to geographic areas with a population of at least one million people. It was thought that this number was arbitrary and that its use would fail to meet the need of rural populations. These objections are based on a misunderstanding of proposed § 51e.206, now § 51e.207, which states the factors which will be considered in making an award under this subpart. The section states that preference will be given to applicants whose proposed project areas consist of an entire State or a geographic area with a population of at least one million people. This "preference" in funding does not preclude awarding a grant to a project which would serve a significant need in other areas, including rural areas. As pointed out in the preamble to the proposed regulation, however, the preference for projects serving an entire State or a geographic area with at least one million persons is considered realistic, considering available funding. These minimum service areas provide a reasonable base from which potential trainees can be identified and through

which economies of scales can be achieved.

Another commenter expressed confusion about what future preference categories would be established, and whether these would be in addition to grants for training for home health aides and supervisory nurses. The commenter recommended that the final regulation not mention home health aides or supervisory nurses when defining these preferences.

Section 51e.206(b) of the proposed regulation (now § 51e.207(b)) stated that "preference will be given to applicants for grants under this subpart who propose to train a particular category (or categories) of home health personnel, such as home health aides or supervisory nurses * * * (Emphasis supplied). Including these two categories of personnel in this subsection was intended to be illustrative rather than inclusive. However, since some confusion has resulted, reference to these two categories of personnel in this subsection has been deleted. It should be noted that this is consistent with the deletion of § 51e.205(b)(3), as discussed in item 4, above. Preferences established for categories of personnel in addition to home health aides will be announced in the Federal Register in sufficient time to provide guidance to applicants for funds available in fiscal year 1979, and thereafter.

6. One commenter considered allocation of grant funds to the 10 DHEW regional offices (proposed in § 51e.209) to be inefficient and recommended awarding grant funds to the 50 State departments of public health for direct support of the training projects or for the State health departments to select a provider of training. The statute authorizes the Secretary to make grants to public and nonprofit private entities. The Department concludes that to limit grant awards to the 50 State health departments would not be in accord with the intent of Congress, and that nonprofit private entities should have the right to equal consideration in applying for funds under this authority. As a result, this recommendation has not been accepted.

7. Since the authorization for home health training grants is now included in the Public Health Service Act (see section 207 of Public Law 95-626), proposed grants for home health training are now subject to review and approval or disapproval by health system agencies under section 1513(e) of the Act.

8. In addition to the above revisions which were made in response to

comments, minor technical changes have been made, several to simplify the text in accordance with Executive Order 12044.

The Assistant Secretary for Health of the Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, hereby redesignates Part 51e as Subpart A of that Part and adds a new Subpart B, to read as set forth below.

Dated: April 2, 1979.

Julius B. Richmond,
Assistant Secretary for Health.

Approved: June 30, 1979.

Hale Champion,
Acting Secretary.

PART 51e—GRANTS FOR HOME HEALTH SERVICES AND TRAINING

1. Part 51e of 42 CFR is redesignated as part 51e, Subpart A.

2. A new Subpart B is added to 42 CFR Part 51e, to read as follows:

Subpart B—Grants for Demonstrating the Training of Personnel To Provide Home Health Services

- Sec.
- 51e.201 To what do these regulations apply?
 - 51e.202 Definitions.
 - 51e.203 Who is eligible to apply for a home health training grant?
 - 51e.204 How does one apply for a home health training grant?
 - 51e.205 What health planning requirements apply?
 - 51e.206 What requirements must be met by a home health training project?
 - 51e.207 What criteria will HEW use to decide which projects to fund?
 - 51e.208 For what purposes may grant funds be used?
 - 51e.209 How will grant funds be allocated among regions?
 - 51e.210 What additional information should an applicant or grantee have about a home health training grant?
- Authority: Sec. 215, Public Health Service Act, 8 Stat. 690, as amended 63 stat. 35 (42 U.S.C. 216). Sec. 339(b), Public Health Service Act (42 U.S.C. 255(b)).

Subpart B—Grants for Demonstrating the Training of Personnel To Provide Home Health Services

§ 51e.201 To whom do these regulations apply?

The regulations of this subpart apply to grants authorized by Section 339(b), Public Health Service Act (42 U.S.C. 255 (b)) to demonstrate the training of professional and paraprofessional personnel to provide home health services.

§ 51e.202 Definitions.

As used in this part:

"Act" means Public Health Service Act.

"Applicant" means a public or nonprofit private entity which applies for a grant under this subpart.

"Home health agency" means an entity which has a provider agreement with the Secretary under 20 CFR Part 405, Subpart F.

"Home health organization" means an entity which intends to become a home health agency but which does not, at the time of application for a grant under this subpart, have a provider agreement with the Secretary.

"Home health services" are those items and services listed in Section 1861(m) of the Social Security Act (42 U.S.C. 1395x(m)) provided by a home health agency.

"Nonprofit," as applied to any private agency, institution, or organization, means an entity no part of the net earnings of which benefits, or may lawfully benefit, any private shareholder or individual.

"Personnel" means persons (1) who are employees of home health agencies or home health organizations, (2) who are employees of an entity under contract with a home health agency or a home health organization to provide home health services, or (3) who have written assurance of employment upon completion of training from one of the agencies or entities described in subparagraphs (1) or (2) of this definition.

"Secretary" means the Secretary of Health, Education, and Welfare or any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

"State" means one of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Marianas or the Trust Territory of the Pacific Islands.

"State agency" means the agency of a State which has an agreement with the Secretary under Section 1864(a) of the Social Security Act to certify agencies as home health agencies as defined in Section 1861(o) of that Act.

§ 51e.203 Who is eligible to apply for a home health training grant?

Any public or nonprofit private entity is eligible to apply for a grant under this subpart.

§ 51e.204 How does one apply for a home health training grant?

An application for a grant under this subpart must be submitted to the Secretary at the time and in the manner

the Secretary may require. The application must contain the following:

(a) A full and adequate description of the proposed project and of the manner in which the applicant intends to conduct the project and meet the requirements of § 51e.206, including a description of plans and criteria for enrolling trainees.

(b) A budget and justification of the amount of grant funds requested.

(c) A description of the precise boundaries of the proposed project area.

(d) Information, with a description of the source or methodology on which it is based, concerning the need for the proposed project, including:

(1) The number of home health agencies and home health organizations located in the area proposed to be served;

(2) An estimate of the number and types of individuals needing training; and

(3) An estimate of the number of trainees proposed to be trained in each training program during the project period.

(e) Copies of position descriptions of key project personnel, the qualifications of these individuals, and justification of the need for the positions.

(f) A plan and methodology for evaluating the training program(s).

(g) A description of the applicant's organizational structure, any ongoing and past training activities, and any experience in home health and/or other health or health-related activities.

§ 51e.205 What health planning requirements apply?

The requirements of section 1513(e) of the Act and applicable regulations, with respect to review and approval by the appropriate health systems agency, apply to grants made under this subpart.

§ 51e.206 What requirements must be met by a home health training project?

(a) *General requirements.* A project for demonstrating the training of professional and paraprofessional personnel to provide home health services supported under this subpart must:

(1) Provide the training in accordance with the description of the proposed project submitted in the application under the requirements of § 51e.204(a).

(2) Provide the training using curricula which meet the requirements of paragraph (b) of this section.

(3) Assure that staff professionals and paraprofessionals meet all applicable licensure, certification, and other legal requirements for the practice of their professions.

(4) Provide training without charge to trainees or to the organizations employing trainees.

(5) Provide for clinical experience, where appropriate to the training.

(6) Have available adequate facilities, staff, and equipment to provide the training.

(7) Provide the successful students with a statement of satisfactory completion of the course.

(b) *Curriculum requirements.*

(1) *General requirements.* In addition to the requirements of paragraph (a) of this section, projects for the training of home health personnel must also meet the following general requirements, and the specific requirements of paragraph (b)(2) of this section, as applicable:

(i) each curriculum must present a sound theoretical framework with well-defined objectives;

(ii) each curriculum must provide adequate coverage of all topics pertinent to the particular category of home health personnel. These topics must be presented in a systematic and orderly manner; and

(iii) each curriculum must include a schedule of clinical practice exercises and study activities, where appropriate for the particular program.

(2) *Specific requirements for projects for the training of home health aides.* A curriculum for the training of home health aides must be designed to give trainees proficiency in the following areas:

(i) Personal care, care of the sick, needs of people under stress, the body and its functions, grooming;

(ii) Care and maintenance of the home and personal belongings, home accident prevention, family spending;

(iii) Nutrition, meal planning, food storage, marketing;

(iv) Dealing with children in the family; and

(v) Understanding the home health agency, its roles, and other related services available to the community.

§ 51e.207 What criteria will HEW use to decide which projects to fund?

(a) *General.* Within the limits of funds determined by the Secretary to be available for this purpose, the Secretary may award grants under this subpart to those applicants for projects which will,

in his judgment, best promote the purposes of Section 339(b) of the Act, and the applicable regulations of this subpart, taking into consideration:

(1) The extent to which the project would provide for the elements set forth in § 51e.205;

(2) The potential of the project for the development of effective methods of home health services training;

(3) The administrative and management capability of the applicant;

(4) The soundness of the fiscal plan for assuring effective use of grant funds; and

(5) The extent to which the applicant proposes to enroll, or has been successful in enrolling, trainees from minority groups.

(b) *Preferences.* (1) Preference will be given to applicants for grants under this subpart who propose to train a particular category (or categories) of home health personnel, which the Secretary determines will best promote the purposes of Section 602(b) of the Act and the applicable regulations of this subpart in any fiscal year, taking into account:

(i) The availability of funds;

(ii) The need for training of this category of home health personnel;

(iii) The number of personnel who may benefit from training;

(iv) Changes in requirements under applicable provisions of the Social Security Act, or regulations issued under the Act; and

(v) Administrative practicality (availability of teaching guides, evaluation methodology, and prospective number of grantees). Preferences established by the Secretary as a result of an evaluation of the factors listed in subparagraphs (i) through (v) of this paragraph will be announced in the Federal Register.

(2) Preference will be given to applicants within each category given preference under subparagraph (1) of this paragraph whose project area will include an entire State or a geographic area with a population of at least one million people.

§ 51e.208 For what purposes may grant funds be used?

(a) Project funds awarded under this subpart may be used for, but need not be limited to, the following costs:

(1) Employment of personnel to conduct the project;

(2) Clerical staff to support project personnel;

(3) Costs necessary for the conduct of the project associated with the travel of the training staff;

(4) Training support costs, such as supplies, equipment, teaching aides, rental of meeting facilities; and

(5) Training personnel.

(b) Project funds may *not* be used for trainee expenses, such as costs of travel and room and board.

§ 51e.209 How will grant funds be allocated among regions?

Funds appropriated to carry out Section 339(b) of the Act will be allocated to the ten regions of the Department of Health, Education, and Welfare, as set forth in § 1.30(A), 35 Fed. Reg. 14334 (1970), on the basis of the size of the population of each region; however:

(a) A minimum amount as may be determined by the Secretary shall be allocated to each region; and

(b) Where the Secretary determines that there will not be enough applications which meet the requirements of § 51e.205 within a region to use the funds allocated to it, he may reallocate these excess funds to regions which he determines have approvable applications under this subpart which otherwise would not be funded.

§ 51e.210 What additional information should an applicant or grantee have about a home health training grant?

(a) *Applicability of HEW Department-wide regulations.*

Attention is drawn to the following HEW Department-wide regulations which apply to grants under this subpart:

45 CFR Part 16—Department Grant Appeals Process.

45 CFR Part 74—Administration of Grants.

45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health, Education, and Welfare's implementation of Title VI of the Civil Rights Act of 1964.

45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.

(b) *Additional conditions.*

The Secretary may with respect to any grant impose additional conditions prior to or at the time of any award when in his judgment these conditions are necessary to assure or protect advancement of the approved program, the interests of public health, or the proper use of grant funds.

[FR Doc. 79-21935 Filed 7-19-79; 8:45 am]

BILLING CODE 4110-84-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5668

[ES-4012]

Arkansas; Addition To National Forest; Public Land Order No. 5631; Correction

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: This document will correct Public Land Order No. 5631 of March 10, 1978, to add one section which was inadvertently omitted.

EFFECTIVE DATE: July 20, 1979.

FOR FURTHER INFORMATION CONTACT: Lowell, J. Udy, 301-427-7500.

Public Land Order No. 5631 of March 10, 1978, appearing at page 11992 in the Federal Register of March 23, 1978, is hereby corrected to include the following described lands which were inadvertently omitted:

Ozark National Forest

Fifth Principal Meridian

T. 11 N., R. 33 W.,
Sec. 24.

Guy R. Martin,

Assistant Secretary of the Interior.

July 11, 1979.

[FR Doc. 79-22420 Filed 7-19-79; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-5664]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at:

P.O. Box 34294
Bethesda, Maryland 20034
Phone: (800) 638-6620

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program

§ 64.6 List of Eligible Communities.

(NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a

flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

State	County	Location	Community No	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Illinois	Greene	Greenfield, city of	170252-A	July 5, 1979, emergency	Feb. 22, 1974 and July 16, 1976
Alabama	Walker	Unincorporated areas	010301-A	July 2, 1979, emergency	June 9, 1978
Arkansas	Mississippi	do	050452-B	July 6, 1979, emergency	Oct. 18, 1977 and May 29, 1978
North Carolina	Columbus	do	370305-A	do	June 16, 1978
Pennsylvania	Butler	Brady, township of	422241-A	do	Oct. 25, 1974 and Sept. 3, 1976
Do	Lackawanna	Elmhurst, township of	421752-A	do	Oct. 18, 1974 and Apr. 30, 1976
Do	Greene	Monongahela, township of	421673	do	July 11, 1975
Do	Snyder	West Beaver, township of	422507	do	Jan. 24, 1975
Alabama	Limestone	Ardmore, town of	010306	July 9, 1979, emergency	Dec. 17, 1976
Minnesota	Washington	Birchwood village, city of	270720-New	do	do
Pennsylvania	Erie	Conneaut, township of	421219-A	do	Dec. 13, 1974
Do	Butler	Parker, township of	421219-A	do	Sept. 20, 1974 and July 16, 1976
Do	Carbon	Penn Forest, township of	421457	do	Aug. 12, 1977
Connecticut	Middlesex	*Fenwick, borough of	090187	July 10, 1979 regular	July 26, 1974 and July 3, 1978
Illinois	Cook	Harwood Heights, village of	170101	July 11, 1979, emergency	do
Texas	Menard	Unincorporated areas	481238	do	do
Wisconsin	Rush	do	550374-A	do	Sept. 6, 1974
North Carolina	Stanly	do	370361	July 12, 1979, emergency	June 9, 1978
Washington	Whitman	Farmington, town of	530295	do	Nov. 19, 1976
Kentucky	Fulton	Hickman, city of	210077-A	July 13, 1979, emergency	June 28, 1974 and June 4, 1976
Kentucky	Hickman	Clinton, city of	210111-A	do	May 17, 1974 and Sept. 24, 1976
Texas	Lavaca	Moulton, city of	480433-A	do	Apr. 5, 1974 and Mar. 5, 1976
Alabama	Choctaw	Pennington, town of	010035	July 16, 1979, emergency	Mar. 3, 1978
Utah	Koosharem	Koosharem, town of	490128	do	Dec. 24, 1976
Idaho	Shoshone	Kellogg, city of	160131-B	July 2, 1979, suspension withdrawn	Jan. 9, 1974 and Jan. 23, 1976
Do	do	Pinhurst, city of	160200-A	do	Jan. 31, 1975
Do	do	Wallace, city of	160118-B	do	June 7, 1974 and Jan. 16, 1976
Louisiana	East Baton Rouge Parish	Unincorporated areas	220058-A	do	Nov. 22, 1974
Maryland	Montgomery	do	240049-B	do	July 18, 1975 and Apr. 2, 1976
Massachusetts	Worcester	Millbury, town of	250318-B	do	Feb. 22, 1974 and Mar. 4, 1977
Do	Hampshire	Westhampton, town of	250173-B	do	June 28, 1974 and July 18, 1976
Michigan	Saginaw	Saginaw, township of	260190-B	do	Sept. 13, 1974 and July 9, 1976
Do	do	Zihreuklee, city of	260285-B	do	May 17, 1974
Minnesota	Washington	Lake Elmo, city of	270505-B	do	May 17, 1974 and June 4, 1976
Mississippi	Hinds	Unincorporated areas	280070-B	do	Oct. 18, 1974 and Feb. 24, 1978
Do	Attala	Kosciusko, city of	280007-B	do	Jan. 23, 1974 and June 18, 1976
Montana	Lincoln	Libby, city of	300042-B	do	May 31, 1974

State	County	Location	Community No	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
New Hampshire	Hillsborough	Amherst, town of	330081-B	do	May 28, 1974
Do	Carroll	Jackson, town of	330014-B	do	Aug. 30, 1974 and Nov. 5, 1976
New Jersey	Bergen	Allendale, borough of	340019-A	do	Mar. 18, 1973
Do	Monmouth	Keyport, Borough of	340304-B	do	Jan. 23, 1974 and Feb. 6, 1976
Do	Burlington	Riverside, township of	340113-B	do	Feb. 11, 1977
Do	do	Wilmington, township of	340119-B	do	Nov. 30, 1973 and Oct. 8, 1976
New York	Erie	Colden, town of	360233-B	do	May 31, 1974 and July 2, 1976
Do	do	Lancaster, village of	360248-C	do	Apr. 12, 1974, May 14, 1976 and Mar. 4, 1977
Pennsylvania	Montgomery	Lower Providence, township of	420703-A	do	Dec. 28, 1973
Rhode Island	Providence	Burnville, town of	440013-B	do	Sept. 13, 1974 and Aug. 2, 1977
Texas	Tarrant	Benbrook, city of	480586-B	do	May 3, 1974 and Mar. 4, 1977
Do	Mason	Mason, city of	480467-B	do	May 10, 1974 and Apr. 16, 1976
Vermont	Windsor	Hartford, town of	500148-A	do	Nov. 22, 1974
Virginia	Fredericksburg	Fredericksburg, city of	510065-B	do	June 21, 1974 and Oct. 31, 1975
Washington	Whitman	Colton, town of	530244-A	do	May 2, 1975
Do	Kitsap	Poulsbo, city of	530241-B	do	Dec. 6, 1974 and Feb. 20, 1976

*Note—The Borough of Fenwick, CT is shown on the FIRM for Old Saybrook, CT, dated July 3, 1978 and will use this FIRM for insurance and flood plain management purposes.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: July 12, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

(FR Doc. 79-22300 Filed 7-19-79; 8:45 am)

BILLING CODE 4210-23-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 79-61; RM-3230]

FM Broadcast Station in Reform, Ala.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a Class A FM channel to Reform, Alabama, in response to a petition filed by REGO Broadcasting Company. The assigned channel can be used to provide a first local aural broadcast service to the community.

EFFECTIVE DATE: August 22, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: July 9, 1979; released: July 13, 1979.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations; (Reform, Alabama); Report and Order; (Proceeding Terminated).

By the Chief, Broadcast Bureau:

1. The Commission has before it a Notice of Proposed Rule Making, adopted March 22, 1979, 44 FR 19000, in response to a petition filed by REGO Broadcasting Company ("petitioner"), requesting the assignment of FM Channel 269A to Reform, Alabama, as its first FM assignment. No oppositions to the proposal were received. Supporting comments were filed by petitioner reaffirming its intention to apply for the channel, if assigned.

2. Reform (pop. 1,863), in Pickens County (pop. 20,326)¹, is located approximately 140 kilometers (87 miles) northwest of Montgomery, Alabama, and 113 kilometers (70 miles) southwest of Birmingham, Alabama. There is no local aural broadcast service in Reform.

3. Petitioner asserts that because of the extension of Reform's city limits, its population is now over 2,500 as

compared to the 1970 U.S. Census figure of 1,863. Petitioner has submitted persuasive information with respect to Reform and its need for a first FM assignment.

4. We believe the public interest would be served by assigning FM Channel 269A to Reform, Alabama. A station on the proposed channel would provide the community with a first local aural broadcast service.

5. Authority for the adoption of the amendment contained herein appears in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

6. Accordingly, IT IS ORDERED, That effective August 22, 1979, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, IS AMENDED as follows for the community listed below:

City and Channel No.
Reform, Ala.: 269A.

7. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

¹ Population figures are taken from the 1970 U.S. Census.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

Federal Communications Commission.

Richard J. Shiben,
Chief, Broadcast Bureau.

[FR Doc. 79-22454 Filed 7-19-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 78-367; RM-3162]

FM Broadcast Station in Clinton, La.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a Class A FM channel to Clinton, Louisiana, as its first FM assignment. Petitioner, Feliciana Broadcasting Company, states the assigned channel could provide a first local aural broadcast service for the community.

EFFECTIVE DATE: August 22, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: July 9, 1979; Released: July 13, 1979.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Clinton, La.); Report and Order: (Proceeding Terminated).

By the Chief, Broadcast Bureau:

(1) The Commission herein considers the *Notice of Proposed Rule Making*, adopted November 7, 1978, 43 FR 54110, inviting comments on a proposal to assign FM Channel 224A to Clinton, Louisiana, as its first FM assignment. The proceeding was instituted in response to a petition filed by Feliciana Broadcasting Company ("petitioner"). Supporting comments¹ were filed by the petitioner reaffirming its intention to file for the channel, if assigned. An opposition was filed by Western Mississippi Broadcasters, Inc. ("Western"), licensee of Station WZZB-FM (Channel 285A), Centreville,

Mississippi. Reply comments were filed by petitioner and Western.

2. Clinton (pop. 1,884), seat of East Feliciana Parish (pop. 17,657)², is located approximately 48 kilometers (30 miles) north of Baton Rouge, Louisiana. It has no local aural broadcast service.

3. Petitioner argued in favor of the proposal as necessary to bring a first local service to Clinton. Petitioner also pointed to the lack of local service in two neighboring parishes.

4. In opposition, Western alleges that the distance between the Clinton Post Office and FM Station WCKW, La Place, Louisiana, does not meet the spacing requirements. Therefore, it notes, petitioner has chosen a Clinton transmitter site 14 kilometers (9 miles) from Centreville where Western's station operates. Western claims that the establishment of a new FM facility this distance from Centreville will not only cut into WZZB-FM's revenues from Clinton, but will reduce income received from Centreville and its environs. It argues that the Centreville station serves Clinton and East Feliciana Parish with news, agriculture reports, public service announcements and police department reports. It asserts that additional broadcast service to Clinton from stations in other cities is more than adequate. Western contends that establishment of a new station in Clinton would be disruptive of the public interest and would result in deterioration of public service and public affairs programming throughout the area.

5. In reply³, petitioner states that Western's allegation of economic harm should more appropriately be discussed at the application stage. Petitioner contends that Clinton is without a daily newspaper and without a local broadcast outlet devoted solely to its needs. It states that the only nighttime service to Clinton is provided by two or three stations licensed to Baton Rouge located more than thirty miles away and a New Orleans station located about 112 miles distant. Petitioner argues that the proposed station would be the first local

²Population figures are taken from the 1970 U.S. Census.

³Petitioner notes that in a petition filed by Donald G. Manuel, proposing the assignment of an FM channel to Port Gibson, Mississippi, Manuel requested that the Clinton and Port Gibson petitions be consolidated. Manuel asserts that if the proposed channels are assigned to Port Gibson and Clinton, two Mississippi communities would be precluded from ever obtaining a channel. No interest has been expressed in a channel at either location and the Manuel petition is not a counterproposal warranting consolidation. Accordingly, it will be acted on in turn separately.

nighttime service for Clinton. It asserts that Western's allegation that a new station in Clinton would disrupt the public service and result in deterioration of programming is without foundation.

6. We believe that it is in the public interest to assign Channel 224A to Clinton, Louisiana. The argument made by Western that a new station in Clinton would take away revenues from Station WBBZ-FM is a matter properly deferred for resolution at the application stage rather than in a rule making context. It should be noted that in establishing the FM Table of Assignments we gave high priority to providing each community with at least one FM broadcast station, especially if the community lacked local aural service. Even if nearby stations do provide coverage of Clinton and even if they offer some programming directed to Clinton, this is not a basis for refusing to provide a community with a first broadcast outlet for local expression. An FM channel assignment here would provide for a local station which could broadcast programs directed to meeting the special needs, interests and problems of Clinton and the surrounding area. No station, owing its primary obligation to another locality, could be expected to provide the equivalent of such local service.

7. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

8. In view of the foregoing, IT IS ORDERED, That effective August 22, 1979, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, IS AMENDED to read as follows:

City and Channel No.

Clinton, La.: 224A.

9. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

10. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79-22457 Filed 7-19-79; 8:45 am]

BILLING CODE 6712-01-M

¹See *Carroll Broadcasting Co. v. F.C.C.*, 258 F.2d 440 (D.C. Cir. 1958).

47 CFR Part 73

[BC Docket No. 79-42; RM-3287]

Television Broadcast Stations in Royston and Warm Springs, Ga; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein reassigns noncommercial educational television Channel *22 from Warm Springs, Georgia, to Royston, Georgia. Action was taken in response to a petition filed by the Georgia State Board of Education. The channel could be used at Royston to serve an area which is not now receiving noncommercial educational television service.

EFFECTIVE DATE: August 22, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: July 9, 1979; released: July 13, 1979.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Royston and Warm Springs, Ga.); Report and Order: (Proceeding Terminated). By the Chief, Broadcast Bureau:

1. The Commission has before it the *Notice of Proposed Rule Making*, adopted March 12, 1979, 44 FR 16459, in response to a petition filed by the Georgia State Board of Education, ("petitioner"), requesting the reassignment of noncommercial educational television Channel *22 from Warm Springs, Georgia, to Royston, Georgia. No oppositions to the proposal have been received. Comments were filed by petitioner in which it reaffirmed its intention to file for the channel, if assigned.

2. Royston (pop. 2,428), is located on the border of three counties (Franklin, pop. 12,784; Hart, pop. 15,814; and Marion, pop. 13,517),¹ and is located approximately 45 kilometers (25 miles) northeast of Athens, Georgia. There are no television assignments in Royston. Warm Springs (pop. 523), in Meriweather County (pop. 19,461), is located approximately 50 kilometers (30 miles) northeast of Columbus, Georgia. Channel *22 is the only television channel assigned to Warm Springs. It is unoccupied and unapplied for.

¹Population figures are taken from the 1970 U.S. Census.

3. The petitioner states it is an agency of the State of Georgia which has sought to employ educational television as one of the means of providing high quality instructional programming to the State of Georgia. It has applied for and constructed eight noncommercial educational television stations throughout the State so as to provide service to as much of Georgia as possible. It notes that Warm Springs is already receiving noncommercial educational television service from nearby Station WJSP (Channel *28),² supplemented by translator Station W48AB, Columbus, Georgia. Petitioner claims that Channel *22 is the only channel that will fit into the Royston area consistent with the Commission's spacing requirements. It points out that the proposed channel could be used to provide noncommercial educational television service to approximately 16,000 people that lack such service.

4. In view of the fact that Channel *22 could be used to extend noncommercial educational television service to an area now unserved, the Commission believes that the public interest would be served by making this assignment.

5. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules, IT IS ORDERED, That effective August 22, 1979, the Television Table of Assignments (§ 73.606(b) of the Commission's Rules) IS AMENDED with regard to the communities listed below:

City	Channel No
Royston, Ga.	*22 -
Warm Springs, Ga.	-

6. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79-22455 Filed 7-19-79; 8:45 am]

BILLING CODE 6712-01-M

²The station, licensed to serve Columbus, Georgia, broadcasts from a site just outside of Warm Springs.

47 CFR Part 73

[Docket No. 20902; RM-2642]

Television Broadcast Station in St. Louis, Mo.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a third noncommercial educational television channel to St. Louis, Missouri, in response to a petition filed by Double Helix Corporation. The assigned channel could bring additional noncommercial educational television service to a growing area.

EFFECTIVE DATE: August 22, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: July 9, 1979.

Released: July 13, 1979.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (St. Louis, Missouri); Report and Order (Proceeding Terminated).

By the Chief, Broadcast Bureau:

1. The Commission has before it the *Notice of Proposed Rule Making*, adopted September 1, 1976, 41 FR 38521, in response to a petition filed by Double Helix Corporation ("petitioner"), requesting the assignment of UHF television Channel No. 46 to St. Louis, Missouri. Supporting comments were filed by petitioner. No oppositions to the proposal were received.

2. Petitioner states that St. Louis (pop. 622,236), is the twelfth largest television market in the United States and the tenth largest Standard Metropolitan Statistical Area with a population of 2,362,900. This figure, it says, represents an increase of 12.3% over the 1960 figure. St. Louis is presently served by five commercial television stations (KTVI, Channel 2; KMOX-TV, Channel 4; KSD-TV, Channel 5; KPLR-TV, Channel 11; and KDNL-TV, Channel 30). It is also served by one noncommercial educational television station (KETC, Channel No. 9). In addition, there are two competing applicants for noncommercial educational Channel No. 40 (BPET-497, filed by Double Helix Corporation, and BPET-505, filed by the Channel No. 9 licensee, St. Louis

Educational Television Commission),¹ and a commercial application is pending (BPCT-4828) on Channel 24. Petitioner states that if Channel No. 46 is assigned to St. Louis, it will apply for it.

3. Petitioner asserts that although it may prevail in a comparative hearing for a grant of a construction permit for Channel No. 40 in St. Louis, it believes the city needs a third noncommercial educational assignment to serve the area's growing problems. Petitioner states that a third noncommercial educational channel could revitalize the cultural and social life of St. Louis by giving exposure and publicity to local artists and local cultural institutions. It points out that the added channel would provide a needed diversity of voices, especially among the noncommercial broadcasters.

4. In our *Notice*, we requested more information to show that there is a real need for a third noncommercial educational television station in St. Louis. Petitioner submitted numerous letters from individuals in the educational field expressing their support and interest for an additional channel. Petitioner stressed the need for a third noncommercial educational station in St. Louis, indicating that it would focus on the affairs of the community with an emphasis on community access.

5. In Docket No. 78-165, the Commission is considering whether to apply multiple ownership restrictions to noncommercial educational stations. Because St. Louis Regional already is licensee of a public TV station in St. Louis, action on its application is being withheld pending the outcome of the rule making proceeding. Although the two applications could be designated for comparative hearing, this would be costly to all concerned and would serve no useful purpose. Since only one channel is now available at St. Louis, this means that action on petitioner's application also is being withheld even though there is no independent reason for withholding action. To avoid this problem we can assign the proposed channel for use by petitioner and later deal with the St. Louis Regional application separately when the multiple ownership issue is resolved. We think this approach is preferable to the one originally set forth in paragraph 6 of the *Notice*.

6. In view of the foregoing, we believe it would be in the public interest to make this assignment to St. Louis, Missouri. It would provide an additional

¹ The corporate name was changed to St. Louis Regional Educational and Public Television Commission ("St. Louis Regional").

noncommercial educational television service to a growing area in which an expression of interest has been shown.

7. Accordingly, it is ordered, that effective August 22, 1979, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended with regard to the city listed below as follows:

City	Channel No.
St. Louis, Mo.	2, 4-, 5-, *9, 11-, 24+, 30+, *40-, *46

8. Authority for the action taken herein is found in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

9. It is further ordered, that this proceeding is terminated.

10. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 5, 303; 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303)

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79-22453 Filed 7-19-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[Docket No. 21211; RM-2715 and RM-2906]

FM Broadcast Stations in Cleveland, Clinton, LaFollette, Oneida, and Sweetwater, Tenn.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: This action denies a proposal to add a fourth commercial FM channel (282) to Knoxville, Tennessee. A mutually exclusive counterproposal to assign Class A Channel 285 to LaFollette, Tennessee, as that community's first local full-time service, is approved instead.

EFFECTIVE DATE: August 22, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Stanley P. Wiggins, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: Report and Order—(Proceeding Termination)

Adopted: July 9, 1979.

Released: July 13, 1979.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Knoxville, Clinton, Sweetwater, Cleveland, LaFollette and Oneida, Tennessee), Docket No. 21211, RM-2715, RM-2906.

1. In response to a petition filed by James F. Stair, II and Hillery K. Duckett, II ("S&D"), the Commission issued the *Notice of Proposed Rule Making* in this proceeding, proposing the assignment of Class C FM Channel 282 as a fourth assignment to Knoxville, Tennessee, 42 FR 21822 (1977). The Commission noted that the proposed action was consistent with the applicable population guidelines for channel assignments, but the Commission did point to the need to resolve two issues. One was the possible preclusion of a channel in LaFollette, Tennessee, and the other was the required substitution of one unoccupied and two occupied FM channels in other communities. In issuing the *Notice*, the Commission stated that the separation requirements for the only suitable area for a Knoxville transmitter site must be met.² In addition, the Commission ordered the licensees of two existing FM stations in Clinton and Sweetwater, Tennessee, to show cause why they should not have their licenses modified to specify new FM channels in order to meet the spacing requirements.

2. Parties filing comments consisted of the petitioners (S&D), Clinton Broadcasters, Inc. ("Clinton"), licensee of WYSH(AM) and WYSH(FM), Clinton, Tennessee, and Campbell County Broadcasting Corporation ("Campbell"), licensee of WLAF(AM), LaFollette, Tennessee. Campbell's comments included a counterproposal for the assignment of Channel 285A to LaFollette. Reply comments were filed by these parties and by South Central Broadcasting Corporation ("South Central"), licensee of WEZK(FM), Knoxville, Tennessee. Separately, Ernest O. Sutton filed a petition for rule making to assign Channel 285A to LaFollette.³ South Central filed supplemental reply comments with a

¹ Public Notice (Report No. 1053) was given on June 15, 1977, of the petition filed by Campbell County Broadcasting Corporation stating that the petition would be treated as a counterproposal in this proceeding. It has been added to the caption.

² Petitions had expressed a preference for a short-spaced site with arguably greater coverage potential. The Commission, however, concluded that no showing had been made to justify a departure from the separation requirements. Despite the extensive discussion of this matter in comments, no new factual considerations have been submitted which support a different conclusion.

³ Although Sutton's filing was too late for consideration as a counterproposal, it has been treated as a reply comment in support of the already filed counterproposal to the same effect.

motion for their acceptance. In so doing, South Central noted that petitioners S&D clearly had foreknowledge of Sutton's reply pleading as evidenced by their own simultaneously filed reply pleading—which responded to Sutton's LaFollette proposal with a third potential transmitter site for the alternative assignment of Channel 244A to LaFollette. Because South Central's supplemental reply comments are limited to an evaluation of the Channel 244A site analysis submitted by petitioners and were prepared expeditiously, we believe full exploration of the preclusion issue will be furthered by accepting them.

3. Before discussing the specific conflicting proposals before us, some comments are necessary on the show cause orders requiring the Clinton and Sweetwater stations to change channels if Channel 282 or 285A were assigned to LaFollette. One of the affected parties, Sweetwater Radio, Inc., licensee of WDEH(FM), Sweetwater, did not respond. The second, Clinton, licensee of WYSH(FM), Clinton, asserted generally that such an involuntary reassignment requires an unusually compelling public interest showing which it contends was not made by the petitioner's proposal. Similarly, the Channel 285A LaFollette counterproposal by Campbell County—which also would require the Clinton station to shift channels—is assailed, in part because it allegedly ignores the disruptive effects of the necessary channel reshuffling.⁴ Alternatively, Clinton urges that if such an assignment is granted, the Commission should (i) require applicants to specify maximum facilities; (ii) defer the effective date of any necessary channel reassignment until after actual issuance of a construction permit for a Knoxville facility; and (iii) require the eventual permittee of Channel 282 to reimburse fully stations required to shift channels. In reply comments, petitioners reiterate their belief that a need for additional FM

⁴ Clinton also asserts that Campbell County's counterproposal was defective because it failed to recognize that channel reassignments would be necessary for its realization, and failed to offer assurances that licensees would be reimbursed for the costs of channel shifts as required by established Commission practice. The former contention is answered by the terms of the Commission's own *Notice of Proposed Rule Making*, which described the existing stations facing reassignment as a result of Stair and Duckett's proposal—including Clinton's facility. While Campbell County did not explicitly note the channel substitutions required to implement its counterproposal, this need was apparent from the exposition of the preclusion issue in the *Notice* and was cured by an errata filed eight days later. Also, the *Notice* pointed out that reimbursement for channel substitutions would be expected from the grantee of a new FM assignment.

service in Knoxville has been established, and they assert there is no broad disruption which in other situations has necessitated a compelling showing from an advocate of assignment. S&D also suggest that the eventual licensee at Knoxville should not be held responsible for a channel shift at Cleveland, Tennessee, where the competing applicants have already applied for vacant Channel 252A. Finally, S&D concede the general applicability of *Circleville, supra*, in determining the proper scope of reimbursable expenditures.

4. The Commission's belief that equitable considerations call for compensation for such channel shifts by the benefited party is well established. *Kenton and Bellefontaine, Ohio, et al.*, 3 F.C.C. 2d 598, 605 (1966). In fact, this practice is so well established that we do not consider it necessary to hold this proceeding in abeyance pending receipt of such assurances. Nonetheless, our decision is subject to reconsideration if there is any dispute on this point.

5. Contrary to the assertions made in objection to modifications here, the Commission does not normally require a showing of extraordinary circumstances to justify channel shifts of this nature. Rather, we have recognized that congestion in the FM band dictates such modifications if needed services are to be provided. The question then becomes one of establishing the existence of such a need for service to Knoxville or LaFollette.

6. This brings us to the second question: preclusion to LaFollette. Thanks to the filing of the LaFollette counterproposal, what began as an issue regarding preclusion to LaFollette has been superseded by the need to choose between assignments at Knoxville and LaFollette. The choice is necessary because there is no alternative channel that can be assigned to LaFollette.

7. Petitioners argued that they had located an acceptable transmitter site which would permit an FM assignment to LaFollette on Channel 244A, thereby permitting both assignments. Engineering studies submitted as part of the Sutton reply comments, however, were said to eliminate Channels 237A and 244A from consideration due to an inability to provide a city-grade signal over the community of LaFollette. Petitioners do not dispute this conclusion as regards Channel 237A, but assert in reply comments that Channel 244A could be assigned if a transmitter site were located eight miles southeast of the community. A second transmitter site 7.16 miles south-southeast of the community is also asserted by Stair and

Duckett to comply with requirements of Rules § 73.315. They argue that the station's 3.16mV/m signal would extend for nine miles on the principal city radial. However, both South Central's misgivings regarding the effects of irregular terrain in this area and Sutton's contention of errors in petitioners' contour mileages are supported by Commission staff analysis. This analysis, based on Stair and Duckett's antenna height figure, indicates that the 3.16 mV/m contour would barely reach the community's boundary on the near side. In addition, there does appear to be a substantial prospect of shadow loss due to such obstacles as Turkey Ridge, some three miles southeast of LaFollette, which is some 400 feet higher than the community and 300 feet higher than the transmitter site. Further, even if a taller tower of 1,000 feet were erected to overcome shadowing problems,⁵ the required compensatory decrease in effective radiated power would mean that the 3.16 mV/m contour would still not extend beyond the marginal contact with the near side of LaFollette's boundaries. Thus, while this approach might help with shadowing problems, it does nothing to enhance city coverage. Accordingly, we must elect to assign Channel 282 to Knoxville or Channel 285A to LaFollette.

8. LaFollette and the contiguous county seat, and Campbell County as a whole, contain only one operating broadcast facility—WLAF(AM), licensed to LaFollette. A LaFollette station would bring service to the 26,045 persons who reside in the county (1970 Census) and their need for a fulltime local broadcast service is apparent and unquestioned. The competing need of Knoxville (1970 population 276,293), as the metropolitan hub of East Tennessee, is apparent both from the population standards in the Commission's assignment guidelines and Knoxville's broad importance to the surrounding region. Our assignment guidelines, however, also generally place a higher priority on the provision of a first fulltime service to all areas of the country than on meeting standards for the number of channels to be assigned a community on the basis of population. Under the Commission's established

⁵ It is not necessary to have line-of-sight transmission to all parts of a community of license, and the prospect of some shadow loss from Stair and Duckett's proposed transmitter site for Channel 244A does not preclude its consideration. *Richlands, Va.*, 42 F.C.C. 2d 727 (1973). Rather, the failure to cover the community of license with a 3.16 mV/m signal is of primary importance; any terrain factors indicating possible further losses from shadowing simply add an additional element of pessimism regarding coverage of the community of license.

policy on requests for additional FM assignments,⁶ preference cannot be given to the assignment of another FM channel to Knoxville, which is already served by nine AM stations, three commercial FM and two noncommercial FM stations, in addition to television stations and two daily newspapers, at the expense of a first FM assignment to a significant community in a rural county. Petitioner's points regarding local ownership and diversity of opinion are not relevant at the assignment stage because the eventual occupant of a channel is unknown. In any event, here we are faced with an entire county which lacks any fulltime broadcast facility. We recognize both Knoxville's general need for additional aural services and petitioners' particular contention that outside reception services are not a substitute for local service. The same logic, however, more forcefully favors LaFollette and the surrounding county.

9. Based on the equitable distribution requirements of 47 U.S.C. 307(b), Channel 285A must be assigned to LaFollette. There are no other substantial questions raised by the pleadings which run counter to our conclusion. In particular, the disruption to existing operations complained of by Clinton does not outweigh the public interest value of providing a first FM service to LaFollette and the surrounding county. Further, Clinton's AM facility will ameliorate any such disruption.⁷ In keeping with past practice, successful applicants for a construction permit will be required to compensate the Clinton and Sweetwater stations for their reasonable costs of changing channels.

10. Accordingly, it is ordered, That the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, IS AMENDED as follows for the below named communities:

⁶Public Notice FCC 67-577, "Policy to Govern Requests for Additional FM Assignments," May 12, 1967.

⁷Clinton asserted that it had just completed a major change in its FM operations which significantly expanded its signal coverage and it urges that this should not be followed by a frequency change which could disrupt and confuse listening patterns. It also suggested that there might be slight interference to a Channel 237A facility at Clinton, from a second adjacent channel operating at Greenville, Tenn., even in the absence of short-spacing. The rules, however, provide no protection beyond that provided by the spacing requirements. The contention that such channel substitutions require a demonstration of compelling circumstances applies only where wholesale channel substitutions are required, which is patently not the case here even if some problems might temporarily ensue.

City (all in Tennessee)	Channel No.
Cleveland	237A
Clinton	237A
LaFollette	285A
Oneida	286A
Sweetwater	252A

¹ Applicants for Channel 252A in Cleveland will be allowed to amend their applications to conform to the revised Table of Assignments.

11. It is further ordered, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the outstanding license of Clinton Broadcasters, Inc. for Station WYSH(FM) is modified, effective August 22, 1979, to specify operation on Class A FM Channel 237 instead of on Class A FM Channel 285. The licensee shall inform the Commission in writing by no later than August 22, 1979, of its acceptance of this modification. Station WYSH(FM) may continue to operate on Channel 285A for one year from the effective date of this action or until it is ready to operate on Channel 237A, whichever is earlier, unless the Commission directs otherwise. In addition, the following information shall be provided:

(a) At least 30 days before commencing operation on Channel 237A, the licensee of Station WYSH(FM) shall submit to the Commission the technical information normally required of an applicant for the channel, including that connected with a change in the transmitter site.

(b) At least 10 days prior to commencing operation on Channel 237A, the licensee of Station WYSH(FM) shall submit the measurement data required of an applicant for a broadcast station license; and

(c) The licensee of Station WYSH(FM) shall not commence operation on Channel 237A without prior Commission authorization.

12. It is further ordered, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the outstanding license of Sweetwater Radio, Inc. for Station WDEH(FM) is modified, effective August 22, 1979, to specify operation on Class A FM Channel 252 instead of on Class A FM Channel 237. The licensee shall inform the Commission in writing by no later than August 22, 1979, of its acceptance of this modification. Station WDEH(FM) may continue to operate on Channel 237 for one year from the effective date of this action or until it is ready to operate on Channel 252, whichever is earlier, unless the Commission directs otherwise. In addition, the following information shall be provided:

(a) At least 30 days before commencing operation on Channel 252, the licensee of Station WDEH(FM) shall submit to the Commission the technical information normally required of an applicant for the channel, including that connected with a change in the transmitter site.

(b) At least 10 days prior to commencing operation on Channel 252, the licensee of Station WDEH(FM) shall submit the measurement data required of an applicant for a broadcast station license; and

(c) The licensee of Station WDEH(FM) shall not commence operation on Channel 252 without prior Commission authorization.

13. It is further ordered, That copies of this Report and Order shall be mailed by certified mail, return receipt requested, to Sweetwater Radio, Inc., licensee of Station WDEH(FM), c/o R.L. Sherlin, Main Street, Sweetwater, Tennessee, 37874, and Clinton Broadcasters, Inc., licensee of Station WYSH(FM), c/o George R. Guertin, P.O. Box 70, Morristown, Tennessee 37814.

14. Authority for the adoption of the amendments contained herein appears in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

15. Accordingly, it is ordered, That effective August 22, 1979, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended as it pertains to the communities listed above.

16. It is further ordered, That the petition for rule making filed by Stair and Duckett (RM-2715) IS DENIED.

17. It is further ordered, That this proceeding is terminated. (Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303);) Federal Communications Commission.

Richard J. Shiben,
Chief, Broadcast Bureau.
(FR Doc. 79-22458 Filed 7-19-79; 8:45 am)
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1270; Amdt. No. 4]

Chesapeake & Ohio Railway Co. Authorized To Operate Over Tracks Abandoned by Grand Trunk Western Railroad Co.

Decided: July 13, 1979.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order; Amendment No. 4 to Service Order No. 1270.

SUMMARY: Service Order No. 1270 authorizes The Chesapeake and Ohio Railway Company to operate over approximately 0.6 miles of track authorized to be abandoned by the Grand Trunk Western Railroad, between Ferrysburg, Michigan, and Grand Haven, Michigan, and over an additional 0.2 miles of track abandoned by the Grand Trunk Western in order to provide continued rail service to a shipper located adjacent to those tracks.

DATES: Effective 11:59 p.m., July 15, 1979, and continuing until further order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275-7840.

Upon further consideration of Service Order No. 1270 (42 FR 38379; 43 FR 2725, 36639; and 44 FR 3716), and good cause appearing therefor:

It is ordered, that § 1033.1270 The Chesapeake and Ohio Railway Company authorized to operate over tracks abandoned by Grand Trunk Western Railroad Company, Service Order No. 1270 is amended by substituting the following paragraph (c) for paragraph (c) thereof:

(c) *Expiration date.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., July 15, 1979.

(49 U.S.C. (10304-10305 and 11121-11126))

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member John R. Michael not participating.
Agatha L. Mergenovich,
Secretary.

(FR Doc. 79-22476 Filed 7-19-79; 8:45 am)
BILLING CODE 7035-01-M

49 CFR Part 1033

[Service Order No. 1084; Amdt. No. 15]

Chicago, Rock Island & Pacific Railroad Co., W. M. Gibbons, Trustee, Authorized To Operate Over Tracks of Chicago & North Western Transportation Co.

Decided: July 13, 1979.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order; Amendment No. 15 to Service Order No. 1084.

SUMMARY: Service Order No. 1084 authorizes the Chicago, Rock Island and Pacific to operate over a track abandoned by the Chicago and North Western Transportation Company at McClelland, Iowa, for the purpose of continuing railroad service to a shipper located adjacent to that track.

DATES: Effective 11:59 p.m., July 15, 1979, and continuing until further order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275-7840.

SUPPLEMENTARY INFORMATION: Upon further consideration of Service Order No. 1084 (36 FR 22063; 37 FR 12726, 28059; 38 FR 20840; 39 FR 3827, 27672; 40 FR 5162, 31939; 41 FR 4929, 31381; 42 FR 6371, 38572; 43 FR 4431, 34147; and 44 FR 6731), and good cause appearing therefor:

It is ordered:
§ 1033.1084 Chicago, Rock Island and Pacific Railroad Company, W. M. Gibbons, Trustee, Authorized to Operate over tracks of Chicago and North Western Transportation Company.

Service Order No. 1084 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This order shall remain in effect until modified or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., July 15, 1979.

(49 U.S.C. (10304-10305 and 11121-11126))

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy

with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member John R. Michael not participating.
Agatha L. Mergenovich,
Secretary.

(FR Doc. 79-22478 Filed 7-19-79; 8:45 am)
BILLING CODE 7035-01-M

49 CFR Part 1033

[Service Order No. 1339; Amdt. No. 2]

Chicago, Milwaukee, St. Paul & Pacific Railroad Co. Authorized To Operate Over Tracks of Union Pacific Railroad Co.

Decided: July 13, 1979.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order; Amendment No. 2 to Service Order No. 1339.

SUMMARY: Service Order No. 1339 authorizes Chicago, Milwaukee, St. Paul and Pacific Railroad Company to operate over tracks of the Union Pacific Railroad Company between Blakeslee Junction Interlocker, Washington, and Helsing Junction, Washington.

DATES: Effective 11:59 p.m., July 15, 1979, and continuing in effect until further order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275-7840.

Upon further consideration of Service Order No. 1339 (43 FR 43719 and 44 FR 3712), and good cause appearing therefor:

It is ordered that § 1033.1339 Chicago, Milwaukee, St. Paul and Pacific Railroad Company authorized to operate over tracks of Union Pacific Railroad Company; Service Order No. 1339 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., July 15, 1979.

(49 U.S.C. (10304-10305 and 11121-11126))

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment

shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, Members Joel E. Burns, Robert S. Turkington, and John R. Michael, Member John R. Michael not participating.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-22477 Filed 7-19-79; 8:45 am]
BILLING CODE 7035-01-M

49 CFR Part 1033

[Service Order No. 1294; Amdt. No. 3]

Indiana Interstate Railway Co., Inc., Authorized To Operate Over Tracks Owned by the City of Bicknell, Ind.

Decided: July 13, 1979.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Amendment No. 3 to Service Order No. 1294.

SUMMARY: Service Order No. 1294 authorizes the Indiana Interstate Railway Company, Inc., to operate over 1.1 miles of track leased from the City of Bicknell, Indiana, in order to provide essential railroad service to industries served by that track.

DATES: Effective 11:59 p.m., July 15, 1979, and continuing until further order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, Chief, (202) 275-7840.

SUPPLEMENTARY INFORMATION: Upon further consideration of Service Order No. 1294 (43 FR 1092, 29007, and 44 FR 3713), and good cause appearing therefor:

It is ordered, § 1033.1294 Indiana Interstate Railway Company, Inc., authorized to operate over tracks owned by the City of Bicknell, Indiana.

Service Order No. 1294 is amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., July 15, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms

of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael, Member John R. Michael not participating.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-22479 Filed 7-19-79; 8:45 am]
BILLING CODE 7035-01-M

49 CFR Part 1033

[Service Order No. 1336; Amdt. 2]

Missouri-Kansas-Texas Railroad Co. Authorized To Operate Over Tracks of St. Louis-San Francisco Railway Co.

Decided: July 13, 1979.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order—Amendment No. 2 to Service Order No. 1336.

SUMMARY: Service Order No. 1336 authorizes Missouri-Kansas-Texas Railroad Company to operate over tracks of the St. Louis-San Francisco Railway Company between Oswego, Kansas, and Columbus, Kansas.

DATES: Effective 11:59 p.m., July 15, 1979, and continuing in effect until further order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, (202) 275-7840.

Upon further consideration of Service Order No. 1336 (43 FR 40020 and 44 FR 3713), and good cause appearing therefor:

It is ordered, § 1033.1336 Missouri-Kansas-Texas Railroad Company Authorized to Operate over Tracks of St. Louis-San Francisco Railway Company.

Service Order No. 1336 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., July 15, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all

railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael, Member John R. Michael not participating.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-22480 Filed 7-19-79; 8:45 am]
BILLING CODE 7035-01-M

49 CFR Part 1033

[Service Order No. 1247; Amendment No. 6]

Bath and Hammondsport Railroad Co. Authorized To Operate Over Tracks of Consolidated Rail Corporation

July 13, 1979.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Amendment No. 6 to Service Order No. 1247.

SUMMARY: Service Order No. 1247 authorizes the Bath and Hammondsport Railroad Company to operate over Consolidated Rail Corporation trackage between Kanona and Wayland, New York.

DATES: Effective 11:59 p.m., July 15, 1979, and continuing until further order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, (202) 275-7840.

SUPPLEMENTARY INFORMATION: Upon further consideration of Service Order No. 1247 (41 FR 29819; 42 FR 6370, 39389; 43 FR 4617, 34148; and 44 FR 6729), and good cause appearing therefor:

It is ordered, § 1033.1247 Service Order 1247, Bath and Hammondsport Railroad Company authorized to operate over tracks of Consolidated Rail Corporation.

Service Order No. 1247 is amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., July 15, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, Members Joel E. Burns, Robert S. Turkington and John R. Michael, Member John R. Michael not participating.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-22482 Filed 7-19-79; 8:45 am]
BILLING CODE 7035-01-M

49 CFR Part 1033

[Service Order No. 1327; Amendment No. 2]

Brillion & Forest Junction Railroad Co. Authorized To Operate Over Tracks Abandoned by Chicago & North Western Transportation Co.

July 13, 1979.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Amendment No. 2 to Service Order No. 1327.

SUMMARY: Service Order No. 1327 authorizes the Brillion and Forest Junction to operate in order to provide uninterrupted rail service to shippers located at Brillion, Wisconsin.

DATES: Effective 11:59 p.m., July 15, 1979, and continuing in effect until further order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, (202) 275-7840.

SUPPLEMENTARY INFORMATION: Upon further consideration of Service Order No. 1327 (43 FR 22212; and 44 FR 3711), and good cause appearing therefor:

It is ordered, § 1033.1327 Service Order 1327, Brillion & Forest Junction Railroad Company authorized to operate over tracks abandoned by Chicago and North Western Transportation Company.

Service Order No. 1327 is amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

Effective date. The amendment shall become effective at 11:59 p.m., July 15, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael, Member John R. Michael not participating.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-22475 Filed 7-19-79; 8:45 am]
BILLING CODE 7035-01-M

49 CFR Part 1033

[Service Order No. 1387]

Missouri Pacific Railroad Co. Authorized To Operate Over Tracks of Missouri-Kansas-Texas Railroad Co.

July 12, 1979

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1387.

SUMMARY: The Missouri Pacific Railroad Company is authorized to operate over tracks of the Missouri-Kansas-Texas Railroad Company between Waco Junction, Texas, and Taylor, Texas.

EFFECTIVE DATE: 11:59 p.m., July 15, 1979, until further order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, (202) 275-7840.

SUPPLEMENTARY INFORMATION:

The Missouri Pacific Railroad Company (MP) operates its trains between Waco Junction, Texas, and Taylor, Texas, over MP tracks via Valley Junction, Texas, a distance of approximately 118 miles. There is an alternate route available over Missouri-Kansas-Texas Railroad Company (MKT) tracks between Waco Junction and Taylor, via Temple, a distance of approximately 76.8 miles. Movement of the MP trains over its present route causes train delay and the use of an excessive amount of fuel. MKT has agreed to use by MP of its tracks between Waco Junction and Taylor.

Use of these MKT tracks by MP will result in considerable fuel savings, more efficient operations, and improved car utilization. MP will continue to serve all of its shippers.

MP will file an application with the Commission for trackage rights over these tracks of the MKT. MP will be permitted to use these trackage rights for bridge rights only and will not perform any local freight service at any point on this trackage.

It is the opinion of the Commission that an emergency exists requiring operation of MP trains over these tracks of MKT in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, § 1033.1387 Service Order 1387, Missouri Pacific Railroad Company authorized to operate over tracks of Missouri-Kansas-Texas Railroad Company.

(a) The Missouri Pacific Railroad Company (MP) is authorized to operate over tracks of Missouri-Kansas-Texas Railroad Company (MKT) between Waco Junction, Texas, and Taylor, Texas, a distance of approximately 76.8 miles.

MP is authorized to use these trackage rights only as bridge rights and is not authorized to perform any local freight service at any point on this trackage.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) Nothing herein shall be considered as a prejudgment of the application of MP seeking authority to operate over these tracks.

(d) *Effective date.* This order shall become effective at 11:59 p.m., July 15, 1979.

(e) *Expiration.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S.

Turkington and John R. Michael. Member John R. Michael not participating.
H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-22481 Filed 7-19-79; 8:45 am]
BILLING CODE 7035-01-M

49 CFR Part 1033

[Service Order No. 1331; Amendment No. 2]

South Central Tennessee Railroad Co. Authorized To Operate Over Tracks Abandoned by Louisville & Nashville Railroad Co.

July 13, 1979.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Amendment No. 2 to Service Order No. 1331.

SUMMARY: Service Order No. 1331 authorizes the South Central Tennessee Railroad Company to operate in order to provide uninterrupted rail service to shippers located between Colesburg and Hohenwald, Tennessee.

DATES: Effective 11:59 p.m., July 15, 1979, and continuing until further order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, (202) 275-7840.

SUPPLEMENTARY INFORMATION:

Upon further consideration of Service Order No. 1331 (43 FR 29126, and 44 FR 3712), and good cause appearing therefor:

It is ordered: § 1033.1331 Service Order 1331, South Central Tennessee Railroad Company authorized to operate over tracks abandoned by Louisville and Nashville Railroad Company.

Service Order No. 1331 is amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., July 15, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by

depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member John R. Michael not participating.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-22483 Filed 7-19-79; 8:45 am]
BILLING CODE 7035-01-M

49 CFR Part 1033

[S. O. No. 1200-A]

Car Service; Missouri Pacific Railroad Co. Authorized To Operate Over Tracks of Union Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Service Order No. 1200-A.

SUMMARY: Since an emergency no longer exists, Service Order No. 1200 is vacated.

EFFECTIVE DATE: 11:59 p.m., July 15, 1979.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275-7840.

DECIDED: July 13, 1979.

Upon further consideration of Service Order No. 1200 (39 FR 38103; 40 FR 2990, 30268; 41 FR 2644, 29387; 42 FR 3309, 31163, 63788; 43 FR 26446, 59074; and 44 FR 36185), and good cause appearing therefor:

It is ordered: § 1033.1200 Service Order No. 1200 (Missouri Pacific Railroad Company authorized to operate over tracks of Union Pacific Railroad Company) is vacated effective 11:59 p.m., July 15, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

A copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member John R. Michael not participating.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-22573 Filed 7-19-79; 8:45 am]
BILLING CODE 7035-01-M

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[18 CFR Ch. IV]

[25 CFR Ch. I]

[30 CFR Chs. II, VI, and VII]

[36 CFR Chs. I, and XII]

[41 CFR Chs. 14H, and 14R]

[43 CFR Subtitle A, Chs. I-II]

[50 CFR Chs. I, and IV]

Semiannual Agenda of Rules Scheduled for Review or Development

AGENCY: Department of the Interior.

ACTION: Semiannual Agenda of Rules Scheduled for Review or Development.

SUMMARY: This notice provides the semiannual agenda of rules scheduled for review or development between July

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and December 1979, and the status of rules previously scheduled. A semiannual agenda is required by Executive Order 12044 and 43 CFR 14.8. **ADDRESSES:** Unless otherwise indicated, all Knowledgeable Officials are located at the Department of the Interior, 1800 C Street, NW, Washington, D.C. 20240, Area Code 202.

FOR FURTHER INFORMATION CONTACT: All comments and inquiries with regard to these rules should be directed to the appropriate Knowledgeable Official.

Dated: July 12, 1979.

Cecil D. Andrus,
Secretary.

Agenda of Rules Scheduled for Review or Development: July-December 1979

CFR citation	Subject	Purpose of review/development	Significant	Regulatory analysis	Expected date(s) of publication (if known)	Knowledgeable official
OFFICE OF HEARINGS AND APPEALS, 4015 WILSON BLVD., ARLINGTON, VA. 22203 (AREA CODE 703)						
43 CFR Part 4, Subpart G.....	Special Rules Applicable to Other Appeals and Hearings	To revise existing procedural rules and provide additional rules for appeals which do not fall within the appellate review jurisdiction of established appeals boards of the Office.	No.....	No.....	Proposed Rule July 1979. Final Rule September 1979.	Philip Horton 557-1400
43 CFR Part 4, Subpart M.....	Special Rules Applicable to Fish and Wildlife Civil Penalty Proceedings	To provide specific rules concerning fish and wildlife civil penalty proceedings; will require transfer of certain regulations presently appearing in 50 CFR Part 11, Subpart C; clarification of the authority of the administrative law judge; inclusion of relevant general regulations presently appearing in Subparts B and G.	No.....	No.....	Proposed Rule August 1979. Final Rule October 1979.	James Burski 557-9040
OFFICE OF YOUTH PROGRAMS						
43 CFR Part 32.....	Young Adult Conservation Corps (YACC) State Grant Program	Revision of regulations based on changes to reflect new Departmental policy.	No.....	No.....	Final Rule October 1979.	Doyle Hughes 343-4148
BUREAU OF LAND MANAGEMENT						
43 CFR Subpart 1881.....	Payments in Lieu of Taxes.....	Revise regulations to incorporate changes made by the Act of October 17, 1978.	No.....	No.....	Proposed rule, Summer 1979. Final rule, Fall 1979.	Edward P. Greenberg 343-3607 Eleanor R. Schwartz 343-8735
43 CFR Part 3300.....	Outer Continental Shelf Minerals and Rights-of-way Management	Revise regulations to incorporate changes made by the Outer Continental Shelf Lands Act Amendments of 1978.	No.....	No.....	Final rule, June 29, 1979.	William Quinn 343-8457 Robert C. Bruce 343-8735
43 CFR Part 3500.....	Leasing of Minerals other than Oil and Gas.	Revise regulations to update and delete Coal provisions which have been moved to another part.	No.....	No.....	Proposed rule, Fall 1979.	David M. Carty 343-7753 Robert C. Bruce 343-8735
43 CFR Part 4700.....	Wild Free-Roaming Horse and Burro Protection, Management and Control.	Revise regulations to incorporate changes made by the Public Rangelands Improvement Act.	No.....	No.....	Final rule, late Summer 1979.	Robert J. Springer 343-6011 Cecil Feeney 343-8735
43 CFR Part 7100.....	Protection of Endangered Plants.	Prepare regulations to provide protection for endangered plants on public lands.	No.....	No.....	Proposed rule, Fall 1979.	Richard J. Vernimem 343-6188 George B. Hollis 343-8735
43 CFR Part 2650.....	Alaska Native Selections.....	Revise regulations to incorporate changes to carry out Secretarial decisions.	No.....	No.....	Proposed rule, Fall 1979.	Beaumont McClure 343-6511 Robert C. Bruce 343-8735

Agenda of Rules Scheduled for Review or Development: July-December 1979 (Continued)

CFR citation	Subject	Purpose of review/development	Significant	Regulatory analysis	Expected date(s) of publication (if known)	Knowledgeable official
NATIONAL PARK SERVICE						
36 CFR Parts 1-4	Miscellaneous provisions, public use and recreation boating and vehicles and traffic safety.	Special amendments to existing rules are proposed to comply with revised National Park Service policy which should reduce the number of special regulations contained in 36 CFR Part 7.	No	No	Proposed rule, Fall 1979.	Michael Finley 343-5607
36 CFR Part 7	Special Regulations of the National Park Service.	Proposed rules which address particular problems in individual parks will be published. The number and frequency of these regulations cannot be determined at this time since they are published on an as needed basis.	No	No		Michael Finley 343-5607
36 CFR Part 13	Alaska National Monuments	Rules are being proposed for publication on June 28, 1979, for public use and recreation, subsistence and special Alaska provisions. A 90 day public comment period is planned.	No	No	Proposed rule, June 28, 1979.	Michael Finley 343-5607
36 CFR Part 14	Concession Contracts and Permits.	Promulgation of administrative rules for Concession contracts and permits.	No	No	Final rule, Summer 1979.	Buddy Surles 343-8953
36 CFR Part 50	National Capital Parks	To review and develop rules for demonstrations and printed material distribution.	No	No	Proposed rule, Fall 1979.	Rick Robbins 343-4338
U.S. FISH AND WILDLIFE SERVICE						
50 CFR 20 Subpart K	Annual Season, Limit, and Shooting Hour Schedules.	To announce intent to develop rules establishing 1980-81 annual seasons, limits, and shooting hours schedules for migratory birds.	No	No	November, 1979.	John P. Rogers 254-3207
		To announce intent to develop rules establishing non-toxic shot areas and to propose specific areas for the 1980-81 season.	No	No	December, 1979.	Robert I. Smith 254-3207
50 CFR 17	Endangered species listing procedures.	To revise the listing procedures to ensure conformance to the Endangered Species Act Amendments of 1978.	No	No	June/July, 1979	John Spinks 703-235-2771
50 CFR 402	Endangered species, interagency cooperation.	To revise the listing procedures to ensure conformance to the Endangered Species Act Amendments of 1978.				John Spinks 703-235-2771
		The determination of significance and the decision on preparation of a regulatory analysis have not been made at this time.				
50 CFR 96-106	National Wildlife Monuments	To develop comprehensive regulations for the management of the Becharof and Yukon National Wildlife Monuments in Alaska.	No	No	Proposed Rule, June 28, 1979.	Clay Hardy 1101 E. Tudor Rd., Anchorage, AK 99507 907-276-3800
HERITAGE CONSERVATION AND RECREATION SERVICE, 440 G STREET, NW., WASHINGTON, D.C. 20243 (AREA CODE 202)						
36 CFR Pt. 1202	National Register of Historic Places.	To amend existing regulation to provide for fuller public participation in the nomination process at the state level and to expedite the review process at the Federal level, and to transfer from 36 CFR Part 60.	No	No	November 1979	Lucy Franklin 343-6401
36 CFR Pt. 1204	Determinations of Eligibility for Inclusion in the National Register of Historic Places.	To publish interim rule as a final rule with editorial corrections and to transfer from 36 CFR Part 63.	No	No	Final Rule August 1979.	Sarah Bridges 343-6401
36 CFR Pt. 1206	Historic Preservation Fund: Grants Administration Procedures.	To provide a general presentation on the Historic Preservation Fund Grants Administration Procedures.	No	No	Notice of Intent July 1979.	Stephan Newman 343-4941
36 CFR Pt. 1208	Historic Preservation Certifications pursuant to the Tax Reform Act of 1978.	To change existing regulations because of technical corrections in the Revenue Act of 1978 and to transfer from 36 CFR Part 67.	No	No		H. Ward Jandl 343-6384 Sally Oldham 343-6401
36 CFR Pt. 1213	Procedures for Identification and Protection of Archeological, Architectural, Historic, and Scientific Properties.	To implement the provisions of 36 CFR Part 800 as published in the Federal Register on January 30, 1979, by the Advisory Commission on Historic Preservation.	No	No	Proposed Rule July 1979.	Roy Reeves 343-7105

Agenda of Rules Scheduled for Review or Development: July-December 1979 (Continued)

CFR citation	Subject	Purpose of review/development	Significant	Regulatory analysis	Expected date(s) of publication (if known)	Knowledgeable official
OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT						
30 CFR 723	Civil Penalties	Conform interim to permanent regulations and adjust penalties in certain cases.	No	No		Harriet Marple 343-5384
30 CFR 722	Enforcement Procedures	Minor adjustments in enforcement procedures (minesite review and service of notices and orders).	No	No		Harriet Marple 343-5384
30 CFR 705	Definition of Employee	Revise and increase the restrictions on members of boards and commissions to prevent industry members from taking actions which affect their own interests.	No	No		Arthur Abbs 343-5351
30 CFR 850	Blasting Programs	To repropose blasting programs for blasters and members of blasting crews and certification programs for blasters.	No	No	Proposed rule was published on June 29, 1979.	David Maneval 343-4264
30 CFR 716	Prime Farmlands	To issue those sections which were enjoined and remanded by the U.S. District Court. This was published as a proposed rule on June 11, 1979.	No	No	Final Rule Fall 1979.	David Maneval 343-4264
30 CFR 770	Permit Requirements	To incorporate NPDES (National Pollution Discharge Elimination System) permit requirements. The determination of significance and the decision on preparation of a regulatory analysis have not been made at this time.				David Maneval 343-4264
30 CFR Subchapter J	Bonding	Petition being reviewed to determine if permanent program bonding regulations need to be revised. The determination of significance and the decision on preparation of a regulatory analysis have not been made at this time.				David Maneval 343-4264
GEOLOGICAL SURVEY, NATIONAL CENTER, RESTON, VA. 22092 (AREA CODE 703)						
30 CFR 250	Oil and Gas and Sulfur Operations in the OCS.	To conform to Pub. L. 95-372.	No	No	June 1979	Gerald Rhodes 860-7531
BUREAU OF INDIAN AFFAIRS						
25 CFR 131	Leasing and Permitting	This Part is scheduled for review as required by the Department's procedures in 43 CFR 14.	No	No		Robert Schoewe Minneapolis Area Office 831 2nd Avenue, S. Minneapolis, MN 55402, 612-725-2914
25 CFR	Contracting for Education Services under 638 or Regular Services.	These rules are being developed to provide an alternative means of education for Indian students. As of this date, a Part number has not been assigned.	No	No	Proposed Rule July 1979.	George Scott 343-2669
25 CFR 177	Surface Exploration, Mining and Reclamation of Lands.	This Part is to be revised to implement Section 710(d) of Pub. L. 95-85, Surface Mining Control and Reclamation Act. Revisions are being developed in coordination with the Office of Surface Mining Reclamation and Enforcement. The determination of significance and the decision on preparation of a regulatory analysis have not been made at this time.	No	No		Richard Wilson 343-3722
25 CFR 52	Tribes Organized Under Section 16 of the Indian Reorganization Act.	To provide a single set of regulations that will govern Secretarial elections in Oklahoma and Alaska.	No	No	Proposed Rule July 10, 1979.	Robert Farring 343-2511
25 CFR 53	Tribes Organized Under Section 16 of the Indian Reorganization Act and Other Organized Tribes.	To clarify language with regard to the signing of petitions and to extend existing procedures previously limited to requests for constitutional actions.	No	No	Proposed Rule July 10, 1979.	Robert Farring 343-2511

Status of Rules Previously Scheduled for Review or Development

Review period	CFR citation	Subject	Status	Knowledgeable official
OFFICE OF THE SOLICITOR				
1/79-6/79	41 CFR 14R-9	Inventions and patents: Data	This was published as a proposed rule on July 5, 1979.	Gersten Sadowsky 343-4471
5/78-12/78	43 CFR pt. 1	Practices Before the Department of the Interior.	Revision of this Part is deferred pending revision of 43 CFR Part 20 by the Office of Inspector General.	John D. Trezise 343-5216
5/78-12/78	43 CFR pt. 6	Patent Regulations	Revision of this Part is deferred pending Congressional action on patent policy legislation.	D.A. Gardiner 343-4471 Gersten Sadowsky 343-4471
OFFICE OF INSPECTOR GENERAL				
1/79-6/79	43 CFR pt. 20	Employee Responsibilities and Conduct.	Changes, appendix updates and other revisions and miscellaneous amendments were published as final rules on January 19, 1979 (44 FR 4320). A department task force is currently working on a major revision of this part which will implement provisions of Pub. L. 95-521. Expected date of publication is October, 1979.	Gabe Paone 343-3932
1/79-6/79	43 CFR pt. 7	Employees: Interest in Lands and Resources.	A department task force is currently working on language to eliminate the contradiction between provisions in this part and provisions in 43 CFR pt. 20.	Gabe Paone 343-3932
OFFICE OF HEARINGS AND APPEALS, 4015 WILSON BLVD., ARLINGTON, VA. 22203 (AREA CODE 703)				
1/79-6/79	43 CFR pt. 4, Subpart B	General Rules Relating to Procedures and Practice.	Proposed rule is under development.	James Burski 557-9040
1/79-6/79	43 CFR pt. 4, Subpart C	Special Rules Applicable to Contract Appeals.	Action has been suspended pending the resolution of rules authority by the Office of Federal Procurement Policy.	Russell C. Lynch 557-1450
1/79-6/79	43 CFR pt. 4, Subpart D	Special Rules Applicable to Proceedings in Indian Probate, Including Hearings and Appeals; Tribal Purchase of Interests Under Special Statutes, Including Hearings and Appeals; and, Administrative Appeals in Indian Affairs Generally.	Proposed rule should be published in December, 1979.	Laurie K. Luoma 557-9200
1/79-6/79	43 CFR pt. 4, Subpart E	Special Rules Applicable to Public Land Hearings and Appeals.	Proposed rule should be published in October, 1979, and the final rule should be published in December, 1979.	James Burski 557-9040
1/79-6/79	43 CFR pt. 4, Subpart J	Special Rules Applicable to the Alaska Native Claims Settlement Act Hearings and Appeals.	Proposed rule was published on February 8, 1979 (44 FR 7983). Final rule should be published in July, 1979.	Judith M. Brady Chairman, Alaska Native Claims Appeal Board P.O. Box 24331 Anchorage, AK 99501 907-265-5356
5/78-12/78	43 CFR pt. 4, Subpart L	Special Rules Applicable to Surface Coal Mining Hearings and Appeals.	Proposed rule should be published in July, 1979, and the final rule should be published in September, 1979.	Bruce Harris 557-9037
OFFICE FOR EQUAL OPPORTUNITY				
1/79-6/79	43 CFR 17, Subpart C	Nondiscrimination on the Basis of Age.	The proposed rulemaking document should be published in November 1979.	James Poole 343-4331
1/79-6/79	43 CFR 17, Subpart B	Nondiscrimination on the Basis of Handicap.	The advance notice of proposed rulemaking was published April 13, 1979.	James Poole 343-4331
1/79-6/79	43 CFR 34	Nondiscrimination in Activities Conducted Under and Authorized by Pub. L. 94-586; Alaska Gas Pipeline.	The final rule should be published by October 1, 1979.	Sharon White, Office of the Solicitor 343-5431
OFFICE OF WATER RESEARCH AND TECHNOLOGY				
5/78-12/78	18 CFR Chapter IV	Office of Water Resources Research, Department of Interior.	Action on revising this Chapter has been suspended until such time it is determined that regulations are needed to implement Pub. L. 95-467.	F.W. Koop 343-4607 George Cassaday 343-4607

Status of Rules Previously Scheduled for Review or Development (Continued)

Review period	CFR citation	Subject	Status	Knowledgeable official
BUREAU OF LAND MANAGEMENT				
5/78-12/78	43 CFR Group 2900	Land use, occupancy and development.	Pre-proposed rulemaking has been returned to the Bureau from Departmental review for further study and changes.	Mathew Millenbach 343-8731 Robert C. Bruce 343-8735
5/78-12/78	43 CFR Group 2700	Land disposals (sales).	Pre-proposed rulemaking has been returned to the Bureau from Departmental review for further study and changes.	Stephen Spector 343-8731 Robert C. Bruce 343-8735
5/78-12/78	43 CFR Group 3800	Recordation of mining claims	Final rulemaking was published on February 14, 1979.	Gene Carlat 343-7722 Robert C. Bruce 343-8735
1/79-6/79	43 CFR Part 1600	Planning, programming and budgeting.	Final rulemaking is being drafted in the Bureau.	Robert Jones 343-5682 Robert C. Bruce 343-8735
1/79-6/79	43 CFR Part 1700	Advisory Councils	Proposed rulemaking is being drafted in the Bureau and the Secretary has some policy issues under study.	Lee Laitala 343-5629 Cecil Feeney 343-8735
1/79-6/79	43 CFR Part 2200	Exchange of public lands	Pre-proposed rulemaking has some issues raised by Departmental review under study in the Bureau.	David Hemstreet 343-8731 Robert C. Bruce 343-8735
1/79-6/79	43 CFR Part 2300	Withdrawal of public lands	Proposed rulemaking has been drafted and is being reviewed by the Bureau.	Louis B. Bellisi 343-8731 Robert C. Bruce 343-8735
1/79-6/79	43 CFR Parts 2540, 2740 and 9180.	Color-of-title and Omitted lands	Final rulemaking is currently under review in the Department and should be published in July 1979.	Stephen Spector 343-8731 Robert C. Bruce 343-8735
1/79-6/79	43 CFR Part 2610	Carey Act grants	Final rulemaking is currently being reviewed by the Department.	Mathew Millenbach 343-8731 Robert C. Bruce 343-8735
1/79-6/79	43 CFR Part 2740	Recreation and Public Purposes Act.	Final rulemaking should be published in July 1979. This was published as a proposed rule on January 12, 1979.	Mathew Millenbach 343-8731 Robert C. Bruce 343-8735
1/79-6/79	43 CFR Part 2800	Rights-of-way: principles and procedure.	Proposed rulemaking is currently being reviewed by the Department.	Robert Molohan 343-5537 Robert C. Bruce 343-8735
1/79-6/79	43 CFR Part 2880	Rights-of-way under the Mineral Leasing Act.	Final rulemaking was published on June 29, 1979.	Robert Molohan 343-5537 Robert C. Bruce 343-8735
1/79-6/79	43 CFR Part 3802	Surface protection—wilderness	Final rulemaking being drafted in the Bureau for publication in June 1979. This was published as a proposed rule on January 12, 1979.	Robert C. Bruce 343-8735
1/79-6/79	43 CFR Part 3809	Surface management of unpatented mining claims located on public lands.	A second proposed rulemaking is being finalized in the Bureau.	Robert Andersen 343-7733 Robert C. Bruce 343-8735
1/79-6/79	43 CFR Part 3828	Surface management of unpatented mining claims in the California Desert.	This rulemaking has been dropped because the California Desert Conservation Area will be covered by Part 3809.	Robert Andersen 343-7733 Robert C. Bruce 343-8735
1/79-6/79	43 CFR Part	Amendments to the Grazing Administration and Trespass Regulations.	Proposed rulemaking being drafted in the Bureau	David Little 343-6011 Robert C. Bruce 343-8735
1/79-6/79	43 CFR Part 4130	Amend the Grazing Administration and Trespass Regulations as they relate to grazing fee.	Final rulemaking published on February 8, 1979.	Ronald J. Younger 343-6011 Robert C. Bruce 343-8735
1/79-6/79	43 CFR Part 8340	Management of the use of off-road vehicles on the public lands.	Final rulemaking published on June 15, 1979.	Larry R. Young 343-9353 Cecil Feeney 343-8735
1/79-6/79	43 CFR Part 3400	Coal Management	Final rulemaking now being drafted in the Bureau. This was published as a proposed rule on March 19, 1979.	Don Mitchell 343-4537 Robert C. Bruce 343-8735
BUREAU OF RECLAMATION				
1/79-6/79	43 CFR Part 21	Cabin Sites	Initial review warrants further analysis scheduled in second half of 1979.	T. G. Cooper 343-5204
1/79-6/79	43 CFR Part 401	Entry of Reclamation Land	Initial review warrants further analysis scheduled in second half of 1979.	T. G. Cooper 343-5204
1/79-6/79	43 CFR Part 402	Sale of Small Tracts	Regulations found to be adequate as written.	T. G. Cooper 343-5204
1/79-6/79	43 CFR Part 403	Unproductive Land	Initial review warrants further analysis scheduled in second half of 1979.	T. G. Cooper 343-5204
1/79-6/79	43 CFR Part 418	Truckee-Carson River System for Use by Newlands Irrigation Project and Washo Project.	Regulations found to be adequate as written.	Roy Boyd 343-5471
1/79-6/79	43 CFR Part 406	Exchange/Amendment of Farm Units.	Initial review warrants further analysis scheduled in second half of 1979.	T. G. Cooper 343-5204
1/79-6/79	43 CFR Part 420	Off-Road Vehicles	Final amendments were published on June 15, 1979.	T. G. Cooper 343-5204
1/79-6/79	43 CFR Part 416	Reclassification of Highland Columbia Project.	Regulations found to be adequate as written.	T. G. Cooper 343-5204
1/79-6/79	43 CFR Part 417	Means for Conserving Colorado River Water.	Regulations found to be adequate as written.	Roy Boyd 343-5471
5/78-12/78	43 CFR 405	Certain Lands Sought to be Covered by Recordable Contracts: Columbia Basin Project.	This Part was removed from the CFR on February 1, 1979.	Vernon Cooper 343-2148
5/78-12/78	43 CFR 409	Leasing and Utilization of Lands in Page, AZ.	This Part was removed from the CFR on April 25, 1979.	David Williamson 343-5204

Status of Rules Previously Scheduled for Review or Development (Continued)

Review period	CFR citation	Subject	Status	Knowledgeable official
OFFICE OF THE SOLICITOR				
NATIONAL PARK SERVICE				
5/78-12/78	36 CFR Parts 1-4	Miscellaneous provisions, public use and recreation, boating, vehicle and traffic safety.	Proposed revisions were reviewed and are scheduled for publication as proposed rules during the Fall of 1979.	Michael Finley 343-5607
5/78-12/78	36 CFR Part 3	Boating	These regulations are scheduled for revision; a date has not been set.	James Carrico 343-5607
5/78-12/78	36 CFR Part 5	Commercial and Private Operations.	Proposed revisions were reviewed and revisions for Yellowstone are scheduled.	Don Roush 523-5322
1/79-6/79	36 CFR Part 7	Special Regulations of the National Park Service.	New rules for Cape Cod were published in 44 FR 26073 for oversand vehicles. Proposed rules for Big Cypress and Fire Island were published in 44 FR 5680, 16021 and 17758. Proposed rules for fishing in Yellowstone were published in 44 FR 18995.	Michael Finley 343-5607
1/79-6/79	36 CFR Parts 2 and 7	Public Use and Recreation Special Regulations of the National Park Service.	It was determined that revisions to these parts in order to comply with Public Law 94-341 would be deferred pending National Park Service policy formulation.	George Gowans 343-7456
HERITAGE CONSERVATION AND RECREATION SERVICE, 440 G STREET, NW, WASHINGTON, D.C. 20243 (AREA CODE 202)				
5/78-12/78	36 CFR Pt. 81	Criteria for comprehensive Statewide Historic Surveys and plans.	This part was published in September 1977. Revisions reflecting comments and other changes will be prepared by October 1, 1979. Part will be transferred to 36 CFR Pt. 1201.	Larry E. Aten 343-6221
5/78-12/78	43 CFR Pt. 31	Grants and allocations for Recreation and conservation use of abandoned Railroad Rights-of-Way.	Expected date of transfer to 36 CFR Pt. 1226 moved to August 1979.	Rowland T. Bowers 343-7801
1/79-6/79	36 CFR Pt. 1230	Land and Water Conservation Fund State Assistance Program.	Expected date of publication of proposed rule moved to August 1979.	Rowland T. Bowers 343-7801
1/79-6/79	36 CFR Pt. 1205	National Historic Landmarks.	Publication of proposed Rule moved to December 1979 to permit adequate agency review.	Jim Lyons 343-4317
1/79-6/79	36 CFR Pt. 1210	Recovery of Scientific prehistoric, Historic and Archeological Data: Procedures for Notification, Reporting and Data Recovery.	Exigencies precluded review and publication of this regulation during the period from January to June 1979. Publication and transfer form 36 CFR Pt. 66 scheduled for August 1979.	George P. Emery 343-6404
1/79-6/79	36 CFR Pt. 1228 Appendices A & B.	Urban Park & Recreation Recovery Program: Criteria for Eligibility and List of Eligible Jurisdictions.	Interim rule was published in FEDERAL REGISTER on March 14, 1979.	Larry E. Aten 343-6221
1/79-6/79	36 CFR pt. 1228 Subpart B	Urban Park and Recreation Recovery Program: Local Recovery Action Program.	This rule is still in the process of being developed by the Service. An interim rule should be published in July 1979.	Sam L. Hall 343-5971
1/79-6/79	36 CFR pt. 1228 Subparts C and D.	Urban Park and Recreation Recovery Program Grants Procedures.	This rule is still in the process of being developed by the Service. An interim rule should be published in July 1979.	Sam Hall 343-5971
U.S. FISH AND WILDLIFE SERVICE				
5/78-12/78	50 CFR 17	Endangered and Threatened Wildlife and Plants.	March 6, 1979—published notice that certain species previously proposed to be listed as endangered or threatened were withdrawn. May 21, 1979—published notice of review of the status of species listed as endangered or threatened prior to 1975. May 23, 1979—published proposed rule to lessen the paperwork burden for members of the public engaged in captive wildlife propagation. Remaining portions of Part 17 are still under review to ensure conformity with the 1978 Endangered Species Act Amendments. Still under review.	John Spinks (703) 235-2771 Clark Bavin 343-9242 Richard Parsons (703) 235-1937
5/78-12/78	50 CFR 18, Subpart C	Marine mammals—General Exceptions.	Still under review.	Clark Bavin 343-9242
5/78-12/78	50 CFR 20	Migratory bird hunting.	December 18, 1978—published proposal to eliminate publication of annual seasons, limits, and shooting hours schedules in the CFR. The final rule was published on February 6, 1979.	John P. Rogers 254-3207
5/78-12/78	50 CFR 21	Migratory bird permits.	Raptor propagation permit rules still under review.	Clark Bavin 343-9242
5/78-12/78	50 CFR 22	Eagle permits—acts protecting bald and golden eagles.	Rules still under review.	Clark Bavin 343-9242
5/78-12/78	50 CFR 25	National Wildlife Refuge System—administrative provisions.	Final rule to be published July, 1979.	Ronald Fowler 343-4305
1/79-6/79	50 CFR 17	Marine mammals—Manatee Protection Areas.	March 23, 1979—Proposed procedures for designating manatee protection areas. (This was previously scheduled as 50 CFR 18).	John Spinks (703) 235-2771

Status of Rules Previously Scheduled for Review or Development (Continued)

Review period	CFR citation	Subject	Status	Knowledgeable official
U.S. FISH AND WILDLIFE SERVICE—Continued				
1/79-6/79	50 CFR 20, Subpart K	Annual Season, Limit, and Shooting Hour Schedules.	Notice of intent and initial proposed rulemaking were published on February 15, 1979 (44 FR 9828). Supplemental proposed rulemaking should be published in early June. Supplemental proposed regulations frameworks for 1979-80 early seasons on certain migratory game birds scheduled for publication on June 28, 1979. Final regulations frameworks for Alaska, Puerto Rico and the Virgin Islands scheduled for publication on June 28, 1979.	John P. Rogers 254-3207
1/79-6/79	50 CFR 26	National Wildlife Refuge System—public entry and use.	Draft update and corrections has been prepared and will be published in the near future.	Marcus Nelson 343-4791
1/79-6/79	50 CFR 32	Hunting on National Wildlife refuge areas.	Draft update and corrections has been prepared and will be published in the near future.	Marcus Nelson 343-4791
1/79-6/79	50 CFR 33	Sport fishing on National Wildlife refuge areas.	Draft update and corrections has been prepared and will be published in the near future.	Marcus Nelson 343-4791
1/79-6/79	50 CFR 80	Federal aid to States in fish and wildlife restoration.	Due to recent litigation and council for Environmental Quality rules, this part is still under review.	Charles Phenice (703) 235-1526
1/79-6/79	50 CFR 410	Fish and Wildlife Coordination Act	Published as proposed rules on May 18, 1979. (This was previously scheduled as 50 CFR Part 403).	Karl F. Stutzman 343-4767
OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT				
1/79-6/79	30 CFR 875	Abandoned Mine Land Performance Standards.	Notice of Intent should be published in July 1979, and the proposed rule should be published in October 1979.	Richard Nalbadian 343-4057
GEOLOGICAL SURVEY, NATIONAL CENTER, RESTON, VA. 22092 (AREA CODE 703)				
5/78-12/78	30 CFR Part 211	Coal mining operating regulations.	Proposed rule, Summer 1979.	Tom Leshendok 860-7506
5/78-12/78	30 CFR Part 221	Oil and gas operating regulations.	Final rule, September 1979.	Eddie Wyatt 860-7535
5/78-12/78	30 CFR Part 250	Oil and Gas and Sulfur Operations in the Outer Continental Shelf.	Published as proposed rule on March 12, 1979.	Gerald Rhodes 860-7531
5/78-12/78	30 CFR Part 270	Geothermal resources operations on public acquired and withdrawn lands.	Published as final rule on June 27, 1979.	Eddie Wyatt 860-7535
1/79-6/79	30 CFR Part 241	Leasing and acquisition of water wells.	Proposed rule, December 1979.	Charles Sours 860-7521
1/79-6/79	30 CFR Part 251	G&G exploration of the Outer Continental Shelf.	Published as proposed rule on February 9, 1979.	Gordon Burton 860-7564
1/79-6/79	30 CFR Part 252	Oil and Gas Information Program.	Published as proposed rule on January 17, 1979. Final rule, July 1979.	Gerald Rhodes 860-7531
BUREAU OF MINES, 2401 E STREET, NW, WASHINGTON, D.C. 20241 (AREA CODE 202)				
1/79-6/79	30 CFR 601	Sales of Helium by and Rental of Containers from Bureau of Mines.	The proposed publication of a new schedule of helium prices and charges has been postponed. A bill is being drafted to cancel the helium debt and eliminate the helium revolving fund. Should this bill be approved and become law, the whole system of prices and charges will of necessity be reviewed and revised as conditions warrant.	Ray D. Munnerlyn 634-4734
BUREAU OF INDIAN AFFAIRS				
1/79-6/79	25 CFR 41	Preparation of Rolls of Indians—Qualifications for Enrollment and Deadlines for Filing.	The Bureau has determined that this Part is current and no revision is necessary.	Janet Parks 703-235-8275
1/79-6/79	25 CFR 42	Enrollment Appeals.	Proposed amendment is still under consideration.	Janet Parks 703-235-8275
1/79-6/79	25 CFR 43g	Preparation of a Roll to serve as the basis for the Distribution of Judgment Funds Awarded to the Pembina Band of Chippewa Indians.	The Bureau has determined that this Part is current and no revision is necessary.	Janet Parks 703-235-8275
1/79-6/79	25 CFR 43h	Preparation of a Roll of Alaska Natives.	The Bureau has determined that this Part is current and no revision is necessary.	Janet Parks 703-235-8275
1/79-6/79	25 CFR 43i	Preparation of a Roll to serve as the basis for the distribution of Judgment Funds Awarded to certain Warm Springs Indians.	The Bureau has determined that this Part is current and no revision is necessary.	Janet Parks 703-235-8275
1/79-6/79	25 CFR 43n	Preparation of a Roll for distribution of Grand River, Ottawa Judgment Funds.	The Bureau has determined that this Part is current and no revision is necessary.	Janet Parks 703-235-8275
1/79-6/79	25 CFR 43p	Revision of Membership Roll of Confederated Tribes of Siletz Indians of Oregon.	The Bureau has determined that this Part is current and no revision is necessary.	Janet Parks 703-235-8275
1/79-6/79	25 CFR 46	Enrollment of Indians of the Rincon, San Luiseno Band of Mission Indians in California.	The Bureau has determined that this Part is current and no revision is necessary.	Janet Parks 703-235-8275
1/79-6/79	25 CFR 47	Revision of the Membership Roll of the Eastern Band of Cherokee Indians, North Carolina.	The Bureau has determined that this Part is current and no revision is necessary.	Janet Parks 703-235-8275

Status of Rules Previously Scheduled for Review or Development (Continued)

Review period	CFR citation	Subject	Status	Knowledgeable official
BUREAU OF INDIAN AFFAIRS—Continued				
1/79-6/79	25 CFR 48	Enrollment of Indians of the San Pascual Band of Mission Indians in California.	The Bureau has determined that this Part is current and no revision is necessary.	Janet Parks 703-235-8275
1/79-6/79	25 CFR 91	Loans to Indians from the Revolving Loan Fund.	The Bureau has determined that this Part is current and no revision is necessary.	Elsie Maldonado 343-5805
1/79-6/79	25 CFR 20	Financial Assistance and Social Services Program.	This Part is scheduled for review as required by 43 CFR 14.	Ray Butler 703-235-2756
1/79-6/79	25 CFR 120a	Land Acquisition	Proposed rule was published on July 26, 1978, and is still being reviewed by the Bureau.	Raymond Jackson, Phoenix Area Office, P.O. Box 7707, Phoenix, AZ 85011 602-261-4195
1/79-6/79	25 CFR 121	Issuance of Patents in Fee, Certificates of Competency, Removal of Restrictions, and Sale of Certain Indian Lands.	This Part is still under review and will continue during the July-December 1979 review period.	Wilfred Bowker, Portland Area Office, P.O. Box 3785, Portland, OR 97208 509-429-6714
1/79-6/79	25 CFR 182	Oil and Gas Contracts	This part is still under review and will continue during the July-December 1979 review period.	Dick Wilson 343-9433
1/79-6/79	41 CFR 14H	Buy Indian Act Contracting	This part is still under review and will continue during the July-December 1979 review period.	Donald Asbra 703-235-8061
1/79-6/79	25 CFR 163	Establishment of Roadless and Wild Areas on Indian Reservations.	This Bureau has determined that this Part is current and no revision is necessary.	Robert Fleak 343-9433
1/79-6/79	25 CFR 252	Business Practices on the Navajo, Hopi and Zuni Reservations.	A proposed rule should be published in August 1979.	Eugene Suarez 343-5786
1/79-6/79	25 CFR 31a,b,g,h,j	Indian Education Amendments	Proposed rules were published on May 22, 1979.	Elizabeth Holmgren 343-3151
1/79-6/79	25 CFR 33	Grants for Tribally Controlled Community Colleges and Navajo Community.	Proposed rules were published on May 22, 1979.	Leroy Failing 343-7387
1/79-6/79	25 CFR	Education of the Exceptional Child in Bureau Schools.	Proposed rule is being developed to implement Pub. L. 94-142, which should be completed by September 1979. As of this date, a Part number has not been assigned.	Kathleen Brady 343-5517
5/78-12/78	25 CFR 34	Vocational Training for Adult Indians.	Proposed rule was published on October 14, 1977.	Bob Delaware 703-235-8355
5/78-12/78	25 CFR 80	Indian Business Development Program.	Final rule should be published by August 1979.	
5/78-12/78	25 CFR 21	Arrangement of States, Territories or other Agencies for Relief of Distress and Social Welfare of Indians.	The Bureau has determined that this Part is current and no revision is necessary.	Bob Selvey 343-5804
5/78-12/78	25 CFR 171	Leasing of Tribal Lands for Mining.	The Bureau has determined that this Part is current and no revision is necessary.	Ray Butler 703-235-2756
5/78-12/78	25 CFR 177	Plans for Prospecting and Mining on Indian Mineral Lands: Reclamation of Non-Mineral Resources.	Proposed rule was published on April 5, 1978. Final rule should be published in July 1979.	Richard Wilson 343-3722
5/78-12/78	25 CFR 181	Rights-of-way over Indian Lands	Proposed rule was published on April 5, 1978. Final rule should be published in July 1979.	Richard Wilson 343-3722
5/78-12/78	25 CFR 104	Individual Indian Money Accounts	This part is still under review and will continue during the July-December 1979 review period.	Richard McDermot Palm Springs Area Field Office 587 S. Palm Canyon Dr. Palm Springs, CA 92262 714-325-2183
5/78-12/78	25 CFR 141	General Forest Contracts	This part is still under review and will continue during the July-December 1979 review period.	William Bucholz 343-2963
5/78-12/78	25 CFR 174	Leasing of Restricted Lands of Members of five Civilized Tribes, OK for Mining.	This part is still under review and will continue during the July-December 1979 review period.	George Smith 343-8067
5/78-12/78	25 CFR 22	Care of Indian Children in Contract Schools.	This part is still under review and will continue during the July-December 1979 review period.	Dick Wilson 343-3722
5/78-12/78	25 CFR 274	School Construction Contracts or Services for Tribally Operated Previously Private Schools.	The Bureau has determined that this Part is current and no revision is necessary.	Ray Butler 703-235-2756
5/78-12/78	25 CFR 277	School Construction Contracts for Public Schools.	This Part is still under review and will continue during the July-December 1979 review period.	Elizabeth Holmgren 343-3151
5/78-12/78	25 CFR 105	Deposit of Indian Funds in Banks.	This Part is still under review and will continue during the July-December 1979 review period.	John Vale Investments Unit P.O. Box 886 Albuquerque, NM 87103 505-474-2800
5/78-12/78	25 CFR 273	Education Contracts under Johnson-O'Malley Act.	Proposed rule should be published in September 1979.	Elizabeth Holmgren 343-3151

[FR Doc. 79-22296 Filed 7-19-79; 8:45 am]
BILLING CODE 4310-01-M

OFFICE OF PERSONNEL MANAGEMENT

[5 CFR Part 733]

Political Participation by U.S. Government Employees in Local Elections in the City of Manassas

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: In response to a request from the Mayor of the City of Manassas, OPM proposes to designate that municipality as one where Government employees may participate in local elections subject to the limitations established by OPM, pursuant to the political activity restrictions of 5 U.S.C. 7324.

DATE: Written comments will be considered if on or before September 18, 1979.

ADDRESS: Submit written comments to Office of the General Counsel, Office of Personnel Management, Room 5H30, 1900 E Street, N.W. Washington, D.C. 20415. All comments received on this proposed rule will be available for public inspection at the above address on business days between 9 a.m. and 5:30 p.m.

FOR FURTHER INFORMATION CONTACT: Ann Wilson, 202-632-5524.

SUPPLEMENTARY INFORMATION: The Hatch Act at 5 U.S.C. 7321 *et seq.* controls the political activity of Federal employees and individuals employed by the District of Columbia. 5 U.S.C. 7324 generally prohibits Government employees from taking an active part in political campaigns. 5 U.S.C. 7327, however, authorizes OPM to prescribe regulations permitting Government employees to be politically active to the extent OPM considers it to be in their domestic interest.

Under the authority of 5 U.S.C. 7327, OPM can allow Government employees to participate in political campaigns involving the municipality where they reside when two conditions exist. One condition is met if the municipality is in Maryland or Virginia and is in the immediate vicinity of the District of Columbia. The second condition is met if OPM determines that the domestic interest of employees is served by permitting their political participation in accordance with regulations prescribed by OPM.

In regulations at 5 CFR 733.124(b) OPM has designated municipalities and political subdivisions in which Government employees may participate in local elections. At 5 CFR 733.124(c) OPM has established the following limitations on political participation by employees residing in designated municipalities and subdivisions:

(1) Participation in politics shall be as an independent candidate or on behalf of, or in opposition to, an independent candidate.

(2) Candidacy for, and service in, and elective office shall not result in neglect of or interference with the performance of the duties of the employee or create a conflict, or apparent conflict, of interests.

This proposal reflects OPM's determination that it is in the domestic interest of Government employees residing in the City of Manassas to permit their local political participation in connection with independent candidacies. This determination is based on evidence developed during an OPM investigation of the eligibility of the City of Manassas for a partial exemption from political activity restrictions.

The OPM investigation included inspection of voter registration and election records of the City of Manassas, interviews of City officials, and consultation with officials of local political organizations. Principal factors leading to OPM's determination are the

proximity of the City of Manassas to the District of Columbia, the substantial proportion of City residents who are Federal Government employees, and the history of vigorous nonpartisan elections in the municipality.

A copy of this notice will be published in local news papers serving the City of Manassas.

If this proposed rule is adopted, OPM will revise 5 CFR 733.124(b) to add the City of Manassas to the list of designated Virginia municipalities and political subdivisions in which Federal Government employees may participate in local elections.

Office of Personnel Management.

Beverly M. Jones;

Issuance System Manager.

July 17, 1979.

[FR Doc. 79-22545 Filed 7-19-79; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[15 CFR 918]

Guidelines for Sea Grant Colleges and Regional Consortia

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Proposed rule.

SUMMARY: The following guidelines, evolved over a dozen years of program experience, outline the procedures which will be followed in the designation of Sea Grant Colleges and Regional Consortia and the responsibilities of the organizations so designated. Sea Grant Colleges are institutions of higher education, or confederations of such institutions, that have been designated by the Secretary of Commerce as having the purpose of understanding, assessing, developing, utilizing, and conserving oceans, Great Lakes, and coastal resources through research, advisory service, education, and training. Sea Grant Regional Consortia are alliances of two or more organizations, so designated by the Secretary of Commerce, having the purpose of providing a vehicle whereby the organizations may combine their capabilities into a single program to conduct more adequate research, advisory service, education, and training in fields related to ocean, Great Lakes, and coastal resources on a regional basis.

DATE: Deadline for submission of written comments: August 20, 1979.

FOR FURTHER INFORMATION, CONTACT: Dr. Ned A. Ostensio, Office of Sea Grant, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852, [202-443-8923].

Dated: July 12, 1979.

M. P. Snider,

Assistant Administrator for Administration.

SUPPLEMENTARY INFORMATION:

Introduction. Pursuant to Section 207 of the National Sea Grant College Program Act, as amended (Pub. L. 94-461, 33 U.S.C. 1121 *et seq.*), herein referred to as the Act, the following guidelines establish the procedures by which organizations can qualify for designation as Sea Grant Colleges or Sea Grant Regional Consortia, and the responsibilities required of organizations so designated. Accordingly, it is proposed to amend Chapter IX, Title 15 of the Code of Federal Regulations, by adding a new Part 918 to read as follows:

PART 918—SEA GRANTS

Sec.

918.2 Definitions.

918.3 Eligibility, qualifications, and responsibility of a Sea Grant College.

918.4 Duration of Sea Grant College designation.

918.5 Eligibility, qualifications, and responsibilities—Sea Grant Regional Consortia.

918.6 Duration of Sea Grant Regional Consortium designation.

918.7 Application for designation.

Authority: Sec. 207, National Sea Grant College Program Act, as amended (Pub. L. 94-461, 33 U.S.C. 1121, *et seq.*).

§ 918.2 Definitions.

(a) *Marine Environment.* The term "Marine Environment" means any or all of the following: the coastal zone, as defined in Section 304(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(1)); the seabed, subsoil and waters of the territorial sea of the United States, including the Great Lakes; the waters of any zone over which the United States asserts exclusive fishery management authority; the waters of the high seas; and the seabed and subsoil of and beyond the Outer Continental Shelf.

(b) *Ocean, Great Lakes, and Coastal Resources.* The term "Ocean, Great Lakes, and Coastal Resources" means any resource (whether living, nonliving, manmade, tangible, intangible, actual, or potential) which is located in, derived from, or traceable to, the marine environment. Such term includes the habitat of any such living resource, the

coastal space, the ecosystems, the nutrient-rich areas, and the other components of the marine environment which contribute to or provide (or which are capable of contributing to or providing) recreational, scenic, aesthetic, biological, habitational, commercial, economic, or conservation values. Living resources include natural and cultured plant life, fish, shellfish, marine mammals, and wildlife. Nonliving resources include energy sources, minerals, and chemical substances.

(c) *Person*. The term "Person" means any public or private corporation, partnership, or other association or entity (including any Sea Grant College, Sea Grant Regional Consortium, institution of higher education, institute, or laboratory); or any State, political subdivision of a State, or agency or officer thereof.

(d) *Sea Grant College*. The term "Sea Grant College" means any public or private institution of higher education or confederation of such institutions which is designated as such by the Secretary under Section 207 of the National Sea Grant Program Act. Included in this term are all campuses (or other administrative entities) of a designated Sea Grant College, working through the established management structure of the Sea Grant College.

(e) *Sea Grant Program*. The term "Sea Grant Program" means any program which:

(1) Is administered by a Sea Grant College, Sea Grant Regional Consortium, institution of higher education, institute, laboratory, or State or local agency; and

(2) Includes two or more Sea Grant projects involving one or more of the following activities in fields related to ocean, Great Lakes, and coastal resources:

- (i) Research,
- (ii) Education and training, and
- (iii) Advisory services.

(f) *Sea Grant project*. A Sea Grant project is any separately described activity which has been proposed to the National Sea Grant College Program, and has subsequently been approved.

(g) *Sea Grant Regional Consortium*. The term "Sea Grant Regional Consortium" means any association or other alliance of two or more persons as defined above (other than individuals) established for the purpose of pursuing programs in marine research, education, training, and advisory services on a regional basis (i.e., beyond the boundaries of a single state) and which is designated as a consortium by the Secretary under Section 207 of the National Sea Grant Program Act.

(h) *Field Related to Ocean, Great Lakes, and Coastal Resources*. The term "Field Related to Ocean, Great Lakes, and Coastal Resources" means any discipline or field (including marine sciences and the physical, natural, and biological sciences, and engineering, included therein, marine technology, education, economics, sociology, communications, planning law, international affairs, public administration, humanities, and the arts) which is concerned with, or likely to improve the understanding, assessment, development, utilization, or conservation of, ocean, Great Lakes, and coastal resources.

§ 918.3 Eligibility, qualifications, and responsibility of a Sea Grant College.

(a) To be eligible for designation as a Sea Grant College, the institution of higher education or confederation of such institutions must have demonstrated a capability to maintain a high quality and balanced program of research, education, training, and advisory services in fields related to ocean, Great Lakes, and coastal resources for a minimum of three years, and have received financial assistance as an Institutional program under either Section 205 of the National Sea Grant College Program Act or under Section 204(c) of the earlier National Sea Grant College and Program Act of 1966.

(b) To be eligible for designation as a Sea Grant College, the candidate institution or confederation of institutions must meet the qualifications set forth above as evaluated by a site review team composed of members of the Sea Grant Review Panel, NOAA's Office of Sea Grant, and other experts named by NOAA. As a result of this review, the candidate must be rated highly in all of the following qualifying areas:

(1) *Leadership*. The Sea Grant College candidate must have achieved recognition as an intellectual and practical leader in marine science, engineering, education, and advisory service in its state and region.

(2) *Organization*. The Sea Grant College candidate must have created the management organization to carry on a viable and productive Sea Grant Program, and must have the backing of its administration at a sufficiently high level to fulfill its multidisciplinary and multifaceted mandate.

(3) *Relevance*. The Sea Grant College candidate's program must be relevant to local, State, regional, or National opportunities and problems in the marine environment. Important factors in evaluating relevance are the need for

marine resource emphasis and the extent to which capabilities have been developed to be responsive to that need.

(4) *Programmed Team Approach*. The Sea Grant College candidate must have a programmed team approach to the solution of marine problems which includes relevant, high quality, multidisciplinary research with associated educational and advisory services capable of producing identifiable results.

(5) *Education and Training*. Education and training must be clearly relevant to National, regional, State and local needs in fields related to ocean, Great Lakes, and coastal resources. As appropriate, education may include pre-college, college, post-graduate, public and adult levels.

(6) *Advisory Services*. The Sea Grant College candidate must have a strong program through which information, techniques, and research results from any reliable source, domestic or international, may be communicated to and utilized by user communities. In addition to the educational and information dissemination role, the advisory service program must aid in the identification and communication of user communities' research and educational needs.

(7) *Relationships*. The Sea Grant College candidate must have close ties with Federal agencies, State agencies and administrations, local authorities, business and industry, and other educational institutions. These ties are: (1) To ensure the relevance of its programs, (2) To give assistance to the broadest possible audience, (3) To involve a broad pool of talent in providing this assistance (including universities and other administrative entities outside the Sea Grant College), and (4) To assist others in developing research and management competence. The extent and quality of an institution's relationships are critical factors in evaluating the institutional program.

(8) *Productivity*. The Sea Grant College candidate must have demonstrated the degree of productivity (of research results, reports, employed students, service to State agencies and industry, etc.) commensurate with the length of its Sea Grant operations and the level of funding under which it has worked.

(9) *Support*. The Sea Grant College candidate must have the ability to obtain matching funds from non-Federal sources, such as state legislatures, university management, state agencies, business, and industry. A diversity of matching fund sources is encouraged as a sign of program vitality and the ability

to meet the Sea Grant requirement that funds for the general programs be matched with at least one non-Federal dollar for every two Federal dollars.

(c) Finally, it must be found that the Sea Grant College candidate will act in accordance with the following standards relating to its continuing responsibilities if it should be designated a Sea Grant College:

(1) Continue pursuit of excellence and high performance in marine research, education, training, and advisory services.

(2) Provide leadership in marine activities including coordinated planning and cooperative work with local, state, regional, and Federal agencies, other Sea Grant Programs, and non-Sea Grant universities.

(3) Maintain an effective management framework and application of institutional resources to the achievement of Sea Grant objectives.

(4) Develop and implement long-term plans for research, education, training, and advisory services consistent with Sea Grant goals and objectives.

(5) Advocate and further the Sea Grant concept and the full development of its potential within the institution and the state.

(6) Provide adequate and stable matching financial support for the program from non-Federal sources.

(7) Establish and operate an effective system to control the quality of its Sea Grant programs.

§ 918.4 Duration of Sea Grant College designation.

Designation will be made on the basis of merit and the determination by the Secretary of Commerce that such a designation is consistent with the goals of the Act. Continuation of the Sea Grant College designation is contingent upon the institution's ability to maintain a high quality performance consistent with the requirements outlined above. The Secretary may, for cause and after an opportunity for hearing, suspend or terminate a designation as a Sea Grant College.

§ 918.5 Eligibility, qualifications, and responsibilities—Sea Grant Regional Consortia.

(a) To be eligible for designation as a Sea Grant Regional Consortium, the candidate association or alliance of organizations must provide, in significant breadth and quality, one or more services in the areas of research, education, and training, or advisory service in fields related to ocean, Great Lakes, and coastal resources. Further, it is essential that the candidate Sea Grant

Consortium be required to provide all three services as soon as possible after designation. Further, such association or alliance must demonstrate that:

(1) It has been established for the purpose of sharing expertise, research, educational facilities, or training facilities, and other capabilities in order to facilitate research, education, training, and advisory services in any field related to ocean, Great Lakes, and coastal resources; and

(2) It will encourage and follow a regional multi-State approach to solving problems or meeting needs relating to ocean, Great Lakes, and coastal resources, in cooperation with appropriate Sea Grant Colleges, Sea Grant Programs and other persons in the region.

(b) Although it is recognized that the distribution of effort between research, education, training, and advisory services to achieve appropriate balance in a Sea Grant Regional Consortium may differ from a Sea Grant College, sustained effort in all of these areas is, nonetheless, an essential requirement for retention of such designation. To be eligible for designation as a Sea Grant Regional Consortium, the candidate association or alliance of organizations must meet the qualifications set forth above as evaluated by a site review team composed of members of the Sea Grant Review Panel, the Office of Sea Grant, and other experts. Further, the candidate must be rated highly in all of the following qualifying areas which are pertinent to the Consortium's program:

(1) *Leadership*. The Sea Grant Regional Consortium candidate must have achieved recognition as an intellectual and practical leader in marine science, engineering, education, and advisory service in its region.

(2) *Organization*. The Sea Grant Regional Consortium candidate must have created the management organization to carry on a viable and productive multidisciplinary Sea Grant Program and have the backing of the administrations of its component organizations at a sufficiently high level to fulfill its multidisciplinary and multifaceted mandate.

(3) *Relevance*. The Sea Grant Regional Consortium candidate's Sea Grant Program must be relevant to regional opportunities and problems in the marine environment. Important factors in evaluating relevance are the extent and degree of the need of a region for a focused marine resource emphasis and the degree to which the candidate has developed its capability to be responsive to that need.

(4) *Education and Training*. Education and training must be clearly relevant to regional needs and must be of high quality in fields related to ocean, Great Lakes, and coastal resources. As appropriate, education may include pre-college, college, post-graduate, public and adult levels.

(5) *Advisory Services*. The Sea Grant Regional Consortium candidate must have a strong program through which information techniques, and research results from any reliable source, domestic or international, may be communicated to and utilized by user communities. In addition to the educational and information dissemination role, the advisory service program must aid in the identification and communication of user communities' research and educational needs.

(6) *Relationships*. The Sea Grant Regional Consortium candidate must have close ties with Federal agencies, state agencies and administrations, regional authorities, regional business and industry, and other regional educational institutions. These regional ties are: (1) To ensure the relevance of programs, (2) To generate requests for such assistance as the consortium may offer, and (3) To assist others in developing research and management competence. The extent and quality of a candidate's relationships are critical factors in evaluating the proposed designation.

(7) *Productivity*. The Sea Grant Regional Consortium candidate must have demonstrated a degree of productivity (of research results, reports, employed students, service to regional agencies, industry, etc.) commensurate with the length of its Sea Grant operations and the level of funding under which it has worked.

(8) *Support*. The Sea Grant Regional Consortium candidate must have the ability to obtain matching funds from non-Federal sources, such as State legislatures, university management, State agencies, and business and industry. A diversity of matching funds sources is encouraged as a sign of program vitality and the ability to meet the Sea Grant requirement that funds for the general programs be matched with at least one non-Federal dollar for every two Federal dollars.

(c) Finally, it must be found that the Sea Grant Regional Consortium candidate will act in accordance with the following standards relating to its continuing responsibilities as a Sea Grant Regional Consortium:

(1) Continue pursuit of excellence and high performance in marine research,

education, training, and advisory services.

(2) Provide regional leadership in marine activities including coordinated planning and cooperative work with local, State, regional, and Federal agencies, other Sea Grant Programs, and non-Sea Grant organizations.

(3) Maintain an effective management framework and application of organizational resources to the achievement of Sea Grant objectives.

(4) Develop and implement long-term plans for research, education, training, and advisory services consistent with Sea Grant goals and objectives.

(5) Advocate and further the Sea Grant concept and the full development of its potential within the consortium and the region.

(6) Provide adequate and stable matching financial support for the program from non-Federal sources.

(7) Establish and operate an effective system to control the quality of its Sea Grant program.

§ 918.6 Duration of Sea Grant Regional Consortium designation.

Designation will be made on the basis of merit and the determination by the Secretary of Commerce that such a designation is consistent with the goals of the Act. Continuation of the Sea Grant Regional Consortium designation is contingent upon the alliance's ability to maintain a high quality performance consistent with the standards outlined above. The Secretary may, for cause and after an opportunity for hearing, suspend or terminate the designation as a Sea Grant Regional Consortium.

§ 918.7 Application for designation.

(a) All applications for initial designation as a Sea Grant College should be addressed to the Secretary of Commerce and submitted to the Director, National Sea Grant College Program, National Oceanic and Atmospheric Administration. The application should contain an outline of the capabilities of the applicant and the reasons why the applicant believes that it merits designation under the guidelines contained in this regulation. Upon receipt of the application, the Director will present the institution's case to the Sea Grant Review Panel for evaluation. The Panel's recommendation will be forwarded to the Secretary for final action.

(b) An existing Sea Grant College may also apply as in (a) above for a change in the scope of designation to include or exclude other administrative entities of the institution. If approved by the Secretary such included (excluded)

administrative entities shall share (lose) the full rights and responsibilities of a Sea Grant College.

[FR Doc. 79-22008 filed 7-19-79; 6:45 am]
BILLING CODE 3510-22-M

FEDERAL TRADE COMMISSION

[16 CFR Part 1]

Procedures for Implementation of the National Environmental Policy Act of 1969

AGENCY: Federal Trade Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Trade Commission is proposing to adopt new rules for implementing the procedural provisions of the National Environmental Policy Act. The proposed rules provide that it is the Commission's policy to comply with the Council on Environmental Quality regulations (40 CFR Parts 1500-1508). The proposed rules set forth supplementary definitions and procedures to be applied in conjunction with the Council's regulations. Public comments are invited on the proposed rules.

DATE: Comment closing date: August 20, 1979.

ADDRESS: Written comments should reference this Notice and be addressed to the Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue, NW., Washington, D.C. 20580. Comments received will be available for public inspection in Room 130 at the above address during the business hours of 8:30 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Clarence R. Laing, Jr., Office of the General Counsel, Federal Trade Commission, Sixth Street and Pennsylvania Avenue, NW., Washington, D.C. 20580, (202-523-3533).

The revised rules are proposed under the authority of 15 U.S.C. 46(g) and 42 U.S.C. 4371 *et seq.*

In consideration of the foregoing, it is proposed that Part 1 of 16 CFR Chapter I, Subpart I, be revised to read in its entirety as follows:

PART 1—GENERAL PROCEDURES

Subpart I—Procedures for Implementation of the National Environmental Policy Act of 1969

Sec.

1.81 Authority and incorporation of CEQ Regulations.

1.82 Declaration of Policy.

Sec.

1.83 Whether to commence the process for an environmental impact statement.

1.84 Draft environmental impact statements: Availability and comments.

1.85 Final environmental impact statements.

1.86 Supplemental statements.

1.87 NEPA and Agency decisionmaking.

1.88 Implementing procedures.

1.89 Effect on prior actions.

Authority: 15 U.S.C. 48(g) and 42 U.S.C. 4371 *et seq.*

Subpart I—Procedures for Implementation of the National Environmental Policy Act of 1969

§ 1.81 Authority and incorporation of CEQ regulations.

This Subpart is issued pursuant to section 102(2) of the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4371 *et seq.*). Pursuant to Executive Order 11514 (March 5, 1970, as amended by Executive Order 11991, May 24, 1977) the Council on Environmental Quality (CEQ) has issued comprehensive regulations for implementing the procedural provisions of NEPA (43 FR 55978-56007) ("CEQ Regulations"). Although it is the Commission's position that these regulations are not binding on it, the Commission's policy is to comply fully with the CEQ Regulations unless it determines in a particular instance or for a category of actions that compliance would not be consistent with the requirements of law. With this caveat, the Commission incorporates into this Subpart the CEQ Regulations. The following are supplementary definitions and procedures to be applied in conjunction with the CEQ Regulations.

§ 1.82 Declaration of policy.

(a) Except for actions which are not subject to the requirements of section 102(2)(C) of NEPA, no Commission proposal for a major action significantly affecting the quality of the human environment will be instituted unless an environmental impact statement has been prepared for consideration in the decisionmaking. "Major actions, significantly affecting the quality of the human environment" referred in this Subpart "do not include bringing judicial or administrative civil or criminal enforcement actions" (CEQ Regulation § 1508.18(a)). Nor should these rules be construed as stating or implying that section 102(2)(C) of NEPA applies to any investigation made by the Commission for law enforcement purposes or any process or order issued by the Commission in connection with any type of investigation or law enforcement adjudication.

(b) No Commission proposal for legislation significantly affecting the quality of the human environment and concerning a subject matter in which the Commission has primary responsibility will be submitted to Congress without an accompanying environmental impact statement.

(c) An environmental impact statement will not be prepared when the Commission finds that emergency action is necessary. In such instance, the Commission will consult with CEQ and develop a statement promptly after the action in accordance with CEQ Regulation § 1506.11.

§ 1.83 Whether to commence the process for an environmental impact statement.

(a) The Bureau responsible for submitting a proposal to the Commission for agency action shall, after consultation with the Office of the General Counsel, initially determine whether or not a proposal is one which requires an environmental impact statement. Except for matters where the environmental effects, if any, would appear to be either (1) clearly significant and therefore the decision is made to prepare an environmental impact statement, or (2) so diverse that environmental analysis would be based on speculation, the Bureau should normally prepare an "environmental assessment" (CEQ Regulation § 1508.9) for purposes of providing sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact. The Bureau should involve environmental agencies to the extent practicable in preparing an assessment. An environmental assessment shall be made available to the public when the proposed action is made public along with any ensuing environmental impact statement or finding of no significant impact.

(b) If the Bureau determines that the proposal is one which requires an environmental impact statement, it shall commence the "scoping process" (CEQ Regulation § 1501.7) except that the impact statement which is part of a proposal for legislation need not go through a scoping process but shall conform to CEQ Regulation § 1506.8.

(c) If, on the basis of an environmental assessment, the determination is made not to prepare a statement, a finding of "no significant impact" shall be made which shall be made available to the public as specified in CEQ Regulation § 1506.6.

§ 1.84 Draft environmental impact statements: availability and comment.

Except for proposals for legislation, environmental impact statements shall be prepared in two stages: draft statement and final statement.

(a) *Proposed rules or guides.* (1) An environmental impact statement, if deemed necessary, shall be in draft form at the time a proposed rule or guide is published in the *Federal Register* and shall accompany the proposal throughout the decisionmaking process.

(2) The major decision points with respect to rules and guides are:

(i) Preliminary formulation of a staff proposal;

(ii) The time the proposal is initially published in the *Federal Register* as a Commission proposal;

(iii) Presiding officer's report (in trade regulation rule proceedings);

(iv) Submission to the Commission of the staff report or recommendation for final action on the proposed guide or rule;

(v) Final decision by the Commission.

The decision on whether or not to prepare an environmental impact statement should occur at point (i). The publication of any draft impact statement should occur at point (ii). The publication of the final environmental impact statement should occur at point (iv).

(b) *Legislative proposals.* In legislative matters, a legislative environmental impact statement should be prepared in accordance with CEQ Regulation § 1506.8.

(c) In rule or guide proceedings the draft environmental impact statement will be placed in the public record to which it pertains; in legislative matters, the legislative impact statement will be placed in a public record to be established, containing the legislative report to which it pertains; these will be available to the public through the Office of the Secretary and will be published in full with the appropriate proposed rule, guide, or legislative report; such statements will also be filed with the Environmental Protection Agency's (EPA) Office of Federal Activities (CEQ Regulation § 1506.9) for listing in the weekly *Federal Register* Notice of draft environmental impact statements, and shall be circulated, in accordance with CEQ Regulations §§ 1502.19, 1506.6 to appropriate federal, state and local agencies.

(d) Forty-five (45) days will be allowed for comment on the draft environmental impact statement, calculated from the date of publication in the EPA's weekly *Federal Register* list

of draft environmental impact statements. The Commission may in its discretion grant such longer period as the complexity of the issues may warrant.

§ 1.85 Final environmental impact statements.

(a) After the close of the comment period, the Bureau responsible for the matter will consider the comments received on the draft environmental impact statement and will put the draft statement into final form, attaching the comments received (or summaries if response was exceptionally voluminous).

(b) Upon Bureau approval of the final environmental impact statement the final statement will be:

(1) Filed with the EPA;

(2) Forwarded to all parties which commented on the draft environmental impact statement and to other interested parties, if practicable;

(3) Placed in the public record of the proposed rule or guide proceeding or legislative matter to which it pertains;

(4) Distributed in any other way which the Bureau in consultation with CEQ deems appropriate;

(c) In rule and guide proceedings, at least thirty (30) days will be allowed for comment on the final environmental impact statement, calculated from the date of publication in the EPA's weekly *Federal Register* list of final environmental impact statements. In no event will a final rule or guide be promulgated prior to ninety (90) days after notice of the draft environmental impact statement, except where emergency action makes such time period impossible.

§ 1.86 Supplemental statements.

Except for proposals for legislation, the Commission shall publish supplements to either draft or final environmental statements if: (a) The Commission makes substantial changes in the proposed action that are relevant to environmental concerns; or (b) there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action and its impacts. In the course of a trade regulation rule proceeding, the supplement will be placed in the rulemaking record.

§ 1.87 NEPA and agency decisionmaking.

In its final decision on the proposed action or, if appropriate, in its recommendation to Congress, the Commission shall prepare a concise statement which shall:

(a) Identify all alternatives considered by the Commission in reaching its decision or recommendation, specifying the alternatives or which were considered to be environmentally preferable;

(b) State whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not.

§ 1.88 Implementing procedures.

(a) The General Counsel is designated the official responsible for coordinating the Commission's efforts to improve environmental quality. He will provide assistance to the staff in determining when an environmental impact statement is needed and in its preparation.

(b) The Commission will determine finally whether an action complies with NEPA.

(c) The Directors of the Bureaus of Consumer Protection and Competition will supplement these procedures for their bureaus to assure that every proposed rule and guide is reviewed to assess the need for an environmental impact statement and that, where need exists, an environmental impact statement is developed to assure timely consideration of environmental factors.

(d) The General Counsel will establish procedures to assure that every legislative proposal on a matter for which the Commission has primary responsibility is reviewed to assess the need for an environmental impact statement and that, where need exists, an environmental impact statement is developed to assure timely consideration of environmental factors.

(e) Parties seeking information or status reports on environmental impact statements and other elements of the NEPA process, should contact the Assistant General Counsel for Litigation and Environmental Affairs.

§ 1.89 Effect on prior actions.

It is the policy of the Commission to apply these procedures to the fullest extent possible to proceedings which are already in progress.

By direction of the Commission dated July 16, 1979.

Carol M. Thomas,
Secretary.

[FR Doc. 79-22527 Filed 7-19-79; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 310]

[Docket No. 75N-0062]

Oral Hypoglycemic Drugs; Availability of Agency Analysis and Reopening of Comment Period on Proposed Labeling Requirements; Further Extension

AGENCY: Food and Drug Administration.

ACTION: Further Extension of Comment Period on Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) further extends the comment period on its analysis of the University Group Diabetes Program (UGDP) study and on the proposed labeling requirements for oral hypoglycemic drugs. This action is being taken to allow more time to review the extensive material made available as part of FDA's analysis. The current comment period would have expired July 16, 1979.

DATE: Comments by September 14, 1979.

ADDRESSES: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert D. Bradley, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6490.

SUPPLEMENTARY INFORMATION: In the Federal Register of November 14, 1978 (43 FR 52732), FDA announced the availability of its analysis of the UGDP study and reopened, until January 15, 1979, the comment period on the labeling changes proposed in the Federal Register of July 7, 1975 (40 FR 28587). Comments on FDA's analysis of the UGDP were also invited.

A summary of FDA's analysis is in the November 14, 1978 Federal Register notice. The analysis consists of a 121-page report and over 2,200 pages of records that were obtained from the UGDP or generated by FDA.

In the Federal Register of January 19, 1979 (44 FR 3994), the agency extended the comment period on the proposed rule to March 16, 1979 in response to requests received from the Upjohn Company and the American Diabetes Association. In the Federal Register of March 23, 1979 (44 FR 17720), the agency further extended the comment period to

July 16, 1979 in response to a request by the American Diabetes Association. The Agency has now received a further request from the American Medical Association (AMA) to extend for an additional 60 days the comment period on the proposed oral hypoglycemic labeling. The basis for the requested extension is to permit an advisory panel on oral hypoglycemic drugs recently established by the AMA Council on Scientific Affairs to formulate certain guidelines for the use of oral hypoglycemics. The panel believes that recent criticism of the UGDP study, the complexity of the material involved, recent availability of new information, and the input of the proposed labeling change on the practice of medicine justify an extension of the comment period.

The agency has considered this request and finds, for the reasons stated, that a further 60-day extension is justified.

Accordingly, the comment period is extended to September 14, 1979. Comments may be seen in the office of the FDA Hearing Clerk at the address noted above, between 9 a.m. and 4 p.m. Monday through Friday.

Dated: July 12, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-22076 Filed 7-19-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 514]

[Docket No. 79N-0019]

Safety and Effectiveness Data Supporting the Approval of Minor Use New Animal Drugs

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The agency is proposing to allow, where scientifically appropriate, the use of animal models and the extrapolation of data from one species to another to support the approval of applications for (1) new animal drugs for use in minor species of animals and for (2) new animal drugs for the control of diseases that occur infrequently and in limited geographic areas. This action is being taken in the interest of the public health to encourage the submission of applications for needed new animal drugs.

DATE: Comments by September 18, 1979.

ADDRESSES: Written comments to the Hearing Clerk (HFA-305), Rm. 4-65, Food and Drug Administration, 5600

Fishers Lane, Rockville, MD 20857; copies of proposed guidelines are available from the Industry Information Branch (HFV-226), Bureau of Veterinary Medicine, Food and Drug Administration (same address).

FOR FURTHER INFORMATION CONTACT: Thomas V. Raines, Bureau of Veterinary Medicine (HFV-149), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) has received numerous recommendations from professional societies and industry that the agency provide guidance to the public on the type of data required to support the approval of drugs used in minor species. These recommendations have been justified on the basis that there exist few approved drugs for control of diseases occurring in minor species. Those providing recommendations have recognized that the responsibility for and expense of collecting adequate data are, by law, properly upon the drug sponsor.

There is little or no economic incentive for developing the data necessary for approval of drugs for minor species. Because only a few drugs are approved for use in minor species, producers of minor species are forced or tempted to use unapproved drugs. Thus, in minor species of animals, drugs are being used without any assurance that the drugs are safe and effective.

If diseases in minor species are left untreated, there may be severe injury to the target animals and serious public health hazards to man. For example, ornithosis in turkeys can cause an atypical pneumonia in man. Also, Salmonellosis in game birds can cause food poisoning in man. Even if a disease were not transmissible to man, food products of diseased animals would be unwholesome for human consumers.

Therefore, based on the recommendations made by professional societies and industry and in an effort to ensure the safe and effective use of animal drugs in minor species, FDA is proposing to allow, where scientifically appropriate, the use of animal models and the extrapolation of data regarding one species to another species to support the approval of applications for the "minor use" (as defined in the proposed regulation) of new animal drugs. The proposed regulation would amend § 514.1 of the new animal drug regulations (21 CFR 514.1) to include the types of data and information on the

"minor use" of new animal drugs that may be sufficient to satisfy the safety and effectiveness requirements of section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b). Draft guidelines setting forth the minimum requirements for establishing the animal safety and effectiveness of certain minor uses of new animal drugs are made available with this proposal.

New Animal Drugs Subject to the Proposal

The new animal drugs that are the primary subject of this proposal are new animal drugs intended for use in minor species of animals. "Minor species" of animals is defined as species other than the major species: cattle, horses, swine, chickens, turkeys, dogs, and cats. Sheep are considered a minor species with respect to effectiveness and animal safety requirements, but are considered a major species with respect to human safety requirements relating to drug residues in food.

In minor species of animals, there are many disease conditions for which no drugs are approved by FDA. Examples of these disease conditions include:

- (1) Capeworms, paratyphoid, and fowl cholera in game birds;
- (2) *Pasteurella anatipestifer* infections in ducks;
- (3) Bacterial gill disease in trout and salmon;
- (4) ICH (a protozoan disease) of all food fish;
- (5) Mastitis, liver flukes, and respiratory diseases of goats;
- (6) Coccidiosis of sheep;
- (7) Coccidiosis, mucoid enteritis, and pasteurellosis of rabbits.

The proposal also applies to new animal drugs for treatment in both major and minor species of animals of disease conditions which (1) break out infrequently and (2) are limited to small geographic areas of the country. Few FDA approved drugs are available for these "localized" disease conditions; in fact, for many "localized" disease conditions no FDA approved drugs are available. The fact that a "localized" disease condition breaks out infrequently ensures that no segment of the population will be exposed to long-term ingestion of residues of drugs used to treat the disease condition.

Accordingly, the term "minor use" in the regulations refers to two types of uses for new animal drugs: (1) use in minor species and (2) use for "localized" disease conditions.

Animal Safety and Effectiveness Data

With the publication of this document, FDA is making available draft

guidelines for the preparation of the type of "minor use" data needed to satisfy the animal safety and effectiveness requirements of section 512 of the act for the approval of new animal drugs. The guidelines set forth standards tailored to the special nature of drugs intended for minor species, including game birds, sheep, goats, rabbits, and food fish. Where the guidelines do not specifically provide for a particular "minor use," the Bureau of Veterinary Medicine, upon request, will advise interested persons on the effectiveness and animal safety data regarding the "minor use" that will be needed to satisfy the requirements of section 512 of the act. If scientifically appropriate, the Bureau of Veterinary Medicine will allow the use of animal models and the extrapolation of data from one species—major or minor—to a "minor use" species to satisfy the requirements of the act. FDA believes that many applications for the "minor use" of new animal drugs will be for drugs that are already approved for use in a major species. The guidelines permit, where scientifically appropriate, the use of animal models and the extrapolation of data from one species to another. For example, the guidelines allow the extrapolation of data derived from studies on a drug for respiratory diseases and mastitis in cattle to support the use of the drug for the same disease conditions in goats. Likewise, the guidelines permit the extrapolation of data derived from studies on a drug for controlling disease conditions in one species of fish to support the use of the drug for the same disease conditions in other species of the same family of fish.

The guidelines contain specific requirements for effectiveness and animal safety studies for diseases in game birds and in domestic ducks as well as for coccidiosis in rabbits. Also, the guidelines provide information on the requirements for demonstrating the animal safety and effectiveness of anthelmintic drugs for use in sheep and goats. For example, assuming adequate safety and effectiveness data are available for drugs against helminth parasites in cattle, only one rather than two controlled effectiveness experiments in sheep and goats is required to demonstrate substantial evidence of effectiveness. If in the effectiveness trial the removal of the more difficult parasites is tested, and if comparable effectiveness is observed, extrapolation to other internal parasites of sheep and goats is permitted.

That a disease condition is "localized" does not affect the data required to satisfy the animal safety and effectiveness requirements of the act.

Accordingly, no guidelines for animal safety or effectiveness requirements pertaining to "localized" disease conditions are available or contemplated.

Human Safety Data

Guidelines are not available for determining the type of data that will be necessary to establish that the use of drugs in "minor use" species will be safe to humans consuming the edible parts of animals administered "minor use" drugs. The following general principles will be applied, however, when the agency is petitioned for an approval of a drug for a "minor use":

(1) Toxicity data must be submitted that establish human safety. If toxicity data supporting the drug's use in a major species exist, it is possible that these same data may be applied to support a minor use.

(2) When it can be demonstrated that there will be no increase in human exposure to residues of the drug because of its use in a minor species, the agency will set a tolerance for the safe level of drug residues in the edible products of a minor use species at the level of the tolerance already established for the most closely related major species. An evaluation of the total residue resulting in the edible tissues from use of the "minor use" drug will be necessary to demonstrate whether there is an increase in human exposure to residues of the drug.

(3) Drug metabolism in a "minor use" species may be determined on the basis of a comparison of certain kinds of data on the "minor use" species with data available on the most closely related species for which the drug is approved, e.g., comparison of excretion rates, total drug residue depletion rates in tissue, and chromatographic patterns of residues. If there is an apparent difference in metabolism between the species compared, the sponsor of a "minor use" drug will be required to collect additional data on drug metabolism and will be required to develop a reliable and practicable analytical method for the identification and measurement of drug residues. The sponsor may be required to provide additional toxicity data to support the tolerance.

(4) If metabolism data are similar between a "minor use" species and the most closely related species for which the drug is approved, the most reliable approved method of analysis for drug residues in the major species may be adequate for analyzing for drug residues in the "minor use" species. By necessity, the adequacy of methods of analysis

will be evaluated on a case-by-case basis. A withdrawal period will be established on the basis of a method of analysis deemed adequate for regulatory use.

(5) When raising game or sport fish, a producer can use medications so far in advance of slaughter or harvest that drug residues are unlikely to remain in animal tissue. Therefore, minimum residue depletion data may be all that are necessary to demonstrate the absence of unsafe levels of drug residues in the tissue of game or sport animals slaughtered or harvested for food.

(6) Approval for use in a "minor use" species of a drug for which no use is approved in a major species will require toxicity studies, a metabolism study (or studies) to establish a market residue and target tissue, and a method of analysis to monitor drug residues; the information from these studies will be evaluated by current scientific standards and will be used to establish a withdrawal time to ensure that there is no significant human exposure to drug residues.

(7) A person would not be expected to eat a full portion of the edible products of the most closely related edible major species (e.g., chickens) and a full portion of the edible products of the related "minor use" species during the same day. Thus, there would not be a significant increase in exposure of consumers to drug residues when a consumer eats the food products of a "minor use" animal instead of the food products of a closely related major species animal. Accordingly, where it can be demonstrated that there will be no increase in human risk from exposure to the new animal drug, the agency will not be required to complete a review of the underlying data in the NADA for the most closely related species. Therefore, the position of a major species drug in FDA's Bureau of Foods prioritized cyclic review of the human safety data will not be interrupted by the application to a "minor use" drug of the underlying safety data for the major species drug. Where the approval of a "minor use" drug would result in an increase in human risk of exposure, the adequacy of all underlying safety data supporting the drug will be investigated. This approach is consistent with that employed by the agency in its supplemental new animal drug policy (see 41 FR 50003, November 12, 1976 and 42 FR 64367, December 23, 1977).

Conclusion

The proposed regulation allows for the use of data establishing the safety

and effectiveness of a drug approved for use in a major species to support the approval of a "minor use" of the drug. The agency recognizes, however, that it will not always be scientifically appropriate to use data demonstrating the safety and effectiveness of drugs in major species to demonstrate the safety and effectiveness of drugs for "minor uses." Furthermore, the agency emphasizes that approval of any new animal drug application must meet all the requirements of section 512 of the act.

Representatives from the Animal Health Institute (AHI) have offered to cooperate in obtaining section 512 approval of "minor use" drugs and to encourage holders of approved NADA's to authorize the release of confidential data for use by the "minor use" sponsor in securing approval of "minor use" drugs. Several drug firms have also indicated that they will assist in securing section 512 approval of "minor use" drugs.

This proposed regulation will have no environmental impact per se. New Animal drug applications submitted under the provisions of this proposed regulation are individually subject to environmental impact assessment pursuant to 21 CFR 25.1(b), unless for an exempted drug to the extent provided under 21 CFR 25.1(f).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 514 be amended in § 514.1 by adding new paragraph (d) to read as follows:

§ 514.1 Applications.

(d) Applications for minor use of new animal drugs:

(1) For the purpose of this section:

(i) "Minor use" of new animal drugs means the use of (a) new animal drugs in minor species of animals or (b) new animal drugs in any animal species for the control of a disease which (1) breaks out infrequently and (2) is limited to small geographic areas of the country.

(ii) "Minor species" of animals means species other than the major species, i.e., cattle, horses, swine, chickens, turkeys, dogs, and cats. Sheep are considered a minor species with respect to effectiveness and animal safety requirements; sheep are considered a major species with respect to human safety requirements relating to drug residues in food.

(2) Guidelines for the preparation and submission of data to satisfy the requirements of section 512 of the act regarding effectiveness and animal safety for new animal drugs intended for a "minor use" (as defined in paragraph (d)(1)(i) of this section) are available from the Industry Information Branch (HFV-226), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Where the guidelines do not specifically provide for a particular "minor use," the Bureau of Veterinary Medicine, upon request, will advise interested persons on the effectiveness and animal safety data regarding the minor use that will be needed to satisfy the requirements of section 512 of the act. Where scientifically appropriate, the Bureau of Veterinary Medicine will allow the use of animal models and the extrapolation of data from one species to a "minor use" species to satisfy the requirements of the act.

(3) Applications for a "minor use" of new animal drugs for use in food-producing animals must also satisfy the human safety requirements of section 512 of the act. As with any new animal drug application for use in food-producing animals, the application must contain basic residue and toxicological data establishing human safety. However, if available data support drug use in a major species, these same data may, if scientifically justified, be applied to support a "minor use." Regarding any such extrapolation from a major species use to a "minor use," information on the following points is required:

(i) The total residue of the minor use drug in the edible tissues of animals treated with the drug;

(ii) A comparison of the metabolism of the drug in the "minor use" species and in the approved use species;

(iii) If the metabolism comparison shows that the safety information regarding an approved use is appropriate for extrapolation to the minor use, data to verify the reliability and practicability of the method of analysis in identifying and measuring "minor use" drug residues in the edible tissues of animals administered the drug;

(iv) A withdrawal period established on the basis of a method of analysis deemed adequate for regulatory use.

In all instances, human safety of the "minor use" of a new animal drug for use in food-producing animals shall be supported by field data collected under drug use conditions. These data are required to demonstrate, employing the appropriate method of analysis, the rate

of depletion of the drug residue to levels demonstrated to be safe.

Copies of all proposed guidelines are available upon request from the Industry Information Branch (HFV-226), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. The guidelines are expected to be made final after a review of comments received on this proposal. A notice of availability of the final guidelines will be published in the Federal Register.

Interested persons may, on or before September 18, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: July 12, 1979.

Sherwin Gardner,
Acting Commissioner of Food and Drugs.

[FR Doc. 79-22416 Filed 7-19-79; 8:45 am]
BILLING CODE 4110-03-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR 84-77]

LIFO Conformity Requirement

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rule-making.

SUMMARY: This document contains proposed amendments to the regulations relating to the financial reporting conformity requirement incident to the use of the last-in, first-out (LIFO) method of inventory accounting. The proposed amendments would provide

the public with guidance needed to comply with that requirement and would affect taxpayers using the LIFO method for Federal income tax purposes.

DATES: Written comments and requests for a public hearing must be mailed or delivered by September 17, 1979. Except as otherwise provided, the amendments are proposed to be effective for taxable years beginning after December 31, 1953, and ending after August 16, 1954.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC: LR:T. (LR-84-77), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Geoffrey B. Lanning of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224. Attention: CC:LR:T, 202-566-3909, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations [26 CFR Part 1] under section 472 of the Internal Revenue Code of 1954. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Explanation of Proposed Regulations

Section 472 provides taxpayers with an election to account for inventories on the last-in, first-out (LIFO) method of inventory accounting. Section 472 (c) and (e) generally provide that taxpayers using the LIFO method for Federal income tax purposes must not use any other inventory method for purposes of reporting income, profit, or loss in credit statements or financial reports to shareholders, partners, other proprietors, or beneficiaries. This requirement is the so-called LIFO conformity requirement.

The proposed amendments to the regulations would provide that supplemental or explanatory financial disclosures issued after the proposed amendments are filed by the Federal Register do not violate the LIFO conformity requirement. The proposed amendments would provide rules for determining whether a disclosure is supplemental or explanatory.

Section 1.472-2 (e) of the Income Tax Regulations currently provides that the LIFO conformity requirement is not violated if a taxpayer uses market value rather than cost for financial reporting purposes or issues reports or credit

statements that cover a period of operations less than the whole of a taxable year.

The proposed amendments to the regulations would provide that the use of market value in lieu of cost for financial reporting purposes is not a violation of the LIFO conformity requirement only if the market value used is less than the LIFO cost of the inventory items.

The proposed regulations would also provide that credit statements or financial reports that cover a one-year period of operations overlapping two taxable years are subject to the conformity requirement.

The proposed amendments to the regulations would also provide that internal management reports are not reports to shareholders within the meaning of section 472 (c) and (e) and are not subject to the LIFO conformity requirement. In addition, the proposed amendments would provide that balance sheet reports of the value of taxpayers' inventories on hand are not reports of income, profit, or loss and are not subject to the LIFO conformity requirement.

Reliance on Proposals

Pending the adoption of final regulations, tax-payers may rely on these proposed rules in preparing financial reports, credit statements, or other reports. If any provisions of the final regulations are less favorable to taxpayers than these proposed rules, those provisions will be effective only after the date of adoption.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments (preferable six copies) that are submitted to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is to be held, notice of the time and place will be published in the *Federal Register*.

Drafting Information

The principal author of these proposed regulations is Geoffrey B. Lanning of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated

in developing the regulations, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Section 1.472-2(e) is revised to read as follows:

§ 1.472-2 Requirements incident to the adoption and use of LIFO inventory method.

(e) *LIFO conformity requirement*—(1) *In general.* The taxpayer must establish to the satisfaction of the Commissioner that the taxpayer, in ascertaining the income, profit, or loss for the taxable year for which the LIFO inventory method is first used or for any subsequent taxable year, for credit purposes or for purposes of reports to shareholders, partners, or other proprietors, or to beneficiaries, has not used any inventory method other than that referred to in § 1.472-1 or at variance with the requirement referred to in § 1.472-2(c). For this purpose, the following are not considered at variance with the requirement of this paragraph:

(i) The taxpayer's use of an inventory method for purposes of ascertaining information reported after July 17, 1979, as a supplement to or explanation of the taxpayer's primary presentation in financial statements of the taxpayer's income, profit or loss for a taxable year. See paragraph (e)(2) of this section for rules relating to the reporting of supplemental and explanatory information ascertained by the use of an inventory method.

(ii) The taxpayer's use of an inventory method to ascertain the value of taxpayer's inventory of specified goods on hand for purposes of reporting such value on the taxpayer's balance sheet.

(iii) The taxpayer's use of an inventory method for purposes of ascertaining information reported in internal management reports.

(iv) The taxpayer's issuance of reports or credit statements covering a single continuous period of operations that is both less than the whole of a taxable year and less than twelve months. See paragraph (e)(3) of this section for rules relating to a series of interim reports.

(v) The taxpayer's use of market value each year in lieu of LIFO cost assigned to the items of inventory for Federal income tax purposes, where market value is less than such LIFO cost.

(2) *Supplemental and explanatory information*—(i) *Face of the income statement.* Information reported on the face of a taxpayer's financial income

statement for a taxable year is not considered a supplement to or explanation of the taxpayer's primary presentation in financial statements of the taxpayer's income, profit, or loss for the taxable year. For example, information reported in a parenthetical statement on the face of a taxpayer's income statement is not considered supplemental or explanatory for purposes of this paragraph. For purposes of paragraph (e)(2) of this section, the face of an income statement does not include footnotes to the statement.

(ii) *Notes to the income statement.* Information reported in notes to a taxpayer's financial income statement for a taxable year is considered a supplement to or explanation of the taxpayer's primary presentation of income, profit, or loss for the taxable year if the notes accompany the income statement in a single report. If notes to an income statement are issued in a report that does not include the income statement, the question of whether the information reported therein is supplemental or explanatory is determined under the rules in paragraph (e)(2)(iv) of this section.

(iii) *Appendices and supplements to the income statement.* Information reported in an appendix or supplement to a taxpayer's financial income statement for a taxable year is considered a supplement to or explanation of the taxpayer's primary presentation of income, profit, or loss for the taxable year if the appendix or supplement accompanies the income statement in a single report and the information reported in the appendix or supplement is clearly identified as a supplement to or explanation of the taxpayer's primary presentation of income, profit, or loss for the taxable year as reported on the face of the taxpayer's income statement. If an appendix or supplement to an income statement is issued in a report that does not include the income statement, the question of whether the information reported therein is supplemental or explanatory is determined under the rules in paragraph (e)(2)(iv) of this section.

(iv) *Other reports.* Information reported in a news release, letter to shareholders, letter to creditors, or other report (other than a taxpayer's income statement or accompanying notes, appendices, or supplements) is considered a supplement to or explanation of the taxpayer's primary presentation of income, profit, or loss for the taxable year if the supplemental or explanatory information is clearly identified as a supplement to or

explanation of the taxpayer's primary presentation of income, profit, or loss for the taxable year as reported on the face of taxpayer's income statement for the taxable year and the specific item of information being explained or supplemented, such as the cost of goods sold, net income, or earnings per share, ascertained using the LIFO method, is also reported in the news release, letter, or other report.

(3) *Series of interim reports.* For purposes of paragraph (e)(1)(iv), a series of credit statements or financial reports is considered a single statement or report covering a single continuous period of operations if the statements or reports in the series are prepared using a single inventory method and can be combined to disclose the income, profit, or loss for the continuous period.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 79-22405 Filed 7-17-79; 10:35 am]

BILLING CODE 4830-01-M

[26 CFR Part 301]

[LR-12-79]

Offshore Oil Pollution Compensation Fund

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This document contains proposed regulations relating to the collection of fees for the purpose of funding an Offshore Oil Pollution Compensation Fund. Changes to the applicable law were made by the Outer Continental Shelf Lands Act Amendments of 1978. The regulation would provide the public with the guidance needed to comply with that portion of the Act relating to the collection of fees and would affect all owners of oil obtained from the Outer Continental Shelf. The owner of oil is the person in whom is vested ownership of the oil as it is produced at the wellhead.

DATES: Written comments and requests for a public hearing must be delivered or mailed by September 17, 1979. The amendments generally are proposed to be effective on March 17, 1979. However, under section 313(c) of the Outer Continental Shelf Lands Act Amendments of 1978 this date is effective only if so provided in an appropriation Act enacted after September 18, 1978.

ADDRESS: Send comments and requests for a public hearing to Commissioner of Internal Revenue, Attention: CC:LR:T, LR-12-79, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Kyllikki Kusma of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224. Attention: CC:LR:T, 202-566-3287, not toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the regulations on procedure and administration (26 CFR 301). These amendments are proposed to conform the regulations to section 302(d) of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 672) and are to be issued under the authority contained in section 302(d) of the Act and in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 26 U.S.C. 7805).

Explanation of the Regulations

Section 302 of the Outer Continental Shelf Lands Act Amendments of 1978 establishes an Offshore Oil Pollution Compensation Fund. Under section 302 (d) of the Act, this fund consists of money generated by a fee of not more than 3 cents per barrel imposed on oil obtained from the Outer Continental Shelf, and is to be paid by the owner of the oil as defined in § 301.9001-1(a)(2) of these regulations. Failure to pay the fee subjects the owner of the oil to civil penalty. The regulations describe the collection procedure which is to be used in collecting this fee. The regulations generally adopt a procedure similar to that currently used for the collection of manufacturers and retailers excise taxes.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the *Federal Register*.

Drafting Information

The principal author of these proposed regulations is Kyllikki Kusma of the Legislation and Regulations

Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service, Treasury Department and the Coast Guard participated developing the regulation, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 301 are as follows:

Paragraph 1. The following new sections are inserted to follow § 301.9000-1:

§ 301.9001 Statutory provisions; Outer Continental Shelf Lands Act Amendments of 1978.

Section 302 of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 629) provides as follows:

Sec. 302. (a) There is hereby established in the Treasury of the United States an Offshore Oil Pollution Compensation Fund in an amount not to exceed \$200,000,000, except that such limitation shall be increased to the extent necessary to permit any moneys recovered or collected which are referred to in subsection (b)(2) of this section to be paid into the Fund. The Fund shall be administered by the Secretary¹ and the Secretary of the Treasury as specified in this title. The Fund may sue and be sued in its own name.

(b) The Fund shall be composed of—

(1) All fees collected pursuant to subsection (d) of this section; and

(2) All other moneys recovered or collected on behalf of the Fund under section 308 or any other provision of this title.

(c) The Fund shall be immediately available for—

(1) Removal costs described in section 301 (22);

(2) The processing and settlement of claims under section 307 of this title (including the costs of assessing injury to, or destruction of, natural resources); and

(3) Subject to such amounts as are provided in appropriation Acts, all administrative and personnel costs of the Federal Government incident to the administration of this title, including, but not limited to, the claims settlement activities and adjudicatory and judicial proceedings, whether or not such costs are recoverable under section 308 of this title.

The Secretary is authorized to promulgate regulations designating the person or persons who may obligate available money in the Fund for such purposes.

(d)(1) The Secretary shall levy and the Secretary of the Treasury shall collect a fee of not to exceed 3 cents per barrel on oil obtained from the Outer Continental Shelf, which shall be imposed on the owner of the oil when such oil is produced.

(2) The Secretary of the Treasury, after consulting with the Secretary, may promulgate reasonable regulations relating to

¹ Secretary wherever used in this section means the Secretary of Transportation.

the collection of the fees authorized by paragraph (1) of this subsection and, from time to time, the modification thereof. Any modification shall become effective on the date specified in the regulation making such modification, but no earlier than the ninetieth day following the date such regulation is published in the Federal Register. Any modification of the fee shall be designed to insure that the Fund is maintained at a level of not less than \$100,000,000 and not more than \$200,000,000. No regulation that sets or modifies fees, whether or not in effect, may be stayed by any court pending completion of judicial review of such regulation.

(3)(A) Any person who fails to collect or pay any fee as required by any regulation promulgated under paragraph (2) of this subsection shall be liable for a civil penalty not to exceed \$10,000, to be assessed by the Secretary of the Treasury, in addition to the fee required to be collected or paid and the interest on such fee at the rate such fee would have earned if collected or paid when due and invested in special obligations of the United States in accordance with subsection (e)(2) of this section. Upon the failure of any person so liable to pay any penalty, fee, or interest upon demand, the Attorney General may, at the request of the Secretary of the Treasury, bring an action in the name of the Fund against that person for such amount.

(B) Any person who falsifies records or documents required to be maintained under any regulation promulgated under this subsection shall be subject to prosecution for a violation of section 1001 of title 18, United States Code.

(4) The Secretary of the Treasury may, by regulation, designate the reasonably necessary records and documents to be kept by persons from whom fees are to be collected pursuant to paragraph (1) of this subsection, and the Secretary of the Treasury and the Comptroller General of the United States shall have access to such records and documents for the purpose of audit and examination.

(e)(1) The Secretary shall determine the level of funding required for immediate access in order to meet potential obligations of the Fund.

(2) The Secretary of the Treasury may invest any excess in the Fund, above the level determined under paragraph (1) of this subsection, in interest-bearing special obligations of the United States. Such special obligations may be redeemed at any time in accordance with the terms of the special issue and pursuant to regulations promulgated by the Secretary of the Treasury. The interest on, and the proceeds from the sale of, any obligations held in the Fund shall be deposited in and credited to the Fund.

(f) If at any time the moneys available in the Fund are insufficient to meet the obligations of the Fund, the Secretary shall issue to the Secretary of the Treasury notes or other obligations in the forms and denominations, bearing the interest rates and maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or other obligations shall be made

by the Secretary from moneys in the Fund. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of comparable maturity. The Secretary of the Treasury shall purchase any notes or other obligations issued under this subsection and, for that purpose, he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purpose for which securities may be issued under that Act are extended to include any purchase of such notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

§ 301.9001-1 Collection of fee.

(a) *Imposition of fee—(1) In general.* Under section 302(d) of the Outer Continental Shelf Lands Act Amendments of 1978 (Act), the Internal Revenue Service is authorized to collect a fee of not more than 3 cents per barrel on oil that is obtained from the Outer Continental Shelf. This fee is established by the Commandant, United States Coast Guard, and is imposed on the owner of the oil as defined in paragraph (a)(2) of this section. For the purpose of computing this fee, the owner of the oil shall measure the Outer Continental Shelf oil production by employing the criteria of the U.S. Geological Survey contained in 30 CFR 250.60 and Outer Continental Shelf Order 13. No reduction in the amount due will be permitted by reason of theoretical or actual oil lost in transit. To ensure that the Fund is maintained at a level of not less than \$100,000,000 and not more than \$200,000,000, the Commandant, United States Coast Guard, may modify the amount of this fee.

(2) *Owner of oil.* For the purposes of these regulations, the owner of oil is the person in whom is vested ownership of the oil as it is produced at the wellhead without regard to the existence of contractual arrangements for the sale or other disposition of the oil between such a person and third parties. Under this rule, the Federal government entitlement to royalty oil does not constitute ownership of oil by the Federal government at the time of production.

(3) *Example.* The provisions of paragraph (a)(2) of this section may be illustrated by the following example:

Example. X is the owner of oil produced on the Outer Continental Shelf. During one reporting period, 10,000 barrels of oil were

obtained from this location. X will use a portion of this oil to make a royalty payment to the United States government. X also has a contract with Y to sell Y the remaining barrels of oil. For the purpose of the Act, X is the owner of the oil and must pay a fee of 3 cents per barrel on all 10,000 barrels of oil.

(4) *Cross-references.* See § 301.9001-2 (a) for the definition of barrel, § 301.9001-2(b) for the definition of oil, and § 301.9001-2(c) for the definition of person.

(5) *Effective Date.* [Reserved]

(b) *Collection of fee.* The Internal Revenue Service shall collect the fee imposed by section 302(d) of the Act. Administrative procedures for the collection of this fee shall be prescribed from time to time by the Commissioner. The Commissioner may designate the reasonably necessary records and documents to be kept by the person or persons from whom the fee is collected. See also the regulations under 33 CFR 135.103 for additional rules relating to the implementation of the Act.

(c) *Time and place for payment of the fee—(1) In general.* Payment of the fee shall be made in accordance with the rules established in paragraph (c) (2), (3) and (4) of this section. When a deposit is required by these rules, it must be filed with the Internal Revenue Service Center, Austin, Texas 73301 using Form 6008, Fee Deposit for Offshore Oil. Adjustments required in the amount paid during the calendar quarter to reflect the actual amount due for the quarter shall be made on Form 6009, Quarterly Report of Fees Due. Form 6009 must be filed on or before the last day of the month following the end of the calendar quarter with the Austin Service Center. The rules under section 7502, relating to the treatment of timely mailing as timely filing and paying, and section 7503, relating to the time for performance of acts where the last day falls on Saturday, Sunday, or legal holiday are applicable to the filing of Form 6009.

(2) *\$100 or less of fees.* If the owner of oil is liable in any calendar quarter for \$100 or less of fees, the owner may either deposit this amount or pay the full amount of the fee when Form 6009 is filed.

(3) *More than \$100 of fees.* If the owner of oil is liable in the first or second month of the calendar quarter for more than \$100 of fees and is not required to make a semimonthly deposit (see paragraph (c)(4) of this section), the owner must deposit the amount on or before the last day of the following month.

(4) *More than \$2000 of fees.* The owner of oil who is liable for more than

\$2000 of fees for any month of a calendar quarter must deposit fees for the following quarter (regardless of amount) on a semimonthly basis. The deposit must be made on or before the ninth day following the semimonthly period for which it is reportable. The first deposit for a month may be reasonably estimated when an accounting of oil production is normally done by the month. Under these circumstances, the second for that month deposit should be adjusted to reflect the total barrels produced in that month.

(d) *Responsibility for payment of fee—(1) In general.* Form 6009, Quarterly Report of Fees Due, must be filed and the fee must be paid either by the owner of the oil (§ 301.9001-1 (a)(2)) or by a person authorized to act for the owner of the oil under an acceptable power of attorney filed with the Austin Service Center.

(2) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. W, X, Y, and Z are oil companies that own equal interests in oil produced on the Outer Continental Shelf. W was selected to be the operator of the offshore facility. Additionally, X, Y, and Z authorized W to file Form 6009 and to pay the fee imposed by section 302(d) of the Act on the oil produced at this facility. Pursuant to this authorization, W paid a fee of \$16,600. Since the ownership of the oil is divided equally among W, X, Y, and Z, each company's share of the fee is \$4,150.

(e) *Penalty and interest.* Failure to collect or pay the fee shall result in a civil penalty assessed by the Secretary of the Treasury. The amount of the penalty is not to exceed \$10,000 in addition to the fee and the interest on the unpaid fee that would have been earned if paid when due and invested in the special Treasury securities which are to be purchased by the fund. The computation of the rate of interest to be levied on underpayment of fees shall be based on the average interest rate earned by the interest-bearing special obligations of the United States in the fund for each calendar quarter for which there is underpayment. Unless it can be shown that the failure to collect or pay the fee is due to reasonable cause and not due to willful neglect, the amount of the penalty is the lesser of—

- (1) \$10,000 or
- (2) The amount of the fee.

§ 301.9001-2 Definitions.

The terms enumerated in this section are to be defined for the purposes of these regulations in the following manner:

(a) "Barrel" means 42 United States gallons at 60 degrees Fahrenheit.

(b) "Oil" means petroleum, including crude oil or any fraction or residue therefrom, and natural gas condensate, except that the term does not include natural gas.

(c) "Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, or governmental entity.

(d) "Outer Continental Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 1301 of title 43 and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control;

§ 301.9001-3 Cross reference.

See the Coast Guard regulations under 33 CFR Parts 135 and 136 for rules relating to the implementation of the Act.

Note.—This notice of proposed rulemaking is to be issued under the authority contained in section 302(d) of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 672) and in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,
Commissioner of Internal Revenue.

[FR Doc. 79-22433 Filed 7-19-79; 8:45 am]

BILLING CODE 4930-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

[29 CFR Part 1601]

706 Agencies; Proposed Designations

AGENCY: Equal Employment Opportunity Commission.

ACTION: Proposed Rule.

SUMMARY: The Equal Employment Opportunity Commission proposes to amend its regulations on designation of certain State and local agencies so that they may handle employment discrimination charges filed with the Commission. Proposed are agencies that requested deferral designation as provided under the authority of Title VII of the Civil Rights Act of 1964, as amended. The proposal would authorize the agencies to process charges deferred to them by the Commission.

DATES: Comments must be received by August 3, 1979.

ADDRESS: Comments should be sent to Equal Employment Opportunity Commission, Office of Field Services

(State and Local), 2401 E Street, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Dorothy D. Howze, telephone 202-634-6894, Equal Employment Opportunity Commission (State and Local), 2401 E Street, N.W., Washington, D.C. 20506.

SUPPLEMENTARY INFORMATION: Pursuant to 1601.71 Title 29, Chapter XIV of the Code of Federal Regulations as revised and published in the Federal Register, 42 FR 55388, October 14, 1977, the Equal Employment Opportunity Commission (hereinafter referred to as the Commission) proposes that the agencies listed below be designated as a "706 Agency." § 1601.70(a).

The purposes for such designation are as follows: First, that the agencies receive charges deferred by the Commission pursuant to Section 706 (c) and (d) of Title VII of the Civil Rights Act of 1964, as amended; second, that the Commission accord "substantial weight" to the final findings and orders of the agencies pursuant to Section 706 of Title VII of the Civil Rights Act of 1964, as amended. The proposed designation of the agencies listed below is hereby published to provide any person or organization not less than 15 days within which to file written comments with the Commission as provided for under § 1601.71(a). At the expiration of the 15 day period, the Commission may effect designation of the agencies by publication of an amendment to § 1601.74(a).

The proposed "706 Agencies" are as follows:

City of St. Petersburg (Fla.) Office of Human Relations.¹
Clearwater (Fla.) Office of Community Relations.
St. Louis (Mo.) Civil Rights Enforcement Agency.

Written comments pursuant to this notice must be filed with the Commission on or before August 3, 1979. Signed at Washington, D.C. this 17th day of July, 1979.

For the Commission,
Eleanor Holmes Norton,
Chair, Equal Employment Opportunity Commission.

[FR Doc. 79-22440 Filed 7-19-79; 8:45 am]

BILLING CODE 6570-06-M

¹ On June 1, 1979, the St. Petersburg Office of Human Relations was designated a 706 Agency for all charges except those charges alleging retaliation under 704(a) of Title VII. Accordingly, it was deemed a "Notice Agency," pursuant to 29 CFR 1601.71(e). See 44 FR 31638. On May 23, 1979, an ordinance amended the St. Petersburg, Fla. Human Relations law to include charges of retaliation. Therefore, retaliation charges will be deferred to that agency effective immediately.

ENVIRONMENTAL PROTECTION AGENCY**[40 CFR Parts 51 and 52]****[FRL 1276-5]****Requirements for Preparation, Adoption, and Submittal of Implementation Plans; Approval and Promulgation of State Implementation Plans; Prevention of Significant Air Quality Deterioration****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed Rule.

SUMMARY: EPA proposes to amend the deadlines for "commencing" construction in the grandfather provisions of the regulations for the prevention of significant air quality deterioration ("PSD") which appear at 40 CFR 52.21 (1978). Under the proposed amendments, a permittee would in general have to "commence" construction by either the applicable existing deadline or the date nine months from the issuance of the last of certain necessary federal authorizations, whichever date is later. EPA also proposes to amend the provision in 40 CFR 52.21 which governs the extension and expiration of PSD permits, so as to make it clear that an extension may operate retroactively. EPA proposes finally to exempt from PSD review switches to refuse derived fuel by excluding them from the definition of "major modification" in the PSD regulations appearing at 40 CFR 51.24 and 52.21 (1978).

DATES: The deadline for submitting written comments is August 20, 1979.

ADDRESSES: Comments should be sent (in duplicate, if possible) to Central Docket Section (A-130), Environmental Protection Agency, Room 2903B, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460, Attention: Docket No. A-79-23.

Docket: In accordance with section 307(d) of the Clean Air Act, 42 USC 7607(d), EPA has established a docket for this rulemaking. It bears Docket No. A-79-23. The docket is an organized and complete file of all significant information submitted to or otherwise considered by EPA during this rulemaking. The contents of the docket will serve as the record in the case of judicial review under Section 307(b) of the Act, 42 USC 7607(b). The docket is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at EPA's Central Docket Section. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Peter H. Wyckoff, Attorney, Office of General Counsel, 401 M Street, S.W., Washington, D.C. 20460, 202-755-0756.

SUPPLEMENTARY INFORMATION:**A. Amendments to PSD Grandfathering Rules**

EPA is proposing to amend the deadlines for "commencing" construction in the grandfather provisions of its PSD regulations in response to requests for relief from those deadlines. This discussion describes the background to those requests, the requests themselves, the proposed amendments and the rationale for them.

1. Background

In the Clean Air Act Amendments of 1977, Congress established requirements for PSD preconstruction review that were more elaborate and in some ways more stringent than those in the PSD regulations in effect at the time. Compare Pub. L. No. 95-95, § 127(a), 91 Stat. 685, 731 (August 7, 1977), with 40 CFR 52.21 (1977). Although Congress plainly intended that the new requirements were to come into effect at some point, it left standing irreconcilably contradictory indications as to just when. On the one hand, Section 168 of the Clean Air Act, 42 U.S.C. 7478, provides in effect that the new requirements are to come into effect in a particular area only after the applicable state implementation plan ("SIP") has been revised to include them, an event requiring lengthy rulemaking. See also Pub. L. No. 95-95, §§ 406 (b) and (c), 91 Stat. 685, 795-96. On the other hand, Section 165(a), 42 U.S.C. 7475(a), strongly implies that the new requirements were to apply as of the date of their enactment, August 7, 1977. Faced with that contradiction, EPA decided to fashion through rulemaking a transition program which would strike a reasonable balance between the goals behind Sections 165 and 168. See 42 FR 57459, 57479 (November 3, 1977).

On June 19, 1978, EPA promulgated comprehensive amendments to the old regulations which incorporated into them the new PSD requirements. 43 FR 26388. Among the new provisions were three rules for the grandfathering of sources. *Id.* at 26406. Those rules embody EPA's attempt to harmonize Sections 165 and 168. The first provides in pertinent part that any major stationary source or major modification [hereinafter, "major source"] which was subject to the old regulations would escape the new requirements if the owner or operator in effect obtained a

permit under the old regulations by March 1, 1978, and "commenced" construction on the source by March 19, 1979. 40 CFR 52.21(i)(2) (1978). In order to "commence" construction, one has to obtain each air quality permit that the applicable SIP requires and either begin a continuous program of on-site construction or enter into contracts for such a program which could not be cancelled or modified without substantial loss. *Id.* 52.21(b)(8). The next grandfather rule provides that any major source which was *not* subject to the old regulations would escape the new requirements if the owner or operator obtained each of the permits required by the SIP by March 1, 1978, and "commenced" construction by March 19, 1979. *Id.* 52.21(i)(3). The last rule (hereinafter, the "special exception") provides that the March 1 permit deadline would not apply to any major source whose application for a permit under the old regulations would have been evaluated by March 1, 1978, but for an extension of the public comment period. *Id.* 52.21(i)(4).

On March 27, 1979, the United States Court of Appeals for the District of Columbia Circuit upheld those grandfather provisions against challenges from both environmental and industrial groups. *Citizens to Save Spencer County v. EPA*, 12 EPC 1961. It concluded that Sections 165 and 168 were irreconcilably contradictory and that EPA had authority to fashion a compromise between them through rulemaking. *Id.* at 1970-71, 1981. It also concluded that the compromise ultimately struck was not arbitrary or capricious, since EPA "had given more than adequate consideration" to the goals behind those two sections and had "afforded each of [the goals] adequate expression in the final rules." *Id.* at 1994. Behind Section 168, the court identified two goals: (1) "minimization of economic dislocation and loss as a result of . . . enhanced protection" of air quality and (2) "facilitation of an efficient administrative transition" from the old to the new PSD requirements. *Id.* Behind Section 165, on the other hand, the court perceived the goals of enhanced protection of air quality and heightened involvement of the states in preventing significant deterioration. *Id.* As for the special exception, the court concluded that it was "a reasonable attempt by EPA to reconcile the various contending interests affected by implementation of the new preconstruction requirements . . ." *Id.* at 1993.

2. Request of the Pittston Co.

While the Court of Appeals was considering the grandfather provisions of the new PSD regulations, The Pittston Company asked EPA for an interpretation of the special exception. Pittston had applied for a PSD permit for an oil refinery and marine terminal to be located at Eastport, Maine. In accordance with the special exception, EPA had issued a permit for the project under the old regulations on August 18, 1978. 43 FR 40056 (September 8, 1978). Noting that the exception itself expresses no deadline for "commencing" construction, Pittston wanted to know what, if any, absolute deadline did apply. In a response dated October 31, 1978, the Assistant Administrator for Air, Noise and Radiation, construing the grandfather provisions as a whole, stated that Pittston would have to "commence" construction within the same amount of time that the regulations made available to a person who would have obtained a PSD permit just before March 1, 1978, namely, one year and eighteen days. 43 FR 58188 (December 13, 1978). Given the August 18, 1978 permit date, this meant that Pittston would have until September 5, 1979, to "commence" construction on the refinery and marine terminal. *Id.*

By letters dated November 30, 1978, December 14, 1978, and January 3, 1979, Pittston petitioned the Administrator to reconsider and revise the interpretation of the Assistant Administrator, or else amend the grandfather provisions, so as to provide Pittston relief from the September 5, 1979 deadline. Pittston argued that the interpretation ran against the literal language of the special exception. It also argued that to require it to get a new PSD permit, if it failed to meet the deadline, would be unfair, because the federal government would have caused the failure. As Pittston pointed out, EPA had yet to take final action on Pittston's application for a wastewater discharge permit under the Clean Water Act, 33 U.S.C. 1251 *et seq.*, even though Pittston had submitted the application at least two and a half years earlier.

On January 17, 1979, EPA Region I denied the discharge permit, primarily on the basis of a determination by the Fish and Wildlife Service of the Department of the Interior that the refinery and marine terminal were likely to jeopardize the continued existence of the bald eagle, an endangered species. In denying the discharge permit, Region I specifically acknowledged the petition for relief and indicated that an

administrative appeal of the denial would probably not be completed by September 5, 1979. Pittston is seeking to have the denial and the bald eagle determination reversed.

Since the denial of the discharge permit, two other material events have occurred. First, in March 1979 in litigation before the United States Court of Appeals for the First Circuit, Pittston entered into an agreement not to "commence" construction on the refinery and marine terminal "until the conclusion of [that] Court's review of the PSD permit and until the conclusion of the administrative appeal from the denial of the [discharge] permit." In that litigation, certain parties are challenging the grant of the PSD permit. Second, Pittston recently requested the Regional Administrator for Region I to extend the PSD permit eighteen months beyond the deadline that Section 52.21(s)(2) of the new regulations would impose. That section provides in part that a PSD permit expires after eighteen months, unless the Administrator extends it upon a showing of good cause. 40 CFR 52.21(s)(2) (1978).

3. Request of the Hampton Roads Energy Co.

The Hampton Road Energy Company proposes to construct an oil refinery at Portsmouth, Virginia. EPA issued a PSD permit for the refinery under the old regulations on July 25, 1977. Under § 52.21(e)(3) of those regulations, now § 52.21(s)(2), the permit was to expire on January 25, 1979. By a letter dated November 21, 1978, to EPA Region III, Hampton Roads requested an extension of the permit to January 25, 1980. In support, it stated that the federal government had yet to issue the remaining authorizations necessary to the lawful construction and operation of the refinery. Specifically, Hampton Roads noted that the Army Corps of Engineers had still not acted on an application filed in 1975 for authorization for channel dredging and for construction of a marine terminal. It also noted that EPA had yet to approve a revision to the Virginia SIP that would establish emission reduction large enough to offset the hydrocarbon emissions from the refinery. The revision was needed in order to satisfy the Offset Interpretive Ruling, 41 FR 55524 (December 21, 1976), and in turn a condition of the Virginia air quality permit requiring satisfaction of that ruling.

By a letter dated January 25, 1979, the Regional Administrator for Region III granted an extension, but only to March 19, 1979. He explained that the Office of

General Counsel was determining whether, in view of the March 19 deadline for "commencing" construction in § 52.21(i)(2) of the new PSD regulations, he had authority to grant an extension beyond that date.

Early in February 1979, Hampton Roads submitted three further requests. It asked the Regional Administrator for an extension of the PSD permit to May 25, 1980. In addition, it sought from the General Counsel an interpretive ruling that EPA had authority under the new regulations to extend the permit beyond March 19, 1979. Finally, it requested that, if the General Counsel concluded that the new regulations would bar any further extension, the Administrator enter into rulemaking to lift that bar. In support, Hampton Roads argued that it had never had a chance to "commence" construction for want of the necessary federal authorizations, that EPA had in fact never intended the deadline to undercut someone who had had no such chance, and that in any event to apply the deadline to such a person would be unfair.

In a supplemental letter dated February 15, 1979, Hampton Roads renewed its requests and provided a detailed chronology of its attempts to get the necessary governmental authorizations. The letter underscored the point that Hampton Roads had never had a chance to "commence" construction by observing that the PSD permit itself was conditioned on satisfaction of the Offset Interpretive Ruling and that the SIP revision to satisfy the condition was still pending before EPA.

By a letter dated March 19, 1979, the Regional Administrator responded to the request for an extension. He concluded that an extension was warranted, but granted one only until July 25, 1979, and "on the condition that the Administrator either determine that § 52.21(i) does not preclude such an extension or else amend that section to allow for such an extension." He specifically stated that the purpose of the conditional extension was "to prevent the PSD permit from expiring during the time EPA is considering [Hampton Roads'] various requests."

It should be noted finally that Hampton Roads filed an application for a PSD permit under the new regulations on June 28, 1978, that EPA has not yet approved the Virginia SIP revision and that the Army Corps has not yet issued its permit. Action is expected on each of those matters in the near future.

4. The Proposed Amendments

EPA has concluded that it would be unfair to hold either Pittston or Hampton Roads to the applicable deadline for "commencing" construction in the new regulations, since each has failed or will fail to meet that deadline because the federal government has not yet issued the necessary authorizations. EPA is proposing primarily for that reason to amend the deadline for "commencing" construction so as to provide Pittston, Hampton Roads and anyone else in similar circumstances some relief.

The amendments would make four changes to the existing grandfather provisions. First, they would substitute for the date of March 19, 1979, in both §§ 52.21(i)(2)(ii) and 52.21(i)(3)(ii) the later of that date or the date nine months from the issuance of those federal authorizations which were necessary to begin construction or operation lawfully and which were requested before June 19, 1978. Second, they would add to the special exception from the March 1 permit deadline, which is found in § 52.21(i)(4), a requirement that the owner or operator "commence" construction within one year and eighteen days from the issuance of the PSD permit or within nine months from the issuance of the last of the federal authorizations described above, whichever period would end later. Finally, the amendments would add a new subparagraph (8) to § 52.21(i). It would state that, if one or more stays of any of the authorizations were granted in litigation and were in effect after the issuance of the last of the authorizations, the nine-month periods set in § 52.21(i)(2)(ii), (3)(ii), and (4) would run from the termination of the last such stay.

These amendments, while tailored to give Pittston and Hampton Roads relief, would retain as many of the basic concepts of the existing grandfather provisions as possible. In particular, they would impose a deadline for "commencing" construction which like the March 19 deadline could be extended only through further rulemaking. In addition, the amendments would not affect the requirements for "commencing" construction that now exist independently under § 52.21(s)(2) of the regulations. Hampton Roads, for example, would have to continue periodically to obtain extensions of its PSD permit up until the new deadline for "commencing" construction for grandfathering purposes. The purpose of § 52.21(s)(2) is to ensure that no source retains a share of the PSD increment for

which it has no use. Finally, EPA has retained nine months as the period within which a permittee must "commence" construction. In the existing provisions, that period runs from their announcement on June 19, 1978. In the new provisions, it would in general run from the issuance of the last of the specified federal authorizations. The agency originally adopted a period of nine months partly because it thought that the period would afford "ample opportunity" to "commence" construction. 43 FR 26391. EPA still believes that in general the period would afford that opportunity.

Other aspects of the proposed amendments should be explained. First, in proposing to limit the class of federal authorizations to those requested before June 19, federal authorizations to those requested before June 19, 1978, EPA is attempting to limit relief to those persons who, like Pittston and Hampton Roads, were actively striving to obtain all of the necessary permits when EPA announced its final grandfather rules. Any person who filed an application for a vital federal authorization as late as June 19, 1978, would seem to have little claim to equitable relief. Second, proposed § 52.21(i)(8) takes into account Pittston's stipulation before the Court of Appeals for the First Circuit not to "commence" construction until the conclusion of the court's review and certain administrative appeals. The proposed section is just as necessary to the relief EPA seeks to provide as are the other proposed amendments, since a stay would have the same practical effect as the failure of the government to issue the authorization in the first place.

Recently, the United States Court of Appeals for the District of Columbia Circuit ruled on numerous petitions from environmental and industrial groups for review of the substantive provisions of the PSD regulations. *Alabama Power Company v. EPA*, No. 78-1006 and consolidated cases (June 18, 1979). The court remanded some of those provisions and affirmed others. By an order dated June 18, 1979, it stayed its mandate pending disposition of any petitions for rehearing. The remands and any supplemental opinions may well require a change in the form or the content of the amendments proposed here. Nevertheless, EPA is proceeding with this rulemaking in order to avoid any loss of time should no material changes be required.

5. Rationale

In *Citizens to Save Spencer County v. EPA*, the Court of Appeals observed that one could imagine "equally reasonable

accommodations" of the competing policy concerns behind Sections 165 and 168 other than the one EPA adopted. 12 ERC at 1995. EPA believes that the proposed amendments would produce such an accommodation.

The amendments would significantly further the purposes behind Section 168. They would minimize economic dislocation and loss by allowing those who otherwise would have had to file another application for a PSD permit to turn their attention instead to "commencing" construction by the new deadline. PSD permit applications require substantial expenditures for computer modeling, air quality monitoring and other analyses. See 43 FR 26392-93 (June 19, 1978). They also carry the potential of substantial delay. The amendments would therefore save a limited number of permittees substantial time and expense. In addition, the amendments would facilitate "an efficient administrative transition" from the old to the new PSD requirements by increasing the fairness of the governing rules. 12 ERC at 1994.

The amendments, on the other hand, would not further the purposes behind Section 165. They would increase to some unknown extent the number of sources which would have only the controls that the applicable standards of performance (40 CFR Part 60) would require, instead of best available control technology (BACT), with the result that those sources would consume more of the available PSD increments than they would have. For an explanation of this point, see 43 FR 26390. That means, however, only that the amendments would diminish to some extent whatever value the States would find in being able to allocate those extra portions of the increments which BACT would preserve. It would not mean that air quality would deteriorate beyond those increments, since EPA has established that the States must cure any exceedance of an increment. 40 CFR 51.24(a)(3) (1978), *aff'd. Alabama Power Company v. EPA*, slip opinion at 22.23.

The choice, therefore, is between making the grandfather rules fairer and saving some sources time and expense, on the one hand, and preserving flexibility for the States, on the other. In EPA's judgment, the value of increased fairness and decreased cost outweighs the value of preserved flexibility for the States.

EPA decided against undertaking a detailed quantitative analysis of the advantages and disadvantages of the proposed amendments. Such an analysis might determine how many sources would escape the new PSD

requirements, the extra amount of increment they would consume, and the costs they would incur as a result of reapplications. But it could never quantify the significance of making the rules fairer or of preserving extra increment for the states. That requires an exercise of judgment informed by public comment. In addition, an analysis of the advantages and disadvantages of the amendments would be extraordinarily time-consuming and expensive. Just to quantify how much extra increment would be consumed would require investigations far beyond the files of the agency, determinations as to whether sources entered into the necessary construction contracts, control technology assessments and computer modeling.

B. Amendment to Provision Governing Permit Expiration

EPA is also proposing to amend § 52.21(s)(2) of the new regulations. The first sentence of that section provides in pertinent part that a PSD permit "shall become invalid if construction is not commenced within 18 months after receipt * * *." 40 CFR 52.21(s)(2) (1978). The second sentence adds that the "Administrator may extend the 18-month period upon a satisfactory showing that an extension is justified." *Id.* The amendment EPA proposes would insert the phrase "at any time" between "may" and "extend" in the second sentence, thereby making it clear that an extension may operate retroactively.

EPA is concerned that some PSD permittees who would find relief in the proposed amendments to § 52.21(i) may have allowed their permits to expire because they believed that they could not meet the applicable deadlines for "commencing" construction and that EPA would not change them. EPA believes that it has the power under Section 52.21(s)(2) now to resuscitate those permits by extending them retroactively. The proposed amendment to that section would merely make that power explicit. A permittee would of course have to apply for such an extension and show good cause for it.

C. Amendment to the Definitions of "Major Modification"

EPA is proposing finally to amend the definitions of "major modification" in 40 CFR 52.21 and 51.24, so as to exclude from that category any switch to fuel derived from municipal refuse. If excluded, any such switch would not be subject to PSD preconstruction review, although it would consume the applicable PSD increments. The purpose of the amendments is to conform the

way the PSD regulations treat such switches to the way they are treated by the new Emission Offset Interpretative Ruling, 44 FR 3274, 3282 (January 16, 1979) (§ 11(A) (5)), and the new standards of performance for electric utility steam generating units, 44 FR 33580, 33613 (June 11, 1979) (40 CFR 60.40a(c)). Since the court in *Alabama Power Company v. Costle* has overturned certain aspects of the PSD definition of "major modification," the form, but not the content, of this proposed amendment may have to be changed.

D. Miscellaneous

Executive Order 12044, 43 FR 12661 (March 24, 1978), requires executive branch agencies to prepare a regulatory analysis of any regulation that may have major economic consequences. The proposed amendments would not have such consequences. Therefore, EPA has not prepared, and does not intend to prepare, such an analysis of them.

Section 317 of the Clean Air Act, 42 USC 7617, requires EPA to prepare an economic impact assessment of any revisions of the PSD regulations which it determines to be substantial. EPA has determined that the proposed revisions are not substantial. Therefore, it has not prepared, and does not intend to prepare, such an assessment of them.

This rulemaking is undertaken under Section 307(d) of the Act, 42 USC 7607(d). EPA solicits written comments on the proposed amendments. The period for comment ends 30 days from the date this notice appears in the *Federal Register*. Comments should be sent, in duplicate if possible, to the Central Docket Section, EPA, Room 2903B, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460, Attention: Docket No. A-79-23. Any person wishing to present any comment orally should direct a request for a hearing to the Administrator, in care of the Central Docket Section. Such a request should be made as soon as possible and should explain why a hearing is warranted. The comments, and other relevant documents, will be available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, in the Central Docket Section.

(Sections 101(b)(1), 110, 160-69 and 301(a) of the Clean Air Act, as amended (42 USC 7401(b)(1), 7410, 7470-79 and 7601(a)).)

Dated: July 16, 1979.

Douglas M. Costle,
Administrator.

Sections 52.21 and 51.24 of Title 40 of the Code of Federal Regulations is proposed to be amended as followed:

§ 52.21 [Amended]

1. Section 52.21(i)(2)(ii) and 52.21(i)(3)(ii) are revised to read as follows:

- (i) * * *
- (2) and (3) * * *
- (ii) Commenced construction before March 19, 1979, or the date nine months from the issuance of the last authorization from the federal government which was necessary to begin construction or operation lawfully and which was requested before June 19, 1978, whichever date is later; and

2. Section 52.21(i)(4) is amended by adding the following as the last sentence:

- (i) * * *
 - (4) * * *
- The exemption of the two preceding sentences shall apply only if the owner or operator commenced construction on the source or modification within one year and eighteen days from the issuance of an approval under 40 CFR 52.21 as in effect prior to March 1, 1978, or within nine months from the issuance of the last authorization from the federal government which was necessary to begin construction or operation lawfully and which was requested before June 19, 1978, whichever period ends later.

3. Section 52.21(i) is amended by adding the following as the last subparagraph:

- (i) * * *
- (8) If a stay of any of the authorizations described in paragraphs (i)(2)(ii), (i)(3)(ii) and (4) of this section occurs in litigation and is in effect after the issuance of the last of those authorizations, the nine-month period described in those sections shall run from the end of the stay. If more than one such stay occurs, the nine-month period shall run from the end of the stay that ends last.

4. The second sentence of Section 52.21(s)(2) is revised to read as follows:

- (s) * * *
 - (2) * * *
- The Administrator may at any time extend the 18-month period upon a satisfactory showing that an extension is justified. * * *

§ 51.24 [Amended]

5. Section 51.24(b)(2)(ii) is amended as follows:

- a. By deleting the "or" at the end of subparagraph (d);
- b. By putting a semi-colon in the place of the period at the end of subparagraph (e);
- c. By putting "; or" in the place of the period at the end of subparagraph (f); and
- d. By adding the following new subparagraph at the end: (g) Use of refuse derived fuel generated from municipal solid waste.

§ 52.21 [Amended]

6. Section 52.21(b)(2)(ii) is amended as follows:

- a. By deleting the "or" at the end of subparagraph (d);
- b. By putting "; or" in the place of the period at the end of subparagraph (f); and
- c. By adding the following new subparagraph at the end:

(g) Use of refuse derived fuel generated from municipal solid waste.

[FR Doc. 79-22437 Filed 7-19-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1278-1]

Availability of Implementation Plan Revision for State of Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability and Advance Notice of Proposed Rulemaking.

SUMMARY: EPA announces today that the State of Alaska Implementation Plan revision due for submittal by January 1, 1979 under the Clean Air Act Amendments of 1977 has been received and is available for public inspection. The public is invited to submit written comments to the record which will be held open for the receipt of public comments for a period of thirty (30) days. A Notice of Proposed Rulemaking describing the Plan and the action that EPA intends to take regarding the proposed revisions will be published in the Federal Register after the initial thirty (30) day public comment period has closed. A second period for the submittal of written comments will extend for thirty (30) days after the publication of the Notice of Proposed Rulemaking.

DATE: Comments are due by August 20, 1979.

ADDRESSES: The Alaska submittal may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460.
Library, Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, Washington 98101.
State of Alaska, Department of Environmental Conservation, 3220 Hospital Drive, Juneau, AK 99811.
Environmental Protection Agency, Alaska Operations Office, Federal Building, Room E 535, 701 C Street, P.O. Box 19, Anchorage, AK 99513.

COMMENTS SHOULD BE ADDRESSED TO: Clark L. Gaulding, Chief, Air Programs Branch, M/S 629, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Richard F. White, Air Programs Branch, M/S 625, Environmental Protection Agency, Telephone No. (206) 442-1226, (FTS 399-1226).

SUPPLEMENTAL INFORMATION: Section 172 of the Clean Air Act, as amended in August 1977, requires that States submit revisions to their implementation plans by January 1, 1979 to provide for the attainment of the national ambient air quality standards (NAAQS) in areas designated non-attainment.

On March 3, 1978 (43 FR 8962) EPA designated certain areas in Alaska as non-attainment. Subsequently, on April 4, 1979 EPA published in the Federal Register the General Preamble for Proposed Rulemaking on Approval of Plan Revisions for non-attainment Areas (44 FR 20372). The General Preamble is hereby incorporated into this Advance Notice of Proposed Rulemaking.

The State has responded by preparing implementation plan revisions as required by the Act for the non-attainment designation referred to above. The purpose of this notice is to call the public's attention to the fact that this revision has been formally submitted to EPA and is available for public inspection at the locations noted above. The public is encouraged to submit written comments regarding the proposed revisions and thus participate in this rulemaking activity.

Those interested may wish to first read the General Preamble for proposed rulemaking published by the EPA on April 4, 1979 (44 FR 20372) which identifies the major considerations that will guide EPA's evaluation of SIP revisions. A more detailed description of the Alaska revision will be published in the Federal Register at a later date as part of a Notice of Proposed Rulemaking.

(Secs. 110, and 172, Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: July 11, 1979.

Donald P. Dubois,
Regional Administrator.

[FR Doc. 79-22568 Filed 7-19-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 81]

[FRL 1276-8]

Air Quality Control Regions, Criteria, and Control Techniques; Section 107—Attainment Status Designations—Colorado

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: This proposed rulemaking changes the attainment status of the Larimer-Weld designated area by redesignating certain portions of this area. The cities of Fort Collins and Greeley are redesignated to attainment of the primary standard for total suspended particulates and non-attainment of the secondary standard. The other areas are redesignated to attainment based on EPA's Rural Fugitive Dust Policy.

DATES: Comments due August 20, 1979.

ADDRESSES: Comments on this redesignation should be directed to: Mr. Robert R. DeSpain, Chief, Air Programs Branch, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

Copies of the materials submitted by the Colorado Air Pollution Control Commission and comments received on this proposal, may be examined during normal business hours at:

Environmental Protection Agency, Region VIII Library, 1860 Lincoln Street, Denver, Colorado 80295.
Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. DeSpain, Chief, Air Programs Branch, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3471, (FTS) 327-3471.

SUPPLEMENTARY INFORMATION: In the March 3, 1978, Federal Register (40 CFR 81.306) the Larimer-Weld designated area was designated as not attaining the primary standard for total suspended particulates (TSP). On February 22, March 22, and April 26, 1979, public hearings were held by the Colorado Air Pollution Control Commission to consider the redesignation of certain portions of Larimer and Weld counties to attainment.

On April 30, 1979, Governor Lamm requested Alan Merson, Administrator, Region VIII, to designate the cities of Fort Collins and Greeley as nonattainment of the secondary standard for total suspended particulates, and the remaining areas of Larimer and Weld counties, outside the city limits of Fort Collins and Greeley, to be attainment.

On June 4, 1979, hi volume particulate sample data for 1977 and 1978, and population estimates for 1970 and 1976, were submitted to EPA. based on this additional information, no primary standard violations occurred in Fort Collins and Greeley, while the secondary standard is still violated. It is EPA's policy to redesignate areas when two years of monitoring data show attainment.

A number of monitors in small towns in Larimer and Weld counties have shown violations of the primary and secondary standards. However, these small towns are defined by EPA's Rural Fugitive Dust Policy as being rural. A rural area is defined by the following:

1. The lack of major industrial development or absence of significant industrial particulate emissions.
2. Low urbanized populations (less than 25,000 to 50,000).

The following table shows the Key statistics for the communities where violations have been recorded:

City	County	Industrial emissions tons/year	Population
Loveland	Larimer	109	26,254
Estes Park	Larimer	0	2,399
Johnstown	Weld	29	1,621
LaSalle	Weld	0	1,885
Platteville	Weld	0	1,026
Erie	Weld	0	1,939

As shown in this table, these towns meet EPA's criteria for being rural.

Since particulate matter found in rural areas without the impact of manmade sources is typically native soil which for various reasons becomes airborne, these rural areas are redesignated to attainment of the standards for total suspended particulate matter.

This notice of proposed rulemaking is issued under the authority of Section 107 of the Clean Air Act as amended.

Dated: July 9, 1979.

Roger Williams.

Acting Regional Administrator.

[FR Doc. 79-22573 Filed 7-19-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 761]

[FRL 1278-4]

Proposed Rulemaking for Polychlorinated Biphenyls (PCB's); Manufacturing Exemptions

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule; Notice of Receipt of Additional Manufacturing Petitions and Extension of Reply Comment Period.

SUMMARY: As a result of receiving additional petitions for PCB manufacturing exemptions, EPA is extending the period for reply comments by two weeks.

DATE: Reply comments are due on August 1, 1979.

ADDRESS: Send reply comments to Ms. Linda Thomson, TSCA Hearing Clerk, Office of Toxic Substances (TS-794), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Attention: Docket Number OTS/066001 (PCB/ME).

FOR FURTHER INFORMATION CONTACT: John Ritch, Jr., Director, Office of Industry Assistance, Office of Toxic Substances (TS-799), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Call the toll free number (800) 424-9065, or in Washington, D.C., call 554-1404.

SUPPLEMENTARY INFORMATION: At the informal hearing on the PCB manufacturing exemption petitions held on July 9-11, 1979, EPA announced that it had received additional petitions for manufacturing exemptions to the PCB regulation (44 FR 31514, May 31, 1979). Those exemption petitions are as follows:

American Cyanamid,¹ Organic Chemicals Division, Bound Brook, N.J. 08805.
Analabs, Inc.,² 80 Republic Drive, North Haven, Connecticut 06473.
Apollo Colors, Inc.,¹ 1550 Mound Road, Rockdale, Illinois 60436.
Galaxie Chemical Corp.,¹ P.O. Box 443, River Street Station, Paterson, New Jersey 07524.
Olin Corporation,³ 120 Long Ridge Road, Stamford, Connecticut 06904.
RFR Corporation,² One Main Street, Hope, Rhode Island 02831.
Stauffer Chemical Company,⁴ 5 Westport, Connecticut 06880.

¹ Requests an exemption to manufacture pigments.

² Requests an exemption to manufacture small quantities of PCBs for research and development.

³ Requests an exemption to manufacture an intermediate chemical subsequent used to produce technical grade Polychlorinated biphenyls (PCNB) fungicide.

⁴ Requests an exemption to manufacture carbon tetrachloride and perchloroethylene.

The Agency is accepting the late filings listed above and is according them equal status with those manufacturing petitions previously received. Accordingly, these late petitioners will be allowed to continue the manufacturing activity for which exemption is sought until EPA has ruled on their individual petitions.

As announced at the hearing on July 9, 1979, EPA is extending the reply comment period by two weeks to August 1, 1979 to give commenters an opportunity to file comments on these newly-accepted petitions and, specifically, to comment on whether the petitions should be granted by EPA. As the Agency stated on May 31, 1979 (44 FR 31564), the decision on whether to accept further petitions will be made on a case-by-case basis. Accordingly, commenters should telephone Ms. Joni Repasch, the TSCA Record Clerk, at 202-755-2973 to determine if additional manufacturing exemption petitions have been accepted. Comments may be filed as to any of the pending manufacturing exemptions petitions, including those previously announced (44 FR 31564, May 31, 1979), during the extended comment period which ends on August 1, 1979.

Dated: July 17, 1979.

Steven D. Jellinek,

Assistant Administrator for Toxic Substances.

[FR Doc. 79-22568 Filed 7-19-79; 8:45 am]
BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[45 CFR Part 3]

Conduct and Traffic on the National Institutes of Health Reservation, Bethesda, Md.

AGENCY: PHS, National Institutes of Health.

ACTION: Proposed Amendments to Regulations.

SUMMARY: As part of the Department of Health, Education, and Welfare's effort to review and recodify its regulations, the Assistant Secretary for Health is proposing to amend the regulations governing conduct and traffic on the National Institutes of Health Reservation, Bethesda, Maryland. The purpose of the revision is to bring up to date these regulations which were last revised in 1970, to make minor additions, to improve readability, and to extend coverage to the PHS Hospital,

Staten Island, over which the United States has exclusive or concurrent jurisdiction.

FOR FURTHER INFORMATION CONTACT: Mr. Lowell D. Peart, Regulations Officer, National Institutes of Health, Bethesda, MD 20205, (301) 496-4606.

Dated: May 23, 1979.

Julius B. Richmond,
Assistant Secretary for Health.

[FR Doc. 79-22535 Filed 7-19-79; 8:45 am]
BILLING CODE 4110-08-M

COMMISSION OF FINE ARTS

[45 CFR Parts 2101, 2102, and 2103]

Rules and Regulations

AGENCY: The Commission of Fine Arts.

ACTION: Proposed Rule.

SUMMARY: As established by Congress in 1910, the Commission of Fine Arts is a small independent advisory body made up of seven Presidentially appointed "well qualified judges of the arts" whose primary role is architectural review of designs for buildings, parks, monuments and memorials erected by the government in the District of Columbia. In addition to architectural review, the Commission considers and advises on the designs for coins, medals and foreign U.S. memorials. The Commission also advises the District of Columbia Government on private building projects within the Georgetown Historic District, the Rock Creek Park perimeter and the Monumental Core area. As such, the Commission advises the Congress, President and federal agencies on the general subjects of design, historic preservation and on orderly planning on matters within its jurisdiction. These regulations are intended to facilitate and clarify the relationship of the Commission and its staff with those parties subject to the Commission's jurisdiction.

DATES: Comments should be received on or before August 6, 1979.

ADDRESS: Questions and comments on these regulations regarding the operations, procedures and records of the Commission should be addressed to the Secretary, Commission of Fine Arts, 708 Jackson Place, NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Mr. Charles H. Atherton, (202) 566-1066.

Accordingly, it is proposed to establish a new Chapter XXI, Commission of Fine Arts, Rules and Regulations, in 45 Code of Federal Regulations consisting at this time of Parts 2101, 2102 and 2103 as set forth below.

PART 2101—FUNCTIONS AND ORGANIZATION

Subpart A—Functions and Responsibilities of the Commission

Sec.

2101.1 Statutory and Executive order authority.

2101.2 Relationships of Commission's functions to responsibilities of other government units.

Subpart B—General Organization

2101.10 The Commission.

2101.11 Secretary to the Commission.

2101.12 Georgetown Board of Review.

Subpart A—Functions and Responsibilities of the Commission

§ 2101.1 Statutory and Executive Order Authority.

The Commission of Fine Arts (referred to as the "Commission") functions pursuant to statutes of the United States and Executive Orders of Presidents, as follows:

(a) *United States government buildings, other structures, and parklands.* (1) For public buildings to be erected in the District of Columbia by executive departments of the federal government and for other structures to be so erected which are important to the appearance of the city, the Commission comments and advises on the plans and on the merits of the designs before final approval or action;

(2) For statues, fountains and monuments to be erected in the District of Columbia under authority of the federal government, the Commission advises upon their location in public squares, streets, and parks, upon the selection of models and upon the merits of the designs;

(3) For monuments to be erected at any location pursuant to the American Battle Monuments Act, the Commission approves the designs and materials before they are accepted by the Monuments Commission;

(4) For parks within the District of Columbia, when plans of importance are under consideration, the Commission advises upon the merits of the designs; and

(5) For the selection by the National Capital Planning Commission of lands suitable for development of the National Capital park, parkway, and playground system in the District of Columbia, Maryland, and Virginia, the Commission provides advice.

(36 Stat. 371 (40 U.S.C. 104) as amended by 74 Stat. 128 (40 U.S.C. 106); Executive Order (E.O.) 1259 of October 25, 1910; E.O. 1862 of November 28, 1913; and E.O. 3524 of July 28, 1921; 60 Stat. 317 (38 U.S.C. 124); and 66 Stat. 781 (40 U.S.C. 72)).

(b) *Private buildings bordering certain public areas in Washington, D.C.* For

buildings to be erected or altered¹ in locations which border the Capitol, the White House, the intermediate portion of Pennsylvania Avenue, the Mall, Lafayette Park, the Zoological Park, Rock Creek Park or Parkway, or Potomac Park or Parkway, the Commission reviews the plans as they relate to height and appearance and to color and texture of the exteriors, and makes recommendations to the government of the District of Columbia, including ones for changes as in the judgement of the Commission are necessary to prevent reasonably avoidable impairment of the public values represented by the areas along which the buildings border.

(The Shipstead-Luce Act, 48 Stat. 366 as amended (40 U.S.C. 121; D.C. Code 5-410))

(c) *Georgetown buildings.* For buildings to be constructed, altered, reconstructed, or razed within the area of the District of Columbia known as "Old Georgetown." The Commission reviews and reports to the District of Columbia Government on proposed exterior architectural features, height, appearance, color, and texture of exterior materials as would be seen from public view; and the Commission makes recommendations to such government as to the effect of the plans on the preservation and protection of places and areas that have historic interest or that manifest exemplary features and types of architecture, including recommendations for any changes in plans necessary in the judgement of the Commission to preserve the historic value of Old Georgetown, and takes any such actions as in the judgement of the Commission are right or proper in the circumstances.

(Old Georgetown Act, 64 Stat. 903 (D.C. Code 5-801)).

(d) *United States medals, insignia, and coins.* On medals, insignia, and coins to be produced by an executive department of the United States, the Commission advises as to the merits of their designs; and if requested to do so, the Commission advises the Heraldic Branch, Quartermaster Corps, Department of the Army, on merits of designs it proposes for medals, insignia, seals, and the like.

(E.O. 3254 of July 28, 1921 and 71 Stat. 589 (10 U.S.C. 4954)).

¹ Alteration does not include razing of a building [Commissioner of the District of Columbia v. Bennenson, D.C. Ct. of App., 1974, 329 A. 2d 437]. Partial demolition, however, is viewed as an alteration (The Committee to Preserve Rhodes Tavern and the National Processional Route v. Oliver T. Carr Company, et al., U.S. Ct. of App. for D.C. Cir., 1979, 79-1457, Dept. Justice Brief for Fed. Appellee).

(e) *Questions of art with which the federal government is concerned.* When required to do so by the President or by either House of Congress, the Commission advises generally on questions of art, and whenever questions of such nature are submitted to it by an officer or department of the federal government the Commission advises and comments.

(36 Stat. 371 (40 U.S.C. 104) and E.O. 1862 of Nov. 28, 1913)

§ 2101.2 Relationships of Commission's functions to responsibilities of other government units.

(a) *Projects involving the Capitol building and the Library of Congress.* Plans concerning the Capitol building and the buildings of the Library of Congress are outside the purview of the Commission except as to questions on which the Congress requires the Commission to advise.

(b) *Executive Branch projects.* Officers and departments of the executive branch of the United States Government responsible for finally approving or acting upon proposed projects within the purview of the Commission's functions as described in § 2101.1 (a) and (d) are required first to submit plans or designs for such projects to the Commission and obtain its advice and comments.

(c) *Projects within the jurisdiction of the District of Columbia Government.* The District of Columbia seeks Commission advice on exterior alteration or new construction of public buildings or major public works within its boundaries. The District of Columbia Government also shall seek Commission advice on certain private construction requiring building or demolition permits from the D.C. Permit Branch (D.C. Law 5-422). These include certain actions by the District of Columbia Government pursuant to either D.C. Law 5-422 or D.C. Law 2-144 within areas subject to the Shipstead-Luce or Old Georgetown Acts (§ 2101.1 (b) and (c)) prior to the issuance of a permit.² Lot subdivision, alteration of buildings, demolition, or new construction at individually designated landmarks or within historic districts are further subject to the permit requirements of the Historic Landmark and Historic District Protection Act of 1978 (D.C. Law 2-144).³

² Provisions of the Shipstead-Luce Act (§ 2101.1(b)) do not include full demolition, though partial demolition is viewed as an alteration.

³ The Historic Sites Subdivision Amendment of 1976 (D.C. Law 1-80) purported to give the Commission advisory authority over subdivision permits within the areas covered by the Shipstead-Luce Act and the Old Georgetown Act, but the law was repealed by the 1978 Act (D.C. Law 2-144).

Subpart B—General Organization

Authority: 36 Stat. 371 as amended (40 U.S.C. 104 and 106); sec. 3, 64 Stat. 903 (D.C. Code 5-801)

§ 2101.10 The Commission.

The Commission is composed of seven members, each of whom is appointed by the President and serves for a period of four years or until his or her successor is appointed and qualifies. The Chairman is elected by the members. The Commission is assisted by a staff as authorized by the Commission and appointed by it.

§ 2101.11 Secretary to the Commission.

Subject to the direction of the Chairman, the Secretary to the Commission is responsible for providing secretarial and record-keeping services by the staff to support the functions of the Commission; for preparing the agenda of Commission meetings; for organizing the presentation before the Commission of plans, designs, or questions upon which it is to advise, comment, or respond; for interpreting the Commission's conclusions, advice, or recommendations on each matter submitted to it; and for maintaining custody of the Commission's records. The Assistant Secretary of the Commission shall carry out duties delegated to him by the Secretary and shall act in place of the Secretary during his absence or disability.

§ 2101.12 Georgetown Board of Review.

To assist the Commission in carrying out the purposes of the Old Georgetown Act (§ 2101.1 (c)), a committee of three architects appointed by the Commission serves as the Georgetown Board of Review without expense to the United States. This committee advises the Commission regarding designs and plans referred to it.

PART 2102—MEETINGS AND PROCEDURES OF THE COMMISSION

Subpart A—Commission Meetings

Sec.

2102.1 Times and places of meetings.

2102.2 Actions outside of meetings.

2102.3 Public notice of meetings.

2102.4 Public attendance and participation.

2102.5 Records and minutes; public inspection.

Subpart B—Procedures on Submissions of Plans or Designs

2102.10 Timing, scope and content of submissions for proposed projects involving land, buildings or other structures.

2102.11 Scope and content of submissions for proposed medals, insignia, coins, seals, and the like.

Sec.

2102.12 Responses of Commission to submissions.

Authority: Sec. 10, 86 Stat. 770 as amended (5 U.S.C., App. I, Federal Advisory Committee Act 10); OMB Circular No. A-63 (38 FR 2306, January 23, 1973) as amended.

Subpart A—Commission meetings.

§ 2102.1 Times and places of meetings.

Regular meetings of the Commission, open to the public, are held monthly on the fourth Tuesday of the month, beginning at 10:00 o'clock a.m., in its offices at 708 Jackson Place, NW., Washington, D.C. 20006, except that by action of the Commission a regular meeting in any particular month may be omitted or it may be held on another day or at a different time or place. A special meeting, open to the public, may be held in the interval between regular meetings upon call of the Chairman and five days' written notice of the time and place mailed to each member who does not in writing waive such notice. On all matters of official business, the Commission shall conduct its deliberations and reach its conclusions at such open meetings except as stated in § 2101.12 provided, however, that Commission members may receive staff briefings or may have informal background discussions among themselves and the staff outside of such meetings.

§ 2102.2 Actions outside of meetings.

Between meetings in situations of emergency, the Commission may act through a canvas by the Secretary of individual members, provided that any action so taken is brought up and ratified at the next meeting. In addition, the Commission members may convene away from the Commission's offices to make inspections at the site of a proposed project or at the location of a mock-up for the project and may then and there reach its conclusions respecting such project which shall be recorded in the minutes of the meeting held on the same day or, if none was then held, in the minutes of the next meeting.

§ 2102.3 Public notice of meetings.

Notice of each meeting of the Commission shall be made at least one week in advance by posting in the lower lobby of the Commission's offices and by submission for publication in the Federal Register.

§ 2102.4 Public attendance and participation.

Interested persons are permitted to attend meetings of the Commission, to file statements with the Commission at

or before a meeting, and to appear before the Commission when it is in meeting, provided that an appearance will be permitted only if it is germane to the functions and policies of the Commission and to the matter or issues then before the Commission and only if the presentation or argument is made in a concise manner with reasonable time limits and it avoids duplicating information or views already before the Commission. A decision of the Chairman as to the order of appearances and as to compliance with these regulations by any person shall be final unless the Commission determines otherwise.

§ 2102.5 Records and minutes; public inspection.

A detailed record of each meeting shall be made and kept which shall contain names of persons who appeared before the Commission, information or arguments presented orally, discussions held and conclusions reached, together with copies of all written, printed, or graphic materials presented. The Secretary shall also prepare minutes of each meeting which shall state the time and place it was held and attendance by Commission members and staff and which shall contain a complete summary of matters discussed and conclusions reached and an explanation of the extent of public participation, including names of persons who presented oral or written statements and an estimate of the number of members of the public who attended; and he shall send a copy to each member of the Commission. The accuracy of all such minutes and any completed reports, studies, agenda or other documents made available to, or prepared for or by, the Commission shall be available for public inspection and, at the requesting party's expense, for copying at the offices of the Commission.

Subpart B—Procedures on Submissions of Plans or Designs

§ 2102.10 Timing, scope and content of submissions for proposed projects involving land, buildings, or other structures.

(a) A party proposing a project which is within the purview of the Commission's functions under § 2101.1 (a), (b), or (c) should make a submission when preliminary plans for the project are ready but before detailed plans and specifications or working drawings are prepared. In order to assure that a submission will be considered at the next scheduled meeting of the Commission, it should be delivered to the Commission's offices not later than

five (5) days before the meeting; if it is a project subject to review first by the Georgetown Board, not later than three (3) days before the Georgetown Board meeting. The Commission will attempt to consider a submission which is not made in conformity with this schedule, but it reserves the right to postpone consideration until its next subsequent meeting.

(b) Each submission should state or disclose (1) the nature, location, and justification of the project, including any relevant historical information about a building or other structure to be altered or razed, (2) the identity of the owner or developer (or for public buildings, the governmental unit with authority to approve or act upon the plans) and of the architect, (3) the function, uses, and purpose of the project, and (4) other information to the extent it is relevant, such as area studies, site plans, building and landscape schematics, renderings, models, depictions or samples of exterior materials and components, and photographs of existing conditions to be affected by the project. Alternative proposals may be included within one submission. The information submitted shall be sufficiently complete, detailed, and accurate as will enable the Commission to judge the ultimate character, siting, height, bulk, and appearance of the project, in its entirety, including the grounds within the scope of the project, its setting and environs, and its effect upon existing conditions and upon historical and prevailing architectural values.

(c) If a project consists of a first or intermediate phase of a contemplated larger program of construction, similar information about the eventual plans should accompany the submission. Even though a submission relates only to approval for razing or removal of a building or other structure, the project will be regarded as part of phased development, and the submission is subject to such requirement.

(d) If the project involves a statue, fountain or a monument within the purview of the Commission under § 2101.1 (a)(2), partial submissions should be made as appropriate to permit the Commission to advise on each aspect of the project starting with the selection of any artist to be employed.

(e) The Commission staff will advise owners and architects concerning the scope and content of particular submissions. Material relevant to the functions and policies of the Commission varies greatly depending upon the nature, size, and importance of the project to be reviewed by the Commission. Also, it is the policy of the

Commission not to impose unnecessary burdens or delay on persons who make submissions to the Commission. However, the Commission at any meeting may decline to reach a conclusion about a proposed project if it deems the submission inadequate for its purposes, or it may condition its conclusions on the submission of further information to it at a later meeting or, in its discretion, to the staff of the Commission only.

(f) The Commission staff, members of the Georgetown Board, interested members of the public, or the submitting party may augment any submission by additional relevant information made available to the Commission before or at the meeting where the submission is considered. The Commission staff should also make available to the Commission at the meeting where a submission is considered information concerning prior considerations or conclusions of the Commission concerning the same project or earlier versions of it.

§ 2102.11 Scope and content of submissions for proposed medals, insignia, coins, seals, and the like.

Each submission of the design for a proposed item which is within the Commission's purview under § 2101.1 (d) should identify the sponsoring government unit and disclose the uses and purposes of the item, the size and forms in which it will be produced, and the materials and finishes to be used, including colors if any, along with a sketch, model, or prototype.

§ 2102.12 Responses of Commission to submissions.

(a) The Commission before disposing of any project presented to it may ask for the proposed plans or designs to be changed in certain particulars and resubmitted or for the opportunity to review plans, designs, specifications in certain particulars at a later stage in their development and to see samples or mock-ups of materials or components; and when appropriate in the matter of a statue or other object of art, the Commission may ask for the opportunity to see a larger or full-scale model. All conclusions, advice or comments of the Commission which lead to further development of plans, designs, and specifications or to actual carrying out of the project are made in contemplation that such steps will conform in all substantial respects with the plans or designs submitted to the Commission including only such changes as the Commission may have recommended; and any other changes in plans or

designs require further submission to the Commission.

(b) In the case of plans for a project subject to the Old Georgetown Act (§ 2101.1(c)), if the Commission does not respond with a report on such plans within forty-five days after their submission, its approval shall be assumed and a permit may be issued by the government of the District of Columbia.

PART 2103—STATEMENTS OF POLICY

Sec.

2103.1 General approaches to review of plans by the Commission.

§ 2103.1 General approaches to review of plans by the Commission.

The Commission functions relate to the appearance of proposed projects within its purview as they may be seen from public view. These functions are to serve the purpose of conserving and enhancing the visual assets which contribute significantly to the character and quality of Washington as the nation's capital and which meaningfully reflect the history and features of its development over nearly two centuries. Where existing conditions detract from the overall appearance of official Washington or historic Georgetown—such as conditions caused by temporary, deteriorated, or abandoned buildings of little or no historical or architectural value, by interrupted developments, or by vacant lots not devoted to public use as parks or squares—the Commission will favor suitable corrections to these conditions. When changes or additions are proposed in other circumstances, the Commission may consider whether the public need or value of the project or the private interests to be served thereby justify making any change or addition, and it will consider whether the project can be accomplished in reasonable harmony with the nearby area, with a minimum loss of attractive features of the existing building or site, with due deference to the historical and architectural values affected, and without creating an anomalous or disturbing element in the public view of the city.

(36 Stat. 371, 40 U.S.C. 104, as amended by 74 Stat. 128, 40 U.S.C. 106; Executive Order, (E.O.) 1259 of Oct. 25, 1910; E.O. 1862 of Nov. 28, 1913; E.O. 3524 of July 28, 1921; 46 Stat. 366, 40 U.S.C. 121, as amended by 53 Stat. 1144, 40 U.S.C. 121; 64 Stat. 903, D.C. Code 5-801; 66 Stat. 781, 40 U.S.C. 72)

Dated: June 26, 1979.

Charles H. Atherton,

Secretary.

[FR Doc. 79-22430 Filed 7-19-79; 8:45 am]

BILLING CODE 6330-01-M

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 67]

[Docket No. 21263; FCC 79-417]

Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers Between the U.S. Mainland and the Offshore Points of Hawaii, Alaska, and Puerto Rico/Virgin Islands

AGENCY: Federal Communications Commission.

ACTION: Order, Docket 21263.

SUMMARY: The commission accepts the nominations of the National Association of Regulatory Commissioners to fill two vacancies on the Federal-State Joint Board convened in this proceeding. Commissioners Richard D. Gravelle, California PUC, and Katherine Eriksson Sasseville, Minnesota PSC are appointed to the Joint Board.

EFFECTIVE DATE: Appointments effective immediately.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Francis L. Young, Common Carrier Bureau, Room 530, (202) 632-7084.

Order

Adopted: July 10, 1979.

Released: July 11, 1979.

In the matter of Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers between the United States Mainland and the offshore points of Hawaii, Alaska, and Puerto Rico/Virgin Islands, Docket No. 21263.¹

1. Two state commissioners previously appointed to the Federal-State Joint Board convened in this proceeding have departed their respective state commissions, thus creating two vacancies on the Joint Board. The National Association of Regulatory Utility Commissioners (NARUC), pursuant to Section 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. 410(c), has submitted nominations to fill these vacancies. NARUC has nominated Richard D. Gravelle, Commissioner, California Public Utilities Commission

¹ See 43 FR 55803, November 29, 1979.

to replace William Symons, Jr., Commissioner, California Public Utilities Commission, and Katherine Eriksson Sasseville, Chairman, Minnesota Public Service Commission, to replace Edward R. Lundborg, Chairman, Colorado Public Utilities Commission. By this Order the Commission accepts the nominations of NARUC and appoints the nominees to the Federal-State Joint Board.

2. Accordingly, it is ordered, That Richard D. Gravelle, California Public Utilities Commission, and Katherine Eriksson Sasseville, Minnesota Public Service Commission, ARE APPOINTED members of the Federal-State Joint Board instituted in this proceeding.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-22466 Filed 7-19-79; 8:45 am]

BILLING CODE 6712-01-M

[47 CFR Part 73]

[BC Docket No. 79-170; RM-3321]

Television Broadcast Station in Kalamazoo, Mich.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a UHF television channel to Kalamazoo, Michigan, in response to a petition filed by Thomas E. Pace. The proposal would provide for a second commercial television station in Kalamazoo.

DATES: Comments must be filed on or before September 7, 1979, and reply comments must be filed on or before September 27, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: July 9, 1979.

Released: July 13, 1979.

In the matter of amendment of § 73.606(b), *Table of Assignments, Television Broadcast Stations*, (Kalamazoo, Michigan), BC Docket No. 79-170, RM-3321.

1. Before the Commission is a petition for rule making (Public Notice No. 1164, issued February 16, 1979), submitted by Thomas E. Pace ("petitioner"). The petition seeks amendment of § 73.606(b)

of the Commission's rules, the Television table of Assignments, by removing the reservation of Channel *52 at Kalamazoo, Michigan, which limits it to noncommercial educational use only. Public Broadcasting Service ("PBS") opposed the proposal and petitioner responded.

2. Kalamazoo (pop. 85,555), seat of Kalamazoo County (pop. 201,550),¹ is located in southwest Michigan, approximately 210 kilometers (130 miles) west of Detroit. Kalamazoo is currently assigned Channel 3 (WKZO-TV) and Channel *52 (unoccupied and unapplied for).

3. Petitioner argued in favor of deleting the reservation on this channel so that a commercial independent service could be offered on this assignment. He states that the channel could be used to provide a new and diversified source of television programming to a large area and population which would not otherwise receive such service.

4. We believe that petitioner's proposal to bring a first independent television service to Kalamazoo is worth exploring. However, we do not need to consider whether the public interest would be served by deleting the educational reservation of the present assignment since another channel can be assigned. Because of the availability of Channel 64 to Kalamazoo,² there is no need to discuss further the argument between petitioner and Public Broadcasting Service.

5. Since Kalamazoo is located within 402 kilometers (250 miles) of the U.S.-Canada border, the proposed assignment of Channel 64 to Kalamazoo, Michigan, requires coordination with the Canadian Government before it can be adopted.

6. Comments are invited on the following proposal to amend § 73.606(b), the Television Table of Assignments, with regard to the city of Kalamazoo, Michigan:

City	Channel No.	
	Present	Proposed
Kalamazoo, Mich.	3-, *52+	3-, *52+, 64

7. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

¹ Population figures are taken from the 1970 U.S. Census.

² A transmitter site for Channel 64 at Kalamazoo would have to be located at least 0.5 kilometers (0.5 miles) northwest of the city.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before September 7, 1979, and reply comments on or before September 27, 1979.

9. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Richard J. Shibeau,
Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever question are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW, Washington, D.C.

(FR Doc. 79-22459 Filed 7-19-79; 8:45 am)

BILLING CODE 6712-01-M

[47 CFR Part 73]

[BC Docket No. 79-171; RM-2948]

FM Broadcast Station in Santa Barbara, Calif.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of noncommercial educational FM Channel 204B to Santa Barbara, California, in response to a petition filed by Classical Radio of Santa Barbara. The proposed channel could be used to bring additional noncommercial educational broadcasting to Santa Barbara and surrounding areas.

DATES: Comments must be filed on or before September 7, 1979, and reply comments must be filed on or before September 27, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: July 9, 1979.

Released: July 13, 1979.

In the matter of amendment of § 73.504, *Table of Assignments*, FM Broadcast Stations, (Santa Barbara, California), BC Docket No. 79-171, RM-2948.

1. The Commission here considers a petition for rule making,¹ filed on behalf of Classical Radio of Santa Barbara ("petitioner"), which seeks the assignment of noncommercial educational FM Channel 204B to Santa Barbara, California. No responses to the petition were received.

2. Santa Barbara (pop. 70,215), in Santa Barbara County (pop. 264,324),² is located approximately 130 kilometers (80 miles) northwest of Los Angeles, California. Santa Barbara is served locally by non-commercial educational station KCSB-FM (Channel 218); four commercial FM stations (KDB-FM, Channel 229); (KRUZ-FM, Channel 277); (KTMS-FM, Channel 248); and (KTYD-FM, Channel 260); and six AM stations (KDB, KKIO, KTMS, KTYD, KBLs and KIST).

3. Petitioner states the proposed channel would provide Santa Barbara, as well as the surrounding communities of Goleta, Montecito, Summerland and Carpinteria, with high-quality noncommercial programming. It points out that Station KCSB-FM, operating on Channel 218 and assigned to Santa Barbara, is a low power station operating from distant Broadcast Peak near Goleta. Petitioner asserts that a major shadow area exists in Santa Barbara and that as a result Station KCSB-FM cannot be received in many areas of the city. It asserts that the Class B channel assignment it proposes would provide effective Santa Barbara service and would permit the extension of service to the Ventura-Oxnard area which currently receives only spotty reception from Station KPFK, Los Angeles.

4. Petitioner claims that no significant preclusion would result from the assignment of Channel 204B to Santa Barbara. It asserts that the areas where the proposed assignment would most limit the availability of noncommercial channels (Santa Barbara, Ventura-Oxnard, Carpinteria) are those areas which would benefit most from the service from Channel 204B. It adds that those areas in which few or no channels were previously available are not affected.

5. Since Santa Barbara is located within 320 kilometers (199 miles) of the U.S.-Mexico border, the proposed

¹ Public Notice of the petition was given on September 13, 1977, Report No. 1074.

² Population figures are taken from the 1970 U.S. Census.

assignment requires the concurrence of the Mexican Government.

6. In view of the foregoing, we propose to amend the Table of Assignments for noncommercial educational FM channels (§ 73.504 of the Commission's Rules), with regard to the community listed below:³

City	Channel No.	
	Present	Proposed
Santa Barbara, Calif.	218	204, 218

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before September 7, 1979, and reply comments on or before September 27, 1979.

9. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments.

An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.
Richard J. Shibeau,

Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Section 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.504 of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the

³ In Docket No. 20735 the Commission is continuing to consider various changes in the allocations policy affecting noncommercial educational FM. The parties should be aware that future actions taken in that proceeding may have a bearing on the outcome of individual educational FM assignment cases or the use of the channels assigned. In the meantime, action on assignment proceedings is not being withheld.

Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

(FR Doc. 79-22460 Filed 7-19-79; 8:45 am)

BILLING CODE 6712-01-M

[47 CFR Part 73]**[Docket No. 21310; RM-1847, RM-1984, and RM-2742]****FM Quadraphonic Broadcasting; Order Extending Time for Filing Reply Comments****AGENCY:** Federal Communications Commission.**ACTION:** Order.

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding concerning FM quadraphonic broadcasting. Petitioner, Muzak, states that the additional time is needed in order to review technical data in preparation of reply comments.

DATE: Reply comments must be filed on or before August 10, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Al Jarratt, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:
[44 FR 30128, May 24, 1979]

Order Extending Time for Filing Reply Comments,

Adopted: July 10, 1979.

Released: July 12, 1979.

In the matter of FM Quadraphonic Broadcasting, Docket No. 21310, RM-1847, RM-1984, RM-2742.

1. On January 2, 1979, the Commission adopted a *Further Notice of Inquiry*, 44 FR 3732, in the above-captioned proceeding. The date for filing comments has expired and the date for filing reply comments is presently July 11, 1979.

2. On June 28, 1979, counsel for Muzak filed a request for an extension of time for filing reply comments to and including August 10, 1979. Counsel notes that on May 16, 1979 (the date comments were due), the Commission granted an extension of time to June 11, and as a result numerous significant comments were not filed until that date. Counsel states that because of prior commitments by Muzak's consulting engineer to other clients he has not had an opportunity to review the extensive technical data filed by commenting parties on June 11.

3. Since the Commission believes it would be in the public interest to have all material available to it in arriving at a decision in this proceeding, we are granting the additional time requested.

4. Accordingly, it is ordered, that the above motion for an extension of time filed by Muzak is granted and the date

for filing reply comments is extended to and including August 10, 1979.

5. This action is taken pursuant to Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Federal Communications Commission.

Richard J. Shiben,
Chief, Broadcast Bureau.

[FR Doc. 79-22461 Filed 7-19-79; 8:45 am]

BILLING CODE 6712-01-M**[47 CFR Part 73]****[BC Docket No. 79-114; RM-3169]****FM Broadcast Station in North Platte, Nebr.; Order Extending Time for Filing Comments and Reply Comments****AGENCY:** Federal Communications Commission.**ACTION:** Order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding involving the proposed assignment of an FM channel to North Platte, Nebraska. Petitioner, Tri-State Broadcasting Association, Inc., states that the additional time is needed to prepare its comments.

DATES: Comments must be filed on or before August 8, 1979, and reply comments on or before August 29, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:**Order Extending Time for Filing Comments and Reply Comments**

Adopted: July 9, 1979.

Released: July 12, 1979.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (North Platte, Nebraska), BC Docket No. 79-114, RM-3169.

1. On May 9, 1979, the Commission adopted a *Notice of Proposed Rule Making*, 44 FR 29126, in the above-captioned proceeding. The present dates for filing comments and reply comments are July 9, and July 30, 1979, respectively.

2. On July 3, 1979, counsel for Tri-State Broadcasting Association, Inc., filed a request seeking the extension of time for filing comments and reply comments to and including August 8, and August 29, 1979, respectively. Counsel states that because of the combination of mail

delays, office vacation disruption and jury duty requirement, additional time is needed to prepare comments.

3. We are of the view that the public interest would be served by this extension so that Tri-State Broadcasting Association, Inc. may file any information which might be helpful to the Commission in reaching a decision in this proceeding.

4. Accordingly, it is ordered, that the dates for filing comments and reply comments in BC Docket No. 79-114 (RM-3169), are extended to and including August 8, and August 29, 1979, respectively.

5. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Federal Communications Commission.

Richard J. Shiben,
Chief, Broadcast Bureau.

[FR Doc. 79-22462 Filed 7-19-79; 8:45 am]

BILLING CODE 6712-01-M**[47 CFR Part 73]****[Docket No. 21239; RM-2803; RM-2927]****FM Broadcast Stations in Bonita Springs, and Homestead, Fla.; Petition for Rule Making Denied****AGENCY:** Federal Communications Commission.**ACTION:** First Report and Order.

SUMMARY: Substitution of FM Channel 241 for Channel 240A at Bonita Springs, Florida, denied. Petitioner, Gold Coast Broadcasting Corporation, elected to withdraw its petition rather than face comparative proceedings.

EFFECTIVE DATE: Non-Applicable.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Stanley P. Wiggins, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:**First Report and Order**

[42 FR 40454, August 10, 1977]

Adopted: July 9, 1979.

Released: July 13, 1979.

In the matter of Amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Bonita Springs and Homestead, Florida), Docket No. 21239 RM-2803 RM-2927.

1. Before the Commission is a proposal by Gold Coast Broadcasting Corporation ("Gold Coast") to substitute Class C FM Channel 241 for Channel

240A, on which petitioner's station operates in Bonita Springs, Florida. Three channel substitutions would be required as a part of the Gold Coast proposal. The *Notice of Proposed Rule Making* in this proceeding, 42 FR 26232 (1977), generated several comments including a proposal by Radio South Dade, Inc. ("RSD") for assignment of Class C Channel 239 at Homestead, Florida.¹ That proposal is the subject of a *Further Notice of Proposed Rule Making*.

2. Comments on the Bonita Springs proposal were submitted by petitioner; Palmer Broadcasting Company, licensee of WNOG(AM) and WCVU(FM) in Naples; Radio South Dade, Inc., licensee of WQDI(AM), in Homestead; Lee County FM, Inc., licensee of WSWF(FM) in Lehigh Acres; Bartell Broadcasting of Florida, Inc., licensee of WMJX(FM) in Miami; Miami Valley Broadcasting Corporation, licensee of WAIA(FM) in Miami, Key West Broadcasting, permittee of WIAB(FM) in Key West; Radio Broward, Inc., licensee of WCKO(FM) in Jensen Beach; Lighthouse Broadcasting, Inc., licensee of WRYZ(FM) in Jupiter; and Richard I. Street. Because of the manner in which this proceeding is resolved, the substantive comments filed are not covered, including those submitted by licensees asked to show cause why their channel should not be substituted.² It can be noted, however, that Street and Lee County expressed their interest in applying for Channel 241 if it were assigned to Bonita Springs.

3. The *Notice* requested comment on the general appropriateness of assigning a high-power Class C channel to such a relatively small community as Bonita Springs (1970 pop. 1,932), and on the second aural service benefits which might accrue from it.³ The *Notice*, however, also pointed out that expression of an appropriate interest in the proposed assignment by other parties would necessitate a comparative evaluation of all applications submitted. This view derived from a decision in the *Cheyenne, Wyoming*, FM proceeding, 62 F.C.C. 2d 63 (1976), where the

¹ While submitted and accepted for filing as a counterproposal because it involved the same three channel substitutions, the Homestead assignment does not conflict with the petitioner's request for the substitution at Bonita Springs. As a result of our decision not to assign the channel to Bonita Springs, there is no longer any reason to consider these two proposals together.

² These views will be considered in connection with the Homestead proposal, as it might involve such channel changes.

³ As pointed out in the *Notice*, we would not ordinarily assign a Class C channel to such a small community, so that second service showings are particularly important. *Anamosa and Iowa City, Iowa*, 46 F.C.C. 2d 520 (1974).

Commission announced a policy on the handling of such cases.

4. Petitioner asserts that such a requirement is unjustified and inappropriate where it puts an incumbent licensee in "ultimate jeopardy" by exposing a proposal to expand radio service to an uncertain outcome on comparative evaluation. In any event, petitioner contends that the *Cheyenne* policy is not applicable. Rather, petitioner asserts that it was designed to apply where the assignment of a Class C channel did not necessitate termination of operations on the pre-existing Class A channel. Petitioner argues that it should not be extended to the situation posed in Bonita Springs, where the incumbent licensee must necessarily abandon its Class A operation if a Class C channel on an adjacent frequency is approved. Further, petitioner reads *Cheyenne* itself as recognizing the possibility of using a different approach in other circumstances. According to petitioner's reading, this case is one which departs sufficiently from prior actions as to fall outside the scope of the authority delegated to the staff. If we disagree, it would withdraw.

5. As noted in *Cheyenne*, a licensee can seek, and the Commission can grant, modification of a station's operating authority to specify a new channel in the absence of other interest in the channel. Also see *Endicott, New York*, 51 F.C.C. 2d 50 (1975). It is not only in staff documents but also in those adopted by the Commission that the view was expressed that modification of license to a higher-power Class C facility would be premised on the absence of conflicting expressions of interest. *Mitchell, South Dakota*, 62 F.C.C. 2d 70 (1976); *Fort Walton Beach, Florida*, and *Crestview, Florida*, 62 F.C.C. 2d 76 (1976). The question, then, is what happens if another interest is expressed. In such cases, modification in this fashion is not possible. The Commission's authority to modify a license is not unrestricted. Rather, it is subject to the broad holding of *Ashbacker v. U.S.*, 326 U.S. 327 (1945), that one party's application for a new frequency cannot be properly granted without comparative consideration of other mutually exclusive proposals. Licensee status does not confer immunity from such consideration any more than incumbency justifies renewal without consideration of an application filed in conflict with it. Such an opportunity to file (and hence to obtain comparative consideration) arises here with the assignment of the Class C channel. While the precise situation in

Bonita Springs has not arisen before, we see no basis for a departure from our understanding of *Ashbacker* and the statute. The *Ashbacker* aspect is quite unrelated to whether the proponents present channel is to be retained. It is the first time availability of the channel that is the determinant, a point of view expressed in various contexts, FM and TV. See, for example, *Television Table of Assignments (San Francisco and San Mateo)*, recon. den., 68 F.C.C. 2d 860 (1978). There, as here, the governing consideration is the presence of other interested parties. With the examples of the various cases before us we cannot agree that the issue here is a new or unique one requiring action by the Commission. Nor can we agree with petitioner's assertions about the view to take. Accordingly, we have concluded that the action should be taken by delegated authority and that it should affirm the need for comparative consideration as a result of the timely expression of another interest in the frequency.

6. Nonetheless, especially where a petitioner could lose its license (not simply be unsuccessful in obtaining the new frequency), we agree that a party should be able to withdraw its proposal in the face of an expression of other interest. Such is the case here. Since petitioner has withdrawn rather than face the uncertainties of a comparative evaluation, we need not address the merits of the specific proposal and will not do so.

7. Accordingly, for the reasons set forth above, the petition for rule making filed by Gold Coast Broadcasting Corporation, RM-2803, is denied.

8. For further information concerning this proceeding, contact Stanley Wiggins, Broadcast Bureau, (202) 632-7792.

Federal Communications Commission.

Richard J. Shiben,
Chief, Broadcast Bureau.

[FR Doc. 79-22463 Filed 7-19-79; 8:45 am]

BILLING CODE 6712-01-M**[47 CFR Part 73]****[BC Docket No. 79-169; RM-3270]****FM Broadcast Station in Camden, Maine; Proposed Changes in Table of Assignments****AGENCY:** Federal Communications Commission.**ACTION:** Notice of Proposed Rulemaking.

SUMMARY: This action proposes to assign FM Channel 273 to Camden, Maine, as its first FM channel

assignment. The Class B channel which is proposed could be used to bring substantial first and second FM service to remote areas.

DATES: Comments must be filed on or before September 7, 1979, and reply comments on or before September 27, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. **FOR FURTHER INFORMATION CONTACT:** Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: July 9, 1979.

Released: July 13, 1979.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Camden, Maine); Notice of Proposed Rulemaking.

By the Chief, Broadcast Bureau:

1. *Petitioner, Proposal, Comments:* (a) Penobscot Bay Broadcasting Co. ("petitioner") filed a petition proposing the assignment of Channel 273 to Camden, Maine.

(b) Channel 273 could be assigned to Camden in compliance with the minimum distance separation requirements.

(c) Since Camden is situated within 250 miles of the Canadian border, it will be necessary to obtain Canadian concurrence.

2. Community data:

(a) *Population:* Camden—4,115; Knox County—29,013.²

(b) *Location:* Camden is located on the coastal portion of Maine, approximately 120 kilometers (75 miles) northeast of Portland and 56 kilometers (35 miles) east of Augusta.

(c) *Local broadcast service:* Camden has no local broadcast stations. The nearest radio stations (WRKD(AM) and WRKD-FM) are located about 12 kilometers (8 miles) away in Rockland, Maine, the seat of Knox County.

3. *Economic data:* Petitioner describes Camden as a popular resort location and estimates that during some periods of the year the local population almost doubles. There are also a significant number of retired persons according to petitioner. Camden has light manufacturing and offers many recreational activities including those connected with its harbor.

4. *Preclusion:* Preclusion would occur on four channels affecting 7 communities with populations of 1,000 or more. There are alternate available

¹ Public Notice was given on December 8, 1978. Report No. 1154.

² Population figures are taken from the 1970 U.S. Census.

channels to all of the precluded communities.

5. *Additional consideration:* Petitioner has requested a Class B channel for Camden, which, based on its population, would ordinarily be assigned a Class A channel. In support of its request for a higher powered station, it asserts that there are numerous isolated islands and rural areas in need of broadcast service. Some of these places are accessible only by ferry and are cut off from the mainland during emergencies such as storms.

6. The petitioner has submitted a *Roanoke Rapids* showing which demonstrates that its proposed station (operating with maximum facilities of 50 kW power and antenna height of 152 meters (500 feet) above average terrain) would provide a first FM service to 2,837 persons in an area of 130 square kilometers (50 square miles) and a second FM service to 30,123 persons in an area of 1,295 square kilometers (500 square miles). Several islands make up a portion of the unserved and underserved areas and population. It would appear that the only real expectation for service to these remote areas would come from a high powered station of the sort proposed here.

7. In view of the showing of service to unserved and underserved areas as well as the character of these areas, the Commission is persuaded to propose the following amendment to the FM Table of Assignments (Section 73.202(b) of the Commission's Rules) for the listed city:

City and Channel No.

Camden, Maine: Present:—; Proposed: 273.

8. Authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before September 7, 1979, and reply comments on or before September 27, 1979.

10. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning

the merits of a pending rulemaking other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Richard J. Shiben,
Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an

original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 79-22456 Filed 7-19-79; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1047]

[MC-C-3437 (Sub-8)]

Specified Air Terminal Zones

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This document proposes the expansion of air terminal zones at specified airports to allow exempt motor carrier operations [conducted pursuant to the "incidental to transportation by aircraft" exemption set forth in section 10526(a)(8) of the Revised Interstate Commerce Act] to be performed at points previously named in air cargo pickup and delivery tariffs which were properly filed with the Civil Aeronautics Board, but which are outside the geographical scope of the zones as presently defined in 49 CFR 1047.40.

DATES: Comments must be filed with the Commission on or before August 20, 1979.

ADDRESS: An original and 11 copies (when possible) of each submission should be forwarded to: Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., 202 275-7972, or Frederick Stocker, 202 633-6982.

SUPPLEMENTARY INFORMATION: Our recent decision in *Motor Transportation of Property Incidental to Transportation by Aircraft*, 131 M.C.C. 87 (1978), adopted regulations (effective June 26, 1979, 44 FR 3295, 6102, 33684) which redefined and generally expanded air terminal zones [the areas within which certain motor carrier transportation of property is incidental to transportation by aircraft, and, therefore, within the ambit of the partial exemption from economic regulation set forth in 49 U.S.C. § 10526(a)(8)]. The air terminal zone at any particular airport was defined as a geographical area within 35 miles of the airport boundary, as well as

the area within 35 miles of the corporate limits of any municipality, any part of whose commercial zone falls within 35 miles of the boundary of the pertinent airport.

In our decision, we noted the possibility that our action would reduce the size of the terminal areas of air carriers at certain points, because certain air carriers may have had tariffs on file with the Civil Aeronautics Board (CAB) which provided for motor carrier pickup and delivery service at points beyond the scope of the air terminals as defined in the new rules. This possibility was considered to be remote in light of the significant expansion of the air terminal areas accomplished by the new rules. It has come to our attention, however, that the possibility we perceived is, in fact, a reality.¹

Our decision in the *Air Terminal* case, *supra*, provided that persons interested in seeking an expansion of an air terminal area at a particular airport should use the special procedure for individual determination of exempt zones provided for in the new rules set forth in 49 CFR § 1047.40(b)(1). We required that, in petitions seeking individual determinations, interested persons should present evidence clearly identifying the location(s) they seek to have included in a particular exempt zone, and setting forth economic data and other supportive facts. Importantly, we also noted that, in proceedings instituted under these special procedures, equitable consideration would be afforded evidence that the concerned location was included at one time in a pickup and delivery tariff properly filed with the CAB.

Equity would seem to dictate that those points which were properly listed in pickup and delivery tariffs be included in the exempt zones of the airports over which the air freight traffic to and from the points has previously moved. The shippers and receivers of air freight should not be deprived of a service upon which they have come to

¹ In a petition dated May 15, 1979, Emery Air Freight Corporation, an air freight forwarder, noted that two points (Goleta and Santa Barbara, CA) named in its Airfreight Pickup and Delivery Tariff No. 16, CAB No. 65, which had been properly filed with the CAB, served over the airport city of Los Angeles, CA, are excluded "from the air terminal zone of Los Angeles, CA." Emery is advised that air terminal zones are indigenous to airports and not airport cities. By this petition, Emery sought expansion of the air terminal zone at Los Angeles (the specific airport the traffic moves over was not identified) to allow continued service at these two points. In light of the action taken here, this petition will not be specifically disposed of. Similarly, other petitions of this nature will not be entertained. Emery is further advised to resubmit evidence in conformance with the instructions contained in this notice.

rely. Upon reevaluation, we believe that a limited rulemaking proceeding would be a more appropriate and expeditious method of addressing this problem. Moreover, in keeping with the spirit of the healthy competition stimulated by our general expansion of air terminal areas, we believe that these points should be open to bona fide incidental-to-air operations, on air cargo traffic moving over specified airports, performed by any person or firm which complies with the specifics of the involved regulations. This proceeding has been instituted to accomplish this result.

Those parties participating in this proceeding should identify the points which were named in pickup and delivery tariffs filed with the CAB; present copies of relevant portions of the CAB tariffs; and identify the airport over which this traffic has moved. At this time, we envision promulgating a rule which states that, in addition to operations conducted within a particular airport's exempt zone, as defined in 49 CFR § 1047.40(a)(4), the motor carrier transportation of air cargo moving over that airport, to or from named points, is also exempt, provided that the specifics of subsection (a) parts (1), (2), and (3) of that rule are met. The new rule, identifying the concerned airports and points, would be listed as an exception to the pertinent air terminal zone regulation and labeled 49 CFR § 1047.40(b)(1). Those parts of subsection (b) of the present regulation labeled (1) and (2) would be renumbered parts (2) and (3).

In conclusion, we point out that this proceeding is designed exclusively to address the issue of whether points previously named in pickup and delivery tariffs which were properly filed with the CAB, which are now outside the scope of the air terminal zone of the airport over which the exempt air cargo to or from such points moved, should be included in the new exempt zones. *Evidence will not be entertained in this proceeding concerning the expansion of air terminal zones to include points which were not previously named in CAB tariffs.* Persons seeking expansion of the air exempt zone at a particular airport to a point or area not previously included in a pickup and delivery tariff which was filed with the CAB must file an appropriate petition in the manner prescribed in our prior decision in the *Air Terminal* case, *supra*.

Procedural Matter: Oral hearings do not appear to be necessary at this time and none is contemplated. Anyone wishing to present views and evidence, either in support of or in opposition to

this proposal is invited to submit written data, views, or arguments. An original and 11 copies (wherever possible) shall be filed with the Commission on or before August 20, 1979.

Written materials submitted will be available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, D.C., during regular business hours.

Notice to the general public of this matter will be given by depositing a copy of this notice in the office of the Secretary of the Commission for public inspection, and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp, and Christian. Commissioner Stafford concurring in the result.

Decided: July 12, 1979.
Agatha L. Mergenovich,
Secretary.
[FR Doc. 79-22574 Filed 7-19-79; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration
[50 CFR Parts 611 and 672]

Gulf of Alaska Groundfish; Fishery Management Plan Amendment; Proposed Implementing Regulations

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of approval of an amendment to the Fishery Management Plan (FMP) for Gulf of Alaska Groundfish; proposed regulations.

SUMMARY: An amendment to the FMP for Gulf of Alaska Groundfish is approved. This amendment establishes an optimum yield (OY), domestic annual harvest (DAH), and total allowable level of foreign fishing (TALFF) for fish of the genus *Coryphaenoides*. Revised regulations to implement the amendment are proposed.

DATE: Comments are invited until August 31, 1979.

ADDRESS: Comments should be submitted to: Denton R. Moore, Acting Chief, Permits and Regulations Division, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Harry L. Rietze, Director, Alaska Region,

National Marine Fisheries Service, Post Office Box 1668, Juneau, Alaska 99802, Telephone: (907) 586-7221.

SUPPLEMENTARY INFORMATION: Species of the genus *Coryphaenoides* such as rattails (grenadiers) are commonly caught in association with sablefish. The catch of rattails by foreign fishermen may exceed two-thirds of the sablefish catch. American fishermen estimate the catch of rattails at one-third of their sablefish catch, the difference in catch rates being attributed to domestic fishermen fishing in shallower water than foreign fishermen. Since the species are of no commercial value and are routinely discarded, this magnitude of harvests was unknown when the FMP was prepared.

Regulations implementing the FMP included rattails in the "other species" category. Thus, catches of rattails could have prematurely filled the "other species" allocations causing closure of the fisheries for target species. This oversight was corrected in an errata to the implementing regulations which excluded rattails from the "other species" category (44 FR 37937, June 29, 1979).

However, since there is a surplus of rattails available for harvest by foreign nations, the North Pacific Fishery Management Council submitted an amendment creating a rattail (grenadier) category with specifications of OY, DAH, and TALFF. This amendment permits vessels of a foreign nation with an allocation to retain rattails if they wish. The TALFF, however, is not expected to prematurely close directed fisheries for other species, principally sablefish.

The average rattail catch for the last 12 years is calculated to be 13,200 m.t.

Exploitable biomass		Western	Central	Eastern	Total
	Rattails		Unknown-		
MSY	Rattails	3.3	7.1	2.8	13.2
EY	Rattails				N.A.
ABC	Rattails 6/	3.3	7.1	2.8	13.2
OY	Rattails	3.3	7.1	2.8	13.2

For the purpose of this amendment, this value is assumed to be the minimal estimate of maximum sustainable yield (MSY). Since the rattail population was not considered in the development of OY for "other species", the creation of this new species category does not require any adjustment of the OY for "other species". Based on the incidental catch rates described above and sablefish allocations, DAH is specified as 1332 m.t. and TALFF as 11,868 m.t. For clarity, the specifications have been made by the three regulatory areas which have been approved as an amendment to the FMP and for which proposed regulations have been published (see 44 FR 40099, July 9, 1979). If the three-area proposal is not adopted, the specifications for rattails will be apportioned to five fishing areas.

The Assistant Administrator for Fisheries approved this amendment on July 2, 1979. The Assistant Administrator has made an initial determination that the amendment (1) is consistent with the National Standards and other provisions of the Act; and (2) does not constitute a significant action requiring the preparation of a regulatory analysis under Executive Order 12044. A declaration of negative environmental impact of this action has been filed with the Environmental Protection Agency.

Signed in Washington, D.C. this 16th day of July, 1979.

Authority: 16 U.S.C. 1801 *et seq.*
Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

A. The FMP for Gulf of Alaska Groundfish, as published on April 21, 1978, (43 FR 17242) is amended as follows:

1. Page 17308, Table 58, add entries for rattails and footnote 6 as follows:

2. Page 17310, Sec. 4.7.10 is redesignated Sec. 4.7.11 and a new Sec. 4.7.10 is added as follows:

4.7.10 Rattails, Grenadiers (genus *Coryphaenoides*)
4.7.10.1 Maximum Sustainable Yield (MSY)

Unpublished reports of survey and commercial fishing operations indicate this genus is common throughout the northeastern Pacific Ocean at depths of 200-1,000 fathoms. The only known published report which specifically refers to rattails¹ confirms those observations and states that in the Gulf of Alaska "They dominated groundfish catches from deep water (greater than 199 fathoms) * * *."

¹ 1964. Alverson, D. L., A. T. Pruter and L. L. Renholt. *A Study of Demersal Fishes and Fisheries of the Northeastern Pacific Ocean*. H. R. MacMillan lectures in fisheries. Inst. of Fisheries, Univ. British Columbia.

Although rattails are caught incidentally by trawls and longlines, no specific records of catch or catch rate have been kept. The largest catch of this genus appears to be incidental to the longline catch of sablefish. Data collected by U.S. observers aboard foreign vessels during 1978 indicate a total foreign catch of rattails of about 4,700 m.t., of which 97 percent were taken by Japanese longliners. The foreign rattail catch in 1978 was 86 percent of the total foreign sablefish catch in the Gulf of Alaska.

The annual sablefish catch for the last 12 years of complete record (1966-77) was: $0.66 \times 20,000 = 13,200$ m.t. This value is assumed to be a minimal estimate of MSY.

4.7.10.2. Equilibrium Yield (EY).
Not applicable—MSY attainable.

3. Page 17315, Table 62, add entries for rattails as follows:

Species	OY	Reserve ¹	DAH	TALFF
Rattails	13.2	0	1,332	11,868

4. Page 17315, Table 63, add entries for rattails as follows:

Species	Western	Central	Eastern	Total
Rattails	25.0	54.0	21.0	100

5. Page 17316, Table 64, add entries for rattails as follows:

Species	Western	Central	Eastern	Total
Rattails	OY 3.3	7.1	2.8	13.2
	Reserve 0	0	0	0
	DAH .033	0.33	1.266	1.332
	TALFF 3,267	7,067	1,534	11,868

B. It is proposed to amend 50 CFR 611 as follows:

1. Section 611.9, Appendix I B, Pacific Ocean Fishes, add under Finfishes the following:

§ 611.9 [Amended]

Code	Common English name	Scientific name
315	Rattails (grenadiers)	<i>Coryphaenoides</i> spp.

2. Section 611.20(c), Table I, add under Gulf of Alaska Groundfish the following:

§ 611.20 [Amended]

Fishery	Species	Species code	TALFF
Gulf of Alaska Groundfish	Rattails	315	11,868

3. Section 811.22(b), add the following average ex-vessel values per metric ton:

§ 611.22 [Amended]

Species	Values
Rattails	0

4. Section 811.92(b)(1), Table I, delete from footnote 5 the phrase "fish of the genus *Coryphaenoides*," and add the following entries:

§ 611.92 [Amended]

Species	Western	Central	Eastern	total
Rattails				
TALFF	3,267	7,067	1,534	11,868
Reserve	0	0	0	0

C. It is proposed to amend 50 CFR 672 as follows:

1. Section 672.2, add the following new definition:

§ 672.2 Definitions.

Rattails (grenadiers) means *Coryphaenoides* (genus) not specifically defined.

2. Section 672.20(a)(1), Table I, add entries for rattails between "Squid" and "Other Species" and amend the footnote to read as follows:

§ 672.20 [Amended]

Species	Western	Central	Eastern	Total
Rattails				
OY	3,300	7,100	2,800	13,200
Reserve	0	0	0	0

* Includes all stocks of finfish except: (1) those listed above and (2) salmon, steelhead trout, and Pacific halibut.

[FR Doc. 79-22436 Filed 7-19-79; 8:45 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 44, No. 141
Friday, July 20, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Special Milk Program; Rate of Reimbursement for the Period July 1, 1979 to June 30, 1980

Pursuant to section 3 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1772) and § 215.8 of the regulations governing the Special Milk Program for Children (7 CFR Part 215), notice is hereby given that the rate of reimbursement per half pint (236 ml) of milk, purchased and served to all children, except needy children in pricing programs operated by School Food Authorities and institutions which elect to provide free milk, shall be 7.75 cents for the period July 1, 1979 to June 30, 1980. This rate was derived by applying the percentage increase in the Producer Price Index for Fresh Processed Milk during the 12-month period May 1978 to May 1979 (from 148.1 in May 1978 to 167.3 in May 1979) to the unrounded rate of reimbursement prescribed for the period July 1, 1978 to June 30, 1979, adjusted to the nearest one-fourth cent.

(Catalog of Federal Domestic Assistance, Program No. 10.556)

Effective date: This notice shall be effective as of July 1, 1979.

Dated: July 19, 1979.

Carol Tucker Foreman,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-22732 Filed 7-19-79; 10:45 am]
BILLING CODE 3410-30-M

Agricultural Stabilization and Conservation Service
1980 Corn, Grain Sorghum and Soybean Programs; Proposed Determinations

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Proposed determination.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1980 crops of corn and grain sorghum: (a) The amount of the 1980 national program acreages; (b) the reduction from previous year's harvested acreage required, if any, to guarantee established (target) price protection on the total 1980 planted acreage; (c) whether there should be a set-aside requirement and, if so, the extent of such set-aside; (d) whether there should be a land diversion program and, if so, the extent of such diversion and the level of payment; (e) whether a limitation should be placed on planted acreage; and (f) the established (target) prices. In addition the following determinations will be made with respect to the 1980 crops of corn, grain sorghum and soybeans: (1) the loan and purchase levels, including county loan rates and premiums and discounts for grades, classes and other qualities; and (2) other related provisions. Most of the above determinations are required to be made by the Secretary on or before November 15, 1979, in accordance with provisions in section 105A of the Agricultural Act of 1949, as amended, and section 1001 of the Food and Agriculture Act of 1977, as amended. This notice invites written comments on the proposed determinations.

DATES: Comments must be received on or before September 18, 1979.

ADDRESS: Mr. Jeffress A. Wells,
Director, Production Adjustment
Division, ASCS, USDA, Room 3630
South Building, P.O. Box 2415,
Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:
Orville I. Overboe (ASCS), 202/447-7987, or Lois Moe (ASCS), 202/447-8373.

SUPPLEMENTARY INFORMATION: The following determinations with respect to the 1980 crops of corn and grain sorghum are to be made pursuant to section 105A of the Agricultural Act of 1949, as amended (hereafter referred to as the "1949 Act") and section 1001 of the Food and Agriculture Act of 1977 (Pub. L. 95-113) as amended, and with respect to the 1980 crop of soybeans pursuant to section 201 of the "1949 Act".

a. 1980 National Program Acreage: Section 105A(d)(1) of the 1949 Act

requires the Secretary to proclaim a national program acreage for each of the 1978 through 1981 crops of corn and grain sorghum. The proclamation shall be made not later than November 15 of each calendar year. The national program acreage for corn and grain sorghum shall be the number of harvested acres the Secretary determines (on the basis of the national weighted average farm program payment yields) that will produce the quantity (less imports) that he estimates will be utilized domestically and for export during the 1980-81 marketing year. The national program acreage may be adjusted by an amount the Secretary determines will accomplish a desired increase or decrease in carryover stocks. The Secretary may adjust the national program acreage first proclaimed, if he determines it necessary based upon the latest information.

The U.S. feed grain stock objective is set at 5.7 percent of estimated world feed grain consumption, an amount judged to be our "fair" share of world feed grain stocks. Using this formula, the 1980-81 ending stock objective is approximately 42 million metric tons (1,650 million bushels corn equivalent) for feed grains. Views on the appropriate levels of the national program acreages for the 1980 program year are requested from interested persons together with appropriate explanatory material. Comments on the appropriate level of feed grain stocks are also requested.

b. Voluntary reduction from previous year's harvested acreage: Section 105A(d)(3) of the 1949 Act provides that the 1980 acreage eligible for payments shall not be reduced by application of an allocation factor (not less than 80 percent nor more than 100 percent) if producers reduce the acreages of corn and grain sorghum planted for harvest on the farm from the previous year by at least the percentages recommended by the Secretary in his proclamation of the national program acreages.

The previous year's (1979) acreage will include the acreage actually harvested plus acreage considered harvested which includes (1) prevented planting acreage and (2) the larger of (a) the amount by which the prior year's acreage was reduced by the recommended percentage reduction (i.e.,

10 percent for corn and 10 percent for grain sorghum) or (b) the amount of the 1979 set-aside and diversion acreage credited to the crop.

The determination of the 1980 national program acreages simultaneously determines the percentage reduction in acreage from 1979 to 1980 that will be required, if any, for a producer to qualify for target price protection with respect to the entire acreage planted to the commodity in 1980.

c. *Whether there should be a set-aside for 1980, and if so, the percentage of acreage to be set-aside.* Section 105A(f)(1) of the 1949 Act provides that the Secretary shall provide for a set-aside of cropland if he determines that the total supply of feed grains will, in the absence of set-aside, likely be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. The Secretary is required to announce a set-aside program not later than November 15, 1979, for the 1980 corn and grain sorghum crops. If a set-aside of cropland is in effect, producers must as a condition of eligibility for loans, purchases, and payments, set-aside and devote to conservation uses an acreage of cropland equal to specified percentages of the acreage of corn and grain sorghum planted for harvest in 1980.

Carryover corn stocks at the end of the 1978-79 marketing year (September 30, 1979) are estimated to be near 1,300 million bushels, up about 19 percent from a year earlier. Grain sorghum carryover stocks are estimated at around 165 million bushels, down about 9 percent from a year earlier. Average farm prices for the 1978-79 season for both corn and grain sorghum are expected to be about 15 to 20 cents per bushel higher than for 1977-78, primarily based on a 10 percent increase in total use of feed grains. Participation in the 1979 set-aside program is expected to be down from the 1978 level because of continued strong demand for feed grains and stronger grain prices. A 1979-80 corn crop based on most likely weather conditions could result in a corn production around 600 million bushels less than projected demand, reducing carryover stocks by about the same amount. Grain sorghum stocks could be reduced about 75 million bushels and total feed grains by around 21 million metric tons. This assessment is, however, subject to considerable uncertainty.

The 1979 world corn and grain sorghum crops are at an early stage and weather conditions throughout the

season could have a significant impact on the final outcome. Assuming favorable worldwide conditions, ending corn stocks in the U.S. as of September 30, 1980, could remain close to the expected 1978-79 carryover level of around 1,300 million bushels, while with unfavorable conditions U.S. corn stocks might decline to around 500 million bushels. Grain sorghum stocks, with favorable weather conditions, would probably decrease around 15 million bushels to a carryout of 150 million bushels, while with unfavorable weather conditions stocks would probably fall to 80 million to 90 million bushels. Therefore, the need for a 1980 set-aside is highly dependent upon developments in the 1979 U.S. and world crops and demand prospects during the next few months. Interested persons are encouraged to advise the Secretary on the need for a 1980 corn and grain sorghum set-aside program and the appropriate percentage of acreage to be set-aside, if deemed necessary, taking into account the above factors.

d. *Determination of whether there should be a land diversion program and, if so, the extent of such diversion and level of payment:* Section 105A(f)(2) of the 1949 Act authorizes the Secretary to make land diversion payments to producers of corn and grain sorghum, whether or not a set-aside is in effect. Land diversion payments may be made if the Secretary determines they are necessary to assist in adjusting the total national acreage of corn and grain sorghum to desired goals. If land diversion payments are made, producers will be required to devote to approved conservation uses an acreage of cropland equal to the amount of such land diversion. Land diversion payment levels and administrative provisions will be determined by the Secretary.

Land diversion payments may be established at a flat offer rate (specific rate per bushel times farm program yield) or through the submission of bids by producers. If it is determined necessary to make land diversion payments in 1980, such payments will likely be established at an offer rate rather than through the submission of bids.

Interested persons are encouraged to address the need for a land diversion program either in place of or in combination with a set-aside program for 1980 and the appropriate terms and conditions of such a program.

e. *Limitation on planted acreage:* Section 105A(f)(1) of the 1949 Act authorizes the Secretary to limit acreage planted to corn and grain sorghum. Such limitation is required to be applied on a

uniform basis to all farms which are participating in the announced programs and are producing corn and grain sorghum.

Interested persons are invited to comment on the pros and cons of limiting planted acreage.

f. *Established "Target" Price.* Section 105A(b)(1) of the 1949 Act provides that the Secretary shall make available to producers payments for the 1980 crops of corn and grain sorghum based on established (target) prices. The 1979 corn established (target) price as specified by statute was computed to be \$2.06 per bushel; however, that level was increased to \$2.20 per bushel under authority of the Wheat, Feed Grains and Upland Cotton, Emergency Assistance Act of May 15, 1978 (hereafter referred to as the 1978 Act) to compensate producers for participation in the 1979 set-aside program. The 1979 grain sorghum established (target) price as specified by statute was computed to be \$2.34 per bushel. This level was not increased because adequate participation in the set-aside program was expected with the \$2.34 per bushel target level. The 1980 established (target) price for corn and grain sorghum shall be the 1979 target price (\$2.06 per bushel for corn and \$2.34 per bushel for grain sorghum) adjusted to reflect any change in (i) the average adjusted cost of production for the crop years 1978 and 1979 from (ii) the average adjusted cost of production for the crop years 1977 and 1978. The adjusted cost of production for each of the years shall be determined by the Secretary and shall be limited to (a) variable costs, (b) machinery ownership costs, and (c) general farm overhead costs.

The established (target) prices for the 1980 crops of corn and grain sorghum are largely dependent upon national average yields per planted acre for the 1979 crops. Based on preliminary cost of production estimates and an estimated 1979 corn yield per planted acre of 93.2 bushels, the 1980 established (target) price for corn would be \$2.12 per bushel. Based on preliminary cost of production estimates and an estimated 1979 grain sorghum yield per planted acre of 50.8 bushels, the 1980 established (target) price for grain sorghum would be \$2.56 per bushel. However, if a set-aside is announced, the established (target) price could be increased under authority of the 1978 Act to compensate producers for participation in such set-aside.

Comments on the appropriate target levels for the 1980 crops of corn and grain sorghum, taking into account the above factors, are requested.

g. *Loan and purchase levels:* (1) *Corn.* Section 105A(a)(1) of the 1949 Act requires the Secretary to make available to producers loans and purchases at not less than \$2.00 per bushel for the 1980 crop of corn, as the Secretary determines will encourage the export of feed grains and not result in excessive total stocks of feed grains. However, if the Secretary determines that the average price of corn received by producers in any marketing year is not more than 105 percent of the level of loans and purchases for such marketing year, the Secretary may reduce the level of loans and purchases for the next marketing year. The amount of any such reduction may be that which the Secretary determines necessary to maintain domestic and export markets for grain, except that the level of loans and purchases shall not be reduced by more than 10 percent in any year, nor below \$1.75 per bushel. Loan and purchase levels for the 1978 and 1979 crops of corn were established at \$2.00 per bushel.

(2) *Grain Sorghum.* Section 105A(a) (2) of the 1949 Act requires the Secretary to make available to producers loans and purchases on the 1980 crop of grain sorghum, at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value and average transportation costs to market of grain sorghum in relation to corn and other factors specified in section 401 (b) of the 1949 Act. These factors are (1) the supply of the commodity in relation to demand, (2) the price levels at which other commodities are being supported, (3) the availability of funds, (4) the perishability of the commodity, (5) the importance of the commodity to agriculture and the national economy, (6) the ability to dispose of stocks acquired through a price support operation, (7) the need for offsetting temporary losses of export markets and (8) the ability and willingness of producers to keep supplies in line with demand.

Loan and purchase levels for the 1978 and 1979 crops of grain sorghum were established at \$1.90 per bushel (\$3.39 per cwt.).

(3) *Soybeans.* Section 201(e) of the 1949 Act requires the Secretary to make available to producers loans and purchases on the 1980 crop of soybeans, at such level as the Secretary determines appropriate in relation to competing commodities and taking into consideration domestic and foreign supply and demand factors.

Comments are requested on the appropriate loan and purchase levels for the 1980 crops of corn, grain sorghum, and soybeans, taking into account the above factors, and the establishment of county loan rates.

h. *Other related provisions.* The Act also requires a number of other determinations in order to implement the corn, grain sorghum and soybean loan and purchase programs such as (1) CCC minimum sales price, (2) commodity eligibility, (3) storage requirements, and (4) premiums and discounts, for grades, classes and other qualities, and (5) such other provisions as may be necessary to carry out the programs.

Prior to determining the provisions of the 1980 corn and grain sorghum programs, and the 1980 soybean program, consideration will be given to any data, views, and recommendations that may be received relating to the above items.

Comments will be made available for public inspection at the office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.).

This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified "significant." An Approved Draft Impact Analysis is available from Orville I. Overboe (ASCS) 202/447-7987 or Lois Moe (ASCS) 202/447-8373.

Signed at Washington, D.C. on July 13, 1979.

John W. Goodwin,
Acting Administrator, Agricultural
Stabilization and Conservation Service.

[FR Doc. 79-22389 Filed 7-19-79; 8:45 am]
BILLING CODE 3410-05-M

Food and Nutrition Service

Child Care Food Program; National Average Payment Factors and Food Cost Factors for the Period July 1-December 31, 1979

Pursuant to Section 17 of the National School Lunch Act, as amended by Pub. L. 95-627, and § 226.4 and § 226.12(h) of the regulations governing the Child Care Food Program (7 CFR Part 226), notice is hereby given that the national average payment factors and food cost factors for meals served to children attending institutions which participate in the Child Care Food Program during the period July 1-December 31, 1979, shall be as follows:

The food cost factor for breakfasts served in the Program in family and

group day care homes is 30.00 cents. The food cost factor for lunches and suppers served in the Program in family and group day care homes is 53.50 cents. The food cost factor for supplements served in the Program in family and group day care homes is 18.25 cents.

National average payments for breakfasts served in the Program: (a) 13.50 cents for each breakfast served; (b) an additional 25.50 cents, making a total of 39.00 cents, for each breakfast served to children from families whose incomes meet the eligibility criteria for reduced-price school meals; and (c) an additional 33.75 cents, making a total of 47.25 cents, for each breakfast served to children from families whose incomes meet the eligibility criteria for free school meals.

National average payments for lunches and suppers served in the Program: (a) 17.00 cents for each lunch and supper served; (b) an additional 66.25 cents, making a total of 83.25 cents, for each lunch and supper served to children from families whose incomes meet the eligibility criteria for reduced-price school meals; and (c) an additional 76.25 cents, making a total of 93.25 cents, for each lunch or supper to children from families whose incomes meet the eligibility criteria for free school meals.

For supplements served in the Program the national average payment factors will be: (a) 7.00 cents for each supplement served to children from families whose incomes do not meet the eligibility criteria for free or reduced-price school meals; (b) 21.25 cents for each supplement served to children from families whose incomes meet the eligibility criteria for reduced-price school meals; and (c) 28.00 cents for each supplement served to children from families whose incomes meet the eligibility criteria for free school meals.

The above factors represent a 6.73 percent increase in the factors prescribed for the period January 1-June 30, 1979. This represents the percentage of increase during the six-month period November 1978-May 1979 (from 225.9 in November 1978 to 241.1 in May 1979) in the Food Away From Home Series of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

The total amount of payments for distribution to Program participants to be made to each State Agency from the sums appropriated for the Program shall be based upon these national average payment factors and the number of meals of each type served.

Pursuant to Section 10(a) of Pub. L. 95-627, the Department is considering making adjustments to these national

average payment factors and food cost factors for meals served in States outside the contiguous States. Available data which are relevant to such adjustments are being evaluated. Any adjustments which are determined to be appropriate will be announced in a separate notice.

Definitions. The terms used in this notice shall have the meanings ascribed to them in the regulations governing the Child Care Food Program (7 CFR Part 226).

(Catalog of Federal Domestic Assistance Program No. 10.558)

Effective date: This notice shall be effective as of July 1, 1979.

Dated: July 18, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-22599 Filed 7-19-79; 8:45 am]

BILLING CODE 3410-30-M

National School Lunch Program; National Average Payment for the Period July 1-December 31, 1979

Pursuant to Section 11 of the National School Lunch Act (42 U.S.C. 1759a) and § 210.4 and § 210.11 of the regulations governing the National School Lunch Program (7 CFR Part 210), notice is hereby given of adjustments in the national average factors for payment for lunches and the maximum rates of reimbursements. The national average factors for payment for lunches served during the six-month period July 1-December 31, 1979, to children participating in the National School Lunch Program are as follows: (a) 17.0 cents from general cash-for-food assistance funds for each lunch; (b) an additional 56.25 cents from special cash assistance funds for each reduced-price lunch, and (c) an additional 76.25 cents from special cash assistance funds for each free lunch. If in any State a maximum charge to students of less than 20 cents is established for reduced-price lunches, the special assistance factor prescribed for reduced-price lunches in such State shall be the lesser of (a) the special assistance factor for free lunches minus the maximum reduced price charge established by the State, or (b) the special assistance factor for free lunches minus 10 cents.

The total amount of general cash-for-food assistance payments and special cash assistance payments to be made to each State agency from the sums appropriated therefor, shall be based upon such national average factors.

The above factors represent a 6.68 percent increase in the factors

prescribed for the period January 1-June 30, 1979. This represents the percent of increase during the six-month period November 1978-May 1979 (from 226.0 in November 1978 to 241.1 in May 1979) in the series for food away from home of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

For the six-month period July 1-December 31, 1979, (a) the maximum rate of reimbursement from general cash-for-food assistance funds shall be 23.0 cents per lunch served; (b) the maximum per lunch reimbursement (from a combination of general cash-for-food assistance and special cash assistance funds) shall be 108.25 cents for a free lunch and 88.25 cents for a reduced-price lunch. If in any State a maximum charge to students of less than 20 cents is established for reduced-price lunches, the maximum per lunch reimbursement prescribed for reduced-price lunches in such State shall be the lesser of (a) the maximum per lunch reimbursement for free lunches minus the maximum reduced price charge established by the State, or (b) the maximum per lunch reimbursement for free lunches minus 10 cents.

Pursuant to Section 10 of Public Law 95-627, consideration is being given to appropriate adjustments to these national average payment factors for lunches served in the noncontiguous states and outlying territories. The Department is currently evaluating available data which would justify any adjustments to the rates set forth in this notice. Any adjustments considered appropriate by the Department in light of such data shall be announced in a separate notice.

Definitions. The terms used in this notice shall have the meanings ascribed to them in the regulations governing the National School Lunch Program (7 CFR Part 210) and the regulations for Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools (7 CFR Part 245).

(Catalog of Federal Domestic Assistance Program No. 10.555)

Effective date: This notice shall be effective as of July 1, 1979.

Dated: July 18, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-22596 Filed 7-19-79; 8:45 am]

BILLING CODE 3410-30-M

School Breakfast Program; National Average Payment for the Period July 1-December 31, 1979

Pursuant to Section 11 of the National School Lunch Act (42 U.S.C. 1759a) and § 220.4 and § 220.9 of the regulations governing the School Breakfast Program (7 CFR Part 220), notice is hereby given that the national average payment factors for breakfasts served during the six-month period July 1-December 31, 1979, to children participating in the School Breakfast Program shall be: (a) 13.5 cents for all breakfasts; (b) an additional 25.5 cents for each reduced-price breakfast, and (c) an additional 33.75 cents for each free breakfast. The total amount of breakfast assistance payments to be made to each State agency from the sums appropriated therefor, shall be based upon such national average factors: *Provided, however,* that additional payments shall be made in such amounts as are needed to finance reimbursement rates assigned for especially needy schools under § 220.9.

The above factors represent a 6.68 percent increase in the factors prescribed for the period January 1-June 30, 1979. This represents the percent of increase during the six-month period November 1978-May 1979 (from 226.0 in November 1978 to 241.1 in May 1979) in the series for food away from home of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

For non-especially needy schools, the maximum rates of reimbursement for paid breakfasts, for reduced-price breakfasts, and for free breakfasts shall be equal to the respective factors set out above.

For especially needy schools, the maximum rates of reimbursement are established pursuant to Section 4(b) of the Child Nutrition Act of 1966, as amended. This law requires that these rates be computed using two methods and that the method yielding the higher rates be used. Accordingly, for especially needy schools, the maximum rate of reimbursement for paid breakfasts shall be equal to the national average factor for all breakfasts, and the maximum rate of reimbursement for reduced-price and free breakfasts shall be 52.25 and 57.25 cents, respectively.

Pursuant to Section 10 of Public Law 95-627, consideration is being given to appropriate adjustments to these national average payment factors for breakfasts served in the noncontiguous States and outlying territories. The Department is currently evaluating

available data which would justify any adjustments to the rates set forth in this notice. Any adjustments considered appropriate by the Department in light of such data shall be announced in a separate notice.

Definitions. The terms used in this notice shall have the meanings ascribed to them in the regulations governing the School Breakfast Program (7 CFR Part 220) and the regulations for Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools (7 CFR Part 245).

(Catalog of Federal Domestic Assistance Program No. 10.533)

Effective date: This notice shall be effective as of July 1, 1979.

Dated: July 18, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-22597 Filed 7-19-79; 8:45 am]

BILLING CODE 3410-30-M

Nutrition Education Demonstration and Development Project

The March 16, 1979 Federal Register (44 FR 16027) included a Notice announcing that the Food and Nutrition Service (FNS) of the U.S. Department of Agriculture planned * * * to provide funds pursuant to Section 18 of the Child Nutrition Act of 1966 (CNA) as amended by Public Law 94-105, 89 Stat. 528 (42 U.S.C. 1787). Section B of the March 16, 1979 Federal Notice—Contracts or Cooperative Agreements with States, Nonprofit Organizations, Universities and Commercial Firms—stated, in part, that funds would * * * be made available for research and development projects carried out through cooperative agreements or other contractual arrangements with State agencies, nonprofit organizations, universities and commercial firms * * * in several project areas, including * * * outreach activities to expand the benefits of the School Breakfast Program to additional children, including the development of various techniques and methods of teaching the nutritional value of breakfast and the importance of the principles of good nutrition to health."

The March 16, 1979 Federal Register Notice further stated that "bids and technical proposals to perform projects under Part B of this notice in accord with specifications established by FNS will be solicited through Requests for Proposals."

This Notice serves to correct the March 16, 1979 Federal Register Notice as far as * * * outreach activities to expand the benefits of the School Breakfast Program to additional children, including the development of various techniques and methods of teaching the nutritional value of breakfast and the importance of the principles of good nutrition to health * * * are concerned. Funds to carry out breakfast outreach activities, as described above, will be provided through cash grants to State governmental agencies (including agencies that do not administer any of the Child Nutrition Programs), universities, and public and private nonprofit organizations that operate on a Statewide, multi-State or national basis. Bids and technical proposals will not be solicited through Requests for Proposals.

This Notice also announces the terms and conditions under which these grants in the total amount of approximately \$230,000 will be awarded and solicits applications for these funds.

Supplementary Information

Public Law 95-627, enacted November 10, 1978, included several administrative and financial incentives for increased breakfast participation referred to as the School Breakfast Expansion Program. The enactment of a School Breakfast Expansion Program reflected the growing concern of Congress that the School Breakfast Program should be made accessible to more of our nation's school children, thus narrowing the gap between school lunch and breakfast participation. Presently approximately 94,000 schools and institutions participate in the National School Lunch Program, while only approximately 30,000 participate in the School Breakfast Program.

Senator Leahy (Vermont), a nutrition subcommittee member, expressed his concern for breakfast program expansion as follows. "Although the national School Breakfast Program was first established in 1966, and made permanent in 1972, expansion benefits have been disappointingly slow, and many children whose nutrition and educational development would benefit by participation do not have access to the program. Incentives, encouragement, exhortation, and past legislative requirements have not been effective in bringing about meaningful expansion."

Senator McGovern (South Dakota), the nutrition subcommittee chairman, stated, "It is my hope that the Agriculture Department will do everything in its power to educate local

school administrators as to the benefits of a nutritional breakfast and encourage them to make use of the financial incentives contained in this bill."

These grants represent one part of FNS' efforts to address these concerns and are intended to support the expansion of the School Breakfast Program by providing for the conduct of a variety of breakfast outreach activities, including the development of various techniques and methods of teaching the nutritional value of breakfast and the importance of the principles of good nutrition to health.

FNS recognizes that a wide variety of types of outreach activities may be undertaken to successfully expand participation in the School Breakfast Program. Thus, FNS is requesting that prospective grantees carefully examine the needs and conditions in the geographic area or areas where they propose to operate and propose breakfast outreach activities specifically designed to address these needs and conditions.

At the same time FNS is interested in breakfast outreach activities that are innovative and can be used as models for future outreach activities at the national, State or local levels, such as using the communications media to inform the public about the existence of the School Breakfast Program as well as to publicize the nutritional value of breakfast and informing prospective support groups about the School Breakfast Program as well as stimulating them to work for School Breakfast Program expansion in their local communities.

The breakfast outreach activities FNS is soliciting through this announcement may be designed to increase the number of schools participating in the School Breakfast Program or to increase participation in schools which already have the School Breakfast Program, or both.

In addition, each prospective grantee's proposed series of breakfast outreach activities, i.e. their breakfast outreach campaign, must incorporate the development of techniques and methods of teaching the nutritional value of breakfast and the importance of the principles of good nutrition to health.

Prospective grantees should attempt to coordinate their proposed breakfast outreach activities with the ongoing breakfast outreach efforts of the national and Regional offices of FNS, the State educational agencies and other public and private nonprofit organizations in the geographic area or areas they are proposing to work in.

FNS is now implementing special outreach plans in conjunction with State educational agencies in 19 States—Alabama, Connecticut, Florida, Georgia, Indiana, Kentucky, Louisiana, Minnesota, Mississippi, Nebraska, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, and Washington. These outreach plans cover a variety of breakfast outreach activities that go beyond the plans of the affected State Educational agencies as reflected in their State Plans of Child Nutrition Program Operations. These plans are being jointly implemented by each of the 19 State educational agencies and the applicable FNS Regional office and will extend into Federal fiscal year 1980. In order to avoid clear cases of duplication of effort prospective grantees should contact the appropriate Regional Office for the details of these outreach plans in its State or States prior to developing its breakfast outreach campaign. Appendix A includes a list of FNS Regional offices and contact persons.

Prospective grantees may subcontract for the conduct of a portion of their proposed breakfast outreach activities. In addition to subcontracting with State governmental agencies, universities, and public and private nonprofit organizations with Statewide, multi-state or national scope, prospective grantees may also subcontract with local public and private nonprofit organizations.

Requirements

All State governmental agencies, universities and eligible public and private nonprofit organizations interested in applying for these funds are required to submit an application signed by the appropriate official not later than August 24, 1979. A copy of the application—Application for Federal Assistance (Non-Construction Programs) AD-623 may be obtained by writing or telephoning: Contracting Officer, Administrative Services Division, Food and Nutrition Service, U.S. Department of Agriculture, Room 790, Washington, D.C. 20250, 202-447-8179. Completed applications should be returned to the same address.

All parts of the application must be completed in accordance with the instructions contained in AD-623, except Part IV (Program Narrative) which is superseded by the requirement to develop and submit a project plan as described below. Each prospective grantee will be required to certify compliance with applicable provisions of the law and administrative regulations described in Form AD-623.

Project plans should be attached to the application and include:

1. A complete description of the broad outreach approach (or approaches) selected and the specific breakfast outreach activities the prospective grantee proposes to undertake to expand the School Breakfast Program.

Examples of broad outreach and approaches are: initiating and/or supporting local community efforts to expand school breakfast participation, and developing and implementing innovative public information campaigns emphasizing the need for and nutritional value of breakfast. Examples of specific breakfast outreach activities are: organizing and/or participating in community meetings on the School Breakfast Program; assisting community organizations or groups in making presentations on the merits of the School Breakfast Program to local school boards; assisting in the design, execution and/or review of local school breakfast feasibility studies; establishing and publicizing "Hotlines" for the purpose of disseminating information on the School Breakfast Program, including information on the need for and nutritional value of breakfast; organizing and conducting school breakfast training workshops for prospective school breakfast "support groups," such as, Chambers of Commerce, church affiliated groups, Community Action Agencies, Community Education Associations, Education and Teacher Associations, Girl Scouts' organizations, Head Start Parent Councils, labor unions, Leagues of Women Voters, Legal Services Corporations, NAACPs, Parent and Teacher Associations and Organizations, School Administrator's Associations, School Food Service Associations, School Food Service Directors, Title I district wide Advisory Councils and Parent Advisory Councils, Urban Leagues, Welfare Rights Organizations and WIC Program Coordinators.

2. An explanation as to why the particular outreach approach (or approaches), as described in number one, was selected.

3. A timetable delineating the chronological order the proposed breakfast outreach activities will follow as well as the approximate dates when each activity will occur.

4. An explanation of how the proposed breakfast outreach activities will include and/or incorporate the development of various techniques and methods of teaching the nutritional value of breakfast and the importance of the principles of good nutrition to health.

Include a description of any innovative materials and techniques that will be developed and used in the proposed breakfast outreach activities.

5. An assessment of the need for additional breakfast outreach activities in the geographic area the prospective grantee proposes to work in. This assessment should include, at a minimum, an explanation of why the planned or ongoing breakfast outreach activities of the State educational agency, FNS (that is, the joint FNS—State educational agency outreach projects in 19 States described earlier) and other national, State and local organizations will not be sufficient to address the need for breakfast program expansion in the geographic area or areas the prospective grantee proposes to work in.

6. A description of the staffing plan for carrying out the proposed breakfast outreach activities. Include, for each individual with substantial responsibility for implementing the proposed breakfast outreach activities, the following information: name (if the person is presently employed by the prospective grantee), job title, a description of their responsibilities, an estimate of the percentage of their time they will spend on the proposed breakfast outreach activities, and a description of their relevant experience. For individuals who are not presently employed by the prospective grantee include a description of the relevant experience each prospective employee must have in order to be hired.

7. An organizational chart depicting the administrative relationship between the individuals carrying out the proposed breakfast outreach activities and the prospective grantee.

8. A description of the prospective grantee's relevant organizational experience, including:

a. A description of any successful outreach campaigns organized and conducted by the prospective grantee since January 1, 1977. Additional successful outreach campaigns may also be described if the prospective grantee feels that such descriptions are essential to FNS' understanding of the breadth of the prospective grantee's outreach experience. Each description should clearly indicate the terms on which the outreach campaign was determined to be successful.

b. A description of any current contracts or grants to conduct outreach activities, including for each grant or contract: the source of funding, the term, the amount, the geographic area served and a brief description of the specific outreach activities funded.

c. A description of any other factors or experience that demonstrate the prospective grantee's ability to carry out its proposed breakfast outreach activities.

d. If a prospective grantee does not have any experience conducting outreach campaigns, describe in detail any relevant, recent experience that demonstrates the ability of the prospective grantee to carry out its proposed breakfast outreach activities. These accounts should emphasize how the particular experience described is relevant to carrying out the proposed breakfast outreach activities.

9. A description of any subcontracting arrangements including for each subcontractor: its name and address, its staffing plan (following the guidelines set out in number 6), an organizational chart depicting the administrative relationship between the individuals carrying out the subcontractor's proposed breakfast outreach activities and the subcontractor, a description of its relevant organizational experience, and an explanation of the prospective grantee's basis for selecting the subcontractor.

10. A description of specifically what the prospective grantee intends to accomplish through the conduct of its proposed breakfast outreach activities, including:

a. An account of the impact the proposed breakfast outreach activities will have on participation in the School Breakfast Program. For example, how many additional schools will start breakfast programs and how many additional children will participate in the breakfast program as the result of the proposed breakfast outreach activities.

b. A description of any other accomplishments the prospective grantee expects from its proposed breakfast outreach activities.

Applications will be considered for funding if they meet at least one of the following three conditions:

1. The proposed breakfast outreach activities will expand ongoing outreach activities, e.g. local community organizing efforts will be expanding from 2 to 4 communities in a particular area.

2. The proposed breakfast outreach activities will support ongoing outreach activities for which present financial support will no longer be available after the beginning of the grant period. In other words, these funds may not simply be used to replace existing sources of funds for ongoing outreach activities.

3. The proposed breakfast outreach activities are completely new activities,

in the geographic area or areas the prospective grantee proposes to work in, i.e. they are activities in addition to those which expand or extend ongoing outreach activities.

The term of the grant may not exceed 15 months. These grants will be administered under the provisions of OMB Circular A-102. Prospective grantees should give particular attention to the following areas in the circular:

a. Attachment A—cash depositories.
b. Attachment C—standards for grantee financial management system.
c. Attachment O—procurement standards.

Subcontracting arrangements shall be conducted pursuant to the procurement standards prescribed in Attachment O to OMB Circular A-102.

The subject grant program is listed in the Appendix I of the Catalog of Federal Domestic Assistance.

Applications received will be rated and ranked according to the evaluation criteria set out in Appendix B. The point totals for each criterion indicate the relative importance of each criterion. Announcements of grant awards will be made on or about September 28, 1979.

Office of Management and Budget approval of the "reporting burden" associated with these grants has been requested.

Carol Tucker Foreman,
Assistant Secretary,
July 13, 1979.

Appendix A

Food and Nutrition Service Regional Offices

New England Regional Office, FNS, USDA, 33 North Avenue, Burlington, Massachusetts 01803, Harold T. McLean, Administrator, (617) 272-4272.
Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.

Mid-Atlantic Regional Office, FNS, USDA, One Vahlsing Center, Robbinsville, New Jersey 08691, William G. Boling, Acting Administrator, (609) 259-3041. Delaware, Maryland, New Jersey, New York, Pennsylvania, Washington, D.C., Virginia, West Virginia, Puerto Rico and the Virgin Islands.

Southeast Regional Office, FNS, USDA, 1100 Spring Street, N.W., Atlanta, Georgia 30309, David B. Alspach, Administrator, (404) 881-4131. Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee.

Midwest Regional Office, FNS, USDA, 536 South Clark Street, Chicago, Illinois 60605, Monroe Woods, Administrator,

(312) 353-6664. Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin.

Southwest Regional Office, FNS, USDA, 110 Commerce Street, Dallas, Texas 75242, Wallace F. Warren, Administrator, (214) 749-2877. Arkansas, Louisiana, New Mexico, Oklahoma and Texas.

Mountain Plains Regional Office, FNS, USDA, 2420 W. 26th Avenue, Suite 415-D, Denver, Colorado 80211, Billy Woods, Administrator, (303) 837-5330. Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming.

Western Regional Office, FNS, USDA, 550 Kearney Street, San Francisco, California 94108, R. Hicks Elmore, Administrator, (415) 556-4950. Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territories and Washington.

Appendix B.—Evaluation Criteria

Weighting—40

1. The probable effectiveness of the prospective grantee's proposal to achieve the project objective as demonstrated by:

a. The description of the broad outreach approach (or approaches) and the specific outreach activities the prospective grantee proposes to undertake. For example, how well does the description address the specific needs for additional breakfast outreach activities identified in the needs assessment?

b. The timetable for carrying out the proposed breakfast outreach activities.

c. The description of how the proposed breakfast outreach activities will include and/or incorporate the development of various techniques and methods of teaching the nutritional value of breakfast and the importance of the principles of good nutrition to health.

d. The prospective grantee's staffing plan, including the staffing plans of any subcontractors, for carrying out the proposed breakfast outreach activities. For example, is the prospective grantee's proposed staffing adequate for the proposed breakfast outreach activities?

Weighting—20

2. The need for additional breakfast outreach activities in the geographic area or areas the prospective grantee proposes to work in as demonstrated by the prospective grantee's needs assessment.

40-Weighting

3. The capability of the prospective grantee to carry out its proposed breakfast outreach activities as demonstrated by:

- The prospective grantee's relevant organizational experience.
- The qualifications and experience of the staff, including any subcontractor's staffs, that will be carrying out the prospective grantee's proposed breakfast outreach activities.

[FR Doc. 79-22233 Filed 7-19-79; 8:45 am]

BILLING CODE 3410-30-M

Rural Electrification Administration

Brazos Electric Power Cooperative, Inc., Waco, Tex.; Proposed Loan Guarantee

Under the authority of Public Law 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of \$97,504,000 to Brazos Electric Power Cooperative, Inc., of Waco, Texas. These loan funds will be used to finance a 3.8 percent undivided ownership interest in the Comanche Peak Nuclear Steam Electric Station, Units 1 and 2, and an approximate 50.7 percent undivided ownership interest in the 14.4 mile Comanche Peak to De Cordova Bend 345 kV transmission line.

Legally organized lending agencies capable of making, holding, and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. James E. Monahan, Manager, Brazos Electric Power Cooperative, Inc., P.O. Box 6296, Waco, Texas 76706.

In order to be considered, proposals must be submitted on or before August 20, 1979 to Mr. Monahan. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received as Brazos and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with

the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, Washington, D.C. 20250.

Dated at Washington, D.C., this 11th day of July, 1979.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 79-22115 Filed 7-19-79; 8:45 am]

BILLING CODE 3510-15-M

Tri-State Generation & Transmission Association, Inc., Thornton, Colo.; Proposed Loan Guarantee

Under the authority of Public Law 93-32 (87 Stat. 65) and conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider (a) providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of \$22,565,000 to Tri-State Generation and Transmission Association, Inc., of Thornton, Colorado, and (b) supplementing such a loan with an insured REA loan at 5 percent interest in the approximate amount of \$2,245,000 of this cooperative. These loan funds will be used to finance a project consisting of approximately 116 miles of 115 kV transmission line, 12 miles of 230 kV transmission line and other system improvements.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. William Mickey, Manager, Tri-State Generation and Transmission Association, Inc., 12076 Grant Street, Thornton, Colorado 80241.

In order to be considered, proposals must be submitted on or before August 20, 1979 to Mr. Mickey. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Tri-State Generation and Transmission Association, Inc. and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a

standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C. this 12th day of July, 1979.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 79-22114 Filed 7-19-79; 8:45 am]

BILLING CODE 3510-15-M

Soil Conservation Service

Little River Watershed Project, Iowa; Intent To Not Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the modification of Little River Watershed, Decatur County, Iowa. Little River Watershed Plan and Environmental Impact Statement were approved in December 1977.

The environmental assessment of this federally-assisted action indicates this modification will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. William J. Brune, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this modification.

The modification will increase the pool volume of Site M-1 by 2,029 acre-feet to be used as other agricultural water supply and add the Southern Iowa Rural Water Association as sponsors of the project.

The notice of intent to not prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 693 Federal Building, 210 Walnut Street, Des Moines, Iowa 50309, 515-284-4260. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact

appraisal is available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until August 20, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566, 16 U.S.C. 1001-1008.)

Dated: July 12, 1979.

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79-22409 Filed 7-19-79; 8:45 am]

BILLING CODE 3410-16-M

Fox Creek Watershed, Kentucky; Intent To Not Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for floodwater retarding structure No. 2 (FRS-2) of the Fox Creek Watershed project, Fleming County, Kentucky.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Glen Murray, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The Fox Creek project concerns a plan for watershed protection, flood prevention, and nonagricultural water management. The original plan and supplements were for construction of four floodwater retarding structures, one multiple-purpose structure that included recreation, and 7.3 miles of channel work.

The multiple-purpose structure and three floodwater retarding structures have been completed. The channel work has been deleted due to adverse environmental and economic reasons. One structure, FRS-2, remains to be completed.

FRS-2 is to be located in Brushy Fork Creek, the northwest Fork Creek. FRS-2 is primarily for floodwater protection of downstream agricultural lands. The Fox Creek project does provide some floodwater protection for a national historical site "Ringo's Mill Covered

Bridge," located downstream from all the structures.

FRS-2 earthen dam will be 41 feet high and will impound 136 acres of land as sediment and floodwater pool area. The dam and spillway will occupy about 12 acres.

The notice of intent to not prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Glen E. Murray, State Conservationist, Soil Conservation Service, Lexington, Kentucky 40504, telephone 606-233-2749. An environmental impact appraisal has been prepared and sent to various Federal, State, local agencies, and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until August 20, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904 Watershed Protection and Flood Prevention Program—Public Law 83-566, 16 U.S.C. 1001-1008.)

Dated: July 12, 1979.

Joseph W. Haas,

Assistant Administrator for Water Resource, Soil Conservation Service.

[FR Doc. 79-22410 Filed 7-19-79; 8:45 am]

BILLING CODE 3410-16-M

Subpart Q Applications

Date filed	Docket No.	Description
July 9, 1979	36077	Texas International Airlines, Inc., Box 12788, Houston, Texas 77017. Application of Texas International Airlines, Inc. for amendment of its certificate of public convenience and necessity for route 82 so as to include one new segment as follows: Between the terminal point Amarillo, Texas, and the terminal point Albuquerque, New Mexico. By removing the one-stop restriction in the Amarillo-Albuquerque market. Answers due July 23, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-22538 Filed 7-19-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket 33363]

Former Large Irregular Air Service Investigation; Continuance and Cancellation of Hearings

1. The hearing heretofore set on the application of Sundance International is

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended July 13, 1979 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

continued to 30 August at the same place and time.

2. The hearing heretofore set on the application of International Travel Arrangers is continued to 29 November 1979.

3. The hearing on the application of World Air Leasing is cancelled.

Dated at Washington, D.C., 16 July 1979.

Rudolf Sobernheim,

Administrative Law Judge.

[FR Doc. 79-22539 Filed 7-19-79; 8:45 am]

BILLING CODE 6320-01-M

Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (Order 79-7-73).

SUMMARY: The Board is proposing to grant the applications of Air California (Docket 35882), Delta (Docket 35504), Republic Airlines (Docket 35505), Pacific Southwest Airlines (Docket 33562) and United Air Lines (Docket 35497) and any other applicants whose fitness can be established by officially noticeable data as well, to the extent they request nonstop authority to serve the Salt Lake City-Colorado Springs, Fresno, Stockton, Las Vegas and Oakland markets.

DATES: All interested persons having objections to the Board issuing and order making final the tentative findings and conclusions shall file by August 17, 1979, a statement of objections together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings shall be served upon all parties listed below.

ADDRESSES: Objections to issuance of a final order should be filed in the Dockets Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 36121, which we have entitled the *Salt Lake City Show-Cause Proceeding, Phase 2*.

In addition, copies of such filings should be served on American Airlines, Braniff Airways, Continental Air Lines, Delta Air Lines, Hughes Airwest, Frontier Airlines, National Airlines, Republic Airlines, Pacific Southwest Airlines, Texas International Airlines, Trans World Airlines, United Air Lines, Western Air Lines, Air California, Air Pacific, Sky West Aviation, Executive Director, Dallas/Fort Worth Regional Airport; Mayors of Dallas and Fort Worth, Texas, Mayors of Fresno and Stockton, California, Manager, Fresno Air Terminal, Manager, Stockton Metropolitan Airport, Mayor of San Antonio, Texas, Manager, San Antonio International Airport, Mayor of Las Vegas, Nevada, Manager, Las Vegas McCarran Field, Mayor of Salt Lake City, Utah, Manager, Salt Lake City International Airport, Mayor of Oakland, California, Manager, Oakland International Airport, Rocky Mountain Airways, Mayor of Colorado Springs,

Colorado, and Manager, Colorado Springs Peterson Airport.

FOR FURTHER INFORMATION CONTACT: Joseph Bolognesi, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673-5057.

SUPPLEMENTARY INFORMATION: The complete text of Order 79-7-73 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-7-73 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: July 12, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-22537 Filed 7-19-79; 8:43 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Minnesota Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Minnesota Advisory Committee (SAC) of the Commission will convene at 8:30 am and will end at 9:00 pm on September 20, 1979 and will convene at 8:30 am and will end at 5:00 pm on September 21, 1979, at the Hennepin County Government Center, 300 South 6 Street, Minneapolis, Minnesota 55487.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is for an open meeting on police/community relations in Minneapolis, Minnesota.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 16, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-22532 Filed 7-19-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

National Bureau of Standards

Fortran; Proposed Federal Information Processing Standards

Under the provisions of Public Law 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce is authorized to establish uniform Federal ADP Standards. A proposed Federal Information Processing Standard—FORTRAN is being proposed for Federal use. It is based on the Federal adoption of the voluntary industry standard developed by the American National Standards Institute. With this standard, there is now a family of Federal Standard Languages including FORTRAN, BASIC, and COBOL.

Prior to the submission of a final endorsement of this proposal to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the views of manufacturers, the public and state and local governments. The purpose of this notice is to solicit such views.

The proposed Federal Information Processing Standard contains two portions: (1) An announcement portion which provides information concerning the applicability, implementation, and maintenance of the standard, is provided in its entirety in this notice; and (2) a specification portion which deals with the technical requirements of the standard, American National Standard FORTRAN, X3.9-1978.

Interested parties may obtain a copy of the technical specifications from the American National Standards Institute, 1430 Broadway, New York, New York 10018. Comments are invited and may be submitted in writing to the Office of ADP Standards Administration, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. To be considered, comments on this proposed standard must be received on or before September 18, 1979.

Written comments received in response to this notice plus written comments obtained from Federal departments and independent agencies will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, Constitution Avenue and E Street, NW., Washington, D.C. 20230.

Dated: July 16, 1979.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication; 1979; Announcing the Standard for FORTRAN

Federal Information Processing Standards Publications (FIPS PUB) are issued by the National Bureau of Standards pursuant to the Federal Property and Administrative Services Act of 1949, as amended, Public Law 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations (CFR).

1. Name of Standard. FORTRAN. (FIPS PUB).

2. Category of Standard. Software Standard. Programming Language.

3. Explanation. This publication announces the adoption of American National Standard FORTRAN, X3.9-1978, as a Federal Standard. The American National Standard FORTRAN, X3.9-1978, specifies the form and establishes the interpretation of programs expressed in the FORTRAN Programming Language. The standard consists of a full language, FORTRAN, and a subset language, Subset FORTRAN. The purpose of the standard is to promote portability of FORTRAN programs for use on a variety of data processing systems. The standard is used by implementors as the reference authority in developing compilers, interpreters, or other forms of high level language processors and by users for writing programs in FORTRAN. This Federal Standard specifies the features that must be supported by a language processor designated as FORTRAN.

4. Approving Authority. Secretary of Commerce.

5. Maintenance Agency. Department of Commerce, National Bureau of Standards, (Institute for Computer Sciences and Technology).

6. Cross Index. American National Standard X3.9-1978, FORTRAN.

7. Related Document. Federal Property Management Regulation 101-36.1305—Implementation of Federal Information Processing and Federal Telecommunications Standards into Solicitation Documents. Software Standards.

8. Objectives. The basic objectives in applying Federal standard programming languages are: (1) to achieve the advantages that are inherent in the use of higher level languages, e.g., the simplification of program development and the production of more easily maintainable source code, and (2) to minimize data processing costs by making it easier and less expensive to transfer programs among different computer systems, including replacement systems.

Government-wide attainment of the above objectives, depends upon the widespread availability and use of comprehensive and precise language specifications. Further, the availability of standard languages provides substantially better economy and efficiency in computer utilization. Federal Standard FORTRAN is for use by all Federal agencies for programming applications, particularly scientific or numeric computations, and for

use by those who develop or acquire FORTRAN programs for government use.

9. Applicability.

a. Federal Standard FORTRAN is hereby designated as one of the high level programming languages, standardized and approved for Government-wide use. The use of high level programming languages shall be limited to those which have been standardized and approved.

b. Every Federal department that establishes a requirement for FORTRAN must use Federal Standard FORTRAN as the basis for specification.

c. Every Federal department and agency shall establish specific criteria and procedures for the adoption and use of Federal Standard FORTRAN.

d. Every Federal department and agency should recognize that Federal Standard FORTRAN is a general-purpose computer programming language that is suited for: Solving numeric, scientific, or engineering problems;

Efficient computation on a wide range of computing equipment of varying power and structure;

Programs that are to be interchanged among processors.

e. Exceptions to the applicability of Federal Standard FORTRAN may be obtained through the waiver process, as described below in (12).

10. Specifications. Federal Standard FORTRAN specifications are the language specifications contained in American National Standard FORTRAN, X3.9-1978. The FORTRAN standard describes two levels of the FORTRAN language. FORTRAN refers to the full language and Subset FORTRAN refers to the subset of the full language.

The ANS FORTRAN document specifies the form of a program written in the FORTRAN language, semantic rules for program and data interpretation, and formats of data for input and output.

The ANS FORTRAN document does not specify limits on the size or complexity of programs, the range or precision of numeric quantities or the method of rounding of numeric results, the results when the rules of the standard fail to establish an interpretation, the minimum automatic data processing requirements, the means of supervisory control of programs, or the means of transforming programs internally for processing.

Additional requirements for Federal Standard FORTRAN are defined in paragraph 11.

11. Implementation. The implementation of Federal Standard FORTRAN involves four areas of consideration: acquisition of FORTRAN processors, conformance to this standard, interpretation of FORTRAN, and use of FORTRAN.

11.1 Acquisition of FORTRAN processors. The provisions of this publication are effective (the date of approval of this document). All FORTRAN implementations specified for Federal use after this date must implement Federal Standard FORTRAN. The requirements set forth in this paragraph are applicable to FORTRAN processors developed in-house, acquired as part of an

ADP system procurement, or acquired by separate procurement or used under an ADP leasing arrangement.

A transition period will provide time for industry to produce FORTRAN processors conforming to the standard. The transition period will begin (the date of approval) and will continue for eighteen (18) months thereafter. The policies for the acquisition of FORTRAN processors during the transition period are:

a. The provisions of this FIPS PUB will not apply to FORTRAN language processors and computing services ordered before the effective date.

b. The provisions of this FIPS PUB will apply to orders placed after the effective date; however, a FORTRAN language processor not conforming to this FIPS PUB may be acquired for use during the transition period. The Standard language processor must be delivered by the end of the transition period (eighteen (18) months from the date of approval of this document).

11.2 Conformance to Federal Standard FORTRAN. An implementation that conforms to Federal Standard FORTRAN must satisfy at least the following requirements: (1) The implementation must include all of the language elements of one of the two levels of American National Standard FORTRAN, X3.9-1978. (2) The implementation must satisfy all of the requirements defined in American National Standard FORTRAN, X3.9-1978, section 1.4 and section 1.4.1 as relevant, on the conformance of an implementation to American National Standard FORTRAN. (3) The implementation must provide a facility that allows a FORTRAN source program to be analyzed with respect to Federal Standard FORTRAN. Any statement appearing in the source program that does not conform syntactically to the specifications of Federal Standard FORTRAN shall be explicitly identified. Strict adherence to the standard will enable the Federal government to gain the benefits in portability and maintainability of computer programs.

11.3 Interpretation of Federal Standard FORTRAN. NBS will provide for the resolution of questions regarding Federal Standard FORTRAN specifications, and will issue official interpretations of the specifications and requirements. All questions arising about the interpretation of Federal Standard FORTRAN should be addressed to:

Office of ADP Standards Administration, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234.

11.4 Use of FORTRAN. Federal Standard FORTRAN must be used as determined according to paragraph 9. Applicability. Programs, whether developed internally or on contract (including purchased or leased) should be limited to the elements of Federal Standard FORTRAN. It should be recognized that the use of non-standard language elements may compromise interchange of programs and complicate future conversion to a replacement system or processor.

12. Waiver Process. Heads of agencies may request that the requirements for the

acquisition of FORTRAN processors or the applicability of the standardized and approved high level programming languages be waived. Waivers may be requested where it can be clearly demonstrated that waiving specific requirements would be in the best interests of the Federal government and that appreciable performance or cost advantages are to be gained. Such waiver request will be reviewed by and are subject to the approval of the Secretary of Commerce. The waiver request must address the criteria stated above, as the justification for the waiver.

Forty five days should be allowed for review and response by the Secretary of Commerce. Waiver requests shall be submitted to the Secretary of Commerce, Washington, D.C. 20230, and labeled as a Request for a Waiver to a Federal Information Processing Standard. No action will be taken by the agency to deviate from the standard prior to the receipt of a waiver approval from the Secretary of Commerce. No agency shall begin any process of implementation or acquisition of a non-conforming FORTRAN processor nor shall it make use of any non-standard language unless it has already obtained such approval.

13. Where to Obtain Copies of the Specifications of the Standard. Copies of this publication are available for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute). When ordering, refer to Federal Information Processing Standards Publication — (NBS-FIPS-PUB —), and title. Payment may be made by check, money order, or deposit account. Information concerning current prices and other related standards may be obtained from the NBS Office of ADP Standards Administration, Washington, D.C. 20234.

[FR Doc. 79-20421 Filed 7-19-79; 8:45 am]
BILLING CODE 3510-13-M

Minimal Basic; Proposed Federal Information Processing Standard

Under the provisions of Public Law 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce is authorized to establish uniform Federal ADP Standards. A proposed Federal Information Processing Standard—Minimal BASIC is being proposed for Federal use. It is based on the Federal adoption of the voluntary industry standard developed by the American National Standards Institute. With this standard there is now a family of Federal Standard Languages, including Minimal BASIC, FORTRAN, and COBOL.

Prior to the submission of a final endorsement of this proposal to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the views of

manufacturers, the public and state and local governments. The purpose of this notice is to solicit such views.

The proposed Federal Information processing Standard contains two portions: (1) An announcement portion, which provides information concerning the applicability, implementation, and maintenance of the standard, is provided in its entirety in this notice; and (2) a specification portion which deals with the technical requirements of the standard, American National Standard for Minimal BASIC, X3.60-1978.

Interested parties may obtain a copy of the technical specifications from the American National Standards Institute, 1430 Broadway, New York, New York 10018. Comments are invited and may be submitted in writing to the Office of ADP Standards Administration, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. To be considered, comments on this proposed standard must be received on or before September 18, 1979.

Written comments received in response to this notice plus written comments obtained from Federal departments and independent agencies will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, Constitution Avenue and E Street, NW., Washington, D.C. 20230.

Dated: July 17, 1979.

Ernest Ambler,
Director.

Federal Information Processing Standards Publication—1979

Announcing the Standard for Minimal BASIC

Federal Information Processing Standards Publications (FIPS PUBs) are issued by the National Bureau of Standards pursuant to the Federal Property and Administrative Services Act of 1949, as amended, Public Law 89-306 (79 Stat. 1127). Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations (CFR).

1. Name of Standard. Minimal BASIC. (FIPS PUB).

2. Category of Standard. Software Standard, programming Language.

3. Explanation. This publication announces the adoption of American National Standard for Minimal BASIC X3.60-1978, as a Federal Standard. The American National Standard defines the syntax of the Minimal BASIC Programming Language and the semantics for its interpretation. The standard is used by implementors as the reference authority in developing compilers, interpreters, or other forms of high level language processors and by users for writing programs in Minimal BASIC. This Federal Standard specifies the

set of features that must be supported by a language processor designated as BASIC.

4. Approving authority. Secretary of Commerce.

5. Maintenance Agency. Department of Commerce, National Bureau of Standards, (Institute for Computer Sciences and Technology).

6. Cross Index. American National Standard X3.60-1978, Minimal BASIC.

7. Related Document. Federal Property Management Regulation 101-36.1305- Implementation of Federal Information processing and Federal Telecommunications Standards into Solicitation Documents, Software Standards.

8. Objectives. The Federal standardization of BASIC has two objectives: (1) to improve the programming productivity of BASIC users (many of whom are not professional programmers as such) by making it sufficient to learn only one set of rules in order to program successfully on different computer systems, and (2) to reduce software costs by making it easier to transfer programs written in BASIC among different computer systems, including replacement systems. The first objective is especially important in view of BASIC's traditional role as a language whose use should incur only a small investment of learning time.

The availability and widespread use of comprehensive and precise specifications which define a language directly support the attainment of these objectives and so contribute to the overall goal of economy and efficiency in Federal computer utilization.

9. Applicability.

a. Federal Standard Minimal BASIC is hereby designated as one of the high level programming languages standardized and approved for government-wide use. The use of high level programming languages shall be limited to those which have been standardized and approved.

b. Every Federal department that establishes a requirement for BASIC must use Federal Standard Minimal BASIC as the basis for specification.

c. Every Federal department and agency shall establish specific guidelines for the implementation and use of this standard.

d. Every Federal department and agency should recognize that Federal Standard Minimal BASIC is a general-purpose computer programming language that is suited for:

Fast creation of computer programs to solve small nonrecurring problems, particularly on computers providing time-shared or interactive service;

Nonprofessional as well as professional programmers, when ease of learning and casual use are most important.

e. Exceptions to the applicability of Federal Standard Minimal BASIC may be obtained through the waiver process, as described in (12).

10. Specifications. Federal Standard Minimal BASIC specifications are the language specifications contained in American National Standard for Minimal BASIC, X3.60-1978.

This ANSI document specifies program syntax, formats of data for input and output,

minimal precision and range of numeric representations for input and output, semantic rules for program interpretation, and errors and exceptional circumstances that must be detected by a standard-conforming BASIC language processor. The document does not specify limits on the size of programs, minimum automatic data processing requirements, means of supervisory control of programs, or the means of transforming programs internally for processing. Although Minimal BASIC is primarily and interactive language, this standard does not restrict implementations to the interactive mode.

11. Implementation. The implementation of Federal Standard Minimal BASIC involves four areas of consideration: acquisition of Minimal BASIC processors, conformance to this standard, interpretation of Minimal BASIC, and use of Minimal BASIC.

11.1 Acquisition of Minimal BASIC processors. The provisions of this publications are effective (the date of approval of this document). All BASIC processors specified for Federal use after this date must conform to Federal Standard Minimal BASIC. The requirements set forth in this paragraph are applicable to processors developed internally, acquired as part of an ADP system procurement, acquired by separate procurement, or used under an ADP leasing arrangement.

A transition period will provide time for industry to produce BASIC processors conforming to the standard. The transition period will begin on the effective date and will continue for eighteen (18) months thereafter. The policies for the acquisition of BASIC processors during the transition period are:

a. The provisions of this FIPS PUB will not apply to orders for BASIC language processors or computing services which are placed before the effective date.

b. The provisions of this FIPS PUB will apply to orders placed on or after the effective date; however, a BASIC language processor not conforming to this FIPS PUB may be acquired for interim use during the transition period. The standard-conforming processor must be delivered by the end of the transition period (eighteen (18) months from the approval date).

11.2 Conformance to Federal Standard Minimal BASIC. A BASIC processor or BASIC software that conforms to Federal Standard Minimal BASIC must satisfy all of the requirements defined in American National Standard for Minimal BASIC, X3.60-1978. The term "BASIC software" includes any program maintained by the Government in BASIC source form. Special notice should be taken of section 1.4 of that document, which deals with conformance rules for programs and processors.

The current ANSI Standard for Minimal BASIC contain certain sections which might raise questions of interpretation. The following list of modifications to the ANSI Standard specifies the interpretation of these sections:

a. Section 2.6 second paragraph. Add this sentence to the end of the paragraph: "If a specified procedure is given, and if there are

no restrictions imposed by the hardware or operating environment which make its impossible to follow the given procedures, then the specified procedure must be followed."

b. Section 2.6, third paragraph. Replace the third paragraph with the following: "When two or more exceptions occur during execution of a single statement, this standard does not specify the order in which these exceptions must be detected or processed. An exception may be detected, reported and processed prior to execution of the program, but if it is not, it must be detected, reported and processed when it is encountered in the course of execution."

c. Section 5.4, second paragraph. Change the sentence beginning with "Numeric constants" to the following: "Numeric constants can also have an arbitrary number of digits in the exrad, although constants whose magnitude exceeds the upper bound of an implementation-defined range will be treated as exceptions."

11.3 Interpretation of Federal Standard Minimal BASIC. NBS will provide for the resolution of any questions regarding specifications and requirements of Federal Standard Minimal BASIC and will issue official interpretations as required. All questions arising about the interpretation of Federal Standard Minimal BASIC should be addressed to: Office of ADP Standards Administration, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234.

11.4 Use of Minimal BASIC. Federal Standard Minimal BASIC should be used as determined according to paragraph 9. Applicability. BASIC source programs used by the Government, whether developed internally or on contract (including purchased or leased), should be limited to the elements of Federal Standard Minimal BASIC. Non-standard language features should be used only when the needed operation or function cannot reasonably be implemented with the standard features alone. It should be recognized that the use of non-standard language elements may make interchange of programs and future conversion to a replacement system or processor more difficult and costly.

12 Waiver process. Heads of agencies may request that any of the requirements for the acquisition of BASIC processors or for the applicability of standardized and approved high level programming languages be waived in instances where it can be clearly demonstrated that there are appreciable performance or cost advantages to be gained and that the overall interests of the Federal Government are best served by granting the requested waiver. Such waiver requests will be reviewed by and are subject to the approval of the Secretary of Commerce. The waiver request must address the criteria stated above as the justification for the waiver.

Forty-five days should be allowed for the review and response by the Secretary of Commerce. Waiver requests shall be submitted to the Secretary of Commerce, Washington, D.C. 20230, and labeled as a Request for a Waiver to a Federal

Information Processing Standard. No agency shall take any action to deviate from the standard prior to the receipt of a waiver approval from the Secretary of Commerce. No agency shall begin any process of implementation or acquisition of a non-conforming BASIC processor nor shall it make use of any non-standard language unless it has already obtained such approval.

13. Where to Obtain Copies of the specifications of the Standard. Copies of this publication are available for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute). When ordering, refer to Federal Information Processing Standards Publication — (NBS-FIPS-PUB —), and title.

Payment may be made by check, money order, or deposit account. Information concerning current prices and other related standards may be obtained from the NBS Office of ADP Standards Administration, Washington, D.C. 20234.

[FR Doc. 79-22542 Filed 7-19-79; 8:45 am]
BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Northern Anchovy Fishery; Optimum Yield and Quotas

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of Optimum Yield and Harvest Quotas for 1979-80 Season.

SUMMARY: This notice revises the limits on harvest of northern anchovy (*Engraulis mordax*) in the U.S. fishery conservation zone (FCZ) for the 1979-80 fishing season pursuant to the fishery management plan (FMP) for the northern anchovy. The limits on total harvest and on harvests by different sectors of the fishery have been determined in accordance with the formulas in the FMP.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald V. Howard, Regional Director, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731, telephone 213-548-2575.

SUPPLEMENTARY INFORMATION: The Regional Director has determined that the spawning biomass of northern anchovy (central subpopulation) is estimated to be 1,723,000 short tons. Applying the formulas in the FMP for the northern anchovy to calculate optimum yield (OY), harvest quotas, expected processing levels for various sectors of the domestic anchovy fishery, and total allowable level of foreign fishing (TALFF), the National Marine Fisheries

Service has determined for the 1979-80 fishing season that:

1. OY will be 168,700 short tons;
2. The portion of the OY reserved for non-reduction fisheries is 12,600 short tons; however non-reduction fishing may exceed 12,600 short tons provided the OY harvest is not achieved;

3. The total limit on harvest for reduction purposes is 156,100 short tons; of this total, 10,000 short tons are reserved for fishing north, and 146,100 short tons are reserved for fishing south, of Pt. Buchon, California;

4. The extent to which U.S. vessels are capable of harvesting and will harvest anchovies is estimated to be 168,700 short tons, including 8,500 short tons for live bait which is not processed;

5. The extent to which U.S. firms are capable of and intend to process anchovies is 160,200 short tons; and

6. The TALFF for the anchovy fishery is zero (0). This announcement is made to provide an opportunity for respective sectors of the fishery to plan their activities during 1979-80 season, which begins August 1, 1979.

Note.—The Assistant Administrator for Fisheries has determined that these regulations are not significant under Executive Order 12044. An environmental impact statement for the northern anchovy FMP is on file with the Environmental Protection Agency.

(16 U.S.C. 1801 *et seq.*)

Signed in Washington, D.C., this the 16th day of July, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-22436 Filed 7-19-79; 8:45 am]
BILLING CODE 3510-22-M

Office of the Secretary

Commerce Technical Advisory Board; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976) notice is hereby given that the Commerce Technical Advisory Board will hold a meeting on Tuesday, July 31, 1979 from 9:00 A.M. until 5:00 P.M. and on Wednesday, August 1, 1979 from 9:00 A.M. until 12 o'clock Noon at the National Academy of Sciences Summer Studies Center, Woods Hole, Massachusetts.

The Board was established to study and evaluate the technical activities of the Department of Commerce and recommend measures to increase their value to the business community.

Tentative agenda items include:

1. Development of Human Resources for Technological Innovation.
2. Report on CTAB Study of Scientific and Technical Information Policies.
3. Domestic Policy Review of Industrial Innovation.
4. Development of a U.S. Industrial Policy.
5. Report on Cooperative Technology Industrial Workshops.

The meeting will be open to public observation. The public may submit written statements or inquiries to the Chairman before or after the meeting. A limited number of seats will be available to the public and to the press on a first-come, first served basis.

Copies of minutes and materials distributed will be made available for reproduction following certification by the Chairman, in accordance with the Federal Advisory Committee Act, in Room 3867, U.S. Department of Commerce, Washington, D.C. 20230.

Further information may be obtained from Mrs. Florence S. Feinberg, Administrator, Room 3867, U.S. Department of Commerce, Washington, D.C. 20230. Telephone (202) 377-5065.

Dated: July 9, 1979.

Jordan J. Baruch,
Assistant Secretary for Science and Technology.

[FR Doc. 79-22411 7-19-79; 8:45 am]
BILLING CODE 3510-17-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1979; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1979 commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: July 20, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On December 29, 1978 and March 16, 1979 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (43 FR 60987 and 44 FR 16030) of proposed additions to Procurement List 1979, November 15, 1978 (43 FR 53151).

After consideration of the relevant matter presented, the Committee has

determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1979:

Class 7105

Picture Frame, Wooden
7105-00-465-6199
7105-00-149-1277
7105-00-297-3398
7105-00-903-1842
7105-00-903-1843
7105-00-149-1282
7105-00-149-1281
7105-00-641-4385
7105-00-986-7356
7105-00-297-3397
7105-00-052-8696
7105-00-149-1276

Class 7210

Mattress, Innerspring (Felted Cotton Padding) with Vinyl/Nylon Laminated Ticking 36" X 75"

(Requirements for the Veterans Administration only)

The above for all requirements which are not furnished by Federal Prison Industries.

C. W. Fletcher,
Executive Director.

[FR Doc. 79-22467 Filed 7-19-79; 8:45 am]
BILLING CODE 6820-33-M

Procurement List 1979; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1979 commodities to be produced by and service to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: August 22, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and service to Procurement

List 1979, November 15, 1978 (43 FR 53151):

No NSN

Plastic ID Marker

Postal Service Item No. 01036
Postal Service Item No. 01036A
Postal Service Item No. 01036B
Postal Service Item No. 01036C
Postal Service Item No. 01036D
Postal Service Item No. 01036E
Postal Service Item No. 01036F

Class 5140

Tool Box
5140-00-289-8910
5140-00-289-8911

Class 5440

Stepladder, Wood
5440-00-171-9836
5440-00-227-1593
5440-00-227-1595
5440-00-531-2589
5440-00-227-1592
5440-00-227-1594
5440-00-227-1596

Sic 7331

Mailing Service
U.S. Postal Service
Western Region
850 Cherry Avenue
San Bruno, California

C. W. Fletcher,
Executive Director.

[FR Doc. 79-22468 Filed 7-19-79; 8:45 am]
BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Community College of the Air Force (CCAF) Advisory Committee; Meeting

July 18, 1979.

The Community College of the Air Force Advisory Committee will hold a meeting on August 10, 1979 at 8:30 a.m. in the Conference Room, Number 121, Building 836, located at Maxwell Air Force Base, Montgomery, Alabama.

The meeting is open to the public.

Agenda items include: State of the College, Catalog, Public Relations Activities, Accreditation Efforts, In-Service Training.

For further information contact Lt. Col. Thomas C. Padgett, 205-293-7937, Community College of the Air Force, Maxwell AFB, Alabama 36112.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79-22425 Filed 7-19-79; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting.

July 11, 1979.

The USAF Scientific Advisory Board Ad Hoc Committee on Herbicide Orange Study Design will meet on August 6 and 7, 1979 in the Pentagon from 8:30 a.m. to 5:00 p.m. each day.

The Committee will meet to review and study the scientific and technical aspects of the proposed Herbicide Orange Study Design. The meeting will be closed to the public in accordance with Section 552b(c), Title 5, United States Code, specifically subparagraph (2).

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8404.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 22424 Filed 7-19-79; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Subsidization of Motor Fuel Marketing; Hearings Related to Title III of the Petroleum Marketing Practices Act

AGENCY: Office of Competition, Department of Energy.

ACTION: Notice of Public Hearings and Opportunity for Written Comments.

SUMMARY: The Office of Competition of the Department of Energy gives notice of a public hearing and opportunity for submission of written comments concerning the study required by Title III of the Petroleum Marketing Practices Act (Public Law 95-297). An outline of this study was published in the Federal Register January 17, 1979. The outline indicated that a series of regional hearings would be held across the nation. The general purpose of these hearings is to present interested parties with an opportunity to express their views regarding subsidization of motor fuel marketing in their specific market area. A hearing was held in Los Angeles on July 17, 1979. The purpose of this notice is to announce that public hearings will be held in Fort Wayne, Indiana; Atlanta, Georgia; Houston, Texas; and Boston, Massachusetts. Additional hearings may be scheduled in other sites later this year.

DATES: (1) Fort Wayne, Indiana: (1) Requests to speak on or before August 6th at 4:30 p.m. Oral statements due on August 21st at 8:00 a.m. Hearings on August 21st at 9:30 a.m.

(2) Atlanta, Georgia: Requests to speak on or before August 6th at 4:30

p.m. Oral statements due on August 28th at 8:00 a.m. Hearings on August 28th at 9:30 a.m.

(3) Houston, Texas: Requests to speak on or before September 10th at 4:30 p.m. Oral statements due on September 18th at 8:00 a.m. Hearings on September 18th at 9:30 a.m.

(4) Boston, Massachusetts: Requests to speak on or before September 10th at 4:30 p.m. Oral statements due on September 25th at 8:00 a.m. Hearings on September 25th at 9:30 a.m.

ADDRESSES: (1) Fort Wayne, Indiana—Send request to speak to: Department of Energy; Region V; 175 West Jackson Boulevard; Attention Lou Brownlee; Chicago, Illinois 60604. Hearing Location: Ramada Inn, 1212 Magnavox Way, Fort Wayne, Indiana.

(2) Atlanta, Georgia—Send request to speak to: Department of Energy; Region IV; 1655 Peachtree Street; Attention Betty Camp; Atlanta, Georgia 30309. Hearing Location: Atlanta Civic Center, Room 201, 395 Piedmont N.E., Atlanta, Georgia.

(3) Houston, Texas—Send request to speak to: Department of Energy; Region VI; 2826 West Mockingbird Lane; P.O. Box 352228; Attention Mac L. Laceyfield; Dallas, Texas 75235. Hearing Location: Federal Building and Courthouse, Courtroom 7006, 515 Rusk Avenue, Houston, Texas.

(4) Boston, Massachusetts—Send request to speak to: Department of Energy; Region I; 150 Causeway Street, Room 700; Attention Kathy Healy, Boston, Massachusetts 02114. Hearing Location: J.W. McCormack Post Office and Courthouse Building, Room 208, Post Office Square, Boston, Massachusetts.

WRITTEN COMMENTS: Anyone may submit written comments concerning the Title III Study. Send written comments to: Office of Public Hearing Management, Department of Energy, Room 2313, Box XH, 2000 M Street, N.W., Washington, D.C. 20461. Written comments should be submitted on or before October 5th.

FOR FURTHER INFORMATION CONTACT:

James Delaney, Robert Fenli, Office of Competition, Department of Energy, 12th & Pennsylvania Avenue, N.W., Room 4115, Washington, D.C. 20461, 202-633-9191.

Robert C. Gillette, Hearing Procedures, Department of Energy, 2000 M Street, N.W., Room 2214B, Washington, D.C. 20461, 202-254-5201.

SUPPLEMENTARY INFORMATION:

I. Background

II. Specific Comments Requested

III. Public Hearing and Comment Procedures
A. Written Comments
B. Public Hearing

I. Background

On January 17, 1979, in the Federal Register, the Office of Competition indicated that it would adopt a regional approach to the Title III Study on subsidization in the marketing of motor fuel. A multifaceted plan was outlined in that notice. The plan included a retail outlet survey of five selected areas, a refiner and wholesaler survey, a functional profitability survey of major refiners and a subpoena of internal planning and marketing documents of nine companies. Since January 1979, staff members of the Office of Competition have met with various participants in the five regional markets. In addition, a regional hearing was held in Los Angeles on July 17, 1979.

As part of its effort to afford interested parties an opportunity to present written and oral data, views, and arguments concerning the study, the Office of Competition will conduct a series of regional hearings. These hearings will supplement the statistical analysis mentioned above. In addition to these hearings, five other hearings will likely be scheduled throughout the year.

In the event that an insufficient number of speakers are scheduled for each hearing, some hearings may be consolidated.

II. Specific Comments Requested

The Office of Competition is interested in receiving comments on the interrelated issues of subsidization of motor fuel sales, profitability of marketing at wholesale and retail, and the competitive viability of various groups in regional markets. In particular, we would like to receive comments on the following matters:

(1) The extent of subsidization in the area, including documentation, if possible.

(2) The effect of subsidization on competition in the area;

(3) The role of refiner and wholesaler operations at retail and the impact of DOE regulations, or other important institutional factors, on competition in the area; and

(4) Proposed remedies, if any, for insuring the long-term consumer interests as related to motor fuel marketing.

III. Public Hearing and Comment Procedures

A. Written Comments

You are invited to submit written views, data, or arguments with respect to the areas listed above. Comments should be submitted to the address indicated in the WRITTEN COMMENTS

section of this notice and should be identified on the outside envelope with the designation "Title III Study". Fifteen copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room 2107, Federal Building, 12th & Pennsylvania Avenue, N.W., between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday.

Identify separately any information or data you consider to be confidential and submit it in writing, one copy only. The DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

B. Public Hearing

1. Request Procedure: The time and place of the public hearing are indicated in the DATES and ADDRESSES sections of this notice. If necessary to present all testimony, the hearing will be continued to 9:30 a.m. of the day following the date of the hearing. You may make an oral presentation at the hearing. Since it may be necessary to limit the number of persons making such presentations, you should be prepared to describe your interest in this proceeding, if appropriate, why you are a proper representative of a group or class of persons that has such an interest, and to give a concise summary of your proposed oral presentation.

The DOE will notify each person selected to be heard for the Fort Wayne and Atlanta hearings before 4:30 p.m. on August 8th. For the Houston and Boston hearings, notification of selection will be made before 4:30 p.m. on September 13th. Persons selected to be heard should bring 25 copies of their statement to the hearing location on the date of the hearing.

2. Conduct of the Hearing: The Office of Competition reserves the rights to select the persons to be heard at this hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. Representatives of the Federal Trade Commission and the Attorney General have been invited to be members of the hearing panel. This will not be a judicial or evidentiary type hearing. Only those conducting the hearing may ask questions, and there will be no cross-examination of persons presenting statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in

the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearing to the address indicated above for requests to speak before 4:30 p.m. on July 13th. You may also submit any questions in writing, to the presiding officer at the time of the hearing. The Office of Competition or, if the question is submitted at the hearing, the presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made, and the DOE will retain the entire record of the hearings, including the transcript, which will be made available for inspection at the Freedom of Information Office, Room 2107, Federal Building, 12th & Pennsylvania Avenue, N.W., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday. You may purchase a copy of the transcript from the reporter.

In the event that it becomes necessary for the DOE to cancel the hearing, every effort will be made to publish advance notice in the Federal Register of such cancellation. Moreover, DOE will notify all persons scheduled to testify at the hearing. However, it is not possible for DOE to give actual notice of cancellations or changes to persons not identified to DOE as a participant. Accordingly, if you wish to attend the hearing, you should contact the DOE on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

Issued in Washington, D.C., July 16, 1979.

Alvin L. Alm,

Assistant Secretary, Policy and Evaluation.

(FR Doc. 79-22528 Filed 7-19-79; 8:45 am)

BILLING CODE 6450-01-M

Economic Regulatory Administration

Receipt of Petitions for Temporary Public Interest Exemptions for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978 and Proposed Order Granting the Petitions for Temporary Exemptions.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Petitions and Proposed Orders.

SUMMARY: A number of petitions have been received and filed with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for temporary public interest exemptions for the use of natural gas as a primary energy source. Such

exemptions are authorized by Section 311(e) of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 et seq. November 9, 1978 (FUA or the Act). The owners/operators of the powerplants have provided the following information.

Petitioner's name/generating station	Unit identification	Maximum quantity of oil displaced ¹	Type of oil displaced	Maximum quantity of coal displaced (tons)
Central Power & Light Company (La Palma)	GT-1	65	Distillate	0
Illinois Power Company (Wood River)	#1	250	Distillate	0
	#2			
	#3			
Union Electric Company (Venice)	#1	1,040	Distillate	0
	#2			
	#3			
	#4			
	#5			
	#6			
City of Minden (Municipal Plant)	#1	50	Distillate	0
	#2			
City of Worthington, Minnesota (Worthington)	#2	50	Distillate	0
	#3			
City of Fairbury, Nebraska (Fairbury)	#1	50	Distillate	0
	#2			
	#3			
	#4			
Atlantic City Electric Company (Deepwater)	#6	755	Residual	0
	CT "A"	96	Distillate	0
Central Nebraska Public Power & Irrigation District (Canaday)	#1	442	Residual	0
Nevada Power Company:				
Clark	#1	1,351	Residual	0
	#2			
	#3			
	CT 4	163	Distillate	0
	CT 5			
	CT 6			
Sunrise	#1	126	Distillate	0
	CT 2	793	Residual	0
Southwestern Electric Power Company:				
Knox Lee	#5	165	Residual	0
Lieberman	#3	97	Residual	0
	#4			
Sleepy Eye Municipal Utility (Sleepy Eye)	#2	8	Residual	0
Jonestown City Water & Light (Water and Light Plant)	#5	58	Residual	0
	#6			
Marshall Municipal Utilities (Marshall)	#5	103	Distillate	0
Gulf States Utilities Company (Willow Glen)	#1	162	Distillate	0
City of Mount Carmel (Mt. Carmel)	#5	24	Distillate	0
Iowa-Illinois Gas & Electric Company:				
Coralville	CT 1	4	Distillate	0
	CT 2	4	Distillate	0
	CT 3	4	Distillate	0
	CT 4	4	Distillate	0
	#5	9	Distillate	0
Moline	#6	9	Distillate	0
	#7	9	Distillate	0
	CC 8	33	Distillate	0
	#8	28	Distillate	0
Columbia Water & Light Department (Municipal Powerplant)	CT 1	15	Distillate	0
City Public Service Board:				
Sommers	#1	33	Residual	0
	#2			
Leon Creek	#3	5	Residual	0
	#4			
Mission Road	#3	3	Residual	0
Tuttle	#1	2	Residual	0
	#2			
	#3			
	#4			
Braunig	#1	456	Residual	0
	#2			
	#3			
	#8	475	Distillate	0
Southern California Edison Company (Long Beach)	#9	475	Distillate	0
	#10	30	Residual	0
	#11	30	Residual	0
Metropolitan Edison:				
Thus	CT 4	5	Distillate	0
Portland	CT 3	2	Distillate	0
	CT 4	9	Distillate	0
Marshfield Electric & Water Department (Wildwood)	#2	7	Distillate	0
	#3	27	Distillate	0
University of Illinois (Abbott)	#2	64	Distillate	0
	#3	64	Distillate	0
	#4	64	Distillate	0
City of Ottawa (Ottawa)	CC 5	34	Distillate	0

¹Thousands of barrels.

FUA became effective May 8, 1979. FUA prohibits the use of natural gas as a primary energy source in certain existing powerplants and also authorizes an exemptions procedure in regard to that and other prohibitions.

ERA issued on July 17, 1979 proposed orders which would grant temporary public interest exemptions to all of the petitioners enumerated above. Those proposed orders would grant a temporary exemption from the prohibition against natural gas use, contained in Section 301(a) (2) and (3) of FUA, to the subject powerplants. Those proposed orders to grant temporary public interest exemptions were issued under the authority of Section 311(e) of FUA and 10 CFR 508, published by ERA on April 9, 1979 (44 FR 21230).

ERA is publishing this notice of petitions filed and its proposed order to grant these exemptions, to invite interested persons to submit written comments pursuant to the requirements of FUA. In addition, any interested person may request that a public hearing be convened in regard to these petitions under the provisions of Section 701(d) of FUA.

DATES: Written comments relating to these petitions and the proposed order are due on or before September 5, 1979. Requests for a public hearing are also due on or before September 5, 1979.

ADDRESSES: Requests for a public hearing and/or 10 copies of written comments shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 634-2170.

Elmer Lee (Office of Fuels Conversion), Economic Regulatory Administration, Department of Energy, Room 7219-F, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-5436.

Robert L. Davies (Office of Fuels Conversion), Economic Regulatory Administration, Department of Energy, Room 3128, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-7442.

James H. Heffernan (Office of General Counsel), Department of Energy, Room 7134, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-8820.

SUPPLEMENTARY INFORMATION: On April 9, 1979, ERA issued a final rule implementing the authority granted to DOE by Section 311(e) of FUA. This final rule, set forth in 10 CFR Part 508,

establishes the policy ERA has adopted in implementing its authority under Section 311(e) of FUA and the eligibility criteria, which petitioners for a temporary public interest exemption for use of natural gas must demonstrate. This temporary exemption will allow certain existing electric powerplants to use natural gas as a primary energy source in excess of the amounts which are mandated by Section 301(a)(2) and (3) of FUA.

The use of natural gas, permitted under these temporary exemptions, will allow existing electric powerplants to displace distillate and residual fuel oils as their primary energy source.

The expanded use of natural gas in these powerplants will be a significant step towards reducing our short term oil consumption and will help the United States in meeting its goals to reduce its demand for imported oil, protect the Nation from the effects of any oil shortages, and will serve to cushion the impact of increasing world oil prices.

The above listed owners/operators have filed petitions with ERA to request a temporary public interest exemption for their existing electric powerplants. ERA has reviewed their petitions and has found that the powerplants meet the eligibility criteria established in Part 508.2 of the final rule (44 FR 21230).

ERA intends by its proposed orders to grant temporary public interest exemptions for the above listed powerplants.

This is not the final notice of petitions and proposed orders under the rule issued April 9, 1979. ERA will continue to comply with the requirements of Section 701(c) of FUA and will publish further notices as petitions are received.

Issued in Washington, D.C., on July 16, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-22529 Filed 7-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-79-002; OFC Case No. 65003-9033-01-77]

Swift Creek Chemical Complex, Boiler Unit S/N 99726; Occidental Chemical Co.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of request for classification.

SUMMARY: On April 26, 1979, Occidental Chemical Company (Occidental) requested the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) to classify as existing a shop fabricated packaged boiler to be located at its Swift Creek Chemical Complex, Hamilton County, Florida pursuant to § 515.13 of the Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Interim Rule) issued by ERA on March 15, 1979 (44 FR 17464, March 21, 1979) and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620 (FUA). FUA, which was effective May 8, 1979, imposes certain statutory prohibitions against the use of natural gas and petroleum by new major fuel burning installations (MFBI). The prohibitions that apply to new major fuel burning installations do not apply to major fuel burning installations that are classified as existing. The purpose of this Notice is to invite interested persons to submit written comments on this matter prior to the issuance of a final decision by ERA. In accordance with § 515.26 of the Revised Interim Rule, no public hearings will be held.

DATES: Written comments are due on or before August 13, 1979.

ADDRESSES: Ten copies of written comments shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461. Docket Number ERA-FC-79-002 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, Phone (202) 634-2170.

Robert L. Davies, Acting Assistant Administrator for Fuels Conversion, Department of Energy, 2000 M Street, N.W., Room 3128-L, Washington, D.C. 20461, (202) 254-7442.

James H. Heffernan (Office of the General Counsel), Department of Energy, 12th and Pennsylvania Avenue, N.W., Room 7134, Washington, D.C. 20461, (202) 633-8814.

SUPPLEMENTARY INFORMATION:

Occidental Chemical Company (Occidental) is a part of Hooker Chemical Company, a corporation organized under the laws of the State of California, and a wholly-owned subsidiary of Occidental Petroleum Corporation (OPC) also organized under

the laws of California. Occidental mines phosphate rocks from which it manufactures fertilizers and fertilizer intermediates in north Florida near White Springs.

Occidental stated that, due to its participation in a global agreement to buy and sell certain fertilizer materials between Occidental and the Ministry of Foreign Trade of the U.S.S.R. it was necessary to expand their operations in northern Florida including building the Swift Creek Chemical Complex in Hamilton County. The construction of the complex is scheduled for completion in October 1979. Occidental states that the Swift Creek complex will manufacture Superphosphoric Acid (SPA) to be sold to the Russians under a reciprocal trade agreement. After phosphate ore is upgraded in a beneficiation plant it is treated with sulfuric acid to make phosphoric acid. Sulfuric acid is made there by burning sulfur. Heat produced by burning sulfur is used to generate steam used in the phosphoric acid concentrating process. Occidental states that the oil-fired boiler is necessary to start the process and to produce supplemental steam to balance the system when sufficient steam is not available from the sulfuric acid plants.

On September 11, 1978, Occidental executed a contract for the purchase of a 200 million BTU's per hour of heat input, package auxiliary boiler identified by serial number 99726 capable of burning No. 2 or No. 6 oil. The boiler was shipped from the manufacturer in Erie, Pennsylvania on March 31, 1979.

On Tuesday, April 17, 1979, at a conference of record pursuant to the Interim Rule, Occidental requested that ERA classify the boiler unit at the Swift Creek Chemical Complex as existing. Another conference was held on Thursday, April 26, 1979, at which time Occidental presented its request for classification of the Swift Creek plant together with more complete information and data in support of its request pursuant to the provisions of § 515.13 of the Interim Rule.

In accordance with the provisions of § 515.13 ERA will classify an eligible installation as existing if it is demonstrated to the satisfaction of ERA that the cancellation, rescheduling, or modification of the construction or the acquisition of the installation would result in a substantial financial penalty or a significant operational detriment.

Occidental supported its request for classification by providing evidence in support of their claim that they would

suffer both a substantial financial penalty and a significant operational detriment if the Swift Creek Unit were not permitted to proceed as an oil burning facility.

A summary of the evidence requirements and Occidental's response to those requirements follows:

(a) **Substantial financial penalty**—Pursuant to § 515.13(a) of the Interim Rule, ERA will classify a facility as existing upon a satisfactory demonstration that at least 25 percent of the total projected cost of the project as of November 9, 1978, was expended in nonrecoverable outlays as of that date.

In response to the evidence requirements set forth in § 515.15(b)(1) of the Interim Rule, Occidental provided the following information:

(1) Total projected cost of the boiler facility on 11/9/78 was—\$781,000

(2) Total expenditures for boiler on 11/9/78—0

(3) The itemized total financial penalties incurred by cancelling or terminating contracts for the facility signed as of 11/9/78: (i) Boiler contract cancellation penalty—\$109,575

(4) The itemized total of recoverable expenditures for the project; on 11/9/78—0

(5) The total of the nonrecoverable outlays for the boiler—\$547,877

(6) Occidental also furnished the following additional information relating to the factors listed in § 515.13(a):

They claim that a modification of the construction or acquisition of the boiler unit as of 11/9/78 would have added, at a minimum, 4 months delay to the completion of the complex scheduled for 10/1/79.

Such a delay would cause the following penalties arising from other contractual obligations existing on 11/9/79:

(i) Claimed contractual penalty costs on nondeliveries due to 4 months lost production—\$1,199,992

(ii) Claimed nonrecoverable interest expense on project construction loan for 4 months lost production—\$6,680,000

(iii) Claimed nonrecoverable taxes and insurance charges for 4 months lost production—\$28,524

(b) **Significant operational detriment**—Pursuant to § 515.13(b) of the Interim Rule, ERA will classify a facility as existing upon a satisfactory demonstration of a significant operational detriment incurred if the installation had been cancelled, rescheduled, or modified to burn an alternate fuel or fuel mixture at 11/9/78.

Occidental's response in support of its request under this section is summarized as follows:

(1) The chemical complex project was begun in 1977 and is scheduled for startup on October 1, 1979. The contractual obligation for the boiler dated 9/11/79—\$547,877

(2) Potential impact on employment in area; 350 permanent jobs in 1980 not needed and not absorbed elsewhere in Occidental. Estimated direct and indirect income impact—\$15,000,000

(3) Potential loss of training and related costs if October lay off is required—\$1,500,000

(4) The anticipated annual capacity utilization factor of the unit is estimated at 10 percent.

Occidental furnished additional statements with respect to the impact of international implications due to the non-fulfillment of their contractual commitments with the U.S.S.R. and contractual penalties imposed by existing commitments for transporting products expected to be produced at this plant. Further they state that the planned system balancing function of the oil-fired boiler in its use to start the process and for auxiliary steam generation would be more fuel efficient than a coal-fired unit.

ERA hereby invites all interested persons to submit written comments on this matter. The public file containing Occidental's request for classification, supporting materials and transcripts of the April 17 and April 26, 1979 conferences is available for inspection upon request at: ERA, Room 3128-L, 2000 M St., N.W., Washington, D.C. 20461, Monday-Friday, 8:00 a.m.-4:30 p.m.

Issued in Washington, D.C. on July 16, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-22534 Filed 7-19-79; 8:45 am]

BILLING CODE 6450-01-M

Proposed Order Granting Special Temporary Public Interest Exemptions

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby sets forth its Order proposing to grant a special temporary public interest exemption from the prohibitions of Section 301(a) (2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 *et seq.*, pursuant to Section 31(e) of FUA, 10 CFR 501.73, and 10 CFR 508, to the following powerplant(s):

Case control No.	Petitioner's name	Generating station	Unit ident.	Location
50496-3442-21-41	Central Power and Light Company	La Palma	GT-1	San Benito, Cameron County, Texas
52385-0898-01-41	Illinois Power Company	Wood River	#1	East Alton, Illinois
52385-0898-02-41			#2	
52385-0898-03-41			#3	
52997-0913-01-41	Union Electric Company	Venice	#1	Madison County, Illinois
52997-0913-02-41			#2	
52997-0913-03-41			#3	
52997-0913-04-41			#4	
52997-0913-05-41			#5	
52997-0913-06-41			#6	
51873-9058-01-41	City of Minden	Municipal Plant	#1	Minden, Louisiana
51873-9058-02-41			#2	
53355-2024-02-41	City of Worthington Minnesota	Worthington	#2	Worthington, Minnesota
53355-2024-03-41			#3	
50938-2236-01-41	City of Fairbury, Nebraska	Fairbury	#1	Fairbury, Nebraska
50938-2236-02-41			#2	
50938-2236-03-41			#3	
50938-2236-04-41			#4	
50126-9062-06-41	Atlantic City Electric Company	Deepwater	#6	Penns Grove, New Jersey
50126-9062-21-41			CT "A"	
50494-2226-01-41	Central Nebraska Public Power and Irrigation District	Canaday	#1	Lexington, Nebraska
51998-2322-01-41	Nevada Power Company	Clark	#1	East Las Vegas, Nevada
51998-2322-02-41			#2	
51998-2322-03-41			#3	
51998-2322-24-41			CT 4	
51998-2322-25-41			CT 5	
51998-2322-26-41			CT 6	
51998-2326-01-41		Sunrise	#1	Las Vegas, Nevada
51998-2326-22-41			CT 2	
52744-3476-05-41	Southwestern Electric Power Company	Knox Lee	#5	Easton, Gregg County, Texas
52744-1417-03-41		Lieberman	#3	Mooringport, Caddo Parish, Louisiana
52744-1417-04-41			#4	
52674-2011-02-41	Sleepy Eye Municipal Utility	Sleepy Eye	#2	Sleepy Eye, Minnesota
51461-0190-05-41	Jonesboro City Water and Light	Water and Light Plant	#5	Jonesboro, Arkansas
51461-0190-06-41			#6	
51783-1993-05-41	Marshall Municipal Utilities	Marshall	#5	Marshall, Minnesota
51209-1394-01-41	Gulf States Utilities Company	Willow Glen	#1	St. Gabriel, Iberville Parish, Louisiana

Case control No.	Petitioner's name	Generating station	Unit ident.	Location
51948-0900-05-41	City of Mount Carmel	Mt. Carmel	#5	Mt. Carmel, Illinois
51406-1079-21-41	Iowa-Illinois Gas and Electric Company	Coralville	CT 1	Johnson County, Coralville, Iowa
51406-1079-22-41			CT 2	
51406-1079-23-41			CT 3	
51406-1079-24-41			CT 4	
51406-0899-05-41		Moline	#5	Rock Island County, Moline, Illinois
51406-0899-06-41			#6	
51406-0899-07-41			#7	
51406-0899-08-41			CC 8	
50631-2123-08-41	Columbia Water and Light Department	Municipal Powerplant	#8	Columbia, Missouri
50631-2123-21-41			CT 1	
52567-3611-01-41	City Public Service Board	Sommers	#1	San Antonio, Texas
52567-3611-02-41			#2	
52567-3609-03-41		Leon Creek	#3	San Antonio, Texas
52567-3609-04-41			#4	
52567-3610-03-41		Mission Road	#3	San Antonio, Texas
52567-3613-01-41		Tuttle	#1	San Antonio, Texas
52567-3613-02-41			#2	
52567-3613-03-41			#3	
52567-3613-04-41			#4	
52567-3612-01-41		Braunig	#1	San Antonio, Texas
52567-3612-02-41			#2	
52567-3612-03-41			#3	
52721-0341-08-41	Southern California Edison Company	Long Beach	#8	Long Beach, California
52721-0341-09-41			#9	
52721-0341-10-41			#10	
52721-0341-11-41			#11	
54020-3115-24-41	Metropolitan Edison	Titus	CT 4	Cumru Township, Berks County, Pennsylvania
54020-3113-23-41		Portland	CT 3	Upper Mt. Bethel Township, Pennsylvania
54020-3113-24-41			CT 4	
51786-9056-02-41	Marshfield Electric & Water Department	Wildwood	#2	Marshfield, Wisconsin
51786-9056-03-41			#3	
53010-0970-02-41	University of Illinois	Abbott	#2	Champaign, Illinois
53010-0970-03-41			#3	
53010-0970-04-41			#4	
52204-1316-55-41	City of Ottawa	Ottawa	CC 5	Ottawa, Kansas

1. The above listed powerplants are prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source, or are prohibited from using natural gas as a primary energy source in excess of the average base year quantities allowed in Section 301(a)(3) of the Act.

II. Eligibility

The existing powerplants listed above have submitted petitions to ERA for a Special Temporary Public Interest Exemption and have asserted that:

(a) Each existing powerplant is:

(1) Prohibited on May 8, 1979 from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or

(2) Prohibited from using natural gas in excess of the average base year quantities allowed in Section 301(a)(3) of FUA.

(b) The proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a)(2) or (3) of FUA:

(1) Will displace consumption of middle distillate or residual fuel oil; and

(2) Will not displace the use of coal or any other alternate fuel in any facility of the owner/operator utility system, including the powerplant for which the exemption was submitted.

III. Rationale

To the extent that the near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum. The expanded use of natural gas in these powerplants will be a significant step toward reducing our short-term oil consumption. This increased use of natural gas will help the United States meet its commitment to reduce its demand for imported petroleum products, protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have had a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that this increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency. This is in keeping with purposes of FUA and is in the public interest.

Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioners have demonstrated that they have met the eligibility criteria established in § 508.2 of the Special Rule

(April 9, 1979, 44 FR 21230), ERA proposes to grant the exemptions.

IV. Duration

ERA proposes to grant these temporary public interest exemptions generally for a period of two years and may extend them from one to three additional years. Certain petitioners have requested that they be granted exemptions for a period of greater than two years but less than five years, the maximum period allowed under FUA, and to the extent that these requests are in the public interest ERA will consider them.

These proposed exemptions are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

V. Terms and Conditions

Pursuant to the authority of Section 314 of FUA and 10 CFR 508.6, ERA will require the order recipient upon issuance of a final order to: (1) Complete a Form ERA 316 (Temporary Public Interest Exemption for Use of Natural Gas by Existing Powerplants Form), (2) report the actual monthly volumes of natural gas used in each exempted powerplant and the estimated number of barrels of each type of fuel oil displaced during the exemption period, (3) submit a system-wide fuel conservation plan to include the five-year period covered by the temporary exemption, and (4) submit annually to ERA a report on progress achieved in implementing the system-wide fuel conservation plan.

Issued in Washington, D.C., on July 16, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conservation, Economic Regulatory Administration.

[FR Doc. 79-22533 Filed 7-19-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed Week of April 20 Through April 27, 1979

Notice is hereby given that during the week of April 20, 1979 through April 27, 1979 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of

receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: July 10, 1979.

Melvin Goldstein,
Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals

[Week of April 20 through April 27, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Apr. 20, 1979	Office of Special Counsel, Washington, D.C.	DFF-0003	Request for Refund Procedures. If granted: The Office of Hearings and Appeals would implement the Special Refund Procedures pursuant to 10 CFR, Part 205, concerning Foremost Petroleum Company and M&A Petroleum Company.
Apr. 20, 1979	United Refining Company, Washington, D.C.	DEA-0386	Appeal of ERA Decision and Order. If granted: The Economic Regulatory Administration's Decision and Order of March 23, 1979 regarding United Refining Company's request for an emergency crude oil allocation pursuant to 10 CFR, Section 211.65 for the month of March 1979 would be modified.
Apr. 23, 1979	Acomi Corporation, Marblehead, Massachusetts	DEA-0373 and DES-0373	Appeal to Region I Order of April 10, 1979, Request for Stay. If granted: The Economic Regulatory Administration's Order of April 10, 1979 (Case No. 01-010965) issued by the Region I Office of Fuels Regulation, would be modified. A Stay would be granted pending the decision.
Apr. 23, 1979	Kern County Refining, Inc., Bakersfield, California	DMR-0047	Request for Modification. If granted: The April 13, 1979, Decision and Order issued to UCO Oil Company (Case No. DES-2487) would be modified with respect to the supply of motor gasoline.
Apr. 23, 1979	Michaelson Producing Company, Regan County, Texas	DRX-0159	Supplemental Order. If granted: The DOE Region VI would be granted additional time within which to issue a revised Proposed Remedial Order.
Apr. 23, 1979	Mobil Oil Corporation, Washington, D.C.	DEA-0387	Appeal of ERA Allocation Notice. If granted: The Economic Regulatory Administration's Allocation Notice of March 22, 1979 regarding the Canadian Crude Oil Allocation Program, 10 CFR Part 214, for the allocation period commencing April 1, 1979, would be modified.
Apr. 23, 1979	Publix Oil Company, Washington, D.C.	DEA-0388	Appeal of DOE Region IV Temporary Assignment Order. If granted: The Temporary Assignment Order of April 12, 1979 issued by DOE Region IV to Amoco Oil Company for the months of April and May, 1979 would be modified.
Apr. 23, 1979	Shell Oil Company, Houston, Texas	DEA-0389	Appeal of ERA Decision and Order. If granted: The Economic Regulatory Administration's Decision and Order of March 23, 1979 directing Shell Oil Company to sell crude oil to United Refining Company would be rescinded.
April 23, 1979	Timothy T. Thut, Los Angeles, California	DFA-0372	Appeal of an Information Request Denial. If granted: The March 16, 1979, Information Request Denial would be rescinded and Timothy T. Thut would receive access to certain DOE data.
April 24, 1979	Exxon Company, U.S.A., Houston, Texas	DES-0367 and DST-0367	Request for Stay and Temporary Stay. If granted: Exxon Company, U.S.A. would receive a stay and temporary stay of the Redirection Order issued by DOE Region IX on April 6, 1979, regarding Exxon's supply obligations to Pacific Refining Company.
April 24, 1979	Exxon Company, U.S.A., Houston, Texas	DEA-0367	Appeal of a Redirection Order. If granted: The Order for Redirection of Product issued by DOE Region IX on April 6, 1979, regarding Exxon's requirement to supply Pacific Refining Company with motor gasoline for the month of April would be rescinded.
April 24, 1979	Good Hope Refineries, Good Hope, Louisiana	DEA-0390	Appeal of Office of Refinery Operations Order. If granted: The DOE Office of Refinery Operations Order issued on July 27, 1978, regarding the approved plant capacity of the good Hope Refineries refinery would be modified.
April 24, 1979	Gulf Oil Company, Houston, Texas	DEA-0379	Appeal of ERA Redirection Order. If granted: The Economic Regulatory Administration's Redirection Order of Product of March 23, 1979, issued to Gulf Oil Company would be modified.
April 24, 1979	Hardell Corporation, Hagerstown, Maryland	OEE-4499	Exception to the Reporting Requirements. If granted: The Hardell Corporation would not be required to file form EIA-9.
April 24, 1979	Kansas-Nebreska Natural Gas Co., Inc., Washington, D.C.	OEE-4485	Price Exception (Sections 212.162, 212.167(a) and (b)). If granted: The Kansas-Nebreska Natural Gas Co., Inc., would receive an exception from the Mandatory Petroleum Price Regulations (10 C.F.R., Part 212, Subpart K) with regard to the calculation of increased natural gas shrinkage costs.
April 24, 1979	L & M Operating Co., Canton, Ohio	DEE-4439	Price Exception (Section 212.73). If granted: L & M Operating Co. would be permitted to retroactively certify the crude oil produced from its Watkins #3 well located in Carroll County, Ohio, as stripper well crude oil.
April 24, 1979	McAlester Fuel Company, Magnolia, Arkansas	DEE-4345	Price Exception (Section 212.73). If granted: McAlester Fuel Company would be permitted to sell the crude oil produced from the L. L. Tidwell "C" Lease located in Ouachita County, Arkansas at upper tier ceiling prices.
April 24, 1979	Texaco, Inc., White Plains, New York	DEA-0404	Appeal of ERA Redirection Order. If granted: The Economic Regulatory Administration's Redirection of Product Order of March 20, 1979, issued to Farmland Industries, Inc. would be modified.

List of Cases Received by the Office of Hearings and Appeals—Continued

(Week of April 20 Through April 27, 1979)

Date	Name and location of applicant	Case No.	Type of submission
April 24, 1979	Wayne Operating Service, Waynesboro, Mississippi	DXE-4509	Extension of relief granted in Wayne Operating Service, 2 DOE Par. — (December 18, 1976). If granted: Wayne Operating Service would be permitted to continue selling crude oil produced from the T. F. Hodge Well #1, located in Wayne County, Mississippi, at upper tier ceiling prices.
April 24, 1979	Western Crude Oil Inc., Denver, Colorado	DES-0200 and DSG-0051	Request for Special Redress and Request for Stay. If granted: The Office of Hearings and Appeals would review the denial by DOE Region VIII of the Application to Quash a Subpoena submitted by Western Crude Oil Inc. A stay of the Subpoena would be approved pending a determination on Western's Petition for Special Redress Relief.
April 25, 1979	Exxon Company U.S.A., Washington, D.C.	DFA-0378	Appeal of Information Request Denial. If granted: Exxon Company U.S.A. would receive access to certain DOE data.
April 25, 1979	Miller & Chevalier, Washington, D.C.	DFA-0377	Information Request Denial Appeal. If granted: Miller & Chevalier would receive access to certain DOE data.
April 25, 1979	Simmons Oil Corporation, Scottsdale, Arizona	DMR-0046	Request for Modification. If granted: The DOE's April 13, 1979, Decision and Order (Case No. DES-2487) would be modified with respect to allocation calculations.
April 25, 1979	UCO Oil Company, Whittier, California	DMR-0049	Request for Modification/Rescission. If granted: The DOE's April 13, 1979, Decision and Order (Case No. DES-2487) would be modified with respect to allocation computations.
April 25, 1979	Amoco Oil Company, Chicago, Illinois	DEA-0402	Appeal of ERA Redirection Order. If granted: The Economic Regulatory Administration's Redirection of Product Order of March 24, 1978, issued to Land-O-Lakes would be modified.
April 26, 1979	Mobil Oil Corporation, Los Angeles, California	DEA-0400 and DES-0400	Appeal of Assignment Order and Request for Stay. If granted: The Assignment Order issued by Region IX Office of Enforcement would be rescinded and Mobil Oil Corporation would be granted a stay pending a final determination on its Appeal.
April 26, 1979	R. W. Tyson Producing Co., Inc., Jackson, Mississippi	DEE-4500 through DEE-4505	Price Exception (Section 212.73). If granted: R. W. Tyson Producing Co., Inc., would be permitted to sell the crude oil produced from the Major #1-A, Major #15, Major #16, Major #17, Shows #3 and Shows #4 Wells located in the Overt Field, Jones County, Mississippi at stripper well prices.
April 27, 1979	Chevron U.S.A., Inc., San Francisco, California	DEE-4506 through DEE-4508	Price Exception (Section 212.73). If granted: Chevron U.S.A., Inc., would be permitted to sell the crude oil produced from the Marlow Burns, Vickers #1 and Vickers #2 properties, Inglewood Field, located in Los Angeles County, California at upper tier ceiling prices.
April 27, 1979	Exxon Company U.S.A., Washington, D.C.	DEA-0401, DES-0401 and DST-0401	Appeal of Temporary Assignment Orders, Request for Stay and Temporary Stay. If granted: The Temporary Assignment Orders issued by DOE Region VI between April 19 and April 26, 1979, regarding Exxon's requirement to supply certain specified jobbers with motor gasoline for the months of April and May would be rescinded.

Notices of Objection Received

Date	Name and location of applicant	Case No.
Apr. 23, 1979	Husky Oil Company, Denver, Colorado	DEE-1484 and DEE-1443
Apr. 23, 1979	Shoals Creek Chevron, Florence, Alabama	DEE-2476
Apr. 24, 1979	Edward H. Wolf & Sons, Inc., Stinger, Wisconsin	DEE-2913
Apr. 25, 1979	Getty Oil Company, Bakersfield, California	DXE-2199 and DXE-2200
Apr. 26, 1979	John E. Jones Oil Co., Kansas	DEE-2766
Apr. 26, 1979	Public Oil Company, Tennessee	DEE-2254

Proposed Remedial Orders

Apr. 23, 1979	L. E. Jones Production Co., Duncan, Oklahoma	DRO-0203
Apr. 25, 1979	Brock Exploration Company, Washington, D.C.	DRO-0210
Apr. 26, 1979	Triangle J Oil Company, Denver, Colorado	DRO-0206

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

(Week of April 20 Through April 27, 1979)

If granted: The following firms would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.

April 20, 1979

Bland's Gulf	DEE-4238	04/20/79	Georgia
Bob Wong's Chevron Service	DEE-4246	04/20/79	California
Brog, James M.	DEE-240	04/20/79	California
C & M Oil Company Inc.	DEE-4244	04/20/79	Florida
C.B. Shell	DEE-4254	04/20/79	California
Cameron, J. W.	DEE-4220	04/20/79	Florida

Chittick Oil Co.	DEE-4241	04/20/79	Michigan
Chromalloy	DEE-4245	04/20/79	California
Cone Oil Co., Inc.	DEE-4256	04/20/79	District of Columbia
Cume Bros. Inc.	DEE-4217	04/20/79	California
D-Co Oil Co.	DEE-4223	04/20/79	Illinois
Deckers Amoco	DEE-4236	04/20/79	Virginia
Don's Texaco	DEE-4255	04/20/79	Indiana
Getty Refining & Marketing Co.	DEE-2098	04/20/79	Oklahoma
Hamilton's Grocery	DEE-4239	04/20/79	California
Hollywood Car Wash	DEE-4227	04/20/79	California
Interstate 40 Fina	DEE-4233	04/20/79	Arkansas
Jackson, Cyrus	DEE-4232	04/20/79	Oklahoma
Jim Water Oil Company	DEE-4215	04/20/79	Texas
Kellogg-Moore Oil Co., Inc.	DEE-4250	04/20/79	Louisiana
Kernersville Sunoco	DEE-4222	04/20/79	North Carolina
Lincoln Oil Company	DEE-3954	04/20/79	Nebraska
M & S Oil Company	DEE-4242	04/20/79	North Carolina
McAdams Pipe & Supply Co.	DEE-4219	04/20/79	Oklahoma
Metze Amoco Service Center	DEE-4249	04/20/79	Georgia
Midwest Oil Co.	DEE-4229	04/20/79	South Dakota
Moore Oil of Florida	DEE-4251	04/20/79	Louisiana
Moss-Dennis Oil Co., Inc.	DEE-4228	04/20/79	Virginia
Mutual Oil Co., Inc.	DEE-4220	04/20/79	Massachusetts
Orbit Stations, Inc.	DEE-4237	04/20/79	California
Reed, Arba L.	DEE-4230	04/20/79	Louisiana
S & S Oil Co.	DEE-4099	04/20/79	Kansas
Seitz, Norman	DEE-4097	04/20/79	Maryland
Smith, Mike	DEE-4226	04/20/79	Arkansas
Tn-Con Petroleum, Inc.	DEE-4253	04/20/79	California
Tunnes Service Station	DEE-4224	04/20/79	North Carolina
Valley Cab Co.	DEE-4231	04/20/79	California
Waltsch, Robert	DEE-4243	04/20/79	California
Watts, Ordie A.	DEE-4225	04/20/79	Arkansas
Webb & Sons	DEE-4216	04/20/79	California
Weeks, Harold R.	DEE-4221	04/20/79	Alabama
Wright Industries, Inc.	DEE-4252	04/20/79	District of Columbia

April 23, 1979

A. M. Missouri Union	DEE-4357	04/23/79	California
Airport Shell	DEE-4258	04/23/79	Louisiana
Auto Row Texaco	DEE-4290	04/23/79	California
Basic Properties	DEE-4259	04/23/79	California
Baloman Oil Co.	DEE-4260	04/23/79	North Carolina
California-Fresno Oil Co.	DEE-4261	04/23/79	California
Carlson, William H.	DEE-4262	04/23/79	Arizona
Colesville Amoco	DEE-4264	04/23/79	Maryland
Collins Texaco	DEE-4265	04/23/79	California
E. N. Hershberger Company, Inc.	DEE-4266	04/23/79	Virginia
Falle Church Amoco	DEE-4267	04/23/79	Virginia
Ferry's Texaco	DEE-4268	04/23/79	California
Garthsbury Square Amoco	DEE-4269	04/23/79	Maryland
Greenwood Petroleum Co., Inc.	DEE-4052	04/23/79	South Carolina
Hartley Co.	DEE-4270	04/23/79	Ohio
Helen Nash Fina Station	DEE-4271	04/23/79	Arkansas
Hilton, Paul W.	DEE-4272	04/23/79	Arizona
Independent Oil & Tire Co.	DEE-4273	04/23/79	Ohio
Korman Car Wash	DEE-4291	04/23/79	California
Kern County Refinery, Inc.	DEE-3951	04/23/79	California
Lowe, Wayne	DEE-4274	04/23/79	California
McGrady, Michael	DEE-4275	04/23/79	Maryland
Midland Cooperatives, Inc.	DEE-3928	04/23/79	District of Columbia
Mike's Sun City Union	DEE-4276	04/23/79	Arizona
Ocean Shell Service	DEE-4277	04/23/79	California
Pacesetter No. 36	DEE-4459	04/23/79	Texas
Plaza Chevron Service	DEE-4292	04/23/79	California
Rex's Casa Blanca Exxon	DEE-4615	04/23/79	Arizona
Ridenour, H. Joseph	DEE-4278	04/23/79	Ohio
Roberts Exxon Service Station	DEE-4279	04/23/79	Virginia
Schaal's Mini-Market	DEE-4280	04/23/79	Pennsylvania
Schroeder Fuel Co.	DEE-4281	04/23/79	Washington
Shelter Bay Exxon	DEE-4282	04/23/79	California
Spritzer, G. H.	DEE-4283	04/23/79	Texas
Tom Cary Chevron Service	DEE-4293	04/23/79	California
Tucker's Exxon Service	DEE-4285	04/23/79	North Carolina
Union Petrochem	DEE-4286	04/23/79	Texas
Van Meter, George	DEE-4287	04/23/79	California
Woody's Amoco	DEE-4288	04/23/79	Virginia
Young, Robert	DEE-4289	04/23/79	Wisconsin

April 24, 1979

A. A. Ross	DEE-4434	04/24/79	Oklahoma
Abernathy's Exxon Service	DEE-4327	04/24/79	Georgia
Adkins, Cecil	DEE-4408	04/24/79	California
Alexander's Mobil	DEE-4329	04/24/79	California
Appollo Mobil	DEE-4330	04/24/79	Connecticut
Archway Gulf	DEE-4331	04/24/79	Florida
Arlington Citgo	DEE-4365	04/24/79	Massachusetts
Aubrey General Store	DEE-4386	04/24/79	California
Aubrey Hancock	DEE-4364	04/24/79	Texas
Baca, Aurelio, Jr.	DEE-4435	04/24/79	Arizona
Bazell Oil Co., Inc.	DEE-4490	04/24/79	Ohio
Beer World	DEE-4371	04/24/79	Virginia
Berner, G. R.	DEE-4332	04/24/79	Florida
Bill Morrow's Shell	DEE-4361	04/24/79	California
Bill's Village Union (76)	DEE-4421	04/24/79	California
Bob's Gas	DEE-4416	04/24/79	Nevada
Boland Oil Company	DEE-4333	04/24/79	Connecticut
Brandywine Exxon Servicenter	DEE-4425	04/24/79	Delaware
Brice, Robert	DEE-4384	04/24/79	Arizona
Brisson, Dewey	DEE-4433	04/24/79	Oklahoma
Brookfield Mobil	DEE-4334	04/24/79	Connecticut
Brown, Oden R.	DEE-4467	04/24/79	Oklahoma
Bulshay, Thomas	DEE-4335	04/24/79	Massachusetts
Burns Service Center	DEE-4430	04/24/79	Massachusetts
C. B. Clay Service Station	DEE-4336	04/24/79	Kentucky
Cannon, Walter	DEE-4407	04/24/79	Oklahoma
Capital Services, Inc.	DEE-4397	04/24/79	Virginia
Carlton, Elzie	DEE-4450	04/24/79	Arkansas
Chilton, Don	DEE-4454	04/24/79	Oklahoma
Cliff's Mobil	DEE-4328	04/24/79	Connecticut
Convenience Petroleum Company	DEE-4495	04/24/79	Texas
Cooper's Plumbing & Heating	DEE-4389	04/24/79	California
Corvo Car Care Center	DEE-4461	04/24/79	New Jersey
Crow Distributing Co.	DEE-4373	04/24/79	Alabama
Crosby's Service Station	DEE-4337	04/24/79	Vermont
Davila, Angel M.	DEE-4338	04/24/79	New Jersey
Davis, Douglas	DEE-4452	04/24/79	Missouri
Dell's Exxon Service	DEE-4414	04/24/79	Pennsylvania
Desermer, Arthur	DEE-4339	04/24/79	Massachusetts
Dubois Citgo	DEE-4340	04/24/79	Vermont
Eargood, A. B.	DEE-4457	04/24/79	Kentucky
Ed's Exxon	DEE-4428	04/24/79	Florida
Engelson & Van Lier, Inc.	DEE-4432	04/24/79	New York
Enterprise Shell Service	DEE-4341	04/24/79	California
F & T Union 76	DEE-4342	04/24/79	California
Farmers's Co-op Elevator Co.	DEE-4404	04/24/79	Michigan
Feltz, Jack	DEE-4473	04/24/79	Missouri
Filbert's Chevron Service	DEE-4376	04/24/79	California
Forest Grove Texaco	DEE-4483	04/24/79	Michigan
Frank's Union 76	DEE-4372	04/24/79	Florida
Frank's Orrin	DEE-4491	04/24/79	Arkansas
Freeway Mobil Service	DEE-4379	04/24/79	Arizona
Gianelli Mini Market	DEE-4487	04/24/79	California
Gibbie Oil Company	DEE-4343	04/24/79	Oklahoma
Girdleon, Don	DEE-4411	04/24/79	Oklahoma
Gillispie, Charles	DEE-4465	04/24/79	Texas
Glenns Exxon	DEE-4424	04/24/79	Texas
Gold Oil Company	DEE-4344	04/24/79	Illinois
Griffith, Duane	DEE-4449	04/24/79	Oklahoma
Grove St. Mobil	DEE-4402	04/24/79	California
Guerrero, Andres	DEE-4475	04/24/79	Oklahoma
H & H Service Station	DEE-4346	04/24/79	Georgia
Hagen's Gulf Service Station	DEE-4347	04/24/79	Georgia
Hancock Service Company	DEE-4423	04/24/79	Illinois
Harris, Howard	DEE-4449	04/24/79	Oklahoma
Haynes, Homer	DEE-4429	04/24/79	Michigan
Haywood, J. C.	DEE-4480	04/24/79	Oklahoma
Helms Howard	DEE-4474	04/24/79	Missouri
Herald, Jim	DEE-4472	04/24/79	Oklahoma
Hill's Date Service Station	DEE-4357	04/24/79	Connecticut
Hilltop Gulf	DEE-4348	04/24/79	Arkansas
Hoff's Services Inc.	DEE-4349	04/24/79	Massachusetts
Hollis, James P.	DEE-4453	04/24/79	Oklahoma
Horath, Jack	DEE-4455	04/24/79	Texas
Hudson's 66 Station	DEE-4350	04/24/79	Virginia
Hunters Exxon	DEE-4470	04/24/79	California
Import Dealers Service Corp.	DEE-4484	04/24/79	Florida
Indian River Oil Company	DEE-5110	04/24/79	Arkansas
Interstate Fina Service Station	DEE-4494	04/24/79	Connecticut
J & M Inc.	DEE-4351	04/24/79	

April 24, 1979—Continued

J. L. G. Standard	DEE-4374	04/24/79	Wisconsin
J. L. Jones Oil Co.	DEE-4409	04/24/79	
J. Lawson Gilbert Dist., Inc.	DEE-4492	04/24/79	Maryland
Jacobs Gulf Service	DEE-4352	04/24/79	Georgia
Jep's Gulf	DEE-4353	04/24/79	Vermont
Jenny's Chevron Station	DEE-4436	04/24/79	Kentucky
Joe Hood's Texaco	DEE-4354	04/24/79	Missouri
Joe's Gulf	DEE-4355	04/24/79	New Hampshire
Jones, Don	DEE-4471	04/24/79	Texas
Jones, Keith	DEE-4463	04/24/79	Texas
Jones, Paul	DEE-4403	04/24/79	California
Keeler Oil Company	DEE-4356	04/24/79	Texas
King, Richard	DEE-4458	04/24/79	Oklahoma
Knox Crow Mobil	DEE-4358	04/24/79	California
Koger, Gerald	DEE-4359	04/24/79	Tennessee
Landmark 66 Service	DEE-4394	04/24/79	Virginia
Lay Brothers	DEE-4420	04/24/79	Georgia
Lichenberg, Joseph	DEE-4360	04/24/79	Connecticut
Lynwood 66 Service	DEE-4393	04/24/79	Virginia
Mannion, Richard	DEE-4294	04/24/79	New Hampshire
Maroon Management Services	DEE-4295	04/24/79	Indiana
Maritime Energy	DEE-4369	04/24/79	Maine
Mayo, Paul	DEE-4486	04/24/79	California
McCain's Chevron	DEE-4553	04/24/79	California
McCard, Bobby	DEE-4296	04/24/79	Georgia
McLoon Farms-Newcastle	DEE-4297	04/24/79	Maine
McLoon Oil Company	DEE-4298	04/24/79	Maine
Meramec Valley Oil Co.	DEE-4390	04/24/79	Missouri
Midway Mobil Service	DEE-4377	04/24/79	California
Milliken, Melvin Ray	DEE-4456	04/24/79	Oklahoma
Monahan, Mike	DEE-4380	04/24/79	California
Montgomery Oil Company	DEE-4299	04/24/79	California
Navy Exchange Service Station	DEE-4301	04/24/79	Maine
Nevada City Market & Gas	DEE-4422	04/24/79	California
Newgate 66 Service	DEE-4400	04/24/79	Virginia
Newspaper Printing Corp.	DEE-4370	04/24/79	Tennessee
Nichols, Mike	DEE-4426	04/24/79	Oklahoma
Norcomey, Luther	DEE-4446	04/24/79	Oklahoma
Oakton Service Center	DEE-4392	04/24/79	Virginia
Ocean Mobil	DEE-4375	04/24/79	California
Oliver, Ernest S.	DEE-4303	04/24/79	Rhode Island
Owens, Arnold	DEE-4362	04/24/79	Florida
Page Milt Chevron	DEE-4387	04/24/79	California
Pasch, Paul	DEE-4413	04/24/79	Oklahoma
Pettway Oil Company	DEE-4305	04/24/79	Tennessee
Placerville Drive Shell	DEE-4419	04/24/79	California
Potomac Oil Company	DEE-4391	04/24/79	Virginia
Powers & Alexander Distributing	DEE-4306	04/24/79	Montana
Prather Gulf	DEE-4445	04/24/79	Texas
Prongerast Brothers	DEE-4383	04/24/79	Arizona
Pride Oil Company, Inc.	DEE-4102	04/24/79	Ohio
R & R Gulf Service	DEE-4307	04/24/79	Georgia
Ralph E. Webb Mobil	DEE-4308	04/24/79	California
Randolph's Kerr-McGee Station	DEE-4462	04/24/79	Texas
Ray Harold	DEE-4468	04/24/79	Oklahoma
Reed, Charley	DEE-4447	04/24/79	Arkansas
Remote Services Inc.	DEE-4309	04/24/79	Kentucky
Rhoads, Virginia	DEE-4388	04/24/79	California
Richmond-Scheuer Oil Co.	DEE-4310	04/24/79	Kentucky
River Exxon Service Center	DEE-4311	04/24/79	Connecticut
Robert Stadel Shell Service	DEE-4312	04/24/79	California
Rogers, Thorton	DEE-4410	04/24/79	Florida
Rubin Villanueva	DEE-4382	04/24/79	California
Rusty Auto Parts Inc.	DEE-4469	04/24/79	Florida
S. M. Shapiro	DEE-4315	04/24/79	Virginia
Sadler's Automotive Service	DEE-4313	04/24/79	Wisconsin
Sanders Kerr McGee Station	DEE-4464	04/24/79	Oklahoma
Sandy Hook Automotive	DEE-4314	04/24/79	Connecticut
Saratoga "66"	DEE-4401	04/24/79	Virginia
Sharp, A. H.	DEE-4439	04/24/79	Oklahoma
Shinkard, Larry	DEE-4476	04/24/79	Oklahoma
Shookley, Tom	DEE-4437	04/24/79	Oklahoma
Sierra Army Depot	DEE-4363	04/24/79	California
Sirum Brothers Inc.	DEE-4317	04/24/79	Massachusetts
Sleeper, Kenneth H.	DEE-4381	04/24/79	California
Smith, Alexis	DEE-4489	04/24/79	Wisconsin
Smitty's Arco Mini Market	DEE-4488	04/24/79	California
Snyder Exxon	DEE-4318	04/24/79	California
Southeast Petroleum Corp. et al.	DEE-4442	04/24/79	Wisconsin
Southeast Petroleum Corp. et al.	DEE-4443	04/24/79	Wisconsin
Southeast Petroleum Corp. et al.	DEE-4444	04/24/79	Wisconsin
Southern Coal & Oil Co.	DEE-4417	04/24/79	South Carolina
Sparrow's Resort	DEE-4405	04/24/79	California
Springfield Phillips 66, Inc.	DEE-4398	04/24/79	Virginia
St. Cyr Norman, D.	DEE-4302	04/24/79	Connecticut
Stark, Jack	DEE-4477	04/24/79	Missouri
Stephenson, Lucile	DEE-4481	04/24/79	Florida
Sterco Equipment Sales Inc.	DEE-4415	04/24/79	Maryland
Summerton Exxon	DEE-4368	04/24/79	District of Columbia
Swidorski Oil Company, Inc.	DEE-4366	04/24/79	Michigan
T. J's Service Station	DEE-4319	04/24/79	Florida

April 24, 1979—Continued

Tanner, Leroy	DEE-4479	04/24/79	Texas
Taylor, Dave	DEE-4451	04/24/79	Oklahoma
Ted's Service Station	DEE-4441	04/24/79	Connecticut
Tranbarger & Dykes	DEE-4320	04/24/79	Tennessee
Troy's Garage	DEE-4321	04/24/79	Massachusetts
Tyson, Linnon	DEE-4431	04/24/79	Michigan
Valencia Chevron	DEE-4412	04/24/79	California
Valentine, J. T.	DEE-4466	04/24/79	Oklahoma
Wakefield Service	DEE-4323	04/24/79	Connecticut
Walnut Hills Conoco	DEE-4427	04/24/79	Colorado
Warrington Auto Service	DEE-4324	04/24/79	California
Watling, B. K.	DEE-4478	04/24/79	Oklahoma
Webber Oil Company	DEE-4325	04/24/79	Maine
Wes Walters Shell	DEE-4378	04/24/79	California
Western Produce Co., Inc.	DEE-4385	04/24/79	Arizona
Westgate Service Center	DEE-4326	04/24/79	Maine
White's Chevron Service	DEE-4498	04/24/79	Georgia
Will Mart Shell	DEE-4367	04/24/79	Louisiana
Yorktown 66 Service Station	DEE-4399	04/24/79	Virginia
Zak Cisk Texaco	DEE-4418	04/24/79	California

April 25, 1979

Allen, R. E.	DEE-4511	04/25/79	South Carolina
Automotive Testing Labs, Inc.	DEE-4530	04/25/79	Colorado
Baquette, Bertie	DEE-4512	04/25/79	South Carolina
Bills One Stop	DEE-4519	04/25/79	South Carolina
Brent-West Carwash	DEE-4531	04/25/79	Arizona
Brown & Root, Inc.	DEE-4532	04/25/79	Texas
C & B Exxon	DEE-4520	04/25/79	Alabama
Carter Hill Chevron	DEE-4521	04/25/79	Alabama
Colonial Market	DEE-4533	04/25/79	Maine
Dave's Arco	DEE-4523	04/25/79	Pennsylvania
Eastern Exxon Service Center	DEE-4524	04/25/79	Maryland
Edlene's Shell Service	DEE-4535	04/25/79	California
Fischberger, S. G.	DEE-4625	04/25/79	Washington
Fairgrove Service Center	DEE-4536	04/25/79	North Carolina
F.S. Service, Inc.	DEE-4263	04/25/79	Illinois
G. M. Petroleum Distributors	DEE-4513	04/25/79	Montana
Globe Oil Co.	DEE-4537	04/25/79	Georgia
Gonzales Exxon Station	DEE-4538	04/25/79	Texas
Greene, Raymond	DEE-4539	04/25/79	Oklahoma
Happy Hour Workshop	DEE-4540	04/25/79	Georgia
Hewgley, Tom	DEE-4542	04/25/79	Arkansas
Hilcrest Mobil	DEE-4543	04/25/79	Texas
Hillsboro Inlet Marine Corp.	DEE-4514	04/25/79	Florida
Home Oil, Inc.	DEE-4544	04/25/79	Wisconsin
Howard's Self Serv Oil Co.	DEE-4545	04/25/79	Minnesota
I. V. Cole Petroleum Co., Inc.	DEE-4546	04/25/79	Iowa
Ingram Creek Service	DEE-4547	04/25/79	California
J. R. Helton Phillips 66	DEE-4548	04/25/79	Texas
Jersey Crown Dairy	DEE-4549	04/25/79	California
John's Place	DEE-4460	04/25/79	Massachusetts
Lasseter's Chevron	DEE-4550	04/25/79	Florida
Lay Brothers, Inc.	DEE-4551	04/25/79	Georgia
Lucky 11 Car Wash	DEE-4552	04/25/79	New York
Lulof & Ward	DEE-4515	04/25/79	Michigan
Maplewood Auto Service	DEE-4526	04/25/79	Minnesota
Martford Inc.	DEE-4516	04/25/79	Georgia
McGale Phillips 66	DEE-4554	04/25/79	Virginia
McK & Paul's Auto Service	DEE-4527	04/25/79	Nevada
McMan, Inc.	DEE-4555	04/25/79	Maryland
McK's Gas & Grocery Store	DEE-4528	04/25/79	Virginia
Mink Service Inc.	DEE-4517	04/25/79	Virginia
Saddleback Self Service	DEE-4556	04/25/79	California
Stevens Creek Exxon	DEE-4518	04/25/79	California
Stover, Ervin	DEE-4529	04/25/79	Pennsylvania
Suburban Oil Co., Inc.	DEE-4612	04/25/79	Michigan
Terry's Exxon Service Center	DEE-4558	04/25/79	North Carolina
Tucker, Cecil	DEE-4559	04/25/79	Oklahoma
U-Needa Car Wash, Inc.	DEE-4560	04/25/79	Pennsylvania
Whitcomb's Arco	DEE-4561	04/25/79	Pennsylvania
Yorktown 66 Service Station	DEE-4562	04/25/79	Virginia

April 26, 1979

Cho's Self-Service Gasoline	DEE-4564	04/26/79	California
Florence Boulevard Chevron	DEE-4567	04/26/79	Alabama
Foster, Bob	DEE-4603	04/26/79	California
Heberer Shell	DEE-4406	04/26/79	Missouri
Lantz Texaco	DEE-4559	04/26/79	Arizona
Mani Guernsey	DEE-4568	04/26/79	California
Miller's Shell	DEE-4570	04/26/79	California
Mills General Merchandise	DEE-4557	04/26/79	Alabama

April 26, 1979—Continued

Old Fort Exxon	DEE-4571	04/26/79	North Carolina
Saveway Oil Company	DEE-4572	04/26/79	Missouri
Sunrise Market	DEE-4565	04/26/79	Georgia
United Oil Industries, Inc.	DEE-4566	04/26/79	California
Wo Wo Wash	DEE-4573	04/26/79	

April 27, 1979

Arts Mobil Service	DEE-4580	04/27/79	California
Augy's Gulf Service	DEE-5403	04/27/79	Massachusetts
Barnick's Gulf	DEE-5402	04/27/79	Connecticut
Bell Haven Sunoco	DEE-4581	04/27/79	Virginia
Bob's Texaco	DEE-4582	04/27/79	California
Boontown, Inc.	DEE-4583	04/27/79	Nevada
Bouquet Canyon Chevron	DEE-4584	04/27/79	California
Brennan Petroleum Products Co.	DEE-4585	04/27/79	Arizona
Bulkers Mart of Calawba Cnty.	DEE-4586	04/27/79	North Carolina
By-Rite Oil Company	DEE-4587	04/27/79	Michigan
Calaveras Pine's Garage	DEE-4588	04/27/79	California
Certified Roofing Systems, Inc.	DEE-4589	04/27/79	Arizona
Chance, Frank	DEE-4590	04/27/79	California
Christensen Oil Co., Inc.	DEE-4578	04/27/79	Wisconsin
Chuck Smith Chevron	DEE-4591	04/27/79	California
Cola Bottling of S.E. New Eng.	DEE-5406	04/27/79	Connecticut
Colony West Gulf	DEE-4579	04/27/79	Arkansas
Columbia "20" Union Auto/Truck	DEE-4592	04/27/79	South Carolina
Cremmen, Joseph	DEE-5401	04/27/79	Massachusetts
Cut Rate Grocery	DEE-4593	04/27/79	North Carolina
Dan's Amoco	DEE-4594	04/27/79	Ohio
Davis, James H.	DEE-4595	04/27/79	Oklahoma
Deik, Donald R.	DEE-4596	04/27/79	Arkansas
Drinking Gulf Service	DEE-4598	04/27/79	Georgia
E-Z Shop, Inc.	DEE-4599	04/27/79	Oklahoma
Edgefield Amoco	DEE-4610	04/27/79	Ohio
Ellis & Larry's Shell	DEE-4600	04/27/79	California
Farchild, Lyle	DEE-4601	04/27/79	Arizona
Farrington Sunoco	DEE-4602	04/27/79	Virginia
Frito Lay	DEE-4604	04/27/79	California
H. S. & L., Inc.	DEE-4574	04/27/79	Arizona
Handi-Car, Inc.	DEE-4605	04/27/79	Arizona
Honda & Han	DEE-4606	04/27/79	California
Jett Check #2	DEE-4608	04/27/79	North Carolina
Joe's Gas House	DEE-4609	04/27/79	California
Kawell Service Station	DEE-4611	04/27/79	Wisconsin
Krutzik, Merlin	DEE-4613	04/27/79	Maryland
Liberty Amoco, Inc.	DEE-4614	04/27/79	California
Lugo, Richard	DEE-4616	04/27/79	California
McCull's Dairy Products Co.	DEE-4617	04/27/79	California
Mike's Shell Service	DEE-4618	04/27/79	California
Moffett Northside Shell Service	DEE-4619	04/27/79	Indiana
Norm's Fina	DEE-4576	04/27/79	Arkansas
Phillips & Son, Inc.	DEE-4620	04/27/79	California
Prather	DEE-4621	04/27/79	Ohio
Red's Standard Service	DEE-4622	04/27/79	Florida
Richland Farm Bureau Co-op	DEE-4577	04/27/79	Ohio
Rosetta, James	DEE-4623	04/27/79	Ohio
S. & H. Gulf Service	DEE-4624	04/27/79	California
Sabbah, Basem	DEE-4625	04/27/79	California
Sav-Way Auto Leasing & Rental	DEE-4627	04/27/79	Arizona
Seabrook Sunoco	DEE-4830	04/27/79	New Hampshire
Shell Oil Co.	DEE-4640	04/27/79	Arizona
Simmon's Truck Oasis, Inc.	DEE-4633	04/27/79	Utah
T. & D. Transfer & Storage	DEE-4628	04/27/79	California
Tara's Shell	DEE-3955	04/27/79	Connecticut
Texaco, Inc.	DEE-4629	04/27/79	Arizona
Tillack, Jack A.	DEE-4631	04/27/79	Florida
Tnpp's Service Center	DEE-4632	04/27/79	California
Vann's Service Station	DEE-4634	04/27/79	Georgia
Vito's Chevron	DEE-4635	04/27/79	California
W. Don Morris Gulf	DEE-4636	04/27/79	Texas
Westtown Chevron Service	DEE-4637	04/27/79	Arizona
Wright Yucca Mobil	DEE-4638	04/27/79	Arizona
Ye Olde Family Inn & Service	DEE-4639	04/27/79	Ohio
Yerby Oil Company	DEE-4575	04/27/79	Texas

[FR Doc. 79-22445 Filed 7-19-79; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Central Valley Project; Hearing on Proposed Rate Order

AGENCY: Western Area Power Administration (WAPA), Department of Energy.

ACTION: Notice of hearing for oral presentation on proposed rate order by interested parties.

SUMMARY: The purpose of the hearing is to provide an opportunity for interested parties to present oral views, data, and arguments concerning the proposed order by the Assistant Secretary for Resource Applications, confirming, approving, and placing in effect increased rates for the Central Valley

Project (CVP) on an interim basis. The proposed order was published in the Federal Register on July 9, 1979, at 44 FR 40118.

DATE: The hearing will be held on August 7, 1979, at 9:30 a.m.

ADDRESS: The hearing will be held at the Sacramento Inn, Comstock Rooms 2 and 3, 1401 Arden Way, Sacramento, California 95815.

FOR FURTHER INFORMATION CONTACT:

Gordon R. Estes, Area Manager, Sacramento Area Office, Western Area Power Administration, Department of Energy, 2800 Cottage Way, Sacramento, Calif. 95825 (916) 484-4251

James A. Braxdale, Office of Power Marketing Coordination, Resource Applications, Department of Energy, 12th & Pennsylvania Avenue, NW., Washington, DC 20461 (202) 633-8338

SUPPLEMENTARY INFORMATION: The WAPA procedures, published in the Federal Register on February 7, 1979, at 44 FR 7795, indicated that an opportunity for oral presentation of views, data, and arguments on any proposed rate order by the Assistant Secretary for Resource Applications would be afforded interested persons upon request. The proposed rate order on CVP was published in the Federal Register on July 9, 1979, at 44 FR 40118. Subsequently, a request was received for oral presentation by an interested party.

Since this will not be judicial- or evidentiary-type hearing, questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made, and the entire record of the hearing, including the transcript, will be made available for inspection at the Office of Power Marketing Coordination, Resource Applications, Department of Energy, Room 3349, 12th & Pennsylvania Avenue, NW., Washington, DC 20461, between the hours of 9 a.m. and 5 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

Issued in Washington, DC, July 15, 1979.

George S. McIsaac,

Assistant Secretary, Resource Applications.

[FR. Doc. 79-22556 Filed 7-19-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1278-3]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review, Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements which have been officially filed with the EPA and distributed to Federal Agencies and

interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of July 9 to 13, 1979.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from July 20, and will end on September 3, 1979. The 30-day wait period for final EIS's will be computed from the date of receipt by EPA and commenting parties.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Kathi Weaver Wilson, Office of Environmental Review A-104, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-0780.

SUMMARY OF NOTICE: Appendix I sets forth a list of EIS's filed with EPA during the week of July 9 to 13, 1979 the Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number if available. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the Federal Register and the extended date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agencies.

Appendix V sets forth a list of reports or additional supplemental information on previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: July 17, 1979.

William N. Hedeman, Jr.,

Director, Office of Environmental Review.

Appendix I—EIS's Filed With EPA During the Week of July 9 to 13, 1979

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 412A, Washington, D.C. 20250, (202) 447-3965

Forest Service

Draft

Los Pinos River Wild/Scenic River Study, San Juan NF, Hinsdale County, Colo., July 13: Proposed is the inclusion of the Los Pinos River and several of its tributaries in the National Wild and Scenic River System. The river and the tributaries proposed for inclusion are located within the Weminuche wilderness of the San Juan NF in Hinsdale County, Colorado. The tributaries are Lake Creek, Flint Creek, Rincon La Osa, Rincon La Vaca, Snowslide and Sierra Vandera. The alternatives considered include: (1) no inclusion, (2) inclusion of all segments, and (3) inclusion of all segments except Lake Creek. (EIS Order No. 90714.)

Final

Jefferson N.F. Timber Plan, Virginia, Kentucky, and West Virginia, July 9: Proposed is a timber plan for the Jefferson National Forest located in parts of Virginia, West Virginia, and Kentucky. The plan proposes even-aged management for 239,000 acres of the forest which are suitable for sustained yield timber production and on 162,000 acres which are suitable for wildlife habitat diversity. Uneven-aged management is proposed for 3,200 acres of northern hardwoods on the Mount Rogers National Recreation Area. (USDA-FS-R8-FES-ADM-78-03.) Comments made by: EPA, DOC, USDA, DOI, State and local agencies, groups, individuals and businesses. (EIS Order No. 90689.)

Rural Electrification Administration

Draft

Colorado-Ute Coal-Fired Powerplant, Craig Unit 3, Moffat County, Colo., July 10:

Proposed is the awarding of a loan guarantee for the construction of a 400-MW coal-fired steam-electric generating unit, to be known as Craig Unit 3, located at Craig Station on the Yampa River, in Moffat County, Colorado. The unit will produce approximately 400 MW of power with fuel being supplied from local coal reserves and water from the Yampa River. Some transmission system modifications will be made to an existing line. (USDA-REA-EIS-(ADM)-79-10-D.) (EIS Order No. 90695.)

Escalante Electric Generating Station, McKinley County, N. Mex., July 13: Proposed is the awarding of a guaranteed loan for the construction and operation of the Escalante 233MW coal-fired unit to be located at Prewitt, McKinley County, New Mexico. The project will include associated transmission, water pipeline, and rail spur facilities. The 2720 acre site is planned to support up to 1000MW of electric generating capacity. The transmission facilities will include two 11.5 mile 115kV lines from the Escalante Station to the Ambrosia Lake Substation and a 6 mile 115kV transmission line to an existing 115kV line. (USDA-REA-EIS-(ADM)-76-6-D.) (EIS Order No. 90715.)

Soil Conservation Service

Draft

Lower Pine Creek Watershed, flood protection, Contra Costa County, Calif., July 11: Proposed is a watershed protection and flood prevention plan for the lower Pine Creek Watershed located in Contra Costa County, California. The project will consist of: (1) Excavation of a 47-acre storm-water detention basin and construction of a control structure and other appurtenant structures, and (2) disposal of approximately 1,000,000 cubic yards of excavation spoil immediately adjacent to the basin site. (EIS Order No. 90702.)

Draft

East Side Green River Watershed Protection, King County, Wash., July 10: Proposed is a watershed protection and flood prevention plan for the east side of the Green River in King County, Washington. The remaining measures include: (1) An accelerated land treatment program, (2) enlarge and/or realign approximately 11.1 miles of existing man-altered stream channels and (3) locally-adopted comprehensively land-use plans. All the alternatives, except no action, include accelerated land treatment and vary with the following: (1) Nonstructural measures, (2) additional channels, (3) upland detention, or (4) channels plus bottom-land detention. (USDA-SCS-ES-WS-(ADM)-79-1(F)-WA.) (EIS Order No. 90697.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377-4335.

National Oceanic and Atmospheric Administration

Final

Delaware Coastal Zone Management Program (CZM), State of Delaware, July 12: Proposed is a coastal zone management program for the State of Delaware. The program addresses the issues of port development, maintenance dredging, offshore OCS development, oil spills, shoreline erosion, recreation and protection of fragile coastal resources. The program will condition, restrict or prohibit some uses in parts of the coastal zone, while encouraging development and other uses in other parts. (1003-79-01-03). Comments made by: EPA, FERC, GSA, USDA, DOC, DOD, DOT, NRC, DOE, State and local agencies, groups and businesses. (EIS order No. 90710.)

Army Corps of Engineers

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.

Draft

Waiehu Beach Shore Protection, Maui, Maui County, Hawaii, July 12: Proposed is a shore protection plan for Waiehu Beach on the island of Maui in Maui County, Hawaii. The alternatives consider: 1) a nonstructural shoreline management plan, 2) the construction of a shoreline stone revetment, 3) an offshore breakwater, and 4) a protective beach plan. (South Pacific Division.) (EIS order No. 90708.)

Final

West Des Moines-Des Moines Flood Protection, Polk County, Iowa, July 12: This statement proposes a plan for flood protection for the cities of West Des Moines and Des Moines, near the confluence of the Raccoon River and Walnut Creek in Polk County, Iowa. The project will protect an area of approximately 927 acres from the standard project flood of these watercourses. Project elements include refurbishment of existing levees and construction of new levees along the north bank of Jordan Creek. The original draft, #50418, filed 3-25-75, was replaced by revised draft #61241, filed 8-23-76. (Rock Island District). Comments made by: EPA, DOI, USDA, DOT, HUD, AHP, HEW, State and local agencies, groups and businesses. (EIS order No. 90556.)

The above FEIS was originally filed with EPA June 4, 1979 and was retracted for incomplete distribution in Federal Register June 29, 1979.

Department of Defense, Army

Contact: Col. Charles F. Sell, Chief of the Environmental Office, Headquarters DAEN-ZCE, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310, (202) 694-4269.

Draft

Fort Wainwright, Land Withdrawal, State of Alaska, July 10: Proposed is the

continuation of the withdrawal from public domain 249,552 acres, known as the Yukon Maneuver Area, of the Fort Wainwright military reservation, Alaska for use by the 172nd Infantry Brigade for military maneuver and training purposes. Some of the alternatives considered are: 1) no action; 2) relocation of training activities at Fort Wainwright, Fort Greely, or Fort Richardson; 3) relocation of training activities to non-military lands; 4) curtailment of training activities on Yukon Maneuver Area lands; 5) state selection and management of portions of the lands; and 6) renew the withdrawal with joint army and BLM management of the lands. (EIS order No. 90698.)

Fort Greely, Land Withdrawal, State of Alaska, July 11: Proposed is the continuation of withdrawal of 624,225 acres from public domain located at Fort Greely, Alaska. These lands would be used for testing experimental military equipment, vehicles and weapons for airdrops; and for military maneuvers and training exercises. The period of withdrawal would be 15 years, with provision for an additional 10 year extension. Some of the alternatives consider: 1) no action; 2) relocation of training activities at another area of Fort Greely; 3) relocation of training activities to Fort Greely, Fort Richardson or non-military land; 4) curtailing training activities at Fort Greely; and 5) state selection and management of portions of the lands. (EIS order No. 90699.)

Final

Fort Richardson, Land Withdrawal, State of Alaska, July 11: Proposed is the continuation of withdrawal from public domain 3,340 acres of the Fort Richardson Military Reservation in Alaska for use by the 172nd Infantry Brigade for military maneuver and training purposes. The alternatives considered are: 1) No action; 2) relocation of training activities to another area of Fort Richardson; 3) relocation of training activities at Fort Wainwright, Fort Greely, or on non-military lands; 4) curtailing training activities on Fort Richardson lands; 5) State selection and management of portions of the lands; and 6) renew the withdrawal with joint Army and BLM Management of the Lands. (EIS order No. 90700.)

Fort Bliss, Ongoing Mission, El Paso County, Tex., July 11: Proposed is the continuation of the ongoing mission at Fort Bliss, El Paso County, Texas. The activities include field training exercises employing troops, equipment and vehicles in tactical situations, missile and artillery firing, aerial gunnery training, air support operations and other related activities. In addition to training activities, this action involves the testing of military weapons systems and day-to-day activities associated with the support of training and the operation of the installation. (EIS order No. 90701.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Clinton Spotts, Region 8, Environmental Protection Agency, First International Building, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2716.

Draft

Bleached Kraft Market Pulp Mill, NPDES Permit, Newton County, Tex., July 9: Proposed is the issuance of an NPDES permit for the discharge of treated wastewater into the Sabine River resulting from the proposed construction of a 650 ton/day bleached Kraft Market Pulp Mill to be located near Bon Weir in Newton County, Texas. The alternatives consider build and no-build. Within the Build alternative two types of processing are considered: 1) Conventional five stage bleaching, and 2) the addition of oxygen delignification to the bleaching process. Provisions are also made for the management of solid wastes. (EIS order No. 90693.)

FEDERAL ENERGY REGULATORY COMMISSION

Contact: Dr. Jack M. Heinemann, Advisor on Environmental Quality, Room 3000, S-22, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 275-4150.

Final

Prattville, Pumped Storage Project No. 2729, Delaware, Greene, Schoharie Counties, N.Y., July 13: Proposed is the issuance of a license for the construction, operation, and maintenance of the Prattville pumped storage project to be located in the counties of Delaware, Greene, and Schoharie, New York. The project would consist of: The existing 1,145-acre Schoharie reservoir which is formed by Gilboa Dam, across Schoharie Creek; a rolled earthfill dam which would impound a 500-acre upper reservoir; a system of shafts and tunnels connecting the two reservoirs via the powerhouse; an underground powerhouse containing four reservoirs pumping-generating units; three 345KV transmission circuits approximately 5.6 miles in length; a haul road; and recreational facilities. (FERC/EIS-0003.) Comments made by: AHP, NRC, HUD, USDA, DOI, COE, EPA, State and local agencies, groups, individuals and businesses. (EIS order No. 90719.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, 202-755-6306.

Draft

Concord Planned Development in Montbello, Denver, Denver County, Colorado, July 13: Proposed is the issuance of HUD Home Mortgage Insurance for the Concord Planned Development in Montbello in the city and county of Denver, Colorado. The completed development will contain 6,565 single family units and 4,000 multifamily units. At this time 2,234 single family units and 2,820 multifamily units remain to be constructed. (HUD-RO8-EIS-79-XVD) (EIS Order No. 90717.)

Lake Mandarin Subdivision, Jacksonville, Duval County, Florida, July 11: Proposed is the issuance of HUD Home Mortgage Insurance for the Lake Mandarin Subdivision located in Jacksonville, Duval County,

Florida. The project encompasses 280 acres of land. Included in the subdivision will be: Single family detached homes, patio homes, multi-family attached housing, a model center, an amenities center, and a commercial area. The plan also includes a 30.4 acre lake for recreation and stormwater retention and 27 acres of open space. (HUD-RO4-EIS-77-08) (EIS Order No. 90703.)

Burke Center, Mortgage Insurance, Fairfax County, Virginia, July 13: Proposed is the issuance of HUD Home Mortgage Insurance for the Burke center located in Fairfax County, Virginia. The uncompleted portion covers the development of approximately 2,945 units over the next year. At completion of the total development, it will contain 300 acres of park and open space, 123 acres of commercial and industrial uses and 1,026 acres of residential uses and streets. (EIS Order No. 90716.)

Final

Sky Lake South Subdivision, Orlando, Orange County, Florida, July 12: Proposed is the issuance of HUD Home Mortgage Insurance for the Sky Lake South Subdivision located in Orlando, Orange County, Florida. The development is on a 320-acre tract and will contain approximately 1,200 dwelling units. Sky Lake South is part of a 4,500 acre area designated for single family planned unit developments. (HUD-RO4-EIS-77-21) Comments made by: USDA, USAF, DOC, DOE, EPA, HEW, DOI, DLAB, DOT, VA, State, and local agencies (EIS Order No. 90709.)

Section 104(h)

The following are Community Block Development Grants Statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Draft

Woodlawn Drainage System (CDBG), Schenectady, Schenectady County, New York, July 12: Proposed is the awarding of CDBG funds for the Woodlawn Drainage Project located in the city and county of Schenectady, New York. The project consists of the construction and reconstruction of piping and ditching of a branch of the Lisha Kill. The purpose of the project is to improve drainage in the area by lowering groundwater levels in the Woodlawn Reserve and increasing pipe capacity in the collection system. Features of the project are: (1) construction of an open ditch, a 1.5-acre holding pond, a 13 acre holding pond, a 90" diameter reinforced concrete pipe, and a 54" diameter pipe; and (2) reconstruction of an existing open ditch. (EIS Order No. 90712.)

DEPARTMENT OF LAND MANAGEMENT

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, 202-343-3891.

Bureau of Land Management**Draft**

Oil Shale Resource Development, Land Exchange, Rio Blanc County, Colorado, July 12: Proposed is a land exchange between BLM and the Superior Oil Company and the revoking of the oil shale withdrawal by the Secretary of DOI. With the exchange, an economical mining unit would be formed and oil shale resources developed. The development will include the construction of an underground mine and a processing plant; the above ground facilities will occupy about 320 acres. The alternatives considered are no action, product transportation by rail or pipe, and expanded resource development. This project is located in Rio Blanc County, Colorado. (DES-79-40) (EIS Order No. 90706.)

Intermountain Power Project, Salt Wash Site, several counties in Utah, Arizona, Nevada and California, July 10: Proposed is the transfer of land, the issuance of permits, and granting of right-of-way in conjunction with the construction and operation of a 3,000 megawatt coal-fire generating station and related transmission facilities. The proposed location of the station is known as the Salt Wash Site in Wayne County, Utah. Transmission lines will transverse the states of Utah, Arizona, Nevada, and California, and will include: Two 500kv D.C. lines, one 230kv A.C. line, a 230kv line, and two 345kv lines. Another site is considered for the station near Lynndyl in Millard County, Utah. (DES-79-39) (EIS Order No. 90696.)

Geological Survey**Draft**

Northern Powder River Basin Coal, Big Horn, Horn, Rosebud, and Sheridan Counties, Mont., July 13: Proposed is coal development with Northern Powder River Basin in Horn, Rosebud, and Sheridan Counties, Montana. Three mining and reclamation plans have been proposed. The mine plans include 3,828 acres of existing Federal coal leases and 540 acres of private coal leases. A total of 7,400 acres of Federal and private land would be required for the mines, related facilities, and rights-of-way. Volume I of this EIS analyzes the cumulative impacts of the proposed developments. Volume II is a site-specific analysis of the Pearl Mine. (DES-79-41.) (EIS Order No. 90713.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357.

Federal Aviation Administration**Final**

Indianapolis International Airport, Indianapolis, Marion County, Ind., July 9: Proposed are developments at the Indianapolis International Airport, formerly known as the Weir-Cook Municipal Airport, located in Indianapolis, Marion County, Indiana. The action will involve: (1) reimbursement for the acquisition of 530 acres of land, (2) construction of a replacement runway, (3) construction of a

cargo building and apron, (4) expansion of the passenger terminal apron, (5) installation of an instrument landing system, (6) closure of Seely Road and construction of 3.5 miles of new road, and (7) acquisition of an additional 1,650 acres of land. Comments made by: HUD, DOC, DOT, COE, USDA, DOI, EPA, State agencies. (EIS Order No. 90690.)

Federal Highway Administration**Draft**

TN-35, Sims Road to TN-9/I-40, Sevier, Jefferson, and Cocke Counties, Tenn., July 10: Proposed is the improvement of TN-35, in Tennessee, from Sims Road east of Fair Gardens in Sevier County, extending 9.7 miles through Jefferson County to I-40 in Cocke County. The facility is divided into three sections. It is proposed that section 1 and 2 be constructed as a two-lane facility, primarily on new location, with provisions made for future expansion to four-lanes. Section 3 would be improved along the existing TN-9 location, with 4 lanes and 250 feet of right-of-way. The alternatives consider no action, and two alignment alternatives. (FHWA-TN-EIS-79-01-D.) (EIS Order No. 90694.)

Final

I-40, I-40/I-95 near Benson to Wilmington, several counties, North Carolina, July 13: Proposed is the construction of I-40 between the I-40 terminus at I-95 near Benson to Wilmington within the counties of Johnston, Sampson, Duplin, Pender and New Hanover, North Carolina. The facility would be a multi-lane highway extending for a distance of approximately 91.5 miles. This statement finalizes a portion of the project discussed in the draft EIS entitled I-40, Raleigh Beltline—I-95 and Extension, No. 90214, filed 2-28-79. Another final EIS will be issued on the portion of I-40 from Raleigh to I-95 pending final approvals. (FHWA-NC-EIS-77-02-FS.) Comments made by: DOI, EPA, COE, DOT, USDA, HEW, HUD, DOC, FERC, State and local agencies. (EIS Order No. 90720.)

Burlington Southern Connector, I-189 to Battery St., Chittenden County, Vt., April 9: Proposed is the construction of approximately 2.5 miles of highway known as

the Southern Connector, in the city of Burlington, Chittenden County, Vermont, commencing at the interchange of I-189 and U.S. 7 extending westerly and northerly to the intersection of Battery and King Streets in the Burlington central business district. The facility will have four twelve foot travel lanes for the entire length with turning lanes where necessary. A portion of the highway will have limited access with partial control. The project also will involve modification of the Shelburne Street Interchange. (FHWA-VT-EIS-77-02-F.) Comments made by: COE, HUD, DOI, EPA, DOE, DOT, State and local agencies, groups, individuals and businesses. (EIS Order No. 90691.)

VT-127, VT-127 to Warner's Corner, Burlington, Chittenden County, Vt., April 9: Proposed is the reconstruction of approximately 3.5 miles of VT-127 in the city of Burlington and the town of Colchester, Chittenden County, Vermont, between a point on existing VT-127 in Burlington, known as section 4, and the intersection of VT-127 and Prim Road (TH 33) in Colchester. The project also includes a new bridge over the Winooski River. A 4(F) statement is included concerning possible land acquisition from Ethan Allen Park. (FHWA-VT-EIS-77-01-F.) Comments made by: HUD, USDA, DOI. (EIS Order No. 90692.)

Urban Mass Transportation Administration**Draft**

Los Angeles Downtown People Mover Project, Los Angeles County, Calif., July 12: Proposed is the issuance of Federal Capital Grant Assistance for the Downtown People Mover (DPM) transit project in the central business district of the city and county of Los Angeles, California. The DPM would be a completely automated, grade-separated circulation/distribution system of approximately 3 miles in length, linking 13 stations in downtown Los Angeles. The project requires: (1) Purchase of right-of-way, (2) purchase and installation of a transit system, (3) 60 transit vehicles, and (4) a storage and maintenance facility to be constructed at Union Station. (EIS Order No. 90705.)

San Francisco Bay Area Terminal Expansion, San Francisco County, Calif., July

12: Proposed is the awarding of partial capital assistance for the expansion of the capacity of the existing Transbay Transit Terminal to provide off-street facilities in the city and county of San Francisco, California. The system would provide a combined downtown terminal for both long-haul and commuter bus operations into San Francisco, and space for special services such as Airporter and sight-seeing. The alternatives consider no build, four terminal improvement strategies, and two joint use alternatives on the terminal site. (EIS Order No. 90707.)

U.S. Coast Guard**Final Supplement**

Seadock Application Amendment, TDPA, License, Gulf of Mexico, Texas, July 12: This statement supplements a final EIS filed in December 1976 concerning the issuance of a license to Seadock Incorporated. This document covers the transfer of that license to the Texas Deepwater Port Authority (TDPA). Proposed is the construction and operation of a deepwater port in the Gulf of Mexico approximately 28 miles off the coast of Freeport, Texas. Addressed are the change in ownership, changes in the project design and new data which has become available. Comments made by: COE, DOC, EPA, DOI, TREA, State and local agencies, businesses. (EIS Order No. 90711.)

VETERANS ADMINISTRATION

Contact: Mr. Willard Sittler, Director, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, Washington, D.C. 20420, (202) 389-2526.

Final

John L. McClellan Memorial Veterans' Hospital, Pulaski County, Ark., July 13: Proposed is the construction of a 505 bed medical center in Little Rock, Pulaski County, Arkansas to replace the existing Roosevelt Road Hospital which is also located in Little Rock. The replacement hospital will occupy a 23.3 acre site adjacent to the University of Arkansas approximately 3 miles northwest of the existing site. Three alternatives were considered. Comments made by: EPA, COE, DOI, DOT, local agencies, groups and businesses. (EIS Order No. 90718.)

EIS's Filed During the Week of July 9 to 13, 1979

(Statement Title Index—By State and County)

State	County	Status	Statement title	Accession No.	Date filed	Org. Agency No.
Alaska		Draft	Fort Wainwright, Land Withdrawal	90698	07-10-79	USA.
		Draft	Fort Greely, Land Withdrawal	90699	07-11-78	USA.
		Draft	Fort Richardson, Land Withdrawal	90700	07-11-79	USA.
Arizona	Several	Draft	Intermountain Power Project, Salt Wash Site	90696	07-10-79	DOI
Arkansas	Pulaski	Final	John L. McClellan Memorial Veterans' Hospital	90718	07-13-79	VA
California	Contra Costa	Draft	Lower Pine Creek Watershed, Flood Protection	90702	07-11-79	USDA.
	Los Angeles	Draft	Los Angeles Downtown People Mover Project	90705	07-12-79	DOT.
	San Francisco	Draft	San Francisco Bay Area Terminal Expansion	90707	07-12-79	DOT.
	Several	Draft	Intermountain Power Project, Salt Wash Site	90696	07-10-79	DOI.
Colorado	Denver	Draft	Concord Planned Development in Montbello, Denver	90717	07-13-79	HUD.
	Hinsdale	Draft	Los Pinos River Wild/Scenic River Study, San Juan NF.	90714	07-13-79	USDA.
	Moffat	Draft	Colorado-Ute Coal-Fired Powerplant, Craig Unit 3	90695	07-10-79	USDA.
	Rio Blanc	Draft	Oil Shale Resource Development, Land Exchange	90706	07-12-79	DOI.
Delaware		Final	Delaware Coastal Zone Management Program (CZM).	90710	07-12-79	DOC.
Florida	Duval	Draft	Lake Mandarin Subdivision, Jacksonville	90703	07-11-79	HUD.
	Orange	Final	Sky Lake South Subdivision, Orlando	90709	07-12-79	HUD.

EIS's Filed During the Week of July 9 to 13, 1979—Continued

(Statement Title Index—By State and County)

State	County	Status	Statement title	Accession No.	Date filed	Orig. Agency No.
Hawaii	Maui	Draft	Waiehu Beach Shore Protection, Maui	90708	07-12-79	COE.
Indiana	Marion	Final	Indianapolis International Airport, Indianapolis	90690	07-09-79	DOT.
Iowa	Polk	Final	West Des Moines-Des Moines Flood Protection	90556	07-12-79	COE.
Kentucky	Sevier	Final	Jefferson N. F. Timber Plan	90689	07-09-79	USDA.
Montana	Morn	Draft	Northern Powder River Basin Coal, Big Horn	90713	07-13-79	DOI.
	Rosebud	Draft	Northern Powder River Basin Coal, Big Horn	90713	07-13-79	DOI.
	Sheridan	Draft	Northern Powder River Basin Coal, Big Horn	90713	07-13-79	DOI.
Nevada	Sevier	Draft	Intermountain Power Project, Salt Wash Site	90696	07-10-79	DOI.
New Mexico	McKinley	Draft	Escalante Electric Generating Station	90715	07-13-79	USDA.
New York	Delaware	Final	Prattville, Pumped Storage Project No. 2729	90719	07-13-79	PERC.
	Greene	Final	Prattville, Pumped Storage Project No. 2729	90719	07-13-79	PERC.
	Schenectady	Draft	Woodlawn Drainage System (CDBG), Schenectady	90712	07-12-79	HUD.
	Schoharie	Final	Prattville, Pumped Storage Project No. 2729	90719	07-13-79	FERC.
North Carolina	Sevier	Final	I-40, I-40/I-85 Near Benson to Wilmington	90720	07-13-79	DOT.
Tennessee	Cocke	Draft	TN-35, Sims Road to TN-9/I-40	90694	07-10-79	DOT.
	Jefferson	Draft	TN-35, Sims Road to TN-9/I-40	90694	07-10-79	DOT.
	Sevier	Draft	TN-35, Sims Road to TN-9/I-40	90694	07-10-79	DOT.
Texas	El Paso	Draft	Fort Bliss, Ongoing Mission	90701	07-11-79	USA.
	Newton	Draft	Bleached Kraft Market Pulp Mill, NPDES Permit	90693	07-09-79	EPA.
Utah	Sevier	F Suppl	Seadock Application Amendment, TDPA, License	90711	07-12-79	DOI.
Vermont	Chittenden	Final	Intermountain Power Project, Salt Wash Site	90696	07-10-79	DOI.
	Chittenden	Final	Burlington Southern Connector, I-189 to Battery St.	90691	07-09-79	DOT.
Virginia	Sevier	Final	Jefferson N.F. Timber Plan	90692	07-09-79	USDA.
	Fairfax	Draft	Burke Center, Mortgage Insurance	90716	07-13-79	HUD.
Washington	King	Draft	East Side Green River Watershed Protection	90697	07-10-79	USDA.
West Virginia	Sevier	Final	Jefferson N.F. Timber Plan	90689	07-09-79	USDA.

Appendix II.—Extension/Waiver of Review Periods on EIS's Filed With EPA

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/extension	Date review terminates
DEPARTMENT OF AGRICULTURE					
Mr. Barry Flamm, Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 412A, Washington, D.C. 20250 (202) 447-3965	Escalante Generating Plant and Related Transmission Facilities, New Mexico.	Draft 90715	7-20-79 see appendix I	Extension	10-9-79
	Los Pinos River, Wild/Scenic River Study, San Juan National Forest, Hinsdale County, Colorado	Draft 90714	7-20-79 see appendix I	Extension	9-6-79

Appendix III.—EIS's Filed With EPA Which Have been Officially Withdrawn by the Originating Agency

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Date of withdrawal
None.				

Appendix IV.—Notice of Official Retraction

Federal agency contact	Title of EIS	Status/number	Date notice published in "Federal Register"	Reason for retraction
DEPARTMENT OF TRANSPORTATION				
Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590 (202) 426-4357.	FL-525, Lakewood Circumferential Route Polk County, Florida.	Draft 90644	7-6-79	Distribution of the Draft EIS has not been completed.
	I-95/MA-128 Interchange and MA-128 Interchange and MA-128 Improvements Essex County, Massachusetts.	Draft 90587	6-22-79	Distribution of the final EIS has not been completed.

Appendix V.—Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA

Federal agency contact	Title of report	Date made available to EPA	Accession No.
U.S. ARMY CORPS OF ENGINEERS			
Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers 20 Massachusetts Avenue, N.W., Washington, D.C. 20314 (202) 272-0121.	Mouth of the Colorado River Navigation Features, Section 404(b) Evaluation, Texas.	7-11-79	90704

Appendix VI.—Official Correction

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Correction
DEPARTMENT OF TRANSPORTATION				
Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590 (202) 426-4357.	US-43, Sunflower to Leroy Washington County, Alabama.	Final Supplement 90593	6-22-79	Incorrectly filed as a final EIS. The correct status is final supplement.

[FR Doc. 79-22580 Filed 7-19-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1278-2]

National Drinking Water Advisory Council; Open Meeting

Under Section 10(a)(2) of Pub. L. 92-423, "The Federal Advisory Committee Act," notice is hereby given that a meeting of the National Drinking Water Advisory Council established under The Safe Drinking Water Act, as amended (42 U.S.C. §300f *et seq.*), will be held at 9:00 a.m. on August 13, 1979, and at 8:30 a.m. on August 14, 1979 in Room 2409, Mall Area, Waterside Mall, U.S. Environmental Protection Agency Headquarters, 401 M Street, SW., Washington, D.C. 20460.

The purpose of the meeting is to provide an update on EPA's regulations to control organic chemical contaminants in drinking water and to provide comment on EPA's proposed Underground Injection Control Regulations. In addition, other items to be discussed include bottled water and who assures its safety, and EPA's drinking water research program and associated strategy.

Both days of the meeting will be open to the public. The Council encourages the hearing of outside statements and will allocate a portion of its meeting time for public participation. If a large number of parties indicate an interest in presenting an oral statement dealing with the planned agenda topics, the Council retains the option to select to hear only a few statements representing a diversity of viewpoints. Oral statements are generally limited to 15 minutes followed by a 15 minute discussion period. It is preferred that

there be one presenter for each statement. Any outside parties interested in presenting an oral statement should petition the Council in writing. The petition should include the general topic of the proposed statement, the petitioner's telephone number, and should be received by the Council before August 5, 1979.

Any person who wishes to file a written statement can do so before or after a Council meeting. Accepted written statements will be recognized at the Council meeting and will be made part of the permanent meeting record.

Any member of the public wishing to attend the Council meeting, present an oral statement, or submit a written statement should contact, Mr. Patrick Tobin, Executive Secretary for the National Drinking Water Advisory Council, Office of Drinking Water (WH-550), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

The telephone number is: Area Code 202/426-8877.

Thomas C. Jorling,
Assistant Administrator for Water and Waste Management.

July 17, 1979.

[FR Doc. 79-22587 Filed 7-19-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1272-6; PF-140]

Filing of Pesticide and Food Additive Petitions

Pursuant to sections 408(d)(1) and 409(b)(5) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency (EPA) gives notice that the following petitions have been submitted to the Agency for consideration.

PP 9F2207. ICI Americas Inc., Concord Pike and New Murphy Road, Wilmington, DE 19897. Proposes that 40 CFR 180.378 be amended by establishing tolerances for the insecticide permethrin [(3-phenoxyphenyl)methyl (±)-*cis, trans*-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate] in or on the following raw agricultural commodities:

Commodity	Parts per million (ppm)
Sweet corn	0.1
Milk (whole)	0.1
Meat and meal byproducts of cattle, goats, horses, and sheep	0.2
Cauliflower	0.5
Broccoli, brussels sprouts	1.0
Fat of cattle, goats, hogs, horses, and sheep	2.0
Milk fat	2.0
Corn fodder and forage	115.0

The proposed analytical method for determining residues is by gas-liquid chromatography procedure using an electron capture detector.

FAP 9H5219. ICI Americas Inc. Proposes that 21 CFR Part 193 be amended by permitting residues of the above insecticide on the commodity broccoli stalks at 5 ppm.

PP 9F2210. Shell Chemical Co., 1025 Connecticut Ave. NW, Suite 200, Washington, DC 20036. Proposes that 40 CFR 180.379 be amended by establishing tolerances for the residues of the insecticide cyano [(3-phenoxyphenyl) methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate] in or on the raw agricultural commodities pears and apples at 0.02 ppm. The proposed analytical method for determining residues is by a gas-liquid chromatography procedure using an electron capture detector.

FAP 9H5222. Shell Chemical Co. Proposes that 21 CFR Part 193 be amended by permitting residues of the insecticide cyano [(3-phenoxyphenyl) methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate] in or on the dried apple pomace at 0.2 ppm.

Interested persons are invited to submit written comments on these

petitions. Comments may be submitted, and inquiries directed, to Product Manager (PM) 17, Room E-341, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/426-9417. Written comments should bear a notation indicating the petition number to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Dated: July 16, 1979.

Douglas D. Campit,

Director, Registration Division.

[FR Doc. 79-22570 Filed 7-19-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1277-5; PP 7G1900/T215]

Renewal of Temporary Tolerances for 0,0-Dimethyl 0-(4-nitro-m-tolyl) phosphorothioate

On November 30, 1978, the Environmental Protection Agency (EPA) gave notice (43 FR 56101) that in response to pesticide petition (PP 7G1900) submitted to the Agency by Stauffer Chemical Co., Western Research Center, 1200 S. 47th St., Richmond, CA 94804, temporary tolerances were established for combined residues of the insecticide 0,0-dimethyl 0-(4-nitro-m-tolyl) phosphorothioate and its metabolites 0,0-dimethyl 0-(4-nitro-m-tolyl) phosphate and 3-methyl-4-nitrophenol in or on the raw agricultural commodities fresh alfalfa, alfalfa hay, fresh pasture grass, and pasture grass hay at 10 parts per million (ppm) and in milk and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.01 ppm. These temporary tolerances expired February 16, 1979.

Stauffer Chemical Co. requested a one-year renewal of these temporary tolerances both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of an experimental use permit (476-EUP-80) that has been renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

The scientific data reported and all other relevant material were evaluated, and it was determined that renewal of

the temporary tolerances would protect the public health. Therefore, the temporary tolerances have been renewed on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Stauffer Chemical Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire June 5, 1980. Residues not in excess of 10 ppm remaining in or on fresh alfalfa, alfalfa hay, fresh pasture grass, and pasture grass hay, and 0.01 ppm remaining in milk and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Mr. William Miller, Product Manager 16, Registration Division (TS-767), Office of Pesticide Programs, 401 M St., SW, Washington, DC 20460 (202/755-9458).

(Sec. 408(j), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)))

Dated: July 16, 1979.

Douglas D. Campit,

Director, Registration Division.

[FR Doc. 79-22571 Filed 7-19-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1277-21]

Request for Authority To Issue NPDES Permits to Federal Facilities by the State of Wisconsin

On October 18, 1972, Congress passed the Federal Water Pollution Control Act Amendments of 1972, (33 U.S.C. 1251-1376, Supp. 1973; hereinafter the "Act"). This legislation established the National Pollutant Discharge Elimination System (NPDES) permit program, under which the Administrator of the United States

Environmental Protection Agency (U.S. EPA) or an approved State may issue permits to municipal, industrial, and agricultural entities to control the discharge of pollutants into navigable waters. Under Section 402(b) of the Act, and after a public hearing, Wisconsin was given authority on February 4, 1974, to issue NPDES permits to all point source dischargers except for Federal facilities. At that time, Federal law precluded States from issuing permits to Federal facilities and this responsibility was retained by U.S. EPA.

On December 27, 1977, the Act, which is now popularly known as the Clean Water Act (CWA), was amended. The recent amendments to the Act have significantly changed the regulatory relationship of States to Federal facilities. First, Section 313 of the Act was substantially amended to provide that Federal facilities must comply with substantive and procedural requirements of State law regarding the control of water pollution including State permits. Second, Federal permits to Federal agencies now require State certification under Section 401. Under the CWA Amendments, States may now be authorized to issue NPDES permits to Federal facilities. Only approved NPDES States can issue Section 402 permits. Where a nonapproved State issues a State permit to a Federal facility, the U.S. EPA will continue to issue an EPA permit in the same manner as any other NPDES permit.

Accordingly, all NPDES programs approved before the 1977 Amendments must be modified, including the Memoranda of Agreement, to reflect the States' new authority to issue and enforce Federal facilities permits. As part of this modification, the State has been asked to submit a statement that the laws of the State provide adequate authority for issuance of permits to Federal facilities and to carry out the reporting, monitoring, inspection and entry authorities of the NPDES permit program. NPDES program modifications are subject to public notice and opportunity for public comment and must be approved by the Administrator, U.S. EPA.

In a June 21, 1979, letter, Mr. Anthony S. Earl, Secretary, Wisconsin Department of Natural Resources, requested authority to issue permits to Federal facilities, and included a signed revision to the Memorandum of Agreement worked out with the Regional Office. U.S. EPA Regional Counsel has reviewed information submitted by the State and has determined that Wisconsin has authority to issue NPDES permits to

Federal facilities. Prior to making a final recommendation to the Administrator, U.S. EPA, the Regional Administrator, Region V, is providing opportunity for public comment on the State of Wisconsin request. Any interested person may comment upon the State request by writing to the U.S. EPA, Region V Office, 230 South Dearborn Street, Chicago, Illinois 60604, Attention: Permit Branch. Such comments will be made available to the public for inspection and copying. All comments or objections received by August 22, 1979, will be considered by U.S. EPA before taking final action on the Wisconsin request for authority to issue permits to Federal facilities.

The State's request, related documents, and all comments received are on file and may be inspected and copied (@ 20 cents/page) at the U.S. EPA, Region V Office, in Chicago.

Copies of this notice are available upon request from the Enforcement Division of U.S. EPA, Region V, by contacting Dorothy A. Price, Public Notice Clerk (312-353-2105), at the above address.

Dated: July 13, 1979.

John McGuire,

Regional Administrator.

[FR Doc. 79-22572 Filed 7-19-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1275-4]

Drinking Water Technical Assistance; Implementation Plan for Control of Direct and Indirect Additives to Drinking Water and Memorandum of Understanding Between the Environmental Protection Agency and the Food and Drug Administration

AGENCY: Environmental Protection Agency and Food Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) and the Environmental Protection Agency (EPA) have executed a memorandum of understanding (MOU) with regard to the control of direct and indirect additives to and substances in drinking water. The purpose of the MOU is to avoid the possibility of overlapping jurisdiction between EPA and FDA with respect to control of drinking water additives. The

agreement became effective on June 22, 1979.

ADDRESS: Submit comments to: Victor J. Kimm, Deputy Assistant Administrator for Drinking Water, Environmental Protection Agency (WH-550), Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: David W. Schnare, Ph.D., Office of Drinking Water (WH-550), Environmental Protection Agency, Washington, D.C. 20460, (202) 755-5643; or Gary Dykstra, Enforcement Policy Staff (HFC-22), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-3470.

SUPPLEMENTARY INFORMATION: In the spirit of interagency cooperation and to avoid the possibility of overlapping jurisdiction over additives and other substances in drinking water, FDA and EPA have entered into a memorandum of understanding to avoid duplicative and inconsistent regulation. In brief, the memorandum provides that EPA will have primary responsibility over direct and indirect additives and other substances in drinking water under the Safe Drinking Water Act, the Toxic Substances Control Act, and the Federal Insecticide, Fungicide and Rodenticide Act. FDA will have responsibility for water, and substances in water, used in food and for food processing and for bottled water under the Federal Food, Drug and Cosmetic Act.

Pursuant to the notice published in the Federal Register of October 3, 1974, (39 FR 35897) stating that future memoranda of understanding, and agreements between FDA and others would be published in the Federal Register, the following memorandum of understanding is issued:

Memorandum of Understanding Between the Environmental Protection Agency and the Food and Drug Administration

I. Purpose

This Memorandum of Understanding establishes an agreement between the Environmental Protection Agency (EPA) and the Food and Drug Administration (FDA) with regard to the control of direct and indirect additives to and substances in drinking water.

EPA and FDA agree:

(1) That contamination of drinking water from the use and application of direct and indirect additives and other substances poses a potential public health problem;

(2) That the scope of the additives problem in terms of the health significance of these contaminants in drinking water is not fully known;

(3) That the possibility of overlapping jurisdiction between EPA and FDA with respect to control of drinking water additives

has been the subject of Congressional as well as public concern;

(4) That the authority to control the use and application of direct and indirect additives to and substances in drinking water should be vested in a single regulatory agency to avoid duplicative and inconsistent regulation;

(5) That EPA has been mandated by Congress under the Safe Drinking Water Act (SDWA), as amended, to assure that the public is provided with safe drinking water;

(6) That EPA has been mandated by Congress under the Toxic Substances Control Act (TSCA) to protect against unreasonable risks to health and the environment from toxic substances by requiring, *inter alia*, testing and necessary restrictions on the use, manufacture, processing, distribution, and disposal of chemical substances and mixtures;

(7) That EPA has been mandated by Congress under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, to assure, *inter alia*, that when used properly, pesticides will perform their intended function without causing unreasonable adverse effects on the environment; and,

(8) That FDA has been mandated by Congress under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended, to protect the public from, *inter alia*, the adulteration of food by food additives and poisonous and deleterious substances. It is the intent of the parties that:

(1) EPA will have responsibility for direct and indirect additives to and other substances in drinking water under the SDWA, TSCA, and FIFRA; and,

(2) FDA will have responsibility for water, and substances in water, used in food and for food processing and responsibility for bottled drinking water under the FFDCA.

II. Background

(A) *FDA Legal Authority.* "Food" means articles used for food or drink for man or other animals and components of such articles. (FFDCA § 201(f)). Under Section 402, *inter alia*, a food may not contain any added poisonous or deleterious substance that may render it injurious to health, or be prepared, packed or handled under unsanitary conditions. Tolerances may be set, under Section 406, limiting the quantity of any substance which is required for the production of food or cannot be avoided in food. FDA has the authority under Section 409 to issue food additive regulations approving, with or without conditions, or denying the use of a "food additive." That term is defined in Section 201(s) to include any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, if such substance is not generally recognized as safe.

In the past, FDA has considered drinking water to be a food under Section 201(f). However, both parties have determined that the passage of the SDWA in 1974 implicitly repealed FDA's authority under the FFDCA over water used for drinking water purposes. Under the express provisions of Section 410

of the FFDCA, FDA retains authority over bottled drinking water. Furthermore, all water used in food remains a food and subject to the provisions of the FFDCA. Water used for food processing is subject to applicable provisions of FFDCA. Moreover, all substances in water used in food are added substances subject to the provisions of the FFDCA, but no substances added to a public drinking water system before the water enters a food processing establishment will be considered a food additive.

(B) *EPA Legal Authority.* The SDWA grants EPA the authority to control contaminants in drinking water which may have any adverse effect on the public health, through the establishment of maximum contaminant levels (MCLs) or treatment techniques, under Section 1412, which are applicable to owners and operators of public water systems. The expressed intent of the Act was to give EPA exclusive control over the safety of public water supplies. Public water systems may also be required by regulation to conduct monitoring for unregulated contaminants under Section 1445 and to issue public notification of such levels under Section 1414(c).

EPA's direct authority to control additives to drinking water apart from the existence of maximum contaminant levels or treatment techniques is limited to its emergency powers under Section 1431. However, Section 1442(b) of the act authorizes EPA to "collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water together with appropriate recommendations therewith."

TSCA gives EPA authority to regulate chemical substances, mixtures and under some circumstances, articles containing such substances or mixtures. Section 4 permits EPA to require testing of a chemical substance or mixture based on possible unreasonable risk of injury to health or the environment, or on significant or substantial human or environmental exposure while Section 8 enables EPA to require submission of data showing substantial risk of injury to health or the environment, existing health and safety studies, and other data. For new chemical substances, and significant new uses of existing chemical substances, Section 5 requires manufacturers to provide EPA with premanufacturing notice. Under Section 6 the manufacture, processing, distribution, use, and disposal of a chemical substance or mixture determined to be harmful may be restricted or banned. Although Section 3(2)(B) of TSCA excludes from the definition of "chemical substance" food and food additives as defined under FFDCA, the implicit repeal by the SDWA of FDA's authority over drinking water enables EPA to regulate direct and indirect additives to drinking water as chemical substances and mixtures under TSCA.

The FIFRA requires EPA to set restrictions on the use of pesticides to assure that when used properly, they will not cause unreasonable adverse effects on the environment. EPA may require, *inter alia*, labeling which specifies how, when, and where a pesticide may be legally used. In

addition, EPA has, under Section 409 of the FFDCA, required FIFRA registrants at times to obtain a food additive tolerance before using a pesticide in or around a drinking water source. Such tolerances establish further restrictions on the use of a pesticide which are enforceable against the water supplier as well as the registrant of the pesticide.

III. Terms of Agreement

(A) EPA's responsibilities are as follows:

(1) To establish appropriate regulations, and to take appropriate measures, under the SDWA and/or TSCA, and FIFRA, to control direct additives to drinking water (which encompass any substances purposely added to the water), and indirect additives (which encompass any substances which might leach from paints, coatings or other materials as an incidental result of drinking water contact), and other substances.

(2) To establish appropriate regulations under the SDWA to limit the concentrations of pesticides in drinking water; the limitations on concentrations and types of pesticides in water are presently set by EPA through tolerances under Section 409 of the FFDCA.

(3) To continue to provide technical assistance in the form of informal advisory opinions on drinking water additives under Section 1442(b) of the SDWA.

(4) To conduct and require research and monitoring and the submission of data relative to the problem of direct and indirect additives in drinking water in order to accumulate data concerning the health risks posed by the presence of these contaminants in drinking water.

(B) FDA's responsibilities are as follows:

(1) To take appropriate regulatory action under the authority of the FFDCA to control bottled drinking water and water, and substances in water, used in food and for food processing.

(2) To provide assistance to EPA to facilitate the transition of responsibilities, including:

(a) To review existing FDA approvals in order to identify their applicability to additives in drinking water.

(b) To provide a mutually agreed upon level of assistance in conducting literature searches related to toxicological decision making.

(c) To provide a senior toxicologist to help EPA devise new procedures and protocols to be used in formulating advice on direct and indirect additives to drinking water.

IV. Duration of Agreement

This Memorandum of Understanding shall continue in effect unless modified by mutual consent of both parties or terminated by either party upon thirty (30) days advance written notice to the other.

This Memorandum of Understanding will become effective on the date of the last signature.

Dated: June 13, 1979.

Douglas M. Costle,
Administrator, Environmental Protection Agency.

Dated: June 22, 1979.

Donald Kennedy,
Administrator, Food and Drug Administration.

Implementation Plan

EPA is concerned that direct and indirect additives may be adding harmful trace chemical contaminants into our Nation's drinking water during treatment, storage and distribution. Direct additives include such chemicals as chlorine, lime, alum, and coagulant aides, which are added at the water treatment plant. Although these chemicals themselves may be harmless, they may contain small amounts of harmful chemicals if their quality is not controlled. Indirect additives include those contaminants which enter drinking water through leaching, from pipes, tanks and other equipment, and their associated paints and coatings. This notice is being published in the Federal Register to solicit public comment on EPA's implementation plan to assess and control direct and indirect additives in drinking water.

Legal Authorities

EPA and the Food and Drug Administration (FDA) signed a Memorandum of Understanding which recognizes that regulatory control over direct and indirect additives in drinking water is placed in EPA. The two agencies agreed that the Safe Drinking Water Act's passage in 1974 implicitly repealed FDA's jurisdiction over drinking water as a 'food' under the Federal Food, Drug and Cosmetic Act (FFDCA). Under the agreement, EPA now retains exclusive jurisdiction over drinking water served by public water supplies, including any additives in such water. FDA retains jurisdiction over bottled drinking water under Section 410 of the FFDCA and over water (and substances in water) used in food or food processing once it enters the food processing establishment.

In implementing its new responsibilities, EPA may utilize a variety of statutory authorities, as appropriate. The authorities are identified in Appendix A.

Under the Safe Drinking Water Act, EPA has authority to set and enforce maximum contaminant levels and treatment techniques in drinking water for ubiquitous contaminants, to conduct research, to offer technical assistance to States and to protect against imminent

hazards should such situations arise. Under the Toxic Substances Control Act, EPA has authority to review all new chemicals proposed for use related to drinking water, to mandate toxicological testing of existing and new chemicals where there is evidence that such materials may pose an unreasonable risk to health and the environment as well as authority to limit some or all uses of harmful chemicals. Pesticide use is regulated by EPA under the Federal Insecticide, Fungicide and Rodenticide Act. Thus, EPA believes it has adequate authority to deal with additives to drinking water where they may pose a problem.

Past Actions

For more than ten years, the Public Health Service and other organizations which have become part of EPA have provided advisory opinions on the toxicological safety of a variety of additives to drinking water. These historical informal opinions reflect a variety of information provided by manufacturers and reflect changing toxicological concerns over the years. As such, they will require detailed review over the next few years.

General Approach

EPA intends to begin its responsibility over additives to drinking water with a series of analytical studies to determine the composition and significance of the health risks posed by contaminants related to direct and indirect additives to drinking water. A first step in this process will be monitoring studies of the contaminants actually getting into drinking water from generic categories of additives like bulk chemicals, paints and coatings, pipes and equipment.

In the initial six to twelve months, EPA will develop interim administrative procedures, testing protocols, and decision criteria for future toxicological advisories to the States. These will be distributed for public comment once they are developed. All existing opinions will remain in effect until a general review of past opinions can be undertaken using the new procedures. During this development phase, no new opinions will be rendered unless a proposed product can be shown to be virtually identical to a product for which an opinion has already been rendered, on the basis of chemical formulation and production process. New products or new uses of existing products which are proposed for use in drinking water will be subject to the pre-manufacture notice procedures of TSCA.

A more detailed outline of the steps to be taken by EPA follows.

1. *Problem Definition.*—EPA will contract for *in situ* monitoring to determine use patterns and the contribution of trace contaminants to drinking water from:

- bulk chemicals.
- generic classes of paints and coatings.
- pipes and equipment.
- coagulant aides.

EPA has already contracted with the National Academy of Sciences to develop a CODEX system of quality control standards for chemicals (direct additives) used in the treatment of drinking water. This effort will take about three years to complete. When finished, the CODEX system, modeled on the existing FDA-inspired CODEX system for chemicals used in processing food, will be largely self-enforcing.

For the indirect additives listed in items b and c above, considerable effort will be expended to identify the trace contaminants involved before the related health risks can be fully evaluated and appropriate recommendations for future use can be assessed.

2. *Review of Past Advisories.*—The same data base derived from *in situ* monitoring will serve as a basis for a structured reassessment of past toxicological advisories which will be conducted by generic classes of use e.g., paints, coagulant aides, etc. Past opinions will be reviewed to insure conformance with and satisfaction of new test protocols and decision criteria that will be developed.

3. *Future Toxicological Advisories.*—Once initial procedures, test protocols and decision criteria are developed, EPA will resume offering toxicological opinions to the States.

General Policy

In assessing additives to drinking water, EPA will be guided by a policy of reducing public health risks to the degree it is feasible to do so. In such determinations, EPA will evaluate the risks and benefits associated with the materials of concern and their substitutes. Economic impacts of agency actions will also be analyzed.

Notwithstanding these procedures, EPA would use its authorities to protect against any direct or indirect additive to drinking water when data and information indicate that the use of any additive may pose an undue risk to public health.

Implementation

To fulfill this program, resources from the Office of Drinking Water, the Office of Research and Development, and the

Office of Toxic Substances will be used. In addition, EPA looks forward to the cooperation of FDA and other Federal regulatory bodies. EPA intends to involve interested industry groups, independent testing groups, State regulatory bodies, interested members of the public, and industry standards groups, in a continued effort to ensure the safety of the Nation's drinking water.

Finally, EPA may recommend specialized legislative authority to regulate additives to drinking water should a situation arise for which legal authorities prove inadequate.

Lead responsibility for this new Federal initiative will be in EPA's Office of Drinking Water. Public comments on any or all aspects of the proposed program are requested, and should be directed to the address given in the opening sections of this notice.

Dated: July 13, 1979.

Thomas C. Jorling,
Assistant Administrator for Water and Waste Management.

Appendix A

Safe Drinking Water Act

Section 1412—establishment of national primary drinking water regulations applicable to public water systems to control contaminants in drinking water which may have any adverse effect on human health. This may include maximum contaminant levels, treatment techniques, monitoring requirements, and quality control and testing procedures.

Section 1431—use of emergency powers where a contaminant which is present in water, or is likely to enter a public water system, may present an imminent and substantial endangerment to the health of persons.

Section 1445—establishment of monitoring and reporting requirements applicable to public water systems.

Section 1450—authority to prescribe such regulations as are necessary or appropriate to carry out the Administrator's functions under the Act.

Toxic Substances Control Act

Section 4—testing of chemical substances and mixtures.

Section 5—pre-manufacture notice required for new chemicals or significant new uses.

Section 6—regulation of hazardous chemical substances and mixtures which pose an unreasonable risk of injury to health or the environment, including restrictions on manufacture, processing, distribution, and use.

Section 7—imminent hazards authority including seizure and other relief through civil court action.

Section 8—reporting and retention of information as required by the Administrator, including health and safety studies and notice to the Administrator of substantial risks.

Section 10—research and development. Development of systems for storing, retrieving and disseminating data.

Section 11—inspections and subpoenas and other enforcement and general administration provisions therein.

Federal Insecticide, Fungicide and Rodenticide Act

Section 3—registration of pesticides, including imposition of restrictions and labeling requirements.

Section 6—suspension and cancellation procedures.

[FR Doc. 79-22222 Filed 7-18-79; 8:45 am]

BILLING CODE 6560-01-M

BILLING CODE 4110-03-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. A-1a]

FM Broadcasting Applications Accepted for Filing and Notification of Cut-off Date; Erratum

Released: July 12, 1979.

The FM Application listed below was inadvertently included on the acceptance/cut-off notice, Report No. A-1, BC Mimeo No. 18676, released on June 25, 1979.

BPH-790106AE (New): Cresson, Pennsylvania, Sherlock-Hart Broadcasting, Inc.

Req.: 94.3 MHz, Channel #232A
ERP: 0.600 kW, HAAT: 600 feet.

Accordingly, the application is removed from the acceptance/cutoff list and the August 8, 1979, cutoff date is deleted.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-22432 Filed 7-19-79; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL LABOR RELATIONS AUTHORITY

Official Time of Employees Involved in Negotiating Collective Bargaining Agreements

AGENCY: Federal Labor Relations Authority.

ACTION: Notice Relating to Official Time.

SUMMARY: This notice principally relates to the interpretation of section 7131 of the Federal Service Labor-Management Relations Statute (92 Stat. 1214) on the questions of whether employees who are on official time under this section while representing an exclusive representative in the negotiation of a collective bargaining agreement are entitled to payments from agencies for their travel and per diem expenses, and whether the official time provisions of section 7131(a) of the Statute encompass all negotiations between an exclusive representative and an agency, regardless of whether such negotiations pertain to the negotiation or renegotiation of a basic collective bargaining agreement. The notice further invites interested persons to address the impact, if any, of section 7135(a)(1) of the Statute (92 Stat. 1215) on such interpretation, and to submit written comments concerning these matters.

DATE: Written comments must be submitted by the close of business on August 24, 1979, to be considered.

ADDRESS: Send written comments to the Federal Labor Relations Authority, 1900 E Street, NW., Washington, D.C. 20424.

FOR FURTHER INFORMATION CONTACT: Harold D. Kessler, Deputy Executive Director, 1900 E Street, NW., Washington, D.C. 20424, (202) 632-3920.

SUPPLEMENTARY INFORMATION: The Federal Labor Relations Authority was established by Reorganization Plan No. 2 of 1978, effective January 1, 1979 (43 FR 36037). Since January 11, 1979, the Authority has conducted its operations under the Federal Service Labor-Management Relations Statute (92 Stat. 1191).

Upon receipt of requests and consideration thereof, the Authority has determined, in accordance with 5 CFR 2410.3(a) (1978) and sections 7105 and 7135(b) of the Statute (92 Stat. 1196, 1215), that an interpretation is warranted concerning section 7131 of the Statute (92 Stat. 1214). Interested persons are invited to express their views in writing on this matter, as more fully explained in the Authority's notice set forth below:

To Heads of Agencies, Presidents of Labor Organizations and Other Interested Persons

The Authority has received a request from the American Federation of Government Employees (AFGE) for a statement of policy and guidance concerning whether employees representing an exclusive representative

in the negotiation of a collective bargaining agreement are entitled to payments from agencies for their travel and per diem expenses under the official time provisions of section 7131 of the Federal Service Labor-Management Relations Statute (92 Stat. 1214). Additionally, the National Federation of Federal Employees (NFFE) has requested a major policy statement as to the application of the official time provisions of section 7131(a) of the Statute (92 Stat. 1214) to all negotiations between an exclusive representative and an agency, regardless of whether such negotiations pertain to the negotiation or renegotiation of a basic collective bargaining agreement. AFGE has raised a similar issue in its request.

The Authority hereby determines, in conformity with 5 CFR 2410.3(a) (1978) and section 7135(b) of the Statute (92 Stat. 1215), as well as section 7105 of the Statute (92 Stat. 1196), that an interpretation of the Statute is warranted on the following:

(1) Whether employees who are on official time under section 7131 of the Statute while representing an exclusive representative in the negotiation of a collective bargaining agreement are entitled to payments from agencies for their travel and per diem expenses.

(2) Whether the official time provisions of section 7131(a) of the Statute encompass all negotiations between an exclusive representative and an agency, regardless of whether such negotiations pertain to the negotiation or renegotiation of a basic collective bargaining agreement.

Before issuing an interpretation on the above, the Authority, pursuant to 5 CFR 2410.6 (1978) and section 7135(b) of the Statute (92 Stat. 1215), solicits your views in writing. You are further invited to address the impact, if any, of section 7135(a)(1) of the Statute (92 Stat. 1215) on the above matters and to submit your views as to whether oral argument should be granted. To receive consideration, such views must be submitted to the Authority by the close of business on August 24, 1979.

Issued, Washington, D.C., July 13, 1979.

Federal Labor Relations Authority.

Ronald W. Haughton,

Chairman.

Henry B. Frazier III,

Member.

[FR Doc. 79-22449 Filed 7-19-79; 8:45 am]

BILLING CODE 6325-01-M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Open Committee Meetings

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, August 9, 1979.

Thursday, August 16, 1979.

Thursday, August 23, 1979.

Thursday, August 30, 1979.

The meetings will convene at 10 a.m., and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Federal Advisory Committee Act (P.L. 92-463) and 5 U.S.C., section 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These

reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street NW., Washington, D.C. 20415 (202-632-9710).

Jerome H. Ross,
Chairman, Federal Prevailing Rate Advisory Committee.

July 17, 1979

[FR Doc. 79-22448 Filed 7-19-79; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a consumer exchange meeting to be chaired by George R. White, Atlanta District Director, Atlanta, GA.

DATE: The meeting will be held 1:30 p.m., Thursday, July 26, 1979.

ADDRESS: The meeting will be held at the Veterans' Administration Medical Center, Tuskegee Area Health Education Center, Building 9, 1st Floor, Tuskegee, AL.

FOR FURTHER INFORMATION CONTACT: Janice Moton, Consumer Affairs Officer, Food and Drug Administration, 880 West Peachtree St. NW., Atlanta, GA 30309, 404-881-7355.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Atlanta District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: July 12, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-22070 Filed 7-19-79; 8:45 am]

BILLING CODE 4110-03-M

[FDA-225-79-4011]

Good Laboratory Practices; Memorandum of Understanding With the Swedish National Board of Health and Welfare

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding with the Swedish National Board of Health and Welfare. The purpose of the understanding is to set forth cooperative working arrangements to develop standards or guidelines of good laboratory practices (GLP's) for nonclinical laboratories and to establish programs of inspection to implement those standards or guidelines.

DATES: The agreement became effective May 25, 1979.

FOR FURTHER INFORMATION CONTACT: Ernest L. Brisson, Office of Regulatory Affairs (HFC-4), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2390.

SUPPLEMENTARY INFORMATION: Pursuant to the notice published in the Federal Register of October 3, 1974 (39 FR 35897) stating that future memorandums of understanding and agreements between FDA and others would be published in the Federal Register (see § 20.108(c) (21 CFR 20.108(c))), the agency is issuing the following memorandum of understanding:

Memorandum of Understanding Between the Swedish National Board of Health and Welfare and the Food and Drug Administration, U.S. Department of Health, Education, and Welfare

In a significant number of cases the bioresearch data submitted to one national authority are based on studies conducted by laboratories located in the country of another national authority. Therefore, the standards observed by all non-clinical laboratories in each country that engage in such research should be those universally recognized in the applicable research fields as good laboratory practices so that there is substantial uniformity between the two countries as to the standards observed by the non-clinical laboratories located therein. Where the bioresearch data submitted to one national authority

originate from a laboratory within the country of the other national authority, the latter should be able to provide the former with the kind of information that the former may need to be assured that the laboratory is operated in accordance with recognized good laboratory practices.

I. Purpose

This Memorandum of Understanding constitutes a statement of intent by the signatory agencies of Sweden and the United States to develop standards or guidelines of good laboratory practices (GLP's) for non-clinical laboratories with respect to drugs and to establish programs of inspection to implement those standards or guidelines. This Memorandum reflects the concern of the parties for assuring the quality and integrity of bioresearch data submitted to the two national authorities with respect to drugs.

II. Items for Further Discussion

The overall goal of the parties to this Memorandum is to reach a position in which they will respectively establish substantially consistent GLP standards or guidelines applicable to non-clinical laboratories within their respective jurisdictions and will carry out mutually acceptable programs of inspections of such laboratories to determine compliance with such standards or guidelines. This Memorandum will serve as a framework for future negotiations concerning future memoranda between the parties to provide for reciprocal recognition of non-clinical laboratory inspection programs and reports.

Such future memoranda shall provide for the following specific matters:

(1) Adequate inspection programs by the national authorities, which would involve inspection approximately every two years of non-clinical laboratories conducting studies intended to be submitted to national authorities. Inspections shall include an assessment of laboratory procedures and operations, and also, where appropriate, audits of data from completed studies submitted to the national authorities.

(2) Procedures by which either party to this agreement can request the other to conduct an inspection or data audit of a non-clinical study.

(3) Procedures for exchange and acceptance of records and reports relating to inspections, data audits or other relevant matters. The parties understand that adequate account must be taken of the laws of each other with respect to confidentiality and Freedom

of Information. (In the case of materials transmitted to the Food and Drug Administration, adequate account must be taken of the U.S. Freedom of Information Act.) The parties recognize the need to protect trade secrets.

(4) Consultation between the parties to resolve differences of views with respect to GLP compliance matters that may be occasioned by the differences in practices between the two countries.

(5) Consultation between the parties on contemplated changes in GLP standards or guidelines.

III. Inspections for Mutual Understanding and Consistency

The parties agree that it is desirable that inspections be conducted for the purpose of promoting mutual understanding of their respective inspection programs and consistency of inspection practices and assessments. The parties intend to conduct such inspections beginning in the near future.

Neither party shall initiate an inspection or data audit of a laboratory located in the other country without having first obtained the consent of the national authority of that country. Joint inspections shall be conducted under the auspices of the host country.

IV. Liaison

The parties respectively appoint the following officials to serve as liaisons for all communications regarding matters relative to this Memorandum of GLP's generally:

For the Swedish National Board of Health and Welfare: Chief Inspector Lars Gunnar Kinnander, Department of Drugs, National Board of Health and Welfare, Box 607, S-751 25 UPPSALA.

For the Food and Drug Administration: Ernest L. Brisson, Director, Bioresearch Monitoring Staff, Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

V. Duration

This Memorandum shall become effective on the date of the last signature and shall continue in effect unless modified by mutual written consent of the two parties. Any party may withdraw from this Memorandum by written notice to the other party.

Dated: April 4, 1979.

Sven Alsen,
Acting Director General, National Board of Health and Welfare.

Dated: May 25, 1979.

Sherwin Gardner,
Deputy Commissioner, Food and Drug Administration.

Effective date. This Memorandum of Understanding became effective May 25, 1979.

Dated: July 12, 1979.

William F. Randolph
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-22071 7-19-79; 8:45 am]

BILLING CODE 4110-03-M

Science Advisory Board; Request for Nominations for a Nonvoting Representative of Consumer Interests

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: This document requests nominations for a nonvoting consumer representative to serve on the Science Advisory Board of the National Center for Toxicological Research. Nominations will be accepted for a vacancy which will occur on March 11, 1980. The Food and Drug Administration (FDA) has a special interest in ensuring that women and minority groups are adequately represented on advisory committees and, therefore, extends particular encouragement to nominations for appropriately qualified female and minority candidates.

DATE: Nominations should be received on or before October 1, 1979, for the vacancy listed in this notice.

ADDRESS: All nominations for consumer representatives must be submitted in writing to the Special Assistant to the Commissioner for Consumer Affairs (HF-7), Office of Consumer Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Namomi Kulakow, Office of Consumer Affairs (HF-70), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5006.

SUPPLEMENTARY INFORMATION: The function of the science Advisory Board is to advise on establishment and implementation of a research program that will assist the Commissioner of Food and Drugs and the Administrator, Environmental Protection Agency, in fulfilling their regulatory responsibilities. The Board meets approximately twice a year in Jefferson, Arkansas.

Any interested person may, on or before October 1, 1979, nominate one or more qualified persons as a nonvoting representative of consumer interests.

Nominations are required to state that the nominee is aware of the nomination, is willing to serve as a member of an advisory committee, and appears to have no conflict of interest. A complete curriculum vitae of each nominee is to be included. The term of office is 3 years.

The curriculum vitae for each nominee will be sent to FDA's voting consumer organizations, together with a ballot that must be filled out and returned within 30 days to the Office of Consumer Affairs (address above). Under § 14.84 (21 CFR 14.84), the selection of the consumer representative will be determined from the ballots submitted.

This notice is issued under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-778, (5 U.S.C. App. I)) and 21 CFR Part 14, relating to advisory committees.

Dated: July 10, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-22067 Filed 7-19-79; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming Consumer Exchange Meeting to be chaired by Adam J. Trujillo, Director, Orlando District Office, Orlando, FL.

DATE: The meeting will be held from 1:15 p.m. to 3:45 p.m., Thursday, August 9, 1979.

ADDRESS: The meeting will be held at the Office on Aging, Pelican Room, 330 5th St. North, St. Petersburg, FL.

FOR FURTHER INFORMATION CONTACT: Lynne C. Trauba, Consumer Affairs Officer, Food and Drug Administration, Department of Health, Education, and Welfare, P.O. Box 118, Orlando, FL 32802, 305-855-0900.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials to identify and set priorities for current and future health concerns, to enhance relationships between local

consumers and FDA's Orlando District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: July 16, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-22428 Filed 7-13-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 75F-0092]

Mitsui Petrochemical Industries, Ltd.;
Withdrawal of Petition for Food Additives

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: This document announces the withdrawal without prejudice of the petition (FAP 3B2860) proposing to amend olefin copolymers to provide for the safe use of 4-methylpentene-1 with 1-alkenes having 2 to 10 carbon atoms and the safe use of tetrakis [methylene(3,5-di-tert-butyl-4-hydroxyhydrocinnamate)] methane as an adjuvant in these copolymers.

FOR FURTHER INFORMATION CONTACT: John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786 (21 U.S.C. 348(b))), the following notice is issued:

In accordance with § 171.7 *Withdrawal of petition without prejudice* of the procedural food additive regulations (21 CFR 171.7), Mitsui Petrochemical Industries, Ltd., 200 Park Ave., New York, NY 10017 has withdrawn its petition (FAP 3B2860), notice of which was published in the Federal Register of June 20, 1975 (40 FR 26052) proposing that § 177.1520 *Olefin polymers* (21 CFR 177.1520) be amended to provide for the safe use of 4-methylpentene-1 with 1-alkenes having 2 to 10 carbon atoms as articles or components of articles intended for use in contact with food and § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to permit the use of tetrakis [methylene(3,5-di-tert-butyl-4-hydroxyhydrocinnamate)] methane, in copolymers of 4-methylpentene-1 with 1-alkenes having 2 to 10 carbon atoms for use in contact with food.

Dated: June 21, 1979.

Sanford A. Miller,
Director, Bureau of Foods.

[FR Doc. 79-22429 Filed 7-19-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 76N-0002]

Diethylstilbestrol (DES) in Edible Tissues of Cattle and Sheep;
Withdrawal of Approval of New Animal Drug Applications; Partial Stay of Effective Dates

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is staying the July 20, 1979 effective date for the withdrawal of approval of new animal drug applications for the use of DES animal drugs in cattle and sheep and for the manufacture, shipment, and use of feed containing DES. Elsewhere in this issue of the Federal Register, FDA is also staying the effective date of the revocation of regulations concerning the use of DES in animals.

EFFECTIVE DATE: July 20, 1979.

FOR FURTHER INFORMATION CONTACT: Constantine Zervos, Scientific Liaison and Intelligence Staff (HFY-31), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4490.

SUPPLEMENTARY INFORMATION: FDA gave notice in the Federal Register of July 6, 1979 (44 FR 39618) that the agency was withdrawing, after an evidentiary hearing, the approval of new animal drug applications (NADA's) 10421, 10964, 11295, 11485, 12553, 15274, 31446, 34916, 44344, 45981, and 45982. These NADA's are for DES implants and liquid and dry feed premixes for use in cattle and sheep.

The notice advised that withdrawal of approval of the NADA's would be effective with respect to the manufacture and shipment of DES animal drugs on July 13, 1979; withdrawal of approval would be effective with respect to the use of DES animal drugs and the manufacture, shipment, and use of feed containing DES on July 20, 1979. This decision would not be effective with respect to edible products of animals treated with DES before, but not after, the effective date for use of DES animal drugs and DES-treated animal feeds.

The notice further advised that petitions for stay of the effective date of the withdrawal of approval of these drugs may be filed pursuant to 21 CFR

12.139; see 21 CFR 10.35. The filing of such petitions before the effective date applicable to use of DES animal drugs and to the manufacture, shipment, and use of feed containing DES (the July 20, 1979 date) would automatically stay that date for 14 days. The filing of petitions for stay would not automatically stay the effective date applicable to the manufacture and shipment of DES animal drugs.

Several petitions for stay of the effective date of the withdrawal of approval of the NADA's for DES have been filed. Accordingly, notice is given that the effective date of July 20, 1979 applicable to use of DES animal drugs and the manufacture, shipment, and use of feed containing DES is stayed until August 3, 1979. An announcement will be made before that date whether any further stay of this effective date has been granted on the basis of the information presented by the petitions for stay.

Elsewhere in this issue of the Federal Register, FDA is also staying the July 20, 1979 effective date for the revocation of regulations concerning the use of DES in animals.

Dated: July 17, 1979
William F. Randolph,
Acting Associate Commissioner Regulatory Affairs.

[FR Doc. 79-22604 filed 7-18-79; 10:55 am]
BILLING CODE 4110-03-M

National Institutes of Health

Report on Bioassay of Butylated Hydroxytoluene (BHT) for Possible Carcinogenicity; Availability

Butylated hydroxytoluene (BHT) (CAS 128-37-0) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of butylated hydroxytoluene (BHT) for possible carcinogenicity was conducted by administering the test chemical in feed to F344 rats and B6C3F1 mice. Applications of the chemical include use as a food additive, preservative, and stabilizer in pesticides, gasolines, lubricants, rubber and lipsticks.

It is concluded that under the conditions of this bioassay, BHT was not carcinogenic for F344 rats or B6C3F1 mice.

Single copies of the report, Bioassay of Butylated Hydroxytoluene (BHT) for Possible Carcinogenicity (T.R. 150), are available from the Office of Cancer

Communications, National Institutes of Health, Bethesda, Maryland 20205.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: July 12, 1979.

Donald S. Fredrickson,
Director, National Institutes of Health.

[FR Doc. 79-22101 Filed 7-19-79; 8:45 am]

BILLING CODE 4110-08-M

Report on Bioassay of Ethyl Tellurac for Possible Carcinogenicity; Availability

Ethyl tellurac (CAS 20941-65-5 and 30145-38-1) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of technical-grade ethyl tellurac for possible carcinogenicity was conducted by administering the preparation in feed to F344 rats and B6C3F1 mice. Applications of the chemical include use as a rubber vulcanization accelerator.

It is concluded that under the conditions of this bioassay, ethyl tellurac was not carcinogenic for F344 rats or B6C3F1 mice of either sex. The incidence of mesotheliomas in dosed male rats and the incidence of adenomas of the lacrimal (harderian) gland of the eye in dosed mice of either sex provided evidence which was suggestive but under the conditions of the bioassay insufficient to establish the carcinogenicity of ethyl tellurac in these animals.

Single copies of the report, Bioassay of Ethyl Tellurac for Possible Carcinogenicity (T.R. 152), are available from the Office of Cancer Communications, National Institutes of Health, Bethesda, Maryland 20205.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: July 12, 1979.

Donald S. Fredrickson,
Director, National Institutes of Health.

[FR Doc. 79-22102 Filed 7-19-79; 8:45 am]

BILLING CODE 4110-08-M

Report on Bioassay of N-Nitrosodiphenylamine for Possible Carcinogenicity; Availability

N-Nitrosodiphenylamine (CAS 86-30-6) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention,

National Cancer Institute. A report is available to the public.

Summary: A bioassay of N-nitrosodiphenylamine for possible carcinogenicity was conducted by administering the test chemical in feed to F344 rats and B6C3F1 mice. Applications of the chemical include use as a vulcanization retarder in curing rubber and synthetic rubber products.

It is concluded that under the conditions of this bioassay, N-Nitrosodiphenylamine was carcinogenic for both sexes of F344 rats, inducing transitional-cell carcinomas of the urinary bladder, but was not carcinogenic for B6C3F1 mice of either sex.

Single copies of the report, Bioassay of N-Nitrosodiphenylamine for Possible Carcinogenicity (T.R. 164), are available from the Office of Cancer Communications, National Institutes of Health, Bethesda, Maryland 20205.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: July 12, 1979.

Donald S. Fredrickson,
Director, National Institutes of Health.

[FR Doc. 79-22103 Filed 7-19-79; 8:45 am]

BILLING CODE 4110-08-M

Report on Bioassay of Tetraethylthiuram Disulfide for Possible Carcinogenicity; Availability

Tetraethylthiuram disulfide (CAS 97-77-8) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of technical-grade tetraethylthiuram disulfide for possible carcinogenicity was conducted by administering the test chemical in feed to F344 rats and B6C3F1 mice. Applications of the chemical include use in the rubber industry as an accelerator and vulcanizer, and use as a drug to treat alcoholism.

It is concluded that under the conditions of this bioassay, tetraethylthiuram disulfide was not carcinogenic for F344 rats or B6C3F1 mice of either sex.

Single copies of the report, Bioassay of Tetraethylthiuram Disulfide for Possible Carcinogenicity (T.R. 166), are available from the Office of Cancer Communications, National Institutes of Health, Bethesda, Maryland 20205.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: July 12, 1979.

Donald S. Fredrickson,
Director, National Institutes of Health.

[FR Doc. 79-22100 Filed 7-17-79; 8:45 am]

BILLING CODE 4110-08-M

Amended Notice of Meeting—Cancellation of President's Cancer Panel

Notice is hereby given of the cancellation of the meeting of the President's Cancer Panel, National Cancer Institute, July 25, 1979, Building 31C, Conference Room 7, National Institutes of Health, Bethesda, Maryland, which was published in the Federal Register on June 19, 1979, (44 FR 35296). For further information, please contact Dr. Richard A. Tjalma, Executive Secretary, Building 31, Room 11A46, National Institutes of Health, Bethesda, Maryland 20014 (301/596-5854).

Dated: July 12, 1979.

Suzanne L. Freneau,
Committee Management Officer, NIH.

[FR Doc. 79-22447 Filed 7-19-79; 8:45 am]

BILLING CODE 4110-08-M

Office of the Secretary

Privacy Act of 1974; Routine Uses and Clarifying Amendments to Notice of System of Records

AGENCY: Social Security Administration, Department of Health, Education, and Welfare.

ACTION: Notification of new and modified routine uses and minor clarifying amendments to the system of records notice State Data Exchange (SDX) System, HEW/SSA, 09-60-0114.

SUMMARY: The Social Security Administration (SSA) proposes to establish three additional new routine uses and to modify three existing routine uses applicable to the SDX under the Privacy Act. SSA also proposes to make clarifying amendments to the retrievability and safeguard sections of the notice to make it accurate and complete. SSA invites public comments on the proposed changes to this system of records.

DATES: The routine uses will become effective as proposed without further notice on August 19, 1979, unless the Department receives comments on or before August 19, 1979, which would result in a contrary determination.

ADDRESS: Address comments to Director, Fair Information Practice Staff, Department of Health, Education, and Welfare, 200 Independence Avenue,

S.W., Washington, D.C. 20201.

Comments received will be available for inspection in Room 526-F Hubert H. Humphrey, at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Toni Lenane, Acting Director, Office of Assistance Programs, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-3800.

SUPPLEMENTARY INFORMATION: The Federal Supplemental Security Income (SSI) program provides a minimum income level for aged, blind, or disabled individuals who lack sufficient income and resources to maintain a standard of living at the established minimum income level. This program, which SSA administers, provides for mandatory and optional State supplementation of the Federal payment.

The SDX system of records enables the States to administer the Medicaid program and assists in the administration of the SSI program. The proposed new and modified routine uses for the SDX contained in items a, b, e, j, k, and l will: (1) Enable the States to better carry out their billing functions under the Medicaid program by providing them with information which they can use to screen out possible third party sources of reimbursement for medical expenses (i.e., screen out those individuals who may be eligible for Medicare); (2) Enable the States to locate potentially eligible individuals and to make eligibility determinations for the extension of social services under the provisions of title XX; (3) Enable the States to locate individuals potentially eligible for food stamps and to make food stamp eligibility determinations; (4) Identify title XVI eligibles under the age 16 to State crippled children's agencies (or other agencies providing services to disabled children) for the consideration of rehabilitation services per Section 1615 of the Social Security Act; and (5) Assist the States in determining initial and continuing eligibility in their income maintenance program and for investigation or prosecution of conduct subject to criminal sanctions under these programs.

SSA is in the process of revising its current data exchange agreements with the respective States. The new agreements will require the States to account for all redisclosures they make of SDX data. The respective States cannot use the new routine uses until they enter into the new data exchange agreement with SSA.

In addition to adding new routine uses and modifying existing routine uses, SSA has also made clarifying revisions to the retrievability and safeguard

sections of the notice which makes it accurate and complete.

The amount of data SSA maintains in the SDX system is the minimum necessary to perform the SDX's functions. SSA makes all disclosures from the SDX in accordance with the Privacy Act and the routine use statements published with the SDX. Therefore, we anticipate no unwarranted or untoward effect on the privacy or other personal or property rights of the individuals involved.

SSA maintains data records in the SDX on magnetic tape, microfilm, and paper listings. SSA maintains these records in a secured enclosure attended by security guards. Anyone entering or leaving this area must have security badges issued to authorized personnel only. SSA and the States also protect records released to the respective States according to agreements made between SSA and the States regarding confidentiality, use, and redisclosure.

The following system of records notice contains the proposed new and modified routine uses and clarifications as indicated above.

Dated: July 14, 1979.

Frederick M. Bohan,
Assistant Secretary for Management and Budget.

09-60-0114

SYSTEM NAME:

State Data Exchange System (Supplemental Security Income) HEW SSA-OPO.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

State Data Exchange files are maintained by all State welfare agencies. (See Appendix D, Federal Register, September 27, 1978, page 44450.) In addition, backup files (magnetic tape) are maintained for a limited period of time (90 days) within the Bureau of Data Processing, 6401 Security Boulevard, Baltimore, Maryland 21235. Printed copies of the State Data Exchange record are located in some district and branch offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The State Data Exchange file contains a record for each individual who has applied for supplemental security income payments and for each essential person associated with a supplemental security income recipient.

CATEGORIES OF RECORDS IN THE SYSTEM:

The State Data Exchange file for each State contains data regarding eligibility, medicaid eligibility, eligibility for other benefits, alcoholism and drug addiction data (disclosure of this information may be restricted by 21 U.S.C. 1175 and 42 U.S.C. 4582), income data, resources, payment amounts and living arrangements for all persons who have applied for supplemental security income payments who reside in that particular State.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 1611, 1612, 1615, 1616, 1631(e), 1633, and 1634 of Title XVI of the Social Security Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. To effect and report the fact of Medicaid eligibility of title XVI recipients in the jurisdiction of those States which have elected Federal Determinations of Medicaid eligibility of title XVI eligibles and to assist the States in administering the Medicaid program.

b. To identify title XVI eligibles in the jurisdiction of those States which have not elected Federal determinations of Medicaid eligibility in order to assist those States in establishing and maintaining Medicaid rolls and in administering the Medicaid program.

c. To enable States which have elected Federal administration of their supplementation programs to monitor changes in applicant/recipient income, special needs, and circumstances.

d. To enable States which have elected to administer their own supplementation programs to identify SSI eligibles in order to determine the amount of their monthly supplemental payments.

e. To enable the States to locate potentially eligible individuals and to make determinations of eligibility for the food stamp program.

f. To enable the States to assist in the effective and efficient administration of the supplemental security income program.

g. To enable those States which have an agreement with the Secretary, to carry out their functions with respect to Interim Assistance Reimbursement per Section 1631(g) of the Social Security Act.

h. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

i. In the event of litigation where one of the parties is (1) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (2) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (3) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party provided such disclosure is compatible with the purpose for which the records were collected.

j. To enable the States to locate potentially eligible individuals and to make eligibility determinations for extension of social services under the provisions of title XX.

k. To identify title XVI eligibles under the age of 16 to State crippled children's agencies (or other agencies providing services to disabled children) for the consideration of rehabilitation services per Section 1615 of the Social Security Act.

l. To assist the States in determining initial and continuing eligibility in their income maintenance programs and for investigation or prosecution of conduct subject to criminal sanctions under these programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Magnetic tape, microfilm, paper listings.

RETRIEVABILITY:

Magnetic tape, microfilm and paper listings are all indexed according to social security number, State welfare identification number, category (aged, blind or disabled), county, or surname in order to supply information to the States in accordance with program administration agreements, and for the Social Security Administration management purposes. The State Data Exchange file consists of eligibility and payment data obtained and generated by the Social Security Administration in the administration of the supplemental security income program. Social security district and branch offices use the printed copy of the State Data Exchange file for reference purposes and answering inquiries.

SAFEGUARDS:

SSA and the States protect the records according to agreements made between SSA and the respective States regarding confidentiality, use, and redisclosure. SSA and State personnel may access these records only on a need-to-know basis.

We have established system security in accordance with National Bureau of Standards guidelines and the Department's ADP System Manual, Part 6, ADP System Security.

RETENTION AND DISPOSAL:

Instructions provided to the States call for duplication by the States of files provided by the Social Security Administration. The period of retention of State Data Exchange files by the States is determined by the respective States.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Bureau of Supplemental Security Income, 6401 Security Boulevard, Baltimore, Maryland 21235.

NOTIFICATION PROCEDURE:

Social Security District Offices and Branch Offices (see Appendix F); or contact State official (see Appendix D). An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.)

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.)

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.)

RECORD SOURCE CATEGORIES:

The information contained on the State Data Exchange files is derived

from data on the supplemental security income master record which is obtained for the most part from applicants for supplemental security income payments. Additionally, the various States provide a limited amount of data.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 79-22522 Filed 7-19-79; 8:45 am]

BILLING CODE 4110-07-M

Privacy Act of 1974; Report of Altered System of Records

AGENCY: Social Security Administration, Department of Health, Education and Welfare.

ACTION: Notification of alteration to the system notice Initial and Continuing Disability Determination File, HEW/SSA, 09-60-0044.

SUMMARY: The Social Security Administration (SSA) proposes to make the following alterations to this system of records: (1) Expand the categories of individuals in the system to include those individuals whose claims the Disability Determination Service offices are processing; (2) Expand the categories of records in the system to cover records in addition to the Forms SSA-831 and SSA-833; and (3) Provide for automated procedures. SSA also proposes to make clarifying amendments to the system name, authority for the maintenance of the system, routine uses, storage, retrievability, and record source categories in order to make the notice more accurate and complete.

DATES: The Department filed an altered system report with the President of the Senate, the Speaker of the House of Representatives, and the Director, Office of Management and Budget on July 14, 1979. The alterations to this system will become effective as proposed 60 days after the altered system filing date.

ADDRESS: Address comments to the Director, Fair Information Practice Staff, Department of Health, Education, and Welfare, 200 Independence Avenue, S.W., Washington, D.C. 20201. The Department will make comments received available for inspection in Room 526F, Hubert H. Humphrey Building, at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Rhoda M. Greenberg, Acting Director, Office of Disability Programs, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-2730.

SUPPLEMENTARY INFORMATION: The Disability Determination Service (DDS) offices maintain claims records while they perform related functions, and retain certain records when they complete this processing. Some of the processing may involve automated procedures. SSA proposes to make the following alterations to this system of records to accommodate the DSS functions:

(1) Expand the categories of individuals covered by the system to include those individuals whose claims the DDS's are processing.
(2) Expand the categories of records in the system to include records in addition to the disability determination Forms SSA-831 and SSA-833; i.e., quality assurance documentation, copies of medical records, and case control data. The DDS's will use the new data for the purposes of detecting and correcting claims processing deficiencies, preparing reports and analyses, responding to inquiries, and preparing future disability determinations.

(3) The DDS's can compile case control data by manual processing. Case control procedures serve to depict internal case location, claims status, and final disposition. In order to facilitate the compilation, storage, and timely use of this data, the DDS's could use computerization as an alternative method. This automated system will also provide for inclusion of additional processes such as medical vendor consultative examination scheduling and QA selection and reporting. Either SSA, the States or commercial vendors will operate the automated system.

SSA also proposes to make minor technical amendments to the system name, authority, storage, retrievability, and record source sections to make the notice accurate and complete, and to delete routine use number 5 which indicates that the DDS makes disclosures from this system to the Railroad Retirement Board. The DDS's do not have any basis for direct contact with the Railroad Retirement Board.

SSA and the DDS's will limit access to both manually maintained and computerized data to DDS personnel. For computerized records, SSA and the DDS's will establish system security in accordance with National Bureaus of Standards guidelines and the Department's ADP Systems Manual, Part 6, ADP Systems Security Policy. Safeguards employed will include limited access terminals, personal identifiers, hardware and software locks, a lock/unlock password system, a terminal transaction matrix and an audit trail.

This system of records has been established in accordance with the principles and requirements of the Privacy Act. The changes made to the system have also been made in accordance with provisions of the Privacy Act. SSA will continue to operate the system as it has done in the past. Therefore, we anticipate no untoward effect on the privacy or other personal or property rights of the individuals involved.

The following system of records notice contains the proposed alterations.

Dated: July 14, 1979.

Frederick M. Bohen,
Assistant Secretary for Management and Budget.

09-60-0044

System name:

Disability Determination Service Processing File.

Security Classification:

None.

System location:

Each Disability Determination Services office. The name and address for each State is shown in Appendix B.

Claimants for Disability Insurance and Black Lung benefits, and claimants for Supplemental Security Income alleging a disability for whom the Disability Determination Services processes claims.

Categories of records in the system:

Name and social security number of wage earner, claimant's name and address, date of birth, diagnosis, beginning and ending dates of disability, basis for determination, work history information, educational level, reexamination date (if applicable), date of application, names and titles of persons making or reviewing the determination, and certain administrative data. Also included could be data relative to the location of the file and the status of the claim, copies of medical reports, and data relating to the evaluation and measurement of the effectiveness of claims policies.

Authority for maintenance of the system:

5 U.S.C. 301, 30 U.S.C. 923(b) Sections 221, 1633, or 1634 of the Social Security Act provides the authority for maintenance of the system.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be to:

1. Disability Determination Services claims personnel after the claims file itself has left the possession of the Disability determination Service, for responding to subsequent inquiries from the claimant, a treating physician, or a component of the Social Security Administration.

2. State vocational Rehabilitation agency or State crippled children's service agency (or another agency providing services to disabled children) for the consideration of rehabilitation services per 42 U.S.C. 422 and 1382d.

3. State audit agencies utilizing this information for verifying proper expenditure of Federal funds by the State in support of the Disability Determination Service (DDS).

4. Veterans Administration of information requested for purposes of determining eligibility for or amount of VA benefits, or verifying other information with respect thereto.

5. Congressional offices from the record of an individual response to an inquiry from the congressional office made at the request of that individual.

6. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

7. In response to legal process of interrogatories relating to the enforcement of an individual's child support or alimony obligations, as required by sections 459 and 461 of the Social Security Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:
Storage:

The Disability Determination Services (DDS) stores records in sectionalized files or on magnetic tapes or disc packs. The method of storage vary from State to State.

Retrievability:

The DDS's index records in this system by either the individual's social security number or alphabetically by the individual's name, depending on the IDS's preference.

The DDS's uses data in this system for the purpose of making determinations of disability and case control purposes.

Safeguards:

Accessible only to Disability Determination Service personnel and subject to the restrictions on disclosures under 5 U.S.C. 552(b)(6), 21 U.S.C. 1175, 42 U.S.C. 1306.

For computerized records, SSA has established system securities in accordance with National Bureau of Standards guidelines and the Department's System Security Manual, Part 6, System Security Policy.

Retention and disposal:

May vary from State to State according to the preference, but generally each State destroys its files over a period varying from 6 months to 36 months unless held in an inactive storage under security measures for a longer period.

System manager(s) and address:

Assistant Regional Commissioner, Disability Insurance, at the address shown in Appendix B, Federal Register, September 20, 1976, page 41049.

Notification procedure:

Disability Determination Services Administrator, Disability Determination Services, c/o State in which the individual resides and/or information is likely to be maintained. See Appendix B, Federal Register, September 20, 1976, page 41049. Requester should furnish identifying information: name and address. Although it is not mandatory that an individual furnish his social security number (SSN), it is helpful if he or she does. The SSN will expedite identification and location of the records. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) Federal Register, October 8, 1975, page 47411.)

Record access procedures:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) Federal Register, October 8, 1975, page 47410.)

Contesting record procedures:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) Federal Register, October 8, 1975, page 47411.)

Record source categories:

The information to support factors of entitlement and/or continuing eligibility originates from claimants or those acting on their behalf, physicians, hospitals, and other sources. Also, information is received from control data that monitors the location and status of the claim.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 79-22523 Filed 7-19-79; 8:45 am]
BILLING CODE 4110-07-M

Social Security Administration

Advisory Council on Social Security; Public Meetings

AGENCY: Advisory Council on Social Security, HEW.

ACTION: Notice is hereby given, pursuant to Public Law 92-463, that the Advisory Council on Social Security, established pursuant to section 706 of the Social Security Act, as amended, will meet on Friday, August 10, 1979, from 8:00 a.m. to 5:00 p.m. and Saturday, August 11, 1979, from 8:00 a.m. to 5:00 p.m. at the Marriott Twin Bridges Hotel, U.S. 1 and I-395, Washington, D.C. 20024. The meetings will be devoted to the topics of social security benefits and financing.

These meetings are open to the public. Individuals and groups who wish to have their interest in the Social Security program taken into account by the Council may submit written comments, views, or suggestions to Mr. Lawrence H. Thompson.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence H. Thompson, Executive Director, Advisory Council on Social Security, P.O. Box 17054, Baltimore, Maryland 21235.

Telephone inquiries should be directed to Mr. Edward F. Moore, (301) 597-1712.

(Catalog of Federal Domestic Assistance Program Numbers 13.800-13.807 Social Security Program)

Dated: July 13, 1979.

Lawrence H. Thompson,

Executive Director, Advisory Council on Social Security.

[FR Doc. 79-22524 Filed 7-19-79; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

[Docket No. N-79-938] -

Community Development Block Grant Program

AGENCY: Department of Housing and Urban Development; Assistant Secretary for Community Planning and Development.

ACTION: Notice of application submission date—Financial Settlement Applications.

FOR FURTHER INFORMATION CONTACT:

Peter Rowan 202-755-1871. Pursuant to Section 570.484, Chapter V, Title 24 of the Code of Federal Regulations which requires the establishment of submission deadlines for the filing of applications for Categorical Program Settlement Grants, the Secretary is establishing the application date with respect to grants for funding the financial settlement, and to the extent feasible, the completion of projects assisted under the categorical programs terminated by Congress in 1974.

Accordingly, applications are invited from units of general local Governments in which projects assisted under the Urban Renewal Program are located which cannot be financially settled or completed, without supplemental financial assistance. To be considered for funding at this time, complete applications must be received by the appropriate HUD Area Office by close of business, August 31, 1979. For full program information see Subpart H, Part 570, Chapter V, Title 24 of the Code of Federal Regulations, which was published June 6, 1978, 43 FR 24856.

Issued at Washington, D.C. July 12, 1979.

Robert C. Embry, Jr.,
Assistant Secretary for Community Planning & Development.

[FR Doc. 79-22441 Filed 7-19-79; 8:45 am]

BILLING CODE 4210-01-M

(Docket No. N-79-937)

Small Cities Discretionary Grants Under the Community Development Block Grant Program; Dates for Submission of Preapplications

AGENCY: Department of Housing and Urban Development.

ACTION: Notice.

SUMMARY: HUD is issuing a Notice of the dates for submission of preapplications to HUD Area Offices for the Small Cities Discretionary Grant Program under the Community Development Block Grant Program for Fiscal Year 1980.

Final Date for Submission

		No earlier than	No later than
Region			
I:			
Massachusetts, Maine, New Hampshire, Rhode Island, Vermont, Connecticut.....	Sept. 17, 1979.	Oct. 1, 1979	
Region	Dec. 24, 1979	Jan. 7, 1979	
II:			
New Jersey.....	Oct. 1, 1979..	Oct. 15, 1979	
New York.....	Sept. 17, 1979.	Oct. 1, 1979.	
Puerto Rico.....	Dec. 17, 1979	Dec. 31, 1979	
Region			
III:			
Delaware, Pennsylvania, Virginia, West Virginia, Maryland.....	Oct. 1, 1979..	Oct. 15, 1979	
Region	Nov. 19, 1979.	Dec. 3, 1979	
Region			
IV:			
Alabama, Kentucky, South Carolina.....	Sept. 17, 1979.	Oct. 1, 1979.	
Florida, Georgia, Mississippi, North Carolina, Tennessee.....	Oct. 1, 1979..	Oct. 15, 1979	
Region	Dec. 24, 1979	Jan. 7, 1979.	
V:			
Minnesota.....	Sept. 17, 1979.	Oct. 1, 1979.	
Illinois, Ohio.....	Oct. 1, 1979..	Oct. 15, 1979	
Indiana, Wisconsin.....	Dec. 24, 1979	Jan. 7, 1979.	
Michigan.....	Dec. 24, 1979	Jan. 7, 1979.	
Region			
VI:			
Arkansas, Louisiana, New Mexico, Oklahoma, Texas, Region	Nov. 5, 1979..	Nov. 19, 1979.	
VII:			
Iowa, Kansas, Missouri, Nebraska.....	Oct. 1, 1979..	Oct. 15, 1979.	
Region			
VIII:			
Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming, Region	Oct. 1, 1979..	Oct. 15, 1979	
IX:			
Arizona, California, Hawaii, Nevada, Region	Nov. 19, 1979.	Dec. 3, 1979	
X:			
Alaska, Washington.....	Oct. 1, 1979..	Oct. 15, 1979.	
Idaho, Oregon.....	Dec. 3, 1979..	Dec. 17, 1979.	

FOR FURTHER INFORMATION CONTACT: Mr. James N. Forsberg, Small Cities Program Division, Office of Community Planning and Development, Department of Housing and Urban Development, Washington, D.C. 20410, 202-755-6322.

SUPPLEMENTAL INFORMATION: Notice is hereby given that in accordance with 24 CFR 570.420(h)(2) the Department of Housing and Urban Development (HUD) has established dates for submission of preapplications for Small Cities Discretionary Grants to be accepted by HUD for Fiscal Year 1980.

For applicants from both metropolitan and non-metropolitan areas, the earliest and latest date for submission are the dates established above for each State. Preapplications for funding under the Single Purpose and Comprehensive Grant provisions of the Small Cities Discretionary Grant program will be accepted only during the designated time period.

Applicants are hereby advised to submit their preapplications for Single Purpose Grants pursuant to 24 CFR 570.429, or their preapplication for Comprehensive Grants pursuant to 24 CFR 570.425, to the appropriate HUD Area Office serving the applicant's jurisdiction.

Issued at Washington, D.C., July 12, 1979.

Robert C. Embry, Jr.,
Assistant Secretary for Community Planning and Development.

[FR Doc. 79-22442 Filed 7-19-79; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Water Charges and Related Information on the Flathead Irrigation Project, Montana

This notice of operation and maintenance rates and related information is published under the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs in 209 DM8 and redelegated by the Assistant Secretary—Indian Affairs to the Area Directors in 10 BLAM 3, and by authority delegated to the Project Engineer and to the Superintendents by the Area Director in 10 BLAM 7.0, Sections 2.70-2.75. The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and Sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9), and also under 25 CFR 191.1(e).

Pursuant to final rule published on June 14, 1977, in 42 FR 30361, this notice sets forth changes to the operation and maintenance charges and related information applicable to the Flathead

Irrigation Project, St. Ignatius, Montana. These charges were proposed pursuant to the authority contained in the Acts of August 1, 1914, and March 7, 1928, (38 Stat. 583, 25 U.S.C. 385; 45 Stat. 210, 25 U.S.C. 387).

Interested persons were given 30 days in which to submit written comments, views or arguments regarding the proposed rates and related provision. No comments were received during the 30-day comment period.

In compliance with the above, the operation and maintenance charges for the lands under the Flathead Irrigation Project, Montana, for the season of 1979 and 1980 and subsequent years until further notice, are hereby fixed as follows:

For the season of 1979 for lands not included in an Irrigation District but including lands held in trust for Indians, the rate per acre for the various divisions are as follows:

Jocko.....	\$5.84/acre
Mission Valley.....	\$6.20/acre
Camass.....	\$6.96/acre

For the season of 1980 for lands included in an Irrigation District, the Project charge per acre is as follows:

Jocko Valley Irrigation District.....	\$7.66/acre
Mission Irrigation District.....	\$6.17/acre
Flathead Irrigation District.....	\$6.92/acre

George L. Moon,
Project Engineer, Flathead Irrigation Project.

[FR Doc. 79-22526 Filed 7-19-79; 8:45 am]
BILLING CODE 4310-02-M

Bureau of Land Management

Colorado; Call for Expressions of Leasing Interest in Coal

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Call for Expressions of Leasing Interest for Coal.

DATE: Responses to this notice may be received until August 24, 1979.

ADDRESS: Responses should be sent to: Dale Andrus, State Director, BLM, Room 700, 1600 Broadway, Denver, CO 80202.

FOR FURTHER INFORMATION CONTACT: Cecil Roberts, BLM, Room 700, 1600 Broadway, Denver, CO 80202, Telephone: (303) 837-4325.

In 44 FR 33976, published June 13, 1979, an advance notice of intent to call for expressions of interest in coal leasing was published.

This notice is to advise you that the official call for expressions of leasing interest for the area acceptable for

further consideration for coal leasing on the William Fork Management Framework Plan, Craig District, is now in effect. Expressions of interest under this call may be submitted until August 24, 1979, to the Colorado State Director, Bureau of Land Management, Room 700, 1600 Broadway, Denver, CO 80202.

This call for expressions of interest is the first step in activity planning under the new coal management program. It is being made before any tract boundaries are delineated within an area found suitable for further consideration for coal leasing through the application of the final unsuitability criteria. The results of this call will provide significant information that will be employed in delineating tracts that might be put up for lease sale after they have been through the tract ranking, selection, scheduling and analysis processes that are integral parts of the new coal management program. Accordingly, a major purpose of this call for expression of interest is to integrate potential lessees' data and needs with the process of delineating the logical mining units which will be considered prior to a lease sale. BLM hopes to gain sufficient information from this call, as well as from its own site-specific analyses, to identify areas in which data are of sufficient detail to ultimately make a fair market value determination on specific tracts.

An expression of interest is not an application. The size and/or location of a proposed tract as indicated by an expression of interest may be modified or changed if there is sufficient reason to do so and the coal included in the modified or relocated tract is of approximately equal quality and tonnage to that shown in the expression of interest. The proposed tracts delineated as a result of this call will proceed into the ranking and selection process in accordance with the provisions of the 43 CFR 3400 final rulemaking, coal management.

Examples of the types of concerns that may make such action necessary include: the competitive nature of the tract, access needs, mining efficiency, future coal development potential, resource conservation and State preferences and priorities.

These expressions of leasing interest should include the following data where applicable:

1. Quantity needs (total tonnage, average tons per year, and year during which production should commence) for both coal producers and users.
2. Quality needs (types and grades of coal) for both producers and users.
3. Location.

- a. Tracts desired by mining companies (narrative description with delineation of a surface minerals management quad map, available for purchase from the BLM State Office).
- b. Public and private industry user facilities in region.
- c. If no location is indicated, but other specified data are provided, the expression will still be considered. In such cases the joint BLM/GS delineation team will locate the tract.
4. Type of Mine.
 - a. Surface or underground.
 - b. Technique of mining (i.e. longwall, room and pillar, dragline, etc.).
5. Proposed Uses of Coal.
 - a. By mining companies.
 - b. By public and private industries.
6. Where coal is consumed (include extra-regional markets).
7. Transportation Needs (i.e., railroads, pipelines, etc.).
 - a. Existing facilities.
 - b. Proposed facilities and development timing.
8. Available Sources of Coal.
 - a. Presently operative.
 - b. Contingency or other sources.
9. Information Relating to Mineral Ownership.
 - a. Information on surface owner consents previously granted; e.g., a description of the location of the property, whether consents are transferable, etc.
 - b. Commitments from fee owners of associated non-Federal coal.

Data which are considered proprietary should not be submitted as part of this expression of leasing interest.

An individual, business entity, governmental entity or public body may participate and submit expressions of leasing interest under this call.

Maps and other detailed information on the above-mentioned area found acceptable for further consideration for coal leasing may be obtained from the BLM office also listed above.

Dale R. Andrus,
State Director, Colorado.

[FR Doc. 79-22426 Filed 7-19-79; 8:45 am]
BILLING CODE 4310-04-M

[I-14782]

Realty Action—Sale; Public Lands in Lemhi County, Idaho

July 11, 1979.

The following described lands have been identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713, at no less than the appraised fair market value shown:

Legal Description, Acreage, and Value
Boise Meridian, Idaho, T. 20 N., R. 21 E., Sec. 11, lot 8, 1.96 acres, \$5,200.

The sale will be held on approximately the 19th day of September, 1979. The lands are being offered as a direct non-competitive sale to Mr. Kenneth Holt, the owner of the adjoining tract and improvements on the sale tract, because of his prior occupancy and development of the tract as his homestead under the good faith but mistaken belief that he had purchased good title to the lands from his predecessors in interest. Disposal by direct sale to Mr. Holt, rather than by public auction, will legalize his occupancy of the lands, preserve his only homestead and protect his equity investment in the improvements on the lands.

The sale will resolve a complicated trespass situation. The lands have not been used and are not required for any federal purpose. They are not suitable for management by another federal department or agency. Disposal would best serve the public interest. The sale will be consistent with the Bureau of Land Management's planning for the lands. Disposal would have no present impact on local planning and zoning because local ordinances have not yet been enacted or implemented.

The terms and conditions applicable to the sale are:

1. The patent will include a reservation of a right-of-way for ditches and canals constructed by the authority of the United States in accordance with 43 U.S.C. 945.
2. All mineral rights will be reserved to the United States.
3. The sale of these lands will be subject to all valid existing rights.

Detailed information concerning the sale, including the planning documents, land report and environmental assessment report, is available for review at the Salmon District Office, P.O. Box 430, Salmon, Idaho 83467.

Until September 4, 1979, interested parties may submit comments to the Secretary of the Interior (LLM-320), Washington, D.C. 20240. Any adverse comments will be evaluated by the Secretary of the Interior who may vacate or modify this realty action and issue a final determination. In the absence of any action by the Secretary of the Interior, this realty action will become the final determination of the Department of the Interior and the required payment, plus the cost of publishing the notice, shall be requested of Mr. Kenneth Holt. Such payment, in

full, shall be in accordance with 43 CFR 1822.1-2.

William L. Mathews,
State Director.

[FR Doc. 79-22412 Filed 7-19-79; 8:45 am]
BILLING CODE 4310-04-M

[OR 13969]

Oregon; Order Providing for Opening of Public Land

July 13, 1979.

1. By Power Site Cancellation No. 337 of July 28, 1976, the U.S. Geological Survey cancelled Power Site Classification No. 421 of November 30, 1951, as to the following described land:

Willamette Meridian, Oregon

T. 15 S., R. 46 E.
Sec. 21, NE¼SE¼;
Sec. 26, Lots 1 and 2, and NW¼ SW¼;
Sec. 27, NE¼SE¼;
Sec. 35, Lots 1 and 2.

The area described contains 230.55 acres in Malheur County.

2. At 10:00 a.m. on August 27, 1979, the land described in paragraph 1 shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

3. The land described in paragraph 1 has been and remains open to applications and offers under the mineral leasing laws and to location under the United States mining laws.

4. The State of Oregon has not exercised the preference right of applications for highway rights-of-way or material sites afforded it by Section 24 of the Federal Power Act.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Harold A. Berends,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-22413 Filed 7-19-79; 8:45 am]
BILLING CODE 4310-04-M

Proposed Livestock Grazing Management in the Green Mountain Area, Central Wyoming, Rawlins District, Wyoming; Intent To Prepare Environmental Statement

The Bureau of Land Management, Rawlins District Office, will be preparing a grazing environmental statement for the Green Mountain portion of the Lander Resource Area located in central Wyoming. The Bureau's proposed action to be analyzed

in the statement is to implement a program of allocating vegetation to domestic livestock, wildlife, and wild horses. The action will also identify kinds of animals, their numbers, periods of use, and range improvement projects (e.g., fencing, water developments). This allocation program will be accomplished through the Bureau of Land Management's planning system on approximately 1.4 million acres of BLM administered lands.

Alternatives to the proposed action that will be analyzed include continuation of present livestock management and alternatives depicting different levels of vegetation allocations and intensities of management for livestock, wildlife, and wild horses.

A public meeting on the scope of the Green Mountain grazing management program will be held at Lander Valley High School, Lander, Wyoming, August 22, 1979, and will begin at 7:30 p.m. in conjunction with a public meeting on Bureau planning system recommendations for the area. The purpose of the public meeting is four-fold: (1) To present multiple use planning recommendations to the public; (2) to inform the public of the aspects BLM proposes to analyze in the statement (the proposed action and tentative alternatives based on existing data and knowledge of the area); (3) gather resource information from the public; and (4) consider concerns, problems, and/or issues important to the public for possible inclusion into the environmental statement and planning system decisions. Comments received at the public meeting will be used in development of the environmental statement and the resultant planning decisions.

The following individuals may be contacted about the proposed action or to receive information concerning the environmental statement: (1) Dale Brubaker, Lander Area Manager, P.O. Box 589, Lander, Wyoming 82520, phone (307) 332-4220; and (2) Mark Blakeslee, Green Mountain Team Leader, P.O. Box 670, Rawlins, Wyoming 82301, phone (307) 324-7171.

A news release regarding the start of the environmental statement process will be issued by the Rawlins District following publication of this notice.

Written comments on the planning system recommendations and the environmental statement scoping process must be received no later than close of business September 5, 1979.

Dated: July 11, 1979.

Paul D. Leonard,
Acting State Director, Wyoming.
[FR Doc. 79-22414 Filed 7-19-79; 8:45 am]
BILLING CODE 4310-84-M

Wyoming: Call for Expressions of Leasing Interest in Coal

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Call for Expressions of Leasing Interest in Coal.

DATE: Responses to this notice may be received until August 24, 1979.

ADDRESS: Responses should be sent to: Daniel P. Baker, State Director, Wyoming, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, WY 82001, Telephone (307) 778-2220.

FOR FURTHER INFORMATION CONTACT: James L. Edlefsen, Chief, Branch of Energy and Minerals, (307) 778-2220, Ext. 2413.

In 44 FR 33976 published June 13, 1979, an advance notice of intent to call for expressions of interest in coal leasing was published.

This notice is to advise you that the official call for expressions of leasing interest for the area acceptable for further consideration for coal leasing on the Red Rim/China Butte and Hanna Management Framework Plans, Wyoming, is now in effect. Expressions of interest under this call may be submitted until August 24, 1979, to the Wyoming State Director, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001. Telephone (307) 778-2220.

Maps and other detailed information on the above-mentioned areas found acceptable for further consideration for coal leasing may be obtained from the Wyoming State Office at the address given above.

This call for expressions of interest is the first step in activity planning under the new coal management program. It is being made before any tract boundaries are delineated within an area found suitable for further consideration for coal leasing through the application of the final unsuitability criteria. The results of this call will provide significant information that will be employed in delineating tracts that might be put up for lease sale after they have been through the tract ranking, selection, scheduling and analysis processes that are integral parts of the new coal management program. Accordingly, the major purpose of this call for expressions of interest is to integrate potential lessee's data and

needs with the process of delineating the logical mining units which will be considered prior to a lease sale. BLM hopes to gain sufficient information from this call, as well as from its own site-specific analyses, to identify areas in which data are of sufficient detail to ultimately make a fair market value determination on specific tracts.

An expression of interest is not an application. The size and/or location of a proposed tract as indicated by an expression of interest may be modified or changed if there is sufficient reason to do so and the coal included in the modified or relocated tract is of approximately equal quality and tonnage to that shown in the expression of interest. The proposed tracts delineated as a result of this call will proceed into the ranking and selection process in accordance with the provisions of the 43 CFR 3400 Final Rulemaking, Coal Management.

Examples of the types of concerns that may make such action necessary include: The competitive nature of the tract, access needs, mining efficiency, future coal development potential, resource conservation and State preferences and priorities.

These expressions of leasing interest should include the following data where applicable.

1. *Quantity needs (total tonnage, average tons per year, year during which production should commence) for both coal producers and users.*

2. *Quality needs (types and grades of coal) for both producers and users.*

3. *Location.*

a. Tracts desired by mining companies (narrative description with delineation on a surface mineral management quad map, available for purchase from the BLM State Office).

b. Public and private industry user facilities in region.

c. If no location is indicated, but other specified data are provided, the expression will still be considered. In such cases the joint BLM/GS delineation team will locate the tract.

4. *Type of Mine.*

a. Surface or underground.

b. Technique of mining (i.e., longwall, room and pillar, dragline, etc.).

5. *Proposed Uses of Coal.*

a. By mining companies.

b. By public and private industries.

6. *Where Coal is consumed (include extra-regional markets).*

7. *Transportation Needs (i.e., railroads, pipelines, etc.).*

a. Existing facilities.

b. Proposed facilities and development timing.

8. *Available Sources of Coal.*

a. Presently operative.

b. Contingency or other sources.

9. Information Relating to Mineral Ownership.

a. Information on surface owner consents previously granted; e.g., a description of the location of the property, whether consents are transferable, etc.

b. Commitments from fee owners of associated non-Federal coal.

Data which are considered proprietary should not be submitted as part of this expression of leasing interest.

An individual, business entity, governmental entity, or public body may participate and submit expressions of leasing interest under this call.

Daniel P. Baker,

State Director.

[FR Doc. 79-22427 Filed 7-19-79; 8:45 am]

BILLING CODE 4310-84-M

Outer Continental Shelf, Gulf of Mexico; Oil and Gas Lease Sale No. 58

Correction

In FR Doc. 79-19952 appearing at page 37994 in the issue for Friday, June 29, 1979, make the following changes:

1. On page 37994, third column, seventeenth line from the top, the word "or" should read "of".

2. On page 38000, third column, fourteenth line of the third paragraph, the first "or" should read "of".

3. On page 38002, second and third columns, the following two forms are being republished as set forth below:

BILLING CODE 1505-01-M

17. **Suggested Bid Form.** It is suggested that bidders submit their bids to the Manager, New Orleans Outer Continental Shelf Office, in the following form:

Oil and Gas Bid

The following bid is submitted for an oil and gas lease on the tract of the Outer Continental Shelf specified below:

Tract No.	Total Amount Bid	Amount per Acre	Amount of Cash Bonus Submitted with Bid

Proportionate Interest of
Company(s) Submitting Bid

Qualification No. _____ Company _____

Percent Interest _____ Address _____

Signature
(Please type signer's
name under signature)

18. **Required Joint Bidders Statement.** In the case of joint bids, each joint bidder is required to execute a joint bidder's Statement before a notary public and submit it with his bid. A suggested form for this statement is shown below.

Joint Bidder's Statement

I hereby certify that _____ (entity submitting bid)
is eligible under 43 CFR 3302 to bid jointly with the other parties
submitting this bid.

Signature
(Please type signer's
name under signature)

Sworn to and subscribed before me
this _____ day of _____ 19 _____

NOTARY PUBLIC

State of _____

County of _____

BILLING CODE 1505-01-C

Fish and Wildlife Service**Availability of Environmental Assessments for Fish and Wildlife Restoration Projects**

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of Availability for Inspection and Public Comment.

SUMMARY: This notice provides a listing of Environmental Assessments available for public review. The Assessments and Findings of No Significant Impact were prepared on certain projects conducted by State fish and wildlife agencies under the Federal Aid in Wildlife Restoration program. The public is invited to comment, and information is provided on the locations at which the documents may be reviewed.

DATE: Comments must be received at the locations indicated by August 20, 1979.

ADDRESSES: The assessments are available for inspection at the following locations:

- FWS Federal Aid Office, 1000 N. Glebe Road, Arlington, Virginia 22201
- Region 1, FWS, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232
- Region 2, FWS, 500 Gold Avenue, S.W., P.O. Box 1306, Albuquerque, New Mexico 87103
- Region 3, FWS, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111
- Region 4, FWS, P.O. Box 95067, Atlanta, Georgia 30347
- Region 5, FWS, 1 Gateway Center, Suite 700, Newton Corners, Massachusetts 02158
- Region 6, FWS, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225
- Alaska Area Office, FWS, 1011 E. Tudor Road, Anchorage, Alaska 99507
- Central headquarters office of the State fish and wildlife agency

Interested persons are invited to submit comments to the appropriate Regional Director at the above regional addresses within 30 days. Copies of the assessment may be obtained at these locations upon payment of reasonable reproduction costs pursuant to 43 CFR, Part 2, Appendix A. Copies of any Finding of No Significant Impact will be provided free of cost.

FOR FURTHER INFORMATION CONTACT: Mr. Charles K. Phenicie, Chief, Division of Federal Aid, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703-235-1526.

SUPPLEMENTARY INFORMATION: On June 26, 1979, the U.S. District Court for the District of Columbia issued an order dismissing Civil Action No. 78-430 involving the Federal Aid in Wildlife Restoration program. The dismissal effected an agreement by plaintiffs and defendants which included a provision that the Fish and Wildlife Service would publish in the Federal Register a notice of availability of certain Environmental Assessments for inspection and public comment. Pursuant to the stipulated agreement, this notice lists Environmental Assessments prepared to date and will be supplemented as other assessments are prepared.

The principal author of this notice is Dr. Robert J. Sousa, U.S. Fish and Wildlife Service, Division of Federal Aid, Washington, D.C. 20240, telephone 703-235-1526.

Notice is hereby given of availability for inspection and comment of environmental assessments for the following Federal aid projects funded in part by the U.S. Fish and Wildlife Service (FWS) under the Pittman-Robertson Federal Aid in Wildlife Restoration Act, 16 U.S.C. 669 et seq: (Activities listed are not exclusive.)

Region 1**California W-13-D**

A total of 8,400 acres of marsh and farmland used for feeding and nesting by migratory and resident wildlife, and as a holding area to relieve crop depredation by waterfowl, is involved in this project on the Gray Lodge Wildlife Area in Butte and Sutter Counties.

California W-26-D

Statewide wildlife habitat development includes maintenance, development, and/or management activities on scattered parcels of State and Federal lands. Most activities on State lands involve maintenance or management of wildlife habitat developed earlier, and establishing wildlife shelter and food plots.

California W-36-D

On the Imperial Wildlife Area, 7,627 acres adjacent to the Salton Sea are involved in this project. Activities include farming, water manipulation, maintenance of buildings, levees, ditches, roads and parking lots, preservation and provision of habitat for wintering waterfowl, and to alleviate crop damage on surrounding land.

California W-38-D

The Honey Lake Wildlife Area (7,300 acres) is managed to preserve and provide habitat for wintering waterfowl and to alleviate agricultural depredation by the birds. Activities planned for this project include maintaining buildings, ditches, fences, bridges, a campground, farmlands and marshlands.

California W-40-D

This project involves 8,208 acres of marsh habitat on the Los Banos Complex, Merced County. Activities include maintenance of buildings, levees, ditches, bridges, roads, fences, parking lots, farmland and marshes, to provide food and cover for wildlife, and to alleviate waterfowl depredation.

California W-43-D

This project deals with 10,487 acres of delta marsh habitat on the Grizzly Island Wildlife Area in Solano County. Activities include maintenance of buildings, water control structures, levees, ditches, roads, farmland and marshland which provide wintering grounds for waterfowl, alleviation of crop depredation, and provision of recreational use.

California W-50-D

At the Mendota Wildlife Area in Fresno County, a total of 9,400 acres of natural marsh and contiguous uplands is involved in this project. Activities include maintenance of buildings, levees, ditches, roads, fences, parking areas, nature trails, farmland and marshland which serve as habitat for winter waterfowl, provide recreational and educational use and alleviate crop depredation.

California W-61-D

This development project involves 16,713 acres of river bottom and upland foothill terrain in Butte, Nevada, and Yuba Counties. Maintenance of buildings, roads, fences, parking lots, firebreaks, nest boxes and ditches are some activities involved in the project to preserve habitat for upland wildlife and to provide for recreational and educational use of the resources.

Hawaii W-16-D

This statewide development project encompasses 958,442 acres of State-owned lands. Activities include maintenance of buildings, roads, watering facilities and big game enclosures, planting trees and shrubs, and removing noxious vegetation for the purposes of maintaining and developing wildlife populations and protecting endangered wildlife.

Hawaii W-19-C

The purpose of this statewide coordination project is to provide supervision and direction to the Federal Aid in Wildlife Restoration Program and to insure that the project complies with Federal requirements.

Idaho W-161-D

This multi-county project encompasses six wildlife management areas (25,173 acres). For the purposes of preserving and improving habitat for waterfowl, small and big game and fish, activities proposed include maintenance of buildings, dams, dikes, levees, roads and fences and transplanting Canada geese.

Idaho W-163-D

A total of 9,725 acres is involved in this development project encompassing nine counties. Activities for the preservation and improvement of wildlife habitat include maintaining dams, dikes, levees, irrigation

canals, ponds and fences, and weed and gopher control.

Idaho W-164-D

The purpose of this multi-county project, involving approximately 32,800 acres, is to preserve and improve wildlife habitat. Work includes maintenance of dams, dikes, levees, canals, pipelines, ditches, roads and fences.

Idaho W-165-D

Maintenance of buildings, roads, fences and nest structures for the improvement of habitat on Montpelier, Portneuf and Sterling Wildlife Areas are some activities within this development project.

Idaho W-166-D

The main purposes for this wildlife land management project covering 13,729 acres are to provide areas conducive to waterfowl breeding, small game hunting and fishing. Activities consist of weed control, farming, and maintenance of buildings, dams, dikes, levees, roads and fences.

Nevada W-48-R

This statewide research project will provide population data and habitat and species plans necessary for setting season and bag limits. Some activities involved are transplanting bighorn sheep, habitat evaluation and research on mountain lion populations.

Nevada W-54-C

This statewide coordination project's purpose is to plan, supervise and administer the P-R program, assuring State eligibility and efficient use of Federal Aid funds.

Nevada W-55-D

The Nevada Wildlife Management Area is 99,403 acres of marsh, open water habitat and contiguous agricultural land used for the protection and preservation of waterfowl and other wildlife. Activities included in this statewide development project are maintaining buildings, dikes, ditches, roads, public use facilities, nesting structures, crops and watering facilities.

Oregon W-9-D

On the Summer Lake Wildlife Area, habitat is being preserved and improved for waterfowl and other wildlife and for public use of the resources. Project activities include maintaining dikes, ditches, bridges, crops and public use facilities.

Oregon W-22-D

The purpose of this project on the Sauvies Island Wildlife Area is to provide and improve habitat for waterfowl and to foster public use of the wildlife resources. Activities include maintenance of buildings, dikes, water control structures, bridges, roads, wildlife food crops and nesting structures.

Oregon W-38-D

Developing and managing the small land parcels acquired for wildlife throughout the State constitute the purpose for this statewide habitat improvement project. Planned activities include maintenance of fencing and farming, providing goose nesting structures, watering areas, transplanting elk,

and providing technical assistance to landholders.

Oregon W-46-D

The Purpose of this project at the Kenneth Denman Wildlife Area is to provide and enhance habitat for all wildlife, especially upland species, and to promote public use and enjoyment of this area. Activities include maintenance of buildings, dikes, ditches, bridges, roads, trails and nesting structures and planting some food crops.

Oregon W-47-D

The Klamath Wildlife Area (3,413 acres) is managed to maintain its natural marshland for the benefit of waterfowl and other wildlife and to provide for public use of the area. Project activities include maintenance of buildings, levees, fences, parking lots and food crops.

Oregon W-55-D

This development project at the Ladd Marsh Wildlife Area is being administered to provide and enhance waterfowl habitat for nesting and wintering, and for other wildlife and public use. Maintenance of bridges, fences, food crops and meadows are some of the project activities.

Washington W-19-D

The 84,386-acre Oak Creek Wildlife Recreation Area is managed to protect big game and forest and rangeland wildlife habitat as well as for the improvement of wildlife and public use. Activities include planting wildlife food crops, winterfeeding deer and elk, weed control and managed grazing to maintain beneficial plant species.

Washington W-49-D

Klickitat Wildlife Recreation Area, 8,000 acres of range and forestland, is managed for public use and a deer wintering area. Project activities include maintenance of food and cover crops, springs, watering devices and fences, thinning a pine forest and controlling grazing for browse improvement.

Washington W-67-D

This development project involves the Columbia Basin Wildlife Recreation Area (135,000 acres) which protects, develops and maintains fish and wildlife habitat on land not suitable for other purposes. Maintenance of food and cover crops, irrigation systems, roads, and parking areas as well as weed control are included in the proposed project activities.

Region 2**Arizona W-53-R**

This statewide bird and mammal survey project involves animal population studies to determine distribution, mortality and reproduction. Hunter surveys will also be conducted. The information obtained will be used to develop game and nongame management plans and wildlife population studies to determine seasons and bag limits. In addition, live trapping, banding, distribution and reproduction studies will be conducted on a number of wildlife species.

Arizona W-78-R

Research investigations for this statewide project include studies of life history and ecology, population dynamics, habitat alteration effects, environmental variables of food supply and hunting impacts on deer, javelina, black bears, muledeer, pronghorn, bighorn sheep, elk and meadow quail.

Arizona W-85-D

The overall goal of this statewide development project, which affects 11 wildlife management areas, is to enhance habitat conditions for the benefit of wildlife and to increase wildlife-oriented recreation. Numerous activities will be conducted which include creating small impoundments, planting wildlife food crops, water level manipulation, construction of dikes, fences and levees, and restricting access to certain high use feeding and resting areas.

New Mexico FW-17-R

The purpose of this statewide project is to determine the status and needs of species that may be threatened or endangered. Activities include monitoring species' status and needs, performing taxonomic studies, managing critical habitat and disseminating data and technical publications.

New Mexico W-93-R

This statewide project seeks to determine population trends, sex and age classification, food supply and annual harvest on such species as deer, elk, antelope, bighorn sheep, javelina and mountain lions. Activities include transect studies, aerial counts and surveys, and hunter surveys.

New Mexico W-99-D

This development project provides for the maintenance and development of 6 waterfowl areas totaling 8,329 acres for the purpose of providing waterfowl winterfeeding and resting. Activities include farming and maintenance of roads, fences, ditches and buildings.

New Mexico W-124-R

This statewide research project seeks to develop life history information on mule deer, elk, mountain lions and bobcats, and to research wildlife diseases that may be eliminated to better maintain viable wildlife populations. Activities include trapping, radio tracking and tagging, and skull and tissue examination.

Oklahoma W-12-C

This statewide project provides overall coordination and administration of Federal Aid projects including the preparation of documents, work schedules, performance reports, fiscal records and program narratives, maintaining interagency liaison, budget preparation and project review and compliance.

Oklahoma W-34-D

The purpose of this project on the Spavinaw Hills Management Area in Delaware and Mayes Counties is to provide big game refuge in the western Ozark Highlands. Activities include maintenance of buildings, roads, fences and signs, planting wildlife food and cover crops, vegetation

control, construction of firebreaks and waterholes, and surveys to determine population trends and hunter use.

Oklahoma W-43-D

The Pushmataha Game Management Area (18,260 acres) is managed to improve wildlife habitat and provide wildlife-oriented recreation. Principal activities include maintenance of buildings, roads, trails, fences, camping areas, planting of trees, shrubs, grass and legumes, prescribed burning, vegetation control, and construction of firebreaks and waterholes.

Oklahoma W-54-D

Managed partially as a waterfowl refuge, the 17,963-acre Fort Gibson Game Management Area in Wagoner and Cherokee Counties provides public hunting for big game, upland game and furbearers, and resting areas for migratory waterfowl. Project activities include maintenance of roads, buildings, signs, fences, firebreaks and development of food plots.

Oklahoma W-71-D

The 205,183 acres involved in this project are located at the Ouachita Public Hunting Area and are managed under cooperative agreement with the U.S. Forest Service to create diversified wildlife habitat and to provide public benefits. Construction of wildlife openings and waterholes, planting of trees and shrubs, managing public hunts, and maintenance of buildings, roads, trails, signs and fences are some proposed activities.

Oklahoma W-77-D

The Gruber Game Management Area is managed to sustain wildlife for optimum population levels which support wildlife-oriented activities. Work on this 55,515-acre area includes maintenance of buildings, roads, fences, sanitary facilities and signs, planting of shrubs and trees, creating forest openings and conducting controlled public hunts.

Oklahoma W-103-D

Involved in this development project is the Texoma Public Hunting Area (12,331 acres). Currently managed for waterfowl and wildlife-oriented public use, proposed activities for the area include plantings of wildlife crops, controlled burning and grazing, shrub and tree planting and maintaining roads, fences, signs and firebreaks.

Oklahoma W-111-D

The 43,133 acres of the Tiak Game Management Area is managed with cooperative agreement of the U.S. Forest Service. Its management objectives include the improvement of habitat conditions for upland and big game species and providing public hunting opportunities. Activities include planting food plots, controlled burning, conducting surveys, and maintaining buildings, signs and fences.

Oklahoma W-119-D

This project involves a 7,873-acre area encompassing four counties under license agreement with the Corps of Engineers. Management objectives are to provide public hunting and wildlife-oriented recreational

opportunities. Activities include sharecropping and maintenance of dikes, roads, fences and signs.

Oklahoma W-120-D

The 18,120-acre Hugo Game Management Area is located in Pushmataha and Chocotaw Counties. The area will be managed under a license agreement with the Corps of Engineers for forest wildlife and waterfowl. Planned activities include maintenance of buildings, dikes, bridges, roads, fences and signs, controlled burning, mud flat seeding, hunter surveys and public hunting.

Oklahoma W-124-D

The Kaw Public Hunting Area consists of 16,254 acres located in Kay and Osage Counties and is managed under license agreement with the Corps of Engineers for habitat improvement and wildlife-oriented public use. Proposed activities include maintenance of roads, signs and fences, provisions for public hunting and producing food and forage for wildlife.

Texas W-14-C

Activities for this statewide coordination project, which provides for administration of the Federal Aid program, include document preparation and review, budgeting, compliance inspections and program planning.

Texas W-54-D

This development project in Anderson County with a 10,941-acre area is managed to provide land base and supporting facilities to conduct wildlife research. Activities include maintenance of building, levees, bridges, roads, fences, signs and firebreaks, vegetation and population control, and public hunting.

Texas W-83-D

This development project involves an 8,400-acre tract of fresh and brackish marsh located adjacent to the southwest city limits of Port Arthur in Jefferson County. Activities include marsh management, maintenance of water control structures, fences, roads and bridges, and vegetation control necessary for the provision of high quality marsh environment.

Texas W-105-D

This development project takes place on the Pat Mayse Wildlife Management Area. Approximately 8,900 acres are managed under a license agreement with the Corps of Engineers for habitat improvement and public hunting. Some activities of this project include maintenance of roads, fences, signs and rest structures, and controlled burning.

Texas W-106-R

The purpose of this statewide waterfowl project is to collect, assemble, and evaluate basic biological information on which to make and coordinate management recommendations. Activities include trapping, banding, aerial surveys, habitat investigations and disease studies.

Texas W-107-R

This statewide project provides overall wildlife planning including the development of a long-range strategic plan, operating plans

for 1980 and 1981, EIS review, and general plans for wildlife mitigation.

Texas W-108-R

The purpose of this statewide upland game project is to conduct studies to determine the success of game bird transplants, evaluate furbearer harvest and evaluate the effectiveness of using nursery seedling stock for quail cover. Activities include live trapping, transplanting, and studying behavior and movement patterns of various wildlife species.

Texas W-109-R

The purpose of this statewide project is to conduct investigations to determine supply, demand, economic value, habitat conditions and other biological factors necessary to establish regulations for consumptive and non-consumptive utilization of big game resources. Activities include species observation and habitat studies, live trapping, marking and transplanting of big game species such as deer, javelina, elk and bighorn sheep, as well as ecological aspects of introduced species such as axis deer and blackbuck antelope.

Region 3

Illinois FW-7-D

Project activities are designed to manage those lands and waters associated with the Mississippi River Fish and Waterfowl Management Area. Programs include maintenance and improvement of waterfowl resting and feeding areas. Access will be provided, and public use will be encouraged.

Illinois W-76-D

Activities will be conducted on 37 areas for this statewide public lands habitat development project. In order to maintain, improve and develop habitat for wildlife, tree and shrub plantings, vegetation control, and the construction of small wildlife waterholes and ponds will take place.

Indiana FW-2-D

Earthen dams and levees will be constructed as part of the Tri-County Fish and Wildlife Area development project to create 15 acres of impoundments and 43 acres of marshland. Planting trees and shrubs and vegetation control are also included in this project involving a total of 3,370 acres.

Indiana W-13-D

A total of 9,600 acres on the Willow Slough Fish and Wildlife Area is involved in this project. Activities include rebuilding and repairing levees, planting herbaceous seedlings, vegetation control, water level management and wildlife banding.

Indiana FW-14-C

The purpose of this coordination project is to provide supervision of administration of the State's Federal Aid activities. Work involves maintenance of accounts and records, coordination of fish and wildlife projects, and insuring that proper care and maintenance is employed on capital improvements purchased with Federal Aid funds.

Indiana FW-16-D

The purpose of this project is to develop, maintain and operate the Pigeon River Wildlife Management Area totaling 11,200 acres. Planned activities include reconstruction of Ontario Dam, construction of Massasauga Marsh Area and maintenance of roads, trails and firebreaks.

Indiana FW-18-D

Tenant farming, construction of parking facilities and repair of the bridge crossing the Muscatatuck River are some activities being undertaken on the Crosley Fish and Wildlife Area (4,715 acres). Clearing vegetation and subsequent planting to benefit wildlife will also be performed.

Indiana FW-22-D

This majority of work items in this development project on 8 State fish and wildlife management areas (36,317 acres) involve routine operation and maintenance. Other activities undertaken include seeding, water level management, mowing, controlled burning and live trapping and tagging of deer.

Minnesota W-27-L

The purpose of this land acquisition project is to acquire parcels of land to preserve wetlands threatened by drainage and cultivation. Other wildlife habitat will also be acquired and managed to enhance wildlife populations and the public use of these areas.

Ohio FW-12-C

This project constitutes an administrative process not affecting the quality of the human environment. It finances the administration and coordination activities of the State Federal Aid coordinator and staff administration, and coordination of the Federal Aid program in Ohio.

Ohio W-107-D

This wildlife management project in northwestern Ohio involves a total of 20,690 acres on 14 major public areas. Activities include maintenance of fences, prescribed burning and other vegetation control techniques, along with providing technical assistance, seeds, trees and shrubs to cooperating landowners.

Ohio W-108-D

Management of wildlife habitat in northwestern Ohio providing services and public access facilities on 18 public areas totaling 38,426 acres is the major component of this project. Other activities include wetland and timber management and technical advice. Seeds, trees and shrubs are offered to cooperating landowners.

Wisconsin W-145-D

This project involves the development and operation of the Sandhill, Wood County and Meadow Valley Wildlife Areas comprising a total of 85,130 acres. Activities include timber management, tree and shrub planting, vegetation control and construction of firebreaks, fences, public use facilities, and maintenance of roads, trails, dams and dikes.

Wisconsin W-146-D

A total of 32,200 acres are involved in the development and operation of the Mead and McMillan Wildlife Areas. Project activities

include upgrading access to public use facilities, construction of fences and parking lots, planting food patches, vegetation control, water level control and erecting nest structures. Some use of herbicides (tordon and 2-4 D) and the relocation of nuisance beavers are activities under consideration.

Wisconsin W-147-D

This project entails the development and operation of 57,000 acres on the Grantsburg Prairie Waterfowl Complex for the purpose of creating, improving and perpetuating wildlife habitat and managing wildlife populations. Activities include increasing and upgrading public use facilities, vegetation control, pothole construction, water level management and prescribed burning.

Wisconsin W-149-D

The purpose of this statewide forest habitat development project is to develop and maintain wildlife habitat on approximately 4.6 million acres of public forestland. Activities include construction of roads, trails and firebreaks, vegetation clearing and control, herbaceous seedlings and tree and shrub plantings.

Region 4

Alabama W-8

This statewide project provided administrative and clerical services for State's Federal Aid projects. Such activities involve the development of work plans, technical direction of project employees, maintenance of project documents, reports and fiscal accounts, conducting field investigations and correlating project activities with other Federal State operations.

Alabama W-34

A total of 657,352 acres are involved in this statewide development project. Activities include the operation, management and maintenance of buildings, roads, fences and public use facilities, herbaceous planting and vegetative control, public hunting management, live trapping and transplanting turkeys.

Arkansas FW-1

This statewide project provides administrative and clerical services for the State's Federal Aid projects. Activities normally conducted include the maintenance of records, preparation of documents and reports, field inspections and maintaining liaison with other State and Federal agencies.

Arkansas W-53

The purpose of this statewide research project is to prepare the final report on the 19-year Deer and Forest Management Research Program concluded in 1978.

Arkansas W-58

This research project involves five studies designed to gather biological data needed to manage the State's wildlife resources. Activities proposed are duck banding, collection of waterfowl population data and parasite studies.

Florida W-35

This statewide project includes the development and maintenance of buildings,

water control systems, roads, bridges, fences, public use facilities, sanitary facilities and water supplies. Other activities include providing wildlife food and cover crops, managing waterfowl areas and controlling public use.

Florida W-41

Eight studies designed to gather biological data needed to manage the State's wildlife resources comprise this statewide research project. Activities proposed include monitoring turkey harvest, disease and parasite studies, and investigations dealing with waterfowl, otters and bobcats.

Georgia W-6

This statewide project provides for the administration of Georgia's Wildlife Restoration grant-in-aid projects. Preparation of project documents and reports, maintenance of fiscal accounts and conducting field inspections are schedule activities.

Georgia W-36

Development activities associated with this statewide project will occur on 48 wildlife management areas. Maintenance of buildings, water control systems, roads, bridges, fences and public use facilities, vegetation, stocking, wildlife feeding, pothole construction, and timber and water level management are examples of proposed activities.

Georgia W-37

This statewide research project involves 16 studies in 6 research areas designed to gather biological data needed to manage the State's wildlife resources. Some investigations involve deer, turkey, waterfowl and small game.

Kentucky W-45

Construction and maintenance of buildings, water control systems, roads, bridges, fences and public use facilities are some activities proposed in this statewide development project. Others include providing wildlife food and cover plantings, controlling vegetation, restocking wildlife, providing nesting structures and various wildlife research and surveys.

Louisiana W-10

This statewide project provides for the State administration of Louisiana's Federal Aid in Wildlife Restoration projects. Preparation of project documents and reports, maintaining fiscal accounts, conducting random field investigations, and maintaining liaison with other State and Federal agencies are normal project activities.

Louisiana W-29

This statewide research project involves 23 studies designed to gather biological data needed to better manage Louisiana's wildlife resources. Studies involve deer, waterfowl, turkeys and timber thinning.

Louisiana W-30

This statewide project involves 29 wildlife management areas covering approximately 700,000 acres of State, private, school, and military lands. Activities include the development and maintenance of buildings, roads, bridges, water control structures,

canals, fences, public use facilities and vegetation control which stimulates wildlife and cover.

Mississippi W-48

Eight studies designed to gather information on the State's wildlife resources and habitats involving such activities as water fowl banding, dove hunting success, pesticide surveys and deer management comprise this statewide research project.

Mississippi W-49

This statewide project involves 23 wildlife management areas covering the development and maintenance of building, water control structures, roads, bridges, fences and public use facilities. Also included are boundary posting, vegetation control, population control and wildlife harvest programs.

Mississippi W-54

Development and maintenance of 9 waterfowl management units comprise this statewide development project. Activities include wildlife food plantings, vegetation control and water level management along with development and maintenance of buildings, water control systems, roads, fences and public use facilities.

North Carolina W-57

This statewide project involves administrative and information gathering activities needed to manage the State's wildlife resources. The project covers 14 studies involving such wildlife as turkey, woodcock, black bear, mourning dove and whitetail deer and also provided routine maintenance of project records and reports. Development activities on State Wildlife Management Area will also be conducted.

Puerto Rico FW-1

The work under this project is essential to assure orderly administrative planning and conduct of the Commonwealth's Federal Aid in Fish and Wildlife Restoration efforts. Activities include maintaining fiscal accounts, preparing documents and reports, attending meetings, conducting field inspections and maintaining liaison with other Commonwealth and Federal agencies.

Puerto Rico W-9

This project involves the Mona Islands (approximately 14,000 uninhabited acres and 450 acres of Boqueron Refuge). Activities include construction and maintenance of buildings, roads and public use facilities, boundary posting and wildlife harvest activities.

South Carolina W-13

This statewide project provides for the orderly and efficient coordination of wildlife research and management activities of the South Carolina Wildlife and Marine Resources Department. Preparing documents and reports, maintaining fiscal accounts, conducting field investigations and maintaining liaison with other State and Federal agencies are some project activities.

South Carolina W-30

This statewide project involves routine management of approximately 1,000,000 acres of leased and State-owned wildlife

management areas. Activities include construction of roads, wildlife observation blinds and a small pole shed, planting food crops, controlled burning, developing firebreaks and restocking wild turkeys.

Tennessee W-48

This statewide project includes 20 wildlife studies to gather biological data needed to manage the State's wildlife resources. Included project activities are live trapping and relocating deer, turkeys and Canada geese in addition to conducting surveys and research on forest game, farm game and wetland game.

Tennessee W-48

This tri-state research project includes three studies dealing with population dynamics, habitat preference and socioeconomic factors affecting black bears. The studies will be carried out in order to gather information upon which to base management decisions.

Region 5

Connecticut W-49-R

This is a statewide wildlife survey, inventory and research project designed to monitor populations of deer, beaver, turkey, waterfowl and quail. Live trapping and transplanting of turkey and beaver will be conducted.

Connecticut W-52-L

Under this project, approximately 132.5 acres are being acquired in the floodplain of the Farmington River for use as a game management area.

Delaware FW-2-C

This statewide coordination project covers the various activities associated with the administration of Delaware's Federal Aid grant program. Work is limited to various administrative activities.

Delaware W-5-D

This is a statewide habitat development program which deals with the operation and maintenance of wildlife areas totaling approximately 28,800 acres. Preserving critical habitat and employment of various habitat enhancement techniques will be involved.

Delaware W-16-R

This is a statewide wildlife survey, inventory and research project which is designed to develop information necessary to facilitate management of the State's wildlife resources. Activities include monitoring migratory waterfowl, introduction of game birds and control of tall reed grass.

Maine W-62-R

This research project deals primarily with waterfowl. Capture, tagging and periodic relocation of individual birds will be administered to alleviate property damage and to increase breeding pairs.

Maine W-72-D

A number of activities will be conducted under this development project including relocation of nuisance beavers, creation of firebreaks, timber management, vegetation

control and herbaceous seeding to promote and enhance wildlife habitat.

Maine W-73-D

This multi-faceted development project will encompass numerous activities which will result in the enhancement of wildlife habitat and public use of State wildlife management areas. Surveys and inventories, technical assistance, development of plans, timber management and some relocation of nuisance beavers will be involved.

Maine W-74-D

Some activities associated with this development project include timber management and relocation of nuisance beavers. The primary purpose of this project is to develop wildlife management areas for the benefit of wildlife and the public.

Maryland W-76-D

Activities planned for this project to promote public use and to benefit wildlife include seeding of herbaceous plants, vegetation control and some relocation of nuisance beavers.

Maryland W-41-R

The purpose of this statewide research project is to investigate disease and parasite infestations of wildlife in Maryland. Various collection techniques will be employed including removal of road kills and surveying hunter-harvested animals.

Maryland W-49-R

Basic biological information will be compiled as part of this statewide research project concerning raccoon and nutria which will enable development of more effective management policies and techniques.

Massachusetts W-9-D

A total of 36 wildlife management areas in the State will be operated, maintained and, to a certain extent, developed under this project. Activities include maintenance of buildings, dams, roads and bridges, tree and shrub planting, herbaceous seeding, timber and water level management.

New Hampshire W-11-D

This statewide development project is designed to provide and maintain access to public lands and to employ vegetation control techniques for the maximum benefit of wildlife. A small parking area will be developed and mowing, herbicide treatment and controlled burning will be employed to inhibit unwanted vegetation.

New Hampshire FW-17-C

This project is intended to assist project leaders in the design and coordination of Federal Aid projects. Work is limited to various administrative activities.

New Hampshire W-21-D

The purposes of this development project are to manage and maintain existing deer yards and to hasten regrowth of those previously cut. These efforts are conducted on private, Federal and State forestland.

New Jersey W-45-R

This research project endeavors to collect and evaluate data to determine population characteristics of the State's deer herd.

Activities involving live trapping, radio monitoring and aerial surveys will be conducted.

New Jersey FW-49-C

This coordination project is limited to State administration of the Federal Aid program. Activities such as staff work, meeting attendance, report writing and field inspections will be carried out.

New Jersey W-51-D

As part of this statewide development project, trees, shrubs and herbaceous food crops will be planted, and vegetation control will be employed to inhibit noxious and undesirable plant species.

New Jersey W-52-R

This project is a multi-faceted research program. Individual studies seek to determine population characteristics of raccoons and the effects of fire on upland game habitats. Some live trapping and tagging of individual raccoons will be conducted.

New York W-39-R

This is a waterfowl banding project designed to assess certain characteristics of the State's waterfowl population. Individual birds will be captured, tagged and released.

New York W-124-R

This project is designed to study basic physiological processes involving energy metabolism of several animal species. Some captive animals will be fitted with radiotelemetry devices for monitoring various physiological parameters.

New York W-133-D

This development project encompasses many activities designed to enhance wildlife habitat and the public's use and enjoyment of these areas. Stocking of turkeys, creation of access and parking facilities, water level manipulation and seeding of food plots will be conducted.

New York W-136-D

This is a multi-activity development project designed to enhance wildlife habitat and the public's use and enjoyment of these areas. Vegetation control, water level management, transplanting Canada geese, tagging and banding of wildlife, access development and pothole construction are proposed activities.

New York W-137-D

This project proposes that access be maintained and developed and wildlife habitat be improved. Activities include construction of roads and trails, relocation of nuisance beavers, tagging and banding of wildlife, vegetation control and herbaceous planting.

New York W-138-D

Activities carried out under this development project are designed to enhance wildlife habitat and to improve the public's access to those areas. Pothole, trail, road and parking lot construction, transplanting Canada geese and nuisance beavers, and planting trees, shrubs and herbaceous plants are components of this project.

New York W-139-D

This development project involves various work components to develop, maintain and operate numerous wildlife areas in the western part of the State. Activities include road, trail, parking lot and building maintenance, vegetation control, wildlife tagging and banding, and water level control.

Pennsylvania W-39-D

This statewide development project will administer the habitat restoration and enhancement program on State-owned and leased lands. Construction of roads, trails and parking lots, vegetation control, timber management, food plot establishment and tree planting are some components of the project.

Rhode Island FW-8-C

This statewide coordination project provides for the State administration of the Fish and Wildlife Service grant-in-aid programs. Activities involve purchasing supplies and materials, preparing documents and reports, maintaining fiscal accounts, and liaison with other State agencies.

Rhode Island W-22-D

This statewide development project will improve the habitat on public and private lands for the benefit of resident and migrating wildlife species. Activities include pothole construction, transplanting geese, tree and shrub planting, vegetation control and various banding activities.

Vermont FW-15-D

Road construction and maintenance, vegetation control and forest clearing are some activities involved in this statewide development project which will provide public access, improve wildlife populations and develop management plans.

Virginia W-40-R

This statewide research project will gather biological data needed to manage the State's wildlife resources. Research will be conducted covering an array of subjects relating to game, furbearers and habitat.

Virginia W-48-D

This statewide development project covers wildlife management activities on State-owned and leased lands. Project activities include maintenance of buildings, bridges, roads and public use facilities, and wildlife food and cover plantings.

West Virginia FW-2-C

Activities included in this statewide coordination project, which is limited to State administration of Fish and Wildlife Service grant-in-aid programs, are preparation of documents and reports, maintenance of fiscal accounts, developing work schedules, purchasing materials and supplies, and maintaining interagency liaison.

West Virginia W-41-D

The purpose of this statewide development project is to provide for management of game, furbearer and nongame wildlife populations on State-owned and leased lands and on national forests. Tree planting, timber management, data collection, vegetation

control, and live trapping and transplanting wildlife are among proposed activities.

West Virginia W-46-R

This research project was designed to study hunting pressure, disease, and movements and mortality of relocated raccoons imported and released by raccoon clubs.

Region 6

Colorado W-88-R

This project covers 10 studies dealing with obtaining biological and population data for waterfowl, doves, pigeons and coots. Aerial and ground surveys, nest inventories and banding operations will be conducted.

Colorado W-98-D

This project covers maintenance and operation of the Little Hills facility. Buildings, roads, grounds and fences will be maintained, and some trees will be planted.

Colorado W-112-D¹

A 1,600-square-foot residence will be constructed on the Dry Creek Basin Wildlife Area to replace an existing structure which is no longer serviceable.

Colorado W-126-R

Colorado's big game research, involving 24 studies which deal with data collection for disease, nutrition, habitat and population characteristics, will be conducted under this project. Most of the animals utilized in this research are tame. Blood samples, grazing surveys, evaluation of plant nutrients and similar scientific activities will be performed.

Kansas W-47-D

This development project's objectives include habitat development and maintenance of the existing structures on six wildlife areas for the enhancement of wildlife populations. Among project activities are burning, vegetation control, water level management and routine maintenance of buildings, roads, fences, signs, dikes and public use facilities.

Missouri W-13-R

This statewide research project is comprised of 40 studies on such topics as population dynamics, wildlife nutrition, waterfowl crop depredation, lead/steel shot, and harvest and habitat analysis.

Missouri W-40-D

Objectives for this project involve development and maintenance of the Charles W. Green Wildlife Research Area including the planting of trees and wildlife food and cover crops as well as maintaining buildings, roads, firebreaks and fences.

Montana W-121-D

A variety of development, maintenance and operational activities will be conducted on the Kuhns (1,592 acres) and Ninepipe (3,460 acres) Wildlife Management Areas. Proposed work includes maintenance of buildings, roads, fences, dikes, canals and bridges. Other scheduled activities are digging ditches and constructing small dikes, seeding herbaceous plants, and tree and shrub plantings.

¹ Dry Creek Basin Wildlife Area Residence only.

Montana W-122-D

Development, maintenance and operational activities on three wildlife management areas encompassing about 63,000 acres of State and private lands comprise this project's objectives. Work includes construction of small bridges, dikes, levees, roads and fences. Herbaceous seedings, tree and shrub plantings will also be conducted.

Montana W-123-D

Development, maintenance and operational activities on wildlife management areas encompassing about 70,800 acres of State, Federal and private lands are elements of this project. Development activities on these areas include construction of primitive roads, trails and fences, herbaceous seeding, tree and shrub planting and some vegetation control.

Montana W-124-D

Five State wildlife areas comprising approximately 72,000 acres will be operated, maintained and developed as part of this project. Activities consist of fencing, waterlevel management, cultivation of preferred wildlife food crops, vegetation control, construction of trails, culverts and irrigation ditches, and maintenance of buildings, canals, dikes and roads.

Montana W-130-R

Activities conducted under this statewide project include aerial and ground surveys, trapping and marking individual animals, and collection of biological data from hunter harvest, road kills and natural mortalities.

Nebraska W-15-R

Aerial and land surveys and banding and tagging operations of various wildlife species will be conducted to determine biological and population characteristics of the State's wildlife resources.

North Dakota FW-8-C

This statewide coordination project is designed to provide efficient administration of Federal Assistance programs throughout the State. Appraisal and negotiation for land purchases and technical guidance at the administration level will also be provided.

North Dakota W-67-R

This statewide research project consists of numerous studies relating to surveys of the flora and fauna resources in North Dakota. Activities scheduled for accomplishment include disease investigations, population monitoring, animal reintroductions, evaluating impacts of land uses on fauna and development of management plans.

South Dakota W-94-D

This development project is a means by which the State provides technical assistance guidance in the activities, plans and development of other agencies which may have direct effects on the environment.

Wyoming W-53-D

Work proposed at the Sybille Game Research Unit includes maintenance of roads, buildings, fences and public use facilities. Streambank erosion control, spot treatment of noxious plants, managing livestock grazing and irrigation will also be conducted.

Alaska Area

Alaska W-19

This statewide project, consisting of 15 individual jobs, is designed to protect, maintain and enhance wildlife. Activities include aerial and ground surveys, monitoring hunter harvest, road kills and natural mortality, and monitoring vegetation on small test plots.

Alaska W-20

This project consists of coordination, planning, and statistical and laboratory services for statewide Federal Aid activities.

Alaska W-21

A total of 33 research jobs comprise this statewide research project. Banding, tagging, livetrapping and use of aerial and ground census techniques are activities which will be employed.

Dated: July 17, 1979.

Robert Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 79-22531 Filed 7-19-79; 8:45 am]

BILLING CODE 4310-55-M

Availability of Report of U.S. Delegation to Second Meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

AGENCY: U.S. Fish and Wildlife Service.

ACTION: Notice of Availability of Report.

SUMMARY: The second meeting of the Conference of the Parties to CITES was held in San Jose, Costa Rica on March 19-30, 1979. CITES is a multilateral treaty to control international trade in wild plant and animal species which are or may become threatened with extinction. The Fish and Wildlife Service announces the availability on a first-come, first-serve basis of the U.S. Delegation's report on the results of the meeting. Requests should be limited to one copy per person or organization.

ADDRESS: For copies of the report contact: U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, DC 20240 (703) 235-2418.

SUPPLEMENTARY INFORMATION: CITES provides for regular meetings of the Parties to be held at least once every two years. The first regular meeting was held in Berne, Switzerland, November 1976. The Parties met in San Jose, Costa Rica for the second regular meeting March 19-30, 1979. Representatives from 39 of the 51 Parties to CITES, and observers from 16 non-Party countries and 55 nongovernmental organizations were in attendance. Major issues addressed include

1. Funding the CITES Secretariat
2. Continuation of the Steering Committee
3. Species identification manual
4. Minimum list of parts and derivatives
5. Definition of bred in captivity and artificially propagated
6. Exemption for exchange of museum and herbaria specimens
7. Pre-Convention exemption
8. Format for species proposals
9. Extremely rare, extinct, feral and hybrid species
10. Plant and Animal shipping guidelines
11. Species proposals for 251 amendments to the appendices

This notice was prepared by Arthur Lazarowitz, Federal Wildlife Permit Office.

Dated: July 17, 1979.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 79-22558 Filed 7-19-79; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application; Knoxville Zoological Park

Applicant: Knoxville Zoological Park, P.O. Box 6040, Knoxville, Tennessee 37914.

The applicant requests a permit to import 1 female Puerto Rican boa (*Epicrates inornatus*) from the Reptile Breeding Foundation, Picton, Ontario, Canada for propagation purposes.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4309. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before August 20, 1979. Please refer to the file number when submitting comments.

Dated: July 11, 1979.

Donald G. Donahoe,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-22559 Filed 7-19-79; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Controlled Substances in Schedules I and II; Proposed 1980 Aggregate Production Quota For Hydromorphone

Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

On July 6, 1979, a notice of the proposed aggregate production quotas for Schedule I and II controlled substances for 1980 was published in the Federal Register (44 FR 39626-7). In that notice, a 1980 aggregate production quota for hydromorphone was not proposed. DEA has received indications that hydromorphone is becoming an increasingly important part of the illicit market for legitimately manufactured controlled substances. Because of this, DEA has undertaken a study to determine the extent of diversion and abuse of hydromorphone. Although the study is not yet complete, it appears that substantial amounts of this substance have been diverted from legitimate channels. Because of this, it would be inappropriate at this time to establish a quota that would allow more production in 1980 than that allowed in 1979.

Therefore, the Administrator of the Drug Enforcement Administration hereby proposes that the 1980 aggregate production quota for hydromorphone be established at 122,000 grams, expressed as anhydrous base. Pursuant to § 1303.23(c) of Title 21 of the Code of Federal Regulations, the Administrator will, in early 1980, review and adjust individual manufacturing quotas based upon 1979 year-end inventory and actual 1979 disposition data supplied by quota applicants for each basic class of Schedule I or II controlled substance. At this time, any new information on the diversion and abuse of hydromorphone will be considered indetermining if the quota for hydromorphone should be revised.

All interested persons are invited to submit their comments and objections in writing regarding this proposal. Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative, and must be received by

August 23, 1979. If a person believes that one or more issues raised by him warrant a full adversary-type hearing, he should so state and summarize the reasons for his belief.

In the event that comments or objections to this proposal raise one or more issues which the Administrator, finds in his sole discretion, warrant an adversary-type hearing, the Administrator will cause to be published in the Federal Register an order for a public hearing which will summarize the issues to be heard and which will set the time for the hearing (which will not be less than 30 days after the date of the order).

Dated: July 13, 1979.

Peter B. Bensinger,
Administrator, Drug Enforcement
Administration.

[FR Doc. 79-22546 Filed 7-19-79; 8:45 am]

BILLING CODE 4110-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient

demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 13th day of July 1979.

Ernest G. Greep,

Assistant Secretary for Employment and Training.

Applications Received During the Week Ending July 13, 1979

Name of applicant and location of enterprise	Principal product or activity
Triangle Enterprises, Inc., Goodyear, Arizona	Motel

[FR Doc. 79-22353 Filed 7-19-79; 8:45 am]

BILLING CODE 4510-30-M

Office of the Secretary

[TA-W-5272]

American Bilrite, Inc., Cambridge, Mass.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on April 23, 1979 in response to a worker petition received on April 17, 1979 which was filed on behalf of workers and former workers producing rubber and plastic conveyor belts, matting, packing, and hoses at the Cambridge, Massachusetts plant of American Bilrite, Incorporated. In the following determination, without regard to whether any of the criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey of the customers of American Bilrite, Incorporated was conducted concerning their purchases of imported hose and belting, packing, and matting. Results of the survey indicated that those customers that decreased purchases of hose and belting from American Bilrite and increased imports represented an insignificant proportion of the firms decline in sales. None of the customers surveyed reported direct imports of packing or matting. One customer reported indirect imports of packing purchases from another domestic firm but that customer increased purchases of packing from American Bilrite.

Conclusion

After careful review, I determine that all workers of the Cambridge, Massachusetts plant of American Bilrite, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,
*Director, Office of Management,
Administration, and Planning.*

[FR Doc. 79-22485 Filed 7-19-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5441]

Arkay Pants Co., Fall River, Mass.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 22, 1979 in response to a worker petition received on May 18, 1979 which was filed on behalf of workers and former workers producing men's and boys' outerwear at Arkay Pants Company, Fall River, Massachusetts. The investigation revealed that the plant produces only boys' outerwear. It is concluded that all of the requirements have been met.

Imports of men's and boys' non-tailored outer jackets, a category which includes boys' outerwear produced by the Arkay Pants Company, increased both absolutely and relative to domestic production in 1978 compared to 1977. The level of imports did not change significantly in the first quarter of 1979 compared to the first quarter of 1978.

A survey was conducted of some of the major primary and secondary customers which had decreased purchases from Arkay Pants Company in 1978. All of the customers surveyed purchased imports. The survey showed that some of these customers had increased purchases of imports while decreasing purchases from Arkay. The rest of the customers surveyed had decreased purchases from both Arkay and foreign sources. However, all of these customers decreased purchases from Arkay Pants more than they decreased imports.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with boys'

outerwear produced at Arkay Pants Company, Fall River, Massachusetts contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Arkay Pants Company, Fall River, Massachusetts who became totally or partially separated from employment on or after May 10, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,
*Director, Office of Management,
Administration and Planning.*

[FR Doc. 79-22486 Filed 7-19-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5419]

Arno Moccasin Co., Lewiston, Maine; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 18, 1979 in response to a worker petition received on May 14, 1979 which was filed by the Lewiston-Auburn Shoenworkers Protective Association on behalf of workers and former workers producing men's, women's, and some children's shoes at Arno Moccasin Company, Lewiston, Maine. The investigation revealed that the company produces leather moccasins, slippers, and other casual shoes for men, women, and children. It is concluded that all of the requirements have been met.

U.S. imports of men's nonathletic dress and casual footwear increased relative to domestic production from 1977 to 1978 before declining slightly in the first quarter of 1979 compared to the first quarter of 1978. The ratio of imports to domestic production remained between 75 and 85 percent during the January 1978-March 1979 period.

U.S. imports of women's nonrubber, nonathletic footwear increased absolutely and relative to domestic production from 1977 to 1978 and in the

first quarter of 1979 compared to the first quarter of 1978. The ratio of imports to domestic production has exceeded 130 percent since 1976.

U.S. imports of children's nonrubber, nonathletic footwear increased relative to domestic production in the first quarter of 1979 compared to the first quarter of 1978. The ratio of imports to domestic production remained between 65 and 100 percent during the January 1976-March 1979 period.

A Department survey revealed that a number of major customers reduced purchases from Arno Moccasin Company in 1978 compared to 1977, and in the period January-May 1979 compared to the period January-May 1978, and increased imports of men's, women's and children's nonrubber footwear. Together these customers accounted for an important share of the total decline in the Arno Moccasin Company's sales from 1977 to 1978 and from January-May 1978 to January-May 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with leather moccasins, slippers, and other casual shoes for men, women and children produced at Arno Moccasin Company, Lewiston, Maine, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Arno Moccasin Company, Lewiston, Maine, who became totally or partially separated from employment on or after November 11, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of July 1979.

James F. Taylor,
*Director, Office of Management,
Administration and Planning.*

[FR Doc. 79-22487 Filed 7-19-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5742, et al.]

Beacon Tex Print, Ltd., et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or

threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 30, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 30, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 16th day of July, 1979.

Marvin M. Fooks,
*Director, Office of Trade Adjustment
Assistance.*

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Beacon Tex Print LTD (union)	Beacon, New York	7/10/79	7/6/79	TA-W-5742	Textile printer.
J. Kaslner (ILGWU)	Neptune City, New Jersey	7/10/79	7/6/79	TA-W-5743	Ladies coats, jackets and sportswear.
Laconia Shoe/Maine (workers)	Sanford, Maine	7/9/79	6/26/79	TA-W-5744	Cut and stitch shoe uppers and mold soles for men's shoes.
L. E. Smith Glass Co. (AFGU)	Mt. Pleasant, Pennsylvania	7/10/79	6/21/79	TA-W-5745	Hand made glassware.
Lu-Gine Knits (workers)	Hawthorne, New Jersey	7/9/79	6/28/79	TA-W-5746	Men's shirts and men's sweaters.
Rose Coats (ILGWU)	Neptune City, New Jersey	7/10/79	7/6/79	TA-W-5747	Ladies coats, jackets, and sportswear.

[FR Doc. 79-22488 Filed 7-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5453]

Beaunit Corp., New York, N.Y.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the

Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 24, 1979 in response to a worker petition received on April 12, 1979 which was filed on behalf of workers and former workers at the New York, New York company headquarters and sales office of the Beaunit Corporation. In the following determination, without regard to whether any of the criteria have been

met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The ratio of imports to domestic production for bleached and colored cotton knit fabric and for bleached and colored man-made knit fabric has been less than one percent since 1974.

The ratio of imports to domestic production for all yarns has been less than two percent since 1974.

A Department survey was conducted of customers purchasing knit fabric, trico and yarn from Beaunit Corporation. None of the customers surveyed purchased knit fabric or tricot from foreign sources from 1978 to 1978. The survey revealed that only one customer purchased imported yarn; that customer represented an insignificant proportion of Beaunit's total sales.

Conclusion

After careful review, I determine that all workers of the New York, New York company headquarters and sales office of Beaunit Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-22489 Filed 7-19-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5404 and TA-W-5410]

Bleeker Street and Jay El Dress Co., Philadelphia, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 16, 1979 in response to worker petitions received on May 14, 1979 which were filed by the Philadelphia

Dress Joint Board of the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' dresses at Bleeker Street, Philadelphia, Pennsylvania and Jay El Dress Company, Philadelphia, Pennsylvania. The investigation revealed that Bleeker Street and Jay El Dress Company are divisions of Jonathan Logan, Incorporated. Bleeker Street and Jay El Dress Company form a single manufacturing operation. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department of Labor conducted a survey of customers of Bleeker Street who reduced purchases of women's dresses from Bleeker Street in 1978 compared to 1977. Most of the customers surveyed either reduced purchases of imported women's dresses or increased purchases of domestically made dresses by a greater amount than they increased purchases of imports. The customers who reduced purchases of domestic dresses and increased purchases of imported dresses in 1978 compared to 1977 were not a significant proportion of Bleeker Street's decline in sales.

Conclusion

After careful review, I determine that all workers of Bleeker Street, Philadelphia, Pennsylvania and Jay El Dress Company, Philadelphia, Pennsylvania, divisions of Jonathan Logan, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-22490 Filed 7-19-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5576, et al.]

Brierwood Shoe Corp., Kutztown, Pa.; Certification Regarding Eligibility To Apply for Work Adjustment Assistance

In the matter of TA-W-5576, Brierwood Shoe Corporation, Kutztown, Pennsylvania; TA-W-5577, 5578, and 5579, Brierwood Shoe Corporation, Wenton Shoe Division, Kutztown, Pennsylvania, Bernville, Pennsylvania and Westminster, Maryland;

and TA-W-5585, Kleinert's, Incorporated, Kutztown, Pennsylvania.

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 15, 1979, in response to worker petitions received on June 14, 1979, which were filed on behalf of workers and former workers of the Brierwood Shoe Corporation headquarters, Kutztown, Pennsylvania, on behalf of workers and former workers of the Kutztown, Pennsylvania, Bernville, Pennsylvania, and Westminster, Maryland plants of the Wenton Shoe Division of the Brierwood Shoe Corporation, and on behalf of workers and former workers of Kleinert's Incorporated, Kutztown, Pennsylvania. The petition stated that the Wenton Shoe Division produced men's, women's and children's shoes; however, the investigation revealed that Wenton produces primarily men's and boy's footwear. Kleinert's Incorporated is the parent company of the Brierwood Shoe Corporation.

U.S. imports of aggregate nonrubber footwear, a category which includes the various kinds of footwear produced by the five divisions of the Brierwood Shoe Corporation, increased absolutely and relative to domestic production in 1978 compared to 1977 and increased absolutely and relative to domestic production in the first three months of 1979 compared to the same period of 1978.

Kleinert's Incorporated is the parent company of the Brierwood Shoe Corporation and sales of footwear by Brierwood accounted for 73.5 percent of Kleinert's total sales in fiscal 1978 (ending September 30, 1978). Purchases by one customer account for the preponderant share of the sales of each division of Brierwood. Department surveys have revealed an increasing reliance on imported footwear by this customer, who has decreased its purchases of footwear from all divisions of Brierwood, including the Wenton Shoe Division, while increasing its purchases of like or directly competitive imported footwear.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with footwear produced by the Brierwood Shoe Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of the petitioning facilities. In accordance with the provisions of the Act, I make the following certifications:

All workers of the Brierwood Shoe Corporation, Kutztown, Pennsylvania and all workers of the Kutztown, Pennsylvania, Bernville, Pennsylvania and Westminster, Maryland plants of the Wenton Shoe Division of the Brierwood Shoe Corporation who became totally or partially separated from employment on or after June 13, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

All workers of Kleinert's Incorporated, Kutztown, Pennsylvania engaged in employment related to the operations of the Brierwood Shoe Corporation who became totally or partially separated from employment on or after June 13, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of July 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-22491 Filed 7-19-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5405]

Carmen J., Inc., Philadelphia, Pa.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 16, 1979 in response to a worker petition received on May 14, 1979 which was filed by the Philadelphia Dress Joint Board, International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's sportswear at Carmen J., Incorporated, Philadelphia, Pennsylvania. The investigation revealed that the plant

produces women's skirts and slacks. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's skirts increased absolutely and relative to domestic production from 1977 to 1978.

U.S. imports of women's, misses' and children's slacks and shorts increased absolutely and relative to domestic production from 1978 to 1977 and from 1977 to 1978.

A Departmental survey was conducted with manufacturers for whom Carmen J., Incorporated produced women's skirts and slacks. The survey revealed that Carmen J.'s manufacturers did not purchase imported women's skirts and slacks in 1977, 1978 or 1979.

A survey was also conducted with the customers of Carmen J.'s manufacturers. The survey revealed that customers decreased purchases from the manufacturers and increased their imports of skirts and slacks in 1978 as compared to 1977 and during the January-April period of 1979 as compared to the same period of 1978. In aggregate, the customers responding to this survey decreased purchases from domestic sources overall and increased their reliance on foreign sources to meet their demand, in the first quarter of 1979 versus the first quarter of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's skirts and slacks produced at Carmen J., Incorporated, Philadelphia, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Carmen J., Incorporated who became totally or partially separated from employment on or after March 28, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of July, 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-22492 Filed 7-19-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5422]

Charmose, Inc., Hatboro, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 18, 1979 in response to a worker petition received on May 14, 1979 which was filed by the Philadelphia Dress Joint Board of the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' blouses and dresses at Charmose, Incorporated, Hatboro, Pennsylvania. The investigation revealed that the company produces girls' shirts. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's, misses' and children's blouses and shirts decline absolutely in the first quarter of 1979 when compared to the same quarter in 1978.

A Departmental investigation revealed that all girls' shirts produced by Charmose, Incorporated were marketed by H.I.P. Industries Incorporated, which is Charmose's parent firm. A survey of customers of H.I.P. Industries, Incorporated revealed that customers' purchases of imported girls' shirts are small relative to purchases from domestic sources. The survey results showed that customers which decreased from H.I.P. and increased purchases of imported girls' shirts, from 1977 to 1978 and in the first quarter of 1979 compared to the same quarter in 1978, relied on imports for only a small portion of their supply. Additionally, these customers did not exert a significant influence on H.I.P.'s total sales of girls' shirts.

Conclusion

After careful review, I determine that all workers of Charmose, Incorporated,

Hatboro, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of July 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-22493 Filed 7-19-79; 8:45 am]
BILLING CODE 4510-28-M

(TA-W-2921)

Eagle Clothes, Inc., Brooklyn, N.Y.; Negative Determination on Reconsideration

On May 9, 1979, the Department made an Affirmative Determination Regarding Application for Reconsideration for certain former workers of Eagle Clothes, Inc., Brooklyn, New York, engaged in preparing window and store displays at retail stores. This determination was published in the *Federal Register* on May 18, 1979 (44 FR 29178).

The purpose of this reconsideration, which was granted in the context of current litigation, was to afford petitioners an opportunity to address the legal issues contained in the Department's Notice of Negative Determination Regarding Application for Reconsideration, dated January 26, 1979.

In that determination the Certifying Officer stated that the Department does not regard window trimming or retail selling as constituting production of an article within the meaning of Section 222(3) of the Trade Act of 1974, and that the retailing division of Eagle Clothes could not be regarded as an integral part of the production process (since well over half of its stock consisted of apparel of non-Eagle origin, including imports).

On June 14, 1979, counsel for petitioners submitted a legal memorandum in which he argued that as long as the petitioning workers were adversely affected by the same cause that affected the certified workers, the part of the firm from which the workers were separated should not matter. "All that a petitioner need demonstrate," according to petitioner's memorandum, "is that he was affected by what is happening to the firm or the 'appropriate subdivision' which produced the articles."

A similar argument was made recently in *Paden v. United States Department of Labor*, 562 F.2d 470 (C.A. 7, 1977). The petition had been filed on behalf of former employees of Motorola,

Inc. who had been engaged in the manufacture of television sets. After finding that increases in imports of color television sets had contributed importantly to the separation of Motorola color television workers, the Secretary of Labor certified those workers for adjustment assistance. Former black and white television workers were not certified, even though the entire plant was closed, because imports of black and white television sets had not increased.

The court found for the Secretary for three reasons. First, "[w]hen faced with a problem of statutory construction, this court shows great deference to the interpretation given the statute by the officers or agency charged with its administration." *Id.* at 473. Second, "[w]e find the Secretary's interpretation to be far more reasonable than petitioners' which would in practicality destroy all distinctions between product lines when throughout the Trade Act Congress carefully limited relief to injury from articles like or directly competitive." [Emphasis added: *Id.* at 475.] Finally, "the Secretary's interpretation is supported expressly by [19 U.S.C. 2274] which required the Secretary upon notification of an investigation by the Trade Commission to immediately begin a study of (1) the number of workers in the domestic industry producing the like or directly competitive article who have been or are likely to be certified as eligible for adjustment assistance." [Emphasis supplied by the court: *Id.* at 475.]

Consistent with the court's decision, the Department of Labor, in literally thousands of cases, has interpreted Section 222 of the Act to mean that the group eligibility requirements must be imposed on the economic unit (be it a firm or "appropriate subdivision") producing an article "like or directly competitive" with imported articles. If a firm manufactures three separate products, three separate determinations must in effect be made—one for each of the three groups of workers. It might be added that the U.S. International Trade Commission (then the U.S. Tariff Commission) adopted the same practice when it administered the worker adjustment assistance program under the Trade Expansion Act of 1962.

Conclusion

After reconsideration, I reaffirm the original denial of eligibility to apply for adjustment assistance to workers and former workers of Eagle Clothes, Inc., engaged in preparing window and store displays at retail stores.

Signed at Washington, D.C., this 13th day of July 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-22494 Filed 7-19-79; 8:45 am]
BILLING CODE 4510-28-M

(TA-W-5635)

England & Compton Construction Co., Mullens, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 22, 1979, in response to a worker petition received on June 12, 1979, which was filed by the United Mine Workers of America on behalf of workers and former workers of England and Compton Company, Mullens, West Virginia, engaged in hauling coal, reclaiming slate dumps, and cleaning sludge ponds. The investigation revealed that the correct name of the firm is England and Compton Construction Company.

England and Compton Construction Company is engaged in providing the service of transporting coal by truck from a customer's mine to a tippie and in other mining services.

Thus, workers of England and Compton Construction Company do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to England and Compton Construction Company by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

England and Compton Construction Company and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in transporting coal by truck at England and Compton Construction Company are employed by that firm. All personnel actions and payroll transactions are controlled by England and Compton Construction Company. All employee benefits are provided and maintained by England and Compton Construction Company. Workers are not, at any time, under employment or supervision by customers of England and Compton Construction Company. Thus, England and Compton Construction Company, and not any of its customers, must be considered to be the "workers' firm."

Conclusion

After careful review, I determine that all workers of England and Compton Construction Company, Mullens, West Virginia, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-22495 Filed 7-19-79; 8:45 am]
BILLING CODE 4510-28-M

(TA-W-5409)

Good Luck Glove Co., Georgiana, Ala.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 16, 1979 in response to a worker petition received on May 14, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing work gloves at the Georgiana, Alabama plant of the Good Luck Glove Company. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Value of total company sales of work gloves at Good Luck Glove increased in 1978 compared to 1977. Sales also increased during the first five months of 1979 compared to the same period of 1978. Production of cotton work gloves in quantity at the Georgiana, Alabama plant increased in 1978 compared to 1977 and during the first five months of 1979 compared to the same period in 1978.

Conclusion

After careful review, I determine that all workers of Georgiana, Alabama plant of the Good Luck Glove Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-22496 Filed 7-19-79; 8:45 am]
BILLING CODE 4510-28-M

(TA-W-5516)

Gould, Inc., Industrial Battery Division, Trenton, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 7, 1979 in response to a worker petition received on May 29, 1979 which was filed by the United Electrical, Radio and Machine Workers' Union of America on behalf of workers and former workers producing stationary and motive power industrial batteries at the Trenton, New Jersey plant of Gould, Inc., Industrial Battery Division. In the following determination, at least one of the criteria has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that imports of industrial batteries like or

directly competitive with industrial batteries produced at the Trenton, New Jersey plant of Gould, Inc., Industrial Battery Division are negligible.

Sources indicated that due to the large size and heavy weight of industrial batteries and the correspondingly high costs of shipment, producers must be physically located close to their markets. Thus import competition in this industry is not a factor.

Conclusion

After careful review, I determine that all workers at the Trenton, New Jersey Industrial Battery Division plant of Gould, Inc. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-22497 Filed 7-19-79; 8:45 am]
BILLING CODE 4510-28-M

(TA-W-5252, 5253, 5254, and 5255)

Gould Mines, Inc., Greenbrier County, W. Va., Gram #1 Surface Mine, Surface Mine #6, Gould #1 Surface Mine, Viking #5 Surface Mine; Negative Determination Regarding Application for Reconsideration

On June 20, 1979, the petitioning union requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of former workers producing metallurgical coal at the Gram #1 Surface Mine (TA-W-5252), Surface Mine #6, (TA-W-5253), Gould #1 Surface Mine (TA-W-5254), and Viking #5 Surface Mine (TA-W-5255) of Gould Mines, Inc., Greenbrier County, West Virginia. The determination was published in the *Federal Register* on May 22, 1979 (44 FR 29752).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

- (1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;
- (2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or
- (3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioning union claims that Gould Mines, Inc., lost potential customers in the domestic metallurgical market because the potential customers were buying imported metallurgical coal or coke.

The Department's review revealed that the workers at Gould Mines, Inc., were denied certification because virtually all of the metallurgical coal mined by Gould Mines since 1977 was for the export market. Consequently, increased imports of metallurgical coal or coke could not have importantly affected sales or production declines at Gould Mines, Inc. The only other product mined at Gould Mines was steam coal which amounted to about 5 percent of Gould Mines' production. However, U.S. imports of steam coal are negligible.

The loss of potential business could not be construed as "contributing importantly" to sales or production declines as that term is used in Section 222(3) of the Trade Act of 1974.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 13th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-22398 Filed 7-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5392]

Graceline Optical Corp., Belleville, N.J.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 15, 1979 in response to a worker petition received on April 18, 1979 which was filed by the United Optical Workers on behalf of workers and former

workers producing optical frames and optical cases at Graceline Optical Corporation, Belleville, New Jersey. The investigation revealed that the plant primarily produces optical frames. It is concluded that all of the requirements have been met.

U.S. imports of eyeglass frames increased absolutely and relative to domestic production and consumption in 1977 compared with 1976 and increased in 1978 compared with 1977. There exists a high level of imports relative to domestic production due to the price competitiveness of imported frames.

The Department conducted a survey of Graceline's customers. The survey respondents indicated they increased purchases of imported eyeglass frames and decreased purchases from Graceline Optical Corporation during the period of investigation.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with optical frames produced at Graceline Optical Corporation, Belleville, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Graceline Optical Corporation, Belleville, New Jersey who became totally or partially separated from employment on or after April 12, 1978 and before December 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Workers separated on or after December 1, 1978 are denied program benefits."

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-22399 Filed 7-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5566]

Green Valley Mining Corp., Cool Ridge, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification

of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 14, 1979 in response to a worker petition received on June 7, 1979 which was filed on behalf of workers and former workers mining coal at Green Valley Mining Corporation, Pearl River, New York. The investigation revealed that Pearl River, New York is only a mailing address and that the mines are located in Cool Ridge, West Virginia. In the following determination, without regard to whether any of the criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Green Valley Mining Corporation closed in November 1978. In 1978, the Green Valley Mining Corporation sold all of its coal to another domestic coal company. This company reported that, in 1978, it did not purchase any imported metallurgical coal or coke, and that it exported almost all its coal. Therefore, imports of metallurgical coal or coke had no relevant effect on the sales and/or production, and employment at the subject firm.

Conclusion

After careful review, I determine that all workers of Green Valley Mining Corporation, Cool Ridge, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-22500 Filed 7-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5601 and 5602]

Hobet Mining & Construction Co., Mine #21 and Preparation Plant, Boone County, W. Va.; Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of investigations regarding certifications of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 18, 1979 in response to a worker petition received on June 7, 1979 which was filed on behalf of workers and former workers producing steam coal at the Mine #21 and the preparation plant of the Hobet Mining and Construction Company in Boone County, West Virginia. Company offices are located in South Charleston, West Virginia. In the following determinations, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Mine #21 produces bituminous (steam grade) coal exclusively. The company also operates an on-site preparation plant which cleans, crushes and sorts the coal by size exclusively for Mine #21. U.S. imports of bituminous coal have been consistently negligible from 1974 through the first quarter of 1979.

Conclusion

After careful review, I determine that all workers of the Hobet Mining and Construction Company's Mine #21 and preparation plant in Boone County, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-22501 Filed 7-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5426]

Hoover-NSK Bearing Co., Wayne, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification

of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 18, 1979 in response to a worker petition received on May 14, 1979 which was filed on behalf of workers and former workers producing ball bearings at the Wayne, New Jersey plant of Hoover-NSK Bearing Company. In the following determination without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that the only separations that occurred at the Wayne, New Jersey plant of Hoover-NSK Bearing were attributable to a materials shortage caused by a recent strike by tugboat workers on the East Coast.

Ball bearing parts shipped to the U.S. from Japan are assembled at the Wayne plant. All parts used at the Wayne plant have always been imported. A recent strike by tugboat workers on the East Coast has prevented ships with component bearing parts from being transported to the Wayne plant. As a result, several layoffs occurred at the Wayne plant in April 1979. No other significant total or partial separations occurred at the Wayne plant in 1978 or in 1979 prior to April.

Conclusion

After careful review, I determine that all workers of the Wayne, New Jersey plant of Hoover-NSK Bearing Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-22502 Filed 7-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5416]

Irving Sclan & Sons, Inc., Philadelphia, Pa.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the

Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 16, 1979 in response to a worker petition received on May 14, 1979 which was filed by the Philadelphia Dress Joint Board of the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' sportswear at Irving Sclan & Son, Incorporated, Philadelphia, Pennsylvania. The investigation revealed that the plant produces juniors' slacks and skirts. The correct name of the plant is Irving Sclan & Sons, Incorporated. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's slacks and skirts increased absolutely and relative to domestic production from 1976 to 1977 and from 1977 to 1978.

U.S. imports of women's, misses', and children's skirts increased absolutely and relative to domestic production increased from 1977 to 1978.

A Departmental survey was conducted of customers of Irving Sclan & Sons, Incorporated. The survey revealed that customers increased their purchases of imported juniors' slacks and skirts and decreased their purchases from Irving Sclan & Sons in 1978 as compared to 1977 and during the first four months of 1979 as compared to the first four months of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with juniors' slacks and skirts produced at Irving Sclan & Sons, Incorporated, Philadelphia, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Irving Sclan & Sons, Incorporated, Philadelphia, Pennsylvania who became totally or partially separated from employment on or after January 5, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-22503 Filed 7-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5411]

Lucy-Ann Fashions, Inc., Philadelphia, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 16, 1979 in response to a worker petition received on May 14, 1979 which was filed by the Philadelphia Dress Joint Board of the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' dresses at Lucy-Ann Fashions, Incorporated, Philadelphia, Pennsylvania. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Departmental survey conducted with the sole manufacturer that contracted work with Lucy-Ann Fashions, Incorporated revealed that this manufacturer did not employ any foreign contractors nor did it purchase any imported ladies' dresses.

A survey was then conducted by the Department of Labor of the major customers of the manufacturer. The survey revealed that the customers did not purchase imported ladies' dresses in 1977, 1978 or during the first four months of 1979.

Conclusion

After careful review, I determine that all workers of Lucy-Ann Fashions, Incorporated, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under

Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of July 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-22504 Filed 7-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5384]

Martil Clothing Co., Philadelphia, Pa.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 14, 1979 in response to a worker petition received on May 9, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's suits and sportcoats at the Philadelphia, Pennsylvania plant of Martil Clothing Company. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' tailored dress coats and sportcoats increased both absolutely and relative to domestic production from 1977 to 1978 before declining in the first quarter of 1979 compared to the first quarter of 1978.

U.S. imports of men's and boys' tailored suits declined slightly from 1977 to 1978 and increased absolutely in the first quarter of 1979 compared to the first quarter of 1978.

A Department survey revealed that several major customers reduced purchases from Martil Clothing Company in the last half of 1978 and the first four months of 1979, and increased imports of men's suits and sportcoats.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's suits and sportcoats produced at the Philadelphia, Pennsylvania plant of Martil Clothing Company contributed importantly to the decline in sales or

production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of the Philadelphia, Pennsylvania plant of Martil Clothing Company, who became totally or partially separated from employment on or after November 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 12th day of July 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-22506 Filed 7-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5403]

M. Bell Co., Philadelphia, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 16, 1979 in response to a worker petition received on May 14, 1979 which was filed by the Philadelphia Dress Joint Board of the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' dresses at M. Bell Company in Philadelphia, Pennsylvania. The investigation revealed that the plant also produces skirts, blouses and blazers. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Departmental survey revealed that most of M. Bell's manufacturers substantially increased their contracts with other domestic sources, from 1977 to 1978 and in the January-April period of 1979 as compared to the same period of 1978, and also increased their company sales in the first four months of 1979.

The Department of Labor conducted a survey with the retail customers of those manufacturers who had decreased contracts with M. Bell and who had also experienced declining company sales in the relevant time period. Most of these retail customers reported either that purchases of imported ladies' dresses were declining or that purchases of domestically-made dresses were increasing by an amount far greater than the amount of increase of imported dresses. Those customers who reduced purchases of dresses from domestic manufacturers and who increased purchases of imported dresses, in 1978 compared to 1977, were an insignificant proportion of the surveyed manufacturers' business.

Conclusion

After careful review, I determine that all workers of M. Bell Company, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-22505 Filed 7-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5412]

Michele Dress, Inc., Philadelphia, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 16, 1979 in response to a worker petition received on May 14, 1979 which was filed by the Philadelphia Dress Joint Board of the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' dresses at Michele Dress, Incorporated, Philadelphia, Pennsylvania. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Departmental survey was conducted of those manufacturers which represented the major portion of the company's contract production and which reduced orders from Michele Dress. The manufacturers neither imported dresses nor utilized foreign contractors for production. A survey was then conducted with the retail customers of these manufacturers. Most of these retail customers reported either that purchases of imported ladies' dresses were declining or that purchases of domestically-made dresses were increasing by an amount far greater than the amount of increase of imported dresses. Those customers who reduced purchases of dresses from domestic manufacturers and who increased purchases of imported dresses, in 1978 compared to 1977, were insignificant proportion of the surveyed manufacturers' business.

Conclusion

After careful review, I determine that all workers of Michele Dress, Incorporated, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-22507 Filed 7-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5508]

Mullins Coal Co., Inc.; Chapmanville, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 4, 1979 in response to a worker petition received on May 29, 1979 which

was filed on behalf of workers and former workers mining coal at Mullins Coal Company, Chapmanville, West Virginia. In the following determination, at least one of the criteria has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that imports of coal like or directly competitive with the coal mined by Mullins Coal Company did not contribute to any decreases in sales, production and employment at the mine. For the period under investigation, none of the customers decreased purchases from the subject firm and at the same time increased purchases of imported coal or coke.

Conclusion

After careful review, I determine that all workers of Mullins Coal Company, Chapmanville, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-22508 Filed 7-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5397]

Quaker Shoe Corp., Allentown, Pa.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 15, 1979 in response to a worker petition received on May 14, 1979 which was filed on behalf of workers and former workers producing men's, women's, children's and boys' shoes at Quaker Shoe Corporation, Allentown, Pennsylvania. The investigation

revealed that the plant produces primarily men's and children's nonrubber, nonathletic footwear. It is concluded that all of the requirements have been met.

Decreases in sales and production of children's footwear at Quaker Shoe Corporation accounted for the firm's entire sales and production decline in the last half of 1978 and the first quarter of 1979 compared to like periods of a year earlier. All workers at Quaker Shoe Corporation are engaged in employment related to the production of both men's and children's shoes, and cannot be identified by product line.

The ratio of U.S. imports of children's nonrubber, nonathletic footwear to domestic production increased to 100.0 percent in the first quarter of 1979 compared with 80.9 percent in the same period in 1978.

Major customers which reduced purchases of children's footwear from Quaker Shoe Corporation in 1978 compared with 1977 were surveyed by the Trade Act Certification Division of the Department of Commerce. Most of these customers increased purchases of imported footwear from 1977 to 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with children's nonrubber, non-athletic footwear produced at Quaker Shoe Corporation, Allentown, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Quaker Shoe Corporation, Allentown, Pennsylvania who became totally or partially separated from employment on or August 7, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-22509 Filed 7-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5389]

R & R Cedar Products, Cottage Grove, Oreg.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the

results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 14, 1979 in response to a worker petition received on May 10, 1979 which was filed on behalf of workers and former workers producing cedar shingles at R & R Cedar Products, Cottage Grove, Oregon. The investigation revealed that a separate group of workers at the firm produce random cedar lumber and cedar fencing. This investigation relates only to the workers producing cedar shingles. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Department survey was conducted with the customers who purchased cedar shingles produced by R & R Cedar Products. The survey revealed that although customers did purchase significant quantities of imported cedar shingles, import purchases either decreased or remained unchanged relative to purchases from other domestic sources. Customers indicated that they would have continued to purchase cedar shingles from R & R had the firm not ceased production of the product in November 1978.

Conclusion

After careful review, I determine that all workers engaged in employment related to the production of cedar shingles at R & R Cedar Products, Cottage Grove, Oregon are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-22510 Filed 7-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5426]

Royal China, Sebring, Ohio; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on May 18, 1979 in response to a worker petition received on May 10, 1979 which was filed on behalf of workers and former workers producing ironstone and stoneware dish sets at Royal China, Sebring, Ohio. It is concluded that all of the requirements have been met.

Imports of earthen dinnerware increased absolutely and relative to domestic shipments in 1978 compared with 1977. The ratio of imports to domestic shipments of earthen dinnerware has exceeded 100 percent in every year since 1977.

A Department survey revealed that customers of Royal China increased purchases of imported earthen dinnerware in 1978 compared with 1977 and in the first four months of 1979 compared with the like period in 1978. These customers reduced their purchases from Royal China during the same periods of comparison.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ironstone and stoneware dish sets produced at Royal China, Sebring, Ohio contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Royal China, Sebring, Ohio who became totally or partially separated from employment on or after August 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-22511 Filed 7-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5417]

Style Setter Fashions, Philadelphia, Pa; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 16, 1979 in response to a worker petition received on May 14, 1979 which was filed by the Philadelphia Dress Joint Board of the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' dresses and other clothing at Style Setter Fashions, Philadelphia, Pennsylvania. The investigation revealed that the plant produces primarily ladies' dresses. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey was conducted by the Department of Labor of the major customers of Style Setter Fashions. The survey revealed that the customers did not purchase imported ladies' dresses in 1977, 1978 or during the first four months of 1979.

Conclusion

After careful review, I determine that all workers of Style Setter Fashions, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of July 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-22512 Filed 7-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5463]

Tobin Hamilton Co., Inc.; Birch Tree, Mo.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 24, 1979 in response to a worker petition received on May 4, 1979 which was filed on behalf of workers and former workers engaged in the cutting and fitting of children's shoes at the Birch Tree, Missouri plant of Tobin Hamilton Company, Incorporated. The investigation revealed that the petitioners intended to file on behalf of all workers at the plant other than those producing shoe uppers.

The petitioning group of workers in this case is covered under a revised determination (TA-W-4794) issued on July 3, 1979. Since workers in the petitioning group separated, totally or partially, from employment on or after January 6, 1979 (impact date) and before July 3, 1981 (expiration date) are covered by the revised determination, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 13th day of July 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment
Assistance.

[FR Doc. 79-22513 Filed 7-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4571]

U and I, Inc., Idaho Falls, Idaho; Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Adjustment Assistance on February 28, 1979, applicable to all workers of the Idaho Falls, Idaho, facility of U and I, Inc., who became totally or partially separated from employment on or after January 1, 1979. The Notice of Certification was published in the Federal Register on March 6, 1979, (44 FR 12299).

At the request of former workers of the Idaho Falls lime quarry—a wholly-owned facility of U and I, Inc.—a further

investigation was made by the Director of the Office of Trade Adjustment Assistance. The investigation revealed that several workers employed at the lime quarry were separated before the January 1, 1979, impact date and, therefore, were not covered under the original certification.

The lime quarry produced crushed lime exclusively for the Idaho Falls mill for use in the purification and refinement of sugar. Production and employment at the quarry were dependent upon production at the Idaho Falls mill.

The intent of the certification is to cover all workers at the Idaho Falls facility who were adversely affected by the decline in the production of refined sugar related to import competition. Therefore, the certification is revised providing a new impact date of November 1, 1978, for the Idaho Falls facility.

The revised certification applicable to TA-W-4571 is hereby issued as follows:

"All workers of U and I, Inc., Idaho Falls, Idaho, (including the affiliated lime quarry), who became totally or partially separated from employment on or after November 1, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 13th day of July 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-22514 Filed 7-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5627]

U & I, Inc., Trucking Division, Toppenish, Wash.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 19, 1979 in response to a worker petition received on May 28, 1979 which was filed on behalf of workers and former workers engaged in the transporting of sugar beets and refined sugar at U & I, Incorporated, Trucking Division, Toppenish, Washington.

The Notice of Investigation was published in the Federal Register on June 28, 1979 (44 FR 37346). No public hearing was requested and none was held.

The petitioning group of workers in this case was included in a determination (TA-W-4572) issued on February 26, 1979 which certified as eligible to apply for adjustment

assistance all workers of U & I Incorporated, Toppenish, Washington.

The intent of that certification was to include workers engaged in support activities such as the transporting of sugar beets to refineries and of refined sugar from the refineries. Since all workers identified in this petition, newly separated, totally or partially, from employment on or after January 1, 1979 (impact date) and before February 26, 1981 (expiration date of the certification) are covered by an existing certification, a new investigation would serve no purpose. Therefore, this investigation is terminated.

Signed at Washington, D.C. this 9th day of July 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-22515 Filed 7-19-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5434]

Universal Sportswear, Inc.; Howell, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 18, 1979, in response to a worker petition received on May 14, 1979, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' skirts at Universal Sportswear, Incorporated, Howell, New Jersey. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The investigation revealed that production declines at Universal Sportswear, Incorporated are attributable to normal business

fluctuations. Universal began production in May 1977. Production at the firm increased in the last seven months of 1978 compared with the same period of 1977 and in the first quarter of 1979 compared with the same period of 1978. Production declined in April and May of 1979 compared with the same months of 1978. According to a Department survey the manufacturers who accounted for Universal's decline in production decreased orders only temporarily because of either normal business fluctuations or shifts in delivery schedules. These manufacturers reported either no imports or decreased imports of skirts in recent years.

Conclusion

After careful review, I determine that all workers of Universal Sportswear, Incorporated, Howell, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-22516 Filed 7-19-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5400]

Webster County Coal Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of Webster County Coal Company, Chestnut Ridge mine site—Nicholas County, West Virginia, Hominy Creek Mine Site—Nicholas County, West Virginia; Saxeswell Mine Site—Nicholas County, West Virginia, Tioga Mine Site—Nicholas County, West Virginia, Duo Surface Mine Site—Greenbrier County, West Virginia, and Beans Mill Mine Site—Upshure County, West Virginia.

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 15, 1979 in response to a worker petition received on April 9, 1979 which

was filed by the United Mine Workers of America on behalf of workers and former workers engaged in the contract mining of coal at Webster County Coal Company, Buckhannon, West Virginia. The investigation revealed that Webster County Coal Company has operated six coal mines in West Virginia on a contract basis since 1976. The mines are located in Nicholas, Greenbrier and Upshure Counties, West Virginia. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Webster County Coal Company operated several coal mines that are all owned by a single company. The coal from each mine is sent to a particular preparation plant of the mine owner. Coal from other mines is also sent to these same plants. The Department conducted a survey of the owner of the preparation plants and its customers.

At each of the preparation plants where domestic metallurgical coal sales constituted a significant proportion of sales, domestic metallurgical coal sales and total metallurgical coal sales increased in 1978 compared to 1977. Any decline in metallurgical coal production at the mines operated by Webster County Coal Company was offset in increasing production and sales of metallurgical coal from other domestic mines.

Conclusion

After careful review, I determine that all workers of Webster County Coal Company, mining under contract at the following mine sites, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974:

Mine site	Location
Chestnut Ridge Mine Site	Nicholas County, West Virginia
Hominy Creek Mine Site	Nicholas County, West Virginia
Saxeswell Mine Site	Nicholas County, West Virginia
Tioga Mine Site	Nicholas County, West Virginia
Duo Surface Mine Site	Greenbrier County, West Virginia
Beans Mill Mine Site	Upshure County, West Virginia

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-22517 Filed 7-19-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5449]

Weldon Manufacturing Co., Williamsport, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 22, 1979 in response to a worker petition received on May 14, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing pajamas and robes at the Weldon Manufacturing Company, Williamsport, Pennsylvania. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that most of the customers surveyed who purchased men's robes and pajamas from the Weldon Manufacturing Company did not purchase any imports in 1977, 1978 and 1979. Although some customers did purchase imported robes and/or pajamas, imports represented an insignificant proportion of their total purchases.

Conclusion

After careful review, I determine that all workers of the Weldon Manufacturing Company, Williamsport, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of July 1979.

James F. Taylor,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-22518 Filed 7-19-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5485]

Westforth Manufacturing Co., Inc., Williamsport, Pa.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 29, 1979 in response to a worker petition received on May 25, 1979 which was filed on behalf of workers and former workers producing men's outerwear jackets at Westforth Manufacturing Company, Inc., Williamsport, Pennsylvania.

The petitioning group of workers in this case is covered under a revised determination (TA-W-4718) issued on July 5, 1979. Since workers in the petitioning group separated, totally or partially, from employment on or after February 10, 1979 are covered by the revised determination a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 12th day of July 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-22519 Filed 7-19-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5401-5401C et al.]

Whitesville A & S Coal Co. et al.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of Whitesville A & S Coal Company, Incorporated, Mabscott, Beckley, West Virginia; Westmoreland Mine Site—TA-W-5401, Boone and Logan Counties, West Virginia; Corliss Mine Site—TA-W-5401A, Fayette County, West Virginia; Indian Creek Mine Site—TA-W-5401B, Boone County, West Virginia; Cazy No. 2 Mine Site—TA-W-5401C, Boone County, West Virginia.

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification

of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 15, 1979 in response to a worker petition received on May 10, 1979 which was filed on behalf of workers and former workers producing metallurgical coal at the Whitesville A & S Coal Company, Incorporated, Mabscott, Beckley, West Virginia. The investigation revealed that Whitesville A & S Coal Company, Incorporated also mined steam coal. The investigation includes the following mine sites worked by the company: Westmoreland No. 6, Corliss, Indian Creek and Cazy No. 2.

In the following determinations, without regard to whether any of the other criteria have been met for workers producing coal at the Corliss, Cazy No. 2 and Indian Creek mine sites, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

1. Corliss Mine Site

Excluding the strike periods of August and December 1977, the average number of production workers and supervisors working at the Corliss mine site increased in the April through November 1978 period compared to the same period of 1977. Due to the United Mine Workers strike in January through March 1978, employment for the first quarter 1979 cannot be compared to the first quarter 1978. Average employment of production workers and supervisors in the first quarter 1979 remained relatively constant when compared to the average employment of the April through December 1978 period and when compared to the first quarter of 1977.

Monthly production data reveal that production at the Corliss mine increased in each month of 1978, except for June and July, compared to the same month of 1977. Likewise, production increased in each month of the January through April 1979 period compared to the corresponding month of 1977.

2. Cazy No. 2 Mine Site

A Departmental survey of the customer purchasing coal mined at the Cazy No. 2 site revealed that the customer was a power company. The power company purchased coal for the purpose of generating steam in the production of electrical power. This power company did not purchase any

foreign steam coal and did not purchase metallurgical coal or coke for steam coal uses.

3. Indian Creek Mine Site

A Departmental survey was conducted of the customer with whom Whitesville contracted to produce the coal at the Indian Creek mine site. The survey revealed that the customer exported all of the coal received from Whitesville.

For workers producing metallurgical coal at the *Westmoreland No. 6* mine site, all of the criteria have been met.

U.S. imports of metallurgical coal are negligible. However, coke is metallurgical coal at a later stage of processing, and is therefore "directly competitive" with metallurgical coal.

U.S. imports of coke increased absolutely and relative to domestic production from 1976 to 1977 and from 1977 to 1978.

Production by Whitesville A & S Coal Company, Incorporated at the *Westmoreland No. 6* mine site declined in 1977 compared to 1976 and in the April-May 1978 period compared to the same period of 1977. Production by the Whitesville A & S Coal Company, Incorporated at this mine ceased in May 1978. Sales were equal to production.

The average number of production workers and supervisors employed by Whitesville A & S Coal Company, Incorporated at the *Westmoreland No. 6* mine site declined in 1977 compared to 1976 and in the April through May 1978 period compared to the same period of 1977. Whitesville employees ceased working at the *Westmoreland No. 6* mine site in May 1978.

Whitesville A & S Coal Company, Incorporated contracted work from the *Westmoreland Coal Company* for the coal mined at the *Westmoreland No. 6* mine. The *Westmoreland Coal Company* closed that mine on November 24, 1978 due to poor market demand. The Department of Labor conducted a survey of the major customers purchasing metallurgical coal from the *Westmoreland Coal Company*. Several of these customers reduced purchases from *Westmoreland* and increased imports of metallurgical coal and/or coke from 1977 to 1978.

In a Notice of Determination issued on March 9, 1979 (TA-W-4685), workers employed by the *Westmoreland Coal Company* at the *Hampton No. 6* mine (*Westmoreland No. 6* mine) were certified as eligible to apply for trade adjustment assistance.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with metallurgical coal produced by the Whitesville A & S Coal Company, Incorporated of Mabscott, Beckley, West Virginia at the *Westmoreland No. 6* mine site in Boone and Logan Counties, West Virginia contributed importantly to the decline in sales or production and to the total or partial separation of workers mining at that site. In accordance with the provisions of the Act, I make the following certification:

All workers of the Whitesville A & S Coal Company, Incorporated, Mabscott, Beckley, West Virginia engaged in employment related to the production of metallurgical coal at the *Westmoreland No. 6* mine site in Boone and Logan Counties, West Virginia who became totally or partially separated from employment on or after May 3, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all workers of the Whitesville A & S Coal Company, Incorporated, Mabscott, Beckley, West Virginia engaged in employment related to the production of coal at the following mine sites are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974:

Corliss Mine Site—Fayette County, West Virginia
Cazy No. 2 Mine Site—Boone County, West Virginia
Indian Creek Mine Site—Boone County, West Virginia

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,

Director, Office Of Management,
Administration and Planning.

[FR Doc. 79-22520 Filed 7-19-79; 8:45 am]

BILLING CODE 4510-28-M

(TA-W-5440)

Wilson-Tek Corp., Brazil, Ind.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility

requirements of Section 222 of the Act must be met.

The investigation was initiated on May 21, 1979 in response to a worker petition received on May 11, 1979 which was filed on behalf of workers and former workers producing machinery used in forming socket joints on plastic pipe at the Wilson-Tek Corporation, Brazil, Indiana. The investigation revealed that the correct name of the company is the Wilson-Tek Corporation. It is concluded that all of the requirements have been met.

Machinery used to bell plastic pipe is included in the import category "Plastic-Working Machinery and Equipment". Imports of belling equipment increased in 1978 compared to 1977 and in the first quarter of 1979 compared to the same period in 1978.

A survey of customers that accounted for a significant portion of Wilson-Tek's sales during the last five years was conducted. These customers revealed that they had recently purchased imported belling machinery in favor of belling machinery produced by the subject firm.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with plastic pipe belling machinery produced at the Wilson-Tek Corporation, Brazil, Indiana contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Wilson-Tek Corporation, Brazil, Indiana who became totally or partially separated from employment on or after July 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of July 1979.

James F. Taylor,

Director, Office of Management,
Administration and Planning.

[FR Doc. 79-22521 Filed 7-19-79; 8:45 am]

BILLING CODE 4510-28-M

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 79-36;
Exemption Application No. D-1039]

Exemption From the Prohibitions for a Certain Transaction Involving the Restated G. L. Cornell Co. Savings and Profit Sharing Plan and Trust

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the sale of a 1.01 acre parcel of real property from the Restated G. L. Cornell Company Savings and Profit Sharing Plan and Trust (the Plan) to Mr. G. L. Cornell.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 357-0040. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 23, 1979 notice was published in the *Federal Register* (44 FR 17810) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a)(1)(A) through (D) and section 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for a transaction described in an application filed by the Plan's Trustee. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The Notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department. This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted, solely by the Department because, effective December 31, 1978 section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

The Applicant has submitted the following representations since the publication of the notice of proposed exemption:

1. The sale by the Plan of the subject parcel to Mr. G. L. Cornell will not in the opinion of the Trustee, have any adverse

effect on the value or potential use of the Plan's 2.83 acre parcel north of the reserved property.

2. The parcel adjacent to the subject property is currently still subject to reservation for the outer beltway. It is still expected that the reserved property will be acquired by the Maryland National Capital Park and Planning Commission (the Commission). However, the Applicant is not aware of the factors which will be considered by the Commission in determining the purchase price for the reserved property; presumably, the purchase price will be based on a fair market value standard.

3. Adolph C. Rohland, the independent appraiser who valued the subject parcel at \$99,000 as of October 14, 1977, represents that he did not take into consideration any special effect that the future acquisition by the Commission of the property in reservation might have on the subject property. It is Mr. Rohland's opinion that the acquisition by the Commission of the reserved property will have no effect on the value of the subject parcel.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 406(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the code, including statutory or administrative

exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 406(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interest of the plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the plan.

The restrictions of section 406(a)(1) (A) through (D) and section 406 (b)(1) and (b)(2) of the Act, and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of a certain 1.01 acre parcel of real property by the Plan to Mr. G. L. Cornell, for cash or a certified check, provided that the price is not less than the higher of the two independent appraisals described in the application or the current fair market value of the property at the time of the sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 5th day of July, 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare
Benefit Programs, Labor-Management
Services Administration, U.S. Department of
Labor.

[FR Doc. 79-22564 Filed 7-19-79; 8:45 am]

BILLING CODE 4510-28-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 79-36]

Exemption From Prohibitions for Certain Transactions Involving Operating Engineers Local 406 State of Louisiana Apprenticeship and Educational Training Program (Exemption Application No. L-1142)

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption enables the Operating Engineers Local 406 State of Louisiana Apprenticeship and Educational Training Program (the Plan) to purchase a parcel of unimproved real property (the Land) from Local 406 Realty Corporation (the Corporation), a nonprofit Louisiana corporation owned by all of the members of Local 406 of the International Union of Operating Engineers (the Local). This exemption also permits, retroactively and prospectively, the lease of the Land by the Plan from the Corporation, provided, however, that this exemption will terminate with respect to the lease 180 days after the date on which it is granted.

FOR FURTHER INFORMATION CONTACT: R. F. Nuissl of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-6916. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 25, 1979 notice was published in the *Federal Register* (44 FR 30492) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a)(1) (A) and (D), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) for transactions described in the application filed by the Board of Trustees of the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act. These provisions include any

prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) This exemption does not extend to transactions prohibited under sections 406(a)(1) (B), (C) and (E), 406(a)(2) and 406(b)(3) of the Act.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interest of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Therefore, the prohibitions of sections 406(a)(1) (A) and (D), 406(b)(1) and 406(b)(2) shall not apply to the purchase by the Plan from the Corporation of a certain parcel of land located on Old Gentilly Road, New Orleans, Louisiana, containing approximately 52,251 square feet and adjoining the Local's principal office, for a purchase price not exceeding the fair market value of such property at the time of purchase. In addition, effective February 1, 1978, the restrictions of sections 406(b)(1) and 406(b)(2) of the Act shall not apply to the lease of said parcel of land to the Plan from the Corporation, provided, however, that the exemption with respect to the lease will terminate 180 days after the date on which this exemption is granted.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 12th day of July, 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-22544 Filed 7-19-79; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 79-37]

Exemption From the Prohibitions for Certain Transactions Involving the Padilla & Speer, Inc., Retirement Plan and Trust and Profit Sharing Plan and Trust (Exemption Application Nos. D-023 and D-024)

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits certain loans made to Padilla and Speer, Inc. (the Employer) from the Padilla and Speer, Inc. Retirement Plan and Trust (Pension Plan) and the Padilla and Speer, Inc. Profit Sharing Plan and Trust (Profit Sharing Plan) which were entered into before the effective date of the Employee Retirement Income Security Act of 1974 (the Act), but after July 1, 1974, the date specified in the transition rules contained in sections 414 and 2003 of the Act.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8530. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 5, 1979 notice was published in the *Federal Register* (44 FR 32309) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for transactions described in the application filed by a Trustee of the Pension Plan and the Profit Sharing Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested

exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

The application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interest of the plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the plan.

The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act, and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, effective January 1, 1975, to the loan agreements entered into on August 7, 1974, in which the Pension Plan loaned \$16,000 to the Employer, and the Profit Sharing Plan loaned \$8,000 to the Employer.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 13th day of July 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-22543 Filed 7-19-79; 8:45 am]

BILLING CODE 4510-29-M

LEGAL SERVICES CORPORATION**Grants and Contracts**

July 17, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-2996f, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

North Louisiana Legal Assistance Corporation in Monroe,

Louisiana to serve Tensas, Caldwell and Lincoln Parishes.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street NE., 9th Floor, Atlanta, Georgia 30308.

Dan J. Bradley,

President.

[FR Doc. 79-22563 Filed 7-19-79; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**[Notice 79-66]**

CY 1978 Report of Closed Meeting Activities of Advisory Committee; Public Availability of Reports

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, the NASA advisory committees that held closed or partially closed meetings in 1978, consistent with the policy of 5 U.S.C. 552b(c), have prepared reports on the activities of these meetings. Copies of the reports have been filed and are available for public inspection at the Library of Congress, Federal Advisory Committee Desk, Washington, DC 20540, and the National Aeronautics and Space Administration, Headquarters Information Center, Washington, DC 20546.

The names of the advisory committees are:

Applications Steering Committee,
Supporting Research and Technology Ad Hoc Advisory Subcommittee;
NASA Advisory Council;
NASA Wage Committee;
Space Science Steering Committee, Gamma.
Ray Observatory Ad Hoc Advisory Subcommittee.

Dated: July 12, 1979.

Russell Ritchie,

Deputy Associate Administrator for External Relations.

[FR Doc. 79-22408 Filed 7-19-79; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION**Meeting**

The fifteenth meeting of the National Commission on Unemployment Compensation is scheduled to be held at the Benson Hotel, Portland, Oregon in the Crystal Ballroom on July 26, 27, 28.

The meeting will begin at 8:30 a.m. and conclude at 5:30 p.m. each day.

Agenda—July Meeting

Thursday, July 26

1. 8:30 a.m.—9:30 a.m.
Public Testimony
—Washington State Labor Council, AFL-CIO.
2. 9:30 a.m.—12:30 p.m.
Commission Discussion of Second Revised Draft Outline of a Proposal Tentatively Summarizing Options Involved in Determining the Basic Structure of a Federal-State Unemployment Insurance Program and Related Supporting Provisions.

Break (12:30 p.m.—2:00 p.m.)

3. 2:00 p.m.—3:00 p.m.
Public Testimony
—H. J. "Doc" Weiler, Vice-President-Government Affairs, Association of Commerce and Industry of New Mexico.
—William Garvin, Government Affairs Counsel, Association of Washington Business.
4. 3:00 p.m.—4:00 p.m.
Commission Discussion of Comments Received on Reinsurance and Taxable Wage Base.
5. 4:00 p.m.—5:00 p.m.
Commission Discussion of Second Revised Draft . . . Continued.

Adjourn (5:00 p.m.)

Friday, July 27

6. 8:00 a.m.—10:00 a.m.
Commission Discussion of Second Revised Draft . . . Continued.
7. 10:00 a.m.—11:00 a.m.
Commission Discussion of Proposed Change in Extended Benefit Trigger Computation.
8. 11:00 a.m.—12:30 p.m.
Report on Economic Assumptions for 1980 and 1981.

Break (12:30 p.m.—2:00 p.m.)

9. 2:00 p.m.—3:00 p.m.
Public Testimony
—Oregon Advisory Council on Unemployment Compensation.
—Eugene Wiegman, Commissioner, Washington State Employment Security Department.
10. 3:00 p.m.—3:45 p.m.
Presentation on Inter-State Claims.
—Libby Leonard, Deputy Administrator, Oregon Employment Division, Representing ICESA.
- Gene Biglin, Chief, Division of State U.I. Programs, U.I.S. ETA, Department of Labor.
11. 3:45 p.m.—5:30 p.m.
Commission Discussion of Second Revised Draft . . . Continued.

Adjourn (5:30 p.m.)

Saturday, July 28

12. 8:00 a.m.—9:00 a.m.
Public Testimony, Panel of Employee Representatives
—United Farm Workers.

- Unemployment Representation Clinic of Seattle.
- Evergreen Legal Services.
- Seattle Teachers Association.
- Puget Sound Legal Assistance Foundation.
- 13. 9:00 a.m.—12:30 p.m.
Commission Discussion of Second Revised Draft . . . Continued, Including Determination of Priorities for Anti-Recession Consideration.

Break (12:30 p.m.—2:00 p.m.)

14. 2:00 p.m.—5:00 p.m.
Executive Session.

Adjourn (5:00 p.m.)

Telephone inquiries and communications concerning this meeting should be directed to: James M. Rosbrow, Executive Director, National Commission on Unemployment Compensation, Room 440, 1815 Lynn Street, Rosslyn, Virginia 22209, (702) 235-2782.

Signed at Washington, D.C. this 16th day of July, 1979.

James M. Rosbrow,

Executive Director, National Commission on Unemployment Compensation.

[FR Doc. 79-22484 Filed 7-19-79; 8:45 am]

BILLING CODE 4510-27-M

DEPARTMENT OF ENERGY

Nuclear Regulatory Commission

State of Rhode Island; Staff Assessment of Proposed Agreement Between the NRC and the State of Rhode Island

Note.—This document originally appeared in the *Federal Register* for Friday, June 29, 1979. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See CFR notice 41 FR 32914, August 6, 1976.)

Notice is hereby given that the U.S. Nuclear Regulatory Commission is publishing for public comment the staff assessment of a proposed agreement received from the Governor of the State of Rhode Island for the assumption of certain of the Commission's regulatory authority pursuant to section 274 of the Atomic Energy Act of 1954, as amended.

The staff assessment of the proposed agreement, the proposed agreement and a narrative, prepared by the State of Rhode Island and describing the State's proposed program for control over sources of radiation, is set forth below as an appendix to this notice. A copy of the program narrative, including the referenced appendices,¹ appropriate State legislation and Rhode Island regulations, is available for public inspection in the Commission's public document rooms at 1717 H Street, N.W..

¹ Filed with the Office of the Federal Register as part of the original document.

Washington, D.C. All interested persons desiring to submit comments and suggestions for the consideration of the Commission in connection with the proposed agreement should send them, in triplicate, to the Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; Attention: Edgar C. Ashley (301) 492-7767 on or before July 30, 1979.

Exemptions from the Commission's regulatory authority which would implement this proposed agreement, have been published in the *Federal Register* and codified as Part 150 of the Commission's regulations in Title 10 of the Code of Federal Regulations.

Dated at Bethesda, Maryland, this 25th day of June 1979.

For the U.S. Nuclear Regulatory Commission.

Robert G. Ryan,

Director, Office of State Programs.

Appendix—Staff Assessment—Summary

The Commission has received a proposal from the Governor of Rhode Island for the State to enter into an agreement with the NRC whereby the NRC would relinquish and the State would assume certain regulatory authority pursuant to section 274 of the Atomic Energy Act of 1954, as amended.

I. Background

A. Section 274 of the Atomic Energy Act of 1954, as amended provides a mechanism whereby the NRC may transfer to the States certain regulatory authority over agreement materials¹ when a State desires to assume this authority and the Governor certifies that the State has an adequate regulatory program, and when the Commission finds that the State's program is compatible with that of the NRC and is adequate to protect the public health and safety. Section 274g directs the Commission to cooperate with the States in the formulation of standards for protection against radiation hazards to assure that State and Commission programs for radiation protection will be coordinated and compatible. Further, section 274j provides that:

"The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State with which an agreement under subsection b. has become effective, or upon request of the Governor of such State, may terminate or suspend all or part of its agreement with the State and reassert the licensing and regulatory authority vested in it under this Act, if the Commission finds that (1) such termination or suspension is required to protect the public health and safety, or (2) the State has not complied with one or more of the requirements of this section. The Commission shall periodically review such agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section."

¹ A. Byproduct materials;

B. Source materials; and

C. Special nuclear materials in quantities not sufficient to form a critical mass.

B. In a letter dated May 25, 1979, Governor J. Joseph Garrahy of the State of Rhode Island requested that the Commission enter into an agreement with the State pursuant to section 274 of the Atomic Energy Act of 1954, as amended, and proposed that the agreement become effective on October 1, 1979. The Governor certified that the State of Rhode Island has a program for control of radiation hazards which is adequate to protect the public health and safety with respect to the materials within the State covered by the proposed agreement, and that the State of Rhode Island desires to assume regulatory responsibility for such materials.

The Governor has certified that there is no byproduct material as defined in section 11e.(2) of the Act within the State and that there is no activity within the State resulting in the production of byproduct material as defined in section 11e.(2) of the Act. At the same time, the staff has determined that there are no NRC licenses outstanding in the State for byproduct material as defined in section 11e.(2) of the Act or for any activity within the State resulting in the production of byproduct material as defined in section 11e.(2) of the Act.

The proposed agreement provides for necessary amendments to the agreement in the event that the State wishes to regulate byproduct material as defined in section 11e.(2) of the Act and recognizes that it will be necessary to amend the agreement in the event any activity resulting in the production of byproduct material as defined in section 11e.(2) of the Act is found to exist within the State.

The eight Articles of the proposed agreement cover the following areas:

- I. Lists the materials covered by the agreement.
- II. Lists the Commission's continued authority and responsibility for certain activities.
- III. Allows for certain regulatory changes by the Commission.
- IV. References the continued authority of the Commission for common defense and security and safeguards purposes.
- V. Pledges the best efforts of the Commission and the State to achieve coordinated and compatible programs.
- VI. Recognizes reciprocity of licenses issued by the respective agencies.
- VII. Sets forth criteria for termination or suspension of the agreement.
- VIII. Specifies the effective date of the agreement.

C. Title 23, Chapter 1.3, as amended, of the General Laws of Rhode Island authorizes the Radiation Control Agency of the Department of Health to issue licenses to, and perform inspections of, users of radioactive materials under the proposed agreement and otherwise carry out a total radiation control program.

Rhode Island Rules and Regulations for the Control of Radiation, adopted in accordance with the Rhode Island Radiation Control Act, Title 23, Chapter 1.3 of the General Laws and the Administrative Procedure Act, Title 42, Chapter 35 of the General Laws, provides standards, licensing, inspection, enforcement and administrative procedures for agreement and non-agreement materials. The

regulations are not applicable to agreement materials until the effective date of the agreement. The Rhode Island regulations became effective June 2, 1978 as they relate to X-ray machines and non-agreement materials such as naturally occurring and accelerator produced radioactive materials.

D. Environmental radiation issues with which the Division of Occupational Health and Radiation Control has been involved include: Monitoring and assessment of the impact of radioactive fallout from nuclear weapons testing; monitoring and assessment of off-site impact of effluents from facilities utilizing large quantities of special nuclear materials; review of environmental reports and safety analysis reports submitted to support applications for EPA permits and NRC licenses; monitoring and assessment of levels of radioactivity in public, community, and private drinking water supplies; and assistance to other State agencies when environmental radiation issues arise.

The Rhode Island Department of Environmental Management (DEM) is the department responsible for environmental protection within the State. The State laws governing hazardous waste, air pollution, and water pollution are included in Appendix I of the description of Rhode Island Radiation Control Program. The memoranda of understanding from the three divisions involved are contained in Appendix X.

The Division of Land Resources, DEM, will not issue a permit for a low-level radioactive waste burial site until a license has been issued by the Radiation Control Agency. Presently, the Division of Air Resources, DEM, does not have any air quality standards for radioactive air pollutants, and in the absence of any guidance from the United States Environmental Protection Agency (EPA), the division does not plan to regulate such materials.

The Division of Water Resources, DEM, does not issue EPA water discharge permits, but they do certify the adequacy of the applications. In their review they will assure that all discharges meet the standards contained in Appendix a, Table II, Column II of the Rhode Island rules and regulations.

E. The estimated budget for Radiation Control for fiscal year 1980 (July 1, 1979 to June 30, 1980) is \$164,500. Funding for Radiation Control is 78% State and 22% Federal. Federal funds include \$12,600 from the Bureau of Radiological Health for compliance testing of diagnostic X-ray and \$23,590 in HEW block grant monies.

It is estimated that \$78,000 will be necessary to fund the radioactive materials activities of the Radiation Control Section. Radioactive material activities in the section will include naturally occurring and accelerator produced radioactive materials (NARM), environmental radiation programs and impact reviews, emergency response, industrial and academic X-ray facilities and agreement material activities.

Approximately one-third of the radioactive material budget, or \$25,700 will be designated for the agreement material activities.

It is expected that close to 45 of approximately 50 NRC radioactive material licenses currently in effect in Rhode Island

would be transferred to the State under the proposed Agreement. The State's budget for the agreement material program would therefore be approximately \$570 per license. This compares to our recommended funding level range of \$200-\$350 per license.

II. Assessment of Proposed Rhode Island Program for Control of Agreement Materials

Reference: Criteria for Agreement With States Under Section 274 of the Atomic Energy Act of 1954, as Amended.¹

Objectives

1. *Protection, Development.* A state regulatory program shall be designed to protect the health and safety of the people against radiation hazards, thereby encouraging the constructive uses of radiation.

Based upon the analysis of the State's proposed regulatory program (following) the staff believes the Rhode Island proposed regulatory program for agreement materials is adequately designed to protect the health and safety of the people against radiation hazards.

Radiation Protection Standards²

2. *Standards.* The state regulatory program shall adopt a set of standards for protection against radiation, which shall apply to byproduct, source and special nuclear materials in quantities not sufficient to form a critical mass.

Statutory authority to formulate and promulgate rules and regulations is contained in the Rhode Island Radiation Control Act (Title 23 of the general laws entitled, "Health and Safety," Chapter 1.3, hereafter referred to as RIRCA) Section 23-1.3-2 (4). In accordance with that authority, the state has proposed Rules and Regulations for the Control of Radiation (hereafter referred to as RIRR) which include radiation protection standards which would apply to byproduct, source and special nuclear materials in quantities not sufficient to form a critical mass upon the effective date of an agreement between the state and the Commission pursuant to Section 274b of the Atomic Energy Act of 1954, as amended.

References: RIRCA Section 23-1.3-2 (4). RIRR Part A.

3. *Uniformity in Radiation Standards.* It is important to strive for uniformity in technical definitions and terminology, particularly as related to such things as units of measurement and radiation dose. There shall be uniformity on maximum permissible doses and levels of radiation and concentrations of radioactivity, as fixed by 10 CFR Part 20 of the NRC regulations based on officially approved radiation protection guides.

Technical definitions and terminology contained in the Rhode Island regulations including those related to units of

¹ As adopted in February 1961 (26 FR 2537, March 24, 1961), and amended in November 1965 (30 FR 15044, December 4, 1965). Minor editorial changes have been made to reflect changes in reorganization and authority of Federal agencies.

² The Conference of Radiation Control Program Directors' model State regulations and State legislation for control of radiation were used as a basis for all criteria enunciated.

measurement and radiation dose are uniform with those contained in 10 CFR Part 20, except the definition of byproduct material conforms to that contained in the Atomic Energy Act prior to enactment by Congress of Pub. L. 95-604, 92 Stat. 3021 et seq., November 8, 1978, the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA). Enactment of Pub. L. 95-604 took place after promulgation of the proposed state regulations. The staff notes that Rhode Island is not now the site of mill tailings from ores processed primarily for their source material content nor is it likely to become such a site in the foreseeable future. The definition of byproduct material currently in use by the 25 Agreement States is that contained in the Atomic Energy Act of 1954, as amended prior to enactment of Pub. L. 95-604. NRC staff is preparing draft model State legislation which, when enacted by affected states, will enable them to conform with the requirements of UMTRCA, including the amended definition of byproduct material. The States have until November 7, 1981 to enact such legislation and adopt other necessary regulatory requirements if the States desire to continue to regulate ores processed primarily for their source material content and disposal of byproduct materials as defined in Section 11e (2) of the Atomic Energy Act, as amended, pursuant to a Section 274b agreement with the NRC.

In view of the above, the absence of a definition of byproduct material conforming to that contained in Section 11e (2) of the Atomic Energy Act of 1954, as amended, is not viewed as a significant departure at this time from the need for uniformity in radiation standards and should not be considered an impediment towards signing of a Section 274b agreement.

References: RIRR Part A and Annex, Governor Garrahy's letter dated May 25, 1979, Enclosure (1).

4. *Total Occupational Radiation Exposure.* The regulatory authority shall consider the total occupational radiation exposure of individuals, including that from sources which are not regulated by it.

The Rhode Island regulations cover all sources of radiation within the State's jurisdiction and provide for consideration of the total radiation exposure of individuals from all sources of radiation in the possession of a licensee or registrant.

References: RIRR, Parts A.2.1 and A.2.2.

5. *Surveys, Monitoring.* Appropriate surveys and personnel monitoring under the close supervision of technically competent people are essential in achieving radiological protection and shall be made in determining compliance with safety regulations.

The requirements for surveys to evaluate potential exposures from sources of radiation and the personnel monitoring requirements are uniform with those contained in 10 CFR Part 20.

References: RIRR, Parts A.3.1, A.3.2 and A.3.7 (c), (d) and (f); C.8.2(c); E.2.15, and Annex, definition no. 157.

6. *Labels, Signs, Symbols.* It is desirable to achieve uniformity in labels, signs and symbols, and the posting thereof. However, it

is essential that there be uniformity in labels, signs, and symbols affixed to radioactive products which are transferred from person to person.

The prescribed radiation labels, signs, and symbols are uniform with those contained in 10 CFR Part 20, Parts 30 thru 32 and Part 34. The Rhode Island posting requirements are also uniform with those contained in Part 20.

References: RIRR, Parts A.3.3 and A.3.4, Part C, and Part E.2.

7. *Instruction.* Persons working in or frequenting controlled areas shall be instructed with respect to the hazards of excessive exposure to radioactive materials and in precautions to minimize exposure.

The Rhode Island regulations contain requirements for instructions and notices to workers that are uniform with those contained in 10 CFR Part 19.

References: RIRR, Part A.6.

8. *Storage.* Licensed radioactive material in storage shall be secured against unauthorized removal.

Licensed radioactive material in storage must be secured against unauthorized removal from places of storage.

References: RIRR, Parts A.3.6 and E.2.3.

9. *Waste Disposal.* The standards for the disposal of radioactive materials into the air, water, and sewers, and burial in the soil shall be in accordance with Part 20. Holders of radioactive material desiring to release or dispose of quantities in excess of the prescribed limits shall be required to obtain special permission from the appropriate regulatory authority.

The standards for the disposal of radioactive materials into the air, water and sewers and by burial in the soil are uniform with those in 10 CFR Part 20.

Holders of radioactive materials licenses desiring to release or dispose of concentrations or quantities in excess of the prescribed limits are required to obtain special permission from the Rhode Island Department of Health. The criteria for granting exceptions, as specified in the regulations, are uniform with those contained in 10 CFR Part 20.

References: RIRR, Part A.4.

10. *Regulations Governing Shipment of Radioactive Materials.* The state shall to the extent of its jurisdiction promulgate regulations applicable to the shipment of radioactive materials, such regulations to be compatible with those established by the U.S. Department of Transportation and other agencies of the United States whose jurisdiction over interstate shipment of such materials necessarily continues.

The transportation of licensed material including by common and contract carriers where such transportation is subject to the regulations of the U.S. Department of Transportation or the U.S. Postal Service is exempt from licensing. Other transportation is subject to licensing requirements and licensees must comply with applicable requirements of the U.S. Department of Transportation.

References: RIRR, Parts A.1.4(b), C.4.3 and C.7.

11. *Records and Reports.* The state regulatory program shall require that holders and users of radioactive materials: (a) maintain records covering personnel radiation exposures, radiation surveys, and disposals of materials; (b) keep records of the receipt and transfer of the materials; (c) report significant incidents involving the materials, as prescribed by the regulatory authority; (d) make available upon request of a former employee a report of his exposure to radiation; (e) at request of an employee advise him of his annual radiation exposure; and (f) inform each employee in writing when he has received radiation exposure in excess of the prescribed limits.

The Rhode Island regulations require the following records reports by licensees and registrants:

a. Records covering personnel radiation exposures, radiation surveys and disposal of materials.

References: RIRR, Parts A.5, C.8.2(c) and E.2.15.

b. Records of receipts and transfer of licensed materials. Reference: RIRR Part A.1.5.

c. Reports of radiation incidents, overexposures and excessive levels and concentrations are defined in provisions uniform with those contained in 10 CFR Part 20.

Reference: RIRR Parts A.5.2, A.5.3, and A.5.4.

d. reports to former employees or to individuals of their exposure to radiation or radioactive material.

References: RIRR Parts A.5.5, A.5.7, and A.6.4.

12. *Additional Requirements and Exemptions.* Consistent with the overall criteria here enumerated and to accommodate special cases or circumstances, the regulatory authority shall be authorized in individual cases to impose additional requirements to protect health and safety, or to grant necessary exemptions which will not jeopardize health and safety.

The Rhode Island Department of Health is authorized to impose upon any licensee or registrant, by rule, regulation, or order such requirements in addition to those established in the regulations as it deems appropriate or necessary to minimize danger to public health and safety or property.

Reference: RIRR Part A.1.8.

The Rhode Island Department of Health is authorized to exempt certain radiation sources, uses or users from licensing or registration requirements when it makes a finding that the exemption will not constitute a significant risk to the public health and safety.

Reference: RIRCA 23-1-3-5(d).

Prior Evaluation of uses of Radioactive Materials

13. *Prior Evaluation of Hazards and Uses, Exceptions.* In the present state of knowledge, it is necessary in regulating the possession and use of byproduct, source and special nuclear materials that the regulatory authority require the submission of

information on, and evaluation of, the potential hazards and capability of the user or possessor prior to his receipt of the materials. This criterion is subject to certain exceptions and to continuing reappraisal as knowledge and experience in the atomic energy field increase. Frequently there and, and increasingly in the future there may be, categories of materials and uses as to which there is sufficient knowledge to permit possession and use without prior evaluation of the hazards and the capability of the possessor and user. These categories fall into two groups—those materials and uses which may be completely exempt from regulatory controls, and those materials and uses in which sanctions for misuse are maintained without preevaluation of the individual possession or use. In authorizing research and development or other activities involving multiple uses of radioactive materials, where an institution has people with extensive training and experience, the regulatory authority may wish to provide a means for authorizing broad use of materials without evaluating each specific use.

Prior to the issuance of a specific license for the use of radioactive material, the Rhode Island Department of Health will require the submission of information on, and will make an evaluation of, the potential hazards of such uses, and the capability of the applicant.

References: RIRR Parts C.1, C.3.1(b), and C.5. Governor Garrahy's letter dated May 25, 1979, Enclosure (2).

Provision is made for the issuance of general licenses for byproduct, source and special nuclear materials in situations where prior evaluation of the licensee's qualifications, facilities, equipment and procedures is not required. The regulations grant general licenses under the same circumstances as those under which general licenses are granted in the Commission's regulations.

References: RIRR Parts C.1, C.3.1(a), C.4 and C.6.

14. *Evaluation Criteria.* In evaluating a proposal to use radioactive materials, the regulatory authority shall determine the adequacy of the applicant's facilities and safety equipment, his training and experience in the use of the materials for the purpose requested, and his proposed administrative controls.

In evaluating a proposal to use agreement materials, the Rhode Island Department of Health will determine whether:

a. The applicant is qualified by reason of training and experience to use the material in question for the purpose requested in a manner as to minimize danger to public health and safety or property;

b. The applicant's proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property; and

c. The issuance of the license will not be inimical to the health and safety of the public.

Reference: RIRR Part C.5.2.

Special requirements for the issuance of specific licenses are contained in the regulations.

References: RIRR Parts C.5.3, C.5.4 and C.5.5.

15. *Human Use.* The use of radioactive materials and radiation on or in humans shall not be permitted except by properly qualified persons (normally, licensed physicians) possessing prescribed minimum experience in the use of radioisotopes or radiation.

The use of radioactive materials or sealed sources on or in humans will be permitted only by licensed physicians possessing prescribed experience in the use, handling and administration of radioisotopes or radiation. Rhode Island requirements regarding such use are uniform with those of the NRC.

References: RIRR Part C.5.3(a) through (d). Governor Garrahy's letter dated May 25, 1979, Enclosure (2).

Inspection

16. *Purpose, Frequency.* The possession and use of radioactive materials shall be subject to inspection by the regulatory authority and shall be subject to the performance of tests, as required by the regulatory authority. Inspection and testing is conducted to determine, and to assist in obtaining, compliance with regulatory requirements. Frequency of inspection shall be related directly to the amount and kind of material and type of operation licensed, and it shall be adequate to insure compliance.

The possession and use of radioactive materials will be subject to inspection by the Rhode Island Department of Health and also to the performance of tests as required by or performed by the Department. Inspection and testing will be conducted to determine compliance with State regulations and to determine adequacy of the licensee's radiation protection program. Proposed inspection procedures are similar to those of the NRC Office of Inspection and Enforcement.

The frequency of inspections is dependent upon the type and scope of the licensed activities and will be at least as frequent, and in most cases, more frequent than inspections of similar licensees by NRC.

References: RIRR Parts A.1.6 and A.1.7, Governor Garrahy's letter dated May 25, 1979, Enclosure (2).

17. *Inspections Compulsory.* Licensees shall be under obligation by law to provide access to inspectors.

The Director of Health or his duly authorized representatives shall have the power to enter at all reasonable times upon any private or public property for the purpose of determining whether or not there is compliance with the state radiation control act and rules and regulations issued thereunder.

References: RIRCA Section 23-1.3-4, RIRR Part A.1.6(a).

18. *Notification of Results of Inspection.* Licensees are entitled to be advised of the results of inspections and to notice as to whether or not they are in compliance.

When there are items of noncompliance, licensees must be informed at the time of inspection. Written notices of violations will also be provided by the Department.

References: RIRR Part A.7.1 (a), (b) and (c). Governor Garrahy's letter dated May 25, 1979, Enclosure (2).

Enforcement

19. *Enforcement.* Possession and use of radioactive materials should be amenable to enforcement through legal sanctions, and the regulatory authority shall be equipped or assisted by law with the necessary powers for prompt enforcement. This may include, as appropriate, administrative remedies looking toward issuance of orders requiring affirmative action or suspension or revocation of the right to possess and use materials, and the impounding of materials; the obtaining of injunctive relief; and the imposing of civil or criminal penalties.

The Department is equipped with the necessary powers for prompt enforcement of the regulations as follows:

a. Each Notice of Violation will require a consent agreement whereby the licensee shall provide a written response to the Agency within ten days of service of the Notice of Violation.

Reference: RIRR Part A.7.1 (c).

b. The Department may issue orders to suspend, modify or revoke licenses.

Reference: RIRR Part A.7.4.

c. When the administrator finds that an emergency exists requiring immediate action to protect the public health or welfare, he may issue an order reciting the existence of such an emergency and require such action be taken as deemed necessary to meet the emergency. The order shall be effective immediately, but upon application to the Director of Health, a hearing shall be afforded within 15 days.

References: RIRCA Section 23-1.3.9, RIRR Part A.7.3.

d. A civil action may be instituted in superior court on behalf of the agency for injunctive relief to prevent the violation of the provisions of RCA 23-1.3 or codes, rules or regulations promulgated hereunder, and said court may proceed in the action in a summary manner or otherwise and may restrain in all such cases any person from violating any of the provisions of this chapter or said rules or regulations.

Reference: RIRCA Section 23-1.3-10.

e. Any person who willfully violates any provisions of the Radiation Control Act, the regulations, or orders issued thereunder may be guilty of a misdemeanor and subject to a fine or imprisonment, or both.

Reference: RIRR Part A.1.9.

Personnel

20. *Qualifications of Regulatory and Inspection Personnel.* The regulatory agency shall be staffed with sufficient trained personnel. Prior evaluation of applications for licenses or authorizations and inspection of licensees must be conducted by persons possessing the training and experience relevant to the type and level of radioactivity in the proposed use to be evaluated and inspected.

To perform these functions involved in evaluation and inspection, it is desirable that

there be personnel holding a bachelor's degree or equivalent in the physical and/or life sciences, and that the personnel have had training and experience in radiation protection. The person who will be responsible for the actual performance of evaluation and inspection of all of the various uses of byproduct, source and special nuclear material which might come to the regulatory body should have substantial training and extensive experience in the field of radiation protection.

It is recognized that there will also be persons in the program performing a more limited function in evaluation and inspection. These persons will perform the day-to-day work of the regulatory program and deal with both routine situations as well as some which will be out of the ordinary. These people should have a bachelor's degree or equivalent in the physical or life sciences, training in health physics, and approximately two years of actual work experience in the field of radiation protection.

The foregoing are considered desirable qualifications for the staff who will be responsible for the actual performance of evaluation and inspection. In addition, there will probably be trainees associated with the regulatory program who will have an academic background in the physical or life sciences as well as varying amounts of specific training in radiation protection but little or no actual work experience in this field. This background and specific training of these persons will indicate to some extent their potential role in the regulatory program. As they gain experience and competence in the field, the trainees could be used progressively to deal with the more complex or difficult types of radioactive material applications. It is desirable that such trainees have a bachelor's degree or equivalent in the physical or life sciences and specific training in radiation protection. In determining the requirement for academic training of individuals in all of the foregoing categories, proper consideration should be given to equivalent competency which has been gained by appropriate technical and radiation protection experience.

It is recognized that radioactive materials and their uses are so varied that the evaluation and inspection functions will require skills and experience in the different disciplines which will not always reside in one person. The regulatory authority should have the composite of such skills either in its employ or at its command, not only for routine functions, but also for emergency cases.

a. *Number of Personnel.* There are approximately 50 NRC specific licenses in the State of Rhode Island. Under the proposed agreement, the State would assume responsibility for about 45 of these licenses. In addition, there are approximately 1500 X-ray machines and 10 radium users in the State. The Radiation Control Agency is staffed with two professional persons to carry out the radioactive material control activities. We estimate the State will need to apply a minimum of 0.5 to 0.75 person-years of efforts to the program. The present

personnel together with their assigned responsibilities are as follows:

James E. Hickey: Chief, Division of Occupational Health and Radiation Control. Administrator, Radiation Control Agency. Responsible for overall administration and supervision of Division activities.

James L. Nolan: Supervising Radiation Control Specialist. Will be responsible for the radioactive materials control program, environmental surveillance and emergency response activities. Mr. Nolan will administer the licensing and inspection activities.

The Agency also has four persons specifically assigned to the x-ray program.

b. *Training.* The academic and specialized short course training for those persons involved in the administration, licensing and inspection of radioactive materials is shown below.

Mr. Hickey holds an M.S. degree in Occupational and Radiological Health from the Harvard School of Public Health. Mr. Nolan holds an MSE degree in Air Resources Engineering from the University of Washington. Mr. Hickey and Mr. Nolan attended the following specialized short courses:

James Hickey—Radionuclide Analysis by Gamma Spectroscopy—DHEW, PHS, BRH, November 1966, Rockville, Maryland—Ten Days. State Emergency Planning in Relation to Licensed Nuclear Facilities—USAEC, March 1973, Brookhaven, New York—Three Days. Orientation in Regulatory Practices and Procedures—USNRC, September 1976, Bethesda, Maryland—Ten days.

James Nolan—NRC "Ten-Week Health Physics and Radiation Protection Course". NRC "Medical Use of Radionuclides for State Regulatory Personnel"—Five days. NRC "Orientation Course in Regulatory Practices and Procedures"—Ten days. NRC "Radiological Emergency Response Operations"—Eight days. NRC "Inspection Procedures"—Five days. NRC "Safety Aspects of Industrial Radiography for State Regulatory Personnel"—Five days. USEPA—Five courses on air pollution—Four to five days each.

c. *Experience.* Mr. Hickey has been Health Specialist and Program Administrator, Rhode Island Department of Health, Occupational and Radiological Health Program since 1968. Mr. Nolan has been inspecting x-ray facilities, is a Health Physicist on the State emergency response team and supervisor of the radiological environmental monitoring program since January 1978. Mr. Nolan also worked as an Air Pollution Control Engineer and supervisor in the Air Quality Management Section of the State Department of Health during the period 1972-1978.

d. *Medical Advisory Committee.* The State's Medical Advisory Committee is an integral part of the Rhode Island Radiation Advisory Commission. By law, the Commission shall consist of eleven members. Areas of medical expertise represented on the Commission are nuclear medicine, nuclear pharmacy veterinary medicine,

dentistry, diagnostic radiology, radiological physics, and radiologic technology. Applications for non-routine medical uses of radioactive materials will be referred to the Commission for evaluation and recommendations.

Reference: RIRCA 23-1.3-13.

Special Nuclear Material

21. *Conditions Applicable to Special Nuclear Material.* The State's regulations do not prohibit or interfere with the duties imposed by the NRC on holders of special nuclear material owned by the U.S. Department of Energy or licensed by NRC, such as the responsibility of licensees to supply to the NRC reports of transfer and inventory.

Reference: RIRR Part A.1.1(a).

22. *Special Nuclear Material Defined.* The definition of special nuclear material in quantities not sufficient to form a critical mass, as contained in the Rhode Island regulations, is uniform with the definition in 10 CFR Part 150.

Reference: RIRR Annex, Definition 151.

Administration

23. *Fair and Impartial Administration.* The State has incorporated into its program provisions for a fair and impartial administration of its regulatory program. Public participation is provided for in the: (a) Adoption, amendment, or repeal of rules.

References: RIRCA 23-1.3-2(c)(4), RI Administrative Procedures Act 42-35, RIRR preamble.

(b) Granting, suspending, revoking, or amending of any license.

Reference: RI APA 42-35, RIRR A.7.

(c) Determination of compliance with rules and regulations.

References: RI APA 42-35, RIRR A.7.

Any person adversely affected by the final determination of the Agency may petition for the judicial review of such determination in the superior court and finally by appeal to the State Supreme Court.

Reference: RI APA 42-35.

Arrangements for Discontinuing NRC Jurisdiction

24. *State Agency Designation.* The Rhode Island Department of Health's Division of Occupational Health and Radiation Control has been designated as the State's Radiation Control Agency.

Reference: RIRCA 23-1.3-2.

25. *Existing NRC Licenses and Pending Applications.* The Agency has made provision to continue NRC licenses in effect temporarily after the transfer of jurisdiction. Such licenses will expire either 90 days after receipt from the Agency of a notice of expiration or on the date of expiration specified in the federal license, whichever is earlier.

Reference: RIRCA 23-1.3-7.

28. *Relations with Federal Government and Other States.* The Rhode Island Radiation Control Agency is charged with advising,

consulting and cooperating with the federal government, other states and interstate agencies, political subdivisions, industries, and with groups concerned with control of radiation sources.

Reference: RIRCA 23-1.3-2.

27. *Coverage, Reciprocity.* The proposed Rhode Island agreement provides for the assumption of regulatory authority over the following categories of materials within the State:

(a) Byproduct materials, as defined by Section 11e.(1) of the Atomic Energy Act, as amended.

(b) Source materials.

(c) Special nuclear materials in quantities not sufficient to form a critical mass.

Reference: Proposed Agreement, Article I.

Provision has been made by Rhode Island for the reciprocal recognition of licenses to permit activities within Rhode Island of persons licensed by other jurisdictions. This reciprocity is like that granted under 10 CFR Part 150.

Reference: RIRR C.6.

28. *NRC and Department of Energy Contractors.* The State's regulations provide that certain NRC and DOE contractors or subcontractors are exempt from the State's requirements for licensing and registration of sources of radiation which such persons receive, possess, use, transfer, or acquire.

Reference: RIRR A.1.4(c).

III. Staff Conclusion

Section 274d of the Atomic Energy Act of 1954, as amended, states: "The Commission shall enter into an agreement under subsection b. of this section with any State if—

"(1) The Governor of that State certifies that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by the proposed agreement, and that the State desires to assume regulatory responsibility for such materials; and

"(2) The Commission finds that the State program is in accordance with the requirements of subsection o. and in all other respects compatible with the Commission's program for the regulation of such materials, and that the State program is adequate to protect the public health and safety with respect to the materials covered by the proposed agreement."

The staff has concluded that the State of Rhode Island meets the requirements of section 274 of the Act. The State's statutes, regulations, personnel, licensing, inspection and administrative procedures are compatible with those of the Commission and adequate to protect the public health and safety with respect to the materials covered by the proposed agreement.

Agreement Between the United States Nuclear Regulatory Commission and the State of Rhode Island and Providence Plantations for Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended

WHEREAS, The United States Nuclear Regulatory Commission (hereinafter referred to as the Commission) is authorized under Section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to byproduct materials as defined in sections 11e.(1) and (2) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

WHEREAS, The Governor of the State of Rhode Island and Providence Plantations is authorized under 23-1.3-7 of the General Laws of Rhode Island to enter into this Agreement with the Commission; and

WHEREAS, The Governor of the State of Rhode Island and Providence Plantations certified on May 25, 1979, that the State of Rhode Island and Providence Plantations (hereinafter referred to as the State) has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and

WHEREAS, The Governor of the State of Rhode Island and Providence Plantations certified on May 25, 1979, that there is no byproduct material as defined in section 11e.(2) of the Act within the State and that there is no activity within the State resulting in the production of byproduct material as defined in section 11e.(2) of the Act; and

WHEREAS, The Commission found on _____, that the program of the State for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

WHEREAS, The Commission found on _____, that there are no NRC licenses outstanding in the State for byproduct material as defined in section 11e.(2) of the Act or for any activity within the State resulting in the production of byproduct material as defined in section 11e.(2) of the Act; and

WHEREAS, The State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and

WHEREAS, The Commission and the State recognize the desirability of reciprocal recognition of licenses and exemptions from

licensing of those materials subject to this Agreement; and

WHEREAS, The State and the Commission recognize that it will be necessary to consider amendments to this Agreement in the event that the State wishes to regulate byproduct material as defined in section 11e.(2) of the Act and that it will be necessary to amend this Agreement in the event any activity resulting in the production of byproduct material as defined in section 11e.(2) of the Act is found to exist within the State; and

WHEREAS, This Agreement is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended:

NOW, THEREFORE, It is hereby agreed between the Commission and the Governor of the State, acting in behalf of the State, as follows:

Article I

Subject to the exceptions provided in Articles II, III, and IV, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to the following materials:

A. Byproduct materials as defined in section 11e.(1) of the Act;

B. Source materials; and

C. Special nuclear materials in quantities not sufficient to form a critical mass.

Article II

This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of:

A. The construction and operation of any production or utilization facility;

B. The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

C. The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

D. The disposal of such other byproduct, source, or special nuclear material as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission.

Article III

Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer or any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

Article IV

This Agreement shall not affect the authority of the Commission under subsection 161 b. or i. of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect

restricted data or to guard against the loss or diversion of special nuclear material.

Article V

The Commission will use its best efforts to cooperate with the State and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible. The State will use its best efforts to cooperate with the Commission and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of like materials. The State and the Commission will use their best efforts to keep each other informed of proposed changes in their respective rules and regulations and licensing, inspection and enforcement policies and criteria, and to obtain the comments and assistance of the other party thereon.

Article VI

The Commission and the State agree that it is desirable to provide for reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any Agreement State. Accordingly, the Commission and the State agree to use their best efforts to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

Article VII

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend all or part of this Agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that (1) such termination or suspension is required to protect the public health and safety or (2) the State has not complied with one or more of the requirements of section 274 of the Act. The Commission shall periodically review this Agreement and actions taken by the State under this Agreement to ensure compliance with section 274 of the Act.

Article VIII

This Agreement shall become effective on October 1, 1979 and shall remain in effect unless and until such time as it is terminated pursuant to Article VII.

Done at Providence, State of Rhode Island, in triplicate, this _____ day of _____

For the United States Nuclear Regulatory Commission.

For the State of Rhode Island and Providence Plantations.

J. Joseph Garrahy, Governor.

The Rhode Island Radiation Control Program Foreword

The State of Rhode Island and Providence Plantations, while recognizing that the scientific, medical, and industrial usages of atomic energy can be beneficial to its citizens, is also cognizant of the hazards inherent to ionizing radiation. With these hazards in mind, and considering that the State is committed to attain the highest practicable degree of protection for the public from the harmful effects of all types of radiation exposure and simultaneously permit the many beneficial applications of radiation, the 1978 Rhode Island State Legislature enacted the present Radiation Control Act.

Section 274 of the Atomic Energy Act of 1954, as amended, authorizes the United States Nuclear Regulatory Commission (NRC) to enter into an agreement with the governor of a state for purposes of transferring to that state certain functions of licensing and regulatory control of byproduct, source, and less than critical quantities of special nuclear material.

Section 23-1.3-7 of the 1976 Rhode Island Radiation Control Act authorizes the Governor, on behalf of the State, to enter into an agreement with the NRC which would provide a discontinuance of certain responsibilities of the NRC relating to ionizing radiation and the assumption of such responsibilities by the State. A copy of this legislation is contained in Appendix I.

History

Prior to 1960, radiation control activities were integrated with the other program activities of the Division of Occupational Health of the Rhode Island Department of Health. About that time radiological health was recognized as an area of concern requiring a set of special program activities within the Division. The development of these activities generally has paralleled that of other states with the important exception that comprehensive radiation control legislation was not adopted until 1976.

In the early 1960's emphasis was placed upon personnel training in radiological health through attendance at U.S. Public Health Service courses. A state Industrial Code relating to Occupational Radiation Protection was adopted in June 1964. In response to the requirements of this Code, a registration of radiation sources was conducted and completed during 1965. Radiation protection surveys of x-ray facilities and facilities utilizing Radium began at this time. An environmental radiation surveillance network was established by the Division during the early 1960's to measure fallout and has provided continuous data since that time. The need for radiological emergency response capability was recognized with the occurrence of a criticality accident in the state in 1964 which resulted in one radiation death. The Division has cooperated with other agencies to provide this capability and is presently engaged in updating the State Emergency Response Plan.

The Division has been actively representing the State of Rhode Island as a

member of the Conference of Radiation Control Program Directors, (CRCPD), and the New England Radiological Health Committee, (NERHC), since their inception. Both organizations bring together state and federal agencies for cooperative efforts toward reduction of radiation exposure.

Radioactive material users have been provided assistance with hazards evaluations and reduction upon request. These services have been available to and utilized by Nuclear Regulatory Commission licensees as well as users of naturally occurring and accelerator produced radioactive materials (NARM). Division personnel have taken every opportunity to accompany NRC inspectors in order to become familiar with problems uncovered in Rhode Island and procedures used for inspections and compliance.

Environmental radiation issues with which this Division has been involved include: monitoring and assessment of the impact of radioactive fallout from nuclear weapons testing; monitoring and assessment of off-site impact of effluents from facilities utilizing large quantities of special nuclear materials; review of environmental reports and safety analysis reports submitted to support applications for EPA permits and NRC licenses; monitoring and assessment of levels of radioactivity in public, community, and private drinking water supplies; and assistance to other state agencies when environmental radiation issues arise.

Medical and dental radiography presents by far the largest man-made source of ionizing radiation exposure to the state's population. As a result, programs to reduce this exposure have been given priority over the years. Early programs emphasized physical surveys to encourage voluntary compliance with NCRP recommendations for equipment and structural shielding. In 1968 emphasis shifted somewhat to programs designed to lower patient dose through user assistance. At that time a program was developed and implemented by which dental exposures could be normalized to provide optimum diagnostic quality at minimum patient exposure.

This Rhode Island program described in an article published in the American Journal of Public Health in August 1970 (contained in Appendix VIII) became the basis for the Dental Exposure Normalization Technique (DENT) program sponsored by the Federal Food and Drug Administration's Bureau of Radiological Health (BRH, FDA). Under their sponsorship, DENT has since been implemented by most states. The Division has also conducted Technique Normalization programs for mammography, and for podiatric, chiropractic, and cephalometric x-ray procedures. In later years the quality assurance aspects of these programs have received special attention.

In 1975 the Division began its participation in the Nationwide Evaluation of X-Ray Trends (NEXT) program sponsored by CRCPD and BRH, FDA. A stratified random sample of 100 x-ray facilities was chosen and surveyed under this program. The results, including mean exposures for Rhode Island for various routine radiographic procedures,

were published in the Rhode Island Medical Journal in 1978, and this paper is included in Appendix VIII. The Division continues to utilize the NEXT program in its x-ray control efforts.

During 1976 it was decided by the State's Legislature that comprehensive legislation and regulations for control of radiation were necessary and desirable in Rhode Island to accomplish further reductions in population exposure to radiation. The State Radiation Control Act, Title 23, Chapter 1.3, of the General Laws was enacted in May 1976. Acting in accordance with this legislation, the Director of Health designated the renamed Division of Occupational Health and Radiation Control as the State Radiation Control Agency and designated the current Chief of that Division as the Agency's Administrator. The Director also appointed the eleven-member Radiation Advisory Commission as provided by the legislation.

Regulations for x-ray facilities, which are modeled after the Suggested State Regulations for Control of Radiation, were drafted by the Agency and reviewed by the Radiation Advisory Commission. After a public hearing in accordance with the State's Administrative Procedures Act, the Agency's first regulations were adopted in June 1978. These regulations provide for annual registration of all x-ray facilities and certain services to x-ray facilities. The initial registration was completed in September 1978. Inspection of x-ray facilities on a scheduled basis for compliance with regulations began shortly thereafter.

The State Radiation Control Act also provides the authority for the Governor to enter into an Agreement for the assumption of certain licensing and inspection functions of NRC. In December 1978, regulations were adopted to facilitate the transition of authority from NRC to the State Radiation Control Agency. These regulations become effective on the date of an Agreement.

Organization, Functions, and Responsibilities

The Rhode Island Department of Health was established in April 1878, under Section 23 of the General Laws of Rhode Island. This department is responsible for promoting and protecting the health of the people of Rhode Island by:

- (1) formulating policy and providing leadership and coordination of health services;
- (2) directing the planning, regulation, and development of health resources; and
- (3) providing personal and environmental health services.

The act creating the state Board of Health established a six-member board to make investigations into the causes of diseases, especially epidemics and endemics among the people, the sources of mortality, and the effects of localities, employments, conditions, and circumstances on the public health. Subsequent legislation setting up individual divisions within the Health Department delegated the responsibility for promulgating rules and regulations to each individual division.

The Department has four Associate Directors with board program responsibilities

in: (1) Management and Support Services, (2) Health Planning and Development, (3) Preventative Medicine, and (4) Community Health Services. A chart showing the present organization of the Department of Health is contained in Appendix II.

Funding for the Department is both state and federal. Federal Block Grants are used to fund many of the Health Department programs, but specific federal grants are also employed (e.g., Drinking Water Program). Funding for the Radiation Control Agency is 22% federal and 78% state and has the services of one assignee from the Bureau of Radiological Health.

Under the Radiation Control Act, a Radiation Advisory Commission consisting of 11 members was established. The commission members are appointed by the Director of Health and include persons representing engineering, diagnostic radiology, nuclear medicine, dentistry, veterinary medicine, industrial radiation protection, and radiologic technology. Appendix III lists the membership of the present commission. It is the duty of the commission to advise the Agency on technical matters relating to radiation. The Radiation Control Agency has authority to regulate the use of all sources of ionizing radiation, except those which it may exempt or are under the jurisdiction of the Federal Government. A chart showing the organization of the Radiation Control Agency is shown in Appendix II.

All members of the Agency have experience in health physics and have specialized training in this field. Professional staff including both new personnel and existing personnel will attend NRC training courses to attain and maintain a high level of technical competency. Members also have experience in operating laboratory and survey equipment. Responsibilities, job descriptions, background, and experience of radiation control personnel are given in Appendix IV.

The Supervising Radiation Control Specialist in charge of the Radioactive Materials Section will be responsible for licensing, inspections, investigations into incidents, and response to emergencies involving radioactive materials. It is anticipated that he will spend half of his time on the agreement program. The Administrator of the Radiation Control Agency (the Chief of the Division of Occupational Health and Radiation Control) will review and sign licenses and will review all inspection reports. His time on the agreement program will amount to a tenth of a man-year. Other members of the Radiation Control staff will also participate in the agreement program such that the total staff commitment will be one man-year. These breakdowns are further quantified in the budget contained in Appendix VII.

Rhode Island is an OSHA Consultation State and not an Enforcement State; therefore, it is not anticipated that the activities of the Occupational Health Section will impact on the Radioactive Materials Section.

Scope of Activities

The Radiation Control Agency administers the regulatory program associated with licensing of radioactive materials and registration of radiation-producing machines, environmental surveillance, special projects, and response to emergency situations involving sources of radiation. Chapters 18 and 18A of the state health plan, included in Appendix IX, detail the objectives and methods of the Division.

Within the State of Rhode Island there are 1,520 registered x-ray machines: 827 dental units, 631 medical units, and 62 industrial x-ray units. The number of NRC licenses within the State of Rhode Island as of December 31, 1978 was 49.

It is anticipated that the State will assume approximately 45 of these licenses. The number of facilities using radium sources is estimated at 10, and most of these are hospitals presently under NRC license. Three linear accelerators are in use for radiation therapy, and three small particle accelerators are in use at local universities.

Regulatory Procedures and Policy

Licensing and Registration

The Radiation Control Act requires licensing of all radioactive materials and registration of all radiation-producing machines except such sources as may be specifically exempted by regulations. License fees will be charged in accord with the schedule contained in Appendix III.

Licensing procedures, as provided in Parts A and C of the Rhode Island Rules and Regulations for the Control of Radiation, are consistent with those of the NRC. The license applications and form contained in Appendix V will be used in conjunction with Licensing and Regulatory Guides provided by the NRC.

General licenses are provided by regulation without filing an application with the Agency or the issuance of a licensing document. General licenses will be issued for specified materials under specified conditions when it is determined that the issuance of specific licenses is not necessary to protect the public and occupational health and safety. Specific licenses or amendments thereto will be issued upon review and approval of an application. A specific license will be issued only to named persons or facilities under the supervision of named persons and will incorporate appropriate conditions and expiration date. Pre-licensing inspections will be conducted when appropriate.

The Agency will request the advice of the Radiation Advisory Commission, or appropriate members thereof, with respect to any matter pertaining to a medical license application, or to criteria for reviewing applications.

All applications for non-routine medical uses of radioactive materials will be referred to the Radiation Advisory Commission for advice and consultation. Appropriate research protocols will be required as part of an application. The Agency will maintain knowledge of current developments, techniques, and procedures for medical uses applicable to the licensing program through continuing contact and information exchange

with the NRC, other agreement states, and the medical profession.

The registration program for radiation-producing machines will continue, and the use of naturally occurring and accelerator produced radionuclides will now be licensed.

Inspection

The Agency is presently initiating an inspection and compliance program for x-ray equipment registrants which is similar to the proposed inspection and compliance program for radioactive materials.

Inspections for the purpose of evaluating radiation safety and determining compliance with appropriate regulations and provisions of licenses will be conducted as scheduled or in response to requests of complaints. Inspection frequency will be based upon the extent of the potential hazard and experience with the particular facility. Inspection priorities may be changed on a case-by-case basis consistent with current NRC practices. It is anticipated that state inspections of licensed facilities will be conducted in accordance with a priority schedule similar to that shown as follows:

Priority	Type of License	Inspection frequency
I.....	Broad medical, broad academic, industrial radiography.....	6 mos. or less
II.....	Industrial.....	1 yr. or less
III.....	Academic, medical, civil defense.....	1 yr. or less
IV.....	Limited medical, limited industrial.....	2 yrs. or less
V.....	Generally licensed devices.....	As required

Inspections will be made by pre-arrangement with the licensee or may be unannounced as the Agency determines to be most constructive. Written inspection procedures provided by the NRC will be followed in conducting the inspections and preparing reports.

The Rhode Island Radiation Control Agency has personnel trained in regulatory practices and procedures. Additionally, Agency personnel have accompanied NRC compliance inspectors on field inspections to gain a higher degree of competence in evaluating radiation safety and determining compliance with appropriate regulations and license provisions. Inspections will include the observation of pertinent facilities, operators, and equipment; a review of pertinent records and of radioactive materials—all as appropriate to the scope of the activity, conditions of the license and applicable regulations. In addition, independent measurements will be made, as appropriate.

At the start and conclusive of an inspection, personal contact will be made at management level whenever possible. Following the inspection, results will be discussed with management. Prompt investigations and reports will be made of all reported or alleged incidents to determine the cause, the steps taken for correction, and the prevention of similar incidents in the future.

Compliance and Enforcement

Compliance with regulations and license conditions will be determined by inspections and evaluation of inspection reports. When

there are items of non-compliance, the licensee or registrant will be informed at the time of inspection as follows:

(1) When the items are minor and the licensee or registrant agrees at the time of inspection to correct them, written inspection findings will be prepared which will list the items of non-compliance, confirm any corrections made during the inspection, and require acknowledgement by the person interviewed. The licensee or registrant will be informed that a review of any corrective action items will be conducted at the time of the next regular inspection or by a reinspection.

(2) When the non-compliance is considered serious, the person interviewed will be informed at the time of inspection. Written inspection findings will be sent to the licensee or registrant which will list the items of non-compliance and require a response within 20 days including proposed corrective action and an estimated date of completion of the corrective action.

(3) If no reply is received to the initial letter within the specified time, a Notice of Violation is issued. This Notice of Violation, mailed to management, will require a written Consent Agreement including proposed corrective action and an estimated date of completion of the corrective action. If considered appropriate, an unannounced reinspection will be made shortly after the estimated date of completion.

(4) Continued non-compliance as determined by the reinspection or by failure to reply within 10 days of the Notice of Violation will necessitate an Order of Abatement from the Agency. Such formal proceedings will follow the procedures contained in A.7.2 of the Rules and Regulations for the Control of Radiation.

The Agency uses its best efforts to attain compliance through cooperation and education prior to initiating formal legal procedures such as the Notice of Violation and Order of Abatement.

Upon request by a licensee, or upon the determination by the Agency, the terms and conditions of a license may be amended, consistent with the Act or regulations, to meet changing conditions in operations or to remedy technicalities of non-compliance.

Effective Date of License Transfer

Any person who possesses a license for agreement materials issued by the NRC, on the effective date of the agreement with the NRC, shall be deemed to possess a like license issued by the Agency, which shall expire either 90 days after the receipt from the Agency of a notice of expiration of such license, or on the date of expiration specified in the federal license, whichever is earlier.

Administrative Procedures and Judicial Review

The basic standards of procedures for administrative agencies in the State of Rhode Island are set forth in 42-35 of the General Laws of Rhode Island found in Appendix I. The Agency shall follow this law and the Radiation Control Act with respect to hearings, issuance of orders, and judicial review of findings.

Compatibility and Reciprocity

In promulgating the present Rules and Regulations for the Control of Radiation, the Agency has, insofar as practicable, maintained compatibility with NRC and agreement state regulations; has avoided requiring dual licensing and has provided for reciprocal recognition of other agreement states and federal licenses.

Through these regulations the State has adopted radiation protection standards and will strive to maintain compatibility with NRC and other Agreement States. The Agency will also cooperate with NRC and other Agreement States in interchanging information and statistics relating to control of radioactive materials.

Coordination with the Department of Environmental Management

The Department of Environmental Management is the department responsible for environmental protection within the state. The state laws governing hazardous waste, air pollution, and water pollution are included in Appendix I, and the memoranda of understanding from the three divisions involved are contained in Appendix X.

The Division of Land Resources will not issue a permit for a low level radioactive waste burial site until a license has been issued by the Radiation Control Agency. Presently the Division of Air Resources does not have any air quality standards for radioactive air pollutants, and in the absence of any guidance from the United States Environmental Protection Agency (EPA), the division does not plan to regulate such materials.

The Division of Water Resources does not issue EPA water discharge permits, but they do certify the adequacy of the applications. In their review they will assure that all discharges meet the standards contained in Appendix A, Table II, Column II of the Rhode Island rules and regulations.

Radiation Laboratory Services

The Radiation Control Agency has the capability of evaluating samples collected during routine inspections and for making independent measurements. In addition to the survey instruments listed in Appendix VI, the Division has a large variety of air sampling equipment for industrial hygiene surveys including portable air sampling pumps for filters and charcoal cartridges, smoke tubes, and a velometer. If the need for a neutron survey meter arises, one can be borrowed from the University of Rhode Island. All survey instruments used for inspection and emergency response will be calibrated quarterly as per NRC State Agreements—Division III Information Notice H.2.

The Division of Laboratories has capabilities of gamma spectroscopy and gross alpha-beta counting of environmental samples. For more sophisticated non-routine evaluations, samples will be sent to the EPA lab in Montgomery, Alabama.

Emergency Response

The Rhode Island Radiation Control Agency has technically trained personnel and specialized equipment to investigate and

evaluate incidents involving ionizing radiation. The Agency continues to prepare for such response by providing the following:

- (1) trained staff for advisement required to meet any given situation;
- (2) trained and equipped staff for emergency field activities;
- (3) transportation by automobile to site of incident;
- (4) established liaison with appropriate NRC and DOE Operations Offices; and
- (5) training to key personnel of other state/local agencies.

Radiological assistance in the form of monitoring, liaison with appropriate authorities, and recommendations for area security and cleanup are provided by the Agency. The contamination guides used by the Agency are in Table III of the Protective Action Guides contained in Appendix XI. All Agency personnel will be maintained at an operation-ready level of training. Part of this training will be provided through cooperation of the NRC in Las Vegas, Nevada.

The Annex C Nuclear Accident or Incident Control Plan presently being revised by the State Civil Defense Preparedness Agency (DCPA) is included in Appendix XI. This plan addresses both transportation accidents and off-site releases from fixed facilities. It requires that the State Police first notify DCPA which in turn notifies the Radiation Control Agency. It is the responsibility of the Agency to advise the DCPA the extent of the hazard to the public health and safety and recommend protective actions as necessary. All licensees will be given copies of the plan and instructed in proper reporting of incidents which occur outside of their facility.

[R Doc. 79-22469 Filed 7-19-79; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Ad Hoc Subcommittee on the Three Mile Island, Unit 2, Accident Implications Re Nuclear Power Plant Design; Addition to Agenda

The agenda of the July 26-27, 1979 meeting of the ACRS Ad Hoc Subcommittee on the Three Mile Island, Unit 2 Accident—Implications Re Nuclear Power Plant Design, will include the following:

Friday, July 27, 1979

The subcommittee will address the topic of further ACRS review of pending applications for operating licenses as a result of the Three Mile Island, Unit 2 Accident, and, specifically, the Salem Nuclear Power Station, Unit 2 review.

Background information regarding the Salem Nuclear Power Station, Unit 2 can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., N.W., Washington, DC 20555, and at the Salem Free Public Library, 112 West Broadway, Salem, NJ 08079.

All other items regarding this meeting remain the same as announced in the Federal Register on July 12, 1979 (44 FR 40739).

Further information can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Richard K. Major, (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: July 16, 1979.

John C. Hoyle,

Advisory Committee, Management Officer.

[R Doc. 79-22469 Filed 7-19-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-133]

Pacific Gas & Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 18 to Facility Operating License No. DPR-7, issued to Pacific Gas and Electric Company (the licensee), which revised Technical Specifications for operation of the Humboldt Bay Power Plant, Unit No. 3 (the facility) located near Eureka, California. The amendment is effective as of the date of its issuance.

The amendment revises the Technical Specifications to extend on a one-time basis the interval for containment integrated leak rate testing until immediately prior to returning the facility to power operation. The amendment also includes the following administrative changes to the Technical Specifications:

1. Expression of an allowable tolerance for performing surveillance intervals,
2. Addition of a member to the Plant Staff Review Committee,
3. Correction of a typographical error, and
4. Clarification of General Office Nuclear Power Plant Review and Audit Committee responsibilities.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not

result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 20, 1978, as supplemented January 24, 1979, (2) Amendment No. 18 to License No. DPR-7, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Humboldt County Library, 636 F Street, Eureka, California. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 13th day of July 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[R Doc. 79-22472 Filed 7-19-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-275]

Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant, Unit 1); Order Extending Construction Completion Date

Pacific Gas and Electric Company is the holder of Construction Permit Nos. CPPR-39 and CPPR-69 issued by the Atomic Energy Commission* on April 23, 1968 and December 9, 1970, respectively, for construction of the Diablo Canyon Nuclear Power Plant, Units 1 and 2, presently under construction at the Company's site in San Luis Obispo County, California.

On May 24, 1979, Pacific Gas and Electric Company filed a request for extension of the completion date for Unit 1.

On November 15, 1978, the Commission's staff published Supplement No. 8 to the Safety Evaluation Report for the Diablo Canyon Nuclear Power Plant documenting the need to make certain modifications. Consequently, additional time will be required to complete the

*Effective January 20, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and Permits in effect on that day were continued under the authority of the Nuclear Regulatory Commission.

modifications and to conclude the licensing process for Unit 1. Additional time is also required for the Nuclear Regulatory Commission staff to complete its investigation of the incident at the Three Mile Island Nuclear Power Plant, Unit 2 and to apply new safety requirements arising from this investigation to the Diablo Canyon Nuclear Power Plants to the extent that they are applicable. In order to accommodate a reasonable schedule needed to complete the safety evaluation and the subsequent licensing actions related to these new safety requirements, the Nuclear Regulatory Commission staff concluded that the requested extension date of October 31, 1979 should be extended to December 31, 1979.

This action involves no significant hazards consideration; good cause has been shown for the delays; an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with the extension; and the requested extension is for a reasonable period, the bases for which are set forth in a staff evaluation of request for extension.

For further details with respect to this action, see (1) the applicant's request for extension of the construction permit completion date for Diablo Canyon, Unit 1 dated May 24, 1979, and (2) the staff's related evaluation, all of which are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Local Public Document Room located in San Luis Obispo County Free Library, P.O. Box X, San Luis Obispo, California 93406.

It is hereby ordered that the latest completion date for CPPR-39 is extended from June 30 1979 to December 31, 1979 for Unit 1.

Date of Issuance: July 11, 1979.

For the Nuclear Regulatory Commission.

D. B. Vassallo,
Acting Director, Division of Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 79-22473 Filed 7-19-79 8:45 am]
BILLING CODE 7590-01-M

[Project M-25]

Uranium Milling; Extension of Comment Period for the Draft Generic Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969, and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part

51, Notice has been given (April 27, 1979, 44 FR 24963) that a Draft Generic Environmental Impact Statement (GEIS) on Uranium Milling, prepared by the Commission's Office of Nuclear Material Safety and Safeguards, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. Notice of the Commission's intent to prepare such a statement was published in the Federal Register on June 3, 1976, (41 FR 22430). A proposed scope and outline for the study was published on March 14, 1977 (41 FR 13874). The Draft Environmental Statement has also been made available at the State Clearhouses. Requests for single copies of the Draft Environmental Statement (identified as NUREG-0511) should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control.

As stated in the Federal Register Notice announcing the availability of the Draft GEIS, regulation changes have been developed which incorporate conclusions of the Draft GEIS and implement provisions of the "Uranium Mill Tailings Radiation Control Act of 1978." Because several provisions of the recently enacted legislation have required extensive legal analysis the regulation changes are just now ready to be proposed. It is expected that the regulation change will be formally proposed in a couple of weeks. Since the bases for many of the regulation changes are developed in the Draft GEIS, it is essential that they be considered together. Therefore, the comment period on the Draft GEIS is being extended sixty (60) days from July 26, 1979, to September 24, 1979, in order to provide adequate time for review.

It is the intention of the staff to hold public hearings to allow interested persons to make statements and comments for the record on the GEIS and proposed regulation changes. It is expected that these hearings will be held in September. Notice of the specific time and place of these public hearings will be published in the Federal Register.

Comments on the Draft Environmental Statement from interested persons should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Waste Management.

Dated at Silver Spring, Maryland, this 13th day of July, 1979.

For the Nuclear Regulatory Commission.
Ross A. Scarano,
Chief, Uranium Recovery Licensing Branch,
Division of Waste Management.
[FR Doc. 79-22471 Filed 7-19-79; 8:45 am]
BILLING CODE 7590-01-M

PANAMA CANAL COMPANY

Canal Zone Government; Privacy Act of 1974; New System of Records

AGENCY: Panama Canal Company/Canal Zone Government.

ACTION: New System of Records.

SUMMARY: The Panama Canal Company and the Canal Zone Government have established a new system of records called the "Personnel Information System, PCC-CZG/PR-7." A description of the new system is published below.

By letter dated December 28, 1978, the Canal agencies advised the Office of Management and Budget (OMB) of their intention to establish this system of records and requested a waiver of the sixty-day advance notice requirement. OMB granted the waiver on February 2, 1979.

These agencies sent a report on the new system to the Office of Management and Budget, the Senate, and the House of Representatives on July 13, 1979.

The new system, maintained by the Personnel Bureau, is the result of combining information in a new computerized personnel file with information in an existing automated payroll system of records, "Payroll Master File for Panama Canal Company and Canal Zone Government Employees, PCC-CZG/FVAP-1." The new automated personnel file contains employment-related data in coded form (such as retention register data, repatriation/travel eligibility data, and priority placement program/ reemployment placement program eligibility data) for each active employee of the Canal agencies. This data is combined with the information in the Payroll Master File system FVAP-1 to produce the new system of records PR-7. The information is retrievable from the system by employee name or identification number.

Establishment of the new system of records did not involve the collection of any new information from employees or the general public; it consisted of the computerization of employment-related data from files and records that are presently manually maintained, such as Standard Form 50, Official Personnel

Folders, and documents prepared for treaty planning purposes.

The immediate purpose for establishing the new system was to facilitate planning for implementation of the Panama Canal Treaty of 1977 and related agreements, which will enter into force on October 1, 1979. The Canal Zone Government and the Panama Canal Company will cease to exist pursuant to the terms of the treaty and a new United States agency, the Panama Canal Commission, will be established. Although under the terms of the treaty and related agreements, and as provided in proposed implementing legislation, the Commission will perform certain of the functions previously performed by the Government and Company, many significant functions now performed by these agencies will be transferred to the Department of Defense or the Government of Panama, or will cease to exist. Because of the impending changes, the Personnel Bureau must be ready to process transfer-of-function, reduction-in-force, and retirement actions affecting nearly half of the Canal agencies' present 14,000 employees. The secondary and general purpose for establishment of the new system was to obtain a flexibility that would enable an immediate response, in varying report formats, to the increased present and future demands for specific employment-related reports.

DATES: These agencies invite the submission, by any member of the public, of written data, views or arguments concerning the intended routine uses of the information in this system. To be considered, comments must be received within thirty days (August 21, 1979) of the publication date of this notice. If no comments requiring modification of the routine uses are received, the routine uses will become effective on August 22, 1979.

ADDRESS: Send comments to: K. E. Goldsberry, Acting Agency Records Officer (Acting Chief, Administrative Services Division), Panama Canal Company, Box M, Balboa Heights, Canal Zone. Mark all comments: PR-7.

FOR FURTHER INFORMATION CONTACT: Hazel M. Murdock, Assistant to the Secretary, Panama Canal Company, Suite 312, Pennsylvania Building, 425 13th St., N.W., Washington, D.C. 20004, 202-724-0104.

Dated: July 23, 1979.

Clarence C. Payne,
Acting Administrative Assistant to the Governor-President.

PCC-CZG/PR-7

SYSTEM NAME:

Personnel Information System, PCC-CZG/PR-7.

SYSTEM LOCATION:

Management Information Systems, Panama Canal Company, Administration Building, Balboa Heights, Canal Zone; and Personnel Bureau, Ancon, Canal Zone.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current employees of the Panama Canal Company and Canal Zone Government in permanent and temporary positions. After September 30, 1979, all employees terminated through reduction-in-force procedures who participate in a priority reemployment program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, employee identification number and employment-related and retention register data in an automated personnel file, in combination with the information in the automated system of records, the "Payroll Master File for Panama Canal Company and Canal Zone Government Employees, PCC-CZG/FVAP-1."

Records in FVAP-1 include: birthdate; Social Security number; veteran preference; tenure; present position occupational code; position number; security classification; wage category; grade; salary; tenure conversion date; step increase due date; work week; roll and gang; Federal service date; Panama Canal service date; FEHBA plan; FEGLI income tax data; travel leave; residence; citizenship; sex; marital status; physical exam; position rate number; timing unit; pay basis; and annual premium compensation.

Records in the automated personnel file include: outstanding performance rating; status of position; target grade of position; temporary promotion indicator; competitive level; eligibility for repatriation and vacation leave travel; APRTE (actual place of residence at time of employment). The automated personnel file also includes information needed for proper administration of personnel programs and policies in accordance with the Panama Canal Treaty of 1977 and related agreements, such as coded information identifying employees who are: entitled to grade and pay retention; eligible for early optional retirement; covered by the Panama Social Security System; subject

to a 5-year rotation plan; reemployed within six months of effective date of the treaty; Panamanian employees who have been promoted/trained; U.S. and non-U.S. citizen employees who are married to Panamanians or who have resided in the Republic of Panama at least ten years. The Reemployment Priority List (former employees terminated through RIF) will contain information as to qualifications for reemployment in or promotion to specific occupational series and grade levels.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., Chapters 35, 45, 55; 2 C.Z.C. 31-33, 65, 66, 101, 121, 141 et seq., 76A Stat. 7, 11, 14-20, 86 Stat. 215.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be:

a. Disclosed to the following agencies and organizations, in connection with their authorized functions: Office of Personnel Management; Merit Systems Protection Board; Internal Revenue Service; Social Security Administration; General Accounting Office; U.S. military agencies; state unemployment compensation offices; city, county, and state tax offices; employee credit unions; banks; insurance carriers; employee and professional organizations; and Combined Federal Campaign.

b. Disclosed to officials of labor organizations when relevant and necessary to their duties concerning personnel policies, practices, and matters affecting working conditions.

c. Used to promote the incentive awards program through the local news media.

d. Disclosed to prospective employers or other organizations, at the request of the individual.

e. Used in the selection process by the agency in connection with appointments, transfers, promotions, or qualifications determinations. To the extent relevant and necessary, it will be furnished upon request to other agencies for the same purpose.

f. Used to provide statistical reports to Congress, U.S. Government agencies, the Government of Panama, and the public on characteristics of the Federal work force.

g. Used in the production of summary descriptive statistics and analytical studies; may also be used to respond to

general requests for statistical information (without personal identifier) under FOIA; or to locate individuals for personnel research or other personnel research functions.

h. Disclosed to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

i. Disclosed in accordance with the general uses listed in the "Prefatory Statement of General Routine Uses" published at 41 FR 41358 and in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes and disks; computer printouts; and paper records.

RETRIEVABILITY:

By employee identification number, by name, and by any or all of the categories of information in the system.

SAFEGUARDS:

A combination of standard physical security measures, appropriate management information practices, and computer system/network security controls are used to protect these records. Safeguards include: batch controls; computer processing controls; access to both hard copy documents and computer files restricted to authorized personnel; restricted on-line access, with authorization limited in accordance with user-entered confidential identifying code and access code. A special coordinator has been designated by the system manager to maintain control of all input documents and issuance of report information. Printouts are produced only upon written request from the system manager. Reports, tapes, and disks are kept in a locked cabinet or secure area when not in use.

RETENTION AND DISPOSAL:

Input paper records are retained for two years and then destroyed. Printouts are retained up to six months and then destroyed. Records are deleted from magnetic tapes or disks after termination of employee. Tapes and disks are erased and reused. An exception to the normal retention period is made for records relevant to a reduction in force; information about all employees on the rolls immediately prior to the RIF is retained on tape/disk for up to two years; and printouts of information about terminated employees participating in the reemployment

priority program and demoted employees participating in the priority promotion program are retained for up to two years.

SYSTEM MANAGER(S) AND ADDRESS:

Personnel Director, Panama Canal Company, Balboa Heights, Canal Zone.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Administration Building, Balboa Heights, Canal Zone. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of the officials designated in Notification Procedure, preceding.

CONTESTING RECORD PROCEDURES:

Rules governing how an individual may request the amendment of any information about him in this system, are published in 35 CFR Part 10.7.

RECORD SOURCE CATEGORIES:

Subject employee; personnel action forms (SF 50); Official Personnel Folders, Incentive Award Files; documents prepared for treaty planning purposes; the agency payroll master file; and computer-generated and manual calculations from varied input data.

[FR Doc. 79-22561 Filed 7-19-79; 8:45 am]

BILLING CODE 3640-01-M

POSTAL RATE COMMISSION

[Docket No. A79-23]

Notice and Order of Filing of Appeal, Clinchport, Va.

In the Matter of Clinchport, Virginia 24227 (Cora Carter, Petitioner).

Issued: July 11, 1979.

On July 5, 1979, the Commission received a handwritten letter from Cora Carter (hereinafter "Petitioner"), concerning alleged United States Postal Service plans to close the Clinchport, Virginia, post office. Although the letter makes no explicit reference to the Postal Reorganization Act, we believe it should be liberally construed as a petition for review pursuant to § 404(b) of the Act [39 U.S.C. § 404(b)], so as to preserve Petitioner's right to appeal which is subject to a 30-day time limit.¹ Since the petition was apparently not written by an attorney, it does not conform perfectly with the Commission's rules of

¹ 39 U.S.C. § 404(b)(5). 39 U.S.C. § 404(b) was added to title 39 by Pub. L. 94-421 (September 24, 1976), 90 Stat. 1310-1311. Our rules of practice governing these cases appear at 39 C.F.R. § 3001.110 et seq.

practice which also require a petitioner to attach a copy of the Postal Service's Final Determination to the petition.² However, § 1 of the Commission's rules of practice calls for a liberal construction of the rules to secure just and speedy determination of issues.³

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to "... ensure that such persons will have an opportunity to present their views."⁴ The petition requests that the decision to close the Clinchport post office be reversed. From the face of the petition it is unclear whether the Postal Service provided 60 days' notice, whether any hearings were held, and whether a determination has been made under 39 U.S.C. § 403(b)(3). (Petitioner failed to supply a copy of the Postal Service's Final Determination, if one is in existence.) The Commission's rules of practice require the Postal Service to file the administrative record of the case within 15 days after the date on which the petition for review is filed with the Commission.⁵

The Postal Reorganization Act states:

The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.⁶

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to consolidate post offices. The effect on the community is also a mandatory consideration under § 404(b)(2)(A) of the Act. The Petitioner alleges that there are several families presently residing in Clinchport and they depend on the post office for its services and for the identity of the town.

The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with its regulations for the discontinuance of post offices.⁷

² 39 CFR § 3001.111(a).

³ 39 CFR § 3001.1.

⁴ 39 U.S.C. § 404(b)(1).

⁵ 39 CFR § 3001.113(a). The Postal Rate Commission informs the Postal Service of its receipt of such an appeal by issuing PRC Form No. 56 to the Postal Service upon receipt of each appeal.

⁶ 39 U.S.C. § 101(b).

⁷ 42 Fed. Reg. 59079-59085 (11/17/77); the Commission's standard of review is set forth at 39 U.S.C. § 404(b)(5).

Upon preliminary inspection, the petition appears to raise the following issues of law:

1. Did the Postal Service adequately consider that the Clinchport post office is a "tradition" in the town, in assessing the effect on the community under § 404(b)(2)(A)?
2. Did the Postal Service take appropriate account of the relocation of Clinchport residents apparently required by a Tennessee Valley Authority project?
3. Should the Postal Service consider the number of people served by the post office and the number of rural routes emanating from the post office, in relation to other nearby post offices, in considering the effectiveness of postal services under § 404(b)(2)(C)?
4. Did the Postal Service adequately assess economic savings under § 404(b)(2)(D)?

Other issues of law may become apparent when the Commission has had the opportunity to examine the determination made by the Postal Service. Such additional issues may emerge when the parties and the Commission review the Service's determination for consistency with the principles announced in *Lone Grove, Texas, et al.*, Docket Nos. A79-1, *et al.* (May 7, 1979). Conversely, the determination may be found to resolve adequately one or more of the issues described above.

In view of the above, and in the interest of expedition of this proceeding under the 120-day decisional deadline imposed by § 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service on one or more of the issues described above, and/or any further issues of law disclosed by the determination made in this case. In the event that the Commission finds such memorandum necessary to explain or clarify the Service's legal position or interpretation of any such issue, it will, within 20 days of receiving the determination and record pursuant to § 113 of the rules of practice (39 CFR § 3001.113), make the request therefor by order, specifying the issues to be addressed.

When such a request is issued, the memorandum shall be due within 20 days of its issuance, and a copy of the memorandum shall be served on Petitioner by the Service.

In briefing the case, or in filing any motion to dismiss for want of prosecution, in appropriate circumstances the Service may incorporate by reference all or any

portion of a legal memorandum filed pursuant to such an order.

The Act does not contemplate appointment of an Officer of the Commission in § 404(b) cases, and none is being appointed.⁸

The Commission orders (A) The letter of July 5, 1979, from Cora Carter shall be construed as a petition for review pursuant to § 404(b) of the Act [39 U.S.C. § 404(b)].

(B) The Secretary of the Commission shall publish this Notice and Order in the *Federal Register*.

(C) The Postal Service shall file the administrative record in this case on or before July 20, 1979, pursuant to the Commission's rules of practice [39 CFR § 3001.113(a)].

By the Commission.

David F. Harris,

Secretary.

Appendix

July 5, 1979—Filing of Petition.

July 11, 1979—Notice and Order of Filing of Appeal.

July 20, 1979—Filing of record by Postal Service [see 39 CFR § 3001.113(a)].

July 25, 1979—Last day for filing of petitions to intervene [see 39 CFR § 3001.111(b)].

August 4, 1979—Petitioner's initial brief [see 39 CFR § 3001.115(a)].

August 19, 1979—Postal Service answering brief [see 39 CFR § 3001.115(b)].

September 3, 1979—(1) Petitioner's reply brief, if petitioner chooses to file such brief [see 39 CFR § 3001.115(c)].

(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument.

November 2, 1979—Expiration of 120-day decisional schedule [see 39 U.S.C. § 404(b)(5)].

[FR Doc. 79-22-444 Filed 7-19-79; 8:45 am]

BILLING CODE 7715-01

PRESIDENT'S COMMISSION ON PENSION POLICY

Meetings

The President's Commission on Pension Policy has scheduled meetings as follows:

August 21, 1979, of the Study Group on Present and Future Income Needs of the Retired and Disabled Population, a panel presentation and public comments on retirement ages, in Room 2010 of the New Executive Office Building, 726 Jackson Place, N.W.; Washington, DC; commencing at 9:30 a.m.

September 7, 1979, of the Study Group on Pension Policy and the Economy, to

⁸ In the Matter of Gresham, S.C., Route No. 1, Docket No. A78-1 (May 11, 1978).

review a background paper on ownership, management and control of pension fund assets, in the library of the President's Commission on Pension Policy, 736 Jackson Place, N.W.; Washington, DC; commencing at 9:00 a.m.

September 28, 1979, of the full Commission, on the mix of public versus private pension plans and savings, in Room 2008 of the New Executive Office Building, 726 Jackson Place, N.W.; Washington, DC; commencing at 8:30 a.m.

September 29, 1979, of the Study Group on the Ability of the Present U.S. Pension Systems to Meet the Needs of the Retired, Disabled and Their Survivors, a public hearing on disability, in Room 2010 of the New Executive Office Building, 726 Jackson Place, N.W.; Washington, DC; commencing at 9:00 a.m.

October 10, 1979, of the Study Group on Pension Policy and the Economy, a public symposium on integration of social security and private pensions, in Room 2008 of the New Executive Office Building, 726 Jackson Place, N.W.; Washington, DC; commencing at 9:00 a.m.

October 24, 1979, of the Present and Future Income Needs of the Retired and Disabled Population, a public hearing on income adequacy, in the Detroit Plaza Hotel, Renaissance Center, Detroit, Michigan, commencing at 10:00 a.m.

November 29, 1979, of the Study Group on Pension Policy and the Economy, a public hearing on tax treatment of pension contributions and benefits, in Room 2008 of the New Executive Office Building, 726 Jackson Place, N.W.; Washington, DC; commencing at 9:00 a.m.

November 30, 1979, of the full Commission, in Room 2008 of the New Executive Office Building, 726 Jackson Place, N.W.; Washington, DC; commencing at 8:30 a.m.

December 1, 1979, of the Study Groups on Present and Future Income Needs of the Retired and Disabled Population, and the Ability of the Present U.S. Pension Systems to Meet the Needs of the Retired, Disabled and Their Survivors, a public hearing on pension income and coverage of women and minorities, in Room 2010 of the New Executive Office Building, 726 Jackson Place, N.W.; Washington, DC; commencing at 9:30 a.m.

December 11, 1979, of the Study Group on Pension Policy and the Economy, a public hearing on ownership, control and management of pension fund assets, at a location to be announced.

The meetings will be open to observation by the public. Persons interested in attending should address a letter to the President's Commission on Pension Policy, 736 Jackson Place, N.W., Washington, DC 20006. Admission of observers will be on the basis of the earliest postmark date and to the extent space is available. The Commission's telephone number is (202) 395-5132.

Members of the public may file a written statement concerning the subject of one of these meetings by making a written request to the Executive Director at least 10 days prior to the date of the meeting. The request should outline the nature of the testimony to be presented and it should summarize the contents of the statement to be made.

Thirty (30) copies of the formal statement to be made (not to exceed 15 minutes in length) must be received by the Commission 10 days prior to the meeting.

Additional information may be obtained by calling Phillip L. Sparks, Director of Public Affairs, at the telephone number listed above.

Signed at Washington, D.C. this 17th day of July 1979.

Thomas C. Woodruff,
Executive Director.

[FR Doc. 79-20474 Filed 7-19-79; 8:45 am]
BILLING CODE 6820-99-M

SMALL BUSINESS ADMINISTRATION

[License Nos. 01/01-0278 and 01/01-0291]

Advent Capital Corp. and Devonshire Capital Corp.; Filing of Applications for Approval of Conflict of Interest Transactions Between Associates

Notice is hereby given that Advent Capital Corporation (Advent) and Devonshire Capital Corporation (Devonshire), each being located at 111 Devonshire St., Boston, Massachusetts 02109, and Federal Licenses under the Small Business Investment Act of 1958, as amended, have filed applications pursuant to § 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004 (1979)), for approval of conflict of interest transactions.

Advent and Devonshire desire to provide financing in the total amount of up to \$600,000 and \$425,000, respectively, through the purchase of up to \$512,500 Principal Amount of Subordinated 10% Convertible Debentures, and up to \$512,500 Principal Amount of Subordinated 14% Non-Convertible Debentures to be issued by Functional Automation, Inc.

(Functional), One Executive Drive, Hudson, New Hampshire 03050. These financings are part of a financing package totaling \$7,500,000 which is being arranged for the purpose of providing Functional additional funds needed to develop a new computer system, and to enable Functional to acquire Datamedia Corporation, 7300 North Crescent Blvd., Pennsauken, New Jersey 08110, a company engaged in a related business.

The stockholders in both Advent and Devonshire are collectively the holders of approximately 14% of the presently outstanding shares of Functional's common stock. These stockholders intend to invest in additional shares of common stock to be issued by Functional in connection with the above mentioned financing package, to the extent they will collectively own approximately up to 19% of Functional's common stock. Consequently, these stockholders are deemed to be "Associates of a Licensee" as that term is defined under § 107.103 of the Small Business Administration's Regulations. Pursuant to the provisions of § 107.1004(b)(1) of SBA's Regulations, this application requires Advent and Devonshire to obtain an exemption from the SBA in order to provide their proposed financings to Functional.

Notice is hereby given that any person may, not later August 6, 1979, submit written comments to SBA on the proposed financings. Any such comments should be addressed to the Acting Associate Administrator for Finance and Investment, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published by Advent Capital Corporation and Devonshire Capital Corporation in a newspaper of general circulation in Boston, Massachusetts.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 12, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-22548 Filed 7-19-79; 8:45 am]
BILLING CODE 8025-01-M

Designation of Eligibility Asian Pacific Americans Under Section 8(a) and 8(d) of the Small Business Act

Pursuant to the provisions of 13 CFR 124.1-1(c)(3)(iii)(D), this shall constitute notice that Asian Pacific Americans, which group shall include U.S. citizens whose origins are from Japan, China, the Philippines, Viet Nam, Korea, Samoa,

Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia and Taiwan (hereafter group), are hereby designated by the Small Business Administration as a minority group which has members who are socially disadvantaged because of their identification as members of this group, for the purposes of eligibility for SBA's section 8(a) program.

On May 22, 1979, SBA received a request for designation and supporting data on behalf of the group and a subsequent notice and request for comments was published in the Federal Register on May 30, 1979. As a result of this notice, additional comments, both oral and written, were received by SBA in favor of the designation of the group as socially disadvantaged. The SBA did not receive any comments in opposition to this designation.

The data and information which was received by SBA was duly evaluated and is hereby found to be sufficient. This data is available for inspection at the Office of the Associate Administrator for Minority Small Business and Capital Ownership Development, 1441 L Street, N.W., Washington, D.C. 20416.

Notice is hereby further given that pursuant to Section 211 of Pub. L. 95-507, Section 8(d) of the Small Business Act, 15 U.S.C. 637(d) [the subcontracting program], for the purposes of this section only, a contractor of the Federal Government shall presume that socially and economically disadvantaged individuals include Asian Pacific Americans.

Dated: July 6, 1979.

William A. Clement, Jr.,

Associate Administrator for Minority Small Business and Capital Ownership Development, Small Business Administration.
A. Vernon Weaver,
Administrator, Small Business Administration.

[FR Doc. 79-22552 Filed 7-19-79; 8:45 am]
BILLING CODE 8025-01-M

[Proposed License No. 06/06-0223]

Energex Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1979)), under the name of Energex Capital Corporation, Suite 1506, One Houston Center, Houston, Texas 77002, for a

license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 et seq.), and the Rules and Regulations promulgated thereunder.

This will be a foreign-owned SBIC. It is the intent that the equity capital of the Applicant will be provided by non-resident, non-U.S. citizens. The Board of Directors of the Applicant will at all times be composed of a majority of U.S. citizens and residents. All of the officers of the Applicant are and will be U.S. citizens and residents.

The proposed officers, directors and shareholders are as follows:

Norman J. Singer, 3309 E. 7th Avenue, Denver, Colorado 80206; President, Director.
Shelton Jones, 1122 Southwest Tower, Houston, Texas 77002; Secretary, Treasurer, Director.
Jan Norris, 6403 Delmonte, No. 29, Houston, Texas 77057; Assistant Secretary.
T. Ananda Krishnan, 41 Cadogan Street, London, England; Director, 100 percent owner of the common stock.
Manro T. Oberwetter, 3300 Two Houston Center, Houston, Texas 77002; Director.
Marc F. Wray, 1 Pine Forest Circle, Houston, Texas 77056; Director.

There will be two classes of stock. Common stock with 300,000 shares authorized and preferred stock with 100,000 shares authorized. Initially, Mr. Krishnan will own all of the issued and outstanding common stock (110,000 shares at \$1.00 per share). Also, it is proposed to initially sell 4,500 shares of preferred stock at \$100.00 per share to 4 or 5 investors. As such, the initial paid-in capital and paid-in surplus will be \$560,000.

The ultimate goal is a private capital of approximately \$9,350,000 through the additional sale of preferred stock to approximately 100 preferred shareholders. The holders of the common shares will be entitled to elect up to five (5) of the proposed nine-person Board of Directors. The holders of the preferred stock will be entitled to elect up to four (4) members. As such, the power of control will remain vested in the common shareholders.

In view of the disproportionate control as compared to funds invested, it is necessary that the Applicant provide SBA with certification from each investor that he is aware of this manner and means of capitalization and control.

The Applicant has represented that it is aware of the SBA prohibitions against foreign investments (§ 107.1001(e)) and confirms that no funds will be used outside the United States.

Initially, the Applicant proposes to conduct its operations within the State of Texas. The Applicant intends as much as practical to emphasize equity investments rather than loan finance. Preliminary discussions indicate emphasis on providing financial assistance to support and service industries to the energy-related fields. Also, the Applicant intends to provide management consulting services to its clients and other small business concerns. It will also have available the technical services of geologists and engineers to assist small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is further given that any person may, not later than August 6, 1979, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice will be published by the Applicant in a newspaper of general circulation in Houston, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 16, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-22550 Filed 7-19-79; 8:45 am]
BILLING CODE 8025-01-M

[License No. 02/02-0362]

Pines Venture Capital Corp.; Issuance of a License To Operate as a Small Business Investment Company

On February 5, 1979, a Notice was published in the Federal Register (44 FR 7003) stating that Pines Venture Capital Corporation, 5 World Trade Center, New York, New York 10048, had filed an application with the Small Business Administration pursuant to § 107.102 of the SBA Rules and Regulations governing small business investment companies (13 CFR 107.102 (1979)), for a license to operate as a small business investment company.

Interested parties were given until the close of business February 20, 1979, to

submit their comments. No comments were received.

Notice is hereby given that, having considered the application and all other pertinent information, SBA on July 5, 1979, issued License No. 02/02-0362 to Pines Venture Capital Corporation pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 16, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-22551 Filed 7-19-79; 8:45 am]
BILLING CODE 8025-01-M

[License No. 01/01-0072]

Vermont Investment Capital, Inc.; Filing of Application for Transfer of Control of Licensed Small Business Investment Company

Notice is hereby given that an Application has been filed with the Small Business Administration pursuant to § 107.701(a) of SBA Regulations (13 CFR 107.701(a)(1979)), for the Transfer of Control of the Vermont Investment Capital, Inc. (VICI), a Vermont corporation, and a Federal Licensee under the Small Business Investment Act of 1958, as amended (ACT), with its office located at Route 14, P.O. Box 84, South Royalton, Vermont 05068. At the present time the officers, directors and stockholders of VICI are as follows:

Names, Addresses, Relationship, and Percentage of Shares Owned

Philip Kratky, Route 14, P.O. Box 84, South Royalton, Vermont 05068; President and Director; 50 percent.
Harold Jacobs, Route 14, P.O. Box 590, South Royalton, Vermont 05068; Vice President, Treasurer and Director; 50 percent.
Rita Jacobs, Route 14, P.O. Box 590, South Royalton, Vermont 05068; Secretary and Director; 0 percent.
William T. Anderson, 189 Lakeside Ave. P.O. 561, Burlington, Vermont 05401; Director; 0 percent.

Mr. Jacobs has agreed to purchase all of the shares of VICI's Common Stock, \$1 Par Value held by Mr. Kratky, and to assume all liabilities of VICI as reflected on its financial statement as of March 31, 1979.

At a Special Meeting of the Board of Directors, shareholders, and Officers of VICI held on May 22, 1979, and attended by all of the individuals named above, the proposed transfer of shares was agreed upon subject to SBA approval, to be effective as of April 1, 1979, and on

the condition that there will be no change in VICI's location, Board of Directors, or management for one year after April 1, 1979.

Notice is hereby given that any person may, not later than August 6, 1979, submit written comments on this Application to the Acting Associate Administration, for Finance and Investment, Small Business Administration, 1441 L St. NW., Washington, D.C. 20416.

A similar Notice shall be published by VICI in a newspaper of general circulation in South Royalton, Vermont 05068.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 6, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-22549 Filed 7-19-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Customs Service

Certain Textiles and Textile Products From Pakistan; Initiation of Countervailing Duty Investigation and Preliminary Determination

AGENCY: United States Treasury Department, Customs Service.

ACTION: Initiation of Countervailing Duty Investigation and Preliminary Determination

SUMMARY: This notice is to advise the public that the Treasury Department is initiating an investigation in order to determine whether benefits granted to manufacturers and exporters of certain textiles and textile products by the Government of Pakistan constitute a bounty or grant within the meaning of the countervailing duty law. A preliminary determination that these products do so benefit is being issued simultaneously. A final determination will be made not later than six months from the date of publication in the *Federal Register* (January 21, 1980), but is expected prior to that date.

EFFECTIVE DATE: July 20, 1979.

FOR FURTHER INFORMATION CONTACT: Donald W. Eiss, Office of Tariff Affairs, U.S. Treasury Department, 15th Street and Pennsylvania Avenue, NW., Washington, D.C. 20220 (202-566-8256)

SUPPLEMENTARY INFORMATION: On July 13, 1979, Treasury Decision (T.D.) 79-188 was published in the *Federal Register* (44 FR 40884). In that decision the

Treasury Department determined that it was appropriate to impose countervailing duties on all entries, or withdrawals from warehouse, for consumption of certain textiles and textile products from Pakistan.

For purposes of this notice, "textile mill products" include yarn, fabrics, household textiles, miscellaneous products of textile mills, and certified handloom and folklore products, made of cotton, wool and man-made fibers, as specified in U.S. bilateral textile agreements, and as described by the Tariff Schedules of the United States Annotated (TSUSA) item numbers set forth in the appendix to the *Federal Register* notice published on October 13, 1978 (43 FR 47340). "Men's and boys' apparel" includes those items described by TSUSA item numbers in the appendix to the above-cited *Federal Register*. All Pakistani exports of men's and boys' apparel and textile mill products are made of cotton and, therefore, T.D. 79-188 was limited to merchandise made from cotton. The following products were covered by that countervailing duty order: (1) Cotton thread, (2) cotton yarn, (3) cotton cloth, (4) cotton hosiery and (5) cotton garments and other made-ups. Manufacturers of cotton towels were also found to have received benefits from the Government of Pakistan but such benefits were determined to be *de minimis* and were therefore excluded from the imposition of countervailing duties under T.D. 79-188.

Two programs were identified in T.D. 79-188 as having constituted the bestowal of "bounties or grants." They were: (1) reductions in the total income tax liability of firms which export; and (2) short time export financing at preferential rates for up to 90 days.

The Treasury Department has now learned of a third program which has been available to manufacturers/exporters of Pakistan textiles and, which, if utilized, would constitute the bestowal of a bounty or grant in addition to those already determined to exist. This program involves cash payments to the Pakistani textile industry on the exportation of textile products at a fixed percentage of the f.o.b. value of the exported product. The Treasury Department is therefore initiating an investigation to determine the extent to which this program has been utilized by manufacturers/exporters of Pakistani textiles. The investigation will include cotton towels excluded from T.D. 79-188.

Based upon Treasury's knowledge that this program was established specifically to benefit the Pakistani

textile industry, and the substantial size of the possible benefits involved (from 7½ to 12½ percent of the f.o.b. value of the exported goods), it is deemed appropriate at this time to issue a preliminary determination, and it is hereby preliminarily determined, pursuant to section 303(a)(4) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), that cash payments as a fixed percentage of the f.o.b. value of exported cotton textile items upon exportation of those items constitute the payment or bestowal, directly or indirectly, of "bounties" or "grants" within the meaning of section 303 of the Tariff Act of 1930, as amended.

A final decision in this case is due on or before six months from date of publication in the *Federal Register* (January 21, 1980). However, it is expected that a final determination will be made prior to that date. Therefore, written submissions of relevant data, views, or argument regarding this preliminary determination should be provided in time to be received on or before two weeks from the date of publication in the *Federal Register* August 3, 1979. Submissions should be addressed to Mr. Richard B. Self, Director, Office of Tariff Affairs, Room 1124, U.S. Treasury Department, 15th Street and Pennsylvania Avenue, NW., Washington, D.C. 20220.

For those products covered by T.D. 79-188, liquidation of entries, or withdrawals from warehouse, for consumption will continue and the deposit of estimated countervailing duties in the amounts set out in that decision will be required.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended. (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order No. 101-5, May 16, 1979, the provisions of Treasury Department Order 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47, insofar as they pertain to the issuance of a preliminary countervailing duty determination by the Commissioner of Customs, are hereby waived.

Robert H. Mundheim
General Counsel of the Treasury.

July 16, 1979.

[FR Doc. 79-22547 Filed 7-19-79; 8:45 am]

BILLING CODE 4810-22-M

Internal Revenue Service

[Delegation Order No. 149 (Rev. 1)]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: This delegation of authority is revised to authorize the Chief, Collection Branch in the Compliance Division, Cincinnati Service Center, to levy on wages, salaries, other income and bank deposits in the possession of third parties, to issue final demand for enforcement of levy and to release levy and return property.

Note.—This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the *Federal Register* for November 8, 1978.

EFFECTIVE DATE: July 11, 1979.

FOR FURTHER INFORMATION CONTACT: Donald R. Schumacher, 1111 Constitution Avenue, NW., RM 3515, Washington, D.C. 20224. (202) 566-6398 (Not Toll Free).

Donald R. Schumacher,
Staff Assistant to Assistant Commissioner (Compliance).

Date of issue: July 11, 1979; Effective Date: July 11, 1979.

Delegation of Authority to Levy on Property in Hands of Third Parties

The Authority vested in the Commissioner of Internal Revenue by 26 CFR 301.7701-9, 301.6331-1, 301.6332-1, 301.6332-2, and 301.6343-1, to levy on wages, salaries, other income and bank deposits in the possession of third parties, to issue final demand for enforcement of levy, and to release levy and return property is hereby delegated to the Chief, Collection Branch in the Compliance Division, Cincinnati Service Center.

The authority to levy on wages, salaries, other income and bank deposits in the possession of third parties and to release levy and return property may be redelegated only to Collection Branch personnel in the GS-1169 series and to selected GS-592-7 Tax Examiners; or, if there are no GS-592-7 Tax Examiners, the redelegation may be made to selected GS-592-6 Tax Examiners.

The authority to issue final demand for enforcement of levy may be

redelegated only to GS-1169 series personnel in the Collection Branch.

William E. Williams,
Acting Commissioner.

[FR Doc. 79-22540 Filed 7-19-79; 8:45 am]

BILLING CODE 4830-01-M

INTERSTATE COMMERCE COMMISSION

[MC 136981 (Sub-11) F]

Blair Cartage, Inc., Extension—Lamp Products, Parts, and Materials, Newbury, Ohio

Decided: June 21, 1979.

Applicant seeks by amended application a permit authorizing operations substantially as described in the appendix. The evidence has been considered under the modified procedure.

Port Norris Express Co., Inc., is the sole remaining protestant in this proceeding. However, in its letter of February 15, 1979, Port Norris states that its interest will be eliminated by the Commission's acceptance of the amendment to the application proffered in applicant's letter of February 13, 1979, and that protestant will withdraw its opposition contingent upon the Commission's acceptance of the amendment. Applicant's amendment would restrict the authority granted against the transportation of sand, gravel, clay, pitch, and cullet from points in Cumberland, Gloucester, Atlantic, Camden, Burlington, and Cape May Counties, NJ. Applicant also seeks to amend the application so as to restrict against the transportation of commodities in bulk. As the proposed amendments are restrictive and not otherwise objectionable, they will be accepted. The proceeding is rendered unopposed by this action, and detailed discussion of the evidence is unnecessary.

The proposed service qualifies as contract carriage as defined in 49 U.S.C. 10102(12) (formerly section 203(a)(15) of the Interstate Commerce Act) because applicant will serve a limited number of persons (i.e., three), and because the proposed service meets the first alternative test of that section, dedication of equipment to the exclusive use of the supporting shipper.

Our consideration of the evidence under the criteria of 49 U.S.C. 10923(b)(2) (formerly section 209(b) of the Act) reveals that a grant of authority is warranted. An examination of the documents filed in this proceeding indicates that, apparently due to a

clerical error, the word "manufacture" was inadvertently omitted from part 2 of the application notice published in the *Federal Register* on September 5, 1978. With the exception of applicant's letter of October 20, 1978, which also omits "manufacture," all of applicant's and shipper's recitations of the sought authority indicate that applicant seeks authority to transport " * * * (2) materials and supplies used in the manufacture and distribution of the commodities in part (1) * * *." The authority granted will include the, unintentionally omitted word "manufacture."

Consequently, the authority granted will exceed to a certain extent the scope of the authority described in the notice of the filing of the application as published in the *Federal Register*. Since it is possible that other persons who have relied upon the notice of the application as published may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the appendix, a notice of the authority actually granted will be published in the *Federal Register* and issuance of a certificate in this proceeding will be withheld on or before August 20, 1979. During that period any proper person in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been prejudiced.

Applicant holds common carrier authority under its certificate in No. MC-143066 (Sub-1). Therefore, in accordance with the ruling in Ex Parte No. 55 (Sub-27), *Dual Operations*, decided March 24, 1978, 49 CFR 1004.3, the usual reservation of Commission jurisdiction will be imposed in the certificate.

The authority granted in this decision and applicant's other authority which it duplicates shall not be construed as conferring more than a single operating right.

We find: Operation by applicant performing the service described in the appendix, will be consistent with the public interest and the national transportation policy. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. An appropriate permit should be granted. This decision does not significantly affect the quality of the human environment.

It is ordered: The proposed amendments will be accepted.

The application is granted to the extent set forth in the appendix.

Operations may begin only following the service of a *permit* which will be issued if applicant complies with the following requirements set forth in the Code of Federal Regulations: Insurance (49 CFR Part 1043), designation of process agent (49 CFR Part 1044), Contracts (49 CFR Part 1053), and freight rate schedules (49 CFR Part 1307), and with the condition in the appendix.

Compliance with these requirements must be made within 120 days after the date of service of this decision or the grant of authority shall be void.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

H. G. Homme, Jr.,

Secretary.

Appendix

Authority to conduct the following operations will be issued in an appropriate document. This decision does not constitute authority to operate.

To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *litharge, nepheline syenite, soda ash, glass bulbs, glass rods, glass tubing, glassware, metal racks, cullet, electric lamps, batteries, battery chargers, lighting fixtures, holiday decorations, packaging materials, steel nestainers, lamp ballast, sand, potash, metals displays, borax, barax products, paints, dolomites, lamps bases, compressed gases in cylinders, and nitrate and (2) materials and supplies* used in the manufacture and distribution of the commodities in part (1) above, between points in Alabama, Connecticut, Delaware, Indiana, Illinois, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia, and the District of Columbia, restricted against the transportation of commodities in bulk, and restricted against the transportation of sand, gravel, clay, pitch, and cullet from points in Cumberland, Gloucester, Atlantic, Camden, Burlington, and Cape May Counties, NJ, under continuing contract(s) with General Electric Company of Cleveland, OH.

Condition for Issuance of a Permit

A notice of the authority granted by this decision will be published in the Federal Register, and at the expiration of 30 days thereafter a permit will be issued: *Provided*, That in the interim no person in interest has filed a petition for leave to intervene in the proceeding.

[FR Doc. 79-22465 filed 7-19-79; 8:45 am]

BILLING CODE 7035-01-M

[MC 119789 (Sub-450) F]

Caravan Refrigerated Cargo, Inc.,
Extension—Denver Beef, Dallas, Tex.

Decided: July 6, 1969.

Upon consideration of the record in this proceeding, and of:

(1) Petition of applicant, (letter) filed April 2, 1979, for reconsideration;

(2) Joint petition of Midwest Emery Freight System, Inc., and Belford Trucking Co., Inc., protestants, filed April 16, 1979, for reconsideration;

(3) Petition of Curtis, Inc., protestant, filed April 17, 1979, for reconsideration;

(4) Petition of Denver-Albuquerque Motor Transport, Inc., protestant, filed April 20, 1979, for reconsideration; and

(5) Reply by applicant to the pleading in (2), (3), and (4), filed May 3, 1979.

By decision of March 2, 1979, Review Board Number 5 granted applicant authority substantially as set forth in the appendix, except New York was not included as a destination State.

Applicant contends that the omission of New York was inadvertent. Protestants contend that the application should be denied.

The petition of applicant to add New York as a destination State will be granted. The evidence by supporting shipper demonstrates a major portion of its traffic is destined to that State, and a need for applicant's service is shown. Inasmuch as the original publication in the Federal Register did not include reference to New York as a destination State, although it was so listed in the application, a notice of authority actually granted will be published.

Issuance of a certificate will be withheld for 30 days, during which time any person in interest not already a party to this proceeding may file a petition for leave to intervene, setting forth in detail its interest in, and precisely the manner in which it has been prejudiced by, the authority as granted in this proceeding.

It is ordered: The petition of applicant is granted, subject to publication of a notice in the Federal Register as described above.

The petitions, except as otherwise ordered, are denied because the findings of Review Board Number 5 are in accordance with the evidence and the applicable law.

If applicant does not comply with the appropriate requirements set forth in the Code of Federal Regulations (49 CFR Parts 1043, 1044, and 1310) within 90 days after the date of service of this decision, the grant of authority will be void, and the application will stand denied.

By the Commission, Division 2, Acting as an Appellate Division, Commissioners Stafford, Brown and Christian.

Commissioner Stafford would deny the application.

Agatha L. Mergenovich,
Secretary.

Appendix

Authority to conduct the following operations will be issued in an appropriate document. This decision does not constitute authority to operate.

To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat by-products, and articles distributed by meat packinghouses, as described in sections A and C to the report of the Commission in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Peppertree Beef Company, at or near Denver, CO, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and the district of Columbia, restricted to the transportation of traffic originating at the described origin and destined to destinations in the named States.

[FR Doc. 79-22464 Filed 7-19-79; 8:45 am]

BILLING CODE 7035-01-M

[Amendment No. 1 to I.C.C. Order No. 44 Under Service Order No. 1344]

Ann Arbor Railroad System; Rerouting Traffic

To: All Railroads:

Upon further consideration of I.C.C. Order No. 44 (Ann Arbor Railroad System), and good cause appearing therefor:

It is ordered, I.C.C. Order No. 44 is amended by substituting the following paragraph (h) for paragraph (g) thereof:

(h) *Expiration date.* This order shall expire at 11:59 p.m., June 28, 1979, unless otherwise modified, changed or suspended.

Effective date. This amendment shall become effective at 11:59 p.m., June 25, 1979.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the

American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., June 25, 1979.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 79-22570 Filed 7-19-79; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. P-24]

Atchison, Topeka & Santa Fe Railway Co.; Passenger Train Operation

It appearing, That the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between New Orleans, Louisiana, and Los Angeles, California. The operation of these trains requires the use of the tracks and other facilities of Southern Pacific Transportation Company (SP). A portion of the SP track between Rosenberg, Texas, and El Paso, Texas, is temporarily out of service because of a derailment. An alternate route is available via The Atchison, Topeka and Santa Fe Railway Company.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, (a) Pursuant to the authority vested in me by order of the Commission served March 6, 1978, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), The Atchison, Topeka and Santa Fe Railway Company (ATSF) is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between a connection with Southern Pacific Transportation Company at Rosenberg, Texas, and El Paso, Texas.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon

petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(d) *Effective date.* This order shall become effective 6:30 p.m., CDT, June 23, 1979.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., CDT, June 24, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

This order shall be served upon the Atchison, Topeka and Santa Fe Railway Company and upon the National Railroad Passenger Corporation (Amtrak), and that it be filed with the Director, Office of the Federal Register.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 79-22580 Filed 7-19-79; 8:45 am]

BILLING CODE 7035-01-M

[Third Revised Exemption No. 157]

Baltimore & Ohio Railroad Co., et al.; Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

The railroads named below own numerous open hopper cars for the purpose of transporting substantial volumes of coal and other bulk freight originating on their lines and destined to points on other lines. There are no significant volumes of traffic transported in similar cars originating on other lines and terminating on those lines which would provide a source of empty hopper cars for return loading. These lines have agreed to refrain from loading hopper cars owned by other lines without the express consent of the car owners even though such use might otherwise be authorized by Car Service Rules 1 and 2. Under these conditions it is imperative that open hopper cars owned by these railroads be returned to the owning railroad empty unless their use is authorized by the car owner.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19:

(a) Hopper cars listed under the heading "Class 'H' Hopper Car Type" in the Official Railway Equipment Register, ICC RER 6410-A, issued by W. J. Trezise, or successive issues thereof, and owned by the railroads named in section (c) below, are exempt from the

provisions of Car Service Rules 1(a), 2(a) and 2(b). These cars must be returned empty to the car owner unless their use has been authorized by the car owner.

(b) Railroads named in section (c) below are prohibited from using hopper cars foreign to their line unless their use has been authorized by the car owner.

(c) List of railroads and car reporting marks:

The Baltimore and Ohio Railroad Company. Reporting Marks: B&O.
Bessemer and Lake Erie Railroad Company. Reporting Marks: B&LE.
*Burlington Northern Inc. Reporting Marks: BN-CBQ-GN-NP.
Carolina, Clinchfield and Ohio Railway. Reporting Marks: CRR.
The Chesapeake and Ohio Railway Company. Reporting Marks: C&O.
Consolidated Rail Corporation. Reporting Marks: BA-BWC-CNJ-CR-DL&W-EL-ERIE-LV-NH-NYC-PC-P&E-PRR-RDG-TOC.
Illinois Central Gulf Railroad Company. Reporting Marks: GM&O-IC-ICC.
Louisville and Nashville Railroad Company. Reporting Marks: L&N-NC-MON.
Montour Railroad Company. Reporting Marks: MTR.
Norfolk and Western Railroad Company. Reporting Marks: ACY-N&W-NKP-P&WV-VGN-WAB.
St. Louis-San Francisco Railway Company. Reporting Marks: SLSF.
Southern Railway System. Reporting Marks: CG-INT-NS-SOU.
The Pittsburgh and Lake Erie Railroad Company. Reporting Marks: P&LE.
Western Maryland Railway Company. Reporting Marks: WM.

(d) For the purpose of improving car utilization and the efficiency of railroad operations, or alleviating inequities or hardships, modifications may be authorized by the Chief Transportation Officer of the car owner, or by the Director or Assistant Director of the Bureau of Operations, Interstate Commerce Commission. Modifications authorized by the car owner must be confirmed in writing to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, Washington, D.C., for submission to the Director or Assistant Director.

(e) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded hopper car, described in this exemption, contrary to the provisions of the exemption.

(f) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

Effective July 9, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., July 5, 1979.

* Addition

Interstate Commerce Commission.
Joel E. Burns
Agent.

[FR Doc. 79-22578 Filed 7-19-79; 8:45 am]
 BILLING CODE 7035-01-M

[Amendment No. 2 to Exemption No. 167]

Chicago Rock Island & Pacific Railroad Co.; Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

Upon further consideration of Exemption No. 167 issued May 31, 1979.

It is ordered. That, under authority vested in me by Car Service Rule 19, Exemption No. 167 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 is amended to expire July 7, 1979.

This amendment shall become effective 11:59 p.m., June 30, 1979.

Issued at Washington, D.C., June 28, 1979.

Interstate Commerce Commission.

Robert S. Turkington,
Agent.

[FR Doc. 79-22577 Filed 7-19-79; 8:45 am]
 BILLING CODE 7035-01-M

[Amendment No. 2 to Exception No. 3]

Chicago, Rock Island & Pacific Railroad Co.; Exception Under Section (a)(4), Corrected Second Revised Service Order No. 1301

Upon further consideration of Exception No. 3 and good cause appearing therefor:

It is ordered: Exception No. 3 to Corrected Second Revised Service Order No. 1301 is amended to:

Expires July 7, 1979.

Issued at Washington, D.C., June 29, 1979.

Robert S. Turkington,

Assistant Director, Bureau of Operations.

[FR Doc. 79-22578 Filed 7-19-79; 8:45 am]
 BILLING CODE 7035-01-M

[Amendment No. 2 to I.C.C. Order No. 3 Under Service Order No. 1344]

Middletown & Hummelstown Railroad Co.; Rerouting Traffic

Upon further consideration of I.C.C. Order No. 3 (Middletown and Hummelstown Railroad Company), and good cause appearing therefor:

It is ordered: I.C.C. Order No. 3 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall remain in effect until modified or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., June 30, 1979.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., June 29, 1979.
 Interstate Commerce Commission:

Joel E. Burns,
Agent.

[FR Doc. 79-22581 Filed 7-19-79; 8:45 am]
 BILLING CODE 7035-01-M

[Ex Parte No. MC-122]

Intercompany Hauling; Proposed Policy Statement

AGENCY: Interstate Commerce Commission

ACTION: Notice of Proposed Policy Statement.

SUMMARY: The Commission proposes to issue a general policy statement which would relax current restrictions against intercompany hauling—the provision of compensated transportation by one company to an affiliated but separately incorporated company within the same corporate family. The Commission proposes to permit such hauling when the transportation is performed by the parent or a related company at least 80 percent of which is owned by the parent. Intercompany hauling would provide many private carriers with opportunities to reduce empty miles, consolidate fleets, improve fuel efficiency, lower transportation costs, ease inflationary pressures, and contribute to market growth.

DATES: Comments must be received by September 4, 1979.

ADDRESSES: A staff summary report, *Evaluation of Intercompany Hauling Regulation*, dated May 1979, is being served with this notice on persons (1) who provided written comment on this subject in response to a December 11, 1978 Federal Register request, (2) who made statements in public meetings held during January and February 1979 in Chicago, Philadelphia, Fort Worth, Los Angeles, and Atlanta, and (3) who were interviewed in their offices in or near

those cities. Others may obtain a copy by request.

An original and 6 copies, if possible, of any comments should be sent to the Motor Carrier Policy Group, Office of Policy and Analysis, Room 5359, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Brinkley Garner or Jerold B. Muskin (202/275-7399 or 7315).

SUPPLEMENTARY INFORMATION: The proposed policy statement is based on a study performed by the Commission's present Office of Policy and Analysis and former Bureau of Economics. A brief history of events leading to the study, and a review of the study plan follows. The Interstate Commerce Commission, in its decision in *Petition for Declaratory Order Regarding Intercompany Parent-Subsidiary Transportation*, 123 M.C.C. 268 (1975), declined as a matter of policy to pierce the corporate veil and recognize as private transportation compensated hauling operations performed by one related corporate entity for another. Numerous shippers, private carrier organizations, the United States Department of Transportation, and the Council on Wage and Price Stability supported the petition; regulated carriers, their organizations, and the Commonwealth of Pennsylvania opposed it.

In June 1977, a task force of senior staff members of the Commission recommended to the Commission ways in which regulation of entry into the interstate motor carrier industry could be improved. The task force developed 39 recommendations which were presented in a report submitted on July 6, 1977. The public was invited to comment on the recommendations during open hearings held in Washington and six other cities throughout the Nation, and written comments were solicited.

In Recommendation 39, the task force called for a comprehensive study of motor carrier entry and suggested further study of some more limited questions. The task force asked, "Should [compensated] intercompany hauling be allowed between or among companies that are 100 percent commonly controlled?" As a result of strong public response to this question, the staff developed a study plan and evaluated the potential effects of reversing or modifying the 1975 decision. To develop current information about the potential impact of compensated intercompany hauling on shippers, carriers, and consumers, the Commission (a) published a request

¹ Gratuitous intercompany hauling is recognized as being legal.

for comment in the Federal Register on December 11, 1978 (43 FR 58002); (b) held public meetings during January and February 1979 in Chicago, Philadelphia, Fort Worth, Los Angeles, and Atlanta; (c) visited shippers and carriers located in the vicinities of the public meetings; and (d) conducted a survey of a random sample of shippers and carriers.

During the study, alternatives were narrowed to: (a) Maintaining the status quo and (b) allowing compensated intercompany hauling at minimum subsidiary ownership levels of 100, 80, or "greater than 50" percent.

We are proposing to adopt the criterion of 80 percent minimum subsidiary ownership by the parent. The Commission believes a 100 percent subsidiary ownership requirement would be unnecessarily restrictive and would prevent members of close-knit corporate families from realizing potential benefits of intercompany hauling. On the other hand, the Commission does not believe it has sufficient information to justify adoption of the "greater than 50 percent" minimum subsidiary ownership requirement proposed by some of the parties who provided comment or statements for the staff study.

The Commission believes adoption of the 80 percent minimum subsidiary ownership level as a standard provides a suitable compromise which would make possible improvements in overall transportation efficiency and effectiveness, while limiting possible adverse effects and providing a period for adjustment and evaluation before further change is considered. It also recognizes the IRS standard that a subsidiary owned 80 percent or more by its parent is part of a close-knit corporate family.

Simultaneously with implementation of the proposed policy, the Commission will encourage shippers and carriers to prepare and furnish voluntarily to the Commission, over a period of 15 months, information to document the impact of compensated intercompany hauling. At the end of this period, the Commission will evaluate this information and determine whether it should further relax the restrictions on intercompany hauling or reconsider the advisability of maintaining greater restrictions.

The proposed policy contains no requirements for a parent company that would engage in compensated intercompany hauling to notify the Commission of its intent to do so, or to list participating subsidiary companies. Such requirements were proposed by some parties furnishing information to the staff study. The Commission

believes the potential expense and problems associated with such requirements outweigh potential benefits.

This notice is issued under authority of the Administrative Procedure Act (5 U.S.C. 553) and the Interstate Commerce Act (49 U.S.C. 10524).

Decided: June 28, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp, and Christian. Commissioner Stafford concurring in part, and dissenting in part. Commissioner Clapp concurring.

Agatha L. Mergenovich,
Secretary.

Commissioner Stafford, concurring in part, dissenting in part:

I see no reason for prohibiting intercompany hauling if the concept is endorsed by shippers and carriers alike. However, before we can allow it we must also find that it is a lawful activity.

The draft notice incorrectly characterizes the Commission's 1975 decision, *Intercompany Parent-Subsidiary Transportation*, 123 M.C.C. 768. That decision not only rejected intercompany hauling on policy grounds, but at least as important, on jurisdictional grounds. The report discusses this issue extensively, and specifically states: "we are precluded by existing statutes and case law from taking the action sought, except on a case-by-case basis or in highly unusual circumstances * * * 123 M.C.C. at p. 789.

Apparently hoping the problem will go away if it is not addressed, the draft notice fails even to mention the question of the legality of intercompany hauling. I see no reason to make the public relitigate the jurisdictional question unless the Commission can come up with some good reasons for reversing its prior position. We should not attempt to go forward with this rulemaking unless it can be justified as being within our statutory power.

[FR Doc. 79-22553 Filed 7-19-79; 9:39 am]
 BILLING CODE 7035-01-M

Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

[M-236 Amdt. 2, July 18, 1979]

CIVIL AERONAUTICS BOARD.

Addition of items to the July 19, 1979 meeting agenda.

TIME AND DATE: 10 a.m., July 19, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

3a. Docket 34997-Consumer protection for scheduled-service tour group members (OGC, BDA, BCP).

8a. Docket 35866, Petition of Trans International Airlines, Inc. for a rulemaking proceeding to increase the minimum rates for Logair and Quicktrans services, and for interim relief—draft order (OGC).

25a. Docket 34742, Essential Air Transportation order for Presque Isle, Maine (BDA).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

SUPPLEMENTARY INFORMATION:

Submission of Item 3a to the board was delayed pending staff coordination. This is the Board's response to a petition for rulemaking and is therefore subject to the 120-day rule. Since the 120th day is August 6, 1979 and another regularly scheduled Board meeting is not planned until August 21, 1979, consideration of this item at the July 19, meeting becomes necessary to meet the deadline. Item 8a is related to Items 7 and 8 and should be considered at the same time. Item 25a is being added to the July 19 meeting because if Bar Harbor is able to initiate service on August 13, as it now plans and Delta discontinues its service at the same time, all parties, especially the

traveling public, are benefitted by a Board decision as early as possible. Accordingly, the following members have voted that agency business requires that Items 3a, 8a, and 25a be added to the July 19, 1979 agenda and that no earlier announcement of these additions was possible:

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey
Member Gloria Schaffer

[S-1456-79 Filed 7-18-79; 3:38 pm]

BILLING CODE 5320-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, July 24, 1979.

PLACE: Commission conference room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED: Open to the public:

1. Proposed modification of the California Fair Employment Practices Commission's fiscal year 1979 charge resolution contract.

2. Freedom of Information Act Appeal No. 79-5-FOIA-170, concerning a request by an applicant for a position for a copy of materials in connection with her interview.

3. Freedom of Information Act Appeal No. 79-5-FOIA-180 and Privacy Act Appeal No. 7, concerning a request by an applicant for a position for information relating to the Commission's internal procedures for accepting and processing Schedule A excepted service positions.

4. Request for exemption under the Age Discrimination in Employment Act.

5. Proposed final regulations on EEOC's employees responsibilities and conduct.

6. Proposed semiannual regulatory agenda required by Executive Order 12044.

7. Report on Commission operations by the Executive Director.

Closed to the public:

Litigation authorization: General Counsel recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE

INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

Federal Register

Vol. 44, No. 141

Friday, July 20, 1979

This Notice Issued July 17, 1979

[S-1456-79 Filed 7-18-79; 3:38 pm]

BILLING CODE 6570-05-M

3

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., July 25, 1979.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portion open to the public:

1. Agreement No. 9718-8: Modification of Japanese Containership Service Agreement to provide for space chartering arrangements and for other purposes.

Portion closed to the public:

1. Docket No. 77-58: *West Gulf Maritime Association v. The City of Galveston* (Board of Trustees of the Galveston Wharves)—Decision on request for oral argument and petition of United States Lines to intervene and possible consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[PR Doc. S-1446-79 Filed 7-18-79; 10:40 am]

BILLING CODE 6730-01-M

4

INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published July 18, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Thursday, July 26, 1979.

CHANGES IN THE MEETING: The following item, previously scheduled for the meeting of Thursday, July 26, 1979, will be rescheduled to the meeting for Tuesday, July 31, 1979:

5. Investigation 332-87 (Conditions of Competition in the Western U.S. Steel Market)—consideration of the report, if necessary: briefing in the morning session; vote at 2 p.m.

CONTACT PERSON FOR MORE

INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[PR Doc. S-1447-79 Filed 7-18-79; 10:40 am]

BILLING CODE 7000-02-M

5

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

TIME AND DATE: 9 a.m.-5 p.m. (Thursday and Friday); 9 a.m.-12:30 p.m. (Saturday), July 26, 27, and 28, 1979.

PLACE: Washingtonian Motel, Gaithersburg, Md.

STATUS: Open.

MATTERS TO BE DISCUSSED:

(1) Review of NCLIS Goals and activities in relation to Congressional intent and the Commission's statute; and

(2) Determination of priorities and activities for fiscal year 1980 and fiscal year 1981 budgets.

CONTACT PERSON FOR MORE

INFORMATION: Alphonse F. Trezza, Executive Director (202) 653-6252/

Alphonse F. Trezza, Executive Director.

[S-1451-79 Filed 7-18-79; 3:38 pm]

BILLING CODE 7527-01-M

6

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of July 23.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

Tuesday, July 24

9:30 a.m.

1. Briefing by staff on technical issues re Restart of TMI-1 (approximately 2 hours, public meeting).

2. Discussion of personnel matter (approximately 1 hour, closed—Exemption 6). 2:30 p.m.

1. Discussion of modifications to upgrade rule (approximately 1 hour, public meeting).

Note.—Above meeting is tentative.

2. Briefing on revision to the operating assumption covering the relative ease of fabricating clandestine fission explosives (approximately ½ hour, closed).

Note.—Above meeting is tentative.

Wednesday, July 25

9:30 a.m. 1. Discussion of personnel matter (approximately 3 hours, closed—Exemption 6).

2 p.m. 1. Budget presentations (approximately 3 hours public meeting); EDO/CON overview and SD.

Thursday, July 26

2 p.m.

1. Budget presentations (approximately 3 hours, public meeting); IE.

2. Affirmation session (approximately 10 minutes, public meeting): (a) Order in S-3; (b) ALAB-542 (Atlantic Research); (c) Anderson FOIA Appeal; and (d) Upgrade rule (tentative).

Friday, July 27

9:30 a.m. 1. Budget presentations (approximately 3 hours, public meeting); NMSS.

CONTACT PERSON FOR MORE

INFORMATION: Walter Magee (202) 634-1410.

Dated: July 17, 1979.

Walter Magee,

Office of the Secretary.

[S-1450-79 Filed 7-18-79; 3:38 pm]

BILLING CODE 7590-01-M

7

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of July 23, 1979, in room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, July 24, 1979, at 10 a.m. An open meeting will be held on Thursday, July 26, 1979, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Commissioners Loomis, Evans, Pollack and Karmel determined to hold the aforesaid meeting in closed session. The subject matter of the closed meeting scheduled for Tuesday, July 24, 1979, at 10 a.m., will be:

Formal orders of investigation.

Access to investigative files by Federal, State, or Self-Regulatory Authorities.

Litigation matters.

Amendment of formal orders of investigation.

Subpoena enforcement action.

Institution of injunctive actions.

Institution of injunctive action and report of investigation.

Personnel matter.

Freedom of Information Act appeals.

Regulatory matter regarding financial institution.

The subject matter of the open meeting scheduled for Thursday, July 26, 1979, at 10 a.m., will be:

1. Consideration of requests by the National Securities Clearing Corporation

("NSCC") that the Commission: (a) agree with NSCC's determination of which cost components should be included in a surcharge for listed clearing in NSCC's branch offices; and (b) not require NSCC to impose a surcharge on envelope settlement system deliveries between its New York City and its Jersey City offices. For further information, please contact Michael J. Simon at (202) 755-8767.

2. Consideration of whether to publish for public comment a rulemaking petition, filed by Castle & Cooke, Inc. pursuant to Rule 4(a) of the Commission's Rules of Practice, which would require certain private organizations to disseminate information to their members in order to be eligible to submit shareholder proposals under the Commission's Securities Exchange Act of 1934 Rule 14a-8. For further information, please contact William E. Morley at (202) 755-1240.

3. Consideration of an application by AW Partners Limited 1979 for relief pursuant to Rule 252(f) of Regulation A under the Securities Act of 1933. For further information, please contact Thomas J. Baudhuin at (202) 755-1290.

4. Consideration of whether to adopt Rule 13e-3 and Schedule 13E-3, which were published for comment in November, 1977 (Release No. 34-14185 (November 19, 1977)), relating to going private transactions by public companies or their affiliates. The Rule and Schedule would prohibit fraudulent, deceptive and manipulative acts or practices in connection with going private transactions and prescribe new filing, disclosure and dissemination requirements as means reasonably designed to prevent such acts and practices. For further information, please contact Michael Connell or John Granda at (202) 755-1750.

5. Consideration of whether to adopt Rule 13e-4 and Schedule 13E-4, which were published for comment in December 1977 (Release No. 34-14234, 42 FR 63066 (December 14, 1977)). If adopted, Rule 13e-4 and Schedule 13E-4 would impose substantive and disclosure requirements with respect to cash tender and exchange offers by certain issuers for their own securities. For further information, please contact John B. Manning at (202) 755-1388 or Mary E. Chamberlin at (202) 755-8747.

6. Consideration of whether to publish for public comment a petition from the Taxation with Representation Fund proposing amendments to Regulation S-X (17 CFR Part 210.3-16(o)) to require the disclosure of "net income before tax allocable to each major geographic area of sales or other operations together with a disclosure of domestic earnings separately from foreign earnings," and of the components of income tax expense "properly allocable to each of these areas." For further information, please contact Clarence Staubs or Eugene Green at (202) 755-0222.

7. Consideration of whether to adopt amendments to Regulation S-X (17 CFR Part 210) requiring modifications in the financial statement presentation of registrants having preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the

issuer. For further information, please contact Lawrence C. Best at (202) 755-0222.

8. Consideration of whether to authorize the release to the public of a Staff Report on the Securities Industry in 1978, covering such topics as the financial experience of broker-dealers, trends in commission rates, changes in concentration and diversification in the industry, and the financial condition of exchange specialists and self-regulatory organizations. The report follows the general format of last year's Staff Report on the Securities Industry in 1977, but also includes some additional material and expands the scope of analysis. For further information, please contact Jeffrey L. Davis at (202) 523-5405.

9. Consideration of an interpretive release relating to Rules 144, 145(d), 148 and 237 under the Securities Act of 1933. The release would provide guidance both on the amendments to Rules 144 and 148 adopted by the Commission in September, 1978 and March, 1979 (see Release Nos. 33-5979 and 33-6032, respectively), and on other significant recurring issues arising under the rules as well. For further information, please contact Peter J. Romeo at (202) 755-1240.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

George Yearsich at (202) 755-1100.
July 18, 1979.

[S-1453-79 Filed 7-18-79; 3:38 pm]
BILLING CODE 8010-01-M

federal register

Friday
July 20, 1979

Part II

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and
Federally Assisted Construction; General
Wage Determination Decisions

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DEPARTMENT OF LABOR

Employment Standards
Administration, Wage and Hour
DivisionMinimum Wages for Federal and
Federally Assisted Construction;
General Wage Determination
Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (48 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to
General Wage Determination Decisions

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (48 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards

Administration, Wage & Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

New General Wage Determination
Decisions

Maryland.—MD79-3021
Mississippi.—MS79-1112

Modifications to General Wage
Determination Decisions

The number of the decisions being modified and their dates of publication in the Federal Register are listed with each State.

Florida		
FL77-1003	January 21, 1979	
FL79-1017	January 26, 1979	
FL79-1019	February 2, 1979	
FL79-1030	February 9, 1979	
FL79-1039	February 16, 1979	
FL79-1040	February 16, 1979	
FL79-1064	April 13, 1979	
FL79-1069	April 20, 1979	
Maryland		
MD79-3020	April 14, 1979	
Michigan		
MI79-2012		
MI79-2013		
MI79-2015		
MI79-2018		
MI79-2019	May 4, 1979	
MI79-2020	June 1, 1979	
Oklahoma		
OK78-4055		
OK78-4056	June 9, 1978	
OK78-4058		
OK78-4059		
OK78-4062	June 16, 1978	
OK79-4023	February 2, 1979	
Pennsylvania		
PA78-3068	September 29, 1978	
West Virginia		
WV78-3018	June 9, 1978	

Supersedeas Decisions to General Wage
Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the Federal Register are listed with each State. Supersedeas decision numbers are in parenthesis following the numbers of the decisions being superseded.

Florida		
FL78-1070 (FL79-1113)	August 25, 1978	
FL79-1028 (FL79-1109)		
FL79-1029 (FL79-1111)	February 9, 1979	
FL79-1041 (FL79-1110)	February 16, 1979	
Louisiana		
LA79-4001 (LA79-4069)	January 5, 1979	
New York		
NY77-3003 (NY79-3022)	July 1, 1977	
Pennsylvania		
PA78-3017 (PA79-3020)	May 5, 1978	
Washington		
WA78-5133 (WA79-5126)	December 29, 1978	

Cancellation of General Wage
Determination Decisions

None

Signed at Washington, D.C. this 13th day of July, 1979.

Dorothy P. Come,
Assistant Administrator, Wage and Hour
Division.

BILLING CODE 4510-27-M

NEW DECISION

COUNTIES: *See below
STATE: Mississippi
DECISION NO.: MS79-1112
DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and garden type apartments up to and including 4 stories.

COUNTY: Carroll
STATE: Maryland
DECISION NO.: MD79-3021
DATE: Date of Publication
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and garden type apartments up to and including 4 stories)

NEW DECISION

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vocation	
3.90				
7.23				
4.98				
4.98				
4.60				
5.00				
3.00				
3.25				
4.00				
4.00				
3.23				
3.90				
7.50				
4.50				
4.13				
5.59				
3.69				
4.68				
4.13				
3.92				
4.38				
4.68				
3.75				
3.40				
3.00				

Air conditioning mechanic
Bricklayers
Carpenters
Cement masons
Electricians
Ironworkers, structural & ornamental
Laborers
Laborers
Asphalt takers
Mason tenders
Mortar mixers
Painters, brush
Plumber and pipefitter
Roofers
Sheet metal workers
Soft floor workers
Truck drivers
Welder - Rate for craft
POWER EQUIPMENT OPERATORS:
Backhoe
Bulldozer
Form setter
Front end loader
Motor grader
Roller - Grader
Tractor
*Alcorn, Itawamba, Lee, Pontotoc, Prentiss, Tippah, Tishomingo and Union Counties

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vocation	
6.50				
6.23				
6.00				
7.00				
5.00				
7.25				
4.44				
4.75				
7.50				
7.00				
6.27				
11.06				
7.50				
6.51				
5.15				
8.50				
5.06				
5.65				
4.45				
6.50				

BRICKLAYERS
CARPENTERS
CEMENT MASONS
ELECTRICIANS
GLAZIERS
IRONWORKERS
LABORERS
LABORERS
PAINTERS
PLASTERERS
PLUMBERS
ROOFERS
SHEET METAL WORKERS
SPRINKLER FITTERS
TILE SETTERS
POWER EQUIPMENT OPERATORS:
Backhoe
Bulldozer
Crane
Front end loader
Grader
Roller
Tractor

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MODIFICATION P. 1

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
Decision #FL77-1003- Mod.#3 (42 FR 4031 - January 21, 1977) Dade County, Florida Change: Carpenters	7.55	.80	.55		.02
Decision #FL79-1017 - Mod.#3 (44 FR 5604 - January 26, 1979) Duval County, Florida Change: Plasterers	8.30	.40	.55		.08
Decision #FL79-1019 - Mod.#4 (44 FR 5852 - February 2, 1979) Duval County, Florida Change: Carpenters & Piledrivers Electricians Laborers unskilled Power Equipment Operators Cranes Oilers	9.52 10.15 5.92 10.13 6.86	.62 .50 .20 .55 .55	.60 38+.81 .20 .40 .40		.05 .07 .05 .05
Decision #FL79-1030 - Mod.#3 (44 FR 6493 - February 9, 1979) Broward County, Florida Change: Asbestos Workers Carpenters: Soft Floor Layers Lathers Plasterers Tile & Terrazzo	12.09 10.00 10.30 10.50	.60 .88 .70 .73	.65 .45 .45 .65		.02 .06 .04 .03

MODIFICATION P. 2

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
Decision #FL79-1039 - Mod.#3 (44 FR 10228 - February 16, 1979) Volusia County (except Cape Kennedy, Kennedy Space Flight Center and Cape Canaveral Air Force Station) Florida Change: Sheet Metal Workers	10.39	.55+.38	.44		.08
Decision #FL79-1040 - Mod.#3 (44 FR 10230 - February 16, 1979) Hillsborough County, Florida Omit: Painters	8.65	.35	.40		.06
Add: Painters: brush & roller: over 15,001 sq. ft. under 15,000 sq. ft.	8.65 7.00	.45 .45	.40 .40		.08 .08

MODIFICATION P. 3

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
Decision #FL79-1064 - Mod.#2 (44 FR 22308 - April 13, 1979) Orange County, Florida Omit: Electricians: Electrical contracts less than \$20,000 All other work Add: Electricians	7.50 10.30 10.66	.55 .55 .55	38 38 38+.41		18 18 18
Change: Painters: Brush Spray Paperhangers Sandblasters Plumbers Sheet Metal Workers	8.25 8.75 8.75 8.75 9.81 10.39	.40 .40 .40 .40 .50 .55	.40 .40 .40 .40 22+.40 .44		.06 .06 .06 .06 .12 .08
Decision #FL79-1069 - Mod.#1 (44 FR 23735 - April 20, 1979) Leon County, Florida Change: Group I Group II Group III	10.13 8.95 6.86	.55 .55 .55	.40 .40 .40		.05 .05 .05

MODIFICATION P. 4

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
DECISION NO. M078-3020 - Mod. #9 (42 FR 16015 - April 14, 1978) Counties of Anne Arundel (excluding the D.C. Training School), Baltimore, & Baltimore City, Maryland, and for Heavy Construction projects in Harford and Howard Counties, Maryland Change: Asbestos Workers Boilermakers Laborers, Building: Laborers Power Tool Operators Plasterers' Laborers Pipelayers (concrete and clay) Wagon Drill Operators, Operators of Jack Hammers - 80 lbs. and over, and Barco Tamers Hod Carriers, Gunnite Nozzle and Gun Operator Burners (Demolition) Lead Burners Lathers Plumbers Roofers: Roofers, damp & waterproof workers Slate, Tile, asbestos and asphalt shingle Precast slab and woodblock layers Tile and Terrazzo workers	\$10.95 12.775 7.85 7.85 8.00 8.05 8.10 8.25 8.35 12.60 11.34 11.19 9.00 9.45 10.00 9.41	.85 1.175 .35 .35 .35 .35 .35 .35 .35 .65 .87 .60 .60 .60 .70	.95 1.00 .55 .55 .55 .55 .55 .55 .55 .45 .45 .45 .50		.02 .04 .075 .075 .075 .075 .075 .01 .16 .04

DECISION #M179-2012 - MOD. #2
(44 FR 26435 - May 4, 1979)
Alcona, Alpena, Charlevoix,
Emmet, Grand Traverse, Leelanau,
Mason, Nontocency, Nuskogon,
Oceana, Oscoda & Presque Isle
Counties, Michigan

CHANGE:

LINE CONSTRUCTION: ZONE II	IC-ZONE II			
	Basic Hourly Rates	H & W	Fringe Benefits Payments	Education and/or Appr. Tr.
Lineman; Technician	\$11.85	.45	32	.52
Cable Splicer	12.32	.45	32	.52
Combination Digger Operator; Tractor Operator Groundman; 1st 6 Months	8.55	.45	32	.52
Over 6 Months	9.24	.45	32	.52
Light Equipment Operator Groundman; Distribution Line Truck Driver Operator; 1st 6 Months	7.43	.45	32	.52
Over 6 Months	8.11	.45	32	.52
Combination Winch Truck Driver Groundman; 1st 6 Months	6.77	.45	32	.52
Over 6 Months	7.74	.45	32	.52
Combination Truck Driver Groundman	6.55	.45	32	.52

FOOTNOTES:

- a. 7 Paid Holidays; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

DECISION #M179-2013 - MOD. #2
(44 FR 26435 - May 4, 1979)
Alger, Baraga, Chippewa,
Dickinson, Gogabic, Houghton,
Keweenaw, Mackinac, Marquette
& Ontonagon Counties, Michigan

CHANGE:

LINE CONSTRUCTION: ZONE II	IC-ZONE II			
	Basic Hourly Rates	H & W	Fringe Benefits Payments	Education and/or Appr. Tr.
Lineman; Technician	\$11.85	.45	32	.52
Cable Splicer	12.32	.45	32	.52
Combination Digger Operator; Tractor Operator Groundman; 1st 6 Months	8.55	.45	32	.52
Over 6 Months	9.24	.45	32	.52
Light Equipment Operator Groundman; Distribution Line Truck Driver Operator; 1st 6 Months	7.43	.45	32	.52
Over 6 Months	8.11	.45	32	.52
Combination Winch Truck Driver Groundman; 1st 6 Months	6.77	.45	32	.52
Over 6 Months	7.74	.45	32	.52
Combination Truck Driver Groundman	6.55	.45	32	.52

FOOTNOTES:

- a. 7 Paid Holidays; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

DECISION #M179-2015 - MOD. #2
(44 FR 26443 - May 4, 1979)
Allegan, Berrien, Calhoun,
Clinton, Eaton, Ingham,
Jackson & Kalamazoo Counties,
Michigan

CHANGE:

LINE CONSTRUCTION: ZONE II	IC-ZONE I			
	Basic Hourly Rates	H & W	Fringe Benefits Payments	Education and/or Appr. Tr.
Linemen - Technician	\$14.38	1.50	92	1/2
Cable Splicers	15.00	1.50	92	1/2
Combination Equipment Operator & Groundman	11.52	1.50	92	1/2
Combination Driver- Groundman	10.84	1.50	92	1/2
Groundman	9.98	1.50	92	1/2

LINE CONSTRUCTION:

Remaining Counties & the
Remainder of Ingham County
Lineman; Technician

LINE CONSTRUCTION: ZONE II	IC-ZONE II			
	Basic Hourly Rates	H & W	Fringe Benefits Payments	Education and/or Appr. Tr.
Cable Splicer	\$11.85	.45	32	.52
Combination Digger Operator; Tractor Operator Groundman; 1st 6 Months	12.32	.45	32	.52
Over 6 Months	8.55	.45	32	.52
Light Equipment Operator Groundman; Distribution Line Truck Driver Operator; 1st 6 Months	9.24	.45	32	.52
Over 6 Months	7.43	.45	32	.52
Combination Winch Truck Driver Groundman; 1st 6 Months	8.11	.45	32	.52
Over 6 Months	6.77	.45	32	.52
Combination Truck Driver Groundman	7.74	.45	32	.52
Combination Truck Driver Groundman	6.55	.45	32	.52

FOOTNOTES: a. 7 Paid Holidays; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

DECISION #M179-2016 - MOD. #2
(44 FR 26450 - May 4, 1979)
Bay, Genesee, Huron, Iosco,
Lapeer, Saginaw, St. Clair,
Sanilac, Shiawassee & Tuscola
Counties, Michigan

CHANGE:

LINE CONSTRUCTION: ZONE II	IC-ZONE I			
	Basic Hourly Rates	H & W	Fringe Benefits Payments	Education and/or Appr. Tr.
Linemen - Technician	\$14.38	1.50	92	1/2
Cable Splicers	15.00	1.50	92	1/2
Combination Equipment Operator & Groundman	11.52	1.50	92	1/2
Combination Driver- Groundman	10.84	1.50	92	1/2
Groundman	9.98	1.50	92	1/2

LINE CONSTRUCTION:

Bay, Iosco, Genesee, Saginaw
& Shiawassee Counties
Lineman; Technician

LINE CONSTRUCTION: ZONE II	IC-ZONE II			
	Basic Hourly Rates	H & W	Fringe Benefits Payments	Education and/or Appr. Tr.
Cable Splicer	\$11.85	.45	32	.52
Combination Digger Operator; Tractor Operator Groundman; 1st 6 Months	12.32	.45	32	.52
Over 6 Months	8.55	.45	32	.52
Light Equipment Operator Groundman; Distribution Line Truck Driver Operator; 1st 6 Months	9.24	.45	32	.52
Over 6 Months	7.43	.45	32	.52
Combination Winch Truck Driver Groundman; 1st 6 Months	8.11	.45	32	.52
Over 6 Months	6.77	.45	32	.52
Combination Truck Driver Groundman	7.74	.45	32	.52
Combination Truck Driver Groundman	6.55	.45	32	.52

FOOTNOTES: a. 7 Paid Holidays; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

MODIFICATION P. 9

DECISION #M79-2019 - MOD. #2
(44 FR 26457 - Pay 4, 1979)
Macomb, Monroe, Oakland,
Washtenaw & Wayne Counties,
Michigan

CHANGE:

Line Construction:
Wayne, Macomb & Remainder of
Washtenaw, Monroe & Oakland
Counties
Linemen - Technician
Cable Splicers
Combination Equipment
Operator & Groundman
Combination Driver-
Groundman
Groundman

Line Construction:
Tps. of Lyndon, Manchester,
Sharon & Sylvan in Washtenaw
Co; Tps. of Bedford, Erie,
LaSalle & Whiteford in
Monroe Co; Twp. of Holly in
Oakland County:

Linemen - Technician
Cable Splicer
Combination Digger Operator:
Tractor Operator Ground-
man:
1st 6 months
Over 6 months
Light Equipment Operator
Groundman; Distribution
Line Truck Driver Opr:
1st 6 months
Over 6 months
Combination Winch Truck
Driver-Groundman:
1st 6 months
Over 6 months
Combination Truck Driver
Groundman

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$14.38	1.50	9%		1/2
15.00	1.50	9%		1/2
11.52	1.50	9%		1/2
10.84	1.50	9%		1/2
9.98	1.50	9%		1/2
11.85	.45	3%	5%+a	5%
12.32	.45	3%	5%+a	5%
8.55	.45	3%	5%+a	5%
9.26	.45	3%	5%+a	5%
7.43	.45	3%	5%+a	5%
8.11	.45	3%	5%+a	5%
6.77	.45	3%	5%+a	5%
7.74	.45	3%	5%+a	5%
6.58	.45	3%	5%+a	5%

MODIFICATION P. 10

DECISION #M79-2020 - MOD. #3
(44 FR 31842 - June 1, 1979)
Statewide, Michigan

CHANGE:

Modification #1 - Volume 44,
Page 38115, 6/29/79 to read
Modification #2.

Labors: Highway Construction
Class P - Zone 3A
Line Construction - Zone 1:
Huron, Lapeer, Macomb, Saint
Clair, Sanilac, Tuscola &
Wayne Counties; Ingham Co;
Tps. of Leroy, Locke, Wheat-
field, White Oak & William-
son; Lenawee County: Tps. of
Clinton & Macos; Livingston
Co; All but the Tps. of
Tyrona, Oshkosh, Deerfield
& Unadilla; Monroe Co; all
but the Tps. of Bedford,
Erie, LaSalle & Whiteford;
Washtenaw Co; All but the
Tps. of Lyndon, Manchester,
Sharon & Sylvan & the remainder
of Oakland County:
Linemen - Technician
Cable Splicers
Combination Equipment
Operator & Groundman
Combination Driver-
Groundman
Groundman

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$8.24	.65	.35	.65	.04
14.38	1.50	9%		1/2
15.00	1.50	9%		1/2
11.52	1.50	9%		1/2
10.84	1.50	9%		1/2
9.98	1.50	9%		1/2

MODIFICATION P. 11

DECISION #M79-2020 - MOD. #3 - (CONT'D)

CHANGE:

TRUCK DRIVERS - HIGHWAY CONST.
ZONE 1
Genesee, Lapeer, Lenawee,
Livingston, Macomb, Monroe,
Oakland, St. Clair, Washtenaw
& Wayne

CLASS 1
CLASS 2
CLASS 3
ZONE 2
Remainder of State
CLASS 1
CLASS 2
CLASS 3

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$10.41	.33.00	.37.00	.50	
10.51	.33.00	.37.00	.50	
10.66	.33.00	.37.00	.50	
10.31	.33.00	.37.00	.50	
10.41	.33.00	.37.00	.50	
10.56	.33.00	.37.00	.50	

TRUCK DRIVERS - ZONES 1 & 2

CLASS 1 - Truck Driver (on all trucks except dump truck of 8 cubic yd.
capacity or over, tandem axle trucks, transit mix and semis, euclid
type equipment, double bottoms and low boys.)
CLASS 2 - Truck Driver on dump trucks of 8 cubic yard capacity or over
(including tandem axle trucks, tandem axle water trucks, transit mix
and semis.)
CLASS 3 - Euclid type equipment, double bottoms and low boys for hauling
heavy equipment.

FOOTNOTE:

a. Per week, per employee

MODIFICATION P. 12

DECISION NO. OK78-4055 -
Mod. #5
(43 FR 25270 - June 9, 1978)
Tulsa, Creek, Craig, Ottawa,
Delaware, Mayes, Rogers
Counties, Oklahoma

Change:
Asbestos Workers
Elevator Constructors
Ironworkers
Terrazzo Workers
Tillayers
Terrazzo workers & Tile
layers finishers
Terrazzo workers floor
machine operator
Terrazzo workers base
machine operator
Roofers
Sprinkler fitters
Paid Holidays to read:
A-New Year's Day; B-Memorial
Day; C-Independence Day;
E-Thanksgiving Day; F-
Friday after Thanksgiving;
G-Christmas Day

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$11.90	.55	.85	4%+a+b	.015
10.81	.545	.35		.02
11.30	.75	.65		.12
10.97	.70	.40		
10.97	.70	.40		
9.01	.70			
9.14	.70			
9.38	.70	.25		.04
10.40	.60	1.05		.08
12.54	.75			
11.70	.60	.40		.05
9.53	.55	.75		.08
10.03	.55	.95		.08

DECISION NO. OK78-4056 -
Mod. #4
(43 FR 25273 - June 9, 1978)
Muskogee, Adair, Cherokee and
Okmulgee Counties, Oklahoma

Change:
Bricklayers
Carpenters (Area I)
Carpenters
Millwrights & Pile-drivers
Area I

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
DECISION NO. OK78-4058 - Mod. #4 (43 FR 26258 - June 16, 1978) McIntosh County, Oklahoma				
Change:				
Asbestos Workers	11.90	.55	.85	.015
Bricklayers	11.25	.60	.40	.05
Ironworkers	11.30	.75	.65	.12
Sheet Metal Workers	12.06	.60	.66	.10
Terrazzo Workers	10.97	.70	.40	
Tile layers	10.97	.70	.40	
Plumbers-Steamfitters	12.00	.55	.80	.15
Electricians:				
Zone I:				
Electricians	11.70	.60	3%	1%
Cable splicers	12.10	.60	3%	1%
Zone II:				
Electricians	12.10	.60	3%	1%
Cable splicers	12.50	.60	3%	1%
Terrazzo Workers finisher	9.01	.70		
Terrazzo Workers floor				
machine operator	9.14	.70		
Terrazzo Workers base				
machine operator	9.38	.70		
Roofers	10.40	.60	.25	.04
Sprinkler fitters	12.54	.75	1.05	.08

DECISION NO. OK78-4059 - Mod. #4 (43 FR 26258-June 16,1978) Wagoner County, Oklahoma	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Change:					
Asbestos Workers	\$11.90	.55	.85		.015
Bricklayers	11.70	.60	.40		.05
Carpenters:					
9.53		.55	.75		.08
Millwrights-Piledrivermen	10.03	.55	.75		.08
Ironworkers	11.30	.75	.65		.12
Sheet Metal Workers	12.06	.60	.66		.10
Electricians:					
Zone I:					
Electricians	11.70	.60	.38		.18
Cable splicers	12.10	.60	.38		.18
Zone II:					
Electricians	12.10	.60	.38		.18
Cable splicers	12.50	.60	.38		.18
Roofers	10.40	.60	.25		.04
Sprinkler fitters	12.54	.75	1.05		.08
DECISION NO. OK78-4062 - Mod. #5 (43 FR 26265 -June 16,1978) Pittsburg County, Oklahoma					
Change:					
Asbestos Workers	11.90	.55	.85		.015
Bricklayers	11.25	.60	.40		.05
Cement Masons	8.00				
Ironworkers	11.30	.75	.65		.12
Sheet Metal Workers	12.06	.60	.66		.10
Terrazzo Workers	10.97	.70	.40		
Tile Setters	10.97	.70	.40		
Tile & Terrazzo Workers					
Finishers	9.01	.70			.04
Roofers	10.40	.60	.25		.08
Sprinkler fitters	12.54	.75	1.05		

DECISION NO. OK79-4023 - Mod. #2 (44 FR 6881 - Feb. 2, 1979) Comanche County, Oklahoma	Fringe Benefits Payments				Education and/or Appr. Tr.
	Basic Hourly Rates	H & W	Pensions	Vacation	
Change: Asbestos Workers	\$12.33	.55	1.00		.04
Bricklayers-Stonemasons	10.16	.62	.60		.12
Carpenters:	9.00	.55	.50		.04
Millwrights-Piledrivermen	9.50	.55	.50		.04
Power saw operator	9.125	.55	.50		.04
Ironworkers	11.30	.75	.65		.12
Plumbers-Pipefitters	12.37	.60	.85		.10
Sheet Metal Workers	11.31	.55	.84		.07
Soft Floor Layers:					
Resilient floor layers and carpet layers	10.10	.50		.25	.03
Roofers	10.40	.60	.25		.04
Sprinkler fitters	12.54	.75	1.05		.08

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
11.36	.65	34+.67		1/2 of 18
10.09	.65	34+.67		1/2
13.30	.75	1.05		.08

Lebanon County, Pennsylvania

Change:
Electricians:
That portion of Lebanon County
that is North and West of
Interstate Route 81, including
all of the Fort Iradantown Gap
Military Reservation
That portion of Lebanon County
which extends South and East
of Interstate Route 81
Sprinkler Fitters

MODIFICATION P. 17

DECISION NO. W78-3018 - Mod. #7
(43 FR 25278 - June 9, 1978)
State of West Virginia excluding
the Counties of Berkeley,
Jefferson and Morgan

Change:
Bricklayers, Stone Masons,
Marble Masons, Terrazzo
Workers & Tile Layers:
Zone 3

Electricians:
Brooke (remainder of county)
and Hancock (except Grant
Twp.) Counties:

Wiremen
Summers & Wyoming Counties:
Contracts \$15,000 or less:

Cable Splicers
Contracts over \$15,000:

Wiremen
Fayette (except Falls and
Kanawha Twp.) County:

Contracts \$15,000 or less:
Cable Splicers
Contracts over \$15,000:

Wiremen
Cable Splicers
Raleigh (except Clear Fork and
Marsh Fork Twp.) County:

Contracts \$15,000 or less:
Wiremen
Cable Splicers
Contracts over \$15,000:

Wiremen
Cable Splicers
Barbour, Doddridge, Harrison,
Lewis, Randolph & Upshur Cos.:

Wiremen
Cable Splicers

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$10.35					
13.50	7%	10%	10%		1/2
9.67	.50	3%+.67	.77		.06
9.97	.50	3%+.67	.77		.06
12.57	.50	3%+.67	.77		.06
12.87	.50	3%+.67	.77		.06
9.47	.50	3%+.67	.77		.06
9.77	.50	3%+.67	.77		.06
12.37	.50	3%+.67	.77		.06
12.67	.50	3%+.67	.77		.06
9.17	.50	3%+.67	.77		.06
9.47	.50	3%+.67	.77		.06
12.07	.50	3%+.67	.77		.06
12.37	.50	3%+.67	.77		.06
10.95	.50	3%+.50	2.00		.03
12.045	.50	3%+.50	2.00		.03

MODIFICATION P. 18

DECISION NO. W78-3018 Cont'd:

Change:
Electricians: (Contd)
Jackson, Pleasants, Ritchie,
Tyler, Wirt & Wood Counties:
Wiremen
Cable Splicers

Ironworkers - Structural,
Ornamental & Reinforcing:
Area 2

Area 3

Line Construction:

Brooke (except Buffalo Twp.)
and Hancock (except Grant
Twp.) Counties:

Linemen & Equipment
Operators
Groundmen

Cable Splicer

Jackson, Pleasants, Ritchie,
Tyler, Wirt & Wood Counties:
Linemen & Equipment
Operators

Cable Splicers

Groundmen

Boone, Braxton, Cabell,
Calhoun, Clay, Glimer,
Kanawha, Lincoln, Logan,
Mason, Mingo, Putnam, Roane,
Wayne & Webster Counties:

Linemen

Cable Splicers

Groundmen

Mechanized Equipment
Operators

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
11.75	.50	3%+1.25	1.50		.04
12.00	.50	3%+1.25	1.50		.04
12.36	.90	1.75			.05
12.25	1.00	1.45			.09
13.50	7%	10%	10%		
8.78	7%	10%	10%		
14.00	7%	10%	10%		
11.65	.60	3%+1.25	1.50		1/2
12.82	.60	3%+1.25	1.50		1/2
9.32	.60	3%+1.25	1.50		1/2
13.68	.60	3%+.50	.90		1/2
15.05	.60	3%+.50	.90		1/2
8.89	.60	3%+.50	.90		1/2
10.94	.60	3%+.50	.90		1/2

MODIFICATION P. 19

DECISION NO. W78-3018
(Cont'd)

Change:

Painters:

AREA 7

Air compressor
Operator

Brush Painting

Roller, Dry-wall

Pointers & Tapers

Dipping & Mitten

Work & Spray

Water Blasters,

Steam Jenny

Nozzle Men,

Swinging Scaffold

& Boatswain Chair,

Window Belt &

Window Jack Work

Brush Painters on

Bridges, Needle

Beam, Cable

Work, Power Tool

Work, Brush &

Flame Cleaning

Operating Mechan-

ical Taping

Machines

Sand Blasters

All Stacks, Vent

Pipe, Flag Poles

in excess of 30'

high, all Towers,

Water Towers,

Elevated Tanks,

Electrical

Switch Yards,

Transformer

Ranks & Televis-

ion Towers

Vinyl hangers &

Paper hangers

(with tools)

REPAINT NEW

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
9.07	.55				
9.07	.55				
9.46	.55				
10.27	.55				
10.74	.55				
10.98	.55				
11.09	.55				
12.21	.55				
9.45	.55				

MODIFICATION P. 20

DECISION NO. W78-3018 Cont'd:

Change:

Painters:

Area 5

Commercial

Drywall Finishers

Vinyl Wall Covering

Structural Steel After

Erection

Repaint Structural Steel

Towers, Tanks & Stacks

Sandblasting

Extra pay of heights 50' to

100' (+.75 per hour): over

100' (+1.25 per hour)

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
11.66		.20			
11.93		.20			
12.24		.20			
12.57		.20			
11.77		.20			
13.00		.20			
13.64		.20			

SUPERSEDES DECISION

STATE: Florida
COUNTY: Pinellas
DECISION NO.: FL79-1113
DATE: Date of Publication
Supersedes Decision No.: FL78-1070 dated August 25, 1978 in 43 FR 38277.
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and garden type apartments up to and including 4 stories).

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
AIR CONDITIONING & HEATING				
MECHANICS	11.33	.60	1.00	.10
BRICKLAYERS/BLOCKLAYERS	9.20	.45	.50	.10
CARPENTERS	6.56			
CEMENT MASONS	8.20	5%	78+3%	1%
ELECTRICIANS	9.785			
ELEVATOR CONSTRUCTORS	6.13			
GLAZIERS	6.39			
IRONWORKERS	4.36			
LABORERS	7.36			
LATHERS	5.27			
PAINTERS	7.39			
PLASTERERS	11.33	.60	1.00	.10
PLUMBERS; PIPEFITTERS	5.81			
SHEET METAL WORKERS:				
Commercial	8.30	.90	.55	.11
Industrial	9.61	.90	.55	.11
SOFT FLOOR LAYERS	5.25			
SPRINKLER FITTERS	10.61	.75	1.05	.10
TILE SETTERS	6.86			
POWER EQUIPMENT OPERATORS:				
BACKHOE	5.00			
BULLDOZER	5.25			
COMPACTOR	9.18	.625	.60	.05
CRANE	10.89	.65	.60	
GRADER	4.76			
PILEDRIVER	7.00			

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
ASBESTOS WORKERS	\$12.09	.55+ .10	.65	.02
BOILERMAKERS	11.70	.75	1.10	.02
BRICKLAYERS:				
Bricklayers; Cement Masons;				
Marble Setters; Plasterers;				
Stonemasons; Tile & Terrazzo				
Workers	10.00	.65	.55	.02
CARPENTERS; Soft Floor Layers				
(All of Martin County and that				
portion of Palm Beach County				
north of a line from the				
Atlantic Ocean along Appleby				
Street in Boca Raton, west to				
US #1 to Canal C-15, then west				
to Palm Beach County line)	10.00	.55	.80	.06
Remainder of Palm Beach County	10.00	.88	.45	.06
ELECTRICIANS:				
Wiremen	11.27	4.5%	3%+6%	1.5%
Cable Splicers	12.40	4.5%	3%+6%	1.5%
ELEVATOR CONSTRUCTORS:				
Mechanics	11.16	.895	.69	.03
Helpers	7.81	.895	.69	.03
Probationary Helpers	5.58		.40	
GLAZIERS	10.24	.55	.38	.10
IRONWORKERS:				
Air Tool Operators; Mason				
Tenders; Mortar Mixers and				
Pipelayers	6.70	1.10	.37	
Plasterer Tenders	6.88	1.10	.37	
Unskilled	6.60	1.10	.37	
LATHERS:				
Linemens	9.73		.10	.025
Heavy Equipment Operators	11.17	3.5%	3%+6%	0.75%
Cable Splicers	11.17	3.5%	3%+6%	0.75%
Winch Truck Operators	11.47	3.5%	3%+6%	0.75%
Truck Drivers	8.90	3.5%	3%+6%	0.75%
Groundmen	7.31	3.5%	3%+6%	0.75%
	6.07	3.5%	3%+6%	0.75%

SUPERSEDES DECISION

STATE: Florida
COUNTY: Martin & Palm Beach
DECISION NUMBER: FL79-1109
DATE: Date of Publication
Supersedes Decision No.: FL79-1028 dated February 9, 1979 in 44 FR 8491.
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes or garden type apartments of four stories or less).

FL79-1109 (cont'd)

Page 2

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
MILLWRIGHTS	\$ 9.70	.55	.70	.06
PAINTERS:				
Brush	8.33	.55	.30	.05
Paperhanger; Roller	8.58	.55	.30	.05
Spray; Taper	8.83	.55	.30	.05
FILEDRIVERS	10.20	.55	.70	.10
PLUMBERS: Pipefitters;				
Steamfitters:				
Commercial	10.25	.52	1.00	.16
Industrial	12.54	.52	1.00	.16
ROOFERS:				
Roofers	9.40	.40	.50	.015
Pot Firemen; Mud Mixers	6.10	.40	.50	.015
SHEET METAL WORKERS	10.70	.60	.33	.03
SPRINKLER FITTERS	10.61	.75	1.05	.10
WELDERS - Rate for craft to which welding is incidental				

PAID HOLIDAYS (Where Applicable)
A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day,
E-Thanksgiving Day, F-Christmas Day

FOOTNOTES:

- Six paid holidays: A through F.
- Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

FL79-1109 (cont'd)

Page 3

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS:				
Group I	10.35	.50	.80	.10
Group II	10.20	.50	.80	.10
Group III	9.70	.50	.80	.10
Group IV	9.25	.50	.80	.10
Group V	9.10	.50	.80	.10
Group VI	8.75	.50	.80	.10
Group VII	8.50	.50	.80	.10
Group VIII	8.40	.50	.80	.10
Group IX	8.00	.50	.80	.10

GROUP I:
All tower cranes, cranes with boom length over 250 ft., derricks, helicopters, All types of flying cranes, all nuclear powered equipment
GROUP II:
All cranes with boom length of 150 ft. to 250 ft., cranes of 150 tons and over with boom length of under 250 ft., gantry and overhead cranes.
GROUP III:
All hydro cranes, cranes with boom length of under 150 ft., clamshell, shovel, backhoe, gradall, Cherrypicker, dragline, piledriver, drilling of piling, tugger hoist, motor grader (finish), Mechanic, sideboom, tractor boom, concrete mixer, cableway.
GROUP IV:
Boring & drilling machine, concrete pump machine, batching plant, inside elevator, forklift with vert. lift of over 20 ft.
GROUP V:
Locomotive, motor mixing pump, winch truck, A-frame truck, grease truck, front end loader, bulldozer, pan, motor grader, forklift.
GROUP VI:
Trenching and ditching machine, roller, fireman, distributor (bituminous), finish machine (paving), wellpoint system (installation and/or operation), siphon vacuum pump, tractor, conveyor.
GROUP VII:
Utility operator (any combination of equipment up to and including 4 pieces listed in Group VIII), welding machine (3 or 4).
GROUP VIII:
Pump (over 2 1/2 inches), compressor (over 125 c.f.m.), generator (over 5 KW), welding machine (2).
GROUP IX:
Oiler, fuel truck, machine helper, boom hauling truck, lowboy truck

SUPERSEDES DECISION

STATE: Florida
 COUNTY: Bay
 DATE: Date of Publication
 DECISION NUMBER: FL79-1111
 Supersedes Decision No.: FL79-1029 dated February 9, 1979 in 44 FR 8493.
 DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Bricklayers	5.00				
Carpenters	5.40				
Cement masons (finishers)	5.00				
Drywall hanger	6.00				
Electricians	10.97	.50	.38		0.58
Elevator constructors:					
Mechanics	9.815	.745	.56	a+b	.025
Helpers	6.87	.745	.56	a+b	.025
Probationary helpers	4.91				
Ironworkers	8.77	.30	.35		
Laborers:					
Laborers	2.98				
Plasterers tenders	3.50				
Painters	4.50				
Plasterers	6.00				
Plumbers & Pipefitters	6.00				
Roofers	4.50				
Sheet metal workers	6.00				
Soft floor layers	3.50				
Sprinkler fitters	10.61	.75	1.05		.10
Tile setters	5.00				
Welders - rate for craft to which welding is incidental					
POWER EQUIPMENT OPERATORS:					
Bulldozers	3.25				
Crane	3.75				
Forklift	3.25				

FOOTNOTES:

- a. 6 paid holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day.
- b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years; 6% for employee of less than 5 years.

SUPERSEDES DECISION

STATE: Florida
 COUNTY: Dade
 DATE: Date of Publication
 DECISION NUMBER: FL79-1110
 Supersedes Decision No.: FL79-1041 dated February 16, 1979 in 44 FR - 10231
 DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes or garden type apartments of four stories or less)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Asbestos workers	12.09	.55+ .10	.65		.02
Boltermakers	11.70	.75	1.10		.02
Bricklayers: Cement masons; Marble setters; Plasterers; Stonemasons; Tile & Terrazzo workers	10.55	.60	.54		.04
Carpenters; Soft floor layers	10.00	.80	.55		.06
Electricians	12.00	.72	32+32		1%
Elevator constructors:					
Mechanics	11.16	.895	.69	a+b	.03
Helpers	5.88	.895	.69	a+b	.03
Probationary Helpers	9.50	.45	.35		.02
Ironworkers	10.00	.75	.83		.04
Laborers:					
Air tool operators; Mason tenders; Mortar mixers; and Plasterers tenders	6.70	1.10	.37		
Plasterers tenders	6.88	1.10	.37		
Unskilled	6.60	1.10	.37		
Permit value up to \$350,000:					
Air tool operators; Mason tenders; Mortar Mixers; and Plasterers tenders	5.025	1.10	.37		
Plasterers tenders	5.16	1.10	.37		
Unskilled	4.95	1.10	.37		
Lathers	9.20	.35	.10		.06
Linenmen:					
Linenmen	12.41	4.52	32+22	5%	0.75%
Groundmen	5.96	4.52	32+22	5%	0.75%
Millwrights	9.45	.80	.55		.06
Painters:					
Brush	9.50	.55	.60		.07
Tapers; Paperhangers	9.75	.55	.60		.07
Spray; Sandblasters	10.00	.55	.60		.07
Piledrivers	10.20	.55	.70		.10
Plumbers	10.42	.92	1.30		.09

FL79-1110 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Refrigeration & Air conditioning mechanics:					
A/C Units over 15 tons	11.03	1.08	1.00		.09
A/C Units over 7.5 tons but under 15 tons	8.23	1.08	1.00		.09
Roofers:					
Slate; tile composition; damp & waterproofers	9.77	.83	.35		.02
Poured or pre-cast roof deck applicators	5.85	.30	.15		
Kettlemen	7.02	.30	.15		
Sheet metal workers	10.55	.75	.50		.10
Sprinkler fitters	10.61	.75	1.05		.10
Welders - rate for craft to which welding is incidental.					

PAID HOLIDAYS (WHERE APPLICABLE):
 A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

- a. Six paid holidays: A through F.
- b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Credit for employee who has worked in business less than 5 years.

FL79-1110 (cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS:					
GROUP A	11.00	.50	.45		.05
GROUP B	10.28	.50	.45		.05
GROUP C	9.34	.50	.45		.05
GROUP D	8.56	.50	.45		.05
GROUP E	7.51	.50	.45		.05

GROUP A: Field shop mechanic; cranes; derricks; hoist; field batch plant operator; inside elevator operator.

GROUP B: Draglines; backhoes; finisher grader; firemen; fork lift; pumps 3" or larger combination of 5 or less pumps, air compressor (over 125 CFM) or other equipment

GROUP C: Bulldozers, distributors, scrapers, motor graders, trenching machine, front end loaders, air compressor (up to 125 CFM), welding machine, winch truck

GROUP D: Rollers, finishing machines, tractor, oilers & drivers, mixers

GROUP E: Oiler on crawler cranes, drivers.

DECISION NO. LA79-4069

SUPPLEMENTAL DECISION

STATE: Louisiana
 DECISION NO.: LA79-4069
 SUPERSEDES DECISION NO. LA79-4061, dated January 5, 1979, in 46 FR 1634.
 DESCRIPTION OF WORK: Building Projects (does not include single family homes & garden type apartments up to & including 4 stories) & Construction of Highways, Roads, Streets (does not include building structures in test area projects) & Parking Area (except those let with a building contract).

PARISH: Statewide

DATE: Date of Publication
 in 46 FR 1634.

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation	Education and/or Appr. Tr.	
ASBESTOS WORKERS - ZONE 1	\$ 12.32	.525	.30			.04
ZONE 2	11.13	.50	.76			.03
ZONE 3	10.50	.55	1.20			.05
ZONE 4	10.32	.45				

ZONE 1 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Rapides, Vermilion & Vernon Parishes
 ZONE 2 - Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Grant, Jackson, Lincoln, Natchitoches, Ouachita, Red River, Sabine, Union, Webster & Winn Parishes

ZONE 3 - Ascension, Assumption, Avoyelles, Catahoula, Concordia, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafayette, Lafourche, LaSalle, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge & West Feliciana Parishes
 ZONE 4 - East Carroll, Franklin, Madison, Morehouse, Richland, Tensas & West Carroll Parishes

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation	Education and/or Appr. Tr.	
ROILERMAKERS	11.05	.80	1.00			.02
BRICKLAYERS & STONEMASONS						
ZONE 1	11.55	.80	.90			.31
ZONE 2	10.30	.53	.35			
ZONE 3	11.85	.53	.67			.05
ZONE 4	11.30	.50	.35			.035
ZONE 5	11.25	.40	.55			
ZONE 6	10.50		.30			
ZONE 7	8.95		.25			
ZONE 8	11.25					
ZONE 9	11.50					

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ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
 ZONE 2 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Pointe Coupee, Rapides & St. Landry Parishes
 ZONE 3 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes

ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from the Tangipahoa Par. line on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58, through the lower limits of Abita Springs & Tallisheek & on a line due east from Tallisheek to the Mississippi State Line) & Terrebonne Parishes

ZONE 5 - St. Tammany (north half including Covington north of Hwy. 190) & Washington Parishes
 ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
 ZONE 7 - Natchitoches & Sabine Parishes

ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
 ZONE 9 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation	Education and/or Appr. Tr.	
CARPENTERS (BUILDING CONSTRUCTION)						
ZONE 1 - Carpenters Millwrights Piledriversmen	9.65 10.37 10.55	.50 .50 .50				
ZONE 2 - Carpenters, Piledriversmen & soft floor layers	10.75 12.35 10.30	.60 .60 .60	.33 .45 .45			.07 .07
ZONE 3 - Carpenters Millwrights Piledriversmen	11.75 10.80 11.30	.60 .60 .50	.45 .45 .60			.05 7/10%
ZONE 4 - Carpenters & Piledriversmen	10.82 11.21 10.92	.60 .60 .60	.45 .45 .45			.04 .04 .04
ZONE 5 - Carpenters & soft floor layers	10.655 11.21 10.92	.60 .60 .60	.45 .45 .45			.04 .04 .04
ZONE 6 - Carpenters & soft floor layers	10.35 11.10 10.85	.45 .45 .45	.40 .40 .40			.04 .04 .04
ZONE 7 - Carpenters & soft floor layers	10.15 10.90 10.40	.45 .45 .45	.40 .40 .40			.04 .04 .04
ZONE 8 - Carpenters & soft floor layers	10.15 10.90 10.40	.45 .45 .45	.40 .40 .40			.04 .04 .04
ZONE 9 - Carpenters & soft floor layers	10.15 10.90 10.40	.45 .45 .45	.40 .40 .40			.04 .04 .04

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ZONE 1 - Bossier & Caddo Parishes
 ZONE 2 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
 ZONE 3 - East Baton Rouge Parish
 ZONE 4 - Calcasieu Parish
 ZONE 5 - Lafayette, Ouachita & Rapides Parishes
 ZONE 6 - Acadia, Ascension, Bienville, Cameron, DeSoto, Iberia, Iberville, Jefferson Davis, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge
 ZONE 7 - Allen, Assumption, Avoyelles, Beauregard, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation	Education and/or Appr. Tr.	
CEMENT MASONS (BUILDING CONSTRUCTION)						
ZONE 1	10.41					
ZONE 2	9.45					
ZONE 3	9.35	.50	.75			.05
ZONE 4	10.745	.45	.40			.04
ZONE 5	10.35					
ZONE 6	7.50					
ZONE 7	9.65	.35				
ZONE 8	9.97		.25			
ZONE 9	7.30		.30			

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, West Baton Rouge & West Feliciana Parishes
 ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
 ZONE 3 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
 ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (north to Interstate Hwy. 12) & Terrebonne Parishes
 ZONE 5 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Parishes
 ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes
 ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
 ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
 ZONE 9 - Natchitoches & Sabine Parishes

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation	Education and/or Appr. Tr.	
CEMENT MASONS (HIGHWAY CONSTRUCTION)						
ZONE 1	9.80	.45	.40			
ZONE 2	6.45					
ZONE 3	9.65	.35				
ZONE 4	10.00					
ZONE 5	9.50					
ZONE 6	9.00					
ZONE 7	9.50	.50	.75			.05
On concrete lined ditches	9.35					
ZONE 8	9.00	.50	.75			.05
On concrete lined ditches	6.35					
ZONE 9	5.72					

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation	Education and/or Appr. Tr.	
ZONE 9 - Carpenters & soft floor layers	10.30					
Millwrights Piledriversmen	11.05 10.80					
ZONE 10 - Carpenters & soft floor layers	10.40 11.30 10.90	.65 .65 .65	.35 .35 .35			.05 .05 .05
Millwrights Piledriversmen						

ZONE 1 - All of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Parishes; Parts of Iberia, St. Martin & St. Mary Parishes (west of the Atchafalaya River)
 ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
 ZONE 3 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Par.) & Washington Parishes
 ZONE 4 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Mississippi River), West Baton Rouge & West Feliciana Parishes

ZONE 5 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles & St. John the Baptist Parishes; Parts of St. Tammany & Tangipahoa (south of I-12 from the Mississippi Line to the western boundary of Tangipahoa Par.) Parishes
 ZONE 6 - Assumption, Iberia (east of the Atchafalaya River), Lafourche, St. James (south of the Mississippi River), St. Martin (eastern segment of the Atchafalaya River), St. Mary (east of the Atchafalaya River) & Terrebonne Parishes
 ZONE 7 - Avoyelles, Grant, LaSalle & Rapides Parishes

ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
 ZONE 9 - Natchitoches & Sabine Parishes
 ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation	Education and/or Appr. Tr.	
CARPENTERS & PILEDRIVERSMEN (HIGHWAY CONSTRUCTION)						
ZONE 1	10.66					
ZONE 2	11.66					
ZONE 3	11.77					
ZONE 4	11.075					
ZONE 5	9.77					
ZONE 6	9.55					
ZONE 7	9.00					

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	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
ELEVATOR CONSTRUCTORS					
ZONE 1 - Mechanics	10.27	.745	.56	48-a+b	.025
708JR		.745	.56	48-a+b	.025
508JR		.895	.69	48-a+b	.035
Helpers (Probationary)	10.025	.895	.69	48-a+b	.035
Helpers	708JR				
Helpers (Probationary)	508JR				

FOOTNOTES FOR ELEVATOR CONSTRUCTORS

a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
 b - Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day; the Friday after Thanksgiving Day; Christmas Day
 ZONE 1 - Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge & West Feliciana Parishes.
 ZONE 2 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
GLAZIERS - ZONE 1	10.65				.02
ZONE 2	8.15				.01
ZONE 3	10.425	.17	.30		.01
ZONE 4	9.08		.30		.04
ZONE 5	6.80				
ZONE 6	8.10				

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ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
 ZONE 2 - Ascension, East Baton Rouge, U. S. Hwy. 61 in East Feliciana & West Feliciana Parishes
 ZONE 3 - Bossier & Caddo Parishes
 ZONE 4 - Calcasieu Parish
 ZONE 5 - Cameron & Jefferson Davis Parishes
 ZONE 6 - Allen & Beauregard Parishes
 ZONE 7 - Acadia, Iberia, Lafayette, St. Landry, St. Martin & Vermilion Parishes
 ZONE 8 - St. Mary Parish
 ZONE 9 - Assumption, Avoyelles, Bienville, Claiborne, DeSoto, East Feliciana (excluding U.S. Hwy. 61), Evangeline, Iberville, Lafourche, Lincoln, Livingston, Madison, Natchitoches, Ouachita, Pointe Coupee, Rapides, Red River, Richland, St. Helena, St. James, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne, Vernon, Webster & West Baton Rouge Parishes
 ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Morehouse, Sabine, Tensas, Union, Washington, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
ELECTRICIANS:					
ZONE 1 - Electricians	\$13.04	54	84	3/104	3/104
Cable splicers	13.29	54	84	3/104	3/104
ZONE 2 - Electricians	11.85	.35	34	.02	.02
Cable splicers	12.55	.35	34	.02	.02
ZONE 3 - Electricians	14.00	.35	34+40	1/104	1/104
Cable splicers	14.25	.35	34+40	1/104	1/104
ZONE 4 - Electricians	12.30	.70	34	2/104	2/104
Cable splicers	12.55	.70	34	2/104	2/104
ZONE 5 - Electricians	12.35	.35	37+40	.05	.05
Cable splicers	12.35	.35	37+40	.05	.05
ZONE 6 - Electricians	11.55	.75	34	1/24	1/24
Cable splicers	12.05	.75	34	1/24	1/24
ZONE 7 - Electricians	13.15	1.45	34	14	14
Cable splicers	12.35	1.45	34	14	14
ZONE 8 - Electricians	12.60		34	1/24	1/24
Cable splicers			34	1/24	1/24

ZONE 1 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge, & West Feliciana Parishes
 ZONE 2 - St. Tammany, Tangipahoa & Washington Parishes
 ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes
 ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
 ZONE 5 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes
 ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Parishes
 ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes
 ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

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ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
 ZONE 2 - Acadia, Ascension (north of Hwy. 22), Assumption (north of Hwy. 22), East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area), Tangipahoa (west of Hwy. 51), Vermilion, West Baton Rouge & West Feliciana Parishes
 ZONE 3 - Ascension (south of Hwy. 22), Assumption (south of Hwy. 22), Jefferson, Lafourche, Livingston (south of Hwy. 22), Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
 ZONE 4 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to city of Natchitoches), Red River, Sabine & Webster Parishes
 ZONE 5 - Bienville (eastern portion), everything east of Rt. 9 inclusive), Caldwell, Concordia, East Carroll (western 2/3, everything east of Rt. 9 inclusive), Iberville, Franklin, Jackson, Lincoln, Madison (western half, everything west of Rt. 65 inclusive), Morehouse, Ouachita, Richland, Tensas (west 3/4 everything west of Rt. 65), Union, West Carroll & Winn (northern half, everything north of a line running east & west through Winfield, excluding Winfield) Parishes
 ZONE 6 - St. Tammany (northern 2/3, everything north of a straight line running east & west from Pearl River to Mandeville), Tangipahoa (everything east of Route 51 & everything north of a straight line running east & west from Madisonville through Ponchatoula) & Washington Parishes

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
IRONWORKERS (BUILDING CONSTRUCTION)					
ZONE 1	11.36	.63	.35	.04	.04
ZONE 2	11.29	.45	.75	.04	.04
ZONE 3	11.40	.45	.90	.06	.06
ZONE 4	11.45	.45	1.15	.06	.06
ZONE 5	10.35	.45	.85	.04	.04
ZONE 6	11.35	.45	.65	.05	.05

ZONE 1 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Parishes; Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Parishes. (West of a straight line drawn from the La-Miss. border, east of the city limits of Warrenton, southeast through Hammond to the Gulf of Mexico)
 ZONE 2 - All of Ascension, Assumption, Avoyelles, East Baton Rouge, East Feliciana, Iberia, Iberville, Pointe Coupee, St. Helena, St. Martin, St. Mary, West Baton Rouge & West Feliciana Parishes; Parts of Acadia, Evangeline, Lafayette, St. Landry, & Vermilion Parishes. (East of a line drawn from the meeting point of the boundaries of the Parishes of Rapides, Avoyelles & Evangeline, southeast along the western city limits of Abbeville to the Gulf of Mexico); Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Parishes. (West of a straight line drawn from the La-Miss. border, west of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico); Parts of Catahoula, Concordia & LaSalle Parishes. (South of a line drawn from Natchez through the city of Carter Point to the Rapides Par. Line, then west along the southern border of Rapides Par.)
 ZONE 3 - All of Bossier, Caddo, DeSoto, Red River & Webster Parishes; Parts of Claiborne, Natchitoches & Winn Parishes. (West of a line drawn directly south from the Ark-La. border through the cities of Acadia & Cloutierville); Part of Sabine Par. (North of a line drawn from the Natchitoches Par. boundary west through the city of Vernon to the Tex.-La. border)

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ZONE 4 - All of Caldwell, East Carroll, Franklin, Grant, Jackson, Lincoln, Morehouse, Ouachita, Rapides, Richland, Tensas, Union & West Carroll Parishes. (East of a line drawn directly south from Claiborne, Natchitoches & Winn Parishes. (East of a line drawn directly south from the Ark-La. border through the cities of Acadia & Cloutierville)); Part of Madison Par. (except the cities of Mound, Delta & adjacent areas); Parts of Catahoula, Concordia & LaSalle Parishes. (North of a line drawn from Natchez through the city of Carter Point to the Rapides Par. Line)
 ZONE 5 - That part of Madison Par. (including the cities of Mound, Delta & adjacent areas)
 ZONE 6 - All of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Parishes. (Southwest of Rapides Par. & west of a line south of the western most border between Rapides & Evangeline Parishes)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
IRONWORKERS (HIGHWAY CONSTRUCTION)					
ZONE 1	11.82				
ZONE 2	8.70				
ZONE 3	11.40				
ZONE 4	11.26				
ZONE 5	9.55				
ZONE 6	9.00				
ZONE 7	6.99				
ZONE 8	6.45				
ZONE 9	5.84				

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes.
 ZONE 2 - East Baton Rouge Parish
 ZONE 3 - Calcasieu Parish
 ZONE 4 - Bossier & Caddo Parishes
 ZONE 5 - Cameron & Jefferson Davis Parishes
 ZONE 6 - Allen & Beauregard Parishes
 ZONE 7 - Lafayette, Ouachita & Rapides Parishes
 ZONE 8 - Acadia, Ascension, Bienville, DeSoto, Iberia, Iberville, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (that portion north of Iberia Par.), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes.
 ZONE 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (that portion south of Iberia Par.), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

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LABORERS - ZONE 1 (CLASSIFICATION DEFINITIONS)

GROUP 1 - Building and labor construction
 GROUP 2 - Stone mason helpers; mechanical tool operators; sewer men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers & ditchers 4 ft. or over; tender of all cranes; sandblaster (non-metallic); sandblaster (not tender); laying non-metallic pipe over 4 ft. deep, including sewer, drain & underground tile; septic tank diggers & installers, over 4 ft. deep; gas & oil pipeline laborers & wrappers

LABORERS - ZONE 2

GROUP 1 - Building laborer; rotary drill laborers; foundation drill crewman
 GROUP 2 - Mason mixer; plaster mixer; mechanical tool op.; sandblaster; laying concrete, clay, plastic, asbestos cement, casing & corrugated metal pipe, as sewer, drain & underground tile (caulkers, joint wrappers, hot pot & pipe layers); gas & oil pipeline laborers & wrappers & dopers

LABORERS - ZONE 3

GROUP 1 - Building & general laborer; tenders (carpenter, plaster, cement finisher, mason); tank & vessel cleaners (except jackhammer); interior of closed tanks & vessels power equipped

LABORERS - ZONE 4

GROUP 1 - Mortar mixers

LABORERS - ZONE 5

GROUP 1 - Blaster helpers; concrete cutters behind paving machine & puddlers; form setters & liner asphalt worker

LABORERS - ZONE 6

GROUP 1 - Miping joints, laying pipe & tile from pumpcrete

LABORERS - ZONE 7

GROUP 1 - Interior of closed tanks & vessels manually

LABORERS - ZONE 8

GROUP 1 - Jackhammer operators

LABORERS - ZONE 9

GROUP 1 - Building and general laborers, carpenter tenders

LABORERS - ZONE 10

GROUP 1 - Power tool ops. (hammer men, tamper, vibrators, power buggies, concrete chippers or cutters, chain saw ops., etc); pipelayers (non-metallic)

LABORERS - ZONE 11

GROUP 1 - Mason tenders, plaster tenders, cement mix (wet or dry) tenders, hod carrier tender; mortar mixers & cement mixers (wet or dry)

LABORERS - ZONE 12

GROUP 1 - Building laborers

LABORERS - ZONE 13

GROUP 1 - Laborers handling steel pans, stone mason helpers, mechanical tool ops., sewer men (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers & ditchers 4 ft. & over), sandblaster (nozzlemen & not tender); laying non-metallic pipe over 4 ft. deep, septic diggers & installers over 4 ft. deep, gas & oil pipeline laborers & wrappers

LABORERS - ZONE 14

GROUP 1 - Granite tool operators

LABORERS - ZONE 15

GROUP 1 - Bricklayers tenders and mason tenders

LABORERS - ZONE 16

GROUP 1 - Hod carriers using prime mover to serve a bricklayer; mortar mixers

LABORERS - ZONE 17

GROUP 1 - Common laborers

LABORERS - ZONE 18

GROUP 1 - Jackhammer men, sewer men, mason tenders, plaster tenders, stone masons helpers, vibrators

LABORERS - ZONE 19

GROUP 1 - Mortar mixers

LABORERS - ZONE 20

GROUP 1 - Common laborers; carpenter helpers; mason tenders (other than cement); plasterers tenders; stone mason helpers; concrete workers; scaffold builders

LABORERS - ZONE 21

GROUP 1 - Air tool ops. (jackhammer, vibrator & tamper); sewer pipe joiners & setters; concrete cutters; hod carriers; creosote materials handler; acid worker; mason tenders (cement); mortar mixer (wet or dry); motorized buggy op.; water proofers (mastic); form setters (steel paving forms)

LABORERS - ZONE 22

GROUP 1 - Chain saw operator

LABORERS - ZONE 23

GROUP 1 - Asphalt raker, tamper, smoother & shovelers; sewer pipelayers; blaster helpers

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Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$ 6.45	.15			
6.60	.15			
6.70	.15			
6.87	.25	.20		.05
6.87	.25	.20		.05
8.20	.25	.20		.05
8.30	.25	.20		.05
8.35	.25	.20		.05
9.16	.25	.20		.05
8.72	.25	.20		.05
8.56	.25	.20		.05
8.25	.25	.20		.05
8.45	.25	.20		.05
7.22	.25	.27		.05
7.32	.25	.27		.05
7.37	.25	.27		.05
6.82	.25	.27		.05
6.92	.25	.27		.05
6.97	.25	.27		.05
8.15	.25	.27		.05
8.25	.25	.27		.05
8.40	.25	.27		.05
8.31	.25	.27		.05
8.41	.25	.27		.05
7.85	.25	.27		.05
7.95	.25	.27		.05
8.05	.25	.27		.05
6.21	.25	.20		.05
6.41	.25	.20		.05
6.46	.25	.20		.05
6.51	.25	.20		.05
6.86	.25	.20		.05
6.85	.25	.20		.05
6.95	.25	.20		.05
7.00	.25	.20		.05
7.05	.25	.20		.05
6.60	.25	.20		.05
6.70	.25	.20		.05
6.85	.25	.20		.05

LABORERS (BUILDING CONSTRUCTION):

ZONE 1 - Group 1

ZONE 1 - Group 2

ZONE 1 - Group 3

ZONE 2 - Group 1

ZONE 2 - Group 2

ZONE 2 - Group 3

ZONE 3 - Group 1

ZONE 3 - Group 2

ZONE 3 - Group 3

ZONE 4 - Group 1

ZONE 4 - Group 2

ZONE 4 - Group 3

ZONE 5 - Group 1

ZONE 5 - Group 2

ZONE 5 - Group 3

ZONE 6 - Group 1

ZONE 6 - Group 2

ZONE 6 - Group 3

ZONE 7 - Group 1

ZONE 7 - Group 2

ZONE 7 - Group 3

ZONE 8 - Group 1

ZONE 8 - Group 2

ZONE 8 - Group 3

ZONE 9 - Group 1

ZONE 9 - Group 2

ZONE 9 - Group 3

ZONE 10 - Group 1

ZONE 10 - Group 2

ZONE 10 - Group 3

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GROUP 5 - Powderman

LABORERS - ZONE 9

GROUP 1 - Building laborers

GROUP 2 - Mason tenders, plaster tenders; asphalt rakers, asphalt smoothers

GROUP 3 - Mortar mixers

GROUP 4 - Air jack op., vibrator ops.; sewer pipelayers, sewer pipe wrappers

LABORERS - ZONE 10

GROUP 1 - Laborers, tenders (brickmasons, stonemasons, carpenters, plasterers, stripping & dismantling; concrete form work; loading/unloading, carrying & handling steel & steel mesh; assisting to the setting of cut stone, granite or artificial stone; building scaffolds; shoring

GROUP 2 - Mechanical tool op. (air, electric, motor, engine, etc.); sewer pipelayers; mortar mixers (hand or machine); granite op.; tile, terrazzo & marble setters helpers

GROUP 3 - Pipe dopers & burners

ZONE 1 - St. Tammany (as far south as Bayou Lacombe & east to the Miss. State Line at Pearlinton), Tangipahoa (all but southwestern corner) & Washington Parishes

ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary (excluding that part of Parish to the Calumet Locks west) & Vermilion Parishes

ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes

ZONE 4 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge & West Feliciana Parishes; Parts of Assumption, St. James, St. John the Baptist Parishes (north of a line drawn from the southern limits of the town of St. James in St. James Par. to the northern limits of the town of Napoleonville in Assumption Par. & then directly west to the Par. line, all of St. James Par. except that part which is east of a line drawn from Lusher to U. S. Hwy 61 (Airline Hwy). then west on U. S. 61 to Blind River & on a direct line to Manchac)

ZONE 5 - Livingston, St. Helena & Tangipahoa (south & west of a line running from the western Par. line to a point directly east which touches the northern limits of the town of Independence, then directly south to Lake Pontchartrain) Parishes

ZONE 6 - Jefferson (except Grand Isle), Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist (on the west bank of the Miss. River & the portion of St. John the Baptist on the east bank of the Miss. River as far as the Sycamore Inn at Lusher & north to Blind River & Manchac & St. Tammany (north as far as Bayou Lacombe, east to the Miss. State Line at Pearlinton) Parishes

ZONE 7 - Assumption (north of Napoleonville), Jefferson (Grand Isle), Lafourche, St. James (on the west bank & including the town of Vacherie), St. Mary (that part of Parish to the Calumet Locks west) & Terrebonne Parishes

ZONE 8 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides & Winn Parishes

ZONE 9 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Parishes

ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

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Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
6.83	.25	.27		.05
4.80	.15	.10		.05
6.19	.25	.21		.05
6.89	.25	.21		.05
5.99	.25	.21		.05
5.79	.25	.21		.05
4.10	.15	.10		.05
3.85	.15	.10		.05
3.75	.15	.10		.05
6.93	.25	.27		.05
4.90	.15	.10		.05
6.29	.25	.21		.05
6.99	.25	.21		.05
5.89	.25	.21		.05
4.20	.15	.10		.05
3.95	.15	.10		.05
3.85	.15	.10		.05
7.38	.25	.27		.05
5.35	.15	.10		.05
6.74	.25	.21		.05
7.44	.25	.21		.05
6.54	.25	.21		.05
6.34	.25	.21		.05
4.65	.15	.10		.05
4.40	.15	.10		.05
4.30	.15	.10		.05
7.63	.25	.27		.05
5.60	.15	.10		.05
6.99	.25	.21		.05
7.99	.25	.21		.05
6.74	.25	.21		.05
6.54	.25	.21		.05
4.85	.15	.10		.05
4.60	.15	.10		.05
4.50	.15	.10		.05

LABORERS (HIGHWAY CONSTRUCTION)

GROUP 1 - Zone 1

Zone 2

Zone 3

Zone 4

Zone 5

Zone 6

Zone 7

Zone 8

Zone 9

Zone 10

Zone 11

Zone 12

Zone 13

Zone 14

Zone 15

Zone 16

Zone 17

Zone 18

Zone 19

Zone 20

Zone 21

Zone 22

Zone 23

Zone 24

Zone 25

Zone 26

Zone 27

Zone 28

Zone 29

Zone 30

Zone 31

Zone 32

Zone 33

Zone 34

Zone 35

Zone 36

Zone 37

Zone 38

Zone 39

Zone 40

Zone 41

Zone 42

Zone 43

Zone 44

Zone 45

Zone 46

Zone 47

Zone 48

Zone 49

Zone 50

- ZONE 1** - GROUP 1 - Painters brush, roller & buffer
 GROUP 2 - Paperhanging, taping & floating
 GROUP 3 - Spray, sandblasting, hydroblasting, spider op., rubberizing, & pyroclaving, steam jennies, taping & floating machines
 GROUP 4 - Bridge work, water towers, radio & TV towers
ZONE 2 - GROUP 1 - Brush; taping; floating & texture
 GROUP 2 - Sandblasting, industrial & steel
ZONE 3 - GROUP 1 - Painters, paperhangers & sheetrock tapers & floaters
 GROUP 2 - Structural steel painters of new buildings under construction; the following overall of 30 ft.: tanks, air conditioning, towers, smoke stacks sprinkler systems, wharves & structural steel in old buildings; spray painters, swing stage painter
ZONE 4 - GROUP 1 - Industrial
 GROUP 2 - Brush
 GROUP 3 - Brush industrial
 GROUP 4 - Spray; spray steel; sandblasting
 GROUP 5 - Spray swing stage
 GROUP 6 - Paperhanger
 GROUP 7 - Shetrock finishers
ZONE 5 - GROUP 1 - Painters, paperhangers, tapers, floaters; commercial steel, such as churches or any commercial building with closed roof deck or walls
 GROUP 2 - Other commercial work brush spray, stage, window jacks, flag-poles & steeple work
 GROUP 3 - All industrial work including sandblasting or power tools of any kind
ZONE 7 - GROUP 1 - Painters, paperhangers, tapers, floaters
 GROUP 2 - Stage, window jacks, bouan chairs, structural steel, rollers, equipment painting; sandblasting, spray, stack, sign, tank painting, steeple jack
 GROUP 3 - Structural steel brush
ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Acadia, Ascension (north of Hwy. 22), Assumption (north of Hwy. 22) East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area), Tangipahoa (west of Hwy. 51), Vermillion, West Baton Rouge & West Feliciana Parishes
ZONE 3 - Ascension (south of Hwy. 22), Assumption (south of Hwy. 22), Lafourche, Livingston (south of Hwy. 22), Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - St. Tammany (northern 2/3), everything north of a straight line running east & west from Pearl River to Mandeville), Tangipahoa (everything east of Rt. 51 & everything north of a straight line running east & west from Madisonville through Ponchatoula) & Washington Parishes

ZONE 5 - Allen (northeastern most corner, north of Rt. 10), Avoyelles, Catahoula, Evangeline, Grant, LaSalle, Natchitoches (southern half, everything south of Rt. 6 including City of Natchitoches), Rapides, St. Landry (northern portion) & Winn (southern half from a line running east & west through the intersection of Rts. 84 & 71, including the town of Winnfield at that intersection) Parishes
ZONE 6 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to City of Natchitoches), Red River, Sabine & Webster Parishes
ZONE 7 - Bienville (eastern portion, everything east of Rt. 9 inclusive), Caldwell, Concordia, East Carroll (western 2/3), everything west of Rt. 65 inclusive), Franklin, Jackson, Lincoln, Madison (western half, everything west of Rt. 65 inclusive), Morehouse, Ouachita, Richland, Tensas (west 3/4, everything west of Rt. 65), Union, West Carroll & Winn (northern half, everything north of a line running east & west through Winnfield, excluding Winnfield) Parishes

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
PLASTERERS - ZONE 1	10.70				.01
ZONE 2	9.65				
ZONE 3	10.07				.01
ZONE 4	10.98				.03
ZONE 5	7.09	.30	.20		.01
ZONE 6	7.50				
ZONE 7	9.75				
ZONE 8	11.25		.25	1.00	
ZONE 9	8.95		.30		

ZONE 1 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermillion Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. James, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (par. line on the west along U.S. Hwy. 190 through the lower limits of Covington & Abita Springs along State Hwy. 435 to Talisheek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Natchitoches & Sabine Parishes

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
PLUMBERS & PIPEFITTERS - ZONE 1	11.60	.60	.90		.08
ZONE 2	11.00	.64	.875		.06
ZONE 3	10.80	.80	.80		.10
ZONE 4	11.46	.55	.80	1.00	.09
ZONE 5	11.97	.67	.72		.08

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (northern 2/3 of Par.), St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne & Washington Parishes
ZONE 2 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia (eastern 1/3 of Par.), Iberville, Livingston, Pointe Coupee, St. Helena, St. James (western 2/3 of Par.), St. Martin (southern part of eastern 1/3 of Par.), St. Mary, West Baton Rouge & West Feliciana Parishes
ZONE 3 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Evangeline, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches (south of Hwy. 84 & 86 from Winnfield to Natchitoches & southeast from Natchitoches to Anacoco through Bellwood), Ouachita, Rapides, Richland, Tensas, Union, Vernon (northeast of Hwy. 10), West Carroll & Winn Parishes
ZONE 4 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Parishes; Parts of Natchitoches & Vernon Parishes (northwest from a line drawn from Natchitoches to Anacoco through Bellwood & north of Hwy. 111 between Anacoco & Haddens)
ZONE 5 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia (western 1/3 of Par.), Jefferson Davis, Lafayette, St. Landry, St. Martin (west of Hwy. 31) & Vermillion Parishes

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION)					
ZONE 1 - GROUP 1	7.94	.65	.73		.05
GROUP 2	8.30	.65	.73		.05
GROUP 3	8.63	.65	.73		.05
GROUP 4	8.72	.65	.73		.05
GROUP 5	9.04	.65	.73		.05
GROUP 6	10.52	.65	.73		.05
ZONE 2, 3 & 4 - GROUP 1	7.97	.65	.48		.05
GROUP 2	8.34	.65	.48		.05
GROUP 3	8.73	.65	.48		.05
GROUP 4	8.79	.65	.48		.05
GROUP 5	9.16	.65	.48		.05
GROUP 6	10.77	.65	.48		.05

POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION)

ZONE 1 - GROUP 1

GROUP 2

GROUP 3

GROUP 4

GROUP 5

GROUP 6

ZONE 2, 3 & 4 - GROUP 1

GROUP 2

GROUP 3

GROUP 4

GROUP 5

GROUP 6

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
ZONE 5 - GROUP 1	\$8.18	.65	.85		.05
GROUP 2	7.86	.65	.85		.05
GROUP 3	7.65	.65	.85		.05
GROUP 4	8.46	.65	.85		.05
GROUP 5	10.85	.65	.85		.05
GROUP 6	8.87	.65	.85		.05
GROUP 7	9.55	.65	.85		.05
GROUP 8	8.33	.65	.85		.05
GROUP 9	7.69	.65	.85		.05
GROUP 10	7.46	.65	.85		.05
GROUP 11	8.01	.65	.85		.05
GROUP 12	8.80	.65	.85		.05
GROUP 13	10.06	.65	.85		.05
GROUP 14	11.26	.65	.85		.05
GROUP 15	11.51	.65	.85		.05
GROUP 16	11.76	.65	.85		.05
GROUP 17	12.01	.65	.85		.05
GROUP 18	10.73	.65	.85		.05
GROUP 19	10.98	.65	.85		.05
GROUP 20	7.80	.65	.85		.05
GROUP 21	8.19	.65	.85		.05
GROUP 22	9.05	.65	.85		.05
GROUP 23	10.48	.65	.85		.05

POWER EQUIPMENT OPERATORS - ZONES 1, 2, 3 & 4 (CLASSIFICATION DEFINITIONS)

GROUP 1 - Oiler

GROUP 2 - Mechanic helper

GROUP 3 - Oiler-Driver

GROUP 4 - Scaleman

GROUP 5 - Air compressor; asphalt plant; bulldozers, D-4 & equivalent & under; bullfloats; concrete spreader; finishing machines; concrete mixer (16" or less); concrete saw; distributors (bitum surface); dozer bar machine; farm-type tractor (with all attachments except backhoe); fireman; fork lifts (other than setting steel, machinery or pipe); hoist, 1 drum less than 4 stories; kolum buff machine; pull cats; pump (3" & over); pump, concrete (under 6"); rollers, except on asphalt or brick; straddle buggies; sweepers on streets & roads (motorized); winch truck, A-frame (other than handling steel or pipe)

GROUP 6 - Asphalt spreader; backhoe; bulldozer, over D-4 & equivalent; cableways; concrete mixer, over 16"; cranes; derricks; ditching or trenching machines; draglines; fork lifts (setting steel, machinery or pipe); front end loaders (except farm-type tractors); grease servicer; hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings); hoist, 2 drums & over; hydro lifts; heavy duty mechanic; motor patrols; pile drivers; pump, concrete (6" & over); road pavers; rollers on asphalt or brick; scoopmobiles; scrapers; sideboom cats; shovels; tractorvators; welder, journeyman; well point system; winch cats (hoisting); winch truck, A-frame (handling steel or pipe)

GROUP 10 - Crane, boom 250 ft. & over; piledriver, leads over 250 ft.

POWER EQUIPMENT OPERATORS - ZONE 7

GROUP 1 - Assistant master mechanic

GROUP 2 - Master mechanic

GROUP 3 - Oilers

GROUP 4 - Batch plant op.; mechanic helpers; oilers (drivers)

GROUP 5 - A-frame truck, except when working with ironworkers or pipefitters; air compressors; asphalt plant engineers; asphalt finisher, screed men; blade graders; boat op.; bulldozers, concrete joining machines; concrete mixers, 16s & under; concrete spreader; crushers; deck winch (11); distributors, asphalt "pitch witch" & similar equipment; electric elevators (inside); finishing machine; fireman; form grader; fork lifts; hoist, 1 drum, under 4 stories; power subgrader; pug mill; pull tractor; pump, pump crane; rollers, except on brick & asphalt; rubber tired front end loader (with or without blade attachments) less than 1 cu. yd. capacity; scale op.; scoopmobile; snatch cats; spray machines; stabilizers, less than 3 drums; straddle buggy; track machines & equivalent machines; tractors or bulldozers smaller than D-6

GROUP 6 - A-frame truck, when working with ironworkers & pipefitters; bulldozers D-6 & larger; cableways; concrete mixers, over 16-s paving machines; cranes, derricks; draglines & clam shells; deck winches (2); gradealls; hi-ho & similar type equipment; hoist, 1 drum, 4 stories & over; hoist, 2 drums or more, hydro cranes; mechanic; motor patrol; piledrivers; rollers on brick & asphalt; rubber tired front end loader, with or without attachments, 1 cu. yd. capacity or more; scrapers; shovels; backhoes (all types); sideboom cat; stabilizers, 3 drums or more; trackcat; trenching machines; unit op.; welder, journeymen; well point systems (gas, diesel, electric, etc.); concrete pump-boom combinations

ZONE 1 - Blenville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes

ZONE 2 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides, Sabine & St. Landry & Winn Parishes

ZONE 3 - All of Acadia, Lafayette & Vermillion Parishes; Parts of Iberia, St. Martin & St. Mary Parishes (west of a line drawn from the city of Berwick to the Junction of Iberville-St. Landry Parishes border)

ZONE 4 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

ZONE 5 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes

ZONE 6 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, St. Helena, West Baton Rouge & West Feliciana Parishes; Parts of Assumption & St. James Parishes

(northwest of a straight line drawn from the city of Berwick to the city of Lusher); Parts of Iberia & southern & northern St. Martin Parishes (least & west of a line from the city of Berwick north to the eastern boundary of the city of Krotz Springs); Parts of Livingston, Tangipahoa & Washington Parishes (west of a line drawn north from the city of Lusher to the east side of the city of Hammond to the La-Miss. border)

ZONE 7 - All of Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany & Terrebonne Parishes; Parts of Assumption, Livingston, St. James, St. Martin, St. Mary, Tangipahoa & Washington Parishes (that portion of southeastern La. bounded on the north by the State of Miss., on the east by the State of Miss. & the Miss. Sound, on the south by the Gulf of Mexico & on the west by a line drawn as follows: beginning at a point on the La-Miss. boundary in Washington Parish, due north of the town of Hackley, thence southerly in a straight line to a point on the east bank of the Miss. River at the southwesternmost point of Lusher (including Gramercy in the area), thence in a more southerly direction in a straight line to midstream of the Atchafalaya River at Morgan City-Berwick (including Morgan City in this area), thence southerly on a line following midstream of the Atchafalaya River to Atchafalaya Bay & in a line due south to the Gulf of Mexico)

GROUP 1 - Scale op.; oiler-driver on motor crane; batch plant

GROUP 2 - Pumps under 3 inch suction; mechanic helper

GROUP 3 - Oiler

GROUP 4 - Fireman

GROUP 5 - Combination oiler-compressor; combination oiler-fireman; asphalt spreaders; backhoe (all types); bulldozers; cableways; cherry pickers (all types); concrete mixers (over 1 sack); cranes; deck winch (2 drums or over); derricks; ditching or trenching machines (riding type); draglines; dredges; fork lifts (other than farm type); grease service; hoist-1 drum (4 stories or more on buildings); hoist-1 drum (over 40 ft. on structures other than buildings); hoist (2 drums or over); locomotives (all types); mechanic; mixer plant-central mix; motor patrol; piledrivers; pull cat; pump crane-6" & over; discharger; push cat; road pavers; rollers (plant mix asphalt); scrapers; shovels; sidebooms; unit op.; welder, journeymen; well point system; whirleys; winch cats (Cat D-4 & over); winch truck with A-frame (5 ton & over); work boats-requiring licensed op.

GROUP 6 - Bush hog; compressor; concrete pump-under 6" discharge; concrete saw; deck winch (1 drum); distributors; ditching or trenching machines (non-riding type); dowl bar machine; farm-type tractors (when used to pull discs, grass-cutters, etc.); hoist-1 drum (under 4 stories on building); hoist-1 drum (40 ft. or under on structures other than buildings); Kolum buff machine; mixers (1 sack & under); motorized street sweepers self-propelled; pump (3" & over); test pump-internal combustion engine powered; water blast pumps

GROUP 7 - Asphalt plant; boom trucks; bulldozers; concrete spreader; farm-type front end loader; finishing machines (roadway, riding type); roller (other than plant mix asphalt); straddle buggy; winch truck with A-frame (under 5 tons); workboat-not requiring licensed operator

POWER EQUIPMENT OPERATORS - ZONE 6

GROUP 1 - Snatch cat; pumps, 3 inch suction or more

GROUP 2 - Mechanic helper

GROUP 3 - Oiler

GROUP 4 - Batch plant operator

GROUP 5 - Air compressor; asphalt plant engineer; blade grader; distributor (bitum surface); finishing machine (concrete, paving); hoist-1 drum, less than 4 stories; concrete mixer under 16s; Oiler driver; pump crane; street & road sweeper; roller (except on asphalt or brick); roller, asphalt or brick (under 5 tons); post-hole digger; tractor operated bush hog & similar grass or bush cutting equipment

GROUP 6 - A-frame truck, crew boat op.; fireman; fork lift; straddle buggy; trackcat; scoopmobile & similar front-end loading equipment with scoop or bucket under 1 cu. yd. capacity; locomotive; well point system; unit op.; hoist-1 drum, 4 stories or over

GROUP 7 - Backhoe; cableway; concrete mixer, 16s & up; derrick; crane; drag-line; dredge; equipment maintenance mechanic; hoist-2 drums; locomotive crane; paving mixer; piledriver; road paver; roller on asphalt or brick (5 tons or over); shovel; sideboom cat; bulldozer; motor patrol; scraper; hydro lift crane, hydro lift truck, yard crane, cherry picker, etc.; foundation, boring & reaming machine; cement stabilizer; trenching machine; asphalt spreader; trackcat & similar front end loading equipment with scoop or bucket of 1 cu. yd. or more capacity; tug boat op.; turnapull, euclid, DW-10 & other similar self-loading earth moving equipment; concrete pump (not pump crane)

GROUP 8 - Crane, 60 tons & over; crane, boom 100 ft. & over; piledriver, leads 100 ft. & over

GROUP 9 - Crane, 100 tons & over; crane, boom 150 ft. & over; piledriver leads 150 ft. & over

POWER EQUIPMENT OPERATORS - ZONE 5

GROUP 1 - Scale op.; oiler-driver on motor crane; batch plant

GROUP 2 - Pumps under 3 inch suction; mechanic helper

GROUP 3 - Oiler

GROUP 4 - Fireman

GROUP 5 - Combination oiler-compressor; combination oiler-fireman; asphalt spreaders; backhoe (all types); bulldozers; cableways; cherry pickers (all types); concrete mixers (over 1 sack); cranes; deck winch (2 drums or over); derricks; ditching or trenching machines (riding type); draglines; dredges; fork lifts (other than farm type); grease service; hoist-1 drum (4 stories or more on buildings); hoist-1 drum (over 40 ft. on structures other than buildings); hoist (2 drums or over); locomotives (all types); mechanic; mixer plant-central mix; motor patrol; piledrivers; pull cat; pump crane-6" & over; discharger; push cat; road pavers; rollers (plant mix asphalt); scrapers; shovels; sidebooms; unit op.; welder, journeymen; well point system; whirleys; winch cats (Cat D-4 & over); winch truck with A-frame (5 ton & over); work boats-requiring licensed op.

GROUP 6 - Bush hog; compressor; concrete pump-under 6" discharge; concrete saw; deck winch (1 drum); distributors; ditching or trenching machines (non-riding type); dowl bar machine; farm-type tractors (when used to pull discs, grass-cutters, etc.); hoist-1 drum (under 4 stories on building); hoist-1 drum (40 ft. or under on structures other than buildings); Kolum buff machine; mixers (1 sack & under); motorized street sweepers self-propelled; pump (3" & over); test pump-internal combustion engine powered; water blast pumps

GROUP 7 - Asphalt plant; boom trucks; bulldozers; concrete spreader; farm-type front end loader; finishing machines (roadway, riding type); roller (other than plant mix asphalt); straddle buggy; winch truck with A-frame (under 5 tons); workboat-not requiring licensed operator

POWER EQUIPMENT OPERATORS - ZONE 6

GROUP 1 - Snatch cat; pumps, 3 inch suction or more

GROUP 2 - Mechanic helper

GROUP 3 - Oiler

GROUP 4 - Batch plant operator

GROUP 5 - Air compressor; asphalt plant engineer; blade grader; distributor (bitum surface); finishing machine (concrete, paving); hoist-1 drum, less than 4 stories; concrete mixer under 16s; Oiler driver; pump crane; street & road sweeper; roller (except on asphalt or brick); roller, asphalt or brick (under 5 tons); post-hole digger; tractor operated bush hog & similar grass or bush cutting equipment

GROUP 6 - A-frame truck, crew boat op.; fireman; fork lift; straddle buggy; trackcat; scoopmobile & similar front-end loading equipment with scoop or bucket under 1 cu. yd. capacity; locomotive; well point system; unit op.; hoist-1 drum, 4 stories or over

GROUP 7 - Backhoe; cableway; concrete mixer, 16s & up; derrick; crane; drag-line; dredge; equipment maintenance mechanic; hoist-2 drums; locomotive crane; paving mixer; piledriver; road paver; roller on asphalt or brick (5 tons or over); shovel; sideboom cat; bulldozer; motor patrol; scraper; hydro lift crane, hydro lift truck, yard crane, cherry picker, etc.; foundation, boring & reaming machine; cement stabilizer; trenching machine; asphalt spreader; trackcat & similar front end loading equipment with scoop or bucket of 1 cu. yd. or more capacity; tug boat op.; turnapull, euclid, DW-10 & other similar self-loading earth moving equipment; concrete pump (not pump crane)

GROUP 8 - Crane, 60 tons & over; crane, boom 100 ft. & over; piledriver, leads 100 ft. & over

GROUP 9 - Crane, 100 tons & over; crane, boom 150 ft. & over; piledriver leads 150 ft. & over

POWER EQUIPMENT OPERATORS (HIGHWAY CONSTRUCTION):

GROUP 1 - ZONE 1

ZONE 2

ZONE 3

ZONE 4

ZONE 5

ZONE 6

ZONE 7

ZONE 8

ZONE 9

GROUP 2 - ZONE 1

ZONE 2

ZONE 3

ZONE 4

ZONE 5

ZONE 6

ZONE 7

ZONE 8

ZONE 9

GROUP 3 - ZONE 1

ZONE 2

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GROUP 4 - ZONE 1

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ZONE 9

GROUP 5 - ZONE 1

ZONE 2

ZONE 3

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ZONE 6

ZONE 7

ZONE 8

ZONE 9

Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.
\$10.36	.65	.85		.05
8.31	.25	.39		.05
9.83	.65	.85		.05
10.01	.65	.85		.05
8.05	.65	.85		.05
7.55	.65	.85		.05
6.69	.25	.30		.05
6.14	.25	.30		.05
5.53	.25	.30		.05
10.61	.65	.85		.05
8.56	.25	.39		.05
10.08	.65	.85		.05
10.26	.65	.85		.05
8.30	.65	.85		.05
7.80	.65	.85		.05
6.94	.25	.30		.05
6.39	.25	.30		.05
5.78	.25	.30		.05
10.11	.65	.85		.05
8.06	.25	.39		.05
9.58	.65	.85		.05
9.76	.65	.85		.05
7.30	.65	.85		.05
7.30	.65	.85		.05
6.44	.25	.30		.05
5.89	.25	.30		.05
5.28	.25	.30		.05
8.86	.65	.85		.05
7.13	.25	.39		.05
8.53	.65	.85		.05
8.54	.65	.85		.05
6.83	.65	.85		.05
6.33	.65	.85		.05
5.58	.25	.30		.05
5.02	.25	.30		.05
4.46	.25	.30		.05
8.51	.65	.85		.05
6.39	.25	.39		.05
7.94	.65	.85		.05
7.93	.65	.85		.05
6.31	.65	.85		.05
5.81	.65	.85		.05
5.02	.25	.30		.05
4.48	.25	.30		.05
3.97	.25	.30		.05

POWER EQUIPMENT OPERATORS (HIGHWAY CONSTRUCTION) (Cont'd):

GROUP 6 - ZONE 1

ZONE 2

ZONE 3

ZONE 4

ZONE 5

ZONE 6

ZONE 7

ZONE 8

ZONE 9

GROUP 7 - ZONE 1

ZONE 2

ZONE 3

ZONE 4

ZONE 5

ZONE 6

ZONE 7

ZONE 8

ZONE 9

GROUP 8 - ZONE 1

ZONE 2

ZONE 3

ZONE 4

ZONE 5

ZONE 6

ZONE 7

ZONE 8

ZONE 9

GROUP 9 - ZONE 1

ZONE 2

ZONE 3

ZONE 4

ZONE 5

ZONE 6

ZONE 7

ZONE 8

ZONE 9

Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.
\$ 7.56	.65	.85		.05
5.75	.25	.39		.05
6.98	.65	.85		.05
6.98	.65	.85		.05
5.43	.65	.85		.05
4.93	.65	.85		.05
4.86	.25	.30		.05
4.31	.25	.30		.05
3.81	.25	.30		.05
7.25	.65	.85		.05
5.46	.25	.39		.05
6.64	.65	.85		.05
6.64	.65	.85		.05
5.14	.65	.85		.05
4.64	.65	.85		.05
4.86	.25	.30		.05
4.31	.25	.30		.05
3.81	.25	.30		.05
8.61	.65	.85		.05
7.13	.25	.39		.05
8.28	.65	.85		.05
8.29	.65	.85		.05
6.63	.65	.85		.05
6.13	.65	.85		.05
5.58	.25	.30		.05
5.02	.25	.30		.05
4.46	.25	.30		.05
8.86	.65	.85		.05
7.38	.25	.39		.05
8.53	.65	.85		.05
8.54	.65	.85		.05
6.88	.65	.85		.05
6.38	.65	.85		.05
5.83	.25	.30		.05
5.27	.25	.30		.05
4.71	.25	.30		.05

POWER EQUIPMENT OPERATORS
(HIGHWAY CONSTRUCTION) (Cont'd.):

GROUP	Basic Hourly Rates	H & W	Pensions	Vocation	Education and/or Appr. Tr.
GROUP 10 - ZONE 1	7.50	.65	.85		.05
ZONE 2	5.71	.25	.39		.05
ZONE 3	6.89	.65	.85		.05
ZONE 4	6.89	.65	.85		.05
ZONE 5	5.34	.65	.85		.05
ZONE 6	4.89	.65	.85		.05
ZONE 7	5.11	.25	.30		.05
ZONE 8	4.46	.25	.30		.05
ZONE 9	4.06	.25	.30		.05

GROUP 1 - 60 ton crane & over; crane with 125' boom
 GROUP 2 - Crane with 175' boom
 GROUP 3 - Crane all types; deck winches (2); hi-ho & similar type equipment; 3 drums (or more) stabilizers; pulls all types; concrete mixer 1 yd. & over; all pavers; ditching or trenching machines (track type); mechanics & equipment welders; well point systems; hoist, 2 drums or more; hoist, 1 drum, 40 vertical ft. or more; scrapers, bulldozers, rubber-tired or track other than farm-type; scooped vehicles; motor patrol; gradall; rollers on hot mix; asphalt paving machines; front end loaders, other than farm-type, 1 cu. yd. or over; shovels & backhoes, all types, & equivalent equipment; piledrivers; sideboom cats; a-frame trucks when handling steel or pipe; work boats requiring licensed ops.; tugboats; fork lifts over 10 ton capacity; foundation drilling machines
 GROUP 4 - 2 drums stabilizers; front end loaders under 1 cu. yd.; A-frame truck except when handling steel or pipe; finishing machines (concrete); power subgraders; tow tractor (crawler type); 1 drum hoist under 40 vertical ft.; fireman; concrete spreader; pugmill; bituminous distributor on surface treatment & equivalent; bulldozers & equivalent; job grease man; unit op.; work boats not requiring licensed ops.; inboard motored crew boats
 GROUP 5 - Single drum stabilizers; concrete mixer under 1 yd.; spray curing machines; rollers on subgrader; 1 air compressor over 125 cu. ft.; form graders; asphalt finisher screed man; pump over 4"; scale op.; crusher ops.; concrete jointing machines; concrete saw; tack machines & equivalent equipment; pump crete; electric elevator (inside); oiler-driver; farm-type; rubber-tired tractor, with attachments, except backhoes; kolum buff & similar equipment; fork lifts, 10 ton capacity & under; outboard crew boats
 GROUP 6 - Mechanic helper; batch plant operator
 GROUP 7 - Oiler
 GROUP 8 - Fireman
 GROUP 9 - Fireman operating steam valve
 GROUP 10 - Oiler on crane using air to drive piles
 ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
 ZONE 2 - Ascension, East Baton Rouge, Iberville & West Baton Rouge Parishes
 ZONE 3 - Bossier & Caddo Parishes
 ZONE 4 - Calcasieu Parish
 ZONE 5 - Cameron, Jefferson Davis & Red River Parishes
 ZONE 6 - Allen & Beauregard Parishes
 ZONE 7 - Lafayette, Ouachita & Rapides
 ZONE 8 - Acadia, Bienville, DeSoto, Iberia, Livingston, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (north of Iberia Par.), St. Tammany, Tangipahoa, Vermilion, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (south of Iberia Par.), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana, & Winn Parishes

DECISION NO. LA79-4069

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vocation	
10.78		.20		
8.26	.70	.75	.28	.70
9.06	.35	.60		.04
9.05		.20		
7.80		.20		
9.60		.20		.04
6.65		.20		.04

ROOFERS
 ZONE 1 - Roofers
 ZONE 2 - Roofers
 ZONE 3 - Roofers
 ZONE 4 - Roofers
 ZONE 5 - Roofers
 Kettlemen
 Kettlemen
 ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Vermilion & Vernon Parishes
 ZONE 2 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, South St. Martin, St. Mary, St. Tammany, Terrebonne & Washington Parishes
 ZONE 3 - Acadia, Ascension, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, North St. Martin, Tangipahoa, West Baton Rouge & West Feliciana Parishes
 ZONE 4 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Ouachita, Rapides, Richland, Tensas, Union, West Carroll & Winn Parishes
 ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine & Webster Parishes

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vocation	
11.47	.45	.55		.13
11.00	34+.60	.91		.14
11.87	.55	.80		.14
11.19	34+.59	.40		.19

SHEET METAL WORKERS - ZONE 1
 ZONE 2
 ZONE 3
 ZONE 4
 ZONE 1 - Calcasieu Parish
 ZONE 2 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany, Terrebonne & Washington Parishes
 ZONE 3 - Acadia, Allen, Ascension, Assumption, Beauregard, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, St. Mary, Tangipahoa, Vermilion, West Baton Rouge & West Feliciana Parishes
 ZONE 4 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

TRUCK DRIVERS (BUILDING CONSTRUCTION):

GROUP 1 - Teamsters, Pick-up drivers & chauffeurs
 GROUP 2 - Stake bodies (all sizes)
 GROUP 3 - Trucks trailer & dumps over 8 yds.; mixers on trucks over 3 yds.; Miss. wagons & Koehring dumpsters & similar dirt moving equipment (up to & incl. 8 yds.)
 GROUP 4 - Mixers on trucks up to including 3 yds.
 GROUP 5 - Winch trucks
 GROUP 6 - Trucks, dump
 GROUP 7 - Miss. wagons & Koehring dumpsters & similar dirt moving equip. over 8 yds.

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vocation	
11.69	.75	1.05		.08
9.31				
9.79				
10.02				
9.81				
9.91				
9.83				
10.25				
7.20				
7.45				
8.00				
7.85				
8.30				
8.40				
8.70				
8.85				
7.47				
7.55				
7.80				
7.95				
8.10				
8.30				
8.65				
8.00				
8.30				
8.45				
8.65				
8.80				
8.60				
8.39				
9.00				
9.05				
9.31				

SPRINKLER FITTERS
TRUCK DRIVERS (BUILDING CONSTR.):

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vocation	
11.69	.75	1.05		.08
9.31				
9.79				
10.02				
9.81				
9.91				
9.83				
10.25				
7.20				
7.45				
8.00				
7.85				
8.30				
8.40				
8.70				
8.85				
7.47				
7.55				
7.80				
7.95				
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	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
TRUCK DRIVERS (HIGHWAY CONSTRUCTION)					
GROUP 1 - ZONE 1	\$ 7.13	.45			
ZONE 2	5.49				
ZONE 3	7.31				
ZONE 4	7.74				
ZONE 5	6.42				
ZONE 6	6.52				
ZONE 7	4.45				
ZONE 8	4.35				
ZONE 9	4.25				
GROUP 2 - ZONE 1	7.26	.45			
ZONE 2	5.61				
ZONE 3	7.41				
ZONE 4	7.87				
ZONE 5	6.35				
ZONE 6	6.65				
ZONE 7	4.56				
ZONE 8	4.46				
ZONE 9	4.36				
GROUP 3 - ZONE 1	7.32	.45			
ZONE 2	5.66				
ZONE 3	7.84				
ZONE 4	7.93				
ZONE 5	6.61				
ZONE 6	6.71				
ZONE 7	4.61				
ZONE 8	4.51				
ZONE 9	4.41				
GROUP 4 - ZONE 1	7.40	.45			
ZONE 2	5.73				
ZONE 3	7.85				
ZONE 4	8.00				
ZONE 5	6.68				
ZONE 6	6.78				
ZONE 7	4.67				
ZONE 8	4.57				
ZONE 9	4.47				
GROUP 5 - ZONE 1	7.99	.45			
ZONE 2	5.89				
ZONE 3	8.27				
ZONE 4	8.19				
ZONE 5	6.86				
ZONE 6	6.97				
ZONE 7	4.83				
ZONE 8	4.73				
ZONE 9	4.63				

TRUCK DRIVERS (HIGHWAY CONSTRUCTION)

GROUP 2 - ZONE 1

GROUP 3 - ZONE 1

GROUP 4 - ZONE 1

GROUP 5 - ZONE 1

TRUCK DRIVERS (Highway Construction):
GROUP 1 - 1 ton & under; warehouseman, material checker, resetting clerk, spotter & dumper
GROUP 2 - 1 1/2 tons to & including 2 tons (exclusive of dump trucks), truck mechanic helper
GROUP 3 - Single axle dump trucks, single axle water trucks
GROUP 4 - Heavy equipment, tandem axle dump & tandem axle water trucks, winch lift, transit mix, floats, pole trailers, 4 axle trailers & truck mechanic
GROUP 5 - Special equipment, euclids & 5 axle moving equipment

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - East Baton Rouge Parish
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu Parish
ZONE 5 - Allen & Beauregard Parishes
ZONE 6 - Cameron & Jefferson Davis Parishes
ZONE 7 - Lafayette, Ouachita & Rapides Parishes
ZONE 8 - Acadia, Ascension, Bienville, DeSoto, Iberia, Iberville, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin, (north of Iberia Par.), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes
ZONE 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (south of Iberia Par.), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

SUPERSEDES DECISION

STATE: NEW YORK COUNTY: NIAGARA
DECISION NO. NY79-3022 DATE: Date of Publication
Supersedes Decision No. NY77-1003 dated July 1, 1977 in 42 FR 34204
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction projects.

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
BUILDING, HEAVY AND HIGHWAY CONSTRUCTION					
ASBESTOS WORKER	\$12.50	1.32	.90		.06
BOILERMAKERS	11.80	1.00	1.50		.02
BRICKLAYERS:					
North Tonawanda:					
Bricklayers & stone masons	12.88	.65	1.40		
Terrazzo workers & tile setters	12.01	.55	1.40		
Marble setters	12.105	.55	1.40		
Remainder of county:					
Bricklayers & stone masons	12.33	1.17	.57		
Marble masons, terrazzo workers & tile setters	12.08	1.17	.57		
CARPENTERS: (BUILDING):					
North Tonawanda:					
Carpenters, millwrights and pilledrivers	11.98	1.60	1.95		
Soft floor layers	11.18	1.25	1.55		
Remainder of county:					
Carpenters & soft floor layers	10.80	1.69	1.65		.025
Millwrights	10.90	1.69	1.65		.025
CARPENTERS: (HEAVY & HIGHWAY):					
North Tonawanda:					
Carpenters & pilledrivers	11.98	1.60	1.95		
Remainder of County:					
Carpenters & Pilledrivers	8.51	1.69	1.65	e	.025
CEMENT MASONS	11.25	.81	.25		
ELECTRICIANS:					
Electricians	13.48	1.40	38+.80		1/8
Cable splicers	14.83	1.40	38+.80		1/8
ELEVATOR CONSTRUCTORS	12.885	.895	.56	a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS	9.02	.895	.56	a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	6.44				
GLAZIERS	11.54	1.70	.70		.25
IRONWORKERS:					
Structural, ornamental & reinforcing	12.78	.86	.82		
LATHERS	10.715	.20	.20		
LEAD BURNERS	10.75	.10	.25	c	.01

DECISION NO. NY79-3022

PAINTERS:
Twp., of Somerset, Hartland, Royalton, New Fane, Lockport, Pendleton and the eastern half of Cambria and Wilson:
Brush
Cranes, steel, tanks, towers, stacks, bridges, flag poles, radio TV towers
Sandblasting, swing stages, scaffold, epoxy, spray, bosun chair
Bridges 35' high or in depth of 35' from road level
Remainder of county:
Brush
Spray, steel, steeple jack, swing scaffold, sandblasting
Bridge-crossing the Niagara River
PILEDRIVERS:
Pilledrivers, dock carpenters and divers' tenders
Divers
PLASTERERS
PLUMBERS AND STEAMFITTERS
ROOFERS:
Composition, damp, waterproofers
sprayers, asphalt mastic, wood block floor workers, steep roofers & siders
Slate, tile asbestos & pre-cast tile
SHEET METAL WORKERS
SPRINKLER FITTERS
TRUCK DRIVERS:
Building, heavy & highway: Euclid
Dump
Ready-mix
Welders - Craft Rate

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
11.005	.975	.30		.10
11.505	.975	.30		.10
11.255	.975	.30		.10
12.67	.975	.30		.10
9.49	1.12	1.45		.01
10.24	1.12	1.45		.01
11.355	1.12	1.45		.01
11.33	1.25	1.55		
18.62	1.25	1.55		.025
10.96	1.005	1.12		
13.45				
12.26	.89	1.40		.02
12.41	.89	1.40		.02
12.63	1.33	1.03		.09
12.99	.75	1.05		.06
10.40	.75			
10.15	.75			
10.365	.75	.775		

DECISION NO. NY79-3022

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% basic hourly rate after 6 months to 5 years of service as Vacation Pay Credit.

c. Holidays: A through F; Washington's Birthday, Good Friday and Christmas eve, providing employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular schedule work days immediately preceding and following the holiday.

e. Holidays: B and D.

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DECISION NO. NY79-3022	Fringe Benefits Payments				Education and/or Appr. Tr.
	Basic Hourly Rates	H & W	Pensions	Vacation	
LABORERS; HEAVY, HIGHWAY, BUILDING CONSTRUCTION NIAGARA COUNTY: EXCEPT THE CITY OF NORTH TONAWANDA					
GROUP I	10.01	1.75	1.30		
GROUP II	10.51	1.75	1.30		
GROUP III	10.21	1.75	1.30		
GROUP IV	11.01	1.75	1.30		

LABORERS: HEAVY, HIGHWAY, BUILDING CONSTRUCTION

GROUP I
Laborers

GROUP II
Form setter, wagon drill op., road finishers, gunnite nozzlemen, sandblasters, burning torch, concrete saw op.

GROUP III

Potman, pipelayers, pavement breakers or busters, jackhammer op., barco rammer, chain saw, powder monkey, black top takers, scalers, drill tenders, mortar mixers, men working from swinging scaffold boom chair, suspended cage or bucket, work in caissons below 8 feet, concrete motor buggy, all other operators of mechanical tools, including vibrators regardless of type of power

GROUP IV

Blaaters

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DECISION NO. NY79-3022	Fringe Benefits Payments				Education and/or Appr. Tr.
	Basic Hourly Rates	H & W	Pensions	Vacation	
LABORERS; ROCK TUNNEL FREE AIR CONSTRUCTION NIAGARA COUNTY: EXCEPT NORTH TONAWANDA					
GROUP I	9.61	1.75	1.30		
GROUP II	9.51	1.75	1.30		
GROUP III	10.46	1.75	1.30		
GROUP IV	9.76	1.75	1.30		
GROUP V	9.86	1.75	1.30		
GROUP VI	10.26	1.75	1.30		
GROUP VII	9.76	1.75	1.30		

LABORERS: ROCK TUNNEL FREE AIR CONSTRUCTION

GROUP I

Driller, shaft driller

GROUP II

Chucker, mucking machine tender, shaft suckers

GROUP III

Nipper, car pusher (tramer), track gang, bull gang, cage man, concrete gang, powder monkey

GROUP IV

Blaaters

GROUP V

Rodman

GROUP VI

Laborer & top man

GROUP VII

Burning torch on demolition work

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DECISION NO. NY79-3022	Fringe Benefits Payments				Education and/or Appr. Tr.
	Basic Hourly Rates	H & W	Pensions	Vacation	
LINE CONSTRUCTION Electrical Overhead and Under-ground Distribution Work: Lineman and Technicians Cable Splicers Groundman Digging Machine Operator and Groundman Dynamite Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver (tractor trailer unit) Groundman Truck Driver, Driver-Mechanic, Groundman (experienced) All Overhead Transmission Line Work and Lighting For Athletic Fields: Lineman and Technicians Groundman Digging Machine Operator, Groundman Dynamite Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver (tractor trailer unit) Groundman Truck Driver, Driver-Mechanic, Groundman (experienced) All Pipe Type Cable Installations: Lineman and Groundman Equipment Operator Cable Splicer Groundman Truck Driver, Groundman (experienced)					
	10.50	1.00	38+.75	a	3 1/2
	13.70	1.00	38+.75	a	3 1/2
	9.45	1.00	38+.75	a	3 1/2
	8.40	1.00	38+.75	a	3 1/2
	7.825	1.00	38+.75	a	3 1/2
	11.85	1.00	38+.75	a	3 1/2
	10.665	1.00	38+.75	a	3 1/2
	9.48	1.00	38+.75	a	3 1/2
	8.875	1.00	38+.75	a	3 1/2
	12.45	1.00	38+.75	a	3 1/2
	13.695	1.00	38+.75	a	3 1/2
	9.3375	1.00	38+.75	a	3 1/2

DECISION NO. NY79-3022	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
LINE CONSTRUCTION CONT'D: Sub-station, switching structures (when not part of the line), traffic signals, street lighting and electrical, telephone or CATV commercial work: Linemen and technicians Cable splicers Groundman mobile equipment operator, mechanic 1st class, groundman truck driver (tractor-trailer unit) Groundman truck driver, driver-mechanic, groundman (experienced) Groundman dynamite man, groundman digging machine operator Telephone and other communication systems, both overhead and underground: Linemen and installer repairmen Splicers Groundman digging machine operator Groundman Groundman truck driver Groundman dynamite man	12.45	1.00	38+.75	a	3 1/4
	13.695	1.00	38+.75	a	3 1/4
	9.96	1.00	38+.75	a	3 1/4
	9.3375	1.00	38+.75	a	3 1/4
	11.205	1.00	38+.75	a	3 1/4
	8.34	.40	38+.25	a	1 1/4
	8.89	.40	38+.25	a	1 1/4
	7.73	.40	38+.25	a	1 1/4
	5.72	.40	38+.25	a	1 1/4
	6.82	.40	38+.25	a	1 1/4
	6.60	.40	38+.25	a	1 1/4

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

- a. Paid Holidays: A through F, Washington's Birthday, Good Friday and Election Day for President of the United States and Governor of New York State, provided the employee works the day before and the day after the holiday.

DECISION NO. NY79-3022	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS: GROUP I GROUP II GROUP III GROUP IV GROUP V GROUP VI GROUP VII	11.16	1.10	1.35	a	.15
	10.36	1.10	1.35	a	.15
	7.94	1.10	1.35	a	.15
	8.95	1.10	1.35	a	.15
	8.59	1.10	1.35	a	.15
	11.895	1.10	1.35	a	.15
	11.66	1.10	1.35	a	.15

BUILDING CONSTRUCTION - POWER EQUIPMENT OPERATORS:

GROUP I: Finish blacktop rollers, crane work, shovels, derricks, steel erection, overhead or bridge cranes and clam buckets, all excavating machines, backfillers, cableways, draglines, backhoes, piledriving rigs, tunnel mucking machines, all tractors used in connection with scraper wagon, snowloader, all repair work or maintenance work under the supervision of a master mechanic, lubrication engineers, bulldozers, graders, blacktop spreaders, front and back loaders (except small types), power driver stone spreaders, portable stone crushers, crawler or rubber tire tractor with blade or bucket and crane boom or hoe boom or shovel boom attached (except farm typed crawler or rubber tire tractor unless used with hydraulic backhoe), compressor with paving breaker attached, graders with bulldozer blades, multiple drum hoist with air compressor when used simultaneously for more than one purpose and single drum hoist when used to hoist steel, portable concrete batching machine, automatic batch plant op., concrete spreader op., finishing machine op., form puller, scraper (either double or single bowl), CMI grading machine, truck mounted concrete pumps, self-propelled riding vibrators, kolman loaders, mechanic, welder, euclid type belt loader, mechanical and hydraulic pipe pushing machine, scoopmobiles, forklifts and hoist which lift higher than 25 feet, trenchers when excavation over 6 feet in depth, post drivers (except truck mounted, postdrivers), concrete mixers 1 yard and over, concrete planters.

DECISION NO. NY79-3022

BUILDING CONSTRUCTION - POWER EQUIPMENT OPERATORS (CONT'D):

GROUP II: Elevators, material hoist, road rollers except finish blacktop roller, tractors, pavement butters, pumps over 4 inches, concrete blowers, compressors when used in banks of (2) and not over (3) within a 50 foot radius if such is possible, but at least within 50 foot radius, and if fuel is stored it will be stored within the same radius, guinite machines, locomotives, scoop-mobiles (when used as a stationary hoist or one which does not lift over twenty five feet, concrete pumps, conveyors, gas or diesel driven temporary lighting and power systems of 25 kilowatt capacity or over), stone crushers and winch hoist mounted on trucks, all earth drills, le tourneau turntrailer, highlift hoist which does not lift over 25 feet, gasoline heaters used in banks of (2) and not over (3) within an area of 100 foot radius, and for (2) but not over (3) gasoline or diesel driven welding machines, trenchers on the back of a jeep, truck mounted post drivers, snow-go, small front and back loaders, small type crawler or rubber tire tractor with blade or bucket not to exceed 4 yd. capacity, single drum hoist for hoisting materials other than steel, pug machine, self propelled rollers not on finish blacktop and under 7 tons, bobcat loader or forklift which does not lift over twenty five feet, trenchers, winch tractors, trenchers excavating up to 6 feet in depth, air compressors over 165 cu. ft.

GROUP III: Oilers on shovels, cranes, draglines, backhoe (over 3/4 cu. yds.) dredges, derrick boats, pavers (excluding stationary set-ups), trenching machines, pile drivers, quarry master (or its equivalent), hydrocranes, automated batch plants (wet or dry mix plants), compressors (165 cu. ft. per minute or under), pumps up to and including 4 inches.

GROUP IV: Truck crane piler

GROUP V: Steam boiler operator.

GROUP VI: Master Mechanic.

GROUP VII: Cranes carrying over 100 feet of main boom.

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

- a. Holidays: A through F; providing employee works the day before and the day after the holiday.

DECISION NO. NY79-3022

POWER EQUIPMENT OPERATORS:

DECISION NO. NY79-3022	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS: GROUP I GROUP II GROUP III GROUP IV GROUP V GROUP VI	12.06	1.10	1.45	a	.15
	11.21	1.10	1.45	a	.15
	8.85	1.10	1.45	a	.15
	9.92	1.10	1.45	a	.15
	8.51	1.10	1.45	a	.15
	12.83	1.10	1.45	a	.15

HEAVY & HIGHWAY CONSTRUCTION - POWER EQUIPMENT OPERATORS:

GROUP I: Finish blacktop rollers, crane work, shovels, derricks, steel erection, overhead or bridge cranes and clam buckets, all excavating machines, backfillers, cableways, draglines, backhoes, piledriving rigs, tunnel mucking machines, all tractors used in connection with scraper wagon, snowloader, all repair work or maintenance work under the supervision of a master mechanic, lubrication engineers, bulldozers, graders, blacktop spreaders, front and back loaders (except small types), power driver stone spreaders, portable stone crushers, crawler or rubber tire tractor with blade or bucket and crane boom or hoe boom or shovel boom attached (except farm typed crawler or rubber tire tractor unless used with hydraulic backhoe), compressor with paving breaker attached, graders with bulldozer blades, multiple drum hoist with air compressor when used simultaneously for more than one purpose and single drum hoist when used to hoist steel, portable concrete batching machine, automatic batch plant op., concrete spreader op., finishing machine op., form puller, self propelled rollers if on blacktop, scraper, either double or single bowl, CMI grading machine, truck mounted concrete pumps, self-propelled riding vibrators, kolman loaders, mechanic, welder, euclid type belt loader, mechanical and hydraulic pipe pushing machine, scoopmobiles, forklifts and hoist which lift higher than 25 feet.

SUPERSEDES DECISION

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DECISION NO. NY79-3020

HEAVY & HIGHWAY CONSTRUCTION - POWER EQUIPMENT OPERATORS (CONT'D.):

GROUP II: Elevators, material hoist, road rollers except finish blacktop roller, tractors, pavement busters, pumps over 4 inches, concrete blowers, compressors when used in banks of (2) and not over (3) within a 50 foot radius if such is possible, but at least within 50 foot radius, and if fuel is stored it will be stored within the same radius, guinle machines, locomotives, scoop-mobles (when used as a stationary hoist or one which does not lift over twenty five feet, concrete pumps, conveyors, gas or diesel driven temporary lighting and power systems of 25 kilowatt capacity or over), stone crushers and winch hoist mounted on trucks, all earth drills, le tourneau turntrallars, highlift hoist which does not lift over 25 feet, gasoline heaters used in banks of (2) and not over (3) within an area of 100 foot radius, and for (2) but not over (3) gasoline or diesel driven welding machines, trenchers on the back of a jeep, truck mounted post drivers, snow-go, small front and back loaders, small type crawler or rubber tire tractor with blade or bucket not to exceed 4 yd. capacity, single drum hoist for hoisting materials other than steel, pug machine, self propelled rollers not on finish blacktop and under 7 tons, bobcat loader or forklift which does not lift over twenty five feet, trenchers, winch tractors, trenchers excavating up to 6 feet in depth, air compressors over 165 cu. ft.

GROUP III: Oilers on shovels, cranes, draglines, backhoe (over 3/4 cu. yds.) dredges, derrick boats, pavers (excluding stationary set-ups), trenching machines, pile drivers, quarry master (or its equivalent), hydrocranes, automated batch plants (wet or dry mix plants), compressors (165 cu. ft. per minute or under), pumps up to and including 4 inches.

GROUP IV: Truck crane oiler

GROUP V: Steam boiler operator.

GROUP VI: Master Mechanic.

GROUP VII: Cranes carrying over 100 feet of main boom.

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F; providing employee works the day before and the day after the holiday.

STATE: Pennsylvania

Counties: Carbon, Monroe Counties, including Tobyhanna Army Depot and Pike County

DECISION NO.: NY79-3020

DATE: Date of Publication

SUPERSEDES DECISION NO. NY78-3017 dated May 5, 1978, in 43 FR 19547.
DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vocation	
ASBESTOS WORKERS	12.025	.65	.60		.01
BOILERMAKERS	13.775	1.075	1.00		.02
BRICKLAYERS & STONEMASONS					
ZONE 1	10.90	1.00	1.15		.01
ZONE 2	11.15	.85	.75		
ZONE 3	11.35	.90	1.00		.01
ZONE 4	11.71	.85	.40		

AREA COVERED BY BRICKLAYERS & STONEMASONS

ZONE 1 - Remainder of Carbon County
ZONE 2 - Kitter Township in Carbon County
ZONE 3 - Tobyhanna Army Depot in Monroe County
ZONE 4 - Pike County & Remainder of Monroe County

	Basic Hourly Rates	H & W	Pensions	Vocation	Education and/or Appr. Tr.
CARPENTERS	11.39	.55	.65		.05
ZONE 1	10.92	.55	.65		.05
ZONE 2	9.73	.44	.72		.02
ZONE 3	11.65	.65	.50		.05
ZONE 4					

AREA COVERED BY CARPENTERS ZONES

ZONE 1 - Carbon County; including Twp. of Banks, Lausanna, Lehigh, Packer and Kitter
ZONE 2 - Remainder of Carbon County
ZONE 3 - Remainder of Monroe County
ZONE 4 - Tobyhanna Army Depot in Monroe County, Pike County in its entirety

	Basic Hourly Rates	H & W	Pensions	Vocation	Education and/or Appr. Tr.
CEMENT MASONS	11.25				
ZONE 1	11.51	.85	.40		
ZONE 2	11.55				
ZONE 3					

AREA COVERED BY CEMENT MASONS ZONES

Zone 1 - Carbon County
Zone 2 - Tobyhanna Army Depot in Monroe County & Pike County
Zone 3 - Remainder of Monroe County

DECISION NO. NY79-3020

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	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vocation	
ELECTRICIANS	11.05	.70	324.80		.02
ZONE 1	11.87	.65	324.30	a	b
ZONE 2	12.50	.75	324.50	1.00	.02
ZONE 3	11.85	.75	324.50	1.00	.10
ZONE 4	11.85	.75	324.50	1.00	.10
ZONE 5					

AREA COVERED BY ELECTRICIANS ZONES

ZONE 1 - Carbon, Tomamensing, Lower Tomamensing, E. Penn, Twp. the Borough of Pottsville in their entirety
ZONE 2 - Remainder of Carbon County
ZONE 3 - Remainder of Monroe County
ZONE 4 - Tobyhanna Army Depot in Monroe County
ZONE 5 - Pike County

	Basic Hourly Rates	H & W	Pensions	Vocation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS	11.27	.895	.89	c+d	.075
ELEVATOR CONSTRUCTORS HELPERS	7.89	.895	.89	c+d	.025
ELEVATOR CONSTRUCTORS HELPERS (PROB.)	5.635				
GLAZIERS	9.19	.40	.30		.01
ZONE 1	10.50	.65	.65		
ZONE 2					

AREA COVERED BY GLAZIERS ZONES

ZONE 1 - Lausane, Penn: Forest, Tomamensing, Lower Tomamensing, Palmerton, E. Penn., Franklin, Mahoning, Packer, Lehigh, Banks Twp., in Carbon County
ZONE 2 - Remainder of Carbon County, Monroe County, including Tobyhanna Army Depot and Pike County in its entirety

	Basic Hourly Rates	H & W	Pensions	Vocation	Education and/or Appr. Tr.
IRONWORKERS	11.45	1.14	1.36		
ZONE 1	12.80	e			.10
ZONE 2	12.70	e			.10
Structural Reinforcing					

AREA COVERED BY IRONWORKERS ZONES

ZONE 1 - Carbon County, Monroe County, including Tobyhanna Army Depot
ZONE 2 - Pike County

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vocation	
LABORERS	9.30	.57	1.00		
ZONE 1	9.45	.57	1.00		
CLASS 1	9.70	.57	1.00		
CLASS 2					
CLASS 3					
ZONE 2	8.09	.62	.59		
CLASS 1	8.34	.62	.59		
CLASS 2	8.49	.62	.59		
CLASS 3	9.11	.62	.59		
CLASS 4	8.84	.62	.59		
CLASS 5					

LABORERS CLASSIFICATIONS DEFINITIONS AND AREA COVERED

ZONE 1 - Pike County and Tobyhanna Army Depot in Monroe County
CLASS 1 - Unskilled and window cleaners
CLASS 2 - Semi skilled laborers; Jackhammer operators (each man when two required for operation of jackhammer) vibrator and buster men, wagon drill and all men handling dynamite, gas buggies 2" pumps and concrete mixers (up to 2 bags) and all pneumatic tools, non-metallic pipe layers and making of joints, clay, terra cotta ironstone, vitrified concrete handling of burning torches, asphalt or other material
CLASS 3 - Plasterer tenders and mason tenders and handling of all material to be used - masons & scaffold builders
ZONE 2 - Carbon County and Remainder of Monroe County
CLASS 1 - Unskilled laborers & window cleaners
CLASS 2 - Operator of Jackhammer, paving breaking & other pneumatic & mechanical tools coming under the jurisdiction of laborers, wagon drills & men handling burning torches in the wrecking of buildings, laying of all clay, terra cotta, ironstone, vitrified concrete or non metallic pipe & the making of joints for the same & cofferdams (below 10')
CLASS 3 - Plasterer & mason tenders, scaffold builders & handling of all materials to be used by plasterers & masons, brick & block loaded on pallets, cement finisher tenders, punting & molded-D & sandblaster helpers, power buggies, to get mason tender rates, all floor hardeur & "cure" application shall be the work of the mason tender. All pumps, such as the concrete, plasterer, mortar & water, installing plastic or other non-solid refractory materials in connection with boiler work
CLASS 4 - Barco tamper operator
CLASS 5 - Wagon drills and men handling burning torches in the wrecking of buildings

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	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
LATHERS					
ZONE 1	10.04		.10		.01
ZONE 2	11.11	.65	.35		.01

AREA COVERED BY LATHERS ZONES

ZONE 1 - Monroe County, including Toboyhanna Army Depot and Pike County

ZONE 2 - Carbon County

LEADERS					
LINE CONSTRUCTION					
Linenman, dynamite man, heavy equipment operator	10.75	.40	.25	f	.01
Winch truck operator	11.61	.50	3%		3/8 of 1%
Groundman	8.61	.50	3%		3/8 of 1%
MARBLE SETTERS					
ZONE 1	9.65	1.00	1.15		
ZONE 2	9.50	.50			
ZONE 3	10.78	.85	.40		

AREA COVERED BY MARBLE SETTERS ZONES

ZONE 1 - Carbon County

ZONE 2 - Toboyhanna Army Depot & Pike County

ZONE 3 - Remainder of Monroe County

MILLRIGHTS					
ZONE 1	11.93	.64	.50		.05
ZONE 2	11.70	.64	.72		.05
ZONE 3	11.29	.40	.50		.03

AREA COVERED BY MILLRIGHTS ZONES

ZONE 1 - Toboyhanna Army Depot in Monroe County

ZONE 2 - Remainder of Monroe County and Pike County in its entirety

ZONE 3 - Carbon County

PAINTERS					
ZONE 1	9.95	.75	.50		.10
Brush	10.21	.75	.50		.10
Tapes					

AREA COVERED BY PAINTERS ZONES

ZONE 1 - Carbon County

ZONE 2 - Toboyhanna Army Depot in Monroe County and Pike County in its entirety

ZONE 3 - Remainder of Monroe County

PAINTERS					
ZONE 1	11.52	2.48	1.40	8	.13

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
PAINTERS					
ZONE 1 (Cont'd)					
"All open structural steel, bridges, water tank towers, interiors and exteriors of tanks, smoke stacks, radio and drive-in theater screens and framing, tin roofing, pits or transmission towers, power wells, disposal plants and their equipment, sandblasting, steamcleaning, spray painting, work with epoxy paints or materials similar with highly toxic fumes, use of window jacks, window belts, swing scaffolds or bosun's chair on structure of more than two stories high or twenty-five feet, work requiring crawling or climbing without support of a scaffold from the ground floor, rolling steel scaffold towers in the interior or exterior of buildings with work platform twenty-five feet or over in height which are not tied in"	11.21	.75	.50		.10
ZONE 2					
Brush & Roller	9.50		1.20		
Structural Steel	10.50		1.20		
Spray	11.00		1.20		
ZONE 3					
Brush	8.95	1.23	.70		
Spray	9.95	1.23	.70		
Steel	9.95	1.23	.70		

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	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
PLASTERERS					
ZONE 1	9.75	.60	1.05		.01
ZONE 2	10.30	.50	.50		
ZONE 3	8.90	.40	.95		
ZONE 4	10.70	.85	.40		
ZONE 5	11.30	.85	.40		

AREA COVERED BY PLASTERERS ZONES

ZONE 1 - Summit Hill, Nauch Church, Mahoning, Palmyerton, Franklin, Townshensing, Lansford & Lower Townshensing Twp., in Carbon County

ZONE 2 - Kidder Township in Carbon County

ZONE 3 - Remainder of Carbon County

ZONE 4 - Toboyhanna Army Depot in Monroe County and Pike County in its entirety

ZONE 5 - Remainder of Monroe County

PLUMBERS					
ZONE 1	11.89	.80	1.25		.05
ZONE 2	12.73	.85	1.40		.14

AREA COVERED BY PLUMBERS ZONES

ZONE 1 - Monroe County, including Toboyhanna Army Depot, Pike County

ZONE 2 - Carbon County

ROOFERS					
ZONE 1					
Composition & Slate	12.03		1.30		
Slab & Concrete Plank	12.53		1.30		
ZONE 2					
Composition & Kettleman	10.65	.90	.55		
ZONE 3					
Composition & Kettleman	11.32		1.13		

AREA COVERED BY ROOFERS ZONES

ZONE 1 - East Penn, Franklin, Lower Townshensing, Mahoning and Townshensing Townships in Carbon County, Remainder of Monroe County

ZONE 2 - Remainder of Carbon County

ZONE 3 - Toboyhanna Army Depot in Monroe County & Pike County in its entirety

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
ZONE 1					
GROUP 1	12.81	7%	10.3%	a	1.8%
GROUP 2	12.52	7%	10.3%	a	1.8%
GROUP 3	11.64	7%	10.3%	a	1.8%
GROUP 4	10.87	7%	10.3%	a	1.8%
GROUP 5	10.39	7%	10.3%	a	1.8%
GROUP 6	9.47	7%	10.3%	a	1.8%
GROUP 7	13.06	7%	10.3%	a	1.8%
GROUP 7-A	13.31	7%	10.3%	a	1.8%
GROUP 7-B	13.56	7%	10.3%	a	1.8%
ZONE 2					
GROUP 1	12.86	7%	10.3%	a	1.8%
GROUP 2	12.57	7%	10.3%	a	1.8%
GROUP 3	11.70	7%	10.3%	a	1.8%
GROUP 4	10.93	7%	10.3%	a	1.8%
GROUP 5	10.46	7%	10.3%	a	1.8%
GROUP 6	9.55	7%	10.3%	a	1.8%
GROUP 7	13.11	7%	10.3%	a	1.8%
GROUP 7-A	13.36	7%	10.3%	a	1.8%
GROUP 7-B	13.60	7%	10.3%	a	1.8%

AREA COVERED BY POWER EQUIPMENT OPERATORS ZONES

ZONE 1 - Monroe County, including Toboyhanna Army Depot, and Pike County

ZONE 2 - Remainder of County

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POWER EQUIPMENT OPERATORS CLASSIFICATIONS DEFINITIONS

GROUP 1 - Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2 - All types of cranes, all types of backhoes, cableways, draglines, key-stones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over all types overhead cranes, building hoists (double drum) cradalls, mucking machines in tunnel, all front end loaders 3-4 c.v. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft lift and over machine to the above

GROUP 3 - Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-4 cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operators, forklift trucks under 20 ft lift, machines similar to the above

GROUP 4 - Weldin machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, roller, seaman pulverizing mixer, power broom, seeding spreader, tire-man (for power equipment), machines similar to the above

GROUP 5 - Fireman, grease truck

GROUP 6 - Oilers and deck hands (personnel boats), core driller helper

GROUP 7 - All machines with booms (including jib, masts, leads, etc.): 100 ft and over

GROUP 7A - 150 ft. and over

GROUP 7B - 200 ft. and over

FOOTNOTE:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day provided the employee works the day before and after the holiday.

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
SHEET METAL WORKERS	11.52	.70	.76		.07
SOFT FLOOR LAYERS	9.60	.55	.65		.05
ZONE 1	10.61	.43	.50		.05
ZONE 2	9.73	.44	.72		.02
ZONE 3					

AREA COVERED BY SOFT FLOOR LAYERS ZONES

ZONE 1 - Carbon County

ZONE 2 - Tobyhanna Army Depot in Monroe County and Pike County in its entirety

ZONE 3 - Remainder of Monroe County

SPRINKLER FITTERS	12.31	.75	1.05		.08
TERRAZZO WORKERS	9.90	1.00	1.15		
ZONE 1	9.45	.35	.50		
ZONE 2					
ZONE 3					

AREA COVERED BY TERRAZZO WORKERS ZONES

ZONE 1 - Carbon County

ZONE 2 - Monroe County, including Tobyhanna Army Depot & Pike County

TILE SETTERS

ZONE 1	9.20	.70	1.25		
ZONE 2	9.50	.50			
ZONE 3	10.53	.85	.40		

AREA COVERED BY TILE SETTERS ZONES

ZONE 1 - Carbon County

ZONE 2 - Tobyhanna Army Depot in Monroe County and Pike County in its entirety

ZONE 3 - Remainder of Monroe County

TRUCK DRIVERS					
CLASS I					
Helper, Stake Truck (single axle), Dumpster	9.52				

TRUCK DRIVERS
CLASS II
Dump Trucks, Tandem & batch trucks, semi-trailers trucks, agitator mixer truck trucks, ready mix and concrete type vehicles, asphalt distributors, farm tractor when used for transportation stake body truck (tandem)
CLASS III
Euclid type, off-highway equipment, back or belly dump trucks and double hitched equipment, straddle (ross) carrier, 20 low-bed trailers

Welders - Receive rate prescribed for craft performing operation to which welding is incidental

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
9.59				
10.08				

PAID HOLIDAYS: Where Applicable

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holidays: Independence Day and Labor Day

b. .12 per day per employee.

c. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

d. Paid Holidays: A through F, plus Friday after Thanksgiving Day.

e. Employer contributes \$2.60 to a combined Health and Welfare and Pension Fund.

f. Nine paid holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 full days for the employer.

g. Paid Holidays: Washington's Birthday, Good Friday, Memorial Day; Labor Day; Presidential Election Day; Veterans' Day; Thanksgiving Day & Christmas Day.

STATE: Washington
DECISION NUMBER: WA79-5126
Supersedes Decision No. WA78-5133 dated December 29, 1978, in 43 FR 61199
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy, and Highway construction, and Dredging

COUNTIES: Statewide

DATE: Date of Publication

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
ASBESTOS WORKERS: Chelan, Clallam, Douglas, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Lewis, Mason, Okanogan, Pacific (Northern portion), Pierce, San Juan, Skagit, Snohomish, Thurston, Whatcom and Yakima Counties Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties Remaining Counties	\$ 15.78 14.27 13.54 12.76	.72 .60 .62 1.075	\$ 1.30 1.30 1.30 1.00	.03 .14 .04 .03
BOILERMAKERS BRICKLAYERS: Adams (except City of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens, Grand Coulee Dam Area in Okanogan County and Whitman Counties Benton, Franklin and Walla Walla Counties Chelan, Douglas and Okanogan (except area of Grand Coulee Dam) Clallam, Island, Jefferson, King, Kitsap, Snohomish and Skagit (south of the Cities of Burlington, Sedro-Woolley and Concrete) Counties Clark, Cowlitz, Pacific (Southern portion), Skamania, Wahkiakum Counties and ten mile strip bordering the Columbia River in Klickitat County Grant County and the portion of Adams County including the City of Othello	13.11 12.51 11.96 13.43 12.94 12.50	.80 .80 .80 .80 .85 .40	1.00 1.00 1.00 1.55 .85 .40	.04 .05 .11 .15

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
BRICKLAYERS: (Cont'd) Kittitas, Yakima and Klickitat (except a ten mile strip bordering the Columbia River) Counties Grays Harbor, Lewis, Mason, Northern portion of Pacific, Pierce and Thurston Counties San Juan, Skagit (including the Cities of Burlington, Sedro-Woolley, Concrete and north thereof), and Whatcom Counties CARPENTERS: All Counties and parts of Counties east of the 120th Meridian (except those parts of Kittitas, Klickitat and Yakima east of the 120th Meridian) Carpenters Piledriver; Floor Sanders; Saw Filers; Stationary Power Woodworking Tool Operator Boom Men; Carpenters (Creosoted material) Piledriver (creosoted material) Millwrights and Machine Erectors All Counties and parts of Counties west of the 120th Meridian except Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties Carpenters and Drywall Applicators Carpenters on Creosoted material	.75 .80 .80 .83 .83 .83 .83 .83 .83 13.04 13.14	\$ 1.00 1.55 1.25 .90 .90 .90 .90 .90 .90 .85 .85		.12 .06 .075 .075 .075 .075 .075 .02 .02

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
CARPENTERS: (Cont'd) Sawfilers; Stationary Power Saw; Floor Finisher; Floor Layer; Shingles; Floor Sander and other stationary power woodworking tools Millwrights and Machine Erectors Piledrivers; Bridge, dock and wharf builders Acoustical Workers Boomen Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties Acoustical and Drywall Applicator, Automatic Nailing Machine, Carpenters, Form Strippers, Manhole Builders Floor Layers and Finishers, Stationary Power Saw Operator Millwrights and Machine Erectors Certified Welders, Instrument Men Piledrivermen; Bridge, Dock and Wharf Builders Boom Men CEMENT MASONS: Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas (except for Western portion lying one mile west of the City of Eastern), Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima Counties Cement Masons Zone A Zone B Zone C	\$ 13.17 13.54 13.19 13.20 13.24 12.12 12.27 12.37 12.52 12.22 12.32 11.33 12.03 12.28	.70 .70 .70 .70 .70 .80 .80 .80 .80 .80 .80 .90 .90 .90	.85 .85 .85 .85 .85 1.00 1.00 1.00 1.00 1.00 1.00 1.25 1.25 1.25	.02 .02 .02 .02 .02 .04 .04 .04 .04 .04 .04 .10 .10 .10

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
CEMENT MASONS: (Cont'd) Zone D Zone E Power Troweling Machine Gunnite Operator Zone A Zone B Zone C Zone D Zone E Power Tool Operator (grinding, bushing or toxic material) Zone A Zone B Zone C Zone D Zone E Clallam, Grays Harbor, Jefferson, King, Kitsap, Kittitas (western portion lying one mile west of the City of Eastern), Lewis, Mason, Pacific (Northern portion), Pierce and Thurston Counties Cement Masons Composition, Color, Mastic, Trowel Machine; Grinder, Power Tool, Gunnite Nozzleman Island, Skagit, Snohomish and Whatcom Counties Cement Masons Composition, Color, Mastic, Trowel Machine, Grinder, Power Tools, Gunnite Nozzleman Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties Cement Masons Composition materials and power machinery *SEE ZONE DESCRIPTIONS FOR CEMENT MASONS FOLLOWING TRUCK DRIVERS CLASSIFICATION	\$ 12.73 13.23 11.48 12.18 12.43 12.88 13.38 11.78 12.48 12.73 13.18 13.68 11.53 11.78 11.95 12.20 11.50 11.65	.90 .90 .90 .90 .90 .90 .90 .90 .90 .90 .90 .90 .90 1.00 1.00 .70 .70 .90 .90 1.00 1.00		.10 .10 .10 .10 .10 .10 .10 .10 .10 .10 .10 .10 .02 .02 .09 .09 .15 .15

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
ELECTRONIC TECHNICIANS:				
(Installation and repair of low-voltage communication and alarm systems, excluding any work under the jurisdiction of a journeyman wireman):				
	\$ 7.30	.43		.02
Adams, Ferry, Lincoln, Pend Oreille, Spokane, Stevens, and Whitman Counties				
ELEVATOR CONSTRUCTORS:				
	13.95	.895	.69	.035
Journeyman Installer				
Adams, Asotin, Benton, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla and Whitman Counties				
Chelan, Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Lewis, Mason, Pacific (Northern portion), Pierce, San Juan, Skagit, Snohomish, Thurston, Whatcom and Yakima Counties				
	14.41	.895	.69	.035
Clark, Cowlitz, Klickitat, Pacific (southern portion), Skamania and Wahkiakum Cos.				
	13.405	.895	.69	.035
GLAZIERS:				
	11.13	.42	.30	b
Adams (northeastern portion), Lincoln (eastern half); Pend Oreille, Spokane and Stevens Counties				
	10.77	.40	.55	.66
Adams (southeastern portion), Benton, Columbia, Franklin and Walla Walla Counties				
	8.25	.40	.70	.59
Adams (Southwestern corner), Chelan, Douglas, Grant, Lincoln, (western half) and Okanogan Cos.				
				.02

Basic Hourly Rates	Fringe Benefits, Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
ELECTRICIANS:				
Adams, Ferry, Lincoln, Pend Orellie, Spokane, Stevens and Whitman Counties Electricians	\$ 14.62 15.02	.83 .83	38+.40 38+.40	.02 .02
Asotin, Benton, Columbia, Franklin, Garfield, Kittitas, Walla Walla and Yakima Cos. Electricians	14.27 15.09	.83 .83	38+1.00 38+1.00	.02 .02
Cable Splicers				
Okanogan Counties Electricians	13.92	.83	38+1.00	.02
Cable Splicers	15.31	.83	38+1.00	.02
Clallam, Jefferson, King and Kitsap Counties Electricians	15.08	.85	38+1.10	.05
Cable Splicers	16.58	.85	38+1.10	.05
Clark, Klickitat and Skamania Counties				
Electricians	15.95	.90	38+1.60	.10
Cable Splicers	16.70	.90	38+1.60	.10
Cowlitz and Wahkiakum Counties Electricians	14.30	.90	38	.02
Cable Splicers	15.73	.90	38	.02
Grays Harbor, Lewis, Mason, Pierce, Pacific & Thurston Cos. Electricians				
Cable Splicers	13.86	.88	38+.85	.07
Island, San Juan, Skagit, Snohomish and Whatcom Counties Electricians	15.25	.88	38+.85	.07
Cable Splicers	15.77	.90	38+.40	.04
	17.35	.90	38+.40	.04

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
MARBLE SETTERS:				
Adams (except that portion in- cluding the City of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Bend, Orellia, Spokane, Stevens and Whitman Counties, and Grand Coulee Dam Area in Okanogan County	\$ 13.11	.80 \$ 1.00		.04
Benton, Franklin and Walla Walla Counties	12.51	.80 .40		
Chelan, Douglas and Okanogan Counties (except area of Grand Coulee Dam)	11.96	.80 1.00		.05
Clallam, Island, Jefferson, King, Kitsap, Snohomish and Skagit (south of the Cities of Burlington, Sedro-Woolley and Concrete) Counties	13.43	.80 1.55		.11
Clark, Cowlitz, Pacific (Southern portion), Skamania, Wahkiakum Counties and a ten mile strip bordering the Columbia River in Klickitat County	11.83	.75 .85		.15
Grant County and that portion of Adams County including the City of Othello	12.50	.40		
Grays Harbor, Lewis, Mason, Northern half of Pacific, Pierce and Thurston Counties	13.43	.80 1.55		.12
San Juan, Skagit (including the Cities of Burlington, Sedro- Woolley, Concrete and north thereof) and Whatcom Counties	13.84	.80 1.25		.06
MARBLE, TILE and TERRAZZO WORKERS - HELPERS:				
All Counties west of the Cascade Mountain Range (except Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties	9.52	.65 .30		

Basic Hourly Rates	Fringe Benefits Payments			Education and/or App. Tr.
	H & W	Pensions	Vacation	
\$ 10.26	.47	.45	b	
11.19	.34	.85	b	
10.11	.35	.70		
11.41	.61	.65		.01
9.55	.60	.80		.02
13.66	.93	1.70		.10
13.66	.93	1.70		.10
11.00	.90	1.25		
13.01	.85	1.00		.04
11.05	.60	1.00		.01

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
MASON TENDERS: Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties (including tenders of plasterers, bricklayers, tile setters, marble setters and terrazzo workers; topping for cement finishers and mortar mixers)	\$11.15	.95	\$ 1.10	.10
PAINTERS: Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima Counties	11.85	.47	1.00	.02
Brush Steel; Spray; Steam Cleaning; Roller over 9" or 10" handle; Drywall Taper	12.10	.47	1.00	.02
Swing Stage work or high rate (over 30')	12.20	.47	1.00	.02
Bitumastic; Sandblasting; Bridges; Tanks on legs; Tower; Stacks; Steeples	12.25	.47	1.00	.02
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties	10.82	.55	.70	.10
Brush	11.22	.55	.70	.10
Spray	11.57	.55	.70	.10
Bridges, High work over 50' (brush)	11.97	.55	.70	.10
Bridges, High work over 50' (spray)	10.65	.65	.60	.06
Drywall Finishers				

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
PAINTERS: (Cont'd) Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pierce, San Juan, Skagit, Snohomish, Thurston, Pacific (Northern portion) and Whatcom Counties	\$ 10.53	.60	.70	.04
Brush; Roller; Drywall Tapers; Paperhangers	10.77	.60	.70	.04
Spray; Structural Steel; Bridge; Sandblasting; Stacks; Steam Cleaning; Steeples; Swing Stage; Tanks on legs; Toxic Material	10.88	.60	.70	.04
Tower Painters	13.66	.69	.25	
Statewide except Wahkiakum, Cowlitz and Skamania Counties				
Striper	11.18	.90	1.25	
PLASTERERS: Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima Counties	12.74	.85	1.25	.08
Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific (Northern portion), Pierce, San Juan, Skagit, Snohomish, Thurston and Whatcom Counties	11.05	.60	1.00	.01
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties	10.75	.82	1.00	.05
PLASTERERS' TENDERS: All Counties and portions of Counties East of the 129th Meridian				

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
PLUMBERS: Chelan, Clallam, King, Kittitas (north of 47°15' N. Lat.), Douglas (west of the 119°30' W. Long.), Jefferson and Okanogan (except the area lying east of the 119°30' W. Long., north to 48°30' W. Long., North lines) Counties	\$ 13.90	.89	\$ 1.51	.12
Adams (except area between a line drawn south from the western boundary of Ferry County to Highway #10 eastward to Whitman County), Asotin, Benton, Columbia, Franklin, Garfield, Grant, Klickitat, Walla Walla, Yakima, Douglas (east of 119°30' W. Long.), Ferry (west of a line drawn from Creston in Lincoln County northward to the Canadian Border), Kittitas (south of 47°15' N. Lat.), Lincoln (west of a line drawn from Schrag in Adams County northward to the Ferry County Line), and Okanogan (east of 119°30' W. Long. and south of 48°30' N. Lat.) Counties	14.64	.87	1.70	.12

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
PLUMBERS: (Cont'd) Adams (area between a line drawn south from the western boundary of Ferry County to Highway #10 and eastward to Whitman County), Asotin, Cowlitz, Ferry (east of a line drawn from Creston in Lincoln County northward to the Canadian Border), Grays Harbor, Kitsap, Lewis, Lincoln (east of a line drawn from Schrag in Adams County northward to the Ferry County Line), Mason, Pend Oreille, Pierce, Skagit, Snohomish, Spokane, Stevens, Thurston, Wahkiakum, Whatcom, Whitman, Clark and Skamania (those portions lying north of an east-west line drawn through Woodland eastward to the Klickitat County Line; Counties	\$ 14.73	.90	\$ 1.45	.12
Clark and Skamania Counties south of an east-west line drawn through Woodland eastward to the Klickitat County Line	14.32	1.50	1.60	.13
ROOFERS: Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Garfield, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, Benton, Franklin, Kittitas, Klickitat and Yakima Counties	10.39	.65	1.00	.02
Clallam, Jefferson, King, Kitsap, Mason and Snohomish Counties	12.71	.75	1.00	.03
Roofers, Waterproofers	12.96	.75	1.00	.03
Slate and Tile Roofers				

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Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
ROOFERS: (Cont'd) Cowlitz, Grays Harbor, Lewis, Pacific, Pierce, Thurston and Wahkiakum Counties Roofers; Waterproofer Slate and Tile Roofers Island, San Juan, Skagit and Whatcom Counties Roofers and Waterproofer Slate and Tile Roofers Clark and Skamania Counties Roofers Handling of irritating material (coal, tar or epoxy) Handling of irritating material (coal, tar or epoxy) in confined area SHEET METAL WORKERS: Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima Counties Clallam, Jefferson, Kitsap and Mason Counties Clark and Skamania Counties Cowlitz, Grays Harbor, Lewis, Pacific, Pierce, Thurston and Wahkiakum Counties King, Kittitas, Island and Snohomish Counties Whatcom Counties Soft floor layers: Adams (N.E. portion), Ferry, Lincoln (E. h), Pend Oreille, Spokane and Stevens Counties	.75 12.33 12.58 10.13 10.63 12.05 12.30 12.55 13.88 13.98 11.14 13.01 14.23 12.53 10.52	\$ 1.10 1.10 .40 .40 1.10 1.10 1.10 1.10 1.14 .94 .93 1.01 1.32 .83 .40	.02 1.10 .02 .02 .02 .02 .02 .02 .14 2.00 1.00 .02 .06 .04 .60	.02 .02 .02 .02 .02 .02 .02 .02 .14 .14 .04 .02 .06 .04 .06

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
SOFT FLOOR LAYERS: (Cont'd) Adams (S.E. portion), Benton, Columbia, Franklin and Walla Walla Counties Adams (S.W. portion), Chelan, Douglas, Grant, Lincoln (Western half), and Okanogan Counties Asotin, Garfield and Whitman Counties King and Snohomish Counties Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties Grays Harbor, Mason, Pacific (Northern portion), Pierce and Thurston Counties Yakima and Kittitas Counties Island, Skagit and Whatcom Cos. SPRINKLER FITTERS: Skagit, Snohomish, King, Island, Kitsap, Pierce and Thurston Counties Remaining Counties TERRAZZO WORKERS: Adams (except that portion including the City of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens, Whitman and Grand Coulee Dam area in Okanogan County Benton, Franklin and Walla Walla Counties Chelan, Douglas, Okanogan (except area of Grand Coulee Dam) Clallam, Island, Jefferson, King, Kitsap, Skagit (south of the Cities of Burlington, Sedro-Woolley and Concrete) and Snohomish Counties	.40 10.66 11.00 9.93 11.14 10.435 9.91 10.62 9.94 15.31 11.65 11.45 11.84 11.96 12.12	.90 .40 .40 .40 .63 .50 1.00 1.00 1.00 1.00 1.00 .70 .40 1.00 1.00	\$1.21 .60 .75 1.00 c 1.00 .35 1.00 1.00 1.55 .95 .70 .40 1.00 1.00	.05 .08 .05 .05 .11 .08 .05 .05 .05 .11 .08 .05 .05 .05 .05

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Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
TERRAZZO WORKERS: (Cont'd) San Juan, Skagit (including Cities of Burlington, Sedro-Woolley, Concrete and north thereof) and Whatcom Counties Grant County and that portion of Adams County including the City of Othello Grays Harbor, Lewis, Mason, Pierce and Thurston Counties TILE SETTERS: Adams (except that portion including the City of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens, Whitman and Grand Coulee Dam area in Okanogan County Benton, Franklin and Walla Walla Counties Chelan, Douglas, Okanogan (except area of Grand Coulee Dam) Clallam, Island, Jefferson, King, Kitsap, Skagit (south of the Cities of Burlington, Sedro-Woolley and Concrete) and Snohomish Counties Clark, Cowlitz, Pacific (Southern portion), Skamania, Wahkiakum and a ten-mile strip bordering the Columbia River in Klickitat County Grant County and that portion of Adams County including the City of Othello Grays Harbor, Lewis, Mason, Pierce and Thurston Counties San Juan, Skagit (including the Cities of Burlington, Sedro-Woolley, Concrete and north thereof) and Whatcom Counties	\$ 12.82 12.50 12.13 11.45 11.84 11.96 12.12 13.64 12.50 12.13 12.82	.80 .40 .80 .80 .80 .80 .80 .40 .80 .80 .80 .80	.85 1.20 .70 1.00 1.00 1.00 1.00 1.00 1.00 1.00 1.10 .85	.06 .06 .05 .05 .25 .06 .05 .05 .05 .05 .06 .06

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

*Where Pacific County is stated as "Northern Portion" or "Southern Portion" such areas are defined as follows:

Pacific (Northern Portion) - North of Wahkiakum County Northern Boundary extended due West to the Pacific Ocean

Pacific (Southern Portion) - South of Wahkiakum County Northern Boundary extended due West to the Pacific Ocean.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.
b. Two weeks' vacation with pay after 1 year employment. also seven Paid Holidays: A through F plus Washington's Birthday.
c. 4% of all gross wages to be placed to the credit of the employee with less than one year's service - 6% of all gross wages to be placed to the credit of the employee with more than one year of service.

LINE CONSTRUCTION

BASE ZONE	ZONE 1	ZONE 2	ZONE 3	ZONE 4
Group 1: Cable Splicer, Leadman Pole Sprayer	\$ 14.41	\$15.66	\$16.41	\$ 18.41
Group 2: Lineman, Pole Sprayer, Heavy Line Equipment Man, Certified Lineman Welder	13.01	14.26	15.01	17.01
Group 3: Tree Trimmer	11.75	13.00	13.75	15.75
Group 4: Line Equipment Man	11.21	12.46	13.21	15.21
Group 5: Head Ground (Chipper), Head Groundman, Powderman, Jackhammer Man	9.80	11.05	11.80	13.80
Group 6: Groundman, Tree Trimmer Helper	9.21	10.46	11.21	13.21

FRINGE BENEFITS PAYMENTS:

Health and Welfare:	Groups 1 to 3	Groups 4 to 6
Pension	\$.45	\$.45
Vacation	3%+1.10	3%+.70
Apprenticeship Training	.10	.10
	1/2%	1/2%

ZONE DESCRIPTIONS:

BASE ZONE* 0 to 3 miles radius from the geographical center of the Cities listed below

ZONE 1 3 to 20 miles radius
 ZONE 2 20 to 35 miles radius
 ZONE 3 35 to 50 miles radius
 ZONE 4 Over 50 miles radius

Spokane	Ellensburg	Astoria	Medford	Corvallis
Tacoma	Ephrata	Baker	Portland	Coeur d'Alene
Walla Walla	Everett	Burns	Pendleton	Kellog
Wenatchee	Kennelwick	Bend	Salem	Lewiston
Yakima	Longview	Eugene	Roseburg	Orofino
Wilbur	Olympia	Seattle	Lakeview	The Dalles
Klamath Falls	Bellingham	Umatilla	Sand Point	

*Base zone rate is paid when working out of employer's permanent shop.

LABORERS (Area 1)

All Counties and portions of Counties East of the 120th Meridian
 HEAVY and HIGHWAY CONSTRUCTION

Group Nos.	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
1	\$ 10.20	\$10.90	\$11.15	\$11.60	\$ 12.10
2	10.45	11.15	11.40	11.85	12.35
3	10.70	11.40	11.65	12.10	12.60
4	10.95	11.65	11.90	12.35	12.85
5A	10.90	11.60	11.85	12.30	12.80
5B	11.10	11.80	12.05	12.50	13.00
5C	11.35	12.05	12.30	12.75	13.25
5D	11.40	12.10	12.35	12.80	13.30

FRINGE BENEFITS:

Health and Welfare	\$.82	Penalton	\$1.00
Apprenticeship Training	.05		

**SEE ZONE DEFINITIONS - following TRUCK DRIVERS' Classifications

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
BUILDING CONSTRUCTION All Counties and portions of Counties East of the 120th Meridian					
Group 1	\$ 10.20	.82	\$ 1.00		.05
Group 2	10.45	.82	1.00		.05
Group 3	10.70	.82	1.00		.05
Group 4	10.95	.82	1.00		.05
Group 5A	10.90	.82	1.00		.05
Group 5B	11.10	.82	1.00		.05
Group 5C	11.35	.82	1.00		.05
Group 5D	11.40	.82	1.00		.05

LABORERS (Area 1)

All Counties and portions of Counties East of the 120th Meridian

Group 1: Brush Hog Feeder; Concrete Crewman (to include: stripping of forms, hand operating jacks on slip form construction, application of concrete curing compounds, Pumpcrete Machine, Signaling, handling the nozzle of Squeegee or similar machine - 6 inches and smaller); Crusher Feeder; Demolition (to include: clean-up, burning, loading, wrecking and salvage of all material); Dumpman; Fence Erector (to include: Guard Rail, Guide and Reference Posts, Sign Posts, and Right-of-way Markers); Flagman; General Laborer; Grout Machine Header Tender; Nipper; Riprap Man; Scaffold Erector, wood or steel; Scaleman; Stake Jumper; Structural Mover (to include: separating foundation, preparation, cribbing, shoring, jacking and unloading of structures); Tail-hoseman (water nozzle); Timber Buckler and Faller (by hand); Tractor Laborer (railroad); Truck Loader; Well-point Man; Window Cleaner

Group 2: Asphalt Raker; Asphalt Roller, walking; Carpenter Tender; Cement Finisher Tender; Cement Handler; Concrete Saw, walking; Demolition Torch; Dope Pot Fireman, non-mechanical; Driller Helper (when required to move and position machine); Form Cleaning Machine Feeder; Stacker; Form Setter, paving; Grade Checker using level; Jack-hammer Operator; Nozzleman (to include: squeeze and flow-crete nozzle); Nozzleman, water, air or steam; Pavement Breaker; Pipelayer, corrugated metal culvert; Pipelayer, multi-section; Pot Tender; Powderman Helper; Power Buggy Operator; Power Tool Operator, gas, electric, pneumatic; Railroad Equipment, power driven, except dual mobile power spiker or puller; Railroad Power Spiker of puller, dual mobile; Rodder and Spreader; Sandblast Tailhooseman; Taper (to include: operation of Barco, Essex and similar tampers, and pavement breaker); Trencher, Shaver; Tugger Operator; Vibrator, under 4 inches; Wagon Drills; Water Pipe Liner; Wheelbarrow, power driven

Group 3: Air Track Drill; Brush Machine (to include: horizontal construction joint clean-up brush machine, power propelled); Calsson Worker, free air, Chain Saw Operator and Faller; Concrete Stack (to include: Laborers when 40 ft. high); Gunnite (to include: operation of machine and nozzle); High Scaler; Hod Carrier; Laser Beam Operator (to include: Grade Checkers and Elevation control); Monitor Operator track or similar mounting); Mortar Mixer; Nozzleman (to include: Jet Blasting Nozzleman, over 1,200 lbs., Jet Blast Machine, power propelled, Sandblast Nozzle); Pipelayer (to include: working Topman, Caulker, Collarman, Joinder, Mortarman, Rigger, Jacker, Shorer, Valve or Water Installer); Pipewrapper; Vibrator, 4 inches and over

Group 4: Drills with dual Masts; Powderman; Welder, electric, manual or automatic

Group 5: Tunnel and Shaft, free air

Class A: Bull Gang, Pump Crete Crewman including distribution pipe, Assembling and dismantling and Nipper

Class B: Brakeman, Dumpman

Class C: Miner and Nozzleman for concrete and Laser Beam Operator in Tunnels

Class D: Raise and Shaft Miner and Laser Beam Operator on Raises and Shafts

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
LABORERS (AREA 2) All Counties West of the 120th Meridian (except those enumerated in Areas 3 and 4) and the Northern portion of Pacific County					
Group 1	\$ 11.23	.95	\$ 1.10		.08
Group 2	11.57	.95	1.10		.08
Group 3	11.71	.95	1.10		.08
Group 4	11.81	.95	1.10		.08

Group 1: Asphalt Laborer; Batch Weighman; Broomers; Brush Cutter; Brush Hog Feeder; Burners; Car and Truck Loader; Cement Handler; Changehouse or Dry Shack; Choker Setter; Clean up Laborer; Concrete Form Stripper; Concrete and Monolithic Laborer; Crush Feeder; Curing Laborer; Demolition, wrecking and moving; Ditch Digger; Dumpman; Elevator Feeder; Epoxy Technician; Faller and Bucket, hand; Fence Laborer; Fine Graders; Flagman; Form Setter; Grout Machine Header Tender; Header Laborer and Guardrail Erector; House Wrecker; Landscaping or Planting; Material Yard Man (including electrical); Nipper-sawyer; Pilot Car; Pitman; Pot Tender; Rip Rap Man; Scaleman; Signalman; Skipman; Sloper; Sprayman; Stock-piler; Toolroom Man (at job site); Track Laborer; Truck Spotter; Window Cleaner

Group 2: Air, gas or electric Vibrating Screed; Anchor Machine; Ballast Regulator Machine; Chippers; Choker Splicer; Chuck Tender; Clay Power Spreader and similar types; Concrete Saw; Gabian Basket Builder; Grinders; Grouman, pressure, including post tension beams; Jackhammer; Multiple Tamers; Pavement Breaker; Pipe Pot Tender; Pipe Wrapper; Powderman Helper; Power Jacks; Power Wheelbarrow or Buggy; Railroad Spike Puller; Ribbon Setter, head; Rip Rap Man, head; Rodder; Sloper, over 20 ft.; Stake Hopper; Swinging Scaffold or Boatwain Chair over water or 25 ft. in height; Taper, multiple and self-propelled; Taper and similar electric and air operator tools; Topman-tailman; Track Liners; Vibrator; Wagon Driller and Air Trac Helper Well Point Laborer

Group 3: Bit Grinder and Drill Doctor; Cement Dumper, paving; Cement Finisher Helper; Faller and Buckler Chain Saw; Grade Checker and Transit Man; High Scaler; Laser Beam Operator; Manhole Builder; Mortarman and Hodcarrier; Nozzleman (concrete and rock, sandblast, gunnite, shotcrete); Water Blaster; Pipelayer and Caulker; Powderman; Raker; Asphalt; Spreader (carries grade with rod); Timberman, sewer; Tugger Operator; Vibrator, 4" and over; Wagon Driller and Air Trac Operator

Group 4: Calsson Worker; Laser Beam Operator (tunnel); Powderman; Re-timberman

LABORERS (AREA 3)

Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	\$10.01	\$10.41	\$10.76	\$11.01	\$11.26	\$11.51
2	10.36	10.76	11.16	11.36	11.61	11.86
3	10.66	11.06	11.41	11.66	11.91	12.16
4	10.91	11.31	11.66	11.91	12.16	12.41

FRINGE BENEFITS:

Health and Welfare

Pension	\$.95	Vacation	\$.65
	1.10	Apprenticeship Tr.	.10

*SEE ZONE DEFINITIONS - Following TRUCK DRIVERS' Classifications

Group 1: General Laborers; Asphalt Plant Laborers; Asphalt Spreaders; Batch Weighman; Burners; Brush Burners and Cutters; Car and Truck Loaders; Carpenter Tender; Changehouse Man or Dry Shack Man; Choke Setter; Clean-up Laborers; Concrete Laborers; Cultivator, hand labor; Curbing, concrete; Demolition, wrecking and moving Laborers; Drillers' Helpers; Dumpers, road oiling crew; Dumpman (for Grading crew); Elevator Feeders; Fence Builder (including guard rail, median rail, re-fence post, guide post, right-of-way marker); Fine Graders; Form Strippers (not swinging stages); Landscaping or Planting Laborers; Leverman or Aggregate Spreader (Flaherty and similar types); Loading Spotters; Material Yard Man (including electrical); Powderman Helper; Pittsburgh Chipper Operator or similar types Railroad Track Laborers; Ribbon Setters (including Steel Forms); Rip Rap Man (hand placed); Road Pump Tender; Sewer Labor; Signalman; Skipmen; Slopers; Spraymen; Stake Chaser; Stockpiler; Timber Faller and Bucker (hand labor); Tool-room Man (at job site); Tunnel Bull Gang (above ground); Weightman - Crusher (aggregate when used)

Group 2: Applicator (including pot tender for same) Applying protective material by hand or nozzle on utility lines or storage tanks on project; Brush Cutters (power saw); Burners; Choker Splicer; Clay, Power Spreader and similar types; Clean-up Nozzleman-Greencutter (concrete, rock, etc.); Concrete Power Buggyman; Crusher Feeder; Demolition and Wrecking charred materials; Grade Checker; Gunite Nozzleman Tender; Gunite and Sand Blasting Post Tender; Handlers or Mixers or all materials of an irritating nature (including cement and lime); Power tool Operators, includes but not limited to: Dry Pack Machine, Jackhammer, Chipping Guns, Paving Breakers, Vibrators (less than 4" in diameter); Post Hole Digger, air, gas or electric; Vibrating Screed; Tampers; Ribbon Setter, head; Rip Rap Man, head, hand placed; Sand Blasting (wet); Stake Setter; Tunnel-Muckers; Brakemen; Concrete Crew; Bull Gang (underground)

Group 3: Asphalt Rakers; Bit Grinders; Drill Doctor; Drill Operators; Air Tracks; Cat Driller; Wagon Drills; Rubber-mounted Drills and other similar types; Concrete Saw Operator; Gunite Nozzleman; High Scalars; Strippers and drillers (covers work in swining stages, chairs or belts, under extreme conditions unusual to normal drilling, blanking, barring-down or sloping and stripping); Laser Beam (pipe laying); Applicable when employee assigned to move, set up, align Laser Beam; Manhole Builder; Powderman; Power Saw Operators (bucking and falling); Pumcrete Nozzleman; Sand-blasting (dry); Sewer (pipe layers); Sewer Timberman; Track Liners; Anchor Machines, Ballast Regulators, Multiple Tampers, Power Jacks, Tugger Operators; Tunnel Chuck Tenders; Snipers and Timbermen; Vibrators (4" and larger); Water Blaster; Welder

Group 4: Laser Beam (tunnel) - Tunnel Miners; Tunnel Powderman

	Basic Hourly Rates	Fringe Benefits, Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
LABORERS (AREA 4)					
Those portions of Chelan, Douglas, Kittitas, Okanogan and Yakima lying West of the 120th Meridian					
Group 1	\$ 11.23	.95	\$ 1.10		.08
Group 2	11.57	.95	1.10		.08
Group 3	11.71	.95	1.10		.08
Group 4	11.81	.95	1.10		.08

Group 1: Asphalt Laborer; Batch Weighman; Broomers; Brush Cutter; Brush Hog Feeder; Burners; Car and Truck Loader; Carpenter Tender; Cement Handler; Changehouse or Dry Shack; Choker Setter; Clean-up Laborer; Concrete Form Stripper; Concrete and Monolithic Laborer; Crush Feeder; Curbing Laborer; Demolition, wrecking and moving; Ditch Digger; Driller; Dumpman; Elevator Feeders; Epoxy Technician; Faller and Bucker, hand; Fence Laborer; Fine Graders; Flagman; Form Setter; Grout Machine Header; Tender; Header Laborer and Guardrail Erector; House Wrecker; Landscaping or Planting; Material Yard Man (including electrical); Nipper-Swapper; Pilot Car; Ploman; Pot Tender; Rip Rap Man; Sealeman; Signalman; Skipman; Slopers; Sprayman; Stockpiler; Toolroom Man (at job site); Track Laborer; Truck Spotter; Window Cleaner

Group 2: Air, gas or electric Vibrating Screed; Anchor Machine; Ballast Regulator Machine; Chippers; Choker Splicer; Chuck Tender; Clay Power Spreader and similar types; Concrete Saw; Gabian Basket Builder; Grinders; Groutman, pressure, including Post-Tension Beams; Jackhammer; Multiple Tampers; Pavement Breaker; Pipe Pot Tender; Pipe Wrappers; Powderman Helper; Power Jacks; Power Wheelbarrow or Buggy; Railroad Spike Puller; Ribbon Setter, head; Rip Rap Man, head; Roller; Slopers, over 20 ft.; Stake Hopper; Swinging Scaffold or Bontswain Chain rover water or 25 ft. in height; Tamper, multiple and self-propelled; Tamper and similar electric and air operated tools; Top-man-tallman; Track Liners; Vibrator; Wagon Driller and Air Trac Helper; Well Point Laborer

Group 3: Bit Grinder and Drill Doctor; Cement Dumper, paving; Cement Finisher Helper; Faller and Bucker Chain Saw; Grade Checker and Transit Man; High Scalars; Laser Beam Operator; Manhole Builder; Mortarman and Rod Cartier; Nozzleman (concrete pump, green cutter when using combination of high pressure air and water on concrete and rock, sandblast, gunnite, shotcrete) Water Blaster; Pipelayer and Caulker; Powderman; Raker, asphalt; Spreader (carries grade with roller); Timberman, sewer; Tugger Operator; Vibrator, 4" and over; Wagon Driller and Air Trac Operator

Group 4: Calson Worker; Laser Beam Operator (tunnel); Powderman; Re-timber Man

POWER EQUIPMENT OPERATORS (AREA 1)

All Counties and portions of Counties East of the 120th Meridian

Group No.	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
1	\$ 10.30	\$11.00	\$ 11.25	\$11.70	\$ 12.20
2	10.60	11.30	11.55	12.00	12.50
3	11.15	11.85	12.10	12.55	13.05
4	11.30	12.00	12.25	12.70	13.20
5	11.45	12.15	12.40	12.85	13.35
6	11.70	12.40	12.65	13.10	13.60
7	11.95	12.65	12.90	13.35	13.85

FRINGE BENEFITS:

Health and Welfare

Pension	\$ 1.20
Apprenticeship Training	1.55
	.03

Group 1: Bit Grinders; Bolt Threading Machine; Compressor, under-2,000 cu. ft. per minute gas, diesel or electric power; Crusher Feeder (mechanical); Deckhand; Driller's Helper; Fireman and Heater Tender; Grade Checker; Helper (mechanic or welder, H.D.); Oiler; Oiler and Cable Tender; Mucking Machine; Pumpman; Rollers, all types on subgrade (farm type, Case, John Deer and similar - or Compacting or Vibrator) except when pulled by dozer with operable blade; Steam Cleaner; Welding Machine

Group 2: A-Frame Truck (single-drum); Assistant Refrigeration Plant (under 1,000 tons); Assistant Plant Operator; Fireman or Pugmiller Operator, single unit (concrete); Belt Finishing Machine; Bending Machine (pipeline); Blower Operator (cement); Cement Hog; Compressor (2,000 cu. ft. or over, 2 or more gas, diesel or electric power); Concrete Saw (multiple cut); Distributor or Leverman; Elevator Hoisting Materials; Dope Pots (power agitated); Fork Lift or Lumber Stacker; Hydra-lift and similar; Gin Trucks (pipeline); Hoist, single drum; Loader (Bucker, Elevator and Conveyors); Longitudinal Float; Mixer Operator; Post Hole Auger or Punch; Power Broom; Railroad Ballast Regulation Operator (self-propelled); Railroad Power Tamper Operator (self-propelled); Railroad Power Tamper Jack Operator (self-propelled); Spray Curing Machine (concrete); Spreader Jack Operator (self-propelled); Straddle Buggy (Ross and similar on construction job site); Tractor (farm type R/T with attachments except Backhoe); Tugger Operator; Ditch Witch or similar

POWER EQUIPMENT OPERATORS (AREA 1) (Cont'd)

All Counties and portions of Counties East of the 120th Meridian

Group 3: A-Frame Truck (2 or more drums); Assistant Refrigeration Plant and Chiller Operator (over 1,000 tons); Backfillers (Cleveland & similar); Belt-concrete Conveyors with power pack or similar; Belt Loader (Kocal or similar); Blade Operator (motor patrol and attachments); Post Operators; Boom Cats (side); Boring Machine (rock under 8" bit); Quarry Master, Joy or similar; Bump Cutter (Wayne, Saginaw or similar); Canal Lining Machine (concrete); Chipper (without crane); Cleaning and Doping Machine (pipeline); Concrete Pumps (Squeeze-crane, Flow-crane, Pumcrete, Whitman and similar); Drills (Churn, Core, Cally, or Diamond); Elevating Belt-type Loader (Euclid, Barber Green or similar); Elevating Grader-type Loader (Dumor, Adams or similar); Equipment Serviceman, greaser and oiler; Generator Plant Engineers (diesel, electric); Gunite Combination Mixer and Compressor; Hoist (2 or more drums or tower hoist); Loader (Overhead and Front-end under 4 yds., R/T); Locomotive Engineer; Mixer-Mobile; Mucking Machines; Paver or Curb Extruder (concrete and asphalt); Pump (grout or jet); Roller (finishing pavement); Rubber-tired Scraper (one motor with one scraper, under 40 yds.); Scaled Operator, Soil Stabilizer (PAH or similar); Spreader Machine; Tractor (Crawler, including Dozer, Scraper, Drills, Boom, Rollers, etc.); Traverser Finishing Machine; Trenching Machines (under 7 ft. depth capacity); Turnhead Operator; Vacuum Drill (reverse circulation drill, under 8"); Chain Person

Group 4: B.D. Mechanic; H.D. Welder; Refrigeration Plant Engineer (under 1,000 tons); Rubber-tired Scraper, multi-engine power, with one scraper (Euclid, TS-24 and similar); Rubber-tired Scrapers, one motor with one scraper (40 yds. and over); Surface Heater and Planer Machines; Turnhead (with re-screening)

Group 5: Asphalt Plant Operator; Automatic Subgrader (ditches and trimmers) (Auto-grade, ABC, R.R. Hansen and similar on grade wire); Backhoes (under 3 yds.); Batch and Wet Mix Operator - multiple units (2 and including 4); Blade (under 3 yds.); Concrete Slip Form Paver; Cranes (under 65 tons, sideboom over 24 ft., butt pin to CTR Sheave); Crusher, Grizzly and Screening Plant Operators; Drilling Equipment (8" bit and over) (Robbins' reverse circulation and similar); Loader Operator (front end and overhead 4 yds. to 8 yds.); Pile Driving Engineer; Paver (dual drum); Quad-track or similar equipment; Railroad Track Liner Operator (self-propelled); Rubber-tired Scrapers, Multi-engine, power with one scraper (Euclid, TS-24 and similar); Push Pull or Help Mate in use; Rubber-tired Scrapers, multiple engines with 2 scrapers; Shovels (under 3 yds.); Refrigeration Plant Engineer (1,000 tons and over); Signalmen (Whitleys, Richline Hammerheads or similar); Trenching Machines (7 ft. depth and over); Multiple Dozer units with single blade; Instrument Man

Group 6: Backhoes (3 yds. and over); Batch Plant (over 4 units); Cableway Con-troller-Dispatcher; Cableway Operator; Clamshell Operator (3 yds. and over); Cranes, all-65 tons and over; Derricks and Stifflegs (65 tons and over); Drag-line (3 yds. and over); Elevating Belt (Holland type); Loader 360 degrees revolving Koehring Scooper or similar; Loaders (overhead and front-end over 8 to 12 yds.); Rubber-tired Scrapers (multiple engine with 3 or more scrapers); Shovels (3 yds. and over); Tower Crane; Whitleys and Hammerheads (all)

Group 7: Helicopter Pilot; Loaders (overhead and front-end - over 12 yds.); Party Chief

POWER EQUIPMENT OPERATORS (Area 2)
(All Counties and portions of
the 120th Meridian
enumerated in Area 3)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vocation	
Group 1	\$ 13.10	.85	1.50		.11
Group 2	13.20	.85	1.50		.11
Group 3	13.31	.85	1.50		.11
Group 4	13.36	.85	1.50		.11
Group 5	13.38	.85	1.50		.11
Group 6	13.43	.85	1.50		.11
Group 7	13.44	.85	1.50		.11
Group 8	13.45	.85	1.50		.11
Group 9	13.48	.85	1.50		.11
Group 10	13.50	.85	1.50		.11
Group 11	13.63	.85	1.50		.11
Group 12	13.66	.85	1.50		.11
Group 13	13.69	.85	1.50		.11
Group 14	13.76	.85	1.50		.11
Group 15	13.78	.85	1.50		.11
Group 16	13.79	.85	1.50		.11
Group 17	13.81	.85	1.50		.11
Group 18	13.84	.85	1.50		.11
Group 19	13.88	.85	1.50		.11
Group 20	13.95	.85	1.50		.11
Group 21	13.96	.85	1.50		.11
Group 22	14.01	.85	1.50		.11
Group 23	14.06	.85	1.50		.11
Group 24	14.28	.85	1.50		.11
Group 25	14.32	.85	1.50		.11
Group 26	14.37	.85	1.50		.11
Group 27	14.45	.85	1.50		.11
Group 28	14.67	.85	1.50		.11
Group 29	14.87	.85	1.50		.11
Group 30	14.98	.85	1.50		.11
Group 31	15.00	.85	1.50		.11
Group 32	15.28	.85	1.50		.11

POWER EQUIPMENT OPERATORS (Area 2)

All Counties and portions of Counties West of the 120th Meridian
(except those enumerated in Area 3) and including the Northern
portion of Pacific County

- Group 1: Mechanics' Helpers (heavy duty)
- Group 2: Oilers, grade-oiler combination and/or brakeman
- Group 3: Firemen; Firemen (drier and hot plant)
- Group 4: Rollers, Tampers and Vibrators (other than plant, road mix
or multi-lift materials); Tractor (farmall type, 60 h.p. and under);
Compressor (excavating and general purposes)
- Group 5: Oiler Driver on Truck Cranes (over 45 tons up to 100)
- Group 6: Blower Distributors and Mulch Seeding Operator; Oil
Distributors
- Group 7: Locomotive (Dinky-air, diesel, electric, gas, steam)
- Group 8: Cement Hogs
- Group 9: Equipment Service and Fueling Oiler; Oiler Driver on Truck
Cranes (100 tons and over)
- Group 10: Pump (water); Tractors (Farmall type, over 60 H.P.)
- Group 11: Post Hole Diggers (mechanical)
- Group 12: Brooms, power (Wayne, Saginaw and similar types); Bull-
dozers (under D9 or similar); Loaders (Fork Lifts, Lumber Stacker
on construction job site, Drott Travel Lift); Rollers, Tampers and
Vibrators (twin engine); Saw (concrete); Scrapers (carry-all type,
single)
- Group 13: Batch Plant Operator (batch and mixer, 200 yards per hour
and under); Cranes ("A" Frame Trucks, single power drum); Conveyors;
Crusher (rock) washing and screening plants; Finishing Machine Op-
erator, concrete paving; Hoists, Air Tuggers, Strato Tower Bucket, Ele-
vators and Deck Winches (power); Loaders (Elevating-Athey, Barber
Greene and similar types, Overhead and front-end, under 24 yards);
Mixers (asphalt up to 4 tons per batch, concrete mixer and batch -
200 yards per hour and under); Power Plant Operators; Pumps (Fuller
Kenyon, Concrete and Pumpcrete); Rollers, Tampers and Vibrators (on
plant, road mix or multi-lift materials); Screed Man; Spreaders (Blaw
Know, Cedarapids, Jaeger, Flarety or similar types); Trenching Machine
(under 16 in.)

POWER EQUIPMENT OPERATORS (Area 2) (Cont'd)
All Counties and portions of Counties West of the 120th Meridian
(Except those enumerated in Area 3) and including the Northern
portion of Pacific County

- Group 14: Motor Patrol Graders (including Model 14 and similar);
Tournapulls, Caterpillar, Euclid Scrapers and similar type
equipment (25 yards and under)
- Group 15: Compressor (steel erection or tank erection including
sandblasting, painting of the same); Hoists on steel erection,
Air Tuggers and Towermobiles; Loaders (fork lifts with tower)
- Group 16: Mechanics or Welder (heavy duty)
- Group 17: Loaders (Elevating Grade type, Dumar and similar);
Mixers (paving); Scraper (carryall type, double)
- Group 18: Tractors (farmall type, used as Backhoes, Rubber-
tired Ford, Ferguson, Case and similar type 60 h.p. and
under); Pumps, truck mounted; Concrete Pump with boom attachment
- Group 19: Bull Dozer (D-9 or similar)
- Group 20: Trenching Machines (16 inches and over)
- Group 21: Bump Cutter (Concut, Christianson or similar types)
- Group 22: Batch Plant (batch and mixer, over 200 yards per hour
through 400 yards per hour); Conveyors (Beltcrete with power
pack and similar types); Loaders (elevating belt type - Euclid
and similar types); Mixer (asphalt, 4 tons and over per batch,
concrete mixers and batch - over 200 yards per hour through 400
yards per hour, and paving dual)
- Group 23: Bulldozer engaged in Yo Yo Operation (while clearing and
scaling); Cableways (3 yards and under); Cranes ("A" Frame Trucks,
double power drum; and Crawler, truck type, floating, Locomotive,
Whirley, either 3 yards and under, or 150' of boom including jibs
and under, or 45 tons and under; Hydraulic, Hyster Cat Cranes and
attachments; Chippier, wood with boom attachment); Derricks, all;
Drilling Machine (Core, Cable Rotary and Exploration); Loader
(fork lift with power boom and swing attachment; Overhead and Front
End, 2 1/2 yards and up to 4 yards); Mixers (mobile type with hoist
combination); Motor Patrol Graders over Model 14 and similar; Mucking
Machines (Mole, Tunnel Drill, and/or Shield); Paydozer and Linked
Pusher (Quad-9 and similar); Piledriver Engineer (L.B. Foster
Fuller or similar, Paving Breaker); Shovels (Crawler and truck
types, all attachments, 3 yards and under); Sub Grader (Curries,
CMI and similar types); Tractors (Farmall type, used as Backhoes,
Rubber-tired - Ford, Ferguson, Case and similar types - over 60
h.p.); Tournapulls, Caterpillar, Euclid Scrapers and similar type
equipment over 25 yards through 40 yards

POWER EQUIPMENT OPERATORS (Area 2) (Cont'd)

All Counties and portions of Counties West of the 120th Meridian
(Except those enumerated in Area 3) and including the Northern
portion of Pacific County

- Group 24: Loaders (overhead and front end, 4 yards up to 8 yards)
- Group 25: Concrete Mixers and Batch over, 400 yards per hour
through 600 yards per hour
- Group 26: Tournapulls, Caterpillar, Euclid, Scrapers and similar
type (over 40 yards through 55 yards)
- Group 27: Cableways (over 3 yards); Crane (Crawler, truck type,
floating, Locomotive, Whirley, either over 3 yards, or over 150'
of boom including jibe or over 45 tons up to 100 tons; and, Tower
Cranes, Peco, Lorraine, Bucyrus and similar types); Helicopter
Winch Operator; Remote Control Operator on Rubber-tired Earth
Moving Equipment; Shovels (Crawler and truck type, all attach-
ments, over 3 yards up to 6 yards); Slip Form Paver (Zimmerman,
CMI and similar types)
- Group 28: Tournapulls, Caterpillar, Euclid, Scrapers and similar
type equipment (over 55 yards through 70 yards)
- Group 29: Loaders (overhead and front end 8 yards and over)
- Group 30: Tournapulls, Caterpillar, Euclid, Scrapers and similar
type equipment (over 70 yards through 85 yards)
- Group 31: Tournapulls, Caterpillar, Euclid, Scrapers and similar
type equipment (over 85 yards through 100 yards)
- Group 32: Tournapulls, Caterpillar, Euclid, Scrapers and similar
type equipment (over 85 yards through 100 yards)

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POWER EQUIPMENT OPERATORS (Area 3)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum, and the
Southern portion of Pacific, Counties

Group No.	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	\$11.43	\$11.83	\$12.18	\$12.43	\$ 12.68	\$12.93
2	11.57	11.97	12.32	12.57	12.82	13.07
3	11.67	12.07	12.42	12.67	12.92	13.17
4	11.83	12.23	12.58	12.83	13.08	13.33
5	11.85	12.25	12.60	12.85	13.10	13.35
6	11.93	12.33	12.68	12.93	13.18	13.43
7	11.99	12.39	12.74	12.99	13.24	13.49
8	12.09	12.49	12.84	13.09	13.34	13.59
9	12.15	12.55	12.90	13.15	13.40	13.65
10	12.21	12.61	12.96	13.21	13.46	13.71
11	12.23	12.63	12.98	13.23	13.48	13.73
12	12.29	12.69	13.04	13.29	13.54	13.79
13	12.37	12.77	13.12	13.37	13.62	13.87
14	12.53	12.93	13.28	13.53	13.78	14.03
15	12.69	13.09	13.44	13.69	13.94	14.19
16	12.87	13.27	13.62	13.87	14.12	14.37
17	13.01	13.41	13.76	14.01	14.26	14.51
18	13.19	13.59	13.94	14.19	14.44	14.69
19	13.33	13.73	14.08	14.33	14.58	14.83

FRINGE BENEFITS:

Health and Welfare	\$1.00	Vacation	\$.50
Pension	1.47	Apprenticeship Training	.05

*SEE ZONE DESCRIPTION - following TRUCK DRIVERS' Classifications

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POWER EQUIPMENT OPERATORS (Area 3)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the
Southern portion of Pacific, Counties

Group 1: Oiler, including Plant, Crane, Crusher, Guardrail equipment, and Trenching Machine; Assistant Conveyor Operator; Crusher Feedman; Pump hand; Self-propelled Scaffolding Operator; Guardrail Punch Oiler; Deck Operator, under 4"; Brakeman; Switchman; Part Man (tool room)

Group 2: Blade Operator, pulled type; Truck Crane Oiler-driver, 25 ton capacity or over; Crane Fireman, (all equipment except floating); A-frame Truck Operator, single drum; Tugger or Coffin type Hoist Operator; Driller Helper; Auger; Oiler; Boatman; Fork Lift or Lumber Stacker Operator (on job site); Oiler, combination Guardrail Machines; Temporary Heating Plant Operator; Grade Oiler, required to check grade; Grade Checker; Tar Pot Fireman; Tar Pot Fireman (power agitated); B.D. Repairman Helper; Welder's Helper; Helicopter Radioman (ground); Roller Operator, grading of base rock (not asphalt)

Group 3: Asphalt Plant Fireman; Pugmill Operator (any type); Truck mounted Asphalt Spreader, with Screed; Compressor Operator (any power), under 2,250 cu. ft. total capacity; Conveyor Operator; Mixer Box Operator (C.T.B., Dry Batch, etc.); Cement Hog; Concrete Saw; Concrete Curing Machine (riding type); Wire Mat or Brooming Machine; Ross Carrier Operator (on job site); Bucket Elevator Loader, Barber Greene and similar types; Hydraulic Pipe Press; Pump Operator (any power), 4" and over; Hydrostatic Pump; Notorman; Ballast Jack Tamper; Bell Boy phones, etc.; Tamping Machine, mechanical self-propelled; Hydrographic Seeder Machine, straw, pulp or seed; Broom Operator, self-propelled (on job site); Air Filtration Equipment; Welding Machine Operator

Group 4: Screed Operator; Compactor, including Vibratory; Compressor (any power) over 1,250 cu. ft. total capacity; Combination Mixer and Compressor, Gunite work; Concrete Mixer Operator, single drum, under five bag capacity; Helicopter Hoist Operator; Floating Equipment Fireman; Bull Hi-Lift Operator or similar types; Fork Lift, over 5 ton; Service Oiler (greaser); Hydra Hammer or similar types; Pavement Breaker; Pump Operator, more than 5 (any size); Locomotive, under 40 tons; Roller Operator, Oiling, C.T.B.

Group 5: Extrusion Machine; Wagner Pactor or similar type (without blade); Concrete Batch Plant Quality Control Operator; Power Jumbo, Setting Slip Forms, etc. in tunnels; Slip Form Pumps, Power driven Hydraulic Lifting Device for concrete forms; Hoist, single drum; Elevator Operator; Pulva-mixer or similar types; Chip Spreading Machine Operator; Lime Spreading (on job site); Sweeper (Wayne type) Self-propelled (on job site); Tractor, rubber-tired 50 H.P. Flywheel and under; Trenching Machine, maximum digging capacity 3 ft. depth

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POWER EQUIPMENT OPERATORS (Area 3) (Cont'd)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the
Southern portion of Pacific, Counties

Group 6: Asphalt Burner and Reconditioner; Pavement Grinder and/or Grooving Machine (riding type); Cast-in-place Pipe Laying Machine; Maginnis Internal Full Slab Vibrator; Concrete Finishing Machine, Clary, Johnson, Bidwell, Burgess Bridge Deck or similar type; Curb Machine, Mechanical Borm, Curb and/or Curb and Gutter; Concrete Joint Machine; Concrete Planer; Concrete Paving Machine; Concrete Spreader; Loaders, rubber-tired type, 24 cu. yds. and under; Rock Spreaders, self-propelled

Group 7: Roller (any asphalt mix); Belterete; Pumpcrete Operator (any type); Fuller-Kenyon and similar; Concrete Pump; Grouting Machine; Concrete Mixer, single drum, five bag capacity and over; Tower Mobile Operator; A-Frame Truck double drum; Boom Truck; Churn Drill and Earth Boring Machine; Hydraulic Backhoe, wheel type 3/8 cu. yds. and under with or without front end attachments 2 1/2 cu. yds. and under (Ford, John Deere, Case type); Elevating Grader, Tractor towed requiring operator or grader; Pot Rammer; Ballast Regulator; Ballast Tamper, Multiple-purpose; Track Liner; Tie Spacer; Shuttle Car; Locomotive, 40 tons and over

Group 8: Diesel-Electric Engineer, Plant, Crusher, Generator, Floating; Batch Plant and/or wet mix, one and two drum; Generator Operator; Belt Loader, Kolman and Ko Cal types; Asphalt Paver Operator

Group 9: Bulldozer; Drill Cat Operator; Side-boom Cat; Compactor, with blade; Concrete Cooling Machine; Chicago Boom and similar types; Lift Slab Machine; Boom type lifting device, 5 ton capacity or less; Cherry Picker or similar type Crane-hoist, 5 ton capacity or less; Grizzly Crusher; Crusher Plant; Drill Doctor; Boring Machine; Guardrail Punch and Auger (all types); Surface Heater and Planer; Hydraulic Backhoe, track type 3/8 cu. yd.; Loader, front end and overhead, 24 cu. yds. and under 4 cu. yds.; Hammer operator; Pipe Cleaning, Doping, Bending and Wrapping Machines; Bolt-threading Machine; Drill Doctor (bit grinder); H.D. Mechanic and Welder; Machine Tool Operator; Stationary Drag Scraper; Tractor, rubber-tired over 50 H.P. fly-wheel; Tractor with boom attachment; Trench Machine, maximum digging capacity over 3 ft. depth; Asphalt Plant Operator

Group 10: Bulldozer, twin engine (TC 12 and similar); Cable Flow (any type); Compactor, multi-engine; Jack Operator, Elevating Barges; Barge Operator, self-unloading; Combination H.D. Mechanic-Welder, with dispatched and/or when required to do both; Rubber-tired Dozers and Pushers (Michigan, Cat, Hough type); Driller-Perussion, Diamond, Core, Cable, Rotary and similar type

Group 11: Mixer Mobile; Concrete Breaker; Crane Operator, 25 tons and under; Combination Guardrail Machines, i.e., Punch, Auger, etc.; Shovel; Dragline; Clamshell, Hoe, etc., under 1 cu. yd.; Grade-all, under 1 cu. yd.; Mucking Machine (tunnel)

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POWER EQUIPMENT OPERATORS (Area 3) (Cont'd)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the
Southern portion of Pacific, Counties

Group 12: Blade Operator; Batch Plant and/or Wet Mix, 3 units or more; Reinforced Tank Batching Machine (K-17 or similar); Hoist, two or more drums; Elevating Loader, Athey and similar; Piledriver (not crane type); Rubber-tired Scraper, single and twin engine; Single Scraper, with Push-pull attachments; Self-loader; Paddle Wheel, Auger type; Blade mounted Spreaders, Ulrich and similar types; Shield Operator

Group 13: Blade Operator, finish; Blade, externally controlled by electronic, mechanical hydraulic means; Blade, multi-engine; Concrete Paving Road Mixer; Derrick, under 100 tons; Hoist, Stiff Leg, Guy Derrick or similar, 50 tons and over; Cableway Operator, 25 tons and over; Crane, over 25 tons and including 50 tons; Piledriver Operator; Floating Clam-shell, etc., under 3 cu. yds.; Floating Crane (derrick barge), less than 30 ton; Elevating Grader, operated by tractor operator, Sierra, Euclid, or similar; Backfilling Machine; Shovel, etc. 1 cu. yd. and less than 3 cu. yds.; Grade-all, 1 cu. yd. and over; Bridge Crane Operator, Locomotive Crane, Gantry and Overhead

Group 14: Tower Crane Operator; Rubber-tired Scraper, with Tandem Scrapers, self-loading, Paddle Wheel, Auger type, Finish and/or 2 or more units

Group 15: Rock Hound Operator; Loader, 4 cu. yds., but less than 6 cu. yds.

Group 16: Autograder or "Trimmer"; Tandem Bulldozer, Quad-nine and similar; Automatic Concrete Slip Form Paver; Concrete Canal Line; Cableway, 25 ton and over; Crane, over 40 ton and including 100 ton; Whirley, 80 ton and under; Floating Clamshell, etc., 3 cu. yds. and over; Floating Crane (derrick barge) 30 ton but less than 80 ton; Loader, 6 cu. yds., but less than 12 cu. yds.; Rubber-tired Scraper, with Tandem Scrapers, multi-engine; Shovel, etc., 3 cu. yds., but less than 5 cu. yds.; Wheel Excavator, under 750 cu. yds. per hour

Group 17: Crane over 100 ton and including 200 ton; Whirley over 80 ton and including 150 ton; Floating Crane (derrick barge) 80 ton less than 150 ton; Loader, 12 cu. yds. and over; Shovel, etc., 5 cu. yds. and over; Canal Trimmer

Group 18: Crane, over 200 ton; Whirley, 150 ton and over; Floating Crane 150 ton but less than 250 ton; Wheel Excavator, over 750 cu. yds. per hour; Band Wagons, in conjunction with Wheel Excavator

Group 19: Helicopter, when used in erecting work; Floating Crane 250 ton and over; Remote controlled Earth Moving Equipment; Underwater equipment, remote or otherwise

POWER EQUIPMENT OPERATORS
(DREDGING) (Area 1)(All Counties and portions of
Counties East of the 120th
Meridian)

GROUPS	Fringe Benefits Payments				Education and/or Appr. Tr.
	Basic Hourly Rates	H & W	Pensions	Vacation	
Group 1: Assistant Mate (deckhand)	\$ 12.02	.85	\$ 1.00		.11
Group 2: Fireman; Oilier	12.12	.85	1.00		.11
Group 3: Assistant Engineer (Electric, Diesel, Steam or Booster pump); Mates and Boatmen	12.46	.85	1.00		.11
Group 4: Engineer Welder; Crane man	12.51	.85	1.00		.11
Group 5: Assistant Engineer (Electric Generator Operator for primary pump, power barge or dredge)	12.56	.85	1.00		.11
Group 6: Leverman, Hydraulic	12.88	.85	1.00		.11
Group 7: Leverman, Dipper; (a) 5 yards and under (b) Over 5 yards	13.27 13.82	.85 .85	1.00 1.00		.11 .11

DREDGING (Area 2)

(All Counties and portions of
Counties West of the 120th
Meridian (except those
enumerated in Area 3) and
including the Northern portion
of Pacific County)

GROUPS	Fringe Benefits Payments				Education and/or Appr. Tr.
	Basic Hourly Rates	H & W	Pensions	Vacation	
Group 1: Leverman, Hydraulic	12.02	.85	1.00		.11
Group 2: Leverman, Dipper	12.12	.85	1.00		.11
Group 3: Leverman, Dipper	12.46	.85	1.00		.11
Group 4: Assistant Engineer (including Watch Engineer, Welder, Mechanic, and Machinist) and Mate	12.51	.85	1.00		.11
Group 5: Assistant Engineer (including Watch Engineer, Welder, Mechanic, and Machinist) and Mate	12.56	.85	1.00		.11
Group 6: Leverman, Hydraulic	12.88	.85	1.00		.11
Group 7: Leverman, Dipper; (a) 5 yards and under (b) Over 5 yards	13.27 13.82	.85 .85	1.00 1.00		.11 .11

DREDGING (Area 3)

(Clark, Cowlitz, Klickitat,
Pacific (Southern portion),
Skamania and Wahkiakum Counties)

GROUPS	Fringe Benefits Payments				Education and/or Appr. Tr.
	Basic Hourly Rates	H & W	Pensions	Vacation	
Group 1: Leverman, Hydraulic	11.14	1.00	1.00	.50	.05
Group 2: Leverman, Dipper	11.80	1.00	1.00	.50	.05
Group 3: Leverman, Dipper	10.78	1.00	1.00	.50	.05
Group 4: Assistant Engineer (including Watch Engineer, Welder, Mechanic, and Machinist) and Mate	10.54	1.00	1.00	.50	.05
Group 5: Assistant Engineer (including Watch Engineer, Welder, Mechanic, and Machinist) and Mate	10.28	1.00	1.00	.50	.05

POWER EQUIPMENT OPERATORS
(DREDGING)

Group 1: Assistant Mate (deckhand)

Group 2: Fireman; Oilier

Group 3: Assistant Engineer (Electric, Diesel, Steam or Booster pump);
Mates and Boatmen

Group 4: Engineer Welder; Crane man

Group 5: Assistant Engineer (Electric Generator Operator for primary
pump, power barge or dredge)

Group 6: Leverman, Hydraulic

Group 7: Leverman, Dipper;
(a) 5 yards and under
(b) Over 5 yards

POWER EQUIPMENT OPERATORS (Area 3)

(DREDGING)

Group 1: Leverman, Hydraulic

Group 1A: Leverman, Dipper

Group 2: Assistant Engineer (including Watch Engineer, Welder, Mechanic,
and Machinist) and Mate

Group 3: Tenderman (Boatman, Attending Dredge Plant); Fireman

TRUCK DRIVERS (AREA 1)

All Counties and portions of Counties East of the 120th Meridian

GROUPS	Fringe Benefits Payments				Education and/or Appr. Tr.
	Basic Hourly Rates	H & W	Pensions	Vacation	
Group 1: Flat Bed Truck, single rear axle; Escort Driver; Fork Lift, 3,000 pounds and under; Fuel Truck Driver (Steam Cleaner and Washer); Helper and Swamper; Leverperson Loading Trucks at Bunkers; Pick-up hauling material; Seeder and Mulcher; Stationary Fuel Operator; Team Driver; Tractor (small rubber tired pulling trailer or similar equip- ment); Water Tank Truck 1,800 gallons.	11.39	12.13	12.89	13.39	.11
Group 2: Bus Driver or Employeehaul Driver; Flat Bed Truck, dual rear axle; Power Boat hauling employees or material; Tireperson No. 1; Ware- houseperson	11.43	12.13	12.89	13.39	.11
Group 3: Buggy Mobile and similar; Bulk Cement Tanker; Oil Tank Driver; Power operated Sweeper; Semi-trailer, Low Bed, Truck and Trailer; Straddle Carrier (Boss Hyatt and similar); Transit Mixers and Trucks hauling con- crete (3 yards and under); Trucks, side, end, and bottom dump (under 6 yards); Water Tank Truck (1,801 - 4,000 gallons)	11.49	12.13	12.89	13.39	.11
Group 4: Auto Crane - 2,000 pounds capacity; Bulk Cement Spreader; Dumprator (56 yards and under); Flaherty Spreader, Box Driver; Flat Bed Truck (using power take off); Fork Lift (over 3,000 pounds); Oil Dis- tributor Driver (Road, Bootperson, Leverperson Helper); Rubber-tired tunnel Jumbo; Scissor Truck; Slurry Truck Driver; Transit Mixers and Trucks hauling concrete (over 3 yards to 6 yards); Water Tank Truck (4,001 - 6,000 gallons); Wrecker and Tow Trucks	11.58	12.13	12.89	13.39	.11
Group 5: Low Boy (under 50 tons); Service Greaser; Tireperson No. 2; Truck, side, end, and bottom dump (over 6 yards to 12 yards)	11.79	12.13	12.89	13.39	.11
Group 6: A-Frame (Swedish Crane, Iowa 3,000, Hydrolift); Water Tank Truck (6,001 - 8,000 gallons)	11.81	12.13	12.89	13.39	.11
Group 7: Dumprator (over 6 yards); Transit Mixers and Trucks hauling concrete (6 yards to 10 yards); Trucks, side, end, and bottom dump (over 12 yards including 20 yards)	11.89	12.13	12.89	13.39	.11
Group 8: Low Boy (over 50 tons); Water Tank Truck (8,001 - 10,000 gallons); Tractor with Steer Trailer	11.93	12.13	12.89	13.39	.11
Group 9: Transit Mixers and Trucks hauling concrete (10 yards to 15 yards); Trucks, side, end and bottom dump (over 20 yards including 30 yards); Water Tank Truck (10,001 - 12,000 gallons)	12.04	12.13	12.89	13.39	.11
Group 10: Mechanic, Field	12.08	12.13	12.89	13.39	.11
Group 11: Tournarocker, D.W.'s and similar, with 2 or 4 wheel power tractor with trailer, gallonage or yardage scale, which is greater; Transit Mixers and Trucks hauling concrete (15 yards to 20 yards); Trucks, side, end and bottom dump (over 30 yards to 40 yards); Water Tank Truck (12,001 - 14,000 gallons)	12.39	12.13	12.89	13.39	.11
Group 12: Transit Mixers and Trucks hauling concrete (over 20 yards); Trucks, side, end and bottom dump (over 40 yards to 50 yards)	12.53	12.13	12.89	13.39	.11
Group 13: Truck, side, end and bottom dumps (over 50 yards to 100 yards)	12.69	12.13	12.89	13.39	.11
Group 14: Helicopter Pilot hauling employees or material; Trucks, side, end and bottom dump (over 100 yards)	12.83	12.13	12.89	13.39	.11

FRINGE BENEFITS:

Health and Welfare

\$1.12

Pensions

\$1.19

*SEE ZONE DEFINITIONS - following TRUCK DRIVERS' Classifications

Group 1: Flat Bed Truck, single rear axle; Escort Driver; Fork Lift,
3,000 pounds and under; Fuel Truck Driver (Steam Cleaner and Washer);
Helper and Swamper; Leverperson Loading Trucks at Bunkers; Pick-up
hauling material; Seeder and Mulcher; Stationary Fuel Operator; Team
Driver; Tractor (small rubber tired pulling trailer or similar equip-
ment); Water Tank Truck 1,800 gallons.

Group 2: Bus Driver or Employeehaul Driver; Flat Bed Truck, dual rear
axle; Power Boat hauling employees or material; Tireperson No. 1; Ware-
houseperson

Group 3: Buggy Mobile and similar; Bulk Cement Tanker; Oil Tank Driver;
Power operated Sweeper; Semi-trailer, Low Bed, Truck and Trailer; Straddle
Carrier (Boss Hyatt and similar); Transit Mixers and Trucks hauling con-
crete (3 yards and under); Trucks, side, end, and bottom dump (under 6
yards); Water Tank Truck (1,801 - 4,000 gallons)

Group 4: Auto Crane - 2,000 pounds capacity; Bulk Cement Spreader;
Dumprator (56 yards and under); Flaherty Spreader, Box Driver; Flat Bed
Truck (using power take off); Fork Lift (over 3,000 pounds); Oil Dis-
tributor Driver (Road, Bootperson, Leverperson Helper); Rubber-tired
tunnel Jumbo; Scissor Truck; Slurry Truck Driver; Transit Mixers and
Trucks hauling concrete (over 3 yards to 6 yards); Water Tank Truck
(4,001 - 6,000 gallons); Wrecker and Tow Trucks

Group 5: Low Boy (under 50 tons); Service Greaser; Tireperson No. 2;
Truck, side, end, and bottom dump (over 6 yards to 12 yards)Group 6: A-Frame (Swedish Crane, Iowa 3,000, Hydrolift); Water Tank
Truck (6,001 - 8,000 gallons)Group 7: Dumprator (over 6 yards); Transit Mixers and Trucks hauling
concrete (6 yards to 10 yards); Trucks, side, end, and bottom dump
(over 12 yards including 20 yards)Group 8: Low Boy (over 50 tons); Water Tank Truck (8,001 - 10,000
gallons); Tractor with Steer TrailerGroup 9: Transit Mixers and Trucks hauling concrete (10 yards to
15 yards); Trucks, side, end and bottom dump (over 20 yards including
30 yards); Water Tank Truck (10,001 - 12,000 gallons)

Group 10: Mechanic, Field

Group 11: Tournarocker, D.W.'s and similar, with 2 or 4 wheel power
tractor with trailer, gallonage or yardage scale, which is greater;
Transit Mixers and Trucks hauling concrete (15 yards to 20 yards);
Trucks, side, end and bottom dump (over 30 yards to 40 yards); Water
Tank Truck (12,001 - 14,000 gallons)

Group 12: Transit Mixers and Trucks hauling concrete (over 20 yards);
Trucks, side, end and bottom dump (over 40 yards to 50 yards)

Group 13: Truck, side, end and bottom dumps (over 50 yards to 100
yards)

Group 14: Helicopter Pilot hauling employees or material; Trucks,
side, end and bottom dump (over 100 yards)

TRUCK DRIVERS (Area 2)
(All Counties and portions of
Counties West of the 120th
Meridian (except those
enumerated in Area 3) and
including the Northern por-
tion of Pacific County and
all of Kittitas and Yakima
Counties)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Group 1	\$13.71	.94	\$ 1.12		.09
Group 2	13.76	.94	1.12		.09
Group 3	13.81	.94	1.12		.09
Group 4	13.92	.94	1.12		.09
Group 5	13.98	.94	1.12		.09
Group 6	14.02	.94	1.12		.09
Group 7	14.03	.94	1.12		.09
Group 8	14.09	.94	1.12		.09
Group 9	14.14	.94	1.12		.09
Group 10	14.16	.94	1.12		.09
Group 11	14.19	.94	1.12		.09
Group 12	14.29	.94	1.12		.09
Group 13	14.31	.94	1.12		.09
Group 14	14.35	.94	1.12		.09
Group 15	14.47	.94	1.12		.09
Group 16	14.51	.94	1.12		.09
Group 17	14.63	.94	1.12		.09
Group 18	14.68	.94	1.12		.09
Group 19	14.84	.94	1.12		.09
Group 20	15.00	.94	1.12		.09
Group 21	15.16	.94	1.12		.09

TRUCK DRIVERS (Area 2)
All Counties and portions of Counties West of the 120th Meridian
(except those enumerated in Area 3) and including the Northern
portion of Pacific County and including all of Kittitas and Yakima Counties

Group 1: Leverman and Loaders at Bunkers and Batch Plants; Pickup
Truck, Escort or Pilot Car; Swampers; Warehouseman and Checkers

Group 2: Team Drivers

Group 3: Bull Lifts and similar equipment used in loading and unloading
trucks, transporting materials on job site, warehousing; Dumpsters,
and similar equipment (including Tournarockers, Tournawagon, Turna-
trailer, Cat BW series, Terra Cobra, Letourneau, Westinghouse, Athey
Wagon, Euclid, two and four-wheeled power tractor with trailer and
similar top-loaded equipment transporting material; Dump Trucks -
side, end and bottom dump, including Semi-trucks and Trains of com-
binations thereof) - up to and including 5 yards; Flatbed, single
rear axle; Fuel Truck; Grease Truck; Greaser, Battery Service Man
and/or Tire Service Man; Scissor Truck; Spreader, Flarety; Tractor
(small, rubber-tired); Vacuum Truck; Water Wagon and Tank Truck (up
to 1,600 gallons); Winch Truck, single rear axle; Wrecker, tow Truck
and similar equipment

Group 4: Flatbed, dual rear axle

Group 5: Buggymobile; Byater Operators; Straddle Carrier (Ross, Byster,
and similar equipment); Water Wagon and Tank Truck, 1,600 gallons to
3,000 gallons)

Group 6: Transit-mix, 0 to and including 41 yards

Group 7: Dumpsters and similar equipment (as listed in Group 3) - over
5 yards to and including 12 yards; Explosive Truck (field mix) and
similar equipment; Lowbed and Heavy Duty Trailer, under 50 tons gross;
Road Oil Distributor Driver; Slurry Truck; Sno-go and similar equipment;
Winch Truck, dual rear axle

Group 8: Dumpster and similar equipment (as listed in Group 3) - over
12 yards to and including 16 yards

Group 9: Bulk Cement Tanker; Dumpsters and similar equipment (as listed
in Group 3) - over 16 yards to and including 20 yards; Water Wagon and
Tank Truck, over 3,000 gallons

TRUCK DRIVERS (AREA 2) (Cont'd)
All Counties and portions of Counties West of the 120th Meridian
(except those enumerated in Area 3) and including the Northern
portion of Pacific County and including all of Kittitas and Yakima Counties

TRUCK DRIVERS (Area 3)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the
Southern portion of Pacific Counties

GROUPS	ZONE 1			ZONE 2			ZONE 3			ZONE 4			ZONE 5			ZONE 6		
	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3
Group 10: Bull Lifts or similar equipment used in loading or unloading trucks transporting materials on job site, other than warehousing	\$10.92	\$11.32	\$11.67	\$11.92	\$11.92	\$11.92	\$11.92	\$11.92	\$11.92	\$11.92	\$11.92	\$11.92	\$11.92	\$11.92	\$11.92	\$11.92	\$11.92	\$11.92
Group 11: Transit-mix, over 4 1/2 yards to and including 6 yards	10.97	11.37	11.72	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97
Group 12: "A" Frame or Hydraulic Trucks or similar equipment	11.02	11.42	11.77	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97
Group 13: Dumpsters and similar equipment (as listed in Group 3) - over 20 yards to and including 30 yards; Lowbed and Heavy Duty Trailer, over 50 tons gross to and including 100 tons gross	11.07	11.47	11.82	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97
Group 14: Transit-Mix, over 6 yards, to and including 8 yards	11.12	11.52	11.87	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97
Group 15: Dumpsters and similar equipment (as listed in Group 3) - over 30 yards to and including 40 yards; Lowbed and Heavy Duty Trailer, over 100 tons gross	11.22	11.62	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97	11.97
Group 16: Transit-mix, over 8 yards to and including 10 yards	11.42	11.82	12.17	12.42	12.42	12.42	12.42	12.42	12.42	12.42	12.42	12.42	12.42	12.42	12.42	12.42	12.42	12.42
Group 17: Dumpsters and similar equipment (as listed in Group 3) - over 40 yards to and including 55 yards	11.52	11.92	12.27	12.52	12.52	12.52	12.52	12.52	12.52	12.52	12.52	12.52	12.52	12.52	12.52	12.52	12.52	12.52
Group 18: Transit-mix, over 10 yards to and including 12 yards	11.69	12.09	12.44	12.69	12.69	12.69	12.69	12.69	12.69	12.69	12.69	12.69	12.69	12.69	12.69	12.69	12.69	12.69
Group 19: Transit-mix, over 12 yards to and including 16 yards	11.79	12.19	12.54	12.79	12.79	12.79	12.79	12.79	12.79	12.79	12.79	12.79	12.79	12.79	12.79	12.79	12.79	12.79
Group 20: Transit-mix, over 16 yards to and including 20 yards	11.89	12.29	12.64	12.89	12.89	12.89	12.89	12.89	12.89	12.89	12.89	12.89	12.89	12.89	12.89	12.89	12.89	12.89
Group 21: Transit-mix, over 20 yards	11.99	12.39	12.74	12.99	12.99	12.99	12.99	12.99	12.99	12.99	12.99	12.99	12.99	12.99	12.99	12.99	12.99	12.99

FRINGE BENEFITS:

Health and Welfare \$.78 Vacation \$1.28
Pension .77 Apprenticeship Tr. .05

*SEE ZONE DESCRIPTION - Following TRUCK DRIVERS' Classifications

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DECISION NO. WA79-5126 Page 41
TRUCK DRIVERS (AREA 3)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern
portion of Pacific, Counties

Group 1: Battery Rebuilders; Bus or Manhaul Driver; Concrete Buggies (power operated); Dump Trucks, side, end and bottom dumps, including Semi-trucks and Trains or combinations thereof; 6 cu. yds. and under, Lift Jifneys, Fork Lifts (all sizes in loading, unloading and trans-
porting material on job site); Loader and/or Leverman on concrete dry batch plant (manually operated); Pilot Car; Solo Flat Bed and misc.
Body Trucks, 0-10 tons; Truck Helper; Truck Mechanic Helper; Ware-
houseman (warehouse parts, tool men and parts chaser, checkers and receivers); Water Wagons (rated capacity) - up to 1,600 gallons

Group 2: "A" Frame or Hydra-lift Truck with load bearing surface; Lubrication Man, Fuel Truck Driver, Tireman, Wash Rack, Steam Cleaner or combination; Team Drivers

Group 3: Dump Trucks, side, end and bottom dumps, including Semi-trucks and Trains or combination thereof; over 6 cu. yds. and in-
cluding 10 cu. yds.; Slurry Truck Driver or Leverman; Transit Mix,
and wet or dry mix trucks; 5 cu. yds. and under; Tireman (full-time basis); Water Wagons (rated capacity) - 1,600 to 3,000 gallons

Group 4: Flaherty Spreader Driver or Leverman; Lowbed Equipment, Flat Bed Semi-trailer, Truck and Trailers of doubles transporting equipment or wet or dry materials; Lumber Carrier Driver - Straddle Carrier (used in loading, unloading and transporting of materials on job site); Oil Distributor Driver or Leverman; Water Wagons (rated capacity) - 3,000 to 5,000 gallons

Group 5: Dumpsters of similar equipment, all sizes; Transit Mix and wet or dry trucks, over 5 cu. yds. and including 7 cu. yds.

Group 6: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof; over 10 cu. yds. and including 20 cu. yds.; Transit Mix and wet or dry mix trucks, over 7 cu. yds. and in-
cluding 9 cu. yds.; Truck Mechanic-Welder - Body Repairman; Water Wagon (rated capacity 5,000 to 7,000 gallons)

Group 7: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof; over 20 cu. yds. and including 30 cu. yds.; Transit Mix and wet or dry mix trucks, over 9 cu. yds. and including 11 cu. yds.; Water Wagons (rated capacity), over 7,000 gallons to 10,000 gallons

DECISION NO. WA79-5126 Page 42
TRUCK DRIVERS (AREA 3) (Cont'd)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern
portion of Pacific, Counties

Group 8: Dump Trucks, side, end and bottom dumps, including Semi trucks and Trains or combinations thereof; over 30 cu. yds. and including 40 cu. yds.; Transit Mix and wet or dry mix trucks, over 11 cu. yds. and including 15 cu. yds.; Water Wagons (rated capacity), over 10,000 gals. to 15,000 gallons

Group 9: Dump Trucks, side, end and bottom dumps, including Semi trucks and Trains or combinations thereof; over 40 cu. yds. and including 50 cu. yds.; Transit Mix and wet or dry mix trucks, over 13 cu. yds. and including 15 cu. yds.

Group 10: Dump trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof; over 50 cu. yds. and including 60 cu. yds.

Group 11: Dump trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof; over 60 cu. yds. and including 70 cu. yds.

Group 12: Dump trucks, side, end and bottom dumps, including Semi trucks and Trains or combinations thereof; over 70 cu. yds. and including 80 cu. yds.

Group 13: Dump trucks, side, end and bottom dumps, including Semi Trucks and Trains or combination thereof; over 80 cu. yds. and including 90 cu. yds.

Group 14: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof; over 90 cu. yds. and including 100 cu. yds.

Drivers and Helpers. (handling sacked cement - add \$.15 per hour)

Winch Truck - takes classification of Truck on which Winch is mounted.

DECISION NO. WA79-5126

ZONE WAGE SCALE (AREA 1)

CEMENT MASONS

Travel Zone Centers: Moses Lake Wenatchee Pasco Yakima Spokane
*Coeur d'Alene *Walla Walla Lewiston

LABORERS (Heavy and Highway)
POWER EQUIPMENT OPERATORS
TRUCK DRIVERS

Travel Zone Centers: Pasco Spokane Lewiston
Moses Lake *Coeur d'Alene *Walla Walla
*15 mile free Zone

Zone A - Within a 15 mile radius from the center of the above named Cities
Zone B - 15-30 miles radius from the center of the above named Cities
Zone C - 30-45 miles radius from the center of the above named Cities
Zone D - 45-90 miles radius from the center of the above named Cities
Zone E - Over 90 miles radius from the center of the above named Cities

ZONE WAGE SCALE (AREA 3) ONLY

LABORERS

Goldendale, Longview and Vancouver

POWER EQUIPMENT OPERATORS
Astoria, Goldendale, Hood River, Longview
The Dalles and Vancouver

TRUCK DRIVERS

Astoria, Goldendale, Longview, the Dalles and Vancouver

Zone A - All jobs or projects located within 10 miles of the respective City Hall

Zone B - More than 10 miles but less than 25 miles from the respective City Hall

Zone C - More than 25 miles but less than 35 miles from the respective City Hall

Zone D - More than 35 miles but less than 45 miles from the respective City Hall

Zone E - More than 45 miles but less than 75 miles from the respective City Hall

Zone F - More than 75 miles from the respective City Hall

[FR Doc. 79-27178 Filed 7-19-79; 8:45 am]

BILLING CODE 4510-27-C

In FR Doc. 79-20699, published at page 39882, on Friday, July 6, 1979, the table

"New Decision" on page 39895, and the table "Modification P. 2" on page 39896 were inadvertently cut off during photoprinting. The two tables are reprinted as follows:

DECISION NO. GA79-1011 - Mod. #2
(44 FR 1632 - January 5, 1979)
Clayton, DeKalb, & Fulton
Counties, Georgia

NEW DECISION

COUNTIES: Bastrop, Blanco, Caldwell, Fayette,
Hays, Lee, Llano, Travis & Williamson

DATE: Date of Publication

DECISION NO.: TX79-4068 DATE: Date of Publication
DESCRIPTION OF WORK: Residential Projects consisting of single family homes
and garden type apartments up to and including 4 stories.

BILLING CODE 1505-01-M[illegible]

Part III

Department of the Interior

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Final Threatened Status for West African Manatee

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Threatened Status for West African Manatee

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines that the West African manatee (*Trichechus senegalensis*) is a threatened species. This action was prompted by a petition and supporting data submitted by the Marine Mammal Commission, a federal body created in part to study the status of marine mammals. This rule brings into effect certain measures that may benefit the species and result in its restoration.

DATES: This rule becomes effective on October 16, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

The West African manatee occurs in the coastal waters and adjacent rivers along the west coast of Africa from the mouth of the Senegal River (16° N), south to the mouth of the Cuanza River (9° S) in Angola. Its range includes parts of the following countries: Senegal, Gambia, Guinea-Bissau, Upper Volta, Niger, Guinea, Sierra Leone, Liberia, Ivory Coast, Ghana, Togo, Benin, Mali, Nigeria, Cameroon, Chad, Equatorial Guinea, Gabon, Congo (Brazzaville), Zaire and Angola. Its present range is thought to be comparable with its historic range.

On November 18, 1977, the Service was petitioned by the Marine Mammal Commission to list the West African manatee as a threatened species pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531-1543). The Service considered the data provided by the Marine Mammal Commission to constitute substantial evidence under section 4(c) of the Act, and on May 17, 1978, published in the Federal Register (43 FR 21338) a proposal to list the West African manatee as a threatened species.

Summary of Factors Affecting the Species

Section 4(a) of the Act states:

General.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

- (1) The present or threatened destruction, modification or curtailment of its habitat or range;
- (2) overutilization for commercial, sporting, scientific or educational purposes;
- (3) disease or predation;
- (4) the inadequacy of existing regulatory mechanisms; or
- (5) other natural or man-made factors affecting its continued existence."

The authority to list species has been delegated to the Director.

The West African manatee is threatened as a result of factors (1), (2), (4) and (5). The appropriate portion of the petition from the Marine Mammal Commission detailing these factors is reproduced below:

"The West African manatee is known from the coastal waters and adjacent rivers along the west coast of Africa from the mouth of the Senegal River (16° N) [between Mauritania and Senegal], southward to the mouth of the Cuanza River (9° S) in Angola. Its range includes parts of the following countries: Senegal, Gambia, Guinea-Bissau, Upper Volta, Guinea, Sierra Leone, Liberia, Ivory Coast, Ghana, Togo, Benin, Mali, Nigeria, Cameroon, Chad, Equatorial Guinea, Gabon, Congo (Brazzaville), Zaire, and Angola. Its present range is thought to be comparable to its historic range.

"Husar (Mammalian Species, in press) has summarized what is known of the status of this species. No estimates of past or present population size are available. In at least one area, the Niger and Mekrou Rivers along the northern boundary of Benin (formerly Dahomey), it has been exterminated by local hunting (Poache, *Oryx* 12(2): 216-22, 1973). Manatees are taken by guns and harpoons in Liberia and Sierra Leone, where existing protective regulations are routinely ignored (Robinson, *Oryx* 11(2-3): 117-121, 1971). Ritual hunting for manatees still takes place in Ghana (Cansdale, *Oryx* 7(4): 168-171, 1964). In Nigeria, the species has traditionally been hunted by use of grass-baited traps (Dollman, *Nigeria Nat. Hist. Mag.* 4: 117-125, 1933; Allen, *Am. Comm. for Intern. Wildl. Protect.*, Spec. Publ. No. 11, 620 pp., 1942), a practice which continues there "unrestrained" despite legal prohibitions (Sikes, *Oryx* 12(4): 465-470, 1974). Native hunting in Zaire and Angola, on the lower Congo, was said to be reducing the manatee population (Derscheid, *Rev. Zool. Africaine Bull. Cercle Congolaise* 14(2): 23031, 1928; Allen *Loc. cit.*) and hunting continued as recently as 1952 (Bouveignes, *Zooleo* 41(4): 237-244, 1952). For most areas, it seems fair to assume that subsistence hunting is, or has been intense, and that many local stocks are depressed. Fortunately, large-scale

commercial exploitation has never been directed at *T. senegalensis* (Husar, *loc. cit.*).

"In addition to direct hunting by natives, other factors may have a negative impact on the species. Wood (*Nigerian Field* 6(1): 23-28, 1937) described the way Nigerian fishermen, in 1932, trapped 46 manatees in the Anambra creek system, apparently exterminating them from the area. The men did it because they regarded the animals as a nuisance to canoe traffic. Manatees are susceptible to accidental drowning in fish nets, particularly those set for sharks; this phenomenon has been documented in Senegal by Cadenat (*Bull. Inst. F. Afr. Noire* 19 A(4): 1358-1383, 1957). The extent of shark netting in West African waters is not known, so its impact on manatees there cannot be assessed (Husar, *loc. cit.*). Likewise, the degree to which manatees are injured by accidentally collisions with motor-boats in West Africa is unknown (Husar, *loc. cit.*); experience in Florida with *T. monatus* (Hartmen, PhD Thesis, Cornell University, 1971) suggests that it could contribute substantially to mortality in heavily trafficked areas.

"The West African manatee is currently protected under Class A of the African Convention for the Conservation of Nature and Natural Resources, 1969. However, enforcement of this convention is reported to be ineffective (Husar, *loc. cit.*). Some forms of additional legal protection exist in most countries where the West African manatee occurs, but the problems of enforcement and education are seemingly universal. The presence of the species in reserves gives some guarantee of protection (see Howell, *Nigerian Field* 33(4): 32-35, 1968; Dupuy and Verschuren, *Oryx* 14(1): 36-46, 1977). The West African manatee is listed as vulnerable by the IUCN, whose Red Data Book notes that 'the high value of the meat has been an irresistible incentive for killing.' *T. senegalensis* is also included in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

"If hunting and habitat modification continue uncontrolled, this species will become more seriously depleted. Damming of rivers and increased boat and ship traffic in many areas may contribute to its decline. Assuming that it is not one already, *T. senegalensis* is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Therefore, the Commission recommends that it be classified as 'threatened' under the Endangered Species Act of 1973, until more is known about its status."

Effects of the Rulemaking

The West African manatee is already protected by the Marine Mammal Protection Act. (16 U.S.C. 1362 (5)-(6); 50 CFR 18.3). Among other things, that Act imposes significant restriction on importation of the species into the United States. (16 U.S.C. 1371(a), 1372(b)-(c); 50 CFR 18.12). Listing the manatee as a threatened species under the Endangered Species Act will not only provide an additional prohibition

against importation, but will also restrict transportation or sale in interstate or foreign commerce. (16 U.S.C. 1533(d), 1538(a)(1)(G); 50 CFR 17.31(a). Under each Act, permits are available in certain instances for scientific and zoological display purposes. (16 U.S.C. 1371(a)(1), 1372(b), 1374(c); 50 CFR 17.32, 18.31). Listing of the West African manatee as threatened will allow the United States to try to: (1) Make the countries in which it is resident aware of the importance of manatee protection; (2) make available to scientists of other countries the results of manatee research undertaken under U.S. sponsorship in such form as to be helpful to them in developing their own research plans; (3) encourage other countries to undertake comprehensive surveys of the status and distribution of this species; (4) encourage other countries to establish reserves; (5) encourage reintroductions to other areas once they are well established in protected habitat; and (6) encourage the acquisition of study specimens, that might not otherwise be available, for purposes of scientific research of animals taken incidental to net fisheries.

Endangered Species Act Amendments of 1978

The Endangered Species Act Amendments of 1978 specify that the following be added at the end of subsection 4(a)(1) of the Endangered Species Act of 1978:

"At the time any such regulation [any proposal to determine a species to be an Endangered or Threatened species] is proposed, the Secretary shall by regulation,

to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat."

Since the West African manatee is a foreign species for which critical habitat may not be designated, this amendment does not apply.

The Endangered Species Act Amendments of 1978 further state the following:

"(B) In the case of any regulation proposed by the Secretary to carry out the purposes of this section with respect to the determination and listing of endangered or threatened species and their critical habitats in any State (other than regulations to implement the Convention), the Secretary.—

"(i) shall publish general notice of the proposed regulation (including the complete text of the regulation), not less than 60 days before the effective date of the regulation:

"(I) in the Federal Register, and
"(II) if the proposed regulation specifies any critical habitat, in a newspaper of general circulation within or adjacent to such habitat:

"(ii) shall offer for publication in appropriate scientific journals the substance of the Federal Register notice referred to in clause (i)(I);

"(iii) shall give actual notice of the proposed regulation (including the complete text of the regulation), and any environmental assessment or environmental impact statement prepared on the proposed regulation, not less than 60 days before the effective date of the regulation to all general local governments located within or adjacent to the proposed critical habitat, if any; and
"(IV) shall—

"(I) if the proposed regulation does not specify any critical habitat, promptly hold a public meeting on the proposed regulation within or adjacent to the area in which the endangered or threatened species is located.

if request therefore is filed with the Secretary by any person within 45 days after the date of publication of general notice under clause (i)(I), and

"(II) if the proposed regulation specifies any critical habitat, promptly hold a public meeting on the proposed regulation within the area in which such habitat is located in each State, and, if requested, hold a public hearing in each such State."

The Service has complied with each of the applicable requirements. Accordingly, the Service is proceeding at this time with a final rule to determine this species as threatened pursuant to the Endangered Species Act of 1973.

National Environmental Policy Act

An environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. It addresses this action as it involves the West African manatee. The assessment is the basis for a decision that issuance of this rule is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969.

The primary author of this rulemaking is John L. Paradiso, Office of Endangered Species (703/235-1975).

Regulations Promulgation

Accordingly, Part 17, Subpart B, Chapter I of Title 50 of the U.S. Code of Federal Regulations is amended as follows:

In § 17.11, add the following in alphabetical order under "Mammals" to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

Species		Range			Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution	Portion endangered			
Manatee, West African.....	<i>Trichechus senegalensis</i>	N/A	Coast and rivers of West Africa..	Entire.....	T	.....	None

Dated: June 25, 1979.

Robert S. Cook,
Deputy Director, Fish and Wildlife Service.

[FR Doc. 79-22416 Filed 7-20-79; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reclassification of the American Alligator in Nine Parishes in Louisiana

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Correction.

SUMMARY: In the June 25, 1979 Federal Register (44 FR 37130-2), the Service published its final determination that the American alligator should be reclassified to Threatened (Similarity of Appearance) in nine southern Louisiana parishes. In that document, the nine parishes were inadvertently left off the table which summarizes the various status classifications of the alligator

throughout its range. This correction adds those parishes to the table.

DATES: This rule becomes effective on July 27, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. John Spinks, Chief, Office of Endangered Species, U.S. Fish and

Wildlife Service, Washington, D.C. 20240 (703/235-2771).

The regulations promulgation section of the final reclassification of the American alligator in nine parishes of southern Louisiana, as originally

published June 25, 1979 in the Federal Register (44 FR 37130-37132), should appear as follows:

Regulations Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal

Regulations is hereby amended as set forth below:

1. Amend § 17.11(i) by changing the status of the American alligator in Louisiana under "REPTILES" on the list of animals to read as follows:

§ 17.11 Endangered and threatened wildlife.

Species		Population	Range		Status	When listed	Special rules
Common name	Scientific name		Known distribution	Portion endangered			
Alligator, American	<i>Alligator mississippiensis</i>	Wherever found in the wild, except in those areas where it is listed as Threatened, as set forth below	Southeastern United States	Entire	E	11	N/A
Alligator, American	<i>Alligator mississippiensis</i>	In the wild in FL and in certain areas of GA, LA (except in those parishes listed as T(S/A)), SC and TX, as set forth in Sec. 17.42(a)(2)(iv).	U.S. FL and certain areas of GA, LA (except in those parishes listed as T(S/A)) SC and TX.	Entire	T	20	17.42(a)
Alligator, American	<i>Alligator mississippiensis</i>	In the wild in Cameron, Vermillion, Iberia, St. Mary, St. Charles, Terrebonne, Lafourche, St. Bernard, Jefferson, St. Tammany, and Plaquemines Parishes in LA.	U.S. (Cameron, Vermillion, Calcasieu, Iberia, St. Mary, St. Charles, Terrebonne, Lafourche, St. Bernard, Jefferson, St. Tammany, and Plaquemines Parishes in LA).	N/A	T(S/A)	11	17.42(a)
Alligator, American	<i>Alligator mississippiensis</i>	In captivity wherever found	Worldwide	N/A	T(S/A)	11	N/A

Dated: July 9, 1979.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 79-22417 Filed 7-19-79; 8:45 am]

BILLING CODE 4310-55-M

Friday
July 20, 1979

Part IV

Department of
Health, Education,
and Welfare

National Institutes of Health

Guidelines for Research Involving
Recombinant DNA Molecules

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

Recombinant DNA Research; Actions Under Guidelines

AGENCY: National Institutes of Health.

ACTION: Notice of actions under NIH Guidelines for Research Involving Recombinant DNA Molecules.

SUMMARY: This notice sets forth actions taken by the Director, NIH under the 1978 NIH Guidelines for Research Involving Recombinant DNA Molecules (43 FR 60108).

EFFECTIVE DATE: July 20, 1979.

FOR FURTHER INFORMATION CONTACT: Additional information can be obtained from the Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-6051.

SUPPLEMENTARY INFORMATION: I am promulgating today several major actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules. These proposed actions were published for comment in the *Federal Register* of April 13, 1979 and reviewed and recommended for approval by the Recombinant DNA Advisory Committee (RAC) at its meeting on May 21, 22, and 23, 1979. In accordance with Section IV-E-1-b of the NIH Guidelines, I find that these actions comply with the Guidelines and present no significant risk to health or the environment.

Part I of this announcement provides background information on the actions. Part II provides a summary of the major actions.

I. Decisions on Actions Under Guidelines

A. Containment levels for certified *Saccharomyces Cerevisiae* and *Neurospora Crassa* HV systems

The RAC at its February 15-16, 1979 meeting recommended the use of *Saccharomyces cerevisiae* and *Neurospora crassa* as HV1 systems and specified certain strains and vectors of *S. cerevisiae* as HV2 host-vector systems. The certified systems were to be used as follows:

"In accord with Section III-C-5, host-vector systems which have been approved as HV1 systems may be used under P2 containment conditions for shotgun experiments with phages, plasmids, and DNA from nonpathogenic prokaryotes which do not produce polypeptide toxins [34]. For other classes of recombinant DNA experiments with these HV1 systems, except for the

cloning of complete genomes of eukaryote viruses, the *S. cerevisiae* and *N. crassa* HV1 systems and *S. cerevisiae* HV2 systems may be used at the physical containment levels applicable to EK1 and EK2 systems, respectively."

While the RAC generally approved equivalence between these HV systems and the EK designations in the Guidelines, there was concern raised about the appropriate levels of containment when complete genomes of eukaryotic viruses are cloned into these organisms.

Prior to the RAC considering this issue at its February 15-16, 1979 meeting, it was mistakenly printed in the *Federal Register* of January 15, 1979 as follows:

"Experiments involving complete genomes of class 1 eukaryote viruses will require P3 + HV2 containment levels. Other eukaryote viruses are to be handled on a case-by-case basis [45]."

The correct wording should have been "will require P3 + HV1 or P2 + HV2 containment levels."

The RAC in its deliberations at the February 15-16, 1979 meeting took a less restricted position and recommended that the following wording be substituted for the previous proposal:

"Experiments involving complete genomes of eukaryote viruses will require P3 + HV1 or P2 + HV2 containment levels."

This recommendation passed by a vote of 17 to 1 with 2 abstentions. Since this was a major change in the proposed action as it appeared in the *Federal Register* on January 15, 1979, additional opportunity for public comment was deemed appropriate. Accordingly, this proposal was published in the *Federal Register* on April 13, 1979 for an additional 30-day comment period prior to its presentation at the May 21-23, 1979 RAC meeting. During the 30-day comment period no comments were received.

Based on the containment features of these organisms which were previously presented in reports to the RAC and the discussion at the February 15-16, 1979 meeting, the RAC at its May, 1979 meeting voted 17 to 0 with 2 abstentions to accept this proposal.

B. Containment levels for unmodified laboratory strains of *Neurospora Crassa*

Based on extensive analysis of the fungus *N. crassa*, the NIH has previously approved genetically modified strains of this organism as HV1 as stated in the *Federal Register* of April 11, 1979. At its February 15-16, 1979 meeting, the RAC also recommended a limited use of unmodified laboratory strains of *N. crassa*. The NIH accepted the following conservative interpretation of the RAC's

position based on the discussion at the time and until there was opportunity for further clarification by the RAC:

"Unmodified laboratory strains of *N. crassa* are approved at the P3 level of containment for shotgun experiments with phages, plasmids, and DNA from Class 1 prokaryotes [1] and lower eukaryotes that do not produce polypeptide toxins [34]."

Based on the need for further clarification, the following alternate interpretation of the RAC's action was published in the *Federal Register* on April 13, 1979 for an additional 30-day comment period prior to its consideration at the May 21-23, 1979 meeting. During the 30-day comment period no comments were received on this proposal:

"Unmodified laboratory strains of *Neurospora crassa* can be used in all experiments for which HV1 *N. crassa* systems are approved provided that these are carried out at physical containment one level higher than required for HV1. However, if P3 containment is specified for HV1 *N. crassa*, this level is considered adequate for unmodified *N. crassa*. For P2 physical containment, special care must be exercised to prevent aerial dispersal of macroconidia, including the use of a biological safety cabinet."

The discussion on this issue at the May, 1979 RAC meeting followed that which has been described in the *Federal Register* of April 11, 1979. Essentially, there was concern about the escape of *N. crassa* since it forms spores which are freely dispersed. As a result of this concern, it was recommended at the February, 1979 meeting that all experiments with wild type *N. crassa* should require the use of a biological safety cabinet. At the May 21-23, 1979 meeting of the RAC, it was pointed out that the organism has only a small ecological niche and that it is a nonpathogenic organism.

The RAC accepted the use of unmodified laboratory strains of *N. crassa* as published in the *Federal Register* of April 13, 1979, by a vote of 11 to 2 with 5 abstentions. It was the sense of the RAC that the principle of equivalency of HV systems with EK systems applies at the present time only to the setting of containment levels for shotgun experiments. It does not apply at the present time to lowering of containment levels for characterized or purified DNA preparations and clones, to returning DNA segments to non-HV1 host of origin, etc.

C.1 Transfer of cloned DNA segments to Eukaryotic organisms

Based on the recommendation of the RAC at its February 15-16, 1979 meeting, the NIH previously has approved the

return of DNA segments to a higher eukaryotic host of origin as stated in the *Federal Register* on April 11, 1979:

"III-C-6. Return of DNA Segments to a Higher Eukaryotic Host of Origin. DNA from a higher eukaryote (Host D) may be inserted into a lambdoid phage vector or into a vector from certified EK2 host-vector system and propagated in *E. coli* K-12 under the appropriate containment conditions [see Section III-A-1]. Subsequently, this recombinant DNA may be returned to Host D and propagated under conditions of physical containment comparable to P1 and appropriate to the organism under study [2A]."

Several commentators had requested that this section be broadened to permit the heterologous transfer of DNA segments to a eukaryote other than the host of origin. A broader proposal could not be considered at the February 15-16, 1979 RAC meeting as it would require the opportunity for public comment. The following proposed revision of Section III-C-6 was published in the *Federal Register* on April 13, 1979 for a 30-day comment period prior to its consideration at the May 21-23, 1979:

"III-C-6. Transfer of Cloned DNA Segments to Eukaryotic Organisms. DNA from any nonprohibited source [Section I-D] which has been cloned and propagated in *E. coli* under appropriate physical containment conditions, may be transferred with the *E. coli* vector used for cloning to a eukaryotic organism or cells in culture and propagated under conditions of physical containment comparable to P1 and appropriate to the organism under study [2A]."

Several letters were received during the comment period which supported this proposal. Recent experimental results have demonstrated that it is possible to transfer DNA to eukaryotic organisms without a requirement for the DNA to be part of a recombinant DNA molecule. The major difference in the interspecies experiments which involve using recombinant DNA techniques is that there will be an association of the *E. coli* vector DNA with the DNA of interest. The recombinant DNA methods also allow a more controlled process since it permits the use of selected genes.

A very important category of experiments which this amendment would permit involves the cloning of DNA from one higher eukaryote into *E. coli*, followed by the transfer to an embryo or teratoma of another eukaryote. This procedure will enable the study of the genetic basis of various diseases by isolating individual genes and examining their expression in various whole animals. There will be the possibility of understanding the basis

for cell diversification during development of higher organisms and the organization of genetic information. These features may be important in many cases to understanding the origins of malignant growth and the genetic basis of disease. As noted by one commentator, this research may lead to the "possible cure of human genetic diseases."

One commentator indicated that this proposal would, in essence, allow for nearly any eukaryote to become a host for any DNA; this would not be in the spirit of the Guidelines. Another commentator noted that any experiments that involved the return of cloned DNA to humans would require the examination by human experimentation committees.

These comments were discussed at the May 21-23, 1979 RAC meeting, and concern was expressed over the broad nature of the proposal. The use of recombinant DNA methods for studying diseases using whole animals or plants was generally supported by the RAC. It was agreed that this revision should appear as a new section of the Guidelines, III-C-7. The following more restrictive amendment was proposed by the RAC to limit the experiments to easily contained whole organisms and to only small portions of viruses:

"III-C-7. Transfer of Cloned DNA Segments to Eukaryotic Organisms. III-C-7-a. Transfer to Non-human Vertebrates. DNA from any nonprohibited source [Section I-D], except for greater than one quarter of a eukaryotic viral genome, which has been cloned and propagated in *E. coli* under appropriate physical containment conditions, may be transferred with the *E. coli* vector used for cloning to any eukaryotic cells in culture or to any non-human vertebrate organism and propagated under conditions of physical containment comparable to P1 and appropriate to the organism under study [2A]. Transfers to any other host will be considered by the RAC on a case-by-case basis [45].

III-C-7-b. Transfer to Higher Plants. DNA from any nonprohibited source [Section I-D] which has been cloned and propagated in *E. coli* under appropriate containment conditions, may be transferred with the *E. coli* vector used for cloning to any higher plant organisms (Angiosperms and Gymnosperms) and propagated under conditions of physical containment comparable to P1 and appropriate to the organism under study [2A]. Intact plants or propagative plant parts may be grown under P1 conditions described under Section III-C-3. Containment must be modified to ensure that the spread of pollen, seed or other propagules is prevented. This can be accomplished by conversion to negative pressure in the growth cabinet or greenhouse or by physical entrapment by "bagging" of reproductive structures. Transfers to any

other plant organisms will be considered on a case-by-case basis [45]."

The RAC accepted proposal III-C-7-a by a vote of 19 to 2 with 2 abstentions, and proposal III-C-7-b by a vote of 18 to 0 with 1 abstention.

D. Proposed exemption under I-E-5 for cloning in tissue culture cells

The RAC considered a proposal for exempting experiments involving the propagation of recombinant DNA molecules from non-viral components in tissue culture cells. The proposal, made by Dr. Wallace Rowe, appeared in the April 13, 1977 *Federal Register* as follows:

"Those recombinant DNA molecules that are propagated in cells in tissue culture and that are derived entirely from non-viral components (that is, no component is derived from a eukaryotic virus) or that contain no more than one-fourth of the genome of a eukaryotic virus are exempt from the Guidelines."

During the 30-day period for comment, one comment was received on the proposed action. This commentator opposed the motion on the grounds that the introduction of recombinant DNA molecules linked even to only one-fourth of a viral genome in tissue culture cells may possibly generate altered endogenous or exogenous viruses in the cells.

The RAC considered this proposal following a discussion of its merits by Dr. Rowe. It was pointed out that tissue culture cells are well contained and safe systems for studying gene function. Some members of the RAC expressed concern that recombinant molecules containing one-fourth of a viral genome might possibly generate infectious virus. Dr. Rowe agreed to amend his proposal to delete the portion that referred to exempting recombinant molecules containing less than one-fourth of a eukaryotic viral genome.

The RAC voted 17 to 3 with 2 abstentions to accept the amended proposal with a minor modification in the wording to include "and maintained" in cells, as follows:

"Those recombinant DNA molecules that are propagated and maintained in cells in tissue culture and that are derived entirely from non-viral components (that is, no component is derived from a eukaryotic virus) are exempt from the Guidelines."

E. Containment levels for experiments involving Genera *Streptomyces* and *Micromonospora*

The RAC at its May 21-23, 1979 meeting considered a proposal that had been submitted by the Working Group on Prokaryotic Host-Vectors other than *E. coli* that would allow the formation of

recombinant molecules between members of the *Actinomyces* group at P2 physical containment except for species which are known to be pathogenic for man, animal, or plants. The following notice appeared in the *Federal Register* on April 13, 1979:

"P2 physical containment shall be used for DNA recombinants produced between members of the *Actinomyces* group except for those species which are known to be pathogenic for man, animals or plants [2A]."

During the 30-day comment period no comments were received. The discussion on this proposal was led by Dr. Julian Davies, University of Wisconsin, an *ad hoc* consultant at the RAC meeting on May 21, 1979. It was explained that the *Actinomyces* are a large group of closely related organisms, many of which are used to produce therapeutically active compounds. Ninety percent of the antibiotics produced industrially are derived from the *Micromonospora* and *Streptomyces* genera. They are mainly soil organisms, and do not exist in the gut. Genetic exchanges occur in almost all cases for which it has been looked. The basis for exchange includes recombination, mating, and fusion (heterokaryosis). Plasmid transfer of genetic information has also been demonstrated. Substantial DNA homology from 20-80% has been demonstrated in the *Streptomyces* genus. Although some members of the *Actinomyces* are known as pathogens for man, animals and plants, the *Streptomyces* and *Micromonospora* genera are non-pathogenic for man and animals. An extensive search of the literature has revealed no reports of pathogenicity. Based on the importance of these microorganisms, non-pathogenicity, and evidence for genetic relatedness, it was proposed that recombinant experiments between the *Streptomyces* and *Micromonospora* species be permitted under P2 containment. The original proposal was restricted by the RAC to only the *Streptomyces* and *Micromonospora* genera.

A motion to accept this proposal, amended as follows, was passed with 16 for, none opposed, and 2 abstentions:

"P2 physical containment shall be used for DNA recombinants produced between members of the genera *Streptomyces* and *Micromonospora* except for those species which are known to be pathogenic for man, animals or plants [2A]."

F. Exemption for streptomyces species that exchange genetic information

The Working Group on Prokaryotic Host-Vectors other than *E. coli* recommended that a list of

Streptomyces species that have been shown to exchange chromosomal DNA be placed in the exemption category of Section I-E-4. This proposal was published in the *Federal Register* on April 13, 1979 as follows:

"*Streptomyces* species that have been shown to exchange chromosomal DNA are proposed to be included under the exemption category of Section I-E-4 of the 1978 Guidelines. Any recombinant DNA molecules that are composed entirely of DNA segments from one or more of the organisms listed below and to be propagated in any of the organisms listed below are exempt from the Guidelines. (This list is to be separate from the other lists of exempt organisms in Appendix A.)

Streptomyces aureofaciens
Streptomyces rimosus
Streptomyces coelicolor
Streptomyces griseus
Streptomyces cyaneus
Streptomyces venezuelae."

During the 30-day comment period no comments were received. The RAC considered the criteria for genetic exchange that were set forth as a basis for placing a proposed list of *Streptomyces* species in the exemption category of section I-E-4 of the Guidelines. A motion that physiological heterokaryosis between intact organisms shall be taken as evidence of genetic exchange under criterion 2 in the discussion of Appendix A of the NIH Director's December 22, 1978 decision document was passed 18 to 0 with 1 abstention.

A motion was made to divide the list of the six proposed *Streptomyces* species into two sublists of three each because the evidence for pair-wise exchange was not as strong between the two sublists as the exchange within each sublist. The sublists are as follows:

Sublist 1

Streptomyces aureofaciens
Streptomyces rimosus
Streptomyces coelicolor

Sublist 2

Streptomyces griseus
Streptomyces cyaneus
Streptomyces venezuelae

Any recombinant DNA molecules that are composed entirely of DNA segments from one or more of the organisms within each sublist and to be propagated in any of the organisms included in that sublist are exempt from the Guidelines. (This list is to be separate from the other lists of exempt organisms in Appendix A.)

The motion was accepted by a vote of 14 for, none opposed, and 5 abstentions. G. Use of *agrobacterium tumefaciens* as a host-vector system

Dr. Mary-Dell Chilton of the University of Washington submitted a proposal for approval of *Agrobacterium tumefaciens* and its Ti (tumor-inducing) plasmid as a host-vector system for recombinant DNA experiments. Crown gall tumors caused by *A. tumefaciens*, a ubiquitous inhabitant of the soil, are induced by tumor genes located on the large Ti plasmids. The Ti plasmid enters plant cells and inserts itself in the plant chromosomal DNA. The Ti plasmids appear promising as vectors for introduction of desired foreign DNA into higher plants.

Notice of this proposal was first published in the *Federal Register*, April 13, 1979 as follows:

"Non-disabled strains of *Agrobacterium tumefaciens* can be used in combinations with the co-integrate plasmid Ti:RP4 as a host-vector system at the P3 level of physical containment."

No comments were received by the Office of Recombinant DNA Activities during the 30-day period following the publication of this proposal. On April 25, 1979, Dr. Chilton submitted a supplement to her original proposal which represented an alternative approach for using the *Agrobacterium* system that would provide greater biological containment. The new strategy was described by Dr. Chilton at the RAC meeting on May 21, 1979. First, eukaryotic DNA would be inserted in a non-conjugative plasmid, i.e. pBR322, that also contains fragments of Ti plasmid DNA and an insert of the origin of replication of other cryptic *Agrobacterium* plasmids. The plasmid would be propagated in *E. coli* K-12 and the recombinant DNA molecules used to transform *A. tumefaciens*. The *A. tumefaciens* host strain would then be employed to induce tumors in higher plants. The advantage of the newer strategy is that it avoids the involvement of RP4 which is a wide range conjugative replicon. Dr. Chilton proposed a one step higher level of containment required for the eukaryotic insert when the Ti plasmid is used. In the RAC discussion, it was pointed out that although the *Federal Register* notice of April 13, 1979 cited the use of the plasmid Ti:RP4, this new experimental approach was much safer. A two-part motion was considered by the RAC:

a. Approve the cloning of well-characterized fragments of eukaryotic DNA under P3 conditions, either in *E. coli* K-12 or in *A. tumefaciens* carrying a Ti plasmid, using an EK2 plasmid vector coupled to a fragment of the Ti plasmid and/or the origin of replication of a cryptic *A. Tumefaciens* plasmid.

b. Approve introducing the bacteria into plant parts or cells in culture under P3 containment conditions.

The motion was passed by the RAC by a vote of 14 for, 2 opposed, with 3 abstentions. It was noted that this recommendation is narrower and more restrictive than the proposal published for comment in the *Federal Register* of April 13, 1979. It was also noted that recommendation of this proposal should not be construed as a general approval of the *Agrobacterium* system as a new cloning system.

II. Summary of Major Actions Under Guidelines

A. Containment levels for certified *Saccharomyces cerevisiae* and *Neurospora crassa* HV systems

In accord with Section III-C-5, host-vector systems which have been approved as HV1 systems may be used under P2 containment conditions for shotgun experiments with phages, plasmids, and DNA from nonpathogenic prokaryotes which do not produce polypeptide toxins [34]. For other classes of recombinant DNA experiments with these HV1 systems, except for the cloning of complete genomes of eukaryote viruses the *S. cerevisiae* and *N. crassa* HV1 systems and *S. cerevisiae* HV2 systems may be used at the physical containment levels applicable to EK1 and EK2 systems, respectively. Experiments involving complete genomes of eukaryote viruses will require P3 + HV1 or P2 + HV2 containment levels.

B. Containment levels for unmodified laboratory strains of *Neurospora crassa*

Unmodified laboratory strains of *Neurospora crassa* can be used in all experiments for which HV1 *N. crassa* systems are approved provided that these are carried out at physical containment one level higher than required for HV1. However, if P3 containment is specified for HV1 *N. crassa*, this level is considered adequate for unmodified *N. crassa*. For P2 physical containment, special care must be exercised to prevent aerial dispersal of macroconidia, including the use of a biological safety cabinet.

C. III-C-7. Transfer of cloned DNA segments to Eukaryotic organisms

III-C-7-a. Transfer to Non-human Vertebrates. DNA from any nonprohibited source [Section I-D], except for greater than one quarter of a eukaryotic viral genome, which has been cloned and propagated in *E. coli* under appropriate physical containment conditions, may be transferred with the *E. coli* vector used for cloning to any

eukaryotic cells in culture or to any non-human vertebrate organism and propagated under conditions of physical containment comparable to P1 and appropriate to the organism under study [2A]. Transfers to any other host will be considered by the RAC on a case-by-case basis [45].

III-C-7-b. Transfer to Higher Plants.

DNA from any nonprohibited source [Section I-D] which has been cloned and propagated in *E. coli* under appropriate containment conditions, may be transferred with the *E. coli* vector used for cloning to any higher plant organisms (Angiosperms and Gymnosperms) and propagated under conditions of physical containment comparable to P1 and appropriate to the organism under study [2A]. Intact plants or propagative plant parts may be grown under P1 conditions described under Section III-C-3. Containment must be modified to ensure that the spread of pollen, seed or other propagules is prevented. This can be accomplished by conversion to negative pressure in the growth cabinet or greenhouse or by physical entrapment by "bagging" of reproductive structures. Transfers to any other plant organisms will be considered on a case-by-case basis [45].

D. Exemption under I-E-5 for cloning in tissue culture cells

In accord with Section I-E-5, those recombinant DNA molecules that are propagated and maintained in cells in tissue culture and that are derived entirely from non-viral components (that is, no component is derived from a eukaryotic virus) are exempt from the Guidelines.

E. Containment levels for experiments involving genera *Streptomyces* and *Micromonospora*

P2 physical containment shall be used for DNA recombinants produced between members of the genera *Streptomyces* and *Micromonospora* except for those species which are known to be pathogenic for man, animals or plants [2A].

F. Exemption for *Streptomyces* species that exchange genetic information

The following two sublists of *Streptomyces* species that have been shown to exchange chromosomal DNA are included under the exemption category of Section I-E-4 of the 1978 Guidelines. Any recombinant DNA molecules that are composed entirely of DNA segments from one or more of the organisms within each sublist and to be propagated in any of the organisms included in that sublist are exempt from the Guidelines. (This list is to be

separate from the other lists of exempt organisms in Appendix A.)

Sublist 1

Streptomyces aureofaciens
Streptomyces rimosus
Streptomyces coelicolor

Sublist 2

Streptomyces griseus
Streptomyces cyaneus
Streptomyces venezuelae

G. Use of *Agrobacterium Tumefaciens* as a host-vector system

The NIH has approved the cloning of well-characterized fragments of eukaryotic DNA under P3 conditions, either in *E. coli* K-12 or in *A. tumefaciens* carrying a Ti plasmid, using an EK2 plasmid vector coupled to a fragment of the Ti plasmid and/or the origin of replication of a cryptic *A. tumefaciens* plasmid.

The NIH has approved introducing these bacteria into plant parts or cells in culture under P3 containment conditions.

Dated: July 13, 1979.

Donald S. Fredrickson,

Director, National Institutes of Health.

[F.R. Doc. 79-22436 Filed 7-19-79; 6:45 am]

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federal register

Friday
July 20, 1979

Part V

Department of Labor

Public Contracts and Property
Management; Federal Standards for
Federally Funded Grants and Agreements

DEPARTMENT OF LABOR

41 CFR Part 29-70

Public Contracts and Property Management; Federal Standards for Federally Funded Grants and Agreements

AGENCY: Department of Labor.

ACTION: Final rule.

SUMMARY: This rule amends the Department of Labor Procurement Regulations to add a new part (41 CFR 29-70) entitled, "Administrative Requirements Governing all Grants and Agreements by which Department of Labor Agencies Award Funds to State and Local Governments, Indian and Native American Entities, Public and Private Institutions of Higher Education and Hospitals, and Other Quasi-Public and Private Nonprofit Organizations." This new part implements requirements of Office of Management and Budget (OMB) Circulars Nos. A-102 and A-110 which provide minimum Federal standards for federally funded grants and agreements.

EFFECTIVE DATE: The regulations are effective on July 20, 1979, the date of their publication as a final rule in the *Federal Register*. Except for grants and agreements awarded under the Comprehensive Employment and Training Act (CETA), as amended, they shall be made applicable to new grants or agreements awarded on or after the date of publication (July 20, 1979) of the regulations as a final rule and to existing grants or agreements, as they are modified on or after the publication date (July 20, 1979), to add funds or to extend the grant or agreement period. The regulations shall be made applicable to CETA grants and agreements awarded or modified to include new funds or to extend the grant or agreement period 30 days after the date of publication of the regulations as a final rule.

FOR FURTHER INFORMATION CONTACT: Walter C. Terry, Director, Office of Grants, Procurement and ADP Management Policy, OASAM, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210, (202) 523-9174.

SUPPLEMENTARY INFORMATION: Office of Management and Budget Circulars Nos. A-102 and A-110 require that Federal agencies which administer grants and agreements issue regulations to implement the provisions of the circulars. Under the authority contained in the Act of March 4, 1913 (37 Stat. 736, 29 U.S.C. 551), the Secretary of Labor, in

response to the above requirements, published proposed regulations in the *Federal Register* on June 16, 1978 (43 FR 26042), which would amend 41 CFR Chapter 29, the Department of Labor Procurement Regulations, to add a new Part 29-70.

The Department received numerous comments in response to the proposed regulations. Most of the comments were made by organizations or individuals who were recipients or subrecipients of financial assistance under Department of Labor grants or agreements. All of the comments were considered in preparing the regulations for publication as a final rule.

In addition to revisions made as a result of comments, a further internal review of the regulations resulted in revisions being made to clarify and make the administrative requirements more precise and understandable.

Another factor which resulted in revisions was the enactment of the Comprehensive Employment and Training Act Amendments of 1978 (CETA) subsequent to the publication of the proposed regulations. Financial assistance under CETA grants and agreements constitutes a large percentage of the total Department of Labor financial assistance program. The passage of the new Act necessitated the development of revised CETA program regulations. To avoid overlapping and conflicting requirements, the decision was made to include or cross reference CETA administrative requirements in appropriate sections of the departmental regulations; and, to the extent feasible, to eliminate administrative requirements from CETA regulations.

This section discusses comments received in response to the proposed regulations, the Department's responses to the comments, and a description of revisions made to the proposed regulations as a result of comments received, further internal review of the proposed regulations, and the changes necessitated by the passage of the CETA Amendments of 1978.

Major Comments

Effective Date

Three comments dealt with the effective date of the regulations. One reviewer requested that the regulations be made applicable to ongoing grants and agreements only as they were modified to add new funds rather than upon publication of the regulations as a final rule in the *Federal Register*. Another reviewer believed that making applicability dependent upon the issuance of revised program regulations

(as stated in the proposed rule) would make the applicability date uncertain. The third reviewer commented that the Comprehensive Employment and Training Act (CETA), as amended, requires that regulations be published 30 days before being made applicable to CETA grants and agreements. The effective date has been changed to make the regulations effective upon their publication as a final rule (July 20, 1979); and to require that (except for CETA grants and agreements) they be made applicable to Department of Labor (DOL) grants and agreements awarded or modified to include new funds or to extend the grant or agreement period, on or after the date of publication of the regulations as a final rule. The regulations shall be made applicable to CETA grants and agreements awarded or modified to include new funds or to extend the grant or agreement period 30 days after publication of the regulations as a final rule.

Applicability to Subrecipients

A reviewer suggested that wording be added to make clear that, despite procedural differences (e.g. letter-of-credit procedures and reporting forms), the regulations apply to subrecipients as well as to recipients. A sentence was added in § 29-70.101(b)(2) to make clear that requirements applicable to a recipient are also applicable to a subrecipient.

Exemptions to the Regulations

A reviewer disagreed with the statement in § 29-70.101(d)(2) of the proposed rule that the regulations do not apply to "agreements which provide that the DOL will deliver goods and services rather than money." The decision was made to delete the subparagraph.

Definitions

Several reviewers suggested changes or additions to definitions, included in § 29-70.102. After considering all suggestions, § 29-70.102 was amended to add definitions of "CETA," "CFR," "equipment," "handicapped individual," and "supplies"; and to amend definitions of "agreement," "contract," "expendable personal property," "indirect cost," "minority business," "modification," "nonprofit organization," "personal property," "small business," and "suspension." Definitions of "debarment" and "suspension" (as suspension relates to disqualification to receive grants) were deleted pending publication of § 29-70.213 which deals with these subjects. Special definitions of "projects" and

"small business," as they pertain to CETA programs, were added.

Cost Principles

Section 29-70.103 covers cost principles applicable to various kinds of recipients of grants and agreements. A reviewer requested that specific information be given concerning cost principles applicable to hospitals. Section 29-70.103(c) was amended to provide that, since specific cost principles applicable to hospitals are not available, cost principles prescribed in this section or in the grant or agreement document will apply. The reference in the same paragraph to 41 CFR 1-15.9 was deleted due to uncertainty as to regulation publication date.

Labor Standards

Section 29-70.104, dealing with applicability of prevailing wage rate requirements of the Davis-Bacon and related Acts to recipient construction contractors and subcontractors, was amended to provide that the requirements also apply to recipient construction contracts and subcontracts if the recipient finances the construction with funds from another Federal grant or agreement to which the standards apply. Paragraphs were added to define the requirements under CETA grants and agreements.

Arrangement of Regulations

Two nonprofit respondents requested that the regulations be rearranged so that all administrative requirements applicable to a nonprofit applicant or recipient would be included in one section of the regulations as they had been included for applicants or recipients that are State or local or federally recognized Indian tribal governments. These comments, and the necessity for including CETA requirements, resulted in an extensive rearrangement of the regulations. The CETA requirements are consistent with and reflect regulations published on April 3, 1979, in the *Federal Register* at 20 CFR Parts 675-679. Section 29-70.200 explains the rearrangement.

Additional Requirements—Certain Recipients

Section 29-70.105, which provides that special requirements may be imposed on individual applicants for or recipients of financial assistance under a grant or agreement, was amended to clarify that the grant officer is responsible for such a decision and that such a decision must be based on monitoring of performance, audits, or preaward audit surveys

regarding the adequacy of accounting systems.

Cash Depositories—Eligibility

Section 29-70.201-2(b) was amended to make clear that funds advanced under DOL grants and agreements are not considered to be "public moneys" for the purpose of requiring that advance funds be deposited in banks with Federal Deposit Insurance Corporation coverage and the balance collaterally secured.

Bonding and Insurance

Section 29-70.202 was amended to add special CETA bonding and insurance standards which are statutorily required under the amended Act.

Record Retention Periods

Proposed § 29-70.203-3(b) required that records of grants and agreements involved in litigation or other disputes be retained until "1 year after the litigation * * * has been resolved." Two reviewers questioned the need to keep the records for the extra year. The decision was made to delete the requirement and to change the section to read, "until the litigation * * * has been resolved."

Substitution of Microfilm

Section 29-70.203-4 of the proposed regulations required that a recipient obtain prior grant officer approval to substitute microfilm for original records. Several reviewers believed that prior permission should not be required. This requirement was changed to say that the recipient may substitute microfilm for original records after the records have been audited.

Public Access to Records

The introductory paragraph of proposed § 29-70.203-6(b) stated that the recipient should follow its own standards regarding public access to grant or agreement records. A reviewer believed this wording implied Federal approval of recipient policy which might be too restrictive. The revised paragraph does not deal with recipient standards and states only that the Federal Government places no restrictions (other than those given in this section) on public access to records. Special CETA record retention and accessibility requirements were added.

Program Income and Interest Earned

Proposed § 29-70.205-2(b) required that a recipient return interest earned on advances of Federal funds within 30 days after the end of the quarter in

which the interest was earned. A reviewer believed that, in keeping with sound Federal cash management principles, the interest should be returned sooner. The section was amended to require that interest earned be remitted to the Department within 15 days after the end of the quarter in which the interest is earned. Section 29-70.205b was added to the regulations. This section covers recipient use of program income generated under CETA grants and agreements.

Recipient Financial Management Systems

Several reviewers commented that the proposed regulations failed to provide for the non-Federal audit effort. Section 29-70.207-2(h) has been revised to provide for non-Federal audits as a part of a recipient's financial management requirement. Section 29-70.207-4 deals with the DOL audit program and the conditions under which the DOL will use non-Federal or other Federal agency audits in lieu of performing its own audits. A section was added to reference the section in the CETA program regulations which provides for the statutorily required unified audits of CETA recipients.

Financial Reporting Requirements

Proposed § 29-70.208-4 provided that a DOL Agency could impose additional requirements on recipients under certain circumstances. One reviewer believed that the section, as written, seemed to give DOL officials authority to impose additional requirements without first getting Office of Management and Budget clearance. Paragraphs (a)(1) and (2) of § 29-70.208-4 were amended to make clear that DOL officials may require additional information or more frequent reports only after obtaining clearances required in § 29-70.101 (g) and (h). Section 29-70.208b was added at the end of the standard to reference the section of the CETA program regulations which prescribes special statutorily required CETA financial reporting requirements.

Monitoring and Performance Reporting Requirements

Section 29-70.209b was added at the end of the standard to include or reference the section of the CETA program regulations which includes the special statutorily required CETA monitoring and performance reporting requirements.

Payment Methods

Section 29-70.210-2 of the proposed regulations referenced requirements of

Treasury Department regulations, 31 CFR Part 205, in determining payment methods. A reviewer commented that OMB Circulars Nos. A-102 and A-110 contain Federal standards for selecting grant or agreement payment methods and should be referenced rather than the Treasury Department regulations. The section was amended to delete references to the Treasury Department regulations. Section 29-70.210b was added at the end of the standard to provide the statutorily required CETA requirements regarding the withholding of payments.

Modifications and Budget Revision Procedures

Section 29-70.211b was added at the end of the standard to reference the section of the CETA program regulations which covers modification procedures under CETA grants and agreements.

Applying for Federal Financial Assistance

Section 29-70.214 was amended to add a section covering the recipient's need to observe the clearinghouse procedures of OMB Circular No. A-95. Assurances published in the proposed regulations for use in nonconstruction grants and agreements with nonprofit recipients subject to OMB Circular No. A-110 were amended, and assurances for grants and agreements involving construction were added. Section 29-70.214b, referencing sections of the CETA program regulations which provide special CETA application procedures, was added at the end of the standard.

Property—Acquisitions Requiring Prior Approval

The standards in the proposed regulations for nonprofit organizations subject to OMB Circular No. A-110 provided that a DOL Agency could (for certain projects or classes of projects) require that the recipient obtain DOL Agency approval before purchasing nonexpendable personal property with a unit cost of \$300 (rather than \$1,000) and a useful life of more than 1 year. This provision was not included in the standards covering recipients subject to OMB Circular No. A-102 requirements (State and local governments). Two reviewers requested that the provision be made applicable (for certain projects or classes of projects) to all recipients. Section 29-70.215-5(b) was amended to include the requirement. Section 29-70.215-10, covering excess property, was expanded to clarify requirements in the acquisition and disposition of Federal excess property.

Procurement Standards

Section 29-70.216 was amended to restrict the applicability of the section to recipient and subrecipient contracts and subcontracts, and to exclude subgrants and subagreements from coverage (unless otherwise specifically stated).

Provisions, Recipient Contracts and Subcontracts

Recipient Noncompetitive Procurement. Section 29-70.216-5(c), covering recipient noncompetitive procurement, was amended to provide guidance as to appropriate circumstances under which the grant officer would approve a proposed noncompetitive procurement.

Maintenance of Records. Section 29-70.216-8(b)(3) required that a provision be included in each recipient contract requiring contractors to " . . . make available . . . books, . . . for audit" A reviewer suggested that an exception should be made for "acquisitions procured by formal advertising using a fixed-price contract." The section was amended to provide for the exception.

Equal Opportunity Clause. Section 29-70.216-8(b)(6) provided a proposed equal employment opportunity clause to be used in all nonexempt recipient and subrecipient contracts. A reviewer informally requested that separate clauses be prescribed for construction and nonconstruction contracts. Following discussions, the Office of Federal Contract Compliance Programs approved the separate clauses now included in §§ 29-70.216-8(b)(6) and 29-70.216-8(b)(5), respectively.

Contract Work Hours and Safety Standards Act

The provisions covering the Contract Work Hours and Safety Standards Act (for construction and nonconstruction recipient contracts) have been amended to make clear that the provisions apply if the grant or agreement is under a statute which provides for wage standards for work under the grant or agreement (see § 29-70.216-8(c)(3) and § 29-70.216-8(d)(4)).

Special CETA Standards

Section 29-70.216b was added to provide for special CETA standards relating to on-the-job training contracts, preferential selection procedures, small and minority business set-asides, maintenance of lists of potential contractors and subrecipients, and the applicability of labor standards.

Other Comments

Comments Beyond the Scope of the Regulations

A number of comments were received which concerned matters beyond the scope of these regulations. They include the following:

1. A statement concerning the efficiency of the Federal Reserve Bank letter-of-credit procedures compared with those of the Regional Disbursing Office system. Appropriate letter-of-credit procedures are prescribed by the Treasury Department.

2. A request that steps be taken to clarify points of law not yet resolved regarding interest earned on advance Federal funds.

Comments Considered But Not Accepted

A number of comments were received which were considered, but not accepted at this time. These include the following:

1. A respondent requested that the regulations spell out special bank account procedures. This was rejected because detailed procedures may be furnished on an individual basis by the grant officer if special bank account procedures are used. Including the procedures in this part would lengthen the regulations substantially.

2. A respondent questioned the right of the Department to review recipient procurement procedures. This was rejected because both OMB Circulars provide that "The grantee shall establish procurement procedures . . ." and the Comptroller General has ruled that "both the grantee and the granting agency have a responsibility for enforcing Federal procurement principles . . ."

3. A respondent requested that the names of handicapped individuals who participate in Federal assistance programs be withheld from the public. Section 29-70.203-6(b) has been revised to enable the Secretary to impose restrictions on disclosure of information which might constitute an invasion of personal privacy. There are also safeguards in the regulations regarding beneficiaries other than names. A blanket withholding of information for any group would be inconsistent with the overall Department of Labor policy of "public disclosure to preserve the integrity of the programs and to avoid conflict-of-interest situations." In addition, public disclosure is statutorily required in certain CETA grants and agreements (see § 29-70.203b).

4. A request that Federal officials enforce requirements regarding the failure of recipients who receive advance funding to provide for advance funding of subrecipients. Federal policy does not mandate that recipients provide for advance funding of subrecipients.

Other Comments and Changes

Other respondents submitted comments which were editorial in nature. We have made numerous changes to reflect these comments.

The proposed regulations, 41 CFR, Part 29-70, as amended, are hereby adopted and are set forth below:

PART 29-70—ADMINISTRATIVE REQUIREMENTS GOVERNING ALL GRANTS AND AGREEMENTS BY WHICH DEPARTMENT OF LABOR AGENCIES AWARD FUNDS TO STATE AND LOCAL GOVERNMENTS, INDIAN AND NATIVE AMERICAN ENTITIES, PUBLIC AND PRIVATE INSTITUTIONS OF HIGHER EDUCATION AND HOSPITALS, AND OTHER QUASI-PUBLIC AND PRIVATE NONPROFIT ORGANIZATIONS

Subpart 29-70.1—Basic Grant and Agreement Policies

- Sec.
- 29-70.100 Authority.
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 - 29-70.102 Definitions.
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- 29-70.200 Arrangement of regulations.
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- 29-70.202-1 General policy.
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- 29-70.202a Bonding and insurance—special requirements, nonprofit organizations.
- 29-70.202a-1 Fidelity bonds.
- 29-70.202b Bonding and insurance—CETA requirements.
- 29-70.202b-1 Fidelity bonds.
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- 29-70.202b-3 Special procedures—Operation of Young Adult Conservation Corps (YACC) and Job Corps Programs.
- 29-70.203 Retention of and custodial requirements for records.
- 29-70.203-1 General.
- 29-70.203-2 Record retention policy.
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 - 29-70.204 Waiver of "single" State agency requirements.
 - [Reserved]
 - 29-70.205 Program income and interest earned.
 - 29-70.205-1 General.
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 - 29-70.206 Matching share.
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 - 29-70.207 Standards for grantee financial management systems.
 - 29-70.207-1 General.
 - 29-70.207-2 Standards—financial management systems.
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 - 29-70.208 Financial reporting requirements.
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 - 29-70.210 Grant or agreement payment requirements.
 - 29-70.210-1 General.
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- 29-70.210-6 Joint funding.
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 - 29-70.211 Modifications and budget revision procedures.
 - 29-70.211-1 General.
 - 29-70.211-2 Grant or agreement budget.
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 - 29-70.211-5 Modification procedures.
 - 29-70.211-6 Notification of excess Federal funds.
 - 29-70.211a Modifications and budget revision procedures—special requirements, nonprofit organizations.
 - 29-70.211b Modifications and budget revision procedures—CETA requirements.
 - 29-70.212 Closeout procedures.
 - [Reserved]
 - 29-70.213 Suspension and termination of grants and agreements; debarment.
 - [Reserved]
 - 29-70.214 Applying for Federal financial assistance.
 - 29-70.214-1 General.
 - 29-70.214-2 Clearinghouse review—OMB Circular No. A-95.
 - 29-70.214-3 Forms for applying for DOL financial assistance—jointly funded grants or agreements.
 - 29-70.214-4 Standard forms—State, local, and federally recognized Indian tribal governments.
 - 29-70.214a Applying for Federal financial assistance—special requirements, nonprofit organizations.
 - 29-70.214b Applying for Federal financial assistance—CETA requirements.
 - 29-70.215 Property management standards.
 - 29-70.215-1 General.
 - 29-70.215-2 Real property.
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 - 29-70.215-5 Other nonexpendable personal property.
 - 29-70.215-6 Shared use of nonexpendable personal property.
 - 29-70.215-7 Property management standards for nonexpendable personal property.
 - 29-70.215-8 Expendable personal property.
 - 29-70.215-9 Intangible personal property.
 - 29-70.215-10 Excess personal property.
 - 29-70.215a Property management standards—special requirements, nonprofit organizations.
 - 29-70.215a-1 Special acquisition and disposition restrictions—nonexempt nonexpendable personal property.
 - 29-70.215a-2 Copyrights.
 - 29-70.216 Procurement standards; required provisions for recipient contracts.
 - 29-70.216-1 Purpose and applicability.
 - 29-70.216-2 Recipient's procurement responsibilities.
 - 29-70.216-3 Procurement systems and procedures.
 - 29-70.216-4 Recipient code of conduct.
 - 29-70.216-5 Competition in recipient procurement.

Sec.

- 29-70.216-6 Procedural requirements.
 29-70.216-7 Required prior grant officer approvals.
 29-70.216-8 Content and provisions of recipient contracts.
 29-70.216a Procurement standards—special requirements, nonprofit organizations.
 29-70.216a-1 Special requirements.
 29-70.216b Procurement standards—CETA requirements.
 29-70.216b-1 Special CETA standards.
 Authority: 5 U.S.C. 301; 29 U.S.C. 801 et seq.; 29 U.S.C. 795; 30 U.S.C. 801 et seq.; 29 U.S.C. 651 et seq.; 42 U.S.C. 3011 et seq.; 42 U.S.C. 501 et seq.; 11101 et seq.; 1321 et seq.; 29 U.S.C. 49 et seq.; OMB Circular No. A-102; OMB Circular No. A-110.

Subpart 29-70.1—Basic Grant and Agreement Policies

§ 29-70.100 Authority.

Part 29-70 is promulgated by the Secretary of Labor pursuant to authority conferred by 5 U.S.C. 301 and by the following statutes which authorize the award of financial assistance by the Department of Labor:

- (a) The Comprehensive Employment and Training Act, as amended (29 U.S.C. 801 et seq.).
 (b) The Employment Opportunities for Handicapped Individuals Act (29 U.S.C. 795).
 (c) The Federal Mine Safety and Health Act, as amended (30 U.S.C. 801 et seq.).
 (d) The Occupational Safety and Health Act, as amended (29 U.S.C. 651 et seq.).
 (e) Title V, Older Americans Act of 1965, as amended (42 U.S.C. 3011 et seq.).
 (f) Social Security Act, as amended (42 U.S.C. 501 et seq., 1101 et seq., and 1321 et seq.).
 (g) Wagner-Peyser National Employment System Act (29 U.S.C. 49 et seq.).

§ 29-70.101 Purpose, applicability, and scope.

(a) Part 29-70 contains administrative requirements which shall govern the awarding, administering, and closing of all grants and agreements by which Department of Labor Agencies award financial assistance to recipients, that is, to State and local governments, Indian and Native American entities, public and private institutions of higher education, public and private hospitals, and other quasi-public and private nonprofit organizations. Attention is directed to § 29-70.200 which explains the organization of this part which is designed to cover multiple Federal assistance programs.

(b)(1) The requirements set forth in this part also apply, except as otherwise

stated in this part, to subgrants and subagreements by which any recipient awards financial assistance received from a DOL Agency to a subrecipient whenever:

- (i) The subrecipient would be a recipient if it had received financial assistance directly from a DOL Agency; and
 (ii) The subrecipient in its subgrant or subagreement has agreed to perform work which is substantially the same as any type of work which the recipient has promised to perform in its grant or agreement with the DOL Agency.

(2) The requirements which apply to a recipient that is a State or local government or a federally recognized Indian tribal government also apply to a subrecipient that is a State or local government or a federally recognized Indian tribal government; and the requirements which apply to a recipient that is an Indian or Native American entity other than a federally recognized Indian tribal government, a public or private hospital or institution of higher education, or a quasi-public or private nonprofit organization also apply to a subrecipient that is an Indian or Native American entity other than a federally recognized Indian tribal government, a public or private hospital or institution of higher education, or a quasi-public or private nonprofit organization.

(c) Section 29-70.216 of this part contains the administrative requirements for contracts entered into by a recipient or subrecipient. Section 29-70.202 prescribes bonding requirements for construction contracts entered into by a recipient or subrecipient.

(d) The regulations set forth in this part do not apply to:

- (1) Public contracts entered into by a DOL Agency which are subject to Federal acquisition (procurement) laws.
 (2) The direct payment of funds to individuals by the DOL.

(3) Assistance to foreign or international organizations and Government-owned-contractor-operated (GOCO) facilities.

(e) The requirements set forth in this part implement the requirements which the Office of Management and Budget (OMB) has imposed upon the Department in OMB Circulars Nos. A-102 and A-110.

(1) OMB Circular No. A-102 was issued in order to require all Federal executive agencies to use uniform administrative standards for all grants and agreements by which the Federal executive agencies award financial assistance to recipients which are State

and local governments and federally recognized Indian tribal governments.

(2) OMB Circular No. A-110 was issued in order to require all Federal executive agencies to use uniform administrative standards for all grants and agreements by which the Federal executive agencies award funds to recipients which are public or private institutions of higher education, public or private hospitals, Indian and Native American entities other than federally recognized Indian tribal governments, and other quasi-public and private nonprofit organizations.

(f)(1) Since the provisions of this part implement OMB Circulars Nos. A-102 and A-110 for all grants and agreements awarded by DOL Agencies, recipients and subrecipients of DOL financial assistance need no longer refer to those OMB Circulars in their performance under DOL-funded grants, agreements, subgrants, and subagreements. They may refer, instead, to the regulations under this part.

(2) Since the provisions of this part apply to all grants and agreements between DOL Agencies and recipients, there will no longer be any need, except as provided in subparagraph (f)(3) and in paragraphs (g) and (h) of this section, for other Department of Labor regulations governing the administration of such grants and agreements. Therefore, upon the publication of this part in final form, all DOL Agencies shall:

- (i) Revise their regulations in order to eliminate from their program regulations all administrative requirements which cover the same subject matter as that contained in the regulations in this part. DOL Agencies, however, may reference in their program regulations, the regulations in this part; and
 (ii) Distribute to all recipients copies of the regulations set forth in this part.

(3) These regulations provide the basic policies for administering grants and agreements awarded under the Comprehensive Employment and Training Act (CETA), as amended. The Employment and Training Administration may issue necessary supplemental regulations applicable only to CETA programs in an administrative section of CETA program regulations found at 20 CFR 676. These supplemental regulations will interpret or expand on regulations included in this part; and will not conflict with or go beyond these regulations unless the requirements have been determined to be statutory or have been approved by the OMB as necessary to achieve program objectives in accordance with paragraphs (g) and (h) of this section.

(g)(1) Whenever the statute under which a DOL Agency awards financial assistance by grant or agreement contains a provision or provisions which are specifically contrary to or which go beyond a regulation or regulations contained in this part, the statutory provision shall prevail. For example, since Title IV, Part C, Sec. 439 of the Social Security Act specifically states that all regulations governing the Work Incentive Program must be jointly promulgated by the Secretary of Labor and the Secretary of Health, Education, and Welfare, the regulations in this part do not apply, by their own terms, to grants or agreements awarded by the DOL under Title IV, Part C, of the Social Security Act (Work Incentive Program).

(2) The regulations in this part contain the maximum requirements for DOL recipients with respect to subject matter covered in OMB Circulars Nos. A-102 and A-110. Therefore, no DOL Agency shall impose upon a recipient by regulation any administrative requirement which goes beyond the requirements of this part with respect to the subject matter contained in this part unless the administrative requirement is specifically required by a statutory provision or has been approved by the OMB as a deviation necessary to meet program objectives.

(3) The question of whether or not a statutory provision requires a DOL Agency to impose upon a recipient an administrative requirement which conflicts with or which goes beyond a regulation or regulations contained in this part, with respect to the subject matter contained in this part, shall be determined by the Solicitor of Labor. Therefore, whenever a DOL Agency intends to impose such a requirement on a recipient or recipients, the proposed requirement shall first be submitted in writing to the Solicitor with a citation of the statutory provision which specifically requires it. The DOL Agency may then impose the requirement provided the Solicitor first certifies in writing to the requesting DOL Agency and to the Assistant Secretary for Administration and Management that the requirement is specifically required by the statute. The Assistant Secretary shall transmit the Solicitor's certification to the OMB and shall make the certification available to the public upon written request.

(h) Whenever a DOL Agency wants to deviate from the requirements of this part, in cases in which a specific statutory provision does not require the deviation, in order to impose on recipients requirements which the DOL

Agency believes are necessary to achieve program objectives, but which conflict with or go beyond the requirements of this part, the DOL Agency shall:

(1) Submit the proposed deviation to the Assistant Secretary for Administration and Management and the Solicitor of Labor with an explanation of the requirement. The Assistant Secretary for Administration and Management, after consultation with the Solicitor of Labor, shall approve or disapprove the request and transmit any DOL-approved request to the OMB for its approval.

(2) Impose the requirement only after OMB approval.

(i) When the administrative requirement involves a report subject to OMB Circular No. A-40, Management of Federal Reporting Requirements, the DOL Agency shall observe the reports clearance requirements of the circular (see § 29-70.208-4(c)).

(j) Whether or not the administrative requirement is required by statute, DOL Agencies shall observe the rule-making procedures of the Administrative Procedure Act (APA); and any additional rule-making requirements mandated by the legislation authorizing the financial assistance program. Although grants and agreements awarding Federal financial assistance are exempt from the rule-making procedures of the APA, the Secretary's regulation at 29 CFR 2.7 requires that DOL Agencies shall not use the exemption as a reason for not complying with the notice and public participation requirements thereof. The DOL Agencies may, of course, use the provisions of § 553(b) (A) and (B) of Title 5 of the U.S. Code to justify the omission of notice to, and public participation by, the public.

§ 29-70.102 Definitions.

Words and terms used in this part which are not defined in this section shall have the meaning given to them in the legislation authorizing the financial assistance. The words and terms defined in this section shall have the meanings set forth below:

(a) *Definitions—general.* "Accrual basis" is the method of accounting whereby financial transactions are recorded in accounts as they take place (that is, as goods and services are purchased or used and as revenues are earned) even though the cash in such transactions is paid out or received at other dates.

"Accrued expenditures" are the charges incurred by the recipient or subrecipient during a given period requiring provision of funds for: (1)

Goods and other tangible property received; (2) services performed by employees, contractors, subrecipients, and other payees; and (3) other amounts becoming owed under programs for which no current services or performance is required such as annuities, insurance claims, and other benefit payments.

"Accrued income" is the sum of: (1) Earnings during a given period from services performed by the recipient and goods and other tangible property delivered to purchasers; and (2) amounts becoming owed to the recipient for which no current services or performance is required by the recipient.

"Acquisition cost of purchased nonexpendable personal property" means the net invoice unit price of the property, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges, such as charges for taxes, duty, protective in-transit insurance, transportation, or installation, shall be included in or excluded from acquisition cost in accordance with the recipient's regular accounting practices.

"Advance by Treasury check" means a payment made by Treasury check to a recipient of a DOL grant or agreement upon its periodic request or through the use of predetermined payment schedules to finance current operations under the project before outlays are made by the recipient.

"Advance payments" are advances of money made by the Government to a recipient pursuant to a statutory authorization and in accordance with applicable regulations prior to and in anticipation of disbursements required to carry out a project under the grant or agreement.

The term "agency" means an executive department, agency, commission, authority, administration, board, or other independent establishment in the executive branch of the Federal Government; or in a State or local government.

"Agreement" is a written legal arrangement (other than a grant or contract) whereby a DOL Agency provides financial assistance to a recipient for the purpose of carrying out an approved project under a statute administered by the DOL Agency. The term "agreement" includes "cooperative agreement."

"Applicant" means any State or local government, Indian or Native American entity, public or private institution of higher education, public or private

hospital, or other quasi-public or private nonprofit organization eligible to become a recipient of a DOL grant or agreement.

"Brand name or equal" means a commercial product described by a brand name and make or model number or other nomenclature by which the product is offered to the public by a particular supplier; or another product having all characteristics of the brand name product essential to meet the recipient's needs.

"Budget," as used in this part, means the recipient's financial plan approved by the DOL Agency for carrying out the purposes of the grant or agreement. The budget includes the Federal share and, if non-Federal matching funds are required, the non-Federal share.

"Cash contributions" means cash provided by the recipient (or by third parties to the recipient) as a share of the total costs of a DOL-awarded grant or agreement.

"CETA" means the Comprehensive Employment and Training Act, as amended.

"CFR" means Code of Federal Regulations.

"Closeout" means the process by which the DOL Agency determines that all required work of the grant or agreement has been completed or that the period of the grant or agreement has expired, and that all applicable administrative actions have been completed by the recipient and the DOL Agency.

"Collaterally secured" means that fulfillment of an obligation is assured by security (property) given.

"Competitive negotiation" is a competitive procurement method which is used when the nature of services or products needed precludes development of a description or specifications which are sufficiently precise to enable all prospective suppliers to have an identical understanding of the requirement. Proposals submitted are subject to negotiation and change. Either a fixed-price or cost-reimbursement contract may be awarded.

"Completion date" (expiration date) means the date when all work under the grant or agreement is completed (if the grant or agreement stipulates completion of such work); or the date in the award document, or any supplement or amendment thereto, on which Federal assistance ends. After that date, expenditures may not be charged against the Federal share of a grant or agreement except to satisfy obligations incurred on or before that date.

"Construction," as defined in 41 CFR 1-18.101-1, means construction,

alteration, or repair (including dredging, excavating, and painting) of buildings, structures, or other real property. For purposes of this definition, the terms "buildings, structures, or other real property" include but are not limited to buildings, structures, and improvements of all types such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, powerlines, pumping stations, railways, airport facilities, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, canals, and channels. Construction does not include exploratory drilling and other investigative work which is for the purpose of obtaining preliminary data to be used in engineering studies and which is not a part of commencing or continuing the construction process, nor does it include the manufacture, production, furnishing, construction, alteration, repair, processing, or assembling of vessels, aircraft, or other kinds of personal property.

In determining applicability of labor standards provisions to work under the grant or agreement, "construction" shall have the meaning given in the particular labor standards statute or Order, e.g., Davis-Bacon Act, Contract Work Hours and Safety Standards Act (29 CFR 5.2), Copeland Anti-Kickback Act (29 CFR 3.2), and Executive Order 11246 (41 CFR 60-1.3).

"Contract" means a written agreement (other than a grant or agreement) between the recipient of a DOL grant or agreement (or its subrecipients) and another party (the contractor) obligating the recipient to pay for and the contractor to furnish property or services needed to accomplish the purposes of the grant or agreement. It does not include subgrants or subagreements entered into by the recipient or subrecipient for carrying out substantive parts of the project.

"Cost analysis" means the review and analysis of a contractor's or prospective contractor's submitted cost data to form an opinion as to whether the contractor's proposed costs represent what the contract should cost to perform. It includes the verification of cost data, the necessity for specific costs, the allowability of contingencies, the reasonableness of estimated amounts, and the basis used for allocation of and appropriateness of particular items of overhead costs.

"Cost-plus-a-percentage-of-cost contract" is a cost-reimbursement contract whereby the contractor is reimbursed for costs plus a fixed percentage of costs; its effect is to increase the profit of a contractor in

proportion to the contractor's increased costs. Its use is prohibited by law (41 U.S.C. 254b and 10 U.S.C. 2306(a)) in Government contracting. Its use is also prohibited in recipient or subrecipient contracting.

"Cost-reimbursement contract" means a contract which establishes an estimate of total costs for the purpose of obligating funds and a ceiling that the contractor may not exceed (except at contractor risk) unless the awarding party agrees to amend the contract to provide additional funds. This kind of contract may also provide for a fixed dollar profit which may not be increased unless the contract is amended to increase the scope of work. The contract provides for payment of all allowable costs to the extent prescribed in the contract.

"Cost sharing and matching" is an arrangement by which a portion of costs of a program financed by a grant or agreement is borne by the recipient or a third party rather than all of the program costs being borne by the DOL Agency awarding the grant or agreement.

"Department" means the U.S. Department of Labor.

"Deviation" means any grant or agreement condition, procedure, or form which deviates from those prescribed in the requirements of this part; or the failure to use standards prescribed in this part.

"Direct cost" is any cost which can be identified specifically with a particular final cost objective. Detailed definitions of direct cost are found in the applicable "cost principles" (see § 29-70.103).

"Disallowed costs" are those charges to a grant or agreement that the DOL Agency determines to be unallowable, in accordance with the applicable Federal cost principles and the conditions of the grant or agreement.

"Disbursements" are payments made by the recipient by cash or check.

"DOL" means the U.S. Department of Labor.

"DOL Agency" means a major organizational component of the DOL. DOL Agencies consist of the Bureau of International Labor Affairs, Bureau of Labor Statistics, Employment and Training Administration, Employment Standards Administration, Labor-Management Services Administration, Mine Safety and Health Administration, Occupational Safety and Health Administration, Office of the Assistant Secretary for Policy, Evaluation and Research, Office of the Solicitor, Office of the Assistant Secretary for Administration and Management, and Office of Information, Publications and Reports.

"Drawdowns" are cash withdrawals by a recipient against a letter of credit to pay for the Federal share of disbursements under a grant or agreement.

"Equipment" (see "nonexpendable personal property").

"Excess property" means property under the control of the DOL which, as determined by the Secretary or designee, is no longer required for the discharge of departmental responsibilities.

"Exempt property" means tangible personal property acquired in whole or in part with Federal funds, and title to which is vested in the recipient without further obligation to the Federal Government except as otherwise provided in this part. Such unconditional vesting of title shall be pursuant to Federal legislation authorizing such vesting (e.g., The Federal Grant and Cooperative Agreement Act, 41 U.S.C. 501—see § 29-70.215).

"Expendable personal property" means all tangible personal property other than nonexpendable personal property.

"Expenditures" are amounts payable or accrued for goods received, work performed, or services rendered, regardless of when paid.

"Federal funds authorized" are the total amount of Federal funds obligated by the DOL Agency for the use of the recipient of financial assistance under a grant or agreement. The amount may include any authorized carryover of funds unobligated by the recipient from prior fiscal years when permitted by law or DOL regulations and the terms of the grant or agreement.

"Federally recognized Indian tribal government" means the governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any Native village as defined in Section 3 of the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 et seq.) certified by the Secretary of the Interior as eligible for the special programs and services provided by the Department of the Interior through the Bureau of Indian Affairs.

"Financial assistance" means money, property, services, or anything of value, transferred by a DOL Agency to a recipient where the principal purpose of the transfer is to accomplish a public purpose of support or stimulation authorized by Federal statute.

"Fixed-price contract" is a contract which provides for a specific price not subject to adjustment by reason of the cost experience of the contractor in performing the contract unless a clause

provides for equitable adjustment or other revision upon the occurrence of an event or contingency.

"Formal advertising" is a competitive procurement method which is normally used when the nature of the product or service permits development of a precise description or adequate specifications so that prospective suppliers will be enabled to have an identical understanding of the requirement. Bids are solicited publicly through advertising and by issuing "Invitations for Bids." In response to the solicitation, "formal" sealed bids are submitted which are not subject to negotiation or change. The sealed bids are opened publicly on a specified date and are read aloud. A firm fixed-price contract is awarded to the responsible bidder whose bid, conforming to the material terms and conditions of the invitation for bids, is lowest in price.

"Grant" means a written legal arrangement (other than a contract or agreement) between a DOL Agency and an eligible recipient whereby the DOL Agency provides Federal financial assistance to the eligible recipient for the purpose of carrying out an approved project which is part of a DOL Agency financial assistance program. The term "grant" may also refer to money, or property in lieu of money, paid or furnished by the DOL Agency to an eligible recipient under programs that provide Federal financial assistance through grants.

"Grantee" means the recipient of a DOL Agency grant who is responsible for carrying out the approved project and for accounting to the DOL Agency for the use of Federal funds.

"Grant officer" means a DOL employee who has been delegated authority to award and administer grants and agreements on behalf of the Department.

"Handicapped individual" means any person who (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment.

"Hospital" means an institution which: (1) is primarily engaged in providing, by or under the supervision of physicians to inpatients, (i) diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or (ii) rehabilitation services for the rehabilitation of injured, disabled, or sick persons; (2) maintains clinical records on all patients; (3) has bylaws in effect with respect to its staff of physicians; (4) has a requirement that

every patient must be under the care of a physician; (5) provides 24-hour nursing service rendered or supervised by a registered professional nurse, and has a licensed practical nurse or registered professional nurse on duty at all times; (6) has in effect a hospital utilization review plan which meets the requirements of the law; (7) in the case of an institution in any State in which State or applicable local law provides for the licensing of hospitals (i) is licensed pursuant to such law or (ii) is approved, by the agency of the State or locality responsible for licensing hospitals, as meeting the standards established for such licensing.

"Immediate family" means husband, wife, son, daughter, parent, brother, sister, uncle, aunt, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, niece, nephew, stepparent and stepchild.

"Incremental funding" means the funding of a grant or agreement in increments when an award is made prior to the necessary amount of Federal funds becoming available to the DOL. Awards are conditioned upon funds becoming available, and the DOL assumes no legal liability beyond funds available at time of award until the grant officer gives the recipient written notice of availability of additional funds (see § 29-70.211-5(c)).

"Indian and Native American entities" include federally recognized Indian tribal governments; Indian tribes, bands, or groups which are not federally recognized including urban and rural nonreservation Indians; and Indian and other Native American quasi-public or private nonprofit business entities. The term includes Aleuts, Eskimos, and for purposes of CETA and other Acts which classify native Hawaiians as native Americans, Hawaiians.

An "indirect cost" is one which, because of its incurrence for common or joint objectives, is not readily subject to treatment as a direct cost. Detailed definitions of "indirect costs" are found in the applicable "cost principles" (see § 29-70.103).

"In-kind contributions" are noncash contributions provided by the recipient or third parties as all or part of the recipient's matching share of a project when the recipient is required, by terms of the grant or agreement, to share in the costs of a project.

"Institution of higher education" means an educational institution in any State which: (1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such

certificate; (2) is legally authorized within such State to provide a program of education beyond secondary education; (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree; (4) is a public or other nonprofit institution; and (5) is accredited by a nationally recognized accrediting agency or association; or, if not so accredited, (i) is an institution with respect to which the Commissioner of Education has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time; or (ii) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (1), (2), (4), and (5).

"Instrumentalities of a State" mean agencies, commissions, departments, or other State-level bodies created by the State to perform State functions. The term does not include the governments of the political subdivisions of a State e.g., a county, city, or town.

"Invitation for bids" (IFB) is a set of documents which includes a description of the product or service desired and all other information needed to enable a prospective contractor to submit a bid. The invitation for bids is the specific term applied to the solicitation used in Government contracts when the formal advertising procurement method is used.

"Joint funding" means an undertaking that includes components proposed or approved for assistance under more than one Federal program (or one or more Federal programs and one or more State programs) provided that each contributes materially to the accomplishment of a single purpose or related purposes.

"Letter of credit" is an instrument, certified by an authorized DOL official, which authorizes the recipient to draw funds when needed, up to a dollar limit, from the Treasury in accordance with provisions of § 29-70.210 of this part.

"Local government" means a local unit of government including specifically a county, municipality, city, town, township, local public authority, school district, intrastate district, council of governments, sponsor group representative organization, and other regional or interstate government entity, or any agency or instrumentality of a local government exclusive of institutions of higher education and hospitals.

"Minority bank" means a bank in which more than 50 percent of the outstanding stock is owned by members of a minority group; or a bank with less than 50 percent minority ownership in which the nonminority stockholders have turned voting rights over to members of a minority group, making it minority-controlled.

"Minority business" means a business controlled by minority group members, at least 50 percent of which is owned by minority group members or, in cases of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members. For the purpose of this definition, minority group members include, but are not limited to, Black Americans, Hispanic Americans, Native Americans, and other minorities who are socially or economically disadvantaged.

"Modification" means any written alteration of the approved grant or agreement to show changes in amount, terms or conditions, budget, or project period, scope of project, or other administrative, technical, or financial provisions. The changes may be accomplished by unilateral action of the DOL Agency or the recipient in accordance with applicable regulations and terms of the grant or agreement; or by mutual agreement of the DOL Agency and the recipient.

"Negotiated procurement" is a procurement method (normally competitive) which is used when the nature of a product or service precludes the development of specifications or a precise description so that all prospective suppliers have an identical understanding of the requirement. Responses to solicitations (proposals) are not opened publicly; contents are generally not revealed prior to award; and they may be changed following evaluation, discussion, and negotiation.

"Noncompetitive negotiation" means negotiated procurement in which a proposal is solicited from only one source.

"Nonexpendable personal property" means tangible personal property having a useful life of more than 1 year and an acquisition cost of \$300 or more

per unit. (Recipients subject to OMB Circular No. A-110 requirements who are also subject to Cost Accounting Standards Board (CASB) regulations may use the CASB standard of \$500 per unit, and useful life of 2 years.) A recipient may use its own definition provided that such definition includes all tangible nonexpendable personal property covered by the above definition.

"Nonprofit organization," for purposes of this part, means any corporation, trust, foundation, agency, or other organization which (1) is entitled to exemption under section 501(c)(3) of the Internal Revenue Code, or (2) is not organized for profit and no part of the net earnings of which inures, or will inure upon dissolution, to the benefit of any private shareholder or individual; Indian and Native American organizations other than federally recognized Indian tribal government; and public hospitals and public institutions of higher education.

"Obligations" are the amounts of orders placed, contracts, subgrants, or subagreements awarded, services received, and similar transactions taking place during a given period, which will require payment during the same or a future period.

"OMB" means the Office of Management and Budget.

"Outlays" represent charges made to the project and include: (1) If reported on an accrual basis: (i) The sum of actual cash disbursements for direct charges for goods and services, (ii) amount of indirect expense incurred, (iii) value of in-kind contributions applied, and (iv) net increase or decrease in the amounts owed by the recipient for goods and other property received; services performed by employees, contractors, subrecipients, and other payees; and other amounts becoming owed under the project for which no current services or performance is required such as annuities, insurance claims, and other benefit payments. (2) If reported on a cash basis: (i) The sum of actual cash disbursements for direct charges for goods and services, (ii) amount of indirect expense charged, (iii) value of in-kind contributions applied, and (iv) amount of unliquidated cash advances and payments made to subrecipients.

"Personal property" means property of any kind except real property. It may be tangible—having physical existence, or intangible—having no physical existence (e.g., patents and copyrights). Tangible property may be expendable or nonexpendable.

"Procurement" means the acquisition of property or services, including

construction (through purchase orders, contracts, leases, or other means) which are needed by DOL recipients or subrecipients in carrying out projects under DOL grants or agreements. The term also applies to acquisitions by the Federal government.

"Program" means a DOL plan for carrying out legislative objectives assigned to the DOL for which funds have been appropriated by Congress (e.g., Migrant and Seasonal Farmworkers Programs).

"Program income" means gross income earned by the recipient from grant or agreement supported activities. Such earnings include, but shall not be limited to: Income from service fees, sale of commodities, usage or rental fees, and royalties on patents or copyrights. It does not include interest earned on Federal funds pending their disbursement for activities under the grant or agreement.

"Project" means a group of related activities which a recipient undertakes after the DOL has approved and funded the activities by awarding a grant or agreement pursuant to achieving objectives of a DOL program.

"Project costs" are all costs (allowable under terms of the grant or agreement and applicable cost principles) which are incurred by a recipient in accomplishing grant or agreement objectives during the project period.

"Public money" (as defined in Treasury Department Circular No. 176) includes, without being limited to, revenue and funds of the United States and any funds the deposit of which is subject to the control or regulations of the United States or any of its officers, agents, or employees.

"Quasi-public organization" means an organization which has many of the characteristics of a public organization, but which is not actually a public organization (e.g., community action agencies, educational associations).

"Real property" means land, including land improvements, and structures and appurtenances thereto, excluding movable machinery and equipment.

"Recipient" means an entity identified in § 29-70.101(e) (1) and (2) of this subpart receiving Federal funds, property, services, or anything of value as financial assistance or as support or stimulation to accomplish a public purpose through a DOL grant or agreement.

"Records" are documents of actions taken with respect to the grant or agreement including financial records, statistical records, and supporting documents.

"Reimbursement by Treasury check" is a payment made to a recipient with a Treasury check upon request for reimbursement for payments made by the recipient for costs incurred under the grant or agreement.

"Request for proposal" (RFP) is a set of documents which includes a description of the product or service desired to enable a prospective contractor to submit a proposal which includes information that procurement and technical personnel need to evaluate proposals submitted. The request for proposals is the specific term applied to the solicitation used in Government contracts when negotiated procurement procedures are used.

"Responsible contractor" (responsible bidder) means a contractor or prospective contractor who appears to possess the ability to perform successfully under the terms and conditions of a proposed procurement based on a review of such factors as a satisfactory record of past performance, integrity, and business ethics; and financial and technical resources or access to such resources.

"Responsive" means that a bid or proposal complies, with respect to method and timeliness of submission and to substance of the bid or proposal, in all material respects, with the requirements of the invitation for bids or request for proposals. A minor irregularity in a bid or proposal, which is deemed to be a matter of form rather than substance, the correction of which would not be prejudicial to other bidders, does not render a bid or proposal nonresponsive.

"Secretary" means the Secretary of Labor or the Secretary's designee.

"Small business" means any business concern organized for profit which is independently owned and operated and is not dominant in its field of operations and can further qualify under the criteria concerning the number of employees, average annual receipts, or other criteria currently prescribed by the Small Business Administration (SBA). (See Sec. 632, Small Business Act, as amended—15 U.S.C. 632.)

"Small purchases" (in Government contracting) are purchases of a nonconstruction character in which the aggregate amount in any one transaction including handling and other costs, is \$10,000 or less. Unless State or local laws require otherwise, bilateral agreements are normally not required, and purchase orders, vouchers or bills, sales slips, memorandums of oral price quotations, or similar records provide adequate documentation to meet Federal standards.

"State" means any of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of State institutions of higher education and hospitals.

"Subagreement" means a written agreement between a recipient under a DOL Agency agreement (other than a grant) and an eligible entity, whereby the recipient provides funds for the purpose of the subrecipient carrying out part of the substantive programmatic work of the project approved by the DOL Agency under the recipient's agreement with the DOL.

"Subgrant" means a written agreement between a recipient under a DOL Agency grant and an eligible entity, whereby the recipient provides funds for the purpose of the subgrantee carrying out a part of the substantive programmatic work of the project approved by the DOL Agency under the recipient's grant with the DOL.

"Subgrantee" means the organization or individual to which a subgrant is awarded by a DOL grantee for the purpose of carrying out a part of the substantive programmatic work of the DOL grant.

"Subrecipient" means a subgrantee (or an organization or individual with a subagreement other than a subgrant) receiving DOL funds through a DOL recipient for the purpose of carrying out a part of the substantive programmatic work of the DOL grant or agreement.

"Supplies" (see "expendable personal property").

"Suspension" means an action of the DOL Agency which temporarily suspends Federal assistance under a grant or agreement pending corrective action by the recipient or a decision by the DOL to terminate the grant or agreement in accordance with § 29-70.213.

"Termination" means the withdrawal by the DOL Agency of Federal assistance, in whole or in part, under a grant or agreement at any time prior to the date of completion because the recipient has failed to comply with conditions of the grant or agreement; or because the recipient and the DOL Agency have mutually agreed that continuation of the project (or part of a project) is not feasible.

"Unliquidated obligations," for reports prepared on an accrued expenditure basis, mean the amount of obligations incurred by the recipient for which an outlay has not been recorded. For reports prepared on a cash basis,

"unliquidated obligations" mean the amount of obligations incurred by the recipient which has not been paid.

"Unobligated balance" is the portion of funds authorized by the DOL Agency which has not been obligated by the recipient, that is, the cumulative funds authorized minus the cumulative obligations.

"Working capital advance basis" means the procedure whereby funds are advanced to the recipient to cover its estimated disbursement needs for a given initial period, after which payments are made by reimbursing the recipient by Treasury check for approved cash disbursements made under the grant or agreement.

(b) *Special definitions—CETA.* "Project" means, for purposes of Titles II and VI of CETA, a definable task or group of related tasks which will be completed within a definable period of time, has a public service objective, will result in a specific product or accomplishment, and would otherwise not be done with existing funds (see also 20 CFR 675.4) (CETA, sec. 3(19)).

"Small business," for purposes of subsection 704(a) of CETA, means any private, for-profit enterprise employing 500 or fewer employees (CETA, sec. 704(a)(2)).

§ 29-70.103 Cost principles.

In determining allowable costs under a grant or agreement, the DOL Agency shall use Federal cost principles referenced in this section which are applicable to the recipient's organization; shall ensure that each recipient receives a copy of applicable cost principles; and shall allow only those costs permitted under the cost principles which are reasonable, allocable, necessary to achieve approved program goals, and which are in accordance with DOL Agency policy and terms of the grant or agreement. The following cost principles apply:

(a) *State and local, and federally recognized Indian tribal governments.* Federal Management Circular (FMC) 74-4 provides principles for determining costs applicable to grants and agreements with State and local, and federally recognized Indian tribal governments. The Circular is codified in the Code of Federal Regulations at 41 CFR 1-15.7. Section J of FMC 74-4 assigns to the Department of Health, Education, and Welfare (DHEW) the primary responsibility for negotiation, approval, and audit of cost allocation plans to cover central support service costs of the States. The OMB assigns primary responsibility for negotiation, approval, and audit of indirect cost

proposals of departments within a State to a single Federal agency. DHEW maintains lists of such assignments.

(b) *Institutions of higher education.* FMC 73-8 (OMB Circular No. A-21) provides principles for determining costs applicable to grants and agreements with public and private institutions of higher education. The Circular is codified at 41 CFR 1-15.3 and 1-15.8. FMC 73-8 assigns to the DHEW the responsibility for coordinating the establishment of indirect cost rates and auditing Federal grants with most colleges and universities.

(c) *Other nonprofit organizations.* Governmentwide cost principles for nonprofit organizations other than educational institutions and hospitals have been published in a proposed OMB Circular. Pending its final adoption and the development of cost principles for hospitals, cost principles located at 41 CFR 1-15.2 or such other cost principles as may be specified in the grant or agreement document shall govern allowable costs for nonprofit organizations other than educational institutions.

§ 29-70.104 Applicability of labor standards.

(a) *General.* Prevailing wage requirements of the Davis-Bacon and related Acts (see 40 U.S.C. 276a-7 and 29 CFR Part 1, Appendix A) apply to recipient contractors and subcontractors who undertake construction activities (see § 29-70.216):

(1) If the statute providing Federal financial assistance specifically provides that such wage requirements apply; or

(2) If the recipient finances the construction with any funds from a grant or agreement with another Federal agency which requires compliance with prevailing wage requirements of the Davis-Bacon and related Acts.

(b) *Applicability—CETA grants and agreements.* Recipients and subrecipients are required to ensure that prevailing wages, as determined by the Secretary pursuant to the Davis-Bacon Act, are paid:

(1) By their contractors and subcontractors to laborers and mechanics, including participants, employed in construction (including alteration, repair, painting, decorating, etc.) which is federally assisted under the Act and related to a facility or building which is used primarily for programs under the Act; and

(2) To laborers and mechanics, including participants, who are employed in construction (including alteration, repair, painting, decorating,

etc.) on any project which is funded wholly or partially under a Federal statute, other than CETA, which requires the payment of prevailing wage rates determined in accordance with the Davis-Bacon Act.

§ 29-70.105 Additional requirements—Certain recipients.

(a) A DOL Agency may impose additional requirements on an individual applicant for or recipient of financial assistance under a DOL grant or agreement if the grant officer determines, on the basis of monitoring, preaward survey, or audits, that the applicant or recipient: (1) Has a history of poor performance; (2) is not financially stable; or (3) has a management system which does not meet DOL standards as set forth in this part.

(b) In imposing additional requirements, the DOL Agency shall provide a written notification to the applicant or recipient which: (1) Identifies additional standards imposed; (2) provides an explanation as to why the standards are needed; and (3) explains corrective actions which must be taken by the applicant or recipient for requirements to be removed.

(c) The DOL Agency shall simultaneously provide a copy of the notification to the OMB and, if other Federal agencies are also funding an applicant or recipient, to those Federal agencies.

(d) A recipient may impose additional requirements on an individual subrecipient for reasons and under conditions identified in paragraphs (a) and (b). If additional requirements are imposed, the recipient shall provide a copy of the written notification furnished the subrecipient to the grant officer.

§ 29-70.106 Transfer of substantive work—Nonprofit organizations.

The DOL Agency shall require that a recipient which is a nonprofit organization (as defined in § 29-70.102) transfer programmatic substantive work of the grant or agreement by subgrant, subagreement, or contract only after obtaining prior written approval of the grant officer. This restriction does not apply to purchases of supplies, material, equipment, or support services. Programmatic substantive work means work that achieves the primary public purpose goal for which the grant or agreement was awarded as opposed to support services.

Subpart 29-70.2—Administrative Standards for DOL Grants and Agreements

§ 29-70.200 Arrangement of regulations.

(a) The regulations in this subpart cover or reference the DOL administrative requirements for all financial assistance awarded under grants and agreements of DOL Agencies. Each section of the regulations covers a Federal standard established in an attachment to OMB Circulars Nos. A-102 and A-110. The sections are numbered consecutively throughout the regulations. They are captioned to reflect the subject matter covered. For example, the regulations include a section captioned, "§ 29-70.202 Bonding and insurance." This section provides all DOL requirements regarding bonding and insurance for recipients of DOL grants and agreements with the following exceptions:

(1) Certain Federal standards set forth in OMB Circular No. A-110 (which covers grants and agreements with nonprofit organizations, as defined in § 29-70.102) differ from standards set forth in OMB Circular No. A-102 (which covers grants and agreements with state and local and federally recognized Indian tribal governments). Where the standards differ, supplemental paragraphs are added at the end of the general requirements to provide the special requirements applicable to grants and agreements with nonprofit organizations. The addition of the letter "a" following the section number and the words "special requirements, nonprofit organizations" identify requirements which differ from the general requirements, e.g., "§ 29-70.202a Bonding and insurance—special requirements, nonprofit organizations."

(2) The legislation authorizing financial assistance under Comprehensive Employment and Training Act (CETA) grants and agreements mandates certain Federal requirements which differ from requirements generally applicable to DOL grants and agreements regardless of whether the recipient would be subject to OMB Circular No. A-102 standards or to those of OMB Circular No. A-110. Where CETA requirements differ, the special CETA requirements are set forth or are referenced in supplementary paragraphs following the standards generally applicable to DOL grants and agreements. The CETA requirements may be identified by the letter "b" following the section number and by the addition of the words "CETA requirements" in the caption, e.g., § 29-

70.202b *Bonding and insurance—CETA requirements.*

(b) Unless supplementary paragraphs to the DOL regulations covering a standard are added, the overall DOL regulations apply.

§ 29-70.201 Cash depositories.

§ 29-70.201-1 General policy.

This section sets forth standards covering the use of banks and other institutions as depositories for Federal funds advanced under DOL grants and agreements. No DOL Agency shall require that a recipient maintain a separate bank account for such funds nor shall the Agency establish eligibility requirements for cash depositories except as provided in this section.

§ 29-70.201-2 DOL requirements.

(a) *Separate bank accounts.* When a DOL Agency advances funds to a recipient, the following shall apply:

(1) In accordance with Section 202 of the Intergovernmental Cooperation Act of 1968, a recipient which is a State need not maintain a separate bank account.

(2) A recipient other than a State shall maintain a separate bank account if:

(i) The DOL Agency advances funds under a letter-of-credit agreement which provides that drawdowns will be made on a "checks paid" basis, i.e., when funds are not withdrawn from the Treasury until the recipient's checks are presented to the bank for payment (Letters of credit with States will not provide for drawdowns on a "checks paid" basis.); or

(ii) The DOL Agency imposes a special requirement on an individual applicant or recipient in accordance with § 29-70.105.

(3) Except as otherwise provided by the grant officer, a recipient required to maintain a separate bank account shall be subject to procedures prescribed in the CFR at 41 CFR 1-30.413 and 41 CFR 1-30.414.

(b) *Eligibility requirements—cash depositories.* A recipient shall deposit advanced Federal funds in a bank with Federal Deposit Insurance Corporation (FDIC) insurance coverage if the funds are subject to the control or regulation of the United States or any of its officers, agents, or employees (public moneys). The balance exceeding FDIC coverage must be collaterally secured. Funds are deemed to be public moneys if the funding legislation specifies that funds advanced are deemed to be public moneys (generally because substantial portions of total Federal funds are advanced). Since the DOL requires that advances to recipients be limited to

immediate cash needs (see § 29-70.210), and present authorizing legislation does not mandate otherwise, funds advanced under DOL grants and agreements are not considered to be "public moneys."

(c) *Use of minority banks.* Pursuant to Executive Order 11625, which established the national goal of expanding opportunities for minority business enterprise, the recipient and its subrecipients are encouraged to use minority banks. The Department of the Treasury periodically publishes a "Roster of Minority Banks" to assist potential users in locating minority banks. Copies of the rosters are furnished Federal executive branch agencies. The recipient may obtain the names of minority banks in its area from DOL Agency officials.

§ 29-70.202 Bonding and insurance.

§ 29-70.202-1 General policy.

A recipient of financial assistance under a DOL grant or agreement shall follow its normal bonding and insurance requirements except as otherwise indicated in this section.

§ 29-70.202-2 Federal bonding and insurance requirements.

(a) *Bonding requirements—recipient contracts for construction or facility improvements.* Except as otherwise required by law, grants or agreements requiring the contracting or subcontracting for construction or facility improvements shall provide that:

(1) The recipient shall follow its own requirements relating to bid guarantees, performance bonds, and payment bonds on the part of its contractors or subcontractors with contracts and subcontracts of \$100,000 or less.

(2) The recipient shall impose the following requirements on its contractors or subcontractors if the contracts exceed \$100,000 unless the grant officer has made a written determination that the DOL's interest is adequately protected without the imposition of the requirements:

(i) *A bid guarantee from each bidder (prospective contractor) equivalent to 5 percent of the bid price.* The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying the bid as assurance that the bidder will, upon acceptance of its bid, execute the necessary contractual documents within the time specified.

(ii) *A performance bond on the part of the contractor for 100 percent of the contract price that secures fulfillment of all of the contractor's obligations under the contract.*

(iii) *A payment bond on the part of the contractor for 100 percent of the contract price* to assure payment as required by law of all persons supplying labor and material in the execution of work provided for in the contract.

(b) *Insurance requirements.* The DOL assumes no liability with respect to bodily injury, illness, or any other damages or losses, or with respect to any claims arising out of any activities undertaken under a DOL grant or agreement, whether concerning persons or property in the recipient's organization or third parties. The recipient is advised to insure or otherwise protect itself with regard to activities under the grant or agreement.

(c) *Loan guarantees.* If the DOL Agency, in connection with a grant or agreement, guarantees or insures the repayment of money borrowed by a recipient, the DOL Agency shall determine whether the recipient's bonding and insurance requirements are adequate to protect the DOL's interest. If not deemed adequate, the recipient shall adopt additional bonding and insurance requirements deemed necessary by the grant officer.

§ 29-70.202-3 Acceptable sureties.

If the DOL Agency requires that a recipient obtain bonds, the recipient shall obtain such bonds from companies holding certificates of authority as acceptable sureties (31 CFR Part 223, "Surety Companies Doing Business With the United States"). A consolidated list of acceptable surety companies is published each July in the Federal Register as Treasury Circular 570. Interim changes are published in the Federal Register as they occur.

§ 29-70.202a Bonding and insurance—Special requirements, nonprofit organizations.

§ 29-70.202a-1 Fidelity bonds.

If the recipient has no fidelity bond coverage, it shall, prior to grant or agreement award, obtain fidelity bond coverage for all officers and employees who have authority to make disbursements of funds furnished by the DOL. Fidelity bond coverage shall be in the form of blanket position bonds in amounts not exceeding \$25,000, the amount to be established by the grant officer.

§ 29-70.202b Bonding and insurance—CETA requirements.

§ 29-70.202b-1 Fidelity bonds.

(a) *Bonding requirement.* A recipient (or subrecipient) shall ensure that every officer, director, agent, or employee

authorized to act on behalf of the recipient or subrecipient in receiving or depositing funds into program accounts; or in issuing financial documents, checks, or other instruments of payment for program costs shall be bonded to provide protection against loss. A CETA recipient (or applicant) shall include provisions of bonding arrangements in the description of administrative systems in the grant or agreement application or in the Master Plan (as appropriate).

(b) *Amount of coverage.* If a recipient's or subrecipient's administrative system provides for fidelity bonds, the grant officer shall accept the existing bond coverage if it meets the following criteria:

- (1) \$100,000; or
- (2) An amount equal to the highest advance received through Treasury check or by drawdown on the letter of credit during the immediately preceding grant or agreement period; or, if a new recipient, the highest advance planned for the present grant or agreement period (see sec. 20 CFR 676.43(b)) (CETA, sec. 134).

§ 29-70.202b-2 Insurance.

If a recipient, in conducting activities under a DOL grant or agreement, uses motor vehicles, the recipient shall ensure that it and its subrecipients and contractors are protected; and that the DOL is held harmless against claims arising from the ownership, maintenance, or use of a motor vehicle. This protection is limited to automobile liability insurance covering bodily injury and property damage. The recipient shall provide the insurance through a DOL-approved self-insurance program or through a commercial insurance policy. The DOL requires a minimum coverage of \$100,000 per person and \$300,000 per accident for bodily injury, and \$25,000 per accident for property damage. If a State or local law (or a Federal law applicable to a recipient's operations such as the Farm Labor Contractor Registration Act of 1963—see 29 CFR 40.14) requires higher coverage, the insurance requirements of such laws shall prevail. If in a DOL program, the recipient uses a motor vehicle which is owned by someone other than the recipient or which is also used for non-DOL program purposes, the DOL shall prorate its share of the premiums, including any additional coverage required to conform to requirements of this paragraph, in accordance with the vehicle's actual use in conducting activities under the grant or agreement.

§ 29-70.202b-3 Special procedures—Operation of Young Adult Conservation Corps (YACC) and Job Corps programs.

For liability incurred by participants in YACC or Job Corps Programs, see CETA regulations at 20 CFR Part 684 and 20 CFR Part 685 (CETA, sections 465(b) and 805(a)).

§ 29-70.203 Retention of and custodial requirements for records.

§ 29-70.203-1 General.

The recipient of a DOL grant or agreement shall observe the record retention and custodial requirements set forth in this section.

§ 29-70.203-2 Record retention policy.

The recipient shall retain all records pertinent to a grant or agreement, including financial and statistical records and supporting documents, for a period of 3 years, subject to the qualifications set forth in § 29-70.203-3.

§ 29-70.203-3 Retention periods.

(a) The retention period will begin on the date of submission by the recipient of the annual or final expenditure report, whichever applies to the particular grant or agreement, except that the recipient shall retain records for nonexpendable property acquired with financial assistance awarded by a DOL Agency for a period of 3 years after final disposition of the property.

(b) If, prior to the expiration of the 3-year retention period, any litigation or audit is begun or a claim is instituted involving the grant or agreement covered by the records, the recipient shall retain the records beyond the 3-year period until the litigation, audit findings, or claim has been finally resolved.

(c) When records subject to retention requirements are transferred to or maintained by the DOL, the 3-year retention period shall not apply. The recipient need not retain duplicates of records transferred to or maintained by the DOL.

§ 29-70.203-4 Substitution of microfilm.

The recipient may substitute microfilm copies in lieu of original records after audit.

§ 29-70.203-5 Records with long-term retention value.

Upon the written request of the grant officer, the recipient shall transfer records with long-term retention value (beyond the 3-year period) to the DOL unless the recipient continually uses the records and delivery would necessitate duplicate recordkeeping. When this situation exists, the recipient may retain

such records after obtaining written permission of the grant officer to do so. Such permission shall be conditioned upon tender of the documents to the DOL prior to their destruction.

§ 29-70.203-6 Access to records.

(a) *Secretary of Labor and Comptroller General.* The recipient shall ensure that the Secretary of Labor and the Comptroller General of the United States, or any of their duly authorized representatives, have access to any pertinent books, documents, papers, and records of the recipient organization and to records of its subrecipients and contractors to make audits, examinations, evaluations, excerpts, and transcripts.

(b) *Public access to records.* No DOL Agency shall place restrictions on a recipient which will limit public access to grant or agreement records except that the DOL Agency may impose restrictions if:

- (1) Such restrictions are required by applicable Federal law; or
- (2) The Secretary or designee determines that certain records should be kept confidential in order to protect personal privacy.

§ 29-70.203b Retention of and custodial requirements for records—CETA requirements.

§ 29-70.203b-1 Records required by the Secretary of Labor.

In addition to the requirements stated in § 29-70.203-6(a), each CETA recipient shall ensure that the following records are maintained for the period described in § 29-70.203-2 and § 29-70.203-3, and made available to the Secretary or authorized designee:

(a) Records including books of account for the expenditure of CETA funds to enable the Secretary to audit and monitor the program. Records shall include information regarding participant eligibility and the propriety of participant selection procedures and practices (CETA, sec. 103(a)(11)).

(b) Records concerning each employee and participant involved in a CETA program. Records shall provide any information needed by the Secretary for reports to the President and to the Congress required by Section 127 of the Act (CETA, sec. 133(a)(1)).

§ 29-70.203b-2 Special retention requirements.

The recipient shall maintain a record of each participant's participation in a CETA program, including dates of entry and termination in each activity; and shall retain such records for each participant for a period of 5 years from

date of enrollment into the program (see also CETA regulations at 20 CFR 676.35). (CETA, sec. 121(c).)

§ 29-70.203b-3 Records available to the public.

(a) Each recipient shall retain and make available to the public the following records:

(1) A list of available potential recipient contractors and potential subrecipients who have expressed, in writing, an interest in providing services under the grant or agreement (CETA, sec. 103(a)(3)(B)).

(2) Financial records relating to public service employment programs, and records of the names, addresses, positions, and salaries of all persons employed in public service jobs (CETA, sec. 122(g)).

(b) Pursuant to § 29-70.203-6(b)(2), the recipient (except for records identified in § 29-70.203b-3(a)(2)) shall observe the following policy regarding confidentiality of personal records maintained for a project under a DOL grant or agreement involving other than public service employment:

(1) Names of individuals who are beneficiaries of opportunities under the project are considered public information. The recipient shall make other information regarding these project participants, applicants for participation, and their immediate families (which may be obtained from their application forms, interviews, tests, reports from public agencies or counselors, or any other source) available to the public to the same degree that it makes such information available about its own employees. Unless otherwise prohibited by law (e.g., The Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g)), the recipient may divulge information not normally made available to the public on the recipient's own employees without participant or applicant permission only as necessary for purposes related to grant or agreement performance or evaluation. Furthermore, such information may be made available only to: (i) Persons having responsibilities under the grant or agreement, including those furnishing services under a contract, subgrant, or subagreement; and (ii) governmental authorities to the extent necessary for the proper administration of the law.

(2) The names of all individuals employed by the recipient in staff positions under the project are considered public information. A recipient shall make other information on these employees available to the public in the same manner and to the

same extent that such information is made available on its employees not involved in the federally supported activity.

§ 29-70.204 Waiver of "single" State agency requirements. (Reserved)

§ 29-70.205 Program income and interest earned.

§ 29-70.205-1 General.

The recipient of funds under a DOL grant or agreement shall account for program income earned from grant or agreement supported activities and other income (interest) in accordance with the standards in this section.

§ 29-70.205-2 Interest earned on advances.

Interest earned on advances of Federal funds (pending their disbursement for activities under the grant or agreement) is not program income. The recipient shall account for interest earned on advances in the following manner:

(a) *States or instrumentalities of a State.* In accordance with section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4201 et seq.), a recipient which is a State or instrumentality of a State is not accountable to the DOL Agency for such interest. In addition, local governments receiving Federal grant funds under subgrants or subagreements from States may retain interest earned on such Federal funds.

(b) *Other recipients.* A local government receiving financial assistance directly as a recipient of a DOL grant or agreement and any other recipient shall remit any such interest earned to the DOL within 15 days after the end of the quarter in which the interest is earned.

§ 29-70.205-3 Program income.

Program income includes, but is not limited to, income from service fees, sale of commodities, use or rental fees, and royalties on patents and copyrights. The recipient shall use and account for program income in the following manner:

(a) *Sale of real and personal property.* The recipient shall handle proceeds from the sale of real and personal property, either provided by the DOL Agency or purchased in whole or in part with Federal funds, in accordance with § 29-70.215.

(b) *Royalties.* Except as otherwise required by § 29-70.215, or by terms of the grant or agreement, the recipient shall have no obligation to the DOL Agency with respect to royalties

received as a result of copyrights on publications or other works developed or of patents on inventions conceived in performing under the grant or agreement. (See §§ 29-70.215-9 and 29-70.215a-9 for DOL standards relating to inventions, patents, and copyrights.)

(c) *Other program income.* The recipient shall retain all other program income earned during the period of the grant or agreement and, in accordance with the terms of the grant or agreement, shall:

(1) Add the income to funds committed to the project, and use the funds to further eligible program objectives; or

(2) Deduct the funds from the total project costs for the purpose of determining the net costs on which the DOL share of costs will be based; or

(3) Use the funds to finance the recipient matching requirement.

§ 29-70.205-4 Requirements for recipient earmarked revenues.

The recipient shall record the receipt and expenditure of revenues (such as taxes, special assessments, levies, and fines) as part of the transactions under a grant or agreement when the grant or agreement stipulates that such revenues are to be used for activities under the grant or agreement.

§ 29-70.205b Program income—CETA requirements.

The provisions of § 29-70.205 apply with the following exceptions:

(a) A recipient or subrecipient, during the grant or agreement period and for 2 years thereafter, shall apply any income generated under a Youth Community Conservation and Improvement Project (YCCIP) to costs of the project except that, if, at the end of the grant or agreement period the project is not continued, the recipient or subrecipient shall observe the requirements of paragraph (b).

(b) The recipient or subrecipient may use program income generated in an approved activity under CETA grants or agreements other than YCCIP during the grant or agreement period and for 2 years thereafter to carry out any CETA activity authorized under the former grant or agreement. The grant officer may require the recipient to account for the expenditure of such income for a period not to exceed 2 years from the expiration date of the Annual Plan (or grant, or agreement, as appropriate). Recipients shall require subrecipients to report the expenditure of such income. Any income still unexpended by any subrecipient 1 year from the expiration of financial assistance to the

subrecipient shall be returned to the recipient to continue any CETA activity.

(c) Program income under CETA programs is also covered in the CETA program regulations at 20 CFR 676.36.

§ 29-70.206 Matching share.

§ 29-70.206-1 General.

The DOL Agency shall include any required recipient cash or in-kind contributions (cost sharing or matching share) in the grant or agreement document. This section provides criteria for determining the allowable cash and in-kind contributions made by a recipient, a subrecipient, or a third party, and procedures for application of the contributions to satisfy cost-sharing and matching requirements. It also prescribes methods for evaluating in-kind contributions. It supplements guidance set forth in Federal Management Circular (FMC) 73-3 with respect to cost sharing in federally sponsored research.

§ 29-70.206-2 Federal cash or in-kind contributions.

The recipient may not use Federal funds received under other Federal grants or agreements or property purchased with Federal funds to satisfy cost-sharing or matching requirements of a DOL grant or agreement unless the use of such funds for cost-sharing or matching is authorized by the Federal legislation under which the non-DOL funds were received (e.g., State and Local Fiscal Assistance Act, as amended, or Indian Self-Determination and Education Assistance Act).

§ 29-70.206-3 Matching share or cost-sharing standards.

(a) The cost-sharing or matching contribution may consist of:

(1) Charges incurred by the recipient as project costs including charges not requiring cash outlays during the grant or agreement period (such as depreciation and use charges for buildings and equipment).

(2) Project costs financed with cash contributed or donated to the recipient by non-Federal third parties.

(3) Project costs represented by services and real or personal property, or the use thereof, donated by non-Federal third parties.

(4) Project costs financed with Federal funds or property purchased with Federal funds in accordance with § 29-70.206-2.

(b) The recipient shall use cash and in-kind contributions as parts of its matching share or cost-sharing requirement under a DOL grant or agreement only if the contributions are

permitted under paragraph (a) and if they meet all of the following criteria:

(1) Are verifiable from recipient records.

(2) Are not included as matching contributions for any other federally assisted project.

(3) Are necessary and reasonable for proper and efficient accomplishment of project objectives.

(4) Are the kinds of charges allowable under the applicable cost principles.

(5) Are not paid by the Federal Government under another financial assistance grant or agreement (except as provided in § 29-70.206-2).

(6) Are provided for in the approved grant or agreement or in DOL Agency program regulations.

§ 29-70.206-4 Valuation of in-kind contributions.

(a) *Recipient contributions.* The recipient shall value its in-kind contributions at the recipient's actual cost in accordance with applicable cost principles.

(b) *Other in-kind contributions.* The recipient shall use the following criteria in establishing the value of in-kind contributions from third parties:

(1) *Volunteer services.* The recipient shall observe the following criteria in evaluating volunteer services:

(i) *Acceptable services and time allowed.* The recipient may accept volunteer services provided by any individual and may count each hour of any volunteered service for cost-sharing or matching purposes if the service benefits the approved project and is an integral and necessary part of the project.

(ii) *Rates for volunteer services.* (A) *General criteria.* The recipient shall value volunteer services at rates which are consistent with rates paid for similar work in the recipient's organization. Where the recipient has no similar skills in its organization, the recipient shall value the services at rates which are consistent with rates paid for similar work in the labor market in which the recipient is located.

(B) *Rates for volunteer services donated by other employers.* If an employer (other than the recipient) volunteers the services of an employee to perform needed services under a DOL grant or agreement, the recipient shall value these services at the employee's regular rate of pay (exclusive of fringe benefits and overhead costs) if these services are in the same skill for which the employee is normally paid. If the services are not in the same skill for which the employee is normally paid, the recipient shall determine the rates in

accordance with criteria set forth in paragraph (A) of this section.

(2) *Property—expendable personal property.* Donated expendable personal property may include such items as expendable equipment, office supplies, laboratory supplies, or workshop and classroom supplies. The recipient shall assign values to such property for cost-sharing or matching purposes which are reasonable and which do not exceed the fair market value of the property at the time of donation.

(3) *Property—nonexpendable personal property, buildings, and land, or the use thereof.* (i) The recipient shall use the following methods in evaluating donated equipment, buildings, and land for cost-sharing or matching purposes:

(A) If the primary purpose of the grant or agreement is to assist the recipient in acquiring equipment, buildings, or land, or to otherwise provide a facility, the recipient may claim the total fair market value of the property.

(B) If the primary purpose of the grant or agreement is to support activities that require the use of equipment, buildings, or land on a temporary or part-time basis, the recipient may make depreciation or use charges for the equipment and buildings. The full value of equipment or other capital assets and the fair rental charges for land may be permitted, provided that the grant officer has approved the amounts in writing.

(ii) The recipient shall use its established accounting policies in determining the value of donated property except that:

(A) *Land and buildings.* The value of donated land and buildings may not exceed its fair market value at the time of donation to the recipient as established by an independent appraiser (such as a certified real property appraiser or General Services Administration representative) and certified by the recipient.

(B) *Nonexpendable personal property.* The value of donated nonexpendable personal property may not exceed the fair market value of equipment and property of the same age and condition at the time of donation.

(C) *Loaned equipment.* The value of loaned equipment may not exceed its fair rental value.

(D) *Use of space.* The value of donated space may not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately owned building in the same locality.

§ 29-70.206-5 Supporting records for third party in-kind contributions.

(a) The recipient shall document volunteer services used for matching or cost-sharing purposes. To the extent feasible, the recipient shall use the same methods in maintaining supporting records for volunteer services that it uses in maintaining records on its employees.

(b) The recipient shall document the method used in determining the value of donated personal services, material, equipment, buildings, and land.

§ 29-70.207 Standards for grantee financial management systems.

§ 29-70.207-1 General.

This section prescribes DOL standards for financial management systems of recipients of DOL financial assistance under grants and agreements.

§ 29-70.207-2 Standards—financial management systems.

Each recipient shall establish and maintain a financial management system which provides for adequate control of grant or agreement funds and other assets; ensures the accuracy of financial data; and provides for operational efficiency and for internal controls to avoid conflict-of-interest situations and to prevent irregular transactions or activities. The recipient shall ensure that its financial management system meets the following standards:

(a) *Reporting.* The recipient's reporting procedures shall provide accurate, current, and complete disclosure of the financial results of each grant or agreement in accordance with reporting requirements of § 29-70.208. The recipient shall report on an accrual basis. A recipient whose records are not maintained on an accrual basis may develop accrual data for reports on the basis of an analysis of the documentation on hand. In such cases, the recipient's accounting process must provide sufficient information to compile data to satisfy the accrued expenditure reporting requirements and to demonstrate the link between the accrual data reports and the nonaccrual fiscal accounts; and the recipient shall retain all such documentation for audit purposes.

(b) *Records.* The recipient shall maintain records which identify adequately the source and application of funds for grant or agreement supported activities. The recipient shall ensure that the records systematically assemble information concerning Federal awards and authorizations, obligations, unobligated balances, assets, liabilities,

outlays, and income into balance sheet format for internal control purposes.

(c) *Control of assets.* The recipient shall maintain effective control over and accountability for all project funds, property, and other assets. The recipient shall safeguard assets and shall assure that they are used solely for authorized purposes.

(d) *Comparison of outlays with budget.* The recipient shall compare outlays with budgeted amounts for each grant or agreement; and, when required by performance reporting requirements of the grant or agreement, show the relation of financial information to performance data, including the production of unit cost data if appropriate.

(e) *Advance Payments.* Whenever funds are advanced by the DOL, the recipient shall establish procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and the disbursement by the recipient. If advances are made by the letter-of-credit method, the recipient shall make drawdowns as close as possible to the time of making disbursements. The recipient, in advancing funds to a contractor or subrecipient, shall require that the contractor or subrecipient conform to substantially the same standards that the DOL Agency requires of the recipient.

(f) *Allowable costs.* The recipient shall establish procedures for determining reasonableness, allowability, and allocability of costs in accordance with applicable cost principles (see § 29-70.103) and terms of the grant or agreement.

(g) *Source documentation.* The recipient shall support accounting records with source documentation such as canceled checks, paid bills, or contracts, subgrants, or subagreements awarded.

(h) *Audits.* (1) *General.* The recipient shall arrange for external or internal audits performed in accordance with "generally accepted audit standards" and DOL guidelines by individuals who are sufficiently independent of those who authorize the expenditure of Federal funds to ensure that any opinions, conclusions, or judgments regarding audit findings are valid and unbiased (see § 29-70.207-4(e) (1), (2), and (3)). (2) *Audit purpose and scope.* The audits shall be performed to ascertain the effectiveness of the recipient's financial management, including internal procedures and controls established to meet terms and conditions of the grant or agreement. The auditors need not audit every grant or agreement, but shall make the audit

on an organizationwide basis with an appropriate sampling of DOL grants and agreements. The audits shall be performed in accordance with the U.S. General Accounting Office's publication, "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions," to determine whether (i) financial operations are properly conducted; (ii) financial reports are fairly presented; and (iii) available information indicates that the recipient has complied with applicable laws, regulations, and administrative requirements in its use of Federal funds.

(3) *Frequency.* Frequency of audit shall depend on the nature, size, and complexity of the recipient's grant or agreement activities. Audits shall be conducted, on a continuing basis or at regularly scheduled intervals, usually annually, but no less frequently than every 2 years. If the DOL Office of Inspector General (OIG) conducts an audit, the recipient need not obtain an audit for the period audited by the DOL.

(4) *Relation to Federal audit.* The non-Federal audits do not limit the DOL right to conduct a Federal audit but may affect the frequency and scope of the Federal audit (see § 29-70.207-4(b)(2)).

(i) *Resolution of audit findings.* The recipient shall establish a systematic method to assure the timely and appropriate resolution of audit findings and recommendations, and shall furnish the OIG with a copy of each audit report and a statement regarding resolution of findings.

§ 29-70.207-3 Subrecipient standards.

(a) The recipient shall require each subrecipient to adopt the standards for financial management systems set forth in § 29-70.207-2, except for requirements regarding reporting forms and frequencies (paragraph (a)), letter-of-credit procedures (paragraph (e)), and audit (paragraph (h)).

(b)(1) The recipient shall conduct an independent audit of a sample of its subrecipients and contractors at least once every 2 years. The sample selected shall be coordinated with and approved by the OIG.

(2) The end of a Federal fiscal year shall be used as a common cut-off date for all subrecipients and contractors.

(3) The auditing in no way lessens the recipient's responsibilities to ensure that program activities and related costs incurred by its subrecipients and contractors are in compliance with DOL requirements.

§ 29-70.207-4 Federal and non-Federal audit requirements.

(a) *DOL audit responsibilities.* The OIG is responsible for the DOL audit program. It shall conduct or arrange for the conduct of Federal audit surveys or audits of recipient or subrecipient operations; and is responsible for determining the coverage, frequency, and priority of audits of any recipient. In addition to audits of existing, completed, or terminated grants or agreements, the OIG may conduct (or arrange for the conduct of) audit surveys to evaluate the accounting systems and internal controls of a prospective recipient prior to the award of a new grant or agreement. The OIG shall ensure that an audit of each recipient is conducted no less frequently than every 2 years, by using the audit report of a cognizant Federal agency, by accepting the non-Federal audit as an independent audit meeting DOL standards (see § 29-70.207-4(c)), or by conducting or arranging for the Federal audit. The OIG shall provide guidance to non-Federal audit staff concerning the proper application of Federal audit standards to an audit of a recipient or subrecipient.

(b) *Coordination of audit effort.* In planning the DOL audit effort, the OIG shall, in accordance with OMB Circular No. A-73—

(1) Establish and maintain cross-servicing arrangements with other Federal agencies and utilize audit reports of the cognizant Federal agency (as defined in OMB Circular No. A-73) when possible; and

(2) Consider using, in lieu of Federal audits, the non-Federal audits made of recipient and subrecipient activities if the audits meet all DOL standards set forth in paragraph (c).

(c) *Criteria for independent non-Federal audits meeting DOL standards.* The OIG shall consider a non-Federal audit to be an independent audit meeting the DOL standards if the audit is made of a State or local government and meets the following criteria—

(1) The audit is performed in accordance with "generally accepted audit standards," as defined in paragraph (d), and with audit guides issued by the DOL which define audit requirements with respect to DOL financially assisted activities;

(2) The audit is performed by an independent public accountant or by an independent examiner, as defined in § 29-70.207-4(e)(1)-(4); and

(3) The auditor submits a copy of each audit report to the OIG for review and determination of acceptability in lieu of a Federal audit at the same time that the report is submitted to the recipient; and

makes audit work papers (which are complete, accurate, clear, understandable, neat, and pertinent to the report) available to the OIG, upon request, until all audit findings have been resolved by the DOL with respect to the recipient's grant or agreement (see § 29-70.203-3).

(d) *Generally accepted audit standards.* "Generally accepted audit standards" mean audit standards issued by the U.S. General Accounting Office entitled "Standards for Audit of Governmental Organizations, Programs, Activities and Functions," which incorporate the audit standards established by the American Institute of Certified Public Accountants.

(e) *Independent public accountant or examiner.* A public accountant means a certified public accountant or a licensed public accountant, licensed on or before December 31, 1970, who is certified or licensed by a regulatory authority of a State or other political subdivision of the United States. An examiner means an employee of a State or local government audit agency. The individual is "independent" if he or she—

(1) Is free of personal, external, and organizational impairments as set forth in Part III, Chapter 3 of "Standards for Audit of Governmental Organizations, Programs, Activities and Functions";

(2) Has no personal interest, directly or indirectly, in the financial affairs of the recipient being audited; and

(3) Does not perform an audit if he or she or the principal officer of the audit agency making the audit maintains accounting records being examined or reports to the officer responsible for such records; and

(4)(i) Is a State examiner auditing a State or State agency, who meets the requirements of paragraphs (1), (2), and (3); and the principal officer of the State audit agency—(A) is elected by the citizens of the State; or (B) is elected or appointed by and reports to the State legislature or a committee thereof; or (C) is appointed by the Governor and is confirmed by and reports to the State legislature or a committee thereof; or

(ii) Is a local government examiner, auditing his or her local government, who meets the requirements of paragraphs (1), (2), and (3); and the principal officer of the audit agency—(A) is elected by the citizens of the local government; or (B) is elected or appointed by and reports to the governing body of the local government; or (C) is appointed by the executive officer of the local government and reports to the governing body of the

local government or a committee thereof; or

(iii) Is a public accountant who meets the requirements of paragraphs (1), (2), and (3), and has been engaged to perform the audit by a State or local government audit agency. The OIG may also determine that a public accountant is independent if the public accountant is engaged by a State or local government agency other than the audit agency.

(f) *Recipients other than State or local governments.* Except in extraordinary circumstances, the OIG will not consider non-Federal audits of other recipients to be independent audits meeting DOL standards which may be used in lieu of performing Federal audits.

§ 29-70.207a Standards for grantee financial management systems—special requirements, nonprofit organizations.

The standards set forth in § 29-70.207 apply except that Federal audits of recipients that are educational institutions are to be performed by the Federal agency specified in Federal Management Circular (FMC) 73-6, "Coordinating indirect cost rates and audit at educational institutions."

§ 29-70.207b Standards for grantee financial management systems—CETA requirements.

The standards governing recipient financial management systems set forth in § 29-70.207 apply to CETA recipients except that CETA recipients may also be required to participate in unified audits (see 20 CFR 676.34b) (CETA, secs. 103(a)(4)(A), 106(j), and 133).

§ 29-70.208 Financial reporting requirements.

§ 29-70.208-1 General.

The recipient shall use the standards, procedures, and forms prescribed by this section to report financial information to the DOL Agency; and, when letter-of-credit procedures are not used, to request advances or reimbursement.

§ 29-70.208-2 Forms and instructions.

Except as otherwise provided in § 29-70.208-4, the recipient shall use only the following forms in reporting financial information:

(a) *Financial Status Report (Standard Form (SF) 269).* (1) *Use.* For grants and agreements for nonconstruction projects, the recipient shall use SF 269, *Financial Status Report*, to report outlays, program income, and other financial information related to Federal funds authorized for the project unless the DOL has indicated in writing that other

financial reporting forms (SF 272, *Federal Cash Transactions Report* (see § 29-70.208-2(b) or SF 270, *Request for Advance or Reimbursement* (see § 29-70.208-2(c))) provide adequate information. When SF 270, *Request for Advance or Reimbursement*, is used only for requesting advance funds, the recipient shall always submit a final *Financial Status Report* upon completion or termination of the grant or agreement. The recipient shall prepare the report on an accrual basis.

(2) *Frequency and due dates.* Unless otherwise prescribed by the DOL Agency on the basis of the size, complexity, or specific requirements of a particular project, the recipient shall submit the *Financial Status Report* quarterly during the period of the grant or agreement, and shall submit a final report upon completion or termination of the grant or agreement in accordance with instructions issued by the DOL Agency. The recipient shall prepare quarterly reports to coincide with the ending dates of Federal fiscal year quarters. Thus, if a recipient's grant or agreement begins after the beginning of a Federal fiscal year, a fifth report may be necessary to cover the grant or agreement period. The recipient shall submit quarterly reports no later than 30 calendar days after the end of each specified reporting period and annual or final reports no later than 90 calendar days after the ending of the period covered by the report. If unable to meet a reporting due date, the recipient shall explain the circumstances in writing to the grant officer, who may grant a written extension of the due date if circumstances warrant the delay.

(b) *Federal Cash Transactions Report (SF 272).* (1) *Use.* Each recipient shall submit SF 272, *Federal Cash Transactions Report*, if the DOL advances funds by Treasury check (or letter of credit unless the recipient is under the Letter of Credit—Treasury Regional Disbursing Office (RDO) system). (Under the RDO system, the recipient shall provide cash balance and disbursement information by forwarding an advance copy of each SF 183, *Request for Payment on Letter of Credit and Status of Funds Report*, to the DOL Agency.) The recipient shall use the "Remarks" section of the report to forecast Federal cash requirements; to report the amount of cash advances in excess of 3 days' requirements in the hands of subrecipients and actions which are being taken to reduce excess balances; and to report to the DOL Agency whenever the amount of Federal authorized funds is expected to exceed the needs of the recipient by \$5,000 or 5

percent of the amount of funds awarded under the grant or agreement, whichever is greater.

(2) *Frequency and due dates.* The recipient shall submit the *Federal Cash Transactions Report* each quarter except that recipients receiving advances totaling \$1 million in a 12-month period shall submit the report monthly. The recipient shall submit the report so that it is received in the DOL Agency no more than 15 working days following the end of each reporting period.

(3) *Waivers.* A DOL Agency may waive the submission of the *Federal Cash Transactions Report* if advances to the recipient do not exceed \$10,000 a month provided that the grant officer determines that the advances can be monitored through other forms authorized by this section or that the recipient's accounting controls are adequate to minimize excessive Federal advances.

(c) *Request for Advance or Reimbursement (SF-270).* When the DOL Agency does not use letter-of-credit procedures or predetermined advance methods to finance a grant or agreement and the primary purpose of the grant or agreement is not construction, the recipient shall use the SF 270, *Request for Advance or Reimbursement*, to request advance payments or reimbursements for costs which have been incurred. The recipient may also use this form (in lieu of SF 271, *Outlay report and Request for Reimbursement for Construction Programs*) to request advance payments and reimbursements under grants and agreements awarded primarily for construction when the grant officer determines that the form provides adequate information. The recipient is authorized to submit requests for advance payments or reimbursements monthly.

(d) *Outlay Report and Request for Reimbursement for Construction Programs (SF 271).* (1) *Requests for advances or reimbursement by Treasury check.* The recipient shall submit requests for advances or reimbursement for grants and agreements for construction programs on SF 271 unless the grant officer has determined that the SF 270 (described in § 29-70.208-2(c)) is more appropriate. When requesting advances by Treasury check using SF 271, the recipient shall leave blank those items on the form which are applicable only when requesting reimbursement. The recipient is authorized to submit reports monthly.

(2) *Letter-of-credit and predetermined advance procedures.* If a construction

grant or agreement is financed by letter-of-credit or predetermined advance procedures, the recipient shall not submit requests for payment to the DOL. The DOL Agency may determine that SF 269, *Financial Status Report*, should be used for reporting purposes. Unless otherwise authorized by the DOL Agency, the recipient shall submit this report to meet due dates and frequency prescribed for the *Financial Status Report* in § 29-70.208-2(a)(2).

§ 29-70.208-3 Detailed procedures.

The recipient shall observe the following procedures in making required reports:

(a) *Number of copies.* The recipient shall submit the original and two copies of required reports unless the DOL Agency waives the requirement for copies.

(b) *Reporting forms and formats.* For reporting purposes, the recipient shall use standard forms or reproduced copies of the forms which the DOL Agency obtains from the General Services Administration. When approved by the DOL Agency, the recipient may transmit the same information in machine usable format or by computer printouts in lieu of the forms.

(c) *Alterations permitted.* The recipient shall follow instructions on prescribed standard reporting forms. (The DOL Agency shall shade out any line item on the forms which is not needed for decision-making purposes.)

(d) *Computer outputs.* When it will expedite or contribute to more accurate reporting, the DOL Agency may provide computer outputs to the recipient.

(e) *Subrecipient reports.* The recipient is not required to use the forms prescribed by this section in obtaining financial information from subrecipients. Nevertheless, the recipient shall use forms which provide information that is readily transferable to reporting forms used by the recipient.

§ 29-70.208-4 Special reporting requirements.

Except as otherwise permitted by the following special procedures of this section, DOL Agencies shall observe reporting procedures and shall use only forms and instructions specified in § 29-70.208-2 and § 29-70.208-3 in obtaining recipient financial information:

(a) *Additional reporting—statutory or program requirements.* If applicable Federal statutes or program objectives require more frequent reporting or information not accommodated by the prescribed forms or procedures of this section, the DOL Agency shall:

(1) Issue instructions to the recipient, clarifying the additional requirements and requesting that the recipient insert the information in the "Remarks" section of the appropriate standard form; or

(2) If the "Remarks" section of the standard form cannot provide for the required information, the DOL Agency may impose additional requirements. (Provided, That, it has first obtained necessary clearances to impose the requirements in accordance with § 29-70.101(g)(3) or § 29-70.101(h), as appropriate.

(b) *Additional reporting—certain recipients.* If the recipient does not meet the financial management system requirements of § 29-70.207, or is otherwise subject to special requirements in accordance with § 29-70.105, the DOL Agency may require the recipient to submit reports more frequently or to provide more detail (or both) upon written notice to the recipient that additional requirements will be imposed until such time as the recipient meets the DOL Agency standards.

(c) *Requirements of OMB Circular No. A-40.* Whenever additional reporting requirements are to be imposed in accordance with § 29-70.208-4, the DOL Agency shall comply with all reports clearance requirements of OMB Circular No. A-40, as revised.

§ 29-70.208b Financial reporting—CETA requirements.

CETA recipients shall use the standards, procedures, and forms prescribed by this section except as otherwise required by 20 CFR 676.44.

§ 29-70.209 Monitoring and reporting of program performance.

§ 29-70.209-1 General.

Each recipient shall observe the procedures set forth in this section in monitoring and reporting performance of approved project activities.

§ 29-70.209-2 Recipient monitoring responsibilities.

The recipient shall constantly monitor performance of grant or agreement supported activities to assure that time schedules are being met, projected work units by time periods are being accomplished, and other performance goals are being achieved.

§ 29-70.209-3 Reporting requirements.

(a) *Content of report.* The recipient shall submit a performance (technical) report to the DOL Agency which briefly presents the following information for each project activity (in accordance

with detailed instructions of the DOL Agency):

(1) A comparison of actual accomplishments to established goals for the period and any findings related to monitoring efforts. If the output can be readily quantified, the recipient shall relate quantitative data to cost data for computation of unit costs.

(2) Reasons for slippage if established goals have not been met.

(3) Other pertinent information including analyses and explanations of any-cost overruns or high unit costs.

(b) *Frequency.* Except as provided in paragraphs (b) (1), (2), and (3) of this section and in § 29-70.209-4, or as otherwise required by the DOL Agency, the recipient shall submit performance reports in the same frequency and with the same due dates as those prescribed for the *Financial Status Report* in § 29-70.208-2(a)(2). The recipient shall submit a final performance report at the completion or termination of each grant or agreement in accordance with instructions of the DOL Agency. If the *Financial Status Report* is not required, the recipient shall prepare the required financial report and the performance report in the same frequencies to cover the same time periods so that DOL officials may compare performance under the grant or agreement with costs incurred. Unless specifically requested by the DOL Agency, the recipient need not submit performance reports with financial reports:

(1) If the DOL Agency requires the recipient to submit a performance report with a continuation or renewal application;

(2) If the DOL Agency requests financial information on a fiscal year basis, but requires performance reports on other than a fiscal year basis; or

(3) If the DOL Agency determines that on-site technical inspections and certified percentage-of-completion data will be sufficient to evaluate construction projects.

§ 29-70.209-4 Significant developments between scheduled reporting dates.

Between the regularly scheduled reporting dates, the recipient shall inform the grant officer in writing as soon as the recipient becomes aware of:

(a) Problems, delays, or adverse conditions which may materially affect the recipient's ability to meet planned time schedules, accomplish projected work units by established time periods, or achieve other performance goals. This notice shall include a statement of any remedial actions taken or contemplated, and of any assistance needed from the DOL Agency to resolve the situation.

(b) Favorable developments or events which will enable the recipient to meet time schedules and performance goals sooner than anticipated or to produce more work units in established time periods.

§ 29-70.209-5 Budget revisions.

If any performance review conducted by the recipient discloses the need for a change in budget estimates, the recipient shall submit a written request for budget revision to the grant officer in accordance with criteria established in § 29-70.211.

§ 29-70.209-6 Site visits.

The recipient shall cooperate fully with authorized DOL representatives who shall make visits as frequently as practicable to:

(a) Review program accomplishments and management control systems; and

(b) Provide such technical assistance as may be required.

§ 29-70.209b Monitoring and reporting of program performance—CETA requirements.

(a) *Monitoring.* Each CETA recipient shall: (1) Establish criteria by which to measure its performance and the performance of its contractors and subrecipients; (2) systematically review performance based on established criteria; (3) assess findings and identify any problems at least quarterly; (4) promptly take any necessary remedial actions; and (5) use findings in subsequent program planning and in selecting contractors and subrecipients. A recipient which is a prime sponsor shall establish an independent monitoring unit to ensure objectivity in the monitoring effort. Detailed procedures are set forth in 20 CFR 676.22, 20 CFR 676.34, and 20 CFR 676.75 (CETA, sec. 103(a)(4)(A) and sec. 121q).

(b) *Reporting.* Each CETA recipient shall submit performance reports in accordance with detailed procedures set forth in 20 CFR 676.44 (CETA, sec. 127(d)).

§ 29-70.210 Grant or agreement payment requirements.

§ 29-70.210-1 General.

This section sets forth DOL's methods of making payments to the recipient of a DOL grant or agreement. A DOL Agency shall make payments to the recipient (subject to conditions imposed by this section and terms of the grant or agreement) through advances either by letter of credit or by Treasury check, or through reimbursement by Treasury check upon request of a recipient.

§ 29-70.210-2 Payment methods.

(a) *Standards for determining payment method.* The DOL Agency shall use the standards in this section to determine whether a recipient is eligible to receive advance payments; and, if eligible, whether payments will be made by letter of credit or by Treasury check. If a recipient is ineligible for advance payments, the DOL Agency shall resolve any problems relating to scheduling reimbursements, and shall determine whether an initial working capital advance will be needed whenever the recipient is required to finance its own operations.

(b) *Advance payments.* DOL Agency officials shall limit advances under either of the following methods to actual and immediate cash needs:

(1) *Letter of credit.* A DOL Agency shall use the letter-of-credit funding method whenever all of the following conditions exist:

(i) The recipient has or will have a continuing relationship with the DOL Agency for a period of no less than 12 months;

(ii) The recipient will receive at least \$120,000 in advances during that period;

(iii) The recipient has established, or demonstrated to the DOL Agency its willingness and ability to establish and maintain procedures that will minimize the time elapsing between the transfer of funds to, and their disbursement by, the recipient;

(iv) The recipient's financial management system meets the standards for fund control and accountability prescribed in § 29-70.207; and

(v) The recipient has developed, or has demonstrated to the DOL Agency its willingness and ability to develop and maintain procedures for advances to its subrecipients or contractors which conform substantially to the standards of timing and amount imposed on the recipient by the DOL Agency.

(2) *Treasury check.* A DOL Agency shall use Treasury check procedures in advancing funds when the recipient meets the criteria in § 29-70.210(b)(1) except for those in paragraphs (b)(1)(i) or (b)(1)(ii). To request cash advances, the recipient shall submit its projected cash requirements on SF-270, *Request for Advance or Reimbursement*, to the DOL Agency in accordance with procedures set forth in § 29-70.208-2 and the terms and conditions of the grant or agreement.

(c) *Reimbursement by Treasury check.* A DOL Agency shall make payments by reimbursing the recipient by Treasury check in the following circumstances:

(1) When a recipient does not meet the criteria in paragraph (b) of this section needed to receive advance payments; or

(2) When the major portion of the program is accomplished through private market financing or Federal loans, or when the DOL financial assistance constitutes a minor portion of the program.

(3) The recipient is authorized to submit its requests for payment monthly using SF-270, *Request for Advance or Reimbursement*. The DOL Agency shall make payment within 30 days after receipt of the billing unless the billing is improper in form or substance. Payment will cover the approved Federal share of the recipient's cash disbursements made under the grant or agreement since the previous payment.

(d) *Working capital advance procedures.* If the recipient cannot meet the criteria for advance payments, as described in paragraph (b) of this section, and the DOL Agency has determined that reimbursement, as described in paragraph (c), is not feasible because the recipient lacks sufficient working capital, the DOL Agency may make arrangements to provide cash on a working capital advance basis. Under this procedure, the DOL Agency shall advance cash to the recipient to cover its estimated disbursement needs for an initial period generally geared to the recipient's disbursing cycle. Thereafter, the DOL Agency shall reimburse the recipient for disbursements made in accordance with procedures of paragraph (c) of this section. The recipient shall submit SF-270, *Request for Advance or Reimbursement*, to request the working capital advance funds and reimbursement. The DOL Agency shall make payments by Treasury check.

(e) *Optional payment methods—construction.* Notwithstanding paragraphs (a), (b), and (c) of this section, when the principal purpose of a DOL grant or agreement is construction, the DOL Agency may determine which payment method is appropriate for the particular grant or agreement.

(f) *Waiver of payment method requirements.* There may be instances when the DOL Agency determines that use of letter-of-credit procedures (required for grants and agreements meeting criteria of § 29-70.210-2(b)(1)) are inappropriate for a specific grant or agreement. Upon written request of the DOL Agency, the Department of the Treasury will consider requests for a waiver of the requirement on a case-by-case basis.

§ 29-70.210-3 Payment condition.

The DOL Agency shall stipulate in the grant or agreement the method of payment. If a recipient receiving advance payments does not comply with standards of timing and amounts set forth in § 29-70.210-2(b), the DOL Agency may, after notice to the recipient, discontinue the advance payment method and make payments by reimbursement (see § 29-70.105).

§ 29-70.210-4 Consolidation of advances.

When letter-of-credit procedures are used, the DOL shall, to the extent feasible, issue a single or consolidated letter of credit to the recipient to cover anticipated cash needs for all DOL grants and agreements. When advances are made by Treasury check, DOL Agencies shall, to the extent feasible, consolidate advances for all DOL grants and agreements with the recipient.

§ 29-70.210-5 Withholding of payments.

(a) Unless otherwise required by law, DOL Agencies shall not withhold payments for proper charges made by a recipient at any time during the period of the grant or agreement unless:

(1) The recipient has failed to carry out project objectives, or to comply with grant or agreement conditions; or

(2) The recipient is indebted to the United States, and collection of the indebtedness will not impair accomplishment of the objectives of any project or program sponsored by the DOL.

(b) If a situation described in § 29-70.210-5(a) (1) or (2) exists, the DOL Agency may, upon reasonable notice, inform the recipient that payments will not be made for obligations incurred by the recipient after a specified date until the conditions are corrected or the indebtedness to the Federal Government is liquidated.

§ 29-70.210-6 Joint funding.

Payment procedures for grants and agreements which are jointly funded with another Federal agency are prescribed in OMB Circular No. A-111.

§ 29-70.210b Grant or agreement payment—CETA requirements.

The DOL Agency may withhold otherwise payable funds to recover amounts expended in any fiscal year in violation of CETA statutory or regulatory requirements, or terms or conditions of the grant or agreement. In addition to requirements of § 29-70.210-5(b), the DOL Agency may, if the withholding results from fraud or other mispending of funds and if the funds are being withheld from a prime

sponsor, direct the prime sponsor to continue the program as approved in the current grant or agreement using non-CETA funds. If such direction is given, the DOL Agency shall, at the same time, inform the prime sponsor that failure to carry out the program as directed will result in the Department's enforcing its directive by civil action unless the prime sponsor elects to terminate participation under the Act. Such an election would constitute grounds for the DOL Agency to terminate the grant or agreement for cause in accordance with procedures in § 29-70.213 (CETA, sec. 106(g)).

§ 29-70.211 Modifications and budget revision procedures.**§ 29-70.211-1 General.**

This section provides criteria and procedures to be followed by the recipient in reporting financial plan deviations, and in requesting approval when changes are contemplated in the budget, project objectives, or other provisions of the approved grant or agreement. This section also provides procedures to be followed by the DOL Agency in modifying a grant or agreement.

§ 29-70.211-2 Grant or agreement budget.

The budget (approved financial plan for carrying out the purposes of the grant or agreement) shall include the Federal share, and may include the non-Federal share if required in the DOL Agency application instructions. The recipient shall relate the budget changes to performance to provide for project evaluation.

§ 29-70.211-3 Grant or agreement changes requiring DOL approval.

(a) *Nonconstruction grants and agreements.* The recipient promptly shall notify the grant officer and shall request prior written approval when it seeks a modification of the grant or agreement for any of the following reasons:

(1) Changes in the approved scope or objectives of the project supported by the grant or agreement.

(2) Changes which may affect the DOL cost or the grant or agreement period.

(3) Proposed transfer of amounts budgeted for indirect costs to absorb increases in direct costs.

(4) Proposed addition of items requiring approval in accordance with applicable Federal cost principles.

(5) The Federal share of the grant or agreement exceeds \$100,000, and the cumulative amount of transfers among direct cost categories (or among functions and activities when budgeted separately for award) exceeds or is

expected to exceed 5 percent of the total budget as last approved by the grant officer. The recipient shall not transfer any funds which will cause DOL appropriated funds to be used for purposes other than those intended.

(6) In grants or agreements awarded for the purpose of providing employment and/or training, the revision involves the transfer of amounts previously budgeted for direct payments to trainees or other participants to other categories of expense.

(b) *Construction grants and agreements.* The recipient shall notify the grant officer and request prior written approval whenever:

(1) The revision results from changes in the approved scope or the objectives of the project; or

(2) The revision increases the budgeted amounts of DOL funds needed to complete the project.

(c) *Grants and agreements including construction and nonconstruction work.* The recipient shall notify the grant officer and shall request prior written approval if the revision involves the transfer of funds between construction and nonconstruction work.

§ 29-70.211-4 Grant or agreement changes not requiring prior DOL approval.

The recipient need not obtain prior DOL approval for other budget changes. For example, the recipient may use non-DOL funds to further project objectives over and above the recipient minimum share included in the budget of a grant or agreement; or may transfer amounts budgeted for direct costs to absorb those increases in indirect costs approved by the Department.

§ 29-70.211-5 Modification procedures.

(a) *Recipient requests for modification.* The recipient may request grant officer approval by letter for items added to a budget which must have prior approval in accordance with applicable cost principles (see § 29-70.211-3(a)(4)). All other requests involving revisions identified in § 29-70.211-3 require a formal modification. These requests shall be accompanied by a revised SF 424, *FEDERAL ASSISTANCE*, budget forms used in the original grant or agreement (revised to show the proposed changes), and other information required by the grant officer.

(b) *Approval of requests.* Within 30 calendar days from date of receipt of a request for approval, the grant officer shall review the request and notify the recipient as to whether the request has been approved or disapproved. If the request is still under consideration at

the end of 30 calendar days, the grant officer shall notify the recipient as to when the decision is expected to be made. If approved (except for requests pursuant to § 29-70.211-3(a)(4)), the changes to the grant or agreement shall be shown in a formal modification, bilaterally executed by the grant officer and the recipient or their authorized representatives. If the effective date of the change is not shown in the modification, the date of execution by the grant officer shall be the effective date. The grant officer shall number modifications consecutively and shall retain a copy of all documents pertaining to a modification (e.g., approved revised budgets) in the official grant or agreement file.

(c) *DOL-initiated modifications.* (1) In addition to modifications issued in response to proposed changes identified in § 29-70.211-3, the grant officer shall issue modifications as needed to add new conditions, terms, or assurances required by Federal law or regulation. These modifications must be bilaterally executed by the grant officer and the recipient unless an applicable statute (or an amendment thereto), of itself, changes requirements of existing grants or agreements.

(2) The grant officer may unilaterally issue modifications under the following circumstances:

(i) To incorporate administrative changes (changes which do not affect the substantive rights of the DOL Agency or the recipient) into the grant or agreement. Examples of these changes include designating a different project officer, or a change in office location to which reports are to be sent; or adding dollar increments in grants or agreements which are incrementally funded; or

(ii) When specifically authorized to do so by applicable Federal law or regulations, or by terms of the grant or agreement, to make changes in the DOL cost; or in the period, scope, or objectives of the grant or agreement—changes which normally require a bilaterally executed modification. For example, the grant officer, in closing out, or in suspending or terminating a grant or agreement for cause, may (under specific, stated circumstances) unilaterally change principal provisions of the grant or agreement (see § 29-70.212 and § 29-70.213); or

(iii) When there has been a change in any Federal statute, regulation, Executive Order, or other Federal law relevant to the financial assistance provided under the grant or agreement. In order to implement this policy, all DOL Agency grants and agreements

entered into on or after October 1, 1979, shall contain a provision that, as a condition for receipt of financial assistance, the recipient agrees to accept a unilateral modification by the grant officer whenever there has been a change in any Federal statute, regulation, Executive Order, or other Federal law, which, as determined by the DOL Agency, is relevant to the financial assistance provided under the grant or agreement.

(d) *Timing of modifications.* The grant officer may modify a grant or agreement:

(1) At any time prior to final payment if payments are made to the recipient by reimbursement.

(2) At any time prior to closeout if advance payments are made by letter of credit or by Treasury check.

(3) Subsequent to final payment or closeout (as appropriate) only to reflect the results of final audits, disputes, appeals, or resolution of other unresolved matters identified upon final payment or at closeout.

§ 29-70.211-6 Notification of excess Federal funds.

The recipient of either a construction or non-construction grant or agreement shall promptly notify the grant officer whenever the amount of authorized Federal funds is expected to exceed recipient needs by more than \$5,000 or 5 percent of the Federal grant or agreement, whichever is greater (see § 29-70.208-2(b)). If the recipient submits applications for additional funding of continuing grants or agreements, this notification is not required.

§ 29-70.211a Modifications and budget revision procedures—special requirements, nonprofit organizations.

Unless the grant or agreement approved by the DOL Agency provides for the transfer of the substantive, programmatic work, the recipient shall request written grant officer approval prior to transferring DOL funds (by subgrant, subcontract, or subagreement) for the purpose of performing such work. A formal modification, prepared in accordance with § 29-70.211-5 will be prepared to reflect the transfer of funds and activities.

§ 29-70.211b Modifications and budget revision procedures—CETA requirements.

Procedural details for modifying CETA grants and agreements are set forth in the CETA regulations at 20 CFR 676.16.

§ 29-70.212 Closeout procedures. [Reserved]**§ 29-70.213 Suspension and termination of grants and agreements; debarment. [Reserved]****§ 29-70.214 Applying for Federal financial assistance.****§ 29-70.214-1 General.**

This section provides procedures to be followed by an applicant or recipient in applying for financial assistance under a DOL grant or agreement; prescribes standard forms to be used by an applicant or recipient that is a State, local, or federally recognized Indian tribal government; and provides assurances to be included in applications submitted by an applicant or recipient that is a nonprofit organization. A recipient shall ensure that application forms used by a prospective subrecipient include the assurances which are appropriate to the type of subrecipient, i.e., State, local, or federally recognized Indian tribal government or nonprofit organization.

§ 29-70.214-2 Clearinghouse review—OMB Circular No. A-95.

(a) OMB Circular No. A-95 provides procedures to ensure that Federal agencies and State and local governments cooperate in evaluating, reviewing, and coordinating Federal and federally assisted programs. DOL programs subject to the A-95 requirements are identified in Appendix 1 of the current Catalog of Federal Domestic Assistance. A DOL Agency having programs covered under the circular shall inform potential applicants for assistance of requirements to ensure early contact between an applicant and appropriate clearinghouses.

(b) Each applicant for financial assistance under a covered program shall notify appropriate State and areawide clearinghouses of its intent to apply; and provide the clearinghouses with an opportunity to review its completed application in accordance with DOL Agency instructions. The A-95 notification requirements also apply to proposed significant modifications to a project under a covered program or to applications to renew a project under a covered program.

(c) The DOL Agency shall consider any comments or recommendations of the clearinghouses in evaluating applications for projects under covered programs.

§ 29-70.214-3 Forms for applying for DOL financial assistance—jointly funded grants or agreements.

In applying for financial assistance under a jointly funded grant or agreement (a grant or agreement funded by more than one Federal agency), an applicant or recipient shall use forms or modifications to forms prescribed in OMB Circular No. A-111.

§ 29-70.214-4 Standard forms—State, local, and federally recognized Indian tribal governments.

State, local, and federally recognized Indian tribal governments shall use the following forms in applying for financial assistance under DOL grants and agreements:

- (a) *Preapplication for Federal assistance.* (1) When required by the DOL Agency, a potential applicant shall submit a preapplications to the DOL (using SF 424 and related forms shown as Exhibit M-1 of Attachment M to OMB Circular No. A-102); and to clearinghouses if subject to OMB Circular No. A-95 procedures. Submission of a preapplication indicates an intent to apply for Federal financial assistance under a DOL grant or agreement. DOL Agencies will ordinarily use the preapplication to—
- (i) Establish communications with potential applicants;
 - (ii) Determine a potential applicant's eligibility;
 - (iii) Determine how well a proposed project can compete with those of others; and
 - (iv) Eliminate any proposal which has little or no chance to be funded before the potential applicant incurs the expenditures involved in preparing an application.

(2) The potential applicant shall submit the preapplication forms whenever the DOL financial assistance for construction, land acquisition, or land development projects will exceed \$100,000. If specifically required by the DOL Agency, the potential applicant shall also submit the forms when the DOL financial assistance will amount to \$100,000 or less; or for projects other than projects for construction, land acquisition, or land development. In addition, potential applicants may use a preapplication form even when not specifically required by the DOL Agency.

(3) *Notice of preapplication review action.* DOL Agencies shall use the "Notice of Preapplication Review Action," shown as Exhibit M-2 of Attachment M to OMB Circular No. A-102, to inform a potential applicant of the results of the DOL review of a

submitted preapplication. The responsible grant officer shall, within 45 days of the receipt of a preapplication, send the notice or inform the potential applicant in writing as to when he or she expects to complete the review.

(b) *Application for Federal assistance (nonconstruction programs).* Except as provided in paragraphs (c) and (d) of this section, the applicant shall use the "Application for Federal Assistance (Nonconstruction Programs)," shown as Exhibit M-3 of Attachment M to OMB Circular No. A-102, in applying for a grant or agreement.

(c) *Application for federal assistance (for construction programs).* The applicant shall use the "Application for Federal Assistance (For Construction Programs)," shown as Exhibit M-4 of Attachment M to OMB Circular No. A-102, in applying for a grant or agreement whose major purpose involves construction, land acquisition, or land development except when the "Application for Federal Assistance—Short Form" (see § 29-70.214-4(d)) is used.

(d) *Application for Federal assistance (short form).* The applicant shall use the "Application for Federal Assistance (Short Form)," shown as Exhibit M-5 of Attachment M to OMB Circular No. A-102, in applying for a single-purpose or a one-time grant or agreement for less than \$10,000 which does not require clearinghouse approval, an environmental impact statement, or the relocation of persons, businesses, or farms; and may use the form for applying for grants or agreements of larger amounts if its use has been approved by the DOL Agency.

§ 29-70.214a Applying for Federal financial assistance—Special requirements, nonprofit organizations.

The DOL Agency shall prescribe the forms to be used by an applicant or potential applicant in applying for financial assistance except that SF 424, federal assistance, shall be used as the face sheet for applications and preapplications for grants or agreements under programs covered by Part I, Attachment A, of OMB Circular No. A-95. In addition, the DOL Agency shall ensure that the following assurances are included as a part of any prescribed application for financial assistance:

(a) *Nonconstruction programs.* The applicant (or recipient) hereby assures and certifies that it will comply with applicable regulations, including 41 CFR Part 29-70, and applicable policies, guidelines, and requirements, including OMB Circulars Nos. A-95 and A-110, and with applicable Federal cost

principles as they relate to the application for, and acceptance and use of Federal funds for this federally assisted project. Also the applicant (or recipient) assures and certifies, with respect to the grant or agreement, that:

(1) It possesses legal authority to apply for the grant or agreement; that a resolution, motion, or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

(2) It will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and, in accordance with Title VI of that Act, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance; and will immediately take any measures necessary to effectuate this agreement.

(3) It will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) prohibiting employment discrimination where (1) the primary purpose of a grant or agreement is to provide employment or (2) discriminatory employment practices will result in unequal treatment of persons who are or should be benefiting from the grant-aided activity.

(4) It will comply with requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. 4601 et seq.) which provides for fair and equitable treatment of persons displaced as a result of Federal and federally assisted programs.

(5) It will comply with the provisions of the Hatch Act which limit the political activity of State and local government employees.

(6) It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act (29 U.S.C. 201 et seq.) as they apply to employees of institutions of higher education, hospitals, and other nonprofit organizations as defined in these regulations.

(7) It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or

others, particularly those with whom they have family, business, or other ties.

(8) It will give the Department of Labor and the Comptroller General, through any authorized representative, the access to and the right to examine all records, books, papers, or documents related to the grant or agreement, including the records of contractors, subcontractors, and subrecipients performing under the grant or agreement.

(9) It will comply with all requirements imposed by the Department of Labor concerning special requirements of law, program requirements, and other administrative requirements.

(10) It will ensure, pursuant to Executive Order 11738, that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) List of Violating Facilities and that it will notify the Department of Labor of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.

(11) It will assist the Department of Labor in its compliance with Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470), Executive Order 11593, and the Archeological and Historic Preservation Act of 1966 (16 U.S.C. 489a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 38 CFR Part 800.8) by the recipient's activity, and notifying the Department of Labor of the existence of any such properties, and by (b) complying with any requirements established by the Department of Labor to avoid or mitigate adverse effects upon such properties.

(12) It will comply, to the extent applicable, with all the requirements of Section 114 of the Clean Air Act, (42 U.S.C. 1857, et seq.) and section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Air Act and Water Act, respectively, and all regulations and guidelines issued thereunder.

(13) It will comply with the flood insurance purchase requirements of

Section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106 and 4128) which requires the purchase of flood insurance, on and after March 2, 1974, in communities where such insurance is available, as a condition for the receipt of any Federal financial assistance for acquisition or construction purposes with respect to insurable property within an area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards.

The term "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.

(14) It will comply with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and with all requirements imposed by the Department of Labor pursuant to the regulations of the Department of Health, Education, and Welfare (45 CFR Part 85) promulgated under the foregoing statute. The applicant agrees that, in accordance with the foregoing requirements, no otherwise qualified handicapped person, by reason of handicap, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance, and assures that it will take any measures necessary to effectuate this agreement.

(15) It will comply, to the extent applicable, with Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.) which provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance.

(16) It will include the equal employment opportunity clause prescribed by Executive Order 11246, as amended, and will require that its subrecipients include the clause, in all contracts or subcontracts which have or are expected to have an aggregate value within a 12-month period exceeding \$10,000, in accordance with Department of Labor regulations at 41 CFR Part 60-1.4.

(17) If the grant or agreement is under a statute providing wage standards for such work, it will include, and will require that its subrecipients include, the provision covering the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-332) set forth in 29 CFR 5.5(c) and (e) in any nonexempt

nonconstruction contract or subcontract which involves the employment of mechanics and laborers (including watchmen, guards, apprentices, and trainees) if the contract exceeds \$2500.

(18) It will comply with standards for environmental quality control that may be prescribed pursuant to responsibilities of the Federal Government under the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and Executive Order 11514, Protection and Enhancement of Environmental Quality as amended by Executive Order 11991.

(b) *Construction programs.* The applicant (or recipient) hereby assures and certifies that it will comply with applicable regulations, including 41 CFR 29-70, and applicable policies, guidelines, and requirements, including OMB Circulars Nos. A-95 and A-110 and with applicable Federal cost principles as they relate to the application for, and acceptance and use of Federal funds for this federally assisted project. Also the applicant (or recipient) assures and certifies, with respect to the grant or agreement, that:

(1) It possesses legal authority to apply for the grant, and to finance and construct the proposed facilities; a resolution, motion, or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

(2) It will comply with the provisions of Executive Order 11988, relating to evaluation of flood hazards, and Executive Order 12088, relating to the prevention, control, and abatement of water pollution.

(3) It will have sufficient funds available to meet the non-Federal share of the cost for construction projects. Sufficient funds will be available when construction is completed to assure effective operation and maintenance of the facility for the purposes constructed.

(4) It will obtain approval by the Department of Labor Agency of the final working drawings and specifications before the project is advertised or placed on the market for bidding; it will construct the project, or cause it to be constructed, to final completion in accordance with the application and approved plans and specifications; it will submit to the Department of Labor Agency for prior approval, changes that

alter the costs of the project, use of space, or functional layout; it will not enter into a construction contract(s) for the project or undertake other activities until the conditions of the construction grant program(s) have been met.

(5) It will comply with the provisions of the Hatch Act which limit the political activity of state and local government employees.

(6) It will provide and maintain competent and adequate architectural engineering supervision and inspection at the construction site to ensure that the completed work conforms with the approved plans and specifications; it will furnish progress reports and such other information as the Department of Labor Agency may require.

(7) It will operate and maintain the facility in accordance with such minimum standards as may be required or prescribed by the applicable Federal, State, and local agencies for the maintenance and operation of such facilities.

(8) It will give the Department of Labor and the Comptroller General, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the grant or agreement, including the records of contractors and subcontractors performing under the grant or agreement.

(9) It will comply with the Architectural Barriers Act of 1968, (42 U.S.C. 4151 *et seq.*) and the standards issued pursuant to the Act. The applicant will be responsible for seeing that facilities are designed and constructed in accordance with applicable standards and for conducting inspections to ensure compliance with these specifications by the contractor.

(10) It will cause work on the project to be commenced within a reasonable time after receipt of notification from the Department of Labor Agency that funds have been approved; and will prosecute the project to completion with reasonable diligence.

(11) It will not dispose of or encumber its title or other interests in the site and facilities during the period of Federal interest or while the government holds bonds, whichever is the longer.

(12) It will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and, in accordance with Title VI of that Act and Department of Labor regulations at 29 CFR 31, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the

applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the applicant, this assurance shall obligate the applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(13) It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

(14) It will comply with the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. 4601 *et seq.*) which provides for fair and equitable treatment of persons displaced as a result of Federal and federally assisted programs.

(15) It will comply with all requirements imposed by the Department of Labor concerning special requirements of law, program requirements, and other administrative requirements.

(16) It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act (29 U.S.C. 201), as they apply to employees of institutions of higher education, hospitals, and other nonprofit organizations as defined in these regulations.

(17) It will ensure, pursuant to Executive Order 11738, that the facilities under its ownership, lease, or supervision which shall be utilized in the accomplishment of the project, are not listed on the Environmental Protection Agency's (EPA) List of Violating Facilities; and it will notify the Department of Labor of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be utilized in the project is under consideration for listing by the EPA.

(18) It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106 and 4128). Section 102(a) requires, on and after March 2, 1974, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal

financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.

(19) It will assist the Department of Labor in its compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), Executive Order 11593, and the Archeological and Historic Preservation Act of 1966 (16 U.S.C. 469a-1 *et seq.*) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR Part 800.8) by the activity, and notifying the Department of Labor of the existence of any such properties, and by (b) complying with all requirements established by the Department of Labor to avoid or mitigate adverse effects upon such properties.

(20) It will comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented by Department of Labor Regulations (41 CFR Part 60). This requires the inclusion of the equal employment opportunity clause as prescribed in 41 CFR 60-1.4(b) and the Standard Federal Equal Employment Opportunity Construction Contract Specifications required in 41 CFR 60-4.3(c) in all nonexempt contracts and subcontracts involving federally assisted construction. The requirement applies to contracts which have or are expected to have an aggregate value within a 12-month period exceeding \$10,000.

(21) When required by the Federal program legislation, it will ensure that laborers and mechanics receive at least the wages determined in accordance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations, (29 CFR Part 5). This applies to all construction contracts of more than \$2,000 awarded by a recipient or subrecipient. Under this Act, contractors and subcontractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition,

contractors and subcontractors shall be required to pay wages not less than once per week. The recipient or subrecipient shall place a copy of the current prevailing wage determination issued by the Department of Labor and the provisions set forth in 29 CFR 5.5(a) in each solicitation, and the award of a contract or subcontract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Department of Labor Agency.

(22) It will comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874). This applies to all construction, alteration, and repair financed in whole or in part by loans or grants from the United States. It provides that each recipient, subrecipient, contractor, and subcontractor, or any other person shall be prohibited from inducing by any means, any person employed in the construction, completion, or repair of public works, to give up any part of the compensation to which he or she is otherwise entitled. The recipient shall report all suspected or reported violations to the Department of Labor Agency. When Federal program legislation provides that the Davis-Bacon labor standards apply, the recipient ensures that contractors and subcontractors with contracts or subcontracts in excess of \$2,000 shall comply with Department of Labor regulations at 29 CFR Part 3.

(23) If the grant or agreement is under a statute providing wage standards for such work, it will comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333). It will include, and will require that its subrecipients include, the provision set forth in Department of Labor regulations at 29 CFR 5.5(c) in each construction, alteration, or repair contract awarded in excess of \$2,000 which involves the employment of mechanics or laborers.

(24) It will comply with the provision of Executive Order 11990, relating to protection of wetlands as follows: (a) avoid to the extent possible the long and short term adverse impacts associated with the destruction or modification of wetlands; (b) avoid direct or indirect support of new construction in wetlands, wherever there is a practicable alternative; (c) design, construct, operate, and maintain the project by taking actions both to minimize the destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands, when there is no practicable alternative; and (d) for projects covered by Section 104(h) of the

Housing and Community Development Act of 1977, assume the responsibilities under provisions in Section 2 and 5 of this Order, if the applicant has also assumed with respect to such projects, all of the responsibilities for environmental review, decisionmaking and action pursuant to the National Environmental Policy Act of 1969, as amended.

(25) It will comply with the provisions of Executive Order 11988, relating to floodplain management as follows: (a) avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains; (b) avoid direct or indirect support of flood plain development, wherever there is a practicable alternative; (c) design, construct, operate, and maintain the project by taking actions to minimize potential harm to or within the floodplain; and (d) for projects covered by Section 104(h) of the Housing and Community Development Act of 1977, assume the responsibilities under provisions 2(a) of this Order, if the applicant has also assumed with respect to such projects, all of the responsibilities for environmental review, decisionmaking and action pursuant to the National Environmental Policy Act of 1969, as amended.

(26) It will comply with standards for environmental quality control that may be prescribed pursuant to responsibilities of the Federal Government under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and Executive Order 11514, Protection and Enhancement of Environmental Quality, as amended by Executive Order 11991.

§ 29-70.214b Applying for Federal financial assistance—CETA requirements.

Procedures and forms for applying for financial assistance under CETA grants or agreements may be found at 20 CFR, Subpart A of Part 678; and Parts 677 through 695.

§ 29-70.215 Property management standards.

§ 29-70.215-1 General.

This section prescribes standards governing the management of property furnished by the DOL or acquired in whole or in part with financial assistance awarded by a DOL Agency, or property whose cost is charged to a project in support of a DOL grant or agreement. A recipient may follow its own property management policies and procedures provided that it observes the requirements of this section.

§ 29-70.215-2 Real property.

The following requirements concerning title to, and the use and disposition of real property funded wholly or in part by financial assistance awarded by a DOL Agency, apply to recipients of DOL grants and agreements.

(a) *Title.* Title to real property shall vest in the recipient subject to the conditions given in paragraphs (b) and (c) of this section.

(b) *Use.* The recipient shall use the real property for the authorized purpose of the original grant or agreement as long as needed. When the recipient determines that the property is no longer needed for originally authorized purposes, the recipient may request in writing that the grant officer authorize the recipient to use the property for the following purposes:

(1) Activities under other Federal grants or agreements for assistance-type projects.

(2) Activities under non-Federal projects which have purposes consistent with those authorized for support by the DOL.

(c) *Disposition.* When the real property is no longer needed for purpose specified in paragraph (b), the recipient shall request disposition instructions from grant officer (or from the grant officer of the successor Federal agency if control of the property regarding use and disposition has been transferred to another agency in accordance with paragraph (b)(1)). The grant officer shall observe the following rules in issuing disposition instructions—

(1) The recipient may be permitted to retain title to the property with Federal restrictions removed after compensating the DOL for its fair share computed by applying the DOL percentage of participation in the cost of the original project to the current fair market value of the property as determined by licensed appraisers; or

(2) The recipient may be directed to sell the property under guidelines provided by the DOL Agency and to pay the DOL an amount computed by applying the DOL percentage of participation in the cost of the original project to the proceeds from the sale after deducting actual and reasonable selling and fix-up expenses, if any. The grant officer may require that sales procedures be subject to DOL approval to ensure that competition is obtained to the extent practicable and that the sale results in the highest possible return; or

(3) The recipient may be directed to transfer title to the property to the Federal Government. In such cases, the recipient shall be entitled to

compensation computed by applying the recipient's percentage of participation in the cost of the original project to the current fair market value of the property as determined by licensed appraisers.

§ 29-70.215-3 Federally owned nonexpendable personal property.

(a) *Title.* Title to federally owned property remains vested in the Federal Government.

(b) *Use of federally owned nonexpendable personal property.* The recipient shall use the property for the authorized purposes of the grant or agreement and, during the grant or agreement period, the recipient may make the property available for other activities in accordance with § 29-70.215-6. The recipient shall submit an annual inventory listing of federally owned property in its custody to the DOL Agency.

(c) *Disposition.* Upon completion of the grant or agreement or when the property is no longer needed for work under the grant or agreement, the recipient shall so inform the DOL Agency. The grant officer shall request that DOL property officers review the need for further utilization of the property by the DOL. If the DOL has no further need for the property, it shall be declared excess and reported to the General Services Administration. The DOL Agency shall issue appropriate disposition instructions to the recipient. Under no circumstances shall a recipient sell federally owned property.

§ 29-70.215-4 Exempt nonexpendable personal property.

(a) *Title.* When statutory authority exists (e.g., Sec. 7(b) of the Federal Grant and Cooperative Agreement Act of 1977—41 U.S.C. 501), title to nonexpendable personal property acquired with grant or agreement funds may vest in the recipient upon acquisition if the grant officer determines that to do so is in furtherance of DOL objectives.

(b) *Use and disposition.* When title to such property vests in the recipient, the recipient shall have no further obligation or accountability to the DOL unless the property is subject to the special requirements regarding transfer of title which are set forth in § 29-70.215-5(f).

§ 29-70.215-5 Other nonexpendable personal property.

(a) *Special acquisition restriction.* If it is in the DOL's best interest, the grant officer shall require that nonexpendable personal property needed for projects under DOL grants or agreements be obtained by lease rather than purchase. A prospective recipient shall be given

written notice of this restriction either in the solicitation or by other public notice prior to grant or agreement award.

(b) *Acquisitions requiring prior approval.* The recipient shall obtain prior approval from the grant officer for all purchases of nonexpendable personal property having a unit acquisition cost of \$1,000 or more and a useful life of more than 1 year. When deemed necessary for a project or class of projects, the DOL Agency may require that the recipient obtain prior approval for purchases having a unit acquisition cost of \$300 or more and a useful life of more than 1 year. A prospective recipient subject to this restriction shall be given written notice of this requirement either in the solicitation or by other public notice prior to grant or agreement award. The recipient may request approval by itemizing such purchases in the grant or agreement application prior to award or by submitting written requests for approval of such purchases during the grant or agreement period.

(c) *Title.* When the recipient purchases nonexempt, nonexpendable personal property with grant or agreement funds, title shall vest in the recipient subject to the conditions set forth in § 29-70.215-5(d), (e), and (f), and in § 29-70.215-6. (Section 29-70.215-5(f) provides special restrictions regarding title, use, and disposition of specific, identified property.)

(d) *Use of property to which recipient has title.* Unless otherwise provided in the grant or agreement or in documents authorizing acquisition (in accordance with paragraph (f)), the recipient shall use the property in the project for which it was acquired as long as it is needed, whether or not the project continues to be supported by DOL funds. When no longer needed for the original project, the recipient shall use the property for other federally assisted activities in the following order of priority:

(1) Activities receiving financial assistance from the DOL.

(2) Activities receiving financial assistance from other Federal agencies.

(e) *Disposition of property to which recipient has title.* When the property is no longer needed for activities specified in § 29-70.215-5(d), the recipient may use the property for other activities or may dispose of the property in accordance with the following standards:

(1) *Property with a unit acquisition cost of less than \$1,000.* The recipient may use the property for other activities without reimbursement to the DOL or may sell the property and retain the proceeds.

(2) *Property with a unit acquisition cost of \$1,000 or more.* Unless otherwise provided in the grant or agreement—

(i) The recipient may retain the property for other uses: *Provided,* That compensation is made to the DOL (or to the successor Federal agency if control of the property has been transferred to another agency in accordance with paragraph (d)(2)). The recipient shall compute amounts due the Department by applying the percentage of DOL participation in the cost of the original grant or agreement under which the property was obtained to the current fair market value of the property; or

(ii) If the recipient has no need for the property and the property has further use value, the recipient shall report the item or items to the DOL on Standard Form (SF) 120, "Report of Excess Personal Property," for disposition instructions. The DOL shall determine whether the property can be used to meet other DOL needs. If no need exists in the Department, the DOL shall report the availability of the property to the General Services Administration in accordance with Federal Property Management Regulations (41 CFR Part 101-43) to determine whether other Federal agencies have a need for the property. The grant officer shall then issue instructions to the recipient within 120 calendar days from the date of receipt of the SF 120, and the following procedures shall govern:

(A) If so instructed, or if DOL disposition instructions are not issued within the 120 calendar days, the recipient shall sell the property. The recipient shall compute the DOL share by applying, against the sales proceeds, the percentage of DOL participation in the cost of the grant or agreement under which the property was purchased. To cover selling and handling expenses, the recipient may deduct and retain from the DOL share \$100 or 10 percent of the sales proceeds, whichever is greater. The recipient shall remit the adjusted amount to the DOL.

(B) If the recipient is instructed to ship the property elsewhere, the recipient will be reimbursed by the benefiting Federal agency in an amount that is computed by applying to the current fair market value of the property, the percentage of the recipient's participation in the cost of the grant or agreement under which the property was purchased and by adding any reasonable disposition costs incurred including shipping or interim storage costs.

(C) If the recipient is instructed to otherwise dispose of the property, the

recipient shall be reimbursed by the DOL for costs incurred in its disposition.

(f) *Property subject to title transfer.* For items of nonexpendable personal property having a unit acquisition cost of \$1,000 or more, the grant officer may require the recipient to transfer title to the property to the Federal Government or to a non-Federal third party named by the grant officer when such party is eligible under existing statutes to be furnished the property. This will normally be done only when the activity for which the property was acquired is transferred to another recipient, or when the property is no longer needed by the present recipient and the grant officer has determined that such property would be difficult or costly to replace. The right to require transfer of title shall be subject to the following standards:

(1) The property shall have been specifically identified as being subject to title transfer in the grant or agreement; or, if after award, at the time that written authority was given to a recipient to acquire such property.

(2) In order to exercise the right, the DOL Agency shall issue disposition instructions to the recipient not later than 120 calendar days after the end of Federal support for the project or the activities for which the property was acquired. If instructions are not issued within that time, the Department's right shall lapse, and the recipient shall apply the standards set forth in § 29-70.215-5(d) and (e)(2).

(3) If the DOL Agency orders title to be transferred to the Federal Government, the property shall be subject to the provisions for federally owned nonexpendable personal property given in § 29-70.215-3.

(4) If the recipient transfers title either to the Federal Government or to a non-Federal third party, the recipient shall be reimbursed with an amount which is computed by applying, to the current fair market value of the property, the percentage of recipient participation in the cost of the grant or agreement under which the property was purchased plus any reasonable disposition costs incurred including shipping or interim storage costs. Reimbursement shall be made by the benefiting Federal agency or by the benefiting non-Federal third party, as appropriate.

§ 29-70.215-6 Shared use of nonexpendable personal property.

During the time that nonexempt, nonexpendable personal property is held for project purposes in connection with the grant or agreement under which it was acquired, the recipient shall make it available for other uses if such uses

will not interfere with work under the grant or agreement for which the property was acquired. The recipient shall give first preference for such shared use to other DOL projects; second preference, to financially assisted projects of other Federal agencies; and third preference, to non-Federal uses which have purposes consistent with those authorized for financial assistance by the DOL. The recipient shall obtain prior approval from the grant officer for shared use on third preference and other non-Federal uses. The grant officer shall determine whether user charges are appropriate.

§ 29-70.215-7 Property management standards for nonexpendable personal property.

The recipient shall observe the following minimum Federal standards in managing nonexpendable personal property:

(a) The recipient may use its own standards in managing nonexpendable personal property which is exempt under § 29-70.215-4 and not subject to special requirements set forth in § 29-70.215-5(f). For all other nonexpendable personal property, the recipient shall maintain accurate property records which include:

(1) A description of the property;

(2) An identification number, such as the manufacturer's serial number, manufacturer's model number, Federal stock number, national stock number, or other identification number;

(3) Source of the property (e.g., name of commercial source, excess, surplus property, or Federal Government) and grant or agreement number;

(4) Information as to whether title vests in the recipient or the Federal Government;

(5) Acquisition date (or date received if the property was furnished by the Federal government);

(6) For property not furnished by the Federal Government, percentage (as of the end of the budget year) of Federal participation in the cost of the project for which the property was acquired;

(7) Location, use, and condition of property, and the date this information was obtained;

(8) Unit acquisition cost; and

(9) Ultimate disposition data, including date of disposition and selling price or the method used to determine current fair market value if the DOL was compensated for its share.

(b) The recipient shall ensure that property owned by the Federal Government is marked to indicate Federal ownership.

(c) The recipient shall take a physical inventory of such property and reconcile the results with the property records at least once every 2 years (or each year for federally owned property in accordance with § 29-70.215-3(b)). The recipient shall investigate any difference between quantities determined by the physical inspection and those shown in the accounting records and determine the causes of difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.

(d) The recipient shall maintain a control system which ensures adequate safeguards to prevent property damage, loss, or theft, and shall investigate and document any damage to or loss or theft of nonexpendable personal property. If the property is federally owned, the recipient shall promptly notify the grant officer, in writing, concerning the damage, loss, or theft.

(e) The recipient shall implement adequate maintenance procedures to keep the property in good condition.

(f) When authorized or required to sell the property, the recipient shall establish proper sales procedures which provide for competition to the extent practicable and result in the highest possible return.

(g) The recipient shall retain property records in accordance with § 29-70.203.

§ 29-70.215-8 Expendable personal property.

(a) Title to expendable personal property acquired for use under the grant or agreement shall vest in the recipient subject to the disposition restrictions set forth in paragraph (b) of this section.

(b) The recipient shall maintain records sufficient to determine the amount of unused expendable personal property on hand at the expiration date or upon termination or completion of the grant or agreement. If there is an inventory of unused expendable personal property exceeding \$1,000 in total aggregate current fair market value at the expiration date or upon termination or completion, and if the property is not needed for any other federally financially assisted project, the recipient may retain the property for use on nonfederally assisted activities, or sell it. Whether retained or sold, the recipient shall compensate the DOL as follows: The amount shall be computed by multiplying the current fair market value of the property (if retained by the recipient) or the proceeds from sale of the property (if sold) by the percentage of DOL participation in the costs of the grant or agreement and by deducting

and retaining 10 percent of any sales proceeds.

§ 29-70.215-9 Intangible personal property.

(a) *Inventions and patents.* If any project produces patentable items, patent rights, processes, or inventions in the course of work under a DOL grant or agreement, the recipient shall report the fact promptly and fully to the grant officer. Unless there is a prior agreement between the recipient and the DOL Agency on these matters, the DOL Agency shall determine whether to seek protection on the invention or discovery. The DOL Agency shall determine how the rights in the invention or discovery, including rights under any patent issued thereon, will be allocated and administered in order to protect the public interest consistent with the "Government Patent Policy" (President's Memorandum for Heads of Executive Departments and Agencies, August 23, 1971, and Statement of Government Patent Policy as printed in 36 FR 16889).

(b) *Copyrights.* The following copyright policy shall apply:

(1) Unless otherwise provided in terms of the grant or agreement, when copyrightable material is developed in the course of or under a DOL grant or agreement, the author or the recipient organization which developed the work is free to copyright the material or to permit others to do so.

(2) If any material developed in the course of or under a DOL grant or agreement (or a recipient contract, subgrant, or subagreement) is copyrighted, the DOL shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, and otherwise use, and to authorize others to use, the work for Government purposes.

§ 29-70.215-10 Excess personal property.

(a) A recipient may obtain Federal excess property for use in federally financially assisted projects. *Provided*, That, the recipient (other than a federally recognized Indian tribal government) pays to the Government from grant funds 25 percent of the original acquisition cost of the property.

(b) Title to the property vests in a recipient who has paid the 25 percent of cost for the property. Such a recipient shall use the property in the manner prescribed for nonexpendable personal property (§ 29-70.215-5(d)), and shall account for the property in accordance with § 29-70.215-7. When such property is no longer needed for activities specified in § 29-70.215-5(d), the

recipient may, regardless of whether the unit cost of the property exceeds \$1,000, use the property for other activities without reimbursement to the DOL or may sell the property and retain the proceeds.

(c) Title to excess property obtained by a recipient which is a federally recognized Indian tribal government remains vested in the Federal Government. The recipient shall use and dispose of the property in accordance with requirements for federally owned nonexpendable personal property prescribed in § 29-70.215-3.

§ 29-70.215a Property management standards—special requirements, nonprofit organizations.

§ 29-70.215a-1 Special acquisition and disposition restrictions—nonexempt nonexpendable personal property.

(a) If it is in the Government's best interest, the grant officer may require that nonexpendable personal property be obtained by lease rather than by purchase (see § 29-70.215-5(a)).

(b) Alternatively, the grant officer may obtain the consent of a prospective recipient during negotiations to sell nonexpendable personal property purchased under the grant or agreement at the end of the grant or agreement period and to remit to the DOL that part of the proceeds which represents the percentage of DOL participation in the grant or agreement less a negotiated percentage for selling and handling costs. A prospective recipient shall be given notice regarding these special restrictions, and the special restrictions and disposition restrictions negotiated pursuant to this paragraph must be included as a condition in the award document.

(c) The recipient shall follow the use and disposition requirements for nonexempt nonexpendable personal property set forth at § 29-70.215-5 (d) and (e) unless otherwise provided, pursuant to § 29-70.215a-1(b), in the grant or agreement.

§ 29-70.215a-2 Copyrights.

The provisions of § 29-70.215-9(b)(2) do not apply to grants or agreements for educating or training students in a particular field or specialized area.

§ 29-70.216 Procurement standards; required provisions for recipient contracts.

§ 29-70.216-1 Purpose and applicability.

(a) This section provides minimum Federal standards for procurement systems and procedures used by DOL recipients and subrecipients in obtaining supplies, equipment, construction, and other services (including research and

development) needed to carry out a grant or agreement where the costs will be either a direct charge to the grant or agreement or will be counted in satisfying a matching requirement. To the extent necessary for the recipient and subrecipient to be in compliance, these standards also apply to the procurement of their contractors.

(b) Except as otherwise stated, this section does not apply to subgrants or subagreements awarded to eligible entities (see § 29-70.101(b)) to carry out substantive work (work that achieves the primary public purpose goal for which the grant or agreement was awarded as opposed to support services).

(c) Section 29-70.216-8 prescribes provisions which are required in recipient's (or subrecipient's) contracts.

§ 29-70.216-2 Recipient's procurement responsibilities.

These standards shall not relieve the recipient of contractual or administrative responsibilities under its contracts. As the responsible authority for the successful accomplishment of a project undertaken pursuant to a grant or agreement, the recipient shall be responsible for all aspects of administering procurements in support of its grant or agreement including—Soliciting offers and bids, evaluating responses, selecting contractors, and awarding contracts; handling disputes, claims, and protests of award; and handling all other matters of a contractual nature in accordance with Federal requirements and applicable State and local laws. The recipient shall refer matters concerning violation of law to the Federal, State, or local authority which has proper jurisdiction. This does not prevent the recipient (or subrecipient through the recipient) from seeking advice from the DOL Agency concerning contractual issues.

§ 29-70.216-3 Procurement systems and procedures.

The recipient may use its own procurement systems and procedures which reflect applicable State and local law, rules, and regulations to the extent that the systems and procedures do not conflict with the DOL standards set forth in this section; applicable Federal statutes, Executive Orders, or regulations; or terms of the grant or agreement. The DOL Agency may require that established procurement procedures of a recipient or prospective recipient be submitted to the DOL for review prior to or subsequent to grant or agreement award.

§ 29-70.216-4 Recipient code of conduct.

The recipient shall avoid conflicts of interest by observing the following requirements:

(a) The recipient shall maintain a written code of standards of conduct which will govern the performance of its officers, employees, or agents in contracting with or otherwise procuring supplies, equipment, construction, or services with Federal funds under a DOL grant or agreement. These standards shall provide that no officer, employee, or agent shall:

(1) Solicit or accept gratuities, favors, or anything of monetary value from supplies or potential suppliers; or

(2) Participate in the selection, award, or administration of a procurement subject to this section where, to the individual's knowledge, any of the following has a financial or other substantive interest in any organization which may be considered for award—

(i) The officer, employee, or agent;

(ii) Any member of his or her immediate family;

(iii) His or her partner; or

(iv) A person or organization which employs any of the above or with whom any of the above has an arrangement concerning prospective employment.

(b) To the extent permissible by State or local law (or related rules or regulations), recipient standards shall provide for penalties, sanctions, or other disciplinary actions (such as suspension, termination, or civil action to recover money damages) to be applied for grant or agreement related violations of law or established standards of conduct by recipient officers, employees, or agents.

§ 29-70.216-5 Competition in recipient procurement.

(a) *General requirements.* Except as otherwise authorized by applicable Federal law or by exceptions specified in § 29-70.216-5(b), the recipient shall conduct all procurement transactions, regardless of dollar amount or method of procurement, in a manner that provides for open and free competition. The extent of competition shall be consistent with the dollar value of the award. The recipient shall be alert to organizational conflicts of interest or non-competitive practices among suppliers which could restrict or eliminate competition or otherwise restrain trade. Unless the DOL grant officer has waived the requirement for a particular procurement, a contractor who develops specifications, the statement of work, an invitation for bids, or a request for proposals for a procurement, shall not be eligible to compete for the procurement.

(b) *Preferential procurement.* The following shall apply to the use of preferential procurement by recipients and subrecipients:

(1) *State or local preference.* In evaluating bids or proposals received in response to a solicitation, the recipient shall not use State or local laws, ordinances, regulations, or procedures designed to give local or in-State bidders or proposers a competitive advantage over other bidders or proposers unless a condition specified in § 29-70.216-5(b)(2) applies to the proposed procurement.

(2) *Federal statutes authorizing preferential treatment.* A recipient may use preferential procurement procedures if, and to the extent that, they are prescribed or authorized by applicable Federal statute or Executive Order.

(i) The following Federal laws, either specifically or by intent, provide authority for a recipient to use grant or agreement funds to benefit specific ethnic or target population groups or specific geographic areas:

(A) Section 7(b)(2) of the Indian Self-Determination and Education Assistance Act requires that any Act authorizing Federal contracts with or grants to Indian organizations or for the benefit of Indians shall require to the greatest extent feasible—

(2) preference in the award of subcontracts and subgrants . . . shall be given to Indian organizations and to Indian-owned economic enterprises . . .

(B) The Comprehensive Employment and Training Act (CETA) provides for certain programs which have, as their primary purpose, job development and the creation of job opportunities for target population groups in specific geographic areas (see § 29-70.216b and 20 CFR 676.23). (CETA, sec. 123 (1))

(ii) If a recipient is authorized, in accordance with § 29-70.216-5(b)(2)(i), to use preferential procurement, the DOL Agency may require that the recipient submit proposed procedures for prior review and approval. In addition, the DOL Agency shall periodically review such procedures to ensure that they—(A) Conform to Federal, State, and local law, and applicable regulations;

(B) Promote program goals and comply with the Federal statute authorizing the procedures;

(C) Provide for recipient cost or price analysis to ensure that costs are reasonable and that Federal funds are expended in accordance with good business practice; and

(D) Provide for maximum competition within the authorized limitations unless

a noncompetitive procurement can be justified in accordance with § 29-70.216-5(c).

(iii) Approval of a grant or agreement application which includes planned preferential procurement practices shall constitute approval of use of the procurement practices.

(c) *Noncompetitive procurement.* Except as otherwise provided in § 29-70.216-5(b), the recipient shall obtain prior written grant officer approval for all proposed noncompetitive procurements which are expected to exceed \$5,000 which were not identified in the approved grant or agreement budget. The recipient shall include a justification in every request for approval of a noncompetitive procurement. The grant officer shall not approve such a proposed noncompetitive procurement unless the factors used to justify the noncompetitive procurement meet one of the following DOL standards—

(1) The item or services required are unique;

(2) Time is of the essence and only one known source can meet the recipient's needs within the required time frame;

(3) Data are unavailable for competitive procurement; or

(4) It is necessary that the desired items manufactured by one source be compatible and interchangeable with existing equipment.

§ 29-70.216-6 Procedural requirements.

The recipient shall establish procurement procedures which provide for the following minimum requirements:

(a) The recipient shall review proposed procurements to consider consolidation of requirements for greater economy and to avoid purchasing unnecessary or duplicative items; and, where appropriate, shall analyze lease, purchase, or other alternatives to determine which alternative provides for the best use of Federal funds.

(b) The recipient shall set forth in the solicitation (invitation for bids or request for proposals) all requirements that the bidder or offeror must fulfill in order for the recipient to evaluate the bid or offer; and shall include a clear and accurate description of the technical requirements for the materials, products, or services to be procured. In competitive procurements, the description shall not contain requirements which unduly restrict competition. The recipient may use a "brand name or equal" description to define performance or other salient requirements of a procurement if the

solicitation makes it clear that the description is used to establish standards, and that other suppliers meeting the standards are eligible to submit proposals or bids.

(c) The recipient shall take positive steps to use small and minority-owned business sources in its procurement and shall take (but not limit itself to) the following steps—(1) Establish, maintain, and use solicitation mailing lists which include qualified small and minority businesses; and

(2) When economically feasible, divide needed requirements into smaller units to provide an opportunity for small and minority businesses to compete for the procurement.

(d) The recipient shall use the type of procuring instrument (e.g., purchase order, fixed-price contract, cost-reimbursement contract, incentive contract) which is appropriate to the particular procurement and in the best interest of the grant or agreement program. A "cost-plus-a-percentage-of-cost" contract shall not be used.

(e) If the recipient is a State or local government, the recipient shall use formal advertising (see § 29-70.102), with adequate purchase description, sealed bids, and public openings as the procurement method unless negotiation, pursuant to paragraph (f), is necessary to accomplish a sound procurement. The recipient, however, need not use formal advertising in procurements of \$10,000 or less unless otherwise required by State or local law or regulations. When formal advertising is used, the recipient—(1) Shall award the contract to the responsible bidder whose bid is responsive to the invitation for bids and most advantageous to the recipient, price and other factors considered. The recipient may consider factors such as transportation costs, discounts, and taxes in determining the lowest bidder; or

(2) May reject any or all bids when it is in the recipient's interest to do so, and when such rejections are in accordance with applicable State and local law, rules, or regulations.

(f)(1) The recipient may use negotiated procurement procedures if it is not feasible to use formal advertising. Generally, the recipient may negotiate procurements if one (or more) of the following conditions exists—(i) The public exigency will not permit the delay incident to formal advertising;

(ii) The material or service to be procured is available from only one person or firm (see § 29-70.216-5(c) for requirements for negotiated procurement which is also noncompetitive);

(iii) The aggregate amount involved does not exceed \$10,000;

(iv) The contract is for personal or professional services, or for any service to be rendered by a university, college, or other educational institution;

(v) The material or services are to be procured and used outside the limits of the United States and its possessions;

(vi) No acceptable bids have been received after formal advertising;

(vii) The purchases are for highly perishable materials or medical supplies; for material or services where the prices are established by law; for technical items or equipment requiring standardization and interchangeability of parts with existing equipment; for experimental, developmental, or research work; for supplies purchased for authorized resale; or for technical or specialized supplies requiring substantial initial investment for manufacture; or

(viii) Negotiation is otherwise authorized by applicable Federal, State, or local law, rules, or regulations.

(2) The recipient shall obtain competition in all negotiated procurements to the maximum extent practicable.

(g) The recipient may use its own cost principles in determining allowable costs under cost-type contracts and in negotiating fixed-price contracts based on cost estimates, provided that costs permitted under recipient cost principles are also permitted under applicable Federal cost principles.

(h) The recipient shall award contracts only to responsible contractors as defined in § 29-70.102.

(i) The recipient shall maintain records or files sufficient to detail the significant history of a procurement. Records and files for procurements in excess of \$10,000 shall include, as a minimum: The basis for contractor selection, required grant officer approvals, justifications for use of the negotiation method or for noncompetitive procurement, and the basis for award cost or price.

(j) The recipient shall maintain a system for contract administration to ensure that contractors and other suppliers comply with terms, conditions, and performance requirements of contracts (including purchase orders), and to ensure adequate and timely followup of all purchases.

§ 29-70.216-7 Required prior grant officer approvals.

The recipient shall obtain prior grant officer approval for:

(a) Procurements which involve purchases of nonexpendable personal

property having a unit acquisition cost of \$1,000 or more (or \$300 or more if required in the grant or agreement) and a useful life of more than 1 year regardless of the total aggregate expenditure in accordance with § 29-70.215-5(b).

(b) Procurements for which a bidder or offeror who has developed specifications, statement of work, or the invitation for bids or request for proposals is allowed to compete for the ensuing contract (see § 29-70.216-5(a)).

(c) Contemplated noncompetitive procurements in accordance with § 29-70.216-5(c).

§ 29-70.216-8 Content and provisions of recipient contracts.

(a) *General.* Except for small purchases (purchases of \$10,000 or less), the recipient shall award a contract through a bilaterally executed written agreement which includes all provisions needed to define a sound and complete agreement. The recipient shall include in the written agreement the price or estimated cost, method of payment, scope and extent of work, period of performance, and other information pertinent to the particular procurement.

(b) *Required general provisions.* In addition, the recipient shall include the following provisions in each contract:

(1) A provision which will allow for administrative, contractual, or legal remedies if the contractor violates or breaches terms of the contract.

(2) A provision for termination of the contract for default; and for termination because of circumstances beyond the control of the contractor. The provision shall include conditions under which termination actions will be taken, the manner of taking such actions, and the basis for settlement.

(3) Except for a formally advertised contract awarded on a fixed price basis, a provision that the contractor shall maintain adequate records related to work under the grant or agreement program; and shall make available to the recipient, the Secretary of Labor, the Comptroller General of the United States, or any duly authorized representative, any books, documents, papers, and records which are directly related to the grant or agreement program for the purpose of making audits, examinations, excerpts, and transcriptions. Records shall be retained for a period of 3 years after final payment by the recipient.

(4) A provision that qualified small business and minority business enterprises shall have the maximum practicable opportunity to participate in the performance of recipient contracts.

(5) All other provisions of the grant or agreement which flow down and are applicable to a recipient contract.

(6) *Executive Order 11246—Equal Employment Opportunity.* In addition to the above, the recipient shall include the following equal opportunity clause (prescribed in 41 CFR 60-1.4) in all contracts and shall require that its contractors, subgrantees, and other subrecipients include the clause in their contracts which have or are expected to have, an aggregate value within a 12-month period exceeding \$10,000:

Equal Opportunity

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, as amended, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of the Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, as amended, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(c) *Special provisions.* The recipient shall include any or all of the following provisions in contracts requiring their inclusion, as indicated in the following paragraphs:

(1) *Clean Air Act of 1970 (42 U.S.C. 1857 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).*

The recipient shall include the following certification and provision in any solicitation and resulting contract in excess of \$100,000:

(i) *Certification:*

Clean Air and Water Certification

The bidder or offeror certifies as follows:

(a) Any facility to be utilized in the performance of this proposed contract has [] has not [] been listed on the Environmental Protection Agency (EPA) List of Violating Facilities.

(b) It will promptly notify the recipient, prior to award, of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that any facility which it proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities.

(c) It will include substantially this certification, including this paragraph (c), in every nonexempt subcontract.

(ii) *Provision:*

Clean Air and Water

(a) The contractor agrees as follows:

(1) To comply with all the requirements of section 114 of the Clean Air Act, as amended (42 U.S.C. 1857, et seq.) and section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the award of this contract.

(2) That no portion of the work required by this contract will be performed in a facility listed on the EPA List of Violating Facilities on the date when this contract was awarded unless and until the EPA eliminates the name of such facility or facilities from such listing.

(3) To use its best efforts to comply with clean air standards and clean water standards at the facility in which the contract is being performed.

(4) To insert the substance of the provisions of this clause into any nonexempt subcontract, including this paragraph (a)(4).

(b) The terms used in this clause have the following meanings:

(1) The term "Air Act" means the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

(6) The term "Water Act" means Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.).

(3) The term "clean air standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in section 110(d) of the Clean Air Act (42 U.S.C. 1857c-5(d)), an approved implementation procedure or plan under section 111(c) or section 111(d), respectively, of the Air Act (42 U.S.C. 1857c-6(c) or (d)), or an approved implementation procedure under section 112(d) of the Air Act (42 U.S.C. 1857c-7(d)).

(4) The term "clean water standards" means any enforceable limitation, control, condition, prohibition, standard, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the EPA or by a State under an approved program, as authorized by section 402 of the Water Act (33 U.S.C. 1342), or by local government to ensure compliance with pretreatment regulations as required by section 307 of the Water Act (33 U.S.C. 1317).

(5) The term "compliance" means compliance with clean air or water standards. Compliance shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the EPA or an air or water pollution control agency in accordance with the requirements of the Air Act or Water Act and regulations issued pursuant thereto.

(c) The term "facility" means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a contractor or subcontractor, to be utilized in the performance of a contract or subcontract.

Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location or site shall be deemed to be a facility except where the Director, Office of Federal Activities, EPA, determines that independent facilities are collocated in one geographical area.

(2) *Patents and copyrights.* The recipient shall include a provision in each contract awarded for purposes identified in this section to the effect that matters regarding rights to inventions and materials generated under the contract are subject to DOL and recipient requirements as set forth in the contract. The recipient shall include the provision in each contract, the principal purpose of which is—(i) To create, develop, or improve products, processes, or methods;

(ii) To explore fields that directly concern public health, safety, or welfare;

(iii) To perform work in a field of science or technology in which there has been little significant experience outside the work funded by Federal assistance; or

(iv) To perform any work which may produce patentable items, patent rights, processes, or inventions, or copyrightable material.

The provision shall be consistent with the requirements of § 29-70.215-9.

(3) *Contract Work Hours and Safety Standards Act (40 U.S.C. 327-332).* (i) If the grant or agreement is under a statute providing wage standards for such work, the recipient or subrecipient shall include the provision described in paragraph (c) (3) (iii) in any nonconstruction contract which involves the employment of mechanics and laborers (including watchmen, guards, apprentices, and trainees) if the contract exceeds \$2,500.

(ii) The requirements of the Act do not apply to contracts for transportation or transmission of intelligence, to contracts under which work is to be performed solely within a foreign country, to contracts for the purchase of supplies or materials or articles ordinarily available on the open market, or to work where the DOL assistance is in the form of a loan guarantee or insurance.

(iii) The provision covering overtime requirements for nonconstruction contracts (for construction contracts, see § 29-70.216-8(d)(4)) shall be substantially the same as the following provision as set forth in 29 CFR 5.5 (c) and (e):

Contract Work Hours and Safety Standards Act—Overtime Compensation

(1) *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or

involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of eight hours in any calendar day or in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his or her basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of forty hours in such workweek, as the case may be.

(2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in subparagraph (1), the contractor and any subcontractor responsible therefor shall be liable to any affected employee for his or her unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the clause set forth in subparagraph (1), in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (1).

(3) *Withholding for unpaid wages and liquidated damages.* The Department of Labor may withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2).

(4) *Subcontracts.* The contractor shall insert in any subcontracts the clauses set forth in subparagraphs (1), (2), and (3) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

(5) *Records.* The contractor shall maintain payroll records containing the information specified in 29 CFR 516.2(a). Such records shall be preserved for 3 years from the completion of the contract.

(d) *Provisions—construction contracts.* The recipient or subrecipient shall include the following provisions in construction contracts if applicable:

(1) *Bonding requirements.* In awarding contracts for construction or facility improvement, the recipient or subrecipient shall require that contractors observe the bonding requirements of § 29-70.202-2(a).

(2) *Prevailing wage requirements in accordance with the Davis-Bacon Act (40 U.S.C. 276a-276a-7).* When required by the Federal program legislation, the

recipient or subrecipient shall include in contracts in excess of \$2,000 for construction, alteration, and/or repair, including painting and decorating, of a building or work financed in whole or in part with Federal funds, a provision requiring compliance with the Davis-Bacon Act prevailing wage requirements, as implemented by DOL regulations (29 CFR, Parts 1 and 5). In addition, the recipient or subrecipient shall obtain from the DOL (through the nearest Wage-Hour area or regional office) and shall include in each solicitation and resulting contract, a copy of the current prevailing wage determination issued by the DOL. The recipient or subrecipient shall condition the award of such a contract upon the contractor's acceptance of the wage determination. (Contractors subject to the Act are required to pay not less often than once a week, minimum wages, including fringe benefits, to mechanics and laborers engaged in construction activity, based on the determinations by the Secretary of Labor of wage rates and fringe benefits prevailing for the corresponding classes of mechanics and laborers employed on similar projects in the same locality.) The recipient or subrecipient shall report all suspected or reported violations to the responsible DOL Agency; and shall include a provision, substantially the same as the following provision, as set forth in 29 CFR 5.5(a), in all contracts or subcontracts subject to the Act:

(1) *Minimum wages.* (i) All mechanics and laborers employed or working upon the site of the work, or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amounts due at time of payment computed at wage rates not less than those contained in the wage determination decision of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics; and the wage determination decision shall be posted by the contractor at the site of the work in a prominent place where it can be easily seen by the workers. For the purpose of this clause, contributions made or costs reasonably anticipated under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv). Also for the purpose of this clause, regular contributions made or costs

incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

(ii) The recipient shall require that any class of laborers or mechanics, including apprentices and trainees, which is not listed in the wage determination and which is to be employed under the contract, shall be classified or reclassified conformably to the wage determination and a report of the action taken shall be sent by the recipient to the Secretary of Labor. In the event the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics, including apprentices and trainees to be used, the question accompanied by the recommendation of the recipient shall be referred to the Secretary for final determination.

(iii) The recipient shall require, whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage rate and the contractor is obligated to pay a cash equivalent of such a fringe benefit, an hourly cash equivalent thereof to be established. In the event the interested parties cannot agree upon a cash equivalent of the fringe benefit, the question, accompanied by the recommendation of the recipient, shall be referred to the Secretary of Labor for determination.

(iv) If the contractor does not make payments to a trustee or other third person, it may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the wage determination decision of the Secretary of Labor which is a part of this contract: *Provided, however,* The Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) *Withholding.* The Department of Labor may withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices and trainees, employed by the contractor or any subcontractor on the work the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice or trainee, employed or working on the site of the work or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project, all or part of the wages required by the contract, the Department of Labor may, after written notice to the contractor or the recipient, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) *Payrolls and basic records.* (i) Payrolls and basic records relating thereto will be maintained during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work, or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project. Such records will contain the name and address of each such employee, his or her correct classification, rates of pay (including rates of contributions or costs anticipated of the types described in section 1(b)(2) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and the records which show the costs anticipated or the actual costs incurred in providing such benefits.

(ii) The contractor will submit weekly a copy of all payrolls to the Department of Labor (DOL) if the DOL is a party to the contract, but if the DOL is not such a party, the contractor will submit the payrolls to the recipient for transmission to the (DOL). The copy shall be accompanied by a statement signed by the employer or his or her agent indicating that the wage rates contained therein are not less than those determined by the Secretary of Labor and that the classifications set forth for each laborer or mechanic conform with the work to be performed. A submission of a "Weekly Statement of Compliance" which is required under this contract and the Copeland regulations of the Secretary of Labor (29 CFR, Part 3) and the filing with the initial payroll or any subsequent payroll of a copy of any findings by the Secretary of Labor under 29 CFR 5.5(a)(1)(iv) shall satisfy this requirement. The recipient shall be responsible for the submission of copies of payrolls of all recipient contractors and subcontractors. The contractor will make the records required under the labor standards clauses of the contract available for inspection by authorized representatives of the recipient and the (DOL), and will permit such representatives to interview employees during working hours on the job. Contractors employing apprentices or trainees under approved programs shall include a notation on the first weekly certified payrolls submitted to the recipient that their employment is pursuant to an approved program and shall identify the program.

(4) *Apprentices and trainees.* (i) *Apprentices.* Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor,

Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the contractor as to its entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in subdivision (ii) of this subparagraph or is not registered or otherwise employed as stated above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work actually performed. The contractor or subcontractor will be required to furnish to the recipient or a representative of the Wage-Hour Division of the U.S. Department of Labor written evidence of the registration of its program and apprentices as well as the appropriate ratios and wage rates (expressed in percentages of the journeyman hourly rates), for the area of construction prior to using any apprentices on the contract work. The wage rate paid apprentices shall be not less than the appropriate percentage of the journeyman's rate contained in the applicable wage determination.

(ii) *Trainees.* Except as provided in 29 CFR 5.15, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training. The ratio of trainees to journeymen shall not be greater than permitted under the plan approved by the Bureau of Apprenticeship and Training. Every trainee must be paid at not less than the rate specified in the approved program for his or her level of progress. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Bureau of Apprenticeship and Training shall be paid not less than the wage rate determined by the Secretary of Labor for the classification of work actually performed. The contractor or subcontractor will be required to furnish the recipient or a representative of the Wage-Hour Division of the U.S. Department of Labor written evidence of the certification of its program, the registration of the trainees, and the ratios and wage rates prescribed in that program. In the event the Bureau of Apprenticeship and Training withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) *Equal employment opportunity.* The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

(5) *Compliance with Copeland Regulations (29 CFR Part 3).* The contractor shall comply with the Copeland Regulations (29 CFR Part 3) of the Secretary of Labor which are herein incorporated by reference.

(6) *Subcontracts.* The contractor will insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (5) and (7) and such other clauses as the Department of Labor may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

(7) *Contract termination; debarment.* A breach of clauses (1) through (6) may be grounds for termination of the contract, and for debarment as provided in 29 CFR 5.6.

(3) *Copeland (Anti-Kickback) Act (40 U.S.C. 276c and 18 U.S.C. 874).* The recipient and subrecipient shall include in all contracts in excess of \$2,000 for construction, completion, or repair of public buildings, public works, or buildings or works financed in whole or in part by Federal funds, a provision prescribed in 29 CFR 5.5 (a)(5), as set forth in § 29-70.216-8(d)(2), requiring compliance with the Copeland Act. The contractor or subcontractor shall submit payrolls and a statement of compliance weekly to the recipient for transmittal to the DOL pursuant to 29 CFR 3.3 and 3.4. The Copeland Act prohibits illegal deductions or kickbacks of wages to which employees are otherwise entitled. The recipient shall report all suspected or reported violations to the DOL.

(4) *Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333).* If the grant or agreement is under a statute providing wage standards for such work, the recipient or subrecipient shall include a provision in all construction contracts in excess of \$2,000 which involve the employment of mechanics or laborers, including watchmen, guards, apprentices, and trainees. The provision shall be substantially the same as the provision set forth in § 29-70.216-8(c)(3) except that, if the contract is subject to the Davis-Bacon Act, the following paragraph required by Section 107 of the Contract Work Hours and Safety Standards Act should be substituted for paragraph (5) of the provision in § 29-70.216-8(c)(3):

(5) The contractor shall not require a laborer or mechanic employed in the performance of the contract to work in surroundings or under working conditions

which are unsanitary, hazardous, or dangerous to health and safety.

(5) *Executive Order 11246—Equal Employment Opportunity.* The recipient shall include or require the inclusion of the clause required in § 29-70.216-8(b)(6) and the Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246) required in 41 CFR 60-4.3(a) in all nonexempt contracts or subcontracts involving federally assisted construction. In addition, a recipient or subrecipient whose grant or agreement involves federally assisted construction agrees that:

It will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided,* That if the recipient or subrecipient so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

It will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

It will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, as amended, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the recipient of subrecipient agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the recipient or subrecipient under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such recipient or subrecipient; and refer the case to the Department of Justice for appropriate legal proceedings.

§ 29-70.216a Procurement standards—special requirements, nonprofit organizations.

§ 29-70.216a-1 Special requirements.

The standards of § 29-70.216 apply to recipients that are nonprofit organizations with the following exceptions:

(a) *Competition.* Nonprofit organizations whose procurement procedures do not provide for formal advertising (as described in the introductory paragraph of § 29-70.216-6(e)) shall ensure that procedures used provide for maximum competition and shall award a contract to the bidder or offeror whose bid or offer is responsive to the solicitation and most advantageous to the recipient, price and other factors considered. The recipient may reject any or all bids or offers when it is in the recipient's interest to do so, and when such rejections are in accordance with applicable State and local law, rules, and regulations.

(b) *Price or cost analysis.* The recipient shall make a price or cost analysis with every procurement action. The recipient may perform a price analysis by making a comparison among price quotations submitted, or by comparing price quotations submitted with current market prices (considering discounts if appropriate). The recipient shall perform the cost analysis by reviewing and evaluating each element of cost submitted to determine its reasonableness, allocability to work undertaken under the procurement, and allowability under applicable costs principles.

§ 29-70.216b Procurement standards—CETA requirements.

§ 29-70.216b-1 Special CETA standards.

The procurement standards and requirements of § 29-70.216 and § 29-70.216a apply to CETA recipient procurement with the following exceptions and modifications:

(a) *On-the-job (OJT) training contracts, subgrants, and subagreements.* The following special procedures apply in awarding and administering on-the-job training contracts, subgrants, or subagreements:

(1) *Competition.* The recipient may make awards for on-the-job training of program participants without obtaining competition if the contracts, subgrants, or subagreements provide that an employer-employee relationship will exist between the contractor or subrecipient and the program participant; and that the contractor or subrecipient will provide job training to enable the participant to perform

effectively as a regular employee of the contractor's or subrecipient's (or another employer's) establishment. When such awards are made, the recipient shall maintain a record of the awards and, if requested, shall furnish the grant officer with the record which includes the contractor's or subrecipient's name, award amount, and services to be performed (CETA, sec. 121 (o)).

(2) *Required provisions.* Program regulations at 20 CFR 676.25-2 and 676.38 implement the statutory requirement (CETA, sec. 121(o)) that provisions for contracts, subgrants, or subagreements for OJT and for Title VII programs be kept to a minimum. *Provided,* That the award document includes all provisions needed to define a sound and complete agreement and any provision required by applicable Federal law.

(b) *List of potential contractors and subrecipients.* A recipient which is a prime sponsor shall maintain a list of potential recipient contractors or potential subrecipients who have expressed (in writing) an interest in being considered for awards (see 20 CFR 676.23). The list will include names, addresses, and products or services offered. The recipient shall establish methods and criteria for using the list; and the list shall be considered to be public information (CETA, sec. 103(a)(3)(B)).

(c) *Preferential contractor and subrecipient selection procedures.* In addition to the provisions of § 29-70.216-5(b) regarding preferential procurement procedures, the following applies:

(1) *Community-based organizations of demonstrated effectiveness.* A CETA recipient shall, in awarding contracts, subgrants, or subagreements, give special consideration to community-based organizations of demonstrated effectiveness in accordance with 20 CFR 676.23 (CETA, sec. 123(1)).

(2) *Minority and small business.* In addition to the procedural requirements set forth in § 29-70.216-6(c), that the recipient provide opportunities for small and minority businesses to participate in its procurement, 20 CFR 676.37(d) provides that recipients may, when appropriate, ensure participation through minority and small business set-asides (CETA, sec. 121(k)).

(d) *Ineligible applicants for awards.* No nongovernmental individual, institution, or organization is eligible to receive a recipient contract, subgrant, or subagreement, or to be otherwise engaged to evaluate a CETA program, if the individual, institution, or organization is associated with the

program as a consultant, technical advisor, or in any similar capacity (CETA, sec. 121(h)(1)).

(e) *Labor standards provisions—construction contracts and subcontracts.* The provisions set forth in § 29-70.216-8(d)(2) covering the prevailing wage requirements of the Davis-Bacon and related Acts apply to CETA recipient contracts and subcontracts as stated in § 29-70.104(b) and in 20 CFR 676.26.

(f) *CETA regulations.* Detailed requirements for CETA recipient procurement are set forth in CETA program regulations at 20 CFR 676.37 and 20 CFR 676.38.

Signed at Washington, D.C. on this 16th day of July, 1979.

Robert L. Davis,
Deputy Assistant Secretary for
Administration and Management.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of Rules Going Into Effect Today.

Rules Going Into Effect July 21, 1979

59614 12-21-78 / FTC—Franchising and business opportunity ventures; disclosure requirements and prohibitions.

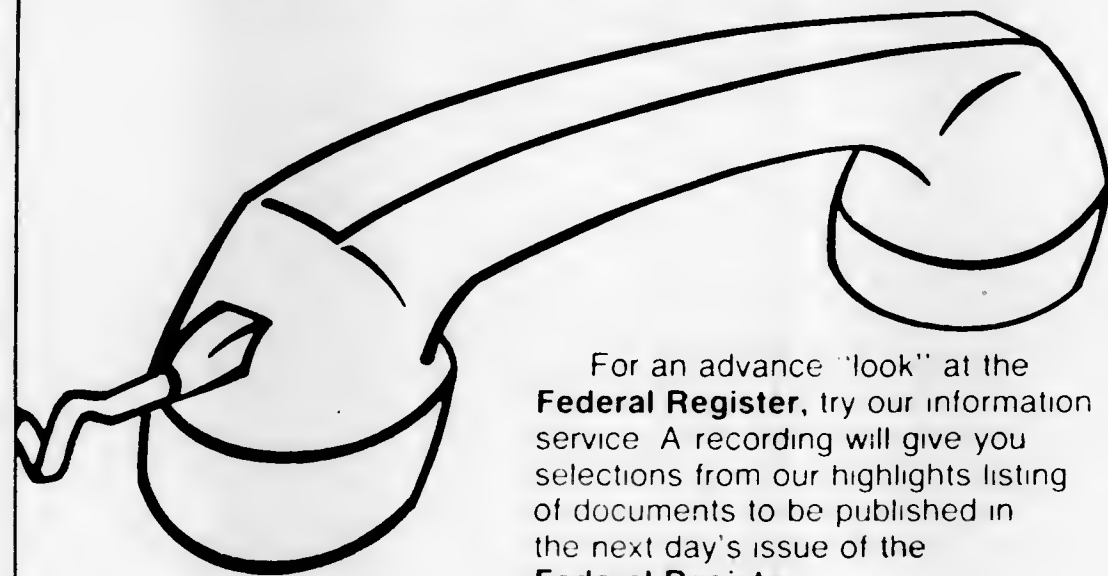
List of Public Laws

Last Listing July 18, 1979

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-375-3030).

H.J. Res. 353 / P.L. 96-34 Congratulating the men and women of the Apollo program upon the tenth anniversary of the first manned landing on the Moon and requesting the President to proclaim the period of July 16 through 24, 1979, as "United States Space Observance". (July 17, 1979; 93 Stat. 87) Price: \$.75

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7-23-79
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Pages 42957-43238

federal register

Monday
July 23, 1979

Highlights

- 42957 United States International Cooperation Agency**
Executive order
- 42998 Natural Gas Curtailment Priority** USDA/Sec'y proposes administrative procedures for making certain adjustments to Essential Agricultural Uses and Requirements; comments by 8-22-79
- 43226 Adolescent Pregnancy Prevention and Service Projects** HEW/PHS issues rules for grants for establishing projects; effective 7-23-79 (Part IV of this issue)
- 43176 Powerplant and Industrial Fuel Use** DOE/ERA issues interim rule regarding criteria for petitions for exemptions, findings and procedures for prohibition orders, and amendments to previously issued rules on existing facilities; effective 8-20-79, comments by 9-15-79 (Part III of this issue)
- 42968 Natural and Other Gas** DOT/MTB establishes tests for qualifying procedures and personnel to make all types of joints in plastic pipelines used in transportation; effective 1-1-80, comments by 8-31-79
- 43128 Three Mile Island** NRC initiates the making of a determination as to whether or not the recent accident constitutes an extraordinary nuclear occurrence; information submitted by 8-22-79

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Highlights

- 43152 Air Pollution** EPA proposes performance standards for stationary internal combustion engines, and issues addition to list of categories of stationary sources; comments by 9-21-79, hearing 8-22-79, requests to speak at hearing by 8-15-79 (Part II of this issue)
 - 43236 Directional and Informational Sign Standards and Systems** DOT/FHWA makes available task force report; comments by 9-21-79 (Part V of this issue)
 - 42977 Atlantic Groundfish** Commerce/NOAA issues approval and partial disapproval of amendments to Fishery Management Plan, promulgates emergency rules and requests comments, and adjusts catch limitations and fishery closures for Cod, Haddock, and Yellowtail Flounder; effective 7-22-79, comments by 9-18-79
 - 43138 Recovery of Fuel Costs** ICC gives notice of expedited procedures for motor carriers
 - 43110 Developmental Disabilities Program** HEW/HDSO publishes proposed State reallocations for Fiscal Year 1979; comments by 8-22-79
 - 43032 Census** Commerce/Census issues a notice of consideration of proposal to initiate or continue annual surveys in manufacturing area; suggestions or recommendations by 8-22-79
 - 43136 Series V-1981 Treasury Notes** Treasury/Sec'y invites tenders for securities to be sold at auction with bidding on basis of yield; tenders by 7-24-79; noncompetitive tenders by 7-23-79
 - 43005 Dogs and Cats** HEW/PHS/CDC proposes revision of importation requirements; comments by 9-6-79
 - 43110 Bois Forte Band of Chippewa** Interior/BIA issues plan for use and distribution of judgment funds awarded in Docket 18-D
 - 43108 Upward Bound** HEW/OE invites project applications for Fiscal Year 1980; applications by 10-12-79
 - 43143 Sunshine Act Meetings**
- Separate Parts of This Issue**
- 43152 Part II, EPA**
 - 43176 Part III, DOE/ERA**
 - 43226 Part IV, HEW/PHS**
 - 43236 Part V, DOT/FHWA**

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Federal Register
Vol. 44, No. 142
Monday, July 23, 1979

Presidential Documents

Title 3—
The President

Executive Order 12147 of July 19, 1979
United States International Development Cooperation Agency

By the authority vested in me as President of the United States of America by Section 9 of Reorganization Plan No. 2 of 1979, both Houses of Congress having defeated a resolution of disapproval (S. Res. 140, 125 Cong. Rec. S. 8829 (July 9, 1979); H. Res. 231, 125 Cong. Rec. H. 5729 (July 11, 1979)), it is hereby ordered that Sections 2, 3, and 4 of that Plan, providing for the offices of Director, Deputy Director, and Associate Directors, are effective immediately.

THE WHITE HOUSE,
July 19, 1979.



[FR Doc. 79-22879
Filed 7-20-79; 10:48 am]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
Vol. 44, No. 142
Monday, July 23, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 402

Raisin Crop Insurance Regulations; Correction

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Correction of Typographical Error.

SUMMARY: This action corrects a typographical error in the Raisin Crop Insurance Regulations as published in the Federal Register on Monday, June 25, 1979 (44 FR 36929), as final rule.

EFFECTIVE DATE: July 23, 1979.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: On April 6, 1979, the Board of Directors of the Federal Crop Insurance Corporation adopted regulations for insuring raisins effective with the 1979 and succeeding crop years. These regulations were published in the Federal Register as a final rule on June 25, 1979 (44 FR 36929). A typographical error was noted and is hereby corrected as follows:

On page 36932, section 12(a) is corrected in the 11th line thereof to read "(b) of this section and section 6 of the * * *

Dated: July 16, 1979.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

[FR Doc. 79-22891 Filed 7-20-79; 8:45 am]

BILLING CODE 3410-06-M

7 CFR Part 417

Sugarcane Crop Insurance Regulations; Corrections

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Corrections of Omission Errors.

SUMMARY: This action corrects two omissions in the Sugarcane Crop Insurance Regulations as published in the Federal Register on Thursday, June 21, 1979 (44 FR 36161), as Final Rule.

EFFECTIVE DATE: July 23, 1979.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: On June 8, 1979, the Board of Directors of the Federal Crop Insurance Corporation adopted regulations for insuring sugarcane crops effective with the 1980 and succeeding crop years. These regulations were published in the Federal Register as a final rule on June 21, 1979 (44 FR 36161). Two omissions were noted and are hereby corrected, as follows:

1. On page 36164, section 8(b)(1) is corrected to read "multiplying the insurable acreage of standard sugarcane on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit."
2. On page 36165, section 1(k) of the Appendix is corrected to read "'Standard sugarcane' means net sugarcane containing the percent sucrose in the normal juice or in the cane and, where applicable, the percent purity factor in normal juice as shown on the actuarial table."

Dated: July 16, 1979.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

[FR Doc. 79-22890 Filed 7-20-79; 8:45 am]

BILLING CODE 3410-06-M

Agriculture Marketing Service

7 CFR Part 965

Tomatoes Grown in the Lower Rio Grande Valley in Texas; Expenses

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses for the functioning of the Texas Valley Tomato Committee. It enables the committee to finance a marketing research and development project from operating reserve funds.

EFFECTIVE DATE: July 1, 1979.

FOR FURTHER INFORMATION CONTACT: Peter G. Chapogas (202) 447-5432.

SUPPLEMENTARY INFORMATION: Findings. Pursuant to Marketing Order No. 965, as amended (7 CFR Part 965), regulating the handling of tomatoes grown in the counties of Cameron, Hidalgo, Starr and Willacy in the State of Texas, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon other information, it is found that the expenses which follow will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to provide 60 days for interested persons to file comments or to engage in public rulemaking procedure, and that good cause exists for not postponing the effective date of this section until 30 days after publication in the Federal Register (5 U.S.C. 553). No requirements are being imposed as the funds in the operating reserve had been collected several seasons ago. The time when the need for this project became known versus the time it must begin to be effective is too short to allow such an extended schedule. Handlers and other interested persons were given an opportunity to submit information and views on the expenses at an open public meeting of the committee held July 2, 1979, in McAllen. To effectuate the declared purposes of the act it is necessary to make these provisions effective as specified.

Note.—The budget has not been determined significant under the USDA criteria for implementing Executive Order 12044.

7 CFR Part 965 is amended by adding a new § 965.214 as follows:

§ 965.214 Expenses.

The reasonable expenses that are likely to be incurred during the period beginning July 1, 1979, by the Texas Valley Tomato Committee for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate will amount to \$1,250.

Terms used in this section have the same meaning as when used in Marketing Order No. 965.

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674))

Dated: July 17, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-22850 Filed 7-20-79; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket Number 79-CE-12-AD; Amdt. 39-3517]

Airworthiness Directives; Cessna Models 205, 206, U206/TU206, P206/TP206, 207/T207, 210/T210 and P210 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Amendment adds a new Airworthiness Directive (AD) applicable to Cessna Models 205, 206, U206/TU206, P206/TP206, 207/T207, 210/T210 and P210 airplanes. It requires installation of a placard and a special procedure card or revision to the Pilot's Operating Handbook, as applicable. This AD provides the pilot with information that will aid him during instances of fuel flow fluctuations or power interruptions due to fuel system vapor. This action is necessary because vapor blockage of the fuel system may occur and total engine power loss may result.

EFFECTIVE DATE: July 26, 1979.

Compliance: Within 25 hours time-in-service after the effective date of this AD.

ADDRESSES: Cessna Single Engine Customer Care Service Information

Letter SE 79-25, dated April 30, 1979, and Supplement No. 1 thereto dated June 4, 1979, applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67201; Telephone (316) 685-9111. Copies of the service letter and supplement cited above are contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106 and at Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Jack Pearson, Wichita Engineering and Manufacturing District Office, FAA, Room 238, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 942-7927.

SUPPLEMENTARY INFORMATION:

Instances of fuel flow fluctuations, power interruptions, forced landings and accidents have occurred on the airplanes that are the subject matter of this AD. Investigations and testing by the manufacturer and the FAA have demonstrated the inability of the fuel system on these airplanes to purge itself of vapor and air under certain circumstances. To provide the pilot with information which will enable him to recognize an impending fuel system vapor lock and operating procedures to preclude power loss, the manufacturer has issued Cessna Single Engine Customer Care Service Information Letter SE 79-25 dated April 30, 1979, and Supplement No. 1 thereto dated June 4, 1979. This information is incorporated on a placard and a special procedure card or revision to the Pilot's Operating Handbook, as applicable. Further study is in process which may result in additional regulatory action. Since the condition described herein is likely to exist or develop in other airplanes of the same type design, the FAA is issuing an AD making compliance with the substance of aforementioned service letter and supplement mandatory.

The FAA has determined that there is an immediate need for a regulation to assure safe operation of the affected airplanes. Therefore, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest and good cause exists for making the amendment effective in less than thirty (30) days after the date of publication in the Federal Register.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive.

Cessna: Applies to:

Model 205 (210-5) Series (Serial Numbers 641, 205-0001 through 205-0577) airplanes; Model 206 (Serial Numbers 206-0001 through 206-0275) airplanes;

Model U206/TU206 Series (Serial Numbers U206-0276 through U206-1444, U20601445 through U20604287, U20604289, U20604290, U20604292 through U20604335, U20604337 through U20604389, U20604391 through U20604787, U20604789 through U20604894, U20604896 through U20604906, U20604908 through U20604911, U20604913 through U20604958, U20604960 through U20604963, U20604965 through U20604973, U20604975 through U20604977, U20604980 through U20604985, U20604987 through U20604990, U20604992, U20604993, U20604995 through U20604998, U20605000 through U20605018, U20605020 through U20605058, U20605060, U20605061, U20605063, U20605066, U20605069, U20605071 through U20605073, U20605075, U20605077, U20605078, U20605083, U20605085, U20605086, U20605088, U20605095, U20605097, U20605100, U20605102, U20605105, U20605107 and U20605110) airplanes;

Model P206/TP206 Series (Serial Numbers P206-0001 through P206-0603, P20600604 through P20600647) airplanes;

Model 207/T207 Series (Serial Numbers 20700001 through 20700530) airplanes;

Model T210 Series (Serial Numbers T210-0001 through T210-0454) airplanes;

Model 210/T210 Series (Serial Numbers 21057841 through 21063013, 21063015 through 21063086, 21063088 through 21063228, 21063230 through 21063287, 21063289 through 21063298, 21063300 through 21063324, 21063326 through 21063389, 21063391 through 21063393, 21063396 through 21063399, 21063401, 21063403 through 21063407, 21063412, 21063413, 21063419, 21063424 and 21063426) airplanes;

Model P210 Series (Serial Numbers P21000001 through P21000255, P21000257 through P21000273, P21000275 through P21000279, P21000281 through P21000283, P21000287, P21000290 and P21000292) airplanes.

Compliance: Required as indicated unless already accomplished.

To provide instructions for recognition of fuel system vapor blockage and operating procedures to restore normal fuel flow, within the next 25 hours time-in-service after the effective date of this AD, accomplish the following:

(A) On Model 205 (210-5) series (Serial Numbers 641, 205-0001 through 205-0555); Model 206 (Serial Numbers 206-0001 through 206-0137); Model 210 (Serial Numbers

21057841 through 21058351) airplanes, examine the airplane and its maintenance record to determine whether Cessna Service Kit SK 205-5 or SK 206-2 has been installed. If neither of these kits is installed, make an entry in the maintenance records indicating this AD is not applicable to the airplane and no further action is required. If Cessna Service Kit SK 205-5 or SK 206-2 has been installed, accomplish Paragraphs (B) 1 and 2 of this AD.

(B) On affected (see Applicability Statement) Model 205 (210-5) series airplanes having serial numbers between 205-0556 through 205-0577 inclusive, Model 206 series airplanes having serial numbers between 206-0138 through 206-0275 inclusive, Model U206/TU206 series airplanes having serial numbers between U206-0276 through U206-1444 inclusive and U20601445 through U20604649 inclusive, Model P206/TP206 series airplanes having serial numbers between P206-0001 through P206-0603 inclusive and P20600604 through P20600647 inclusive, Model 207/T207 series airplanes having serial numbers between 20700001 through 20700482 inclusive, Model 210/T210 series airplanes having serial numbers between 21058352 through 21062954 inclusive, Model 210 series airplanes having serial numbers between 210-0001 through 210-0454 inclusive and Model P210 series airplanes having serial numbers between P21000001 through P21000150 inclusive:

1. Install Cessna P/N 1205252-2 placard next to the fuel flow indicator which reads as follows:

"Major fuel flow fluctuations/power surges:

1. Aux fuel pump—ON, adjust mixture.
2. Select opposite tank.
3. When fuel flow steady, resume normal operations. See procedure card D1189-13 for expanded instructions."

2. Place Cessna special procedure card P/N D1189-13 in the airplane at a location accessible to the pilot at all times when he is in the pilot's seat and revise the aircraft Equipment List by adding this card as a required item of equipment.

(C) On affected (See Applicability Statement) Model U206/TU206 series airplanes having serial numbers between U20604650 and U20605110 inclusive, Model 207/T207 series airplanes having Serial Numbers between 20700483 through 20700530 inclusive, Model 210/T210 series airplanes having Serial Numbers between 21062955 through 21063426 inclusive and Model P210 series airplanes having Serial Numbers between P21000151 through P21000292 inclusive:

1. Install Cessna P/N 1205252-1 placard next to the fuel flow indicator which reads as follows:

"Major fuel flow fluctuations/power surges:

1. Aux fuel pump—ON, adjust mixture.
2. Select opposite tank.
3. When fuel flow steady, resume normal operations. See P.O.H. for expanded instructions."

2. Revise the Pilot's Operating Handbook for the following airplanes by inserting the revision specified below:

Airplane model	Revision	Cessna part number
U206G.....	Rev 1 22 May 1979...	D1147R1-13PH
TU206G.....	Rev 2 22 May 1979...	D1148R2-13PH
207A.....	Rev 1 22 May 1979...	D1148R1-13PH
T207A.....	Rev 2 22 May 1979...	D1150R2-13PH
210N.....	Rev 3 22 May 1979...	D1151R3-13PH
T210N.....	Rev 3 22 May 1979...	D1152R3-13PH
P210N.....	Rev 3 22 May 1979...	D1153R3-13PH

(D) The modification required by this AD may be accomplished by owner/operator authorized to perform preventive maintenance under FAR 43. An entry should be made in the aircraft maintenance record indicating compliance; i.e., "AD 79-15-1 complied with by installing placard P/N 1205252-2 and Special Procedure Card P/N D1189-13 this date ____" or "AD 79-15-1 complied with by installing placard P/N 1205252-1 and Pilot's Operating Handbook Rev ____ dated ____, Cessna P/N ____ this date ____."

(E) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(F) Any equivalent method of compliance with this Airworthiness Directive must be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Central Region, 601 E. 12th Street, Kansas City, Missouri 64108.

Cessna Service Letter SE 79-25, dated April 30, 1979, and Supplement No. 1 thereto dated June 4, 1979, pertains to the subject matter of this Airworthiness Directive. Cessna Aircraft Company has mailed copies to all owners of record. Additional copies may be obtained from: Cessna Aircraft Co., Marketing Division, Attn: Customer Service Department, Wichita, Kansas 67201; Telephone (316) 689-9111.

This Amendment becomes effective July 26, 1979.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note: The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to Donald L. Page, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 374-3446.

Issued in Kansas City, Missouri on July 9, 1979.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 79-22876 Filed 7-20-79; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

20 CFR Part 404

(Reg. No. 4)

Federal Old-Age, Survivors, and Disability Insurance; Totalization Agreements and International Totalization Agreements

AGENCY: Social Security Administration, HEW.

ACTION: Final Rule.

SUMMARY: These final regulations implement section 317 of the Social Security Amendments of 1977. This provision authorizes the President to enter into bilateral agreements with other countries to provide for coordination between the social security systems of the United States (U.S.) and of other countries. The bilateral agreements are generally known as totalization agreements. The purposes of a totalization agreement are (1) to permit each country to establish entitlement to and the amount of old-age, survivors, disability, or derivative benefits by combining a person's periods of coverage under the social security systems of both countries, and (2) to preclude dual coverage and dual social security taxation for work covered under both systems.

DATES: The final rule is effective July 23, 1979.

FOR FURTHER INFORMATION CONTACT: John W. Modler, Legal Assistant, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-7337.

SUPPLEMENTARY INFORMATION:

A. Background

On December 27, 1978, we published a proposed rule in the Federal Register (43 FR 60292) which adds Subpart T to 20 CFR Part 404. The rule implements the international agreements provisions of the Social Security Amendments of 1977 (Pub. L. 95-216). By adding section 233 to the Social Security Act, section 317 in Pub. L. 95-216 provides the President with the authority for entering into agreements with other countries to provide for coordination between the social security systems of the U.S. and of other countries.

B. Explanation of Provisions

These regulations provide definitions and principles for the negotiation and administration of totalization agreements. These principles cover (1) general provisions, (2) benefits, (3) coverage, (4) computations, (5) applications, (6) evidence, (7) appeals, (8) effect of the alien non-payment

provision, (9) overpayments, and (10) disclosure of information.

While these definitions and principles are intended to ensure consistent and equitable treatment of all individuals affected by the agreements, they will necessarily apply to foreign social security systems with diverse characteristics. We will, where necessary to accomplish the purposes of totalization, apply these definitions and principles, as appropriate and within the limits of the law, to accommodate the diverse characteristics of these systems.

1. General Provisions

An agreement will be negotiated with the national government of the foreign country for the entire country. However, agreements may only be negotiated with foreign countries that have a social security system of general application in effect. We will consider a system in effect if it is collecting social security taxes or paying social security benefits.

An agreement may provide that the provisions of the social security system of each country will apply equally to the nationals of both countries (regardless of where they reside). For this purpose, refugees, stateless persons, and other nonnationals who derive benefit rights from nationals, refugees, or stateless persons may be treated as nationals if they reside within one of the countries.

An agreement will become effective on any date, provided in the agreement, which occurs after the expiration of a period specified in section 233(e) of the Act. This period begins when the President transmits the agreement to the Congress and ends when each House of Congress has been in session thereafter on each of 90 days. The agreement will become effective unless one of the Houses of Congress adopts a resolution of disapproval within the 90-day period.

Each agreement will contain provisions for its possible termination. If an agreement is terminated, rights regarding entitlement to benefits and coverage acquired by an individual before termination shall be retained. The agreement will provide for notification of termination to the other party and the effective date of termination.

Provisions on amendments of totalization agreements are not included in these regulations. If we find that regulations are necessary, we will publish them at a later date.

2. Benefits

As a result of a totalization agreement, a person who has at least 6 quarters of coverage (QCs) (see §§ 404.103 and 404.103a) under the U.S.

system may have foreign periods of coverage combined with U.S. coverage to determine entitlement to and the amount of benefits payable under the U.S. system. No credit will be given, however, for foreign periods of coverage acquired before January 1, 1937.

Generally, a person will be credited with a QC for every 3 months (or equivalent period), or remaining fraction of 3 months, of coverage in each reporting period certified by the foreign system. A reporting period used by a foreign country may be one calendar year or some other period of time. QCs based on foreign periods of coverage may be credited only to calendar quarters not already QCs under the U.S. system. The QCs will be assigned chronologically beginning with the first calendar quarter (not already a QC under the U.S. system) within the reporting period and continuing until all the QCs are assigned, or the reporting period ends. An example illustrating this provision is provided in § 404.1908(b)(1).

A person may fail to meet the requirements for a currently insured status or the insured status needed to establish a period of disability solely because of the assignment of QCs based on foreign coverage to calendar quarters on a chronological basis. If this occurs, the QCs based on foreign coverage may be assigned to different calendar quarters (not already QCs under the U.S. system) within the beginning and ending dates of the reporting period certified by the foreign country.

An agreement will not provide for combining periods of coverage under more than two social security systems. A person, however, may qualify for benefits under more than one agreement. If this occurs, the person will receive benefits only under the agreement affording the most favorable treatment. In the absence of evidence to the contrary, the agreement that provides the higher benefit will be considered as affording the most favorable treatment.

A person may not become entitled to hospital insurance benefits under section 228 or section 226A of the Social Security Act by combining periods of coverage under the U.S. system with those under the foreign system. Entitlement to hospital insurance benefits is not precluded if the person otherwise meets the requirements.

3. Coverage

An agreement will contain provisions precluding dual coverage. Employment or self-employment (or service recognized as equivalent under the U.S. system or the foreign system) will, on or

after the effective date of the agreement, result in a period of coverage under either the U.S. or foreign system, but not under both. Methods will be described in the agreement for determining under which system the service will result in a period of coverage.

Although an agreement may modify coverage provisions of title II of the Act, it should do so by exemptions from coverage rather than by extensions of coverage under title II. Generally, a worker will be covered by the country in which he or she is working. However, an agreement may provide exceptions to this principle so that a worker will be covered by the country to which he or she has the greater attachment. Examples illustrating this principle are provided in §§ 404.1913(b)(3) and 404.1913(b)(4).

Agreements may provide for variations from the general principles for precluding dual coverage to avoid inequitable or anomalous coverage situations for certain workers. However, in all cases coverage must be provided by one of the countries.

An agreement will contain provisions precluding dual payment of contributions or taxes. On or after the effective date of an agreement, any employment or self-employment (or service recognized as equivalent under the U.S. social security system or the foreign system) which is covered under the agreement will be subject to taxes or contributions under the U.S. system or the foreign system, but not under both (see section 317(b) of Pub. L. 95-216).

4. Computations

An agreement will contain a provision regarding the method of computing the benefits payable under the U.S. system if entitlement is established based on combined periods of coverage under the U.S. system and under the foreign system. The benefit payable under the U.S. system will be based on the proportion of the person's periods of coverage credited under the U.S. system.

To determine the benefit payable under an agreement, a "theoretical" primary insurance amount (PIA) will be computed like other title II PIA's, but by combining the person's earnings amounts under both the U.S. and the foreign systems (see § 404.203(a) for the definition of the PIA). Earnings amounts certified by the foreign agency may be actual earnings amounts or deemed earnings amounts derived, for example, from amounts of contributions to the foreign system or from the national average wage under the foreign system. Foreign earnings will be added to any covered U.S. earnings only to the extent

that the combined earnings do not exceed the maximum annual earnings limitation under U.S. law (see § 404.1027). Foreign earnings may be assigned to a calendar quarter only if that quarter is a QC based on foreign coverage (see § 404.1908 on crediting foreign periods of coverage). A pro rata PIA will then be derived from the theoretical PIA. The pro rata PIA is the product of (1) the theoretical PIA and (2) the ratio of (a) the periods of coverage credited under the U.S. system to (b) the combined periods of coverage credited under both the U.S. system and the foreign system. In deriving the pro rata PIA from the theoretical PIA, periods of coverage after the last computation base year, as defined in § 404.203(e), will not be considered. An example illustrating this provision is provided in § 404.1918(a).

Auxiliary and survivors benefit amounts will be determined on the basis of the pro rata PIA. The regular reductions for age under section 202(q) of the Act will apply to the pro rata benefits of the wage earner and to any auxiliaries or survivors. Benefits will be payable subject to the family maximum (see § 404.403) derived from the pro rata PIA. If the pro rata PIA is less than the minimum PIA, the family maximum will be 1½ times the pro rata PIA.

The pro rata PIA will be recomputed only if the inclusion of the additional earnings will result in an increase in both the theoretical PIA and the benefits payable by the U.S. to all persons receiving benefits on the basis of the worker's earnings, unless otherwise provided by the agreement. Subject to these limitations, the pro rata PIA will be automatically recomputed, as provided in § 404.244, to include additional earnings under the U.S. system. An application, however, must be filed to have the pro rata PIA recomputed to include additional foreign earnings.

A U.S. resident may receive benefits under an agreement from both the U.S. and from the foreign country. The total amount of the resident's two benefits, however, may be less than the amount for which the resident would qualify under the U.S. system based on the minimum PIA. A totalization agreement may provide that the U.S. will supplement the total amount to raise it to the amount for which the resident would have qualified under the U.S. system based on the minimum PIA.

5. Applications

We will consider an application (or a written statement requesting benefits) filed with the foreign system to be filed

with the Social Security Administration (SSA) as of the date it is filed with the foreign system if certain requirements are met. First, an applicant must express or imply an intent to claim benefits from the U.S. under an agreement. Second, the applicant must file an application that meets the requirements in Subpart G of Regulations No. 4, even if the filing of this application is not specifically provided for in the agreement. Benefits will not be payable on the basis of an application filed before the effective date of the agreement.

6. Evidence

SSA shall consider evidence submitted to the social security system of the foreign country as evidence submitted to SSA. SSA will use the rules in §§ 404.708 and 404.709, which were published as a final rule in the Federal Register on June 7, 1978 (43 FR 24794), to determine if the evidence submitted is sufficient or if additional evidence is needed to prove initial or continuing entitlement to benefits.

If an application is filed for disability insurance benefits, SSA will consider medical evidence, if any, submitted to the foreign system as if it were submitted to the U.S. system. We will use the rules in Subpart P of Regulations No. 4, for making a disability determination.

7. Appeals

SSA will consider a request for reconsideration, hearing, or Appeals Council review of a determination made by SSA that is filed with the foreign system within the 60-day time period applicable for these requests to be timely filed with SSA. We will apply the provisions in Subpart J of Regulations No. 4 in adjudicating the request.

8. Effect of the Alien Non-Payment Provision

An agreement may provide that a person entitled to benefits under the U.S. system may receive those benefits while residing in the foreign country party to an agreement, regardless of the alien non-payment provision (see § 404.460).

9. Overpayments

Section 204 of the Act, § 404.502 of the regulations, provides for adjusting payments if a person has received more than the correct payment under title II. Payments made by a foreign country, however, are not considered payments under title II. Therefore, title II benefits may not be adjusted under section 204 of the Act to recover an overpayment made by the foreign system of a country

party to a totalization agreement. Section 233 of the Act provides that an "agreement may contain other provisions which are not inconsistent with other provisions of this title." If an agreement authorized the adjustment of title II benefits to recover an overpayment made by the foreign country, the provisions would be "inconsistent with" sections 205(i) and 207 of the Act. Therefore, a totalization agreement may not authorize the adjustment of title II benefits to recover an overpayment made by the foreign system. Section 404.1929 reflects these adjustment prohibitions.

10. Disclosure of Information

The use of information furnished under an agreement generally will be governed by the national statutes on confidentiality and disclosure of information of the country that has been furnished the information. In negotiating an agreement, consideration should be given to the compatibility of the other country's laws on confidentiality and disclosure with those of the U.S. To the extent possible, information exchanged between the U.S. and the other country should be exclusively for purposes of implementing the agreement and the laws to which the agreement pertains.

C. Existing Agreements

The U.S. signed totalization agreements with Italy in 1973 and with the Federal Republic of Germany in 1976. The Italian agreement has already been through the Congressional review process and became effective on November 1, 1978. The President sent the agreement with the Federal Republic of Germany to Congress on September 21, 1978, but Congress adjourned before the 90-day review period elapsed. Therefore, the President resubmitted the agreement to Congress on February 28, 1979. The agreements entered into with Italy and the Federal Republic of Germany are consistent with these final regulations. As agreements become effective, we will notify the public of their availability in the Federal Register.

D. Discussion of Comments

We received four responses to the proposed rule. One commenter recommended that the proposed rules be adopted as published. Another commenter objected, in principle, to all international agreements. An attorney representing Italian nationals employed in the United States by an Italian employer objected to the manner in which we will determine pro rata title II benefits under the Italian and other agreements. Also, several comments on

the proposed regulations were received from an actuary. These comments are addressed below.

1. *Procedure for crediting periods of coverage established by the social security system of a foreign country.*—Two comments were received concerning proposed § 404.1908, which explains the procedure we will use in crediting periods of coverage established under the social security system of a foreign country.

One comment expressed concern that the QCs based on foreign coverage would be assigned to almost any quarter advantageous to the individual—even in different years than when the QCs were earned. We have revised the final regulation to indicate that QCs based on foreign coverage will only be credited to calendar quarters within the reporting period used by a foreign country. A reporting period may be one calendar year or some other period of time. When certifying periods of foreign coverage to us, foreign countries are generally able to identify the number of months of coverage within their reporting period, but depending upon their reporting system, they may not be able to identify the specific months in which the coverage was earned. Our procedure will be to determine first how many QCs were earned in the reporting period certified by the foreign country using the rule stated in § 404.1908(b)(1). We will then assign the QCs earned in the reporting period on a chronological basis beginning with the first calendar quarter (not already a QC under the U.S. system) within that period and continuing until all the QCs based on foreign coverage are assigned or the reporting period ends. Because some foreign countries may not be able to identify the specific months in the reporting period in which the coverage was earned, § 404.1908(b)(2) provides an alternative method for assigning the QCs in the reporting period, if a person is disadvantaged as a result of the QCs being assigned on a chronological basis.

The other comment on proposed § 404.1908 concerned how we would treat a remaining fraction of 3 months in a reporting period certified by the agency of the other country. For example, if the foreign country certifies that a person worked during the 8-month period of February–September 1961, the person will receive three QCs. We have revised § 404.1908(b)(1) to reflect this procedure.

2. *Precluding dual coverage.*—A commenter noted that proposed § 404.1913(b)(3) was unclear in that it first indicates that work would be covered only by the U.S. and not the

foreign country, and then explains that the work would be covered by the foreign country. We have completely revised § 404.1913(b). Paragraph (b)(3) of § 404.1913 explains that, generally, an agreement will provide that a worker will be covered in the country in which he or she is working. Paragraph (b)(4) of § 404.1913 explains that an agreement may provide exceptions to the principle in paragraph (b)(3) of § 404.1913 so that a worker will be covered by the country to which he or she has the greater attachment.

3. *Computation of benefits.*—We received several comments of proposed § 404.1918 concerning the computation of benefits under an agreement.

One commenter recommended that we include a statement explaining that the procedure for converting foreign currency into U.S. dollars will be established in the agreements. We believe, and our experience has shown, that this is a matter more appropriately determined at operational meetings with representatives of the foreign country. As we do not intend to include a provision for this purpose in the

Periods of coverage in State A	X	Theoretical basic benefit amount in State A	Pro rata basic benefit amount in State A
Total periods of coverage in both States			

This procedure is the same as the procedure set out in § 404.1918 of the regulations, and we do not agree that it is inconsistent with any of the provisions of the Italian agreement.

Another comment questioned how the pro rata PIA would be determined when there are overlapping QCs in one or more calendar years. It was suggested by the commenter that where there are overlapping QCs, all of them for a particular calendar year be used to determine the pro rata PIA. Because we do not credit a QC based on foreign coverage to a calendar quarter that is already a QC under title II, there are no overlapping QCs. However, in response to this and other comments, we have revised the section to clarify how title II benefits are computed under an agreement.

E. Other Changes

A number of editorial changes were made in the final regulation. These changes are to clarify the provisions. We have also revised § 404.1925 to indicate that an individual seeking benefits under an agreement will always be required to complete an SSA application form that meets the

agreements, the recommendation of the commenter has not been adopted.

Another commenter felt that the computation of benefits under § 404.1918 was not consistent with Article 8.2 of the Italian agreement. We do not agree with this comment. Article 8.2 relates to insured status and provides that if completion of periods of coverage is a requirement for eligibility for benefits under the laws of either the U.S. or Italy, each State will independently take into account, if necessary to establish eligibility, the periods of coverage completed under the laws of the other State. This provision of the Italian agreement is consistent with § 404.1908 of the regulations. Article 9.2 of the Italian agreement explains how benefits will be prorated. It provides that both the U.S. and Italy will compute a theoretical basic benefit amount (the theoretical PIA in the U.S.) by considering the total periods of coverage completed under the laws of the two States. Then under Article 9.2 each State is to determine the pro rata basic benefit amount (the pro rata PIA in the U.S.) according to the following formula:

requirements of Subpart G of SSA Regulations No. 4.

Accordingly, we are adopting the proposed rule as revised and set out below.

(Catalog of Federal Domestic Assistance Programs No. 13.802, Social Security—Disability Insurance; No. 13.803, Social Security—Retirement Insurance; and No. 13.805, Social Security—Survivors Insurance)

Dated: June 1, 1979.

Robert P. Bynum,
Acting Commissioner of Social Security.

Approved: July 16, 1979.

Joseph A. Califano, Jr.,
Secretary of Health, Education, and Welfare.

Part 404 of chapter III of Title 20 of the Code of Federal Regulations is amended by adding:

Subpart T to read as follows:

Subpart T—Totalization Agreements

General Provisions

- Sec.
- 404.1901 Introduction.
 - 404.1902 Definitions.
 - 404.1903 Negotiating totalization agreements.
 - 404.1904 Effective date of a totalization agreement.
 - 404.1905 Termination of agreements.

Benefit Provisions

- 404.1908 Crediting foreign periods of coverage.
- 404.1910 Person qualifies under more than one totalization agreement.
- 404.1911 Effects of a totalization agreement on entitlement to hospital insurance benefits.

Coverage Provisions

- 404.1913 Precluding dual coverage.
 - 404.1914 Certificate of coverage.
 - 404.1915 Payment of contributions.
- Computation Provisions
- 404.1918 How benefits are computed.
 - 404.1919 How benefits are recomputed.
 - 404.1920 Supplementing the U.S. benefit if the total amount of the combined benefits is less than the U.S. minimum benefit.
 - 404.1921 Benefits of less than \$1 due.

Other Provisions

- 404.1925 Applications.
 - 404.1926 Evidence.
 - 404.1927 Appeals.
 - 404.1928 Effect of the alien non-payment provision.
 - 404.1929 Overpayments.
 - 404.1930 Disclosure of information.
- Authority: Sec. 205, 233, and 1102; 53 Stat. 1368, 91 Stat. 1538, and 49 Stat. 647, as amended; (42 U.S.C. 405, 433, 1302)

Subpart T—Totalization Agreements

General Provisions

§ 404.1901 Introduction.

(a) Under section 233 of the Social Security Act, the President may enter into an agreement establishing a totalization arrangement between the social security system of the United States and the social security system of a foreign country. An agreement permits entitlement to and the amount of old-age, survivors, disability, or derivative benefits to be based on a combination of a person's periods of coverage under the social security system of the United States and the social security system of the foreign country. An agreement also provides for the precluding of dual coverage and dual social security taxation for work covered under both systems. An agreement may provide that the provisions of the social security system of each country will apply equally to the nationals of both countries (regardless of where they reside). For this purpose, refugees, stateless persons, and other nonnationals who derive benefit rights from nationals, refugees, or stateless persons may be treated as nationals if they reside within one of the countries.

(b) The regulations in this subpart provide definitions and principles for the negotiation and administration of totalization agreements. Where

necessary to accomplish the purposes of totalization, we will apply these definitions and principles, as appropriate and within the limits of the law, to accommodate the widely diverse characteristics of foreign social security systems.

§ 404.1902 Definitions.

For purposes of this subpart—

"Act" means the Social Security Act (42 U.S.C. 301 et. seq.).

"Agency" means the agency responsible for the specific administration of a social security system including responsibility for implementing an agreement; the Social Security Administration (SSA) is the "agency" in the U.S.

"Agreement" means the agreement negotiated to provide coordination between the social security systems of the countries party to the agreement. The term agreement includes any administrative agreements concluded for purposes of administering the agreement.

"Competent authority" means the official with overall responsibility for administration of a country's social security system including applicable laws and international social security agreements; the Secretary of HEW is the "competent authority" in the U.S.

"Period of coverage" means a period of payment of contributions or a period of earnings based on wages for employment or on self-employment income, or any similar period recognized as equivalent under the social security system of the U.S. or under the social security system of the foreign country which is a party to an agreement.

"Residence" or "ordinarily resides," when used in agreements, has the following meaning for the U.S.

"Residence" or "ordinarily resides" in a country means that a person has established a home in that country intending to remain there permanently or for an indefinite period of time. Generally, a person will be considered to have established a home in a country if that person assumes certain economic burdens, such as the purchase of a dwelling or establishment of a business, and participates in the social and cultural activities of the community. If residence in a country is established, it may continue even though the person is temporarily absent from that country. Generally, an absence of six months or less will be considered temporary. If an absence is for more than six months, residence in the country will generally be considered to continue only if there is sufficient evidence to establish that the person intends to maintain the

residence. Sufficient evidence would include the maintenance of a home or apartment in that country, the departure from the country with a reentry permit, or similar acts. The existence of business or family associations sufficient to warrant the person's return would also be considered.

"Social security system" means a social insurance or pension system which is of general application and which provides for paying periodic benefits, or the actuarial equivalent, because of old-age, death, or disability.

§ 404.1903 Negotiating totalization agreements.

An agreement shall be negotiated with the national government of the foreign country for the entire country. However, agreements may only be negotiated with foreign countries that have a social security system of general application in effect. The system shall be considered to be in effect if it is collecting social security taxes or paying social security benefits.

§ 404.1904 Effective date of a totalization agreement.

A totalization agreement shall become effective on any date provided in the agreement if—

(a) The date occurs after the expiration of a period during which each House of Congress has been in session on each of 90 days following the date on which the agreement is transmitted to Congress by the President; and

(b) Neither House of Congress adopts a resolution of disapproval of the agreement within the 90-day period described in paragraph (a) of this section.

§ 404.1905 Termination of agreements.

Each agreement shall contain provisions for its possible termination. If an agreement is terminated, entitlement to benefits and coverage acquired by an individual before termination shall be retained. The agreement shall provide for notification of termination to the other party and the effective date of termination.

Benefit Provisions

§ 404.1908 Crediting foreign periods of coverage.

(a) *General.* To have foreign periods of coverage combined with U.S. periods of coverage for purposes of determining entitlement to and the amount of benefits payable under title II, an individual must have at least 6 quarters of coverage, as defined in section 213 of the Social Security Act, under the U.S. system. As a rule, SSA will accept

foreign coverage information, as certified by the foreign country's agency, unless otherwise specified by the agreement. No credit will be given, however, for periods of coverage accrued before January 1, 1937.

(b) *For quarters of coverage purposes.*

(1) Generally, a quarter of coverage (QC) will be credited for every 3 months (or equivalent period), or remaining fraction of 3 months, of coverage in a reporting period certified to SSA by the other country's agency. A reporting period used by a foreign country may be one calendar year or some other period of time. QCs based on foreign periods of coverage may be credited as QCs only to calendar quarters not already QCs under title II. The QCs will be assigned chronologically beginning with the first calendar quarter (not already a QC under title II) within the reporting period and continuing until all the QCs are assigned, or the reporting period ends. Example: Country XYZ, which has an annual reporting period, certifies to SSA that a worker has 8 months of coverage in 1975, from January 1 to August 25. The worker has no QCs under title II in that year. Since 8 months divided by 3 months equals 2 QCs with a remainder of 2 months, the U.S. will credit the worker with 3 QCs. The QCs will be credited to the first 3 calendar quarters in 1975.

(2) If an individual fails to meet the requirements for currently insured status or the insured status needed for establishing a period of disability solely because of the assignment of QCs based on foreign coverage to calendar quarters chronologically, the QCs based on foreign coverage may be assigned to different calendar quarters within the beginning and ending dates of the reporting period certified by the foreign country, but only as permitted under paragraph (b)(1) of this section.

§ 404.1910 Person qualifies under more than one totalization agreement.

(a) An agreement may not provide for combining periods of coverage under more than two social security systems.

(b) If a person qualifies under more than one agreement, the person will receive benefits from the U.S. only under the agreement affording the most favorable treatment.

(c) In the absence of evidence to the contrary, the agreement that provides the higher benefit will be considered as affording the most favorable treatment for purposes of paragraph (b) of this section.

§ 404.1911 Effects of a totalization agreement on entitlement to hospital insurance benefits.

A person may not become entitled to hospital insurance benefits under section 226 or section 226A of the Act by combining the person's periods of coverage under the social security system of the United States with the person's periods of coverage under the social security system of the foreign country. Entitlement to hospital insurance benefits is not precluded if the person otherwise meets the requirements.

Coverage Provisions

§ 404.1913 Precluding dual coverage.

(a) *General.* Employment or self-employment or services recognized as equivalent under the Act or the social security system of the foreign country shall, on or after the effective date of the agreement, result in a period of coverage under the U.S. system or under the foreign system, but not under both. Methods shall be set forth in the agreement for determining under which system the employment, self-employment, or other service shall result in a period of coverage.

(b) *Principles for precluding dual coverage.* (1) Although an agreement may modify coverage provisions of title II of the Act, it should do so by exemptions from coverage rather than by extensions of coverage under title II. Therefore, if a person performs services that are not now covered under the U.S. system, an agreement should not provide U.S. coverage of these services.

(2) If the work would otherwise be covered by both countries, an agreement will exempt it from coverage by one of the countries.

(3) Generally, an agreement will provide that a worker will be covered by the country in which he or she is employed and will be exempt from coverage by the other country.

Example: A U.S. national employed in XYZ country by an employer located in the United States will be covered by XYZ country and exempt from U.S. coverage.

(4) An agreement may provide exceptions to the principle stated in paragraph (b)(3) of this section so that a worker will be covered by the country to which he or she has the greater attachment.

Example: A U.S. national sent by his employer located in the United States to work temporarily for that employer in XYZ country will be covered by the United States and will be exempt from coverage by XYZ country.

(5) Generally, if a national of either country resides in one country and has self employment income that is covered by both countries, an agreement will provide that the person will be covered by the country in which he or she resides and will be exempt from coverage by the other country.

(6) Agreements may provide for variations from the general principles for precluding dual coverage to avoid inequitable or anomalous coverage situations for certain workers. However, in all cases coverage must be provided by one of the countries.

§ 404.1914 Certificate of coverage.

Under some agreements, proof of coverage under one social security system may be required before the individual may be exempt from coverage under the other system. Requests for certificates of coverage under the U.S. system may be submitted by the employer, employee, or self-employed individual to SSA.

§ 404.1915 Payment of contributions.

On or after the effective date of the agreement, to the extent that employment or self-employment (or service recognized as equivalent) under the U.S. social security system or foreign system is covered under the agreement, the agreement shall provide that the work or equivalent service be subject to payment of contributions or taxes under only one system (see sections 1401(c), 3101(c), and 3111(c) of the Internal Revenue Code of 1954). The system under which contributions or taxes are to be paid is the system under which there is coverage pursuant to the agreement.

Computation Provisions

§ 404.1918 How benefits are computed.

(a)(1) To determine the benefit payable under an agreement, a theoretical primary insurance amount shall be computed like other title II PIA's, but by combining the person's earnings amounts under both the U.S. and the foreign systems (see § 404.203(a) for the definition of the PIA). Earnings amounts certified by the foreign agency may be actual earnings amounts or deemed earnings amounts derived, for example, from amounts of contributions to the foreign system or from the national average wage under the foreign system. Foreign earnings will be added to any covered U.S. earnings subject to the maximum yearly limitation in U.S. law (see § 404.1027). Earnings under the foreign system may be assigned only to those calendar quarters where a QC has been credited based on foreign coverage

(see § 404.1908). A pro rata PIA will then be derived from the theoretical PIA. The pro rata PIA is the product of—

(i) The theoretical PIA; and
(ii) The ratio of the periods of coverage credited under the U.S. system to the combined periods of coverage credited under both the U.S. system and the foreign system.

(2) In determining the ratio described in paragraph (a)(1)(ii) of this section, periods of coverage after the last computation base year, as defined in § 404.203(e), will not be considered.

Example: A person needs 25 QCs to be insured, but has only 5 years of work (20 QCs), under the U.S. system. The person, however, worked under the social security system of a foreign country that is a party to a totalization agreement, and has 10 years of foreign work (40 QCs) combined, as described in § 404.1908, with his or her work under the U.S. system. The combined coverage gives the person insured status. The theoretical PIA is computed on the basis of combined earnings under both the U.S. and foreign systems. This amount is then multiplied by the ratio of (1) the periods of coverage credited under the U.S. system to (2) the combined periods of coverage credited under both the U.S. and foreign systems to derive the pro rata PIA. If the theoretical PIA is \$270, the computation shall be as follows:
\$270 (Theoretical PIA) × 20 (U.S. QCs/60 (20 U.S. + 40 Foreign QCs) = \$90 (Pro rata PIA)

(b)(1) If first eligibility or death occurs before 1979, the pro rata PIA, as described in paragraph (a) of this section, may not correspond to a PIA in column IV of the table of benefits contained in (or deemed to be contained in) section 215(a) of the Act, as in effect in December 1978. If this occurs, the pro rata PIA will be rounded—

(i) To the nearest PIA in the table;
(ii) To the higher PIA, if it falls exactly between two PIA's in the table; or
(iii) To the next higher multiple of \$.10, if it is not a multiple of \$.10 and it is less than the minimum PIA contained in the table (see section 215(g) of the Act).

(2) If first eligibility or death occurs after 1978, the pro rata PIA, as described in paragraph (a) of this section, will be rounded to the next higher multiple of \$.10, if it is not a multiple of \$.10 (see section 215(g) of the Act).

(c) Auxiliary and survivors benefit amounts (see Subpart D) shall be determined on the basis of the pro rata PIA. The regular reductions for age under section 202(q) of the Act shall apply to the benefits of the worker or to any auxiliaries or survivors which are based on the pro rata PIA. Benefits shall be payable subject to the family maximum (see § 404.403) derived from the pro rata PIA. If the pro rata PIA is

less than the minimum PIA, the family maximum shall be 1½ times the pro rata PIA.

§ 404.1919 How benefits are recomputed.

The pro rata PIA shall be recomputed only if the inclusion of the additional earnings results in an increase in both the theoretical PIA and the benefits payable by the U.S. to all persons receiving benefits on the basis of the worker's earnings, unless otherwise provided by the agreement. Subject to these limitations, the pro rata PIA will be automatically recomputed (see § 404.244) to include additional earnings under the U.S. system. An application, however, must be filed to have the pro rata PIA recomputed to include additional earnings under the foreign system.

§ 404.1920 Supplementing the U.S. benefit if the total amount of the combined benefits is less than the U.S. minimum benefit.

If a resident of the U.S. receives benefits under an agreement from both the U.S. and from the foreign country, the total amount of the two benefits may be less than the amount for which the resident would qualify under the U.S. system based on the minimum PIA. An agreement may provide that the U.S. shall supplement the total amount to raise it to the amount for which the resident would have qualified under the U.S. system based on the minimum PIA. (The minimum benefit shall be based on the first figure in column IV in the table in section 215(a) of the Act for a person becoming eligible for the benefit before January 1, 1979, or the primary insurance amount determined under section 215(a)(1)(C)(i)(I) of the Act for a person becoming eligible for the benefit after December 31, 1978.)

§ 404.1921 Benefits of less than \$1 due.

If the monthly benefit amount due an individual (or several individuals, e.g., children, where several benefits are combined in one check) as a result of a claim filed under an agreement is less than \$1, the benefits may be accumulated until they equal or exceed \$5.

Other Provisions

§ 404.1925 Applications.

(a)(1) An application, or written statement requesting benefits, filed with the competent authority or agency of a country with which the U.S. has concluded an agreement shall be considered an application for benefits under title II of the Act as of the date it is filed with the competent authority or

agency if—(i) An applicant expresses or implies an intent to claim benefits from the U.S. under an agreement; and

(ii) The applicant files an application that meets the requirements in Subpart G of this part.

(2) The application described in paragraph (a)(1)(ii) of this section must be filed, even if it is not specifically provided for in the agreement.

(b) Benefits under an agreement may not be paid on the basis of an application filed before the effective date of the agreement.

§ 404.1926 Evidence.

(a) An applicant for benefits under an agreement shall submit the evidence needed to establish entitlement, as provided in Subpart H of this part. Special evidence requirements for disability benefits are in Subpart P of this part.

(b) Evidence submitted to the competent authority or agency of a country with which the U.S. has concluded an agreement shall be considered as evidence submitted to SSA. SSA shall use the rules in §§ 404.708 and 404.709 to determine if the evidence submitted is sufficient, or if additional evidence is needed to prove initial or continuing entitlement to benefits.

(c) If an application is filed for disability benefits, SSA shall consider medical evidence submitted to a competent authority or agency, as described in paragraph (b) of this section, and use the rules of Subpart P of this part for making a disability determination.

§ 404.1927 Appeals.

(a) A request for reconsideration, hearing, or Appeals Council review of a determination that is filed with the competent authority or agency of a country with which the U.S. has concluded an agreement, shall be considered to have been timely filed with SSA if it is filed within the 60-day time period provided in §§ 404.911, 404.918, and 404.946.

(b) A request for reconsideration, hearing, or Appeals Council review of a determination made by SSA resulting from a claim filed under an agreement shall be subject to the provisions in Subpart J of this part. The rules governing administrative finality in Subpart J of this part shall also apply.

§ 404.1928 Effect of the alien non-payment provision.

An agreement may provide that a person entitled to benefits under title II of the Social Security Act may receive

those benefits while residing in the foreign country party to the agreement, regardless of the alien non-payment provision (see § 404.460).

§ 404.1929 Overpayments.

An agreement may not authorize the adjustment of title II benefits to recover an overpayment made under the social security system of a foreign country (see § 404.501). Where an overpayment is made under the U.S. system, the provisions in Subpart F of this part will apply.

§ 404.1930 Disclosure of Information.

The use of information furnished under an agreement generally shall be governed by the national statutes on confidentiality and disclosure of information of the country that has been furnished the information. (The U.S. will be governed by pertinent provisions of the Social Security Act, the Freedom of Information Act, the Privacy Act, the Tax Reform Act, and other related statutes.) In negotiating an agreement, consideration, should be given to the compatibility of the other country's laws on confidentiality and disclosure to those of the U.S. To the extent possible, information exchanged between the U.S. and the foreign country should be used exclusively for purposes of implementing the agreement and the laws to which the agreement pertains.

[FR Doc. 79-22680 Filed 7-20-79; 8:45 am]
BILLING CODE 4110-07-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 207

Navigable Waters; Restricted Area, Sabine River, Tex.

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: This rule amends the restricted area in the Sabine River at Orange, Texas by deleting all except an area in the vicinity of Pier No. 10. This action is the result of the disestablishment of the Texas Group, Atlantic Reserve Fleet.

DATE: Effective on July 16, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph T. Eppard, (202) 693-5070 or write: HQDA, DAEN-CWO-N, Washington, D.C. 20314.

SUPPLEMENTARY INFORMATION: Regulations were promulgated under 33

CFR 207.184 on 29 December 1955 to establish a restricted area in the Sabine River at Orange, Texas, for the Texas Group, Atlantic Reserve Fleet. The Texas Group has been disestablished and the property formerly occupied by that organization is now being used by the Naval and Marine Corps Reserve Center. The only pier under the jurisdiction of the Naval and Marine Corps Reserve Center is Pier 10.

The General Counsel has reviewed this matter and is of the opinion that notice of proposed rulemaking and public procedures thereto are unnecessary since the restricted area was designed to protect Texas Group, Atlantic Reserve Fleet facilities and the only pier remaining under the jurisdiction of the Naval and Marine Corps Reserve and needing the restricted area is Pier 10. The Navy concurs in limiting the restricted area. Accordingly, the restricted areas in the vicinity of piers numbered 1 through 9, 11 and 12 are deleted as set forth below:

§ 207.184 Sabine River at Orange, Tex.; restricted area in vicinity of the Naval and Marine Corps Reserve Center.

(a) The area: The berthing area of the Naval and Marine Corps Reserve Center and the waters adjacent thereto from the mean high tide shoreline to a line drawn parallel to, and 100 feet channelward from lines connecting the pier head of Pier 10 and from a line drawn parallel to, and 200 feet upstream from, Pier 10 to a line drawn parallel to, and 100 feet downstream from Pier 10.

(b) The regulations: (1) No vessel or other craft, except vessels of the United States Government or vessels duly authorized by the Commanding Officer, Naval and Marine Corps Reserve Center, Orange, Texas, shall navigate, anchor, or moor in the restricted area. (2) The regulations of this section shall be enforced by the Commanding Officer, Naval and Marine Corps Reserve Center, Orange, Texas, and such agencies as he may designate.

(40 Stat. 266; 33 U.S.C. 1.)

Note.—The Department of the Army has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Date: June 1, 1979.

Michael Blumenfeld,

Assistant Secretary of the Army (Civil Works).

[FR Doc. 79-22602 Filed 7-20-79; 8:45 am]

BILLING CODE 3710-92-M

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

49 CFR Part 192

[Amdt. 192-34; Docket PS-54]

Transportation of Natural and Other Gas by Pipeline; Joining of Plastic Pipe

AGENCY: Materials Transportation Bureau.

ACTION: Final rule.

SUMMARY: This amendment establishes tests for qualifying procedures and personnel to make all types of joints in plastic pipelines used in the transportation of natural and other gas, including heat fusion, solvent cement, adhesive, and mechanical joints. These new requirements are intended to minimize the possibility of joints coming apart and causing gas pipeline failures.

DATES: This amendment becomes effective January 1, 1980. This date gives operators time to assure that joining procedures and persons making joints have been qualified in accordance with this amendment. As further explained in the text, interested persons may submit written comments on certain issues until August 31, 1979.

ADDRESS: Communications should refer to the docket and amendment number and should be sent to: Docket Branch, Materials Transportation Bureau, Department of Transportation, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Paul J. Cory, 202-426-2392.

SUPPLEMENTARY INFORMATION: On October 18, 1978, the Materials Transportation Bureau (MTB) issued a notice of proposed rulemaking regarding the establishment of new safety regulations in Part 192 for qualifying procedures and personnel to make all types of joints used with both thermoplastic and thermosetting plastic pipe, including heat fusion, solvent cement, adhesive, and mechanical joints (43 FR, 49334, October 23, 1978). The deadline for comments was December 15, 1978, and over 95 persons submitted their views on the proposal. Also, the notice was presented to the Technical Pipeline Safety Standards Committee in accordance with Section 4 of the Natural Gas Pipeline Safety Act of 1968 (49 USC 1673). The Committee considered the notice at a meeting in Washington, D.C., on December 5, 1978, but did not make a recommendation on the technical feasibility, reasonableness, and practicability of the proposal.

Following is a discussion of significant comments received and their disposition in reaching a decision on the final rules:

Justification for this Rulemaking

Many comments suggested that the proposal was inappropriate and should be withdrawn because the accidents covered by the National Transportation Safety Board (NTSB) reports cited in the notice would not have occurred if the installation of joints had been made in compliance with existing requirements of Part 192 and fittings had been used as they were designed to be used.

MTB does not agree with this conclusion because compliance with present requirements in Part 192 for joining of plastic pipe will not necessarily ensure that sound joints will be produced; and Part 192 does not contain standards intended to assure that personnel know how to make joints correctly. Specifically, Part 192 does not describe either the characteristics of the burst test to be used in qualifying joining procedures or how test results are to be evaluated in determining whether a joining procedure is effective in meeting the performance objectives for a joint. More important, Part 192 does not require that a joining procedure be qualified from the standpoint of making a joint secure against anticipated pull out forces. Thus, the current standards leave to each operator's judgment the type of testing and proof needed to qualify procedures to make sound joints; and in the absence of a standard test, the use of different test methods can produce different test results on joints made by the same procedures.

One commenter asked that MTB cite the number of individual leak reports under Part 191 that have involved plastic pipe joints. For the seven years of data that is readily available (1970-1978), there are 64 individual written reports of failures submitted pursuant to Section 191.9 that have involved plastic pipe joints. It must be recognized that these reports are only required from distribution operators who have 100,000 or more customers. The accidents at Freemont, NB, and Lawrence, KS, referred to in the notice, and any other such accidents that have occurred in systems with less than 100,000 customers would not be included in that number because no individual written accident reports are required to be submitted from operators of this size.

Cost

The notice proposed that joining procedures and personnel be qualified by subjecting specimen joints to a series

of specified burst and tensile tests. Virtually all 95 comments stated that the proposed qualification tests would result in an initial start-up cost in excess of \$100 million nationally. Most of this expense would be for new laboratory buildings and equipment to handle numerous and frequent personnel testing. In addition, commenters argued that the annual recurring cost would be high for materials destroyed during testing and for salaries of high level technicians required to conduct the proposed tests. While costs shown by MTB's Evaluation were not as high (because of different assumptions), MTB was persuaded by comments that alternate testing procedures, as adopted in the final rules, could be used effectively to provide the intended level of safety and also reduce the cost to a minimum. A Final Evaluation of the projected costs is included in the docket as required by DOT procedures for improving Government regulations (49 FR 11034). The Evaluation projects a start-up cost of approximately \$1,823,000 and an annual cost of approximately \$365,000 to the regulated industry.

Qualifying Tests for Procedures

Several comments contended that any test method that demonstrates that joints are as strong as the adjoining pipe in both burst and tensile strength is entirely adequate. This point was discussed in the preamble to the notice in the text. To repeat, MTB believes that in the absence of a standard test to qualify joining procedures, various testing methods used may give inconsistent results that cannot be relied upon to prove the reliability of joints tested.

One commenter stated that there are not enough test facilities in the country to handle the proposed testing. Considering similar comments from others and the large number of persons that join plastic pipe, MTB feels that this view is correct, and the final rules have been changed with this in mind.

Pressure Burst Tests

In the notice, MTB proposed to adopt as a standard burst test the short-time pressure test that is found in ASTM D1599, "Standard Method of Test for Short-Time Rupture Strength of Plastic Pipe, Tubing and Fittings". This test is widely used for quality control during the manufacturing of plastic pipe, and has the advantage of being conducted in only 60 to 90 seconds. Most of the comments received agreed with the intent of the notice to provide standardized testing procedures for each type of plastic pipe joint but stated that

the application of the D1599 burst test to mechanical joints was inappropriate for the reasons discussed hereinafter.

Comments also pointed out that although a sustained pressure test conducted under the restrictions set forth in Paragraph 8.6 of ASTM D2513 "Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing and Fittings" is a much more severe test than the proposed burst test, it should be permitted as an acceptable burst test. This test has been widely used by industry as a reliable test for qualifying joining procedures for making heat fusion, solvent cement, and adhesive joints, and incorporates the test provisions of ASTM D1598 "Standard Method of Test for Time-To-Failure of Plastic Pipe Under Constant Internal Pressure." Under this test, by applying a continuous high stress over a long period of time (1000 hours), even minor flaws are detected in a sample joint, as well as those that would cause a pipeline failure at maximum design stress levels during the life of the pipeline. MTB believes that this test can be relied upon, as many commenters indicated, to determine the acceptability of heat fusion, solvent cement, and adhesive joining procedures, and it deserves recognition in the final rules. As a result, the final rule in Section 192.283 permits compliance with Paragraph 8.6 of ASTM D2513 as one method of performing the required burst test for qualifying procedures used in making heat fusion, solvent cement, and adhesive joints in plastic pipelines.

One commenter stated that the proposed ASTM D1599 test permits leakage at the fitting during testing (Paragraph 8.5).

In reviewing this paragraph, MTB notes that this test is normally used to test sections of pipe. The fittings referred to in this paragraph are those used to provide and closures or connections to the test sample and would not include a fitting being tested.

When a pipe specimen or joining procedures that are being qualified under the proposed D1599 test are intended for use in natural gas piping systems, Paragraph 8.7 of ASTM D2513 modifies the test somewhat by providing that it be performed at a specified minimum fiber stress for each type of materials. Additional requirements were established in D2513 in recognition of the increased hazard involved in the event of a leak of natural gas as compared with other products that may be carried by plastic pipe. Although the minimum fiber stress specified for the short-time D1599 test is much higher than that used under Paragraph 8.6 for

the constant internal pressure test (D1598), the short-time test is not as sensitive in detecting minor flaws as a constant internal pressure test. However, MTB believes that the D1599 test will detect the flaws in heat fusion, solvent cement, and adhesive joints that could cause hazardous pipeline failures. For the above reasons, the final rule is changed to require compliance with either Paragraph 8.6 or 8.7 of ASTM D2513 in conducting the required burst test. However, since the use of the D1599 pressure test as modified by Paragraph 8.7 of ASTM D2513 was not addressed in the notice, MTB invites interested persons to submit further written comments on the safety advantages of qualifying heat fusion, solvent cement, and adhesive joining procedures under this test procedure. MTB will consider all comments received by August 31, 1979, with a view toward taking any further necessary action on this matter before the final rule becomes effective.

The proposal to delete the first sentence of § 192.281(a) was reconsidered by MTB in light of comments received on the notice regarding burst testing to qualify a mechanical joining procedure. It can be readily shown from the requirements of Subpart D of Part 192 that the fittings in use for mechanical joints must have burst strength that equals or exceeds that for plastic pipe. A review of the catalogs of various manufacturers of fittings for joining plastic pipe shows that they consistently have a higher burst strength than the plastic pipe being joined. Thus, both the existing and the proposed burst test would cause failure of the plastic pipe before the burst stress of the fittings used to make the mechanical joint is reached. Because of this, the requirement for a burst test for qualifying procedures in making mechanical joints does not appear necessary and is not included in the final rule. However, since this issue also was not addressed in the notice, MTB invites interested persons to submit written comments on the effect on safety caused by the deletion of the requirement for qualifying mechanical joining procedures by burst testing. MTB will consider all comments received by August 31, 1979, with a view toward taking any further necessary action on this matter before the final rule becomes effective.

Tensile Pull Test

MTB proposed that all joining procedures for plastic pipe be qualified by a longitudinal pull test in addition to a burst test to assure the integrity of

joints under pull-out force conditions. The notice proposed the use of a longitudinal pull test that was approved by ASTM on September 2, 1978, as Paragraph EM8.14-Categorization of Mechanical Joints, to be added on an interim basis to ASTM D2513-75b. This test was developed by the ASTM F17.60 Gas Piping Systems Subcommittee specifically for use in determining the capabilities of mechanical joints in plastic pipe. Comments pointed out that in the case of large diameter pipe, this proposed test would not permit heat fusion, solvent cement, or adhesive joining procedures to be qualified by pull testing longitudinal straps cut from a specimen joint, as is the current industry practice. In making the proposal, MTB did not consider that in testing samples of an entire joint as required by EM 8.14 on pipe sizes of 4 inches and larger diameter, the forces required can reach several hundred-thousand-pounds and require excessively large equipment. Such equipment is very expensive and, although it could be built, few if any such machines are currently available.

MTB evaluated alternative tensile pull tests suggested by commenters and found that ASTM D638, which was referenced in the proposed EM8.14 test, satisfied both the purpose of the proposal and the commenter objections. ASTM D638 includes procedures designed for testing sections of plastic pipe or straps cut from the pipe wall that will readily determine if specimen joints made by heat fusion, solvent cement, or adhesive methods are as strong as the pipe.

In reviewing ASTM D638-77a, MTB finds that it does establish uniform procedures for longitudinal pull testing of both full sections of pipe and tubing as well as straps from such sections. This test is very similar to the pull test proposed in the notice except for the configuration of the specimen. The use of the D638 method with straps taken from large diameter pipe also has the advantage of reducing the forces and the size of the pull testing machine required for large diameter pipe joint samples to lower levels that permit the use of currently available equipment. For these reasons, MTB has adopted in the final rule the requirement that heat fusion, solvent cement, and adhesive joints must meet the requirements of ASTM D638-77a "Standard Test Method for Tensile Properties of Plastics" instead of the tests proposed in the notice.

Commenters pointed out that lateral connections of pipe or fittings to straight pipe sections do not have a configuration that can be subjected to a

tensile pull test such as the test proposed in the notice or the one in ASTM D638. Therefore, an alternative method of detecting whether joints at lateral connections have tensile strength equal to or greater than that of the pipe being joined must be used. One method recommended is to subject a specimen of laterally joined pipe to an impact force parallel to the axis of the pipe to which the lateral connection is made until failure occurs in the specimen. If failure occurs outside of the joint area, the joining procedure qualifies for use. Several commenters state that this method will detect unbonded areas and similar voids in the joint area of lateral connections. MTB has witnessed such testing of lateral connections and, as a result, believes this to be an effective method of evaluating such joints. Because of this, the final rule requires such an impact test be used in qualifying joining procedures to make lateral connections. However, since the use of an impact force to test lateral connections was not discussed in the notice, MTB also invites comments on the safety advantages or disadvantages of qualifying joining procedures for lateral connections by heat fusion, solvent cement, and adhesive methods under this test method. MTB will consider all comments received by August 31, 1979, with a view toward taking any further necessary action on this matter before the final rule becomes effective.

Several commenters pointed out that in using the proposed tensile test for mechanical joints, the forces involved in testing a joint to failure of the connecting pipe for 4-inch and larger diameters with present materials are in the order of 1,000,000 to 4,000,000 pounds. This estimate did not include the new higher strength materials or thermosetting materials which would have even higher strength. These forces far exceed any forces that could be anticipated on such pipelines and would also exceed the capacity of the available testing equipment, as was discussed earlier in this preamble. It appears to MTB that a solution to this problem that would provide the intended level of safety and reduce the forces required to test such fittings would be to provide an exception for joints in pipelines 4 inches and larger in diameter from the tensile test requirements of Paragraph EM8.14 of ASTM D2513-75b. This exception would modify the tensile stress required to be equal to or greater than the maximum thermal stresses that would be produced by a temperature change of 100°F. The use of a 100°F temperature differential is based upon the

approximate temperatures experienced in above ground service riser tests used in previous rulemaking and the moderating effect of soil cover on the temperature of buried pipelines. Because of the phenomenon of relaxation of stresses that occurs with all plastic materials and the slow temperature changes in underground pipelines, this stress would be at least double the stress that would occur in such pipelines during the operating life.

Commenters also pointed out that there are methods of installation of mechanical joints that protect a joint from being subjected to anticipated longitudinal stresses, such as providing flexibility in the piping, harnessing the joint, or anchoring the pipe. MTB has considered that practice of using installations of this type and is satisfied that they can provide an adequate level of safety and meet the strength requirements for joints of § 192.273(a).

Because of the problems with testing of large diameter mechanical joints and the recognition of the use of various methods available to eliminate the longitudinal forces to which some mechanical joints may be subjected, the final rule requires that joints must be made by a procedure that meets the test requirements of ASTM D2513-75b, Paragraph EM8.14, Categorization of Mechanical Joints, as proposed, except for a procedure that is used to make joints that:

(1) Will not be subject to the design pullout or thrust forces of § 192.273(a); or

(2) Are 4 inches and larger in pipe diameter, the tensile stress used in testing shall equal or exceed the maximum thermal stress that would be produced by a temperature change of 100 degrees F. (55.6 degrees C.).

This discussion has been based upon the tensile pull test procedures in EM8.14 of ASTM D2513-75b and has discussed the excessive forces required to test mechanical joints that are 4 inches and larger in nominal pipe diameter. Because of these problems and the brevity of EM8.14, MTB is including an edited version of these requirements in the text of Section 192.283 rather than adopting by reference.

One comment suggested that MTB list each type of joint that would require different procedures. MTB believes that such a listing is unnecessary since it does not appear that operators have a problem in correctly matching procedures to the joint to be made. Also, if an improper procedure is used to make a joint, this fact should be readily

detectable to the person inspecting the joint.

MTB wishes to emphasize that procedures for making joints in plastic pipe may be tested by the pipe or fitting manufacturers, the pipeline operator, or others, but the operator is legally responsible for qualification of the procedures that are to be used to join plastic pipelines.

Qualifying Persons To Make Joints

The notice proposed to require persons making any type of joint in plastic pipe to be qualified by having specimen joints made by such persons subjected to the same tests proposed to qualify joining procedures, that is both tensile test and burst test.

One commenter stated that there was no quick and easily conducted test adaptable for qualifying persons to make sound joints in accordance with the joining procedures. MTB agrees that the tests proposed may not be adaptable for such use, but other comments have suggested that MTB adopt qualification tests that are now being used successfully by some operators to verify the ability of persons to make sound joints in plastic pipe.

Many comments were made stating that the burst test and tensile pull test proposed for qualifying persons to make heat fusion, solvent cement, and adhesive joints were not practical because of the large number of persons making joints, the lack of laboratory facilities, equipment, and staff to do the testing. These same comments pointed out that once the procedures were qualified, strict adherence to those procedures and close visual inspection could be used to determine the capability of persons making joints. In the case of heat fusion, solvent cement, and adhesive joints, a close visual inspection of completed specimen joints and the cut surface sections of those joints along with subjecting the joint sections to destructive strain would readily provide an evaluation of persons making such joints. MTB believes these comments to be correct and analyzed the methods available for evaluating joints in plastic pipe as discussed below.

Heat Fusion, Solvent Cement, and Adhesive Joining

MTB determined the most desirable characteristics to be considered in selecting a test for qualifying persons to make heat fusion, solvent cement, or adhesive joints, and evaluated the various test methods suggested by comments against these criteria.

In order of priority, the desirable characteristics considered by MTB in evaluating these test methods include:

1. Effective in detecting flaws in joints tested.
2. Easily understood by persons being qualified and persons conducting the test.
3. A minimum of special equipment.
4. Quick test results.
5. Low in cost.

For all types of joints in plastic pipelines, the notice proposed the use of the ASTM D1599 short-time burst test and a longitudinal pull test using ASTM D2513-75b, Paragraph EM8.14, Categorization of Mechanical Joints. The ASTM D1599 test is effective as a short-time burst test for detecting flaws affecting the circumferential strength of a joint or pipe segment. The basic principle of the test is readily understood. However, an accurately controlled temperature and pressurizing system capable of applying essentially continuously increasing internal pressure to the test specimen is required. Thus, special equipment is required, and there is a minimum delay of at least one hour for temperature conditioning of the test specimen. The limitations and problems of using the pull test established in EM8.14 of ASTM D2513 has been discussed above. These problems make the proposed test methods excessively costly for the frequent use that would be needed to qualify persons to make joints.

Radiography has been used to examine plastic pipe joints. However, according to the AGA Plastic Pipe Manual—1977, "the adequacy of coverage of a joint is questionable and the equipment is costly." MTB believes that the principle of radiography is commonly understood because of its use for other purposes; but because of the questionable results and high level of skill and training required to perform tests, radiography is not considered acceptable for this purpose.

In discussing ultrasonic testing, the AGA Plastic Pipe Manual—1977 says,

Another method of nondestructive testing is the use of ultrasonic sound waves to detect flaws or imperfections in the joint. Although moderately costly, several companies have found this method very reliable when used by trained operators. The technique is fast and accurate.

In addition, papers presented at the Institute of Gas Technology, Symposium on Nondestructive Testing of Pipe Systems, June 7-10, 1976, and at the AGA Distribution Conference, May 7-9, 1979, demonstrate that ultrasonic testing is very effective in evaluating the quality of heat fusion, solvent cement, or

adhesive joints, provided inspectors are properly trained. In the opinion of MTB, the equipment needed is both complicated and expensive and requires a high level of skill. Thus, MTB does not believe that ultrasonic testing meets the criteria above.

Visual examination of the exterior of a completed heat fusion, solvent cement, or adhesive joint by examining the entire circumference of the joint area is the most common method of determining joint quality. By comparing the appearance of a joint being inspected with the appearance of a joint that is known to be satisfactory, visible faults can be readily detected. This method is easily understood, requires little special equipment, gives quick results, is low in cost and reasonably effective in detecting flaws. Thus, MTB believes visual examination of the completed joint meets the criteria listed above.

If a specimen joint that has passed a visual examination, as described above, is then cut into straps longitudinally across the joint area, the cut surfaces of the joint area can be visually examined to detect any voids or unbonded areas that may not have been readily detectable by the visual inspection of the full joint as described in the paragraph above. This method is also easily understood, requires a minimum of equipment, gives quick results, is low in cost, and is more effective in detecting flaws in joints than visual inspection of the completed joint.

Another method that is often used is to subject straps like those cut in the method described in the previous paragraph to destructive strain. This strain may be applied by any method, but is usually induced by tensile pull, bending, torque, or impact. If the resulting fracture occurs in the joint, the joint is not acceptable. This method is also effective in detecting flaws, is easily understood, requires a minimum of equipment, gives quick results, is low in cost, and meets all of the criteria listed by MTB.

Several comments described a method that combines the three preceding test methods. These commenters indicated that such a combined testing procedure is very effective in evaluating the skill of a person to make joints in plastic pipe. MTB has witnessed similar tests and believes such procedures to be highly reliable for evaluating a specimen joint. Such a combined test meets all of the desirable characteristics listed. Because of this, the final rule requires a person being qualified under a joining procedure to make a joint in accordance with that procedure. The completed joint must have the same appearance as a

sample joint or photographs of a sample joint that has been found acceptable under the applicable procedure qualified in accordance with § 192.283; and in the case of a heat fusion, solvent cement, or adhesive joint, cut into at least 3 longitudinal straps, each of which is visually examined and found not to contain voids or discontinuities on the cut surfaces of the joint area. Each strap must then be destructively tested and found not to have failed in the joint area. The destructive testing may be done by any appropriate method, such as tensile pull, bending, torsion or impact.

Mechanical Joints

Many comments stated that for mechanical joints, once a joining procedure has been shown to meet the requirements of the proposed qualification tensile test, the joining procedures are so simple that persons making joints should only need to show that they have followed the procedures to be qualified. MTB has reviewed the joining procedures for various mechanical joints and has found that they are consistently simple and straightforward and do not require a high level of skill to implement. As a result of these findings, the final rule for qualifying persons to make sound mechanical joints requires the person to be qualified by training or experience in the use of the joining procedure, and to make a specimen joint from pipe sections joined according to the procedure that is visually examined and found to have the same appearance as a specimen joint or photographs of a specimen joint that meets the applicable test requirements of § 192.283. Further, physical testing of the joint is not required.

Longitudinal Stress

Longitudinal forces resulting from thermal changes and external forces covered by the requirements of § 192.273(a) have been a factor in various plastic pipeline failures. If joining procedures that have been qualified under § 192.283 are followed in making joints, with consideration being given to anticipated thermal and external forces, the resulting joints will be able to withstand the thermal stresses that can be anticipated and will minimize the probability of similar failures occurring on pipelines constructed in the future.

One comment pointed out that there are locations where a mechanical joint with less resistance to longitudinal forces than other joints is used to provide a preferred location for a

failure, should one occur. Using the test required for qualifying joining procedures for mechanical joints (§ 192.283(b)), such an installation could be made by designing other joints on the pipeline segment to exceed the requirements of § 192.273(a) and designing the joint in question to just meet those requirements. This would mean that an unanticipated force in excess of design would cause failure at the less hazardous, preferred location selected by the operator.

Requalification

There were several comments stating that although some operators may wish to qualify some of the persons making joints annually, as proposed, such a requirement would in many cases be an excessive restriction that did not relate to the proficiency of the person to make joints. One commenter suggested that an annual requalification of such persons was not adequate because it did not relate to the quality of the joints produced and that the need for requalification should be based upon the frequency that an individual made field joints that were found to be unsatisfactory by the required joint inspection. MTB agrees with this concept as being a better performance approach to the problem than was proposed and has, therefore, revised the proposed requirement for annual requalification of persons to make joints in plastic pipe with a prohibition under § 192.285(b) that no person who has made three or more joints found to be unacceptable under a particular joining procedure within any 12-month period may make joints under that procedure until that person is requalified under § 192.285(a)(2).

A comment suggested making requirements for qualifying persons to make plastic pipe joints similar to those for welded joints on steel pipe in API 1104, Section 3.2 Multiple Qualifications. This would require retraining annually and testing of one joint by nondestructive testing. MTB believes this suggestion to be impractical as a Federal requirement in that the most effective nondestructive test for use on plastic pipe would be ultrasonic inspection, and there are difficulties with this method as discussed above. In addition, adequate, less complicated and less costly inspection and testing methods can provide an acceptable level of safety.

Training

Under the new §§ 192.285 and 192.287, persons who make joints in plastic pipelines and persons who inspect joints

in plastic pipelines must be qualified by appropriate training or experience in the joining procedures being used. All comments agreed with this proposal in the notice.

Because of the wide variations in materials and operating conditions, MTB does not believe it has enough information to establish specific requirements concerning the material to be included in the required training. Operators may develop their own training programs or use other relevant training materials in any manner that is best suited to their situation. Training material that may be useful for this program is available from various pipe and fittings manufacturers and industry organizations, such as the American Gas Association, American Society of Mechanical Engineers, and Plastic Pipe Institute.

Certificate of Qualification

Most commenters objected to § 192.283(b)(3) in the notice, which would have required each person joining plastic pipe to have in his possession a certificate signed by the operator stating that the requirements for testing and training or experience have been met. Several comments pointed out that this would involve excessive amounts of recordkeeping that would be redundant. MTB is convinced that to assure that only qualified persons make joints in plastic pipelines, there should be some method to establish that a person making joints in plastic pipe has been qualified in accordance with § 192.285. A certificate issued to the person making joints is one method to do this, but other methods may be just as effective. In the final rule, each operator of plastic pipelines is required to establish a method to determine that each person making plastic pipe joints in his system is qualified. The rule leaves the operator free to establish a method best suited to his operations. Accordingly, the certificate requirement proposed in the notice has not been adopted in the final rule.

Inspection of Joints

Several comments indicated that they agreed with the proposed "training or experience" requirement for persons who inspect joints in plastic pipelines, provided it was intended that inspection could be done by the person making the joint. This was not the intent of the proposal inasmuch as the actual inspection requirement is stated under § 192.273(c). However, MTB believes that it is axiomatic that an adequate inspection of a job cannot be done by the person who has performed the job.

One commenter pointed out that to assure that correct procedures are used to make joints, a copy of the procedures intended to be used should be available to the persons making and inspecting joints at each joining site. MTB believes this would contribute to improving the quality of joints in plastic pipelines with negligible costs and has, therefore, included this in the final rule.

In consideration of the foregoing, Part 192 of Title 49 of the Code of Federal Regulations is amended as follows:

§ 192.81 [Amended]

1. By deleting the first sentence of § 192.281(a).
2. By adding a new § 192.283 to read as follows:

§ 192.283 Plastic pipe; qualifying joining procedures.

(a) *Heat Fusion, Solvent Cement, and Adhesive Joints.* Before any written procedure established under § 192.273(b) can be used for making joints in plastic pipe by a heat fusion, solvent cement, or adhesive method, it must be qualified by—

- (1) Meeting the burst test requirements of Paragraph 8.6 (Sustained Pressure Test) of Paragraph 8.7 (Minimum Hydrostatic Burst Pressure) of ASTM D2513; and
- (2) Meeting the tensile test requirements of ASTM D638 or, in the case of a procedure for making lateral connections to pipelines, by subjecting a specimen made from pipe sections joined at right angles according to the procedures to an impact force on the lateral pipe parallel to the axis of the pipe to which the lateral connection is made until failure occurs in the specimen. In this latter test, if failure occurs outside the joint area, the procedure qualifies for use.

(b) *Mechanical Joints.* Except for a procedure applicable to joints that will not be subjected to the design pullout or thrust forces addressed in § 192.273(a), before any written procedure established under § 192.273(b) can be used for making joints in plastic pipelines by a mechanical method, it must be qualified in accordance with the following test for determining short-term pullout resistance:

- (1) The apparatus and conditioning for the testing shall be as specified in ASTM D638-77a.
- (2) The speed of the testing shall be 5.0 mm (0.20 inches) per minute, plus or minus 25 percent.
- (3) Five specimen joints shall be prepared following the procedure being qualified. Length of the specimen shall be such that the distance between the

grips of the apparatus and the end of the stiffener is at least five times the nominal outside diameter of the pipe size being tested.

(4) Pipe specimen less than 4 inches in diameter shall be pulled until the tubing yields to an elongation of 25 percent or is pulled from the fitting. Length of yield is to be ascertained over a 50 mm (2 inch) span.

(5) Pipe specimen 4 inches and larger in diameter shall be pulled until the pipe is subjected to a tensile stress equal to or greater than the maximum thermal stress that would be produced by a temperature change of 100° F (55.6° C).

(6) Specimen that fails at the grips shall be retested using new pipe or tubing.

(7) If the pipe or tubing pulls from the fitting, the lowest of the five values shall be used in the design calculations for stress.

(8) Results obtained pertain only to the specific outside diameter, wall thickness, and material of the pipe or tubing tested.

(c) A copy of each written procedure being used for joining plastic pipe must be available to the persons making and inspecting joints at the site where joining is accomplished.

3. By adding new § 192.285 to read as follows:

§ 192.285 Plastic pipe; qualifying persons to make joints.

(a) No person may make a joint in a plastic pipe unless that person has been qualified under the applicable joining procedure by:

- (1) Appropriate training or experience in the use of the procedure; and
- (2) Making a specimen joint from pipe sections joined according to the procedure, that is—

(i) Visually examined and found to have the same appearance as a joint or photographs of a joint that is acceptable under the procedure; and

(ii) In the case of a heat fusion, solvent cement, or adhesive joint, cut into at least 3 longitudinal straps, each of which is—

(A) Visually examined and found not to contain voids or discontinuities on the cut surfaces of the joint area; and

(B) Destructively tested and found not to have failed in the joint area.

(b) No person determined to have made three or more unacceptable joints under an applicable joining procedure within any 12-month period may be considered qualified under that procedure in accordance with Paragraph (a) of this section until that person has been requalified under Paragraph (a)(2) of this section.

(c) Each operator shall establish a method to determine that each person making joints in plastic pipelines in his system is qualified in accordance with this section.

4. By adding a new § 192.287 to read as follows:

§ 192.287 Plastic pipe; inspection of joints.

No person may carry out the inspection of joints in plastic pipes required by §§ 192.273(c) and 192.285(b) unless that person has been qualified by appropriate training or experience in evaluating the acceptability of plastic pipe joints made under the applicable joining procedure.

5. In Section II of Appendix A, by redesignating items (19) and (20) as items (20) and (21), respectively, and adding a new item (19) as follows:

Appendix A—Incorporated by Reference

(19) ASTM Specification D638 "Standard Test Method for Tensile Properties of Plastic" (D638-77a)

6. By amending the Table of Contents Part 192 to include the following new sections.

Subpart F—Joining of Materials Other Than by Welding

- § 192.283 Plastic pipe; qualifying joining procedures.
- § 192.285 Plastic pipe; qualifying persons to make joints.
- § 192.287 Plastic pipe; inspection of joints.

(49 U.S.C. 1672; 49 U.S.C. 1804; 49 CFR 1.53 and App. A of Part 1)

Issued in Washington, D.C., on July 9, 1979.
L. D. Santman,
Director, Materials Transportation Bureau.

Note.—Incorporation by reference provisions approved by the Director of the Federal Register July 17, 1979.

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Federal Railroad Administration

49 CFR Part 265

[Docket No. 79-905]

Nondiscrimination in Federally Assisted Railroad Programs; Correction

AGENCY: Federal Railroad Administration (FRA), Department of Transportation.

ACTION: Correction of Background Statement.

SUMMARY: On June 21, 1979, FRA published amendments to 49 CFR Part 265, modifying the definition of minority business enterprise (MBE) and providing guidance in establishing the eligibility of MBEs (44 FR 36338). The background statement to the amendments contained an incorrect summary statement of an investigation report. The corrected summary statement is contained herein.

FOR FURTHER INFORMATION CONTACT:

Principal Authors

Principal Attorney: Rufus S. Watson, Jr., Office of Chief Counsel, Federal Railroad Administration, 2100 Second Street, SW., Washington, D.C. 20590, (202) 472-5312.

Principal Policy Person: Miles Washington, Minority Business Resource Center, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426-2852.

SUPPLEMENTARY INFORMATION: On June 21, 1979, FRA published amendments to 49 CFR Part 265, modifying the definition of minority business enterprise (MBE) and providing guidance in establishing the eligibility of MBEs (44 FR 36338). The background statement to the amendments contained the following statement:

"The Minority Business Resource Center, in investigating the procurement practices of the Chicago area railroads subject to Part 265, found that these railroads were awarding approximately 80 percent of their MBE awards to businesses for which ownership had been transferred but control retained by non-minority persons. Many of such firms had prior contractual relationships with these railroads on a non-MBE basis. Clearly the intent of Part 265 had been subverted."

The investigation referenced in the quoted language did reveal that a number of firms doing business with one or more of the railroads had acquired MBE eligibility status by transferring fifty percent (50%) of the stock ownership from husband to wife. It has been brought to FRA's attention that the investigation report does not support the conclusion that the problem has reached proportions stated in the quoted language. We agree. The quoted language should have read as follows:

"The Minority Resource Center, in investigating the procurement practices of the Chicago area railroads subject to Part 265, found that the majority of the MBE procurements at each of the railroads inspected were with firms which were fifty percent (50%) owned by

women. The investigation also revealed that some white male-owned and traditional suppliers to railroads had transferred stock to their wives and the firms thereafter claimed MBE status. Thus, the affirmative action goals of the regulations were not being achieved."

Issued in Washington, D.C., on July 17, 1979.

John M. Sullivan,
Administrator.

[FR Doc. 79-22700 Filed 7-20-79; 8:45 am]
BILLING CODE 4910-06-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[S.O. 1316, Amdt. 5]

Chicago and North Western Transportation Co. Authorized To Operate Over Tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Co. at Appleton, Wisconsin

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order. Amendment No. 5 to Service Order No. 1316.

SUMMARY: Service Order No. 1316 authorizes the CNW to operate over tracks of the MILW in Appleton, Wisconsin, for the purpose of providing continued railroad service to shippers served by those tracks.

DATES: Effective 11:59 p.m., July 15, 1979, and continuing until further order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, (202) 275-7840.

Decided July 13, 1979.

Upon further consideration of Service Order No. 1316 (43 FR 14668, 28497, 39796, 51024; and 44 FR 3715), and good cause appearing therefor:

It is ordered: § 1033.1316 Service Order No. 1316 (Chicago and North Western Transportation Company authorized to operate over tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Appleton, Wisconsin) is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., July 15, 1979.

(49 U.S.C. (10304-10305 and 11121-11126))

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member John R. Michael not participating.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-22647 Filed 7-20-79; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 25, 27, 28, 29, 32, and 33

The National Wildlife Refuge System; Administrative Corrections

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Administrative Changes.

SUMMARY: This document provides for previous name changes and other administrative changes concerning certain units of the National Wildlife Refuge System, and updates cross-references in the text. These changes have resulted from previously issued Executive orders, public land orders and other administrative documents. This document makes no substantive changes and is being issued as a matter of reader convenience.

EFFECTIVE DATE: July 23, 1979.

FOR FURTHER INFORMATION CONTACT: Ronald L. Fowler, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240, (202-343-4305) or Robert R. Poinsett, Division of Realty, U.S. Fish and Wildlife Service, Washington, D.C. 20240, (202-343-4026).

SUPPLEMENTARY INFORMATION: Due to the issuance of various administrative documents, the following changes have been identified as necessary to update the textual content of 50 CFR, Subchapter C. Cross-reference changes are also included. Other changes have been made to correct omissions, typographical errors, to indicate address changes for regional offices, and to reflect the transfer of function for power

and energy to the Department of Energy (42 U.S.C. 7152). The appeals procedure for rights-of-way is also clarified to conform to 43 CFR Part 4, Subpart G. Ronald L. Fowler is the primary author of this document.

The name of Sanibel National Wildlife Refuge, Florida, was changed to J. N. "Ding" Darling National Wildlife Refuge on August 22, 1967. The Mason Neck National Wildlife Refuge Migratory Waterfowl Closed Area, Virginia is listed incorrectly under Louisiana. Lake St. Clair National Wildlife Refuge was transferred to the State of Michigan on November 15, 1963. However, the 4,200 acre Lake St. Clair Migratory Waterfowl Closed Area, which was closed by Presidential Proclamation No. 2593 on September 21, 1943, remains in effect and should now be referred to in § 32.4 as "Lake St. Clair, St. Clair and Macomb Counties, Michigan." Public Land Order 2441 on July 19, 1961, changed the name of Red Rock Lakes Migratory Waterfowl Refuge, Montana, to Red Rock Lakes National Wildlife Refuge. Also, Public Land Order 5635, dated April 25, 1978 (43 FR 19046), changed the name of the Charles M. Russell National Wildlife Range, Montana, to the Charles M. Russell National Wildlife Refuge. The designation of certain lands and waters of the Martin National Wildlife Refuge, Maryland, as a closed area (25 FR 7741) is erroneously listed under Louisiana.

The name of Havasu Lake National Wildlife Refuge, Arizona, was changed to Havasu National Wildlife Refuge by Public Land Order 4703 on October 1, 1969. The name of the Ravalli National Wildlife Refuge, Montana, was changed to Lee Metcalf National Wildlife Refuge on October 26, 1978 (43 FR 50061). Seville National Wildlife Refuge, New Mexico, was added to the List of open areas; migratory game birds, on August 28, 1975 (40 FR 39518). The name of the Lower Souris National Wildlife Refuge, North Dakota, was changed to J. Clark Salyer National Wildlife Refuge on September 1, 1967.

The portion of the Killcohook National Wildlife Refuge in Delaware, became the Killcohook Wildlife Management Area and its administration was transferred to the State of Delaware on April 10, 1974. The Kentucky Woodlands National Wildlife Refuge, Kentucky, was transferred to the Corps of Engineers for conveyance to the Tennessee Valley Authority by Public Land Order 4560, dated December 27, 1968. Public Land Order 5634, dated April 25, 1978 (43 FR 19046), changed the names of the Charles Sheldon Antelope Range and the Charles Sheldon Wildlife Refuge, Nevada, and combined them as the

Sheldon National Wildlife Refuge. Public Land Order 4079, dated August 26, 1966, changed the name of Desert Game Range, Nevada, to Desert National Wildlife Range. The name of Killcohook National Wildlife Refuge, New Jersey, was changed to Supawana Meadows National Wildlife Refuge on April 10, 1974. Santee National Wildlife Refuge, South Carolina, was added to the List of open areas; big game, on August 15, 1975 (40 FR 34348).

Executive Order 5493, on March 21, 1975, gave primary control of the Cabeza Prieta Game Range, Arizona, to the Fish and Wildlife Service and changed the name to Cabeza Prieta National Wildlife Refuge. Public Land Order 5637, dated April 25, 1978 (43 FR 19045), changed the name of the Kofa Game Range, Arizona, to Kofa National Wildlife Refuge. The name of the Snake Creek National Wildlife Refuge, North Dakota, was changed to Audubon National Wildlife Refuge on September 4, 1967 (32 FR 20888).

The Pishkun National Wildlife Refuge, Montana, was returned to the Bureau of Reclamation by Public Land Order 4466 on June 25, 1968. The listing for Arrowhead National Wildlife Refuge, North Dakota, should be corrected to Arrowwood National Wildlife Refuge. Pub. L. 93-402 (88 Stat. 801) established a national wildlife refuge in Virginia to be known as the Great Dismal Swamp National Wildlife Refuge which was erroneously published as Dismal Swamp National Wildlife Refuge.

The Service has determined that this action is not a rule as defined by 43 CFR 14.2 (43 FR 58292), and therefore the rulemaking provisions of 43 CFR Part 14 and Executive Order 12044 do not apply. Nor does this action constitute a significant rule within the meaning of 43 CFR 14.3 (43 FR 58296).

Since this action is editorial, entirely administrative in nature, and is intended for reader convenience, the Service has also determined that, even if 43 CFR Part 14 were applicable, rulemaking procedure is unnecessary, impracticable, and not in the public interest. For these same reasons, the Service concludes that "good cause" exists within the meaning of Section 553 of the Administrative Procedure Act to make these administrative changes effective upon publication.

Notwithstanding the above, it is the policy of the Department of the Interior, whenever possible, to afford the public the opportunity to comment on Departmental actions. Accordingly, interested persons may submit written comments, suggestions, or objections, on the revisions to the Director of the U.S.

Fish and Wildlife Service at the address given above at any time.

Therefore, 50 CFR Subchapter C—The National Wildlife Refuge System is corrected as follows:

PART 25—ADMINISTRATIVE PROVISIONS

§ 25.51 [Amended]

1. In § 25.51 General provisions, change 43 CFR Part 18 to 36 CFR Part 1227.

PART 27—PROHIBITED ACTS

§ 27.64 [Amended]

2. In § 27.64 Prospecting and mining, change the second sentence to read as follows: See § 29.31 for provisions concerning mineral leasing.

PART 28—ENFORCEMENT, PENALTY, AND PROCEDURAL REQUIREMENTS FOR VIOLATIONS OF PARTS 25, 27, AND 28

§ 28.21 [Amended]

3. § 28.21 General provisions, in the first sentence change 4 AM 4.9 to 4 AM 4.2.

PART 29—LAND USE MANAGEMENT

§ 29.21 [Amended]

4. In § 29.21 Definitions, paragraph (i) is revised as follows:

(i) "Department" means U.S. Department of the Interior unless otherwise specified, except for Department as used in section 29.21-8 which means the U.S. Department of Energy.

§ 29.21-1 [Amended]

5. In § 29.21-1 Purpose and scope, in subsection (c) change 42 CFR Part 2800 to 43 CFR Part 2800.

§ 29.21-2 [Amended]

6. In § 29.21-2 Application procedures, change subsection (a)(4) by replacing 36 FR 800 with 36 CFR Part 800.

Change § 29.21-2(c) to read as follows:

Regional or Area Director's Addresses. (1) For the States of California, Hawaii, Idaho, Nevada, Oregon and Washington:

Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232.

(2) For the States of Arizona, New Mexico, Oklahoma, and Texas:

Regional Director, U.S. Fish and Wildlife Service, 500 Gold Avenue, P.O. Box 1306, Albuquerque, New Mexico 87103.

(3) For the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin: Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

(4) For the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and Virgin Islands: Regional Director, U.S. Fish and Wildlife Service, P.O. Box 95067, 17 Executive Park Drive NE., Atlanta, Georgia 30347.

(5) For the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, New Jersey, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia:

Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

(8) For the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming:

Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225.

(7) For State of Alaska:

Area Director, U.S. Fish and Wildlife Service, 1101 E. Tudor Road, Anchorage, Alaska 99503.

§ 29.21-8 [Amended]

7. In § 29.21-8 Electric power transmission line rights-of-way, change the reference in paragraph (c) from the Secretary of the Interior to the Secretary of Energy. Change the reference in paragraph (e)(2) from Department of the Interior to Department of Energy.

§ 29.22 [Amended]

8. In § 29.22 Hearing and appeals procedures, this section is revised as follows: An appeal may be taken from any final disposition of the Regional Director to the Director, U.S. Fish and Wildlife Service, and, except in the case of a denial of a right-of-way application, from the latter's decision to the Secretary of the Interior. Appeals to the Secretary shall be taken pursuant to 43 CFR Part 4, Subpart G.

§ 29.31 [Amended]

9. In § 29.31 Mineral ownerships in the United States, change the reference to provisions of "43 CFR 3103.2 and 3120.3-3" to "43 CFR 3101.3-3, 3109.4, 3201.1-6 and 3501.2-2".

PART 32—HUNTING

§ 32.4 [Amended]

10. In § 32.4 Areas closed to hunting.

Under Florida change Sanibel National Wildlife Refuge, Florida to J.N. "Ding" Darling National Wildlife Refuge.

Under Louisiana, correct the listing for Martin National Wildlife Refuge, as follows:

Aug. 13, 1960. Maryland * * * Martin National Wildlife Refuge * * * 25 FR 7741.

Under Michigan, substitute Lake St. Clair, St. Clair and Macomb Counties, Michigan, for Lake St. Clair National Wildlife Refuge.

Under Montana change Red Rock Lakes Migratory Waterfowl Refuge to Red Rock Lakes National Wildlife Refuge.

Also change Charles M. Russell National Wildlife Range, Montana, to Charles M. Russell National Wildlife Refuge.

§ 32.11 [Amended]

11. In § 32.11 List of open areas; migratory game birds.

Arizona

Change Havasu Lake National Wildlife Refuge to Havasu National Wildlife Refuge.

California

Change Havasu Lake National Wildlife Refuge to Havasu National Wildlife Refuge.

Montana

Change Charles M. Russell National Wildlife Range to Charles M. Russell National Wildlife Refuge.

Change Ravalli National Wildlife Refuge to Lee Metcalf National Wildlife Refuge.

New Mexico

Add Sevilleta National Wildlife Refuge.

North Dakota

Change Lower Souris National Wildlife Refuge to J. Clark Salyer National Wildlife Refuge.

§ 32.21 [Amended]

12. § 32.21 List of open areas; upland game.

Arizona

Change Havasu Lake National Wildlife Refuge to Havasu National Wildlife Refuge.

Change Kofa Game Range to Kofa National Wildlife Refuge.

California

Change Havasu Lake National Wildlife Refuge to Havasu National Wildlife Refuge.

Delaware

Delete Killcohook National Wildlife Refuge.

Kentucky

Delete Kentucky Woodlands National Wildlife Refuge.

Montana

Change Charles M. Russell National Wildlife Range to Charles M. Russell National Wildlife Refuge.

Change Ravalli National Wildlife Refuge to Lee Metcalf National Wildlife Refuge.

Nevada

Change Charles Sheldon Antelope Range to Sheldon National Wildlife Refuge.
Change Desert Game Range to Desert National Wildlife Range.

New Jersey

Change Killcohook National Wildlife Refuge to Supawna Meadows National Wildlife Refuge.

North Dakota

Change Lower Souris National Wildlife Refuge to J. Clark Salyer National Wildlife Refuge.

§ 32.31 [Amended]

13. In § 32.31 List of open areas; big game.

Arizona

Change Cabeza Prieta Game Range to Cabeza Prieta National Wildlife Refuge.

Change Havasu Lake National Wildlife Refuge to Havasu National Wildlife Refuge.

Change Kofa Game Range to Kofa National Wildlife Refuge.

Kentucky

Delete Kentucky Woodlands National Wildlife Refuge and the heading "Kentucky."

Montana

Change Charles M. Russell National Wildlife Range to Charles M. Russell National Wildlife Refuge.

Change Ravalli National Wildlife Refuge to Lee Metcalf National Wildlife Refuge.

Nevada

Change Charles Sheldon Antelope Range to Sheldon National Wildlife Refuge.
Change Desert Game Range to Desert National Wildlife Range.

North Dakota

Change Lower Souris National Wildlife Refuge to J. Clark Salyer National Wildlife Refuge.

Change Snake Creek National Wildlife Refuge to Audubon National Wildlife Refuge.

South Carolina

Add Santee National Wildlife Refuge.

PART 33—SPORT FISHING

§ 33.4 [Amended]

14. § 33.4 List of open areas; sport fishing.

Arizona

Change Havasu Lake National Wildlife Refuge to Havasu National Wildlife Refuge.

California

Change Havasu Lake National Wildlife Refuge to Havasu National Wildlife Refuge.

Kentucky

Delete Kentucky Woodlands National Wildlife Refuge and the heading "Kentucky."

Montana

Change Charles M. Russell National Wildlife Range to Charles M. Russell National Wildlife Refuge.

Delete Pishkun National Wildlife Refuge.
Change Ravalli National Wildlife Refuge to Lee Metcalf National Wildlife Refuge.

Nevada

Change Charles Sheldon Antelope Range to Sheldon National Wildlife Refuge.
Change Desert Game Refuge to Desert National Wildlife Range.

Delete Sheldon National Antelope Refuge.

North Dakota

Change Arrowhead National Wildlife Refuge to Arrowwood National Wildlife Refuge.

Change Lower Souris National Wildlife Refuge to J. Clark Salyer National Wildlife Refuge.

Change Snake Creek National Wildlife Refuge to Audubon National Wildlife Refuge.

Virginia

Change Dismal Swamp National Wildlife Refuge to Great Dismal Swamp National Wildlife Refuge.

Dated: July 17, 1979.

Robert S. Cook,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 79-23260 Filed 7-20-79; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 651

Atlantic Groundfish (Cod, Haddock, and Yellowtail Flounder)

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Approval and partial disapproval of amendments to the Fishery Management Plan for Atlantic Groundfish; promulgation of emergency regulations and request for comments; notice of adjustments to catch limitations and of fishery closures.

SUMMARY: The Assistant Administrator for Fisheries has approved, with two exceptions, amendments to the Fishery Management Plan for Atlantic Groundfish (FMP) prepared by the New England Fishery Management Council. The approved amendments: (1) establish increases in the annual optimum yields and domestic commercial quotas for cod and haddock in both management areas; (2) revise the commercial quarterly allocations for cod and haddock in both management areas, consistent with the increases in the annual quotas; (3) restrict vessels fishing for cod or haddock in both the Gulf of Maine and Georges Bank and south areas to the higher of the appropriate weekly catch limitations from either area; and (4) revise the estimates of U.S. harvesting

capacity for cod and haddock. The regulations are amended by emergency action to reflect these amendments to the FMP.

New weekly catch limitations are established for all vessels fishing for cod and haddock in the Georges Bank and South area, for 0-60 GRT vessels and vessels fishing fixed gear for haddock in the Gulf of Maine, and for all vessels fishing for yellowtail flounder in the area east of 69° West longitude. The fisheries for cod in the Gulf of Maine by 0-60 GRT vessels and vessels fishing fixed gear are closed.

EFFECTIVE DATES: The emergency amendments to the regulations, the notice of adjustments of catch limitations, and the notice of fishery closures take effect July 22, 1979. The amendment to the regulation which ends "piggybacking" is also published as proposed rulemaking. Public comment on the proposed regulation is invited until September 18, 1979. The emergency regulations increasing cod and haddock OY's are effective until September 4, 1979, unless repromulgated before that date.

ADDRESSES: Written comments should be sent to the Regional Director, National Marine Fisheries Service, 14 Elm Street, Gloucester, MA 01930. Mark "Comments on groundfish regulations" on outside of envelope.

FOR FURTHER INFORMATION CONTACT: Dr. Robert W. Hanks, Deputy Regional Director, Northeast Region, National Marine Fisheries Service. Telephone (617) 281-3600.

SUPPLEMENTAL INFORMATION: On October 4, 1978, NOAA published emergency regulations (43 FR 45872) to implement the FMP on a fishing year basis (October 1-September 30), in response to amendments to the FMP prepared by the New England Fishery Management Council (Council). These emergency regulations were made final as of January 1, 1979 (44 FR 885).

FMP Amendments

The Council has submitted to the Secretary of Commerce amendments to its FMP which would increase the 1978-1979 fishing year optimum yields (OY's) for cod, haddock, and yellowtail flounder. The increase in OY's would be allocated to domestic commercial vessel classes for the fourth quarter of the fishing year (July 1-September 30, 1979). Amounts of fish presently allocated to the fourth quarter would be added to the third quarter (April 1-June 30, 1979) allocations.

The Council took this action after considering the social and economic

impacts its FMP has had on the fishing industry since October 1, 1978, and after examining the initial analyses of the autumn 1978 bottom trawl assessment data from the National Marine Fisheries Service's Northeast Fisheries Center at Woods Hole, MA. These data show some improvement in the cod and haddock stocks. The numerous closures of species/area/vessel class fisheries for the regulated species since the start of the fishing year (43 FR 55411, 58570; 44 FR 6732, 22744, 24079) have caused disruptions in the fisheries with possible adverse social and economic impact on the fishery participants. Most vessel classes are rapidly approaching or have already exceeded their annual quotas established on October 1, 1978. Without increases in the quotas, other fishery closures during the fourth quarter would be necessary. The Council believes that maintaining harvest levels at the original quotas is inconsistent with its objectives for groundfish management, given the present condition of the fishery resource.

The Assistant Administrator, acting on behalf of the Secretary of Commerce, has approved the increases in the optimum yields and domestic commercial quotas for cod and haddock. The new OY for cod in the Gulf of Maine of 11,380 metric tons (mt) is below the reported commercial landings for calendar year 1978 of 12,242 mt. It is, however, in excess of the maximum sustainable yield (MSY) of 10,000 mt, which was specified in the original FMP of March 14, 1977 (42 FR 14064). The Council deliberately proposed this temporary OY above MSY because it believes the higher harvest level will not harm the stock on a short-term basis, and because it believes that the FMP's economic and social objectives will be served by the increase. The new OY for cod in Georges Bank and South of 34,960 mt is approximately equal to the reported 1978 landings of 35,419 mt (26,300 mt U.S. commercial and 9,119 mt Canadian). The new OY for haddock of 28,154 mt is moderately higher than the reported 1978 commercial catch of 26,957 mt (16,300 mt U.S. commercial and 10,657 mt Canadian). The increase is based on optimism over the prospects of a large 1978 year-class of haddock.

At the request of the Council, the Secretary is promulgating emergency regulations under section 305(e) of the Fishery Conservation and Management Act of 1976, as amended (the Act), to implement the increased OY's and domestic commercial quotas for cod and haddock. The purpose of the increase in the OY's is to prevent or postpone closures of cod and haddock fisheries

during the period July through September. Such closures would disrupt fishing during the productive summer months with resulting severe economic and social effects on the fishermen and related industries. Further delay would not be in the best interest of the fishing industry.

The Council's proposed increases in the optimum yields for the yellowtail flounder fishery in both management areas (east and west of 69° West longitude) were disapproved by the Assistant Administrator and, therefore, will not be implemented. The yellowtail flounder resource continues to be at a low level of abundance compared with historic levels. While the autumn 1978 assessments indicate some improvement, the Council in its FMP amendment did not show adequately that the increased risk of population decline associated with increased levels of catch was appropriate from an examination of social and economic factors in the fishery. Further, the relationship of the proposed OY increases for yellowtail flounder to the Council's objectives for groundfish management was unclear. The proposed increases in OY's would have no impact on the Council's desire to manage the fishery without closures. The fishery west of 69° West longitude has exceeded even the proposed increased OY and would have to remain closed whether or not the OY were increased. The fishery east of 69° West longitude is unlikely to exceed the OY of 4,400 mt and would remain open without an increase in OY. Based on these factors, the Assistant Administrator determined that the Council has not provided a summary of the information utilized in making the specification of optimum yield required under section 303(a)(3) of the Act and disapproved the amendments.

In the fall of 1978, the New England Council voted to clarify the FMP to allow vessels fishing in more than one area (Gulf of Maine; Georges Bank and South) the opportunity to take their weekly catch limitations of cod and haddock from each area. This practice, commonly known as "piggybacking," has resulted in inaccurate reporting of area catches. As a consequence, the usefulness of commercial catch data has deteriorated for stock assessment purposes. Also, "piggybacking" has allowed vessels to catch their allocations more rapidly, so that early closures of fisheries were necessitated. For these reasons, the Council amended its FMP to restrict vessels fishing for cod or haddock to the appropriate weekly catch limitation from only one

management area (i.e., Gulf of Maine or Georges Bank and South). A similar restriction has been in effect for vessels fishing for yellowtail flounder since October 1, 1978.

Elimination of a vessel's ability to "piggyback" catch limitations from both management areas will assist in (1) spreading landings through quarters and the fishing year, and (2) enforcing the vessel catch limitation system. The Assistant Administrator has approved this FMP amendment and is implementing it through promulgation of emergency regulations, as the Council requested. Immediate implementation is necessary to prevent further circumventing of catch limitations and misreporting of catch locations that reduce the usefulness of landings data for resource assessment and management purposes.

The Council has also submitted to the Secretary an amendment to the FMP to revise upward its estimates of U.S. harvesting capacity for cod and haddock. The revisions are consistent with the original method of estimating U.S. harvesting capacity, which related capacity to past harvest levels and current allowable catches. The Assistant Administrator has approved this amendment; the estimates appear below in the revised Table 54.

Errata

A question has arisen concerning the Assistant Administrator's authority to adjust the catch limitations set forth in Appendix B to Part 651 within the limits prescribed in the FMP. The regulation implementing the FMP empowers the Assistant Administrator to adjust the catch limitations and overrun allowances downward only, to insure that closures are prevented. The Council believes § 651.23(f) of the regulations is not consistent with its intent to provide the Assistant Administrator with latitude to "adjust" these limitations within the maximum and minimum limits prescribed in the FMP. The Council intended the Assistant Administrator to have authority to adjust the limitations in Appendix B up or down, consistent with the vessel classes' quarterly allocations, in order to achieve an optimum yield from the fishery. Accordingly, § 651.23(f) is corrected to reflect this intent. Paragraph 651.23(b) of the regulations contains a reference to "applicable trip limitation." This is inconsistent with the remainder of § 651.23 and Appendix B of the regulations. These refer throughout

to catch limitation(s). To avoid any possible confusion this error in 651.23(b) is corrected to read "applicable catch limitation."

Fishery Closures

The Regional Director, Northeast Region, National Marine Fisheries Service (Regional Director), has monitored the harvest of Atlantic groundfish for the period October 1, 1978 to June 15, 1979. Based on the landings statistics and the amounts of groundfish available for harvest through the end of the fishing year (September 30, 1979), the Regional Director has, pursuant to § 651.23(a), projected that the following vessel classes will have caught their annual allocations (less an anticipated amount to be caught incidentally during the period of closure) on July 22:

Cod, Gulf of Maine

0-60 GRT—Fixed gear.

Therefore the Regional Director has recommended to the Assistant Administrator that these fisheries be closed on July 22, 1979, for the remainder of the fishing year. The Assistant Administrator has reviewed the recommendations of the Regional Director and finds that closure of the cod fishery in the Gulf of Maine for the 0-60 GRT and fixed gear vessel classes on July 22 is necessary to prevent their annual allocations from being exceeded.

These two fishery closures are in addition to those implemented earlier in the fishing year. Therefore, all fisheries for cod in the Gulf of Maine are now closed. The 61-125 GRT and over 125 GRT vessel classes for haddock in the Gulf of Maine are also closed. The fishery for yellowtail flounder west of 69° West longitude is closed to all vessels. A revised Appendix B to this Part 651 reflects these closures and their dates of implementation. All vessels affected by a closure are limited to the incidental catch restrictions specified in § 651.24(d), as follows:

(1) Cod and haddock:

0-60 GRT—500 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.
61-125 GRT—1,000 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.
Over 125 GRT—2,000 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.
Fixed gear—500 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.

(2) Yellowtail flounder:

All vessels—500 pounds or 4 percent by weight of all fish on board, whichever is the lesser amount, per trip.

Adjustments to Catch Limitations

For the remainder of the species/area/vessel class fisheries, the Assistant Administrator has determined that catch limitations presently in effect will not allow vessel classes to harvest their allocations, as revised and specified in Appendix A to this Part 651. Pursuant to § 651.23(f), the Assistant Administrator has made the following adjustments in catch limitations, which appear in the revised Appendix B at the end of the regulations:

Cod, Georges Bank and South

0-60 GRT—increase from 4,900 to 7,000 pounds per week.
61-125 GRT—increase from 9,800 to 14,000 pounds per week.
Over 125 GRT—increase from 14,000 to 20,000 pounds per week.
Fixed gear—increase from 13,000 to 16,000 pounds per week.

Haddock, Gulf of Maine

0-60 GRT—increase from 2,500 to 5,000 pounds per week.
Fixed gear—increase from 8,000 to 16,000 pounds per week.

Haddock, Georges Bank and South

0-60 GRT—increase from 3,500 to 7,000 pounds per week.
61-125 GRT—increase from 7,000 to 14,000 pounds per week.
Over 125 GRT—increase from 10,000 to 20,000 pounds per week.
Fixed gear—increase from 8,000 to 16,000 pounds per week.

Yellowtail Flounder, east of 69° W.
All vessels—increase from 5,000 to 6,000 pounds per week or trip, whichever time period is longer.

The revised catch limitations for cod and haddock for the Georges Bank and South area are the maximum allowed under the New England Fishery Management Council's FMP, as amended (43 FR 31015). All vessels fishing for yellowtail flounder are allowed the maximum catch limitation for the smallest vessel class (43 FR 31018). The Assistant Administrator anticipates that fishing at these catch levels will not result in the need during the remainder of this fishing year (September 30, 1979) for fishery closures. However, catches of all regulated species will continue to be monitored closely by the National Marine Fisheries Service. The FMP is amended as follows:

1. Table 54 is amended by striking the columns headed "Fishing Areas", "Optimum Yield", and "U.S. Capacity" and substituting the following:

Species	Fishing area	Optimum yield (in metric tons)	U.S. capacity (in metric tons)
Haddock	All areas (ICNAF 5)	28,254	40,000
Cod	Gulf of Maine (ICNAF 5Y)	11,380	16,000
	Georges Bank & South (ICNAF 5Z & SA 6)	34,960	40,000
Yellowtail flounder	East of 69° W. (ICNAF 5Ze)	4,400	20,000
	West of 69° (ICNAF 5Z & SA 6)	3,700	20,000

2. Section II.C.3(a) is amended by striking the last paragraph and substituting the following:

"The annual optimum yields for cod are specified as follows: Gulf of Maine—11,380 metric tons; Georges Bank and South—34,960 metric tons."

3. Section II.C.3(c) is amended by striking the last paragraph and substituting the following:

"The annual optimum yield for haddock is 28,254 metric tons for the Gulf of Maine and Georges Bank and South."

4. Section II.C.4.A.(1)(a) is amended by striking "6,000" and substituting "8,880."

5. Section II.C.4.A.(1)(b) is amended by striking "22,000" and substituting "30,960."

6. Section II.C.4.A.(1)(c) is amended by striking the quarterly quotas for cod and substituting the following:

Quarter	Gulf of Maine ¹	Georges Bank and south ¹
Oct. 1-Dec. 31	1,420	5,640
Jan. 1-Mar. 31	1,400	4,800
April 1-June 30	3,180	11,760
July 1-Sept. 30	2,880	8,960
Totals	8,880	30,960

¹ In metric tons.

7. Section II.C.4.A.(3)(a) is amended by striking "18,000" and substituting "23,154."

8. Section II.C.4.A.(3)(b) is amended by striking the paragraph and substituting the following:

It is recommended that the haddock quota for the United States commercial fishery be allocated on a quarterly basis during the fishing year as follows:

Quarter	Gulf of Maine ¹	Georges Bank and south ¹
Oct. 1-Dec. 31	728	1,902
Jan. 1-Mar. 31	767	2,167
April 1-June 30	1,835	7,701
July 1-Sept. 30	1,998	6,256
Totals	5,128	18,026

¹ In metric tons.

9. A new Section II.C.4.E.(5) is added, as follows:

"Vessels which fish for groundfish in more than one management area are entitled to a catch limitation for only one area. The applicable limitation shall be the higher of the established catch limitations for the areas in which the vessel has fished."

The Supplemental Environmental Impact Statement on the OY increases and the "no piggybacking" amendment was filed with the Environmental Protection Agency in draft on April 13, 1979, and in final on June 27, 1979.

The Assistant Administrator finds that an emergency exists under provisions of Executive Order 12044, regarding the amendments to increase the OY's and to eliminate "piggybacking." The OY increases, as specified by the Council, will expire September 30. The "piggybacking" amendment, however, is published as a proposed rulemaking. Public comment on the amendment and regulation is invited for a period of 60 days, or until September 18, 1979.

(16 U.S.C. 1801 *et seq.*)

Appendix A.—Quarterly Quotas

(Revised Effective July 22, 1978)

	Oct.-Dec. 78	Jan.-Mar. 79	Apr.-June 79	July-Sept. 79	Annual
Cod—Gulf of Maine (Commercial):					
Mobile gear					
0-60 GRT	581	699	1277	970	3527
61-125 GRT	342	277	528	539	1686
Over 125 GRT	180	171	110	112	573
Fixed gear	317	253	1265	1258	3094
Total	1420	1400	3180	2880	8880
Cod—Georges Bank and South (Commercial):					
Mobile gear					
0-60 GRT	501	593	1012	582	2688
61-125 GRT	1777	1567	3593	2188	9105
Over 125 GRT	2958	2129	4791	3764	13642
Fixed gear	404	311	2364	2446	5525
Total	5640	4600	11760	8960	30960
Haddock—Gulf of Maine (Commercial):					
Mobile gear					
0-60 GRT	183	146	660	621	1610
61-125 GRT	261	209	343	495	1308
Over 125 GRT	178	202	169	267	816
Fixed gear	106	210	463	615	1394
Total	728	767	1635	1998	5128
Haddock—Georges Bank and South (Commercial):					
Mobile gear					
0-60 GRT	86	40	307	306	739
61-125 GRT	650	662	2805	1877	6094
Over 125 GRT	1133	1393	4169	3322	10017
Fixed gear	33	72	420	651	1176
Total	1902	2167	7701	6256	18026

Signed at Washington, D.C., this 17th day of July, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service

Part 651 is revised to read as set forth below:

(1) Section 651.23 is amended by:

(a) Renumbering paragraph 651.23(a) as 651.23(a)(1) and by adding a new 651.23(a)(2) and (3) as set forth below.

(b) Amending paragraph 651.23(b) by striking the word "trip" and substituting the word "catch".

(c) Amending paragraph 651.23(f)(1) by inserting after the word "exceed" the words "or fall short of".

§ 651.23 Catch limitations.

(a) * * *

(2) A vessel which fishes for cod and haddock in both management areas (Gulf of Maine, Georges Bank and South) during a week or trip may land only the larger of the catch limitations from either area. A vessel may not land catch limitations from both areas.

(3) A vessel which fishes for yellowtail flounder in both management areas (east of 69° W. long., west of 69° W. long.) during a week or trip may land only the larger of the catch limitations from either area. A vessel may not land catch limitations from both areas.

* * * * *

(2) Appendices A and B to Part 651 are revised to read as follows.

Appendix A.—Quarterly Quotas

(Revised Effective July 22, 1979)—Continued

	Oct.-Dec. 78	Jan.-Mar. 79	Apr.-June 79	July-Sept. 79	Annual
Yellowtail Flounder:					
East of 69° West (Commercial and Recreational)					
All classes	810	1500	640	1450	4400
Yellowtail Flounder:					
West of 69° West (Commercial and Recreational)					
All classes	960	1150	830	760	3700

Appendix B.—Catch Limitations

(Revised Effective July 22, 1979)

Cod (pounds/week)*		
Vessel class	Gulf of Maine	Georges Bank & South
0-60 GRT	Closed July 22	7,000
61-125 GRT	Closed April 22	14,000
Over 125 GRT	Closed January 1	20,000
Fixed gear	Closed July 22	18,000

Haddock (pounds/week)*		
Vessel class	Gulf of Maine	Georges Bank & South
0-60 GRT	5,000	7,000
61-125 GRT	Closed April 22	14,000
Over 125 GRT	Closed January 1	20,000
Fixed gear	16,000	16,000

Yellowtail Flounder (pounds/week or trip)*		
Vessel class	West of 69° W.	East of 69° W.
0-60 GRT	Closed April 28	8,000
61-125 GRT	Closed April 28	6,000
Over 125 GRT	Closed April 28	6,000

* No overruns are allowed.

[FR Doc. 79-22565 Filed 7-20-79; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 661

Salmon Fishery; Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon and California

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final Regulations.

SUMMARY: This document makes final the regulations implementing the 1979 amendments to the fishery management plan for the commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California. As a result of a hearing before the District Court of Oregon, on July 11, 1979, in *Confederated Tribes v. Kreps* (C79-541), these regulations are under reconsideration but it was determined to publish them now with notice of the possibility of emergency changes under § 611.12. These regulations were originally published on April 25, 1979, as both proposed rulemaking and emergency regulations. Four petitions were subsequently received requesting a

hearing on the emergency and proposed regulations. Recognizing the widespread interest in the regulations governing the Pacific Ocean salmon fisheries for 1979, the Assistant Administrator for Fisheries determined to conduct a non-oral proceeding. Notice was published in the *Federal Register* on June 4, 1979 establishing the non-oral proceeding and convening a select panel of fishery scientists to review all scientific evidence and comments.

After considering the recommendations of the select panel and public comments, the Administrator approved these regulations on July 27, 1979.

EFFECTIVE DATE: 0001 hours PDT July 18, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Donald R. Johnson, Northwest Regional Director, 1700 Westlake Avenue North, Seattle, Washington 98109, Telephone (206) 442-7575.

SUPPLEMENTARY INFORMATION: Fishery management plan (FMP's) for Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California were adopted for the 1977, and 1978 seasons. The 1979

amendments to the FMP and the corresponding Supplemental Environmental Impact Statement were initially proposed by the Pacific Fishery Management Council (Council) in December 1978. Hearings were held during the public review period (December 8, 1978–February 28, 1979). Data and analyses became available during the public review period which indicated that many of the salmon stocks were likely to be in very low abundance in 1979, which required extending the public comment period and holding additional hearings. The public was invited to comment on the new evidence. The final amendments to the FMP, submitted by the Council in March 1979, are substantially more restrictive of ocean fishing than both the Council's initial proposal and the regulations in effect in 1978.

The four petitions received subsequent to the publication of the proposed and emergency regulations on April 25, 1979 were from: (1) The Washington State Commercial Passenger Fishing Vessel Association; (2) the All Coast Fishermen's Marketing Association; (3) certain Pacific Northwest Indian tribes; and (4) the Columbia River Indian tribes. The Federation of Independent Seafood Harvesters, Inc. submitted a later petition. The petitions requested that special consideration be given as to whether:

(1) Management measures for commercial ocean troll and recreational salmon fishing off the coast of Washington, more restrictive than those provided in the emergency and interim regulations, should be imposed to increase the number of salmon bound for the Columbia River, Washington coastal streams and Puget Sound tributaries for spawning and for allocation to the Indian fishermen, certain tribes being parties to the Columbia River Plan of February 28, 1977.

(2) Scientific evidence would justify more lenient treatment of the Makah Tribe, exempting tribal members from the barbless hook requirement and the 28" chinook minimum total length requirement for 1979.

(3) New evidence might require modifying conclusions regarding status of stocks for 1979.

(4) Scientific evidence indicates that additional emergency regulations further restricting the ocean salmon troll fishery were required in order to prevent overfishing of salmon stocks.

Comments

Eleven comments were received on the emergency ocean salmon regulations prior to announcement of the non-oral hearing (44 FR 32012, June 4, 1979). Most of the respondents requested relief from the 1979 emergency regulations imposed on the commercial troll fishery because they said the resource was in better condition than the Council and the Salmon Plan Development Team had predicted. Other respondents recommended more restrictive ocean fishing regulations in order to protect Treaty Indian fishing rights and to insure an adequate spawning escapement for critically depressed stocks.

One hundred and twenty-two comments were submitted following the Federal Register Notice June 4, 1979 announcing the special non-oral proceeding and the convening of the expert panel. Approximately 50% of those respondents represented commercial fishing interests. One-third of the respondents were divided among recreational anglers, Treaty Indian representatives, seafood processors/distributors, charterboat owners and operators and "others." The remaining 17% were not identified with a particular interest group.

Respondents from the commercial fishing groups opposed the imposition of more restrictive ocean fishing regulations for the purpose of providing for additional salmon escapements to inshore areas. However, many commented that if it became apparent that more restrictive ocean fishing regulations were necessary in order to insure adequate spawning escapements, they could accept the more restrictive regulations only if such regulations were imposed uniformly on all ocean user groups. Commercial fishing respondents said that evidence did not exist which would justify new restrictive regulations in the commercial troll fishery. Most of the commercial fishing respondents believed that Council conclusions regarding the status of stock for 1979 were incorrect.

Such respondents opposed exemption of the Makah Tribe from regulations requiring the use of barbless hooks and minimum-size restrictions for chinook salmon as not being based on sound conservation principles.

Persons representing Treaty Indian fishing interests recommended that more restrictive ocean fishing regulations (commercial troll and recreational) be implemented immediately. They argued that the FCMA requires recognition of Treaty Indian rights and requires

regulations reasonably calculated to fulfill those rights. They said the recent regulations fail to accomplish this mandate and the 1979 regulations were designed to maintain the status quo from 1978, which failed to fulfill Treaty Indian rights and provide for proper escapement in the Columbia River. Certain such respondents expressed belief that the 28" minimum size limit for chinook salmon and the barbless hook requirement were not necessary for conservation and therefore should not apply to the Makah Tribe. The Treaty Tribal respondents also disapproved of § 661.9(e) of the regulations as applied to treaty fishermen in the ocean which states that no persons engaged in commercial fishing shall take or retain steelhead on the grounds this requirement is not necessary for conservation.

Charterboat owners and operators and their representatives favored more restrictive regulations for the commercial troll fishery. However, they were not in favor of any further restrictions on the ocean recreational fishery. The representative for most of the Washington State charterboat owners and operators said that the regulations failed to provide them their fair share of fish. A further comment was that the present system is not reasonably calculated to promote conservation and protect all critically depressed coho stocks.

Recreational anglers, most of whom fish inshore waters, generally supported more stringent commercial ocean fishing regulations on the basis that the status of stocks indicated that more protection was needed for 1979.

Respondents from the seafood processing sector tended to voice the same opinions as the commercial harvesting sector. That is, they opposed more restrictive ocean regulations, discounted pre-season forecasts of stock abundances and rejected regulation modifications for the Makah Tribe.

Finally, all groups cited the destruction of habitat (due to logging practices and dam construction) as a major contributor to the declines in salmon abundance.

Response to Comments

In examining the responses of the petitioners and other commenters as well as the recommendations of the select panel in its report the Assistant Administrator for Fisheries concluded that there was no scientific basis for modifying earlier conclusions regarding status of stocks for 1979 and that management measures more restrictive than those provided in the emergency

and proposed regulations on either the commercial ocean troll fishermen or the recreational fishermen should not be imposed. It was noted however, that the stocks, particularly coho stocks of the North Washington Coast would be closely monitored to determine whether in-seasons action under section 611.12 would be required. This conclusion was made prior to the Supreme Court decision in *Washington v. Washington State Commercial Passenger Fishing Vessel Association* and prior to the July 11, 1979 hearing in *Confederated Tribes v. Kreps* (C79-541). These conclusions and the regulations are being reviewed in light of those legal proceedings. The analysis set out below predates and does not address these legal matters.

The Pacific Fishery Management Council's Plan Development Team in its most recent status of salmon stocks report (June 13, 1979) noted that preliminary data from the 1979 season, although it is necessarily limited, does not indicate the need for any change in the 1979 regulations. Current indices indicate a greater numerical escapement of Columbia River chinook from the ocean in 1979 than was originally anticipated. Although the run size cannot yet be quantified, the expert panel, in its report, noted that the proportion of the chinook run escaping to the Columbia River from the ocean is likely to be greater than in 1978. Very little new data are available on coho since the commercial coho season does not begin until July. The team noted that the coho situation does not look promising and this also was concluded by the expert panel. A low level of catch per unit of effort of coho in the Washington ocean sport fishery during the first part of June could be an indication of a lower than expected return of coho salmon.

There remains concern for uniformity of regulations in different areas to avoid shifts along the coast that could have detrimental effects on many stocks. An increased closure of any length off Washington, which would increase the number of adult salmon escaping to the Columbia River, Washington coast, and Puget Sound tributaries, would result in shifts of fishing effort to areas off Oregon unless the waters in the fishery conservation zone (FCZ) off Oregon were closed. Similarly if the area off Oregon also were closed without a further closure in the FCZ off California, the result would be an effort shift and possible overfishing in waters off California depending on the magnitude of the shift. The management agencies (States and Federal government) have not been able to develop an area

licensing or quota system to moderate effort shifts in their management of the ocean salmon fisheries in 1979.

On the other hand, a closure of the entire area off all three States in order to prevent overfishing caused by effort shifts could lead to overescapement which often results in reduced production of young fish and in wasted fish in some areas particularly off Oregon (south of Cape Falcon) and California where there are no inside terminal fisheries, with the exception of the Klamath River. In addition, changes that might increase escapement to the river systems and provide more fish for spawning and for inside fishermen, including Treaty Indians could be achieved only at a substantial loss to the ocean fishery directed at other stocks along the entire Pacific Coast. Current regulations are considered more restrictive than required for the escapement needs of California stocks, slightly more restrictive than required for Oregon stocks, and somewhat less restrictive than required for certain Washington stocks.

With respect to providing salmon to the Treaty Indian tribes, the United States is party to various treaties which secure a portion of the salmon stocks to the Treaty tribes on the Columbia River and elsewhere in the State of Washington. The United States is also party to the Columbia River Agreement which established in river sharing formulas and goals for the levels of salmon entering the river and bound for the upper Columbia. Good faith effort has been made to increase the proportion of the harvestable fish available to the up-river fishery in compliance with the Columbia River Agreement. In particular, the regulations governing the ocean fishery are intended to: (1) take steps to reduce waste in the ocean harvest and promote efficient utilization of stocks, (2) help achieve the goals of the Agreement through further escapement from the ocean fishery, and (3) make minimal the impact on spring and summer chinook. As noted by the select panel, the proportion of fish escaping from the ocean has steadily increased since the implementation of the first FMP in 1977, and the more stringent regulations this year should continue this trend.

It should be noted, however, that ultimate control over the fate of the salmon resource, including control over allocations in tribal fisheries, is only partly within the authority of the Secretary. The success of Secretarial decisions regarding the management of the ocean fishery is heavily dependent on actions taken by inside management

authorities and, to an even greater extent, on actions taken by those entities with the ability to rehabilitate and/or preserve habitat.

In addition to the treaty obligations, the Council and the Secretary have other statutory obligations under the FCMA. The proposed regulations are designed to comply simultaneously with both "provisions of the Act" and "other applicable law." While the numerical goals set forth in the Agreement may not be achieved this year, the achievement of those goals depends on a number of factors, only one of which is ocean harvest. The FMP specifically recognizes those goals. For example, the optimum yield (OY) specified in the FMP is intended to achieve an average 17% increase in the proportion of upriver fall chinook escaping to inshore waters. This is predicted, over time, to contribute toward meeting the goal for this stock of an average in-river run of 300,000 adult fish.

With regard to the 1979 season, further closure of the salmon fishery north of Cape Falcon would be likely to (1) cause serious dislocation of the ocean fisheries with consequent detrimental impacts on salmon stocks in southern areas which remain open. Unequal closures along the coasts could compound management difficulties since measures to enforce such regulations have not been developed for the fishery. The select panel Report supports this finding and notes that, over time, any additional measures taken in the ocean should be made cautiously and incrementally so that the effects of such actions can be better perceived.

However, the District Court for Oregon has instructed the agency to evaluate whether these final regulations comply with the United States legal obligations to the Indian tribes, and to consider whether additional regulatory measures may be necessary to meet the legal duty. Notwithstanding the concerns expressed with regard to additional closures, such adjustments may be necessary and will be addressed by July 23, 1979. If closures are imposed, the agency will notify the fishing industry through the news and other appropriate broadcast media.

The Makah Tribe, as well as certain other tribes along the Washington Coast, have Treaty fishing rights in the FCZ. In recognition of these rights, the regulations have, since 1977, granted those tribes additional fishing time over that afforded the non-tribe commercial fishery.

Again in 1979, the regulations prohibited the non-tribe harvest of coho prior to July 1. In order to provide tribal

fishermen additional harvest opportunity, the regulations exempted Makah fishermen from this restriction as well as the June 1-30, 1979, commercial closure.

In addition, the Makah Tribe wished to be exempted from the (1) requirement that all commercial fishermen in the FCZ, north of Cape Falcon, use barbless hooks prior to July 1, 1979, and (2) the minimum size limit of 28" for chinook salmon.

There is some argument for exemption from the barbless hook requirement since a major purpose of this gear is to reduce the mortality of coho salmon during the chinook-only season and the Makah, and other coastal tribes, are allowed to retain coho over 16" throughout the season. However, the use of barbless hooks will significantly decrease mortality of sublegal size coho and chinook shakers returned to the ocean. Therefore, their use has merit, especially during the early season, for conservation reasons.

The Makah Tribe maintains that the 28" size limit should not be applied to the tribal fishery since it is not for conservation purposes. This position is based, in part, on the fact that the recreational fishery is permitted to retain 24" chinook. The 28" size limit for chinook is biologically based and is intended to increase the total weight of production and to reduce the catch of immature 3-year-old fish and is intended to increase ocean escapement both for conservation and for inland treaty and non-treaty fisheries. The 24" size limit applying to ocean recreational fishing cannot be compared with the size limit applied to the commercial catch because the objective of recreational fishing is to participate in the catching of fish rather than the harvesting of a large total weight of fish. The lower size limit makes it possible for recreational fishermen to catch larger numbers of fish than would be the case with the larger size limit. However, recreational fishermen, by comparison, are limited to retention of two chinook or coho per day off the Washington Coast. The plan objective of maximizing the weight of the commercial catch is furthered by the 28" size limit, since salmon grow rapidly in the ocean. The Makah fishery is in large part a commercial fishery and the recreational size limit is appropriate.

The Assistant Administrator for Fisheries finds that because the 1979 season is already underway and fishermen are already familiar with these regulations, there is a good cause to make these regulations effective immediately. Final regulations are being

published in order to provide a continuity of an orderly fishery following the time when the emergency regulations terminate on July 18, 1979. If changes are made in response to the legal proceedings, notice will be given as described above, as well as by Federal Register notice.

In accordance with Executive Order 12044, the Administrator of the National Oceanic and Atmospheric Administration has approved these regulations and a regulatory analysis. A copy of the analysis may be obtained by writing to Mr. Donald R. Johnson, address given above.

Signed at Washington, D.C., this the 17th day of July, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

Part 661 is revised as follows:

PART 661—SALMON FISHERIES

Sec.

- 661.1 Purpose.
- 661.2 Relation to U.S.-Canada sockeye and pink salmon convention.
- 661.3 Relation to State laws.
- 661.4 Definitions.
- 661.5 Salmon fishery management areas.
- 661.6 General restrictions.
- 661.7 Facilitation of enforcement.
- 661.8 Penalties.
- 661.9 Commercial fishing.
- 661.10 Recreational fishing.
- 661.11 Treaty Indian fishing.
- 661.12 Emergency regulations.
- 661.13 Catch reports.
- 661.14 Test fisheries.

Authority: 18 U.S.C. 1801 *et seq.*

§ 661.1 Purpose.

The purpose of this Part 661 is to provide for the management of the commercial and recreational salmon fisheries off the coasts of Washington, Oregon and California in the fishery conservation zone (also known as the 3-to-200 mile zone) over which the United States exercises exclusive fisheries management authority (i.e., the Pacific Fishery Management Council Salmon Management Area). This Part 661 implements the Pacific Council's fishery management plan for commercial and recreational salmon fisheries off the coasts of Washington, Oregon and California pursuant to authority conferred by the Fishery Conservation and Management Act of 1976, as amended.

§ 661.2 Relation to U.S.-Canada Sockeye and Pink Salmon Convention.

This Part 661 does not apply to fishing regulated under the Convention for the Protection, Preservation and Extension

of the Sockeye Salmon Fishery of the Fraser River System, as amended by the Pink Salmon Protocol, north of 48° North latitude.

§ 661.3 Relation to State laws.

This Part 661 recognizes that any State law which pertains to vessels registered under the laws of that State, while in the Pacific Council Salmon Management Area, and which is consistent with the salmon management plan, including any State landing law, shall continue to have force and effect respecting fishing activities addressed herein.

§ 661.4 Definitions.

(a) Act—Means the Fishery Conservation and Management Act of 1976, as amended Pub. L. 94-265 (16 U.S.C. 1801-1882).

(b) Authorized Officer—Means:

(1) Any commissioned, warrant, or petty officer of the Coast Guard;

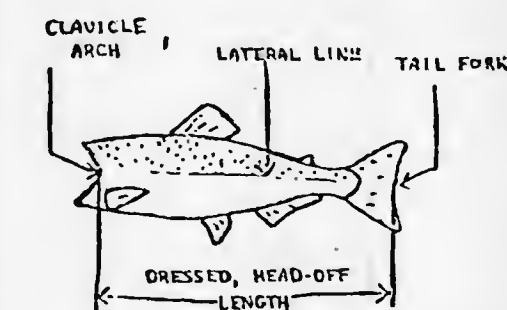
(2) Any certified enforcement agent or special agent of the National Marine Fisheries Service;

(3) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Secretary of Transportation to enforce the provisions of the Act; and

(4) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (1) of this subsection.

(c) Commercial Fishing—Means fishing for the purpose of sale or barter.

(d) Dressed, Head-off Length of Salmon—means the shortest distance between the mid-point of the clavicle arch and the fork of the tail, measured along the lateral line while the fish is lying on its side, without resort to any force or mutilation of the fish other than removal of the head, gills, and entrails.



(e) Dressed, Head-off Salmon—means salmon that have been beheaded, gilled and gutted, without further separation of vertebrae, and are either being prepared

for on-board freezing, or are frozen and will remain frozen until landed.

(f) Fishing—Means:

(1) The catching, taking or harvesting of fish;

(2) The attempted catching, taking or harvesting of fish; or

(3) Any other activity which can reasonably be expected to result in the catching, taking or harvesting of fish.

(g) Fishing Vessel—means any boat, ship or other floating craft which is used for, equipped to be used for, or of a type which is normally used for fishing.

(h) Freezer Trolling Vessel—means a salmon trolling vessel which has capabilities for (1) on-board freezing of the catch, and (2) storage in a frozen state of the catch until it is landed.

(i) Land or Landing—Means bringing fish to shore or off-loading fish from a fishing vessel.

(j) Recreational Fishing—Means fishing for personal use of the catch. The catch, if any, is not used for sale or barter.

(k) Recreational Fishing Gear—Means conventional angling tackle consisting of a rod, reel and line, and hooks with bait or lures attached; recreational fishing gear must be held by hand by the angler while the angler is playing the fish and reducing it to possession.

(l) Salmon—Means any anadromous species of the family Salmonidae and genus *Oncorhynchus*, commonly known as Pacific salmon, including but not limited to:

Chinook (King) salmon—*Oncorhynchus tshawytscha*.

Coho (Silver) salmon—*Oncorhynchus kisutch*.

Pink (Humpback) salmon—

Oncorhynchus gorbuscha.

Chum (Dog) salmon—*Oncorhynchus keta*.

Sockeye (Red) salmon—*Oncorhynchus nerka*.

(m) Total Length of Salmon—Means the shortest distance between the tip of the snout or jaw (whichever extends farthest while the mouth is closed) and the tip of the longest lobe of the tail, without resort to any force (other than fanning or swinging the tail) or mutilation of the salmon.

(n) Secretary—Means the Secretary of Commerce or a Designee.

(o) Single, Barbless Hook—Means a hook with a single shank and point, with no secondary point or barb curving or projected in any other direction. Hooks manufactured with barbs can be made "barbless" by forcing the point of the barb flat against the main part of the point.

(p) Troll Gear—Means commercial fishing gear which consists of one or more lines that drag hooks with bait or lures behind a moving fishing vessel, and which lines originate from a spool or receptacle which is fixed to the vessel during the fishing operation, and no part of this fishing gear is disengaged from the vessel at any time during the fishing operation.

§ 661.5 Salmon Fishery Management Areas.

(a) The Pacific Council Salmon Management Area shall be divided into the following management areas for the regulation of commercial and recreational salmon fishing, with the following boundaries:

(1) Management Area A—(i) Northern limit (the United States-Canada provisional International Boundary) is a line connecting the following coordinates:

48°29'37.19" N. lat., 124°43'33.19" W. long.;
48°30'11" N. lat., 124°47'13" W. long.;
48°30'22" N. lat., 124°50'21" W. long.;
48°30'14" N. lat., 124°52'52" W. long.;
48°29'57" N. lat., 124°59'14" W. long.;
48°29'44" N. lat., 125°00'06" W. long.;
48°28'09" N. lat., 125°05'47" W. long.;
48°27'10" N. lat., 125°08'25" W. long.;
48°26'47" N. lat., 125°09'12" W. long.;
48°20'16" N. lat., 125°22'48" W. long.;
48°18'22" N. lat., 125°29'58" W. long.;
48°11'05" N. lat., 125°53'48" W. long.;
47°49'15" N. lat., 126°40'57" W. long.;
47°36'47" N. lat., 127°11'58" W. long.;
47°22'00" N. lat., 127°41'23" W. long.;
46°42'05" N. lat., 128°51'58" W. long.;
46°31'47" N. lat., 129°07'39" W. long.

(ii) Southern limit: 45°46'00" N. lat. (Cape Falcon).

(2) Management Area B—(i) Northern limit 45°46'00" N. lat. (Cape Falcon).

(ii) Southern limit: 42°00'00" N. lat. (Oregon-California border).

(3) Management Area C—(i) Northern limits: 42°00'00" N. lat. (Oregon-California border).

(ii) Southern limit: (United States-Mexico International Boundary) is a line connecting the following coordinates:

32°35'22.11" N. lat., 117°27'49.42" W. long.;
32°37'37.00" N. lat., 117°49'31.00" W. long.;
31°07'58.00" N. lat., 118°38'18.00" W. long.;
30°32'31.20" N. lat., 121°51'58.37" W. long.

(b) Any person fishing subject to this Part 661 shall be bound by the above described international boundaries, notwithstanding any dispute or negotiation between the United States and any neighboring country regarding their respective jurisdictions, until such time as new boundaries are published by the United States.

(c) The inner boundary of each Management Area is a line coterminous

with the seaward boundaries of the States of Washington, Oregon and California (the 3-mile limit), and the outer boundary of each Management Area is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.

§ 661.6 General Restrictions.

The following restrictions apply to all commercial and recreational salmon fishing in Management Areas A, B, and C, except that the restrictions in this Part 661 shall not apply to fishing for pink and sockeye salmon regulated under the Convention for the Protection, Preservation, and Extension of the Sockeye Salmon Fishery of the Fraser River System, as amended by the Pink Salmon Protocol, North of 48° north latitude.

(a) No person shall use nets to fish for salmon except that a hand-held net may be used to bring hooked salmon on board a vessel.

(b) No person shall fish for, take or retain any species of salmon:

(1) During closed seasons or in closed areas specified in this Part;

(2) By means of gear or methods prohibited by this Part; or

(3) Once any catch limit specified in this Part is attained.

(c) No person shall take and retain any species of salmon which is less than the minimum length specified in this Part [see Subsections 661.4 (d), (e) and (h), 661.6 (f), (g), and (h), and 661.9 (c) regarding "Dressed, Head-off" salmon aboard a "Freezer Trolling Vessel"].

(d) No person shall fail to unhook and return to the water immediately and with the least possible injury any salmon the retention of which is prohibited by this Part.

(e) No person shall possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, export, or land any species of salmon or salmon part which was taken in violation of the Act, this Part, or any regulation issued under the Act.

(f) No person shall possess on board a fishing vessel any salmon taken in the Pacific Council's Salmon Management Area for which a minimum total length is set by these regulations, in such condition that its total length cannot be determined; except that "Dressed, Head-off" salmon, [as defined in § 661.4(e)] may be possessed aboard a "Freezer Trolling Vessel" [as defined in § 661.4(h)].

(g) No person, while fishing, shall possess on a fishing vessel during an open season in any Pacific Council Salmon Management Area, any salmon which is less than the minimum total

length for that species in that Management Area; except that "Dressed, Head-off" salmon [as defined in § 661.4(e)] aboard a "Freezer Trolling Vessel" [as defined in § 661.4(h)] shall not be less than the "Dressed, Head-off Length" [as defined in § 661.4(d)] for that species in that Management Area.

(h) No person, while on board a fishing vessel, shall mutilate or otherwise disfigure any salmon in a manner which extends its length to conform to any minimum "Total Length" or "Dressed, Head-off Length" requirement specified in this Part. Salmon may be gilled and gutted, if in doing so there is no separation of vertebrae. In addition, on board a "Freezer Trolling Vessel" [as defined in § 661.4(h)] salmon may be prepared for on-board freezing [as defined in § 661.4(e)] if in doing so there is no further separation of vertebrae.

(i) No person shall:

(1) Refuse to permit an Authorized Officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this Act, this Part, or any other regulation issued under the Act;

(2) Forcibly assault, resist, oppose, impede, intimidate or interfere with any Authorized Officer in the conduct of any search or inspection described in paragraph (1) of this subsection;

(3) Resist a lawful arrest for any act prohibited by this Part; or

(4) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person by any Authorized Officer, knowing that such other person has committed any act prohibited by this Part.

§ 661.7 Facilitation of Enforcement.

The operator of each fishing vessel shall immediately comply with instructions issued by Authorized Officers to facilitate safe boarding and inspection of the vessel for purposes of enforcing the Act and this Part.

§ 661.8 Penalties.

Any person or fishing vessel found to be in violation of this Part 661 will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Act.

§ 661.9 Commercial fishing.

(a) Open seasons and areas. The Pacific Council Salmon Management Area is closed to commercial salmon fishing except as opened by this Part or by superseding regulations. All open seasons shall begin at 0001 hours and terminate at 2400 hours local time on the dates specified herein.

(1) In Management Area A, the open season for salmon fishing shall be as follows:

(i) The season for all salmon species, except coho, shall begin on May 1, 1979 and terminate on May 31, 1979.

(ii) The season for all salmon species, including coho, shall begin on July 1, 1979 and terminate on September 8, 1979.

(2) In Management Area B, the open season for salmon fishing shall be as follows:

(i) The season for all salmon species, except coho, shall begin on May 1, 1979, and terminate on May 31, 1979.

(ii) The season for all salmon species, including coho, shall begin on July 1, 1979, and terminate on September 15, 1979.

(iii) The season for all salmon species except coho, shall re-open on September 16, 1979, and terminate on October 31, 1979.

(3) In Management Area C, the open season for salmon fishing shall be as follows:

(i) The season for all salmon species, except coho, shall begin on May 1, 1979, and terminate on May 23, 1979.

(ii) The season for all salmon species, including coho, shall begin on May 24, 1979, and terminate on June 15, 1979.

(iii) The season for all salmon species, including coho, shall re-open on July 1, 1979, and terminate on September 30, 1979.

(b) *Gear restrictions.* (1) No person shall engage in commercial salmon fishing using other than troll gear in the Pacific Council Salmon Management Area. However, in Management Area C, troll gear need not be fixed to the fishing vessel as specified in 661.4(p).

(2) No person shall engage in commercial salmon fishing in the Pacific Council Salmon Management Area using other than single, barbless hooks prior to July 1, 1979 in Management Areas A and B; or prior to May 24 in Area C; except that bait hooks with natural bait attached as the primary attraction and hooks on artificial salmon plugs may be barbed. Spoons, wobblers, dodgers, and flexible plastic lures shall not be considered artificial salmon plugs under this subparagraph, and therefore must be equipped with barbless hooks in all Management Areas, and during the time periods described in this subparagraph 661.99(b)(2).

(c) *Length Restrictions.* Minimum total length of salmon and minimum dressed, head-off length of salmon are as follows:

Area	Species	Minimum—total length ¹	Minimum—dressed, head-off length ¹
Area A	Chinook	28	21½
	Coho	16	12
Area B	Chinook	26	19½
	Coho	16	12
Area C	Chinook	26	19½
	Coho	22	16½
All Areas	Species other than Chinook and Coho	None	None

¹ In inches.

(d) *Vessel Inspection and Certification.* Any vessel 26 feet or longer with coho salmon on board in Management Area C between May 24 and June 2, 1979, shall have on board documentation of 1979 hold inspection required by the State of California.

(e) *Steelhead.* No person engaged in commercial fishing shall take and retain or possess any steelhead (*Salmo gairdneri*) within the Pacific Council Salmon Management Area.

§ 661.10 Recreational fishing.

(a) *Open seasons and areas.*—The Pacific Council Salmon Management Area is closed to recreational salmon fishing except as opened by this Part or by superseding regulations. All seasons shall begin at 0001 hours and terminate at 2400 hours local time on the dates specified herein.

(1) In Management Areas A and B, the season shall open on May 12, 1979, and terminate on September 16, 1979.

(2) In Management Area C, the season shall open on February 17, 1979, and terminate on October 14, 1979.

(a) *Gear restrictions.*—(1) No person shall engage in recreational salmon fishing in the Pacific Council Salmon Management Area using other than recreational fishing gear as defined in Part 661.4(k), to which may be attached not more than one artificial lure or natural bait, with no more than four single or multiple hooks.

(2) No person shall use more than one rod and line for recreational salmon fishing in Management Areas A and B; however, there shall be no limit to the number of rods and/or lines used for recreational salmon fishing in Management Area C.

(3) No person engaged in recreational fishing for salmon in Management Area C may use weights of more than four (4) pounds attached directly to the line.

(c) *Length restrictions.*—Minimum total lengths of salmon are as follows:

Area	Species	Minimum—total length ¹
Area A	Chinook	24
	Coho	16
Area B	Chinook	22
	Coho	16
Area C	Chinook and Coho	22 ²
All	Species other than Chinook and Coho	None

¹ In inches.

² Except that one chinook or coho salmon per day may be less than 22 inches but not less than 20 inches.

(d) *Catch limits.* No person shall take and retain, or possess more than two chinook or coho salmon in the aggregate per day while in the Pacific Council Salmon Management Area; except that in Area A the catch and possession limit shall be three salmon, no more than two of which shall be chinook or coho salmon.

§ 661.11 Treaty Indian Fishing.

(a) Persons entitled to exercise rights under the Treaty with the Makah may fish for all salmon species in that portion of Management Area A north of 48°07'36" North latitude (Sandy Point) from 0001 hours on May 1, 1979, to 2400 hours on October 31, 1979. Except as specified by this subsection (a), such persons are subject to the provisions of this Part 661, the Act, and any other regulation issued under the Act.

(b) Members of the Quileute and Hoh Tribes entitled to exercise rights under the Treaty of Olympia, may fish for all salmon species in that portion of Management Area A south of 48°07'36" North latitude (Sandy Point) and north of 47°31'42" North latitude (mouth of Queets River) from 0001 hours on May 1, 1979, to 2400 hours on October 31, 1979. Except as specified by this subsection (b), such persons are subject to the provisions of this Part 661, the Act, and any other regulations issued under the Act.

(c) Members of the Quinault Tribe entitled to exercise rights under the Treaty of Olympia, may fish for all salmon species in that portion of Management Area A south of 47°40'5" North latitude (Destruction Island) and North of 46°53'3" North latitude (Point Chehalis) from 0001 hours on May 1, 1979, to 2400 hours on October 31, 1979. Except as specified by this subsection (c), such persons are subject to the provisions of this Part 661, the Act, and

any other regulations issued under the Act.

(d) The Secretary will give due consideration in promulgating emergency regulations under § 661.12 to the treaty fishing rights of Indian tribes with usual and accustomed fishing grounds in the area affected by such regulations.

§ 661.12 Emergency Regulations.

(a) The Secretary may issue emergency regulations under Section 305(e) of the Act, if an emergency involving the salmon resource is determined to exist. Emergency regulations will be announced by publication of a notice in the *Federal Register*. Information on emergency regulations will be disseminated to affected persons through appropriate news media.

(b) The Council may, at any time, make recommendations to the Secretary for emergency regulations under this section.

§ 661.13 Catch Reports.

This Part recognizes that catch and effort data necessary for implementation of this Fishery Management Plan shall be collected by the States of Washington, Oregon and California under existing State data collection provisions. No additional catch reports will be required of fishermen or processors as long as the data collection and reporting systems operated by state agencies continue to provide the Secretary with statistical information adequate for management. Reporting requirements may be promulgated by emergency regulations if this reporting system becomes inadequate for management purposes.

§ 661.14 Test Fisheries.

The Secretary may, upon recommendation of the Pacific Council, allow in the Pacific Council Salmon Management Area such limited test fisheries for scientific purposes as may be proposed by the Pacific Council, the Federal Government, State Governments and Treaty Indian Tribes having usual and accustomed fishing grounds in the Pacific Council Salmon Management Area.

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Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

COST ACCOUNTING STANDARDS BOARD

[4 CFR Parts 417, 418, and 419]

Cost Accounting Standards; Indirect Cost Allocation

AGENCY: Cost Accounting Standards Board.

ACTION: Proposed Rule.

SUMMARY: The Board on March 16, 1978 proposed five Standards which would deal with the allocation of various indirect costs. After analysis of the five proposed Standards in the light of comments submitted in response to them, the Board concluded that the issues being dealt with could be covered in three, rather than five, Standards. The Standards have been revised and the resultant three Standards are being published today for comment. When adopted the Standards will apply to negotiated national defense contracts subject to Pub. L. 91-379.

DATE: Comments are due September 20, 1979.

FOR FURTHER INFORMATION CONTACT: Arthur Schoenhaut, Executive Secretary, Cost Accounting Standards Board 441 G Street N.W., Washington, D.C. 20548, 202-275-6111.

SUPPLEMENTARY INFORMATION: On March 16, 1978, the Cost Accounting Standards Board published five proposed Cost Accounting Standards on cost allocation. The proposals were Part 417—Distinguishing Between Direct and Indirect Costs; Part 418—Allocation of Service Center Costs; Part 419—Allocation of Material—Related Overhead Costs; Part 420—Allocation of Manufacturing, Engineering and Comparable Overhead Costs; Part 421—Allocation of Indirect Costs. Comments were received from 86 sources on the proposals.

One frequent comment was that it was not necessary to have five separate Standards to deal with these cost allocations. Various suggestions were

made as to ways in which the proposals could be combined. Upon further analysis of the proposals in the light of these comments and additional research data obtained from a number of contractors, it appears feasible to reduce the number of Standards to three. Proposed CAS 417 continues to be a separate proposal. For the reasons set forth below, the Board now proposes to combine the originally proposed Standards 418 and 421 into a single proposal designated as CAS 418—Allocation of Indirect Cost Pools. Similarly the originally proposed CAS 419 and 420 are now merged into a single proposal identified as CAS 419—Allocation of Overhead Costs of Productive Functions and Activities.

Another prevalent comment received in response to the proposals was that promulgation of the five Standards in their original form would lead to unnecessary proliferation of indirect cost pools. The Board has examined the reasons for this concern and concludes that readers anticipated that the proposals, if adopted, might be administered and construed to compel the established of separate pools in circumstances under which the Board would not consider such separation to be necessary. As detailed in the discussion of the individual Standards being proposed today, revisions have been made to avoid generation of unnecessary pools.

Cost Accounting Standard 417—Distinguishing Between Direct and Indirect Costs

As proposed today, Cost Accounting Standard 417 provides criteria designed to achieve consistency in determining which costs shall be specifically identified with and allocated to the final cost objectives of a period as direct costs. All costs that satisfy these criteria must be accounted for as direct costs. Generally, costs not meeting the criteria for a direct cost shall be classified as indirect costs. This proposal reflects the following conclusions by the Board with respect to comments on the original proposal.

1. *Definitions.*—A number of comments discussed the Board's definitions of "Direct Cost", "Indirect Cost", and "Indirect Cost Pool". Many commentators said that limiting these definitions solely to the relationship of incurred costs to "final" cost objectives

could cause problems. These definitions were originally promulgated in 1972. The Board's research covering the ensuing 7 years has not produced any evidence of a significant problem in the costing and administration of contracts resulting from the use of these definitions. The Board therefore proposes to retain the original definitions without change.

Comments also questioned the meaning of the terms "resource" and "homogeneous indirect cost pools," as those terms were used in the fundamental requirement of the originally proposed CAS 417. In response, the Board has included a definition of "resource" in its revisions to proposed CAS 417 and 418, and has deleted references to "homogeneous indirect cost pools" in CAS 417. Issues relating to such indirect cost pools will be dealt with in Standards that are more specifically concerned with indirect cost allocations (cf. proposed revision of Cost Accounting Standard 418).

2. *Clear and exclusive test.*—Several commentators criticized the requirement that there must be a clear and exclusive beneficial or causal relationship between the incurrence of a cost and a final cost objective to allow the cost to be accounted for as a direct cost. They believe this requirement is too rigid and could drastically restrict direct cost classification.

The concept of a clear and exclusive beneficial or causal relationship as a primary characteristic of a direct cost has long been recognized in Government contract cost accounting. The Board believes that inclusion of this criterion in the proposed Standard, therefore constitutes a minimal constraint. Although some changes in the wording of § 417.50(a), have been made to clarify the Board's intent, the basic requirement has been retained.

3. *Costs of a resource that vary with its consumption.*—The proposal published on March 18, 1978, provided that, "Costs identified with a resource used directly on or applied directly to a final cost objective shall be limited to the costs of that resource that vary directly with its consumption." This was widely misinterpreted as dealing with variable costs as contrasted with fixed costs. The primary purpose of this provision was to indicate that if a contractor desires to include costs such as fringe benefits and material related

expenses as part of direct labor and direct material costs, he could do so only if the costs varied directly with the consumption of the direct labor or direct material. In considering the comments received on this point, the Board concluded that a statement of this type was not necessary in this Standard and it has been deleted.

4. *Interchangeability.*—The March 16, 1978, proposal contained a provision, § 417.50(b), authorizing the averaging of unit costs in determining the amount of direct cost allocable to individual final cost objectives covering quantities of labor, material, etc., that are specifically identified with the final cost objectives. This provision required that the resources, the costs of which are to be averaged, be interchangeable. Several commentators questioned the interchangeability requirement, contending that this was too restrictive. The Board considers the situations covered by this provision to be comparable to those where the use of labor-rate Standards or material-price Standards are authorized under 4 CFR 407. The interchangeability requirement is intended to insure the homogeneity of the resources whose costs are being averaged, and is similar to the requirements spelled out in more detail in § 407.50 (a) and (b). The provisions of § 417.50(b) have therefore been retained with only minor wording changes to conform with the definition of the term, "resource."

5. *Cost accounting treatment for service centers, process cost centers, etc.*—The earlier proposal, in § 417.50(c), required that costs allocated to final cost objectives from a service center were to be treated as "other direct costs" to preclude treatment of those costs as direct labor or direct material cost. This treatment was proposed because allocations from service centers are generally made on a composite cost basis for services provided by the service center. Nonetheless many commentators objected to this limitation, and suggested that contractors should be able to allocate costs separately as direct labor, direct materials, other direct costs, and overhead if the contractor maintains the cost breakouts required for such separate identification.

The earlier proposal also contained a provision, § 417.50(d), that was intended to cover process cost centers and other situations in which there was common production of goods for a number of different final cost objectives. It authorized treatment of the costs incurred in such situations as direct costs provided that allocation was made

on the basis of a cost per unit of output. Objections were also raised to limiting the coverage to the production of "goods" and limiting the basis for allocation to units of output.

In response to these comments on paragraphs § 417.50 (c) and (d), the Board has combined them into a new § 417.50(c). This paragraph covers the common production, in process cost centers, service centers, etc., of both goods and services. This new provision permits the separate identification of direct labor costs, direct material costs, other direct costs, and overhead costs. It also provides for allocation, as direct costs of final cost objectives, to be made on the basis of either resource consumption or output.

6. *"Blanket" (distributed) direct costs.*—A number of commentators recommended that the Standard provide for so-called "blanket" (distributed) direct labor and direct material costs. This refers to the practice, common in certain types of businesses, of accumulating and separately allocating the costs that are incurred directly in the production of goods or services required by multiple final cost objectives in increments too small and numerous to justify the record keeping that would be necessary to provide specific identification. The allocation in these circumstances is made separately for the labor or material costs, by means of various types of averaging techniques, standard costs, or algorithmic measures.

The Board has partially accepted this recommendation by proposing to provide, also in § 417.50(c), for allocations of "blanket" direct labor and direct material costs as direct costs. However such allocations must be made in conformance with 4 CFR 418.50(b) (1) and (2). The Board believes that cost distributions using allocation bases that do not conform to this requirement are too remote from specific identification to merit classification as direct costs.

Cost Accounting Standard 418—Allocation of Indirect Cost Pools

Cost Accounting Standard 418 being proposed today provides guidance for the accumulation of costs in indirect cost pools and the selection of allocation measures based on the beneficial or causal relationship between the costs and the benefiting cost objective. The proposal provides guidance for evaluating the homogeneity of an indirect cost pool and establishes a hierarchy of allocation measures. The hierarchy is (1) a measure of resource consumption, (2) an output measure, (3) a surrogate for consumption, or (4) a

measure representative of the entire activity being managed.

The determination that the allocation of pooled costs to cost objectives is in reasonable proportion to the beneficial or causal relationship of the pooled costs to those cost objectives, is satisfied when the allocation base used is the best available representation of resource consumption. Therefore when steps (1) and (2) of the hierarchy of allocation measures are applied, the necessary degree of specific identification of the cost of resource consumption is obtained and such costs may be accounted for as direct costs in accordance with the provision of CAS 417.50(c). Allocation bases which are in accordance with steps (1) and (2) are measures of the activity being performed—either the consumption of resources or the output of the activity—as opposed to allocation bases provided by steps (3) and (4) which are measures derived from the activity of the cost objective causing the costs or receiving the benefit. Accordingly, bases derived under steps (3) and (4) do not provide the necessary degree of specific identification of the cost of resource consumption and such costs may be accounted for only as indirect costs.

The costs of resources used are initially allocated to an indirect cost pool or to a final cost objective. The indirect cost pools are intermediate cost objectives under the full costing concept of cost allocation as used by the Board. Indirect cost pools can be allocated periodically (e.g., at the end of an accounting period) or continuously as they occur (e.g., through the use of a computer program or a preestablished rate). Indirect cost pools are either productive (e.g., process cost center) pools, service (e.g., service center) pools, overhead pools or general and administrative (G&A) cost pools. Costs are allocated from these cost pools in accordance with the hierarchy of allocation base preferences to other indirect cost pools and to final cost objectives until all costs are accumulated in final cost objectives, thus determining the total cost of those final cost objectives. Costs accumulated in indirect cost pools can be allocated to other indirect cost pools, to overhead pools, to G&A pools and to final cost objectives.

Commentators observed that the principles and concepts in the originally proposed CAS 421 were the same as in the other four proposed indirect cost allocation Standards and suggested that there was no need for the proposed CAS 421 which set forth criteria and guidance for items of indirect cost not covered by

a specific Standard. The Board believes that the need for these criteria and guidance continues by that it can be provided within the framework of CAS 418 being proposed today. Similarly, in line with the combining of the two Standards and the comments received there is no need to deal with the term service center since the concept of service center is within the scope of the term "indirect cost pool."

1. Relationship to other standards.—Several commentators indicated doubt as to the relationship of coverages in the five allocation Standards published in March 1978. They were concerned about the possibility that some indirect cost might be covered by more than one allocation Standard despite the statement to the contrary in the purpose section of the previously proposed CAS 421. To deal with this concern, a provision has been included in the revised Fundamental Requirement, that indirect costs whose allocation is provided for in any other Cost accounting standard (e.g., 4 CFR 410 and proposed 4 CFR 419) shall not be allocated under this standard.

2. Charges for services.—Commentators voiced a number of concerns relating to the allocation of the cost of service centers to various cost objectives of a business unit. The commentators were concerned that the originally proposed Standard 418 would prevent their making "casual sales" of services to outsiders; that the sale of services would be required to be at cost rather than at a market determined price; and that management would be required to charge other parts of its business organization the full cost of the services rather than a management determined amount. All of the above concerns relate to managerial needs and decisions and are not infringed upon by the requirements of the standard. The originally proposed Standard would not have prevented management from making sales of services, nor would it have set the "price" at which services must be sold. Further, it would not have established the amounts which management charges its departments or other segments for budgetary or other management reasons. It would have established the cost accounting to determine the cost of services which are allocated to Government contracts. Accordingly, the Board has made no change in this aspect of the Standard being proposed today.

3. Use of pre-established rates.—The earlier proposal on Allocation of Service Center costs provided guidance for using Standard Cost in allocating the costs of a service center. A number of

commentators acknowledged that the use of the term "Standard Cost" was appropriate for Cost Accounting standard 407, but said that for the purpose of allocating indirect cost pools including service centers the term "pre-established rates" was more appropriate and more widely understood. The Board agrees and has revised the proposal to incorporate the term "pre-established rates."

4. Revision of indirect cost rates.—Commentators expressed uncertainty over the requirements of the proposal concerning the revision of indirect cost rates. The Board believes that indirect cost rates should be reviewed as needed to properly reflect the anticipated costs and activities for the full cost accounting period. The revised proposal includes changes to clarify the requirement that indirect cost rates be annualized and to provide guidance for interim revisions of annual rates.

5. Allocation of costs among service centers.—Respondents characterized the previously published § 418.50(d) as being unduly rigid and restrictive regarding the allocation of costs among service centers. The Board has changed the requirements in the previously published § 418.50(d). As now proposed in § 418.50(e), any method of recognizing services rendered to other indirect cost pools is allowed as long as the allocation method achieved results not significantly different from those that would be provided by cross-allocation among indirect cost pools.

Cost Accounting Standard 419—Allocation of Overhead Costs of Productive Functions and Activities

Cost Accounting Standard 419 being proposed today is entitled "Allocation of Overhead Costs of Productive Functions and Activities." It covers the overhead costs incurred in the production of all goods and services and provides criteria for establishing overhead cost pools. These costs are part of a business unit's indirect costs. The proposed Standard also provides criteria concerning the composition of pools and the composition and selection of allocation bases.

1. Potential proliferation of overhead pools.—Many commentators expressed concern that Standards 419 and 420 as previously proposed would result in an unnecessary proliferation of overhead pools. The Standard being proposed today has been phrased in terms which the Board believes more clearly describes the circumstances in which separate overhead pools are needed. As a consequence, the Standard being

proposed should eliminate much of this concern.

a. Material-related overhead costs.—A number of commentators suggested that material-related overhead costs should be included in cost pools with other overhead costs and that allocation bases used for the other overhead pools can properly allocate such material-related overhead costs. Other commentators were of the opinion that material-related activities are in essence no different from other productive activities. Some said that material-related overhead costs are not significant for some contractors. For these reasons commentators said the originally proposed CAS 419 was unnecessary.

The Board agrees that the previously proposed CAS 419 is unnecessary as a separate Standard. Material-related overhead costs can be dealt with in the same Standard dealing with other overhead costs of productive functions and activities.

b. Definition and use of the term "Productive Activity."—The proposed definition of "Productive Activity" said in part, "A manufacturing operation, such as machining, assembling and heat treating in the manufacturing functions * * * (Emphasis added.) A large number of commentators expressed concern that use of "operation" and "heat treating" in the context of the originally proposed CAS 420 might result in contractors being required to establish an inordinate number of overhead pools.

The word "operation" does not mean that each detailed process required in the production of goods or services constitutes a "productive activity." It refers only to a major process or a group of such processes. For this reason, reference to "heat treating" has been deleted.

(c) Materiality test.—The previously proposed CAS 420 would have required separate overhead pools whenever a business unit performed productive functions or activities disproportionately on cost objectives. Many commentators expressed concern that application of this requirement to productive activities would result in an unreasonable proliferation of overhead pools.

The Board's objective is to assure that the beneficial or causal relationships governing the contractors' overhead allocations are reflected in the cost accounting practices of contractors generally. A large number of contractors already maintain overhead pools for productive activities. Others will be required to establish overhead pools for productive activities to accomplish the

objective of the Standard. To minimize the possibility of unreasonable proliferation of overhead pools, however, a special materiality test is included in the Standard being proposed today. The creation of additional overhead pools would not be necessary unless the additional pools would result in a materially different allocation of overhead costs to a significant contract subject to the proposed Standard. A material difference occurs when the allocation to any such contract by the addition of any pool differs by 5 percent or more from the amount that would otherwise be allocated to that contract. Establishment of additional overhead pools making no significant difference in cost allocation to contracts is not warranted even if the productive functions or activities are performed disproportionately on the contracts. The proposed Standard leaves to the parties to determine which contracts are significant. Other tests were considered for use in determining which contracts are significant, such as (1) the absolute dollar amount of a contract, or (2) the relationship of the contract amount to the business unit's total revenue.

The Board also considered overall measures of materiality that would result in (1) not requiring an additional pool unless its creation would result in a change in the amount allocated to any covered contract which would be greater than a specified percentage of the value of the overhead pool, and (2) not requiring an additional pool unless its creation would result in a change in the amount allocated to any covered contract which would exceed an absolute dollar amount.

Another approach considered by the Board was to base materiality on the impact of any change in allocation on an overall basis, such as (1) the change between the allocation to all of a contractor's covered contracts as a group and all of its other contracts, or (2) the change in allocation among different types of contracts subject to the Standard (i.e., firm-fixed price, fixed price incentive, cost-plus-fixed fee, etc.).

The Board is interested in your views on the desirability of using a particular objective or subjective materiality measure. The Board also invites comments on the merits of using the materiality test set forth in the proposed Standard compared with other possible materiality tests including those described above.

2. Composition of a pool.—The previously proposed CAS 420 provided that costs of special facilities such as wind tunnels, space chambers and reactors generally should be excluded

from overhead pools. A number of commentators suggested that this was an improper treatment and that the cost of these facilities should be treated as normal overhead costs.

These facilities normally are used by a limited number of cost objectives. The Board believes that the facilities costs, therefore, should be allocated only to those cost objectives. Accordingly, the Standard being proposed today provides that such costs, if material, generally must be excluded from overhead cost pools, unless the base used for allocating the overhead cost pools reasonably represents the usage of such special facility by each cost objective. However, a materiality test similar to that governing the establishment of overhead pools is included in the Standard which would permit the costs of special facilities to be included in overhead cost pools if they meet the test.

3. Allocation bases.

a. Uncompensated overtime hours.—Under the previously proposed CAS 420, uncompensated overtime hours directly worked on cost objectives would be included in a direct labor hour base. A number of commentators said that controlling and recording such overtime hours would be difficult.

The cost that would result from requiring the uncompensated overtime hours to be controlled and recorded appears to outweigh the benefits to be derived. Accordingly, this requirement is being omitted from the Standard being proposed today.

b. Purchased Labor.—The previously proposed CAS 420 contained a requirement for the use of a direct labor hour base whenever a contractor used purchased labor under certain conditions. Commentators stated that this restriction was unnecessary and recommended that use of a direct labor cost base be permitted. Because this recommendation has merit whenever an equivalent labor cost can be established for purchased labor, use of a direct labor cost base is permitted under the proposal being published today.

c. Customer furnished materials.—The previously proposed CAS 419 provided for inclusion of the value of customer furnished materials in a direct material cost base. Most commentators deemed this requirement to be impractical. They noted that frequently an accurate value is impossible to obtain; reaching agreements as to the value would be time consuming and difficult; or the value cannot be obtained in a timely manner to be reflected in contractor's proposals. The Board is persuaded that the costs involved in

determining and including the value of customer furnished materials in a direct material base would outweigh the benefits to be derived in most instances. Accordingly, this requirement has been changed to provide that if the parties can agree on the value of customer furnished materials, such value may be included in the allocation base.

d. Stock or product inventory.—A member of commentators suggested that whenever items are produced for stock or product inventory, and there is a separate material-related overhead pool, costs should be allocated only once to these items. The Board agrees and has revised the Standard accordingly.

1. Part 417 is proposed to read as follows.

PART 417—DISTINGUISHING BETWEEN DIRECT AND INDIRECT COSTS

Sec.

417.10 General applicability.

417.20 Purpose.

417.30 Definitions.

417.40 Fundamental requirement.

417.50 Techniques for application.

417.60 Illustrations.

417.70 Exemptions.

417.80 Effective date.

Authority: Sec. 719 of the Defense Production Act of 1950, as amended, Pub. L. 91-379, 50 U.S.C. App. 2168.

§ 417.10 General applicability.

General applicability of this Cost Accounting Standard is established by § 331.30 of the Board's regulations on applicability, exemption, and waiver of the requirement to include the Cost Accounting Standards contract clause in negotiated defense prime contracts and subcontracts (4 CFR 331.30).

§ 417.20 Purpose.

The purpose of this Cost Accounting Standard is to provide criteria for distinguishing direct costs from indirect costs based on the relationship of costs to final cost objectives.

§ 417.30 Definitions.

(a) The following are definitions of terms prominent in this Standard:

(1) *Allocate*. To assign an item of cost, or a group of items of cost, to one or more cost objectives. This term includes both direct assignment of cost and the reassignment of a share from an indirect cost pool.

(2) *Cost objective*. A function, organizational subdivision, contract or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capitalized projects, etc.

(3) *Direct cost.* Any cost which is identified specifically with a particular final cost objective. Direct costs are not limited to items which are incorporated in the end product as material or labor. Costs identified specifically with a contract are direct costs of that contract. All costs identified specifically with other final cost objectives of the contractor are direct costs of those cost objectives.

(4) *Final cost objective.* A cost objective which has allocated to it both direct and indirect costs, and, in the contractor's accumulation system, is one of the final accumulation points.

(5) *Indirect cost.* Any cost not directly identified with a single final cost objective, but identified with two or more final cost objectives or with at least one intermediate cost objective.

(6) *Indirect cost pool.* A grouping of incurred cost identified with two or more cost objectives but not identified with any final cost objective.

(7) *Resource.* A unit of labor, materials, or other type of input to the productive or administrative activities of a business.

§ 417.40 Fundamental requirement.

(a) The cost of a resource shall be accounted for as a direct cost and shall be allocated only to a final cost objective if:

(1) The beneficial or causal relationship between the incurrence of the cost and that final cost objective is clear and exclusive; and,

(2) The amount of the cost is readily and economically measurable without undue administrative effort; and,

(3) All other costs incurred for the same purpose in like circumstances can be identified specifically with particular final cost objectives and accounted for as direct costs in compliance with 4 CFR Part 402.

(b) Costs which do not satisfy the criteria of (a) above shall be identified and account for as indirect costs of final cost objectives.

§ 417.50 Techniques for application.

(a) The relationship between the incurrence of the cost of a resource and a final cost objective is clear and exclusive if the resource is identifiable with that final cost objective, and can be measured and separated from resources used on other cost objectives without undue administrative effort.

(b) The amount of cost to be allocated as a direct cost to final cost objectives may be determined on the basis of an average cost of the resources used or applied whenever the resources are interchangeable.

(c) Notwithstanding the requirements of paragraph 40(a), whenever costs incurred in the common production of goods or services required by multiple cost objectives are allocated to final cost objectives in accordance with 4 CFR 418.50(b)(1) and (2), such costs may be accounted for as direct costs. When accounted for in this manner, they may be allocated to the final cost objectives by charges covering all cost elements for each unit of output, or separately as direct labor, direct materials, other direct costs, or overhead. In making the allocations covered under this provision, average or standard costing techniques may be used.

(d) Direct costs of minor dollar amount may be accounted for as indirect costs as provided for in 4 CFR 402.50(e).

§ 417.60 Illustrations.

(a) Contractor A has various classifications of engineers whose time is spent in working directly on the production of the goods or services called for by contracts and other final cost objectives. Detailed time records are kept of the hours worked by these engineers, showing the job/account numbers representing various cost objectives. On the basis of these detailed time records, Contractor A allocates the labor costs of these engineers as direct labor costs of final cost objectives. This practice is in accordance with the requirements of § 417.40(a).

(b) Contractor B has personnel who work on budgets, job cost analyses and reports, under circumstances in which their time cannot practically and economically be identified with particular final cost objectives on a consistent basis. Contractor B accounts for the labor costs of these employees as indirect costs. This is in accordance with the requirements of § 417.40(b).

(c) Contractor C has a paint shop, employees of which spray-paint units of the work-in-process of multiple final cost objectives. These employees are grouped by labor skills and pay rate, and records are maintained of the time spent by each employee on the work identified with particular final cost objectives. An average wage rate is established for each group. These average rates are applied consistently to the hours worked on each cost objective by employees in each group. The resultant costs are allocated as direct labor costs directly to each final cost objective as work is performed. This cost accounting treatment is in accordance with the provisions of § 417.50(b).

(d) Contractor D has a plating shop, but is not able to readily and economically identify the labor time spent on particular final cost objectives. Contractor D establishes the plating shop as a service center, the composite labor, material and other costs of which are allocated to final cost objectives based on a measurement of output, and these allocations are treated as other direct costs. This practice is in accordance with § 417.50(c). If Contractor D had maintained separate identification of cost elements in the allocation of costs from this service center, the costs could then have been accounted for as direct labor, direct materials, other direct costs, and overhead of the final cost objectives.

(e) Contractor E has a shop where metal parts are dipped into chemical liquids for cleaning purposes. Parts for many different final cost objectives are processed through the shop every day, and it is not practical to identify the time of the shop employees with specific final cost objectives. The Contractor accumulates the labor cost of the shop separately, and allocates it as direct labor to the final cost objectives using as a base the direct labor cost charged against those final cost objectives for the manufacturing processes preceding the chemical dipping operation. Because Contractor E did not meet the requirements set forth in § 417.50(c), the shop labor cost may not be accounted for as direct labor of the final cost objectives.

(f) Contractor F uses a process cost system in the production of parts and components which are to be used on multiple final cost objectives. The accumulated labor, material and other costs of each process are identified with the output of that process on the basis of a composite cost per unit of such output. The costs thus identified with particular units of output are subsequently allocated from the process cost center as direct material costs of the individual final cost objectives with which the output is specifically identified. This practice is in accordance with § 417.50(c).

(g) Contractor G uses a job order cost system. Low-unit cost, high-volume materials are used extensively during the manufacturing fabrication and assembly processes. These materials are issued to departmental organizations performing fabrication and assembly activities of the manufacturing function that specifically identify their labor hours and labor dollars with particular final cost objectives. The material usage on the cost objectives does not vary directly with the direct labor used on

those cost objectives. The costs of the low-unit cost, high volume materials element of each organization's cost are identified with and allocated to the final cost objectives as direct material costs by assignment to each final cost objective in the same proportions as the direct labor hours of the shops that use the materials. Because Contractor G did not meet the requirements of § 417.50(c), the costs of the low-unit cost, high-volume materials must be accounted for as indirect costs.

(h) Contractor H has an engineering function in which 30 engineering supervisors are responsible for supervision of 150 engineers performing technical tasks on 10 contracts. The labor costs of the 150 engineers are specifically identified with and allocated directly to the particular contracts on which their work is being performed. The 30 supervisors responsible for these direct labor costs, and their clerical assistants, allocate their labor costs to a work order assigned specifically for the accumulation of such costs. These work order costs are prorated at the end of each month to the 10 contracts on the same basis as the distribution is made of the direct labor hours worked by the 150 engineers. This prorated supervisory and clerical effort is accounted for as direct labor cost of the 10 contracts. Contractor H's practice covering allocation of costs of the 30 supervisors and their clerical assistants does not meet the hierarchical allocation requirements of § 417.50(c); therefore, the costs of all of these engineering supervisors and their clerical assistants must be classified as indirect costs.

(i) Contractor I has as part of an assembly operation a department which uses a large number of low cost brackets which are attached to frames. The number of brackets attached to each frame is determined from engineering drawings. The number and cost of the brackets are identified and allocated to final cost objectives as direct material costs. Contractor I allocates the labor effort of attaching the brackets to final cost objectives using a rate per bracket—a measure of the output of this department. Since this allocation satisfies the requirements of § 418.50(b)(2), the labor costs of attaching the brackets can be accounted for as direct labor costs of final cost objectives in accordance with the provisions of § 417.50(c).

§ 417.70 Exemptions.

None for this Standard.

§ 417.80 Effective date.

(a) The effective date of this Standard is [reserved].

(b) This Standard shall be followed by each contractor on or after the start of his next cost accounting period beginning after the receipt of a contract to which this Cost Accounting Standard is applicable.

2. Part 418 is proposed to read as follows.

PART 418—ALLOCATION OF INDIRECT COST POOLS

Sec.

418.10 General applicability.

418.20 Purpose.

418.30 Definitions.

418.40 Fundamental requirements.

418.50 Techniques for application.

418.60 Illustrations.

418.70 Exemptions.

418.80 Effective date.

Authority: Sec. 719 of the Defense Production Act of 1950, as amended, Pub. L. 91-379, 50 U.S.C. App. 2168.

§ 418.10 General applicability.

General applicability of this Cost Accounting Standard is established by § 331.30 of the Board's regulations on applicability, exemption, and waiver of the requirement to include the Cost Accounting Standards contract clause in negotiated defense prime contracts and subcontracts (4 CFR 331.30).

§ 418.20 Purpose.

The purposes of this Cost Accounting Standard are (1) to provide criteria for the accumulation of indirect costs in indirect cost pools, including service centers, and (2) to provide guidance relating to the selection of allocation measures based on the beneficial or causal relationship between an indirect cost pool and cost objectives. Consistent application of these criteria and guidance will improve indirect cost allocation.

§ 418.30 Definitions.

(a) The following are definitions of terms prominent in this Standard:

(1) *Allocate.* To assign an item of cost, or a group of items of cost, to one or more cost objectives. This term includes both direct assignment of cost and the reassignment of a share from an indirect cost pool.

(2) *Indirect cost.* Any cost not directly identified with a single final cost objective, but identified with two or more final cost objectives or with at least one intermediate cost objective.

(3) *Indirect cost pool.* A grouping of incurred costs identified with two or more cost objectives but not identified

specifically with any final cost objective.

(4) *Overhead cost.* An indirect cost of a productive function or activity.

(5) *Resource.* A unit of labor, materials, or other type of input to the productive or administrative activities of a business.

§ 418.40 Fundamental requirement.

(a) Indirect costs shall be accumulated in indirect cost pools which are homogeneous.

(b) Pooled costs shall be allocated to cost objectives in reasonable proportion to the beneficial or causal relationship of the pooled costs to those cost objectives. Pooled costs shall be allocated by means of one of the following bases of allocation, listed in descending order of preferability: (1) a resource consumption measure, (2) an output measure, (3) a surrogate that is representative of resources consumed, or (4) a measure that is representative of the entire activity being managed.

(c) Indirect costs that are required to be allocated by application of any other Cost Accounting Standard may not be allocated under this Standard. Indirect costs which are overhead costs of productive functions or productive activities shall be allocated to final cost objectives according to the provisions of 4 CFR 419.

§ 418.50 Techniques for application.

(a) *Homogeneous indirect cost pools.* (1) An indirect cost pool is homogeneous if all the activities whose costs are included therein have the same or similar beneficial or causal relationship to cost objectives as the other activities whose costs are included in the cost pool or if the allocation of the costs of the activities included in the cost pool results in an allocation to cost objectives which is substantially the same as it would be if the costs of the activities were allocated separately.

(2) When an indirect cost pool includes the costs of one or more activities which do not have the same or similar beneficial or causal relationship to cost objectives as the other activities in the cost pool, the pool is not homogeneous. The costs of activities having a dissimilar relationship shall be removed from the cost pool and shall be allocated in accordance with the provisions of this or other appropriate Cost Accounting Standards if the resulting allocation of these costs would be substantially different when allocated separately.

(3) Where an activity included in an indirect cost pool consumes one or more types of resources which do not have

the same or similar beneficial or causal relationship to cost objectives as the other resources accounted for in the cost pool, the pool is not homogeneous. The cost of these resources shall be removed from the cost pool and allocated in accordance with the provisions of this or other appropriate Cost Accounting Standards if the resulting allocation would be substantially different when allocated separately.

(b) *Hierarchy of allocation measures.* The determination that the allocation of pooled costs to cost objectives is in reasonable proportion to the beneficial or causal relationship of the pooled costs to those cost objectives, shall be satisfied when the allocation base used is the best available representation of resource consumption.

(1) The preferred representation of the relationship between an indirect cost pool and the benefiting cost objective is a measure of resource consumption of the activity or activities represented by the indirect cost pool. This relationship can be measured in circumstances where there is a direct and definitive relationship between the activity or activities and the benefiting cost objectives. In such cases, a single unit of measure can generally represent the consumption of resources in performance of the activities represented by the indirect cost pool. Measures of resource consumption ordinarily can be expressed in such terms as labor hours, machine hours or other consumption measures. Accordingly, these indirect cost pools shall be allocated by use of a rate, such as a rate per labor hour or a rate per machine hour or other consumption rate of the activity.

(2)(i) If consumption measures are unavailable or impractical to ascertain, the preferred basis for allocation shall be a measure of the output of the activity or activities represented by the indirect cost pool. Thus, the output shall become a substitute measure for the consumption of resources. Output can be measured in terms of units of end product produced by the activities, as for example, number of printed pages for a print shop or number of purchase orders processed by a purchasing department.

(ii) In circumstances in which the level of resource consumption varies among the units produced by the activities represented by the indirect cost pool, the use of the basic unit of output as a measure will not reflect the proportional consumption of resources. Consequently, where a material difference will result the measure shall be modified or more than one measure

shall be used to reflect the resources consumed to perform the activity.

(3) If neither resources consumed nor output of the activities can be measured practically, a surrogate shall be used to measure the resources consumed. Surrogates used to represent the relationship generally measure the activity of the cost objective receiving the service and shall vary in proportion to the services received. An example of a surrogate base is the number of personnel served by a personnel department. Number of personnel served may reasonably represent the use of resources of the personnel function for the cost objectives receiving the services, where this base varies in proportion to the services performed.

(4) Indirect cost pools which cannot readily be allocated on measures of a specific beneficial or causal relationship generally represent the cost of overall management activities. Such costs do not have a direct and definitive relationship to the benefiting cost objectives. These costs should be grouped in relation to the activities managed and the base selected to measure the allocation of these indirect costs to cost objectives should be a base representative of the entire activity managed. For example, the total cost of plant activities managed might be a reasonable base for allocation of general plant indirect costs. The use of a partial measure of activity, such as direct labor costs or direct material cost only, as a substitute for a total activity base is acceptable only if the base is representative of the total activity being managed.

(c) *Simultaneous services.* Where the activity or activities represented by an indirect cost pool provide services to two or more cost objectives simultaneously, the cost of such services shall be prorated between or among the cost objectives in reasonable proportion to the beneficial or causal relationship between the services and the cost objectives.

(d) *The use of pre-established rates for indirect costs.* (1) preestablished rates, based on either forecasted actual or standard costs, may be used in allocating an indirect cost pool. Where variances of a cost accounting period are material, these variances shall be disposed of by allocating them to cost objectives in proportion to the costs previously allocated to these cost objectives by use of the pre-established rates.

(2) Where pre-established rates are used to allocate the cost of an indirect cost pool, these rates shall reflect the costs and activities anticipated for the

cost accounting period. Such pre-established rates shall be reviewed at least annually, and revised as necessary to reflect the anticipated conditions.

(3) Pre-established rates used for allocating indirect cost pools may be revised during a cost accounting period.

(i) The revised rates shall reflect the costs and activities anticipated for the entire cost accounting period.

(ii) If the accumulated variances are significant, the costs previously allocated shall be adjusted to the amounts which would have been allocated using the revised pre-established rates.

(e) *Recognition of services received from or provided to other indirect cost pools.* (1) Allocation of indirect cost pools to all benefiting cost objectives shall include recognition of the benefit to other indirect cost pools. The method used shall result in an allocation which is not significantly different from that which would be obtained through using cross-allocation to reflect the services provided to and received from other indirect cost pools.

(2) Allocation may be made exclusively to final cost objectives only if the results are not materially different from the results to be obtained if costs were allocated to all benefiting cost objectives.

§ 418.60 Illustrations.

(a) Contractor A accumulated the costs relating to building ownership cost, maintenance cost, and utility cost into one indirect cost pool designated "Occupancy Costs" for allocation to cost objectives. Each of these activities has the same or a similar beneficial or causal relationship to the cost objectives occupying space. Contractor A's practice is in conformance with the provisions of § 418.50(a)(1).

(b) Contractor B includes the costs of systems analysis and applications programming, central processing unit operations, and off-line printer operations in a single indirect cost pool entitled "Data Processing Center." The systems analysis and applications programming activity does not have the same or similar beneficial or causal relationship to cost objectives as the other activities in the pool designated "Data Processing Center." Also, the allocation of the cost of this activity to cost objectives would be significantly different if allocated separately from the other costs of the "Data Processing Center." The costs of the systems analysis and applications programming activity must be separately allocated to cost objectives in accordance with the provisions of § 418.50(a)(2).

(c) Contractor C accounts for the costs of its technical typing services as an indirect cost pool. In selecting an allocation measure for this indirect cost pool, Contractor C establishes that consumption measures are unavailable and impractical to ascertain, and decides on using the number of typed pages as the allocation measure. Contractor C's selection of an output measure for the allocation of the cost of the typing services is in conformance with provisions of § 418.50(b)(2).

(d) In accordance with § 418.50(a) Contractor D includes all the cost of occupancy in an indirect cost pool. In selecting an allocation measure for this indirect cost pool, the contractor establishes that it is impractical to ascertain a measurement of the consumption of resources in relation to the use of facilities by individual cost objectives. An output base, the number of square feet of space provided to users, can be measured practically; however, the cost to provide facilities is significantly different for various types of facilities such as warehouse space, factory space and office space and each type of facility requires a different level of resource consumption to provide the same number of square feet of usable space. Allocation on a basic unit measure of square feet of space occupied will not adequately reflect the proportional consumption of resources. Contractor D establishes a weighted square foot measure for allocating occupancy costs, which reflects the different levels of resource consumption required to provide the different types of facilities. This practice is in conformance with provisions of § 418.50(b)(2)(ii).

(e) Contractor E has an indirect cost pool containing a significant amount of material-related costs. The contractor allocates these costs between his machining overhead cost pool and his assembly overhead cost pool. The contractor finds it impractical to use an allocation measure based on either consumption or output. The contractor is required to use a surrogate base that varies in proportion to the services rendered. The contractor selects a material-issued base which varies in proportion to the services rendered. The contractor's practice is in conformance with the provisions of § 418.50(b).

(f) Contractor F accounts for the costs of company aircraft in a separate homogeneous indirect cost pool and allocates the cost to benefiting cost objectives using flight hours. Contractor F prorates the cost of a single flight between benefiting cost objectives whenever simultaneous services have

been rendered. Manager of Contract 1 requests and uses a company plane for a 5 hour trip. Manager of Contract 2 learns of the trip and goes along with Manager of Contract 1. Contractor F prorates the cost of the trip between Contract 1 and Contract 2. This practice is in conformance with the provision of § 418.50(c).

(g) During a cost accounting period Contractor G allocates the cost of his flight services indirect cost pool to other indirect cost pools and final cost objectives using a pre-established rate. The pre-established rate is based on an estimate of the actual costs and activity for the cost accounting period. For the cost accounting period, Contractor G establishes a rate of \$200 per hour for use of the flight services activity. In March the contractor's operating environment changes significantly; the contractor now expects a significant increase in the cost of this activity during the remainder of the year. The contractor estimates the rate for the entire cost accounting period to be \$240 an hour. Pursuant to the provisions of § 418.50(d) the Contractor may revise his rate to the expected \$240 an hour. Because the accumulated variances are deemed to be significant, the contractor must also adjust the costs previously allocated to reflect the revised rates.

(h) Contractor H has five indirect cost pools which provide services to indirect cost pools and to other cost objectives. Contractor H does not allocate the cost of these five indirect cost pools to the other indirect cost pools which receive their services; rather, he allocated all of their costs to the other cost objectives. Pursuant to the provision of § 418.50(e) Contractor H may continue to allocate the costs of these services using this practice if he can demonstrate that this practice does not result in a materially different allocation of costs to final cost objectives than would be obtained through cross allocation among the five indirect cost pools.

§ 418.70 Exemptions.

None for this Standard.

§ 418.80 Effective date.

(a) The effective date of this Standard is [reserved].

(b) This Standard shall be followed by each contractor on or after the start of his next cost accounting period beginning after the receipt of a contract to which this Cost Accounting Standard is applicable.

3. Part 419 is proposed to read as follows.

PART 419—ALLOCATION OF OVERHEAD COSTS OF PRODUCTIVE FUNCTIONS AND ACTIVITIES

Sec.	
419.10	General applicability.
419.20	Purpose.
419.30	Definitions.
419.40	Fundamental requirement.
419.50	Techniques for application.
419.60	Illustrations.
419.70	Exemptions.
419.80	Effective date.

Authority: Sec. 719 of the Defense Production Act of 1950, as amended, Pub. L. 91-379, 50 U.S.C. App. 2168.

§ 419.10 General applicability.

General applicability of this Cost Accounting Standard is established by Section 331.30 of the Board's regulations on applicability, exemption, and waiver of the requirement to include the Cost Accounting Standards contract clause in negotiated defense prime contracts and subcontracts (4 CFR Part 331.30).

§ 419.20 Purpose.

The purpose of this Cost Accounting Standard is to provide criteria for accumulating overhead costs of productive functions and activities and for allocating such costs to cost objectives of a business unit based on the beneficial or causal relationship between the costs and the cost objectives. Consistent application of these criteria will improve cost allocation.

§ 419.30 Definitions.

(a) The following are definitions of terms prominent in this Standard.

(1) *Allocate.* To assign an item of cost, or a group of items of cost, to one or more cost objectives. This term includes both direct assignment of cost and the reassignment of a share from an indirect cost pool.

(2) *Business Unit.* Any segment of an organization or an entire business organization which is not divided into segments.

(3) *Final Cost Objective.* A cost objective which has allocated to it both direct and indirect costs, and, in the contractor's accumulation system, is one of the final accumulation points.

(4) *Overhead cost.* An indirect cost of a productive function or activity.

(5) *Productive Activity.* An operation, such as machining or assembling in the manufacturing function; designing, developing or testing in the engineering function; base maintenance and support, communication services, training, or field engineering and technical services in a service function; or others such as material related activities.

(6) *Productive Function.* A group of productive activities such as those related to manufacturing, engineering or services.

§ 419.40 Fundamental requirement.

(a) Those indirect costs of a business unit which are overhead cost shall be accumulated in one or more homogeneous cost pools.

(b) Such costs shall be allocated only to cost objectives set forth in § 419.50(d)(1).

(c) The costs in each pool shall be allocated to those cost objectives in reasonable proportion to the beneficial or causal relationship of the pooled costs to those cost objectives.

§ 419.50 Techniques for application.

(a) *Number of pools.*—(1) A business unit may accumulate its overhead costs in a single pool unless it performs: (i) two or more productive functions (e.g., manufacturing, engineering or services), or (ii) a single productive function whose activities are performed in materially different proportions for the cost objectives among which the overhead costs are to be allocated.

(2) Overhead costs of a productive function may be accumulated in an individual overhead pool unless the function contains productive activities which are performed in materially different proportions for the cost objectives.

(3) Overhead costs of different productive activities within a productive function may be combined in a productive activity overhead pool(s) unless the productive activities to be combined are performed in materially different proportion for the cost objectives.

(4) Notwithstanding (1), (2), and (3) above, an additional overhead pool shall be required only if the creation of the additional pool would result in a materially different allocation of overhead costs to a significant contract subject to this Standard. A material difference occurs when the allocation to such contract by the addition of any pool differs by 5 percent or more from the amount that would otherwise be allocated to that contract.

(b) *Composition of a Pool.* (1) A pool of overhead costs shall include:

(i) All overhead costs specifically identified with a business unit, productive function, or productive activity or activities to which a pool relates;

(ii) Costs allocated from other indirect cost pools in accordance with 4 CFR Part 418, and

(iii) Expenses of a home office associated with a segment's overhead costs, except those identified as residual expenses in accordance with 4 CFR Part 403.40(c), the allocation of which is provided for in 4 CFR Part 410.

(2)(i) An overhead pool shall exclude the costs related to a special facility (e.g., wind tunnel, space chamber, and reactor) whose total operating costs is material unless the base used for allocating the pool reasonably represents the usage of such special facility by each cost objective. The costs of such facility shall be allocated in accordance with 4 CFR Part 418.

(ii) The costs related to a special facility, however, are required to be excluded from an overhead pool only if the allocation of such costs in accordance with 4 CFR Part 418 would result in a materially different allocation to a significant contract subject to this Standard. A material difference occurs when the allocation to such contract by the allocation of the costs of a special facility in accordance with 4 CFR Part 418 differs by 5 percent or more from the amount that otherwise would be allocated to that contract.

(3) Costs incurred for the common benefit of, or caused by, two or more overhead pools, such as costs of production management and production support, shall be allocated in accordance with 4 CFR Part 418.

(c) *Selection and Composition of Allocation Base.* The selection of a particular allocation base for any pool of overhead costs shall be guided by the criteria set forth below. The allocation base shall include all elements of the cost objectives listed in § 419.50(d)(1)(ii), (iii), (iv), (v) and (vi) which would be included as base elements in like circumstances for final cost objectives.

(1) *Direct Labor Hour or Direct Labor Cost.* (i) A direct labor hour base or a direct labor cost base shall be used, except as provided in (2) or (3) below, the determination as to which of these bases to use shall take into account whether the costs included in a pool are in the aggregate more likely to vary with direct labor hours or with direct labor costs.

(ii) A direct labor cost base shall exclude the premium portion of overtime pay and shift differential pay, and other special pay and allowances, such as hazardous duty pay and foreign duty pay.

(iii) A direct labor hour base or a direct labor cost base shall include the hours or labor costs of purchased labor, if a business unit uses a material amount of purchased labor, and if such

labor performs work under the supervision and control of the business unit which is substantially similar to the work of the business unit's own direct labor employees; and uses the business unit's facilities and equipment in substantial performance of their work. Purchased labor shall be included in a direct labor cost base at a rate(s) equivalent to the labor costs of the business unit's own employees for similar labor classifications or the labor costs the business unit would pay if such employees were on its own payroll.

(iv) A direct labor hour base or a direct labor cost base shall exclude the hours or labor costs, where material in amount, of employees lent to other cost objectives of the business unit, to other segments, or to a home office. Conversely, a direct labor hour base or a direct labor cost base shall include the hours or labor costs, where material in amount, of employees borrowed from other cost objectives of the business unit, from other segments, or from a home office.

(2) *Direct Material Cost or Physical Characteristics of Direct Materials.* (i) A direct material cost base, as measured by 4 CFR 411.50 (a) and (b), or a base representing the physical characteristics of direct materials (e.g., number of units, weight or volume) shall be used for any separate material-related overhead pool. Such a base shall include purchased services where the services receive substantial benefit from or cause a substantial portion of such a pool. If the contracting parties agree on the value of customer furnished materials, such value may be included in a direct material cost base.

(ii) Where items are produced or worked on for stock or product inventory, the direct material costs of such items shall be included only once in the direct material cost base in the cost accounting period(s) in which such items are produced or worked on, and shall not be included in the base of another cost accounting period.

(3) *Machine Hour.* A machine hour base may be used if the overhead costs are comprised predominately of facility-related costs, such as depreciation, maintenance and utilities.

(d) *Allocation to Cost Objectives.* (1) Overhead costs shall be allocated to:

(i) Final cost objectives;

(ii) Goods produced for stock or product inventory;

(iii) Independent research and development and bid and proposal projects;

(iv) Cost centers used to accumulate costs identified with a process cost system (i.e., process cost centers);

(v) Goods or services produced or acquired for other segments of the contractor and for other cost objectives of a business unit; and

(vi) Self-construction, fabrication, betterment, improvement, or installation of tangible capital assets.

(2) Where a particular cost objective in relation to other cost objectives receives significantly more or less benefit from overhead costs than would be reflected by the allocation of such costs using a base determined pursuant to paragraph (c) of this section, the Government and contractor may agree to a special allocation from the applicable overhead pool(s) to the particular cost objective commensurate with the benefits received. The amount of a special allocation to any such cost objective made pursuant to such an agreement shall be excluded from the overhead pool(s) and the particular cost objective's allocation base data shall be excluded from the base used to allocate the pool(s).

(e) *Use of Pre-established Rates for Overhead Costs.* (1) Pre-established rates, based on either forecasted actual or standard costs, may be used in allocating an overhead pool. Where variances of a cost accounting period are material, these variances shall be disposed of by allocating them to benefiting cost objectives in proportion to the costs previously allocated to these cost objectives.

(2) Where pre-established rates are used to allocate the costs of an overhead pool, these rates shall reflect the costs and activities anticipated for the cost accounting period. Such pre-established rates shall be reviewed at least annually, and revised as necessary to reflect the anticipated conditions.

(3) Pre-established rates used for allocating overhead pools may be revised during a cost accounting period.

(i) The revised rates shall reflect the costs and activities anticipated for the entire cost accounting period.

(ii) If the accumulated variances are significant, the costs previously allocated shall be adjusted to the amount which would have been allocated using the revised pre-established rates.

§ 419.60 Illustrations.

(a) Business Unit A maintains a single overhead pool. Business Unit A has substantial amounts of supply contracts as well as substantial amounts of R&D contracts and maintains a manufacturing department and an

engineering department. An analysis indicates that the amount of overhead costs allocated to Contract XYZ, a significant contract, by its single pool is \$2,000,000, whereas the amount that would be allocated to it using two separate productive function pools (one for manufacturing and one for engineering) would be \$2,090,000; the difference being 4.5 percent (\$90,000 ÷ \$2,000,000). Under this circumstance, Business Unit A may continue to maintain its single overhead pool in accordance with § 419.50 (a)(4).

(b) Business Unit B, performing significant machining and assembling activities on a number of contracts, maintains a single manufacturing overhead pool for these activities. The machining and assembling activities are performed in materially different proportions for the contracts in that machining activity is performed for all contracts, while the assembling activity is performed for only some contracts. An analysis indicates that the amount of overhead costs allocated to Contract XYZ, a significant contract, by its manufacturing overhead pool is \$500,000, whereas the amount that would be allocated to it using two separate productive activity pools (one for machining activity and one for assembling activity) would be \$450,000; the difference being 10 percent (\$50,000 ÷ \$500,000). Under this circumstance Business Unit B must establish separate productive activity pools in accordance with § 419.50(a)(2) and (4).

(c) Business Unit C performs five significant productive activities in its engineering department. Business Unit C, however, maintains two productive activity pools: one pool which combines the overhead costs of four productive activities which are performed in about the same proportions for its contracts, and another pool for a productive activity which is performed only for some contracts. Business Unit C's two pools would be in accordance with § 419.50(a)(3).

(d) Business Unit D, whose cost accounting period is the calendar year, performed significant amounts of overtime work on certain government contracts in May and June and on certain commercial work in July and August. This overtime work was necessary to meet an accelerated delivery schedule at the specific request (and Business Unit D had obtained the approval) of government and commercial customers. Business Unit D allocates its overhead costs on a direct labor cost base, and charges the premium portion of the overtime pay

directly to the applicable government and commercial contracts as part of the direct labor costs. In accordance with § 419.50(c)(1)(ii), Business Unit D must exclude the premium portion of the overtime pay from the direct labor cost allocation base.

Assume the same facts as above, except that Business Unit D uses the direct labor hour allocation base and incurred 30,000 hours of overtime work for which the employees are to be paid at a time-and-a-half rate. In accordance with § 419.50(c)(1)(ii), Business Unit D should include 30,000 hours in the allocation base (on a straight-time basis), not 45,000 hours.

(e) Business Unit E maintains a single engineering overhead pool for the engineering work being performed at its principal place of business and for engineering work at location X. Employees working at location X are paid a special duty pay, which is material in amount. Business Unit E uses the direct labor cost base for allocating the overhead pool and includes the costs of the special duty pay in the allocation base. In accordance with § 419.50(c)(1)(ii), Business Unit E must exclude the special duty pay from the direct labor cost allocation base.

(f) Business Unit F, which uses the direct labor hour base to allocate its overhead pool, uses a significant amount of purchased labor under the conditions described in § 419.50(c)(1)(iii). Business Unit F does not include the hours worked by purchased labor in its direct labor hour allocation base. This practice is not in accordance with the above cited provisions, and Business Unit F must include the hours worked by the purchased labor in the direct labor hour allocation base.

Assume the same facts as above except that Business Unit F uses the direct labor cost allocation base and treats the cost of purchased labor as "other direct costs." Business Unit F must include the equivalent labor costs of the purchased labor in the allocation base in accordance with the cited provisions.

(g) Business Unit G has a machining activity for which it develops a separated overhead rate, using the direct labor cost as the allocation base. The machining activity occasionally does significant amounts of work for other departments of the Business Unit, such as fabricating tools for the tool room. The labor used in doing the work for other departments is of the same nature as that used for contract work. However, the machining labor for other departments is not included in the base

used to allocate the overhead costs of the machining activity. In accordance with § 419.50(c) and § 419.50(d)(1)(v), Business Unit G must include the cost of labor doing work for the other departments in the allocation base for the machining activity overhead pool.

§ 419.70 Exemptions.

None for this Standard.

§ 419.80 Effective date.

(a) The effective date of this Standard is [reserved].

(b) This Standard shall be followed by each contractor on or after the start of his next Cost Accounting period beginning after the receipt of a contract to which this Cost Accounting Standard is applicable.

Dated: July 18, 1979.

Arthur Schoenhaut,
Executive Secretary.

[FR Doc. 79-22706 Filed 7-20-79; 8:45 am]

BILLING CODE 1620-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 967]

Celery Grown in Florida; Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would establish the quantity of Florida celery to be marketed fresh during the 1979-80 season, with the objective of assuring adequate supplies and orderly marketing.

DATE: Comments due August 3, 1979.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077-S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Donald S. Kuryloski, Acting Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: (202) 447-6393.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 149 and Order No. 967, both as amended (7 CFR 967) regulate the handling of celery grown in Florida. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The Florida Celery Committee, established under the order, is responsible for local administration.

This notice is based upon the unanimous recommendations made by the committee at its public meeting in Orlando on June 13.

The committee recommended a preliminary Marketable Quantity of approximately 9.8 million crates of fresh celery for the 1979-80 season. This recommendation is based on the appraisal of the expected supply and prospective market demand.

The recommended 9.8 million crate Marketable Quantity is 20 percent more than the approximately 8 million crates expected to be marketed during the current season ending July 31, 1979. Each producer registered pursuant to § 967.37(f) would have an allotment equal to 100 percent of his historical marketings. This recommendation provides the industry an opportunity to (1) produce to its fullest capacity for the benefit of the consumer, and (2) determine its actual or potential maximum production capacity.

As required by § 967.37(d)(1) a reserve of six percent of the 1978-79 total Base Quantities is authorized for new producers and for increases by existing producers, with 279,705 crates to be allotted to each category. Four producers submitted applications for additional Base Quantities for use only one season. However, pursuant to § 967.151 (43 FR 15608) the committee denied such applications since under the formula set forth in § 967.155 (43 FR 57239), Base Quantities for the applicants would be increased a total of 512,243 crates.

To maximize the benefits of orderly marketing the proposed regulation should become effective as early as possible in August, when the marketing year begins. Interested persons were given an opportunity to comment on the proposal at an open public meeting on June 13, where it was unanimously recommended by the committee. This proposal is similar to regulations in effect for past seasons. It is hereby determined that the period allowed for comments should be sufficient under these circumstances and will effectuate the declared policy of the act.

On the basis of all considerations it is further determined that this proposed regulation would tend to effectuate the declared policy of the act.

The proposal is as follows:

§ 967.315 Handling regulation; marketable quantity; and uniform percentage for the 1979-80 season beginning August 1, 1979.

(a) The Marketable Quantity established under § 967.36(a) is 9,644,484 crates of celery.

(b) As provided in § 967.38(a), the Uniform Percentage shall be 100 percent.

(c) Pursuant to § 967.36(b), no handler shall handle any harvested celery unless it is within the Marketable Allotment of a producer who has a Base Quantity and such producer authorizes the first handler thereof to handle it.

(d) As required by § 967.37(d)(1) a reserve of six percent of the total Base Quantities is hereby authorized for (1) new producers and (2) increases for existing Base Quantity holders, with 279,705 crates allotted to each category.

(e) Terms used herein shall have the same meaning as when used in the said marketing agreement and order.

Note.—This proposal has been reviewed under the USDA criteria implementing Executive Order 12044. A determination has been made that this action should not be classified "significant." An Impact Analysis is available from Peter G. Chapogas (202) 447-5432.

Dated: July 17, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-22646 Filed 7-20-79; 8:45 am]

BILLING CODE 3410-02-M

Office of the Secretary

[7 CFR Parts 2900, 2901]

Proposed Rulemaking Regarding Administrative Procedures for Adjustments of Natural Gas Curtailment Priority Regulations

AGENCY: Office of the Secretary, USDA.

ACTION: Proposed rule.

SUMMARY: The Office of the Secretary, United States Department of Agriculture is publishing for public comment a proposed rule providing administrative procedures for the making of certain adjustments to its Essential Agricultural Uses and Requirements regulations in Part 2900 of Chapter XXIX of Title 7, Code of Federal Regulations. The proposed rule establishes procedures as required by section 502 of the Natural Gas Policy Act of 1978, including an opportunity for the oral presentation of data, views, and arguments which would be used in conjunction with requests for interpretations, modifications, or rescissions necessary to prevent special hardship, inequity, or an unfair distribution of burdens.

DATES: Written comments are due by 4:30 p.m., August 22, 1979.

ADDRESS: All written comments should be sent to Weldon V. Barton, Director, Office of Energy, USDA, Room 226-E Administration Building, United States Department of Agriculture, 14th and Independence Avenue, SW., Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Weldon V. Barton, Director, Office of Energy, USDA, Room 226-E Administration Building, 14th and Independence Avenue, SW., Washington, D.C. 20250, telephone number: (202) 447-2455.

SUPPLEMENTARY INFORMATION:

- I. Background.
- II. Description of Proposal.
- III. Public Comment and Hearing Procedures.

I. Background

Section 502 of the Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95-621, 92 Stat. 3350) requires the Secretary of Agriculture to prescribe a rule which provides for the making of "adjustments" for rules issued by the Secretary of Agriculture under the NGPA, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens.

Under section 401 of the NGPA, the Secretary of Agriculture was required to certify essential agricultural uses of natural gas and the amounts of natural gas required for such essential agricultural uses in order to meet full food and fiber production. A final rule containing such certifications was issued by the Secretary of Agriculture on May 17, 1979 (44 FR 28782).

II. Description of Proposal

Section 502 of the NGPA requires that administrative procedures be established which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, exception to or exemption from rules issued under the NGPA. This proposed rule provides procedures for seeking interpretations, modifications, or rescissions of the Secretary of Agriculture's Essential Agricultural Uses and Requirements regulations in 7 CFR Part 2900 and any subsequent rules that may be issued to implement the Secretary of Agriculture's responsibilities under section 401 of the NGPA.

The proposed rule does not provide procedures for acting on requests for exceptions to or exemptions from the Secretary of Agriculture's Essential Agricultural Uses and Requirements regulation, since procedures for seeking

interpretations, modifications, or rescissions are considered to cover the range of requests appropriate to the Secretary of Agriculture's responsibilities under section 401 of the NGPA. Exceptions to or exemptions from the agricultural curtailment priority structure are considered to be more properly addressed to the Federal Energy Regulatory Commission (FERC) which implements curtailment priorities. All such requests should therefore be filed with the FERC in accordance with its applicable administrative procedures. Requests for review of a denial of an exception or exemption should likewise be filed with FERC.

Section 502 of the NGPA requires the Secretary of Agriculture to provide an opportunity for oral presentation of views when considering requests for adjustment. Section 2901.3 of the proposed rule implements this statutory requirement by granting an opportunity for oral presentation of data, views and argument in support of any person's request for an interpretation, modification, or rescission, if the request for an oral presentation is made in writing and submitted with the request for adjustment.

Sections 2901.4(a) and 2901.5(a) propose that requests for adjustments be filed with the Director of the Office of Energy of the Department of Agriculture. In order to provide for expeditious administrative processing, the rule describes the circumstances under which a request to the Director, Office of Energy, for adjustment, is considered denied. Requests for review of such denials are to be made to the Secretary of Agriculture and acted upon before a denial is considered final agency action for purposes of judicial review.

Section 2901.5 proposes that a request for modification or rescission be treated as a petition for a rulemaking. The Director may respond by either: (1) instituting rulemaking procedures, (2) notifying the petitioner that he does not intend to institute rulemaking procedures and stating the reasons; or (3) notifying the petitioner in writing of the circumstances making it inappropriate to make a decision at that time. Because of the desire to keep administrative procedure rules in this code section and since § 2901.5 addresses requests for amendments, 7 CFR 2900.5 is proposed to be deleted.

III. Public Written Comment Procedures

The public is invited to participate in any aspect of this rulemaking by submitting data, views, or arguments with respect to the proposals set forth in this rulemaking.

Written comments must be submitted by 4:30 p.m., August 22, 1979, to the address indicated in the "Addresses" section of this preamble, and should be identified on the outside envelope and on the document with the designation: "Part 2901—Administrative Procedures." Five copies should be submitted. All comments received will be available for public inspection in Room 5173 South Building, 12th and Independence Avenue, SW., Washington, D.C. 20250 between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday. All comments received by 4:30 p.m., August 22, 1979, and all other relevant information will be considered by the Secretary of Agriculture before final action is taken on this proposed regulation.

This proposed rule has been classified as not significant and is being published under emergency procedures, as authorized by Executive Order 12044 and Secretary's Memorandum No. 1955, without a full 60-day comment period. It has been determined by Weldon Barton, Director, Office of Energy, USDA that an emergency situation exists which warrants less than a full 60-day comment period, as it is expected that a number of petitions will be received subsequent to the promulgation of this rule. A full 60-day comment period on the proposed procedural rule would not allow an adequate period for subsequent filing of petitions, and careful consideration and ruling thereon, by the USDA prior to November 1, 1979—the advent of natural gas curtailments in the winter heating season. The substantive rules for which this procedural rule will apply were adopted to meet a statutory deadline. Requests for adjustment of the substantive rules are currently being received, and it is believed a 30-day comment period for this procedural rule will be in the public interest.

Any information or data submitted which is considered by the party who submitted it to be confidential must be so identified and submitted in writing, one copy only. The Secretary reserves the right to determine the confidential status of the information or data and to treat it accordingly.

In consideration of the foregoing, it is proposed to amend Chapter XXIX of Title 7, Code of Federal Regulations as set forth below:

PART 2900—ESSENTIAL AGRICULTURAL USES AND VOLUMETRIC REQUIREMENTS—NATURAL GAS POLICY ACT

§ 2900.5 [Deleted]

1. Part 2900 of Chapter XXIX of Title 7, Code of Federal Regulations, is amended by deleting § 2900.5 thereof.

2. Chapter XXIX of Title 7, Code of Federal Regulations, is amended by adding a Part 2901 to read as follows:

PART 2901—ADMINISTRATIVE PROCEDURES

Sec.

- 2901.1 Purpose and scope.
- 2901.2 Definitions.
- 2901.3 Oral presentation.
- 2901.4 Interpretations.
- 2901.5 Modifications and rescissions.
- 2901.6 Review of denials.
- 2901.7 Judicial review.

Authority: Secs. 502, 506, Pub. L. 95-621, 92 Stat. 3397, 3405, November 9, 1978.

§ 2901.1 Purpose and scope.

The purpose of this Part 2901 is to provide procedures for the making of certain adjustments to the Secretary of Agriculture's Essential Agricultural Uses and Requirements regulations in accordance with Section 502(c) of the Natural Gas Policy Act of 1978, in order to prevent special hardship, inequity, or an unfair distribution of burdens. The procedures in this Part 2901 apply to any person seeking an interpretation, modification, or rescission of the Essential Agricultural Uses and Requirements regulations in Part 2900 of Chapter XXIX. This Part 2901 does not include procedures for exceptions or exemptions because such adjustments are inapplicable to the Essential Agricultural Uses and Requirements regulations.

§ 2901.2 Definitions.

- (a) "Person" means any individual, firm, sole proprietorship, partnership, association, company, joint venture or corporation.
- (b) "Director" means the Director of the Office of Energy, U.S. Department of Agriculture.
- (c) "Secretary" means the Secretary of the U.S. Department of Agriculture.
- (d) "Adjustment" means an interpretation, modification, or rescission of, the Essential Agricultural Uses and Requirements Regulations, Part 2900 hereof.
- (e) "NGPA" means the Natural Gas Policy Act of 1978, Pub. L. 95-621.
- (f) "Petitioner" means any person seeking an adjustment under this Part 2901.

§ 2901.3 Oral presentation.

Any person seeking an adjustment under this Part 2901 shall be given an opportunity to make an oral presentation of data, views and arguments in support of the request for an adjustment, provided that a request to make an oral presentation is submitted in writing with the request for the adjustment.

§ 2901.4 Interpretation.

(a) *Request for an Interpretation.* (1) Any person seeking an interpretation of the Essential Agricultural Uses and Requirements regulations in Part 2900 shall file a formal written request with the Director. The request should contain a full and complete statement of all relevant facts pertaining to the circumstance, act or transaction that is the subject of the request and to the action sought, and should state the special hardship, inequity, or unfair distribution of burdens that will be prevented by the interpretation sought and why the interpretation is consistent with the purposes of NGPA.

(2) If the petitioner wishes to claim confidential treatment for any information contained in the request or other document submitted under this Part 2901, such person shall file together with the document a second copy of the document from which has been deleted the information for which such person wishes to claim confidential treatment. The petitioner shall indicate in the original document that it is confidential or contains confidential information and may file a statement specifying the justification for non-disclosure of the information for which non-disclosure is sought. The Director shall consider such requests, and subject to the Freedom of Information Act, 5 U.S.C. 552 and other applicable laws and regulations, shall treat such information as confidential.

(b) *Investigations.* The Director may initiate an investigation of any statement in a request and utilize in his evaluation any relevant facts obtained in such investigation. The Director may accept submissions from third persons relevant to any request for interpretation provided that the petitioner is afforded an opportunity to respond to all such submissions. In evaluating a request for interpretation, the Director may consider any other source of information.

(c) *Applicability.* Any interpretation issued hereunder shall be issued on the basis of the information provided in the request, as supplemented by other information brought to the attention of the Director during the consideration of the request. The interpretation shall,

therefore, depend for its authority on the accuracy of the factual statement and may be relied upon only to the extent that the facts of the actual situation correspond to those upon which the interpretation was based.

(d) *Issuance of an Interpretation.* Upon consideration of the request for interpretation received or obtained by the Director, the Director may issue a written interpretation. A copy of the written interpretation shall be provided to FERC and the Secretary of Energy.

(e) *Denial of an Interpretation.* An interpretation shall be considered denied for purpose of review of such denial under Section 2901.6 only if:

(1) The Director notifies the petitioner in writing that the request is denied and that an interpretation will not be issued; or

(2) The Director does not respond to a request for an interpretation, by (i) issuing an interpretation, or (ii) giving notice of when an interpretation will be issued within 45 days of the date of receipt of the request, or within such extended time as the Director may prescribe by written notice within the 45-day period.

§ 2901.5 Modification or rescission.

(a) *Request for modification or rescission.* (1) Any person seeking a modification or a rescission of the Essential Agricultural Uses and Requirements regulation of Part 2900 shall file a formal written request with the Director. The request shall contain a full and complete statement of all relevant facts pertaining to the circumstance, act or transaction that is the subject of the request and to the action sought. The request should state the special hardship, inequity or unfair distribution of burdens that will be prevented by making the modification or rescission.

(2) If the petitioner wishes to claim confidential treatment for any information contained in the request or other document submitted under this Part 2901, such person shall file together with the document a second copy of the document from which has been deleted the information for which such person wishes to claim confidential treatment. The petitioner shall indicate in the original document that it is confidential or contains confidential information and may file a statement specifying the justification for non-disclosure of the information for which non-disclosure is sought. The Director shall consider such requests, and, subject to the Freedom of Information Act, 5 U.S.C. 552 and other

applicable laws and regulations, shall treat such information as confidential.

(3) The request shall be filed as a petition for rulemaking and treated in accordance with the procedures, as applicable, of 7 CFR Part 1, Subpart B.

(b) *Institution of Rulemaking.* Upon consideration of the request for modification or rescission and other relevant information received or obtained by the Director, the Director may institute rulemaking proceedings in accordance with the Administrative Procedures Act 5 U.S.C. 551 *et seq.* and applicable regulations.

(c) *Denial of a modification or rescission.* If the Director (1) denies the request for modification or rescission in writing by notifying the petitioner that he does not intend to institute rulemaking proceedings as proposed and stating the reasons therefor, or (2) does not respond to a request for a modification or rescission in accordance with paragraph (b) of this section or (3) notifies the petitioner in writing that the matter is under continuing consideration and that no decision can be made at that time because of the inadequacy of available information, changing circumstances or other reasons as set forth therein, within 45 days of the date of the receipt thereof, or within such extended time as the Director may prescribe by written notice within that 45-day period, the request shall be considered denied for the purpose of review of such denial under § 2901.6.

§ 2901.6 Review of denials.

(a) *Request for Review.* (1) Any person aggrieved or adversely affected by a denial of a request for any interpretation under § 2901.4 may request a review of the denial by the Secretary within 30 days from the date of the denial.

(2) Any person aggrieved or adversely affected by a denial of a request for a modification or rescission under § 2901.5, may request a review of the denial by the Secretary within 30 days from the date of the denial.

(b) *Procedures.* Any request for review under § 2901.6(a) shall be in writing and shall set forth the specific ground upon which the request is based. There is no final agency action for purposes of judicial review under § 2901.7 until that request has been acted upon. If the request for review has not been acted upon within 30 days after it is received, the request shall be deemed to have been denied. That denial shall then constitute final agency action for the purpose of judicial review under § 2901.7.

§ 2901.7 Judicial review.

Any person aggrieved or adversely affected by a final agency action taken on a request for an adjustment under this section may obtain judicial review in accordance with Section 506 of the Natural Gas Policy Act of 1978.

Environmental and Regulatory Analysis

After reviewing this proposed regulation pursuant to USDA's responsibilities under the National Environmental Policy Act of 1969, Pub. L. 91-190, 83 Stat. 852 (42 U.S.C. 4321), the USDA has determined the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, the USDA has determined no environmental impact statement is required for the proposed regulation. A copy of the finding of no significant impact and environmental assessment is available for inspection and copying in Room 5173 South Building, 12th and Independence, SW., U.S. Department of Agriculture, Washington, D.C. 20250.

The USDA has also determined this proposed regulation is not significant within the meaning of USDA's procedures to implement Executive Order 12044 on "Improving Government Regulations" (42 FR 12661, March 24, 1978). This is a procedural rule and is not expected to affect important national energy policy concerns, have adverse effects with respect to employment, economic growth, the ability of consumers to have adequate energy supplies at reasonable prices, or have more than a minimal effect on State and local governments. Hence, the preparation of a regulatory analysis is not required.

Dated: July 18, 1979.

Bob Berglund,
Secretary.

(FR Doc. 79-22821 Filed 7-20-79; 8:45 am)
BILLING CODE 3410-01-M

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 742]

Liquidity Reserves of Insured Credit Unions; Extension of Comment Period

AGENCY: National Credit Union Administration.

ACTION: Extension of Comment Period.

SUMMARY: The National Credit Union Administration extends, until August 10, 1979, the comment period on its proposed regulation "Liquidity Reserves of Insured Credit Unions" (published at

44 FR 33094). Certain commenters have requested this action, which will provide all commenters with additional time to formulate and present their views on the proposed regulation.

DATES: Comments on the proposed regulation should be forwarded to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, 2025 M Street, NW, Washington, DC 20456, to be received on or before August 10, 1979.

ADDRESS: National Credit Union Administration, 2025 M Street, N.W., Washington, D.C., 20456.

FOR FURTHER INFORMATION CONTACT: Robert H. Dugger, Acting Director, Policy Analysis Office, 1375 K Street, NW, or Robert M. Fenner, Assistant General Counsel, Office of General Counsel, at 2025 M Street, NW. Telephone: (202) 633-6775 (Mr. Dugger), (202) 632-4870 (Mr. Fenner).

SUPPLEMENTARY INFORMATION: On June 8, 1979, the National Credit Union Administration (NCUA) issued a proposed regulation entitled "Liquidity Reserves of Insured Credit Unions." The proposal was codified at 12 CFR Part 742, and published at 44 FR 33094. The proposal would require that each insured credit union maintain a liquidity reserve of specified assets. The minimum amount of these assets would be 5% of the total of the credit union's member accounts and notes payable. The assets would be available to meet member demands for share withdrawals. The proposal was made as a result of recent substantial declines in credit union liquidity and capital, as discussed both in the "supplementary information" portion of the published proposal and in the Administration "draft regulatory analysis" concerning the proposal. (The draft analysis is available upon request.)

Public participation in this proposed regulation is being requested in the form of written comments. The proposal initially provided that such comments would be received until July 25, 1979. Inasmuch as the proposed regulation would apply to federally insured State chartered credit unions as well as all Federal credit unions, the National Association of State Credit Union Supervisors (NASCUS) has requested that the Administration extend the comment period, so as to afford NASCUS sufficient time to poll its membership and present representative views. Other prospective commenters have requested additional time to formulate and present their views. The Administration believes these requests are reasonable, and that an addition of

approximately 15 days to the comment period will not seriously hamper the Agency's consideration of this matter. Accordingly, the public comment period on NCUA's proposed regulation "Liquidity Reserves of Insured Credit Unions" (12 CFR Part 742) is hereby extended until August 10, 1979.

(12 U.S.C. 1762(b), 12 U.S.C. 1768(a), 12 U.S.C. 1781(b)(6).)

Lawrence Connell,
Chairman.

July 18, 1979.

[FR Doc. 79-22707 Filed 7-20-79; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Ch. I]

[Summary Notice No. PR-79-3A]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and be received on or before: August 15, 1979.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-24), Room 916, FAA

Headquarters Building (FOB 10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to

paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on July 17, 1979.
Edward P. Faberman,
Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Rulemaking

Docket No.	Petitioner	Description of the Rule Requested
17320	National Federation of the Blind.	To amend Parts 121 and 123 to delete those requirements affecting a blind person's ability to carry on board an aircraft canes and certain other items. Comment period extended to August 15, 1979.

[FR Doc. 79-22687 Filed 7-20-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-RM-20]

Alteration of Transition Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This Notice of Proposed Rulemaking (NPRM) proposes to alter the Dickinson, North Dakota 700' and 1,200' transition areas to provide controlled airspace for aircraft executing the new VOR/DME Runway 35, standard instrument approach procedure developed for Dickinson Municipal Airport, Dickinson, North Dakota.

DATES: Comments must be received on or before August 12, 1979.

ADDRESSES: Send comments on the proposal to: Chief, Air Traffic Division, Attn: ARM-500, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

FOR FURTHER INFORMATION CONTACT: Pruet B. Helm, Airspace and Procedures Specialist, Operations, Procedures and Airspace Branch (ARM-530), Air Traffic Division, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837-3937.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments

as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010. All communications received will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The Federal Aviation Administration is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Dickinson, North Dakota 700' and 1,200' transition areas. The present transition areas are inadequate in size to contain the new VOR/DME Runway 35 standard

instrument approach procedure developed for Dickinson Municipal Airport, Dickinson, North Dakota. It is proposed to make the alteration of the transition areas effective to coincide with the effective date of the new standard instrument approach. Accordingly, the Federal Aviation Administration proposes to amend Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

By amending § 71.181 so as to alter the following transition areas to read:

Dickinson, N. Dak.

That airspace extending upward from 700' above the surface within a 9.5 mile radius of the Dickinson Municipal Airport (latitude 46°47'45" N., longitude 102°48'00" W.) and that airspace extending upward from 1,200' above the surface within a 22 mile radius of the Dickinson VORTAC (latitude 46°51'36" N., longitude 102°46'23" W.) extending clockwise from the Dickinson VORTAC 214° radial to the Dickinson VORTAC 093° radial.

Drafting Information

The principal authors of this document are Pruet B. Helm, Air Traffic Division, and Daniel J. Peterson, office of the Regional Counsel, Rocky Mountain Region.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation, and a comment period of less than 45 days is appropriate.

Issued in Aurora, Colo., on July 13, 1979.

L. R. Robison,

Acting Director, Rocky Mountain Region.

[FR Doc. 79-22673 Filed 7-20-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-SO-45]

Extension of Victor Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to extend V-259 from Fort Mill, S.C., to

Grand Strand, S.C. Aircraft are normally routed along this route to avoid traffic in the Florence, S.C. area and the Gamecock Military Operations Area (MOA). This amendment would reduce controller workload and aid flight planning.

DATES: Comments must be received on or before August 22, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 79-SO-45, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320.

The official docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before August 22, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to extend V-259 from Fort Mill, S.C. to Grand Strand, S.C., via Chesterfield, S.C. and Florence, S.C. This action would improve traffic flow in the Florence area, reduce controller workload and aid flight planning. This airway extension would also provide routing to avoid the Gamecock Military Operations Area (MOA) located such of Chesterfield.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 307) as follows:

V-259 is amended to read as follows:

V-259. From Grand Strand, S.C., via Florence, S.C.; Chesterfield, S.C.; Fort Mill, S.C.; to Holston Mountain, Tenn.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on July 16, 1979.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-22674 Filed 7-20-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 73]

[Airspace Docket No. 78-SO-80]

Alteration of Restricted Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to extend Dare County, N.C., restricted areas 5314 G, H, and J northward a distance of two miles or less to contain the turning radius and run in tracks of high performance military aircraft using targets within the R-5314 subareas. This

action would provide for the safe and efficient use of the navigable airspace in this area.

DATES: Comments must be received on or before August 22, 1979.

ADDRESSES: Send comments on the proposal in triplicate: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 78-SO-80, P.O. Box 20636, Atlanta, Ga. 30320.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C., 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:
Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga., 30320. All communications received on or before August 22, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rule Making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C., 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Part 73 of the Federal

Aviation Regulations that would enlarge subareas G, H, and J of R-5314.

The additional area is required to contain the turning and run in tracks of high performance military aircraft operation at subsonic speeds in excess of 250 knots. The U.S. Air Force is the lead agency for the purposes of compliance with the National Environmental Policy Act. Headquarters Tactical Air Command/DEEV, Langley AFB, VA., 23365, Attention: Capt. William Gantt, telephone: (804) 764-4430, is the agency to which comments on the environmental and land use aspects can be addressed. The designated altitude, time of designation, controlling agency, and using agency remain unchanged for all of the Dare County, N.C., restricted areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 73.53 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (44 FR 705) as follows:

Under R-5314, Subarea G, all before "Designated altitudes," is deleted and "Boundaries. Beginning at Lat. 35°51'35"N., Long. 75°57'55"W; to Lat. 35°38'55"N., Long. 76°01'00"W; to Lat. 35°39'20"N., Long. 76°05'00"W; to Lat. 35°51'59"N., Long. 76°02'08"W; to the point of beginning," is substituted therefor.

Under R-5314, Subarea H, all before "Designated altitudes," is deleted and "Boundaries. Beginning at Lat. 35°51'59"N., Long. 76°02'08"W; to Lat. 35°39'20"N., Long. 76°05'00"W; to Lat. 35°40'25"N., Long. 76°12'25"W; to Lat. 35°52'42"N., Long. 76°09'49"W; to the point of beginning," is substituted therefor.

Under R-5314, Subarea J, and all before "Designated altitudes," is deleted and "Boundaries. Beginning at Lat. 35°52'42"N., Long. 76°09'49"W; to Lat. 35°43'25"N., Long. 76°12'25"W; to Lat. 35°43'50"N., Long. 76°35'30"W; to Lat. 35°54'50"N., Long. 76°33'10"W; to the point of beginning," is substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65))

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a

regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C. on July 16, 1979.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-22675 Filed 7-20-79; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 570]

[Docket No. R-79-685]

Community Development Block Grants, Content of Housing Assistance

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of interim rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS—CONTENT OF HOUSING ASSISTANCE PLAN

This interim rule would revise the rules to be followed by applicants for entitlement grants and small cities grants with respect to inclusion in the Housing Assistance Plan of an assessment of the needs of lower-income households who could reasonably be expected to reside in an applicant's jurisdiction. This revision would conform HUD's rules to the changes in requirements made by the Housing and Community Development Amendments of 1978

(Sec. 7(o), Department of HUD Act, (42 U.S.C. 3535(o)), sec. 324, Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., July 16, 1979.

Patricia Roberts Harris,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-22685 Filed 7-20-79; 8:45 am]

BILLING CODE 4210-01-M

[24 CFR Part 42]

[Docket No. R-79-686]

Uniform Relocation Assistance and Real Property Acquisition (Relocation of Mobile Home Occupants Displaced by a HUD-Assisted Project)

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of proposed rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing, and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR PART 42—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION (RELOCATION OF MOBILE HOME OCCUPANTS DISPLACED BY A HUD-ASSISTED PROJECT)

This interim rule would revise 24 CFR Part 42 by adding a new Subpart H stating HUD's relocation assistance policies in connection with mobile homes. This new subpart would provide guidelines for determining eligibility for relocation assistance, under the Uniform Relocation Act, of persons displaced from mobile homes by HUD-assisted project.

(Sec. 7(o), Department of HUD Act, 42 U.S.C. 3535(o), sec. 324, Housing and Community Development Amendments of 1978)

Issued at Washington, D.C. July 17, 1979.

Patricia Roberts Harris,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-22610 Filed 7-20-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

Center for Disease Control

[42 CFR Part 71]

Foreign Quarantine: Importation of Certain Things; Dogs and Cats

AGENCY: Center for Disease Control, PHS, HEW.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The proposed revision will modify requirements for importation of dogs and cats into the United States by (1) eliminating the inspection requirements for wild dogs and wild cats, and vaccination requirements for wild dogs; (2) prescribing currently available vaccines; and (3) allowing domestic dogs requiring rabies vaccination to be vaccinated at their destination rather than at the port of entry.

The changes are proposed because wild dogs and wild cats have not been a source of rabies or other communicable disease; therefore, inspection and vaccination are neither necessary nor practical. Also, vaccines listed in the existing regulation are no longer available. The current procedure requiring dogs to be vaccinated at the port of entry is being changed to eliminate undue hardship to the owners, inspection staff, and carrier representatives, and to reduce the expense to the owners of having domestic dogs vaccinated at the port of entry. The proposed changes will allow wild dogs and wild cats to be admitted without restrictions, prescribe currently available rabies vaccines, and facilitate the admission of dogs requiring vaccination.

DATES: Written comments must be received on or before September 4, 1979, proposed effective date: Upon publication of the final rule in the Federal Register.

ADDRESSES: Comments or inquiries may be submitted in writing to the Director, Quarantine Division, Bureau of Epidemiology, Center for Disease

Control, Atlanta, Georgia 30333. All relevant material received within the comment period will be considered. Comments will be available for public inspection at the Center for Disease Control, 1600 Clifton Road, NE., in Room 4067, Atlanta, Georgia, between 8 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph F. Giordano, Director, Quarantine Division, Bureau of Epidemiology, Center for Disease Control, PHS, HEW, Atlanta, Ga. 30333, telephone 404-329-3674, or FTS: 236-3674.

SUPPLEMENTARY INFORMATION: The current regulation is intended to prevent the introduction of communicable disease, especially rabies, with the importation of domestic or wild dogs or domestic or wild cats. Importation of wild dogs or wild cats is not known to constitute a significant communicable disease hazard. No rabies vaccines are available for immunization of wild dogs. Rabies vaccines available for immunization of domestic dogs have changed since the present regulation was implemented. These changes make the present regulation outdated.

The present regulation requires, in some instances, that an imported dog be detained and confined at the port of entry pending the arrival of a veterinarian to vaccinate the animal. The proposed regulation will allow the dog, under similar circumstances, to proceed to destination in confinement without delay and for vaccination to be performed at destination. This will expedite disposition of imported dogs, effect a monetary savings for the owner, and reduce inspection staff time.

The Executive Committee of the National Association of State Public Health Veterinarians has urged that this regulation be updated to reflect changes mentioned above. The group has reviewed the proposed revision and has concurred in the proposed changes.

It is therefore proposed to revise § 71.154 in Part 71 of Title 42, Code of Federal Regulations, as set forth below.

Dated: April 24, 1979.

Charles Miller,

Acting Assistant Secretary for Health.

Approved: May 24, 1979.

Joseph A. Califano, Jr.,

Secretary.

§ 71.154 Importation requirements for dogs and cats.

(a) *Definitions.* As used in this section and § 71.155 which deals with disposition of excluded dogs and cats, the term:

"Cat" includes all domestic cats.

"Confinement" means restriction of a dog or cat to a building or other enclosure at the port of entry, en route to destination, and at destination, in isolation from other animals and from persons except for contact necessary for its care or, if the dog or cat is allowed out of the enclosure, muzzling and keeping it on a leash.

"Director" means the Director, Center for Disease Control, Public Health Service, U.S. Department of Health, Education, and Welfare, or the person to whom the authority involved has been delegated.

"Dog" includes all domestic dogs.

"Owner" means owner or agent.

"Quarantine officer" means quarantine officer or the person to whom the authority involved has been delegated.

"United States" means the States, the District of Columbia, Puerto Rico, and the Virgin Islands.

"Valid rabies vaccination certificate" means a certificate which was issued for a dog not less than 3 months of age at the time of vaccination and which—

(i) Identifies a dog on the basis of breed, sex, age, color, markings, or other information.

(ii) Specifies a date of rabies vaccination at least 30 days before the date of arrival of the dog.

(iii) Specifies a date of expiration which is after the date of arrival of the dog. If no date of expiration is specified, then the date of vaccination shall be no more than 12 months before the date of arrival.

(iv) Bears the signature of a licensed veterinarian.

(b) *General requirements for admission of dogs and cats.*—(1) *Inspection by quarantine officer.* The quarantine officer shall inspect all dogs and cats which arrive at a port of entry from a foreign area. The quarantine officer shall admit only those dogs and cats which show no signs of communicable disease as defined in § 71.1(b).

(2) *Examination by veterinarian and confinement of dogs and cats.* When a dog or cat does not appear to be in good health on arrival (i.e., it has symptoms such as emaciation, lesions of the skin, nervous system disturbances, jaundice, or diarrhea), the officer in charge may require prompt confinement and give the owner an opportunity to arrange for a licensed veterinarian to examine the animal and give or arrange for any tests or treatment indicated. The officer in charge will consider the findings of the examination and tests in determining whether or not the dog or cat may have a communicable disease. The owner

shall bear the expense of the examination, tests, and treatment. When it is necessary to detain a dog or cat pending determination of its admissibility, the owner shall provide confinement facilities which in the judgment of the officer in charge will afford protection against any communicable disease. The owner shall bear the expense of confinement. Confinement shall be subject to conditions specified by the officer in charge to protect the public health.

(3) *Record of sickness or death of dogs and cats and requirements for exposed animals.* (i) The person responsible for the care of dogs and cats shall maintain a record of sickness or death of animals en route to the United States and shall submit the record to the quarantine officer at the port of entry. Dogs or cats which have become sick while en route or are dead on arrival shall be separated from other animals as soon as the sickness or death is discovered, and shall be held in confinement pending any necessary examination as determined by the officer in charge.

(ii) When a dog or cat appears healthy but, during shipment, has been exposed to a sick or dead animal suspected of having a communicable disease, the exposed dog or cat shall be admitted only if examination or tests made on arrival reveal no evidence that the animal may be infected with a communicable disease. The provisions of subparagraph (2) of this paragraph shall be applicable to the examination or tests.

(4) *Sanitation.* When the quarantine officer finds that the cages or other containers of dogs or cats arriving in the United States are in an unsanitary or other condition that may constitute a communicable disease hazard:

(i) The dogs or cats shall not be admitted in such containers unless the owner has the containers cleaned and disinfected; and

(ii) The quarantine officer shall report the matter to the U.S. Customs Service Officer for investigation pursuant to U.S. Customs regulations (19 CFR 12.26(k)) regarding importation of animals under inhumane or unhealthful conditions.

(c) *Rabies vaccination requirements for dogs.* (1) The quarantine officer shall require submittal of a valid rabies vaccination certificate at the port of entry for admission of a dog into the United States unless the owner submits evidence satisfactory to the quarantine officer that:

(i) If a dog is less than 6 months of age, it has been only in a country determined by the Director to be rabies-

free;¹ or (ii) If a dog is 6 months of age or older, for the 6 months before arrival, it has been only in a country determined by the Director to be rabies-free;^{10,11} or

(iii) The dog is to be taken to research facility to be used for research purposes and vaccination would interfere with its use for such purposes.

(2) Notwithstanding the provisions of paragraph (c)(1) of this section, the quarantine officer may authorize admission as follows:

(i) If the date of vaccination shown on the vaccination certificate is less than 30 days before the date of arrival, the dog may be admitted, but it must be confined until at least 30 days have elapsed since the date of vaccination.

(ii) If the dog is less than 3 months of age, it may be admitted, but it must be confined until it is vaccinated against rabies at 3 months of age. Also, it must be kept in confinement for at least 30 days after the date of vaccination.

(iii) If the dog is 3 months of age or older, it may be admitted, but it must be confined until it is vaccinated against rabies. The dog must be vaccinated within 4 days after arrival at destination but no more than 10 days after arrival at port of entry. Also, it must be kept in confinement for at least 30 days after the date of vaccination.

(3) When a dog is admitted under subparagraph (2) of this paragraph, the quarantine officer shall notify the health department or other appropriate agency having jurisdiction at the point of destination and shall provide the health department with the address of the specified place of confinement and other pertinent information to facilitate surveillance and other appropriate action.

(d) *Certification requirements.* The owner shall submit such certification regarding confinement and vaccination prescribed under this section as may be required by the Director.

(e) *Additional requirements for the importation of dogs and cats.* Dogs and cats coming from areas having a high rate of rabies shall be subject to additional requirements or exclusion as may be determined by the Director to be necessary to protect the public health.

(f) *Requirements for dogs and cats in transit.* The provisions of this section shall apply to dogs and cats transported through the United States from one foreign country to another, except as provided below:

(1) Dogs and cats that appear healthy, but have been exposed to a sick or dead

¹A current list of rabies-free countries may be obtained from the Director, Quarantine Division, Bureau of Epidemiology, Center for Disease Control, Atlanta, Georgia 30333.

animal suspected of having a communicable disease, need not undergo examination or tests as provided in paragraph (b)(3) of this section if the quarantine officer determines that the conditions under which they are being transported will afford adequate protection against introduction of communicable disease.

(2) Rabies vaccination is not required for dogs that are transported by aircraft or vessel and retained in custody of the carrier under conditions preventing introduction of rabies.

[FR Doc. 79-22667 Filed 7-20-79; 8:45 am]
BILLING CODE 4110-06-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[44 CFR Part 67]

[Docket No. FI-5665]

National Flood Insurance Program; Proposed Flood Elevation Determinations¹

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or

comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii call Toll Free Line (800) 424-9080), Room 5270, 451 Seventh Street, S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added

section 1383 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.4(a).)

These elevations, together with the flood plain management measures required by section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

¹This new format for Federal Register publication of the Federal Emergency Management Agency's base flood elevation determinations for communities under the National Flood Insurance Program is being introduced to enhance readability and conserve space. Previous determinations were published as separate documents for each community.

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	*Depth in feet above ground. *Elevation in feet (NGVD)
Colorado	Eaton (Town), Weld County	Eaton Draw	Downstream Corporate Limits—100 feet upstream from crossing..... County Road 74—150 feet downstream from centerline..... County Road 74—at centerline.....	*4,789 *4,802 *4,808
Maps available at Town Hall, 2231 First Street, Eaton, Colorado. Send comments to: Mr. Gary Carsten, Town Manager, Town of Eaton, Town Hall, 2231 First Street, Eaton, Colorado 80615.				
Connecticut	City of Groton, New London County	Long Island Sound	Coastline..... Thames River..... Birch Plain Creek.....	*11 *11 *11
Maps available at the Office of the Building and Zoning Officials, Municipal Building. Send comments to: Honorable David B. Sweet, Mayor of Groton, Municipal Building, 295 Meridian Street, Groton, Connecticut 06340.				
Illinois	Fox River Grove, McHenry County	Fox River	Western corporate limit..... Eastern corporate limit.....	*736 *737
Maps available at Village President's Office, Fox River Grove, Illinois. Send comments to: Mr. James Wittig, Village President, Village of Fox River Grove, 408 Northwest Highway, Fox River Grove, Illinois 60021.				
Illinois	New Lenox, Will County	Hickory Creek	Western corporate limit..... 200 feet upstream from Vine Street..... 200 feet upstream of Cedar Road..... Eastern corporate limit.....	*619 *622 *628 *630
Maps available at Village Hall, 201 North Church Street, New Lenox, Illinois. Send comments to: Mr. Joseph E. Hortung Village President, Village of New Lenox, Village Hall, 201 North Church Street, New Lenox, Illinois 60451.				

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	Winnebago County	Rock River	County Boundary (Downstream)	*691
			Confluence of Kishwaukee River	*695
			Belt Line Road	*697
			Upstream of U.S. Highway 20	*699
			7,250' upstream of U.S. Highway 20 (At corporate limits)	*701
			Confluence of Mud Creek	*713
			Upstream of Latham-Ralston Road	*716
			Downstream of Roscoe Road	*720
			Confluence of Dry Creek	*723
			Downstream of Illinois Highway 2	*725
		Kilbuck Creek	Upstream of Rockton Road	*727
			Rockton Dam	*729
			Upstream of Prairie Hill Road	*732
			Corporate Limits (7,000 feet above Prairie Hill Road)	*736
			Confluence with Kishwaukee River	*695
			South Bend Road	*696
			Upstream of Old South Bend Road	*702
			Upstream of U.S. Highway 51	*711
			1,750' downstream of County Boundary	*717
			Upstream of Kishwaukee Road	*695
		Kishwaukee River	Downstream of Belt Line Road	*700
			Upstream of U.S. Highway 51	*705
			Downstream Black Hawk Road	*716
			Upstream of Illinois Central Gulf Railroad	*722
			Downstream of Interstate 90	*729
			Confluence with Kishwaukee River	*718
			Upstream of Blomberg Road	*724
			Edson Road	*734
			Confluence with Kishwaukee River	*725
			Upstream of Mill Road	*726
		Madigan Creek	Upstream of Chicago and North Western Railway	*737
			Upstream of U.S. Highway 20	*745
			Upstream of Old Harrison Avenue	*758
			Upstream of Harrison Avenue	*766
			Upstream of Charles Street	*767
			1,750' upstream of Charles Street	*768
			Country Club Road	*786
			Upstream of Guilford Road	*806
			Downstream of Wild Ginger Road	*819
			Cochran Court	*824
		Spring Creek	Downstream of Milford Road	*836
			Downstream of Vehicle Ford	*853
			Upstream of Shaw Road	*856
			McFarland Road (Extended)	*864
			Downstream of Brookview Road	*766
			Upstream of Alpine Road	*763
			Upstream of Spring Creek road	*787
			Upstream of Private Drive	*809
			Upstream of Private Factory Road	*731
			Private Railroad	*734
		Ditch No. 3	Confluence of Ditch No. 3	*744
			Upstream of Forest Hills Road	*752
			Upstream of Alpine Road	*755
			Corporate Limits (Upstream)	*781
			Confluence with Main Drainage Ditch	*744
			Upstream of Windsor Road	*746
			Upstream of Alpine Road	*748
			Forest Hills Road	*764
			Corporate Limits above Forest Hill Road	*766
			Confluence with Rock River	*715
		Willow Creek	Upstream of U.S. Highway 51	*725
			Upstream of Alpine Road	*741
			Downstream Corporate Boundary with City of Loves Park	*758
			Upstream Corporate Boundary with City of Loves Park	*782
			Downstream boundary of Rock Cut State Park	*789
			Confluence with Rock River	*718
			Downstream of Frontage Road	*728
			Upstream of U.S. Highway 51	*730
			Upstream of Swanson Road	*750
			Upstream of McDonald Road	*763
		McDonald Creek	Downstream Corporate Limits with Village of Roscoe	*735
			Upstream of Chicago and North Western Railway	*741
			Upstream of Interstate 90	*755
			Upstream of Hamburg Road	*760
			Upstream of Atwood Avenue	*781
			Upstream of Private Drive	*791
			Upstream of Burr Oak Road	*801
			Downstream Corporate Limits with Village of Roscoe	*738
			Upstream of Willow Brook Road	*741
			Upstream of Interstate 90	*759
		North Kinnickinnick Creek	Love Road	*766
			South Gate Road (Extended)	*778
			White School Road (Extended)	*799
			3,000' downstream of County Boundary (Upstream)	*811
			County Boundary (Upstream)	*827
			Confluence with Rock River	*723
			Upstream of Forest Preserve Road	*728
			Upstream of Hononegah Road	*732

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Downstream Corporate Limits with Village of Roscoe	*742
			Upstream Corporate Limits with Village of Roscoe	*749
			Upstream of Chicago and North Western Railway	*752
			Upstream of Rockton Road	*758
			Upstream of Willow Brook Road	*768
			Downstream of Northwest Tollway	*771
			Downstream of Manchester Road	*773
			Upstream of Middle Road	*780
			5,500' upstream of Middle Road	*787
			Confluence with Dry Creek	*758
		South Branch Dry Creek	Downstream of Willow Brook Road	*762
			Upstream of Northwest Tollway	*786
			Love Road	*774
			3,000' downstream of White School Road	*810
			Downstream of White School Road	*834
			Farm Bridge	*843
			Upstream of Rockton Road	*856
			2,000' downstream of County Line Road	*883
			Downstream of County Line Road	*903
			Confluence with Rock River	*737
		Turtle Creek	State Boundary	*750
			Corporate Limits downstream of Johnson Avenue	*724
			Johnson Avenue	*725
			Saford Road	*733
			Confluence of Kilburn Creek	*739
			Downstream of Page Park Dam	*753
			Upstream of Page Park Dam	*765
			Upstream of Meridian Road	*766
			Upstream of Harrison Road	*770
			Downstream of Wempleton Road	*783
		North Kent Creek	Upstream of Auburn Road	*795
			3,300' upstream of Auburn Road	*799
			Confluence with North Kent Creek	*739
			State Route 70	*750
			Downstream of Lakewood Hills Dam	*752
			Upstream of Lakewood Hills Dam	*757
			Upstream of Lakeside Drive	*780
			3,400' upstream of Lakeside Drive	*778
			Upstream of Horace Avenue	*729
			Upstream of Cunningham Road (Downstream Crossing)	*731
		Kilburn Creek	Downstream of Illinois Central Gulf Railroad (Downstream Crossing)	*733
			Upstream of Illinois Central Gulf Railroad (Upstream Crossing)	*745
			Upstream of U.S. Highway 20	*746
			Upstream of Centerville Road	*749
			Upstream of Private Drive	*751
			Downstream of Cunningham Road (Crossing between Meridian Road and Centerville Road)	*754
			Upstream of Cunningham Road (Crossing between Meridian Road and Centerville Road)	*763
			Upstream of Meridian Road	*767
			Weldon Road	*803
			Cunningham Road (Upstream Crossing)	*803
		Mud Creek	Confluence with Rock River	*713
			Upstream of Private Road	*736
			1,000' upstream of Rockton Avenue	*751
			Confluence with Rock River	*727
			Upstream of Meridian Road	*728
			Upstream of State Route 75	*731
			Upstream of State Route 70	*736
			Upstream of Pecatonica Road	*744
			Confluence with Pecatonica River	*729
			Downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad	*735
		Pecatonica River	Upstream of Winslow Road	*740
			Yale Bridge Road	*741
			State Boundary (Upstream)	*743
			Confluence with Sugar River	*740
			Downstream of Wheeler Road	*745
			Confluence with North and South Branch Otter Creek	*752
			Upstream with Otter Creek	*752
			Upstream of Crowley Road	*759
			Upstream of Patterson Road	*787
			Upstream of Field Road	*783
		Sugar River	Upstream of Rock Grove Road	*786
			Yale Brook Road	*791
			Upstream of Best Road	*795
			700' downstream of North Hartman Road	*809
			Confluence with Otter Creek	*752
			Downstream of Fritz Road	*758
			Downstream of Center Road	*765
			Upstream of Patterson Road	*769
			Upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad	*774
			Upstream of Pecatonica Road	*777
		Otter Creek	Upstream of Durand Road	*782
			Confluence with North Branch Otter Creek	*773
			Upstream of Rock Grove Road	*779
			Yale Bridge Road	*791

Maps available at the Courthouse, Winnebago County, Illinois.

Send comments to: Mr. Laurence Ralston, Chairman of the County Board, Winnebago County Courthouse Building, Rockford, Illinois 61101.

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
Indiana	Chesterfield, Madison County	Mill Creek	Approximately 25 feet upstream from northern corporate limit	*875	
			Approximately 440 feet upstream from northern corporate limit	*882	
			Approximately 600 feet downstream from Main Street	*886	
			Approximately 150 feet downstream from Main Street	*892	
			Located at Main Street	*895	
			Just upstream from Main Street	*896	
			Approximately 120 feet upstream from Main Street	*901	
			Approximately 40 feet upstream from Conrail	*904	
			Just upstream from State Road 67	*906	
			Just downstream from Mulberry Road	*907	
			Just downstream from southern corporate limit	*907	
			Approximately 2,660 feet downstream from Water Street	*886	
			Approximately 3,500 feet upstream from Water Street	*869	
White River					
Maps available at Town Hall, 207 East Main Street, Chesterfield, Indiana.					
Send comments to Mr. Rick Grills, President of the Town Board, Town of Chesterfield, Town Hall, 207 East Main Street, Chesterfield, Indiana 46017					
Indiana	Schererville, Lake County	Schererville Ditch	At confluence with Dyer Ditch	*628	
			Just upstream of 68th Avenue	*629	
			Just upstream of Roman Drive	*631	
		Schilling Ditch	At confluence with Dyer Ditch	*632	
			About 500 feet downstream of U.S. Route 30	*632	
			About 500 feet upstream of U.S. Route 30	*637	
			About 0.7 mile upstream of Sunset Boulevard	*638	
			At southern corporate limits, about 1.3 miles upstream of Sunset Boulevard	*651	
		Seberger Ditch	Just upstream of Main Street	*621	
			Just downstream of Conrail	*625	
			Just upstream of Conrail	*628	
			Just downstream of Central Avenue	*630	
			Just upstream of Central Avenue	*632	
		Turkey Creek	About 300 feet upstream of Redar Drive	*634	
			At eastern corporate limit	*632	
			Just upstream of gravel road, about 500 feet downstream of Cine Avenue	*635	
			Just upstream of Joliet Street	*638	
			Just downstream of U.S. Route 30	*647	
		Dyer Ditch	Just upstream of U.S. Route 30	*650	
			About 900 feet upstream of Conrail	*651	
			Just upstream of Airport Road	*626	
			Just downstream of Conrail	*627	
			Just upstream of Elgin Joliet & Eastern Railway	*628	
			About 0.4 mile upstream of Elgin Joliet & Eastern Railway	*629	
			Just upstream of U.S. Route 30	*635	
			About 0.4 mile upstream of U.S. Route 30	*636	
Maps available at Town Hall, 1640 Wilson Street, Schererville, Indiana.					
Send comments to Mr. Richard Krame, Town Board President, Town of Schererville, Town Hall, 1640 Wilson Street, Schererville, Indiana 48375.					
Iowa	Lake View, Sac County	Blackhawk Lake	Entire shoreline	*1,224	
		Provost Slough	Entire shoreline	*1,224	
		Arrowhead Lake	Entire shoreline	*1,224	
		Maps available at City Hall, City Clerk's Office, 305 Main Street, Lake View, Iowa.			
Send comments to: The Honorable Lawrence Bruner, Mayor, City of Lake View, City Hall, 305 Main Street, Lake View, Iowa 51450.					
Maine	Chelsea, Kennebec County	Kennebec River	At Chelsea-Randolph Townline	*30	
			Just downstream of Farmingdale Townline	*31	
			At mouth of Vaughn Brook	*31	
			Approximately 4,600 feet upstream of mouth of Vaughn Brook	*32	
			Togus Stream	At Chelsea-Pittston Townline	*80
				Approximately 300 feet upstream Chelsea-Pittston Townline	*84
				Approximately 2,500 feet upstream Chelsea-Pittston Townline	*87
				Approximately 3,050 feet upstream Chelsea-Pittston Townline	*96
				Approximately 6,000 feet upstream Chelsea-Pittston Townline	*102
				Approximately 6,900 feet upstream Chelsea-Pittston Townline	*106
		Approximately 250 feet upstream Searles Mill Road		*110	
		Approximately 1,000 feet upstream Searles Mill Road		*115	
		Just upstream of Windsor Road		*131	
		Approximately 1,300 feet downstream of confluence of Chase Meadow Brook		*133	
		Togus Stream	Approximately 750 feet downstream of confluence of Chase Meadow Brook	*137	
			Just upstream confluence of Chase Meadow Brook	*141	
			Approximately 175 feet downstream of Gravel Pit Road	*144	
			Approximately 300 feet upstream of Gravel Pit Road	*150	
			Approximately 500 feet upstream of Gravel Pit Road	*155	
			Approximately 100 feet downstream of Wellman Road	*158	
			Approximately 500 feet upstream of Wellman Road	*165	
			Just downstream of Route 17 By-pass	*166	
			Just upstream of Route 17 By-pass	*169	
			Just downstream of Route 17	*175	
			Just upstream of Route 17	*178	

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)		
Maine	Phillips, Franklin County	Sandy River	At the southern corporate limit	*538		
			Just downstream of Bridge Street	*550		
			Approximately 400 feet upstream of Bridge Street	*560		
			Just upstream of Park Street	*603		
Maps available at Town Office, Main Street, Phillips, Maine.						
Send comments to: Laura W. Toohaker, Town Manager, Town of Phillips, Town Office, Main Street, Phillips, Maine 04966.						
Maine	Town of Pittston, Kennebec County	Kennebec River	Downstream Corporate Limits	*25		
			Confluence of Morton Brook	*26		
			Upstream Corporate Limits	*28		
			Togus Stream	Confluence with Kennebec River	*28	
			State Route 27 Bridge	*28		
		Togus Stream	Confluence of Tony Meadow Brook	*68		
			Barber Road Bridge (Upstream)	*74		
			Upstream Corporate Limit	*81		
Maps available at the Fire Station and the regional Planning Office, 125 State Street, Augusta, Maine.						
Send comments to: Mr. Clifton Moody, First Selectman of Pittston, Town Office, Route 4, Gardiner, Maine 04345.						
Massachusetts	Town of Danvers, Essex County	Ipswich River	West Street Upstream Side	*48		
			Andover Street (State Route 114) Upstream Side	*49		
			State Route 128	*11		
			Frost Fish Brook	Massachusetts Avenue Upstream Side	*14	
			Coolidge Road Downstream Side	*17		
		Crane River	Water Street (State Route 35)	*11		
			State Route 128	*11		
			Crane Brook	Downstream crossing of Cemetery Road Upstream Side	*15	
			Sylvan Street Dam and Bridge, Upstream Side	*25		
			Collins Street Upstream Side	*28		
		Crane Brook	Andover Street (State Route 114) Upstream Side	*30		
			Boston and Maine Railroad, Upstream Side, located 0.3 mile upstream Andover Street	*41		
			Beaver Brook	Holten Street Upstream Side	*32	
			Hobart Street	*33		
			Beaver Park Road Upstream Side	*36		
			Maple Street Downstream Side	*45		
			Maple Street Upstream Side	*52		
			Nicholas Street Downstream Side	*57		
Maps available at the Office of the Town Clerk and the Danvers Public Library.						
Send comments to: Mr. Kenneth G. Bellevue, Chairman of the Board of Selectmen of Danvers, Town Hall, Danvers, Massachusetts 01923.						
Massachusetts	Reading Middlesex County	Ipswich River	Downstream corporate limit	*70		
			Just downstream Mill Street	*71		
			Upstream corporate limit	*76		
			Bear Meadow Brook	About 500 feet downstream of Haverhill Street	*71	
			About one mile upstream of Haverhill Street	*76		
		Aberjona River	Downstream corporate limit	*67		
			Just downstream of West Street culvert	*82		
			Divergence with North Spur Aberjona River	*85		
			North Spur, Aberjona River	Downstream corporate limit	*75	
			Just upstream of West Street	*81		
		Crane Brook	Just upstream of Willow Street	*85		
			Downstream corporate limit	*79		
			Just downstream of Harvest Road	*84		
			Just downstream of Ash Street	*87		
		Maps available at Town Hall, Town Clerk's Office, 60 Cowell Street, Reading, Massachusetts.				
		Send comments to: Mr. James Sullivan, Jr., Chairman of the Board of Selectmen, Town of Reading, Town Hall, 60 Cowell Street, Reading, Massachusetts 01867.				
		Michigan	Birmingham (City), Oakland County	Main River Rouge	Maple Street—25 feet upstream from centerline	*725
					Hunter Boulevard—100 feet downstream from centerline	*748
16 Mile Road—at centerline	*750					
Quarton Lake Branch	Quarton Lake Dam—10 feet downstream from centerline				*727	
Quarton Lake Dam—10 feet upstream from centerline	*736					
Quarton Lake Branch	Redding Street—10 feet upstream from centerline			*748		
Maps available at the Office of the City Engineer, City Hall, 151 Martin Street, Birmingham, Michigan.						
Send comments to: Honorable George Jackson, Mayor, City of Birmingham, City Hall, 151 Martin Street, Birmingham, Michigan 48011						
Michigan	Farmington (City) Oakland County	Upper River Rouge	Grand River Avenue—50 feet upstream from centerline	*687		
			Powers Avenue—200 feet downstream from centerline	*692		
			Powers Avenue—30 feet upstream from centerline	*697		
			Farmington Road (abandoned)—25 feet upstream from centerline	*713		
			Tambusi Creek	Smithfield Road—at centerline	*755	
		Tambusi Creek	Brittany Hill Road—at centerline	*787		
Maps available at the Office of the City Clerk, City Hall, 23600 Liberty Street, Farmington, Michigan						
Send comments to: Honorable Richard Tupper, Mayor, City of Farmington, City Hall, 23600 Liberty Street, Farmington, Michigan 48024						
Minnesota	Edina, Hennepin County	Minnehaha Creek	Just upstream of Xerxes Avenue	*853		
			Downstream corporate limit	*854		
			Just upstream France Avenue South	*861		
			Just upstream West 54th Street	*867		
			Just upstream Woodale Avenue	*878		
			Just upstream Browndale Avenue Dam	*889		
			Just upstream West 44th Street	*890		
			Upstream corporate limit	*892		

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)		
Minnesota	Edina, Minnesota	Nine Mile Creek	Downstream corporate limit	*821		
			Just upstream West 77th Street Ramp	*825		
			Just upstream West 70 Street	*832		
			Just upstream Minneapolis, Northfield & Southern Railroad	*837		
			Just upstream Brook Drive	*841		
			Just upstream Valley View Drive	*848		
			Just upstream County Highway 82	*853		
			Just upstream County Highway 158	*862		
			Just upstream Dover Drive	*874		
			Upstream corporate limit	*875		
		Braemer Branch South Fork Nine Mile Creek	At mouth	*832		
			2,800 feet upstream of mouth			
			4,000 feet upstream of mouth	*844		
			Just upstream Braemer Road	*846		
			900 feet upstream Valley View Road	*858		
			Maps available at City Hall, City of Edina, Edina, Minnesota.			
			Send comments to: The Honorable James Van Valkenburg, Mayor, City of Edina, City Hall, 4801 West 50th Street, Edina, Minnesota 55424.			
			Minnesota	Little Falls, Morrison County	Mississippi River	Southern corporate limit	*1,092
			Just upstream from Burlington Northern	*1,094		
			At Minnesota Power & Light	*1,096		
Maps available at City Hall—Engineer's Office and City Administrator's office, 100 North East Senexth Avenue, Little Falls, Minnesota.						
Send comments to: The Honorable Joseph H. Sauer, Mayor, City of Little Falls, City Hall, 100 North East Senexth Avenue, Little Falls, Minnesota 56345.						
Missouri	Freeman, Cass County	Poney Creek	1975 feet downstream of Old Route "0"	*832		
			Just downstream of Old Route "0"	*834		
			Just upstream of Old Route "0"	*835		
			Just downstream of Route "0"	*836		
			500 feet upstream of Route "0"	*842		
			2,450 feet upstream of Route "0"	*843		
Maps available at City Hall, Freeman, Missouri.						
Send comments to: The Honorable Clint Kisner, Mayor, City of Freeman, City Hall, Freeman, Missouri 64746.						
Montana	Lincoln County Unincorporated Areas	Big Cherry Creek	Confluence with Libby Creek	*2,144		
			U.S. Highway 2 Bridge—90 feet upstream from centerline	*2,196		
			County Road—85 feet upstream from centerline	*2,321		
		Bohtail Creek	County Road—10 feet upstream from centerline	*2,067		
		Callahan Creek	Burlington Northern Railroad—80 feet upstream from centerline	*1,886		
			Corporate limits (2nd crossing)	*1,914		
		Flower Creek	Sewage Plant Road—65 feet upstream from centerline	*2,057		
			Corporate limits (4th crossing)	*2,157		
			Sewage Plant Road—230 feet southwest of Flower Creek	#1		
		Kootenai River	Confluence with Flower Creek	*2,054		
			Private Road—150 feet upstream from centerline	*2,060		
		Libby Creek	Burlington Northern Railroad—at centerline	*2,060		
			Private Road (2nd crossing)—at centerline	*2,071		
			Confluence with Big Cherry Creek	*2,144		
			Logging Road to St. Regis Sawmill—115 feet upstream from centerline	*2,310		
			State Highway 482 Bridge—50 feet upstream from centerline	*2,351		
		Parmenter Creek	Burlington Northern Railroad—50 feet upstream from centerline	*2,055		
			U.S. Highway 2—50 feet upstream from centerline	*2,074		
			Dome Mountain Avenue—35 feet upstream from centerline	*2,015		
			Highway 2—3,500 feet southwest of intersection with Indian Head Road	#1		
		Quartz Creek	Road Bridge—30 feet upstream from centerline	*2,035		
		Tobacco River	Corporate limits (first crossing)	*2,558		
			Burlington Northern Railroad—50 feet upstream from centerline	*2,604		
Maps available at Lincoln County Courthouse, 418 Mineral Avenue, Libby, Montana.						
Send comments to: Mr. Jim Morey, Chairman, Board of County Commissioners, Lincoln County Courthouse, 418 Mineral Avenue, Libby, Montana 59923.						
New Jersey	East Rutherford, Borough Bergen County	Passaic River	Downstream Corporate Limits	*16		
			Upstream Corporate Limits	*16		
Maps are available at the Borough Hall, East Rutherford, New Jersey.						
Send comments to: Honorable James Plosia, Mayor of East Rutherford, Borough Hall, 111 Patterson Avenue and Everett Place, East Rutherford, New Jersey 07073.						
New York	Sand Lake (Town) Rensselaer County	Wynants Kill	Stop 13 Road—50 feet downstream from centerline	458*		
			Stop 13 Road—50 feet upstream from centerline	463*		
			Brookside Park Road—75 feet upstream from centerline	499*		
			State Highway 43 (at station 5,550)—150 feet upstream from centerline	528*		
			These Road—125 feet upstream from centerline	582*		
			Garner Road—150 feet downstream from centerline	607*		
			Garner Road—at centerline	614*		
			Eastern Union Turnpike—50 feet upstream from centerline	769*		
			Glass Lake Road—50 feet downstream from centerline	817*		
Maps available at Town Clerk's Office, Town Hall, Routes 43 and 66, Sand Lake, NY.						
Send comments to: Mr. John Udway, Supervisor, Town of Sand Lake, Town Hall, Sand Lake, NY 12153.						

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
North Carolina	Gibsonville (Town), Alamance and Guilford Counties.	Tributary to Travis Creek	Ossipee Street—200 feet upstream from centerline	*612	
			Alamance and Guilford County limits	*629	
		Back Creek Tributary	U.S. Highway 70—200 feet upstream from upstream face of bridge	*599	
			Sanitary Landfill Road—100 feet upstream from centerline	*625	
Maps available at Town Hall, 129 West Main Street, Gibsonville, North Carolina.					
Send comments to: Mr. Don Brookshire, Planning Director, Town of Gibsonville, Town Hall, 129 West Main Street, Gibsonville, North Carolina 27249.					
North Carolina	Hillsborough (Town), Orange County.	End River	State Route 1197 at centerline	*509	
			State Route 1134—150 feet upstream from centerline	*521	
			U.S. Highway 70 (upstream crossing)—at centerline	*535	
		Cates Creek	U.S. Highway 70 (Business Route)—200 feet upstream from centerline	*522	
			Interstate Highway 85—200 feet downstream from centerline	*551	
			Interstate Highway 85—200 feet upstream from centerline	*558	
State Route 1009—10 feet downstream from centerline					*592
Maps available at Town Hall, 101 E. Orange Street, Hillsborough, North Carolina.					
Send comments to: Ms. Rose Guthrie, Town Planner, Town of Hillsborough, Town Hall, 101 E. Orange Street, Hillsborough, North Carolina.					
North Carolina	Salisbury (City), Rowan County	Henderson Branch	Confederate Avenue—40 feet downstream from centerline	*661	
			Confederate Avenue—20 feet upstream from centerline	*665	
			Annandale Avenue—120 feet downstream from centerline	*666	
			Annandale Avenue—40 feet upstream from centerline	*669	
			Jackson Street—120 feet downstream from centerline	*687	
			Jackson Street—20 feet upstream from centerline	*690	
			Church Street—10 feet downstream from centerline	*695	
			Church Street—20 feet upstream from centerline	*698	
		Henderson Branch Tributary	Henderson Street—at centerline	*695	
			Lafayette Street—40 feet downstream from centerline	*708	
			Lafayette Street—40 feet upstream from centerline	*709	
		Mahaley Branch	Catawba Street—150 feet downstream from centerline	*658	
			Catawba Street—50 feet upstream from centerline	*662	
			Grove Street—125 feet downstream from centerline	*673	
			Grove Street—50 feet upstream from centerline	*682	
			Southern Railway—50 feet upstream from centerline	*694	
			West Street—75 feet downstream from centerline	*720	
			West Street—50 feet upstream from centerline	*724	
		Mahaley Branch Tributary	Bank Street—40 feet downstream from centerline	*719	
			Bank Street—10 feet upstream from centerline	*721	
			West Street—45 feet downstream from centerline	*728	
			West Street—10 feet upstream from centerline	*731	
		Maple Avenue Branch	Milford Hills Road—100 feet downstream from centerline	*685	
			Milford Hills Road—20 feet upstream from centerline	*688	
			Eaman Street—80 feet downstream from centerline	*697	
			Eaman Street—20 feet upstream from centerline	*700	
			Victory Street—50 feet downstream from centerline	*704	
			Victory Street—20 feet upstream from centerline	*708	
			Wilson Road—50 feet upstream from centerline	*713	
		Wiley Avenue Branch	Stanley Street—60 feet downstream from centerline	*698	
			Stanley Street—20 feet upstream from centerline	*702	
			Jordan Street—60 feet downstream from centerline	*708	
			Jordan Street—20 feet upstream from centerline	*709	
			Fries Street—100 feet upstream from centerline	*720	
			Crosby Street—120 feet downstream from centerline	*735	
			Crosby Street—20 feet upstream from centerline	*745	
		Park Avenue Branch	Cedar Street—40 feet downstream from centerline	*695	
			Cedar Street—140 feet upstream from centerline	*700	
		Inns Street Creek	Green Street—100 feet downstream from centerline	*701	
			Green Street—200 feet upstream from centerline	*706	
			Clay Street—10 feet downstream from centerline	*714	
			Clay Street—50 feet upstream from centerline	*719	
			Liberty and Shaver Streets—150 feet downstream from centerline	*720	
			Liberty and Shaver Streets—50 feet upstream from centerline	*724	
		Thomas Street Creek	Boundary Street—10 feet upstream from centerline	*707	
			Clay Street—10 feet downstream from centerline	*709	
			Clay Street—10 feet upstream from centerline	*712	
			Southern Railway—70 feet upstream from centerline	*721	
		Main Street Tributary, Hopkins Street Branch	Military Avenue—at centerline	*730	
			Hopkins Street—100 feet downstream from centerline	*710	
			Hopkins Street—20 feet upstream from centerline	*714	
		Vance Avenue	Hopkins Street—100 feet downstream from centerline	*710	
			Hopkins Street—20 feet upstream from centerline	*714	
			Carolina and Northwestern Railroad—40 feet downstream from centerline	*722	
			Carolina and Northwestern Railroad—20 feet upstream from centerline	*738	
		Observed Flood Creek	Dolly Madison Industries Entrance Road—70 feet downstream from centerline	*715	
			Dolly Madison Industries Entrance Road—20 feet upstream from centerline	*718	
			Service Road—10 feet downstream from centerline	*723	
			Service Road—20 feet upstream from centerline	*728	
			Interstate 85—10 feet downstream from centerline	*730	
			Interstate 85—60 feet upstream from centerline	*731	

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
Ohio	Lancaster, Fairfield County	Tar Branch	Faith Road—100 feet upstream from centerline	*717
			Faith Road—80 feet upstream from centerline	*722
			Rowan Circle—20 feet upstream from centerline	*729
			Rose Avenue—120 feet downstream from centerline	*742
			Rose Avenue—80 feet upstream from centerline	*747
			Carolina Boulevard—40 feet upstream from centerline	*762
			Rose Avenue—20 feet upstream from centerline	*745
			Carolina Boulevard—20 feet upstream from centerline	*761
			Bringle Ferry Road—at centerline	*689
			Innis Street—300 feet upstream from centerline	*698
			Vance Avenue—150 feet upstream from centerline	*710
			Klunac Street—at centerline	*715
			Stokes Ferry Road—100 feet upstream from centerline	*700
			U.S. Highway 52—100 feet downstream from centerline	*701
			Southern Railway—at centerline	*705
			Old Mocksville Road—20 feet upstream from centerline	*648
			U.S. Highway 601—40 feet upstream from centerline	*655
			U.S. Highway 70—100 feet upstream from centerline	*681
			Southern Railway—100 feet upstream from centerline	*667
			Old Wakesboro Road—100 feet upstream from centerline	*669
Ohio	Lancaster, Fairfield County	Tar Branch	Annexed area south of Cedar Springs Road—downstream corporate limit	*691
			Annexed area south of Cedar Springs Road—upstream corporate limit	*693
			Lincolnton Road—120 feet downstream from centerline	*679
			Woodleaf Branch	
			Maps available at City Clerk's Office, 132 North Main, Salisbury, North Carolina.	
			Send comments to: Mr. Harvey Mathias, Assistant City Manager, City of Salisbury, P.O. Box 479, Salisbury, North Carolina 28144.	
			Ohio	
			Avon, Lorain County	
			French Creek	
			Downstream corporate limit	*623
			Just upstream Miller Road	*624
			Just upstream Interstate Route 90	*626
			4,190 feet upstream Interstate Route 90	*633
			Just upstream State Route 254	*633
			Just downstream Stony Ridge Road	*664
			Just upstream Stony Ridge Road	*671
			Just downstream State Route 83	*682
			Just downstream State Route 83	*685
			Maps available at City Hall, City of Avon, 36774 Detroit Road, Avon, Ohio.	
			Send comments to: The Honorable Donald Hubbard, Mayor, City of Avon, City Hall, 36774 Detroit Road, Avon, Ohio 44011.	
Ohio	Lancaster, Fairfield County	Hocking River	Downstream corporate limit	*807
			Just downstream of Chessie System (near confluence of Tarhe Run)	*816
			Just downstream of Conrail	*819
			Just upstream of Wheeling Street	*822
			About 800 feet downstream of Ely Road	*826
			Upstream corporate limit	*836
			Downstream corporate limit	*821
			Just downstream of Conrail	*825
			About 1250 feet downstream of Marietta Road	*830
			Just downstream of Marietta Road	*837
			Confluence with Hocking River	*842
			Just upstream of Conrail	*814
			Just upstream of Main Street	*817
			Confluence of Feters Run	*821
			Just downstream Pleasantville Road	*821
			Just downstream of Tild Lane Road	*822
			About 2200 feet upstream of Tild Lane Road	*866
			Just downstream of Rainbow Drive	*877
			Just upstream of Rainbow Drive	*898
Ohio	Lancaster, Fairfield County	Feters Run	Upstream corporate limit	*908
			Just downstream Cherry Street	*904
			Just downstream of Fair Avenue	*822
			About 2900 feet upstream of Fair Avenue	*830
			Just upstream of Granville Pike	*844
			Upstream corporate limit	*873
			Just downstream of Columbus Street	*877
			Just upstream of Columbus Street	*817
			Just downstream of Private Road about 400 feet downstream of Broad Street	*821
			About 100 feet upstream of Broad Street	*827
			About 1300 feet upstream of Broad Street	*836
			Confluence with Hocking River	*842
			About 580 feet downstream of Lincoln Avenue	*821
			Just downstream of Lincoln Avenue (at corporate limit)	*831
			Confluence with Hocking River	*834
			Just downstream Memorial Drive	*823
			Just upstream Memorial Drive	*824
			Just downstream of Columbus Road	*827
			About 300 feet upstream of Hawthorne Drive	*853
Ohio	Lancaster, Fairfield County	Lateral B	Just downstream of Chessie System	*863
			Just downstream of West Fair Avenue	*826
			Just upstream of West Fair Avenue	*831
			Just downstream of Farm Road	*836
			Just upstream of Farm Road	*844
			About 400 feet upstream of Hoffman Road	*849
			About 400 feet upstream of Hoffman Road	*857
			Maps available at City Hall, 104 East Main Street, Lancaster, Ohio.	
			Send comments to: The Honorable Edward Rutherford, Mayor, City of Lancaster, City Hall, 104 East Main Street, Lancaster, Ohio 43130.	
			Ohio	
			Lockbourne, Hamilton County	
			Big Walnut Creek	
			400 feet downstream of Rowe Road	*687
			Just upstream of Rowe Road	*688
			2,500 feet upstream of Rowe Road	*699
			Maps available at Village Hall, 85 Commerce Street, Lockbourne, Ohio.	
			Send comments to: The Honorable Mr. Cecil Shirley, Mayor, Village of Lockbourne, Village Hall, 85 Commerce Street, Lockbourne, Ohio 43137.	
Ohio	South Amherst, Lorain County	Squires-Schramm Ditch	At confluence with Beaver Creek	*751
			Just upstream of South Lake Road	*757
			Just upstream of Annie Road	*767
			Upstream corporate limit	*769
			Maps available at Village Hall, 103 West Main Street, South Amherst, Ohio.	
			Send comments to: The Honorable Kenneth Jones, Mayor, Village of South Amherst, Village Hall, 103 West Main Street, South Amherst, Ohio 44001.	
			South Dakota	
			Box Elder (City), Pennington County	
			Box Elder Creek	
			Spruce Drive—at centerline	*3,020
			Corporate limits—450 feet southwest of intersection of Westside Drive and U.S. Highways 14 and 16	*3,061
			Box Elder Creek, East Tributary	
			Interstate Highway 90—at centerline	*3,034
			Hillview Drive (downstream crossing)—at centerline	*3,031
			Box Elder Creek, West Tributary	
			U.S. Government Railroad—90 feet downstream from centerline	*3,043
			U.S. Government Railroad—70 feet upstream from centerline	*3,049
			South Gate Drive—20 feet upstream from centerline	*3,057
			Intersection of Douglas Road and Morningglade Road	#2
			Maps available at City Hall, Box Elder, South Dakota.	
			Send comments to: Honorable Louis G. Klein, Mayor, City of Box Elder, City Hall, Box 27, Box Elder, South Dakota 57719.	
South Dakota	New Underwood (Town), Pennington County	Box Elder Creek	Most downstream corporate limits	*2,840
			Most upstream corporate limits	*2,844
			Elm Street—20 feet upstream from centerline	*2,841
			South Ash Creek—20 feet upstream from centerline	*2,846
			Box Elder Street—40 feet upstream from centerline	*2,851
			Most upstream corporate limits	*2,861
			Maps available at Town Hall, Pine Street, New Underwood, South Dakota.	
			Send comments to: Mr. C. S. Batchelder, Chairman, Town Board of Trustees, Town of New Underwood, Box 186, New Underwood, South Dakota 57781.	
			South Dakota	
			Pierre (City), Hughes County	
			Hilgers Gulch	
			Confluence with Missouri River	*1,427
			Wells Avenue—centerline	*1,466
			Church Street—50 feet downstream from centerline	*1,486
			U.S. Highway 14/83—200 feet upstream from centerline	*1,608
			Most upstream corporate limits—at centerline	*1,639
			Maps available at City Hall, 222 East Dakota Avenue, Pierre, South Dakota.	
			Send comments to: Honorable Clint Gregory, Mayor, City of Pierre, City Hall, P.O. Box 1253, Pierre, South Dakota 57501.	

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
Ohio	Lancaster, Fairfield County	Lateral D	Confluence with Hocking River	*831
			Just downstream of Colline Road	*836
			Just downstream of West Fair Avenue	*840
			Upstream corporate limit	*848
			Maps available at City Hall, 104 East Main Street, Lancaster, Ohio.	
			Send comments to: The Honorable Edward Rutherford, Mayor, City of Lancaster, City Hall, 104 East Main Street, Lancaster, Ohio 43130.	
			Ohio	
			Lockbourne, Hamilton County	
			Big Walnut Creek	
			400 feet downstream of Rowe Road	*687
			Just upstream of Rowe Road	*688
			2,500 feet upstream of Rowe Road	*699
			Maps available at Village Hall, 85 Commerce Street, Lockbourne, Ohio.	
			Send comments to: The Honorable Mr. Cecil Shirley, Mayor, Village of Lockbourne, Village Hall, 85 Commerce Street, Lockbourne, Ohio 43137.	
			Ohio	
			South Amherst, Lorain County	
			Squires-Schramm Ditch	
			At confluence with Beaver Creek	*751
			Just upstream of South Lake Road	*757
			Just upstream of Annie Road	*767
			Upstream corporate limit	*769
			Maps available at Village Hall, 103 West Main Street, South Amherst, Ohio.	
			Send comments to: The Honorable Kenneth Jones, Mayor, Village of South Amherst, Village Hall, 103 West Main Street, South Amherst, Ohio 44001.	
South Dakota	Box Elder (City), Pennington County	Box Elder Creek	Spruce Drive—at centerline	*3,020
			Corporate limits—450 feet southwest of intersection of Westside Drive and U.S. Highways 14 and 16	*3,061
			Box Elder Creek, East Tributary	
			Interstate Highway 90—at centerline	*3,034
			Hillview Drive (downstream crossing)—at centerline	*3,031
			Box Elder Creek, West Tributary	
			U.S. Government Railroad—90 feet downstream from centerline	*3,043
			U.S. Government Railroad—70 feet upstream from centerline	*3,049
			South Gate Drive—20 feet upstream from centerline	*3,057
			Intersection of Douglas Road and Morningglade Road	#2
			Maps available at City Hall, Box Elder, South Dakota.	
			Send comments to: Honorable Louis G. Klein, Mayor, City of Box Elder, City Hall, Box 27, Box Elder, South Dakota 57719.	
			South Dakota	
			New Underwood (Town), Pennington County	
			Box Elder Creek	
			Most downstream corporate limits	*2,840
			Most upstream corporate limits	*2,844
			Elm Street—20 feet upstream from centerline	*2,841
			South Ash Creek—20 feet upstream from centerline	*2,846
			Box Elder Street—40 feet upstream from centerline	*2,851
			Most upstream corporate limits	*2,861
			Maps available at Town Hall, Pine Street, New Underwood, South Dakota.	
			Send comments to: Mr. C. S. Batchelder, Chairman, Town Board of Trustees, Town of New Underwood, Box 186, New Underwood, South Dakota 57781.	
South Dakota	Pierre (City), Hughes County	Hilgers Gulch	Confluence with Missouri River	*1,427
			Wells Avenue—centerline	*1,466
			Church Street—50 feet downstream from centerline	*1,486
			U.S. Highway 14/83—200 feet upstream from centerline	*1,608
			Most upstream corporate limits—at centerline	*1,639
			Maps available at City Hall, 222 East Dakota Avenue, Pierre, South Dakota.	
			Send comments to: Honorable Clint Gregory, Mayor, City of Pierre, City Hall, P.O. Box 1253, Pierre, South Dakota 57501.	

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42

U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: July 12, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.
[FR Doc. 79-22301 Filed 7-20-79; 8:45 am]
BILLING CODE 4210-23-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 160 and 163]

[CGD 74-140]

Vessel Equipment Specifications; Pilot Hoist, Pilot Ladder, and Chain Ladder

AGENCY: Coast Guard, DOT.

ACTION: Proposed rules.

SUMMARY: The Coast Guard proposes to adopt a new safety equipment specification for pilot hoists and to revise the existing specifications for pilot ladders and chain ladders. Recommended standards for pilot hoists and pilot ladders were adopted by the Inter-Governmental Maritime Consultative Organization in 1973. These proposed regulations incorporate design and testing requirements in the IMCO resolutions, and they also modify the existing specification for chain ladders in order to give manufacturers more flexibility in designing equipment. These regulations would apply only to U.S. vessels. The principal effect of these regulations, if adopted, would be to provide for greater safety and security of pilots and other persons that board vessels away from a dock.

DATES: Comments must be received on or before September 21, 1979.

ADDRESSES: 1. Comments should be submitted to the Commandant (G-MC/81) (CGD 74-140), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

2. Copies of the IMCO Resolutions, technical standards, and draft evaluation for these proposed regulations are available for examination at the Marine Safety Council.

FOR FURTHER INFORMATION CONTACT: Robert L. Markle, Office of Merchant Marine Safety, U.S. Coast Guard, Washington, D.C. 20590 (202-426-1444).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 74-140) and the specific section of the proposal to which their comments apply, and give reasons for the comments. The

proposal may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the Federal Register if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

Drafting Information

The principal persons involved in drafting this proposal are: Robert L. Markle, Project Manager, Office of Merchant Marine Safety, and William R. Register, Project Attorney, Office of the Chief Counsel.

Discussion of Proposed Regulations

a. General

1. These proposed regulations revise the existing specifications for pilot ladders and chain ladders and add a new specification for pilot hoists. Pilot hoists and pilot ladders are items of vessel equipment used in routine boarding of pilots and other persons when away from the dock. Chain ladders are items of lifesaving equipment that are intended for emergency use in boarding lifeboats and life rafts.

2. The existing specifications for pilot ladders and chain ladders are in Part 160 of Title 46. However, in the proposed regulations the specifications for pilot ladders, and the new specification for pilot hoists, have been placed in Part 163. The specification for chain ladders has been retained in Part 160.

3. The proposed specifications for pilot ladders and pilot hoists are based primarily on Resolutions A.263(VIII) and A.275(VIII) adopted by the Inter-Governmental Maritime Consultative Organization (IMCO) in 1973. The Coast Guard actively participated in developing these resolutions.

4. Pilot hoists have been used on vessels for several years. Also, letters of approval have been issued for pilot hoists designs that meet guidelines developed before the IMCO Resolution on pilot hoists was adopted.

5. In addition to the specifications proposed in this notice, the Coast Guard is currently preparing proposed regulations governing the installation, maintenance, and use of pilot hoists, chain ladders, and pilot ladders on vessels. The additional regulations will

be based upon similar provisions in IMCO Resolutions A.263(VIII) and A.275(VIII).

6. The proposed specifications include a requirement that approval and production tests be conducted by or under the supervision of an independent laboratory. In the existing specifications for chain ladders and pilot ladders, these tests are done by the manufacturer under the supervision of a Coast Guard marine inspector. The use of independent labs is proposed as a measure to free Coast Guard inspectors for other duties. However, the Coast Guard would retain the ultimate responsibility for design, review, and approval of the equipment. The proposed testing procedures are similar to those which have been in effect for several years for portable fire extinguishers and for some personal flotation devices. The use of independent laboratories would result in additional approval and production costs, which are described in the draft evaluation for these proposed regulations.

7. The Coast Guard has recently proposed general approval procedures, production inspection and test procedures, and standards for accepting independent laboratories for testing certain equipment requiring Coast Guard approval. These proposed procedures were published in the Federal Register of October 23, 1978 (43 FR 49440-45). The proposed procedural rules for pilot hoists, chain ladders, and pilot ladders are included in, or are consistent with, the general procedures published on October 23, 1978. The general procedures, however, also contain additional requirements not found in the proposed rules for pilot hoists, chain ladders, and pilot ladders. In particular, § 159.007-13 of the general procedures includes record keeping requirements that must be met if production inspections and tests are required for approval equipment. If these record keeping requirements are adopted as final rules, they would also apply to pilot hoists, chain ladders, and pilot ladders. A copy of the proposed general procedures may be obtained from the Commandant (G-MMT-3/83) at the address listed under ADDRESSES in this preamble. If the proposed general procedures are adopted as final rules, redundant procedures in the regulations for pilot hoists, chain ladders, and pilot ladders will be removed.

b. Chain Ladders

8. Several of the proposed changes to the chain ladder specification are editorial in nature. These changes have been made to provide a clearer presentation of the specification. The substantive changes to the specification include (1) deletion of existing provisions that prescribe the dimensions of spacer ears, (2) changing the required clearance between suspension members from 480 mm (19 in.) to 400 mm (16 in.), and (3) addition of a requirement for each ladder step to be marked with identification and approval information. The purpose of the deletions is to provide manufacturers with greater flexibility in selection of design detail. The revised clearance is the same as the clearance required for pilot ladders and for rigid ladders and platforms on pilot hoists. The requirement that each step be marked is proposed to facilitate the Coast Guard vessel inspection process. In the existing specification, marking information is required only on every fourth step; and, as a result, it has not been possible during vessel inspections to tell whether each step of an approved ladder meets the requirements of the specification.

9. Type approvals that are currently in effect for chain ladders would remain in effect after adoption of the revised specification. However, manufacturers holding current approvals would have to begin marking each step of a ladder constructed after the effective date of the revised specification.

c. Pilot Hoists

10. The proposed pilot hoist specification incorporates most of the design requirements in IMCO Resolution A.275(VIII). However, there are two principal modifications. Proposed § 163.002-21(c)(4) requires that the speed of a lift platform or rigid ladder on a hoist be between 15 and 21 meters per minute; whereas, the upper limit in the IMCO Resolution is 30 meters per minute. Also, the proposed specification does not include the IMCO provision that a pilot hoist be capable of efficient operation under conditions of vibration likely to be experienced on a vessel. A minimum speed of 21 meters per minute was selected since greater speeds can create a sense of insecurity for the rider. A hoist designed in accordance with the proposed specification should be able to perform reliably under shipboard vibration conditions.

11. The pilot hoist specification contains, in addition to the requirements in the IMCO Resolution, requirements for

lift platforms and the following additional provisions:

a. Proposed § 163.002-11. This section contains materials requirements the purpose of which are to provide for effective corrosion resistance and dependable hoist operation in a marine environment.

b. Proposed § 163.002-13(d). This paragraph requires that the minimum breaking strength of load carrying parts be 6 times the stress imposed on the part by the working load during operation of the hoist. This factor of safety is the same as that required for other lifesaving devices such as lifeboat winches and davits.

c. Proposed § 163.002-13(h). This paragraph requires that a portable pilot hoist have an interlock that prevents movement of its ladder or lift platform when the hoist is not installed.

d. Proposed §§ 163.002-13(p) and 163.002-21(c)(8). These paragraphs contain requirements for the hand-operated device used in raising and lowering the ladder or lift platform on a hoist.

e. Proposed § 163.002-13(t). This paragraph requires in part that a hoist with suspension cables be arranged so that the ladder or lift platform remains level and stationary if one of the cables breaks.

f. Proposed § 163.002-13(u). This paragraph requires in part that the cable drum on a hoist be designed for one level wind of wrap. This requirement is the same as that imposed on cable drums in lifeboat winches.

g. Proposed § 163.002-21(c)(1). This paragraph contains requirements concerning rung strength of a rigid ladder. These requirements are the same as those contained in the proposed pilot ladder specification.

d. Pilot Ladders

12. The proposed pilot ladder specification incorporates, with one principal modification, the design specifications for pilot ladders in IMCO Resolution A.263(VIII), Annex VII. The modification is as follows: Proposed §§ 163.003-11(d) and 163.003-13(c)(1) require that the four lowest steps in a pilot ladder be made of rubber or plastic; whereas, the IMCO Resolution makes rubber steps (and steps of other suitable material) optional items. A requirement to have rubber or plastic steps is proposed since they can withstand the abuse to which the lower steps of a pilot ladder are subjected better than wooden steps can. Both the proposed regulations and the IMCO Resolution, however, require that the remaining steps in the ladder be made of

wood since wood provides a better step surface than rubber or plastic.

13. The pilot ladder specification, in addition to incorporating the IMCO requirements, contains requirements for plastic materials used in ladder components and makes provision for attaching a pilot ladder to a pilot hoist. The proposed specification also retains the existing requirements for wooden and metal components and modifies other existing requirements as follows:

a. The existing specification provides for a single rope thimble at the top of each suspension member and, thus, additional rope is necessary to secure the ladder to a vessel. If the additional rope is not as strong as the rope in the ladder, there is the danger that it could break and allow the ladder to fall. Accordingly, proposed § 163.003-13(b) requires that the top of a pilot ladder have extended suspension members and eyes for securing the ladder to anchor points on the vessel.

b. Proposed § 163.003-25 contains revisions to the existing marking requirements for pilot ladders. These revisions are the same as those previously explained for chain ladders.

c. Proposed § 163.003-13(b)(5) would change the required clearance between suspension members from 480 mm (19 in.) to 400 mm (16 in.). This change makes the clearance requirement consistent with the provision in IMCO Resolution A.263(VIII) that an overall length of the step of at least 480 mm (19 in.) is acceptable. The requirement for overall length is in proposed § 163.003-13(c)(4).

d. Proposed § 163.003-21(c)(1) would change the existing strength test for pilot ladder steps to require use of a test load of 900 kg (2000 lb.) instead of the 315 kg (700 lb.) load now required. This change would impose the same strength standards proposed in §§ 163.002-13(d), 163.002-15, and 163.002-21(c)(1) for stepping surfaces on pilot hoist platforms and rigid ladders.

14. As provided in proposed § 163.003-29, approval certificates currently in effect for pilot ladders would terminate upon the effective date of the revised specification. Termination would be necessary since the revised specification significantly upgrades the quality, safety features, and design of pilot ladders. However, the regulations currently under preparation to require use of pilot ladders on vessels contain a provision that would allow the use of pilot ladders approved before the effective date of the revised specification as long as the ladders remained in serviceable condition.

Draft Evaluation

15. These regulations are considered to be "nonsignificant" and, accordingly, a draft evaluation has been prepared as required by the Regulatory Policy and Procedures of the Department of Transportation (44 FR 11040-11045). The DOT Order requires that each evaluation include an economic analysis which quantifies to the extent practicable, both the estimated cost of the regulations to the private sector, consumers, and Federal, State and local governments, as well as the anticipated benefits and impacts of the regulations.

16. The proposed regulations would result in an estimated initial expense of \$125,850 and an estimated annual expense of \$81,900 dollars to the shipping industry and manufacturers. These expenses include independent lab costs. It is expected that independent lab costs would be about \$450 for approval testing (except pilot hoists which would be about \$600) and about \$450 for each round of production testing. The primary benefits to be derived from this proposal would be greater safety and security for pilots and other persons that board vessels away from the dock, and the freeing of Coast Guard marine inspectors from factory inspection duties, thus, making them available for other marine inspection duties.

In consideration of the foregoing, the Coast Guard proposes to amend Chapter I of title 46, Code of Federal Regulations, as follows:

1. Revise Subpart 160.017 to read as follows:

Subpart 160.017—Chain Ladder

Sec.

- 160.017-1 Scope.
- 160.017-7 Independent laboratory.
- 160.017-9 Approval procedure.
- 160.017-11 Materials.
- 160.017-13 Construction.
- 160.017-15 Performance.
- 160.017-17 Strength.
- 160.017-21 Approval tests.
- 160.017-23 Test report.
- 160.017-25 Marking.
- 160.017-27 Production tests and examination.

Authority: R.S. 4405 as amended (46 U.S.C. 375), R.S. 4417a, as amended (46 U.S.C. 391a) R.S. 4462, as amended (46 U.S.C. 416) R.S. 4488, as amended (46 U.S.C. 481), Sec. 6(b), 80 Stat. 937 (49 U.S.C. 1655(b)); 49 CFR 1.46.

§ 160.017-1 Scope.

(a) This subpart contains procedures for approval, design requirements, and approval and production tests for chain ladders used on a merchant vessel to get on and off the vessel in an emergency.

(b) The requirements in this subpart apply to a chain ladder designed for use along a vertical portion of a vessel's hull.

§ 160.017-7 Independent laboratory.

(a) The approval and production tests in this subpart must be conducted by, or under the supervision of, an independent laboratory.

(b) To be an independent laboratory, a laboratory must—

- (1) be regularly engaged in inspecting and testing marine materials and equipment; and
- (2) not be owned or controlled by a manufacturer or vendor of chain ladders or by a supplier of materials to the manufacturer.

§ 160.017-9 Approval procedure.

(a) *General.* A chain ladder is approved by the Coast Guard if it meets the requirements of this subpart, and passes the approval tests.

(b) *Application for approval.* An application for approval of a chain ladder must be sent to the Commandant (G-MMT-3/83), U.S. Coast Guard, Washington, D.C. 20590.

(c) *Contents of application.* An application for approval of a chain ladder must include the following:

- (1) Two sets of plans describing the ladder.
- (2) The name of a proposed independent laboratory and a description of the laboratory's qualifications to conduct or supervise approval tests.
- (3) An approval test plan describing in detail the proposed test procedures, apparatus, and facilities.

(d) *Preliminary review.* The Coast Guard examines the information submitted in the application and determines whether the proposed independent laboratory is acceptable to conduct or supervise the approval tests. The Coast Guard notifies the applicant of the results of this examination and determination.

(e) *Approval tests.* The applicant must make arrangements for the approval tests directly with the independent laboratory. Each approval test must be conducted in accordance with § 160.017-21.

(f) *Submission of test report and plans.* After the approval tests are completed, the applicant must send a test report that meets the requirements in § 160.017-23 and three sets of final plans to the Commandant (G-MMT-3/83). Each set of plans must include the following:

- (1) An assembly drawing or general arrangement drawing.

(2) Detailed drawings showing components of the ladder.

(3) For each drawing, a bill of materials or parts list containing a description of each component not detailed on the drawing.

(4) A list identifying the current revision and revision date of each drawing submitted.

(5) A detailed description of the quality control procedure used in producing the ladder.

(g) *Final review and approval.* The Coast Guard reviews the test report and plans and advises the applicant whether the ladder is approved. If the ladder is approved, a certificate of approval and one copy of the approved plans are sent to the applicant. The certificate states the longest ladder length for which approval is given.

§ 160.017-11 Materials.

(a) *Suspension members.* Each suspension member of a chain ladder must be galvanized steel chain that is single-loop, weldless, and of a lock-link pattern. The chain must be trade number 7-0 or larger.

(b) *Metal parts.* Each metal part of a ladder must be made of corrosion-resistant metal or of steel galvanized by the hot-dip process after the part is formed.

(c) *Wooden parts.* Each wooden part of a ladder must be made of hardwood that is straight-grained and free of knots, checks, honeycomb, or rot, and any other defects affecting its strength or durability.

(d) *Wood preservative.* After each wooden part is formed and finished, it must be treated with pentachlorophenol or copper naphthenate-based wood preservative that is water-repellant. The preservative must be applied by at least two brush coats or by one dip coat. At least 24 hours drying time must be allowed between brush coats.

(e) *Lashing rings.* The inside diameter of each lashing ring must be 75 mm (3 in.). The diameter of the rod from which the ring is made must be 9.5 mm (3/8 in.).

§ 160.017-13 Construction.

(a) *General.* Each chain ladder must have two suspension members. Each step in the ladder must be supported at each end by a suspension member. A typical arrangement is shown in Figure 160.017-13(a).

(b) *Suspension members.* Each suspension member must be a continuous length of chain from the top of the ladder to the bottom. The distance between the two suspension members must be at least 400 mm (16 in.). The

chain between each top lashing ring and the first step must be long enough so that the distance between the center of the lashing ring and the top of the first step is approximately 600 mm (24 in.).

(c) *Top lashing rings.* A lashing ring must be attached to the top of each suspension member. The means of attachment must be a reverse lock-link shackle.

(d) *Reverse lock-link shackle.* Each reverse lock-link shackle must be made of chain of a size and strength that is not less than that of the chain in the attached suspension member. The shackle must be locked to the chain of the suspension member by a button head rivet that is not less than 7 mm (9/32 in.) in diameter. The point of the rivet must be driven over a clinch ring to form a rounded head.

(e) *Bottom lashing rings.* A lashing ring must be attached to the bottom of each suspension member. The means of attachment must be a screw pin anchor shackle.

(f) *Screw pin anchor shackle.* The size of the screw pin anchor shackle (the size of the rod from which the shackle is formed) must be 6.5 mm (1/4 in.). The screw pin must be securely peened over the shackle.

(g) *Thimble or wear plate.* A thimble or wear plate must be attached to the following:

- (1) Each reverse lock-link shackle where it comes into contact with a top lashing ring.
- (2) The bottommost chain link of each suspension member where it comes into contact with an anchor shackle.
- (h) *Steps.* Each step of a ladder must have two rungs. The distance between steps must be uniform. This distance must be between 300 mm (12 in.) and 380 mm (15 in.).

(i) *Rungs.* Step rungs must meet the following requirements:

- (1) Each rung must be wooden.
- (2) Rung width must be at least 40 mm (1 1/2 in.) and rung thickness must be at least 25 mm (1 in.) as shown in Figure 160.017-13(a).
- (3) Each edge of a rung other than edges along either end must be rounded or chamfered.

(4) The distance between rungs in each step must be uniform as shown on Figure 160.017-13(a) top view. This distance must be between 40 mm (1 1/2 in.) and 65 mm (2 1/2 in.).

(5) Each rung must be attached to a spacer ear by a clip (as shown in Figure 160.017-13(a) top view) or other method that prevents the rung from rotating and that supports it in a horizontal position when the ladder is hung vertically.

(j) *Spacer ears.* Spacer ears must meet the following requirements:

(1) All spacer ears on a ladder must be the same size and shape.

(2) The top and bottom of each spacer ear must be attached to a suspension member.

(3) The top point of attachment must be at least 100 mm (4 in.) above the top surfaces of the rungs attached to the spacer ear.

(4) Each spacer ear must have a smooth finish and each edge must be rounded or chamfered.

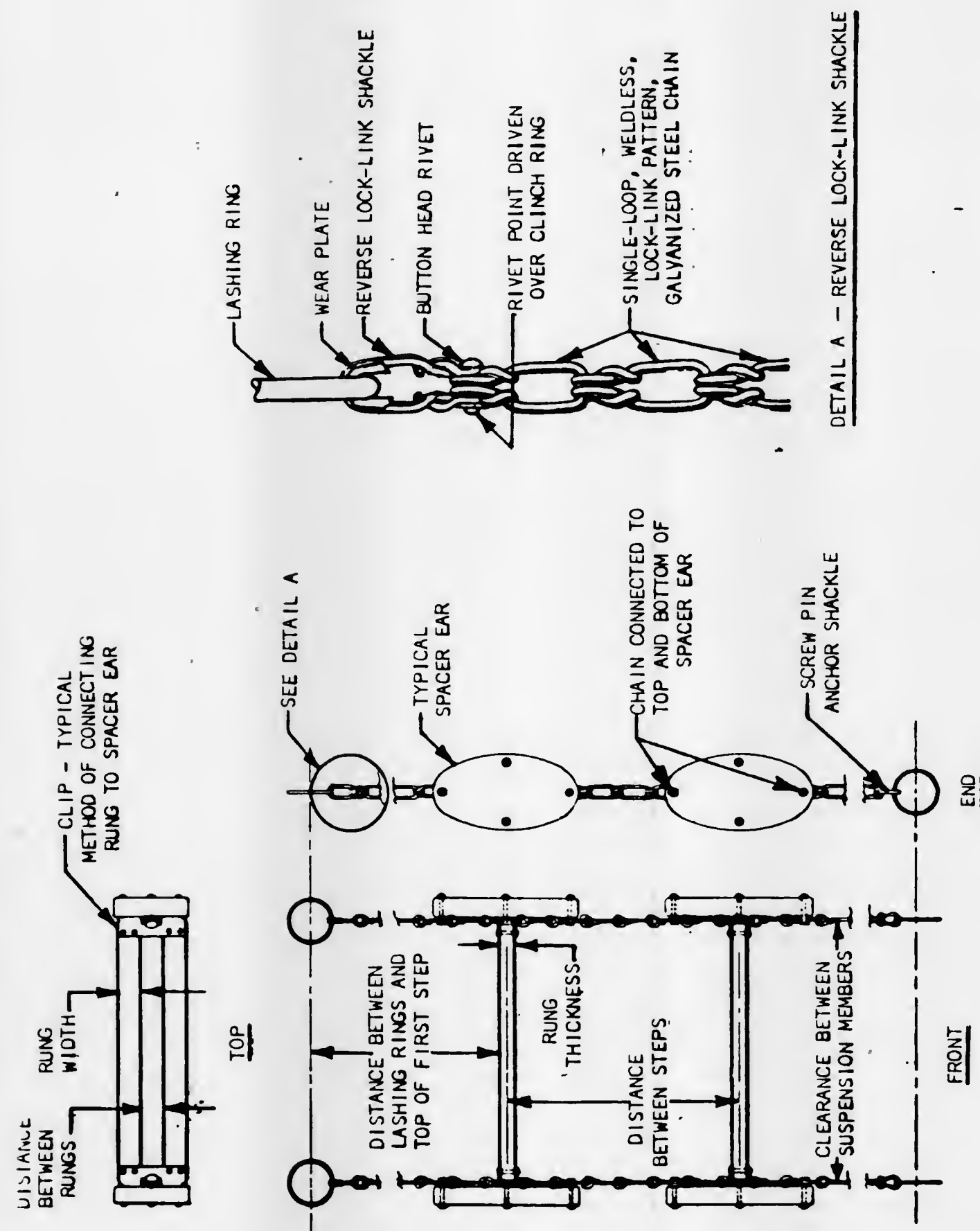
(5) Each spacer ear made of sheet metal must be stiffened by one or more formed ribs to prevent the ear from bending and each edge must be turned or rolled to form a flange.

(6) Each cut made in a sheet metal ear for forming purposes must have a hole at each end to prevent point stresses. However, connecting cuts may be joined by a curved cut in lieu of drilling a hole.

(k) *Fasteners.* Wood screws, sheet metal screws, and nails must not be used in a chain ladder. Each bolt used must have a nut and the end of the bolt must be peened over the nut.

(l) *Workmanship.* A ladder must not have splinters, burrs, sharp edges, corners, projections, or other defects that could injure a person using the ladder.

BILLING CODE 4910-14-M

FIGURE 160.017-13(a).
TYPICAL CHAIN LADDER ARRANGEMENT

BILLING CODE 4910-14-C

§ 160.017-15 Performance.

(a) Each chain ladder must be capable of being rolled up for storage.

(b) Each ladder when rolled up must be able to unroll freely and hang vertically.

§ 160.017-17 Strength.

(a) Each chain ladder must be designed to pass the approval tests in § 160.17-21.

§ 160.017-21 Approval tests.

(a) *General.* Each approval test must be conducted on a ladder of the longest length for which approval has been requested. If a ladder fails one of the tests in this section, the cause of the failure must be identified and any needed changes made. After a test failure and any design change, the failed test, and any other previously completed tests affected by the design change, must be rerun.

(b) *Visual examination.* Before starting the tests described in this section, an assembled chain ladder is examined for evidence of noncompliance with the requirements in §§ 160.017.11, 160.017-13, and 160.017-15.

(c) The following approval tests must be conducted:

(1) *Strength test #1.* An assembled ladder is supported so that a static load, if placed on any of its steps, would exert a force both on the step and each suspension member. A static load of 315 kg (700 lb.) is then placed on one step for at least one minute. The load must be uniformly distributed over a contact surface that is approximately 100 mm (4 in.) wide. The center of the contact surface must be at the center of the step. This test is performed on six different steps. No step may break, crack, or incur any deformation that remains after the static load is removed. No attachment between any step and a suspension member may loosen or break during this test.

(2) *Strength test #2.* A ladder is suspended vertically to its full length from its top lashing rings. A static load of 900 kg (2000 lbs.) is then applied to the bottom lashing rings so that it is distributed equally between the suspension members, lashing rings, and spacer ears. The suspension members must not break, incur any elongation or deformation that remains after the test load is removed, or be damaged in any other way during this test.

(3) *Strength test #3.* A rolled-up ladder is attached by its top lashing rings to anchoring fixtures in a location away from any wall or structure that would prevent it from falling freely, and

where it can hang to its full length vertically. The ladder when dropped must unroll freely. When unrolling the ladder, its steps and attachments must not become cracked, broken, or loosened. Other similar damage making the ladder unsafe to use must likewise not occur.

§ 160.017-23 Test report.

(1) After the approval tests are completed, a test report must be prepared by the independent laboratory or by the applicant. If the report is prepared by the applicant, its accuracy must be certified by the independent laboratory.

(b) The test report must contain—

- (1) The name and address of the applicant;
- (2) The name and address of the independent laboratory;
- (3) A detailed description of the test procedure and apparatus used;
- (4) Detailed test results including all data recorded and a description of each test failure and each other discrepancy;
- (5) The observations made during visual examination of the ladder;
- (6) The date and location of testing;
- (7) The name of each test participant and observer; and
- (8) Photographs showing at least one overall view of the ladder and enough additional views to show all major design details, test apparatus, and each failure that occurs during testing.

§ 160.017-25 Marking.

(a) Each chain ladder step manufactured under Coast Guard approval must be branded or otherwise permanently and legibly marked on the bottom with—

- (1) The name of the manufacturer;
- (2) The manufacturer's brand or model designation;
- (3) The lot number of date of manufacture; and
- (4) The Coast Guard approval number.

§ 160.017-27 Production tests and examination.

(a) *General.* Each ladder manufactured under Coast Guard approval must be tested in accordance with this section. Steps that fail testing may not be marked with the Coast Guard approval number and each assembled ladder that fails testing may not be sold as Coast Guard approved.

(b) *Test #1: Steps.* Steps must be separated into lots of 100 steps or less. One step from each lot must be selected at random and tested as described in § 106.017-21(c)(1), except that the step may be supported at the points where it would be attached to suspension

members in an assembled ladder. If the step fails the test, ten more steps must be selected at random from the lot and tested. If one or more of the ten steps fails the test, each step in the lot must be tested.

(c) *Test #2: Ladders.* Assembled ladders must be separated into lots of 20 ladders or less. One ladder must be selected at random from the ladders in the lot. The ladder selected must be at least 3 m (10 ft.) long or, if each ladder in the lot is less than 3 m long, a ladder of the longest length in the lot must be selected. The ladder must be tested as prescribed in § 160.017-21(c)(2), except that only a 3 m section of the ladder need be subjected to the static load. If the ladder fails the test each other ladder in the lot must be tested.

(d) *Independent laboratory.* Each production test must be conducted or supervised by an independent laboratory acceptable to the Commandant. However, if a test is performed more than 4 different times per year, laboratory participation is required only 4 times per year. If the laboratory does not participate in all tests, the times of laboratory participation must be as selected by the laboratory. The times selected must provide for effective monitoring throughout the production schedule.

(e) *Visual examination.* The visual examination described in § 160.017-21(b) must be conducted as a part of each production test.

(f) *Report of production testing.* A manufacturer of approved chain ladders must prepare and submit to the Commandant (G-MMT-3/83) an annual report of production testing conducted at his facility during the year. The accuracy of tests and examinations conducted by or under supervision of an independent laboratory must be certified by the laboratory.

(g) *Content of report.* Each report must specify the number of lots tested, the lots tested by or under supervision of the independent laboratory, and the dates of laboratory testing. Additional detail is not required, except that a detailed description of each failure and discrepancy observed must be included in the report.

PART 163—CONSTRUCTION

2. A new Subpart 163.002 is added to Part 163 to read as follows:

Subpart 163.002—Pilot Hoist

Sec.	Scope.
163.002-1	Scope.
163.002-3	Applicable technical regulations.
163.002-5	Definitions.
163.002-7	Independent laboratory.

Sec.

- 163.002-9 Approval procedure.
- 163.002-11 Materials.
- 163.002-13 Construction.
- 163.002-15 Performance.
- 163.002-17 Instructions and marking.
- 163.002-21 Approval tests.
- 163.002-23 Test report.
- 163.002-25 Marking.
- 163.002-27 Production tests and examination.

Authority: R.S. 4406 as amended (46 U.S.C. 375), R.S. 4417a, as amended (46 U.S.C. 301a) R.S. 4462, as amended (46 U.S.C. 416) R.S. 4488, as amended (46 U.S.C. 461), Sec. 6(b), 89 Stat. 937 (46 U.S.C. 1655(b)); 49 CFR 1.46

§ 163.002-1 Scope.

(a) This subpart contains approval procedures, design requirements, and approval and production tests for pilot hoists used on merchant vessels.

(b) The requirements in this subpart apply to a pilot hoist designed for use along a vertical portion of a vessel's hull.

§ 163.002-3 Applicable technical regulations.

(a) This subpart makes reference to the following Coast Guard regulations in this chapter:

- (1) Subpart 58.30 (Fluid Power and Control Systems).
- (2) Section 94.33-10 (Description of Fleet Angle).
- (3) Part III (Electrical System, General Requirements).
- (4) Subpart 168.003 (Pilot Ladder).

§ 163.002-5 Definitions.

(a) "Maximum persons capacity" means—

- (1) If the hoist has a rigid ladder, one person; or
- (2) If the hoist has a platform, one person per square meter (10.75 sq. ft.) of fraction thereof of platform area (including hatch area);

(b) "working load" means the sum of the weights of—

- (1) The rigid ladder or lift platform, the suspension cables (if any) and the pilot ladder on a pilot hoist; and
- (2) 150 kilograms (330 pounds) times the maximum persons capacity of the hoist; and

(c) "Lift height" means the distance from the lowest step of the pilot ladder on a pilot hoist to the deck of a vessel on which the hoist is designed for installation when—

- (1) The suspension cables of the hoist are run out until only three turns of cable remain on each drum; or
- (2) If the hoist does not have suspension cables, the ladder or lift platform is in its lowest position.

§ 163.002-7 Independent laboratory.

(a) The approval and production tests in this subpart must be conducted by, or under the supervision of, an independent laboratory.

(b) To be an independent laboratory, a laboratory must—

(1) Be regularly engaged in inspecting and testing marine materials and equipment; and

(2) Not be owned or controlled by a manufacturer or vendor of pilot hoists or by a supplier of materials to the manufacturer.

§ 163.002-9 Approval procedure.

(a) General. A pilot hoist is approved by the Coast Guard if it meets the requirements of this subpart and passes the approval tests.

(b) Application for approval. An application for approval of a pilot hoist must be sent to the Commandant (G-MMT-3/83), U.S. Coast Guard, Washington, D.C. 20590.

(c) Contents of application. An application for approval of a pilot hoist must include the following:

- (1) Two sets of plans describing the hoist.
- (2) The name of a proposed independent laboratory and a description of the laboratory's qualifications to conduct or supervise approval tests.
- (3) An approval test plan describing in detail the proposed test procedures, apparatus, and facilities.
- (4) Preliminary review. The Coast Guard examines the information submitted in the application and determines whether the proposed independent laboratory is acceptable to conduct or supervise the approval tests. The Coast Guard notifies the applicant of the results of this examination and determination.

(e) Approval tests. The applicant must make arrangements for the approval tests directly with the independent laboratory. Each approval test must be conducted in accordance with § 163.002-21.

(f) Submission of test report and plans. After the approval tests are completed, the applicant must send the test report and three sets of final plans to the Commandant (G-MMT-3/83). Each set of plans must include the following:

- (1) An assembly drawing or general arrangement drawing.
- (2) Detailed drawings showing components of the hoist.
- (3) For each drawing, a bill of materials or parts list containing a description of each component not detailed on the drawing.

(4) A list identifying the current revision and revision date of each drawing submitted.

(5) A detailed description of the quality control procedure used in producing the hoist.

(6) A copy of the manual described in § 163.002-17(c).

(g) Final review and approval. The Coast Guard reviews the test report and plans and advises the applicant whether the pilot hoist is approved. If the hoist is approved, a certificate of approval and one copy of the approved plans are sent to the applicant. The certificate lists the working load, lift height, and maximum persons capacity of the hoist for which approval is given.

(h) Approval of alternative designs. A pilot hoist that does not meet the materials, construction, or performance requirements of this subpart may be approved if the application and any approval tests prescribed by the Commandant in place of or in addition to the approval tests required by this subpart, show that the alternative materials, construction, or performance is at least as effective as that specified by the requirements of this subpart.

§ 163.002-11 Materials.

(a) Gears. Each gear in a pilot hoist must be made of machine cut steel or machine cut bronze.

(b) Suspension cables. Each suspension cable on a pilot hoist must be a corrosion-resistant wire rope other than galvanized wire rope. Each cable must have a diameter of not less than 4.5 mm (3/16 in.).

(c) Corrosion resistant materials. Materials of a pilot hoist that are not in watertight enclosures must be—

- (1) Corrosion resistant or must be treated to be corrosion resistant; and
- (2) Galvanically compatible with each other adjoining material.

(d) Aluminum alloys. Any aluminum alloy that contains more than 0.6 percent copper must not be used in a structural component or in any other hoist component subject to stress.

§ 163.002-13 Construction.

(a) General. Each hoist must have a rigid ladder or a lift platform on which a person being raised or lowered may stand.

(b) Spreader. Each hoist must have a spreader or other device to prevent twisting of its ladder or lift platform. If a spreader is provided, it must be at least 1800 millimeters (5 feet, 10 inches) long.

(c) Rollers. The rigid ladder or lift platform on a pilot hoist and the ends of its spreader (if a spreader is provided) must have rollers at each point of

contact with the vessel that allow the ladder or platform to move smoothly over the side of the vessel.

(d) Load carrying parts. Each load carrying part of a pilot hoist must be designed to have a minimum breaking strength of at least six times the load imposed on the part by the working load during operation of the hoist.

(e) Exposed moving parts. Each exposed moving part of a pilot hoist that poses a hazard to personnel must have a screen or guard.

(f) Nonfunctional sharp edges and projections of excessive length. A pilot hoist must not have nonfunctional sharp edges and must not have fastening devices or other projections of excessive length.

(g) Installation requirements. Each pilot hoist must be designed to allow—

- (1) Its installation along the edge of a deck at a vertical portion of the hull;
- (2) Its installation on the deck in a manner that does not require use of the vessel's side rails for support; and
- (3) Unobstructed passage between the ladder or lift platform of the hoist and the deck of a vessel.

(h) Deck interlock for portable hoist. A pilot hoist, if portable, must have a deck interlock that prevents movement of the ladder or lift platform when the hoist is not installed.

(i) Power source. Each hoist must be designed to operate on electric, pneumatic, or hydraulic power or a combination of these.

(j) Electrical equipment. Electrical equipment of a pilot hoist must meet the electrical engineering regulations in Part 111 of this chapter. The operating voltage of electrical equipment on the ladder or lift platform of a pilot hoist must not exceed 25 volts.

(k) Pneumatic and hydraulic equipment. Pneumatic and hydraulic equipment of a pilot hoist must comply with the marine engineering regulations of Subpart 58.30 of this chapter. Each pneumatically powered hoist must have a water trap, air filter, air regulator, pressure gauge, and oil lubricator in the air line between the vessel's compressed air source and the pneumatic motor.

(l) Hoist control lever. Each pilot hoist must have a control lever for raising and lowering its ladder or lift platform.

Movement of the lever upward or toward the operator must result in upward movement of the ladder or lift platform. Movement of the control in the opposite direction must result in downward movement of the ladder or lift platform. The control must be designed so that when released by the operator the ladder or lift platform stops immediately.

(m) Emergency disconnect device. Each pilot hoist must have a switch or valve for disconnecting the main power source in an emergency.

(n) Power indicator. Each pilot hoist must have an indicator to show the operator when power is being supplied to the hoist.

(o) Arrangement of controls and power indicator. The hoist control lever, the emergency disconnect device, and the power indicator on a pilot hoist must be arranged so that the hoist operator, when standing, can view all movement of the ladder or lift platform while using this equipment.

(p) Hand-operated device and interlock. Each pilot hoist must have a hand-operated device for raising and lowering its ladder or lift platform. The device must be operable from a standing position. The hoist must have an interlock that prevents simultaneous operation of its hand-operated device and its power source. Any removable hand gear, crank, or wheel of the hand-operated device must be securely stowed on the hoist.

(q) Upper position stop. Unless a hoist has a pneumatic motor that stalls at the end of cable travel without jarring, jerking, or damaging the hoist, it must have one or more limit switches or valves that stop the ladder or lift platform at its upper end of travel without jarring, jerking, or damaging the hoist.

(r) Means of lubrication. Each hoist must have a means to lubricate its bearings. Each worm gear must operate in an oil bath. Each lubricant enclosure must be designed so that it can be readily filled, drained, and checked for lubricant level.

(s) Machinery housing. Each machinery housing on a pilot hoist except gear boxes and other enclosures that retain lubricants, must have one or more inspection ports that permit examination of all internal moving parts. The cover of each covered inspection port must be removable with common tools or without tools. Each machinery housing, except gear boxes and other enclosures that retain lubricants, must be open at the bottom or must have a drain to prevent moisture accumulation.

(t) Suspension cable. If a hoist has suspension cables, at least 2 cables must be provided and they must be arranged so that the ladder or lift platform remains level and stationary if one of the cables breaks. Each cable must be arranged to lead fair in a 15 degree vessel list toward the side of the vessel on which the hoist is installed. The devices for attaching the cables to their winch drums must be capable of

supporting 2.2 times the working load with the cables run all the way out.

(u) Sheaves and drums. Each sheave and each winch drum for a suspension cable on a pilot hoist must be of a size recommended by the cable supplier for the diameter and construction of the cable. Each drum must be designed to accept one level wind of wrap. The fleet angle of a grooved drum must not exceed 8 degrees, and the fleet angle of a non-grooved drum must not exceed 4 degrees.

Note.—The term "fleet angle" is defined in § 94.33-10 of this chapter.

(v) Rigid ladder. A rigid ladder on a pilot hoist must have thermally insulated handholds and a padded backrest so that the person being raised or lowered may firmly brace himself or herself between the ladder and the backrest. The ladder must be at least 2.5 m (100 in.) long from the bottom rung to the top of the handholds.

(w) Ladder rungs. Each rigid ladder must have at least six rungs, each with a non-skid surface. The stepping surface of each rung must be not less than 115 millimeters (4 1/2 inches) wide and not less than 400 millimeters (16 inches) long. The distance between rungs must be uniform. This distance must be between 300 millimeters (12 inches) and 380 millimeters (15 inches).

(x) Platform railing. A lift platform on a pilot hoist must be enclosed by a guardrail that has a diameter of between 30 millimeters (1 1/4 inches) and 75 millimeters (3 inches). The center of the guardrail must be at least 900 millimeters (3 feet) above the platform. At least one intermediate rail must be provided between the guardrail and the platform. Each rail must be set back from the edge of the platform at least 50 millimeters (2 inches). Each gate in the rails must have a latch that can keep the gate securely closed.

(y) Platform floor. The platform floor of a pilot hoist must have a non-skid surface and must be at least 750 millimeters (30 inches) by 750 millimeters, exclusive of the surface area of any hatch. Each hatch in the platform floor must be at least 750 millimeters (30 inches) by 750 millimeters. Each hatch must have a means to keep it securely positioned both when opened and closed.

(z) Pilot ladder fittings. The bottom of the rigid ladder or lift platform on a pilot hoist must have fittings to attach a pilot ladder of the type that meets the requirements of Subpart 163.003 of this chapter. The fittings must be arranged so that—

(1) The distance between the top rung of the pilot ladder and the lift platform or bottom rung of the rigid ladder is between 225 and 400 millimeters (9 and 16 inches);

(2) The steps of the pilot ladder are directly below and in line with the steps of the rigid ladder or edge of the lift platform; and

(3) The pilot ladder can bear on the side of the vessel when in use.

(aa) *Emergency stop switch.* Each pilot hoist must have an emergency stop switch that can be operated by a person on the ladder or lift platform.

(bb) *Fasteners.* Each screw, nut, bolt, pin, key, or other fastening device securing a part of a pilot hoist must have a lock washer, cotter pin, locking device or compound, or other means to prevent the device from loosening.

(cc) *Gears.* Each gear must be keyed to its shaft.

(dd) *Welding.* Each weld must be made using automatic welding equipment or be made by a welder who is qualified by the U.S. Coast Guard, U.S. Navy, American Bureau of Shipping, American Welding Society, American Society of Mechanical Engineers, or other organization that has similar procedures for welder qualifications that are acceptable to the Commandant.

§ 163.002-15 Performance.

(a) Each pilot hoist must have sufficient performance capability to pass the approval tests in § 163.002-21.

§ 163.002-17 Instructions and markings.

(a) *Instruction plates or placards.* Each pilot hoist must have instructions that show its method of operation and lubrication of its working parts. The instructions must be on one or more corrosion-resistant plates, or must be weatherproof placards. The instructions must be attached to the hoist. Each instruction must be in English or must have understandable symbols or pictograms. The operator of the hoist must be able to see and read the operating instructions when to operate the hoist control lever. The lubricating instructions must state the recommended lubricants for the temperature range in which the hoist is designed to operate. The temperature range must be stated in both degrees Celsius and Fahrenheit.

(b) *Marking of controls.* Each control on a pilot hoist and each position of the control must be identified by a marking on the hoist.

(c) *Manual.* Each pilot hoist must have a manual of operating instructions, maintenance and repair instructions, a

lubrication chart, a parts list, a list of sources of repair parts, and a log for keeping maintenance records. Each manual must be in English.

§ 163.002-21 Approval tests.

(a) *General.* If a pilot hoist fails one of the tests in this section the cause of the failure must be identified and any needed design changes made. After a test failure and any design change, the failed test, and any other previously completed tests affected by the change, must be rerun.

(b) *Visual examination.* Before starting the tests described in this section an assembled pilot hoist is examined for evidence of noncompliance with the requirements in §§ 163.002-11 and 163.002-13.

(c) The following approval tests must be conducted:

(1) *Rung strength.* If the pilot hoist has a rigid ladder a static load of 900 kilograms (2000 pounds) is applied to the center of a ladder rung for one minute. The load must be uniformly distributed over a 100 millimeter (4 inch) wide contact surface. The test must be repeated using a second ladder rung. The rungs must not break or crack during these tests.

(2) *Platform strength.* If the pilot hoist has a lift platform, the platform is lifted to a level where it is supported only by its suspension components. A static load of 900 kilograms (2000 pounds) is then applied to the center of the platform for one minute. The load must be uniformly distributed over a 100 millimeter (4 inch) square contact surface. The test must be repeated enough additional times so that the load is placed in the center of each hatch cover when in its closed position, and in the center of each area of the platform located between floor supports. The platform must not break or crack during these tests.

(3) *Deck interlock.* If the pilot hoist is portable, it is placed in an uninstalled position. Its hoist control lever is then activated. The deck interlock must prevent movement of the ladder or lift platform when the lever is activated.

(4) *Lifting and lowering speed and level wind.* The hoist is installed in a level operating position and a weight equal to the weight of the pilot ladder plus 150 kg (330 lb.) times the maximum persons capacity of the hoist is placed on its ladder or lift platform. The ladder or lift platform is repeatedly raised and lowered under power operation until a total distance of at least 150 meters (500 feet) has been traversed. The ladder or lift platform is raised and lowered each time through a distance of at least 5 meters (16 feet). The average speed of

raising the ladder or lift platform and the average lowering speed during this test must both be between 15 and 21 meters per minute (50 and 70 feet per minute). During the test, each suspension cable must have one level wind of wrap each time it is rewound onto its drum.

(5) *Upper position stop.* The hoist is installed in a level operating position and a weight equal to the weight of the pilot ladder plus 150 kg (330 lb.) times the maximum persons capacity is attached to the hoist. The hoist must be able to raise the weight to the upper limit of travel of the ladder or lift platform and must be able to stop at the upper limit without jarring, jerking, or damage. The test is repeated with no weight on the ladder or lift platform.

(6) *Cable securing device.* If the hoist has suspension cables, it is installed in a level operating position and the cables are run all the way out. A weight equal to 2.2 times the working load is then attached to the cables. The cables must remain securely attached to the drums for at least one minute after the weight has been attached.

(7) *Controls and power indicator.* The hoist is installed in a level operating position and a weight equal to the working load is attached to the hoist. The hoist control lever is then operated with the power both on and off. The lever, when operated, must meet the requirements in § 163.002-13(l). The power indicator must meet the requirements in § 163.002-13(n) during the test. When the power is turned off, the ladder or lift platform must stop immediately and remain stationary until power is turned on. The emergency stop switch on the ladder or lift platform is activated at some point when the ladder or lift platform is being raised or lowered. Upon activation, the ladder or lift platform must stop and remain stationary.

(8) *Hand operation and interlock.* The hoist is installed in a level operating position and a weight equal to the working load is attached to the hoist. The hand operating device is then engaged. One person, when using the hand operated device, must be able to raise and lower the weight through a distance of at least 5 meters (16 ft.) in each direction and must be able to raise and lower it at a speed of at least 1.5 meters per minute (5 ft. per minute). When raising or lowering the hoist with the hand operated device, the power source for the hoist is turned on, or an attempt is made to turn it on. Then, with power source turned off, the hand operated device is disengaged. The power source is then turned on and an

attempt made to engage the hand operated device. The interlock must prevent simultaneous operation of the power source and the hand operated device.

(9) *2.2x overload.* The hoist is installed in a level operating position. Each roller on the ladder or lift platform is placed in contact with a vertical surface. A weight equal to the difference between 2.2 times the working load and the weight of the ladder or lift platform is placed on the ladder or lift platform. The ladder or lift platform is raised through a distance of at least 5 meters (16 feet) and the hoist control lever is then released. The ladder or lift platform must stop without jarring or damage and must hold the weight for at least one minute. The weight is then lowered through a distance of not less than 5 meters (16 feet) and the control lever is then released. The ladder or lift platform must stop within 600 millimeters (2 ft.) of where the hoist was when the lever was released and the ladder or lift platform must remain stationary for at least one minute thereafter. Each roller must move smoothly over the vertical surface without jamming or sliding during the test.

(10) *6x overload.* The hoist is installed in a level operating position. A load of six times the working load is attached to the hoist. (If the hoist has suspension cables, the cables must be run out at least one meter (3 ft.) before adding the load to the hoist). The weight must remain stationary for at least one minute without damage to any part of the hoist. The test is repeated simulating a vessel list of 15 degrees toward the side on which the hoist is installed.

(11) *Level wind suspension cable.* If the hoist has suspension cables, it is installed in a level operating position with the cables wound onto the drums. A weight equal to the working load is attached to the hoist. The cables are run all the way out and then rewound back onto the drums. Each drum and cable is observed for level winding as the cable is wound onto the drum. The test must be repeated with a weight equal to the weight of the rigid ladder or lift platform. In each test, each cable must rewind onto the drum in one level wind of wrap.

§ 163.002-23 Test report.

(a) After the approval tests are completed, a test report must be prepared by the independent laboratory or by the applicant. If the report is prepared by the applicant, its accuracy must be certified by the independent laboratory.

(b) The test report must contain—

- (1) The name and address of the applicant;
- (2) The name and address of the independent laboratory;
- (3) A detailed description of the test procedure and apparatus used;
- (4) Detailed test results including all data recorded and a description of each test failure and each other discrepancy;
- (5) The observations made during visual examination of the hoist;
- (6) The date and location of testing;
- (7) The name of each test participant and observer; and
- (8) Photographs showing at least one overall view of the hoist and enough additional views to show all major design details, test apparatus, and each failure occurring during testing.

§ 163.002-25 Marking.

(a) Each pilot hoist manufactured under Coast Guard approval must have a corrosion-resistant nameplate. The nameplate must contain the—

- (1) Name of the manufacturer;
- (2) Manufacturer's brand or model designation;
- (3) Working load;
- (4) Lift height;
- (5) Maximum persons capacity;
- (6) Hoist serial number;
- (7) Date of manufacture; and
- (8) Coast Guard approval number.

(b) The hoist must be permanently and legibly marked with the name of the laboratory that conducted the production tests.

§ 163.002-27 Production tests and examination.

Each pilot hoist manufactured under Coast Guard approval must be tested as prescribed in § 163.002-21(c)(9). The tests must be conducted by an independent laboratory acceptable to the Coast Guard. If the hoist fails the tests its defects must be corrected and retested until it passes. The laboratory must also conduct the visual examination described in § 163.002-21(b). The hoist may not be sold as Coast Guard approved unless it passes testing and unless each defect discovered in the visual examination is corrected.

3. A new Subpart 163.003 is added to Part 163 to read as follows:

Subpart 163.003—Pilot Ladder

- Sec.
- | | |
|------------|-------------------------|
| 163.003-1 | Scope. |
| 163.003-3 | ASTM standard. |
| 163.003-7 | Independent laboratory. |
| 163.003-9 | Approval procedure. |
| 163.003-11 | Materials. |
| 163.003-13 | Construction. |
| 163.003-15 | Performance. |
| 163.003-17 | Strength. |

- | | |
|------------|--|
| 163.003-21 | Approval tests. |
| 163.003-23 | Test report. |
| 163.003-25 | Marking. |
| 163.003-27 | Production tests and examination. |
| 163.003-29 | Effective date and status of prior approval. |

Authority: R.S. 4405 as amended (46 U.S.C. 375), R.S. 4417a, as amended (46 U.S.C. 391a) R.S. 4462, as amended (46 U.S.C. 416) R.S. 4488, as amended (46 U.S.C. 481), Sec. 6(b), 80 Stat. 937 (49 U.S.C. 1655(b)); 49 CFR 1.46.

§ 163.003-1 Scope.

(a) This subpart contains approval procedures, design requirements, and approval and production tests for a pilot ladder used on a merchant vessel to embark and disembark pilots and other persons when away from the dock.

(b) The requirements in this subpart apply to a pilot ladder designed for use along a vertical portion of a vessel's hull.

§ 163.003-3 ASTM standard.

(a) This subpart makes reference to the following standard of the American Society for Testing and Materials:

ASTM D 1435-75 entitled "Standard Recommended Practice for Outdoor Weathering of Plastics."

(b) Standards of the American Society for Testing and Materials can be obtained from the Society at 1916 Race St., Philadelphia, Pa. 19103.

§ 163.003-7 Independent laboratory.

(a) The approval and production tests in this subpart must be conducted by, or under the supervision of, an independent laboratory.

(b) To be an independent laboratory, a laboratory must—

- (1) Be regularly engaged in inspecting and testing marine materials and equipment; and
- (2) Not be owned or controlled by a manufacturer or vendor of pilot ladders or by a supplier of materials to the manufacturer.

§ 163.003-9 Approval procedure.

(a) *General.* A pilot ladder is approved by the Coast Guard if it meets the requirements of this subpart and passes the approval tests.

(b) *Application for approval.* An application for approval of a pilot ladder must be sent to the Commandant (G-MMT-3/83), U.S. Coast Guard, Washington, D.C. 20590.

(c) *Contents of application.* An application for approval of a pilot ladder must include the following:

- (1) Two sets of plans describing the ladder.
- (2) The name of a proposed independent laboratory and a

description of the laboratory's qualifications to conduct or supervise approval tests.

(3) An approval test plan describing in detail the proposed test procedures, apparatus, and facilities.

(d) *Preliminary review.* The Coast Guard examines the information submitted in the application and determines whether the proposed independent laboratory is acceptable to conduct or supervise the approval tests. The Coast Guard notifies the applicant of the results of this examination and determination.

(e) *Approval tests.* The applicant must make arrangements for the approval tests directly with the independent laboratory. Each approval test must be conducted in accordance with § 163.003-21.

(f) *Submission of test report and plans.* After the approval tests are completed, the applicant must send the test report prescribed by § 163.003-23 and three sets of final plans to the Commandant (G-MMT-3/83). Each set of plans must include the following:

(1) An assembly drawing or general arrangement drawing.

(2) Detailed drawings showing components of the ladder.

(3) For each drawing, a bill of materials or parts list containing a description of each component not detailed on the drawing.

(4) A list identifying the current revision and revision date of each drawing submitted.

(5) A detailed description of the quality control procedure used in producing the ladder.

(g) *Final review and approval.* The Coast Guard reviews the test report and plans and advises the applicant whether the ladder is approved. If the ladder is approved, a certificate of approval and one copy of the approved plans are sent to the applicant. The certificate states the longest ladder length for which approval is given.

§ 163.003-11 Materials.

(a) *Suspension members.* Each suspension member must be mildew-resistant manila rope that has a breaking strength of not less than 24,000 N (5,400 lb.) and a nominal circumference of not less than 60 mm (2 1/4 in.).

(b) *Wooden parts.* Each wooden part of a pilot ladder must be hardwood that is straight-grained and free from knots, checks, honeycomb, warp, rot, and any other defects affecting its strength or durability.

(c) *Wood preservative.* After each wooden part is formed and finished, it

must be treated with pentachlorophenol or copper naphthenate-based wood preservative that is water-repellant. The preservative must be applied by at least two brush coats or by one dip coat. At least 24 hours drying time must be allowed between brush coats.

(d) *Molded steps.* Each step made of molded construction must be rubber or resilient plastic.

(e) *Metal parts.* Each metal part must be made of corrosion-resistant metal or of steel galvanized by the hot dip process after the part is formed.

(f) *Plastics.* Each plastic material must be of a type that retains at least 80 percent of its original tensile strength and at least 80 percent of its original impact strength when subjected to the one year outdoor weathering test described in ASTM D 1435.

§ 163.003-13 Construction.

(a) *General.* Each pilot ladder must have two suspension members on each side. Each step must be supported by each suspension member. A typical arrangement is shown in Figures 163.003-13(a)(1) and 163.003-13(a)(2).

(b) *Suspension members.* The suspension members of a pilot ladder must meet the following requirements:

(1) Each suspension member must be continuous from the top of the ladder to the bottom and must not be painted or otherwise coated or covered.

(2) Except as provided in paragraph (h) of this section—

(i) The top end of one suspension member on each side of a ladder must extend at least 3 m (10 ft.) beyond the top ladder step; and

(ii) The top ends of the other suspension members must be just above the top step and must have an eye splice or thimble large enough to fit two passes of a suspension member.

(3) The top end of each suspension member that does not have an eye splice or thimble must be served with a 25 mm (1 in.) wide band of tarred marline or treated in another equally effective way to prevent fraying.

(4) Each suspension member must be served with a 25 mm (1 in.) wide band of tarred marline immediately above each insert that adjoins the top surface of a ladder step and immediately below each insert that adjoins the bottom surface of a ladder step.

(5) The distance between the suspension members on one side of a ladder and those on the other side must be at least 400 mm (16 in.).

(c) *Steps.* Pilot ladder steps must meet the following requirements:

(1) The four lowest steps must be molded steps and the rest of the steps must be wooden.

(2) The top face of each step must have a rectangular surface that is at least 115 mm (4 1/2 in.) wide and must have grooves that do not retain water and that provide a non-skid surface.

(3) Each step at its thinnest point must be at least 25 mm (1 in.) thick and, in determining this thickness, the depth of the grooves in the non-skid surface and the diameter of any hole extending from one side of the step to the other must not be counted.

(4) Each step must be at least 480 mm (19 in.) long.

(5) The top edges of the sides of each step must be rounded or chamfered.

(6) Each step must be designed so that it can be replaced without unstringing the ladder.

(7) If a step has grooves for its suspension members, the grooves must be in the sides of the step.

(8) The distance between each step must be uniform and this distance must be between 300 mm (12 in.) and 380 mm (15 in.).

(9) Each step on a pilot ladder must have four inserts.

(d) *Inserts.* Step inserts must meet the following requirements:

(1) Each insert must be arranged to guide the suspension members on one side of the ladder from a step to the point where the suspension members are served with tarred marline.

(2) Each insert must be designed to prevent the edges of the step from chafing the suspension members.

(3) The height of each insert must not be more than one-half the width of the step.

(4) Each insert for a wooden step must be bound into place with tarred marline but must not be attached to the step.

(5) Each insert for a molded step must be molded into the step or must be bound into place with tarred marline.

(3) *Spreaders.* Each pilot ladder with 9 or more steps must have one or more spreaders that meet the following requirements:

(1) Each spreader must be at least 1.8 m (70 in.) long.

(2) If a ladder has two or more spreaders, the spreaders must be positioned at intervals of not more than 9 steps.

(3) The lowest spreader on a ladder must be on the fifth step from the bottom.

(f) *Fasteners.* Wood screws and nails must not be used in a pilot ladder. Each bolt must have a nut and the end of the bolt must be peened over the nut.

(g) *Workmanship.* A pilot ladder must not have splinters, burrs, sharp edges, corners, projections, or other defects that could injure a person using the ladder.

(h) *Special arrangements for pilot hoists.* Each pilot ladder produced for use with an approved pilot hoist must have at least 8 steps. The top ends of its suspension members need not have an

eye splice or thimble or be arranged as required in paragraph (b) of this section if necessary to permit attaching the ladder to fittings of a particular pilot hoist.

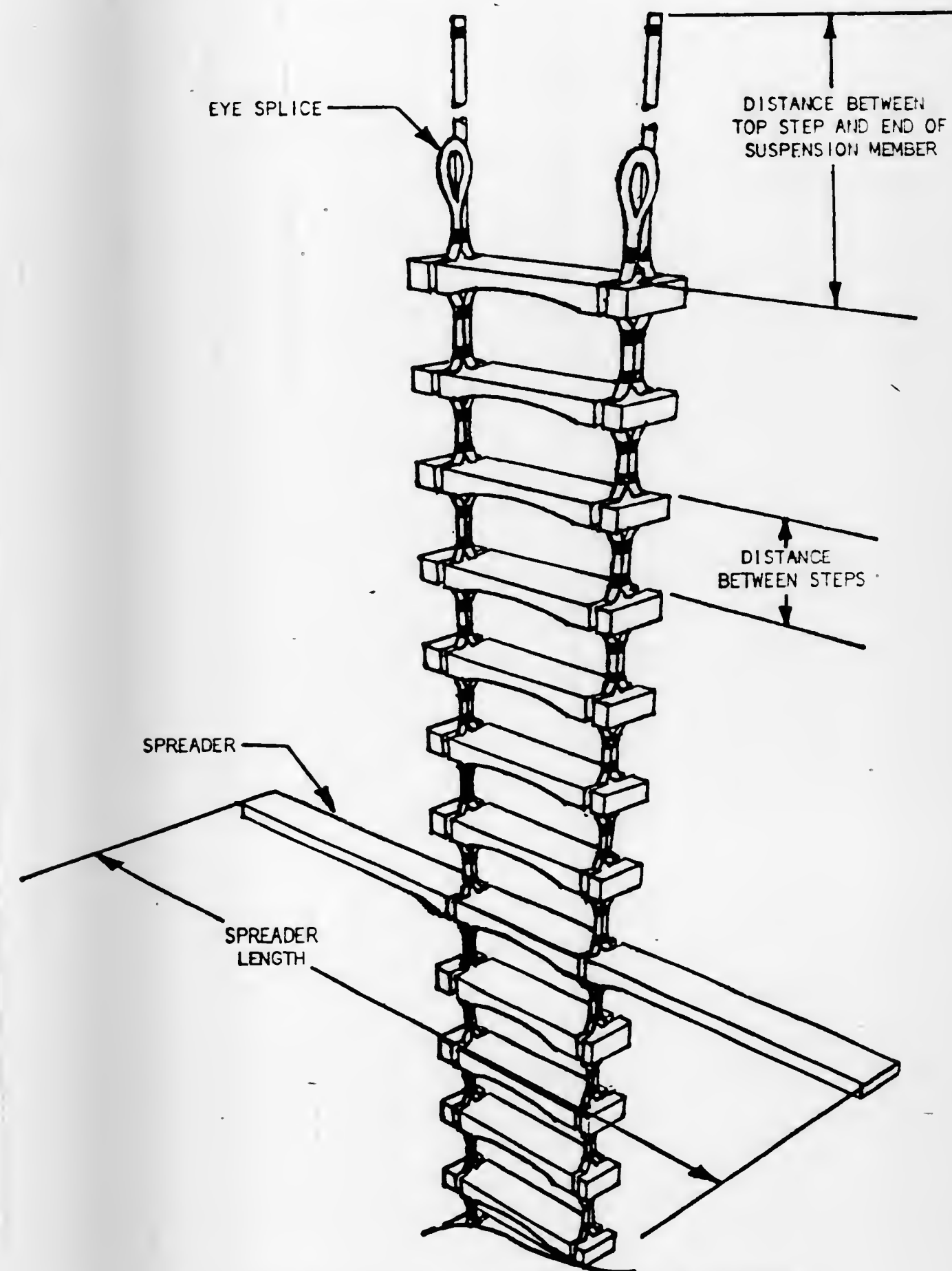


FIGURE 163.003-13(a)(1) TYPICAL PILOT LADDER ARRANGEMENT

BILLING CODE 4910-14-M

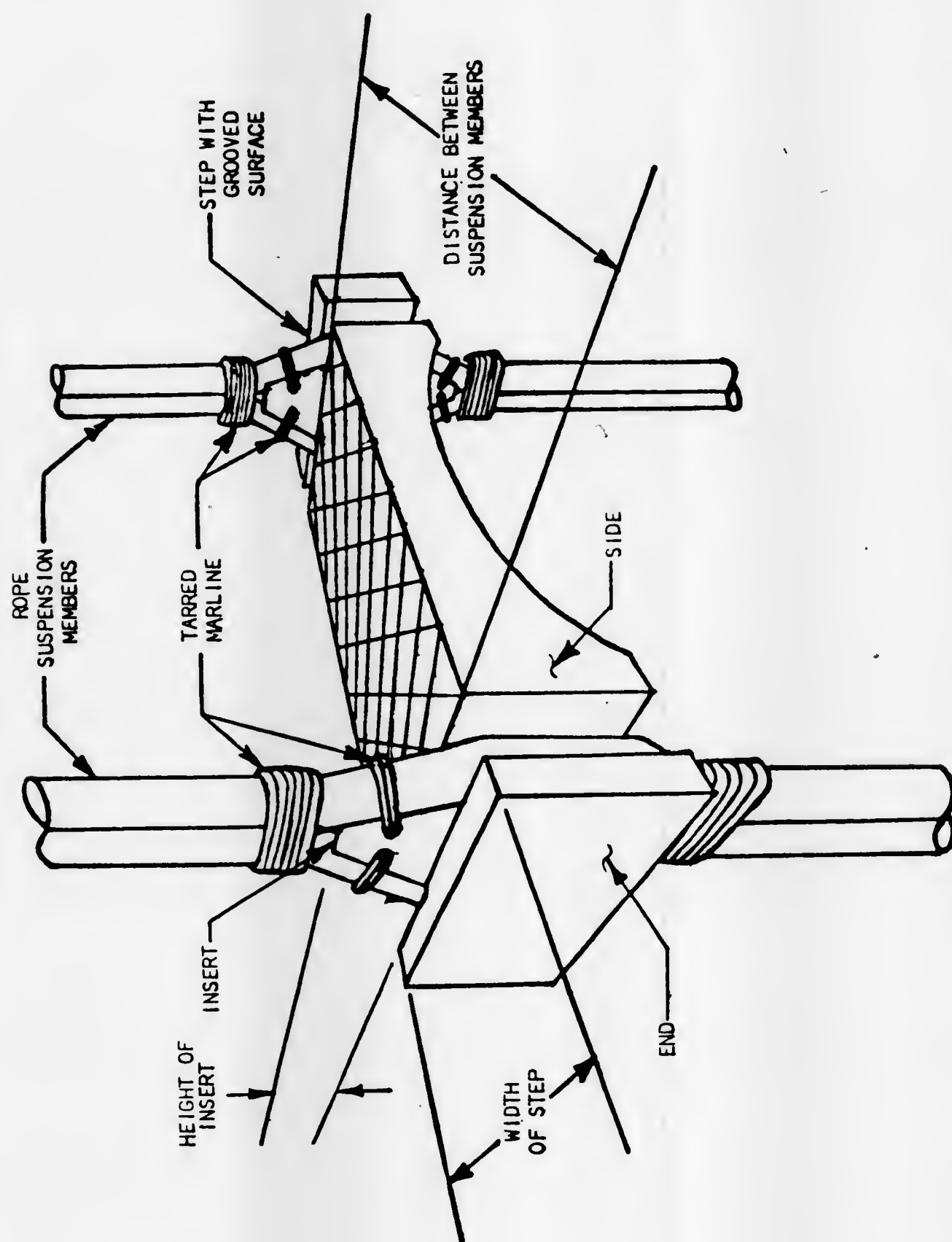


FIGURE 163.003-13(a) (2). TYPICAL PILOT LADDER STEP DETAIL

BILLING CODE 4910-14-C

§ 163.003-15 Performance.

(a) Each pilot ladder must be capable of being rolled up for storage.

(b) Each ladder when rolled up must be able to unroll freely and hang vertically.

(c) Each suspension member must be arranged so that, when the ladder is in use on a vessel, the suspension member cannot come in contact with the vessel's side.

(d) Each step must be arranged so that it can bear on the side of the vessel when the ladder is in use.

§ 163.003-17 Strength.

(a) Each pilot ladder must be designed to pass the approval tests in § 163.003-21.

§ 163.003-21 Approval tests.

(a) *General.* Each approval test must be conducted on a ladder of the longest length for which approval has been requested. If the ladder fails one of the tests, the cause of the failure must be identified and any needed design changes made. After a test failure and any design change, the failed test, and any other previously completed tests affected by the change, must be rerun.

(b) *Visual examination.* Before starting the approval tests, an assembled pilot ladder is examined for evidence of noncompliance with the requirements in §§ 163.003-11, 163.003-13, and 163.003-15.

(c) The following approval tests must be conducted:

(1) *Strength test #1.* An assembled ladder is supported so that a static load, if placed on any of its steps, would exert a force on both the step and each suspension member. A static load of 900 kg (2000 lb.) is then placed on one step for at least one minute. The load must be uniformly distributed over a contact surface that is approximately 100 mm (4 in.) wide. The center of the contact surface must be at the center of the step. This test is performed on six different steps, one of which must be a molded step. None of the steps may break or crack. No attachment between any step and a suspension member may loosen or break during this test.

(2) *Strength test #2.* An assembled ladder is suspended vertically to its full length. A static load of 900 kg (2000 lb.) is then applied to the bottom step of the ladder so that it is distributed equally between the suspension members. The suspension members, steps, and inserts must not break, incur any elongation or deformation that remains after the test load is removed, or be damaged in any other way during this test.

(3) *Strength test #3.* A rolled up ladder is attached to anchoring fixtures in a location away from any wall or structure that would prevent it from falling freely, and where it can hang to its full length vertically. The ladder when dropped must unroll freely. When unrolling the ladder, its steps and attachments must not become cracked, broken, or loosened. Other similar damage making the ladder unsafe to use must likewise not occur.

§ 163.003-23 Test report.

(a) After the approval tests are completed, a test report must be prepared by the independent laboratory or by the applicant. If the report is prepared by the applicant, its accuracy must be certified by the independent laboratory.

(b) The test report must contain—

- (1) The name and address of the applicant;
- (2) The name and address of the independent laboratory;
- (3) A detailed description of the test procedure and apparatus used;
- (4) Detailed test results including all data recorded and a description of each test failure and each discrepancy;
- (5) The observations made during visual examination of the ladder;
- (6) The date and location of testing;
- (7) The name of each test participant and observer; and
- (8) Photographs showing at least one overall view of the ladder and enough additional views to show all major design details, test apparatus, and each failure occurring during testing.

§ 163.003-25 Marking.

(a) Each step of a pilot ladder manufactured under Coast Guard approval must be branded or otherwise permanently and legibly marked on the bottom with—

- (1) The name of the manufacturer;
- (2) The manufacturer's brand or model designation;
- (3) The lot number or date of manufacture; and
- (4) The Coast Guard approval number.

§ 163.003-27 Production tests and examination.

(a) *General.* Each ladder produced under Coast Guard approval must be tested in accordance with this section. Steps that fail testing may not be marked with the Coast Guard approval number and each assembled ladder that fails testing may not be sold as Coast Guard approved.

(b) *Test No. 1: Steps.* Steps must be separated into lots of 100 steps or less. Wooden steps and molded steps must

be placed in separate lots. One step from each lot must be selected at random and tested as described in § 163.003-21(c)(1), except that supports are placed under the step at the points where it would be attached to suspension members in an assembled ladder. If the step fails the test, ten more steps must be selected at random from the lot and tested. If one or more of the ten steps fails the test, each step in the lot must be tested.

(c) *Test No. 2: Ladders.* Assembled ladders must be separated into lots of 20 ladders or less. One ladder must be selected at random from the ladders in each lot. The ladder selected must be at least 3 m (10 ft.) long or, if each ladder in the lot is less than 3 m long, a ladder of the longest length in the lot must be selected. The ladder must be tested as prescribed in § 163.003-21(c)(2), except that only a 3 m section of the ladder need be subjected to the static load. If the ladder fails the test, each other ladder in the lot must be tested.

(d) *Independent laboratory.* Each production test must be conducted or supervised by an independent laboratory acceptable to the Commandant. However, if a test is performed more than 4 different times per year, laboratory participation is required only 4 times per year. If the laboratory does not participate in all tests, the times of laboratory participation must be as selected by the laboratory. The times selected must provide for effective monitoring throughout the production schedule.

(e) *Visual examination.* The visual examination described in § 160.017-21(b) must be conducted as a part of each production test.

(f) *Report of production tests and visual examination.* A manufacturer of approved pilot ladders must prepare and submit to the Commandant (G-MMT-3/83) an annual report of production testing conducted at his facility during the year. The accuracy of tests and examinations conducted by or under supervision of an independent laboratory must be certified by the laboratory.

(g) *Content of report.* Each report must specify the number of lots tested, the lots tested by or under supervision of the independent laboratory, and the dates of laboratory testing. Additional detail is not required, except that a detailed description of each failure and discrepancy observed must be included in the report.

§ 163.003-29 Effective date and status of prior approval.

(a) This subpart becomes effective 90 days after its publication as a final rule.

(b) Approval certificates for pilot ladders issued under Subpart 160.017 terminate on (the effective date prescribed in paragraph (a) of this section.)

(c) Applications for approval of pilot ladders under this subpart will be accepted on and after [date of publication of final rules].

(d) In previous regulations, pilot ladders were referred to as Type I—Rope Suspension Ladders.

(46 U.S.C. 375, 391a, 416, and 481; 49 U.S.C. 1655(b); and 49 CFR 1.46.)

Dated: July 2, 1979.

R. H. Scarborough,
Vice Admiral, U.S. Coast Guard, Acting Commandant.

[FR Doc. 79-22401 Filed 7-20-79; 8:45 am]

BILLING CODE 4910-14-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Charter of the Peace Corps Advisory Council

Pursuant to Executive Order 12137 and Section 9(c) of the Federal Advisory Committee Act, the following articles represent the CHARTER of the Peace Corps Advisory Council.

I. Designation

The committee's official designation is "The Peace Corps Advisory Council" (hereinafter referred to as the "Council").

II. Objectives

The objectives of the Council are to advise the President and the Director of the Peace Corps on initiatives needed to promote the purposes of the Peace Corps Act, and to assist in the implementation of such initiatives.

III. Duration

The Council will terminate on December 31, 1980, unless extended.

IV. Membership

The President shall appoint not more than 30 individuals to serve on the Council and shall designate one member as Chairperson. Members shall serve at the pleasure of the President.

V. Reporting and Support

The Council shall report to the Director of the Peace Corps. In addition, the Council shall submit annually to the President, through the Director of the Peace Corps, a report on its recommendations and activities.

The Peace Corps shall be responsible for providing necessary support for the Council.

VI. Duties

The duties of the Council are to provide guidance and advice on the implementation of initiatives needed to

achieve the purposes of the Peace Corps—namely, to promote world peace and friendship by (1) helping people of other countries and areas in meeting their needs for trained manpower, (2) promoting a better understanding of the American people on the part of the peoples served, and (3) promoting a better understanding of other peoples on the part of the American people.

VII. Meetings

The Council shall meet at least two (2) times each calendar year.

VIII. Cost

The estimated annual costs for the Council are \$80,000.00 and one-half (½) work year. Members of the Council shall receive no compensation for service on the Council. Each member may receive travel expenses, including per diem in lieu of subsistence.

This charter is filed on July 18, 1979.

Richard F. Celeste,
Peace Corps Director.

[FR Doc. 79-22402 Filed 7-20-79; 8:45 am]

BILLING CODE 6050-01-M

CIVIL AERONAUTICS BOARD

[Docket No. 35507]

Fitness Investigation of Fleming International Airways; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on August 14, 1979, at 10:00 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report dated July 16, 1979, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., July 17, 1979.

Richard M. Hartsock,
Administrative Law Judge.

[FR Doc. 79-22693 Filed 7-20-79; 8:45 am]

BILLING CODE 6320-01-M

Federal Register

Vol. 44, No. 142

Monday, July 23, 1979

COMMISSION ON CIVIL RIGHTS

California Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the California Advisory Committee (SAC) of the Commission will convene at 11 a.m. and will end at 1 p.m. on August 10, 1979, at the Western Regional Office, 312 North Spring Street, Room 1015, Los Angeles, California 90012.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, California 90012.

The purpose of this meeting is for the Subcommittee to discuss minority economic development issues in the State of California.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., July 18, 1979.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 79-22668 Filed 7-20-79; 8:45 am]

BILLING CODE 6335-01-M

Hawaii Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Hawaii Advisory Committee (SAC) of the Commission will convene at 2 pm and will end at 5 pm on August 18, 1979, at the Ala Moana Hotel, 410 Atkinson Drive, Honolulu, Hawaii 96814.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, California 90012.

The purpose of this meeting is to plan for the Hawaii State Advisory Committee project on equal opportunities for Native Hawaiians.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., July 18, 1979.
John I. Binkley,
Advisory Committee Management Officer.
 [FR Doc. 79-22069 Filed 7-20-79; 8:45 am]
 BILLING CODE 6230-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Annual Surveys in Manufacturing Area; Consideration

Notice is hereby given that the Bureau of the Census is considering a proposal to initiate or to continue the annual surveys listed below for the year 1979 and for each year thereafter under the authority of title 13, United States Code, sections 182, 224, and 225. These surveys, most of which have been conducted for many years, are significant in the manufacturing area. On the basis of information and recommendations received by the Bureau of the Census, the data have significant application to the needs of the public and industry and are not available from nongovernmental or other governmental sources.

The establishments covered by these surveys directly account for the bulk of all manufacturing employment. The information to be developed from these surveys is necessary for an adequate measurement of total industrial production. Government agencies need data on the output of these industries. Manufacturers in the industries involved, as well as their suppliers and customers and the general public, have all requested such data in the interest of business efficiency and stability.

These surveys, if conducted, shall begin not earlier than August 20, 1979.

Most of the following commodity or product surveys provide data on shipments and/or production; some provide data on stocks, unfilled orders, orders booked, consumption, etc. Reports will be required of all or a sample of establishments engaged in the production of the items covered by the following list of surveys. These surveys have been arranged under major group headings based on the Standard Industrial Classification Manual (1972 edition) promulgated by the Office of Management and Budget for the use of Federal statistical agencies.

Major Group 22—Textile Mill Products

Broadwoven goods finished
 Narrow fabrics
 Yarn production

Major Group 23—Apparel and Other Finished Products Made From Fabrics and Similar Materials

Apparel
 Brassieres, corsets, and allied garments
 Gloves and mittens

Major Group 24—Lumber and Wood Products, Except Furniture

Hardwood plywood
 Softwood plywood
 Lumber

Major Group 26—Paper and Allied Products

Pulp, and detailed grades of paper and board

Major Group 28—Chemicals and Allied Products

Industrial gases
 Inorganic chemicals
 Pharmaceutical preparations, except biologicals
 Sulfuric acid

Major Group 29—Petroleum Refining and Related Industries

Asphalt and tar roofing and siding products

Major Group 30—Rubber and Miscellaneous Plastics Products

Rubber
 Plastics products

Major Group 31—Leather and Leather Products

Shoes and slippers (by method of construction)

Major Group 32—Stone, Clay, and Glass

Consumer, scientific, technical, and industrial glassware
 Fibrous glass

Major Group 33—Primary Metal Industries

Steel mill products
 Insulated wire and cable
 Magnesium mill products

Major Group 34—Fabricated Metal Products Except Ordnance, Machinery, and Transportation Equipment

Commercial steel forgings
 Steel power boilers
 Selected heating equipment
 Metal cans

Major Group 35—Machinery, Except Electrical

Internal combustion engines
 Tractors, except garden tractors
 Farm machines and equipment
 Mining machinery and mineral processing equipment
 Refrigeration and air-conditioning equipment, including warm air furnaces
 Computers and office and accounting machines
 Pumps and compressors
 Selected industrial air pollution control equipment
 Construction machinery
 Anti-friction bearings

Major Group 36—Electrical Machinery, Equipment, and Supplies

Radios, televisions, and phonographs

Motors and generators Wiring devices and supplies Switchgear, switchboard apparatus, relays, and industrial controls

Selected electronic and associated products, including telephone and telegraph apparatus

Electric housewares and fans
 Electric lighting fixtures
 Major household appliances

Major Group 37—Transportation Equipment

Aircraft propellers
 Major Group 38—Professional, Scientific, and Controlling Instruments; Photographic and Optical Goods; Watches and Clocks

Selected instruments and related products
 Atomic energy products and services

The following survey represents an annual supplement of a monthly survey and will cover the same establishments canvassed monthly. There will be no duplication of reporting, however, since the type of data collected on the annual supplement will be different from that collected monthly.

Major Group 32—Stone, Clay, and Glass

Glass containers

The following list of surveys represents annual counterparts of monthly and quarterly surveys and will cover only those establishments which are not canvassed or do not report in the more frequent surveys. Accordingly, there will be no duplication in reporting. The content of these annual reports will be identical with that of the monthly and quarterly reports.

Major Group 20—Food and Kindred Products

Flour milling products

Major Group 22—Textile Mill Products

Finishing plant report—broadwoven fabrics
 Consumption of wool and other fibers, and production of tops and noils
 Carpet and rugs
 Knit fabric production

Major Group 23—Apparel and Other Finished Products Made From Fabrics and Similar Materials

Sheets, pillowcases, and towels

Major Group 25—Furniture and Fixtures

Mattresses and bedsprings

Major Group 26—Paper and Allied Products

Converted flexible packaging products

Major Group 28—Chemicals and Allied Products

Phosphatic fertilizer materials
 Paint, varnish, and lacquer

Major Group 30—Rubber and Miscellaneous Products

Plastics bottles

Major Group 32—Stone, Clay, and Glass

Glass containers
 Refractories

Clay construction products

Major Group 33—Primary Metal Industries

Nonferrous castings
 Iron and steel foundries
 Steel inventories (Consumers and Producers Reports)
 Copper inventories

Major Group 34—Fabricated Metal Products Except Ordnance, Machinery, and Transportation Equipment

Plumbing fixtures
 Steel shipping drums and pails
 Closures for containers

Major Group 35—Machinery, Except Electrical

Construction machinery

Major Group 36—Electrical Machinery, Equipment and Supplies

Fluorescent lamp ballasts

Major Group 37—Transportation Equipment

Aircraft engines
 Complete aircraft
 Backlog of orders for aircraft, space vehicles, missiles, engines, and selected parts
 Truck trailers

The annual survey of manufactures will collect general statistical data such as employment, payroll, workhours, capital expenditures, cost of materials consumed, gross book value, retirements, and depreciation of fixed assets, rental payments, supplemental labor costs, information on the quantity of fuels used, etc. This survey, while conducted on a sample basis, will cover all manufacturing industries, including data on plants under construction but not yet in operation.

A survey of research and development (R&D) activities will be conducted. The major data to be obtained in this survey will include total R&D expenditures by source of funds, the number of scientists and engineers employed, the amounts spent for pollution abatement and energy R&D, and, for comparative purposes, the total net sales and receipts and the total employment of the company.

A survey of shipments to Federal Government agencies is planned to provide information on the impact of Federal procurement on selected industries and on the economy of States, standard metropolitan statistical areas, and geographic regions.

The annual survey of oil and gas will canvass the industry which provides most of the fuel produced in the United States as well as a substantial portion of the hydrocarbon raw material requirements of many industries. The survey will collect information on exploration, development, and production costs; sales volumes and values; drilling activity; and assets in

the crude petroleum and natural gas industry.

The annual survey on pollution abatement expenditures is designed to collect from the manufacturing area total expenditures by industry to abate pollutant emissions. The survey covers current operating costs and capital expenditures by industry to reduce pollution in its air, water, or solid forms. It will also obtain the costs recovered from abatement activities and quantities of pollutants abated.

The survey of plant capacity will obtain information such as number of shifts; the actual operating rate; the number of production workers for actual, preferred, and practical operating rates; the reasons for operating at less than capacity; and the length of time required to reach and maintain practical rates. The survey will be done on a sample basis and will cover all manufacturing industries.

Copies of the proposed forms will be made available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

Any suggestions or recommendations concerning the subject matter of these proposed surveys should be submitted in writing to the Director of the Bureau of the Census on or before September 20, 1979 in order to receive consideration.

Dated: July 17, 1979.

Daniel B. Levine,

Acting Director, Bureau of the Census.

[FR Doc. 79-22077 Filed 7-20-79; 8:45 am]

BILLING CODE 3510-07-M

Economic Development Administration

Petitions by Fourteen Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from fourteen firms: (1) Ginsburg Manufacturing Company, Inc., 583 Broadway, New York, New York 10012, a producer of women's lingerie and robes (accepted July 5, 1979); (2) I. S. Sutton & Sons, Inc., 200 Fifth Avenue, New York, New York 10010, a producer of stuffed toys and dolls (accepted July 5, 1979); (3) Progress Knitwear Corporation, 250 44th Street, Brooklyn, New York 11232, a producer of men's sweaters and sportshirts and women's tops (accepted July 5, 1979); (4) Little World, Inc., 112 West 34th Street, New York, New York 10001, a producer of children's dresses, coats, suits, pants and sportswear (accepted July 9, 1979);

(5) Schooner Knitwear Corporation, 412 Broadway, New York, New York 10013, a producer of women's sweaters, tops, shirts and blouses (accepted July 10, 1979); (6) Hornell Garments, Inc., 432 12th Street, Brooklyn, New York 11215, a producer of women's raincoats (accepted July 11, 1979); (7) Jewel Trend Button Corporation, 575 Eighth Avenue, New York, New York 10018, a producer of buttons, buckles and novelty jewelry (accepted July 11, 1979); (8) Zimco Industries, Inc., 390 Fifth Avenue, New York, New York 10018, a producer of men's and boys' suits and coats (accepted July 11, 1979); (9) S. G. Taylor Chain Company, Inc., 3 141st Street, Hammond, Indiana 46325, a producer of metal chain (accepted July 11, 1979); (10) Cavalier Clothes, Inc., 90-09 Van Wyck Expressway, Jamaica, New York 11435, a producer of men's and women's coats and vests (accepted July 11, 1979); (11) Ware Knitters, Inc., East Main Street, Ware, Massachusetts 01082, a producer of knit fabrics; and men's and women's sport shirts (accepted July 12, 1979); (12) Keystone Camera Corporation, 468 Getty Avenue, Clifton, New Jersey 07015, a producer of cameras, projectors and accessories (accepted July 12, 1979); (13) Sally Gee, Inc., 395 Broad Avenue, Ridgefield, New Jersey 07657, a producer of women's sweaters, tops and pants (accepted July 13, 1979); and (14) Victor Wraps Inc., Broadway & Jefferson Streets, Camden, New Jersey 08104, a producer of women's suits and coats (accepted July 13, 1979).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Public Law 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the

tenth calendar day following the publication of this notice.

Jack W. Osburn, Jr.,
Chief, Trade Act Certification Division, Office
of Eligibility and Industry Studies.

[FR Doc. 79-22694 Filed 7-20-79; 8:45 am]

BILLING CODE 3510-24-M

Industry and Trade Administration

[Dept. Organization Order 41-1; D.O.O.
Reference 10-3, 40-1]

Office of the Assistant Secretary for Industry and Trade; Statement of Organization, Function, and Delegation of Authority

Effective Date: June 21, 1979.

Section 1. Purpose

This order delegates authority to the Senior Deputy Assistant Secretary for Industry and Trade and prescribes the organization and assignment of functions within the Office of the Assistant Secretary for Industry and Trade.

Section 2. Delegations of Authority.

.01 Pursuant to Department Organization Order 10-3 of December 4, 1977, as amended, the following authorities delegated to the Assistant Secretary for Industry and Trade by the Secretary of Commerce are hereby delegated to the Senior Deputy Assistant Secretary for Industry and Trade.

a. The Defense Production Act of 1950, as amended, (50 U.S.C. App. 2061 et seq.) conferred on the Secretary under: (1) Executive Order 10480, dated August 14, 1953, as amended, including authority to issue or modify orders restricting surface transportation and discharge of certain commodities or for the prohibition of movement of American carriers to certain designated destinations, which authority has heretofore been implemented by the issuance of Transportation Order T-1 and T-2, except the authority to create new agencies within the Department of Commerce; and (2) Executive Order 11912, dated April 13, 1976;

b. Executive order 11490 of October 28, 1969, as amended, as it relates to the development of national emergency preparedness plans and programs concerning production functions and to the regulations and control of exports and imports under the jurisdiction of the economic stabilization objectives;

c. Section 1441 of the Public Health Service Act, as amended by the Safe Drinking Water Act (42 U.S.C. 300j) conferred on the Secretary under

Executive Order 11879 of September 17, 1975, involving materials allocation of chemicals or substances necessary for treatment of water;

d. The National Security Act of 1947 (50 U.S.C. 401 et seq.) as amended, as it relates to mobilization preparedness responsibilities assigned thereunder;

e. The Strategic and Critical Materials Stockpiling Act, (50 U.S.C. 98-98h), as amended, with respect to the quality and quantity of materials acquired for the national stockpile and disposal of materials determined to be in excess of national defense requirements;

f. Executive Order 11179 of September 22, 1964, as amended by Executive Order 11725 of June 27, 1973, with respect to the establishment and training of the National Defense Executive Reserve;

g. Executive Order 10421 of December 31, 1952, providing for the physical security of facility important to the national defense;

.02 For the purpose of the authorities delegated in Section 2.01 above, the Deputy Assistant Secretary for Trade Regulation shall report to the Senior Deputy Assistant Secretary for Industry and Trade and shall serve as his deputy and act in his absence.

.03 The Senior Deputy Assistant Secretary for Industry and Trade may redelegate his authority subject to such conditions in exercise of such authority as he may prescribe.

Section 3. Office of the Assistant Secretary for Industry and Trade

.01 The Office of the Assistant Secretary for Industry and Trade shall consist of the following:

Senior Deputy Assistant Secretary for Industry and Trade The Executive Staff

.02 The Senior Deputy Assistant Secretary for Industry and Trade shall perform such duties as the Assistant Secretary shall assign; shall carry out the Assistant Secretary's responsibilities in connection with the Defense Production Act of 1950, as amended; shall chair the Short Supply Monitoring Committee; and shall assume the duties of the Assistant Secretary during the latter's absence or disability or in the event of a vacancy in the office.

.03 The Executive Staff shall provide management and control of the operations of the Office of the Assistant Secretary, coordinate and follow-up on action items assigned by the Assistant Secretary to ITA elements, and coordinate or handle special projects of the Assistant Secretary.

Section 4. Administrative, Public Affairs, and Field Support

.01 Management, budget, personnel, travel and administrative services, and public affairs and information services for the Office of the Assistant Secretary for Industry and Trade shall be provided by the administrative offices of the Industry and Trade Administration.

.02 Field support will be provided by the Bureau of Field Operations.

Frank A. Weil,

Assistant Secretary for Industry and Trade.

[FR Doc. 79-22678 Filed 7-20-79; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Approval of the Virgin Islands Coastal Zone Management Program

Pursuant to the authority contained in Section 306(a) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1445(a)), notice is hereby given that the Assistant Administrator for Coastal Zone Management (on behalf of the Secretary of Commerce) on June 8, 1979, approved the coastal program of the Virgin Islands.

Approval activates Federal agency responsibility for being consistent with this program pursuant to the Federal consistency provisions of the Coastal Zone Management Act as of the date of approval. Further information on the responsibilities of affected Federal agencies in this regard may be found in 15 CFR Part 930, published in the Federal Register, at page 10510, on March 13, 1978.

A copy of the findings made by the Assistant Administrator in determining that the program meets the requirements of the Coastal Zone Management Act may be obtained upon request from the Office of Coastal Zone Management. Inquiries regarding the Virgin Islands program should be addressed to: Ann H. Berger-Blundon, Assistant Regional Manager, for the Gulf and Islands, Office of Coastal Zone Management, Page Building I, 3300 Whitehaven St., NW., Washington, D.C. 20235; 202/254-7546.

M. P. Snidero,

Assistant Administrator for Administration.

July 16, 1979.

[FR Doc. 79-22584 Filed 7-20-79; 8:45 am]

BILLING CODE 3510-22-M

Preliminary Approval of the Mississippi and Louisiana Coastal Management Programs

Pursuant to the authority contained in Section 305(d) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1445(a)), notice is hereby given that the Assistant Administrator for Coastal Zone Management (on behalf of the Secretary of Commerce) gave on June 8, 1979, preliminary approval to coastal programs of Mississippi and Louisiana.

A copy of the findings made by the Assistant Administrator in determining that the programs meet the requirements of the Coastal Zone Management Act may be obtained upon request from the Office of Coastal Zone Management. Inquiries regarding the Mississippi Program should be addressed to: Ann H. Berger-Blundon, Assistant Regional Manager, for the Gulf and Islands, Office of Coastal Zone Management, Page Building I, 3300 Whitehaven St., NW., Washington, D.C. 20235; 202/254-7546.

Inquiries regarding the Louisiana Program should be addressed to: William C. Millhouser, Program Assistant for the Gulf and Islands, Office of Coastal Zone Management, Page Building I, 3300 Whitehaven St., NW., Washington, D.C. 20235; 202/254-7546.

M. P. Snidero,

Assistant Administrator for Administration.

July 16, 1979.

[FR Doc. 79-22585 Filed 7-20-79; 8:45 am]

BILLING CODE 3510-22-M

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), will meet to: (1) review status reports on development of fishery management plans; (2) consider foreign fishing applications, if any, and (3) conduct other business.

DATES: The meeting will convene on Tuesday, August 7, 1979, at 1:30 p.m.; Wednesday, and Thursday, August 8 & 9, 1979, at 8:30 a.m.; adjourning on August 7 & 8, 1979, at 5 p.m. and on August 9, 1979, at approximately 12 noon. The meeting is open to the public.

ADDRESS: The meeting will take place in the Regency Room of the Sheraton Marina Inn, 300 North Shoreline, Corpus Christi, Texas.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228-2815.

Dated: July 16, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-22712 Filed 7-20-79; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council, Scientific and Statistical Committee, and Advisory Panel; Cancellation of Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: Notice is hereby given that the scheduled Council meeting on July 25, 26, & 27, 1979, of the North Pacific Fishery Management Council as published in the Federal Register, Vol. 44, No. 136, page 40913, Friday, July 13, 1979, has been cancelled.

Dated: July 17, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-22713 Filed 7-20-79; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council's Billfish Subpanel; Cancellation of Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: Notice is hereby given that the scheduled meeting on July 20, 1979, of the Pacific Fishery Management Council, as published in the Federal Register, Vol. 44, No. 131, page 39572, Friday, July 6, 1979, has been cancelled.

Dated: July 18, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-22711 Filed 7-20-79; 8:45 am]

BILLING CODE 3510-22-M

Yellowfin Tuna Fisheries; Notice of Closure

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of Closure.

SUMMARY: This notice closes the unrestricted 1979 fishery for yellowfin tuna in the American Tropical Tuna Commission's Yellowfin Regulatory Area at 0001 hours, local time, July 21, 1979.

EFFECTIVE DATE: 0001 hours, local time, July 21, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald V. Howard, Regional Director, Southwest Region, National Marine Fisheries Service, 300 S. Ferry Street, Room 2016, Terminal Island, California 90731. Telephone: (213) 548-2518.

SUPPLEMENTARY INFORMATION: Section 280.5 provides that the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration shall announce the closure date for the yellowfin tuna fisheries in the Federal Register.

Notice is hereby given that the Assistant Administrator will close the 1979 season for taking yellowfin tuna without restriction by persons and vessels subject to the jurisdiction of the United States at 0001 hours, local time, on July 21, 1979. Actual notice of this closure will be given to vessel owners and/or managing owners participating in this fishery.

(16 U.S.C. 1801 et seq.)

Signed at Washington, D.C., this 17th day of July, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-22603 Filed 7-20-79; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for \$.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for \$4.00 (\$8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective

licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

Douglas J. Campion,

Potent Program Coordinator, National Technical Information Service.

U.S. Department of Health, Education and Welfare, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20250.

Patent application 749,093: Undercarboxylase and Tumour Assay; filed December 9, 1976.

U.S. Department of the Interior, Branch of Patents, 18th and C Streets, N.W., Washington, DC 20240.

Patent 4,107,266: Production of Pura Alumina from Iron Contaminated Sulfate Liquors; filed July 22, 1977; patented August 15, 1978. Not available NTIS.

U.S. Department of the Air Force, AF/JACP, 1900 Half Street, S.W., Washington, DC 20324.

Patent 4,115,390: Method for the Preparation of 1-Alkyl Pyridinium Chlorides; filed August 19, 1977; patented September 19, 1978; not available NTIS.

Patent 4,117,207: Molybdenum Chloride-Tetrachloroaluminate Thermal Battery; filed October 14, 1977; patented September 26, 1978; not available NTIS.

Patent 4,131,461: Method and Apparatus for Use in the Extrusion of Billets; filed June 21, 1977; patented December 26, 1978; not available NTIS.

Patent 4,131,625: 4,4' Bis(3-Ethynylphenoxy)Diphenylsulfone; filed January 19, 1978; patented December 26, 1978; not available NTIS.

Patent 4,131,748: p-Terphenylene-Dicarboxylic Acids and Their Synthesis; filed June 29, 1977; patented December 26, 1978; not available NTIS.

Patent 4,131,792: Fabry-Perot Diplexer; filed January 24, 1978; patented December 26, 1978; not available NTIS.

Patent 4,131,852: Single Dispersive Delay Line compressive Receiver; filed September 28, 1977; patented December 26, 1978; not available NTIS.

Patent 4,132,660: Grease Compositions; filed March 1, 1978; patented January 2, 1979; not available NTIS.

Patent 4,135,548: Liquid Nitrogen Level Controller; filed August 11, 1977; patented January 23, 1979; not available NTIS.

Patent 4,136,234: Charge Sensing Electrode for a Primary Battery; filed April 17, 1978; patented January 23, 1979; not available NTIS.

Patent 4,137,370: Titanium and Titanium Alloys Ion Plated with Noble Metals and Their Alloys; filed August 16, 1977; patented January 30, 1979; not available NTIS.

Patent 4,137,374: Method for State of charge of Primary Battery; filed May 2, 1978; patented January 30, 1979; not available NTIS.

U.S. Department of Agriculture, Research Agreements and Patent Branch, General

Service Division, Federal Bldg., Agricultural Research Service, Hyattsville, Md. 20782.

Patent application 945,976: Inhibition of Lysinoalanine Formation by Lysine Acylation; filed September 26, 1978.

Patent application 4,134,863: Highly Absorbent Graft Copolymers of Polyhydroxy Polymers, Acrylonitrile, and Acrylic Comonomers; filed December 6, 1976; patented January 16, 1979; not available NTIS.

Patent application 4,136,131: Extraction of Rubber of Rubberlike Substances; from Fibrous Plant Materials; filed March 31, 1978; patented January 23, 1979; not available NTIS.

Patent application 4,136,509: Apparatus for Harvesting Vegetable heads; filed April 20, 1977; patented January 30, 1979; not available NTIS.

U.S. Department of Energy, Assistant General Counsel for Patents, Washington, DC 20545.

Patent application 822,971: Magnetohydrodynamic Generator Electrode; filed August 8, 1977.

Patent application 825,518: Distributed Electrical Leads for Thermionic Converter; filed August 17, 1977.

Patent application 847,996: Method for Producing Hydrocarbon Fuels from Heavy Polynuclear Hydrocarbons by Use of Molten Metal Halide Catalyst; filed November 2, 1977.

Patent application 850,335: Method for Recovering Amorphous Silica from Geothermal Solutions; filed November 10, 1977.

Patent application 4,088,561: Apparatus for Electrophoresis Separation; filed June 27, 1977; patented May 9, 1978; not available NTIS.

Patent application 4,089,809: Regenerable Sorbent and Method for Removing Hydrogen Sulfide from Hot Gaseous Mixtures; filed March 1, 1976; patented May 16, 1978; not available NTIS.

U.S. Department of the Interior, Branch of Patents, 18th and C Streets, N.W., Washington, DC 20240.

Patent application 958,578: Extensible Brattice and Cantilevered Roof Mounted Support System Therefore; filed November 7, 1978.

Patent application 958,594: Link-Loc Chainless Haulage System; filed November 7, 1978.

Patent application 968,046: Automated Feed and Rotational Speed Control System of a Hydraulic Motor Operated Drill; filed December 8, 1978.

Patent 3,980,081: Self-Rescue Breathing Apparatus; filed June 25, 1975; patented September 14, 1978; not available NTIS.

Patent 4,090,399: Load Measuring Gage; filed July 31, 1974; patented May 23, 1978; not available NTIS.

Patent 4,090,736: Detachable Cab Construction for Mining Machines; filed February 24, 1977; patented May 23, 1978; not available NTIS.

Patent 4,098,956: Spectrally Selective Solar Absorbers; filed August 11, 1976; patented July 4, 1978; not available NTIS.

Patent 4,100,068: System for the Dielectrophoretic Separation of Particulate and Granular Material; filed January 13, 1977; patented July 11, 1978; not available NTIS.

Patent 4,110,107: Process for Reducing Molten Furnace Slags by Carbon Injection; filed November 7, 1977; patented August 29, 1978; not available NTIS.

Patent 4,113,314: Well Perforating Method for Solution Well Mining; filed June 24, 1977; patented September 12, 1978; not available NTIS.

Patent 4,128,133: Torquer/Thruster for Flexible Roofdrill; filed May 7, 1976; patented December 5, 1978; not available NTIS.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 6,003,696: Device for Producing Extended Elongated Plasmas for X-Ray Lasers; filed January 1, 1979.

Patent application 945,984: Modular Containerized Firefighting System with Remote Standoff Capability; filed September 27, 1978.

Patent application 965,811: Method of LED Manufacture; filed December 4, 1978.

Patent application 966,674: Method for the Production of Hexanitrostilbene (HNS); filed December 5, 1978.

Patent 4,124,408: Method of Removing Deposits on Refrigeration System Surfaces; filed June 2, 1977; patented November 7, 1978; not available NTIS.

Patent 4,128,301: Optical Waveguide Power Divider; filed March 29, 1977; patented December 5, 1978; not available NTIS.

Patent 4,131,392: Deployable Rotor; filed January 31, 1977; patented December 26, 1978; not available NTIS.

Tennessee Valley Authority, Division of Law, Muscle Shoals, Ala. 35660.

Patent 4,134,750: Granular Ammonium Phosphate Sulfate and Urea-Ammonium Phosphate Sulfate Using a Common Pipe-Cross Reactor; filed December 19, 1977; patented January 16, 1979; not available NTIS.

U.S. Department of the Interior, Branch of Patents, 18th and C Streets, N.W., Washington, D.C. 20240.

Patent 4,116,368: Clog-Free Inorganic Grout Emplacement Gun; filed December 16, 1976; patented September 26, 1978; not available NTIS.

Patent 4,121,154: Alternating Current Potential Measuring Device; filed December 10, 1976; patented October 17, 1978; not available NTIS.

National Aeronautics & Space Administration, Assistant Gen. Couns. for Pat. Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 6,008,211: Double-Beam Optical Method and Apparatus for Measuring Thermal Diffusivity and Other Molecular Dynamic Processes in Utilizing

the Transient Thermal Lens Effect; filed January 31, 1979.

Patent application 6,008,212: Method of Mitigating Titanium Impurities Effects in p-Type Silicon Material for Solar Cells; filed January 31, 1979.

Patent application 969,757: A Method and Technique for Installing Light-Weight Fragile, High-Temperature Fiber Insulation; filed December 15, 1978.

Patent 4,133,697: Solar Array Strip and a Method for Forming the Same; filed June 24, 1977; patented January 9, 1979; not available NTIS.

Patent 4,133,941: Formulated Plastic Separators for Soluble Electrode Cells; filed March 10, 1977; patented January 9, 1979; not available NTIS.

Patent 4,134,447: Thermal Compensator for Closed-Cycle Helium Refrigerator; filed September 30, 1977; patented January 16, 1979; not available NTIS.

Patent 4,134,744: Fine Particulate Capture Device; filed November 8, 1978; patented January 16, 1979; not available NTIS.

Patent 4,134,786: Process for Purification of Waste Water Produced by a Kraft Process Pulp and Paper Mill; filed December 15, 1978; patented January 16, 1979; not available NTIS.

U.S. Department of the Interior, Branch of Patents, 18th and C Streets, N.W., Washington, D.C. 20240.

Patent application 950,761: Backwashing Reverse-Osmosis and Ultrafiltration Membrane; filed October 12, 1978.

Patent application 950,762: Method of and Apparatus for Detecting Escaping Leach Solution; filed October 12, 1978.

Patent 4,079,592: Method of and Apparatus for Feeding and Inserting Bolts in a Mine Roof; filed March 4, 1977; patented March 21, 1978; not available NTIS.

Patent 4,079,809: Muffler for Pneumatic Drill; filed July 13, 1977; patented March 21, 1978; not available NTIS.

Patent 4,085,017: Recovery of Copper and Nickel from Alloys; filed September 8, 1977; patented April 18, 1978; not available NTIS.

Patent 4,133,967: Two-Stage Electric Arc-Electroslag Process and Apparatus for Continuous Steelmaking; filed June 24, 1977; patented January 9, 1979; not available NTIS.

[FR Doc. 79-22596 Filed 7-20-79; 8:46 am]
BILLING CODE 3610-04-M

COUNCIL ON ENVIRONMENTAL QUALITY

Second Progress Report on Agency Implementing Procedures Under the National Environmental Policy Act

July 18, 1979.

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Information Only: Publication of Second Progress Report on Agency Implementing Procedures Under the National Environmental Policy Act.

SUMMARY: In response to President Carter's Executive Order 11991, on November 29, 1978, the Council on Environmental Quality issued regulations implementing the procedural provisions of the National Environmental Policy Act ("NEPA"). (43 FR 55978-56007; 40 CFR 1500-08) Section 1507.3 of the regulations provides that each agency of the Federal Government shall adopt procedures to supplement the regulations by July 30, 1979. The Council has indicated to Federal agencies its intention to publish progress reports on agency efforts to develop implementing procedures under the NEPA regulations. The purpose of these progress reports, the second of which appears below, is to provide an update on where agencies stand in this process and to inform interested persons of when to expect the publication of proposed procedures for their review and comment.

FOR FURTHER INFORMATION CONTACT: Nicholas C. Yost, General Counsel, Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006; 202-395-5750.

Progress Report on Agency Implementing Procedures Under the National Environmental Policy Act.

At the direction of President Carter (Executive Order 11991), on November 29, 1978, the Council on Environmental Quality issued regulations implementing the procedural provisions of the National Environmental Policy Act ("NEPA"). These regulations appear at Volume 43 of the Federal Register, pages 55978-56007 and Volume 40 of the Code of Federal Regulations, Sections 1500-1508. Their purpose is to reduce paperwork and delay associated with the environmental review process and to foster environmental quality through better decisions under NEPA.

Section 1507.3 of the NEPA regulations provides that each agency of the Federal government shall adopt procedures to supplement the regulations. The purpose of agency "implementing procedures," as they are called, is to translate the broad standards of the Council's regulations into practical action in Federal planning and decisionmaking. Agency procedures will provide government personnel with additional, more specific direction for implementing the procedural provisions of NEPA, and will inform the public and State and local officials of how the NEPA regulations will be applied to individual Federal programs and activities.

In the course of developing implementing procedures, agencies are

required to consult with the Council and to publish proposed procedures in the Federal Register for public review and comment. Proposed procedures must be revised as necessary to respond to the ideas and suggestions made during the comment period. Thereafter, agencies are required to submit the proposed final version of their procedures for 30 days review by the Council for conformity with the Act and the NEPA regulations. After making such changes as are indicated by the Council's review, agencies are required to promulgate their final procedures by July 30.

It is apparent that a number of Federal agencies will not meet this deadline. The Council has advised Federal agencies that failure to do so would represent a violation of § 1507.3 of the NEPA regulations. Substantial delays in adopting procedures beyond this deadline would also raise more general concerns about the adequacy of an agency's compliance with NEPA.

On May 7, 1979 the Council published its first progress report on agency implementing procedures, 44 Federal Register 26781-82. Its second progress report appears below. The Council hopes that concerned members of the public will review and comment upon agency procedures to insure that the reforms required by President Carter and by the Council's regulations are implemented. Agencies preparing implementing procedures are listed under one of the following three categories:

Category #1: Proposed Procedures Have Been Published

This category includes agencies whose proposed procedures have either appeared in the Federal Register or been transmitted to the Federal Register for publication.

Advisory Council on Historic Preservation, 44 FR 40653 (July 12)
Central Intelligence Agency, 44 FR 23103 (April 18)
Department of Agriculture, 44 FR 25606 (May 1)
Animal and Plant Health Inspection Service, 44 FR 38945 (July 3)
Forest Service, 44 FR 23891 (April 23)
Rural Electrification Administration, 44 FR 28383 (May 15)
Soil Conservation Service, 44 FR 25786 (May 2)
Department of Defense, 44 FR 28338 (May 15)
Department of the Air Force, (At the Federal Register)
Army Corps of Engineers, 44 FR 38292 (June 29)
Department of Energy, 44 FR 42136 (July 18)
Department of the Interior, 44 FR 40437 (July 10)
Department of Justice, (At the Federal Register)

Department of Transportation, 44 FR 31341 (May 31)
 Coast Guard, 44 FR 37098 (June 25)
 Federal Aviation Administration, 44 FR 32094 (June 4)
 Federal Railroad Administration, 44 FR 40174 (July 9)
 Department of the Treasury, 44 FR 39692 (July 6)
 Environmental Protection Agency, 44 FR 35158 (June 18)
 Export-Import Bank, 44 FR 28823 (May 17)
 Federal Communications Commission, 44 FR 38913 (July 3)
 Federal Maritime Commission, 44 FR 29122 (May 18)
 Federal Trade Commission, (At the Federal Register)
 General Services Administration, Agency Wide Procedures, 44 FR 33485 (June 11)
 Public Buildings, 44 FR 27473 (May 10)
 Marine Mammal Commission (At the Federal Register)
 National Aeronautics & Space Administration, 44 FR 27161 (May 9)
 National Capital Planning Commission, 44 FR 33185 (June 8)
 Postal Service, 44 FR 36991 (June 25)
 Tennessee Valley Authority, 44 FR 39679 (July 6)

Category #2. Anticipate Publication of Proposed Procedures by July 30

This category includes agencies which have developed a draft of implementing procedures as a basis for consultation with the Council and are expected to publish proposed procedures in the Federal Register by July 30, 1979.

Department of Agriculture*
 Soil Conservation Service
 Department of Defense*
 Department of the Navy
 Department of Housing and Urban Development
 Department of Health, Education and Welfare**
 Food and Drug Administration
 Department of the Interior*
 Bureau of Mines
 Bureau of Reclamation
 Fish and Wildlife Service
 Geological Survey
 Heritage Conservation and Recreation Service
 National Park Service
 Office of Surface Mining Control and Reclamation
 Department of Labor
 Department of Transportation*
 Federal Highway Administration
 Urban Mass Transportation Administration
 Department of State
 Federal Energy Regulatory Commission
 National Science Foundation
 Pennsylvania Avenue Development Corporation
 Veterans Administration
 Water Resources Council and River Basin Commissions

* Departmental Procedures Already Published.
 ** Departmental Procedures in Category #3.

Category #3: Publication of Proposed Procedures Delayed Beyond July 30.

This category includes agencies which are not expected to publish proposed procedures in the Federal Register by July 30, 1979.

Action

Civil Aeronautics Board
 Community Services Administration
 Consumer Product Safety Commission
 Department of Agriculture*
 Farmers Home Administration
 Science and Education Administration
 Department of Commerce
 Economic Development Administration
 National Oceanic and Atmospheric Administration
 Department of Defense*
 Department of the Army
 Department of Health, Education and Welfare
 Department of the Interior*
 Bureau of Indian Affairs
 Bureau of Land Management
 Department of Transportation*
 National Highway Traffic Safety Administration
 Farm Credit Administration
 Federal Deposit Insurance Corporation
 Federal Home Loan Bank Board
 Federal Reserve System
 Interstate Commerce Commission
 National Credit Union Administration
 Nuclear Regulatory Commission
 Securities and Exchange Commission
 Small Business Administration
 Smithsonian Institution

The development of agency implementing procedures is a critical stage in Federal efforts to reform the NEPA process. These procedures must, of course, be consistent with the Council's regulations and provide the means for reducing paperwork and delay and producing better decisions in agency planning and decisionmaking.

Interested persons will have the opportunity to make their suggestions for improving agency procedures when they are published in the Federal Register in proposed form. Broad public participation at this crucial juncture could go a long way toward ensuring that the goals of the NEPA regulations are widely implemented in the day-to-day activities of government.

Nicholas C. Yost,

General Counsel.

[FR Doc. 79-22730 Filed 7-20-79; 8:45 am]

BILLING CODE 3125-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Maalaea Small Boat Harbor Project, Maalaea, Maui

July 11, 1979.

AGENCY: U.S. Army Corps of Engineers, DoD, Honolulu District.

ACTION: Notice of Intent to Prepare a DEIS.

SUMMARY: 1. *Brief Description of the Proposed Action.* The proposed action is a harbor improvement project, the major objectives of which are to reduce surge within the harbor, reduce the navigational hazard in the entrance channel and provide for additional berthing spaces.

2. *Brief Description of the Reasonable Alternatives.* Preliminary alternative plans are based on input from the public as well as oceanographic information obtained from computer wave refraction analysis, theoretical wave diffraction analysis, aerial photographs, an underwater reconnaissance investigation and an examination of offshore subsurface borings. The authorized plan and four preliminary alternative plans all include realignment of the entrance channel. The authorized plan and one alternative plan propose extension of the existing south breakwater. Another alternative proposes construction of an offshore breakwater, and the fourth alternative includes construction of a new breakwater approximately 250 feet seaward (south) of the existing south breakwater which would substantially increase berthing space in the harbor.

3. *Brief Description of the Corps Scoping Process Which is Reasonably Foreseeable for the DEIS.*

a. *Proposed Public Involvement Program.* The program will involve coordination with the sponsoring agencies, other governmental agencies, community organizations, and the general public. Activities include informal meetings, workshops, formal public meetings, issuance of public notices and letter responses. All pertinent agencies have been notified of study initiation. An initial public meeting was held with interested agencies and the public in January 1979 and two workshops have been conducted subsequently in April and June of 1979.

b. *Identification of Significant Environmental Issues to be Analyzed in Depth in the DEIS.*

(1) Effect of alternatives on known and unknown archaeological and historic sites.

(2) Effect of the project on marine flora and fauna including the endangered humpback whale.

(3) Effect of the project on adjacent surfing sites.

(4) Assessment of the Maalaea community responses to alternatives.

c. *Possible Assignments for Input into the EIS under Consideration among the Lead and Cooperating Agencies.*

(1) *National Marine Fisheries Service:* Assessment of the effects of the project on the humpback whale.

(2) *U.S. Fish and Wildlife Service:* Provision of a Fish and Wildlife Coordination Act Section 2(b) report.

(3) *State Historical Preservation Officer:* Identification and evaluation of previous cultural resource surveys.

(4) *State Department of Transportation:* Socio-economic data.

(5) *State Department of Health:* Water quality data and Section 404 certification.

d. *Identification of Other Environmental Review and Consultation Requirements.*

(1) "Protection of Historic and Cultural Properties," 36 CFR Part 800 (44 FR, January 30, 1979), pursuant to Section 106 of the National Historic Preservation Act of 1966.

(2) Section 404 (Clean Water Act of 1977).

(3) Coastal Zone Management Act of 1973.

4. *Scoping Meeting.* A scoping meeting will not be held on this project. Significant agencies involved in the planning process are already informed of the potential action. These agencies include the sponsoring agency, State of Hawaii Department of Transportation, State Historic Preservation Officer, U.S. Fish and Wildlife Service, and the National Marine Fisheries Service.

5. *DEIS Schedule.* Under the present schedule the DEIS will be made available to the public in April 1980.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. Gary Wible, Project Engineer, U.S. Army Engineer District, Honolulu, Building 230, Fort Shafter, Hawaii 96858. Telephone: (808) 438-2627/1907.

Dated: July 11, 1979.

Peter D. Stearns,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-22587 Filed 7-20-79; 8:46 am]

BILLING CODE 3710-NM-M

Intent To Prepare Draft Environmental Impact Statement For Proposed Weyerhaeuser Co. Export Facility, DuPont, Wash.

July 11, 1979.

AGENCY: U.S. Army Corps of Engineers, Seattle District.

ACTION: Notice of Intent to prepare a draft environmental impact statement (EIS) for the proposed Weyerhaeuser Company export facility on Puget Sound at DuPont, Washington.

SUMMARY: 1. *Proposed Action.* The Weyerhaeuser Company proposes to construct and operate an export facility at DuPont, Washington, to provide a central location for receiving products from company manufacturing and woods operations in western Washington, and to allow for the export of those forest products using oceangoing vessels. The proposed facility would include a pier, terminal area, rail access, and access roads. The pier requires a Department of the Army permit in accordance with section 10 of the River and Harbor Act of March 3, 1899. The export facility will occupy 250 acres of a 3,200-acre site owned by Weyerhaeuser Company. No dredging will be performed.

2. *Alternatives.* The options available to the Corps of Engineers include: (a) Issue the permit, (b) issue the permit with special conditions, and (c) deny the permit. Alternatives to the proposed work to be studied by the applicant include: (a) No action, (b) development of an export facility at an alternative location, and (c) use of alternate pier and terminal designs and locations of upland facilities.

Twenty-eight candidate sites that could meet Weyerhaeuser Company criteria for an export site will be analyzed. Sites satisfying specific criteria relative to access, acreage, utilities, availability for purchase, and location will be selected for more detailed evaluation. Six design alternatives for pier, terminal, and terminal-pier access design at DuPont will be compared. These alternative designs were recommended by competing consultants, each of whom developed and analyzed several conceptual designs for these facilities. Additional pier access designs developed by Weyerhaeuser Company will be analyzed. The preferred action will be compared to the various design alternatives.

Various alternative sites at DuPont, identified as possible locations for the industrial facilities, will be examined.

Environmental impacts of developing these sites will be evaluated.

3. *Corps of Engineers Scoping Process.*
 a. *Public Involvement.* The draft EIS will receive broad public review. Copies will be provided appropriate Federal, state, and local agencies, affected Indian tribes, and other interested private organizations and parties for their review and comment. A public hearing will be held prior to publication of the final EIS. The final EIS will also be distributed to interested parties for their review and comment.

b. *Significant Issues.* Significant issues to be analyzed in depth include: (1) Anticipated project impacts on the adjacent, environmentally sensitive Nisqually Delta, considered unique and regionally significant; (2) the Weyerhaeuser Company's intentions for future use of the project site, including potential mitigation plans, particularly as related to the Nisqually Delta; (3) the potential impacts of the proposed facility on listed and/or proposed endangered and threatened species, and/or their critical habitat, that may occur in the vicinity of the proposed project site (as per section 7 of the Endangered Species Act, as amended); (4) the nature and volume of forest products that would be diverted to the export facility from alternate regional facilities; (5) the elimination of 169 acres of vegetation and associated wildlife; (6) aesthetic impacts, including shoreline alteration and night noise levels; (7) water quality impacts as a result of ship exhaust, runoff from the pier access road, and increased risks of oil spills due to increased freighter traffic; and (8) project compliance with the Coastal Zone Management Act and the Pierce County Shoreline Master Program.

4. *Scoping Meeting.* A scoping meeting, as described in the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act of 1969 (NEPA), will not be held.

5. *DEIS Availability.* The draft EIS is presently scheduled to become available to the public on July 30, 1979.

6. *Address.* Information on the proposed action and the draft EIS can be obtained by contacting: Fred Weinmann or Steve Martin, Department of the Army, Seattle District, Post Office Box C-3755, Seattle, Washington 98124, ATTN: NPSEN-PL-ER, Phone: (206) 764-3825, (FTS 399-3825).

7. Dated July 1979.

Maxey B. Carpenter, Jr.,
Lt. Colonel, Corps of Engineers, Acting
District Engineer.

[FR Doc. 79-22588 Filed 7-20-79; 8:45 am]
BILLING CODE 3710-ER-M

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on August 8-9, 1979, at the Pentagon, Washington, D.C. Sessions of the meeting will commence at 8:30 a.m. and terminate at 5:30 p.m. on both days. All sessions of the meeting will be closed to the public.

The entire agenda for the meeting will consist of discussions of strategic mobilization, intelligence briefings on major developments in Soviet naval forces, and review of future United States naval force plans. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Commander Robert B. Vosilus, U.S. Navy, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, VA 22311, telephone no. (202) 756-1205.

Dated: July 11, 1979.

P. B. Walker,

Captain, JAGC, U.S. Navy Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 79-22588 Filed 7-20-79; 8:45 am]
BILLING CODE 3810-71-M

Office of the Secretary

Privacy Act of 1974; Notice of Systems of Records: Amendments

Correction

In FR Doc. 79-20389, appearing at page 38967 in the issue of Tuesday, July 3, 1979, on page 38987, make the following change:

"SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

SYSTEM NAME:"

should be corrected to read.

"SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DWHS P 19

SYSTEM NAME:"

BILLING CODE 1505-01-M

DELAWARE RIVER BASIN COMMISSION

Comprehensive Plan; Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, July 25, 1979, commencing at 2:00 p.m. The hearing will be a part of the Commission's regular July business meeting which is open to the public. Both the hearing and the meeting will be held at the Raphael Peale Room, Holiday Inn, 18th and Market Streets, Philadelphia, Pennsylvania. The subject of the hearing will be applications for approval of the following projects as amendments to the Comprehensive Plan pursuant to Article 11 of the compact and/or as project approvals pursuant to Section 3.8 of the Compact.

1. *Chester County Water Resources Authority (D-73-87 CP)(2)*. A flood damage reduction project located in Wallace Township, Chester County, Pa. A dam designated as PA-432 (Barneston Project) will be constructed on the East Branch Brandywine Creek as part of the Brandywine Creek Watershed Project. The 42-foot high structure will provide approximately 2,200 acre-feet of storage space designed to reduce flood damages in downstream areas.

2. *Lower Frederick Township (D-78-41 CP)*. A wastewater treatment project to serve the Spring Mount area in Lower Frederick Township, Montgomery County, Pa. A treatment plant will provide 92% removal of BOD from wastewater flow of up to 160,000 gallons per day. Treated effluent will discharge to Perkiomen Creek.

3. *Citizens Utilities Water Company of Pennsylvania (D-79-13 CP)*. A well water supply project in Spring Township to serve Lower Heidelberg, South Heidelberg and Spring Townships, and several adjacent boroughs in Berks County, Pa. Designated as Well No. 21, the new facility is expected to yield about 470,000 gallons per day that will

be used to meet increased demands in the company's service area.

4. *City of Trenton (D-79-22 CP)*. A project to upgrade the sewage treatment plant in the City of Trenton, Mercer County, N.J. Modifications will provide for treatment capacity of 20 million gallons per day and removal of about 89% BOD. Treated effluent will discharge to the Delaware River.

5. *Northampton Borough Municipal Authority (D-79-35 CP)*. A water supply project involving a surface water diversion to augment public supplies in the authority's service area in Northampton, North Catasauqua and Coplay Boroughs in Northampton County, and portions of Whitehall Township in Lehigh County, Pa. Applicant proposes to increase total diversions from about 2 to 6 million gallons per day and will draw from Spring Creek and/or the Lehigh River.

6. *City of Wilmington (D-79-36 CP)*. A project to regionalize water supply service within the service areas of the City of Wilmington, City of Newark, Wilmington Suburban Water Company and Artesian Water Company in northern New Castle County, Del. Distribution system interconnections, and water transfers via Red Clay Creek, will be provided to permit the City of Wilmington to provide water to adjacent systems.

7. *City of Bethlehem (D-79-45 CP)*. An urban renewal project involving restoration of an historic building in the City of Bethlehem, Northampton County, Pa. The City Department of Community Development proposes to restore the Grist Mill which is located on the 100-year flood plain of Monocacy Creek, a tributary of the Lehigh River. The Grist Mill is included on the National Register of Historic Places.

8. *Pennsylvania Gas & Water Company (D-62-4(Rev.))*. A project to increase the maximum daily water withdrawal from Bear Creek, a tributary of the Lehigh River, for public water supplies in portions of Susquehanna, Wayne, Lackawanna and Luzerne Counties, Pa. The company proposes to increase its maximum daily withdrawal to 13 million gallons per day. The previously approved average daily and yearly withdrawals will remain unchanged.

9. *Magnesium Elektron Inc. (D-76-91)*. A wastewater discharge from the company's processing plant located in Kingwood Township, Hunterdon County, N.J. Treated wastewater will discharge to Wickecheoke Creek which runs into the Delaware and Raritan Canal Feeder. The discharge of dissolved solids would be in accordance

with limitations, treatment requirements and abatement schedules set forth in a stipulation among the Commission, the State of New Jersey and Magnesium Elektron Inc.

10. *Mannington Mills, Inc. (D-77-66)*. A well water supply project to be used for industrial purposes at the company's facility in Mannington Township, Salem County, N.J. A new well (#4) will be developed as a replacement well. When combined with an existing well, the new facility will provide for a combined groundwater withdrawal of 11 million gallons per month.

11. *Keystone Coke Co. (D-78-60)*. Modifications to the company's existing waste treatment facilities located in Upper Merion Township, Montgomery County, Pa. Treatment facilities will be modified to handle ammonia liquor from the coke plant. A wastewater flow of about 150,000 gallons per day will discharge to the Schuylkill River.

12. *U.S. Steel Corp. (D-78-68)*. Modification of the corporation's existing wastewater treatment facilities at the Fairless Works, Falls Township, Bucks County, Pa. Electrolytic tinning and chrome coating wastewater will be diverted to the oil interception plant. Treated effluent of approximately 650,000 gallons per day will discharge to the Delaware River.

13. *U.S. Steel Corp. (D-78-67)*. Modification of the corporation's existing wastewater treatment facilities at the Fairless Works, Falls Township, Bucks County, Pa. The facility is designed to separate contaminated and non-contaminated blast furnace cooling water for treatment. Treated effluent of approximately 1.3 million gallons per day will discharge to the Delaware River.

14. *U.S. Steel Corp. (D-78-68)*. Modification of the corporation's existing wastewater treatment facilities at the Fairless Works, Falls Township, Bucks County, Pa. Pipe and wire mills facilities will be modified to divert wastewater to the oil interception plant. Treated effluent of approximately 660,000 gallons per day will discharge to the Delaware River.

15. *Jersey Central Power and Light Company (D-78-93)*. Modification to the waste treatment facility at the company's Gilbert Station in Holland Township, Hunterdon County, N.J. Additional treatment facilities will be installed to bring effluent quality characteristics into conformance with applicable discharge criteria. Treatment will be provided to a wastewater flow of 288,000 gallons per day which is discharged to the Delaware River.

16. *Robert I. Hallock (D-79-20)*. A well water supply project at the subject farm in Plumstead Township, Ocean County, N.J. The applicant requests approval of a maximum withdrawal of 6 million gallons per month, which will be used for irrigation of crops.

17. *Merck Sharp and Dohme (D-79-23)*. A well water supply project to provide new supplies at the company's pharmaceutical facility in West Point, Upper Gwynedd Township, Montgomery County, Pa. The applicant requests approval of a withdrawal of up to 240,000 gallons per day which will be used for process water.

18. *Lukens Steel Company (D-79-26)*. The applicant proposes to reactivate the rolling mill complex formerly owned by the Alan Wood Steel Company in Conshohocken, Montgomery County, Pa. The project involves withdrawal of about 2.6 million gallons per day of water from the Schuylkill River, and an effluent discharge of about 2 million gallons per day into the river through existing waste treatment facilities.

19. *Angelo Spadoni (D-79-39)*. A well water supply project at the subject farm in Vineland, Cumberland County, N.J. The applicant requests approval of a maximum withdrawal of 6 million gallons per month to be used for irrigation of crops.

20. *Essex Chemical Corp. (D-79-46)*. An industrial wastewater discharge project at the company's facility in Paulsboro, Gloucester County, N.J. Approximately 2.2 million gallons per day of cooling water, boiler blowdown and floor drain water will be monitored and neutralized and discharged to the Delaware River.

Documents relating to the above-listed projects may be examined at the Commission's offices. Persons wishing to testify at this hearing are requested to

register with the Secretary prior to the date of the hearing.

W. Brinton Whitall,
Secretary.

July 12, 1979

[FR Doc. 79-22500 Filed 7-20-79; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Action Taken on Consent Orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the month of June. The Consent Orders represent resolutions of outstanding compliance investigations or proceedings by the DOE and the firms which involve a sum of less than \$500,000 in the aggregate, excluding penalties and interest. For Consent Orders involving sums of \$500,000 or more, Notice will be separately published in the Federal Register. These Consent Orders are concerned exclusively with payment of the refunded amounts to injured parties for alleged overcharges made by the specified companies during the time periods indicated below through direct refunds or rollbacks of prices.

For further information regarding these Consent Orders, please contact: Mr. Wayne I. Tucker, District Manager, Southwest District Enforcement, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, (214) 749-7627.

Firm name and address	Refund amount	Product	Period covered	Recipients of refund
Nordan & Co., 711 NBC Building, San Antonio, TX 78205.	\$22,500.00	Crude oil	September 1973 to January 1976.	Exxon.

Issued in Dallas, Texas on the 10th day of July, 1979.

Wayne I. Tucker,

District Manager of Enforcement, Southwest District.

[FR Doc. 79-22670 Filed 7-20-79; 8:45 am]
BILLING CODE 6450-01-M

Foster Oil Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy

hereby gives notice of a Proposed Remedial Order which was issued to Foster Oil Company. This Proposed Remedial Order charges Foster with pricing violations in the amount of \$107,679.58 in sales of No. 1 and 2 fuel oils and motor gasoline during the time period November 1, 1973, through April 30, 1974, in the State of Michigan.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Robert D. Gerring, District Manager of Enforcement, 324 East 11th Street, Kansas City, Missouri 64106. On or before August 6, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Kansas City, Missouri, on the 11th day of July 1979.

Lindell J. Williams,

Acting District Manager, Central Enforcement District.

[FR Doc. 79-22671 Filed 7-20-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER79-5011]

Arizona Public Service; Filing of Revision to Agreement

July 17, 1979.

The filing Company submits the following:

Take notice that on July 9, 1979, Arizona Public Service Company (APS) tendered for filing revised Exhibit "B" dated May 31, 1979 to the wholesale power agreement between Citizens Utilities Company (CUC) and Arizona Public Service Company (APS) respectively, previously designated APS-FPC Rate Schedule No. 50. This revision of Exhibit "B" of the Agreement revised the expected contract demands through 1989.

Any person desiring to be heard or to protest said filing should file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol St., NE, Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene, copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22613 Filed 7-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-502]

Arizona Public Service Co.; Filing of Revision to Agreement

July 17, 1979.

The filing Company submits the following:

Take notice that on July 9, 1979, Arizona Public Service Company (APS) tendered for filing revised Exhibit "A" dated June 14, 1979 to the wholesale power agreement between United States Bureau of Indian Affairs (San Carlos Indian Irrigation Project) and Arizona Public Service Company (APS) respectively, previously designated APS-FPC Rate Schedule No. 66. This revision of Exhibit "A" of the Agreement revises contract demands for 1981 and 1982 and adds the contract demand for the year 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol St., NE, Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22614 Filed 7-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-508]

Boston Edison Co.; Filing

July 17, 1979.

The filing Company submits the following:

Take notice that on July 12, 1979, Boston Edison Company ("Edison") tendered for filing a May 30, 1979 Amendment to its Rate Schedule FPC No. 71. That rate schedule is an October 27, 1972 agreement providing for the sale of system capacity by Edison to Fitchburg Gas and Electric Light Company ("Fitchburg") in the amount of 40 MW. Edison states that the amendment extends the termination

date of the agreement from October 31, 1981 to October 31, 1986. All other terms of the agreement remain unchanged. Edison requests an effective date of October 1, 1979.

Edison states that copies of this filing were served upon Fitchburg and upon the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22615 Filed 7-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2904]

Cities of Anaheim and Riverside; Application for Preliminary Permit

July 9, 1979.

Take notice that the Cities of Anaheim and Riverside (Applicants) filed on January 16, 1979, and amended on April 11, and May 14, 1979, an application for a preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. § 791(a)—825(r)] for a proposed water power project to be known as the Balsam Meadow Project, FERC No. 2904, located on the North Fork of Stevenson Creek in Fresno County, California, in the vicinity of Fresno. The project would affect lands of the United States in Sierra National Forest. Correspondence with the Applicants should be directed to: Sandra J. Strebel, Esq., Spiegel & McDiarmid, 2600 Virginia Avenue, N.W., Washington, D.C. 20037. Copies of such correspondence should be sent to Peter K. Matt, Esq., and Cynthia Bogorad, Esq., at the same address and to the City of Anaheim, 518 South Anaheim Boulevard, Anaheim, California 92805 and the City of Riverside, Department of

Public Utilities, City Hall, 3900 Main Street, Riverside, California 92522.

Project Description.—The project would consist of: 1) a 5,600-foot-long tunnel originating at the outlet of Tunnel No. 7 (the existing Huntington-Pitman-Shaver conduit of Project No. 67) and leading to Balsam Forebay; 2) an 1,800 acre-foot reservoir (Balsam Forebay) to be formed by a 100-foot-high dam on the West Fork of Balsam Creek near its point of origin; 3) a two-mile-long tunnel-penstock conduit from the forebay to the powerhouse; and 4) a powerhouse, containing a 140-MW generating unit, to be located on the north shore of Shaver Lake (also part of Project No. 67) near the outlet of the North Fork of Stevenson Creek.

Applicant's proposal is in competition with an application for preliminary permit filed on September 14, 1978, by Southern California Edison Company (Project No. 2868).

Proposed Scope and Cost of Studies Under Permit.—The work proposed under this preliminary permit includes initiating data gathering, surveys and environmental assessment studies, formulating preliminary plans, and conducting such other studies as may be necessary in anticipation of filing an application for a license to construct the proposed project. The cost of the work proposed to be performed under the permit has not been determined. Applicants suggest, based on other estimates, that \$500,000 may be a reasonable estimate of the cost of the studies for this project.

Purpose of Project.—Applicants own and operate electric distribution systems for the purpose of providing retail electric service within their boundaries. Applicants intend to use power from the proposed project in their utility operations in California.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

Agency Comments.—Federal, State and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should

be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Protests and Petitions to Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or before September 17, 1979. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22616 Filed 7-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2745]

City of Santa Clara, Calif.; Application for Major License

July 16, 1979.

Take notice that an application for a major license was filed on April 4, 1974, under the Federal Power Act (16 U.S.C. 791(a)—825(r)), by the City of Santa Clara, California (Applicant) for the Mokelumne River Project No. 2745. The project is located in Alpine, Amador, and Calaveras Counties, California on the Mokelumne, North Fork Mokelumne, and Bear Rivers. The project affects public lands of the United States within the Eldorado, Stanislaus, and Toiyabe National Forests. Correspondence regarding the application should be sent to: Mr. D. R. Von Raesfeld, City Manager, City of Santa Clara, 1500 Warburton Avenue, Santa Clara, California 95050.

The Mokelumne River Project, which was originally licensed in 1925, is currently operated by Pacific Gas and

Electric Company (PG&E). The original license expired on November 23, 1975. PG&E continues to operate the project in accordance with the terms of annual licenses issued by this Commission pursuant to section 15 of the Federal Power Act (16 U.S.C. 808(a)). On December 26, 1972, PG&E filed an application for a new major license for the project. Thus, the City of Santa Clara's application for the Mokelumne River Project competes with the application filed by PG&E.

The Mokelumne River project has a total installed capacity of 192,750 kW and consists of:

(A) **Storage Dams and Reservoirs**—(1) Upper Blue Lake Dam, an earth-fill dam 837 feet long and 31 feet high, containing a 51-foot-wide spillway and two 18-inch-diameter steel outlet pipes through the dam; (2) Upper Blue Lake Reservoir having a storage capacity of 7,300 acre-feet and a surface area of 343 acres at elevation 8,137.5 feet (all elevations are U.S.C.S. datum); (3) Lower Blue Lake Dam, an earth-fill dam 1,063 feet long and 40 feet high, containing a 60-foot-wide spillway and two 30-inch-diameter steel outlet pipes through the dam; (4) Lower Blue Lake Reservoir having a storage capacity of 5,091 acre-feet and a surface area of 198 acres at elevation 8,053.4 feet; (5) Twin Lake Dam, an earth-fill dam 1,520 feet long and 22 feet high, containing two 12-inch-diameter steel outlet pipes through the dam; (6) Twin Lake Spillway, 18 feet wide, located approximately 4,000 feet east of Twin Lake Dam; (7) Twin Lake Reservoir having a storage capacity of 1,207 acre-feet and a surface area of 106 acres at elevation 8,144.7 feet; (8) Meadow Lake Dam, a rock-fill dam 775 feet long and 77 feet high, containing a 45-foot-wide spillway and two 30-inch-diameter steel outlet pipes through the dam; (9) Meadow Lake Reservoir having a storage capacity of 5,656 acre-feet and a surface area of 140 acres at elevation 7,774.4 feet; (10) Upper Bear River Dam, a rock-fill dam 760 feet long and 77 feet high, containing a 354-foot-wide spillway and three 16-inch-diameter steel outlet pipes through the dam; (11) Upper Bear River Reservoir having a storage capacity of 6,959 acre-feet and a surface area of 169 acres at elevation 5,876 feet; (12) Lower Bear River Dam No. 1, a rock-fill dam 979 feet long and 249 feet high, and Dam No. 2, a rock-fill dam 865 feet long and 145 feet high; (13) a spillway, 14 feet wide and 318 feet long, located in solid rock between the Lower Bear River Dams; (14) an outlet tunnel, 10 feet wide, 12 feet high and 1,065 feet long, passing beneath the left abutment of Dam No. 1 and discharging

into the Bear River; (15) Lower Bear River Reservoir having a storage capacity of 49,079 acre-feet and a surface area of 727 acres at elevation 5,818.2 feet; (16) Salt Springs Dam, a rock-fill dam 1,257 feet long and 328 feet high; (17) a 480-foot-wide spillway, controlled by radial gates, located adjacent to Salt Springs Dam; (18) an outlet tunnel, 19 feet in diameter, passing beneath the right abutment of Salt Springs Dam; and (19) Salt Springs Reservoir having a storage capacity of 141, 857 acre-feet and a surface area of 963 acres at elevation 3,959.2 feet.

(B) *Salt Springs Development*—(1) a tunnel connected to a penstock, 475 feet long, diverting water from the Salt Springs Reservoir to the powerhouse; (2) Salt Springs Powerhouse containing a 29,700-kW generating unit and a 9,350-kW generating unit; (3) an outdoor substation; and (4) a 16.5-mile-long, 115-kV transmission line.

(C) *Tiger Creek Development*—(1) Tiger Creek Conduit extending 17.8 miles along the North Fork Mokelumne River from the Salt Springs Powerhouse to Tiger Creek Regulator Dam and Reservoir, thence 2.52 miles to Tiger Creek Forebay Dam and Reservoir; (2) five conduits diverting flows into the Tiger Creek Conduit from Cole Creek, Bear River, Beaver Creek, East Panther Creek, and West Panther Creek; (3) a penstock, 4,940 feet long, extending from the Tiger Creek Forebay to the Tiger Creek Powerhouse; (4) Tiger Creek Powerhouse containing two 25,500-kW generating units; (5) Tiger Creek Afterbay Dam and Reservoir; (6) an outdoor substation; and (7) two 230-kV transmission lines, one 23.2 miles long and the other 13.8 miles long.

(D) *West Point Development*—(1) West Point Tunnel, 12.8 feet wide and 15.6 feet high, extending 2.73 miles from the Tiger Creek Afterbay; (2) a 650-foot-long penstock extending from the tunnel to the powerhouse; (3) West Point Powerhouse containing a 13,600-kW generating unit; (4) an outdoor substation; and (5) a 23.5-mile-long, 60-kV transmission line.

(E) *Electra Development*—(1) a diversion dam near the West Point Powerhouse; (2) Electra Tunnel, 12.8 feet wide and 15.6 feet high, extending 8.15 miles from the West Point Powerhouse Tailrace to Tabeaud Reservoir; (3) Tabeaud Reservoir having a capacity of 1,158 acre-feet; (4) a power conduit, consisting of 2,900 feet of tunnel and 3,000 feet of penstock, extending from Tabeaud Reservoir to the Electra Powerhouse; (5) Electra Powerhouse containing three 29,700-kW generating units; (6) a concrete afterbay dam below

the powerhouse; and (7) an outdoor substation.

The Mokelumne River Project has the following existing recreational facilities: 63 camp units at four locations at or near the Upper and Lower Blue Lakes; picnic areas near Tiger Creek, Lake Tabeaud, and Salt Springs; and the facilities at Lower Bear River Reservoir which include the Bear River Resort, two campgrounds, one picnic area, a summer home tract, a Boy Scout camp, 97 campground units, and three unimproved boat launching sites.

Applicant proposes to develop the following additional recreational facilities: two campgrounds, the first phase of a group camp, two picnic areas, a parking lot, and a visitor's station near the Upper and Lower Blue Lakes; 10-unit boat access campground and a 25-unit overnight campground near the Lower Bear Reservoir; a nature trail at Lake Tabeaud and fishing access areas at Electra Tunnel Outlet and Mill Creek.

Applicant proposes to use the energy output of the project within its system and the integrated electrical system of the Northern California Power Agency.

Anyone desiring to be heard or to make any protests about this application should file a protest or a petition to intervene with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure ("Rules"), 18 CFR § 1.10 or § 1.8 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before September 14, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22617 Filed 7-20-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-503]

Florida Power Corp.; Contract Filing
July 17, 1979.

The filing Company submits the following:

Take notice that on July 10, 1979, Florida Power Corporation ("Florida Power") tendered for filing a Contract for Interchange Service ("Contract") between Utilities Commission City of New Smyrna Beach and Florida Power. Florida Power states that the Contract provides for economy energy interchange service. Florida Power requests a waiver of the sixty-day notice requirement and that the Contract be permitted to become effective on July 10, 1979 so that the parties may immediately have the opportunity of buying and selling economy energy.

Florida Power further states that copies of the Contract were served upon the Utilities Commission City of New Smyrna Beach and the Florida Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22618 Filed 7-20-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-505]

Hartford Electric Light Co.; Filing
July 16, 1979.

The filing Company submits the following: Take notice that on July 11, 1979, The Hartford Electric Light Company ("HELCO") tendered for filing an initial rate schedule of an exchange agreement (the "Agreement") between HELCO and Central Maine Power Company ("CMP"). The Agreement, dated as of May 19, 1978, provides for CMP to exchange capacity from its system, based on the availability of the Maine Yankee Nuclear Generating Unit, for gas turbine capacity from the HELCO Units located at South Meadow Generating Station in Hartford, Connecticut.

The Agreement provides that the parties will determine prior to 11:00 p.m.

on Friday of each week during the Term of the Agreement whether it is economically advantageous to both parties that an exchange, pursuant to the Agreement, shall take place during that week. HELCO will pay charges to CMP in an amount equal to the kilowatts of capacity exchanged for each hour during the week that an exchange takes place times \$0.0120 per kilowatt-hour, subject to the operation of the Maine Yankee Unit located in Wiscasset, Maine at or above 625,000 kilowatt-hours per hour. CMP will pay HELCO's incremental cost of producing energy from the HELCO units plus a Variable Maintenance Charge for each hour times the CMP entitlement percentage in the HELCO units for any hours during the exchange that the HELCO units were actually operated by the New England Power Exchange (NEPEX).

HELCO and CMP request an effective date of May 19, 1978 for the Agreement.

CMP has filed a certificate of concurrence in this docket.

The Agreement has been executed by the CMP and by HELCO and copies have been mailed to each of them.

HELCO further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest for the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 6, 1979. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22619 Filed 7-20-79; 8:45 am]
BILLING CODE 6450-01-M

[Project No. 2930]

Idaho Power Co.; Application for Preliminary Permit
July 9, 1979.

Take notice that on May 11, 1979, Idaho Power Company (Applicant) filed an application for a 36-month preliminary permit [pursuant to the

Federal Power Act, 16 U.S.C. § 791(a)-825(r)] for a proposed water power project to be known as the North Fork of the Payette Project FERC No. 2930, and located on the North Fork of the Payette River in Valley and Boise Counties, Idaho near Boise. The project would affect lands of the United States in the Boise National Forest. Correspondence with the Applicant should be directed to: Mr. Lee S. Sherline, Leighton & Sherline, Suite 803, 1701 K Street, NW., Washington, D.C. 20006. Copies of such correspondence should be sent to Mr. Paul L. Jauregui, Secretary and General Counsel, Idaho Power Company, 1220 Idaho Street, Boise, Idaho 83707.

Project Description—The project would consist of two developments as follows: (1) the Ferncroft development, comprising a diversion weir, to be located about three miles downstream on Smiths Ferry, which would divert up to 2550 cfs of water into a 38,000-foot-long tunnel terminating at an underground surge tank; a pressure tunnel from the surge tank to an underground powerhouse containing three hydroelectric generating units with a total capacity of 165,000 kW; and a 2100-foot-long tailrace tunnel discharging into the river about 400 feet downstream of the confluence with Howell Creek; and (2) the Banks development, comprising a diversion weir, to be located about 1600 feet downstream of the Howell Creek confluence, which would divert up to 2550 cfs of water into a 22,200-foot-long tunnel terminating at an underground surge tank; a pressure tunnel from the surge tank to an underground powerhouse containing three hydroelectric generating units with a total capacity of 93,000 kW; and a 570-foot-long tailrace tunnel discharging into the river near its confluence with Phillips Creek in the vicinity of Banks.

A minimum flow of 50 cfs would be maintained in the river downstream of each development.

Proposed Scope and Cost of Studies Under Permit—During the term of the permit, Applicant proposes to perform the following activities: Engineering—collection, evaluation, and updating of existing studies and geological reconnaissance of proposed sites (\$18,000); drilling and on-site investigation (\$300,000); hydrologic studies (\$8000); final site selection studies (\$35,000); and construction design and cost studies (\$300,000). Environmental—environmental data collection; description of existing environment; analysis of the environmental impact of the preferred alternatives; development of plans to

mitigate the impacts of the project; and preparation of a report containing information sufficient to satisfy Exhibit W requirements in any license application. Applicant estimates that the environmental studies would take about a year to complete and would cost about \$200,000.

Purpose of Project—Power from the project would be distributed for residential, farm, commercial, industrial, municipal, public utility, and interchange uses and purposes through Applicant's interconnected system in Idaho, Oregon, Nevada, and Wyoming.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

Agency Comments—Federal, state, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Protests and Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or before September 10, 1979. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22620 Filed 7-20-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-506]

Iowa Southern Utilities Co.; Tariff Change

July 16, 1979.

The filing Company submits the following:

Take notice that Iowa Southern Utilities Company, on July 10, 1979, tendered for filing proposed changes in its FERC Electric Service Tariff Volume No. 1, Sheets No. 1, 2 and 11. The proposed changes would increase revenues from jurisdictional sales and service by \$197,416 based on the 12-month period ending June 30, 1980.

The reason for the proposed increase in the Company's increased cost of doing business. Higher costs are being incurred for power supplies and the increasing interest rate on borrowed money. There have also been increases in the cost of material, labor and transportation equipment.

Copies of the filing were served upon Albia Light and Railway Company and to the Cities of Seymour, Afton, Eldon, Orient, Danville and New London. A copy of the filing has also been mailed to the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 6, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22621 Filed 7-20-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-366]

Mississippi River Transmission Corp.; Application

July 13, 1979.

Take notice that on June 15, 1979, Mississippi River Transmission Corporation (Applicant), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP79-366 an application pursuant to Section 7 of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission and approval to abandon for a twelve-month period commencing August 18, 1979, and the operation of various field compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction, acquisition, relocation, and operation and abandonment of facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment under Section 157.7(g) would not exceed \$2,000,000 and no single project would exceed \$500,000. Applicant proposes to finance the costs of said facilities from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 2, 1979, file with the Federal Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas

Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22622 Filed 7-20-79; 8:45 am]
BILLING CODE 6450-01-M

[Project No. 2919]

Municipal Electric Authority of Georgia; Application for Preliminary Permit

July 16, 1979.

Take notice that on March 16, 1979, the Municipal Electric Authority of Georgia filed an application for preliminary permit (Pursuant to the Federal Power Act, 16 U.S.C. Sections 791(a)-825(b)) for a proposed hydroelectric project, to be known as the Savannah Bluff Lock and Dam Project, FERC No. 2919, located on the Savannah River in Richmond County, Georgia. The proposed project would be located on a navigable waterway of the United States and occupy, in whole or in part, lands of the United States under the control of the U.S. Army Corps of Engineers, and would use a government dam. Correspondence with the Applicant should be directed to: Mr. Donald L. Stokley, General Manager, Municipal Electric Authority of Georgia, 800 Peachtree Center—South Tower, 225 Peachtree Street, Atlanta, Georgia 30203 and Mr. L. Clifford Adams, Jr., General Counsel, 66 Luckie Street, N.W.—Suite 520, Atlanta, Georgia 30303.

Purpose of Project—Electric energy produced by the project would be utilized in meeting the bulk power supply requirements of the political subdivisions served by the Applicant.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks the issuance of a preliminary permit for a period of 36 months, during which time

the Applicant proposes to study the feasibility of installing hydroelectric generating units at the existing New Savannah Bluff Lock and Dam of the U.S. Army Corps of Engineers. Applicant proposes to develop preliminary designs, conduct geologic explorations, collect environmental data, and prepare an application for FERC license. Applicant estimates the cost of studies under the permit would be \$58,000.

Project Description—The Savannah Bluff Lock and Dam Project would consist of: (1) a powerhouse, adjacent to the Corps of Engineers navigation lock, which would contain hydroelectric generating units (number, size and type to be determined in the course of the study) having a total installed capacity of approximately 5,000 kW; (2) step-up transformers; (3) approximately 4.0 miles of 12-kV transmission line to interconnect with the existing electric distribution system; and (4) appurtenant facilities. The estimated annual output of the proposed project is 35,040,000 kWh.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the permittee during the term of the permit, the right of priority of application for license while the permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other necessary information for inclusion in an application for a license. In this instance, Applicant seeks a 36-month permit.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the Application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If any agency does not file comments within the time set below, it will be presumed to have no comments.

Protests and Petitions To Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR Section 1.8 or Section

1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or a person to participate in any hearing a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest petition to intervene, or agency comment must be filed on or before September 20, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22623 Filed 7-20-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. GP79-45]

State of New Mexico NGPA Determination on Southland Royalty Company Patterson "B" Com. #1 J079-7078; Preliminary Finding

Issued July 13, 1979.

On May 30, 1979, the State of New Mexico Oil Conservation Division (New Mexico) submitted to the Commission a notice of determination, which states that the Southland Royalty Company Patterson "B" Com. #1 well qualifies as a new, onshore production well under section 103 of the Natural Gas Policy Act of 1978 (NGPA). The Commission published New Mexico's notice on June 21, 1979.

A well qualifies as a new, onshore production well under section 103 of the NGPA only if, among other requirements, the surface drilling for the well began on or after February 19, 1977.

The information accompanying the determination indicates that surface drilling of the subject well commenced on May 9, 1954 and that the well was completed in a shallow reservoir on May 31, 1954. Then, between July 29, 1977 and August 1, 1977, the well was deepened to its current depth.

This evidence indicates that the surface drilling of the Southland Royalty Company "B" Com. #1 well was not begun on or after February 19, 1977. Thus, it appears that the record does not contain substantial evidence to support New Mexico's determination that the well qualifies as a new, onshore production well under section 103 of the NGPA.

Accordingly, the Commission makes a preliminary finding (pursuant to 18

C.F.R. § 275.202(a)(1)(i)) that the determination submitted by New Mexico is not supported by substantial evidence in the record on which the determination was based.

By direction of the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22641 Filed 7-20-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. EL78-29]

New York State Electric & Gas Corp.; Compliance Filing

July 17, 1979.

Take notice that New York State Electric & Gas Corporation (NYSEG), by letters dated May 1, 1979 and June 11, 1979 tendered for filing, pursuant to the Commission's Declaratory Order Modifying Jurisdictional Contracts issued March 28, 1979, contracts entered into between NYSEG and the following, all located in New York:

Power Authority of the State of New York
Village of Penn Yan
Village of Bath
Village of Castile
Village of Endicott
Village of Greene
Village of Groton
Village of Marathon
Village of Silver Springs
Village of Watkins Glen

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before August 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22624 Filed 7-20-79; 8:45 am]
BILLING CODE 6450-01-M

[Project No. 2752]

Northern Lights, Inc.; Fixing Place and Procedures for Public Sessions

July 9, 1979.

On November 30, 1978, Northern Lights, Inc., filed an application for a

major license for the Kootenai Project No. 2752 to be located on the Kootenai River between the towns of Libby and Troy, Montana. The Commission has circulated the application for agency comments and three interventions have been filed.

The Commission's staff is currently preparing a draft environmental impact statement (DEIS) on the proposed project. During the week of July 29, 1979, the staff members assigned to drafting the DEIS will be in the vicinity of the project site to obtain additional information to prepare the DEIS.

As part of this information gathering process, two public sessions will be held to allow members of the general public an opportunity to present any information they may have which should be brought to the attention of staff before the DEIS is issued. The two public sessions will be held in the Community Room, First National Bank, 504 Mineral Avenue, Libby, Montana, at 1:30 p.m. and 7:00 p.m. on July 30, 1979. Any members of the public, including parties to this proceeding, desiring to present their views or information on the proposed project may do so orally and in writing. All oral and written statements presented will be transcribed by a court reporter into the written record of the public session. These public sessions do not constitute evidentiary hearings which as of this date have not been ordered by the Commission.

To avoid confusion and to ensure that all persons wishing to present their positions can do so, the following procedures will be observed at the public meeting:

All persons desiring to be heard or wishing to submit written statements should, prior to the convening of the sessions listed above, fill out cards with their names, addresses, and the organization they represent, if any. The cards then should be given to the Commission staff member. Blank cards will be available at the entrance to the Community Room.

When a person's name is called, the person should come forward and state his name, address, and organization, if any. The cards then should be given to the Commission staff member. Blank cards will be available at the entrance to the Community Room.

When a person's name is called, the person should come forward and state his name, address, and organization, if any. If he has a written statement, he should give the reporter a copy. If an oral statement is to be given, the person should proceed to make the statement.

In cases where a person submits a written statement and also wishes to make an oral statement, the oral remarks should only summarize briefly the highlights of the written statement, since all written statements will be copied into the record as though read. The statements made at the public session do not constitute evidence, and the persons giving statements will not be subject to cross-examination.

If a person desires to make a statement for the record but is unable to be present at the time their name is called, they may leave a copy of their statement with the reporter, and such statement will be copied into the record as though read or presented orally. If for any reason a person desiring to be heard is unable to attend the public session in person, he may submit a written statement by August 10, 1979, to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and such statement will be made a part of the record of the public session.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22626 Filed 7-20-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-500]

Northern States Power Co.; Filing July 17, 1979.

Take notice that Northern States Power Company on July 2, 1979, tendered for filing supplements to its agreements with the following communities in Wisconsin: Black River Falls, Bangor, Cornell, New Richmond, Rice Lake, Trempealeau, Westby and Whitehall.

Northern States indicates that these agreements are being changed by deleting certain words in metering section of the terms and conditions to allow flexibility in the selection of metering equipment.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22626 Filed 7-20-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-385]

Northern Natural Gas Co.; application July 16, 1979.

Take notice that on June 28, 1979, Northern Natural Gas Company (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP79-385 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon and remove the facilities of its Ashland, Kansas, and Glenwood, Iowa, compressor stations, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

It is stated that in recent years the natural gas reserves in Northern's traditional areas of supply have been declining, resulting in a decrease in winter season volumes available from such areas. In order to offset the reduced wintertime volumes from the south, Northern has entered into various storage arrangements, both on and off system, which provide for the delivery of winter season volumes into the north end of Northern's system. As a result, of the changed delivery pattern reducing the peaking volumes from the south, the compressor facilities at the Ashland station have been idled. Also, as a result of reduced summertime demand, sufficient volumes are available at Redfield for injection without utilizing the Glenwood station.

Northern does not foresee any further use of these turbine-driven units on its transmission system and therefore request authority to abandon and remove a 12,500 horsepower turbine-driven compressor and appurtenances for the Ashland station and the 5,300 horsepower turbine-driven compressor and all station facilities and structure of the Glenwood Midpoint Station. Northern states that all salvable items would be returned to stock for future use with the exception of the 2 gas turbine units which would be disposed of by sale.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 7, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules

of Practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22627 Filed 7-20-79; 8:45 am]
BILLING CODE 6450-01-M

State of Ohio NGPA Determination on Resource Exploration, Inc. Twelve Wells; Preliminary Finding

[Docket No. GP79-47]

July 13, 1979.

On May 30, 1979, the Commission received from the Ohio Department of Natural Resources, notices of determination which state that twelve Resource Exploration, Inc. wells¹ meet

¹ Well name and No. and FERC control No.:

Young #1—[D79-7189.
Krebs #1—[D79-7190.
Troyer #23—[D79-7191.
Zimmerman #2—[D79-7192.
Zimmerman #4—[D79-7193.
Young #3—[D79-7194.
Miller #29—[D79-7195.
Yoder #16—[D79-7196.
Ot #1—[D79-7197.
Miller #8—[D79-7198.
Pepper #1—[D79-7199.
Scurr #1—[D79-7200.

all the requirements of the stripper well provisions in section 108 of the Natural Gas Policy Act of 1978 (NGPA), Pub. L. No. 95-621.

According to section 108 of the NGPA, a natural gas well may qualify for stripper well status if it produced non-associated natural gas during the preceding 90-day production period at a rate which did not exceed an average of 60 Mcf per production day during the production period.

Section 271.804(c) of the interim regulations requires an application for determination for stripper well status be based on a 90-day production period ending within 120 days prior to the date on which the application is filed.

The records show that the 90-day production periods upon which the twelve applications are based do not end within 120 days prior to the date on which the applications were filed. Accordingly, it appears that the record does not contain substantial evidence to support the subject determinations of eligibility under section 108 of the NGPA.

In view of the above, the Commission hereby makes a preliminary finding (pursuant to section 275.202(a)(1)(i)) that the determinations submitted by the Ohio Department of Natural Resources are not supported by substantial evidence in the record on which the determinations were made.

By direction of the Commission
Kenneth F. Plumb,
Secretary.

[FR Doc. 22642 Filed 7-20-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket Nos. E-7777 (Phase II) and E-7796]

Pacific Gas and Electric Co.; Compliance Filing

July 16, 1979.

Take notice that on July 5, 1979, the Southern California Edison Company tendered for filing in compliance with the Commission's order of June 14, 1979:

I. Agreements between Edison and the Department of Water and Power of the City of Los Angeles.

A. City—Edison Pacific Intertie D-C Transmission Facilities Agreement (Executed March 31, 1966).

B. City—Edison Sylmar Interconnection Agreement (Executed March 31, 1966).

C. Amendment No. 1 to City—Edison Sylmar Interconnection Agreement (Executed February 11, 1971).

II. Other Documents.

A. Agreement No. 2 to the Pacific Intertie Agreement dated March 1, 1970.

B. Midway Interconnection Agreement between Pacific Gas and

Electric Company (PG&E) and Edison dated March 12, 1970.

C. Pacific Power & Light Company—California Companies Agreement for Use of Transmission Capacity dated August 1, 1967.

D. California Power & Light Company—California Companies Agreement for use of Transmission Capacity dated August 1, 1967.

E. California Companies Pacific Intertie Agreement Coordination Committee Rulings 1-41.

Also, pursuant to the Commission's order of June 14, 1979, Pacific Gas and Electric Company and San Diego Gas & Electric Company on July 5, 1979, jointly filed:

(1) United States Department of the Interior, Bureau of Reclamation, Central Valley Project, California: Contract with Pacific Gas and Electric Company for installation, operation and maintenance of facilities at Round Mountain, and for the operation and maintenance of Bureau EHV Line, dated July 31, 1967.

(2) United States Department of the Interior, Bureau of Reclamation, Central Valley Project, California: Contract with Pacific Gas and Electric Company for installation, operation and maintenance of facilities at Cottonwood Substation, dated July 31, 1967.

(3) Amendment Number Two to California Pacific Intertie Agreement, dated March 1, 1970.

(4) Midway Interconnection Agreement between Pacific Gas and Electric Company and Southern California Edison Company, dated March 12, 1970.

(5) Letter Agreement dated May 29, 1968 between Pacific Gas and Electric Company and Bureau of Reclamation.

(6) Letter Agreement dated July 9, 1969, between Pacific Gas and Electric Company and Bureau of Reclamation.

(7) Letter agreement dated November 20, 1967 between Pacific Gas and Electric Company, San Diego Gas & Electric Company and Southern California Edison Company.

(8) Letter Agreement dated March 1, 1970 between Pacific Gas & Electric Company, San Diego Gas & Electric Company and Southern Edison Company.

(9) The presently effective rulings of the Coordination Committee of the California Companies Pacific Intertie Agreement (Ruling Nos. 1, 6, 7, 10, 16, 17, 18, 19, 20, 22, 23, 24, 25, 30, 31, 32, 33, 36, 37, 38, 39, 40, 41, and 42).

(10) Ruling Nos. 4 and 7 of the Board of Control of the California Power Pool Agreement.

Any person desiring to be heard or to protest said filing should file a protest

with the Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before August 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-22624 Filed 7-20-79; 8:45 am]
BILLING CODE 6450-01-M

[Project No. 77]

Pacific Gas and Electric Co.; Order Establishing Hearing and Requiring Prehearing Conference

July 5, 1979.

Background

Pacific Gas and Electric Company (PG&E) has filed an application for a new license for its Potter Valley Project No. 77. PG&E's application has been circulated for agency comment. The Commission's staff has also prepared a draft and final environmental impact statement. Seven parties have been granted intervention.¹

The Potter Valley Project is located on the Eel and East Fork Russian Rivers in Lake and Mendocino Counties, California. The project was first constructed in 1907 and affects lands of the United States. The project consists of a storage reservoir (Lake Pillsbury), a forebay (Van Arsdale Reservoir), tunnels, penstocks and a power plant with an installed capacity of 9,040 kilowatts. Water from Lake Pillsbury is released into the Eel River and flows about 11 miles to Van Arsdale Reservoir formed by Cape Horn Dam. At the Van Arsdale Reservoir, water is passed from the Eel River Basin to the Russian River Basin by a series of tunnels and pipes leading to the powerhouse. Some of the water leaving the powerhouse is diverted for irrigation purposes, with the

¹The parties in the proceeding are the California Department of Fish and Game, California Trout, Inc., Humboldt County, County of Lake, Mendocino County Russian River Flood Control and Water Conservation Improvement District, County of Sonoma/Sonoma County Water Agency, and County of Mendocino.

remaining water entering the Russian River. Water releases into the Eel River are maintained to provide a minimum of 2 cubic feet per second (cfs) below Van Arsdale reservoir.

Discussion

Since the project was constructed, the number of steelhead trout and chinook salmon using the Upper Eel River for spawning and rearing of young has generally decreased. The State and certain intervenors allege that this decline can be attributed to the flow releases from the Cape Horn dam. Various measures have been proposed to protect or enhance the runs of anadromous fish using the Upper Eel River. One enhancement measure would be to increase the flow into the Eel River from Van Arsdale Reservoir. This would, of course, reduce the flow through the powerhouse and, in turn, reduce the quantity of water entering the Russian River.

Before and after the issuance of the draft and final environmental impact statement, our staff convened settlement conferences to discuss measures that could be implemented to enhance the steelhead trout and chinook salmon runs in the Eel River.² According to staff's latest letter dated June 14, 1979, the parties have not been able to resolve their differences and request that a hearing on the matter be initiated.

Hearing Issue

We find that it is appropriate and in the public interest that a hearing be held to determine what, if any, conditions should be included in a new license for the Potter Valley Project for the protection and enhancement of the steelhead trout and chinook salmon runs in the Upper Eel River. The hearing should investigate the proper allocation of water between the Eel and Russian River systems and determine if it would be appropriate to increase the current minimum flow into the Eel River from Van Arsdale reservoir.

In providing for a hearing, we recognize that there have been extensive and continuing efforts to resolve the anadromous fish problems in the Upper Eel River. The staff's latest letter dated June 14, 1979, indicates that the parties have agreed to continue their efforts to settle the disputed issues. The

²In addition to the two conferences our staff has held concerning this proceeding, a number of other conferences and meetings have been held among the parties.

staff also offered guidelines for an offer of settlement based on the points of agreement reached at the last conference. Accordingly, we are directly the Presiding Administrative Law Judge to convene a prehearing conference for the purpose of considering any offer of settlement that may be forthcoming. If it appears to the presiding judge that the parties are unable to resolve their differences at the prehearing conference, he shall schedule appropriate dates for the hearing.

The Commission orders:

(A) Pursuant to the provisions of the Federal Power Act, particularly Sections 4(e), 10(a), 10(g), 15, 308, and 309, and the Commission's rules of practice and procedure, a hearing shall be held concerning all matters on the issue of what, if any, conditions the Commission should include in any new license for the Potter Valley Project No. 77 for the protection and enhancement of the steelhead trout and chinook salmon runs in the Upper Eel River.

(B) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge, shall preside at the hearing in this proceeding. The Presiding Judge shall convene a prehearing conference in this proceeding at 9:30 a.m. on August 14, 1979, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

(C) The Secretary shall cause prompt publication of this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22640 Filed 7-20-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket Nos. C170-917, et al.]

Phillips Petroleum Company, et al.; Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates¹

July 10, 1979.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in

¹This notice does not provide for consolidation for hearing of the several matters covered herein.

interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before July 18, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules

of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the

Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price Per Mcf	Pressure Base
C170-917, C, June 26, 1979	Phillips Petroleum Company, 5 C4 Phillips Building, Bartlesville, Okla. 74004.	Panhandle Eastern Pipe Line Company, Douglas Plant, Powder River Basin Area of Wyoming.	(1)	14.73
C175-42, C, June 26, 1979	Phillips Petroleum Company	Panhandle Eastern Pipe Line Company, Douglas Plant, Powder River Basin Area of Wyoming.	(1)	14.73
C176-230, E, June 25, 1979	Gulf Oil Corporation (Succ. in interest to Kewanee Oil Company), P.O. Box 2100, Houston, Texas 77001.	Kansas-Nebraska Natural Gas Company, Inc., Dombey Southwest Field, Sec. 28-4N-20EOM, Beaver County, Oklahoma.	(1)	14.73
C177-186, D, June 26, 1979	Ladd Petroleum Corporation, 830 Denver Club Building, Denver, Colorado 80202.	Colorado Interstate Gas Company, Wild Rose Field, Sweetwater County, Wyoming.	Federal No. 1-22-74 Well, Sec. 22-17N-84W, Sweetwater County, Wyoming assigned to Cotton Petroleum Corporation 1-15-79.	
C177-330, C, August 25, 1978	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	El Paso Natural Gas Company, Leonard Queen South Formation, Lea County, New Mexico.	(1)	14.65
C179-500, A, June 21, 1979	The Offshore Company, P.O. Box 2785, Houston, Texas 77001.	Southern Natural Gas Company, Mississippi Canyon Blocks 150, 151, 194 and 195, Offshore Louisiana.	(1)	15.025
C179-501, A, June 21, 1979	The Offshore Company	Southern Natural Gas Company, West Cameron Block 330 Area, Offshore Louisiana.	(1)	15.025
C179-502, A, June 21, 1979	Sonata Exploration Company, 3336 Richmond Avenue, Houston, Texas 77066.	Southern Natural Gas Company, West Cameron Block 330 Area, Offshore Louisiana.	(1)	15.025
C179-508, A, June 21, 1979	Sonata Exploration Company	Southern Natural Gas Company, Mississippi Canyon Blocks 150, 151, 194 and 195, Offshore Louisiana.	(1)	15.025
C179-506, A, June 25, 1979	Tenneco Exploration, Ltd., P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Company, High Island Block A-336, East Addition, South Extension Area, High Island Block A-343 Field, Offshore Texas.	(1)	14.65
C179-512, A, June 25, 1979	Exxon Corporation, P.O. Box 2160, Houston, Texas 77001.	Columbia Gas Transmission Corporation, West Delta Block 117 Field, Offshore Louisiana.	(1)	15.025
C179-513, A, June 27, 1979	The Louisiana Land and Exploration Company, 225 Baronne Street, P.O. Box 60350, New Orleans, La. 70160.	Transco Gas Supply Company, Certain acreage located in Eugene Island Area, Block 261 Field, Blocks 261 and 262, Gulf of Mexico.	(1)	15.025
C179-514, A, June 27, 1979	The Louisiana Land and Exploration Company, 225 Baronne Street, P.O. Box 60350, New Orleans, La. 70160.	Transco Gas Supply Company, Certain acreage located in West Cameron, Block 540 Field, Gulf of Mexico.	(1)	15.025
C179-515, A, June 27, 1979	Louisiana Land Offshore Exploration Company, Inc., 225 Baronne Street, P.O. Box 60350, New Orleans, La. 70160.	Transco Gas Supply Company, Certain acreage located in West Cameron, Block 540 Field, Gulf of Mexico.	(1)	15.025
C179-518, A, June 27, 1979	Mesa Petroleum Co., One Mesa Square, P.O. Box 2006, Amarillo, Texas 79189.	Michigan Wisconsin Pipe Line Company, High Island Area, Block A-474 and Block A-489, Offshore Texas.	(1)	14.65
C179-517, B, June 27, 1979	Samedan Oil Corporation, P.O. Box 909, Ardmore, Okla. 73401.	Cities Service Gas Company, Rutledge #1 Gas Unit, Sec. 8-24N-18W, N.W. Quinlan Field, Woodward County, Oklahoma.	Depleted.	
C179-518, E, June 26, 1979	Gulf Oil Corporation (Succ. in interest to Kewanee Oil Company), P.O. Box 2100, Houston, Texas 77001.	Natural Gas Pipeline Company of America, Certain acreage located in the Lochridge Field, Ward County, Texas.	(1)	14.65
C179-519, A, June 25, 1979	Texaco Inc., P.O. Box 60252, New Orleans, La. 70160.	Tennessee Gas Pipeline Company, East Cameron Area, Block 260 and the West Cameron Area, Block 509, Offshore Louisiana.	(1)	14.73
C179-520, A, June 20, 1979	The Louisiana Land and Exploration Company	Texas Eastern Transmission Corporation, Certain acreage located in Block 522 Field, West Cameron Area, Offshore Louisiana.	(1)	15.025

Docket No. and date filed	Applicant	Purchaser and location	Price Per Mcf	Pressure Base
C179-521, A, June 25, 1979	TransOcean Oil, Inc. (Operator), 1700 First City East, 1111 Fannin, Houston, Texas 77002.	Mid Louisiana Gas Company, MA-1 RA SuB Matheme No. 1 Well located in Sec. 44-T12S-R4E, College Point—St. James Field, St. James Parish, Louisiana.	(*)	15,025
C179-522, A, June 25, 1979	Texasco Inc.	Columbia Gas Transmission Corporation, Blocks 642 and 643, West Cameron Area, Offshore Louisiana.	(*)	15,025

* Applicant is filing for the maximum lawful price under the Natural Gas Policy Act of 1978.
 * Effective as of 7-1-78, Applicant acquired all of Kewanee's interest in acreage covered by Amending Agreement dated 1-3-78, which amends a contract executed by Kewanee and Kansas-Nebraska dated 10-1-75, and a contract executed by Dow Chemical Company and Kansas-Nebraska dated 10-16-75.
 * Applicant is willing to accept the applicable national rate pursuant to Opinion No. 770, as amended.
 * Applicant is filing under Gas Purchase and Sales Agreement dated 6-21-79.
 * Applicant is filing under Gas Purchase Contract dated 6-19-79.
 * Applicant is willing to accept a certificate conditioned upon a price equal to the maximum lawful price under Section 104 of the Natural Gas Policy Act of 1978, reserving its right to collect any higher applicable NGPA rate.
 * Applicant is filing under Section 104 of the Natural Gas Policy Act of 1978.
 * Effective as of 7-1-78, Applicant acquired all of Kewanee's interest in properties covered by contract dated 8-21-67, as amended.
 * Applicant is filing under Gas Purchase Contract dated 6-19-79.
 * Applicant, a large producer, has taken over as operator of the Matheme No. 1 well effective 2-1-79 and is requesting that temporary authorization be granted effective 2-1-79. Applicant is willing to accept temporary authorization upon an initial rate prescribed under Section 104 of the Natural Gas Policy Act of 1978, provided that Applicant shall be entitled to file increases to any higher contractually authorized prices in accordance with the Natural Gas Act and the NGPA.
 * Applicant is filing for that price prescribed by Section 109(e)(2) of the Natural Gas Policy Act of 1978.

Filing Code: A—Initial Service, B—Abandonment, C—Amendment to add acreage, D—Amendment to delete acreage, E—Total Succession, F—Partial Succession.

[FR Doc. 79-22639 Filed 7-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-507]

Public Service Co. of Indiana, Inc.; Filing

July 17, 1979.

The filing Company submits the following: Take notice that Public Service Company of Indiana, Inc. on July 11, 1979 tendered for filing pursuant to the Interconnection Agreement between Public Service Company of Indiana, Inc. and Southern Indiana Gas and Electric Company a Sixth Supplemental Agreement to become effective September 6, 1979.

Said Supplemental Agreement increases the demand charge for Short Term Power from 60¢ per kilowatt per week to 70¢ per kilowatt per week.

Copies of the filing were served upon Southern Indiana Gas and Electric Company and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before August 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are available for public inspection at the Federal Energy Regulatory Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22639 Filed 7-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-374]

Southern Natural Gas Co.; Application

July 16, 1979.

Take notice that on June 20, 1979, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP79-374 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a storage service for certain customers of Southern, the inclusion of the related storage injection requirements in Southern's Index of Requirements in its FERC Gas Tariff, a related transportation service for the storage customers, and the construction and operation of facilities necessary to perform the transportation service, all as more fully set forth in the appendix hereto and in application which is on file with the Commission and open to public inspection.

Southern states that in Opinion No. 786, the F.P.C. approved a Stipulation and Agreement which provides for the pricing of liquefied natural gas (LNG) on Southern's system on a rolled-in basis and provides for Southern to make a storage service available to its customers. Southern has arranged with ANR Storage Company (ANR) to make available storage which would enable Southern to provide the storage service called for in the Stipulation and Agreement. ANR would make storage service available to Southern on a 50 and 100-day basis. ANR's storage facilities would be located in Kalkaska

County, Michigan. Accordingly, in order to arrange for the delivery to and redelivery from ANR of volumes to be stored for Southern by ANR, Southern has entered into transportation agreements with Michigan Wisconsin Pipe Line Company (Michigan Wisconsin).

Southern states that on June 12, 1978, it offered the storage service required by the Stipulation and Agreement to its jurisdictional customers on a 50-day and 100-day basis. In response to Southern's June 12, 1978 offer of storage service, Atlanta Gas Light Company (Atlanta), South Georgia Natural Gas Company, Jupiter Industries, Inc. d/b/a Chattanooga Gas Company (Chattanooga) and the City of LaGrange, Georgia (storage customers) subscribed for approximately 6.5 million Mcf of winter contract quantity out of a total offering to all customers of 18 million Mcf. Thereafter, Southern reoffered those customers the remaining difference and an additional total of approximately 5 million Mcf was subscribed to by Atlanta and Chattanooga.

Southern states that it has entered into storage service agreements with its storage customers. The storage service Southern would provide its customers pursuant to the storage service agreements tracks the storage and transportation services Southern has arranged with ANR and Michigan Wisconsin. Under the storage service agreements, gas will be provided to Southern for storage and returned from storage at Southern's Shady Side Compressor Station.

In order to arrange for the transportation of gas to be stored by Southern to and from the Shady Side

delivery point all storage customers have entered into a storage transportation agreement with Southern. Pursuant to the storage transportation agreements, storage customers nominate and pay for the volumes Southern delivers at the Shady Side delivery point to be stored under the storage service agreements, plus related fuel gas. Although storage customers would have already become obliged to pay for the volumes delivered at Shady Side for storage by Southern, neither title, control nor possession of those volumes would have passed to customers at that time. Title, control and possession of gas stored and transported by Southern for storage customers would pass to those customers only when such gas is redelivered at the redelivery point(s) specified in each storage customer's storage transportation agreement with Southern. Volumes returned from storage at Shady Side by Southern, pursuant to the storage service agreements, would be returned to storage customers less appropriate fuel gas pursuant to the storage transportation agreements.

Southern requests that the certificate issued in this proceeding (i) certify said requirements for inclusion in priority-of-service category 2 of its currently effective Index of Requirements or in such other category of Southern's Index of Requirements as Southern's storage injection requirements are included at the time said requirements are filed for inclusion in Southern's tariff and (ii) provide that Southern shall file revised tariff sheets reflecting the increased requirements as discussed above to be effective as of the commencement of the services proposed by Southern herein. Southern states that only volumes up to the storage injection requirements for each storage customer originally included in the Stipulation and Agreement where Southern undertook to provide this storage service (plus appropriate fuel gas) would be included in Southern's Index of Requirements in the appropriate category.

The storage service agreements are cost of service tariffs and provide for a charge which flows through to each storage customer the percentage of Southern's charges from ANR and Michigan Wisconsin attributable to the storage and transportation services provided for the benefit of such customer. Each storage customer is also required to provide Southern with fuel gas equivalent to the fuel gas Southern must provide ANR and Michigan Wisconsin to perform storage and transportation services for Southern for the benefit of that customer. The rate

and fuel gas provisions of the storage service agreements are designed so that any changes in the charges and/or fuel gas the Commission authorizes ANR and Michigan Wisconsin to charge Southern flow through automatically to storage customers on a *pro rata* basis. No Southern charges or fuel gas are included in the storage service agreements.

Southern's charges for the transportation service to be provided under the storage transportation agreements would be based on the cost of service for the incremental facilities necessary to provide such transportation.

Southern states that it would be required to construct and operate certain additional pipeline facilities, in order to perform the transportation services provided for under the storage transportation agreements. An 1800 horsepower compressor and appurtenant facilities would be required at the Shady Side Delivery Point to enable Southern to transport gas to and from storage.

In order to accommodate the movement of storage transportation gas from Southern's South System to Southern's North System, Southern states that it would be required to install approximately 31 miles of 20-inch O.D. pipeline looping its existing line between Thomaston, Georgia, and Griffin, Georgia. An additional segment of 18-inch O.D. pipeline approximately 21 miles long would be required from Southern's South Atlanta Meter Station No. 1 north to the vicinity of the Austell tap on Southern's North Main Line. Southern states that a new route is required for this segment of pipeline because portions of Southern's existing lines between the South Atlanta Meter Station No. 1 and the Austell tap traverse densely concentrated residential areas making the looping of those lines impractical. The South Atlanta Meter Station No. 1 would be rebuilt in order to provide the increased capacity necessary to accommodate storage transportation volumes and a regulatory station would be installed at the intersection of the proposed South Atlanta-Austell pipeline and the existing North Main Line to ensure proper pressure in the north system.

Other changes, said to be required on the North System to enable Southern to transport storage transportation gas, include (i) the installation of a 1,200 horsepower compressor and appurtenant facilities at Southern's Bell Mills Compressor Station and (ii) certain modifications to existing piping and facilities at Southern's DeArmanville

Compressor Station to permit the utilization of existing horsepower for the transportation service proposed herein.

Southern would also construct and operate approximately 44.7 miles of 12.75-inch O.D. pipeline extending from Southern's existing Rome Check Station No. 2 tap to Southern's existing Dalton No. 3 Meter Station. The new pipeline would loop Southern's existing Chattanooga Branch pipelines. To enable the redelivery of storage transportation volumes Southern would also (i) construct and operate as part of its Calhoun delivery point an additional meter station (to be known as Calhoun Station No. 2) and (ii) replace certain regulatory equipment at the existing Ringgold, Georgia, measuring station.

The estimated cost of constructing the proposed facilities is approximately \$30,634,030.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 6, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

Southern Natural Gas Company
Customer Storage Service and Basis For Apportioning Monthly Charges To Customers

	Winter contract quantity (1)	Maximum daily withdrawal quantity (2)	Daily injection rate (3)
100 days service:			
South Georgia	70,800	708	331
Chattanooga	400,000	4,000	1,889
Atlanta Gas Light	5,150,000	51,000	24,065
Total 100 days service	5,620,800	56,208	26,285
50 days service:			
LaGrange	51,900	1,308	243
South Georgia	180,000	3,600	841
Atlanta	5,650,000	113,000	26,402
Total 50 days service	5,881,900	117,638	27,486
Total storage service	11,502,700	173,846	53,751

[FR Doc. 79-22630 Filed 7-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER76-543]**Southwestern Public Service Co.;
Compliance Filing**

July 17, 1979.

Take notice that Southwestern Public Service Company on June 17, 1979 tendered for filing, in compliance with the Commission's order in the above-noted docket, its report of its compliance with the settlement agreement reached in this proceeding, including a schedule of the amounts refunded and the details of the computation.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before August 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22631 Filed 7-20-79; 8:46 am]

BILLING CODE 6450-01-M

[Docket No. ER79-274]**Southwestern Public Service Co.;
Order Accepting Electric Rates for
Filing, Suspending Proposed Rate
Increase, Granting Interventions, and
Establishing Procedures**

Issued July 13, 1979.

On March 28, 1979, Southwestern Public Service Company (Southwestern) submitted for filing proposed revisions

to the rate schedules for service to two full requirements and four partial requirements wholesale customers.¹ The proposed rates would increase revenues approximately \$2,075,019 (34.49%) for the 12-month test period ending August 31, 1979.

The present full requirements rates include a 5,000 kW initial block rate, a lower rate for all additional billed kW, and a 60% ratchet. The present partial requirements rates include a flat charge for the first 500 kW of demand with a lower rate for all additional billed kW. The proposed demand rates for each class include a 500 kW initial block rate with a lower rate for all additional billed kW. Southwestern also proposes to increase the full requirements customers' ratchet to 85%.

The proposed revisions to the rate schedules for the full requirements customers decrease the energy charge from 5.16 mills/kWh to 4.0 mills/kWh and make no change in the fuel adjustment clause. No change is proposed for the energy or fuel adjustment components of the partial requirements rates.

The Secretary issued notice of the filing on March 30, 1979, with responses due on or before April 25, 1979. The Community Public Service Company, New Mexico Electric Service Company, Lea County Electric Cooperative, Cochran Power and Light Company, and the City of Brownfield filed timely petitions to intervene. Only the City of Brownfield raised specific issues, alleging an excessive increase in the demand charge and an excessive rate of return, and requesting a five month suspension.

Southwestern's revisions to the rate schedules have not been shown to be just and reasonable and may be unjust,

¹ On May 15, 1979, Southwestern completed the filing by submitting additional data. See Attachment A for rate schedule designations.

unreasonable, unduly discriminatory or otherwise unlawful. Therefore, we will accept the revisions for filing and suspend them for five months from 60 days after the filing was completed, to become effective December 15, 1979, subject to refund. We shall institute an investigation to determine the reasonableness of the revisions. In an attempt to expedite the discovery process in this proceeding, we shall order the presiding administrative law judge to convene a prehearing conference, within 45 days of the date of this order, for the purpose of resolving any problems relating to the data requests of the Staff and the intervenors.

The Commission orders: (A) Southwestern's proposed revisions to the rate schedules designated in Attachment A are accepted for filing and suspended for five months, to become effective December 15, 1979, subject to refund.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by subsection 402(a) of the Department of Energy Act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and Regulations under the Federal Power Act (18 CFR Ch. I), a public hearing shall be held concerning the justness and reasonableness of Southwestern's proposed revisions to its rate schedules.

(C) Staff shall serve top sheets in this proceeding on or before October 15, 1979.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge for that purpose, shall convene a prehearing conference in this proceeding, to be held within 45 days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. That conference shall be for the purpose of resolving any problems relating to the data requests of the staff and the intervenors. Within 10 days of the service of top sheets, the presiding administrative law judge shall convene a second prehearing conference. The presiding administrative law judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(E) The Community Public Service

Company, New Mexico Electric Service Company, Lea County Electric Cooperative, Cochran Power and Light Company, and the City of Brownfield are permitted to intervene in this proceeding, subject to the Commission's Rules and Regulations: *Provided, however,* that participation by the intervenors shall be limited to matters set forth in their petitions to intervene; and *Provided, further,* that the admission of the intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order or orders of the Commission entered in this proceeding.

(F) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22632 Filed 7-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-390]**Tennessee Gas Pipeline Co., a Division
of Tenneco Inc.; Application**

July 13, 1979.

Take notice that on July 2, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP79-390 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 50,000 Mcf per day of natural gas for Orange and Rockland Utilities, Inc. (Orange and Rockland), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Tennessee states it would transport for Orange and Rockland during the period ending October 31, 1979, up to 50,000 Mcf per day of natural gas which Orange and Rockland has arranged to purchase from East Tennessee Natural Gas Company (East Tennessee). The gas proposed to be transported and delivered by Tennessee, the application indicates, would be used by Orange and Rockland solely to displace fuel oil it would otherwise use in its electric generating stations.

The subject gas would be made available to Tennessee by East Tennessee, for the account of Orange and Rockland, at Tennessee's existing Greenbrier Sales Meter Station delivery point to East Tennessee located in Robertson County, Tennessee.

Tennessee would then deliver equivalent volumes, less transportation fuel and use volumes, to Orange and Rockland at the existing Pearl River Sales Meter Station delivery point located in Rockland County, New York.

The application states that assuming the proposed transportation commenced on July 1, 1979, Tennessee would transport up to 3,500,000 Mcf of gas for Orange and Rockland through October 31, 1979, based on a peak day transportation volume of 50,000 Mcf per day and approximately 28,455 Mcf on an average day. Orange and Rockland would pay a transportation rate to Tennessee of 34.80 cents per Mcf.

Tennessee states that the source of the natural gas to be sold is East Tennessee's general system supply which at present is surplus to its market requirements.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 2, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Tennessee to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22633 Filed 7-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-364]**Texas Eastern Transmission Co.;
Application**

July 16, 1979.

Take notice that on June 15, 1979, Texas Eastern Transmission Company (Texas Eastern), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP79-364 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation for Northern Natural Gas Company (Northern) up to 100,000 dekatherms equivalent of natural gas per day on a firm basis and up to 50,000 dekatherms equivalent of natural gas on an interruptible basis and authorizing the construction and operation of certain facilities for receipt of such gas, all as more fully set forth in the application on file with the Commission and open to public inspection.

Texas Eastern states that Northern has contracted for the purchase of certain quantities of gas produced in the High Island Area, offshore Texas, and has requested that Transcontinental Gas Pipe Line Corporation (Transco), Houston Pipe Line Company (Houston) and Texas Eastern transport such gas. Texas Eastern would receive up to the stated quantities of natural gas from Transco at their existing point of interconnection located at Ragely, Louisiana, on an interim basis and upon completion of the construction of the facilities proposed herein, Texas Eastern would receive such gas at Starks, Louisiana. Texas Eastern would then transport and redeliver such gas, less quantities for fuel and loss, to Houston for Northern's account, at the point of interconnection between Texas Eastern and Houston at Mont Belvieu, Texas. Texas Eastern indicates that Transco would redeliver the gas to Northern.

Texas Eastern would charge Northern a monthly charge of \$678,596 for the firm transportation service and a rate of 22.31 cents per dekatherm delivered in excess of the demand quantity of 100,000 dekatherms per day. Further, Texas Eastern would retain, for fuel and loss, a daily quantity equal to 3 percent of the amount transported.

Texas Eastern proposes to construct and operate certain tap and metering facilities at Starks, Louisiana, for the receipt of gas from Transco for the account of Northern. The total cost of these facilities is estimated to be \$430,000 and Northern would reimburse Texas Eastern for the cost of the construction of such facilities; however, operation of such facilities would be at Texas Eastern's expense.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 7, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Texas Eastern to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22634 Filed 7-20-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-383]

Texas Eastern Transmission Corp.; Application

July 16, 1979.

Take notice that on June 25, 1979, Texas Eastern Transmission

Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP79-383 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon operation in interstate commerce of certain existing natural gas pipeline in Texas for conversion to common carrier products service, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Texas Eastern proposes to abandon operation in interstate commerce of 18.3 miles of 8-inch Alco-Mag Line No. 8-B and 12.74 miles of 8-inch Aldine Line No. 8-B-1, an extension of the Alco-Mag-Aldine Line, all located in Harris County, Texas, used for the transportation of natural gas. Texas Eastern states that the Alco-Mag-Aldine pipeline would be disconnected from its interstate gas transmission system and transferred to the Texas Eastern Products Pipeline Division for use in common carrier products transportation service.

In order to achieve optimum utilization of its gas system and in conjunction with its common carrier products transportation service, Texas Eastern asserts, it has determined that the 8-inch Alco-Mag-Aldine pipeline could be abandoned from gas transmission service without impairing its current or future gas system operations. Texas Eastern further states that the gas deliveries from the Alco-Magnolia Oil Field, approximately 757 Mcf per day, would not be abandoned. The transportation service would be rendered by Houston Pipe Line Company.

Texas Eastern states that upon the transfer of the Alco-Mag-Aldine line to Texas Eastern Products Pipeline Division for common carrier products transportation service the net depreciated cost of such facilities would be removed from Texas Eastern's gas plant in service accounts and transferred to the Products Pipeline Division. In addition to the transfer of the cost of the Alco-Mag-Aldine line to the Products Pipeline Division, the cost of conversion of said pipeline to products service and the cost of connection to Houston Pipe Line Company would be borne by the Products Pipeline Division.

The total gross amount of investment attributable to facilities to be abandoned is \$1,209,000 and the removal from Texas Eastern's gas plant in service account would amount to a reduction in Texas Eastern's rate base of \$274,100.

The application indicates that there would be no effect on the level of service to existing customers nor would there be any sacrifice of existing gas supplies as a result of the proposed abandonment. The Alco-Mag-Aldine line is said to traverse an area of diminishing gas production, and abandonment would not affect Texas Eastern's ability to secure gas supplies for its system.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 7, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Texas Eastern to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22635 Filed 7-20-79; 8:45 am]
BILLING CODE 6450-01-M

Texas Railroad Commission, Oil and Gas Division, et al.; Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

July 12, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Texas Railroad Commission, Oil and Gas Division

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-10441
2. 42-503-32665
3. 103
4. Beron Corporation
5. Reeves #4
6. Reeves (Marble Falls)
7. Young
8. 130.0 million cubic feet
9. June 22, 1979
- 10.

1. 79-10442
2. 42-195-30298
3. 103
4. Scarth Petroleum Inc.
5. #1 Cline Well 71380
6. Hansford (North Tonkawa)
7. Hansford, TX
8. 66.0 million cubic feet
9. June 22, 1979
10. Panhandle Eastern Pipeline Co. Northern Natural Gas Co

1. 79-10443
2. 42-195-30292
3. 103
4. Scarth Petroleum Inc.
5. No 2 Hill 71634
6. Hansford (North Tonkawa) Field
7. Hansford, TX
8. 1.3 million cubic feet
9. June 22, 1979
10. Panhandle Eastern Pipeline Co

1. 79-10444
2. 42-295-30421
3. 103
4. Scarth Petroleum Inc.
5. No 601-1 Piper Well 77299
6. Bradford (Cleveland) Field
7. Lipscomb, TX
8. 55.0 million cubic feet
9. June 22, 1979
10. Transwestern Pipeline Company

1. 79-10445
2. 42-469-31327
3. 102
4. Bay Rock Corporation
5. Robert L Massey No 1
6. Koontz NE (5950)

7. Victoria
8. 360.0 million cubic feet
9. June 22, 1979
10. Tennessee Gas Pipeline Company
1. 79-10446
2. 42-497-00000
3. 103
4. Taylor Operating Company
5. R H Nobles #1 (18771)
6. R H Nobles (6000 Congl)
7. Wise, TX
8. 28.0 million cubic feet
9. June 22, 1979
10. Natural Gas Pipe Co of Amer
1. 79-10447
2. 42-237-00000
3. 103
4. Taylor Operating Company
5. Elzie Lewis #1 (18947)
6. Cundiff (Atoka 5660)
7. Jack, TX
8. 150.0 million cubic feet
9. June 22, 1979
10. Cities Service Company

1. 79-10448
2. 42-497-00000
3. 103
4. Taylor Operating Company
5. Thomas Hodges No 2 (18753)
6. Wise County Regular
7. Wise, TX
8. 8.0 million cubic feet
9. June 22, 1979
10. Natural Gas Pipe Co of Amer

1. 79-10449
2. 42-297-00000
3. 102
4. Rocanville Corporation
5. Schulz #1
6. Schulz (Edwards) Field
7. Live Oak, TX
8. 365.0 million cubic feet
9. June 22, 1979
- 10.

1. 79-10450
2. 42-297-00000
3. 102
4. Rocanville Corporation
5. J Gerald Schulz #1—RRC #74657
6. Schulz (Edwards) Field
7. Live Oak, TX
8. 365.0 million cubic feet
9. June 22, 1979
- 10.

1. 79-10451
2. 42-239-00000
3. 102
4. Arledge Petroleum Corporation
5. Kountze-Couch Well No 1
6. Mauritz NE (5300)
7. Jackson, TX
8. 146.0 million cubic feet
9. June 22, 1979
10. Texas Eastern Transmission Corp

1. 79-10452
2. 42-123-30796
3. 102
4. William Herbert Hunt Trust Estate
5. Harold Heyer 1-T 05533
6. Arneckeville
7. Dewitt, TX
8. 24.0 million cubic feet
9. June 22, 1979
10. Texas Eastern Transmission Corp

1. 79-10453
2. 42-123-30883
3. 102
4. D H Hunt
5. Ideus Gas Unit Well #1 79948
6. Arneckeville (Frio 2900)
7. Dewitt, TX
8. 370.0 million cubic feet
9. June 22, 1979
10. Texas Eastern Transmission Corp
1. 79-10454
2. 42-079-30861
3. 103
4. Sun Oil Company (Delaware)
5. League 91 Project No 124
6. Slaughter (Slaughter Plant)
7. Cochran, TX
8. 4.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Company, Amoco Production Co

1. 79-10455
2. 42-079-30859
3. 103
4. Sun Oil Company (Delaware)
5. League 91 Project No 123
6. Slaughter (Slaughter Plant)
7. Cochran, TX
8. 6.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Company, Amoco Production Co

1. 79-10456
2. 42-079-30406
3. 103
4. Sun Oil Company (Delaware)
5. League 91 Project No 121
6. Slaughter (Slaughter Plant)
7. Cochran, TX
8. 1.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Company, Amoco Production Co

1. 79-10457
2. 42-079-30862
3. 103
4. Sun Oil Company (Delaware)
5. League 91 Project No 127
6. Slaughter (Slaughter Plant)
7. Cochran, TX
8. 7.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Company, Amoco Production Co

1. 79-10458
2. 42-135-32198
3. 103
4. Sun Oil Company (Delaware)
5. Foster-Johnson Unit No 716
6. Foster
7. Ector, TX
8. 1.0 million cubic feet
9. June 22, 1979
10. Odessa Natural Corp

1. 79-10459
2. 42-135-32183
3. 103
4. Sun Oil Company (Delaware)
5. Foster-Johnson Unit No 716
6. Foster
7. Ector, TX
8. 1.0 million cubic feet
9. June 22, 1979
10. Odessa Natural Corp

1. 79-10460
2. 42-399-31019
3. 103
4. Wes-Tex Drilling Company
5. Mozelle Wilbanks A No 1
6. Ballinger (Gardner)
7. Runnels, TX
8. 5.5 million cubic feet
9. June 22, 1979
10. Union Texas Petroleum
1. 79-10461
2. 42-399-30978
3. 103
4. Wes-Tex Drilling Company
5. J J Wessels No 3
6. Winters S W (Gardner Lime)
7. Runnels, TX
8. 9.1 million cubic feet
9. June 22, 1979
10. Union Texas Petroleum
1. 79-10462
2. 42-399-31097
3. 103
4. Wes-Tex Drilling Company
5. J J Wessels No 4
6. Winters S W (Gardner Lime)
7. Runnels, TX
8. 9.1 million cubic feet
9. June 22, 1979
10. Union Texas Petroleum
1. 79-10463
2. 42-399-31114
3. 103
4. Wes-Tex Drilling Company
5. J J Wessels No 5
6. Winters S W (Gardner Lime)
7. Runnels, TX
8. 9.1 million cubic feet
9. June 22, 1979
10. Union Texas Petroleum
1. 79-10464
2. 42-123-30836
3. 103
4. William Herbert Hunt Trust Estate
5. Harold Heyer No 2-T 05533
6. Arneckeville (Yegua 4910)
7. Dewitt, TX
8. 16.0 million cubic feet
9. June 22, 1979
10. Texas Eastern Transmission Corp
1. 79-10465
2. 42-371-32433
3. 103
4. Gulf Oil Corp
5. Ivy B Weatherby A No 2
6. Rojo Caballos South (Devonian)
7. Pecos, TX
8. 3,200.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Co
1. 79-10466
2. 42-233-00000
3. 108
4. Sohio Natural Resources Co
5. Johnson #2 well
6. West Panhandle
7. Hutchinson, TX
8. 20.8 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Co.
1. 79-10467
2. 42-233-00000
3. 108
4. Sohio Natural Resources Co
5. Whittenberg #2 well
6. West Panhandle
7. Hutchinson, TX
8. 12.4 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Co.
1. 79-10468
2. 42-233-00000
3. 108
4. Sohio Natural Resources Co
5. Whittenberg #5 well
6. West Panhandle
7. Hutchinson, TX
8. 4.4 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Co.
1. 79-10469
2. 42-233-00000
3. 108
4. Sohio Natural Resources Co
5. Sanford #3 well
6. West Panhandle
7. Hutchinson, TX
8. 8.4 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Co.
1. 79-10470
2. 42-233-00000
3. 108
4. Sohio Natural Resources Co
5. Whittenberg #3 well
6. West Panhandle
7. Hutchinson, TX
8. 4.7 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Co.
1. 79-10471
2. 42-227-31582
3. 103
4. Wes-Tex Drilling Company
5. J L Jones Heirs No 3
6. Vincent (Clear Fork Lower)
7. Howard, TX
8. 9.1 million cubic feet
9. June 22, 1979
10. Getty Oil Company
1. 79-10472
2. 42-135-32695
3. 103
4. Phillips Petroleum Company
5. Cowden-U No. 4
6. Donnelly (San Andres)
7. Ector, TX
8. 6.9 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Company
1. 79-10473
2. 42-355-31174
3. 103
4. American Petrofina Company of Texas
5. W C Rivers No 6
6. Agua Dulce (6550)
7. Nueces, TX
8. 25.0 million cubic feet
9. June 22, 1979
10. Tennessee Gas Pipeline Co.
1. 79-10474
2. 42-295-30576
3. 102
4. Lear Petroleum Corporation
5. Scott No. 1
6. Lear (Morrow Upper)
7. Lipscomb, TX
8. 365.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Company, Rael Gas Co.
1. 79-10475
2. 42-295-00000
3. 102
4. Lear Petroleum Corporation
5. Ingle No. 2
6. Lear (Morrow Upper)
7. Lipscomb, TX
8. 55.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Company, Rael Gas Co.
1. 79-10476
2. 42-235-30784
3. 103
4. Energy Reserves Group, Inc.
5. Ela C Sugg 68 #3
6. Spraberry Trend Area
7. Irion, TX
8. 39.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Co.
1. 79-10477
2. 42-235-30781
3. 103
4. Energy Reserves Group, Inc.
5. Ela C Sugg 55 #1
6. Spraberry Trend Area
7. Irion, TX
8. 11.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Co.
1. 79-10478
2. 42-235-30760
3. 103
4. Energy Reserves Group, Inc.
5. Ela C Sugg 53 #1
6. Spraberry Trend Area
7. Irion, TX
8. 4332.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Co.
1. 79-10479
2. 42-235-30783
3. 103
4. Energy Reserves Group, Inc.
5. Ela C Sugg 59A #3
6. Spraberry Trend Area
7. Irion, TX
8. 14.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Co.
1. 79-10480
2. 42-235-30765
3. 103
4. Energy Reserves Group, Inc.
5. Ela C Sugg 73 #1
6. Spraberry Trend Area
7. Irion, TX
8. 21.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Co.
1. 79-10481
2. 42-235-30791
3. 103
4. Energy Reserves Group, Inc.
5. Ela C Sugg 68 #4
6. Spraberry Trend Area
7. Irion, TX
8. 44.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Co.

1. 79-10482
2. 42-235-31161
3. 103
4. Energy Reserves Group, Inc.
5. Ela C Sugg 55 #2
6. Spraberry Trend Area
7. Irion, TX
8. 10.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Co.
1. 79-10483
2. 42-081-30688
3. 103
4. Enrich Oil Corporation
5. O B Jacobs 313 No 1-313
6. Bloodworth N (Canyon 5650)
7. Coke, TX
8. 255.5 million cubic feet
9. June 22, 1979
10. Sun Gas Company
1. 79-10484
2. 42-081-30689
3. 103
4. Enrich Oil Corporation
5. O B Jacobs No 1
6. Bloodworth N (Canyon 5650)
7. Coke, TX
8. 255.5 million cubic feet
9. June 22, 1979
10. Sun Gas Company
1. 79-10485
2. 42-355-30862
3. 103
4. Pennzoil Producing Company
5. C. P. Talbert No 16-L
6. Agua Dulce
7. Nueces, TX
8. 350.0 million cubic feet
9. June 22, 1979
10. United Gas Pipeline Co.
1. 79-10486
2. 42-211-30979
3. 103
4. Donald C Slawson
5. Yokley Unit #1 RRC #77693
6. Canadian West Morrow Upper
7. Hemphill Co, TX
8. 425.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Co
1. 79-10487
2. 42-211-30870
3. 103
4. Donald C Slawson
5. Mitchell A Unit RRC #74404
6. Canadian West Morrow Upper
7. Hemphill, TX
8. 18.0 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Company
1. 79-10488
2. 42-237-32144
3. 103
4. David Albert Oil & Gas
5. Cranford 2A
6. Jack County Regular-Gas
7. Jack, TX
8. 40.0 million cubic feet
9. June 22, 1979
10. Cities Service Co
1. 79-10489
2. 42-195-30592
3. 108
4. Horizon Oil & Gas Co of Texas
5. Oloughlin 1-19 73139
6. Hansford Upper Morrow
7. Hansford, TX
8. 60.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Company
1. 79-10490
2. 42-357-30801
3. 103
4. Horizon Oil & Gas of Texas
5. Greever 1-75 75332
6. Hansford Upper Morrow
7. Ochiltree, TX
8. 12.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Company
1. 79-10491
2. 42-195-30646
3. 103
4. Horizon Oil & Gas Co of Texas
5. Schiff 1-31 78046
6. Hansford Lower Morrow
7. Hansford, TX
8. 400.0 million cubic feet
9. June 22, 1979
10. Natural Gas Pipeline Co of America
1. 79-10492
2. 42-235-30798
3. 103
4. Energy Reserves Group Inc
5. Ela C Sugg D #3
6. Spraberry Trend Area
7. Irion, TX
8. 21.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Co
1. 79-10493
2. 42-235-30792
3. 103
4. Energy Reserves Group Inc
5. Ela C Sugg 59 #2
6. Spraberry Trend Area
7. Irion, TX
8. 17.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Co
1. 79-10494
2. 42-211-30995
3. 103
4. McCulloch Oil Corp of Texas
5. Studer No 4
6. Humphreys-Douglas
7. Hemphill, TX
8. 66.0 million cubic feet
9. June 22, 1979
10. Arkansas Louisiana Gas Company
1. 79-10495
2. 42-211-30989
3. 103
4. McCulloch Oil Corp of Texas
5. Mathers Ranch No 35
6. Humphreys-Douglas
7. Hemphill, TX
8. 384.0 million cubic feet
9. June 22, 1979
10. Arkansas Louisiana Gas Company
1. 79-10496
2. 42-211-30942
3. 103
4. McCulloch Oil Corp of Texas
5. Mathers Ranch No 31
6. Humphreys-Douglas
7. Hemphill, TX
8. 38.0 million cubic feet
9. June 22, 1979
10. Arkansas Louisiana Gas Company
1. 79-10497
2. 42-365-00000
3. 108
4. Erso Inc
5. Carthage Unit 6-T
6. Carthage
7. Panola, TX
8. 11.8 million cubic feet
9. June 22, 1979
10. Tennessee Gas Pipe Line Co
1. 79-10498
2. 42-365-00000
3. 108
4. Erso Inc
5. Louis Werner #2
6. Carthage
7. Panola, TX
8. 10.4 million cubic feet
9. June 22, 1979
10. Tennessee Gas Pipe Line Co
1. 79-10499
2. 42-211-30945
3. 103
4. McCulloch Oil Corp of Texas
5. Mathers Ranch No 30
6. Humphreys-Douglas
7. Hemphill, TX
8. 384.0 million cubic feet
9. June 22, 1979
10. Arkansas Louisiana Gas Co
1. 79-10500
2. 42-211-30996
3. 103
4. McCulloch Oil Corp of Texas
5. Mathers Ranch No 29
6. Humphreys-Douglas
7. Hemphill, TX
8. 168.0 million cubic feet
9. June 22, 1979
10. Arkansas Louisiana Gas Company
1. 79-10501
2. 42-211-30992
3. 103
4. McCulloch Oil Corp of Texas
5. Mathers Ranch No 28
6. Humphreys-Douglas
7. Hemphill, TX
8. 54.0 million cubic feet
9. June 22, 1979
10. Arkansas Louisiana Gas Co
1. 79-10502
2. 42-211-30946
3. 103
4. McCulloch Oil Corp of Texas
5. Mathers Ranch No 27
6. Humphreys-Douglas
7. Hemphill, TX
8. 278.0 million cubic feet
9. June 22, 1979
10. Arkansas Louisiana Gas Company
1. 79-10503
2. 42-211-30941
3. 103
4. McCulloch Oil Corp of Texas
5. Mathers Ranch No 25
6. Humphreys-Douglas
7. Hemphill, TX
8. 385.0 million cubic feet
9. June 22, 1979
10. Arkansas Louisiana Gas Company
1. 79-10504

2. 42-211-30878
 3. 103
 4. McCulloch Oil Corp of Texas
 5. Mathers Ranch No 24
 6. Humphreys-Douglas
 7. Hemphill, TX
 8. 396.0 million cubic feet
 9. June 22, 1979
 10. Arkansas Louisiana Gas Co
 1. 79-10505
 2. 42-211-30713
 3. 103
 4. McCulloch Oil Corp of Texas
 5. Mathers Ranch No 23
 6. Humphreys-Douglas
 7. Hemphill, TX
 8. 258.0 million cubic feet
 9. June 22, 1979
 10. Arkansas Louisiana Gas Company
 1. 79-10506
 2. 42-219-32499
 3. 103
 4. Amoco Production Company
 5. West RKM Unit No 208
 6. Slaughter
 7. Hockley, TX
 8. 10.2 million cubic feet
 9. June 22, 1979
 10. El Paso Natural Gas Co
 1. 79-10507
 2. 42-219-32496
 3. 103
 4. Amoco Production Company
 5. West RKM Unit No 212
 6. Slaughter
 7. Hockley, TX
 8. 17.5 million cubic feet
 9. June 22, 1979
 10. El Paso Natural Gas Co
 1. 79-10508
 2. 42-219-32504
 3. 103
 4. Amoco Production Company
 5. West RKM Unit No 199
 6. Slaughter
 7. Hockley, TX
 8. 9.1 million cubic feet
 9. June 22, 1979
 10. El Paso Natural Gas Co
 1. 79-10509
 2. 42-219-32502
 3. 103
 4. Amoco Production Company
 5. West RKM Unit No 206
 6. Slaughter
 7. Hockley, TX
 8. 7.3 million cubic feet
 9. June 22, 1979
 10. El Paso Natural Gas Co
 1. 79-10510
 2. 42-219-32509
 3. 103
 4. Amoco Production Company
 5. West RKM Unit Well No 245
 6. Slaughter
 7. Hockley, TX
 8. 12.8 million cubic feet
 9. June 22, 1979
 10. El Paso Natural Gas Co
 1. 79-10511
 2. 42-219-32508
 3. 103
 4. Amoco Production Company
 5. West RKM Unit Well No 247
6. Slaughter
 7. Hockley, TX
 8. 5.1 million cubic feet
 9. June 22, 1979
 10. El Paso Natural Gas Co
 1. 79-10512
 2. 42-219-32602
 3. 103
 4. Amoco Production Company
 5. East RKM Unit No 61
 6. Slaughter
 7. Hockley, TX
 8. 8.0 million cubic feet
 9. June 22, 1979
 10. El Paso Natural Gas Company
 1. 79-10513
 2. 42-103-31479
 3. 103
 4. Gulf Oil Corp
 5. J T McElroy Cons No 957
 6. McElroy
 7. Crane, TX
 8. .7 million cubic feet
 9. June 22, 1979
 10. Phillips Petroleum Company
 1. 79-10514
 2. 42-427-30881
 3. 103
 4. Sun Oil Company (Delaware)
 5. G C Villarreal B Unit 14 Well #2-L
 6. Garcia (Stray 3470)
 7. Starr, TX
 8. 7.0 million cubic feet
 9. June 22, 1979
 - 10.
 1. 79-10515
 2. 42-427-30881
 3. 103
 4. Sun Oil Company (Delaware)
 5. G C Villarreal B Unit 14 Well #2-L
 6. Garcia (Stray 3470)
 7. Starr, TX
 8. 4.0 million cubic feet
 9. June 22, 1979
 10. Transcontinental Gas Pipe Line Corp
 1. 79-10516
 2. 42-219-32487
 3. 103
 4. Amoco Production Company
 5. West RKM Unit Well No 225
 6. Slaughter
 7. Hockley, TX
 8. 27.4 million cubic feet
 9. June 22, 1979
 10. El Paso Natural Gas Co
 1. 79-10517
 2. 42-219-32510
 3. 103
 4. Amoco Production Company
 5. West RKM Unit Well No 246
 6. Slaughter
 7. Hockley, TX
 8. 12.4 million cubic feet
 9. June 22, 1979
 10. El Paso Natural Gas Co
 1. 79-10518
 2. 42-219-32578
 3. 103
 4. Amoco Production Company
 5. East RKM Unit No 48
 6. Slaughter
 7. Hockley, TX
 8. 8.0 million cubic feet
 9. June 22, 1979

10. El Paso Natural Gas Company
1. 79-10519
2. 42-219-32500
3. 103
4. Amoco Production Company
5. West RKM Unit No 215
6. Slaughter
7. Hockley, TX
8. 15.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Company
1. 79-10520
2. 42-219-32590
3. 103
4. Amoco Production Company
5. East RKM Unit No 70
6. Slaughter
7. Hockley, TX
8. 8.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Company
1. 79-10521
2. 42-219-32495
3. 103
4. Amoco Production Company
5. West RKM Unit No 227
6. Slaughter
7. Hockley, TX
8. 15.4 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Company
1. 79-10522A
2. 42-219-32494
3. 103
4. Amoco Production Company
5. West RKM Unit Well No 196
6. Slaughter
7. Hockley, TX
8. 15.4 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Co
1. 79-10522B
2. 42-065-00000
3. 108
4. Dorchester Gas Producing Co
5. Burgin No 1 (24335)
6. West Panhandle
7. Carson, TX
8. 5.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Co
1. 79-10523
2. 42-179-00000
3. 108
4. Dorchester Gas Producing Co
5. Beavers No 1 (24332)
6. West Panhandle
7. Gray, TX
8. 5.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Co
1. 79-10524
2. 42-065-00000
3. 108
4. Dorchester Gas Producing Co
5. Bednorz No 1 (24323)
6. West Panhandle
7. Carson, TX
8. 12.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Co
1. 79-10525
2. 42-065-00000

3. 108
 4. Dorchester Gas Producing Co
 5. Dowd No 1 (24341)
 6. West Panhandle
 7. Carson TX
 8. 9.0 million cubic feet
 9. June 22, 1979
 10. Northern Natural Gas Co
 1. 79-10526
 2. 42-295-30540
 3. 102
 4. Lear Petroleum Corporation
 5. Pitts No 1
 6. Lear (Morrow Upper)
 7. Lipscomb TX
 8. 730.0 million cubic feet
 9. June 22, 1979
 10. Northern Natural Gas Company, Rael Gas Co
 1. 79-10527
 2. 42-295-30557
 3. 102
 4. Lear Petroleum Corporation
 5. Ingle No 1
 6. Lear (Morrow Upper)
 7. Lipscomb TX
 8. 55.0 million cubic feet
 9. June 22, 1979
 10. Northern Natural Gas Co, Rael Gas Co
 1. 79-10528
 2. 42-295-00000
 3. 102
 4. Lear Petroleum Corporation
 5. Walton No 1
 6. Lear (Morrow Upper)
 7. Lipscomb TX
 8. 73.0 million cubic feet
 9. June 22, 1979
 10. Northern Natural Gas Co, Rael Gas Co
 1. 79-10529
 2. 42-179-00000
 3. 108
 4. Dorchester Gas Producing Co
 5. Osborne No 2 (24377)
 6. West Panhandle
 7. Gray TX
 8. 17.0 million cubic feet
 9. June 22, 1979
 10. Northern Natural Gas Co
 1. 79-10530
 2. 42-065-00000
 3. 108
 4. Dorchester Gas Producing Co
 5. Kuykendall (24362)
 6. West Panhandle
 7. Carson TX
 8. 7.0 million cubic feet
 9. June 22, 1979
 10. Northern Natural Gas Co
 1. 79-10531
 2. 42-469-00000
 3. 108
 4. Monsanto Company
 5. Leona Reeves No 4
 6. Cologne (1400)
 7. Victoria TX
 8. 10.3 million cubic feet
 9. June 22, 1979
 10. Tennessee Gas Pipeline Company
 1. 79-10532
 2. 42-469-00000
 3. 108
 4. Monsanto Company
 5. Leona Reeves No 7
6. Cologne (4800)
 7. Victoria TX
 8. .0 million cubic feet
 9. June 22, 1979
 10. Tennessee Gas Pipeline Company
 1. 79-10533
 2. 42-179-00000
 3. 108
 4. Dorchester Gas Producing Co
 5. Evans No 1 (24345)
 6. West Panhandle
 7. Gray TX
 8. 80.0 million cubic feet
 9. June 22, 1979
 10. Northern Natural Gas Co
 1. 79-10705
 2. 42-003-30729
 3. 103
 4. Exxon Corporation
 5. Means SA Unit #3558
 6. Means
 7. Andrews TX
 8. 1.0 million cubic feet
 9. June 22, 1979
 10. Phillips Petroleum Co
 1. 79-10706
 2. 42-065-00000
 3. 108
 4. Dorchester Gas Producing Co
 5. McConnell No 7 (24370)
 6. West Panhandle
 7. Carson TX
 8. 18.0 million cubic feet
 9. June 22, 1979
 10. Northern Natural Gas Co
 1. 79-10707
 2. 42-179-00000
 3. 108
 4. Dorchester Gas Producing Co
 5. Pinnell No 1 (24381)
 6. West Panhandle
 7. Gray TX
 8. 31.0 million cubic feet
 9. June 22, 1979
 10. Northern Natural Gas Co
 1. 79-10708
 2. 42-497-0000
 3. 103
 4. V L Wolsey
 5. Carl H Watson No 1 RRC 18907
 6. Park Springs Congl
 7. Wise TX
 8. 65.0 million cubic feet
 9. June 22, 1979
 10. Cities Service Co
 1. 79-10709
 2. 42-317-31635
 3. 103
 4. Hytech Energy Corporation
 5. Mabey E No 1
 6. Spraberry (Trend Area)
 7. Martin TX
 8. 2.6 million cubic feet
 9. June 22, 1979
 10. Northern Natural
 1. 79-10710
 2. 42-317-31921
 3. 103
 4. Hytech Energy Corporation
 5. Mabey E No 2
 6. Spraberry (Trend Area)
 7. Martin TX
 8. 2.8 million cubic feet
 9. June 22, 1979
10. Northern Natural
 1. 79-10711
 2. 42-235-31316
 3. 103
 4. Hytech Energy Corporation
 5. Childress No 2
 6. ELA Sugg (Wolfcamp)
 7. Irion TX
 8. 68.2 million cubic feet
 9. June 22, 1979
 10. Northern Natural
 1. 79-10712
 2. 42-235-31279
 3. 103
 4. Hytech Energy Corporation
 5. Childress No 1
 6. ELA Sugg (Wolfcamp)
 7. Irion TX
 8. 35.7 million cubic feet
 9. June 22, 1979
 10. Northern Natural
 1. 79-10713
 2. 42-235-30754
 3. 103
 4. Hytech Energy Corporation
 5. Rocker B-110 No 1
 6. ELA Sugg (Wolfcamp)
 7. Irion TX
 8. 19.5 million cubic feet
 9. June 22, 1979
 10. Northern Natural
 1. 79-10714
 2. 42-235-31258
 3. 103
 4. Hytech Energy Corporation
 5. Rocker B-106 No 1
 6. ELA Sugg (Wolfcamp)
 7. Irion TX
 8. 10.6 million cubic feet
 9. June 22, 1979
 10. Northern Natural
 1. 79-10715
 2. 42-247-30806
 3. 102 103
 4. Exxon Corporation
 5. Mrs A M K Bass Well No 35-T 79657
 6. Kelsey Deep (7990)
 7. Jim Hogg TX
 8. 300.0 million cubic feet
 9. June 22, 1979
 10. Trunkline Gas Company
 1. 79-10716
 2. 42-003-31183
 3. 103
 4. Exxon Corporation
 5. Means SA Unit #1566
 6. Means
 7. Andrews TX
 8. 1.0 million cubic feet
 9. June 22, 1979
 10. Phillips Petroleum Co
 1. 79-10718
 2. 42-003-31693
 3. 103
 4. Exxon Corporation
 5. Means SA Unit #1264
 6. Means
 7. Andrews TX
 8. 3.0 million cubic feet
 9. June 22, 1979
 10. Phillips Petroleum Co
 1. 79-10720
 2. 42-165-31438

3. 103
4. Exxon Corporation
5. Robertson (Clfrk) Unit #5602
6. Robertson N (Clearfork 7100)
7. Gaines TX
8. 11.0 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Co
1. 79-10722
2. 42-165-31306
3. 103
4. Exxon Corporation
5. Robertson (Clfrk) Unit Well #9902
6. Robertson N (Clearfork 7100)
7. Gaines TX
8. 9.0 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Co
1. 79-10724
2. 42-393-00000
3. 103
4. Pioneer Production Corporation
5. Morrison #1-12 #77530
6. Carrie-Kellebrew (Morrow)
7. Roberts TX
8. 3517.0 million cubic feet
9. June 22, 1979
10. Pioneer Natural Gas Company
1. 79-10717
2. 42-261-30411
3. 102 103
4. Exxon Corporation
5. Sarita Fld O & G Unit #138-D 79267
6. Sarita (17-A W)
7. Kenedy TX
8. 165.0 million cubic feet
9. June 22, 1979
10. Natural Gas Pipeline Co
1. 79-10719
2. 42-165-30599
3. 103
4. Exxon Corporation
5. Robertson (Clfrk) Unit #5902
6. Robertson N (Clearfork 7100)
7. Gaines TX
8. 20.0 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Co
1. 79-10721
2. 42-165-31285
3. 103
4. Exxon Corporation
5. Robertson (Clfrk) Unit Well No 9802
6. Robertson N (Clearfork) 7100
7. Gaines TX
8. 4.0 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Co
1. 79-10723
2. 42-505-31037
3. 102
4. Pennzoil Producing Company
5. Jennings No 38
6. Jennings W
7. Zapata TX
8. 0 million cubic feet
9. June 22, 1979
10. Natural Gas Pipeline Company of AME
1. 79-10725
2. 42-295-00000
3. 103
4. Dorchester Exploration Inc
5. Schoenhals No 1
6. Horsecreek NW
7. Lipscomb TX
8. 0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Company
1. 79-10726
2. 42-295-30526
3. 103
4. Dorchester Exploration Inc
5. C L Unit No 1-A
6. Horsecreek NW
7. Lipscomb TX
8. 0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Company
1. 79-10727
2. 42-295-30525
3. 103
4. Dorchester Exploration Inc
5. Kelln 205 No 1
6. Horsecreek NW
7. Lipscomb TX
8. 0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Company
1. 79-10728
2. 42-295-30556
3. 103
4. Dorchester Exploration Inc
5. Kella 206 No 1
6. Horsecreek NW
7. Lipscomb TX
8. 0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Company
1. 79-10729
2. 42-165-00000
3. 103
4. Wood McShane & Thams
5. Simpson #1-RRC #75069
6. Block A-34 (Yates)
7. Gaines TX
8. 0.6 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Company
1. 79-10730
2. 42-165-00000
3. 103
4. Wood McShane & Thams
5. Elam #1-RRC #75067
6. Block A-34 (Yates)
7. Gaines TX
8. 3.4 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Company
1. 79-10731
2. 42-165-00000
3. 103
4. Wood McShane & Thams
5. Mayo B #1-RRC #75066
6. Block A-34 (Yates)
7. Gaines TX
8. 4 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Company
1. 79-10732
2. 42-165-00000
3. 103
4. Wood McShane & Thams
5. Mayo A #1-RRC #75065
6. Block A-34 (Yates)
7. Gaines TX
8. 3.5 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Company

1. 79-10733
2. 42-165-00000
3. 103
4. Wood McShane & Thams
5. Alexander #1-RRC #75046
6. Block A-34 (Yates)
7. Gaines & Andrews TX
8. 3.9 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Company
1. 79-10734
2. 42-247-30802
3. 102 103
4. Exxon Corporation
5. Mrs A M K Bass B Well #15-F 77741
6. Kelsey Deep (Zone 19-A Seg 8)
7. Jim Hogg TX
8. 100.0 million cubic feet
9. June 22, 1979
10. Trunkline Gas Company
1. 79-10735
2. 42-367-30855
3. 102
4. Mitchell Energy Corporation
5. N G Watkins #1 74683
6. Lake Mineral Wells (4000' Congl)
7. Parker TX
8. 0 million cubic feet
9. June 22, 1979
10. Natural Gas Pipeline Co of America
1. 79-10736
2. 42-165-30644
3. 103
4. Exxon Corporation
5. Robertson (clfrk) Unit #8302
6. Robertson N (Clearfork)
7. Gaines TX
8. 26.0 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Company
1. 79-10737
2. 42-211-30956
3. 103
4. Philcon Development Co
5. Temple #1
6. Mendota NW (Granite Wash)
7. Hemphill TX
8. 48.0 million cubic feet
9. June 22, 1979
10. Diamond Shamrock Corporation
1. 79-10738
2. 42-389-30923
3. 103
4. Gulf Oil Corporation
5. R Cleveland et al Well #9
6. Worsham, Bayer (Penn.)
7. Reeves TX
8. 750.0 million cubic feet
9. June 22, 1979
10. Transwestern Pipeline Co
1. 79-10739
2. 42-475-31752
3. 103
4. Gulf Oil Corporation
5. E W Estes Well #246
6. Estes Block 34 (Penn.)
7. Ward TX
8. 8.0 million cubic feet
9. June 22, 1979
10. Cabot Corporation
1. 79-10740
2. 42-473-30298
3. 103
4. Exxon Corporation

5. Katy Gas Fld Consolidated Ut Well 4
6. Katy (I-A)
7. Waller TX
8. 3650.0 million cubic feet
9. June 22, 1979
10. United Texas Transmission Co. Lone Star Gas Co
1. 79-10741
2. 42-339-30410
3. 103
4. Exxon Corporation
5. Conroe Field Unit Well #110
6. Conroe Field
7. Montgomery TX
8. 110.0 million cubic feet
9. June 22, 1979
10. Moran Utilities Company
1. 79-10742
2. 42-339-30407
3. 103
4. Exxon Corporation
5. Conroe Field Unit Well #310
6. Conroe Field
7. Montgomery TX
8. 180.0 million cubic feet
9. June 22, 1979
10. Moran Utilities Company
1. 79-10743
2. 42-211-31003
3. 103
4. Courson Oil & Gas Inc
5. Knighton A #1-90
6. Gem-Hemphill (Tonkawa)
7. Hemphill TX
8. 200.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Company
1. 79-10745
2. 42-383-31292
3. 103
4. Hanley Company
5. University 58-18B Well #1 (07718)
6. Spraberry (Trend Area)
7. Reagan TX
8. 5.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Company
1. 79-10746
2. 42-473-30082
3. 103
4. Exxon Corporation
5. Katy Gas Fld Consolidated Ut Well 62
6. Katy (IV)
7. Waller TX
8. 2190.0 million cubic feet
9. June 22, 1979
10. United Texas Transmission Co. Lone Star Gas Co
1. 79-10747
2. 42-473-30081
3. 103
4. Exxon Corporation
5. Katy Gas Fld Consolidated Ut Well 5
6. Katy (Cockfield Upper B)
7. Waller TX
8. 2190.0 million cubic feet
9. June 22, 1979
10. United Texas Transmission Co. Lone Star Gas Co
1. 79-10748
2. 42-473-30081
3. 103
4. Exxon Corporation
5. Katy Gas Fld Consolidated Ut Well 53

6. Katy (IV)
7. Waller TX
8. 1825.0 million cubic feet
9. June 22, 1979
10. United Texas Transmission Co. Lone Star Gas Co
1. 79-10749
2. 42-473-30081
3. 103
4. Exxon Corporation
5. Katy Gas Fld Consolidated Ut Well 5
6. Katy (III-A)
7. Waller TX
8. 1095.0 million cubic feet
9. June 22, 1979
10. United Texas Transmission Co. Lone Star Gas Co
1. 79-10750
2. 42-473-30082
3. 103
4. Exxon Corporation
5. Katy Gas Fld Consolidated Ut Well 62
6. Katy (II-B)
7. Waller TX
8. 6570.0 million cubic feet
9. June 22, 1979
10. United Texas Transmission Co. Lone Star Gas Co
1. 79-10751
2. 42-473-30082
3. 103
4. Exxon Corporation
5. Katy Gas Fld Consolidated Ut Well 6
6. Katy (III-A)
7. Waller TX
8. 2555.0 million cubic feet
9. June 22, 1979
10. United Texas Transmission Co. Lone Star Gas Co
1. 79-10752
2. 42-467-30383
3. 103
4. Exxon Corporation
5. R S Blake Well #23
6. Van
7. Van Zandt TX
8. 20.0 million cubic feet
9. June 22, 1979
10. United Gas Pipe Line Company
1. 79-10753
2. 42-339-30397
3. 103
4. Exxon Corporation
5. Keystone Mills Well No. 34-L
6. Conroe South (Wilcox 9250)
7. Montgomery TX
8. 548.0 million cubic feet
9. June 22, 1979
10. Moran Utilities Company
1. 79-10754
2. 42-473-30298
3. 103
4. Exxon Corporation
5. Katy Gas Fld Consolidated Ut Well 43
6. Katy (IV)
7. Waller TX
8. 2555.0 million cubic feet
9. June 22, 1979
10. United Texas Transmission Co. Lone Star Gas Co
1. 79-10755
2. 42-473-30298
3. 103
4. Exxon Corporation

5. Katy Gas Fld. Consolidated UT Well 4
6. Katy (III-A)
7. Waller, TX
8. 2555.0 million cubic feet
9. June 22, 1979
10. United Texas Transmission Co., Lone Star Gas Co.
1. 79-10756
2. 42-235-31293
3. 103
4. Energy Reserves Group Inc.
5. Ela C. Sugg 61 No. 2
6. Ela Sugg (Wolfcamp)
7. Irion, TX
8. 180.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Co.
1. 79-10757
2. 42-317-31934
3. 103
4. Hanley Company
5. University 7-31B Well No. 1 (24896)
6. Hutex (Dean)
7. Martin, TX
8. 10.0 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Company
1. 79-10758
2. 42-173-30451
3. 103
4. Hanley Company
5. C. J. Cox A. Well No. 4 (07149)
6. Calvin (Dean)
7. Glasscock, TX
8. 21.0 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Co.
1. 79-10759
2. 42-195-30624
3. 103
4. Mesa Petroleum Co.
5. ODC No. 2-38
6. Hansford (Lower Morrow)
7. Hansford, TX
8. 180.0 million cubic feet
9. June 22, 1979
10. Natural Gas Pipeline
1. 79-10760
2. 42-355-30833
3. 103
4. Pennzoil Producing Company
5. Gee No. 5 (U)
6. Agua Dulce
7. Nueces, TX
8. 18.0 million cubic feet
9. June 22, 1979
10. United Gas Pipeline Company
1. 79-10761
2. 42-355-31284
3. 102
4. Pennzoil Producing Company
5. Clara Driscoll No. A-14 (L)
6. Agua Dulce
7. Nueces, TX
8. 450.0 million cubic feet
9. June 22, 1979
10. United Gas Pipeline Company
1. 79-10762
2. 42-261-30429
3. 102 103
4. Exxon Corporation
5. Mrs. S. K. East 94-D 78619
6. Rita (10-L-II)
7. Kenedy, TX

8. 456.0 million cubic feet
9. June 22, 1979
10. Natural Gas Pipeline Co. of Am
1. 79-10763
2. 42-165-00000
3. 103
4. Wood McShane & Thams
5. Mayo No. 1—RRC No. 75068
6. Block A-34 (Yates)
7. Gaines County, TX
8. 3.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Company

1. 79-10764
2. 42-047-30585
3. 102 103
4. Exxon Corporation
5. Santa Fe Ranch 35-F 79920
6. Santa Fe (D-38)
7. Brooks, TX
8. 350.0 million cubic feet
9. June 22, 1979
10. Natural Gas Pipeline Co. of Am.

1. 79-10765
2. 42-081-30687
3. 103
4. Enrich Oil Corporation
5. Bessie Walker No. 1
6. Bloodworth N. (Canyon 5650)
7. Coke, TX
8. 32.9 million cubic feet
9. June 22, 1979

10. Sun Gas Company
1. 79-10766
2. 42-427-31169
3. 103
4. Shell Oil Company
5. G E Neblett et al Gas Unit No. 3
6. La Copita (Vicksburg Z-2)
7. Starr, TX
8. 25.0 million cubic feet
9. June 22, 1979
10. Tennessee Gasline Pipeline Co

1. 79-10767
2. 42-427-30889
3. 103
4. Shell Oil Company
5. Bentsen Bros B No. 9
6. La Copita (Vicksburg Z)
7. Starr, TX
8. 270.0 million cubic feet
9. June 22, 1979
10. Tennessee Gas Pipeline Co

1. 79-10768
2. 42-483-00000
3. 108
4. Pendleton and Vaughan
5. Atkins No. 1 TRRC ID No. 27000
6. East Panhandle
7. Wheeler, TX
8. 11.5 million cubic feet
9. June 22, 1979
10. Warren Petroleum Company

1. 79-10769
2. 42-371-31869
3. 107
4. GMW—O'Neill J I Jr
5. Raymal Eagle No 1 76352
6. Gomez No (Devonian)
7. Pecos, TX
8. 720.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Co

1. 79-10771
2. 42-235-31280
3. 103
4. Hytech Energy Corporation
5. Murphey B No 2
6. Spraberry (Trend Area)
7. Irion, TX
8. 29.4 million cubic feet
9. June 22, 1979
10. Northern Natural

1. 79-10772
2. 42-165-31274
3. 103
4. Hytech Energy Corporation
5. Hulse Unit No 1
6. Loop NE (Yates)
7. Gaines, TX
8. .4 million cubic feet
9. June 22, 1979
10. Northern Natural

1. 79-10773
2. 42-165-31275
3. 103
4. Hytech Energy Corporation
5. Smith Unit No 1
6. Loop NE (Yates)
7. Gaines, TX
8. 5.1 million cubic feet
9. June 22, 1979
10. Northern Natural

1. 79-10774
2. 42-165-31191
3. 103
4. Hytech Energy Corporation
5. King No 1
6. Loop NE (Yates)
7. Gaines, TX
8. 24.3 million cubic feet
9. June 22, 1979
10. Northern Natural

1. 79-10775
2. 42-235-31271
3. 103
4. Hytech Energy Corporation
5. Rocker B-85 No 1
6. Ela Sugg (Wolfcamp)
7. Irion, TX
8. 98.1 million cubic feet
9. June 22, 1979
10. Northern Natural

1. 79-10776
2. 42-235-31317
3. 103
4. Hytech Energy Corporation
5. Rocker B-85 No 2
6. Ela Sugg (Wolfcamp)
7. Irion, TX
8. 105.0 million cubic feet
9. June 22, 1979
10. Northern Natural

1. 79-10777
2. 42-235-31260
3. 103
4. Hytech Energy Corporation
5. Rocker B-86 No 1
6. Ela Sugg (Wolfcamp)
7. Irion, TX
8. 27.6 million cubic feet
9. June 22, 1979
10. Northern Natural

1. 79-10778
2. 42-235-31172
3. 103
4. Hytech Energy Corporation

5. Rocker B-87 No 1
6. Ela Sugg (Wolfcamp)
7. Irion, TX
8. 131.4 million cubic feet
9. June 22, 1979
10. Northern Natural

1. 79-10779
2. 42-235-31198
3. 103
4. Hytech Energy Corporation
5. Rocker B-87 No 2
6. Ela Sugg (Wolfcamp)
7. Irion, TX
8. 163.9 million cubic feet
9. June 22, 1979
10. Northern Natural

1. 79-10780
2. 42-235-31200
3. 103
4. Hytech Energy Corporation
5. Rocker B-88 No 1
6. Ela Sugg (Wolfcamp)
7. Irion, TX
8. 110.9 million cubic feet
9. June 22, 1979
10. Northern Natural

1. 79-10781
2. 42-317-31920
3. 103
4. Hytech Energy Corporation
5. Mabec C No 3
6. Spraberry (Trend Area)
7. Martin, TX
8. 2.6 million cubic feet
9. June 22, 1979
10. Northern Natural

1. 79-10782
2. 42-317-31628
3. 103
4. Hytech Energy Corporation
5. Mabec C No 2
6. Spraberry (Trend Area)
7. Martin, TX
8. 5.3 million cubic feet
9. June 22, 1979
10. Northern Natural

1. 79-10783
2. 42-311-30864
3. 103
4. Exxon Corporation
5. J C Dilworth No 13 ID #77114
6. Dilworth (Edwards Line)
7. McMullen, TX
8. 300.0 million cubic feet
9. June 22, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-10784
2. 42-427-31243
3. 103
4. Exxon Corporation
5. Miguel Juarez Well No 6 78551
6. Kelsey South (Zone 24-A&B)
7. Starr, TX
8. 200.0 million cubic feet
9. June 22, 1979
10. Trunkline Gas Company

1. 79-10785
2. 42-247-30404
3. 102, 103
4. Exxon Corporation
5. Mrs A M K Bass Well #34 79664
6. Kelsey Deep (Zone 22-C) NW
7. Jim Hogg, TX
8. 146.0 million cubic feet

9. June 22, 1979
10. Trunkline Gas Company
1. 79-10786
2. 42-057-30848
3. 103
4. Exxon Corporation
5. Mrs F H Welder well No 46 5637
6. Heyser S (5400 #2)
7. Calhoun, TX
8. 55.0 million cubic feet
9. June 22, 1979
10. Tennessee Gas Pipeline Company

1. 79-10787
2. 42-247-30400
3. 102 103
4. Exxon Corporation
5. Mrs A M K Bass well No 33 75313
6. Kelsey Deep (Zone 22-H NW)
7. Jim Hogg, TX
8. 200.0 million cubic feet
9. June 22, 1979
10. Trunkline Gas Company

1. 79-10788
2. 42-235-31174
3. 103
4. Hytech Energy Corporation
5. Murphey A No 2
6. Spraberry (Trend Area)
7. Irion, TX
8. 27.6 million cubic feet
9. June 22, 1979
10. Northern Natural

1. 79-10789
2. 42-206-31245
3. 103
4. Hytech Energy Corporation
5. Murphey B No 1
6. Spraberry (Trend Area)
7. Irion, TX
8. 30.6 million cubic feet
9. June 22, 1979
10. Northern Natural

1. 79-10790
2. 42-235-31251
3. 103
4. Hytech Energy Corporation
5. Rocker B-88 No. 2
6. Ela Sugg (Wolfcamp)
7. Irion, TX
8. 43.0 million cubic feet
9. June 22, 1979
10. Northern Natural

1. 79-10791
2. 42-235-31156
3. 103
4. Hytech Energy Corporation
5. Rocker B-105 No. 2
6. Ela Sugg (Wolfcamp)
7. Irion, TX
8. 12.6 million cubic feet
9. June 22, 1979
10. Northern Natural

1. 79-10792
2. 42-211-31021
3. 103
4. Pioneer Production Corporation
5. L E Hoover Estate #1 (=79388)
6. Canadian East (Douglas)
7. Hemphill, TX
8. 300.0 million cubic feet
9. June 22, 1979
10. Pioneer Natural Gas Company

1. 79-10793

2. 42-211-31004
3. 103
4. Pioneer Production Corporation
5. Lindley #2 (79602)
6. Canadian East (Douglas)
7. Hemphill, TX
8. 190.0 million cubic feet
9. June 22, 1979
10. Pioneer Natural Gas Company

1. 79-10794
2. 42-247-30802
3. 102 103
4. Exxon Corporation
5. Mrs A M K Bass B well No. 15-D 77741
6. Kelsey Deep (Zone 20-A Seg 8)
7. Jim Hogg, TX
8. 300.0 million cubic feet
9. June 22, 1979
10. Trunkline Gas Company

1. 79-10795
2. 42-383-30843
3. 103
4. Hanley Company
5. University 58-19B well #1 (06963)
6. Spraberry (Trend Area)
7. Reagan, TX
8. 12.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Company

1. 79-10796
2. 42-497-31265
3. 103
4. Mitchell Energy Corporation
5. R D Grantham #3 78212
6. Bonnsville (Bend Congl Gas)
7. Wise, TX
8. 16.5 million cubic feet
9. June 22, 1979
10. Natural Gas Pipeline Co of America

1. 79-10797
2. 42-367-31029
3. 102
4. Mitchell Energy Corporation
5. J C Peipelman #1 77498
6. Lake Mineral Wells (4000 Congloma)
7. Parker, TX
8. 330.0 million cubic feet
9. June 22, 1979
10. Natural Gas Pipeline Company of America

1. 79-10798
2. 42-367-31186
3. 102
4. Mitchell Energy Corporation
5. Sarah Jane Howard #1 79704
6. Lake Mineral Wells (4000 Congl)
7. Parker, TX
8. 330.0 million cubic feet
9. June 22, 1979
10. Natural Gas Pipeline Co of America

1. 79-10799
2. 42-081-30636
3. 103
4. Exxon Corporation
5. I A B Unit well #513
6. I A B (Menielle Penn)
7. Coke, TX
8. 20.0 million cubic feet
9. June 22, 1979
10. Sun Gas Company

1. 79-10800
2. 42-135-32707
3. 103
4. Phillips Petroleum Company

5. Cowden—U No 3
6. Donnelly (San Andres)
7. Ector, TX
8. 28.5 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Company

1. 79-10801
2. 42-461-31238
3. 103
4. Phillips Petroleum Company
5. N Pembroke Spr U 6-4
6. Spraberry (Trend Area)
7. Upton, TX
8. 15.1 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Company

1. 79-10802
2. 42-461-31230
3. 103
4. Phillips Petroleum Company
5. N Pembroke Spr U 5-39
6. Spraberry (Trend Area)
7. Upton, TX
8. 5.4 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Company

1. 79-10803
2. 42-329-330774
3. 103
4. Phillips Petroleum Company
5. McAlister-B No 2
6. Spraberry (Trend Area)
7. Midland, TX
8. 9.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Co

1. 79-10804
2. 42-495-30508
3. 103
4. Phillips Petroleum Company
5. McCabe No 47
6. Halley
7. Winkler
8. 8.5 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Company

1. 79-10805
2. 42-135-32692
3. 103
4. Phillips Petroleum Company
5. Frank-B No 27
6. Goldsmith N (San Andres Con)
7. Ector, TX
8. 59.4 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Company

1. 79-10806
2. 42-371-32482
3. 103
4. Phillips Petroleum Company
5. Mitchell-P No 1
6. Puckett East (Strawn)
7. Pecos, TX
8. 183.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Co

1. 79-10807
2. 42-371-32441
3. 103
4. Phillips Petroleum Company
5. Mitchell-N No 1
6. Puckett East (Strawn)
7. Pecos, TX
8. 183.0 million cubic feet

9. June 22, 1979
10. Northern Natural Gas Company
1. 79-10808
2. 42-135-32161
3. 103
4. Phillips Petroleum Company
5. Embar No 52
6. Andector (Ellenburger)
7. Ector, TX
8. 13.1 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Co
1. 79-10809
2. 42-317-3200
3. 103
4. Hanley Company
5. University 7-31C well #1 (25068)
8. Hutex (Dean)
7. Martin, TX
8. 3.0 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Company
1. 79-10810
2. 42-317-31999
3. 103
4. Hanley Company
5. University 7-31D well #1 (25069)
6. Hutex (Dean)
7. Martin, TX
8. 10.0 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Company
1. 79-10811
2. 42-003-31710
3. 103
4. Hanley Company
5. University 7-38C well #1 (25106)
6. Hutex (Dean)
7. Andrews, TX
8. 3.0 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Company
1. 79-10812
2. 42-371-32621
3. 103
4. Mobil Oil Corporation
5. James O Neal No 5
6. Coynosa N (Delaware)
7. Pecos, TX
8. 81.5 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Company, Pioneer Natural Gas Co
1. 79-10813
2. 42-483-30514
3. 103
4. H I L Brown Jr
5. T A Greenhouse No 1
6. Lott Ranch (Morrow UP)
7. Wheeler, TX
8. 96.0 million cubic feet
9. June 22, 1979
10. Michigan Wisconsin Pipe Line Company
1. 79-10814
2. 42-483-30488
3. 103
4. H I L Brown Jr
5. Thurman Horn No 1
6. Lott Ranch (Morrow Upper)
7. Wheeler, TX
8. 275.0 million cubic feet
9. June 22, 1979
10. Michigan Wisconsin Pipe Line Co
1. 79-10815
2. 42-483-30557
3. 103
4. H I L Brown Jr
5. D E Atherton No 1
6. Lott Ranch (Morrow Up)
7. Wheeler, TX
8. 1825.0 million cubic feet
9. June 22, 1979
10. Michigan Wisconsin Pipe Line Company
1. 79-10816
2. 42-047-30339
3. 103
4. Exxon Corporation
5. Scott & Hopper 25-D 8908
6. Scott & Hopper (6750)
7. Brooks, TX
8. 50.0 million cubic feet
9. June 22, 1979
10. Tennessee Gas Pipeline
1. 79-10817
2. 42-261-30414
3. 102 103
4. Exxon Corporation
5. J G Kenedy Jr E #24 80041
6. El Paistle (G-25)
7. Kenedy, TX
8. 548.0 million cubic feet
9. June 22, 1979
10. Natural Gas Pipeline Co of America
1. 79-10818
2. 42-047-30585
3. 102 103
4. Exxon Corporation
5. Santa Fe Ranch #35-D 79936
6. Santa Fe (D-19)
7. Brooks, TX
8. 350.0 million cubic feet
9. June 22, 1979
10. Natural Gas Pipeline Co of America
1. 79-10819
2. 42-400-31383
3. 103
4. I. & L. Petroleum Corporation
5. C K McCan Jr #5
6. Salem
7. Victoria, TX
8. 90.0 million cubic feet
9. June 22, 1979
10. Texas Eastern Transmission Corp
1. 79-10820
2. 42-427-31190
3. 102 103
4. Exxon Corporation
5. Vicente Saenz State C No 6 77240
6. Strong (Saenz 7320)
7. Starr, TX
8. 60.0 million cubic feet
9. June 22, 1979
10. Tennessee Gas Pipeline Company
1. 79-10821
2. 42-089-30669
3. 102
4. Cities Service Company
5. Schoeneberg A-1 73290
6. Dubina S (9150)
7. Colorado, TX
8. 58.0 million cubic feet
9. June 22, 1979
10. United Gas Pipe Line Co
1. 79-10822
2. 42-371-00000
3. 108
4. Sackett Oil Corporation
5. State A/C 101 Well No 2 19864
6. Fort Stockton
7. Pecos, TX
8. 13.7 million cubic feet
9. June 22, 1979
10. The Neuces Company
1. 79-10823
2. 42-427-31227
3. 103
4. Shell Oil Company
5. Bentsen Bros—State No 7
6. La Copita (Vicksburg Z)
7. Starr, TX
8. 70.0 million cubic feet
9. June 22, 1979
10. Tennessee Gas Pipeline Co
1. 79-10824
2. 42-211-00000
3. 102
4. Amarex Inc
5. Filligim—Teas Unit #1
6. Buffalo Wallow
7. Hemphill, TX
8. 1800.0 million cubic feet
9. June 22, 1979
10. Arkansas Louisiana Gas Company
1. 79-10825
2. 42-469-30586
3. 103
4. Sun Oil Company (Delaware)
5. McFaddin No 158
6. McFaddin (Tom Oconnor)
7. Victoria, TX
8. 12.0 million cubic feet
9. June 22, 1979
10. Tennessee Gas Pipeline Company
1. 79-10826
2. 42-481-31200
3. 103
4. Sun Oil Company (Delaware)
5. J P Henderson Well #2
6. Wharco-Shilling (Slate)
7. Wharton, TX
8. 2.0 million cubic feet
9. June 22, 1979
10. Texas Eastern Transmission Corporation
1. 79-10827
2. 42-167-30351
3. 103
4. Sun Oil Company (Delaware)
5. Humphreys Well #8
6. Caplen (FB-8 1-Z)
7. Galveston, TX
8. 58.0 million cubic feet
9. June 22, 1979
10. Texas Gas Pipe Line Corporation
1. 79-10828
2. 42-089-30677
3. 103
4. Sun Oil Company (Delaware)
5. W R Frnka No 2
6. Wharco Schilling W
7. Colorado, TX
8. 395.0 million cubic feet
9. June 22, 1979
10. Texas Eastern Transmission Corporation
1. 79-10829
2. 42-071-30881
3. 103
4. Sun Oil Company (Delaware)
5. Simm Unit Well #4-C
6. Winnie N (5150)
7. Chambers, TX
8. 300.0 million cubic feet

9. June 22, 1979
10. Texas Eastern Transmission Corporation
1. 79-10830
2. 42-071-30891
3. 103
4. Sun Oil Company (Delaware)
5. Simm Unit Well #4-T
6. Winnie N (5350)
7. Chambers, TX
8. 330.0 million cubic feet
9. June 22, 1979
10. Texas Eastern Transmission Corporation
1. 79-10831
2. 42-183-30165
3. 103
4. Gulf Oil Corporation
5. Lawrence Unit Well #4 RRC #77062
6. Willow Springs (Cotton Valley)
7. Gregg, TX
8. 350.0 million cubic feet
9. June 22, 1979
10. United Gas Pipeline
1. 79-10832
2. 42-103-31956
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. M B McKnight #117
6. Running W North (Holt)
7. Crane, TX
8. 40.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Co
1. 79-10833
2. 42-103-31475
3. 103
4. Gulf Oil Corp
5. J T McElroy Cons No 936
6. McElroy
7. Crane, TX
8. .1 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Company
1. 79-10834
2. 42-103-31890
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. W A Estes #105
6. Sand Hills West
7. Crane, TX
8. 5.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Co
1. 79-10835
2. 42-461-31216
3. 103
4. Gulf Oil Corp
5. J T McElroy Cons No 1013
6. McElroy
7. Upton, TX
8. 3.5 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Company
1. 79-10836
2. 42-081-00000
3. 103
4. Texfel Petroleum Corp
5. 1 A—301 No 1
6. Arledge (Penn Sand)
7. Coke, TX
8. 148.0 million cubic feet
9. June 22, 1979
10. Sun Gas Company
1. 79-10837
2. 42-261-30239
3. 102 103
4. Exxon Corporation
5. J G Kenedy E 22-F 77509
6. El Paistle (J-62)
7. Kenedy, TX
8. 148.0 million cubic feet
9. June 22, 1979
10. Natural Gas Pipeline Co of America
1. 79-10838
2. 42-383-31256
3. 103
4. Hanley Company
5. University 10-10A Well #2 (07622)
6. Spraberry (Trend Area)
7. Reagan, TX
8. 10.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Company
1. 79-10839
2. 42-383-31270
3. 103
4. Hanley Company
5. University 10-11A Well #1 (07623)
6. Spraberry (Trend Area)
7. Reagan, TX
8. 10.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Company
1. 79-10840
2. 42-383-31269
3. 103
4. Hanley Company
5. University 10-11B Well #1 (07632)
6. Spraberry (Trend Area)
7. Reagan, TX
8. 10.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Company
1. 79-10841
2. 42-383-31268
3. 103
4. Hanley Company
5. University 10-11C Well #1 (07670)
6. Spraberry (Trend Area)
7. Reagan, TX
8. 10.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Company
1. 79-10842
2. 42-383-31267
3. 103
4. Hanley Company
5. University 10-11D Well #1 (07698)
6. Spraberry (Trend Area)
7. Reagan, TX
8. 10.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Company
1. 79-10843
2. 42-383-31291
3. 103
4. Hanley Company
5. University 58-18A Well #1 (07675)
6. Spraberry (Trend Area)
7. Reagan, TX
8. 5.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Company
1. 79-10844
2. 42-383-00000
3. 103
4. Hanley Company
5. T X L C Well #1 (07266)
6. Calvin (Dean)
7. Reagan, TX
8. 6.0 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Company
1. 79-10845
2. 42-383-00000
3. 103
4. Hanley Company
5. T X L D Well #1 (07267)
6. Calvin (Dean)
7. Reagan, TX
8. 5.0 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Company
1. 79-10846
2. 42-383-31252
3. 103
4. Hanley Company
5. University 10-10A Well No. 1 (07622)
6. Spraberry (Trend area)
7. Reagan, TX
8. 10.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Company
1. 79-10847
2. 42-081-30676
3. 103
4. Exxon Corporation
5. I A B Unit Well No. 110
6. I A B (Menielle Penn)
7. Coke, TX
8. 9.0 million cubic feet
9. June 22, 1979
10. Sun Gas Company
1. 79-10848
2. 42-003-31714
3. 103
4. Hanley Company
5. University 8-38 Well No. 1 (25144)
6. Hutex (Dean)
7. Andrews, TX
8. 6.0 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Company
1. 79-10849
2. 42-317-31939
3. 103
4. Hanley Company
5. University 7-25 Well No. 1 (24716)
6. Hutex (Dean)
7. Martin, TX
8. 7.0 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Company
1. 79-10850
2. 42-003-31584
3. 103
4. Hanley Company
5. University 7-25 Well No. 2 (24716)
6. Hutex (Dean)
7. Andrews, TX
8. 7.0 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Company
1. 79-10851
2. 42-003-31829
3. 103
4. Hanley Company
5. University 7-25A Well No. 1 (21927)
6. Hutex (Dean)
7. Andrews, TX
8. 4.0 million cubic feet
9. June 22, 1979

10. Phillips Petroleum Company
1. 79-10852
2. 42-003-31832
3. 103
4. Hanley Company
5. University 7-258 Well No. 1 (24937)
6. Hutex (Dean)
7. Andrews, TX
8. 4.0 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Company
1. 79-10853
2. 42-317-31928
3. 103
4. Hanley Company
5. University 7-31A Well No. 1 (24864)
6. Hutex (Dean)
7. Martin, TX
8. 24.0 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Company
1. 79-10854
2. 42-317-31947
3. 103
4. Henley Company
5. University 7-26 Well No. 1 (24760)
6. Hutex (Dean)
7. Martin, TX
8. 7.0 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Company
1. 79-10855
2. 42-003-03911
3. 103
4. Sun Oil Company
5. University 7 No. 1
6. Fullerton
7. Andrews, TX
8. 21.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Company, Amoco Production Co.
1. 79-10856
2. 42-003-03879
3. 103
4. Sun Oil Company (Delaware)
5. University 7 No. 2
6. Fullerton
7. Andrews, TX
8. 10.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Company, Amoco Production Co.
1. 79-10857
2. 42-365-30839
3. 103
4. Crystal Oil and Land Company
5. Jernigan #1
6. Panola
7. Panola, TX
8. 165.0 million cubic feet
9. June 22, 1979
10. United Gas Pipeline Company
1. 79-10858
2. 42-219-32311
3. 103
4. Gulf Oil Corporation
5. M G Gurdon No. 28
6. Slaughter (ABO)
7. Hockley, TX
8. 32.9 million cubic feet
9. June 22, 1979
10. Amoco Production Company
1. 79-10859
2. 42-475-31813
3. 103
4. Gulf Oil Corp
5. Crawar Filed Unit #8
6. Crawar (Glorieta)
7. Ward TX
8. 10.0 million cubic feet
9. June 22, 1979
10. Transwestern Pipeline Co
1. 79-10860
2. 42-103-31851
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. State EI #8
6. Dune
7. Crane, TX
8. 28.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Co
1. 79-10861
2. 42-003-31162
3. 103
4. Gulf Oil Corporation
5. F E Gardner Et Al No. 3
6. Means
7. Andrews TX
8. .9 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Company
1. 79-10862
2. 42-003-31160
3. 103
4. Gulf Oil Corporation
5. F E Gardner Et Al No. 2
6. Means
7. Andrews TX
8. .6 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Company
1. 79-10863
2. 42-103-31880
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. M B McKnight #15
6. Running W North (Holt)
7. Crane TX
8. 19.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Co
1. 79-10864
2. 42-103-31902
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. W N Waddell Et Al #1103
6. C-Bar (San AndresS)
7. Crane TX
8. 4.0million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Co
1. 79-10865
2. 42-003-31161
3. 103
4. Gulf Oil Corporation
5. F E Gardner Et Al No. 4
6. Means
7. Andrews TX
8. 1.5 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Company
1. 79-10866
2. 42-103-31879
3. 103
4. Warren Pet Co Div/Gulf Oil Corp

5. M F Henderson #165
6. C-Bar (San Andres)
7. Crane TX
8. 3.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Co
1. 79-10867
2. 42-103-31840
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. State EC #4
6. Duane
7. Crane TX
8. 32.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Co
1. 79-10868
2. 42-219-32350
3. 103
4. Gulf Oil Corporation
5. M G Gurdon No. 31
6. Slaughter (ABO)
7. Hockley TX
8. 9.9 million cubic feet
9. June 22, 1979
10. Amoco Production Company
1. 79-10869
2. 42-249-30558
3. 103
4. Sun Oil Company (Delaware)
5. Seeligson Unit Well No. 0142BL
6. Seeligson (Zone 12-B-05)
7. Jim Wells TX
8. 700.0 million cubic feet
9. June 22, 1979
10. Tennessee Gas Pipeline Company
1. 79-10870
2. 42-249-30568
3. 103
4. Sun Oil Company (Delaware)
5. Seeligson Unit Well No. 0142BU
6. Seeligson (Zone 09-A)
7. Jim Wells TX
8. 700.0 million cubic feet
9. June 22, 1979
10. Tennessee Gas Pipeline Company
1. 79-10871
2. 42-249-30854
3. 103
4. Sun Oil Company (Delaware)
5. Seeligson Unit No. 0143BL
6. Seeligson (Zone 20-B-03)
7. Jim Wells TX
8. 134.0 million cubic feet
9. June 22, 1979
10. Tennessee Gas Pipeline Company
1. 79-10872
2. 42-249-30854
3. 103
4. Sun Oil Company (Delaware)
5. Seeligson Unit No. 014BU
6. Seeligson (Zone 18-A-05)
7. Jim Wells TX
8. 134.0 million cubic feet
9. June 22, 1979
10. Tennessee Gas Pipeline Company
1. 79-10873
2. 42-365-30848
3. 103
4. Crystal Oil and Land Company
5. Jernigan #4
6. Panola
7. Panola TX
8. 165.0 million cubic feet

9. June 22, 1979
10. United Gas Pipeline Company
1. 79-10874
2. 42-365-30847
3. 103
4. Crystal Oil and Land Company
5. Jernigan #3
6. Panola
7. Panola TX
8. 165.0 million cubic feet
9. June 22, 1979
10. United Gas Pipeline Company
1. 79-10875
2. 42-365-30840
3. 103
4. Crystal Oil and Land Company
5. Jernigan #2
6. Panola
7. Panola TX
8. 165.0 million cubic feet
9. June 22, 1979
10. United Gas Pipeline Company
1. 79-10876
2. 42-365-30853
3. 103
4. Crystal Oil and Land Company
5. Jernigan #9
6. Panola
7. Panola, TX
8. 165.0 million cubic feet
9. June 22, 1979
10. United Gas Pipeline Company
1. 79-10877
2. 42-365-30836
3. 103
4. Crystal Oil and Land Company
5. Reavis #1
6. Panola
7. Panola, TX
8. 15.0 million cubic feet
9. June 22, 1979
10. United Gas Pipeline Company
1. 79-10878
2. 42-365-30832
3. 103
4. Crystal Oil and Land Company
5. Cline #9
6. Panola
7. Panola, TX
8. 22.0 million cubic feet
9. June 22, 1979
10. United Gas Pipeline Company
1. 79-10879
2. 42-339-30403
3. 102
4. Mitchell Energy Corporation
5. Pinehurst Gas Unit #5 ID #79595
6. Pinehurst (Wilcox G)
7. Montgomery County, TX
8. 26.9 million cubic feet
9. June 22, 1979
10. Tennessee Gas Pipeline Company
1. 79-10880
2. 42-047-30622
3. 102 103
4. Exxon Corporation
5. Santa Fe Ranch #39-F 09224
6. Santa Fe (E-03)
7. Brooks, TX
8. 20.0 million cubic feet
9. June 22, 1979
10. Natl Gas Pipeline Co of AM
1. 79-10881

2. 42-401-30585
3. 103
4. Pioneer Production Corporation
5. A M Wilkins Gas Unit #1 80294
6. Dirgin (Cotton Valley)
7. Rusk, TX
8. 17.0 million cubic feet
9. June 22, 1979
10. Delhi Gas Pipeline Corporation
1. 79-10882
2. 42-401-30588
3. 103
4. Pioneer Production Corporation
5. Adron Isaac Gas Unit 78592
6. Dirgin (Cotton Valley)
7. Rusk, TX
8. 57.0 million cubic feet
9. June 22, 1979
10. Delhi Gas Pipeline Corporation
1. 79-10883
2. 42-475-30982
3. 103
4. Gulf Oil Corporation
5. J C Gunn Et Al A Well No 3
6. Rhoda Walker (Canyon 5900)
7. Ward, TX
8. 10.0 million cubic feet
9. June 22, 1979
10. Delhi Gas Pipeline Corporation
1. 79-10884
2. 42-389-30956
3. 103
4. Gulf Oil Corporation
5. G C Westervelt Well No 2
6. Worsham (Delaware Sand)
7. Reeves, TX
8. 3.0 million cubic feet
9. June 22, 1979
10. Transwestern Pipeline Company
1. 79-10885
2. 42-475-31690
3. 103
4. Gulf Oil Corporation
5. J C Gunn Et Al A Well No 4
6. Rhoda Walker (Canyon 5900)
7. Ward, TX
8. 350.0 million cubic feet
9. June 22, 1979
10. Delhi Gas Pipeline Corp
1. 79-10886
2. 42-103-31919
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. M B McKnight #116
6. Running W North (Holt)
7. Crane, TX
8. 17.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Co
1. 79-10887
2. 42-103-31767
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. J B Tubb A #32
6. Sand Hills (McKnight)
7. Crane, TX
8. 17.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Co
1. 79-10888
2. 42-211-31045
3. 103
4. Diamond Shamrock Corporation
5. Billy Jarvis & Sons Inc F No 1

6. Canadian SE
7. Hemphill, TX
8. 300.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Company, Pioneer Natural Gas Co
1. 79-10889
2. 42-295-30586
3. 103
4. Diamond Shamrock Corporation
5. Valentine Schoenhals Et Al A No 1
6. Lipscomb
7. Lipscomb, TX
8. 100.0 million cubic feet
9. June 22, 1979
10.
1. 79-10890
2. 42-295-30601
3. 103
4. Diamond Shamrock Corporation
5. Arthur Becker Jr Et Al No 2
6. Bradford
7. Lipscomb, TX
8. 100.0 million cubic feet
9. June 22, 1979
10.
1. 79-10891
2. 42-065-00000
3. 108
4. Dorchester Gas Producing Co
5. McConnell No 3 (24366)
6. West Panhandle
7. Carson, TX
8. 6.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Co
1. 79-10892
2. 42-469-00000
3. 108
4. Monsanto Company
5. Leona Reeves No 1
6. Cologne (1250)
7. Victoria, TX
8. 16.7 million cubic feet
9. June 22, 1979
10. Tennessee Gas Pipeline Company
1. 79-10893
2. 42-499-00000
3. 102
4. Fair Oil LTD
5. J F Johnson Estate Unit #1
6. B-J (Gloyd) Field
7. Wood, TX
8. 547.5 million cubic feet
9. June 22, 1979
10. Arkansas-Louisiana Gas Company
1. 79-10894
2. 42-469-00000
3. 108
4. Monsanto Company
5. Leona Reeves No 2-C
6. Cologne (1000)
7. Victoria, TX
8. 2.9 million cubic feet
9. June 22, 1979
10. Tennessee Gas Pipeline Company
1. 79-10895
2. 42-469-00000
3. 108
4. Monsanto Company
5. Leona Reeves No 2-T
6. Cologne (1250)
7. Victoria, TX
8. 1.8 million cubic feet

9. June 22, 1979
10. Tennessee Gas Pipeline Company
1. 79-10896
2. 42-435-00000
3. 108
4. Lively Exploration Company
5. Aldwell 22 #3 61867
6. Aldwell Ranch (Canyon) Field
7. Sutton, TX
8. 10.1 million cubic feet
9. June 22, 1979
10. Lovaca Gathering Company
1. 79-10897
2. 42-435-00000
3. 108
4. Lovely Exploration Company
5. Aldwell 8 #1A 54724
6. Aldwell Ranch (Canyon) Field
7. Sutton, TX
8. 2.8 million cubic feet
9. June 22, 1979
10. Lovaca Gathering Company
1. 79-10898
2. 42-383-00000
3. 103
4. Michel T Halbouty
5. Rucker B LSE #8 07457
6. Sprayberry (Trend area)
7. Reagan TX
8. 13.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Co
1. 79-10899
2. 42-383-31220
3. 103
4. Marathon Oil Company
5. University BL Well No 4
6. Big Lake (Fusselman)
7. Reagan, TX
8. 15.0 million cubic feet
9. June 22, 1979
10. Dorchester Gas Producing Company
1. 79-10900
2. 42-103-31906
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. W A Estes #106
6. Sand Hills (West)
7. Crane, TX
8. 13.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Co
1. 79-10901
2. 42-211-30871
3. 103
4. Donald C Slawson
5. Mahler Unit #2 RRC #74825
6. Parsell South Morrow Upper Se
7. Roberts, TX
8. 350.0 million cubic feet
9. June 22, 1979
10. El Paso natural Gas Co
1. 79-10902
2. 42-211-30915
3. 102
4. Hoover & Bracken Energies
5. Alexander #1-3
6. Washita Creek (Morrow Upper)
7. Hemphill, TX
8. 3650.0 million cubic feet
9. June 22, 1979
10. Natural Gas Pipeline Co
1. 79-10903
2. 42-311-30867
3. 102
4. Shell Oil Company
5. McClaugherty No 1
6. Tilden E (Edwards)
7. McMullen, TX
8. 540.0 million cubic feet
9. June 22, 1979
10. Transcontinental Gas Pipeline Corp
1. 79-10904
2. 42-427-31192
3. 102
4. Shell Oil Company
5. Garza-State No 15
6. Rincon North Vicksburg 8230
7. Starr, TX
8. 100.0 million cubic feet
9. June 22, 1979
10. Natural Gas Pipeline Co of America
1. 79-10905
2. 42-105-00000
3. 108
4. Rodman Petroleum Corporation
5. Harvick 47 #1
6. Ozona (Canyon Sand)
7. Crockett, TX
8. 2.9 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Company
1. 79-10906
2. 42-105-00000
3. 108
4. Rodman Petroleum Corporation
5. V I Pierce #1
6. Ozona (Canyon Sand)
7. Crockett, TX
8. .5 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Company
1. 79-10907
2. 42-457-00000
3. 102
4. Texas City Refining Inc
5. Exxon Section 1 Fee No 1
6. Warren (7480)
7. Tyler, TX
8. 146.0 million cubic feet
9. June 22, 1979
10. Tennessee Pipeline Company
1. 79-10908
2. 42-469-00000
3. 108
4. Monsanto Company
5. Mettie Johnston No 2
6. Cologne (1000)
7. Victoria, TX
8. 2.7 million cubic feet
9. June 22, 1979
10. Tennessee Gas Pipeline Company
1. 79-10909
2. 42-469-00000
3. 108
4. Monsanto Company
5. H L Horadam No 1-T
6. Cologne (1600)
7. Victoria, TX
8. .5 million cubic feet
9. June 22, 1979
10. Tennessee Gas Pipeline Company
1. 79-10910
2. 42-495-30518
3. 103
4. Gulf Oil Corporation
5. Keystone Cattle Co Well No 332

6. Keystone (Colby)
7. Winkler, TX
8. 44.0 million cubic feet
9. June 22, 1979
10. Cabot Corporation
1. 79-10911
2. 42-389-30998
3. 103
4. Gulf Oil Corporation
5. L Horry et al Well No 9
6. Worsham (Cherry Canyon)
7. Reeves, TX
8. 50.0 million cubic feet
9. June 22, 1979
10. Transwestern Pipeline Company
1. 79-10912
2. 42-103-00000
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. J B Tubb et al #27
6. Sand Hills (Tubb)
7. Crane, TX
8. 38.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Co
1. 79-10913
2. 42-103-00000
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. W A Estes #100
6. Sand Hills West
7. Crane, TX
8. 7.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Co
1. 79-10914
2. 42-329-00000
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. M B McKnight #114
6. Sand Hills (Wolfcamp)
7. Crane, TX
8. 10.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Co
1. 79-10915
2. 42-371-32510
3. 103
4. Gulf Oil Corp
5. L H Millar et al No 16
6. Putnam (Wolfcamp)
7. Pecos, TX
8. 270.0 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Company
1. 79-10916
2. 42-227-31143
3. 103
4. Gulf Oil Corporation
5. Murray CS No 10
6. Iatan (San Andres)
7. Howard, TX
8. .1 million cubic feet
9. June 22, 1979
10. Getty Oil Company
1. 79-10917
2. 42-003-31659
3. 103
4. Gulf Oil Corporation
5. State PW No 1
6. Lacaff (Dean)
7. Andrews, TX
8. 3.2 million cubic feet
9. June 22, 1979

10. Phillips Petroleum Company
1. 79-10918
2. 42-495-30517
3. 103
4. Gulf Oil Corporation
5. Keystone Cattle Co Well No 333
6. Keystone (Colby)
7. Winkler, TX
8. 142.0 million cubic feet
9. June 22, 1979
10. Cabot Corporation
1. 79-10919
2. 42-103-00000
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. W N Waddell et al Tr 1 #1095
6. McKee (Wolfcamp)
7. Crane, TX
8. 72.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Co
1. 79-10920
2. 42-103-00000
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. J B Tubb A #33
6. Sand Hills (Tubb)
7. Crane, TX
8. 114.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Co
1. 79-10921
2. 42-179-00000
3. 108
4. Dorchester Gas Producing Co
5. Sheridan No 1 (23249)
6. West Panhandle
7. Gray, TX
8. 6.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Co
1. 79-10922
2. 42-065-00000
3. 108
4. Dorchester Gas Producing Co
5. Bednorz No 2 (24324)
6. West Panhandle
7. Carson, TX
8. 5.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Co
1. 79-10923
2. 42-547-30293
3. 103
4. Cities Service Company
5. Sturrock A-1
6. Sugar Creek (Woodbine)
7. Tyler, TX
8. 365.0 million cubic feet
9. June 22, 1979
10. United Gas Pipe Line Co
1. 79-10924
2. 42-461-00000
3. 103
4. Warren Pet Co A Div of Gulf Oil
5. J T McElroy No 939-D
6. McElroy Southeast (Devonian)
7. Upton, TX
8. 54.9 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Company
1. 79-10925
2. 42-355-00000
3. 102
4. Maynard Oil Company
5. Gabriel #2
6. Clarkwood S (McKamey)
7. Nueces, TX
8. 1080.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas
1. 79-10926
2. 42-445-00000
3. 102
4. NRM Petroleum Corporation
5. Hoffman #1-A
6. Becker (Yates) Field
7. Terry, TX
8. 730.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas
1. 79-10927
2. 42-413-30681
3. 103
4. M Brad Bennett Inc & RKH Ltd
5. Bruton #1
6. Klatt (Canyon)
7. Schleicher, TX
8. 36.5 million cubic feet
9. June 22, 1979
10. Northern Natural Gas Company
1. 79-10928
2. 42-445-00000
3. 102
4. NRM Petroleum Corporation
5. Goodpasture No 1
6. Becker (Yates) Field
7. Terry, TX
8. 730.0 million cubic feet
9. June 22, 1979
10. Northern Natural Gas
1. 79-10929
2. 42-215-30768
3. 103
4. Shell Oil Company
5. Dixie Mortgage-Hopkins GU No 2
6. Mc Cook E (Vicksburg-Lo)
7. Hidalgo, TX
8. 270.0 million cubic feet
9. June 22, 1979
10. Natural Gas Pipeline Co of America
1. 79-10930
2. 42-215-30858
3. 103
4. Shell Oil Company
5. A A Mc Allen No 60
6. Mc Allen (Vicksburg SN)
7. Hidalgo, TX
8. 310.0 million cubic feet
9. June 22, 1979
10. S Texas Natural Gas Gathering Co
1. 79-10931
2. 42-215-30856
3. 103
4. Shell Oil Company
5. A A McAllen No 54
6. McAllen Ranch (Vicksburg R-1)
7. Hidalgo, TX
8. 400.0 million cubic feet
9. June 22, 1979
10. So Texas Natural Gas Gathering Co
1. 79-10932
2. 42-215-30788
3. 103
4. Shell Oil Company
5. A A McAllen No 53
6. McAllen Ranch (Vicksburg R)
7. Hidalgo, TX
8. 140.0 million cubic feet
9. June 22, 1979
10. So Texas Natural Gas Gathering Co
1. 79-10933
2. 42-427-31248
3. 103
4. Shell Oil Company
5. Thomas-Rife Gas Unit No 8
6. Rincon North (Vicksburg 8200 SE)
7. Starr, TX
8. 220.0 million cubic feet
9. June 22, 1979
10. Natural Gas Pipeline Company of Am
1. 79-10934
2. 42-495-30948
3. 103
4. Gulf Oil Corporation
5. Keystone Cattle Co Well No 339
6. Keystone (Colby)
7. Winkler, TX
8. 26.0 million cubic feet
9. June 22, 1979
10. Cabot Corporation
1. 79-10935
2. 42-495-30949
3. 103
4. Gulf Oil Corporation
5. Keystone Cattle Co Well No 338
6. Keystone (Colby)
7. Winkler, TX
8. 18.0 million cubic feet
9. June 22, 1979
10. Cabot Corporation
1. 79-10936
2. 42-495-30966
3. 103
4. Gulf Oil Corporation
5. Keystone Cattle Co Well No 337
6. Keystone (Colby)
7. Winkler TX
8. 34.0 million cubic feet
9. June 22, 1979
10. Cabot Corporation
1. 79-10937
2. 42-495-30519
3. 103
4. Gulf Oil Corporation
5. Keystone Cattle Co Well No 335
6. Keystone (Colby)
7. Winkler TX
8. 29.0 million cubic feet
9. June 22, 1979
10. Cabot Corporation
1. 79-10938
2. 42-103-00000
3. 103
4. Warren Pet Co Div/Gulf Oil Corporation
5. J B Tubb A #33
6. Sand Hills (McKnight)
7. Crane TX
8. 208.0 million cubic feet
9. June 22, 1979
10. El Paso Natural Gas Co
1. 79-10939
2. 42-495-30885
3. 103
4. Gulf Oil Corporation
5. Keystone Cattle Co Well No 336
6. Keystone (Colby)
7. Winkler TX
8. 200.0 million cubic feet
9. June 22, 1979
10. Cabot Corporation

1. 79-10940
2. 42-495-30524
3. 103
4. Gulf Oil Corporation
5. Keystone Cattle Co Well No 334
6. Keystone (Colby)
7. Winkler TX
8. 34.0 million cubic feet
9. June 22, 1979
10. Cabot Corporation
1. 79-10941
2. 42-135-33019
3. 103
4. American Petrofina Company of Texas
5. E Penwell S A Unit No 309
6. Penwell (San Andres)
7. Ector TX
8. 3.0 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Company
1. 79-10942
2. 42-135-33201
3. 103
4. American Petrofina Company of Texas
5. E Penwell S A Unit No 1810
6. Penwell (San Andres)
7. Ector TX
8. 1.5 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Company
1. 79-10943
2. 42-135-33020
3. 103
4. American Petrofina Company of Texas
5. E Penwell S A Unit No 809
6. Penwell (San Andres)
7. Ector TX
8. 3.0 million cubic feet
9. June 22, 1979
10. Phillips Petroleum Company
1. 79-10744
2. 42-339-30406
3. 103
4. Exxon Corporation
5. Conroe Field Unit Well No 109
6. Conroe Field
7. Montgomery TX
8. 130.0 million cubic feet
9. June 22, 1979
10. Moran Utilities Company
1. 79-10770
2. 42-365
3. 108
4. Alfred C Glassell Jr
5. Dunaway Unit #4
6. Carthage
7. Panola, TX
8. 12.6 million cubic feet
9. June 22, 1979
10. Arkansas-Louisiana Gas Co
- West Virginia Department of Mines, Oil and Gas Division
1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 79-10534
2. 47-019-00160
3. 108
4. Ashland Exploration Inc
5. Eastern Gas & Fuel #44-041110
6. Paint Creek
7. Fayette WV
8. 3.8 million cubic feet
9. June 25, 1979
10. Columbia Gas Transmission Inc
1. 79-10535
2. 47-019-00162
3. 108
4. Ashland Exploration Inc
5. Eastern Gas & Fuel #50-042630
6. Paint Creek
7. Fayette WV
8. 15.8 million cubic feet
9. June 25, 1979
10. Columbia Gas Transmission Inc
1. 79-10536
2. 47-019-00167
3. 108
4. Ashland Exploration Inc
5. Eastern Gas & Fuel #54-046820
6. Paint Creek
7. Fayette WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Columbia Gas Transmission Inc
1. 79-10537
2. 47-039-01664
3. 108
4. Ashland Exploration Inc
5. Briar Mtn Coal & Coke #1-026110
6. Paint Creek
7. Kanawha WV
8. 5.4 million cubic feet
9. June 25, 1979
10. Columbia Gas Transmission Inc
1. 79-10538
2. 47-039-02057
3. 108
4. Ashland Exploration Inc
5. Eastern Gas & Fuel #46-042180
6. Paint Creek
7. Kanawha WV
8. 11.0 million cubic feet
9. June 25, 1979
10. Columbia Gas Transmission Inc
1. 79-10539
2. 47-039-01985
3. 108
4. Ashland Exploration Inc
5. J F B Peyton #1-036800
6. Paint Creek
7. Kanawha WV
8. 2.5 million cubic feet
9. June 25, 1979
10. Columbia Gas Transmission Inc
1. 79-10540
2. 47-039-02045
3. 108
4. Ashland Exploration Inc
5. Kanawha Valley Bank #2-041080
6. Paint Creek
7. Kanawha WV
8. 9.3 million cubic feet
9. June 25, 1979
10. Columbia Gas Transmission Inc
1. 79-10541
2. 47-109-00424
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #138-023530

6. Logan Wyoming
7. Wyoming WV
8. 10.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10542
2. 47-109-00421
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #135-023100
6. Logan Wyoming
7. Wyoming WV
8. 11.9 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10543
2. 47-109-00426
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #139-023570
6. Logan Wyoming
7. Wyoming WV
8. 10.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10544
2. 47-039-01848
3. 108
4. Ashland Exploration Inc
5. Eastern Gas & Fuel #24-034210
6. Paint Creek
7. Kanawha WV
8. 4.0 million cubic feet
9. June 25, 1979
10. Columbia Gas Transmission Inc
1. 79-10545
2. 47-039-01911
3. 108
4. Ashland Exploration Inc
5. Bedford Land Co #7-035050
6. Paint Creek
7. Kanawha WV
8. 6.3 million cubic feet
9. June 25, 1979
10. Columbia Gas Transmission Inc
1. 79-10546
2. 47-039-01892
3. 108
4. Ashland Exploration Inc
5. Eastern Gas & Fuel #28-035750
6. Paint Creek
7. Kanawha WV
8. 21.4 million cubic feet
9. June 25, 1979
10. Columbia Gas Transmission Inc
1. 79-10547
2. 47-109-00354
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #102-017410
6. Logan Wyoming
7. Wyoming WV
8. 10.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10548
2. 47-109-00345
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #99-016990
6. Logan Wyoming
7. Wyoming WV
8. 10.1 million cubic feet
9. June 25, 1979

10. Consolidated Gas Supply Corp
1. 79-10549
2. 47-109-00349
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #100-017030
6. Logan Wyoming
7. Wyoming WV
8. 11.9 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10550
2. 47-109-00350
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #101-017040
6. Logan Wyoming
7. Wyoming WV
8. 11.9 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10551
2. 47-109-00355
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #104-017560
6. Logan Wyoming
7. Wyoming WV
8. 7.8 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10552
2. 47-109-00403
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #128-021700
6. Logan Wyoming
7. Wyoming WV
8. 10.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10553
2. 47-109-00391
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #125-020730
6. Logan Wyoming
7. Wyoming WV
8. 10.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10554
2. 47-109-00382
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #122-020170
6. Logan Wyoming
7. Wyoming WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10555
2. 47-109-00393
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #126-021040
6. Logan Wyoming
7. Wyoming WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10556
2. 47-109-00398
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #127-021550
6. Logan Wyoming
7. Wyoming WV
8. 10.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10557
2. 47-109-00423
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #137-023420
6. Logan Wyoming
7. Wyoming WV
8. 10.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10558
2. 47-109-00380
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #121-019900
6. Logan Wyoming
7. Wyoming WV
8. 10.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10559
2. 47-109-00319
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #83-016300
6. Logan Wyoming
7. Wyoming WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10560
2. 47-109-00318
3. 108
4. Ashland Exploration Inc
5. Pardee Land Co #22-016290
6. Logan Wyoming
7. Wyoming WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10561
2. 47-109-00321
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #85-016350
6. Logan Wyoming
7. Wyoming WV
8. 11.9 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10562
2. 47-109-00324
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #86-016370
6. Logan Wyoming
7. Wyoming WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10563
2. 47-109-00326
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #87-016380
6. Logan Wyoming
7. Wyoming WV
8. 7.8 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10564
2. 47-039-01686
3. 108
4. Ashland Exploration Inc
5. Eastern Gas & Fuel #4-027790
6. Paint Creek
7. Kanawha, WV
8. 11.4 million cubic feet
9. June 25, 1979
10. Columbia Gas Transmission Inc
1. 79-10565
2. 47-039-01693
3. 108
4. Ashland Exploration Inc
5. Eastern Gas & Fuel #5-029490
6. Paint Creek
7. Kanawha, WV
8. 13.0 million cubic feet
9. June 25, 1979
10. Columbia Gas Transmission Inc
1. 79-10566
2. 47-039-01925
3. 108
4. Ashland Exploration Inc
5. Bedford Land Co #8-035130
6. Paint Creek
7. Kanawha, WV
8. 13.8 million cubic feet
9. June 25, 1979
10. Columbia Gas Transmission Inc
1. 79-10567
2. 47-045-00214
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #76-015670
6. Logan Wyoming
7. Logan, WV
8. 10.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10568
2. 47-109-00413
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #132-022180
6. Logan Wyoming
7. Wyoming WV
8. 10.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10569
2. 47-109-00410
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #131-022090
6. Logan Wyoming
7. Wyoming WV
8. 10.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10570
2. 47-109-00408
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #130-021970
6. Logan Wyoming
7. Wyoming WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp

1. 79-10571
2. 47-045-00215
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #77-015690
6. Logan Wyoming
7. Logan, WV
8. 10.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10572
2. 47-109-00310
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #81-016160
6. Logan Wyoming
7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10573
2. 47-045-00462
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #142-023650
6. Logan Wyoming
7. Logan, WV
8. 10.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10574
2. 47-109-00286
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #71-015460
6. Logan Wyoming
7. Wyoming, WV
8. 11.9 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10575
2. 47-109-00287
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #72-015470
6. Logan Wyoming
7. Wyoming, WV
8. 11.9 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10576
2. 47-109-00288
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #73-015480
6. Logan Wyoming
7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10577
2. 47-019-00151
3. 108
4. Ashland Exploration Inc
5. Eastern Gas & Fuel #42-040420
6. Paint Creek
7. Fayette, WV
8. 3.6 million cubic feet
9. June 25, 1979
10. Columbia Gas Transmission Inc
1. 79-10578
2. 47-019-00152
3. 108
4. Ashland Exploration Inc

5. Eastern Gas & Fuel #43-040500
6. Paint Creek
7. Fayette, WV
8. 13.5 million cubic feet
9. June 25, 1979
10. Columbia Gas Transmission Inc
1. 79-10579
2. 47-109-00414
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #133-022190
6. Logan Wyoming
7. Wyoming, WV
8. 10.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10580
2. 47-109-00418
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #134-022300
6. Logan Wyoming
7. Wyoming, WV
8. 10.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10581
2. 47-039-01675
3. 108
4. Ashland Exploration Inc
5. Briar Mtn Coal & Coke #2-026630
6. Paint Creek
7. Kanawha, WV
8. 5.6 million cubic feet
9. June 25, 1979
10. Columbia Gas Transmission Inc
1. 79-10582
2. 47-039-01850
3. 108
4. Ashland Exploration Inc
5. Eastern Gas & Fuel #25-034250
6. Paint Creek
7. Kanawha, WV
8. 8.9 million cubic feet
9. June 25, 1979
10. Columbia Gas Transmission Inc
1. 79-10583
2. 47-039-01868
3. 108
4. Ashland Exploration Inc
5. Bedford Land Co #4-034390
6. Paint Creek
7. Kanawha, WV
8. 6.9 million cubic feet
9. June 25, 1979
10. Columbia Gas Transmission Inc
1. 79-10584
2. 47-039-01878
3. 108
4. Ashland Exploration Inc
5. Eastern Gas & Fuel #27-034430
6. Paint Creek
7. Kanawha, WV
8. 14.1 million cubic feet
9. June 25, 1979
10. Columbia Gas Transmission Inc
1. 79-10585
2. 47-019-00134
3. 108
4. Ashland Exploration Inc
5. Eastern Gas & Fuel #30-037570
6. Paint Creek
7. Fayette, WV
8. 4.5 million cubic feet

9. June 25, 1979
10. Columbia Gas Transmission Inc
1. 79-10586
2. 47-019-00139
3. 108
4. Ashland Exploration Inc
5. Eastern Gas & Fuel #34-038670
6. Paint Creek
7. Fayette, WV
8. 15.3 million cubic feet
9. June 25, 1979
10. Columbia Gas Transmission Inc
1. 79-10587
2. 47-019-00140
3. 108
4. Ashland Exploration Inc
5. Eastern Gas & Fuel #35-038810
6. Paint Creek
7. Fayette, WV
8. 6.4 million cubic feet
9. June 25, 1979
10. Columbia Gas Transmission Inc
1. 79-10588
2. 47-019-00142
3. 108
4. Ashland Exploration Inc
5. Eastern Gas & Fuel #37-039070
6. Paint Creek
7. Fayette, WV
8. 3.7 million cubic feet
9. June 25, 1979
10. Columbia Gas Transmission Inc
1. 79-10589
2. 47-019-00145
3. 108
4. Ashland Exploration Inc
5. Eastern Gas & Fuel #39-039740
6. Paint Creek
7. Fayette, WV
8. 10.4 million cubic feet
9. June 25, 1979
10. Columbia Gas Transmission Inc
1. 79-10590
2. 47-019-00150
3. 108
4. Ashland Exploration Inc
5. Eastern Gas & Fuel #41-040320
6. Paint Creek
7. Fayette, WV
8. 9.7 million cubic feet
9. June 25, 1979
10. Columbia Gas Transmission Inc
1. 79-10591
2. 47-109-00330
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #88-016440
6. Logan Wyoming
7. Wyoming, WV
8. 9.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Transmission Inc
1. 79-10592
2. 47-109-00334
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #90-016530
6. Logan Wyoming
7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Transmission Inc
1. 79-10593

2. 47-109-00335
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #91-016540
6. Logan Wyoming
7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Transmission Inc
1. 79-10594
2. 47-109-00336
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #93-16580
6. Logan Wyoming
7. Wyoming, WV
8. 7.8 million cubic feet
9. June 25, 1979
10. Consolidated Gas Transmission Inc
1. 79-10595
2. 47-109-00339
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #94-016660
6. Logan Wyoming
7. Wyoming, WV
8. 11.9 million cubic feet
9. June 25, 1979
10. Consolidated Gas Transmission Inc
1. 79-10596
2. 47-109-00340
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #95-016760
6. Logan Wyoming
7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Transmission Inc
1. 79-10597
2. 47-109-00343
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #96-016780
6. Logan Wyoming
7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Transmission Inc
1. 79-10598
2. 47-045-00256
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #103-017530
6. Logan Wyoming
7. Logan, WV
8. 10.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Transmission Inc
1. 79-10599
2. 47-045-00238
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #98-016900
6. Logan Wyoming
7. Logan, WV
8. 10.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Transmission Inc
1. 79-10600
2. 47-045-00227
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #97-016790

6. Logan Wyoming
7. Logan, WV
8. 10.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Transmission Inc
1. 79-10601
2. 47-045-00224
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #92-016550
6. Logan Wyoming
7. Logan, WV
8. 10.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Transmission Inc
1. 79-10602
2. 47-045-00222
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #89-016450
6. Logan Wyoming
7. Logan, WV
8. 10.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Transmission Inc
1. 79-10603
2. 47-045-00107
3. 108
4. Ashland Exploration Inc
5. Pardee Land Co #1-011690
6. Logan Wyoming
7. Logan, WV
8. 17.0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Transmission Inc
1. 79-10604
2. 47-045-00261
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #107-018150
6. Logan Wyoming
7. Logan, WV
8. 10.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Transmission Inc
1. 79-10605
2. 47-109-00171
3. 108
4. Ashland Exploration Inc
5. Pardee Land Co #7-014330
6. Logan Wyoming
7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Transmission Inc
1. 79-10606
2. 47-109-00154
3. 108
4. Ashland Exploration Inc
5. Pardee Land Co #5-014170
6. Logan Wyoming
7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Transmission Inc
1. 79-10607
2. 47-109-00138
3. 108
4. Ashland Exploration Inc
5. Pardee Land Co #4-013870
6. Logan Wyoming
7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979

10. Consolidated Gas Transmission Inc
1. 79-10608
2. 47-109-00108
3. 108
4. Ashland Exploration Inc
5. Pardee Land Co #3-012760
6. Logan Wyoming
7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Transmission Inc
1. 79-10609
2. 47-005-00655
3. 108
4. Ashland Exploration Inc
5. Siler Coal Land Co Fee #21-011830
6. Siler
7. Boone, WV
8. 5.8 million cubic feet
9. June 25, 1979
10. Consolidated Gas Transmission Inc
1. 79-10610
2. 47-005-00644
3. 108
4. Ashland Exploration Inc
5. Siler Coal Land Co Fee #20-011820
6. Siler
7. Boone, WV
8. 5.8 million cubic feet
9. June 25, 1979
10. Consolidated Gas Transmission Inc
1. 79-10611
2. 47-005-00624
3. 108
4. Ashland Exploration Inc
5. Siler Coal Land Co Fee #19-011640
6. Siler
7. Boone, WV
8. 5.8 million cubic feet
9. June 25, 1979
10. Consolidated Gas Transmission Inc
1. 79-10612
2. 47-005-00623
3. 108
4. Ashland Exploration Inc
5. Siler Coal Land Co Fee #18-011630
6. Siler
7. Boone, WV
8. 5.8 million cubic feet
9. June 25, 1979
10. Consolidated Gas Transmission Inc
1. 79-10613
2. 47-005-00622
3. 108
4. Ashland Exploration Inc
5. Siler Coal Land Co Fee #17-011620
6. Siler
7. Boone, WV
8. 5.8 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10614
2. 47-039-03192
3. 108
4. Ashland Exploration Inc
5. J A Osborne #14-001460
6. Old Field
7. Kanawha, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10615
2. 47-039-0319

3. 108
4. Ashland Exploration Inc
5. J A Osborne #12-001440
6. Old Field
7. Kanawha, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10616
2. 47-039-03189
3. 108
4. Ashland Exploration Inc
5. J A Osborne #8-001400
6. Old Field
7. Kanawha, WV
8. 6.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10617
2. 47-039-03188
3. 108
4. Ashland Exploration Inc
5. J A Osborne #7-001390
6. Old Field
7. Kanawha, WV
8. 6.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10618
2. 47-039-03187
3. 108
4. Ashland Exploration Inc
5. J A Osborne #6-001380
6. Old Field
7. Kanawha, WV
8. 6.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10619
2. 47-039-03186
3. 108
4. Ashland Exploration Inc
5. J A Osborne #3-001350
6. Old Field
7. Kanawha, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10620
2. 47-109-00246
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #62-014930
6. Logan Wyoming
7. Wyoming, WV
8. 7.8 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10621
2. 47-109-00241
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #60-014850
6. Logan Wyoming
7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10622
2. 47-109-00237
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #59-014840
6. Logan Wyoming
7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10623
2. 47-109-00236
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #58-014830
6. Logan Wyoming
7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10624
2. 47-109-00233
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #57-014790
6. Logan Wyoming
7. Wyoming, WV
8. 10.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10625
2. 47-109-00232
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co #56-014780
6. Logan Wyoming
7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10626
2. 47-033-01914
3. 103
4. Allegheny Land & Mineral Co
5. A-748
6. Union District
7. Harrison, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10627
2. 47-033-01248
3. 103
4. Allegheny Land & Mineral Co
5. A-747
6. Union District
7. Harrison, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10628
2. 47-001-01066
3. 103
4. Allegheny land & Mineral Co
5. A-755
6. Cove District
7. Barbour, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10629
2. 47-091-00177
3. 103
4. Allegheny land & Mineral Co
5. A-756
6. Knottsville District
7. Taylor, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp

1. 79-10630
2. 47-033-01170
3. 103
4. Allegheny Land & Mineral Co
5. A-726
6. Union District
7. Harrison, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10631
2. 47-033-01147
3. 103
4. Allegheny Land & Mineral Co
5. A-671
6. Union District
7. Harrison, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10632
2. 47-041-02548
3. 103
4. Allegheny Land & Mineral Co
5. A-793
6. Hackers Creek District
7. Lewis, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10633
2. 47-033-01945
3. 103
4. Allegheny Land & Mineral Co
5. A-774
6. Union District
7. Harrison, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10634
2. 47-103-00624
3. 103
4. Allegheny Land & Mineral Co
5. A-668
6. Centerpoint District
7. Wetzel, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10635
2. 47-017-01880
3. 103
4. Allegheny Land & Mineral Co
5. A-730
6. Southwest District
7. Doddridge, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10636
2. 47-097-01772
3. 103
4. Allegheny Land & Mineral Co
5. A-654
6. Washington Dist
7. Upshur, WV
8. 37.3 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10637
2. 47-033-01258
3. 103
4. Allegheny Land & Mineral Co

5. A-685
6. Union District
7. Harrison, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10638
2. 47-017-02316
3. 103
4. Allegheny Land & Mineral Co
5. A-687
6. Greenbrier District
7. Doddridge, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10639
2. 47-033-01072
3. 103
4. Allegheny Land & Mineral Co
5. A-688
6. Eagle District
7. Harrison, WV
8. 60.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10640
2. 47-017-02308
3. 103
4. Allegheny Land & Mineral Co
5. A-689
6. Southwest District
7. Doddridge, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10641
2. 47-017-02309
3. 103
4. Allegheny Land & Mineral Co
5. A-690
6. Southwest District
7. Doddridge, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10642
2. 47-033-01183
3. 103
4. Allegheny Land & Mineral Co
5. A-722
6. Sardis Dist
7. Harrison, WV
8. 47.0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10643
2. 47-033-01166
3. 103
4. Allegheny Land & Mineral Co
5. A-714
6. Eagle Dist
7. Harrison, WV
8. 38.7 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10644
2. 47-033-01148
3. 103
4. Allegheny Land & Mineral Co
5. A-713
6. Sardis District
7. Harrison, WV
8. 41.8 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10645
2. 47-033-01218
3. 103
4. Allegheny Land & Mineral Co
5. A-712
6. Sardis District
7. Harrison, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10646
2. 47-001-00991
3. 103
4. Allegheny Land & Mineral Co
5. A-711
6. Philippi District
7. Barbour, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10647
2. 47-001-00918
3. 103
4. Allegheny Land & Mineral Co
5. A-707
6. Union
7. Barbour WV
8. 26.3 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10648
2. 47-109-03620
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co. #108-018160
6. Logan Wyoming
7. Wyoming, WV
8. 10.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10649
2. 47-109-00366
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co. #110-018700
6. Logan Wyoming
7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10650
2. 47-109-00372
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co. #117-019120
6. Logan Wyoming
7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10651
2. 47-109-00374
3. 108
4. Ashland Exploration Inc
5. W M Ritter Lumber Co. #118-019320
6. Logan Wyoming
7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10652

2. 47-109-00200
3. 108
4. Ashland Exploration Inc
5. Pardee Land Co #9-014530
6. Logan Wyoming
7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10653
2. 47-005-00994
3. 108
4. Ashland Exploration Inc
5. Southern Land Co #2-044980
6. Logan Wyoming
7. Boone, WV
8. 9.8 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10654
2. 47-109-00204
3. 108
4. Ashland Exploration Inc
5. Pardee Land Co #10-014550
6. Logan Wyoming
7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10655
2. 47-109-00254
3. 108
4. Ashland Exploration Inc
5. Pardee Land Co #14-015150
6. Logan Wyoming
7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10656
2. 47-109-00249
3. 108
4. Ashland Exploration Inc
5. Pardee Land Co #13-014879
6. Logan Wyoming
7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10657
2. 47-109-00217
3. 108
4. Ashland Exploration Inc
5. Pardee Land Co #12-014630
6. Logan Wyoming
7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10658
2. 47-109-00216
3. 108
4. Ashland Exploration Inc
5. Pardee Land Co #11-014620
6. Logan Wyoming
7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp
1. 79-10659
2. 47-109-00190
3. 108
4. Ashland Exploration Inc
5. Pardee Land Co #8-014490

6. Logan Wyoming
7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10660
2. 47-035-00424
3. 108
4. Ashland Exploration Inc.
5. Elizabeth W Perkins #24-011040
6. New Field
7. Jackson, WV
8. 5.2 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10661
2. 47-035-00408
3. 108
4. Ashland Exploration Inc.
5. Elizabeth W Perkins #23-010890
6. New Field
7. Jackson, WV
8. 5.2 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10662
2. 47-039-00253-3000
3. 108
4. Ashland Exploration Inc.
5. J A Osborne #2-001340
6. Old Field
7. Kanawha, WV
8. 8.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10663
2. 47-109-00257
3. 108
4. Ashland Exploration Inc.
5. W M Ritter Lumber Co #63-015180
6. Logan Wyoming
7. Wyoming, WV
8. 11.9 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10664
2. 47-039-02516
3. 108
4. Ashland Exploration Inc.
5. J A Osborne #11-001430
6. Old Field
7. Kanawha, WV
8. 6.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10665
2. 47-035-00406
3. 108
4. Ashland Exploration Inc.
5. Elizabeth W Perkins #21-010870
6. New Field
7. Jackson, WV
8. 5.2 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10666
2. 47-035-00374
3. 108
4. Ashland Exploration Inc.
5. Elizabeth W Perkins #18-010650
6. New Field
7. Jackson, WV
8. 5.2 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10667
2. 47-035-00342
3. 108
4. Ashland Exploration Inc.
5. Elizabeth W Perkins #17-010610
6. New Field
7. Jackson, WV
8. 5.2 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10668
2. 47-035-00289
3. 108
4. Ashland Exploration Inc.
5. Elizabeth W Perkins #13-010490
6. New Field
7. Jackson, WV
8. 5.2 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10669
2. 47-035-00262
3. 108
4. Ashland Exploration Inc.
5. Elizabeth W Perkins #12-010180
6. New Field
7. Jackson, WV
8. 5.2 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10670
2. 47-005-00689
3. 108
4. Ashland Exploration Inc.
5. Siler Coal Land Co Fee #28-012320
6. Siler
7. Boone, WV
8. 5.8 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10671
2. 47-005-00688
3. 108
4. Ashland Exploration Inc.
5. Siler Coal Land Co Fee #25-012300
6. Siler
7. Boone, WV
8. 5.8 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10672
2. 47-005-00687
3. 108
4. Ashland Exploration Inc.
5. Siler Coal Land Co Fee #24-012290
6. Siler
7. Boone, WV
8. 5.8 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10673
2. 47-005-00677
3. 108
4. Ashland Exploration Inc.
5. Siler Coal Land Co. fee #23-011980
6. Siler
7. Boone, WV
8. 5.8 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10674
2. 47-005-00670

3. 108
4. Ashland Exploration Inc.
5. Siler Coal Land Co. Fee #22-011970
6. Siler
7. Boone, WV
8. 5.8 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10675
2. 47-109-00231
3. 108
4. Ashland Exploration Inc.
5. W. M. Ritter Lumber Co. #55-014770
6. Logan Wyoming
7. Wyoming, WV
8. 7.8 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10676
2. 47-109-00227
3. 108
4. Ashland Exploration Inc.
5. W. M. Ritter Lumber Co. #54-014670
6. Logan Wyoming
7. Wyoming, WV
8. 11.9 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10677
2. 47-109-00210
3. 108
4. Ashland Exploration Inc.
5. W. M. Ritter Lumber Co. #53-014580
6. Logan Wyoming
7. Wyoming, WV
8. 7.8 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10678
2. 47-109-00205
3. 108
4. Ashland Exploration Inc.
5. W. M. Ritter Lumber Co. #51-014510
6. Logan Wyoming
7. Wyoming, WV
8. 2.4 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10679
2. 47-109-00206
3. 108
4. Ashland Exploration Inc.
5. W. M. Ritter Lumber Co. #52-14560
6. Logan Wyoming
7. Wyoming, WV
8. 7.8 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10680
2. 47-109-00196
3. 108
4. Ashland Exploration Inc.
5. W. M. Ritter Lumber Co. #50-014500
6. Logan Wyoming
7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10681
2. 47-109-00186
3. 108
4. Ashland Exploration Inc.
5. W. M. Ritter Lumber Co. #48-014410
6. Logan Wyoming

7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10682
2. 47-109-00182
3. 108
4. Ashland Exploration Inc.
5. W. M. Ritter Lumber Co. #48-014390
6. Logan Wyoming
7. Wyoming, WV
8. 5.5 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10683
2. 47-109-00179
3. 108
4. Ashland Exploration Inc.
5. W. M. Ritter Lumber Co. #47-014380
6. Logan Wyoming
7. Wyoming, WV
8. 7.8 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10684
2. 47-045-00194
3. 108
4. Ashland Exploration Inc.
5. W. M. Ritter Lumber Co. #61-014880
6. Logan Wyoming
7. Logan, WV
8. 10.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10685
2. 47-039-00279
3. 108
4. Ashland Exploration Inc.
5. J. A. Osborne #4-001360
6. Old Field
7. Kanawha, WV
8. 8.1 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10686
2. 47-041-02480
3. 103
4. Allegheny Land & Mineral Co.
5. A-703
6. Court House District
7. Lewis, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10687
2. 47-033-01095
3. 103
4. Allegheny Land & Mineral Co.
5. A-674
6. Union District
7. Harrison, WV
8. 38.2 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10688
2. 47-017-01868
3. 103
4. Allegheny Land & Mineral Co.
5. A-679
6. Southwest District
7. Doddridge, WV
8. 25.9 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10689
2. 47-091-00139
3. 103
4. Allegheny Land & Mineral Co.
5. A-743
6. Knottsville District
7. Taylor, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10690
2. 47-083-01259
3. 103
4. Allegheny Land & Mineral Co.
5. A-742
6. Sardis Dist
7. Harrison, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10691
2. 47-017-01861
3. 103
4. Allegheny Land & Mineral Co.
5. A-664
6. Southwest District
7. Doddridge, WV
8. 27.8 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10692
2. 47-103-00619
3. 103
4. Allegheny Land & Mineral Co.
5. A-663
6. Grant Dist
7. Wetzel, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10693
2. 47-083-00216
3. 103
4. Allegheny Land & Mineral Co.
5. A-715
6. Middle Fork District
7. Randolph, WV
8. 39.3 million cubic feet
9. June 25, 1979
10. Columbia Gas Transmission Corp.
1. 79-10694
2. 47-049-00327
3. 103
4. Allegheny Land & Mineral Co.
5. A-698
6. Lincoln District
7. Marion, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10695
2. 47-033-01182
3. 103
4. Allegheny Land & Mineral Co.
5. A-697
6. Sardis District
7. Harrison, WV
8. 24.0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10696
2. 47-033-01089
3. 103
4. Allegheny Land & Mineral Co.
5. A-673
6. Union District
7. Harrison, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10697
2. 47-033-01014
3. 103
4. Allegheny Land & Mineral Co.
5. A-637
6. Sardis Dist
7. Harrison, WV
8. 52.4 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10698
2. 47-041-02521
3. 103
4. Allegheny Land & Mineral Co.
5. A-765
6. Hackus Creek District
7. Lewis, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10699
2. 47-097-01853
3. 103
4. Allegheny Land & Mineral Co.
5. A-766
6. Washington District
7. Upshur, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10700
2. 47-033-01964
3. 103
4. Allegheny Land & Mineral Co.
5. A-682
6. Union District
7. Harrison, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10701
2. 47-107-01962
3. 103
4. Allegheny Land & Mineral Co.
5. A-683
6. Union District
7. Harrison, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10702
2. 47-033-01993
3. 103
4. Allegheny Land & Mineral Co.
5. A-684
6. Ten Mile District
7. Harrison, WV
8. .0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10703
2. 47-033-01709
3. 103
4. Allegheny Land & Mineral Co.
5. A-752
6. Sardis District
7. Harrison, WV
8. .0 million cubic feet

9. June 25, 1979
10. Consolidated Gas Supply Corp.
1. 79-10704
2. 47-033-01253
3. 103
4. Allegheny Land & Mineral Co.
5. A-750
6. Union District
7. Harrison, WV
8. 40.0 million cubic feet
9. June 25, 1979
10. Consolidated Gas Supply Corp.

U.S. Geological Survey, Metairie, La.

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-073128
2. 17-712-40105-0000-0
3. 102
4. CNG Producing Company
5. A-10D2
6. Ship Shoal
7. 246000
8. 1095.0 million cubic feet
9. May 18, 1979
10. Consolidated Gas Supply Corporation

U.S. Geological Survey, Casper, Wyo.

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-09337B
2. 43-047-30378-0000-0
3. 103
4. Gas Producing Enterprises Inc
5. NBU 7-9B 30378
6. Natural Buttes Unit
7. Uintah, UT
8. 40.0 million cubic feet
9. June 29, 1979
10. Colorado Interstate Gas Co
1. 79-09337C
2. 43-047-30444-0000-0
3. 103
4. Gas Producing Enterprises Inc
5. NBU 64-24B 30444
6. Natural Buttes Unit
7. Uintah, UT
8. 10.0 million cubic feet
9. June 19, 1979
10. Colorado Interstate Gas Co
1. 79-09961
2. 05-103-81410-0000-5
3. 103
4. Continental Oil Company
5. Dragon Trail #46
6. Douglas Creek NW 21-T2S-R102W
7. Rio Blanco, CO
8. 146.0 million cubic feet

9. June 21, 1979
10. Western Slope Gas Company

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this notice in the **Federal Register**.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22844 Filed 7-20-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-378]**Washington Gas Light Co., Application for Exemption**

July 16, 1979.

Take notice that on June 21, 1979, Washington Gas Light Company (Washington), 1100 H Street, N.W., Washington, D.C. 20080, filed in Docket No. CP79-378 an application pursuant to Section 1(c) of the Natural Gas Act for exemption from the provisions of the Natural Gas Act and the regulations of the Commission thereunder of a proposed new natural gas service in Shenandoah County, Virginia, all as more fully set forth in the application on file with the Commission and open to public inspection.

Washington currently operates a service area involving the Commonwealth of Virginia, the State of Maryland and the District of Columbia, pursuant to Section 7(f) of the Natural Gas Act.

Washington proposes to initiate a new natural gas service in Shenandoah County, which service would be rendered in a separate and distinct area from that authorized under Section 7(f). Washington indicates that it would purchase and receive the gas necessary to provide the natural gas service from Columbia Gas Transmission Corporation (Columbia) at a new delivery point¹ to be constructed near

¹ Columbia has filed for authorization in Docket No. CP79-334 to construct the mainline tap and

Coffmantown, Virginia, and State Routes 679 and 680 in the Stonewall District of Shenandoah County. Washington proposes to transport the gas 4.5 miles through its proposed pipeline for sale to the Johns-Manville Sales Corporation² solely within Shenandoah County. Therefore, Washington indicates, that all of the gas which it would receive from Columbia would be received and ultimately consumed within Virginia.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 7, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22846 Filed 7-20-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP74-177]**Washington Natural Gas Co., as Project Operator, Petition To Amend**

July 13, 1979.

Take notice that on June 19, 1979, Washington Natural Gas Company (Washington Natural), 815 Mercer Street, Seattle, Washington 98111, filed in Docket No. CP74-177 a petition to amend the order of July 29, 1974, as amended, in the instant docket (52 FPC 236)¹ pursuant to Section 7(c) of the Natural Gas Act so as to authorize the continuation of the testing and development program for a new storage zone (Zone 9) in the Jackson Prairie Storage Project), an underground, aquifer-type natural gas storage facility, in Lewis County, Washington, for three additional years, through December 31, 1982, all as more fully set forth in the petition to amend on file with the

measuring facilities for the proposed delivery point to Washington.

² Washington states that the service which it proposes to provide for Johns-Manville Sales Corporation would be an interruptible service at a rate of 3,500 dekatherms (dt) per year.

¹ This proceeding was commenced before the FPC. By joint regulation of October 1, 1944 (10 CFR 1000.1), it was transferred to the Commission.

Commission and open to public inspection.

Pursuant to authorization granted in Docket No. CP71-7, Washington Natural was granted authorization to begin development of the storage capability of Zone 9; and pursuant to the order of July 29, 1974, as amended, in the instant docket, Washington Natural, as project operator, was granted budget-type authorization to develop further Zone 9 and to continue the testing program of the zone through December 31, 1979. Since 1972 wells have been drilled in Zone 9 for testing purposes, Washington Natural indicates, and geologic data obtained from the testing show that a portion of the Zone 9 reservoir is potentially suitable for gas storage. Washington Natural states that gas injection operations utilizing the test wells have also produced positive results, with favorable wellhead injection pressures and pressure responses in observation wells. The primary problem encountered in the testing, according to Washington Natural, has been the high water content during gas withdrawal cycles. Washington Natural proposes to overcome this problem by drying out the potentially useful portion of the Zone 9 reservoir through a further series of injection-withdrawal cycles. In order to afford time for this process, Washington Natural requests authorization to continue the testing and development of Zone 9 for three additional years.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 2, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22837 Filed 7-20-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-504]**Washington Water Power Co., Notice of Tender of "Letter Agreement"**

July 17, 1979.

The filing Company submits the following: Take notice that on July 10, 1979, The Washington Water Power Company (Washington) tendered for filing copies of a service schedule applicable to what Washington refers to as a "Letter Agreement" between Washington and Southern California Edison Company (Edison), which applies to the exchange of capacity. Washington states that the capacity will be delivered to Edison during July and August 1979 and Edison will deliver capacity to Washington during December 1983, January and February 1984.

Washington requests that the requirements of prior notice be waived and the effective date be made retroactive to July 1, 1979, adding that there would be no effect upon purchases under other rate schedules.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 7, 1979. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22638 Filed 7-20-79; 8:45 am]
BILLING CODE 6450-01-M

Determinations by Jurisdictional Agencies Under the natural Gas Policy Act of 1978

July 12, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Louisiana Office of Conservation

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-11315
2. 17-075-22469-
3. 102
4. Gulf Oil Corporation
5. S L 195 QQ No 284
6. Quarantine Bay
7. Plaquemines, La
8. 51.0 million cubic feet
9. June 28, 1979
10. United Gas Pipeline Co

1. 79-11316
2. 17-057-21524-
3. 102

4. Gulf Oil Corporation
5. S L PP 192 No 277
6. Timbalier Bay
7. LaFourche, La
8. 55.0 million cubic feet
9. June 28, 1979
10. Tennessee Gas Pipeline Co

1. 79-11317
2. 17-057-21511-
3. 102

4. Gulf Oil Corporation
5. S L PP 192 No 276
6. Timbalier Bay
7. LaFourche, La
8. 73.0 million cubic feet
9. June 28, 1979
10. Tennessee Gas Pipeline Co

1. 79-11318
2. 17-057-21520-
3. 102

4. Gulf Oil Corporation
5. Delta Securities Co Inc Well No 127
6. Bully Camp
7. LaFourche, La
8. 50.0 million cubic feet
9. June 28, 1979
10. Tennessee Gas Pipeline Co

1. 79-11319
2. 17-127-20643-
3. 102

4. Justiss-Mears Oil Company Inc
5. WX RA VU A Pardee 1
6. Hattaway Branch
7. Winn, La
8. 9.0 million cubic feet
9. June 28, 1979
10. United Gas Pipe Line Co

1. 79-11320
2. 17-109-21900-
3. 102

4. Pennzoil Producing Company
5. VU C State Bay Baptiste No 6-D
6. Bay Baptiste
7. Terrebonne, La
8. 100.0 million cubic feet

9. June 28, 1979
10. United Gas Pipe Line Company
1. 79-11321
2. 17-109-21958-
3. 102
4. Pennzoil Producing Company
5. VU C State Bay Baptiste No 9
6. Bay Baptiste
7. Terrebonne, La
8. 75.0 million cubic feet
9. June 28, 1979
10. United Gas Pipe Line Company
1. 79-11322
2. 17-109-21900-
3. 102
4. Pennzoil Producing Company
5. VU C State Bay Baptiste No 6
6. Bay Baptiste
7. Terrebonne, La
8. 40.0 million cubic feet
9. June 28, 1979
10. United Gas Pipe Line Company
1. 79-11323
2. 17-109-22038-
3. 102
4. Texaco Inc
5. VUL DGL U-12 No 55
6. Dog Lake
7. Terrebonne, La
8. 99.6 million cubic feet
9. June 28, 1979
10. Texas Gas Transmission Corp
**Ohio Department of Natural Resources,
Division of Oil and Gas**
1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NCPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-11141
2. 34-157-21810-0014-
3. 108
4. The Mutual Oil & Gas Company
5. Deward Herron No. 1-A
6. ~
7. Tuscarawas, OH
8. 3.0 million cubic feet
9. June 27, 1979
10. The East Ohio Gas Company
1. 79-11142
2. 34-121-21151-0014-
3. 108
4. Craig Cleary
5. Roy Graham No 1
6.
7. Noble, OH
8. 2.3 million cubic feet
9. June 27, 1979
10. Columbia Gas Trans
1. 79-11143
2. 34-121-21249-0014-
3. 108
4. Craig Cleary
5. J Fletcher Guiler No 2
6.
7. Noble, OH
8. 2.0 million cubic feet
9. June 27, 1979
10. Columbia Gas Trans
1. 79-11144
2. 34-121-21238-0014-
3. 108
4. Craig Cleary
5. Craig Cleary No 1
6.
7. Noble, OH
8. 1.3 million cubic feet
9. June 27, 1979
10. Columbia Gas Trans
1. 79-11145
2. 34-121-21293-0014-
3. 108
4. Craig Cleary
5. Craig Cleary No 2
6.
7. Noble, OH
8. 1.2 million cubic feet
9. June 27, 1979
10. Columbia Gas Trans
1. 79-11146
2. 34-121-20411-0014-
3. 108
4. Craig Cleary
5. I C Johnson No 1
6.
7. Noble, OH
8. .5 million cubic feet
9. June 27, 1979
10. Columbia Gas Trans
1. 79-11147
2. 34-121-21136-0014-
3. 108
4. Craig Cleary
5. J F & V K Guiler No 1
6.
7. Noble, OH
8. 2.0 million cubic feet
9. June 27, 1979
10. Columbia Gas Trans
1. 79-11148
2. 34-121-20285-0014-
3. 108
4. Craig Cleary
5. Pluma Spence No 1
6.
7. Noble, OH
8. 1.3 million cubic feet
9. June 27, 1979
10. Columbia Gas Trans
1. 79-11149
2. 34-121-20454-0014-
3. 108
4. Craig Cleary
5. Frank Bates No 1
6.
7. Noble, OH
8. .5 million cubic feet
9. June 27, 1979
10. Columbia Gas Trans
1. 79-11150
2. 34-009-21809-0014
3. 108
4. Poston Operation Co. Inc.
5. Millfield No. 5
6.
7. Athens, OH
8. 1.3 million cubic feet
9. June 27, 1979
10. Columbia Gas Transmission Corp.
1. 79-11151
2. 34-121-20570-0014

3. 108
4. Gould Ward
5. Ward Gas Syndicate No. 1
6.
7. Noble, OH
8. 2.0 million cubic feet
9. June 27, 1979
10. Columbia Gas Trans.
1. 79-11152
2. 34-121-21685-0014
3. 108
4. St. Joe Petroleum (US) Corporation
5. Herman Veagle No. 1
6. Undesignated
7. Noble, OH
8. 8.0 million cubic feet
9. June 27, 1979
10. Republic Steel Corporation
1. 79-11153
2. 34-019-20591-0014
3. 108
4. MB Operation Co. Inc.
5. James-Carl No. 2
6.
7. Carroll, OH
8. 3.3 million cubic feet
9. June 27, 1979
10. East Ohio Gas Co., Republic Steel
Corporation, Columbia Gas Company
1. 79-11154
2. 34-019-20581-0014
3. 108
4. MB Operating Co. Inc.
5. James-Carl No. 3
6.
7. Carroll, OH
8. 3.3 million cubic feet
9. June 27, 1979
10. East Ohio Gas Co., Republic Steel
Corporation, Columbia Gas Company
1. 79-11155
2. 34-019-20298-0014
3. 108
4. MB Operating Co. Inc.
5. James Sisters No. 1
6.
7. Carroll, OH
8. 3.7 million cubic feet
9. June 27, 1979
10. East Ohio Gas Co., Republic Steel
Corporation, Columbia Gas Company
1. 79-11156
2. 34-073-21892-0014
3. 108
4. Orwig Oil Company
5. Edward St. Clair No. 2
6.
7. Hocking, OH
8. 1.8 million cubic feet
9. June 27, 1979
10. Paramount Transmission Corp.
1. 79-11157
2. 34-073-21927-0014
3. 108
4. Orwig Oil Company
5. Charles Struble No. 2
6.
7. Hocking, OH
8. 3.0 million cubic feet
9. June 27, 1979
10. Paramount Transmission Corp.
1. 79-11158
2. 34-073-21767-0014
3. 108

4. Orwig Oil Company
5. Donald Wahl No. 1
6.
7. Hocking, OH
8. 1.8 million cubic feet
9. June 27, 1979
10. Paramount Transmission Corp.
1. 79-11159
2. 34-073-21795-0014
3. 108
4. Orwig Oil Company
5. Helen Inboden No. 1
6.
7. Hocking, OH
8. 2.8 million cubic feet
9. June 27, 1979
10. Paramount Transmission Corp.
1. 79-11160
2. 34-073-21800-0014
3. 108
4. Orwig Oil Company
5. Donald Wahl No. 2
6.
7. Hocking, OH
8. 1.8 million cubic feet
9. June 27, 1979
10. Paramount Transmission Corp.
1. 79-11161
2. 34-121-21686-0014
3. 108
4. St. Joe Petroleum (US) Corporation
5. H Mitchell No. 1
6. Undesignated
7. Noble, OH
8. 11.0 million cubic feet
9. June 27, 1979
10. Republic Steel Corporation
1. 79-11162
2. 34-121-21980-0014
3. 108
4. St. Joe Petroleum (US) Corporation
5. R. Schell No. 1
6. Undesignated
7. Noble, OH
8. 8.0 million cubic feet
9. June 27, 1979
10. Republic Steel Corporation
1. 79-11163
2. 34-121-21778-0014
3. 108
4. St. Joe Petroleum (US) Corporation
5. J. Noon No. 2
6. Undesignated
7. Noble, OH
8. 8.0 million cubic feet
9. June 27, 1979
10. Republic Steel Corporation
1. 79-11164
2. 34-059-21792-0014
3. 108
4. St. Joe Petroleum (US) Corporation
5. J. Jenkins No. 1
6. Undesignated
7. Guernsey, OH
8. 5.0 million cubic feet
9. June 27, 1979
10. Republic Steel Corporation
1. 79-11165
2. 34-121-21746-0014
3. 108
4. St. Joe Petroleum (US) Corporation
5. V. Moore No. 2
6. Undesignated
7. Noble, OH
8. 10.0 million cubic feet
9. June 27, 1979
10. Republic Steel Corporation
1. 79-11166
2. 34-157-22104-0014
3. 108
4. The Mutual Oil & Gas Company
5. T. Herron Unit No. 1
6.
7. Tuscarawas, OH
8. 13.0 million cubic feet
9. June 27, 1979
10. The East Ohio Gas Company
1. 79-11167
2. 34-157-21759-0014
3. 108
4. The Mutual Oil & Gas Company
5. Wilmer Kaderly (David M. Seikel) No. 1
6.
7. Tuscarawas, OH
8. 12.0 million cubic feet
9. June 27, 1979
10. The East Ohio Gas Company
1. 79-11168
2. 34-157-21818-0014
3. 108
4. The Mutual Oil & Gas Company
5. Kaderly-Seikel No. 2
6.
7. Tuscarawas, OH
8. 17.0 million cubic feet
9. June 27, 1979
10. The East Ohio Gas Company
1. 79-11169
2. 34-157-21144-0014
3. 108
4. The Mutual Oil & Gas Company
5. Leatherman No. 1
6.
7. Tuscarawas, OH
8. 8.0 million cubic feet
9. June 27, 1979
10. The East Ohio Gas Company
1. 79-11170
2. 34-157-21765-0014
3. 108
4. The Mutual Oil & Gas Company
5. Everhard-Cole No. 3
6.
7. Tuscarawas, OH
8. 5.0 million cubic feet
9. June 27, 1979
10. The East Ohio Gas Company
1. 79-11171
2. 34-157-21305-0014
3. 108
4. The Mutual Oil & Gas Company
5. John B. Fait No. 1
6.
7. Tuscarawas, OH
8. 5.0 million cubic feet
9. June 27, 1979
10. The East Ohio Gas Company
1. 79-11172
2. 34-157-22461-0014
3. 108
4. The Mutual Oil & Gas Company
5. Arthur D. & Mary F. Kage No. 1
6.
7. Tuscarawas, OH
8. 12.0 million cubic feet
9. June 27, 1979
10. The East Ohio Gas Company
1. 79-11173
2. 34-151-22526-0014
3. 108
4. Pominex Inc.
5. No. 1 Frederick
6.
7. Stark, OH
8. 1.9 million cubic feet
9. June 27, 1979
10. Columbia Gas Transmission Corp.,
Columbia Gas of Ohio
1. 79-11174
2. 34-151-22560-0014
3. 108
4. Pominex Inc.
5. No. 2 Gabric U.
6.
7. Stark, OH
8. 1.6 million cubic feet
9. June 27, 1979
10. Columbia Gas Transmission Corp.,
Columbia Gas of Ohio
1. 79-11175
2. 34-151-22557-0014
3. 108
4. Pominex Inc.
5. No. 1 Mary Monter U.
6.
7. Stark, OH
8. 5.4 million cubic feet
9. June 27, 1979
10. Columbia Gas Transmission Corp.,
Columbia Gas of Ohio
1. 79-11176
2. 34-151-22540-0014
3. 108
4. Pominex Inc.
5. N. Hadinger No. 1
6.
7. Stark, OH
8. 2.0 million cubic feet
9. June 27, 1979
10. East Ohio Gas Co.
1. 79-11177
2. 34-151-22529-0014
3. 108
4. Pominex Inc.
5. Oyster No. 1
6.
7. Stark, OH
8. 2.0 million cubic feet
9. June 27, 1979
10. East Ohio Gas Co.
1. 79-11178
2. 34-151-22548-0014
3. 108
4. Pominex Inc
5. #1 C Johnson
6.
7. Stark, OH
8. 8.0 million cubic feet
9. June 27, 1979
10. Columbia Gas Transmission Corp.,
Columbia Gas of Ohio
1. 79-11179
2. 34-151-22594-0014
3. 108
4. Pominex Inc
5. #1 Van Wagenen U
6.
7. Stark, OH
8. 8.4 million cubic feet
9. June 27, 1979

10. Columbia Gas Transmission Corp.,
Columbia Gas of Ohio
1. 79-11180
2. 34-151-22545-0014
3. 108
4. Pominex Inc
5. #1 May
6.
7. Stark, OH
8. 3.1 million cubic feet
9. June 27, 1979
10. Columbia Gas Transmission Corp.,
Columbia Gas of Ohio
1. 79-11181
2. 34-163-20394-0014
3. 103
4. Inland Drilling Co Inc.
5. Jay Mar Coal Co Sentry Royalty #4 03
6.
7. Vinton, OH
8. .4 million cubic feet
9. June 27, 1979
10.
1. 79-11182
2. 34-127-24252-0014
3. 103
4. American Well Management Company
5. Shrider #1
6.
7. Perry, OH
8. 18.0 million cubic feet
9. June 27, 1979
10.
1. 79-11183
2. 34-127-24251-0014
3. 103
4. American Well Management Company
5. Love No 1
6.
7. Perry, OH
8. 18.0 million cubic feet
9. June 27, 1979
10.
1. 79-11184
2. 34-151-21788-0014
3. 108
4. Jerry Moore Inc
5. NATCO Corporation #14
6. East Canton
7. Stark, OH
8. 12.0 million cubic feet
9. June 27, 1979
10. East Ohio Gas Company
1. 79-11185
2. 34-121-21638-0014
3. 108
4. Allegheny Land & Mineral Company
5. Boyd Well-AO-2
6.
7. Noble, OH
8. 6.0 million cubic feet
9. June 27, 1979
10. East Ohio Gas Company
1. 79-11186
2. 34-121-21641-0014
3. 108
4. Allegheny Land & Mineral Company
5. Franklin Well-AO-3
6.
7. Noble, OH
8. 17.0 million cubic feet
9. June 27, 1979
10. East Ohio Gas Company
1. 79-11187
2. 34-121-21649-0014
3. 108
4. Allegheny Land & Mineral Company
5. Smith Well-AO-5
6.
7. Noble, OH
8. 2.0 million cubic feet
9. June 27, 1979
10. East Ohio Gas Company
1. 79-11188
2. 34-121-21668-0014
3. 108
4. Allegheny Land & Mineral Company
5. Gordon Well-AO-7
6.
7. Noble, OH
8. 7.0 million cubic feet
9. June 27, 1979
10. East Ohio Gas Company
1. 79-11189
2. 34-059-21139-0014
3. 108
4. Appalachian Exploration Inc
5. Lucag-Love #1
6.
7. Guernsey, OH
8. 3.0 million cubic feet
9. June 27, 1979
10. Columbia Gas Transmission Corp
1. 79-11190
2. 34-157-21821
3. 108
4. The Mutual Oil & Gas Company
5. D E Herron #2-A
6.
7. Tuscarawas, OH
8. 3.0 million cubic feet
9. June 27, 1979
10. The East Ohio Gas Company
1. 79-11191
2. 34-157-22731-0014
3. 108
4. K S T Oil & Gas Co Inc
5. Beaver #1
6.
7. Tuscarawas, OH
8. 12.0 million cubic feet
9. June 27, 1979
10. East Ohio Gas Co
1. 79-11192
2. 34-075-21832-0014
3. 108
4. Amtex Oil And Gas Inc
5. Briar Hill Stone No 1
6.
7. Holmes, OH
8. 30.0 million cubic feet
9. June 27, 1979
10. Columbia Gas Transmission Corp
1. 79-11193
2. 34-157-21657-0014
3. 108
4. The Mutual Oil & Gas Company
5. Harrison Leasing Co #1
6.
7. Tuscarawas, OH
8. 7.0 million cubic feet
9. June 27, 1979
10. The East Ohio Gas Company
1. 79-11194
2. 34-157-21930-0014
3. 108
4. The Mutual Oil & Gas Company
5. Harrison Leasing Co #2
6.
7. Tuscarawas, OH
8. 7.0 million cubic feet
9. June 27, 1979
10. The East Ohio Gas Company
1. 79-11195
2. 34-157-21071-0014
3. 108
4. The Mutual Oil & Gas Company
5. Glass Comm Well #1
6.
7. Tuscarawas, OH
8. 14.0 million cubic feet
9. June 27, 1979
10. The East Ohio Gas Company
1. 79-11196
2. 34-157-21912-0014
3. 108
4. The Mutual Oil & Gas Company
5. A F Glass #1-A
6.
7. Tuscarawas, OH
8. 9.0 million cubic feet
9. June 27, 1979
10. The East Ohio Gas Company
1. 79-11197
2. 34-151-22439-0014
3. 108
4. MB Operating Co Inc
5. R & C Oyer Unit #1
6.
7. Stark, OH
8. 10.2 million cubic feet
9. June 27, 1979
10. East Ohio Gas Company, Republic Steel
Corporation, Columbia Gas Company
1. 79-11198
2. 34-151-22553-0014
3. 108
4. Pominex Inc
5. #1 Donald Rohr
6.
7. Stark, OH
8. 1.9 million cubic feet
9. June 27, 1979
10. Columbia Gas Transmission Corp.,
Columbia Gas of Ohio
1. 79-11199
2. 34-151-22533-0014
3. 108
4. Pominex Inc
5. F Johnson #1
6.
7. Stark, OH
8. 2.7 million cubic feet
9. June 27, 1979
10. Columbia Gas Transmission Corp.,
Columbia Gas of Ohio
1. 79-11200
2. 34-151-22544-0014
3. 108
4. Pominex Inc
5. #1 Brieske
6.
7. Stark, OH
8. 3.1 million cubic feet
9. June 27, 1979
10. Columbia Gas Transmission Corp.,
Columbia Gas of Ohio
1. 79-11201
2. 34-157-21162-0014
3. 108
4. The Mutual Oil & Gas Company

5. Leatherman #2
6.
7. Tuscarawas, OH
8. 7.0 million cubic feet
9. June 27, 1979
10. The East Ohio Gas Company
1. 79-11202
2. 34-157-22345-0014
3. 108
4. The Mutual Oil & Gas Company
5. George Ray Leggett #1
6.
7. Tuscarawas, OH
8. 20.0 million cubic feet
9. June 27, 1979
10. The East Ohio Gas Company
1. 79-11203
2. 34-157-21762-0014
3. 108
4. The Mutual Oil & Gas Company
5. L Lamport #1
6.
7. Tuscarawas, OH
8. 15.0 million cubic feet
9. June 27, 1979
10. The East Ohio Gas Company
1. 79-11204
2. 34-157-21183-0014
3. 108
4. The Mutual Oil & Gas Company
5. Leatherman #1
6.
7. Tuscarawas, OH
8. 7.0 million cubic feet
9. June 27, 1979
10. The East Ohio Gas Company
**West Virginia Department of Mines, Oil and
Gas Division**
1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 79-11275
2. 47-033-01105
3. 108
4. Allegheny Land & Mineral Co.
5. A-670
6. Sardis District
7. Harrison, WV
8. 17.9 million cubic feet
9. June 28, 1979
10. Consolidated Gas Supply Corp
1. 79-11276
2. 47-033-01052
3. 108
4. Allegheny Land & Mineral Co.
5. A-658
6. Sardis District
7. Harrison, WV
8. 4.8 million cubic feet
9. June 28, 1979
10. Consolidated Gas Supply Corp
1. 79-11277
2. 47-097-01509
3. 108
4. Allegheny Land & Mineral Co
5. A-499
8. Union District
7. Upshur, WV
8. 8.1 million cubic feet
9. June 28, 1979
10. Consolidated Gas Supply Corp
1. 79-11278
2. 47-041-01529
3. 108
4. Allegheny Land & Mineral Company
5. A-327
6. Hackers Creek District
7. Lewis, WV
8. 5.0 million cubic feet
9. June 28, 1979
10. Equitable Gas
1. 79-11279
2. 47-041-01531
3. 108
4. Allegheny Land & Mineral Company
5. A-328
6. Hackers Creek District
7. Lewis, WV
8. 5.0 million cubic feet
9. June 28, 1979
10. Equitable Gas
1. 79-11280
2. 47-041-01540
3. 108
4. Allegheny Land & Mineral Company
5. A-329
6. Hackers Creek District
7. Lewis, WV
8. 2.3 million cubic feet
9. June 28, 1979
10. Equitable Gas
1. 79-11281
2. 47-033-01026
3. 108
4. Allegheny Land & Mineral Co
5. A-630
6. Union District
7. Harrison, WV
8. 16.1 million cubic feet
9. June 28, 1979
10. Consolidated Gas Supply Corp
1. 79-11282
2. 47-041-01541
3. 108
4. Allegheny Land & Mineral Company
5. A-330
6. Hackers Creek District
7. Lewis, WV
8. 1.1 million cubic feet
9. June 28, 1979
10. Equitable Gas
1. 79-11283
2. 47-041-00496
3. 108
4. Allegheny Land & Mineral Co
5. A-79
6. Freemans Creek District
7. Lewis, WV
8. 3.4 million cubic feet
9. June 28, 1979
10. Consolidated Gas Supply Corp
1. 79-11284
2. 47-021-01467
3. 108
4. Allegheny Land & Mineral Co
5. A-198
6. Glenville District
7. Gilmer, WV
8. 4.2 million cubic feet
9. June 28, 1979
10. Consolidated Gas Supply Corp
1. 79-11285
2. 47-041-00468
3. 108
4. Allegheny Land & Mineral Co
5. A-69
6. Freemans Creek District
7. Lewis, WV
8. 1.0 million cubic feet
9. June 28, 1979
10. Consolidated Gas Supply Corp
1. 79-11286
2. 47-017-00885
3. 108
4. Allegheny Land & Mineral Co
5. A-201
6. Grant District
7. Doddridge, WV
8. .2 million cubic feet
9. June 28, 1979
10. Consolidated Gas Supply Corp
1. 79-11287
2. 47-013-01789
3. 108
4. Allegheny Land & Mineral Co
5. A-68
6. Washington District
7. Calhoun, WV
8. 1.7 million cubic feet
9. June 28, 1979
10. Consolidated Gas Supply Corp
1. 79-11288
2. 47-017-00855
3. 108
4. Allegheny Land & Mineral Co
5. A-194
6. McClellon District
7. Doddridge, WV
8. 2.5 million cubic feet
9. June 28, 1979
10. Consolidated Gas Supply Corp
1. 79-11289
2. 47-041-00598
3. 108
4. Allegheny Land & Mineral Co
5. A-64
6. Court House District
7. Lewis, WV
8. 3.3 million cubic feet
9. June 28, 1979
10. Consolidated Gas Supply Corp
1. 79-11290
2. 47-017-00502
3. 108
4. Allegheny Land & Mineral Co
5. A-99
6. Grand District
7. Doddridge, WV
8. 5.3 million cubic feet
9. June 28, 1979
10. Consolidated Gas Supply Corp
1. 79-11291
2. 47-033-01106
3. 108
4. Allegheny Land & Mineral Co
5. A-672
6. Sardis District
7. Harrison, WV
8. 7.0 million cubic feet
9. June 28, 1979
10. Consolidated Gas Supply Corp
1. 79-11292
2. 47-033-01112

3. 108
4. Allegheny Land & Mineral Co
5. A-676
6. Union District
7. Harrison, WV
8. 21.6 million cubic feet
9. June 28, 1979
10. Consolidated Gas Supply Corp
1. 79-11293
2. 47-017-00243
3. 108
4. Allegheny Land & Mineral Co
5. A-5
6. Central District
7. Doddridge, WV
8. .8 million cubic feet
9. June 28, 1979
10. Consolidated Gas Supply Corp
1. 79-11294
2. 47-085-01866
3. 108
4. Allegheny Land & Mineral Co
5. A-6
6. Union District
7. Ritchie, WV
8. 4.2 million cubic feet
9. June 28, 1979
10. Consolidated Gas Supply Corp
1. 79-11294
2. 47-085-01945
3. 108
4. Allegheny Land & Mineral Co
5. A-16
6. Union District
7. Ritchie, WV
8. 3.2 million cubic feet
9. June 28, 1979
10. Consolidated Gas Supply Corp
1. 79-11296
2. 47-017-01864
3. 108
4. Allegheny Land & Mineral Co
5. A-667
6. Southwest District
7. Doddridge, WV
8. 9.3 million cubic feet
9. June 28, 1979
10. Consolidated Gas Supply Corp
1. 79-11297
2. 47-041-01182
3. 108
4. Allegheny Land & Mineral Co
5. A-223
6. Court House District
7. Lewis, WV
8. 4.9 million cubic feet
9. June 28, 1979
10. Equitable Gas
1. 79-11298
2. 47-097-01577
3. 108 Denied
4. Allegheny Land & Mineral Co
5. A-512
6. Washington District
7. Upshur, WV
8. .2 million cubic feet
9. June 28, 1979
10. Consolidated Gas Supply Corp
1. 79-11299
2. 47-021-01138
3. 108 Denied
4. Allegheny Land & Mineral Co
5. A-57
6. Appalachian Basin
7. Gilmer WV
8. 2.2 million cubic feet
9. June 28, 1979
10. Consolidated Gas Supply Corp
1. 79-11300
2. 47-041-00816
3. 108 Denied
4. Allegheny Land & Mineral Co
5. A-110
6. Appalachian Basin
7. Lewis, WV
8. 1.6 million cubic feet
9. June 28, 1979
10. Consolidated Gas Supply Corp
1. 79-11301
2. 47-041-00793
3. 108
4. Allegheny Land & Mineral Co
5. A-150
6. Court House District
7. Lewis, WV
8. 2.6 million cubic feet
9. June 28, 1979
10. Equitable Gas
1. 79-11367
2. 47-041-01211
3. 108
4. Allegheny Land & Mineral Co
5. A-230
6. Court House District
7. Lewis, WV
8. .7 million cubic feet
9. June 28, 1979
10. Consolidated Gas Supply Corp
1. 79-11368
2. 47-017-00921
3. 108
4. Allegheny Land & Mineral Co
5. A-203
6. McClellan District
7. Doddridge, WV
8. 5.7 million cubic feet
9. June 28, 1979
10. Consolidated Gas Supply Corp
1. 79-11369
2. 47-041-00577
3. 108
4. Allegheny Land & Mineral Co
5. A-88
6. Freemans Creek District
7. Lewis WV
8. 2.1 million cubic feet
9. June 29, 1979
10. Consolidated Gas Supply Corp
1. 79-11370
2. 47-071-00567
3. 108
4. Allegheny Land & Mineral Co
5. A-145
6. McClellan District
7. Doddridge WV
8. .6 million cubic feet
9. June 29, 1979
10. Consolidated Gas Supply Corp
1. 79-11371
2. 47-041-00513
3. 108
4. Allegheny Land & Mineral Co
5. A-78
6. Freemans Creek District
7. Lewis WV
8. 2.9 million cubic feet
9. June 29, 1979
10. Consolidated Gas Supply Corp

1. 79-11372
2. 47-041-00717
3. 108
4. Allegheny Land & Mineral Co
5. A-135
6. Freemans Creek District
7. Lewis WV
8. 7.8 million cubic feet
9. June 29, 1979
10. Consolidated Gas Supply Corp
1. 79-11373
2. 47-017-01114
3. 108
4. Allegheny Land & Mineral Co
5. A-239
6. Grant District
7. Doddridge WV
8. 1.1 million cubic feet
9. June 29, 1979
10. Consolidated Gas Supply Corp
1. 79-11374
2. 47-017-00772
3. 108
4. Allegheny Land & Mineral Co
5. A-173
6. McClellan District
7. Doddridge WV
8. 7.9 million cubic feet
9. June 29, 1979
10. Consolidated Gas Supply Corp
1. 79-11375
2. 47-085-03060
3. 108
4. Allegheny Land & Mineral Co
5. A-296
6. Murphy District
7. Ritchie WV
8. 4.4 million cubic feet
9. June 29, 1979
10. Consolidated Gas Supply Corp
1. 79-11376
2. 47-085-03213
3. 108
4. Allegheny Land & Mineral Co
5. A-335
6. Grant District
7. Ritchie WV
8. 2.0 million cubic feet
9. June 29, 1979
10. Consolidated Gas Supply Corp
1. 79-11377
2. 47-017-01149
3. 108
4. Allegheny Land & Mineral Co
5. A-253
6. McClellan District
7. Doddridge WV
8. .9 million cubic feet
9. June 29, 1979
10. Consolidated Gas Supply Corp
1. 79-11378
2. 47-017-01353
3. 108
4. Allegheny Land & Mineral Co
5. A-306
6. McClellan District
7. Doddridge WV
8. 2.6 million cubic feet
9. June 29, 1979
10. Consolidated Gas Supply Corp
1. 79-11379
2. 47-085-02305
3. 108
4. Allegheny Land & Mineral Co

5. A-120
6. (Murphy-District) Appalachian Basin
7. Ritchie WV
8. 1.5 million cubic feet
9. June 29, 1979
10. Consolidated Gas Supply Corp
1. 79-11380
2. 47-041-00619
3. 108
4. Allegheny Land & Mineral Co
5. A-108
6. Freemans Creek District
7. Lewis WV
8. 4.1 million cubic feet
9. June 29, 1979
10. Consolidated Gas Supply Corp
1. 79-11381
2. 47-097-01067
3. 108
4. Allegheny Land & Mineral Co
5. A-338
6. Union District
7. Upshur WV
8. 14.2 million cubic feet
9. June 29, 1979
10. Consolidated Gas Supply Corp
1. 79-11382
2. 47-017-00638
3. 108
4. Allegheny Land & Mineral Co
5. A-160
6. McClellan District
7. Doddridge WV
8. 6.0 million cubic feet
9. June 29, 1979
10. Consolidated Gas Supply Corp
1. 79-11383
2. 47-017-00547
3. 108
4. Allegheny Land & Mineral Co
5. A-141
6. Grant District
7. Doddridge WV
8. 6.1 million cubic feet
9. June 29, 1979
10. Consolidated Gas Supply Corp
1. 79-11384
2. 47-097-01109
3. 108
4. Allegheny Land & Mineral Co
5. A-353
6. Washington District
7. Upshur WV
8. 10.9 million cubic feet
9. June 29, 1979
10. Consolidated Gas Supply Corp
1. 79-11385
2. 47-085-02011
3. 108
4. Allegheny Land & Mineral Co
5. A-19
6. Murphy District
7. Ritchie WV
8. 7.5 million cubic feet
9. June 29, 1979
10. Consolidated Gas Supply Corp
1. Control Number (F.E.R.C./State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-11205
2. 49-005-25086
3. 103
4. Amoco Production Company
5. Springen #1
6. Highlight
7. Campbell WY
8. 330.0 million cubic feet
9. June 27, 1979
10. Phillips Petroleum Corporation
1. 79-11206
2. 49-029-20739
3. 103
4. Amoco Production Company
5. Elk Basin Unit #1-310
6. Elk Basin
7. Park WY
8. 6.0 million cubic feet
9. June 27, 1979
10. Montana-Dakota Utilities Company
1. 79-11207
2. 49-029-20746
3. 103
4. Amoco Production Company
5. Elk Basin Unit #1-311
6. Elk Basin
7. Park WY
8. 10.0 million cubic feet
9. June 27, 1979
10. Montana-Dakota Utilities Company
1. 79-11208
2. 49-029-20738
3. 103
4. Amoco Production Company
5. Elk Basin Unit #1-312
6. Elk Basin
7. Park WY
8. 10.0 million cubic feet
9. June 27, 1979
10. Montana-Dakota Utilities Company
1. 79-11209
2. 49-029-20766
3. 103
4. Amoco Production Company
5. Elk Basin Unit #1-314
6. Elk Basin
7. Park WY
8. 9.0 million cubic feet
9. June 27, 1979
10. Montana-Dakota Utilities Inc
1. 79-11210
2. 49-029-20677
3. 103
4. Amoco Production Company
5. Elk Basin Unit #1-315
6. Elk Basin
7. Park WY
8. 9.0 million cubic feet
9. June 27, 1979
10. Montana-Dakota Utilities Company
1. 79-11211
2. 49-005-24405
3. 103
4. Amoco Production Company
5. Christensen Unit C #1
6. Hartzog Draw
7. Campbell WY
8. 17.0 million cubic feet
9. June 27, 1979
10. Panhandle Eastern Pipeline Company
1. 79-11212
2. 49-005-24797
3. 103
4. Amoco Production Company
5. Christensen D Unit #1
6. Hartzog Draw
7. Campbell WY
8. .1 million cubic feet
9. June 27, 1979
10. Panhandle Eastern Pipe Line Company
1. 79-11213
2. 49-005-24614
3. 103
4. Amoco Production Company
5. Christensen Unit #1
6. Hartzog Draw
7. Campbell WY
8. 20.0 million cubic feet
9. June 27, 1979
10. Panhandle Eastern Pipeline Company
1. 79-11214
2. 49-005-24615
3. 103
4. Amoco Production Company
5. Christensen B #1
6. Hartzog Draw
7. Campbell WY
8. 41.0 million cubic feet
9. June 27, 1979
10. Panhandle Eastern Pipeline Company
1. 79-11215
2. 49-005-24834
3. 103
4. Amoco Production Company
5. Camblin #2
6. Hartzog Draw
7. Campbell WY
8. 16.0 million cubic feet
9. June 27, 1979
10. Phillips Petroleum Company
1. 79-11216
2. 49-005-24818
3. 103
4. Amoco Production Company
5. Camblin #1
6. Hartzog Draw
7. Campbell WY
8. 24.0 million cubic feet
9. June 27, 1979
10. Phillips Petroleum Company
1. 79-11217
2. 49-037-21036
3. 102
4. Amoco Production Company
5. Champlin 536 Amoco A #1
6. Wildcat
7. Sweetwater WY
8. 48.0 million cubic feet
9. June 27, 1979
10. Cities Service Gas Company
1. 79-11218
2. 49-037-20955
3. 102
4. Amoco Production Company
5. Champlin 441 Amoco A #1
6. Wamsutter
7. Sweetwater WY
8. 145.0 million cubic feet
9. June 27, 1979
10. Cities Service Gas Co
1. 79-11219
2. 49-007-20315
3. 102
4. Amoco Production Company
5. Champlin 444 Amoco A #1

6. Unnamed—Wildcat
7. Carbon WY
8. 96.0 million cubic feet
9. June 27, 1979
10. Cities Services Gas Company
1. 79-11220
2. 49-009-21207
3. 103
4. Amoco Production Company
5. Etchemendy A #1
6. Well Draw
7. Converse WY
8. 5.0 million cubic feet
9. June 27, 1979
10. Phillips Petroleum Company
1. 79-11221
2. 49-023-20956
3. 103
4. Amoco Production Company
5. Champlin 451 Amoco A #1
6. Siberia Ridge
7. Sweetwater WY
8. 98.0 million cubic feet
9. June 27, 1979
10. Cities Service Gas Company
1. 79-11222
2. 49-013-20753
3. 103
4. Amoco Production Company
5. Big Sand Draw Gas #18
6. Big Sand Draw
7. Freemont WY
8. 313.0 million cubic feet
9. June 27, 1979
10. Northern Utilities Inc
1. 79-11223
2. 49-007-20379
3. 102
4. Amoco Production Company
5. Champlin 242 D #1
6. Wamsutter
7. Carbon WY
8. 283.0 million cubic feet
9. June 27, 1979
10. Cities Service Gas Co
1. 79-11224
2. 49-037-21037
3. 102
4. Amoco Production Company
5. Champlin 242 Amoco B #1
6. Wildcat
7. Sweetwater WY
8. 222.0 million cubic feet
9. June 27, 1979
10. Cities Service Gas Company
1. 79-11225
2. 49-037-20975
3. 102
4. Amoco Production Company
5. Champlin 450 Amoco A #1
6. Wamsutter
7. Sweetwater WY
8. 81.0 million cubic feet
9. June 27, 1979
10. Cities Service Gas Company
1. 79-11226
2. 49-007-20369
3. 102
4. Amoco Production Company
5. Champlin 226 Amoco B #1
6. Wildcat
7. Carbon WY
8. 206.0 million cubic feet
9. June 27, 1979
10. Cities Service Gas Company
1. 79-11227
2. 49-037-21023
3. 103
4. Kenneth Luff Inc
5. #2-27 Amoco-Champlin
6. Pine Canyon
7. Sweetwater WY
8. 75.0 million cubic feet
9. June 27, 1979
10. Stauffer Chemical Company of Wyoming
1. 79-11228
2. 49-037-21082
3. 103
4. Kenneth Luff Inc
5. #2-17 Amoco-Champlin
6. Crooked Canyon
7. Sweetwater WY
8. 150.0 million cubic feet
9. June 27, 1979
10. Stauffer Chemical Company of Wyoming
1. 79-11229
2. 49-037-21043
3. 103
4. Kenneth Luff Inc
5. #3-9 Amoco-Champlin
6. Crooked Canyon
7. Sweetwater WY
8. 100.0 million cubic feet
9. June 27, 1979
10. Stauffer Chemical Company of Wyoming
1. 79-11230
2. 49-005-25116
3. 103
4. Continental Oil Company
5. Conoco Wright 29-4
6. House Creek SE 28 T44N R72W
7. Campbell WY
8. 32.8 million cubic feet
9. June 27, 1979
10.
1. 79-11231
2. 49-005-25134
3. 103
4. Continental Oil Company
5. Conoco Wright 32-7
6. House Creek NE 32 T44N R72W
7. Campbell WY
8. 21.9 million cubic feet
9. June 27, 1979
10.
1. 79-11232
2. 49-005-25082
3. 103
4. Continental Oil Co
5. Conoco Wright 33-2
6. House Creek NW 33 T44N B72W
7. Campbell WY
8. 32.8 million cubic feet
9. June 27, 1979
10. Phillips Petr Co
1. 79-11233
2. 49-005-25104
3. 103
4. Continental Oil Co
5. Cosner Ranch 4 Well #6
6. House Creek NW Sec 4 T43N B72W
7. Campbell WY
8. 29.9 million cubic feet
9. June 27, 1979
10. Phillips Petr Co
1. 79-11234
2. 49-005-25043
3. 103
4. Continental Oil Co
5. Cosner Ranch 4 Well #5
6. House Creek NE Sec 4 T43N R72W
7. Campbell WY
8. 23.0 million cubic feet
9. June 27, 1979
10. Phillips Petr Co
1. 79-11235
2. 49-005-25111
3. 103
4. Continental Oil Co
5. Conoco Wright 33-3
6. House Creek SW 33 T44N R72W
7. Campbell WY
8. 27.4 million cubic feet
9. June 27, 1979
10. Phillips Petr Co
1. 79-11236
2. 49-005-25133
3. 103
4. Continental Oil Co
5. Conoco Wright 33 #8
6. House Creek NW NE Sec 33-T44N-R72W
7. Campbell WY
8. 7.3 million cubic feet
9. June 27, 1979
10. Phillips Petr Co
1. 79-11237
2. 49-005-24883
3. 103
4. Continental Oil Co
5. Conoco Wright 33 Well #1
6. House Creek SE Sec 33 T44N R72W
7. Campbell WY
8. 16.4 million cubic feet
9. June 27, 1979
10. Phillips Petroleum Co
1. 79-11238
2. 49-005-25166
3. 103
4. Continental Oil Company
5. Conoco Wright 29-10
6. House Creek SW 29 T44N R72W
7. Campbell WY
8. 5.5 million cubic feet
9. June 27, 1979
10.
1. 79-11239
2. 49-009-00000
3. 103
4. Chaparral Resources Inc
5. Werner #1-19
6. Spearhead Ranch
7. Converse WY
8. 118.8 million cubic feet
9. June 27, 1979
10. Quasar Energy Inc
1. 79-11240
2. 49-041-20171
3. 102
4. Champlin Petroleum Company
5. CPC UPRR 24-11 SESW 11-15N-113W
6. Hank Hollow
7. Uinta WY
8. 140.0 million cubic feet
9. June 27, 1979
10.
1. 79-11241
2. 49-037-00000
3. 103
4. Robert Klabzuba
5. Amoco-Champlin #1-15
6. Ten Mile Draw

7. Sweetwater WY
8. 2 million cubic feet
9. June 27, 1979
10. Stauffer Chemical Co of Wyoming
1. 79-11242
2. 49-005-00000
3. 103
4. John J. Christmann
5. Allen—Wells 1-15
6. Tip Top
7. Sublette WY
8. 400.0 million cubic feet
9. June 27, 1979
10. Northwest Pipeline Corp
1. 79-11243
2. 49-023-00000
3. 103
4. John J. Christmann
5. Red Gap 2-20
6. South Hogsback
7. Lincoln WY
8. 350.0 million cubic feet
9. June 27, 1979
10. Northwest Pipeline Corp
1. 79-11244
2. 49-009-00000
3. 103
4. Petroleum Inc
5. Conoco Mortons Inc #3
6. Mikes Draw (Teapot)
7. Converse, WY
8. 12.0 million cubic feet
9. June 27, 1979
10. Phillips Petroleum Company
1. 79-11245
2. 49-009-00000
3. 103
4. Petroleum Inc
5. Holmes C #1
6. Mikes Draw (Teapot)
7. Converse, WY
8. 20.0 million cubic feet
9. June 27, 1979
10. Phillips Petroleum Company
1. 79-11246
2. 49-013-20763
3. 102
4. Monsanto Company
5. MDU State #1-16
6. Madded
7. Fremont, WY
8. 1825.0 million cubic feet
9. June 27, 1979
10. Colorado Interstate Gas Company
1. 79-11247
2. 49-005-25036
3. 103
4. The Superior Oil Company
5. Lowery 1
6. Kingsbury Creek
7. Campbell, WY
8. 4.0 million cubic feet
9. June 27, 1979
10.
1. 79-11248
2. 49-029-20765
3. 103
4. Resources Investment Corporation
5. McKinley #1
6. Bearcat
7. Park, WY
8. 1 million cubic feet
9. June 27, 1979
10.
1. 79-11249
2. 49-009-00000
3. 103
4. Mitchell Energy Corporation
5. Cline-Johnson #1
6. Mikes Draw
7. Converse, WY
8. 7.2 million cubic feet
9. June 27, 1979
10. Liquid Energy Corporation
1. 79-11250
2. 49-009-00000
3. 103
4. Mitchell Energy Corporation
5. Steidle 4-15
6. Mikes Draw
7. Converse, WY
8. 10.8 million cubic feet
9. June 27, 1979
10. Liquid Energy Corporation
1. 79-11251
2. 49-009-00000
3. 103
4. Mitchell Energy Corporation
5. Mohr 1-11
6. Mikes Draw
7. Converse, WY
8. 16.0 million cubic feet
9. June 27, 1979
10. Liquid Energy Corporation
1. 79-11252
2. 49-009-00000
3. 103
4. Mitchell Energy Corporation
5. Fenderson 2-14
6. Mikes Draw
7. Converse, WY
8. 7.3 million cubic feet
9. June 27, 1979
10. Liquid Energy Corporation
1. 79-11253
2. 49-009-00000
3. 103
4. Mitchell Energy Corporation
5. Fenderson 3-14
6. Mikes Draw
7. Converse, WY
8. 5.8 million cubic feet
9. June 27, 1979
10. Liquid Energy Corporation
1. 79-11254
2. 49-009-00000
3. 103
4. Mitchell Energy Corporation
5. Mohr 3-2
6. Mikes Draw
7. Converse, WY
8. 3.2 million cubic feet
9. June 27, 1979
10. Liquid Energy Corporation
1. 79-11255
2. 49-009-00000
3. 103
4. Mitchell Energy Corporation
5. Mohr 4-2
6. Mikes Draw
7. Converse, WY
8. 7.2 million cubic feet
9. June 27, 1979
10. Liquid Energy Corporation
1. 79-11256
2. 49-025-06243
3. 102
4. Dart Inc
5. Oconner
6. Se Castle Creek
7. Natrona, WY
8. 146.0 million cubic feet
9. June 27, 1979
10. Northern Gas Company
1. 79-11257
2. 49-009-00000
3. 103
4. Mitchell Energy Corporation
5. B B State, 3-16 87-8174
6. Mikes Draw
7. Converse, WY
8. 4169.0 million cubic feet
9. June 27, 1979
10. McCulloch Gas Processing Corporation
1. 79-11258
2. 49-019-20396
3. 102
4. WEBB Resources Inc
5. #12-2 Christensen
6. Table Mountain Field
7. Johnson, WY
8. 30.0 million cubic feet
9. June 27, 1979
10. Phillips Petroleum Company
1. 79-11259
2. 49-019-20397
3. 102
4. WEBB Resources Inc
5. #12-4 Christensen
6. Table Mountain Field
7. Johnson, WY
8. 15.0 million cubic feet
9. June 27, 1979
10. Phillips Petroleum Company
1. 79-11260
2. 49-019-20399
3. 102
4. WEBB Resources Inc
5. #2-9 Christensen
6. Table Mountain Field
7. Johnson, WY
8. 25.0 million cubic feet
9. June 27, 1979
10. Phillips Petroleum Company
U.S. Geological Survey Metairie, LA.
1. Control Number (F.E.R.C./STATE)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block no.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-11261
2. 17-709-40341-0000-0
3. 102
4. Gulf Oil Corporation
5. Eugene Island Blk 252 OCS G-0983 #C
6. Eugene Island
7. 252000
8. 2543.0 million cubic feet
9. June 27, 1979
10. Sea Robin Pipeline, Texas Eastern
Transmission Corp
1. 79-11262
2. 17-709-40265-0000-0
3. 102
4. Gulf Oil Corporation
5. Eugene Island Blk 236 #3(H-1) OCS G

6. Eugene Island
7. 23800
8. 4920.0 million cubic feet
9. June 27, 1979
10. Sea Robin Pipeline Company, Texas Eastern Transmission Corp.
1. 79-11263
2. 17-708-40314-0000-0
3. 102
4. Shell Oil Company
5. B-31
6. South Marsh Island
7. 130000
8. 43.0 million cubic feet
9. June 27, 1979
10. Transcontinental Gas Pipe Line Corp.
1. 79-11264
2. 17-709-40312-0000-0
3. 102
4. Gulf Oil Corporation
5. Eugene Island Block 238 OCS G-0983
6. Eugene Island Blk 238
7. 252000
8. 1620.0 million cubic feet
9. June 27, 1979
10. Sea Robin Pipeline Co, Texas Eastern Transmission Corp.
1. 79-11265
2. 17-709-40291-0000-0
3. 102
4. Gulf Oil Corporation
5. Eugene Island Blk 252 OCS G-0983 #G
6. Eugene Island
7. 252000
8. 486.0 million cubic feet
9. June 27, 1979
10. Sea Robin Pipeline Co, Texas Eastern Transmission Corp.
1. 79-11266
2. 17-711-40428-0000-0
3. 102
4. Ocean Production Company
5. OCS-068 #3A
6. Ship Shoal 113 Field
7. 118000
8. 160.0 million cubic feet
9. June 27, 1979
10. Transcontinental Gas Pipeline Corp.
1. 79-11267
2. 17-708-40196-0000-0
3. 102
4. Shell Oil Company
5. B-8
6. South Marsh Island
7. 130000
8. 35.0 million cubic feet
9. June 27, 1979
10. Transcontinental Gas Pipe Line Corp.
1. 79-11268
2. 17-709-40330-0000-0
3. 102
4. Gulf Oil Corporation
5. Eugene Island Block 252 OCS G-0983
6. Eugene Island
7. 252000
8. 10044.0 million cubic feet
9. June 27, 1979
10. Sea Robin Pipeline Company Texas Eastern Transmission Corp.
1. 79-11269
2. 17-704-40385-0100-0
3. 102
4. Transco Exploration Company
5. A-9
6. East Cameron
7. 263000
8. 15000.0 million cubic feet
9. June 27, 1979
10. Transcontinental Gas Pipe Line Corp.
1. 79-11270
2. 17-708-40209-0000-0
3. 102
4. Shell Oil Company
5. B-12
6. South Marsh Island
7. 130000
8. 95.0 million cubic feet
9. June 27, 1979
10. Transcontinental Gas Pipe Line Corp.
1. 79-11271
2. 17-720-40050-0000-0
3. 102
4. Gulf Oil Corporation
5. OCS G-1101 well F-13 W/D Blk. 117
6. West Delta
7. 117000
8. 200.0 million cubic feet
9. June 27, 1979
10. Texas Eastern Transmission Corp.
1. 79-11272
2. 17-709-40291-0000-0
3. 102
4. Gulf Oil Corporation
5. Eugene Island Blk. 252 OCS G-0983 #G
6. Eugene Island
7. 252000
8. 3402.0 million cubic feet
9. June 27, 1979
10. Sea Robin Pipeline Company Texas Eastern Transmission Corp.
1. 79-11273
2. 17-708-40167-0000-0
3. 102
4. Shell Oil Company
5. B-1
6. South Marsh Island
7. 130000
8. 70.0 million cubic feet
9. June 27, 1979
10. Transcontinental Gas Pipeline Corp.
1. 79-11274
2. 17-708-40214-0000-0
3. 102
4. Shell Oil Company
5. B-13
6. South Marsh Island
7. 130000
8. 70.0 million cubic feet
9. June 27, 1979
10. Transcontinental Gas Pipe Line Corp.
1. 79-11386
2. 17-724-40109-0000-0
3. 102
4. Chevron USA Inc.
5. OCS-G-2955 #B-1
6. Main Pass
7. 236000
8. 819.0 million cubic feet
9. July 2, 1979
10. Southern Natural Gas Co.
1. 79-11387
2. 17-724-40113-0000-0
3. 102
4. Chevron USA Inc.
5. OCS-G-2955 #B-2
6. Main pass 133
7. 236000
8. 1489.0 million cubic feet
9. July 2, 1979
10. Southern Natural Gas Co.
1. 79-11388
2. 17-710-40732-0000-0
3. 102
4. Texaco Inc.
5. OCS-G-2321 EI 348 No. A-2
6. Eugene Island
7. 348000
8. 730.0 million cubic feet
9. July 2, 1979
10. Texas Gas Transmission Corp. Tennessee Gas Pipeline Co.
1. 79-11389
2. 17-704-40412-0100-0
3. 102
4. Transco Exploration Company
5. A-15
6. East Cameron
7. 263000
8. 15000.0 million cubic feet
9. June 27, 1979
10. Transcontinental Gas Pipe Line Corp.
1. 79-11390
2. 17-712-40187-0000-0
3. 102
4. CNG Producing Company
5. B-2-81
6. Ship Shoal
7. 271000
8. 2345.0 million cubic feet
9. June 27, 1979
10. Consolidated Gas Supply Corp. Texas Gas Transmission Corp. Columbia Gas Transmission Corp.
1. 79-11391
2. 17-704-40422-0000-0
3. 102
4. Transco Exploration Company
5. A-12
6. East Cameron
7. 263000
8. 15000.0 million cubic feet
9. June 27, 1979
10. Transcontinental Gas Pipe Line Corp.
1. 79-11392
2. 17-704-40425-0000-0
3. 102
4. Transco Exploration Company
5. A-16
6. East Cameron
7. 263000
8. 15000.0 million cubic feet
9. June 27, 1979
10. Transcontinental Gas Pipe Line Corp.
1. 79-11393
2. 17-708-40246-0000-0
3. 102
4. Shell Oil Company
5. B-19
6. South Marsh Island
7. 131000
8. 100.0 million cubic feet
9. June 27, 1979
10. Transcontinental Gas Pipe Line Corp.
1. 79-11394
2. 17-704-40386-0000-0
3. 102
4. Transco Exploration Company
5. A-7
6. East Cameron
7. 263000
8. 15000.0 million cubic feet
9. June 27, 1979

10. Transcontinental Gas Pipe Line Corp.
1. 79-11395
2. 17-711-40437-0000-0
3. 102
4. Ocean Production Company
5. OCS-063 #35
6. Ship shoal 113 field
7. 93000
8. 275.0 million cubic feet
9. June 27, 1979
10. Transcontinental Gas Pipe Line Corp.
1. 79-11396
2. 17-706-40299-0000-0
3. 102
4. Chevron USA Inc.
5. OCS-G-2081 #6
6. Vermilion
7. 262000
8. 200.0 million cubic feet
9. June 27, 1979
10.
1. 79-11397
2. 17-709-40312-0000-0
3. 102
4. Gulf Oil Corporation
5. Eugene Island Blk. 252 OCS G-0983 #G-2
6. Eugene Island
7. 252000
8. 1944.0 million cubic feet
9. June 27, 1979
10. Sea Robin Pipeline Company Texas Eastern Transmission Corp.
1. 79-11398
2. 17-709-40310-0000-0
3. 102
4. Gulf Oil Corporation
5. Eugene Island Blk. 252 OCS G-0983 #G-2
6. Eugene Island
7. 252000
8. 4212.0 million cubic feet
9. June 27, 1979
10. Sea Robin Pipeline Co. Texas Eastern Transmission Corp.
1. 79-11399
2. 17-709-40310-0000-0
3. 102
4. Gulf Oil Corporation
5. Eugene Island Blk 252 OCS G-0983 #G-2
6. Eugene Island
7. 252000
8. 3888.0 million cubic feet
9. June 27, 1979
10. Sea Robin Pipeline Co. Texas Eastern Transmission Corp.
1. 79-11400
2. 17-704-40387-0000-0
3. 102
4. Transco Exploration Company
5. A-11
6. East Cameron
7. 263000
8. 15000.0 million cubic feet
9. June 27, 1979
10. Transcontinental Gas Pipe Line Corp.
U.S. Geological Survey, Albuquerque, N. Mex.
1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 79-11302
2. 30-045-22934-0000-0
3. 103
4. Kimbark Operating Co
5. Storey #4
6. Blanco-Pictured Cliff
7. San Juan
8. 182.0 million cubic feet
9. June 28, 1979
10. Southwest Gas Corporation
1. 79-11303
2. 30-045-22935-0000-0
3. 103
4. Kimbark Operating Co
5. Horton #10
6. Blanco-Pictured Cliff
7. San Juan
8. 438.0 million cubic feet
9. June 28, 1979
10. Southwest Gas Corporation
1. 79-11304
2. 30-039-05756-0000-0
3. 108
4. Southland Royalty Co
5. Arizona Jicarilla #4
6. Blanco-Pictured Cliffs
7. Rio Arriba NM
8. 9.0 million cubic feet
9. June 28, 1979
10. Gas Co of New Mexico
1. 79-11305
2. 30-045-06642-0000-0
3. 108
4. Southland Royalty Co
5. Hanks #5
6. Fulcher Kutz Pictured Cliffs
7. San Juan NM
8. 12.0 million cubic feet
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11306
2. 30-045-06764-0000-0
3. 108
4. Southland Royalty Co
5. Hanks #10
6. Blanco Pictured Cliffs
7. San Juan NM
8. 8.0 million cubic feet
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11307
2. 30-045-07141-0000-0
3. 108
4. Southland Royalty Co
5. Hubbell #2
6. Fulcher Kutz Pictured Cliffs
7. San Juan NM
8. 7.0 million cubic feet
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11308
2. 30-045-07160-0000-0
3. 108
4. Southland Royalty Co
5. Hubbell #1
6. Fulcher Kutz Pictured Cliffs
7. San Juan NM
8. 4.0 million cubic feet
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11309
2. 30-045-20717-0000-0
3. 108
4. Southland Royalty Co
5. Grenier A #A8
6. Aztec Pictured Cliffs
7. San Juan NM
8. 7.0 million cubic feet
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11310
2. 30-045-08779-0000-0
3. 108
4. Southland Royalty Co
5. Grenier B #1
6. Aztec Pictured Cliffs
7. San Juan NM
8. 10.0 million cubic feet
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11311
2. 30-045-13240-0000-0
3. 108
4. Southland Royalty Co
5. Reid #3
6. Aztec Pictured Cliffs
7. San Juan NM
8. 19.0 million cubic feet
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11312
2. 30-045-20429-0000-0
3. 108
4. Southland Royalty Co
5. Grenier B#9
6. Aztec Pictured Cliffs
7. San Juan NM
8. 3.0 million cubic feet
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11313
2. 30-045-13251-0000-0
3. 108
4. Southland Royalty Co
5. McClanahan #3
6. Fulcher Kutz Pictured Cliffs
7. San Juan NM
8. 8.0 million cubic feet
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11314
2. 30-045-07356-0000-0
3. 108
4. Southland Royalty Co
5. Reid #20
6. Blanco Mesa Verde
7. San Juan NM
8. 10.0 million cubic feet
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11324
2. 30-045-20477-0000-0
3. 108
4. Southland Royalty Co
5. East #13
6. Aztec Pictured Cliffs
7. San Juan NM
8. 2.0 million cubic feet
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11325
2. 30-045-20488-0000-0
3. 108
4. Southland Royalty Co

5. East #14
6. Aztec Pictured Cliffs
7. San Juan NM
8. 8.0 million cubic feet
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11326
2. 30-045-07513-0000-0
3. 108
4. Southland Royalty Co
5. McClanahan #18
6. Blanco Mesa Verde
7. San Juan NM
8. 13.0 million cubic feet
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11327
2. 30-039-05785-0000-0
3. 108
4. Southland Royalty Co
5. Arizona Jicarilla #5
6. Blanco Pictured Cliffs
7. Rio Arriba NM
8. 10.0 million cubic feet
9. June 28, 1979
10. Gas Co of New Mexico
1. 79-11328
2. 30-039-05862-0000-0
3. 108
4. Southland Royalty Co
5. Arizona Jicarilla #8
6. Blanco Pictured Cliffs
7. Rio Arriba NM
8. 3.0 million cubic feet
9. June 28, 1979
10. Gas Co of New Mexico
1. 79-11329
2. 30-039-21037-0000-0
3. 108
4. Southland Royalty Co
5. Arizona Jicarilla #B-7
6. Blanco Pictured Cliffs
7. Rio Arriba NM
8. 6.0 million cubic feet
9. June 28, 1979
10. Gas Company of New Mexico
1. 79-11330
2. 30-045-20555-0000-0
3. 108
4. Southland Royalty Co
5. East #20
6. Aztec Pictured Cliffs
7. San Juan NM
8. 6.0 million cubic feet
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11331
2. 30-045-20648-0000-0
3. 108
4. Southland Royalty Co
5. Davis #14
6. Aztec Pictured Cliffs
7. San Juan NM
8. 6.0 million cubic feet
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11332
2. 30-045-20653-0000-0
3. 108
4. Southland Royalty Co
5. Davis #15
6. Aztec Pictured Cliffs
7. San Juan NM
8. 13.0 million cubic feet
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11333
2. 30-045-09015-0000-0
3. 108
4. Southland Royalty Co
5. Grenier A#A2
6. Aztec Pictured Cliffs
7. San Juan NM
8. 10.0 million cubic feet
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11334
2. 30-045-00000-0000-0
3. 108
4. Southland Royalty Co
5. Grenier #9
6. Aztec Pictured Cliffs
7. San Juan NM
8. 5.0 million cubic feet
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11335
2. 30-045-20427-0000-0
3. 108
4. Southland Royalty Co
5. Grenier #18
6. Aztec Pictured Cliffs
7. San Juan NM
8. 10.0 million cubic feet
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11336
2. 30-045-20718-0000-0
3. 108
4. Southland Royalty Co
5. East #21
6. Aztec Pictured Cliffs
7. San Juan NM
8. 10.0 million cubic feet
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11337
2. 30-045-08238-0000-0
3. 108
4. Southland Royalty Co
5. Cozzens #1
6. Fulcher Kutz Pictured Cliffs
7. San Juan NM
8. 10.0 million cubic feet
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11338
2. 30-045-08115-0000-0
3. 108
4. Southland Royalty Co
5. Cozzens #2
6. Fulcher Kutz Pictured Cliffs
7. San Juan NM
8. 6.0 million cubic feet
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11339
2. 30-045-00000-0000-0
3. 108
4. Southland Royalty Co
5. Cozzens #3
6. Fulcher Kutz Pictured Cliffs
7. San Juan NM
8. 9.0 million cubic feet
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11340
2. 30-045-06450-0000-0
3. 108
4. Southland Royalty Co
5. Hare #5
6. Aztec Pictured Cliffs
7. San Juan NM
8. 12.0 million cubic ft
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11341
2. 30-045-07631-0000-0
3. 108
4. Southland Royalty Co
5. Cain #4
6. Aztec Pictured Cliffs
7. San Juan NM
8. 10.0 million cubic ft
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11342
2. 30-045-07209-0000-0
3. 108
4. Southland Royalty Co
5. Lackey Hubbell #2
6. Fulcher Kutz Pictured Cliffs
7. San Juan NM
8. 7.0 million cubic ft
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11343
2. 30-045-06628-0000-0
3. 108
4. Southland Royalty Co
5. Hanks 3
6. Fulcher Kutz PC
7. San Juan NM
8. 17.0 million cubic ft
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11344
2. 30-045-07358-0000-0
3. 108
4. Southland Royalty Co
5. Hughes #1
6. Fulcher Kutz Pictured Cliffs
7. San Juan NM
8. 7.0 million cubic ft
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11345
2. 30-045-06288-0000-0
3. 108
4. Southland Royalty Co
5. Hudson A D #2
6. Fulcher Kutz Pictured Cliffs
7. San Juan NM
8. 7.0 million cubic ft
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11346
2. 30-045-07536-0000-0
3. 108
4. Southland Royalty Co
5. Reid #11
6. Aztec Pictured Cliffs
7. San Juan NM
8. 6.0 million cubic ft
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11347
2. 30-045-07788-0000-0
3. 108
4. Southland Royalty Co
5. Hare #4
6. Aztec Pictured Cliffs

7. San Juan NM
8. 18.0 million cubic ft
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11348
2. 30-045-09020-0000-0
3. 108
4. El Paso Natural Gas Company
5. Wood 2
6. Aztec-Pictured Cliffs Gas
7. San Juan NM
8. 21.2 million cubic ft
9. June 28, 1979
10. El Paso Natural Gas Company
1. 79-11349
2. 30-039-05092-0000-0
3. 108
4. Sherman F Wagenseller
5. Mobil Apache #5
6. South Blanco PC
7. Rio Arriba NM
8. 1.3 million cubic ft
9. June 28, 1979
10. El Paso Gas Co
1. 79-11350
2. 30-039-05063-0000-0
3. 108
4. Lionel R Levinson
5. Pubco Apache #3
6. South Blanco PC
7. Rio Arriba NM
8. 6.0 million cubic ft
9. June 28, 1979
10. El Paso Gas Company
1. 79-11351
2. 30-045-22933-0000-0
3. 103
4. Kimbark Operating Co
5. Horton #5
6. Blanco-Pictured Cliff
7. San Juan NM
8. 401.0 million cubic ft
9. June 28, 1979
10. Southwest Gas Corporation
1. 79-11352
2. 30-039-05065-0000-0
3. 108
4. Trans Delta Oil & Gas Co Inc
5. Jicarilla J-2
6. South Blanco
7. Rio Arriba NM
8. 8.0 million cubic ft
9. June 28, 1979
10. El Paso Natural Gas Company
1. 79-11353
2. 30-039-05094-0000-0
3. 108
4. Trans Delta Oil & Gas Co Inc
5. Jicarilla J-3
6. South Blanco
7. Rio Arriba NM
8. 9.4 million cubic ft
9. June 28, 1979
10. El Paso Natural Gas Company
1. 79-11354
2. 30-039-05117-0000-0
3. 108
4. Trans Delta Oil & Gas Co Inc
5. Elliott Federal 2
6. South Blanco
7. Rio Arriba NM
8. 9.7 million cubic ft
9. June 28, 1979
10. El Paso Natural Gas Company
1. 79-11355
2. 30-045-07570-0000-0
3. 108
4. Southland Royalty Co
5. Reid #14
6. Aztec Pictured Cliffs
7. San Juan NM
8. 10.0 million cubic ft
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11356
2. 30-045-06617-0000-0
3. 108
4. Southland Royalty Co
5. Hanks #4
6. Fulcher Kutz Pictured Cliffs
7. San Juan NM
8. 16.0 million cubic ft
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11357
2. 30-045-06878-0000-0
3. 108
4. Southland Royalty Co
5. Hanks #2
6. Fulcher Kutz Pictured Cliffs
7. San Juan NM
8. 11.0 million cubic ft
9. June 28, 1979
10. Southern Union Gathering CO
1. 79-11358
2. 30-045-20458-0000-0
3. 108
4. Southland Royalty Co
5. Hare #21
6. Aztec Pictured Cliffs
7. San Juan NM
8. 11.0 million cubic ft
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11359
2. 30-045-08655-0000-0
3. 108
4. Southland Royalty Co
5. Hare #13
6. Aztec Pictured Cliffs
7. San Juan NM
8. 12.0 million cubic ft
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11360
2. 30-045-07436-0000-0
3. 108
4. Southland Royalty Co
5. McClanahan #12
6. Aztec Pictured Cliffs
7. San Juan NM
8. 18.0 million cubic ft
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11361
2. 30-045-07639-0000-0
3. 108
4. Southland Royalty Co
5. Cain #7
6. Aztec Pictured Cliffs
7. San Juan NM
8. 18.0 million cubic ft
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11362
2. 30-045-20499-0000-0
3. 108
4. Southland Royalty Co
5. Grenier #20
6. Blanco Pictured Cliffs
7. San Juan NM
8. 6.0 million cubic ft
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11363
2. 30-045-07312-0000-0
3. 108
4. Southland Royalty Co
5. Newman A #A-6
6. Fulcher Kutz Pictured Cliffs
7. San Juan NM
8. 12.0 million cubic ft
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11364
2. 30-045-08035-0000-0
3. 108
4. Southland Royalty Co
5. Cozzens #4
6. Fulcher Kutz Pictured Cliffs
7. San Juan NM
8. 2.0 million cubic ft
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11365
2. 30-045-08017-0000-0
3. 108
4. Southland Royalty Co
5. Cozzens #5
6. Fulcher Kutz Pictured Cliffs
7. San Juan NM
8. 6.0 million cubic ft
9. June 28, 1979
10. Southern Union Gathering Co
1. 79-11366
2. 30-039-05678-0000-0
3. 108
4. Brooks Hall Oil Corp
5. Jicarilla 10 #1
6. Basin-Dakota
7. Rio Arriba NM
8. 9.3 million cubic ft
9. June 28, 1979
10. El Paso Natural Gas Company
U.S. Geological Survey, Casper, Wyo.
1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date received at FERC
10. Purchaser(s)
1. 79-11140
2. 30-047-30424-0000-0
3. 103
4. Gas Producing Enterprises Inc
5. Natural Buttes 11-14-9-20
6. Bitter Creek
7. Uintah, UT
8. 82.0 million cubic ft
9. June 21, 1979
10. Colorado Interstate Gas Co
The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection.

except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this notice in the *Federal Register*.

Please reference the FERC Control Number in all correspondence related to these determinations.

Kenneth F. Plumb

Secretary

[FR Doc 79-22643 Filed 7-20-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures; Issuance of Final Decision and Order

Under the procedural regulations of the Department of Energy, the Special Counsel for Compliance may request the Office of Hearings and Appeals to formulate and implement a process "pursuant to which refunds may be made to injured persons in order to remedy the effects of a violation" of the DOE Regulations. 10 CFR 205.280. We are now providing notice to the public that the Office of Hearings and Appeals has issued a final Decision and Order that establishes the procedures it will use in distributing approximately \$42,240,000 to qualified persons. The full text of the Decision and Order follows this Notice.

The \$42.24 million is to be tendered to the Department by the Gulf Oil Corporation within 15 days after a consent order entered into by Gulf and the DOE Office of Special Counsel on July 26, 1978, is made final. (43 FR 34185, August 3, 1978). (Consent Order published for public comment). Under the terms of the Decision and Order, a priority class will receive the first distribution from the Gulf refund amount. This class includes all direct purchasers of petroleum products from Gulf during the relevant period and all motorists that purchased gasoline from any Gulf retail outlet for their own personal use during the relevant period. Also in the priority class are all homeowners that purchased heating oil from Gulf during the relevant period for use in their homes. The maximum amount of the refund to which a qualified person will be entitled is

derived by multiplying the number of gallons of petroleum products the business entity or individual purchased from Gulf by \$.00122.

The procedures also permit requests for refunds to be submitted on a class basis. Those applications will be evaluated by the Office of Hearings and Appeals and a separate decision will be issued.

The procedures contained in the following Decision reflect our full consideration of the comments that members of the public submitted in response to previous proposals of the Office of Hearings and Appeals for distributing the refund amount. (44 FR 16475, March 19, 1979; 43 FR 38548, August 28, 1979; Transcript of Public Hearing (September 26, 1978).

The next step in the implementation of the Gulf refund procedures will be the issuance of an Order by the Office of Hearings and Appeals indicating how the \$42.24 million refund amount will be held pending a determination of individual claims for refunds. That Order will be issued to Gulf and will relate to custody of the funds and the interest that the funds will earn. The following step in the refund process will be an invitation to members of the public to submit individual claims for refunds. That invitation will appear in the *Federal Register*, in a press release the Department will issue, and possibly in advertisements placed in appropriate publications. The announcement will describe the information that members of the public should submit in an application for refund and will specify the deadline for the submission of all claims. If possible, a form will also be made available for this purpose.

We are, in addition, exploring the possibility of arranging for direct payment to be made to purchasers of Gulf products without the necessity of a formal application. This procedure, if technically feasible, will apply to those business entities that bought petroleum products directly from Gulf during the relevant time period and actually used the products involved rather than reselling it. It will also, if technically feasible, apply to motorists and homeowners who bought products from Gulf during the relevant period with credit cards.

We will very shortly announce the specific procedures that will be used in processing individual claims for refunds. In order to avoid duplication, individual claims should not be submitted until that announcement is made.

Dated: July 17, 1979.

Melvin Goldstein,
Director, Office of Hearings and Appeals,
Department of Energy,
Washington, D.C. 20461.
July 13, 1979.

Decision and Order of the Department of Energy

Special Refund Procedures

Name of Petitioner: Office of Special Counsel for Compliance, Department of Energy.

Date of Filing: March 2, 1979.

Case Number: DFF-0001.

This proceeding establishes special procedures that the Department of Energy will use in refunding to customers of the Gulf Oil Corporation approximately \$42,240,000. On August 22, 1978, the Office of Hearings and Appeals issued a Decision and Order in response to a Petition for Special Redress filed by the Office of Special Counsel. The Decision described in considerable detail the refund procedures that the Office of Hearings and Appeals intended to implement on an interim basis pending receipt of written comments and oral presentations. *Office of Special Counsel for Compliance*, 1 DOE Par. 82,586 (1978); 43 FR 38,548 (1978). A public hearing was held on September 26, 1978, and written comments were filed by 34 individuals and firms.

On February 9, 1979, the Department of Energy adopted new procedural regulations for the distribution of refunds. Notice of Rulemaking, 44 FR 8561 (1979). Those regulations, which are contained in Subpart V of the DOE procedural regulations (10 CFR Part 205), establish special refund procedures which can be activated by the Office of Hearings and Appeals upon petition by the Office of Special Counsel or by the Office of Enforcement. In view of the adoption of these special refund regulations, the Office of Special Counsel withdrew the Petition for Special Redress that it had filed and instead requested that the Special Refund Procedures set forth in Subpart V be activated with respect to the Gulf Consent Order. See 10 CFR 205.281. On March 13, 1979, a Proposed Decision and Order was issued in the refund proceeding. The March 13 proposal contained revised procedures for distributing the Gulf refund. 2 CCH Fed. Energy Guidelines Par. 17,143 (1979). Public comment was requested on the proposed procedures. *Id.*; 44 FR 16,475 (March 19, 1979).

After considering the new Petition and the comments submitted both in the original special redress proceeding and in this special refund proceeding, we have concluded that a revised determination should be issued with regard to the Petition of the Special Counsel. This revised determination incorporates a number of the changes recommended by individuals who submitted comments in each of the proceedings.

I. Background

In its March 2 Petition for the Implementation of Special Refund Procedures, the Special Counsel for Compliance of the Department of Energy

(OSC) requested the Office of Hearings and Appeals to adopt and implement procedures in order to distribute overcharges to purchasers of products sold by the Gulf Oil Company. According to the Petition, these refunds are being paid by Gulf pursuant to a Consent Order entered into by Gulf and the OSC on July 26, 1978. 43 FR 34,185 (1978); see 10 CFR 205.281. The Special Counsel stated that he was not able to identify at that time the particular purchasers of Gulf products who would be entitled to refunds.

In the Consent Order, the OSC and Gulf reached an agreement to settle a compliance proceeding that had been instituted against Gulf in April 1977 by the issuance of a Notice of Proposed Disallowance (NOPD). The Federal Energy Administration alleged in the NOPD that Gulf had overstated its costs with respect to interaffiliate imported crude oil transactions by \$79.6 million for the period October 1973 through May 1975. The DOE subsequently reduced the amount of disallowance by \$5.7 million on the basis of corrections to information that had been reported to the DOE and adjustments to maximum and representative prices for crude oil that had been transferred by Gulf. In the Consent Order the OSC and Gulf agreed to settle the disallowance claim and also any overrecovery that Gulf had made in connection with its purchases of Indonesian Katapa crude oil through a foreign affiliate during the period between August 1973 and January 1976. The Consent Order also referred to overrecovery alleged in a Notice of Probable Violation issued to Gulf on May 8, 1974.

Under the terms of the Consent Order, Gulf agreed to tender \$42,240,000 to the United States in lieu of any further remedial action with respect to these matters. However, the Consent Order states that:

Gulf and DOE recognize that the time periods involved and the determination of proper costs allowable make it most difficult to determine whether any person sustained an overcharge in the purchase of covered products from Gulf . . .

In view of the difficulties that were perceived in reaching a determination as to whether any particular person was overcharged as a result of the alleged Gulf actions referred to in the Consent Order, the DOE agreed to accept responsibility for establishing an administrative procedure for evaluating claims for a portion of the refund and making restitution to persons presenting valid claims. In the present Petition, the OSC requests that special procedures be established by the Office of Hearings and Appeals under Part 205, Subpart V for the distribution of refunds to affected persons.

II. Authority

Section 205.280 of the DOE procedural regulations provides that special refund procedures may be adopted by the Office of Hearings and Appeals upon petition by a DOE enforcement official when that official is unable to readily identify persons who are entitled to refunds specified in a remedial order or a consent order. After considering the Petition filed by the OSC and the record in this proceeding, we have determined that

special procedures should be implemented in order to compensate injured customers in this proceeding. Gulf is a major integrated petroleum firm engaged in the production, transportation, refining and marketing of crude oil and an extensive schedule of petroleum products. It is one of the largest petroleum firms in the United States, and the purchasers of its products number in the millions. Because of the nature of the particular pricing practices alleged in the NOPD, which concern a fundamental element in a refiner's calculation of maximum permissible prices, each purchaser of Gulf products marketed throughout the United States was potentially affected. These factors and the flexibility accorded refiners under the refiner price rule of the Mandatory Petroleum Regulations make it extremely difficult to allocate specific overcharges to any particular sales transaction or to identify specific customers who were overcharged. That determination is further complicated in this case by the fact that the practices in question occurred as long ago as five years.

In other words, even though overcharges may have occurred, the discretion that Gulf possessed in determining its prices makes it very unlikely that any individual claimant could prove the nature and extent of a direct injury. Therefore, unless special procedures are adopted, there would appear to be little likelihood that individual purchasers and consumers would be able to obtain refunds. This situation would occur despite the fact that it is likely that purchasers and consumers as a class are entitled to refunds based on the Consent Order. Under these circumstances it is necessary to implement special procedures to ensure that the persons who would be affected by Gulf's alleged transfer price mechanism will benefit from the terms of the Consent Order.

We have therefore concluded that special claims procedures are necessary and appropriate in this case. The specific procedures that will be implemented in this proceeding for distributing refunds are set forth in the Appendix. They will be explained in detail below.

III. Notice to Purchasers; Administration of Claims

The type of regulatory violations referred to in the Consent Order could have had an effect during the relevant time period upon every purchaser of crude oil from Gulf under the Buy-Sell Program (10 CFR 211.65) and upon every purchaser of refined products or residual fuel oil from Gulf. Consequently, there are special problems associated with the establishment of a procedure for adjudicating claims and distributing refunds.

The large number of potential claimants first presents the question of the form of notice that should be given to individuals who wish to request a refund. We believe that notice should include publication in the *Federal Register* and the preparation of appropriate press releases that will specify the exact time period during which applications for refunds will be received. The procedures described in the Appendix to this Decision specifically provide for those types of notice. In addition, individual purchasers

of Gulf products will, to the extent practicable, be directly notified of the procedures available for filing claims. We understand that many of the direct purchasers of covered products from Gulf and Gulf credit card purchasers during the period in question can be identified through records maintained by Gulf. We intend to request the assistance of Gulf, consistent with the terms of the Consent Order, in connection with notification efforts. Where necessary, direct mail notices will also be sent to various trade and consumer organizations, who may then notify their members. We are also considering supplementing the types of notice already discussed by advertising in newspapers and periodicals of general circulation and publishing announcements in trade and consumer publications. Funds will be appropriated for the purpose of providing notice to customers from the refund to be remitted by Gulf.

In addition, Gulf has expressed a willingness to assist the DOE, consistent with the terms of the Consent Order, in the evaluation of refund claims. Its assistance will be useful in verifying information submitted by claimants and in providing additional information or documents within its control to the DOE or individual claimants. It may, in fact, be possible to make refunds directly to some classes of customers by utilizing purchase records maintained by Gulf. This procedure will eliminate the requirement that each purchaser file a formal refund application. We intend to explore this possibility further when the Consent Order is issued in final form.

We contemplate that Gulf will provide assistance on a voluntary basis, and consequently claimants should seek necessary factual material by applying directly to Gulf. The Office of Hearings and Appeals will consider the use of compulsory procedures for obtaining information only if voluntary methods for obtaining the information have been unsuccessful. In any case, prior to the issuance of compulsory process Gulf will be afforded an opportunity to present its views regarding the burden that it will experience in complying with individual requests for additional information.

A more fundamental question presented by the large number of potential claimants in this case concerns the processing of individual claims. It would not be feasible as a practical matter for the Office of Hearings and Appeals itself to deal individually with thousands of claims, many of which could be for relatively small amounts. On the other hand, we will not adopt any procedure that effectively prevents small firms or ultimate consumers from presenting legitimate claims for refunds. Consequently, the appended procedures provide that claims may be directed to an administrator who is appointed and supervised by the Office of Hearings and Appeals. The administrator would reach a determination as to those claims under the guidance and supervision of the Office of Hearings and Appeals.

In the Interim Decision issued in the previous special redress proceeding, a *de*

minimis rule was proposed; we agree, however, with the objection made by some of the commenters that such a provision might unnecessarily bar many justifiable small claims. Since many small purchasers may be identified by Gulf, thus eliminating the need to process individually applications for a great number of small claims, there would not appear to be an appropriate basis for imposing minimum claim requirements. Accordingly, no minimum claims requirement will be imposed at the outset. Instead, the Office of Hearings and Appeals will evaluate the need for a *de minimis* rule after it begins receiving refund claims. A *de minimis* rule will be instituted at that time only to the extent that the amount of a claim does not appear to justify consideration in view of the actual direct costs of evaluating and paying the claim.

IV. Standards for Evaluation

A. *Qualification for Refund.* Any claim for a refund should logically consist, at a minimum, of proof that the claimant purchased during the period covered by the Consent Order Gulf petroleum products that were subject to FEA price regulations. A consumer will generally be able to establish a claim by making that minimum showing.

Because of the nature of their business activities, however, petroleum refiners and resellers will have to make a more substantial showing to establish that they are entitled to a refund. Refiners and resellers might well have had an obligation under the FEA and DOE regulatory program to pass through to their own customers the entire benefit of a decrease in the cost of Gulf products that they sold or refined. The maximum price that a reseller may charge for a covered product is dependent on the cost that it incurs in purchasing that product from its supplier. Similarly, a major component of the maximum prices that a refiner is permitted to charge is the cost of the crude oil that it refines. If a refiner or reseller was already selling a product at its maximum permissible selling price and then received a price reduction from its supplier, the firm would be obligated to pass that reduction on to its own customers on a dollar-for-dollar basis. Therefore, a refiner or reseller in that position would not have been able to benefit from lower prices of Gulf products, and it should not be eligible to receive a refund.

Consequently, in order to qualify for a refund, a refiner or reseller will be required to demonstrate that during the period covered by the Consent Order it could have kept its prices at the same level if it had experienced a cost reduction equal to the amount of the refund claimed. In order to show this a firm must demonstrate that at the time it purchased covered products from Gulf it had unrecovered product costs at least equal to the amount of the refund claim. In addition, it must have maintained a "bank" of unrecovered costs during each month thereafter in order to demonstrate that it did not subsequently recover these costs by increasing its prices. The amount of the refund will be limited to the amount of unrecovered costs available to the claimant for recovery through price increases. A

refiner or reseller that has failed to maintain the records necessary to establish that it did not pass through its increased costs will not be eligible to receive a refund. The DOE will require refiners and resellers that do receive a refund to reduce their banks of unrecovered product costs for the product or products concerned. In cases where reports were filed with the FEA, they will also be required to submit amended reports that reflect the reduction in their banks. The compilation by the claimant of the necessary cost information should not be unduly burdensome, since under FEA regulations petroleum firms were required to maintain records of this general type. See 10 CFR 210.92. In addition, we intend to scrutinize claims for large refunds carefully on a case-by-case basis. In some of these cases, further evidence may be required of claimants to demonstrate that industry custom, contractual obligations or unusual market factors would not have prevented the firm from retaining the benefits of a cost reduction by Gulf.

A similar showing will not be required in the case of firms in regulated industries. It was originally proposed that public utilities, airlines and other firms whose prices are regulated by various governmental bodies should be required to make the same sort of factual showing required of petroleum resellers and refiners, that is, that they did not pass through to their customers their increased costs of petroleum products purchased from Gulf. However, because of the large number of agencies potentially involved and the complex nature of many of the relevant regulatory programs, we have concluded that the processing of claims will proceed more efficiently if this issue is handled by the regulatory agencies concerned. Consequently, wholesale consumers of Gulf products that are regulated by government agencies will be required to notify the particular agency or agencies concerned of their receipt of a refund from Gulf. The regulatory agencies will then be able to determine what action, if any, should be taken to ensure that the benefits of the refund reach ultimate consumers.

B. *Determination of Refund Amount.* As stated above, the purpose of the refund procedure is to distribute refunds to Gulf customers only to the extent that each particular claimant would have benefited if Gulf had followed a transfer pricing practice different from the practice it in fact adopted in the period specified in the Consent Order. Nevertheless, some approximations will be necessary in determining the amount of the refund in each case. Because of the nature of a crude oil cost disallowance it is exceedingly difficult to establish with precision the exact amount by which a particular firm or person might have been overcharged. Presumptions will therefore be necessary to determine the amount of refunds that should be paid to a particular reseller or consumer.

In fact, overcharges made in this case to particular claimants would be virtually impossible to establish. The allegations upon which the Consent Order is based do not directly concern a pricing violation, but

instead involve crude oil costs that the DOE alleged Gulf improperly utilized in calculating its maximum permissible prices for refined petroleum products and for crude oil sold pursuant to the Mandatory Crude Oil Allocation Program.¹ In general, the price rule applicable to refiners provided that a refiner could not charge a price for an item that exceed the weighted average price at which the item was lawfully priced in transactions with the class of purchaser concerned on May 15, 1973, "plus increased product costs incurred between the month of measurement and the month of May 1973 and measured pursuant to the provisions of § 212.83." 10 CFR 212.82(b)(1) (1974).² Increased product costs, such as increased transfer costs of crude oil, were placed in a pool of costs which could then be utilized by the refiner in the manner specified in § 212.83. Section 212.83 in general required an equal allocation of those costs to several broad product categories and among classes of purchasers for each product within a category. Each refiner, however, was given considerable discretion with regard to the manner in which it distributed increased costs among products within a single category, and was also permitted in some instances to transfer costs from one category to another. Furthermore, a refiner was not required to recover all increased product costs in the first period in which they were available for recovery under § 212.83, but could instead "bank" some of those costs for recovery in subsequent periods. A refiner was thus permitted to exercise a considerable amount of discretion in deciding when and on which products to pass through costs. The discretion given refiners under the refiner price rule thus makes it extremely difficult to determine with any degree of certainty the maximum price that would have been established for a Gulf product if the firm had not recognized allegedly improper imported oil costs.

A further problem in determining the precise amount of an overcharge to a particular purchaser of Gulf products arises because many purchasers did not buy those products directly from Gulf, but bought them instead from independent resellers. As discussed above, a reseller may have been required to pass through cost reductions to its customers under the reseller price provisions of the Mandatory Petroleum Price Regulations, or it may have been required to pass through a portion of the reduction. Furthermore, regardless of the requirements of the regulations, a reseller may have voluntarily chosen to pass through all or part of any reduction in its product costs, either to meet the prices charged by competitors, or pursuant to contractual provisions, or simply as a customary practice.

However, while it is unquestionably difficult to determine the exact amount by which any particular purchaser may have been overcharged, it is nevertheless likely that if the allegations made by the DOE in the NOPD were correct, purchasers of Gulf products, as a class, paid higher prices than they should have paid and are therefore entitled to refunds. Certain presumptions will therefore be made regarding the manner in which imported crude oil costs were passed

through by Gulf and the extent to which customers would have incurred an injury as a result of Gulf's alleged actions.

First, we have presumed that Gulf allocated the entire refund amount to all covered products, including the crude oil, that it sold during the August 19, 1973 through January 31, 1976 period. We have also presumed that these crude oil costs were apportioned equally on a volumetric basis to all covered petroleum products, including crude oil, that Gulf sold during that period. The refund will be apportioned in a similar manner. The data submitted by Gulf indicate that the total volume of covered petroleum products including crude oil sold during the period was 34,505,212,140 gallons. Consequently, the total amount of the refund will be \$42,240,000 ÷ 34,505,212,140 gallons.³

The further presumption has been made that every purchaser of covered products, including crude oil, from Gulf during the period covered by the Consent Order is entitled to the full per gallon refund amount. Essentially this will mean that a governmental entity, a private individual and any other consumer or reseller of a Gulf product may apply for a full refund for the total amount of products that it purchased during the relevant period. All purchasers of Gulf products during the period August 19, 1973 through January 31, 1976 may file applications for refunds during the period to be specified by a subsequent notice in the Federal Register.

In order to accommodate the claims of persons and firms that purchased petroleum products directly from Gulf as well as those that purchased Gulf products through resellers or refiners, we have concluded that a bifurcated proceeding will be necessary. Under this procedure, the claims of direct purchasers will be considered in the initial stage of the refund proceeding. Under the standards already discussed, direct purchasers from Gulf who consumed the products they purchased will be entitled to receive the full refund amount based solely on quantity of product purchased. Motorists that bought gasoline at service stations owned by Gulf as well as homeowners that bought heating oil directly from facilities owned by Gulf fall into this category. On the other hand, refiners and resellers that purchased petroleum products from Gulf will be entitled to the full refund amount only if they can establish through the existence of banks of unrecovered costs that they would not have been required under the FEA and DOE regulations to reduce their own prices if the refund they are now claiming had instead been reflected in lower product costs. Resellers and refiners must therefore be prepared to show that they had banks for each regulated product during the final month of the overcharge period, January 1976, equal to the amount of the refund claimed. In addition, they must also show that the banks that existed at that time were not later used to support price increases.

In addition to direct purchasers of petroleum products from Gulf, motorists who bought Gulf motor gasoline for personal use in their own automobiles and homeowners

who purchased Gulf heating oil for use in their own residences will be included in the first stage of the refund proceeding. As a practical matter, individual motorists and homeowners do not generally know whether the Gulf products that they purchased were sold to them by a Gulf employee or by an independent reseller of Gulf products. It would be anomalous if consumers purchasing the same product from the same type of outlet under the same circumstances were treated differently under the refund procedures. In addition, individual consumers should not be required to make a difficult determination as to the legal status of the firm that sold them petroleum products. An effort to distinguish between ultimate consumers of gasoline and heating oil on the basis of whether the firm that sold the product was operated by Gulf employees or independent businessmen would also present the DOE with difficult problems in administering the refund procedures. Moreover, Gulf itself would also have difficulty distinguishing between direct and indirect purchasers on the basis of the historical records for the 1973 through January 1976 period that are still available. We have therefore concluded that all ultimate consumers that purchased motor gasoline for personal use in automobiles or heating oil for use in the purchaser's residence should be regarded as direct purchasers.

The second stage of the refund proceeding will be devoted to processing claims of all other secondary purchasers of Gulf products. The firms that fall into this category are generally resellers that purchased Gulf products from a direct purchaser. Consumers that are not considered as direct purchasers and that purchased products from a reseller also fall into this category. The funds available to satisfy claims of this type will consist of the revenues that remain after all direct claims have been processed and paid. Since a direct purchaser from Gulf that refined or resold the product it obtained must satisfy the standards discussed above, it is likely that a substantial portion of the total refund will be available for distribution to secondary purchasers. At either stage of the proceeding if insufficient funds are available to satisfy all approved claims in full, a pro rata reduction of the claims will be made.⁴ Thus, if it is necessary to pay less than the full amount of the approved claims of direct purchasers, the claims of indirect or secondary purchasers will not be processed.

It is, of course, true that the presumptions upon which these procedures are based will only approximate actual behavior. For the reasons discussed above, however, conclusive findings cannot be made as to the precise amount a particular purchaser may have been overcharged. It is simply not possible to ascertain the precise manner in which Gulf would have determined the prices of its products to a particular purchaser over a two-and-a-half-year period if it had in fact calculated its imported crude oil costs in a different manner. In our view the presumptions that we have utilized represent the most appropriate method of disbursing the refund by Gulf.

V. Exclusiveness of This Administrative Remedy

Under the terms of the Consent Order, Gulf will be deemed to have determined its crude oil costs in accordance with the applicable regulations after it has paid the refund and complied with the other terms and conditions of the Consent Order. Therefore, the procedures set forth in the Appendix to this Decision will be the only administrative remedy available to persons injured as a result of the alleged violations by Gulf of the transfer pricing regulations. No further DOE compliance proceeding will be instituted against Gulf with regard to these matters.

The Department intends this claims procedure to be the forum through which Gulf customers may obtain refunds with respect to the matters referred to in the Consent Order. However, a person who has been injured as a result of an overcharge may of course file a civil action against Gulf in federal court under Section 210 of the Economic Stabilization Act of 1970 (ESA), Pub. L. 92-210. In order to avoid subjecting Gulf to potential double liability from persons that seek to pursue their available legal remedies under Section 210 of the ESA, we have concluded that the administrative refund proceeding should encompass final judgments obtained during a period of 15 months from the date of publication of this final decision in the Federal Register. Thus, parties that obtain judgments against Gulf during that period can submit that judgment, with the approval of the Special Counsel, in the refund proceeding in order to establish its claim. If the party does not do so, Gulf itself may submit an application based on the judgment on the party's behalf. The claimant will then be entitled to receive from the fund a proportion of the judgment equal to the proportion that the total refund amount, \$42.24 million, bears to the total overstatement of landed costs of Gulf's crude oil upon which the judgment was based.

In addition, at the conclusion of the first stage of the refund proceeding, but before any refunds are made, an amount will be designated as a reserve to satisfy any judgments in legal actions commenced against Gulf under Section 210 of the ESA within 15 months from the date of publication of this final decision in the Federal Register. The amount of the reserve fund will be determined by agreement of Gulf and the Office of Special Counsel based upon a reasonable estimate of the amounts that might be necessary to satisfy each such pending judicial proceeding.

The time period for filing all applications will be established by a subsequent Order published in the Federal Register. No applications for refunds will be considered unless they are filed during the specified time period. Those customers of Gulf that are provided with notice by direct mail will have at least 90 days after receipt of the notice to complete their applications. It is also our expectation that the entire claims process will, if possible, be completed and refunds made to eligible customers of Gulf within eighteen months after the period for filing claims begins.

Finally, a number of commenters have noted their interest in filing actions on behalf of classes of Gulf customers. Refund applications filed on behalf of groups of customers will be considered. We will not, however, prejudice the merits of such applications. Instead, applications that are submitted on behalf of a class will be evaluated on a case-by-case basis as received. In general, we will be guided in considering such applications by the requirements applicable to class actions set forth in Rule 23 of the Federal Rules of Civil Procedure.

It is therefore ordered, That:

The special refund procedures set forth in the Appendix to this Decision are hereby adopted by the Department of Energy for the purpose of achieving an equitable distribution of the refund which has been agreed to by Gulf Oil Corporation and the Special Counsel for Compliance in a Consent Order dated July 26, 1978.

Dated: July 13, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

Notes

¹ In particular, the disallowance proceeding concerned the manner in which Gulf established the cost of foreign crude oil purchased from Gulf affiliates. Various aspects of the crude oil transfer pricing program have been discussed in several DOE Freedom of Information Act proceedings. See e.g., *Kerr-McGee Corporation; Standard Oil Company (Indiana)*, 1 DOE Par. 80,155 (1977); *Gulf Oil Corporation*, 1 DOE Par. 80,103 (1977); *Sun Company, Inc.*, 4 FEA Par. 80,573 (1976); *Sun Oil Co.*, 3 FEA Par. 80,528 (1975). The program prescribes the standards that refiners are required to use in establishing the cost of imported crude oil purchased in transactions between affiliated entities and the standards that the DOE will use to disallow or to reallocate landed costs pursuant to 10 CFR 212.83(b).

² 39 FR 42,368 (1974). Prior to January 15, 1974, the refiner price rule was set forth in 6 CFR 150.355(b), and prior to November 1, 1973 in 6 CFR 150.358(a).

³ The stated quantity does not include either the petroleum products produced by Gulf during that period and retained for its own use or exempt products sold by Gulf. In the Interim Decision issued in connection with the Special Redress Petition, exempt petroleum products and products consumed internally were included in the total amount of petroleum products over which the refund was allocated. That method of allocation was consistent with the manner in which the refiner price regulations required firms to allocate increased product costs. See 10 CFR 212.83. Nevertheless, the DOE is cognizant of the fact that the total amount of increased product costs cited in the NOPD issued to Gulf significantly exceeded the amount of the settlement. Therefore, consistent with the ultimate objective of the claims procedure, i.e. to compensate Gulf customers for actual injuries that they may have incurred, no allocation of the refund will be made in this case to exempt or internally consumed products. We will, on the other hand, include

certain sales of crude oil by Gulf because Gulf's interaffiliate crude oil costs were included in computing the maximum prices utilized in these transactions. See 10 CFR 212.86; 10 CFR 212.183.

Some individuals who filed comments in the special redress proceeding stated their agreement in principle with the type of allocation proposed in the Interim Decision, but nevertheless indicated that some flexibility should be exercised in exceptional cases. We will do so in the context of individual applications for refunds and will consider whether unusual circumstances under which a particular purchaser obtained covered products from Gulf should lead us to depart from the specific standards established in this Decision.

⁴ In view of the possibility of *pro rata* reductions of approved claims, we intend to delay paying any refunds until all claims in a particular stage of the proceeding have been processed.

⁵ An amount agreed upon in settlement of a judicial action shall be treated like a final judgment, provided that the DOE Office of Special Counsel approves the settlement which must be made within 15 months from the date of publication of this Decision and Order in the Federal Register.

Appendix

Special Refund Procedures

1. *Custody of Funds.* The Office of Hearings and Appeals (OHA) shall issue an order to Gulf Oil Corporation providing for the custody of the funds to be tendered pursuant to the Consent Order that the Special Counsel for Compliance of the Department of Energy entered into with Gulf Oil Corporation on July 26, 1978. The Order may, for example, require the establishment of special escrow accounts or may permit Gulf to retain the funds in a segregated interest-bearing account under the terms and conditions specified by the OHA. In the event Gulf is permitted to maintain the funds in a segregated account, Gulf shall disburse the funds only upon receipt of and in accordance with an order signed by the Director of the Office of Hearings and Appeals or his designee.

2. *Notice.* The Office of Hearings and Appeals shall publish an appropriate notice describing the procedures that shall be available to persons who wish to obtain a refund based on the Consent Order. A notice of this type shall be published in the Federal Register and in such other manner as the Office of Hearings and Appeals deems necessary or desirable. Other methods of publication may include press releases, advertisements in major newspapers and trade journals, and direct mailings to Gulf customers and to trade and consumer organizations.

3. *Application for Refund; Filing.* (a) After the date specified in the notice published pursuant to Section 2 any person who believes that he is entitled to a refund as a direct result of the pricing practices upon which the Consent Order was based may file an application for refund with the Office of Hearings and Appeals of the Department of Energy, 2000 M Street, NW., Washington,

D.C. 20461, or at such other address as the Office of Hearings and Appeals may specify. Any application received before the date specified in the notice will not be considered unless it is resubmitted during the filing period. All applications must be signed by the applicant and should be labeled "Application for Refund—Gulf Oil Corporation Consent Order."

(b) Applications for refunds in excess of \$100 must be filed in duplicate, and these applications will be available for public inspection in the Office of Hearings and Appeals, Public Docket Room at 2000 M Street, NW., Washington, D.C. Any applicant who believes that his application contains confidential information must so indicate on the first page of his application and submit two additional copies of his application from which the information that the applicant claims is confidential has been deleted. A statement must also be provided specifying why any such information is privileged or confidential.

(c) Any person that has obtained a final judgment against Gulf after a trial in a court of competent jurisdiction for a claim arising out of alleged overstatements of landed crude oil costs by Gulf during the period August 19, 1973, through January 31, 1976, may submit a refund application based on that judgment. Gulf may also submit an application for refund pursuant to these rules on behalf of any person who has obtained a final judgment against Gulf or with whom it has signed a settlement agreement for the type of claims referred to in the previous sentence. With respect to any such final judgment or settlement agreement, however, an application for refund may be filed only if the terms, conditions, and amount specified in the judgment or settlement agreement have been approved by the Special Counsel. Applications filed by Gulf pursuant to this subsection shall be considered as having been filed in a timely manner if they are filed within 15 months of the date of publication of these rules in the Federal Register.

4. *Time for Filing Applications.* An application for refund must be filed during the period that the Office of Hearings and Appeals specifies in the notice issued pursuant to Section 2. No applications received before the filing period or after the final deadline or extensions thereof will be considered. The filing period shall not be less than 180 days from the date of publication of the notice in the Federal Register. The Office of Hearings and Appeals may grant extensions of time in which to file applications for refunds for good cause shown. Requests for extensions of time must be in writing and submitted during the filing period.

5. *Contents of Application.* An application shall contain the following information:

(a) The name, address and telephone number of the applicant;

(b) A complete statement of the basis for the claim (including the applicant's Gulf account number and other identifying information);

(c) (i) The total quantity of covered petroleum products purchased directly from Gulf and (ii) the total quantity purchased

from resellers of Gulf products during the period August 19, 1973 through January 31, 1976;

(d) With respect to each type of product the quantities, locations, periods of time during which the purchases were made, and if the product is motor gasoline or heating oil, whether it was for the applicant's personal use in his automobile or residence;

(e) Copies of all receipts, invoices, contracts, agreements, instruments or other documents necessary to establish the validity of the claim, including documents necessary to prove the quantities of covered Gulf petroleum products purchased during the period August 19, 1973 through January 31, 1976;

(f) A statement of whether the applicant has ever filed any other application for refund involving Gulf products with the Department of Energy and whether the applicant is currently or has been a party in any court proceeding involving alleged crude oil pricing violations by Gulf; and

(g) A sworn statement signed by the applicant that all statements made in the application are true and correct to the best of his knowledge and belief.

In the alternative, an application may be filed by completing an appropriate form provided by the Department of Energy.

6. *Criteria for Evaluation.* (a) An application for refund shall be granted only if an applicant has persuasively demonstrated (i) the amount of covered Gulf petroleum products purchased during the August 19, 1973 through January 31, 1976 period, and (ii) (A) if the applicant is a reseller whose prices were subject to the regulations of the FEA or DOE during the relevant period, that it would not have been required to pass through to its customers a cost reduction equal to the refund claimed, or (B) if the applicant is a wholesale purchaser of Gulf products that is subject to federal, state or local regulation of rates or tariffs, that it has certified that it will notify each such regulatory agency of any refund it receives pursuant to these procedures.

(b) The amount of the refund to which a purchaser of Gulf products is entitled shall generally be determined by multiplying the volume in gallons of covered Gulf petroleum products purchased by \$0.00122.

7. *Processing of Applications.* (a) The Director of the Office of Hearings and Appeals may appoint an administrator to evaluate applications under guidelines established by the Office of Hearings and Appeals. The administrator, if he is not a federal government employee, may be compensated from the funds referred to in the Consent Order. The administrator may design and distribute an optional application form for the convenience of the applicants.

(b) The Office of Hearings and Appeals or its designee may initiate an investigation of any statement made in an application and may require verification of any document submitted in support of a claim. The Office of Hearings and Appeals or its designee may solicit and accept submissions from interested persons, including Gulf Oil Corporation and the Office of Special Counsel for Compliance, relevant to any

application. In evaluating an application, the Office of Hearings and Appeals or its designee may consider information obtained from any other source and may on its own initiative convene a hearing or conference if, in its discretion, it decides that a hearing or conference will advance its evaluation of an application.

(c) The Director of the Office of Hearings and Appeals or his designee shall conduct any hearing or conference that is convened with respect to an application for refund and will specify the time and place for the hearing or conference and notify the applicant. The official conducting the hearing may administer oaths and affirmations, rule on the presentation of information, receive relevant information, dispose of procedural requests, determine the format of the hearing, and otherwise regulate the course of the hearing.

8. *Decision of the Department of Energy.* Upon consideration of the application and other relevant information received or obtained during the course of the proceeding, the Director of the Office of Hearings and Appeals or his designee shall issue an order granting or denying the application. The order shall contain a concise statement of the relevant facts and the legal basis for the decision. A copy of the order, with such modification as is necessary to ensure the confidentiality of information protected from public disclosure by 18 U.S.C. 1905, shall be served upon the applicant and any person who participated in the proceeding.

9. *Effect of Failure to File Timely Application for Refund.* Any application not filed on a timely basis may be summarily dismissed, and the applicant shall not be entitled to any portion of the funds submitted pursuant to the Consent Order.

10. *Participation by Gulf Oil Corporation.* Gulf shall assist in the evaluation of applications for refund to the extent contemplated by the Consent Order, including submitting any documents or information that the Office of Hearings and Appeals or its designee determines is relevant to its evaluation of a claim. An applicant who has unsuccessfully requested information or documents from Gulf may submit to the Office of Hearings and Appeals a request that information or documents believed to be in the possession of Gulf Oil Corporation and necessary to the evaluation of his claim be furnished either to the Office of Hearings and Appeals or to the applicant. Gulf will be given an opportunity to comment on the request. After considering the request and the comments of Gulf, the Office of Hearings and Appeals or its designee may issue an order granting the request if it determines that the requester seeks relevant and material evidence and that compliance with the request will not impose an unreasonable burden on Gulf. The Director of the Office of Hearings and Appeals or his designee may in an appropriate case order that Gulf be reimbursed from funds in the escrow account for the actual expenses incurred by Gulf in complying with the provisions of this section.

11. *Reserves.* (a) The Office of Hearings and Appeals shall establish a reserve from the account described in section 1 to provide

payment of final court judgments or settlements of court actions. Gulf shall notify OHA within 15 months from the date of publication of these procedures in the Federal Register of any outstanding court actions involving claims based on the matters addressed in the Consent Order. The amount of the reserve for each pending action shall be jointly determined by Gulf and Special Counsel, subject to OHA approval. If Gulf and Special Counsel do not agree on the amount of a reserve or whether a court action is qualified for the establishment of a reserve within 16 months of the date of publication of these procedures in the Federal Register, an independent third party selected by OHA on the basis of recommendations from Gulf and Special Counsel shall make the necessary determinations.

(b) The Office of Hearings and Appeals may establish a reserve from the account described in section 1 to pay administrative expenses that cannot be precisely determined prior to the final disbursement of all refunds.

12. *Limitations.* (a) The aggregate amount of all refunds authorized by the Office of Hearings and Appeals shall not exceed the amount to be remitted pursuant to the Consent Order by Gulf Oil Corporation, plus interest accrued, reduced by any administrative costs and reserves authorized by the Office of Hearings and Appeals. In the event that the aggregate amount of the claims filed exceeds the amount remitted by Gulf, the Office of Hearings and Appeals shall first award refunds to all qualified applicants who are direct purchasers of covered Gulf products from Gulf Oil Corporation on a pro rata basis. After approved applications of direct purchasers have been refunded in full, all approved administrative expenses paid and authorized reserves established, all remaining funds shall be paid on a pro rata basis to indirect purchasers of Gulf products whose applications have been approved. The Office of Hearings and Appeals may delay payment of any refunds until all applications have been processed.

(b) If an action for judicial review of these procedures is filed within 30 days of their publication in the Federal Register challenging the authority of the DOE or the validity of the Decision and Order or any portion thereof, Gulf will not be obligated to pay any part of the Consent Order fund to claimants whose refunds are affected by the litigation until 15 days following final adjudication or other resolution of such judicial action.

13. *Interim and Ancillary Orders.* The Director of the Office of Hearings and Appeals or his designee may issue any interim or ancillary orders, or make any rulings or determinations necessary to ensure that the refund proceedings, including the operations of any administrator appointed in connection with these proceedings and any appeal procedures, are conducted in an appropriate manner and are not unduly delayed.

14. *Remaining Funds.* Any funds, including any accumulated interest, remaining in the account described in section 1 or any reserves after the disposition of all timely applications for refund and payment of

approved expenses of administering the refund procedures may be remitted to the United States pursuant to the Consent Order or distributed in any other manner as the Director of the Office of Hearings and Appeals deems appropriate.

15. *Reference to Decision.* The principles stated in the Decision and Order of the Office of Hearings and Appeals to which these rules are an Appendix shall be followed in construing the refund procedures.

16. *Amendments.* The procedures specified in this Appendix may be amended by Order of the Office of Hearings and Appeals. Any such amendment shall be published in the Federal Register.

[FR Doc. 79-22898 Filed 7-20-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1278-5]

Financial Assistance for Resource Recovery Project Development Under the President's Urban Policy Class Deviation; Correction

In Federal Register Document 79-18263, published on Tuesday, June 12, 1979, on page 33738, in the middle column, the deviation was inadvertently omitted and is published here. For Further Information Contact: Mr. Alexander J. Greene, Director, Grants Administration Division (PM-216), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 (Tel. No. 202 755-0850).

Dated: July 13, 1979.

C. William Carter,

Acting Assistant Administrator for Planning and Management.

ENVIRONMENTAL PROTECTION AGENCY

Dated: June 6, 1979.

Subject: Class Deviation from 40 CFR 35.716, Financial Assistance for Resource Recovery Project Development Under the President's Urban Policy.

From: Alexander J. Greene, Director, Grants Administration Division (PM-216). To: Regional Administrators.

On October 17, 1978, EPA announced the procedures by which interested parties could apply for financial assistance for solid waste resource recovery project planning and feasibility analysis under the President's Urban Policy issued on March 27, 1978.

EPA is administering the Financial Assistance for Resource Recovery Project Development Under the President's Urban Policy program under section 4008(a)(2) of the Resource Conservation and Recovery Act of 1976 (RCRA). Accordingly, the regulations contained in 40 CFR Part 30, 40 CFR 35.400 through 35.425 and 40 CFR 35.700 through 35.744 will apply to all assistance awarded under this program.

The regulations in 40 CFR 35.700 through 35.744 were originally promulgated to apply

to RCRA State program planning grants. 40 CFR 35.716 specifies that the budget period shall be for the Federal fiscal year. Grants awarded under the Financial Assistance for Resource Recovery Project Development Under the President's Urban Policy program will be project specific in that each grantee will be awarded funds to perform specific tasks relevant to their individual project needs and situations. The time required to perform these tasks will vary greatly from project to project, dependent on a variety of technical, legal, institutional, and political factors. It would not be practicable to require that the project timetables of these projects coincide with the Federal fiscal year.

I am approving a deviation from 40 CFR 35.716 to permit budget periods more appropriate to project specific assistance under the Financial Assistance for Resource Recovery Project Development Under the President's Urban Policy program. Each Regional Office must negotiate a budget period to coincide with the time required to complete the project objectives.

All other requirements of the 40 CFR Part 30, 40 CFR 35.400 through 35.425, and 40 CFR 35.700 through 35.744 regulations remain in full effect for the Financial Assistance for Resource Recovery Project Development Under the President's Urban Policy Program.

Dated: June 6, 1979.

Concur:

C. W. Carter.

Acting Assistant Administrator for Planning and Management.

Dated: May 11, 1979.

Concur:

Thomas C. Jorling.

Assistant Administrator for Water and Waste Management.

[FR Doc. 79-22708 Filed 7-20-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

Leslie E. Still, Jr., et al.; Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW, Room 10423; or may inspect the agreements at the Field Offices located at New York, NY; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission,

Washington, D.C., 20573, on or before August 13, 1979 in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-3300-1

Filing party: Leslie E. Still, Jr., Senior Deputy City Attorney, Harbor Branch Office, City Attorney of Long Beach, Harbor Administration Building, Post Office Box 570, Long Beach, California 90801

Summary: Agreement No. T-3300-1, between the Board of Harbor Commissioners of the City of Long Beach (City) and Universal Marine Corp. (Universal), modifies the parties' basic agreement which provides for the monthly lease of 8,415 square feet of land area and 68,700 square feet of water area located at Pier E, Long Beach, California, and used by Universal for the outfitting and repair of boats. The facilities are not used in connection with common carriers by water. The purpose of this amendment is to expand the land area of the leased premises to 29,604 square feet, including Harbor Department Building No. 244, and to increase the monthly rental to \$1,520.00.

Agreement No. T-3635-1.

Filing party: Betty I. Crofoot, House Counsel, Port of Portland, Box 3629, Portland, Oregon 97208.

Summary: Agreement No. T-3635-1, between the Port of Portland (Port) and Fred F. Noonan Co., Inc. (Noonan) modifies the basic agreement between the Port and Noonan which provides that Noonan will perform services relating to the receipt, inventory, and delivery of import vehicles at Terminal 6, Portland, Oregon for a certain mutually agreed to schedule of compensation. The purpose of the modification is to provide for increased payment by the Port to Noonan.

Agreement No. T-3825.

Filing party: Mr. William E. Daily, Assistant Attorney General, Offices of Attorney General, 219 State House, Indianapolis, Indiana 46204.

Summary: Agreement No. T-3825 between the Indiana Port Commission (Port) and Cargill Incorporated (Cargill), provides for the Port's construction and lease to Cargill of a new dock and grain handling facility at Burns Waterway Harbor. The Port shall issue and sell Port Revenue Bonds not to exceed \$3,100,000 to finance construction of the facilities. As compensation, Cargill shall pay Port an amount sufficient to service the bond

debt required to finance construction of the leased facilities. In addition, prior to Cargill's initiation of operations, Cargill shall pay Port \$3,360 per month. After Cargill's initiation of operations, Cargill shall pay Port a total annual amount, including service of the bond debt, subject to a minimum of \$268,000 and a maximum of \$318,000 per annum. After payment and discharge of the outstanding bonds, Cargill shall have the option of purchasing from the Port for the sum of one dollar any or all of the leased improvements and/or the leased dock.

Agreement No. T-3829.

Filing party: Joe H. Hamner, Jr., Attorney, Board of Commissioners of the Port of New Orleans, Post Office Box 60046, New Orleans, Louisiana 70160.

Summary: Agreement No. T-3829, between the Board of Commissioners of the Port of New Orleans (Board) and Baton Rouge Marine Contractors, Inc. (BRMC) provides for the 10-year lease by the board to BRMC of a terminal facility, designated as France Road Terminal Berths 5 and 6, on a non-exclusive basis, to be operated as a public container and Ro/Ro terminal open to any and all shippers or receivers of cargo that may be suitably handled by the facility.

Agreement No. 10373.

Filing party: F. W. Krueger, Eckert Overseas Agency, Inc., 88 Pine Street, New York, New York 10005.

Summary: Agreement No. 10373 is an equipment interchange and lease agreement between Orient Overseas Container Line Ltd., and Associated Container Transportation, both common carriers by water in the foreign commerce of the United States. The parties agree to lease cargo containers and/or related equipment to each other subject to mutually acceptable terms, conditions, practices, and charges. By Order of the Federal Maritime Commission.

Dated: July 18, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79-22849 Filed 7-20-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Co.; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. section 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether

consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than August 15, 1979.

A. *Federal Reserve Bank of Chicago.* 230 South LaSalle Street, Chicago, Illinois 60600.

Banks of Iowa, Inc., Cedar Rapids, Iowa (mortgage banking and insurance activities; Iowa, Nebraska): to engage, through its subsidiary, BI Mortgage Company, Inc., in making, acquiring and servicing real estate loans for its own account or the account of others and acting as agent or broker in the sale of credit life and credit accident and health insurance that is directly related to extensions of credit by BI Mortgage Company and the subsidiary banks of Banks of Iowa, Inc. These activities would be conducted from offices in Cedar Rapids, Iowa and Omaha, Nebraska, serving Cedar Rapids, Ottumwa, Des Moines, Council Bluffs, Burlington, Dubuque, Sioux City, Davenport, Hiawatha County and Marion County, Iowa and Douglas County and Sarpy County, Nebraska.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, July 17, 1979.

Edward T. Mulrenia,

Assistant Secretary of the Board.

[FR Doc. 79-22864 Filed 7-20-79; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Domestic Policy Directive of May 22, 1979

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on May 22, 1979.¹

The information reviewed at this meeting suggests a moderate pickup in growth of real output of goods and services in the current quarter from the sharply reduced pace in the first quarter, when public and private construction activity was adversely affected by unusually severe weather. In April, however, industrial production declined and growth in nonfarm payroll employment slowed, in large part owing to effects of a work stoppage in the trucking industry early in the month. The unemployment rate, at 5.8 percent, remained at about the level prevailing earlier in the year. The dollar value of total retail sales rose somewhat in April, although apparently by less than the increase in average prices. Over recent months, broad measures of prices have increased at a faster pace than during 1978, and the index of average hourly earnings has continued to rise rapidly.

Demand for the dollar has continued strong in exchange markets over the past five weeks, and the trade-weighted value of the dollar against major foreign currencies has risen further. The U.S. trade deficit declined further in March and was slightly lower in the first quarter as a whole than in the fourth quarter of 1978.

M-1 expanded sharply in April, after having declined in the first quarter, and M-2 and M-3 grew rapidly. The interest-bearing component of M-2 also grew rapidly, following several months of slow growth, as net flows into money market certificates at commercial banks increased while outflows of savings deposits slowed. At nonbank thrift institutions, net flows into money market certificates moderated, and overall inflows of funds receded from the already reduced pace of the first quarter. Since mid-April, short-term market interest rates have changed little, on balance; most longer-term rates have increased.

Taking account of past and prospective developments in employment, unemployment, production, investment, real income, productivity, international trade and payments, and prices, it is the policy of the Federal Open Market Committee to foster monetary and financial conditions that will resist inflationary pressures while encouraging moderate economic expansion and contributing to a sustainable pattern of international transactions. At its meeting on February 6, 1979, the Committee agreed that these objectives would be furthered by growth of M-1, M-2, and M-3 from the fourth quarter of 1978 to the fourth quarter of 1979 within ranges of 1½ to 4½ percent, 5 to 8 percent, and 6 to 9 percent respectively. The

¹ The Record of Policy Actions of the Committee for the meeting of May 22, 1979, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

associated range for bank credit is 7½ to 10½ percent. These ranges will be reconsidered in July or at any time as conditions warrant.

In the short run, the Committee seeks to achieve bank reserve and money market conditions that are broadly consistent with the longer-run ranges for monetary aggregates cited above, while giving due regard to the program for supporting the foreign exchange value of the dollar and to developing conditions in domestic financial markets. Early in the period before the next regular meeting, System open market operations are to be directed at maintaining the weekly average federal funds rate at about the current level. Subsequently, operations shall be directed at maintaining the weekly average federal funds rate within the range of 9¼ to 10½ percent. In deciding on the specific objective for the federal funds rate the Manager shall be guided mainly by the relationship between the latest estimates of annual rates of growth in the May-June period of M-1 and M-2 and the following ranges of tolerance: 0 to 5 percent for M-1 and 4 to 8½ percent for M-2. If, with approximately equal weight given to M-1 and M-2, their rates of growth appear to be close to or beyond the upper or lower limits of the indicated ranges, the objective for the funds rate is to be raised or lowered in an orderly fashion within its range.

If the rates of growth in the aggregates appear to be above the upper limit or below the lower limit of the indicated ranges at a time when the objective for the funds rate has already been moved to the corresponding limit of its range, the Manager will promptly notify the Chairman, who will then decide whether the situation calls for supplementary instructions from the Committee.

Note.—On June 15, the Committee modified the domestic policy directive adopted at its meeting on May 22, 1979, to call for open market operations directed at maintaining the weekly average federal funds rate at about 10¼ percent.

By order of the Federal Open market Committee, July 13, 1979.

Murray Altmann,
Secretary

[FR Doc. 79-22653 Filed 7-20-79; 8:45 am]
BILLING CODE 6210-01-M

National City Corp.; Acquisition of Banks

National City Corporation, Cleveland, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to the National City Bank of Marion, Marion Ohio and 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to The Citizens National Bank, Bryan, Ohio. The factors that are considered in acting on the applications are set forth

in section 3(c) of the Act (12 U.S.C. section 1842(c)).

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the applications should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 13, 1979. Any comments on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 12, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-22655 Filed 7-20-79; 8:45 am]

BILLING CODE 6210-01-M

National City Corp.; Acquisition of Bank

National City Corporation, Cleveland, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The Fairfield National Bank, Lancaster, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than August 13, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 12, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-22656 Filed 7-20-79; 8:45 am]

BILLING CODE 6210-01-M

Osceola Bancorporation, Inc.; Formation of Bank Holding Co.

Osceola Bancorporation, Inc., Osceola, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 92.2 percent or more of the voting shares of Bank of Osceola, Osceola, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than August 15, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 16, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-22657 Filed 7-20-79; 8:45 am]

BILLING CODE 6210-01-M

Security Bancshares Co.; Formation of Bank Holding Co.

Security Bancshares Co., Glencoe, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Security State Bank of Glencoe, Glencoe, Minnesota, and the First State Bank of Brownton, Brownton, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than August 15, 1979. Any comment on an application that requests a hearing must include a

statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 16, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-22658 Filed 7-20-79; 8:45 am]

BILLING CODE 6210-01-M

Summit Bancshares, Inc., Formation of Bank Holding Company

Summit Bancshares, Inc., Fort Worth, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Summit National Bank, Fort Worth, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 2, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 13, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-22659 Filed 7-20-79; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[GSA Order APD 2800.1 Dated January 30, 1979]

Contract Clearance

AGENCY: General Services Administration.

ACTION: Contract clearance procedures.

SUMMARY: This order establishes the requirements and procedures for contract clearance in the General Services Administration. It provides that contract actions above certain specific

dollar thresholds be submitted for pre-award clearance. These actions will be reviewed by the Assistant Administrator for Acquisition Policy.

EFFECTIVE DATE: The effective date of this order is April 15, 1979.

Dated: July 12, 1979.

Dale R. Babione,

Assistant Administrator for Acquisition Policy.

General Services Administration,
Washington, D.C. 20405

[APD 2800.1]

January 30, 1979.

GSA Order

Subject: Contract clearance.

1. **Purpose.** This order establishes the requirements and procedures for contract clearance in GSA.

2. **Applicability.** This order is applicable to ADTS, FSS and PBS.

3. **Summary of attachment.** The attachment sets forth the requirements and procedures for clearance of contracts by the Assistant Administrator for Acquisition Policy. It lists the types of contractual actions requiring such clearance and includes details on how to process contractual actions for the requisite clearance. In addition, ADTS, FSS and PBS are required to establish contract clearance offices in their Central Offices and perform the clearance function for both regional and Central Office procurements. Each service shall establish clearance requirements to provide for pre-award review of contractual actions (including those requiring clearance by the Assistant Administrator for Acquisition Policy) representing approximately 80% of forecasted obligations for a fiscal year.

4. **Revision of contract clearance criteria and procedures.** Specific contract clearance criteria and procedures may be revised when the Office of Acquisition Policy, GSA, becomes fully operational and thereafter as required to further GSA acquisition policy objectives.

5. **Implementing actions.** ADTS, FSS and PBS shall develop written procedures implementing this order with respect to service performance of the contract clearance function. A copy of these procedures shall be sent to the Office of Acquisition Policy by the effective date of this order.

6. **Effective date.** This order is effective on April 15, 1979. Contractual actions to be awarded after April 14, 1979, which meet the criteria of paragraph 2 of the attachment or the criteria to be established by the services pursuant to paragraph 3 of the attachment shall be subject to the provisions of this order.

Dale R. Babione,

Assistant Administrator for Acquisition Policy.

[APD 2800.1]

Attachment

January 30, 1979

1. **General.** Each proposed contractual document and supporting file shall be

reviewed by the contracting officer prior to signing the contractual document and prior to forwarding the contract and file for review by higher authority within the service and any required clearance by the Assistant Administrator for Acquisition Policy. The contracting officer is responsible for the completeness and accuracy of the contractual document and its supporting file. Each contract file shall contain all pertinent information applicable to the proposed award. The information included in the contract file shall be in sufficient detail to permit reconstruction of all significant events by any subsequent reviewer without referrals to the individuals responsible for the contractual actions.

2. **Contractual actions requiring clearance by the Assistant Administrator for Acquisition Policy prior to award.** a. The contractual actions listed in c. below require the approval of the Assistant Administrator for Acquisition Policy prior to award. The term "contractual actions" as used here means:

(1) Contracts for supplies and non-personal services, including contracts for construction, alteration and repair, and leasing.

(2) Modifications to existing contracts which are beyond the scope of the contracts, including modifications for the exercise of options (or, in case of a lease, an additional term of the lease).

(3) Definitive contracts superseding letter contracts; however, letter contracts do not require clearance.

b. For clearance purposes, the dollar value of a contractual action is the sum of the estimated or actual dollar amount of obligations and the amount of any option (or, in case of a lease, the full term of the lease) included in the action. The estimated or actual dollar obligations includes those to be made by GSA and other agencies ordering under GSA-awarded contracts.

c. The following contractual actions (including actions to be awarded by regional offices) shall be submitted to the Contract Clearance Directorate for clearance:

(1) Actions resulting from invitation for bids, including Small Business Restricted Advertising, when award is proposed to a sole responsive and responsible bidder and the total dollar value of the sole bid items to be awarded exceeds \$500,000.

(2) For ADTS:

(a) Negotiated actions for teleprocessing services schedules exceeding \$10,000,000.

(b) Negotiated actions for ADP schedules exceeding \$4,000,000.

(c) All other negotiated actions exceeding \$2,000,000.

(3) For FSS, all negotiated actions exceeding \$3,500,000.

(4) For PBS, all negotiated actions exceeding \$1,000,000.

3. **ADTS, FSS and PBS contract clearance.** a. ADTS, FSS and PBS shall establish and maintain requirements and procedures for clearance of contractual actions prior to award. The requirements for clearance shall include those contractual actions (including actions to be awarded by counterpart regional services) to be sent to the Assistant

Administrator for Acquisition Policy as well as other contractual actions to be awarded either by the Central Office or counterpart regional services. With respect to such other contractual actions, each service shall determine the scope of the clearance requirements. However, the clearance requirements so established shall provide that contractual actions representing approximately 80% of the forecasted dollar obligations for a fiscal year will be cleared by the Service prior to award.

(1) The value of the contractual actions to be cleared by the Assistant Administrator for Acquisition Policy is included in the 80% criteria.

(2) The forecasted dollar obligations include those to be made by the GSA and other agencies ordering Under GSA-awarded contracts.

(3) For FY 1979 the 80% threshold shall apply only to those contractual actions awarded between the effective date of this order and the end of the fiscal year.

(4) The clearance requirements shall include a representative number of actions, including sole bids in response to IFBs, sole offers under negotiated solicitations, and complex and high dollar value actions.

In addition, randomly selected contractual actions should be reviewed on a post award basis.

b. ADTS, FSS and PBS shall take the actions necessary to establish a contract clearance office in their Central Offices to perform the clearance function. The contract clearance office should be an organizational element of the service's office of acquisition/contracting. The clearance function shall be performed as full-time duty by a staff sufficient for the purpose. The personnel selected to perform the contract clearance should possess the qualifications required of contracting officers as set forth in FPR 1-1.404 and have demonstrated technical proficiency in the contracting field and the capability for exercising sound business judgment.

c. The contract clearance office shall thoroughly review each contractual action submitted to assure conformance with applicable laws, regulations, and established policies and procedures. Particular attention should be given to the business aspects, including the pricing, of the contractual actions. The contract clearance office shall serve as the service's contact point with the contract Clearance Directorate and furnish any additional required information or clarification which may be necessary in processing contractual actions requiring clearance by the Assistant Administrator for Acquisition Policy.

d. All contractual actions sent to the Assistant Administrator for Acquisition Policy shall be transmitted by memorandum signed by the head of the service office of acquisition/contracting. The memorandum shall indicate that the particular contractual action has been thoroughly reviewed, and conforms to all applicable laws and regulations, established policies and procedures. It shall include the service's recommendations for approval by the Assistant Administrator for Acquisition Policy.

4. *Concurrence of Counsel.* Contractual actions to be submitted to the Assistant Administrator for Acquisition Policy for clearance shall have the prior concurrence for legal sufficiency of the appropriate Assistant General Counsel in the Central Office. Evidence of such concurrence shall be made a part of the supporting contract file.

5. *Information to be furnished with contractual actions submitted to the Assistant Administrator for Acquisition Policy.* a. The complete contract file supporting the contractual action shall be forwarded. In addition, a duplicate file for retention by the Contract Clearance Directorate shall also be sent.

b. The information and documents listed below are those which are normally required as support for an advertised or negotiated contract. These should be included in the contract file in the order indicated; i.e., starting with the lowest number. Not all information and documents will be applicable to every contractual action. Conversely, other information and documents may be applicable to specific contractual actions and the contracting officer should include such items in the contract file in proper sequence in the contracting cycle. An index of the contents of the file should be prepared and placed on the top of the file. In addition, each item should be tabbed and, if more than one document is included under a tab, they should be filed chronologically with the most recent document on top.

(1) Requisition or request for contractual action. The basic acquisition authority and all changes thereto should be filed under this tab. Documentations supporting and authorizing any differences between supplies or services called for in the contractual document and the acquisition authority must also be filed under this tab.

(2) Specifications, drawings or other descriptive material of the supplies or services being acquired. If specifications and drawings are too voluminous for inclusion in the file, Tab 2 should then include a brief description of the supplies or services being acquired and a statement identifying the Central Office or regional service file containing the specifications and drawings.

(3) Acquisition plan.

(4) Determinations and findings. Determinations and findings required by Subparts 1-3.2 and 1-3.3 of the FPR shall be included under this tab.

(5) Department of Labor Wage Determination.

(6) Small business and labor surplus area determinations.

(7) Source list.

(8) Statement as to synopsis of proposed procurement pursuant to FPR 1-1.1003.

(9) Pre-invitation notice.

(10) IFB/RFP and amendments.

(11) Abstract of bids/proposals.

(12) Cost or pricing data. Where the requirement for submission of cost or pricing data is waived as provided in FPR 1-3.807.3, the waiver and documentation supporting the waiver shall be filed under this tab.

(13) Audit report. Where the requirement for an audit of a price proposal is waived as provided in FPR 1-3.809, the waiver and

documentation supporting the waiver shall be filed under this tab. Reports of technical analysis required in support of audit reports shall be filed under this tab.

(14) Price or cost analysis report prepared pursuant to FPR 1-3.807-2. Supporting technical analyses, other than those supporting an audit report, shall be filed under this tab. The profit or fee analyses required by FPR 1-3.808 shall be made a part of the price or cost analysis report.

(15) Price negotiation memorandum required by FPR 1-3.811 shall be filed under this tab. This memorandum must be written so as to permit reconstruction of all of the major considerations of the acquisition.

(16) Certificate of current cost or pricing data.

(17) Pre-award survey.

(18) EEO compliance review.

(19) No bid or no proposal correspondence.

(20) Unsuccessful bids or proposals.

Unsuccessful bids or proposals need not be included in the file if too voluminous, provided that an abstract of bids/proposals is included in the file. However, a copy of each rejected bid or each unacceptable proposal must be included in the file under this tab.

(21) Mistakes in bids. All correspondence and determinations relating to mistakes in bids disclosed prior to award shall be filed under this tab.

(22) Actions taken on late bids or proposals.

(23) Successful bid or proposal and all pertinent correspondence applicable to the contractual action.

(24) Contractual action. The contractor's copy and the copy for the official contract file shall be submitted. Where an award is to be accomplished by use of the Award portion of the SF 33, or similar forms, the contract document shall be included in Tab 23.

(25) Evidence of concurrence for legal sufficiency of the appropriate Assistant General Counsel in the Central Office.

(26) Any service required approvals.

6. *Manual approval of contractual actions.* a. Manual approval of contractual actions shall be accomplished in accordance with the following procedure:

(1) Any solicitation expected to result in a negotiated contract or contract modification which requires the approval of the Assistant Administrator for Acquisition Policy prior to award shall include the following provision:

Approval of Contractual Action

This contractual action shall be subject to the written approval of the Assistant Administrator for Acquisition Policy, General Services Administration, and shall not be binding until so approved.

(2) This provision shall be included in negotiated contractual documents when the solicitation document is not to be made a part of the resulting contract or modification, or when the provision has not been included in the solicitation.

(3) The Assistant Administrator's approval of a contractual action shall be located on the face of the contractor's copy of the contract or modification and on the copy for the official contract file.

b. Contractual actions requiring only service approval prior to award shall also be

subject to manual approval. Each service shall designate the officials in its Central Office who are authorized to manually approve such contractual actions. The above provision and procedures, appropriately modified for this purpose, shall be used.

7. *Clearance, conditional clearance or return of contractual actions.* a. Contractual actions approved by the Assistant Administrator for Acquisition Policy shall be promptly returned to the service by the Contract Clearance Directorate. If the approval of a contractual action is conditional (i.e., subject to satisfying certain conditions), such conditional approval shall be documented in a memorandum to the service signed by the Assistant Administrator. The stated conditions must be satisfied prior to consummating the award.

b. Contractual actions requiring clearance by the Assistant Administrator for Acquisition Policy which are not approved shall be returned to the cognizant service. The memorandum of transmittal shall set forth the reasons for the return and be signed by the Assistant Administrator for Acquisition Policy.

c. The service contract clearance office shall advise the Director, Contract Clearance Directorate, in writing, of any contractual action which was cleared by the Assistant Administrator for Acquisition Policy but was not awarded. A complete explanation for the failure to make award shall also be provided.

8. *Post award contract review.* a. The Contract Clearance Directorate shall perform contract reviews on a post award basis. The Director, Contract Clearance Directorate shall select the contractual actions to be reviewed on this basis.

b. The results of post award reviews performed by the Contract Clearance Directorate shall be provided to the service's office of acquisition/contracting.

[FPR Doc. 22679 Filed 7-20-79 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

Educational Opportunity Centers; Closing Date for Transmittal of Applications for Fiscal Year 1980

Applications are invited for new projects under the Educational Opportunity Centers Program.

Authority for this program is contained in section 417B of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070d-1)

This program issues awards to institutions of higher education, combinations of institutions of higher education, public and private agencies and organizations, and, in exceptional cases, secondary schools and secondary vocational schools.

The purpose of the awards is to assist applicants to carry out projects that serve areas with major concentrations of low-income populations by providing, in coordination with other applicable programs and services: information concerning financial and academic support for persons living in the area who desire to pursue a program of postsecondary education; counseling, tutorial and other necessary services to such persons while attending postsecondary institutions; and, assistance in applying for admission to postsecondary institutions, including assistance in preparing necessary applications for use by admission and financial aid officers.

Closing Date for Transmittal of Applications: Applications for new awards must be mailed or hand delivered by October 31, 1979.

Applications Delivered By Mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.543, Washington, D.C. 20202.

Proof of mailing must consist of:

(1) Legible U.S. Postal Service dated postmark;

(2) Legible mail receipt with the date of mailing stamped by the U.S. Postal Service; or

(3) Any other evidence acceptable to the Commissioner, such as dated shipping label, invoice, or receipt from a commercial carrier.

Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

Note.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications Delivered By Hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: The applications for new grants will be evaluated competitively under the published funding criteria for new awards—45 CFR 154.5(c). All applications for FY 1980 funds will be treated as new applications. Successful applicants will receive up to two (2) year project period grants.

The Office of Education may not fund an applicant for a period of time longer than is requested by the applicant in the application. Applicants requesting two years of funding must submit a detailed work program and budget for the first year and an outline of the work program and a budget summary for the second year.

The Commissioner approves requests for the second year if:

1. The need continues to exist for the services provided by the project;

2. Satisfactory progress has been made in implementing the approved work plan and in achieving the project's goals and objectives;

3. The project continues to offer promise of success;

4. All required reports have been received and accepted by the Commissioner; and

5. Funds are available to continue the project.

An Application Preparation Workshop(s) will be conducted this Fall. For the time and location of this workshop(s), contact the Program Development Branch (see address in section on Further Information). Date(s) and location(s) will also be published in the Notices section of the Federal Register.

Available Funds: Approximately \$130,000,000 is anticipated to be available for the Special Programs for Students from Disadvantaged Backgrounds in FY 1980. Of this amount it is estimated that \$6,300,000 will be available for the Educational Opportunity Centers programs, to fund approximately 27 grants averaging \$233,000. The breakdown for new awards in the other Special Programs is estimated to be \$51,000,000 for Upward Bound, with approximately 390 grants averaging \$130,700; \$15,300,000 for Talent Search, with approximately 160 grants averaging \$95,600; and \$45,000,000 for Special Services, with approximately 484 grants averaging \$93,000.

The processing of applications for these new projects will be subject to the availability of funds. These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application Forms: Application forms and program information packages are

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expected to be ready for mailing August 13, 1979. They may be obtained by writing to the Division of Student Services and Veterans Programs, Information Systems and Program Support Branch, U.S. Office of Education, (Room 3514, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner suggests that the narrative portion of the application not exceed fifty (50) pages in length. The Commissioner further suggests that only the information required by the application form be submitted.

Applicable Regulations: The regulations applicable to this program are:

- (a) regulations governing the Educational Opportunity Centers Program (45 CFR Part 154), and
- (b) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a).

However, it is expected that the grant awards made under this program will be subject to the post award provisions of the Education Division General Administrative Regulations (EDGAR). EDGAR was published in proposed form in the *Federal Register* on May 4, 1979 (44 FR 26298). When published in final, EDGAR will supersede the Office of Education General Provisions Regulations.

Further Information: For further information contact the Program Development Branch, Division of Student Services and Veterans Programs, U.S. Office of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 245-2511.

(20 U.S.C. 1070d-1070d-1)

(Catalog of Federal Domestic Assistance Number 13.543: Educational Opportunity Centers)

Dated: July 17, 1979.

Mary Berry,
Acting Commissioner of Education.

[FR Doc 79-22703 Filed 7-20-79; 8:45 am]
BILLING CODE 4110-02-M

Special Services for Disadvantaged Students; Closing Date for Transmittal of Applications for Fiscal Year 1980

Applications are invited for new projects under the Special Services for Disadvantaged Students Program. Applications for National

Demonstration projects will not be accepted at this time. A separate Notice of Closing Date will be published at a later date.

Authority for this program is contained in section 417B of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070d-1)

This program issues awards to institutions of higher education and combinations of institutions of higher education.

The purpose of the awards is to assist applicants to carry out projects designed to provide remedial and other special services for students with academic potential who are enrolled or accepted for enrollment at an institution which is a beneficiary of a Special Services grant and who by reason of deprived educational, cultural, or economic background, or physical handicap, or limited English-speaking ability, are in need of such services to assist them to initiate, continue, or resume their postsecondary education.

Closing date for transmittal of applications: Applications for new awards must be mailed or hand delivered by October 22, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.482, Washington, D.C. 20202.

Proof of mailing must consist of: (1) Legible U.S. Postal Service dated postmark;

(2) Legible mail receipt with the date of mailing stamped by the U.S. Postal Service; or

(3) Any other evidence acceptable to the Commissioner, such as dated shipping label, invoice, or receipt from a commercial carrier.

Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service. (Note.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.) Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand-delivered applications

between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: The applications for new grants will be evaluated competitively under the published funding criteria for new awards—45 CFR 157.6(c). All applications for fiscal year 1980 funds will be treated as new applications. Successful applicants will receive up to four (4) year project period grants.

The Office of Education may not fund an applicant for a period of time longer than is requested by the applicant in the application. Applicants requesting more than one year of funding must submit a detailed work program and budget for the first year and an outline of the work program and a budget summary for each of the additional years.

The Commissioner approves requests for subsequent years if: (1) The need continues to exist for the services provided by the project;

(2) Satisfactory progress has been made in implementing the approved work plan and in achieving the project's goals and objectives;

(3) The project continues to offer promise of success;

(4) All required reports have been received and accepted by the Commission; and

(5) Funds are available to continue the project.

An Application Preparation Workshop(s) will be conducted this Fall. For the time and location of this workshop(s) contact the Program Development Branch (see address in section of Further Information). Date(s) and location(s) will also be published in the Notices section of the *Federal Register*.

Available funds: Approximately \$130,000,000 is anticipated to be available for the Special Programs for Students from Disadvantaged Backgrounds in FY 1980. The breakdown for new awards is estimated to be \$51,000,000 for Upward Bound, with approximately 390 grants averaging \$130,700; \$15,300,000 for Talent Search, with approximately 160 grants averaging \$95,000; and \$45,000,000 for Special Services, with approximately 484 grants averaging \$93,000. The Educational Opportunity Centers program will be allocated \$6,300,000 to fund approximately 27 grants averaging \$233,000.

The processing of applications for new projects will be subject to the

availability of funds. These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by August 13, 1979. They may be obtained by writing to the Division of Student Services and Veterans Programs, Information Systems and Program Support Branch, U.S. Office of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner suggests that the narrative portion of the application not exceed fifty (50) pages in length. The Commissioner further suggests that only the information required by the application form be submitted.

Applicable regulations: The regulations applicable to this program are: (a) regulations governing the Special Services Program (45 CFR Part 157); and

(b) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a).

However, it is expected that the grant awards made under this program will be subject to the post award provisions of the Education Division General Administrative Regulations (EDGAR). EDGAR was published in proposed form in the *Federal Register* on May 4, 1979 (44 FR 26298). When published in final, EDGAR will supersede the Office of Education General Provisions Regulations.

Further information: For further information contact the Program Development Branch, Division of Student Services and Veterans Programs, U.S. Office of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C., 20202, Telephone: (202) 245-2511.

(20 U.S.C. 1070d-1070d-1)

(Catalog of Federal Domestic Assistance Number 13.482, Special Services for Disadvantaged Students)

Dated: July 17, 1979.

Mary Berry
Acting U.S. Commissioner of Education.

[FR Doc 79-22701 Filed 7-20-79; 8:45 am]
BILLING CODE 4110-02-M

Talent Search; Closing Date for Transmittal of Applications for Fiscal Year 1980

Applications are invited for new projects under the Talent Search Program. Applications for National Demonstration projects will not be accepted during this funding cycle.

Authority for this program is contained in section 417B of the Higher Education Act of 1965, as amended. (20 U.S.C. 1070d-1)

This program issues awards to institutions of higher education, combinations of institutions of higher education, public and private agencies and organizations, and, in exceptional cases, secondary schools and secondary vocational schools.

The purpose of the awards is to assist applicants to carry out projects designed to identify qualified youths of financial or cultural need with an exceptional potential for postsecondary educational training and encourage them to complete secondary school and undertake postsecondary educational training. Projects also publicize existing forms of student financial aid and encourage qualified secondary school and college dropouts of demonstrated aptitude to reenter educational programs.

Closing date for transmittal of applications: Applications for new awards must be mailed or hand delivered by October 31, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.488, Washington, D.C. 20202.

Proof of mailing must consist of: (1) Legible U.S. Postal Service dated postmark;

(2) Legible mail receipt with the date of mailing stamped by the U.S. Postal Service; or

(3) Any other evidence acceptable to the Commissioner, such as dated shipping label, invoice, or receipt from a commercial carrier.

Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service. (Note.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this.) Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must

be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: The applications for new grants will be evaluated competitively under the published funding criteria for new awards—45 CFR 159.7(c). All applications for FY 1980 funds will be treated as new applications. Successful applicants will receive up to two (2) year project period grants.

The Office of Education may not fund an applicant for a period of time longer than is requested by the applicant in the application. Applicants requesting two years of funding must submit a detailed work program and budget for the first year and an outline of the work program and a budget summary for the second year.

The Commissioner approves requests for the second year if: 1. The need continues to exist for the services provided by the project;

2. Satisfactory progress has been made in implementing the approved work plan and in achieving the project's goals and objectives;

3. The project continues to offer promise of success;

4. All required reports have been received and accepted by the Commissioner; and

5. Funds are available to continue the project.

An Application Preparation Workshop(s) will be conducted this Fall. For the time and location of this workshop(s) contact the Program Development Branch (see address in section on Further Information). Date(s) and location(s) will also be published in the Notices section of the *Federal Register*.

Available funds: Approximately \$130,000,000 is anticipated to be available for the Special Programs for Students from Disadvantaged Backgrounds in FY 1980. The breakdown for new awards is estimated to be \$51,000,000 for Upward Bound, with approximately 390 grants averaging \$130,700; \$15,300,000 for Talent Search, with approximately 160 grants averaging \$95,000; and \$45,000,000 for Special Services, with approximately 484 grants averaging \$93,000. The Educational

Opportunity Centers program will be allocated \$6,300,000 to fund approximately 27 grants averaging \$233,000.

The processing of applications for new projects will be subject to the availability of funds. These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by August 13, 1979. They may be obtained by writing to the Division of Student Services and Veterans Programs, Information Systems and Program Support Branch, U.S. Office of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner suggests that the narrative portion of the application not exceed fifty (50) pages in length. The Commissioner further suggests that only the information required by the application form be submitted.

Applicable regulations: The regulations applicable to this program are:

- (a) regulations governing the Talent Search Program (45 CFR Part 159), and
- (b) Office of Educational General Provisions Regulations (45 CFR Parts 100 and 100a).

However, it is expected that the grant awards made under this program will be subject to the post award provisions of the Education Division General Administrative Regulations (EDGAR). EDGAR was published in proposed form in the **Federal Register** on May 4, 1979 (44 FR 26298). When published in final EDGAR will supersede the Office of Education General Provisions Regulations.

Further Information: For further information contact the Program Development Branch, Division of Student Services and Veterans Programs, U.S. Office of Education (Room 3514 Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245-2511.

(20 U.S.C. 1070d-1070d-11)
(Catalog of Federal Domestic Assistance Number 13.488: Talent Search)

Dated: July 17, 1979.

Mary Berry,

Acting Commissioner of Education.

[FR Doc. 79-22702 Filed 7-20-79; 8:45 am]

BILLING CODE 4110-02-M

Upward Bound; Closing Date for Transmittal of Applications for Fiscal Year 1980

Applications are invited for new projects under the Upward Bound Program. Applications for National Demonstration projects will not be accepted at this time. A separate Notice of Closing Date will be published at a later date.

Authority for this program is contained in section 417B of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070d-1)

This program issues awards to institutions of higher education, combinations of institutions of higher education, and public and private agencies and organizations, and in exceptional cases, to secondary schools and secondary vocational schools.

The purpose of the awards is to assist applicants to carry out projects designed to identify youths, from low-income backgrounds, with inadequate secondary school preparation, and to generate the skills and motivation necessary for eligible enrollees to complete secondary school and successfully pursue postsecondary educational programs.

Closing date for transmittal of applications: Applications for new awards must be mailed or hand delivered by October 12, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.492, Washington, D.C. 20202.

Proof of mailing must consist of: (1) Legible U.S. Postal Service dated postmark;

(2) Legible mail receipt with the date of mailing stamped by the U.S. Postal Service; or

(3) Any other evidence acceptable to the Commissioner, such as dated shipping label, invoice, or receipt from a commercial carrier.

Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service. (Note.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.) Applicants are encouraged

to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Street, S.W., Washington, D.C.

Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: The applications for new grants will be evaluated competitively under the published funding criteria for new awards—45 CFR 155.8(c). All applications for FY 1980 funds will be treated as new applications. Successful applicants will receive up to three (3) year project period grants.

Office of Education may not fund an applicant for a period of time longer than is requested by the applicant in the application. Applicants requesting more than one year of funding must submit a detailed work program and budget for the first year and an outline of the work program and a budget summary for each of the additional years.

The Commissioner approves requests for the subsequent years if: 1. The need continues to exist for the services provided by the project;

2. Satisfactory progress has been made in implementing the approved work plan and in achieving the project's goals and objectives;

3. The project continues to offer promise of success;

4. All required reports have been received and accepted by the Commissioner; and

5. Funds are available to continue the project.

An Application Preparation Workshop(s) will be conducted this Fall. For the time and location of this workshop(s) contact the Program Development Branch (see address in section of Further Information). Date(s) and location(s) will also be published in the Notices section of the **Federal Register**.

Available funds: Approximately \$130,000,000 is anticipated to be available for the Special Programs for Students from Disadvantaged Backgrounds in FY 1980. The breakdown for new awards is estimated to be

\$51,000,000 for Upward Bound, with approximately 390 grants averaging \$137,000; \$15,300,000 for Talent Search, with approximately 160 grants averaging \$95,600; and \$45,000,000 for Special Services, with approximately 484 grants averaging \$93,000. The Educational Opportunity Centers program will be allocated \$6,300,000 to fund approximately 27 grants averaging \$233,000.

The processing of applications for new projects will be subject to the availability of funds. These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by August 13, 1979. They may be obtained by writing to the Division of Student Services and Veterans Programs, Information Systems and Program Support Branch, U.S. Office of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner suggests that the narrative portion of the application not exceed fifty (50) pages in length. The Commissioner further suggests that only the information required by the application form be submitted.

Applicable regulations: The regulations applicable to this program are: (a) regulations governing the Upward Bound Program (45 CFR Part 155); and

(b) Office of Education General Provisions Regulations (45 CFR 100 and 100a).

However, it is expected that the grant awards made under this program will be subject to the post award provisions of the Education Division General Administrative Regulations (EDGAR). EDGAR was published in proposed form in the **Federal Register** on May 4, 1979 (44 FR 26298). When published in final, EDGAR will supersede the Office of Education General Provisions Regulations.

Further information: For further information contact the Program Development Branch, Division of Student Services and Veterans Programs, U.S. Office of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245-2511.

(20 U.S.C. 1070d-1070d-1.)

(Catalog of Federal Domestic Assistance Number 13.492: Upward Bound)

Dated: July 17, 1979.

Mary Berry,

Acting Commissioner of Education.

[FR Doc. 79-22704 Filed 7-20-79; 8:45 am]

BILLING CODE 4110-02-M

Health Care Financing Administration

Medicare Program; Schedule of Limits on Hospital Inpatient General Routine Operating Costs for Cost Reporting Periods Beginning on or After July 1, 1979

Correction

In FR Doc. 79-16780 appearing at page 31800 and the second of three documents in Part II of the issue for June 1, 1979, make the following corrections:

(1) On page 31808, in the first column, in the third full paragraph, in the 10th line, "related" should be corrected to read "relate".

(2) On page 31809, in the table entitled, Derivation of "Market Basket" Index for Routine Inpatient Hospital Operating Costs, in the first column entitled, Category of costs, under item No. 6, "U.S. Dept. of Commerce, Bureau of Economic" should be transferred to the fourth column of the table entitled, "Price" variable used. In the fourth column, under item No. 6, under entry A., insert "Source: U.S. Dept. of Commerce, Bureau of Economic" in front of "Analysis, Survey of Current Business, (monthly) table 26 (7.11)."

(3) On page 31810, in the third column, in the seventh full paragraph, in the 4th line, the two words "a typical" should be combined to make one word to read, "atypical".

(4) On page 31811, in the first column, in the second full paragraph, in the 17th line, "made" should be corrected to read, "make".

(5) On page 31813, in the first column, under Table III A—Wage index for urban areas, under the entry for Muncie, IN, the corresponding wage index should be "7878266".

(6) On page 31813, in the first column, under Table III A—Wage index for urban areas, under the entry for Raleigh-Durham, NC, the corresponding wage index should be "9982759".

(7) On page 31813, in the middle column, under Table III A—Wage index for urban areas, under the entry for "Wilmington, NC, the corresponding wage index should be "6793208".

BILLING CODE 1505-01-M

Medicare Program; Initial Schedule of Limits on Home Health Agency Costs Per Visit for Cost Reporting Periods Beginning on or After July 1, 1979

Correction

In FR Doc. 79-16781 appearing at page 31814 and the third of three documents in Part II of the issue for June 1, 1979, make the following corrections:

(1) On page 31814, in the third column, in the third full paragraph, in the 2nd line, "in" should be corrected to read "on".

(2) On page 31815, in the middle column, in the second full paragraph, in the 6th line, substitute the words "a written" for "writted".

(3) On page 31816, in the first column, in the 16th line from the top of the page, between the word "years" and the word "subtracting" delete the 2nd repeating word "and".

BILLING CODE 1505-01-M

Health Resources Administration

Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of August 1979:

Name: National Advisory Council on Health Professions Education.

Date and Time: August 13-14, 1979, 8:30 a.m.

Place: Conference Room 7-32, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.

Open August 13, 1979, 8:30 a.m.—12:30 p.m. (10:30 a.m.—12:30 p.m. will be structured study for Council members). Closed remainder of meeting.

Purpose: The Council advises the Secretary concerning the programs authorized by the Health Professions Educational Assistance Act of 1976, including recommendations on contacts, grant applications for construction, capitation, special projects, and financial need. These and other programs are designed to enable the health professions education institutions to meet the Nation's health manpower requirements.

Agenda: Agenda items for the open portion of the meeting will include Bureau Update, Update on 1979 Budget, consideration of minutes of previous meeting, and discussion of future meeting dates. The remainder of the meeting will be closed to the public for the review of applications for Curriculum Development in Applied Nutrition, Environmental Health and Geriatrics; and Capitation Assurances. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S. Code, and the Determination by the Administrator, Health Resources Administration, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mr. Robert L. Belsley, Bureau of Health Manpower, room 4-27, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782. Telephone (301) 436-6564.

Agenda items are subject to change as priorities dictate.

James A. Walsh,

Associate Administrator for Operations and Management.

(FR Doc. 79-22591 Filed 7-20-79; 8:45 am)

BILLING CODE 4110-83-M

Office of Human Development Service

Developmental Disabilities Program; Intention to Reallot Funds

AGENCY: Office of Human Development Services, HEW.

ACTION: Notice of Intention to Reallot Funds.

SUMMARY: The Developmental Disabilities Service and Facilities Construction Act, amended by Pub. L. 95-602, authorizes the Rehabilitation Services Administration (RSA) to reallot the amount of a State's fiscal year allotment for the Developmental Disabilities Program that it will not need. A reallotment can be made to other States in proportion to their original allotment in the same fiscal year. The proportionate amount reallotted to a State can not be more than the amount that RSA estimates it will need and be able to use in the fiscal year. If the proportionate amount to a State is reduced for this reason, the total amount of all reductions made can be reallotted to States whose proportionate share was not reduced. RSA is required to publish a notice of proposed reallotments in the *Federal Register* with a 30 day comment period.

COMMENTS: Consideration will be given to any written comments received on or before August 22, 1979. They should be submitted to: Director, Bureau of Developmental Disabilities, RSA, HDS, HEW, Room 3070, 330 C Street, SW., Washington, D.C. 20201.

Notice: The following allotments reserved in Fiscal Year 1979 for American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific, will not be needed:

Basic support	Protection and advocacy
\$150,000	\$60,000

It is the intention of the Rehabilitation Service Administration to reallot the above as follows:

State	Basic support
Alabama	\$3,579
Arizona	1,540
Arkansas	2,003
California	12,728
Colorado	1,567
Connecticut	1,930
Delaware	837
Dist. of Col.	837
Florida	5,618
Georgia	3,961
Guam	279
Hawaii	837
Illinois	7,237
Indiana	4,109
Iowa	2,371
Kansas	1,670
Kentucky	3,365
Louisiana	3,379
Maine	995
Maryland	2,627
Massachusetts	4,002
Michigan	8,547
Minnesota	3,026
Mississippi	2,457
Missouri	3,777
Montana	837
Nebraska	1,247
New Hampshire	837
New Jersey	4,599
New Mexico	956
New York	11,827
North Carolina	4,885
North Dakota	837
Oklahoma	2,286
Pennsylvania	9,355
Puerto Rico	4,018
Rhode Island	837
South Dakota	837
Tennessee	3,788
Texas	8,983
Utah	961
Vermont	837
Virginia	3,819
Virgin Islands	279
West Virginia	2,114
Wisconsin	3,724
Wyoming	837

State	Protection and advocacy
Alaska	\$464
Arizona	618
Arkansas	778
California	5,061
Colorado	640
Connecticut	773
Delaware	464
Dist. of Col.	464
Florida	2,261
Hawaii	464
Idaho	464
Indiana	1,579
Iowa	848
Kansas	637
Kentucky	1,301
Louisiana	1,349
Maine	464
Maryland	1,016
Massachusetts	1,590
Michigan	2,523
Minnesota	1,131
Mississippi	979
Missouri	1,473
Montana	464
Nebraska	485
Nevada	464
New Hampshire	464
New Jersey	1,816
New Mexico	464
New York	4,821
North Dakota	464
Ohio	3,104

State	Protection and advocacy
Oklahoma	885
Oregon	643
Pennsylvania	3,565
Puerto Rico	1,605
Rhode Island	464
South Carolina	1,027
South Dakota	464
Tennessee	1,482
Texas	3,571
Utah	464
Vermont	464
Virginia	1,467
Virgin Islands	464
Washington	928
West Virginia	781
Wisconsin	1,401
Wyoming	464

(Catalog of Federal Domestic Assistance Program No. 13.630 Development Disabilities—Basic Support)

Dated: July 10, 1979.

Robert R. Humphreys,

Commissioner, Rehabilitation Services Administration.

Arabella Martinez,

Approved: July 11, 1979.

Assistant Secretary for Human Development Services.

(FR Doc. 79-22683 Filed 7-20-79; 8:45 am)

BILLING CODE 4110-92-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Bois Forte Band of Chippewa; Plan for the Use and Distribution of Bois Forte Band of Chippewa Judgment Funds Awarded in Docket 18-D Before the Indian Claims Commission

July 13, 1979.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 10, 1973 (P.L. 93-134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment to any Indian tribe. Funds were appropriated by the Act of March 7, 1978, 92 Stat. 107, in satisfaction of the award granted to the Bois Forte Band of Chippewa Indians in Indian Claims Commission Docket 18-D. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated February 9, 1979, and was received (as recorded in the Congressional Record) by the House of Representatives on February 13, 1979 and the Senate on March 15, 1979. Congress not having adopted a resolution disapproving it, the plan became effective on June 5, 1979, as provided by Section 5 of the 1973 Act, *supra*.

The plan reads as follows:

"The funds appropriated by the Act of March 7, 1978, 92 Stat. 107, in satisfaction of the award granted to the Bois Forte Band of Chippewa Indians in Docket 18-D before the Indian Claims Commission, less attorney fees and expenses, and including all interest and investment income accrued, shall be utilized as herein provided.

Per Capita Aspect

The Secretary of the Interior (hereinafter 'Secretary') shall make a per capita distribution, in a sum as equal as possible, of eighty (80) percent of the funds, to each enrollee of the Minnesota Chippewa Tribe, pursuant to the provisions of the revised tribal constitution approved March 3, 1964, as amended, who is designated as a Lake Superior Chippewa Band member and who is affiliated with the Nett Lake (Bois Forte) Reservation, including Vermillion Lake and Deer Creek Reservations, and who was born on or prior to and living on the effective date of this plan. The Lake Superior Chippewa Band roll of the Minnesota Chippewa Tribe, for the purpose of determining the number of enrollees affiliated with the Nett Lake (Bois Forte) Reservation, including Vermillion Lake and Deer Creek Reservations, shall be brought current under procedures enacted by the tribe and approved by the Secretary.

Programming Aspect

The balance, or twenty (20) percent of the funds, shall be deposited in separate program accounts in the percentages set forth herein and such funds shall be invested by the Secretary pursuant to 25 USC 162a, until such time the funds are required for the programs. The interest and investment earnings on each account shall first be utilized in the programs, which are to be detailed in separate program plans and tribal budgets of the Nett Lake (Bois Forte) Reservation Business Committee and approved by the Secretary, with the principal funds of each account maintained intact wherever possible.

a. Twenty-five (25) percent of the program funds, and interest and investment income accruing thereon, shall be utilized in an annual educational scholarship program.

b. Forty (40) percent of the program funds, and interest and investment income accruing thereon, shall be utilized in a reservation economic development program, for such purposes as matching funds for Federal programs, assistance to individual tribal members establishing on-reservation businesses, assistance to individual tribal members

seeking Small Business Administration loans, etc.

c. Thirty-five (35) percent of the program funds and interest and investment income accruing thereon, shall be utilized in a band land acquisition program.

General Provisions

No person shall be entitled to more than one per capita share of the funds.

The per capita shares of living competent adults shall be paid directly to them. The per capita shares of minors shall be handled pursuant to 25 CFR 60.10 (a) and (b)(1) and 104.4. The per capita shares of legal incompetents shall be placed in individual Indian money (IIM) accounts and handled under 25 CFR 104.5. The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR, Part 4, Subpart D.

Should funds set aside in any of the program accounts be determined to be in excess of needs, appropriate adjustments from one program account to another shall be made in the annual tribal budget, with the approval of the Secretary.

None of the funds distributed per capita or made available under the programming aspects of this plan shall be subject to Federal or State income taxes or be considered income or resources in determining eligibility for assistance under Federal, State or local programs."

Rick Lavis,

Deputy Assistant Secretary—Indian Affairs.

(FR Doc. 79-22593 Filed 7-20-79; 8:45 am)

BILLING CODE 4310-02-M

Lummi Indian Reservation, Washington; Ordinance Regulating the Use, Consumption, Sale, or Possession of Intoxicating Beverages

July 9, 1979.

This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, Public Law 277, 83rd Congress, 1st Session, (67 Stat. 586). I certify that the following Resolution and Ordinance relating to the application of the Federal Indian Liquor Laws on the Lummi Indian Reservation, Washington was adopted on October 6, 1978 and amended on February 6, 1979 and on June 4, 1979 by the Lummi Indian Business Council which has jurisdiction over the area of Indian Country included

in the Resolution and Ordinance, reading as follows:

Rick Lavis,

Deputy Assistant Secretary—Indian Affairs.

Resolution No. 78-85 of the Lummi Indian Business Council

Whereas, the Lummi Indian Business Council is the duly constituted governing body of the Lummi Indian Reservation by the authority of the Constitution and By-Laws of the Lummi Tribe of the Lummi Reservation, Washington, as approved on April 10, 1970, by the Assistant Commissioner of Indian Affairs; and

Whereas, the Lummi Indian Business Council has the duty and responsibility of regulating the possession, use, consumption, and sale of alcoholic beverages on the Lummi Indian Reservation;

Now, therefore, be it resolved that the Lummi Indian Business Council does adopt the attached Liquor Code; and

Be it further resolved that the Chairman (or the Vice Chairman in his absence) is authorized and directed to execute this resolution and any documents connected herewith; and the Secretary is authorized and directed to execute the following certification.

Lummi Indian Tribe.

William E. Jones,

Chairman, Lummi Indian Business Council.

Certification

As Secretary of the Lummi Indian Business Council, I hereby certify that the above resolution No. 78-85 was adopted at a regular meeting of the Council held on the 6th day of October, 1978, at which time a quorum of 6 was present and was adopted by a vote of 5 for, 0 against, and 0 abstentions.

James H. Wilson,

Secretary Lummi Indian Business Council.

Liquor Code

Section 1. Findings and Purpose.

1.1 The introduction, possession, and sale of liquor on Indian reservations have, since Treaty time, been clearly recognized as matters of special concern of Indian tribes and the United States Federal Government. The control of liquor on reservations remains exclusively subject to their legislative enactments.

1.2 Beginning with the Treaty of Point Elliott, Art. X, to which the ancestors of the Lummi Indian Tribe were parties, the Federal Government has respected this Tribe's determinations regarding liquor related transactions and activities on the Lummi Indian Reservation. At Treaty time, the

Lummi Tribe's ancestors desired to exclude "ardent spirits" from their Reservation. This desire was honored by Congress in the enactment of 18 U.S.C. § 1154 and 18 U.S.C. § 1161, which prohibit the introduction of liquor into the Lummi Indian Reservation unless and until the Lummi Indian Tribe has decided when and to what extent liquor transactions shall be permitted. The Lummi Tribe has decided to open the Lummi Indian Reservation to the possession, consumption, and sale of liquor by enacting Resolution L-33 on March 14, 1972. Subsequent circumstances have made it clear that it is now necessary for the Lummi Indian Tribe to exert strict tribal regulation and control over all aspects of liquor sale, distribution, and use of the Lummi Indian Reservation.

1.3 The enactment of the tribal ordinance governing liquor sales on the Lummi Indian Reservation and providing for exclusive purchase and sale through a tribally owned and operated establishment will increase the ability of the Tribal Government to control Reservation liquor distribution and possession, and, at the same time, will provide an important source of revenue for the continued operation of essential tribal governmental services and the delivery of essential tribal social services.

1.4 Tribal regulation of the sale, possession, and consumption of liquor on the Lummi Indian Reservation is necessary to protect the health, security, and general welfare of the Lummi Indian Tribe. In order to further these goals and to provide for an urgently needed additional source of governmental revenue, the Lummi Indian Business Council adopts this liquor ordinance to be known as the "Lummi Liquor Ordinance". This ordinance shall be generally construed to fulfill the purposes for which it has been adopted.

Section 2. Definitions. As used in this ordinance, the following words shall have the following meanings unless the context clearly requires otherwise.

2.1 "Alcohol" That substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance.

2.2 "Alcoholic Beverage" Is synonymous with the term liquor as defined in § 2.5 of this ordinance.

2.3 "Beer" Means any beverage obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley

malt or other wholesome grain or cereal in pure water containing not more than four percent of alcohol by volume. For the purposes of this title, any such beverage, including ale, stout, and porter, containing more than four percent of alcohol by weight shall be referred to as "strong beer".

2.4 "Board" Means the Lummi Indian Liquor Board as constituted under this ordinance.

2.5 "Liquor" includes the four varieties of liquor herein defined (alcohol, spirits, wine, and beer), and all fermented, spirituous, vinous, or malt liquor or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous, or malt liquor, or otherwise intoxicating; and every liquid or solid or semi-solid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption and any liquid, semi-solid, solid, or other substances, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating.

2.6 "Malt Liquor" Means beer, strong beer, ale, stout, and porter.

2.7 "Package" Means any container or receptacle used for holding liquor.

2.8 "Public Place" Includes streets and alleys of incorporated cities and towns; state or county or tribal or federal highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; those parts of establishments where beer may not be sold under this title, soft drink establishments, public buildings, public meeting halls, lobbies, halls, and dining rooms of hotels, restaurants, theaters, stores, garages, and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, and other public conveyances of all kinds and character, and the depots and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, and/or playgrounds, and all other places or like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

2.9 "Sale" and "Sell" Include exchange, barter, and traffic; and also include the selling or supplying or distributing, by any means whatsoever, or liquor, or of any liquid known or described as beer or by any name whatsoever commonly used to describe

malt or brewed liquor or of wine, by any person to any person.

2.10 "Spirits" Means any beverage which contains alcohol obtained by distillation, including wines exceeding seventeen percent of alcohol by weight.

2.11 "Tavern" Means any establishment with special space and accommodations for sale by the glass and for consumption on the premises, of beer, as herein defined.

2.12 "Wine" Means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, etc.) or other agricultural product containing sugar, to which any saccharine substances may have been added before, during, or after fermentation, and containing not more than seventeen percent of alcohol by weight, including sweet wines fortified with wine spirits, such as port, sherry, muscatel, and angelica, not exceeding seventeen percent of alcohol by weight.

Section 3. Lummi Indian Liquor Board

3.1 **Liquor Board Established—Composition.** There is hereby established a Lummi Indian Liquor Board. The Board shall consist of five (5) members serving staggered terms of three (3) years, each, commencing on March 1st of each year, and selected by vote of the Lummi Indian Business Council as follows:

(1) three (3) members shall be members of the Lummi Indian Business Council who reside on the Lummi Indian Reservation.

(2) two (2) members shall be members of the Lummi Indian Tribe, residing upon the Lummi Indian Reservation, who are not members of the Lummi Indian Business Council at the time of their selection; Provided, however, that no position on the Board shall become vacant by virtue of the individual holding that position failing to be re-elected to the Lummi Indian Business Council unless that individual shall specifically resign from the Board. No person shall serve on the Board who has ever been convicted of a felony or misdemeanor involving dishonesty.

3.2 **Vacancies.** All vacancies occurring on the Board shall be filled by a vote of the Lummi Indian Business Council.

3.3 **Initial Board.** The initial terms of office of the Board shall be as follows:

(1) one (1) member shall serve a three-year (3) term;

(2) two (2) members shall serve two-year (2) terms;

(3) two (2) members shall serve one-year (1) terms.

The members serving respective terms shall be determined by lot after the

members have been selected by the Lummi Indian Business Council.

3.4 **Board Compensation.** The members of the board shall serve without compensation unless otherwise directed by the Lummi Indian Business Council, but may receive reimbursement for necessary expenses and mileage actually incurred in the performance of their duties.

3.5 **Removal.** Members of the Board shall serve in good behavior and shall be subject to removal only by the Lummi Indian Business Council and only after a full hearing at which the member shall be afforded the right to notice of the specific charges against him, to present evidence in his own behalf, and to cross-examine witnesses against him. The member may be represented by counsel or a spokesman admitted to the Lummi Tribal Court, but such representation shall not be paid for out of funds under the control of the Board. If the Board member who is the subject of the hearing is also a member of the Lummi Indian Business Council, he shall be disqualified from voting as a member of the Lummi Indian Business Council at the hearing. Removal shall be by simple majority of the eleven members of the Council. Grounds for removal shall include, but not be limited to,

(1) conviction of a felony or a crime involving dishonesty;

(2) misuse of Board funds;

(3) receiving improper gratuities or payments from liquor salesmen or wholesalers;

(4) gross neglect of duty;

(5) failure to comply with a proper directive of the Lummi Indian Business Council

3.6 **Board Reports to Lummi Indian Business Council.** The Board shall prepare an annual written report on its activities to be submitted to the Lummi Indian Business Council at the March meeting of the Lummi Indian Business Council. The report shall include an accounting of all receipts and expenditures and such other information as shall seem appropriate to the Board or as shall be directed by the Lummi Indian Business Council. The Board may submit such other further reports as it deems appropriate or as the Lummi Indian Business Council shall direct.

3.7 **Board—Powers and Duties.** The Board shall have the following powers and duties:

(1) to publish and enforce rules and regulations adopted by the Lummi Indian Business Council governing the sale, manufacture, and distribution of alcoholic beverages on the Lummi Indian Reservation;

(2) to employ managers, warehousemen, accountants, security personnel, drivers, and such other persons as shall be reasonably necessary to allow the Board to perform its functions. Such employees shall be hired through the Lummi Indian Tribal Personnel office, and, although paid by and responsible to, the Board, shall be considered tribal employees for all other purposes;

(3) to lease or construct appropriate warehouse facilities;

(4) to bring suit in the appropriate court with the consent of the Lummi Indian Business Council. The Board shall not, without the specific consent of the Lummi Indian Business Council, waive the Board's or the Lummi Indian Tribe's immunity from suit;

(5) to contract with liquor wholesalers and distributors for the purchase and delivery of alcoholic beverages;

(6) to make such reports as may be required by the Lummi Indian Business Council;

(7) to take orders, receive, and distribute shipments of alcoholic beverages, establish wholesale base prices, collect taxes and fees levied or set by the Lummi Indian Business Council, and to keep accurate records, books, and accounts;

(8) to exercise such other powers as are delegated by the Lummi Indian Business Council.

3.8 **Board-Prohibited Actions.** In the exercise of its powers and duties, neither the Board nor any of its members shall:

(1) accept any gratuity, compensation or other thing of value from any liquor wholesaler or distributor or from any licensee, applicant, or prospective applicant, except as he is duly established for licensing;

(2) waive the immunity of the Board or the Lummi Indian Tribe from suit without the express consent of the Lummi Indian Business Council.

3.9 **Warehouse.** The Board shall purchase, lease, or construct an appropriate secure warehouse located on the Lummi Indian Reservation for the receipt, storage, and distribution of alcoholic beverages.

3.10 **Inspection.** The premises of the Board shall be open by its employees for inspection by the Board, or by any member of the Lummi Indian Business Council directed by the Lummi Indian Business Council to so inspect, at all reasonable times for the purposes of ascertaining whether the rules and regulations of the Board and the liquor laws of the Lummi Indian Reservation are being complied with.

Section 4. Sales.

4.1 **Only Tribal Sales Allowed.** No sales of alcoholic beverages shall be made within the exterior boundaries of the Lummi Indian Reservation, except at a tribal liquor store.

4.2 **All Sales Cash.** All sales at tribal liquor stores shall be on a cash only basis and no credit shall be extended to any person, organization, or entity.

4.3 **All Sales For Personal Use.** All sales shall be for the personal use of the purchaser, and resale for profit of any alcoholic beverage purchased at a tribal liquor store is prohibited within the Lummi Indian Reservation. Any person who purchases an alcoholic beverage at a tribal store and resells that beverage for profit, whether in the original container or not, shall be guilty of an offense and punished in accordance with § 6.15 herein.

4.4 **Tribal Property.** The entire stock of liquor and alcoholic beverages referred to under this ordinance shall remain tribal property owned and possessed by the Lummi Indian Tribe until sold.

Section 5. Taxation.

5.1 **Tax Imposed.** There is hereby levied and shall be collected a tax on each retail sale of alcoholic beverages on the Reservation in the amount of 15% of the retail sales price. The tax imposed by this section shall apply to all retail sales of liquor on the Reservation and shall pre-empt any tax imposed on such liquor sales by the State of Washington. No municipality, city, town, county, nor the State of Washington shall have any power to impose an excise tax on liquor or alcoholic beverages as defined by this title, or to govern or license the sale or distribution thereof in any manner within the Lummi Indian Reservation.

5.2 **Distribution of Taxes.** All taxes from the sale of alcoholic beverages on the Lummi Indian Reservation by or through the Board shall be paid over to the General Treasury of the Lummi Indian Tribe and be subject to the distribution by the Lummi Indian Business Council in accordance with its usual appropriation procedures for essential governmental and social services; Provided, however, that the following tribal programs shall have priority in funding in the percentages set out in this section upon demonstration of need and past performances in the normal tribal budgetary appropriation process:

(1) to the Lummi Tribal Alcohol Program in an amount of at least 15% of the total tax received;

(2) to the Lummi Tribal Elders Program in an amount of 15% of the total tax received;

(3) to the Lummi Tribal Youth Program in an amount of at least 15% of the total tax received;

(4) to the Lummi Tribal Law and Order Program in an amount of at least 15% of the total tax received;

(5) to the Lummi Tribal Education Program in an amount of at least 15% of the total tax received;

(6) to other tribal needs as designated by the Lummi Indian Business Council.

Section 6. *Illegal Activities.*

6.1 *Liquor Stamp—Contraband.* No Alcoholic beverages shall be sold on the Lummi Indian Reservation unless there shall be affixed to the package a stamp of the Board. Any sales made in violation of this provision shall be a violation of this ordinance and shall be punishable as set out in § 6.15 herein. All alcoholic beverages not so stamped which are sold or held for sale on the Lummi Indian Reservation are hereby declared contraband and, in addition to any penalties imposed by the Court for violation of this section, it shall be confiscated and forfeited in accordance with the procedures set out in Title 14 of the Lummi Code of Laws.

6.2 *Proof of Unlawful Sale—Intent.* In any proceeding under this ordinance, proof of one unlawful sale of liquor shall suffice to establish *prima facie* the intent or purpose of unlawfully keeping liquor for sale in violation of this ordinance.

6.3 *Use of Seal.* No person other than an employee of the Board shall keep or have in his possession any legal seal prescribed under this ordinance unless the same is attached to a package which has been purchased from a tribal liquor store, nor shall any person keep or have in his possession any design in imitation of any official seal prescribed under this ordinance or calculated to deceive by its resemblance to any official seal, or any paper upon which such design is stamped, engraved, lithographed, printed or otherwise marked. Any person who willfully violates any provision of this section shall be guilty of an offense.

6.4 *Illegal Sale of Liquor by Drink or Bottle.* Except as otherwise provided in this ordinance, any person who sells by the drink or bottle any liquor, shall be guilty of an offense.

6.5 *Illegal Transportation, Still, or Sale Without Permit.* Any person who shall sell or offer for sale or transport in any manner, any liquor in violation of this ordinance, or who shall operate or shall have in his possession without a

permit, any mash capable of being distilled into liquor, shall be guilty of an offense.

6.6 *Illegal Purchase of Liquor.* Any person within the boundaries of the Lummi Indian Reservation who buys liquor from any person other than at a property authorized tribal liquor store shall be guilty of an offense.

6.7 *Illegal Possession of Liquor—Intent to Sell.* Any person who keeps or possesses liquor upon his person or in any place or on premises conducted or maintained by him as a principal or agent with the intent to sell it contrary to the provisions of this ordinance, shall be guilty of an offense.

6.8 *Sales to Persons Apparently Intoxicated.* Any person who sells liquor to a person apparently under the influence of liquor shall be guilty of an offense.

6.9 *Drinking In a Public Conveyance.* Any person engaged wholly or in part in the business of carrying passengers for hire, and every agent, servant, or employee of such person who shall knowingly permit any person to drink any liquor in any public conveyance shall be guilty of an offense. Any person who shall drink any liquor in a public conveyance shall be guilty of an offense.

6.10 *Furnishing Liquor to Minors.* Except in the case of liquor given or permitted to be given to a person under the age of twenty one (21) years by his parent or guardian, for beverage or medicinal purposes, or administered to him by his physician or dentist for medicinal purposes, no person under the age of twenty one (21) years shall consume, acquire, or have in his possession any alcoholic beverages except when such beverage is being used in connection with religious services. No person shall permit any other person under the age of twenty one (21) to consume liquor on his premises or on any premises under his control except in those situations set out in this section. Any person violating this section shall be guilty of an offense.

6.11 *Sales of Liquor to Minors.* Any person who shall sell any liquor to any person under the age of twenty one (21) years shall be guilty of an offense.

6.12 *Unlaw Transfer of Identification.* Any person who transfer in any manner an identification of age to a minor for the purpose of permitting such minor to obtain liquor shall be guilty of an offense. Provided, that corroborative testimony of a witness other than the minor shall be a requirement of conviction.

6.13 [Reserved]

6.14 *Possession of False or Altered Identification.* Any person who attempts

to purchase an alcoholic beverage through the use of false or altered identification which falsely purports to show the individual to be over the age of 21 years shall be guilty of an offense.

6.15 *General Penalties.* Any Indian person guilty of a violation of this ordinance for which no penalty has been specifically provided shall be liable upon conviction for imprisonment for a period of not to exceed six (6) months, or a fine of not exceed Five Hundred Dollars (\$500.00), or both such fine and imprisonment.

6.16 *Identification—Proof of Minimum Age.* Where there may be a question of a person's right to purchase liquor by reason of his age, such person shall be required to present any one of the following officially issued cards of identification which shows correct age and bears his signature and photograph:

(1) liquor control authority card of identification of any state.

(2) driver's license of any state or "Identi-Card" issued by any State Department of Motor Vehicles.

(3) United States Active Duty Military Identification.

(4) Passport.

(5) Lummi Tribal Identification or Enrollment card.

6.17 *Illegal Items Declared Contraband.* Alcoholic beverages which are possessed contrary to the terms of this section are declared to be contraband. Any officer who shall make an arrest under this section shall seize all contraband which he shall have the authority to seize consistent with the Lummi Constitution and the applicable provisions of 25 U.S.C. § 1302.

6.18 *Preservation and Forfeiture.* Any officer seizing contraband shall preserve the contraband in accordance with the provisions established for the preservation of impounded property in Title 14 of this Code. Upon conviction, the guilty party shall forfeit all right, title and interest in the items seized and when the conviction shall become final, the items shall be disposed of as provided for in Title 14 of this Code: Provided, however, that the items so forfeited shall not be sold to any person not entitled to possess them under applicable law.

Section 7. *Abatement.*

7.1 *Declaration of Nuisance.* Any room, house, building, boat, vessel, vehicle, structure, or other place where liquor is sold, manufactured, bartered, exchanged, given away, furnished, or otherwise disposed of in violation of the provisions of this ordinance or of any other tribal law relating to the manufacture, importation,

transportation, possession, distribution, and sale of liquor, and all property kept in and used in maintaining such place, are hereby declared to be a common nuisance.

7.2 *Institution of Action.* The Chairman of the Board shall institute and maintain an action in the Tribal Court in the name of the Tribe to abate and perpetually enjoin any nuisance declared under this title. The plaintiff should not be required to give bond in the action, and restraining orders, temporary injunctions, and permanent injunctions may be granted in the cause as in other injunction proceedings, and upon final judgment against the defendant, the Court may also order the room, house, building, boat, vessel, vehicle, structure, or place closed for a period of one (1) year or until the owner, lessee, tenant, or occupant thereof shall give bond of sufficient surety to be approved by the Court in the penal sum of not less than One Thousand Dollars (\$1,000.00), payable to the Tribe and conditioned that liquor will not be thereafter manufactured, kept, sold, bartered, exchanged, given away, furnished, or otherwise disposed of thereof in violation of the provisions of this ordinance or of any other applicable tribal law, and that he will pay all fines, costs, and damages assessed against him for any violation of this ordinance or other tribal liquor laws. If any condition of the bond be violated, the whole amount may be recovered as a penalty for the use of the tribe. Any action taken under this section shall be in addition to any criminal penalties provided in this ordinance.

7.3 *Abatement.* In all cases where any person has been convicted of a violation of this ordinance or tribal laws relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, an action may be brought in Tribal Court to abate as a nuisance any real estate or other property involved in the commission of the offense, and in any such action a certified copy of the record of such conviction shall be admissible in evidence and *prima facie* evidence that the room, house, vessel, boat, building, vehicle, structure, or place against which such action is brought is a public nuisance.

Section 8. *Profits*

8.1 *Distribution of Profits.* The gross proceeds collected by the Board for all sales of alcoholic beverages on the Lummi Indian Reservation shall be distributed as follows:

(1) for the cost of goods;

(2) for the payment of taxes provided in § 5 of this ordinance;

(3) for the payment of all necessary personnel, administrative costs, and legal fees for the Board and its activities;

(4) the remainder shall be turned over to the General Fund of the Lummi Indian Tribe in quarterly payments and expended by the Lummi Indian Business Council.

8.2 *Expenditure of Profits.* All profits transferred to the tribal General Fund by the Board shall be expended by the Lummi Indian Business Council for the general governmental services of the Tribe.

Section 9. *Severability and Effective Date.*

9.1 If any provision or application of this ordinance is determined by review to be invalid, such adjudication shall not be held to render ineffectual the remaining portions of this ordinance or to render such provisions inapplicable to other persons or circumstances.

9.2 *Effective Date.* This ordinance shall be effective on such date as the Secretary of the Interior certifies this ordinance and publishes the same in the Federal Register.

9.3 *Inconsistent Enactments Rescinded.* Any and all prior enactments of the Lummi Indian Business Council which are inconsistent with the provisions of this ordinance are hereby rescinded.

9.4 *Disclaimer.* Nothing in this ordinance shall be construed to require or authorize the criminal trial and punishment by the Lummi Tribe Court of any non-Indian except to the extent allowed by any applicable present or future Act of Congress or any applicable decision of the United States Supreme Court.

9.5 *Application of 18 U.S.C. § 1161.* All acts and transactions under this ordinance shall be in conformity with this ordinance and in conformity with the laws of the State of Washington as that term is used in 18 U.S.C. § 1161.

[FR Doc. 79-22592 Filed 7-20-79; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[AA-6676-A, AA-6676-B, AA-6676-D through AA-6676-F, AA-6676-H, and AA-6676-J through AA-6676-L]

Alaska Native Claims Selections

Correction

In FR Doc. 79-20177, published at page 37986, on Friday, June 29, 1979, the following corrections are made:

1. On page 37986, in the third column, in the section "T. 5S., R. 47W.", in the fifth line "Anushagak River" should be changed to read "Nushagak River";

2. On page 37986, in the third column, at the bottom of the column, the last section "T. 4, R. 48 W" should be corrected to read "T. 4S, R. 48 W"

3. On page 37987, in the second column, in the last line of the column, "Nuyauk" should be corrected to read "Nuyakuk".

BILLING CODE 1505-01-M

[NM 37466, 37467, and 37475]

New Mexico; Notice of Applications

July 10, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Company has applied for two 2-inch and one 4-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 32 N., R. 12 W.,

Sec. 24, NW ¼ SE ¼;

Sec. 35, S ½ NE ¼ and SW ¼ SW ¼.

These pipelines will convey natural gas across 0.21 of a mile of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-22682 Filed 7-20-79; 8:45 am]

BILLING CODE 4310-84-M

Office of the Secretary

Proposed 5-Year OCS Oil and Gas Leasing Program

AGENCY: Office of Outer Continental Shelf Program Coordination.

ACTION: Publication of Proposed 5-Year OCS Oil and Gas Leasing Program.

SUMMARY: Section 18 of the OCS Lands Act, as amended, requires the preparation of a proposed 5-year OCS Oil and Gas Leasing Program and its publication in the Federal Register. The

leasing program is to consist of a schedule of proposed lease sales indicating, as precisely as possible, the size, timing and location of leasing activity which the Secretary of the Interior determines will best meet national energy needs for the 5-year period following its approval. Pursuant to section 18(c)(3) of the Act, as amended, a proposed leasing program is to be submitted to the Congress, the Attorney General and the Governors of affected States, and published in the Federal Register. A proposed 5-year leasing program has been developed covering the period March 1980 through February 1985.

On June 18, 1979, the proposed program was submitted to the Congress. On June 25, 1979, the proposed program was submitted to the Governors of the affected coastal States, together with additional information and data used by Secretary Andrus in reaching his decision, and as required by section 18(c)(2) of the Act, it included responses to correspondence received from the Governors on the draft proposed program. On June 27, 1979, the correspondence between Secretary Andrus and the Governors, and the background material used by the Secretary in reaching his decision were transmitted to the Congress. On June 29, 1979, the proposed program and additional information and data were submitted to the Attorney General.

The June 18, 1979, letter to the Congress constitutes the Secretary of Interior's submittal of the proposed leasing program and appears in the Federal Register today. Single copies of the additional information and data submitted to Congress, the Governors of the affected coastal States and the Attorney General may be acquired by written request to: Director, Office of OCS Program Coordination, Department of the Interior, Room 5150, 18th and C Streets, NW., Washington, D.C. 20240.

DATE: Interested parties may submit written comments on the proposed program until September 21, 1979.

ADDRESSES: Send comments to: Director, Office of OCS Program Coordination, Department of the Interior, Room 5150, 18th & C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Carolita Kallaur, Office of OCS Program Coordination, Department of the Interior, Room 5150, 18th & C Streets, NW., Washington, D.C. 20240, telephone 202/343-9314.

AUTHOR: Carolita Kallaur, Office of OCS Program Coordination, Department of the Interior, Room 5150, 18th & C Streets,

NW., Washington, D.C. 20240, telephone 202/343-9314.

SUPPLEMENTARY INFORMATION:

Comments received on the proposed leasing program will be considered by the Department of the Interior prior to the transmittal of the proposed final leasing program to Congress and the President. This transmittal will be in accordance with section 18(d)(2) of the OCS Lands Act, as amended.

An environmental impact statement (EIS) is also being prepared to consider the environmental effects of the program. The draft EIS is scheduled to be released on August 24, 1979, and the analysis included in the draft EIS will be considered in the preparation of the proposed final leasing program. The results of the final EIS, which is scheduled to be released in January 1980, will be considered in the Secretarial decision on the final program.

Dated: July 13, 1979.

Heather L. Ross,

Deputy Assistant Secretary—Policy, Budget and Administration.

United States Department of the Interior

Office of the Secretary

Washington, D.C. 20240

June 18, 1979

Honorable Walter F. Mondale,
President of the Senate,

Washington, D.C. 20510

Dear Mr. President: Section 18 of the OCS Lands Act, as amended, requires the preparation of a 5-year leasing program. According to the statute, I am to submit, by June 18, 1979, a proposed leasing program to the Congress, the Attorney General, and the Governors of the affected States. This letter constitutes my submission of the program.

Section 18(a) of the Act establishes the content of the leasing program. Specifically, it requires that the program consist of a schedule of proposed lease sales indicating, as precisely as possible, the size, timing, and location of leasing activity which I determine will best meet national energy needs for the 5-year period following approval of the program. Section 18(b) adds the requirement that the program include certain estimates of appropriations and staff.

Attachment 1 is a schedule showing the location by area and timing of the sales in my proposed program which are planned for the period March 1980 through February 1985. The schedule also shows the pre-sale planning steps leading to a final decision on each of the proposed sales. While the 1979 column does not include the proposed sales which are scheduled for this year, they are proceeding on schedule: sale 48, southern California, June 1979; sale 58, Gulf of Mexico, July 1979; sale 42, North Atlantic, October

1979; sale 58A, Gulf of Mexico, November 1979; Federal/State joint sale in the Beaufort Sea, December 1979.

Attachment 2 contains two maps showing the general leasing areas where the sales on the proposed program will be considered. Attachment 3 is a listing of possible sale sizes. More precise descriptions of size and location of possible sales will be available when the planning for them gets underway.

Attachment 4 contains estimates of appropriations and staff for four specific activities as required by section 18(b). Because the four activities do not cover all the costs of the program, we have added a fifth activity covering the remaining costs so that you and others can see what the total costs are estimated to be over the 5-year period.

This letter and the four attachments mentioned above constitute my proposed leasing program as specified in the Act.

Section 18(c)(2) requires that when I submit my proposed program to the Congress, it be accompanied by copies of certain correspondence between the Governors of affected States and me. This correspondence is being completed and will be sent to you in a few days.

Section 18(a)(2) of the Act requires that in preparing the proposed program, I consider eight factors. When I send you the correspondence with the Governors, I will also send you a staff memorandum, and its attachments, discussing the required factors and other elements involved in my decision.

I have determined that the best way for the OCS leasing program to meet the energy needs of the nation is to adopt a schedule of proposed sales that provides for a mixture of lease sales among proven oil and gas producing areas and frontier areas. This coverage, coupled with my firm determination to proceed in a manner that protects the human, marine and coastal environments from undue risk and harm, has led me to propose a 5-year program with 30 sales plus a contingency sale. On a regional basis, the proposed schedule calls for six sales in the Atlantic, 11 in the Gulf of Mexico, four off California, and nine off Alaska. The Contingency sale is in the Gulf of Mexico. Subsequent events, such as the deletion of another sale, will determine whether the contingency sale will be held as indicated, held at some other time during the 5-year period, deleted, or postponed until after February 1985.

There are several important aspects of the proposed schedule which I would like to emphasize:

In developing the proposed schedule, I have considered the availability of environmental, geologic and other information important to making sale decisions. I would be the first to agree that there are differences among experts about the precise nature and timing of needed information. However, I am convinced that with the improvements we have made in the design of the environmental studies program, with our improved record of cooperation with affected coastal States, and with our improved management of offshore activities,

we can start planning for the sales I am proposing with a high degree of confidence.

The proposed program is compatible with the OCS production goals that were developed for us by the Department of Energy. Thus, it has a strong link with national energy policy.

The proposed program provides for an equitable sharing of development benefits. Hydrocarbon supplies, if found in commercial quantities on the OCS, can generally be transported to demand areas, according to the Department of Energy. Thus, DOE has concluded that regional markets will not constrain OCS production. That is, because of the efficiency of oil and gas transport, the use of produced hydrocarbons from the OCS is not limited to only those areas adjacent to the production.

The proposed program provides for an equitable sharing of environmental risks since all offshore regions will be expected to contribute supplies if economically recoverable discoveries are made.

I have considered the laws, goals, and policies of affected States, including coastal zone management programs where they are approved. I do not believe that there are any laws, goals, or policies or coastal zone management programs which would preclude the initiation of planning for any sales on the proposed program. There are, certainly, differences of opinion with some States about the timing of some potential sales, but I believe that the concept of equitable sharing of benefits and risks requires that the start of planning not be precluded. After the planning is completed, I will be in a better position to decide whether the sale should go forward or not, if certain areas should be precluded from leasing, or if special lease terms and conditions are required to provide extra protection to particular environmental values or resource uses.

The frontier area sales have been selected in order to maximize the chances of discovering hydrocarbons. This means scheduling a number of first-ever sales off Alaska, where there is a general consensus that the potential is high. In regard to Alaska, I have designated a new leasing area north of the Alaska Peninsula and Unimak Island that is south of 56°30' North latitude and east of 165° West longitude. This area, the North Aleutian Shelf, was designated in order to start the consideration of this highly prospective location and at the same time provide protection for the exceptional marine resources in adjacent areas.

With respect to the two sales proposed off California in 1983 and 1984, I have not specified their location among the California leasing regions. This is because I expect that drilling of leased tracts and tracts soon to be leased may provide important information that will help us to better locate sales at a later date.

As you may know, my proposed schedule differs in some respects from the draft schedule that I asked the Governors to review in March. It includes four more sales over the 5-year period, it is more compatible with the Department of Energy's production goals, and it provides for earlier exploration of frontier areas to improve the chances for discovering

important new domestic supplies of oil and gas. The tools provided to me by the Outer Continental Shelf Lands Act Amendments of 1978 give me the basis for proposing a program of this level.

In implementing the program, timely development will continue to be a cornerstone. Lessees will be expected to complete sufficient exploration so that if conditions warrant, a good start can be made toward beginning production within the primary term of the case. It may be necessary to consider a longer than 5-year primary term in some new frontier areas, perhaps up to 10 years as is permitted by the 1978 Amendments to the OCS Lands Act.

The new 5-year program is not yet final. The law requires several more steps before I approve it early in 1980. Also, I have decided to prepare an environmental impact statement on the proposed schedule. Under our current timetable, the draft statement will be released in August of this year, and the final statement in January of next year before I finally approve the program.

I believe that it is in the interest of the nation to proceed with the proposed program. In order to provide the opportunity for us to do so, I have agreed to permit some of the early planning steps to take place before the final environmental statement is completed and the program is approved in 1980. These steps can be seen in the attached schedule. I want to assure you, however, that the start of planning is not an irrevocable commitment to lease sales. If the continuing reviews and comments show that it is in the national interest to change the timing of a proposed sale, I will certainly do so.

Sincerely,

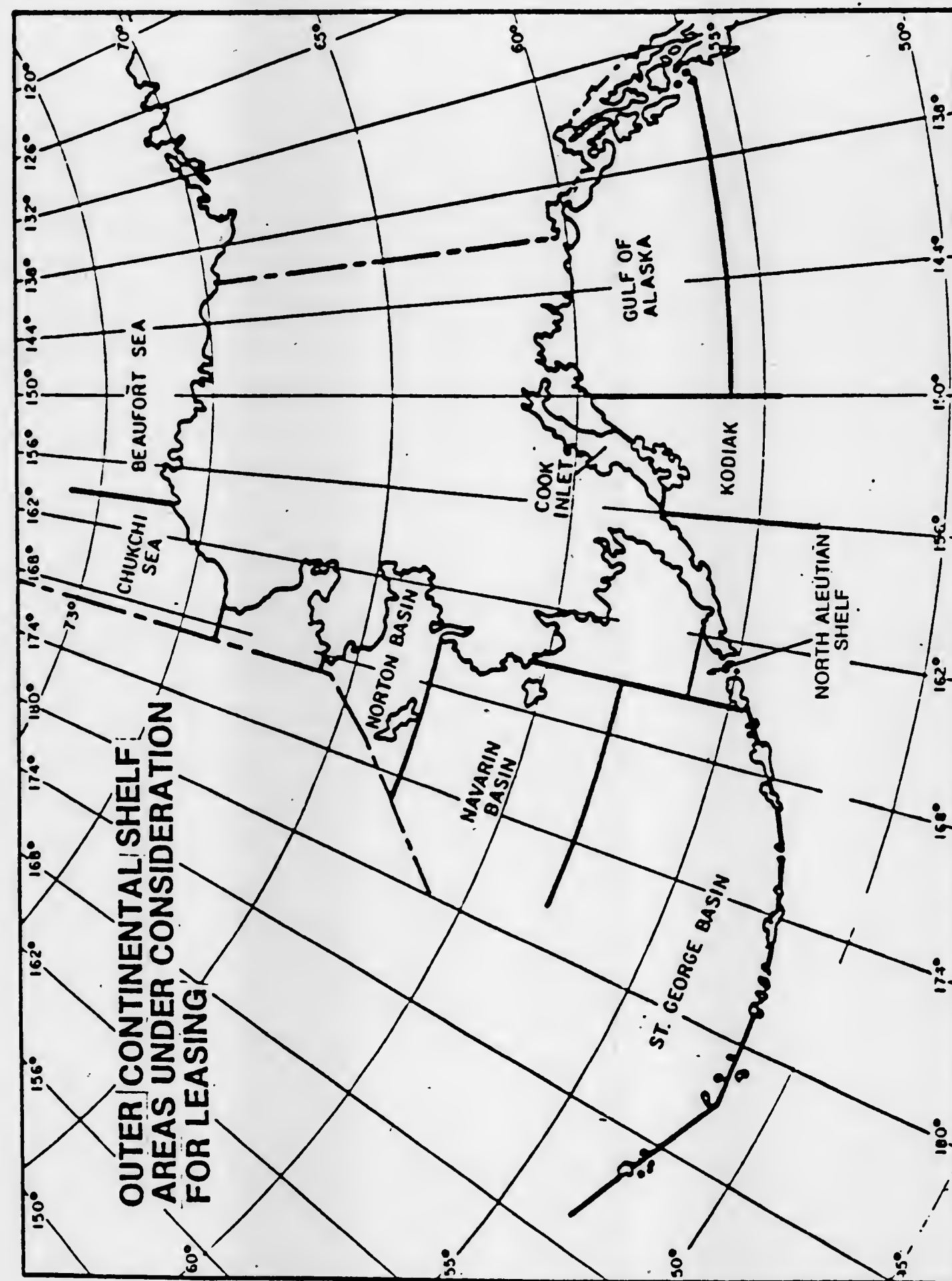
Cecil D. Andrus,

Secretary.

Enclosures.

Identical letter sent to: Hon. Thomas P. O'Neill, Jr., Speaker of the House of Representatives.

BILLING CODE 4310-10-M



ATTACHMENT 3

June 1979

OCS Leasing Program

Size of Potential Sales

Area	Potential Size (millions of acres)
North Atlantic	0.8
Mid-Atlantic	0.8
South Atlantic	0.6
Blake Plateau	0.8
Gulf of Mexico	1.0
Southern California ^{1/}	0.8
Central and Northern California	0.8
California	0.8
Gulf of Alaska	0.8
Cook Inlet	0.8
Kodiak	1.0
North Aleutian Shelf	1.0
St. George Basin	1.0
Navarin Basin	1.0
Norton Basin	0.6
Chukchi Sea	0.6
Beaufort Sea	0.6

^{1/} Includes Santa Barbara Channel.

ATTACHMENT 4

June 1979

Estimated Appropriations and Staff Requirements

for

Proposed 5-Year Leasing Program

Format

The following table provides estimates of appropriations and full-time permanent staff (FTP) necessary to support the proposed leasing program. It should be noted that this is an initial estimate and has not been evaluated through either internal or Office of Management and Budget processes and is subject to refinement.

The data are displayed in accordance with section 18(b) of the OCS Lands Act, as amended, which requires estimates of four specific activities. In addition, a general category, General Administrative Activities, was added to cover those costs not specifically required by section 18(b), but necessary in order to fully reflect the cost of managing the program. These five categories of activities are described below.

1. Obtain resource information and any other information required to prepare the leasing program (18(b)(1)). This includes the work performed by the USGS in preparing regional oil and gas resource assessments and tract-specific evaluations of common depth point and high resolution seismic data. Also included is the biological resource information provided by FWS.

2. Analyze and interpret exploratory data and any other information that may be acquired under the OCS Lands Act, as amended (18(b)(2)). This activity covers the USGS operation of the OCS oil and gas information program mandated by the OCS Lands Act, as amended.

3. Conduct environmental studies and prepare environmental statements (18(b)(3)). This activity includes contract costs for the BLM environmental studies program (e.g., socio-economic, endangered species, resource conflicts). For the BLM, the figures also include \$2.0 million and 51 FTP's in each year for the preparation of environmental statements which in the standard budget presentation are not included with the environmental studies program. The remaining FTP's (50 for each year) are for the support of the environmental studies program, appropriations for which are included in the activity, General Administrative Activities.

USGS funds and staff are used for regional assessments of geologic hazards used in summary reports prepared prior to the call for nominations and comments, more detailed analyses of geologic hazards and oil spill trajectory analysis used in the environmental statements prepared for potential sales, and for the preparation of development-stage environmental statements.

4. Supervise lease operations (18(b)(4)). This is a function of the USGS. It involves review of drilling, production and pipeline plans and operations, inspections of rigs and platforms to insure safety and compliance with regulations, and maintenance of royalty accounts.

5. General administrative activities. For the BLM, examples of general administrative activities include: the call for nominations and comments, tentative tract selection, public hearings on environmental statements, preparation of decision documents, support of the environmental studies program; post-sale analysis of bids; support of the Intergovernmental Planning Program for Leasing, Transportation and Facilities Siting; and analysis and approval of rights-of-way applications.

Examples of GS activities include analytical support and participation in most of the steps and activities mentioned in the preceding paragraph, and special support activities such as estuarine and coastal geologic investigations related to onshore impacts of OCS development.

The Fish and Wildlife Service, the Office of the Solicitor and the Office of OCS Program Coordination all participate in the management of the OCS program and all their costs are included in this activity other than the gathering and analyzing resource information by FWS.

Occasionally, other organizational units of the Department of the Interior, such as the National Park Service and the Bureau of Indian Affairs participate in the OCS program. However, since they do not have a continuing role and do not have specific staff and financial resources dedicated to the management of the OCS program, estimates for them are not included in this analysis.

Assumptions

The costs of the OCS program are a function of many variables, the most important of which are the number and geographic distribution of sales in any year and over the five-year schedule, and the type and extent of workload generated by a sale in a specific area. These cost estimates have been prepared using past experience in the program, e.g., knowledge of data needed to support the program, the costs and timing of data acquisition and average workload generated by a sale, the resources needed to supervise lease operations, as general guidelines. The bureaus can estimate from past experience what is likely to be required to support a sale in a particular sale area. For example, in Alaska, high resolution seismic data, acquired under contract, can cost up to twice as much as high resolution seismic data in the Mid-Atlantic; a development plan for a Gulf of Mexico lease would be expected sooner after the lease is awarded than one for a North Atlantic lease; weather conditions might seriously affect the environmental studies program in Alaska whereas off the lower 48 states weather conditions would not be as serious a constraint on data gathering. Costs of supervising are particularly subject to uncertainty since they depend on the level of exploration, development and production activities which will result during the 5-year period, both from sales on the proposed schedule and from earlier sales.

Comparison with FY 1980 Budget

The FY 1980 budget presently funds the OCS leasing program at \$130.1 million and 1,479 FTP's. Specific funding is as follows:

	\$ Millions	FTP
USGS	81.2	1,227
BLM	48.0	228
FWS	.3	6
OCS Coordination	.5	10
SOL	.3	8
	130.3	1,479

\$34.7 million of BLM OCS budget and \$5.7 million of USGS OCS budget is for environmental studies.

Estimated Appropriation and Staff Requirements for
Proposed 5-Year OCS Leasing Program 1/

June 1979

Activity	FY 1980		FY 1981		FY 1982		FY 1983		FY 1984		FY 1985	
	\$ million	FTP 2/	\$ million	FTP	\$ million	FTP	\$ million	FTP	\$ million	FTP	\$ million	FTP
Resource Information:												
USGS	42.9	605	44.1	630	53.5	630	44.0	630	46.4	630	46.6	630
FWS	.2	5	.4	6	.5	8	.6	9	.7	11	.7	11
Total	43.1	610	44.5	636	54.0	638	44.6	639	47.1	641	47.3	641
Exploration Data:												
USGS	3.3	3	3.3	3	3.3	3	3.3	3	3.3	3	3.3	3
Environmental Statements and Studies:												
BLM 3/	41.8	101	39.8	101	28.6	101	23.9	101	23.2	101	21.2	101
USGS	9.8	78	9.9	79	9.9	79	9.9	79	9.9	79	9.9	79
Total	51.6	179	49.7	180	38.5	180	33.8	180	33.1	180	31.1	180
Supervise Lease Operations:												
USGS	30.7	505	32.9	513	38.1	597	41.1	631	43.5	673	43.9	673
General Administrative Activities:												
BLM	15.8	149	15.6	149	14.2	157	13.6	157	13.4	157	13.2	157
USGS	2.8	67	2.8	67	2.8	67	2.8	67	2.8	67	2.8	67
FWS	.1	2	.1	2	.1	2	.1	2	.1	2	.1	2
OCS Coordination	.5	10	.5	10	.5	10	.5	10	.5	10	.5	10
Solicitor	.4	11	.4	12	.4	13	.5	14	.5	14	.5	14
Total	19.6	239	19.4	240	18.0	249	17.5	250	17.3	250	17.1	250
Summary:												
BLM	57.6	250	55.4	250	42.8	258	37.5	258	36.6	258	34.4	258
USGS	89.5	1,258	93.0	1,292	107.5	1,376	101.0	1,410	105.9	1,452	106.5	1,452
FWS	.3	7	.5	8	.6	10	.7	11	.8	13	.8	13
OCS Coordination	.5	10	.5	10	.5	10	.5	10	.5	10	.5	10
Solicitor	.4	11	.4	12	.4	13	.5	14	.5	14	.5	14
Total	148.3	1,536	149.8	1,572	151.8	1,667	140.2	1,703	144.3	1,747	142.7	1,747

1/ Estimates do not include costs of studies, operations, assessment and administrative costs incurred during 5-year period for sales which will be held after February 1985.

2/ Full-time permanent positions.

3/ For each year, includes \$2.0 million and 51 FTP's for preparation of environmental statements.

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

National Criminal Justice Information and Statistics Service; Statement of Policy

It is the intention of the Law Enforcement Assistance Administration to make all data and information from surveys, censuses, studies and reports sponsored by NCJISS available to all interested parties upon completion and verification of routine statistical procedures related to the data to be released. It is also the intention of LEAA to be in compliance with Directive No. 4, "Prompt Compilation and Release of Statistical Information" contained in the Statistical Policy Handbook issued May, 1978 by the Office of Federal Statistical Policy and Standards of the Department of Commerce, and with LEAA regulations governing confidentiality of research and statistical data (28 CFR Part 22) which implement Section 524(a) of Crime Control Act of 1973, as amended.

The necessity for a data release policy has arisen from the expressed need for data by criminal justice officials and researchers prior to NCJISS issuing either a final or advance report containing the data being requested. This policy pertains exclusively to statistical series that produce non-individually identifiable data.

Therefore, in order to promote the early release of unpublished data to users who need the data for legitimate policy analyses, research and planning purposes, it is the expressed policy of LEAA and NCJISS that tabulated but unpublished data from statistical efforts sponsored by NCJISS may be released to institutional or individual data users upon request as soon as they become available, subject only to the following limitations:

(a) the tabulations to be released have been verified to the satisfaction of NCJISS and the collection/analysis agency or organization;

(b) the acquisition of the data by the requesting user will not, in the opinion of NCJISS, bestow special benefits, advantage or opportunity on that user;

(c) the requesting user agrees that there will be no formal release or publication of the data prior to NCJISS's final advance report containing that data.

The procedure to be followed by NCJISS in approving such early release of data will require a written request for either individual users or for classes of users that will indicate the manner in which the data are to be used, the

urgency of that use justifying early release, and providing the assurance required by limitation (c) above. NCJISS will be the final judge of the merits of each request for unpublished data.

Benjamin H. Renshaw,

Acting Assistant Administrator, National Criminal Justice Information and Statistics Service.

[FR Doc. 79-22594 Filed 7-20-79; 8:45 am]

BILLING CODE 4410-18-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Media Arts Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Media Arts Panel (Aid to Film/Video Section) will be held August 6 and 7, 1979, from 9:00 a.m. to 5:30 p.m., in room 1426, Columbia Plaza, 2401 E Street, N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552 of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

July 16, 1979.

[FR Doc. 79-22595 Filed 7-20-79; 8:45 am]

BILLING CODE 7537-01-M

DEPARTMENT OF ENERGY

Nuclear Regulatory Commission Advisory Committee on Reactor Safeguards Subcommittee on Advanced Reactors; Meeting

The ACRS Subcommittee on Advanced Reactors will hold an opening meeting on August 7, 1979 in Room 1046, 1717 H Street, N.W., Washington, DC, to continue its review of matters related to

the NRC sponsored research on the safety of advanced reactor designs.

In accordance with the procedures outlined in the Federal Register on October 4, 1978 (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Tuesday, August 7, 1979, 8:30 a.m. until the conclusion of business.

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff and their consultants, pertinent to the above topics. The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether additional meetings on this topic are necessary.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Dr. Richard Savio (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: July 16, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-22470 Filed 7-20-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co.; Proposed Issuance of Amendment to Facility Operating License

The United State Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment

to Facility Operating License No. DPR-6, issued to Consumers Power Company (the licensee), for operation of the Big Rock Point Plant (the facility) located in Charlevoix County, Michigan.

The amendment as proposed would allow the addition of three racks with a closer center-to-center spacing of spent fuel assemblies in the facility's spent fuel pool with a resultant increase in the storage capacity from 193 to 441 fuel assemblies.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By August 22, 1979, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding may file a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been

admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800)-325-6000. The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Dennis L. Ziemann: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the

Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)-(V) and 10 CFR 2.714(d).

For further details with respect to this action, see the application for amendment dated June 26, 1979, and the supporting safety and environmental analyses submitted by the licensee's letter dated April 23, 1979, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

Dated at Bethesda, Maryland this 17th of July, 1979.

For the Nuclear Regulatory Commission.

Richard D. Silver,

Acting Chief, Operating Reactors Branch #2, Division of Operating Reactors.

[FR Doc. 22663 Filed 7-20-79; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-269, 50-270, and 50-287]

Duke Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 74, 74 and 71 to Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, issued to Duke Power Company (the licensee), which revised Technical Specifications for operation of the Oconee Nuclear Station, Units Nos. 1, 2 and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications by redesignating the inspection category of hydraulic shock suppressor 2-130, deleting hydraulic suppressors replaced by mechanical suppressors, and making error corrections and other minor changes.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated August 22, 1978, as supplemented April 30, 1979, (2) Amendments Nos. 74, 74 and 71 to Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., and at the Oconee County Library, 201 South Spring Street, Walhalla, South Carolina. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated At Bethesda, Maryland, this 10th day of July 1979.

For the Nuclear Regulatory Commission.

Robert W. Reid,
Chief, Operating Reactors Branch #4,
Division of Operating Reactors.

(FR Doc. 79-22866 Filed 7-20-79; 8:45 am)
BILLING CODE 7590-01-M

[Docket Nos. 50-346A, 50-440A, and 50-441A]

Toledo Edison Co.; the Cleveland Electric Illuminating Co., et al.

The Director, Office of Nuclear Reactor Regulation has issued an order dated July 16, 1979. The order reads as follows:

"On June 25, 1979 this office issued an 'Order Modifying Antitrust License Condition No. 3 of Davis-Besse Unit 1, License No. NPF-3 and Perry Units 1 and 2, CPPR-148, CPPR-149' in the captioned matter. That Order amended, effective immediately, Antitrust License Condition No. 3 contained in the above listed license and construction permits. The amendment required the Cleveland Electric Illuminating Company (CEI) to file a specific transmission tariff with the Federal Energy Regulatory Commission (FERC). CEI was given twenty days from the receipt of the Order to request a hearing with respect to all or any part of the amendment and twenty-five days from the receipt of the Order to file the specific transmission tariff with the FERC.

"Pursuant to 10 CFR 2.204 of the Commission's Rules of Practice It is Hereby Ordered That: The times afforded to CEI to

request a hearing and to file the transmission tariff with the FERC are extended for fifteen (15) days respectively from the receipt of this Order."

For the Nuclear Regulatory Commission.
Dated at Bethesda, Maryland this 16th day of July, 1979.

Jerome Saltzman,
Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

(FR Doc. 79-22866 Filed 7-20-79; 8:45 am)
BILLING CODE 7590-01-M

Financial Protection Requirements and Indemnity Agreements; Section 82—Procedures

Pursuant to its authority under Section 11(j) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2014(j), and according to § 140.82 of its regulations, 10 CFR 140.82, the Commission hereby initiates the making of a determination as to whether or not the recent accident at Three Mile Island, Unit 2, constitutes an extraordinary nuclear occurrence ("ENO"). Although no petitions requesting such a determination have as yet been received, the Commission is aware of several factors which indicate that proceeding with the determination at this time is in the public interest. First, it is clear that the events which have taken place at Three Mile Island, Unit 2, constitute the most serious nuclear accident to date at a licensed U.S. facility, and thus should be rigorously scrutinized from the standpoint of their effect on the public. Second, various lawsuits have been brought concerning this accident, and the determination of whether or not an extraordinary nuclear occurrence has taken place is pertinent to issues which may arise in those cases. The court has informally asked the Commission for its view on the ENO question, and the Commission would like to assist the court in this regard.

The Commission invites interested persons to submit to the Commission, within thirty days of this announcement, any information in their possession relevant to this determination. Submittals should, if possible, focus on the application of the Commission's regulations, 10 CFR 140.84 and 140.85, to the consequence of the Three Mile Island, Unit 2, accident. This information, along with other information assembled by the Commission from its own and other sources, will be considered by a panel composed of Commission principal staff as required by 10 CFR 140.82(b). The composition of this panel, and the detailed procedures which the

Commission proposes to follow, including further provision for public participation, will be announced at a later date. Submittals should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, 1717 H Street, NW., Washington, D.C., 20555. Contact: Ira P. Dinitz, 301-492-8338.

Dated at Washington, D.C., this 8th day of July 1979.

For the Commission.

Samuel J. Chilk,

Secretary of the Commission.

Background Information

Introduction

If a nuclear incident occurs, one of the principal obstacles to a claimant's recovery for injuries or damages could be the necessity of proving negligence on the part of the utility or other defendants. In 1966 Congress attempted to remove this obstacle for certain nuclear incidents ("extraordinary nuclear occurrences"—ENO) through contractual provisions termed "waivers of defenses," resulting in an essentially no-fault scheme. These waivers were intended to expedite recovery for claims under the Price-Anderson Act in the event of an ENO. The following is intended to explain the waiver of defenses in greater detail and to describe the criteria used by the NRC in making a finding as to whether or not an ENO has occurred. In order to better understand the waiver provision and the concept of an ENO, an overview of the Price-Anderson Act is included.

I. Overview of the Price-Anderson Act. Under the Price-Anderson Act, (which is a part of the Atomic Energy Act of 1954) there is a system of private funds and government indemnity totalling \$560 million to pay public liability claims for personal injury and property damage resulting from a "nuclear incident." The Price-Anderson Act, which expires August 1, 1987, requires licensees of large commercial nuclear power plants to provide proof to the NRC that they have financial protection in the form of private nuclear liability insurance, or in some other form approved by the Commission, in an amount equal to the maximum amount of liability insurance available from private sources. That financial protection, \$475 million at the time of the Three Mile Island (TMI) accident on March 28, 1979, consists of primary private nuclear liability insurance of \$140 million provided by two insurance pools, American Nuclear Insurers (ANI) and Mutual Atomic Energy Liability Underwriters (MAELU) (which was

increased to \$160 million on May 1, 1979—except for TMI) and a secondary layer. In the event of a nuclear incident causing damages exceeding \$140 million, each commercial nuclear power plant licensee would be charged by the insurance pools providing the insurance a prorated share of damages in excess of the primary insurance layer up to \$5 million per reactor per incident. With 67 large commercial reactors now operating under this system, the secondary insurance layer totals \$335 million. Thus, the two layers of insurance at the time of the TMI accident totaled \$475 million. The difference of \$85 million between the financial protection layers of \$475 million and the \$560 million liability limit established by the Price-Anderson Act is provided by government indemnity. Government indemnity will gradually be phased out as more commercial reactors are licensed and licensees participate in the second layer of insurance. When the primary and secondary layers by themselves provide liability coverage of \$560 million, government indemnity will be eliminated. The liability limit—now \$560 million—would thereafter increase in increments of \$5 million for each new commercial reactor licensed to operate.

II. Extraordinary Nuclear Occurrence—General. A. Definition. Webster defines the term "extraordinary" as "going beyond what is usual, regular, or customary." Viewed in this light, the recent events at Three Mile Island may be termed extraordinary, since they would not occur during normal operations at a nuclear power plant. However, the term "extraordinary nuclear occurrence" (ENO) is precisely defined by the Price-Anderson Act as follows:

The term "extraordinary nuclear occurrence" means any event causing a discharge or dispersal of source, special nuclear, or byproduct material from its intended place of confinement in amounts offsite, or causing radiation levels offsite, which the Commission determines to be substantial, and which the Commission determines has resulted or probably will result in substantial damages to persons offsite or property offsite. (Atomic Energy Act (as amended), subsection 11j, 42 U.S.C. 2014j)

The definition thus provides a two-pronged test: (1) Substantial offsite release of radioactive material or substantial offsite radiation, and (2) substantial offsite damages. This same section requires that the Commission "establish criteria in writing" for purposes of applying these tests to specific events.

The significance of the ENO concept is that a positive determination that an ENO has taken place must be made by the Commission before the "waiver of defenses" provisions of the Act, described below, can apply to the accident. In the event of a "nuclear incident" that is declared *not* to be an ENO, Price-Anderson funds are still available and normal defenses permitted under State law are not waived. The insurance pools may dispense funds under their policies, whether or not there is a determination by the Commission of an ENO, and in certain situations at TMI have already done so.

B. Legislative History. Congressional reports and statements by members of Congress in 1966, during the passage of the ENO and related provisions, give a clear impression of Congressional intent. On one hand, it was felt that if recovery of Price-Anderson funds were left entirely to the statutes and principles of State tort law in the event of a major nuclear accident, many valid claims might be tied up in the courts for years. Congress gave particular attention to problems of varying State statutes of limitations (some States, for example, had not adopted the "discovery" rule for concealed injuries—which would run the statute of limitations from the time the injured party knew of or reasonably should have discovered his injury). Congress was also concerned with the possibility that some States might not apply "strict liability" to a nuclear accident so that injured parties might have to prove negligence. On the other hand, there was considerable resistance to the total substitution of State law by creation of a "Federal tort" for nuclear accidents.

The result of this balance of competing factors was the "waiver" system. Under this system the NRC could require that its licensees agree to waive certain State law defenses (contributory negligence, assumption of risk, etc.) as part of the indemnity and insurance agreements, and thus create "strict liability" through the insurance policies and indemnity agreements. A statute of limitations would also be incorporated into these agreements, which would come into play if state statute of limitations were more restrictive. Finally, a consolidated Federal court proceeding would be used to handle all claims in the new system.

Insurers feared, however, that under such a waiver system they would be subjected to "nuisance suits." The insurance industry felt that it should not be required to waive the usual defenses available to it under State tort law for

those "nuclear incidents" which had resulted in, at most, minor offsite releases and property damage. The insurance pools urged that such cases could be, and should be, dealt with within the usual State tort law system, particularly since minor accidents would not give rise to the need for quick, massive recoveries.

To meet this concern, Congress developed the "ENO" concept. The waiver provisions would be activated only if an "extraordinary nuclear occurrence" took place. The ENO was intended to be an event causing *both* substantial offsite releases of radiation and substantial offsite damages to persons or property. The Commission was given broad discretion (free of judicial review) to determine what constitutes an ENO, but was required by the 1966 amendments to publish written criteria which would be adopted after a public rulemaking process.

Congressional statements indicate that application of the criteria would be relatively flexible, even though precise numbers (such as a \$5 million damage figure) would be selected in the rulemaking. There is no indication that Congress intended the Commission to apply its criteria in a rigid fashion. Still, it is equally clear that Congress did desire a reasonably specific index of what the Commission considered "substantial" for purposes of an ENO determination.

C. Waivers of Defenses. When the Commission determines that an ENO has occurred, then any defendant must waive:

- (1) Any issue or defense as to the conduct of the claimant or fault of persons indemnified,
- (ii) Any issue or defense, as to charitable or governmental immunity, and
- (iii) Any issue or defense based on any statute of limitations if suit is instituted within three years from the date on which the claimant first knew, or reasonably could have known, of his injury or damage and the cause thereof, but in no event more than twenty years after the date of the nuclear incident.

The waivers in subsection (i) relating to the fault of all persons indemnified relieve the claimant of having to prove negligence by any defendant and of having to disprove defenses such as contributory negligence. To recover for damages resulting from an ENO, a claimant needs to prove that he was injured or damaged, the monetary amount of the damages, and the causal link between his damages and the radioactive, toxic, explosive or other hazardous properties of the radioactive

material released. Thus, through this "no-fault" type of provision the principal obstacle to a claimant's recovery is no longer proving negligence on the part of the defendant but rather showing that his injury or damage was caused by the ENO.

The statute of limitations provision in subsection (iii) of the waivers is not intended to be more restrictive than applicable State law. Thus, if a State had a statute of limitations which provided that suits for personal injury or property damage resulting from a nuclear incident could be brought any time within 30 years after the occurrence of the incident, the 30-year statute would take precedence over the 20-year period specified in the Price-Anderson Act.

The criteria to be used by the Commission will be fully discussed later, but at this point it should be reiterated that, unless an ENO is declared by the Commission, the waivers of defenses provisions do not apply. In such a situation a claimant would have exactly the same rights that he now has under existing tort law.

The other major concept in the 1966 amendments is that the Commission's authority to determine whether or not an ENO has occurred is not reviewable by the courts.

The 1966 amendments also benefited injured persons in several other respects. The Commission was authorized to make financial assistance payments to claimants immediately following a nuclear incident, regardless of whether an ENO determination has been made and without requiring them to sign a release or otherwise compromise their claims. In the event of an ENO, the 1966 amendments authorized all claimants to sue in the same Federal district court, generally under the same rules of procedure. Any action dealing with the same incident but pending in any State court or other Federal district court could, upon motion of the NRC or defendant, be removed to the single specified district court. Consolidation of all claims resulting from an ENO in a single Federal district court would permit all claimants to be treated equally. Finally, the 1966 amendments modified the Act to assure that available funds would be distributed in accordance with a court-approved plan making appropriate allowance for latent injury claims if it appeared that the total amount of all

claims might exceed the limit on liability.

III. Criteria for Determining an ENO

A. *Language and Structure of the Criteria.* For the Commission to make the determination that there has been an ENO both Criterion I and Criterion II as set out in the Commission's published regulations (Title 10, Code of Federal Regulations, §§ 140.84 and 140.85) must be met. The language of the criteria (especially Criterion I) is rather technical and precise and is expressed in terms of measurements that laymen would not be expected to make themselves. For example, to satisfy Criterion I the Commission must determine that there has been a substantial discharge or dispersal of radioactive material off the site of the reactor, or that there has been a substantial level of radiation offsite. The Commission would determine that Criterion I had been met when, as a result of an event comprised of one or more related happenings, radioactive material is released from its intended place of confinement or radiation levels occur offsite and either of the following findings are also made.

a. The Commission finds that one or more persons offsite were, could have been, or might be exposed to radiation or to radioactive material, resulting in a dose or in a projected dose in excess of one of the levels in the following table:

Total Surface Contamination Levels		
Type of emitter	Column 1 Utility's property beyond the fence surrounding the reactor station	Column 2 Other offsite property
Alpha emission from transuranic isotopes	3.5 microcuries per square meter	0.35 microcuries per square meter
Alpha emission from isotopes other than transuranic isotopes	35 microcuries per square meter	3.5 microcuries per square meter
Beta or gamma emission	40 millirads/hour at 1 cm. (measured through not more than 7 milligrams per square centimeter of total absorber)	4 millirads/hour at 1 cm. (measured through not more than 7 milligrams per square centimeter of total absorber)

¹ The maximum levels (above background), observed or projected, 8 or more hours after initial deposition.

Based on the information available to the NRC staff at this time, it appears that neither part of Criterion I is satisfied. Both personal, exposures and property contamination are presently considered to be far below the levels specified in the tables set out above. In the period March 28-April 7, the approximate upper limit on whole body dose to a person in a populated area offsite has been calculated to be 100

Total Projected Radiation Doses	
Critical organ:	Dose (rads)
Thyroid	30
Whole body	20
Bone Marrow	20
Skin	60
Other organs or tissues	30

In measuring or projecting doses, exposures from the following types of radiation shall be included:

(1) Radiation from sources external to the body;

(2) Radioactive material that may be taken into the body from air or water; and

(3) Radioactive material that may be taken into the body from food or from land surfaces.

(or)

b. The Commission finds that—

(1) As the result of a release of radioactive material from a reactor there is at least a total of any 100 square meters of offsite property that has surface contamination. This contamination must show levels of radiation in excess of one of the values listed in column 1 or column 2 of the following table, or

(2) As the result of a release of radioactive material in the course of transportation surface contamination of any offsite property has occurred. This contamination must show levels of radiation in excess of one of the values listed in column 2 of the following table.

millirems. For the most part, property contamination levels measured approximated "minimum detectable activity" levels.

If the Commission determines that an event satisfied Criterion I, Criterion II must then be applied. If Criterion I cannot reasonably be met, the Commission would conclude that there has not been an ENO. Criterion II is

satisfied if the Commission makes any of the following findings:

(1) The event has resulted in the death or hospitalization, within 30 days of the event, of five or more people located offsite showing objective clinical evidence of physical injury from exposure to the radioactive, toxic, explosive or other hazardous properties of the reactor's nuclear material; or

(2) \$2,500,000 or more of damage offsite has been or will probably be sustained by any one person, or \$5 million or more of such damage in total has been or will probably be sustained, as the result of such event; or

(3) The Commission finds that \$5,000 or more of damage offsite has been or will probably be sustained by each of 50 or more persons, provided that \$1 million or more of such damage in total has been or will probably be sustained, as the result of such event.

The term "damage" refers to damage arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of the reactor's nuclear material, and shall be based upon estimates of one or more of the following:

(1) Total cost necessary to put affected property back into use,

(2) Loss of use of affected property,

(3) Value of affected property where not practical to restore to use,

(4) Financial loss resulting from protective actions such as evacuation, appropriate to reduce or avoid exposure to radiation or to radioactive materials.

Based on the information available to the NRC staff at this time, the only category of Criterion II damages possibly satisfied by the Three Mile Island accident is defined by (4), namely financial loss resulting from protective actions such as evacuation, appropriate to reduce or avoid exposure to radiation or radioactive material. A limited number of persons (pregnant women and small children) were advised by the Governor of Pennsylvania to leave the 5 mile radius of Three Mile Island, and in so doing incurred expenses. The insurance pools have been compensating the expenses of these families. Many others evacuated the area although they were not advised to do so.

A detailed assessment of all losses of this type might reach the \$5 million figure of Criterion II, though much would depend on how broadly the various damage categories of this criterion were interpreted. It appears unlikely that voluntary payments by the insurance pools will reach this figure. The amount recoverable in the various court actions

is virtually impossible to estimate at this time.

The 1966 amendments to the Act required the Commission to prepare and publish for public comment the criteria it proposed to apply in deciding whether a nuclear incident was an ENO. On May 9, 1968, the proposed rule and accompanying explanation appeared in the Federal Register (33 FR 6978). Following a period of public comment, the final rule was published on September 1, 1968 with an effective date of December 1, 1968 (33 FR 15998).

The dual criteria contained in the final rule were designed to follow the language of the 1966 amendments to the Act in defining an ENO: there must be a substantial offsite release and substantial offsite damages. The specific values incorporated into the criteria intentionally place a large gap between an ENO and the Commission's regulations governing offsite release during normal operations. Those values were intended to represent the Atomic Energy Commission's best judgment in deciding when the Act's definition of an ENO had been satisfied. The criteria have remained unchanged since their adoption in 1968.

[FR Doc. 79-22689 Filed 7-20-79; 8:45 am]
BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies proposed public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Each entry contains the following information:

The name and telephone number of the agency clearance officer;
The office of the agency issuing this form;
The title of the form;
The agency form number, if applicable;
How often the form must be filled out;
Who will be required or asked to report;
An estimate of the number of forms that will be filled out;
An estimate of the total number of hours needed to fill out the form; and
The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michaels—377-4217

Extensions

National Oceanic and Atmospheric

Administration

Shrimp Log Book Form

NOAA 88-24

Monthly

U.S. owned shrimp companies in South

America, 1,680 responses; 2,806 hours

Richard Sheppard, 395-3211

DEPARTMENT OF ENERGY

Agency Clearance Officer—John
Gross—252-5214

New forms

Survey of residential fuel oil inventories
EIA-410

Single time

Indiv. households and fuel oil suppliers,
2,226 responses; 467 hours

Jefferson B. Hill, 395-5867

Survey of coal industry training
programs

IR-180

Single time

Coal companies, 351 responses; 351
hours

Jefferson B. Hill, 395-5867

Useable fuel inventories

EIA-403

Monthly

Firms which gen. elect. from oil fired
equipment, 4,500 responses; 4,500
hours

Jefferson B. Hill, 395-5867

*Secondary inventories survey

EIA-408

Monthly

Sample of manufacturing firms, 60,000
responses; 15,000 hours

Jefferson B. Hill, 395-5867

Revisions

National survey of fuel purchases for
vehicles

EIA-141

On occasion

Sample of households chosen from EIA-
84, 2,252 responses; 1,919 hours

Jefferson B. Hill, 395-5867

DEPARTMENT OF HEALTH, EDUCATION, AND
WELFARE

Agency Clearance Officer—Peter
Gness—245-7488

New forms

Food and Drug Administration

Survey of State interest in educational
initiative on diagnostic radiation

Single time

State health agencies, 100 responses; 50
hours

Richard Eisinger, 395-3214

Office of Education

Lender's Application for Insurance

Claim on Federal Insured Student
Loan

OE 1207

On occasion

Banks, credit unions, lending
institutions, 277,500 responses; 23,125
hours

Laverne V. Collins, 395-3214

Revisions

Food and Drug Administration

Medicated Feed Application

FD 1800

On occasion

Feed mills and farms mixing medicated
feeds, 5,500 responses; 11,000 hours

Richard Eisinger, 395-3214

DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M.
Oliver—523-6341

Revisions

Employment Standards Administration

*Application for lump sum award

LS-221

On occasion

Claimants rec. workers' disability or
death bene., 20 responses; 10 hours

Arnold Strasser, 395-5080

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—John J.
Stanton—245-3064

Revisions

*Non-compliance of motor vehicles with
Federal emissions standards

On occasion

Owners of suspect veh., dealers, fleets,
repair facil., 6,700 responses, 1,542
hours

Edward H. Clarke, 395-5867

*Emission Factors Survey

On occasion

Motor veh. owners in 10-12 major
metrop. areas, 10,000 responses; 5,000
hours

Edward H. Clarke, 395-5867

SMALL BUSINESS ADMINISTRATION

Agency Clearance Officer—John
Reidy—653-6081

Reinstatements

*Application for Surety Bond Guarantee
Assistance

SBA 994

On occasion

Small contractors requesting assistance,
34,000 responses; 8,500 hours

Richard Sheppard, 395-3211

Stanley E. Morris,

Deputy Associate Director for Regulatory
Policy and Reports Management.

[FR Doc. 79-22710 Filed 7-20-79; 8:45 am]

BILLING CODE 9110-01-M

POSTAL RATE COMMISSION

[Docket No. MC79-3]

Red Tag Proceeding, 1979

July 13, 1979.

Notice is hereby given that pursuant
to the "Presiding Officer's Notice
Establishing Procedural Dates", dated

July 12, 1979, the following schedule has
been established to include certain
procedural dates which were not set by
the Commission in its Order Nos. 228
and 270, and its Notice of June 5, 1979:

Date and Procedural Stage

August 10, 1979—Completion of discovery
directed to intervenors (including OOC).
September 10, 1979—Beginning of hearings.
September 18, 1979—Completion of
evidentiary hearings as to cases-in-chief
and Postal Service witnesses.
October 12, 1979—Filing of rebuttal evidence
of all participants (including OOC and
Postal Service)

All dates set in this Notice may be
changed if the Commission decides to
invite testimony on the subjects covered
by its First Notice of Inquiry in this
docket.

A tentative schedule for appearance
of witnesses was also included in the
Presiding Officer's Notice. A copy of the
Presiding Officer's Notice is available to
all interested parties in the
Commission's Docket Room at the
Postal Rate Commission, or by calling
the Docket Room at Area Code 202-254-
3800.

David F. Harris,

Secretary.

[FR Doc. 79-22596 Filed 7-20-79; 8:45 am]

BILLING CODE 7715-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. RFA 505-79-3]

Purchase of Redeemable Preference
Shares Receipt of Application

Project: Notice is hereby given that
Indiana Harbor Belt Railroad Company
(applicant), 2721 161st Street, Hammond,
Indiana 46325, has filed an application
with the Federal Railroad
Administration (FRA) under section 505
of the Railroad Revitalization and
Regulatory Reform Act of 1976, 45 U.S.C.
825, seeking financial assistance through
the sale to the United States of
redeemable preference shares (shares)
in the year 1979 through 1983 having an
aggregate par value of \$31,164,500.
Applicant proposes to redeem the par
value of the shares and to pay dividends
on the shares in accordance with a
schedule such that payments will
commence 11 years from the date of
issuance of the shares and the par value
of the shares will be redeemed within 30
years of their date of issuance.

The proceeds of the sale of the shares
are to be used by the applicant to
rehabilitate and improve its rail

facilities and to rehabilitate 54 of its
locomotives in accordance with the
following schedule:

Project	Completion date	FRA funding (million)
Blue Island Yard:		
Rehabilitation.....	1983	\$12.93
Construction of 6 tracks.....	1981	3.42
Locomotive Repair.....	1983	6.31
Centralized traffic control.....	1980	0.84
Signal rehabilitation.....	1980	0.25
Norpaul Yard:		
Rehabilitation.....	1981	0.33
Dolton connection.....	1979	0.05
Gibson shops:		
Rehabilitation.....	1980	1.09
Subtotal.....		25.82
Project management.....		.91
Contingencies.....		4.43
Total.....		\$31.16

Justification for project: Applicant
states that the project will enable it to
maintain and improve essential freight
services in the Chicago area, will allow
increased operating speeds and reduce
accidents, and will expedite traffic flow
over its properties.

Comments: Interested persons may
submit written comments on the
application to the Associate
Administrator for Federal Assistance,
Federal Railroad Administration, 400
Seventh Street SW., Washington, D.C.
20590, not later than the comment
closing date shown below. Such
submission should indicate that docket
number shown on this notice and state
whether the commenter supports or
opposes the application and the reasons
therefor.

To the extent permitted by law, the
application will be made available for
inspection during normal business hours
in Room 5415 at the above address of
the FRA in accordance with the
regulations of the Office of the Secretary
of Transportation set forth in Part 7 of
Title 49 of the Code of Federal
Regulations.

The comments will be considered by
the FRA in evaluating the application.
Any commenter who wishes to have
FRA acknowledge the receipt of his or
her comments should include a self-
addressed, stamped post card with the
comments. No other acknowledgment of
comments will be provided.

Application No.	Number	Applicant	Regulation(s) affected	Nature of exemption thereof
RENEWALS				
3330-X.....	DOT-E 3330	Teledyne Wah Chang, Albany Corp., Albany, Oreg.	49 CFR 173.214(d)	To ship flammable solid in insulated containers overpacked in a DOT specification 17C, 17H, or 37A metal drum. (Modes 1 and 2.)
3353-X.....	DOT-E 3353	Kerr-McGee Chemical Corp., Oklahoma City, Okla.	49 CFR 173.163(a)(7), 173.299(a)(2).	To ship a certain oxidizing material in a non-DOT specification steel or aluminum tank. (Modes 1 and 2.)
4177-X.....	DOT-E 4177	Hydrodyne Industries, Inc., Hauppauge, N.Y.	49 CFR 173.302(a)(1), 175.3	To ship a nonflammable, nonliquefied gas in a non- DOT specification pressure vessel. (Modes 1, 2, 3, and 4.)

The FRA has not approved or
disapproved this application nor has it
passed upon the accuracy or adequacy
of the information contained therein.

(Sec. 505 of the Railroad Revitalization and
Regulatory Reform Act of 1976 (Pub. L. 94-
210), as amended.)

Dated: July 17, 1979.

Comment closing date: August 22, 1979.

Charles Swinburn,

Associate Administrator for Federal
Assistance, Federal Railroad Administration.

[FR Doc. 79-22898 Filed 7-20-79; 8:45 am]

BILLING CODE 4910-06-M

[FRA Waiver Petition Docket HS-79-11]

Sierra Railroad Co.; Petition for
Exemption From the Hours of Service
Act

In accordance with 49 CFR Section
211.41 and Section 211.9, notice is
hereby given that the Sierra Railroad
Company (Sierra) has petitioned the
Federal Railroad Administration (FRA)
for an exemption from the Hours of
Service Act (83 Stat. 464, Pub. L. 91-169,
45 U.S.C. 64a(e)). That petition requests
that the Sierra be granted authority to
permit certain employees to
continuously remain on duty for in
excess of twelve hours.

The Hours of Service Act currently
makes it unlawful for a railroad to
require or permit specified employees to
continuously remain on duty for a
period in excess of twelve hours.
However, the Hours of Service Act
contains a provision that permits a
railroad, which employs no more than
fifteen employees who are subject to the
statute, to seek an exemption from this
twelve hour limitation.

The Sierra seeks this exemption so
that it can permit certain employees to
remain continuously on duty for periods
not to exceed sixteen hours. The
petitioner indicates that granting this
exemption is in the public interest and
will not adversely affect safety.
Additionally, the petitioner asserts that
it employs no more than fifteen
employees and has demonstrated good
cause for granting this exemption.

Interested persons are invited to
participate in this proceeding by
submitting written views or comments.

FRA has not scheduled an opportunity
for oral comment since the facts do not
appear to warrant it. Communications
concerning this proceeding should
identify the Docket Number, Docket
Number HS-79-11, and must be
submitted in triplicate to the Docket
Clerk, Office of the Chief Counsel,
Federal Railroad Administration, Trans
Point Building, 2100 Second Street, S.W.,
Washington, D.C. 20590.

Communications received before August
24, 1979, will be considered by the FRA
before final action is taken. Comments
received after that date will be
considered as far as practicable. All
comments received will be available for
examination both before and after the
closing date for comments, during
regular business hours in Room 4406,
Trans Point Building, 2100 Second
Street, S.W., Washington, D.C. 20590.

Authority: Section 5 of the Hours of Service
Act of 1969 (45 U.S.C. 64a), 1.49(d) of the
regulations of the Office of the Secretary, 49
CFR 1.49(d).

Issued in Washington, D.C. on July 11, 1979.

J. W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 79-22451 Filed 7-20-79; 8:45 am]

BILLING CODE 4910-06-M

Materials Transportation Bureau

Grants and Denials of Applications for
Exemptions

AGENCY: Materials Transportation
Bureau, DOT.

ACTION: Notice of Grants and Denials of
Applications for Exemptions.

SUMMARY: In accordance with the
procedures governing the application
for, and the processing of, exemptions
from the Department of Transportation's
Hazardous Materials Regulations (49
CFR Part 107, Subpart B), notice is
hereby given of the exemptions granted
May 1979. The modes of transportation
involved are identified by a number in
the "Nature of Exemption Thereof"
portion of the table below as follows:
1—Motor vehicle, 2—Rail freight, 3—
Cargo-vessel, 4—Cargo-only aircraft, 5—
Passenger-carrying aircraft. Application
numbers prefixed by the letters EE
represent applications for Emergency
Exemptions.

Application No.	Number	Applicant	Regulation(s) affected	Nature of exemption thereof
RENEWALS—Continued				
4760-X	DOT-E 4760	Gardner Cryogenics, Bethlehem, Pa.	49 CFR 172.101, 173.315(a)	To ship a nonflammable gas in a non-DOT specification cargo tank designed and constructed in accordance with the ASME Code. (Mode 1.)
5322-P	DOT-E 5322	LNG Services, Inc., Pittsburgh, Pa.	49 CFR 172.101, 173.315(a)	To become a party to exemption 5322. (See Application No. 5322-P.) (Mode 1.)
5403-X	DOT-E 5403	Halliburton Services, Duncan, Okla.	49 CFR parts 173: 178.343-2(b), 178.343-5(b)(1)(i), (b)(2)(i).	To ship certain corrosive materials in DOT specification MC-312 cargo tanks with certain exceptions. (Mode 1.)
5413-X	DOT-E 5413	Publicker Industries, Inc., Philadelphia, Pa.	49 CFR 172.101, 173.315(a)(1)	To ship a flammable gas in non-DOT specification cargo tanks designed and constructed in accordance with section VIII of the ASME Code.
5643-X	DOT-E 5643	Union Carbide Corp., Tarrytown, N.Y.	49 CFR 172.101, 173.315(a)(1)	To ship a nonflammable gas in a vacuum insulated non-DOT specification portable tank. (Modes 1 and 3.)
6443-X	DOT-E 6443	Montana Sulfur and Chemical Co., Billings, Mont.	49 CFR 173.315(a)(1), 172.504	To ship a flammable gas in DOT specification MC-331 insulated cargo tanks. (Mode 1.)
6500-X	DOT-E 6500	East Asiatic Co., Copenhagen, Denmark Blue Star Line, Ltd., London, England.	49 CFR 173.125	To ship a certain flammable liquid in a non-DOT specification stainless steel portable tank. (Modes 1 and 3.)
6517-X	DOT-E 6517	Coyne Cylinder Co., Huntsville, Ala.	49 CFR 173.303(a)	To provide for use of existing non-DOT specification steel cylinders for shipment of acetylene. (Modes 1, 2, and 3.)
6686-X	DOT-E 6686	Chilton Metal Products Division, Chilton, Wis.	49 CFR 173.304, 178.65	To ship a certain flammable gas in a modified DOT Specification 39 steel cylinder. (Modes 1 and 2.)
6720-X	DOT-E 6720	Sea-Land Service, Inc., Elizabeth, N.J.	46 CFR 90.05-35; 49 CFR parts 173.	To ship certain hazardous materials in non-DOT specification intermodal portable tanks. (Modes 1, 2, and 3.)
6752-X	DOT-E 6752	Pennwalt Corp., Philadelphia, Pa.	49 CFR 173.304(a)(2), 173.301(d)(3).	To ship a liquefied flammable compressed gas in DOT specification 3A2400 cylinders. (Mode 1.)
6762-P	DOT-E 6762	Taylor Chemicals, Inc., Baltimore, Md.	49 CFR 173.286(b)(2), 175.3	To become a party to Exemption 6762. (See application No. 6762-P.) (Modes 1, 2, and 4.)
6921-P	DOT-E 6921	Cites Service Co., Tulsa, Okla.	49 CFR 172.101, 173.315(a)(1)	To become a party to Exemption 6921. (See application No. 6921-P.) (Modes 1 and 3.)
6969-X	DOT-E 6969	The State of Alaska, Juneau, Alaska.	14 CFR 121.574(a), 135.114(e); 49 CFR 175.85(a), (e).	To transport oxygen in DOT specification 3AA cylinders integral to incubators. (Mode 5.)
6984-X	DOT-E 6984	Powder River Explosives, Inc., Billings, Mont.	49 CFR 173.66(g), 173.103(e), 177.835(g)(2)(i).	To ship blasting caps, class C explosives in inside pasteboard cartons or tubes overpacked in an IME standard 22 container. (Mode 1.)
7015-P	DOT-E 7015	Jack B. Kelley, Inc., Amarillo, Tex.	49 CFR 173.315(a)(1), 172.101	To become a party to exemption 7015. (See application No. 7015-P.) (Modes 1, 2, and 3.)
7052-P	DOT-E 7052	Westinghouse Electric Corp., Raleigh, N.C.; Panasonic Co., Secaucus, N.J.	49 CFR 172.101, 173.206(e)(1), 175.3	To become a party to exemption 7052. (See Application No. 7052-P.) (Modes 1, 2, 3, and 4.)
7056-X	DOT-E 7056	Diamond Shamrock Corp., Morristown, N.Y.	49 CFR 173.204(a)(4), 173.28(m)	To ship a certain flammable solid in DOT specification 37A275 steel drums. (Modes 1, 2, and 3.)
7066-X	DOT-E 7066	Compagnie des Containers Reservoirs, Paris, France.	49 CFR 173.119(m), 173.348	To ship certain flammable and class B poisonous liquids in non-DOT specification portable tanks. (Modes 1 and 3.)
7072-X	DOT-E 7072	Container Corp., of America, Wilmington, Del.	49 CFR part 173, subparts D, E, and F.	To manufacture, mark and sell non-DOT specification 55-gallon polyethylene containers for shipment of certain corrosive liquids, oxidizers, flammable liquids, poison B liquids, and liquid organic peroxides. (Modes 1, 2, and 3.)
7458-X	DOT-E 7458	Ekohwerks Co., Eastlake, Ohio	49 CFR 173.304(a)(2), 178.42	To manufacture, mark and sell non-DOT specification seamless cylinders for shipment of nonflammable gases. (Modes 1, 2, and 3.)
7567-X	DOT-E 7567	Conus, Inc., Jonesboro, Ark.	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b); 49 CFR part 107, appendix B.	To transport certain class A, B, and C explosives in cargo-only aircraft. (Mode 4.)
7822-X	DOT-E 7822	Air Products and Chemicals, Inc., Allentown, Pa.	49 CFR 172.101, 173.315(a)	To ship a nonflammable gas in specially insulated non-DOT specification portable tank designed and constructed in accordance with sections VIII and IX of the ASME Code. (Modes 1 and 3.)
7845-X	DOT-E 7845	Livingston Copters, Inc., Juneau, Alaska.	49 CFR 172.101, 175.3, 175.30(a)(1), 175.85(b).	To transport a flammable gas in DOT specification 4B240, 4BA240, and 4BW240 cylinders. (Mode 4.)
7865-X	DOT-E 7865	Applied Equipment Co., Van Nuys, Calif.	49 CFR 173.302(a)(4), 175.3, 178.65.	To manufacture, mark and sell welded, non-refillable non-DOT specification steel cylinders for shipment of nitrogen. (Modes 1 and 4.)
7887-P	DOT-E 7887	Flight Systems, Inc., Raytown, Mo.; Small Sounding Rocket Systems, Mountlake Terrace, Wash.; Composite Dynamics, North Las Vegas, Nev.	49 CFR part 107, 172.101, 173.111, 175.3.	To become a party to exemption 7887. (See application No. 7887-P.) (Modes 1, 2, 3, 4, and 5.)
7924-P	DOT-E 7924	Ray-O-Vac Div., ESB Inc., Madison, Wis.; Eagle-Picher Industries, Inc., Joplin, Mo.	49 CFR 173.206, 175.3	To become a party to exemption 7924. (See application No. 7924-P.) (Modes 1, 2, 3, 4, and 5.)
7942-X	DOT-E 7942	Chevron U.S.A. Inc., San Francisco, Calif.	49 CFR 173.28(m)	To ship a flammable liquid in DOT specification 17E drums specially qualified for reuse. (Mode 3.)
8000-X	DOT-E 8000	Fauvet-Girel, Paris, France	49 CFR Part 173	To ship certain flammable, corrosive, irritating, class B poison, combustible liquids and organic peroxides in non-DOT specification portable tanks. (Modes 1, 2, and 3.)
8035-X	DOT-E 8035	NL McCullough, NL Industries, Inc., Houston, Tex.	49 CFR 173.100(v), 173.112, 175.3.	To ship a Class C explosive in plastic tubes snugly packed in a DOT specification 12B fiberboard box. (Modes 1, 2, 3, 4, and 5.)
8055-P	DOT-E 8055	American Cyanamid Co., Bound Brook, N.J.; Halstab Division, Hammond, Ind.	49 CFR 173.154	To become a party to exemption 8055. (See application No. 8055-P.) (Modes 1, 2, and 3.)
8118-X	DOT-E 8118	Magna Corp., Houston, Tex.	46 CFR 64.9; 49 CFR 173.119(b).	To ship certain flammable liquids in a marine portable tank. (Modes 1 and 3.)

Application No.	Number	Applicant	Regulation(s) affected	Nature of exemption thereof
NEW EXEMPTIONS				
8039-N	DOT-E 8039	Chemwood International, Inc., Stamford, Conn.	49 CFR 173.245a	To ship a corrosive and poisonous B liquid in a DOT specification 51 portable tank. (Modes 1, 2, and 3.)
8062-N	DOT-E 8062	Hamill Manufacturing Co., Washington, Mich.	49 CFR 173.153, 173.154, 175.3	To ship a passive restraint system containing a mixture of a flammable solid and a class B explosive as a flammable solid in non-DOT specification fiberboard boxes. (Modes 1, 2, 3, and 4.)
8082-P	DOT-E 8082	Ford Motor Co., Dearborn, Mich.	49 CFR 173.153, 173.154, 175.3	To become a party to exemption 8082. (See Application No. 8082-P.) (Modes 1, 2, 3, and 4.)
8113-N	DOT-E 8113	Turco Products, Carson, Calif.	49 CFR 173.245(a)(12)	To ship a corrosive material in a "F" style metal can overpacked in quantities of four in a DOT specification 12B corrugated fiberboard box. (Mode 1.)
8121-N	DOT-E 8121	Republic Steel Corp., Cleveland, Ohio.	49 CFR 173.245(a)	To ship a corrosive liquid in a DOT specification 57 portable tank. (Mode 1.)
8125-N	DOT-E 8125	Fauvet-Girel, Paris, France	49 CFR 173.123, 173.315	To ship certain flammable and nonflammable gases and flammable liquids in non-DOT specification non-insulated portable tanks. (Modes 1 and 3.)
8126-N	DOT-E 8126	Fauvet-Girel, Paris, France	49 CFR 173.123, 173.315	To ship certain liquefied petroleum gases and other gases classed as flammable gases and a flammable liquid in non-DOT specification portable tanks. (Modes 1 and 3.)
8186-N	DOT-E 8186	International Minerals & Chemical Corp., Mundelein, Ill.	49 CFR 173.154, 173.163	To ship an oxidizer in a DOT specification MC-306, MC-307, and MC-312 cargo tanks. (Mode 1.)
EMERGENCY EXEMPTIONS Applications Received and Granted				
EE3208-N	DOT-E 8208	Jet Propulsion Lab., Pasadena, Calif.	49 CFR 173.145, 173.276, 173.338	To ship liquid propellant samples, frozen in non-DOT specification plywood boxes. (Mode 1.)
EE8218-N	DOT-E 8218	Connell Brothers Co., Ltd., San Francisco, Calif.	49 CFR 172.101, 175.30(a)(1)	To transport ammunition for cannon with explosive projectile via cargo-only aircraft. (Mode 4.)

Denials

7621-X—Request by Thomas and Sewell, Alexandria, Va.—For a 60-day extension of emergency exemption for shipment of chloropicrin liquid in a non-DOT specification portable tank, denied May 3, 1979.

7870-X—Request by Explogiochi, S.p.A., Florence, Italy—To ship toy caps packed in plastic blister packs, denied May 11, 1979 as being unnecessary.

EE8200-N—Request by Fleming International Airways, Inc., Miami, Fla.—For an emergency exemption to transport one shipment of certain Class A and Class C explosives comingled aboard the same aircraft, denied May 11, 1979.

Withdrawals

7690-X—Request by Prestex Products Co., St. Paul, Minn.—To ship certain flammable liquids in DOT Specification 34 polyethylene container, withdrawn May 24, 1979.

Douglas A. Crockett,

Chief, Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-22450 Filed 7-20-79; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

[Docket No. EX79-01; Notice 1]

Model A and Model T Motor Car Reproduction Corp.; Petition for Temporary Exemption From Federal Motor Vehicle Safety Standards

The Model A and Model T Motor Car Reproduction Corporation of Detroit, Michigan ("Model A" herein) has petitioned for a temporary exemption of three years of its Model A replica passenger car from certain safety standards on grounds of substantial

economic hardship.

This notice of receipt of a petition for a temporary exemption is published in accordance with the NHTSA regulations on this subject (49 CFR 555.7), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Model A has not yet commenced manufacturing motor vehicles but has taken deposits on over 3,500 orders for a replica of a 1928 Ford Model A roadster. It "intends to produce only a limited number of these vehicles depending upon orders, and in all events, will limit production to below 10,000 vehicles over

the three year exemption period." It therefore does not intend to achieve conformance with standards from which it is exempted.

The company requests exemption from every safety standard applicable to passenger cars except Standards Nos. 101, 102, 106, 107, 111, 112, 113, 114, 115, 118, 124, 127, 205, 211, and 302. However, there will be partial compliance with some of the standards from which exemption is requested. Model A will provide two windshield wipers and a washer system as required by Standard No. 104, but its wiped pattern area will not meet the requirements of the standard. A brake warning light will be

provided as required by Standard No. 105; while the braking system incorporates Ford Pinto and Ford Mustang components the petitioner believes that an exemption is necessary since it does not have the means to test for compliance. Its request for exemption from Standard No. 108 is limited to side marker lamps and reflectors which it believes are anachronistic to the vehicle. The tires and rims provided are of sizes not included in Standard Nos. 109 and 110. Model A has been asked to confirm that it will provide the tire inflation placard that the latter standard requires. A current model Ford Fairmont steering column will be used but the steering wheel design of the Model A "may not meet the standard." The fuel system uses Ford engine compartment components and a fuel tank of 14 gauge welded steel construction. A Type 1 seatbelt assembly will be provided at each designated seating position. The Company argues that to require compliance with many of the standards would cause hardship as it possesses no means with which to engage in expensive testing, and that if conformance is required the changes necessary to the vehicle design would be sufficient to destroy its character, and hence its sales appeal. In its first fiscal year ending March 31, 1979, Model A had a net loss of \$109,000.

In support of its petition the company argues that it is not likely that its replica vehicles will present a significant hazard to traffic safety. It believes the overall concept is such that the vehicles' appeal primarily is for occasional, limited use (e.g., auto shows, resort use) rather than extensive daily use on the public roads.

Interested persons are invited to submit comments on the petition of Model A and Model T Motor Car Reproduction Corporation described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received, are available for examination in the docket both before and after the closing date. Comments received after the closing date will also be filed and will be considered to the extent possible. Notice of final action on the

petition will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: August 13, 1979. (Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on July 18, 1979.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 79-22899 Filed 7-20-79; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circular, Public Debt Series—No. 15-79]

Treasury Notes of July 31, 1981, Series V-1981

1. Invitation for Tenders

1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately \$3,000,000,000 of United States securities, designated Treasury Notes of July 31, 1981, Series V-1981 (CUSIP No. 912827 JU 7). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

1. The securities will be dated July 31, 1979, and will bear interest from that date, payable on a semiannual basis on January 31, 1980, and each subsequent 6 months on July 31 and January 31, until the principal becomes payable. They will mature July 31, 1981, and will not be subject to call for redemption prior to maturity.

2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes,

whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of \$5,000, \$10,000, \$100,000, and \$1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, July 24, 1979. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, July 23, 1979.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is \$5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed \$1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a 1/8 of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations

will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tender received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made or completed on or before Tuesday, July 31, 1979, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Friday, July 27, 1979, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Friday, July 27, 1979, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered

complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after requested form of registration has been validated, the

registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Supplementary Statement:

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,
Fiscal Assistant Secretary.

[FR Doc. 79-22872 Filed 7-20-79; 8:45 am]
BILLING CODE 4810-40-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: July 17, 1979.

In our decisions of June 26, July 3, and July 10, 1979, a 7-percent surcharge was authorized on all owner-operator and truckload traffic. We ordered that all owner-operators were to receive compensation at this level. As indicated in the prior decisions, further upward changes were not contemplated until the Commission's weekly fuel index exceeded this 7-percent figure.

The weekly figures set forth in the appendix for transportation performed by owner-operators and truckload traffic is 7.2 percent. However, as stated in the June 28 decision, we recognize the concerns that have been expressed regarding the diesel fuel base price figure of 63.5 cents which did not include a factor for the lower prices associated with "self-service" utilized by many owner-operators during the base period. In addition, we are also aware of shipper concerns that weekly

tariff adjustments are burdensome. As such, we are authorizing a 7.5 percent surcharge on all owner-operator and truckload traffic. All owner-operators are to receive compensation at this 7.5 percent level. As in the past, we will continue to publish the fuel index weekly. Further upward changes in the surcharge are not contemplated until the index exceeds 7.5 percent.

Further, for the reasons stated in the July 3 and July 10 decisions, no change will be made in the existing authorization of a 2.7 percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner-operators.

We have received many inquiries and complaints on problems of notice regarding our weekly orders. We will continue to study this matter and to provide additional notice if the fuel crisis lessens. In this instance, we will order that the decision shall become effective 12:01 a.m. July 18, 1979.

Notice of this decision shall be given to the general public by mailing a copy of this decision to the Governor of each state and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy to the Director, Office of the Federal Register, for publication therein.

It is ordered:

This decision shall become effective 12:01 a.m., July 18, 1979.

By the Commission. Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian. Vice Chairman Brown not participating.

Agatha L. Mergenovich,
Secretary.

July 18, 1979.

Appendix.—Fuel Surcharge

Base Date and Price Per Gallon (Including Tax)		
January 1, 1979		63.5¢
Date of Current Price Measurement and Price Per Gallon (Including Tax)		
July 16, 1979		69.7¢
Average Percent: Fuel Expenses (Including Taxes) of Total Revenue		
(1) From Transportation Performed by Owner Operators (Apply to All Truckload Traffic)	(2) Other (Including Less-Truckload Traffic)	
16.9%	7.5%	
Percent Surcharge		
7.2%	3.2%	

[FR Doc. 79-22861 Filed 7-20-79; 8:45 am]
BILLING CODE 7035-01-M

[Notice No. 115]

Motor Carrier Temporary Authority Applications

June 28, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 14215 (Sub-47TA), filed June 14, 1979. Applicant: SMITH TRUCK SERVICE, INC., 1118 Commercial, Mingo Junction, OH 43938. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH. (1) *Building materials and cement pipe containing asbestos fibre*, from the plantsite of Johns-Manville Sales Corp. at or near waukegan, IL, to points in OH; and (2) *insulation board*, from the plantsite of Johns-Manville Perlite Corp. at or near Rockdale, IL to points in OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Johns-

Manville Sales Corp., 2222 Kensington Court, Oak Brook, IL 60521. Send protests to: J. A. Niggemyer, DS, 416 Old P.O. Bldg., Wheeling, WV 26003.

MC 21455 (Sub-49TA), filed June 11, 1979. Applicant: GENE MITCHELL CO., West Liberty, IA 52776. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Wheat gluten and wheat products* from Keokuk, IA to Sacramento, San Francisco and Oakland, CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Campbell Taggart, Inc., P.O. Box 222640, Dallas, TX 75222. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 25255 (Sub-4TA), filed June 13, 1979. Applicant: LEE ROY HEERMAN d.b.a. COIN TRANSFER, P.O. Box 296, Coin, IA 51636. Representative: Lee Roy Heerman, same address as above. *General commodities, except those of unusual value, Class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment*, between Kansas City, MO and Kansas City, KS and their commercial zones, and Omaha, NE, on the one hand, and, on the other, points in IA on and west of IA Hwy 148, on and south of U.S. Hwy 34 and on and east of U.S. Hwy 59, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack this authority with authority in MC-25255 Subs 2 and 3. Applicant intends to interline with other carriers at Kansas City, MO; Kansas City, KS; and Omaha, NE. Supporting shipper(s): There are 6 statements in support attached to this application which may be examined at the ICC in Washington, D.C., or at the field office named below. Send protests to: Carroll Russell, ICC, Suite 620, 110d No. 14th St., Omaha, NE 68102.

MC 106674 (Sub-398TA), filed May 23, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, US Highway 24 West, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). *Stone, sand, and gravel in bags or boxes* from Louisville, KY and Bullitt County, KY to IL, IN, OH, MI, WI, MN, MS, MO, TN, GA, NC, SC, DC, MD, VA, NY, NJ, CT, IA, AL, PA, and WV for 180 days. Supporting shipper: Old Dutch Materials, 350 Pfingsten Road, North Brook, IL 60062. Send protests to: Beverly J. Williams, Transportation Assistant, ICC 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 107934 (Sub-30TA), filed June 19, 1979. Applicant: BYRD MOTOR LINE, INC., Hargrave Rd., Lexington, NC 27292. Representative: Melvin L. Byrd, Hargrave Road, Lexington, NC 27292. *Appliances (refrigerators, electric and gas ranges, freezers, air conditioners, automatic washers, dryers, dishwashers)* from Grand Rapids and Greenville, MI to Richmond, Altavista, Collinsville, Roanoke, VA and refused and damaged shipments from destination points to points of origin, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): E. A. Holstem, Inc., P.O. Box 26808, Richmond, VA 23261. Send protests to: Terrell Price, 800 Briar Creek Rd—Rm CC516, Charlotte, NC 28205.

MC 116915 (Sub-91TA), filed June 4, 1979. Applicant: ECK MILLER TRANSPORTATION CORPORATION, Route #1, P.O. Box 248, Rockport, IN 47635. Representative: Fred Bradley, P.O. Box 773, Frankfort, KY 40601. *Iron and steel articles* between the facilities of Maverick Tube Corporation at Union, MO, on the one hand, and, on the other, points in AR, TX, LA, OK, NC, SC, FL, TN, IL, OH, MI, and PA for 180 days. (Restricted to shipments originating at or destined to the facilities of Maverick Tube Corporation). Supporting shipper: Maverick Tube Corporation, P.O. Box 696, Union, MO 63084. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio Street, Rm 429, Indianapolis, IN 46204.

MC 116915 (Sub-92TA), filed June 4, 1979. Applicant: ECK MILLER TRANSPORTATION CORPORATION, Route #1, P.O. Box 248, Rockport, IN 47635. Representative: Fred Bradley, P.O. Box 773, Frankfort, KY 40610. *Aluminum and aluminum articles* between the facilities of Aluminum Company of America, located at Alcoa, TN, on the one hand, and, on the other, points in KY, IL, IN, MI, MO, and OH for 180 days. Supporting shipper: Aluminum Company of America, 1501 Alcoa Building, Pittsburgh, PA 15219. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio Street, Rm 429, Indianapolis, IN 46204.

MC 125254 (Sub-59TA), filed June 11, 1979. Applicant: MORGAN TRUCKING CO., 1201 E. 5th St., Muscatine, IA 52761. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. *Starch and dehydrated corn syrup (except commodities in bulk)*, from Muscatine, IA to points in MO and MI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Grain Processing Corporation, 1600

Oregon St., Muscatine, IA 52761. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 133095 (Sub-259TA), filed June 14, 1979. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Rocky Moore (same as applicant). *Meats, meat products and articles distributed by meat packinghouses (usual ICC description)* from Brownsville, TX to PA and NY Representative destinations: New Stanton, Pittsburgh, Philadelphia, and Scranton, PA; and NY, Brooklyn, Albany and Mt. Kisco, NY for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper(s): Armour Fresh Meat Company, 111 W. Clarendon, Greyhound Tower, Phoenix, AZ. Send protests to: Martha A. Powell, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 133655 (Sub-162TA), filed June 14, 1979. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. (1) *Anti-freeze and fuel additives; and (2) equipment, materials, and supplies used in the manufacture and distribution of the commodities named in (1) above* between Weatherford, TX on the one hand, and, on the other, points in PA, KS, MO, OH, and CO for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper(s): Power Service Products, Inc., P.O. Box 459, Weatherford, TX 76086. Send protests to: Martha A. Powell, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 133655 (Sub-163TA), filed June 14, 1979. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. (1) *Siding, clapaard, style, plastic item No. 170588, fittings, and accessories for installation; and (2) equipment, materials, and supplies used in the manufacture and distribution of the commodities named in (1) above* between Weatherford, TX on the one hand, and, on the other, points in OH, NY, MA and MD, for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper(s): Robintech, 1202 N. Bowie Drive, Weatherford, TX 76086. Send protests to: Martha A. Powell, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 134405 (Sub-79TA), filed June 14, 1979. Applicant: BACON TRANSPORT COMPANY, P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73401. *Asphalt*, in bulk, in tank vehicles, from North Kansas City, MO, to Sioux City, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Trumbull Asphalt, A Division of Owens-Corning Fiberglas, 59th and Archer Road, Summit, IL 60501. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 134755 (Sub-193TA), filed June 13, 1979. Applicant: CHARTER EXPRESS, INC., 1959 East Turner St., P.O. Box 3772, Springfield, MO 65804. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50409. *Frozen foodstuffs*, between Indianapolis, IN, on the one hand, and, on the other, points in AL, AR, CO, GA, KS, LA, MS, MO, OK, and TX, restricted to shipments originating at or destined to the facilities of Monument Distribution Warehouse, Inc., Indianapolis, IN, for 180 days. Supporting shipper(s): Monument Distribution Warehouse, Inc., 3320 S. Arlington Ave., Indianapolis, IN 46203. Send protests to: John V. Barry, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 135364 (Sub-40TA), filed June 6, 1979. Applicant: MORWALL TRUCKING, INC., R.D. 3, Box 76C, Moscow, Pa 18444. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Contract carrier*: irregular routes: *Such commodities as are manufactured, processed, sold, distributed, or dealt in by manufacturers and converters of paper and paper products (except commodities in bulk)*, between the facilities of the Paper, Printing, and Forms Group of Litton Business Systems, Inc., at Athens, OH, on the one hand, and on the other, the facilities of the Paper, Printing, and Forms Group of Litton Business Systems, Inc., located at or near Los Angeles, CA, Chicago, IL, Hasbrouck Heights, NJ, Farmingdale, NY, Ogden, UT, and Damascus, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Paper, Printing, and Forms Group of Litton Business Systems, Inc., 601 River Street, Fitchburg, MA 01420. Send protests to: J.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 135454 (Sub-26TA), filed June 4, 1979. Applicant: DENNY TRUCK LINES, INC., 893 Ridge Road, Webster, NY 14580. Representative: Francis P. Barrett, Barrett and Barrett, 60 Adams Street,

Milton, MA 02187. *Glass containers, closures for glass containers, and corrugated paper boxes and paper containers*, from the facilities of Anchor Hocking Glass Corporation at S. Connellsville, PA to points in Chautauqua County, NY, for 180 days. SUPPORTING SHIPPER: Anchor Hocking Glass Corporation, 109 N. Broad Street, Lancaster, PA 43130. SEND PROTESTS TO: Richard H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 W. Huron Street, Buffalo, NY 14202. An underlying ETA seeks 90 days authority.

MC 136315 (Sub-80TA), filed June 19, 1979. Applicant: OLEN BURRAGE TRUCKING, INC., Rt. 9, Box 22-A, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. *Plywood and paneling* from the facilities owned or used by Pacific Wood Products Co. located in Orleans Parish, LA and Galveston County, TX to points in AR, GA, IL, IN, KS, KY, LA, MI, MN, MS, MO, NE, ND, OK, SD, TN, TX, WI, and AL, for 180 days. An underlying ETA 90 days authority. Supporting shipper(s): Pacific Wood Products Co., 22673 S. Wilmington Ave., Carson, CA 90745. Send protests to: Alan Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 133805 (Sub-28TA), filed June 14, 1979. Applicant: LONE STAR CARRIERS, INC., Rt. 1, Box 48, Tolar, TX 76476. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. *Chemicals (except commodities in bulk) and materials and supplies used in the distribution thereof* from the facilities of Dow Chemical Company at or near Midland, MI to the facilities of McKesson Chemical Co. in OK and TX, and from the facilities of McKesson Chemical in TX to the facilities of McKesson Chemical Co. in OK for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper(s): McKesson Chemical Company, 3525 N. Causeway Blvd., Jefferson Bank Bldg., Metairie, LA 70002. Send protests to: Martha A. Powell, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 133805 (Sub-29TA), filed June 14, 1979. Applicant: LONE STAR CARRIERS, INC., Rt. 1, Box 48, Tolar, TX 76476. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. *Auto cleaner and polish in containers, and cardboard displays* from the TR-3 Chemical Corp. at or near Orange, CA to points in FL, TX, IL, UT, AR, OR, MA,

WA, MI, LA, CO and AL for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper(s): TR-3 Chemical Corp., 330 W. Taft Ave., Orange, CA 92667. Send protests to: Martha A. Powell, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 133805 (Sub-30TA), filed June 14, 1979. Applicant: LONE STAR CARRIERS, INC., Rt. 1, Box 48, Tolar, TX 76476. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. *Stoneware, China, and steel flatware* between points in the U.S. (except AK and HI) for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper(s): Wallace International, Inc., P.O. Box 22-226, Birmingham, AL 35226. Send protests to: Martha A. Powell, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 138824 (Sub-26TA), filed June 19, 1979. Applicant: REDWAY CARRIERS, INC., 5910 49th St., Kenosha, WI 53140. Representative: Paul Maton, 10 S. LaSalle St., Suite 1620, Chicago, IL 60603. *Contract carrier*: irregular routes: *Food products, dry or liquid, in containers; materials and supplies incidental to and used in the processing, canning and bottling of said food products*; restricted against transportation of commodities in bulk, between the facilities of Eau Claire packing Co., Eau Claire, MI on the one hand, and, on the other, points in WI, IL, IN, OH, Sulphur Springs, TX; Bordentown, NJ; Middleboro, MA; Northeast, PA; Lake Wales, FL and Montgomery, AL, for 180 days. An underlying ETA seeks 90 days authority.

MC 140615 (Sub-45TA), filed June 19, 1979. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Representative: Terrence Jones, 2033 K St., NW., Washington, DC 20006. *Liquid soap, ammonia, bleach, fabric softeners and detergents* from facilities of Manhattan Products, Inc. and Laundry Aids, Inc. at Carlstadt, NJ to Bedford, Cincinnati, Cleveland, Solon & Toledo, OH; Buffalo and Elmira, NY; Chicago, IL; Detroit, Grand Rapids & Livonia, MI; Ft. Wayne & Indianapolis, IN; Louisville, KY; and Pittsburgh, PA and to points in their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Manhattan Products, Inc. & Laundry Aids, Inc., 333 Starkes Rd., Carlstadt, NJ 07072. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm 619, Milwaukee, WI 53202.

MC 140744 (Sub-11TA), filed June 13, 1979. Applicant: ARCTIC AIR TRANSPORT, INC., 103 North Eau Claire Street, Mondovi, WI 54755. Representative: Stanley C. Olsen, Jr., 4601 Excelsior Boulevard, Minneapolis, MN 55416. *Meats, meat products, meat by-products and articles distributed by meat packing-houses (except hides and commodities in bulk) as described in Sections A, C and D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766* between Britt and Mason City, IA, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, KY, LA, MI, MN, MS, MO, NE, NC, ND, OH, TN, SC, SD and WI, restricted to shipments originating at or destined to the facilities of Lauridsen Foods, Inc. at or near Britt, IA and Armour and Company at or near Mason City, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour and Co., Greyhound Tower, Phoenix, AZ 85077. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 141804 (Sub-236TA), filed June 13, 1979. Applicant: WESTERN EXPRESS, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91761. *General commodities (except those of unusual value, Classes A & B explosives; household goods, as defined by the Commission, commodities in bulk, and commodities requiring special equipment)*, from points in NH, MA, ME, VT, and Willsboro, NY to points in AZ, CA, CO, NV, OR, UT, and WA. Restricted to the transportation of traffic originating at the facilities of New England shipping association co-operatives or at the facilities of its members originating at the named origins and destined to the indicated destinations, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): New England Shipper's Association, 1029 Pearl Street, Brockton, MA 02401. Send protests to: Irene Carlos, T/A, I.C.C., P.O. Box 1551, Los Angeles, CA 90053.

MC 142114 (Sub-8TA), filed June 11, 1979. Applicant: RETAIL EXPRESS, INC., 9 Stuart Rd., Chelmsford, MA 01824. Representative: Frank M. Cushman Associates, 9 Stuart Rd., Chelmsford, MA 01824. *Contract carrier*: irregular routes: *Petroleum and Petroleum products, other than in bulk* from points in the State of PA to points in the States of NY, NJ, CT, ME, MA, NH, RI and VT. Supporting shipper(s):

John A. Wagner, Jr., T.M., Pennzoil Co., 106 Duncomb St., Oil City, PA. Send protests to: G. W. Flynn, TR&TS, Interstate Commerce Commission, 150 Causeway St., Boston, MA 02114.

MC 142364 (Sub-14TA), filed June 8, 1979. Applicant: KENNETH SAGELY, d.b.a. SAGELY PRODUCE COMPANY, 2802 Kibler Road, Van Buren, AR 72958. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Such merchandise as is dealt in by wholesale, retail and chain grocery and food business houses (except frozen commodities and commodities in bulk)*, from Houston, TX to points in AR, LA, MS and OK, restricted to the transportation of traffic originating at the facilities of Clorox Company, at or near Houston, TX, for 180 days. An underlying ETA seeks 90 days operating authority. Supporting shipper(s): The Clorox Company, 1221 Broadway Street, Oakland, CA 94612. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 142364 (Sub-15TA), filed June 13, 1979. Applicant: KENNETH SAGELY, d.b.a. SAGELY PRODUCE, 2802 Kibler Road, Van Buren, AR 72956. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Foodstuffs (except in bulk)* from the facilities of American Home Foods, Inc., at or near La Porte, IN to points in AR, IL and MO, for 180 days. An underlying ETA seeks 90 days operating authority. Supporting shipper(s): American Home Foods, Inc., 685 Third Avenue, New York, NY 10017. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 144135 (Sub-1TA), filed June 1, 1979. Applicant: L & V TRUCKING, INC., 32650 Almaden Blvd., Union City, CA 94587. Representative: Eugene Q. Carmody, 15523 Sedgeman St., San Leandro, CA 94579. (415) 357-6236. *Contract carrier*, irregular routes: *Vermiculite, other than crude; and gypsum wall plaster—in bags* between Newark, CA and Reno, Sparks, Carson City, South Lake Tahoe, North Lake Tahoe, NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anning-Johnson Company, 1728 Gilbreth Rd., Burlingame, CA 94010. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 145715 (Sub-7TA), filed June 12, 1979. Applicant: BELL TRUCKING, INC., 2504 Industrial Park Road, Van Buren, AR 72956. Representative: Bernard J. Kompore, Sullivan & Associates, Ltd., 10

South LaSalle Street, Suite 1600, Chicago, IL 60603. *Copper wire* from Canastota, NY to the facilities of Precision Cable Manufacturing Corporation, located at or near Garland, TX, restricted to the transportation of traffic originating at the above-named origin and destined to the above-named destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Precision Cable Manufacturing Corporation, 2722 National Place, Garland, TX 75040. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 147115 (Sub-1TA), filed May 15, 1979. Applicant: SCHALI TRANSPORT SYSTEMS, 5812 Hwy. 108, Oakdale, CA 95361. Representative: Robert Fuller, Suite 310, 13215 E. Penn St., Whittier, CA 90602. *Chocolate or Cocoa Liquor, Cocoa Butter, Cocoa Beans and Cocoa Press or Kibble Cake* in cartons, bags and blocks, from ports located in San Francisco and Alameda Counties, CA to Oakdale, CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Hershey Chocolate Company, 19 E. Chocolate Ave., Hershey, PA. SEND PROTESTS TO: N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 147504 (Sub-1TA), filed May 23, 1979. Applicant: RSSI TRUCK LINE, INC., 2909 No. Emporia, Wichita, KS 67219. Representative: William B. Barker, 641 Harrison, Topeka, KS 66603. *Contract carrier*: irregular routes, (1) *Asphalt and Roofing Materials*, from facilities of Roofers Service Supply, Inc., Wichita, KS to points in AR, CO, IL, IN, IA, KY, MO, NE, NM, OK, TN and TX. (2) *Materials and Supplies used in the manufacture and distribution of asphalt and roofing materials*, in the reverse direction, under contract with Roofers Service Supply, Inc., Wichita, KS, for 180 days. Supporting Shipper(s): Roofers Service Supply, Inc., 2909 No. Emporia, Wichita, KS 67219. Send protests to: M. E. Taylor, D/S, 101 Litwin Bldg., Wichita, KS 67202.

MC 147585 (Sub-1TA), filed June 8, 1979. Applicant: DICK WELLER, INC., Shoham Road, P.O. Box 313, Warehouse Point, CT 06088. Representative: Thomas W. Murrett, 342 North Main Street, West Hartford, CT 06117. *Common carrier*: irregular routes, (1) *Electrical supplies: viz. raceways, conduit fittings and receptacles, cord sets, conduits, reels of insulated copper wire, wire moldings, and (2) flexible air distributing duct tubing*, from the facilities of the Wiremold Co. in West Hartford and Rocky Hill, CT to Atlanta, GA, Los Angeles, CA, Detroit, MI, and ports of

entry at the U.S.-Canadian border at Erie and Niagara Counties, NY for 180 days. Supporting shipper(s): Wiremold Co., Woodlawn St., West Hartford, CT 06110. Send protests to: J. D. Perry, Jr., District Supervisor, I.C.C., 135 High Street, Hartford, CT.

MC 147405 (Sub-1TA), filed June 12, 1979. Applicant: C&C TRANSPORTATION, INC., 2501 Aztec NE., Albuquerque, NM 87107. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. *Contract carrier*: Irregular routes: *Vinyl floor covering and carpeting*, from Lancaster, Marietta and Marcus Hook, PA, and Salem, NJ, to the facilities of Standard Brands Paint Co., Inc., located at Torrance, CA, under a continuing contract(s) with Standard Brands Paint Co., Inc. of Torrance, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Standard Brands Paint Co., Inc., 4300 West 190th Street, Torrance, CA 90509. Send protests to: DSJ, ICC, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, NM 87101.

MC 147494 (Sub-1TA), filed June 11, 1979. Applicant: BOBBY KITCHENS, INC., P.O. Box 6161, Jackson, MS 39208. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. *Bags, bagging material, carpet backing material and twine, and raw materials used in the manufacture and distribution of bags*, except in bulk, from Talladega, AL; Savannah, Nashville, Elberton, and Valdosta, GA; New Orleans and Crowley, LA; Charlotte and Hickory, NC; Spartanburg, SC; Memphis, TN; Houston, TX; and Front Royal, VA to points in CA, OR, TX and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Friedman Bag Co., Inc., P.O. Box 3067, Terminal Annex, Los Angeles, CA 90051; Fisher Bag Co., 1560 First Ave., SO., Seattle, WA 98134. Send protests to: Alan C. Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39210.

MC 147245 (Sub-1TA), filed June 14, 1979. Applicant: GULICH TRUCKING, INC., Route 1, Roberts, WI 54023. Representative: Nancy Johnson, 103 E. Washington St., Crandon, WI 54520. *Crushed aggregate*, in dump vehicles, from Dresser, WI to Huntington, E. Gary, and Alexandria, IN; Detroit, MI; Earlham and Dubuque, IA; points in MN, N. Aurora, Chicago and its Commercial Zone, Moline and Northbrook, IL and Cameron, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bryan Dresser Trap Rock, Inc., Box 899, Minneapolis,

MN 55440. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 147415 (Sub-1TA), filed June 13, 1979. Applicant: SKY CORPORATION, P.O. Box 838, Bismarck, ND 58501. Representative: Charles E. Johnson, 418 East Rosser Avenue, Bismarck, ND 58501. *Sugar*, in bags, from the facilities of American Crystal Sugar Company near Moorhead, Crookston, and East Grand Forks, MN, to Bismarck and Minot, ND, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): American Crystal Sugar Company, 101 North Third, Moorhead, MN 56560. Send protests to: H. E. Farsdale, DS, ICC, Bureau of Operations, Room 268 Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 147515 (Sub-1TA), filed June 19, 1979. Applicant: CARSON PARKER, d.b.a. CLP ENTERPRISES, Cid Rd., Rt. Box 242-1AA, Denton, NC 27239. Representative: Terrell C. Clark, PO Box 25, Stanleytown, VA 24168. *Contract carrier*—Irregular routes: (1) *Empty containers* from Greensboro, Hickory, and High Point, NC to points in NC and (2) *new furniture* from points in NC to Greensboro, Hickory and High Point, NC, for 180 days. An underlying ETA seeks 90 days authority. Restricted to shipments having a prior or subsequent movement by rail. Supporting Shipper(s) Bloomingdale's of New York, 1000 Third Ave., New York, NY 10022. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd., Rm CC516, Charlotte, NC 28205.

By the Commission.
H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-22652 Filed 7-20-79; 8:45 am]
BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 142

Monday, July 23, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[M-236, Amdt 3; July 18, 1979]

CIVIL AERONAUTICS BOARD.

Notice of Addition to the July 19, 1979, Meeting.

TIME AND DATE: 10 a.m., July 19, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 15a Dockets 32858, 33849, 34270, 34644, 35056, 35678, 35848, 35999, 36001, and 36106; Southeast Airlines—Information on existing exemption authority and consideration of pending applications for new exemption authority (BIA).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: At the July 12 Board meeting, the Board decided to defer its decision on Southeast's certificate request in the Bahamas case, due to concerns about the carrier's request in the Bahamas case, due to concerns about the carrier's financial fitness. Because of these concerns, the public interest requires our immediate attention to Southeast's existing and pending exemption authority. Accordingly, the following members have voted that agency business requires that the Board meet on this item on less than seven days' notice

and that no earlier announcement of this addition was possible.

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1462-79 Filed 7-19-79; 3:15 pm]

BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., July 25, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Judicial matters.

CONTACT PERSON FOR MORE

INFORMATION: Jane Stuckey, 254-6314.

[S-1466-79 Filed 7-19-79; 3:57 pm]

BILLING CODE 6351-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Changes in Subject Matter of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, July 16, 1979, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Lewis G. Odom, Jr., acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of a recommendation regarding the liquidation of assets acquired by the Corporation from American Bank & Trust Company, New York, New York (Case No. 43,972-SR).

The Board then determined, on motion of Chairman Sprague, seconded by Director Isaac, concurred in by Mr. Odom, that Corporation business required the addition of the following matters to the agenda for consideration at the meeting, on less than seven days' notice to the public:

Application of the Dime Savings Bank of New York, New York (Brooklyn), New York, an insured mutual savings bank, for consent to merge, under its charter and title, with Mechanics Exchange Savings Bank, Albany, New York, also an insured mutual savings bank, and for consent to establish the eight offices of Mechanics Exchange Savings Bank as branches of the resultant bank.

Memorandum and resolution proposing a delegation of authority to the Director of the Division of Bank Supervision to approve management official interlocks under section 348.4(3) of the Corporation's rules and regulations.

The Board further determined, by the same majority vote, that the public interest did not require consideration of the matters added to the agenda in a meeting open to public observation; that the matters could be considered in a closed meeting by authority of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii)); and that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: July 16, 1979.

Federal Deposit Insurance Corporation,
Hoyle L. Robinson,
Executive Secretary.

[S-1458-79 Filed 7-19-79; 11:17 am]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Changes in Subject Matter of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, July 16, 1979, the corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Mr. Lewis G. Odom, Jr., acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition of the following matters to the agenda for consideration at the meeting, on less than seven days' notice to the public:

A memorandum and resolution proposing the final adoption of a new Part 344 of the

Corporation's rules and regulations, to be entitled "Recordkeeping and Confirmation Requirements for Securities Transactions."

A resolution expressing the Board's appreciation to Regional Director W. Harlan Sarsfield for his contributions in connection with the recent closings of two minority-owned Chicago banks.

A personnel journal appointing Mr. Frank Lloyd Skillern, Jr., as the Corporation's General Counsel.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: July 16, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[S-1457-79 Filed 7-19-79; 11:17 am]
BILLING CODE 6714-01-M

5

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Thursday, July 26, 1979, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public:

- Setting of dates for future meetings.
- Correction and approval of minutes.
- Advisory opinions: AO 1979-32, Eugene R. Hoyer (Kanawha County Democratic Executive Committee); AO 1979-36, Wright H. Andrews (Committee for Fauntroy).
- 1980 election and related matters.
- Use of advisory opinion procedure for past factual situations.
- Filing requirements for non-candidate committees.
- Appropriations and budget.
- Pending legislation.
- Classification actions.
- Routine administrative matters.

Portions closed to the public (following Open Session): Compliance, Personnel.

PERSONS TO CONTACT FOR INFORMATION:

Mr. Fred S. Eiland, Public Information Officer, Telephone: 202-523-4065.

Marjorie W. Emmons,
Secretary to the Commission.

[S-1465-79 Filed 7-19-79; 3:55 pm]
BILLING CODE 6715-01-M

6

July 18, 1979.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: July 25, 1979, 10 a.m.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Office of Public Information.

Power Agenda—330th Meeting, July 25, 1979, Regular Meeting (10 a.m.)

- CAP-1. Project No. 1855, New England Power Co.
- CAP-2. Docket No. E-9601, Lake Oswego Corp.
- CAP-3. Docket No. ER79-410, Puget Sound Power & Light Co.
- CAP-4. Docket No. ER79-411, Central Hudson Gas and Electric Corp.
- CAP-5. Docket No. ER79-407, Empire District Electric Co.
- CAP-6. Docket No. ER78-315, Consolidated Edison Co. of New York
- CAP-7. Docket No. ER79-402, Illinois Power Co.
- CAP-8. Docket No. ER79-403, Illinois Power Co.
- CAP-9. Docket No. ER79-426 and ER79-427, Florida Power & Light Co.
- CAP-10. Docket No. ER79-388, Central Hudson Gas & Electric Corp., Consolidated Edison Co. and Niagara Mohawk Corp.
- CAP-11. Docket No. ER78-402, Black Hills Power and Light Co.
- CAP-12. Docket No. ER78-1, Kansas Power & Light Co.
- CAP-13. Docket No. ER77-521, Arizona Public Service Co.
- CAP-14. Docket No. ER78-103, Indiana & Michigan Electric Co.
- CAP-15. Docket No. ER78-145, Arizona Public Service Co.
- CAP-16. Docket No. ER78-499, Union Electric Co.
- CAP-17. Docket No. ER78-417, Kentucky Utilities Co.
- CAP-18. Docket No. ER78-425, Minnesota Power & Light Co.
- CAP-19. Docket No. ER78-460 and ER78-483, Potomac Edison Co.
- CAP-20. Docket No. ER79-21, Missouri Utilities Co.
- CAP-21. Docket No. EL79-21, Ford Motor Credit Co., et al.

Miscellaneous Agenda—330th Meeting, July 25, 1979, Regular Meeting

- CAM-1. Public Service Co. of Colorado
- CAM-2. Docket No. RM79- , Publication of Prescribed Maximum Lawful Prices Under the Natural Gas Policy Act of 1978
- CAM-3. Docket No. RO79-5, Exxon Co. U.S.A.

Gas Agenda—330th Meeting, July 25, 1979, Regular Meeting

- CAG-1. Docket No. RP72-156 (PGA No. 79-2) (DCA No. 79-2), Texas Gas Transmission Corp.
- CAG-2. Docket No. RP78-58 (PGA No. 79-2A), South Texas Natural Gas Gathering Co.
- CAG-3. Docket No. RP73-65, Columbia Gas Transmission Corp.
- CAG-4. Docket Nos. RP76-15 and RP78-98, Algonquin Gas Transmission Co.
- CAG-5. Docket No. RP73-43 (PGA Nos. 79-2 and TT 79-3), Mid-Louisiana Gas Co.
- CAG-6. Docket No. RP75-105, Columbia Gulf Transmission Co., Docket No. RP75-106 (Consolidated Taxes), Columbia Gas Transmission Corp.
- CAG-7. Docket No. CI78-748, Atlantic Richfield Co., Docket No. CI78-924, Atlantic Richfield Co., Docket No. CI78-887, Northwest Exploration Co.
- CAG-8. Docket Nos. CI78-180, et al., Texaco Inc.
- CAG-9. Docket No. CI78-457, Terra Resources, Inc. (Successor in interest to Farmland International Energy Co.)
- CAG-10. Docket No. CP78-416, Northern Natural Gas Co., Southern Natural Gas Co. and United Gas Pipeline Co.
- CAG-11. Docket No. CP78-138, Transcontinental Gas Pipe Line Corp.
- CAG-12. Docket No. CP79-171, Sea Robin Pipeline Co., Docket No. CP79-172, Florida Gas Transmission Co.
- CAG-13. Docket No. CP79-326, Transwestern Pipeline Co. and Cities Service Gas Co.
- CAG-14. Docket No. CP79-236, Gulf Energy & Development Corp., Docket No. CP79-237, Zapata Gathering Co.
- CAG-15. Docket No. CP79-215, Texas Gas Transmission Corp.

Power Agenda—330th Meeting, July 25, 1979, Regular Meeting

I. Licensed Project Matters

- P-1. Docket No. E-9530, Pyramid Lake Paiute Tribe of Indians, Complainant, v. Sierra Pacific Power Company, Respondent, Truckee-Carson Irrigation District and Washoe County Water Conservation District, Additional Respondent
- P-2. Project No. 2216, Power Authority of the State of New York
- P-3. Project No. 271, Arkansas Power & Light Co.

II. Electric Rate Matters

- ER-1. Docket No. ER79-339, Arkansas Power & Light Co.
- ER-2. Docket No. ER79-416, Florida Power & Light Co.
- ER-3. Docket Nos. ER79-149 and E-9537, Public Service Co. of Indiana
- ER-4. Docket No. E-9181, New England Power Co.
- ER-5. Docket No. ER76-205, Southern California Edison Co.

Miscellaneous Agenda—330th Meeting, July 25, 1979, Regular Meeting

- M-1. Docket No. RM79- , filing of change in rate schedules—revised section 35.13; preparation and submission of data for

electric cost of service program—new FERC Form No. 61.

M-2. Docket No. RM79-6, procedures governing the collection and reporting of information associated with the cost of providing electric service.

M-3. Reserved.

M-4. Reserved.

M-5. Docket No. RM79-3, interim regulations implementing the Natural Gas Policy Act of 1978.

M-6. Docket No. RM79- , withdrawal of notice of determination.

M-7. Docket No. RM79-8, final rule prescribing 15 year minimum duration for new contracts for some sales of certain OCS gas.

M-8. Notices of preliminary findings.

M-9. Docket Nos. OR79-1, I&S-9089, IS79-4, FS79-1, and FS79-2, Williams Pipe Line Co.

Gas Agenda—330th Meeting, July 25, 1979, Regular Meeting

I. Pipeline Rate Matters

- RP-1. Docket No. RP74-41 (PGA No. 79-3 and DCA No. 79-2), Texas Eastern Transmission Corp.
- RP-2. Docket No. RP72-32 (PGA79-1a) and RP79-8, Kansas-Nebraska Natural Gas Co., Inc.
- RP-3. Docket Nos. RP72-142, RP76-135, and RP78-76 (PGA 79-2) (AP79-2), Cities Service Gas Co.
- RP-4 (A) Docket Nos. RP71-107 (phase II) and RP72-127, Northern Natural Gas Co. (B) Docket No. RP76-49, show case proceeding in re pre-order 499 Alaskan advances.
- RP-5. Docket Nos. RP76-96, RP77-57, and RP77-14, National Fuel Gas Supply Corp.
- RP-6. Docket No. RP75-30, United Gas Pipe Line Co.
- RP-7. Docket No. RP78-56, Northern Natural Gas Co.
- RP-8. Docket No. RP78-58, South Texas Natural Gas Gathering Co.

II. Pipeline Certificate Matters

- CP-1. Docket No. CP79-319, Consolidated Gas Supply Corp.
- CP-2. Docket No. CP79-253, New Jersey Zinc Division of G&W Natural Resources Group, a division of Gulf & Western Industries, Inc.
- CP-3. Docket Nos. CP75-358 and CP78-284, Tennessee Gas Pipeline Co., a division of Tenneco Inc.
- CP-4. Docket No. RP76-147, Southern Natural Gas Co. (Delta-Macon Brick and Tile Co.).
- CP-5. Docket No. RP72-99, Transcontinental Gas Pipe Line Co.

Kenneth F. Plumb,
Secretary.

[S-1460-79 Filed 7-19-79; 3:15 pm]
BILLING CODE 6450-01-M

7

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., July 26, 1979.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE

INFORMATION: Franklin O. Bolling, (202-377-6677).

MATTERS TO BE CONSIDERED:

Branch Office Application—Valley Federal Savings and Loan Association, Van Nuys, California.

Voluntary Termination of Insurance of Accounts and Withdrawal From Bank Membership—Spindale Savings and Loan Association, Spindale, North Carolina.

Application for Bank Membership—Warren Five Cents Savings Bank, Peabody, Massachusetts.

Application for Bank Membership and Insurance of Accounts—Slovenian Savings and Loan Association of Franklin—Conemaugh (Mutual), Conemaugh, Pennsylvania.

Preliminary Application for Conversion to a Federal Mutual Charter—United Savings and Loan Association, Mount Airy, North Carolina.

Conversion From a Federal Savings and Loan Association to a Mutual Savings Bank—Bellingham First Federal Savings and Loan Association, Bellingham, Washington.

Application for Permission to Convert to a Federal Chartered Stock Association—Home Federal Savings and Loan Association of Palm Beach, Palm Beach, Florida.

Board Resolution Leases.

Permission to Organize a New Federal Association—William R. Leary, et al., Houma, Louisiana.

Application for Permission to Convert to a Federal Chartered Stock Association Palmetto Federal Savings and Loan Association, Palmetto, Florida.

Amendment to Mobile Home Loans Regulation.

Regulation to Authorize Securing of Eurodollar Deposits.

Regulation Concerning Supervisory Authority.

No. 253, July 19, 1979.

[S-1463-79 Filed 7-19-79; 3:15 pm]
BILLING CODE 6720-01-M

8

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 12:30 p.m., Wednesday, July 18, 1979 (Note: Following a recess, the open meeting commenced at 2 p.m. as previously announced). The business of the Board required that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTER CONSIDERED: Federal Reserve Board officer compensation program. (This matter was originally announced for a meeting on Friday, July 20, 1979.)

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: July 18, 1979.

Griffith L. Garwood,
Deputy Secretary of the Board.

[S-1459-79 Filed 7-19-79; 3:15 pm]
BILLING CODE 6210-01-M

9

NATIONAL LABOR RELATIONS BOARD.

TIME AND DATE: 4 p.m., Wednesday, July 18, 1979.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: Selection of Officer-in-Charge for Hartford, Connecticut subregion.

CONTACT PERSON FOR MORE

INFORMATION: William A. Lubbers, Executive Secretary, Washington, D.C. 20570, Telephone: (202) 254-9430.

Dated: Washington, D.C., July 18, 1979.

By direction of the Board.

George A. Leet,

Associate Executive Secretary, National Labor Relations Board.

[S-1455-79 Filed 7-19-79; 11:17 am]
BILLING CODE 7545-01-M

10

NATIONAL NEIGHBORHOOD REINVESTMENT CORPORATION.

Meeting of the Board of Directors.

Pursuant to the Provisions of the Neighborhood Reinvestment Corporation Act (Title VI of the Housing and Community Development Amendments of 1978, P.L. 95-557), notice is hereby given of a meeting of the National Neighborhood Reinvestment Corporation.

TIME AND DATE: 2 p.m., July 25, 1979.

PLACE: Board Room, Sixth Floor, 1700 G Street NW., Washington, D.C.

STATUS: Open Meeting, Board of Directors.

CONTACT PERSON FOR MORE

INFORMATION: Donnie L. Bryant, 202-377-6480.

Agenda.—Call to Order and Remarks of Chairman—

Approval of Minutes—April 25, 1979 Meeting.

Executive Director's Report.

Selection of General Counsel.

Audit Committee Report.

Resolution: Investment of Corporate Funds.

Resolution: Authority for Budget

Reallocation.

Resolution: Selection of Auditing Firm.

**Personnel Committee Report—
Resolution: Selection of Retirement Fund.
Treasurer's Report.**

No. 5, July 18, 1979.

Donnie L. Bryant,
Secretary.

[S-1454-79 Filed 7-19-79; 11:17 am]

BILLING CODE 6720-01-M

11

UNITED STATES PAROLE COMMISSION:
National Commissioners (the
Commissioners presently maintaining
offices at Washington, D.C.
Headquarters).

TIME AND DATE: Wednesday, July 25,
1979, at 10 a.m.

PLACE: Room 828, 320 First Street, NW.,
Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be
taken at the beginning of the meeting.

MATTER TO BE CONSIDERED: Referrals
from Regional Commissioners of
approximately 15 cases in which
inmates of Federal prisons have applied
for parole or are contesting revocation
of parole or mandatory release.

**CONTACT PERSON FOR MORE
INFORMATION:** A. Ronald Peterson,
Analyst; (202) 724-3094.

[S-1461-79 Filed 7-19-79; 3:15 pm]

BILLING CODE 4410-01-M

12

SECURITIES AND EXCHANGE COMMISSION.
"FEDERAL REGISTER" CITATION OF
PREVIOUS ANNOUNCEMENT: [44 FR 41020
July 13, 1979].

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol
Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday,
July 10, 1979

CHANGES IN MEETING: Additional item.

The following additional item will be
considered at a closed meeting
scheduled for Thursday, July 19, 1979,
following the 10 a.m. open meeting:

Litigation matter.

Commissioners Loomis, Pollack and
Karmel determined that Commission
business required the above change and
that no earlier notice thereof was
possible.

At times changes in Commission
priorities require alterations in the
scheduling or meeting items. For further
information and to ascertain what, if
any, matters have been added, deleted

or postponed, please contact: Beverly
Rubman at (202) 755-1103.

July 18, 1979.

[S-1456-79 Filed 7-19-79; 11:17 am]

BILLING CODE 8010-01-M

13

[Meeting No. 1223]

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 9:30 a.m., Thursday, July
26, 1979.

PLACE: Conference Room B-32, West
Tower, 400 Commerce Avenue,
Knoxville, Tennessee.

STATUS: Open.

MATTERS FOR ACTION:

PERSONNEL ACTIONS:

1. Change of status for William V. Pace
from Manager of Minority Economic
Development Program to Assistant Director
of Commerce, Office of Community
Development.¹
2. Status changes relating to reorganization
of Power Operations, Office of Power,
Chattanooga, Tennessee.¹
3. Status changes relating to staffing of key
positions in the Office of Health and Safety.¹

**CONSULTING AND PERSONAL SERVICES
CONTRACTS:**

1. Renewal of consulting contract with
Gordon F. Palm & Associates, Inc., Lakeland,
Florida, for advice and assistance in
connection with studies relating to the
production of wet-process phosphoric acid,
requested by the Office of Agricultural and
Chemical Development.
2. Renewal of consulting contract with John
M. Kellberg, Knoxville, Tennessee, for advice
and assistance in connection with design and
construction of hydro and thermal power
plants, requested by the Office of Engineering
Design and Construction.
3. Renewal of consulting contract with
Francis B. Slichter, Annandale, Virginia, for
advice and assistance in connection with
design and construction of hydro projects,
requested by the Office of Engineering Design
and Construction.
4. Renewal of consulting contract with Roy
W. Carlson, Berkeley, California, for advice
and assistance in the field of concrete dam
construction and inspection, requested by the
Office of Engineering Design and
Construction.
5. Renewal of consulting contract with Dr.
Geno Saccomanno, Grand Junction,
Colorado, for services in connection with
environmental and safety aspects of the
effects of nuclear power plants, requested by
the Division of Occupational Health and
Safety.
6. Consulting contract with Jack E.
Gilleland, Signal Mountain, Tennessee, for
advice and assistance in connection with
TVA's power and energy-related programs,
requested by the Office of Power.

¹ These items were approved by individual Board
members. This would give formal ratification to the
Board's action.

7. Renewal of consulting contract with John
T. Boyd Company, Pittsburgh, Pennsylvania,
for advice and assistance in connection with
TVA's coal supply, requested by the Office of
Power.

8. Contract with Coopers & Lybrand, New
York, New York, for audit of TVA's financial
statements for fiscal year 1979, requested by
the Division of Finance.

PURCHASE AWARDS:

1. Req. No. 577543 (Reissue)—Indefinite
quantity term contract for hot rolled steel
bars and small shapes for any TVA nuclear
project or warehouse.
2. Req. No. 823215—Major portion of plant
principal piping systems for Yellow Creek
Nuclear Plant.
3. Req. No. 825342—Insulated conductors,
types PXJ and PXMJ, for Hartsville and
Phipps Bend Nuclear Plants.

PROJECT AUTHORIZATIONS:

1. No. 3451—Addition to the bulk solid
fertilizer storage building at the National
Fertilizer Development Center.
2. No. 3361.2—Amendment to project
authorization for railroad tank car
replacements for TVA's tank car fleet used
for shipping experimental TVA fertilizer.

POWER ITEMS:

1. New power contract with city of
McMinnville, Tennessee.
2. New power contract with city of
Gallatin, Tennessee.
3. New power contract with city of
Harriman, Tennessee.
4. Memorandum governing power supply to
Office of Agricultural and Chemical
Development at Wilson Dam.
5. Letter agreement with Electric Board of
Guntersville, Alabama, amending lease-
purchase agreement to provide for purchase
of approximately 2.35-mile section of TVA's
Guntersville Dam No. 2—Alberville Primary
48-kV Line; and bill of sale and quitclaim
deed conveying the section of line.
6. Policy statement relating to contract
demand reductions for commercial and
industrial customers to encourage adoption of
conservation and load management
techniques.
7. Agreement with Lakeland Retirement
Community, Inc., covering arrangements for
cooperation in construction and evaluation of
multiresident retirement complex in Marshall
County, Kentucky, which will demonstrate
energy conserving concepts.

REAL PROPERTY TRANSACTIONS:

1. Filing of condemnation suits.

UNCLASSIFIED:

1. Settlement of litigation brought by Ralph
L. Lankford and wife, Peggy Lankford, against
TVA and its employee, Ralph Maples, as the
result of an automobile accident.
2. Revised TVA policy code relating to
selection for appointment, promotion,
transfer, and retention of employees.
3. Amendment to agreement with
Department of Housing and Urban
Development for flood insurance studies.

CONTACT PERSON FOR MORE

INFORMATION: James L. Bentley, Director
of Information, or a member of his staff
can respond to requests for information
about this meeting. Call (615) 632-3257,
Knoxville, Tennessee. Information is
also available at TVA's Washington
Office (202) 245-0101.

Dated: July 19, 1979.

[S-1464-79 Filed 7-19-79; 3:55 pm]

BILLING CODE 8120-01-M

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federal register

Monday
July 23, 1979

Part II

Environmental Protection Agency

Stationary Internal Combustion Engines;
Standards of Performance for New
Stationary Sources and Addition to the
List of Categories of Stationary Sources

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1099-5]

[40 CFR Part 60]

Stationary Internal Combustion Engines; Standards of Performance for New Stationary Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The proposed standards, which would apply to facilities that commence construction 30 months after today's date, would limit emissions of nitrogen oxides (NO_x) from new, modified, and reconstructed stationary gas, diesel, and dual-fuel internal combustion (IC) engines to 700 parts per million (ppm), 600 ppm, 600 ppm, respectively at 15 percent oxygen (O₂) on a dry basis. A revision to Reference Method 20 for determining the concentration of nitrogen oxides and oxygen in the exhaust gases from large stationary IC engines is also proposed.

The standards implement the Clean Air Act and are based on the Administrator's determination that stationary IC engines contribute significantly to air pollution. The intent is to require new, modified, and reconstructed stationary IC engines to use the best demonstrated system of continuous emission reduction, considering costs, non-air quality health, and environmental and energy impacts.

A public hearing will be held to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed standards.

DATES: Comments. Comments must be received on or before September 21, 1979.

Public Hearing. The public hearing will be held on August 22, 1979 beginning at 9:30 a.m. and ending at 4:30 p.m.

Request to Speak at Hearing. Persons wishing to attend the hearing or present oral testimony should contact EPA by August 15, 1979.

ADDRESSES: Comments. Comments should be submitted to Mr. Jack R. Farmer, Chief, Standards Development Branch (MD-13), Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Public Hearing. The public hearing will be held at the Environmental Research Center Auditorium, Room

B101, Research Triangle Park, N.C. 27711. Persons wishing to attend or present oral testimony should notify Mary Jane Clark, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5271.

Standards Support Document. The support document for the proposed standards may be obtained from the EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Standards Support and Environmental Impact Statement: Proposed Standards of Performance for Stationary Internal Combustion Engines," EPA-450/3-78-125a.

Docket. The Docket, number OAQPS-79-5, is available for public inspection and copying at the EPA's Central Docket Section, Room 2903 B, Waterside Mall, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Don R. Goodwin, Director, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5271.

Table A.—Summary of Internal Combustion Engine New Source Performance Standard

Internal combustion engine size and fuel type	NO _x emission limit* (ppm)	Applicability date
Diesel Engines > 560 CID/cyl or > 1500 CID/rotor	600	30 months from date of proposal (i.e., today's date)
Dual-Fuel Engines > 560 CID/cyl or > 1500 CID/rotor	600	30 months from date of proposal (i.e., today's date)
Gas Engines > 350 CID/cyl or ≥ 8 cylinders and > 240 CID/cyl or 1500 > CID/rotor	700	30 months from date of proposal (i.e., today's date)

*NO_x emission limit adjusted upward for internal combustion engines with thermal efficiencies greater than 35 percent. Measured NO_x emissions adjusted to standard atmospheric conditions of 101.3 kilopascals (29.92 inches mercury), 29.4 degrees Centigrade (85 degrees Fahrenheit), and 17 grams moisture per kilogram dry air (75 grains moisture per pound of dry air) in determining compliance with the NO_x emission limit.

The proposed standards would be referenced to standard atmospheric conditions of 101.3 kilopascals (29.92 inches mercury), 29.4 degrees centigrade (85 degrees Fahrenheit), and 17 grams moisture per kilogram dry air (75 grains moisture per pound of dry air). Measured NO_x emission levels, therefore, would be adjusted to standard atmospheric conditions by use of ambient correction factors included in the standard. Manufacturers, owners, or operators may also elect to develop custom ambient condition correction factors, in terms of ambient temperature, and/or humidity, and/or ambient pressure. All correction factors would have to be substantiated with data and

SUPPLEMENTARY INFORMATION: Proposed Standards

The proposed standards, which are summarized in Table A, would apply to all new, modified, and reconstructed stationary internal combustion engines as follows:

1. Diesel and dual-fuel engines greater than 560 cubic inch displacement per cylinder (CID/cyl).

2. Gas engines greater than 350 cubic inch displacement per cylinder (CID/cyl) or equal to or greater than eight cylinders and greater than 240 cubic inch displacement per cylinder (CID/cyl).

3. Rotary engines greater than 1500 cubic inch displacement per rotor.

The proposed standards, which would go into effect 30 months after the date of proposal (i.e., today's date), would limit the concentration of NO_x in the exhaust gases from stationary gas, diesel and dual-fuel IC engines to 0.0700 percent by volume (700 ppm), 0.600 percent by volume (600 ppm), and 0.0600 percent by volume (600 ppm), respectively, at 15 percent oxygen (O₂) on a dry basis. These emission limits are adjusted upward linearly for IC engines with thermal efficiencies greater than 35 percent.

approved for use by EPA before they could be used for determining compliance with the proposed standards.

Emergency-standby IC engines and all one- and two-cylinder reciprocating gas engines would be exempt from the NO_x emission standard.

Summary of Environmental and Economic Impacts

The proposed standards would reduce uncontrolled NO_x emissions levels from stationary IC engines by about 40 percent. Based on industry growth projections, a reduction in national NO_x emissions of about 145,000 megagrams per year (160,000 tons per year) would

be realized in the fifth year after the standards go into effect. Except for a few local areas (e.g., Los Angeles), there are currently no state standards limiting NO_x emissions from IC engines.

The proposed standards, however, would increase uncontrolled CO and HC emissions levels from stationary IC engines. Based on industry growth projections, an increase in national CO emissions of about 218,000 megagrams (238,000 tons) annually would be realized in the fifth year after the standards go into effect. Similarly, an increase in national total HC emissions of about 4600 megagrams (5000 tons) annually would be realized in the fifth year after the standards go into effect.

The large increase in CO emissions is due primarily to carbureted or naturally aspirated gas engines. These engines operate closer to stoichiometric conditions under which a small change in the air-to-fuel ratio results in a large increase in CO emissions.

Though total national CO emissions would increase significantly, ambient air CO concentrations in the immediate vicinity of these carbureted or naturally aspirated gas engines would not be adversely affected. As a result of the proposed standards of performance, the CO emissions from a naturally aspirated engine would increase about 180 percent. NO_x emissions from the same engine, however, would decrease concurrently about 40 percent.

Thus, there exists a trade-off between NO_x emissions reduction and CO emissions increase, particularly for carbureted or naturally aspirated gas engines. It should be noted though that CO emissions are considered to be a local problem since CO readily reacts to form CO₂. Additionally, most naturally aspirated gas engines are operated in remote locations where CO is not a problem. NO_x emissions, however, are linked to the formation of photochemical oxidants and are subject to long range transport. Also, NO_x emission control techniques are essentially design modifications, not add-on equipment, therefore, NO_x emissions reductions are much harder to achieve than CO or HC emissions reductions which may be achieved more easily from other sources.

One alternative is to propose a CO emissions limit based on the use of oxidizing catalysts. These catalysts can provide CO and HC emissions reductions on the order of 90 percent. Initial capital costs are high, however, averaging about \$7500 for a typical 1000 horsepower naturally aspirated gas engine, or about 15 percent of the

purchase price of this engine. EPA feels these costs for control of CO emissions are unreasonable.

The trade-off between NO_x and CO emissions appears reasonable. However, EPA invites comments from state and local air pollution control agencies, environmental groups, the industry, and other interested individuals concerning all aspects of the attractiveness of these standards which reduce NO_x emissions at the expense of CO emissions.

Industry has requested a waiver from the national mobile source standards for diesel engines used in light duty vehicles. Based on their tests, industry believes that the application of NO_x control techniques to these mobile diesel engines causes increased particulate (smoke) emissions. The plumes from most well maintained large-bore stationary IC engines, however, are virtually invisible when the engine is operating at steady state. Though excessive retard will cause diesel and dual fuel units to emit smoke, the NO_x control results used in the development of this standard were only considered if the plume did not exceed ten percent visibility. Therefore, EPA feels the NO_x control techniques used to meet the proposed standards for large stationary IC engines will not cause excessive visible and/or particulate emissions. However, EPA invites comments on the aspects of the proposed standards which reduce NO_x emissions at the expense of visible and/or particulate emissions.

There would be essentially no adverse water pollution, solid waste, or noise impact resulting from the proposed standards.

The energy impact of the proposed standards would be small. Turbocharged gas IC engine fuel consumption would be increased about two percent. Dual-fuel IC engine fuel consumption would be increased about three percent. Diesel IC engine fuel consumption would be increased about seven percent. Naturally aspirated gas IC engine fuel consumption would be increased by about eight percent. The fifth year energy impact of the proposed standards would be equivalent to an increase in fuel oil consumption of about 1.5 million barrels of oil per year (4,300 barrels of oil per day). This represents an increase of only 0.03 percent of the oil projected to be imported in the United States five years after the standards go into effect. In addition, these estimates are based on "worst-case" assumptions which yield the greatest energy impacts, and actual impacts are expected to be lower.

The economic impacts of the proposed standards are considered reasonable. The proposed standards would increase IC engine manufacturers' total capital investment requirements for developmental testing of engine models by about \$5 million. These expenditures would be made over a two year period. Analysis of financial reports and other public financial information indicates that the manufacturers' overhead budgets are sufficient to support these requirements without adverse impact on their financial positions. The proposed standards would not give rise to a significant sales advantage for one or two manufacturers over competing manufacturers. The maximum intra-industry sales losses, based on "worst-case" assumptions, would be about six percent.

The proposed standards would increase the total annualized costs to users of a large stationary IC engines of all fuel types by about two to seven percent. The capital cost or purchase price of a large stationary IC engine would increase by about two percent.

The proposed standards would increase the total annualized costs for all engine users by about \$32 million in the fifth year after standards go into effect. The total capital investment requirements for all users would equal about 9.6 million on a cumulative basis over the first five years the standards are in effect.

These impacts would result in price increases for the end products or services provided by the industrial and commercial users of large stationary IC engines. The electric utility industry would pass on a price increase after five years of 0.02 percent. After five years, delivered natural gas prices would increase 0.04 percent. Even after a full phase-in period of 30 years, during which new controlled engines would replace all existing uncontrolled engines, the electric utility industry would pass on a price increase of only 0.1 percent. Delivered natural gas prices would increase only 0.3 percent.

Rationale—Selection of Source for Control

Stationary IC engines are sources of NO_x, hydrocarbons (HC), particulates, sulfur dioxide (SO₂), and carbon monoxide (CO) emissions. NO_x emissions from IC engines, however, are of more concern than emissions of these other pollutants for two reasons. First, compared to total U.S. emissions for each pollutant, NO_x is the primary pollutant emitted by stationary engines. Second, EPA has assigned a high priority to development of standards of

performance limiting NO_x emissions. A study by Argonne National Laboratory, "Priorities and Procedures for Development of Standards of Performance for New Stationary Sources of Atmospheric Emissions" (EPA-450/3-76-020), concluded that national NO_x emissions from stationary sources would increase by more than 40 percent between 1975 and 1990 in the absence of additional emission controls. Applying best technology to all sources would reduce this increase but would not prevent it from occurring. This unavoidable increase in NO_x emissions is attributable largely to the fact that current NO_x emission control techniques are based on combustion redesign. In addition, few NO_x emission control techniques can achieve large (i.e., in the range of 90 percent) reductions in NO_x emissions. Consequently, EPA has assigned a high priority to the development of standards of performance for major NO_x emission sources wherever significant reductions in NO_x can be achieved. Studies have shown that IC engines are significant contributors to total U.S. NO_x emissions from stationary sources. Internal combustion engines account for 16.4 percent of all stationary source NO_x emissions, exceeded only by utility and packaged boilers.

Studies have investigated the effect that standards of performance would have on nationwide emissions of particulates, NO_x, SO_x, HC, and CO from stationary sources. The "Priority List for New Source Performance Standards under the Clean Air Act Amendments of 1977," which was proposed in the August 31, 1978, Federal Register, ranked sources according to the impact, in tons per year, that standards promulgated in 1980 would have on emissions in 1990. This ranking placed spark ignition IC engines second and compression ignition IC engines third on a list of 32 stationary NO_x emission sources. Consequently, stationary IC engines have been selected for development of standards of performance.

Selection of Pollutants

Nitrogen oxides, hydrocarbons, and carbon monoxide.—Stationary IC engines emit the following pollutants: NO_x, CO, HC, particulates, and SO_x. The primary pollutant emitted by stationary IC engines is NO_x, accounting for over six percent (or 16 percent of all stationary sources) of the total U.S. inventory of NO_x emissions.

Stationary IC engines also emit substantial quantities of CO and HC. Numerous small (1-100 hp) spark

ignition engines, which are similar to automotive engines, account for about 20 percent of the uncontrolled HC emissions and about 80 percent of the uncontrolled CO emissions. The large annual production of these small spark ignition engines (approximately 12.7 million), however, makes enforcement of a new source performance standard for this group difficult.

Large-bore engines, which account for three-quarters of NO_x emissions from stationary IC engines, contribute relatively small amounts to nationwide HC and CO emissions, especially if one considers that 80 percent of the HC emissions from large-bore IC engines are methane. An additional factor in considering CO and HC control is that inherent engine characteristics result in a trade-off between NO_x control and control of CO and HC.

As mentioned before, in some cases, particularly naturally aspirated gas engines, the application of NO_x emission control techniques could cause increases in CO and HC emissions. This increase in CO and HC emissions is strictly a function of the engine operating position relative to stoichiometric conditions, not the NO_x control technique. These engines operate closer to stoichiometric conditions under which a small change in the air-to-fuel ratio results in a large increase in CO emissions. Any increase in CO and HC emissions, however, represents an increase in unburned fuel and hence a loss in efficiency. Since IC engines manufacturers compete with one another on the basis of engine operating costs, which is primarily a function of engine operating efficiency, the marketplace will effectively ensure that CO and HC emissions are as low as possible following application of NO_x control techniques.

Though total national CO emissions would increase significantly, ambient air CO concentrations in the immediate vicinity of these carbureted or naturally aspirated gas engines would not be adversely affected. As a result of the proposed standards of performance, the CO emissions from a naturally aspirated engine would increase about 180 percent. NO_x emissions from the same engine, however, would decrease concurrently about 40 percent.

Thus, there exists a trade-off between NO_x emissions reduction and CO emissions increase, particularly for carbureted or naturally aspirated gas engines. It should be noted though that CO emissions are considered to be a local problem as CO readily reacts to form CO₂. Additionally, most naturally aspirated gas engines are operated in

remote locations where CO is not a problem. NO_x emissions, however, are linked to the formation of photochemical oxidants and are subject to long range transport. NO_x emissions reductions are also much harder to achieve than CO or HC emissions reductions which may be achieved more easily from other sources.

In addition, promulgation of CO standard of performance could, in effect, preclude significant NO_x control. NO_x emissions are primarily a function of combustion flame temperature. Decreasing the air-to-fuel ratio of a gas engine lowers the flame temperature and consequently reduces NO_x formation. As will be discussed later, this technique is the most effective means of reducing NO_x emissions from gas engines. CO emissions, however, are primarily a function of oxygen availability. Decreasing the air-to-fuel ratio reduces oxygen availability and consequently increases CO emissions. Hence naturally aspirated gas engines show a pronounced rise in CO emissions as the air-to-fuel mixture becomes richer (i.e., decreasing air-to-fuel ratio). Thus, placing a limit on CO emissions from internal combustion engines could effectively limit the decrease in the air-to-fuel ratio which would be applied to reduce NO_x emissions from naturally aspirated gas engines and, consequently, could limit the amount of NO_x emissions reduction achievable.

One alternative is to propose a CO emissions limit based on the use of oxidizing catalysts. These catalysts can provide CO and HC emissions reductions on the order of 90 percent. Initial capital costs are high, however, averaging about \$7500 for a typical 1000 horsepower naturally aspirated gas engine, or about 15 percent of the purchase price of this engine. EPA feels these costs for control of CO emissions are unreasonable.

The trade-off between NO_x and CO emissions appears reasonable, and consequently, only NO_x emissions from large stationary IC engines were selected for control by standards of performance.

EPA, however, invites comments from state and local air pollution control agencies, environmental groups, the industry, and interested individuals concerning all aspects of the attractiveness of these standards which reduce NO_x emissions at the expense of CO emissions.

Particulate.—Virtually no data are available on particulate emission rates from stationary IC engines. It is believed, however, that particulate emissions from stationary IC engines are

very low because the plumes from most of these engines are not visible. Therefore, neither particulate emissions nor visible emissions (plume opacity) were selected for control by standards of performance.

Sulfur oxides.—Sulfur oxides (SO_x) emissions from an IC engine depend on the sulfur content of the fuel and the fuel consumption of the engine. Scrubbing of IC engine exhausts to control SO_x emissions does not appear to be reasonable from an economic viewpoint. Therefore, the only viable means of controlling SO_x emissions would be combustion of low sulfur fuels. IC engines, however, currently burn low-sulfur fuels and will likely continue to do so because of the lower operating and maintenance costs associated with combustion of these fuels. Therefore, SO_x emissions were not selected for control by standards of performance.

Selection of Affected Facilities

A relatively small number of large-bore IC engines account for over 75 percent of all NO_x emissions from stationary engines. The remaining smaller bore IC engines, which make up the majority of all engine sales, are, from a NO_x emission standpoint, a considerably less significant segment of the industry. These engines have different emission characteristics due to their size, design, and operating parameters. The NO_x reduction technology developed for use on the large-bore IC engines may not be directly applicable to these smaller engines. Therefore, at this time, only large-bore engines have been selected for control by standards of performance.

Diesel engines.—The primary high usage (large emissions impact) domestic application of large-bore diesel engines during the past five years has been for oil and gas exploration and production. The market for prime (continuous) electric generation and other industrial applications all but disappeared after the 1973 oil embargo, but was quickly replaced by sales of standby electric units for building services, utilities, and nuclear power stations. The rapid growth in the oil and gas production market occurred because diesel units are being used on oil drilling rigs of various sizes. Sales of engines to export applications have also grown steadily since 1972, and are now a major segment of the entire sales market.

Medium-bore as well as large-bore engines are sold for oil and gas exploration, standby service, and other industrial applications. Applying standards of performance to medium-bore engines serving the same

applications as large-bore designs would increase the number of affected facilities from about 200 to about 2,000 units per year (based on 1976 sales information) but consequently further reduce national NO_x emissions. Medium-bore sales accounted for significant NO_x emissions in 1976 (approximately 12,500 megagrams). It is estimated that approximately 25 percent, or about 500 of these units in high usage applications, accounted for most of the medium-bore NO_x emissions, since most of the remainder of these units were sold as standby generator sets. Though the potential achievable NO_x reduction is significant, this alternative causes the standard to apply to lower power engine models with fewer numbers of cylinders competing with other unregulated engines in different stationary markets. Additionally, considering this large number, and the remoteness and mobility of petroleum applications, this alternative would create serious enforcement difficulties. Consequently, a definition is required that distinguishes large-bore engines competing with medium-bore high power engines used for baseload electrical generation from large-bore engines competing solely with other large-bore engines.

One approach would be to define diesel engines covered by standards of performance as those exceeding 560 cubic inch displacement per cylinder (i.e., CID/cyl). IC engines below this size are generally used for different applications than those above it. Considering the sizes and displacements offered by each diesel manufacturer and the applications served by diesel engines, this definition was selected as a reasonable approach for separating large-bore engines that compete with medium-bore engines from large-bore engines that compete solely with each other.

Dual-fuel engines.—The concept of dual-fuel operation was developed to take advantage of both compression ignition performance and inexpensive natural gas. These engines have been used almost exclusively for prime electric power generation. Shortages of natural gas and the 1973 oil embargo have combined to significantly reduce the sales of these engines in recent years. The few large-bore units that were sold (11 in 1976) were all greater than 350 CID/cyl.

Although a greater-than-350-CID/cyl limit would subject nearly all new dual-fuel sources to standards of performance, the criterion chosen to define affected diesel engines (i.e.,

greater than 560 CID/cyl) has also been selected for dual-fuel engines. The primary reason is that supplies of natural gas are likely to become even more scarce; thus dual-fuel engines will likely operate as diesel engines.

Gas engines.—The primary application of large-bore gas engines during the past five years has been for oil and gas production. The primary uses are to power gas compressors for recovery, gathering, and distribution. About 75 to 80 percent of all gas engine horsepower sold during the past five years was used for these applications. During this time, sales to pipeline transmission applications declined. Pipeline applications combined with standby power, electric generation, and other services (industrial and sewage pumping) accounted for the remaining 20 to 25 percent of horsepower sales. The growth of oil and gas production applications during this period corresponds to the increasing efforts to find new, or to recover marginal, gas reserves and distribute them to the existing pipeline transmission network.

It is estimated that the 400,000 horsepower of large-bore gas engine capacity sold for oil and gas production applications in 1976 emitted 35,000 megagrams of NO_x emissions, or nearly three times more NO_x than was emitted by the 200,000 horsepower of large-bore diesel engine capacity sold for the same application in that year. Thus, large-bore gas engines are primary contributors of NO_x emissions from new stationary IC engines, and standards of performance should be directed particularly at these sources.

If affected engines were defined as those greater than 350 CID/cyl, then all competing manufacturers of large-bore gas engines except one would be affected by the proposed standards of performance. This one manufacturer produces primarily medium-bore engines. Therefore, a 350 CID/cyl limit would give this one manufacturer an unfair competitive advantage over other large-bore engine manufacturers. Consequently, this definition should be lowered, or another definition adopted, to include the manufacturer in question. Either of the following two definitions would subject this manufacturer's gas engine to standards of performance:

- Greater than 240 CID/cyl
- Greater than 350 CID/cyl or greater than or equal to 8-cylinder and greater than 240 CID/cyl

Both measures would essentially include only this manufacturer's gas engines which compete with other manufacturer's large-bore gas engines. The second definition has a slight

advantage over the first since it includes only gas engines produced by all manufacturers that have competitor counterparts of about the same power. Therefore, this second definition of affected gas engines was selected.

Rotary engines.—Rotary or wankel type engines have only recently been introduced as power sources in package stationary applications. These internal combustion engines convert energy in the fuel directly to rotary motion rather than through reciprocating pistons and a crankshaft. These engines consist of a triangular rotor rotating eccentrically inside an epitrochoidal housing.

Until recently the largest rotary engine in production was 90 cubic inches per rotor. Now, however, one manufacturer is producing a rotary engine with a displacement of 2,500 cubic inches per rotor. This engine is being offered as a one rotor model rated at 550 horsepower and a two rotor unit rated at 1,100 horsepower.

The displacement of the rotary engine is defined as the volume contained in the chamber, bordered by one flank of the rotor and the housing, at the instant the inlet port closes. These engines are presently sold as naturally aspirated gaseous fueled units primarily for fuel gathering compressors and power generation on offshore platforms.

NO_x emissions from these large rotary engines are similar to NO_x emissions from naturally aspirated four stroke, gaseous fuel reciprocating engines. Further sales of these engines are estimated to be 50,000 horsepower per year over the next five years. Since these large rotary engines contribute to NO_x emissions, standards of performance for new stationary IC engines should include these sources.

Due to design differences, rotary engines develop more power per cubic inch displacement than reciprocating engines. If the lower cutoff limit for affected rotary engines were 350 CID/rotor—in an attempt to equate displacement per cylinder and also use the same limit as for gaseous fueled engines—then rotary engines of approximately 100 horsepower would be regulated by standards of performance. Thus rotary engine manufacturers would be at a competitive disadvantage with unregulated reciprocating engine manufacturers in this power range. To ensure that the standards of performance do not alter the competitive position of the two types of engines, the lower size limit for affected rotary engines should correspond to an engine whose power output is the same as the smallest affected reciprocating unit.

Based on this criterion of equivalent horsepower, it is estimated that rotary engines greater than 1,500 CID/rotor would compete with reciprocating engines greater than 350 CID/cyc. Therefore, a greater than 1,500 CID/rotor definition of affected rotary engines is selected to subject these engines to standards of performance. The definition applies to rotary engines of all fuel types.

Exemptions.—One and two cylinder reciprocating engines could be covered by the above definitions. These engines, however, account for less than 10 percent of all engine horsepower and therefore are less significant NO_x emitters. Additionally, the engines operate at a small fraction of their power output and probably have lower NO_x emissions than the larger, high rated engines. Therefore, all one and two cylinder reciprocating engines were exempted from standards of performance.

Emergency standby engines also require special consideration. These engines operate less than 200 hours per year under all but very unusual circumstances. Consequently, they add relatively little to regional or national total NO_x emissions. The largest category of emergency standby units is for nuclear power plants, where these engines provide power for the pumps used for cooling the reactors. These engines must attain a set speed in ten seconds and must assume full rated load in 30 seconds. In some cases, application of the demonstrated NO_x control technique limits the responsiveness of these engines in emergency situations. Therefore, all emergency standby engines are exempted from standards of performance.

Selection of Best System of Emission Reduction

Four emission control techniques, or combinations of these techniques, have been identified as demonstrated NO_x emission reduction systems for stationary large-bore IC engines. These techniques are: (1) Retarded ignition or fuel injection, (2) air-to-fuel ratio changes, (3) manifold air cooling, and (4) derating power output (at constant speed). In general, all four techniques are applied by changing an engine operating adjustment.

Fuel injection retard is the most effective NO_x control technique for diesel engines. Similarly, air-to-fuel ratio change is the most effective NO_x control technique for gas engines. Both retard and air-to-fuel ratio changes are

effective in reducing NO_x emissions from dual-fuel engines.

Other NO_x emission control techniques exist but are not considered feasible alternatives. Of these other techniques, catalytic reduction of NO_x emissions through the use of systems similar to automobile catalyst systems is probably the first to come to mind. Most large stationary IC engines operate at air-to-fuel ratios that are typically much greater than stoichiometric, and consequently the engine exhaust is characterized by high oxygen (O₂) concentrations. Existing automobile catalytic converters, however, operate near stoichiometric conditions (i.e., low exhaust O₂ concentrations). These automobile catalysts are not effective in reducing NO_x in the presence of high O₂ concentrations.

Consequently, entirely different catalyst systems would be needed to reduce NO_x emissions from large stationary IC engines. Although such catalyst systems are currently under development and have been demonstrated for one very narrow application (i.e., fuel-rich naturally aspirated gas engines), they have not been demonstrated for the broad range of IC engines manufactured, such as turbocharged engines, fuel-lean gas engines, or diesel engines. For these engines the reduction of NO_x by ammonia injection over a precious metal (e.g., platinum) catalyst appears promising with NO_x reductions of approximately 90 percent having been reported; however, the cost of such a system is high.

For a typical 1000 horsepower engine approximately two cubic feet of honeycomb catalyst (platinum based) would be required to ensure proper operation of the system. The cost of the catalyst was estimated at \$1,500/cubic foot (in 1973). Assuming that the engine costs \$150/hp and that the cost of the catalyst accounts for about one-half the cost of the whole system (container, substrate, and catalyst), the capital investment for this control system represents approximately four percent of the engine purchase price.

The amount of ammonia required for an ammonia/catalyst NO_x reduction system will depend on the NO_x emission rate (g/hp-hr). Based on uncontrolled NO_x emission rates of 9 to 22 g/hp-hr, and the cost of \$150/ton for the ammonia, the cost impact of injecting ammonia is approximately 5 to 15 percent of the total annual operating costs (\$/hp-hr) for natural gas engines. When this operating cost is combined with the capital cost of the catalytic system discussed above, the total cost

increase is about 25 percent. Therefore, in continuous service applications this system is expensive compared to control techniques such as retard or air-to-fuel changes.

It is also important to note that the consumption of ammonia can be expressed as a quantity of fuel since natural gas is generally used to produce ammonia. Assuming a conservative NO_x emission rate of 20 g/hp-hr, and engine heat rate of 7500 Btu/hp-hr, a heating value of 21,800 Btu/lb for natural gas, and a requirement for approximately 900 lbs of gas per ton of ammonia produced, then the ammonia necessary for the catalytic reduction has the same effect on the supply of natural gas as a two percent increase in fuel consumption. Additional fuel is required to operate the plant which produces the ammonia.

Catalytic reduction, therefore, is currently not a demonstrated NO_x emission control technique which could be used by all IC engines. Consequently, although catalytic reduction of NO_x emissions could be used in a few isolated cases to comply with standards of performance, it could not be used as the basis for developing standards of performance which are applicable to all IC engines.

The data and information presented in the Standards Support and Environmental Impact Statement clearly indicate that the four demonstrated control techniques mentioned above will reduce NO_x emissions from IC engines. Due to inherent differences in the uncontrolled emission characteristics of various engines, it is difficult to draw conclusions from this data and information concerning the ability of these emission control techniques to reduce NO_x emissions from all IC engines to a specific level. In general, engines with high uncontrolled NO_x emissions levels have relatively high controlled NO_x emissions levels and engines with low uncontrolled NO_x emissions levels have relatively low controlled NO_x emissions levels. To eliminate these inherent differences in NO_x emission characteristics among various engines, the data were analyzed in terms of the degree of reduction in NO_x emissions as a function of the degree of application of each emission control technique.

Ignition retard in excess of eight degrees in diesel engines frequently leads to unacceptably high exhaust temperatures, resulting in exhaust valve and/or turbocharger turbine damage. Similarly, changes in the air-to-fuel ratio in excess of five percent in gas engines frequently lead to excessive misfiring or detonation which could lead to a serious

explosion in the exhaust manifold. Eight degrees of ignition retard in diesel engines and five percent change in air-to-fuel ratios in gas engines yield about a 40 percent reduction in NO_x emissions. Consequently, in light of these limitations to the application of these emission control techniques, it is apparent that a 40 percent reduction in NO_x emissions is the most stringent regulatory option which could be selected as the basis for standards of performance. An alternative of 20 percent NO_x emission reduction was also considered a viable regulatory option which could serve as the basis for standards of performance.

Environmental impacts.—Standards of performance based on alternative I (20 percent reduction) would reduce national NO_x emissions by 72,500 megagrams annually in the fifth year after the standards went into effect. In contrast, standards of performance based on alternative II (40 percent reduction) would reduce national NO_x emissions by about 145,000 megagrams annually in the fifth year after the standards went into effect. Thus, standards of performance based on alternative II would have a much greater impact on national NO_x emissions than standards based on alternative I.

Standards of performance based on either alternative would, with the exception of naturally aspirated gas engines, result in a small increase in carbon monoxide (CO) and hydrocarbon emissions (HC) from most engines. A typical diesel engine with a sales-weighted average uncontrolled CO emission level of approximately 2.9 g/hp-hr would experience an increase in CO emissions of about 0.75 g/hp-hr to comply with standards of performance based on alternative I, and an increase of about 1.5 g/hp-hr to comply with standards of performance based on alternative II. Total hydrocarbon emissions would increase a sales-weighted average uncontrolled emission level of 0.3 g/hp-hr by about 0.06 g/hp-hr to comply with standards based on alternative I, and would increase by about 0.1 g/hp-hr to comply with standards of performance based on alternative II.

Similarly, a typical dual-fuel engine with a sales-weighted average uncontrolled CO emission level of approximately 2.7 g/hp-hr would experience an increase in CO emissions of about 1.2 g/hp-hr and about 2.7 g/hp-hr to comply with standards of performance based on alternatives I and II, respectively. Total HC emissions, however, would increase by about 0.3 g/hp-hr from a sales-weighted average

uncontrolled level of approximately 2.8 g/hp-hr to comply with standards of performance based on alternative I. To comply with standards of performance based on alternative II total hydrocarbon emissions would decrease by 0.6 g/hp-hr.

A typical turbocharged or blower scavenged gas engine with a sales-weighted average uncontrolled CO emission level of approximately 7.7 g/hp-hr would experience an increase in CO emissions of about 1.9 g/hp-hr to comply with standards of performance based on alternative I and about 3.8 g/hp-hr to comply with standards of performance based on alternative II. Total hydrocarbon emissions would increase a sales-weighted average uncontrolled level of approximately 1.9 g/hp-hr by about 0.2 g/hp-hr to comply with standards of performance based on alternative I. To comply with standards of performance based on alternative II total hydrocarbon emissions would increase by about 0.4 g/hp-hr.

A typical naturally aspirated gas engine with a sales-weighted average uncontrolled CO emission level of approximately 7.7 g/hp-hr would experience an increase in CO emissions of about 3.9 g/hp-hr to comply with standards of performance based on alternative I and about 17 g/hp-hr to comply with standards of performance based on alternative II. Total hydrocarbon emissions would increase a sales-weighted average uncontrolled level of approximately 1.8 g/hp-hr by about 0.04 g/hp-hr to comply with standards of performance based on alternative I. To comply with standards of performance based on alternative II total hydrocarbon emissions would increase by about 0.08 g/hp-hr.

As noted earlier, the increase in ambient air CO levels resulting from compliance with NO_x standards of performance based on either alternative would be insignificant compared to the NAAQS of 10 mg/m³ for CO. Additionally, CO emissions are a local problem as CO readily reacts to form CO₂. Additionally, most naturally aspirated engines are operated in remote or sparsely populated areas, CO emissions will not present a problem.

Currently, national stationary CO emissions are approximately 33 million megagrams per year. Standards of performance based on alternative I would increase these emissions by approximately 63,000 megagrams annually in the fifth year after the standards went into effect. In contrast, standards of performance based on alternative II would increase national CO emissions by about 216,000

megagrams annually in the fifth year after the standards went into effect.

Standards of performance based on alternative I would increase national total HC emissions by about 2,300 megagrams annually in the fifth year after the standards went into effect compared to an increase of about 4,600 megagrams annually associated with alternative II. It is estimated that more than 90 percent of total HC emissions from large-bore gas-fuel engines and 75 percent of total HC emissions from large-bore dual-fuel engines are methane, which is nonreactive and does not lead to oxidant formation. Standards of performance based on alternative I would increase national reactive HC emissions by approximately 108 megagrams annually in the fifth year after the standards went into effect, compared to an increase of approximately 216 megagrams annually associated with alternative II.

Stationary IC engines are sources of NO_x, HC, and CO emissions, with both NO_x and HC contributing to oxidant formation. With regard to regulation of emissions from IC engines, NO_x emissions are of more concern than emissions of HC for two reasons. First, NO_x is emitted in greater quantities from stationary IC engines than HC. Second, as mentioned earlier, a high priority has been assigned to development of standards of performance limiting NO_x emissions. A study by Argonne National Laboratory, "Priorities and Procedures for development of Standards of Performance for New Stationary Sources of Atmospheric Emissions," concluded that national NO_x emissions from stationary sources would increase by more than 40 percent between 1975 and 1990 in the absence of additional emission controls. The slight increase in HC emissions from IC engines associated with control of NO_x can be offset in most cases from other sources more easily than NO_x emissions can be reduced from other sources. Therefore, the adverse environmental impact of increased HC emissions because of the reduction in NO_x emissions is considered small.

There would be essentially no water pollution, solid waste, or noise impact of standards of performance based on either alternative I or alternative II.

Thus, as reflected in Table I, the environmental impacts of standards of performance based on either alternative are small and reasonable

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TABLE I
ENVIRONMENTAL IMPACTS OF ALTERNATIVES

Pollutant	Base Level ^a	Alternative I	Alternative II
National NO _x Emissions	14.6 x 10 ⁶ megagrams	Reduced by 72,500 megagrams annually in the fifth year after standard goes into effect	Reduced by 145,000 megagrams annually in the fifth year after standard goes into effect
National CO Emissions	33.0 x 10 ⁶ megagrams	Increased by 63,000 megagrams annually in the fifth year after standard goes into effect	Increased by 216,000 megagrams annually in the fifth year after standard goes into effect
National Total HC Emissions	10.2 x 10 ⁶ megagrams	Total Hydrocarbons Increased by 2,300 megagrams annually in the fifth year after standard goes into effect Reactive Hydrocarbons Increased by 108 megagrams annually in the fifth year after standard goes into effect	Total Hydrocarbons Increased by 4,600 megagrams annually in the fifth year after standard goes into effect Reactive Hydrocarbons Increased by 216 megagrams annually in the fifth year after standard goes into effect
Water Pollution	--	No increase	No increase
Solid Waste	--	No increase	No increase
Noise	--	No adverse impact	No adverse impact

^aTotal U.S. emission from stationary sources as per EPA Nationwide Air Pollutant Inventory for 1975

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Energy impacts. The potential energy impact of standards of performance based on either alternative is small. Standards of performance based on alternative I would increase the fuel consumption of a typical blower-scavenged or turbocharged gas engine by approximately one percent, whereas standards of performance based on alternative II would increase the fuel consumption by approximately two percent.

Standards of performance based on alternative I would increase the fuel consumption of a typical dual-fuel engine by about one percent. Standards of performance based on alternative II, however, would increase the fuel consumption by three percent. Standards of performance based on alternative I would increase the fuel consumption of a typical naturally aspirated gas engine by approximately six percent. Standards of performance based on alternative II, however, would increase the fuel consumption by approximately eight percent.

Standards of performance based on alternative I would increase the fuel consumption of a typical diesel engine by approximately three percent. Standards of performance based on alternative II, however, would increase the fuel consumption by approximately seven percent.

The potential energy impact in the fifth year after the standards go into effect, based on alternative I, would be equivalent to an increase in fuel consumption of approximately 1.03 million barrels of oil per year compared to the uncontrolled fuel consumption of IC engines affected by the standards of 31 million barrels per year. The potential energy impact in the fifth year after the standard goes into effect, based on alternative II, would be equivalent to approximately 1.5 million barrels of oil per year.

It should be noted that the largest increase represents only 0.02 percent of the 1977 domestic consumption of crude oil and natural gas. The largest increase also represents only 0.03 percent of the projected total oil imported to the U.S. five years after the standards go into effect.

Thus, the energy impacts of standard of performance based on either alternative are small and reasonable.

Economic impact of alternatives. Manufacturers of stationary IC engines would incur additional costs due to standards of performance. These costs, however, would be small. It is estimated that the total cost to the manufacturers for each engine model family, including development, durability tests, and

retooling, would be approximately: (1) \$125,000 for retard and air-to-fuel change; (2) \$150,000 for manifold air temperature reduction; and (3) \$25,000 for derate. For each manufacturer therefor, total costs would vary depending on (1) the number of engine model families produced; (2) their degree of advancement in emission testing; (3) the uncontrolled emission levels of their engines; (4) the development and durability testing required to produce engines that can meet proposed standards of performance; and (5) the emission control technique selected for NO_x emission reduction.

The manufacturer's total capital investment requirements for developmental testing of engine models is estimated to be about \$4.5 million to comply with standards of performance based on alternative I and about \$5 million to comply with standards of performance based on alternative II. These expenditures would be made over a two year period. Analyses of the financial statements and other public financial information of engine manufacturers or their parent companies indicate that the manufacturer's overhead budgets are sufficient to support the development of these controls without adverse impact on their financial position.

Manufacturers would not experience significant differential cost impacts among competing engine model families. Consequently, no significant sales advantages or disadvantages would develop among competing manufacturers as a result of standards of performance based on either alternative. Based on "worst-case" assumptions, the maximum intra-industry sales losses would be about six percent as a result of standards of performance based on either alternative. Thus, the intra-industry impacts would be moderate and not cause any major dislocations within the industry.

The total annualized cost penalties imposed on IC engines by standards of performance would also have very little impact with regard to increasing sales of gas turbines. Standards of performance based on alternative I would result in no loss of sales to gas turbines whereas standards of performance based on alternative II could result in the possible loss of sales for one diesel manufacturer.

It should be noted that this conclusion is based on limited data. It is quite likely, however, that this manufacturer's line of diesel engines, through minor combustion modifications, could reduce its NO_x emissions as discussed in the

SSEIS to levels comparable to those of other manufacturers. Further, due to technical limitations, economic considerations, and customer preference, it is unlikely that IC engine users would switch to gas turbines. Thus, the impact on sales would be minimal.

Therefore, the economic impacts on the manufacturers of standards of performance based on either alternative are considered small and reasonable.

The application of NO_x controls will also increase costs to the engine user. The magnitude of this increase will depend upon the amount and type of emission control applied. Fuel penalties are the major factor affecting this increase.

The following four end uses represent the major applications of diesel, dual-fuel, and natural gas engines: (1) Diesel engine, electrical generation; (2) dual-fuel engine, electrical generation; (3) gas engine, oil and gas transmission and (4) gas engine, oil and gas production.

The manufacturers' capital budget requirements to develop and test engine NO_x control techniques would be regarded as an added expense and most likely passed on to the engine users in the form of higher prices. Therefore, users of IC engines would have to expend additional capital to purchase more expensive engines. This capital cost penalty, however, is small. A two percent increase in engine price would be expected on the average as the result of standards of performance based on either alternative. Typical initial costs for uncontrolled diesel and dual-fuel, electrical generation engines, and natural gas oil and gas transmission engines are about \$150/hp. Initial costs for gas, gas production engines are about \$50/hp.

The total additional capital cost for all users would equal about \$9.6 million on a cumulative basis over the first five years to comply with standards of performance based on either alternative.

As mentioned earlier, fuel penalties are the major factor affecting the total annualized cost of high usage engines. The total annualized cost of a typical uncontrolled diesel, electrical generation engine is about 2.5¢/hp-hr. As a result of standards of performance based on alternative I this total annualized cost would increase by about 0.04¢/hp-hr (1.5 percent). As a result of standards of performance based on alternative II this total annualized cost would increase by about 0.11¢/hp-hr (4.5 percent).

The total annualized cost of a typical uncontrolled dual-fuel electrical generation engine is about 2.8¢/hp-hr. As a result of standards of performance

base on alternative II this total annualized cost would increase by about 0.07¢/hp-hr (2.5 percent). As a result of standards of performance based on alternative II this total annualized cost would increase by about 0.09¢/hp-hr (3.2 percent).

The total annualized cost of a typical uncontrolled gas, oil and gas transmission engine is about 2.2¢/hp-hr. As a result of standards of performance based on alternative I this total annualized cost would increase by about 0.02¢/hp-hr (1 percent). As a result of standards of performance based on alternative II this total annualized cost would increase by about 0.04¢/hp-hr (2 percent).

The total annualized cost of a typical uncontrolled gas, oil and gas production engine is about 2.2¢/hp-hr. As a result of standards of performance based on alternative I this total annualized cost would increase by about 0.14¢/hp-hr (6.5 percent). As a result of standards of performance based on alternative II this total annualized cost would increase by about 0.16¢/hp-hr (7.5 percent).

Thus, the total annualized cost penalties to the user associated with either alternative are small. Total uncontrolled annualized costs of about \$580 million by all large stationary IC engine users would increase by about \$25 million to comply with standards of performance based on alternative I and would increase by about \$32 million to comply with standards of performance based on alternative II in the fifth year after the standards go into effect.

The economic impacts on users arising from the cost penalties outlined above would be small. In general, these impacts translate into price increases for the end products or services provided by the industrial and commercial users of large stationary IC engines. The electric utility industry would pass on a price increase after five years of 0.02 percent to comply with standards of performance based on either alternative. After five years, delivered natural gas prices would increase 0.02 percent if standards of performance based on alternative I were applied and 0.04 percent if standards of performance based on alternative II were applied.

Even after a full phase-in period of 30 years, during which new controlled engines would replace all existing uncontrolled engines, the electric utility industry would realize a price increase of only 0.1 percent to comply with standards of performance based on either alternative. Similarly, delivered natural gas prices would increase only 0.1 percent if standards of performance based on alternative I were applied and

0.3 percent if standards of performance based on alternative II were applied. Thus, as summarized in Table II, the economic impacts of standards of performance based on either alternative are considered small and reasonable.

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TABLE II
ECONOMIC IMPACTS OF ALTERNATIVES

Impact	Uncontrolled Level of Cost	Alternative I	Alternative II
<u>Impact on Manufacturer</u>			
Capital budget requirements	--	\$4.5 million over two years; able to generate internally from profits.	\$5 million over two years; able to generate internally from profits.
Intra-industry competition	--	Maximum sales loss unlikely to exceed 6% of internal combustion engine sales for any firm.	6% maximum loss for any firm
Competition from gas turbines	--	No losses.	Possible sales loss for one diesel manufacturer.
<u>Impact on End-Use Applications</u>			
Total annualized cost ^a			
Diesel fuel, electrical generation	2.5¢/hp-hr	Base increased by 0.04¢/hp-hr	Increased by 0.11¢/hp-hr
Dual-fuel, electrical generation	2.8¢/hp-hr	Increased by 0.07¢/hp-hr	Increased by 0.09¢/hp-hr
Natural gas fuel, oil and gas transmission	2.2¢/hp-hr	Increased by 0.02¢/hp-hr	Increased by 0.04¢/hp-hr
Natural gas fuel, oil and gas production	2.2¢/hp-hr	Increased by 0.14¢/hp-hr	Increased by 0.16¢/hp-hr
Totals of all new engines after 5 years	\$580 million	Increased by \$25 million	Increased by \$32 million
<u>Capital Cost Penalty^a</u>			
Diesel fuel, electrical generation or dual fuel, electrical generation or natural gas fuel, oil and gas transmission	\$150/hp	Increased by \$3.00/hp	Increased by \$3.00/hp
Natural gas fuel, oil and gas production	\$ 50/hp	Increased by \$1.00/hp	Increased by \$1.00/hp
Totals etc.	\$450 million	\$9.6 million on a cumulative basis over first 5 years after standards go into effect.	\$9.6 million on a cumulative basis over first 5 years after standards go into effect.
<u>Impact on Product Prices and Users</u>			
Electricity prices	--	U.S. electric bill up 0.02% after 5 years. U.S. electric bill up 0.1% after full phase-in.	U.S. electric bill up 0.02% after 5 years. U.S. electric bill up 0.1% after full phase-in.
Gas prices	--	Delivered natural gas prices up 0.02% after 5 years. Delivered natural gas prices up 0.1% after full phase-in.	Delivered natural gas prices up 0.04% after 5 years. Delivered natural gas prices up 0.3% full phase-in.

Assumed typical 2000 horsepower engine operating 8000 hours per year in all cases

Full phase-in implies replacement of all existing engines

Based on the assessment of the impacts of each alternative, and since alternative II achieves a greater degree of NO_x reduction, it is selected as the best technological system of continuous emission reduction of NO_x from stationary large-bore IC engines, considering the cost of achieving such emission reduction, any nonair quality health and environmental impact, and energy requirements.

Selection of Format for the Proposed Standards

A number of different formats could be used to limit NO_x emissions from large stationary IC engines. Standards could be developed to limit emissions in terms of: (1) Percent reduction; (2) mass emissions per unit of energy (power) output; or (3) concentration of emissions in the exhaust gases discharged to the atmosphere.

Analysis of the effectiveness of the various NO_x emission control techniques clearly shows that the ability to achieve a percent reduction in NO_x emissions is what has been demonstrated. However, a percent reduction format is highly impractical for two reasons. First, a reference uncontrolled NO_x emission level would have to be established for each manufacturer's engine, a difficult task since some manufacturers produce as many as 25 models which are sold with several ratings. Second, a reference uncontrolled NO_x emission level would have to be established for any new engines developed after promulgation of the standard. This would be quite simple for engines that employed NO_x control techniques such as ignition retard or air-to-fuel ratio change to comply with standards of performance. Emissions could be measured without the use of these techniques. For engines designed to comply with the standards through the use of combustion chamber modifications, however, this would not be possible. Thus, new engines would receive no credit for the NO_x emission reduction achieved by combustion chamber redesign and this would effectively preclude the use of this approach to comply with the standards.

A mass-per-unit-of-energy-output format, typically referred to as brake-specific emissions (g/hp-hr), relates the total mass of NO_x emissions to the engine's productivity. Although brake-specific mass standards (g/hp-hr) appear meaningful because they relate directly to the quantity of emissions discharged into the atmosphere, there are disadvantages in that enforcement of mass standards would be costly and complicated in practice. Exhaust flow and power output would have to be

determined in addition to NO_x concentration. Power output can be determined from an engine dynamometer in the laboratory, but dynamometers cannot be used in the field. Power output could be determined by: (1) Inferring the power from engine operating parameters (fuel flow, rpm, manifold pressure, etc.); or (2) inferring engine power from the output of the generator or compressor attached to the engine. In practice, however, these approaches are time consuming and are less accurate than dynamometer measurements.

Another possible format would be to limit the concentration of NO_x emissions in the exhaust gases discharged to the atmosphere. Concentrations would be specified in terms of parts-per-million volume (ppm) of NO_x. The major advantage of this format is its simplicity of enforcement. As compared to the formats discussed previously, only a minimum of data and calculations are required, which decreases testing costs and minimizes errors in determining compliance with an emission standard since measurements are direct.

The primary disadvantages associated with concentration standards are: (1) A standard could be circumvented by dilution of exhaust gases discharged into the atmosphere, which lowers the concentration of pollutant emissions but does not reduce the total pollutant mass emitted; and (2) a concentration standard could penalize high efficiency engines. Both these problems, however, can be overcome through the use of appropriate "correction" factors.

Since the percent reduction format is impractical, and the problems associated with the enforcement of mass standards (mass-per-unit energy output) appear to outweigh the benefits, the concentration format was selected for standards of performance for large stationary IC engines.

As mentioned above, because a concentration standard can be circumvented by dilution of the exhaust gases, measured concentrations must be expressed relative to some fixed dilution level. For combustion processes, this can be accomplished by correcting measured concentrations to a reference concentration of O₂. The O₂ concentration in the exhaust gases is related to the excess (or dilution) air. Typical O₂ concentrations in large-bore IC engines can range from 8 to 18 percent but are normally about 15 percent. Thus, referencing the standard to a typical level of 15 percent O₂ would prevent circumvention by dilution.

As also mentioned above, selection of a concentration format could penalize

high efficiency IC engines. These highly efficient engines generally operate at higher temperature and pressures and, as a result, discharge gases with higher NO_x concentrations than less efficient engines, although the brake-specific mass emissions from both engines could be the same. Thus, a concentration standard based on low efficiency engines could effectively require more stringent controls for high efficiency engines. Conversely, a concentration standard based on high efficiency engines could allow such high NO_x concentrations that less efficient engines would require no controls. Consequently, selecting a concentration format for standards of performance requires an efficiency adjustment factor to permit higher NO_x emissions from more efficient engines.

The incentive for manufacturers to increase engine efficiency is to lower engine fuel consumption. Therefore, the objective of an efficiency adjustment factor should be to give an emissions credit for the lower fuel consumption of more efficient IC engines. Since the fuel consumption of IC engines varies linearly with efficiency, a linear adjustment factor is selected to permit increased NO_x emissions from highly efficient IC engines.

The efficiency adjustment factor needs to be referenced to a baseline efficiency. Most large existing stationary IC engines fall in the range of 30 to 40 percent efficiency. Therefore, 35 percent is selected as the baseline efficiency.

The efficiency adjustment factor included in the proposed standards permits a linear increase in NO_x emissions for engine efficiencies above 35 percent. This adjustment would not be used to adjust the emission limit downward for IC engines with efficiencies of less than 35 percent. This efficiency adjustment factor also applies only to the IC engine itself and not the entire system of which the engine may be a part. Since Section 111 of the Clean Air Act requires the use of the best system of emission reduction in all cases, this precludes the application of the efficiency adjustment factor to an entire system. For example, IC engines with waste heat recovery may have a higher overall efficiency than the IC engine alone. Thus, the application of the efficiency adjustment factor to the entire system would permit greater NO_x emissions because of the system's higher overall efficiency, and would not necessarily require the use of the best demonstrated system emission reduction on the IC engine.

Selection of Numerical Emission Limits

Overall approach.—As mentioned earlier it is difficult to select a specific NO_x emission limit which all IC engines could meet primarily through the use of ignition retard or air-to-fuel ratio change. Because of inherent differences among various IC engines with regard to uncontrolled NO_x emission levels, there exists a rather large variation within the data and information included in the Standards Support and Environmental Impact Statement concerning controlled NO_x emission levels. Generally speaking, engines with relatively low uncontrolled NO_x emissions levels achieved low controlled NO_x emissions levels and engines with high uncontrolled NO_x emissions levels achieved relatively high controlled NO_x emissions levels. Consequently, the following alternatives were considered for selecting the numerical concentration emission limits based on a 40 percent reduction in NO_x emissions:

1. Apply the 40 percent reduction to the highest observed uncontrolled NO_x emission level.

2. Apply the 40 percent reduction to a sales-weighted average uncontrolled NO_x emission level.

3. Apply the 40 percent reduction to this sales-weighted average uncontrolled NO_x emission level plus one standard deviation.

The highest observed uncontrolled NO_x emission levels for gas, dual-fuel and diesel engines are as follows: (1) Gas, 29 g/hp-hr (2) dual-fuel, 15 g/hp-hr, and (3) diesel, 19 g/hp-hr.

Sales-weighted uncontrolled NO_x emission levels were determined by applying a sales weighting to each manufacturer's average uncontrolled NO_x emissions for engines of each fuel type. The sales weighting, based on horsepower sold, gives more weight to those engine models which have the highest sales. The sales-weighted average uncontrolled NO_x emission level for each engine fuel type are as follows: (1) Gas, 15 g/hp-hr, (2) dual-fuel, 8 g/hp-hr, and (3) diesel, 11 g/hp-hr.

The third alternative incorporates a "margin for engine variability" by adding one standard deviation to the sales-weighted average uncontrolled NO_x emission level and then applying the 40 percent reduction. Standard deviations were calculated from the uncontrolled NO_x emission data included in the Standards Support and Environmental Impact Statement, assuming the data had normal distribution. A subsequent statistical evaluation of the data indicated that this assumption was valid. The standard

deviations for each engine fuel type are as follows: (1) Gas, 4 g/hp-hr, (2) dual-fuel, 3.2 g/hp-hr, and (3) diesel, 3.7 g/hp-hr.

The standard deviation of the uncontrolled NO_x emission data base is relatively large compared to the sales-weighted average uncontrolled NO_x emission level for each engine type. This indicates that the distribution of uncontrolled NO_x emissions levels is quite broad. In addition, the standard deviation is of the same magnitude as the 40 percent reduction in NO_x emissions that can be achieved. Thus, regardless of which alternative approach is followed to select the numerical NO_x concentration emission limit, a significant portion of the IC engine population may have to achieve more or less than a 40 percent reduction in NO_x emissions to comply with the standards.

It is important to note that the 40 percent reduction in NO_x emissions is based on the application of a single control technique, such as ignition retard, or air-to-fuel ratio change. Other emission control techniques, however, such as manifold air cooling and engine derate, exist, although they are generally not as effective in reducing NO_x emissions. Since emission control techniques are additive to some extent, it is possible in a number of cases to reduce NO_x emissions by greater than 40 percent.

The following factors were examined for each engine type to choose the alternative for selecting the numerical NO_x concentration emission limit: (1) The percentage of engines that would have to reduce NO_x emissions by 40 percent or less to meet the standards; (2) the percentage of engines that would be required to do nothing to meet the standards; and (3) the percentage of engines that would be required to reduce NO_x emissions by more than 40 percent to meet the standards. The normal distribution curve presented in Figure 1 illustrates the trade-offs among the three alternatives for selecting the numerical NO_x concentration emission limit.

The first alternative is to apply the 40 percent reduction to the highest uncontrolled NO_x emission level within a fuel category. For example, 29 g/hp-hr is the highest uncontrolled NO_x emission level for gas engines. The application of a 40 percent reduction would lead to an emission level of about 17 g/hp-hr. As illustrated in Figure 1, if this level were selected as a standard of performance, 99 percent of production gas engines could easily meet the emission limit by reducing emissions by 40 percent or less.

However, 69 percent of production engines would not have to reduce NO_x emissions at all. Only one percent of production engines would have to reduce NO_x emissions by more than 40 percent.

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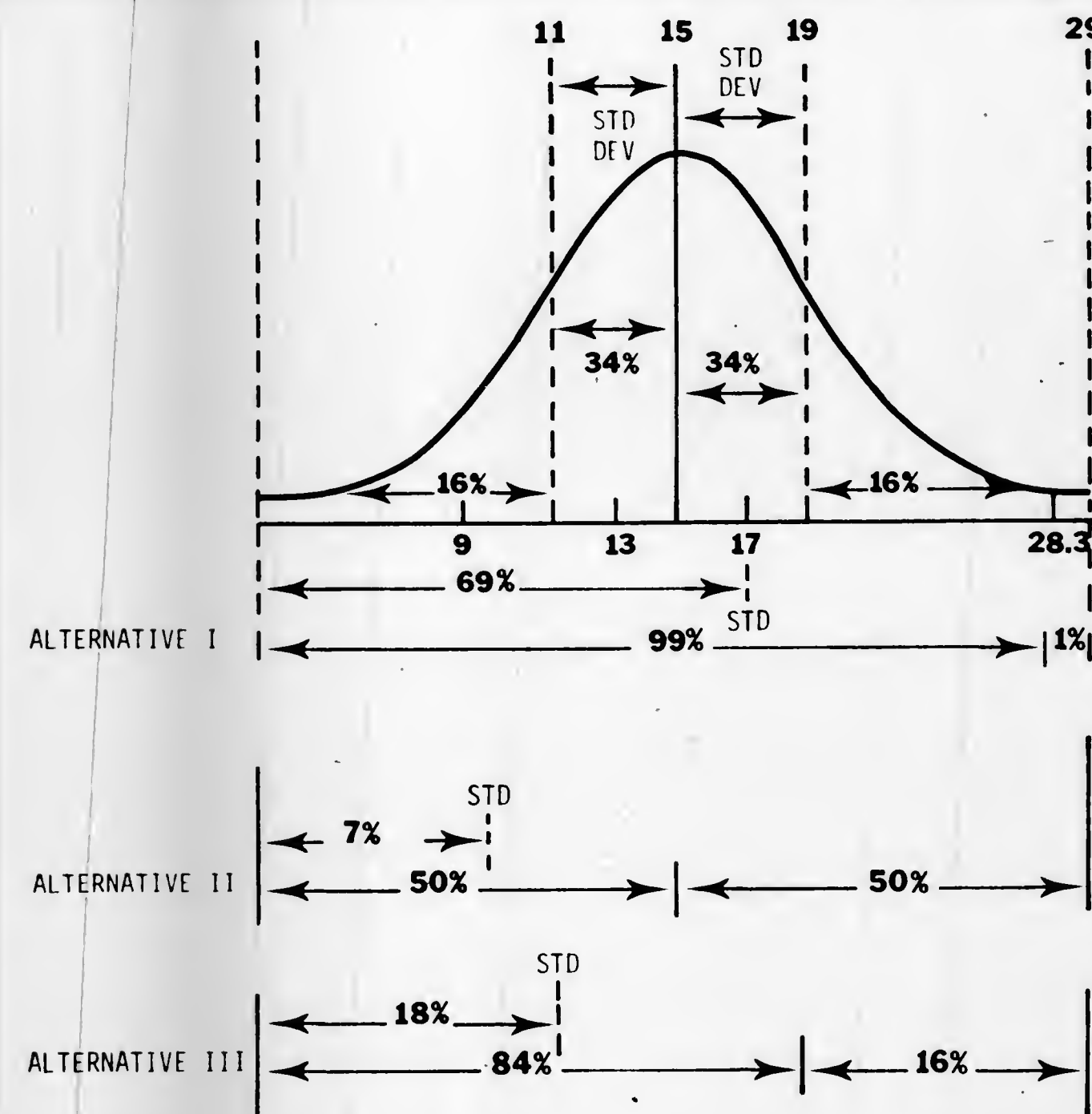


FIGURE 1. Statistical effects of alternative emission limits on gas engines.

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The second alternative is to apply 40 percent reduction to the sales-weighted average uncontrolled NO_x emission level. For example, the sales-weighted average uncontrolled NO_x level for gas engines is 15 g/hp-hr. The application of a 40 percent reduction would lead to a NO_x emission level of 9 g/hp-hr. As illustrated in Figure 1, if this level were selected as a standard of performance, 50 percent of production gas engines could meet the standard with 40 percent or less reduction in NO_x emissions. However, 50 percent of production gas engines would be required to reduce NO_x emissions by greater than 40 percent. Only seven percent of production gas engines would not have to reduce NO_x emissions at all.

The third alternative is to base the standards on a 40 percent reduction in NO_x emissions from the sales-weighted average uncontrolled NO_x emission level plus one standard deviation. For example, the sales-weighted average uncontrolled NO_x emission level for gas production gas engines is 15 g/hp-hr and the standard deviation of the production gas engine data base is 4 g/hp-hr. Thus, the application of a 40 percent reduction to the sum of these two values would lead to an emission level of 11 g/hp-hr. As illustrated in Figure 1, if this level were selected as a standard of performance, 84 percent of the production gas engines could easily meet the emission limit by reducing emissions by 40 percent or less. However, 18 percent of the production gas engines would not have to reduce NO_x emission at all. Only 16 percent of the production gas engines would have to reduce NO_x emissions by more than 40 percent.

This same analysis applied to dual-fuel and diesel engines leads to the results summarized in Table III. If standards of performance were based on Alternative I, essentially all engines could achieve the emission limit by reducing NO_x emissions 40 percent or less. A significant reduction in NO_x emissions would not be achieved, however, since 50 to 70 percent of the IC engines would not have to reduce NO_x emissions at all. If the standards of performance were based on Alternative II, about 50 percent of the IC engines (in all categories) would have to reduce NO_x emissions by greater than 40 percent. Less than 10 percent would not have to reduce NO_x emissions at all. Thus this alternative would achieve a significant reduction in NO_x emissions from new sources. If standards of performance were based on Alternative III, the results would be similar to those achieved with Alternative I. About 85

percent of engines could easily meet the standards by reducing NO_x emissions by less than 40 percent. About 20 to 30 percent of IC engines would not have to reduce NO_x emissions at all, and about 15 percent of IC engines would have to reduce NO_x emissions by more than 40 percent.

In light of the high priority which has been given to standards directed toward reducing NO_x emissions and the significance of IC engines in terms of their contribution to NO_x emissions from stationary sources, the second alternative was chosen for selecting the NO_x emission concentration limit. This approach will achieve the greatest reduction in NO_x emissions from new IC engines.

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TABLE III
SUMMARY OF STATISTICAL ANALYSES OF ALTERNATE EMISSION LIMITS

GAS ENGINES			
Alternative	I	II	III
Standard	17	9	11
Percent required to apply less than or equal to 40 percent control	99	50	84
Percent required to do nothing	69	7	18
Percent required to apply more than 40 percent control	1	50	16
DUAL-FUEL ENGINES			
Alternative	I	II	III
Standard	9	5	7
Percent required to apply less than or equal to 40 percent control	98	54	37
Percent required to do nothing	62	18	48
Percent required to apply more than 40 percent control	2	46	13
DIESEL ENGINES			
Alternative	I	II	III
Standard	11	7	9
Percent required to apply less than or equal to 40 percent control	98	56	86
Percent required to do nothing	50	4	29
Percent required to apply more than 40 percent control	2	44	14

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Selection of limits.—A concentration (ppm) format was selected for the standards. Consequently, the brake-specific NO_x emission limits corresponding to the second alternative for selecting numerical emission limits (i.e., gas – 9 g/hp-hr; dual-fuel – 5 g/hp-hr; diesel – 7 g/hp-hr) must be converted to concentration limits (corrected to 15 percent O₂ on a dry basis). This may be done by dividing the brake-specific volume of NO_x emissions by the brake-specific total exhaust gas volume. Determining the brake-specific volume of NO_x emissions is straight-forward. Determining the brake-specific total exhaust gas volume is more complex, in that the brake-specific exhaust flow and the exhaust gas molecular weight are unknown. Knowing the fuel heating value and composition, the brake-specific fuel consumption, and assuming 15 percent excess air, however, defines these unknowns. (The complete derivation is explained in detail in the Standards Support and Environmental Impact Statement.) Combining these factors leads to the following conversion factor:

$$NO_x = \frac{\left(\frac{10^6}{46}\right) \times (BSNO_x)}{\left(\frac{16.6 + 3.29 Z}{12.0 + Z}\right) \times (BSFC)}$$

where:

NO_x = NO_x concentration (ppm) corrected to 15 percent O₂.

BSNO_x = Brake-specific NO_x emissions, g/hp-hr.

BSFC = Brake-specific fuel consumption, g/hp-hr.

Z = Hydrogen/Carbon ratio of the fuel.

For natural gas, a hydrogen-to-carbon (H/C) ratio of 3.5 and a lower heat value (LHV) of 20,000 Btu/lb was assumed. Diesel ASTM-2 has a H/C ratio of 1.8 and a LHV of 18,320 Btu/lb.

Applying this conversion factor to the brake-specific emission limits associated with the second alternative for selecting NO_x emissions limits leads to the NO_x concentration emission limits included in the proposed standards:

Engine:	NO _x emission limit
Gas.....	700 ppm.
Dual-fuel/Diesel.....	600 ppm.

These emission limits have been rounded upward to the nearest 100 ppm to include a "margin" to allow for source variability. The standard for diesel engines has also been applied to dual-fuel engines. If a separate emission limit has been selected for dual-fuel engines, the corresponding numerical NO_x

concentration emission limit would be 400 ppm. Sales of dual-fuel engines, however, have ranged from 17 to 95 units annually over the past five years, with a general trend of decreasing sales. Dual-fuel engines serve the same applications as diesel engines, and new dual-fuel engines will likely operate primarily as diesel engines because of increasingly limited natural gas supplies. Thus, the combining of dual-fuel engines with diesel engines for standards of performance will have little adverse impact and will simplify enforcement of the standards of performance.

The effect of ambient atmospheric conditions on NO_x emissions from large stationary IC engines can be significant. Therefore, to enforce the standards uniformly, NO_x emissions must be determined relative to a reference set of ambient conditions. All existing ambient correction factors were reviewed that could potentially be applied to large stationary IC engines to correct NO_x emissions to standard conditions.

The correction factors that were selected for both spark ignition (SI) and compression ignition (CI) engines are included in the proposed standards. For the compression ignition engines (i.e., diesel and dual-fuel), a single correction factor for both temperature and humidity was selected. For spark ignition engines (i.e., gas), separate correction factors were selected for humidity and temperature, and measured NO_x emissions are corrected to reference ambient conditions by multiplying these two factors together. No correction factor was selected for changes in ambient pressure because no generalized relationship could be determined from the very limited data that are available. These correction factors represent the general effects of ambient temperature and relative humidity on NO_x emissions, and will be used to adjust measured NO_x emissions during any performance test to determine compliance with the numerical emission limit.

Since the recommended factors may not be applicable to certain engine models, as an alternative to the use of these correction factors, engine manufacturers, owners, or operators may elect to develop their own ambient correction factors. All such correction factors, however, must be substantiated with data and then approved by EPA for use in determining compliance with NO_x emission limits. The ambient correction factor will be applied to all performance tests, not only those in which the use of such factors would reduce measured emission levels.

As discussed in "Standards Support and Environmental Impact Statement: Proposed Standards of Performance for Stationary Gas Turbines," EPA-450/2-77-017a, the contribution to NO_x emissions by the conversion of fuel-bound nitrogen in heavy fuel to NO_x can be significant for stationary gas turbines. The organic NO_x contribution to total gas turbine NO_x emissions is complicated by the fact that the percentage of fuel-bound nitrogen converted to NO_x decreases as the fuel-bound nitrogen level increases. Below a fuel-bound nitrogen level of about 0.05 percent, essentially 100 percent of the fuel-bound nitrogen is converted to NO_x. Above a fuel-bound nitrogen level of about 0.4 percent, only about 40 percent is converted to NO_x.

As discussed in the Standards Support and Environmental Impact Statement, Volume I for Stationary Gas Turbines, assuming a fuel with 0.25 percent weight fuel-bound nitrogen (which allows approximately 50 percent availability of domestic heavy fuel oil), controlled NO_x emissions would increase by about 50 ppm due to the contribution to NO_x emissions of fuel-bound nitrogen. In gas turbines, this contribution was significant when compared to the proposed emission limit of 75 ppm. However, for large IC engines, the contribution of fuel-bound nitrogen to NO_x emissions is likely to be small (approximately 10 percent). Sales of IC engines firing heavy fuels is insignificant and not expected to increase in the near future. Given that the emission limits have been rounded upward to the nearest 100 ppm and the potential contribution of fuel-bound nitrogen to NO_x emissions is very small, no allowance has been included for the fuel-bound nitrogen content of the fuel in determining compliance with the standards of performance.

Selection of Compliance Time Frame

Manufacturers of large-bore IC engines are generally committed to a particular design approach and, therefore, conduct extensive research, development, and prototype testing before releasing a new engine model for sale. Consequently, these manufacturers will require some period of time to alter or reoptimize and test IC engines to meet standards of performance. The estimated time span between the decision by a manufacturer to control NO_x emissions from an engine model and start of production of the first controlled engine is about 15 months for any of the four demonstrated emission control techniques. With their present facilities, however, testing can typically

be conducted on only two to three engine models at a time. Since most manufacturers produce a number of engine models, additional time is required before standards of performance become effective. In addition, a number of manufacturers produce their most popular engine models at a fairly steady rate of production and satisfy fluctuating demands from inventory. Consequently, additional time is necessary to allow manufacturers to sell their current inventory of uncontrolled IC engines before they must comply with standards of performance.

It is estimated that about 30 months delay in the applicability date of the standard is appropriate to allow manufacturers time to comply with the proposed standards of performance. In addition, in light of the stringency of the standards (i.e., many engine models will have to reduce NO_x emissions by more than 40 percent) this time period provides the flexibility for manufacturers to develop and use combinations of the control techniques upon which the standards are based or other control techniques. Consequently, 30 months from today's date is selected as the delay period for implementation of these standards on large stationary IC engines.

Selection of Monitoring Requirements

To provide a means for enforcement personnel to ensure that an emission control system installed to comply with standards of performance is properly operated and maintained, monitoring requirements are generally included in standards of performance. For stationary IC engines, the most straightforward means of ensuring proper operation and maintenance would be to monitor NO_x emissions released to the atmosphere.

Installed costs, however, for continuous monitors are approximately \$25,000. Thus the cost of continuous NO_x emission monitoring is considered unreasonable for IC engines since most large stationary IC engines cost from \$50,000 to \$3,000,000 (i.e., 1000 hp gas production engine and 20,000 hp electrical generation engine).

A more simple and less costly method of monitoring is measuring various engine operating parameters related to NO_x emissions. Consequently, monitoring of exhaust gas temperature was considered since this parameter could be measured just after the combustion process during which NO_x is formed. However, a thorough investigation of this approach showed

no simple correlation between NO_x emission and exhaust gas temperature.

A qualitative estimate of NO_x emissions, however, can be developed by measuring several engine operating parameters simultaneously, such as spark ignition or fuel injector timing, engine speed, and a number of other parameters. These parameters are typically measured at most installations and thus should not impose an additional cost impact. For these reasons, the emission monitoring requirements included in the proposed standards of performance require monitoring various engine operating parameters.

For diesel and dual-fuel engines, the engine parameters to be monitored are: (1) Intake manifold temperature; (2) intake manifold pressure; (3) rack position; (4) fuel injector timing; and (5) engine speed. Gas engines would require monitoring of (1) intake manifold temperature; (2) intake manifold pressure; (3) fuel header pressure; (4) spark timing; and (5) engine speed.

Another parameter that could be monitored for gas engines is the fuel heat value, since it can affect NO_x emissions significantly. Because of the high costs of a fuel heating value monitor, and the fact that many facilities can obtain the lower heating value directly from the gas supplier, monitoring of this parameter would not be required.

The operating ranges for each parameter over which the engine could operate and in which the engine could comply with the NO_x emission limit would be determined during the performance test. Once established, these parameters would be monitored to ensure proper operation and maintenance of the emission control techniques employed to comply with the standards of performance.

For facilities having an operator present every day these operating parameters would be recorded daily. For remote facilities, where an operator is not present every day, these operating parameters would be recorded weekly. The owner/operator would record the parameters and, if these parameters include values outside the operating ranges determined during the performance test, a report would be submitted to the Administrator on a quarterly basis identifying these periods as excess emissions. Each excess emission report would include the operating ranges for each parameter as determined during the performance test, the monitored values for each parameter, and the ambient air conditions.

Selection of Performance Test Method

A performance test method is required to determine whether an engine complies with the standards of performance. Reference Method 20, "Determination of Nitrogen Oxides, Sulfur Dioxide, and Oxygen emissions from Stationary Gas Turbines," which was proposed in the October 3, 1977 Federal Register, is proposed as the performance test method for IC engines. Reference Method 20 has been shown to provide valid results. Consequently, rather than developing a totally new reference test method, Reference Method 20 would be modified for use on IC engines.

The changes and additions to Reference Method 20 required to make it applicable for testing of internal combustion engines include (by section):

1. *Principle and Applicability.* Sulfur dioxide measurements are not applicable for internal combustion engine testing.

6.1 Selection of a sampling site and the minimum number of traverse points.

6.1.1 Select a sampling site located at least five stack diameters downstream of any turbocharger exhaust, crossover junction, or recirculation take-offs and upstream of an dilution air inlet. Locate the sample site no closer than one meter or three stack diameters (whichever is less) upstream of the gas discharge to the atmosphere.

6.1.2 A preliminary O₂ traverse is not necessary.

6.1.2.2 Cross-sectional layout and location of traverse points use a minimum of three sample points located at positions of 16.7, 50 and 83.3 percent of the stack diameter.

6.2.1 Record the data required on the engine operation record on Figure 20.7 of Reference Method 20. In addition, record (a) the intake manifold pressure; (b) the intake manifold temperature; (c) rack position; (d) engine speed; and (e) injector or spark timing. (The water or steam injection rate is not applicable to internal combustion engines.)

NO_x emissions measured by Reference Method 20 will be affected by ambient atmospheric conditions. Consequently, measured NO_x emissions would be adjusted during any performance test by the ambient condition correction factors discussed earlier, or by custom correction factors approved for use by EPA.

The performance test may be performed either by the manufacturer or at the actual user operating site. If the test is performed at the manufacturer's facility, compliance with that performance test will be sufficient proof

of compliance by the user as long as the engine operating parameters are not varied during user operation from the settings under which testing was done.

Public Hearing

A public hearing will be held to discuss these proposed standards in accordance with section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the ADDRESSES Section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statement should be addressed to Mr. Jack R. Farmer (see ADDRESSES Section).

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The principal purposes of the docket are (1) to allow interested parties to identify and locate documents so that they can intelligently and effectively participate in the rulemaking process, and (2) to serve as the record for judicial review. The docket requirement is discussed in section 307(d) of the Clean Air Act.

Miscellaneous

As prescribed by Section 111 of the Act, this proposal is accompanied by the Administrator's determination that emissions from stationary IC engines contribute to air pollution which causes or contributes to the endangerment of public health or welfare, and by publication of this determination in this issue of the Federal Register. In accordance with section 117 of the Act, publication of these standards was preceded by consultation with appropriate advisory committees, independent experts, and federal department and agencies. The Administrator welcomes comments on all aspects of the proposed regulations, including the designation of stationary IC engines as a significant contributor to air pollution which causes or contributes to the endangerment of public health or welfare, economic and technological issues, monitoring requirements and the proposed test method.

Comments are specifically invited on the severity of the economic and environmental impact of the proposed standards on stationary naturally aspirated carbureted-gas IC engines since some parties have expressed objection to applying the proposed standards to these engines. Comments are also invited on the selection of rotary engines for control by standards

of performance. These engines were included because they are expected to be contributors to NO_x emissions from stationary sources and can be controlled by demonstrated NO_x emission control techniques. Any comments submitted to the Administrator on these issues, however, should contain specific information and data pertinent to an evaluation of the magnitude of this impact, its severity, and its consequences.

It should be noted that standards of performance for new sources established under section 111 of the Clean Air Act reflect:

The degree of emission limitation and the percentage reduction achievable through application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated [section 111(a)(1)].

Although there may be emission control technology available that can reduce emissions below those levels required to comply with standards of performance, this technology might not be selected as the basis of standards of performance because of costs associated with its use. Accordingly, standards of performance should not be viewed as the ultimate in achievable emission control. In fact, the Act may require the imposition of a more stringent emission standard emission in several situations.

For example, applicable costs do not necessarily play as prominent a role in determining the "lowest achievable emission rate" for new or modified sources located in nonattainment areas (i.e., those areas where statutorily mandated health and welfare standards are being violated). In this respect, section 173 of the Act requires that new or modified sources constructed in an area which exceeds the National Ambient Air Quality Standard (NAAQS) must reduce emissions to the level which reflects the "lowest achievable emission rate" (LAER), as defined in section 171(3). The statute defines LAER as that rate of emissions which reflects:

(A) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable or

(B) The most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.

In no event can the emission rate exceed any applicable new source performance standard.

A similar situation may arise under the prevention-of-significant-deterioration-of-air-quality provisions of the Act. These provisions require that certain sources employ "best available control technology" (BACT) as defined in section 169(3) for all pollutants regulated under the Act. Best available control technology must be determined on a case-by-case basis, taking energy, environmental and economic impacts, and other costs into account. In no event may the application of BACT result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard established pursuant to section 111 (or 112) of the Act.

In all cases, State Implementation Plans (SIP's) approved or promulgated under section 110 of the Act must provide for the attainment and maintenance of NAAQS designed to protect public health and welfare. For this purpose, SIP's must in some cases require greater emission reduction than those required by standards of performance for new sources.

Finally, states are free under section 116 of the Act to establish even more stringent emission limits than those established under section 111 or those necessary to attain or maintain the NAAQS under section 110. Accordingly, new sources may in some cases be subject to limitations more stringent than standards of performance under section 111, and prospective owners and operators of new sources should be aware of this possibility in planning for such facilities.

Under EPA's "new" sunset policy for reporting requirements in regulations, the reporting requirements in this regulation will automatically expire five years from the date of promulgation unless EPA takes affirmative action to extend them.

EPA will review this regulation four years from the date of promulgation. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, and improvements in emissions control technology.

An economic impact assessment has been prepared as required under section 317 of the Act and is included in the Standards Support and Environmental Impact Statement.

Dated: July 11, 1979.

Douglas M. Costle.

Administrator.

It is proposed to amend Part 60 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

1. By adding Subpart FF as follows:

Subpart FF—Standards of Performance for Stationary Internal Combustion Engines

Sec.

60.320 Applicability and designation of affected facility.

60.321 Definitions.

60.322 Standards for nitrogen oxides.

60.323 Monitoring of operations.

60.324 Test methods and procedures.

Authority: Secs. 111 and 301(a) of the Clean Air Act, as amended, (42 U.S.C. 1857c-7, 1857g(a)), and additional authority as noted below.

Subpart FF—Standards of Performance for Stationary Internal Combustion Engines

§ 60.320 Applicability and designation of affected facility.

The provisions of this subpart are applicable to the following affected facilities which commence construction beginning 30 months from today's date:

(a) All gas engines that are either greater than 350 cubic inch displacement per cylinder or equal to or greater than 8 cylinders and greater than 240 cubic inch displacement per cylinder.

(b) All diesel or dual-fuel engines that are greater than 560 cubic inch displacement per cylinder.

(c) All rotary engines that are greater than 1500 cubic inch displacement per rotor.

§ 60.321 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act or in subpart A of this part.

(a) "Stationary internal combustion engine" means any internal combustion engine, except gas turbines, that is not self propelled. It may, however, be mounted on a vehicle for portability.

(b) "Emergency standby engine" means any stationary internal combustion engine which operates as a mechanical or electrical power source only when the primary power source for a facility has been rendered inoperable during an emergency situation.

(c) "Reference ambient conditions" means standard air temperature (29.4°C, or 85°F), humidity (17 grams H₂O/kg dry air, or 75 grains H₂O/lb dry air), and pressure (101.3 kilopascals, or 29.92 in. Hg.).

(d) "Peak load" means operation at 100 percent of the manufacturer's design capacity.

(e) "Diesel engine" means any stationary internal combustion engine burning a liquid fuel.

(f) "Gas engine" means any stationary internal combustion engine burning a gaseous fuel.

(g) "Dual-fuel engine" means any stationary internal combustion engine that is burning liquid and gaseous fuel simultaneously.

(h) "Unmanned engine" means any stationary internal combustion engine installed and operating at a location which does not have an operator regularly present at the site for some portion of a 24-hour day.

(i) "Non-remote operation" means any engine installed and operating at a location which has an operator regularly present at the site for some portion of a 24-hour day.

(j) "Brake-specific fuel consumption" means fuel input heat rate, based on the lower heating value of the fuel, expressed on the basis of power output (i.e., [kJ]/w-hr).

(k) "Weekly basis" means at seven day intervals.

(l) "Daily basis" means at 24 hours intervals.

(m) "Rotary engine" means any Wankel type engine where energy from the combustion of fuel is converted directly to rotary motions instead of reciprocating motion.

(n) "Displacement per rotor" means the volume contained in the chamber of a rotary engine between one flank of the rotor and the housing at the instant the inlet port is closed.

§ 60.322 Standards for nitrogen oxides.

(a) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere, except as provided in paragraphs (b) and (c) of this section—

(1) From any gas engine, with a brake-specific fuel consumption at peak load more than or equal to 10.2 kilojoules/watt-hour any gases which contain nitrogen oxides in excess of 700 parts per million volume, corrected to 15 percent oxygen on a dry basis.

(2) From any diesel or dual-fuel engine with a brake-specific fuel consumption at peak load more than or equal to 10.2 kilojoules/watt-hour any gases which contain nitrogen oxides in excess of 600 parts per million volume, corrected to 15 percent oxygen on a dry basis.

(3) From any stationary internal combustion engine with a brake-specific fuel consumption at peak load of less than or equal to 10.2 kilojoules/watt-hour any gases which contain nitrogen oxides in excess of:

(i) $STD = 700 \frac{10.2}{Y}$ for any gas engine,

(ii) $STD = 600 \frac{10.2}{Y}$ for any diesel or dual-fuel engine

where:

STD = allowable NO_x emissions (parts-per-million volume corrected to 15 percent oxygen on a dry basis).

Y = manufacturer's rated brake-specific fuel consumption at peak load (kilojoules per watt-hour) or owner/operator's brake-specific fuel consumption at peak load as determined in the field.

(b) All one and two cylinder reciprocating gas engines are exempt from paragraph (a) of this section.

(c) Emergency standby engines are exempt from paragraph (a) of this section.

§ 60.323 Monitoring of operations.

(a) The owner or operator of any stationary internal combustion engine, subject to the provisions of this subpart must, on a weekly basis for unmanned engines and on a daily basis for manned engines, monitor and record the following parameters. All monitoring systems shall be accurate to within five percent and shall be approved by the Administrator.

(1) For diesel and dual-fuel engines:

- (i) Intake manifold temperature
- (ii) Intake manifold pressure
- (iii) Engine speed
- (iv) Diesel rack position (fuel flow)
- (v) Injector timing
- (2) For gas engines:
- (i) Intake manifold temperature
- (ii) Intake manifold pressure
- (iii) Fuel header pressure
- (iv) Engine speed
- (v) Spark ignition timing

(b) For the purpose of reports required under § 60.7(c), periods of excess emissions that shall be reported are defined as any daily (for manned engines) or weekly (for unmanned engines) period during which any one of the parameters specified under paragraph (a) of this section falls outside the range identified for that parameter under § 60.324(a)(3). Each excess emission report shall include the range identified for each operating parameter under § 60.324(a)(4), the monitored value for each operating parameter specified under § 60.323(a).

the ambient air conditions during the period of excess emissions, and any graphs and/or figures developed under § 60.324(a)(4)

(Sec. 114 of the Clean Air Act, as amended (42 U.S.C. 1857c-9))

§ 60.324 Test methods and procedures.

The reference methods in Appendix A to this part, except as provided in § 60.8(b), shall be used to determine compliance with the standards prescribed in § 60.322 as follows:

(a) Reference Method 20 for the concentration of nitrogen oxides and oxygen. The span for the nitrogen oxides analyzer used in this method shall be 1500 ppm.

(1) The following changes and additions (by section) to Reference Method procedures should be followed when determining compliance with § 60.322:

1. *Principle and Applicability.* Sulfur dioxide measurements are not applicable for internal combustion engine testing.

6.1 Selection of a sampling site and the minimum number of traverse points.

6.11 Select a sampling site located at least five stack diameters downstream of any turbocharger exhaust, crossover junction, or recirculation take-offs and upstream of any dilution air inlet. Locate the sample site no closer than one meter or three stack diameters (whichever is less) upstream of the gas discharge to the atmosphere.

6.1.2 a preliminary O₂ traverse is not necessary.

6.2 Cross-sectional layout and location of traverse points. Use a minimum of three sample points located at positions of 16.7, 50 and 83.3 percent of the stack diameter.

6.2.1 Record the data required on the engine operation record on Figure 20.7 of Reference Method 20. In addition, record (a) the intake manifold pressure; (b) the intake manifold temperature; (c) rack position, fuel header pressure or carburetor position; (d) engine speed; and (e) injector or spark timing. (The water or steam injection rate is not applicable to internal combustion engines.)

(2) The nitrogen oxides emission level measured by Reference Method 20 shall be adjusted to reference ambient conditions by the following ambient condition correction factors:

NO_x corrected = (K) NO_x observed

where K is determined as follows:

Fuel	Correction Factor
Diesel and Dual-Fuel	$K = 1 / (1 + 0.00235(H - 75) + 0.00220(T - 85))$
Gas	$K = (K_H)(K_T)$ $K_H = 0.844 + 0.151 \left(\frac{H}{100} \right) + 0.075 \left(\frac{H}{100} \right)^2$ $K_T = 1 - (T - 85)(0.0135)$

where:

H = observed humidity, grains H₂O/lb dry air

T = observed inlet air temperature, °F
The adjusted NO_x emission level shall be used to determine compliance with § 60.322.

(3) Manufacturers, owners, or operators may develop custom ambient correction factors in terms of ambient air temperature and/or pressure, and/or humidity to adjust the nitrogen oxide emission level measured by the performance test to reference ambient conditions. These correction factors must be substantiated with data and must be approved by the Administrator before they can be used to determine compliance with § 60.322. Notices of approval of custom ambient condition correction factors will be published in the Federal Register.

(4) Testing shall be conducted and ranges identified for each parameter specified under § 60.323(a) over which the numerical emission limits included under § 60.322 are not exceeded. This will be accomplished by measuring NO_x emissions, using Reference Method 20, and these parameters at four points over the normal load range of the internal combustion engine, including the minimum and maximum points in the range if the stationary internal combustion engine will be operated over a range of load conditions.

(b) ASTM D-2382 shall be used to determine the lower heating value of liquid fuels and ASTM D-1826 shall be used to determine the lower heating value of gaseous fuels.

(Sec. 114 of the Clean Air Act, as amended (42 U.S.C. 1857c-9))

[FR Doc. 79-22224 Filed 7-20-79; 8:45 am]

BILLING CODE 6560-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1099-6]

Air Pollution Prevention and Control; Addition to the List of Categories of Stationary Sources

Section 111 of the Clean Air Act (42 U.S.C. 1857c-6) directs the Administrator of the Environmental Protection Agency to publish, and from time to time revise, a list of categories of stationary sources which he determines may contribute significantly to air pollution which causes or contributes to the endangerment of public health or welfare. Within 120 days after the inclusion of a category of stationary sources in such list, the Administrator is required to propose regulations establishing standards of performance for new and modified sources within such category. At present standards of performance for 27 categories of sources have been promulgated.

The Administrator, after evaluating available information, has determined that stationary internal combustion engines are an additional category of stationary sources which meets the above requirements. The basis for this determination is discussed in the preamble to the proposed regulation that is published elsewhere in this issue of the Federal Register. Evaluation of other stationary source categories is in progress, and the list will be revised from time to time as the Administrator deems appropriate. Stationary internal combustion engines are included on the proposed NSPS priority list (published August 31, 1978) required by section 111(f)(1), but since the priority list is not final, stationary internal combustion engines are also being listed as indicated below at this time. Once the priority list is promulgated, all source categories on the promulgated list are considered listed under section 111(b)(1)(A), and separate listings such as this will not be made for those source categories.

Accordingly, notice is given that the Administrator, pursuant to section 111(b)(1)(A) of the Act, and after consultation with appropriate advisory committees, experts and Federal departments and agencies in accordance with section 117(f) of the Act, effective July 23, 1979 amends the list of categories of stationary sources to read as follows:

List of Categories of Stationary Sources and Corresponding Affected Facilities

Source Category

Affected Facilities

Internal combustion engines

Proposed standards of performance applicable to the above source category appear elsewhere in this issue of the Federal Register.

Dated: July 11, 1979.

Douglas M. Costle,
Administrator.

[FR Doc. 79-22225 Filed 7-20-79; 8:45 am]

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federal register

Monday
July 23, 1979

Part III

Department of Energy

Economic Regulatory Administration

Powerplant and Industrial Fuel Use Act
of 1978; Existing Facilities: Criteria for
Petitions for Exemptions; Findings and
Procedures for Prohibition Orders;
Amendments to Previously Issued Rules

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 500, 501, 503, 504, 505 and 506

[Docket No. ERA-R-78-19G]

Powerplant and Industrial Fuel Use Act of 1978; Existing Facilities: Criteria for Petitions for Exemptions; Findings and Procedures for Prohibition Orders; Amendments to Previously Issued Rules

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Interim Rule; extension of comment period on certain other interim rules.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing this interim rule to implement provisions of the Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, (FUA) which (1) prohibit or restrict the use of natural gas by certain existing electric powerplants and (2) grant ERA the authority to issue rules and orders prohibiting or restricting the use of petroleum or natural gas, or both, by existing electric powerplants and major fuel-burning installations which ERA finds are capable of burning an alternate fuel. These interim rules establish the criteria upon which owners and operators of powerplants and installations may petition for exemption from applicable prohibitions, and the procedures and criteria pursuant to which ERA will issue orders prohibiting or restricting the use of petroleum and natural gas. ERA is also amending, in this rulemaking, certain provisions contained in the Interim Rules published in the *Federal Register* on May 15, 1979 (44 FR 28530), and May 17, 1979 (44 FR 28950), and is soliciting additional comments on certain issues which relate both to new and to existing facilities.

DATES: These interim rules shall become effective August 20, 1979. Written comments are due by 4:30 p.m. September 15, 1979. No additional public hearings will be held. However, before issuing these rules in final form, ERA will consider all written comments submitted prior to September 15, 1979.

ERA hereby also gives notice of the extension of the period for written comments from August 15, 1979, to September 15, 1979, for the following effective interim rules which implement the Act:

Prohibition Against Increased Use of Petroleum by Existing Electric Powerplants (Docket No. ERA-R-78-19C) issued on May 8, 1979 (44 FR 28594, May 15, 1979);

Definitions and Administrative Procedures and Sanctions (Docket No. ERA-R-78-19D) issued on May 8, 1979 (44 FR 28530, May 15, 1979);

Criteria for Petition for Exemption from Prohibitions of the Act (Docket No. ERA-R-78-19E) issued on May 8, 1979 (44 FR 28950, May 17, 1979); and

Electric utility System Compliance Option (Docket No. ERA-R-78-19F), issued on June 12, 1979 (44 FR 36002, June 20, 1979).

ADDRESSES: All comments should be addressed to Public Hearing Management (Docket No. ERA-R-78-19G), U.S. Department of Energy, Room 2313, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, U.S. Department of Energy, 2000 M Street, NW., Room B-110, Washington, D.C. 20461, (202) 634-2170.

Stephen M. Stern (Regulations and Emergency Planning), Economic Regulatory Administration, U.S. Department of Energy, 2000 M Street, NW., Room 2130-C, Washington, D.C. 20461, (202) 254-3987.

Robert L. Davies (Fuels Regulations—Program Office), Economic Regulatory Administration, U.S. Department of Energy, 2000 M Street, NW., Room 6128-I, Washington, D.C. 20461, (202) 254-7442. James Heffernan (Office of General Counsel), U.S. Department of Energy, 12th and Pennsylvania Avenue, NW., Room 7136, Washington, D.C. 20461, (202) 633-8814.

SUPPLEMENTARY INFORMATION:

I. Background and Extended Comment Period.

II. Analysis of Comments on Proposed Existing Facility Rules.

A. Prohibition Order Administrative Procedures.

1. Comments.

2. Description of Prohibition Order Proceedings.

B. ERA Findings for Issuing Orders Prohibiting Use of Natural Gas and Petroleum

1. Comments.
a. Technical Capability.
b. Substantial Physical Modification.
c. Substantial Derating.
d. Financial Feasibility.

C. Prohibition Against Excessive Use in Mixtures.

D. Cost Calculations.

E. No Alternative Power Supply—General Requirement for Permanent Exemptions.

F. Use of Mixtures—General Requirement for Permanent Exemptions.

G. Use of Innovative Technologies.

H. Retirement.

I. Peakload Exemptions.

J. Use of Natural Gas by Powerplant with Capacity of less than 250 Million Btu's per hour.

K. Use of Liquefied Natural Gas.

III. Specific Comments Requested.

A. Alternative Cost Calculations for Substantially Exceeds for New and Existing Facilities.

B. Terms and Conditions.

IV. Amendments.

A. Definition of "Combined cycle unit".

B. Definition of "Major Fuel Burning Installation".

C. Definition of "Primary Energy Source".

D. Aggregation of Existing Facilities.

E. Requests for a Public Hearing.

F. Procedures for the Issuance of Prohibition Orders to Existing Facilities.

G. Site Limitation Exemptions.

V. Clarifications.

VI. Procedural Matters.

I. Background and Extended Comment Period.

The Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) requires the establishment by ERA of a program for the expanded use, consistent with applicable environmental requirements, of coal and other alternate fuels and primary energy sources for new and existing electric powerplants and major fuel burning installations.

The following is a list of notices and rules previously issued under the Act, exclusive of notices related to petitions received under FUA.

Date issued	Notice or rule	
		FEDERAL REGISTER citation
Notice of availability, draft EIS	November 5, 1978	43 FR 52515 (Nov. 13, 1978)
Proposed rules pertaining to "new" facilities	November 9, 1978	43 FR 53974 (Nov. 17, 1978)
Proposed rules pertaining to "transitional" facilities	November 16, 1978	43 FR 54912 (Nov. 22, 1978)
Early filing procedure under Section 902 of FUA	November 17, 1978	43 FR 55449 (Nov. 28, 1978)
Clarification/proposed rules pertaining to "transitional" facilities	November 24, 1978	43 FR 55745 (Nov. 29, 1978)
Proposed forms for "transitional" facilities	November 27, 1978	43 FR 56703 (Dec. 4, 1978)
Transitional facilities: Notice of additional hearing on interim rule	December 11, 1978	43 FR 58092 (Dec. 12, 1978)
Hearing on interim transitional facility rule	December 22, 1978	44 FR 761 (Jan. 3, 1979)

Date issued	Notice or rule	
		FEDERAL REGISTER citation
Notice of procedures by which ESECA Prohibition Order recipients may elect to be covered under FUA	December 28, 1978	44 FR 1443 (Jan. 5, 1979)
Draft EIS/Hearing and comment period	January 2, 1979	44 FR 2004 (Jan. 29, 1979)
Proposed special rule for a temporary public interest exemption for the use of natural gas	January 3, 1979	44 FR 1694 (Jan. 5, 1979)
Notice of hearings on "new" facilities, extension of public comment period	January 12, 1979	44 FR 3721 (Jan. 18, 1979)
Proposed rule: Powerplant design capacity	January 19, 1979	44 FR 4500 (Jan. 22, 1979)
Proposed rules pertaining to "existing" facilities (including § 405 of FUA), and extending comment period	January 23, 1979	44 FR 5808 (Jan. 29, 1979)
Notice of Hearings on "new" and existing facilities	January 23, 1979	44 FR 5808 (Jan. 29, 1979)
Proposed guidelines for Environmental Reports	January 25, 1979	44 FR 6177 (Jan. 31, 1979)
Proposed forms for "new" facilities	January 31, 1979	44 FR 9053 (Feb. 12, 1979)
Proposed rule—sale and direct industrial use of natural gas for outdoor lighting	February 7, 1979	44 FR 9570 (Feb. 13, 1979)
Interim Rule on powerplant design capacity	February 9, 1979	44 FR 10366 (Feb. 20, 1979)
Symposium—hearing on proposed rules	February 13, 1979	44 FR 10390 (Feb. 20, 1979)
Extension of public comment for "new" facilities, and proposed forms	March 1, 1979	44 FR 12227, 12236 (Mar. 6, 1979)
Revised interim rule—"transitional" facilities	March 15, 1979	44 FR 17464 (Mar. 21, 1979)
Notice of intent to issue interim rules to implement FUA	March 26, 1979	44 FR 19427 (Apr. 3, 1979)
Powerplant design capacity: Correction	March 28, 1979	44 FR 20078 (April 4, 1979)
Availability: Final EIS	April 2, 1979	44 FR 20745 (April 6, 1979)
Final rule—special rule for temporary public interest exemption for use of natural gas	April 4, 1979	44 FR 21230 (Apr. 9, 1979)
Notice of OMB clearance of regulations in Part 515	April 30, 1979	44 FR 25192 (Apr. 30, 1979)
Final rule—sale and direct industrial use of natural gas for outdoor lighting	May 3, 1979	44 FR 27606 (May 10, 1979)
Interim rule—definitions and administrative procedures and sanctions	May 8, 1979	44 FR 28530 (May 15, 1979)
Interim rule—prohibition against increased use of petroleum by existing electric powerplants	May 8, 1979	44 FR 28594 (May 15, 1979)
Interim rule—"new" facilities: criteria for petition for exemption from prohibitions of the Act	May 8, 1979	44 FR 28958 (May 17, 1979)
Notice to Federal Agencies of FUA	May 24, 1979	44 FR 28958 (May 31, 1979)
Notice of OMB clearance of regulations in Part 508	May 30, 1979	44 FR 32199 (June 5, 1979)
Interim rule—System Compliance Option	June 12, 1979	44 FR 36002 (June 20, 1979)

Parts 504 and 506 of these interim rules set forth the criteria that must be met to establish eligibility for a temporary or permanent exemption under Title III of FUA and the criteria ERA will use in issuing prohibition orders. Subpart E of Part 501 has been amended to include the procedures ERA will use to issue prohibition orders under Title III of FUA.

The period for submission of written comments on this interim rule commences on the date this interim rule is issued and extends until September 15, 1979. ERA invites all interested persons to participate in these further proceedings by submitting any written information, views or arguments to U.S. Department of Energy, Public Hearing Management, Room 2313, 2000 M Street, NW., Washington, D.C. 20461. All submissions should be identified on the outside of the envelope and on the documents contained therein with the designation, "Existing Facility

Regulations" (Docket No. ERA-R-78-19G). You should submit 15 copies. All comments received will be available for public inspection in the DOE Reading Room (Rm. GS-152), James Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. We will consider all comments received by September 15, 1979, and incorporate these into the record of the administrative proceedings for Parts 504 and 506, and Parts 500, 501, 503, or 505, where appropriate.

With regard to the prohibitions on natural gas use by existing electric powerplants imposed by Section 301(a) of FUA, ERA will receive petitions for exemptions in accordance with the procedures and definitions set forth in § 500.2 and Part 501. ERA's determinations with regard to exemption petitions shall be made upon the basis of the standards and criteria set forth in Parts 504 and 506 of this Interim Rule or upon the provisions of those Parts, as subsequently revised, where the application of a modification

of a particular rule would result in a more favorable disposition of a particular petition.

II. Analysis of Comments on Existing Facility Rules

In the Preamble to the Proposed Rules published on January 29, 1979, ERA specifically solicited comments on such issues as: the various exemptions, the Fuels Decision Report, the cost calculations, the pre-order conference and the findings for issuing prohibition orders prohibiting natural gas and petroleum.

ERA received a number of written and oral comments on these issues as well as comments on many issues not specifically identified in the Preamble to the proposed rules. In order to facilitate an orderly discussion of these comments and ERA's specific responses to them, each will be discussed in the order in which they appear in this interim rule. Except in a few instances, if ERA has already addressed an issue in a previously published *Federal Register* notice, ERA will not readdress the same issue here. Thus, issues related to the following exemptions and findings are not discussed here but were addressed in the preamble to the interim rule for new facilities published on May 17 (44 FR 28950):

Lack of alternate fuel supply (§§ 504.21, 504.31, 504.21, and 506.31)
Environmental requirements (§§ 504.23, 504.33, 506.23, 506.33)
Future use of synthetic fuel (§ 504.24 and § 506.24)
Temporary public interest exemption (§ 504.26 and § 506.27)
Temporary reliability exemption (§ 504.28)
State or local requirements (§ 504.34 and § 506.34)
Permanent mixtures exemption (§ 504.36 and § 506.36)
Emergency purposes (§ 504.37 and § 506.37)
Intermediate load powerplants (§ 504.39)
Scheduled equipment outages (§ 506.39)
Use of fluidized bed combustion (§ 506.15)

A. Prohibition Order Administrative Procedures (§ 501.51 and § 501.52)

Comments. Some commenters urged that ERA hold a pre-order conference prior to issuing any proposed prohibition order. ERA has provided that such conferences may be held at its discretion, and it is anticipated that whenever feasible, pre-order conferences will be convened.

Other commenters recommended that ERA provide an automatic stay of any Prohibition Order pending ERA action on a petition for an exemption. With regard to this comment see "Description of Prohibition Order Proceedings," set forth below.

It was also suggested that ERA provide for an Environmental Impact Statement at the proposal stage of a prohibition order proceeding. ERA will determine on a case-by-case basis whether an Environmental Impact Statement is required, and will comply to the fullest with the provisions of the National Environmental Policy Act of 1969.

Description of Prohibition Order Proceedings. After ERA has performed its initial information gathering with respect to the question of technical capability to burn alternate fuels, ERA may, in its discretion, inform the prospective proposed order recipient that it is considering a proposed prohibition order, and invite informal discussion concerning issuance of any such proposed order.

If, following this discussion, ERA still believes that a proposed order may be warranted, and finds that the facility in question has or had the technical capability of using an alternate fuel as its primary energy source, ERA will publish a finding to that effect and a proposed prohibition order in the Federal Register. In accordance with Section 301(b) of FUA, the proposed order will not contain, at this point in the proceeding, the other findings that ERA must make before a final prohibition order can be issued.

Upon issuance of the proposed order, a 3-month comment period will commence, during which the recipient of the proposed prohibition order will be given an opportunity to challenge ERA's initial finding of technical capability, to present evidence relevant to financial feasibility, and to come forward with evidence bearing upon the other findings ultimately required to be made by ERA prior to the issuance of a final prohibition order. (While the burden of coming forward with evidence regarding the other findings is, at this stage of the proceeding, on the respondent, since the facts with respect to the latter findings lie peculiarly in his knowledge, the ultimate burden of persuasion remains with ERA.) In his written submissions the order recipient will also be asked to identify, but not to demonstrate its entitlement to, possible bases for exemption. During this period, the order recipient may request a conference with ERA. Except in limited circumstances specified in the rule, a proposed order recipient will not be allowed to present evidence relating to the findings in subsequent steps of the proceeding that he did not raise in his written submission during this 3-month period.

Subsequent to the close of the initial comment period, ERA will express its

intention by notice published in the Federal Register and sent to the recipient whether to continue the prohibition order proceedings. Should ERA decide to proceed, a second 3-month period commences, during which the recipient of the proposed order may submit written evidence of his qualification for an exemption which it wishes to present as a defense to issuance of a final prohibition order.

Except in limited circumstances specified in the rule, a proposed order recipient will not be allowed to contest issuance of a final prohibition order upon the basis of evidence relating to an exemption which it did not present during the second three month period. In attempting to demonstrate qualification for an exemption prior to issuance of a final order, the proposed order recipient need only consider the alternate fuel or fuels with reference to which ERA proposes to make the required findings.

If a respondent does not avail himself of this opportunity to demonstrate that he qualifies for an exemption, he may, after issuance of a final prohibition order, petition for an exemption from the applicable prohibitions of the order as any other petitioner for an exemption. After issuance of a final prohibition order, the petitioner would have to analyze all available alternate fuels and submit a Fuels Decision Report where such analysis and submission are required by the exemption being sought. During the pendency of the exemption proceeding, the prohibitions of the final prohibition order would ordinarily be in effect, just as any other effective prohibitions under the Act remain in effect during the pendency of exemption proceedings.

Some commenters suggested that the opportunity to defeat issuance of a prohibition order by demonstrating qualification for exemption should be identical to that provided to a recipient of a proposed prohibition by rule. Under FUA, a prohibition by rule is stayed pending resolution, including judicial review, if respondent petitions for an exemption within 60 days after the rule is published.

Such commenters argued that a proposed order recipient should not have to incur the burden of preparing an exemption request until it is certain that ERA is going to make the required findings and issue a final order—in other words, until after a hearing on the required findings. Only at that point would the sequence of submission, comment and hearing on the exemption begin, during which time the prohibition order would be stayed.

Certainly the statute does not require such elongated procedures in the case of prohibitions by order. The provisions governing prohibition orders make no reference to such procedures, in clear contrast to the provisions governing rules. The exemption showing of a proposed order recipient is instead in the nature of an affirmative defense. Additionally, until a final order is issued, no prohibition is yet in effect which may be stayed.

We believe that the statutory distinction should as a matter of policy be preserved. A proceeding looking toward a prohibition by rule will, by its nature, be a multi-party, multi-unit proceeding, as to which Congress evidently considered it desirable to defer consideration of specific exemption requests until after completion of the proceeding. The delays and multiplication of hearings that the rule sequence entails do not seem warranted in the case of a prohibition order proceeding which, from the beginning, will be focused upon a particular unit, or a very small number of units owned or operated by the same person.

Moreover, under this interim rule, a proposed order recipient will not have to prepare its exemption materials unless and until ERA reaffirms its decision to seek a prohibition order after consideration of the recipient's submissions on all of the required findings. After such a reaffirmation, the recipient will be preparing exemption materials in the face of an agency decision that is considerably more than a preliminary decision based on unilateral inquiry. The interim rule is thus a reasonable accommodation of the interest in avoiding unnecessary private and public burdens and the interest in reasonable expedition in pursuit of the Act's urgent goals.

After the close of the 3-month period in which to demonstrate qualification for an exemption, if ERA still intends to seek a prohibition order, ERA's staff will make available its Tentative Staff Decision and provide a period of no less than 45 days for interested persons to request a public hearing in accordance with Section 501.33. At the hearing, interested persons will have the opportunity to question the parties about ERA's case for the findings it is required to make, the proposed order recipient's showing on exemptions and rebuttal of ERA's findings, and ERA's rebuttal to any showing of qualification for exemption.

After the hearing and comment period closes, if ERA still believes it is

warranted, a final prohibition order will be issued.

B. ERA Findings for Issuing Orders Prohibiting Use of Natural Gas and Petroleum (Parts 504 and 506)

Prior to issuing a final order under Sections 301(b) or 302(a) of the Act prohibiting a powerplant or installation from using petroleum or natural gas as a primary energy source, ERA must find that based on substantial evidence: the facility has or previously had the technical capability to use an alternate fuel; the facility currently has such capability or, if it previously had such capability could have it again without substantial physical modification or substantial derating; and it is financially feasible to use an alternate fuel in the facility.

1. Comments—(a) Technical Capability. A number of comments received by ERA noted that in proposing to find technical capability on the basis of an ERA determination of actual use of an alternate fuel or alternatively on the basis of design capability to burn such fuel, ERA was not, at least in the latter instance proposing to find the "real" technical capability called for under sections 301(b) and 302(a) of the Act.

ERA wishes to clarify the significance of design capability in the context of its application in the two-step process called for under the Act for the technical capability finding. The first step, required for issuance of a proposed prohibition order under sections 301(b)(1) or 302(a)(1) of the Act, calls for a finding that a facility "has" or "previously had" the technical capability to use an alternate fuel. ERA believes that design capability to burn alternate fuel establishes that a facility "previously had" technical capability to use that fuel and provides "reasonable evidence," under the terms of the Act and its conference report (p. 81), that a facility "has" (in the absence of evidence of major alterations to a facility) technical capability to use the fuel.

Design capability, however, does not provide the only basis for finding that a facility has or had technical capability. A facility actually burning an alternate fuel, not included in its design specifications, would be held to have present technical capability to use that fuel. The Conference Report (p. 81) explains that a proposed order need be supported only by a finding based upon a "paper search" for technical capability. ERA believes that a finding based upon either design capability or actual use satisfies this requirement. In addition units designed to use petroleum

or natural gas may also, under certain circumstances, be considered able to use certain liquid or gaseous alternate fuels: for example, a unit designed to burn natural gas also "has" the technical capability to burn medium BTU gas from coal (assuming such gas is available). Furthermore, a unit designed to burn oil may, depending upon the chemical characteristics, be a unit that "has" the technical capability to burn liquefied coal. The fact that certain minor adjustments may be necessary does not render this a "hypothetical" as opposed to a "real" capability. Even an oil fired unit converting from the use of #2 distillate to #6 residual oil may be required to adjust or replace burner nozzles and add foot blowers. ERA views these alterations as minor adjustments the need for which does not render a unit incapable of burning a particular fuel.

Where ERA finds that a facility can burn an alternate fuel, based upon its design specifications, actual use, or on the other grounds, ERA will initially find that the facility "has" the requisite capability. Where a facility has been altered and lost the capability to burn an alternate fuel it was designed to burn, ERA will nonetheless find that the unit "previously had" the requisite capability.

A second step is required by sections 301(b)(2) or 302(a)(2) of the Act, for issuance of a final prohibition order. In order to issue a final order, ERA must make a finding, supported by substantial evidence, that "real" capability to use an alternate fuel exists. ERA must find either that a facility has the technical capability to use an alternate fuel (whether or not it was expressly designed to burn such fuel and whether or not it actually burned such fuel), or if it previously had such capability and lost it through alterations, it could have it again without substantial physical modification or substantial reduction in rated capacity. Any modifications to a unit altering the present ability of the unit to use an alternate fuel it was designed to burn, therefore, will be fully considered by ERA in evaluating whether the unit could have alternate fuel capability again without undergoing substantial modification or substantial derating.

ERA also received related comments noting that essential to ERA's finding of "real" capability to use an alternate fuel is the presence of pertinent fuel handling and storage systems and pollution control equipment. ERA believes that real technical capability of a facility to burn a particular alternate fuel is dependent upon the ability of the unit

from the point of fuel intake to sustain combustion of that fuel and to maintain heat transfer. Typically, most potential prohibition order recipients would lack installed and operating alternate fuel storage and handling equipment, and control equipment necessary to burn an alternate fuel in compliance with applicable air pollution requirements. ERA believes that if the absence of such appurtenant facilities could suffice to prevent a finding of technical capability, the order-issuing provisions of sections 301(b) and 302(a) would be so restricted that the authorities conferred by Congress in those sections would be rendered to little or no effect. ERA will therefore make its technical capability finding on the basis of the characteristics of the unit under review, and will not normally consider the absence of fuel storage and handling or pollution control equipment as bearing upon the question of technical capability. The financial consequences of a need for such equipment will be taken into account in assessing the financial feasibility of a conversion to alternate fuels.

ERA received a number of comments suggesting that the technical capability finding should be limited to an assessment of the technical capability of a unit to burn coal but not other alternate fuels. Other comments were critical of ERA's proposal to consider, in certain cases, alternate fuels not included in the purchaser's design specifications for a facility. Adoption of these recommendations would not comport with the provisions of FUA which call for an affirmative finding of technical capability with respect to "coal or another alternate fuel." A unit may be fully capable of burning certain alternate fuels by virtue of its ability to burn either petroleum or natural gas. The fact that these alternate fuels may not have been available, or that their use was not foreseen at the time the purchaser's design specifications were prepared, does not alter the fact that the unit "has" the technical capability to burn selected alternate fuels, provided such alternate fuels are currently available. Congress intended "to the extent permitted by this Act, to encourage the use of synthetic gas derived from coal or other alternate fuels" (Section 102(b)(4)), and to "encourage and foster the greater use of coal and other alternate fuels" (Section 102(b)(3)).

With regard to the technical capability of a unit to use synthetic fuels, ERA received comments that FUA requires that facilities to convert coal or other fuel to synthetic fuel exists or did

exist. ERA agrees that before such a technical capability finding regarding the use of synthetic fuels can be made the facility to convert coal or other fuel to a synthetic fuel must presently exist at the time of the proposed order, or have existed, although not, as some commenters asserted, at the same site as the unit in question.

Other related comments recommended that ERA should be limited in making the technical capability finding to alternate fuels which are available at a reasonable price. ERA believes that considerations of the reasonableness of fuel costs are properly a part of the financial feasibility finding (and the "substantially exceeds" cost exemption) and not of the finding of technical capability.

Several commenters suggested that ERA should consider, for its technical capability finding, only those alternate fuels which are suitable for use in the unit without detrimental effects. ERA will consider potential adverse effects on a facility which might result from use of an available alternate fuel as part of the technical capability finding for issuance of a final order. While these effects may bear upon the ability of a unit to sustain combustion of an alternate fuel, they will not necessarily foreclose a technical capability finding, since they may be able to be overcome with only minor adjustments not necessitating substantial physical modifications or substantial derating.

One comment noted that ERA had erroneously omitted the word "and" at the end of § 506.2(a)(2). ERA has corrected this inadvertent omission.

(b) *Substantial Physical Modification.* ERA received a number of comments critical of its proposal to find that a facility does not require substantial physical modification if it has the requisite furnace configuration and tube spacing to burn an alternate fuel. Many comments suggested that ERA should consider the presence of coal, ash handling and storage facilities, and pollution control equipment.

ERA will assess the substantiality of physical modifications required to attain technical capability on a case-by-case basis. Acting on the assumption that Congress did not intend to create a significant overlap between "findings and exemptions," ERA distinguishes the requirements ERA must satisfy in making this finding from those incumbent upon the petitioner in presenting an exemption request. The scope of this assessment is derivative of the technical capability finding. ERA will weigh those modifications that

involve the elements and characteristics, from the point of fuel intake, that are physically necessary to sustain combustion and maintain heat transfer (including adequate ash removal capability). Significant alterations affecting the furnace configuration or a complete respacing of the tube would likely be "substantial." A combination of modification involving changes required for bottom ash removal, related construction and engineering work, and other modifications to the boiler, other than furnace configuration or tube spacing may, in some circumstances, cause modifications to be considered "substantial." While ERA will remain flexible in considering pertinent factors, pollution control equipment, such as precipitators or scrubbers, will not be weighed in assessing the substantiality of the modifications to the facility, nor will fuel handling equipment. The cost of such equipment will be taken into account both in determining whether to make a finding of financial feasibility and in the cost exemptions (see §§ 504.21, 504.31, 506.21, and 506.31).

(c) *Substantial Derating.* Many comments criticized ERA's proposal that a derating of less than 25 percent of a unit's design capability would not be considered "substantial." Some commenters specifically suggested modification to a 10 percent ceiling. ERA has revised its proposal so that a derating of less than 10 percent would not be considered "substantial." Deratings equal to or in excess of 10 percent will be evaluated for their substantiality in the context of site-specific circumstances. Typically, units that are the subject of a prohibition order will not have installed any operating air pollution control equipment sufficient to burn coal in compliance with applicable environmental equipments. The installation and use of air pollution control equipment alone, can, in many cases, produce a derating of close to 10 percent. Moreover, the shift to coal itself will, because of differences in energy density and fuel flow characteristics, typically involve some derating. Thus if a derating of less than 10 percent should constitute a "substantial" derating, the authority conferred by Congress to prohibit by order could be almost entirely nugatory.

Other comments criticized ERA's proposal not to include deratings resulting from the addition of pollution control equipment. ERA has adopted a case-by-case approach for evaluation of the substantiality of deratings equal to or in excess of 10 percent. Derating due

to pollution control equipment enters into the assessment of substantiality, as does derating resulting from any other reason. If the only derating is due to air pollution equipment, however, and amounts to less than 10 percent, ERA will not consider the derating to be substantial.

In assessing whether unit deratings of 10 percent or more are "substantial," ERA will consider the impact of the reduction in available capacity on the site (or, in the case of utilities, on the system) at which the facility is located as well as on the unit itself. For example, ERA may find that the derating of a unit far in excess of 10 percent is not "substantial" if it produces no appreciable effect upon the operation of a facility with considerable excess capacity.

(d) *Financial Feasibility.* In the proposed rules applicable to the financial feasibility of alternate fuel use by an existing powerplant or MFBI, ERA proposed a test which considered alternate fuel use to be financially feasible if the cost of using an alternate fuel did not substantially exceed the cost of using imported petroleum, and if the firm had the ability to raise the capital necessary to convert the unit.

Many of the commenters argued that incorporation of the substantially exceeds test was contrary to the intent of the Act, asserting that the financial feasibility test was a measure of impact on the facility or the utility system, not of when excess costs are "substantial" in light of the purposes of the Act. The commenter argued that financial feasibility must be determined on a case-by-case basis in order to take into account a variety of factors applicable to each particular facility and corporation. They stated that a formula test and an examination of the ability of a firm to pay for the conversion of the unit were too inflexible for ERA to make a proper evaluation.

The commenters asserted that ERA must take into consideration any relevant factor applicable to the ability of the facility to compete in the marketplace, the effect on the business done by the facility at the site where it is located, the effect on the parent corporation, if any, and any unreasonable shutdown at the facility during the period required for the conversion. The commenters further argued, in the case of a powerplant, that ERA should consider the impact of the required conversion as part of the total impact of the Act and other regulatory demands on the entire utility system, including additional costs which may be imposed upon the system as a result of

the prohibitions applicable to both new and existing facilities under the Act.

The commenters also stated that in assessing financial feasibility, it is essential to take into account costs (for example, for pollution control equipment) which, the commenters contended, were excluded in the proposed rule from the test for the cost exemption.

To address the last group of comments first, we note that the cost test adopted in the interim rule takes into account all cash outlays for capital investment (including pollution control equipment), and forward values outlays occurring before the commencement of operations at the facility. These objections are therefore met by the interim rule.

The issues concerning the nature of the financial feasibility test are not so readily resolved.

No doubt some of the factors cited by the commenters may be relevant in particular cases to a determination of financial feasibility. However, it cannot be assumed that factors of the kind cited by the commenters will be relevant in all or even most cases. ERA believes that in many instances financial feasibility can and should be determined only on a formula approach, and that to leave this determination solely to a case-by-case method would involve unnecessary complexity.

ERA believes it appropriate to use a formula and the availability of capital as a presumptive measure of financial feasibility unless other factors can be shown to be relevant. By using a formula in this way, the scope of the inquiry should be narrowed in most cases. Because the formula is a presumption, a firm will have the opportunity to present other evidence that even though under the formula conversion appears to be financially feasible, other relevant factors, e.g., the competitive viability of the enterprise supported by the unit, make the required conversion inappropriate. ERA will have the ultimate burden of persuasion on the question of financial feasibility.

A formula that compares the costs of conversion with the costs of burning imported petroleum provides a reasonable presumptive measure of the financial feasibility of conversion. The provisions of the cost exemption enable such comparison, and ERA is adopting them for the interim rule on financial feasibility. Moreover, ERA believes it reasonable to assume, pending experience under the Act, that for many firms, it will be financially feasible to convert to an alternate fuel at a cost up to the 1.3 ceiling which the substantially

exceeds index sets. Accordingly, ERA will presume that a conversion is financially feasible if the cost of converting equates to an index of 1.3 or less.

ERA has modified the cost formula to be used as the presumptive measure of financial feasibility in order to account for a firm specific factor. In calculating the cost of using an alternate fuel as compared to the cost of using imported petroleum, ERA will use your firm's own cost of capital rather than a national average. We are doing so because the perspective of the financial feasibility test is more that of the firm than the cost exemption. The firm's own cost of capital therefore seems more appropriate for the presumptive test even though the firm may, in any event, put in issue additional factors specific to its situation. ERA may take into account other relevant factors which you demonstrate to be relevant to a determination of financial feasibility for a particular facility or firm. Thus, in the case of a powerplant, ERA will allow you to demonstrate the impact of the Act on your entire utility system. In considering the effect of the conversion on an MFBI, ERA will allow you to demonstrate the effect of the conversion on the competitive viability of the facility.

ERA believes, in general, that most public utilities can raise the capital necessary to convert a powerplant to alternate fuel use, especially in light of the ability of a utility to achieve rate relief through action by the appropriate regulatory authority. In the case of MFBI's, ERA believes that the determination of capital availability should be dependent upon the firm's ability to raise capital and not just the ability of the enterprise directly supported by the individual unit in question.

Some commenters asserted that ERA should not use the cost of imported petroleum in determining whether or not it is financially feasible to convert to alternate fuel as this accounting creates a higher fuel price for oil than most existing facilities are actually paying due to domestic price controls. ERA believes that, as a matter of policy under FUA, whenever there is occasion to make a cost comparison between alternate fuels and petroleum, the comparison should be to the true replacement cost of petroleum. Since the marginal source of supply is imported petroleum, a comparison with replacement cost is a comparison to the cost of imported petroleum. ERA recognizes that the considerations that lead to a cost-comparison formula as a

presumptive measure of financial feasibility may not compel the choice of an index that is identical to the substantially exceeds index. ERA invites comments on whether, in addition to the shift to the firm's own cost of capital, the substantially exceeds test should be further modified when it is used as the presumptive measure of financial feasibility. Commenters may also wish to address, for example, whether another type of index or formula should be used as a presumptive measure of financial feasibility.

C. Prohibition Against Excessive Use in Mixtures (§§ 504.5(d) and 506.2(d))

Sections 301(c) and 302(b) of FUA give ERA the discretionary authority to prohibit the use of petroleum or natural gas, or both, in amounts in excess of the minimum amount necessary to maintain reliability of operation consistent with reasonable fuel efficiency in units in which use as a primary energy source of a mixture of petroleum or natural gas and alternate fuel is technically and financially feasible.

For purposes of exercising this discretionary authority, ERA will use the case-by-case standards for technical feasibility and the standards for financial feasibility that are found in §§ 504.5 and 506.2. In determining whether a mixture is financially feasible, ERA will take into consideration the cost of any modification necessary to burn a mixture of petroleum or natural gas and an alternate fuel.

Prohibitions against the use of natural gas or petroleum in amounts necessary to maintain reliability of operation consistent with reasonable fuel efficiency shall only be imposed by order to specific existing facilities. If either a proposed order or a final order for a mixture is issued, the facility will be provided opportunity to demonstrate qualifications for, or petition for in the case of final orders, any of the exemptions set out under Parts 504 and 506 except for the permanent exemption applicable to mixtures.

D. Cost Calculations (§§ 504.12 and 506.12)

Sections 311 and 312 of the Act provide that ERA must grant an exemption from the prohibitions of the Act when alternate fuel supplies are available only at a cost which substantially exceeds the cost of using imported petroleum. After evaluation of the comments received during the public comment period, ERA is now adopting interim rules which provide the criteria,

methodology and evidentiary requirements to be used by a petitioner in petitioning for an exemption based upon the cost of converting and operating a facility which burns an alternate fuel. In all cases, we have determined that the appropriate cost comparison must take into consideration the additional capital, operation, maintenance and fuel costs associated with specific fuel choices in existing facilities, and they must be expressed in real terms discounted to present value. Specific aspects of the cost calculation were addressed in the preamble dealing with the cost test for new facility regulations (44 FR 28957-61, May 17, 1979).

In addition to the methodology adopted in this interim rule ERA is soliciting comments on two alternative methodologies for computing cost which are discussed in greater detail in Part III of this Preamble.

For purposes of this interim rule ERA is adopting a definition of "substantially exceeds" as 1.3 times the cost of using imported oil. The justification for this value is provided in the preamble dealing with new facility regulations (44 FR 28953-57 and 29018-9, May 17, 1979). ERA will revise the index from time to time after public notice and an opportunity to comment. Revisions in the index shall become effective for all ERA decisions after final publication; however, the relevant index for a specific petition will be the index in effect at the time the petition is submitted, or the index in effect at the time a decision is rendered, whichever is lower.

ERA is inviting comment on the appropriateness of this cost test, the two other alternative cost tests discussed in Section III of this preamble, and other possible approaches or changes to such tests. In particular we invite comment on certain parameters used in the various cost test approaches including the appropriate treatment of remaining useful life, discount rates, capacity utilization and fuel prices.

In addition to comments addressed in the above cited sections of the preamble to the interim rules applicable to new facilities, several commenters expressed concern that the cost test did not account for the impact of derating a unit when the unit is converted from oil or gas to alternate fuel. We have modified the cost calculation to include the impact of derating upon cost. The impact of derating will be assessed differently for MFBI's and powerplants.

For MFBI's, we will assume that your MFBI will generate on an annual basis the same amount of steam or energy

after the conversion to alternate fuel as it generated while operating on oil or natural gas. ERA will base this computation on the 5-year average annual usage of the unit as described in § 506.12(d) of these regulations.

You may come forward with evidence that the 5-year average does not adequately account for your needs because historical, daily or seasonal peaking requirements exceed the capacity after derating. If you choose in this way to put in issue the adequacy of the 5-year average, you should also address the least cost alternative means of replacement of this needed capacity.

The choice of the least cost alternative for the additional capacity must reflect additional costs associated with increased firing of the unit to be converted, the use of other units at your site, purchased energy or the purchase of new capacity. If you claim additional capacity is needed, you must adjust the capital outlay for the "make-up" unit by the remaining useful life of the make-up unit according to the procedures identified in § 506.12 of these regulations.

If the size of the needed make-up capacity is less than the size of the exclusion from aggregation in § 500.2, of these regulations, and the least cost alternative is an oil- or gas-fired facility, the costs of such a make-up facility will be the costs considered in the cost formula.

It may be, however, that the size of the needed make-up capacity is greater than the size of the exclusion from aggregation in § 500.2 and the least cost alternative is an oil- or gas-fired facility. In such a case, you should raise the issue of how to account for the make-up capacity in a pre-petition conference. Where the least cost alternative is oil- or gas-fired, and where it appears that such a facility would be likely to receive an exemption from the prohibitions of Title II of the Act, the costs of that alternative will be included in the cost test as the costs of make-up capacity.

For powerplants, we will assess costs attributable to derating on the assumption that your powerplant will generate the same number of kilowatt hours on an annual basis before and after conversion. ERA will base this assessment on the 5-year average annual usage of the unit as described in § 504.12(d) of these regulations.

If you believe this approach does not adequately account for the effects of lost capacity, you may rebut these findings based upon the impact of derating upon your electric region. Since powerplants usually operate in an interconnected manner, any treatment of derating other

than the one stated in the previous paragraph must be on the basis of economic dispatch of powerplants in your electric region. Section 504.12 of these interim regulations permits the powerplant to compute cost on the basis of economic dispatch of all units in your electric region, which approach can account for the impact of derating.

If you can demonstrate that additional capacity is required to account for the effects of derating, you must identify the least cost alternative (as specified in § 504.12, similar to that specified for MFBI's above).

In Section III below, additional comments are invited on issues relating to the cost test for both new and existing facilities.

E. No Alternative Power Supply—General Requirement for Permanent Exemptions (§ 504.13)

Section 312 of the Act provides for a permanent exemption due to State or local requirements and for intermediate load powerplants. To qualify for either of these exemptions, a petitioner must demonstrate that despite diligent good faith efforts, there is no alternative supply of electric power available within a reasonable distance at a reasonable cost without impairing short- or long-run reliability of service which the petitioner could obtain.

Several commenters objected to the proposed requirements concerning the construction of new alternate fuel-fired plants as a means of demonstrating that there is no alternative supply of power. The commenters contend that section 313(b) of the Act only requires a consideration of purchasing power from other sources.

Some comments suggested that purchased electricity should appropriately be considered as an alternate source of power only when it is available under long-term firm supply contracts. Other comments were to the effect that purchasing power for an extended period of time was not a reasonable requirement since excess capacity is rarely available in an electrical supply region over a long period.

Comments were received pointing out that the proposed rules failed to provide for consultation with the Federal Energy Regulatory Commission, as required by section 313(b)(2), of the Act, before making a finding with respect to an alternative power supply.

ERA received several comments recommending that the term "reasonable distance," as used in § 504.13 of this interim rule, should be treated as a factor independent of cost

considerations. Defining unreasonable distance in cost terms, it is argued, is not what Congress intended, and the reasonable distance concept should be explicitly defined as including either the State or some region less than the electrical region.

ERA received these and similar comments relating to this general requirement for exemptions for new facilities. For a discussion of such comments, see "General Requirement—No Alternative Power Supply," published May 17, 1979, at 44 FR 28959. ERA's resolution of the issues raised by these comments is the same for existing facilities as for new facilities.

The rule, however, for existing facilities does differ slightly from the rule for new facilities.

For new facilities, petitioners are required to examine the availability of purchased power during the first year of scheduled operations of proposed oil- or gas-fired units. Petitioners for a permanent exemption for existing facilities due to State or local requirements or for an intermediate-load powerplant, will be required to demonstrate that there is no alternate supply of power available in three different situations. First, the requirement applies, in the case where a proposed prohibition order has been issued by ERA, only for the first year after the date on which the order could reasonably be expected to become effective. Second, the requirement will apply, in the case where a petitioner proposed to use natural gas in excess of a statutory prohibition, only for the first year in which the excess natural gas is proposed to be used. Third, the no alternate power showing applies, in the case in which a final prohibition order has been issued by ERA, only for the first year in which it is proposed that the facility subject to the order would use petroleum or natural gas.

F. Use of Mixtures—General Requirement for Permanent Exemptions (§§ 504.15 and 506.14)

The proposed rule would have required petitioners for a State or local exemption under section 312(b) of the act to consider the use of a mixture(s) for which a fuel mixtures exemption under §§ 504.36 and 506.36 of these regulations would be available. The comments point out that section 313(a) of the Act expressly excepts an exemption for State or local requirements from the general requirement on the use of mixtures. ERA agrees with the comment and has deleted the subject requirement from these regulations.

G. Use of Innovative Technologies (§§ 504.25 and 506.25)

Section 311(c) of the Act provides for a temporary exemption based upon the use of innovative technologies. The proposed rules contained a requirement that the petitioner demonstrate that the powerplant or installation could not comply with the applicable prohibitions by using an alternate fuel before the end of the proposed exemption period. Several commenters objected to this requirement as imposing a burden which was not in consonance with the legislative purpose in providing the exemption. ERA agrees with the commenters and has deleted the requirement relating to alternate fuel use from the rule as adopted.

Other commenters objected to a requirement that petitioners must present evidence of contractual commitments to use an innovative technology for use of an alternate fuel before a petition for an exemption is approved. The objection was based on the ground that a petitioner is required to accept an unfair burden in the form of a risk that the petition will be denied, thereby subjecting the petitioner to significant financial penalties for nonperformance of the contract. ERA believes that petitioners for this exemption can and will take prudent steps to enter into contractual commitments for the use of innovative technologies which are conditioned upon the grant of an exemption. Therefore, ERA has decided not to change the proposed regulation. Nevertheless, ERA encourages petitioners for this exemption to raise their plans to use an innovative technology with ERA at the earliest practicable time, for example at either a pre-proposed order conference or a pre-petition conference.

H. Retirement (§§ 504.27 and 506.26)

Section 311(d) of the Act provides for a temporary exemption for units to be retired. The proposed rules required the petitioner to demonstrate, as a condition of eligibility for the exemption, that the unit is not capable of complying with the applicable prohibitions contained in Title III, Subtitle A of FUA by consuming coal or other alternate fuels before retirement of the unit. A number of comments were received which indicated that the proposed criteria for eligibility were inappropriate for the retirement exemption. ERA agrees with these comments and has deleted the proposed required showing.

Comments were received which urged ERA to adopt the view that a retirement

exemption under § 504.27 should be available to powerplants which had previously been placed on cold standby status. Such powerplants may be the subject of a petition for exemption for retirement under § 504.27. The petitioner must, however, commit the unit to "permanently cease operation" upon termination of the exemption period; thus, the unit may not continue in a cold standby status after termination of the exemption.

Some commenters suggested that § 504.27 of the proposed rule could be construed to require that powerplants for which this exemption was sought could not be retired earlier than originally planned. ERA does not so construe these regulatory provisions. A utility always retains the option of retiring a unit in advance of the planned retirement schedule submitted in support of the petition for exemption.

One comment suggested that section 311(d) retirement exemptions could be extended beyond five years, until December 31, 1994. ERA disagrees and notes that the phrase "may not extend beyond December 31, 1994" contained in section 311(h)(3) of the Act does not provide authority to grant an extension beyond the 5-year limit contained in paragraph (1) of section 311(h), but rather it further delimits the maximum 5-year duration period for a temporary exemption in those instances where the retirement exemption period commences after January 1, 1990.

I. Peakload Exemptions (§ 504.29 and § 504.38)

Several commenters asked for a clarification of the 12-month period which will be used for calculating maximum allowable generation of a peakload powerplant. ERA has set the applicable period as the 12-month period beginning with the first day of the month following the granting of the exemption.

One commenter objected to the exclusive use of "loss of load probability" (LOLP) technique as inappropriate to the determination of whether an exemption denial would "likely" result in impairment of reliability of service. ERA has expanded the test so that LOLP is but one factor to be considered, and the applicant may submit additional bases for an exemption.

One commenter expressed the opinion that FUA does not authorize the use of the same test for determining whether the cost of using an alternate fuel "substantially exceeds" the cost of using imported petroleum and for determining whether compliance with the

prohibitions of the Act would be an "unreasonable expense" for a peakload powerplant. ERA has modified this provision to assess reasonableness on a case-by-case basis.

One commenter stated that ERA was required to use the definition of utility peakload volumes appearing in section 501(f) of FUA. ERA had decided not to use that definition since it is expressly applicable only to subsection (b)(4)(B) of section 501 regarding the electric utility system compliance option. ERA believes, as a matter of policy that the definition specifically developed for this exemption is more reasonable.

Other commenters objected that the test applied to determine "likelihood" of impairment of reliability for purposes of the peakload exemption should be less stringent than the test for the reliability exemption which speaks in terms of "necessary" to prevent impairment. ERA believes that in setting the tests for the two exemptions at the same level, it has significantly scaled down the requirements of the reliability exemption. It does not believe it has imposed an additional burden upon applicants for the peakload exemption.

One commenter requested a clarification that in determining whether a unit is a peakload unit, ERA not look to past history. ERA has made clear that the period to be analyzed in computing LOLP is the 12-month period beginning on the first day of the month following the effective date of the exemption.

One commenter stated that the requirement of a compliance plan is inappropriate for the temporary exemption for peakload powerplants. ERA, while recognizing that FUA does not require a compliance plan in the case of a temporary peakload exemption, believes that section 314 of the Act gives it the authority to require one concomitant to its authority to impose terms and conditions on exemptions.

J. Use of natural gas by powerplant with capacity of less than 250 million BTUs per hour (§ 504.40)

Section 312(h) of the Act provides for a permanent exemption for the use of natural gas by existing powerplants which have a design capability of consuming fuel (or any mixture thereof) at a fuel heat input rate of less than 250 million BTUs per hour, which were used as baseload powerplants on April 20, 1977, and which are not capable of consuming coal without substantial modification or substantial derating of the unit. The Act further provides that the exemption authorized under section 312(h) may only apply to the

prohibitions under section 301 of the Act and prohibitions established by final rules or orders issued before January 1, 1990.

ERA has received several comments objecting to certain of the requirements contained in the proposed rules. Commenters objected to the proposal that petitions under section 312(h) be filed on or before December 31, 1988. ERA recognizes that there may be instances where a petition could be properly filed after December 31, 1988, and has deleted the proposed restriction.

Other commenters objected, in view of the statutory reference to a single date, April 20, 1977, with respect to the baseload use determination, to the requirement for a detailed history of the fuel consumption of the powerplant for 1976 and 1977 on a monthly basis for each fuel consumed and the demonstration of kilowatt hours of electrical generation for 1976 and 1977. ERA believes that it is unrealistic, and in certain cases would be unfair (for example where special circumstances may have caused the powerplant to be operating as an intermediate load or peakload powerplant or even out of service on April 20, 1977) to make a determination as to which units were baseload powerplants by reference to any single date. FUA defines the term "base load powerplant" as a powerplant the electrical generation of which in kilowatt hours exceeds, for any 12-month calendar-month period, such powerplants design capacity multiplied by 3,500 hours. In view of the comments received, ERA has revised the requirements for information as to electrical generation and fuel consumption to cover the calendar year 1977.

A number of comments objected to the use of a cost calculation formula with reference to the finding on substantial physical modification and the proposed 25% test for the finding on derating. ERA has deleted the cost calculation formula and further revised the basis for both findings, as set out in §§ 504.5 and 506.2 relating to the findings ERA must make in issuing individual prohibition orders. A discussion of the reasons for these revisions is contained in the section of this preamble entitled "Authority to Prohibit Where Alternate Fuel Capacity Exists."

K. Use of liquefied natural gas (§ 504.41)

Section 312(i) of the Act provides for a permanent exemption for the use of liquefied natural gas (LNG) by certain powerplants. To qualify for the

exemption, a petitioner must obtain a certification from the Administrator of the Environmental Protection Agency (or the appropriate State air pollution control agency) that the use of coal by such powerplant as a primary energy source would cause or contribute to a concentration of pollutants for which ambient standards are being exceeded and would result in a violation of certain environmental standards. The proposed rules require that the certification be made for coal or any available coal derived fuel. Comments were received objecting to the inclusion of alternate fuels other than coal. Section 103(a)(5) of the Act defines the term "coal" to mean "anthracite and bituminous coal, lignite, and any fuel derivative thereof." Therefore, ERA has not changed the requirement in adopting these rules.

Comments were also received objecting to a proposed criterion of eligibility for the exemption that the LNG to be used at the petitioner's powerplant be produced in a foreign country. The comments suggested that this proposal exceeded the requirements of the Act and placed an unnecessary burden on the petitioner. ERA disagrees with the comments. ERA believes that the language contained in section 312(i) of the Act relating to LNG must, as a matter of statutory construction, have a meaning independent of "natural gas" since FUA is premised on the need to preserve natural gas because supplies in the United States are not ample.

An interpretation of section 312(i) which would permit a use of natural gas that is otherwise prohibited by the Act merely because the gas had first been converted to a liquid form would clearly frustrate the purposes of the statute. Such an interpretation would construe section 312(i) as an exemption to use natural gas by another name. In order to give section 312(i) an independent meaning within the overall structure of the Act, ERA believes that it is necessary to grant the exemption to use LNG only where such fuel is a net addition to domestic supplies of natural gas. Therefore, ERA is adopting a rule that the LNG to be used at the petitioner's powerplant be produced outside of the continental United States.

Commenters also objected to ERA's proposal that from time to time the exemptions would be reviewed and terminated when ERA finds that there is an available supply of synthetic fuel suitable for use by the exempt powerplant. ERA had deleted this provision from the rule as adopted, but will consider on a case-by-case basis the inclusion of such a provision as a

term and condition of any order granting this exemption.

III. Specific Comments Requested

A. Alternative Cost Calculation for Substantially Exceeds (§ 503.5, § 504.12, § 505.5, § 506.12)

Sections 503.5 and 505.5 of the Interim Regulations for New Facilities Exemptions, published in the Federal Register on May 17, 1979, and §§ 504.12 and 506.12 of these Interim Regulations for Existing Facilities provide explicit procedures for determining whether the cost of using alternate fuel substantially exceeds the cost of using imported oil. These calculation procedures specify the computation of the cost of fuel as the cost of capital, operations and maintenance and delivered fuel discounted to the present.

ERA invites comments on the cost calculation procedure adopted for the Interim Rule and two variants, discussed below. In particular, the comments should address the comparative merits, if any, of the cost calculation procedures as adopted in the Interim Rule and specified in the variants as applied to new and existing facilities.

(1) Cost Calculation Procedure Adopted in the Interim Rule. The cost calculation procedures adopted for the Interim Rules in §§ 503.5, 504.12, 505.5, and 506.12 require computation of a ratio of the cost of using alternate fuel to the cost of using imported oil. If this ratio exceeds a specified index, the cost of using alternate fuel substantially exceeds the cost of using imported oil. The costs of using alternate fuel and imported oil are based upon the petitioners' current price of alternate fuel and oil (the latter is subsequently adjusted to reflect imported oil price). For the purposes of these cost calculations, these fuel prices are the same, in real (uninflated) dollars, for the life of the facility. Our judgment as to the change in future prices is embedded in the "substantially exceeds index" itself.

For these Interim Rules, ERA has set this "substantially exceeds index" at 1.3. As discussed in the preamble to the Interim Rule published on May 17, 1979 (44 FR 28953 and 29603), ERA set this index at 1.3 based upon our judgment as to the social benefits associated with increased alternate fuel use and future increases in the gap between oil and coal prices.

(2) Variant #1—Ratio with Explicit Trajectory. Under this variant, computation of a ratio of the cost of using alternate fuel to the cost of using

imported oil would be required as in the Interim Rules. However, ERA would specify an explicit price difference trajectory—the annual percentage rate at which the gap between imported oil and coal prices would increase. The applicant would then adjust the annual cost of imported oil to appropriately reflect the specified increase in the imported oil/coal price gap. The substantially exceeds index would then be restricted to reflect our judgment of the social benefits associated with increased alternate fuel use.

(3) Variant #2—Net Present Value with Explicit Trajectory. Under this variant, rather than computing a ratio of the cost, as in the Interim Rule, the applicant would compute the difference in the cost of using alternate fuel and the cost of using oil. An exemption would be allowed when the cost of using alternate fuel is greater than the cost of using oil; the imported oil price would be adjusted by a specified dollar increment to reflect our judgment of the social benefit of increased alternate fuel use. In addition, as in variant #1, the oil price would reflect imported oil price adjusted on an annual basis for specified increase in the imported oil/coal price gap. The cost of using alternate fuel and oil would be computed as adopted in the Interim Rule, except for the specified increases in the oil price.

B. Terms and Conditions (§§ 503.12, 504.17, 505.9, 506.16).

Sections 214 and 314 of FUA provide the authority to impose terms and conditions upon granting an exemption. ERA has in the past required, as a condition of exemptions granted to new facilities permitting the use of oil or gas, that such facilities be constructed with the capability to use specified liquid and/or gaseous alternate fuels. ERA is considering adopting this requirement as a generic condition for all exemptions granted. ERA is also considering specifying the petroleum or natural gas fuel that the facility would be permitted to use and requiring that a new facility have the capability to burn a wide variety of petroleum and gaseous fuels.

We solicit comments on these proposals.

IV. Amendments.

ERA is making several amendments to its previously issued Interim Rules in order to provide for a more complete implementation of FUA and to correct certain oversights made in the previous rules. Each change is discussed below in the order in which it appears in the regulations.

A. Definition of "Combined cycle unit" (§ 500.2(a))

ERA is substituting the term "boiler" for "steam turbine units" to more accurately reflect the technical make-up of a combined cycle unit.

B. Definition of "major fuel-burning installation" (§ 500.2(a))

Excluded from the definition of major fuel-burning installation are pumps or compressors used for certain purposes provided a certification of such use has been submitted to ERA. ERA has amended the definition to clarify when such a certification is required and the information necessary to satisfy this requirement.

C. Definition of "Primary energy source" (§ 500.2(a))

In the May 15, 1979, Federal Register (44 FR 28532), ERA discussed the exclusion from consideration as a primary energy source the amount of fuel used for the purposes enumerated in section 103(a)(15)(A) of the Act equal in total to five percent of the total energy in Btu's consumed per year by the particular unit. However, in § 500.2(a) under the definition of primary energy source, ERA excluded up to five percent of the unit's current year Btu output. ERA is now amending the regulation by deleting the term "output" and inserting in its place "input," thereby resolving the inconsistency between the preamble discussion and the regulation.

D. Aggregation of Existing Facilities (§ 500.2 (c) and (d))

In the May 15, 1979, Federal Register (44 FR 28530, 28542-28543), we reserved §§ 500.2 (c)(3) and (d)(3) for the criteria we would employ in aggregating existing facilities at a single site in order to determine if they constitute a powerplant or an MFBI, subject to the provisions of Title III of FUA. We are now adopting regulations setting forth such criteria in this Interim Rule.

We previously adopted, in §§ 500.2 (c)(1) and (d)(1), the criteria to be used for aggregating a combination of new and existing units at a single site, and, in §§ 500.2 (c)(2) and (d)(2), the criteria for aggregating a combination of two or more new units at a single site. As explained in greater detail in those sections, ERA will aggregate toward the 250 million Btu's per hour threshold, in the case of a combination of new and existing units at a site, only those existing units with a heat input rate equal to or greater than 100 million Btu's per hour; and, in the case of a combination of new units at a site, only those units with a heat input rate equal

to or greater than 50 million Btu's per hour. Where either of the foregoing combinations of units attains or exceeds the 250 million Btu's per hour heat input threshold at a single site, ERA will consider each of the constituent facilities to be an MFBI or powerplant, subject to applicable prohibitions of the Act.

For purposes of coverage under Title III of FUA, if you have two or more existing units in combination at a single site, ERA will aggregate toward the 250 million Btu's per hour threshold any such units having a heat input rate equal to or greater than 50 million Btu's per hour. When aggregated in accordance with this criterion, ERA will consider all units contributing to attainment of and/or surpassing the 250 million Btu's per hour threshold, to be either existing powerplants or existing MFBI's subject to the prohibitions of Title III of the Act.

ERA's application by order or rule of the Title III prohibitions authorized by sections 301 (b) and (c) and 302 of the Act, is discretionary. ERA does not believe it would be appropriate to categorically exclude from aggregation existing units with heat input rates between 50-100 million Btu's per hour since the foregoing discretionary prohibitions under Title III are predicated upon ERA findings of technical capability (or, in the case of mixtures, technical feasibility) and financial feasibility to burn an alternate fuel. While such units may, in combination, be MFBI's or powerplants, you will not be prohibited under these sections from using petroleum or natural gas in the units if ERA, because of the characteristics of your existing facility, cannot meet its statutory burden of proving these findings.

ERA therefore believes that the 50 million Btu's per hour heat input floor for the aggregation of existing facilities at a single site provides a reasonable accommodation which will carry out the purposes of the Act to reduce the consumption of petroleum and natural gas, while avoiding any severe economic impacts caused by the conversion of small facilities.

The above represent ERA's present regulatory criteria governing the aggregation of units for purposes of determining their coverage under the Act. We may, in the future, lower any of the aggregation floors. For existing facilities, such a reduction might result from the development and refinement of technology for the conversion of smaller petroleum and natural gas-fired facilities to the use of alternate fuels as a primary energy source. ERA solicits your comments, on a continuing basis, on the

feasibility and economics of such developing technologies.

E. Requests for a Public Hearing (§ 501.33)

ERA hereby amends section 502.33 of the interim regulations issued May 8, 1979, 44 FR 28530, in order to extend the period of time within which a petitioner for an exemption, a proposed prohibition order recipient, or any interested person, may file a request for a public hearing from 21 days to 45 days.

In the case of a petition for an exemption from a prohibition imposed either by the Act or by a final rule or order issued by ERA to an existing facility under Title III of FUA, this 45-day period commences when notice of the filing of a petition is published in the Federal Register in accordance with § 501.64. In the case of a proposed prohibition order, the 45-day period in which to request a public hearing commences upon the publication of the notice of availability of the Tentative Staff Report.

F. Procedures for the Issuance of Prohibition Orders to Existing Facilities (§§ 501.51 and 501.52)

ERA is amending subpart E of Part 501 by adding §§ 501.51 and 501.52 to provide a description of the procedures ERA will employ to issue prohibition orders to existing powerplants and installations. These procedures are discussed in great detail in Part II of this preamble.

G. Cost Calculation for Powerplants (§ 503.5)

Section 503.5(4)(i)(B) provides procedures for computing the cost of using alternate fuel and cost of using imported oil based on the operations of all powerplants in your electric region. We have amended this section to state, that in the event the cost of using imported oil (according to the procedures specified in these regulations) is negative or zero, the determination of substantially exceeds will be made on a case-by-case basis.

H. Site limitations exemption (§§ 503.22 and 503.33)

In order to correct an oversight and to provide consistency in the treatment of exemptions to powerplants and installations on the basis of site limitations, ERA is amending both the temporary and permanent exemptions for powerplants to state that the lack of adequate land is one of the limitations which could establish eligibility for a site limitation exemption.

V. Clarifications.

In the May 15, 1979, Federal Register, ERA discussed the treatment of internal combustion engines used for the generation of electricity (44 FR 28532). In the discussion, ERA stated that an internal combustion engine used for the generation of electricity is neither an MFBI nor an electric powerplant. It must be emphasized, however, that this exclusion from FUA coverage pertains only to internal combustion engines used for the generation of electricity for sale or exchange.

Both the interim regulations issued on May 8, 1979 (44 FR 28950, May 17, 1979) and the regulations issued herewith provide for an exemption based upon certain site limitations (§§ 503.22, 503.33, 504.22, 504.32, 505.12, 505.23, 506.22 and 506.32). Under the provisions of these regulations a siting problem relating to the installation or operation of pollution control devices would certainly be considered a qualifying site limitation. Furthermore, under §§ 504.25 and 506.25 (Innovative Technology exemptions) the development of innovative pollution control devices or techniques would qualify a petitioner for the exemption.

VI. Procedural Matters.

A regulatory analysis of this Interim Rule, as contemplated by Executive Order No. 12044, is contained within the draft regulatory analysis of the regulations regarding new facilities proposed on November 9, 1978, 43 FR 53974. A Final Environmental Impact Statement (FEIS) has been prepared pursuant to the National Environmental Policy Act (NEPA). Both the draft regulatory analysis and the FEIS may be obtained from ERA, 2000 M Street, NW., Room B-110, Washington, D.C. 20461, (202) 634-2170.

These revised rules have been submitted to the Office of Management and Budget (OMB) for clearance under the provisions of the Federal Reports Act. Any compliance with the data collection provisions of these Interim Rules may require revisions or additions as a result of OMB's action.

(Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, 92 Stat. 3289 (42 U.S.C. 8301 et seq.); E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Parts 500, 501 and 503, Subchapter E, "Alternate Fuels" of Chapter II, Title 10 of the Code of Federal Regulations are amended, and Parts 504 and 506 of Subchapter E, as proposed on January 29, 1979, are hereby revised and adopted effective August 20, 1979.

Issued in Washington, D.C., July 11, 1979.

David J. Bardin,
Administrator, Economic Regulatory
Administration.

PART 500—POLICY AND DEFINITIONS

1. Section 500.2 (a) is amended by the definition of "combined cycle unit" to read as follows:

§ 500.2 Definitions. [Amended]

(a) General definitions.

"Combined cycle unit" means an electric power generating unit that consists of a combination of one or more combustion turbine units and one or more boilers with a substantial portion of the required energy input of the boiler(s) provided by the exhaust gas from the combustion turbine unit(s). Use of small amounts of supplemental firing for the boiler does not preclude the unit from being a combined cycle unit.

2. In § 500.2(a), the definition of "major fuel burning installation" is revised to read as follows:

"Major fuel burning installation," "installation," and "MFBI" do not include—

- (1) * * *
- (2) * * *

Such certification must be made for all units with a design energy input rate of 50 million Btu's per hour or greater and which consume petroleum or natural gas. The following information is required:

- (i) Unit size in Btu input;
- (ii) Equipment function; and
- (iii) Unit location, including all information which geographically locates the unit.

3. In § 500.2(a), the definition of "primary energy source," is amended by deleting in subparagraph (1) the word "output" and inserting in its place the word "input."

4. Section 500.2(c) is amended by adding a subparagraph (3) to read as follows:

(c) *Criteria for determining if your electric generating unit is to be aggregated and is a powerplant.* * * *

(3) *Existing Units.* If you have two or more existing electric generating units on a single site, ERA will aggregate towards the 250 million BTUs per hour threshold any existing unit with a heat input rate equal to or greater than 50 million BTUs per hour.

5. Section 500.2(d) is amended by adding a subparagraph (3) to read as follows:

(d) *Criteria for determining if your industrial unit is to be aggregated and is an MFBI.* * * *

(3) *Existing Units.* If you have two or more units on a single site, ERA will aggregate towards the 250 million BTUs per hour threshold any existing unit with a heat input rate equal to or greater than 50 million BTUs per hour.

PART 501—ADMINISTRATIVE PROCEDURES AND SANCTIONS

6. Section 501.33 is revised to read as follows:

§ 501.33 Requests for a public hearing.

In the case of a petition for an exemption from a prohibition imposed either by the Act or by a final rule or order issued by ERA to an existing facility under Title III of FUA, any interested person may submit a written request that ERA convene a public hearing in accordance with section 701 of FUA within 45 days after the notice of the filing of a petition is published in the Federal Register. In the case of a proposed prohibition rule or order, the 45 day period in which to request a public hearing shall commence upon the publication of the notice of availability of the Tentative Staff Report. This time limit may be extended at the discretion of ERA. Your request for a public hearing must include a description of your interest in the issue or issues involved, and an outline of the anticipated content of your presentation. Your request should, to the extent that you can, identify any witnesses that you contemplate presenting at the hearing and include, if possible, a summary of their anticipated testimony and of the purpose for that testimony.

7. Subpart E of Part 501 is amended by adding §§ 501.51 and 501.52 which read as follows:

Subpart E—Prohibition Rules and Orders

§ 501.51 Prohibition by order—Existing powerplants.

(a) ERA may prohibit by order the use of petroleum or natural gas as a primary energy source or in amounts in excess of the minimum amount necessary to maintain reliability of operation consistent with reasonable fuel efficiency in an existing powerplant if:

(1) That powerplant has not been identified as a member of a category subject to a final prohibition rule at the time of the issuance of such order.

(2) The requirements of section 504.5 have been met.

(3) You have not demonstrated that you would have been granted an exemption for your powerplant if the prohibition had been established by rule. If your powerplant would have been granted a temporary exemption, however, ERA may issue you a final order which will take effect at such time as the temporary exemption would have terminated.

(4) In any case in which an order is not issued by reason of paragraph (a)(3) of this section, or in which the effective date of such order is delayed under such paragraph, ERA shall take such steps as may be necessary to assure the powerplant involved complies with the same requirements (including provisions of section 314(a) of FUA) as would have been applicable if an exemption had been granted based upon the grounds for which the order is not issued or the effective date is delayed.

(b) *Notice of order, and public participation.* (1) Prior to the issuance of a proposed order to an existing powerplant, ERA may hold a conference pursuant of § 501.32 of these regulations.

(2) Pursuant to section 701 of FUA, prior to the issuance of a final order to an existing powerplant, ERA shall publish a proposed order in the Federal Register, together with a statement of the reasons for the order. In the case of a proposed order that would prohibit the use of petroleum or natural gas as a primary energy source, the finding required by Section 302(a)(1) of the Act shall be published with such proposed order.

(3) ERA shall provide a period for the submission of written comments of at least three months after the date of the proposed order. During this period, the recipient of the proposed order and any other interested person must submit any evidence relating to each of the findings that ERA is required to make under Section 302(a) of the Act. A proposed order recipient will not be allowed to submit evidence relating to the findings which it did not submit during this three month period unless materials submitted after the period (i) could not have been submitted during the period through the exercise of due diligence, (ii) address material changes in fact or law occurring after the close of the period, or (iii) consist in amplification or rebuttal occasioned by the subsequent course of the proceeding. The order recipient must during this period identify any exemptions for which the unit in question may qualify, but the recipient need not during this period submit evidence attempting to demonstrate qualifications for the exemption. An extension of the three month time period may be granted in ERA's discretion.

(4) Subsequent to the end of the three month comment period, ERA will issue a notice of whether ERA intends to proceed with the Prohibition Order proceeding.

(5) An owner or operator of a powerplant that may be subject to an order may demonstrate prior to issuance of a final prohibition order that the powerplant would qualify for an exemption if the prohibition had been established by rule. Such demonstration shall be submitted within three months of the issuance of the notice of intention to proceed with the Prohibition Order. ERA will not delay the issuance of a final prohibition order or stay the effective date of such an order for the purpose of determining whether a proposed order recipient qualifies for a particular exemption unless the demonstration of qualification is submitted prior to or during the second three-month period, or unless materials submitted after the period (i) could not have been submitted during the period through the exercise of due diligence, (ii) address material changes in fact or law occurring after the close of the period, or (iii) consist in amplification or rebuttal occasioned by the subsequent course of the proceeding. An extension of this time period may be granted in ERA's discretion.

(6) Subsequent to the end of the second three month period, ERA will, if it intends to issue a final prohibition order, prepare and issue notice of availability of a tentative staff decision. Interested persons wishing a hearing must request a hearing within fourteen days after issuance of the notice of availability of the tentative staff decision.

(7) If a hearing has been requested, ERA shall provide interested persons with an opportunity to present oral data, views and arguments at a public hearing held in accordance with Subpart C of this part. Hearing will consider the findings which ERA must make in order to issue a final prohibition order and any exemption for which the proposed order recipient submitted its demonstration in accordance with subparagraph (5) of this paragraph.

(8) Upon request by the recipient of the proposed prohibition order, the combined public comment periods provided for in this section may be reduced to a minimum of 45 days from the time of publication of the proposed order.

(c) *Record and decision to issue a final order.* (1) ERA's record will consist of all relevant evidence presented at the public hearing, the written comments, and any other relevant information in

the possession of ERA and made a part of the record of the proceeding. ERA will base its determination to issue an order on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with reliable, probative and substantial evidence.

(2) ERA shall include in the final order a written statement of the pertinent facts, a statement of the basis upon which the final order is issued, a recitation of the conclusions regarding the required findings and qualifications for exemptions. The final order shall state the effective date of the prohibition contained therein. If it is demonstrated that the facility would have been granted a temporary exemption, the effective date of the final order shall be delayed until such time as the temporary exemption would have terminated.

(3) ERA may enclose with a copy of the final order a schedule of steps that should be taken by a stated date (a compliance schedule) to ensure that the affected powerplant will be able to comply with the prohibitions stated in the order by the effective date. The compliance schedule may require the affected person to take steps with regard to a unit 60 days after service of the final order.

(4) A copy of the final order and a summary of the basis therefor will be published in the Federal Register. The order will become effective 60 days after issuance.

§ 501.52 Prohibition by order—Existing installations.

(a) ERA may prohibit by order the use of petroleum or natural gas as a primary energy source or in amounts in excess of the minimum amount necessary to maintain reliability of operation consistent with reasonable fuel efficiency in an existing major fuel burning installation if:

(1) That installation has not been identified as a member of a category subject to a final prohibition rule at the time of the issuance of such order.

(2) The requirements of § 506.2 have been met.

(3) You have not demonstrated that you would have been granted an exemption for your installation if the prohibition had been established by rule. If your installation would have been granted a temporary exemption, however, ERA may issue you a final order which will take effect at such time as the temporary exemption would have terminated.

(4) In any case in which an order is not issued by reason of paragraph (a)(3) of this section, or in which the effective

date of such order is delayed under such paragraph, ERA shall take such steps as may be necessary to assure the installation involved complies with the same requirements (including provisions of section 314(a) of FUA) as would have been applicable if an exemption had been granted based upon the grounds for which the order is not issued or the effective date is delayed.

(b) *Notice of order, and public participation.* (1) Prior to the issuance of a proposed order to an existing installation, ERA may hold a conference pursuant to § 501.32 of these regulations.

(2) Pursuant to section 701 of FUA, prior to the issuance of a final order to an existing installation, ERA shall publish a proposed order in the Federal Register, together with a statement of the reasons for the order. In the case of a proposed order that would prohibit the use of petroleum or natural gas as a primary energy source, the finding required by Section 302(a)(1) of the Act shall be published with such proposed order.

(3) ERA shall provide a period for the submission of written comments of at least three months after the date of the proposed order. During this period, the recipient of the proposed order and any other interested person must submit any evidence relating to each of the findings that ERA is required to make under Section 302(a) of the Act. A proposed order recipient will not be allowed to submit evidence relating to the findings which it did not submit during this three month period unless materials submitted after the period (i) could not have been submitted during the period through the exercise of due diligence, (ii) address material changes in fact or law occurring after the close of the period, or (iii) consist in amplification or rebuttal occasioned by the subsequent course of the proceeding. The order recipient must during this period identify any exemptions for which the unit in question may qualify, but the recipient need not during this period submit evidence attempting to demonstrate qualifications for the exemption. An extension of the three month time period may be granted in ERA's discretion.

(4) Subsequent to the end of the three month comment period, ERA will issue a notice of whether ERA intends to proceed with the Prohibition Order proceeding.

(5) An owner or operator of an installation that may be subject to an order may demonstrate prior to issuance of a final prohibition order that the installation would qualify for an exemption if the prohibition had been established by rule. Such demonstration

shall be submitted within three months of the issuance of the notice of intention to proceed with the Prohibition Order. ERA will not delay the issuance of a final prohibition order or stay the effective date of such an order for the purpose of determining whether a proposed order recipient qualifies for a particular exemption unless the demonstration of qualification is submitted prior to or during the second three-month period, or unless materials submitted after the period (i) could not have been submitted during the period through the exercise of due diligence, (ii) address material changes in fact or law occurring after the close of the period, or (iii) consist in amplification or rebuttal occasioned by the subsequent course of the proceeding. An extension of this time period may be granted in ERA's discretion.

(6) Subsequent to the end of the second three month period, ERA will, if it intends to issue a final prohibition order, prepare and issue notice of availability of a tentative staff decision. Interested persons wishing a hearing must request a hearing within fourteen days after issuance of the notice of availability of the tentative staff decision.

(7) If a hearing has been requested ERA shall provide interested persons with an opportunity to present oral data, views and arguments at a public hearing held in accordance with Subpart C of this part. The hearing will consider the findings which ERA must make in order to issue a final prohibition order and any exemption for which the proposed order recipient submitted its demonstration in accordance with subparagraph (5) of this paragraph.

(8) Upon request by the recipient of the proposed prohibition order, the combined public comment periods provided for in this section may be reduced to a minimum of 45 days from the time of publication of the proposed order.

(c) *Record and decision to issue a final order.* (1) ERA's record will consist of all relevant evidence presented at the public hearing, the written comments, and any other relevant information in the possession of ERA and made a part of the record of the proceeding. ERA will base its determination to issue an order on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with reliable, probative and substantial evidence.

(2) ERA shall include in the final order a written statement of the pertinent facts, a statement of the basis upon which the final order is issued, a

recitation of the conclusions regarding the required findings and qualifications for exemption. The final order shall state the effective date of the prohibition contained therein. If it is demonstrated that the facility would have been granted a temporary exemption, the effective date of the final order shall be delayed until such time as the temporary exemption would have terminated.

(3) ERA may enclose with a copy of the final order a schedule of steps that should be taken by a stated date (a compliance schedule) to ensure that the affected installation will be able to comply with the prohibitions stated in the order by the effective date. The compliance schedule may require the affected person to take steps with regard to a unit 60 days after service of the final order.

(4) A copy of the final order and a summary of the basis therefor will be published in the Federal Register. The order will become effective 60 days after issuance.

PART 503—NEW ELECTRIC POWERPLANTS

8. Section 503.5(d)(i)(B) is amended by adding a footnote No. 14 to read as follows:

§ 503.5 Cost calculations for new powerplants.

(d) *Information on parameters used in the calculation.* * * *

(4)(i) * * *

(B) Determine the incremental increase in case outlays for operations and maintenance expenses and fuel expenses that would occur in your region by the addition of the power plant.¹⁴ * * *

9. Section 503.22(a)(3) is amended to read as follows:

§ 503.22 Site limitations.

(a) * * *

(3) Adequate land or facilities for handling, using or storing an alternate fuel would be unavailable;

* * *

10. Section 503.33(a)(3) is amended to read as follows:

§ 503.33 Site limitations.

(a) * * *

(3) Adequate land or facilities for handling, using or storing an alternate fuel would be unavailable;

* * *

In 10 CFR, Chapter II, Subchapter E, Part 504, §§ 504.2, 504.3, and 504.5 in

¹⁴ When using the method specified in § 503.5(d)(4)(i)(B), if the cost of using imported oil as computed by equation 2 or 5 is zero or negative, the determination of substantially exceeds will be on a case-by-case basis.

Subpart B, and Subparts C, D, and E and Part 506 are revised to read as follows:

PART 504—EXISTING ELECTRIC POWERPLANTS

Subpart A—Restrictions on the Use of Petroleum

Sec.

504.1 Prohibition against the increased use of petroleum.¹

Subpart B—Prohibitions and System Compliance Option

504.2 Purpose and scope.

504.3 Statutory prohibitions.

504.4 Electric utility system compliance option.²

504.5 Prohibitions by order (case-by-case).

Subpart C—General Requirements for Exemptions

504.10 Purpose and scope.

504.11 Fuels Decision Report.

504.12 Cost calculation for existing powerplants.

504.13 No alternative power supply—general requirement for permanent exemptions.

504.14 [Reserved].

504.15 Use of mixtures—general requirement for permanent exemptions.

504.16 Use of fluidized bed combustion not feasible—general requirement for permanent exemptions.

504.17 Terms and conditions; compliance plans.

Subpart D—Temporary Exemptions for Existing Powerplants

504.20 Purpose and scope.

504.21 Lack of alternate fuel supply.

504.22 Site limitations.

504.23 Inability to comply with applicable environmental requirements.

504.24 Future use of synthetic fuels.

504.25 Use of innovative technologies.

504.26 Public interest exemption.

504.27 Retirement.

504.28 Temporary exemption for powerplants necessary to maintain reliability of service.

504.29 Peakload powerplants.

Subpart E—Permanent Exemptions for Existing Powerplants

504.30 Purpose and scope.

504.31 Lack of alternate fuel supply.

504.32 Site limitations.

504.33 Inability to comply with applicable environmental requirements.

504.34 State or local requirements.

504.35 Cogeneration.

504.36 Permanent exemption for certain fuel mixtures containing natural gas or petroleum.

504.37 Emergency purposes.

504.38 Peakload powerplants.

504.39 Intermediate load powerplants.

504.40 Use of natural gas by powerplants with capacity of less than 250 million BTUs per hour.

504.41 Use of liquefied natural gas.

¹ Issued May 8, 1979 (44 FR 26595, May 15, 1979.)

² Issued June 12, 1979 (44 FR 36002, June 20, 1979.)

Authority: Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 965 (42 U.S.C. 7101 et seq.); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, Stat. 3289 (42 U.S.C. 8301 et seq.); E.O. 12009, (42 FR 46267).

PART 504—EXISTING ELECTRIC POWERPLANTS

Subpart B—Prohibitions and System Compliance Option

§ 504.2 Purpose and scope.

This subpart sets forth the statutory prohibitions imposed on existing electric powerplants. The prohibitions set forth in this subpart apply to all existing electric powerplants, as defined in § 500.2 unless an exemption has been granted by ERA under Subparts D and E of this part. Any person who owns, controls, rents, or leases a powerplant is subject to the prohibitions imposed and the sanctions provided for by the Act or these regulations.

§ 504.3 Statutory prohibitions.

(a) Section 301(a)(1) of the Act prohibits the use of natural gas as a primary energy source by any existing electric powerplant on or after January 1, 1990, unless, and to the extent that, the powerplant is granted either a temporary or permanent exemption under this part or a System Compliance Option has been approved.

(b) Section 301(a)(2) of the Act prohibits the use of natural gas as a primary energy source in any existing electric powerplant before January 1, 1990 unless it used natural gas as a primary energy source any time during calendar year 1977, or unless, and to the extent that, the powerplant is granted either a temporary or permanent exemption under subpart D or E of this part.

(c) Section 301(a)(3) of the Act prohibits the use of natural gas as a primary energy source in any existing electric powerplant, in any calendar year before 1990, in greater proportions than the average yearly proportion of natural gas which:

(1) The powerplant used as a primary energy source in calendar years 1974 through 1976; or

(2) If the powerplant began operations on or after January 1, 1974, the powerplant used as a primary energy source during the first two calendar years of its operation.

(d) Any prohibition against your use of natural gas or after January 1, 1990

will be stayed while any petition you have filed for an exemption is resolved. The stay will include the time required for judicial review. Your petition for exemption may be filed at any time after May 8, 1979, the effective date of FUA, but it must be filed at least one year before the date the prohibition is first to take effect.

§ 504.5 Prohibitions by order (case-by-case).

(a) ERA may prohibit, by order, the use of natural gas or petroleum as a primary energy source in an existing electric powerplant if ERA finds that:

(1) The powerplant has, or previously had, the technical capability to use an alternate fuel as a primary energy source;

(2) The powerplant has this technical capability, or it could have the technical capability again without:

(i) A substantial physical modification of the powerplant; or

(ii) A substantial reduction in the rated capacity of the powerplant; and

(3) It is financially feasible for the powerplant to use alternate fuel as its primary energy source.

(b) ERA must make a proposed finding regarding the technical capability of a unit to use alternate fuel as identified in paragraph (a)(1) of this section prior to the date of publication of the notice of the proposed prohibition. ERA will publish this finding in the Federal Register along with the notice of the proposed prohibition.

(c) The findings enable ERA to assess the potential impact of a prohibition order on three levels: the impact on the facility itself, the impact on the economic activity which the steam or electric power supports, and the impact on the parent firm owning the site. Where the regulation reflects an emphasis on one level or another in a particular finding, ERA has based such emphasis on the terms of the legislation, the conference report, and its own identification of the most appropriate level in accordance with its regulatory discretion.

(d) *Technical capability.* (1) ERA will consider "technical capability" on a case-by-case basis. In making this assessment however, ERA will only consider the characteristics of the unit itself and will not ordinarily consider the nature or absence of appurtenances outside the unit. ERA's major concern is the ability of the unit, from the point of fuel intake, to physically sustain

combustion of a given fuel and to maintain heat transfer.¹

(2) ERA considers that a unit "had" the technical capability to use an alternate fuel if the unit was once able to burn that fuel (regardless of whether the unit was expressly designed to burn that fuel or whether it ever actually did burn it) but is no longer able to do so at the present due to temporary or permanent alterations to the unit itself.²

(3) A unit "has" the technical capability to use an alternate fuel if it can burn an alternate fuel, notwithstanding the fact that minor adjustments must be made to the unit beforehand or that pollution control equipment may be required to meet air quality requirements.³

(e) *Substantial physical modification.* ERA will make its determination on whether a physical modification to a unit is "substantial" on a case-by-case basis. ERA will consider physical modifications made to the unit as "substantial" where warranted by the magnitude and complexity of the engineering task or where the modification would impact severely upon operations at the site.⁴ ERA will not, however, assess physical modifications on the basis of cost or the installation of pollution control or fuel handling equipment.

(f) *Substantial reduction in rated capacity.* (1) ERA will assess units for

¹ For example, ERA will examine the furnace configuration and ash removal capability but will not normally consider the need to install pollution control equipment as a measure of technical capability. Furthermore, ERA will not conclude that the absence of fuel handling equipment, such as conveyor belts, pulverizers, or unloading facilities, bears on the issue of a unit's "technical capability" to burn an alternate fuel.

² For example, a unit which at one time burned solid coal, but which could no longer do so because its coal firing ports and sluicing channels had been cemented over, would be classified as having "had" the technical capability to use coal. (The question of whether it again "could have" such capability without "substantial physical modification" is a separate and additional question.)

³ A unit designed to burn natural gas also "has" the technical capability to burn medium Btu gas from coal (assuming such gas is available). Also, a unit designed to burn oil may, depending upon the chemical characteristics, be a unit that "has" the technical capability to burn liquefied coal. The fact that certain minor adjustments may be necessary does not render this a "hypothetical" as opposed to a "real" capability. Even an oil fired unit converting from the use of #2 distillate to #6 residual oil may be required to adjust or replace burner nozzles and add soot blowers. ERA views these alterations as minor adjustments the need for which does not render a unit incapable of burning a particular fuel.

⁴ Significant alterations affecting the furnace configuration or a complete respacing of the tubes would likely fall into this category. A combination of modifications involving changes required for bottom ash removal, related construction and engineering work, and other modifications to the boiler, other than furnace configurations or tube spacing may, in some circumstances, cause modifications to be considered substantial.

which a derating of 10% or more is claimed on a case-by-case basis. ERA does not consider a derating of less than 10% as a result of converting a unit from oil or gas to an alternate fuel to be "substantial" under any circumstances.⁵

(2) In assessing whether unit deratings of 10% or more are "substantial", ERA will consider the impact of the reduction in available capacity on the system as well as on the unit itself.⁶

(g) *Financial feasibility.* (1) It is financially feasible for your powerplant to use an alternate fuel as its primary energy source if: the cost of using an alternate fuel does not substantially exceed the cost of using imported petroleum using the general cost calculation described in § 504.12 (a) and (b) of the regulations. However, in making this cost calculation, ERA will use your firm's real cost of capital⁷ as the discount rate for the purpose of computing cost, rather than the average, real cost of capital required for powerplants as specified in § 504.12 of these regulations, and

(2) You may seek to rebut this presumption by evidence that despite good faith efforts you are unable to raise the capital that would be necessary for the conversion, or that for some other economic or financial reason, conversion is not financially feasible. The standard for assessing capital availability will be identical to that specified in § 503.35 (inability to obtain adequate capital).

(3) In making this determination, ERA will consider the impact of the conversion, including other conversions which are or may be imposed upon the utility system by the Act.

(h) *Mixtures Finding.* (1) If ERA finds that it is technically and financially feasible for your powerplant to use a mixture of petroleum or natural gas and alternate fuel as its primary energy source, ERA may prohibit you, by order,

⁵ Typically, units that are the subject of a prohibition order will not have installed any operating air pollution control equipment sufficient to burn coal in compliance with applicable environmental equipments. The installation and use of air pollution control equipment alone can, in many cases, produce a derating of close to 10 percent. Moreover, the shift to coal itself will, because of differences in energy density and fuel flow characteristics typically involve some derating. Thus if a derating of less than 10 percent could constitute a "substantial" derating, the authority conferred by Congress to prohibit by order could be almost entirely nugatory.

⁶ For example, ERA may find that the derating of a unit far in excess of 10 percent is not "substantial" if it produces no appreciable effect upon the operations of a facility with considerable excess capacity.

⁷ For the purposes of these interim regulations, you must compute the real cost of capital according to the procedures outlined in Appendix I of these regulations.

from using petroleum or natural gas in amounts exceeding the minimum amount necessary to maintain the reliability of your operation consistent with maintaining reasonable fuel efficiency of the mixture.

(2) In making the technical feasibility finding, ERA may weigh "physical modification" or "derating of the unit," but these considerations, by themselves, will not control the technical feasibility finding. A technical feasibility finding might be made notwithstanding the need for substantial physical modification. The economic consequences of a substantial physical modification are taken into account in determining financial feasibility.

(3) The authority of ERA implemented under this section should not be confused with the two other fuel mixture provisions of these regulations. One is the requirement that petitioners for permanent exemptions need demonstrate that the use of a mixture of natural gas or petroleum and an alternate fuel is not economically or technically feasible (§§ 504.15 and 506.14). The second is the permanent fuel mixtures exemptions themselves (see §§ 504.36 and 506.36).

Subpart C—General Requirements for Exemptions

§ 504.10 Purpose and scope.

This subpart establishes the general requirements necessary to qualify for either a temporary or permanent exemption from the prohibitions set out under this part and establishes the methodology for calculating the cost of using an alternate fuel and the cost of using imported petroleum.

§ 504.11 Fuels Decision Report.

(a) Before ERA will accept a petition for either a temporary or permanent exemption from a final statutory prohibition or prohibition order issued under this part, you must include as part of your petition a Fuels Decision Report as described in Part 502 unless you are requesting an emergency or retirement exemption. The Fuels Decision Report shall contain the analysis and documentation of the evidence required in support of your exemption request.

(b) Your petition may contain more than one exemption request. In this case, your petition would include one Fuels Decision Report which addresses your considerations and the appropriate forms for the exemptions you are requesting.

§ 504.12 Cost calculations for existing powerplants.

(a) *General.* (1) This calculation compares the cost of using alternate fuel to the cost of using imported petroleum. Its purpose is to provide ERA with a mechanism for deciding when investments that are not the best economic choice from the viewpoint of the individual firm are nevertheless economic in light of the benefits and costs to the United States.

(2) The cost of using an alternate fuel in lieu of imported petroleum as a primary energy source will be deemed to be substantially in excess of the cost of using imported petroleum where the ratio of the former to the latter is greater than the index set periodically by ERA.

(3) The index is currently 1.3. ERA will revise the index from time to time after public notice and an opportunity to comment. Revisions shall become effective for all ERA decisions after final publication; however, the relevant index for a specific petition will be the index in effect at the time the petition is submitted, or the index in effect at the time a decision is rendered, whichever is lower.

(4) The cost test takes into consideration cash outlays for capital investments and annual expenses, and the effect of depreciation and taxes on cash flow. There are two comparative cost tests—a general cost test and a special cost test. You must demonstrate eligibility for a permanent exemption using the procedures specified in the general cost test (section b) or the special cost test (section c).

(5) The general cost test differs from the special cost test with respect to the time period over which costs are calculated. When using the general cost test, the cost must be computed for the remaining useful life of the powerplant. When using the special cost test, the cost is computed only for the term of the exemption.

(b) *Cost calculation—general cost test.* (1) You may be eligible for a permanent exemption if you demonstrate that the cost of using an alternate fuel starting with each successive year within the first 10 years of the exemption will always substantially exceed the cost of using imported petroleum from the time the exemption becomes effective until the end of the powerplant's remaining useful life. You will have to show that the cost of using an alternate fuel, starting in each of the first 10 years of this exemption and using oil or natural gas

¹ Subpart A, § 504.1 Prohibition against the increased use of petroleum. (Published 44 FR 26506, May 15, 1979).

² § 504.4 Electric utility system compliance option. (Published 44 FR 36002, June 20, 1979.)

until the start of using an alternate fuel, substantially exceeds the cost of using only imported petroleum.

(2) If the discounted lifetime cost of alternate fuel use, computed with successive starting date for the first 10 years of the exemption, does not always substantially exceed the cost of using imported petroleum, you would only be eligible for a temporary exemption. The length of the temporary exemption would be for the minimum period where the cost of starting to use alternate fuel always substantially exceeds the cost of using imported petroleum. For example, if you can burn coal and it cannot be obtained at a reasonable price for 2 years, ERA may grant a temporary exemption and allow the burning of oil for 2 years.

(3) To conduct the test, you must use the equations that follow.

(i) Calculate the ratio (R) of the cost of using an alternate fuel to the cost of using imported petroleum with equation 1.

$$EQ 1 \quad R = \frac{COST (ALTERNATE)}{COST (OIL)}$$

(ii) Calculate the cost of using an alternate fuel and imported petroleum with equation 2.

$$EQ 2 \quad COST = 1$$

$$+ \sum_{i=1}^N \frac{(OM_i + FL_i)(1-t) - t(DPR_i)}{(1+k)^i}$$

(iii) Calculate the capital investment using equation 3.

$$EQ 3 \quad I = I_D + \sum_{i=1}^N \frac{I_i - ITC_i - S_i}{(1+k)^i}$$

(4) The terms in equations 2 and 3 are defined as follows:

i = Year. Outlays before the proposed exemption becomes effective are future valued to the year before the proposed exemption becomes effective (year 0) and outlays after the proposed exemption becomes effective are present valued to the year before the proposed exemption becomes effective.

g = The number of years prior to the year before the proposed exemption becomes effective a cash outlay is made for capital investments or investment tax credit is used.

N = The remaining useful life of the powerplant (see section d).

I_D = Capital investment required to recover capacity lost due to derating (see section d).

I_i = Yearly cash outlay (in dollars) from the year outlays first occur to the last year of the plant's remaining useful life for capital investments (see section d).

OM_i = Annual cash outlay in year i (in dollars) for all operations and maintenance expenses except fuel (i.e., all non-capital and non-fuel cash outlays caused by putting the capital investments into service). May include labor, materials, insurance, taxes (except income taxes), etc. (See section d.)

S_i = Salvage value of capital investments (in dollars) realized in year i

FL_i = Annual cash outlay for delivered fuel expenses (in dollars) in year i (see section d).

K = The discount rate expressed as a fraction (see section d).

ITC_i = Federal investment tax credit resulting from capital investments used in year i (see section d).

DPR_i = Depreciation in year i (see section d).

t = Marginal income tax rate (see section d).

(5) The step-by-step procedure that follows shows the comparison that you must make. It outlines the fuel and time comparisons.

(i) Compute the cost (COST) of using an alternate fuel throughout the remaining useful life of the powerplant with equation 2.

(ii) Compute the cost (COST) of using oil or natural gas throughout the remaining useful life of the powerplant with equation 2.

(iii) Compute the ratio (R) of the cost of using an alternate fuel throughout the remaining useful life of the powerplant to the cost of using oil or natural gas throughout the remaining useful life of the powerplant with equation 1. If the ratio (R) is equal to or less than 1.3, the index set by ERA, you are not eligible for a permanent or temporary exemption using the general cost test and need not complete the remainder of the calculation.

(iv) Compute the cost (COST) of using an alternate fuel with equation 2 assuming an alternate fuel is not used as the primary energy source until the end of the first year of the exemption and that oil or natural gas is used for the first year of the exemption. All cash outlays should reflect postponed use of alternate fuel (e.g., installation of scrubber when used).

(v) Successively compute the cost (COST) of using an alternate fuel with equation 2 assuming alternate fuel is postponed until the end of the second through tenth year of the exemption (and oil or natural gas is used in the years preceding alternate fuel use).

(vi) Compute the ratios (R) of the cost of using an alternate fuel successively at the end of the first through tenth year (and using oil or natural gas in the years preceding alternate fuel use) to the cost

of using oil or natural gas throughout the remaining useful life of the powerplant with equation 1.

(vii) If all the ratios (R) computed in iii and vi are greater than 1.3 (an index to be set periodically by ERA), a permanent exemption would be granted. If one or more of the ratios (R) is equal to or less than 1.3 and a series of ratios (R), starting with the case where alternate fuel is used from the start of the exemption, are all greater than 1.3, a temporary exemption would be granted for the minimum period in which the cost of starting to use alternate fuel, deferred year by year, always exceeds 1.3.

(6) The following table shows the hypothetical results of four sets of calculations, assuming the index set by ERA is 1.3.

Hypothetical Results of Four Sets of Calculations

Year in which alternate fuel use commences	Case I	Case II	Case III	Case IV
At start of exemption.....	1.4	1.6	1.5	1.1
End of Year:				
1.....	1.4	1.6	1.5	1.1
2.....	1.5	1.7	1.5	1.2
3.....	1.3	1.6	1.4	1.2
4.....	1.3	1.5	1.3	1.1
5.....	1.2	1.5	1.4	1.1
6.....	1.2	1.4	1.4	1.1
7.....	1.1	1.4	1.5	1.1
8.....	1.1	1.4	1.5	1.1
9.....	1.0	1.4	1.6	1.1
10.....	1.0	1.4	1.6	1.1

The results of the above table show that: a 2-year temporary exemption would be granted in Case I, a permanent exemption would be granted in Case II, a 3-year temporary exemption would be granted in Case III, and no exemption would be granted in Case IV.

(c) *Cost calculations—special cost test.* (1) You may be eligible for a temporary exemption if you demonstrate that the cost of using an alternate fuel will substantially exceed the cost of using oil or natural gas over the period of the proposed exemption. The period of the exemption cannot exceed 10 years. You will have to show that the cost of using an alternate fuel substantially exceeds the cost of using imported petroleum for the first year of the exemption, the first 2 years of the exemption, and successive first years of the exemption, up to the period of the proposed exemption. To do so, you must perform the calculations with successive ending dates to determine the maximum length of the exemption. ERA will limit the duration of a temporary exemption to the shortest time possible.

(2) To conduct the test, you must use the equations that follow.

(i) Calculate the ratio (R) of the cost of using an alternate fuel to the cost of using imported petroleum with equation 4.

$$EQ 4 \quad R = \frac{COST (ALTERNATE)}{COST (OIL)}$$

(ii) Calculate the cost using equation 5.

$$EQ 5 \quad COST = 1 \times \frac{\sum_{i=1}^P (1+k)^{-i}}{\sum_{i=1}^P (1+k)^{-i} + \sum_{i=1}^P \frac{(OM_i + FL_i)(1-t) - t(DPR_i)}{(1+k)^i}}$$

(3) The terms in equation 5 are the same as in equation 2 above with the addition of:

P = The length of the proposed temporary exemption.

(4) The step-by-step procedure that follows shows the comparisons you must make.

(i) Compute the cost (COST) of using an alternate fuel assuming the length of the proposed exemption is 1 year with equation 5.

(ii) Compute the cost (COST) of using oil or natural gas assuming the length of the proposed exemption is 1 year with equation 5.

(iii) Compute the ratio (R) of the cost of using an alternate fuel for the first year to the cost of using imported petroleum for the first year with equation 4.

(iv) Repeat the calculations made in i, ii, and iii above assuming the length of the proposed exemption is 2 years, 3 years, 4 years, and so on, up to the period of the proposed exemption.

(v) A temporary exemption would be granted when all the ratios (R) are greater than 1.3 (the index established by ERA).

(d) *Information on parameters used in the calculation.* (1) All estimated expenditures, except natural gas, and petroleum products, shall be expressed in real (uninflated) terms by using the prices in effect at the time the petition is submitted.

(2) The delivered price of oil or natural gas used in the calculation of delivered fuel expenses must reflect the price of imported oil.

(i) If you use 100 percent domestic⁸ petroleum product in your facility, compute your petroleum product price with equation 6.

$$EQ 6 \quad PFE = PF + PICO - PCCO$$

The terms of equation 6 are defined as follows:

PICO = Price of imported crude oil. The most recent refiner acquisition cost of imported crude oil as reported in the Federal Register monthly notice for the DOE Domestic Crude Oil Allocation (Entitlements) Program.

PCCO = Price of composite crude oil. The most recent weighted average cost of total reported crude oil receipts as reported in the Federal Register notice for the DOE Entitlements Programs.

PF = Price of your fuel (f.o.b. your facility). The most recent actual weighted average cost of your fuel (other than natural gas). Alternatively, if no purchases of fuel oil occurred, or you used natural gas during that month, you should use a simple average of the industrial price of fuel oil (capable of being burned in your facility) sold in your area by at least three suppliers.

PFE = Price of fuel for use in the cost calculation.

(ii) If you use 100 percent imported petroleum product in your facility, compute your petroleum price with the following equation:

$$EQ 7 \quad PFE = PF + ENT$$

The terms of equation 7 are the same as equation 6 with the addition of:

ENT = $\frac{1}{2} \times E_p \times DOSR$ For residual fuel oil if an entitlement has been received by the importer.

ENT = 0 For all other products or if an entitlement has not been received by the importer.

$$EQ 8 \quad I_D = \frac{\sum_{i=1}^N (1+k)^{-i}}{\sum_{i=1}^M (1+k)^{-i}} \times \sum_{i=1}^M \frac{I_i^D - ITC_i^D - S_i^D}{(1+k)^i}$$

(ii) M, I_i^D, ITC_i^D and S_i^D are the useful life, yearly investment cash outlays, investment tax credits, and salvage values respectively resulting from the purchase of equipment required to recover the capacity lost due to derating; all definitions and information which applies to N, I_i, ITC_i, and S_i, apply to M, I_i^D, ITC_i^D and S_i^D except that M, I_i^D, ITC_i^D and S_i^D are limited to equipment required to recover the capacity lost due to derating. All other terms are as in equation 3.

(iii) If an election is made not to recover the capacity lost due to derating, the capital investment required due to derating equals zero.

(5)(i) The annual operations and

⁸For the purposes of the regulation, the Virgin Islands, Puerto Rico, and the U.S. Territories and possessions are domestic sources.

where

E_p = Entitlement price reported in the Federal Register monthly notice for the DOE Entitlements Program.

(iii) If you use a combination of domestic and imported petroleum product in your facility, you may use the price computed with the formula in paragraph (d)(2)(i) of this section or you may use a weighted average of the prices computed with the formulas in paragraph (d)(2)(i) and (ii) of this section.

(iv) If you use natural gas in your facility, you must use the formula in paragraph (d)(2)(i) of this section and the price of No. 6 residual fuel oil, which meets the air quality standards in your area, as the price of fuel.

(3) Capital investment yearly cash outlays (I_i) must include all items which are capital investments for Federal income tax purposes. All purchased equipment which has a useful life greater than 1 year, capitalized engineering costs, land, construction, environmental offsets, fuel inventory,⁹ etc., required to use the powerplant being converted after the proposed exemption would become effective must be included. However, an item may only be included if a cash outlay is required after the decision has been made to convert (or not to convert) the powerplant.

(4) (i) Capital investment, if any, required to recover the lost capacity due to derating (I_D) must be computed with equation (8) if an election is made to recover that capacity.¹⁰

maintenance expenses (OM_i) and the fuel expenses (FL_i) are computed by one of two methods; however the one chosen must be applied consistently throughout the analysis. They are:

(A) Assume the powerplant will annually generate an amount of electrical energy equal to the average amount of electrical energy generated for the last five years (or the life of the powerplants if it is less than 5 years)

⁹The following fuel supplies must be included: (a) All powerplants with only steam driven turbines—78 days, (b) all powerplants with only combustion turbines—162 days, and (c) all powerplants with combined cycles—both steam driven turbines and combustion turbines—162 days. If the you already have oil in inventory, it must be salvaged.

¹⁰If the capacity is recovered, the cash flows must result in the least cost feasible solution (i.e., the cost computed with equation 2 or 5 must be the lowest feasible cost).

when computing the annual operations and maintenance and fuel expenses.

(B) Determine the incremental change in cash outlays for operations and maintenance expenses and fuel expenses in your region due to the powerplant under consideration.¹¹ First economically dispatch all powerplants in the region except the powerplant in which conversion to alternate fuel is being considered (do not dispatch that plant at all). Then economically dispatch all powerplants in the region including the powerplant in which conversion to alternate fuel is being considered and, if applicable, the additional powerplant required due to the derating of the powerplant being converted. The difference in cash outlays for operations and maintenance expenses and fuel expenses is (1) the incremental change in cash outlays for operations and maintenance expenses and fuel expenses in your region and (2) the operations and maintenance expenses and fuel expenses for the purposes of the cost calculation.¹² The region must be your electrical region unless you can show such integrated operation is unlikely to be achieved midway through the remaining useful life of the powerplant and you can propose an acceptable alternative.

(ii) If you use the methodology set out in paragraph (d)(5)(i)(A) of this section the operations and maintenance expenses must include both the fixed and variable components.

(iii) If you use the methodology set out in paragraph (d)(5)(i)(B) of this section, you will have to certify, subject to penalties, that the proposed plant will not use more oil than you showed it would use in the dispatch analysis.

(6) The discount rate (K) is 2.9 percent. ERA will change the discount rate from time to time after public notice and an opportunity to comment. Revisions shall become effective after final publication; however, the relevant discount rate for a specific petition will be the discount rate in effect at the time the petition is submitted.

(7) The remaining useful life (N) of a coal, oil or natural gas capable powerplant will be 35 years minus the number of years of operation prior to the effective date of the proposed exemption. The useful life of other

alternate fuel powerplants shall be presumed to be 35 years minus the number of years of operation prior to the effective date of the exemption. You may rebut this presumption with suitable engineering evidence.

(8) All Federal investment tax credit (ITC) will be applied consistently throughout the analysis in a manner consistent with Federal tax laws in effect at the time the petition is submitted.

(9) Depreciation (DPR) will be applied consistently throughout the analysis in a manner consistent with the Federal tax laws in effect at the time the petition is submitted. Depreciation on both the original plant and the capital investment required due to the conversion must be included. In general, accelerated depreciation cannot be used for new gas or oil-fired boilers. You must use the most rapid depreciation permitted by law for capital investments required to burn alternate fuel.

(10) The marginal income tax rate (t) is the firm's marginal Federal income tax rate for the year the petition is submitted.

(11) All estimated cash outlays will be computed in accordance with generally accepted accounting principles.

(e) *Evidence in support of the comparative cost test.* All petitions for exemption requiring the use of the comparative cost test shall include, but not be limited to, the following information:

(1) A detailed accounting of all cash outlays, investment tax credits, and anticipated salvage value for capital investments. Include a description and cost estimate of all major construction and equipment. All critical assumptions should be stated and sufficient data should be included to support your estimates.

(2) A detailed accounting of all annual cash outlays for fixed and variable operations and maintenance expenses including a description of all major elements and the formulas used to compute them. All critical assumptions should be stated and sufficient data included to support your estimates.

(3) A detailed accounting of all annual cash outlays for delivered fuel expenses including the formulas used to compute them. All critical assumptions should be stated and sufficient data included to support your estimates. The fuel price and characteristics for each alternate fuel should be included.

(4) If the remaining useful life of an alternate fuel—other than coal—capable powerplant is judged to be less than 35 years minus the number of years of operation prior to the effective date of

the proposed exemption, all critical assumptions and sufficient data to support that position.

(5) A detailed accounting of the depreciation for each capital asset, including the depreciable base, tax life, and methods used. All critical assumptions should be stated and sufficient data submitted to support your estimates.

(f) *Example of calculations.* (1) The purpose of this example is solely to illustrate the mechanics of the cost tests; it should not be construed to be guidance on the application of the Federal income tax laws. The detail is only to the level of the individual terms in the cost test equations. Where the petitioner should supply a value, equations and data, we have only supplied the value.

(2) We are assuming that you are profitable to the extent that your Federal marginal income tax rate is 46 percent and that you need not carry over investment tax credits.

(3) You are considering converting an oil fired powerplant to coal. In this particular situation, the delivery cost of coal is much greater for the first 3 years than it will be in the later years because of a transportation problem requiring 3 years to resolve. Do you qualify for an exemption? If so, is it permanent or temporary?

(4) To determine if you qualify for a permanent exemption, you would have to use the general cost test and compute the ratios of the cost to use (i) coal for the remaining useful life of the powerplant, (ii) oil for the first year of the exemption and coal for the remainder of the remaining useful life of the powerplant, (iii) oil for the first 2 years of the exemption and coal for the remainder of the remaining useful life of the powerplant * * * and (iv) oil for the first 10 years of the exemption and coal for the remainder of the remaining useful life of the powerplant to the cost of using oil for the entire remaining useful life of the powerplant.

(5) All 11 ratios would have to be higher than 1.3, which is the index for the purposes of this example, in order to qualify for a permanent exemption. However, if a series of successive ratios, starting with the case where alternate fuel is used from the start of the exemption, are all greater than 1.3, you would be eligible for a temporary exemption up to the last year the ratio is greater than 1.3.

(6) In this example, we will only compute the ratios of (i) the cost to use coal for the remaining useful life of the powerplant and (ii) the cost to use oil for the first 3 years of the exemption and

coal for the remainder of the remaining useful life of the powerplant to the cost of using oil for the entire remaining useful life of the powerplant.

(7) To determine if you qualify for a temporary exemption, if you have not already done so with the General Cost Test, of 3 years, you would have to use the Special Cost Test and compute the ratios of the cost to use coal to the cost to use oil for 1, 2, and 3 years. All three ratios would have to be higher than 1.3 in order to qualify for a 3-year temporary exemption. In this example, we will only compute the ratio of the cost to use coal to the cost to use oil for 3 years.

(8) *Parameters.* A set of hypothetical parameters are given below. The powerplant has a capacity of 500 MW.

(i) *Capital cash flow requirements.* The cash flows required to make the plant coal capable are:

Years before powerplant becomes coal capable	Cash flow
-1	\$49,927,000
0	24,963,000
Total	\$74,890,000

It is assumed this is all pollution control equipment.

(ii) *Operations and maintenance expense cash flow requirements.*

(A) When burning oil:

Fixed	\$1,048,000/yr
Variable	1,042,000/yr
Total	\$2,090,000/yr

(B) When burning coal:

Fixed	\$1,433,000/yr
Variable	14,452,000/yr
Total	\$15,885,000/yr

(iii) *Fuel expense cash flow requirements.*

(A) When burning oil:

First through 24th year	\$93,020,000/yr
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(B) When burning coal:

First 3 years	\$56,033,000/yr
Fourth year through 24th year	\$37,355,000/yr

(iv) The plant is assumed to have current book value of \$82,988,000 and a remaining tax life of 12 years.

(v) The discount rate for the purpose of this example is 3 percent.

(vi) The powerplant has been operational for 11 years. Its remaining useful life is 24 years.

(vii) It is assumed that no derating is involved.

(9) *Analysis.*¹³

(i) *General cost test.*

(A) Compute the cost of using coal from the start of the exemption.

¹³ All dollars are in thousands.

$$I = \sum_{i=-8}^N \frac{I_i - ITC_i - S_i}{(1+K)^i}$$

$$= \frac{49,927}{(1.03)^{-1}} + \frac{24,963}{(1.03)^0}$$

$$= \frac{0.10 \times 74,890}{(1.03)^1}$$

$$= 69,117$$

$$COST = I + \sum_{i=1}^N \frac{(OM_i + FL_i)(1-t) - t(DPR_i)}{(1+K)^i}$$

$$= 69,117 + \sum_{i=1}^3 \frac{(15,885 + 56,033)(1-0.46)}{(1.03)^i}$$

$$+ \sum_{i=4}^{24} \frac{(15,885 + 37,355)(1-0.46)}{(1.03)^i}$$

$$= \sum_{i=1}^{12} \frac{0.46 \times DPR_i}{(1.03)^i} - \sum_{i=1}^{24} \frac{0.46 \times DPR_i}{(1.03)^i}$$

$$= 523,349$$

$$COST = I + \sum_{i=1}^N \frac{(OM_i + FL_i)(1-t) - t(DPR_i)}{(1.03)^i}$$

$$= 0 + \sum_{i=1}^{24} \frac{(2,090 + 93,020)(1-0.46)}{(1.03)^i}$$

$$= \sum_{i=1}^{12} \frac{0.46 \times DPR_i}{(1.03)^i}$$

$$= 838,131$$

(C) Compute the ratio of the cost of using coal from the beginning of the exemption to the cost of using oil throughout the remaining useful life of the powerplant.

$$R = \frac{COST(COAL)}{COST(OIL)}$$

$$= \frac{523,349}{838,131}$$

$$= 0.62$$

The ratio is less than 1.3. You are not eligible for either a permanent or temporary exemption using the general cost test and need not complete the general cost test. However, for illustrative purposes, we will continue.

(D) Compute the cost of using coal assuming coal is not used until after the third year and oil is used for the first 3 years of the exemption.

$$I = \sum_{i=-8}^N \frac{I_i - ITC_i - S_i}{(1+K)^i}$$

$$= \frac{49,927}{(1.03)^2} + \frac{24,963}{(1.03)^3}$$

$$= \frac{0.10 \times 74,890}{(1.03)^4}$$

$$I = 63,252$$

¹⁴TC is recognized the year the equipment is put into operation.

¹⁵ This term accounts for the depreciation of the original powerplant. Current book value is \$82,988 and straight line depreciation is being taken over 12 more years.

¹⁶ This term accounts for the depreciation of the capital investment (pollution control equipment) necessary to burn coal. The depreciation method is the rapid amortization method used for certified pollution control equipment added to a plant in existence before 1978. The tax life is 24 years.

¹⁷ This term accounts for depreciation of the original powerplant. Current book value is \$82,988 and straight line depreciation is being taken over 12 more years.

¹⁸ ITC is recognized the year after the plant becomes coal-capable.

¹¹ If the capacity lost due to derating is recovered, you must use this method and the cash flows must result in the least cost feasible solution (i.e., the cost computed with equation 2 or 5 must be in lowest feasible cost).

¹² When using the method specified in § 504.12(d)(5)(i)(B), the cost of using imported oil as computed by equation 2 or 5 is zero or negative, the determination of substantially exceeds will be made on a case-by-case basis.

$$\text{COST} = 1 + \sum_{i=1}^N \frac{(OM_i + FL_i)(1-t) - t(DPR_i)}{(1+K)^i}$$

$$= 63,252$$

$$+ \sum_{i=1}^3 \frac{(2,090 + 93,020)(1-0.46)}{(1.03)^i}$$

$$+ \sum_{i=4}^{24} \frac{(15,885 + 37,355)(1-0.46)}{(1.03)^i}$$

$$- \sum_{i=1}^{12} \frac{0.46 \times DPR_i^{19}}{(1.03)^i}$$

$$- \sum_{i=4}^{24} \frac{0.46 \times DPR_i^{29}}{(1.03)^i}$$

$$\text{COST} = 554,764$$

(E) Compute the ratio of the cost of using coal starting at the end of the third year to the cost of using oil throughout the remaining life of the powerplant.

$$R = \frac{\text{COST}(\text{COAL})}{\text{COST}(\text{OIL})}$$

$$= \frac{554,764}{838,131}$$

$$= 0.66$$

(ii) *Special cost test.*

(A) Compute the cost of using coal assuming the length of the exemption is 3 years.

$$\text{COST} = 1 \times \sum_{i=1}^P \frac{(1+K)^{-i}}{(1+K)^{-i}}$$

$$+ \sum_{i=1}^P \frac{(OM_i + FL_i)(1-t) - t(DPR_i)}{(1+K)^i}$$

¹⁹ This term accounts for the depreciation of the original powerplant. Current book value is \$2,988 and straight line depreciation is being taken over 12 more years.

²⁰ This term accounts for the depreciation of the capital investment (pollution control equipment) required to burn coal. The depreciation method is the rapid amortization method used for certified pollution control equipment added to a plant in existence before 1976. The tax life is 21 years.

$$\text{COST} = 69,117 \times \sum_{i=1}^3 \frac{(1.03)^{-i}}{(1.03)^i}$$

$$+ \sum_{i=1}^3 \frac{(15,885 + 56,033)(1-0.46)}{(1.03)^i}$$

$$- \sum_{i=1}^3 \frac{0.46 \times DPR_i^{21}}{(1.03)^i}$$

$$- \sum_{i=1}^3 \frac{0.46 \times DPR_i^{22}}{(1.03)^i}$$

$$= 97,413$$

$$\text{COST} = 1 \times \sum_{i=1}^P \frac{(1+K)^{-i}}{(1+K)^{-i}}$$

$$+ \sum_{i=1}^P \frac{(OM_i + FL_i)(1-t) - t(DPR_i)}{(1+K)^i}$$

$$\text{COST} = 63,252 \times \sum_{i=1}^3 \frac{(1.03)^{-i}}{(1.03)^i}$$

$$+ \sum_{i=1}^3 \frac{(2,090 + 93,020)(1-0.46)}{(1.03)^i}$$

$$- \sum_{i=1}^3 \frac{0.46 \times DPR_i^{23}}{(1.03)^i}$$

$$= 146,841$$

(C) Compute the ratio of the cost of using coal to the cost of using oil.

$$R = \frac{\text{COST}(\text{COAL})}{\text{COST}(\text{OIL})}$$

$$= \frac{97,413}{146,841}$$

$$= 0.66$$

The ratio (R) is less than 1.3. Therefore, you would not receive a temporary exemption of 3 years. However if the ratio computed where the use of coal is delayed one and two years are higher

²¹ This term accounts for the depreciation of the original powerplant. Current book value is \$2,988 and straight line depreciation is taken over 12 more years.

²² This term accounts for the depreciation of the capital investment (pollution control equipment) necessary to burn coal. The depreciation method is the rapid amortization method used for certified pollution control equipment added to a plant in existence before 1976. The tax life is 24 years.

²³ This term accounts for the depreciation of the original powerplant. Current book value is \$2,988 and straight line depreciation is taken over 12 more years.

than 1.3, you would receive a temporary exemption of two years.

§ 504.13 No alternative power supply—general requirement for permanent exemptions.

(a) *Application.* (1) Section 312 of the Act provides for a permanent exemption for State or local requirements and intermediate load. To qualify for one of these exemptions, Section 313(b) requires that you demonstrate to the satisfaction of ERA that despite diligent good faith efforts, there is no alternative supply of electric power which is available within a reasonable distance at a reasonable cost without impairing short-run or long-run reliability of service.

(2) In making the determination as to whether you have satisfied this requirement ERA will consider:

(i) In the case in which a final order has been issued, only the first year in which you propose to use petroleum or natural gas;

(ii) In the case in which you propose to use natural gas in excess of a statutory prohibition, only the first year in which you propose to use the excess natural gas; or

(iii) In the case in which only a proposed order has been issued, only the first year after a date on which the order could reasonably be expected to become effective.

(3) If you are unable to demonstrate that there is no alternate supply during the appropriate period, ERA will conclude that the absence of the existing powerplant will not impair short-term reliability of service, and as a result may deny your exemption. This denial would not impair long-term reliability of service, since you may submit a new petition one year later.

(b) *Criteria.* ERA will determine that you have no alternate supply of power if you demonstrate all of the following:

(1) You have made a diligent effort to reduce the need for power from your existing powerplant by implementing within your system whatever conservation measures are available and cost effective, including increasing the availability of alternate fuel-fired plants and by taking whatever measures are available to you (including, where appropriate, application for waivers from certain prohibitions of the National Energy Conservation Policy Act of 1978) to encourage or assist your customers in implementing cost-effective conservation. In judging whether a conservation measure is cost effective,

the capacity it would replace should be compared with the life cycle cost of capacity from your existing powerplant including capital operations, and maintenance expenses, and fuel at imported petroleum prices.

(2) You have made a diligent effort to purchase firm power for the appropriate year, described in paragraph (a) of this section, to cover all or part of your projected shortfall at a cost that is less than 10 percent above the annualized adjusted average cost of generating power in your system (including the capital, operation and maintenance expenses, and fuel at imported petroleum prices) for existing oil- or gas-fired units in your system.

(3)(i) Despite these efforts, the reserve margin in your electric region in the absence of your existing plant would fall below 20 percent during the appropriate year described in paragraph (a) of this section; or

(ii) Despite these efforts, the reserve margin will be greater than 20 percent and you have demonstrated that reliability of service would be impaired. Your demonstration relates to factors not included in the calculation of reserve margin such as transmission constraints.

(c) *Evidence.* You must include in your Fuels Decision Report at least the following in order to make the demonstration required by this section:

(1) The estimated peak demand for your system and the coincident peak demand for your electric region for the appropriate year.

(2) The corresponding capacity projections, as well as any existing commitments by your system to purchase or sell power during that year.

(3) Evidence that you have solicited firm power contracts for the appropriate year, via letters to all potential sources (including non-utility sources) within or contiguous to your electric region, and also via advertisements.

(4) A calculation of the delivered cost of the first-purchased power offered in response to you solicitation(s) along with a detailed description of the method by which the annual cost of the purchased power is determined. Where relevant, the FERC Tariff Identifications intended as the basis for the purchase power contracts under negotiation (including the service schedules and/or exhibits which would apply to these contracts) should be provided.

(5) A calculation of the cost of power from your existing powerplant during the appropriate year. You may select the method of calculation, provided that the resulting cost may be meaningfully compared with the cost of purchased

power. The calculation must include expenses due to capital, operations and maintenance, and fuel at imported petroleum prices. You may include effects of the economic dispatch of powerplants. The number of kilowatt hours being compared from the existing powerplant and the purchased power should be the same.

(6) A description of the measures you will have taken prior to the appropriate year to reduce energy losses within your own system, to improve the availability of your existing non-oil or gas-fired plants, to shift part of your peak demand to off-peak periods, and to encourage or assist your customers in implementing cost-effective conservation measures.

(7) Estimates of the kilowatt and kilowatt-hour savings that would result from the conservation measures.

(8) A calculation of the net capacity shortfall in the appropriate year (compared to a 20 percent reserve margin) if your existing powerplant is not utilized but all the reasonable purchase and conservation opportunities are exploited.

(d) *FERC consultation.* ERA will forward a copy of any petition for which a showing under this section is required to the Federal Energy Regulatory Commission (FERC) promptly after it is filed with ERA, and ERA will consult with FERC before making a finding on "no alternative supply of power" in the case of a petition for an intermediate or State or local exemption after the issuance of a final prohibition order.

§ 504.14 [Reserved]

§ 504.15 Use of mixtures—general requirement for permanent exemptions.

(a) *Application.* ERA will not consider a petition for any of the following exemptions provided for in Section 312 of the Act (lack of alternate fuel supply, site limitations, environmental requirements, use of natural gas in small powerplants, cogeneration, emergency purposes, or intermediate load) to be complete, adequate, or acceptable for filing unless you demonstrate to the satisfaction of ERA that you have considered the use of a mixture(s) for which an exemption under § 504.36 (Fuel mixtures) of these regulations would be available.

(b) *Demonstration.* ERA will deny any of the exemptions listed above unless you demonstrate that use of such a mixture(s) is not economically or technically feasible in the unit for which you are requesting an exemption. You must submit to ERA at least the following evidence in order to make the demonstration required by this section:

(1) If use of a mixture(s) were required, you would be eligible for one of the following permanent exemptions provided for in the Act: lack of alternate fuel supply, site limitations, environmental requirements, or state or local requirements; or

(2) Use of a mixture(s) is not technically or economically feasible in your specific unit due to design or special circumstances.

§ 504.16 Use of fluidized bed combustion not feasible—general requirement for permanent exemptions.

(a) *ERA finding.* ERA may deny any of the following exemptions provided for in Section 312 of the Act (lack of alternate fuel supply, site limitations, environmental requirements, state or local requirements, cogeneration, emergency purposes, use of natural gas in small powerplants or intermediate load) if ERA finds on a site specific or generic basis that use of a method of fluidized bed combustion of an alternate fuel is economically and technically feasible.

(b) *Demonstration.* If ERA has made such a finding, ERA will deny your request for exemption unless you demonstrate that the use of a method of fluidized bed combustion is not economically or technically feasible. You must include in your Fuels Decisions Report or any supplement thereto required by ERA (or in your petition for an emergency exemption) at least the following evidence:

(1) If use of a method of fluidized bed combustion were required, you would be eligible for one of the following permanent exemptions provided for in Section 312 of the Act: Lack of alternate fuel supply, site limitations, environmental requirements, or state or local requirements; or

(2) Use of a method of fluidized bed combustion is not technically or economically feasible in your specific unit due to design or special circumstances.

§ 504.17 Terms and conditions; compliance plans.

(a) *Terms and conditions generally.* You must comply with the terms and conditions of an exemption granted under the Act by the ERA, including terms and conditions requiring the use of effective fuel conservation measures.

(b) *Compliance plans for temporary exemptions.* (1) A compliance plan certified by your duly authorized representative shall accompany a petition for a temporary exemption. The compliance plan shall include at least the following:

(i) A detailed schedule of progressive events and the dates upon which the events are to take place indicating how compliance with the applicable prohibitions will occur;

(ii) Evidence of binding contracts for fuel, or facilities for the production of fuel, which are required for you to comply with the applicable prohibitions; and

(iii) Any other documentary evidence which indicates an ability to comply with the applicable prohibitions.

(2) The exemption shall not be effective until the compliance plan is approved by ERA.

(3) *Revisions of compliance plans.* If the petition is granted, you must submit to ERA an updated compliance plan certified by your duly authorized representative:

(i) At the end of each 12-month period from the effective date of the exemption;

(ii) Within 1 month of an alteration of any milestones in the compliance plan, together with the reasons for the alteration and its impact upon the scheduling of all other milestones in the plan; and

(iii) At any time the ERA, in its discretion, determines that a revised compliance plan may be necessary to reflect changes in circumstances.

(c) *Enforcement.* An exemption is subject to termination upon the violation of any provision of an exemption or any provision of the pertinent compliance plan.

Subpart D—Temporary Exemptions for Existing Powerplants

§ 504.20 Purpose and scope.

(a) This subpart implements the provisions contained in Section 311 of the Act with regard to temporary exemptions for existing powerplants.

(b) This subpart establishes the criteria and standards which owners or operators of existing powerplants who petition for a temporary exemption must meet to sustain their burden of proof under the Act.

(c) You shall submit all petitions for temporary exemptions for existing powerplants in accordance with the procedures set out in Part 501 of these regulations.

(d) The duration of any temporary exemption granted under this subpart shall be measured from the date that the applicable prohibition would apply if the exemption had not been granted.

§ 504.21 Lack of alternate fuel supply.

(a) *Eligibility.* Section 311(a)(1) of the Act provides for a temporary exemption due to lack of an alternate fuel supply.

To qualify you must demonstrate to the satisfaction of ERA that:

(1) You made a good faith effort to obtain an adequate and reliable supply of an alternate fuel of the quality necessary to conform to the design and operational requirements of the existing powerplant;

(2) For the period of the proposed exemption, the cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source as defined in § 504.12 (Cost calculation) of these regulations; and

(3) You will be able to comply with the applicable prohibitions of these regulations at the end of the proposed exemption period.

(b) *Evidence required in support of a petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) A description of your analysis of the alternate fuels you considered for use;

(2) A detailed description of the design requirements you specified for the existing powerplant, including capacity, alternate fuels capability, and all other pertinent specifications;

(3) A description of the range of specific fuel characteristics of all the fuels which can be used by the existing powerplants;

(4) Evidence that you sought to obtain the full range of alternate fuels which could be used by the existing powerplant, including bid requests, and/or advertisements for supply contracts and all responses thereto, as well as any other arrangements you attempted to make to secure supplies;

(5) Evidence of the contracts or other arrangements you have made to ensure a reliable and adequate supply of an alternate fuel at the end of the proposed exemption; and

(6) All data required by § 504.12 (Cost calculation) of these regulations necessary for computing the cost calculation formula.

(c) *Compliance plan.* You must submit to ERA a compliance plan in accordance with Section 314 of the Act and § 504.17 of these regulations simultaneously with submission of your petition. You must submit an updated compliance plan, if applicable, as required by § 504.17 of these regulations and as required by the terms of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption, taking into account any extensions or renewals, may not exceed ten years.

§ 504.22 Site limitations.

(a) *Eligibility.* Section 311(a)(2) of the Act provides for a temporary exemption due to a site limitation. To qualify for such an exemption, you must demonstrate that one or more of the following specific physical limitations relevant to the location or operation of your powerplant exist which, despite your diligent good faith efforts, cannot be overcome before the end of the proposed exemption period:

(1) Alternate fuels would be inaccessible because of a specific physical limitation;

(2) Transportation facilities for alternate fuels would be unavailable;

(3) Adequate land or facilities for handling, using or storing an alternate fuel would be unavailable;

(4) Adequate means for controlling and disposing of wastes would be unavailable;

(5) Adequate and reliable supply of water would be unavailable; or

(6) Other site limitations exist which would not permit the operation of the existing powerplant using an alternate fuel.

(b) *Evidence required in support of a petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) Evidence that the site limitation is a physical limitation, and not a requirement of Federal, State, or local law which could be the basis of an exemption under § 501.34 (State or local requirements);

(2) Evidence that alternative means for overcoming the specific site limitations were considered, with a detailed description of the efforts made to overcome the site limitations set out in your petition;

(3) Evidence of the equipment or space requirements for which the site limitation is claimed; and

(4) Evidence of contracts or other arrangements you have made to insure that the site limitation will overcome and that you will comply with the applicable prohibitions at the end of the proposed exemption period. Examples of evidence relevant to establishing a site limitation for purposes of a temporary exemption are as follows:

(i) Detailed documentation of impediments, including rights of way problems, site diagrams, maps of the surrounding areas and other items essential to the showing of a site limitation;

(ii) Identification of transportation facilities relevant to the specific site of the powerplant and demonstration why

existing transportation facilities cannot be utilized or new facilities constructed;

(iii) Copies of bid requests, advertisements, and general efforts made to secure alternative transportation facilities;

(iv) Identification of potential alternate fuel storage locations within a reasonable geographic area surrounding the powerplant;

(v) Detailed scale site plans of the entire facility which include those areas not directly involved with the specific boiler;

(vi) A specific listing of all equipment necessary and not currently available to properly handle alternate fuel;

(vii) Copies of bid requests, advertisements and general efforts made to secure alternate fuel storage facilities;

(viii) Copies of quotes from bona fide suppliers, indicating lead times for purchase and installation of required ancillary storage of handling equipment;

(ix) Specific listing of any equipment necessary and not currently available to properly control and dispose of waste;

(x) Identification of potential alternate waste disposal locations within a reasonable geographic area surrounding the powerplant;

(xi) A description of efforts made to secure off site disposal areas, including the cost of acquisition of the sites, transportation facilities and waste handling costs involved in their use; and

(xii) Copies of bid requests, advertisements, and general efforts made to secure control and disposal equipment.

(c) *Compliance plan.* You must submit to ERA a compliance plan in accordance with section 314 of the Act and § 504.17 of these regulations simultaneously with submission of your petition. You must submit an updated compliance plan, if applicable, as required by § 504.17 of these regulations and as may be required by the terms of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption, taking into account any extensions or renewals, may not exceed five years.

§ 504.23 Inability to comply with applicable environmental requirements.

(a) *Eligibility.* Section 311(a)(3) of the Act provides for a temporary exemption due to an inability to comply with applicable environmental requirements. To qualify you must demonstrate to the satisfaction of ERA that despite diligent good faith efforts:

(1) You are unable to comply with the applicable prohibitions without violating

applicable Federal or State environmental requirements; and

(2) You will be able to comply with the applicable prohibitions imposed by the Act and with applicable environmental requirements by the end of the temporary exemption period.

(b) *Criteria.* ERA's decision with regard to environmental compliance will be based solely on analysis of your capacity to physically achieve applicable environmental requirements. You should direct your analysis toward those conditions or circumstances which make it physically impossible for you to comply with applicable environmental requirements during the temporary exemption period. The cost of compliance shall not enter into the analysis, but any cost related considerations may be presented as part of a demonstration submitted under § 504.21.

(c) *Evidence required in support of the petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) An examination of the environmental compliance of the facility, including an analysis of the ability to meet applicable standards and criteria when using both the proposed fuel and all alternate fuels with reference to which you are requesting an environmental exemption. All conclusions regarding the ability of the facility to comply must be based on accepted analytical techniques, such as air quality modeling, and must reflect current conditions of the area which would be affected by the facility. You are responsible for performing the necessary sampling and collecting sufficient data to accurately characterize these conditions. Environmental compliance must be examined in the context of the available pollution control equipment which would provide the maximum possible reduction of pollution. The analysis must contain requests for bids and other inquiries made and responses received by you concerning the availability and performance of pollution control equipment; contracts signed, if any, for an alternate fuel supply and for the purchase and installation of pollution control equipment; or other comparable evidence such as technical studies documenting efficacy of equipment to meet applicable requirements; and

(2) An examination of the regulatory options available to you in seeking to achieve environmental compliance. This must include an analysis of the availability of offsets, if needed, and the potential for securing variances, and

State Implementation Plan revisions, as appropriate. The analysis must illustrate and document your efforts, if any, to locate, identify, and acquire offsets, including agreements made by agreement to acquire offsets is conditioned upon the grant of a variance, or State Implementation Plan revision, you must submit a letter from the state agency indicating when a proceeding to effectuate the agreement will take place. The analysis must contain any correspondence initiated or received by you concerning these regulatory options and all technical studies you have relied upon to support your conclusions. In addition you may submit any other documentation you believe demonstrates an inability to comply with applicable environmental requirements despite good faith efforts.

(d) *Compliance plan.* You must submit to ERA a compliance plan in accordance with section 314 of the Act and § 504.17 of these regulations simultaneously with the submission of your petition. You must submit an updated compliance plan, if applicable, as required by § 504.17 of these regulations and as required by the terms of any order granting an exemption under this subpart.

(e) *Other action.* Prior to deciding to submit an exemption application, it is recommended that you request a meeting with ERA and EPA or the appropriate state or local regulatory agency to discuss options for operating an alternate fuel-fired facility in compliance with applicable environmental requirements.

(f) *Duration.* This temporary exemption, taking into account extensions and renewals, may not exceed 5 years, and will be issued by ERA for such period up to and including 5 years as the petition demonstrates is necessary.

§ 504.24 Future use of synthetic fuels.

(a) *Eligibility.* Section 311(b) of the Act provides for a temporary exemption based upon the future use of synthetic fuels. To qualify, you must demonstrate to the satisfaction of ERA that:

(1) You will be able to comply with the applicable prohibitions by the use of synthetic fuel derived from coal or another alternate fuel as a primary energy source in your powerplant by the end of the proposed exemption period;

(2) You will not be able to comply with the applicable prohibitions before the end of the proposed exemption period by using such synthetic fuel in your powerplant.

(b) *Evidence required in support of the petition.* You must include in your

Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

- (1) Copies of studies relating to the economic and technical feasibility of using synthetic fuels by your powerplant;
- (2) Evidence of the financial commitments you have made to construct, operate, and maintain equipment which will be capable of using synthetic fuel as the primary energy source at the end of the proposed exemption period;
- (3) Copies of bid requests, advertisements, contracts and/or other agreements relating to the production, purchase, and transportation of synthetic fuel; and
- (4) Information regarding any permits that may be required by Federal or State agencies for the construction and operation of a powerplant using synthetic fuels.

(c) *Compliance plan.* You must submit to ERA a compliance plan in accordance with section 314 of the Act and § 504.17 of these regulations simultaneously with submission of your petition. You shall submit an updated compliance plan, if applicable, as may be required by § 504.17 of these regulations and as required by the terms of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption may be granted for a period of up to five years and may be extended for up to an additional five years.

§ 504.25 Use of innovative technologies.

(a) *Eligibility.* Section 311(c) of the Act provides for a temporary exemption based upon the use of innovative technologies. To qualify you must demonstrate to the satisfaction of ERA that you will be able to comply with the applicable rule or order at the end of the proposed exemption period by adoption of a technology for the use of an alternate fuel which ERA determines to be an innovative technology.

(b) *Evidence required in support of the petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

- (1) Copies of economic and technical feasibility studies pertaining to adoption of an innovative technology for use of an alternate fuel in your installation;
- (2) A complete description of the innovative technology you propose to use including explanation of its innovative characteristics, detailed design and engineering specifications, and a description of the fuel characteristic of the alternate fuels

which can be used with the innovative technology.

(3) Reliable evidence of the financial and contractual commitments you have made to construct or modify, operate, and maintain equipment which represents and innovative technology for the use of alternate fuel and which will be used at the end of the proposed exemption period; and

(4) Copies of bid requests, advertisement contracts, and/or other arrangements you have made to insure a reliable and adequate supply of an alternate fuel at the end of the proposed exemption period.

(c) *Compliance plan.* You must submit to ERA a compliance plan in accordance with section 314 of the Act and § 504.17 of these regulations simultaneously with submission of your petition. You must submit an updated compliance plan, if applicable, as required by § 504.17 of these regulations and as may be required by the terms and conditions of any order granting an exemption under this subpart.

(d) *Other action.* Prior to deciding to submit an exemption application, it is recommended that you request a pre-petition conference with ERA to discuss the requirements of this exemption.

(e) *Duration.* This temporary exemption may be granted for a period of up to 5 years and may be extended for an additional 5 years, but so extended may not exceed 10 years.

§ 504.26 Public interest exemption.

(a) *Policy note.* The use of coal and other alternate fuels in lieu of petroleum and natural gas is in the public interest. ERA will grant this temporary exemption where you are unable to comply immediately with the prohibitions of the Act or order by ERA where the granting of the petition would be in the public interest, and where you will be in compliance with the prohibitions imposed by the Act at the end of the exemption period. In filing your petition, you are required to complete the portions of the Fuels Decision Report (FDR) specified in section 502 of these Interim Rules and demonstrate why your proposed facility could not burn a fuel mixture during the time the exemption is effective. ERA recognizes, however, that there are situations where the public interest would best be served by not requiring the FDR and mixture demonstration; consequently, ERA strongly urges you to request a prepetition conference where, after consideration of the facts of your case, ERA could waive all or part of these requirements.

(b) *Eligibility.* Section 311(e) of the Act provides for a temporary public interest exemption. To qualify, you must demonstrate to the satisfaction of ERA that:

(1) You are unable to comply with the applicable prohibitions imposed by the Act, because of extraordinary circumstances, during the period for which the exemption is requested, but that you will be capable of complying at the end of the proposed exemption period; and

(2) The granting of the petition would be in accordance with the purposes of the Act and would be in the public interest.

(c) *Evidence required in support of the petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) Substantial evidence to corroborate the eligibility requirements identified above;

(2) A demonstration that the use of a mixture, for which an exemption under § 504.36 (Fuel Mixtures) would be available, is not technically or economically feasible during the period the temporary public interest exemption is in effect; and

(3) Information and data required by § 502.4 (Introduction), § 502.7 (Evidence for Exemption Required), and § 502.12 (Conservation Measures) of the Fuels Decision Report as set out in Part 502.

(d) *Compliance plan.* You must submit to ERA a compliance plan in accordance with section 314 of the Act and § 504.17 of these regulations simultaneously with submission of your petition. You must submit an updated compliance plan, if applicable, as required by § 504.17 of these regulations and as may be required by the terms of any order granting an exemption under this subpart.

(e) *Duration.* This temporary exemption, taking into account extension and renewals, may not exceed 5 years.

§ 504.27 Retirement.

(a) *Eligibility.* Section 311(d) of the Act provides for a temporary exemption for retirement. To qualify, you must demonstrate to the satisfaction of ERA that the powerplant will be retired at or before the expiration of this temporary exemption. Retirement means for purposes of this exemption that the unit permanently ceases operation.

(b) *Evidence required in support of the petition.* You must include in your petition at least the following evidence in order to make the demonstration required by this section:

(1) Copies of FPC form #12 including Schedules A & B, filed by the operating utility during the previous two years;

(2) Copies of reports filed by the operating utility during the two years preceding the petition with its Reliability Council detailing 10 year projections of changes in generating capacity. (These reports are required by FPC Form #383-4.);

(3) Any state PUC permits necessary for the retirement of a powerplant and a copy of the notification to the state PUC of retirement, if any; and

(4) Any other documentary evidence which indicates the reasons for retirement and plans for replacement or substitution of the retired powerplant.

(i) *Compliance plan.* You must submit to ERA a compliance plan in accordance with section 314 of the Act and § 504.17 of these regulations simultaneously with submission of your petition. You must submit an updated compliance plan, if applicable, as required by § 504.17 (except § 504.17(b)(1)(ii) of these regulations and as may be required by the terms of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption, taking into account extensions or renewals, may not exceed 5 years.

(e) *Restriction.* In the event this exemption is granted you will not be eligible for any other exemption under Title III, Subtitle B of the Act.

§ 504.28 Temporary exemption for powerplants necessary to maintain reliability of service.

(a) *Eligibility.*

(1) Section 311(g) of the Act provides for a temporary exemption to maintain reliability of service. To qualify you must demonstrate to the satisfaction of ERA that you are not capable of complying with the applicable prohibitions imposed by the Act without an impairment of reliability of service as measured by the loss of load probability technique described in paragraphs (a)(2) and (a)(3) of this section.

(2) You must calculate reliability of service utilizing the loss of load probability (LOLP) technique. The LOLP must be computed for your electrical region using the first 12-month period beginning on the first day of the month following the effective date of the exemption. It is to be calculated as the sum of either the weekly or the monthly estimates of hourly load/capacity deficits. You may decide whether to perform the calculation using weekly or monthly data. The LOLP calculation must take into consideration equipment forced outage rates, projected customer

electrical demand, and generating capacity projections for the electrical region, including existing generating capacity, planned generating capacity additions and projected firm bulk electrical purchases and sales, and projected retirements. If necessary, you may also calculate LOLP with modifications to account for transmission constraints, energy shortages, and other factors that are not adequately addressed by adhering to the foregoing specifications. You will need to discuss why such modifications are appropriate.

(3) Reliability of service will be considered impaired if the LOLP during the 12-month period described in paragraph (a)(2) of this section, including all available emergency reliability connections and other bulk power ties, is greater than one day in 5 years.

(4) You may choose to argue that your case for impaired reliability is supportable by criteria other than in paragraph (a)(2) of this section. If so, you must present this argument, and propose an approach for its justification, in a prepetition conference for ERA concurrence.

(b) *Evidence supporting the petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) All data you used in determining the loss of load probability;

(2) An explanation including equations of how you are calculating the loss of load probability;

(3) A description of your method and assumptions for projecting demand for your system and for your electric region;

(4) Your strategy for ending your period of reliability impairment, describing the measures you expect to take to reduce your demand and/or to increase your supply of power from sources other than your proposed plant that are either alternate fuel-fired or qualify for other exemptions;

(5) A calculation of your expected date of termination for your period of impairment. You may specify several alternate termination dates, each corresponding to a different combination of major events that are beyond your control (such as slippages of a new plant being built by a different utility in your electric region);

(6) In addition, you may include other evidence that you believe is relevant to your case, such as:

(i) Evidence that the reliability advantages of coordination on an electric region basis cannot be achieved to an extent sufficient to remove your

"impairment of reliability", reasons for this deficiency, and an estimate of when such coordination could be implemented in your region; or

(ii) Evidence that your system has a unique situation that requires the use of different reliability criteria.

(c) *Additional information.* You must submit the following information:

(1) All data required by § 502.11 (Petroleum and natural gas use) of these regulations; and

(2) All data required by § 502.12 (Conservation measures) of these regulations which describe any oil and natural gas conservation measures you have taken or intend to take if the exemption is granted.

(d) *Terms and conditions.* If you obtain this temporary exemption, you will be permitted to operate your powerplant only for the purposes of preventing an impairment of reliability of service. Your exemption period will extend from the effective date of the exemption until the earliest date when you can reduce your LOLP to less than 1 day in 5 years by means of measures which are in compliance with the prohibitions in the Act. ERA, at the time it grants this exemption, will specify the expected termination date of your exemption period. If circumstances beyond your control, which could not reasonably be anticipated at the time your petition was filed, cause the LOLP of your electric region to exceed 1 day in 5 years either at the end of this period or at any subsequent time, you may continue operation or recommence operation. You must supply detailed LOLP calculations to support the continuation or recommencement of operation.

(e) *Foreclosure of other exemptions.* Notwithstanding any other provision of these regulations or of the Act, an exemption under this Part (other than a permanent exemption under § 504.38 for the use of petroleum) may not be granted for any powerplant for which an exemption under this section has been granted.

(f) *Compliance plans.* You must submit to ERA a compliance plan in accordance with Section 314 of the Act and § 504.17 of these regulations simultaneously with submission of your petition. You must submit an updated compliance plan, if applicable, as required by § 504.17 of these regulations and as may be required by the terms of any order granting an exemption under this subpart.

(g) *Duration.* This temporary exemption, taking into account extensions or renewals, may not exceed 5 years or in the case of natural gas

extend beyond December 31, 1994 whichever comes first.

§ 504.29 Peakload powerplants.

(a) *Eligibility.* (1) If you propose to use natural gas or petroleum as a primary energy source in an existing peakload powerplant Section 311(f) of the act provides for a temporary exemption for peakload powerplants. To qualify you must certify to ERA that the powerplant will be operated solely as a peakload powerplant and to meet peakload demand for the period of the exemption.

(b) *Evidence required in support of a petition.* You must include in your petition at least the following evidence in order to make the demonstration required by this section:

(1) The petition must be accompanied by a sworn statement signed by a duly authorized officer of the electric utility which will operate the powerplant certifying that the powerplant is to be operated solely as a peakload powerplant and to meet peakload demand for the period of the exemption. The certification must set forth the design capacity of the powerplant and the maximum allowable generation of the powerplant in kilowatt hours according to the definition of peakload for each 12 month period of operation as a peakload powerplant. The first such period shall begin on the first day of the month following the effective date of the exemption.

(2) *Compliance plan.* You must submit to ERA a compliance plan in accordance with Section 314 of the Act and § 504.17 of these regulations simultaneously with submission of your petition. You must submit an updated compliance plan, if applicable, as required by § 504.17 of these regulations and as required by the terms of any order granting an exemption under this subpart.

(c) *Additional information.* You must submit the following additional information:

(1) All data required by § 502.11 (Petroleum and natural gas use) of these regulations; and

(2) All data required by § 502.12 (Conservation measures) of these regulations which describe any oil or natural gas conservation measures you have taken or intend to take if the exemption is granted.

(d) *Liability for operating in excess of exemption.* The operation of a peakload powerplant which has been granted this exemption in excess of that allowed by the exemption shall be subject to penalties under Title VII, Subtitle C of the Act unless the powerplant meets the criteria set forth in Section 721(c) of the Act.

(e) *Duration.* This temporary exemption, taking into account extensions or renewals, may not exceed 5 years or in the case of natural gas extend beyond December 31, 1994, whichever comes first.

(f) *Reporting requirements.* If the petition is granted you must report to ERA, at the end of each 12-month period of the proposed exemption. The first such period shall begin on the first day of the month following the effective date of the exemption. If applicable, upon reaching the maximum number of kilowatt hours of permitted generation within the 12-month period, you must report the name, location, and design capacity of the exempted unit, the number of hours of operation permitted by the exemption, and the number of hours of actual operation.

Subpart E—Permanent Exemptions for Existing Powerplants

§ 504.30 Purpose and scope.

(a) This subpart implements the provisions contained in Section 312 of the Act with regard to permanent exemptions for existing electric powerplants.

(b) This subpart establishes the criteria and standards which owners or operators of existing powerplants that petition for a permanent exemption must meet to sustain their burden of proof under the Act.

(c) If a petition for a permanent exemption is filed pursuant to § 504.31 (Lack of alternate fuel supply); § 504.32 (Site limitation); § 504.33 (Inability to comply with applicable environmental requirements); or § 504.34 (State or local requirements); the petitioner must demonstrate that his inability to use each reasonable alternate fuel would entitle him to one or more of the above exemptions.

(d) You must submit all petitions for permanent exemptions for existing powerplants in accordance with the procedures set out in Part 501 of these regulations.

§ 504.31 Lack of alternate fuel supply.

(a) *Eligibility.* Section 312(a)(1)(A) of the Act provides for a permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. To qualify you must demonstrate to the satisfaction of ERA that:

(1) You made a good faith effort to obtain an adequate and reliable supply of an alternate fuel of the quality necessary to conform with the design

and operational requirements of the existing powerplant; and

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source during the remaining useful life of the existing powerplant as defined in § 504.12 (Cost calculation) of these regulations.

(b) *Evidence in support of a petition.* You must include in your Fuels Decision Report the following evidence in order to make the demonstration required by this section:

(1) A detailed description of the design requirements you specified for the existing powerplant, including capacity, alternate fuels capability, and all other pertinent specifications;

(2) A description of the range of specific fuel characteristics of all the fuels which can be used by the existing powerplant;

(3) Evidence that you sought to obtain the full range of alternate fuels and fuel characteristics which could be used by the existing powerplant, including bid requests and/or advertisements for supply contracts, all proposals and responses thereto, as well as any other arrangements you attempted to make to secure supplies.

(4) All data required by § 504.12 of these regulations (Cost calculation) necessary for computing the cost calculation formula; and

(5) A description of your analysis of the alternate fuels you considered.

§ 504.32 Site limitations.

(a) *Eligibility.* Section 312(a)(1)(B) of the Act provides for a permanent exemption due to a site limitation. To qualify for such an exemption you must demonstrate that, despite good faith efforts:

(1) Alternate fuels are inaccessible as a result of a specific physical limitation to the operation of the existing powerplant;

(2) Transportation facilities for alternate fuels would be unavailable;

(3) Adequate land or facilities for handling, using or storing alternate fuels would be unavailable;

(4) Adequate means for controlling and disposing of wastes would be unavailable;

(5) Adequate and reliable supply of water would be unavailable; or

(6) Other site limitations exist which would not permit the operation of the existing powerplant using an alternate fuel, and these limitations cannot be reasonably expected to be overcome within five years after the effective date of the applicable prohibition.

(b) *Evidence to be submitted in support of the petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) Evidence that the site limitation is a physical limitation, and not a requirement of Federal, State or local law which could be the basis of an exemption under § 504.34 (State or local requirements);

(2) Evidence that alternative means for overcoming the specific site limitations were considered with a detailed description of the efforts made to overcome the site limitations set out in your petition; and

(3) Evidence of the equipment or space requirements for which the site limitation is claimed. Examples of evidence relevant to establishing a site limitation for purposes of a permanent exemption are as follows:

(i) Detailed demonstration of impediments, including rights of way problems, site diagrams, maps of the surrounding areas and other items essential to the showing of a site limitation;

(ii) Identification of transportation facilities relevant to the geographic site of the powerplant and demonstration why existing transportation facilities cannot be utilized or new facilities constructed;

(iii) Identification of potential alternate waste disposal locations within a reasonable geographic area surrounding the powerplant;

(iv) A description of efforts made to secure off-site disposal area, including the cost of acquisition of the sites, transportation facilities and waste handling costs involved in their use;

(v) Copies of bid requests, advertisements, and other general efforts made to secure waste control and disposal equipment;

(vi) Copies of bid requests, advertisements, and other general efforts made to secure alternative fuel storage facilities;

(vii) Identification of potential alternate fuel storage locations within a reasonable geographic area surrounding the powerplant;

(viii) Detailed scale site plans of the entire facility which include those areas not directly involved with the specific powerplant;

(ix) A specific listing of all equipment necessary and not currently available to properly handle alternate fuels;

(x) Copies of quotes from bona fide suppliers, indicating lead times for purchase and installation of required ancillary storage or handling equipment;

(xi) Specific listing of any equipment necessary and not currently available to properly control and dispose of waste.

§ 504.33 Inability to comply with applicable environmental requirements.

(a) *Eligibility.* Section 312(a)(1)(C) of the Act provides for a permanent exemption due to the inability to comply with the applicable environmental requirements. To qualify you must demonstrate to the satisfaction of ERA that, despite good faith efforts you will be unable, within 5 years of the date the exemption is requested to take effect, to comply with the applicable Federal or state environmental requirements.

(b) *Criteria.* ERA's decision with regard to environmental compliance will be based solely on an analysis of your capacity to physically achieve applicable environmental requirements. The cost of compliance shall not enter into the analysis, but any cost-related considerations may be presented as part of a demonstration submitted under § 504.31.

(c) *Evidence required in support of the petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) An examination of the environmental compliance of the facility, including an analysis of the ability to meet applicable standards and criteria when using both the proposed fuel and all alternate fuels for which you are requesting an environmental exemption. All conclusions regarding the ability of the facility to comply must be based on accepted analytical techniques, such as air quality modeling, and must reflect current conditions of the area which would be affected by the facility. You are responsible for performing the necessary sampling and collecting sufficient data to accurately characterize these conditions.

Environmental compliance must be examined in the context of the available pollution control equipment which would provide the maximum possible reduction of pollution. The analysis must contain requests for bids and other inquiries made and responses received by you concerning the availability and performance of pollution control equipment, or other comparable evidence such as technical studies documenting efficacy of equipment to meet applicable requirements; and

(2) An examination of the regulatory options available to you in seeking to achieve environmental compliance. This must include an analysis of the availability of offsets, if needed, and the potential for securing variances and

State Implementation Plan (SIP) revisions, as appropriate. The analysis must illustrate and document your efforts, if any, to locate and identify available offsets, and to secure variances and SIP revisions. The analysis must contain any correspondence initiated or received by you concerning these regulatory options and all technical studies you have relied upon to support your conclusions.

(3) In addition, you may submit any other documentation you believe demonstrates an inability to comply with applicable environmental requirements despite good faith efforts.

(d) *Other actions.* Prior to deciding to submit an exemption application, it is recommended that you request a meeting with ERA and EPA or the appropriate state or local regulatory agency to discuss options for operating an alternate fuel-fired facility in compliance with the applicable environmental requirements.

§ 504.34 State or local requirements.

(a) *Eligibility.* Section 312(b) of the Act provides for an exemption due to state or local requirements. To qualify you must demonstrate to the satisfaction of ERA that:

(1) With respect to the site of the powerplant, the operation of such powerplant using an alternate fuel is not feasible because of a state or local requirement;

(2) If such state or local requirement is under a building code or nuisance or zoning law, no other exemption could be granted for such facility;

(3) You have in good faith attempted unsuccessfully to obtain a variance from the state or local requirement or have demonstrated why none is available;

(4) The granting of the exemption would be in the public interest and would be consistent with the purposes of this Act;

(b) *Evidence required in support of a petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) A copy of the pertinent state or local requirement with its citation and its legislative history;

(2) The identification and location of the administrative body which implements the requirement;

(3) A description of your attempts to obtain a variance from the requirement or a demonstration of why none is available;

(4) A description of any activities you were involved in after April 20, 1977, pertaining to the enactment of the requirement;

(5) A description of equipment, procedures, and the advance planning time necessary to comply with the requirement;

(6) A detailed description of why compliance with the state or local requirement is infeasible;

(7) The impact upon you and/or your local community, if any, should your petition be denied;

(8) An explanation of the reasons why granting this exemption would be in the public interest; and

(9) An analysis of why you cannot qualify for any other exemption, if the state or local requirement is under a building code or nuisance or zoning law.

(c) *Exercise of discretion by ERA.* ERA may refuse to grant this exemption to you if it determines that such grant would not be in the public interest or in accordance with the purposes of the Act, notwithstanding the fact that the evidence you have furnished to ERA in your exemption petition substantiates that your facility would otherwise be eligible to receive the exemption.

§ 504.35 Cogeneration.

(a) *Eligibility.* Section 312(c) of the Act provides for a permanent exemption for cogeneration. To qualify you must show that economic and other benefits of cogeneration are unobtainable unless petroleum or natural gas, or both are used by demonstrating to the satisfaction of ERA at least the following minimum criteria:

(1) The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility where the calculation of savings is in accordance with paragraph (c) of this section; or

(2) It would be in the public interest to grant an exemption to the cogeneration facility because of special circumstances such as technical innovation or maintaining industry in urban areas.

(b) *Specifications of the cogeneration facility.* (1) A person operating a cogeneration facility may apply for an exemption under this section if the amount of net electricity that is either sold or exchanged is 50 percent or more of the useful energy output of the facility. If the amount is less than 50 percent, see § 505.27 (Installations). Net electricity excludes sales or exchanges among owners of the cogeneration facility.

(2) Electricity generated by the cogeneration facility must constitute more than 10 percent of the useful energy output of the facility and less than 90 percent of the useful energy output.

(c) *Calculation of oil and gas savings.* There is an oil and gas savings if the oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility. The calculation of the oil and gas which would otherwise be consumed must be in accordance with paragraphs (c)(1) and (2) of this section.

(1) Except for the case described in paragraph (c)(2) of this section, the oil or gas which would otherwise be consumed must be calculated as follows:

(i) You may include the oil or gas that would be consumed by facilities that are or would be too small to be covered by the FUA regulations. In the case of new small industrial units, you must demonstrate that it would be reasonable to construct units of that size.

(ii) You may include the oil or gas that would be consumed by units in place (existing or exempt) covered by FUA if they are less than 40 years old in the case of a field-erected unit or less than 20 years old in the case of a packaged unit. In the case of existing units, you may not include units that have burned an alternate fuel or are capable of burning an alternate fuel, and you may only include units described in this paragraph if they will be retired if this exemption is granted.

(iii) You may include the oil or gas that would be consumed by units not yet constructed that would be covered by the FUA regulations if you can demonstrate that each unit would be entitled to an exemption.

(iv) You may include the oil or gas that would be consumed by powerplants to generate electricity supplied to the grid to the extent that such electricity, if you cogenerate, will no longer be supplied by the grid. The oil or gas portion must be based on a 10 year forecast that includes new construction and retirement of plants within those 10 years.

(2) In the case of a cogeneration facility that would consist of an existing unit and a new unit, you must calculate the amount of oil or gas that would otherwise be consumed as the sum of:

(i) The five-year average oil or gas consumption of the existing unit, and

(ii) The amount that would be consumed in units described in paragraph (c)(1) (i)-(iv), of this section that would now be satisfied by the new cogeneration facility.

(d) *Evidence required in support of a petition.* You must include in your Fuel Decision Report at least the following

evidence in order to make the demonstration required by this section:

(1) An engineering description of the cogeneration system, including proposed output and uses thereof, with sufficient detail to ensure that the facility qualifies as a cogeneration facility;

(2) A detailed oil and natural gas savings calculation identifying the projected oil or natural gas consumption of the cogeneration facility and the oil or natural gas that would otherwise be used;

(3) Identification of the FUA status of the units described in paragraph (c)(1)(i)-(iv) of this section with respect to coverage and designation as new, existing, or exempted, age of units, and alternate fuel capability of units;

(4) Identification of all persons and their roles in the proposed cogeneration facility;

(5) In the case of paragraph (a)(2) of this section, an explanation of the public interest factors you believe should be considered by ERA.

(e) *Exercise of discretion by ERA.* ERA may refuse to grant this exemption to you if it determines that such grant would not be in the public interest or in accordance with the purposes of the Act, notwithstanding the fact that the evidence you have furnished to ERA in your exemption petition substantiates that your facility would otherwise be eligible to receive the exemption.

§ 504.36 Permanent exemption for certain fuel mixtures containing natural gas or petroleum.

(a) *Eligibility.* Section 312(d) of the Act provides for a permanent exemption for certain fuel mixtures. To qualify you must demonstrate to the satisfaction of ERA that:

(1) You propose to use a mixture of natural gas or petroleum and an alternate fuel as a primary energy source;

(2) The amount of petroleum or natural gas you propose to use in the mixture will not exceed the minimum percentage of the total Btu heat input needed to maintain operational reliability of the powerplant consistent with maintaining a reasonable level of fuel efficiency.

(b) *Evidence required in support of a petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) A complete description of the fuel mixture, component elements of the mixture, and percentage of each component to be utilized;

(2) Your design specifications for the unit for which you are requesting an exemption; and

(3) An engineering assessment of the proportions of petroleum or natural gas needed to maintain operational reliability and an adequate level of fuel efficiency.

(c) *Reporting requirement.* If the exemption is granted, you must submit an annual report to ERA certifying that the affected units have used no more than the percentage of oil or natural gas specified in the exemption order. The certification shall be executed by your duly authorized representative.

(d) *Solar mixtures.* ERA will grant a permanent mixtures exemption for the use of a mixture of solar energy (including wind, tide, and other intermittent sources) and petroleum or natural gas, where:

(1) Solar energy will account for at least 20 percent of the total annual Btu heat input of the unit; and

(2) You propose an acceptable plan to ERA which—

(i) Meets the evidence requirements set forth in paragraph (b) of this section; and

(ii) Contains a compliance plan prepared in accordance with § 504.17 of these regulations.

§ 504.37 Emergency purposes.

(a) *Eligibility.* Section 312(e) of the Act provides for a permanent exemption for emergency purposes. To qualify you must demonstrate to the satisfaction of ERA that you will operate and maintain the powerplant for emergency purposes only.

(b) *Definition.* For the purposes of this permanent exemption an emergency exists when the operating utility would be required to curtail noninterruptible electric supply to its industrial customers.

(c) *Evidence required in support of a petition.* You must include in your petition the following evidence in order to make the demonstration required by this section:

(1) A certificate executed by a duly authorized officer of the operating utility stating that emergency operation under the provisions of this exemption will occur only when the noninterruptible electric supply to industrial customers would be curtailed;

(2) All data required by § 504.15 (Use of mixtures—general requirement) of these regulations demonstrating that use of a mixture(s) is not economically or technically feasible; and

(3) All data required by § 504.16 (Use of fluidized bed combustion not feasible—general requirement) if ERA

has made a generic or site-specific finding that the use of a method of fluidized bed combustion of an alternate fuel is economically and technically feasible.

(d) *Additional information.* You must submit the following additional information:

(1) All data required by § 502.11 (Petroleum and natural gas use) of these regulations;

(2) All data required by § 502.12 (Conservation measures) of these regulations which describe any oil or natural gas conservation measures you have taken or intend to take if the exemption is granted; and

(3) All data required by § 502.13 (Environmental impacts analysis) of these regulations which will assist ERA to fulfill its responsibilities under the National Environmental Policy Act (NEPA).

(e) *Reporting requirement.* At the end of each 12-month period from the effective date of the exemption, you must report to ERA the monthly and annual amounts of electricity generated and fuel used under the provisions of this exemption with a description of the purposes of use.

§ 504.38 Peakload powerplants.

(a) *Eligibility.* (1) Section 312(f) of the Act provides for a permanent exemption for peakload powerplants if you propose to use petroleum or natural gas as a primary energy source in a peakload powerplant. To qualify:

(i) You must certify to ERA that the powerplant will be operated solely as a peakload powerplant and to meet peakload demand for the remaining life of the powerplant; and

(ii) A denial of such petition is likely to result in an impairment of reliability of service as measured by the loss of load probability technique described in paragraphs (a)(3), and (a)(4) of this section; and

(iii) Modification of the powerplant to permit compliance with the prohibitions of the Act—

(A) Is technically infeasible; or

(B) Would result in an unreasonable expense.

(2) You must calculate reliability of service utilizing the loss of load probability (LOLP) technique. The LOLP must be computed for your electrical region using the first 12-month period of the proposed exemption beginning on the first day of the month following the effective date of the exemption. It is to be calculated as the sum of either the weekly or the monthly estimates of hourly load/capacity deficits. You may decide whether to perform the

calculation using weekly or monthly data. The LOLP calculation must take into consideration equipment forced outage rates, projected customer electrical demand, and generating capacity projections for the electrical region, including existing generating capacity, planned generating capacity additions and projected firm bulk electrical purchases and sales, and projected retirements. If necessary, you may also calculate LOLP with modifications to account for transmission restraints, energy shortages, and other factors that are not adequately addressed by adhering to the foregoing specifications. You will need to discuss why such modifications are appropriate.

(3) Reliability of service will be considered impaired if the LOLP for the 12-month period is greater than one day in five years.

(4) You may choose to argue that your case for impaired reliability is supportable by criteria other than in paragraph (a)(2) of this section. If so, you must present this argument, and propose an approach for its justification, in a prepetition conference for ERA concurrence.

(5) *Technical infeasibility.* ERA will consider compliance with the applicable prohibitions of FUA to be technically infeasible if the facility is not "technically capable" of burning an alternative fuel, and if it is not true that the facility "has or previously had the technical capability" to use an alternate fuel pursuant to § 500.1(b)(1) of these regulations.

(b) *Evidence required in support of a petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) A sworn statement signed by a duly authorized officer of the electric utility which will operate the powerplant certifying that the powerplant is to be operated solely as a peakload powerplant and to meet peakload demand for the life of the plant. The certification must set forth the design capacity of the powerplant and the maximum allowable generation of the powerplant in kilowatt hours according to the definition of peakload for each 12 months of operation as a peakload powerplant, and that the powerplant is to be operated solely to meet peakload demand for the remaining life of the powerplant.

(2) All data you used in determining the loss of load probability;

(3) An explanation, including equations, of how you are calculating the loss of load probability;

(4) A description of your method and assumptions for projecting demand for your system and for your electric region;

(5) Your strategy for ending your period of reliability impairment, describing the measures you expect to take to reduce your demand and/or to increase your supply of power from sources other than your proposed plant that are either alternate fuel-fired or qualify for other exemptions.

(6) Calculation of your expected date of termination for your period of impairment. You may specify several alternative termination dates, each corresponding to a different combination of major events that are beyond your control (such as slippages of a new plant being built by a different utility in your electrical region);

(7) An explanation of why there is not enough time to construct an alternate fuel-fired plant to prevent impairment of reliability of service;

(8) An explanation of why you believe that modification of the powerplant to permit compliance with the Act is technically infeasible;

(9) An explanation of why you believe that modification of the powerplant to permit compliance with the Act would result in unreasonable expense;

(10) In addition, you may include other evidence that you believe is relevant to your case, such as:

(i) Evidence that the reliability advantages of coordination on an electric region basis cannot be achieved to an extent sufficient to remove your "impairment of reliability," reasons for this deficiency, and an estimate of when such coordination could be implemented in your region; or

(ii) Evidence that your system has a unique situation that requires the use of different reliability criteria.

(c) *Liability for operating in excess of exemption.* The operation of a peakload powerplant which has been granted this exemption in excess of that allowed by the exemption shall be subject to penalties under Title VII, Subtitle C of the Act unless the powerplant meets the criteria set forth in section 721(c) of the Act.

(d) *Reporting requirement.* If the petition is granted, you must report to ERA, at the end of each 12-month period from the effective date of the exemption and, if applicable, upon reaching the maximum number of kilowatt hours of permitted generation within each 12-month period, the name, location, and design capacity of the exempted unit, the number of hours of operation permitted by the exemption, and the number of hours of actual operation.

§ 504.39 Intermediate load powerplants.

(a) *Eligibility.* Section 312(g) of the Act provides for an exemption for use of petroleum as a primary energy source by intermediate load powerplants. ERA may grant you such an exemption if you demonstrate to the satisfaction of ERA that:

(1) The Administrator of the EPA or the Director of the appropriate State air pollution control agency has certified that the use of any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within such region, of a pollutant for which any national ambient air quality standard is or would be exceeded as described in paragraph (c) of this section;

(2) The powerplant as operated will replace no more than the equivalent generating capacity of existing units which:

(i) Permanently cease operation within one month of ERA's granting the intermediate load powerplant this exemption;

(ii) Use natural gas or petroleum as a primary energy source;

(iii) Are owned by the same person who is to operate the existing powerplant; and

(iv) Would, if they burned coal, cause or contribute to a pollutant concentration in a manner described in paragraph (a)(1) of this section;

(3) The powerplant is and shall continue to be operated only as an intermediate load powerplant in which the electrical generation (in kilowatt hours) for any 12-calendar-month period, shall not exceed the powerplant's design capacity multiplied by 3,500 hours;

(4) The net heat input rate for the powerplant will be maintained at or less than 9,500 BTU's per kilowatt hour throughout the remaining useful life of the powerplant;

(5) The powerplant has the capability to use a synthetic fuel derived from an alternate fuel as a primary energy source.

(b) *Evidence supporting the petition.* Your must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) An air quality certification for this unit prepared by the EPA or State air pollution control agency, meeting the requirements of paragraph (a)(1) of this section, including a listing of all alternate fuels covered by the certification;

(2) A description of the existing powerplants to be replaced, by the

intermediate load powerplant which shall include:

(i) The name and location of each of the existing powerplants;

(ii) The volume of fuel consumed by type for the previous two years by the existing powerplants;

(iii) The corporate ownership of the existing powerplants; and

(iv) The reasons for claiming that the existing powerplants would cause or contribute to a pollutant concentration if they used coal as a primary energy source.

(3) An affidavit executed by a duly authorized officer of the electric utility which will operate the powerplant certifying that the powerplant shall be operated at all times in the future only as an intermediate load powerplant. The certification shall set forth the design capacity of the powerplant and the maximum allowable generation of the powerplant in kilowatt hours for its first 12 months of operation from the date the petition for exemption is filed.

(4) An affidavit executed by a duly authorized officer and a qualified engineer of the operating utility of the powerplant certifying that the powerplant can operate at a heat rate of 9,500 btu's per kilowatt hour or less throughout the useful life of the powerplant;

(5) An affidavit executed by a duly authorized officer and a qualified engineer of the operating utility certifying that the powerplant has the synthetic fuels capability requirement described in paragraph (a)(5) of this section, identifying the specific synthetic fuels, and agreeing to cease using petroleum or natural gas when ERA has found that such synthetic fuels are available;

(6) Identification of the synthetic fuel(s) your existing powerplant is designed to use, with appropriate documentation including:

(i) Your expected source of synthetic fuel, if known;

(ii) The year when you expect the synthetic fuel to be available in adequate quantity at an acceptable price;

(iii) Estimates of the future prices of the synthetic fuel your plant is designed to use;

(iv) Your role, if any, in developing the facilities to produce the synthetic fuels; and

(v) Your basis for believing that these fuels can be burned in your plant in conformance with applicable Federal and state environmental standards.

(c) *Terms and conditions.* ERA, if it grants you this exemption, will set as a condition the amount of oil to be used

by the existing powerplant. In general, ERA would require that the granting of this exemption result in a reduction in oil use or a reduction in the rate of oil increase by your system. The reduced oil use would be achieved by ceasing operation of the applicable existing units and by employing the more efficient proposed unit in their place.

(d) *Reporting Requirement.* If the petition is granted, you must report to ERA, at the end of each 12 month period from the first day of the month following the effective date of the exemption and, if applicable upon reaching the maximum number of hours of permitted operation within each 12 month period, the name, location and design capacity of the exempt unit, the number of hours of operation permitted by the exemption, the number of hours of actual operation. You must also report at the same time the amount of petroleum used by the unit and the total amount of petroleum used by all units in your system.

(c) *Periodic Review.* ERA shall, from time to time, review this exemption and shall terminate it when it finds that there is available a supply of synthetic fuel suitable for use by the exempt powerplant.

(f) *Exercise of discretion by ERA.* ERA may refuse to grant this exemption to you if it determines that such grant would not be in the public interest in accordance with the purposes of the Act, notwithstanding the fact that the evidence you have furnished to ERA in your exemption petition substantiates that your facility would otherwise be eligible to receive the exemption.

§ 504.40 Use of natural gas by powerplants with capacity of less than 250 million Btu's per hour.

(a) *Eligibility.* Section 312(h) of FUA provides for a permanent exemption for the use of natural gas by powerplants with a capacity of 250 million Btu's per hour or less. To qualify you must demonstrate to the satisfaction of ERA that:

(1) The design capacity of the powerplant for consuming fuel (or mixture thereof) is less than a heat input rate of 250 million Btu's per hour;

(2) The electrical generation of the powerplant during calendar year 1977 exceeded, in kilowatt hours, the powerplants design capacity multiplied by 3500 hours; and

(3) The powerplant is not capable of burning coal without—

(i) Substantial physical modification of the unit, as determined on a case-by-case basis in accordance with the policy expressed in § 500.1. However for the

purposes of this provision, ERA shall exclude pollution control equipment; or

(ii) Substantial reduction in the rated capacity of the unit, as determined on a case-by-case basis in accordance with the policy expressed in § 500.1. However for the purposes of this provision, ERA shall not consider a derating of less than 10% to be substantial.

(b) *Evidence required to support the petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) The purchaser's design specifications and date of installation for the powerplant;

(2) A detailed history of the fuel consumption of the powerplant for 1976 and 1977 on a monthly basis for each fuel consumed; and

(3) An itemized list of the modifications required to burn coal as a primary energy source, the estimated cost for each modification, and the time required to make these modifications, to include copies of all pertinent engineering documents utilized to arrive at these estimates;

(4) The derating factor, if any, anticipated from burning coal as a primary energy source in the unit(s) and a detailed description of the formulas and assumptions used to arrive at that factor.

(c) *Restrictions.* This exemption may only apply to the prohibitions under Section 301 of FUA and prohibitions by final rules or orders issued before January 1, 1990.

§ 504.41 Use of liquefied natural gas.

(a) *Eligibility.* Section 312(i) of the Act provides for a permanent exemption for the use of liquefied natural gas (LNG). To qualify you must demonstrate to the satisfaction of ERA that:

(1) The Administrator of the EPA or the appropriate State air pollution control agency has certified that the use of coal, including any available coal derived fuel, as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within such region, of a pollutant for which any national ambient air quality standard is or would be exceeded (air quality certification);

(2) The Administrator of the EPA or the appropriate State air pollution control agency has certified that you will be unable to use coal, including any available coal derived fuel as a primary energy source without violating applicable environmental requirements (environmental certification); and

(3) The LNG to be used at your powerplant will be produced outside the continental United States.

(b) *Evidence required in support of the petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) Copies of your applications for an air quality certification and an environmental certification filed with the EPA or State air pollution control agency which request certification for coal and all available coal derived fuels, and copies of all supporting documentation filed with or subsequent to the applications; and

(2) The name of the country or state that will be the source of your LNG the name of the company that owns the LNG terminal through which your LNG will be imported and the name and location of such terminal, and the name of the company that will be supplying you with LNG.

(c) *Air quality certification.* Your petition is not complete unless the following have been submitted to ERA:

(1) A certification of the EPA or the appropriate State air pollution control agency that the use by the powerplant of coal or any available coal-derived fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within such region, of a pollutant for which any national ambient air quality standard is or would be exceeded and that your use of coal or any available coal-derived fuel would not comply with applicable environmental requirements; and

(2) A statement indicating which fuels were presented for consideration to the agency which certified with regard to the Clean Air Act, and, to the extent known by you, why they were rejected as a method of compliance.

(d) *Reporting requirement.* If the petition is granted, you must report to ERA, at the end of each 12 month period from the first day of the month following the effective date of the exemption and, if applicable, upon reaching the maximum number of hours of permitted operation within each 12 month period, the name, location and design capacity of the exempt unit, the number of hours of operation permitted by the exemption, the number of hours of actual operation, and efforts taken to seek and obtain a synthetic fuel for use in the powerplants.

(e) *Enforcement.* Violations of the provisions of this exemption shall subject you to the maximum penalties provided for by Part 501, Subpart L of these regulations.

PART 506—EXISTING MAJOR FUEL BURNING INSTALLATIONS

Subpart A—Prohibitions

Sec.

506.1 Purpose and scope.

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Appendix I Procedures for the Computation of the Real Cost of Capital.

Authority: Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.); Powerplant and Industrial Fuel Use Act of 1976, Pub. L. 95-620, 92 Stat. 3289 (42 U.S.C. 8301 et seq.); E.O. 12009, 42 FR 46287.

PART 506—EXISTING MAJOR FUEL BURNING INSTALLATIONS

Subpart A—Prohibitions

§ 506.1 Purpose and scope.

This subpart sets forth prohibitions imposed on existing major fuel burning installations. The prohibitions set forth in this subpart apply to all existing major fuel burning installations, as defined in § 500.2, unless an exemption has been granted by ERA under

Subparts C and D of this part. Any person who owns, controls, rents or leases an installation is subject to the prohibitions imposed and the sanctions provided for by the Act or these regulations.

§ 506.2 Prohibitions by order (case-by-case).

(a) ERA may prohibit, by order, the use of natural gas or petroleum as a primary energy source in an existing major fuel burning installation if ERA finds that:

(1) The installation has, or previously had, the technical capability to use an alternate fuel as a primary energy source;

(2) The installation has this technical capability, or it could have the technical capability again without:

(i) A substantial physical modification of the installation; or

(ii) A substantial reduction in the rated capacity of the installation; and

(3) It is financially feasible for the installation to use an alternate fuel as its primary energy source.

(b) ERA must make a proposed finding regarding the technical capability of a unit to use alternate fuel as identified in paragraph (a)(1) of this section prior to the date of publication of the notice of the proposed prohibition. ERA will publish this finding in the Federal Register along with the notice of the proposed prohibition.

(c) The findings enable ERA to assess the potential impact of a prohibition order on three levels: The impact on the facility itself, the impact on the economic activity which the steam or electric power supports, and the impact on the parent firm owning the site. Where the regulation reflects an emphasis on one level or another in a particular finding, ERA has based such emphasis on the terms of the legislation, the conference report, and its own identification of the most appropriate level in accordance with its regulatory discretion.

(d) *Technical capability.* (1) ERA will consider "technical capability" on a case-by-case basis. In making this assessment however, ERA will only consider the characteristics of the unit itself and will not ordinarily consider the nature or absence of appurtenances outside the unit. ERA's major concern is the ability of the unit, from the point of fuel intake to physically sustain combustion of a given fuel and to maintain heat transfer.¹

¹For example, ERA will examine the furnace configuration and ash removal capability but will not normally consider the need to install pollution control equipment as a measure of technical capability. Furthermore, ERA will not conclude that

(2) ERA considers that a unit "had" the technical capability to use an alternate fuel if the unit was once able to burn that fuel (regardless of whether the unit was expressly designed to burn that fuel or whether it ever actually did burn it) but is no longer able to do so at the present due to temporary or permanent alterations to the unit itself.²

(3) A unit "has" the technical capability to use an alternate fuel if it can burn an alternate fuel, notwithstanding the fact that minor adjustments must be made to the unit beforehand or that pollution control equipment may be required to meet air quality requirements.³

(e) *Substantial physical modifications.* ERA will make its determination on whether a physical modification to a unit is "substantial" on a case-by-case basis. ERA will consider physical modifications made to the unit as "substantial" where warranted by the magnitude and complexity of the engineering task or where the modification would impact severely upon operations at the site.⁴ ERA will not, however, assess physical modification on the basis of cost or the installation of pollution control or fuel handling equipment.

(f) *Substantial reduction in rated capacity.* (1) ERA will assess units for which a derating of 10% or more is claimed on a case-by-case basis. ERA does not consider a derating of less than 10% as a result of converting a unit from

the absence of fuel handling equipment, such as conveyor belts, pulverizers, capability" to burn an alternate fuel.

²For example, a unit which at one time burned solid coal, but which could no longer do so because its coal firing ports and sluicing channels had been cemented over, would be classified as having "had" the technical capability to use coal. (The question of whether it again "could have" such capability without "substantial physical modification" is a separate and additional question.)

³A unit designed to burn natural gas also "has" the technical capability to burn medium Btu gas from coal (assuming such gas is available). Also a unit designed to burn oil may, depending upon the chemical characteristics, be a unit that "has" the technical capability to burn liquefied coal. The fact that certain minor adjustments may be necessary does not render this a "hypothetical" as opposed to a "real" capability. Even an oil fired unit converting from the use of #2 distillate to #6 residual oil may be required to adjust or replace burner nozzles and add soot blowers. ERA views these alterations as minor adjustments the need for which does not render a unit incapable of burning a particular fuel.

⁴Significant alterations affecting the furnace configuration or a complete respacing of the tubes would likely fall into this category. A combination of modifications involving changes required for bottom ash removal, related construction and engineering work, and other modifications to the boiler, other than furnace configuration or tube spacing may, in some circumstances, cause modifications to be considered substantial.

oil or gas to an alternate fuel to be "substantial" under any circumstances.⁵

(2) In assessing whether a unit's derating of 10% or more is "substantial", ERA will consider the impact of the reduction in available capacity on the site at which the facility is located as well as on the unit itself.⁶

(g) *Financial feasibility.* (1) It is financially feasible for your installation to use an alternate fuel as its primary energy source if the cost of using an alternate fuel does not substantially exceed the cost of using imported petroleum using the general cost calculation described in § 504.12(a) and (b) of the regulations. However, in making this cost calculation, you may use your firm's real cost of capital⁷ as the discount rate for the purpose of computing cost, rather than the average, real cost of capital required for installations as specified in § 506.12 of these regulations; and

(2) You may seek to rebut this presumption by evidence that despite good faith efforts you are unable to raise the capital that would be necessary for the conversion, or that for some other economic or financial reason, conversion is not financially feasible. The standard for assessing capital availability will be identified to that specified in § 505.25 (inability to obtain adequate capital).

(3) In making this determination, ERA will consider any relevant factor presented by the proposed order recipient which bears upon the competitive viability of the facility or loss of production if any, at the facility during the period required for the conversion.

(h) *Mixtures finding.* (1) If ERA finds that it is technically and financially feasible for your powerplant to use a mixture of petroleum or natural gas and alternate fuel as its primary energy source, ERA may prohibit you, by order,

⁵Typically, units that are the subject of a prohibition order will not have installed any operating air pollution control equipment sufficient to burn coal in compliance with applicable environmental equipments. The installation and use of air pollution control equipment alone can, in many cases, produce a derating of close to 10 percent. Moreover, the shift to coal itself will, because of differences in energy density and fuel flow characteristics typically involve some derating. Thus if a derating of less than 10 percent could constitute a "substantial" derating, the authority conferred by Congress to prohibit by order could be almost entirely nugatory.

⁶For example, ERA may find that the derating of a unit far in excess of 10 percent is not "substantial" if it produces no appreciable effect upon the operations of a facility with considerable excess capacity.

⁷For the purposes of these interim regulations, you must compute the real cost of capital according to the procedures outlined in appendix I of these regulations.

from using petroleum or natural gas in amounts exceeding the minimum amount necessary to maintain the reliability of your operation consistent with maintaining reasonable fuel efficiency of the mixture. (Such minimum amount determined by ERA shall not be less than 25 percent.)

(2) In making the technical feasibility finding, ERA may weigh "physical modification" or "derating of the unit;" but these considerations, by themselves, will not control the technical feasibility finding. A technical feasibility finding might be made notwithstanding the need for substantial physical modification. The economic consequences of a substantial physical modification are taken into account in determining financial feasibility.

(3) The authority of ERA implemented under this section should not be confused with the two other fuel mixture provisions of these regulations. One is the requirement that petitioners for permanent exemptions need demonstrate that the use of a mixture of natural gas or petroleum and an alternate fuel is not economically or technically feasible (§§ 504.15 and 506.14). The second is the permanent fuel mixtures exemptions themselves (see §§ 504.36 and 506.36).

Subpart B—General Requirements for Exemptions

§ 506.10 Purpose and scope.

This subpart establishes the general requirements necessary to qualify for either a temporary or permanent exemption from the prohibitions set out under this part and establishes the methodology for calculating the cost of using an alternate fuel and the cost of using imported petroleum.

§ 506.11 Fuels decision report.

(a) Before ERA will accept a petition for either a temporary or permanent exemption from a final prohibition order issued under this part, you must include as part of your petition a Fuels Decision Report as described in Part 502 unless you are requesting an emergency purposes or retirement exemption. The Fuels Decision Report shall contain the analysis and documentation of the evidence required in support of your exemption request.

(b) Your petition may contain more than one exemption request. In this case, your petition would include one Fuels Decision Report which addresses your considerations and the appropriate forms for the exemptions you are requesting.

§ 506.12 Cost calculations for existing installations.

(a) *General.* (1) This calculation compares the cost of using alternate fuel to the cost of using imported petroleum. Its purpose is to provide ERA with a mechanism for deciding when investments that are not the best economic choice from the viewpoint of the individual firm are nevertheless economic in light of the benefits and costs to the United States.

(2) The cost of using an alternate fuel in lieu of imported oil or gas as a primary energy source will be deemed to be substantially in excess of the cost of using imported petroleum where the ratio of the former to the latter is greater than the index set periodically by ERA.

(3) The index is currently 1.3. ERA will revise the index from time to time after public notice and time to comment. Revisions shall become effective for all ERA decisions after final publications; however, the relevant index for a specific petition will be the index in effect at the time the petition is submitted, or the index in effect at the time a decision is rendered, whichever is lower.

(4) The cost test takes into consideration cash outlays for capital investments and annual expenses, and the effect of depreciation and taxes on the cash flow. There are two comparative cost tests—a general cost test and a special cost test. You must demonstrate eligibility for a permanent exemption using the procedures specified in the general cost test (section b). You must demonstrate eligibility for a temporary exemption using the procedures specified in the general cost test (section b) or the special cost test (section c).

(5) The general cost test differs from the special cost test with respect to the time period over which costs are calculated. When using the general cost test, the cost is computed for the remaining useful life of the installation. When using the special cost test, the cost is computed only for the term of the exemption.

(b) Cost Calculation—General Cost Test.

(1) You may be eligible for a permanent exemption if you demonstrate that the cost of using an alternate fuel starting anytime within the first 10 years of the exemption will always substantially exceed the cost of using imported petroleum from the time the exemption becomes effective until the end of the powerplant's remaining useful life. You will have to show that the cost of using an alternate fuel, starting in each of the first 10 years of the exemption and using oil or natural

gas until the start of using an alternate fuel, substantially exceeds the cost of using only imported petroleum.

(2) If the discounted lifetime cost of alternative fuel use, computed with successive starting date for the first 10 years of the exemption, does not always substantially exceed the cost of using imported petroleum, you would only be eligible for a temporary exemption. The length of the temporary exemption would be for the minimum period within which the cost of starting to use alternate fuel always substantially exceeds the cost of using imported petroleum. For example, if you can burn coal and it cannot be obtained at a reasonable price for 2 years, ERA may grant a temporary exemption and allow the burning of oil for 2 years.

(3) To conduct the test, you must use the equations that follow.

(i) Calculate the ratio (R) of the cost of using an alternate fuel to the cost of using imported petroleum with equation 1.

$$EQ\ 3 \quad R = \frac{I_D + \sum_{i=1}^N \frac{I_i - ITC_i - S_i}{(1+K)^i}}{I_D + \sum_{i=1}^N \frac{I_i - ITC_i - S_i}{(1+K)^i}}$$

(ii) Calculate the cost of using an alternate fuel and imported petroleum with equation 2.

$$EQ\ 2 \quad COST = I + \sum_{i=1}^N \frac{(OM_i + FL_i)(1-t) - t(DPR_i)}{(1+K)^i}$$

(iii) Calculate the capital investment using equation 3.

$$EQ\ 1 \quad R = \frac{COST\ (ALTERNATE)}{COST\ (OIL)}$$

(4) The terms in equations 2 and 3 are defined as follows:

i = Year. Outlays before the proposed exemption becomes effective are future valued to the year before the year before the proposed exemption becomes effective (year 0) and outlays after the proposed exemption becomes effective are present valued to the year before the proposed exemption becomes effective.

g = The number of years prior to the year before the proposed exemption becomes effective a cash outlay is made for capital investments or investment tax credit is used.

N = The remaining useful life of the installation (see section d).

I_D = Capital investment required to recover the capacity lost due to derating (see section d).

I_i = Yearly cash outlay (in dollars) from the year the outlays first occur to the last year of the installation's remaining useful life for capital investments (see section d).

OM_i = Annual cash outlay in year i (in dollars) for all operations and maintenance expenses except fuel (i.e., all non-capital and non-fuel cash outlays caused by putting the capital investments into service). May include labor, materials, insurance, taxes (except income taxes), etc. (see section d).

t = Marginal income tax rate (see section d).

FL_i = Annual cash outlay for delivered fuel expenses (in dollars) in year i (see section d).

K = The discount rate expressed as a fraction (see section d).

DPR_i = Depreciation in year i (see section d).

S_i = Salvage value of capital investment (in dollars) realized in year i.

ITC_i = Federal investment tax credit resulting from capital investment used in year i (see section d).

(5) The step-by-step procedure that follows shows the comparison that you must make. It outlines the fuel and time comparisons.

(i) Compute the cost (COST) of using an alternate fuel throughout the remaining useful life of the installation with equation 2.

(ii) Compute the cost (COST) of using oil or natural gas throughout the remaining life of the installation with equation 2.

(iii) Compute the ratio (R) of the cost of using an alternate fuel throughout the remaining useful life of the installation to the cost of using oil or natural gas throughout the remaining useful life of the installation with equation 1. If the ratio (R) is equal to or less than 1.3, the index set by ERA, you are not eligible for a permanent or temporary exemption using the general cost test and need not complete the remainder of the calculation.

(iv) Compute the cost (COST) of using an alternate fuel with equation 2 assuming an alternate fuel is not used as the primary energy source until the end of the first year of the exemption and that oil or natural gas is used for the first year of the exemption. All cash outlays should reflect postponed use of alternate fuel (e.g., installation of scrubber when used).

(v) Successively compute the cost (COST) of using an alternate fuel with equation 2 assuming alternate fuel is postponed until the end of the second through tenth year of the exemption (and oil or natural gas is used in the years preceding alternate fuel use).

(vi) Compute the ratios (R) of the cost of using an alternate fuel successively at

the end of the first through tenth year (and using oil or natural gas in the years preceding alternate fuel use) to the cost of using oil or natural gas throughout the remaining useful life of the installation with equation 1.

(vii) If all the ratios (R) computed in iii and vi are greater than 1.3 (an index to be set periodically by ERA), a permanent exemption would be granted. If one or more of the ratios (R) is equal to or less than 1.3 and a series of ratios (R), starting with the case where alternate fuel is used from the start of the exemption, are all greater than 1.3, a temporary exemption would be granted for the minimum period in which the cost of starting to use alternate fuel, deferred year by year, always exceeds 1.3.

(6) The following table shows the hypothetical results of four sets of calculations assuming the index is 1.3.

Hypothetical Results of Four Sets of Calculations

Year in which alternate fuel use commences	Case I	Case II	Case III	Case IV
At start of exemption.....	1.4	1.6	1.5	1.1
End of year.....				
1.....	1.4	1.6	1.5	1.1
2.....	1.5	1.7	1.5	1.2
3.....	1.3	1.6	1.4	1.2
4.....	1.3	1.5	1.3	1.1
5.....	1.2	1.5	1.4	1.1
6.....	1.2	1.4	1.4	1.1
7.....	1.1	1.4	1.5	1.1
8.....	1.1	1.4	1.5	1.1
9.....	1.0	1.4	1.6	1.1
10.....	1.0	1.4	1.6	1.1

The results of the above table show that: a 2-year temporary exemption would be granted in Case I, a permanent exemption would be granted in Case II, a 3-year temporary exemption would be granted in Case III, and no exemption would be granted in Case IV.

(c) Cost calculation—special cost test.

(1) You may be eligible for a temporary exemption if you demonstrate that the cost of using an alternate fuel will substantially exceed the cost of using oil or natural gas over the period of the proposed exemption. The period of the exemption cannot exceed 10 years. You will have to show that the cost of using an alternate fuel substantially exceeds the cost of using imported petroleum for the first year of the exemption, the first 2 years of the exemption, and successive first years of the exemption, up to the period of the proposed exemption. To do so, you must perform the calculations with successive ending dates to determine the maximum length of the exemption. ERA will limit the duration of a temporary exemption to the shortest time possible.

(2) To conduct the test, you must use the equations that follow.

(i) Calculate the ratio (R) of the cost of using an alternate fuel to the cost of using imported petroleum with equation 4.

$$EQ\ 4 \quad R = \frac{COST\ (ALTERNATE)}{COST\ (OIL)}$$

(ii) Calculate the cost using equation 5.

$$EQ\ 5 \quad COST = I + \sum_{i=1}^N \frac{(1+K)^{-i}}{(1+K)^i} + \sum_{i=1}^N \frac{(OM_i + FL_i)(1-t) - t(DPR_i)}{(1+K)^i}$$

(3) The terms in equation 5 are the same as in equation 2 above with the addition of:

P = The length of the proposed temporary exemption.

(4) The step-by-step procedure that follows shows the comparisons you must make.

(i) Compute the cost (COST) of using an alternate fuel assuming the length of the proposed exemption is 1 year with equation 5.

(ii) Compute the cost (COST) of using oil or natural gas assuming the length of the proposed exemption is 1 year with equation 5.

(iii) Compute the ratio (R) of the cost of using an alternate fuel for the first year to the cost of using imported petroleum for the first year with equation 4.

(iv) Repeat the calculations made in i, ii, and iii above assuming the length of the proposed exemption is 2 years, 3 years, 4 years, and so on, up to the period of the proposed exemption.

(v) A temporary exemption would be granted when all the ratios (R) are greater than 1.3 (the index established by ERA).

(d) Information on parameters used in the calculation. (1) All estimated expenditures, except natural gas and petroleum products, shall be expressed in real (uninflated) terms by using the prices in effect at the time the petition is submitted.

(2) The delivered price of oil or natural gas used in the calculation of delivered fuel expenses must reflect the price of imported oil.

(i) If you use 100 percent domestic⁹ petroleum product in your facility, compute your petroleum price with equation 6.

$$EQ\ 6 \quad PFE = PF + PICO - PCCO$$

The terms of equation 6 are defined as follows:

PICO = Price of imported crude oil. The most recent refiner acquisition cost of imported crude oil as reported in the Federal Register monthly notice for the DOE Domestic Crude Oil Allocation (Entitlements) Program.

PCCO = Price of composite crude oil. The most recent weighted average cost of total reported crude oil receipts as reported in the Federal Register notice for the DOE Entitlements Programs.

PF = Price of your fuel oil (f.o.b. your facility). The most recent actual weighted average cost of your fuel (other than natural gas). Alternatively, if no purchase of fuel oil occurred, or you used natural gas during that month, you should use a simple average of the industrial price of fuel oil (capable of being burned in your facility) sold in your area by at least three suppliers.

PFE = Price of fuel for use in the cost calculation.

(ii) If you use 100 percent imported petroleum product in your facility, compute your petroleum price with equation 7.

$$EQ\ 7 \quad PFE = PF + ENT$$

The terms of equation 7 are the same as equation 6 with the additions of:

ENT = $\frac{1}{2} \times E_p \times DOSR$ for residual fuel oil if an entitlement has been received by the importer.

ENT = 0 for all other products or if an entitlement has not been received by the importer.

E_p = entitlement priced reported in the Federal Register monthly notice for the DOE Entitlements Program.

DOSR = national domestic oil supply ratio reported in the Federal Register monthly notice for the DOE Entitlements Program.

(iii) If you use a combination of domestic and imported petroleum product in your facility, you may use the prices computed with the formula in paragraph (a) of this section or you may use a weighted average of the prices computed with the formulas in paragraphs (a) and (b) of this section.

(iv) If you use natural gas in your facility, you must use the formula in paragraph (d)(2) of this section and the price of #6 residual fuel oil, which meets the air quality standards in your area, as the price of fuel.

(3) Capital investment yearly cash outlays (I_i) must include all items which are capital investments for Federal

income tax purposes. All purchased equipment which has a useful life greater than 1 year, capitalized engineering costs, land, construction, environmental offsets, fuel inventory,⁹ piping, etc., required to use the installation being converted required after the proposed exemption would become effective must be included. However, an item may only be included if a cash outlay is required after the decision has been made to convert (or not to convert) the installation.

(4) Capital investment, if any, required to recover the lost capacity due to derating (I_D) must be computed with equation 8 if an election is made to recover that capacity.¹⁰

$$EQ\ 8 \quad I_D = \frac{\sum_{i=1}^N (1+K)^{-i}}{\sum_{i=1}^N (1+K)^{-i}} \times \sum_{i=g}^N \frac{I_i^D - ITC_i^D - S_i^D}{(1+K)^i}$$

(i) M , I_i^D , ITC_i^D , and S_i^D are the useful life, yearly investment cash outlays, investment tax credits, and the salvage values respectively resulting from the purchase of equipment required to recover the capacity lost due to derating; all definitions and information which apply to N , I , ITC_i , S_i , apply to M , I_i^D , ITC_i^D , and S_i^D except that M , I_i^D , ITC_i^D , and S_i^D are limited to equipment required to recover the capacity lost due to derating. All other terms are as in equation 3.

(ii) If an election is made not to recover the capacity lost due to derating, the capital investment required to recover the lost capacity due to derating equals zero.

(5)(i) The annual operating and maintenance expenses (OM_i) and the fuel expenses (FL_i) are computed using one of the following methods; however the one chosen must be consistently applied throughout the analyses. They are:

(A) Assume the installation will annually generate an amount of energy or steam equal to the average amount of energy or steam produced annually for

⁹For industrial boilers, the greater of: 1) 21 days fuel supply, or 2) sufficient fuel to fill 60% of the storage volume must be included. If you already have oil in inventory, it must be salvaged.

¹⁰If the capacity is recovered, the cash flows must result in the least cost feasible solution (i.e., the cost computed with equation 2 or 5 must be the lowest feasible cost).

⁹For the purpose of this regulation, the Virgin Islands, Puerto Rico, and the U.S. territories and possessions are domestic sources.

the last 5 years (or the life of the installation if it is less than 5 years).

(B) Base the computations on the actual power or steam generation schedule.¹¹

(ii) If you use the methodology as set out in paragraph (d)(5)(i)(A) of this section the operations and maintenance expenses must include both fixed and variable components.

(iii) If an exemption is granted, it will be conditioned, subject to penalties, upon the petitioner burning no more than the maximum amount of fuel he could have specified and still have been granted the exemption.

(6) The discount rate (K) is 7.7 percent. ERA will change the discount rate from time to time after public notice and an opportunity to comment. Revisions shall become effective after final publication; however, the relevant discount rate for a specific petition will be the discount rate in effect at the time the petition is submitted.

(7) The remaining useful life (N) of major fuel burning installations shall be 40 years minus the number of years of operation prior to the effective date of the proposed exemption. You may rebut this presumption with suitable engineering evidence.

(8) All Federal investment tax credits (ITC_i) will be applied consistently throughout the analysis in a manner consistent with the Federal tax laws in effect at the time the petition is submitted.

(9) Depreciation (DPR_i) will be applied consistently through the analysis in a manner consistent with Federal tax laws in effect at the time the petition is submitted. Depreciation on both the original installation and the capital investment required due to the conversion must be included. In general, accelerated depreciation cannot be used for new gas- or oil-fired boilers. You must use the most rapid depreciation permitted by law for capital investments required to burn alternate fuel.

(10) The marginal income tax rate (t) is the firm's marginal Federal income tax rate for the year the petition is submitted.

(11) All estimated expenditures will be computed in accordance with generally accepted accounting principles.

(e) Evidence in support of the comparative cost test. All petitions for exemption requiring the use of the comparative cost test shall include, but

¹¹ If the capacity lost due to derating is recovered, you must use this method and the cash flows must result in the least cost feasible solution (i.e., the cost computed with equation 2 or 5 must be the lowest feasible cost).

not be limited to, the following information:

(1) A detailed accounting of all cash outlays, investment tax credits, and anticipated salvage value for capital investments. Include a description and cost estimate of all major construction and equipment. All critical assumptions should be stated and sufficient data should be included to support your estimates.

(2) A detailed accounting of all annual cash outlays for fixed and variable operations and maintenance expenses including a description of all major elements and the formulas used to compute them. All critical assumptions should be stated and sufficient data included to support your estimates.

(3) A detailed accounting of all annual cash outlays for delivered fuel expenses including the formulas used to compute them. All critical assumptions should be stated and sufficient data included to support your estimates. The fuel price and characteristic for each alternative fuel should be included.

(4) If the remaining useful life of the installation is judged to be less than 40 years minus the number of years of operation prior to the effective date of the proposed exemption, all critical assumptions and sufficient data to support that position.

(5) A detailed accounting of the depreciation for each capital asset including the depreciable base, tax life and methods used. All critical assumptions should be stated and sufficient data included to support your estimates.

(6) A detailed justification of the 5 year average amount of energy or steam produced or, if your base your computations on the actual power or steam generation schedule, a detailed justification of your power or steam generation schedule.

(f) Example of calculations. (1) The purpose of this example is solely to illustrate the mechanics of the cost tests; it should not be construed to be guidance on the application of the Federal income tax laws. The detail is only to the level of the individual terms in the cost test equations. Where the petitioner should supply a value, equations, and data, we have only supplied the value.

(2) We are assuming that you are profitable to the extent that your Federal marginal income tax rate is 46 percent and that you need not carry over investment tax credits.

(3) You are considering converting an oil-fired major fuel burning installation to coal. In this particular situation, the delivery cost of coal is much greater for

the first 3 years than it will be in the later years because of a transportation problem requiring 3 years to resolve. Do you qualify for an exemption? If so, is it permanent or temporary?

(4) To determine if you qualify for a permanent exemption, you would have to use the general cost test and compute the ratios of the cost to use (i) coal for the remaining useful life of the installation, (ii) oil for the first year of the exemption and coal for the remainder of the remaining useful life of the installation, (iii) oil for the first 2 years of the exemption and coal for the remainder of the remaining useful life of the installation, * * *, and (iv) oil for the first 10 years of the exemption and coal for the remainder of the remaining useful life of the installation to the cost of using oil for the entire remaining useful life of the installation.

(5) All 11 ratios would have to be higher than, for purposes of this example, 1.3 in order to qualify for a permanent exemption. However, if a series of successive ratios, starting with the case where alternate fuel is used from the start of the exemption, are all greater than 1.3, you would be eligible for a temporary exemption up to the last year the ratio is greater than 1.3.

(6) In this example, we will only compute the ratios of (i) the cost to use coal for the remaining useful life of the installation and (ii) the cost to use oil for the first 3 years of the exemption and coal for the remainder of the remaining useful life of the installation to the cost of using oil for the entire remaining useful life of the installation.

(7) To determine if you qualify for a temporary exemption, if you have not already done so with the general cost test, of 3 years, you would have to use the special cost test and compute the ratios of the cost to use coal to the cost to use oil for 1, 2, and 3 years. All three ratios would have to be higher than 1.3 in order to qualify for a 3 year temporary exemption. In this example, we will only compute the ratio of the cost to use coal to the cost to use oil for 3 years.

(8) Parameters. A set of hypothetical parameters are given below. The installation is a 200,000,000 BTU/HR Boiler.

(i) Capital cash flow requirements. The cash flow required to make the installation coal-capable are:

	Cash flow
Year before boiler becomes coal-capable:	
-1	314,000
0	906,000
Total	1,220,000

It is assumed that this is all pollution control equipment.

(ii) Operations and Maintenance Expense Cash Flow Requirements.

(A) When burning oil—

Fixed	371,000
Variable	100,000
Total	471,000

(B) When burning coal:

Fixed	1,449,000
Variable	540,000
Total	1,989,000

(iii) Fuel Expense Cash Requirements.

(A) When burning oil:

First through 25th year	2,742,000
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(B) When burning coal—

First 3 years	2,460,000
Fourth through 25th year	1,640,000

(iv) The installation is assumed to have a current book value of 1,465,000 and a remaining tax life of 8 years.

$$\text{COST} = I + \sum_{i=1}^N \frac{(OM_i + FL_i)(1-t) - t(DPR_i)}{(1+K)^i} - \frac{I_1 - ITC_1 - S_1}{(1+K)^1}$$

$$= 1132 + \sum_{i=1}^3 \frac{(1,989 + 2,460)(1 - 0.46)}{(1.08)^i} + \sum_{i=4}^{25} \frac{(1,989 + 1,640)(1 - 0.46)}{(1.08)^i}$$

$$- \sum_{i=1}^8 \frac{0.46 \times DPR_1 \frac{14}{15}}{(1.08)^i} - \sum_{i=1}^{25} \frac{0.46 \times DPR_1 \frac{15}{15}}{(1.08)^i}$$

$$= 22,324$$

(B) Compute the cost of using oil for the remaining useful life of the installation.

$$\text{COST} = I + \sum_{i=1}^N \frac{(OM_i + FL_i)(1-t) - t(DPR_i)}{(1+K)^i} - \frac{I_1 - ITC_1 - S_1}{(1+K)^1}$$

$$= 0 + \sum_{i=1}^{25} \frac{(471 + 2,742)(1 - 0.46)}{(1.08)^i} - \sum_{i=1}^8 \frac{0.46 \times (DPR_1) \frac{14}{15}}{(1.08)^i}$$

$$= 18,037$$

¹² All dollars are in thousands.

¹³ ITC is recognized the year the equipment is put into operation.

¹⁴ This term accounts for the depreciation of the original installation. Current book value is 1,465 and straight line depreciation is being taken over 8 more years.

(v) The discount rate for the purpose of this example is 8 percent.

(vi) The installation has been operational for 15 years. Its remaining useful life is 25 years.

(vii) It is assumed that no derating is involved.

(9) Analysis¹²

(i) General Cost Test.

(A) Compute the cost of using coal from the start of the exemption.

$$I = \sum_{i=g}^N \frac{I_1 - ITC_1 - S_1}{(1+K)^i}$$

$$= \frac{314}{(1.08)^1} + \frac{906}{(1.08)^2} + \frac{(1.08)^{-1} + (1.08)^0}{0.10 \times 1,220} \frac{14}{15}$$

$$= 1132$$

(C) Compute the ratio of the cost of using coal from the beginning of the exemption to the cost of using oil throughout the remaining useful life of the boiler.

$$R = \frac{\text{COST (COAL)}}{\text{COST (OIL)}}$$

$$= \frac{22,324}{18,037}$$

$$= 1.24$$

The ratio (R) is less than 1.3. Therefore you are not eligible for a permanent or temporary exemption using the general cost test and need not complete the calculation. However for illustrative purpose, we will continue.

(D) Compute the cost of using coal assuming coal is not used until after the third year and oil is used for the first 3 years of the exemption.

$$I = \sum_{i=g}^N \frac{I_1 - ITC_1 - S_1}{(1+K)^i}$$

$$= \frac{314}{(1.08)^2} + \frac{906}{(1.08)^3} + \frac{0.10 \times 1,220 \frac{14}{15}}{(1.08)^4}$$

$$I = 899$$

$$\text{COST O} = \sum_{i=1}^N \frac{(OM_i + FL_i)(1-t) - t(DPR_i)}{(1+K)^i}$$

$$= 899 + \sum_{i=1}^3 \frac{(471 + 2,742)(1 - 0.46)}{(1.08)^i} + \sum_{i=4}^{25} \frac{(1,989 + 1,640)(1 - 0.46)}{(1.08)^i}$$

$$- \sum_{i=1}^8 \frac{0.46 \times DPR_1 \frac{14}{15}}{(1.08)^i} - \sum_{i=1}^{25} \frac{0.46 \times DPR_1 \frac{15}{15}}{(1.08)^i}$$

$$\text{COST} = 20,371$$

(E) Compute the ratio of the cost of using coal starting at the end of the third year to the cost of using oil throughout the remaining life of the boiler.

¹⁵ ITC is recognized the year after the boiler becomes coal capable.

¹⁶ This term accounts for the depreciation of the original installation. Current book value is 1,465 and straight line depreciation is being taken over 8 more years.

¹⁷ This term accounts for the depreciation of the capital investment (pollution control equipment) required to burn coal. The depreciation method is the rapid amortization method used for certified pollution control equipment added to an installation in existence before 1978. The tax life is 22 years.

¹⁸ This term accounts for the depreciation of the capital investment (pollution control equipment) necessary to burn coal. The depreciation method is the rapid amortization method used for certified pollution control equipment added to an installation in existence before 1978. The tax life is 25 years.

¹⁹ This term accounts for the depreciation of the original installation. Current book value is 1,465 and straight line depreciation is being taken over 8 more years.

$$R = \frac{\text{COST (COAL)}}{\text{COST (OIL)}}$$

$$= \frac{20,371}{18,037}$$

$$= 1.13$$

(ii) *Special Cost Test.*
(A) Compute the cost of using coal assuming the length of the exemption is 3 years.

$$\text{COST} = 1 \times \frac{\sum_{i=1}^P (1+K)^{-i}}{\sum_{i=1}^N (1+K)^{-i}} + \frac{\sum_{i=1}^P \frac{(OM_i + FL_i)(1-t) - t(DPR_i)}{(1+K)^i}}{\sum_{i=1}^N \frac{(1,989 + 2,640)(1-0.46)}{(1.08)^i}}$$

$$= 1,132 \times \frac{\sum_{i=1}^3 (1.08)^{-i}}{\sum_{i=1}^{25} (1.08)^{-i}} + \frac{\sum_{i=1}^3 \frac{(1,989 + 2,640)(1-0.46)}{(1.08)^i}}{\sum_{i=1}^{25} \frac{0.46 \times DPR_i^{21}}{(1.08)^i}}$$

$$= 6,104$$

(B) Compute the cost of using oil assuming the exemption is 3 years.

$$\text{COST} = 1 \times \frac{\sum_{i=1}^P (1+K)^{-i}}{\sum_{i=1}^N (1+K)^{-i}} + \frac{\sum_{i=1}^P \frac{(OM_i + FL_i)(1-t) - t(DPR_i)}{(1+K)^i}}{\sum_{i=1}^N \frac{(471 + 2,742)(1-0.46)}{(1.08)^i}}$$

$$= 899 \times \frac{\sum_{i=1}^3 (1.08)^{-i}}{\sum_{i=1}^{25} (1.08)^{-i}} + \frac{\sum_{i=1}^3 \frac{(471 + 2,742)(1-0.46)}{(1.08)^i}}{\sum_{i=1}^{25} \frac{0.46 \times DPR_i^{21}}{(1.08)^i}}$$

$$= 4,544$$

(C) Compute the ratio of the cost of using coal to the cost of using oil.

²⁰ This term accounts for the depreciation for the depreciation of the original installation. Current book value is 1,465 and straight line depreciation is taken over 8 more years.

²¹ This term accounts for the depreciation of the capital investment (pollution control equipment) necessary to burn coal. The depreciation method is the rapid amortization method used for certified pollution control equipment added to a plant in existence before 1976. The tax life is 25 years.

²² This term amounts for the depreciation of the original installation. Current book value is 1,464 and straight line depreciation is taken over 8 more years.

This ratio (R) is greater than 1.3. You would receive a temporary exemption of three years, if the ratios computed where the use of coal is delayed one and two years are also higher than 1.3.

§ 506.13 [Reserved]

§ 506.14 Use of mixtures—General requirements for permanent exemptions.

(a) *Application.* ERA will not consider a petition for any of the following exemptions provided for in Section 312 of the Act (lack of alternate fuel supply, site limitations, environmental

requirements, cogeneration, emergency purposes, product/process requirements, or scheduled equipment outages) to be complete, adequate, or acceptable for filing unless you demonstrate to the satisfaction of ERA in your petition that you have considered the use of a mixture(s) for which an exemption under § 506.36 (Fuel mixtures) of these regulations would be available.

(b) *Demonstration.* ERA will deny petitions for any of the exemptions listed above unless you demonstrate that use of such a mixture(s) is not economically or technically feasible in the unit for which you are requesting an exemption. You must submit to ERA in your Fuels Decision Report (or in your petition for an emergency or retirement exemption) at least the following evidence in order to make the demonstration required by this section:

(1) If use of a mixture(s) were required, you would be eligible for one of the following permanent exemptions provided for in the Act: lack of alternate fuel supply, site limitations, environmental requirements, or state or local requirements; or

(2) The use of a mixture(s) is not technically or economically feasible in your specific unit due to design or special circumstances.

§ 506.15 Use of fluidized bed combustion not feasible—General requirement for permanent exemptions.

(a) *ERA Finding.* ERA may deny any of the following permanent exemptions provided for in Section 312 of the Act (lack of alternate fuel supply, site limitations, environmental requirements, state or local requirements, cogeneration, emergency purposes, product/process, or equipment outages), if ERA finds on a site specific or generic basis that use of a method of fluidized bed combustion of an alternate fuel is economically and technically feasible.

(b) *Demonstration.* If ERA has made such a finding, ERA will deny your request for exemption unless you demonstrate that the use of a method of fluidized bed combustion is not economically or technically feasible. You must include in your Fuels Decision Report or any supplement thereto required by ERA (or in your petition for an emergency or retirement exemption) at least the following evidence:

(1) If use of a method of fluidized bed combustion were required, you would be eligible for one of the following permanent exemptions provided for in Section 312 of the Act: lack of alternate fuel supply, site limitations, environmental requirements, or state or local requirements; or

(2) Use of a method of fluidized bed combustion is not technically or

economically feasible in your specific unit due to design or special circumstances.

§ 506.16 Terms and conditions; compliance plans.

(a) *Terms and conditions generally.* You must comply with the terms and conditions of an exemption granted under the Act by ERA, including terms and conditions requiring the use of effective fuel conservation measures.

(b) *Compliance plans for temporary exemptions.*

(1) A compliance plan certified by your duly authorized representative must accompany each petition for a temporary exemption. The compliance plan shall include at least the following:

(i) A specific schedule of milestones indicating how you will comply with the applicable prohibitions of the Act;

(ii) Evidence of binding contracts for fuel or facilities for the production of fuel which are needed to comply with the applicable prohibitions of the Act; and

(iii) Any other documentary evidence which indicates your ability to comply with the applicable prohibitions of the Act.

(2) The exemption shall not be effective until the compliance plan is approved by ERA.

(3) *Revisions of compliance plans.* If the petition is granted, you must submit to ERA an updated compliance plan certified by your duly authorized representative.

(i) At the end of each 12 month period from the effective date of the exemption;

(ii) Within one month of an alteration of any milestone in the compliance plan, together with the reasons for the alteration and its impact upon the scheduling of all other milestones in the plan; and

(iii) At any time the ERA, in its discretion, determines that a revised compliance plan is necessary to reflect changes in circumstances.

(c) *Enforcement.* Any exemption is subject to termination upon the violation of any provision of the exemption or any provision of the pertinent compliance plan.

Subpart C—Temporary Exemptions for Existing Major Fuel Burning Installations

§ 506.20 Purpose and scope.

(a) This subpart implements the provisions contained in Section 311 of the Act with regard to temporary exemptions for existing installations.

(b) This subpart establishes the criteria and standards which owners or

operators of existing installations who petition for a temporary exemption must meet to sustain their burden of proof under the Act.

(c) All petitions for temporary exemptions for existing installations must be submitted in accordance with the procedures set out in Part 501 of these regulations.

(d) The duration of any temporary exemption granted under this subpart shall be measured from the date that the applicable prohibition would first apply if the exemption had not been granted.

§ 506.21 Lack of alternate fuel supply.

(a) *Eligibility.* Section 311(a)(1) of the Act provides for a temporary exemption due to the unavailability of an adequate and reliable supply of an alternate fuel. To qualify you must demonstrate to the satisfaction of ERA that:

(1) You made a good faith effort to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the existing installation;

(2) For the period of the proposed exemption, the cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source as defined in § 506.12 (Cost Calculation) of these regulations; and

(3) You will be able to comply with the applicable prohibitions of these regulations at the end of the proposed exemption period.

(b) *Evidence required in support of a petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) A description of your analysis of the alternate fuels you considered for use;

(2) A description of the detailed design requirements you specified for the existing installation including capacity, alternate fuel capability, and all other specifications;

(3) A description of the range of specific fuel characteristics of all the fuels which can be used by the existing installation;

(4) Evidence that you sought to obtain the full range of alternate fuels and fuel characteristics which could be used by the existing installation, including bid requests and/or advertisements for supply contracts and all responses thereto, as well as any other arrangements you attempted to make to secure supplies;

(5) Evidence of the contracts or other arrangements you have made to insure a

reliable and adequate supply of an alternate fuel at the end of the proposed exemption; and

(6) All data required by § 506.12 (Cost Calculation) necessary for computing the cost calculation formula.

(c) *Compliance Plan.* You must submit to ERA a compliance plan in accordance with section 314 of the Act and § 506.16 of these regulations simultaneously with submission of your petition. You must submit an updated compliance plan, if applicable, as required by § 506.16 of these regulations and as may be required by the terms of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption, taking into account any extensions or renewals, may not exceed ten years.

§ 506.22 Site limitations.

(a) *Eligibility.* Section 311(a)(2) of the Act provides for a temporary exemption due to a site limitation. To qualify for such an exemption you must demonstrate, to the satisfaction of the ERA, that one or more of the following specific physical limitations relevant to the location or operation of your installation exist which, despite your diligent good faith efforts, cannot be overcome before the end of the proposed exemption period:

(1) Alternate fuels would be inaccessible as a result of a specific physical limitation relevant to the operation of the existing installation;

(2) Transportation facilities for alternate fuels would be unavailable;

(3) Adequate land or facilities for handling, using or storing an alternate fuel would be unavailable;

(4) Adequate means for controlling and disposing of wastes would be unavailable;

(5) Adequate and reliable supply of water would be unavailable; or

(6) Other site limitations exist which would not permit the operation of the existing installation using an alternate fuel;

(b) *Evidence required in support of the petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) Evidence that the site limitation is a physical limitation, and not a requirement of a Federal, state or local law which could be the basis of an exemption under § 506.34 (State or local requirements);

(2) Evidence that alternate means for overcoming the specific site limitations were considered, with a detailed description of the efforts made to

overcome the site limitations set out in your petition;

(3) Evidence of the equipment or space requirements for which the site limitation is claimed;

(4) Evidence of the contracts or other arrangements you have made to insure that the site limitation will be overcome and that you will be able to comply with the applicable prohibitions at the end of the proposed exemption period. Examples of evidence relevant to establishing a site limitation for purposes of a temporary exemption are as follows:

(i) Detailed documentation of impediments, including rights of way problems, site diagrams, maps of the surrounding area and other items essential to the showing of a site limitation;

(ii) Identification of transportation facilities relevant to the specific site of the installation and a demonstration why existing transportation facilities cannot be utilized or new facilities constructed;

(iii) Copies of bid requests, advertisements and general efforts made to secure alternate transportation facilities;

(iv) Identification of potential fuel storage locations within a reasonable geographic area surrounding the existing installation;

(v) Detailed scale site plans of the entire facility which include those areas not directly involved with the specific installation;

(vi) A specific listing of all equipment necessary and not currently available to properly handle alternate fuel;

(vii) Copies of bid requests, advertisements and general efforts made to secure alternative fuel storage facilities;

(viii) Copies of quotes from bona fide suppliers, indicating lead times for purchase and installation of required ancillary storage or handling equipment;

(ix) Specific listing of any equipment necessary and not currently available to properly control and dispose of waste;

(x) Identification of potential alternate waste disposal locations within a reasonable geographic area surrounding the existing installation;

(xi) A description of efforts made to secure offsite disposal areas, including the cost of acquisition of the sites, transportation facilities and waste handling costs involved in their use; and

(xii) Copies of bid requests, advertisements, and general efforts made to secure waste control and disposal equipment.

(c) *Compliance plan.* You must submit to ERA a compliance plan in accordance

with section 314 of the Act and § 506.16 of these regulations simultaneously with submission of your petition. You must submit an updated compliance plan, if applicable, as required by § 506.16 of these regulations and as may be required by the terms of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption, taking into account any extensions and renewals, may not exceed five years.

§ 506.23 Inability to comply with applicable environmental requirements.

(a) *Eligibility.* Section 311(a)(3) of the Act provides for a temporary exemption due to an inability to comply with applicable environmental requirements. To qualify you must demonstrate to the satisfaction of ERA that despite diligent good faith efforts:

(1) You are unable to comply with the applicable prohibitions imposed by without violating applicable Federal or state environmental requirements; and

(2) You will be able to comply with the applicable prohibitions imposed by the Act and with applicable environmental requirements by the end of the temporary exemption period.

(b) *Criteria.* ERA's decision with regard to environmental compliance will be based solely on an analysis of your capacity to physically achieve applicable environmental requirements. You should direct your analysis toward those conditions or circumstances which make it physically impossible for you to comply with applicable environmental requirements during the temporary exemption period. Cost of compliance shall not enter into the analysis, but any cost-related considerations may be presented as part of a demonstration submitted under § 506.21.

(c) *Evidence required in support of the petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required in this section:

(1) An examination of the environmental compliance of the facility, including an analysis of the ability to meet applicable standards and criteria when using both the proposed fuel and all alternate fuels with reference to which you are requesting an environmental exemption. All conclusions regarding the ability of the facility to comply must be based on accepted analytical techniques, such as air quality modeling, and must reflect current conditions of the area which would be affected by the facility. You are responsible for performing the necessary sampling and collecting

sufficient data to accurately characterize these conditions. Environmental compliance must be examined in the context of the available pollution control equipment which would provide the maximum possible reduction of pollution. The analysis must contain requests for bids and other inquiries made and responses received by you concerning the availability and performance of pollution control equipment; contracts signed, if any, for an alternate fuel supply and for the purchase and installation of pollution control equipment; or other comparable evidence such as technical studies documenting efficacy of equipment to meet applicable requirements; and

(2) An examination of the regulatory options available to you in seeking to achieve environmental compliance. This must include an analysis of the availability of offsets, if needed, and the potential for securing variances and State Implementation Plan revisions, as appropriate. The analysis must illustrate and document your efforts, if any, to locate, identify, and acquire offsets, including agreements made by you with the State or other companies for acquisition of offsets. If an agreement to acquire offsets is conditioned upon the grant of a variance, or State Implementation Plan revision, you must submit a letter from the State agency indicating when a proceeding to effectuate the agreement will take place. The analysis must contain any correspondence initiated or received by you concerning these regulatory options and all technical studies you have relied upon to support your conclusions.

In addition, you may submit any other documentation you believe demonstrates an inability to comply with applicable environmental requirements despite diligent good faith efforts.

(d) *Compliance Plan.* You must submit to ERA a compliance plan in accordance with section 314 of the Act and § 506.16 of these regulations simultaneously with the submission of your petition. You must submit an updated compliance plan, if applicable, as required by § 506.16 of these regulations and as may be required by the terms of any order granting an exemption under this subpart.

(e) *Other Actions.* Prior to deciding to submit an exemption application, it is recommended that you request a meeting with ERA and EPA or the appropriate State or local regulatory agency to discuss options for operating an alternate fuel-fired facility in compliance with applicable environmental requirements.

(f) *Duration.* This temporary exemption, taking into account extensions and renewals, may not exceed five years, and will be issued by ERA for such time period up to and including five years as the petition demonstrates is necessary.

§ 506.24 Future use of synthetic fuels.

(a) *Eligibility.* Section 311(b) of the Act provides for a temporary exemption based upon the future use of synthetic fuels. To qualify you must demonstrate to the satisfaction of ERA that:

(1) You will be able to comply with the applicable prohibitions at the end of the proposed exemption period by the use of synthetic fuel as a primary energy source in your installation; and

(2) You will not be capable of complying with the applicable prohibitions by using synthetic fuel in your installation before the end of the proposed exemption period.

(b) *Evidence required in support of the petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) Copies of economic and technical feasibility studies pertaining to the use of synthetic fuels by your installation;

(2) Reliable evidence of the financial commitments you have made to construct, operate and maintain equipment which will use synthetic fuel as the primary energy source at the end of the proposed exemption period;

(3) Copies of bid requests, advertisements, contracts and/or other agreements relating to the production, purchase, and transportation of synthetic fuel; and

(4) Information with regard to permits that may be required by Federal or state agencies for the operation of an installation using synthetic fuels.

(c) *Compliance plan.* You must submit to ERA a compliance plan in accordance with section 314 of the Act and § 506.16 of these regulations simultaneously with submission of your petition. You must submit an updated compliance plan, if applicable, as required by § 506.16 of these regulations and as may be required by the terms of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption may be granted for a period of up to five years and may be extended for an additional five years, but so extended may not exceed ten years.

§ 506.25 Use of innovative technologies.

(a) *Eligibility.* Section 311(c) of the Act provides for a temporary exemption based on the use of innovative

technologies. To qualify you must demonstrate to the satisfaction of ERA that you will be able to comply with the applicable rule or order at the end of the proposed exemption period by adoption of a technology for the use of an alternate fuel which ERA determines to be an innovative technology.

(b) *Evidence required in support of the petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) Copies of economic and technical feasibility studies pertaining to adoption of an innovative technology for use of an alternate fuel in your installation;

(2) A complete description of the innovative technology you propose to use including explanation of its innovative characteristics, detailed design and engineering specifications, and a description of the fuel characteristics of the alternate fuels which can be used with the innovative technology.

(3) Reliable evidence of the financial and contractual commitments you have made to construct or modify, operate, and maintain equipment which represents an innovative technology for the use of alternate fuel and which will be used at the end of the proposed exemption period; and

(4) Copies of bid requests, advertisements, contracts, and/or other arrangements you have made to insure a reliable and adequate supply of an alternate fuel at the end of the proposed exemption.

(c) *Compliance plan.* You must submit to ERA a compliance plan in accordance with section 314 of the Act and § 506.16 of these regulations simultaneously with submission of your petition. You must submit an updated compliance plan, if applicable, as required by § 506.16 of these regulations and as may be required by the terms and conditions of any order granting an exemption under this subpart.

(d) *Other action.* Prior to deciding to submit an exemption application, it is recommended that you request a pre-petition conference with ERA to discuss the requirements of this exemption.

(e) *Duration.* This temporary exemption may be granted for a period of up to 5 years and may be extended for an additional 5 years, but so extended may not exceed 10 years.

§ 506.26 Retirement.

(a) *Eligibility.* Section 311(d) of the Act provides for a temporary exemption for retirement. To qualify you must demonstrate to the satisfaction of ERA

that the installation will be retired at the expiration of this temporary exemption.

(b) *Evidence required in support of the petition.* You must include in your petition at least the following evidence in order to make the demonstration required by this section:

(1) A detailed engineering analysis explaining why the installation cannot use alternate fuels prior to retirement;

(2) Any other documentary evidence which indicates the reasons for retirement and plans for replacement or substitution of the retired installation;

(c) *Compliance plan.* You must submit to ERA a compliance plan in accordance with section 314 of the Act and § 506.16 of the regulations simultaneously with submission of the petition. You must submit an updated compliance plan, if applicable, as required by § 506.16 except § 506.16(b)(1)(ii) of these regulations and by the terms of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption, taking into account extensions and renewals, may not exceed 5 years.

(e) *Restriction.* In the event this exemption is granted you will not be eligible for any other exemption under Title III, Subtitle B of the Act.

§ 506.27 Public interest exemption.

(a) *Policy note.* The use of coal and other alternate fuels in lieu of petroleum and natural gas is in the public interest. ERA will grant this temporary exemption where you are unable to comply immediately with the prohibitions of an order or rule, where the granting of the petition would be in the public interest, and where you will be in compliance with the prohibitions at the end of the exemption period. In filing your petition, you are required to complete the portions of the Fuels Decision Report (FDR) specified in section 502 of these interim Rules and demonstrate why your proposed facility could not burn a fuel mixture during the time the exemption is in effect. ERA recognizes, however, that there are situations where the public interest would best be served by not requiring the FDR and mixture demonstration; consequently, ERA strongly urges you to request a prepetition conference where, after a consideration of the facts of your case, ERA could waive all or part of these requirements.

(b) *Eligibility.* Section 311(e) of the Act provides for a temporary public interest exemption. To qualify, you must demonstrate to the satisfaction of ERA that:

(1) You are unable to comply with the applicable prohibitions, imposed by the Act, except in extraordinary circumstances, during the period for which the exemption is requested, but that you will be capable of complying at the end of the proposed exemption period; and

(2) The granting of the petition would be in accord with the purposes of the Act and would be in that public interest.

(c) *Evidence required in support of the petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) Substantial evidence to corroborate the eligibility requirements identified above;

(2) A demonstration that the use of a mixture for which an exemption under § 506.36 (Fuel Mixtures) would be available, is not technically or economically feasible during the period the temporary public interest exemption is in effect; and

(3) Information and data required by § 502.4 (Introduction), § 502.7 (Evidence for exemption required), and § 502.12 (Conservation measures) of the Fuels Decision Report as set out in Part 502.

(d) *Compliance Plan.* You must submit to ERA a compliance plan in accordance with section 314 of the Act and § 506.16 of these regulations simultaneously with submission of your petition. You must submit, if applicable, an updated compliance plan as required by § 506.16 of these regulations and as may be required by the terms of any order granting an exemption under this subpart.

(e) *Duration.* This temporary exemption, taking into account extension and renewals, may not exceed 5 years.

Subpart D—Permanent Exemptions for Existing MFBI's

§ 506.30 Purpose and scope.

(a) This subpart implements the provisions contained in Section 312 of the Act with regard to permanent exemptions for existing major fuel burning installations.

(b) This subpart establishes the criteria and standards which owners or operators of existing installations who petition for a permanent exemption must meet to sustain their burden of proof under the Act.

(c) If a petition for a permanent exemption is filed pursuant to § 506.31 (lack of alternate fuel supply); § 506.32 (site limitations); § 506.33 (Inability to comply with applicable environmental requirements); or § 506.34 (State or local

requirements), you must demonstrate in your Fuels Decision Report that your inability to use each reasonable alternate fuel would entitle you to one or more of the above exemptions.

(d) All petitions for permanent exemptions for existing installations must be submitted in accordance with the procedures set out in part 501 of these regulations.

§ 506.31 Lack of alternate fuel supply.

(a) *Eligibility.* Section 312(a)(1)(A) of the Act provides for a permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported oil. To qualify, you must demonstrate to the satisfaction of ERA that:

(1) You made a good faith effort to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform to design and operational requirements of the existing installation; and

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source, as defined in § 506.12 (Cost Calculation) of these regulations during the remaining useful life of the existing installation.

(b) *Evidence required in support of the petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) A description of the detailed design requirements you specified for the existing installation, including capacity, alternate fuels capability, and all other pertinent specifications;

(2) A description of the range of specific fuel characteristics of all the fuels which can be used by the existing installations.

(3) Evidence that you sought the full range of alternate fuels which could be used by the existing installation, including bid requests, and/or advertisements for supply contracts, all responses you received, as well as any other arrangements you attempted to make to secure supplies;

(4) All data required by § 506.12 of these regulations (Cost Calculation) necessary for computing the cost calculation formula; and

(5) A description of your analysis of the alternate fuels you considered.

§ 506.32 Site limitations.

(a) *Eligibility.* Section 312(a)(1)(B) of the Act provides for a permanent exemption due to a site limitation. To qualify you must demonstrate to the

satisfaction of the ERA that, despite good faith efforts:

(1) Alternate fuels would be inaccessible to the operation of the existing installation as a result of a specific physical limitation;

(2) Transportation facilities for alternate fuels would be unavailable;

(3) Adequate land or facilities for handling, using or storing alternate fuels would be unavailable;

(4) Adequate means for controlling and disposing of wastes would be unavailable;

(5) An adequate and reliable supply of water would be unavailable; or

(6) Other site limitations exist which would not permit the operation of the existing installation using an alternate fuel and that these limitations cannot be reasonably expected to be overcome within five years after effective date of the applicable prohibition.

(b) *Evidence required in support of the petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) Evidence that the site limitation is a physical limitation, and not a requirement of a Federal, state, or local law which could be the basis of an exemption under § 506.34 (State or local requirements);

(2) Evidence that alternate means for overcoming the specific site limitation were sought, with a detailed description of the efforts made to overcome the site limitation set out in your petition; and

(3) Evidence of the necessary equipment or space requirements for which the site limitation is claimed. Examples of evidence relevant to establishing a site limitation for purposes of a permanent exemption are as follows:

(i) Detailed documentation of impediments, including right-of-way problems, site diagrams, maps of the surrounding areas and other essentials to the showing of a site limitation;

(ii) Identification of transportation facilities relevant to the geographic site of the installation and a demonstration showing why existing transportation facilities cannot be utilized or new facilities constructed;

(iii) Copies of bid requests, advertisements and general efforts made to secure alternative transportation facilities;

(iv) Identification of potential alternate fuel storage locations within a reasonable geographic area surrounding the installation;

(v) Detailed scale site plans of the entire facility which include those areas

not directly involved with the specific installation;

(vi) A specific listing of all equipment necessary and not currently available to properly handle alternate fuels;

(vii) Copies of bid requests, advertisements and general efforts made to secure alternate storage facilities;

(viii) Copies of quotes from bona fide suppliers indicating lead times for purchase and installation of required ancillary storage or handling equipment;

(ix) Specific listing of any equipment necessary and not currently available to properly control and dispose of waste;

(x) Identification of potential alternate waste disposal locations within a reasonable geographic area surrounding the installation;

(xi) A description of efforts made to secure off site disposal areas, transportation facilities and waste handling costs involved in their use; and

(xii) Copies of bid requests, advertisements, and general efforts made to secure waste control and disposal equipment.

§ 506.33 Inability to comply with applicable environmental requirements.

(a) *Eligibility.* Section 312 (a)(1)(C) of the Act provides for a permanent exemption due to inability to comply with applicable environmental requirements. To qualify you must demonstrate to the satisfaction of ERA that, despite good faith efforts, you cannot burn alternate fuel without violating applicable environmental requirements within 5 years of the date the exemption is requested to take effect.

(b) *Criteria.* ERA's decision with regard to compliance will be based solely on an analysis of your capacity to physically achieve applicable environmental requirements. The cost of compliance shall not enter into the analysis, but any cost-related considerations may be presented as part of a demonstration submitted under § 506.31.

(c) *Evidence required in support of the petition.* You must include in your Fuels Decision Report at least the following evidence to make the demonstration required by this section:

(1) An examination of the environmental compliance of the facility, including an analysis of the ability to meet applicable standards and criteria when using both the proposed fuel and all alternative fuels with reference to which you are requesting an environmental exemption. All conclusions regarding the ability of the facility to comply must be based on accepted analytical techniques, such as

air quality modeling, and must reflect current conditions of the area which would be affected by the facility. You are responsible for performing the necessary sampling and collecting sufficient data to accurately characterize these conditions. Environmental compliance must be examined in the context of the available pollution control equipment which would provide the maximum possible reduction of pollution. The analysis must contain requests for bids and other inquiries made and responses received by you concerning the availability and performance of pollution control equipment, or other comparable evidence such as technical studies documenting efficiency of equipment to meet applicable requirements; and

(2) An examination of the regulatory options available to you in seeking to achieve environmental compliance. This must include an analysis of the availability of offsets, if needed, and the potential for securing variances and State Implementation Plan revisions, as appropriate. The analysis must illustrate and document your efforts, if any, to locate and identify available offsets, and to secure variances and SIP revisions. The analysis must contain any correspondence initiated or received by you concerning these regulatory options and all technical studies you have relied upon to support your conclusions.

(3) In addition, you may submit any other documentation you believe demonstrates an inability to comply with applicable environmental requirements despite good faith efforts.

(d) *Other Actions.* Prior to deciding to submit an exemption application, it is recommended that you request a meeting with ERA and EPA or the appropriate state or local regulatory agency to discuss options for operating an alternate fuel-fired facility in compliance with the applicable environmental requirements.

§ 506.34 State or local requirements.

(a) *Eligibility.* Section 312(b) of the Act provides for a permanent exemption due to state or local requirements which would preclude the operation of an alternate fuel-fired installation. To qualify, you must demonstrate to the satisfaction of ERA that:

(1) With respect to the site of the installation, the operation of such installation using an alternate fuel is infeasible because of a state or local requirement;

(2) If such state or local requirement is under a building code or nuisance or zoning law, no other exemption could be granted for such facility;

(3) You have in good faith attempted unsuccessfully to obtain a variance or waiver from the state or local requirement or can demonstrate why none is available;

(4) The granting of the exemption would be in the public interest and would be consistent with the purposes of the Act; and

(5) You are not entitled to any other exemption if the State or local requirement is under a building code or nuisance or zoning law.

(b) *Evidence required in support of a petition.* You must include in your Fuels Decision Report at least the following evidence to make the demonstration required by this section:

(1) A copy of the pertinent State or local requirement with its citation and its legislative history;

(2) The identification and location of the administrative body which implements the requirement;

(3) A description of your attempts to obtain a waiver or variance from the requirements or a demonstration of why none is available;

(4) A description of any activities you were involved in after April 20, 1977, pertaining to the enactment of the requirement;

(5) A description of equipment, procedures, and the advance planning time necessary to comply with the requirement;

(6) A detailed description of why compliance with the State or local requirement is infeasible;

(7) The impact upon you and/or your local community, if any, should your petition be denied;

(8) An explanation of the reasons why granting this exemption would be in the public interest; and

(9) An analysis of why you cannot qualify for any other exemption if the State or local requirement is under a building code or nuisance or zoning law.

(c) *Exercise of discretion by ERA.* ERA may refuse to grant this exemption to you if it determines that such grant would not be in the public interest or in accordance with the purposes of the Act, notwithstanding the fact that the evidence you have furnished to ERA in your exemption petition substantiates that your facility would otherwise be eligible to receive the exemption.

§ 506.35 Cogeneration.

(a) *Eligibility.* Section 312(c) of the Act provides for a permanent exemption for cogeneration. To qualify you must demonstrate to the satisfaction of ERA at least the following minimum criteria:

(1) The oil or gas to be consumed by the cogeneration facility will be less

than that which would otherwise be consumed in the absence of the cogeneration facility where the calculation of savings is in accordance with paragraph (c) of this section;

(2) It would be in the public interest to grant an exemption to the cogeneration facility because of special circumstances such as technical innovation or maintaining industry in urban areas.

(b) *Specifications of the cogeneration facility.* (1) A person proposing to operate a cogeneration facility may apply for an exemption under this section if the amount of net electricity that is either sold or exchanged is less than 50 percent. If the amount is 50 percent or more, see § 504.35 (Powerplants). Net electricity excludes sales or exchanges among owners of the cogeneration facility.

(2) Electricity generated by the cogeneration facility must constitute more than 10 percent of the useful energy output of the facility and less than 90 percent of the useful energy output.

(c) *Calculation of oil and gas savings.* There is an oil and gas savings if the oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility. The calculation of the oil and gas which would otherwise be consumed must be in accordance with paragraphs (c) (1) and (2) of this section.

(1) Except for the case described in paragraphs (c)(2) of this section, the oil or gas which would otherwise be consumed must be calculated as follows:

(i) You may include the oil or gas that would be consumed by facilities that are or would be too small to be covered by the FUA regulations. In the case of new small industrial units, you must demonstrate that it would be reasonable to construct units of that size.

(ii) You may include the oil or gas that would be consumed by units in place (existing or exempt) covered by FUA if they are less than 40 years old in the case of a field-erected unit or less than 20 years old in the case of a package unit. In the case of existing units, you may not include units that have burned an alternate fuel or are capable of burning an alternate fuel, and, you may only include units described by this paragraph if they will be retired or shut down if this exemption is granted.

(iii) You may include the oil or gas that would be consumed by units not yet constructed that would be covered by the FUA regulations if you can

demonstrate that each unit would be entitled to an exemption.

(iv) You may include the oil or gas that would be consumed by powerplants to generate electricity supplied to the grid to the extent that such electricity, if you cogenerate, will no longer be supplied by the grid. The oil or gas portion must be based on a 10 year forecast that includes new construction and retirement of plants within those 10 years.

(2) In the case of a cogeneration facility that would consist of an existing unit or an exempted unit and a new unit, you must calculate the amount of oil or gas that would otherwise be consumed as the sum of:

(i) The five-year annual average oil or gas consumption of the existing or exempted unit; and

(ii) The amount that would be consumed in units described in paragraphs (c)(1)-(i) (iv) of this section that would now be satisfied by the cogeneration facility.

(d) *Evidence required in support of a petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) An engineering description of the cogeneration system, including output and uses thereof, with sufficient detail to ensure that the facility qualifies as a cogeneration facility;

(2) A detailed oil and natural gas savings calculation identifying the projected oil or natural gas consumption of the cogeneration facility and the oil or natural gas that would otherwise be used;

(3) Identification of the FUA status of the units described in paragraph (c)(1) (i)-(iv) of this section with respect to coverage and designation as new, existing, or exempted, age of units, and alternate fuel capability of units;

(4) Identification of all persons and their roles in the cogeneration facility; and

(5) In the case of paragraph (a)(2) of this section, an explanation of the public interest factors you believe should be considered by ERA.

(e) *Exercise of discretion by ERA.* ERA may refuse to grant this exemption to you if it determines that such grant would not be in the public interest or in accordance with the purposes of the Act, notwithstanding the fact that the evidence you have furnished to ERA in your exemption petition substantiates that your facility would otherwise be eligible to receive this exemption.

§ 506.36 Permanent exemptions for certain fuel mixtures containing natural gas or petroleum.

(a) *Eligibility.* Section 312(d) of the Act provides for a permanent exemption for certain fuel mixtures. To qualify you must demonstrate to the satisfaction of ERA that:

(1) You propose to use a mixture of natural gas or petroleum and an alternate fuel as a primary energy source; and

(2) The amount of petroleum or natural gas you propose to use in the mixture will not exceed the minimum percentage of the total BTU heat input needed to maintain operational reliability of the installation consistent with maintaining a reasonable level of fuel efficiency.

(b) *Minimum percentage.* If the exemption is granted, ERA will not require that the percentage of petroleum or natural gas used in the mixture be less than 25% of the total annual BTU heat input of the installation.

(c) *Evidence required in support of a petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) A complete description of the fuel mixture, component elements of the mixture, and percentage of each component to be utilized;

(2) The design specifications for the unit for which you are requesting an exemption;

(3) An engineering assessment of the proportions of petroleum or natural gas needed to maintain operational reliability and an adequate level of fuel efficiency; or

(4) If the unit will use a mixture containing less than 25 percent petroleum or natural gas, a certification that the amount of petroleum or natural gas you propose to use in the mixture will not exceed 25 percent of the total annual Btu heat input of the installation. The certification shall be executed by your duly authorized representative.

(d) *Reporting requirement.* If the exemption is granted you must submit an annual report to ERA certifying that the affected units have used no more than the percentage of oil or natural gas specified in the exemption order. The certification shall be executed by your duly authorized representative.

(e) *Solar mixtures.* ERA will grant a permanent mixture exemption for the use of a mixture of solar energy (including wind, tide, and other intermittent sources) and petroleum or natural gas, where—

(1) Solar energy will account for at least 20 percent of the annual BTU heat input of the unit; and

(2) You propose an acceptable plan to ERA which—

(i) Meets the evidence requirements set forth in paragraph (c) of this section; and

(ii) Contains a compliance plan prepared in accordance with § 506.16 of these regulations.

§ 506.37 Emergency purposes.

(a) *Eligibility.* Section 312(e) of the Act provides for a permanent exemption for emergency purposes. To qualify you must demonstrate to the satisfaction of ERA that you will operate and maintain the installation for emergency purposes only.

(b) *Definition.* For the purposes of this permanent exemption, an emergency exists when operation of an oil or gas-fired installation is necessary for (1) plant protection; or (2) the preservation of human health; or (3) continued facility production which otherwise would be reduced due to an interruption of alternate fuel supplies, equipment failures, or temporary environmental restrictions.

(c) *Evidence required in support of a petition.* You must include in your petition at least the following evidence:

(1) Certification executed by a duly authorized officer of the company stating that operation under the provisions of this exemption will occur only in accordance with the definition of emergency;

(2) A description of the other units of the site including for each the capacity, type of fuel consumed, average utilization rate, designation as "new" or "existing" under this program, and exemption, if any;

(3) A description of the types of emergency situations you believe may arise which cause you to request this exemption;

(4) All data required by § 506.7 (Use of mixtures—general requirement) of these regulations demonstrating that use of a mixture(s) is not economically or technically feasible; and

(5) All data required by § 506.8 (Use of fluidized bed combustion not feasible—general requirement) if ERA has made a generic or site-specific finding that the use of a method of fluidized bed combustion of an alternate fuel is economically and technically feasible.

(d) *Additional information.* You must submit the following additional information:

(1) All data required by § 502.11 (Petroleum and natural gas use) of these regulations;

(2) All data required by § 502.12 (Conservation measures) of these regulations which describe any oil or natural gas conservation measures you have taken or intend to take if the exemption is granted; and

(3) All data required by § 502.13 (Environmental impacts analysis) of these regulations which will assist ERA to fulfill its responsibilities under the National Environmental Policy Act (NEPA).

(e) *Reporting Requirement.* At the end of each 12-month period from the effective date of the exemption, you must report to ERA the amount of fuel used under this exemption by month. You must also describe the emergency conditions that required the operation of the unit.

§ 506.38 [Reserved]

§ 506.39 Scheduled equipment outages.

(a) *Eligibility.* Section 312(b) of the Act provides for a permanent exemption to meet scheduled equipment outages. To qualify you must demonstrate to the satisfaction of ERA that:

(1) Your routine maintenance schedule does not permit, or could not be adjusted to permit, continuing production or other activity carried on at the site unless ERA grants this exemption and the reasons why;

(2) If your scheduled outages and thereby your projected use of the proposed unit exceed 21 days per year, you cannot meet your requirements by burning an alternate fuel; and

(3) The pertinent unit will be used only during those periods when other units are not in operation for reason of scheduled outage.

(b) *Evidence required in support of a petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) An explanation of why your routine maintenance schedule does not permit, or could not be adjusted to permit, continuing production or other activity carried on at the site unless ERA grants this exemption;

(2) A schedule of operation for the pertinent unit estimating the number of hours per year used and fuel consumed during the first 12 months of operation after commencement of operation;

(3) A description of the maintenance schedule for all units located at the facility specifically identifying those units at the facility which will be out of service for scheduled maintenance at times when the unit for which the exemption is required, is operating; and

(4) If your scheduled outages and thereby your projected use of the proposed unit exceed 21 days per year, documentary evidence which demonstrates that you considered the use of alternate fuels, including a description of the fuel alternatives you examined and the factors important in your decision to reject the use of alternate fuels. Such factors would include lack of alternate fuel supply, site limitations, environmental requirements, or certain state or local requirements.

(c) *Reporting requirement.* ERA will rely upon the schedule of operation of the unit submitted with the petition as the permanent schedule for exempt use. You must notify ERA in advance of any changes to this schedule.

(d) *Exercise of discretion by ERA.* ERA may refuse to grant this exemption to you if it determines that such grant would not be in the public interest or in accordance with the purposes of the Act, notwithstanding the fact that the evidence you have furnished to ERA in your exemption petition substantiates that your facility would otherwise be eligible to receive the exemption.

(e) *Emergency use.* You may apply for an emergency exemption in addition to this exemption for the same unit. You must meet the eligibility and evidence requirements of each exemption to obtain them. You must also comply with the reporting requirements of each.

§ 506.40 Installations served by certain international pipelines.

(a) *Eligibility.* Section 312(j) of the Act provides for a permanent exemption for the use of natural gas by installations served by certain international pipelines. To qualify you must demonstrate to the satisfaction of ERA that:

(1) Your primary source of natural gas is under a contract with a pipeline between the United States and Canada;

(2) The contract was signed before April 21, 1977;

(3) The natural gas would revert to Canada if you are not granted an exemption;

(4) The pipeline serves high priority users as defined in paragraph (b) below;

(5) You would suffer substantial financial penalty if the contract were cancelled and there is no available relief from the penalty; and

(6) The revenues from the transportation and sale of natural gas under your contract are essential to the economic vitality of the pipeline.

(b) For purposes of this section the term "high priority user" means any residential user of natural gas or any commercial user whose consumption of

natural gas on a peak day is less than 50 MCF.

(c) *Evidence required in support of the petition.* You must include in your Fuels Decision Report at least the following evidence in order to make the demonstration required by this section:

(1) A copy of your contract with the international pipeline with the applicable sections underlined;

(2) A certification from the natural gas supplier of the pipeline that the natural gas would revert to Canada upon cancellation of the contract;

(3) A certification by the pipeline that it serves high priority users and a description of those users;

(4) An explanation of the substantial financial penalty that would be incurred;

(5) An explanation of why *force majeure* would not apply to the contract cancellation;

(6) A description of your attempt to transfer your contract as described in Section 731 of the Act; and,

(7) A decision from the Federal Energy Regulatory Commission that the revenues from the transportation and sale of natural gas under your contract are essential to the economic vitality of the pipeline.

Appendix I—Procedures for the Computation of the Real Cost of Capital

(a) The discount rate for use in determining if it is financially feasible to convert a facility from oil or gas to alternate fuel is the firm's real after-tax weighted average marginal cost of capital. This appendix outlines the procedure used to compute it.

(b) The firm's real after-tax weighted average marginal cost of capital (K) is computed with equation 1.

EQ 1

$$K = W_D \left[\frac{\hat{R}_D (1 - t)}{1 - f_D} - INF \right] + W_P \left[\frac{\hat{R}_P}{(1 - f_P)} - INF \right] + W_E \left[\frac{\hat{R}_E}{(1 - f_E)} - INF \right]$$

The terms in equation 1 are defined as follows:

W_D Fraction of existing capital structure which is debt.

W_P Fraction of existing capital structure which is preferred equity.

W Fraction of existing capital structure which is common equity and retained earnings.

\hat{R}_D Predicted nominal cost of long term debt expressed as a fraction.

\hat{R}_P Predicted nominal cost of preferred stock expressed as a fraction.

\hat{R}_E Predicted nominal cost of common stock expressed as a fraction.

INF Percentage change in the GNP implicit price deflator over the past 12 months expressed as a fraction.

f_D Flotation cost of debt expressed as a fraction.

f_P Flotation cost of preferred stock expressed as a fraction.

f_E Flotation cost of common stock expressed as a fraction.

t Marginal federal income tax rate for the current year.

(c) The predicted nominal cost of debt (\hat{R}_D) is estimated by determining the current average yield on newly issued bonds—industrial or utility as appropriate—which have the same Moody's bond rating as the firm's most recent debt issue.

(d)(1) In the case of utilities, the predicted nominal cost of preferred stock (\hat{R}_P) is estimated by determining the current average yield on newly issued utility preferred stock which has the same Moody's rating as the firm's most recent preferred stock issue.

(2) In the case of industrials, who do not typically issue preferred stock, the predicted nominal cost of preferred stock (\hat{R}_P) is estimated by determining the current average yield on newly issued industrial bonds which have the same Moody's rating as the firm's most recent debt issue.

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(e) (1) The predicted nominal cost of common stock (\hat{R}_E) is computed with equation 2.

$$EQ2 \quad \hat{R}_E = \hat{R}_f + B \times \bar{R}_m$$

where

\hat{R}_f = the risk free interest rate--the average of the most recent auction rates of U.S. Government 13-week Treasury Bills,

B = the "beta" coefficient--the relationship between the excess return on common stock and the excess return on the S&P 500 composite index, and

\bar{R}_m = the mean excess return on the S&P 500 composite index--the mean of the difference between the return on the S&P 500 composite index and the risk free interest rate.

(2) The "beta" coefficient is computed with regression analysis techniques. The regression equation is equation 3.

$$EQ3 \quad (R_E^t - R_f^t) = A + B (R_m^t - R_f^t) + e_t$$

where

$$R_E^t = \frac{PRCC_t - PRCC_{t-1} + (DIVRATE_t/12)}{PRCC_{t-1}}$$

R_f^t = the risk free interest rate in month t--the average of the yields on 13-week Treasury Bills auctioned in month t,

A = a constant which should not be significantly different than zero,

$$R_m^t = \frac{V_{sp,t} - V_{sp,t-1} + D_{sp,t}}{V_{sp,t-1}}, \text{ and}$$

e_t = the error in month t .

$PRCC_t$ = closing market prices of the firm's common stock at the end of month t fully adjusted for splits and stock dividends.

$DIVRATE$ = the sum of the dividends paid in the fiscal year which contain month t .

$V_{sp,t}$ = the market value of "one share" of the S&P 500 composite index at the end of month t .

$D_{sp,t}$ = the estimated monthly income received from holding "one share" of the S&P 500 in month t .

The regression analysis is done with sixty months of data.

The first month ($t=1$) is sixty months before the month in which the firm's current fiscal year started. The last month ($t=60$) is the last month of the past fiscal year.

(3) The mean excess return on the S&P 500 composite index is computed with equation 4.

$$EQ4 \quad \bar{R}_m = \frac{1}{60} \sum_{t=1}^{60} (R_m^t - R_f^t)$$

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Monday
July 23, 1979

Part IV

Department of Health, Education, and Welfare

Public Health Service

Family Planning Services; Grants for
Adolescent Pregnancy Prevention and
Services Projects

federal register

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

42 CFR Part 59

Family Planning Services; Grants for Adolescent Pregnancy Prevention and Services Projects

AGENCY: Public Health Service, HEW.
ACTION: Final rules.

SUMMARY: The Secretary of Health, Education, and Welfare is issuing rules for grants for the establishment of projects to provide needed comprehensive community services to assist in preventing unwanted initial and repeat pregnancies among adolescents and to assist pregnant adolescents and adolescent parents to obtain needed health, social, educational, and other services. The rules are needed in order to implement the grant program recently enacted by Title VI of Pub. L. 95-626.

DATE: These rules are effective on July 23, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. Lulu Mae Nix, Director, Office of Adolescent Pregnancy Programs, Office of the Assistant Secretary for Health, HEW, Room 725-H, Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201, (202) 472-9093.

SUPPLEMENTARY INFORMATION: On March 12, 1979, the Secretary proposed rules to govern grants to be made by the Secretary under Title VI of Pub. L. 95-626 (42 U.S.C. 300a-21, *et seq.*). 44 FR 13549. Title VI authorizes a program of grants to be made to public and private nonprofit entities to assist them in operating projects to provide needed comprehensive community services to (1) assist in preventing unwanted initial and repeat pregnancies among adolescents and (2) assist pregnant adolescents and adolescent parents to obtain needed medical, social, educational, and other services that will help them to become productive and independent contributors to family and community life.

Although in many respects the proposed rules closely tracked the statute, they proposed more detailed requirements in the areas of fee schedules, management requirements, the requirement for consultation with parents, the definition of "adolescent", and the criteria for waiver of reduction in the grant amount. Comments were particularly solicited with respect to these proposed policies. The Department

received 122 comments on the proposed rules. Although many commented on the proposed policies in the areas described above, a number of substantive comments were made on other aspects of the proposed rules. The public comments, and the Department's responses thereto, are summarized below.

I. Definitions

A. Background

Proposed § 59.302 defined a number of terms. The definitions of "core" and "supplemental" services, "eligible grant recipient", and "Secretary" essentially repeated the statutory language, but new definitions or policies were added in the definitions of "adolescent", "adolescent parent" and "service area".

B. Comments

1. "Adolescent" and "adolescent parent": A number of comments urged that these definitions set the age limits at 18 rather than at 21, as proposed. They argued that the most significant social and medical problems arise with persons under 18, while those adolescents between 18 and 21 have the highest incidence of pregnancy, and thus would be likely to obtain the major share of project services.

2. "Core" and "supplemental services": Many comments objected to the general nature of the definitions of these terms. These comments urged that the particular services components be itemized, so that all persons served by the program would receive comparable services. A number of comments also suggested the inclusion of particular services within certain components of the "core" and "supplemental services", on the ground that the services recommended for inclusion are essential and should be included in any project funded under the program. Several comments asserted that, in view of the importance of counseling in facilitating the utilization by adolescents of other program services and in coping with their problems, counselling should be made a separate core service.

3. "Eligible grant recipient": Several educational associations protested that the regulations should specifically mention schools and other educational agencies as eligible grant recipients in light of their central role in dealing with adolescents.

One comment urged that this definition be narrowed to include only those agencies which could provide the core services directly.

4. "Eligible person": A number of comments urged redefinition of this term

to include persons over 21. They argued that pregnant women who enter the program shortly before their twenty-first birthday should not lose services because of this age limit.

5. "Network": Several comments suggested that this term be defined, since it is not a term of art with a precise and generally understood meaning, and suggested specific definitions.

C. Response

1. "Adolescent" and "adolescent parent": The age limit of these definitions has not been lowered to 18 as suggested by some of the comments, as the Secretary believes that an age limit of 21, rather than 18 as suggested, is what the statute clearly contemplates. See in particular the definition of "adolescent parent" in section 602(6) of the Act, which defines such persons as parents "under the age of 21." As for the concern that persons between the ages of 18 and 21 will receive a disproportionate amount of project services, the Secretary points out that the statute (and these regulations) requires that priority in services be given to adolescents 17 and under. Any project funded under the Act, therefore, will have to demonstrate that it has designed its program so as to carry out this priority.

However, the definition of "adolescent" has been amended to include pregnant women who turn 21 during the course of their pregnancies to prevent the abrupt cessation of project services to them. See discussion under "eligible person" above.

2. "Core" and "supplemental services": These definitions remain unchanged, despite the recommendations that they be made more specific. The Secretary believes that further specificity in this area would limit the flexibility of individual projects to tailor the package of services to the needs of their particular service areas. However, the regulation has been changed to require grantees to specify what particular services they will provide so that the Secretary will be able to determine the adequacy of the package of services to be provided. See § 59.304(a)(2). Program guidance materials are being developed and will set forth services that should be provided as "core" or "supplemental services".

With regard to the suggestion that counselling be listed as an additional core service, the Secretary believes that counselling is already adequately covered by sections (a) through (e) and (g) through (j) of "core services" and

sections (c) and (d) of "supplemental services."

3. "Eligible grant recipient": The Secretary has not accepted the suggestion that this definition specifically identify educational institutions and agencies as eligible grantees, since in his view such agencies are clearly eligible if able to meet the requirements of this subpart. The emphasis on the provision of medical services by grantees, objected to by several commentators, reflects the statute, which requires that various medical services be provided by grantees.

For clarity, this term has been removed in the rules below from the definitions section. Its substance now appears, however, in § 59.303.

4. "Eligible person": The problem raised by the comments in connection with this definition has been remedied by the change in the definition of "adolescent" discussed in paragraph 1 of this section above.

5. "Network": The rules below, like the proposed rules, do not define this term. Examples of permissible network arrangements will be provided in the program guidance materials which are being developed.

II. Written agreements

A. Background

The statute provides that grantees may provide services by arrangement with other providers, as well as directly. The proposed rules did not require written agreements as a basis for approval of such "linkages", but asked whether they should be required.

B. Comment

Thirty-nine comments dealt with the question of whether or not written agreements should be required; of these, almost all recommended that they be required. They argued that only thus could it be ensured that services would be provided, since the details of agreements may be difficult to work out. Thus, if the agreements are not in place when the grant is made, much of the grant period would pass before the arrangements were finalized and services were provided. It was also argued that only thus could the Secretary ascertain whether the linkage arrangements were viable and provided for adequate financial arrangements, responsibility for record-keeping and follow-up.

A few comments argued, however, that written agreements should not be required. They argued that an inflexible requirement might exclude from funding some otherwise worthwhile projects,

which were unable to secure such agreements by the application deadline, despite reasonable efforts to do so.

C. Response

The Secretary agrees that written agreements are desirable, wherever feasible, but is persuaded that establishing an absolute requirement for them might preclude him from funding some otherwise worthwhile projects. Moreover, it should be noted that the Act does not permit him to establish an absolute requirement with respect to the major third-party payors, Titles XIX and XX. See section 606(a)(14). Therefore, the rules below strike what the Secretary believes is a reasonable balance between the opposing considerations voiced by the comments. First, they provide that where agreements exist, they must be provided with the application so that the Secretary can review the adequacy of the arrangements established. See § 59.304(a)(2). Second, they provide that priority will be given to projects with written agreements in place. See § 59.306(a)(3). The Secretary believes that this latter provision will provide a strong incentive for applicants to secure such arrangements wherever feasible.

III. Referral services

A. Background

The proposed rules, like the statute, provided that projects must provide extensive referral services. See sections (a), (b), (e), (f), (h), (i), and (j) of the definition of "core services."

Applications were required to contain a description of how appropriate referral would be provided. See proposed § 59.304(a)(3)(ii).

B. Comment

A number of comments stressed the importance of adequate referral arrangements to the effectiveness of the projects. They pointed out that written arrangements were needed to assure promptness of referral and service and responsible procedures regarding confidentiality and transmittal of medical records. The comments stressed in particular the necessity of assuring adequate follow-up on referred cases, and recommended that specific requirements providing for this be added.

C. Response

The Secretary is persuaded by the comments stressing the need for provision for adequate follow-up, and has revised § 59.304(a)(3) accordingly. However, the Secretary is not requiring written agreements for such referral

services as suggested by many of the comments, for the reasons discussed in the preceding section.

IV. Fee Schedules

A. Background

The Act contains several different requirements that relate to the fees grantees may charge for their services. Section 606(a)(17) requires grantees to have fee schedules designed to cover their reasonable costs of operation, with corresponding discounts based on ability to pay. Section 606(a)(7) requires a description of the fee schedules. Section 604(b) requires that fee schedules be based on ability to pay and take into account the difficulty adolescents face in obtaining resources to pay for services.

Proposed § 59.304(a)(5) implemented these requirements as follows: Grantees must have fee schedules designed to cover their costs of operation, with a schedule of discounts that provides for full discount to persons with annual incomes at or below the Community Services Administration (CSA) Poverty Income Guidelines and no discount to persons with incomes above twice the CSA Poverty Income Guidelines. In addition, full discounts must be provided to all eligible persons, regardless of income, (1) for pregnancy testing services, and (2) where the eligible person is unable to pay for the services and is unable to obtain financial assistance to pay for them.

B. Comment

The fee schedule provisions of the proposed rules elicited the most comment of any of the provisions. The most significant comments were as follows:

1. Many of the comments opposed imposition of specific fee schedule requirements in general and the choice of the 100%-200% of the CSA Poverty Income Guidelines as the income test in particular. It was argued that such uniform requirements would ignore local or regional differences in income levels and costs, resulting in unduly restrictive (or liberal) charges in different areas. Others argued specifically that the proposed sliding fee schedule for persons with incomes between 100 and 200% of the CSA Poverty Income Guidelines was unduly harsh, as those people (the "working poor") are least likely to have private insurance coverage and will not qualify for most governmental benefit programs.

Other comments, however, agreed with the proposed two-tier fee schedule policy, on the ground that it would

promote uniformity of administration. One comment, in fact, suggested that the Secretary establish a mandatory sliding fee scale for persons with incomes between 100% and 200% of the CSA Poverty Income Guidelines.

2. Most of the comments endorsed the policy of providing pregnancy testing without charge, but a number also urged that this policy be extended to cover information, education, counselling and referral services, on the ground that those services are essential if adolescents and their families are to solve the problems associated with their pregnancies successfully.

3. Several comments objected that, it is unreasonable to require that the fee schedules cover the projects' "costs of operations", since few adolescents will have sufficient income to pay realistic fees. They pointed out that this problem is exacerbated by the requirement that projects serve so many individuals without charge.

4. Many comments stated that the two-tier fee schedule was unrealistic as applied to adolescents, because adolescents frequently do not have access to their parents' income and, in fact, may not even know what it is. A number also stated that the "unable to obtain" language of proposed § 59.304(a)(5)(ii)(C) would deter adolescents from seeking services where they were reluctant to seek financial assistance from their parents.

C. Response

1. A large number of the comments critical of the proposed range for fee schedules misunderstood the nature of the proposal. The proposal would have provided wide latitude in establishing discounts between 100 and 200 percent of CSA Income Poverty Guidelines which could be exercised to accommodate varying economic conditions prevailing in particular areas. These guidelines, as with all measures of poverty, have limitations. However, they are widely accepted and used by numerous programs of the Public Health Service, where, experience has shown, they are not restrictive.

Nevertheless, the many comments on the proposed rule have caused the Secretary to re-evaluate the appropriateness of the mandatory link of the fee schedule to the CSA Poverty Income Guidelines for this program. The unique characteristics of the population to be served by this program, together with the statutory mandate that projects have fee schedules which "take into account the difficulty adolescents face in obtaining resources to pay for services," have led the Secretary to

conclude that the two-tier fee schedule approach proposed would be inappropriate, as an absolute requirement, for this program. As pointed out by many comments, adolescents frequently do not have access to their parent's income and often do not know what it is. Moreover, financial resources may vary significantly among adolescents independently of family income. The rules below thus give projects the flexibility to adjust their fee schedules to local conditions. At the same time, however, this flexibility permits projects to adopt a fee schedule such as the one proposed, if the projects desire to do so.

2. The suggestion that projects be required to provide information, education, counselling and referral services free has been accepted. See § 59.304(a)(5)(ii)(B) below.

3. The Department is retaining the requirement that the fee schedule be designed to cover the project's reasonable costs of operation, since that requirement is statutory. However, the increased flexibility of the requirements below should better enable projects to meet this requirement.

4. It was not the Department's intention in proposed § 59.304(a)(5)(ii)(C) to permit projects to force adolescents to seek financial assistance from their parents in order to obtain services. However, the comments made it clear that many placed this interpretation on that section. Accordingly, the rule below adopts "unwilling to seek" financial assistance instead of the "unable to obtain" language of the proposed rule, to accomplish the result intended by the Secretary and urged by the comments.

V. Parental Consultation

A. Background

Proposed § 59.304(a)(13) provided that, although projects were required to encourage adolescents to consult with their parents with respect to project services wherever feasible, they could not condition the provision of services on such consultation unless required by State law to do so.

B. Comment

Several comments objected to the provision that grantees could condition services on parental consultation or notification if State law required such consultation or notification. They argued that this would greatly reduce utilization of services by adolescents. One comment argued that such State laws are pre-empted by the Act, and hence that the requirement is illegal. Others

were concerned that the provision would cause States to enact restrictive State laws.

C. Response

The Secretary does not agree with the comments urging elimination of the provision requiring compliance with State notification laws and has retained it unchanged. He does not believe that it is appropriate to require grantees to flout State laws and assume whatever potential civil or criminal liability might consequently attach. Moreover, he notes that there is no irreconcilable conflict between such State laws and section 606(a)(21), since the policy of that section is to "encourage" consultation with parents. Nor does he believe that it is realistic to expect that the rules will cause States to enact restrictive legislation.

VI. Abortion Counselling

A. Background

Proposed § 59.304(a)(14) provided that projects must inform pregnant adolescents of the availability of counselling "on all options" concerning their pregnancies. This section simply repeated section 606(a)(22) of the Act.

B. Comment

This provision elicited a number of comments. Some stated that this language went too far, and urged barring referrals to agencies which provided abortions or abortion counselling. A number of others, however, felt that the provision did not go far enough. They argued that grantees should be required to provide abortion counselling directly or that the regulations should at least state that abortion counselling must be provided. Some also urged that grantees should be required to pay for abortions. The latter position was urged on the ground that adolescents frequently do not have sufficient money to pay for abortions themselves.

C. Response

The rule is retained as proposed. The suggestions that the Secretary bar referrals for abortion counselling or pay for abortions are rejected as inconsistent with the statute. See sections 606(a)(22) and 608 of the Act. The Secretary believes that the statutory language, requiring mention of the availability of all options, is explicit enough; clearly, a grantee could not fail to make known the availability of abortion counselling without violating this requirement. He notes, moreover, that in making grants under this subpart he will endeavor to ascertain that applicants have adequate arrangements

for ensuring the availability of such counselling. With respect to the suggestion that grantees be required to provide such counselling directly, he notes that since the statute provides that they may provide counselling "through a referral agreement", he has no authority to impose such a restriction.

VII. Standards for Services

A. Background

The proposed rules required only that project personnel meet all applicable legal requirements for practice of their professions. See proposed § 59.304(a)(16).

B. Comment

A few comments pointed out that the projects themselves should, in addition to the above requirement, be required to meet any legal requirements applicable to them, such as licensure. The majority of the comments on this issue, however, urged that a requirement be added that projects must meet the highest standards for quality of care. Several of these comments suggested that the same standards approved by the Department in other programs (particularly under Title X of the Public Health Service Act and Title V of the Social Security Act) be adopted for services provided by projects under this subpart.

C. Response

The Secretary is persuaded by these comments, and has revised the rules to require applicants to describe the standards of care to be provided. Program guidance materials will include standards of care which will be consistent with those in use under Titles V and X and other appropriate HEW programs. See §§ 59.304(a)(16) and (17).

VI. Management Requirements

A. Background

The proposed rules contained a number of provisions relating to the management of projects by grantees including requirements for data gathering, financial systems, record-keeping, and utilization review. See proposed §§ 59.304(a) (9), (10), (11) and 59.305(b).

B. Comments

The comments on these sections focused on the need to gather adequate data in order to evaluate the overall impact of the projects. A number of suggestions were made as to specific data that should be collected.

C. Response

The Secretary believes that § 59.304(a)(11) and § 59.305(b) give him sufficient authority to require adequate data. Further, he does not consider it advisable to limit his flexibility by specifying in these rules exactly what items of data should be collected by grantees. However, the required reports required under § 59.305(b) have been amplified to include a reference to the uniform data system to be developed.

In addition to the foregoing, the Secretary has made several technical and editorial changes in the rules below. This regulation has been reviewed under Executive Order 12044 and it has been determined that a Regulatory Analysis is not needed.

In view of the foregoing, the Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, hereby adds a new subpart D to Part 59 of Title 42, Code of Federal Regulations, as set forth below.

Dated: July 5, 1979.

Julius B. Richmond,
Assistant Secretary for Health.

Approved: July 11, 1979.

Joseph A. Califano, Jr.,
Secretary.

A new Subpart D is added to 42 Code of Federal Regulations, Part 59, to read as follows:

Subpart D—Grants for Adolescent Pregnancy Prevention and Services Projects

- Sec.
- 59.301 To whom do these regulations apply?
- 59.302 How are the terms in these regulations defined?
- 59.303 Who is eligible to apply for a grant under this subpart?
- 59.304 How is application made for a grant under this subpart?
- 59.305 What requirements must a project funded under this subpart meet?
- 59.306 What criteria has HEW established for deciding which applications for grants under this subpart to fund?
- 59.307 How is the amount of the grant decided?
- 59.308 What is the period for which a grant will be awarded?
- 59.309 For what purposes may grant funds be used?
- 59.310 What additional information should an applicant for a grant under this subpart have?
- Authority: Sec. 215, Public Health Service Act, 42 U.S.C. 216, 58 Stat. 690; Title VI, Pub. L. 95-626, 42 U.S.C. 300a-21, et seq., 92 Stat. 3595, et seq.

§ 59.301 To whom do these regulations apply?

The regulations of this subpart apply to all grants for adolescent pregnancy services and prevention projects authorized under Section 603 of Title VI of Public Law 95-626 (42 U.S.C. 300a-21, et seq.).

§ 59.302 How are the terms in these regulations defined?

As used in this subpart, the term: "Act" means Title VI of Public Law 95-626 (42 U.S.C. 300a-21, et seq.).

"Adolescent" means a person whose age is between the onset of puberty and the age of 21, except that a pregnant adolescent who turns 21 during the course of her pregnancy will be considered to be an adolescent for purposes of this subpart until the pregnancy ends.

"Adolescent parent" means a parent or parent-to-be under the age of 21.

"Core services" means the following which shall be provided by all grantees:

- Pregnancy testing (including menstrual history, pelvic examination, and laboratory test for pregnancy detection), maternity counseling, and referral for related services;
- Family planning services, except that such services for nonpregnant adolescents shall be limited to family planning counseling and referral for family planning services unless suitable and appropriate family planning services are not otherwise available in the community;
- Primary and preventive health services, including pre- and post-natal care;
- Nutrition information and counseling;
- Referral for screening and treatment of venereal disease;
- Referral to appropriate pediatric care;
- Educational services in sexuality and family life including sex education and family planning information;
- Referral to appropriate educational and vocational services;
- Adoption counseling and referral services; and
- Referral to other appropriate health services.

"Eligible person" means—

(a) With regard to the provision of all necessary core services and such necessary supplemental services as may be available, a pregnant adolescent or an adolescent parent; or

(b) With respect to the provision of the services described in paragraphs (a), (b), and (g) of the definition of "core services" and referral to such other

services as may be appropriate, a nonpregnant adolescent.

"Nonprofit", as applied to any private agency, institution or organization, means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which benefits, or may lawfully benefit, any private shareholder or individual.

"Secretary" means the Secretary of the Health, Education, and Welfare or any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

"Service area" means the geographic area served (or to be served) by a project supported under this subpart.

"Supplemental services" means those services which may be provided and are—

- (a) Child care sufficient to enable an adolescent mother to continue her education or to enter into employment;
- (b) Consumer education and homemaking;
- (c) Counseling for extended family members of the eligible person;
- (d) Transportation; and
- (e) Such other services, consistent with the purposes of the Act, as the applicant considers appropriate and as the Secretary approves in the grant award, and which will, in his judgment, enhance the effectiveness of the core services provided to eligible persons.

(a) Child care sufficient to enable an adolescent mother to continue her education or to enter into employment;

§ 59.303 Who is eligible to apply for a grant under this subpart?

A grant under this subpart may be awarded only to a public or nonprofit private organization or agency which demonstrates, to the satisfaction of the Secretary, the capability of providing in a single setting all core services or the capability of creating a network of providers through which all core services would be provided.

§ 59.304 How is application made for a grant under this subpart?

(a) An application for a grant under this subpart shall be submitted at such time and in such form and manner as the Secretary may prescribe and shall contain—

(1) The following information, using data and methods satisfactory to the Secretary, for the applicant's service area:

- (i) An identification of the incidence of adolescent pregnancy and related problems;
- (ii) A description of the economic conditions and income levels;

(iii) A description of existing pregnancy prevention and pregnancy-related services (including family life and sex education), including where, how, by whom and to whom they are provided, and the extent to which they are available and coordinated; and

(iv) A description of the major unmet needs for services for adolescents at risk of initial or repeat pregnancies, the estimated number of adolescents currently served in the area, and the estimated number of adolescents not being served in the area.

(2) A description of how all the core services and any supplemental services which the applicant proposes to provide will be provided in the project (including what particular services will be provided under each of the core services and a timetable for their provision), to whom they will be provided, how they will be coordinated, integrated, and linked with other related programs (supported by any written agreements or other evidence of arrangements between the applicant, governmental, other third-party payors, and other providers of services) and services and the source or sources of funding of the such services.

(3) A description, in such detail as the Secretary may require, of—

(i) How adolescents needing services other than those provided directly by the grantee (such as school education, social services, Medicaid, public assistance, employment services, child care services for adolescent parents, and other city, county, and State programs related to adolescent pregnancy) will be identified and reached; and

(ii) How access and appropriate referral to those services will be provided, including a description of the plan to coordinate those services with the project's activities and arrangements for appropriate follow-up of persons referred (supported by any written agreements or other evidence of arrangements between the applicant, governmental, other third-party payors, and other providers of services).

(4) A description of the results expected from the provision of services and activities, and the procedures to be used for evaluating those results.

(5)(i) Assurance that the applicant has prepared a schedule of fees or payments for the provision of its services which is designed to cover its reasonable costs of operation and a corresponding schedule of discounts to be applied to the payment of such fees or payments ("fee schedule"). The discounts must be adjusted on the basis of the ability to pay of the eligible person or his or her

parents or legal guardians, as applicable.

(ii) A description of the fee schedule, together with the method by which it was derived. The fee schedule must provide for:

(A) A full discount to eligible persons and their parents or legal guardians, regardless of income, for pregnancy testing services;

(B) A full discount to eligible persons and their parents or legal guardians, regardless of income, for counseling, education, information, and referral services provided by the project; and

(C) A full discount to eligible persons, regardless of the annual incomes of their parents or legal guardians, where the eligible persons are unable to pay for services without financial assistance from their parents or legal guardians and are unwilling to seek that financial assistance for the services.

(6) Assurances that the applicant has made and will continue to make every reasonable effort—

(i) To secure from eligible persons and their parents or legal guardians payment for services in accordance with the requirements of subparagraph (5) of this paragraph;

(ii) To collect reimbursement for its cost of providing services on the basis of full amount of fees and payments for such services without application of any discount, except as provided in subparagraph (5) of this paragraph; and

(iii) To collect reimbursement for its costs in providing services to persons who are entitled—

(A) To benefits under the program for maternal and child health services under Title V of the Social Security Act (42 U.S.C. 701 et seq.);

(B) To medical assistance under the Medicaid program (Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq.);

(C) To services under a State plan for social services approved under Title XX of the Social Security Act (42 U.S.C. 1397, et seq.); or

(D) To assistance for medical expenses under any other public assistance program or private health insurance program.

(7) Assurances that fees collected by the applicant for services rendered shall be used by the applicant to further the purpose of the project.

(8) Assurances that the applicant—

- (i) Has or will have a contractual or other arrangement with the agency or agencies of the State in which it provides services which administer or supervise the administration of the State plan approved under Titles XIX and XX of the Social Security Act for the

payment of all or a part of the applicant's costs in providing services to persons who are eligible for medical assistance or social services under such plans; or

(ii) Has made or will make every reasonable effort to enter into such an arrangement.

(9) Assurance that the applicant will have an ongoing program to assure quality in the provision of its services. The quality assurance program must provide for:

(i) Organizational arrangements, including a focus of responsibility, to support the quality assurance program and the provision of high quality care and services; and

(ii) Periodic assessment of the appropriateness of the utilization of services and the quality of services provided or proposed to be provided to persons served. Those assessments shall:

(A) Be conducted by licensed health professionals or others, as appropriate;

(B) Be based on the systematic collection and evaluation of client records; and

(C) Identify and document the necessity for change in the provision of services by the project and result in the institution of such change where indicated.

(10) Assurances that the applicant will have a system for maintaining the confidentiality of patient records in accordance with the requirements of § 59.310(b) of this subpart.

(11) Assurances that—

(i) The applicant will demonstrate its financial responsibility by developing management and control systems which are in accordance with sound financial management procedures, including the provision for an audit on an annual basis (unless waived for cause by the Secretary) by an independent certified public accountant or a public accountant licensed prior to December 31, 1970, to determine, at a minimum, the fiscal integrity of grant financial transactions and reports, and compliance with the regulations of this part and the terms and conditions of the grant.

(ii) The applicant will establish basic statistical data, cost accounting, management information, and reporting or monitoring systems which will enable it to provide such statistics and other information as the Secretary may reasonably require relating to the projects costs of operation, patterns of utilization and the availability, acceptability and accessibility of its services and to make such reports to the Secretary in a timely manner with such

frequency as the Secretary may reasonably require.

(12) Assurances that the acceptance by any individual of family planning services or family planning or population growth information (including educational materials) provided by the project shall be voluntary and shall not be a prerequisite to eligibility for or receipt of any other service furnished by the applicant.

(13) Assurances that persons who are unemancipated minors under State law who request services from the applicant will be encouraged, whenever feasible, to consult with their parents or legal guardians with respect to such services. An applicant may not condition the provision of services on such consultation or on parental notification, unless State law requires it to do so.

(14) Assurances that each pregnant adolescent receiving services will be informed of the availability of counseling (either by the entity providing core services or through a referral agreement with another entity which provides such counseling) on all options regarding her pregnancy.

(15) Assurances that primary emphasis for services paid for with funds under the project shall be given to pregnant adolescents and adolescent parents 17 and under who are not able to obtain needed assistance through other means.

(16) A description of the proposed staffing pattern which will be employed to carry out the project, including evidence that project professional and other staff meet all applicable licensure, certification or other legal requirements for the practice of their professions and evidence that all applicable legal requirements (such as licensure) necessary to carry out the project have been met.

(17) A description of the standards of care for all services provided. Grantees shall provide services in accordance with standards of care that may be prescribed by the Secretary.

(18) A budget including required matching funds and a fiscal plan for assuring effective utilization of grant funds) and a justification of the amount of funds requested.

(19) A description of the applicant's capacity to continue services as Federal funds decrease and in the absence of Federal assistance.

(20) Assurances that the applicant will make maximum use of funds available under the program of project grants for family planning services under Title X of the Public Health Service Act.

(21) Assurance that funds received under this Act shall not supplant funds

received from any other Federal, State, or local program or any private sources of funds.

(22) A summary of the views of public agencies, providers of services, and the general public in the service area, of the proposed use of the funds provided and a description of procedures used to obtain those views. In the case of applicants who propose to coordinate services administered by a State, the written comments of the appropriate State officials responsible for such services shall also be included.

(23) Evidence that the requirements of Part I of Office of Management and Budget Circular No. A-95 have been satisfied.

(b) The application shall be executed by an individual authorized to act for the applicant and to assume for the applicant the obligations imposed by the statute, the applicable regulations and any additional conditions of the grant.

§ 59.305 What requirements must a project funded under this subpart meet?

A project funded under this subpart shall:

(a) As appropriate, and in accordance with the assurances in the application, the grant award and applicable law, provide, supplement or improve the quality of core and supplemental services to eligible persons in its service area.

(b) Make such reports concerning its use of Federal funds as the Secretary may require. Reports must include the impact the project has had within its service area on reducing the rate of first and repeat pregnancies among adolescents, and the effect on factors usually associated with welfare dependency and any data which the Secretary requires as part of a comprehensive uniform management data system.

(c) Operate in a manner such that no person shall be denied service by reason of his or her inability to pay therefore, except that, a charge for the provision of service will be made to the extent that a third party (including a Government agency) is authorized or is under legal obligation to pay that charge.

(d) Where a grantee under this subpart is a State using funds provided under this subpart to improve the delivery of pregnancy-prevention and pregnancy-related services throughout the State, it shall coordinate its activities with the programs of local grantees, if any, under this subpart.

§ 59.306 What criteria has HEW established for deciding which applications for grants under this subpart to fund?

Within the limit of funds available for such purposes, the Secretary may award grants to eligible grant recipients whom he determines have submitted applications which meet the requirements of § 59.304 for projects which will help communities provide core and supplemental services in easily accessible locations, assure a continuity of services and appropriate assistance, coordinate, integrate, and establish linkages among such services, and best promote the purposes of the Act. No application will be approved unless the Secretary is satisfied that core services will be available through the applicant within a reasonable time after the grant is received. In approving applications the Secretary will:

- (a) Give priority to applicants who:
 - (1) Serve an area where there is a high incidence of adolescent pregnancy;
 - (2) Serve an area where the incidence of low-income families is high and where the availability of pregnancy-related services is low;
 - (3) Show evidence of having the ability to bring together a wide range of needed core and, as appropriate, supplemental services in comprehensive, single-site projects, or to establish a well-integrated network of such services (appropriate for the target population and geographic area to be served including the special needs of rural areas) for adolescents at risk of initial or repeat pregnancies. Written agreements with other providers of services will be considered to be the best evidence of ability to establish a network of services and of the ability to ensure adequate follow-up of referral cases.
 - (4) Will utilize, to the maximum extent feasible, existing available programs and facilities such as neighborhood and primary health care centers, family planning clinics, children and youth centers, maternal and infant health centers, regional rural health facilities, school and other educational programs, mental health programs, nutrition programs, recreation programs, and other ongoing pregnancy prevention and pregnancy-related services;
 - (5) Make use, to the maximum extent feasible, of other Federal, State, and local funds, programs, contributions, and other third-party reimbursements;
 - (6) Can demonstrate a community commitment to the program by making available to the project non-Federal funds personnel, and facilities; and
 - (7) Have involved the community to be served, including public and private

agencies, adolescents, and families, in the planning and implementation of the project.

(b) Take into account:

- (1) The reasonableness of the budget and the soundness of the fiscal plan for assuring effective utilization of grant funds;
- (2) The potential effectiveness of the proposed project in carrying out the statutory purposes;
- (3) The adequacy of the facilities and other resources available to the applicant;
- (4) The professional, administrative, and managerial capability of the applicant; and
- (5) The total amount of funds available for implementing the overall program.

§ 59.307 How is the amount of the grant decided?

(a) The Secretary will determine the amount of the grant based on factors such as the incidence of adolescent pregnancy in the service area, the adequacy of pregnancy prevention and pregnancy-related services in the service area, as well as his estimate of the sum necessary for the proper performance of the project. In determining the amount of the grant, the Secretary will consider the special needs of rural areas and, to the maximum extent practicable, will distribute funds in consideration of the relative number of adolescents in those areas who are in need of services.

(b) A grant award may not exceed 70% of the costs of a project for the first year of the project and a grant award for the second year of the project may not exceed the amount awarded in the first year or 70% of project costs. In each year succeeding the second year of the project, the amount of funds granted under this subpart shall decrease by no less than 10% of the amount of the grant under this subpart in the preceding year. The Secretary may waive this reduction in the Federal grant in any year when in his judgment such limitation will result in discontinuation of essential services and the grantee has demonstrated a substantial likelihood that it will be able to provide core and supplemental services without funds granted under this subpart by the end of the project period.

(c) A grantee may not receive funds for a period in excess of five years.

§ 59.308 What is the period for which a grant will be awarded?

(a) The Notice of Grant Award specifies how long HEW intends to support the project without requiring the

project to recompile for funds. This period, called the project period, will not exceed 5 years.

(b) Generally the grant will initially be funded for 1 year, and subsequent continuation awards will also be funded for 1 year at a time. A grantee must submit a separate application to have the support continued for each subsequent year. Continuation awards within the project period will be made provided required reports are not delinquent, funds are available, the grantee has made satisfactory progress, the grantee's management practices provide adequate stewardship of Federal funds, and HEW determines that continued funding is in the best interest of the Government.

(c) Neither the approval of any application nor the award of any grant commits or obligates the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved application or portion of an approved application.

§ 59.309 For what purposes may grant funds be used?

(a) Grant funds awarded under this subpart may be used by grantees only to meet the costs of—

- (1) Providing core services to eligible persons;
- (2) Coordinating, integrating, and providing linkages among providers of core, supplemental, and other services for eligible persons in furtherance of the purposes of the Act;
- (3) Providing supplemental services where such services are not adequate or not available to eligible persons in the community and which are essential to the care of pregnant adolescents and to the prevention of adolescent pregnancy;
- (4) Planning for the administration, coordination, or both, of pregnancy prevention and pregnancy-related services for adolescents, including family life and sex education, which will further the objectives of the Act; and
- (5) Fulfilling the assurances required for grant approval by § 59.304 of this subpart.

(b) Grant funds awarded under this subpart may not be used to pay for the performance of abortions.

§ 59.310 What additional information should an applicant for a grant under this subpart have?

(a) *Applicability of department-wide regulations.* Attention is drawn to the following HEW department-wide regulations which apply to grants under this subpart:

(1) 45 CFR Part 19—Limitations on Payment or Reimbursement for Drugs.

(2) 45 CFR Part 74—Administration of Grants.

(3) 45 CFR part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health, Education, and Welfare's implementation of Title VI of the Civil Rights Act of 1964.

(4) 45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.

(b) *Confidentiality.* All information as to personal facts and circumstances obtained by the project staff about recipients of services shall be held confidential. This information shall not be disclosed without the individual's consent except as may be required by law or as may be necessary to provide service to the individual or to provide for audits by the Secretary with appropriate safeguards for confidentiality of patient records. Otherwise, information may be disclosed only in summary, statistical, or other form which does not identify particular individuals.

(c) *Additional conditions.* The Secretary may with respect to any grant impose additional conditions prior to or at the time of any award when in his judgment additional conditions are necessary to assure or protect advancement of the approved program, the interests of public health, or the proper use of grant funds.

[FR Doc. 79-22536 Filed 7-20-79; 8:45 am]

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federal register

Monday
July 23, 1979

Part V

**Department of
Transportation**

Federal Highway Administration

Directional and Informational Sign
Standards and Systems; Availability of
Report

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Parts 750 and 751]

[FHWA Docket Nos. 76-12 and 79-10]

Directional and Informational Sign Standards and Systems; Availability of Report

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of availability of report of task force to restudy directional and informational signing; transfer of docket materials.

SUMMARY: Pursuant to section 122(b) of the Federal-Aid Highway Act of 1976, 23 U.S.C. section 131(q)(1), the Federal Highway Administration (FHWA) formed a task force to consider directional and informational signing. The task force began its work by issuing an Advance Notice of Proposed Rulemaking on this subject on October 26, 1976, at 41 FR 46877 (FHWA Docket No. 76-12). The task force has submitted its final report to the Federal Highway Administrator. This notice announces the availability of that report. The report will be considered in the course of the reassessment of the Highway Beautification Program announced in an Advance Notice of Proposed Rulemaking published on April 30, 1979, at 44 FR 25388 (FHWA Docket No. 79-10). The report does not represent the final views of the FHWA on the subject of directional and informational signing. Although comments are not being solicited on the report itself, the FHWA anticipates that the report may provide useful information to those wishing to comment on the motorist information systems as they relate to the program reassessment. Comments previously submitted to Docket No. 76-12 are being transferred to Docket No. 79-10 to be considered in conjunction with comments submitted as a result of this Notice as part of the broader rulemaking proceeding.

DATES: Comments must be received on or before September 21, 1979.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 79-10, Federal Highway Administration, Room 4205, HCC-10, 400-7th Street, SW, Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of

comments must include a self-addressed stamped postcard.

FOR FURTHER INFORMATION CONTACT: Dr. Ross D. Netherton, Chairman, Task Force on Directional and Informational Signing, Office of Research, HRS-41, telephone number (202) 426-9710; Mr. Richard W. Moeller, Chief, Junkyard and Outdoor Advertising Branch, telephone number (202) 245-0021, or Mr. Edward Kussy, Deputy Assistant Chief Counsel for Right-of-Way and Environmental Law, telephone number (202) 426-0791. Office hours are 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: In 1978, the Congress directed the Secretary of Transportation to restudy the national standards for signs authorized by 23 U.S.C. 131(c)(1) and 131(f). In response to this charge, the FHWA formed an in-house interdisciplinary task force to consider existing standards. The task force soon determined that it was necessary to consider all motorist information systems to truly address the scope of the issues present. This was reflected in the Advance Notice of Proposed Rulemaking published at 41 FR 46877, October 26, 1976, with which the task force initiated its inquiry. A considerable number of comments were received in response to that Advance Notice and were considered by the task force. Further, the services of three private consultants were retained to provide additional research information.

The task force has now submitted its final report and recommendations to the Federal Highway Administration. The rulemaking process on this subject is not yet finalized, and the analysis and disposition of comments received is not set forth in this Notice of Availability. However, because the reassessment of the highway beautification program announced on April 30, 1979, set forth at 44 FR 25388, addresses the question of motorist information systems in considerable detail, it was determined that this study should be considered in that reassessment. The FHWA will make its final evaluation regarding motorist information systems after the reassessment effort is completed and as part of that reassessment. Accordingly, materials in FHWA Docket 76-12 will be transferred to FHWA Docket 79-10 and considered in the context of that rulemaking proceeding.

Copies of the task force report are available upon request at the address set forth above.

A summary of the report follows:

Purpose and Scope

From its first appearance in Federal-aid highway legislation, the program to regulate outdoor advertising in roadside areas created concern about its effect on the ability of motorists to obtain information about goods, services, and facilities needed during travel. Efforts of Congress, the Federal Highway Administration (FHWA), and the States, through their compliance laws, to assure the adequacy of information have taken three forms. First, not all roadside advertising signs are prohibited. A certain amount of outdoor advertising is authorized to remain in specified types of roadside areas. Second, States are authorized to provide, with participation of Federal-aid funds, various types of official service signing giving specific information in the interest of the traveling public, and to provide other information facilities and services. Third, various requirements have been attached to procedures for removal of nonconforming advertising signs to delay their removal until adequate alternative information sources and services are provided.

Federal law and policy have not mandated any uniform program or timetable for establishing effective alternative information systems, and they have recognized the need for flexibility in accommodating State and regional patterns of travel and economic development. State-by-State, however, development of adequate alternatives to roadside billboards as sources of motorist services information has been uneven, both in its timing and its extent. Also, a cyclical relationship has tended to develop between these alternative information sources and the removal of nonconforming signs. The lack of effective information alternatives deters removal of nonconforming advertising signs, and delay in removal of nonconforming signs reduces incentives to provide alternative information systems. Based on past experience, there is a need for greater Federal encouragement to establish motorist information systems and for private industry to participate in their development.

Accordingly, in the Federal-aid Highway Act of 1976, Congress specifically emphasized the need for progress in developing facilities, services, and programs for motorist information by the following directive to the Secretary of Transportation:

"During the implementation of State laws enacted to comply with this section, the Secretary shall encourage and assist the States to develop sign

controls and programs which will assure that necessary directional information about facilities providing goods and services in the interest of the traveling public will continue to be available to motorists. To this end the Secretary shall restudy and revise as appropriate existing standards authorized under subsection 11(c)(1) and 131(f) to develop signs which are functional and esthetically compatible with their surroundings. He shall employ the resources of other Federal departments and agencies, including the National Endowment for the Arts, and employ maximum participation of private industry in the development of standards and systems of signs developed for those purposes."

The National Standards referred to above have been codified as 23 CFR Part 750, Subpart B and 23 CFR Part 655, Subpart C. Essentially these two standards relate to:

- Installation, within areas subject to control of outdoor advertising, of certain limited directional signing for public places owned or operated by Federal, State, or local governments or their agencies; publicly or privately owned natural phenomena, historical, cultural, scientific, educational, and religious sites, and areas of natural scenic beauty, or naturally suited for outdoor recreation deemed to be in the interest of the traveling public.
- Installation, within the rights-of-way of the Federal-aid primary and Interstate Systems, of a limited number of signs showing the business identification of and directional information for facilities providing gas, food, lodging, or campgrounds.

The legislative history of the Highway Beautification Act indicates that these standards were intended to be part of a comprehensive coordinated system of facilities and services addressing the needs of motorists for information regarding goods, services, and facilities desired during travel on Interstate and Federal-aid primary highways where commercial outdoor advertising is subject to control. This system was designed with recognition by Congress that the motorist's needs for information during travel are comprehensive, and that motorists deal with them by coordinating the full range of information sources and communication techniques available to them. This viewpoint is fundamental to the restudy, and the national standards specified by Congress have been evaluated as parts of a comprehensive and coordinated system—not as separate measures operating independently.

Similarly, where deficiencies in the presently authorized information system are identified, the options for correcting them should be considered in terms of how they can perform the particular function that is needed in coordination with the system's other components.

This report is the result of a study undertaken by a task force established by the Federal Highway Administrator pursuant to section 122(b) of the Federal-aid Highway Act of 1976. The Advance Notice of Proposed Rulemaking referred to above was designed to provide an opportunity for industry, governmental agencies, and professional and other groups to make their views known.

The task force reached the following conclusions and recommendations:

Conclusions

1. Recognizing that control of outdoor advertising removes some of the sources of information that the traveling public traditionally has relied on, Congress, in the Highway Beautification Act, authorized development of other sources of information to assure that motorists can obtain information about facilities offering goods and services needed during highway travel.

2. The present legal authority permits States flexibility in designing information systems that meet their particular needs and circumstances. If this authority was fully used all States could have systems that adequately provide the minimum essential information about goods, services, facilities and attractions of interest to the traveling public.

3. To date, for a variety of reasons, State initiative in developing comprehensive information systems has been spotty. Federal support of information system development programs has tended to be permissive rather than aggressive. Incentive for private sector initiative in development of alternative information facilities has been reduced because of slowness in removal of existing nonconforming billboards.

4. The public interest in providing a safe, efficient, economical and convenient highway system, as well as congressional mandates, require that public highway agencies assume responsibility for assuring that essential information needs of the traveling public regarding goods, services, facilities and attractions relating to highway travel are adequate met.

5. While a variety of media and techniques are available for States to use in designing information systems suitable for their needs and

circumstances, the adequacy of any system to meet minimum essential needs depends on it being:

Comprehensive, with coverage of all major information functions involved in trip planning and direction-finding.

Coordinated, with the selected media and techniques producing a uniform level of information service.

Cooperative, through effective working arrangements among State highway agencies, other State and local agencies concerned with travel and economic development.

In addition, it is desirable that motorist travel information systems be *incremental*, so their availability, convenience and effectiveness may be increased, and users may choose the level of information they desire and are willing to make the effort to obtain.

6. The policy of user-beneficiary responsibility for financing the highway system, declared by Congress in the Federal-aid Highway Act of 1956, is applicable to programs for assuring adequate motorist travel information services, and can provide a basis for broadening the resources available to State and Federal highway agencies in developing or expanding their travel information systems.

Recommendations

1. Regarding the National Standards for Directional and Official Signs, no revisions are justified at this time.

2. Regarding the National Standards for Signs Giving Specific Information in the Interest of the Traveling Public, revised standards issued February 9, 1979, are adequate to fully implement existing legislative authority.

3. Regarding options for achieving general program goals, it is recommended that each State be required to establish a comprehensive coordinated system for providing information about goods, services, facilities and significant travel attractions of interest to the traveling public. While this requirement does not mandate any specific or exclusive set of measures, it shall be sufficient to meet the minimum essential information needs of the traveling public, and may be incremental so as to provide more fully for the availability, convenience and effectiveness of the system.

This option is recommended over the following other options that were considered but not recommended for the reasons stated:

a. A "no change" option, relying entirely on the present law and level of program commitment. Almost fifteen years of effort under this program has

failed to achieve adequate results nationwide.

b. The requirement that each State establish a basic information system composed of certain specified types of signing and facilities or their equivalent. Although this would result in a nationwide commitment of upgrading information services, it is considered desirable that States have maximum flexibility in designing systems that fit their particular needs and circumstances.

c. Repeal of Federal penalties for noncompliance with Federal standards, and reliance on State initiative to use existing authority for development of adequate travel information systems. This option offers no assurance of a uniform or adequate level of information services nationwide.

d. Continuation of present Federal requirements for control of outdoor advertising and provision of alternative information systems only for the Interstate System, and provision of financial incentives for States to control outdoor advertising and provide alternative information systems for non-Interstate Federal-aid primary highways. While this option might permit concentration of program effort where information needs actually are greatest, more study is needed to determine its impact and administrative implications.

4. Regarding specific options available to States for improving the effectiveness and coverage of motorist travel information systems, the following are recommended:

a. Authorization of additional information on standardized general service signs, both for general application and for the particular needs of bypassed communities.

b. Modification of current limitations on official destination signing to provide directional information for major travel attractions and recreations areas.

c. Increased use of existing authority for signing to provide business and brand identification of establishments offering travel-related services, and directional information for such establishments.

d. Increased use of existing authority for establishment of manned and unmanned facilities in safety rest areas to provide comprehensive information about local and regional motorist services, attractions, and other matters of interest to the traveling public, together with directional information.

e. Authorization of the use of Federal-aid funds for a greater range of official publications giving travel and services information.

f. Authorization for expanded information programming for Highway Advisory Radio and for Citizens Band radio monitoring relating to motorist services and travel information needs.

In addition to the foregoing options, the following other suggested methods for providing information about motorist services and travel attractions were considered but were not recommended for the reasons stated in each case:

g. Expansion of the scope of "directional signing" under 23 U.S.C. § 131(c)(1) to authorize signs for businesses offering food, fuel, lodging, campgrounds and automotive services, and major travel attractions. This option is not recommended because it is inconsistent with the legislative purpose of § 131(c)(1), and other available methods offer better prospects of performing the information function involved.

h. Authorization of the establishment of roadside turnout areas for display of outdoor advertising consistent with the site's environmental quality. This option is not recommended because possible difficulties with safety, maintenance, and capacity are considered to outweigh possible benefits.

i. Authorization of the establishment of areas adjacent to the right-of-way for controlled display of outdoor advertising giving directional information to services and travel attractions. This option is not recommended because other options offer better prospects of providing such directional information with less adverse impact on the visual environment of the highway.

5. Regarding options for improving the planning, coordination and operation of motorist travel information system, the following actions are recommended:

a. Assumption by each State highway agency of organizational responsibility for development, implementation and administration of a comprehensive motorist travel information system, and designation of responsibility for appropriate action either by the highway agency directly, or with assistance of special bodies representing other interested public agencies and private sector organizations.

b. Establishment of a national-level organization to advise on travel information needs and information system development.

c. Encourage use of contractual arrangements with private enterprise and public agencies to cooperate with highway agencies in providing needed motorist travel information services.

d. Establishment of adequate and continuing funding for development of

national and statewide motorist travel information systems.

e. Establishment of major emphasis programs for research and development and demonstration projects aimed at improving the functional and cost effectiveness of motorist travel information systems.

This report is being prepared under the authority set forth in 23 U.S.C. sections 131, 315 and 319, and 49 CFR 1.48(b).

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John S. Hassell, Jr.,

Deputy Administrator.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1978.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

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36041	6-21-79 / Adding ports to designated radio protection areas for vessel traffic service purposes
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federal register

Tuesday
July 24, 1979

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- 43247 Federal Regional Councils** Executive order
- 43265 Social Security** HEW/SSA promulgates a rule on the valuing of resources on the basis of equity and increasing maximum values on certain excluded resources; effective 11-1-79
- 43438 Federal Education Assistance** HEW/OE issues final regulations governing awards to Local Educational Agencies in areas affected by Federal activity (Part V of this issue)
- 43260 Banking** FDIC adopts new part on recordkeeping and confirmation requirements for securities transactions; effective 1-1-80; comments by 9-24-79
- 43256 Banking** FRS issues final rule on recordkeeping and confirmation requirements for certain securities transactions effected by State Member Banks; effective 1-1-80; comments by 9-24-79
- 43252 Banking** Treasury/Comptroller issues final rule on recordkeeping and confirmation requirements for certain transactions effected by National Banks; effective 1-1-80; comments by 9-24-79

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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- 43292 Tax** Treasury/IRS issues proposal containing proposed amendments to the regulations relating to the definition of a private foundation; comments by 9-24-79
- 43269 Income Tax** Treasury/IRS adopts final regulations relating to expenditures to remove architectural and transportation barriers to the handicapped and elderly
- 43404 Pension Plans** PBGC issues proposal that prescribes a new method of filing the statutory Notice of Intent to Terminate; comments by 9-24-79 (Part II of this issue)
- 43448 Federal Government Records and Meetings** MSPB establishes procedural regulations pursuant to requirements of Freedom of Information Act, Privacy Act, and Government in the Sunshine Act; effective 7-24-79 (Part VII of this issue)
- 43353 Arson Control Assistance** Justice/LEAA publishes program guideline; grant applications by 8-29-79
- 43322 Broadcasting** FCC issues proposal on geographic sharing of certain frequencies in the Petroleum, Forest Products, Special Industrial, and Manufacturers Radio Services; comments by 8-20-79
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- 43442 Endangered Species** Interior/FWS proposes endangered status for American crocodile and salt water crocodile populations outside of Papua New Guinea; comments by 10-26-79 (Part VI of this issue)
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Presidential Documents

Title 3—
The President

Executive Order 12148 of July 20, 1979
Federal Emergency Management

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 *et seq.*), the Disaster Relief Act of 1970, as amended (42 U.S.C. Chapter 58 note), the Disaster Relief Act of 1974 (88 Stat. 143; 42 U.S.C. 5121 *et seq.*), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 *et seq.*), Section 4 of Public Law 92-385 (86 Stat. 556), Section 43 of the Act of August 10, 1956, as amended (50 U.S.C. App. 2285), the National Security Act of 1947, as amended, the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 *et seq.*), Reorganization Plan No. 1 of 1958, Reorganization Plan No. 1 of 1973, the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 *et seq.*), Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), and Section 301 of Title 3 of the United States Code, and in order to transfer emergency functions to the Federal Emergency Management Agency, it is hereby ordered as follows:

Section 1. Transfers or Reassignments

1-1. Transfer or Reassignment of Existing Functions.

1-101. All functions vested in the President that have been delegated or assigned to the Defense Civil Preparedness Agency, Department of Defense, are transferred or reassigned to the Director of the Federal Emergency Management Agency.

1-102. All functions vested in the President that have been delegated or assigned to the Federal Disaster Assistance Administration, Department of Housing and Urban Development, are transferred or reassigned to the Director of the Federal Emergency Management Agency, including any of those functions redelegated or reassigned to the Department of Commerce with respect to assistance to communities in the development of readiness plans for severe weather-related emergencies.

1-103. All functions vested in the President that have been delegated or assigned to the Federal Preparedness Agency, General Services Administration, are transferred or reassigned to the Director of the Federal Emergency Management Agency.

1-104. All functions vested in the President by the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 *et seq.*), including those functions performed by the Office of Science and Technology Policy, are delegated, transferred, or reassigned to the Director of the Federal Emergency Management Agency.

1-2. Transfer or Reassignment of Resources.

1-201. The records, property, personnel and positions, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred, reassigned, or redelegated by this Order are hereby transferred to the Director of the Federal Emergency Management Agency.

1-202. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all actions necessary or appropriate to effectuate the transfers or reassignments provided by this Order, including the transfer of funds, records, property, and personnel.

Section 2. Management of Emergency Planning and Assistance

2-1. General.

2-101. The Director of the Federal Emergency Management Agency shall establish Federal policies for, and coordinate, all civil defense and civil emergency planning, management, mitigation, and assistance functions of Executive agencies.

2-102. The Director shall periodically review and evaluate the civil defense and civil emergency functions of the Executive agencies. In order to improve the efficiency and effectiveness of those functions, the Director shall recommend to the President alternative methods of providing Federal planning, management, mitigation, and assistance.

2-103. The Director shall be responsible for the coordination of efforts to promote dam safety, for the coordination of natural and nuclear disaster warning systems, and for the coordination of preparedness and planning to reduce the consequences of major terrorist incidents.

2-104. The Director shall represent the President in working with State and local governments and private sector to stimulate vigorous participation in civil emergency preparedness, mitigation, response, and recovery programs.

2-105. The Director shall provide an annual report to the President for subsequent transmittal to the Congress on the functions of the Federal Emergency Management Agency. The report shall assess the current overall state of effectiveness of Federal civil defense and civil emergency functions, organizations, resources, and systems and recommend measures to be taken to improve planning, management, assistance, and relief by all levels of government, the private sector, and volunteer organizations.

2-2. Implementation.

2-201. In executing the functions under this Order, the Director shall develop policies which provide that all civil defense and civil emergency functions, resources, and systems of Executive agencies are:

(a) founded on the use of existing organizations, resources, and systems to the maximum extent practicable;

(b) integrated effectively with organizations, resources, and programs of State and local governments, the private sector and volunteer organizations; and

(c) developed, tested and utilized to prepare for, mitigate, respond to and recover from the effects on the population of all forms of emergencies.

2-202. Assignments of civil emergency functions shall, whenever possible, be based on extensions (under emergency conditions) of the regular missions of the Executive agencies.

2-203. For purposes of this Order, "civil emergency" means any accidental, natural, man-caused, or wartime emergency or threat thereof, which causes or may cause substantial injury or harm to the population or substantial damage to or loss of property.

2-204. In order that civil defense planning continues to be fully compatible with the Nation's overall strategic policy, and in order to maintain an effective link between strategic nuclear planning and nuclear attack preparedness planning, the development of civil defense policies and programs by the Director of the Federal Emergency Management Agency shall be subject to oversight by the Secretary of Defense and the National Security Council.

2-205. To the extent authorized by law and within available resources, the Secretary of Defense shall provide the Director of the Federal Emergency Management Agency with support for civil defense programs in the areas of program development and administration, technical support, research, communications, transportation, intelligence, and emergency operations.

2-206. All Executive agencies shall cooperate with and assist the Director in the performance of his functions.

2-3. Transition Provisions.

2-301. The functions which have been transferred, reassigned, or redelegated by Section 1 of this Order are recodified and revised as set forth in this Order at Section 4, and as provided by the amendments made at Section 5 to the provisions of other Orders.

2-302. Notwithstanding the revocations, revisions, codifications, and amendments made by this Order, the Director may continue to perform the functions transferred to him by Section 1 of this Order, except where they may otherwise be inconsistent with the provisions of this Order.

Section 3. Federal Emergency Management Council

3-1. Establishment of the Council.

3-101. There is hereby established the Emergency Management Council.

3-102. The Council shall be composed of the Director of the Federal Emergency Management Agency, who shall be the Chairman, the Director of the Office of Management and Budget and such others as the President may designate.

3-2. Functions of the Council.

3-201. The Council shall advise and assist the President in the oversight and direction of Federal emergency programs and policies.

3-202. The Council shall provide guidance to the Director of the Federal Emergency Management Agency in the performance of functions vested in him.

3-3. Administrative and General Provisions.

3-301. The heads of Executive agencies shall cooperate with and assist the Council in the performance of its functions.

3-302. The Director of the Federal Emergency Management Agency shall provide the Council with such administrative services and support as may be necessary or appropriate.

Section 4. Delegations

4-1. Delegation of Functions Transferred to the President.

4-101. The following functions were transferred to the Director of the Office of Defense Mobilization by Section 2 of Reorganization Plan No. 3 of 1953 (50 U.S.C. 404 note); they were subsequently transferred to the President by Section 1(a) of Reorganization Plan No. 1 of 1958, as amended (50 U.S.C. App. 2271 note), and they are hereby delegated to the Director of the Federal Emergency Management Agency:

(a) The functions vested in the Secretaries of the Army, Navy, Air Force, and Interior by the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 *et seq.*), including the functions vested in the Army and Navy Munitions Board by item (2) of Section 6(a) of that Act (50 U.S.C. 98e(a)(2)), but excluding the functions vested in the Secretary of the Interior by Section 7 of that Act (50 U.S.C. 98f).

(b) The functions vested in the Munitions Board of the Department of Defense by Section 4(h) of the Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714b(h)).

(c) The function vested in the Munitions Board of the Department of Defense by Section 204(f) [originally 204(e)] of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 485(f)).

4-102. The functions vested in the Director of the Office of Defense Mobilization by Sections 103 and 303 of the National Security Act of 1947, as amended by Sections 8 and 50 of the Act of September 3, 1954 (Public Law 779; 68 Stat. 1228 and 1244) (50 U.S.C. 404 and 405), were transferred to the President by Section 1(a) of Reorganization Plan No. 1 of 1958, as amended (50 U.S.C. App.

2271 note), and they are hereby delegated to the Director of the Federal Emergency Management Agency.

4-103. (a) The functions vested in the Federal Civil Defense Administration or its Administrator by the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 *et seq.*), were transferred to the President by Reorganization Plan No. 1 of 1958, and they are hereby delegated to the Director of the Federal Emergency Management Agency.

(b) Excluded from the delegation in subsection (a) is the function under Section 205(a)(4) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2286(a)(4)), relating to the establishment and maintenance of personnel standards on the merit basis that was delegated to the Director of the Office of Personnel Management by Section 1(b) of Executive Order No. 11589, as amended (Section 2-101(b) of Executive Order No. 12107).

4-104. The Director of the Federal Emergency Management Agency is authorized to redelegate, in accord with the provisions of Section 1(b) of Reorganization Plan No. 1 of 1958 (50 U.S.C. App. 2271 note), any of the functions delegated by Sections 4-101, 4-102, and 4-103 of this Order.

4-105. The functions vested in the Administrator of the Federal Civil Defense Administration by Section 43 of the Act of August 10, 1958 (70A Stat. 636) were transferred to the President by Reorganization Plan No. 1 of 1958, as amended (50 U.S.C. App. 2271 note), were subsequently revested in the Director of the Office of Civil and Defense Mobilization by Section 512 of Public Law 86-500 (50 U.S.C. App. 2285) [the office was changed to Office of Emergency Planning by Public Law 87-296 (75 Stat. 630) and then to the Office of Emergency Preparedness by Section 402 of Public Law 90-608 (82 Stat. 1194)], were again transferred to the President by Section 1 of Reorganization Plan No. 1 of 1973 (50 U.S.C. App. 2271 note), and they are hereby delegated to the Director of the Federal Emergency Management Agency.

4-106. The functions vested in the Director of the Office of Emergency Preparedness by Section 16 of the Act of September 23, 1950, as amended (20 U.S.C. 646), and by Section 7 of the Act of September 30, 1950, as amended (20 U.S.C. 241-1), were transferred to the President by Section 1 of Reorganization Plan No. 1 of 1973 (50 U.S.C. App. 2271 note), and they are hereby delegated to the Director of the Federal Emergency Management Agency.

4-107. That function vested in the Director of the Office of Emergency Preparedness by Section 762(a) of the Higher Education Act of 1965, as added by Section 161(a) of the Education Amendments of 1972, and as further amended (20 U.S.C. 1132d-1(a)), to the extent transferred to the President by Reorganization Plan No. 1 of 1973 (50 U.S.C. App. 2271 note), is hereby delegated to the Director of the Federal Emergency Management Agency.

4-2. Delegation of Functions Vested in the President.

4-201. The functions vested in the President by the Disaster Relief Act of 1970, as amended (42 U.S.C. Chapter 58 note), are hereby delegated to the Director of the Federal Emergency Management Agency.

4-202. The functions (related to grants for damages resulting from hurricane and tropical storm Agnes) vested in the President by Section 4 of Public Law 92-385 (86 Stat. 556) are hereby delegated to the Director of the Federal Emergency Management Agency.

4-203. The functions vested in the President by the Disaster Relief Act of 1974 (88 Stat. 143; 42 U.S.C. 5121 *et seq.*), except those functions vested in the President by Sections 301 (relating to the declaration of emergencies and major disasters), 401 (relating to the repair, reconstruction, restoration, or replacement of Federal facilities), and 409 (relating to food coupons and surplus commodities), are hereby delegated to the Director of the Federal Emergency Management Agency.

4-204. The functions vested in the President by the Earthquake Hazards Reduction Act of 1977 (91 Stat. 1098; 42 U.S.C. 7701 *et seq.*) are hereby delegated to the Director of the Federal Emergency Management Agency.

Section 5. Other Executive Orders

5-1. Revocations.

5-101. Executive Order No. 10242, as amended, entitled "Prescribing Regulations Governing the Exercise by the Federal Civil Defense Administrator of Certain Administrative Authority Granted by the Federal Civil Defense Act of 1950", is revoked.

5-102. Sections 1 and 2 of Executive Order No. 10296, as amended, entitled "Providing for the Performance of Certain Defense Housing and Community Facilities and Service Functions", are revoked.

5-103. Executive Order No. 10494, as amended, relating to the disposition of remaining functions, is revoked.

5-104. Executive Order No. 10529, as amended, relating to federal employee participation in State and local civil defense programs, is revoked.

5-105. Section 3 of Executive Order No. 10601, as amended, which concerns the Commodity Set Aside, is revoked.

5-106. Executive Order No. 10634, as amended, relating to loans for facilities destroyed or damaged by a major disaster, is revoked.

5-107. Section 4(d)(2) of Executive Order No. 10900, as amended, which concerns foreign currencies made available to make purchases for the supplemental stockpile, is revoked.

5-108. Executive Order No. 10952, as amended, entitled "Assigning Civil Defense Responsibilities to the Secretary of Defense and Others", is revoked.

5-109. Executive Order No. 11051, as amended, relating to responsibilities of the Office of Emergency Preparedness, is revoked.

5-110. Executive Order No. 11415, as amended, relating to the Health Resources Advisory Committee, is revoked.

5-111. Executive Order No. 11795, as amended, entitled "Delegating Disaster Relief Functions Pursuant to the Disaster Relief Act of 1974", is revoked, except for Section 3 thereof.

5-112. Executive Order No. 11725, as amended, entitled "Transfer of Certain Functions of the Office of Emergency Preparedness", is revoked.

5-113. Executive Order No. 11749, as amended, entitled "Consolidating Disaster Relief Functions Assigned to the Secretary of Housing and Urban Development" is revoked.

5-2. Amendments.

5-201. Executive Order No. 10421, as amended, relating to physical security of defense facilities is further amended by (a) substituting the "Director of the Federal Emergency Management Agency" for "Director of the Office of Emergency Planning" in Sections 1(a), 1(c), and 6(b); and, (b) substituting "Federal Emergency Management Agency" for "Office of Emergency Planning" in Sections 6(b) and 7(b).

5-202. Executive Order No. 10480, as amended, is further amended by (a) substituting "Director of the Federal Emergency Management Agency" for "Director of the Office of Emergency Planning" in Sections 101(a), 101(b), 201(a), 201(b), 301, 304, 307, 308, 310(b), 311(b), 312, 313, 401(b), 401(e), and 605; and, (b) substituting "Director of the Federal Emergency Management Agency" for "Administrator of General Services" in Section 610.

5-203. Section 3(d) of Executive Order No. 10582, as amended, which relates to determinations under the Buy American Act is amended by deleting "Director

of the Office of Emergency Planning" and substituting therefor "Director of the Federal Emergency Management Agency".

5-204. Paragraph 21 of Executive Order No. 10789, as amended, is further amended by adding "The Federal Emergency Management Agency" after "Government Printing Office".

5-205. Executive Order No. 11179, as amended, concerning the National Defense Executive Reserve, is further amended by deleting "Director of the Office of Emergency Planning" in Section 2 and substituting therefor "Director of the Federal Emergency Management Agency".

5-206. Section 7 of Executive Order No. 11912, as amended, concerning energy policy and conservation, is further amended by deleting "Administrator of General Services" and substituting therefor "Director of the Federal Emergency Management Agency".

5-207. Section 2(d) of Executive Order No. 11988 entitled "Floodplain Management" is amended by deleting "Federal Insurance Administration" and substituting therefor "Director of the Federal Emergency Management Agency".

5-208. Section 5-3 of Executive Order No. 12046 of March 29, 1978, is amended by deleting "General Services Administration" and substituting therefor "Federal Emergency Management Agency" and by deleting "Administrator of General Services" and substituting therefor "Director of the Federal Emergency Management Agency".

5-209. Section 1-201 of Executive Order No. 12065 is amended by adding "The Director of the Federal Emergency Management Agency" after "The Administrator, National Aeronautics and Space Administration" and by deleting "Director, Federal Preparedness Agency and to the" from the parentheses after "The Administrator of General Services".

5-210. Section 1-102 of Executive Order No. 12075 of August 16, 1978, is amended by adding in alphabetical order "(p) Federal Emergency Management Agency".

5-211. Section 1-102 of Executive Order No. 12083 of September 27, 1978 is amended by adding in alphabetical order "(x) the Director of the Federal Emergency Management Agency".

5-212. Section 9.11(b) of Civil Service Rule IX (5 CFR Part 9) is amended by deleting "the Defense Civil Preparedness Agency and".

5-213. Section 3(2) of each of the following described Executive orders is amended by adding "Federal Emergency Management Agency" immediately after "Department of Transportation".

(a) Executive Order No. 11331 establishing the Pacific Northwest River Basins Commission.

(b) Executive Order No. 11345, as amended, establishing the Great Lakes Basin Commission.

(c) Executive Order No. 11371, as amended, establishing the New England River Basins Commission.

(d) Executive Order No. 11578, as amended, establishing the Ohio River Basin Commission.

(e) Executive Order No. 11658, as amended, establishing the Missouri River Basin Commission.

(f) Executive Order No. 11659, as amended, establishing the Upper Mississippi River Basin Commission.

5-214. Executive Order No. 11490, as amended, is further amended as follows:

(a) Delete the last sentence of Section 102(a) and substitute therefor the following: "The activities undertaken by the departments and agencies pursuant to this Order, except as provided in Section 3003, shall be in accordance

with guidance provided by, and subject to, evaluation by the Director of the Federal Emergency Management Agency."

(b) Delete Section 103 entitled "Presidential Assistance" and substitute the following new Section 103: "Sec. 103 General Coordination. The Director of the Federal Emergency Management Agency (FEMA) shall determine national preparedness goals and policies for the performance of functions under this Order and coordinate the performance of such functions with the total national preparedness programs."

(c) Delete the portion of the first sentence of Section 401 prior to the colon and insert the following: "The Secretary of Defense shall perform the following emergency preparedness functions".

(d) Delete "Director of the Federal Preparedness Agency (GSA)" or "the Federal Preparedness Agency (GSA)" and substitute therefor "Director, FEMA", in Sections 401(3), 401(4), 401(5), 401(9), 401(10), 401(14), 401(15), 401(16), 401(19), 401(21), 401(22), 501(8), 601(2), 904(2), 1102(2), 1204(2), 1401(a), 1701, 1702, 2003, 2004, 2801(5), 3001, 3002(2), 3004, 3005, 3006, 3008, 3010, and 3013.

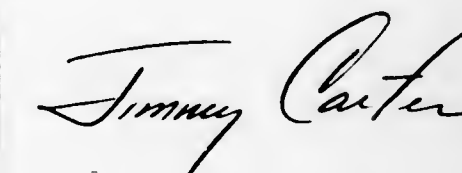
(e) The number assigned to this Order shall be substituted for "11051 of September 27, 1962" in Section 3001, and for "11051" in Sections 1802, 2002(3), 3002 and 3008(1).

(f) The number assigned to this Order shall be substituted for "10952" in Sections 1103, 1104, 1205, and 3002.

(g) Delete "Department of Defense" in Sections 502, 601(1), 804, 905, 1103, 1104, 1106(4), 1205, 2002(8), the first sentence of Section 3002, and Sections 3008(1) and 3010 and substitute therefor "Director of the Federal Emergency Management Agency."

Section 6. This Order is effective July 15, 1979.

THE WHITE HOUSE,
July 20, 1979.



[FR Doc. 79-22915

Filed 7-20-79; 2:18 pm]

Billing code 3195-01-M

Presidential Documents

Executive Order 12149 of July 20, 1979

Federal Regional Councils

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to provide a structure for inter-agency and intergovernmental cooperation, it is hereby ordered as follows:

1-1. Establishment of Federal Regional Councils.

1-101. There is hereby continued a Federal Regional Council for each of the ten standard Federal regions (Office of Management and Budget Circular No. A-105).

1-102. Each Council shall be composed of a representative designated by the head of each of the following agencies:

- (a) The Department of the Interior.
- (b) The Department of Agriculture.
- (c) The Department of Commerce.
- (d) The Department of Labor.
- (e) The Department of Health, Education, and Welfare.
- (f) The Department of Housing and Urban Development.
- (g) The Department of Transportation.
- (h) The Department of Energy.
- (i) The Environmental Protection Agency.
- (j) The Community Services Administration.
- (k) The Office of Personnel Management.
- (l) The General Services Administration.
- (m) ACTION.
- (n) The Small Business Administration.
- (o) The Federal Emergency Management Agency.
- (p) The U.S. Army Corps of Engineers.
- (q) The Regional Action Planning Commissions.

1-103. The President shall designate one member of each Council to be Chairman. The Chairman may convene an Executive Committee to carry out specific initiatives of the Council.

1-104. Each member of each Council shall be a principal official in the region at the Administrator, Director, Secretarial Representative, or equivalent level. For the Regional Action Planning Commissions (established pursuant to Title V of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3181 *et seq.*)) the Federal cochairman shall serve as the Council member. Representatives of the Office of Management and Budget shall participate in the deliberations of each Council.

1-105. Each member of each Council shall designate an alternate to serve whenever the regular member is unable to attend any meeting of the Council. The alternate shall be a principal official in the Region at the deputy or equivalent level, or the head of an operating unit of the agency.

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1-106. When a Chairman determines that matters which significantly affect the interests of agencies which are not represented on the Council are to be considered by that Council, the Chairman shall request the regional director or other appropriate representative of the affected agency to participate in the deliberations of the Council.

1-2. Federal Regional Council Functions.

1-201. The Federal Regional Council, as the major interagency mechanism in the field, shall ensure that Federal programs are implemented in a manner which is consistent with overall Government policy, and shall be responsive to State, tribal, regional, and local government concerns.

1-202. Each Council shall develop a mechanism for sharing information about major agency decisions or actions among agencies in the field, and shall ensure a timely and consistent Federal response to State, tribal, regional, and local concerns or inquiries about such actions.

1-203. Each Council shall establish practical and appropriate liaison functions with State, tribal, regional, and local officials, and shall implement regular procedures to inform elected officials about Government policies and initiatives.

1-204. Each Council shall attempt to identify significant problems with Federal policies and actions and, if such problems cannot be resolved in the Region, refer such problems to the appropriate agencies and the Interagency Coordinating Council.

1-3. General Provisions.

1-301. The Interagency Coordinating Council, in conjunction with the Office of Management and Budget shall, consistent with the objectives and priorities established by the President, establish policy with respect to Federal Regional Council matters, provide guidance to the Councils, respond to their initiatives and seek to resolve policy issues referred to it by the Councils. The Interagency Coordinating Council shall also provide policy guidance to the Federal Cochairmen of the Regional Action Planning Commissions on intergovernmental matters pertaining to activities undertaken by the Federal Regional Councils.

1-302. The Office of Management and Budget shall provide direction for and oversight of the implementation by the Councils of Federal management improvement actions and of Federal aid reforms.

1-303. Each Agency represented on a Council shall provide, to the extent permitted by law, appropriate staff for common or joint interagency task forces as requested by the Federal Regional Council Chairman or by the Interagency Coordinating Council.

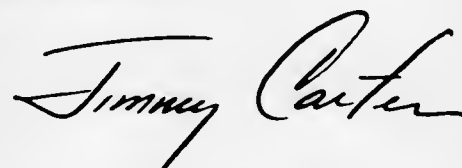
1-304. Each Council member shall be provided administrative support by the member's agency.

1-305. Administrative support required by the Council shall be provided by the Chairman's agency.

1-306. The Federal Regional Councils are encouraged to work with Federal Executive Boards, Federal Executive Associations, River Basin Commissions, Regional Councils of Government, and other similar organizations in the Region.

1-307. Executive Order No. 11647, as amended, is revoked.

THE WHITE HOUSE,
July 20, 1979.



[FR Doc. 79-22972
Filed 7-20-79; 4:26 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register

Vol. 44, No. 143

Tuesday, July 24, 1979

43249

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 295

Public Observation of Commission Meetings

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: Part 295 is being eliminated in its entirety as a technical change to conform with applicable provisions of the Civil Service Reform Act of 1978 (Pub. L. 95-454) and Reorganization Plan No. 2 of 1978 (43 FR 36037) to reflect the organization of the Office of Personnel Management and the inapplicability of the "Government-in-the-Sunshine Act" (Pub. L. 94-409, 5 U.S.C. § 552b) to its functions.

EFFECTIVE DATE: June 29, 1979.

FOR FURTHER INFORMATION CONTACT: Llewellyn M. Fischer, Office of General Counsel, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, (202) 632-5524.

SUPPLEMENTARY INFORMATION: By section 201 of Reorganization Plan No. 2 of 1978 (43 FR 36037) the United States Civil Service Commission was redesignated the Merit Systems Protection Board. Section 101 of the Plan established the Office of Personnel Management headed by a single Director. The Civil Service Reform Act of 1978 (Pub. L. 95-454) provided for parallel organizational structures at sections 202 and 201, respectively.

The Government-in-the-Sunshine Act (5 U.S.C. 552b) by its terms applies only to collegial bodies composed of two or more members, a majority of whom are appointed to such positions by the President with the advice and consent of the Senate. (5 U.S.C. 552b(a)(1)). Since

the Office of Personnel Management is headed by a single Director, the Act is inapplicable to its meetings and the regulations at Part 295 are unnecessary.

PART 295 [REMOVED]

Accordingly, the Office of Personnel Management is hereby amending 5 CFR Part 295 by eliminating that Part from its regulations.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-22718 Filed 7-23-79; 8:45 am]

BILLING CODE 6325-01-M

COUNCIL ON WAGE AND PRICE STABILITY

6 CFR Parts 705 and 706

Noninflationary Pay and Price Behavior; Notice of Modification of Request for Submission of Form PM-1

AGENCY: Council on Wage and Price Stability.

ACTION: Modification of Request for Submission of Form PM-1 for the Third Quarter of the Program Year.

SUMMARY: On July 18, 1979, the Council requested that by August 1, 1979, any company that had, or is part of a parent company that had, consolidated net sales or revenues of \$250 million or more in its last complete fiscal year prior to October 2, 1978, submit a completed Form PM-1 for each of its compliance units ("companies") for the third quarter of the program year (44 FR 41169). The August 1 date was set on the assumption that forms would be printed and mailed to companies on the Council's mailing list by July 16. Due to a delay in mailing, however, the deadline for filing has been extended to August 10, 1979.

EFFECTIVE DATE: July 24, 1979.

FOR FURTHER INFORMATION CONTACT: Ann Marie Hummel, Office of Price Monitoring, Council on Wage and Price Stability, 600 17th Street, N.W., Washington, D.C. 20506, (202) 456-7107.

Issued in Washington, D.C. July 18, 1979.

Barry Bosworth,

Director, Council on Wage and Price Stability.

[FR Doc. 79-22766 Filed 7-23-79; 8:45 am]

BILLING CODE 3175-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 272

[Amdt. No. 148]

Requirements for Participating State Agencies; Alaska, Postponement of Implementation of Certain Provisions

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rulemaking.

SUMMARY: This rulemaking amends the regulations published October 17, 1978 (43 FR 47846) which implemented certain provisions of the Food Stamp Act of 1977. The amendment allows the Alaska State agency to postpone implementation of certain provisions of the regulations beyond the initial 120-day extension granted under the October 17 rules. This postponement is being granted to allow for the orderly development of regulations specifically tailored to the unique geographic and economic characteristics found in certain areas of Alaska.

EFFECTIVE DATE: This regulation is effective on July 1, 1979.

FOR FURTHER INFORMATION CONTACT: Claire Lipsman, Director, Program Development Division on (202) 447-8325.

SUPPLEMENTARY INFORMATION: On October 17, 1978, the Department published final rules implementing major aspects of the Food Stamp Act of 1977. These rules included an implementation time schedule for program changes necessitated by the rulemaking. For certain rules, FNS established a procedure whereby extensions to the implementation schedule could be obtained. These procedures required State agencies to submit both compelling justification for the delay and an acceptable alternative schedule for implementation. Subsequent to this rulemaking, the Alaska State agency contacted FNS with serious concerns about their ability

to meet the established time schedule for implementation of several program changes. They further contended that full compliance with all program requirements would neither be practical nor possible in certain rural areas, regardless of the time frame allowed for implementation. Convincing arguments, based on weather conditions, economic circumstances, and the inaccessibility of such rural areas, were presented to FNS. In light of these factors, it was decided that specific regulations, tailored to the conditions existent in rural Alaskan communities, would be developed. These regulations would modify the October 17 regulations to ensure the efficiency of program operations and the timely availability of program benefits to low-income populations in these rural areas. The Department is currently in the process of developing these regulations and they will be published in proposed form shortly.

As an interim measure, FNS granted the Alaska State agency an extension until July 1, 1979, for implementation of certain provisions of the October 17 regulations. While it was hoped that rulemaking could be developed by this date, this has not proven feasible. As a second interim measure, this amendment further extends the implementation time schedule for those provisions which cannot be implemented in rural Alaska.

The amendment provides that, at the discretion of FNS, the Alaska State agency will be allowed to continue to postpone implementation of a few provisions of the October 17 regulations. It should be noted that, with these one or two exceptions, Alaska has fully implemented the provisions of the October 17 regulations, including the major features such as elimination of the purchase requirement, and the new eligibility rules. The provision for which extensions may be continued concern primarily processing requirements and affect only isolated areas of rural Alaska. Because of the limited scope of the provisions being extended and the relatively small numbers of people affected, this regulation is being issued as a final rulemaking. Robert Greenstein, Administrator, Food and Nutrition Service, has determined that the substantive aspects of the manner in which Alaska will implement the Food Stamp Act of 1977 will be part, not of this rulemaking, but of a separate rulemaking which will be issued for full public comment.

Therefore, in Part 272, in § 272.1 paragraph (g) is amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

In § 272.1, subparagraph (g)(x) is amended to read as follows:

§ 272.1 General terms and conditions.

(g) Implementation * * *

(x) Elimination of the purchase requirement and the implementation of the basic financial and nonfinancial eligibility criteria and other coupon issuance criteria shall not be extended for any reason. FNS may grant extensions for other provisions contained in these rules, provided that the State agency presents compelling justification for a delay and establishes an acceptable alternative schedule in advance of the implementation deadline. With the following exception, FNS will not grant extensions in excess of 120 days from the specified implementation date. FNS may grant the Alaska State agency an extension in the implementation of certain specific provisions subject to the unique economic and geographic characteristics existent with the State to the date necessary to allow for the orderly promulgation and implementation of rulemaking designed to accommodate these characteristics. In all cases where extensions are granted, the relevant Department regulations under the Food Stamp Act of 1964, shall remain in effect until superseded by implementation of the new rules.

(91 Stat. 958 7 U.S.C., 2011-2027)

Note.—Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the Federal Register.

Further, this final rule has been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Carol Tucker Foreman, Assistant Secretary, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Dated: July 13, 1979.

Carol Tucker Foreman,

Assistant Secretary.

[FR Doc. 79-22351 Filed 7-23-79; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 916

[Nectarine Reg. 11, Amt.1]

Nectarines Grown In California; Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule

SUMMARY: Nectarine Regulation 11 currently in effect through July 25, 1979, specifies a U.S. No. 1 minimum grade for shipments of California nectarines except (1) fairly light colored, fairly smooth scars shall not exceed the aggregate area of a circle $\frac{3}{8}$ inch in diameter for nectarines 2 inches or smaller, and $\frac{1}{2}$ inch for nectarines larger than 2 inches; and (2) an additional 25 percent tolerance for fruit not well formed but not badly misshapen. In addition, the regulation prescribes minimum sizes for 50 named varieties. This amendment continues through May 31, 1980, these current minimum grade and size requirements. The amendment takes into consideration the marketing situation facing the California nectarine industry, and is necessary to assure that shipments of nectarines will be of suitable quality and size in the interest of consumers and producers.

EFFECTIVE DATES: July 26, 1979 through May 31, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION:

Nectarine Regulation 11 was published in the Federal Register on May 22, 1979 (44 F.R. 29641). On June 5, 1979, a proposal was issued (44 F.R. 32224) to extend the regulatory provisions through May 31, 1980. The notice allowed interested persons until July 9, 1979, to submit written comments pertaining to the proposed amendment. No such material was submitted.

The proposal was recommended by the Nectarine Administrative Committee established under the marketing agreement, as amended, and Order No. 916, as amended (7 CFR Part 916). The marketing agreement and order regulate the handling of nectarines grown in California and are effective under the applicable provisions of the Agricultural

Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

After consideration of all relevant matter presented, including the proposals in the notice and other available information, it is hereby found that the following amendment is in accordance with the marketing agreement and order and will tend to effectuate the declared policy of the act.

This regulation has not been determined significant under the USDA criteria for Implementing Executive Order 12044.

It is further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the Federal Register (5 U.S.C. 553) in that (1) shipments of nectarines are currently in progress and this amendment should be applicable to all such nectarines shipments in order to effectuate the declared policy of the act; (2) the amendment is the same as that specified in the notice to which no exceptions were filed; (3) the regulatory provisions are the same as those currently in effect; and (4) compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

Order. The provisions of Nectarine Regulation 11 (§ 916.353; 44 F.R. 29641) are revised to read as follows:

§ 916.353 Nectarine Regulation 11.

(a) During the period July 26, 1979, through May 31, 1980, no handler shall handle:

(1) Any package or container of any variety of nectarines unless such nectarines meet the requirements of U.S. No. 1 grades: *Provided*, That nectarines 2 inches in diameter or smaller, shall not have fairly light colored, fairly smooth scars which exceed the aggregate area of a circle $\frac{3}{8}$ inch in diameter and nectarines larger than 2 inches in diameter shall not have fairly light colored, fairly smooth scars which exceed an aggregate area of a circle $\frac{1}{2}$ inch in diameter: *Provided further*, That an additional tolerance of 25 percent shall be permitted for fruit that is not well formed but not badly misshapen.

(2) Any package or container of Mayred variety nectarines unless:

(i) Such nectarines when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 112 nectarines in the lug box;

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (2) are of a size that a 16-pound sample, representative of the nectarines in the

package or container, contains not more than 105 nectarines.

(3) Any package or container of Mayfair variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box; are of a size that will pack, in accordance with the requirements of a standard pack, not more than 108 nectarines in the lug box;

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (3) of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 102 nectarines.

(4) Any package or container of Apache, Armking, Crimson Gold, Early Red, Early Star, Early Sungrand, Firebrite, Independence, June Belle, June Grand, Kent Grand, May Grand, Moon Grand, Red Diamond, Red June, Spring Grand, Spring Red, Star Grand I, Star Grand II, Summer Grand, Sun Grand, or Zee Gold variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 96 nectarines in the lug box; or

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (4) are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 90 nectarines.

(5) Any package or container of Autumn Grand, Bob Grand, Clinton Strawberry, Ed's Red, Fairlane, Fantasia, Flamekist, Flavortop, Gold King, Grandlerli, Grand Prize, Hi-Red, Late Le Grand, Le Grand, Niagara Grand, Red Free, Red Grand, Regal Grand, Richards Grand, Royal Giant, Royal Grand, Ruby Grand, September Grand, Tasty Free, Tom Grand, or 61-61 variety nectarines, unless:

(i) Such nectarines when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 88 nectarines in the lug box; or

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (5) are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 78 nectarines.

(b) As used herein, "U.S. No. 1" and "standard pack" mean the same as defined in the United States Standards

for Grades of Nectarines (7 CFR 2851.3145-3160); "No. 22D standard lug box" means the same as defined in Section 1387.11 of the "Regulations of the California Department of Food and Agriculture." All other terms mean the same as defined in this marketing order.

An economic impact statement is available from Malvin E. McGaha, Chief, Fruit Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C., Phone: (202) 447-5975.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: July 19, 1979, to become effective July 26, 1979.

D. S. Kuryloski

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-22763 Filed 7-23-79; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 919

[Peach Reg. 19]

Fresh Peaches Grown In Mesa County, Colo.; Grade and Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade and size requirements for 1979 season shipments of fresh peaches grown in Mesa County, Colorado. These requirements are designed to promote orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447-5975.

SUPPLEMENTARY INFORMATION: Findings. Pursuant to the marketing agreement, as amended, and Order No. 919, as amended (7 CFR Part 919), regulating the handling of peaches grown in the county of Mesa in the State of Colorado, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of peaches, as hereafter provided, will tend to effectuate the declared policy of the act.

The following regulations reflect the Department's appraisal of the need for regulation based on the current and prospective crop and market conditions.

The grade and size requirements are necessary to prevent the shipment of

Colorado peaches of a lower grade and a smaller size than specified, and are designed to provide ample supplies of good quality peaches in the interest of producers and consumers pursuant to the declared policy of the act. These requirements would be the same as those in effect during the past several seasons.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, the emergency nature of this regulation warrants publication without opportunity for further public comment, in accord with emergency procedures in Executive Order 12044. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An impact analysis is available from Malvin E. McGaha, (202) 447-5975.

§ 919.320 Peach Regulation 19.

(a) During the period August 1, 1979, through September 15, 1979, no handler shall ship:

(1) Any peaches of any variety which do not grade at least U.S. No. 1;

(2) Any peaches of any variety which are of a size smaller than 2½ inches in diameter: *Provided*, That any lot of peaches shall be deemed to be of a size not smaller than 2½ inches in diameter if (i) not more than 10 percent, by count, of such peaches in such lot are smaller than 2½ inches in diameter, and (ii) not more than 15 percent, by count, of the peaches contained in any individual container in such lot are smaller than 2½ inches in diameter.

(b) As used in this section, "peaches", "handler", "ship", and "variety" mean the same as defined in this marketing order, and "U.S. No. 1", "diameter", and "count" mean the same as defined in the United States Standards for Peaches (7 U.S.C. 2851.1210-2851.1223).

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

Dated: July 19, 1979.

D. S. Kuryloski,
Acting Deputy Director, Fruit and Vegetable
Division, Agricultural Marketing Service.

[FR Doc. 79-22762 Filed 7-23-79; 8:45 am]

BILLING CODE 3410-02-M

Food Safety and Quality Service

7 CFR Part 2852

United States Standards for Grades of Canned Freestone Peaches

Correction

In FR Doc. 79-19547 appearing on page 36363 in the issue for Friday, June 22, 1979, make the following corrections:

(1) In the second column of page 36366, in the first line of paragraph (c)(1) of § 2852.2608, change "...X_d..." to read "...X_d...".

(2) In the first column of page 36368, in paragraph (1) of § 2852.2608 (d), four lines from the top of the page, change "...X_d..." to read "...X_d...".

(3) Also in the first column, in paragraph (c) of § 2852.2609 correct the following:

Change "...X'G2MIN..." to read "...X'G_{min}...".

Change "...LWL..." to read "...LWL₂...".

Change "...LRL..." to read "...LRL₂...".

Change "...R'..." to read "...R'...".

DEPARTMENT OF TREASURY

Comptroller of the Currency

12 CFR Part 12

Recordkeeping and Confirmation Requirements for Certain Transactions Effected by National Banks

AGENCY: Comptroller of the Currency.

ACTION: Final rule and request for comments on certain provisions.

SUMMARY: The Comptroller of the Currency ("Comptroller") has adopted regulations under Part 12 to require national banks to establish uniform procedures and records relating to the handling of securities transactions for trust department accounts and for customers. Similar regulations are also being adopted by the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation. The final rules in part reflect the recommendations of the Securities and Exchange Commission's Final Report on Bank Securities Activities. The regulation requires each national bank that effects certain

securities transactions for customers to maintain and comply with specified recordkeeping and confirmation requirements. Also, every national bank effecting securities transactions for customers must establish written policies and procedures concerning securities transactions by and for specified categories of bank personnel. Although it is intended that these amendments become effective January 1, 1980, additional comment is invited by September 24, 1979, on the confirmation requirements as they apply to transactions in U.S. Government, Federal agency, and municipal securities and on the bank officers and employees reporting requirements as they apply to transactions in U.S. Government or Federal agency obligations. The Comptroller will consider such comments and the adoption of any appropriate amendments to the regulation as soon thereafter as possible.

DATES: Comments must be received on or before September 24, 1979. Effective date: January 1, 1980.

ADDRESS: Send comments to Dean E. Miller, Deputy Comptroller for Specialized Examinations, Office of the Comptroller of the Currency, Washington, D.C. 20219.

FOR FURTHER INFORMATION CONTACT: Dean E. Miller, (202) 447-1731.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal drafter of this ruling is Ralph Janvey, Staff Attorney, Office of the Comptroller of the Currency, Washington, D.C. 20219.

On Tuesday, February 7, 1978, the Comptroller published in the Federal Register (43 FR 5004) proposed rules to require national banks to establish uniform procedures and records relating to the handling of securities transactions for trust department accounts and for customers. The Comptroller received over 200 comment letters with a substantial number setting forth significant criticisms of the proposed amendments. As a result of careful consideration of the comment letters, the Comptroller on November 1, 1978 published in the Federal Register revised amendments for additional comment (43 FR 50917).

In response to the November, 1978 republication, the Comptroller received 39 comment letters. While many of the commentators commended the Comptroller for the revised amendments, they also suggested additional modifications and amendments. A summary of the

comments and the Comptroller's response is as follows:

1. In the November 1, 1978 proposal, the definition of "periodic plan" included any written authorization for a national bank acting as agent to purchase or sell for a customer a specific security or securities in specific amounts. (See proposed § 12.2(d).) A few commentators believed that the proposed definition was ambiguous as to whether dividend reinvestment plans, automatic investment plans and employee stock purchase plans were covered by the definition. To clear up any doubt about the definition's coverage, the Comptroller has modified the definition of "periodic plan" as set forth in § 12.2(d) to indicate that the definition includes dividend reinvestment plans, automatic investment plans and employee stock purchase plans.

2. The Comptroller in its November proposal excluded from the definition of "security" any note, draft, bill of exchange, or banker's acceptance which has a maturity at the time of issuance not exceeding nine months. Some commentators recommended that the definition be revised to exclude short term obligations for up to twelve months and to also exclude from the definition interests in money market mutual funds. The Comptroller has adopted the definition as proposed. The Comptroller recognizes that banks generally define short-term obligations as those having a maturity of twelve months or less. However, the Comptroller believes that it would be inappropriate to significantly alter the definition of "security" contained in the Securities Exchange Act of 1934 ("1934 Act") which provides an exclusion for certain obligations of up to nine months maturity. Since commentators did not demonstrate that potential costs to banks would outweigh the benefits to the investing public, the Comptroller has decided to retain the nine months maturity exclusion. For the same reason, the Comptroller has decided not to exclude money market mutual funds from the definition of "security." It is the Comptroller's understanding that the major problem with subjecting money market mutual funds to the requirements of Part 12 involves the potential costs involved in recordkeeping. In response, and as discussed below, the Comptroller has modified the recordkeeping requirements to lessen the potential cost impact on banks.

3. As proposed a bank would be deemed to exercise "investment discretion" with respect to an account, if directly or indirectly, the bank makes

recommendations as to what securities or other property shall be purchased or sold by or for the account even though some other person may have responsibility for such investment decisions. A number of commentators suggested that the definition be modified to track the language of Section 3(a)(35) of the 1934 Act. Upon reflection, and in response to the commentators, the Comptroller has adopted a definition that follows the language of the 1934 Act section. The Comptroller notes, however, that the change in the language of the definition of "investment discretion" does not alter its view that a bank would be deemed to exercise investment discretion in investment advisory account relationships where the customer, as a matter of practice, generally approves investment recommendations made by the bank.

4. Section 12.3, Recordkeeping, requires that a bank maintain an account record for each customer. A number of commentators believed that the maintenance of account records for each customer would result in prohibitive costs to the bank. In response, the Comptroller has added a provision stating that the requirements of § 12.3 do not require a bank to maintain records in any prescribed manner, provided that the information required to be shown is clearly and accurately reflected and provides an adequate basis for the audit of such information. Also, the requirements have been amended to provide that a single order may be used for multiple account transactions (e.g. a purchase of securities of a money market fund for several accounts at the same time).

5. As proposed, § 12.4(b)(4) required that the written notification every national bank must mail or otherwise furnish to a customer include the time of execution of the transaction. A number of banks commented that this information was not always readily available. In response, the Comptroller has amended § 12.4(b)(4) to delete the requirement that the time of execution be set forth in the written notification and to require instead that the form set forth the date of execution and include a statement that the time of execution will be furnished within a reasonable time upon written request of the customer.

6. The Securities and Exchange Commission ("SEC") questioned the provision in the revised proposal that would have excluded transactions in U.S. government, federal agency, and municipal obligations from the confirmation requirements. During the period that the Comptroller was considering the revised proposal, the

SEC amended its confirmation rule for brokers and dealers setting forth requirements applicable to both dealer and agency transactions in equity and debt securities, other than U.S. Savings Bonds and municipal securities (Securities Exchange Act Release No. 34-15219). The SEC also solicited additional comment as to whether disclosure should be required on confirmation of mark-ups and mark-downs on "riskless principal" transactions in non-municipal debt securities and municipal securities. (Securities Exchange Act Release No. 34-15220.) The SEC also solicited comment as to whether a "market-maker" exemption similar to that provided for dealers in equity securities should also be provided for dealers in municipal securities and non-municipal debt securities. In view of the significant controversy concerning the SEC's proposed disclosure requirements for "riskless principal" transactions, the Comptroller's revised proposal excluded, in toto, transactions in U.S. government, agency and municipal securities from the proposed confirmation requirements. Upon further examination, the Comptroller believes that it would not impose an undue hardship and would be consistent with investor protection to apply the confirmation rules to transactions in U.S. government securities (other than U.S. Savings Bonds), federal agency obligations and municipal securities (where the bank is not already required to comply with rules of the Municipal Securities Rulemaking Board), but that the rules should not operate at the present time to require banks to disclose mark-ups, mark-downs and other remuneration where the bank executes transactions in U.S. government, federal agency or municipal obligations in a dealer capacity. The Comptroller notes that further study of the issue appears necessary, particularly on the question as to the type of market maker exception that should be provided if a "riskless principal" requirement along the lines proposed by the SEC is to be adopted for bank dealers. The public is invited to submit their views to the Comptroller on these questions, on or before September 24, 1979.

7. The Comptroller, after much consideration, has retained the requirement of having a bank mail or otherwise furnish a written notification within five business days from the date of transaction, or if a broker/dealer is utilized, within five business days from the receipt by the bank of the broker/dealer's confirmation. The Comptroller believes that the confirmation is an

important disclosure document and requiring banks to disclose facts to customers at or before the completion of the transaction, will help correct errors and mistakes, and deter and prevent deceptive and fraudulent acts and practices.

8. Section 12.5(a) allows a bank and a customer of a nondiscretionary account to agree in writing to a different time of notification than set forth in § 12.5. The SEC, in commenting on the proposed rules, pointed out that their rules do not permit such a waiver and expressed concern about the use of "boiler-plate" clauses in agreements with customers. While the Comptroller has retained the waiver provision, banks and the public should be aware that the examination process will be utilized to ensure that "boiler-plate" clauses are not being used or forced on the public. If such abuses are found, appropriate supervisory and regulatory action will be taken.

9. A number of commentators objected to the language of § 12.6(d) relating to disclosure of personal transactions by certain bank personnel stating that proposed regulation was overly broad and burdensome. The Comptroller has revised § 12.6(d) to require that bank officers and employees who make investment recommendations or decisions for the accounts of customers, who participate in the determination of such recommendations or decisions, or who, in connection with their duties, obtain information concerning which securities are being purchased or sold or recommended for such action, must report to the Bank, within ten days after the end of the calendar quarter, all securities transactions made by them or on their behalf, either at the bank or elsewhere, in which they have a beneficial interest. The report would identify the securities purchased or sold, the dates of the transactions and whether the transactions were purchases or sales. Excluded from this reporting requirement are transactions for the benefit of the officer or employee over which such officer or employee has no direct or indirect influence or control, transactions in mutual fund shares and all transactions involving in the aggregate \$10,000 or less in principal amount during the quarter.

The Comptroller believes the requirements of § 12.6(d) are important in preventing the improper and illegal use of inside information by a bank employee such as "scalping," which is the practice of effecting transactions for a personal account shortly before effecting transactions in the same or a related class of securities for customers,

usually followed thereafter, by further transactions for the personal account in order to profit by the resultant market activity. Where reports indicate the possibility of misuse of insider information, the Comptroller will expect national banks to obtain such additional information as may be necessary to apprise themselves whether the employee, or any other person, has not misused nonpublic information for his own enrichment.

10. In the November, 1978 release, the Comptroller requested the views of interested persons as to regulations respecting personnel training and competency requirements. In response, the SEC urged that the Comptroller adopt regulations and testing requirements in this area. The Comptroller believes that the bank examination process, which involves checking the adequacy of a bank's procedures for training of trading personnel and evaluating their competency, as well as the adequacy of the bank's supervisory procedures over them, is effective in detecting and remedying violations of law and personnel weaknesses within a bank. The Comptroller is constantly educating and updating the knowledge of bank examiners as to the requirements of the Federal securities laws. At this time, the Comptroller will continue to rely upon the examination process to assure an appropriate level of competency of bank personnel concerning the Federal securities laws. However, if the Comptroller discovers, through the examination process or any other means, that numerous and/or gross violations of the Federal securities laws are occurring, the issue of requiring personnel training and competency requirements will be reconsidered promptly.

Based on the foregoing, 12 CFR Part 12 is adopted as set forth below:

PART 12—RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

Sec.

- 12.1 Scope of Part.
- 12.2 Definition.
- 12.3 Recordkeeping.
- 12.4 Form of notification.
- 12.5 Time of notification.
- 12.6 Securities trading policies and procedures.
- 12.7 Exceptions.

Authority: 12 U.S.C. 24 and 12 U.S.C. 92a.

§ 12.1 Scope of part.

This part is issued by the Comptroller of the Currency pursuant to 12 U.S.C. 24 and 12 U.S.C. 92a and contains rules

applicable to recordkeeping and confirmation requirements for certain transactions effected by national banks.

§ 12.2 Definitions.

For the purposes of this part:

(a) "Collective investment fund" means any fund as defined in 12 CFR 9.18(a).

(b) "Customer" shall mean any person or account, including any agency, trust, estate, guardianship, committee, or other fiduciary account for which a national bank effects or participates in effecting the purchase or sale of securities, but shall not include a broker, dealer, dealer bank or issuer of the securities which are subject to the transactions.

(c) A bank shall be deemed to exercise "investment discretion" with respect to an account, if directly or indirectly the bank (1) is authorized to determine what securities or other property shall be purchased or sold by or for the account, or (2) makes decisions as to what securities or other property shall be purchased or sold by or for the account even though some other person may have responsibility for such investment decisions.

(d) "Periodic plan" (including dividend reinvestment plans, automatic investment plans and employee stock purchase plans) means any written authorization for a national bank acting as agent to purchase or sell for a customer a specific security or securities, in specific amounts (calculated in security units or dollars) or to the extent of dividends and funds available, at specific time intervals and setting forth the commission or charges to be paid by the customer in connection therewith or the manner of calculating them.

(e) "Security" means any interest or instrument commonly known as a "security," whether in the nature of debt or equity, including any stock, bond, note, debenture, evidence or indebtedness or any participation in or right to subscribe to or purchase any of the foregoing. The term "security" does not include (1) a deposit or share account in a federally or state insured depository institution, (2) a loan participation, (3) a letter of credit or other form of bank indebtedness incurred in the ordinary course of business, (4) currency, (5) any note, draft, bill of exchange, or bankers acceptance which has a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited, (6) units of a collective investment fund, (7) interests in a variable amount (master) note as

defined in 12 CFR 9.18(c)(2)(ii), or (8) U.S. Savings Bonds.

§ 12.3 Recordkeeping.

Every national bank effecting securities transactions for customers shall maintain the following records with respect to such transactions for at least three years:

(a) Chronological records of original entry containing an itemized daily record of all purchases and sales of securities. The records of original entry shall show the account or customer for which each such transaction was effected, the description of the securities, the unit and aggregate purchase or sale price (if any), the trade date and the name or other designation of the broker/dealer or other person from whom purchased or to whom sold;

(b) Account records for each customer which shall reflect all purchases and sales of securities, all receipts and deliveries of securities, and all receipts and disbursements of cash with respect to transactions in securities for such account and all other debits and credits pertaining to transactions in securities;

(c) A separate memorandum (order ticket) of each order to purchase or sell securities (whether executed or cancelled), which shall include:

- (1) The account(s) for which the transaction was effected;
 - (2) Whether the transaction was a market order, limit order, or subject to special instructions;
 - (3) The time the order was received by the trader or other bank employee responsible for effecting the transaction;
 - (4) The time the order was placed with the broker/dealer, of if there was no broker/dealer, the time the order was executed or cancelled;
 - (5) The price at which the order was executed; and
 - (6) The broker/dealer utilized.
- (d) A record of all broker/dealers selected by the bank to effect securities transactions and the amount of commissions paid or allocated to each such broker during the calendar year.

Nothing contained in this subparagraph shall require a bank to maintain the records required by this section in any given manner, provided that the information required to be shown is clearly and accurately reflected and provides an adequate basis for the audit of such information.

§ 12.4 Form of notification.

Every national bank effecting a securities transaction for a customer shall maintain for at least three years and except as provided in 12 CFR 12.5, shall mail or otherwise furnish to such

customer either of the following types of notifications:

(a)(1) A copy of the confirmation of a broker/dealer relating to the securities transactions; and (2) if the bank is to receive remuneration from the customer or any other source in connection with the transaction, and the remuneration is not determined pursuant to a written agreement between the bank and the customer, a statement of the source and amount of any remuneration to be received; or

(b) A written notification disclosing:

- (1) The name of the bank;
- (2) The name of the customer;
- (3) Whether the bank is acting as agent for such customer, as agent for both such customer and some other person, as principal for its own account, or in any other capacity;
- (4) The date of execution and a statement that the time of execution will be furnished within a reasonable time upon written request of such customer and the identity, price and number of shares or units (or principal amount in the case of debt securities) of such security purchased or sold by such a customer;
- (5) The amount of any remuneration received or to be received, directly or indirectly, by any broker/dealer from such customer in connection with the transaction;
- (6) The amount of any remuneration received or to be received by the bank from the customer and the source and amount of any other remuneration to be received by the bank in connection with the transaction, unless remuneration is determined pursuant to a written agreement between the bank and the customer, provided, however, in the case of U.S. Government securities, federal agency obligations and municipal obligations, this subparagraph (b)(6) shall apply only with respect to remuneration received by the bank in an agency transaction; and
- (7) The name of the broker/dealer utilized; or where there is no broker/dealer, the name of the person from whom the security was purchased or to whom it was sold, or the fact that such information will be furnished within a reasonable time upon written request.

(c) Accounts where the bank exercises investment discretion in an agency capacity, in which instance (1) the bank shall mail or otherwise furnish to each customer not less frequently than once every three months an itemized statement which shall specify the funds and securities in the custody or possession of the bank at the end of such period and all debits, credits and transactions in the customer's account during such period, and (2) if requested by the customer, the bank shall mail or otherwise furnish to each customer within a reasonable time the written notification described in 12 CFR 12.4;

(d) A collective investment fund, in which instance the provision of 12 CFR 9.18(b)(5) shall apply;

§ 12.5 Time of notification.

The time for mailing or otherwise furnishing the written notification described in 12 CFR 12.4 shall be five business days from the date of the transaction, or if a broker/dealer is utilized, within five business days from the receipt by the bank of the broker/

dealer's confirmation, but the bank may elect to use the following alternative procedures if the transaction is effected for:

(a) Accounts (except periodic plans) where the bank does not exercise investment discretion and the bank and the customer agree in writing to a different arrangement; provided, however, that such agreement makes clear the customer's right to receive the written notification within the above prescribed time period at no additional cost to the customer;

(b) Accounts (except collective investment funds) where the bank exercises investment discretion in other than an agency capacity, in which instance the bank shall, upon request of the person having the power to terminate the account or, if there is no such person upon the request of any person holding a vested beneficial interest in such account, mail or otherwise furnish to such person the written notification within a reasonable time. The bank may charge such person a reasonable fee for providing this information;

(c) Accounts where the bank exercises investment discretion in an agency capacity, in which instance (1) the bank shall mail or otherwise furnish to each customer not less frequently than once every three months an itemized statement which shall specify the funds and securities in the custody or possession of the bank at the end of such period and all debits, credits and transactions in the customer's account during such period, and (2) if requested by the customer, the bank shall mail or otherwise furnish to each customer within a reasonable time the written notification described in 12 CFR 12.4;

(d) A collective investment fund, in which instance the provision of 12 CFR 9.18(b)(5) shall apply;

(e) A periodic plan, in which instance the bank shall mail or otherwise furnish to the customer as promptly as possible after each transaction a written statement showing the funds and securities in the custody or possession of the bank, all service charges and commissions paid by the customer in connection with the transaction, and all other debits and credits of the customer's account involved in the transaction; provided that upon the written request of the customers the bank shall furnish the information described in 12 CFR 12.4, except that any such information relating to remuneration paid in connection with the transaction need not be provided to the customer when paid by a source

other than the customer. The bank may charge a reasonable fee for providing this information.

§ 12.6 Securities trading policies and procedures.

Every national bank effecting securities transactions for customers shall establish written policies and procedures providing:

(a) Assignment of responsibility for supervision of all officers or employees who: (1) transmit orders to or place orders with broker/dealers, or (2) execute transactions in securities for customers;

(b) For the fair and equitable allocation of securities and prices to accounts when orders for the same security are received at approximately the same time and are placed for execution either individually or in combination;

(c) Where applicable, and where permissible under local law, for the crossing of buy and sell orders on a fair and equitable basis to the parties to the transaction; and

(d) That bank officers and employees who make investment recommendations or decisions for the accounts of customers, who participate in the determination of such recommendations or decisions, or who, in connection with their duties, obtain information concerning which securities are being purchased or sold or recommended for such action, must report to the bank, within ten days after the end of the calendar quarter, all securities transactions made by them or on their behalf, either at the bank or elsewhere, in which they have a beneficial interest. The report shall identify the securities purchased or sold and indicate the dates of the transactions and whether the transactions were purchases or sales. Excluded from this requirement are transactions for the benefit of the officer or employee over which the officer or employee has no direct or indirect influence or control, transactions in mutual fund shares, and all transactions involving in the aggregate \$10,000 or less in principal amount during the quarter.

§ 12.7 Exceptions.

The following exceptions to this Part shall apply:

(a) The requirements of 12 CFR 12.3(b) through 12 CFR 12.3(d) shall not apply to banks having an average of less than 200 securities transactions per year for customers over the prior three calendar year period;

(b) Activities of national banks that are subject to regulations promulgated by the Municipal Securities Rulemaking

Board shall not be subject to the requirements of 12 CFR Part 12;

(c) Activities of foreign branches of a national bank shall not be subject to the requirements of 12 CFR Part 12; and

(d) In appropriate cases, the Comptroller of the Currency may waive one or more of the requirements set forth in 12 CFR 12.2, 12 CFR 12.3, 12 CFR 12.4, 12 CFR 12.5 and 12 CFR 12.6, either in whole or in part.

Dated: June 26, 1979.

John G. Heimann,

Comptroller of the Currency.

[FR Doc. 79-22866 Filed 7-23-79; 8:45 am]

BILLING CODE 4810-33-M

FEDERAL RESERVE SYSTEM

12 CFR Part 208

[Regulation H; Docket No. R-0142]

Recordkeeping and Confirmation Requirements for Certain Securities Transactions Effected by State Member Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final Rule and request for comments on certain provisions.

SUMMARY: The Board of Governors of the Federal Reserve System has adopted amendments to its Regulation H (12 CFR Part 208) to require that State member banks that effect certain securities transactions for customers provide confirmation of and maintain records with respect to such transactions. Similar regulations are being adopted by the Comptroller of the Currency and the Federal Deposit Insurance Corporation. A proposed regulation was originally published for public comment on January 31, 1978 (43 FR 5006); a substantial number of substantive comments were received and comment was requested on a revised proposal on November 1, 1978 (43 FR 50914). Although it is intended that these amendments become effective January 1, 1980, additional comment is invited by September 24, 1979 on the confirmation requirements as they apply to transactions in U.S. government, federal agency and municipal securities (paragraph (k)(3)) and on the bank officers and employees reporting requirements as they apply to transactions in U.S. government or federal agency obligations (paragraph (k)(5)(iv)). The Board will consider such comments and the adoption of any appropriate amendments to the

regulation as soon thereafter as possible.

DATES: Comments must be received on or before September 24, 1979.

EFFECTIVE DATE: January 1, 1980.

ADDRESS: Send comments to the Secretary, Board of Governors of the Federal Reserve System, 20th and Constitution Avenue, N.W., Washington, D.C. 20551. All materials submitted should be in writing and should refer to Docket No. R-0142. Such materials will be available for public inspection during the regular hours of the Office of the Secretary at the above address.

FOR FURTHER INFORMATION CONTACT:

Robert A. Wallgren, Chief, Trust Activities Program, (202) 452-2717, or Walter R. McEwen, Attorney, (202) 452-2521, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The final rule is substantially similar to the revised proposal released on November 1, 1978. The following is a summary of the significant revisions which were made.

Commentators suggested that the definition of "investment discretion" be modified to track the language of section 3(a)(35) of the Securities Exchange Act of 1934 ("1934 Act") which defines the same term. After reconsideration, the Board has concluded that, insofar as it is pertinent, the term should be defined in Regulation H as it is defined in the 1934 Act. Accordingly, the language of subparagraph (k)(1)(iii) now tracks the language of sections 3(a)(35) (A) and (B) of the 1934 Act. If the Securities and Exchange Commission determines pursuant to regulation, as authorized by paragraph (C) of section 3(a)(35), that other exercises of influence with respect to accounts constitute "investment discretion," the Board will consider whether the definition of "investment discretion" adopted herein should be revised also. The Board notes, however, that the change in the language of the definition of "investment discretion" is not intended to alter its view that a bank would be deemed to exercise investment discretion in investment advisory account relationships where the customer, as a matter of practice, generally follows investment recommendations made by the bank.

With respect to the definition of "security", numerous amendments were suggested. In particular, it was recommended that the definition be revised to exclude short-term obligations of up to twelve-month maturities and interests in money

market mutual funds. The Board has determined that the definition of "security" should not be changed from the definition stated in the revised proposal, except to exclude U.S. savings bonds from the definition. The Board recognizes that banks generally define short-term obligations as those having a maturity of twelve months or less. However, the Board believes that it would be inappropriate to alter the definition of "security" contained in the Securities Exchange Act of 1934 which provides an exclusion for certain obligations of up to nine months maturity. Since commentators failed to demonstrate that the potential cost to banks would outweigh the benefits to the investing public, the Board has determined to retain the nine months maturity exclusion. For the same reason, the Board has decided not to exclude money market mutual funds from the definition of "security" but, as indicated below, has modified the recordkeeping requirements to lessen the potential cost impact. Furthermore, the Board noted that transactions in money market fund shares derive primarily from accounts over which the banks exercise investment discretion and therefore are not required to be confirmed on an individual basis except upon customer request (paragraphs (k)(4)(ii) and (k)(4)(iii)).

With respect to the recordkeeping requirements (paragraph (k)(2)), the Board has responded to comments expressing the concern that the cost of compliance would be excessive due to the requirement of (k)(2)(ii) that an account record be maintained for each customer. The Board anticipates that this provision will impact customer accommodation transactions rather than trust activities since trust departments presently keep the records required by (k)(2)(ii). Accordingly, a provision has been added stating that paragraph (k)(2) does not require a bank to maintain the records required by the paragraph in any given manner, provided that the information required to be shown is clearly and accurately reflected and provides an adequate basis for the audit of such information. In addition, subparagraph (k)(2)(iii)(a) has been amended to provide that a single order ticket may be used for multiple account transactions (e.g. a purchase of securities of a money market fund for several accounts at the same time).

Paragraph (k)(3), dealing with the form of notification, has been revised significantly. The Securities and Exchange Commission has questioned the provision in the revised proposal that would have excluded transactions

in U.S. Government, federal agency and municipal obligations from the confirmation requirements. During the period that the Board was considering the revised proposal, the SEC amended its confirmation rule for brokers and dealers setting forth requirements applicable to both dealer and agency transactions in equity and debt securities, other than U.S. Savings Bonds and municipal securities (Securities Exchange Act Release No. 34-15219). The SEC also solicited additional comment as to whether disclosure should be required on confirmations of markups and markdowns on "riskless principal" transactions in non-municipal debt securities and municipal securities (Securities Exchange Act Release No. 34-15220). The Commission also solicited comment as to whether a "market-maker" exception similar to that provided for dealers in equity securities should also be provided for dealers in municipal securities and non-municipal debt securities. In view of the significant controversy concerning the SEC's proposed disclosure requirements for "riskless principal" transactions, the Board's revised proposal excluded, in toto, transactions in U.S. government, agency and municipal securities from the proposed confirmation requirements. Upon further examination, the Board believes that it would not impose an undue hardship and would be consistent with investor protection to apply the confirmation rules to transactions in U.S. Government securities (other than U.S. Savings Bonds), federal agency obligations and municipal securities (where the bank is not already required to comply with rules of the Municipal Securities Rulemaking Board), but that the rules should not operate at the present time to require banks to disclose mark-ups, mark-downs and other remuneration where the bank executes transactions in U.S. Government, federal agency or municipal obligations in a dealer capacity. The Board noted that further study of the issue appears necessary, particularly on the question as to the type of market maker exception that should be provided if a "riskless principal" requirement along the lines proposed by the SEC is to be adopted for bank dealers. Additional comment on the confirmation requirements as they apply to transactions in U.S. Government, federal agency and municipal securities is requested by September 24, 1979.

In addition, paragraph (k)(3)(ii)(d) has been revised to eliminate the requirement that time of execution be shown on the form of notification and to

substitute a requirement that the form of notification contain a statement that the time of execution will be furnished within a reasonable time upon written request of the customer.

As to the requirements concerning time of notification (paragraph (k)(4)), the Board reviewed numerous comments suggesting that State member banks be permitted to mail confirmations within five business days from the settlement date rather than, as contemplated by the revised proposal, the date of the transaction or the date that the bank receives the broker-dealer confirmation. The Board concluded that no change was warranted because the provision as stated in the revised proposal provided the greatest likelihood that confirmations would be received by the customer at or before the completion of the transaction while simultaneously maintaining flexibility in situations in which confirmations from the broker-dealer are not received by the bank prior to the settlement date.

Finally, the Board has followed the suggestions of numerous commentators in two areas. First, the confirmation requirements for a periodic plan have been amended and paragraph (k)(4)(v) now provides that the bank mail or otherwise furnish to the customer as promptly as possible after each transaction a written statement showing the funds and securities in the custody or possession of the bank, all service charges and commissions paid by the customer in connection with the transaction, and all other debits and credits of the customer's account involved in the transaction. Paragraph (k)(4)(v) also provides that upon request of the customer, the bank will furnish the information required in paragraph (k)(3).

The second area of change affects the Securities Trading Policies and Procedures section. Paragraph (k)(5)(d), establishing reporting requirements for bank officers and employees, has been amended to focus more clearly upon those individuals involved in the making of investment decisions. In addition, the Board has determined that the reporting requirements should apply to U.S. Government or agency obligations in order to provide a desirable audit control for banks. After considering numerous comments which stated that the reporting provisions of the revised proposal constituted an invasion of personal privacy, the Board believes that the purpose of the provision (to prevent "scalping" or other improper use of inside information and to provide a desirable audit control for banks) will be served by (1) excluding reporting of

transactions in mutual fund shares, (2) excluding reporting of transactions which in the aggregate involve \$10,000 or less during a calendar quarter, and (3) where reportable transactions have occurred, requiring only that the date and name of the security purchased or sold be reported (but not the actual number of shares or dollar amount of securities purchased or sold). Where reports indicate the possibility of misuse of inside information, the Board expects State member banks to obtain such additional information as may be necessary to satisfy themselves that the employee has not misused nonpublic information in his possession for his own personal enrichment.

Pursuant to sections 9 and 11 of the Federal Reserve Act (12 U.S.C. 321, 248 (a) and (1) and section 3(b)(1) *et seq.*), the Board proposes to amend Regulation H (12 CFR Part 208) by adding a paragraph (k) to § 208.8 as set forth below:

§ 208.8 Banking practices.

(k) *Recordkeeping and confirmation of certain securities transactions effected by State member banks.*

(1) *Definitions:* For purposes of this paragraph (k):

(i) "Customer" shall mean any person or account, including any agency, trust, estate, guardianship, committee or other fiduciary account, for which a State member bank effects or participates in effecting the purchase or sale of securities, but shall not include a broker, dealer, dealer bank or issuer of the securities which are the subject of the transactions;

(ii) "Collective investment fund" means funds held by a State member bank as fiduciary and, consistent with local law, invested collectively (A) in a common trust fund maintained by such bank exclusively for the collective investment and reinvestment of monies contributed thereto by the bank in its capacity as trustee, executor, administrator, guardian, or custodian under the Uniform Gifts to Minors Act, or (B) in a fund consisting solely of assets of retirement, pension, profit sharing, stock bonus or similar trusts which are exempt from Federal income taxation under the Internal Revenue Code;

(iii) A bank shall be deemed to exercise "investment discretion" with respect to an account if, directly or indirectly, the bank (A) is authorized to determine what securities or other property shall be purchased or sold by or for the account, or (B) makes decisions as to what securities or other

property shall be purchased or sold by or for the account even though some other person may have responsibility for such investment decisions;

(iv) "Periodic plan" (including dividend reinvestment plans, automatic investment plans and employee stock purchase plans) means any written authorization for a State member bank acting as agent to purchase or sell for a customer a specific security or securities, in specific amounts (calculated in security units or dollars) or to the extent of dividends and funds available, at specific time intervals and setting forth the commission or charges to be paid by the customer in connection therewith or the manner of calculating them;

(v) "Security" means any interest or instrument commonly known as a "security", whether in the nature of debt or equity, including any stock, bond, note, debenture, evidence of indebtedness or any participation in or right to subscribe to or purchase any of the foregoing. The term "security" does not include (A) a deposit or share account in a federally or state insured depository institution, (B) a loan participation, (C) a letter of credit or other form of bank indebtedness incurred in the ordinary course of business, (D) currency, (E) any note, draft, bill of exchange, or bankers acceptance which has a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited, (F) units of a collective investment fund, (G) interests in a variable amount (master) note of a borrower of prime credit, or (H) U.S. Savings Bonds.

(2) *Recordkeeping:* Every State member bank effecting securities transactions for customers shall maintain the following records with respect to such transactions for at least three years:

(i) Chronological records of original entry containing an itemized daily record of all purchases and sales of securities. The records of original entry shall show the account or customer for which each such transaction was effected, the description of the securities, the unit and aggregate purchase or sale price (if any), the trade date and the name or other designation of the broker/dealer or other person from whom purchased or to whom sold;

(ii) Account records for each customer which shall reflect all purchases and sales of securities, all receipts and deliveries of securities, and all receipts and disbursements of cash with respect to transactions in securities for such

account and all other debits and credits pertaining to transactions in securities;

(iii) A separate memorandum (order ticket) of each order to purchase or sell securities (whether executed or cancelled), which shall include:

(A) The account(s) for which the transaction was effected;

(B) Whether the transaction was a market order, limit order, or subject to special instructions;

(C) The time the order was received by the trader or other bank employee responsible for effecting the transaction;

(D) The time the order was placed with the broker/dealer, or if there was no broker/dealer, the time the order was executed or canceled;

(E) The price at which the order was executed; and

(F) The broker/dealer utilized;

(iv) A record of all broker/dealers selected by the bank to effect securities transactions and the amount of commissions paid or allocated to each such broker during the calendar year.

Nothing contained in this subparagraph shall require a bank to maintain the records required by this rule in any given manner, provided that the information required to be shown is clearly and accurately reflected and provides an adequate basis for the audit of such information.

(3) *Form of Notification:* Every State member bank effecting a securities transaction for a customer shall maintain for at least three years and, except as provided in subparagraph (4), shall mail or otherwise furnish to such customer either of the following types of notifications:

(i) (A) a copy of the confirmation of a broker/dealer relating to the securities transaction; and (B) if the bank is to receive remuneration from the customer or any other source in connection with the transaction, and the remuneration is not determined pursuant to a prior written agreement between the bank and the customer, a statement of the source and the amount of any remuneration to be received; or

(ii) a written notification disclosing:

(A) The name of the bank;

(B) The name of the customer;

(C) Whether the bank is acting as agent for such customer, as agent for both such customer and some other person, as principal for its own account, or in any other capacity;

(D) The date of execution and a statement that the time of execution will be furnished within a reasonable time upon written request of such customer, and the identity, price and number of shares or units (or principal amount in the case of debt securities) of such

security purchased or sold by such a customer;

(E) The amount of any remuneration received or to be received, directly or indirectly, by any broker/dealer from such customer in connection with the transaction;

(F) The amount of any remuneration received or to be received by the bank from the customer and the source and amount of any other remuneration to be received by the bank in connection with the transaction, unless remuneration is determined pursuant to a written agreement between the bank and the customer, provided, however, in the case of U.S. Government securities, federal agency obligations and municipal obligations, this subparagraph (f) shall apply only with respect to remuneration received by the bank in an agency transaction; and

(G) The name of the broker/dealer utilized; or, where there is no broker/dealer, the name of the person from whom the security was purchased or to whom it was sold, or the fact that such information will be furnished within a reasonable time upon written request.

(4) *Time of Notification:* The time for mailing or otherwise furnishing the written notification described in subparagraph (3) shall be 5 business days from the date of the transaction, or if a broker/dealer is utilized, within 5 business days from the receipt by the bank of the broker's confirmation, but the bank may elect to use the following alternative procedures if the transaction is effected for:

(i) Accounts (except periodic plans) where the bank does not exercise investment discretion and the bank and the customer agree in writing to a different arrangement; provided, however, that such agreement makes clear the customer's right to receive the written notification within the above prescribed time period at no additional cost to the customer;

(ii) Accounts (except collective investment funds) where the bank exercises investment discretion in other than an agency capacity, in which instance the bank shall, upon request of the person having the power to terminate the account or, if there is no such person, upon the request of any person holding a vested beneficial interest in such account, mail or otherwise furnish to such person the written notification within a reasonable time. The bank may charge such person a reasonable fee for providing this information.

(iii) Accounts, where the bank exercises investment discretion in an agency capacity, in which instance (A)

the bank shall mail or otherwise furnish to each customer not less frequently than once every three months an itemized statement which shall specify the funds and securities in the custody or possession of the bank at the end of such period and all debits, credits and transactions in the customer's accounts during such period, and (B) if requested by the customer, the bank shall mail or otherwise furnish to each such customer within a reasonable time the written notification described in subparagraph (3).

(iv) A collective investment fund, in which instance the bank shall at least annually furnish a copy of a financial report of the fund, or provide notice that a copy of such report is available and will be furnished upon request, to each person to whom a regular periodic accounting would ordinarily be rendered with respect to each participating account. This report shall be based upon an audit made by independent public accountants or internal auditors responsible only to the board of directors of the bank.

(v) A periodic plan, in which instance the bank shall mail or otherwise furnish to the customer as promptly as possible after each transaction a written statement showing the funds and securities in the custody or possession of the bank, all service charges and commissions paid by the customer in connection with the transaction, and all other debits and credits of the customer's account involved in the transaction; provided that upon the written request of the customer the bank shall furnish the information described in subparagraph (3), except that any such information relating to remuneration paid in connection with the transaction need not be provided to the customer when paid by a source other than the customer. The bank may charge a reasonable fee for providing the information described in subparagraph (3).

(5) *Securities Trading Policies and Procedures:* Every State member bank effecting securities transactions for customers shall establish written policies and procedures providing:

(i) Assignment of responsibility for supervision of all officers or employees who (A) transmit orders to or place orders with broker/dealers, or (B) execute transactions in securities for customers;

(ii) For the fair and equitable allocation of securities and prices to accounts when orders for the same security are received at approximately the same time and are placed for

execution either individually or in combination;

(iii) Where applicable and where permissible under local law, for the crossing of buy and sell orders on a fair and equitable basis to the parties to the transaction; and

(iv) That bank officers and employees who make investment recommendations or decisions for the accounts of customers, who participate in the determination of such recommendations or decisions, or who, in connection with their duties, obtain information concerning which securities are being purchased or sold or recommended for such action, must report to the bank, within ten days after the end of the calendar quarter, all transactions in securities made by them or on their behalf, either at the bank or elsewhere in which they have a beneficial interest. The report shall identify the securities purchased or sold and indicate the dates of the transactions and whether the transactions were purchases or sales. Excluded from this requirement are transactions for the benefit of the officer or employee over which the officer or employee has no direct or indirect influence or control, transactions in mutual fund shares, and all transactions involving in the aggregate \$10,000 or less during the calendar quarter.

(6) *Exceptions:* The following exceptions to subparagraph (k) shall apply:

(i) The requirements of section (k)(2)(ii) through (k)(2)(iv) shall not apply to banks having an average of less than 200 securities transactions per year for customers over the prior three calendar year period;

(ii) Activities of a State member bank that are subject to regulations promulgated by the Municipal Securities Rulemaking Board shall not be subject to the requirements of this paragraph (k); and

(iii) Activities of foreign branches of a State member bank shall not be subject to the requirements of this paragraph (k).

Board of Governors of the Federal Reserve System, June 20, 1979.

Theodore E. Allison,
Secretary of the Board.

[FR Doc. 79-22685 Filed 7-23-79; 8:45 am]

BILLING CODE 4810-33-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 344

Recordkeeping and Confirmation Requirements for Securities Transactions; Adoption of New Part and Request for Comments on Certain Provisions

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final Rule and Request for Comments on Certain Provisions.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") has adopted a new Part 344 (12 CFR 344) to require insured State nonmember banks that effect certain securities transactions for customers provide confirmation of and maintain records with respect to such transactions. Similar regulations are being adopted by the Comptroller of the Currency and the Board of Governors of the Federal Reserve System. A proposed regulation was originally published for public comment on February 23, 1978 (43 FR 7441); a substantial number of substantive comments were received and comment was requested on a revised proposal on November 1, 1978 (43 FR 51638). Although it is intended that these amendments become effective on January 1, 1980, additional comment on the confirmation requirements as they apply to transactions in U.S. Government, agency and municipal securities is invited until September 24, 1979. The FDIC will consider comments and adopt any appropriate amendments to the regulation as soon thereafter as possible.

DATE: Comments must be received on or before September 24, 1979. The new Part is effective on January 1, 1980.

ADDRESS: Interested persons are invited to submit written data, views or arguments to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429. All written comments will be made available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Gerald J. Gervino, Attorney, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429, (202) 389-4422.

SUPPLEMENTARY INFORMATION: The final rule is substantially similar to the revised proposal released on November 1, 1978. The following is a summary of the significant revisions which were made.

Commentators suggested that the definition of "investment discretion" be modified to track the language of section 3(a)(35) of the Securities Exchange Act of 1934 ("1934 Act") which defines the same term. Upon reflection, the FDIC has concluded that, insofar as it is pertinent, the term should be defined in Part 344 as it is defined in the 1934 Act. Accordingly, the language of § 344.2(c) now tracks the language of sections 3(a)(35)(A) and (B) of the 1934 Act. If the Securities and Exchange Commission ("SEC") determines pursuant to regulation, as authorized by paragraph (C) of section 3(a)(35) that other exercises of influence with respect to accounts constitute "investment discretion," the FDIC will consider whether the definition of "investment discretion" adopted herein should be revised also. The FDIC noted, however, that the change in the language of the definition of "investment discretion" is not intended to alter its view that a bank would be deemed to exercise investment discretion in investment advisory account relationships where the customer, as a matter of practice, generally approves investment recommendations made by the bank.

With respect to the definition of "security", numerous amendments were suggested. In particular, it was recommended that the definition be revised to exclude short-term obligations of up to twelve-month maturities and interests in money market mutual funds. The FDIC has determined that the definition of "security" should not be changed from the definition stated in the revised proposal, except to exclude savings bonds from the definition. The FDIC recognized that banks generally define short-term obligations as those having a maturity of twelve months or less. However, the FDIC believed that it would be inappropriate to significantly alter the definition of "security" contained in the Securities Exchange Act of 1934 which provides an exclusion for certain obligations of up to nine-months maturity.

Since commentators failed to demonstrate that the potential cost to banks would outweigh the benefits to the investing public, the FDIC has determined to retain the nine-months maturity exclusion. For the same reason, the FDIC has decided not to exclude money market mutual funds from the definition of "security" but, as indicated below, has modified the recordkeeping requirements to lessen the potential cost impact. Furthermore, the FDIC noted that transactions in money market fund shares derive primarily from accounts

over which the banks exercise investment discretion and therefore need not be confirmed on an individual basis except upon customer request (§§ 344.5(b) and 344.5(c)).

With respect to the recordkeeping requirements, the FDIC has responded to comments expressing the concern that the cost of compliance would be prohibitive due to the requirement of § 344.3(b) that an account record be maintained for each customer. A provision has been added stating that § 344.3 does not require a bank to maintain the records required by the paragraph in any given manner, provided that the information required to be shown is clearly and accurately reflected and provides an adequate basis for the audit of such information. In addition, § 344.3(e)(1) has been amended to provide that a single order ticket may be used for multiple account transactions (e.g., a purchase of securities of a money market fund for several accounts at the same time).

Section 344.4 has been revised significantly. The SEC has questioned the provision in the revised proposal that would have excluded transactions in U.S. Government, Federal agency, and municipal obligations from the confirmation requirements. During the period that the FDIC was considering the revised proposal, the SEC amended its confirmation rule for brokers and dealers setting forth requirements applicable to both dealer and agency transactions in equity and debt securities, other than U.S. Savings Bonds and municipal securities (S.E.C. Rel. No. 34-15219, 43 FR 47495 (October 6, 1978)). The SEC also solicited additional comment as to whether disclosures should be required on confirmations of mishaps and mark-downs on "riskless principal" transactions in nonmunicipal debt securities and municipal securities (S.E.C. Rel. No. 34-15220, 43 FR 47538 (October 6, 1978)). The SEC also solicited comment as to whether a "market maker" exemption similar to that provided for dealers in equity securities should also be provided for dealers in municipal securities and nonmunicipal debt securities.

In view of the significant controversy concerning the SEC's proposed disclosure requirements for "riskless principal" transactions, the FDIC's revised proposal excluded, in total, transactions in U.S. Government, agency and municipal securities from the proposed confirmation requirements. Upon further examination, the FDIC believes that it would not impose an undue hardship and would be consistent

with investor protection to apply the confirmation rules to transactions in U.S. Government securities (other than U.S. Savings Bonds), Federal agency obligations and municipal securities (where the bank is not already required to comply with rules of the Municipal Securities Rulemaking Board), but that the rules should not operate at the present time to require banks to disclose mark-ups, mark-downs and other remuneration where the bank executes transactions in U.S. Government, Federal agency or municipal obligations in a dealer capacity.

The FDIC noted that further study of the issue appears necessary, particularly on the question as to the type of market maker exception that should be provided if a "riskless principal" requirement along the lines proposed by the SEC is to be adopted for bank dealers. Additional comment on the confirmation requirements as they apply to transactions in U.S. Government, agency, and municipal securities is requested by September 24, 1979.

In addition, the form of notification must show the date of execution of a transaction and contain a statement that the time of execution will be furnished, within a reasonable time upon written request of the customer.

The FDIC reviewed numerous comments suggesting that banks be permitted to mail confirmations within five business days from the settlement date rather than, as contemplated by the revised proposal, the date of the transaction or the date that the bank receives the broker/dealer confirmation. The FDIC concluded that no change was warranted because the provision as stated in the revised proposal provided the greatest likelihood that confirmations would be received at or before the completion of the transaction while simultaneously maintaining flexibility in situations in which confirmations from the broker/dealer are not received within the proper time period.

Finally, the FDIC has followed the suggestion of numerous commentators in two areas. First, the confirmation requirements for a periodic plan have been amended and § 344.5(e) now provides that the bank mail or otherwise furnish to the customer as promptly as possible after each transaction a written statement showing the funds and securities in the custody or possession of the bank, all service charges and commissions paid by the customer in connection with the transaction, and all other debits and credits of the customer's account involved in the transaction. Section 344.5(e) also

provides that upon request of the customer, the bank will furnish the information required in paragraph § 344.4.

The second area of change affects the Securities Trading Policies and Procedures section. Section 344.6(d) has been amended to focus more clearly upon those individuals involved in making investment decisions. After considering numerous comments that stated that the provisions of the revised proposal constituted an invasion of personal privacy, the FDIC believes that the purpose of the provision (to prevent "scalping" or other improper use of insider information) will be served by revising the reporting provision (1) to exclude reporting of transactions in mutual fund shares, (2) to exclude reporting of aggregate transactions of \$10,000 or less in principal amount during the calendar quarter, and (3) where reporting of transactions is required, to require only that the date and class of security transferred or sold be reported (but not the actual number of shares bought or sold). Where reports indicate the possibility of misuse of insider information, the FDIC will expect insured State nonmember banks to obtain such additional information as may be necessary to satisfy themselves that the employee has not misused nonpublic information in his possession for his own personal enrichment.

Numerous commentators requested that the exception contained in § 344.7(a) be made consistent with that proposed by the Board of Governors of the Federal Reserve System. The FDIC, in light of such comments, has decided to raise the exemption from 50 securities transactions per year to 200 securities transactions.

A new 12 CFR Part 344 is added to read as set forth below:

PART 344—RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

- Sec.
- 344.1 Purpose and Scope.
 - 344.2 Definitions.
 - 344.3 Recordkeeping.
 - 344.4 Form of Notification.
 - 344.5 Time of Notification.
 - 344.6 Securities Trading Policies and Procedures.
 - 344.7 Exceptions.

Authority: 12 U.S.C. 1817, 1818, 1819.

§ 344.1 Purpose and scope.

(a) *Purpose.* The purpose of this Part is to ensure that purchasers of securities in transactions effected by an insured nonmember bank are provided adequate information concerning the transactions.

This part is also designed to ensure that insured nonmember banks maintain adequate records and controls with respect to securities transactions they effect.

(b) *Scope.* This part is issued by the Federal Deposit Insurance Corporation ("FDIC") and applies to insured banks which are not members of the Federal Reserve System ("bank").

§ 344.2 Definitions.

For purposes of this Part:

(a) "Collective investment fund" means funds held by a bank as fiduciary and, consistent with local law, invested collectively (1) in a common trust fund maintained by such bank exclusively for the collective investment and reinvestment of monies contributed thereto by the bank in its capacity as trustee, executor, administrator, guardian, or custodian under the Uniform Gifts to Minors Act, or (2) in a fund consisting solely of assets of retirement, pension, profit sharing, stock bonus or similar trusts which are exempt from Federal income taxation under the Internal Revenue Code;

(b) "customer" shall mean any person or account, including any agency, trust, estate, guardianship, committee or other fiduciary account, for which a bank effects or participates in effecting the purchase or sale of securities, but shall not include a broker, dealer, dealer bank or issuer of the securities which are the subject of the transactions;

(c) a bank shall be deemed to exercise "investment discretion" with respect to an account if, directly or indirectly, the bank (1) is authorized to determine what securities or other property shall be purchased or sold by or for the account, or (2) makes recommendations as to what securities or other property shall be purchased or sold by or for the account even though some other person may have responsibility for such investment decisions.

(d) "periodic plan" means any written authorization for a bank acting as agent to purchase or sell for a customer, a specific security or securities, in specific amounts (calculated in security units or dollars) or (to the extent of dividends and funds available) at specific time intervals, and setting forth the commission or charges to be paid by the customer in connection therewith, or the manner of calculating them;

(e) "security" means any interest or instrument commonly known as a "security," whether in the nature of debt or equity, including any stock, bond, note, debenture, evidence of indebtedness or any participation in or right to subscribe to or purchase any of

the foregoing. The term "security" does not include (1) a deposit or share account in a federally insured depository institution, (2) a loan participation, (3) a letter of credit or other form of bank indebtedness incurred in the ordinary course of business, (4) currency, (5) any note, draft, bill of exchange, or bankers acceptance which has a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited, (6) units of a collective investment fund, (7) interests in a variable amount (master) note of a borrower of prime credit or (8) U.S. Savings Bonds.

§ 344.3 Recordkeeping.

Every bank effecting securities transactions for customers shall maintain the following records of those transactions for at least three years:

(a) Chronological records of original entry containing an itemized daily record of all purchases and sales of securities. These shall include the account for which each such transaction was effected, the description of the securities, the unit and aggregate purchase of sale price (if any), the trade date, and the name or other designation of the broker/dealer or other person from whom purchased or to whom sold;

(b) account records for each customer which shall reflect all purchases and sales of securities, all receipts and deliveries of securities, and all other debits and credits pertaining to each account including all receipts and disbursements of cash;

(c) A separate memorandum (order ticket) of each order to purchase or sell securities (whether executed or cancelled), which shall include:

(1) the accounts for which the transaction was effected;

(2) whether the transaction was a market order, limit order, or subject to special instructions;

(3) the time the order was received by the trader or other bank employee responsible for effecting the transaction;

(4) the time the order was placed with the broker/dealer, or if there was no broker/dealer, the time the order was executed or cancelled;

(5) the price at which the order was executed; and

(6) the broker/dealer utilized;

(d) A record of all broker/dealers selected by the bank to effect securities transactions and the amount of commissions paid or allocated to each broker during the calendar year.

Nothing contained in this subparagraph shall require a bank to

maintain the records required by this section in any given manner, provided that the information required to be shown is clearly and accurately reflected and provides an adequate basis for the audit of such information.

§ 344.4 Form of Notification

Every bank effecting a securities transaction for a customer shall maintain for at least three years and, except as provided in § 344.5, mail or otherwise furnish to such customer either of the following types of notifications:

(a) (1) A copy of the confirmation of a broker/dealer relating to the securities transaction; and (2) if the bank is to receive remuneration from the customer or any other source in connection with the transaction, and the remuneration is not determined pursuant to a prior written agreement between the bank and the customer, a statement of the source and the amount of any remuneration to be received; or

(b) A written notification disclosing—

(1) The name of the bank;

(2) The name of the customer;

(3) Whether the bank is acting as agent for the customer, as agent for both the customer and some other person, as principal for its own account, or in any other capacity;

(4) The date and time of execution (or the fact that the time of execution will be furnished, within a reasonable time, upon written request of the customer), and the identity, price, and number of shares or units (or principal amount in the case of debt securities) of the security purchased or sold by the customer;

(5) The amount of any remuneration received or to be received, directly or indirectly, by any broker/dealer from the customer in connection with the transaction;

(6) The amount of any remuneration received or to be received by the bank from the customer and the source and amount of any other remuneration to be received by the bank in connection with the transaction, unless remuneration is determined pursuant to a written agreement between the bank and the customer. *Provided, however,* in the case of U.S. Government securities, Federal agency obligations and municipal obligations, this subparagraph (b)(6) shall apply only with respect to remuneration received by the bank in an agency transaction; and

(7)(i) the name of the broker/dealer utilized; or (ii) where no broker/dealer is utilized, the name of the person from whom the security was purchased or to whom it was sold, or the fact that such

information will be furnished within a reasonable time upon written request.

§ 344.5 Time of Notification.

The time for mailing or otherwise furnishing the written notification described in § 344.4 shall be five business days from the date of the transaction, or if a broker/dealer is utilized, within five business days from the receipt by the bank of the broker/dealer's confirmation, but the bank may elect to use the following alternative procedures if the transaction is effected for:

(a) Accounts (except periodic plans) where the bank does not exercise investment discretion and the bank and the customer agree in writing to a different arrangement; provided, however, that such agreement makes clear the customer's right to receive the written notification within the above prescribed time period at no additional cost to the customers;

(b) Accounts (except collective investment funds) where the bank exercises investment discretion in other than an agency capacity, in which instance the bank shall, upon request of the person having the power to terminate the account or, if there is no such person, upon the request of any person holding a vested beneficial interest in such account, mail or otherwise furnish to such person the written notification within a reasonable time. The bank may charge such person a reasonable fee for providing this information;

(c) Accounts where the bank exercises investment discretion in an agency capacity, in which instance:

(1) The bank shall mail or otherwise furnish to each customer, at least once every three months, an itemized statement that specifies funds and securities in the custody or possession of the bank at the end of such period, and all debits, credits, and transactions in the customer's account during such period; and

(2) If requested by the customer, the bank shall mail or otherwise furnish to each such customer within a reasonable time the written notification described in § 344.4;

(d) A collective investment fund, in which instance the bank shall at least annually furnish to the customer a copy of the financial report of the fund, or provide notice that a copy of the report is available and will be furnished upon request to each person to whom a regular periodic accounting would ordinarily be rendered for each participating account. This report shall be based upon an audit;

(e) A periodic plan, in which instance the bank shall mail or otherwise furnish to the customer, as promptly as possible after each transaction, a written statement showing (1) the funds and securities in the custody or possession of the bank, (2) all service charges and commissions paid by the customer in connection with the transaction, and (3) all other debits and credits of the customer's account involved in the transaction; *provided* that upon the written request of the customer the bank shall furnish the information described in § 344.4, except that any such information relating to remuneration paid in connection with the transaction need not be provided to the customer when paid by a source other than the customer. The bank may charge a reasonable fee for providing the information described in § 344.4.

§ 344.6 Securities Trading Policies and Procedures.

Every bank effecting securities transactions for customers shall establish written policies and procedures providing:

(a) assignment of responsibility for supervision of all officers or employees who (1) transmit orders to, or place orders with broker/dealers, or (2) execute transactions in securities for customers;

(b) for the fair and equitable allocation of securities and prices to accounts when orders for the same security are received at approximately the same time and are placed for execution either individually or in combination;

(c) where applicable, and where permissible under local law, for the crossing of buy and sell orders on a fair and equitable basis to the parties to the transaction; and

(d) that bank officers and employees who make investment recommendations or decisions for the accounts of customers, who participate in the determination of such recommendations or decisions, or who, in connection with their duties, obtain information concerning which securities are being purchased or sold or recommended for such action, must report to the bank, within ten days after the end of the calendar quarter, all securities transactions made by them or on their behalf, either at the bank or elsewhere, in which they have a beneficial interest. The report shall identify the securities purchased or sold and indicate the dates of the transactions and whether the transactions were purchases or sales. Excluded from this requirement are transactions for the benefit of the officer

or employee over which the officer or employee has no direct or indirect influence or control, transactions in mutual fund shares, and transactions involving in the aggregate \$10,000 or less in principal amount during the quarter.

§ 344.7 Exceptions.

(a) The requirements of §§ 344.3(b) through 344.3(d) shall not apply to banks having an average of less than 200 securities transactions per calendar year for customers over the prior three-calendar-year period;

(b) Activities of a bank that are subject to regulations promulgated by the Municipal Securities Rulemaking Board shall not be subject to the requirements of this Part; and

(c) Activities of foreign branches of a bank shall not be subject to the requirements of this Part.

By order of the Board of Directors, July 16, 1979.

Federal Deposit Insurance Corporation
Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 79-22684 Filed 7-23-79; 8:45 am]
BILLING CODE 6714-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-2972]

Arnaudville Industries, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires an Arnaudville, La. manufacturer and seller of mobile homes to cease improperly designating its warranties; and failing to include in its warranties all the information required by the Disclosure Rule, 16 CFR 701 (1977). The order further requires that purchasers of firm's products manufactured after July 4, 1975, whose warranties are still in effect, be informed, as prescribed, of their legal rights and the firm's obligations under warranties.

DATES: Complaint and order issued June 21, 1979.*

FOR FURTHER INFORMATION CONTACT: ETC/PR, Barbara Rowan, Washington, D.C. 20580. (202) 523-1642.

*Copies of the Complaint and Decision and Order are filed with the original document.

SUPPLEMENTARY INFORMATION: On Monday, April 16, 1979, there was published in the Federal Register, 44 FR 22488, a proposed consent agreement with analysis in the Matter of Arnaudville Industries, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.70 Fictitious or misleading guarantees; § 13.73 Formal regulatory and statutory requirements; § 13.205 Scientific or other relevant facts; § 13.260 Terms and conditions. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-37 Formal regulatory and/or statutory requirements; 13.533-45 Maintain records; 13.533-75 Warranties. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1623 Formal regulatory and statutory requirements; § 13.1647 Guarantees; § 13.1760 Terms and conditions. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1852 Formal regulatory and statutory requirements; § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46; interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 110(b), 88 Stat. 2190; 15 U.S.C. 2310)

Carol M. Thomas,
Secretary.

[FR Doc. 79-22611 Filed 7-23-79; 8:45 am]
BILLING CODE 6750-01-M

16 CFR Part 13

[Docket C-2971]

Fedders Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent

agreement requires an Edison, N.J. manufacturer and distributor of various products, including split system heat pumps, to offer, without charge, a replacement defrost cycle switch to all current owners of split system heat pumps manufactured by Fedders between November, 1975 and June 1, 1978; to extend a full warranty on the sealed system of the heat pump until May 1, 1980 to those purchasers who elect installation of the new defrost switch; and to reimburse all past or current owners of the affected heat pumps for any repair to the sealed system of the unit for which the owner has paid. The firm is required to mail notices to current and past owners of the affected heat pumps to let them know about the remedial program, and advertise the program in national magazines if a sufficient number of owners cannot be reached by letters.

DATES: Complaint and order issued June 14, 1979.*

FOR FURTHER INFORMATION CONTACT: FTC/PE, Robert S. Blacher, Washington, D.C. 20580. (202) 724-1507.

SUPPLEMENTARY INFORMATION: On Monday, February 26, 1979, there was published in the *Federal Register*, 44 FR 10985, a proposed consent agreement with analysis in the Matter of Fedders Corporation, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows: Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-55 Refunds, rebates and/or credits; 13.533-75 Warranties.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,
Secretary.

[FR Doc. 79-22809 Filed 7-23-79; 8:45 am]
BILLING CODE 6750-01-M

* Copies of the Complaint and Decision and Order are filed with the original document.

16 CFR Part 13 [Docket C-2973]

Madison Mobile-Modular Homes, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.
ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires an Ontario, Calif. manufacturer and seller of mobile homes to cease failing to properly designate its written warranties; disclose in its warranties all the information required by the Disclosure Rule, 16 CFR 701 (1977); and note in its warranty registration cards that warranty coverage or performance is not conditioned on the return of the cards. The firm is further required to notify purchasers of its mobile homes manufactured after July 4, 1975 of their implied warranty rights; and make available to these consumers all the relief provided under applicable state laws. Additionally, the order restrains the firm for four years from raising any defenses relating to the disclaimer of implied warranties in suits brought by affected purchasers.

DATES: Complaint and order issued June 21, 1979.*

FOR FURTHER INFORMATION CONTACT: FTC/PR, Barbara Rowan, Washington, D.C., 20580. (202) 523-1642.

SUPPLEMENTARY INFORMATION: On Monday, April 16, 1979, there was published in the *Federal Register*, 44 FR 22491, a proposed consent agreement with analysis in the Matter of Madison Mobile-Modular Homes, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows: Subpart-Advertising Falsely or Misleadingly: § 13.70 Fictitious or misleading guarantees; § 13.73 Formal regulatory and statutory requirements; § 13.205

* Copies of the Complaint and Decision and Order are filed with the original document.

Scientific or other relevant facts; § 13.260 Terms and conditions. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-37 Formal regulatory and/or statutory requirements; 13.533-45 Maintain records; 13.533-75 Warranties. Subpart-Misrepresenting Oneself and Goods—Goods: § 13.1623 Formal regulatory and statutory requirements; § 13.1647 Guarantees; § 13.1760 Terms and conditions. Subpart-Neglecting. Unfairly or Deceptively, To Make Material Disclosure: § 13.1852 Formal regulatory and statutory requirements; § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46; interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 110(b), 88 Stat. 2190; 15 U.S.C. 2310)

Carol M. Thomas,

Secretary.

[FR Doc. 79-22810 Filed 7-23-79; 8:45 am]
BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 249

[Release No. 34-15979]

Requests for Confidential Treatment of Information Filed by Institutional Investment Managers

Correction

In FR Doc. 79-20888 appearing at page 39388 in the issue for Friday, July 6, 1979, on page 39387, in the fifth line of paragraph d, delete the first "of".

BILLING CODE 1505-01-M

17 CFR Parts 270 and 274

Exemption of Acquisition of Securities During the Existence of Underwriting Syndicate; Revision of Rule and Amendment of Form

Correction

In FR Doc. 79-19199 appearing at page 36152 in the issue for Wednesday, June 20, 1979, on page 36153, second column, third line of the Footnote, remove the word "not".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

20 CFR Part 416

[Reg. No. 16]

Supplemental Security Income (SSI) Program; Valuing Resources on the Basis of Equity and Increasing Maximum Values on Certain Excluded Resources

AGENCY: Social Security Administration,
HEW.

ACTION: Final rule.

SUMMARY: These regulations change the way we evaluate resources under the Supplemental Security Income (SSI) program. Instead of evaluating property (other than an automobile) by its current market value we use its equity value, i.e., current market value less encumbrances. The regulations also increase the maximum value of household goods, personal effects and an automobile before these items are counted in determining whether persons meet the statutory resource limit. One automobile is excluded if it meets certain use requirements or to the extent that its current market value does not exceed \$4,500, but any excess over \$4,500 is counted. Any other automobile is counted at its equity value.

EFFECTIVE DATE: All of these regulations will be effective beginning with November 1, 1979. However, we are giving § 416.1218, *Exclusion of the automobile*, interim effect and providing an additional period for public comment because this section has been changed from the NPRM as a result of comments received. Any additional comments must be received on or before September 24, 1979.

ADDRESSES: Written comments may be submitted to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-7414.

SUPPLEMENTAL INFORMATION:

Prior Publications

Under the Social Security Act, a person whose resources exceed \$1,500 and a couple whose resources exceed \$2,250 may not be eligible for SSI benefits. The Act further provides that in determining resources there shall be excluded "household goods, personal

effects, and an automobile, to the extent that their total value does not exceed such amount as the Secretary determines to be reasonable."

In the past, SSA has evaluated these resources under the SSI program on the basis of current market value and SSA regulations currently reflect that policy. The Secretary reviewed the policy and on May 2, 1978, published a Notice of Proposed Rulemaking in the *Federal Register* (43 FR 18698) changing the basis of evaluating resources from current market value to equity value.

On April 28, 1978, a Notice of Proposed Rulemaking was published in the *Federal Register* (43 FR 18206) increasing the value of household goods and personal effects and an automobile that a person may have before they are counted toward the statutory resource limit. The excluded amount for household goods and personal effects was increased from \$1,500 to \$2,000, with any excess value counted toward the statutory resource limit. Similarly, the excluded amount for an automobile was increased from \$1,200 to \$2,000. These increases were proposed to allow for inflation.

Since both NPRMs amend the same sections of the regulations, the final rules are combined for publication at the same time.

Comments on Prior Publications

(1) Views were expressed by a welfare policy and law organization regarding SSA's rulemaking procedure. The commenter stated that past proposed rules have been given interim effect and suggested that we give equal treatment to these proposed rules.

The Administrative Procedure Act (APA) requires publication of an NPRM in the *Federal Register*. Although the statute makes an exception for matters relating to benefits, the Department of Health, Education, and Welfare has committed itself to observe the APA requirements on rulemaking even in its benefit programs. Under the APA we can make an exception to publishing an NPRM if it is impracticable, unnecessary, or contrary to public interest. We believe that the two prior NPRMs proposed important changes in policy and, therefore, an opportunity for public comment was useful.

(2) The welfare policy and law organization also stated that it believed the following published statement in the NPRM of May 2, 1978 was incorrect:

However, regulations pertaining to resources for purposes of the aid to families with dependent children (AFDC) program permit each State to decide whether to use

current market value or equity value in evaluating resources for AFDC.

We agreed that this statement was inaccurate and we deleted it through a correction notice published in the *Federal Register* on March 28, 1979 (44 FR 18053).

(3) Several commenters felt that there was inequity in the proposed rules to increase the maximum value of the automobile before it would be counted as a resource. They stated that people who own automobiles and homes appear to have an advantage over those who do not. These commenters suggested that the maximum value on household goods and personal effects should be raised for those people who do not own automobiles and homes.

The Social Security Act provides that the value of household goods, personal effects, and an automobile is to be excluded from resources to the extent that the Secretary determines to be reasonable. Current regulations and these regulations both provide for establishing limits on resources by category, that is, for household goods, and personal effects and for an automobile. For these categories, we have set limits which we consider consistent, with the purpose of the SSI program, to enable the aged, blind and disabled persons to meet their subsistence needs. We have not established limits for the value of a home since the law requires that the total value of a home is to be excluded from resources. We have also concluded that there are special circumstances which justify entirely excluding an automobile. For example, if the automobile is needed for employment or medical treatment or if it has been modified for use by a handicapped person, we will exclude it without regard to its value. Similarly, we exclude the total value of certain household goods and personal effects. For example, we totally exclude items that are necessary because of a person's physical condition and which are not used by others in the household.

We believe that the commenters' suggestion would not be consistent with the purpose of the SSI program. Increasing the value of an exclusion of one kind of resource simply because an exclusion for another kind of resource is not taken advantage of would permit a person to have more resources of a particular kind than the person would otherwise need for subsistence. Therefore, we are not adopting the commenters' suggested change.

(4) Several commenters suggested that the reasonable values of household

goods, personal effects, and the automobile be increased yearly to keep pace with inflation.

The purpose of updating the limits of household goods, personal effects, and the automobile in these regulations is an attempt to maintain these limits in the same relative position to the economy as they were at the start of the SSI program in January 1974. We intend to reassess the limits periodically in light of inflation (and any other pertinent factors). We will consider updating the limits if warranted on the basis of these reassessments.

(5) Several commenters felt that the proposed amounts of \$2,000 for the reasonable values of household goods, personal effects, and the automobile are insufficient because the amounts were based on 1976 information and do not keep up with current inflation.

While the increase in values reflect increased prices only for the period from April 1972 to June 1976, as indicated, we will consider updating the dollar limits in the future to reflect inflation after June 1976.

(6) Other commenters asked whether the proposed amendments have retroactive or prospective effect. These amendments will have prospective effect. Both the program and administrative costs involved in making these rules retroactive would be extremely high. In order to identify persons affected by a change in rules, all cases which were disallowed for a particular factor of eligibility (e.g., excess resources) would have to be identified, contacted and screened out, or processed. These rules will be effective the first day of the month following the expiration of 90 days after publication in the Federal Register (For example, if the rules are published July 25, 1979, the effective date will be November 1, 1979.) Time is needed to prepare, print, and distribute instructions to 1,200 field offices where these regulations will be implemented.

(7) One commenter asked that a standard concerning automobiles which Congress has written into the Food Stamp Act of 1977 be applied to the SSI program. The commenter suggests we count the amount by which the market value of an automobile exceeds \$4,500. We are modifying our policy to incorporate this suggestion. We will exclude one automobile, regardless of value, if it meets certain use requirements, or to the extent that its current market value does not exceed \$4,500. If the current market value exceeds \$4,500, the excess will be counted toward the person's (or couple's) resource limit. Any other

automobile is counted toward the resource limit at its equity value (unless it may be excluded under other resource rules—see § 416.1224(d) regarding exclusion of an automobile that is essential for self-support).

Interim Effect for Policy on Valuing the Automobile

We have changed the policy in § 416.1218 for valuing an automobile from that proposed in the two previous NPRMs dated April 29, 1978 and May 2, 1978. However, we are not publishing this change as another NPRM because (1) we have already announced our intent to revise the rules for valuing an automobile in the two earlier NPRMs, and (2) the change we have made is in response to public comments.

All of these regulations, including the rule on the automobile in § 416.1218, will be effective beginning November 1, 1979. The rule on the automobile is being given interim effect because of the change in policy from that in the NPRMs. The public will have an opportunity to comment on this rule for a period of 60 days following publication of these regulations. After we evaluate any comments we receive, we will publish this policy as a final rule.

(Secs. 1102, 1613(a), 1614(f), and 1631 of the Social Security Act, as amended; 49 Stat. 647, as amended, 86 Stat. 1470, as amended, 86 Stat. 1471, and 86 Stat. 1475 (42 U.S.C. 1302, 1382b(a), 1382c(f), and 1383)) (Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

Dated: July 12, 1979.

Stanford G. Ross,
Commissioner of Social Security.

Approved: July 17, 1979.

Joseph A. Califano, Jr.,
Secretary of Health, Education, and Welfare.

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. Section 416.1201 is amended by revising paragraphs (b) and (c) to read as follows:

§ 416.1201 Resources; general.

(b) *Liquid resources; defined.* Liquid resources are those assets that are in cash or are financial instruments which are convertible to cash. Liquid resources include cash on hand, cash in savings accounts or checking accounts, stocks, bonds, mutual fund shares, promissory notes, mortgages, and similar properties. Liquid resources, other than cash, are evaluated according to their equity value.

(c) *Nonliquid resources; defined.* (1) Nonliquid resources include all other properties, the term includes both real and personal property. Nonliquid resources are evaluated according to their equity value except as otherwise provided. (See § 416.1218 for treatment of automobiles.)

(2) For purposes of this Subpart L, the "equity value" of an item is defined as:

(i) The price that item can reasonably be expected to sell for on the open market in the particular geographic area involved; minus

(ii) Any encumbrances.

2. Paragraph (b) of § 416.1216 is revised to read as follows:

§ 416.1216 Exclusion of household goods and personal effects.

(b) *Limitation on household goods and personal effects.* In determining the resources of an individual (and spouse, if any), household goods and personal effects are excluded if their total equity value is \$2,000 or less. If the total equity value of household goods and personal effects is in excess of \$2,000, the excess is counted against the resource limitation.

3. In § 416.1218, paragraph (d) is revoked and paragraphs (b) and (c) are revised to read as follows:

§ 416.1218 Exclusion of the automobile.

(b) *Limitation on automobiles.* In determining the resources of an individual (and spouse, if any), automobiles are excluded or counted as follows:

(1) *Total exclusion.* One automobile is totally excluded regardless of its value if, for the individual or a member of the individual's household—

(i) It is necessary for employment;

(ii) It is necessary for the medical treatment of a specific or regular medical problem; or

(iii) It is modified for operation by or transportation of a handicapped person.

(2) *Exclusion to \$4,500 of the market value.* If no automobile is excluded under paragraph (b)(1) of this section, one automobile is excluded from counting as a resource to the extent its current market value does not exceed \$4,500. If the market value of the automobile exceeds \$4,500, the excess is counted against the resource limit.

(3) *Other automobiles.* Any other automobiles are treated as nonliquid resources and counted to the extent of their equity value (see § 416.1201(c)) against the resource limit. However, see § 416.1224(d).

(c) *Current market value.* The "current market value" of an automobile is the average price an automobile of that particular year, make, model, and condition will sell for on the open market (to a private individual) in the particular geographic area involved.

(FR Doc. 79-22818 Filed 7-23-79; 8:45 am)

BILLING CODE 4110-07-M

Food and Drug Administration

21 CFR Part 520

[Docket No. 79N-0211]

Oral Dosage Form New Animal Drugs Not Subject to Certification: Sulfamethoxypyridazine Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulation for sulfamethoxypyridazine tablets to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data. These conditions of use were classified as probably effective as a result of a National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group evaluation of the product. In lieu of certain efficacy data, approval may require submission of bioequivalence or similar data. An earlier Federal Register publication has reflected this product's compliance with the conclusions of the review.

EFFECTIVE DATE: July 24, 1979.

FOR FURTHER INFORMATION CONTACT: Donald A. Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of this product was published in the Federal Register of October 17, 1969 (34 FR 16636). In that document, the Academy concluded, and Food and Drug Administration (FDA) concurred, that the product was probably effective for the treatment of bacterial infections in the genitourinary respiratory and gastrointestinal systems of dogs and cats.

That announcement was issued to inform holders of new animal drug applications (NADA's) of the findings of the Academy and the agency, and to inform all interested persons that such articles could be marketed if they were the subject of approved NADA's and

otherwise complied with the requirements of the Federal Food, Drug, and Cosmetic Act.

The Parke, Davis & Co., Joseph Campau Avenue at the River, Detroit, MI 48232, responded to the notice by submitting a supplemental NADA (12-821V) providing current information covering manufacturing and controls and revising the labeling for the safe and effective use of the product in treating infections in dogs and cats. A regulation was published in the Federal Register of September 21, 1971 (36 FR 18726) setting forth the conditions of approval of the supplemental NADA. The regulation reflecting this approval (21 CFR 135C.41, recodified 21 CFR 520.2300) did not specify those conditions of use that were NAS/NRC approved.

This document amends the regulations to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data required for approval by § 514.111(a)(5)(vi) of the new animal drug regulations. In lieu of those data, approval of such products may be obtained if bioequivalency or similar data are submitted as suggested in the guideline for submitting NADA's for generic drugs reviewed by the NAS/NRC. The guideline is available from the office of the Hearing Clerk (HFA-305), Rm. 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520, is amended in § 520.2300 by adding after paragraph (d) (1), (2), and (3) the footnote reference "1" and by adding at the end of the section the footnote to read as follows:

§ 520.2300 Sulfamethoxypyridazine tablets.

(d) *Conditions of use.* (1) * * *

(2) * * *

(3) * * *

Effective date. This regulation is effective July 24, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

¹ These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

Dated: July 17, 1979.

Lester M. Crawford,
Director, Bureau of Veterinary Medicine.

(FR Doc. 79-22724 Filed 7-23-79; 8:45 am)

BILLING CODE 4110-03-M

21 CFR Part 520

[Docket No. 79N-0216]

Oral Dosage Form New Animal Drugs Not Subject to Certification; Promazine Hydrochloride

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations for promazine hydrochloride to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data. These conditions of use were classified as probably effective as a result of a National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group evaluation of the product. In lieu of certain efficacy data, approval may require submission of bioequivalence or similar data. An earlier Federal Register publication has reflected this product's compliance with the conclusions of the review.

EFFECTIVE DATE: July 24, 1979.

FOR FURTHER INFORMATION CONTACT: Donald A. Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of this product was published in the Federal Register of November 18, 1969 (34 FR 18394). In that document, the Academy concluded, and the Food and Drug Administration (FDA) concurred, that the product was probably effective as a tranquilizer for veterinary use.

That announcement was issued to inform holders of new animal drug applications (NADA's) of the findings of the Academy and the agency, and to inform all interested persons that such articles could be marketed if they were the subject of approved NADA's and otherwise complied with the requirements of the Federal Food, Drug, and Cosmetic Act.

Fort Dodge Laboratories, Fort Dodge, IA 50501, responded to the notice by submitting a supplemental NADA (12-656V) providing current information covering manufacturing and controls and revising the labeling for the safe

and effective use of the product as a tranquilizer for horses. The supplemental application was approved by regulation issued in the Federal Register of April 29, 1974 (39 FR 14943). The regulation reflecting this approval as an amendment to (21 CFR 135c.29, recodified 21 CFR 520.1962) did not specify those conditions of use that were NAS/NRC approved.

This document amends the regulations to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data required for approval by § 514.111(a)(5)(vi) of the animal drug regulations. In lieu of those data, approval of such products may be obtained if bio-equivalency or similar data are submitted as suggested in the guideline for submitting NADA's for generic drugs reviewed by the NAS/NRC. The guideline is available from the office of the Hearing Clerk (HFA-305), Rm. 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

§ 520.1962 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520, is amended in § 520.1962 by adding after paragraph (a)(5)(i), (ii) and (iii) the footnote reference "1."

Effective date. This regulation shall be effective July 24, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: July 17, 1979.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

(FR Doc. 79-22725 Filed 7-23-79; 8:45 am)

BILLING CODE 4110-03-M

21 CFR Part 522

[Docket No. 79N-0226]

Implantation or Injectable New Animal Drugs Not Subject to Certification: Promazine Hydrochloride Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations for promazine hydrochloride injection to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data. These conditions of use were classified as probably effective as a result of a

National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group evaluation of the product. In lieu of certain efficacy data, approval may require submission of bioequivalence or similar data. Earlier Federal Register publications have reflected this product's compliance with the conclusions of the review.

EFFECTIVE DATE: July 24, 1979.

FOR FURTHER INFORMATION CONTACT: Donald A. Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of this product was published in the Federal Register of November 18, 1969 (34 FR 18394). In that document, the Academy concluded, and the Food and Drug Administration (FDA) concurred, that the product was probably effective as a tranquilizer for veterinary use.

The announcement was issued to inform holders of new animal drug applications (NADA's) of the findings of the Academy and the agency, and to inform all interested persons that such articles could be marketed if they were the subject of approved NADA's and otherwise complied with the requirements of the Federal Food, Drug, and Cosmetic Act.

Fort Dodge Laboratories, Fort Dodge, IA 50501, and Wyeth Laboratories, Division of American Home Products Corp., P.O. Box 8299, Philadelphia, PA 19101, responded to the notice by submitting supplemental NADA's (11-241V and 10-782V, respectively) providing current information covering manufacturing and controls and revising the labeling for the safe and effective use of the product as a tranquilizer for horses, dogs, and cats. The supplemental NADA 10-782V was approved by a regulation issued in the Federal Register of August 3, 1973 (38 FR 20821). The regulation reflecting this approval established a new section (21 CFR 135b.60, recodified 21 CFR 522.1962). Supplemental NADA 11-241V was approved by publication of an amendment to § 522.1962 in the Federal Register of January 20, 1976 (41 FR 2821). The section at present does not specify those conditions of use that were NAS/NRC approved.

This document amends the regulations to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data required for approval by § 514.111(a)(5)(vi) of the animal drug

regulations. In lieu of those data, approval of such products may be obtained if bioequivalency or similar data are submitted as suggested in the guideline for submitting NADA's for generic drugs reviewed by the NAS/NRC. The guideline is available from the office of the Hearing Clerk (HFA-305), Rm. 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended in § 522.1962 by adding after paragraph (D)(1)(i) and (ii), (2), (3), and (4) the footnote reference "1" and by adding at the end of the section the footnote to read as follows:

§ 522.1962 Promazine hydrochloride injection.

- (d) *Conditions of use.* (1)(i) * * *
(ii) * * *
(2) * * *
(3) * * *
(4) * * *

Effective date. This regulation shall be effective July 24, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: July 17, 1979.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

(FR Doc. 79-22726 Filed 7-23-79; 8:45 am)

BILLING CODE 4110-03-M

21 CFR Part 524

[Docket No. 79N-0224]

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification: Flurandrenolide With Neomycin Sulfate Ointment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations for flurandrenolide with neomycin sulfate ointment to indicate those conditions of use for which approvals for identical products need not include certain types

¹ These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

of efficacy data. These conditions of use were classified as probably effective as a result of a National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group evaluation of the product. In lieu of certain efficacy data, approval may require submission of bioequivalence or similar data. An earlier Federal Register publication has reflected this product's compliance with the conclusions of the review.

EFFECTIVE DATE: July 24, 1979.

FOR FURTHER INFORMATION CONTACT: Donald A. Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of this product was published in the Federal Register of July 22, 1970 (35 FR 11714). In that document, the Academy concluded, and the Food and Drug Administration (FDA) concurred, that the product was probably effective as a topical ointment for dermatological use on dogs.

That announcement was issued to inform holders of new animal drug applications (NADA's) of the findings of the Academy and the agency, and to inform all interested persons that such articles could be marketed if they were the subject of approved NADA's and otherwise complied with the requirements of the Federal Food, Drug, and Cosmetic Act.

Elanco Products Co., A Division of Eli Lilly & Co., 740 South Alabama St., Indianapolis, IN 46206, responded to the notice by submitting a supplemental NADA (13-133V) providing current information covering manufacturing and controls and revising the labeling for the safe and effective use of the ointment on dogs. The supplemental application was approved by regulation issued in the Federal Register of November 1, 1974 (39 FR 38644). The regulation reflecting this approval (21 CFR 135a.17, recodified 21 CFR 524.1000) did not specify those conditions of use that were NAS/NRC approved.

This document amends the regulations to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data required for approval by § 514.111(a)(5)(vi) of the animal drug regulations. In lieu of those data, approval of such products may be obtained if bioequivalency or similar data are submitted as suggested in the guideline for submitting NADA's for generic drugs reviewed by the NAS/

NRC. The guideline is available from the office of the Hearing Clerk (HFA-305), Rm. 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 524 is amended in § 524.1000 by adding after paragraph (c)(1) and (2) the footnote reference "1" and by adding at the end of the section the footnote to read as follows:

§ 524.1000 Flurandrenolide with neomycin sulfate ointment.

- (c) *Conditions of use.* (1) * * *
(2) * * *

Effective date. This regulation is effective July 24, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: July 17, 1979.

Lester M. Crawford

Director, Bureau of Veterinary Medicine.

(FR Doc. 79-22723 Filed 7-23-79; 8:45 am)

BILLING CODE 4110-03-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 7

[T.D. 7634]

Income Tax; Expenditures To Remove Architectural and Transportation Barriers to Handicapped and Elderly

AGENCY: Internal Revenue Service, Treasury.

ACTION: Adoption of final regulations and deletion of temporary regulations.

SUMMARY: This document provides final regulations (and deletes temporary regulations) relating to expenditures to remove architectural and transportation barriers to the handicapped and elderly. Changes to the applicable law were made by the Tax Reform Act of 1976. These regulations may affect taxpayers who make expenditures to remove architectural and transportation barriers to the handicapped or elderly and provide taxpayers with the guidance needed to comply with the law.

EFFECTIVE DATE: The adoption of final regulations and the deletion of

¹ These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

temporary regulations are effective for taxable years beginning after December 31, 1976.

FOR FURTHER INFORMATION CONTACT: John M. Coulter, Jr., of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-4473).

SUPPLEMENTARY INFORMATION:

Background

On April 4, 1977, the Federal Register published Treasury Decision 7477 containing temporary income tax regulations under part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (42 FR 17870). Those amendments conformed the Temporary Income Tax Regulations under the Tax Reform Act of 1976 (26 CFR Part 7) to section 2122 of the Tax Reform Act of 1976 (90 Stat. 1914). In addition, the temporary regulations promulgated in that document were proposed to be prescribed as final Income Tax Regulations (26 CFR Part 1) under section 190 of the Internal Revenue Code of 1954. On June 21, 1977, a public hearing was held with respect to the proposed amendments. After consideration of all comments regarding the proposed amendments, those amendments are adopted by this Treasury decision without change. In addition, this Treasury decision deletes the Temporary Regulations under the Tax Reform Act of 1976 under Code section 190.

Explanation of Provisions

Section 2122 of the Tax Reform Act of 1976 added section 190 to the Code. Section 190 provides that a taxpayer may elect to deduct certain amounts paid or incurred by him in any taxable year beginning after December 31, 1976, and before January 1, 1980, for qualified architectural and transportation barrier removal expenses. The deduction is allowed for certain expenses for the purpose of making any facility, or public transportation vehicle, owned or leased by the taxpayer for use in connection with his trade or business more accessible to, or usable by, handicapped or elderly individuals.

To qualify for the deduction, section 190 provides that the taxpayer must establish that the removal of a barrier meets standards promulgated by the Secretary of the Treasury or his delegate with the concurrence of the Architectural and Transportation Barriers Compliance Board and set forth in regulations. The standards so

required were initially prescribed in Temporary Regulations under the Tax Reform Act of 1976 (26 CFR Part 7). The final regulations contained in this document prescribe standards identical to those set forth in the temporary regulations. The final regulations provide that qualified expenses include only expenses specifically attributable to the removal of an existing architectural or transportation barrier. These expenses do not include any part of an expense in connection with the construction or comprehensive renovation of a facility or public transportation vehicle or the normal replacement of depreciable property.

The amount deductible under section 190 for any taxable year is limited to \$25,000. Under the final regulations, the maximum deduction for a taxpayer (including an affiliated group of corporations filing a consolidated return) for any taxable year is \$25,000. The \$25,000 limitation applies to a partnership and to each partner. The regulations further provide that expenditures for a taxable year in excess of this amount are to be treated as capital expenditures and constitute adjustments to basis under section 1016(a). A special rule applies where a partner's expenditures exceed \$25,000.

Comments on Proposed Regulations

Comments were submitted objecting to the provisions of proposed § 1.190-2(b)(1) limiting expenditures which qualify for the section 190 deduction to expenses specifically attributable to the removal of an existing architectural or transportation barrier and excluding expenses paid or incurred in connection with the construction or comprehensive renovation of a facility or public transportation vehicle. To provide by regulation that a barrier may be removed in connection with new construction or comprehensive renovation would be inconsistent with the clear meaning of the statutory language and with the legislative history of the provision.

Other comments suggested that the list of standards for qualifying expenditures, contained in § 7.190-2(b)(2) through (21), should be expanded so that fewer barrier removals would be required to meet the more general standards of subparagraph (22) of § 7.190-2(b). However, we believe that the specifically approved standards should be limited at this time to those enumerated in § 7.190-2(b)(2) through (21), which are based in large measure on standards established by the American National Standards Institute, Inc.

Statutory Concurrence

The Architectural and Transportation Barriers Compliance Board has concurred in the standards set forth in these regulations.

Drafting Information

The principal author of this regulation was John M. Coulter, Jr., of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Additional Information

The regulations adopted by this Treasury decision impose no new reporting burdens or recordkeeping requirements. The principal effect of these final regulations is to provide guidance as to the deductibility of expenditures to remove architectural and transportation barriers to the handicapped and elderly. The Treasury Department will review these regulations from time to time in light of comments received from offices within the Treasury Department and Internal Revenue Service or from the public.

Adoption of amendments to the regulations

Accordingly, the regulations proposed to be prescribed as final Income Tax Regulations (26 CFR Part 1) under section 190 of the Internal Revenue Code of 1954 are adopted. In addition, the portion of the Temporary Income Tax Regulations under the Tax Reform Act of 1976 issued under section 190 of the Internal Revenue Code of 1954 (26 CFR 7.190-1 through 7.190-3) are deleted.

This Treasury decision is issued under the authority contained in sections 190 and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1914 and 68A Stat. 917; 26 U.S.C. 190 and 7805).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: July 6, 1979.

Donald C. Lubick,

Assistant Secretary of the Treasury.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

§ 1.190-1 Expenditures to remove architectural and transportation barriers to the handicapped and elderly.

(a) *In general.* Under section 190 of the Internal Revenue Code of 1954, a

taxpayer may elect, in the manner provided in § 1.190-3 of this chapter, to deduct certain amounts paid or incurred by him in any taxable year beginning after December 31, 1976, and before January 1, 1980, for qualified architectural and transportation barrier removal expenses (as defined in § 1.190-2(b) of this chapter). In the case of a partnership, the election shall be made by the partnership. The election applies to expenditures paid or incurred during the taxable year which (but for the election) are chargeable to capital account.

(b) *Limitation.* The maximum deduction for a taxpayer (including an affiliated group of corporations filing a consolidated return) for any taxable year is \$25,000. The \$25,000 limitation applies to a partnership and to each partner. Expenditures paid or incurred in a taxable year in excess of the amount deductible under section 190 for such taxable year are capital expenditures and are adjustments to basis under section 1016(a). A partner must combine his distributive share of the partnership's deductible expenditures (after application of the \$25,000 limitation at the partnership level) with that partner's distributive share of deductible expenditures from any other partnership plus that partner's own section 190 expenditures, if any (if he makes the election with respect to his own expenditures), and apply the partner's \$25,000 limitation to the combined total to determine the aggregate amount deductible by that partner. In so doing, the partner may allocate the partner's \$25,000 limitation among the partner's own section 190 expenditures and the partner's distributive share of partnership deductible expenditures in any manner. If such allocation results in all or a portion of the partner's distributive share of a partnership's deductible expenditures not being an allowable deduction by the partner, the partnership may capitalize such unallowable portion by an appropriate adjustment to the basis of the relevant partnership property under section 1016. For purposes of adjustments to the basis of properties held by a partnership, however, it shall be presumed that each partner's distributive share of partnership deductible expenditures (after application of the \$25,000 limitation at the partnership level) was allowable in full to the partner. This presumption can be rebutted only by clear and convincing evidence that all or any portion of a partner's distributive share of the partnership section 190 deduction was not allowable as a

deduction to the partner because it exceeded that partner's \$25,000 limitation as allocated by him. For example, suppose for 1978 A's distributive share of the ABC partnership's deductible section 190 expenditures (after application of the \$25,000 limitation at the partnership level) is \$15,000. A also made section 190 expenditures of \$20,000 in 1978 which he elects to deduct. A allocates \$10,000 of his \$25,000 limitation to his distributive share of the ABC expenditures and \$15,000 to his own expenditures. A may capitalize the excess \$5,000 of his own expenditures. In addition, if ABC obtains from A evidence which meets the requisite burden of proof, it may capitalize the \$5,000 of A's distributive share which is not allowable as a deduction to A.

§ 1.190-2 Definitions.

For purposes of section 190 and the regulations thereunder—

(a) *Architectural and transportation barrier removal expenses.* The term "architectural and transportation barrier removal expenses" means expenditures for the purpose of making any facility, or public transportation vehicle, owned or leased by the taxpayer for use in connection with his trade or business more accessible to, or usable by, handicapped individuals or elderly individuals. For purposes of this section—

(1) The term "facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or similar real or personal property.

(2) The term "public transportation vehicle" means a vehicle, such as a bus, a railroad car, or other conveyance, which provides to the public general or special transportation service (including such service rendered to the customers of a taxpayer who is not in the trade or business of rendering transportation services).

(3) The term "handicapped individual" means any individual who has—

(i) A physical or mental disability (including, but not limited to, blindness or deafness) which for such individual constitutes or results in a functional limitation to employment, or

(ii) A physical or mental impairment (including, but not limited to, a sight or hearing impairment) which substantially limits one or more of such individual's major life activities, such as performing manual tasks, walking, speaking, breathing, learning, or working.

(4) The term "elderly individual" means an individual age 65 or over.

(b) *Qualified architectural and transportation barrier removal*

expense—(1) In general. The term "qualified architectural and transportation barrier removal expense" means an architectural or transportation barrier removal expense (as defined in paragraph (a) of this section) with respect to which the taxpayer establishes, to the satisfaction of the Commissioner or his delegate, that the resulting removal of any such barrier conforms a facility or public transportation vehicle to all the requirements set forth in one or more of paragraphs (b) (2) through (22) of this section or in one or more of the subdivisions of paragraph (b) (20) or (21). Such term includes only expenses specifically attributable to the removal of an existing architectural or transportation barrier. It does not include any part of any expense paid or incurred in connection with the construction or comprehensive renovation of a facility or public transportation vehicle or the normal replacement of depreciable property. Such term may include expenses of construction, as, for example, the construction of a ramp to remove the barrier posed for wheelchair users by steps. Major portions of the standards set forth in this paragraph were adapted from "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped" (1971), the copyright for which is held by the American National Standards Institute, 1430 Broadway, New York, New York 10018.

(2) *Grading.* The grading of ground, even contrary to existing topography, shall attain a level with a normal entrance to make a facility accessible to individuals with physical disabilities.

(3) *Walks.* (i) A public walk shall be at least 48 inches wide and shall have a gradient not greater than 5 percent. A walk of maximum or near maximum grade and of considerable length shall have level areas at regular intervals. A walk or driveway shall have a nonslip surface.

(ii) A walk shall be of a continuing common surface and shall not be interrupted by steps or abrupt changes in level.

(iii) Where a walk crosses a walk, a driveway, or a parking lot, they shall blend to a common level. However, the preceding sentence does not require the elimination of those curbs which are a safety feature for the handicapped, particularly the blind.

(iv) An inclined walk shall have a level platform at the top and at the bottom. If a door swings out onto the platform toward the walk, such platform

shall be at least 5 feet deep and 5 feet wide. If a door does not swing onto the platform or toward the walk, such platform shall be at least 3 feet deep and 5 feet wide. A platform shall extend at least 1 foot beyond the strike jamb side of any doorway.

(4) *Parking lots.* (i) At least one parking space that is accessible and approximate to a facility shall be set aside and identified for use by the handicapped.

(ii) A parking space shall be open on one side to allow room for individuals in wheelchairs and individuals on braces or crutches to get in and out of an automobile onto a level surface which is suitable for wheeling and walking.

(iii) A parking space for the handicapped, when placed between two conventional diagonal or head-on parking spaces, shall be at least 12 feet wide.

(iv) A parking space shall be positioned so that individuals in wheelchairs and individuals on braces or crutches need not wheel or walk behind parked cars.

(5) *Ramps.* (i) A ramp shall not have a slope greater than 1 inch rise in 12 inches.

(ii) A ramp shall have at least one handrail that is 32 inches in height, measured from the surface of the ramp, that is smooth, and that extends 1 foot beyond the top and bottom of the ramp. However, the preceding sentence does not require a handrail extension which is itself a hazard.

(iii) A ramp shall have a nonslip surface.

(iv) A ramp shall have a level platform at the top and at the bottom. If a door swings out onto the platform or toward the ramp, such platform shall be at least 5 feet deep and 5 feet wide. If a door does not swing onto the platform or toward the ramp, such platform shall be at least 3 feet deep and 5 feet wide. A platform shall extend at least 1 foot beyond the strike jamb side of any doorway.

(v) A ramp shall have level platforms at not more than 30-foot intervals and at any turn.

(vi) A curb ramp shall be provided at an intersection. The curb ramp shall not be less than 4 feet wide; it shall not have a slope greater than 1 inch rise in 12 inches. The transition between the two surfaces shall be smooth. A curb ramp shall have a nonslip surface.

(6) *Entrances.* A building shall have at least one primary entrance which is usable by individuals in wheelchairs and which is on a level accessible to an elevator.

(7) *Doors and doorways.* (i) A door shall have a clear opening of no less than 32 inches and shall be operable by a single effort.

(ii) The floor on the inside and outside of a doorway shall be level for a distance of at least 5 feet from the door in the direction the door swings and shall extend at least 1 foot beyond the strike jamb side of the doorway.

(iii) There shall be no sharp inclines or abrupt changes in level at a doorway. The threshold shall be flush with the floor. The door closer shall be selected, placed, and set so as not to impair the use of the door by the handicapped.

(8) *Stairs.* (i) Stairsteps shall have round nosing of between 1 and 1½ inch radius.

(ii) Stairs shall have a handrail 32 inches high as measured from the tread at the face of the riser.

(iii) Stairs shall have at least one handrail that extends at least 18 inches beyond the top step and beyond the bottom step. The preceding sentence does not require a handrail extension which is itself a hazard.

(iv) Steps shall have risers which do not exceed 7 inches.

(9) *Floors.* (i) Floors shall have a nonslip surface.

(ii) Floors on a given story of a building shall be of a common level or shall be connected by a ramp in accordance with subparagraph (5) of this paragraph.

(10) *Toilet rooms.* (i) A toilet room shall have sufficient space to allow traffic of individuals in wheelchairs.

(ii) A toilet room shall have at least one toilet stall that—

(A) Is at least 36 inches wide;

(B) Is at least 56 inches deep;

(C) Has a door, if any, that is at least 32 inches wide and swings out;

(D) Has handrails on each side, 33 inches high and parallel to the floor, 1½ inches in outside diameter, 1½ inches clearance between rail and wall, and fastened securely at ends and center; and

(E) Has a water closet with a seat 19 to 20 inches from the finished floor.

(iii) A toilet room shall have, in addition to or in lieu of a toilet stall described in (ii), at least one toilet stall that—

(A) Is at least 66 inches wide;

(B) Is at least 60 inches deep;

(C) Has a door, if any, that is at least 32 inches wide and swings out;

(D) Has a handrail on one side, 33 inches high and parallel to the floor, 1½ inches in outside diameter, 1½ inches clearance between rail and wall, and fastened securely at ends and center; and

(E) Has a water closet with a seat 19 to 20 inches from the finished floor, centerline located 18 inches from the side wall on which the handrail is located.

(iv) A toilet room shall have lavatories with narrow aprons. Drain pipes and hot water pipes under a lavatory shall be covered or insulated.

(v) A mirror and a shelf above a lavatory shall be no higher than 40 inches above the floor, measured from the top of the shelf and the bottom of the mirror.

(vi) A toilet room for men shall have wall-mounted urinals with the opening of the basin 15 to 19 inches from the finished floor or shall have floor-mounted urinals that are level with the main floor of the toilet room.

(vii) Towel racks, towel dispensers, and other dispensers and disposal units shall be mounted no higher than 40 inches from the floor.

(11) *Water fountains.* (i) A water fountain and a cooler shall have upfront spouts and controls.

(ii) A water fountain and a cooler shall be hand-operated or hand-and-foot-operated.

(iii) A water fountain mounted on the side of a floor-mounted cooler shall not be more than 30 inches above the floor.

(iv) A wall-mounted, hand-operated water cooler shall be mounted with the basin 36 inches from the floor.

(v) A water fountain shall not be fully recessed and shall not be set into an alcove unless the alcove is at least 36 inches wide.

(12) *Public telephones.* (i) A public telephone shall be placed so that the dial and the headset can be reached by individuals in wheelchairs.

(ii) A public telephone shall be equipped for those with hearing disabilities and so identified with instructions for use.

(iii) Coin slots of public telephones shall be not more than 48 inches from the floor.

(13) *Elevators.* (i) An elevator shall be accessible to, and usable by the handicapped or the elderly on the levels they use to enter the building and all levels and areas normally used.

(ii) Cab size shall allow for the turning of a wheelchair. It shall measure at least 54 by 68 inches.

(iii) Door clear opening width shall be at least 32 inches.

(iv) All essential controls shall be within 48 to 54 inches from cab floor. Such controls shall be usable by the blind and shall be tactilely identifiable.

(14) *Controls.* Switches and controls for light, heat, ventilation, windows, draperies, fire alarms, and all similar

controls of frequent or essential use, shall be placed within the reach of individuals in wheelchairs. Such switches and controls shall be no higher than 48 inches from the floor.

(15) *Identification.* (i) Raised letters or numbers shall be used to identify a room or an office. Such identification shall be placed on the wall to the right or left of the door at a height of 54 inches to 66 inches, measured from the finished floor.

(ii) A door that might prove dangerous if a blind person were to exit or enter by it (such as a door leading to a loading platform, boiler room, stage, or fire escape) shall be tactilely identifiable.

(16) *Warning signals.* (i) An audible warning signal shall be accompanied by a simultaneous visual signal for the benefit of those with hearing disabilities.

(ii) A visual warning signal shall be accompanied by a simultaneous audible signal for the benefit of the blind.

(17) *Hazards.* Hanging signs, ceiling lights, and similar objects and fixtures shall be placed at a minimum height of 7 feet, measured from the floor.

(18) *International accessibility symbol.* The international accessibility symbol (see illustration) shall be displayed on routes to and at wheelchair-accessible entrances to facilities and public transportation vehicles.



(19) *Additional standards for rail facilities.* (i) A rail facility shall contain a fare control area with at least one entrance with a clear opening at least 36 inches wide.

(ii) A boarding platform edge bordering a drop-off or other dangerous condition shall be marked with a warning device consisting of a strip of floor material differing in color and texture from the remaining floor surface. The gap between boarding platform and vehicle doorway shall be minimized.

(20) *Standards for buses.* (i) A bus shall have a level change mechanism (e.g., lift or ramp) to enter the bus and sufficient clearance to permit a wheelchair user to reach a secure location.

(ii) A bus shall have a wheelchair securement device. However, the preceding sentence does not require a wheelchair securement device which is itself a barrier or hazard.

(iii) The vertical distance from a curb or from street level to the first front door step shall not exceed 8 inches; the riser height for each front doorstep after the first step up from the curb or street level shall also not exceed 8 inches; and the tread depth of steps at front and rear doors shall be no less than 12 inches.

(iv) A bus shall contain clearly legible signs that indicate that seats in the front of the bus are priority seats for handicapped or elderly persons, and that encourage other passengers to make such seats available to handicapped and elderly persons who wish to use them.

(v) Handrails and stanchions shall be provided in the entranceway to the bus in a configuration that allows handicapped and elderly persons to grasp such assists from outside the bus while starting to board and to continue to use such assists throughout the boarding and fare collection processes. The configuration of the passenger assist system shall include a rail across the front of the interior of the bus located to allow passengers to lean against it while paying fares. Overhead handrails shall be continuous except for a gap at the rear doorway.

(vi) Floors and steps shall have nonslip surfaces. Step edges shall have a band of bright contrasting color running the full width of the step.

(vii) A stepwell immediately adjacent to the driver shall have, when the door is open, at least 2 foot-candles of illumination measured on the step tread. Other stepwells shall have, at all times, at least 2 foot-candles of illumination measured on the step tread.

(viii) The doorways of the bus shall have outside lighting that provides at least 1 foot-candle of illumination on the street surface for a distance of 3 feet from all points on the bottom step tread edge. Such lighting shall be located below window level and shall be shielded to protect the eyes of entering and exiting passengers.

(ix) The fare box shall be located as far forward as practicable and shall not obstruct traffic in the vestibule.

(21) *Standards for rapid and light rail vehicles.* (i) Passenger doorways on the

vehicle sides shall have clear openings at least 32 inches wide.

(ii) Audible or visual warning signals shall be provided to alert handicapped and elderly persons of closing doors.

(iii) Handrails and stanchions shall be sufficient to permit safe boarding, onboard circulation, seating and standing assistance, and unboarding by handicapped and elderly persons. On a levelentry vehicle, handrails, stanchions, and seats shall be located so as to allow a wheelchair user to enter the vehicle and position the wheelchair in a location which does not obstruct the movement of other passengers. On a vehicle that requires the use of steps in the boarding process, handrails and stanchions shall be provided in the entranceway to the vehicle in a configuration that allows handicapped and elderly persons to grasp such assists from outside the vehicle while starting to board, and to continue using such assists throughout the boarding process.

(iv) Floors shall have nonslip surfaces. Step edges on a light rail vehicle shall have a band of bright contrasting color running the full width of the step.

(v) A stepwell immediately adjacent to the driver shall have, when the door is open, at least 2 foot-candles of illumination measured on the step tread. Other stepwells shall have, at all times, at least 2 foot-candles of illumination measured on the step tread.

(vi) Doorways on a light rail vehicle shall have outside lighting that provides at least 1 foot-candle of illumination on the street surface for a distance of 3 feet from all points on the bottom step tread edge. Such lighting shall be located below window level and shall be shielded to protect the eyes of entering and exiting passengers.

(22) *Other barrier removals.* The provisions of this subparagraph apply to any barrier which would not be removed by compliance with paragraphs (b)(2) through (21) of this section. The requirements of this subparagraph are:

(i) A substantial barrier to the access to or use of a facility or public transportation vehicle by handicapped or elderly individuals is removed;

(ii) The barrier which is removed had been a barrier for one or more major classes of such individuals (such as the blind, deaf, or wheelchair users); and

(iii) The removal of that barrier is accomplished without creating any new barrier that significantly impairs access to or use of the facility or vehicle by such class or classes.

§ 1.190-3 Election to deduct architectural and transportation barrier removal expenses.

(a) *Manner of making election.* The election to deduct expenditures for removal of architectural and transportation barriers provided by section 190(a) shall be made by claiming the deduction as a separate item identified as such on the taxpayer's income tax return for the taxable year for which such election is to apply (or, in the case of a partnership, to the return of partnership income for such year). For the election to be valid, the return must be filed not later than the time prescribed by law for filing the return (including extensions thereof) for the taxable year for which the election is to apply.

(b) *Scope of election.* An election under section 190(a) shall apply to all expenditures described in § 1.190-2 (or in the case of a taxpayer whose architectural and transportation barrier removal expenses exceed \$25,000 for the taxable year, to the \$25,000 of such expenses with respect to which the deduction is claimed) paid or incurred during the taxable year for which made and shall be irrevocable after the date by which any such election must have been made.

(c) *Records to be kept.* In any case in which an election is made under section 190(a), the taxpayer shall have available, for the period prescribed by paragraph (e) of § 1.6001-1 of this chapter (Income Tax Regulations), records and documentation, including architectural plans and blueprints, contracts, and any building permits, of all the facts necessary to determine the amount of any deduction to which he is entitled by reason of the election, as well as the amount of any adjustment to basis made for expenditures in excess of the amount deductible under section 190.

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

§§ 7.190-1—7.190-3 [Deleted]

[FR Doc. 79-22784 Filed 7-23-79; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 67**

(Docket No. 21264; FCC 79-418)

Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers Between the United States Mainland and Hawaii, Alaska, and Puerto Rico/Virgin Islands**AGENCY:** Federal Communications Commission.**ACTION:** Final rule, Docket 21264.

SUMMARY: The Commission adopts the Report and Order of the Federal-State Joint Board recommending application of the mainland separations formula (Part 67 of the rules) to Puerto Rico and the U.S. Virgin Islands. By this action Part 67 of the rules applies to Puerto Rico and the Virgin Islands. (Separations is the methodology by which expenses and investments are allocated between the inter and intra state jurisdictions.) This action terminates the proceeding.

EFFECTIVE DATE: July 24, 1979.

FOR FURTHER INFORMATION CONTACT: Francis L. Young, Federal Communications Commission, Washington, D.C. 20554, Room 530, (632-7084).

Report and Order

Adopted: July 12, 1979.

Released: July 18, 1979.

In the matter of Integration of Rates and Services for the provision of communications by authorized common carriers between the United States Mainland and Hawaii, Alaska, and Puerto Rico/Virgin Islands, Docket No. 21264, 43 FR 36978, July 18, 1977.

1. The Commission has under consideration the Report and Order of the Federal-State Joint Board on separations procedures for Puerto Rico and the United States Virgin Islands, released May 29, 1979, which is attached hereto. We agree with the findings of the Joint Board.

2. Accordingly, it is ordered, That the attached Report and Order of the Federal-State Joint Board is adopted as the Commission's Report and Order herein.

3. It is further ordered, That, pursuant to the provisions of Sections 4 (i), 205, 213, 221(c), 221(d), and 403 of the Communications Act of 1934, as amended, the NARUC-FCC Separations Manual, which is incorporated by reference into Part 67 of the Commission's rules and regulations,

shall apply to Puerto Rico and the United States Virgin Islands.

§ 67.1 [Amended]

4. It is further ordered, That Part 67 of the Commission's Rules and Regulations, 47 CFR Part 67, is amended by adding the following paragraph (e) to § 67.1:

(e) These Separations Procedures apply to Puerto Rico and the United States Virgin Islands.

5. It is further ordered, That this proceeding is terminated.

(Secs. 1, 2, 4, 201-205, 208, 215, 218, 313, 314, 403, 404, 410, 602; 48 Stat. as amended; 1064, 1066, 1070, 1071, 1072, 1073, 1076, 1077, 1087, 1094, 1098, 1102; (47 U.S.C. 151, 152, 154, 201-205, 208, 215, 218, 313, 314, 403, 404, 410, 602))

Federal Communications Commission.
William J. Tricarico,

Secretary.

Report and Order of the Federal-State Joint Board

Adopted: May 14, 1979.

Released: May 29, 1979.

In the matter of Integration of Rates and Services for the provision of communications by authorized common carriers between the United States Mainland and Hawaii, Alaska, and Puerto Rico/Virgin Islands, Docket No. 21264.

1. This proceeding was instituted in June, 1977 to establish the separations procedure applicable to Puerto Rico and the Virgin Islands.¹ In the Notice, the Commission stated that the final step of rate integration for Puerto Rico and the Virgin Islands necessitates the prescription of a separations methodology in order to determine an appropriate settlements arrangement. Additionally, the Commission stated that the question before the Joint Board was to determine what modifications, if any, should be made to existing separations procedures so that they may be applied to these off-shore points. This Joint Board adopted an Order in September 1977 establishing a notice and comment procedure to address this question. Following review of the initial filings, the Joint Board adopted a further schedule for the submission of responsive comments, the preparation of a recommended staff decision, and submission of additional filings including implementation studies by the parties in connection with the recommended staff decision.²

¹ Notice of Inquiry, Proposed Rulemaking and Creation of Federal-State Joint Board, 64 FCC 2d 1036 (1977).

² Memorandum Opinion and Order, FCC 78-207, released March 21, 1978.

2. On July 12, 1978 the staff recommended Report and Order was transmitted to all parties of record. The staff concluded therein that the record did not support modifications of the existing Separations Manual which includes the "Ozark" plan. The staff also observed that immediate implementation of the Manual might have adverse economic impacts and, therefore, requested that transition proposals be submitted by the parties. The parties prepared comments, responsive pleadings and implementation studies on the staff recommendation. The Joint Board then conducted an open meeting at which oral arguments were made by the parties. Following that hearing, the Joint Board instructed the staff to prepare this Report and Order which was adopted by telephone vote.

3. This Report and Order is divided into three parts. Part I sets forth the contentions of the parties. Part II summarizes the positions of the parties on the staff recommendation and the positions taken at the open meeting. Part III sets forth the Joint Board's rationale and conclusions in this proceeding. The Board's conclusion is limited to the question before it and does not address the broader questions of rate integration and possible future overall separations changes which some parties raised in their pleadings. The Board does note that immediate applications of the Manual together with full rate integration will provide substantial public interest benefits to the local telephone companies and their users in both Puerto Rico and the Virgin Islands. The benefits from rate integration will also be beneficial to consumers on the mainland and prompt implementation of the final phase of rate integration is strongly recommended.

Part I—Contentions of the Parties

Bell System Companies. 4. The Bell System Companies (Bell) take the position that since message telecommunications service (MTS) rate integration results in application of the nationwide U.S. Mainland average rate schedule to calls to and from Puerto Rico and the Virgin Islands, the existing Separations Manual applicable to the mainland United States should be made applicable to the off-shore points.³ Bell asserts that the burden is on any party who advocates any different method of separations to show why that method should be adopted. Arguing that no such

³ The existing Separations Manual (Part 67 of the Commission's rules and regulations) which incorporates the so-called "Ozark Plan" was adopted by the Commission in 1970. 26 FCC 2d 247.

showing has been made, Bell contends that traffic to and from the off-shore points involves the use of plant similar to that used on the Mainland. Specifically, Bell argues, that while greater use of satellites and submarine cables now exists in the provision of service, such facilities are generally used solely for interstate and foreign calling, and where so used, should be assigned 100% to interstate as the present Manual would do. Moreover, Bell continues, there is a substantial diversity of conditions on the Mainland which the existing Manual is designed to treat. Bell asserts that the addition of the off-shore points to the domestic scheme will not cause any significant change either in the range of conditions or in the averages. Bell also argues that no arguments based on alleged differences in costs or cost characteristics should be accepted until appropriate cost studies are made and presented for review. Such studies, Bell asserts, should be made on the basis of the existing Manual. In conclusion, Bell argues that the existing Manual has proved its ability to deal with widely varying conditions and should apply to all carriers providing service under the uniform schedules of rates and charges which will result from rate integration.⁴

ITT Companies. 5. The ITT Companies argue that the existing Manual cannot be prescribed for use in the off-shore points without substantial modifications to reflect distinctions between the Caribbean and the Mainland. Specifically, they argue that the existing Manual: (a) is in direct conflict with the domestic satellite order; (b) was not designed to handle Caribbean Calling patterns; (c) fails to reconcile the "conflict" between rate integration and the cost causation principles adopted in Docket 18128; (d) assumes flat-rate local service as opposed to usage sensitive pricing applicable to much of Caribbean Local service; (e) does not compensate for limited routing options available from Caribbean points; (f) does not adequately reflect the impact of international traffic to and from the off-shore points; (g) ignores cultural distinctions in the Caribbean; (h) contains negotiated "principles" which have no relevance to the Caribbean (i) is based on studies estimating range of cost disparities for mainland traffic only; and (j) is becoming questionable even

⁴ Bell also argues that while the existing Manual apportions too high a level of costs to interstate toll operations, the present procedures, so long as they are in effect, should be applicable for settlement of interstate toll revenues derived from traffic provided at uniform joint through rates to and from Puerto Rico and the Virgin Islands.

for the mainland and should therefore not be extended to new points until such questions are resolved.

6. The ITT Companies argue that the Joint Board must consider the impact of each off-shore distinction, and develop appropriate modifications to accommodate those distinctions. Development of these modifications, the companies argue, necessarily requires additional procedures, including the possibility of adjudicative hearings to resolve disputed issues of material fact. (The companies suggest that a study group comprised of members of the Joint Board's staff and representatives of the carriers be formed to pursue the development of a negotiated agreement.) The companies also recommend that the appropriate "baseline" for this proceeding should be a "Caribbean Ozark" methodology previously submitted to the Commission during rate integration negotiations conducted in 1976. The Companies argue that while questions and concerns were raised by Commission staff during the negotiations, the proposed plan was never rejected.

Therefore, this plan is offered as a new base-line. The Companies assert that the Joint Board must consider and resolve the several distinctions regarding the Caribbean and the procedural questions raised before a separations methodology can be prescribed.

PRTA/PRTC. 7. The Puerto Rico Telephone Authority (PRTA) owner of all stock of the Puerto Rico Telephone Company (PRTC) asserted that the existing Manual should be modified by applying the Bell System nationwide weighted average subscriber plant factor (SPF) in lieu of an actual Puerto Rico SPF. PRTA/PRTC further asserted that such Bell SPF be applied for five years following the date of full rate integration, following which review could be conducted to assess the validity of continuing the proposed modification. PRTA/PRTC state that initially, at least, it is to be expected that the revenue contribution to the interstate revenue pool of Puerto Rico mainland traffic will fall somewhat short of the settlements made with the respective carriers. However, PRTA/PRTC continue "inclusion of the Puerto Rico service area is no different from inclusion of many continental service areas which similarly incur higher-than-average costs by reason of geography, population density or a host of other exogenous factors." PRTA/PRTC argued that the modification proposed is justified as a matter of equity, practicality and underlying principle.

8. Specifically, PRTA/PRTC asserted that application of the Manual will result in an advantageous distribution of revenue to mainland carriers by increasing their SPF. To off-set this result PRTA/PRTC recommended that the Bell System SPF which they asserted is 1.53 times larger than the 1976 Puerto Rico SPF, should be applied as a matter of equity to eliminate what they see as the inadequate interstate contribution to their revenue requirement. They further argue that the high degree of instability in Puerto Rico's subscriber line use factor (SLU) which can be reduced approximately 74% makes it difficult, if not impossible, to forecast interstate traffic and, thus, intrastate revenue requirements. Therefore, the use of a relatively stable SPF until the effects of rate integration are known appeared justified. Finally, they argued, the deterrent effect of long distance calling is skewed by the absences of short, low-deterrent calls, since there are no Puerto Rico mainland calls of less than 1,000 miles. PRTA/PRTC argued that for this reason, it is consistent with the existing Manual to allow some further additive factor to account for the extraordinary deterrence to off-shore toll calling applicable to Puerto Rico traffic. They asserted, therefore, that use of the Bell System SPF be adopted in lieu of some other, probably more arbitrary, adjustment to the additive composite station ratio (CSR) factor.

Virgin Islands. 9. The Government of the Virgin Islands took the position that appropriate separations and settlement procedures be adopted that will insure accomplishment of interstate rate integration, without forcing local or intrastate rates to remain higher than those on the mainland. The Government argued that Virgin Island local rates are too high and such rates have a negative impact on the economic development of the Virgin Islands. The Government argued that "(d)ivisions are constantly made to assign increasing amounts of local telephone company investment to be supported by interstate revenues, thereby keeping local telephone rates down and permitting the maximum development and utilization of telephone service." The Government asked for continued adherence to this practice and policy.

Replies

Bell System Companies. 10. The Bell companies assert that none of the comments make a showing that Puerto Rico/Virgin Island traffic and costs are so different from mainland traffic and costs to warrant different treatment necessitating changes to the existing

Manual. Bell argued that the carriers should perform cost studies as soon as possible not only to determine jurisdictional separations but also to support settlements. Specifically, Bell argues that the case of *Smith v. Illinois Bell Telephone Co.*, 282 U.S. 133 (1930) establishes that separations should not be arbitrary and that assignment of further amounts to interstate simply to lower intra-state costs, as argued by the Virgin Islands, is not only impermissible, but also would be discriminatory. Relying on the *Smith* case, *supra*, Bell asserts that PRTA/PRTC's recommendation violates the "actual use" criteria set down by the Court. Moreover, Bell continues, the Commission, when it adopted the present Manual, clearly held that SPF should be determined on the basis of data in each specific study area. 28 FCC 2d 248 (1970) at 251. Bell asserts that wide variances exist on the mainland and that the PRTA/PRTC claimed SPF is within the range of SPF actually measured on the mainland. Bell further asserts that the present negotiated settlements are not pertinent in determining whether interstate revenues are adequate, rather data showing what the settlements would be if cost-based on Manual principles should be identified. Bell also asserts that the existing formula in which distance plays a significant part, will work to PRTA/PRTC's benefit as a result of its longer calling distances. To alleviate PRTA/PRTC's revenue stability concerns, Bell suggests that significant changes in interstate usage could be reflected more frequently than on the mainland, and, thus, the carriers would be able to develop reliable forecasts of interstate revenues.

11. The Bell companies replied to each point raised by the ITT companies. Bell asserted that the current Manual recognizes the various circumstances existing in the mainland states and represents a compromise of such variations. Moreover, Bell continued, the Manual makes no assumptions regarding types of local service, but merely allocates costs between inter and intrastate jurisdictions. Likewise, the procedures are not intended to allocate between interstate and foreign services, although such an allocation of the "interstate" cost will have to be made for settlement purposes in the Caribbean. Bell also asserted that, while many questions have been raised concerning the existing Manual, the Manual should be made applicable to Puerto Rico and the Virgin Islands until such time as revisions, if any, are adopted in other proceedings. Finally, Bell

asserted that no need exists to convene a special task force or study group, nor make the separations methodology a subject for negotiation among the parties.

12. In their reply, the ITT Companies asserted that they had demonstrated why the existing Manual should not be adopted, that only the Bell Companies supported the existing Manual, that it is highly questionable whether the existing Manual would achieve the goal set forth by the Virgin Islands Government, and that the position of PRTA/PRTC is antithetical to the conceptual basis for the existing Manual. The ITT Companies specifically asserted that the position of the Bell Companies is merely for administrative convenience and that while some of the diversities in the Caribbean are similar to those on the mainland, the more usual case is that the diversities are unique to the Caribbean. The ITT Companies again urged that a special task force be established to conduct appropriate studies necessary to form a sound basis for developing specific separations procedures applicable to the Caribbean as distinguished from the limited studies suggested by the Bell Companies. In response to the PRTA/PRTC recommendation (use of the mainland average SPF), the ITT Companies asserted that the proposed modification ignores the basic separations criteria of "actual use." The "use" concept, they contend is specifically recognized in the existing manual and was firmly established in the benchmark decision of *Smith v. Illinois Bell*, *supra*. In conclusion, the ITT Companies averred that no agreement exists among the parties to extend the existing Manual to Puerto Rico and the Virgin Islands and that no record exists at this junction upon which the existing Manual could be prescribed.

13. PRTA/PRTC in reply also specifically disputed each of the points raised by the ITT Companies. Moreover, PRTA/PRTC asserted the alternative "Caribbean Ozark" plan proposed by the ITT Companies has not been shown to be more appropriate than the existing Manual and that its adoption would impose an unreasonable burden on local service rate payers. PRTA/PRTC also asserted that the alternative procedural approaches suggested by the ITT Companies would delay the final step of rate integration and would be directly contrary to the stated intention of the Commission. Finally, PRTA/PRTC concluded that adoption of their recommended modification would permit rate integration to proceed expeditiously, allow for adoption of a

final plan when the effects of rate integration are known, and, since it would be based on the existing Manual, would make it easier to include Puerto Rico and the Virgin Islands in subsequent revisions to the Manual.

Responses

Carriers. 14. In their responsive pleadings each of the carriers reasserted their position and each recognized the need for specific implementation studies prior to the Joint Board establishing any final recommendation. Specifically the ITT Companies asserted that this Joint Board establish a data base similar to that being requested in the proceeding looking into what separations formula should be established for Alaska and Hawaii, Docket 21263. PRTA/PRTC asserted that the interim modification they recommended be adopted and the results be assessed based on actual experience. The Bell Companies on the other hand asserted that the parties have failed to justify any change in the existing Manual, and since the carriers will participate in the interstate revenue pool, they should comply with the same procedures applicable on the mainland. In response to the procedural challenges made, Bell asserted that the notice and comment procedures adopted are legally sufficient.⁵

Governments. 15. The Government of the Virgin Islands through their Public Service Commission noted that no studies have been conducted showing the effect of both rate integration and the separations Manual on the local telephone company in the Virgin Islands. Rather, they noted, all data currently available reflects the combined filings of both the local and associated Long Line carriers. The Public Service Commission suggested that adoption of the existing Manual may have a significant impact on intrastate rates and a corresponding adverse impact on the usage of telephone generally on the Virgin Islands. The Public Service Commission requested that detailed studies be ordered so that such potential impacts may be identified.

16. The State of West Virginia Public Service Commission asserted that the positions of parties advocating modifications to the existing Manual, or adopted, would be unjust and discriminatory to the other participants in the interstate revenue pool. The state

⁵In this connection, the ITT Companies in their response of March 31, 1978, stated their belief that our action of March 21, 1978 (FCC 78-207) "clearly move(s) in a positive direction toward remedying the deficiencies in this record through the additional proceeding . . . now authorized and the studies . . . now . . . require[d]."

pointed out that basic telephone rates in West Virginia are higher than the mainland average, that the existing Manual nevertheless is applicable to West Virginia and that any change to compensate for high local rates would be unjustly discriminatory towards mainland jurisdictions with high costs for basic service. The State supported the Commission's tentative preference for adoption of the existing Manual.

Part II—Comments and Studies

17. Bell, PRTA/PRTC, and the Puerto Rico Communications Authority (PRCA) filed comments supporting the staff recommendation to use the existing Separations Manual. In its comments, Bell essentially contended that any transition period should be resolved by settlement procedures not Manual modifications. Pending review of the studies performed by the carriers, Bell withheld formal endorsement of a transition period. PRTA/PRTC noted that use of the existing Manual together with a fifty percent traffic stimulation would result in a settlement (at a 9.5% settlement ratio) "better than that achieved under current revenue divisions. PRTA/PRTC argued that use of the Bell nationwide average SPF for one year would provide stability and, therefore, should be used for a transition period. PRCA, which provides service in the primarily rural areas of Puerto Rico,⁷ noted that adoption of the staff recommendations and cost based settlements together with full rate integration would result in substantially larger settlements than exists under the current revenue division practice. Thus, it advocated immediate adoption of the staff recommended.

18. The ITT companies averred that adoption of the staff recommendation with full rate integration would result in large mainland subsidies and, therefore, the recommendation should not be adopted. Additionally, the ITT companies recommendation that the Joint Board request the Commission to revisit its rate integration policy.⁸ The ITT companies further stated that the studies it submitted were consistent

⁷For purposes of uniform studies, a settlement ratio of 9.5% was set forth by the staff. At that time, 9.5% was assumed to be the current settlement ratio. However, in all probability, the current settlement ratio is most likely higher.

⁸PRCA did not file pleadings prior to release of the staff recommendation. It is considered a party herein.

⁹Rate integration is not an issue before this Joint Board. While it is true that rate integration is dependent upon this proceeding, this Joint Board has neither the authority nor desire to interfere in other Commission proceedings. The Joint Board also notes that none of the ITT companies has directly petitioned the Commission for the relief it proposed before the Board.

with the Joint Board's mandate and in no manner should be construed to mean adoption of the 9.5% settlement ratio as appropriate for the Caribbean. The studies demonstrated that with full rate integration VITELCO's settlements would nearly double under cost related settlements (i.e. pursuant to the Manual) as opposed to the current revenue division formula, while the ITT long lines carriers settlements under the Manual or existing percentage revenue divisions with full rate integration would be approximately the same. Such long lines settlements would be substantially less than current settlements without rate integration.⁹ The ITT companies, therefore, advocated a five year rate integration phase-in with separations procedures to be adopted later.

Replies

19. In their reply pleadings Bell, PRTA/PRTC, PRCA, and the Government of the Virgin Islands each stated that the studies clearly demonstrate no adverse economic harm would result from immediate adoption of the staff recommendation. PRTA/PRTC abandoned its request for temporary use of the national average SPF noting the extraordinary growth in traffic from the first phase of rate integration. The three telephone carriers noted that the ITT companies proposal was beyond the scope of the Joint Board and not meritorious. The Government of the Virgin Islands noted that the ITT companies study clearly demonstrated that VITELCO would be better off under the staff recommendation, that objections to rate integration were without merit, that adoption of the existing Manual now will permit the off-shore locations to fully participate in the broader questions being raised in other proceedings, and that the ITT companies sole objective is protection of the extraordinary profits of the long lines carriers. It was also noted by some of the parties that adoption of the staff recommendation and adoption of cost based settlements will permit all carriers to recover their costs as well as a return on investment.¹⁰

¹⁰ITT companies' studies estimate, with full rate integration, VITELCO settlements under the Manual at \$6.741M as compared to \$3.319M under revenue divisions. Long Lines carriers would receive \$16.471M as compared to \$16.604M. Without rate integration the long lines settlements for 1978 were estimated, by ITT, to be \$33.192M on the percentage divisions of revenue.

¹¹The ITT companies voluntarily elected not to file a reply pending action on a motion to comply which was subsequently denied, pursuant to our direction, by the Chief, Common Carrier Bureau.

Responses

20. In their responses all parties except the ITT companies stated that the staff recommendation should be adopted. The ITT companies continued to oppose the recommendation. Specifically, the ITT companies stated that the recommendation failed adequately to address points raised in its initial pleadings demonstrating differing conditions precluding use of the existing Manual. The ITT companies further asserted that rate of return questions are not before this Joint Board and that comments by the other parties concerning rate of return should be dismissed. The ITT companies further argue that facilities are not adequate to handle estimated traffic growth and that the potential problems with rate integration obviate any reasonable basis for measuring the impact of mainland procedures in the Caribbean.

Oral Presentations

21. At the open meeting, the parties each restated their previously held positions. All parties except the ITT companies argued for immediate adoption of the mainland procedures as well as immediate implementation of rate integration. The Puerto Rican carriers denied . . . that facilities were inadequate as suggested by the ITT companies. The ITT companies, while recognizing that the staff recommendations would be beneficial to VITELCO argued that some other plan might be even more beneficial. Moreover, it was asserted that facilities were not available to meet forecasted demands in the Virgin Islands. The parties did note that other issues were clouding the proceeding, i.e., rate of return and rate integration but that prompt resolution of the separations question would facilitate these other areas. The parties advocated that these other areas should be expeditiously addressed.¹¹

Part III—Discussion

22. The questions raised concerning the procedures adopted by the Joint Board lack merit. This proceeding is an integral part of a Commission proceeding and is subject to the same criteria established for such proceedings. It is clear that a notice and comment procedure is legally sufficient in establishing appropriate policy. See, e.g., *Western Union International, Inc. v. F.C.C.*, 568 F. 2d 1012 (2d Cir. 1977), cert. denied 98 SC 2845 (1978); *American Telephone and Telegraph Co. v. F.C.C.*,

¹¹In addition to the carriers, oral presentations were made on behalf of the Governor of Puerto Rico and the government of the Virgin Islands.

No. 77-4057 et al. (2d Cir. January 26, 1978). The Joint Board's procedures not only afforded the parties the opportunity to file comments, replies and responses, but also the opportunity to criticize the staff recommended report and order and to file further pleadings and specific studies in connection with that staff recommendation. Finally, the parties were afforded the opportunity to participate in oral argument before the Joint Board after all the filings were made. These later steps are not required by Commission rules. Clearly all parties have been afforded extraordinary due process.

23. The ITT companies arguments relating to the appropriateness of using the existing Separations Manual as a base-line for our deliberations are similarly without merit. The Commission's mandate to the Joint Board was to determine what changes, if any, should be made to the existing Separations Manual. The Commission noted their initial impression that the existing Manual should apply. However, all parties have had an opportunity to advocate appropriate changes. It should be noted that with the advent of full rate integration, the carriers will participate in the interstate revenue pool. The existing Manual applies to all other participants in the pool, and it is reasonable to use it as a departure point in this proceeding. The extent of the changes were limited only by a requirement that proposed changes be supported. Such changes could have included an entirely new plan if supported in a manner permitting the Board to make a reasoned decision. The ITT Companies have not petitioned the Commission to modify the mandate of the Joint Board nor have they properly advocated another plan for the Board's consideration.¹² The argument made by the ITT companies that the inapplicability of the existing Manual has been demonstrated is merely a conclusory assumption and does not support further consideration by this Joint Board. Moreover, assuming *arguendo* that the inappropriateness had been demonstrated, the ITT Companies failure to advocate specific changes or to seriously advocate another plan leaves no option to consider what other separations methodology should be employed.¹³

24. The parties have offered various interpretations of the *Smith v. Illinois Bell* case, *supra* as well as many

¹² Transcript, pp. 138-139.

¹³ It is a well settled principle in rulemaking proceedings that the burden of going forward with changes in an established rule rests on the party seeking such changes.

questions concerning the general appropriateness of the existing manual in light of recent Congressional and Commission actions. The Joint Board sees no need to comment on the proper interpretations of the *Smith* case except to point out that the holding recognizes that a rational approach be adopted in allocating costs between inter and intrastate jurisdictions. The existing Manual is, in our opinion, such an approach. As to the broad questions raised concerning the existing Manual, we note that the Commission is addressing certain of these questions in the context of other proceedings, e.g., FCC Docket Nos. 20981 and 78-72. The Board also notes that the Congress is addressing the entire area of separations and settlements in the context of proposed changes to, and rewrite of, the Communications Act. However, such concerns are not before the Joint Board. We are charged with preparing a recommended decision based on the current status of the law and regulations. To await future potential action(s) clearly would not be in the public interest. In fact, our action herein will place Puerto Rico and the Virgin Islands on an equal footing with the mainland states and will facilitate implementation of any overall amendments as they occur. Therefore the ITT Companies plea that we delay decision pending conclusion of these other efforts will be rejected.

25. In the responsive pleadings to the staff recommended report and order, the ITT Companies reasserted certain arguments made in their initial comments by stating that the staff recommendation failed to adequately address these arguments. Waiting to reassert such arguments in the final formal pleading precluded other parties from replying to such arguments and therefore could be considered an improper pleading. Nevertheless, we will address them.¹⁴ The ITT Companies assert that separations conflicts with the Commission's Domsat orders, is in conflict with the principles of Docket 18128, is premised on flat-rate pricing, fails to recognize different calling patterns, ignores cultural distinctions, does not recognize international traffic, is based on unlimited toll routing, and that the existing Manual was negotiated following numerous studies. The ITT Companies further assert that the existing Manual fails to achieve the objectives for which it was originally designed. Finally the ITT Companies

¹⁴ It should be noted that the staff recommended decision, para. 17, addressed the differing conditions arguments and properly dismissed them. See *Separations Procedures* 26 FCC 2d at 253.

assert that the Manual does not provide for recognition of unique Caribbean facilities such as earth stations, satellite leases, etc.

26. As noted earlier the scope of this Joint Board's authority is limited to the applicability of the existing manual and what changes, if any, should be made to it in order for it to be applicable to Puerto Rico and the Virgin Islands. Arguments concerning the broad questions raised concerning the Manual's achievement of intended goals are not before us and therefore, need not be addressed. Also, we have demonstrated that the procedures adopted by the Joint Board are more than adequate to enable us to reach a reasoned, lawful decision.

27. The arguments concerning the alleged conflict between the Domsat orders and Docket 18128 and the separations procedures are spurious. Separations allocates costs between jurisdictions. Docket 18128 requires that such allocated costs be properly assigned to services while the Domsat orders recognize that the cost savings inherent in satellite service support rate integration. The argument that the Manual fails to recognize international calling is not correct. International traffic for separations purposes is interstate and while settlements may require additional studies to segregate such costs and revenues, this result does not affect separations procedures. The arguments on cultural distinctions, limited call routing, and metered use rather than flat rate pricing are not meritorious. Separations allocates plant investment and costs and any additional costs resulting from such alleged unique conditions are accommodated under the existing Manual. Finally, as noted by the Bell responsive pleadings, regardless of the nature of the facility, i.e., earth stations, satellite leases, the costs associated with their use can be assigned to the proper jurisdiction under the existing Manual. For these reasons, the ITT Companies assertions that the existing Manual cannot be applied to the Caribbean are without merit.

28. Rather than immediately acting on the staff recommendation, as previously noted, we requested the parties to perform studies consistent with the recommendation and to demonstrate the economic impact on the companies should settlements at a 9.5% rate of return be made. The results of these studies were compared to settlements based solely on the current division of revenues formula on mainland-Puerto Rico/Virgin Islands traffic. Although settlements are not before the Joint Board, it was our belief that such

analysis was necessary since, on the mainland, settlements are generally based on separations studies. The aforementioned studies clearly demonstrate that the local telephone companies, PRTC, PRCA, and VITELCO, would receive more revenues under the separations and settlement ratio assumptions we set forth than under current revenue divisions. Adoption of the staff recommendation would, therefore, have a beneficial impact on the local jurisdictions. The only adverse financial impact (as compared with present revenue divisions) which we could discern was on the long lines carriers, AAC&R and CIVI. Such impact however, will be substantially reduced with the advent of full rate integration. It is clear to the Joint Board that the adverse impact was the result of the settlement ratio, 9.5%, set forth as a criterion for the studies together with rate integration, but that the long lines carriers would always recover their costs under the staff recommendation. Since settlements are not before the Joint Board, it is clear that should the long lines carriers seek relief from the adverse financial impact, such relief would have to be sought in another forum. Based on the assumption that settlements will flow from separations and that all carriers will recover their costs and a return on investment, we find no good reason to defer final action by this Joint Board or the Commission.

29. The record made in this proceeding clearly demonstrates that the existing separations manual can be applied to Puerto Rico and the United States Virgin Islands. The existing manual will not unfairly nor unreasonably treat any party. With the advent of full rate integration, Puerto Rico and the Virgin Islands will, for the purposes of MTS and WATS, be treated as any mainland state and will also participate in the interstate revenue pool.¹⁵ Adoption of the existing separations procedures will result, therefore, in such participation on the same basis as the mainland states. Participation in this manner is clearly consistent with the Commission's stated

¹⁵ The studies submitted in this proceeding clearly demonstrate that full rate integration accompanied by current divisions of revenues rather than Manual based settlements would have severe adverse impacts on the local telephone companies since they would not recover their interstate revenue requirements.

¹⁶ *Domestic Communications-Satellite Facilities*, 15 FCC 2d at 856, 859, *Reconsideration* 38 FCC 2d at 936-947.

¹⁷ We note that all parties except the ITT Companies support this finding. It is further noted that with the advent of full rate integration our conclusion will be more beneficial to VITELCO when settlements are based on separations rather than on division of revenues.

goal in its Domsat order to minimize distinctions in communications between the mainland and the off-shore points.¹⁶ Participation on an equal basis with the mainland will, of course, permit these off-shore locations to be treated in any modification to the Manual. From all of the foregoing the Joint Board is firmly of the opinion that adoption of the staff recommendation, i.e., use of the existing Separations Manual, would be in the public interest and is supported by the record.¹⁷

Conclusion

30. We have given careful consideration to the staff recommended report and order, the parties filings and implementation studies, the points raised in oral argument, and past Commission actions concerning separations matters. Based thereon it is the Joint Board's conclusion that the existing separations methodology prescribed for the mainland be made applicable to Puerto Rico and the United States Virgin Islands. While the issue of settlements is not before us, we conclude that adoption of the Joint Board's recommendation as a methodology for the development of cost based settlements will not have an adverse economic impact on the local telephone companies. We further conclude that settlements questions, if necessary, can be expeditiously addressed in other appropriate proceedings upon adoption of this recommended decision by the Commission.

31. Accordingly, it is recommended, that the following form of order be adopted by the Commission:

It is ordered, That, pursuant to the provisions of Sections 4(i), 205, 213, 221(c), 221(d) and 403 of the Communications Act of 1934, as amended, the NARUC-FCC Separations Manual, which is incorporated by reference into Part 67 of the Commission's rules and regulations, shall apply to Puerto Rico and the United States Virgin Islands.

It is further ordered, That Part 67 of the Commission's Rules and Regulations, 47 CFR Part 67 is amended by adding the following sentence:

These Separations procedures apply to Puerto Rico and the United States Virgin Islands.

FCC-NARUC Joint Board on Jurisdictional Separations.

[FR Doc. 79-22771 Filed 7-23-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

(BC Docket No. 78-79; RM-3006)

FM Broadcast Station in Rosamond, Calif.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a Class A FM channel to Rosamond, California, in response to a petition filed by Israel Sinofsky. The assigned channel would provide a first local aural broadcast service to the community.

EFFECTIVE DATE: August 27, 1979.

ADDRESS: 5 Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Stanley P. Wiggins, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: July 13, 1979.

Released: July 19, 1979.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations, (Rosamond, California), BC Docket No. 78-79, RM-3006.

1. By *Notice of Proposed Rule Making*, released March 2, 1978, 43 FR 9510, the Commission proposed the assignment of Class A FM Channel 288A to Rosamond, California (pop. 2,281).

2. Petitioner, Israel Sinofsky, who is urging the assignment, had stated that Rosamond is not located near an urbanized area. While he recognized that Rosamond receives service from stations in three other communities in the area, including Lancaster (30,948), Palmdale (8,511) and Mojave (2,573), he asserted that it has no locally originated source of information, expression and advertising. Petitioner asserted that Rosamond's population has increased substantially since the 1970 Census, and stated he will apply for permission to construct a facility on Channel 288A if the assignment is made.

3. In response to the *Notice*, Sinofsky reiterated his interest in such an assignment. The only other party filing comments, Lancaster-Palmdale Broadcasting Corporation ("LPB"), licensee of Stations KKZZ(AM) and KOTL(FM) in Lancaster, and KDOL(AM/FM) in Mojave, asserted in opposing the proposal that such an assignment would be inappropriate. LPB contends that Rosamond is actually a suburb of Lancaster (some 10 miles

removed), and is not so isolated from urbanized areas with existing stations as petitioner contends. LPB also contended that no significant population would be provided with a first or second aural service by the assignment, and that "Rosamond's problems are no different in any material degree" from those of other communities with licensed stations in the area.¹ Petitioner disputes LPB on several counts.

4. We believe Rosamond can benefit from its first locally originated aural service, and see no public interest to be served by denying this assignment. There is no question that Rosamond is of sufficient size to warrant such an assignment absent unusual conditions. There is no requirement in Commission policy that first or second aural service be established for a Class A assignment such as this, nor does the Commission restrict assignments to incorporated communities. While LPB contends the community's needs do not materially differ from those of surrounding local communities, this is a judgment better made by an independent licensee attempting to serve its local community of license than by a competitor operating four stations in the immediate vicinity. Rosamond is well outside the urban area of Lancaster, and the exact location or telephone listings of local employers are not determinative of an area's identity as a community sufficient to warrant an FM assignment. Such judgments are open to detailed examination at the application stage, but on the record before us here we believe the various indicia of common interests in Rosamond support such an assignment as was indicated in the *Notice*.

5. Accordingly, it is ordered, That effective August 27, 1979, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended to read, insofar as the community named is concerned, as follows:

City	Channel No.
Rosamond, California.....	288A

6. It is further ordered, That this proceeding is terminated.

7. For further information on this proceeding, contact Stanley P. Wiggins, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303).)

¹ LPB also offers other assertions along with its contention that no support for such an assignment has been established in terms of demand for local advertising. This matter is not a proper question to resolve here but is an issue properly addressed at the application stage of proceedings. *Adrian, Michigan*, 37 F.C.C. 2d 1021 (1972).

Federal Communications Commission.

Richard J. Shiben,
Chief, Broadcast Bureau.

[FR Doc. 79-22769 Filed 7-23-79; 8:45 am]

BILLING CODE 6712-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 70, 73, and 150

Safeguard Requirements for Special Nuclear Material of Moderate and Low Strategic Significance

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations for physical protection of plants and materials, including nonpower reactors, to require physical protection measures to detect theft of special nuclear material of moderate and low strategic significance. The amendments are being made in the interest of common defense and security. The measures are designed to provide a level of protection equivalent to that recommended in Information Circular/225/Rev. 1 (INFCIRC/225) published by the International Atomic Energy Agency (IAEA). The amendments specify protection requirements for special nuclear material at fixed sites, including nonpower reactors, and for special nuclear material in transit.

Physical protection requirements for independent spent fuel storage installations and nuclear power reactors are presently covered under 10 CFR § 73.40, § 73.50, and § 73.55 and therefore are not included in these amendments.

Concurrent with the publication of the amendments, the NRC is publishing a regulatory guide entitled, "Standard Format and Content for the Licensee Physical Security Plan for the Protection of Special Nuclear Material of Moderate or Low Strategic Significance." This document has been prepared as an aid to uniformity and completeness in the preparation and review of the physical security plan for special nuclear material of moderate and low strategic significance. In addition, a value/impact assessment of these amendments has been prepared and placed in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

EFFECTIVE DATE: November 21, 1979.

Note.—The Nuclear Regulatory Commission has submitted this rule to the Comptroller General for review of its reporting requirement under the Federal Reports Act, as amended, 44 U.S.C. 3512. The date on which the reporting requirement of the rule becomes effective, unless advised to the contrary, includes a 45-day period which

that statute allows for Comptroller General review (44 U.S.C. 3512(c)(2)).

FOR FURTHER INFORMATION CONTACT:

Mr. J. A. Prell, Safeguards Standards Branch, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 443-5904 or Mr. C. K. Nulsen, Requirements Analysis Branch, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 427-4043.

SUPPLEMENTARY INFORMATION: On May 24, 1978 the Nuclear Regulatory Commission published in the *Federal Register* (43 FR 22216) proposed amendments to 10 CFR Parts 70, 73, and 150 of its regulations. Interested persons were invited to submit written comments and suggestions on the proposed amendments within thirty days after publication in the *Federal Register*. Based on the public comments and other considerations, the Commission has adopted the proposed amendments, with modifications as set forth below.

The effective physical protection amendments are designed to have overall equivalency to the recommendations of INFCIRC/225 Rev. 1, but there are differences in the detailed requirements. INFCIRC/225 Rev. 1 recommendations are designed to minimize the possibilities of theft or sabotage of SNM of moderate or low strategic significance. The effective amendments have been primarily designed to require early detection of theft of SNM of moderate or low strategic significance. However, in requiring early detection capabilities, these amendments deter the possibilities of theft or diversion. In the judgment of the Commission, the degree of protection afforded by the containment, monitoring and detection procedures required by these amendments provide equivalency to the INFCIRC/225 Rev. 1 recommendations for protection of theft or diversion of SNM.

Significant differences from the proposed rule published for comment on May 24, 1978 are: (1) Plutonium-Beryllium (PuBe) sealed sources would be exempted from the physical protection requirements; (2) Plutonium with isotopic concentration exceeding 80 percent in plutonium-238 would be exempted from the physical protection requirements; (3) package and vehicle search requirements at facilities where special nuclear material of moderate strategic significance is used or stored have been changed; (4) The period of time allotted for submittal of a licensee plan to implement these requirements has been changed from 60 days to 120

days after the effective date of the amendment. In addition, editorial and clarifying changes were made and some definitions added to clarify the intent of the regulations.

The following discussion pertains to items (1) through (4) above.

(1) PuBe sealed sources—Commenters stated that the cost of providing the required physical protection for PuBe sealed sources would be prohibitive from the point of view of the limited budgets available at universities where most of the sources are now located. Imposition of the proposed requirements, it was said, would result in the curtailment of the use of PuBe sources at some sites with a significant impact on the educational and research programs at those institutions. In view of the very small quantities of plutonium found in PuBe sealed sources (generally, from 16 to 161 grams) and the fact that potential adversaries wishing to obtain a 5 kg formula quantity of plutonium would have to commit separate acts of theft at a large number of widely separated sites without being detected, the Commission has decided that the threat to the common defense and security of this country was sufficiently low that physical security measures should not be required for PuBe sealed sources. There is an upper limit of 500 grams of plutonium to which this exemption can be applied because greater than a 500 gram accumulation of plutonium in this form invalidates the basis for this exemption. IAEA guidelines allow for such exceptions in the case of research type facilities.

(2) More than 80 percent Pu-238—The proposed rule has been amended to reflect that plutonium with isotopic concentration exceeding 80 percent in plutonium-238 would be exempted from the physical protection requirements. This change corrects an oversight in the initially proposed amendments in which it was intended that such material would be exempted to be consistent with the definitions of Category II and III material in the IAEA document INFCIRC/225/Rev. 1.

(3) Search requirements—Package and vehicle search requirements at facilities at which special nuclear material of moderate strategic significance is used or stored have been changed. As revised, random searches are only required regarding items leaving controlled access areas, and not of those entering. The primary objective of entry searches is to detect materials which could be useful in sabotage. Since protection against sabotage is not within the scope of the proposed amendments,

an entry search requirement is not necessary.

(4) Submission and Implementation of Plans—Several commenters stated that more time would be needed than the sixty days allowed for submission of physical security plans, or amendments to them, following the date the proposed amendments become effective.

The Commission agrees that more time may be required, especially in the case of licensees who have limited managerial and financial resources, and has changed the submission date to be 120 days following the effective date of the amendment. In addition, the licensee is now required to implement the approved security plan within 240 days following the effective date of the amendment or within 30 days after the plan is approved, whichever is later.

Concurrent with the publication of the amendments, the NRC is publishing a guide entitled "Standard Format and Content for the Licensee Physical Security Plan for the Protection of Special Nuclear Material of Moderate or Low Strategic Significance." The guide is being published for a sixty-day comment period and will be reissued with comments taken into consideration. The amendments to 10 CFR Parts 70, 73 and 150 would become effective at this time (120 days after publication) (November 21, 1979). Licensees would therefore have 240 days after publication of the amendments to submit their plans. The plan would have to be implemented 30 days after approval by the Commission or 360 days after (date of publication in the *Federal Register*) (July 24, 1979).

Another area of comment dealt with employee screening. Some of the licensees interpreted the screening requirement to call for a full field background investigation of all personnel entering the controlled access areas where the material is used or stored. The wording of the rule has been revised to more clearly indicate that the requirement is merely one requiring a screening based on knowledge of persons permitted access rather than a formal security investigation. The guidance package being issued with the rule explains more fully the intent of this requirement.

There was one other area of comment for which no specific changes were made to the amendments but which is of significance. These comments dealt generally with the technical justification for the proposed amendments.

Many of the commenters questioned the technical justification for the proposed amendments on the basis of the lack of detailed information regarding the threat; the additional costs

of implementation they perceived to be incommensurate with only marginal improvements in physical protection; and the impacts on the licensees' ongoing educational and research programs. Particular attention was focused by some commenters on the physical protection requirements for low enriched uranium.

The technical justification for the U.S. adoption of the proposed amendments is contingent on both domestic and international factors, which are closely interrelated. Current NRC physical protection regulations apply primarily to strategic special nuclear material (uranium enriched in the isotope U-235 to 20% or greater, U-233, and plutonium) in quantities of five formula kilograms or greater. There are no specific physical protection requirements for quantities in lesser amounts. Yet, it can be properly argued that a 4.9 formula kilogram quantity of SNM is about as important a quantity as 5.0 kilograms. Multiple thefts of such materials in close to formula quantities could result in the accumulation of more than a formula quantity. The proposed detection requirements are considered to provide sufficient protection with minimum added cost so as not to affect educational and research programs. Since the requirements are of a detection nature rather than prevention, characterization of the adversary in the regulations was deemed not to be necessary.

In regard to low enriched uranium (LEU) (enrichments less than 20%), clandestine enrichment to higher levels may go beyond the capability of subnational terrorists, but it does not go beyond the capability of other governments. Unless properly safeguarded, low enriched uranium could be stolen on behalf of foreign governments and enriched to explosive useable levels after it is smuggled out of the U.S.

The Nuclear Non-Proliferation Act of 1978 specifies that NRC shall promulgate regulations which assure that physical security measures are provided to special nuclear materials exported from the United States without specifying whether the materials are low enriched uranium or high enriched uranium.

Pursuant to this legislation, the Commission has promulgated 10 CFR Part 110.43 which provides among other things that:

"(b) Commission determinations on the adequacy of physical security programs in recipient countries for Category II and III quantities of material will be based on available relevant information and written assurances from the recipient country or

group of countries that physical security measures providing as a minimum protection comparable to that set forth in INFCIRC/225 will be maintained."

While the proposed amendments would provide a needed extension of domestic physical protection to special nuclear materials for which the level of physical protection required was not previously specified, the full value of such protection could not be realized until similar protection is afforded all such material among the nations utilizing such materials. Physical protection measures similar to those proposed, which are based on the recommendations of the IAEA Information Circular INFCIRC/225/Rev. 1, have already been adopted by several countries.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 70, 73, and 150 are published as a document subject to codification.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

1. Paragraph 70.22(g) of 10 CFR Part 70 is revised to read as follows:

§ 70.22 Contents of Applications

(g) Each application for a license that would authorize the transport or delivery to a carrier for transport of special nuclear material in an amount specified in § 73.1(b)(2) of this chapter shall include (1) a description of the plan for physical protection of special nuclear material in transit in accordance with §§ 73.30 through 73.36, 73.47 (a) and (e), 73.47(g) for 10 kg or more of special nuclear material of low strategic significance, and 73.70(g) of this chapter including, as appropriate, a plan for the selection, qualification and training of armed escorts, or the specification and design of a specially designed truck or trailer, and (2) a licensee safeguards contingency plan or response procedures, as appropriate, for dealing with threats, thefts, and industrial sabotage relating to the special nuclear material in transit. Each application for such a license involving formula quantities of strategic special nuclear material shall include the first four categories of information contained in the applicant's safeguards contingency plan. (The first four categories of information, as set forth in Appendix C to 10 CFR Part 73, are Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix. The fifth category of

information, Procedures, does not have to be submitted for approval.)

2. Paragraph 70.22(h) of 10 CFR Part 70 is revised to read as follows:

(h) Each application for a license to possess or use at any site or contiguous sites subject to control by the licensee uranium-235 (contained in uranium enriched to 20 percent or more in the uranium-235 isotope), uranium-233, or plutonium alone or in any combination in a quantity of 5,000 grams or more computed by the formula, $\text{grams} = (\text{grams contained U-235} + 2.5 (\text{grams U-233} + \text{grams plutonium}))$, other than a license for possession or use of such material in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter, shall include a physical security plan, consisting of two parts. Part I shall address vital equipment, vital areas, and isolation zones, and shall demonstrate how the applicant plans to meet the requirements of §§ 73.40, 73.50, 73.60, 73.70, and 73.71 of this chapter in the conduct of the activity to be licensed. Part II shall list tests, inspections, and other means to demonstrate compliance with such requirements.

3. Section 70.22 is amended to add a new paragraph (k) to read as follows:

(k) Each application for a license to possess or use at any site or contiguous sites subject to control by the licensee special nuclear material of moderate strategic significance or 10 kg or more of special nuclear material of low strategic significance as defined under paragraphs 73.2 (x) and (y) of this chapter, other than a license for possession or use of such material in the operation of a nuclear power reactor licensed pursuant to Part 50 of this chapter, shall include a physical security plan which shall demonstrate how the applicant plans to meet the requirements of paragraph 73.47 (d), (e), (f) and (g), as appropriate, of Part 73 of this chapter.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

4. Paragraph 73.1(b) of 10 CFR Part 73 is revised to read as follows:

§ 73.1 Purpose and Scope.

(b) Scope

(1) This part prescribes requirements for (i) the physical protection of production and utilization facilities licensed pursuant to Part 50 of this chapter; (ii) the physical protection of plants in which activities licensed pursuant to Part 70 of this chapter are

conducted, and (iii) the physical protection of special nuclear material by any person who, pursuant to the regulations in Part 70 of this chapter, possesses or uses at any site or contiguous sites subject to the control by the licensee, formula quantities of strategic special nuclear material or special nuclear material of moderate strategic significance or special nuclear material of low strategic significance.

(2) This part prescribes requirements for the physical protection of special nuclear material in transportation by any person who is licensed pursuant to the regulations in Part 70 and Part 110 of this chapter who imports, exports, transports, delivers to a carrier for transport in a single shipment, or takes delivery of a single shipment free on board (f.o.b) where it is delivered to a carrier, formula quantities of strategic special nuclear material or special nuclear material of moderate strategic significance or special nuclear material of low strategic significance.

5. Section 73.2 of 10 CFR Part 73 is amended by revising paragraph (b) and adding new paragraphs (x), (y), (z), (aa) and (bb) to read as follows:

§ 73.2 Definitions.

(b) "Authorized individual" means any individual, including an employee, a student, a consultant, or an agent of a licensee who has been designated in writing by a licensee to have responsibility for surveillance of or control over special nuclear material or to have unescorted access to areas where special nuclear material is used or stored.

(x) "special nuclear material of moderate strategic significance" means:

(1) less than a formula quantity of strategic special nuclear material but more than 1000 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U-235 isotope) or more than 500 grams of uranium-233 or plutonium or in a combined quantity of more than 1000 grams when computed by the equation, $\text{grams} = (\text{grams contained U-235}) + 2 (\text{grams U-233} + \text{grams plutonium})$, or

(2) 10,000 grams or more of uranium-235 (contained in uranium enriched to 10 percent or more but less than 20 percent in the U-235 isotope).

(y) "special nuclear material of low strategic significance" means:

(1) less than an amount of strategic special nuclear material of moderate strategic significance, as defined in § 73.2(x)(1), but more than 15 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U-235 isotope) or 15 grams of uranium-233

or 15 grams of plutonium or the combination of 15 grams when computed by the equation, $\text{grams} = \text{grams contained U-235} + \text{grams plutonium} + \text{grams U-233}$, or

(2) less than 10,000 grams but more than 1000 grams of uranium-235 (contained in uranium enriched to 10 percent or more but less than 20 percent in the U-235 isotope), or

(3) 10,000 grams or more of uranium-235 contained in uranium enriched above natural but less than 10 percent in the U-235 isotope.

(z) "Controlled access area" means any temporarily or permanently established area which is clearly demarcated, access to which is controlled and which affords isolation of the material or persons within it.

(aa) "Strategic special nuclear material" means uranium-235 (contained in uranium enriched to 20 percent or more in the U-235 isotope), uranium-233, or plutonium.

(bb) "Formula quantity" means strategic special nuclear material in any combination in a quantity of 5,000 grams or more computed by the formula, $\text{grams} = (\text{grams contained U-235}) + 2.5 (\text{grams U-233} + \text{grams plutonium})$.

6. A new § 73.47 is added to 10 CFR Part 73 to read as follows:

§ 73.47 Licensee Fixed Site and In-Transit Requirements For The Physical Protection of Special Nuclear Material of Moderate and Low Strategic Significance.

(a) General Performance Objectives

(1) Each licensee who possesses, uses or transports special nuclear material of moderate or low strategic significance shall establish and maintain a physical protection system that will achieve the following objectives:

(i) Minimize the possibilities for unauthorized removal of special nuclear material consistent with the potential consequences of such actions; and

(ii) Facilitate the location and recovery of missing special nuclear material.

(2) To achieve these objectives, the physical protection system shall provide:

(i) Early detection and assessment of unauthorized access or activities by an external adversary within the controlled access area containing special nuclear material;

(ii) Early detection of removal of special nuclear material by an external adversary from a controlled access area;

(iii) Assure proper placement and transfer of custody of special nuclear material; and

(iv) Respond to indications of an unauthorized removal of special nuclear material and then notify the appropriate response forces of its removal in order to facilitate its recovery.

(b)(1) A licensee is exempt from the requirements of this section to the extent that he possesses, uses, or transports (i) special nuclear material which is not readily separable from other radioactive material and which has a total external radiation dose rate in excess of 100 rems per hour at a distance of 3 feet from any accessible surface without intervening shielding or (ii) sealed plutonium-beryllium neutron sources totaling 500 grams or less contained plutonium at any one site or contiguous sites or (iii) plutonium with an isotopic concentration exceeding 80 percent in plutonium-238.

(2) A licensee who has quantities of special nuclear material equivalent to special nuclear material of moderate strategic significance distributed over several buildings may, for each building which contains a quantity of special nuclear material less than or equal to a level of special nuclear material of low strategic significance, protect the material in that building under the lower classification physical security requirements.

(c) Each licensee who possesses, uses, transports or who delivers to a carrier for transport special nuclear material of moderate strategic significance of 10 kg or more of special nuclear material of low strategic significance shall:

(1) Submit by [date 120 days from effective date of amendment] a security plan or an amended security plan describing how the licensee will comply with all the requirements of Sections 73.47 (d), (e), (f), and (g), as appropriate, including schedules of implementation; and

(2) Within 240 days after the effective date of these amendments or 30 days after the plan(s) submitted pursuant to paragraph (c)(1) of this section is approved, whichever is later, implement the approved security plan

(d) Fixed Site Requirements for Special Nuclear Material of Moderate Strategic Significance—Each licensee who possesses, stores, or uses quantities and types of special nuclear material of moderate strategic significance at fixed sites, except those who are licensed to operate a nuclear power reactor pursuant to Part 50, shall:

(1) use the material only within a controlled access area which is illuminated sufficiently to allow detection and surveillance of unauthorized penetration or activities,

(2) store the material only within a controlled access area such as a vault-type room or approved security cabinet or their equivalent which is illuminated sufficiently to allow detection and surveillance of unauthorized penetration or activities,

(3) monitor with an intrusion alarm or other device or procedures the controlled access areas to detect unauthorized penetration or activities,

(4) conduct screening prior to granting an individual unescorted access to the controlled access area where the material is used or stored, in order to obtain information on which to base a decision to permit such access,

(5) develop and maintain a controlled badging and lock system to identify and limit access to the controlled access areas to authorized individuals,

(6) limit access to the controlled access areas to authorized or escorted individuals who require such access in order to perform their duties,

(7) assure that all visitors to the controlled access areas are under the constant escort of an individual who has been authorized access to the area,

(8) establish a security organization or modify the current security organization to consist of at least one watchman per shift able to assess and respond to any unauthorized penetrations or activities in the controlled access areas,

(9) provide a communication capability between the security organization and appropriate response force,

(10) search on a random basis vehicles and packages leaving the controlled access areas, and

(11) establish and maintain response procedures for dealing with threats of thefts or thefts of such materials.

(e) In-Transit Requirements for Special Nuclear Material of Moderate Strategic Significance—

(1) Each licensee who transports, exports or delivers to a carrier for transport special nuclear material of moderate strategic significance shall:

(i) provide advance notification to the receiver of any planned shipments specifying the mode of transport, estimated time of arrival, location of the nuclear material transfer point, name of carrier and transport identification,

(ii) receive confirmation from the receiver prior to the commencement of the planned shipment that the receiver will be ready to accept the shipment at the planned time and location and acknowledges the specified mode of transport,

(iii) transport the material in a tamper-indicating sealed container,

(iv) check the integrity of the containers and seals prior to shipment, and

(v) arrange for the in-transit physical protection of the material in accordance with the requirements of § 73.47(e)(3) of this part unless the receiver is a licensee and has agreed in writing to arrange for the in-transit physical protection.

(2) Each licensee who receives special nuclear material of moderate strategic significance shall:

(i) check the integrity of the containers and seals upon receipt of the shipment,

(ii) notify the shipper of receipt of the material as required in Section 70.54 of Part 70 of this chapter, and

(iii) arrange for the in-transit physical protection of the material in accordance with the requirements of § 73.47(e)(3) of this part unless the shipper is a licensee and has agreed in writing to arrange for the in-transit physical protection.

(3) Each licensee, either shipper or receiver, who arranges for the physical protection of special nuclear material of moderate strategic significance while in transit or who takes delivery of such material free on board (f.o.b.) the point at which it is delivered to a carrier for transport shall:

(i) arrange for a telephone or radio communications capability, for notification of any delays in the scheduled shipment, between the carrier and the shipper or receiver,

(ii) minimize the time that the material is in transit by reducing the number and duration of nuclear material transfers and by routing the material in the most safe and direct manner,

(iii) conduct screening of all licensee employees involved in the transportation of the material in order to obtain information on which to base a decision to permit them control over the material,

(iv) establish and maintain response procedures for dealing with threats of thefts or thefts of such material,

(v) make arrangements to be notified immediately of the arrival of the shipment at its destination, or of any such shipment that is lost or unaccounted for after the estimated time of arrival at its destination, and

(vi) conduct immediately a trace investigation of any shipment that is lost or unaccounted for after the estimated time and report to the Nuclear Regulatory Commission as specified in § 73.71 and to the shipper or receiver as appropriate. The licensee who made the physical protection arrangements shall also immediately notify the Director of the appropriate Nuclear Regulatory Commission Inspection and Enforcement Regional Office listed in

Appendix A of the action being taken to trace the shipment.

(4) Each licensee who exports special nuclear material of moderate strategic significance shall comply with the requirements specified in § 73.47(c), (e)(1) and (e)(3).

(5) Each licensee who imports special nuclear material of moderate strategic significance shall:

(i) comply with the requirements specified in § 73.47(c) (e)(2) and (e)(3) and

(ii) notify the exporter who delivered the material to a carrier for transport of the arrival of such material.

(f) Fixed Site Requirements for Special Nuclear Material of Low Strategic Significance—Each licensee who possesses or uses special nuclear material of low strategic significance at fixed sites, except those who are licensed to operate a nuclear power reactor pursuant to Part 50, shall:

(1) store or use the material only within a controlled access area,

(2) monitor with an intrusion alarm or other device or procedures the controlled access areas to detect unauthorized penetrations or activities,

(3) assure that a watchman or offsite response force will respond to all unauthorized penetrations or activities, and

(4) establish and maintain response procedures for dealing with threats of thefts or thefts of such material.

(g) In-Transit Requirements for Special Nuclear Material of Low Strategic Significance—

(1) Each licensee who transports or who delivers to a carrier for transport special nuclear material of low strategic significance shall:

(i) provide advance notification to the receiver of any planned shipments specifying the mode of transport, estimated time of arrival, location of the nuclear material transfer point, name of carrier and transport identification,

(ii) receive confirmation from the receiver prior to commencement of the planned shipment that the receiver will be ready to accept the shipment at the planned time and location and acknowledges the specified mode of transport,

(iii) transport the material in a tamper indicating sealed container,

(iv) check the integrity of the containers and seals prior to shipment, and

(v) arrange for the in-transit physical protection of the material in accordance with the requirements of § 73.47(g)(3) of this part, unless the receiver is a licensee and has agreed in writing to

arrange for the in-transit physical protection.

(2) Each licensee who receives quantities and types of special nuclear material of low strategic significance shall:

(i) check the integrity of the containers and seals upon receipt of the shipment,

(ii) notify the shipper of receipt of the material as required in § 70.54 of Part 70 of this chapter, and

(iii) arrange for the in-transit physical protection of the material in accordance with the requirements of § 73.47(g)(3) of this part, unless the shipper is a licensee and has agreed in writing to arrange for the in-transit physical protection.

(3) Each licensee, either shipper or receiver, who arranges for the physical protection of special nuclear material of low strategic significance while in transit or who takes delivery of such material free on board (f.o.b.) the point at which it is delivered to a carrier for transport shall:

(i) establish and maintain response procedures for dealing with threats of thefts or thefts of such material,

(ii) make arrangements to be notified immediately of the arrival of the shipment at its destination, or of any such shipment that is lost or unaccounted for after the estimated time of arrival at its destination, and

(iii) conduct immediately a trace investigation of any shipment that is lost or unaccounted for after the estimated arrival time and report to the Nuclear Regulatory Commission as specified in § 73.71 and to the shipper or receiver as appropriate. The licensee who made the physical protection arrangements shall also immediately notify the Director of the appropriate Nuclear Regulatory Commission Inspection and Enforcement Regional Office listed in Appendix A of the action being taken to trace the shipment.

(4) Each licensee who exports special nuclear material of low strategic significance shall comply with the appropriate requirements specified in § 73.47(c), (g)(1) and (g)(3).

(5) Each licensee who imports special nuclear material of low strategic significance shall:

(i) comply with the requirements specified in § 73.47(c), (g)(2) and (g)(3), and

(ii) notify the person who delivered the material to a carrier for transport of the arrival of such material.

7. Section 73.71(a) of 10 CFR Part 73 is revised to read as follows:

§ 73.71 Reports of unaccounted for shipments, suspected theft, unlawful diversion, or industrial sabotage.

(a) Each licensee who conducts a trace investigation of a lost or unaccounted for shipment pursuant to § 73.36(f), § 73.47(e)(3)(vi), or § 73.47(g)(3)(iii) shall immediately report to the appropriate NRC Regional Office listed in Appendix A the details and results of his trace investigation and shall file within a period of fifteen (15) days a written report to the appropriate NRC Regional Office setting forth the details and results of the trace investigation. A copy of such written report shall be sent to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

8. Section 73.72 of 10 CFR Part 73 is revised to read as follows:

§ 73.72 Requirement for advance notice of shipment of special nuclear material.

Each licensee who plans to import, export, transport, deliver to a carrier for transport in a single shipment, or take delivery at the point where it is delivered to a carrier, formula quantities of strategic special nuclear material or special nuclear material of moderate strategic significance shall notify the Director of the appropriate Nuclear Regulatory Commission Inspection and Enforcement Regional Office listed in Appendix A by U.S. Mail, postmarked at least 7 days in advance of the shipping date. The following information shall be furnished in the advance notice: shipper, receiver, carrier(s), estimated date and time of departure and arrival, transfer point(s), and mode(s) of shipment. The Director of the appropriate Nuclear Regulatory Commission Inspection and Enforcement Regional Office shall also be notified by telephone 7 days in advance of the shipping date that an advance shipping notice has been sent by mail, and of any changes to the shipment itinerary prior to the shipment date. Road shipments or transfers with one-way transit times of 1 hour or less in duration between installations of a licensee are excepted from the requirements of this section.

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES UNDER SECTION 274

9. 10 CFR Part 150 is amended to add a new Section 150.14 to read as follows:

§ 150.14 Commission Regulatory Authority for Physical Protection.

Persons in Agreement States possessing, using or transporting special

nuclear material of low strategic significance in quantities greater than 15 grams of plutonium or uranium-233 or uranium-235 (enriched to 20 percent or more in the U-235 isotope) or any combination greater than 15 grams when computed by the equation grams = grams uranium-235 + grams plutonium + grams uranium-233 shall meet the physical protection requirements of § 73.47 of 10 CFR Part 73.

EFFECTIVE DATE: November 21, 1979.

(Sec. 53, 161i, Pub. Law 83-703, 88 Stat. 948, Pub. Law 93-377, 88 Stat. 475; Sec. 201, Pub. Law 93-438, 88 Stat. 1242-1243, Pub. Law 94-79, 89 Stat. 413 (42 U.S.C. 2073, 2201, 5841).)

Dated at Washington, D.C. this 18th day of July, 1978.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-22971 Filed 7-23-79; 8:45 am.]

BILLING CODE 7590-01-M

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[7 CFR Part 226]

Child Care Food Program

Correction

In FR Doc. 79-20396 appearing at page 39077 in the issue for Tuesday, July 13, 1979, make the following corrections:

(1) On page 39078, in the first column, under the heading SUPPLEMENTARY INFORMATION, in the second paragraph, in the 5th line, insert the word "limit" between the words "time" and "for".

(2) On page 39078, in the middle column, in the 18th line from the top of the page, insert the word "final" between the words, "affect" and "regulatory".

(3) On page 39080, in the third column, under the heading III. State Responsibility, in the paragraph designated by "2. Application approval," in the 1st line, substitute, "Pub. L. 95-627" for "The statute".

(4) On page 39082, in the middle column, in the paragraph designated by "8. Procurement standards," in the 8th line, replace the word "finds" with the word "funds".

(5) On page 39083, in the middle column, in the paragraph designated by "6. Audits," in the 7th line, insert the word "audit" between the words "the" and "biennial".

(6) On page 39083, in the middle column, in the paragraph designated by "6. Audits," in the 10th line, substitute "audit" for "audity".

(7) On page 39087, in the first column, in § 226.2(e), in the 6th line, insert the word "not" between the words "but" and "limited".

(8) On page 39091, in the middle column, in § 226.7(d)(2), the 26th line should read, "or certificates with any applicable State or".

(9) On page 39091, in the middle column, in § 226.7(d)(3), in the 28th line,

replace the word "Page" with the word "Program".

(10) On page 39091, in the middle column, in § 226.7(d)(3), in the 32nd line, replace the word "indicated" with the word "indicates".

(11) On page 39096, in the third column, in § 226.16(a), in the 10th line, substitute "tax-exempt" for "tax-exept" and replace the word "any" with the word "may".

(12) On page 39098, in § 226.17(c), in the 2nd line, replace the word "is" with the word "as".

(13) On page 39100, in the third column, in § 226.20(c), in the introductory paragraph, in the 3rd line, insert the prefix "sub" before the word "paragraphs".

(14) On page 39100, in the third column, in § 226.20(c)(2)(iii), in the 2nd line, insert the word "four" between the words "following" and "components".

(15) On page 39100, in the third column, in § 226.20(c)(3), in the 1st line, insert the number "1" in front of the word "cup".

(16) On page 39105, in the third column, in § 226.25(b)(3)(ii)(D), in the 9th line, replace "(b)(2) and (3)" with "(b)(2) and (b)(3)".

BILLING CODE 1505-01-M

Agricultural Marketing Service

[7 CFR Part 924]

Handling of Fresh Prunes Grown in Designated Counties in Washington and in Umatilla County, Ore.

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on a proposal to exempt designated handlers from inspection and certification requirements of this order under a waiver of inspection procedure. This is designed to provide for orderly marketing in the interests of producers and consumers.

DATES: Comments must be received by August 8, 1979.

ADDRESSES: Send comments to: Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at

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the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447-5975.

SUPPLEMENTARY INFORMATION: Consideration is being given to the following waiver of inspection rule proposal, recommended by the Washington-Oregon Fresh Prune Marketing Committee, established under the marketing agreement and Order No. 924, as amended (7 CFR Part 924), regulating the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This proposal has not been determined significant under USDA criteria for implementing Executive Order 12044.

The recommendations of the Washington-Oregon Fresh Prune Marketing Committee reflect its appraisal of the need to grant certain handlers waivers of inspection and certification. Some handlers are located in areas remote from inspection offices. They would be eligible for a waiver if an inspector is not readily available. Fresh prunes are perishable, with the waiver needed to facilitate prompt marketing. Such proposal reads as follows:

§ 924.110 Waiver of inspection and certification.

(a) Application. Any handler (including a grower-handler packing and handling prunes of such handler's own production), whose packing facilities are located in an area where either a Washington State Plant Industry Division Inspection Office or Oregon State Plant Industry Inspection Office or Federal-State Inspector is not readily available to perform the required inspection may, prior to shipment, apply to the Committee for a permit authorizing a waiver of inspection. Applications shall be made on forms furnished by the Committee and shall contain such information as the Committee may require including: Name and address of applicant, location of packing facility, distance of packing facility from the nearest inspection office, period (approximate beginning and ending dates) during which the applicant expects to ship prunes, estimated quantity of prunes applicant

expects to ship to fesh market during the period, manner in which the majority of applicant's fruit will be marketed (i.e., transported by applicant to market, sold at orchard to truckers, etc.), areas or markets to which the applicant expects to ship the majority of the prunes. The applicant shall also contain an agreement by applicant:

(1) Not to ship or handle any prunes unless such prunes meet the grade, size, maturity, container, and all other requirements of the marketing agreement and order in effect at time of handling;

(2) To report periodically to the Committee on reporting forms furnished by the Committee, the following information on each shipment: quantity, variety, grade, minimum size, container, date of shipment, destination, name and address of buyer or receiver, and such other information as the Committee may specify;

(3) To pay applicable assessments on each shipment;

(4) To have or cause to have each shipment of prunes inspected when such shipment is transported to a market or through a location enroute to market where an inspector is available; and

(5) To comply with such other safeguards as the Committee may prescribe.

(b) Issuance of Permit. Whenever the Committee finds and determines from the information contained in the application or from other proof satisfactory to the Committee that the applicant is entitled to a waiver from the inspection requirements of the marketing agreement and order at time of shipment, the Committee shall issue a permit authorizing the applicant to ship prunes in accordance with these administrative regulations and the terms and conditions of such permit.

Dated: July 19, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-22820 Filed 7-23-79; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 309]

Proposed Amendment to Existing Regulations

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed Amendment to Existing Regulations—Extension of Comment Period.

SUMMARY: The Board of Directors of FDIC has voted to amend Part 309 of its regulations so as to allow for routine public disclosure of the Trust Department Annual Reports of Assets filed with the FDIC by State nonmember insured banks. All interested persons were invited to submit written comments on the proposed amendment until July 16, 1979. The comment period is being extended an additional thirty days.

DATE: Additional comments must be received by August 16, 1979.

ADDRESS: Comments should be addressed to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Pamela E. F. LeCren, Attorney, Legal Division (202-389-4453), or John Harvey, Review Section Chief (202-389-4620).

SUPPLEMENTARY INFORMATION: The FDIC currently obtains Trust Department Annual Reports of Assets from nonmember insured banks. The information compiled from these reports is used in a publication of statistical data on trust activities. The publication contains in some instances the data supplied by individual banks. The reports are themselves exempt from public disclosure under the Freedom of Information Act (5 U.S.C. 552(b)(8)), but may be disclosed at the FDIC's discretion. As it is the opinion of the Board of Directors of the FDIC that the public will be benefited by the release of this information and that State nonmember insured banks will not be harmed thereby, the Board of Directors proposes to make these reports available to the public on a routine basis. In order to do so, § 309.4(b) of FDIC's regulations must be amended to allow for such disclosure.

In consideration of the foregoing, the Board of Directors of the FDIC proposes to amend 12 CFR 309.4(b)(1) by adding at the end thereof:

(v) Annual Trust Department Report of Assets for commercial banks and mutual savings banks.

Dated: July 17, 1979.

Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 79-22747 Filed 9-23-79; 8:45 am]

BILLING CODE 6714-01-M

* Trust Department report number 8020/33.

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

[Release No. IC-10748, File No. S7-789]

Confidential Treatment of Names and Addresses of Dealers of Registered Investment Company Securities

Correction

In FR Doc. 79-20738 appearing at page 39197 in the issue for Thursday, July 5, 1979, on page 39198, second column, sixth line of the first full paragraph, the word "of" should read "or".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 178]

Indirect Food Additives; Proposed Revocation of use of Hydrogenated 4, 4'-Isopropyl Denediphenolphosphate Ester Resins

Correction

In FR Doc. 79-18375 appearing on page 34513 in the issue of Friday, June 15, 1979, where references to "4, 4'-isopropyl" or "4, 4'-isopropyl" appear change them to "4, 4'-isopropyl".

BILLING CODE 1505-01-M

[21 CFR Part 184]

[Docket No. 78N-0196]

Dextrin; Affirmation of GRAS Status as a Direct and Indirect Human Food Ingredient

Correction

In FR Doc. 79-9170 appearing at page 18246 in the issue for Tuesday, March 27, 1979 and corrected at page 34515 in the issue of Friday, June 15, 1979, in the fourth item of the correction, the superscript "D" should have been a subscript "D".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**Office of the Secretary****[24 CFR Part 55]****[Docket No. R-79-692]****Floodplain Management and the Protection of Wetlands****AGENCY:** Department of Housing and Urban Development.**ACTION:** Notice of Transmittal of Proposed Rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the *Federal Register*. This Notice lists and summarizes for public information a rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document described below:

24 CFR Part 55—Floodplain Management and the Protection of Wetlands

This proposed rule prescribes policies and procedures to be used by the Department of Housing and Urban Development for implementing Executive Order 11988 on Floodplain Management and Executive Order 11990 for the Protection of Wetlands.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o) Section 324 of the Housing and Community Development Amendment of 1978.)

Issued at Washington, D.C., July 19, 1979.
Patricia Roberts Harris,
Secretary, Department of Housing and Urban Development.

[FR Doc. 79-22834 Filed 7-23-79; 8:45 am]
BILLING CODE 4210-01-M

[24 CFR Part 203]**[Docket No. R-79-691]****Mutual Mortgage Insurance and Insured Home Improvement Loans****AGENCY:** Department of Housing and Urban Development.**ACTION:** Notice of Transmittal of Proposed Rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the *Federal Register*. This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

Part 203—Mutual Mortgage Insurance and Insured Home Improvement Loans

The attached proposed rule would enable the Department to make insured financing available even though the purchaser has been financially assisted by a federal, state or local agency which has secured its assistance by a second lien subordinate the mortgage offered for FHA insurance.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978.)

Issued at Washington, D.C. July 19, 1979.
Patricia Roberts Harris,
Secretary, Department of Housing and Urban Development.

[FR Doc. 79-22835 Filed 7-23-79; 8:45 am]
BILLING CODE 4210-01-M

[24 CFR Part 203]**[Docket No. R-79-687]****Mutual Mortgage Insurance and Insured Home Improvement Loans****AGENCY:** Department of Housing and Urban Development.**ACTION:** Notice of Transmittal of Proposed Rule to Congress under section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the *Federal Register*. This Notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 203—Mutual Mortgage Insurance and Insured Home Improvement Loans

This proposed rule would revise 24 CFR Part 203 to broaden the insured home improvement loan program under 203(k) to cover rehabilitation activities including refinancing or acquisition of property to be rehabilitated.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978.)

Issued at Washington, D.C., July 18, 1979.
Jay Janis,
Acting Secretary, Department of Housing and Urban Development.

[FR Doc. 79-22764 Filed 7-23-79; 8:45 am]
BILLING CODE 4210-01-M

[24 CFR Parts 203, 220, 221, 222, 226 and 235]**[Docket No. R-79-693]****Mutual Mortgage Insurance and Insured Home Improvement Loans****AGENCY:** Department of Housing and Urban Development.

ACTION: Notice of Transmittal of Proposed Rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the *Federal Register*. This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairman and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Parts 203, 220, 221, 222, 226 and 235—Mutual Mortgage Insurance and Insured Home Improvement Loans—Dollar Limitation Increase for Solar Energy Systems

This interim rule would amend 24 CFR Parts 203 and 235 to provide for an increase of up to twenty percent in the dollar limitations on insured mortgages and home improvement loans for one-to-four family residences, if such increase is made necessary by the installation of a solar energy system. In addition, the interim rule would amend 24 C.F.R. Part 226 to bring the maximum mortgage amounts for armed services housing in line with the dollar limitations set in Section 203(b) of the National Housing Act, as required by recent statutory amendment.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978.)

Issued at Washington, D.C. July 19, 1979.
Patricia Roberts Harris,
Secretary, Department of Housing and Urban Development.

[FR Doc. 79-22833 Filed 7-23-79; 8:45 am]
BILLING CODE 4210-01-M

[24 CFR Part 390]**[Docket No. R-79-689]****Guaranty of Mortgage-Backed Securities****AGENCY:** Department of Housing and Urban Development.**ACTION:** Notice of Transmittal of Proposed Rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the *Federal Register*. This Notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 390—Guaranty of Mortgage-Backed Securities—Amendment to Permit Combination Mobile Home and Mobile Home Lot Loans to be Included in GNMA Mortgage-Backed Securities Program

This proposed rule would revise § 390.3(c)(3) of the regulations governing GNMA guaranty of mortgage-backed securities to permit "combination loans", which finance the purchase of mobile homes and developed lots in a single transaction, to be included in pools of mobile home loans under the existing GNMA program for mobile home loan securities. The change would substantially increase the availability of funds for "combination loans", which would in turn help increase the supply of moderately priced housing.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978.)

Issued at Washington, D.C. July 18, 1979.
Patricia Roberts Harris,
Secretary, Department of Housing and Urban Development.

[FR Doc. 79-22836 Filed 7-23-79; 8:45 am]
BILLING CODE 4210-01-M

[24 CFR Part 510]**[Docket No. R-79-688]****Section 312 Rehabilitation Loan Program****AGENCY:** Department of Housing and Urban Development.**ACTION:** Notice of Transmittal of interim rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the *Federal Register*. This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

Part 510—Section 312 Rehabilitation Loan Program

This interim rule would revise the requirements which apply when a tenant (not an owner-occupant) is displaced as a result of a Section 312 Rehabilitation Loan or is permitted to continue in occupancy of the property. The maximum rent that may be charged to a residential tenant who is permitted to continue in occupancy after the rehabilitation will, in some cases, be increased. Also, small residential rehabilitation projects that do not exceed \$2,500 per dwelling unit and do not displace any tenants are being exempted from the rule.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978.)

Issued at Washington, D.C., July 18, 1979.

Patricia Roberts Harris,
Secretary, Department of Housing and Urban
Development.

[FR Doc. 79-22785 Filed 7-23-79; 8:45 am]
BILLING CODE 4210-01-M

[24 CFR Part 841]

[Docket No. R-79-690]

Public Housing Development Phase

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of Interim Rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the *Federal Register*. This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 841—Public Housing Development Phase

This interim rule simplifies the requirements for the development of public housing in order to eliminate processing delays.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978).

Issued at Washington, D.C., July 18, 1979.

Patricia Roberts Harris,
Secretary, Department of Housing and Urban
Development.

[FR Doc. 79-22837 Filed 7-23-79; 8:45 am]
BILLING CODE 4210-01-M

[24 CFR Part 2205]

[Docket No. R-79-694]

Federal Disaster Assistance Community Disaster Loans, Subpart F

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of Proposed Rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the *Federal Register*. This Notice lists and summarizes for public information a rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street SW., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the rulemaking document described below:

24 CFR Part 2205—Federal Disaster Assistance Community Disaster Loans—Subpart F

This proposed rule revises and recodifies the material in the existing § 2205.56 as a new Subpart F at CFR 2205.90. This new Subpart F incorporates material previously published in FDAA Community Disaster Loan Handbook 3300.14, concerning loan eligibility, applications, administration, cancellations and repayment and clarifies existing policy and procedures.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535 (o), Section 324 of the Housing and Community Development Amendment of 1978).

Issued at Washington, D.C. July 19, 1979.

Patricia Roberts Harris,
Secretary, Department of Housing and Urban
Development.

[FR Doc. 79-22832 Filed 7-23-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[EE-45-78]

Definition of a Private Foundation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice or proposed rulemaking.

SUMMARY: This document contains proposed amendments to the regulations relating to the definition of a private foundation. Changes to the applicable tax law were made by Public Law 94-81, enacted August 9, 1975. The amended regulations affect certain tax-exempt organizations seeking to qualify as other than private foundations which acquire unrelated trades or businesses after June 30, 1975. The amended regulations provide such organizations with guidance necessary to determine whether they qualify as other than private foundations.

DATES: Written comments and requests for a public hearing must be delivered or mailed by September 24, 1979.

The amendments are proposed to be effective for taxable years ending after June 30, 1975.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (EE-45-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Thomas L. Sumter of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, (202-566-6212, not a toll-free call).

SUPPLEMENTAL INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 507 and 509 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 3 of the Act of August 9, 1975 (Public Law 94-81, 89 Stat. 418) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Definition of a Private Foundation

Prior to the amendment of section 509(a)(2)(B) of the Internal Revenue Code of 1954, an organization which normally received not more than one-third of its annual support from gross

investment income could, if it satisfied the other support requirements of section 509(a)(2), qualify as other than a private foundation. Gross investment income includes, generally, interest, rents, dividends and royalties. The amendment to section 509(a)(2)(B) provides that income from an unrelated trade or business acquired by the organization after June 30, 1975 (less any tax imposed by section 511 on such income) is to be treated like gross investment income in determining whether an organization meets the test under section 509(a)(2)(B).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the *Federal Register*.

Drafting Information

The principal author of these proposed regulations is Thomas L. Sumter of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Proposed amendments to the regulations

The proposed amendments to 26 CFR Part 1 are as follows:

§ 1.507-2 [Amended]

Paragraph 1. Paragraph (c)(1)(iv)(A) of § 1.507-2 is amended by deleting the words "gross investment income" and inserting in lieu thereof "item described in section 509(a)(2)(B)".

§ 1.509(a) [Deleted]

Paragraph 2. Section 1.509(a) is deleted.

Paragraph 3. Section 1.509(a)-3 is amended as follows:

1. Paragraph (a)(1) is amended by adding the heading "General rule." and deleting the words "one-third gross investment income" in the second sentence and inserting in lieu thereof "not-more-than-one-third support".

2. Paragraph (a)(2) is amended by adding the heading "One-third support test."

3. Paragraph (a)(4) is amended by adding the heading "Purposes." and deleting the words "one-third gross investment income" and inserting in lieu thereof "not-more-than-one-third support".

4. Paragraph (c)(1)(i) is amended by deleting the words "gross investment income" in the second sentence wherever it appears and inserting in lieu thereof "items described in section 509(a)(2)(B)".

5. Paragraph (c)(1)(iii)(a) is amended by deleting the words "one-third gross investment income" in the first sentence and inserting in lieu thereof "not-more-than-one-third support".

6. Paragraph (c)(3) is amended by deleting the words "one-third gross investment income" in the first sentence and inserting in lieu thereof "not-more-than-one-third support" and by deleting the words "of gross investment income" in the fourth sentence and inserting in lieu thereof "from items described in section 509(a)(2)(B)".

7. Paragraph (d)(2) is amended by deleting the words "one-third gross investment income" in the first sentence and inserting in lieu thereof "not-more-than-one-third support" and by deleting the words "gross investment income" from the second sentence and inserting in lieu thereof "items described in section 509(a)(2)(B)".

8. Paragraph (d)(3)(iii) is amended by deleting the words "gross investment income" and inserting in lieu thereof "items described in section 509(a)(2)(B)".

9. Paragraph (e)(4)(i)(f) is amended by deleting the words "gross investment income" from the second, third, fourth and second sentences of examples 1, 2, 3, and 4 respectively and inserting in lieu thereof "not-more-than-one-third support".

10. Paragraph (a)(3) is revised to read as follows:

§ 1.509(a)-3 Broadly, publicly supported organizations.

(a) . . .

(3) *Not-more-than-one-third support test*—(i) *In general.* An organization will meet the not-more-than-one-third support test under section 509(a)(2)(B) if it normally (within the meaning of paragraph (c), (d), or (e) of this section) receives not more than one-third of its support in each taxable year from the sum of its gross investment income (as defined in section 509(e)) and the excess (if any) of the amount of its unrelated business taxable income (as defined in section 512) derived from trades or

businesses which were acquired by the organization after June 30, 1975, over the amount of tax imposed on such income by section 511. For purposes of this section the amount of support received from items described in section 509(a)(2)(B) will be referred to as the numerator of the not-more-than-one-third support fraction, and the total amount of support (as defined in section 509(d)) will be referred to as the denominator of the not-more-than-one-third support fraction.

(ii) *Trade or business.* For purposes of section 509(a)(2)(B)(ii), a trade or business acquired after June 30, 1975, by an organization shall include the acquisition after such date of a trade or business from, or the liquidation of, an organization's subsidiary which is described in section 502 whether or not the subsidiary was held on June 30, 1975.

(iii) *Allocation of deductions between businesses acquired before, and businesses acquired after, June 30, 1975.* Deductions which are allowable under section 512 but are not directly connected to a particular trade or business, such as deductions referred to in paragraphs (10) and (12) of section 512(b), shall be allocated in the proportion that the unrelated trade or business taxable income derived from trades or businesses acquired after June 30, 1975, bears to the organization's total unrelated business taxable income, both amounts being determined without regard to such deductions.

(iv) *Allocation of tax.* The tax imposed by section 511 shall be allocated in the same proportion as in paragraph (a)(3)(iii) of this section.

§ 1.509(a)-4 [Amended]

Paragraph 4. Paragraph (k)(2) of § 1.509(a)-4 is amended by deleting the words "gross investment income" in the third and sixth sentences of the example and inserting in lieu thereof "items described in section 509(a)(2)(B)".

§ 1.509(a)-5 [Amended]

Paragraph 5. Section 1.509(a)-5 is amended as follows:

1. Paragraph (a)(1) is amended by deleting the words "gross investment income" in the first sentence and inserting in lieu thereof "not-more-than-one-third support".

2. Paragraph (b)(1) is amended by deleting the words "one-third gross investment income" in the first sentence and inserting in lieu thereof "not-more-than-one-third support".

3. Paragraph (c) is amended by deleting the words "one-third gross investment income" and inserting in lieu

thereof "not-more-than-one-third support".

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 79-22773 Filed 7-23-79; 8:45 am]

BILLING CODE 4830-01-M

[26 CFR Part 53]

[EE-162-78]

Taxes on Excess Business Holdings; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations (44 FR 29680) dealing with matters reserved in the final regulations relating to taxes on the excess business holdings of private foundations.

DATES: The public hearing will be held on September 6, 1979, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by August 22, 1979.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (EE-162-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 4943 (c)(4), (6) and (d)(1) of the Internal Revenue Code of 1954.

Proposed regulations under section 4943 were first published in the *Federal Register* on January 3, 1973 (38 FR 32). Parts of these proposed regulations were adopted and published in the *Federal Register* for July 8, 1977 (42 FR 34499) as T.D. 7496. The full text of the final regulations as adopted by T.D. 7496 was published in the *Federal Register* for September 15, 1977 (42 FR 46285). Proposed regulations concerning matters reserved in T.D. 7496 appeared in the *Federal Register* for May 22, 1979 (44 FR 29680).

Concern has been expressed about the effect of the rules of the 1979 notice of proposed rulemaking on what is said to be normal expansion of business corporations in which a foundation has a "grandfathered" holding. Therefore, the subject matter of the hearing will be whether the final regulations should embody the rules of the 1973 notice of proposed rulemaking, the 1979 notice of proposed rulemaking or an intermediate position.

Persons who desire to present oral comments at the hearing on the proposed regulations should submit an outline of oral comments to be presented at the hearing and the time they wish to devote to each subject by August 22, 1979. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the *Federal Register* for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue:

George H. Jelly,

Director, Employee Plans and Exempt Organizations Division.

[FR Doc. 79-22758 Filed 7-19-79; 1:04 pm]

BILLING CODE 4830-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

[29 CFR Part 1440]

FIFRA Arbitration Appointments; Proposed Rulemaking

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Insecticide, Fungicide & Rodenticide Act (hereinafter "FIFRA") provides for the appointment of arbitrators by the Federal Mediation and Conciliation Service (hereinafter "FMCS" or "the Service") if the parties to a dispute regarding compensation for the use or

development of pesticide data cannot reach an agreement. FIFRA provides that the procedure and rules of the Service shall be applicable to such arbitration proceedings. (Pub. L. 95-396, Sept. 30, 1978, Sections 3(c)(1)(D)(ii) and 3(c)(2)(B)(iii)).

This proposed rule would establish the procedure by which the Federal Mediation and Conciliation Service will appoint arbitrators to assist pesticide producers in the resolution of disputes over the value of technical data concerning the properties and effects of pesticides. For this purpose, the Service would utilize as its roster of arbitrators the roster of commercial arbitrators maintained by the American Arbitration Association ("AAA"), a non-profit private organization with long experience in commercial dispute resolution. The Service also proposes to incorporate the commercial arbitration rules of the AAA as the rules of procedure to be followed for arbitration of pesticide data compensation disputes.

DATES: Comments must be received on or before September 24, 1979.

ADDRESS: Send comments to Office of General Counsel, Federal Mediation and Conciliation Service, 2100 K Street, N.W., Washington, D.C. 20427.

FOR FURTHER INFORMATION CONTACT: Contact Nancy B. Broff, Assistant General Counsel, Federal Mediation and Conciliation Service, 2100 K Street, N.W., Washington, D.C. 20427, 202/653-5305.

SUPPLEMENTARY INFORMATION: This proposed rule would provide a mechanism for the binding resolution of certain disputes that may arise between persons who have attained or are seeking government authorization to produce and sell pesticides. Rules promulgated by the Environmental Protection Agency at 40 CFR 162 (see 40 FR 28242, July 3, 1975 and 44 FR 27932 May 11, 1979) describe the circumstances in which one pesticide producer either may or must base an application for licensing of a pesticide upon information previously submitted to EPA. This gives rise to an obligation on the part of the applicant to pay compensation to the submitter of the information. The role of the FMCS is limited to the appointment of arbitrators to resolve compensation disputes. The duties and obligations of EPA and the parties to the dispute are specified in the rules cited above and are explained in considerable detail in the preambles. Therefore, interested persons are urged to read and understand the EPA rulemaking and contact EPA concerning

those matters not identified as issues in the following proposed rule.

Congress has demonstrated its belief that the costs of generating information to evaluate pesticide risks be equitably apportioned among producers. In Section 3(c)(1)(D) of the 1972 FIFRA, Congress authorized the Administrator of EPA to consider data submitted by firm A (other than "trade secret" data) when evaluating in application from firm B so long as firm B offered to pay "reasonable compensation" to A. The 1972 Act provided that the Administrator would fix the amount of compensation if the applicant and submitter could not agree on an amount.

In 1973, EPA implemented the compensation provision of FIFRA with an Interim Policy Statement (38 FR 31862). This policy did not require direct communication of an offer from firm B to firm A. Rather, it permitted firm A to claim compensation from B on the basis of a general notice in the *Federal Register* that B's application had been granted. If the parties could not agree on an amount of compensation, they could offer evidence concerning the reasonableness of the amount sought or offered, in a hearing before an Administrative Law Judge, who would decide the sum. The situation became complicated in 1975, when EPA eliminated the practice of granting registrations based on "established use patterns." Applicants were now required to identify data submitted by prior registrants, on which they intended to rely and to advise the Agency that they had offered compensation to the original submitter. The response of many prior registrants to such offers was to advise EPA that the data on which applicants intended to rely was "trade secret," and, therefore, not subject to licensing. In other cases, because of poorly organized files at EPA, applicants experienced difficulty in identifying appropriate data to support registrations, or applicants were unwilling to extend offers to pay an unspecified amount of compensation.

Because of concern that FIFRA's complex provisions and EPA's difficulties in implementing them were affecting the viability of the pesticide industry, Congress directed EPA to conduct an evaluation and report its findings (H.R. 94-1105). A report, entitled *FIFRA: Impact on the Industry*, was subsequently submitted to Congress on March 7, 1977. Almost simultaneously EPA requested that Congress enact major changes to the pesticide statute.

On April 27, 1977, EPA Administrator Costle testified on behalf of an

Administration proposal to amend FIFRA. He recommended the deletion of the "trade secret" exclusion from the Act's mandatory data licensing scheme. He also observed that EPA felt uncomfortable as the judge of data valuation disputes and asked Congress to provide guidance by specifying the factors to be considered when making valuations.

In response, the Senate and the House passed bills providing for final and binding arbitration of compensation disputes by arbitrators appointed by FMCS. Neither S. 1678 nor H.R. 8681 specified a formula or other guidance on the valuation of data for compensation purposes. The Committee of Conference substantially modified the provisions of each bill which pertained to data available for compensation, the duration of the compensable period and sanctions for failure to negotiate or arbitrate compensation disputes. Provisions were incorporated to permit any party to a compensation dispute of specified duration to "initiate binding arbitration by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by (the) Service."

Section 3(c)(1)(D)(ii) of FIFRA, as amended by the Federal Pesticide Act of 1978, provides in pertinent part:

"(ii) except as otherwise provided in subparagraph (D)(i) of this paragraph, with respect to data submitted after December 31, 1969, by an applicant or registrant to support an application for registration, experimental use permit, or amendment adding a new use to an existing registration, to support or maintain in effect an existing registration, or for reregistration, the Administrator may, without the permission of the original data submitter, consider any such item of data in support of an application by any other person (hereinafter in this subparagraph referred to as the 'applicant') within the fifteen-year period following the date the data were originally submitted only if the applicant has made an offer to compensate the original data submitter and submitted such offer to the Administrator accompanied by evidence of delivery to the original data submitter of the offer. The terms and amount of compensation may be fixed by agreement between the original data submitter and the applicant, or, failing such agreement, binding arbitration under this subparagraph. If, at the end of ninety days after the date of delivery to the original data submitter of the offer to compensate, the original data submitter and the applicant have neither agreed on the amount and terms of compensation nor on a procedure for reaching an agreement on the amount and terms of compensation, either person may initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The

procedure and rules of the Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings, and the findings and determination of the arbitrator shall be final and conclusive, and no official or court of the United States shall have power or jurisdiction to review any such findings and determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or the arbitrator where there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, or other misconduct. The parties to the arbitration shall share equally in the payment of the fee expenses of the arbitrator."

The role of the FMCS is relatively minor within the context of the pesticide registration program as indicated by FIFRA, and the limited legislative history which is available. The duties of the Service under FIFRA are to:

- (1) Designate a person to arbitrate a compensation dispute, when requested.
- (2) Maintain a roster of persons qualified and available to conduct the arbitration proceedings.
- (3) Adopt rules of procedure to be followed in the conduct of compensation arbitration.

The rule proposed today addresses these responsibilities. It does not attempt to deal with the issues and questions surrounding pesticide data compensation that are committed to the discretion and rulemaking of the EPA.

The Federal Mediation and Conciliation Service rarely arranges or conducts arbitration of commercial disputes. The Service is in the business of helping to resolve labor disputes between employers and representatives of their employees. Among various means to further that purpose, FMCS maintains a roster of names of private labor arbitrators who do not handle commercial disputes such as the compensation disputes arising under FIFRA.

However, the American Arbitration Association, a private non-profit organization, maintains a roster of qualified commercial arbitrators to decide such disputes. The FMCS proposes to utilize the services and facilities of the American Arbitration Association, and the skills of the experienced and impartial commercial arbitrators certified by the AAA, to ensure that a mechanism for data disputes is available to pesticide producers without excessive delay, unnecessary expense or inconvenience. The services of the AAA have proven successful in resolving a wide range of commercial disagreements over a long period of time.

The Service does not promulgate procedures or rules governing labor

arbitration proceedings because such provisions are set by the terms of collective bargaining agreements between employers and employee representatives, as well as by the "common law" of labor arbitration, as it has developed over the years. However, the American Arbitration Association has developed rules for commercial arbitration, and maintains 23 regional offices, to which joint requests for *voluntary* arbitration may be made. FIFRA provides that parties to a compensation dispute have 90 days within which to agree to a procedure for the resolution of their dispute, before binding arbitration can be compelled or forfeiture of privileges occurs. Similarly, the Act provides that registrants who agree to develop additional data jointly, but cannot agree on how to apportion costs, have a 60- or period to agree on a method for resolving their dispute, before a party can compel arbitration under these rules. Only after the respective 90-day or 60-day periods can either party compel arbitration by requesting the appointment of an arbitrator. FMCS will encourage the parties to agree to arbitration under the auspices of the AAA during the 60-day or 90-day periods.

Under the proposed rule FMCS would utilize as its roster of arbitrators for FIFRA data disputes the roster of commercial arbitrators maintained by the American Arbitration Association, and the rules of the AAA would be adopted as the rules of the Service applicable to such arbitration proceedings, except where they are inconsistent with FIFRA. The AAA fees for administrative services (arranging a conference room, transcript of proceedings, scheduling meetings, etc.) will be borne by the parties who will also pay the arbitrator's fee.¹

Issues Presented: Appendix I below is the FMCS proposed regulation for fulfilling its duties under FIFRA. Appendix II is a copy of the rules of commercial arbitration ("The Rules") adopted by the AAA. Commenters are requested to review these rules to identify provisions which they believe to be inconsistent with FIFRA sections 3(c)(1)(D)(iii) and 3(c)(2)(B)(ii). In particular, commenters may wish to address the following issues:

(a) Whether the disqualification and vacancy determinations described in

sections 18 and 19 of the Rules may properly be made by the AAA, rather than the FMCS.

(b) Whether the resolution of questions as to the meaning or application of the Rules under section 52 may be properly made by the AAA, rather than FMCS.

(c) Whether the Rules should provide for a certification by the arbitrator to EPA of a party's "bad faith" and, if so, what circumstances would constitute "failure to participate in an arbitration proceeding" or "failure to comply with an arbitration decision." The Administrator can impose sanctions if he finds that a party has failed to do either of these things. Who should refer such charges to the Administrator?

(d) To what extent should information concerning pesticide data arbitration awards be published? Lack of information about data compensation cases may compound the uncertainty about the consequences of using FIFRA's mandatory data licensing provision. EPA believes that both the parties and the arbitrator would find it helpful to have access to a body of case awards. Can the identities of the parties and the data in dispute, be disguised sufficiently to protect their commercial interests but reveal enough to facilitate negotiated settlements?

(e) The House Subcommittee on Agricultural Research indicated its intent that the arbitrators selected by FMCS would be persons experienced in the pesticide field and, in particular, in the research and development of pesticides (H.R. 95-663).

A small number of these specially qualified arbitrators may be available. However, the number of compensation disputes they could handle would be limited, and substantial time delays could result from limiting the roster to pesticide specialists. In order to provide more arbitrators with this specialized background, FMCS and AAA would have to seek out experienced persons in the pesticide industry and train them as arbitrators. The costs of this training would be quite high and would have to be borne by the parties who use these experts. In addition, experts would probably charge large fees for their services.

A less expensive alternative would be to identify a number of individuals from the general AAA commercial arbitrator roster and give them some training in the business of pesticides, research and development of pesticides and cost accounting. This training should be less expensive than the training required to make arbitrators out of pesticide experts, but again the cost would have

to be borne by the parties as part of the administrative cost of arbitration.

Finally, arbitrators for these data compensation arbitrator roster on the assumption that these disputes are not significantly different from the variety of commercial disputes that these arbitrators ordinarily hear and decide. These AAA commercial arbitrators serve without fee unless the hearing goes beyond two days. This alternative presents the least cost to the parties.

Comments would be appreciated with respect to the questions and alternatives presented here, as well as on associated problems.

Because the arbitration procedures for FIFRA disputes must be available in the very near future, the Service has determined that it is necessary to publish the proposed rule without an advance notice of proposed rulemaking.

The Service has also determined that this proposed regulation is not "significant" within the meaning of Executive Order 12044 because it will not impose substantial compliance requirements or high costs on the parties affected.

This Proposed Rule is issued under the authority of the Federal Insecticide, Fungicide and Rodenticide Act, Public Law 95-396, Sept. 30, 1978, Sections 3(c)(1)(D)(ii) and 3(c)(2)(B)(iii).

Appendix I

It is proposed to add to 29 CFR Chapter XII a new Part 1440 to read as follows:

PART 1440—ARBITRATION OF PESTICIDE DATA DISPUTES

§ 1440.0 Arbitration of Pesticide Data Disputes.

(a) Persons requesting the appointment of an arbitrator under Section 3(c)(1)(D)(ii) and Section 3(c)(2)(B)(iii) of the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136, as amended), shall send such requests in writing to the Federal Mediation and Conciliation Service, FIFRA Arbitration Office, 2100 K Street, NW., Washington, D.C. 20427. Such requests must include the names, addresses and telephone numbers of the parties to the dispute, as well as the issue(s) in dispute.

(b) For the purpose of compliance with the Federal Insecticide, Fungicide and Rodenticide Act (hereinafter "the Act"), the roster of arbitrators maintained by the Federal Mediation and Conciliation Service shall be the roster of commercial arbitrators maintained by the American Arbitration Association. Under this Act, arbitrators

will be appointed from that roster. The fees of the American Arbitration Association shall apply, and the procedure and rules of the Federal Mediation and Conciliation Service, applicable to arbitration proceedings under the Act, shall be the commercial arbitration rules of the American Arbitration Association, which are hereby made a part of this regulation; except that where these rules are inconsistent with the Act or this regulation, then the Act and this regulation shall prevail.

(7 U.S.C. 136)

Appendix II

American Arbitration Association

Commercial Arbitration Rules

Section 1. AGREEMENT OF PARTIES—The parties shall be deemed to have made these Rules a part of their arbitration agreement whenever they have provided for arbitration by the American Arbitration Association or under its Rules. These Rules and any amendment thereof shall apply in the form obtaining at the time the arbitration is initiated.

Section 2. NAME OF TRIBUNAL—Any Tribunal constituted by the parties for the settlement of their dispute under these Rules shall be called the Commercial Arbitration Tribunal.

Section 3. ADMINISTRATOR—When parties agree to arbitrate under these Rules, or when they provide for arbitration by the American Arbitration Association and an arbitration is initiated thereunder, they thereby constitute AAA the administrator of the arbitration. The authority and obligations of the administrator are prescribed in the agreement of the parties and in these Rules.

Section 4. DELEGATION OF DUTIES—The duties of the AAA under these Rules may be carried out through Tribunal Administrators, or such other officers or committees as the AAA may direct.

Section 5. NATIONAL PANEL OF ARBITRATORS—The AAA shall establish and maintain a National Panel of Arbitrators and shall appoint Arbitrators therefrom as hereinafter provided.

Section 6. OFFICE OF TRIBUNAL—The general office of a Tribunal is the headquarters of the AAA, which may, however, assign the administration of an arbitration to any of its Regional Offices.

Section 7. INITIATION UNDER AN ARBITRATION PROVISION IN A CONTRACT—Arbitration under an arbitration provision in a contract may be initiated in the following manner:

(a) The initiating party shall give notice to the other party of his intention to arbitrate (Demand), which notice shall contain a statement setting forth the nature of the dispute, the amount involved, if any, the remedy sought, and

(b) By filing at any Regional Office of the AAA two (2) copies of said notice, together with two (2) copies of the arbitration provisions of the contract, together with the

appropriate administrative fee as provided in the Administrative Fee Schedule.

The AAA shall give notice of such filing to the other party. If he so desires, the party upon whom the demand for arbitration is made may file an answering statement in duplicate with the AAA within seven days after notice from the AAA, in which event he shall simultaneously send a copy of his answer to the other party. If a monetary claim is made in the answer the appropriate fee provided in the Fee Schedule shall be forwarded to the AAA with the answer. If no answer is filed within the stated time, it will be assumed that the claim is denied. Failure to file an answer shall not operate to delay the arbitration.

Section 8. CHANGE OF CLAIM—After filing of the claim, if either party desires to make any new or different claim, such claim shall be made in writing and filed with the AAA, and a copy thereof shall be mailed to the other party, who shall have a period of seven days from the date of such mailing within which to file an answer with the AAA. However, after the Arbitrator is appointed no new or different claim may be submitted to him except with his consent.

Section 9. INITIATION UNDER A SUBMISSION—Parties to any existing dispute may commence an arbitration under these Rules by filing at any Regional Office two (2) copies of a written agreement to arbitrate under these Rules (Submission), signed by the parties. It shall contain a statement of the matter in dispute, the amount of money involved, if any, and the remedy sought, together with the appropriate administrative fee as provided in the Fee Schedule.

Section 10. FIXING OF LOCALE—The parties may mutually agree on the locale where the arbitration is to be held. If the locale is not designated within seven days from the date of filing the Demand or Submission the AAA shall have power to determine the locale. Its decision shall be final and binding. If any party requests that the hearing be held in a specific locale and the other party files no objection thereto within seven days after notice of the request, the locale shall be the one requested.

Section 11. QUALIFICATIONS OF ARBITRATOR—Any Arbitrator appointed pursuant to Section 12 or Section 14 shall be neutral, subject to disqualification for the reasons specified in Section 18. If the agreement of the parties names an Arbitrator or specifies any other method of appointing an Arbitrator, or if the parties specifically agree in writing, such Arbitrator shall not be subject to disqualification for said reasons.

Section 12. APPOINTMENT FROM PANEL—If the parties have not appointed an Arbitrator and have not provided any other method of appointment, the Arbitrator shall be appointed in the following manner: Immediately after the filing of the Demand or Submission, the AAA shall submit simultaneously to each party to the dispute an identical list of names of persons chosen from the Panel. Each party to the dispute shall have seven days from the mailing date in which to cross off any names to which he objects, number the remaining names

indicating the order of his preference, and return the list to the AAA. If a party does not return the list within the time specified, all persons named therein shall be deemed acceptable. From among the persons who have been approved on both lists, and in accordance with the designated order of mutual preference, the AAA shall invite the acceptance of an Arbitrator to serve. If the parties fail to agree upon any of the persons named, or if acceptable Arbitrators are unable to act, or if for any other reason the appointment cannot be made from the submitted lists, the AAA shall have the power to make the appointment from other members of the Panel without the submission of any additional lists.

Section 13. DIRECT APPOINTMENT BY PARTIES—If the agreement of the parties names an Arbitrator or specifies a method of appointing an Arbitrator, that designation or method shall be followed. The notice of appointment, with name and address of such Arbitrator, shall be filed with the AAA by the appointing party. Upon the request of any such appointing party, the AAA shall submit a list of members from the Panel from which the party may, if he so desires, make the appointment.

If the agreement specifies a period of time within which an Arbitrator shall be appointed, and any party fails to make such appointment within that period, the AAA shall make the appointment.

If no period of time is specified in the agreement, the AAA shall notify the parties to make the appointment and if within seven days thereafter such Arbitrator has not been so appointed, the AAA shall make the appointment.

Section 14. APPOINTMENT OF NEUTRAL ARBITRATOR BY PARTY-APPOINTED ARBITRATORS—If the parties have appointed their Arbitrators or if either or both of them have been appointed as provided in Section 13, and have authorized such Arbitrators to appoint a neutral Arbitrator within a specified time and no appointment is made within such time or any agreed extension thereof, the AAA shall appoint a neutral Arbitrator who shall act as Chairman.

If no period of time is specified for appointment of the neutral Arbitrator and the parties do not make the appointment within seven days from the date of the appointment of the last party-appointed Arbitrator, the AAA shall appoint such neutral Arbitrator, who shall act as Chairman.

If the parties have agreed that their Arbitrators shall appoint the neutral Arbitrator from the Panel, the AAA shall furnish to the party-appointed Arbitrators, in the manner prescribed in Section 12, a list selected from the Panel, and the appointment of the neutral Arbitrator shall be made as prescribed in such Section.

Section 15. NATIONALITY OF ARBITRATOR IN INTERNATIONAL ARBITRATION—If one of the parties is a national or resident of a country other than the United States, the sole Arbitrator or the neutral Arbitrator shall, upon the request of either party, be appointed from among the

¹ If the FMCS were to undertake similar administrative services, FIFRA would require the parties to bear these costs of resolving their dispute, as would 31 USC 483(a). This would require the imposition of a substantially larger fee than for the use of AAA's services and facilities because FMCS has no existing facilities and personnel available for these purposes.

nationals of a country other than that of any of the parties.

Section 16. NUMBER OF ARBITRATORS—If the arbitration agreement does not specify the number of Arbitrators, the dispute shall be heard and determined by one Arbitrator, unless the AAA, in its discretion, directs that a greater number of Arbitrators be appointed.

Section 17. NOTICE TO ARBITRATOR OF HIS APPOINTMENT—Notice of the appointment of the neutral Arbitrator, whether appointed by the parties or by the AAA, shall be mailed to the Arbitrator by the AAA, together with a copy of these Rules, and the signed acceptance of the Arbitrator shall be filed prior to the opening of the first hearing.

Section 18. DISCLOSURE AND CHALLENGE PROCEDURE—A person appointed as neutral Arbitrator shall disclose to the AAA any circumstances likely to affect his impartiality, including any bias or any financial or personal interest in the result of the arbitration or any past or present relationship with the parties or their counsel. Upon receipt of such information from such Arbitrator or other source, the AAA shall communicate such information to the parties, and, if it deems it appropriate to do so, to the Arbitrator and others. Thereafter, the AAA shall determine whether the Arbitrator should be disqualified and shall inform the parties of its decision, which shall be conclusive.

Section 19. VACANCIES—If any Arbitrator should resign, die, withdraw, refuse, be disqualified or be unable to perform the duties of his office, the AAA may, on proof satisfactory to it, declare the office vacant. Vacancies shall be filled in accordance with the applicable provisions of these Rules and the matter shall be reheard unless the parties shall agree otherwise.

Section 20. TIME AND PLACE—The Arbitrator shall fix the time and place for each hearing. The AAA shall mail to each party notice thereof at least five days in advance, unless the parties by mutual agreement waive such notice or modify the terms thereof.

Section 21. REPRESENTATION BY COUNSEL—Any party may be represented by counsel. A party intending to be so represented shall notify the other party and the AAA of the name and address of counsel at least three days prior to the date set for the hearing at which counsel is first to appear. When an arbitration is initiated by counsel, or where an attorney replies for the other party, such notice is deemed to have been given.

Section 22. STENOGRAPHIC RECORD—The AAA shall make the necessary arrangements for the taking of a stenographic record whenever such record is requested by a party. The requesting party or parties shall pay the cost of such record as provided in Section 49.

Section 23. INTERPRETER—The AAA shall make the necessary arrangements for the services of an interpreter upon the request of one or more of the parties, who shall assume the cost of such service.

Section 24. ATTENDANCE AT HEARINGS—The Arbitrator shall maintain

the privacy of the hearings unless the law provides to the contrary. Any person having a direct interest in the arbitration is entitled to attend hearings. The Arbitrator shall otherwise have the power to require the exclusion of any witness, other than a party or other essential person, during the testimony of any other witness. It shall be discretionary with the Arbitrator to determine the propriety of the attendance of any other person.

Section 25. ADJOURNMENTS—The Arbitrator may take adjournments upon the request of a party or upon his own initiative and shall take such adjournment when all of the parties agree thereto.

Section 26. OATHS—Before proceeding with the first hearing or with the examination of the file, each Arbitrator may take an oath of office, and if required by law, shall do so. The Arbitrator may, in his discretion, require witnesses to testify under oath administered by any duly qualified person or, if required by law or demanded by either party, shall do so.

Section 27. MAJORITY DECISION—Whenever there is more than one Arbitrator, all decisions of the Arbitrators must be by at least a majority. The award must also be made by at least a majority unless the concurrence of all is expressly required by the arbitration agreement or by law.

Section 28. ORDER OF PROCEEDINGS—A hearing shall be opened by the filing of the oath of the Arbitrator, where required, and by the recording of the place, time and date of the hearing, the presence of the Arbitrator and parties, and counsel, if any, and by the receipt by the Arbitrator of the statement of the claim and answer, if any.

The Arbitrator may, at the beginning of the hearing, ask for statements clarifying the issues involved.

The complaining party shall then present his claim and proofs and his witnesses, who shall submit to questions or other examination. The defending party shall then present his defense and proofs and his witnesses, who shall submit to questions or other examination. The Arbitrator may in his discretion vary this procedure but he shall afford full and equal opportunity to all parties for the presentation of any material or relevant proofs.

Exhibits, when offered by either party, may be received in evidence by the Arbitrator.

The names and addresses of all witnesses and exhibits in order received shall be made a part of the record.

Section 29. ARBITRATION IN THE ABSENCE OF A PARTY—Unless the law provides to the contrary, the arbitration may proceed in the absence of any party, who, after due notice, fails to be present or fails to obtain an adjournment. An award shall not be made solely on the default of a party. The Arbitrator shall require the party who is present to submit such evidence as he may require for the making of an award.

Section 30. EVIDENCE—The parties may offer such evidence as they desire and shall produce such additional evidence as the Arbitrator may deem necessary to an understanding and determination of the dispute. When the Arbitrator is authorized by

law to subpoena witnesses or documents, he may do so upon his own initiative or upon the request of any party. The Arbitrator shall be the judge of the relevancy and materiality of the evidence offered and conformity to legal rules of evidence shall not be necessary. All evidence shall be taken in the presence of all of the Arbitrators and of all the parties, except where any of the parties is absent in default or has waived his right to be present.

Section 31. EVIDENCE BY AFFIDAVIT AND FILING OF DOCUMENTS—The Arbitrator shall receive and consider the evidence of witnesses by affidavit, but shall give it only such weight as he deems it entitled to after consideration of any objections made to its admission.

All documents not filed with the Arbitrator at the hearing, but arranged for at the hearing or subsequently by agreement of the parties, shall be filed with the AAA for transmission to the Arbitrator. All parties shall be afforded opportunity to examine such documents.

Section 32. INSPECTION OR INVESTIGATION—Whenever the Arbitrator deems it necessary to make an inspection or investigation in connection with the arbitration, he shall direct the AAA to advise the parties of his intention. The Arbitrator shall set the time and the AAA shall notify the parties thereof. Any party who so desires may be present at such inspection or investigation. In the event that one or both parties are not present at the inspection or investigation, the Arbitrator shall make a verbal or written report to the parties and afford them an opportunity to comment.

Section 33. CONSERVATION OF PROPERTY—The Arbitrator may issue such orders as may be deemed necessary to safeguard the property which is the subject matter of the arbitration without prejudice to the rights of the parties or to the final determination of the dispute.

Section 34. CLOSING OF HEARINGS—The Arbitrator shall specifically inquire of all parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies, the Arbitrator shall declare the hearings closed and a minute thereof shall be recorded. If briefs are to be filed, the hearings shall be declared closed as of the final date set by the Arbitrator for the receipt of briefs.

If documents are to be filed as provided for in Section 31 and the date set for their receipt is later than that set for the receipt of briefs, the later date shall be the date of closing the hearing. The time limit within which the Arbitrator is required to make his award shall commence to run, in the absence of other agreements by the parties, upon the closing of the hearings.

Section 35. REOPENING OF HEARINGS—The hearings may be reopened by the Arbitrator on his own motion, or upon application of a party at any time before the award is made. If the reopening of the hearings would prevent the making of the award within the specific time agreed upon by the parties in the contract out of which the controversy has arisen, the matter may not be reopened, unless the parties agree upon the extension of such time limit. When no specific date is fixed in the contract, the

Arbitrator may reopen the hearings, and the Arbitrator shall have thirty days from the closing of the reopened hearings within which to make an award.

Section 36. WAIVER OF ORAL HEARING—The parties may provide, by written agreement, for the waiver of oral hearings. If the parties are unable to agree as to the procedure, the AAA shall specify a fair and equitable procedure.

Section 37. WAIVER OF RULES—Any party who proceeds with the arbitration after knowledge that any provision or requirement of these Rules has not been complied with and who fails to state his objection thereto in writing, shall be deemed to have waived his right to object.

Section 38. EXTENSIONS OF TIME—The parties may modify any period of time by mutual agreement. The AAA for good cause may extend any period of time established by these Rules, except the time for making the award. The AAA shall notify the parties of any such extension of time and its reason therefor.

Section 39. COMMUNICATION WITH ARBITRATOR AND SERVING OF NOTICES—

(a) There shall be no communication between the parties and a neutral Arbitrator other than at oral hearings. Any other oral or written communications from the parties to the Arbitrator shall be directed to the AAA for transmittal to the Arbitrator.

(b) Each party to an agreement which provides for arbitration under these Rules shall be deemed to have consented that any papers, notices or process necessary or proper for the initiation or continuation of an arbitration under these Rules and for any court action in connection therewith or for the entry of judgment on any award made thereunder may be served upon such party by mail addressed to such party or his attorney at his last known address or by personal service, within or without the state wherein the arbitration is to be held (whether such party be within or without the United States of America), provided that reasonable opportunity to be heard with regard thereto has been granted such party.

Section 40. TIME OF AWARD—The award shall be made promptly by the Arbitrator and, unless otherwise agreed by the parties, or specified by law, no later than thirty days from the date of closing the hearings, or if oral hearings have been waived, from the date of transmitting the final statements and proofs to the Arbitrator.

Section 41. FORM OF AWARD—The award shall be in writing and shall be signed either by the sole Arbitrator or by at least a majority if there be more than one. It shall be executed in the manner required by law.

Section 42. SCOPE OF AWARD—The Arbitrator may grant any remedy or relief which he deems just and equitable and within the scope of the agreement of the parties, including, but not limited to, specific performance of a contract. The Arbitrator, in his award, shall assess arbitration fees and expenses in favor of any party and, in the event any administrative fees or expenses are due the AAA, in favor of the AAA.

Section 43. AWARD UPON SETTLEMENT—If the parties settle their dispute during the course of the arbitration, the Arbitrator, upon their request, may set forth the terms of the agreed settlement in an award.

Section 44. DELIVERY OF AWARD TO PARTIES—Parties shall accept as legal delivery of the award the placing of the award or a true copy thereof in the mail by the AAA, addressed to such party at his last known address or to his attorney, or personal service of the award, or the filing of the award in any manner which may be prescribed by law.

Section 45. RELEASE OF DOCUMENTS FOR JUDICIAL PROCEEDINGS—The AAA shall, upon the written request of a party, furnish to such party, at his expense, certified facsimiles of any papers in the AAA's possession that may be required in judicial proceedings relating to the arbitration.

Section 46. APPLICATIONS TO COURT—(a) No judicial proceedings by a party relating to the subject matter of the arbitration shall be deemed a waiver of the party's right to arbitrate.

(b) The AAA is not a necessary party in judicial proceedings relating to the arbitration.

(c) Parties to these Rules shall be deemed to have consented that judgment upon the arbitration award may be entered in any Federal or State Court having jurisdiction thereof.

Section 47. ADMINISTRATIVE FEES—As a nonprofit organization, the AAA shall prescribe an administrative fee schedule and a refund schedule to compensate it for the cost of providing administrative services. The schedule in effect at the time of filing or the time of refund shall be applicable.

The administrative fees shall be advanced by the initiating party or parties, subject to final apportionment by the Arbitrator in his award.

When a matter is withdrawn or settled, the refund shall be made in accordance with the refund schedule.

The AAA, in the event of extreme hardship on the part of any party, may defer or reduce the administrative fee.

Section 48. FEE WHEN ORAL HEARINGS ARE WAIVED—Where all oral hearings are waived under Section 36 the Administrative Fee Schedule shall apply.

Section 49. EXPENSES—The expenses of witnesses for either side shall be paid by the party producing such witnesses.

The cost of the stenographic record, if any is made, and all transcripts thereof, shall be prorated equally among all parties ordering copies unless they shall otherwise agree and shall be paid for by the responsible parties directly to the reporting agency.

All other expenses of the arbitration, including required traveling and other expenses of the Arbitrator and of AAA representatives, and the expenses of any witness or the cost of any proofs produced at the direct request of the Arbitrator, shall be borne equally by the parties, unless they agree otherwise, or unless the Arbitrator in his award assesses such expenses or any part thereof against any specified party or parties.

Section 50. ARBITRATOR'S FEE—Members of the National Panel of Arbitrators

serve without fee in commercial arbitrations. In prolonged or in special cases the parties may agree to the payment of a fee.

Any arrangements for the compensation of a neutral Arbitrator shall be made through the AAA and not directly by him with the parties.

Section 51. DEPOSITS—The AAA may require the parties to deposit in advance such sums of money as it deems necessary to defray the expense of the arbitration, including the Arbitrator's fee, if any, and shall render an accounting to the parties and return any unexpended balance.

Section 52. INTERPRETATION AND APPLICATION OF RULES—The Arbitrator shall interpret and apply these Rules insofar as they relate to his powers and duties. When there is more than one Arbitrator and a difference arises among them concerning the meaning or application of any such Rules, it shall be decided by a majority vote. If that is unobtainable, either an Arbitrator or a party may refer the question to the AAA for final decision. All other Rules shall be interpreted and applied by the AAA.

Administrative Fee Schedule

The administrative fee of the AAA is based upon the amount of each claim and counterclaim as disclosed when the claim and counterclaim are filed, and is due and payable at the time of filing.

Amount of claim	fee
Up to \$10,000	3% (minimum \$150.00)
\$10,000 to \$25,000	\$300, plus 2% of excess over \$10,000
\$25,000 to \$100,000	\$600, plus 1% of excess over \$25,000
\$100,000 to \$200,000	\$1,350, plus 1/2% of excess over \$100,000
\$200,000 to \$5,000,000	\$1,850, plus 1/4% of excess over \$200,000

Where the claim or counterclaim exceeds \$5 million, an appropriate fee will be determined by the AAA.

When no amount can be stated at the time of filing, the administrative fee is \$300, subject to adjustment in accordance with the above schedule as soon as an amount can be disclosed.

If there are more than two parties represented in the arbitration, an additional 10% of the initiating fee will be due for each additional represented party.

Other Service Charges—\$50.00 payable by a party causing an adjournment of any scheduled hearing:

\$100 payable by a party causing a second or additional adjournment of any scheduled hearing.

\$25.00 payable by each party for each hearing after the first hearing which is either clerked by the AAA or held in a hearing room provided by the AAA.

Refund Schedule—If the AAA is notified that a case has been settled or withdrawn before a list of Arbitrators has been sent out, all the fee in excess of \$150.00 will be refunded.

If the AAA is notified that a case has been settled or withdrawn thereafter but before the due date for the return of the first list, two-thirds of the fee in excess of \$150.00 will be refunded.

If the AAA is notified that a case is settled or withdrawn thereafter but at least 48 hours before the date and time set for the first hearing, one-half of the fee in excess of \$100.00 will be refunded.

Issued in Washington, D.C. on July 17, 1979.
Sorine Prell,

Acting Director of Administration Federal
Mediation and Conciliation Service.

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ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1280-1]

Approval and Promulgation of Implementation Plans; Implementation Plan Revisions for Certain Nonattainment Areas Tennessee

AGENCY: Environmental Protection
Agency, Region IV.

ACTION: Notice of Availability.

SUMMARY: EPA announces today that a portion of the Tennessee implementation plan revisions due for submittal by January 1, 1979, under the Clean Air Act Amendments of 1977 have been received and are available for public inspection. The public is invited to submit written comments. A notice of proposed rulemaking describing the revisions will be published in the Federal Register later; the period for the submittal of written comments will extend for 30 days after the publication of the Notice of Proposed Rulemaking.

ADDRESSES: The Tennessee submittal may be examined during normal business hours at the following EPA offices:

Public Information Reference Unit, Library
Systems Branch, Environmental Protection
Agency, 401 M Street SW., Washington,
D.C.

Library, Environmental Protection Agency,
Region IV, 345 Courtland Street NE.,
Atlanta, Georgia 30308.

In addition, the Tennessee revisions may be examined at the office of the Tennessee Air Pollution Control Division, 256 Capitol Hill Building, Nashville, Tennessee 37219.

Comments should be addressed to the EPA Region IV Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30308.

FOR FURTHER INFORMATION CONTACT: Archie Lee of EPA's Region IV Air Programs Branch. Mr. Lee may be reached by telephone at 404/881-2864 (FTS-257-2864).

SUPPLEMENTARY INFORMATION: Section 172 of the Clean Air Act, as amended 1977, requires that States submit revisions in their implementation plans by January 1, 1979, to provide for the attainment of the national ambient air quality standards in areas designated nonattainment. On March 3, 1978, the Administrator designated a number of areas in Tennessee as nonattainment (43 FR 8962). Tennessee has responded by preparing implementation plan revisions as required by the Clean Air Act. The purpose of this notice is to call the public's attention to the fact that plan revisions have been formally submitted for the following areas and are available for public inspection:

Ozone, Statewide.

Carbon Monoxide, Davidson County.
Particulates, Columbia, Nashville.

Also, the public is encouraged to submit written comments on them. A description of the revisions will be published in the Federal Register at a later date as part of a notice of proposed rulemaking.

(Sections 110 and 172 of the Clean Air Act [42 U.S.C. 7410 and 7502])

Dated: July 17, 1979.

John C. White,

Regional Administrator, Region IV.

[FR Doc. 79-22826 Filed 7-23-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1279-3]

State of West Virginia; Proposed Revision of the West Virginia State Implementation Plan

AGENCY: Environmental Protection
Agency.

ACTION: Proposed rule.

SUMMARY: On June 18, 1979, proposed revisions to the West Virginia State Implementation Plan (SIP) for the attainment of National Ambient Air Quality Standards for total suspended particulates, sulfur dioxide, and ozone were submitted to the Environmental Protection Agency (EPA) by the Governor. The intended effect of the revisions is to meet the requirements of Part D of Title I of the Clean Air Act, as amended in 1977, "Plan Requirements for Nonattainment Areas." This notice provides a description of the proposed SIP revisions, summarizes the Part D requirements, compares the revisions to these requirements, identifies major issues in the proposed revisions, and suggests corrective actions.

In the State of West Virginia, regulations must first be reviewed and approved by the West Virginia

Legislative Rulemaking Review Committee before approval by the Governor and submittal to EPA. The plan has been recently submitted to that Body for review and action. Final action on West Virginia's plan cannot be taken until the Legislative Rulemaking Review Committee approves these regulations, which must subsequently be approved by the Governor and submitted to EPA.

EPA invites public comments on these revisions, the identified issues, the suggested corrections, and on the question of whether the revision should be approved or disapproved.

DATE: Submit comments on or before September 24, 1979.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, Attn: Raymond D. Chalmers.
Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, Southwest (Waterside Mall), Washington, DC 20460.
West Virginia Air Pollution Control Commission, 1558 Washington Street, East, Charleston, West Virginia 25311, Attn: Mr. Carl Beard.

All comments on the proposed revisions submitted on or before September 24, 1979, will be considered and should be directed to:

Mr. Howard R. Heim, Jr., Chief, Air Programs Branch (3AH10), Air & Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, Attn: AH300WV.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond D. Chalmers (3AH12), U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, Telephone: 215/597-8309.

SUPPLEMENTARY INFORMATION:

Background

New provisions of the Clean Air Act, enacted in August, 1977, Public Law No. 95-95, required States to revise their SIPs for all areas where National Ambient Air Quality Standards (NAAQS) had not been attained. The Administrator promulgated lists of these areas on March 3, 1978 (43 FR 8962 (1978)), and on September 12, 1978 (43 FR 40502 (1978)). Several areas in West Virginia were designated as nonattainment for total suspended particulates, sulfur dioxide, and ozone.

As a consequence, the State of West Virginia was required to develop and adopt SIP revisions to bring these areas into compliance with standards.

On June 18, 1979 the Governor of West Virginia submitted proposed revisions to the State Implementation Plan for EPA's review even before final approval by West Virginia's Legislative Rulemaking Committee. He also has indicated his desire that we publish those revisions in the Federal Register. As a consequence, the comments presented herein reflect EPA's preliminary evaluation of the proposed SIP for which public comments are now also being solicited.

The requirements and criteria which these revisions must satisfy are described or referenced in a Federal Register notice published on April 4, 1979 (44 FR 20372 (1979)). This notice, to which interested persons may refer, is entitled, "General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas". The "General Preamble" is incorporated herein by reference. A summary of the criteria for approving SIP's for nonattainment areas follows.

Criteria for Approval

The following list summarizes the basic requirements for nonattainment area plans.

(1) Evidence that the proposed SIP revisions were adopted by the State after reasonable notice and public hearing.

(2) A provision for expeditious attainment of the standards.

(3) A demonstration of attainment.

(4) An emission inventory.

(5) A commitment to Reasonable Further Progress towards attainment.

(6) An identification of emissions growth.

(7) A provision for preconstruction review.

(8) Reasonable Available Control Technology (RACT) requirements.

(9) Inspection and Maintenance, if necessary, as expeditiously as practicable.

(10) Transportation Control Measures, if necessary, as expeditiously as practicable.

(11) Enforceability of the regulations.

(12) A commitment to expend the resources necessary to carry out the plan.

(13) Evidence of public, local government, and State legislative involvement in the development of the plan.

(14) An identification and analysis of the air quality, health, welfare, economic, energy, and social effects of the plan.

In the following sections of this Notice there are several references to the terms "design value" and "rollback." To avoid confusion or misunderstanding these terms are defined below:

Design Value.—The level of existing air quality used as a basic for determining the amount of change of pollutant emissions necessary to attain a desired air quality level.

Rollback.—A proportional model used to calculate the degree of improvement in ambient air quality needed for attainment of a national ambient air quality standard.

Ozone

Description of Submittal.—The EPA has designated the Kanawha Valley Interstate Air Quality Control Region (AQCR) a nonattainment area for ozone. This area encompasses Putnam County, Kanawha County, and the Valley Magisterial District of Fayette County.

The EPA requires States to adopt regulations requiring Reasonably Available Control Technology (RACT) for major sources of Volatile Organic Compounds (VOC) in eleven source categories. Major sources are defined as those having the potential to emit 100 tons or more of hydrocarbons per year.

West Virginia has certified that major sources exist in only three of these source categories. The State is proposing to regulate these source categories. They are: storage of petroleum liquids in fixed-roof tanks, bulk gasoline terminals, and petroleum refineries.

The EPA has determined that the Kanawha Valley Interstate AQCR is a rural ozone nonattainment area and is not requiring the State of West Virginia to adopt Automobile Inspection and Maintenance and Transportation Control Measures.

Adoption After Reasonable Notice and Hearing. West Virginia's Air Pollution Control Commission adopted the regulations in the ozone SIP after a January 16, 1979 public hearing which met the requirements of 40 CFR 51.4. The regulations in the SIP adopted by the West Virginia Air Pollution Control Commission, however, have not yet been adopted by West Virginia's Legislative Rulemaking Review Committee as required in Chapter 29(a) Article 3, Section 11 of the Code of West Virginia.

Attainment Date. West Virginia predicts attaining the ozone NAAQS by the end of 1982. An extension until 1987 has not been requested.

Control Strategy and Demonstration of Attainment. West Virginia is not required to submit an ozone control strategy demonstration for the Kanawha

Valley Interstate AQCR; such demonstrations are not required for rural nonattainment areas. West Virginia nevertheless chose to submit such a demonstration. The submittal was developed on the basis of the .12 ppm ozone standard. A commitment to attain the ozone standard by the end of 1982 was provided.

The design value used by West Virginia in the demonstration was 285 ug/m³ (.13ppm). EPA has determined that 275 ug/m³ (.14ppm) is the correct design value based on EPA's "Guideline for the Interpretation of Ozone Air Quality Standards."

Substitution of 275 ug/m³ (.14ppm) into the Modified Rollback equation results in an increase in the ozone emission reduction required to attain the NAAQS. The needed reduction increases from the 13% required in the plan to 17%. However, attainment of the standard would still be achieved by 1982.

West Virginia states that a major portion of the reduction needed to attain the standard will be achieved through enforcement of the State's solid waste disposal regulation and through implementation of the Federal Motor Vehicle Control Program.

Emission Inventory. There is no inventory of major point sources. The inventory only includes a categorical listing of emissions. The inventory should be expanded to include source-specific information for major point sources. The accuracy of the categorical inventory cannot be evaluated since the actual calculations and methods of estimation used in developing the inventory were not submitted. The State has been requested to forward this information.

West Virginia should also explain why it has claimed emission reductions in source categories for which there are no regulations; for example, a 56% reduction for solvent metal cleaning emissions, and a 99% reduction in emissions from cutback asphalt paving.

Reasonable Further Progress. West Virginia was not required to submit a Reasonable Further Progress (RFP) presentation for the Kanawha Valley Interstate AQCR; such presentations are not required for rural ozone nonattainment areas. Nevertheless, West Virginia chose to submit an RFP presentation.

RACT as Expeditiously as Practicable. The Control Techniques Guidelines documents provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information in the CTGs, EPA

believes that the submitted regulations represent RACT, except as noted below. On the points noted below, the State regulations are not supported by the information in the CTGs, and the State must provide an adequate demonstration that its regulations represent RACT, or amend the regulations to be consistent with the information in the CTGs. West Virginia's Regulations XXI, XXIII, and XXIV apply to storage of petroleum liquids in fixed-roof tanks, bulk gasoline terminals, and petroleum refinery sources, respectively. Several sections of these regulations depart from EPA's definitions of RACT and should be amended as follows:

(a) In Section 4.01(b) of Regulation XXI, a 90% collection efficiency requirement should be added.

(b) In Section 3.21 of Regulation XXIII, the words "during the transfer of gasoline" should be deleted. The vapor control system should prevent VOC emissions at all times.

(c) Section 4.04 of Regulations XXI, XXIII, and XXIV, which provides for exemptions to RACT, should be revised or deleted because RACT for the source categories covered by these regulations is technologically feasible. This section should be revised because alternative control strategies should be proposed only where equivalent emission reductions are achieved or where the more stringent controls are not technologically or economically feasible. The intent of Section 4.04 is also somewhat unclear. Apparently a "bubble" concept is being proposed. West Virginia should clarify its intent and explain how the bubble concept would be applicable to these source categories.

Enforceability: Regulations XXI, XXIII, and XXIV should be amended to enhance their enforceability.

(a) The proposed effective date for Regulations XXI, XXIII and XXIV is July 9, 1979. EPA recommends that regulations be made future effective. Having immediately effective regulations could subject sources which are not in compliance with the SIP to the noncompliance penalties of Section 120 of the Clean Air Act. Categorical compliance schedules should be included in the regulations to allow for future compliance dates.

(b) Test procedures and methods for determining compliance with the provisions of Regulations XXI, XXIII and XXIV should be included in the SIP.

(c) Section 4.02(a)(2) of Regulation XXIII should include a definition of "fuel gas system".

(d) In Section 3.05 of Regulation XXIII, the wording of the definition of "Condensate" should be revised to read "hydrocarbon liquid separated from natural gas which condensed."

(e.) The definition of "Volatile Organic Compound" in Regulation XXIII states that methane is not considered a VOC. This wording should be included in Regulations XXI and XXIV.

(f.) In addition to the specific items listed above, EPA's preliminary review has revealed numerous instances where the regulations could be made more easily enforceable by correcting vague or unclear wording. EPA has notified the State of those instances.

State Commitments to Comply With Schedules. EPA has published and will be issuing additional Control Technique Guideline documents (CTG's) for the control of stationary source categories of volatile organic compounds. West Virginia has provided a commitment to adopt and submit regulations for all appropriate stationary source categories of VOC after EPA issues such guidance documents. This commitment is acceptable.

Sulfur Dioxide

Description of Submittal.—In the Steubenville-Weirton-Wheeling Interstate Air Quality Control Region (AQCR), the New Manchester-Grant Magisterial District in Hancock County and the Wellsburg Magisterial District in Brooke County are designated as primary nonattainment. On April 6, 1979, the State requested that the Wellsburg Magisterial District in Brooke County be redesignated a primary and secondary attainment area. This request was based on the latest eight quarters of air quality data. Apparently assuming this request will be approved, West Virginia's submittal of June only addressed the primary nonattainment area of New Manchester in Hancock County.

The SIP indicates that there is only one major emitting facility not in compliance with applicable sulfur dioxide regulations which impacts on the New Manchester ambient air quality monitor. That one facility is Ohio Edison Company's W. H. Sammis Generating Station which is located directly across the Ohio River near Stratton, Ohio. All other facilities which impact on the New Manchester monitor are purportedly in compliance with applicable sulfur dioxide regulations. West Virginia has submitted no revised regulations for sulfur dioxide.

Adoption after Reasonable Notice and Hearing. West Virginia held a public hearing on the sulfur dioxide SIP on December 18, 1978. Notice was given

and a hearing was held in accordance with the requirements of 40 CFR Section 51.4.

Control Strategy and Demonstration of Attainment.—According to an air quality dispersion analysis performed by the EPA, a 20 ug/m³ annual average reduction can be expected when the Sammis Plant comes into compliance with the Ohio SIP. When this reduction is applied to the two most recent annual air quality periods (4/77-3/78 and 4/78-3/79) the resulting arithmetic means are 70 ug/m³ and 45 ug/m³, respectively. Since there are no recorded violations of any short term standards (3-hours and 24-hours), compliance by the Sammis Plant is expected to result in compliance with all of the National Ambient Air Quality Standards for sulfur dioxide. This determination was also confirmed by short term air quality dispersion analyses performed by EPA.

The Sammis Plant is presently on a schedule for compliance and is required to be in final compliance by October 19, 1979. If the 20 ug/m³ annual average reduction is realized, no further reduction in emissions by other facilities would be required to attain ambient standards.

Margin for Growth. The State has not addressed expected growth in the area of nonattainment. While it is EPA's understanding from discussion with State officials that West Virginia intends to accommodate major point source growth on a case-by-case basis, the plan lacks a regulation to offset new emissions in accordance with the requirements of Section 173 of the Act. Further, the State should explain the manner in which area source growth would be accommodated.

Total Suspended Particulates

Description of Submittal.—EPA has designated four areas in West Virginia as nonattainment for total suspended particulates (TSP). West Virginia has submitted attainment plans for each of these areas:

1. The Steubenville-Weirton-Wheeling Interstate Aqcr;
2. The Parkersburg-Tygart Magisterial District in Wood County;
3. Kanawha County, and Valley Magisterial District in Fayette County;
4. In Marion County, all portions of Union and Winfield Magisterial Districts West of Interstate Highway I-79.

The plan for each area contained an emission inventory, a demonstration of attainment, and a commitment by the State to maintain Reasonable Further Progress (RFP) toward attainment.

Adoption After Reasonable Notice and Hearings.—On December 18, 1978,

West Virginia held a public hearing on the general provisions of the TSP attainment plans. On December 7, 1978, the State held hearings on the TSP regulations necessary to implement the plans. The State followed appropriate procedures in providing adequate notice of the hearings. The hearings were conducted in accordance with the requirements of 40 CFR Section 51.4.

However, the regulations for control of TSP emissions adopted by the West Virginia Air Pollution Control Commission have not yet been adopted by the West Virginia Legislative Rulemaking Review Committee.

Control Strategy and Demonstration of Attainment.—A. *Steubenville-Weirton-Wheeling Interstate AQCR.* The Steubenville-Weirton-Wheeling AQCR has been designated as a primary and secondary nonattainment area for TSP. The State has submitted a demonstration showing attainment of the primary TSP standard by December 31, 1982 using the rollback technique. The State has not committed to attainment of the secondary standard by a specific date. However, it is EPA's understanding that West Virginia will be requesting an eighteen month extension to develop and submit the secondary TSP attainment plan which will include a specific attainment date.

In this AQCR, a major portion of those emission reductions necessary to attain the TSP secondary standard will be identified through a TSP study which is currently ongoing. This study is being funded by EPA and is being carried out in conjunction with Ohio and West Virginia. The schedules and dates for adoption of those regulations necessary to attain the secondary TSP standard should be included when the secondary TSP plan is submitted to EPA.

B. *The Parkersburg-Tygart Magisterial District.*—The Parkersburg-Tygart Magisterial District has been designated as a secondary nonattainment area for TSP. The State has submitted a demonstration using the rollback technique which shows attainment of the secondary TSP standard by December 31, 1985. EPA has reviewed this demonstration and notes that the State plans to attain standards by limiting access to unpaved areas and by enforcing Regulation XVII relating to the control of fugitive TSP emissions. The State should submit an enforceable program to achieve TSP reductions by limiting access to unpaved areas and by making the suggested corrections to Regulation XVII to enhance its enforceability.

C. *Kanawha County and the Valley Magisterial District in Fayette County.*—Kanawha County and the

Valley Magisterial District in Fayette County are designated as primary and secondary nonattainment for TSP. On April 6, 1979, West Virginia requested that these areas be redesignated to secondary TSP nonattainment. The request to redesignate these areas to secondary TSP nonattainment was based upon eight quarters (April, 1977-March, 1979) of measured TSP air quality data. EPA has reviewed this redesignation request, and has determined that this request meets EPA criteria for TSP redesignation. EPA intends to approve this request.

The State has submitted only a secondary attainment plan demonstration for this area. The plan shows, through the use of the rollback technique, that standards will be attained no later than December 31, 1985. The adequacy of this demonstration is under review by EPA.

D. *Winfield and Union Magisterial District (Marion County).*—The Winfield and Union Magisterial Districts in Marion County have been designated as primary and secondary nonattainment for TSP. The State has adequately demonstrated attainment of both the primary and secondary TSP standard by 1980 using air quality dispersion modeling.

Emission Inventory.—The plan submittal presented emission inventories for all the designated nonattainment areas for 1977 and 1982. EPA has reviewed the inventories and has found them lacking in detail. Specifically the plan does not identify 100 ton per year sources and provides no basis for any emission estimates. EPA has asked the State of West Virginia for additional information which the State has agreed to provide.

Reasonable Further Progress.—The State of West Virginia has submitted a graphical presentation of Reasonable Further Progress (RFP) for each nonattainment area. The RFP curves for each area are linear and represent the State's commitment to annual incremental reductions in TSP emissions. EPA has reviewed the RFP curves and has found them to be adequate.

Margin for Growth.—Growth projections for area sources were incorporated into the SIP emission inventories. However, these estimates were not completely explained. These growth factors should be documented further.

For major stationary sources the State has not provided for growth either through accommodation as a result of emission reductions beyond those required for attainment of the TSP

standard or through a case-by-case emission offset regulation. The State should adopt regulations allowing for major stationary source growth in order to meet the requirements of Section 173 of the 1977 Clean Air Act Amendments.

Reasonable Available Control Technology (RACT).—West Virginia contends that all its existing regulations including the modifications to Regulations VI, controlling TSP emissions from incineration, and VII, controlling TSP emissions from manufacturing processes, require the application of RACT. EPA has reviewed the State's regulations and has found them generally to support the State's contention but has suggested modifications to regulations VI and VII, which as proposed fall short of EPA's guidelines.

Enforceability.—EPA has the following comments:

(a) *Regulation III* (Control of TSP emissions from hot mix asphalt plants). EPA finds this regulation acceptable.

(b) *Regulation VI and VII.* These regulations do not require Reasonably Available Control Technology (RACT); the State is working to correct these deficiencies.

(c) *Regulations XVII.* EPA calls attention to the following deficiencies:

1. Such qualifying phrases as "In the judgement of the Commission", and "will have an effect on ambient air quality" make the regulation difficult to enforce and are undesirable.

2. Fugitive emissions from inactive storage piles are rarely "sustained", and this qualifying word should be omitted.

3. Material deposition and load out operations which produce visible emissions, should not be exempted.

4. The provisions of Section 11 should only apply to malfunctions.

(d) *Regulation VIII* ("Ambient air Quality Standards for Sulfur Oxides and Particulate Matter").

Section 3.01 appears to be deficient in that it only requires attainment of NAAQS at sampling sites. EPA has also identified several deficiencies in the sampling methods specified in the regulation. EPA has notified West Virginia of these deficiencies.

General Comments

(1) *Pre-Construction Review.*—In order to allow for major point source construction in nonattainment areas, SIP's should contain regulations which meet the requirements of Section 173 of the 1977 Clean Air Act Amendments and EPA's January 16, 1979 Emission Offset Interpretative Ruling (44 FR 32 (1979)).

The West Virginia SIP does not contain any regulations which meet the requirements of Section 173 and the EPA Emission Offset Interpretative Ruling. EPA has notified West Virginia of this deficiency and understands that the State is in the process of developing suitable regulations.

(2) *Financial and Manpower Commitments.*—West Virginia has adequately committed the financial and manpower resources necessary to implement the plan for attainment.

(3) *Involvement and Consultation.*—West Virginia has shown that the public, and local government officials, were adequately involved in preparing the plan.

(4) *Analysis of Effects.*—The State has not addressed the health, welfare, economic, energy, or social effects of the plan as required by Section 172(b)(9) of the Clean Air Act.

(5) *Committee Substitute for Senate Bill 518.*—West Virginia as part of its submittal included recently adopted legislation entitled *Committee Substitute for Senate Bill 518*. This Bill prohibits the adoption by the State of West Virginia of any rule, regulation, or plan more stringent than federal law. The EPA has requested the Air Pollution Control Commission to obtain the Attorney General's opinion regarding the impact of this legislation on the West Virginia SIP.

The following summary of major issues represent those items which EPA has identified in its preliminary review as the most important items in the West Virginia SIP.

1. West Virginia has not provided for a preconstruction review program that meets the requirements of Section 173 of the 1977 Clean Air Act Amendments and EPA's January 16, 1979 Emission Offset Interpretative Ruling (44 FR 3279 (1979)).

2. Regulations III, VI, VII, VIII, XVII, XVIII, XXI, XXIII, and XXIV have been adopted by the West Virginia Air Pollution Control Commission, however, they have not yet been adopted by the West Virginia Legislative Rulemaking Review Committee as required in Chapter 29(a), Article III, Section II of the Code of West Virginia.

3. Regulations XXI, XXIII, and XXIV contain inappropriate exemptions from RACT for certain VOC sources, lack test methods for determining compliance, and have ambiguous definitions.

4. Regulations VI, VII, and XVII relating to control of particulate emissions should be amended to reflect EPA's comments in the TSP section on enforceability and RACT.

5. West Virginia has not addressed the health, welfare, economic, energy or social effects of the plan as required by Section 172(b)(9) of the Clean Air Act.

6. A comprehensive and accurate TSP emissions inventories for TSP nonattainment areas are needed as part of the control strategy demonstrations.

Conclusion

The measures proposed today would be in addition to, and not in lieu of, existing SIP regulations. The present emission control regulations for any source will remain applicable and enforceable to prevent a source from operating without control or under less stringent controls while it is moving toward compliance with the new regulations (or, if it chooses, challenging the new regulations). Failure of a source to meet applicable pre-existing regulations would result in appropriate enforcement action, including assessment of non-compliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability or enforceability of the new regulations because of a court order or for any other reason, the pre-existing regulations would be applicable and enforceable.

The only exceptions to this rule are cases where there are conflicts between the requirements of the new regulations and the requirements of the existing regulations such that it would be impossible for sources to comply with the new regulations. In these situations, the State may exempt a source from compliance with the existing regulations. Any exemption granted would be reviewed and acted on by EPA either as part of these proposed regulations or as future SIP revisions.

The public is invited to submit to the address stated above comments on whether the proposed amendments to the West Virginia air pollution regulations should be approved as a revision of the West Virginia State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination of whether the amendments meet the requirements of Part D and Section 110(a)(2) of the Clean Air Act and of 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

A supplement to an April 4, 1979 Notice of Proposed Rulemaking (44 FR 20372 (1979)) was published on July 2, 1979 (44 FR 38583 (1979)) involving, among other things, conditional approval. EPA proposes to conditionally approve the plan where there are minor

deficiencies and the state provides assurances that it will submit corrections on a specified schedule. This notice solicits comment on what items should be conditionally approved. A conditional approval will mean that the restrictions on new major source construction will not apply unless, (1) the State fails to submit, by dates to be scheduled, SIP revisions necessary to remedy the deficiencies or (2) the revisions are not approved by EPA.

Deficiencies in the State of West Virginia's Plan that are not corrected may be cause for disapproval of the proposed revisions to the SIP. However, EPA is aware that the State of West Virginia is undertaking an effort to correct the deficiencies.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Authority: 42 U.S.C. §§ 7401-7642

Dated: July 16, 1979.

Jack J. Schramm,
Regional Administrator.

[FR Doc. 79-22630 Filed 7-23-79; 8:46 am]
BILLING CODE 6560-01-M

[40 CFR Part 52]

(FRL 1279-4)

Approval and Promulgation of Implementation Plans; Tennessee: Proposed 1979 Plan Revisions

AGENCY: U.S. Environmental Protection Agency, Region IV.

ACTION: Proposed Rule.

SUMMARY: EPA today proposes approval action on the State Implementation Plan (SIP) revisions which the Tennessee Air Pollution Control Division submitted pursuant to requirements of Part D of the Clean Air Act Amendments (CAAA) of 1977 with regard to nonattainment areas. EPA has found all portions of the submitted revisions to be approvable except for certain portions of the transportation control plan which is needed to attain the air quality standards for carbon monoxide (CO) in Memphis and portions of the CO control strategy for Knox County. It is proposed to approve conditionally the CO control strategy of the Knox County SIP and the Memphis CO plan on condition that the

deficiencies noted be corrected by October 1, 1979, for Knoxville and December 30, 1979 for Memphis. If these deficiencies are not corrected by this date, EPA will disapprove this portion of the SIP. The public is invited to submit written comments on these proposed actions.

DATES: To be considered, comments must be submitted on or before August 23, 1979. A thirty-day comment period is being used to enable publication of final action on the SIP revisions as soon as possible after July 1, 1979, because a Notice of Availability was published more than 30 days ago and because the SIP submission and the issues involved are not so complex as to warrant a longer comment period.

ADDRESSES: Written comments should be addressed to Archie Lee of EPA Region IV's Air Programs Branch (See EPA Region IV address below). Copies of the materials submitted by Tennessee may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Library, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308.

Tennessee Air Pollution Control Division, 256 Capitol Hill Building, Nashville, Tennessee 37219.

FOR FURTHER INFORMATION CONTACT: Archie Lee of EPA Region IV's Air Programs Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30308. Telephone 404/881-2364 (FTS-257-2864).

SUPPLEMENTARY INFORMATION:

Background: In the March 3, 1978, Federal Register (43 FR 8962 at 9035) and the September 11, 1978 Federal Register (43 FR 40412 at 40432) a number of areas within the State of Tennessee were designated as not attaining certain national ambient air quality standards. The areas designated nonattainment for the primary (P) and secondary (S) standards for total suspended particulate matter (TSP) are:

A. That portion of Anderson and Knox Counties surrounding TVA's Bull Run Plant. (P&S)

B. Those portions of Campbell County within downtown LaFollette and the area surrounding the Carborundum Company's plant at Jacksboro. (P&S)

C. That portion of Davidson County within the 1964 Urban Services area of Nashville. (P&S)

D. That portion of Hamilton County within, approximately, the city limits of Chattanooga. (P&S)

E. That portion of Maury County within the northern section of Columbia. (P&S)

F. That portion of Roane County within a downtown section of Rockwood. (P)

G. Those portions of Shelby County within two sections of downtown Memphis. (P)

H. Those portions of Sullivan County within a section of Bristol and a section of Kingsport. (P)

I. That portion of Sumner County surrounding TVA's Gallatin plant. (S)

The areas designated nonattainment for the primary and secondary standards of sulfur dioxide (SO₂) are:

A. That portion of Polk County surrounding the Cities Service plant at Copperhill. (P&S)

B. That portion of Benton and Humphreys Counties surrounding TVA's Johnsonville plant. (P&S)

The areas designated nonattainment for the same standards serve as both the primary and secondary standards) carbon monoxide (CO) are:

A. That portion of Davidson County located in downtown Nashville.

B. That portion of Knox County located in metropolitan Knoxville.

C. That portion of Shelby County located in metropolitan Memphis.

The areas designated nonattainment (the same standards serve as both the primary and secondary standards) for photochemical oxidants (ozone) are:

A. Nashville area—Davidson, Sumner, Rutherford, Wilson and Williamson Counties

B. Shelby County

C. Maury County

D. Hamilton County

E. Knox County

F. Sullivan County

G. Bradley County

H. Roane County

Implementation plan revisions under Part D of the CAAA were developed by the State for the following areas:

TSP—Sullivan County (Bristol), Campbell County, Sumner County, Anderson/Knox Counties.

SO₂—Polk County, Benton/Humphreys Counties.

CO—Shelby County, Knox County.

The implementation plan revisions for the remaining nonattainment areas will be proposed later as the SIP revisions are submitted.

These revisions were submitted for EPA's approval on February 13, 1979, with additional information on April 12, and 27, 1979. The Tennessee revisions have been reviewed by EPA in light of the CAAA of 1977, EPA regulations, and additional guidance materials. The criteria utilized in this review were detailed in the Federal Register on April 4, 1979, (44 FR 20372) and need not be repeated in detail here. A supplement to the April 4 notice was published on July

2, 1979 (44 FR 38583) involving, among other things, conditional approval.

EPA proposed to conditionally approve the plan where there are minor deficiencies and the State provides assurances that it will submit corrections or additional information by specified dates. This notice solicits comment on approvals, conditional approvals, and disapprovals. A conditional approval will mean that the restrictions on new major source construction will not apply unless the State fails to submit the necessary SIP revisions by the scheduled dates, or unless the revisions are not approved by EPA.

General Discussion

Section 172(b) of the CAAA contains the requirements for nonattainment State Implementation Plans. The following is a listing of these requirements accompanied by a discussion of the contents and adequacies of the Tennessee submittals.

172(b)(1) [SIP provisions shall] be adopted by the State (or promulgated by the Administrator under section 110(c)) after reasonable notice and public hearing.

Public hearings were held throughout the State on the adopted material following 30 days public notice. Public hearings were conducted October 16, 18, 19, and 24, December 11, 13 and 15, 1978; January 18, February 15, and April 10, 1979. These SIP provisions were adopted by the State on November 30, 1978, January 30, March 21, and April 26, 1979.

172(b)(2) [SIP provisions shall] provide for the implementation of all reasonably available control measures as expeditiously as practicable;

For discussion of reasonably available control measures including Reasonable Available Control Technology (RACT) see discussion after 172(b)(3) below.

172(b)(3) [SIP provisions shall] require, in the interim, reasonable further progress (as defined in section 171(1)) including such reduction in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology;

Reasonable further progress (RFP) graphs and calculations accompany each explanation of progress toward attainment for each nonattainment area. The SIP calls for meeting the national ambient air quality standards in all areas by the end of 1982 except for carbon monoxide in Memphis. The State has requested an extension to the end of 1987 for meeting the carbon monoxide standard in this area. Each area is discussed below.

Bristol (TSP)—The State has reviewed the sources in the nonattainment area and made RACT determinations for the sources. There are only two point sources in the area and one of the sources is moving its operation into another State by January, 1980.

Most of the State's new categorical requirements for this area involve the control of process fugitive and fugitive dust emissions.

When modelling the sources at their 1982 RACT allowable emission limits, attainment of the primary and secondary NAAQS by December, 1982, is predicted.

EPA proposes to approve the plan for this area.

Campbell County (TSP)

LaFollette—The nonattainment designation for this area is due largely to minerals handling and processing. These sources include an asphalt concrete plant, limestone aggregate plant, and a feed and grain mill. The State reviewed all the sources in the area and made RACT determinations. The RACT determinations involve the control of fugitive dust on plant property, hours of operation restrictions and a reduction in the source's allowable stack emissions. The regulatory requirements adopted were new categorical visible emissions and emission limitations for the sources affecting the nonattainment area. Modelling all the sources at their 1982 RACT allowable emission limits demonstrates attainment of the primary and secondary standards by 1982.

Jacksboro—The primary cause of nonattainment for this area is the emissions from the Carborundum Company (a silicon carbide manufacturing plant). The State evaluated this source and made a RACT determination. The areas where most emission reductions will be achieved are the loading and unloading of silicon carbide furnace cars and the crushing, screening, and bagging of silicon carbide. The adopted regulations for the silicon carbide plant tighten the visible emissions and emission limits for processes at the source. After the application of RACT, modelling shows that the area will attain the primary and secondary standard by the end of December, 1982. EPA is proposing to approve the plan for this area.

Sumner County (TSP)—The nonattainment designation for this area was due to the noncompliance of a TVA power plant in the area. TVA has completed improvements to the TSP control system and no violations have been recorded since the completion of the improvements. The State contends

that the existing SIP is adequate and that indications of attainment of the standards should continue since the TVA plant is in compliance with the applicable emission limits. EPA agrees with the State and proposes to approve this as the plan.

Anderson/Knox Counties (TSP)—The nonattainment designation for this area was due to a TVA power plant in the area. The power plant's TSP control system was not operating properly due to some mechanical deterioration in the system. The necessary improvements and repairs have been completed and the State contends that the area will attain the ambient standards since the power plant will now comply with the applicable emission limitations. The State of Tennessee submits that the existing SIP for the area is adequate and EPA is today proposing to approve the plan for this area.

Copperhill (SO₂)—Cities Service Company (primary copper smelter) is the main source of sulfur dioxide emissions in the area. The company has made several major improvements in the last few years and the magnitude of violations has been reduced. The source is located in mountainous terrain which tends to worsen the dispersion of the emissions. A good engineering practice (GEP) review of the stacks at the smelter revealed that the existing stacks comply with GEP and in some instances (for example at the liquid sulfur dioxide plant) were at a height less than GEP. The State made a RACT evaluation of sources in the area. Based upon this evaluation the State adopted regulations for the area which involved operating hours restrictions, limits on sulfur content of fuels, and special requirements for processes during startup and shutdown at the copper smelter as well as emission limits on processes during normal operation.

Modelling the sources at their 1982 RACT allowable emission limit demonstrates attainment of the primary NAAQS by the end of December, 1982. The State has asked for an 18-month extension in order to develop the attainment plan for secondary standards. EPA is today proposing to approve Tennessee's request for an eighteen month extension to submit their plan for attainment of the secondary standard and to approve the plan for attainment of the primary standard.

Johnsonville Area (SO₂)—The nonattainment designation of this area was due primarily to the noncompliance of the TVA Johnsonville plant. The State contends that the existing EPA approved SIP for the area is adequate and

attainment will be achieved when the TVA plant complies with the presently applicable emission limits. Compliance is predicted by the end of 1982 since that is required by an Agreement TVA signed with EPA and others. The acceptability of this Agreement is currently the subject of litigation in *Thoracic Society et al. v. Freeman* Civ. No. 77-3286-NA-CV (M.D. Tenn. filed June 23, 1977). The requirements of the Agreement, if acceptable to the Court in that case, will be reflected in a future SIP revision by the State. EPA is proposing to approve this as the nonattainment plan for the Johnsonville area.

Shelby County (CO)—The State has calculated that a 36% reduction in CO emissions is necessary to achieve the 10 mg/m³ 8-hour ambient standard. Since approximately 94% of the CO emissions are attributed to motor vehicles, almost all emission reduction measures are directed toward this source category through use of the Federal Motor Vehicle Control Program (FMVCP), consisting of certification of new light duty vehicles and truck engines as meeting federal emissions standards. Shelby County will be unable to meet the CO ambient standard by the end of 1982. Therefore, an extension has been requested to 1987 and the State must implement a mandatory inspection and maintenance program for motor vehicles, transportation control measures, and a new source review program consistent with the requirements of 172(b)(11)(A). EPA's review of the Memphis CO control strategy has revealed several deficiencies. The State has indicated that some of the deficiencies related to transportation control measures will be corrected in later submittals.

EPA proposes to conditionally approve the Shelby County (Memphis) CO control strategy until acceptable additions have been submitted. EPA has received an opinion from the Tennessee Attorney General concluding that there is sufficient statutory authority for an inspection and maintenance program to be implemented by certain cities in the State. EPA has received a legal opinion from the Memphis City Attorney's office concurring with the legal opinion of the Attorney General and indicating that Memphis is one of the cities with this authority. Further, the City has submitted a letter indicating that inspection requirements (which EPA interprets as including a requirement to meet specified emission levels) must be met before an inspection decal will be issued.

In addition, the Mayor of Memphis has submitted a letter committing to support an I/M program in Memphis and committing to the I/M schedule submitted in the SIP (§ 2.21.4.1.4 and Table 1). It should be noted that the Mayor's commitments to I/M are made "(c)ontingent upon the support of the Memphis City Council" for future resources and the final specific regulations. While EPA recognizes that the Mayor cannot commit the City Council to any future action, it should be understood that a failure by the City to institute a mandatory I/M program according to the schedule submitted in the SIP will make the area liable to the imposition of sanctions under the Clean Air Act.

The remaining commitment in the SIP is one by the State regarding emission reductions. The program implemented by the schedule would entail inspection and maintenance of light-duty vehicles in a centralized program initiated with voluntary repair in December 1980 and full mandatory operation in December 1981. As a result of its Reasonable Further Progress calculation, the State has committed to a CO emission reduction of at least 25% from light-duty vehicles by 1987. Thus the City of Memphis has generally adequate legal authority, commitments, and schedules to implement the I/M program.

The conditional approval that EPA is proposing today is based upon the proper officials correcting the deficiencies noted below before full approval can be given.

1. The submittal does not identify projects in the current Annual Element of the Transportation Improvement Program (TIP) which have air quality benefits. Measures that are found to have benefits and are feasible must be submitted with implementation dates. The implementation dates should correspond to the dates shown in the TIP/AE. Commitments from the proper officials, where appropriate, to enforcement of the measures must be included.

2. The submittal does not contain a schedule for the analysis of the alternative transportation control measure under Section 108. Also, there is no commitment from the proper agency(s) to the implementation as expeditiously as practicable of measures found feasible for adoption or to justify the decision not to implement any of these measures.

3. The submittal does not contain commitment of the proper agency(s) to establish, expand, or improve public transportation measures to meet basic

transportation needs as expeditiously as practicable.

4. Under Section 174, the Memorandum of Understanding (MOU) between the proper local and State officials includes a commitment to the implementation of stationary source controls but not mobile source controls.

5. The schedule for the I/M program is generally adequate, although some of the dates need to be revised.

Therefore, EPA proposes to conditionally approve the Shelby County (Memphis) CO control strategy based on the revised strategy being submitted by December 30, 1979. Due to the legal procedures in Tennessee for adopting revisions, this length of time is necessary to comply with both the State and EPA requirements.

Knox County (CO)—The State has calculated that a 27% reduction in CO emissions is necessary to achieve the 10 mg/m³ 8-hour ambient standard. Since greater than 90% of the CO emissions are attributed to motor vehicles, the emission reduction measures are directed toward this source category through use of the FMVCP. In the control strategy submitted to EPA, the plan did not show attainment before 1982. EPA contacted the State on this matter and requested the State to confirm that the information and data submitted was correct. When the State investigated the original calculations, they discovered that errors had been made in the base year emission inventory. With these corrections made, the area would show attainment by the end of December, 1982. Therefore, EPA is proposing to conditionally approve the Knox County CO plan, and the revised control strategy showing attainment must be submitted by October 1, 1979.

172(b)(4) [SIP provisions shall] include a comprehensive, accurate, current inventory of actual emissions from all sources (as provided by rule of the Administrator) of each such pollutant for each such area which is revised and resubmitted as frequently as may be necessary to assure that the requirements of paragraph (3) are met and to assess the need for additional reductions to assure attainment of each standard by the date required under subsection (a);

Appropriate emissions inventories for TSP, SO₂, ozone (the inventory is for hydrocarbons which react with sunlight to form ozone), and CO have been submitted. Future reporting requirements for updating inventories annually are included.

172(b)(5) [SIP provisions shall] expressly identify and quantify the emissions, if any, of any such pollutant which will be allowed to result from the construction and operation of

major new or modified stationary sources for each such area;

There is no identification and quantification of emissions from major new or modified sources. Therefore, offsets under Section 173 of the CAAA will be required for these new sources. The State expects to be able to satisfy the offset requirement also through emissions reductions on other sources, in excess of the reductions needed to provide for reasonable further progress. The mechanism for tracking these reductions and allowing growth in nonattainment areas is provided in Chapter 1200-3-9 of the Tennessee Air Pollution Control Regulations. EPA proposes to approve this portion of the plan.

172(b)(6) [SIP provisions shall] require permits for the construction and operation of new or modified stationary sources in accordance with Section 173 (relating to permit requirements);

The State requires permits for the construction and operation of new or modified major stationary sources in accordance with Section 173 (Tennessee Rule 1200-3-9-.01[5]).

172(b)(7) [SIP provisions shall] identify and commit the financial and manpower resources necessary to carry out the plan provisions required by this subsection;

The State has identified and committed adequate financial and manpower resources necessary to carry out the provisions of this SIP revision. In section 2.11 (tables 1 and 2), the State has projected the amount of manpower and funding which will be expanded through FY 1983 to carry out the requirements of the SIP.

172(b)(8) [SIP provisions shall] contain emission limitations, schedules of compliance and other such measures as may be necessary to meet the requirements of this section;

This revision package contains the necessary emission limitations and schedules of compliance for stationary sources of TSP, SO₂, and CO sources where appropriate. These provisions have been incorporated into a newly adopted Chapter 19 for nonattainment areas.

172(b)(9) [SIP provisions shall] contain evidence of public, local government, and State legislative involvement and consultation in accordance with Section 174 (relating to planning procedures) and include (A) an identification and analysis of the air quality, health, welfare, economic, energy, and social effects of the plan provisions required by this subsection and of the alternatives considered by the State, and (B) a summary of the public comment on such analysis;

Consultation with the public, local governments and State legislative involvement is evidenced by a listing of correspondence in the SIP. The State's analysis of the air quality, health, welfare, economic, energy, and social effects determine that the impact of the SIP will be beneficial, and EPA proposes to approve this portion of the SIP.

172(b)(10) [SIP provisions shall] include written evidence that the State, the general purpose local government or governments, or a regional agency designated by general purpose local governments for such purpose, have adopted by statute, regulation, ordinance, or other legally enforceable documents, the necessary requirements and schedules and timetables for compliance, and are committed to implement and enforce the appropriate elements of the plan;

172(b)(9) [SIP provisions shall] contain evidence of public, local government, and State legislative involvement and consultation in accordance with section 174 (relating to planning procedures) and include (A) an identification and analysis of the air quality, health, welfare, economic, energy, and social effects of the plan provisions required by this subsection and of the alternatives considered by the State, and (B) a summary of the public comment on such analysis;

Consultation with the public, local governments and State legislative involvement is evidenced by a listing of correspondence in the SIP. The State's analysis of the air quality, health, welfare, economic, energy, and social effects determine that the impact of the SIP will be beneficial, and EPA proposes to approve this portion of the SIP.

172(b)(10) [SIP provisions shall] include written evidence that the State, the general purpose local government or governments, or a regional agency designated by general purpose local governments for such purpose, have adopted by statute, regulation, ordinance, or other legally enforceable documents, the necessary requirements and schedules and timetables for compliance, and are committed to implement and enforce the appropriate elements of the plan;

In the State of Tennessee the Air Pollution Control Division of the Department of Public Health has full statutory authority for enforcing the SIP revisions submitted. The Board of Air Pollution Control adopted on November 30, 1978, January 30, March 21, and April 26, 1979, the necessary regulatory portion of the SIP submitted. Timetables for compliance are addressed in 172(b)(8).

172(b)(11) [SIP provisions shall] in the case of plans which make a demonstration pursuant to paragraph (2) of subsection (a),

(A) Establish a program which requires, prior to issuance of any permit for construction or modification of a major

emitting facility, an analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source which demonstrates that benefits of the proposed source significantly out weight the environmental and social costs imposed as a result of its location, construction, or modification.

(B) Establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program; and

(C) Identify other measures necessary to provide for attainment of the applicable national ambient air quality standard not later than December 31, 1987.

Paragraph 11 of subsection 172(b) applies to the Memphis nonattainment area for carbon monoxide. The alternatives analysis for new sources required by subparagraph (A) above has been submitted in the SIP as a revision to the State's permitting regulation (Tennessee Rule 1200-3-9-.01[5]).

In addition to the implementation plan for the nonattainment areas under Part D of the CAAA, the SIP revisions contain changes applicable to other portions of the CAAA, including changes to the Tennessee ambient air quality standards, malfunction regulations, NSPS regulations, regulations concerning prevention of significant deterioration, and other emission standards. These topics will be dealt with in a separate Federal Register.

Proposed Action

Based on the foregoing, EPA is proposing to approve fully the SIP under Part D of the CAAA, as it relates to the attainment of TSP standards in Bristol, Campbell County, Sumner County and Anderson/Knox Counties; SO₂ in Polk County and Benton/Humphreys Counties; and conditionally approve the plan for carbon monoxide in Knoxville and Memphis. It is proposed to disapprove the Memphis CO plan.

(Section 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: June 11, 1979.

John C. White,

Regional Administrator.

[FR Doc. 79-22628 Filed 7-23-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1279-5]

[40 CFR Part 52]

Commonwealth of Pennsylvania: Proposed Revision of the Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: A revision to the Pennsylvania State Implementation Plan (SIP) for the attainment of particulate matter, ozone and carbon monoxide standards has been submitted to the Environmental Protection Agency (EPA) by the Governor on April 24, 1979 and on June 7, 8, 12, and 13, 1979. As of June 15, 1979 no revision to the SIP for the attainment of the particulate matter standard in Allegheny County or for the attainment of the sulfur dioxide standard in various designated nonattainment areas throughout the Commonwealth had been submitted. The intended effect of the revision is to meet the requirements of Part D of the Clean Air Act, as amended in 1977, "Plan Requirements For Nonattainment Areas". This Notice provides a description of the proposed SIP revision, compares the revision to these requirements, identifies major issues in the proposed revision, and suggests corrective actions.

On April 4, 1979 (44 Fed. Reg. 20372 [1979]) EPA published a proposed rule entitled "General Preamble for Proposed Rulemaking on Approval of State Implementation Plan Revisions for Nonattainment Areas". The general preamble supplements this proposal, by identifying the major considerations that will guide EPA's evaluation of the submittal. The EPA invites public comments on this revision, the identified issues, the suggested corrections, and whether the revision should be approved or disapproved, especially with respect to the requirements of Part D of the Clean Air Act.

DATE: On June 11, 1979 the Regional Administrator, EPA Region III, published a Notice of Availability (44 FR 33438 [1979]) of the proposed revision to the Pennsylvania State Implementation Plan (SIP) for public inspection. Therefore, the Regional Administrator believes that a 30-day public comment period following publication of this Notice of Proposed Rulemaking will be sufficient to afford the public opportunity to submit comments. Therefore, comments must be submitted on or before August 23, 1979.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, Pa. 19106. Attn: Brian J. McLean.

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, Southwest (Waterside Mall), Washington, D.C. 20460. Bureau of Air Quality Control, Pennsylvania Department of Environmental Resources, Fulton Bank Building, Third and Locust Streets, Harrisburg, Pennsylvania 17120. Attn: Gary L. Triplett.

All comments on the proposed revision should be directed to: Mr. Howard R. Heim Jr., Chief, Air Programs Branch (3A110), Air & Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, Attn: A11300PA.

FOR FURTHER INFORMATION CONTACT: Brian J. McLean (3A112), U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, telephone: 215/597-8188.

SUPPLEMENTARY INFORMATION:

Background

New provisions of the Clean Air Act, enacted in August 1977, Pub. L. No. 95-95 (42 U.S.C. § 7472), require States to revise their SIPs for all areas that do not attain the National Ambient Air Quality Standards (NAAQS). The amendments required each State to submit to the Administrator a list of the NAAQS attainment status for all areas within the State. The Administrator promulgated these lists on March 3, 1978 (43 Fed. Reg. 8962 [1978]) and on September 12, 1978 (43 FR 40502 [1978]). The entire State of Pennsylvania was designated as nonattainment for ozone and various portions of the State were designated as nonattainment for total suspended particulate matter (TSP), sulfur dioxide (SO₂), and carbon monoxide (CO). As a consequence, the Commonwealth of Pennsylvania was required to develop, adopt, and submit to EPA a revision to its SIP, for those nonattainment areas by January 1, 1979. The revision must conform to requirements of Part D of Title I of the Clean Air Act, as amended, and provide for attainment of the NAAQS as expeditiously as practicable. In accordance with these requirements, Governor Richard Thornburgh and Clifford Jones, Secretary of Environmental Resources, acting on

behalf of the Governor, submitted a revision of the SIP on April 24, 1979 and on June 7, 8, 12, and 13, 1979.

On June 11, 1979 (44 FR 33438 [1979]), EPA published a Notice of Availability of those portions or drafts of portions of the Commonwealth of Pennsylvania SIP revision received as of June 1, 1979 and invited the public to inspect the plan. As yet, no public comments have been received. EPA has reviewed the SIP revision with respect to the requirements and criteria described or referenced in the Federal Register notice published on April 4, 1979 (44 FR 20372 [1979]). This notice to which interested persons may refer is entitled "General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas", and is incorporated herein by reference. A summary of the criteria for approving SIP's for nonattainment areas follows.

Criteria for Approval

The following list summarizes the basic requirements for nonattainment area plans.

1. Evidence that the proposed SIP revisions were adopted by the State after reasonable notice and public hearing.
2. A provision for expeditious attainment of the standards.
3. A determination of the level of control needed to attain the standards by 1982 and the criteria necessary for approval of any extension beyond that date.
4. An accurate inventory of existing emissions.
5. Provisions for reasonable further progress (RFP) as defined in Section 171 of the Clean Air Act.
6. An identification of emissions growth.
7. A permit program for major new or modified sources, consistent with Section 173 of the Clean Air Act.
8. Use of Reasonably Available Control Technology (RACT) control measures as expeditiously as practicable.
9. Inspection and Maintenance (I/M), if necessary, as expeditiously as practicable.
10. Necessary transportation control measures, as expeditiously as practicable.
11. Enforceability of the regulations.
12. An identification of, and commitment to, the resources necessary to carry out the plan.
13. State commitments to comply with schedules.
14. Evidence of public, local government, and State involvement and consultation.

In the following sections of this Notice there are several references to the terms "design value" and "rollback." To avoid confusion or misunderstanding, these terms are defined below:

Design Value—the level of existing air quality used as a basis for determining the amount of change of pollutant emission necessary to attain a desired air quality level.

Rollback—a proportional model used to calculate the degree of improvement in ambient air quality needed for attainment of a national ambient air quality standard.

Sulfur Dioxide

Several areas of the Commonwealth of Pennsylvania have been designated by EPA as not attaining the NAAQS for SO₂. The following is a summary of those nonattainment areas published in the Federal Register on September 12, 1978 (43 FR 40515 [1978]):

1. A portion of the City of Philadelphia (census tracts 2, 3, 4, 5, 6, 7, 8, 11, 12).
2. Allegheny County.
3. Monongahela Valley Air Basin.
4. Portions of Northumberland County (Lower Augusta Township, Point Township, Little Mahanoy Township, Rockefeller Township and Shamokin Township) and Snyder County (Shamokin Dam).
5. A portion of Armstrong County (Madison Township, Mahoning Township, Boggs Township, Washington Township, and Pine Township).
6. A portion of Warren County (Conewango Township).

The rest of the Commonwealth is classified as either attaining the NAAQS or "cannot be classified". This latter designation is given to those areas where there are insufficient data to support either an attainment or a nonattainment classification.

For those areas designated as nonattainment, the Act requires the Commonwealth of Pennsylvania to submit a revision to its SIP to demonstrate attainment of the primary NAAQS by December 31, 1982, and the secondary NAAQS as expeditiously as practicable. Within the Commonwealth, three agencies have primary responsibility for the preparation of the SIP: Allegheny County Health Department, Bureau of Air Pollution Control (BAPC) for Allegheny County; City of Philadelphia Health Department, Air Management Services (AMS) for the City of Philadelphia; and the Pennsylvania Department of Environmental Resources (DER) for the remainder of the State.

The status of the nonattainment SIP revisions for the six areas identified above is discussed below:

1. *City of Philadelphia.* DER and AMS have submitted a SIP revision that demonstrates attainment of the NAAQS for SO₂ by December 31, 1982. This revision was proposed in the Federal Register on December 27, 1978 (43 FR 60305 [1978]), and final rulemaking approving the revision was published on June 4, 1979 (44 FR 31980 [1979]). The plan as revised also demonstrates reasonable further progress to attain standards and contains an adequate inventory of emissions. In addition, the revision contains an adequate assessment of air quality, health, welfare, economic, energy, and social effects; and satisfies all other pertinent Part D requirements. Therefore, no further submittals are necessary for this nonattainment area.

2. *Allegheny County.* A SIP revision to demonstrate attainment of the NAAQS for SO₂ in Allegheny County is being prepared by the Allegheny County BAPC. After submittal by the Governor and review by the EPA, it will be proposed in a subsequent Federal Register Notice.

3. *Monongahela Valley Air Basin.* On June 15, 1979 (44 FR 34603 [1979]) EPA published a proposal to redesignate this air basin from "does not meet primary standards" to "cannot be classified." This proposal is based in part on a showing by Pennsylvania that no monitored violations of either the primary or the secondary NAAQS for SO₂ occurred during calendar year 1978. Furthermore, the State indicated that attainment of standards is supported by emission reductions in the area over the past year. In addition, results of an ongoing modeling study indicate no violations of the primary annual or 24-hour SO₂ NAAQS for the base year (1976) and for the compliance case, i.e., where all sources are assumed to be in compliance with the existing SIP. Based on the foregoing, EPA, in its proposal to redesignate the area, indicated that a revision to the existing SIP by July 1, 1979, is not necessary.

4. *Armstrong County, Northumberland County, Snyder County and Warren County (the Townships in these Counties Identified Above).* The designation of these areas as nonattainment was based primarily on an air diffusion modeling study performed for DER by a consultant, Geomet, Inc. The study calculates that NAAQS violations for SO₂ result from emissions of three power plants located in these areas. The power plants are identified as follows: the Sunbury plant

(owned by Pennsylvania Power and Light Company and impacting portions of Northumberland and Snyder Counties); the Armstrong plant (owned by West Penn Power Company and impacting a portion of Armstrong County); and the Warren plant (owned by Pennsylvania Electric Company and impacting a portion of Warren County).

On April 24, 1979, Pennsylvania submitted a proposed revision of the SIP for SO₂, which primarily addressed the format of the Commonwealth's SO₂ regulations, making them sensitive to the variability in the sulfur content of coal and to the availability of liquid fuels according to sulfur content. However, this proposed revision does not, nor was it intended to resolve the nonattainment situations resulting from the three power plants. Although Pennsylvania has not formally submitted a plan for these nonattainment areas, EPA has reviewed drafts of Consent Agreements being negotiated with the power companies to reduce SO₂ emissions. Upon execution of these agreements, DER intends to submit them to satisfy the requirements for nonattainment SIP revisions. Due to the time constraints imposed by the Clean Air Act, DER has submitted the draft of the revision with the understanding that EPA will propose and solicit public comment on DER's approach to satisfying the SIP revision requirements.

The draft Consent Agreements contain three parts. Part I imposes a final emission limitation and an interim emission limitation for each plant, both of which are more stringent than the State's current emission limitation. The final emission limitation is based on the Geomet study and is to be effective December 31, 1982. Part II gives each company the option of performing an additional modeling study with the intent of showing that the final emission limitation required by the Geomet study is too stringent. The results of this additional modeling study may be used either to redesignate the affected area(s) as "attainment" under the current SO₂ regulations, or to impose a different emission limitation which might be more or less stringent than the one required by the Geomet study. Part III sets out the requirements for a plan to attain the NAAQS to be submitted in the event the additional modeling study of Part II fails to satisfy DER and EPA that the area should be redesignated.

Upon receipt of final Consent Agreements from Pennsylvania and of Pennsylvania's request to consider the agreements as a SIP revision, EPA will evaluate the submittal to determine if it

meets the requirements of Section 110 and Part D of the Clean Air Act, relating to plan requirements for nonattainment areas and will take appropriate action.

Total Suspended Particulates

Description of Submittal. On June 12, 1979, the Commonwealth of Pennsylvania officially submitted a proposed revision to the SIP for attainment of the primary and secondary NAAQS for total suspended particulates (TSP). For the following areas, the proposed revision addresses the attainment of both primary and secondary NAAQS for TSP:

1. Allentown-Bethlehem-Easton Air Basin
2. Beaver Valley Air Basin
3. Monongahela Valley Air Basin
4. Cities of Sharon and Farrell in Mercer County
5. York Air Basin
6. Erie Air Basin
7. Lancaster Air Basin
8. Johnstown Air Basin

For the following areas, the proposed revision addresses only the attainment of the secondary NAAQS for TSP:

1. City of Altoona in Blair County
2. Harrisburg Air Basin
3. Reading Air Basin
4. Scranton Wilkes-Barre Air Basin
5. City of Williamsport in Lycoming County

The Commonwealth of Pennsylvania has requested an eighteen month extension to submit a plan for attainment of the secondary NAAQS for TSP in the portions of the Metropolitan Philadelphia Interstate Air Quality Control Region (AQCR) designated as not meeting the secondary standard for TSP. The Regional Administrator is proposing to grant this request.

The nonattainment designations to which the proposed SIP revision responds differ from those published on September 12, 1978 (43 FR 40502 [1978]). Specifically, the Harrisburg, Scranton-Wilkes-Barre, and Reading Air Basins, the Cities of Altoona and Williamsport, and portions of the Metropolitan Philadelphia Interstate AQCR had been identified as not attaining the primary NAAQS. However, on July 2, 1979 (44 FR 38585 [1979]), EPA proposed that these areas be redesignated from primary standard nonattainment to secondary standard nonattainment.

The June 12, 1979 submittal by the Commonwealth of Pennsylvania does not include any information on the Allegheny County portion of the proposed revision of the SIP for TSP. EPA is aware, however, that the Bureau of Air Pollution Control of the Allegheny County Health Department is nearing

completion of a revision to the Pennsylvania SIP for TSP for Allegheny County; EPA anticipates receiving that proposed revision of the SIP from the Commonwealth of Pennsylvania in the near future.

For each area, the plan submitted by the State contains: 1) an emission inventory, 2) a demonstration that more than the application of Reasonably Available Control Technology (RACT) is needed for attainment of the standards, 3) a commitment to annual incremental reductions (Reasonable Further Progress), and 4) a proposal for further study of fugitive emissions to result in the adoption of fugitive particulate regulations. In all cases, the Commonwealth commits to attaining the primary NAAQS for TSP by December 31, 1982, and the secondary NAAQS for TSP by December 31, 1987. In addition, Pennsylvania submitted a revision to the test method for sampling particulate matter from sources, Section 139.12 of the Pennsylvania Air Resources Regulations.

EPA has reviewed the proposed TSP plan revision for Pennsylvania and has identified several areas of concern to which public comment is solicited. The following is a summary of EPA's review.

Adoption After Reasonable Notice and Hearing. Pennsylvania held public hearings on the proposed TSP plan revision on May 2, 3, and 4, 1979. The State has submitted evidence of public notice and public hearing which EPA confirms were held in accordance with the requirements of 40 CFR 51.4.

Control strategy and Demonstration of Attainment. The Commonwealth of Pennsylvania submitted as part of its proposed SIP revision for TSP detailed studies of existing and projected suspended particulate levels for all thirteen nonattainment areas. In all areas except the Johnstown Air Basin, the demonstration included a diffusion modeling analysis. For the Johnstown Air Basin, Pennsylvania was unable to adequately validate a diffusion model because of the complexity of the terrain and, consequently, utilized a linear rollback model. EPA has reviewed the modeling demonstrations for all areas including the two alternatives presented by DER for the Johnstown Air Basin and has concluded that the State has adequately demonstrated in all cases the need for non-traditional fugitive emission controls which exceed RACT. In general, the State has shown that about 40 percent of the TSP ambient concentrations are attributable to fugitive emissions. Furthermore, the EPA concurs with the State's demonstration showing attainment of the primary

NAAQS for TSP by December 31, 1982. However, with regard to the State's intention to attain the secondary NAAQS by December 31, 1987, EPA has expressed concern to the State that December 31, 1987 may not meet the criteria of Section 172(a)(1) requiring attainment of the secondary standards as expeditiously as practicable.

A major portion of the State's demonstration to attain both the primary and secondary standards is its plan for investigating and controlling non-traditional particulate matter emissions in all 13 nonattainment areas. In this plan, Pennsylvania commits to undertake a comprehensive program to investigate non-traditional sources, industrial process fugitive particulate emissions, and alternative control measures and to develop and implement an effective control program to attain the primary and secondary NAAQS. The EPA commends the Commonwealth of Pennsylvania for the comprehensiveness of their study and encourages the State to include the Optional Tasks related to filter analysis and implementation of demonstration projects as integral parts of its study. However, EPA is concerned that the State's schedule for developing and adopting the control measures, beginning in November 1981, may not provide sufficient time for sources to comply with fugitive regulations to assure attainment of the primary standards by December 31, 1982.

Margin for Growth. The State accommodates growth of area sources and of some point sources by including a growth increment of one half of one percent each year for all projected emissions from 1979 through 1987; this growth increment is in addition to estimates of projected growth for each area. Increases in emissions from major point sources will be provided for on a case-by-case emission offset basis. EPA generally concurs with the approach taken by the State. Specific comments related to the offset provision will be addressed in the section entitled *General Comments, Permit Program for New and Modified Sources*.

Emission Inventory. The emission inventory for TSP includes actual emissions for a base year (1975, 1976, or 1977) and projected emissions for 1982 (the primary standard attainment date) and 1987 (the secondary standard attainment date). EPA has reviewed the emissions inventory and has found inconsistencies among several charts and graphs presented in the plan. In particular, for the Beaver and Monongahela Valley Air Basin, EPA's review of the inventory has identified several major source categories where

fugitive emission estimates are either incorrect or missing. EPA has notified the State of the discrepancies and an effort is being made to resolve the problem. Despite this problem, EPA has concluded that the State is correct in its contentions that control beyond RACT for stationary sources is needed to attain the NAAQS for TSP and that the implementation of non-traditional fugitive controls is needed for attainment of the primary standard by 1982 and the secondary standard by 1987.

Reasonable Further Progress. The Commonwealth of Pennsylvania has submitted a graphical presentation on Reasonable Further Progress (RFP) for each nonattainment area. Each RFP curve is linear, with different slopes for the periods 1977 through 1982 and 1982 through 1987, and represents the State's commitment to annual incremental emission reductions for TSP emissions. The EPA has reviewed the RFP curves and has found them to be generally adequate. However, as noted earlier in this Notice, EPA is concerned whether the emission reductions committed to by the State for secondary standards attainment are as expeditious as practicable.

Reasonably Available Control Technology. The State concluded that its existing regulations for stationary sources represent Reasonably Available Control Technology (RACT) for TSP. Furthermore, the State has determined that the application of RACT is not sufficient for attainment because of the relatively small contribution of stationary sources to the nonattainment problem in most areas. The EPA agrees with the State's conclusions.

Enforceability. The revision to the Pennsylvania SIP regarding the method for sampling particulate emissions, Section 139.12, is acceptable to EPA. The enforceability of the Offset provision is discussed in the section below, entitled *General Comments, Permit Program for New and Modified Sources*.

Ozone and Carbon Monoxide

The Commonwealth of Pennsylvania officially submitted a proposed revision of the SIP for ozone (less the transportation element) to EPA on April 24, 1979. The transportation element of the SIP was officially submitted on June 7, 8, and 13, 1979. The ozone submittal encompasses the entire Commonwealth of Pennsylvania, including the six metropolitan areas over 200,000 in population: Philadelphia, Pittsburgh, Harrisburg, Scranton, Wilkes-Barre, and Allentown-Bethlehem-Easton. In

addition to control of stationary sources, control of transportation sources are required for these six areas. Revisions to the SIP for carbon monoxide are included in the transportation element for the nonattainment areas of Philadelphia and Pittsburgh.

Allegheny County has adopted separate regulations covering volatile organic compounds (VOC); the Commonwealth has submitted the County's VOC regulations for proposal as part of the Pennsylvania SIP. The regulations proposed by Allegheny County are substantially consistent in content with the regulations submitted by the Commonwealth. Except where noted, comments pertaining to the Pennsylvania VOC regulations are also applicable to the Allegheny County regulations.

For ozone nonattainment areas, EPA requires the adoption of Reasonably Available Control Technology (RACT) for eleven VOC stationary source categories. Pennsylvania regulates all eleven of these categories in the SIP. These categories are: 1) solvent metal cleaning, 2) tank truck gasoline loading terminals, 3) cutback asphalt, 4) bulk gasoline plants, 5) gasoline service stations—Stage I controls, 6) storage of petroleum liquids in fixed-roof tanks, 7) surface coating of large appliances, 8) surface coating of cans, coils, paper, fabrics, automobiles, and light-duty trucks, 9) surface coating of metal furniture, 10) surface coating for insulation of magnet wire, and 11) petroleum refineries.

For a summary and review of the transportation measures included in the Pennsylvania SIP, please refer to the section of this notice entitled *Transportation Element*.

The following discussion will outline the various elements of the Pennsylvania submittal with respect to ozone (and to carbon monoxide where specifically noted) and will indicate whether the basic requirements of the Clean Air Act have been satisfied.

Adoption After Reasonable Notice and Hearing. Pennsylvania has adequately satisfied the requirements of this section. Public hearings, concerning the ozone provisions of the SIP, were held in various areas of the Commonwealth on January 30 and 31, 1979 and on February 1, 6, 8 and 20, 1979 in accordance with 40 C.F.R. Part 51. Subsequent to these public hearings, the regulations were formally adopted on April 9, 1979 by the Pennsylvania Environmental Quality Board and on May 10, 1979 by the Allegheny County Board of Commissioners.

Attainment Date. As stated in the April 24, 1979 submittal, the Commonwealth of Pennsylvania does not anticipate attaining the ozone standard by the end of 1982 in any of the metropolitan areas except Harrisburg. Therefore, except for Harrisburg, an extension of the deadline until the end of 1987 for attaining the standard has been requested. EPA can approve an extension of the attainment date provided Pennsylvania demonstrates that attainment by 1982 is impossible, despite the implementation of RACT for the VOC stationary source categories and the implementation of reasonably available transportation control measures, including a motor vehicle inspection and maintenance (I/M) program. As discussed below, some of the VOC regulations submitted are not consistent with the RACT guidance.

Control Strategy and Demonstration of Attainment. The Pennsylvania SIP was developed using the 0.12 ppm ozone standard. An acceptable commitment to attain the ozone standard by 1987 in all areas of the Commonwealth was provided in the SIP.

Emission Inventory. Pennsylvania has submitted a 1976 emission inventory. EPA requires that if the emission inventory was developed for a year other than 1977, a commitment to develop a 1977 inventory should be provided. Pennsylvania has committed to develop a 1977 base year inventory by November of 1979. Therefore, the emission inventory in the Pennsylvania SIP satisfies requirements at this time.

Reasonable Further Progress. The Reasonable Further Progress presentation in the proposed Pennsylvania ozone SIP revision is acceptable.

Margin for Growth. The Commonwealth of Pennsylvania has adequately addressed growth in its plan by incorporating a margin for growth beyond that currently expected for each metropolitan area.

Permit Program for New or Modified Sources. This topic is covered for all pollutants in the section of this notice entitled General Comments, Permit Program for New or Modified Sources.

Reasonably Available Control Technology. The Control Techniques Guidelines provide information on available air pollution control documents techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information in the CTCs, EPA believes that the submitted regulations represent RACT, except as noted below. On the points noted below, the State regulations are not supported by the

information in the CTCs, and the State must provide an adequate demonstration that its regulations represent RACT, or amend the regulations to be consistent with the information in the CTCs.

There are two deficiencies in the cutback asphalt paving regulations in Section 129.64 of the State regulations and Section 510 of the Allegheny County regulations. First, the exemption allowing the use of cutback asphalt as a tack coat is not supported by the information in the CTCs. Second, in Section 121.1 (State Regulation) and Section 101 (County Regulation), emulsified asphalt containing less than twelve percent of solvent by volume is exempted from the definition of cutback asphalt. Allowing up to twelve percent solvent in an emulsified asphalt is not supported by the information in the CTCs. If such an emulsion can be used in place of cutback asphalt, and if the emulsion contains less solvent than the replaced cutback, Pennsylvania should allow the use of this emulsion only as an interim measure until a switch can be made to an emulsion containing five percent or less solvent.

Inspection and Maintenance (I/M). An I/M program is required in five metropolitan areas in Pennsylvania: Philadelphia, Pittsburgh, Scranton, Wilkes-Barre, and Allentown-Bethlehem-Easton; the programs in the Philadelphia and Pittsburgh metropolitan areas should have inspection and maintenance of vehicles for carbon monoxide as well as hydrocarbons. According to the Consent Decree signed by the Pennsylvania Department of Transportation, the Delaware Valley Citizens' Council for Clean Air, and the Environmental Protection Agency on August 29, 1978 (Appendix 6 of the April 24, 1979 submittal), the Pennsylvania Department of Transportation is required to establish a mandatory inspection/maintenance program for light-duty and medium-duty vehicles in the five-county areas surrounding Philadelphia and Pittsburgh. Detailed schedules for major activities related to the establishment of an inspection/maintenance program are incorporated into the Consent Decree. If enabling legislation for a franchise (contractor-operated) system is enacted by July 1, 1979 (with a possible three-month extension), then a mandatory inspection/voluntary maintenance program must commence within twenty-one months after enactment of legislation, and a mandatory inspection-mandatory maintenance program must commence within thirty-three months. If

such legislation is not enacted by July 1, 1979, or within the mutually agreed extended time period, then a mandatory inspection/voluntary maintenance program using a private garage system must commence by August 1, 1980 (or November 1, 1980, if the extension is granted), and a mandatory inspection/mandatory maintenance program must commence by February 1, 1981 (or May 1, 1981, if the extension is granted). On June 7, 1979, Pennsylvania committed to follow identical schedules for Lackawanna, Luzerne, Lehigh and Northampton Counties which include the Scranton, Wilkes-Barre, and Allentown-Bethlehem-Easton areas. Therefore, adequate commitments for implementation of I/M in all five metropolitan areas have been submitted.

Transportation Measures. This topic is covered in detail in the section of this Notice entitled *Transportation element*.

Enforceability. The VOC regulations contain several deficiencies with respect to their enforceability.

a. Permitted in Pennsylvania's "Bubble" Regulation, Sections 129.53(c) and (d) covering surface coating operations, are:

- (1) fluctuating emission limitations on each coating line, and
- (2) determining process compliance with alternative standards on a daily basis.

The enforcement of the above requirements may be difficult. However, the regulations require these methods to be as enforceable as alternative standards set forth under Section 129.53(b). The burden of proving equivalent enforceability is placed on the source applying for the application of an alternative standard.

Pennsylvania's "Bubble" Regulation is acceptable since a case-by-case review, subject to EPA approval, is required prior to permitting use of an alternative standard.

b. Pennsylvania and Allegheny County should improve Section 129.62(b)(3) of the State regulations and Section 508(B) of the County regulations, which address the regulations covering bulk gasoline terminals, bulk gasoline plants, and small gasoline storage tanks, by redefining truck vapor leakage in terms of pressure leakage or lower explosive level (LEL) limits. The citing of vapor leak violations based on visual and audible observances is difficult to enforce.

c. In Section 129.66 of the State regulations and Section 512 of the Allegheny County regulations, covering compliance schedules and final compliance dates, Pennsylvania and the

County have included compliance schedules that allow certain source categories up to three years to comply. The State regulations, but not the Allegheny County regulation, provide for extension of the categorized compliance schedules until June 30, 1985 by the issuance of Delayed Compliance Orders (DCO's). However, extensions granted in the form of a DCO may not exempt the source from noncompliance penalties, as per Section 120 of the Clean Air Act.

d. The Allegheny County regulations should make cross references at appropriate places to the inspection, monitoring, and testing provisions contained in Chapter II of the County regulations.

Transportation Element

There are six metropolitan areas in Pennsylvania with populations greater than 200,000 designated as nonattainment areas for ozone: The Philadelphia metropolitan area with approximately five million people, the Pittsburgh metropolitan area with approximately two and one half million people, and the Allentown-Bethlehem-Easton, Harrisburg, Scranton, and Wilkes-Barre metropolitan areas with populations between 200,000 and 500,000 people. Areas of high traffic density in the central portions of the Philadelphia and Pittsburgh areas are also designated nonattainment for carbon monoxide.

The Clean Air Act requires development and adoption of all reasonably available transportation emission reduction measures to be included as part of the SIP. Submittals addressing the transportation element of the SIP were developed by local agencies and submitted to EPA by the Commonwealth of Pennsylvania. The following presentation of these submittals consists of a description of each plan followed by a review according to the EPA "Checklist for Review of Transportation Portions of 1979 SIP Submissions," October 17, 1978. For the four metropolitan areas of Allentown-Bethlehem-Easton, Harrisburg, Scranton, and Wilkes-Barre, one combined review is provided.

Description of Philadelphia Area Transportation Element.—The transportation element of the 1979 SIP for Southeastern Pennsylvania was prepared by the Delaware Valley Regional Planning Commission (DVRPC) and submitted by the Commonwealth of Pennsylvania after reasonable notice and public hearing. DVRPC is the lead planning agency certified by the Governor of Pennsylvania under provisions of Section 174 of the Clean

Air Act. The plan covers the Pennsylvania Counties of Philadelphia, Chester, Bucks, Delaware, and Montgomery. Similar planning was done by the State of New Jersey for the Counties of Mercer, Burlington, Camden, Gloucester, and Salem. The State of Delaware and the Wilmington Metropolitan Area Planning Coordinating Council performed planning for New Castle County.

The plan demonstrates that neither the carbon monoxide nor ozone NAAQS will be attained until after December 31, 1982. The submittal requests extension of the ozone standard until 1987 and an extension of the carbon monoxide standard until some time between 1983 and 1985. Both of these requests require implementation of an inspection and maintenance program (I/M) for motor vehicles by the Commonwealth of Pennsylvania.

Carbon Monoxide.—The carbon monoxide (CO) portion of the plan includes a comprehensive emissions inventory for current and future years. The determination that CO standards cannot be attained by 1982 is based on an evaluation of four continuous monitoring locations and eight hot spot locations. A linear rollback analysis shows that five of the locations will still violate the eight-hour CO standard as of July 1, 1982. The worst location (16th Street & J. F. Kennedy Blvd. in center city Philadelphia), with a design value for CO of 14.7 ppm for an eight-hour period, is not expected to attain the eight-hour CO standard until the spring of 1983, provided an I/M program is implemented. All locations are currently attaining the one-hour CO standard.

The plan does not provide for implementation of any transportation measures, except for inspection and maintenance, to ensure expeditious attainment of the CO standard. However, some CO emission reductions can be expected from implementation of transportation measures designed to expedite attainment of the ozone standard.

The plan contains a reasonable further progress schedule for CO which consists of a linear reduction of CO emissions between 1979 and 1987. Expected emissions for all years between 1979 and 1987 are less than those required by the reasonable further progress schedule.

Ozone.—The ozone portion of the plan includes a comprehensive emissions inventory for current and future years. A linear rollback model shows that a 50 percent reduction of 1976 levels of emissions is needed in order to attain the 0.12 ppm ozone standard. A 37

percent reduction of hydrocarbon emissions is possible by 1982. By 1987, a 51 percent reduction of hydrocarbon emissions is possible, allowing approximately a one percent growth of hydrocarbon emissions. An Early Action Program of transportation measures is proposed to expedite attainment of the ozone standard and to allow a margin for growth. The projects contained in the Early Action Program are:

1. Center City Commuter Connection—A project to connect the tracks of the former Reading and Pennsylvania Railroads.

2. Airport Rail Link—A high speed rail line from Penn Center to the Philadelphia International Airport.

3. Carpool/Vanpool Program—A region-wide program sponsored by DVRPC.

4. Commuter Stations/Parking Lots—New and expanded commuter stations and parking lots at various locations within the region.

5. Newtown Branch Electrification—Electrification of the Newtown Branch of the former Reading Railroad line from Bethayres to Newtown with connection to the Trenton Branch.

6. Extension of Route 66 Trolley Line—Extension of the Frankford Avenue trackless trolley (Route 66) on Knights road, Philadelphia (2.3 miles).

The carpool/vanpool program is contained in DVRPC's Unified Planning Work Program. The Center City Commuter Connection, the Airport Rail Link, and the Commuter Stations/Parking Lots are in various stages of construction. Technical studies are being performed for the Newtown Branch Electrification and the Extension of Route 66 Trolley Line. DVRPC believes that implementation of the Early Action Program is possible and would reduce hydrocarbon emissions by about 0.4 %. Approximately 18,740 gallons of gasoline will be saved daily.

The plan contains a reasonable further progress schedule for hydrocarbon emissions which is a linear reduction from 1979 to 1987. Expected emissions for all years between 1979 and 1987 are less than those shown in the schedule. The plan contains a preliminary evaluation of 23 additional measures which will be studied in more detail by 1982.

Other Commitments—On April 26, 1979, the Board of the Delaware Valley Regional Planning Commission adopted the plan and the commitments contained in the plan. Specifically:

1. DVRPC shall undertake a continuing air quality planning program.

2. DVRPC reaffirms its commitment to public transit.

3. DVRPC endorses the Early Action Program.

Public Participation and Local Government Consultation—The DVRPC Board created a Policy Advisory Committee (PAC) to advise DVRPC on policy and technical matters relating to transportation-air quality planning. Voting members on the PAC consisted of all Pennsylvania member governments, the State transportation and environmental agencies, local transit operators and Philadelphia Air Management Services. DVRPC citizen advisory committees were used to obtain public input to the plan.

Modification of Currently approved SIP—The plan proposes to modify the Commuter Carpool matching regulation contained in the currently approved SIP. Other regulations in the currently approved SIP which Pennsylvania proposes for deletion include: management of parking supply, study and establishment of bikeways, various busways in the region, limitation of public parking, employers' provision for mass transit priority incentives, and monitoring of transportation trends.

Other Plan Elements:

1. The plan proposes detailed criteria for assessment of consistency of transportation plans and programs with the SIP.

2. The plan proposes modifications to the transportation planning process to include air quality considerations.

Schedule for Preparation of 1982 SIP—The plan proposes a preliminary schedule for preparation of the 1982 SIP. Details of the process will be developed during the summer of 1979 with an EPA grant under Section 175 of the Clean Air Act. The schedule proposes that the detailed work program be submitted to EPA and the Urban Mass Transportation Administration (UMTA) in October 1979 with planning work beginning in December 1979. Alternative air quality plans are expected to be presented to the public by June 1981 with public hearings in November 1981. An extensive public information and consultation program is proposed as part of the transportation-air quality planning process.

Review of Philadelphia Area Transportation Element. 1. The submittal covers the Pennsylvania counties of Philadelphia, Delaware, Bucks, Montgomery, and Chester, which comprise the Pennsylvania portion of the Metropolitan Philadelphia Interstate Air Quality Control Region (MPIAQCR). The remainder of the AQCR includes the New Jersey counties of Mercer, Burlington, Camden, Gloucester, and

Salem; and New Castle County in Delaware.

The entire MPIAQCR has been designated as nonattainment for ozone; in Pennsylvania, only Philadelphia County is nonattainment for carbon monoxide. Since the five Pennsylvania counties identified above describe the same area used for stationary source planning and for transportation planning EPA considers the geographic area contained in the submittal appropriate and adequate.

2. The submittal contains adequate emission inventories for carbon monoxide, hydrocarbons and oxides of nitrogen for 1970, 1982, and 1987. The base year for both the stationary source and mobile source portion of the submittal is the same (1976). The submittal contains a detailed description of the methodology used to develop the emissions inventories.

Travel demand estimates are derived from DVRPC transportation models. Travel estimates for 1970, 1977, and 2000 are used as a base and an interpolation procedure is used to develop estimates for 1976, 1982, and 1987. The submittal identifies major highway improvements assumed to be in operation in each year. Emissions from highways not on DVRPC's simulation networks are also included. Growth projections are based on the Regional Development Guide adopted by the DVRPC Board.

Emission factors are based on the EPA document, *Mobile Source Emission Factors*, March 1978. The assumptions and bases for various parameters, e.g. ambient temperature, fraction of cold and hot operations, are stated in the submittal and are reasonable.

3(a). Ozone—the submittal contains a demonstration that the NAAQS for ozone cannot be attained by 1982 even if all reasonable measures are implemented. The demonstration uses an ozone design value of 0.22 ppm with a transport value of 0.08 ppm, a future-year controlled value of 0.12 ppm with 0.06 ppm transport is assumed. Use of the modified linear rollback model indicates a required hydrocarbon emission reduction of 50 percent from 1976 levels, or a reduction of total hydrocarbon emissions from 249,984 tons per year in 1976 to a total of 124,992 tons per year in the attainment year.

The submittal states that 1982 emissions will be 157,280 tons per year which is above the maximum allowable amount for attainment. The 157,280 tons per year reflects reduction of hydrocarbon emissions due to controls on stationary sources, the Federal Motor Vehicle Control Program (FMVCP), I/M, and implementation of reasonably

available transportation control measures; it also reflects growth of stationary and mobile source hydrocarbon emissions.

The submittal contains an Early Action Program which is composed of six transportation control measures which DVRPC has determined to be reasonably available and likely to be implemented by 1982. Implementation of these measures by 1982 is expected to result in a reduction of 560 tons per year of hydrocarbon emissions.

The determination of which transportation measures are reasonably available and implementable by 1982 was made by the Policy Advisory Committee (PAC) on Transportation-Air Quality Planning created by the DVRPC Board. The PAC evaluated transportation measures in DVRPC's Transportation Improvement Program (TIP), paying particular attention to those projects in the Annual Element and those which would reduce hydrocarbon emissions and could be implemented by 1982.

The submittal contains an evaluation of 23 other measures which are not likely to be implemented by 1982, but which can reduce hydrocarbon emissions. These measures will be studied in more detail for possible adoption and submission in 1982. The request for an extension of the ozone attainment date until 1987 is adequately demonstrated in the submittal and is proposed by EPA for approval.

3(b). Carbon Monoxide—The submittal contains a demonstration that the NAAQS for carbon monoxide (CO) cannot be attained by 1982. However, no additional CO measures except I/M are scheduled for implementation by 1982. DVRPC contends that the screening process used to select reasonably available transportation measures would have identified measures resulting in CO reductions as well as hydrocarbon emission reductions. Although CO emission reductions were not quantified in the submittal, DVRPC contends that some CO reductions will occur from implementation of the hydrocarbon reducing measures.

The CO attainment demonstration is based on evaluation of 12 locations in the City of Philadelphia. Four of the locations are continuous monitoring sites; the other eight locations are monitoring sites used during a special CO study conducted by EPA and the City of Philadelphia in December 1976.

The proportional rollback technique was used to estimate the 1982 and 1987 CO concentrations at each location. Projected reductions in emissions for corresponding DVRPC travel analyses

zones were used to calculate the proportional reduction in CO concentrations.

The analysis shows that all of the locations are currently attaining the one-hour primary CO standard of 35 ppm. Ten of the twelve sites violated the eight-hour primary CO standard of 9 ppm. By 1982, five of the sites are still expected to violate the eight-hour CO standard.

The submittal requests an extension of the CO attainment date to some time between 1983 and 1985. An evaluation of the worst hot spot (16th Street and J. F. Kennedy Blvd. in Philadelphia) indicates that attainment of the eight-hour primary CO standard is likely to occur early in 1983 with implementation of I/M.

EPA finds the demonstration in support of an attainment date extension for carbon monoxide adequate and proposes an extension of the deadline for attainment of the primary NAAQS for carbon monoxide until June 30, 1983.

4. The Delaware Valley Regional Planning Commission (DVRPC) is certified as the lead agency for transportation-air quality planning for the Pennsylvania counties of Philadelphia, Bucks, Chester, Montgomery, and Delaware. On February 23, 1978, local governments, acting through the DVRPC Board, designated DVRPC as the organization responsible for developing the transportation component of the SIP. The Commonwealth of Pennsylvania confirmed that designation on March 24, 1978.

EPA recognizes DVRPC as the lead planning agency designated under Section 174 of the Clean Air Act and considers DVRPC to be an eligible recipient of urban air quality planning grants under Section 175 of the Clean Air Act.

5(a). Emission Reduction Targets—Initial emission reduction targets have been assigned to mobile and stationary sources. These targets are reflected in the following summary:

Total HC Emissions—Tons Per Year		
	1982	1987
Mobile.....	65,077	29,743
Other.....	92,203	94,864
Total.....	157,280	124,607

These targets include growth in motor vehicle usage and stationary sources and reductions due to the FMVCP, I/M, transportation control measures, and controls on stationary sources. The planning schedule provides for a review

of emission reduction targets in June 1980. This initial assignment and schedule for review are adequate.

5(b). Consistency/Conformity Determination—The submittal contains the following five criteria which, when fully implemented, should insure consistency/conformity of transportation plans and programs with air quality objectives:

(1) The Integrated Work Program (IWP) should include all planning activities contained in the SIP Transportation Element, and incorporate scheduling indicated in the SIP and/or in the application to UMTA for Section 175 funds.

(2) The Transportation Improvement Program (TIP) should contain all projects required in the SIP Transportation Element (Early Action Program).

(3) The TIP Annual Element (AE) should contain all projects scheduled in the SIP for inclusion in the current AE, or substitute projects that are shown to result in an equivalent emissions reduction.

(4) The TIP Annual Element should result in no significant increase in emission for the period (year) of implementation; that is, for hydrocarbons, no significant increase in the mobile source contribution, measured on a regional basis; and, for carbon monoxide, no increase that leads to a contravention of standards at known or projected hotspots, or an aggravation of the problem at existing hotspots.

(5) The long range plan should show no increase in the regional burden of hydrocarbon emissions after 1987, which results in violation of a regional limit assigned to mobile sources for purposes of meeting and maintaining ozone standards.

5(c). Assignment of Planning Responsibilities—The submittal contains a Memorandum of Understanding executed by DER, DVRPC, and Philadelphia AMS establishing formal responsibility for SIP revision activities.

DVRPC is responsible for the mobile source emission inventory and for CO analysis in four suburban counties: AMS is responsible for CO analysis in the City of Philadelphia. DVRPC will coordinate the work of its member governments to evaluate and select control strategies for mobile sources of HC and CO. DER and AMS are also responsible for the emission inventory of stationary sources of HC and NOx and will work with DVRPC and its member governments to select control

strategies for stationary sources in order to reduce ozone levels.

For point and area sources, implementation and enforcement of control measures will be the responsibility of DER and AMS. For mobile sources, I/M will be the responsibility of the Commonwealth, while control measures designed to reduce vehicle miles of travel (VMT) and increase speeds will be implemented and enforced by local, county, and state agencies, depending on the nature of the project.

EPA considers the assignment of responsibilities appropriate.

5(d). **Planning/Programming Process**—The submittal contains a description of the 3-C transportation planning process in the Delaware Valley Region. It does not describe the programming process in detail. An understanding of the programming process is important and EPA requests the Commonwealth to provide such a description.

6. The submittal does not contain a detailed description of the process for evaluating alternative plans and measures for the 1982 SIP submittal. A preliminary schedule shows completion of detailed work program by October 1979, initial screening of measures beginning May 1980, and presentation of alternatives to the public by June 1981. The general schedule contained in the submittal is adequate, provided a more detailed schedule and work program is submitted to EPA by October 1979.

7. The submittal contains a commitment to a continuing transportation-air quality planning program. A general schedule is provided with a preliminary analysis of 23 transportation measures. The schedule, however, does not provide specific dates for adoption and implementation of these additional measures. The detailed work program to be submitted to EPA in October 1979 should remedy this deficiency.

8. The submittal does not contain a commitment to justify decisions not to adopt difficult, but reasonably available measures. However, no major categories of measures have been rejected to date, and the October 1979 Work Program is expected to remedy this deficiency.

9. The submittal contains a detailed description of the public interest group and elected official consultation and involvement process proposed for transportation-air quality planning. The proposed process is adequate at this time. EPA is developing more detailed guidelines for public participation; the process proposed in this submittal may have to be modified to be consistent with those guidelines. The October 1979 work program submittal should contain a consultation program which is consistent with EPA guidelines.

10. The submittal contains a scope of work for development of a detailed transportation-air quality planning work program to be submitted to EPA in October 1979. DVRPC has received funds from EPA to complete this work program. No additional identification of financial and manpower resources needed to carry out the process has been provided. EPA expects the October 1979 modification to the UPWP to remedy this deficiency.

11. An adequate public hearing on the transportation element of the SIP was held on March 15, 1979, after reasonable notice.

12. A provision for annual reporting of progress made in implementing projects contained in the Early Action Program and on progress made in developing the 1982 SIP submittal is adequate.

13. The Commonwealth of Pennsylvania is committed to implementation of I/M in the Philadelphia area. This commitment, in the form of a Consent Decree, is presented in Appendix 6 of the April 24, 1979 submittal; it is described above under the section entitled *Ozone and Carbon Monoxide, Inspection and Maintenance*.

14. The submittal confirms a commitment by DVRPC "... to use available grants for meeting public transportation needs, consistent with regional development policies while emphasizing the importance of raising enough non-federal match to take full advantage of aid for transit improvements, and of the desirability of meeting future transportation needs by public transportation whenever it is

feasible to do so." This statement is adequate at this time to satisfy the need for a commitment to establish, expand or improve public transportation measures to meet basic transportation needs. However, EPA is developing additional guidance for meeting this requirement which may require modification of this commitment by the DVRPC Board, and further commitments by the Pennsylvania Department of Transportation (DOT), the Southeastern Pennsylvania Transportation Authority (SEPTA), and the Port Authority Transit Company (PATCO).

15. The UPWP has been modified only to include development of a detailed transportation-air quality planning work program to be submitted to EPA by October 1979. EPA expects that the October 1979 UPWP revision will satisfy the requirements for inclusion of all air quality-related transportation planning tasks in the UPWP.

16(a). **Ozone**—The submittal contains an acceptable Reasonable Further Progress (RFP) schedule showing allowable annual hydrocarbon emissions. The RFP schedule is linear, combines stationary and mobile sources, and includes growth. Allowable hydrocarbon emission decline from 231,549 tons per year in 1979 to 125 tons per year in 1987.

16(b). **Carbon Monoxide**—The submittal contains an acceptable RFP schedule for CO which shows CO concentrations at the highest hotspot (16th Street & J.F. Kennedy Blvd. in Philadelphia). The schedule shows attainment of the CO standard in 1983 with implementation of an I/M program.

17. The submittal contains an evaluation of energy impacts of the measures proposed for implementation by 1982. There is no evaluation of the health, welfare, economic, and social effects of the plan. The submittal does not identify analytical methods for evaluating such impacts, nor is there public comment on such methods. The submittal is deficient with regard to this requirement.

The submittal contains six projects which constitute an Early Action Program for expediting the reduction of hydrocarbon emissions. These projects are described as follows:

Project description	Cost	Date of implementation	Nature of Commitment	Responsible agency
1. <i>Center City Commuter Connection</i> —A project to connect the tracks of the former Reading & Pennsylvania Railroads (TIP No. 406).	\$307,467,000	Jan 31, 1984....	Under construction in 1978. Letter from City of Philadelphia stating intent to begin service by January 31, 1984.	City of Philadelphia
2. <i>Airport Rail Link</i> —A high speed rail link from Penn Center to the Philadelphia International Airport (TIP No. 405).	72,775,000	July 1982.....	Under construction in 1975. Letter from City of Philadelphia stating intent to begin service by July 1982.	City of Philadelphia
3. <i>Carpool/Vanpool Program</i> —A regionwide program sponsored by DVRPC.	180,000 (year)	ongoing.....	Program funded in DVRPC's UPWP.	DVRPC
4. <i>Commuter Stations/Parking Lots</i> —(TIP No. 105)	9,400,000	1982.....	Some projects under construction in 1979. Letter from SEPTA stating schedule for completion of design work and construction.	SEPTA
5. <i>Newtown Branch Electrification</i> —Electrification of Newtown Branch of Reading RR from Bethayres to Newtown with connection to Trenton Branch (TIP No. 111).	3,500,000	1982.....	Letter from SEPTA stating intent to carry out project. Indication of financial support from Bucks & Montgomery Counties. Environmental assessment being prepared. SEPTA letter states intent to file grant application to UMTA.	SEPTA
6. <i>Extension of Route 66 Trolley</i> —Extension of Frankford Ave. trackless trolley (Route 66) on Knights Road, Philadelphia (2.3 mi.) (TIP No. 126).	519,000	July 1982.....	Letter from SEPTA stating intent to begin service by July 1982.	City of Philadelphia

The Regional Administrator believes that commitments for the first four projects are adequate and proposes approval of these projects. The last two projects (Newtown Branch Electrification and Extension of Route 66 Trolley Line) need firmer commitments before they can be approved as part of the SIP. The nature of these commitments should be in the form of

schedules for commitment of required State and local funds, for submission of funding applications to the appropriate federal agencies, and for the beginning of construction. These two projects are reasonably available measures and should be part of the SIP.

19. The submittal proposes to modify or delete a number of measures currently in the approved SIP. These measures are summarized below.

Proposed Changes to Currently Approved SIP

40 CFR section	Title	SIP ¹
52.2040	Management of Parking Supply	Delete
52.2041	Study and Establishment of Bikeways	Modify
52.2043	Commuter Carpool Matching	Modify
52.2044	Pennsylvania-New Jersey Busways	Delete
52.2045	Roosevelt Boulevard Busway between Grant Avenue and Hunting Park	Delete
52.2046	Central Business District Bus and Trolley Ways and Parking Restrictions	Delete
52.2047	Exclusive busways in Philadelphia outside the CBD	Delete
52.2048	Exclusive busways for Philadelphia Suburbs and outlying areas	Delete
52.2051	Regulation for limitation of Public Parking	Delete
52.2062	Employer's provision for mass transit priority incentives	Delete
52.2053	Monitoring Transportation Trends	Delete

¹ Recommended action for 1979.

Summary—The submittal substantially meets all requirements for approval. The major outstanding issue is the commitment to implement the Newtown Branch Electrification and the Extension of Route 66 Trolley Line. The Regional Administrator believes that these projects are reasonably available and should be part of the SIP. The Regional Administrator is looking to the October 1979 Work program submission to remedy other deficiencies identified in this proposal.

Description of Pittsburgh Area Transportation Element. The transportation element of the 1979 SIP for Southwestern Pennsylvania was prepared by the Southwestern Pennsylvania Regional Planning Commission (SPRPC) and submitted by the Commonwealth of Pennsylvania after reasonable notice and public hearing. SPRPC is the lead planning agency certified by the Governor of Pennsylvania under provisions of Section 174 of the Clean Air Act. The plan covers the Pennsylvania Counties of Allegheny, Armstrong, Beaver, Butler, Washington, and Westmoreland.

The submittal contains a demonstration that the carbon monoxide and ozone NAAQS will not be attained until after December 31, 1982, and requests an extension of the attainment date for carbon monoxide and ozone NAAQS.

Carbon Monoxide—The carbon monoxide (CO) portion of the plan includes an emissions inventory for

current and future years. The determination that CO NAAQS cannot be attained until after 1982 is based on an evaluation of two CO monitors in the Pittsburgh Golden Triangle. The design value for CO is 21.4 ppm for an eight-hour period. A linear rollback analysis using Golden Triangle CO emissions shows that attainment of the CO NAAQS is not likely until late in 1985, provided that an I/M program is implemented.

The plan does not provide for implementation of any transportation measures, except I/M, to expedite attainment of the CO NAAQS. However, some CO emission reductions can be expected from transportation measures which will be implemented to expedite attainment of the ozone NAAQS.

The plan does not contain a Reasonable Further Progress (RFP) schedule for CO. However, EPA is proposing an RFP schedule based on data contained in the plan. The proposed schedule requires that CO emissions in the Golden Triangle be reduced by 698.6 tons per year between 1979 and 1982, and by 347 tons per year between 1983 and 1985. Such a schedule will result in attainment by the end of 1985.

Ozone—The ozone portion of the plan includes a comprehensive emissions inventory for current and future years. A linear rollback model shows that a 48.6 percent reduction in 1978 hydrocarbon emissions is needed to attain the 0.12 ppm NAAQS for ozone. Emission projections to 1987, which include an

allowance for growth, show that 1987 emissions will exceed allowable HC emissions by approximately 0.4%. This shortfall will be made up by transportation measures.

The plan contains transportation measures designed to expedite attainment of the ozone standard and to allow a margin for growth. The transportation measures contained in the plan are:

1. **Coraopolis Joint Rail/Bus Park-n-Ride Lot**—A park and ride lot north of Coraopolis serving Transportation Route (TR) 51 and the Pittsburgh and Lake Erie (P&LE) Commuter Rail Corridor.

2. **McKeesport Commuter Rail Station/Park-n-Ride Lot**—Transportation terminal at McKeesport; improved park and ride lots at Versailles, Portvue, and Braddock.

3. **Port Authority Transit (PAT) Park-n-Ride**—A non-capital program whereby PAT will establish two or three park and ride lots per year through agreements with shopping centers, churches, and municipalities.

4. **North Hills Park-n-Ride Lot**—The exact location of this project is currently under study.

5. **East Busway**—An exclusive right-of-way facility between the Pittsburgh Central Business District (CBD) and Wilkinsburg.

6. **Bike-n-Ride Lockers**—Bike lockers provided at various locations to encourage bike access to PAT facilities.

7. **Area-wide Carpool/Vanpool Program**—Ongoing service to encourage and assist major employer involvement in carpool or vanpool program.

The carpool/vanpool program is contained in SPRPC's Unified Planning Work Program. PAT has committed to establish two or three new park and ride per year. Funding commitments are firm for the McKeesport Commuter Rail Station Park-n-Ride Lot, the East Busway, and the Bike-n-Ride Lockers. However, action by the Pennsylvania Transit Assistance Authority is necessary before funding commitments are firm for the Coraopolis Joint Rail/Bus Park-n-Ride Lot and the North Hills Park-n-Ride Lot.

The plan contains an RFP schedule for hydrocarbon emissions and an initial screening of 20 transportation measures which will be considered for submission as part of the 1982 SIP.

Other Commitments—On October 30, 1978, the Southwestern Pennsylvania

Regional Planning Commission met and made the following commitments:

1. Support implementation of all reasonably available control measures by 1982.

2. Continue to place emphasis upon the utilization of public transit and to remain alert for new opportunities to use transit as a tool for achieving air quality objectives.

3. Investigate transportation control measures and consider for implementation those which are found feasible. SPRPC will furnish staff, cooperate with air quality agencies, and establish technical and citizen advisory committees.

Public Participation and Local Government Consultation—To develop the 1979 SIP, SPRPC's Ad Hoc Air Quality Advisory Committee coordinated its efforts with the Transportation Planning Committee. The two committees met jointly on a monthly basis between June and September 1978. Membership of the joint committee includes SPRPC member governments, PAT, Pennsylvania DOT, FHWA, UMTA, EPA, DER, and the Allegheny County Bureau of Air Pollution Control.

SPRPC also established an Interim Public Interest Advisory Committee to advise SPRPC during preparation of the 1979 SIP revision. Membership included civic, environmental, and special interests. The committee met between July and September 1978 and was invited to attend joint meetings of the Transportation Planning Committee and the Ad Hoc Air Quality Advisory Committee.

Schedule for Preparation of 1982 SIP—The plan includes a preliminary schedule for preparation of the 1982 SIP. A detailed schedule will be developed and submitted to EPA by September 30, 1979, utilizing part of a Section 175 grant. The preliminary schedule proposes completion of an analysis of alternative transportation control measures by September 30, 1980 and final plan adoption by SPRPC by December 31, 1981. An extensive public information and consultation program is planned as part of the transportation-air quality planning process.

Review of Pittsburgh Area Transportation Element. 1. The submittal covers Allegheny, Armstrong,

Beaver, Butler, Washington, and Westmoreland Counties. These six counties are nonattainment for ozone; only Allegheny County is nonattainment for carbon monoxide. This geographic area is consistent with that used for stationary source planning and transportation planning. The submittal is adequate with regard to its geographic coverage.

2. The submittal contains emission inventories for carbon monoxide, hydrocarbons and oxides of nitrogen for 1976, 1979, 1982 and 1987. The base year (1976) is the same as that used for the stationary source portion of the submittal. The submittal describes the methodology used to develop the inventories. Emission factors are based on the EPA document, "Mobile Source Emission Factors," March 1978. However, certain assumptions, e.g. ambient temperature, fraction of cold and hot operation, are not presented. Although EPA believes that the inventory requirement is adequately met, SPRPC is requested to submit additional documentation on parameters used to develop the emission factors.

3(a). Ozone—The submittal contains a demonstration that the NAAQS for ozone cannot be attained by 1982 even if all reasonably available measures are implemented. The demonstration combines mobile and stationary source hydrocarbon emissions and uses an ozone design value of 0.220 ppm. Reasonable assumptions are made about present and future transport. A linear rollback model shows that a 48.6 percent reduction in 1976 hydrocarbon emissions is needed to attain the 0.12 ozone NAAQS. Maximum allowable hydrocarbon emissions are 102,762 tons per year. The submittal shows that 1982 emissions should be 130,392 tons per year. This estimate includes reductions due to the Federal Motor Vehicle Emission Control Program, I/M, and stationary source controls, and accounts for expected growth in stationary sources and VMT. Emission reductions from implementation of reasonably available transportation control measures are 462 tons per year. In 1982 a shortfall of 27,168 tons per year will remain, which cannot be made up through application of reasonably available control measures.

The determination of which transportation measures are reasonably available for implementation by 1982 was made in consultation with Federal, State, local transportation and environmental agencies, and a public interest advisory committee which contained civic, environmental and special interests. A set of criteria was developed for selection of reasonably available control measures; the committees evaluated 20 projects, finally deciding on seven projects which reduce emissions and could be implemented by 1982. Measures which were not selected for implementation by 1982 will be considered for implementation as part of the process of developing the 1982 SIP submittal.

The Regional Administrator believes that the submittal adequately demonstrates the need for an extension of the ozone attainment deadline beyond 1982 and proposes to extend the deadline to December 31, 1987.

3(b). Carbon Monoxide—The submittal contains a demonstration that the NAAQS for carbon monoxide (CO) cannot be attained by 1982. However, no additional CO measures, except I/M, are scheduled for implementation by 1982. SPRPC believes that the transportation measures scheduled to reduce hydrocarbon emissions will also reduce CO emissions. The impact of these measures in reducing CO levels was not quantified in the submittal.

The CO demonstration is based on an evaluation of two CO monitors in the Golden Triangle. An eight-hour CO level of 21.4 ppm is used as the design value. A linear rollback model shows that a 58 percent reduction in 1977 CO emissions in the Golden Triangle is required to meet the eight-hour CO standard of 9 ppm. Allowable CO emissions will be exceeded by about 29 percent in 1982. Linear interpolation between 1982 and 1987 shows that the standard can be attained by 1985, with implementation of an I/M program.

The Regional Administrator believes that the submittal adequately demonstrates the need for an extension of the CO attainment deadline beyond 1982 and proposes to approve an extension of the attainment deadline for CO to December 31, 1985.

4. SPRPC has been certified as the lead agency for nonattainment planning for the Pennsylvania Counties of Allegheny, Armstrong, Beaver, Butler, Washington, and Westmoreland. On January 30, 1978, representatives of the local governments, acting through the SPRPC, initiated an action to designate SPRPC as the lead planning agency. On March 6, 1978, the Commonwealth of Pennsylvania certified that designation. SPRPC meets all requirements for certification as the lead planning agency under Section 174 of the Clean Air Act.

5(a). Emission Reduction Targets—The submittal does not establish separate emission reduction targets for mobile and stationary sources. The submittal states that an agreement was reached among representatives of participating air quality planning agencies that no attempt should be made in the 1979 SIP submittal to split HC emission reductions between mobile and stationary sources. SPRPC expects, however, to define equitable emission reduction targets as the planning process progresses and better information is developed on the effectiveness of stationary and mobile source control measures.

5(b). Consistency/Conformity Determination—The submittal does not address the process for determination of consistency/conformity of transportation plans and programs with air quality plans.

5(c). Assignment of Planning Responsibilities—The submittal contains an adequate assignment of responsibilities among the cognizant agencies: SPRPC develops motor vehicle emission inventory data, air quality analysis for CO, and control strategies for motor vehicles; DER develops emissions inventory for point and area sources, air quality analysis for ozone, and control strategies for point and area sources; Allegheny County Bureau of Air Pollution Control performs the same activities as DER within Allegheny County only; Pennsylvania DOT develops strategies relating to reduction of vehicle emission, e.g. I/M.

5(d). Transportation Programming Process—The submittal contains a detailed description of the programming process for transit projects. All Federal, State, and local responsibilities and decision points are clearly identified. The Regional Administrator believes that documentation of this process by SPRPC significantly adds to the understanding of the transportation project implementation process.

6. The submittal contains an acceptable schedule for analysis of alternatives and a detailed description

of how the process will be carried out. Technical details of the process will be presented in the work program to be submitted in September 1979. The schedule shows the analysis of alternatives starting September 1979 and being completed in September 1980.

7. The submittal contains a commitment to study additional transportation control measures with adoption of appropriate measures by December 31, 1987. Schedule for the study of individual measures are not contained in the submittal. However, a good description of the study process is included and the detailed work program to be submitted in September 1979 should remedy this deficiency.

8. The submittal does not contain a commitment to justify decisions not to adopt difficult, but reasonably available, measures. However, no major categories of measures have been rejected to date, and the September 1979 work program is expected to remedy this deficiency.

9. The submittal contains a description of the consultation process used to develop the 1979 plan and a general description of the process proposed for 1982 plan development. This is acceptable at this time. EPA is developing more detailed guidelines for public participation; the process proposed in this submittal may have to be modified to be consistent with those guidelines. The September 1979 work program submittal should contain a consultation program which is consistent with EPA guidelines.

10. The submittal contains a general work program for development of the 1982 SIP submittal, but no estimate of financial and manpower resources needed to carry out the process. EPA expects that the September 1979 modification to the UPWP will remedy this deficiency.

11. An adequate public hearing on the transportation element of the SIP was held on December 18, 1978, after reasonable notice.

12. Although the submittal does not discuss progress reports in detail, the submittal states SPRPC's intent to meet EPA reporting requirements. The EPA believes that detailed reporting procedures can be developed as part of the work program to be submitted in September 1979.

13. The Commonwealth of Pennsylvania is committed to implementation of I/M in the Pittsburgh area. This commitment, in the form of a Consent Decree, is presented in Appendix 6 of the April 24, 1979 submittal.

14. The submittal contains a commitment by SPRPC to place

emphasis on mass transit and to remain alert to opportunities to use transit as a tool to meet air quality objectives. This commitment is adequate at this time. However, EPA is developing additional guidance for meeting this requirement which may necessitate modification of this commitment by the SPRPC Board, and further commitments by the Pennsylvania DOT and PAT.

15. The UPWP has been modified to contain initial air quality planning tasks. The submittal contains a schedule showing that a more extensive UPWP revision will be made by September 30, 1979. The EPA expects that the September 1979 UPWP revision will satisfy the requirements for inclusion of all air quality-related transportation planning tasks in the UPWP.

16(a). Ozone—The submittal contains an acceptable RFP schedule showing allowable annual hydrocarbon emissions and requiring an annual reduction of 9892 tons per year. The RFP schedule combines stationary and mobile source emissions and accounts for growth.

16(b). Carbon Monoxide—The submittal does not contain a RFP schedule for CO emissions. However, EPA is proposing a schedule based on information contained in the submittal. It demonstrates that a 58 percent reduction in 1977 emissions in the Golden Triangle must occur in order to attain the CO standard. Based on the CO emission inventory information for 1977, 1982 and 1987 presented in the submittal, EPA proposes an RFP schedule which reduces Golden Triangle CO emissions by 696.6 tons/year between 1979 and 1982, and by 347 tons/year between 1983 and 1985. Adoption of this schedule is expected to result in attainment of the CO standard by 1985 and will satisfy the RFP requirement.

17. The submittal contains an evaluation of the air quality economic, social, environmental, and energy impacts of measures scheduled for implementation by 1982. It does not contain a preliminary identification of the methods for evaluating these impacts, or public comment on such methods. However, the September 1979 work program is expected to remedy this deficiency.

18. The submittal contains seven projects which reduce hydrocarbon emissions and expedite attainment of the ozone standard. These projects are also expected to reduce CO emissions. The projects are described as follows:

Project	Cost	Date of implementation	Nature of commitment	Responsible agency
1. Coraopolis Joint Rail/Bus Park-n-Ride Lot	\$300,000	1979	All local funds committed. Awaiting action by Pennsylvania Transit Assistance Authority.	PAT
2. McKeesport Commuter Rail Station/Park-n-Ride Lot	\$1,000,000	1980	Fully committed State & local funds. Construction schedule to begin PAT in 1979. Application to UMTA for construction funds must still be made.	PAT
3. PAT Park-n-Ride On-going Program	Noncapital	Ongoing	PAT committee to establish 2 to 3 new lots per year through agree- PAT ments with shopping centers, churches, and municipalities.	PAT
4. North Hills Park-n-Ride Lot	\$300,000	1979	All local funds committed. Awaiting action by Pennsylvania Transit Assistance Authority.	PAT
5. East Busway	\$109,800,000	1982	All Federal, State and local funds committed. Presently under construction.	PAT
6. Bike-n-Ride Lockers	\$60,000	1979	Part of PAT's Capital Improvement Program; funds fully committed.	PAT
7. SPRPC ongoing Rideshare Program—25 vans/year 1,700 carpools/year	\$44,300 (Fiscal year 1978-79)	Ongoing	Funded in fiscal year 1978-79 UPWP, SPRPC to attempt to establish SPRPC 25 new vanpools per year and 1,700 new carpools per year.	SPRPC

The Regional Administrator believes that commitments are adequate for all projects except the Coraopolis Joint Rail/Bus Park-n-Ride Lot and the North Hills Park-n-Ride Lot. A date for action by the Pennsylvania Transit Assistance Authority is needed. These projects are reasonably available and should be part of the SIP revision.

19. No measures are proposed for deletion from the currently approved SIP revision.

Summary—The Pittsburgh Area Transportation Element meets many of the requirement for approval. However, there are some outstanding issues:

1. A date for action by the Pennsylvania Transit Assistance Authority is needed before the Coraopolis and North Hills Park-n-Ride Lots can be approved. The Regional Administrator believes that these projects are reasonably available and should be part of the SIP.

2. A criteria and process for determining consistency/conformity of transportation plans and programs with air quality plans should be developed in accordance with forthcoming DOT and EPA guidance.

3. Documentation of parameters used to develop mobile source emission factors, e.g. ambient temperature, percent hot and cold operation, is needed.

4. The September 1979 work program should be used to remedy the other deficiencies identified in this proposal.

Description of Allentown-Bethlehem-Easton Area Transportation Element. The Lehigh-Northampton Joint Planning Commission (JPC) developed the transportation element of the proposed ozone SIP revision for the Allentown-Bethlehem-Easton (A-B-E) area. The JPC designated itself as lead agency after

suggestions by DER, the Pennsylvania DOT, and the Coordinating Committee of the Lehigh Valley Transportation Study (LVTS), which is the certified Metropolitan Planning Organization (MPO); the Governor concurred on June 22, 1978. The JPC will be working in cooperation with the Lehigh Valley Transportation Study; the City Planning Commissions of Allentown, Bethlehem, and Easton; and the Warren County Planning Board.

The geographic area covered by the submittal includes the cities of Allentown, Bethlehem, and Easton, and the Counties of Lehigh and Northampton.

The final transportation element for the A-B-E area was officially submitted by the Governor on June 7, 1979, and has been adopted by the JPC and the LVTS. The ozone design value for the area is 0.201 ppm, necessitating a 40.3 percent reduction of hydrocarbon emissions using the straight linear rollback method. A reasonable further progress schedule included in the plan indicates that the ozone standard of 0.12 ppm should be attained by 1984, including a margin for growth of up to 1000 tons per year in hydrocarbon emissions from new sources.

The emissions reduction measures committed to by the JPC and the MPO for implementation by 1982 are intersection improvements, corridor improvement, safety updates and realignments, the Basin Street project, growth in bicycling, and expansion and improvement of public transportation measures.

An I/M program will be implemented in the A-B-E area by the Pennsylvania DOT. Control measures listed for possible future study include establishment of ridesharing programs,

improvement of bicycling routes and facilities, raising downtown parking fees, parking restrictions, auto-free zones, road tolls, increasing gas taxes, minor road improvements, staggered or flexible work hours, exclusive bus or carpool lanes, bus service improvements, park and ride lots, reduction of transit fares, rapid transit, I/M, cleaner fleet vehicle engines and fuels, a program to reduce cold-start emissions from vehicles, control of extended idling, and temporary controls during air pollution episodes. The study and implementation of some of these measures is included as a work task in a planning work program for FY 1980-1981. Five control measures (auto-free zones, road tolls, lower transit fares, rapid transit system, and bicycling routes and storage facilities) were rejected. Although some of these rejections may be justifiable, an adequate justification was not included.

A public hearing to present the transportation element was held on March 26, 1979, and summaries of public comment are included in the submittal. Citizen input was also incorporated through open meetings and mailings by both the LVTS and the JPC.

Description of Harrisburg Area Transportation Element. The lead agency responsible for developing the transportation element of the SIP is the Tri-County Regional Planning Commission (TCRPC). This designation was certified by the Governor on June 22, 1978, after a consultation process involving the Commonwealth, County, and municipal officials. The MPO, which is the Coordinating Committee of the Harrisburg Area Transportation Study (HATS), is unable to receive or disburse funds and has inadequate staff for plan development. Therefore, the TCRPC

requested designation as the Section 174 lead agency. Close coordination between the MPO and TCRPC has been maintained, however.

The City of Harrisburg and the urbanized portions of Cumberland, Dauphin, Perry, and York Counties comprise the geographic area covered by this submittal. The ozone design value for this area is 0.167 ppm as reported in the Pennsylvania ozone submittal. Using a straight linear rollback, a 28.1 percent reduction of hydrocarbon emissions is needed to meet the 0.12 ppm standard; this reduction is expected to occur by 1982. Based on this projection of attainment, and inspection/maintenance program will not be required for the Harrisburg area. However, the TCRPC has endorsed the following transportation control measures to ensure attainment as expeditiously as practicable: carpool matching, fringe parking, bicycle lane and storage facilities, traffic flow improvement, transit service improvements, and increasing transit management efficiency. Control measures listed for future study include those listed in Section 108(f) of the Clean Air Act.

Public participation was included in this process through public information mailings and the Citizen's Advisory Committee of HATS. A public hearing was held on February 28, 1979, and a summary of public comments is included in the final submittal. The transportation element was adopted by the TCRPC and the MPO and was submitted by the Commonwealth on June 13, 1979.

Description of Scranton Area Transportation Element. The Lackawanna County Regional Planning Commission (LCRPC) as the Section 174 lead agency with responsibilities for coordinating the preparation of the transportation element of the implementation plan revisions for the Scranton area. The designation of the LCRPC as lead agency occurred after a consultation process with local and State government agencies which determined that the MPO, which is the Lackawanna-Luzerne Transportation Study Coordinating Committee does not have the authority to receive federal funds or the staff to develop a plan. The LCRPC therefore requested designation, and the Governor concurred on June 7, 1978.

The geographic area covered by the submittal includes the City of Scranton and the surrounding urbanized areas of Lackawanna County. The ozone air quality level for Lackawanna and Luzerne Counties is currently exceeding the NAAQS of 0.12 ppm. An ozone

design value of 0.188 ppm was determined by DER as the appropriate value for this area. A total of 19,325 tons per year of hydrocarbon emissions was reported from all mobile and stationary sources. Using straight linear rollback, a 34.8 percent reduction in ozone levels is projected to occur by 1982, with an additional 1.4 percent reduction needed for attainment of the ozone standard. The submittal shows attainment by 1984. The LCRPC endorses an I/M program which is committed for implementation by the Pennsylvania DOT. In addition, it supports the following control measures for mobile source emission reductions: a bike route plan, park and ride facilities, and transit improvements. Control measures identified for future study include all those in Section 108(f) of the Clean Air Act. The City of Scranton and the Lackawanna County Council of Governments endorse this plan and are committed to transit and transportation measures which will result in improved air quality.

Provisions for public interest group and local official involvement are included in the planning process through the activities the Citizens Advisory Committee, the Local Governments Advisory Committee, local service agencies, and other concerned citizens. A public hearing was held on February 13, 1979, and a 30-day public comment period followed. The proposed revision was submitted by the Governor on June 7, 1979.

Description of the Wilkes-Barre Area Transportation Element. The transportation element for the Wilkes-Barre urbanized area was developed by the Luzerne County Planning Commission (LCPC). The LCPC designated itself as the Section 174 lead agency after a consultation process among State and local government agencies determined that the MPO, which is the Lackawanna-Luzerne Transportation Study Coordinating Committee, could not receive Federal funds and did not have the staff to develop an air quality-transportation plan. LCPC's self-designation was suggested by the Pennsylvania Departments of Environmental Resources and Transportation; the Governor concurred with this designation on June 9, 1978.

The submittal covers the geographic areas of the City of Wilkes-Barre and the surrounding urbanized region of Luzerne County. The ozone design value was determined by DER to be 0.188 ppm, requiring a hydrocarbon emission reduction of 36.2 percent using the linear rollback method. The total hydrocarbon

emissions for the County were determined to be 21,567 tons per year. A reasonable further progress schedule which is included in the submittal indicates that in 1982 the 0.12 ppm standard will be exceeded by approximately 2.53 percent. Attainment of the ozone standard is projected to occur in 1984. The plan revision includes commitments for the following control measures: transit usage, land use plan, voluntary bicycling activity, bikeway system, bus/carpool program, and a park and ride program. The LCPC endorses implementation of an inspection/maintenance program by the Pennsylvania DOT in the Wilkes-Barre area. Transportation control measures listed for future study include in addition to the 18 measures recommended in Section 108(f) of the Clean Air Act, a parking policy, municipal coordination in relieving traffic congestion, and the implementation of a land use plan encouraging less use of the automobile.

Citizen and local government participation was included through the Local Governments Advisory Committee, public mailings and workshops, local media coverage, and a public hearing held on April 24, 1979. The plan was adopted by the LCPC and by the MPO on June 4, 1979, and was submitted by the Commonwealth on June 8, 1979.

Review of Allentown-Bethlehem-Easton, Harrisburg, Scranton, and Wilkes-Barre Area Transportation Elements. The following section contains a combined review of the Transportation Elements for the Allentown-Bethlehem-Easton, Harrisburg, Scranton, and Wilkes-Barre areas:

1. The geographic areas covered by transportation control measures and the definitions of nonattainment areas summarized in the area profiles are adequate.

2. Although a complete inventory is not included in each transportation element, an accurate, comprehensive, and current emissions inventory for all areas is provided in the Pennsylvania ozone submittal of April 24, 1979.

3. Estimation of emission reductions needed to demonstrate attainment and reasonable further progress were calculated using the straight linear rollback method. Since ozone design values are not reported in the transportation elements, ozone design values and emission reduction estimates reported in the April 24, 1979, Pennsylvania ozone submittal are used in this evaluation. The Harrisburg projections indicate attainment of the

standard by 1982, while A-B-E, Scranton, and Wilkes-Barre will require an extension of two years.

4. Designations and certifications of Section 174 lead agencies identified in the description of each area's transportation element are adequate. Exemplary cooperation was displayed by all agencies involved in this process.

5. Identification of agency tasks and responsibilities is adequate. The division of responsibilities among State and local agencies involved in the air quality transportation process were mutually agreed upon and are adequately described. Emission reduction estimates (mobile/stationary source splits) were discussed in each plan, and are to be developed for the 1982 submittals.

The process of determining the consistency/conformity of transportation projects with air quality objectives should be integrated into the planning process for future consideration. New procedures for integration of this consistency/conformity determination with the planning process were not identified. The project programming processes were not sufficiently detailed for these areas. Descriptions should be provided which include the steps in the project implementation process clearly identifying the responsible agency, the time required for each step, and the relationships among the different steps of the programming process. The Scranton submittal's description of the Bike Route Plan (Procedures and Funding) fulfills the requirement of detailing the agency involved in each step, but not the time required for each step or the current status of the project.

6. Schedules for comprehensive analysis of alternatives and demonstrations that analyses are underway are lacking in all four plans. These schedules can be submitted with the 1979-1980 UPWP and should include dates of initiation of studies, estimated completion dates, the agency performing the analyses and details of funding for the analyses.

7. Commitments to study additional measures are included in all four submittals with lists of these measures. However, schedules for the adoption of reasonably available measures are lacking. These can be submitted with the 1979-1980 UPWP and should include initiation dates, funding details, and identification of the responsible agency or agencies.

8. Commitments to justify decisions not to adopt difficult, but reasonably available, measures are included in the Wilkes-Barre submittal, but are not

included in the A-B-E, Harrisburg, and Scranton submittals.

9. The process for public, interest group, and elected official consultation and involvement in the transportation-air quality process is discussed in each submittal. The 1982 submittal will need to be responsive to forthcoming EPA guidelines on public and local official participation.

10. The identification of estimated financial and manpower resources necessary to develop the transportation elements is adequate, but more detail should be provided in the identification of funds and manpower resources required to continue the transportation-air quality planning and implementation process.

11. The Transportation Elements of the proposed SIP revision were adopted by the appropriate lead agencies and submitted by the State after reasonable notice and public hearing.

12. Provisions for progress reporting throughout the planning and implementation period are included for Harrisburg, Scranton, and Wilkes-Barre. The provision for progress reporting in the A-B-E submittal is not clear and should be clarified in the 1979-1980 UPWP.

13. The Lackawanna County Regional Planning Commission and the Luzerne County Planning Commission endorse implementation of I/M by the Pennsylvania DOT. The Harrisburg area does not presently need I/M for attainment of the standard by 1982. The commitment to implement I/M in the A-B-E, Scranton, and Wilkes-Barre areas is contained in the June 7, 1979 letter from the Governor of Pennsylvania.

14. The four lead agencies, in conjunction with the local transit agencies, have committed to improve public transit with the use of all available funds.

15. Air quality-related transportation planning tasks to be included in the UPWP are outlined in the submittals.

16. Emission reduction estimates for adopted measures and/or packages of measures were included in each submittal. These estimates are for control measures (excluding I/M) implementable by 1982 and are listed in the area profiles. The estimate of percent reductions for the four areas are: A-B-E, 0.4 percent; Harrisburg, 0.25 percent; Scranton, 0.13 percent, and Wilkes-Barre, 0.07 percent.

17. Evaluation of the air quality, economic, social, environmental, and energy effects of the plan provisions were identified in a brief matrix form in the Harrisburg and Wilkes-Barre submittals and in brief written form in

the A-B-E submittal; only a commitment to perform this analysis was included in the Scranton submittal.

18. Information on projects identified as reducing ozone levels is necessary to determine the likelihood of implementation of these measures by 1982. Some of this information is included in the submittals, but all four submittals are lacking information on some of their projects for one or more information categories: implementation dates, type and status of commitments including a schedule for obtaining remaining commitments necessary to insure implementation, and agency or agencies involved in implementing or continuing the operation of the project. This information is being requested from the lead agencies to assist EPA in making its determination on the approvability of the proposed SIP.

General Comments

Permit Program for New or Modified Sources. On June 12, 1979, the Commonwealth of Pennsylvania submitted proposed rules and regulations titled "Special Permit Requirements for Sources Locating in or Significantly Impacting Non-attainment Areas" (Title 25, Part I, Subpart C, Article III, Chapter 127, Subchapter C of the Pennsylvania Code) to EPA. These regulations are a proposed revision to the Pennsylvania SIP required by Section 173 of the Clean Air Act. Public hearings were conducted on these regulations on May 2, 3, and 4, 1979 and the Pennsylvania Environmental Quality Board approved them on June 12, 1979. EPA has noted several areas of concern in the regulations and solicits public comments.

The Special Permit regulations apply to new or modified sources with potential emissions equal to or greater than 100 tons per year and with allowable emissions greater than fifty tons per year located in or significantly impacting areas designated as nonattainment for particulate matter and sulfur dioxide or located in any of twenty-one non-rural counties designated as nonattainment for ozone. The proposed regulation requires that all emissions resulting from such a new source or major modification to an existing source be subject to stringent review. Sources subject to this regulation must comply with the Lowest Achievable Emission Rate (LAER). The regulations require certification that all facilities owned or operated by the applicant and located in Pennsylvania are either in compliance or on an approved schedule for compliance with the SIP. Emission offset ratios ranging

from 1.1:1 to 5:1 are also required, depending on the type of pollutant and whether primary or secondary standards are being violated in the nonattainment area. The regulation also provides for the banking of emission offsets where offsets either exceed requirements, result from source shutdown, or result from voluntary implementation of improved control techniques. Emissions can be banked for a maximum of five years. The proposed rules provide for reasonable progress toward attainment of applicable NAAQS's and are consistent with the requirements of Section 173 of the Clean Air Act.

Based on EPA's review to date, the following concerns are noted:

1. The proposed regulations exempt sources reactivated after being out of operation for one year or more from having to meet LAER requirements and certification of state-wide compliance by the company. EPA does not agree with this open-ended exemption and believes that a specific time limit within which the exemption would be allowed should be defined.

2. The proposed regulations do not address major sources of carbon monoxide emissions, possibly preventing such major new or modified sources with carbon monoxide emissions from locating in carbon monoxide nonattainment areas.

State Commitments and Resources to Implement and Enforce Adopted Measures. The Commonwealth of Pennsylvania has made an adequate commitment of financial and manpower resources to implement the TSP plan and the VOC regulations.

State Commitments to Comply With Schedules. EPA will be issuing additional control technology guidance (CTG) documents for the control of stationary source categories of VOC's. The Commonwealth of Pennsylvania has made an adequate commitment to develop regulations for all appropriate stationary source categories of VOC, subsequent to EPA's issuance of these guidance documents.

In addition, the Commonwealth of Pennsylvania provides an adequate commitment to perform a detailed study of non-traditional particulate emissions and to adopt and implement appropriate fugitive emission regulations.

Public Involvement and Analysis of Effects. The Clean Air Act requires a SIP to include evidence of involvement and consultation with the public, local government, legislature, and all other interested parties. Pennsylvania has satisfied this requirement through a series of public mailings, public

hearings, presentations, and consultations with industrial representatives.

Also required in the SIP is an analysis of the energy, economic, environmental and social impacts of the plan. Pennsylvania's economic analysis of effects of regulations is sufficient for the 1979 SIP submittal, however, a more detailed analysis of effects of regulations and measures in future submittals will be required.

Summary of Major Issues

1. Both Pennsylvania's and Allegheny County's regulations for cutback asphalt paving are not consistent with EPA's guidance on RACT.

2. Revisions of major portions of the Pennsylvania SIP covering Allegheny County and certain major stationary sources have not yet been officially submitted to EPA.

Conclusion

The measures proposed today will be in addition to, and not in lieu of, existing SIP regulations. The present emission control regulations of any source will remain applicable and enforceable to prevent a source from operating without control or under less stringent controls, while it is moving toward compliance with the new regulations (or, if it chooses, challenging the new regulations). Failure of a source to meet applicable pre-existing regulations will result in appropriate enforcement action, including assessment of non-compliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability or enforceability of the new regulations because of a court order or for any other reason, the pre-existing regulations will be applicable and enforceable.

The only exceptions to this rule are cases where there are conflicts between the requirements of the new regulations and the requirements of the existing regulations such that it would be impossible for sources to comply with the regulations. In these situations, the State may exempt sources from compliance with the pre-existing regulations. Any exemption granted would be reviewed and acted on by EPA either as part of these proposed regulations or as future SIP revisions.

Based on the information presented in the various submittals and EPA's review of that material to date, the following extensions to the attainment dates for ozone and carbon monoxide are proposed for the following metropolitan areas:

Philadelphia: December 31, 1987 for ozone

June 30, 1983 for carbon monoxide

Pittsburgh: December 31, 1987 for ozone

December 31, 1985 for carbon monoxide

Allentown-Bethlehem-Easton: December 31, 1984 for ozone
Scranton: December 31, 1984 for ozone
Wilkes-Barre: December 31, 1984 for ozone

The public is invited to submit to the address stated above, comments on whether the proposed amendments to the Pennsylvania air pollution regulations should be approved as a revision of the Pennsylvania State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination of whether the amendments meet the requirements of Part D and Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

A supplement to an April 4, 1979 Notice of Proposed Rulemaking (44 FR 20372 [1979]) was published on July 2, 1979 (44 FR 38583 [1979]) involving among other things, conditional approval. EPA proposes to conditionally approve the plan where there are minor deficiencies and the State provides assurances that it will submit corrections on a specified schedule. This notice solicits comment on what items should be conditionally approved. A conditional approval will mean that the restrictions on new major source construction will not apply unless, (1) the State fails to submit, by dates to be scheduled, SIP revisions necessary to remedy the deficiencies, or (2) the revisions are not approved by EPA.

The deficiencies in the Pennsylvania Plan that are not corrected may be cause for disapproval of the proposed revisions to the SIP. EPA is aware, however, that the Commonwealth of Pennsylvania and Allegheny County, for its portion, are undertaking efforts to rectify plan deficiencies.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized."

I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. §§ 7401-7642)

Dated: July 18, 1979.

Jack J. Schramm,
Regional Administrator.

[FR Doc. 79-22829 Filed 7-23-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Parts 163, 172]**[OPP-250019; FRL 1280-4]****Pesticide Programs; Guidelines for Registering Pesticides in the United States: Subparts G, I, and J; Notification to the Secretary of Agriculture of a Proposed Regulation****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notification of proposed regulation.

SUMMARY: Notice is given under section 25(a)(2)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, that the Administrator, EPA, has forwarded to the Secretary of the U.S. Department of Agriculture a copy of EPA's proposed regulation to implement section 3(c)(2) of FIFRA, which requires the Administrator to publish guidelines specifying the kinds of information which will be required to support the registration of a pesticide. Subpart G, entitled Product Performance; Subpart I, entitled Experimental Use Permits; and Subpart J, entitled Hazard Evaluation: Nontarget Plants and Microorganisms are the portions of the guidelines involved.

FOR FURTHER INFORMATION CONTACT: William Preston, Hazard Evaluation Division (TS-769), Office of Pesticide Programs, EPA, Washington, DC 20460 (703/557-1405).

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(B) of FIFRA provides that the Administrator shall provide the Secretary of Agriculture a copy of any proposed regulation at least 60 days prior to signing it for publication in the Federal Register. If the Secretary comments in writing regarding the proposed regulation within 30 days after receiving it, the Administrator shall publish in the Federal Register (with the proposed regulation) the comments of the Secretary and the response thereto of the Administrator. If the Secretary does not comment in writing within 30 days after receiving the proposed regulation, the Administrator may sign such regulation for publication in the Federal Register anytime after such 30-day period.

Pursuant to FIFRA section 25(a)(3), a copy of this proposed regulation has also been forwarded to the Committee on Agriculture of the House of

Representatives and the Committee on Agriculture, Forestry, and Nutrition of the Senate. This section 3(c)(2) regulation was submitted to the FIFRA Scientific Advisory Panel on July 5, 1979 as required by section 25(d).

Statutory Authority: (Section 25, Federal Insecticide, Fungicide, and Rodenticide Act, as amended Pub. L. 92-516; 89 Stat. 973; Pub. L. 94-140, 89 Stat. 751 (7 U.S.C. 136 et seq.))

Dated: July 17, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-22827 Filed 7-23-79; 8:45 am]

BILLING CODE 5560-01-M

FEDERAL MARITIME COMMISSION**[46 CFR Ch. IV]****[Docket No. 78-46]****Amendment to Financial Reports by Common Carriers by Water in the Domestic Offshore Trades****AGENCY:** Federal Maritime Commission.**ACTION:** Enlargement of time to comment.

SUMMARY: Counsel for various carriers in the domestic offshore trade have requested reconsideration of our denial of enlargement of time to file comments in response to the notice of proposed rulemaking in this proceeding (44 FR 26944; May 8, 1979). Upon reconsideration we have determined that it would be useful to receive comments based on the results of the study of the transportation economist retained by these carriers. Accordingly, a 30-day enlargement of time will be granted.

DATES: Comments (original and fifteen copies) on or before August 8, 1979.

ADDRESSES: Comments to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573.

By the Commission,

Francis C. Hurney,

Secretary.

[FR Doc. 79-22736 Filed 7-23-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION**[47 CFR Part 90]****[PR Docket No. 79-167; RM-3235; FCC 79-406]****Geographic Sharing of Certain Frequencies in the Petroleum, Forest Products, Special Industrial, and Manufacturers Radio Services****AGENCY:** Federal Communications Commission.**ACTION:** Notice of Proposed Rulemaking.

SUMMARY: This Notice of Proposed Rulemaking in effect grants a joint petition filed by the Central Committee on Telecommunications of the American Petroleum Institute, Forest Industries Telecommunications, and the Special Industrial Radio Service Association requesting that rulemaking be instituted looking toward adoption of rules permitting sharing of certain frequencies in the Petroleum, Forest Industries, Special Industrial, and Manufacturers Radio Services.

DATES: Comments must be received on or before August 20, 1979, and Reply Comments must be received on or before September 4, 1979.

ADDRESSES: Federal Communications Commission, Washington, D. C. 20554.

FOR FURTHER INFORMATION CONTACT: Arthur C. King, Rules Division, Private Radio Bureau, (202) 632-6497.

Adopted: July 3, 1979.

Released: July 18, 1979.

In the matter of amendment of Subpart D of Part 90 of the Commission's rules and regulations to provide for geographic sharing of certain frequencies in the Petroleum, Forest Products, Special Industrial, and Manufacturers Radio Services. PR Docket No. 79-167, RM-3235.

1. The Commission has before it a joint petition for rulemaking filed by the Central Committee on Telecommunications of the American Petroleum Institute (Central Committee), Forest Industries Telecommunications (FIT), and the Special Industrial Radio Service Association (SIRSA) asking that rules be adopted to permit geographic sharing of certain frequencies in the three services these organizations represent as well as certain frequencies available to licensees in the Manufacturers Radio Service.

2. Briefly, the petition looks toward rule changes that would:

(a) Permit those eligible for licensing in the Special Industrial Radio Service to employ, in the North Central states,

certain specific frequencies in the 150-160 MHz band now primarily available in the Petroleum, Forest Products, and Manufacturers Radio Services;

(b) Permit those eligible for licensing in the Petroleum Radio Service to use, in the Texas-Louisiana Gulf Coast area, certain specific low band (30-50 MHz) frequencies primarily available in the Special Industrial Radio Service; and

(c) Permit those eligible for licensing in the Forest Products Radio Service to use, in the Pacific Northwest, certain specific frequencies in the 30-50 MHz band now primarily available in the Special Industrial Radio Service.

3. The Central Committee states that because of continued growth in oil and gas exploration and production activities in the Gulf Coast region of Texas and Louisiana and adjacent offshore waters, the Petroleum Radio Service land mobile radio users are experiencing increasingly severe frequency congestion. The Central Committee, which is the frequency coordinating committee for the Petroleum Radio Service says that, "there are few sites in the Texas-Louisiana Gulf Coast region where a VHF recommendation can now be made in good conscience."

4. In the Pacific Northwest, with expanding timber operations, FIT also claims continuing frequency shortage in the Forest Products Radio Service and states that on the low band and high band frequencies within 100 miles of Seattle, there are over 7,200 transmitters in use for an average occupancy of 100 units per channel. Within a 100 mile radius of Corvallis, Oregon, on these same channels, FIT says there are over 10,000 units, and within the same radius of Wallace, Idaho, again on the same channels, there are over 2,700 transmitters. In Washington and Idaho, some of these same channels are not available for use because they are assigned to Canadian licensees. These same channels are also shared with the Petroleum and Manufacturers Radio Services and there is additional use in those services.

5. SIRSA states that its members are experiencing congestion on the frequencies in the 30-50 and 150-160 MHz bands in almost all parts of the country since the seven basic industries that share Special Industrial Radio Service assignments are distributed geographically on a fairly equal basis. It cites a number of instances of congestion in various parts of the country in support of the joint petition.

6. There is little activity in the Petroleum, Forest Products, and Manufacturers Radio Services in the

North Central states where the Special Industrial Radio Service licensees are experiencing severe congestion. Therefore, the Central Committee and FIT have identified ten frequencies that could be shared by those eligibles for licensing in the Special Industrial Radio Service in the states of North Dakota, South Dakota, Iowa, Kansas, Missouri, Nebraska, Colorado, Wyoming, and Minnesota, provided, that some special consideration is given to Kansas City and St. Louis, Missouri and the northern part of Minnesota. Protection of those areas is taken into account in the geographic limitations placed on certain frequencies listed in the appendix. Thirty high band frequencies are allocated to Manufacturers Radio Service. The petitioners propose that Special Industrial Radio Service licensees share eight in the states mentioned.

7. The petitioners acknowledge that the frequency relief proposed in the joint petition involves assignments available in the Manufacturers Radio Service and that no reciprocal use is proposed for that service. They state that, although the Manufacturers Radio Service could benefit from participation in the sharing plan, there are no frequencies within the groups assigned to the Forest Industries, Petroleum, or Special Industrial Radio Services that can reasonably be shared with the Manufacturers Radio Service licensees. The petitioners, however, argue that there would not be a significant impact on the Manufacturers Radio Service from the sharing proposal. Nevertheless, we want to explore this matter further in this proceeding and comments are invited along with suggestions addressing the subject, particularly on the impact of the proposal on the Manufacturers Radio Service and the possibilities for participation in the sharing plan by that service.

8. SIRSA has identified ten frequencies in the low band (31-35 MHz range) that it believes can be shared to some extent with the Petroleum Radio Service along the Gulf Coast and adjacent offshore waters. SIRSA claims that no other Special Industrial frequencies in the 30-50, 150-160 MHz bands are available for sharing in that area, because they are used by Special Industrial Radio Service licensees, particularly those providing specialized services to the oil and gas industries.

9. SIRSA has also identified ten frequencies in the low band (below 50 MHz) that it believes can accommodate users in the Pacific Northwest who are eligible in the Forest Products Radio Service. FIT would prefer to obtain

access to assignments in the 150-174 MHz range but, because of heavy Special Industrial usage (primarily for agriculture) it agrees that these are the only ones which can be shared without serious conflicts.

10. We have considered the petition carefully and we have tentatively concluded that it presents a practical, if limited plan to increase the utilization of a significant number of land mobile frequencies and thereby meet some of the needs of land mobile communication users in the three radio services involved. We have encouraged interservice sharing in the past and the geographic sharing plan proposed by the petitioners is one of the better ways to implement sharing of frequencies. We propose to grant the petition. The specific frequencies involved the areas where they would be available for sharing under this proposal, the requirements for interservice frequency coordination, and other specific matters are listed in the attached Appendix below.

11. Therefore, the petition, RM-3235, filed jointly by Central Committee, FIT and SIRSA is granted to the extent indicated in this Notice.

12. Regarding questions on matters covered in this document, contact Art King, telephone (202) 632-6497.

13. The proposed amendments to the rules as set forth in the appendix below are issued pursuant to the authority contained in Sections 4(i), 303(b), (f) and (r) of the Communications Act of 1934, as amended.

14. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before August 20, 1979, and reply comments on or before September 4, 1979. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in the proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

15. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the

Commission's Public Reference Room at its headquarters in Washington, D.C.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 90 of the Commission's rules and regulations is amended as follows:

1. Section 90.65(b) Table is amended and paragraphs (c) (37) and (38) are added to read as follows:

§ 90.65 Petroleum Radio Service.

(b) Frequencies available. * * *

Frequency or band	Class of station(s)	Limitations
30.82	Base or mobile	4, 5, 8
31.32	do	37
31.40	do	37
31.44	do	37
31.48	do	37
31.52	do	37
31.60	do	37
31.64	do	37
31.72	do	37
31.76	do	37
33.18	do	37
33.38	do	37
35.48	do	37
36.25	do	42
153.080	do	4, 5, 13
153.095	do	13, 38
153.110	do	4, 5, 13
153.125	do	13, 38
153.140	do	4, 5, 13
153.155	do	13
153.170	do	4, 5, 13
153.185	do	13, 38
153.200	do	4, 5, 13
153.215	do	13
153.230	do	4, 5, 13
153.245	do	13, 38
153.260	do	4, 5, 13
153.275	do	13
153.290	do	4, 5, 13
153.305	do	13, 38
153.320	do	4, 5, 13
153.335	do	13, 38
153.350	do	4, 5, 13
153.365	do	13, 38
153.380	do	13
153.395	do	13, 38
153.425	do	14
158.310	do	4, 5, 13
158.325	do	13, 38
158.355	do	10, 38
158.370	do	4, 5, 13

(c) * * *

(37) This frequency is shared with the Special Industrial Radio Service, and is available for assignment in the Petroleum Radio Service only in the States of Texas and Louisiana within 75 miles of the Gulf of Mexico and in adjacent offshore waters. Evidence of interservice frequency coordination is

required, and mobile relay stations will not be authorized.

(38) This frequency is shared with the Special Industrial Radio Service in the States of North Dakota; South Dakota; Iowa; Nebraska; Kansas and Missouri beyond 50 miles from St. Louis and Kansas City; Colorado and Wyoming east of Longitude 106 degrees; and Minnesota South of Latitude 47 degrees.

2. Section 90.67(b) Table is amended and paragraphs (c) (30) and (31) are added to read as follows:

§ 90.67 Forest Products Radio Service.

(b) Frequencies available. * * *

Frequency or band	Class of station(s)	Limitations
30.72	Base or mobile	30
31.48	do	30
31.52	do	30
31.64	do	30
31.72	do	30
31.76	do	30
37.44	do	30
37.88	do	30
43.02	do	30
43.28	do	30
43.36	do	30
43.40	do	30
43.52	do	30
48.56	do	2
153.060	do	6
153.095	do	6, 31
153.110	do	6
153.125	do	6, 31
153.140	do	8
153.155	do	8
153.170	do	6
153.185	do	8, 31
153.200	do	6
153.215	do	8
153.230	do	8
153.245	do	6, 31
153.260	do	6
153.275	do	6
153.290	do	8
153.305	do	6, 31
153.320	do	6
153.335	do	6, 31
153.350	do	8
153.365	do	6, 31
153.380	do	6
153.395	do	6, 31
153.425	do	7
158.310	do	6
158.325	do	6, 31
158.355	do	6, 31
158.370	do	2

(c) * * *

(30) This frequency is shared with the Special Industrial Radio Service and is available for assignment in the Forest Products Radio Service only in the States of Washington; Oregon; Idaho; Nevada; and Montana west of Longitude 110 degrees; and California north of Latitude 39 degrees. Evidence of interservice frequency coordination is

required, and mobile relay stations will not be authorized.

(31) This frequency is shared with the Special Industrial Radio Service in the States of North Dakota; South Dakota; Iowa; Nebraska; Kansas and Missouri beyond 50 miles from St. Louis and Kansas City; Colorado and Wyoming east of Longitude 106 degrees; and Minnesota South of Latitude 47 degrees.

3. Section 90.73(c) Table is amended and paragraphs (d)(29)(30) and (31) are added to read as follows:

§ 90.73 Special Industrial Radio Service.

(c) Frequencies available. * * *

Frequency or band	Class of station(s)	Limitations
31.28	Base or mobile	29
31.32	do	29
31.36	do	29
31.40	do	29
31.44	do	29
31.48	do	29, 31
31.52	do	29, 31
31.56	do	29
31.60	do	29
31.64	do	29, 31
31.68	do	29, 31
31.72	do	29, 31
31.76	do	29, 31
31.80	do	29, 31
35.44	Base or mobile	29
35.48	do	29
35.52	do	29
35.86	do	2
43.02	do	21
43.18	do	2
43.28	do	30
43.32	do	31
43.36	do	31
43.40	do	31
43.44	do	31
43.48	do	31
43.52	do	31
47.44	do	2
153.035	Base or mobile	2, 11
153.095	do	2, 30
153.125	do	2, 30
153.185	do	2, 30
153.245	do	2, 30
153.305	do	2, 30
153.335	do	2, 30
153.365	do	2, 30
153.395	do	2, 30
154.45625	Fixed or mobile	12, 13, 15, 25
157.740	Base or mobile	2, 9
158.325	do	2, 30
158.355	do	2, 30
158.385	do	2

(d) * * *

(29) This frequency is shared with the Petroleum Radio Service in the State of Texas and Louisiana within 75 miles of the Gulf of Mexico and in adjacent offshore waters.

(30) This frequency is shared with other Industrial Radio Services, and available for assignment in the Special

Industrial Radio Service only in the State of North Dakota; South Dakota; Iowa; Nebraska; Kansas and Missouri beyond 50 miles from St. Louis and Kansas City; Colorado and Wyoming east of Longitude 106 degrees; and Minnesota south of Latitude 47 degrees. Evidence of interservice frequency coordination is required, and maximum transmitter output power may not exceed 110 watts.

(31) This frequency is shared with the Forest Products Radio Service in the States of Washington; Oregon; Idaho; Nevada; Montana west of Longitude 110 degrees; and California north of Latitude 39 degrees.

4. Section 90.79(c) Table is amended and paragraphs (d) (21) are added to read as follows:

§ 90.79 Manufacturer's Radio Service.

(c) Frequencies available. * * *

Frequency or band	Class of station(s)	Limitations
158.080	Base or mobile	5
153.095	do	5, 21
158.110	do	5
158.125	do	5, 21
153.140	do	6
153.155	do	5
153.170	do	5
153.185	do	5, 21
153.200	do	5
153.215	do	5
153.230	do	5
153.245	do	5, 21
158.260	do	5
153.275	do	5
153.290	do	5
153.305	do	5, 21
153.320	do	5
153.335	do	5, 21
153.350	do	5
153.365	do	5, 21
153.380	do	5
153.395	do	5, 21
158.415	do	5

(d) * * *

(21) This frequency is shared with the Special Industrial Radio Service in the States of North Dakota; South Dakota; Iowa; Nebraska; Kansas and Missouri beyond 50 miles from St. Louis and Kansas City; Colorado and Wyoming east of Longitude 106 degrees; and Minnesota south of Latitude 47 degrees.

[FR Doc. 79-22779 Filed 7-23-79; 8:46 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1056]

(Ex Parte No. MC 19 (Sub-No. 34))

Household Goods Transportation (Storage-in-Transit Charges); Extension of Comment Period

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time for filing public comments in this proceeding.

SUMMARY: By a notice of proposed rule served May 23, 1979, and published in the Federal Register on May 25, 1979 (44 FR 30387), the Commission sought comments on its proposal to require that storage-in-transit charges on household goods moving in interstate or foreign commerce be assessed on a daily basis rather than on a 30-day basis. The comments were sought on or before July 24, 1979. Petitions for an extension were filed, and an extension of 30 days is granted.

DATES: Comments in this proceeding are due on or before August 23, 1979.

FOR FURTHER INFORMATION CONTACT: Martin E. Foley, (202) 275-7348.

SUPPLEMENTARY INFORMATION: Household Goods Carriers' Bureau and Nilson Van & Storage (petitioners) have requested that the due date for the filing of comments be extended to November 21, 1979, and October 23, 1979, respectively. The petitioners state that the 60-day filing period originally provided for does not allow sufficient time for the development of meaningful cost studies. Further, the petitioners point out that the moving industry is currently engaged in its busy season and that fuel and labor problems have existed in the past several weeks.

The Commission's Office of Special Counsel filed a petition in opposition of the sought extensions.

The extensions sought are excessive and have not been justified. As a part of their arguments the petitioners state that the moving industry is now engaged in its busy season. This is an operational consideration which should not interfere with the petitioners' formulation of statements of their positions in this proceeding. The petitioners have already had some time to develop their cost studies. In any event, the studies mentioned by the petitioners do not appear to be essential to their argument for the continued practice of assessing storage charges on a 30-day basis. We

realize that any revenue which the industry might lose by assessing the storage charges on a daily basis might have to be made up elsewhere.

I feel that a limited extension of 30 days is warranted.

Decided: July 17, 1979.

By the Commission, Chairman O'Neal

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-22826 Filed 7-23-79; 8:46 am]

BILLING CODE 7035-01-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Relocation of Plant Quarantine Station From Glenn Dale, Md., to Beltsville, Md.; Issuance of Negative Declaration

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of Availability of Environmental Analysis and Negative Declaration.

SUMMARY: This gives notice that Animal and Plant Health Inspection Service is not preparing an environmental impact statement concerning the relocation of the Plant Quarantine Station from Glenn Dale, Maryland to Beltsville Agricultural Research Center-East, Maryland. The environmental assessment of this action indicates that the existing facility has not caused significant adverse local, regional, or national impacts upon the environment in its present Glenn Dale location nor are there any adverse environmental impacts anticipated in the proposed improved and enlarged facility to be located at Beltsville. No significant controversy has been associated with this project. As a result of these findings, it has been determined that the preparation and review of an environmental impact statement is not needed for this action.

ADDRESSES: A limited number of copies of the environmental analysis are available upon request from the energy and Environmental Staff, Architectural Engineering Branch, Administrative Services Division, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 271, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

Copies are available for public inspection during regular working hours at the following location: Office, Plant

Protection and Quarantine Programs, Animal and Plant Health Inspection Service, Plant Germplasm Quarantine Center, U.S. Department of Agriculture, Building 320-East, Center Road, Beltsville Agricultural Research Center-East, Beltsville, MD 20705.

FOR FURTHER INFORMATION: Contact John H. Green, Energy and Environmental Staff, Area Code (301) 436-8237.

SUPPLEMENTAL INFORMATION: Animal and Plant Health Inspection Service has been allocated land in Beltsville Agricultural Research Center-East for the purpose of constructing the proposed Plant Quarantine Station. The relocation is considered necessary in order to construct technically improved facilities, to allow for a buffer zone that safeguards the facility and to allow for future expansion of this program. The Plant Quarantine Station, presently located in Glenn Dale, is the only facility in the United States responsible for the importation of quarantined plant genetic material used to improve native crops including propagation of pest resistant varieties. The existing facility is antiquated, cannot be expanded, and subject to problems of urbanization such as vandalism or trespassing. This negative declaration has been filed with the U.S. Environmental Protection Agency and with various Federal, State, and local agencies.

No administrative action will be taken until August 8, 1979.

Note.—This notice has been reviewed under the U.S. Department of Agriculture criteria established to implement the EO 12044, Improving Government Regulations. A determination has been made that this notice should not be classified significant under those criteria. The environmental assessment referred to in the notice meets the requirements of EO 12044 and Secretary's Memorandum 1955 for an impact analysis statement. The environmental assessment is available from the Energy and Environmental Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, MD 20782.

Done at Washington, D.C., this 12th day of July, 1979.

Pierre A. Chaloux,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 79-22819 Filed 7-23-79; 8:45 am]

BILLING CODE 3410-34-M

Federal Register

Vol. 44, No. 143

Tuesday, July 24, 1979

Food and Nutrition Service

National Average Minimum Value of Donated Foods for the Period July 1, 1979-June 30, 1980

Pursuant to sections 6(e) and 17(h) of the National School Lunch Act, as amended, and the regulations governing the Donation of Foods (7 CFR Part 250) and Cash in Lieu of Commodities (7 CFR Part 240), notice is hereby given that the national average minimum value of donated foods, or cash in lieu thereof, per lunch under the National School Lunch Program (7 CFR Part 210) and per lunch and supper under the Child Care Food Program (7 CFR Part 226), shall be 15.75 cents for the period July 1, 1979-June 30, 1980. This value was derived by applying the annual percentage change in a three-month simple average value of the Price Index Used in Schools and Institutions for March, April, and May of 1978 and for March, April, and May of 1979 (from 201.8 in 1978 to 230.9 in 1979). The Index, prescribed for use in section 5(b) of Pub. L. 95-627, is computed using five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meats, poultry, and fish, dairy products, processed fruits and vegetables, and fats and oils). Each component is weighted using the same relative weight as determined by the Bureau of Labor Statistics.

(Catalog of Federal Domestic Assistance Nos. 10.555 and 10.558.)

Effective date: This notice shall be effective as of July 1, 1979.

Dated: July 19, 1979.

Carol Tucker, Foreman,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-22822 Filed 7-23-79; 8:45 am]

BILLING CODE 3410-30-M

Child Nutrition Programs; Income Poverty Guidelines for Determining Eligibility for Free and Reduced-Price Meals and Free Milk

AGENCY: Food and Nutrition Service, USDA.

ACTION: Correction of Notice.

SUMMARY: Notice is hereby given of omissions in the income poverty guidelines notice which was published in the Federal Register on June 15, 1979, page 34618. Those guidelines are

applicable to the 1980 school year, which is the period July 1, 1979 through June 30, 1980. The notice which appeared on June 15 incorrectly identified the National School Lunch Program as 7 CFR Part 220, and omitted reference to the School Breakfast Program for which the income poverty guidelines are also applicable. That notice also incorrectly stated that schools and institutions are required to serve free meals and free milk to children from families whose incomes are at or below 25 percent above the applicable family size income level indicated by the guidelines. This requirement has been eliminated by Amendment 13 to 7 CFR Part 245. Determining Eligibility for Free and Reduced-Price Meals and Free Milk in Schools. Amendment 13 gives school food authorities the option of providing free milk to eligible children. This notice of correction does not change the eligibility levels as originally published, nor delay the effective date of the original notice.

EFFECTIVE DATE: This notice shall become effective upon publication.

FOR FURTHER INFORMATION, CONTACT: Margaret O'K. Glavin, Director, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-8130.

Accordingly, the Federal Register notice is changed to read as follows:

Pursuant to sections 9 and 17 of the National School Lunch Act, as amended (42 U.S.C. 1758 and 42 U.S.C. 1766), and sections 3 and 4(e) of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1772 and 1773(e)), the income poverty guidelines for determining eligibility of children for free and reduced-price meals in the National School Lunch Program (7 CFR Part 210), School Breakfast Program (7 CFR Part 220), Child Care Food Program (7 CFR Part 226), and commodity only schools (7 CFR 210.15(a)), and for free milk in the Special Milk Program (7 CFR Part 215) during the period July 1, 1979-June 30, 1980 are prescribed by the Secretary in the following tables.

Under the legislation and applicable regulations, schools and institutions which charge for meals separately from other fees are required to serve free meals and, at the option of the school food authority, free milk to all children from families whose incomes are at or below 25 percent above the applicable family size income level indicated by the Secretary's guidelines.

Dated: July 18, 1979.

Carol Tucker Foreman,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-22839 Filed 7-23-79; 8:45 am]

BILLING CODE 3410-30-M

Rural Electrification Administration

Colorado-Ute Electric Association, Inc.; Proposed Loan Guarantee

Under the authority of Pub. L. 83-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider (a) providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of \$24,510,000 to Colorado-Ute Electric Association, Inc., of Montrose, Colorado, and (b) supplementing such a loan with an insured REA loan at 5 percent interest in the approximate amount of \$4,782,000 to this cooperative. These loans funds will be used to finance a project consisting of 12 miles of 115 kV and 50 miles of 230 kV transmission line and modifications and improvements to existing generation facilities. Funds are also requested for cost deficiencies on previously approved transmission and generation projects.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. John Bugas, Manager, Colorado-Ute Electric Association, Inc., P.O. Box 1149, Montrose, Colorado 81401.

In order to be considered, proposals must be submitted on or before August 23, 1979 to Mr. Bugas. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Colorado-Ute Electric and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250

Dated at Washington, D.C., this 16th day of July, 1979.

Tom Burgum,
Administrator, Rural Electrification Administration.

[FR Doc. 79-22848 Filed 7-23-79; 8:45 am]
BILLING CODE 3510-15-M

CIVIL AERONAUTICS BOARD

[Order 79-7-98; Docket Nos. 35752, et al.]

Wild Card Route Case; Applications of Air Florida, et al.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 16th day of July, 1979.

In the matter of applications of Air Florida, Docket No. 35886, Braniff Airways, Docket No. 35873, Continental Air Lines, Docket No. 35875, Eastern Air Lines, Docket No. 35880, Lone Star Airways, Docket No. 35884, Pan American World Airways, Docket No. 35881, Trans International Airlines, Docket No. 35879, Trans World Airlines, Docket No. 35874, Western Air Lines, Docket No. 35878, World Airways, Docket No. 35887, and Northwest Airlines, Docket No. 35889; order on reconsideration and motions to consolidate.

By Order 79-6-42, the Board added seven cities to the eight points previously under consideration as the wild card gateway under Bermuda 2, and set the expanded case for hearing on an expedited basis. Motions to consolidate have been filed by Braniff Airways, Continental Air Lines, Lone Star Airways, Pan American World Airways, Trans International Airlines, Western Air Lines, World Airways, and Northwest Airlines. Petitions for reconsideration have been filed by the Minnesota Parties, National Airlines, Trans International Airlines, Western Air Lines and World Airways. Answers have been submitted by Northwest Airlines, Trans World Airlines, Western Air Lines and the Oakland Parties. The petitions are considered *seriatim*, below.

First, the Minnesota Parties ask the Board to reverse itself and to select a wild card city and airline on the basis of

¹At the time this proceeding was instituted, all of the applicants were certificated carriers. The application of Lone Star, which is not certificated, raises the questions of its fitness and citizenship. These issues will, of course, be considered in this case.

²The dockets in which these applications have been filed are indicated above. We will grant the motions to the extent that the applications conform to the scope of the issues in this case, and dismiss those portions of the applications which do not. In addition, we will grant Air Florida's motion to withdraw its application in Docket 35886.

the record developed in the *Transatlantic Route Proceeding*.³ Our June 5 Order explained why we consider a new record and a broader case to be necessary, and nothing in the Minnesota Parties' petition causes us to change our mind. National urges the Board to (1) postpone the proceeding until the U.S. and the U.K. can agree on a mutually-acceptable point or list of points for the wild card, and (2) to eliminate the issue of the termination or suspension of its authority between New Orleans or Tampa and London. As to the first point, we find it desirable for the Board to determine which city's and carrier's selection is in the public interest, thereby giving U.S. negotiators a much sharper focus for negotiations. As to the second point, National will have ample opportunity at the hearing and on brief to argue that its New Orleans and Tampa rights should not be deleted or suspended. For reasons detailed in Order 79-6-42, however, we think that this issue merits consideration.

Western requests a clarification that the parties need not relitigate the issue of whether the public convenience and necessity require the certification of the eight original candidates for the wild card designation, since public convenience and necessity findings for each point were made in *Transatlantic*, Order 78-1-118. We agree that the parties are not required to submit further evidence that these cities can support nonstop service to London or otherwise deserve to receive it. But because of Bermuda 2, this case involves "city-selection" as well as carrier selection, and the parties will be permitted to introduce evidence on the relative merits of any of the various cities at issue regardless of whether any point was one of the original eight or a later addition. Moreover, to the extent that new applicants seek authority at any of the original eight gateways, that will raise the issue of whether the public convenience and necessity require the grant of their applications. Accordingly, with the one clarification made earlier, there is no need to modify the formal scope of the case as proposed by Western.

Next, we will grant TIA's request for a clarification that an applicant in this case may propose service to London from more than one of the points at issue (with one city serving as the nonstop gateway and the other as a

beyond point) and may seek fill-up rights between the U.S. cities. Order 79-6-42, p. 5.

Finally, World asks for an expansion of the case to include Newark, Baltimore and Oakland as possible candidates for the wild card "slot." We have decided to deny this request. Newark currently receives nonstop service to London; Baltimore is already named in Bermuda 2 as a U.S. gateway (coterminized with Washington, D.C.) and does not rank in the top 25 generators of revenue passenger miles; and Oakland ranks only 63rd in RPM's. Under these circumstances, and in light of the fact that this highly expedited case is already fairly well advanced,⁴ we do not believe that it would be productive to expand the scope of the case as World requests.

Accordingly:

1. We deny the petitions for reconsideration of Order 79-6-42 filed by the Minnesota Parties, National Airlines, and World Airways;

2. Except to the extent granted above, we deny Western Air Lines' petition for reconsideration;

3. We grant Trans International Airlines' petition for reconsideration;

4. To the extent that they conform to the scope of the issues in this proceeding, we grant the motions to consolidate into Docket 35752 the applications filed by Braniff Airways (Docket 35873), Continental Air Lines (Docket 35875), Eastern Air Lines (Docket 35880), Lone Star Airways (Docket 35884), Pan American World Airways (Docket 35881), Trans International Airlines (Docket 35879), World Airlines (Docket 35874), Western Air Lines (Docket 35752), World Airways (Docket 35887), and Northwest Airlines (Docket 35889);⁵

5. To the extent not consolidated, we dismiss the applications listed in ordering paragraph 4;

6. We grant Air Florida's motion to withdraw its application in Docket 35886.

This order will be published in the Federal Register.

³The Board has set a target date of January, 1980 for its decision. A prehearing conference has already been held, and procedural dates established which will permit this target to be met. Information responses are due July 11.

⁴We delegate to the presiding administrative law judge the authority to consolidate by order any applications which conform to the scope of the proceeding as clarified by this order.

⁵The Minnesota Parties also correctly note that, contrary to our statement in Order 79-6-42, Minneapolis/St. Paul did not request that Board to permit carriers in addition to Western and TWA to apply for Minneapolis/St. Paul-London authority. We regret the error. However, it does not change our resolution of the matters in issue.

By the Civil Aeronautics Board:⁶

Phyllis T. Kaylor
Secretary.

[FR Doc. 79-22783 Filed 7-23-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Caribbean Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to consider: (1) Election of a Chairman; (2) Final working draft Fishery Management Plan (FMP) for Shallow-Water Reef Fishes; (3) Recommendations by the Scientific and Statistical Committee (SSC) to the Council regarding inclusion of Blackfin Tuna and Little Tunny in the FMP for Coastal Migratory Pelagics; (4) Adoption of a Council position regarding the Draft FMP for Billfishes; (5) Status reports on the following FMP's: Spiny Lobster, Mollusks (Conch and Whelk) and Deep-Water Reef Fishes; (6) Vacancies in the SSC and Advisory Panel (AP); (7) Presentation on the Foreign Longline Fishery; and (8) Other business.

DATES: The meeting will convene on Thursday, August 16, 1979, at 1:30 p.m. and will adjourn on Friday, August 17, 1979, at approximately 12 noon. The meeting is open to the public.

ADDRESS: The meeting will take place at the Virgin Island Hotel, St. Thomas, Virgin Islands.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918. Telephone: (809) 753-4926.

Dated: July 19, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-22838 Filed 7-23-79; 8:45 am]

BILLING CODE 3510-22-M

National Advisory Committee on Oceans and Atmosphere

Meeting

Pursuant to Sec. 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976), notice is hereby

*All Members concurred.

given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a 2-day intersessional meeting on Thursday and Friday, August 2-3, 1979. The meeting will be held in the Building of the Re-entry and Environmental systems Division of the General Electric Company, 3198 Chestnut Street, Philadelphia, Pennsylvania. The Thursday session will convene at 1:00 p.m. and the session of Friday will begin at 9:00 a.m. Both will be open to the public and will adjourn at approximately 5:00 p.m.

The committee, consisting of 18-non Federal members, appointed by the president from State and local government, industry, science and other appropriate areas, was established by the Congress by Pub. L. 95-63, on July 5, 1977. Its duties are to: (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs of the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or the Congress.

The meeting will consist of planning sessions, by a small number of Committee members and staff, relative to the Committee's activities in the future. Specifically addressed will be NACOA's organization and mode of operation, as well as the potential issues upon which the Committee should focus its attention during the next year.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to impose limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Mr. John W. Connolly, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW (Suite 434, Page Building #1), Washington, DC

20235. The telephone number is (202) 254-8418.

Samuel H. Walinsky,
Executive Officer.

[FR Doc. 79-22786 Filed 7-23-79; 8:45 am]

BILLING CODE 3510-12-M

National Technical Information Service

Government-Owned Inventions: Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for \$.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for \$4.00 (\$8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

Douglas J. Campion,

Patent Program Coordinator, National Technical Information Service.

Department of the Air Force, AF/JACP, 1900 Half Street, S.W., Washington, DC 20324.

Patent 4,126,862: Countermeasure for LORO Radar; filed Apr. 23, 1968; patented Nov. 21, 1978; not available NTIS.

Patent 4,130,011: Flared Sonic End Nozzle Velocity Coupling Test Burner; filed June 14, 1977; patented Dec. 19, 1978, not available NTIS.

Patent 4,130,872: Method and System of Controlling a Jet Engine for Avoiding Engine Surge; filed Oct. 10, 1975; patented Dec. 19, 1978; not available NTIS.

Patent 4,131,438: Degasser and Liquid Seal Reservoir; filed Nov. 4, 1977; patented Dec. 26, 1978; not available NTIS.

Department of the Interior, Branch of Patents, 18th and C Streets, N.W., Washington, DC 20240.

Patent 4,091,990: Self-contained instrument for measuring subterranean tunnel wall

deflection; filed Aug. 2, 1978; patented May 30, 1978; not available NTIS.

Patent application 968,592: Ventilation System for Automated Mining Machines; filed Nov. 7, 1978.

Patent 4,087,920: Two-Fluid Tilometer; filed Mar. 25, 1977; patented May 9, 1978; not available NTIS.

Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 6,000,040: Elevation Simulation for Frequency Scan Three Dimensional Radar; filed Jan. 2, 1979.

Patent application 6,006,149: Fiber-Optic Acoustic Sensor; filed Jan. 24, 1979.

Patent application 965,760: Covert Recovery or Signalling System; filed Dec. 4, 1978.

Patent 4,119,164: Stand-Aid Invalid Wheelchair; filed Aug. 1, 1977; patented Oct. 10, 1978; not available NTIS.

Patent 4,131,609: Silicon-Phthalocyanine-Siloxy Monomers; filed Feb. 23, 1978, patented Dec. 26, 1978; not available NTIS.

National Aeronautics and Space Administration, Assist. Gen. Couns. for Pat. Matters, NASA Code GP-2, WASHINGTON, DC 20548.

Patent application 6,008,208: A Phase-Angle Controller for Stirling Engines; filed Jan. 31, 1979.

Patent application 6,009,887: Atomic Hydrogen Storage Method and Apparatus; filed Feb. 8, 1979.

Patent application 6,015,983: An Improved System for Use in Conducting Wake Investigation for a Wing in Flight; Filed Feb. 28, 1979.

Patent application 6,017,884: An Improved Solar Panel and Method for Fabricating the Same; filed Mar. 6, 1979.

Patent application 6,017,890: Method and Apparatus for Quadruphase-Shift-Key and Linear Phase Modulation; filed Mar. 6, 1979.

Patent application 6,019,541: Aerodynamic Side-Force Alleviator Means. Filed Mar. 12, 1979.

Patent application 964,009: Detection of the Transitional Layer between Laminar and Turbulent Flow Areas on a Wing Surface; filed Nov. 27, 1978.

Patent 4,109,644: Miniature Implantable Ultrasonic Echonometer; filed Jan. 12, 1977; patented Aug. 29, 1978; not available NTIS.

Patent 4,135,290: Method for Fabricating Solar Cells Having Integrated Collector Grids; filed Dec. 23, 1977; patented Jan. 23, 1979; not available NTIS.

Patent 4,135,367: Thermal Energy Transformer; filed Aug. 12, 1977, patented Jan. 23, 1979; not available NTIS.

Patent 4,135,817: Apparatus for Measuring an Aircraft's Speed and Height; filed Mar. 9, 1978; patented Jan. 23, 1979; not available NTIS.

Patent 4,135,851: Composite Seal for Turbomachinery; filed May 27, 1977, patented Jan. 23, 1979; not available NTIS.

Patent 4,137,010: Constant Lift Rotor for a Heavier Than Air Craft; filed July 25, 1977; patented Jan. 30, 1979; not available NTIS.
[FR Doc. 79-22781 Filed 7-23-79; 8:45 am]
BILLING CODE 3510-04-M

Office of Minority Business Enterprise Financial Assistance Application Announcement

The Office of Minority Business Enterprise (OMBE) announces that it is seeking applications for six projects in various parts of the country, each of which will provide, at no cost to the public, direct general business information, counseling, financial packaging assistance and assistance in identifying and exploiting business opportunities in new and/or expanded markets.

Project Information: In the event an applicant decides to apply for more than one project, it must submit individual applications for each project. The six projects are as follows:

1. A project which is designed to operate in the northern part of Los Angeles, California area for a 12-month period beginning September 9, 1979 with a minimum professional staff effort of 10 man-years and a maximum funding level of \$300,000. The number for this project is 09-60-50280-00.

2. A project which is designed to operate in Santa Clara, Santa Cruz, Monterey, and San Benito Counties in California for a 12-month period beginning October 1, 1979 with a minimum professional staff effort of 6 man-years and a maximum funding level of \$200,000. The number for this project is 09-60-50320-00.

3. A project which is designed to operate in Buffalo, New York area for a 12-month period beginning September 16, 1979 with a minimum professional staff effort of 4 man-years and a maximum funding level of \$125,000.00. The number for this project is 02-10-22670-00.

4. A project which is designed to operate in Trenton, New Jersey area for a 12-month period beginning October 1, 1979 with a minimum professional staff effort of 4 man-years and a maximum funding level of \$120,000. The number for this project is 02-10-45200-00.

5. A project which is designed to operate in Albany, New York area for a 9-month period beginning October 1, 1979 with a minimum professional staff effort of 5 man-years and a maximum funding level of \$109,163. The number for this project is 02-10-45120-00.

6. A project which is designed to operate in the State of Alaska for a 12-

month period beginning September 1, 1979 with a minimum professional staff effort of 2 man-years and a maximum funding level of \$115,000. The number for this project is 10-60-50800-00.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Eligibility Requirements: Any for-profit or not-for-profit institution is eligible to submit an application.

Application Materials: An application kit for each of the projects may be requested by phone by calling Joyce Russman at (202) 377-1714 or it may be obtained at the following address: U.S. Department of Commerce, Office of Minority Business Enterprise, Program Support Staff, Room 5713, Box FR-3, 14th & Constitution Avenue NW., Washington, D.C. 20230.

In requesting an application kit, specify the project number, the city or state the project will serve and if the applicant is either a State or Local Government, Federally recognized Indian Tribal Unit, Educational Institution, Hospital, other type of nonprofit organization, or if the applicant is a for-profit firm. This information is necessary to enable OMBE to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. The applications will be ranked as to their understanding of minority business problems, approach and program methodology, responsiveness to questions, organizational structure, quality of personnel, experience, capacity, and cost. Specific criteria will be included in the application kit. If an application is approved, an initial award will be made for a period specified for that award. Continuation awards may be made on a noncompetitive basis when determined by the Awards Officer to be in the best interest of the Government.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of August 17, 1979. Detailed submission procedures are outlined in each application kit.

11.800 Minority Business Development
(Catalog of Federal Domestic Assistance)

Dated: July 19, 1979.

Allan A. Stephenson,
Acting Director.

[FR Doc. 79-22768 Filed 7-23-79; 8:45 am]
BILLING CODE 3510-21-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increasing the Import Restraint Level for Certain Man-Made Fiber Textile Products From the Republic of Singapore

July 19, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the minimum consultation level for women's, girls' and infants' woven blouses of man-made fibers in Category 641 exported from Singapore during the twelve-month period which began on January 1, 1979.

SUMMARY: Paragraph 5 of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, as amended, between the Governments of the United States and the Republic of Singapore provides for the establishment of consultation levels for certain categories, like Category 641, which are not subject to specific limits. The two governments have agreed by an exchange of letters dated May 31 and June 20, 1979 to increase the consultation level for Category 641 from 48,276 dozen to 68,966 dozen during the agreement year which began on January 1, 1979.

EFFECTIVE DATE: July 19, 1979.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5421).

SUPPLEMENTARY INFORMATION: On January 3, 1979, there was published in the Federal Register (44 FR 932) a letter dated December 28, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established the levels of restraint applicable to certain categories of cotton, wool and man-made fiber textile products, produced or manufactured in Singapore and exported to the United States during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979.

In the letter published below, in accordance with the terms of the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the

Commissioner of Customs to increase the level of restraint for Category 641 to 68,966 dozen.

Arthur Garel,
Acting Chairman, Committee for the
Implementation of Textile Agreements.
July 19, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 28, 1978 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Singapore.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, between the Governments of the United States and the Republic of Singapore; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 8, 1977, you are directed to increase, effective on July 19, 1979, the level of restraint established in the directive of December 28, 1978 for Category 641 to 68,966 dozen.¹

The action taken with respect to the Government of the Republic of Singapore and with respect to imports of man-made fiber textile products from Singapore has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions of the Commissioner of Customs, which are necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,
Arthur Garel,
Acting Chairman, Committee for the
Implementation of Textile Agreements.
[FR Doc. 79-22812 Filed 7-23-79; 8:45 am]
BILLING CODE 3510-25-M

CONSUMER PRODUCT SAFETY COMMISSION

Progress Carpet Mills, Inc., and Julian A. Peeples; Provincial Acceptance of Consent Agreement

AGENCY: Consumer Product Safety Commission.

ACTION: Provincial Acceptance of Consent Agreement.

¹The level of restraint has not been adjusted to reflect any entries after December 31, 1978.

SUMMARY: The Commission has provisionally accepted a consent agreement containing a cease and desist order offered by Progress Carpet Mills, Inc., a Georgia corporation, and Julian A. Peeples, individually and as an officer of that corporation, both of Chatsworth, Georgia 30705, in which they agree to manufacture and sell carpets and rugs that conform to the Flammable Fabrics Act, all applicable regulations issued thereunder, and the Standard for the Surface Flammability of Carpets and Rugs; to recall, and process into conformance or destroy, certain rolls of carpet in styles "Tempo" and "Breezy"; and to maintain certain records and to file requested reports. If finally accepted, this consent agreement will settle allegations of the Commission staff that Progress Carpet Mills and Peeples have violated provisions of the Flammable Fabrics Act.

DATE: Written comments on the provisionally accepted consent agreement must be received by the Commission by August 8, 1979

ADDRESSES: Written comments should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Copies of the agreement may be seen in, or obtained from, the Office of the Secretary, Consumer Product Safety Commission, 3rd Floor, 1111 18th Street, N.W., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: George E. Hill, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. (Phone 301-492-6629).

Dated: July 18, 1979.

Sadye E. Dunn,
Secretary, Consumer Product Safety
Commission.

[FR Doc. 79-22735 Filed 7-23-79; 8:45 am]
BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

July 9, 1979.

The USAF Scientific Advisory Board on the C-5A Structural Information Enhancement Program will hold a meeting on August 13-14, 1979 in Conference Room B, Lockheed-Georgia Company, Marietta, Georgia.

The Committee will receive unclassified briefings from 8:30 a.m. to 5:00 p.m. on August 13, and from 8:30 a.m. to 1:30 p.m. on August 14, concerning the C-5A Structural

Information Enhancement Program. The meeting will be open to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8845.

Carol M. Rose,
Air Force Federal Register Liaison Officer.
[FR Doc. 79-22779 Filed 7-23-79; 8:45 am]
BILLING CODE 3910-01-M

Office of the Secretary

Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group B (Mainly Low Power Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session August 22, 1979, at 201 Varick Street, 9th Floor, New York, New York 10014.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposed to initiate with industry, universities or in their laboratories. The low power device area includes such programs as integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with 5 U.S.C. App. 1, 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

H. E. Lofdahl,

Director, Correspondence and Directives,
Washington Headquarters Services,
Department of Defense.

July 19, 1979.

[FR Doc. 79-22746 Filed 7-23-79; 8:45 am]
BILLING CODE 3810-70-M

ENERGY DEPARTMENT

Energy Conservation Program for Consumer Products; Representative Average Unit Costs of Energy

Correction

In FR Doc. 79-19935 appearing at page 37534 in the issue for Wednesday, June 27, 1979, middle column, under

EFFECTIVE DATE, "October" should read "September".

BILLING CODE 1505-01-M

National Petroleum Council, Task Group of the NPC Committee on U.S. Petroleum Inventories and Storage and Transportation Capacities; Meeting

Notice is hereby given that the Gas Pipeline Task Group of the NPC Committee on U.S. Petroleum Inventories, and Storage and Transportation Capacities will meet on July 31, 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on U.S. Petroleum Inventories, and Storage and Transportation Capacities will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The task group scheduling the meeting is the Gas Pipeline Task Group. The time, location and agenda of this meeting follows:

The ninth meeting of the Gas Pipeline Task Group will be held on Tuesday, July 31, 1979, starting at 10:30 a.m., in the Georgetown Room, the Brown Palace Hotel, 321 17th Street, Denver, Colorado. The tentative agenda for the meeting follows:

1. Introductory remarks by Larry E. Hanna, Chairman.
2. Remarks by Lucio D'Andrea, Government Cochairman.
3. Review of draft of the task group report.
4. Discussion of any other matters pertinent to the overall assignment of the task group.

The meeting is open to the public. The chairman of the task group is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the task group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statement should inform Mario Cardullo, Office of Resource Applications, 202-633-8828, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA-152, Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on July 17, 1979.

R. Dobie Langenkamp,

Deputy Assistant Secretary, Oil, Natural Gas and Shale Resources, Resource Applications.

[FR Doc. 79-22758 Filed 7-23-79; 8:45 am]

BILLING CODE 6450-01-M

[6450-01]

Robert D. Nininger; Waiver Pursuant to Section 207, Title 18, United States Code and section 605(a)(3) of the Department of Energy Organization Act (Pub. L. 95-91)

Section 207, title 18, United States Code (section 207) authorizes the Head of an Agency to waive the post-employment prohibitions of section 207, and section 605(a)(3) of the Department of Energy Organization Act (the Act) authorizes the Secretary of Energy to waive the post-employment restrictions of section 605(a)(1) of the Act, for a former employee with outstanding scientific or technological qualifications in connection with a particular matter in a scientific or technological field, where it has been determined that such a waiver would serve the national interest.

It has been established to my satisfaction that Robert D. Nininger, formerly Director, Raw Materials, Office of Uranium Resources and Enrichment, has outstanding scientific and technological qualifications in the geology of uranium and other atomic materials and outstanding scientific knowledge and experience with the world's uranium resources and capabilities. I am further satisfied that his continued participation as an employee of a DOE Contractor in connection with certain international activities relating to uranium resources will serve the national interest. I have therefore waived the post-employment representational and appearance and communications prohibitions of section 207, title 18, United States Code and section 605(a)(1) of the Act, respectively, with respect to activities by Mr. Robert D. Nininger in connection with the following:

INFCE Working Group 1, Availability of Nuclear Fuels and Heavy Water;

International Atomic Energy Agency/Nuclear Energy Agency Steering Group on Uranium Resources and Joint Working Party on Uranium Resources; and International Uranium Resource Evaluation Project.

Dated: Issued in Washington, DC on the 10th day of July 1979.

James R. Schlesinger,

Secretary of Energy.

[FR Doc. 22761 Filed 7-23-79; 8:45 am]

BILLING CODE 6450-01-M

Office of the Special Counsel for Compliance

[Case No. 940R00066]

Union Oil Co. of California; Action Taken on Consent Order

Pursuant to 10 CFR 205.199(c) the Office of the Special Counsel (OSC) of the Department of Energy hereby gives notice of final action taken on a Consent Order.

On April 9, 1979 OSC published Notice of a Consent Order which was executed between Union Oil Co. of California ("Union") and OSC (44 FR 21068 (April 9, 1979)). With that Notice, and in accordance with 10 CFR § 205.199(c), OSC invited interested persons to comment on the Consent Order by submission of written responses on or before May 9, 1979.

At the expiration of the comment period, two comments had been received with respect to the Consent Order. One comment noted approval of the Consent Order. The other comment stated the author's preference as to how it should receive refunds. Since the Consent Order provides for a bank reduction of increased costs by Union, and does not contemplate refunds at the present time, any overrecoveries of increased costs by Union which result from the bank reduction will be addressed by OSC at a future date.

Therefore, after considering the comments to the consent Order OSC has concluded that the Consent Order as executed between OSC and Union is an appropriate resolution of the compliance proceedings described in the Notice published on April 9, 1979, and hereby gives notice that the Consent Order shall become effective as proposed, without modification, on or before July 24, 1979.

Issued in Washington, D.C. on the 9th day of July, 1979.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 79-22760 Filed 7-23-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1279-7]

Approval and Promulgation of Implementation Plans; Availability of Implementation Plan Revisions for Nonattainment Areas in Kentucky

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Notice of availability.

SUMMARY: EPA announces today that the Kentucky implementation plan revisions for the total suspended particulate, sulfur dioxide, carbon monoxide and ozone nonattainment areas due for submittal by January 1, 1979, under the Clean Air Act Amendments of 1977 have been received and are available for public inspection. The public is invited to submit written comments. A notice of proposed rulemaking describing the revisions will be published in the Federal Register later; the period for the submittal of written comments will extend for 30 days after the publication of the notice of proposed rulemaking.

ADDRESSES: The Kentucky submittal may be examined during normal business hours at the following EPA offices:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Library, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30308.

In addition, the Kentucky revisions may be examined at the offices of the Kentucky Division of Air Pollution Control, West Frankfort Office Complex, U.S. 127 South, Frankfort, Kentucky 40601.

Comments should be addressed to the EPA Region IV Air Programs Branch, 345 Courtland St., NE., Atlanta, Georgia 30308.

FOR FURTHER INFORMATION CONTACT: Barry Gilbert of EPA's Region IV Air Programs Branch. Mr. Gilbert may be reached by telephone at 404/881-2864 (FTS 257-3864).

SUPPLEMENTARY INFORMATION: Section 172 of the Clean Air Act, as amended 1977, requires that States submit revisions in their implementation plans by January 1, 1979, to provide for the attainment of the national ambient air quality standards in areas designated nonattainment. On March 3, and September 11, 1978, the Administrator designated a number of areas in Kentucky as nonattainment for total

suspended particulates, sulfur dioxide, carbon monoxide and ozone (43 FR 8962 and 40412). This State has responded by preparing implementation plan revisions as required by the Clean Air Act. The purpose of this notice is to call the public's attention to the fact that these have been formally submitted and are available for public inspection. Also, the public is encouraged to submit written comments on them. A description of the revisions will be published in the Federal Register at a later date as part of a notice of proposed rulemaking.

(Sections 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502).)

Dated July 16, 1979.

John C. White,

Regional Administrator.

[FR Doc. 79-22831 Filed 7-23-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1279-2]

Intent To Release Confidential Data

AGENCY: United States Environmental Protection Agency.

ACTION: Notice of intent to release confidential data to the Department of Defense (DOD).

SUMMARY: The Environmental Protection Agency (EPA) intends to release confidential data collected from the printing ink and pulp and paper industries under section 308 of the Clean Water Act to DOD for civil defense planning activities.

DATES: Comments on the proposed disclosure are due by August 8, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Berlow, Effluent Guidelines Division (WH-552), U.S. Environmental Protection Agency, 401 M St. S.W., Washington, D.C. (202) 426-2554.

SUPPLEMENTARY INFORMATION: EPA has received a request from DOD for information collected by EPA under section 308 of the Clean Water Act. DOD intends to evaluate the ability of this country to restore written communications following various types of nuclear attack. In order to complete this study it is important for DOD to obtain detailed knowledge of the geographic distribution of specific types of industrial facilities and data concerning individual plant production capability.

EPA has collected very detailed information on the printing ink and pulp and paper industries in its surveys of these industries in 1976-1978 under its Clean Water Act authority for the purpose of developing effluent guidelines, new source performance

standards, and pretreatment standards under sections 301, 304, 306 and 307 of the Act. Many of the responses to the questionnaires used in the survey contain production and other plant manufacturing information which the individual companies have requested EPA protect as confidential.

DOD has requested that EPA provide all information in its data base relating to individual plant locations, products produced, production employees utilized and maximum production capacity. By using 308 data the total cost to DOD of obtaining accurate information will be significantly reduced. DOD hopes to avoid the need to make any similar industry surveys and reduce reporting burdens for these facilities. In EPA's opinion, such actions carry out Congress' directive under section 3501 of the Federal Reports Act that agencies eliminate where practicable duplicative information gathering activities.

DOD has complied with all applicable EPA regulations governing the disclosure of confidential information in the possession of EPA to another Federal Agency (40 CFR 2.209(c)(1),(2) and (5), amended by 43 FR 39997 (September 8, 1978)). In accordance with those regulations, EPA will notify DOD that disclosure of such information may be a violation of 18 U.S.C. 1905 (40 CFR 2.209(c)(4)). Also, respondents who have submitted confidential information in response to the questionnaires identified above have fifteen days from the date of publication of this notice, August 8, 1979, within which to comment on EPA's contemplated release of this information to DOD for the purposes outlined above. (40 CFR 2.209(c)(3)).

Dated: July 18, 1979.

Thomas C. Jorling,

Assistant Administrator for Water and Waste Management.

[FR Doc. 79-22841 Filed 7-23-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1280-2; OPP-180329]

Idaho and Washington State Departments of Agriculture; Issuance of Specific Exemptions To Use Carzol To Control Two-spotted Spider Mites on Hop Crop

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemptions.

SUMMARY: EPA has granted specific exemptions to the Idaho and Washington State Departments of

Agriculture (hereafter referred to as "Idaho," "Washington," or the "Applicants") to use Carzol SP on 2,600 acres of commercial hop crop in Idaho and 22,000 acres in Washington to control the two-spotted spider mite. The specific exemptions expire September 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-2691. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicants, the two-spotted spider mite (*Tetranychus urticae* Koch) is normally present in hop yards. The Applicants allege that mites have developed resistance to registered miticides. The Applicants also stated that even though Carzol SP has a pre-harvest interval of 14 days, this pesticide has sufficient residual activity to protect the hop crops up to harvest.

Washington requested permission to treat up to 22,000 acres of commercial hop crop, with a maximum of three applications limited to Yakima and Benton Counties. Idaho requested permission to treat up to 2,600 acres in Canyon County. The pesticide will be applied by State-licensed commercial applicators and commercial growers using ground equipment. Washington stated that the potential economic loss from a major outbreak of the two-spotted spider mite could reach \$20,000,000; Idaho estimated a possible loss of \$1,000,000.

EPA has determined that residues of formetanate hydrochloride in or on dried hops, resulting from the proposed use, should not exceed 150 parts per million (ppm). Maximum residues in beer are calculated to be 0.5 ppm. These levels have been judged adequate to protect the public health.

Carzol SP (formetanate hydrochloride), when used at the proposed rates, is not expected to present any acute or chronic effects to wildlife. Because formetanate is strongly bound to soil, has limited leaching activity, and has low persistence, it does not appear to pose a threat to the aquatic environment. Although it is moderately toxic to bees and predaceous insects, bees do not work hop fields and any adverse effects to predaceous insect populations would be temporary. There are no endangered

species in the treatment areas, according to the Office of Endangered Species, U.S. Department of the Interior.

After reviewing the applications and other available information, EPA has determined that (a) pest outbreaks of two-spotted spider mites have occurred or are about to occur; (b) there is no pesticide presently registered and available for use to control the two-spotted spider mite in Idaho and Washington State; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the two-spotted spider mites are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicants have been granted specific exemptions to use the pesticide noted above until September 30, 1979, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions.

1. Three applications of Carzol SP (active ingredient (a.i.) formetanate hydrochloride), EPA Reg. No. 2139-99, are authorized. The first application shall be made at a dosage rate of 1.0 pound product (0.92 lb. a.i./acre). The second and third applications are to be made at three week intervals and at a dosage rate of 1.5 lb. product (1.38 lb. a.i./acre);

2. A maximum of 80,960 pounds a.i. in Washington, and 9,568 pounds in Idaho may be used;

3. Applications are authorized only when State Extension Agents or State-licensed private consultants determine that two-spotted spider mite populations are reaching levels requiring treatment with Carzol SP;

4. Applications are to be made with ground equipment of the airblast type. Either commercial growers or State-licensed commercial applicators may apply Carzol SP;

5. There is to be a pre-harvest interval of 14 days;

6. Hops refuse must not be fed to livestock;

7. Dried hops and beer with residue levels not exceeding 150 ppm and 0.5 ppm, respectively, may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

8. Idaho and Washington must each submit a full report of the results of this program to EPA by the end of March, 1980;

9. The EPA shall be immediately informed of any adverse effects

resulting from the use of Carzol SP in connection with these exemptions;

10. In order to minimize adverse effects to natural predators, precautions must be taken to avoid drift to non-target areas; and

11. All applicable label use directions, precautions, and restrictions must be followed.

(Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 [92 Stat. 819; 7 U.S.C. 136]).

Dated: July 17, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-22847 Filed 7-23-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1280-3; OPP-180339]

Oregon Department of Agriculture; Issuance of Specific Exemption To Use Oxamyl on Peppermint To Control Mint Nematode

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted a specific exemption to the Oregon Department of Agriculture (hereafter referred to as the "Applicant") to use 12,000 pounds of oxamyl on 3,000 acres of peppermint to control the mint nematode in four counties in Oregon. The specific exemption expires on December 31, 1979.

FOR FURTHER INFORMATION CONTACT. Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA 401 M Street, SW., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-2691. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: The mint nematode (*Longidorus elongatus*) attacks the root system of peppermint causing stand reduction and serious yield losses. The flood plain soils of the Santiam and Willamette Rivers are of a coarse texture which provides an excellent medium for the mint nematode.

Soil fumigants such as D-D, Telone, Vorlex, and methyl bromide, are the standard treatment. Such fumigation effectively reduces the nematode population but does not eliminate it. Fumigation can take place only prior to

planting the peppermint. Thus, by the second and succeeding years the nematode population has reached pretreatment levels or higher and causes serious damage to the peppermint plants. According to the Applicant, this is a critical situation in that positive economic returns from a mint planting do not usually begin until the second production year. Beyond preplant fumigation there is no cultural practice, no nematode-resistant mint variety, nor any nematocide registered for use on established mint stands to help growers combat nematode problems for the remainder of the life of the mint stand. According to the Applicant, mint growers in the Santiam and Willamette Rivers areas may lose as much as \$1.9 million due to the mint nematode this year, without an effective program.

The Applicant proposed to treat approximately 3,000 acres of mint in Benton, Lane, Linn, and Marion Counties at a rate of two pounds oxamyl per acre using ground equipment. A pre-harvest interval of thirty days is imposed.

EPA has determined that the proposed use of oxamyl should not result in residues exceeding 1.0 part per million (ppm) in mint oil. This level has been judged adequate to protect the public health. Spent mint hay is not generally a feed item. This use of oxamyl is not expected to pose an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of mint nematodes has occurred or is likely to occur; (b) there is no pesticide presently registered and available for use to control the mint nematode in Oregon; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the mint nematode is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until December 31, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Vydate L (EPA Reg. No. 352-372) may be applied;

2. Application rate will be two pounds of active ingredient in 20-30 gallons of water per acre, by ground equipment;

3. No more than two applications per year may be made and a thirty-day pre-harvest interval is imposed;

4. A total of 12,000 pounds of oxamyl is authorized to treat up to 3,000 acres of peppermint in the counties named above;

5. Applications will be made by State-certified private applicators or by State-licensed commercial applicators;

6. Only fields containing three hundred or more mint nematodes per quart of soil may be treated;

7. All applicable directions and precautions on the EPA-registered label must be observed;

8. Spent mint hay may not be grazed or cut for feed;

9. Peppermint treated in accordance with the above provisions should not have residues in excess of 1.0 ppm oxamyl in mint oil. Peppermint oil with residues of oxamyl not exceeding this level may be shipped in interstate commerce. Spent mint hay may not be shipped in interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been notified of this action;

10. The EPA will be immediately informed of any adverse effects resulting from the use of oxamyl in connection with this exemption; and

11. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by March 31, 1980.

(Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 [92 Stat. 819; 7 U.S.C. 136]).

Dated: July 17, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-22846 Filed 7-23-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1280-5; Docket No. ECAO-HA-78-3]

Health Assessment Document for Tetrachloroethylene (Perchloroethylene); Extension of Comment Period for External Review Draft

The deadline for receipt of comments on the external review draft, announced in 44 FR 25688 (May 2, 1979), is extended from July 18, 1979 to September 10, 1979.

Dated: July 19, 1979.

Stephen J. Gage,
Assistant Administrator for Research and Development.

[FR Doc. 79-22848 Filed 7-23-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1279-1; OPP-68005 A]

Pesticide Programs; Intent To Suspend Registrations of Pesticide Products Containing Dibromochloropropane (DBCP)

I. Introduction

This notice announces my intention to take expedited action under section 6(c) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (FIFRA), to control on an interim basis the hazards from use of pesticide products containing dibromochloropropane (DBCP), since I have found that continued use of such products poses an "imminent hazard". As developed more fully below, this provision of FIFRA authorizes me to prohibit, on an interim basis, the distribution, sale and use of a pesticide in situations where the use of that pesticide appears likely to pose an unreasonable risk to man or the environment during the period necessary to conduct and complete more lengthy administrative proceedings in which the ultimate fate of the pesticide can be determined.

This document is organized into five parts. Part I is this introduction. Part II is a brief description of the provision of the statute under which this action is taken. Part III is a summary of the already lengthy and complex regulatory history of actions which the Agency has initiated within the last two years concerning DBCP. Part IV is a discussion of the interim remedy I have decided to impose together with my findings and conclusions that continued use of DBCP poses an imminent hazard. Part V is devoted to procedural matters concerning requests for an expedited hearing and the hearing itself if one is requested.

II. Legal Authority

In order to obtain a registration for a pesticide under FIFRA, a manufacturer must prove that the pesticide satisfies the statutory standard for registration. That standard requires (among other things) that the pesticide "perform its intended function without unreasonable adverse effects on the environment" section 3(c)(5)). "Unreasonable adverse effects on the environment" is defined to mean "any unreasonable risk to man or the environment, taking into account the

economic, social and environmental costs and benefits of the use of any pesticide" section 2(bb)). In effect, this standard requires a finding that the benefits of each use of the pesticide exceed the risks of the use.

The burden of proving that a pesticide satisfies the registration standard continues for as long as the registration remains in effect and is on the proponent of registration at all times. Under section 6 of FIFRA, the Administrator is required to cancel the registration of a pesticide whenever he determines that the pesticide no longer satisfies the statutory standard for registration. The administrative procedures for making and implementing pesticide cancellation decisions may be very time-consuming, and the Agency's experience has been that as much as two years may be necessary in order to reach a final decision in a contested case.

The suspension provisions in section 6(c) of the statute are designed to give the Administrator authority to take interim action pending the completion of the time-consuming procedures required for reaching final registration decisions. Pursuant to that section, the Administrator may suspend the registration of a product, and thereby preclude its distribution, sale or use, upon a finding that the pesticide poses an "imminent hazard" to man or the environment. "Imminent hazard" is defined in the statute to mean:

"a situation which exists when the continued use of a pesticide during the time required for cancellation proceeding would be likely to result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the Secretary of the Interior under Public Law 94-135."

As discussed above, "unreasonable adverse effects on the environment" is defined to mean a situation where the risks of the use of a pesticide outweigh the benefits of use. Thus, in order to find that an imminent hazard exists it is necessary to find that the risks of use during the period likely to be required for cancellation proceedings appear to outweigh the benefits.

The courts have repeatedly "cautioned" that the term "imminent hazard" is not limited to a concept of crisis: "it is enough if there is *substantial likelihood* that serious harm will be experienced during the year or two required in any realistic projection of the administrative [cancellation] process." *Environmental Defense Fund, Inc. ["EDF"] v. Environmental Protection Agency ["EPA"]*, 510 F.2d

1292, 1297 (D.C. Cir. 1975) (Emphasis in original), quoting from *EDF v. EPA*, 465 F.2d 528, 540 (D.C. Cir. 1972). *Accord*, *EDF v. EPA*, 548 F.2d 998, 1005 (D.C. Cir. 1976). Moreover, the registrant bears the burden of proof during a suspension proceeding, because, as indicated above, the burden of proof under FIFRA always resides with the proponent of registration throughout the life of a registration. See, e.g., *EDF v. EPA*, 510 F.2d at 1297; *EDF v. EPA*, 465 F.2d at 540. Finally, the courts have repeatedly held that "the function of a suspension decision is to make a preliminary assessment of evidence, and probabilities, not an ultimate resolution of difficult issues." *EDF v. EPA*, 510 F.2d 1292, 1298 (1975). *Accord*, *EDF v. EPA*, 548 F.2d 998, 1005 (D.C. Cir. 1976).

Suspensions are not ordinarily effective immediately; instead, in most cases the Administrator is required to give registrants notice of his intention to suspend, and 5 days in which to request a hearing. If no hearing is requested, a suspension order may be issued, thereby making the suspension effective. However, if a hearing is requested, the Administrator is required to convene expedited administrative proceedings, in which the sole issue is whether or not an imminent hazard exists.

III. Regulatory History of DBCP Suspension and Cancellation Proceedings

On September 8, 1977, I issued a Notice of Intent to Suspend and Conditionally Suspend Registrations of Pesticide Products Containing Dibromochloropropane (DBCP) (42 FR 48915, September 26, 1977), based on my finding that the continued use of DBCP products posed an imminent hazard to man. That finding was based on my conclusion that exposure to DBCP posed a serious health risk since "it appears that not only is DBCP a powerful carcinogen in animals which provides strong evidence that it is a human carcinogen, but that it may also damage human reproductive functions, and may cause sterility in males." (42 FR at 48917). That notice therefore proposed two separate but related suspension actions: the unconditional suspension of DBCP products for use in nineteen (19) specific food crops in which DBCP residues occurred, or appeared reasonably likely to occur, in the edible portions of treated crops; and the conditional suspension of DBCP products for all other uses.¹ With

¹The conditionally suspended uses are: Cotton, soybeans, citrus, grapes, pineapples, peaches, nectarines, plums, almonds, commercial okra, commercial lima beans, commercial snap beans,

respect to the conditionally suspended uses, I found that the risks to applicators could be sufficiently reduced at least on an interim basis by the imposition of appropriate restrictions (including limitation to certified applicators utilizing respirators and protective clothing) and accordingly indicated that relief from conditional suspension could be accomplished by obtaining an interim registration amendment to reflect those restrictions. I also indicated that such applications for interim registration amendments would be without prejudice to the registrant's right to challenge the unconditional suspension of the food crop uses, and without prejudice to the Agency's right to review the adequacy of the restrictions at a later date.

Pursuant to Section 6(c) of FIFRA, each registrant of a DBCP product was given an opportunity to request an expedited hearing before the Agency on the question of whether an imminent hazard existed. The Agency received only three timely requests for an expedited hearing, each of which was subsequently withdrawn. Consequently, on October 27, 1977, I issued a Suspension Order effectuating the suspension and conditional suspension actions which I had announced my intention to implement on September 8, 1977. (42 FR 57543, November 3, 1977.²

At the same time that I issued the Suspension Order, I also issued a Notice of Intent to Cancel the Registrations or Change the Classifications of Pesticide Products Containing DBCP, and Statement of Reasons (the "Original Section 6(b)(1) Notice") (42 FR 57545, November 3, 1977), in which I found that the continued use of pesticide products containing DBCP in accordance with then-current labeling restrictions appeared to pose unreasonable risks to man and the environment amounting to "unreasonable adverse effects on the environment", and I therefore announce my intention to cancel or change the classifications of all registered uses of DBCP pursuant to Section 6(b) of FIFRA.

In the Original Section 6(b)(1) Notice, I also acknowledged that the Agency's Office of Pesticide Programs (OPP) had issued a Notice of Rebuttable Presumption Against Registration and Continued Registration of Pesticide

commercial southern peas, berries (blackberries, blueberries, loganberries, dewberries, boysenberries, raspberries), strawberry nursery stock, apricots, cherries, figs, walnuts, bananas, turf (commercial and residential) and ornamentals (commercial and residential).

²I subsequently amended the Suspension Order to clarify that I did not intend to unconditionally suspend the use of DBCP on strawberry plants which are being grown as transplants or nursery stock and which are not allowed to fruit until after being transplanted (43 FR 23649, May 31, 1978).

Products Containing DBCP (the "RPAR Notice") (42 FR 48026, September 22, 1977), and noted that the RPAR process was designed to gather information about a problem pesticide and to make a decision concerning it in an open manner allowing maximum participation by all interested groups.³ Accordingly, I found it to be in the public interest to continue the RPAR review of DBCP and I specifically stated that the decisions reached as the result of that RPAR review could form the basis of an amendment to the Original Section 6(b)(1) Notice. I therefore delegated to the Assistant Administrator for Toxic Substances the authority and responsibility: (1) For reviewing the evidence submitted in the RPAR process, Agency staff evaluations of that evidence, and Agency staff recommendations concerning possible amendments to the Original Section 6(b)(1) Notice, and (2) for issuing, filing and serving, if appropriate, an amended notice under Section 6(b)(1) of FIFRA.

On September 6, 1978, the Assistant Administrator for Toxic Substances issued at the conclusion of the RPAR review of DBCP an Amended Notice of Intent to Cancel Registrations of Pesticide Products Containing DBCP, and Statement of Reasons (the "Amended section 6(b)(1) Notice") (43 FR 40911, September 13, 1978). The Amended section 6(b)(1) Notice adopted as its statement of reasons and underlying support document the final Position Document issued at the conclusion of the RPAR. Based on the conclusions in the final Position Document that "DBCP presents a significant risk of cancer to human beings who are exposed to the chemical" (p. 16) and that "DBCP poses a risk of testicular toxicity, as evidenced by an increased incidence of reduced sperm counts, to males who are exposed to the chemical" (p. 31), the Amended section 6(b)(1) Notice proposed to: (1) Unconditionally cancel 23 uses of DBCP (the 19 unconditionally suspended uses plus 4 other non-commercial vegetable uses); and (2) conditionally cancel all remaining uses of DBCP (i.e., cancel them *unless* the terms and conditions of registration for those uses are modified to reflect the specific restrictions set forth in the Amended section 6(b)(1) Notice). With respect to the unconditionally cancelled uses, one registrant timely objected to and requested a hearing with respect to the tomato use and a section 6(b)(1) hearing

³The RPAR process is set out in 40 CFR 162.11.

concerning the tomato use is currently in progress.⁴

With respect to the conditionally cancelled uses, a coalition of farmworkers, migrant farmworker organizations and public interest groups objected that the restrictions proposed in the Amended section 6(b)(1) Notice were inadequate to protect farmworkers against various risks posed by those uses of DBCP, and contended that they should have been unconditionally cancelled. Because the Assistant Administrator for Toxic Substances determined after careful review that the farmworkers' objections were not frivolous and warranted serious consideration (especially since they relied in part on new data which were not available for review or analysis during the RPAR), he issued a Notice of Intent to Hold a Hearing to Determine Whether or Not the Registrations of Certain Uses of Pesticide Products should be cancelled, and Statement of Issues (the "section 6(b)(2) Notice") (44 FR 11822, March 2, 1979).⁵ In the section 6(b)(2) Notice, he directed that a hearing be held under section 6(b)(2) of FIFRA to consider the matters raised by the farmworkers' objections and to determine whether or not to unconditionally cancel the uses which he previously proposed to conditionally cancel, or whether to conditionally cancel them subject to modifications to the terms and conditions of registration different (that is, more restrictive) than those which he proposed in the Amended section 6(b)(1) Notice. He also made it clear that at the conclusion of the section 6(b)(2) hearing, all uses covered by it (i.e., the uses proposed to be conditionally cancelled by the Amended section 6(b)(1) Notice) can be *unconditionally* cancelled, and a final order of unconditional cancellation can be issued for some or all of such uses.

The Assistant Administrator referred the section 6(b)(2) Notice to the Secretary of the Department of Agriculture (USDA) and to the Agency's Scientific Advisory Panel (SAP) for

⁴On April 16, 1979, the Agency's Judicial Officer issued an Accelerated Decision in FIFRA Docket Nos. 401 *et al.* in which he affirmed in its entirety an order of the presiding Administrative Law Judge which denied the registrant's motion to amend its objections to include the other 22 unconditionally cancelled uses of DBCP. Those 22 uses are now unconditionally cancelled as a matter of law because no hearing was timely requested as to them within the statutory deadline.

⁵On April 9, 1979, the Agency's Judicial Officer rendered a Decision on Interlocutory Appeal in FIFRA Docket Nos. 401 *et al.* in which he ruled that the farmworkers' objections to the conditional cancellation actions were improper under section 6(b)(1) of FIFRA and could not be employed to expand the scope of relief which could be granted at the conclusion of the section 6(b)(1) hearing.

review and comment on the actions proposed in it, and later indicated that he would publish their comments, together with his responses to those comments, in the Federal Register and would make such changes in the section 6(b)(2) Notice as he determined to be appropriate in light of those comments and his responses. The Assistant Administrator has recently received the comments of both USDA and SAP, but has not yet responded to them.

IV. The Present Suspension Action

As discussed above, the Suspension Order currently in effect reflects decisions based on information available to me at the time that I issued it concerning the likelihood of DBCP residues occurring in the edible portions of treated crops, and on "my preliminary conclusion that applicator exposure can be controlled at least on an interim basis by imposition of appropriate restrictions" (42 FR at 48916). With respect to the food residue issue, however, I specifically indicated:

"From available data the Agency is presently unable to reach a conclusion that there is a likelihood of DBCP residues in or on the remaining [i.e., conditionally suspended] food crops for which there are registered uses. However, further consideration will be given to those crops as additional residue information becomes available." (42 FR at 48917)

Moreover, with respect to the issue of applicator exposure from the use of DBCP on the conditionally suspended uses, I specifically stated that:

"... I emphasize that my finding that these risk reduction methods [i.e., the restrictions imposed by the conditional suspension] adequately reduce pesticide applicator exposure is a tentative finding. If as a result of further review of this problem it appears that these measures are not providing adequate protection to applicators, other remedies including suspension and cancellation of all uses are available and can be implemented." (42 FR at 48916)

In other words, I made it clear at the time of suspension that if new or additional information were to become available and were to indicate that the use of DBCP even under the terms of the conditional suspension continued to pose risks to consumers or applicators, that I could and would take additional suspension actions in order to prevent any imminent hazard presented by such use.

Unfortunately, the Agency has received information since the date of the Suspension Order which indicates that the conditional suspension action is not adequate to satisfactorily reduce the risks associated with continued use of

DBCP even on an interim basis. Briefly summarized, this new information shows that the Agency's previous assumptions concerning the manner in which treated crops may become contaminated with residues of DBCP are no longer valid, and that residues may occur even in crops which are not grown in contact with or in close proximity to treated soil; that treatment with DBCP may result in contamination of water supplies, including drinking water sources, with residues of DBCP; and that application of DBCP may result in ambient air levels of DBCP at sites outside the application area and may result in ambient air levels of DBCP at the site of application several days after application. Because of this information, I have undertaken a review of both the risks and benefits associated with the use of DBCP during the next year* in order to determine whether or not additional regulatory actions are warranted.

A. Risks. With respect to risks, my determination concerning the adverse human health effects associated with exposure to DBCP—namely, carcinogenicity and testicular toxicity—has not changed since the time of the Suspension Order. However, my perception of the potential exposure to the population at large, and to farmworkers in particular, from continued use of DBCP has changed dramatically.

First, the Agency's earlier assumptions concerning the reasons why DBCP residues apparently occurred in some crops but not in others now appear to be faulty. Specifically, Agency chemists had earlier hypothesized that DBCP itself is not absorbed and translocated within growing plants; rather, they hypothesized that residues of DBCP in crops grown in DBCP-treated soil probably result from the crops' contact with the treated soil, from volatilization of DBCP from the treated soil and condensation or absorption on crop surfaces in close proximity to treated soil, or from deposition of DBCP on the crop itself during application. They further concluded that root crops, which bear the highest residues, may be exceptions to this hypothesis, especially in light of the demonstrated ability of carrots to absorb organochlorine

*I have determined that one year (rather than two) is an appropriate estimate of the amount of time necessary for completion of the cancellation proceedings, since as a result of the in-depth RPAR evaluation of the risks and benefits of all uses of DBCP and the subsequent referral to the SAP, the issues involved in this case are fairly well-defined, and the Agency is prepared to go forward with its case. In addition, a pre-hearing conference has already been held and the parties have been directed to begin their pretrial preparations.

pesticides from the soil. Based on actual data from supervised trials, or extrapolation of that data to other related crops or crops with similar growing characteristics, the chemists identified crops in which residues could be expected to occur and crops as to which they were unable to reach such a conclusion.

Subsequently, the Agency received new residue data developed by the California Department of Food and Agriculture (CDFA), using a new and more sensitive analytical methodology than was previously available, indicating that residues of DBCP in fact occurred in several tree and vine crops—crops which the Agency had not predicted would have DBCP residues because the fruit was not grown in proximity to the treated soil, and because it was unlikely that DBCP would be deposited on the fruit during application. Based on an evaluation of that data, the Agency chemists determined that their previous conclusion that DBCP residues did not occur in certain crops was no longer appropriate, and that it had to be assumed that DBCP residues could occur in *all* treated crops. In other words, I can no longer assume that crops treated with DBCP under the terms of the conditional suspension action will *not* be contaminated with DBCP residues, and I must assume that there is potential ingestion exposure to DBCP for the population at large from the consumption of any crop grown in soil treated with DBCP.

Second, I have received disturbing information which indicates that there may be exposure to DBCP for the population at large from the previously unsuspected source—contaminated drinking water. Recent investigations by California state officials have found DBCP in active groundwater wells at levels as high as 39 parts per billion (ppb), and preliminary results indicate that community water supply wells in counties where DBCP was previously used may be contaminated with levels of DBCP as high as 15 ppb—findings which are particularly troubling since the State of California has itself prohibited all uses of DBCP since 1977. DBCP has also been found in wells in Arizona, and in at least one sample taken from wells in Hawaii. Although preliminary investigations by the Agency in the Southeast have not as yet revealed a similar pattern of DBCP water contamination, the possibility that a more thorough and complete sampling program (integrating use history and other data) will find DBCP in drinking water in the Southeast cannot be

discounted. Accordingly, I believe that it is too early to hypothesize as to why DBCP has only been found to date in the Southwest. Rather, because of the uncertainty as to the size of the population at risk, and because of the grave consequences to the health of that segment of the population which is exposed to DBCP in drinking water, I believe that prudence dictates that I make regulatory decisions based on the assumption that continued use of DBCP in accordance with the conditional suspension action may result in contamination of drinking water supplies.

Third, other data submitted by CDFA since the time of the Suspension Order indicates that the terms of the conditional suspension action may not adequately protect applicators, farmworkers and bystanders from exposure to DBCP resulting from its continued use. In particular, the data show that there are ambient air levels of DBCP in or around treated fields for longer periods of time following application than previously estimated (in some cases, several days); but under the conditional suspension action, there is no requirement that re-entry into a treated area (without protective clothing and respirators) be prohibited for any amount of time. The data also show that DBCP was detected in the air at some distance from the application site using both irrigation and chisel injection application techniques; but under the conditional suspension action, there is no requirement of a "buffer zone" for unprotected bystanders (i.e., a prohibition on application within the specified distances of areas populated or frequented by unprotected bystanders). Finally, the data show that residues of DBCP may be expected to occur on the bark and leaves of trees and vines in treated areas, as well as on the fruit surface and in the soil; but under the conditional suspension action, no protective measures are required to minimize or eliminate any dermal exposure to farmworkers who work in or who harvest in treated areas.

In summary, I find that there continues to be potential exposure to DBCP as the result of its continued use under the conditional suspension action—potential ingestion exposure to the population at large through residues in treated crops and through contamination of drinking water, and potential dermal and inhalation exposure to applicators, farmworkers and others who live or work in the vicinity of treated areas. I also recognize that the extent of this potential exposure, although real, is at the present

unknown; and that more data and information are both desirable and necessary in order to make *final* regulatory decisions concerning the ultimate fate of the registrations of DBCP. In the absence of definitive information, however, and in light of the demonstrated potential for exposure, I must conclude that the continued use of DBCP under the terms of the conditional suspension poses a serious risk of adverse human health effects.

B. Benefits. I have examined the benefits associated with the continued use of DBCP for the approximate one year required for completion of the DBCP cancellation proceedings in order to decide whether they outweigh the risks of continued use during this period. Based upon the analysis prepared by Agency staff as part of the RPAR review of DBCP, I conclude that the unavailability of DBCP for the conditionally suspended uses for the duration of cancellation proceedings will potentially result in a loss of approximately \$42 million in production losses and increased costs of alternative chemicals.

The uses of DBCP which were conditionally suspended fall into three major categories: uses where application is made before or at the time of planting; uses where application is made in established orchards or vineyards; and other miscellaneous or minor uses.

With respect to the first group of uses, where application is made before or at the time of planting—which includes cotton, soybeans, pineapples, and certain commercial vegetables (lima beans, snap beans, okra and southern peas)—the economic impact of the unavailability of DBCP for one year would be approximately \$33.7 million. For cotton and soybeans, increased control costs of alternative chemicals would be about \$2.6 million and \$23.5 million respectively, but with only negligible impacts in terms of production losses. For pineapples, the increased control costs would be approximately \$0.2 million and the production loss would be about \$5.8 million (realized at the time of harvest in about two or three years). For the commercial vegetables, the increased control costs would be approximately \$1.2 million and the production loss would be about \$0.4 million.

With respect to the second group of uses, where application is made in established orchards or vineyards—which includes citrus, grapes, peaches and nectarines, almonds and plums—the economic impact of the unavailability of DBCP for one year would be approximately \$8.5 million in production

losses less saved chemical costs (which reflects the fact that there are no registered alternatives for these uses). Since application for use on these crops is made post-plant, and since the application cycle is generally on an every-third-or-fourth-year basis, the effect of unavailability of DBCP for one year would be to defer or stagger the application cycle. The approximate production losses (less saved chemical costs) attributable to that deferral are: peaches and nectarines—\$6.9 million; citrus—\$1.6 million; grapes—no impact; almonds—no impact; and plums—no impact.⁷

With respect to the remaining miscellaneous or minor uses, the economic impact of the unavailability of DBCP will not be significant, although based on available information it is not possible to quantify all of the impact. Very little if any DBCP is currently used domestically on apricots, cherries, figs, walnuts, bananas, vine berries, and strawberry nursery stock, although DBCP is registered for those uses. Data concerning the use of DBCP on ornamentals (including green house and nursery as well as residential uses) are not available, nor are they available for residential lawn use. The extent of usage of DBCP on commercial turf (such as golf courses) is similarly unknown, although it has been estimated that treatment costs with alternatives might be two to three times higher per acre than treat costs with DBCP.

C. Conclusion

On balance, I find that the risks of continued use of DBCP during the

⁷These benefits figures do not include losses attributable to the unavailability of DBCP in California, where DBCP is already unavailable as the result of actions taken at the State level. Since I am not aware of any information which indicates that California intends to lift its ban in the foreseeable future, analysis of the impacts of the short-term unavailability of DBCP may as a matter of fact properly and justifiably exclude consideration of the impacts in California. I do note, however, that if risks and benefits from use of DBCP in California were to be included for purposes of determining whether or not there is an imminent hazard, my conclusion would be the same. On the risk side, the population at risk from potential exposure to DBCP would increase substantially (in proportion to the amount of DBCP used in California), while the concomitant benefits from the use of DBCP in California would be approximately \$101 million, attributable to the second group of uses (citrus—\$8.6 million; grapes—\$44.4 million; peaches and nectarines—\$25.3 million; almonds—\$15.1 million; plums—\$7.8 million.) In that regard, the benefits figures for California are for losses estimated for the *third* year following the unavailability of DBCP, since the losses attributable to the first two years of unavailability have presumably already accrued as the result of State action. On balance, I would find that the risks of continued use of DBCP (including California) during the pendency of cancellation proceedings outweigh the benefits of continued use (including California) during that period.

pendency of cancellation hearings outweigh the benefits of continued use during that period, and I therefore announce my intention to suspend all uses of all registrations of pesticide products containing DBCP.

Finally, it is important to emphasize that I do not assume—nor do I intend to imply by my action today—that it will be impossible to develop terms and conditions of registration which will adequately reduce or eliminate the potential exposures which I have discussed above. Those issues will be resolved in the cancellation proceedings, and will undoubtedly rely upon and utilize data yet to be developed. However, because of the uncertainty surrounding the safety of continued use of DBCP under the conditional suspension action, and because of the serious health consequences of exposure to DBCP, I believe that use of DBCP should be prohibited pending the resolution of those issues.

V. Procedural Matters

Under section 6(C)(2) of FIFRA, this suspension action cannot take effect against any registration until the registrant has had an opportunity for an expedited hearing before the Agency on the question of whether an imminent hazard exists. This section explains how registrants may request an expedited hearing, the consequences of requesting or not requesting an expedited hearing, and the procedures which govern an expedited hearing in the event one is requested.

A. Procedures for Requesting a Hearing

(1) *Who May Request a Hearing and When the Request Should Be Made.* Any registrant of a DBCP product currently registered for any use which was conditionally suspended under paragraph 2 of the Suspension Order of October 27, 1977 may request a hearing on *specific registered uses* of its product within five (5) days after receipt of this notice. No person other than the registrant may request a hearing with respect to any use of any registration.

In order to be timely made, a request for a hearing from a registrant in writing or by telegram must be *received* by the Hearing Clerk within five (5) days after the registrant's receipt of this notice [40 CFR 164.121(a)(2)].

(2) *How to Request a Hearing.* Registrants who request a hearing must follow the Agency's Rules of Practice Governing Hearings (40 CFR, Part 164). These procedures specify, among other things: (1) that all requests for a hearing must be accompanied by objections that are specific for *each use* for which a

hearing is requested [40 CFR 164.121(a) and 164.22] and (2) that all requests must be filed with the Office of the Hearing Clerk within the applicable five (5) days [40 CFR 164.121(a)]. Failure to comply with these requirements will automatically result in denial of the request for a hearing.

Requests for hearings must be submitted to: Hearing Clerk (A-110), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

B. Consequences of Filing a Hearing Request

The statute provides that if a hearing is timely requested by a registrant within the five-day period, the hearing stage is to begin within five days after receipt of the request for the hearing, unless the registrant and the Agency agree that it shall begin at a later time. Hearings are subject to the provisions of subchapter II of Title 5 of the United States Code, except that the presiding officer need not be a certified hearing examiner. The presiding officer has ten days from the conclusion of the presentation of evidence to submit recommended findings and conclusions to the Administrator, who in turn has seven days to issue a final order on the issue of suspension.

C. Consequences of Not Filing a Hearing Request

Under the statutory scheme, if a registrant does not request a hearing as to its registration within the five-day period, a suspension order may be issued with respect to that registration, and such suspension order will not be reviewable by a court.

It is important to emphasize that the suspension action initiated by this notice will be implemented on a registration-by-registration basis. In other words, unless the registrant timely requested a hearing with respect to its registration, that registration will be subject to the issuance of a suspension order—notwithstanding that other registrants may have timely requested hearings with respect to their registrations (and notwithstanding that those other registrations may have identical registered uses). This registration-specific approach to the actions initiated by this notice will be strictly observed and no exceptions will be granted.

D. Supplementary Procedures

The Agency's rules of Procedure for expedited hearings are set forth at 40 CFR Part 164, Subpart C. I do not know if a hearing will be requested on these

suspensions. If a hearing is requested, however, I am establishing the following procedures to supplement the existing regulations in governing its conduct.

(1) A deadline is being established for the completion of all hearing procedures and the rendering of a recommended decision under 40 CFR 164.121(j). That deadline is 60 calendar days from the first prehearing conference, which shall be held in accordance with the time requirements described below.

Deadlines for completing proceedings under FIFRA have been twice endorsed by the National Academy of Sciences [National Academy of Sciences, Decision Making in the Environmental Protection Agency, Vol. II, p. 84 (1977); National Academy of Sciences, Decision Making for Regulating Chemicals in the Environment, p. 30 (1975)]. In addition, Congress has demonstrated a concern for speedy action where suspensions based on a potential threat to human health are concerned. It has required a hearing on such a suspension to begin five days after it is requested and has allowed ten and seven days respectively for preparation of the initial and final decisions once the hearing is over [FIFRA section 6(c)(2)]. FIFRA was amended in 1975 to require consultation by the Agency with the Department of Agriculture and a scientific advisory panel before taking action in many cases: suspensions based on human health grounds, however, were exempted from those requirements to allow speedy action where speedy action was desirable [121 Cong. Rec. H 9895-96 (daily ed. Oct. 9, 1975); 121 Cong. Rec. Section 19820-21 (daily ed. Nov. 12, 1975)].

Deadlines for completing the hearing have been imposed in prior suspensions, including the earlier suspension of DBCP. See, also, *In re: Velsicol Chemical Co., et al.*, 41 FR 7552, 7553 (Feb. 19, 1976) [Notice of Intent to Suspend Heptachlor and Chlordane]. The requirements set forth in this order simply carry forward that practice.

(2) I am naming certain EPA employees to provide technical advice and assistance to the Administrative Law Judge who will preside at any hearing arising out of this notice. The Administrative Law Judge may consult these employees during the course of the hearing and in preparing his recommended decision, and he may allow these employees to question any witness who testifies at the hearing on behalf of any party. None of these employees is subject in the normal course of their duties to the supervision or direction of any employee or agent of the Agency who is a member of the

Agency trial staff named below. See 5 U.S.C. Section 554(d)(2). These employees are identified in Appendix A.

Since 5 U.S.C. Section 554(d)(1) provides that those presiding at adjudicatory hearings may not "consult a person or party on a fact in issue (in the course of preparing their decision) unless on notice and opportunity for all parties to participate," neither myself nor my appellate staff (See below) will consult with the Administrative Law Judge or these Agency employees on any matters involving this case from the date of this notice until a recommended decision is issued.

(3) I am also designating an appellate staff to assist me in conducting an independent review of the questions presented on appeal of any recommended decision, and in preparing a final decision. Members of my appellate staff are also listed in Appendix A.

(4) The following Agency bureaus or divisions, and their staffs, are designated to perform all investigative and prosecutorial functions in this case: Office of the Deputy Administrator,* Office of Toxic Substances, the Office of General Counsel, and the Office of Enforcement.

From the date of this notice until any final decision, neither the Administrative Law Judge, the employees appointed to assist him, my appellate staff, or myself, shall have any *ex parte* contact with any trial staff employees, or any other interested person not employed by EPA, on any of the issues involved in this proceeding. However, persons interested in this case should feel free to contact any other EPA employee, including both trial staff and persons not explicitly named as assistants or appellate staff, with any questions they may have.

(5) The statute itself is silent on the question of intervention in expedited suspension hearings.

However, the Agency's Rules of Practice currently provide that "any person adversely affected" by the notice of intent to suspend may move to intervene in any hearing requested by a registrant, and they set out criteria governing the granting of such motions (40 CFR 164.121-(e)). Although the

*The Deputy Administrator may properly be included in the trial staff since the prohibitions of 5 U.S.C. Section 554(d) do not apply to "the agency." Her inclusion is necessary if guidance on general policy matters is to be available to the trial staff and to free a high agency official to talk to outside interested persons about the questions involved without the constraints otherwise imposed by the *ex parte* provisions of the APA and the Government in the Sunshine Act. The Deputy Administrator will take no part in the detailed work of preparing and presenting the Agency's case.

limiting "adversely affected" language as used in that section of the Rules of Practice does not have a statutory origin or basis, the Rules as written could be interpreted as precluding the intervention of persons who are not technically "adversely affected" by this notice but who have evidenced a high degree of interest and who have actively participated in the ongoing administrative proceedings on DBCP. Accordingly, I am directing that the opportunity to move to intervene in any hearing requested by a registrant be extended to "any interested person" as well as any person "adversely affected" by this notice. Such motions shall be subject to the existing provisions of 40 CFR 164.121-(e) concerning the time for their submission and the criteria for being granted.

(6) The scheduling of any hearing, particularly in its earlier stages, involves a balancing between the need to conduct an expeditious hearing and a concern that the hearing not proceed too far before the identity of those registrants requesting a hearing is established. I am therefore taking two steps in order to accommodate these concerns. First, I am hereby providing that service of this notice upon registrants may properly be made by means of federal "express mail," which guarantees delivery within 24 hours and which involves acknowledgement of receipt by the addressee. In this regard, the statute itself is silent on the question of how service of the notice upon registrants must be effected, although the Rules of Practice provide that it "shall either be personally served on the registrant or be sent to the registrant by registered or certified mail, return receipt requested" (40 CFR 164.120(b)). However, the underlying purpose of that section is to provide the Agency with either first-hand knowledge (after personal service) or documented evidence (by return receipt) of the date of receipt by the registrant—so that the Agency can accurately determine when the time for requesting a hearing has expired and when a suspension order may be issued and take effect. Relying exclusively upon these methods of service in the past, however, has proved to be both inefficient and unnecessarily time-consuming. Moreover, no registrant will be prejudiced if it is served by "express mail," since the statute measures a registrant's time for requesting a hearing from its receipt of the notice by whatever means.

Second, I am directing the Administrative Law Judge presiding at the hearing to convene the first prehearing conference within five days

after (1) receipt by the Hearing Clerk of the last timely request for a hearing by a registrant or (2) 15 days after the issuance of this notice, whichever comes earlier. The 15-day maximum should ensure that all registrants wishing to participate in the hearing have been given ample time to file a hearing request after receiving notification of my suspension actions.

Dated: July 18, 1979.

Douglas M. Costle,
Administrator.

Appendix A

Technical Support Staff

Willert Smith,
Dr. Dennis L. Foerst,
Dr. Robert Kavolock.

Administrative Appellate Staff

Ronald L. McCallum,
Charles R. Ford,
Dr. Edwin H. Clark,
Ms. Mary Ann Massey,
Dr. Richard M. Dowd,
Dr. Stephen J. Gage.

[FR Doc. 79-22842 Filed 7-23-79; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1282-1; OPP 00100]

Information-Gathering Hearings on Pesticide Use in Arizona

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Announcement of EPA public hearings pursuant to section 21(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (7 U.S.C. § 136s(b) (1976)) to gather information on the use of agricultural pesticides in the State of Arizona and potential adverse health effects to people residing adjacent to or near agricultural lands.

SUMMARY: EPA will hold three days of public hearings in Phoenix, Arizona, on September 6, 7, and 8, in the Adams Hotel, Navajo Room, Central and Adam, Phoenix, Arizona 85001. The hearing will take place from 9:00 a.m. to 5:00 p.m. each day, with an additional evening session between 7:00 p.m. and 10:00 p.m. September 6. All interested parties are invited to attend. Testimony may be presented orally, in writing, or both. The Agency anticipates allowing 15-20 minutes for oral presentations. The time limit may be adjusted at the hearing as appropriate depending on how many witnesses request to make presentations. There will be no limit to the length of written materials.

DATE: Persons desiring to present testimony should register by mail or telephone with the EPA Region IX office in San Francisco by August 31, 1979.

ADDRESS: Address all requests to present testimony or comments to Mr. Clyde Eller, Director, Enforcement Division, Region IX, EPA, 215 Fremont Street, San Francisco, California 94105. Written materials should be submitted as far in advance as possible to that address.

FOR FURTHER INFORMATION CONTACT: Mr. Clyde Eller, see mailing address above, telephone (415) 556-0102.

SUPPLEMENTARY INFORMATION: Regulatory Framework

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) requires EPA to register pesticides in order to ensure that, when used in accordance with label directions or commonly recognized practice, they do not pose unreasonable adverse effects to humans or the environment. EPA is also charged with the responsibility for ensuring that pesticides are properly used in accordance with label directions.

EPA's responsibilities under the registration authorities of the law involve the pre-market clearance of each pesticide product destined for the domestic market. The applicant for product registration must submit a range of data on the potential hazards of the product to humans, wildlife, the environment and any other area the Administrator of EPA deems appropriate to make a judgement on the product's potential risk. In addition to broad areas of potential effects, registrants must supply data relating to the behavior of the product in the specific pattern of use when appropriate. For instance, in the case of pesticides to be applied by aircraft, the Agency typically requires information on the product's performance characteristics which affect its behavior in the environment, e.g., droplet size from varying kinds of nozzles and aircraft. Labels for these products must contain instructions for minimizing drift, e.g., prohibitions on application when the wind is above a certain velocity.

The EPA approved label is the Agency's primary tool for prescribing use conditions and restrictions. This is so because: (1) the label is the most direct communication link between EPA and the pesticide user and (2) label requirements are legally enforceable. However, if EPA finds that unreasonable adverse effects from a pesticide's use occur even though label directions are properly followed, the

Agency has several additional regulatory options. It could, for example, require label changes to mitigate the hazard. Or, the Agency could issue specific use regulations through the rulemaking process to deal with potential unreasonable adverse effects. This power is conveyed by section 3(d)(1)(C)(ii) of the law which gives the Agency the authority to institute other regulatory restrictions in addition to those imposed by the label. Thus, further restrictions above and beyond those on the label, e.g., establishing buffer zones for all aerial application in specific areas can be imposed if EPA believes such restrictions are necessary to prevent an unreasonable adverse effect.

EPA has had authority to enforce pesticide labels since 1972. In 1978, FIFRA was amended directing that enforcement of pesticide use violations shall be the primary responsibility of the States (Federal Pesticide Control Act of 1978, Pub. L. 95-396, 92 Stat. 819 (1978)). According to the amended law, States which have a Cooperative Enforcement Agreement with EPA automatically have primary use enforcement responsibility. At present there are 38 such States and territories. EPA was also directed to review laws and procedures of States with applicator training and certification plans approved by EPA to determine whether they were eligible for primary use enforcement responsibility. There are 13 States in this category.

Under the primary use enforcement provisions of the law (sections 26 and 27), any report to EPA of pesticide misuse must be turned over to the appropriate State agency for initial investigation and prosecution. States with primary enforcement responsibilities can act under their own law in pursuing misuse complaints, or turn cases over to EPA for prosecution under FIFRA. If the State has not commenced appropriate enforcement action 30 days after EPA refers a complaint, EPA is authorized to act on its own under FIFRA. The law also authorizes EPA to take enforcement action in emergency situations in which the State is unwilling or unable to respond. EPA will be developing regulations to implement the primary use enforcement provisions of the Act, and to outline in greater detail the circumstances in which EPA would rescind a State's primary use enforcement responsibility. In the meantime, it is clear that the ultimate responsibility for ensuring that appropriate enforcement action is being taken by the States or EPA to protect the

public and the environment from the misuse of pesticides rests with EPA.

The State agency responsible for writing all rules, regulations and orders necessary to carry out the Arizona law governing agricultural use pesticides is the Pesticide Control Board, which is established by State law (Arizona Rev. Stat. Ann. § 3-371 *et seq.*). The Board is therefore responsible for the investigation and prosecution of pesticide use violations involving agricultural pesticides in Arizona. The Board is composed of 13 members, 12 of whom are appointed by the Governor. [NOTE: There is also an Arizona Structural Pest Control Board, which is responsible for administering and enforcing the Arizona Structural Pest Control law and rules and regulations (Ariz. Rev. Stat. Ann. § 32-2301 *et seq.*). EPA has a Cooperative Enforcement Agreement with the Structural Pest Control Board. The focus of this hearing concerns pesticides used in agricultural production, not those products used for structural pest control].

The FIFRA (section 21(b)) also authorizes the Administrator of EPA to solicit the views of all interested persons through public hearings in carrying out his responsibilities under the Act as he deems appropriate.

Background for Hearing

During recent hearings before the Subcommittee on Oversight and Investigations of the Interstate and Foreign Commerce Committee of the U.S. House of Representatives, chaired by the Honorable Bob Eckhardt, citizens of Scottsdale, Arizona, complained that the residents living in a housing development adjacent to agricultural lands were suffering adverse health effects from pesticide spraying. They also charged that they had been frustrated for many years in their attempts to get local, State and Federal officials to take action to prevent involuntary exposure to pesticides and to investigate their allegations concerning adverse health effects.

In 1978 legislation amending FIFRA, Congress directed EPA to conduct a study of methods of pesticide application, with particular emphasis on the advisability of ultra-low volume (higher concentration) pesticide application. As a result of this study, and our pledge to Congress to further study methods of application this year, EPA is particularly interested in the experience in Scottsdale as it concerns questions of pesticide drift and other aspects of aerial application.

Because of previous complaints from residents of the Scottsdale area, the

State Pesticide Control Board and Department of Health asked EPA last year to conduct a monitoring program to attempt to determine whether residents were being exposed to pesticides, and if so, at what levels. Therefore, the Texas Tech University School of Medicine, Epidemiological Study Program, is conducting for EPA and in cooperation with State agencies a human and environmental monitoring program beginning this month in the Scottsdale and Yuma areas of the State. Human blood and urine samples will be taken from residents of housing developments adjacent to agricultural lands, residents of the Salt River Indian Reservation, and pesticide loaders and applicators. In addition, air and soil samples will be taken in residential areas on days of pesticide application.

This monitoring program should yield valuable information concerning the question of whether pesticides being applied to agricultural lands result in human exposure in adjacent residential areas. However, this study is but one element in developing a full picture of the potential exposure situation in Arizona and does not directly address the proper regulatory response to that situation. Thus, EPA believes that public hearings are necessary to help gather information from a wide variety of additional sources to reach valid conclusions about the possible human health effects problems that may be resulting from application of agricultural pesticides in Arizona.

Pertinent Facts

Based upon the testimony presented during the Congressional hearings and information from EPA's Region IX office, the Agency understands the pertinent facts to be:

1. Residents in the Scottsdale area are complaining of adverse health effects which they allege result from pesticide applications on near-by farm lands.

2. A wide range of pesticides is being applied to cotton fields adjacent to residential areas, including pre-emergent herbicides in the spring, insecticides in the summer, and desiccants and defoliants at the time of harvest.

3. The land on which the cotton is grown is located on the Salt River Indian Reservation and is leased to private growers, thereby raising jurisdictional questions concerning enforcement responsibility for pesticide applications on that land.

4. The State Pesticide Control Board held public hearings in 1978 to review the Scottsdale complaints, and concluded that the primary problem was

one of noxious odors from certain pesticides containing mercaptan. The Board has, therefore, taken action to require a buffer zone for pesticides containing mercaptan between the agricultural lands and the residential areas.

5. Some citizens do not think that the actions taken to date adequately protect them from the effects of agricultural pesticides used near their homes.

6. There have been similar complaints of adverse health effects from the Yuma and Safford areas.

Issues for the Hearing

There are 7 primary issues on which EPA wishes to focus in these public hearings:

1. Is there a human health problem for residents of Arizona who live adjacent to areas where agricultural pesticides are being applied due to involuntary exposure to such pesticides?

2. If so, is the problem occurring:
(a) Despite proper application of registered pesticides according to label directions or

(b) As a result of careless or negligent application of pesticides, i.e., misuse?

3. What remedies are available under State and Federal law for dealing with the problem?

4. Is the State empowered to deal with the problem effectively, and are the State and the Federal Governments using their separate or collective powers properly?

5. Since some of the pesticide applications of concern occurred on Indian Reservation land leased for agricultural purposes, who has jurisdiction to undertake enforcement action under FIFRA on such lands?

6. Are there special conditions in Scottsdale, i.e., the meteorological conditions, land use regulations, pattern of pesticide use, etc., which has created a unique problem, or is the experience there one which could be expected in other areas of the State or nation?

7. What kinds of regulatory standards should EPA promulgate to implement the primary use enforcement responsibility provisions that were recently added to FIFRA (sections 26 and 27)?

To obtain information bearing on these broad questions, it would be helpful to understand the specific pesticide use practices and weather conditions in the Scottsdale area and similar areas in the State. Therefore, the Agency would appreciate testimony from individuals who can speak to actual pesticide use practices (methods, types, and frequency of application); known or suspected effects from

pesticide spraying; typical weather and other meteorological or geographical conditions, including information on prevailing winds and possible temperature inversions; and experience with the actual working of the pesticide laws in the State and pesticide use enforcement actions.

EPA welcomes testimony of concerned citizens, physicians and other health scientists, toxicologists, agronomists, pesticide applicators, State, local, and tribal officials, grower organizations, and all other interested parties who can contribute to the collection of a full and fair range of information bearing on the issues outlined in this notice.

(Section 21(b), FIFRA as amended (7 U.S.C. § 136 *et seq.*))

Dated: July 19, 1979.

Steven D. Jellinek,
Assistant Administrator for Toxic
Substances,
Paul De Falco, Jr.,
Regional Administrator, EPA Region IX.
(FR Doc. 79-22843 Filed 7-23-79; 8:45 am)
BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20274; FCC 79-408]

Intergovernmental Maritime Consultative Organization: Preparation of Recommended Operational Standards Applicable to Equipment Mandatorily Fitted Aboard Vessels Subject to the Safety of Life at Sea Convention; Fifth Notice of Inquiry

AGENCY: Federal Communications Commission.

ACTION: Fifth Notice of Inquiry.

SUMMARY: Notice of Inquiry concerning proposed recommendations to the Safety of Life at Sea Convention by the Intergovernmental Maritime Consultative Organization. The Notice provides for comment on operational standards for mandatorily fitted shipboard radio equipment.

DATES: Comments must be received on or before August 20, 1979, and Reply Comments must be received on or before August 30, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.
FOR FURTHER INFORMATION CONTACT: Kemp J. Beaty, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION: Adopted: July 3, 1979.
Released: July 18, 1979.

In the matter of Intergovernmental Maritime Consultative Organization: Preparation of Recommended Operational standards applicable to equipment mandatorily fitted aboard vessels subject to the Safety of Life at Sea Convention, Docket No. 20274.

1. The Commission is issuing this Notice as a means to inform the public and to obtain comments of interested persons in regard to action by the Intergovernmental Maritime Consultative Organization (IMCO), through its Maritime Safety Committee (MSC) and Subcommittee on Radiocommunications, to develop operational standards applicable to radio equipment mandatorily fitted aboard vessels subject to the Safety of Life at Sea Convention (SOLAS).

2. The Subcommittee on Radiocommunications established a Working Group on Operational Standards which holds its meetings concurrently with scheduled meetings of the subcommittee. The working group is charged with the responsibility of preparing operational standards applicable to radio equipment mandatorily fitted aboard vessels subject to the Safety of Life at Sea Convention. These operational standards, when adopted by the Subcommittee on Radiocommunications and approved by the Maritime Safety Committee, will take the form of recommendations associated with the SOLAS Convention.

3. The attached Appendix is the Subcommittee's draft of operational standards for radiotelephone alarm signal generators* operating on 2182 kHz. In view of the Commission's recent action in Docket 21089 (Report and Order; Released March 23, 1979; FCC 79-162; 44 FR 18501), which requires the fitting of a radiotelephone alarm signal generator on all vessels subject to Part II of Title III of the Communications Act or those vessels subject to the Safety of Life at Sea (SOLAS) Convention by January 1, 1980, we feel that the public should be made aware of IMCO's recommended standards for these alarm generators. While the IMCO standards are not mandatory, the Commission is of the opinion that it should be guided by these operational standards in future rulemakings concerning this type of equipment. The public's comments are invited in this regard.

4. Regarding questions on matters covered in this document contact Kemp J. Beaty, telephone (202) 632-7175.

*A radiotelephone alarm signal generator is a device connected to a radio transmitter which, when activated, transmits two alternating tones to alert other vessels and coast stations of a distress situation.

5. In view of the foregoing, a Notice of Inquiry is hereby adopted. Authority for this action is contained in Sections 4(i), 303 and 403 of the Communications Act of 1934, as amended.

6. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before August 20, 1979, and reply comments on or before August 30, 1979. All relevant and timely comments and reply comments will be considered by the Commission before further action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

7. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs, or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Federal Communications Commission.

William J. Tricarico,
Secretary.

Appendix.—Operational Standards for Shipborne Radio Equipment; Provisional Draft Operational Standards for Radiotelephone Alarm Signal Generators

1. Introduction

The radiotelephone alarm signal generator should, in addition to meeting the requirements of the Radio Regulations, comply with the following operational standards.

2. General

The radiotelephone alarm signal generator

should preferably be an integral part of the radiotelephone transmitter, but may be a separate device.

3. Frequency duration of tones

3.1 The frequency of both the 1300 Hz and 2200 Hz tones should be maintained within a tolerance of ± 1.5 per cent.

3.2 The duration of each tone should be 250 milliseconds and be maintained within a tolerance of ± 1.0 milliseconds.

3.3 The interval between successive tones should be as short as possible but should not exceed 4 milliseconds.

4. Modulation

4.1 The output of the device should be sufficient to modulate the associated transmitter in the case of A3/A3H classes of emission to a depth of at least 70 percent and for an A3J class of emission to within 3dB of the rated output power (p.e.p.).

5. Controls and indicators

5.1 All controls should be of such size as to permit normal adjustment to be easily performed. The function and the setting of the controls should be clearly indicated.

5.2 The number of controls available at the exterior of the device should be the minimum necessary for satisfactory and simple operation. The device should be so designed as to prevent actuation by mistake.

5.3 The device should be capable of being taken out of operation at any time in order to permit the immediate transmission of a distress message.

5.4 Means should be provided to reduce to extinction any light output from the device which is capable of interfering with safety of navigation.

6. Safety precautions

6.1 Means should be provided, as appropriate, for earthing exposed metallic parts of the device but this should not cause any terminal of the source of electrical energy to be earthed, unless special precautions, to the satisfaction of the Administration, are taken.

6.2 As far as practicable, accidental access to dangerous voltages within the device should be prevented and an appropriate warning notice be affixed.

7. Durability and resistance to effects of climate

The device should continue to operate in accordance with the operational standards

contained in this recommendation under the conditions of sea state, vibration, humidity and change of temperature likely to be expected on board ships.

8. Power supply

8.1 The device should continue to operate in accordance with the operational standards contained in this recommendation in the presence of variations of the power supply likely to be expected on board ships.

8.2 Provision should be made for protecting the device from the effects of excessive voltages, transients and reversal of the power supply polarity.

9. Duration of alarm signal

After activation, the device should automatically generate radiotelephone alarm signal for a period of not less than 30 seconds and not more than 60 seconds, unless manually interrupted.

10. Alarm signal repeat

After generating the radiotelephone alarm signal or after manual interruption the device should be immediately ready to repeat the signal.

11. Activation of the radiotelephone transmitter

Provision should be made such that, when the transmitter is operationally ready, the alarm signal generator will automatically switch the transmitter to the transmit condition at the start of the radiotelephone alarm signal and cause it to cease transmission at the conclusion of the signal.

12. Aural monitoring

The device should be provided with integral means for aural monitoring of the radiotelephone alarm signal whether or not the associated transmitter is activated.

13. Miscellaneous

13.1 If the device is not an integral part of the radiotelephone transmitter, it should be provided with an external indication of manufacture, type and/or number.

13.2 Information should be provided to enable competent members of the ship's staff to operate and maintain the equipment efficiently.

[FR Doc. 79-22755 Filed 7-23-79; 8:45 am]

BILLING CODE 6712-01-M

[Docket No. 21505; Report No. 1185]

American Broadcasting Cos., Inc. et al.; Petitions for Reconsideration of Actions in Rulemaking Proceedings Filed

July 18, 1979.

Docket or RM No.	Rule No.	Subject	Date received
21505	2, 74, and 78	Amendment of Parts 2 and 78 of the Commission's Rules and Regulations to expand the frequencies available for use by Cable Television Relay Service Stations and, Amendment of Parts 74 and 78 of the Commission's Rules and Regulations to set aside 13.15-13.20 GHz for use by Television and Cable Television Relay Service Pickup Stations on a coequal basis and, An Inquiry to determine public interest and need to establish similar technical standards for both the Cable Television Relay Service and the Broadcast Auxiliary Service in the 12.7-13.20 GHz band. Filed by Everett H. Erick, Robert J. Kaufman, Mark D. Roth, James A. McKenna, Jr., Thomas N. Frohock and R. Michael Senkowski, Attorneys for American Broadcasting Companies, Inc. Filed by Erwin G. Krasnow and Barry D. Umansky, Attorneys for National Association of Broadcasters. Filed by Howard Mondorfer, Vice President and John F. Strum, Attorney for National Broadcasting Company, Inc.	July 5, 1979. July 5, 1979. July 6, 1979.

Docket or RM No.	Rule No.	Subject	Date received
PR 79-106	90.365 and 90.377	Amendment of Sections 90.365 and 90.377 of the Commission's Rules to change the co-channel mileage separation and frequency loading standards for conventional land mobile radio systems in the bands 806-821 and 851-866 MHz. Filed by Richard E. Wiley, John L. Bartlett, Donald R. Buston, Leonard Kolsky and Karl E. Nygren, Attorneys for Motorola, Inc.	July 2, 1979.

NOTE.—Oppositions to petitions for reconsideration must be filed on or before August 8, 1979. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

Federal Communications Commission

William J. Tricarico,
Secretary.

[FR Doc. 79-22757 Filed 7-23-79; 8:45 am]

BILLING CODE 6712-01-M

[Docket No. 78-144; Report No. 1184]

Iowa Power & Light Co. et al.; Petitions for Reconsideration of Actions in Rulemaking Proceedings Filed

July 13, 1979.

Docket or RM No.	Rule No.	Subject	Date received
CC78-144		Adoption of Rules for the Regulation of Cable Television Pole Attachments. Filed by Curtis L. Ritland, Charles M. Meehan and Shirley S. Fujimoto, Attorneys for Iowa Power and Light Company. Filed by Edward L. Friedman, Thomas M. Eichenberger and William J. O'Keefe, Attorneys for American Telephone and Telegraph Company. Filed by Thomas C. Sheppard, Jr., Charles M. Meehan and Shirley S. Fujimoto, Attorneys for Monongahela Power Company. Filed by Charles Moran, Charles M. Meehan and Shirley S. Fujimoto, Attorneys for American Electric Power Service Corporation. Filed by Thomas J. O'Reilly, Attorney for United States Independent Telephone Association. Filed by Richard M. Cahill, A. K. Wnorowski and Richard McKenna, Attorneys for GTE Service Corporation.	July 2, 1979. July 2, 1979. July 2, 1979. July 2, 1979. July 2, 1979. June 29, 1979.

NOTE.—Oppositions to petitions for reconsideration must be filed on or before August 8, 1979. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

Federal Communications Commission.

William J. Tricarico,
Secretary.

[FR Doc. 79-22756 Filed 7-23-79; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916. (Stat. 422 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Alpha International (John Joseph Gonzalez II, dba), 30 Vesey Street, Suite 1800, New York, NY 10007.

Cargo International, Inc., P.O. Box 17096, Bldg., #690, Nashville, TN 37217. Officers: Carl E. Adams, Jr., President, Lena Jo Elam, Secretary, Hampton T. Davis, Director.

Continental Forwarding Incorporated, One World Trade Center, Suite 1509, New York, NY 10048. Officers: Franz Zinssmeister, President/Treasurer, Bernard Brady, Secretary.

Dated: July 18, 1979.

By the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-22716 Filed 7-23-79; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public; Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

The Hellenic Mediterranean Lines Co. Ltd. and Touristik Union International GmbH KG, c/o The Hellenic Mediterranean Lines Co. Ltd., Pan Am Building—West Mezzanine, 200 Park Avenue, New York, New York 10017.

Dated: July 18, 1979.
Francis C. Hurney,
Secretary.
[FR Doc. 79-22715 Filed 7-23-79; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bancorp of Austin, Inc.; Formation of Bank Holding Company

Bancorp of Austin, Inc., Austin, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Bank of Austin, Austin, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than August 17, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 18, 1979.
Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-22732 Filed 7-23-79; 8:45 am]
BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater

convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and request for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than August 17, 1979.

A. *Federal Reserve Bank of Philadelphia*, 100 North 6th Street, Philadelphia, Pennsylvania 19105:

First Pennsylvania Corporation, Ardmore, Pennsylvania (data processing and loan servicing activities; national); to engage, through its subsidiary, Fund/Plan Services, Inc., Philadelphia, Pennsylvania, in performing accounts receivable, accounts payable and billing services, and other similar services involving the storing and processing of financial data; and servicing loans and other extensions of credit. These activities will be conducted at an office located at 1118 Market Street, Philadelphia, Pennsylvania, and the area to be served is national.

B. *Other Federal Reserve Banks*: None.

Board of Governors of the Federal Reserve System, July 18, 1979.
Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-22730 Filed 7-23-79; 8:45 am]
BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been

determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than August 13, 1979.

A. *Federal Reserve Bank of Boston*, 30 Pearl Street, Boston, Massachusetts 02106:

CBT Corporation, Hartford, Connecticut (factoring company activities; national); to engage, through its subsidiary, Lazere Financial Corporation, New York, New York, or a subsidiary thereof, in making or acquiring, for its own account or for the account of others, loans and other extensions of credit, including the purchasing of accounts receivable, such as would be made by a factoring company. The factoring company activities will be conducted from an office in New York, New York, and the area to be served is national.

B. *Other Federal Reserve Banks*: None.

Board of Governors of the Federal Reserve System, July 18, 1979.
Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-22731 Filed 7-23-79; 8:45 am]
BILLING CODE 6210-01-M

Blakely Investment Co.; Formation of Bank Holding Company

Blakely Investment Company, Griffin, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C.

1842(a)(1) to become a bank holding company by acquiring 34.23 percent of the voting shares of Commercial Bankshares, Inc., Griffin, Georgia, a registered multibank holding company controlling 100 percent of the voting shares of Commercial Bank and Trust Company, Griffin, Georgia, and 69.2 percent of the voting shares of Concord Banking Company, Concord, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 21, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 17, 1979.
Griffith L. Garwood,
Deputy Secretary of the Board.
[FR Doc. 79-22728 Filed 7-23-79; 8:45 am]
BILLING CODE 6210-01-M

First Banc Group of Ohio, Inc.; Proposed De Novo Bank Management Consulting Activities

First Banc Group of Ohio, Inc., Columbus, Ohio, has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage *de novo* through its wholly owned subsidiary, First Banc Group Financial Services Corporation, Columbus, Ohio, in providing bank management consulting advice to nonaffiliated banks concerning the following areas of bank activities: bank operations, systems and procedures; computer operations and mechanization; implementations of electronic funds transfer systems; site planning and evaluation; bank mergers and the establishment of new branches; cost analysis, capital adequacy and planning; product development, including specialized lending provisions; and marketing operations, including research, market development and advertising programs. These activities would be performed from the offices of Applicant's subsidiary located at 100 East Broad Street, Columbus, Ohio, and

the geographic area to be served is the State of Ohio. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 17, 1979.

Board of Governors of the Federal Reserve System, July 17, 1979.
Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-22728 Filed 7-23-79; 8:45 am]
BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Transmittal Rules; Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.
ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: AGS Properties is granted early termination of the 30-day period provided by law and the premerger notification rules with respect to its proposed acquisition of certain assets of Monumental Properties Trust. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in

response to a request for early termination submitted by AGS Properties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: July 11, 1979.

FOR FURTHER INFORMATION CONTACT: Naomi Licker, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202-523-3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the Federal Register.

By direction of the Commission.
Carol M. Thomas,
Secretary.

[FR Doc. 79-22719 Filed 7-23-79; 8:45 am]
BILLING CODE 6750-01-M

Transmittal Rules; Early Termination of Waiting Period of the Premerger Notification Rules; Correction

AGENCY: Federal Trade Commission.
ACTION: Correction.

SUMMARY: The Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice granted early termination of the 30-day waiting period required by law and the premerger notification rules to Interstate Properties with respect to its acquisition of certain voting securities of Vornado, Inc. Notice of this action was published in the Federal Register on June 28, 1979, at page 37334. The effective date of the grant of early termination should have appeared as "June 15, 1979" instead of "December 21, 1978." Because of this error, the effective date is accordingly changed to read "June 15, 1979."

EFFECTIVE DATE: July 24, 1979.

FOR FURTHER INFORMATION CONTACT: Joan S. Truitt, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, 202-523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the

Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such transactions. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and require the Commission to publish notice of this action in the Federal Register. Such notice was published on July 26, 1979 at page 37334 with respect to the acquisition of certain voting securities of Vornado, Inc. by Interstate Properties. The notice however incorrectly reported the effective date of the early termination of the 30-day waiting period. Because of this error, the effective date is corrected to read June 15, 1979.

By direction of the Commission.
Carol M. Thomas,
Secretary.

[FR Doc. 79-22720 Filed 7-23-79; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 79N-0125; DESI 9435]

Chloroprocaine Hydrochloride Injection With and Without Preservative: Drugs for Human Use; Drug Efficacy Study Implementation; Announcement

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the results of the efficacy review of chloroprocaine hydrochloride injection and the conditions for marketing the drug products for the indication for which they are regarded as effective. The drug products are local anesthetics. **DATES:** Supplements to approved NDA's due on or before September 24, 1979. **ADDRESSES:** Communications forwarded in response to this notice should be identified with the reference number DESI 9435, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): Division of Surgical-Dental

Drug Products (HFD-160), Rm. 18B03, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT: Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of July 9, 1966 (31 FR 9426), FDA asked each holder of a new drug application that became effective before October 10, 1962, to submit reports containing the best data available in support of the effectiveness of each such product for the claimed indications. The agency needed that information to determine, with the assistance of the National Academy of Sciences-National Research Council (NAS-NRC), whether each claim in the labeling is supported by substantial evidence of effectiveness, as required by the Drug Amendments of 1962.

Because Pennwalt Corp., the sponsor of the following drug products, did not submit such information, the drug products were not reviewed by NAS-NRC.

NDA 9-435; Nesacaine 1 and 2 percent containing chloroprocaine hydrochloride with a preservative; and Nesacaine-CE 2 and 3 percent containing chloroprocaine hydrochloride; Pennwalt Prescription Products, Division Pennwalt Corp., 755 Jefferson Rd., Rochester, NY 14603.

On October 30, 1972, and April 13, 1973, Pennwalt submitted data consisting of 27 reprints from the literature. The Agency has reviewed the data and found that they provide substantial evidence of effectiveness. This notice announces that conclusion and the conditions under which such drug products may be marketed.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug

application is a requirement for marketing such drug products.

In addition to the products specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical to a product named above. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. Effectiveness classification. The Food and Drug Administration has reviewed all available evidence and concludes that the drug products are effective for the indications in the labeling conditions below.

B. Conditions for approval and marketing. The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug is in sterile aqueous solution form suitable for parenteral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

Chloroprocaine hydrochloride 1% and 2% (with or without preservatives)

For the production of local anesthesia by infiltration and regional nerve block.

Chloroprocaine hydrochloride 2% and 3% (without preservatives only)

For the production of local anesthesia by caudal or epidural block.

3. *Marketing Status.* a. Marketing of such drug products that are the subject of a new drug application approved before October 10, 1962, may be continued provided that, on or before September 24, 1979, the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to

provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained before marketing such products. Pursuant to 21 CFR 320.21 the application to include evidence demonstrating the in vivo bioavailability of the drug or information to permit waiver of the requirement. Marketing prior to approval of a new drug application will subject such products, and the persons who caused the products to be marketed, to regulatory action.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: July 17, 1979.
J. Richard Crout,
Director, Bureau of Drugs.

[FR Doc. 79-22600 Filed 7-23-79; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 79N-0029; DESI 5887]

Streptomycin Sulfate for Parenteral Use: Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice reclassifies streptomycin sulfate for parenteral use to lacking substantial evidence of effectiveness for the treatment of acute gonorrhea. The indication for acute gonorrhea is no longer allowable in the labeling of streptomycin sulfate. The drug is a bactericidal antibiotic in therapeutic dosage.

DATE: Petitions due on or before September 24, 1979.

ADDRESS: Petitions should be identified with the reference number DESI 5887 and directed to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 5887), published in the Federal Register of May 21, 1969 (34 FR 7997), the Commissioner of Food and Drugs announced his conclusions pursuant to evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on streptomycin sulfate preparations for parenteral use. Labeling guidelines for these preparations were also given in the notice.

The notice classified parenteral streptomycin sulfate as effective in the treatment of acute gonorrhea (*Neisseria gonorrhoeae*). Since that publication, a study was conducted by Maxwell Finland et al. concerning the susceptibility of recent clinical isolates of common bacterial species to amikacin in comparison with their susceptibility to four other widely used aminoglycoside antibiotics, one being streptomycin. The results of the study indicated that about one-half of the strains of *N. gonorrhoeae* were resistant to streptomycin.

Based on these findings and the fact that streptomycin is not among the drugs recommended by the Center for Disease Control (CDC) of the Department of Health, Education, and Welfare for the treatment of gonorrhea, the Director of the Bureau of Drugs finds it appropriate to amend the May 21, 1969 notice by reclassifying streptomycin sulfate for parenteral use to lacking substantial evidence of effectiveness for the treatment of acute gonorrhea. Reprints of the Finland study and the CDC "Recommended Treatment Schedules on Gonorrhea, 1974" have been placed on file with the Hearing Clerk (address given above), and may be seen between 9 a.m. and 4 p.m., Monday through Friday.

Preparations containing streptomycin sulfate are subject to antibiotic certification procedures under section 507 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 357.

Batches of such drugs with labeling bearing indications for which substantial evidence of effectiveness is lacking are no longer acceptable for certification or release.

Any person who will be adversely affected by the deletion from labeling of the above indication for which the drug has been reclassified to lacking substantial evidence of effectiveness may, by August 23, 1979, petition for the issuance of a regulation providing for certification of the drug for the reclassified indication. The petition must be supported by a full factual and well documented medical analysis

which shows reasonable grounds for the issuance of a regulation.

A petition for issuance of a regulation should be filed (preferably in quintuplicate) with the Hearing Clerk, Food and Drug Administration (HFA-305).

The notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-1051 as amended, 59 Stat. 463 as amended (21 U.S.C. 352, 357)) and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: July 12 1977.

J. Richard Crout,
Director, Bureau of Drugs.

[FR Doc. 79-22601 Filed 7-23-79; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 79M-0168]

Meadox Medicals, Inc.; Premarket Approval of Meadox Dardik Biograft for Peripheral Vascular Surgery

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Meadox Dardik Biograft for Peripheral Vascular Surgery, sponsored by Meadox Medicals, Inc., Oakland, NJ. FDA approved the device in a letter to the sponsor dated January 15, 1979. After reviewing the Cardiovascular Device Classification Panel's recommendation, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by August 23, 1979.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be addressed to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Keith Lusted, Bureau of Medical Devices (HFA-402), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7550.

SUPPLEMENTARY INFORMATION: The sponsor, Meadox Medicals, Inc., Oakland, NJ, submitted an application for premarket approval of the Meadox Dardik Biograft for Peripheral Vascular

Surgery to FDA on May 22, 1978. The application was reviewed by the Cardiovascular Device Classification Panel, an FDA advisory committee, which recommended approval of the application. On January 15, 1979, FDA approved the application by a letter to the sponsor from the Director of the Bureau of Medical Devices.

A summary of the information on which FDA's approval is based is available upon request from the Hearing Clerk (address above). Requests should be identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(g)) authorizes any interested person to petition for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition must be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petition must designate the form of review that the petitioner requests (hearing or independent advisory committee) and must be accompanied by supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing any petition, FDA will decide whether to grant or deny the petition by notice published in the Federal Register. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before August 23, 1979 file with the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document. Received petitions may be seen in the above office from 9 a.m. to 4 p.m., Monday through Friday.

Dated: July 17, 1979.

William F. Randolph,

Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-22734 Filed 7-23-79; 8:45 am]

BILLING CODE 4110-03-M

National Institutes of Health

Cause and Prevention Scientific Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cause and Prevention Scientific Review Committee, National Cancer Institute, August 17, 1979, Landow Building, Conference Room A, 7910 Woodmont Avenue, Bethesda, Maryland 20205. The meeting will be open to the public on August 17, from 9:00 a.m. to 9:30 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on August 17, from 9:30 a.m. to adjournment, for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301-496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Eugene M. Zimmerman, Executive Secretary, National Cancer Institute, Westwood Building, Room 828, National Institutes of Health, Bethesda, Maryland 20205 (301-496-7575) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.393, National Institutes of Health)

Dated: July 17, 1979.

Suzanne L. Freneau,

Committee Management Officer, NIH.

[FR Doc. 79-22739 Filed 7-23-79; 8:45 am]

BILLING CODE 4810-08-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[1784 (N-063.2)]

Battle Mountain District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 94-579 that a meeting of the Battle Mountain District Grazing Advisory Board will be held on August 29, 1979. The meeting will begin at 9:00 a.m. in the conference room of the Bureau of Land Management Office at 2nd and Scott Street, Battle Mountain, Nevada.

The agenda for the meeting will include: (1) A discussion of the function of the Board; (2) The expenditure of range betterment and advisory board funds for range improvements; (3) A review of the current policy and program relating to allotment management plans including the ongoing and future grazing environmental statement effort; (4) Discussion of the board's future involvement in the allotment management plan program; (5) Election of officers and; (6) The arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board between 3:30 and 4:30 p.m. on August 29, 1979 or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 2nd and Scott Street, Battle Mountain, Nevada 898209 by August 24, 1979.

Summary minutes of the board meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: July 12, 1979.

Gene Nodine,

District Manager.

[FR Doc. 79-22744 Filed 7-23-79; 8:45 am]

BILLING CODE 4310-04-M

[U-24133]

Utah; Order Providing for Opening of Public Lands

July, 13, 1979.

In exchange of lands made under provisions of Section 8 of the Act on June 28, 1934, as amended (48 Stat. 1272; 43 U.S.C. 315g), the following described lands were reconveyed to the United States:

Salt Lake Meridian, Utah

T. 40 S., R. 4 W.,

Sec. 26, SE¼SW¼, W¼SE¼;

Sec. 35, NE¼NW¼.

The areas aggregate 160 acres.

The mineral rights in these lands were reserved and are not affected by this order. These lands were obtained for retention in public ownership to enhance the management of the area for multiple use purposes.

The lands shall be open to operation of the public land laws generally at 10:00 a.m. on August 15, 1979, subject to valid existing rights and the requirements of applicable law. Inquires concerning the lands should be addressed to the Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah, 84111.

William G. Leavell,

State Director.

[FR Doc. 79-22780 Filed 7-23-79; 8:45 am]

BILLING CODE 4310-04-M

Fish and Wildlife Service

Atlantic Ridley Sea Turtles: Emergency Exemption; Issuance

On July 19, 1979, a memorandum waving the 30-day public comment period was issued to the Regional Director, U.S. Fish and Wildlife Service, Region 2, authorizing emergency actions to enhance the survival of Atlantic ridley sea turtles (*Lepidochelys kempi*). This waiver was granted to allow the possible import and re-export of the sea turtle hatchlings for release beyond the oil slick resulting from the PEMEX Ixtoc I well blowout. There is impending danger of potential losses should the sea turtles encounter the oil slick.

It was determined by the U.S. Fish and Wildlife Service that an emergency does in fact exist for the entire population of Atlantic ridley sea turtles at Rancho Nuevo, Mexico, and that the lives and habitat of these sea turtles are threatened and no reasonable alternative is available to the applicant.

A copy of the application, permit, and waiver are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia 22203. This emergency waiver is provided in accordance with the Endangered Species Act of 1973, as amended.

Dated: July 19, 1979.

Larry LaRochelle,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-22823 Filed 7-23-79; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species: Applicant: Collections Management, New York State Museum and Science Service, Room 962 EBA, Albany, New York 12234; PRT 2-4347.

The applicant requests a permit to export and re-import museum specimens of endangered and threatened wildlife and plants that have already been accessioned into the museum's collection on a noncommercial loan basis for scientific research. The applicant also requests authorization to salvage dead specimens of endangered or threatened wildlife found in the field: Applicant: Dept. of Veterinary Anatomy, Texas A & M University, College Station, Texas 77843; PRT 2-4349.

The applicant requests a permit to purchase in interstate commerce four cotton-topped marmosets (*Saquinus oedipus*) from Dr. James Porter, South American Primates, Inc., Miami, Florida, for enhancement of propagation and scientific research: Applicant: Louisiana Purchase Gardens and Zoo, P.O. Box 123, Monroe, Louisiana 71201; PRT 2-4364.

The applicant requests a permit to purchase in interstate commerce one male captive-born Diana leaf monkey (*Cercopithecus diana diana*) from the Washington Park Zoo, Portland, Oregon, for enhancement of propagation: Applicant: Woodland Park Zoological Gardens, 5500 Phinney Ave. North, Seattle, Washington 98103; PRT 2-4366.

The applicant requests a permit to import in the course of foreign commerce one male captive-born liontailed macaque (*Macaca silenus*) from the Metropolitan Toronto Zoo, Ontario, Canada, for enhancement of propagation.

Dated: July 17, 1979.

Donald G. Donohoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-22824 Filed 7-23-79; 8:45 am]

BILLING CODE 4310-55-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before July 13, 1979. Pursuant to § 60.13 of 36 CFR Part 60,

written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments of a request for additional time to prepare comments should be submitted by August 3, 1979.

Charles A. Herrington,

Acting Keeper of the National Register.

ARIZONA

Pima County

Tucson, Old Library Building, University of Arizona campus.

Pima County

Tucson, Wrightstown Ranch, 1690 N. Harrison Rd.

IDAHO

Ada County

Boise, Hopfgarten House, 1115 W. Boise Ave. Boise, McCarthy, Judge Charles P., House, 1415 Fort St.

Boise, O'Farrell, John A., House, 420 W. Franklin St.

Bannock County

Lava Hot Springs, Riverside Inn, 112 Portneuf Ave.

Bingham County

Blackfoot, North Shilling Historic District, N. Shilling Ave. Blackfoot, Standrod Bank (Brown-Hart Store Building), 59 and 75 NW. Main St.

Bonneville County

Ririe vicinity, Shelton L.D.S. Ward Chapel, SW of Ririe on Shelton Rd.

Canyon County

Caldwell, North Caldwell Historic District, 9th, Albany and Belmont Sts.

Nez Perce County

Lewiston, Lewiston Methodist Church, 805 6th Ave.

Oneida County

Malad, Evans, D. L., Sr., Bungalow, 203 N. Main St.

Shoshone County

Prichard vicinity, Magee Ranger Station, W of Prichard.

Twin Falls County

Rock Creek vicinity, Stricker Store and Farm, N of Rock Creek.

Valley County

McCall, Rice Meetinghouse.

Fayette County

Lexington, Central Christian Church, 207 E. Short St. Lexington vicinity, Rogers, Joseph Hale, House, E of Lexington on Bryan Station Pike.

Jefferson County
Louisville, *Crescent Hill Reservoir*, Reservoir Ave.

Laurel County
London, *Bennett, Sue, Memorial School Building*, College St.

MINNESOTA

Rice County
Lonsdale, *Lonsdale Public School*, 3rd Ave. SW.

Washington County
Stillwater, *Nelson School*, 1018 S. 1st St.

MONTANA

Park County
Livingston, *Livingston Multiple Resource Area (Partial Inventory)*, various locations in Livingston.

NEBRASKA

Douglas County
Omaha, *Standard Oil Company Building*, 500 S. 18th St.

NEW YORK

Bronx County
Bronx, *Hall of Fame Complex*, Bronx Community College campus.

Rensselaer County
Troy, *St. Paul's Episcopal Church Complex*, 58 3rd St.

Westchester County
New Rochelle, *First Presbyterian Church and Pintard, Lewis, House*, Pintard Ave.

OREGON

Oregon Covered Bridges Thematic Resources, various locations in Oregon.

Multnomah County
Portland, *Bates-Seller House*, 2381 NW. Flanders St.
Portland, *Fenton, William D., House*, 626 SE. 16th Ave.
Portland, *Kendall, Joseph, House*, 3908 SE. Taggart St.
Portland, *Kerr, Albertina, Nursery*, 424 NE. 22nd Ave.

PENNSYLVANIA

Chester County
Elverson vicinity, *Lahr Farm*, E of Elverson on PA 23.

Dauphin County
Harrisburg, *Keystone Building*, 18-22 S. 3rd St.

Union County
Lewisburg, *Bucknell Hall*, Bucknell University campus.

SOUTH CAROLINA

Beaufort County
Beaufort vicinity, *Fort Lyttelton Site*, S of Beaufort on Spanish Point Dr.

Berkeley County
St. Stephen vicinity, *Keller Site*.

Charleston County
Folly Beach vicinity, *Secessionville Historic District*, N of Folly Beach.

Greenwood County
Greenwood, Mt. *Pisgah A.M.E. Church*, Hackett Ave. and James St.

Richland County
Columbia, *Columbia Multiple Resources Area (Partial Inventory)* (additions).

York County
York, *York Historic District*, SC 5 and U.S. 321.

SOUTH DAKOTA

Bon Homme County
Scotland, *Methodist Episcopal Church*, 811 6th St.

Doy County
Andover, *Waldorf Hotel*, Main St.

TEXAS

Bexar County
San Antonio, *Old Lone Star Brewery*, 110-116 Jones Ave. (boundary increase).

Cherokee County
Alto vicinity, *Davis, George C.*, 6 mi. SW. of Alto on TX 21 (boundary increase).

Bennington County
Bennington vicinity, *Mathews, David, House*, VT 67

Stamford, Tudor House, VT 8

Orange County

Barre vicinity, *Whitcomb, Harlie, Farm*, NE of Barre off U.S. 302

Windham County

Rockingham, *Rockingham Meetinghouse*, off VT 103

WISCONSIN

Columbia County
Columbus, *Columbus City Hall*, 105 N. Dickason St.

Dodge County
Waupun, *Waupun Public Library*, 22 S. Madison St.

Fond du Lac County

Ripon, *First Congregational Church*, 220 Ransom St.

Milwaukee County

Glendale, *Spring Grove Site*
The following properties were published as Pending in the June 26, 1979, *Federal Register* listing. In that list, however, state names were omitted. Properties are listed here in order to give allow anyone wishing to respond an appropriate commenting period.

SOUTH DAKOTA

Brookings County
Bushnell, *Farmers Store*, Main St.

Lake County

Ramona vicinity, *St. Ann's Catholic Church of Badus*, NE of Ramona.

Union County

Alcester vicinity, *Baker House*, NE of Alcester.

Yankton County

Yankton, *Yankton Carnegie Library*, 4th and Capitol Sts.

UTAH

VERMONT

Addison County

Vergennes, *Strong, Samuel Paddock, House*, 82 W. Main St.

VIRGINIA

WASHINGTON

Aboriginal Rock Art Sites in Washington Thematic Resources, various locations in Washington.

Snohomish County

Monroe vicinity, *Biderbost Archeological Site*.

[FR Doc. 79-22423 Filed 7-23-79; 8:45 am]

BILLING CODE 4310-03-M

INTERNATIONAL COMMUNICATION AGENCY

United States Advisory Commission on International Communication, Cultural and Educational Affairs; Changed Meeting

The U.S. Advisory Commission on International Communication, Cultural and Educational Affairs announces a change in the agenda for its published meeting, August 16-17.

The topic covered will not be educational and cultural affairs, as previously announced. The topic will be "Programs," presenting the Commission members with an introduction to the various products and programs which ICA designs for overseas audiences. The meeting will travel throughout the Agency, scattered around Washington, beginning in Room 1008-1750 Pennsylvania Avenue. If you are interested in attending the meeting, please call Miss Elizabeth Fahl, 724-9974, for further details.

Jane S. Grymes,

Management Analyst, Management Analysis/Regulations Staff, Associate Directorate for Management, International Communication Agency

[FR Doc. 79-22786 Filed 7-23-79; 9:45 am]

BILLING CODE 8230-01-M

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Change to Guide for Discretionary Grant Programs, M4500.1G for Fiscal Year 1979

AGENCY: Law Enforcement Assistance Administration, Department of Justice.

ACTION: Publication of guideline for the Arson Control Assistance Program.

SUMMARY: This change represents an addition to M4500.1G, *Guide for Discretionary Grant Programs*, and as such will be subject to the same regulations which govern that manual. It will not in any way impact upon the programs or regulations presently set out in M4500.1G, nor will it affect the eligibility of those individuals applying for previously announced programs.

FOR FURTHER INFORMATION CONTACT: Judith A. O'Connor, Program Manager, Arson Unit, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

SUPPLEMENTARY INFORMATION: The Law Enforcement Assistance Administration (LEAA) is announcing a new grant program as an addition to the Fiscal Year 1979 *Guide for Discretionary Programs*, M4500.1G. A draft announcement for the new Arson Control Assistance Program appeared in the *Federal Register* on June 14, 1979 and the public was given 30 days in which to review and comment on the proposed program. An analysis of comments received is provided below.

The new program was developed by the Office of Criminal Justice Programs, LEAA, under the legislative authority of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. 3701, et seq.

Nineteen written responses were received by LEAA as a result of a request for comments and recommendations regarding the proposed program. Of those, there were 11 from state level agencies (primarily criminal justice planning agencies), one from a regional planning unit, three from county level agencies, three from local units of governments, and one from a private firm.

The majority of the respondents supported the program and were enthusiastic about both the concept and the focus of the Arson Control Assistance Program. Particular aspects singled out in this regard included the decision to make grants available to several levels of grantees, the general

program design including a framework of coordinated strategies involving all concerned agencies, and the comprehensiveness and clarity of the program announcement. In addition, LEAA was commended for its policy of consulting with state planning agencies prior to major grant program decisions.

Comments were received requesting that the pre-awarded data collection requirement be removed because there is a lack of skill and expertise in detecting arson in many locales. It was felt that any data collected under such conditions would be suspect and unusable. It was also noted that an "improved data base and analytical capability regarding arson" are included among the results sought under this program. LEAA decided not to remove the requirement because the basis of need will be one of the selection criteria for this program. LEAA is well aware that many data collection systems need improvement; however, even in their current state, they can give an indication, if not a full picture of the arson problem in a given jurisdiction.

Several respondents mentioned that the language of the application requirements section seemed to be aimed at local and county jurisdictions rather than states. In particular, they cited the first four sub-sections of part d. LEAA staff agreed and has changed some of the language accordingly.

Requests were made that LEAA add language to specifically include the improvement of laboratory services and the control of other types of arson such as forest and agricultural. Since the present guidelines in no way rule these areas out, no modification of the announcement appeared necessary.

Several respondents felt that insufficient attention was paid to the role of the insurance industry and the profit motive aspects of the crime of arson. Additional language was included to incorporate these areas.

A request to extend the deadline date was included in one set of comments. Since the funds allocated for this program are Fiscal Year 1979 funds, LEAA chose not to change the August 29, 1979 deadline date.

Another response stated that the present funding levels appeared inadequate for large urban cities and proposed a fourth category—jurisdictions over 800,000 in population, which would receive grants for up to \$400,000. Given the limited number of grants to be funded under this program, it was decided not to further reduce that number by increasing the funding level for certain jurisdictions.

In addition to those changes made in response to the comments received from the public, several changes were made by the LEAA Arson Unit which developed the program.

The most significant change involves the Evaluation section. LEAA will select an evaluator for all of the projects funded under this program. Applicants should not include an evaluation component in their applications. For details see the Evaluation section of the program announcement.

Several minor changes were also made in the Application Requirements section and additional wording was included in the Eligibility section. Those applicants who used the draft program announcement as the basis to begin writing their applications are advised to read the final announcement carefully for changes.

The text of the final program announcement follows:

Arson Control Assistance Program

a. *Program Objective.* The objective of this program is to assist state, regional, county, and local efforts to reduce the number of deaths, the personal injury, and the economic loss related to arson, and to upgrade current knowledge regarding arson incidence and arson control approaches.

b. *Program Description.*—(1) *Problem Addressed.* In terms of lives and property lost and the rate of incidence, arson has become America's fastest growing crime. A definite correlation has been drawn between the present limited capabilities of police, fire, and prosecutorial agencies in dealing with arson and the low deterrence level of the crime. Most police and fire departments lack the resources, expertise and manpower to adequately respond to the growing arson problem in their jurisdiction and prosecutors, for various reasons, are often reluctant to bring arson cases to trial. All too often there is little or no cooperation or coordination among the various agencies dealing with arson. Valuable resources such as community groups, the insurance industry, and property records offices are not maximally involved. In addition, insufficient attention is paid to such approaches as reducing the profit motive associated with arson. Extensive needs for training, data collection systems, equipment, manpower, and a framework for a coordinated arson control effort have been identified by and for each of the involved agencies. However, due to lack of funds many of these needs go unanswered.

(2) *Results Sought.*—(a) Improved capabilities of agencies involved with arson control at the state, regional, county, and local levels;

(b) Increased cooperation among those agencies involved with arson detection, investigation, prosecution, prevention, and education/training;

(c) Increased coordination of anti-arson efforts within the given jurisdiction;

(d) Increased sensitivity on the part of all involved agencies to the problem of arson and to the roles of all those engaged in combatting the crime;

(e) Improved data base and analytical capability regarding arson;

(f) Increased identification of arson fires;

(g) Increased arrest rates for arson cases;

(h) Increased prosecution rates for arson cases;

(i) Increased conviction rates for arson cases;

(j) Increased level of public awareness and participation in arson control efforts;

(k) Increased involvement on the part of the judiciary, the insurance industry, community groups, and others with interest in arson control;

(l) Reduction of profit motive associated with arson; and

(m) Increased exchange of information.

c. *Program Strategy.* Investigative and prosecutorial expertise of federal criminal justice agencies will be integrated with the financial and technical assistance capabilities of LEAA. Grants to improve arson control capabilities will be made to state, regional, county, and local jurisdictions. Arson control in this context includes but is not limited to such activities as detection, investigation, prosecution, prevention, and public education.

Based on the recommendations of numerous studies and reports, it has been determined that a coordinated effort among police, fire, and prosecutorial agencies as well as all others in a given jurisdiction with interest in arson control is required to successfully combat the crime. Funds will be available to support programs constituting such an integrated approach.

Cooperation and coordination are the key words in this effort. Applicants must provide such documentation as letters of commitment and memoranda of agreement indicating involvement and participation on the part of all agencies (including but not limited to police, fire, and prosecution) connected with the

overall arson control effort within that jurisdiction.

Particular attention will be paid to those applications demonstrating an innovative approach to dealing with arson.

d. *Application Requirements.* The following elements must be included in each project and described in Part IV, "Program Narrative" of standard federal assistance application form 424. Applicants must conform to the instructions listed therein as well as the requirements detailed below. Application forms may be obtained from the state criminal justice planning agency. Selection of grantees will be based in large part on how well each of these elements is addressed

(1) A detailed description of the arson problem in the area to be served, including such relevant data as incidence figures, dollar value of property loss, and personal injury;

(2) A description of the service area which may include but is not limited to geographical aspects, population figures, industrial/residential configuration, and types and numbers of building structures;

(3) A description of applicable laws, pending legislation, court or executive orders, etc., within or affecting the jurisdiction. In particular, this section should address the specific authorities, responsibilities, and constraints which these laws or orders place on the various agencies involved;

(4) A description of existing anti-arson efforts by police, fire, and prosecutorial agencies and others, including arrest and conviction rates, existing cooperative agreements, arson control-related activities of community groups, available services, gaps in such services, and any other relevant information;

(5) A discussion of the specific goals and objectives of the proposed project;

(6) A description of how the planned approach will meet the needs identified in d (1-4) above;

(7) A specific workplan, including timetable, describing the activities of the project and the results and benefits expected;

(8) An organization chart, job descriptions and qualifications for all project personnel. Particular attention will be paid to the qualifications of the project director. Details concerning specific responsibilities and relevant authority must be provided for all personnel;

(9) A network chart indicating the relationship between and among all involved agencies;

(10) Documented proof of cooperation and coordination among all involved

agencies (including but not limited to police, fire, and prosecution). This should include any and all letters of commitment (to the roles and activities described in the application) and memoranda of agreement;

(11) Listing of past and present arson-related funding received from state or federal sources (in dollars and project type) and their relation to this project;

(12) Evidence that the state and local A-95 clearinghouses, regional planning unit, and state criminal justice planning agency have received copies of the application. Such evidence may consist of a copy of the cover letter conveying the application to each of those agencies. (Note: actual grant award is contingent upon receipt of comments from all of these agencies.) Applicants are encouraged to submit a Notice of Intent to the state A-95 clearinghouse by July 31, 1979 or as soon thereafter upon establishing intent to file an application under this program; and

(13) A detailed assumption-of-cost plan.

e. *Data Collection Effort.* In addition to the pre-award data requested above, grantees will be required to develop and/or maintain a collection system to gather relevant data from which accurate conclusions regarding overall project performance can be drawn.

Technical assistance will be available to aid in establishing or modifying this system. Use of the system will be linked directly with the planned evaluation (see Evaluation section).

f. *Dollar Range and Number of Grants.* Funds will be made available to arson control projects at the state, regional, county, and local levels. Up to four (4) grants, not to exceed \$600,000 each, will be made to support state-level efforts; up to six (6) grants, not to exceed \$200,000 each, will go to jurisdictions with populations at or over 100,000; and up to five (5) grants, not to exceed \$125,000 each, will be made available to jurisdictions with populations below 100,000.

All grants will be awarded for a period of up to 18 months with consideration for a second cycle based on LEAA review and monitoring and on fund availability. (Note: Second-Cycle funding is not automatic; even projects of demonstrated success will not be guaranteed refunding).

Cash match requirement for these grants shall be ten (10) percent; if second-cycle funding is awarded, it will require twenty (20) percent cash match.

g. *Eligibility.* All state, regional, county, or local units of government, or sub-units thereof, or a combination of units at the same or different level may apply for funds. Sub-units must apply through their larger unit (i.e., a police department through its city government).

Where the policy, administration and fiscal responsibilities lie in differing governmental bodies, the application should be co-signed. For example, where a sub-unit may be fiscally supported by city revenues but administratively responsible to a state supervisory board, the city and state board should co-sign the application. In such cases, a detailed memorandum of agreement should be developed between the co-applicants specifying which has authority and responsibility for particular aspects of the project and naming the implementing agency (the sub-unit) for the project.

h. *Application Deadline and Submission Procedures.*—(1) All applications must be received by LEAA and the A-95 clearinghouses no later than August 29, 1979. No applications received after that date will be considered for funding; and

(2) In addition to the copies of the application sent to the state and local A-95 clearinghouses, the regional planning unit, and the state planning agency, the original plus two (2) copies of the entire application package should be sent to:

The Control Desk, GCMD/FMGAB,
Office of the Comptroller, LEAA, 633
Indiana Avenue NW., Washington,
D.C. 20531.

i. *Criteria for Selection.*—(1) Applicants will be rated on the extent to which they respond to the requirements of this program description and, in particular, the Application Requirements section;

(2) Applicants must provide evidence of an administrative structure that has the capability, authority, and fiscal responsibility to effectively achieve the project's stated objectives;

(3) Applicants demonstrating existing independent efforts in coordinated arson control will receive preference over those which do not; and

(4) Only one grant will be awarded in any urban area (SMSA).

j. *Evaluation.*—All projects within the Arson Control Assistance Program will be evaluated during the grant period by a single evaluator selected by LEAA. In addition, an evaluation of the overall program is tentatively planned for Fiscal Year 1980. Grantees must attest to their willingness to share their data with the national evaluators as well as providing

any other cooperation required to perform such evaluations. Such cooperation would include granting evaluation personnel access to project operations and records, providing data prescribed by LEAA at such times (generally monthly) as requested, and otherwise participating in necessary evaluation activities. Evaluation reports will be provided to grantees, as well as to LEAA, during the course of the program and following project completion.

k. *Contact.*

Arson Unit, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Room 1158, Washington, D.C. 20531. (202) 724-7661 or 724-7662.

Henry S. Dogin,

Administrator, Law Enforcement Assistance Administration.

[FR Doc. 79-22940 Filed 7-23-79, 8:45 am]
BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-79-88-C]

Ashland Mining Corp.; Petition for Modification of Application of Mandatory Safety Standard

Ashland Mining Corporation, Bluefield, West Virginia 24701, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 2 Mine located in McDowell County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petition concerns the installation of lighting on the petitioner's scoop.

2. The petitioner is mining coal seams 27 to 32 inches in height.

3. Due to the low ceiling, it is virtually impossible to illuminate the scoop end of the machine ten feet in by the width and height of the machine.

4. Given the scoop operator's limited field of vision and the low height of the entries, the operator proposes to illuminate the battery tray end of the scoop ten feet out by the height and width of the machine and to illuminate the rib on the operator's side.

5. The petitioner believes that this alternative will achieve no less protection for its miners than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before

August 23, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 16, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-22943 Filed 7-23-79, 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-79-103-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241, has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas well barriers) to its Dents Run Mine, located in Marion County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. Several abandoned oil and gas wells drilled prior to 1930 penetrate the coal seam the petitioner intends to mine.

2. As an alternative to leaving barriers of coal around these wells as required by the standard, the petitioner proposes to plug and mine through the wellbores using a proven technique detailed in the petition.

3. This technique involves the use of expanding cement to seal the wellbores below the coal seam and involves careful monitoring to insure that natural gas from the wells does not enter the mine.

4. In addition to eliminating a possible gas flow, this technique—

(a) Allows for more sealing material in critical areas within the well base below the coalbed;

(b) Allows a positive indication of the environment within the well base across the coal seam;

(c) Allows for the use of the existing well base for other mine uses, such as for methane drainage and power holes; and

(d) Uses a cleanout technique which lends itself to rotary operations that are inherently safer than cable tool operations.

5. The petitioner states that this alternative will achieve no less protection for its miners than that provided by the standard.

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Request for Comments

Persons interested in this petition may furnish written comments on or before August 23, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 16, 1979.
Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.
[FR Doc. 79-22782 Filed 7-23-79; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-79-15-M]

Johns-Manville Sales Corp.; Petition for Modification of Application of Manatory Safety Standard

Johns-Manville Sales Corporation, 2500 Miguelito Road, Lompoc, California 93436, has filed a petition to modify the application of 30 CFR 55.13-20 (compressed air), to its Lompoc Pit and Mill, located in Santa Barbara County, California. The petition is filed under section 101(c), of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

- The substance of the petition follows:
1. The petition concerns the use of compressed air at personnel cleaning stations (blow-off booths) to clean dust from workers' clothing.
 2. The diatomaceous dirt mined and processed by the petitioner clings to clothes and is difficult to remove.
 3. The petitioner combines compressed air passing through an aspirator nozzle with ambient air which blows dust off clothing.
 4. Workers are instructed in the proper procedures for using the cleaning stations; and since 1954, when the stations began operation, there has never been an accident attributed to their use.
 5. Since the cleaning stations permit its workers to clean their clothing in a safe, efficient manner, the petitioner requests relief from the application of the standard to the booths.

Request for Comments

Persons interested in this petition may furnish written comments on or before August 23, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 21, 1979.
Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.
[FR Doc. 79-22789 Filed 7-23-79; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-79-102-C]

United Pocahontas Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

United Pocahontas Coal Company, P.O. Box 948, Beckley, West Virginia 25801, has filed a petition to modify the application of 30 CFR 77.1714 (permissible electric equipment) to its Claremont Preparation Plant located in Fayette County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

- The substance of the petition follows:
1. The petitioner plans to drive a tunnel for a coal refuse belt line.
 2. The tunnel will be driven with an Armco-Jarva Tunnel Boring Machine (TBM) which is permissible electric equipment for use underground.
 3. Core samples indicate that excavations from the tunnel will be over 99 percent sandstone and shale.
 4. Two thin seams of unmineable coal are located in the path of the tunnel. However, given the thickness (10 inches and 4 inches respectively) and the positions of the seams, methane gas accumulations are unlikely.
 5. To the petitioner's knowledge, there is no permissible transformer to power the TBM available in the United States.
 6. For these reasons, the petitioner requests permission to locate a non-permissible transformer about 80 feet from the face. This transformer will be ventilated on a separate split of ventilating air while being towed by the TBM.
 7. An air mover using compressed air will circulate 1,500 CFM of fresh air through the power center and discharge the return air through a closed ventilation system.
 8. The compressed air system is independent of the towed power system and will continue to maintain ventilation if a power center current interruption occurs.
 9. If a total power failure occurs, an emergency diesel-powered air compressor on standby at the tunnel portal will be used.
 10. If a power center fire breaks out, fumes and smoke can be exhausted to the portal through the closed ventilation system.

11. The petitioner states that its request will achieve no less protection for its miners than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before August 23, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 12, 1979.
Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.
[FR Doc. 79-22790 Filed 7-23-79; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-79-95-C]

Viking Coal Co. Inc.; Petition for Modification of Application of Mandatory Safety Standard

Viking Coal Company, Inc., P.O. Box 87, Kingwood, West Virginia 26537 has filed a petition to modify the application of 30 CFR 75.1710 (canopies) to its Carol Mine located in Preston County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

- The substance of the petition follows:
1. The petition concerns the use of cabs or canopies on electric face equipment in the petitioner's mine.
 2. The petitioner is mining coal seams ranging 48 to 50 inches in height. This roof to pavement height is reduced about two and three fourths inches if measured from the roof bolts or about five inches if measured from the cross bar supports.
 3. Undulating roof conditions at times limit roof to pavement clearances to 38 inches.
 4. The petitioner believes cabs or canopies in the heights encountered in its mine would result in a diminution of safety for the following reasons:
(a) Cabs or canopies would not allow the equipment operator proper visibility for safe operation of the equipment while remaining under the cab or canopy.
(b) Cabs or canopies could dislodge roof support in areas of uneven roof.
(c) The cramped and confined space under a cab or canopy would impair the equipment operator's ability to properly control the equipment.

Request for Comments

Persons interested in this petition may furnish written comments on or before August 23, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 16, 1979.
Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.
[FR Doc. 79-22791 Filed 7-23-79; 8:45 am]
BILLING CODE 4510-43-M

Office of the Secretary

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions,

the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to

begin and the subdivision of the firm involved. Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 3, 1979. Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Signed at Washington, D.C., this 17th day of July 1979.
Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Alpo Coat company, Inc. (company)	Hoboken, N.J.	7/12/79	7/9/79	TA-W-5,748	Sub-contractor of ladies' coats
Bowling & Hildebrand Trucking Company (U.M.W.A.)	Raleigh County, W. Va.	6/25/79	6/20/79	TA-W-5,749	Hauling of coal.
Bryant Trucking (U.M.W.A.)	Greenbrier, County, W. Va.	7/9/79	6/29/79	TA-W-5,750	Hauling of coal
Celotex Corp., Vestal Manufacturing Division (USWA)	Sweetwater, Tenn.	7/12/79	6/30/79	TA-W-5,751	Steel and cast iron products
Dacor, Inc. (company)	Worcester, Mass.	7/12/79	7/12/79	TA-W-5,752	Simulated brick and stone facings
DuPont Puerto Rico, Inc. (company)	Manati, P.R.	7/10/79	7/12/79	TA-W-5,753	Dye products.
Girlington Corp. (company)	New York, N.Y.	7/9/79	6/22/79	TA-W-5,754	Children's sportswear.
Indianapolis Glove Company, Inc. (workers)	Mount Ida, Ark.	7/9/79	6/27/79	TA-W-5,755	Cotton jersey work gloves
J. F. McElwain Co.—J Factory (New Hampshire Shoe Workers Union Affiliated with United Food & Commercial Workers)	Manchester, N.H.	7/9/79	6/29/79	TA-W-5,756	Men's shoes
The Beattie Manufacturing Company (workers)	Little Falls, N.J.	7/12/79	7/2/79	TA-W-5,757	Rugs and carpets.
U.S. Steel Corp., Pittsburg Works (USWA)	Pittsburg, Calif.	7/12/79	6/30/79	TA-W-5,758	Carbon steel wire, rod, carbon steel wire and wire products, pipe and tubing

[FR Doc. 79-22794 Filed 7-23-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5402 and 5402a]

Bagatelle International, Ltd.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance. In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment

assistance, each of the group eligibility requirements of Section 222 of the Act must be met. The investigation was initiated on May 16, 1979, in response to a worker petition received on May 14, 1979, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing coats and suits at Bagatelle International, Limited, Warminster, Pennsylvania. The investigation was expanded to include offices in New York, New York. The investigation revealed that the plant produces

primarily ladies' suits, skirts, slacks, blouses and blazers. It is concluded that all of the requirements have been met. U.S. imports of women's, misses' and children's suits, skirts, slacks and shorts, blouses and shirts, and coats and jackets increased in 1978 compared to 1977. In a Departmental survey, customers of Bagatelle International, Limited indicated decreased purchases from the subject firm and increased imports of ladies' suits, skirts, slacks, blouses and

blazers in 1978 compared to 1977 and in the January through April period of 1979 compared to the same period of 1978.

Bagatelle began contracting overseas for the cutting and sewing of ladies' suits, skirts, slacks, blouses and blazers in early 1979 with first shipments expected in June, 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' suits, skirts, slacks, blouses, and blazers produced at Bagatelle International, Limited, Warminster, Pennsylvania and New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Bagatelle International, Limited, Warminster, Pennsylvania and New York, New York who became totally or partially separated from employment on or after May 8, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of July 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-22795 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5421]

Charlet Undergarment Co., Inc.; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on May 18, 1979, in response to a worker petition received on May 14, 1979, which was filed on behalf of workers and former workers producing women's robes, nightgowns and blouses at Charlet Undergarment Company, Incorporated, Passaic, New Jersey. In the following determination, without regard to whether any of the other

criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's, girls' and children's nightwear decreased absolutely in the first quarter of 1979 compared to the first quarter of 1978.

U.S. imports of women's, misses' and children's robes, dressing gowns and housecoats decreased absolutely in the first quarter of 1979 compared to the first quarter of 1978.

U.S. imports of women's, misses' and children's blouses and shirts decreased absolutely in the first quarter of 1979 compared to the first quarter of 1978.

A survey of manufacturers which contract orders with Charlet Undergarment Company, Incorporated revealed that these manufacturers did not purchase imported finished blouses, robes or nightgowns in 1978 and the first quarter of 1979. These manufacturers also did not employ foreign contractors to produce the garments.

Conclusion

After careful review, I determine that all workers of Charlet Undergarment Company, Incorporated, Passaic, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-22796 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5423]

Cuddle Knit Knitting Mills; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on May 18, 1979 in response to a worker petition received on May 14, 1979 which

was filed on behalf of workers and former workers producing ladies' sweaters and knitwear at Cuddle Knit Knitting Mills, Deer Park, New York. The investigation revealed that the plant produces primarily women's sweaters. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's sweaters increased relative to domestic production during 1978 compared to 1977.

A survey of Cuddle Knit's customers was conducted by the Department. Survey results revealed that several customers reduced purchases from Cuddle Knit while increasing purchases of sweaters from foreign sources during 1978 compared to 1977 and during the first quarter of 1979 compared to the first quarter of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's sweaters produced at Cuddle Knit Knitting Mills, Deer Park, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Cuddle Knit Knitting Mills, Deer Park, New York who became totally or partially separated from employment on or after May 10, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of July 1979.

Harry J. Gilman,

Supervisory International Foreign Economic Research.

[FR Doc. 79-22797 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5393-5393B]

Hy-Grade Sportswear Co., Inc. et al.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 15, 1979 in response to a worker petition received on May 14, 1979 which was filed on behalf of workers and former workers producing men's sportcoats, suits and leisure wear at Hy-Grade Sportswear Company, Incorporated in New York, New York. The investigation revealed that men's suits, sportcoats, suburban coats, overcoats and women's sportcoats are produced by the firm. The investigation was expanded to include Hy-Grade Coat Company, Incorporated and International Man, both of which are located in New York, New York and are divisions of Hy-Grade Sportswear Company. Hy-Grade Sportswear Company, Hy-Grade Coat Company and International Man form a single integrated manufacturing and selling unit. Sales are made by Hy-Grade Sportswear Company, Incorporated. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' tailored suits increased absolutely from 1976 to 1977. Imports declined from 1977 to 1978 and then increased in the first three months of 1979 as compared to the same period of 1978.

U.S. imports of men's and boys' tailored dress coats and sportcoats increased absolutely from 1977 to 1978.

U.S. imports of men's and boys' outer coats and jackets increased absolutely and relative to domestic production from 1976 to 1977. Imports increased relative to domestic production from 1977 to 1978.

A Departmental survey of customers of Hy-Grade Sportswear Company revealed that several customers increased their purchases of imported men's suits, Sportcoats and suburban coats and decreased purchases from Hy-Grade Sportswear in the first five months of 1979 as compared to the same period of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's suits, sportcoats and suburban coats at Hy-Grade Sportswear Company, Incorporated and with men's suit coats, sportcoats, suburban coats, and overcoats and at Hy-Grade Coat Company, Incorporated, both of New York, New York, contributed importantly to the decline in sales or production and to the total or partial separation of workers of these firms and at the retail arm known as International Man, New York, New York. In

accordance with the provisions of the Act, I make the following certification:

All workers of Hy-Grade Sportswear Company, Incorporated, Hy-Grade Coat Company, Incorporated and International Man, all of New York, New York, who became totally or partially separated from employment on or after December 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-22798 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5738]

Isaacson Steel Co.; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 11, 1979 in response to a worker petition received on July 9, 1979 which was filed by the International Association of Bridge, Structural and Ornamental Iron Workers on behalf of workers and former workers producing fabricated structural steel at Isaacson Steel Company, Seattle, Washington.

The petitioning group of workers was certified as eligible to apply for adjustment assistance in a determination issued on March 30, 1978. Since workers of Isaacson Steel Company, Seattle, Washington newly separated, totally or partially, from employment on or after October 13, 1976 (impact date) and before March 30, 1980 (expiration date of the certification) are covered by an existing determination, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 16th day of July 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-22799 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4699]

Jonathan Logan, Inc.; Notice of Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 221 of the Trade Act of 1974 (19 U.S.C. 2273) and in accordance with section 223(a) of such Act, on April 13, 1979 the Department of Labor issued a certification of eligibility

to apply for adjustment assistance applicable to workers and former workers of the Jonathan Logan Dress Division of Jonathan Logan, Incorporated, North Bergen, New Jersey.

Subsequent to the publication of the original determination, the Office of Trade Adjustment Assistance received an inquiry regarding workers and former workers producing ladies' dresses and sportswear at the K & M Division of Jonathan Logan, Incorporated, North Bergen, New Jersey. The K & M Division of Jonathan Logan, Incorporated produced dress and pantsuits duplicates (prototypes) designed by the Jonathan Logan Dress Division which were sent to salesmen and used for purposes of demonstration. Nearly all of these duplicates were mass produced by the Jonathan Logan Dress Division of Jonathan Logan, Incorporated.

Conclusion

Based on the additional evidence, a review of the entire record and in accordance with the provisions of the Act, I make the following revised certification:

All workers of the Jonathan Logan Dress Division and the K & M Division of Jonathan Logan, Incorporated, North Bergen, New Jersey who became totally or partially separated from employment on or after December 27, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-22800 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5382]

Korelle Industries, Inc.; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on May 14, 1979 in response to a worker petition received on May 9, 1979 which was filed on behalf of workers and

former workers producing plastic coated fabrics at Korelle Industries, Incorporated, Avenel, New Jersey. In the following determination, without regard to whether any of the criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Average employment of workers at Korelle Industries was stable in 1978 compared with 1977, and increased during the first five months of 1979 compared with the same period in 1978.

Conclusion

After careful review, I determine that all workers of Korelle Industries, Incorporated, Avenel, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,
*Director, Office of Management
Administration and Planning.*

[FR Doc. 79-22801 Filed 7-23-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5289 and TA-W-5294]

Maryland-Hampstead Clothing Co. and Paramount Clothing Co.; Revised Certification of Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on June 28, 1979, applicable to all workers of Maryland-Hampstead Clothing Company, Hampstead, Maryland and the Paramount Clothing Company, Baltimore, Maryland. The Notice of Certification was published in the Federal Register on July 6, 1979, (44 FR 39633).

On the basis of additional information provided by a company official, the Office of Trade Adjustment Assistance, on its own motion, reviewed the certification. The review of the case revealed that several layoffs will occur over the next several months as both facilities close down. These layoffs would not be covered because of the present termination date of July 1, 1979.

The intent of the certification is to cover all workers who were affected by the decline in production of men's suits at the Maryland-Hampstead Clothing Company, Hampstead, Maryland and

the Paramount Clothing Company, Baltimore, Maryland, related to import competition. The certification, therefore, is revised by deleting the termination date of July 1, 1979.

The revised certification applicable to TA-W-5289 and TA-W-5294 is hereby issued as follows:

All workers of Maryland-Hampstead Clothing Company, Hampstead, Maryland and of Paramount Clothing Company, Baltimore, Maryland who became totally or partially separated from employment on or after April 17, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of July 1979.

James F. Taylor,
*Director, Office of Management
Administration and Planning.*

[FR Doc. 79-22802 Filed 7-23-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5213 and TA-W-5213A]

Metaframe Corp. and Elmwood Park, N.J.; Metaframe Corp., Compton, Calif. Revised Certification of Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Adjustment Assistance on June 8, 1979, applicable to all workers of the Elmwood Park, New Jersey, plant of Metaframe Corporation. The Notice of Certification was published in the Federal Register on June 19, 1979 (44 FR 35314).

At the request of a company official of Metaframe Corporation, a further review was made. The review of the case revealed that the determination should have been expanded to include the Compton, California, facility of Metaframe Corporation. Several layoffs occurred in April and June of 1978. Production at Compton has ceased, and plant employment has been reduced to a small fraction of the 1978 average. The plant is expected to close by September 1, 1979.

The intent of the certification is to cover all workers of the Metaframe Corporation, Elmwood Park, New Jersey, and Compton, California, who were affected by increased imports of articles like or directly competitive with aquariums and aquarium accessories. The certification, therefore, is revised to include all workers of Metaframe Corporation at Compton, California.

The revised certification applicable to TA-W-5213 is hereby issued as follows:

All workers of Metaframe Corporation located at Elmwood Park, New Jersey, and Compton, California, who became totally or partially separated from employment on or after April 3, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of July 1979.

Harry J. Gilman,
*Supervisory International Economist, Office
of Foreign Economic Research.*
[FR Doc. 79-22803 Filed 7-23-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5413]

Packaging Associates, Inc.; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on May 16, 1979, in response to a worker petition received on May 14, 1979, which was filed on behalf of workers and former workers producing vinyl, plastic and cloth heat sealing products at Packaging Associates, Incorporated, Bridgewater, New Jersey. The investigation revealed that the company also performs engineering consulting work.

With respect to the engineering consulting services provided by Packaging Associates, Incorporated which are not directed to any article produced by Packaging Associates, Incorporated, workers so engaged do not produce an article within the meaning of section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Packaging Associates, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Packaging Associates, Incorporated and its customers have no controlling

interest in one another. The subject firm is not corporately affiliated with any other company.

All workers of Packaging Associates, Incorporated are employed by that firm. All personnel actions and payroll transactions are controlled by Packaging Associates, Incorporated. All employee benefits are provided and maintained by Packaging Associates, Incorporated. Workers are not, at any time, under employment or supervision by customers of Packaging Associates, Incorporated. Thus, Packaging Associates, Incorporated, and not any of its customers, must be considered to be the "workers' firm".

Without regard to whether any of the other criteria have been met for workers engaged in the production of an article, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

With respect to workers engaged in the production of an article, the evidence revealed that production of no product produced by Packaging Associates, Incorporated has continued for more than six months. Due to the short term of production of each product produced by Packaging Associates, Incorporated, it is not possible to determine trends of sales and production or to measure statistically the impact of imports of any product produced by the firm.

Conclusion

After careful review, I determine that all workers of Packaging Associates, Incorporated, Bridgewater, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,
*Director, Office of Management,
Administration and Planning.*

[FR Doc. 79-22804 Filed 7-23-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5644]

Riverton Coal Co.; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on June 22, 1979, in response to a worker petition received on May 29, 1979, which was filed by the United Mine workers of America on behalf of

workers mining coal at Riverton Coal Company, Charleston, West Virginia. The investigation revealed that the same group of workers is the subject of the ongoing investigation TA-W-5323.

Since the identical group of workers is the subject of an ongoing investigation TA-W-5323, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 17th day of July 1979.

Marvin M. Fooks,
*Director, Office of Trade Adjustment
Assistance.*

[FR Doc. 79-22805 Filed 7-23-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5418]

Susan Garment Co.; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on May 16, 1979 in response to a worker petition received on May 14, 1979 which was filed by the Philadelphia Dress Joint Board of the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' sportswear at Susan Garment Company, Philadelphia, Pennsylvania. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey was conducted by the Department of Labor of the manufacturers for whom Susan Garment Company performed contract work. The survey revealed that those manufacturers decreasing orders of ladies' sportswear from Susan Garment Company and increasing orders with foreign contractors represented an insignificant proportion of the firm's decline in contract work. Almost all

manufacturers reported no foreign purchases or contracts, and most manufacturers responding to the survey indicated increased orders with other domestic contractors or increased company sales of ladies' sportswear.

Conclusion

After careful review, I determine that all workers of Susan Garment Company, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of July 1979.

James F. Taylor,
*Director, Office of Management
Administration and Planning.*
[FR Doc. 79-22806 Filed 7-23-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5448]

Torwico Electronics; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on May 22, 1979 in response to a worker petition received on May 18, 1979 which was filed by the International Union of Electrical, Radio and Machine Workers on behalf of workers and former workers producing transformers at Torwico Electronics, Lakewood, New Jersey. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of speciality transformers were negligible in 1978 and during the first quarter of 1979. None of the surveyed customers of Torwico Electronics purchased imported transformers.

Conclusion

After careful review, I determine that all workers of Torwico Electronics, Lakewood, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of July 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-22807 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5083]

**Wyoming Valley Garment Co., Inc.;
Notice of Affirmative Determination
Regarding Application for
Reconsideration**

On June 12, 1979, the Amalgamated Clothing and Textile Workers Union, AFL-CIO, CLC, requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance. This determination was published in the Federal Register on May 25, 1979 (44 FR 30481).

The petitioning union raises one basic issue in the application. It questioned the Department of Labor's survey of a major customer of Wyoming Valley Garment Co., Inc., Wilkes-Barre, Pennsylvania.

Conclusion

After review of the application, I conclude that this claim of the petitioning union is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 16th day of July 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-22808 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-28-M

**State of Pennsylvania Department of
Labor and Industry; Hearing**

This notice announces an opportunity for a hearing for the Department of Labor and Industry of the Commonwealth of Pennsylvania (hereafter referred to as the State agency) pursuant to the last sentence of Section 3304(c) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(c)) to be held at 9:30 o'clock in the morning on August 21, 1979, in Courtroom C,

Vanguard Building, 1111 20th Street NW., Washington, D.C.

The hearing will be on the general question of whether the Commonwealth of Pennsylvania has failed to amend its Unemployment Compensation Law so that it contains, effective November 1, 1978, each of the provisions required by reason of the enactment of the Unemployment Compensation Amendments of 1976 (Pub. L. 94-566, approved October 20, 1976; 90 Stat. 2667) and Title III of the Emergency Unemployment Compensation Extension Act of 1977 (Pub. L. 95-19, approved April 12, 1977; 91 Stat. 39, 43), and/or has with respect to the 12-month period ending October 31, 1979, failed to comply substantially with any such provision. More particularly, the hearing will be on the following issues:

1. Whether the Pennsylvania Unemployment Compensation Law, which provides for the omission or removal of unemployment compensation charges from the accounts of employers liable for the payment of reimbursements to the State's unemployment fund, conforms with the provisions required by Sections 3304(a)(6)(B) and 3309(a)(2) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)(6)(B) and 3309(a)(2)), as amended by Section 506 of Pub. L. 94-566 and Section 302(b) of Pub. L. 95-19;

2. Whether the Pennsylvania Unemployment Compensation Law, which provides under specified conditions for payment of unemployment compensation retroactively for weeks of unemployment that had been properly denied between academic years or terms, conforms with the provisions required by Section 3304(a)(6)(A)(ii) of such Code (26 U.S.C. 3304(a)(6)(A)(ii)), as added by Section 115(c) of Pub. L. 94-566;

3. Whether the Pennsylvania Unemployment Compensation Law, which provides under specified conditions for the denial of unemployment compensation between academic years or terms to governmental employees who are not employees of educational institutions, conforms with the provisions of Section 3304(a)(6)(A) of such Code (26 U.S.C. 3304(a)(6)(A)), and clauses (i), (ii), and (iii) thereof, as amended by Section 115(c) of Pub. L. 94-566 and Section 302(c) of Pub. L. 95-19; and/or

4. Whether the Commonwealth of Pennsylvania has failed to comply substantially with any of the Federal law provisions referred to in issues 1 to 3 above.

The decision following the hearing will have a bearing on whether the Commonwealth of Pennsylvania is certifiable on October 31, 1979, with respect to normal and additional tax credits allowable to Pennsylvania employers pursuant to subsections (a) and (b) of Section 3302 of the Internal Revenue Code of 1954 (26 U.S.C. 3302) for 1979, and on certification of payment to the Commonwealth of Pennsylvania of granted funds pursuant to Section 302(a) of the Social Security Act (42 U.S.C. 502(a)) and pursuant to Section 5(b) of the Wagner-Peyser Act (29 U.S.C. 49d(b)) for the period during which the State is not certified under Section 3304 of the Internal Revenue Code of 1954 (26 U.S.C. 3304).

The proceedings in this matter shall be in accordance with the Rules of Procedure published with this Notice of Hearing.

Signed at Washington, D.C., on July 19, 1979.

Ray Marshall,

Secretary of Labor.

Rules of Procedure

1. An Administrative Law Judge will be designated by the Chief Administrative Law Judge, United States Department of Labor, to preside over the hearing and perform the functions required by these rules.

2. The parties of record shall be the State agency (as defined in 26 U.S.C. 3306(e)) named in the Notice of Hearing and the U.S. Department of Labor.

3. Any other State agency, individual worker, or employer, or any organization or association of workers, employers, or the public, having an interest in these proceedings, may be permitted by the presiding Administrative Law Judge to participate in these proceedings. Participation by any such interested person shall be limited to the presentation of oral argument as provided in Paragraph 12 below and to the submittal of a brief as provided in Paragraph 13(a) below. Any such State agency, person, organization, or association described above, may apply for permission to participate in these proceedings as an interested person, by filing in the office of the Chief Administrative Law Judge, U.S. Department of Labor, Room 720, Vanguard Building 1111 20th Street, NW., Washington, D.C. 20036, not later than 1 week prior to the date of the hearing, a written request setting forth the applicant's name and address and the name, address and the title or position of any person who will represent the applicant. The presiding

Administrative Law Judge shall rule on all applications and inform the applicants and the parties of the rulings.

4. The hearing will be conducted in an informal but orderly and expeditious manner. The presiding Administrative Law Judge will regulate all matters pertaining to the course and conduct of the proceedings and may, at the request of either party, or *sua sponte*, grant extensions of time regarding the submission of briefs and other papers, and may reschedule the hearing for another time or date, on good cause shown. In light of the statutory time constraints for the making of the decision herein, the granting of extensions of time (inclusive of continuances, etc.) shall be limited as follows:

(a) The State agency may request and, for good cause shown, may be granted an extension or extensions of time regarding the hearing date, submission of briefs and/or other matters, which cumulatively do not exceed 7 days.

(b) The U.S. Department of Labor may request, and for good cause shown, may be granted an extension or extensions of time regarding the hearing date, submission of briefs and/or other matters, which cumulatively do not exceed 7 days.

(c) Extensions of time granted *sua sponte* by the Administrative Law Judge shall cumulatively not exceed 3 days.

(d) No other extensions of time may be granted.

5. The parties of record shall have the opportunity to present oral and documentary evidence, and cross-examine witnesses, except as hereinafter provided in this paragraph.

(a) In the event that the State agency wishes to raise any issue other than the precise issue(s) identified in the Notice of Hearing and/or offer evidence regarding such issue as a part of this proceeding, it must first file with the presiding Administrative Law Judge a written Statement which contains:

(1) A statement of each such additional issue which it proposes to raise; and

(2) A summary of the evidence to be offered with respect to each such issue; this summary must specify with particularity the substance and form of the evidence to be offered.

(b) The Statement referred to in Paragraph 5(a), above, must be filed not later than 14 days prior to the date set for the hearing.

(c) In the event that a Statement is filed which meets the requirements of Paragraphs 5(a) and (b), and the U.S. Department of Labor wishes to offer countervailing evidence regarding any

issue identified in that Statement, it must file a Reply Statement which meets the requirements of Paragraph 5(a)(2).

(d) This Reply Statement must be filed not later than 5 days prior to the date set for the hearing or within 7 days of its receipt of the Statement, whichever occurs later; in no event shall the Reply Statement be filed later than 1 day prior to the hearing.

6. Upon the commencement of the hearing, the representative of the U.S. Department of Labor will make an opening statement as to the nature of the hearing and the matters in issue. The representative of the State agency will then be offered an opportunity to make an opening statement.

7. The order of the presentation of evidence will be as follows:

(a) The U.S. Department of Labor will proceed first by presenting any evidence it may wish to offer which is relevant to the issue(s) specified in the Notice of Hearing.

(b) The State agency will proceed next to offer any evidence it may wish to present which is relevant to the issue(s) referred to in Paragraph 7(a), above. Upon the conclusion of this presentation, the State agency may present evidence relevant to any issue which it has specified in, and as to which it has provided a summary of the evidence to be offered in, a Statement filed in accordance with Paragraphs 5(a) and (b) of these rules.

(c) Finally, the U.S. Department of Labor may present relevant countervailing evidence as to which it has provided a summary of the countervailing evidence to be offered in a Reply Statement filed in accordance with Paragraphs 5(c) and (d) of these rules.

(d) Evidence may be presented only by the parties of record, and only upon issues identified in the Notice of Hearing or in a Statement or Reply Statement filed in accordance with Paragraph 5 of these rules.

8. Technical rules of evidence shall not apply to this proceeding. The presiding Administrative Law Judge will rule upon offers of proof and the admissibility of evidence, and receive all relevant evidence. He may exclude irrelevant, immaterial, unduly repetitious or any other evidence excludable under these rules, and may examine witnesses. All writings, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a satisfactory showing of their authenticity, relevancy, materiality, and admissibility under these rules, be received in evidence.

9. During the hearing the Administrative Law Judge may require the production and introduction of further evidence upon any relevant matter. After the hearing is closed, no further evidence shall be taken except at the direction of the Secretary of Labor, unless provision has been made at the hearing for the later receipt of such evidence for the record.

If the Secretary of Labor directs that further evidence be taken, due and reasonable notice of the time and place of the reopened hearing shall be given to the parties of record and any interested person permitted to participate in the proceedings.

10. The proceedings at the hearing shall be recorded verbatim. Copies of the transcript of the record of the hearing shall be furnished to the presiding Administrative Law Judge and the parties of record, and may be obtained at cost by any interested person permitted to participate in the proceedings.

11. When any document is received in evidence, one additional copy thereof shall be furnished to the presiding Administrative Law Judge and a copy shall be furnished to the other party of record.

12. (a) At the conclusion of the receipt of evidence, the presiding Administrative Law Judge shall hear oral argument presented by the parties of record and interested persons permitted to participate in the proceedings, except that oral argument shall not be heard with respect to the constitutionality of any Federal statute.

(b) Oral arguments shall be in the following order: Opening argument for the U.S. Department of Labor, unless waived; opening argument for the State agency, unless waived; argument of each of the interested persons who wish to present oral argument, in such order as the presiding Administrative Law Judge shall determine; closing argument for the State agency, unless waived; and closing argument for the U.S. Department of Labor, unless waived. Oral argument by an interested person shall not be longer than 15 minutes. All oral arguments shall be transcribed and made a part of the record.

13. (a) The parties of record and any interested person permitted to participate in these proceedings shall be permitted to file a brief and/or proposed findings of fact and conclusions of law on the matters in issue. All such briefs and other papers shall be filed with the presiding Administrative Law Judge not later than 14 days after the transcript of the hearing is available.

(b) Reply briefs may be filed by the parties of record not later than 21 days after the transcript of the hearing is available.

(c) The transcript of the hearing shall be deemed to be available as of the date it is received by the Office of Administrative Law Judges. Upon receipt of the transcript, the presiding Administrative Law Judge will notify both of the parties and all interested persons as to the date of receipt.

14. Within 14 days after the time has expired for the filing of reply briefs, the presiding Administrative Law Judge shall prepare a recommended decision containing his findings of fact and conclusions of law. No conclusions of law regarding the constitutionality of any Federal statute shall be made. The presiding Administrative Law Judge shall promptly certify to the Secretary of Labor his recommended decision and the entire record of the proceedings, and forward a copy of his certification and recommended decision to each party of record and to each interested person permitted to participate in the proceedings.

15. Within 10 days after the certification and recommended decision are mailed to them, the parties of record may file with the presiding Administrative Law Judge a Statement of Exceptions in writing setting forth any exceptions they may have to the recommended decision. Upon receipt of any timely filed Statement of Exceptions, the presiding Administrative Law Judge shall promptly forward such Statement of Exceptions to the Secretary of Labor.

16. Following the certification to him in accordance with Paragraph 14 above and consideration of any timely filed Statement of Exceptions, the Secretary of Labor shall render his decision in the matter, in writing, and shall cause the parties of record and the interested persons permitted to participate in the proceedings to be notified thereof.

17. (a) Any briefs, Statements, and other papers filed with the presiding Administrative Law Judge in this proceeding shall be mailed to the address specified in Paragraph 3 of these rules. Such documents shall be deemed to be filed on the date they are postmarked if they are transmitted by the U.S. Postal Service, and shall be deemed to be filed on the date they are received in the office of the presiding Administrative Law Judge if they are transmitted by other means.

(b) If the last day of a time limit prescribed by these rules falls on a Saturday, Sunday, or a Federal holiday, the time limit shall be extended to the

next official business day; those time limits may be extended by the presiding Administrative Law Judge for good cause shown, subject to the limitations set out in Paragraph 4 above.

(c) Briefs, Statements and all other papers filed with the presiding Administrative Law Judge shall be promptly served upon the other party or parties.

(d) Briefs, Statements and all other paper filed with the presiding Administrative Law Judge shall be submitted in duplicate and shall be accepted subject to timely filing and sufficient proof of service upon the other party or parties.

[FR Doc. 79-22863 Filed 7-24-79; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL ALCOHOL FUELS COMMISSION

Notice of Open Meeting

Name: National Alcohol Fuels Commission.
Date: August 6, 1979.

Time: 9:00 a.m.-5:00 p.m.

Place: Lecture Hall 100, Indiana University—Purdue University, Indianapolis, Indiana.

Type of Meeting: Open.

Contact Person: Dr. Edward J. Bentz, Jr., Executive Director (202/254-7453).

Written Statements: Dr. Edward J. Bentz, Jr., Executive Director, c/o Senator Birch Bayh, Chairman, NAFC, 363 Russell Senate Office Building, Washington, D.C. 20510.

Purpose of the Commission: The National Alcohol Fuels Commission was established under Section 170 of the Surface Transportation Assistance Act of 1978 (Pub. L. 95-599) to make a full and complete investigation and study of the long- and short-term potential for alcohol fuels from biomass (including municipal and industrial waste, sewage sludge and oceanic and terrestrial crops) and coal to contribute to meeting the nation's energy needs. Based on such study it shall recommend those policies and their attendant costs and benefits most likely to minimize our dependence on petroleum.

Tentative Agenda: Receiving Public Testimony/Business Meeting.

Edward J. Bentz, Jr.,

Executive Director.

July 20, 1979.

[FR Doc. 79-22995 Filed 7-23-79; 9:27 am]

BILLING CODE 6520-AN-M

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Meeting

The sixteenth meeting of the National Commission on Unemployment

Compensation is scheduled to be held at the New York Sheraton Hotel, New York, New York in the Forum Room on August 23, 24, 25. The meeting will begin at 8:30 a.m. and conclude at 5:30 p.m. each day.

Requests for presenting testimony must be submitted 30 days prior to the meeting date and must indicate the topics to be discussed. Individuals and organizations requesting time must limit oral testimony to not more than ten minutes. Forty copies of written testimony must be submitted, but oral testimony should summarize any written testimony. Depending upon the number of persons and organizations requesting the opportunity to testify at a meeting, and the topics to be discussed, individuals and organizations will be notified of time and place allocated for testimony. Whenever feasible, individuals and organizations presenting similar views will be grouped together and will be handled as a panel in order to enable discussion, questioning, and responses to be developed with a view to assisting the Commission to deal with the mandate established by the Congress.

Telephone inquires and communications concerning this meeting should be directed to:

James Rosbrow, Executive Director,
National Commission on
Unemployment Compensation, 1815
Lynn Street, Room 440, Rosslyn,
Virginia 22209, (702) 235-2782.

Signed at Washington, D.C. this 17th day of July, 1979.

James Rosbrow,

Executive Director, National Commission on
Unemployment Compensation.

[FR Doc. 79-22786 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-27-M

Meeting

The seventeenth meeting of the National Commission on Unemployment Compensation is scheduled to be held at the Royal Sonesta Hotel, New Orleans, Louisiana in the Belle Grove Room on September 18, 17, 18. The meeting will begin at approximately 8:30 a.m. and conclude at approximately 5:30 p.m. each day.

Requests for presenting testimony must be submitted 30 days prior to the meeting date and must indicate the topics to be discussed. Individuals and organizations requesting time must limit oral testimony to not more than ten minutes. Forty copies of written testimony must be submitted, but oral testimony should summarize any written testimony. Depending upon the number

of persons and organizations requesting the opportunity to testify at a meeting, and the topics to be discussed, individuals and organizations will be notified of time and place allocated for testimony. Whenever feasible, individuals and organizations presenting similar views will be grouped together and will be handled as a panel in order to enable discussion, questioning, and responses to be developed with a view to assisting the Commission to deal with the mandate established by the Congress.

Telephone inquiries and communications concerning this meeting should be directed to:

James M. Rosbrow, Executive Director,
National Commission on
Unemployment Compensation, 1815
Lynn Street, Room 440, Rosslyn,
Virginia 22209.

Signed at Washington, D.C. this 17th day of July, 1979.

James M. Rosbrow,

Executive Director, National Commission on
Unemployment Compensation.

[FR Doc. 79-22787 Filed 7-23-79; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL CREDIT UNION ADMINISTRATION

Central Liquidity Facility; Publication of Proposed Loan Agreements

AGENCY: National Credit Union Administration.

ACTION: Publication of Proposed Lending Agreements of the National Credit Union Administration Central Liquidity Facility.

SUMMARY: The National Credit Union Administration Central Liquidity Facility (Facility) is publishing for review, and will accept comment on, the repayment, security and credit reporting agreements it proposes to use in extending credit to Regular and Agent members of the Facility, including the agreements that the Facility will require Agent members to use when relending Facility funds.

DATE: Comments must be received by August 6, 1979.

ADDRESS: Robert S. Monheit, Regulatory Development Coordinator, Office of General Counsel, Room 4202, National Credit Union Administration, 2025 M Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Mark Medvin, Attorney-Advisor, Office of General Counsel, at the above address. Telephone: (202) 632-4870.

SUPPLEMENTARY INFORMATION:

1. Background

The National Credit Union Administration Central Liquidity Facility was created by the National Credit Union Central Liquidity Facility Act, Title XVIII of Pub. L. 95-630, to improve general financial stability by meeting the liquidity needs of credit unions. The Facility will be a part of the National Credit Union Administration (NCUA) and will be managed by the NCUA Board.

On May 4, 1979, NCUA proposed for public comment a regulation pertaining to Facility membership and lending (44 FR 26115). In the proposal on lending, NCUA indicated that the agreements to be used for loans from the Facility to Regular and Agent members, as well as for loans of Facility funds from Agent members to the credit unions served by them, would be included in the final regulations.

NCUA is not required to publish notice or solicit public comment on these agreements because they constitute matters pertaining to loans and contracts and are exempted from the Administrative Procedures Act rulemaking requirements regarding public participation under 5 U.S.C. 553(a)(2). (Also see *Housing Authority of the City of Omaha, Nebraska v. U.S. Housing Authority*, 468 F.2d 1 (8th Cir. 1972).) For this same reason, these agreements are exempt from NCUA's regulation requiring solicitation of public comment on rules and regulations under 12 C.F.R. 720.8(b).

Nevertheless, NCUA believes that publication of these agreements for the review and comments of interested parties prior to finalizing the agreements in the final Lending Regulation will be helpful to NCUA in consideration of these agreements. Interested parties are invited to submit relevant data, views or comments. Any such material should be submitted in writing to Mr. Robert Monheit, Regulatory Development Coordinator, Office of General Counsel, National Credit Union Administration, 2025 M Street, NW., Washington, DC 20456.

Authority: Sec. 1802 (306(a)(2)), 92 Stat. 3721 (12 U.S.C. 1795e(a)(2)).

Lawrence Connell,

Chairman.

July 18, 1979.

Repayment, Security, and Credit Reporting Agreements

(a) The repayment, security, and credit reporting agreement between the Facility and a Regular member is as follows:

Parties

(1) This agreement is between the National Credit Union Administration Central Liquidity Facility (hereinafter "the Facility") and a Regular member of the Facility (hereinafter "the Regular member"). It becomes effective when signed by the Regular member and the Facility and shall remain in effect as long as the Regular member is a member of the Facility or there is any unpaid repayment obligation hereunder between the Regular member and the Facility.

(2) All advances of Facility funds to the Regular member are subject to the terms and conditions of this agreement and to applicable terms and conditions in the National Credit Union Central Liquidity Facility Act, rules and regulations prescribed by the NCUA Board on behalf of the Facility, and operating circulars issued by the Facility, including all amendments and supplements thereto. The Regular member shall perform each of the obligations imposed on it by any such term or condition.

Repayment

(3) In connection with each advance of Facility funds, the Facility shall issue a confirmation of credit (herein after the "confirmation") which shall be sent to the Regular member. The confirmation may be issued before or after the date of the advance and shall be in such form and sent in such manner as may be determined by the Facility. The confirmation shall specify the date and amount of the advance, the interest rate, the maturity date, the prepayment penalty (if applicable), and the liquidity needs for which the Facility funds are advanced (i.e., short-term adjustment credit, seasonal credit, or protracted adjustment credit). The confirmation may also specify the manner in which the Regular member must pay the Facility on the maturity date.

(4) Each advance of Facility funds shall be used by the Regular member solely for the liquidity needs for which such funds were advanced, as specified in the confirmation issued by the Facility in connection with the advance.

(5) When the Regular member receives an advance of Facility funds, a repayment obligation is created whereby the Regular member, for value received, agrees:

(i) To pay to the Facility on the maturity date an amount equal to the amount of the advance plus interest from the date of the advance through the maturity date. The Regular member shall have the right to prepay the

obligation in full prior to maturity, in which case, interest will be computed through the date of prepayment, and the Facility may impose a prepayment penalty; and

(ii) If the amount due on the maturity date is not paid on the maturity date, to pay to the Facility reasonable expenses of collection, including the reasonable attorney's fees and expenses incurred, plus a late payment charge equal to 5% of the unpaid balance of the amount due on the maturity date, as well as interest on the unpaid balance of the amount due from the maturity date through the date of payment in full at an interest rate equal to the interest rate used to determine interest from the date of the advance through the maturity date. The Facility may waive any part or all of the late payment charge and interest payable after maturity.

The "date of the advance," the "maturity date," the "amount of the advance" and the "prepayment penalty" are the dates, amount, and penalty specified as such in the confirmation issued by the Facility in connection with the advance. Interest shall be determined by using the interest rate specified in such confirmation.

Security

(6) As security for all repayment obligations created hereunder, whenever created, the Regular member grants a security interest in favor of the Facility in the following property of the Regular member, whenever acquired (hereinafter, the "collateral"):

(i) All notes, instruments, and other monetary obligations (whether written or unwritten) which evidence or represent a right of the Regular member to the payment or repayment of money;

(ii) All chattel paper, as defined in the Uniform Commercial Code;

(iii) All securities (whether or not represented by instruments), including shares in the capital stock of the Facility;

(iv) All demand, time, savings, passbook and like accounts, including share accounts, maintained with a bank, savings and loan association, credit union or like organization;

(v) Money, as defined in the Uniform Commercial Code;

(vi) All general intangibles, as defined in the Uniform Commercial Code; and

(vii) The proceeds of all such notes, instruments, monetary obligations, chattel paper, securities, accounts, money and general intangibles.

(7) The Facility shall have the right at any time to perfect the security interest granted hereunder with respect to any part or all of the collateral, either by

filing or by taking or retaining possession thereof. If perfection is by filing, the Regular member shall sign a financing statement and such other papers as may be appropriate for filing and shall pay all necessary filing fees. If perfection is by taking possession, the Regular member shall take such action as may be necessary to transfer possession to the Facility, including delivery to the Facility or its designee at the expense of the Regular member.

(8) Except as permitted by the Facility, an obligation of the Regular member to another party shall not be secured by a security interest in the collateral at any time while the Regular member owes any amount to the Facility on any repayment obligation created hereunder.

(9) The amounts owed to the Facility on all repayment obligations created hereunder shall become immediately due and payable to the Facility, without any demand or notice, upon:

(i) The failure of the Regular member to perform any of its obligations under this agreement, including failure to pay the amount due on the maturity date of any repayment obligation created hereunder; or

(ii) The failure of the Regular member to pay any other obligation to the Facility when due; or

(iii) The failure to comply with the terms of any representation made by the Regular member to the Facility in any application, certification or other communication; or

(iv) The insolvency of, or appointment of a trustee or receiver for, the Regular member; or

(v) An assignment for the benefit of creditors of the Regular member; or

(vi) The closing or suspension or revocation of the charter of the Regular member, or the taking possession of its business, by any governmental authority; or

(vii) The Regular member's use of the proceeds of any advance for a purpose other than the liquidity needs for which the advance was made; or

(viii) The withdrawal of the Regular member from membership in the Facility.

The occurrence of any of the events described in subparagraphs (9)(i) through (9)(viii) hereof shall constitute a default under this agreement. The term "insolvency" in subparagraph 9(iv) hereof has the same meaning as it is given in 12 CFR 700.1(k). The Facility may waive a default under this agreement and may reinstate the maturity date on any repayment obligation created hereunder which becomes immediately due and payable as a result of any such default.

(10) Upon the occurrence of a default under this agreement, or at any time thereafter, the Facility shall have all the rights and remedies provided under the Uniform Commercial Code and under this agreement, including but not limited to the following: the Facility may—

(i) Take or retain possession of the collateral, or any part thereof, or

(ii) Collect the proceeds of the collateral, or

(iii) Notify obligors on the collateral to make payments to the Facility, or

(iv) Sell or otherwise dispose of any part or all of the collateral at public or private proceedings, or

(v) Buy the collateral or any part thereof, or

(vi) Retain the collateral, or any part thereof, in satisfaction of any part or all of the obligations secured by the collateral.

The proceeds of the collateral, including the proceeds of sale or other disposition thereof, shall be applied by the Facility (A) first, to the reasonable expenses of collecting such proceeds and of taking, holding, and selling the collateral, including the reasonable attorneys' fees and legal expenses incurred, and (B) then, to the payment of amounts due on all repayment obligations created hereunder. Any surplus then remaining shall be paid or returned to the Regular member. If there is a deficiency, the Regular member shall be liable for the deficiency. If the Facility is indebted to the Regular member, the Facility shall have the right to set-off such indebtedness against all amounts due the Facility on all repayment obligations created hereunder, without regard to when such indebtedness may be due and payable.

Credit Reporting

(11) The Regular member shall file such reports and provide such information as may be required by the Facility from time to time.

Construction and Modification

(12) This agreement shall be construed under and governed by the law of the District of Columbia, including the Uniform Commercial Code as adopted and amended from time to time by the District of Columbia, and the terms used in such Code shall have the same meaning when used in this agreement. All references to the Uniform Commercial Code in this agreement are to such Code as adopted and amended from time to time by the District of Columbia. Unless the Uniform Commercial Code or the context of this agreement otherwise requires, the terms defined in the rules and regulations

prescribed by the NCUA Board on behalf of the Facility shall have the same meanings when used in this agreement.

(13) This agreement may be modified from time to time by the NCUA Board. Any such modification shall be published in the *Federal Register* and shall become a part of this agreement as of the effective date specified in the *Federal Register*. The modification shall apply to all advances of Facility funds after such effective date. All such modifications are a part of this agreement, including modifications that occurred prior to the signing of this agreement.

(b) If an Agent member is a central credit union, the repayment, security, and credit reporting agreement between the Facility and the Agent member is as follows:

Parties

(1) This agreement is between the National Credit Union Administration Central Liquidity Facility (hereinafter "the Facility") and a central credit union which is an Agent member of the Facility (hereinafter "the Agent"). This agreement becomes effective when signed by the Agent and the Facility. This agreement shall remain in effect as long as the Agent is a member of the Facility or there is any unpaid repayment obligation hereunder between the Agent and the Facility.

(2) All advances of Facility funds to the Agent are subject to this agreement and to all applicable terms and conditions in the National Credit Union Central Liquidity Facility Act, rules and regulations prescribed by the NCUA Board on behalf of the Facility, and operating circulars issued by the Facility, including all amendments and supplements thereto. The Agent shall perform each of the obligations imposed on it by any such term or condition.

Repayment

(3) In connection with each advance of Facility funds to the Agent, the Facility shall issue a confirmation of credit (hereinafter the "confirmation") which shall be sent to the Agent. The confirmation may be issued before or after the date of the advance and shall be in such form and sent in such manner as may be determined by the Facility. The confirmation shall specify the date and amount of the advance, the interest rate, the maturity date, the prepayment penalty (if applicable), the liquidity needs for which the Facility funds are advanced (i.e., short-term adjustment credit, seasonal credit, or protracted adjustment credit), the names of the

Agent's member natural person credit unions whose liquidity needs are being met by the advance, and the amount of the loan that is to be made by the Agent to each such member natural person credit union. The confirmation may also specify the manner in which the Agent must pay the Facility on the maturity date.

(4) When the Agent receives an advance of Facility funds, a repayment obligation is created whereby the Agent, for value received, agrees:

(i) To pay to the Facility on the maturity date an amount equal to the amount of the advance plus interest from the date of the advance through the maturity date. The Agent shall have the right to prepay the obligation in full prior to maturity, in which case, interest will be computed through the date of prepayment, and the Facility may impose a prepayment penalty; or

(ii) If the amount due on the maturity date is not paid on the maturity date, to pay the Facility reasonable expenses of collection, including the reasonable attorney's fees and expenses incurred, plus a late payment charge equal to 5% of the unpaid balance of the amount due on the maturity date, as well as interest on the unpaid balance of the amount due from the maturity date through the date of payment in full at an interest rate equal to the interest rate used to determine interest from the date of the advance through the maturity date. The Facility may waive any part or all of the interest payable after the maturity date.

The "date of the advance," the "maturity date," the "amount of the advance" and the "prepayment penalty" are the dates, amount, and penalty specified as such in the confirmation issued by the Facility in connection with the advance. Interest from the date of the advance through the maturity date (or date of prepayment) shall be determined by using the interest rate specified in such confirmation.

Relending

(5) In connection with each extension of credit approved by the Facility: (i) The Agent's application to the Facility must be based upon one or more applications from its member natural person credit unions requesting extensions of credit for liquidity needs in the amount requested by the Agent. The Agent's application must contain a list of such credit unions showing, for each credit union, the amount requested and the liquidity needs that would be met (i.e., short-term adjustment credit, seasonal credit, or protracted adjustment credit). The Agent's application must also contain such

certifications and other information as may be required by the Facility and the rules and regulations prescribed by the NCUA Board on behalf of the Facility. An application from a member natural person credit union cannot be used as a basis for an Agent's application until such credit union has signed the repayment, security and credit reporting agreement required by the Facility and a signed copy of such agreement has been filed and retained with the permanent records of the Agent.

(ii) The full amount of each advance of Facility funds to the Agent shall be loaned by the Agent to the member natural person credit unions whose liquidity needs are being met by the advance, as specified in the confirmation issued by the Facility in connection with the advance. The amount of the loan to each such credit union shall be the amount specified as such in such confirmation. The date of the loan and the interest rate and maturity date on the loan (hereinafter an "Agent loan") shall be the same, respectively, as the date of the advance and the interest rate and maturity date specified for the Agent in such confirmation. All such Agent loans to member natural person credit unions shall be in accordance with the terms and conditions of the repayment, security, and credit reporting agreements signed by such credit unions, and no promissory note or additional agreement shall be signed or apply with respect to any repayment obligation arising out of any such loan. All such repayment obligations shall have the status of general intangibles under the Uniform Commercial Code.

(iii) The Agent shall promptly notify the Facility of any default on any repayment obligation arising out of any such Agent loan to a member natural person credit union.

(6) The Agent shall maintain a separate account or record for each member natural person credit union to which Agent loans have been made. The separate account or record shall identify each Agent loan and show all amounts loaned and repaid on such loan.

(7) The Agent shall comply with all the terms and conditions imposed on the Agent in the repayment, security and credit reporting agreements signed by its member natural person credit unions.

Security

(8) As security for all repayment obligations created hereunder, whenever created, the Agent grants a security interest in favor of the Facility

in the following property, whenever acquired (hereinafter the "collateral"):

(i) All repayment obligations from member natural person credit unions to the Agent, whenever created, arising out of Agent loans to such credit unions pursuant to the requirements of this agreement; and

(ii) The security interests granted by such credit unions as security for such repayment obligations.

(9) The Facility shall have the right at any time to perfect the security interest granted hereunder with respect to any part or all of the collateral. Perfection shall be by filing in accordance with the filing requirements for general intangibles under the Uniform Commercial Code and other applicable laws. The Agent agrees to sign a financing statement and such other papers as may be appropriate for filing and to pay all necessary filing fees.

(10) The Agent shall not sell or otherwise transfer the collateral to, or create any security interest in the collateral in favor of any party other than the Facility.

(11) The amounts owed to the Facility on all repayment obligations created hereunder shall become immediately due and payable to the Facility, without any demand or notice, upon:

(i) The failure of the Agent to perform any of its obligations under this agreement, including failure to pay the amount due on the maturity date of any repayment obligation created hereunder; or

(ii) The failure of the Agent to pay any other obligation to the Facility when due; or

(iii) The failure to comply with the terms of any representation made by the Agent to the Facility in any application, certification or other communication; or

(iv) The insolvency of, or appointment of a trustee or receiver for, the Agent; or

(v) An assignment for the benefit of creditors of the Agent; or

(vi) The closing or suspension or revocation of the charter of the Agent, or the taking possession of its business, by any governmental authority; or

(vii) The withdrawal of the Agent from membership in the Facility.

The occurrence of any of the events described in subparagraphs 11(i) through 11(vii) shall constitute a default under this agreement. The term "insolvency" in subparagraph 11(iv) hereof has the same meaning as it is given in 12 CFR 700.1(k). The Facility may waive a default under this agreement and may reinstate the maturity date on any repayment obligation created hereunder which

becomes immediately due and payable as a result of any such default.

(12) Upon the occurrence of a default under this agreement, or at any time thereafter, the Facility shall have all the rights and remedies provided under the Uniform Commercial Code and under this agreement, including but not limited to the following: the Facility may, in its own name or in the name of the Agent,

(i) Notify member natural person credit unions to make payments to the Facility on any one or more of the repayment obligations of such credit unions which constitute the collateral under this agreement,

(ii) Collect the amounts due on any one or more of the repayment obligations of such credit unions by any available judicial procedure,

(iii) Enforce the security interests granted by such credit unions as security for such repayment obligations,

(iv) Exercise all the rights and remedies of the Agent with respect to such security interests, including enforcement of such security interests in any available judicial procedure, and

(v) Sell or otherwise dispose of any one or more of such repayment obligations of such credit unions, together with the security interests securing such repayment obligations, at public or private proceedings.

The proceeds of such repayment obligations of such credit unions, including the proceeds of the sale or other disposition thereof, shall be applied by the Facility (A) first, to the reasonable expenses of collecting such proceeds and of selling such repayment obligations of such credit unions, including the reasonable attorneys' fees and legal expenses incurred, and (B) then, to the payment of amounts due on all repayment obligations created hereunder. Any surplus then remaining shall be paid or returned to the Agent. If there is a deficiency, the Agent shall be liable for the deficiency. If the Facility is indebted to the Agent, the Facility shall have the right to set-off such indebtedness against all amount due the Facility on all repayment obligations created hereunder, without regard to when such indebtedness may be due and payable.

Credit Reporting

(13) The Agent shall file such reports and provide such information as may be required by the Facility from time to time.

Construction and Modification

(14) This agreement shall be construed under and governed by the law of the District of Columbia, including the

Uniform Commercial Code as adopted and amended from time to time by the District of Columbia, and the terms used in such Code shall have the same meaning when used in this agreement. All references to the Uniform Commercial Code in this agreement are to such Code as adopted and amended from time to time by the District of Columbia. Unless the Uniform Commercial Code or the context of this agreement otherwise requires, the terms defined in the rules and regulations prescribed by the NCUA Board on behalf of the Facility shall have the same meaning when used in this agreement.

(15) This agreement may be modified from time to time by the NCUA Board. Any such modification shall be published in the Federal Register and shall become a part of this agreement as of the effective date specified in the Federal Register. The modification shall apply to all advances of Facility funds after such effective date. All such modifications are a part of this agreement, including modifications that occurred prior to the signing of this agreement.

(c) If an Agent member is a group of central credit unions, there shall be a repayment, security and credit reporting agreement between the Facility and one of the central credit unions in the group (hereinafter the "representative central credit union"), and there shall be a repayment, security and credit reporting agreement between that central credit union and each of the other central credit unions in the group (hereinafter a "local central credit union"). The repayment, security, and credit reporting agreement between the Facility and a representative central credit union is as follows:

Parties

(1) This agreement is between the National Credit Union Administration Central Liquidity Facility (hereinafter "the Facility") and a central credit union (hereinafter "the representative central credit union"). The representative central credit union is one of the central credit unions in a group of central credit unions (hereinafter "the Agent group") which is an Agent member of the Facility, and has been designated as the representative central credit union by the other credit unions in the group in their applications for membership in the Facility as part of the Agent group. This agreement becomes effective when signed by the representative central credit union and the Facility. This agreement shall remain in effect as long as the Agent group is a member of the

Facility or there is any unpaid repayment obligations hereunder between the representative central credit union and the Facility.

(2) All advances of Facility funds to the representative central credit union are subject to this agreement and to all applicable terms and conditions in the National Credit Union Central Liquidity Facility Act, rules and regulations prescribed by the NCUA Board on behalf of the Facility, and operating circulars issued by the Facility, including all amendments and supplements thereto. The representative central credit union shall perform each of the obligations imposed on it by any such term or condition.

Repayment

(3) In connection with each advance of Facility funds to the representative central credit union, the Facility shall issue a confirmation of credit (hereinafter the "confirmation") which shall be sent to the representative central credit union. The confirmation may be issued before or after the date of the advance and shall be in such form and sent in such manner as may be determined by the Facility. The confirmation shall specify the date and amount of the advance, the interest rate, the maturity date, the prepayment penalty (if applicable), the liquidity needs for which the Facility funds are advanced (i.e., short-term adjustment credit, seasonal credit, or protracted adjustment credit), the names of the member natural person credit unions whose liquidity needs are being met by the advance, the amount of the loan that is to be made to each such member natural person credit union, and the name of the central credit union in the Agent group that will make such loans to such member natural person credit unions. The confirmation may also specify the manner in which the representative central credit union must pay the Facility on the maturity date.

(4) When the representative central credit union receives an advance of Facility funds, a repayment obligation is created whereby the representative central credit union, for valued received, agrees:

(i) To pay to the Facility on the maturity date an amount equal to the amount of the advance plus interest from the date of the advance through the maturity date. The representative central credit union shall have the right to prepay the obligation in full prior to maturity in which case interest will be computed through one date of prepayment, and the Facility may impose a prepayment penalty; and

(ii) If the amount due on the maturity date is not paid on the maturity date, to pay the Facility reasonable expenses of collection, including the reasonable attorneys' fees and expenses incurred, plus a late payment charge equal to 5% of the unpaid balance of the amount due on the maturity date, as well as interest on the unpaid balance of the amount due on the maturity date at an interest rate equal to the interest rate used to determine interest from the date of the advance through the maturity date. The Facility may waive any part or all of the interest payable after the maturity date. The "date of the advance," the "maturity date," the "amount of the advance" and the "prepayment penalty" are the dates, amount and penalty specified as such in the confirmation issued by the Facility in connection with the advance. Interest from the date of the advance through the maturity date (or date of prepayment) shall be determined by using the interest rate specified in such confirmation.

Relending

(5) In connection with each extension of credit approved by the Facility:

(i) The application of the representative central credit union to the Facility must be based upon applications from one or more of the central credit unions in the Agent group (hereinafter a "local central credit union"), and the applications from such local central credit unions must be based upon one or more applications from member natural person credit unions requesting extensions of credit for liquidity needs in the amount requested. The application of the representative central credit union must contain a list of such member natural person credit unions showing, for each credit union, the amount requested and the liquidity needs that would be met (i.e., short-term adjustment credit, seasonal credit, or protracted adjustment credit). The application of the representative central credit union must also contain such certifications and other information as may be required by the Facility and the rules and regulations prescribed by the NCUA Board on behalf of the Facility. An application from a local central credit union cannot be used as a basis for an application of the representative central credit union until the local central credit union has signed the repayment, security and credit reporting agreement required by the Facility, and a signed copy of such agreement has been filed and retained with the permanent records of the representative central credit union.

(ii) The full amount of each advance of Facility funds to the representative central credit union shall be loaned by the representative central credit union to the local central credit union(s) that will make the loans to member natural person credit unions, as specified in the confirmation issued by the Facility in connection with the advance. The date of the loan(s) and the interest rate and maturity date on an "Agent loan" shall be the same, respectively, as the date of the advance and the interest rate and maturity date specified for the representative central credit union in such confirmation. All such Agent loans to local central credit unions shall be in accordance with the terms and conditions of the repayment, security, and credit reporting agreements signed by such local central credit unions, and no promissory note or additional agreement shall be signed or apply with respect to any repayment obligation arising out of any such loan. All such repayment obligations shall have the status of general intangibles under the Uniform Commercial Code.

(iii) The representative central credit union shall promptly notify the Facility of any default on any repayment obligation arising out of any such Agent loan to a local central credit union.

(6) The representative central credit union shall maintain a separate account or record for each local central credit union to which Agent loans have been made. The separate account or record shall identify each Agent loan and show all amounts loaned and repaid on such loan.

(7) The representative central credit union shall comply with all the terms and conditions imposed on it in the repayment, security and credit reporting agreements signed by central credit unions in its Agent group.

Security

(8) As security for all repayment obligations created hereunder, whenever created, the representative central credit union grants a security interest in favor of the Facility in the following property, whenever acquired (hereinafter the "collateral"):

(i) All repayment obligations from local central credit unions to the representative central credit union, whenever created, arising out of Agent loans to such local central credit unions pursuant to the requirements of this agreement; and

(ii) The security interests granted by such local central credit unions as security for such repayment obligations.

(9) The Facility shall have the right at any time to perfect the security interest

granted hereunder with respect to any part or all of the collateral. Perfection shall be by filing in accordance with the filing requirements for general intangibles under the Uniform Commercial Code and other applicable laws. The representative central credit union agrees to sign a financing statement and such other papers as may be appropriate for filing and to pay all necessary filing fees.

(10) The representative central credit union shall not sell or otherwise transfer the collateral to, or create any security interest in the collateral in favor of any party other than the Facility.

(11) The amounts owed to the Facility on all repayment obligations created hereunder shall become immediately due and payable to the Facility, without any grace a24jy3.063demand or notice, upon:

(i) The failure of the representative central credit union to perform any of its obligations under this agreement, including failure to pay the amount due on the maturity date of any repayment obligation created hereunder; or

(ii) The failure of the representative central credit union to pay any other obligation to the Facility when due; or

(iii) The failure of the representative central credit union to comply with the terms of any representation made by it to the Facility in any application, certification or other communication; or

(iv) The insolvency of, or appointment of a trustee or receiver for, the representative central credit union; or

(v) An assignment for the benefit of creditors of the representative central credit union; or

(vi) The closing or suspension or revocation of the charter of the representative central credit union, or the taking possession of its business, by any governmental authority; or

(vii) The withdrawal of the Agent group from membership in the Facility. The occurrence of any of the events described in subparagraphs 11(i) through 11(vii) shall constitute a default under this agreement. The term "insolvency" in subparagraph 11(iv) hereof has the same meaning as it is given in 12 CFR 700.1(k). The Facility may waive a default under this agreement and may reinstate the maturity date on any repayment obligation created hereunder which becomes immediately due and payable as a result of any such default.

(12) Upon the occurrence of a default under this agreement, or at any time thereafter, the Facility shall have all the rights and remedies provided under this agreement, including but not limited to the following: the Facility may, in its

own name or in the name of the representative central credit union.

(i) Notify local central credit unions to make payments to the Facility on any one or more of the repayment obligations of such local central credit unions which constitute the collateral under this agreement,

(ii) Collect the amounts due on any one or more of such repayment obligations of such local central credit unions by any available judicial procedures,

(iii) Enforce the security interests granted by such local central credit unions as security for such repayment obligations,

(iv) Exercise all the rights and remedies of the representative central credit union with respect to such security interests, including enforcement of such security interests in any available judicial procedure, and

(v) Sell or otherwise dispose of any one or more of such repayment obligations of such local central credit unions, together with the security interests securing such repayment obligations, at public or private proceedings. The proceeds of such repayment obligations of such local central credit unions, including the proceeds of the sale or other disposition thereof, shall be applied by the Facility (A) first, to the reasonable expenses of collecting such proceeds and of selling such repayment obligations of such local central credit unions, including the reasonable attorneys' fees and legal expenses incurred, and (B) then, to the payment of amounts due on all repayment obligations created hereunder. Any surplus then remaining shall be paid or returned to the representative central credit union. If there is a deficiency, the representative central credit union shall be liable for the deficiency. If the Facility is indebted to the representative central credit union, the Facility shall have the right to set-off such indebtedness against all amounts due the Facility on all repayment obligations created hereunder, without regard to when such indebtedness may be due and payable.

Credit Reporting

(13) The representative central credit union shall file such reports and provide such information as may be required by the Facility from time to time.

Construction and Modification

(14) This agreement shall be construed under and governed by the law of the District of Columbia, including the Uniform Commercial Code as adopted and amended from time to time by the

District of Columbia, and the terms used in such Code shall have the same meanings when used in this agreement. All references to the Uniform Commercial Code in this agreement are to such Code as adopted and amended from time to time by the District of Columbia. Unless the Uniform Commercial Code or the context of this agreement otherwise requires, the terms defined in the rules and regulations prescribed by the NCUA Board on behalf of the Facility shall have the same meaning when used in this agreement.

(15) This agreement may be modified from time to time by the NCUA Board. Any such modification shall be published in the *Federal Register* and shall become a part of this agreement as of the effective date specified in the *Federal Register*. The modification shall apply to all advances of Facility funds after such effective date. All such modifications are a part of this agreement, including modifications that occurred prior to the signing of this agreement.

(d) The repayment, security and credit reporting agreement between a representative central credit union and a local central credit union is as follows:

Parties

(1) This agreement is between two central credit unions (hereinafter the "representative central credit union" and the "local central credit union") in a group of central credit unions (hereinafter "the Agent group") which is a member of the National Credit Union Administration Central Liquidity Facility (hereinafter "the Facility"). The representative central credit union was designated as such by the local central credit union in its application for membership in the Facility as part of the Agent group. This agreement becomes effective when signed by the local central credit union. This agreement shall remain in effect as long as the Agent group is a member of the Facility or there is any unpaid repayment obligation hereunder between the local central credit union and the representative central credit union.

(2) All loans hereunder from the representative central credit union to the local central credit union are subject to this agreement and to all applicable terms and conditions in the National Credit Union Central Liquidity Facility Act, rules and regulations prescribed by the NCUA Board on behalf of the Facility, and operating circulars issued by the Facility, including all amendments and supplements thereto. The parties to this agreement shall

perform each of the obligations imposed on it by any such term or condition.

Repayment

(3) In connection with each loan hereunder from the representative central credit union to the local central credit union, the representative central credit union shall issue or provide a confirmation of credit (hereinafter the "confirmation") which shall be sent to the local central credit union. The confirmation may be issued or provided before or after the date of the loan and shall be in such form and sent from such source and in such manner as may be determined by the representative central credit union with the approval of the Facility. The confirmation shall specify the date and amount of the loan, the interest rate, the maturity date, the prepayment penalty (if applicable), the liquidity needs for which the loan is made (i.e., short-term adjustment credit, seasonal credit, or protracted adjustment credit), the names of the member natural person credit unions whose liquidity needs are being met by the loan, and the amount of the loan that is to be made by the local central credit union to each such member natural person credit union. The confirmation shall also contain a statement that "This loan is made in accordance with the terms and conditions of the repayment, security and credit reporting agreement between the parties under the rules and regulations of the National Credit Union Administration Central Liquidity Facility." The confirmation may also specify the manner in which the local central credit union must pay the representative central credit union on the maturity date. A copy or record of the confirmation and a record of the date and manner sent shall be retained in the permanent records of the representative central credit union.

(4) When the local central credit union receives funds loaned hereunder, a repayment obligation is created whereby the local central credit union, for value received, agrees:

(i) To pay to the representative central credit union on the maturity date an amount equal to the amount of the loan plus interest from the date of the loan through the maturity date. The local central credit union shall have the right to prepay the obligation in full prior to maturity, in which case interest will be computed through the date of prepayment, and the representative central credit union may impose a prepayment penalty; and

(ii) If the amount due on the maturity date is not paid on the maturity date, to pay the representative central credit

union reasonable expenses of collection, including the reasonable attorneys' fees and expenses incurred, plus a late payment charge equal to 5% of the unpaid balance of the amount due on the maturity date, as well as interest on the unpaid balance of the amount due on the maturity date at an interest rate equal to the interest rate used to determine interest from the date of the loan through the maturity date. The representative central credit union, with the approval of the Facility, may waive any part or all of the interest payable after the maturity date.

The "date of the loan," the "maturity date," the "amount of the loan" and the "prepayment penalty" are the dates, amount and penalty specified as such in the confirmation issued by the representative central credit union in connection with the loan. Interest from the date of the loan through the maturity date (or date of prepayment) shall be determined by using the interest rate specified in such confirmation.

Relending

(5) In connection with each loan hereunder from the representative central credit union to the local central credit union:

(i) There must be an application from the local central credit union to the representative central credit union. The application must be in such form as may be approved by the Facility, and the application must be based upon one or more applications from its member natural person credit unions requesting extensions of credit for liquidity needs in the amount requested. The application of the local central credit union must contain a list of such member natural person credit unions showing, for each credit union, the amount requested and the liquidity needs that would be met (i.e., short-term adjustment credit, seasonal credit, or protracted adjustment credit). The application of the local central credit union must also contain such certifications and other information as may be required by the Facility and the rules and regulations prescribed by the NCUA Board on behalf of the Facility. An application from a member natural person credit union cannot be used as a basis for an application of the local central credit union until such member natural person credit union has signed the repayment, security and credit reporting agreement required by the Facility, and a signed copy of such agreement has been filed and retained with the permanent records of the local central credit union.

(ii) The full amount of each loan hereunder from the representative central credit union to the local central credit union shall be loaned by the local central credit union to the member natural person credit unions whose liquidity needs are being met by the advance, as specified in the confirmation issued by the representative central credit union in connection with the loan. The amount of the loan to each such credit union shall be the amount specified as such in such confirmation. The date of the loan to each such credit union (hereinafter an "Agent loan") and the interest rate and maturity date thereon shall be the same, respectively, as the date of the loan and the interest rate and maturity date specified for the local central credit union in such confirmation. All such Agent loans to member natural person credit unions shall be in accordance with the terms and conditions of the repayment, security and credit reporting agreements signed by such credit unions, and no promissory note or additional agreement shall be signed or apply with respect to any repayment obligation arising out of any such loan. All such repayment obligations shall have the status of general intangibles under the Uniform Commercial Code.

(iii) The local central credit union shall promptly notify the representative central credit union of any default on any repayment obligation arising out of any such Agent loan to a member natural person credit union.

(6) The local central credit union shall maintain a separate account or record for each member natural person credit union to which Agent loans have been made. The separate account or record shall identify each Agent loan and show all amounts loaned and repaid on such loan.

(7) The local central credit union shall comply with all terms and conditions imposed on it in the repayment, security and credit reporting agreements required by the Facility to be signed by member natural person credit unions.

Security

(8) As security for all repayment obligations created hereunder, whenever created, the local central credit union grants a security interest in favor of the representative central credit union in the following property, whenever acquired (hereinafter the "collateral"):

(i) All repayment obligations from member natural person credit unions to the local central credit union, whenever created, arising out of Agent loans to such member natural person credit

unions pursuant to the requirements of this agreement, and

(ii) The security interests granted by such member natural person credit unions as security for such repayment obligations.

(9) The representative central credit union shall have the right at any time to perfect the security interest granted hereunder with respect to any part or all of the collateral. Perfection shall be by filing in accordance with the filing requirements for general intangibles under the Uniform Commercial Code and other applicable laws. The local central credit union agrees to sign a financing statement and such other papers as may be appropriate for filing and to pay all necessary filing fees.

(10) The local central credit union shall not sell or otherwise transfer the collateral to, or create any security interest in the collateral in favor of any party other than the representative central credit union.

(11) The amounts owed to the representative central credit union on all repayment obligations created hereunder shall become immediately due and payable to the representative central credit union, without any demand or notice, upon:

(i) The failure of the local central credit union to perform any of its obligations under this agreement, including failure to pay the amount due on the maturity date of any repayment obligation created hereunder; or

(ii) The failure of the local central credit union to pay any other obligation to the representative central credit union when due; or

(iii) The failure of the local central credit union to comply with the terms of any representation made by it to the representative central credit union of the Facility in any application, certification or other communication; or

(iv) The insolvency of, or appointment of a trustee or receiver for, the local central credit union; or

(v) An assignment for the benefit of creditors of the local central credit union; or

(vi) The closing or suspension or revocation of the charter of the local central credit union, or the taking possession of its business, by any governmental authority; or

(viii) The withdrawal of the Agent group from membership in the Facility. The occurrence of any of the events described in subparagraphs 11(i) through 11(vii) shall constitute a default under this agreement. The term "insolvency" in subparagraph 11(iv) hereof has the same meaning as it is given in 12 CFR 700.1(k). The

representative central credit union with the approval of the Facility may waive a default under this agreement and may reinstate the maturity date on any repayment obligation created hereunder which becomes immediately due and payable as a result of any such default.

(12) Upon the occurrence of a default under this agreement, or at any time thereafter, the representative central credit union shall have all the rights and remedies provided under this agreement, including but not limited to the following: The representative central credit union may, in its own name or in the name of the local central credit union.

(i) Notify member natural person credit unions to make payments to the representative central credit union on any one or more of the repayment obligations of such member natural person credit unions which constitute the collateral under this agreement.

(ii) Collect the amounts due on any one or more of such repayment obligations of such member natural person credit unions in any available judicial procedures.

(iii) Enforce the security interests granted by such member natural person credit unions as security for such repayment obligations.

(iv) Exercise all the rights and remedies of the local central credit union with respect to such security interests, including enforcement of such security interests in any available judicial procedure, and

(v) Sell or otherwise dispose of any one or more of such repayment obligations of such member natural person credit unions, together with the security interests securing such repayment obligations, at public or private proceedings. The proceeds of such repayment obligations of such member natural person credit unions, including the proceeds of the sale or other disposition thereof, shall be applied by the representative central credit union (A) first, to the reasonable expenses of collecting such proceeds and of selling such repayment obligations of such member natural person credit unions, including the reasonable attorneys' fees and legal expenses incurred, and (B) then, to the payment of amounts due on all repayment obligations created hereunder. Any surplus then remaining shall be paid or returned to the local central credit union. If there is a deficiency, the local central credit union shall be liable for the deficiency. If the representative central credit union is indebted to the local central credit union, the representative central credit

union shall have the right to set-off such indebtedness against all amounts due the representative central credit union on all repayment obligations created hereunder, without regard to when such indebtedness may be due and payable.

Credit Reporting

(13) The local central credit union shall file such reports and provide such information as may be required from time to time by the Facility or by the representative central credit union with the approval of the Facility.

Construction and Modification

(14) This agreement shall be construed under and governed by the law of the District of Columbia, including the Uniform Commercial Code as adopted and amended from time to time by the District of Columbia, and the terms used in such Code shall have the same meaning when used in this agreement. All references to the Uniform Commercial Code in this agreement are to such Code as adopted and amended from time to time by the District of Columbia. Unless the Uniform Commercial Code or the context of this agreement otherwise requires, the terms defined in the rules and regulations prescribed by the NCUA Board on behalf of the Facility shall have the same meaning when used in this agreement.

(15) This agreement may be modified from time to time by the NCUA Board. Any such modification shall be published in the **Federal Register** and shall become a part of this agreement as of the effective date specified in the **Federal Register**. The modification shall apply to all advances of Facility funds after such effective date. All such modifications are a part of this agreement, including modifications that occurred prior to the signing of this agreement.

(e) If an Agent member is a central credit union, there shall be a repayment, security and credit reporting agreement between the Agent member and each member natural person credit union to which loans are made pursuant to the requirements of the repayment, security and credit reporting agreement between the Facility and the Agent member. If an Agent member is an Agent group, there shall be a repayment, security and credit reporting agreement between each local central credit union in the Agent group and each of the local central credit union's member natural person credit union to which loans are made pursuant to the requirements of a repayment, security and credit reporting agreement between the local central credit union

and a representative central credit union. The repayment, security, and credit reporting agreement between the Agent member or local central credit union, as applicable, and the member natural person credit union is as follows:

Parties

(1) This agreement is between a central credit union (hereinafter "the central credit union") and a natural person credit union (hereinafter "the credit union") which is a member of the central credit union. The central credit union is either:

(i) An Agent member of the National Credit Union Administration Central Liquidity Facility (hereinafter "the Facility"), or

(ii) One of a group of central credit unions which is an Agent member of the Facility.

This agreement becomes effective when signed by the credit union and shall remain in effect as long as the credit union is a member of the central credit union and there is any unpaid repayment obligation hereunder between the credit union and the central credit union.

(2) All loans hereunder from the central credit union to the credit union are subject to the terms and conditions of this agreement and to all applicable terms and conditions in the National Credit Union Central Liquidity Facility Act, rules and regulations prescribed by the NCUA Board on behalf of the Facility, and operating circulars issued by the Facility, including all amendments and supplements thereto. The credit union shall perform each of the obligations imposed on it by any such term or condition.

Repayment

(3) In connection with each loan hereunder from the central credit union to the credit union, the central credit union shall issue or provide a confirmation of credit (hereinafter the "confirmation") which shall be sent to the credit union. The confirmation may be issued or provided before or after the date of the advance and shall be in such form and sent from such source and in such manner as may be determined by the central credit union with the approval of the Facility. The confirmation shall specify the date and amount of the loan, the interest rate, the maturity date, the prepayment penalty (if applicable), and the liquidity needs for which the loan is made (i.e., short-term adjustment credit, seasonal credit, or protracted adjustment credit). The confirmation shall also contain a statement that "This loan is made in

accordance with the terms and conditions of the repayment, security and credit reporting agreement between the parties under the rules and regulations of the National Credit Union Administration Central Liquidity Facility." The confirmation may also specify the manner in which the credit union may pay the central credit union on the maturity date. A copy or record of the confirmation and a record of the date and manner sent shall be retained in the permanent records of the central credit union.

(4) The funds loaned hereunder to the credit union needs for which such funds were loaned, as specified in the confirmation issued by the central credit union in connection with the loan.

(5) When the credit union receives funds loaned hereunder, a repayment obligation is created whereby the credit union, for value received, agrees:

(i) To pay to the central credit union on the maturity date an amount equal to the amount of the loan plus interest from the date of the loan through the maturity date. The credit union shall have the right to prepay the obligation in full prior to maturity, in which case interest will be computed through the date of prepayment, and the central credit union may impose a prepayment penalty; and

(ii) If the amount due on the maturity date is not paid on the maturity date, to pay the central credit union reasonable expenses of collection, including the reasonable attorneys' fees and expenses incurred, plus a late payment charge equal to 5% of the unpaid balance of the amount due on the maturity date, as well as interest on the unpaid balance of the amount due on the maturity date at an interest rate of the amount due on the maturity date at an interest rate equal to the interest rate used to determine interest from the date of the loan through the maturity date. The central credit union may waive any part or all of the interest payable after the maturity date.

The "date of the loan," the "maturity date," the "amount of the loan," and the "prepayment penalty" are the dates, amount and penalty specified as such in the confirmation issued by the central credit union in connection with the loan. Interest from the date of the loan through the maturity date (or date of prepayment) shall be determined by using the interest rate specified in such confirmation.

Security

(6) As security for all repayment obligations created hereunder, whenever created, the credit union grants a security interest in favor of the

central credit union in the following property of the credit union, whenever acquired (hereinafter the "collateral"):

(i) All notes, instruments, and other monetary obligations (whether written or unwritten) which evidence or represent a right of the credit union to the payment or repayment of money;

(ii) All chattel paper, as defined in the Uniform Commercial Code;

(iii) All securities (whether or not represented by instruments), including shares in the capital stock of the Facility;

(iv) All demand, time, savings, passbook and like accounts, including share accounts, maintained with a bank, savings and loan association, credit union or like organization;

(v) Money, as defined in the Uniform Commercial Code;

(vi) All general intangibles, as defined in the Uniform Commercial Code; and

(vii) The proceeds of all such notes, instruments, monetary obligations, chattel paper, securities, accounts, money and general intangibles.

(7) The central credit union shall have the right at any time to perfect the security interest granted hereunder with respect to any part or all of the collateral, either by filing or by taking or retaining possession thereof. If perfection is by filing, the credit union shall sign a financing statement and such other papers as may be appropriate for filing and shall pay all necessary filing fees. If perfection is by taking possession, the credit union shall take such action as may be necessary to transfer possession to the central credit union, including delivery to the central credit union or its designee at the expense of the credit union.

(8) Except as otherwise permitted by the central credit union with the approval of the Facility, an obligation of the credit union to another party shall not be secured by a security interest in the collateral at any time while the credit union owes any amount to the central credit union on any repayment obligation created hereunder.

(9) The amounts owed to the central credit union on all repayment obligations created hereunder shall become immediately due and payable, without any demand or notice, upon:

(i) The failure of the credit union to perform any of its obligations under this agreement, including failure to pay the amount due on the maturity date of any repayment obligation created hereunder; or

(ii) The failure of the credit union to pay any other obligation to the central credit union when due; or

(iii) The failure to comply with the terms of any representation made by the credit union to the central credit union or the Facility in any application, certification or other communication; or

(iv) The insolvency of, or appointment of a trustee or receiver for, the credit union; or

(v) An assignment for the benefit of creditors of the credit union; or

(vi) The closing or suspension or revocation of the charter of the credit union, or the taking possession of its business, by any governmental authority; or

(vii) The credit union's use of the proceeds of any advance for a purpose other than the purpose for which the advance was made; or

(viii) The withdrawal of the credit union from membership in the central credit union. 10 The occurrence of any of the events described in subparagraphs (9)(i) through (9)(viii) hereof shall constitute a default under this agreement. The term "insolvency" in subparagraph (9)(iv) has the same meaning as it is given in 12 CFR 700.1 (k). The central credit union with the approval of the Facility may waive a default under this agreement and may reinstate the maturity date on any repayment obligation created hereunder which becomes immediately due and payable as a result of any such default.

(10) Upon the occurrence of a default under this agreement, or at any time thereafter, the central credit union shall have all the rights and remedies provided under the Uniform Commercial Code and under this agreement, including but not limited to the following: the central credit union may—

(i) Take or retain possession of the collateral, or any part thereof,

(ii) Collect the proceeds of the collateral,

(iii) Notify obligors on the collateral to make payments to the central credit union,

(iv) Sell or otherwise dispose of any part or all of the collateral at public or private proceedings,

(v) Buy the collateral or any part thereof, and

(vi) Retain the collateral, or any part thereof, in satisfaction of any part or all of the obligations secured by the collateral, including the proceeds of sale or other disposition thereof, shall be applied by the central credit union (A) first, to the reasonable expenses of collecting such proceeds and money and of taking, holding, and selling the

collateral, including the reasonable attorneys' fees and legal expenses incurred, and (B) then, to the payment of amounts due on all repayment obligations created hereunder. Any surplus then remaining shall be paid or returned to the credit union. If there is a deficiency, the credit union shall be liable for the deficiency. If the central credit union is indebted to the credit union, the central credit union shall have the right to set-off such indebtedness against all amounts due the central credit union on all repayment obligations created hereunder, without regard to when such indebtedness may be due and payable.

Credit Reporting

(11) The credit union shall file such reports and provide such information as may be required from time to time by the Facility or by the central credit union with approval of the Facility.

Construction and Modification

(12) This agreement shall be construed under and governed by the law of the District of Columbia, including the Uniform Commercial Code as adopted and amended from time to time by the District of Columbia, and the terms used in such Code shall have the same meaning when used in this agreement. All references to the Uniform Commercial Code in this agreement are to such Code as adopted and amended from time to time by the District of Columbia. Unless the Uniform Commercial Code or the context of this agreement otherwise requires, the terms defined in the rules and regulations prescribed by the NCUA Board on behalf of the Facility shall have the same meaning when used in this agreement.

(13) This agreement may be modified from time to time by the NCUA Board. Any such modifications shall be published in the *Federal Register* and shall become a part of this agreement as of the effective date specified in the *Federal Register*. The modification shall apply to all advances of Facility funds after such effective date. All such modifications are a part of this agreement, including modifications that occurred prior to the signing of this agreement.

(FR Doc. 79-22751 Filed 7-23-79, 8:45 am)
BILLING CODE 7535-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Ad Hoc Subcommittee on the Three Mile Island, Unit 2 Accident Implications Re Nuclear Power Plant Design; Meeting

The ACRS Ad Hoc Subcommittee on the Three Mile Island, Unit 2 Accident—Implications Re Nuclear Power Plant Design, will hold a meeting on August 8, 1979 in Room 1046, 1717 H St., NW, Washington, DC 20555.

In accordance with the procedures outlined in the *Federal Register* on October 4, 1978, (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: *Wednesday, August 8, 1979, 1:00 p.m. until the conclusion of business.*

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendation to the full committee.

At the conclusion of the Executive Session, the Subcommittee will discuss with representatives of the NRC Staff, the nuclear industry, various utilities, and their consultants, state and local officials, and other interested persons, the implications of the Three Mile Island, Unit 2 Accident, including the underlying causes contributing to the accident.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics

to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Richard K. Major, (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EDT.

Background information concerning this nuclear station can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, NW, Washington, DC 20555 and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Street, Harrisburg, PA 17126

Dated: July, 17, 1979.

John C. Hoyle,

Advisory Committee, Management Officer.

(FR Doc. 79-22664 Filed 7-23-79, 8:45 am)

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Regulatory Activities; Meeting

The ACRS Subcommittee on Regulatory Activities will hold an open meeting on August 8, 1979 in Room 1046, 1717 H St., N.W., Washington, DC 20555. Notice of this meeting was published in the *Federal Register* on June 27, 1979 (44 FR 37568).

In accordance with the procedures outlined in the *Federal Register* on October 4, 1978 (43 FR 45926) oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: *Wednesday, August 8, 1979. The meeting will commence at 8:45 a.m.*

The subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to the following: (1) Proposed Regulatory Guide 1.136, Revision 2, "Materials, Construction and Testing of Concrete Containments." (Pre Comment)(2) Proposed Limited Revision of Appendix J to 10 CFR Part 50, "Air Locks." (Pre Comment)

Other matters which may be of a predecisional nature relevant to reactor

operation or licensing activities may be discussed following this session.

Persons wishing to submit written statements may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. However, to insure that adequate time is available for full consideration of these comments at the meeting, it is desirable to send a readily reproducible copy of the comments as far in advance of the meeting as practicable to Mr. Gary R. Quittschreiber, the Designated Federal Employee for the meeting, in care of ACRS, Nuclear Regulatory Commission, Washington, DC 20555 or telecopy them to the Designated Federal Employee (202-634-3319) as far in advance of the meeting as practicable. Such comments shall be based upon documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, NW, Washington, DC 20555.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Gary R. Quittschreiber, (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: July 18, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

(FR Doc. 79-22662 Filed 7-23-79, 8:45 am)

BILLING CODE 7590-01-M

[Docket No. 50-321]

Georgia Power Co., et al.; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 67 to Facility Operating License No. DPR-57, issued to Georgia Power Company, Oglethorpe Electric Membership Corporation, Municipal Electric Association of Georgia and City of Dalton, Georgia, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1 (the facility) located in Appling County, Georgia. The amendment is effective as of its date of issuance.

The amendment revises the Turbine Control Valve Fast Closure setpoint from >1000 psig to >600 psig on low electrohydraulic control oil pressure.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The

Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 14, 1979, (2) Amendment No. 67 to License No. DPR-57, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW, Washington, D.C. and at the Appling County Public Library, Parker Street, Baxley, Georgia 31513. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 17th day of July 1979.

For the Nuclear Regulatory Commission.

Vernon L. Rooney,

Acting Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

(FR Doc. 22754 Filed 7-23-79, 8:45 am)

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Proposed New Routine Use

AGENCY: Office of Personnel Management.

ACTION: Proposal for a new routine use for an existing system of records.

SUMMARY: The purpose of this document is to give notice, pursuant to 5 U.S.C. 552a(e)(11) of the Privacy Act of 1974, of intent to establish a new routine use, for limited duration, covering the disclosure of information to the Department of Health, Education, and Welfare (DHEW) from the Central Personnel Data File (CPDF) for current Federal employees.

COMMENT DATE: Any interested party may submit written comments regarding the proposal. To be considered, comments must be received on or before August 23, 1979.

ADDRESS: Address comments to: Deputy Assistant Director for Work Force Information, Agency Compliance and Evaluation, Room 6410, Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415. Comments received will be made available for public inspection at the above address between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. William H. Lynch, Agency Compliance and Evaluation, (202) 254-9790.

SUPPLEMENTAL INFORMATION: The published description of the affected system, General Personnel Records (CSC/GOVT-3), appears in the Federal Register of September 8, 1978 (43 FR 40106). This system remains operative until superseded by OPM, pursuant to section 902 of the Civil Service Reform Act of 1978, Pub. L. 95-454.

Background: The Office of Inspector General of the Department of Health, Education, and Welfare (DHEW) is authorized under Pub. L. 94-505, section 205(a)(2), to request information necessary to accomplish the duties and responsibilities required by that Act from any Federal agency. As part of an effort to detect and prevent fraud in the Aid to Families with Dependent Children (AFDC) program, DHEW needs information concerning those Federal employees who are receiving AFDC benefits. It should be noted that a current Federal employee who is also receiving AFDC benefits does not necessarily indicate that the benefits are being improperly or fraudulently obtained by that individual.

The most efficient way of comparing individuals who are receiving AFDC benefits with those who are Federal civilian employees is for the Office of Personnel Management to provide certain data from its Central Personnel Data File (CPDF) to DHEW. The release of an individual's name, salary, and duty station is permitted under the current Civil Service Commission regulations implementing the Freedom of Information Act (5 U.S.C. 552) which remain in effect until superseded by OPM. These regulations are found at § 294.702 of Title 5 of the Code of Federal Regulations.

Under the new routine use, in addition to the three data elements cited above, the Office of Personnel Management will provide from the CPDF the individual's Social Security Number, date of birth and work schedule (full time, part time or intermittent) to DHEW. DHEW will then "match" this identifying information with its AFDC

files and use the results as an indicator that a more thorough review of the recipient's eligibility to receive payments is required.

Although the Social Security Number, date of birth, and the work schedule of an individual are not considered to be public information, anticipated benefits to the public justify disclosure of this information for matching with AFDC records under safeguards established by DHEW to protect against unauthorized data disclosure and to respect individual rights. Disclosure under the proposed routine use will permit DHEW to assure greater integrity of the AFDC benefit program and, additionally, will be compatible with the personnel management responsibility for oversight of Federal employees' conduct, particularly with regard to the requirement that employees pay just financial obligations in a proper and timely manner.

An important limitation associated with the OPM's supplying of the data is that DHEW will not make, nor will they retain copies of the OPM's magnetic tapes containing the information, but will return all the source tapes to the OPM for destruction after use. This will limit the possibility of unauthorized use of the data. In addition, since access is pursuant to a Privacy Act routine use, an accounting of disclosure is made as required by 5 U.S.C. 552a(c).

DHEW will operate this matching project in full compliance with the Office of Management and Budget's supplemental guidance for matching programs (44 FR 23138).

Proposed Routine Use: The proposed routine use which follows will be added to the Civil Service Commission's Government-wide system of General Personnel Records (CSC/GOVT-3). The current notice of this system is published at 43 FR 40106 et seq. (September 8, 1978).

CSC/GOVT-3

SYSTEM NAME:

General Personnel Record-CSC

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be:

- Used in the selection process by the agency maintaining the record in connection with appointments, transfers, promotions, or qualifications determinations. To the extent relevant and necessary, it will be furnished upon request to other agencies for the same purpose.

- Disclosed to other Government agencies maintaining relevant enforcement or other information if necessary to obtain from these agencies information pertinent to decisions regarding hiring or retention.

- Disclosed to prospective employers or other organizations, at the request of the individual.

- Disclosed to officials of foreign governments for clearance before employee is assigned to that country.

- Disclosed to educational institutions for training purposes.

- Disclosed to the Department of Labor; Veterans Administration; Social Security Administration; Department of Defense; Federal agencies who may have special civilian employee retirement programs; national, State, county, municipal, or other publicly recognized charitable or social security administration agency to adjudicate a claim for benefits under the Bureau of Retirement, Insurance, and Occupational Health's or the recipient's benefit program(s), or to conduct an analytical study of benefits being paid under such program.

- Disclosed to health insurance carriers contracting with the Commission to provide a health benefits plan under the Federal Employees' Health Benefits Program, to identify enrollment in a plan, to verify eligibility for payment of a claim for health benefits, or to carry out the coordination of benefits provisions of such contracts.

- Disclosed to Federal Employees' Group Life Insurance Program in support of an individual's claim for life insurance benefits.

- Disclosed to labor organizations in response to requests for names of employees and identifying information.

- If information indicates a possible violation of law, it may be disclosed to law enforcement agencies.

- Disclosed to district courts to render a decision when an agency has refused to release to current or former Federal employees a record under the Freedom of Information Act.

- Disclosed to district courts for use in rendering a decision when an agency has refused to release a record to the individual under the Freedom of Information Act (FOIA).

- Used to provide statistical reports to Congress, agencies, and the public on characteristics of the Federal workforce.

- Used in the production of summary descriptive statistics and analytical studies. The records may be used to respond to general requests for statistical information (without personal identifier) under FOIA; or to locate

individuals for personnel research or other personnel research functions.

- Disclosed to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

- Disclosed to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order where there is an indication of a violation or potential violation of civil or criminal law or regulation.

- Disclosed to an agency upon request for determination of an individual's entitlement to benefits in connection with Federal Housing Administrative programs.

- To provide information to a congressional office from the record of an individual in response to an inquiry from a congressional office made at the request of that individual.

- Used to provide an official of another Federal agency any information he or she needs to know in the performance of his or her official duties related to reconciling or reconstructing data files, compiling descriptive statistics, and making analytical studies in support of the personnel functions for which the records were collected and are maintained.

- Disclosed to officials of labor organizations recognized under Executive Orders 11636 and 11491, as amended, when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

- Used to select employees for incentive awards and other honors and to publicize those granted. This may include disclosure to other public and private organizations, including news media, which grant or publicize employee awards or honors.

- Disclosed to another Federal agency or to a court when the Government is party to a suit before the court.

- To disclose specific Civil Service employment information required under law by the Department of Defense on individuals identified as members of the Ready Reserve, to assure continuous mobilization readiness of Ready Reserve units and members.

- To disclose the name, date of birth, Social Security Number, salary, work schedule, and duty station location of Federal employees as of March 31, 1979, to the Department of Health, Education, and Welfare in connection with that

agency's Aid to Families with Dependent Children (AFDC) matching program. Pursuant to Pub. L. 94-505, the Department of Health, Education, and Welfare is conducting a matching program to reduce fraud and unauthorized payments in Federal programs, and to collect debts owed to the Federal government. This routine use will be operative for a limited period of six months from its effective date.

The comment period on the routine use ends at the close of business 30 days after the date of this notice. This routine use shall be effective, without further notice, on August 28, 1979, unless comments received necessitate changes.

Beverly M. Jones,
Issuance System Manager.

[FR Doc. 79-22886 Filed 7-23-79; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 16037; SR-MSE-78-4]

Midwest Stock Exchange, Inc.; Filing of Amendment to Proposed Rule Change and Order Approving Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"); notice is hereby given that on May 18, 1979, the Midwest Stock Exchange, Inc. ("MSE") 210 South LaSalle Street, Chicago, Illinois 60603, filed with the Commission copies of an amendment to a proposed rule change (File No. SR-MSE-78-4) which would revise its rules Article XI, Rules 7-10 of the MSE Rules) requiring MSE members to carry Broker's Blanket Bonds (fidelity bonds) covering their officers, employees and partners.

The proposed rule change, as originally submitted (the "Original Proposal"),¹ would have: (a) decreased the amount of coverage required to be carried by members whose required net capital is one million dollars or less; (b) changed the formula for computing the size of the allowable deductible provision; (c) provided that, in certain cases the amount of the deductible is to be counted as a charge against the member's net worth for purposes of the MSE's net capital rule; (d) required that each member of the MSE use a form of fidelity bond approved by the MSE; (e) required that coverage under the bonds

¹ Notice of the original proposal was given by issuance of a Commission Release, Securities Exchange Act Rel. No. 14880 (June 22, 1978), and by publication in the Federal Register, 43 FR 28273 (June 29, 1978).

be extended to limited partners who act as employees as well as to certain other enumerated persons; and (f) extended the time limits for making any required adjustments in the requisite amount of coverage.

In addition, the original proposal revised the general method of annually computing the requisite amount of coverage so as to possibly lower that amount and created a special computation formula for members entering their second year of business, based upon the member's average required net capital during the preceding twelve months. The amendment to the proposed rule change revises the special formula applicable to members entering their second year of business so as to base that formula on the highest (rather than average) required net capital during the preceding twelve months, and eliminates the proposed change in the general method of annually computing the requisite amount of coverage.

The MSE states that the purpose of the proposed rule change, as amended, is to generally conform the MSE fidelity bonding rule to that of the National Association of Securities Dealers, Inc. ("NASD"). NASD Rules of Fair Practice, Art. III, Sec. 32, so as to facilitate implementation of the provisions of the plan for allocating regulatory responsibilities between the MSE and NASD which was submitted pursuant to 17 CFR 240.17d-2 (the "NASD/MSE 17d-2 Plan") and approved conditionally by the Commission on September 26, 1978.²

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change, as amended, within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-MSE-78-4.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

² Securities Exchange Act Rel. No. 15191 (September 26, 1978).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of Section 8 and the rules and regulations thereunder. Among other things, that Section permits a registered securities association to deny membership to or condition the membership of a registered broker or dealer if it does not meet such standards of financial responsibility as are prescribed by the rules of the exchange. The Commission believes that the proposed rule change may facilitate the attainment of that objective in a manner which is not designed to permit unfair discrimination among brokers and dealers. In addition, the Commission believes that the effect of the proposed rule change may be to reduce unnecessary burdens on competition by facilitating the ability of smaller broker-dealers to obtain adequate bonding insurance at a reasonable price and by assisting in the implementation of the NASD/MSE 17d-2 Plan which is designed, among other things, to reduce unnecessary regulatory duplication.

The Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice of filing thereof. The proposed rule change, as amended, generally conforms the MSE fidelity bonding rule to the already existing NASD rule. A proposed rule change with respect to the NASD bonding rule was recently approved by the Commission.³ No comments were received with respect to that proposed change; nor have any comments been received with respect to the MSE's original proposal. The Commission believes that approval of the proposed rule change may facilitate the implementation of the NASD/MSE 17d-2 Plan and thus assist in the realization of the goals of that plan.⁴

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above, as amended, be, and it hereby is, approved.

³ Securities Exchange Act Rel. No. 15909 (June 11, 1979), 44 FR 35331 (June 17, 1979).

⁴ Securities Exchange Act Release No. 15191 at 19 (September 26, 1978).

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-22817 Filed 7-23-79; 8:45 am]
BILLING CODE 8010-01-M

[File No. 500-1]

Strawberry Valley Estates of the Ozarks; Order of Suspension of Trading

July 18, 1979.

It appearing to the Securities and Exchange Commission that there is a lack of current adequate and accurate public information about the operations and financial condition of Strawberry Valley Estates of the Ozarks (Utah) ("SVEO"), the Commission is of the view that the public interest and the protection of investors require a summary suspension of trading in the securities of SVEO, being traded on a national securities exchange or otherwise.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934 that trading in such securities on a national securities exchange or otherwise is suspended, for the period from 9:45 a.m. on July 18, 1979 through July 27, 1979.

By the Commission.
George A. Fitzsimmons,
Secretary.

[FR Doc. 79-22813 Filed 7-23-79; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 34-16038; File No. SR-NYSE-79-23]

New York Stock Exchange, Inc., Self-Regulatory Organization, Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on June 21, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Exchange's Statement of the Terms of Substance of the Proposed Rule Change

The amendments provide for the adoption of a uniform code of arbitration for the securities industry.

Purpose of Proposed Rule Change

The procedures set forth in the proposed Uniform Arbitration Code were developed by the Securities

Industry Conference on Arbitration, which is composed of representatives of the New York Stock Exchange and nine other self-regulatory organizations as well as representatives of a securities industry trade association and of the public. It is anticipated that the Uniform Arbitration Code will eventually be adopted by each of these self-regulatory organizations and will provide for a uniform system of arbitration throughout the securities industry. The proposed uniform code will enable each of the self-regulatory organizations to provide investors with a simple and inexpensive procedure for the resolution of controversies they may have with their brokerage firms.

Basis Under the Act

The proposed amendments to the Constitution and Rules are consistent with Section 6(b)(5) of the Act as follows:

- (i) Inapplicable.
- (ii) Inapplicable.
- (iii) Inapplicable.
- (iv) Inapplicable.
- (v) The Uniform Arbitration Code will provide a more effective, efficient and economical dispute resolution system for the public and the membership and thus will protect investors and the public interest.
- (vi) Inapplicable.
- (vii) Inapplicable.
- (viii) Inapplicable.

Comments Received From Members, Participants or Others

Comments were received from the staff of the Securities and Exchange Commission by letter dated April 5, 1979 to a report by the Securities Industry Conference on Arbitration containing an earlier version of the Uniform Arbitration Code. Based on those comments the procedures were revised as presently submitted.

Burden on Competition

There will be no burden on competition.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-

regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within on or before August 14, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

July 18, 1979.

[FR Doc. 79-22814 Filed 7-23-79; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 10784; 812-4490]

Whitehall Money Market Trust; Filing of Application for Order of Exemption

July 17, 1979.

Notice is hereby given that Whitehall Money Market Trust ("Applicant"), 1250 Drummers Lane, P.O. Box 1100, Valley Forge, Pennsylvania 19482, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on June 8, 1979, and an amendment thereto on July 11, 1979 for an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Rules 2a-4 and 22c-1 under the Act, to the extent necessary to permit Applicant to compute its net asset value per share, for the purpose of effecting sales, redemptions and repurchases of its shares, to the nearest one cent on a share value of one dollar. Applicant represents that in all other respects, its portfolio securities will be valued in accordance with the views set forth in Investment Company Act Release No. 9786 (May 31, 1977) ("IC-9786"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market fund," the investment objective of which is to obtain the maximum current income, consistent with preservation of capital and liquidity, that is available through investments in the following short-term money market instruments: (a) securities issued or guaranteed by the United States Government or any of its agencies and instrumentalities, including securities issued by the United States Treasury, the Federal National Mortgage Association, the Federal Housing Administration, the Tennessee Valley Authority, and others; (b) certificates of deposit and bankers' acceptances of U.S. banks having total assets in excess

of \$1 billion; (c) commercial paper rated A-1 by Standard & Poor's Corporation or Prime-1 by Moody's Investors Service, Inc. or, if not rated, issued by a corporation having an outstanding unsecured debt issue rated Aa or better by Moody's or AA or better by Standard & Poor's; (d) short-term corporate obligations rated Aa or better by Moody's or AA or better by Standard & Poor's; and (e) securities listed in (a) and (b) which are subject to repurchase agreements, provided that such agreements are limited to transactions with financial institutions believed by Applicant and its investment adviser to present minimal credit risks.

Applicant states that all of its assets are presently invested in securities maturing in less than one year. Applicant further states that it values all its portfolio securities as follows: (a) all securities for which market quotations are readily available are valued at the most recent bid price or yield equivalent as obtained from one or more market makers for such securities, except that any securities maturing within 60 days from the date of acquisition may be valued at cost, plus or minus any amortized discount or premium; and (b) all other securities and assets are valued at fair value determined in good faith by or under supervision of the officers of Applicant as authorized by its Trustees.

Applicant states that its net asset value per share has varied between \$9.94 and \$10.04 from its initial offering on June 4, 1975, and that on May 31, 1979, it had a net asset value of \$9.99. Applicant states that its Trustees, pending approval of this application, have authorized a split-up of Applicant's shares of beneficial interest through a stock dividend, so that after the split-up, each net share will have a net asset value of \$1.00. The Trustees have also authorized Applicant to effect sales, redemptions and repurchases of its shares at prices calculated to the nearest one cent on a share having a \$1.00 net asset value.

Rule 22c-1 under the Act provides, in pertinent part, that no registered investment company issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a-4 under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the

purposes of distribution and redemption shall be determined with reference to (a) current market value, for portfolio securities with respect to which market quotations are readily available, and (b) for other securities and assets, fair value as determined in good faith by the board of directors of the registered company. In IC-9786 the Commission expressed its view, as here pertinent, that it is inconsistent with Rule 2a-4 for certain money market funds to "round off" calculations of their net asset value per share to the nearest one cent on a share value of \$1.00, because such a calculation might have the effect of masking the impact of changing values of portfolio securities and therefore might not "reflect" such funds' portfolio valuation as required by Rule 2a-4.

On the basis of the foregoing, Applicant submits that without an exemption from the provisions of Rules 2a-4 and 22c-1 under the Act, Applicant may be prohibited from determining its net asset value in the manner set forth above.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act and the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that its Trustees believe that the split-up and consequent \$1.00 price per share will benefit Applicant and its shareholders. Applicant asserts that its investors prefer that the daily income dividends declared by Applicant reflect income as earned, and that the sales and redemption price remain fixed. Applicant represents that its Trustees have, therefore, concluded that stability of capital and a steady flow of investment income would be of benefit to existing shareholders and a helpful tool in attracting potential investors to Applicant. Applicant asserts that its shareholders would achieve the convenience of being able to determine the value of their holdings simply by knowing the number of shares they own. Also, the task of maintaining an investment record would be made easier for Applicant's shareholders. Applicant also states that the proposed change is expected to eliminate the periodic fluctuation in Applicant's net asset value per share, which has caused Applicant's shareholders to realize

unwanted nominal capital gains and losses upon redemption of their shares.

Applicant submits that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant asserts that a substantial number of money market funds now offer their shares to the public at a \$1.00 price per share. Applicant represents that, to the extent necessary, Applicant's Trustees will consider the advisability of temporarily suspending payment of dividends, or making a capital gains or other distribution, to maintain a \$1.00 price per share, if the net asset value per share declines to a value below \$.996 or rises to a value of above \$1.004, respectively. Applicant further states that in order to assure the stability of its price per share the following conditions may be imposed in any order granting the exemptions it has requested:

(a) That the Trustees of Applicant, in supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, undertake—as a particular responsibility within their overall duty of care owed to Applicant's shareholders—to assure to the extent reasonably practicable, taking into account current market conditions affecting Applicant's investment objective, that the price per share of Applicant's shares as computed for purposes of distribution, redemption and repurchase, rounded to the nearest one cent, will not deviate from \$1.00.

(b) That Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share, and that Applicant will not (i) purchase an instrument with a remaining maturity of greater than one year (although obligations subject to repurchase agreements may have a maturity in excess of one year), or (ii) maintain a dollar-weighted average portfolio maturity in excess of 120 days; and

(c) That Applicant's purchases of portfolio instruments, including securities underlying repurchase agreements, will be limited to those money market instruments described hereinabove.

Notice is further given that any interested person may, not later than August 10, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law

proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-22815 Filed 7-23-79; 8:45 am]
BILLING CODE 8010-01-M

(Release No. 10785; 812-4483)

Willow Fund, Inc.; Application for an Order Granting an Exemption

July 17, 1979.

Notice is hereby given that The Willow Fund, Inc. ("Applicant") Greenville Center, 3801 Kennett Pike, Wilmington, Delaware 19807, an open-end, non-diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on May 29, 1979, and an amendment thereto on June 26, 1979, pursuant to Section 6(c) of the Act for an order of the Commission exempting Applicant from the provisions of Section 22(d) of the Act to the extent necessary to permit the sale of Applicant's shares at net asset value without imposition of a sales charge to stockholders of record on July 11, 1979. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, since April 19, 1977, two wholly-owned subsidiaries of Delfi American Corporation, WF Advisers ("Advisers") and Delfi Management, Inc., have served

as Applicant's investment adviser and subadviser, respectively. Applicant states that its shares are currently offered to the public at net asset value without imposition of a sales charge pursuant to a distribution agreement with Delfi Capital Sales, Inc. ("Distributor"), which also distributes shares of five other investment companies. Under the terms of the agreement, Distributor serves without compensation as sole distributor of Applicant's shares. According to the application, Distributor does not normally sell shares of the investment companies it distributes directly to the public, but instead sells such shares through other dealers. Applicant's shares are the only investment company shares distributed by Distributor without imposition of a sales charge.

Applicant represents that at a Special Meeting of Stockholders held on July 11, 1979, Applicant's shareholders approved the adoption of a new provision in Applicant's Restated Certificate of Incorporation permitting Applicant to enter into a distribution agreement that would authorize imposition of a sales charge not to exceed 8½% of the public offering price on all new sales of Applicant's shares to the public.

Applicant believes that this method of operation will be beneficial to its shareholders by increasing its sales and thus reducing the effect of the redemptions experienced by Applicant during the last two fiscal years. Applicant has represented, however, that Applicant's shares will continue to be sold at net asset value without a sales charge until such time as an order of the Commission disposing of its application is received.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof may sell any redeemable security issued by such company to any person except at the current public offering price described in the prospectus. Accordingly absent exemptive relief by the Commission, shareholders who purchased Applicant's shares prior to July 11, 1979, without imposition of a sales charge would be required to pay a sales charge on future purchases of Applicant's shares upon implementation of Applicant's new distribution arrangements.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction or any class or classes of persons, securities or transactions from any

provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that issuance of the requested order permitting shareholders of record on July 11, 1979, to continue to purchase Applicant's shares without the payment of a sales charge would recognize that such shareholders, in purchasing Applicant's shares, may have relied upon the continued availability of additional shares at "no load". Applicant further represents that the absence of a sales charge on future purchases of Applicant's shares by shareholders of Applicant as of a specific date is related to the fact that less sales effort is required with respect to purchases made by persons already owning shares of Applicant than is required with regard to purchases by persons who are not already shareholders of Applicant. Applicant also states that the requested exemption will provide a benefit to Applicant's existing shareholders without having an adverse effect on other members of the investing public who will be required to pay a sales load on purchases of Applicant's shares whether or not the relief requested is granted. In addition, Applicant undertakes to accept purchase orders for Applicant's shares only upon written assurance from investors that the shares purchased without payment of a sales charge are being purchased solely for investment purposes and not for distribution and to disclose in all of its future prospectuses the fact that certain shareholders of Applicant are permitted to purchase shares at no sales charge. Applicant therefore believes that issuance of the requested order is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

Notice is further given that any interested person may, not later than August 13, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such

request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-22815 Filed 7-23-79; 8:45 am]
BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

(License No. 09/09-0211)

Florists Capital Corp.; Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Florists Capital Corporation (FCC), 10524 West Pico Boulevard, Los Angeles, California 90064, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application pursuant to § 107.1004 of the regulations governing small business investment companies (13 CFR 107.1004 (1979)), for approval of a conflict of interest transaction.

Mr. Robert Barbosa and Ms. Brenda J. Hall, employees of FCC's parent (C.M. Conroy Company, Inc.) and the parent's subsidiary (Conroy's Inc.), are defined as Associates of FCC under § 107.3 of the Small Business Administration Rules and Regulations.

FCC proposes to provide \$100,000 financing to Mr. Barbosa and Ms. Hall for the development of a Conroy's franchise. Because of Mr. Barbosa's and Ms. Hall's employment with C.M. Conroy, Inc., and Conroy's Inc., the proposed financing falls within the purview of § 107.1004(b)(1) of the SBA's Regulations and requires prior written approval from SBA.

Notice is further given that any person may, on or before August 8, 1979, submit

to SBA written comments on the proposed transaction. Any such comments should be addressed to: Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, Washington, DC 20416.

A copy of this Notice shall be published in newspapers of general circulation in Los Angeles, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 17, 1979.

Peter F. McNeish,
Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-22846 Filed 7-23-79; 8:45 am]
BILLING CODE 8025-01-M

(License No. 04/04-0168)

Gulf Coast Capital Corp.; Application for a License as a Small Business Investment Company (SBIC)

Notice is hereby given of the filing of an application with the Small Business Administration (SBA), pursuant to § 107.102 of the SBA Regulations (13 CFR 107.102 (1979)), under the name of Gulf Coast Capital Corporation, 70 North Baylen Street, Pensacola, Florida 32501, for a license to operate in the State of Florida as an SBIC, under the provisions of the Small Business Investment Act of 1958 (Act) as amended (15 U.S.C. 661 et seq.).

The proposed officers, directors and major stockholder are as follows.

Oscar M. Tharp, President, General Manager, Director; 928 Fairway Drive, Warrington, FL 32507.

William G. Champlin, Vice President, Director; 615 Bayshore Drive, Warrington, FL 32507.

Schuyln J. Reed, Secretary, Treasurer, Director; 515 S. Second St., Warrington, FL 32507.

E. W. Hopkins, Jr., Director; 4875 Manolete, Pensacola, FL 32540.
Mutual Federal Savings * and Loan Association, 100 percent.

The applicant will begin operations with a capitalization of \$500,000 which will be a source of long-term loans and venture Capital for diversified small business concerns. In addition to financial assistance, the applicant will provide consulting services to its clients.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, including adequate

* Mutual Federal Savings and Loan Association is a chartered mutual corporation under Federal Law and has no beneficial holders of ten or more percent of its voting securities.

profitability and financial soundness in accordance with the Act and Regulations.

Notice is further given that any interested person may on or before August 9, 1979, submit written comments on the proposed company to the Deputy Associate Administrator for Finance and Investment, 1441 L Street, NW, Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Pensacola, Florida.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: July 17, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-22830 Filed 7-23-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Agency for International Development

Joint Committee for Agricultural Development of the Board for International Food and Agricultural Development

Pursuant to Executive Order 11769 and the provisions of section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the meetings of the Regional Work Groups (RWGs), Joint Committee for Agricultural Development (JCAD) of the Board for International Food and Agricultural Development (BIFAD). These meetings will be held on August 13, 1979.

The purpose of the meetings is to: discuss Host Country Contracts, discuss the development of a Professional Resources Pool (PRP); discuss the recommendations for future assistance and needed actions on Title XII programs; and discuss planning for other proposed country visits.

The Africa RWG will meet on August 13, 1979, and will convene at 9:30 a.m. in Room 2941 New State Department Bldg. (Mr. William Johnson) A.I.D. Federal Designee for this meeting, can be contacted at (202) 632-0196.)

The Asia RWG will meet on August 13, 1979, and will convene at 9:30 a.m. in Room 216, Rosslyn Plaza Bldg., 1601 North Kent Street, Rosslyn, Virginia. (Mr. Calvin Martin, A.I.D. Federal Designee for this meeting can be contacted at (703) 235-8870.)

The Near East RWG and the Latin America RWG will not meet the month of August.

The meetings are open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Frank H. Madden is designated A.I.D. Advisory Committee Representative for JCAD. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at (703) 235-9085.

Dated: July 13, 1979.

Frank H. Madden,

A.I.D. Advisory Committee Representative, Joint Committee on Agricultural Development, Board for International Food and Agricultural Development.

[FR Doc. 79-22722 Filed 7-23-79; 8:45 am]

BILLING CODE 4710-02-M

Joint Research Committee of the Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the twenty-sixth meeting of the Joint Research Committee (JRC) of the Board for International Food and Agricultural Development (BIFAD) on August 14 and 15, 1979.

The purpose of the meeting is to review progress in planning the Collaborative Research Support Programs (CRSPs) for Bean/Cow Pea, for Integrated Crop Protection, for Peanuts, and for Soil Management, to review a redraft of the JRC Guidelines, and to discuss procedural questions related to the planning and implementation of the CRSPs.

The meeting will convene at 9:00 a.m. and adjourn at 5:00 p.m. on August 14 and 15, 1979. The meeting will be held in the Dynasty Room of the Holiday Inn, 1850 N. Ft. Myer Drive, Arlington, Virginia, 22209. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Erven J. Long, Office of Title XII Coordination and University Relations, Development Support Bureau, is designated A.I.D. Advisory Committee Representative at the meeting. It is

suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at (703) 235-8929.

Dated: July 13, 1979.

Erven J. Long,

A.I.D. Advisory Committee Representative, Joint Research Committee, Board for International Food and Agricultural Development.

[FR Doc. 79-22721 Filed 7-23-79; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order 180]

Delegation of Authority

AGENCY: Internal Revenue Service.

ACTION: Delegation of Authority.

SUMMARY: Authority is delegated to certain Internal Revenue Service officials to request financial records of a customer from a financial institution pursuant to a formal written request under the Right to Financial Privacy Act of 1978.

EFFECTIVE DATE: July 19, 1979.

FOR FURTHER INFORMATION CONTACT: William E. Mulroy, IRS, 1111 Constitution Avenue NW., Room 3039, Washington, D.C. 20224, (202) 566-4564 (Not Toll Free).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978.

William E. Mulroy,
Director, Internal Security Division.

1. The authority granted to the Commissioner by the regulations (44 Federal Register 16908 (1979); 31 CFR Part 14—Right to Financial Privacy Act) relating to the request of financial records of a customer from a financial institution pursuant to a formal written request under Section 1108 of the Right to Financial Privacy Act of 1978 (92 Stat. 3697 *et seq.*, 12 U.S.C. 3401 *et seq.*), is hereby delegated to the following officials:

- Assistant Commissioner (Inspection)
- Director, Internal Security Division
- Chief, Investigations Branch
- Regional Inspectors
- Assistant Regional Inspectors, Internal Security

2. The authority delegated to the officials designated in paragraph 1 (above) shall include all of the responsibilities to perform the tasks enumerated in the Act, including: issuing notice to the customer as required in Sections 1104(a), 1105(2), 1106 (b and c), 1107(2), 1108(4), and 1112(b); applying to the appropriate United States Attorney who may petition in the United States district court for delay of notice to the customer pursuant to Section 1109; issuing post-notice to the customer that there has been a court-ordered delay as required in Section 1109(b)(3) and Section 1109(c); issuing notice to the customer that no legal proceeding is contemplated as required in Section 1110(d)(2); issuing notice to the customer that customer record information has been transferred to another agency as required in Section 1112(b); certifying in writing to a financial institution in accordance with Section 1103(b) that all applicable provisions of this Act have been complied with when such certification is required; transferring customer record information in accordance with Section 1112(a) to another Federal department or agency; certifying that delay in obtaining access to customer financial records would create an imminent danger as required by the special procedures provision in Section 1114(b); and requesting account information as required in Section 1113(g).

3. The authority delegated herein may not be redelegated.

4. Should a financial institution question the authority of the official to issue a formal written request for financial records, a copy of this Delegation Order should be provided to that financial institution.

Jerome Kurtz,
Commissioner.

[FR Doc. 79-22772 Filed 7-23-79; 8:45 am]

BILLING CODE 4830-01-M

Office of the Secretary

[Order No. 101-3]

Delegation of Procurement Authority to Office of Administrative Programs and Treasury Bureaus

Dated: July 16, 1979.

Pursuant to the authority vested in me as Assistant Secretary (Administration) by Treasury Department Order No. 208, Revision 4, it is hereby ordered as follows:

1. The authority to prescribe and publish Treasury Procurement Regulations is hereby delegated to the Director, Office of Administrative

Programs, Office of the Secretary, without the power of further redelegation.

2. (a) The following officials of the Department of the Treasury are hereby delegated the authority to procure property and services consistent with Title III of the Federal Property and Administrative Services Act of 1949 (Act), as amended (41 U.S.C. 251-260), except as precluded by Section 307 (41 U.S.C. 257) of the Act: Director, Office of Administrative Programs, Office of the Secretary; Director, Bureau of Alcohol, Tobacco, and Firearms; Comptroller of the Currency; Commissioner of Customs; Director, Bureau of Engraving and Printing; Director, Federal Law Enforcement Training Center; Commissioner, Bureau of Government Financial Operations; Commissioner of Internal Revenue; Director of the Mint; Commissioner of the Public Debt; National Director, U.S. Savings Bonds Division; Director, U.S. Secret Service.

(b) Each of the officials named in (a) is deemed "chief officer responsible for procurement" within the meaning of 41 U.S.C. 257(b).

3. The authority delegated includes but is not limited to taking the following actions:

(a) To enter into and take all necessary actions with respect to purchases, contracts, leases, and other contractual procurement transactions;

To make determinations and decisions with respect to procurement matters, except those determinations and decisions required by law or regulation to be made by other authority; and

(c) To designate persons qualified in procurement matters as Contracting Officers and representatives thereof, in accordance with requirements and procedures established in § 1.404 of the "Treasury Procurement Regulations."

4. The authority delegated herein shall be exercised in accordance with the applicable limitations and requirements of the Act; the Federal Procurement Regulations, 41 CFR Chap. 1; the applicable portions of the Federal Property Management Regulations, 41 CFR Chap. 101; as well as regulations issued by the Department of the Treasury which implement and supplement the Federal Procurement Regulations and the Federal Property Management Regulations including but not limited to 41 CFR Chap. 10 and Treasury Directives Manual Chapter 70-06, "Treasury Procurement Regulations."

5. To the extent permitted by the Act and this delegation, the authority herein delegated to the above-named officials may be redelegated by them by letter or

bureau order to any subordinate officer or employee who has been duly designated to act as a Contracting Officer for the United States.

This Order supersedes Department of the Treasury Order 101-3, dated January 16, 1979.

W. J. McDonald,

Assistant Secretary (Administration).

[FR Doc. 79-22743 Filed 7-23-79; 8:45 am]

BILLING CODE 4810-25-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 111]

Assignment of Hearings

July 18, 1979

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 103926 (Sub-84F), W. T. MAYFIELD SONS TRUCKING CO., transferred to Modified Procedure.

MC 14252 (Sub-37F), Commercial Lovelace Motor Freight, Inc., now assigned for hearing on September 11, 1979 (9 days), at Louisville, KY., and will be held at the Stouffer's Louisville Inn, 120 West Broadway.

MC 28692, PETITION OF PITTSBURGH AND LAKE ERIE RAILROAD COMPANY TO DISCONTINUE TRAINS NOS. 261 BETWEEN PITTSBURGH, PENNSYLVANIA AND COLLEGE, PENNSYLVANIA, now assigned for hearing on August 13, 1979, at Pittsburgh, PA and August 15, 1979 at Beaver, PA is postponed indefinitely.

MC 121777 (Sub-2F), Packard Truck Lines, Inc., now assigned for hearing on September 24, 1979 (3 days), at Baton Rouge, LA, in a hearing room to be later designated.

MC 112713 (Sub-216F), Yellow Freight System, Inc., now assigned for hearing on September 25, 1979 at Dallas, TX, will be held at the Sheraton Inn, Mockingbird West, 1893 West Mockingbird, Dallas, TX.

MC 138882 (Sub-221F), Wiley Sanders Truck Lines, Inc., now assigned for hearing on September 24, 1979 (1 day), at Philadelphia, PA, in a hearing room to be later designated.

MC 110420 (Sub-796F), Quality Carriers, Inc., now assigned for hearing on September 25, 1979 (1 day), at Philadelphia, PA, in a hearing room to be later designated.

MC 145583 (Sub-1F), Xpress Truck Lines, Inc., now assigned for hearing on September 26, 1979 (2 days), at Philadelphia, PA, in a hearing room to be later designated.

MC-C-10331, Pennsylvania Public Utility Commission V. Mushroom Transportation Co., Inc., now assigned for hearing on September 27, 1979 (2 days), at Philadelphia, PA, in a hearing room to be later designated.

AB-7 (Sub-78F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company Debtor, Abandonment near Fairfield and Agawam, in Teton County, Mt., now assigned for hearing on August 13, 1979 at Chouteau, Mt., and will be held in the Court Room, Teton County Courthouse.

MC 145955F, Central Truck Service, Inc., now assigned for hearing on July 18, 1979 at Omaha, NE, is canceled and application dismissed.

MC 33641 (Sub-140F), IML Freight, Inc., now assigned for hearing on August 28, 1979 at the Offices of the Interstate Commerce Commission, Washington, D.C.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-22775 Filed 7-23-79; 8:45 am]
BILLING CODE 7035-01-M

Fourth Section Application for Relief

July 19, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before August 8, 1979. FSA No. 43718, Southwestern Freight Bureau, Agent's No. B-13, rates on triethylene glycol, in tank carloads, from stations in Louisiana and Texas, to Eastman, S.C. Rates are published in Supp. 20 to its Tariff ICC SWFB 4615, effective August 5, 1979. Grounds for relief—rate relationship.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-22774 Filed 7-23-79; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 23]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, and Intrastate Applications

Petitions for Modification, Interpretation, or Reinstatement of Motor Carrier Operating Rights Authority

July 5, 1979.

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice. The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the Federal Register with a copy being furnished the applicant. Protests to these applications will be rejected.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(1). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether Petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business

identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277.

Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 117503 (Sub-9(M1F) (notice of filing of petition to modify certificate), filed May 9, 1979. Petitioner: HATFIELD TRUCKING SERVICE, INC., 1625 North C Street, Sacramento, CA 95814. Representative: Eldon M. Johnson, 850 California Street, Suite 2808, San Francisco, CA 94108. Petitioner holds a motor *common carrier* certificate in MC 117503 Sub 9 issued September 8, 1977, to transport in interstate or foreign commerce, over irregular routes, *General commodities* (except commodities in bulk, class A explosives, household goods as defined by the Commission, and those of unusual value). Between the Seattle-Tacoma International Airport, at or near Seattle, WA, the Portland International Airport, at or near Portland, OR, and the Sacramento Metropolitan Airport, at or near Sacramento, CA, on the one hand, and, on the other, the San Francisco International Airport, at or near San Francisco, CA, the Los Angeles International Airport, at or near Los Angeles, CA, and the Sacramento Metropolitan Airport, at or near Sacramento, CA. Restriction: The service authorized herein is subject to the following conditions:

Said operations are restricted to the transportation of traffic having a prior or subsequent movement by air.

Said operations are restricted against the transportation of traffic moving between the Sacramento Metropolitan Airport and San Francisco International Airport.

The authority granted herein is restricted to the extent it authorizes the transportation of Class B explosives, which shall be limited in point of time to a period expiring September 8, 1982. This certificate may not be tacked or joined with the carrier's other irregular-route authority unless specifically authorized herein. By the instant petition, petitioner seeks to modify the authority as follows: a change in the

status of the authority from radial to non-radial, except for a restriction against service between the Seattle-Tacoma International Airport and the Portland International Airport.

Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before August 23, 1979. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 128616 (Sub-24F) (republication), filed July 31, 1978, published in the Federal Register issue of October 12, 1978, and republished this issue. Applicant: GELCO COURIER SERVICES, INC., P.O. Box 1975, St. Paul, MN 55111. Representative: Sally G. Galway (same address as applicant). A Decision of the Commission, Review Board No. 1, decided June 27, 1979, and served July 2, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of *commercial papers, documents, and written instruments* (except currency and negotiable securities), as are used in the business of banks and banking institutions, between Omaha, NE, on the one hand, and, on the other, points in and west of Taylor, Adams, Cass, Audubon, Carroll, Sac, Buena Vista, Clay, and Dickinson Counties, IA (except points in Woodbury and Monona Counties), under continuing contracts with banks and banking institutions, including bank-owned computer companies, will be consistent with the public interest and the national transportation policy. The purpose of this republication is to modify the territorial description.

MC 134286 (Sub-54F) (republication), filed April 5, 1978, published in the Federal Register issues of July 13, 1978 and June 18, 1979, and republished this issue. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. A Decision of the Commission, Review Board No. 3, decided March 16, 1979, and served April 18, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting *chemicals, acids, solvents, and edible oils* (except in bulk), (A) from (1) Chicago, IL, (2) the facilities of Hawkins Chemical Co., and Exxon Chemical Corp., at or near Minneapolis, MN, (3) the facilities of F.M.C. Corp., at or near Lawrence, KS, and Green River, WY, (4) the facilities of Olin Chemical Co., at or near Joliet, IL, (5) the facilities of Sanford Chemical Co., at or near Elk Grove Village, IL, (6) the facilities of Velsicol Chemical Co., at or near St. Louis, MI, (7) the facilities of James Varley & Son Co., at or near St. Louis, MO, (8) the facilities of BASF Wyandotte Chemical Corp., and Penwalt Corp., at or near Wyandotte, MI, (9) the facilities of Ozark-Mahoning Co., at or near Tulsa, OK, (10) the facilities of Floridin Company at or near Berkeley Springs, WV, and Quincy, FL, (11) the facilities of Ash Grove Chemical Co., at or near Springfield, MO, (12) the facilities of Lien Chemical Co., at or near Rapid City, SD, (13) the facilities of Burris Chemical Co., at or near Charleston, SC, and East Point, GA, (14) the facilities of Barnebey Cheney, at or near Columbus, OH, (15) the facilities of Cities Service Co., at or near Copperhill, TN, (16) the facilities of Ft. Recovery Industries, at or near Ft. Recovery, OH, (17) the facilities of Great Lakes Chemical Corp., at or near West Lafayette, IN, (18) the facilities of Marathon Morco Co., at or near Dickinson, TX, (20) the facilities of Mazer Chemical, at or near Gurnee, IL, (21) the facilities of Quality Chemical Co., at or near Baltimore, MD, (22) the facilities of Stauffer Chemical Co., at or near Green River, WY, (23) the facilities of Westvaco Chemical Division, at or near Covington, VA, (24) the facilities of Lowe's, Inc., at or near Oran, MO, (25) the facilities of P.P.G. Industries, at or near Barberton, OH, and Natrium, WV, (26) the facilities of Diamond Shamrock Chemical Co., at or near Painesville, OH, (27) the facilities of Allied Chemical Co., at or near Wilmington and North Claymont, DE, Richmond, VA, and

Syracuse, NY, (28) the facilities of E. I. DuPont, at or near Memphis, TN, (29) the facilities of Dow Chemical Co., at or near Midland and Ludington, MI, (30) the facilities of North Star Chemical, at or near Pine Bend, MN, (31) the facilities of Penwalt Corp., at or near Delaware, OH, (32) the facilities of Standard Milling, at or near Meta, MO, to points in IA and NE, and (33) the facilities of Keyes Fiber Co., at or near Hammond, IN, and (B) from the facilities of Warren-Douglas Chemical Co., at or near Omaha, NE, and Sioux City, IA, to Phoenix, AZ, and points in NM, OK, and TX, restricted in (A) and (B), to the transportation of traffic originating at the named origins and destined to the indicated destinations, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to make corrections in the territorial description.

Motor Carrier Operating Rights Applications

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the Federal Register with a copy being furnished the applicant. Protests to these applications will be rejected.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(1). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether the petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business

identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 Fed. Reg. 50908, as modified at 43 Fed. Reg. 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 119968 (Sub-6), (2nd republication), filed October 2, 1972, previously noticed in the *Federal Register* issues of November 9, 1972 and November 23, 1972, and republished this issue. Applicant: A. J. WEIGAND, INC., 1046 North Tuscarawas Ave., Dover, OH 44622. Representative: Terrence D. Jones, 2033 K St., NW., Suite 300, Washington, D.C. 20036. In accordance with the Decision of the Commission, decided June 22, 1979, and served June 25, 1979, this proceeding is reopened for further consideration, subject to the approval of the United States Court of Appeals for the District of Columbia Circuit in *Chemical Leaman Tank Lines, Inc., et al. v. Interstate Commerce Commission, et al.*, No. 78-2055. The authority sought by A. J. Weigand, Inc. in Commission Docket MC-119968 Sub 6 is republished below. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are manufactured, sold, dealt in, or utilized by chemical manufacturing plants, from Dover, OH, to points in IL, IN, KY, OH, WV, NY, PA, MA, RI, CT, NJ, DE, MD, and the southern peninsula of MI; and (2) *such commodities* as are manufactured, sold, dealt in, or utilized by chemical manufacturing plants, from points in IL, IN, KY, OH, WV, NY, PA, MA, RI, CT, NJ, DE, MD, and the southern peninsula of MI, to Dover, OH.

Note.—(A) Applicant states that it intends to tack at Dover, OH, the authority sought in (1) and (2) above; (B) Applicant also states that the request authority duplicates that authority it holds in certificate No. MC-119968, authorizing transportation of: (1) *such commodities* as are manufactured and sold by chemical manufacturing plants (except petroleum products, in bulk, in tank vehicles), between the same above-named destinations and origins; and (2) *machinery, equipment, materials, and supplies* used by chemical manufacturing plants, from points in IL, IN, KY, OH, WV, NY, PA, MA, RI, CT, NJ, DE,

MD, and the lower peninsula of MI, to Dover, OH; and (C) This republication expressly notes that applicant intends to tack the authority it seeks with its existing authorities. Any interested persons who did not participate in the earlier proceedings involving this application may file protests within 30 days of this *Federal Register* notice. (Hearing site: Washington, DC.)

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before August 23, 1979.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Property

MC 30605 (Deviation No. 30), THE SANTE FE TRAIL TRANSPORTATION COMPANY, 433 East Waterman, P.O. Box 56, Wichita, KS 67201. Filed June 25, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Denver, CO, over U.S. Hwy 287 to Amarillo, TX, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Denver, CO, over U.S. Hwy 85 to junction relocated U.S. Hwy 85, near Crow, CO, then over relocated U.S. Hwy 85 to junction U.S. Hwy 85, South of Greenhorn, CO, then over U.S. Hwy 85 via Rowe and Glorieta, NM, to Albuquerque, NM, then over U.S. Hwy 66 (Interstate Hwy 40) to Amarillo, TX, and return over the same route.

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form

provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before August 23, 1979.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Passengers

MC 1515 (Deviation No. 743), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077, filed June 29, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage and express and newspapers* in the same vehicle with passengers over a deviation route as follows: From Plattsburgh, NY over NY Hwy 3 to Saranac Lake NY and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Mooers, NY over NY Hwy 22 via Plattsburg, NY to Keeseville, NY, then over NY Hwy 9N to Jay, NY, then over NY Hwy 86 to Saranac Lake, NY and return over the same route.

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California Docket No. A 58927, filed June 11, 1979. Applicant: M & L TRUCKING COMPANY, INC., 4909 Tidewater Avenue, Oakland, CA 94601. Representative: Eldon M. Johnson, The Hartford Building, 650 California Street, Suite 2808, San Francisco, CA 94108. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities* between all points and places in the San Francisco Territory (as described in Note 1 hereto) and points within twenty-five (25) miles

thereof, except that—pursuant to the within-requested authority—no shipments of the following shall be transported: 1. Used household goods and personal effects not packed in salemen's hand sample cases, suitcases, overnight or boston bags, brief cases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard or straw matting); 2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis; 3. Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers; 4. Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles; 5. Commodities when transported in bulk in dump trucks or in hopper-type trucks; 6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit; 7. Cement; 8. Logs; 9. Commodities of unusual or extraordinary value; and 10. Fresh fruits and vegetables. In performing the within-required service, use may be made of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service. (Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to California Public Utilities Commission, State Bldg., Civic Center, San Francisco, CA 94102, and should not be directed to the Interstate Commerce Commission.)

Note 1.—The San Francisco Territory: Includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; thence easterly along said county line to a point one mile west of State Highway 82; southerly along an imaginary line one mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Company right-of-way at Arastradero Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard

Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific Company right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hilldale Avenue; easterly along Hilldale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Boulevard) via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard and MacArthur Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard to Warren Boulevard (State Highway 13); northerly along Warren Boulevard to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkley-Oakland Boundary Line; northerly along said boundary line to the campus boundary of the University of California; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. Intrastate, interstate, and foreign commerce authority sought.

Irregular-Route Motor Common Carriers of Property Elimination of Gateway Letter Notices

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed

with the Interstate Commerce Commission *within 10 days* from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 107002 (Sub-E171) (correction), filed May 13, 1974, published in the *Federal Register* issue of May 30, 1975. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Barth (same as above). *Naval stores and naval store products*, in bulk, in tank vehicles, from Mobile, AL, to points in ME. (Gateway eliminated: Picayune, MS). Purpose of republication—correct the commodity description.

MC 107002 (Sub-E209) (correction), filed May 20, 1974, published *Federal Register* issue of September 4, 1975. Applicant: MILLER TRANSPORTERS, INC., P.O. 1123, Jackson, MS 39205. Representative: John J. Barth (same as above). *Antol, cymene, esterified tall oil, liquid soap, nalene, paracymene, paramethane, hydro peroxide, penene, pine oil, pine pitch, pine tar, rosin, rosin liquor, rosin sizing, rosin solution, synthetic gums and resins, tall oil, tall oil fatty acid, tall oil pitch terpineal, turentine, and zinc versinates*, in bulk, in tank vehicles, from the facilities of Inneco Chemicals, Inc., at Ielagia, FL, to points in NJ, NY and PA. (Gateway eliminated—Bay Minette, AL). Purpose of republication—clarify sub number.

MC 107002 (Sub-E210) (correction), filed May 20, 1974, published *Federal Register* issue of September 4, 1975. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Barth (same as above). *Liquid caustic soda*, in bulk, in tank vehicles, from Le Mayne, AL, to points in OH. (Gateway eliminated: Memphis, TN). Purpose of republication—clarify sub-number.

MC 107002 (Sub-E211) (correction), filed May 20, 1974, published in the *Federal Register* of September 4, 1975. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Barth (same as above). *Liquid sulphuric acid*, in bulk, in tank vehicles, from Le Moyne, AL, to (1)

points in KY, MO, and OK (points in Jackson County, MS*); (2) points in TX (points in Jackson County, MS, or Hattiesburg, MS*); (3) points in OH (points in Jackson County, MS, and McIntosh, AL*); and (4) Elizabethton, Kingsport, Johnson City, Bristol, Morristown, Greenville, and Newport, TN (points in Jackson County, MS, and Mobile, AL*). (Gateways eliminated: indicated by asterisks.) Purpose of correction—clarify sub number.

MC 107002 (Sub-E236) (correction), filed May 20, 1974, published in the Federal Register of August 26, 1975. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Barth (same as above). *Sulphate liquor skimmings*, in bulk, in tank vehicles, from Cantonment, FL, to points in KY (Bay Minette and Fox, AL*); KS (Bay Minette, AL, and Collierville, TN*); IL; IN; MO (Bay Minette, AL, and Memphis, TN*); WV (Bay Minette, AL, and facilities of Monsanto Chemical Company at Anniston, AL*); NC, OH (Bay Minette and McIntosh, AL*); MI, MN, WI (Bay Minette, AL, and Cedartown, GA*); AR, OK (Bay Minette, AL, and Hattiesburg, MS*); SC (Bay Minette and River Falls, AL*); TX (Bay Minette, AL, and Jackson County, MS*); and IA (Bay Minette, AL, and Arlington, TN*). (Gateway eliminated: indicated by asterisks.) Purpose of correction—clarify sub number.

MC 107012 (Sub-E666), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Crated: 1.* From points in AL, to points in CA, CO, ID, KS, MN, MT, NV, ND, OR, SD, UT, WA and WY. 2. From points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega and Tallapoosa Counties, AL, to points in AZ; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren and Washington Counties, AR; Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren and Woodford Counties, IL; points in IA; Baraga, Gogebic, Houghton, Iron,

Keweenaw and Ontonagon, Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft Counties, MI; Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; points in NM; points in OK; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llano, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runtels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward and Winkler Counties, TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas, Washburn, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette,

Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago, and Wood Counties, WI. 3. From points in Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike and Russell Counties, AL, to points in AZ; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline, and White Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, JoDaviess, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL; points in IA; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft Counties, MI; Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline, and Worth Counties, MO; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra, Socorro, Colfax, Harding, Mora, Taos, and Union Counties, NM; Alfalfa, Beckham, Blaine, Caddo, Comanche, Cotton, Custer, Dewey, Ellis, Greer, Harmon, Harper, Jackson, Kiowa, Major,

Roger Mills, Tillman, Washita, Woods, Woodward, Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Beaver, Cimarron, Texas, Canadian, Carter, Cleveland, Creek, Garfield, Grady, Grant, Hughes, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Logan, Love, McClain, Marshall, Murray, Noble, Okfuskee, Oklahoma, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Seminole, and Stephens Counties, OK; Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, and Winkler Counties, TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas, Washburn, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI. 4. From points in Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marin, Pickens, Tuscaloosa, Walker and Winston Counties, AL, to points in AZ; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, and Washington Counties, AR; Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor, Union, Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford,

Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux and Woodbury Counties, IA; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft Counties, MI; Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; points in NM; points in TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas, Washburn, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau and Vernon Counties, WI. 5. From points in De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL, to points in AZ; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren and Washington Counties, AR; points in IA; Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; points in NM; points in TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin,

Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas and Washburn Counties, WI. 6. From points in Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lowndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington and Wilcox Counties, AL, to points in Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal, Santa Cruz and Yuma Counties, AZ; Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren and Washington Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Cook, DuPage, Kane, Kendall, Lake, Will, Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iroquois, Jasper, Kankakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermilion, Wabash, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, JoDaviess, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL; Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper, Lake, LaPorte, Marshall, Miami, Montgomery, Newton, Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren and White Counties, IN; points in IA; points in MI; points in MO; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Colfax, Harding, Mora, Taos and Union Counties, NM; Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren and Washington Counties, NY; Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Beaver, Cimarron, Texas, Canadian, Carter, Cleveland, Creek, Garfield, Grady, Grant, Hughes, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Logan, Love, McClain, Marshall, Murray, Noble, Okfuskee, Oklahoma, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Seminole and Stephens Counties, OK; points in WI. (Gateway eliminated: Greene County, AR.)

MC 107012 (Sub-E869), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Crated:* 1. From points in AZ, to points in CT, DE, DC, GA, IL, IN, KY, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA and WV. 2. From points in Cochise, Gila, Graham and Greenlee Counties, AZ, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsden, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL; to points in MI; Bolivar, Carroll, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Washington, Yazoo, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, DeSoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster and Yalobusha Counties, MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto and Oneida Counties, WI. 4. From points in Maricopa, Pima, Pinal and Santa Cruz Counties, AZ, to points in AL; Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; to points in FL; to points in MI; Bolivar, Carroll, Coahoma, Grenada, Holmes,

Waukeshara, Winnebago and Wood Counties, WI. 3. From points in Apache, Coconino, Mohave, Navajo and Yavapai Counties, AZ, to points in AL; Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in FL; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charlesvoix, Cheboygan, Clare, Crawford, Emmet, Galdwin, Grand Traverse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Alger, Delta, Dickinson, Marquette, Menominee, Schoolcraft, Allegan, Barry, Berrien, Brancha, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren, Chippewa, Luce and Mackinac Counties, MI; Bolivar, Carroll, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Attala, Clairborne, Clarke, Copiah, Hinds, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Simpson, Smith, Winston, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, DeSoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster and Yalobusha Counties, MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto and Oneida Counties, WI. 4. From points in Maricopa, Pima, Pinal and Santa Cruz Counties, AZ, to points in AL; Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; to points in FL; to points in MI; Bolivar, Carroll, Coahoma, Grenada, Holmes,

Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, DeSoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster and Yalobusha Counties, MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI. 5. From points in Yuma County, AZ to points in AL; Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in FL; points in MI; Bolivar, Carroll, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, DeSoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster and Yalobusha Counties, MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Sauk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood

Counties, WI. (Gateway eliminated: Greene County, AR.)

MC 107012 (Sub-E870), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Crated:* 1. From points in AR, to points in CT, DE, DC, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, VT, VA and WV.

2. From points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier and Yell Counties, AR, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL; Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, CA; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsden, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL; to points in GA Benewah, Bonner, Boundry, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties, ID; to points in IL; to points in IN; Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA; Aitkin, Carlton, Cook, Lake, Saint Louis, Tascas, Beltrami, Clearwater, Kittson, Koochiching, Lake of the Woods, Mahanomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Anoka, Blue Earth, Carver,

Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren and Washington Counties, MO; points in MT; points in ND; points in OR; points in SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN; points in WA; points in WI. 3. From points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita and Union Counties, AR, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA; Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma

Counties, CO; points in ID; points in IL; points in IN; points in IA; Atchinson, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Namaha, Osage, Pottawatomie, Shawnee, Wabaunsee and Wyandotte Counties, KS; points in MN; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; points in MT; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV; points in ND; points in OR; Allendale, Bamberg, Barnwell, Beaufort, Berkely, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg, Clarendon, Dillon, Florence, Georgetown, Horry, Marion and Williamsburg Counties, SC; points in SD; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN; Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, Weber, Carbon, Daggett, Duchesne, Emery, Grand, San Juan, Uintah, Garfield, Juab, Kane, Millard, Piute, Sanpete, Sevier and Wayne Counties, UT; points in WA; points in WI; points in WY. 4. From points in Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren and Washington Counties, AR, to points in AL; Glenn, Humboldt, Lake, Mendicino, Tehama

and Trinity Counties, CA; points in FL; points in GA; Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White and Williamson Counties, IL; Crawford, Clay, Daviesa, Dubois, Gibson, Greene, Knox, Lawrence, Martin, Monroe, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spender, Sullivan, Vanderburgh, Vermillion, Vigo, Warrick, Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Boone, Clinton, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, Shelby and Tipton Counties, IN; Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster and Yalobusha Counties, MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren and Washington Counties, MO; points in MT; points in NV; points in ND; points in OR; points in SC; points in SD; Anderson, Blount, Campbell, Carter, Clairborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN; points in UT; points in WA; points in WI; points in WY. (Gateway eliminated: Greene County, AR.)

Cruz and Yuma Counties, AZ; points in CA; points in CO; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsden, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL; points in GA; points in ID; points in IL; points in IN; points in IA; Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace and Wichita Counties, KS; points in MN; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren and Washington Counties, MO; points in MT; points in NV; points in ND; points in OR; points in SC; points in SD; Anderson, Blount, Campbell, Carter, Clairborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN; points in UT; points in WA; points in WI; points in WY. (Gateway eliminated: Greene County, AR.)

MC 107012 (Sub-E871), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801, Representatives:

David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Unrated*: 1. From points in AL, to points in CA, CO, ID, KS, MN, MT, NV, ND, OR, SD, UT, WA and WY. 2. From points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega and Tallapoosa Counties, AL, to points in AZ; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren and Washington Counties, AR; Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren and Woodford Counties, IL; points in IA; Baraga, Gogebic, Houghton, Iron, Keweenaw and Ontonagon, Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft Counties, MI; Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; points in NM; Points in OK; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Noland, Palo Pinto, Parker, Regan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell,

Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward and Winkler Counties, TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas, Washburn, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI. 3. From points in Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike and Russell Counties, AL, to points in AZ; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, Jo Daviess, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL; points in IA; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft Counties, MI; Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps,

Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra, Socorro, Colfax, Harding, Mora, Taos and Union Counties, NM; Alfalfa, Beckham, Blaine, Caddo, Comanche, Cotton, Custer, Dewey, Ellis, Greer, Harmon, Harper, Jackson, Kiowa, Major, Roger Mills, Tillman, Washita, Woods, Woodward, Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Beaver, Cimarron, Texas, Canadian, Carter, Cleveland, Creek, Garfield, Grady, Grant, Hughes, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Logan, Love, McClain, Marshall, Murray, Noble, Okfuskee, Oklahoma, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Seminole and Stephens Counties, OK; Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward and Winkler Counties, TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas, Washburn, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI. 4. From points in Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens,

Tuscaloosa, Walker and Winston Counties, AL, to points in AZ; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren and Washington Counties, AR; Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro, Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor, Union, Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux and Woodbury Counties, IA; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft Counties, MI; Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; points in NM; Points on OK; points in TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas, Washburn, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau and Vernon Counties, WI. 5. From points in De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL, to points in AZ; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison,

Marion, Newton, Pope, Searcy, Sebastian, Van Buren and Washington Counties, AR; points in IA; Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; points in NM; points in OK; points in TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas and Washburn Counties, WI. 6. From points in Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lawndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington and Wilcox Counties, AL, to points in Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal, Santa Cruz and Yuma Counties, AZ; Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren and Washington Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Cook, DuPage, Kane, Kendall, Lake, Will, Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iriquois, Jasper, Kankakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermilion, Wabash, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, Jo Daviess, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL; Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper, Lake, LaPorte, Marshall, Miami, Montgomery, Newton, Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren and White Counties, IN; points in IA; points in MI; points in MO; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio

Arriba, San Juan, Colfax, Harding, Mora, Taos and Union Counties, NM; Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren and Washington Counties, NY; Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Beaver, Cimarron, Texas, Canadian, Carter, Cleveland, Creek, Garfield, Grady, Grant, Hughes, Jefferson, Johnson, Kay, Kingfisher, Lincoln, Logan, Love, McClain, Marshall, Murray, Noble, Okfuskee, Oklahoma, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Seminole and Stephens Counties, OK; points in WI. (Gateway eliminated: Greene County, AR.)

MC 107012 (Sub-E67Z), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional fixtures and Store and Office Equipment, Uncreated:* 1. From points in AZ, to points in CT, DE, DC, GA, IL, IN, KY, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA and WV. 2. From points in Cochise, Gila, Graham and Greenlee Counties, AZ, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsden, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL; to points in MI; Bolivar, Carroll, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Washington, Yazoo, Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Attala, Clairborne, Clarke, Copiah, Hinds, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Simpson, Smith, Winston, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster and Yalobusha Counties, MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin,

Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster, and Yalobusha Counties, MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto and Oneida Counties, WI. 4. From points in Maricopa, Pima, Pinal and Santa Cruz Counties, AZ, to points in AL; Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in FL; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Trause, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Alger, Delta, Dickinson, Marquette, Menominee, Schoolcraft, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren, Chippewa, Luce and Mackinac, Counties, MI; Bolivar, Carroll, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Attala, Clairborne, Clarke, Copiah, Hinds, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Simpson, Smith, Winston, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster and Yalobusha Counties, MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin,

Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto and Oneida Counties, WI. 4. From points in Maricopa, Pima, Pinal and Santa Cruz Counties, AZ, to points in AL; Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; to points in FL; to points in MI; Bolivar, Carroll, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster and Yalobusha Counties, MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI. 5. From points in Yuma County, AZ, to points in AL; Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in FL; points in MI; Bolivar, Carroll, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah,

Tishomingo, Tunila, Union, Webster and Yalobusha Counties, MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI. (Greene County, AR.)

MC 107012 (Sub-E673), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional fixtures and Store and Office Equipment, Uncreated:* 1. From points in AR, to points in CT, DE, DC, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, VT, VA and WV. 2. From points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier and Yell Counties, AR, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL; Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, CA; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia,

Dixie, Franklin, Gadsden, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Walkulla Counties, FL; to points in GA; Benewah, Bonner, Boundry, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties, ID; to points in IL; to points in IN; Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA; Aitkin, Carlton, Cook, Lake, Saint Louis, Tascas, Beltrami, Clearwater, Kittson, Koochiching, Lake of the Woods, Mahanomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona and Wright Counties, MN; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren and Washington Counties, MO; points in MT; points in ND; points in OR; points in SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale,

Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN; points in WA; points in WI. 3. From points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Ouachita and Union Counties, AR, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA; Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, CO; points in ID; points in IL; points in IN; points in IA; Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee and Wyandotte Counties, KS; points in MN; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; points in MT; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV; points in ND; points in OR; Allendale, Bamberg, Barnwell, Beaufort, Berkely, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg, Clarendon, Dillon, Florence, Georgetown, Horry, Marion

and Williamsburg Counties, SC; points in SD; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN; Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, Weber, Carbon, Daggett, Duchesne, Emery, Grand, San Juan, Uintah, Garfield, Juab, Kane, Millard, Piute, Sanpete, Sevier and Wayne Counties, UT; points in WA; points in WI; points in WY. 4. From points in Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren and Washington Counties, AR, to points in AL; Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, CA; points in FL; points in GA; Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White and Williamson Counties, IL; Crawford, Clay, Daviess, Dubois, Gibson, Greene, Knox, Lawrence, Martin, Monroe, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spender, Sullivan, Vanderburg, Vermillion, Vigo, Warrick, Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Boone, Clinton, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, Shelby and Tipton Counties, IN; Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster and Yalobusha Counties, MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill, Coos, Curry,

Douglas, Jackson and Josephine Counties, OR; points in SC; points in TN; Clark, Cowliitz, Klickitat, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum, Yakima, Ferry, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Clallam, Grays Harbor, Jefferson, Kitsap, Mason, San Juan, Chelan, Douglas, Grant, Island, King, Kittitas, Skagit, Snohomish and Whatcom Counties, WA; Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI. 5. From points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR, to points in Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike and Russell Counties, AL; Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal, Santa Cruz and Yuma Counties, AZ; points in CA; points in CO; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsden, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor, and Wakulla Counties, FL; points in GA; points in ID; points in IL; points in IN; points in IA; Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace and Wichita Counties, KS; points in MN; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren and Washington Counties, MO; points in MT; points in NV; points in ND; points in

OR; points in SC; points in SD; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphrey, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN; points in UT; points in WA; points in WI; points in WY. (Gateway eliminated: Greene County, AR.)

MC 107403 (Sub-E404) (correction), filed May 29, 1974, published in the Federal Register August 21, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: George B. Black, Jr. (same as above). *Petroleum and petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 (except petroleum chemicals as described in Appendix XV to the *Descriptions* case), from points in OH on and north of a line beginning at the OH-WV State line extending along U.S. Hwy 30 to junction U.S. Hwy 30S, then along U.S. Hwy 30S to the OH-IN State line, to points in MD. (Gateways eliminated: Cleveland, OH and Butler, PA). Purpose of republication—reflect correct OH territory.

MC 107403 (Sub-E406) (correction), filed May 29, 1974, published in the Federal Register August 21, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: George B. Black, Jr. (same as above). *Liquid petroleum products*, in bulk, in tank vehicles (except gasoline, fuel oil, benzene, and kerosene), from points in OH on and north of a line beginning at the OH-WV State line extending along U.S. Hwy 30 to junction U.S. Hwy 30S, then along U.S. Hwy 30S to the OH-IN State line, to points in MA, VT, ME, and NH. (Gateways eliminated: Cleveland, OH, Emlenton, PA, Cartaret, NJ, and Newark, NY). Purpose of republication—reflect correct OH territory.

MC 107403 (Sub-E696), filed March 22, 1979. Applicant: MATLACK, INC., 10 W.

Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Non-flammable liquid chemicals* (except petroleum and petroleum products other than medicinal products and liquid wax, and excluding road oil, coal tar and coal tar products), in bulk, in tank vehicles from points in CT, MA, and RI to points in CA, WA, and OR. (Gateway eliminated: St. Paul, MO.)

MC 107403 (Sub-E697), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Non-flammable liquid chemicals* (except petroleum and petroleum products other than medicinal products and liquid wax, and excluding road oil, coal tar and coal tar products), in bulk, in tank vehicles, from points in CT, MA, and RI to points in AZ, ID and NV. (Gateway eliminated: St. Louis, MO.)

MC 107403 (Sub-E698), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Non-flammable liquid chemicals* (except petroleum and petroleum products other than medicinal products and liquid wax, and excluding road oil, coal tar and coal tar products), in bulk, in tank vehicles, from points in CT, MA and RI to points in MT, UT and NM. (Gateway eliminated: Charleston, WV.)

MC 107403 (Sub-E699), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Non-flammable liquid chemicals* (except petroleum and petroleum products other than medicinal products and liquid wax, and excluding road oil, coal tar and coal tar products), in bulk, in tank vehicles, from points in CT, MA and RI to points in CO, WV, MT, UT and NM. (Gateway eliminated: Chicago, IL.)

MC 107403 (Sub-E700), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals* as defined in *The Maxwell Co., Extension—Addyston*, 63 M.C.C. 677 (except gasoline, fuel oil, kerosene and benzene), in bulk, in tank vehicles, from points in NJ to points in CA, WA and OR. (Gateway eliminated: St. Louis, MO.)

MC 107403 (Sub-E701), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals* as

defined in *The Maxwell Co., Extension—Addyston*, 63 M.C.C. 677 (except gasoline, fuel oil, kerosene and benzene), in bulk, in tank vehicles, from points in NJ to points in CA, WA and OR to points in AZ, ID and NV. (Gateway eliminated: St. Louis, MO.)

MC 107403 (Sub-E702), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals* (except milk, petroleum, petroleum products, coal tar, and coal tar products), in bulk, in tank vehicles, from points in NJ to points in MT, UT, and NM. (Gateway eliminated: Charleston, WV.)

MC 107403 (Sub-E703), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals* as defined in *The Maxwell Co., Extension—Addyston*, 63 M.C.C. 677 (except gasoline, fuel oil, kerosene and benzene), in bulk, in tank vehicles, from points in NJ to points in CA, WA and OR to points in CO and WY. (Gateway eliminated: Chicago, IL.)

MC 107403 (Sub-E704), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals* in bulk, in tank vehicles, from points in NY to points in AZ, ID, and NV. (Gateway eliminated: St. Louis, MO.)

MC 107403 (Sub-E705), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals* (except gasoline, fuel oil, asphalt, kerosene and benzene), in bulk, in tank vehicles, from points in NY to points in CO and WY. (Gateway eliminated: Chicago, IL.)

MC 107403 (Sub-E706), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals* in bulk, in tank vehicles, from points in NY to points in CA, WA and OR. (Gateway eliminated: St. Louis, MO.)

MC 107403 (Sub-E707), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Non-flammable liquid chemicals* in bulk, in tank vehicles, from points in NY to points in MT, NM, and UT. (Gateway eliminated: Charleston, WV.)

MC 107403 (Sub-E708), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals* (except petroleum, petroleum products, coal tar and coal tar products), in bulk, in tank vehicles, from points in DE to points in CA, OR and WA. (Gateway eliminated: St. Louis, MO.)

MC 107403 (Sub-E709), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals* (except petroleum, petroleum products, coal tar, and coal tar products), in bulk, in tank vehicles, from points in DE to points in AZ, ID, and NV. (Gateway eliminated: St. Louis, MO.)

MC 107403 (Sub-E710), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals* (except petroleum, petroleum products, coal tar and coal tar products), in bulk, in tank vehicles, from points in DE to points in CO, and WY. (Gateway eliminated: Chicago, IL.)

MC 107403 (Sub-E711), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals* (except petroleum, petroleum products, coal tar and coal tar products), in bulk, in tank vehicles, from points in DE to points in MT, NM and UT. (Gateway eliminated: Charleston, WV.)

MC 107403 (Sub-E712), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Chemicals*, in bulk, in tank vehicles, from points in MO to points in CA, OR and WA. (Gateway eliminated: Pittsburgh, PA, and Charleston, WV.)

MC 107403 (Sub-E713), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Chemicals*, in bulk, in tank vehicles, from points in MO to points in NV, ID, and UT. (Gateways eliminated: Pittsburgh, PA, and Charleston, WV.)

MC 107403 (Sub-E714), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Chemicals*, in bulk, in tank vehicle, from points in MD to points in MT, NM, and CO. (Gateways

eliminated: Pittsburgh, PA, and Charleston, WV.)

MC 107403 (Sub-E716), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals* as defined in *The Maxwell Extension*, Addyston, 63 M.C.C. 677, in bulk, in tank vehicles, from points in MD to points in AZ. (Gateways eliminated: Natrium, WV, and St. Louis, MO.)

MC 107403 (Sub-E717), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Chemicals*, in bulk, in tank vehicles, from points in PA to points in CA, WA, and OR. (Gateways eliminated: Pittsburgh, PA, and Charleston, WV.)

MC 107403 (Sub-E718), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Chemicals*, in bulk, in tank vehicles, from points in PA to points in NV, ID, and UT. (Gateway eliminated: Pittsburgh, PA, and Charleston, WV.)

MC 119777 (Sub-E241), filed June 19, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, KY 42431. Representative: James P. Barnett (same as above). *Iron and steel articles*, as described in Appendix V to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209, (1) From points in IL and IN on and south of U.S. Hwy. 50 and points in KY to points in ME, NH and VT, and (2) from points in Boyd Co., KY to points in AL, GA, KS, LA, that part of MI on and north of MI Hwy. 21, MN, MS, NE, TX and WI. (Gateway eliminated: Cabell Co., WV.)

MC 119777 (Sub-E242), filed June 19, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, KY 42431. Representative: James P. Barnett (same as above). (1) *Coated pipe, alloy pipe and iron and steel pipe*, except commodities which because of size or weight require the use of special equipment, from St. Louis, MO to New York, NY and points in KY, PA, WV and points in OH on and east of I-75 and points west of I-75 in Hamilton, Butler, Warren and Montgomery Counties, OH. (2) *Iron and steel pipe*, except commodities which because of size or weight require the use of special equipment, from St. Louis, MO to points in ME, NH and VT. (Gateways eliminated: East St. Louis, IL and points in KY in (1); and east St. Louis, IL,

Ashland, KY, and Huntington, WV, in (2).)

MC 115826 (Sub-E72), filed December 15, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Germina, Denver, CO 80217. Representative: William H. Shawn, Suite 501, 1730 M St. NW., Washington, DC 20036. *Fresh, frozen and cured meats, and frozen meat products*, from points in CA on, north and west of a line beginning at Monterey extending along CA Hwy 69 to Salinas, then along U.S. Hwy 101 to junction CA Hwy 152, then along CA Hwy 152 to junction CA Hwy 59, then along CA Hwy 59 to Merced, then along CA Hwy 99 to junction CA Hwy 36, then along CA Hwy 36 to junction I Hwy 5, then along I Hwy 5 to junction CA Hwy 299, then along CA Hwy 299 to junction U.S. Hwy 395, then along U.S. Hwy 395 to the OR-CA State line, to points in CO on, east and north of a line beginning at the CO-WY State line extending along I Hwy 25 to junction Co Hwy 14, then along CO Hwy 14 to Fort Collins, then along U.S. Hwy 287 to junction Co Hwy 119, then along CO Hwy 119 to Boulder, then along CO Hwy 93 to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction U.S. Hwy 85, then along U.S. Hwy 85 to Colorado Springs, then along U.S. Hwy 24 to the CO-KS State line. (Gateway eliminated: Roberts, ID, and Boulder, CO, and points within 50 miles of Boulder.)

MC 115826 (Sub-E73), filed December 15, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Germina, Denver, CO 80217. Representative: William H. Shawn, Suite 501, 1730 M St. NW., Washington, DC 20036. *Frozen, fresh and cured meats and frozen meat products*, from points in CO on, east and south of a line beginning at the CO-NM State line extending along U.S. Hwy 85 to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction CO Hwy 119, then along CO Hwy 119 to junction I Hwy 25, then along I Hwy 25 to junction CO Hwy 66, then along CO Hwy 66 to junction U.S. Hwy 85, then along U.S. Hwy 85 to junction CO Hwy 392, then along CO Hwy 392 to junction CO Hwy 37, then along CO Hwy 37 to junction U.S. Hwy 34, then along U.S. Hwy 34 to junction I Hwy 78, then along I Hwy 78 to junction U.S. Hwy 8, then along U.S. Hwy 8 to the CO-NE State line, to points in OR on, west and south of a line beginning at the CA-OR State line extending along OR Hwy 39 to junction OR Hwy 140, then along OR Hwy 140 to junction U.S. Hwy 97, then along U.S. Hwy 97 to junction OR Hwy 58, then along OR Hwy 58 to junction I Hwy 5, then along I Hwy 5 to Salem, then along OR Hwy 22

to junction OR Hwy 18, then along OR Hwy 18 to the Lincoln County line, then along the Lincoln County line to the Pacific Ocean. (Gateway eliminated: Alturas, CA and Denver, CO, a point within 50 miles of Boulder.)

Transportation of Used Household Goods in Connection With a Pack-and-Crate Operation on Behalf of the Department of Defense

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of used household goods, for the account of the United States Government, incident to the performance of a pack-and-crate service on behalf of the Department of Defense under the Direct Procurement Method or the Through Government Bill of Lading Method under the Commission's regulations (49 CFR 1058.40) promulgated in "Pack-and-Crate" operations in Ex Parte No. MC-115, 131 M.C.C. 20 (1978).

An original and one copy of verified statement in opposition (limited to argument and evidence concerning applicant's fitness) may be filed with the Interstate Commerce Commission on or before August 13, 1979. A copy must also be served upon applicant or its representative. Opposition to the applicant's participation will not operate to stay commencement of the proposed operation.

If applicant is not otherwise informed by the Commission, operations may commence *within 30 days* of the date of its notice in the **Federal Register**, subject to its tariff publication effective date.

HG-13-79 (special certificate—used household goods), filed June 18, 1979. Applicant: CLASSIC CITY MOVING & STORAGE, 120 Oneta Street, Athens, GA 30601. Representative: T. James Brannon, President, Classic City Moving & Storage (address same as applicant). Authority sought: Between points in Banks, Barrow, Clarke, Dekalb, Elbert, Franklin, Greene, Gwinnett, Habersham, Hall, Hart, Jackson, Madison, Morgan, Oconee, Oglethorpe, Rockdale, Stephens, Walton, and Wilkes Counties, GA, serving Navy Supply Corps School, Athens, GA.

HG-14-1979 (special certificate—used household goods), filed June 25, 1979. Applicant: ALVA DEAN BANKS, d.b.a. BANKS MOVING & STORAGE, 975 West Jackson, P.O. Box 345, Marshall, MO 65340. Representative: Alva Dean Banks, 984 West Morgan, P.O. Box 345, Marshall, MO 65340. Authority sought: Between points in Johnson, Henry, Cass,

St. Clair, Benton, Morgan, Maniteau, Cooper, Pettis, Carroll, Ray, Chariton, Howard, Boone, Lafayette, Saline, Bates, Randolph, Clay and Jackson Counties, MO, serving Whitman Air Force Base, Knob Noster, MO.

By the Commission.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-22778 Filed 7-23-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 143

Tuesday, July 24, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[M-236, Amdt. 4; July 19, 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion of items from the July 19, 1979, meeting.

TIME AND DATE: 10 a.m., July 19, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

10. Docket 32665, California/Southwest-Western Mexico Route Proceeding (Part II)—Request for Instructions (Memo 8998, OCC)

17. Dockets 34623, 34890, 34975, 35055, 35065, and 35557; United's application for Denver/Chicago-Orlando/Tampa/Sarasota/Fort Myers/West Palm Beach/Miami/Fort Lauderdale nonstop authority; Ozark's application for Denver/Chicago-Orlando/Tampa/Sarasota/Fort Myers/West Palm Beach/Miami/Fort Lauderdale nonstop authority and motion to consolidate; Continental's application for Denver-Orlando/Sarasota/Fort Myers/West Palm Beach and Chicago-Orlando/Tampa/Sarasota/Fort Myers/West Palm Beach/Miami/Fort Lauderdale nonstop authority and motion to consolidate; Western's application for Denver/Chicago-Orlando/Tampa/Sarasota/Fort Myers/West Palm Beach/Fort Lauderdale/Miamia nonstop authority and motion to consolidate; National's application for Denver/Colorado Springs-Fort Lauderdale/Miami/Orlando/Tampa nonstop authority and motion to consolidate; Trans International's application (in part) for Chicago-Orlando/Tampa/Miami nonstop authority and motion to consolidate (the balance of this application is to be dealt with by separate order). (Memo No. 8974, BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary. (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 10 was deleted in order that the Chairman

may have additional time to consider this item. Item 17 was deleted because it requires additional staff work. Accordingly, the following Members have voted that Items 10 and 17 be deleted from the July 19, 1979 agenda and that no earlier announcement of these deletions was possible:

Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1473-79 Filed 7-20-79; 3:36 pm]

BILLING CODE 6320-01-M

2

[M-237, Amdt. 1; July 19, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the July 21, 1979, agenda.

TIME AND DATE: 1 p.m., July 21, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 2. Docket 32665, California/Southwest-Western Mexico Route Proceeding (Part II)—Request for Instructions (Memo 8996, OCC).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary. (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 2 is being added to the July 21, 1979 meeting because the Chairman would like to discuss it since there will not be a regular Board Meeting until August 21, 1979. Accordingly, the following Members have voted that agency business requires the addition of Item 2 to the July 21, 1979 agenda and that no earlier announcement of this addition was possible:

Member, Richard J. O'Melia
Member, Elizabeth Bailey
Member, Gloria Schaffer

Note.—Please use the Florida Avenue entrance. The Connecticut Avenue entrance is closed on Saturday.

[S-1474-79 Filed 7-20-79; 3:35 pm]

BILLING CODE 6320-01-M

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-1449-79.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (Eastern Time), Tuesday, July 24, 1979.

CHANGE IN THE MEETING:

The following matters are added to the agenda for the open portion of the meeting:

(1) Proposed Memorandum of Understanding Between the Office of Federal Contract Compliance Programs and EEOC.

(2) Proposed Interim Regulations for Processing of certain Federal EEO cases by the Merit Systems Protection Board.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

IN FAVOR OF CHANGE: Eleanor Holmes Norton, Chair, Daniel E. Leach, Vice Chair, Ethel Bent Walsh, Commissioner, Armando M. Rodriguez, Commissioner, J. Clay Smith, Jr., Commissioner.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued July 19, 1979.

[S-1469-79 Filed 7-20-79; 11:05 am]

BILLING CODE 6570-06-M

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 10 a.m., Thursday, July 19, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

CHANGES IN THE MEETING:

The Federal Communications Commission previously announced on July 12, 1979, Public Notice No. 19421, its intention to hold a Special open meeting on Thursday, July 19, 1979, commencing at 9:30 a.m.

The time has been changed. The open meeting will commence at 10:00 a.m.

The prompt and orderly conduct of Commission business requires this change and no earlier announcement of the change was possible.

If additional information is required concerning this meeting it may be obtained from FCC Office of Public Affairs, telephone number (202) 632-7260.

Issued: July 19, 1979.

[S-1471-79 Filed 7-20-79; 3:36 pm]

BILLING CODE 6712-01-M

5

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 12:30 a.m., Thursday, July 19, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Continuation of Closed Commission Meeting which followed the July 18th Oral Argument.

The Commission will hold a continuation of the July 18th closed meeting on Thursday, July 19, 1979 for the purpose of issuing instructions to the staff following oral argument in RKO General, Inc. (WNAC-TV, Channel 7), Boston, Mass. proceeding (Dockets 18759-61).

The continuation of this closed meeting will take place after the Special Closed Meeting, July 19, 1979, in Room 856, 1919 M Street, N.W., Washington, D.C.

The prompt and orderly conduct of Commission business requires this change and no earlier announcement of the change was possible.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

If additional information is required concerning this meeting it may be obtained from FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: July 19, 1979.

[S-1472-79 Filed 7-20-79; 3:36 pm]

BILLING CODE 6712-01-M

6

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: At the conclusion of the open meeting to be held at 9:30 a.m., July 26, 1979.

PLACE: 1700 G Street, NW., Sixth Floor, Washington, D.C.

STATUS: Closed meeting.

FOR FURTHER INFORMATION CONTACT: Franklin O. Bolling (202-377-6677).

MATTERS TO BE CONSIDERED: Consideration of Travel Audit.

No. 254, July 19, 1979.

[S-1467-79 Filed 7-20-79; 11:05 am]

BILLING CODE 6720-01-M

7

[USITC SE-79-30]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, July 31, 1979.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.

3. Ratifications.

4. Petitions and complaints, if necessary.

5. Investigation 332-87 (Western Steel)—consideration of the report, if necessary.

6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary. (202) 523-0161

[S-1468-79 Filed 7-20-79; 11:05 am]

BILLING CODE 7020-02-M

8

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of July 16 (Changes) and Week of July 23 (Changes).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

Thursday, July 19, 4:45 p.m. (Additional Item)

1. Affirmation of Proposed New System of Records and Amendments of Routine Uses (Approximately 10 minutes—Public meeting).

Tuesday, July 24, 2:30 p.m.—(Cancellation)

Item 2. Briefing on Revision to the Operating Assumption Covering the Relative Ease of Fabricating Clandestine Fission Explosives (Approximately ½ hour—Closed—Item is Cancelled).

Friday, July 27, 9:30 a.m.

1. Affirmation Session (Approximately 10 minutes—Public meeting—Postponed from July 26).

- (a) Order in S-3.
- (b) ALAB-542 (Atlantic Research).
- (c) Anderson FOIA Appeal.
- (d) Upgrade Rule (Tentative).
- (e) Revision of 10 CFR 2.802 PRM (Tentative).

(f) Order in Restart of TMI-1 (Tentative).

2. Budget Presentations (Approximately 3 hours—Public meeting—NMSS—as announced).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, (202) 634-1410.

Walter Magee,
Office of the Secretary.

July 19, 1979.

[S-1470-79 Filed 7-20-79; 3:36 pm]

BILLING CODE 7590-01-M

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federal register

Tuesday
July 24, 1979

Part II

Pension Benefit Guaranty Corporation

Revised Method of Filing; Notice of
Intent to Terminate

PENSION BENEFIT GUARANTY CORPORATION

[29 CFR Part 2604]

Revised Method of Filing Notice of Intent to Terminate; Proposed Rulemaking**AGENCY:** Pension Benefit Guaranty Corporation.**ACTION:** Proposed rule.

SUMMARY: This is a proposed revision of the Notice of Intent to Terminate regulation. If adopted, it will prescribe a new method of filing with the Pension Benefit Guaranty Corporation ("PBGC") the statutory Notice of Intent to Terminate a pension plan covered under the plan termination insurance program of Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA"). This amendment is necessary because the PBGC and the Internal Revenue Service ("IRS") have developed a joint form and a simplified procedure to follow when terminating a pension plan that is covered under Title IV of ERISA and for which a determination of qualification is requested from the IRS. This form is also to be used to notify the IRS of plan mergers, consolidations, or transfers of plan assets or liabilities to another plan. Notification on this form to the IRS will also satisfy the requirement to report the latter type of transactions to the PBGC. It is expected that this new procedure and the use of this form will simplify and lessen the filing obligations of defined benefit pension plans covered under Title IV of ERISA.

DATES: Comments must be received on or before September 24, 1979.

ADDRESSES: Send comments to the Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006. Written comments will be available for public inspection at the PBGC, Suite 7100, at the same address, on weekdays between 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: William E. Seals, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006, 202-254-4895.

SUPPLEMENTARY INFORMATION: Section 4041(a) of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. 1341(a), requires the plan administrator of a terminating defined benefit pension plan covered under the plan termination insurance program of Title IV of ERISA, to file with the

Pension Benefit Guaranty Corporation ("PBGC"), at least 10 days prior to the proposed date of termination, a notice that the plan is to be terminated.¹ A plan administrator of a terminating plan qualified under section 401(a) of the Internal Revenue Code, 26 U.S.C. 401(a) (the "Code"), who desires a determination of qualification regarding the plan must file certain information with the IRS. Section 4043(b)(8) of ERISA requires a plan administrator of a pension plan covered under Title IV of ERISA to notify PBGC within 30 days after he or she knows or has reason to know that his or her plan has merged, consolidated, or transferred its assets or liabilities under Section 208 of ERISA.² Section 6058(b) of the Code requires a plan administrator of a plan which is qualified under section 401(a) of the Code to notify the IRS at least 30 days prior to the merger, consolidation, or transfer of its assets or liabilities to another plan.

The overlapping nature of these statutory filing requirements, and thus their potential for causing certain pension plans to make duplicative filings with the PBGC and the IRS, has been a source of concern to the two agencies. Therefore, the two agencies have sought to develop a method to alleviate these duplicative filing requirements. The approach that has been developed by the PBGC and the IRS simplifies and lessens the current requirements by eliminating the necessity for a defined benefit plan covered by Title IV of ERISA to file information regarding a single event with both agencies. The details of this proposed new system (which is referred to as "one-stop service") are set forth below, and the opinions and suggestions of the public with regard to it are requested. All comments received will be carefully considered by the PBGC and IRS before finalizing this procedure.

¹Section 4041(f) of ERISA provides that the amendment of a covered plan to make it an individual account plan shall be treated as a plan termination. Accordingly, the plan administrator must file with the PBGC a notice of intent to terminate the plan.

²This notice requirement may be modified by the PBGC when it issues its final regulation on Reporting and Notification Requirements for Reportable Events. When that regulation was published in proposed form for public comment (42 Fed. Reg. 59285 (November 16, 1977)), it contained a provision (proposed § 2617.11) waiving the 30-day notice requirement for plans with less than 100 participants and for plans making certain de minimis transfers of assets or liabilities pursuant to reciprocity or portability agreements. Thus, references in this regulation to the filing requirement under ERISA § 4043(b)(8) mean the current effective statutory filing requirement or any modified filing requirement subsequently promulgated by PBGC in its regulation on Reportable Events.

If this proposal is adopted, the IRS will issue a Revenue Procedure and the PBGC will amend its Notice of Intent to Terminate regulation.

One-Stop Service

The basic premise of one-stop service is that a defined benefit pension plan covered by Title IV of ERISA that is faced with duplicative filing requirements³ under sections 4041(a) and 4043(b)(8) of ERISA and sections 401(a) and 6058(b) of the Code should be able to satisfy all of its filing requirements by a single filing with one agency. The vehicle for accomplishing this is revised IRS/PBGC Form 5310 and IRS Form 6088. (The latter is not a new form, but Schedule A of the current Form 5310, set forth separately with minor editorial changes and assigned a new number. Revised Form 5310 is discussed more fully in the next section of this preamble.) Under this new procedure, the total amount of information required to be submitted to both agencies has been reduced through the elimination of duplicative requirements.

Under the proposed procedure, a terminating defined benefit pension plan that is covered by Title V of ERISA, other than a multiemployer plan,⁴ is required to file Form 5310 with the PBGC at least 10 days prior to the proposed date of termination. If the plan also wishes to obtain a determination from the IRS on its tax qualification status upon termination, it should attach a duplicate of completed Form 5310, and the PBGC will send the duplicate to the IRS in order to allow it to make a tax qualification determination. Thus the plan need not make separate filings with both agencies.

There are, however, certain situations in which separate filings may still be necessary. If, for example, the plan has already filed its Form 5310 with the

³Pension plans other than defined benefits plans covered under ERISA Title IV and profit-sharing and other types of deferred compensation plans are not similarly burdened with duplicative filing requirements, because under Title IV of ERISA and the Code, they need only file with IRS.

⁴While terminating multiemployer pension plans covered by Title IV of ERISA are required under Section 4041(a) to file a Notice of Intent to Terminate with the PBGC at least 10 days prior to the proposed date of termination, the only requirements prescribed by the PBGC for the Notice are that it be signed by the plan administrator and contain his or her address and telephone number. (See 42 Fed. Reg. 64752 (December 28, 1977).) Part 2604 of the PBGC's regulations does not apply to multiemployer plans. Thus, unless specifically noted otherwise, references in this preamble to "defined benefit pension plans covered under Title IV of ERISA" do not include multiemployer plans. Optional use by multiemployer plans of Form 5310 for a Notice of Intent to Terminate is discussed in the next two sections of this preamble.

PBGC and then decides that it wishes to obtain a determination from IRS on its tax qualification status, it should file another Form 5310 and a Form 6088 directly with the IRS. The Form 5310 should be marked "IRS only" in the Special Request box at the top of page 1. The other situation arises when a plan covered under Title IV wishes to obtain an advance determination of tax qualification from the IRS prior to deciding whether to terminate. In this case, the plan should file Forms 5310 and 6088 directly with IRS and indicate "IRS only" in the Special Request box on the Form 5310. If it is later decided that the plan will be terminated, another Form 5310 will have to be filed with PBGC at least 10 days prior to the proposed termination date. Receipt by the IRS of a Form 5310 marked "IRS only" will not constitute a filing with the PBGC for purposes of Section 4041(a) of ERISA.

Finally, pension plans not covered by Title IV and other deferred compensation plans that want to obtain IRS determinations upon their termination should file Form 5310, marked "IRS only" in the Special Request box at the top of page 1, and Form 6088 only with the IRS. The PBGC, of course, has no involvement with such plans.

The proposed procedure also covers the filing requirements attendant to a plan merger, consolidation, or transfer of assets or liabilities. Any plan that is required, pursuant to section 6058(b) of the Code, to notify IRS of any of these transactions, is required to file Form 5310 with the IRS. If the plan is a defined benefit plan covered by Title IV of ERISA, filing Form 5310 in duplicate will also satisfy its obligation to file with the PBGC pursuant to section 4043(b)(8) of ERISA. The IRS will send the duplicate Form 5310 to the PBGC. All other plans should write "IRS only" in the Special Request box at the top of page 1.

In certain instances, plan administrators may wish to obtain a determination regarding qualification of a plan after a merger, consolidation, or transfer of its assets or liabilities to another plan. In that event, the plan administrator must file with IRS a Form 5300, 5301, 5303, or 5307 (whichever is applicable). If that form is filed at least 30 days prior to the merger, consolidation, or transfer of plan assets or liabilities to another plan, that filing will satisfy the requirement of filing a Form 5310. If the plan is a defined benefit plan covered by Title IV of ERISA, the actuarial statement required by line 6(g) of Form 5310 must be

submitted with a duplicate completed Form 5300, 5303, or 5307 (as applicable). This filing will also satisfy the obligation to file with the PBGC pursuant to section 4043(b)(8) of ERISA. The IRS will transfer to the PBGC the information submitted.

Thus, as can be seen from this description of one-stop service, defined benefit plans covered by Title IV of ERISA normally will no longer need to make filings with both the PBGC and the IRS with respect to plan terminations or with respect to mergers, consolidations, or transfers of plan assets or liabilities. In the former situation, the plan will file Form 5310 in duplicate only with the PBGC, and in the latter case it will file Form 5310 (or Form 5300, 5303 or 5307, as explained above) in duplicate only with the IRS. The PBGC and the IRS believe that this system will make it easier and less costly for covered defined benefit plans to meet their filing requirements under ERISA and the Code. Interested members of the public are urged to comment on the concept of one-stop service.

IRS/PBGC Form 5310

As stated above, under the proposal, filings required under ERISA sections 4041(a) and 4043(b)(8) and required or allowed under Code sections 401(a) and 6058(b) are to be made on a revised Form 5310. The current Form 5310 is used for requesting an IRS determination of a plan's tax qualification status upon termination and for notifying IRS of a plan merger, consolidation, or transfer of assets or liabilities. Parts I, II and III of the current Form have been carried over as Parts I, II and III of the revised Form, with some changes to reflect that the Form is now used for certain filings with PBGC. An important change has been made in Part I of Form 5310, which now contains a Special Request box for use by plan administrators who choose not to utilize one-stop service. On those Forms 5310 which are to go only to the PBGC (i.e. when the plan administrator does not wish to obtain an IRS determination letter), the plan administrator should so indicate by marking the Special Request box "PBGC only." On those Forms 5310 which are to go only to the IRS, the plan administrator should so indicate by marking the Special Request box "IRS only."

In addition, the revised 5310 contains a new Part IV, which covers the information currently required to be submitted to the PBGC as a Notice of Intent to Terminate a covered defined benefit pension plan pursuant to section

2604.4 of the PBGC's Notice of Intent to Terminate regulation. Under that regulation, as currently in effect, there is no specific form to be used for filing a Notice of Intent to Terminate, but rather plans are required to file 26 items of information. Under this proposal, the revised Form 5310 will supersede § 2604.4 of the current regulation. Part IV also covers some information that currently must be submitted to the PBGC subsequent to the filing of the Notice of Intent to Terminate. (Changes in the PBGC's Notice of Intent to Terminate regulation are discussed in the next section of this preamble.) Finally, Schedule A of current Form 5310 ("Distributable Benefits to Individual Participants") is not contained in the revised 5310; rather it will be a new IRS Form 6088.

Whenever a terminating pension, profit-sharing or other deferred compensation plan not covered under Title IV of ERISA wants to obtain an IRS determination letter regarding the plan termination, Parts I and III of Form 5310 and Form 6088 must be completed, and the Special Request box of Form 5310 should be marked "IRS only." The same rules apply to a covered defined benefit pension plan that is seeking an advance determination from the IRS regarding a possible plan termination. If the covered plan is actually terminating and an IRS determination letter is desired, Part IV of Form 5310 must also be completed and Parts I and III of Form 5310 must be submitted in duplicate. (The Special Request box should be left empty.) In this last situation, however, Form 6088 need not be filed; the participant data schedules submitted under Part IV of Form 5310, if submitted in duplicate, will be used in lieu of Form 6088. Whenever any plan is filing a notice of merger, consolidation, or transfer of plan assets or liabilities, it is required to complete Parts I and II of Form 5310.⁵

Finally, if a multiemployer plan covered under Title IV chooses to use Form 5310 for its Notice of Intent to Terminate, it need only complete Part I and Lines 7-11 of Part III of Form 5310, and submit it to the PBGC. (The optional use of Form 5310 by multiemployer

⁵As stated above, plan administrators desiring a determination regarding a plan's qualification after a merger, consolidation, or transfer of plan assets or liabilities to another plan may submit Form 5300, 5301, 5303, or 5307 in lieu of Form 5310, at least 30 days prior to such merger, consolidation, or transfer of plan assets or liabilities to another plan. Defined benefit plans covered under Title IV of ERISA must submit the actuarial statement required by line 6(g) of Form 5310 in duplicate, with a duplicate Form 5300, 5303, or 5307 in order to satisfy the obligation to file with PBGC pursuant to Section 4043(b)(8) of ERISA.

plans for compliance with § 4041(a) of ERISA is discussed in the next section of this preamble.) It should be noted that if the multiemployer plan is seeking an IRS determination letter on its termination, it will have to complete Parts I and III of Form 5310 (and Form 6088) and submit them in duplicate, so that using Form 5310 as its Notice of intent to Terminate will not require the submission of any additional information.

The proposed revised Form 5310 is being published today in the Federal Register. In addition, copies of the proposed revised Form 5310 may be obtained at Area and Regional Offices of the Labor-Management Services Administration, Department of Labor and from the PBGC. Members of the public are encouraged to submit their views on the revised Form.

Notice of Intent to Terminate

As part of this one-stop service proposal, the PBGC proposes to revise 29 CFR, Part 2604 to provide that the Notice of Intent to Terminate required by section 4041(a) of ERISA must be submitted on IRS/PBGC Form 5310 by all plans covered by Title IV other than multiemployer plans. Accordingly, it is proposed to amend Part 2604 by deleting current § 2604.4, which contains a list of the information required to be submitted with the Notice, and revising § 2604.3(a) to provide that the Notice of Intent to Terminate must be submitted on Form 5310.

As noted above, Part IV of Form 5310 covers the Notice of Intent to Terminate. In addition to incorporating current section 2604.4, Part IV also requires the submission of information which until now the PBGC has required to be submitted after the filing of the Notice. All of this information is currently collected by the PBGC, as it is needed for the processing of plan terminations. The PBGC now proposes to collect this information as part of the Notice of Intent to Terminate, in order to speed the processing of cases by reducing (and perhaps eliminating) the need to go back to plans for additional information after they have filed the Notice. These items of information, where they appear on Form 5310, and the need for them are set forth below.

(1) Record of all actions taken to terminate the plan. Part IV, Line 21(h). This information is needed to enable the PBGC to determine whether the termination date proposed by the plan is appropriate under Title IV or whether another date should be established as the date of plan termination.

(2) Whether the plan administrator intends to seek a Notice of Sufficiency. Part IV, Line 22(d). This information reflects and is necessitated by the PBGC's new procedure for processing plan terminations, as set forth in its proposed Plan Sufficiency regulation, 41 FR 48504 (November 3, 1976).

(3) The estimated plan asset insufficiency (if applicable). Part IV, Line 22(b). This information is requested because the PBGC often needs an immediate estimate of what its liability will be for guaranteed benefits. One frequently encountered need for this information is the pendency of insolvency proceedings involving the employer who maintained the plan, which may require the PBGC to promptly assert its claim for employer liability.

(4) Whether, in the case of an insufficient plan, the employer who maintained the plan has made an irrevocable commitment prior to the date of plan termination to make the plan sufficient. Part IV, Line 22(c). This information, too, is required by the new procedures that will be set forth in the PBGC's Sufficiency regulation. If the PBGC determines that the employer can honor this commitment, the commitment is treated as a plan asset in determining whether the plan is sufficient.

(5) Participant data schedules. Part IV, Line 23. This information is necessary for several reasons, chief among them to determine plan (in)sufficiency and, for an insufficient plan, to determine the amount of each participant's allocated benefit subject to guarantee.

(6) Whether the plan is covered by Title IV of ERISA. Part I, Line 5(d). Only plans covered by Title IV are required to submit a Notice of Intent to Terminate and thus to complete Part IV of Form 5310. This information, therefore, assists the agency receiving the Form (either PBGC or IRS) in ascertaining promptly whether the Form has been filed with the correct agency and whether the correct portions of the Form have been completed. Further, while the PBGC would expect that plan administrators generally know whether their plans are covered by the Title IV termination insurance program of ERISA, there may be doubts respecting coverage of some plans. Line 5(d) will indicate to the PBGC whether it must first make a coverage determination on the plan before beginning the usual case processing.

Line 5(d) provides that where coverage of the plan has not been determined, Part IV of the Form need not be completed. This does not in any way alter the obligation of a plan

covered under Title IV to submit a Notice of Intent to Terminate. However, PBGC recognizes that Part IV calls for the submission of a substantial amount of information and does not wish to put a plan that might not, in fact, be covered to the trouble and expense of completing Part IV. Accordingly, a plan that indicates on Line 5(d) that its coverage has not been determined may choose to submit Form 5310 (and a copy of the plan document, any plan amendments and any IRS determination letters, as required by Line 5(d)) without completing Part IV. If the PBGC determines that the plan is covered, it will so advise the plan and a completed Part IV will then have to be submitted.

Because of the requirement in section 4041(a) that the Notice be submitted at least 10 days prior to the proposed date of termination, in the circumstances described in the preceding paragraph, PBGC will consider the date on which the initial filing of Form 5310 is made as the date of filing the Notice for purposes of section 4041(a). This will, absent other problems, enable a plan to keep its proposed date of termination even though Part IV is not filed until a later date. However, because the 90-day period in section 4041, during which PBGC must determine whether or not a plan is sufficient, runs from the proposed date of termination, the PBGC won't have the information needed to make this determination until well into, or perhaps after, the 90-day period. Under section 4041(d), the PBGC and the plan administrator can agree to extend this 90-day period. Since the 90-day period must be extended to assure the PBGC of actually having 90 days to process a Notice of Intent to Terminate, proposed section 2604.4(d) and Line 5(d) of the Form provide that when a plan administrator chooses not to complete Part IV in his initial filing, and the PBGC determines that the plan is covered under Title IV, the plan administrator shall be deemed to have agreed, pursuant to section 4041(d), to an extension of the 90-day period until the date 90 days after the date on which a completed Part IV is filed with the PBGC.

Other changes have been made in Part 2604 to reflect the fact that Form 5310 is to be used both for filing a Notice of Intent to terminate and for requesting an IRS determination of tax qualification. Section 2604.3(b), "Who shall file", has been changed by adding the IRS rules with respect to the submission of filings and the appearance before the agency by a representative of the taxpayer. Whenever a Form 5310 is filed both as a Notice under this part and as a request

for a determination these IRS rules apply, and the applicable IRS Power of Attorney or Authorization and Declaration form (Forms 2848 and 2848-D, respectively) should be used. When Form 5310 is being submitted only as a Notice of Intent to terminate by a representative of the plan administrator other than an attorney-at-law, a notarized power of attorney is required but no specific form is prescribed.

Also, the provision pertaining to the effect of a failure to file the required Notice of Intent to Terminate (currently § 2604.3(f); § 2604.4(a) in this proposal) has been modified to provide that filing a Form 5310 marked "IRS only" does not constitute a filing of a Notice of Intent to Terminate. Finally, in line with the purpose of this new one-stop service procedure to eliminate duplicative filing requirements, the PBGC has determined that the notice to interested parties required under section 7476 of the Code will satisfy the requirements of section 2604.3(e) pertaining to notice to employees of a pending plan termination. Thus, one notice, the section 7476 notice, may be used in place of two notices.

The proposed amendments also make a number of non-substantive, editorial changes to Part 2604. As noted above, current § 2604.4 has been deleted and paragraphs (c) and (d) of that section now appear as paragraphs (b) and (c) of a new § 2604.4, which contains all of the provisions relating to failure to file (new § 2604.4(a)), incomplete filings, extension of time to file and waiver of the obligation to file. Further, purely editorial language changes have been made in §§ 2604.3 (c) and (d) and 2604.4 (b) and (c); these changes have no substantive effect.

Finally, as mentioned above, while Part 2604 does not apply to multiemployer plans covered under Title IV, those plans are still required to submit a Notice of Intent to Terminate to the PBGC at least 10 days prior to the proposed date of termination. PBGC has not, however, specified the form of that Notice. Multiemployer plans who choose to do so, may satisfy the Notice requirement by submitting to the PBGC Form 5310 with Part I and Lines 7-11 of Part III completed. (Multiemployer plans that are requesting an IRS determination letter on their termination must complete Parts I and III of Form 5310 and Form 6088 for that purpose.) The use of this Form for the filing of a Notice of Intent to Terminate by a Multiemployer plan is not mandatory, but it may be convenient for these plans to use this Form.

The PBGC requests members of the public to submit their comments on the revision of Part 2604 set forth in this proposal.

In consideration of the foregoing, it is hereby proposed to revise Part 2604 of Title 29, Code of Federal Regulations, to read as follows:

PART 2604—NOTICE OF INTENT TO TERMINATE

Sec.

2604.1 Purpose and scope.

2604.2 Definitions.

2604.3 Requirement of notice.

2604.4 Effect of failure to file; extension of time, and waiver of obligation to file.

2604.5 Date of filing.

2604.6 Computation of time.

Authority: Secs. 4002, 4041, Pub. L. 93-406, 88 Stat. 1004, 1020 (29 U.S.C. 1302, 1341).

§ 2604.1 Purpose and scope

(a) *Purpose.* The purpose of this part is to prescribe for non-multiemployer plans the contents of and the procedures for filing the Notice of Intent to Terminate required by section 4041(a) of the Act.

(b) *Scope.* This part applies to all Notices of Intent to Terminate non-multiemployer pension benefit plans covered by Title IV of the Act that are required to be filed after [the effective date of this revision].

§ 2604.2 Definitions.

As used in this part—

"Act" means the Employee Retirement Income Security Act of 1974, 88 Stat. 829 et. seq.

"PBGC" means the Pension Benefit Guaranty Corporation.

"IRS" means the Internal Revenue Service.

§ 2604.3 Requirement of notice.

(a) *General.* A Notice of Intent to Terminate a plan to which this part applies shall be filed with the PBGC. Each Notice of Intent to Terminate required under this part shall be filed on IRS/PBGC Form 5310, in accordance with the instructions contained therein.

(b) *Who shall file.* The plan administrator, as defined in section 3(16) of the Act, or a duly authorized representative acting on behalf of the plan administrator, shall sign and file the Notice. When the Notice is submitted only to the PBGC by a duly authorized representative other than an attorney-at-law, it shall be accompanied by a notarized power of attorney, signed by the plan administrator, which authorizes the said representative to submit such a Notice, and, if desired, also authorizes the representative to act on behalf of the plan administrator in

connection with the termination. When the Notice is being submitted to both the PBGC and the IRS by a duly authorized representative, it shall be accompanied by a power of attorney specifically authorizing such representation in this matter or by a written declaration that the representative is currently qualified as an attorney, a certified public accountant or as an enrolled actuary or is currently enrolled to practice before the Internal Revenue Service and that such person is authorized to represent the principal.

(c) *When to file.* A Notice required by this part shall be filed with the PBGC (i.e. received by the PBGC) at least 10 days prior to the proposed date of termination of the plan.

(d) *How and where to file.* A Notice required by this part may be sent by mail or submitted by hand during normal working hours to the Pension Benefit Guaranty Corporation, Office of Program Operations, Room 5300, 2020 K Street, N.W., Washington, D. C. 20006.

(e) *Notice to employees.* Whenever a Notice is filed pursuant to this part, the plan administrator or his or her duly authorized representative shall immediately give written notification of the filing of the Notice to the employees covered by the plan. The notification shall state the date on which the Notice was filed and the date of termination proposed in the Notice. If the employees are represented by a union, the notification shall be delivered to the union representative. If the employees are not represented by a union, the notification shall be posted in the location or locations normally used by the employer for posting notices to employees.

§ 2604.4 Effect of failure to file; extension of time and waiver of obligation to file.

(a) *Effect of failure to file.* Failure to file the Notice required by this part prior to the termination of a pension plan constitutes a violation of the provisions of title IV of the Act. Filing Form 5310 designated "IRS only" is not a filing of the Notice required by this part.

(b) *Effect of failure to file all required information.* Failure to file all of the information required by this part, as set forth in IRS/PBGC Form 5310, shall render the Notice incomplete and voidable by the PBGC; *Provided*, that the Notice will not be voidable by the PBGC if the PBGC pursuant to paragraph (c) of this section grants an extension of time to complete the filing or waives the obligation to file any of the required information.

(c) *Extension of time or waiver of obligation to file information.* At the

time of filing the Notice or prior thereto, the plan administrator or his or her duly authorized representative may request an extension of time to complete the filing or a waiver of the obligation to file any information required to be filed pursuant to this part. The request shall be in writing and state the reasons for the relief sought. A request for an extension of time shall also be accompanied by duplicate originals of an agreement signed by the plan administrator or his or her duly authorized representative, pursuant to which he or she agrees that if the PBGC grants the request, the 90-day period set forth in section 4041(a) of the Act during which the plan administrator may not make any distributions pursuant to the proposed termination of the plan shall be automatically extended by a period of time equal to the extension of time granted by the PBGC. When the PBGC grants an extension of time, an executed copy of the agreement submitted with the request for extension will be returned to the plan administrator or his or her duly authorized representative. When the PBGC grants a request to waive the filing of any information required to be filed by this part, the plan administrator or his or her duly authorized representative will be so notified in writing:

(d) *Special rules for plans where title IV coverage has not been determined.* If a plan administrator of a terminating pension plan is not certain whether the plan is covered under Title IV of the Act and has not received a determination of coverage for the plan from the PBGC, he or she or his or her duly authorized representative may submit IRS/PBGC Form 5310 without completing the Notice of intent to Terminate portion of the Form (Part IV of the Form), as provided in the Form and Instructions. However, if the plan administrator or his or her duly authorized representative submits Form 5310 without completing Part IV thereof, and the PBGC determines that the plan is covered by title IV of the Act, the plan administrator or the duly authorized representative will be deemed to have agreed to an extension of the 90-day period set forth in section 4041(a) of the Act until a date 90 days after the date on which the plan administrator or his or her duly authorized representative files with the PBGC a Form 5310 with the Notice of intent to Terminate portion, Part IV, completed.

(e) Nothing in paragraphs (c) and (d) of this section shall in any way alter or limit the authority contained in section 4041(d) of the Act of the PBGC and a plan administrator or the duly

authorized representative to agree to further extensions of the 90-day period set forth in § 4041 or of the PBGC to apply to a court for an order extending that 90-day period.

§ 2604.5 Date of filing.

Any notice or document required to be filed under the provisions of this part shall be deemed filed on the date on which it is received by the PBGC.

§ 2604.6 Computation of time.

In computing any period of time prescribed or allowed by the rules of this part, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or Federal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or Federal holiday.

Issued in Washington, D.C. this 18th day July, 1979.

Ray Marshall,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above, pursuant to a resolution of the Board of Directors approving this regulation and authorizing its Chairman to issue same.

Henry Rose,

Secretary, Pension Benefit Guaranty Corporation.

BILLING CODE 7708-01-M

Form **5310**

(Rev. April 1979)

Department of the Treasury
Internal Revenue Service

Pension Benefit
Guaranty Corporation

Application for Determination Upon Termination; Notice of Merger, Consolidation or Transfer of Plan Assets or Liabilities; Notice of Intent to Terminate

(Under sections 401(a) and 6058(b) of the Internal Revenue Code and Sections 4041(a) and 4043(b)(8) of the Employee Retirement Income Security Act of 1974)

Please complete all items in Part I.

Reason(s) for filing (check applicable box(es)):

- A ☐ Notice of plan ► (i) Merger, (ii) Consolidation OR (iii) Transfer of plan assets or liabilities to another plan—Complete Parts I and II
- B ☐ Submission of ► (i) Application for a determination letter regarding a plan termination,
(ii) Notice of intent to terminate a defined benefit plan covered by the Pension Benefit Guaranty Corporation termination insurance program (See item 5(d) and Instruction) OR
(iii) Both an application for a determination upon termination and a notice of intent to terminate—See General Instruction C, What and When to File.

C Special Request

Complete as directed in General Instruction C.

Part I All Filers Complete This Part

1 (a) Name of employer or association of employers or employees	1 (b) Employer identification number
Address (number and street)	1 (c) Employer's telephone number ()
City or town, State and ZIP code	1 (d) Employer's taxable year ends Month Day Year 19
2 (a) Name of plan administrator if other than person(s) named in 1(a) above	1 (e) Business code number
Address (number and street)	1 (f) Date incorporated or business commenced
City or town, State and ZIP code	2 (b) Administrator's employer identification no. :
3 Office of District Director of district where employer is located	2 (c) Telephone number of administrator ()
4 Check appropriate box(es) to indicate type of plan entity (see definitions): (a) <input type="checkbox"/> Single employer plan (b) <input type="checkbox"/> Plan of controlled group of corporations or commonly controlled employers (c) <input type="checkbox"/> Multiemployer plan (d) <input type="checkbox"/> Other multiple employer plan (e) <input type="checkbox"/> Keogh (HR 10) plan	
5 (a) Plan name	(b) Plan number (c) Plan year ends

(d) Is this a defined benefit plan covered under the Pension Benefit Guaranty Corporation termination insurance program? (i) ☐ Yes (ii) ☐ No (iii) ☐ Not determined

If you checked (i) and in any prior filing with PBGC the employer identification number or plan number reported in such filing was different than the ones reported in items 1(b) or 5(b) above, list the numbers previously reported ►

If you checked (ii) do not complete Part IV of this form.

If you checked (iii) attach an executed copy of the plan document and any amendments to the plan document, and a copy of the IRS determination letter or letters for the plan. You are not required to complete Part IV of this form. However, failure to do so may result in an extension of the 90-day period prescribed in section 4041(a) of ERISA during which no plan assets may be distributed pursuant to the plan termination. (See specific instructions.)

Under penalties of perjury, I declare that I have examined this application, including accompanying statements, and to the best of my knowledge and belief it is true, correct and complete.

Signature ► Title ► Date ►

Signature ► Title ► Date ►

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Part II To be Completed ONLY for a Plan Merger or Consolidation or Transfer of Plan Assets or Liabilities to Another Plan

6 Other plan(s):		(a) Plan name	(b) Name of employer
(c) Employer identification number	(d) Plan number	(e) Date of merger, consolidation or transfer	
(f) Is the successor plan a defined benefit plan? <input type="checkbox"/> Yes <input type="checkbox"/> No			
(g) In the case of a defined benefit plan attach an actuarial statement of valuation evidencing compliance with the requirements of section 401(a)(12) of the Code and the Income Tax Regulations under section 414(l) of the Code.			

Part III Complete This Part ONLY if You Checked "B" Under Reason for Filing

7 Type of plan (check appropriate box): (a) <input type="checkbox"/> Defined benefit (see definitions) (b) <input type="checkbox"/> Money purchase (c) <input type="checkbox"/> Profit-sharing (d) <input type="checkbox"/> Other (specify) ▶						
8 Effective date of plan		9 Date and file folder number of last determination letter		10 Proposed date of termination		
11 Reason for termination (check applicable box): (a) <input type="checkbox"/> Change in ownership by merger (b) <input type="checkbox"/> Liquidation or dissolution of employer (c) <input type="checkbox"/> Change in ownership by sale or transfer (d) <input type="checkbox"/> Adverse business conditions (see instructions) (e) <input type="checkbox"/> Adoption of new, superseding plan (f) <input type="checkbox"/> Other (specify) ▶						
12 Type of funding (check appropriate box(es)): (a) <input type="checkbox"/> Trust or custodial account (b) <input type="checkbox"/> Fully insured (c) <input type="checkbox"/> Combination (d) <input type="checkbox"/> Other (specify) ▶						
13 (a) Name of trustee or custodian (if none, enter "N/A" in 13(a) and (b))				(b) Date accounting period ends		
Address (number and street)						
City or town, State and ZIP code						
14 Number of active employee participants (those who have not incurred a break in service) for current plan year and each of the five prior plan years:						
Item	19.....	19.....	19.....	19.....	19.....	19..... (current year)
(a) Beginning of year						
(b) Added during the year						
(c) Total of lines (a) and (b)						
(d) Dropped during the year						
(e) Total end of year, (c) less (d)						
15 Summary:						
Category of Participant or Claimant				Total number	Amount of monthly benefits	
(a) Retirees and beneficiaries (including disability retirees)						
(b) Eligible for normal retirement						
(c) Eligible for early (but not normal) retirement						
(d) Vested prior to termination (other than normal or early retirement)						
(e) Former employees with vested deferred benefits						
(f) All other active participants						
(g) Total (add lines (a) through (f))						

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16 Miscellaneous:	Yes	No
(a) Has the plan been amended since the last determination letter to affect the rights of employees to vest in benefits under the plan?		
(b) Has the plan been amended since the last determination letter to decrease future benefits under the plan?		
(c) Has each employee who qualifies as an interested party been informed of the filing of this application?		
(d) Have benefits or vesting been liberalized in the 60 months prior to termination?		
(e) Will the trust continue to operate after termination of the plan?		
(f) Were any funds contributed in the form of, or invested in, obligations or property of the employer or any controlled corporation?		
(g) Will distributions include property other than cash?		
(h) Will distributions to owner-employees be made prior to age 59½?		
(i) Will any funds revert to or become available to the employer?		
(j) Is any issue relating to this plan, or trust, currently pending before <input type="checkbox"/> the Internal Revenue Service, <input type="checkbox"/> the Department of Labor, <input type="checkbox"/> the Pension Benefit Guaranty Corporation, or <input type="checkbox"/> any court? If "Yes," check box above to indicate where issue is pending		
(k) Is there an accumulated funding deficiency? If "Yes," enter the amount of the accumulated funding deficiency ▶		
(l) Have all unallocated funds which can be reallocated to participants without exceeding the limitations of section 415 of the Code been allocated?		
(m) Did the plan originally contain a provision allowing this allocation? If "No," was the plan amended to provide for this allocation?		
17 If a defined contribution plan, such as a profit-sharing, stock bonus or other such plan where forfeitures are credited to individual account balances, enter forfeiture information as follows:		
(a) Total forfeitures for all plan years		
(b) Percent of total forfeitures to total contributions for all plan years		
(c) Explain basis on which forfeitures were allocated ▶		
18 Indicate how distributions will be made:		
(a) <input type="checkbox"/> Lump-sum		
(b) <input type="checkbox"/> Annuity		
(c) <input type="checkbox"/> Periodic payments from trust		
(d) <input type="checkbox"/> Transfer of assets and liabilities to another plan		
(e) <input type="checkbox"/> Other (specify) ▶		
19 Balance sheet (read instructions before completing this item):		
Assets		
(a) Cash		
(b) Receivables—		
(i) Employer contributions		
(ii) Other		
(c) Investments—		
(i) Government securities		
(ii) Pooled funds/mutual funds		
(iii) Corporate (debt and equity instruments)		
(iv) Real estate and mortgages		
(v) Other		
(d) Buildings and other depreciable property		
(e) Unallocated insurance contracts		
(f) Other assets		
(g) Total assets (add lines (a) through (f))		
Liabilities and Net Assets		
(h) Payables		
(i) Acquisition indebtedness		
(j) Other liabilities		
(k) Total liabilities (add lines (h) through (j))		
(l) Net assets (subtract line (k) from line (g))		

Form 5310 (Rev. 4-79)

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Part IV To be Completed ONLY for a Notice of Intent to Terminate

20 (a) Name of labor organization	(b) Telephone number ()
Address (number and street)	(c) Name of principal officer
City or town, State and ZIP code	(d) Title of principal officer

21 Indicate the applicable attachments that you are submitting by checking the appropriate column:

	Sub- mitted	Not ap- plicable
(a) Power of attorney		
(b) Executed copy of plan document		
(c) Executed copy of amendments to the plan document (see instructions)		
(d) Executed copy of group annuity or group insurance contracts		
(e) Executed copy of trust agreements		
(f) Executed copy of collective bargaining agreements		
(g) IRS determination letters		
(h) Record of all actions taken to terminate the plan		
(i) Copy of the most recent actuarial report		
(j) Copy of the most recent financial statement		

22 Sufficiency of plan assets (answer each of the following questions):

	Yes	No
(a) Are plan assets, when allocated in accordance with section 4044 of ERISA, believed sufficient to satisfy guaranteed benefits under section 4022 of ERISA? If "Yes," complete (d); if "No," complete (b) and (c).		
(b) Indicate estimated amount of insufficiency		
(c) Does the employer make an irrevocable commitment prior to the date of termination to make the plan sufficient? (see instructions) If "Yes," complete (d).		
(d) Do you intend to demonstrate sufficiency of assets and seek a notice of sufficiency? (see instructions)		

23 Participant data schedules in the format set forth in the instructions are required for the following groups of participants:

- (a) Active participants as of the proposed date of termination and separated participants with deferred vested benefits.
(b) Retired participants and beneficiaries entitled to benefits from the plan.

U.S. GOVERNMENT PRINTING OFFICE 670-263-436

c70-263-436-1

Form 6088

(April 1979)
Department of the Treasury
Internal Revenue Service

Pension Benefit Guaranty Corporation

Distributable Benefits from Employee Pension Benefit Plans▶ Attach to application for determination—regard-
ing a plan termination or partial termination.This Form is NOT Open
to Public Inspection

Line no.	Participant's last name and initials (list in order of compensation)	(a)	Check applicable columns				Fill in columns			Compensation (Money amounts should be in whole dollars. Round off to nearest dollar.)		Amount of employer contributions distributed or proposed to be distributed as of plan termination date. Defined contribution plans list allocations in column (A). Defined benefit plan see note below.		
			(b) Officer/shareholder	(c) Owner-employee	(d) Other self-employed	(e) Other employee	(f) Benefits fully vested before termination	(g) Years of participation	(h) Age at termination	(i) Percent of business owned (1% or more)	(j) Current 12 month period ending on date of termination or proposed date of termination		(k) For all full years of participation or for last ten years, whichever is lesser	(l) (A)
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22														
23														
24														
25														
26														
Totals for above														
Totals for all others														
Totals for lines 24 and 25														

* Defined benefit plans list amounts allocated in accordance with section 4044(a)(1), (2), (3) and (4)(A) of the Employee Retirement Income Security Act of 1974 under column (i)(A), and list under column (i)(B) all other allocated amounts.

263-477-1

General Instructions

(References are to the Internal Revenue Code)

Every employer or plan administrator who files an application for determination upon termination with respect to a defined benefit or a defined contribution plan is required to attach thereto this schedule, which must be completed in all details.

Prepare the employee census as of the date of termination or proposed termination.

Section 6104(a)(1)(B) provides generally that applications, filed with respect to the qualification of a pension, profit-sharing or stock bonus plan, shall be open to public inspection. However, section 6104(a)(1)(C) provides that information concerning the compensation of any participant shall not be opened to public inspection. Consequently, the information contained in this schedule shall not be made available to the public, including plan participants and other employees of the employer who established the plan.

This schedule is to be used by the Internal Revenue Service in its analysis of an application for determination as to whether a plan of deferred compensation qualifies under section 401(a) or 405(a).

If there are fewer than 25 participants, list all the participants. Otherwise, only the 25 highest-paid participants need be listed.

Specific Instructions

In column (a), list the participants in the order of compensation, starting with the highest-paid participant followed by the next highest-paid participant, and so on. Omit those employees who did not become participants under the plan prior to termination.

In column (j), enter compensation as of the 12-month period ending on the proposed termination date.

★ U.S. GOVERNMENT PRINTING OFFICE : 1979-O-283-477 263-477-1

Department of the Treasury
Internal Revenue Service

Pension Benefit
Guaranty Corporation

Instructions for Form 5310 (Revised April 1979)

Application for Determination Upon Termination

Notice of Merger, Consolidation or Transfer of Plan Assets or Liabilities Notice of Intent to Terminate

(Code references are to the Internal Revenue Code, ERISA
refers to the Employee Retirement Income Security Act of 1974.)

The filing of a properly completed Form 5310 (Rev. April 1979) will satisfy the filing requirements for IRS under section 6058(b) of the Code and the filing requirements for PBGC under sections 4041(a) and 4043(b)(8) of ERISA.

General Instructions

A. Who Must File.—

1. **Defined Benefit Pension Plans Covered Under the PBGC Termination Insurance Program.**—Every plan administrator of a defined benefit pension plan covered under the PBGC termination insurance program must file this form for any plan termination and for any plan merger, consolidation or transfer of plan assets or liabilities to another plan. See section 4041(a) of ERISA and section 6058(b) of the Code.

Note: The merger of a defined benefit plan covered under the PBGC termination insurance program with a defined contribution plan, resulting solely in a defined contribution plan, is considered a termination of the defined benefit plan.

2. **Funded Pension, Profit-Sharing and Other Deferred Compensation Plans Not Covered Under the PBGC Termination Insurance Program.**—Every employer or plan administrator (if designated) of a funded pension, profit-sharing or other deferred compensation plan not covered under the PBGC termination insurance program which is subject to section 414(l) of the Code must file this form for any plan merger, consolidation or transfer of plan assets or liabilities to another plan. See section 6058(b) of the Code.

B. **Who May Voluntarily File.**—This form may be filed for any defined benefit pension plan or any other funded pension, profit-sharing or other deferred compensation plan wishing to request the IRS to make a determination as to the plan's qualification status upon the plan's termination.

C. What and When to File.—

1. **Defined Benefit Pension Plans Covered Under the PBGC Termination Insurance Program.**—

(a) which are terminating and are requesting a determination letter from IRS regarding their qualification upon termination should complete Parts I and III of this form in duplicate, one copy of Part IV and either attach one copy of Form 6088 or duplicate copies of the schedule required in line 23. These forms should be filed with PBGC at least 10 days prior to the proposed termination date of the plan.

(b) which are terminating and are not requesting a determination letter from IRS regarding their qualification upon termination should complete

Parts I, III and IV of this form and file it with PBGC at least 10 days prior to the proposed termination date of the plan. Write "PBGC only" in the Special Request box in item C on top of page 1.

(c) which are requesting an advanced determination letter from IRS and not filing a notice of intent to terminate with PBGC, should complete Parts I and III of this form and attach a completed copy of Form 6088. These forms may be filed with IRS any time a determination letter is desired. Write "IRS only" in the Special Request box in item C on top of page 1.

Note: Defined benefit plans covered under the PBGC termination insurance program that are only requesting an advanced determination letter should file with IRS only. However, if the plan subsequently terminates, a notice of intent to terminate must be submitted only to PBGC at least 10 days prior to the proposed termination date of the plan.

(d) which are going to merge, consolidate or transfer plan assets or liabilities to another plan should complete Parts I and II of Form 5310 and file it in duplicate with IRS at least 30 days prior to the merger, consolidation or transfer of assets or liabilities to another plan. The filing of this form with IRS will satisfy the filing requirement of PBGC under section 4043(b)(8) of ERISA. If a request for a determination letter as to the qualification of the plan after such merger, consolidation or transfer of plan assets or liabilities to another plan is applied for on the applicable Form 5300, 5303 or 5307 at least 30 days prior to the above transactions a Form 5310 is not required to be filed; however, the actuarial statement required in line 6(g) of Form 5310 must be submitted in duplicate with the applicable form, also submitted in duplicate.

Note: The merger of a defined benefit plan covered under the PBGC termination insurance program with a defined contribution plan, resulting solely in a defined contribution plan, is considered a termination of the defined benefit plan. The filing requirements in paragraphs C 1 (b) and (d) above apply to the plan termination and to the plan merger, respectively.

2. **Funded Pension, Profit-Sharing and Other Deferred Compensation Plans Not Covered Under the PBGC Termination Insurance Program.**—

(a) which are terminating and are requesting a determination letter from IRS regarding their qualification upon termination should complete

Parts I and III of this form and Form 6088 and file them with IRS. This application may be filed any time a determination letter is desired. Write "IRS Only" in the Special Request box in item C on top of page 1.

(b) which are going to merge, consolidate or transfer plan assets or liabilities to another plan and are subject to section 414(l) of the Code must complete Parts I and II of Form 5310 and file it with IRS at least 30 days prior to the merger, consolidation or transfer of plan assets or liabilities to another plan. Write "IRS Only" in the Special Request box in item C on top of page 1.

If a request for a determination letter as to the qualification of the plan after such merger, consolidation or transfer of plan assets or liabilities to another plan is applied for on the applicable Form 5300, 5301, 5303, or 5307 at least 30 days prior to the above transactions a Form 5310 is not required to be filed.

3. **Defined Benefit Plans Where Coverage Under the PBGC Termination Insurance Program is Unknown.**—

(a) which are terminating and are requesting a determination letter from IRS should complete Parts I and III in duplicate and attach a copy of Form 6088. These forms should be filed with PBGC at least 10 days prior to the proposed termination date of the plan. Completion of Part IV is optional (see instructions for line 5(d)).

(b) which are terminating and are not requesting a determination letter from IRS should complete Parts I and III and file it with PBGC at least 10 days prior to the proposed termination date of the plan. Completion of Part IV is optional (see instructions for line 5(d)). Write "PBGC only" in the Special Request box in item C on top of page 1.

Note: If Part IV is not completed, the plan documents, any amendments and any IRS determination letters for the plan must be submitted with Parts I and III.

(c) which are only requesting an advanced determination letter from IRS should complete Parts I and III of this form and attach a copy of Form 6088. These forms should be filed with IRS at any time a determination letter is desired. Write "IRS only" in the Special Request box in item C on top of page 1.

(d) which are going to merge, consolidate or transfer plan assets or liabilities to another plan and are subject to section 414(l) of the Code should complete Parts I and II and file it in duplicate with IRS at least 30 days prior to the merger, consolidation or transfer of assets and liabilities to another plan. The filing of this form with IRS will satisfy the filing requirements of PBGC under section 4043(b)(8) of ERISA should the plan be covered under the PBGC termination insurance program. If a request for a determination letter as to the qualification of the plan after such merger, consolidation or transfer of plan assets or liabilities to another plan is applied for on the applicable Form 5300, 5303, or 5307 at least 30 days prior to the above transactions a Form

5310 is not required to be filed, however, the actuarial statement in line 6(g) of Form 5310 must be submitted in duplicate with the applicable form, also submitted in duplicate.

Note: The merger of a defined benefit plan covered under the PBGC termination insurance program with a defined contribution plan, resulting solely in a defined contribution plan, is considered a termination of the defined benefit plan. The filing requirements in paragraphs C 3(b) and (d) above apply to the plan termination and to the plan merger, respectively.

D. Where to File.—

1. **Where to File with PBGC.**—Those Forms 5310 that are to be filed with PBGC are to be sent or submitted by hand to the Pension Benefit Guaranty Corporation, Office of Program Operations, Room 5300, 2020 K Street, N.W., Washington DC 20006. If you have any questions, you may phone PBGC at 202-254-4817.

2. **Where to File with IRS.**—Those Forms 5310 that are to be filed with IRS are to be filed as follows:

(a) **Single Employer Plans.**—A plan maintained by one employer or solely by one employee organization must file with the District Director for the district in which the employer's or employee organization's principal place of business is located.

(b) In the case of a plan maintained by more than one employer, the plan sponsor must file with the District Director for the district in which is located the principal place of business of the plan sponsor, that is, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan.

E. Failure to File a Notice of Intent to Terminate.—Failure to file the notice of intent to terminate, including the filing of a Form 5310 designated "IRS only", prior to the termination of a plan covered under the PBGC termination insurance program constitutes a violation of the provisions of Title IV of ERISA. Failure to file any information required for a notice of intent to terminate shall render the form incomplete and voidable by PBGC unless PBGC grants an extension of time to complete the filing or waives the obligation to file any required information. (See General Instruction F.)

F. Extension of Time or Waiver of Obligation to File Any of the Information Required on the Notice of Intent to Terminate.—At the time of filing the notice of intent to terminate or prior thereto, the plan administrator may request an extension of time to complete the filing of the form or a waiver of the obligation to file any of the information required on the form. Such request shall be in writing and state the reasons for the extension or waiver. A request for an extension of time shall be accompanied by duplicate originals of an agreement signed by the plan administrator or his duly authorized representative, pursuant to which he agrees that if PBGC grants such request, the 90-day period set forth in Section 4041(a) of ERISA during which the plan administrator may not make any distributions pursuant to the proposed termination of the plan shall be automatically extended by a period of time equal to the extension of time granted by PBGC. When PBGC grants an extension of time, it shall sign the agreement submitted and

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Summary of Filing Requirements

Type of plan	Where to file	What to file	When to file
Plans Covered by PBGC Termination Insurance Program			
1 which are terminating and are requesting a determination letter from IRS	PBGC	Form 5310 Parts I and III in duplicate, one copy of Part IV and either Form 6088 or duplicate copies of the schedules in line 23	At least 10 days prior to the proposed termination date
2 which are terminating and are not requesting a determination letter from IRS	PBGC*	Form 5310 Parts I, III and IV	At least 10 days prior to the proposed termination date
3 which are only requesting an advance determination letter from IRS	IRS**	Form 5310 Parts I and III and Form 6088	Any time a determination letter is requested
4 which are going to merge, consolidate or transfer plan assets or liabilities to another plan	IRS	Form 5310 Parts I and II in duplicate or the applicable Form 5300, 5303 or 5307 in duplicate and the actuarial statement in line 6(g) of Form 5310 in duplicate.	At least 30 days prior to the merger or transfer
Plans Not Covered by PBGC Termination Insurance Program			
1 which are terminating and are requesting a determination letter from IRS	IRS**	Form 5310 Parts I and III and Form 6088	Any time a determination letter is requested
2 which are subject to section 414 (1) of the Code and are going to merge, consolidate or transfer plan assets or liabilities to another plan	IRS**	Form 5310 Parts I and II or the applicable Form 5300, 5301, 5303 or 5307	At least 30 days prior to the merger or transfer
Plans Where Coverage by PBGC Termination Insurance Program is Unknown			
1 which are terminating and are requesting a determination letter from IRS	PBGC	Form 5310 Parts I and III in duplicate and one copy of Form 6088 (Part IV is optional)***	At least 10 days prior to the proposed termination date
2 which are terminating and are not requesting a determination letter from IRS	PBGC*	Form 5310 Parts I and III (Part IV is optional)***	At least 10 days prior to the proposed termination date
3 which are only requesting an advance determination letter from IRS	IRS**	Form 5310 Parts I and III and Form 6088	Any time a determination letter is requested
4 which are subject to section 414 (1) of the Code and are going to merge, consolidate or transfer plan assets or liabilities to another plan	IRS	Form 5310 Parts I and II in duplicate or the applicable Form 5300, 5303 or 5307 in duplicate and the actuarial statement in line 6(g) of Form 5310 in duplicate	At least 30 days prior to the merger or transfer

*Write "PBGC only" in Special Request box.

**Write "IRS only" in Special Request box.

***If Part IV is not completed, the plan documents, any amendments and any IRS determination letters must be submitted with Parts I and III.

return the signed agreement to the plan administrator or his duly authorized representative.

G. Penalties.—There is a penalty of \$10 (not to exceed \$5,000) for each day after the thirtieth day before a plan merger, consolidation or transfer of plan assets or liabilities to another plan for which a required Form 5310 is not filed.

H. Signatures.—This form must be signed by the plan administrator and, when

filed for a single employer plan, also by the employer, or by a duly authorized representative of each who must be either an attorney, a certified public accountant, an enrolled actuary or a person enrolled to practice before the IRS (see the instructions for line 21(a)).

When the plan administrator is a joint employer-union board or committee, at least one employer representative and one union representative must sign.

I. Definitions.—

1. Type of Plan Entity.—

(a) **Single Employer Plan.**—A single employer plan is a plan which is maintained solely by one employer or solely by one employee organization. A member of a controlled group of corporations or of common control trades or businesses who maintains a plan not involving other members of the controlled group of corporations or common control trades or businesses is considered to have a single employer plan.

(b) **Plan of a Controlled Group of Corporations or Common Control Trades or Businesses** is a plan maintained by either a Controlled Group of corporations (see section 414(b) of the Code) or common control trades or businesses (see section 414(c) of the Code) solely for the employees of the controlled group of corporations or the common control trades or businesses.

(c) **Multiemployer Plan** is a plan defined in section 3(37) of ERISA or section 414(f) of the Code.

(d) **Other multiple employer plan** is any plan of more than one employer other than a plan defined in (b) or (c) above.

2. **Defined Contribution Plan.**—A defined contribution plan is a plan which provides for an individual account for each participant and for benefits based solely on the amount contributed to the participant's account, and any income, expenses, gains and losses, and any forfeitures of accounts of other participants which may be allocated to such participant's account. Profit-sharing, stock bonus and money purchase plans are defined contribution plans. See section 414(i) of the Code and section 3(34) of ERISA.

3. **Defined Benefit Plan.**—A defined benefit plan is any plan which is not a defined contribution plan. Such plans include unit benefit, fixed benefit, flat benefit plans and plans defined in section 414(k) of the Code. See section 414(j) of the Code and section 3(35) of ERISA.

Specific Instructions

Line 1(a). Enter the name and address of the plan sponsor as defined below in (i), (ii) or (iii). Note: In all cases where a plan covers only the employees of one employer, enter the name and address of the employer.

The term "plan sponsor" means:

(i) the employer in the case of an employee benefit plan established or maintained by a single employer, the employee organization in the case of a plan established or maintained by an employee association, or

(ii) in the case of a plan established or maintained jointly by one or more employers and one or more employee organizations or by two or more employers—the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan.

Include enough information in 1(a) to adequately describe the sponsor. For example, Joint Board of Trustees for Local 187 Machinists, rather than just Joint Board of Trustees.

Line 1(b). Enter the nine-digit employer identification number (EIN) assigned to the plan sponsor (the employer if this is a single employer plan). This should be the same EIN that was used when filing Form 5500, 5500-C or 5500-K for this plan.

Line 1(d). When this return is filed for a single employer plan, enter the date the employer's taxable year ends. For all plans of more than one employer enter "N/A."

Line 1(e). Enter the same business code that you entered on line (e) of your most recently filed Form 5500-C or Form 5500-K; whichever is applicable.

Line 2(a). If the plan administrator is the same as the sponsor named in 1(a) enter "Same." If the plan administrator designated in the plan document is other than the sponsor enter the name of such plan administrator.

Line 3. Defined benefit plans should enter the District Director's office where the plan sponsor's principal place of business is located.

Line 5(b). Enter the three-digit number the employer or plan administrator has assigned to the plan. This number should be the same as the three-digit number entered on line 5(c) of the latest applicable Form 5500, 5500-C or 5500-K filed for the plan.

Line 5(d). If you checked (iii) you are not required to complete Part IV, but if it is determined that the plan is covered under the PBGC termination insurance program, the plan administrator will be deemed to have agreed that the 90-day period prescribed in section 4041(a) of ERISA during which no plan assets may be distributed pursuant to the plan termination will be extended until a date 90 days after the date on which a completed Part IV is filed with PBGC.

Line 6. If your reason for filing is "A" notice of plan merger, consolidation or transfer of plan assets or liabilities to another plan complete items 6(a) through 6(e) for the plan into which the plan named in line 5 is being merged or consolidated or the plan to which the assets or liabilities of the plan named in line 5 are being transferred.

Line 11(d). If the plan termination is due to adverse business conditions attach an explanation of why such adverse conditions require the termination of this plan.

Line 12(a). Check for trust or custodial account providing benefits through means other than insurance or annuity contracts.

Line 12(b). Check for trust or other arrangement providing benefits, exclusively through insurance and/or annuity contracts.

Line 12(c). Check for trust or arrangement providing benefits partially through insurance and/or annuity contracts.

Line 16(c).

(i) Each employer who requests a determination must have notified each employee who qualifies as an interested party.

(ii) Whenever this form is filed as a notice of intent to terminate, the plan administrator or his duly authorized representative shall immediately give written notification to the employees covered by the plan. The notification shall state the date on which the notice was filed and the date of termination proposed in the notice. If the employees are represented by a union, the notification shall be delivered to the union representative. If the employees are not represented by a union the notification shall be posted in the location normally used by the employer for posting notices to employees.

Line 16(e). If the trust continues to operate after the termination of a plan, the employer or plan administrator must file financial information, annually, on Form 5500, 5500-C or 5500-K.

Line 19. Complete the balance sheet showing the estimated fair market value of the plan assets and liabilities as of the proposed date of termination. All liabilities, expenses, fees and other costs, for which the plan is responsible and that are unpaid as of the proposed date of termination or that the plan has incurred or will incur after the proposed date of termination should be shown as a liability on the balance sheet and clearly identified. If this form is being submitted as a notice of intent to terminate and the proposed distribution of plan assets includes the distribution of non-cash items, submit a statement as to how the fair market value was determined.

Line 20. Enter the name, address and telephone number of each labor organization, if any, which represents employees who are participants in the plan; and the name and title of the principal officer of that organization.

Line 21(a). When this form is submitted for both IRS and PBGC by a duly authorized representative, it shall be accompanied by a power of attorney, specifically authorizing such representation in this matter or by a written declaration that the representative is currently qualified as an attorney, a certified public accountant or as an enrolled actuary or is currently enrolled to practice before the IRS (include in the declaration either the enrollment number or the expiration date of the enrollment card) and that such person is authorized to represent the principal. When this form is submitted for PBGC only by a duly authorized representative, it shall be accompanied by a notarized power of attorney specifically authorizing such representation in this matter.

Line 21(b). Submit an executed copy of the plan document showing the provisions of the plan five years prior to the proposed date of termination. If the plan has been in effect for less than five years, submit an executed copy of the document establishing the plan.

Line 21(c). Submit an executed copy of each amendment to the plan adopted or effective within the five year period preceding the proposed date of termination.

Line 21(d). Submit an executed copy of each group annuity or group insurance contract providing for management of the assets of the plan, its administration or the payment of benefits under the plan.

Line 21(e). Submit an executed copy of each trust agreement providing for management of the assets of the plan, its administration or the payment of benefits under the plan.

Line 21(f). Submit an executed copy of each collective bargaining agreement which contains provisions relating to the plan.

Line 21(g). Submit copies of letters of determination issued by the Internal Revenue Service relating to the establishment of the plan, amendments to the plan, partial termination of the plan, disqualification of the plan and any subsequent requalification.

Line 21(h). Submit a record of all actions taken to terminate the plan (board of directors resolution, notification to participants, notification to trustees, etc.).

Line 22(c). Some employers may determine that it is in their best interest not to allow a terminating plan to be considered insufficient. Therefore, if prior to the date of plan termination, the employer(s) maintaining the plan makes an irrevocable com-

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Final Regulations Frameworks for 1979-80 Early Hunting Seasons on Certain Migratory Game Birds in the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final frameworks (i.e. the outer limits for dates and times when shooting may begin and end, and for the number of birds which may be taken and possessed) for early season migratory bird hunting regulations from which States may select season dates and daily bag and possession limits for the 1979-80 season. These seasons may open prior to September 29, 1979, and apply to mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, gallinules, teal (September only), sea ducks (Atlantic Flyway only), a duck season in late September in Iowa; sandhill cranes in North Dakota and South Dakota, and extended falconry seasons.

DATES: Effective on July 23, 1979. Season selections due from the States by July 26, 1979.

ADDRESS: Season selections from States to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, Department of the Interior, Washington, D.C. 20240, telephone 202-254-3207.

SUPPLEMENTARY INFORMATION: On February 15, 1979, the U.S. Fish and Wildlife Service (hereinafter the Service) published for public comment in the Federal Register (44 FR 9928) proposals to amend 50 CFR Part 20, with a comment period ending May 16, 1979. That document dealt with establishment of seasons, limits and shooting hours for migratory game birds under §§ 20.101 through 20.107 of Subpart K. On June 13, 1979, the Service published for public comment in the Federal Register (44 FR 34082) the second document in the series consisting of supplemental proposed rulemaking dealing specifically with a number of supplemental proposals arising from comments received on the initial proposals, or from new information. Comment periods on the second document ended or will end as

follows: June 21, 1979, for regulations proposed for Alaska, Puerto Rico, and the Virgin Islands; July 13, 1979, for proposed early season regulations; and August 20, 1979, for late season proposals.

On June 21, 1979, a public hearing was held in Washington, D.C., to review the status of mourning doves, woodcock, band-tailed pigeons, white-winged doves, and sandhill cranes. The meeting had been announced in the Federal Register on February 15, 1979 (44 FR 9928) and June 13, 1979 (44 FR 34082). Proposed hunting regulations for these species were discussed plus those for common snipe; rails; gallinules; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; mourning doves in Hawaii; September teal seasons in the Mississippi and Central Flyways; and early duck season in Iowa; special sea duck seasons in the Atlantic Flyway; and falconry seasons. Statements or comments were invited.

On June 28, 1979, the Service also published for public comment in the Federal Register (44 FR 37857) the third document in the series consisting of proposed, supplemental, and final rulemaking dealing specifically with proposed frameworks for early season migratory bird hunting regulations from which, when finalized, States may select season dates, shooting hours, and daily bag and possession limits for the 1979-80 season. On June 28, 1979, the Service published in the Federal Register (44 FR 37854) the fourth document in the series of proposed and final rulemaking documents dealing specifically with final frameworks for the 1979-80 season from which wildlife conservation agency officials in Alaska, Puerto Rico, and the Virgin Islands could select season dates for hunting certain migratory birds in their respective jurisdictions during the 1979-80 season.

This final rulemaking is the fifth in the series of proposed and final rulemaking documents for migratory game bird hunting regulations and deals specifically with final frameworks for early season migratory game bird hunting regulations from which State wildlife conservation agency officials may select season dates and daily bag and possession limits for the 1979-80 season. These seasons may open prior to September 29, 1979, and apply to mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, gallinules, teal (September only), sea ducks (Atlantic Flyway only), ducks in late September in Iowa, sandhill cranes in North Dakota and South Dakota, and extended falconry seasons.

Review of Public Comments and the Service's Response

Various public comments on the proposed early season regulations were received and reviewed during the regulatory development period. The Service replied to public comments on regulations proposed in the Federal Register (44 FR 9928) dated February 15, 1979, and in the Federal Register (44 FR 34082) dated June 13, 1979. In the June 28, 1979, Federal Register (44 FR 37857), the Service responded to recommendations received at the Public Hearing held in Washington, D.C., on June 21, 1979, and to public comments subsequent to publication of the June 13 document.

Seven additional comments on the proposed regulations were received after June 28, 1979. Five of these related to the proposed early hunting season frameworks and are discussed here; the remaining comments concerned late season regulatory proposals. All five comments on early season regulations were submitted by the State conservation agencies, with one agency submitting two letters.

West Virginia expressed support of the proposed regulations. New Jersey supplied information on clapper rail nesting success this summer and recommended that the regulations in effect in 1978 be established this year. Arizona reported that the status of mourning doves was satisfactory, but that call-count surveys and harvest success during the 1978 hunting season indicated that some colonial nesting populations of white-winged doves were below average. The State indicated that some restrictions were contemplated for white-winged doves in portions of Arizona. Details of the restrictions were conveyed to the Service by phone on July 3, 1979. The Service's final frameworks reflect the above information and recommendations.

California submitted two letters, both commenting on the proposed frameworks for band-tailed pigeons. The first questioned the rationale provided by the Service in the Federal Register dated June 28, 1979 at 44 FR 37858 for changing the framework to conform with regulations planned by the three Pacific coastal States for 1979.

Response: The Service customarily consults closely with and carefully considers recommendations developed jointly by the three Pacific coastal States regarding annual hunting regulations and management of band-tailed pigeons. It is deemed appropriate that the final frameworks reflect the

results of these consultations and considerations.

The second letter from California requested that consideration be given to permitting a possession limit of 10 band-tailed pigeons rather than 5. Reasons offered for the change include fuel savings for persons traveling long distances to hunt pigeons, and that possession limits for most migratory game birds are twice the daily bag limit.

Response: It is customary for daily bag and possession limits to be the same for band-tailed pigeons in California, Oregon, and Washington. The Service is of the view that increasing the possession limit is inconsistent with this and the recommendation developed cooperatively by the three States for the 1979-80 hunting season.

Comments received are available for public inspection during normal business hours at the Service's office in Room 525 A, Matomic Building, 1717 H Street, NW., Washington, D.C.

Steel Shot Regulations

Non-toxic shot requirements in some areas apply to waterfowl regulations frameworks being finalized here. On July 17, 1979, the Service published in the Federal Register (44 FR 41461) final regulations regarding zones in all flyways in which shotshells loaded with steel shot will be required for waterfowl hunting in seasons commencing in 1979. The intended effect of establishing these steel shot regulations is to reduce the number of waterfowl deaths caused by ingesting spent lead pellets.

The regulations appear under 50 CFR, §§ 20.21 and 20.108, and will also be summarized in the Service's regulations leaflets to be published late this summer.

NEPA Consideration

The *Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds* (FES 75-54) was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the Federal Register on June 13, 1975 (40 FR 25241). An environmental assessment on September dove hunting (42 FR 37552; July 22, 1977) supplemented the discussion on dove hunting in FES 75-54. Another assessment enlarged upon the FES discussion of shooting hours. Several other environmental assessments or statements addressed species or regulatory subjects peculiar to late season regulations and implementation of the non-toxic shot program. Copies of these documents are available from the Service.

Endangered Species Act Consideration

Section 7 of this act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act," and "by taking such action necessary to insure that actions authorized, funded, or carried out * * * do not jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species * * * which is determined to be critical."

Consequently, the Service reviewed all migratory bird regulations frameworks being contemplated this year for the early seasons (season lengths, limits, shooting hours, and outside dates within which States may select seasons for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules; for September teal seasons (including the extra teal option during regular seasons), for sea ducks in certain defined areas of the Atlantic Flyway; for a portion of the regular duck season in Iowa to be taken in late September; for sandhill cranes in designated portions of North Dakota and South Dakota; and special falconry regulations. As a result of intra-Service Section 7 consultation, Acting Director Robert S. Cook concluded in a biological opinion dated July 9, 1979, that the proposed 1979-80 early season migratory bird hunting regulations are not likely to jeopardize the continued existence of the five Endangered species considered, or destroy or adversely modify their Critical Habitat or habitat that might be determined critical in the future. Several actions were recommended as means for furthering the conservation of listed species.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species.

The Service's biological opinion resulting from its consultation under Section 7 is considered a public document and is available for inspection in the Office of Endangered Species and the Office of Migratory Bird Management, Department of the Interior.

Regulations Promulgation

The rulemaking process for migratory bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every

attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when proposed rulemaking was published on February 15, June 13, and June 28, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that at the periods' close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the States would have insufficient time to select their season dates, shooting hours, and bag limits; to communicate those selections to the Service, and finally to establish and publicize the necessary regulations and procedures to implement their decisions. The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedures Act, and these frameworks will, therefore, take effect immediately upon publication.

Accordingly, the Service under authority of the Migratory Bird Treaty Act of July 3, 1918, as amended, (40 Stat. 755; 16 U.S.C. 701-711), prescribes the final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and special closures, from which State conservation agency selections from State officials, the Service will publish in the Federal Register final rulemaking amending certain sections of Subpart K of 50 CFR Part 20 to reflect seasons, limits and shooting hours for the contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands for the 1979-80 season.

Authorship

The primary author of this final rule is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

Final Regulations Frameworks for 1979-80 Early Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved final frameworks which prescribe season lengths, limits, shooting hours, and outside dates within which States may select seasons for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules; for September teal seasons; for sea ducks in certain defined areas of the Atlantic Flyway; for a portion of the regular duck season in Iowa to be taken in late September; for

sandhill cranes in designated portions of North Dakota and South Dakota; and special falconry regulations. For the guidance of State conservation agencies, these frameworks are summarized below.

Note.—Any State desiring its season on woodcock, snipe, gallinules sandhill crane, or extended falconry to open in September must make its selection no later than July 26, 1979. Those States which desire these seasons to open after September may make their selection at the time they select their regular waterfowl season.

Those Atlantic Flyway coastal States desiring their seasons on sea ducks in certain defined areas to open in September must make their selections no later than July 26, 1979; those which desire this season to open after September may make their selections when they select their regular waterfowl seasons.

Mourning Doves

Between September 1, 1979, and January 15, 1980, except as noted, States may select hunting seasons and bag and possession limits as follows:

Eastern Management Unit (All States east of the Mississippi River and Louisiana):

1. Shooting hours¹ between 12 o'clock noon and sunset daily;

2. Daily bag and possession limits not to exceed 12 and 24, respectively, in all States;

3. Hunting seasons of not more than 70 half-days which may run consecutively or be split into not more than three periods.

4. As an option to the above, *Alabama, Georgia, Louisiana, and Mississippi* may zone their States as follows:

A. Two zones per State with the following descriptions or division lines:

Alabama—The South Zone consists of the area south of U.S. Highway 84 running east to the Covington County line, and including Coffee, Covington, Dale, Geneva, Henry, and Houston Counties. The North Zone consists of the remainder of Alabama.

Georgia—U.S. Highway 280 east to Abbeville, thence along Ocmulgee and Altamaha Rivers to the Atlantic Ocean.

Louisiana—Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell, and Interstate Highway 10 from Slidell to the Mississippi State line.

Mississippi—U.S. Highway 84.

B. Within each zone, these States may select hunting seasons of not more than 70 half-days which may run consecutively or be split into not more than three periods.

¹ The hours noted here and elsewhere also apply to hawking (taking by falconry).

C. The hunting seasons in the South Zones of these States may commence no earlier than September 20, 1979.

Central Management Unit (Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming):

1. Shooting hours between ½ hour before sunrise and sunset daily;

2. Daily bag and possession limits not to exceed 10 and 20, respectively, in all States;

3. Hunting seasons in all States of not more than 60 full days which may run consecutively or be split into not more than three periods.

4. *Texas* may select hunting seasons for each of two previously established zones subject to the following conditions:

A. The hunting season may be split into not more than two periods.

B. The North Zone may have a season of not more than 60 days between September 1, 1979, and January 22, 1980.

C. The South Zone may have a season of not more than 60 days between September 20, 1979, and January 22, 1980. In that portion of Texas where white-winged dove hunting is allowed, the mourning dove season may be held concurrently with the white-winged dove season and with shooting hours coinciding with those for white-winged doves. However, the remaining days must be within the September 20, 1979–January 22, 1980, period.

5. In *New Mexico*, daily bag and possession limits of mourning and white-winged doves may not exceed 10 and 20, singly or in the aggregate of the two species.

Western Management Unit (Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington):

1. Shooting hours between ½ hour before sunrise and sunset daily;

2. Daily bag and possession limits not to exceed 10 and 20, respectively;

3. Hunting seasons of not more than 50 full days which may run consecutively or be split into not more than three periods.

In the *Nevada* Counties of *Clark* and *Nye*, and in the *California* Counties of *Imperial*, *Riverside*, and *San Bernardino*, daily bag and possession limits of mourning and white-winged doves may not exceed 10 and 20, respectively, singly or in the aggregate of the two species.

White-Winged Doves

Arizona, California, Nevada, New Mexico, and Texas may select hunting seasons between September 1, 1979, and December 31, 1979, and daily bag and

possession limits as stipulated below. Shooting hours between ½ hour before sunrise and sunset may be selected.

Arizona may select a hunting season of not more than 23 consecutive days, to run concurrently with the first period of the split mourning dove season. The daily bag and possession limits may not exceed 10 white-winged doves. On the first 3 days of the season, shooting hours will be only from noon until sunset in the following game management units: 24B, 37A, 37C, 38, 42, that portion of unit 20B south of State Highway 74 and the Carefree-Lake Pleasant Road, unit 21 south of the Maricopa-Yavapai County line, unit 24A west of the Apache Junction-Canyon Lake Road (State Highway 88), and unit 41 east of Maricopa-Yuma County line. For the remainder of the season in these units, shooting hours may be from ½ hour before sunrise until sunset as in the remainder of the State.

California may select a hunting season for the Counties of *Imperial*, *Riverside*, and *San Bernardino* only. The daily bag and possession limits may not exceed 10 and 20 white-winged and mourning doves, respectively, singly or in the aggregate of the two species. Dates, limits, and hours are to conform with those for mourning doves.

Nevada may select a hunting season for the Counties of *Clark* and *Nye* only. The daily bag and possession limits may not exceed 10 and 20 white-winged and mourning doves, respectively, singly or in the aggregate of the two species. Dates, limits, and hours are to conform with those for mourning doves.

New Mexico may select a hunting season with daily bag and possession limits not to exceed 10 and 20 white-winged and mourning doves, respectively, singly or in the aggregate of the two species. Dates, limits, and hours are to conform with those for mourning doves.

Texas may select a hunting season of not more than 5 days for that portion of the State where the species occurs. The daily bag and possession limits may not exceed 10 and 20 white-winged doves, respectively. The season may be split within the overall time frame.

Band-Tailed Pigeons

West Coast States (California, Oregon, and Washington). These States may select hunting seasons not to exceed 30 consecutive days between September 1, 1979, and January 15, 1980. Shooting hours between ½ hour before sunrise and sunset may be selected. The daily bag and possession limits may not exceed 5 band-tailed pigeons.

California may zone by selecting hunting seasons of 30 consecutive days for each of the following two zones:

1. In the Counties of *Alpine*, *Butte*, *Del Norte*, *Glenn*, *Humboldt*, *Lassen*, *Mendocino*, *Modoc*, *Plumas*, *Shasta*, *Sierra*, *Siskiyou*, *Tehama*, and *Trinity*; and

2. The remainder of the State.

Four-Corners States (Arizona, Colorado, New Mexico, and Utah). These States may select hunting seasons not to exceed 30 consecutive days between September 1 and November 30, 1979. Shooting hours between ½ hour before sunrise and sunset may be selected. The daily bag and possession limits may not exceed 5 and 10, respectively. These seasons shall be open only in the areas delineated by the respective States in their hunting regulations. Each hunter must have been issued and carry on his person while hunting band-tailed pigeons a valid band-tailed pigeon hunting permit issued by the respective State conservation agency and such permit will be valid in that State only.

New Mexico may divide its State into two zones, along a line following U.S. Highway 60 from the Arizona State line east to Interstate Highway 25 at Socorro and along Interstate Highway 25 from Socorro to the Texas State line. Between September 1, 1979, and November 30, 1979, in the North Zone, and October 1, 1979, and November 30, 1979, in the South Zone, hunting seasons not to exceed 20 consecutive days in each zone may be selected by *New Mexico*.

Rails

(Clapper, King, Sora, and Virginia)

The States included herein may select seasons between September 1, 1979, and January 20, 1980, on clapper, king, sora, and Virginia rails as follows:

The season length for all species of rails may not exceed 70 days.

Shooting hours between ½ hour before sunrise and sunset in all States for all species may be selected.

Clapper and King Rails

1. In *Rhode Island*, *Connecticut*, *New Jersey*, *Delaware*, and *Maryland*, the daily bag and possession limits may not exceed 10 and 20 clapper and king rails, respectively, singly or in the aggregate of these two species.

2. In *Texas*, *Louisiana*, *Mississippi*, *Alabama*, *Georgia*, *Florida*, *South Carolina*, *North Carolina*, and *Virginia*, the daily bag and possession limits may not exceed 15 and 30 clapper and king rails, respectively, singly or in the aggregate of the two species.

3. The season will remain closed on clapper and king rails in all other States.

Sora and Virginia Rails

In addition to the prescribed limits for clapper and king rails, daily bag and possession limits not exceeding 25, singly or in the aggregate of sora and Virginia rails, are prescribed in States in the Atlantic, Mississippi, and Central Flyways, and portions of Colorado, Montana, New Mexico, and Wyoming in the Pacific Flyway.²

No hunting season is prescribed for rails in the remainder of the Pacific Flyway.

Woodcock

States in the Atlantic, Mississippi, and Central Flyways may select hunting seasons between September 1, 1979, and February 28, 1980, of not more than 65 days, with daily bag and possession limits of 5 and 10, respectively, except that in *Maine*, *New Hampshire*, *Massachusetts*, *Rhode Island*, *Connecticut*, *New York*, *New Jersey*, *Delaware*, *Maryland*, and *Virginia* the season must end by January 31.

Shooting hours may be selected between ½ hour before sunrise and sunset. Any State may split its woodcock season without penalty.

New Jersey may select experimental woodcock seasons by north and south zones divided by State Highway 70. Seasons in each zone may not exceed 55 days.

Common Snipe

States in the Atlantic, Mississippi, and Central Flyways may select hunting seasons between September 1, 1979, and February 28, 1980, not to exceed 107 days, except that in *Maine*, *New Hampshire*, *Massachusetts*, *Rhode Island*, *Connecticut*, *New York*, *New Jersey*, *Delaware*, *Maryland*, and *Virginia* the season must end no later than January 31. Seasons between September 1, 1979, and February 28, 1980, and not to exceed 93 days, may be selected in the Pacific Flyway portions of Montana, Wyoming, Colorado, and New Mexico.

² The Central Flyway is defined as follows: Colorado (east of the Continental Divide); Kansas, Montana (east of Hill, Chouteau, Cascade, Meagher, and Park Counties); Nebraska, New Mexico (east of the Continental Divide but outside the Jicarilla Apache Indian Reservation); North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

³ The Pacific Flyway is defined as follows: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington; those portions of Colorado and Wyoming lying west of the Continental Divide; New Mexico west of the Continental Divide plus the entire Jicarilla Apache Indian Reservation; and in Montana, the counties of Hill, Chouteau, Cascade, Meagher, and Park, and all counties west thereof.

All States in the Pacific Flyway, except those portions of Colorado, Montana, New Mexico, and Wyoming in the Pacific Flyway, must select their snipe seasons to run concurrently with their regular duck seasons. In these Pacific Flyway States, except portions of the four States noted previously, it will be unlawful to take snipe when it is unlawful to take ducks.

Shooting hours between ½ hour before sunrise and sunset may be selected. Daily bag and possession limits may not exceed 8 and 16, respectively. Any State may split its snipe season into two segments without penalty. States or portions thereof in the three eastern Flyways may defer selections of snipe seasons at this time and make the selections in August when they select waterfowl seasons. In that event, the daily bag and possession limits will remain the same but shooting hours must conform with those for waterfowl.

Gallinules

States in the Atlantic, Mississippi and Central Flyways may select hunting seasons between September 1, 1979, and January 20, 1980, of not more than 70 days. States in the Pacific Flyway must select their hunting seasons within the waterfowl seasons. States may split their seasons without penalty. Shooting hours between ½ hour before sunrise and sunset may be selected. The daily bag and possession limits may not exceed 15 and 30, respectively.

States may select their gallinule seasons at the time they select their waterfowl seasons. If the selection is deferred, daily bag and possession limits will remain the same, but shooting hours must conform with those for waterfowl, and the season length will be the same as that for waterfowl, or 70 days, whichever is the shorter period. Exception: A gallinule season selected by any State in the Pacific Flyway may not exceed its waterfowl season, by at least 1 mile of open water from any shore, island, and emergent vegetation in *New Jersey*, *South Carolina*, and *Georgia*; and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in *Delaware*, *Maryland*, *North Carolina*, and *Virginia*; and provided that any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be

taken only during the regular open season for ducks.

The daily bag limit is 7 and the possession limit is 14, singly or in the aggregate of these species. During the regular duck season in the Atlantic Flyway, States may set, in addition to the regular limits, a daily limit of 7 and a possession limit of 14 scoter, eider, and oldsquaw ducks, singly or in the aggregate of these species.

Shooting hours between ½ hour before sunrise until sunset daily may be selected.

Any State desiring its sea duck season to open in September must make its selection no later than July 26, 1979. Those States desiring their sea duck season to open after September may make their selection at the time they select their waterfowl seasons.

In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September teal season, special scaup season, special scaup and goldeneye season, or special falconry season) exceed 107 days for any geographical area.

September Teal Season

Between September 1 and September 30, 1979, an open season on all species of teal may be selected by *Alabama, Arkansas, Colorado* (Central Flyway portion only), *Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico* (Central Flyway portion only), *Ohio, Oklahoma, Tennessee, and Texas* in areas delineated by State regulations.

Shooting hours are from sunrise to sunset daily. The season may not exceed 9 consecutive days with a bag limit of 4 teal daily and 6 in possession. States must advise the Service of season dates and special provisions to protect non-target species by July 26, 1979.

In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September teal season, special scaup season, special scaup and goldeneye season, or falconry season) exceed 107 days for any geographical area.

Late September Duck Season in Iowa

Iowa is offered the option of opening a portion of its duck hunting season in September, with the number of days in September to be deducted from the number of days allowed for the regular duck season. All ducks which are legal during the regular duck season may be taken during the September segment of the season. The option, if selected, will be implemented as a trial over a 3-year

period and subject to an evaluation of resulting population and harvest data. In 1979, the 5-day early season option will extend from September 22 through September 26, with daily bag and possession limits being the same as those in effect during the 1979 regular duck season. Iowa must advise the Service by July 26, 1979, if it wishes to select this option.

Special Falconry Regulations

Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

1. Seasons must fall within the regular season framework dates and, if offered, other special season framework dates for hunting.

2. Season lengths for all permitted methods of hunting within a given area may not exceed 107 days for any species.

3. Hunting hours shall not exceed ½ hour before sunrise to sunset.

4. Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during both regular hunting seasons and extended falconry seasons.

5. Each State selecting extended seasons shall report the results of the special falconry season to the Service by March 15, 1980.

6. Each State selecting the special season must inform the Service of the season dates and publish said regulations.

General hunting regulations, including seasons, hours and limits, apply to falconry in each State listed in 50 CFR 21.29(k) which does not select an extended falconry season.

Exception from Executive Order 12044 and 43 CFR 14—

As discussed in the *Federal Register* dated February 15, 1979 (44 FR 9929), the Assistant Secretary for Fish and Wildlife and Parks has concluded that the ever decreasing time frames in the regulatory process are mandated by the Migratory Bird Treaty Act and the Administrative Procedure Act. The regulatory process simply has no remaining slack in its timetable between the accumulation of critical summer survey data and the publication of the revised sets of proposed rulemakings. Compliance with the determination of significance and regulatory analysis criteria established under Executive Order 12044 would simply not be

possible if the fall hunting season deadlines are to be achieved.

Consequently, the Assistant Secretary for Fish and Wildlife and Parks has approved the exemption of these regulations from the procedures of Executive Order 12044 and 43 CFR 14 which is provided for in section 6(b)(6) and § 14.3(f), respectively.

Dated: July 18, 1979.

Lynn A. Greenwalt,

Director, U.S. Fish and Wildlife Service.

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Tuesday
July 24, 1979

Part IV

Department of Health, Education, and Welfare

Public Health Service

National Toxicology Program; Meeting

federal register

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

National Toxicology Program; Meeting

The Director of the recently established National Toxicology Program (NTP) announces an open meeting on August 10, 1979, for the purposes of presenting an overview of the FY 1979 Annual Plan, receiving comments and questions on the Annual Plan and the future directions of the NTP, and receiving recommendations for compounds to be tested in the future. Part I of the FY 1979 Annual Plan, describing the NTP's current year efforts and resources, is printed in its entirety immediately following this announcement. Part II of the Plan is a "Review of Current DHEW Research Related to Toxicology" and is available upon request.

Copies of the complete Annual Plan, Parts I and II, as well as copies of the Program's establishment document referred to in the Federal Register, November 15, 1978, pp. 53060-53061, can be obtained by calling: Ms. Leslie Gardner at (919) 541-3267 or FTS 629-3267.

The meeting will begin at 10:00 a.m. and will be held in the main auditorium of the HEW North Building, 330 Independence Avenue, S.W., Washington, D.C. Dr. David P. Rall, Director of the National Toxicology Program, and key staff from the participating HEW agencies in the NTP will describe the FY 1979 Annual Plan and the agency resources dedicated to the NTP. Dr. Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, and Chairman of the NTP's Executive Committee will briefly describe the role of the light-member Executive Committee. Executive Committee members will attend as schedules permit.

Key NTP agency staff will be available to receive comments and questions from the public from 11:00 a.m. to 12:00 noon and from 1:00 p.m. to 5:00 p.m. unless the comments from those in attendance have been received prior to that time.

It is requested that persons planning to attend the August 10, 1979, meeting give advance notice to: Ms. Leslie Gardner (telephone: (919) 541-3267 or FTS 629-3267), National Toxicology Program, P.O. Box 12233, Research Triangle Park, N.C. 27709.

All written comments on the Annual Plan are welcome and will be received

and considered through August 17, 1979. All written comments as well as requests for additional information regarding this meeting should be addressed to: Dr. David P. Rall (telephone: (919) 541-3201 or FTS 629-3201), Director, National Toxicology Program, P.O. Box 12233, Research Triangle Park, N.C. 27709.

Dated: July 18, 1979.

David P. Rall,

Director, National Toxicology Program.

Department of Health, Education, and Welfare; National Toxicology Program
Annual Plan for Fiscal Year 1979

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Department of Health, Education, and Welfare; National Toxicology Program
Annual Plan for Fiscal Year 1979

Background

On November 15, 1978, Secretary Califano announced the establishment of the National Toxicology Program. The broad goal of this Program is to strengthen the Department's activities in the testing of chemicals of public health concern as well as in the development and validation of new and better

integrated test methods. Specific goals for the Program are:

- (1) To broaden toxicological characterization of those chemicals being tested.
- (2) To increase the rate of chemical testing, within the limits of available resources.
- (3) To develop and begin to validate a series of protocols more appropriate for regulatory needs.

To accomplish these goals the Program was established as a Departmentwide effort to provide needed information to regulatory and research agencies and to strengthen the science base. The Program is at present comprised of the relevant activities of the Food and Drug Administration (FDA), the National Cancer Institute (NCI), the Center for Disease Control/National Institute for Occupational Safety and Health (CDC/NIOSH), and the National Institute of Environmental Health Sciences (NIEHS). It will be planned, programmed, and carried out as a coordinated whole under the direction of Dr. David P. Rall who will continue to serve as Director, National Institute of Environmental Health Sciences and for the purpose of this Program reports to the Assistant Secretary for Health. The resources available to the Program in FY 79 are dedicated by components of the FDA, NCI, NIEHS, and NIOSH and total to \$41,000,000.

Central to the effective planning, coordination and operation of the National Toxicology Program is the development and approval of an annual plan.

This plan is to include:

- A review of current DHEW research as it relates to toxicology.
- Specification of the Program activities and resources to be managed by the Program Director:
- Current toxicology testing capacity (i.e. Dollars, positions, and space) and how that capacity is being utilized.
- Amount of test capacity which may be available in the coming year.
- Plans for test development and validation of test systems which take into account research opportunities and needs of the field.

The compounds to be tested, the test procedures to be followed, and a schedule for the tests.

The regulatory and scientific opportunities which were considered in the development of the plan.

Recommendations of the Program Director as to the resources needed for the Department's toxicology program capacity. (This section will first be

included in the second plan, to be completed by September 1, 1979.)

Introduction

The National Toxicology Program will, in its first year of operation, identify the unifying themes that exist in the current toxicology programs of the four NTP research agencies. The first year's operation, will bring about several adjustments that move toward fulfillment of the broad Program objectives. In the four months since establishment of the Program, it has become clear that several of the toxicological programs which were at various stages of development in the individual agencies were designed to achieve closely similar goals. Integrating these important activities will provide added impetus to the Program's goals during the first year of operation. In addition, several new initiatives were developed and will be implemented because of opportunities provided by the existence of the NTP. These new and revitalized initiatives, along with the ongoing toxicological activities of the four NTP agencies, are described in the first Annual Plan. Because of the limited time available to prepare the first Annual Plan, it was possible to incorporate only brief descriptions of planned activities. A more detailed presentation of NTP activities will be contained in the second Annual Plan, to be developed for September 1, 1979.

One of the major objectives of the NTP is to create stronger links between research devoted to the development and validation of new or improved toxicological methods and the needs of the regulatory community for such methods. There is the additional objective of ensuring efficient and proper toxicological evaluation of substances that may pose a threat to the public health and which, therefore, may require regulation. Meetings of the Executive Committee and Committee staff have led to the identification and prioritization of compounds to be subjected to toxicological evaluation and to the specification of several areas of research in methods development and validation that are considered of central importance to both the research and the regulatory agencies. Thus, the major objectives of the NTP will begin to be realized immediately.

In addition, during the first year several management functions common to many Program activities, and heretofore carried out somewhat independently by the member agencies, will be centralized, thereby increasing the efficiency of operating HEW's toxicology programs. Among the

common functions to be centralized are: chemical intelligence; data management and analysis; laboratory animal production and quality control; chemical repository; and technical information and reports.

A major initiative will be the creation of a management function that insures that the quality of the Program's initiatives are consistent with good laboratory practices.

The toxicology activities of the NTP agencies are moving in directions generally consistent with Program objectives. The goal of the first year is to isolate activities that can be made to move quickly toward Program objectives. During this process dialogue between research and regulatory scientists will increase and this is critical to the Program's success because it is not always readily apparent if and how specific forms of research will serve a regulatory need. Only through such a dialogue will new ideas for research develop. And it is only through the development of such ideas that new program initiatives, and the resource shifts they will require, can be put into place.

The Director has established an internal Steering Committee to advise him on direct Program operation and prioritization. It is composed of the Deputy Director, NTP (Dr. J. Moore), and the science program leaders of the contributing agencies: Acting Director, NCTR (Dr. T. Cairns); Acting Scientific Director, NIEHS (Dr. D. Hoel); Associate Director, Carcinogenesis Testing Program, NCI (Dr. R. Griesemer); and Director, Division of Biomedical and Behavioral Science, NIOSH (Dr. E. Harris).

Chemical Selection and Intelligence

The development of lists of chemicals to be tested is a most important task if the resources available to the NTP are to be effectively utilized. Each agency represented on the Executive Committee was asked to propose testing initiatives and to participate in the ordering of chemicals. The principles for selection of these compounds included such factors as estimated or known extent and intensity of human exposure, estimated or known severity of toxicological effects, and the scientific needs to compare testing methodologies and to study structure activity relationships. The NTP is concerned about its appropriate role in Government sponsored testing as it relates to the responsibility of the private sector to bear the burden of chemical testing as mandated by specific Federal laws or statutes. The

NTP is in the process of developing a set of principles for selecting chemicals that will incorporate the previously listed factors and concerns.

The selection of a chemical does not *a priori* commit it to testing by NTP. It does commit the NTP to ascertain the specific toxicologic and regulatory concerns, evaluate the adequacy of existing data or current efforts in Government, academic, or private laboratories, and then propose and conduct specific test(s) that are needed.

A single focus for this activity has been established to insure the future provision of a standard base of information on each chemical nominated. This standard base of information will include chemical name, Chemical Abstract Series (CAS) No., commercial formulations, use(s), human exposure, known or suspected health effects, existence, and adequacy, of relevant toxicologic data and specific areas of needed toxicologic research. Once a chemical has been selected for testing, this group will provide the pertinent science information for proper design of the test protocol. Existing data resources will be utilized for these activities.

Data Management and Analysis

The National Toxicology Program needs are: 1) data acquisition, storage, and retrieval, 2) data reduction and analysis, and 3) management tracking and control.

Data Acquisition, Storage and Retrieval. The most complex and highest priority need is data management of lifetime bioassays. Current systems lack an automated data input system and quality control features at the testing laboratory. The NTP has selected the developing TDMS (Toxicology Data Management System), a modular system, for continued prototype development and on-line installation at three laboratory facilities in early 1980 with additional installations also projected later in the year.

Data management in the area of mutagenesis is the next highest priority because of the potentially large quantities of data to be generated. Existing and developing systems will be used.

Management Information. High priority is given to early development of a simple system that should provide on-line information on chemicals selected for testing, the nature of the test(s) and test status.

Data Analysis. Appropriate statistical methodologies for data analysis of microbial mutagenesis and teratology

assays are to be developed in FY 79. The statistical methodologies used for carcinogenicity data will be reviewed and will require considerable methodologic research. Methodologies for statistical analyses of other toxicology data will be reviewed and revised, as necessary, as routine testing capability is initiated.

Laboratory Animal Production and Quality Control

The B₆C₃F₁ mouse and Fischer 344 rat will continue to be the principal test species. Animal production resources will continue to be developed and maintained to provide animals to chemical testing laboratories. Basic standards for husbandry and care as they specifically relate to toxicology testing are also being developed. A standard controlled, open formula test diet is to be selected and incorporated into the test protocols.

Although the current NTP strains provide meaningful toxicology and carcinogenicity data, the test animal is such a vital selection in experimental design that an evaluation of the continued utility of these or other rat and mice strains is planned. The B₆C₃F₁ mouse and Fischer 344 rat are genetically uniform (isogenic) strains which is a desirable trait for toxicity testing. It has been proposed that the use of several isogenic strains in a bioassay would provide a better extrapolation base than the use of a single strain. The statistical power of data developed in several isogenic strains appears to be equivalent to, and may exceed, current practices of using single strains. A course of study to develop and validate a series of experimental designs using multiple isogenic strains is planned.

Chemical Repository

A central repository for chemicals tested by the NTP will be established from which the procurement, analyses, distribution, reference archiving, and quality assurance of chemicals during test use will be directed. The operation of a variety of existing capabilities will be integrated for the performance of this activity.

Technical Information and Reports

The Annual Plan describes research dealing with the testing of more than 500 chemicals, with many being utilized in a variety of tests. The chemical selection process should lead to the Program testing chemicals or validating methods that are of significant scientific and regulatory interest; therefore, these results need to be promptly

communicated. In developing a mechanism for the orderly processing and announcement of NTP research, the use of established "online" computer systems as an adjunct to published documents is being considered as is the feasibility of using the capabilities of the Toxicology Information Program, and the National Library of Medicine.

A high priority is to establish a process for scientific review of the adequacy of the test data developed by the NTP.

The NTP will continue to develop the Environmental Mutagen Information Center (EMIC) and the Environmental Teratology Information Center (ETIC). The development of online extracts of the ETIC entries is scheduled to commence in late 79. Priority of extract preparation will be given to those chemicals of interest to the NTP.

Teratology

Chemical teratology testing traditionally has focused on detecting anatomical malformations that occur during *in utero* development through the systematic examination of the fetus (by the naked eye or low magnification) for organ, limb, or skeletal abnormalities. Analysis and interpretation attempts to discriminate between effects caused by maternal toxicity, fetal toxicity, or death. In recent years experiments have clearly identified that functional abnormalities without gross malformations can result from chemical exposure during development; behavioral abnormalities are a principal example. Several foreign countries have recently imposed general requirements for behavioral teratology; the Toxic Substances Control Act may also mandate such testing. Therefore, it is imperative that the relevance and validity of behavioral teratology test procedures be established. The NTP will coordinate and conduct a collaborative validation of test procedures.

It is proposed that 4-6 test methods, which appear to have the greatest potential utility, will be utilized in six laboratories using standard chemicals. Recommendations concerning the incorporation of behavioral teratology methods into reproduction and teratology testing guidelines should be possible, based on the results of these studies. This project will encompass 2-3 years.

Current methods do provide meaningful data about the teratogenic potential of chemicals. To insure that all scientific data gathered during these evaluations are most effectively utilized, a selected analysis of chemicals, for which there is definitive human and

animal teratology information, is being performed.

In addition, existing laboratory data bases will be examined to determine the range of dose parameters that indicate linearity of response and permit the development or identification of appropriate biomathematical procedures for low dose risk estimation.

A systematic histopathologic examination of fetuses will be conducted and compared with the results obtained using traditional methods as part of the teratology testing of 8-10 coded chemicals. Chemicals selected for teratologic evaluation are listed in Table 1; additional nominations are listed in Table 2.

Mutagenesis

Mutagenicity assays should identify structural or functional DNA disturbances in germ or somatic cells. The former is of interest for predicting potential undesirable effects on fertility, the developing conceptus, or in generations subsequent to that which received chemical exposure. Somatic mutation may predict physiologic alterations in the exposed person and the potential for cancer.

A major goal is to establish a battery or matrix of procedures which, when used as a prescreen, can aid in establishing priorities for indepth animal studies.

A systematic evaluation of the utility and predictive value of various *in vitro* test systems will continue. Specifically, these efforts are directed toward:

- 1) Development, definition and standardization of methods for routine testing.
- 2) Determination of the intralaboratory and interlaboratory reproducibility of defined protocols.
- 3) Evaluation of tests using coded chemicals and representing different chemical classes of known mutagenic activity.

A *Salmonella*/microsome plate assay has been standardized and found to yield reproducible results within and between several laboratories. This protocol uses *Salmonella typhimurium* strains TA 1535, 1537, 1538, 98 and 100 with and without metabolic activation. The liver S-9 preparations are prepared from both uninduced and Arochlor 1254 induced Fischer 344 rats, B₆C₃F₁ mice or Syrian hamsters. A series of 45 chemicals (Table 3) which have been tested by lifetime bioassays in Fischer 344 rats and B₆C₃F₁ mice, and for which stable lots of the original chemical are available, are to be assayed. The purpose of the testing is to determine whether the same type of species

variation observed in the animal bioassays will be detected in the mutagenicity assays. Each chemical will be tested under code in four laboratories which will further establish the interlaboratory reproducibility.

Other assays being developed or validated include *Escherichia coli* WP2 uva, pol A+ and pol A and the mammalian systems L5178Y mouse lymphoma [TK+/locus] and ARL6 rat liver.

Using the validated standardized assays, an *in vitro* testing capability has been established using *Salmonella typhimurium* strains TA 1535, 98, 1537, and 100 (with and without metabolic activation). A total of 180 chemicals will be tested in the remainder of FY 79. The planned capacity for testing in FY 80 is 300. The chemicals selected for assay are listed in Table 4. Chemicals selected for extensive toxicologic characterization, including carcinogenicity (Table 9), will be priority additions to this list.

An *in vitro* mammalian cytogenetics capability (chromosome aberration including sister chromatid exchange) will be established in FY 79. System validation will be required and it is planned to test 45 chemicals in FY 80 assuming successful validation. The goal is to expand this capability so that it can become an integral part of the initial screen along with the *Salmonella* assays.

The determination of mutagenicity can range from a set of tests which merely alert as to mutagenic potential to more extensive tests which firmly establish the presence (or lack) of mutagenicity and specify the specific type of genetic lesion produced. When large numbers of chemicals are to be tested, it is not feasible to employ an entire battery of tests simultaneously; thus, it is planned to apply a sequential array of tests. The current initial screens are the *S. typhimurium* assays previously described and the *in vitro* cytogenetic assay if validated. Chemicals that are mutagenic in these assays will be subject to further testing. (Selected chemicals that are negative in the initial screen may receive further testing, taking into account such factors as known biologic activity of related compounds and level of human exposure.) The second sequence of testing will utilize *Drosophila* spp. which possesses some inherent chemical metabolism capability and can provide more precise information on the types of mutations induced, the time course of induction, and, in addition, demonstrate heritability of the induced mutation. Regular test capability in

Drosophila will be established in FY 79 with an aim being the assay of 20 chemicals per year commencing in FY 80.

Eighteen chemicals (Table 5) are to be tested in rats for *in vivo* mutagenic activity using a dominant lethal assay, bone marrow karyotyping or sperm abnormality evaluation. Selective use of *Drosophila* recessive lethal and unscheduled DNA repair in human cell lines is also planned. Some of these tests also have utility for assessing reproductive function.

The NTP has assumed support and participation in an international collaborative study, under the auspices of the International Association of Environmental Mutagen Societies, with the objective of systematically evaluating a range of mutagenicity assay systems for their ability to predict chemical carcinogenicity. The responses of approximately 25 assay systems will be determined for 42 coded reference carcinogens and noncarcinogens. The chemicals to be tested and the assay systems to be employed are listed in Table 6 and 7, respectively. All assays are to be completed in FY 79 with decoding and combined analysis scheduled for the first quarter of FY 80.

The assessment of mutagenic risk to future generations with our current state of knowledge must utilize whole mammal experiments on heritable damage. There are examples of noncorrelation between microbial tests and of heritable effect determinations in the mouse. An NTP goal is to develop a logic for the proper use and utility of *in vivo* mammalian genetic tests. The heritable translocation assay will be further evaluated in this regard. Other methods that need evaluation or development involve the role of repair in mammalian mutation induction and the role of the female in determining heritable mutagenic risk.

Carcinogenesis

A lifetime bioassay in rodents is the current procedure utilized to determine carcinogenic potential of a chemical. The NTP does not propose alternative methods but acknowledges a need in the longer term, to develop or validate less expensive and more rapid methods that may in some instances supplant the need for lifetime bioassays.

Mammalian cell transformations are potential short-term assays that indicate carcinogenic potential of a chemical. Transformation assays being evaluated include BALB/c 3T3, Fischer Rat Embryo (RLV infected), Hamster embryo, and C3H 10T½. In this effort the first 15 chemicals listed in Table 3

will be tested for transforming potential in the hamster embryo clonal assays and in the BALB/c 3T3 focus assay.

The results of *Salmonella* assays will be considered in prioritizing the order in which a chemical may be tested in lifetime bioassays. Other assays, once validated, that will augment the microbial assays, include cell transformation, or other *in vitro* and *in vivo* assays described in the mutagenesis segment of the Annual Plan.

A substantial body of literature exists related to short term *in vivo* carcinogenicity testing, but no model is sufficiently validated to be applied to the routine testing of chemicals. One model, the mouse lung adenoma system, is sufficiently developed to be selected for indepth validation. During FY 79 a validation protocol will be developed for contract award and initiation. Seventy-five to 100 chemicals will be selected, giving preference to those chemicals for which adequate lifetime bioassay data exist, or are in progress, with selections balanced to insure a broad representation of chemical classes. The results of this study, along with *in vitro* microbial mutagenesis data and findings of lifetime rodent bioassays, will be compared in evaluation of the mouse lung adenoma system.

Rat liver assay systems will also be reviewed in order to determine what specific areas of methods development need to be pursued.

A literature search and analysis will permit comparison of the results of animal bioassays and mutagenesis tests with results of mouse lung, skin painting and subcutaneous assays. Particular attention will be given to: a) the concordance of *in vitro* fibroblast transformation and subcutaneous sarcoma formation, and b) to skin tumor production in Syncar versus non-Syncar mice. The results of this analysis will be considered in developing NTP initiatives for FY 80.

There are different viewpoints as to what constitutes the best design of lifetime bioassays. Areas of differing opinion include choice of species and strain, age at exposure, route of exposure, number of doses tested, dose levels, and of methods used in analysis. An NTP priority is to review and possibly revise the current lifetime bioassay design consistent with the projected use of the bioassay results.

Carcinogenicity testing traditionally begins with young adult animals (typically six-week old rodents). Human chemical exposures may include the period of *in utero* development and infancy as well as continued lifetime

exposure. These exposures occur through exposure of pregnant workers, use of drugs, and long-term accumulation and persistence of certain chemicals in the mother's body with secretion in milk. The adequacy of lifetime bioassay methods versus methods that also include prenatal and neonatal exposures is being evaluated. Four chemicals will be tested: polychlorinated biphenyl (Arochlor 1254) and phenytoin have been selected with 2 additional chemicals to be selected and testing started in FY 79.

The carcinogenic potential of chemical combinations has been described, the conversion of heterocyclic secondary amines to nitrosamines in the presence of NO₂ (N₂O₄) being a recent example. The ubiquity of NO₂ and the widespread distribution of heterocyclic amines prompt the hypothesis that some neoplastic diseases may be a consequence of *in vivo* interaction with these chemicals. A test of the hypothesis is planned in an animal bioassay using NO₂ exposure by inhalation and heterocyclic amine (2,6 dimethylmorpholine) exposure by the oral route.

Lifetime inhalation bioassays for carcinogenicity usually involve a duration of exposure that is arbitrarily determined. The specialized facilities required for inhalation studies are expensive and commit limited technical manpower and resources for extended periods of time. A study with rats, mice and hamsters is in progress that uses a design that varies the age of animals exposed and the duration of exposure to vinyl chloride, a known carcinogen. The objective of the study is to provide data that permit a species comparison of tumor response and an analysis of the exposure regimens that provide a predicted carcinogenic response. The data may indicate that a period of exposure of less duration than is currently employed will provide a meaningful bioassay result. These studies are projected for completion in FY 80.

The National Toxicology Program assumed responsibility for 147 chemicals being tested for carcinogenic potential in lifetime rodent bioassays (Table 8). Draft reports on 13 of these chemicals are expected to be completed in FY 79 and formally issued in early FY 80. An additional 106 chemicals have been selected for extensive toxicologic and carcinogenic evaluation (Table 9). Resources will permit testing to commence on 60 of these chemicals in FY 79 with testing of the remaining chemicals scheduled for FY 80. There

are 104 chemicals (Table 10) that have been nominated for testing which will be evaluated for selection according to the procedures described on page 3 of the Annual Plan. Chemical nomination and selection is a continual process.

Toxicology

Chemicals selected for extensive toxicologic characterization (Table 9) will usually be evaluated in a series of acute and subacute experiments followed by chronic (lifetime) experiments when *in vivo* carcinogenicity data is desired. In the former experiments a core of traditional toxicology data will be recorded with additional screening efforts incorporated in such areas as neurobehavior, fertility and reproduction, immunotoxicology, renal toxicity and respiratory function as indicated by specific health concerns, toxicities associated with related chemicals, etc. When extensive toxicologic efforts are conducted, dose related data on absorption, disposition and metabolism will be collected.

A second initiative is to develop, validate and implement procedures for characterization of specific toxic parameters such as neurobehavior, pulmonary function, immunobiology and fertility and reproduction. Descriptive narrations of the major NTP toxicology initiatives are described below.

Behavioral Toxicology. Laboratories within the National Toxicology Program are actively engaged in the development of new methods and in the routine use of existing methods for testing the behavioral and neurological effects of a variety of toxic agents. However, the capacity for evaluating compounds is limited. The number of compounds can be substantially increased only through the contract mechanism. A battery of screening tests which will reflect the entire range of potential behavioral and neurologic tests and are sensitive and predictive for humans is needed. A basic test battery is currently being validated; in the interim, this test battery is being selectively used for chemical screening.

Specific experiments that characterize the nature of the effect and provide dose response data are planned for 16 select chemicals for which there is evidence of behavioral or neurological effects. These chemicals are listed in Table 11.

Immunology. A number of chemicals have been found to cause immunosuppression, with cell mediated immunity and the developing immune systems at particular risk. Several conferences have recently addressed this topic, and, whereas there is general agreement on the immune parameters to

be assessed, there is considerable difference of opinion regarding the most appropriate techniques to be employed. The NTP will begin the development and validation of an immunology test battery as well as continue studies that establish the role of immune assessment in toxicologic characterization.

Clinical Chemistry. A variety of tests have been utilized as indicators of organ function. The tests, in many instances, lack the sensitivity to detect deleterious effects at levels below those which are detectable through gross and histopathologic examination. A program will begin to identify more sensitive methods for detection of injury and subsequently aim at the development of inexpensive, accurate and automated methods that can be incorporated into routine testing procedures. Tests that assess hepatic and renal function will be emphasized initially.

Chemical Distribution and Metabolism. Specific isomers of the complex polychlorinated biphenyl mixture have been the subject of pharmacokinetic studies in several species (rat, dog, and Rhesus monkey). Results of current studies indicate a marked difference in the ability of the monkey to metabolize or excrete some of the more toxic isomers as compared to the rodent. These studies will be extended and will attempt to provide data that may suggest the appropriate laboratory species from which to extrapolate dose response data in assessing human risk.

Toxicology studies with chlorinated dibenzofurans indicate species variability as to the dose that causes toxic effects. Basic distribution and metabolism studies with ¹⁴C labeled 2,3,7,8 TCDF will seek to establish if species difference is due to variation in chemical distribution, metabolism or excretion. These data should provide a logical means for selecting appropriate species for possible teratology and carcinogenicity studies.

Recent studies indicate that some benzidine derived dyes are metabolized with the formation of benzidine as a metabolite. Benzidine is a carcinogen. Additional benzidine derived dyes will be studied to determine if the formation of benzidine as a metabolite is typical of several classes of benzidine derived dyes.

Pulmonary and Cardiovascular Toxicity. The NTP has significant capacity for inhalation research and testing. A majority of the work that assesses cardiovascular and pulmonary toxicity is performed in NTP laboratories, whereas the inhalation exposures to assess carcinogenic

potential are performed by contract. The NTP recognizes the need to expand toxicologic assessment of inhaled chemicals to other than NTP laboratories. Methods development and validation is planned.

Chronic inhalation studies on the cardiovascular effects of methyl bromide will continue. Acute or chronic studies on pulmonary response are planned for four epoxides: butylene oxide, ethylene oxide, propylene oxide, and styrene oxide.

Lung fibrogenesis as a consequence of fibers and dusts is a major health concern. A variety of methods are being utilized in an attempt to assess fibrogenic effects including histopathology, fibroblastic activity *in vitro*, macrophage interaction, and biological availability using the isolated perfused lung. Chemicals that are being utilized in these studies include:

aluminum salts and organoaluminum
asbestos
copper compounds
fibrous glass
lead oxide
lead sulfide
silica
2 ethoxy ethanol
2 nitropropane

Studies on the dose related pathogenesis and persistence of noncarcinogenic effects of chlordecone in rats are in progress. Toxic parameters being studied include reproduction, fertility, neurobehavior, immunology, hepatotoxicity and blood clotting.

Table 1.—Chemicals Selected for Teratology Studies

Chemical	CAS No.
Caffeine.....	58-08-2
Dimethylamine.....	57-82-7
Ethyl Benzene.....	100414
Ethylene oxide.....	75218
Ethoxy ethanol*.....	110-80-5
Formaldehyde.....	50-00-0
Lead monoxide**.....	
Pentachloroanisole.....	1825-21-4
Toluene.....	108883
Xylenes:	
O-Xylene.....	94578
M-Xylene.....	108383
P-Xylene.....	106423

*Post natal behavioral and nervous system abnormalities will also be evaluated.

**Post natal renal, cardiovascular, metabolic and hematopoietic systems will be evaluated through 10 months of age.

Table 2.—Chemicals Nominated for Teratology Studies or Screening for Teratogenic Effect

Chemical	CAS No.
Bisphenol A.....	80-05-7
Butyl nitrite.....	
Capsaicin.....	404-86-4
Cinnamaldehyde.....	104-55-2
Chlorinated dibenzofurans.....	
Copper compound(s).....	
P-dichlorobenzene.....	106-46-7

Table 2.—Chemicals Nominated for Teratology Studies or Screening for Teratogenic Effect—Continued

Chemical	CAS No.
Gentian violet (hexamethyl-p-rosaniline).....	548-62-9
Mercaptobenzothiazole.....	149-30-4
Oil of nutmeg.....	
Sulfamethazine.....	57-68-1
Tocopherol.....	1408-86-2

Table 3.—Chemicals Tested in Salmonella/Microsome Plate Assays for Comparison With Fischer 344 Rat and B₆C₃F₁ Mouse Lifetime Bioassays

4-Amino-2-nitrophenol—119-34-6	
2-Amino-5-nitrothiazole—121-66-4	
p-Chloroaniline	
3-Chloromethyl pyridine hydrochloride—6959-48-4	
N,N'-Dicyclohexylthiourea—1212-29-9	
4,4'-bis (Dimethylamino) benzophenone	
Dyrene(anilazine)—101-05-3	
Ethylene dibromide—106-93-4	
Lithocholic acid—434-13-9	
4,4'-Methylenebis(N,N'-dimethylaniline)—101-81-1	
Nitritotriacetic acid trisodium salt monohydrate	
4-Nitro-o-phenylenediamine—99-56-9	
2-Nitro-p-phenylenediamine—5307-14-2	
3-Nitropropionic acid—504-88-1	
p-Phenylenediamine—106-50-3	
Acetylsalicylic acid—50-78-2	
Aldicarb—116-08-3	
Aniline hydrochloride—142-04-1	
o-Anisidine hydrochloride—134-29-0	
APD—8003-03-0	
1,2,3-Benzotriazole—95-14-7	
Caffeine—58-08-2	
Cinnamyl anthranilate—87-29-8	
tris(2,3-Dibromopropyl)phosphate—126-72-7	
1,3-Dichloro-5,5-dimethylhydantoin—118-52-5	
Fluometuron—2164-17-2	
1,5-Naphthalenediamine—2243-62-1	
Proflavin hydrochloride—952-23-8	
Reserpine—50-55-5	
Styrene—98-09-3	
4'-Chloroacetyl(acetanilide)—140-49-8	
Coumaphos—56-72-4	
m-Cresidine—102-50-1	
p-Cresidine—120-71-8	
Diazinon—333-41-5	
2,4-Dimethoxyaniline—54150-69-5	
3,3'-Dimethoxybenzidine-4,4'-diisocyanate ethylenediaminetetra acetic acid, sodium salt—60-00-4	
3-Methyl-1-phenyl-2-pyrazotin-5-one	
Nitrofen—1836-75-5	
5-Nitro-o-toluidine—99-55-8	
p-Quinone dioxime—105-11-3	
Succinic acid 2,2-dimethylhydrazide—1596-84-5	
2,5-Toluenediamine sulfate—6369-59-1	
Triphenyltin—76-87-6	

Table 4.—Alphabetical List of Chemicals Selected for Salmonella Mutagenicity Assay

Acetamide—60-35-5	
Acetin—26448-35-5	
N-Acetyl-o-toluidine—120-6-1	
Acrolein—107-02-8	

3-Amino-α-α-α-trifluorotoluene—98-16-8	
o-Aminophenol—95-55-6	
Amyl nitrite—463-04-7	
Aniline—62-53-3	
o-Anisidine—90-04-0	
p-Anisidine—104-94-9	
Anthracene—120-12-7	
Arochlor 1254—11097-69-1	
1-Aziridineethanol—	
Azobenzene—103-33-3	
Azodicarbonamide—123-77-3	
Benzaldehyde—100-52-7	
Benzofuran—271-89-8	
p-Benzoquinone dioxime—105-11-3	
Benzyl salicylate—118-58-1	
Beta-methylumbelliferone—90-33-5	
Beta-picoline—106-99-6	
Biphenyl—92-52-4	
2-Biphenylamine—90-41-5	
4-Biphenylamine—62-67-1	
2,4'-Biphenylamine—	
2,4'-Biphenyldiamine—492-17-1	
Bis(chloroendo)furan	
Bisphenol—80-05-7	
Boric acid—10043-35-3	
Bromobenzene—106-86-1	
Bromocyclohexanol	
Bromoform—75-25-2	
2-Butanone peroxide—1338-23-4	
n-Butyl para-aminobenzoate—94-25-7	
Cacodylic acid—75-60-5	
Carbon disulfide—75-15-0	
Catechol—120-80-9	
Chloral hydrate—302-17-0	
Chlorendic acid—115-28-6	
2-Chloro-1,3-butadiene—126-99-8	
4-Chloro-α-α-α-trifluorotoluene—98-56-6	
4-Chloro-3,5-dinitro-α-α-α-trifluorotoluene—393-75-9	
4-Chloro-3-nitro-α-α-α-trifluorotoluene	
Chlorobenzene—108-90-7	
4-Chloronitrobenzene—100-00-5	
2-Chloronitrobenzene—88-73-3	
m-Chlorophenol—108-43-0	
o-Chlorophenol—95-57-8	
p-Chlorophenol—106-48-9	
Cinnamaldehyde—104-55-2	
Copper acetatearsenite—12002-03-8	
m-Cresol—108-39-4	
o-Cresol—95-48-7	
p-Cresol—106-44-5	
Crotonaldehyde—123-73-9	
Cyanuric acid—108-80-5	
Cyclohexanol—108-93-0	
Cyclohexanone—108-94-1	
Diacetone acrylamide—2873-97-4	
4,4'-Diamino-2,2'-stilbenedisulfonic acid	
2,4-Diaminophenol hydrochloride—137-09-7	
Debenzofuran—132-64-9	
Diborane—19287-45-7	
2,3-Dibromo-1-propanol—96-13-9	
Di-n-butylamine—111-92-2	
1,3-Dichlorobenzene—541-73-1	
1,2-Dichlorobenzene—95-50-1	
1,4-Dichlorobenzene—106-46-7	
cis-Dichlorodiamine platinum—15663-27-1	
Dichlorodiphenylethylene—72-55-9	
trans-1,2-Dichloroethylene—540-59-0	
cis & trans-1,2,3-Dichloroethylene—156-59-2	
1,1-Dichloroethylene—75-35-4	
3,4-Dichloronitrobenzene—99-54-7	
2,3-Dichloronitrobenzene—3209-22-1	
2,3-Dichlorophenol—576-24-9	
2,5-Dichlorophenol—38048-58-7	
2,6-Dichlorophenol—87-65-0	

3,4-Dichlorophenol—85-77-2
3,5-Dichlorophenol—591-35-5
Diethanolamine—111-42-2
7-Diethylamino-4-methylcoumarin—91-44-1
Diethyl carbonate—105-58-8
Diethyldichlorosilane—1719-53-5
Diethyleneglycoldimethylether (diglyme)—111-96-6
Diethyl ethylphosphonate—78-38-6
Di(2-ethylhexyl) phthalate—117-81-7
5,7-Dihydroxy-4-methylcoumarin—2107-76-8
Diisobutylketone—108-83-8
Dimethoxane—828-00-2
1,2-Dimethoxybenzene—91-18-7
Dimethylamine—124-40-3
Dimethyl cyanamide—1467-79-4
N,N-Dimethylformamide—68-12-2
2,4-Dimethylphenol—105-67-9
N,N-Dimethylurea—1320-50-9
trans-1,2-Dichloroethylene—156-60-5
cis & trans 1,2-Dichloroethylene—540-59-0
4,6-Dinitro-2-aminophenol—96-91-3
2,4-Dinitrotoluene—121-14-2
Diocetyl adipate—123-79-5
1,4-Dioxane—123-91-1
Diphenyl oxide (diphenyl ether)—101-84-8
1,2-Epoxypropane—75-56-9
Ethyl bromide—74-96-4
Ethyl chloride—75-00-3
Ethylene glycol—107-21-1
Ethylenediamine—107-15-3
2-ethylhexyl diphenyl phosphate—1241-94-7
Eugenol—97-53-0
Ferrocene—102-54-5
1-Fluoro-2,4-dinitrobenzene (FDNB)—70-34-8
2-Fluorobenzoyl chloride—393-52-2
Formaldehyde—50-00-0
Furfural—98-01-1
Gallic acid—149-91-7
Gluteraldehyde—111-30-8
Hematoxylin
Hexabromobenzene—87-82-1
Hexabromobiphenyl—36355-01-8
Hexachlorobenzene—118-74-1
Hexachlorocyclopentadiene dimer—2385-85-5
Hexachloroethane—67-72-1
Hexachlorophene—70-30-4
Hexachlorobutadiene—87-68-3
Hexamethy-p-rosaniline—548-62-9
Hydrazine sulfate—10034-93-2
Hydrazinobenzene—100-63-0
Hydroquinone—123-31-9
Hydroquinone dimethyl ether—150-78-7
Hydroquinone monomethyl ether—150-76-5
4-Hydroxyacetanilide—103-90-2
Ligninsulfonic acid sodium salt—8062-15-5
Lithium chloride—7447-41-8
Maleic anhydride—108-31-6
Maleic hydrazide—123-33-1
Melamine—108-78-1
Methylchlorobenzene—121-73-3
Methacrylic acid methylester—80-62-8
Methylhydrazine—60-34-4
N-Methyl-para-aminophenol—150-75-4
3-Methyl-3-phenylglycidic acid ethyl ester—77-33-8
Methyl salicylate—119-36-8
Ortho-methoxyphenol—90-05-1
8-Methoxyphenol—298-81-7

8-Methoxy psoralin
Morpholine—110-91-8
Neophytadiene—504-96-1
Nickelocene—1271-28-9
1-Nitronaphthalene—86-57-7
p-Nitrophenol—100-02-7
2-Nitropropane—79-46-9
N-Nitrosodiethanolamine—1116-54-7
2-Nitro- α,α,α -trifluorotoluene
3-nitro- α,α,α -trifluorotoluene
Oxalic acid—144-62-7
Paraquat—4685-14-7
Pentachloroaniline—527-20-8
Pentachloroanisole—1825-21-4
Pentachlorobenzene—608-93-5
Pentachloronaphthalene—1321-64-8
Pentachloronitrobenzene—82-68-8
Pentachlorophenol—87-86-5
Pentachlorophenyl methyl ether—1825-21-4
Pentachlorophenyl methyl sulfide—1825-19-0
Phenyl salicylate—118-55-8
Phenytol—57-41-0
Phorbol ester—17673-25-5
1-(2H)-Phthalazinone—119-39-1
Phthalic anhydride—85-44-9
Picric acid—88-89-1
Piperazine—110-85-0
Piperonal—120-57-0
Polybrominated biphenyl—
Propylene Dichloride—78-87-5
1,2-Propylene glycol—57-55-6
Pyridine—110-86-1
Quinoline—91-22-5
p-Quinone—106-51-4
Resorcinol—108-46-3
Rhodanine (Ammonium salt)—1762-95-4
Ricinoleic acid—141-22-0
Semicarbazide hydrochloride—563-41-7
Sodium aluminosilicate—1344-00-9
Sodium dehydroacetate—4418-26-2
Sodium dichloroisocyanurate—13023-28-4
2893-78-9
Sodium fluoride—7681-49-4
cis-Stilbene—645-49-8
trans-Stilbene—645-49-8
Terephthalic acid—100-21-0
Tert-butyl hydroperoxide—110-05-4
1,2,3,5-Tetrachlorobenzene—634-90-2
1,2,3,4-Tetrachlorobenzene—634-66-2
1,2,4,5-Tetrachlorobenzene—95-94-3
Tetrachloroethylene—127-18-4
Tetrachloronitrobenzene—28804-67-3

TABLE 6.—International Collaborative Study of Mutagenicity Assay Systems; Compounds To Be Tested

Carcinogen/Noncarcinogen Pairs	
4-Nitroquinoline-N-oxide—56-57-5	Chloroform—67-66-3
3-Methyl-4-nitroquinoline-N-oxide—14073-00-8	1,1,1-Trichloroethane—71-55-8
Benidine—92-87-5	2-Acetylaminofluorene
3,3',5,5'-Tetramethylbenzidine—54827-17-7	4-Acetylaminofluorene
4-Dimethylaminoazobenzene (Butter Yellow)—60-11-7	N-Nitrosomorpholine—59-89-2
4-Dimethylaminoazobenzene-4-sulphonic acid	Diphenylnitrosamine—86-30-6
Sodium salt (Methyl Orange)	Onitrosopentamethylene tetramine
Urethane—51-79-8	1-Naphthylamine—134-32-7
O-Isopropyl-N-3-chlorophenylcarbamate—101-21-3	2-Naphthylamine—91-59-8
Benzol(a)pyrene	Dimethyl carbamoyl chloride—79-44-7
Pyrene—129-00-0	Dimethylformamide—68-12-2
Propylactone—57-57-8	Methylazoxymethanol acetate—592-62-1
Butyrolactone—96-48-0	Azoxylbenzene—495-48-7
9,10-Dimethylantracene—781-43-1	d,l-Ethionine—
Anthracene—120-12-7	Methionine—63-68-3

Tetrachloronaphthalene
Tetrachlorophthalic anhydride—117-08-8
Tetrakis(hydroxymethyl)phosphonium chloride—124-64-1
Tetraethyllead—78-00-2
Tetramethyllead—75-74-1
Tetranitromethane—509-14-8
Thiazole—288-47-1
Thiocarbonilide
Thioglycolic acid—68-11-1
Toluene—108-88-3
Tributoxyethyl phosphate—Tributyl borate—688-74-4
1,2,3-Trichlorobenzene—87-61-6
1,2,4-Trichlorobenzene—120-82-1
1,3,5-Trichlorobenzene—108-70-3
Trichloronaphthalene—1321-65-9
2,4,8-Trichlorophenol—88-08-2
Triethanolamine—102-71-6
Triphenylphosphine—603-35-0
Trihydroxybutyrophene—52262-23-4
Tris(4-bromophenyl)phosphate
Tris(2-chloroethyl)phosphite
Tris(2-ethylhexyl)phosphate—78-42-2
Tris(isopropylphenyl)phosphate
Tritolyl phosphate—1330-78-5
Wollastonite α silicates
meta-Xylene—108-38-3
ortho-Xylene—85-47-6
para-Xylene—106-42-3

Table 5.—Chemicals Selected for a Battery of Mutagenicity Assays

Chemicals	CAS No.
Allyl chloride	107-05-1
Bisphenol A	80-05-7
Butylene oxide	26249-20-7
Cyclohexanone	108-94-1
N,N-dimethyl acetamide	68-12-2
Dimethylformamide	110-80-5
Ethoxyethanol	100-41-4
Ethyl benzene	75-21-8
Ethylene oxide	75-21-8
Hexachlorobutadiene	87-68-3
Mercaptobenzeneethiazole	149-30-4
Methyl bromide	74-83-9
2-Methoxyethanol	109-66-4
Bis 2-methoxyethoxyethyl ether	143-24-8
N-methyl dicyclohexylamine	100-42-5
Styrene oxide	127-18-4
1,1,2,2-tetrachloroethane	127-18-4
Vinyl toluene	

Miscellaneous Compounds

Hydrazine sulphate—10034-93-2
Hexamethylphosphoramide (HMPA)—680-31-9

Ethylenethiourea—96-45-7
Diethylstilbestrol—56-53-1
Safrole—94-59-7
Cyclophosphamide—50-18-0
Epichlorhydrin—
3-aminotriazole
4,4'-Methylenebis (2-chloroaniline)—101-14-4
Sugar (sucrose)—57-50-1
O-toluidine—95-53-4
Ascorbic acid—50-81-7
Auramine

Table 7.—International Collaborative Study of Mutagenicity Assay Systems Utilized

Prokaryotic Systems

Repair deficiency assays:

Bacillus subtilis—rec
Escherichia coli—rec
Escherichia coli—pol A

Point mutation assays:

Salmonella typhimurium/microsome (Ames test)
Salmonella typhimurium 8-azaquinine resistance
Escherichia coli WP-2
Escherichia coli 343-113

Eukaryotic Systems

Fungus:

Saccharomyces cerevisiae—mitotic recombination
Saccharomyces cerevisiae—reversions
Schizosaccharomyces pombe—forward mutations
Saccharomyces cerevisiae—mitochondrial mutations
Neurospora crassa—ad-3 reversions

Plant:

Tradescantia—stamen hair system

Insect:

Drosophila melanogaster—sex-linked recessive lethals

Mammal (in vitro):

Unscheduled DNA Synthesis (human cells)
Sister chromatid exchange (CHO cells)
Chromosome aberrations (hamster and rat cells)
Specific Locus mutations—
L5178Y cells—TK and HGPRT
P388F cells—TK and HGPRT
CHO cells—HGPRT
Human fibroblasts—HGPRT

Mammal (in vivo):

Micronucleus (mouse)
Chromosome aberrations
Sister-chromatid exchange (mouse, rabbit)
Sperm morphology (mouse)

Non-genetic Systems

Hydroxylation of Biphenyl
Local Graying of Hair
In vitro Nuclear Enlargement
Rabbits Test
Transformation (BHK Cells)

Table 8.—Chemicals for Which Lifetime Bioassays Are In Progress

Chemical	CAS No.	Route	Spec.
Acid black 52		Feed, intratr	RH
Acid orange #3	6373-74-6	Feed	RM
Agar agar	9002-18-0	Feed	RM
Agentine	2757-90-6	Water	RM
Aldicarb	116-06-3	Feed	RM
Allyl isothiocyanate	57-06-7	Gav	RM
Allyl isovalerate	2635-39-4	Gav	RM
Aminoundecanoic acid	27323-47-3	Feed	RM
Aniline, p-chloro	106-47-8	Feed	RM
Antimony oxide	1309-64-4	Feed	RM
Asbestos, amosite		Feed	RH
Asbestos, chrysotile SR		Feed	RH
Asbestos, chrysotile IR		Feed	RH
Asbestos, chrysotile SR		Inhal	R
Asbestos, chrysotile IR		Inhal	R
Asbestos, crocidolite		Feed	R
Ascorbic acid	50-81-7	Feed	RM
Benzene	71-43-2	Gav	RM
Benzo(a)pyrene	119-53-9	Feed	RM
Benzyl acetate	140-11-4	Gav	RM
Benzyl chloride	100-44-7	IP/IG	M
2-biphenylamine HCl	90-41-5	Feed	RM
Bisphenol A	80-05-7	Feed	RM
HC blue 1	2764-94-3	Feed	RM
Blue 15B	574-93-8	Feed	RM
Bromoforn	75-25-2	Gav	RM
Bromodichloromethane	75-27-4	Gav	RM
Butylated hydroxytoluene (BHT)	126-37-0	Feed	RM
Butyl benzyl phthalate	85-68-7	Feed	RM
n-Butyl chloride	106-69-3	Gav	RM
t-Butyl alcohol	75-65-0	Water	RM
Caprolactam	105-60-2	Feed	RM
Castor oil	8001-79-4	Feed	RM
Chlorobenzene	108-90-7	Gav	RM
Chlorodibromomethane	124-48-1	Gav	RM
3-Chloro-2-methylpropene	563-47-3	Gav	RM
C.I. disperse yellow 3	2632-40-8	Feed	RM
Cinnamyl anthranilate	87-29-6	Feed	RM
Coconut oil acid diethanolamine (con 2/1)	8040-31-1	SP	RM
Cyclohexanone	106-94-1	Water	RM
Cytembena	2126-70-7	IP/IG	RM
D & C red No. 9	5160-02-1	Feed	RM
DBCP	86-12-8	Inhal	RM
Decabromodiphenyl oxide	1163-18-5	Feed	RM
Diallylphthalate	131-17-8	Gav	RM
Dibenzo-p-dioxin, 1,2,3,6,7,8-hexachloro	34465-46-8	SP	M
Dibenzo-p-dioxin, 1,2,3,6,7,8-hexachloro	34465-46-8	Gav	RM
Dibenzo-p-dioxin, 2,3,7,8-tetrachloro	1746-01-6	SP	M
Dibenzo-p-dioxin, 2,3,7,8-tetrachloro	1746-01-6	Gav	RM
Diesel fuel marine		Gav	R
Diesel fuel marine		SP	M
1,4-diamino-2,6-dichlorobenzene		Feed	RM
o-Dichlorobenzene	95-50-1	Gav	RM
p-Dichlorobenzene	106-46-7	Gav	RM
1,1-dichloroethylene	75-35-4	Gav	RM
Cis/trans-1,2-dichloroethylene	156-59-2	Gav	RM
1,2-dichloropropane	78-87-5	Gav	RM
Dethanolamine	111-42-2	Water	RM
D(2-ethylhexyl)adipate	103-23-1	Feed	RM
D(2-ethylhexyl)phthalate	117-61-7	Feed	RM
Diglycidylresorcinol ether	101-90-6	Feed	RM
n,n-Dimethyldodecylamine oxide	1843-20-5	Water	RM
Dimethylhydrogenphosphite	868-85-9	Gav	RM
Dimethyl methylphosphonate	756-79-6	Gav	RM
Dimethyl morpholinophosphonate	597-25-1	Gav	RM
Dimethylvinylchloride	513-37-1	Gav	RM
Diphenylamine, n-nitroso	86-30-6	Feed	RM
4,4'-diphenylmethane diisocyanate	101-68-8	Gav	RM
Disperse blue #1	2475-45-0	Feed	RM
Disperse yellow #3		Feed, intratr	RH
Dodecyl alcohol, ethoxylated	29718-44-3	Feed	RM
Ethane, 1,2-dibromo	106-83-4	Inhal	RM
Ethane, 1,1,1-trichloro	71-55-6	Gav	RM
Ether, bis(2-chloro-1-methylethyl)	106-80-1	Gav	M
Ether, bis(2-chloro-1-methylethyl)	106-80-1	Gav	R
Ethyl acrylate	140-88-5	Gav	RM

Table 8.—Chemicals for Which Lifetime Bioassays Are In Progress—Continued

Chemical	CAS No.	Route	Spec.
Ethyl tellurac	30145-38-1	Feed	RM
Ethylene chlorohydrin	107-07-3	SP	RM
Ethylene glycol monoethyl ether	110-80-5	Water	RM
Eugenol	97-53-0	Feed	RM
Fibrous glass		Inhal	R
Fluometuron	2164-17-2	Feed	RM
Fluorescein, disodium salt	518-47-8	Water	RM
Geranyl acetate	105-87-3	Gav	RM
Gilsonite	12002-43-6	SP	RM
Guar gum	9000-30-0	Feed	RM
Gum arabic	9000-01-5	Feed	RM
Gum tara		Feed	R
HC blue #2		Feed	RM
HC red #3		Feed	RM
8-hydroxyquinoline	148-24-3	Feed	RM
Lauroic acid diethanolamine (Con I/I)	120-40-1	SP	RM
Lead dimethyl dithiocarbamate	19010-66-3	Feed	RM
Locust bean gum	9000-40-2	Feed	RM
Malaoxon	1634-78-2	Feed	RM
Malathion	121-75-5	Feed	R
Maleic hydrazide diethanolamine salt	5716-15-4	Water	RM
Maleic aldehyde	542-78-9	Gav	RM
Mannitol	69-65-8	Feed	RM
Melamine	108-78-1	Feed	RM
Methapyrine	91-80-5	Feed	RM
Methylenedianiline	101-77-9	Feed	RM
Methylene chloride	75-09-2	Gav	RM
Methylene chloride	75-09-2	Inhal	RM
Mirex	2385-85-5	Feed	R
Molybdate orange	12656-85-8	Feed	RM
Monuron	150-68-5	Feed	RM
Naphthalene	91-20-3	Gav	RM
Nitrofurantoin	67-20-9	Feed	RM
Oleic acid diethanolamine (Con I/I)	13961-86-9	SP	RM
Orange #10	1936-15-8	Feed	RM
4,4'-oxydianiline	101-80-4	Feed	RM
Pentachloroethane	76-01-7	Gav	RM
Phenol	108-95-2	Water	RM
Phenylbutazone	50-33-9	Water	RM
Phenyltin		Feed	RM
Phthalocyanine green	1328-53-6	Feed	RM
Polychlorinated biphenyl		Feed	RM
Propyl gallate	121-79-9	Feed	RM
Pyridine	110-86-1	Gav	RM
Red #14	3567-69-9	Feed	RM
Reserpine	50-55-5	Feed	RM
p-Rosaniline HCl	569-61-9	Feed	RM
Selenium sulfide	7488-56-4	Gav	RM
Selenium sulfide	7488-56-4	SP	M
Selsun		UNK	SP
Sodium dodecyl sulfate	151-21-3	Feed	RM
Sodium(2-ethylhexyl)alcohol sulfate	126-92-1	Feed	RM
Stannous chloride	7772-99-8	Feed	RM
Styrene oxide	96-09-3	Gav	RM
Sudan 1	842-07-9	Feed	RM
Sun yellow FCF	2783-94-0	Feed	RM
Telone	542-75-6	Gav	RM
1,1,1,2-tetrachloroethane	630-20-6	Gav	RM
Tetrachloroethylene	127-18-4	Inhal	RMH
Tetraethylthiuram disulfide	14239-68-0	Feed	RM
THPC	124-64-1	Feed	RM
THPS		UNK	Feed
Toluene diisocyanate	584-84-9	Gav	RM
Tremolite		Feed	R
Trichloron	52-86-6	Feed	RM
Trichloroethylene	79-01-6	Gav	RM
Trichloroethylene	78-42-2	Gav	RM
Tris(2-ethylhexyl)phosphate	1325-82-2	Feed	RM
Violet 3	84400-12-7	SP	RM
Witch hazel	7645-23-0	Feed	RM
Zearalenone		Feed	RM
Ziram	137-30-4	Feed	RM

Table 9.—Chemicals selected for Extensive Evaluation of Toxic Effects Including Carcinogenesis

Compound	NCI No.	CAS No.
2-Amino-4-nitrophenol	C559958	99-57-0
2-Amino-5-nitrophenol	C55970	121-88-0
Ampicillin	C56086	69-53-4
Amyl nitrite (butyl nitrite)	C50179	110-46-3
Arsenicals, organic		
Benzathine penicillin G	C56100	1538-0-6
Benzofuran	C56166	271-89-6
Benzyl alcohol	C06111	100-51-6
2,2-Bis(bromomethyl)-1,3-propanediol	C55516	3296-90-0
Boric acid		11113-50-1
Bromobenzene	C55492	108-86-1
1,3-Butadiene	C50602	106-99-0
2-Butanone peroxide	C55447	1338-23-4
Caffeine	C02733	58-08-2
Capsaicin		404-86-4
Carbon disulfide	C04591	75-15-0
Chloramine	C56382	55-86-7
Chloroformic acid	C55072	115-28-6

Table 9.—Chemicals selected for Extensive Evaluation of Toxic Effects Including Carcinogenesis—Continued

Compound	NCI No.	CAS No.
Chlorinated trisodium phosphate	C65764	56802-89-4
Chloroacetophenone	C55107	832-27-4
Chlorobenzaldehyde	C06118	
Chlorowax 40	C83648	51980-12-6
Chlorowax 500	C58367	56509-64-9
Chlorpheniramine maleate		113-82-8
Cineol (eucalyptol)		470-67-7
Cinnamaldehyde	C56111	104-55-2
2,3-Dibromo-1-propanol	C55436	96-13-9
1,4-Dichlorobenzene	C54955	106-46-7
2,4-Dichlorophenol	C55345	120-83-2
Dichlorvos	C00113	62-73-7
Dimethyleniline	C56188	87-62-7
Diphenhydramine HCl	C56075	147-24-0
DMBA (positive control)		57-97-6
Ephedrine sulphate	C55652	299-42-3
Epinephrine HCl	C55663	55-31-2
1,2-Epoxybutane	C55527	106-88-7
1,2-Epoxyhexadecane	C55538	7320-37-8
Erythromycin stearate	C55674	114-07-8
Ethyl alcohol	C03134	64-17-5
Ethylbenzene		100-41-4
Ethyl bromide	C55481	74-96-4
Ethyl chloride	C06224	75-00-3
Ethylene oxide	C50088	75-21-8
Formaldehyde	C02799	50-00-0
Furosemide	C55936	54-31-9
Gabrellic acid	C55823	77-06-5
Glutaraldehyde	C55425	111-30-8
Chlorpromazine	C05210	69-09-0
Glycidol	C55549	556-52-5
Chromium inorganic	C04273	7440-47-3
Copper and inorganic compounds	C08515	7440-50-8
Hexabromobiphenyl (FF-1)	C56364	36355-01-8
Hexafluoroacetone	C08413	10057-27-9
Hexamethyl-p-rosaniline (gentian violet)	C55969	548-62-9
Hexylresorcinol	C55787	136-77-6
Hydrochlorothiazide	C55925	58-93-5
Hydroquinone	C55834	123-31-9
5-Hydroxytryptophan		56-69-8
Iodinated glycerol	C55468	5634-39-9
Isophorone	C55618	78-59-1
Isopropyl glycidyl ether		
d-Limonene	C55572	5989-27-5
Mercaptobenzothiazole		149-30-4
8-Methoxypsoralen	C55903	298-81-7
Methylbenzyl alcohol	C55685	98-85-1
Methyl carbamate	C55594	598-55-0
Methylol sulfonate	C55721	555-30-6
Methyl methacrylate	C50680	80-62-6
Mycotoxins (ochratoxin, penicillic acid)		
Nalidixic acid	C56199	389-08-2
Naphthalene		91-20-3
2-Naphthylamine, N-phenyl	C02915	135-88-6
5-Nitro-2-furaldehyde		698-63-5
Nitrofurazone	C56064	59-87-0
Oil of nutmeg		
Oxalic acid	C55209	144-62-7
Pentachloroisole		1825-21-4
Pentachloronitrobenzene	C00419	82-68-8
Pentachlorophenol	C54933	87-86-5
Phenol	C50124	108-95-2
Phenolphthalein	C55798	77-09-8
Phenylephrine hydrochloride	C55641	5788-87-6
o-Phenylphenol	C50351	61-76-7
Polyurethane		90-43-7
Propylene		9009-54-5
Propylene oxide	C50077	115-07-1
Pyrolytic carbon	C50099	75-56-9
Pyrolytic carbon		643-20-9
Retene	C55390	483-65-8
Rhodamine 6G	C56122	989-38-8
Rotenone	C55210	83-79-4
Sodium aluminosilicate	C55505	1344-00-9
Sodium dichloroisocyanurate	C55732	2893-78-9
Sodium fluoride	C55221	7681-49-4
Succinic anhydride	C55696	108-30-5
Sucrose		25702-74-3
Sulfamethazine		9012-95-7
2,3,7,8-Tetrachlorodibenzofuran		27616-49-5
		57-68-1
		51207-31-9

Tetrachloroethylene	C04580	127-18-4
oleic acid, methyl ester, cis		
Tetracycline hydrochloride	C55561	64-75-6
Tetracycline, dry	C05288	78-57-2
Tetrahydrofuran	C55947	508-14-8
Tocopherol		1408-06-2
Toluene	C07272	108-88-3
Trimellitic anhydride		852-30-7
Vinylcyclohexene	C54898	108-84-1
Vinyl toluene		622-87-9
Wollastonite Ca-silicate	C55470	13883-17-0
Xylenes, mixed	C55892	1330-20-7

TABLE 10.—Chemicals nominated for Toxicologic or Carcinogenic Evaluation

Compound	NCI No.	CAS No.
1-amino-2, 4-dibromoanthraquinone		81-49-2
amphetamine	C55710	60-13-9
azodicarbonamide	C55981	123-77-3
benzaldehyde	C56133	100-52-7
benzoic acid, 4,4'-dichloroethyl ester	C00408	510-15-6
N-butyl chloride	C06155	109-69-3
gamma-butyrolactone	C55878	96-48-0
beta-cadinene (oil of cade)	C56008	523-47-7
carvone (caraway, dill seed)	C55867	99-49-0
catechol	C55856	120-80-9
chloramphenicol	C55709	56-75-7
chlordecone (Kepone)	C00191	143-50-0
chlorinated dibenzofurans		
chlorinated naphthalenes		
p-chloroaniline	C02039	106-47-8
chlorpromazine	C05210	69-09-0
chromium inorganic	C04273	7440-47-3
copper and inorganic compounds	C08515	7440-50-8
corn oil	C00577	8001-30-7
curcumin		458-37-7
2,4-diaminophenol hydrochloride		
4,4-diamino-2,2'-stilbenedisulfonic acid	C55778	15663-27-1
1,1-dichloroethylene	C54262	75-35-4
cis- & trans-1,2-dichloroethylene	C51581	156-59-2
dichloropropane		26638-19-7
diethyl phthalate		84-66-2
3,4-dihydrocoumarin	C55890	119-84-6
dimethoxane ("dioxin")	C56213	828-00-2
3,3-dimethoxybenzidine	C02175	91-93-0
dimethyl sulfoxide	C00873	67-68-5
ethoxyethanol	C54853	110-80-5
ethylene glycol	C00920	107-21-1
ethane	C56202	110-00-9
turfural	C56177	98-01-1
glycol	C00817	98-00-0
H C yellow No. 4	C58019	52551-67-4
hexachlorobutadiene		87-68-3
hexachlorocyclopentadiene	C55607	77-47-4
hexachloroethane	C04604	67-72-1
hydroxyacetanilide	C55801	103-90-2
4-hydroxyacetanilide	C56144	53-86-1
indomethacin		
iron compounds		
isoproterenol HCl	C55690	7683-59-2
lead oxide		1335-25-7
lithium and compounds		7439-83-2
manganese compounds	C02517	7439-96-5
mercury (metal)	C04375	7439-97-6
mercuric chloride		7487-94-7
phenyl mercuric acetate		43412-44-8
methapyrine	C06018	91-80-5
methyl coumarin	C55812	92-48-8
o-methylhydroxylamine		67-62-9
methyl ethyl ketone peroxide		1336-23-4
monochloroacetic acid	C06264	79-11-6
monochloroethane		75-003
monosodium methane arsenate		
nevy fuels JP-5	C54784	
nitrobenzene		98-95-3
nitrophenols		
p-nitrophenol	C55992	100-02-7
N-nitrosodiphenylamine	C55583	1116-54-7
nitroloene		1321-12-6

octachlorodibenzodioxin	C08678	2886-87-8
oleic acid, methyl ester, cis		
organophosphates		
pelladum (2+) chloride		
pentachloroethane	C53984	78-81-7
pentachloronitrobenzene	C55743	78-11-6
petroleum distillates		
phenol, 2,2'-thiodis(4,6-dichloro)	C08646	87-18-7
D-phenylalanine		673-08-3
N-phenylhydroxylamine		100-85-2
pichloran	C08637	1918-82-1
platinum and compounds		7440-06-4
polyvinylpyrrolidone polymers		
potassium azide		20762-80-1
probenecid	C56067	57-66-9
quercetin		522-12-3
p-quinone	C55845	108-61-4
resorcinol	C05870	108-46-3
rhodamine	C56122	989-38-8
sodium azide		26628-22-8
sodium dichloroisocyanurate		2893-78-9
styrene	C02200	100-42-5
teak	C06008	14807-96-8
L-taurine		107-35-7
telurium		13484-80-8
tetrahydrofuran		109-99-9
tetrakis (hydroxymethyl) phosphonium chloride	C55061	124-64-1
titanium & compounds—titanium	C04251	7440-32-6
titanium oxide		
titanium ferrocene	C04240	13483-67-7
titanium tetrachloride	C04502	1271-19-8
trichloroethylene	C04546	79-01-6
trichloropropane		25735-29-9
2,4,6-trinitrochlorobenzene (4-bromophenyl) phosphate	C56155	118-96-7
tris (2-chloroethyl) phosphate		
vinyl cyclohexene dioxide		115-96-8
vinylidene fluoride		
vitamin D		1406-16-2
vitamin D ₃		67-97-0
witch hazel	C50544	84400-12-7
xylenesulfonic acid, sodium salt	C55403	1300-72-7
2,6-xyldine	C56188	87-82-7

Table 11.—Chemicals Studied for Behavioral or Neurologic Effect

Chemicals	CAS No.
Carbon disulfide *	75-60-5
Chlordecone	143-50-0
Caffeine *	58-08-2
Ethanol *	64-17-5
Ethylene oxide	75-21-8
Lithium carbonate	554-13-2
Mercaptobenzothiazole	149-30-4
Methyl bromide	74-83-9
Methyl chloride *	74-87-3
Methylethyl ketone *	76-93-3
Polybrominated biphenyl	
Propylene oxide	75-56-9
Selenium	7488-56-4
Toluene *	108-88-3
Valium *	439-14-5
Xylene	1330-20-7

* Human subject study.

* Includes human subject study and interaction of methyl chloride, caffeine, ethanol and valium.

* Includes human subject study and interaction of toluene, methyl ethyl ketone, and xylene.

[FR Doc. 79-22733 Filed 7-23-79; 8:45 am]

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federal register

Tuesday
July 24, 1979

Part V

**Department of
Health, Education,
and Welfare**

Office of Education

Financial Assistance for Local
Educational Agencies in Areas Affected
by Federal Activity

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE

Office of Education

45 CFR Part 114

Financial Assistance for Local
Educational Agencies in Areas
Affected by Federal Activity

AGENCY: Office of Education, HEW.

ACTION: Final Regulations.

SUMMARY: These final regulations govern the award of Federal assistance to school districts that enroll certain categories of children receiving free public education in areas affected by Federal activities. They are designed to ensure the safety of children who are educated on federally owned property, and to make certain that handicapped children have access to educational programs located on federally owned property.

EFFECTIVE DATE: These regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the Federal Register. The effective date is changed by statute if Congress disapproves the regulations or takes certain adjournments. If you want to know the effective date of these regulations, call or write the Office of Education contact person.

FOR FURTHER INFORMATION CONTACT: Mr. William L. Stormer, Office of Education, Room 2107A, 400 Maryland Avenue, SW., Washington, D.C. 20202, Telephone: (202) 245-8427.

SUPPLEMENTARY INFORMATION:

A. Background

Section 10 of Pub. L. 81-815 provides for direct Federal construction of school facilities for children residing on Federal property. It was adopted to serve two situations where the Commissioner should take the responsibility to provide school facilities for children residing on Federal property:

Section 10(a)(1)—where State law precludes the expenditure of funds to educate children on Federal property.

Section 10(a)(2)—where the local educational agency (LEA) is unable to provide a suitable free public education for children residing on Federal property.

The Commissioner published in the Federal Register on February 14, 1979 a Notice of Proposed Rulemaking (44 FR 9727). During the period allowed for comments in response to the proposed

regulations, two comments were received. Comments and responses are included in section B of the preamble.

Priority Ranking

Funding priorities for section 10 were initiated to distribute limited funds. Groups for establishing priority in funding at present are as follows:

1. Repairs to existing federally-owned school facilities for children's safety.
2. Upgrading for facility transfer where an LEA has assured the Commissioner that it will apply for and accept ownership of the federally-owned facilities.
3. Upgrading or new construction or both to provide facilities for unhoused students.
4. New construction, remodeling, or rehabilitation necessary to permit the implementation of a contemporary education program.

Authority to Initiate Study

The Commissioner of Education directed the initiation of an in-depth study to analyze section 10 school construction needs.

Findings

The findings of the in-depth study projected a total cost estimate of \$198,231,641 (\$200 million) in FY 1976 dollars to repair, upgrade, or construct school facilities to provide for contemporary educational programs.

Construction estimates for upgrading existing facilities to meet life safety and handicapped access standards total approximately \$10.5 million in 1976 dollars.

Estimates for construction of replacement facilities where upgrading is not sufficient to meet life safety standards total approximately \$60 million in 1976 dollars.

For the purpose of this estimate, it is assumed that the responsible LEA is unable to provide a suitable free public education for the children concerned. A determination to this effect, of course, will be required prior to the initiation of any extensive remodeling or new construction.

The in-depth study disclosed many instances where existing school facilities are simply inadequate to house the total number of pupils enrolled. Large numbers of children are required to be housed in makeshift facilities, such as those that have been abandoned from the use they originally served.

Some of the pupil membership increases have resulted from Department of Defense programs to construct additional on-post military family housing units at an accelerated

pace over the past several years, or from a change in the basic mission the installation serves.

The safety of children being educated in buildings under the Commissioner's cognizance is a first priority. A portion of the construction needed to bring existing facilities up to life safety standards requires only repairs or upgrading activities. Construction can be performed which will meet life safety standards and achieve access for the handicapped equal to that called for by section 504 of the Rehabilitation Act of 1973.

Certain section 10 facilities, however, cannot be made life safe (i.e., old wooden buildings with an unacceptable "burn rate") and, therefore, construction of replacement facilities is required.

In these cases, the current priority system precludes the Commissioner from targeting money toward major renovation or new construction efforts.

Amendment to the Regulations

Modification of the priorities, by regulation, of the existing funding priority groupings to be promulgated are as follows:

- (1) Emergency repairs for the children's safety.
- (2) Upgrading and new construction to meet life safety and handicapped access standards.
- (3) Upgrading to provide facility transfers to LEAs.
- (4) Upgrading to provide facilities for unhoused children.
- (5) Upgrading and/or new construction to provide contemporary educational programs.

Criteria by which to judge "suitable free public education" and "ability to provide suitable free public education" have never been defined in the regulations or the law. Without established criteria and a revision of priorities, applicants cannot be sure of their eligibility status. These two amendments will alleviate the present shortcoming.

This definition of "suitable free public education" is distinguished from the definition of "free appropriate public education" in section 602 (18) of the Education of the Handicapped Act. Although the definitions may have similar application to the situation of handicapped children in certain instances, the latter definition applies specifically to special education and related services.

The primary standard against which to measure an LEA's suitability will be that which is commonly provided in the State. The school attended by a pupil residing on Federal property must be

within the State's established maximum commuting distance from that pupil's home.

The programs of instruction offered or which can be offered must meet minimum standards for State accreditation or approval. In the event a State has not established minimum educational requirements, the Commissioner then may apply appropriate accreditation associations' standards to assess suitability of the LEA's program of instruction.

Examination will also be made of the ability of the LEA to provide suitable free education, particularly as it applies to school construction. Operational indicators would be the percentage of the LEA's bonded indebtedness; the present level of debt service; and the amount of resources the LEA has, State, local, and Federal, to provide minimum school facilities for the children to be housed.

B. Summary of comments and responses

The following is a summary of the comments received and the responses of the Commissioner.

§ 114.5 Determination of priority indices and priority grouping for applications.

(1) *Comment.* A commenter urged that "upgrading to provide facilities for unhoused children" be raised from number four (4) priority to number two (2) priority, at least for long standing applications.

Response. No change has been made in the regulations. Section 3 of Pub. L. 81-815 provides that the Commissioner shall by regulation prescribe an order of priority, based on relative urgency of need, to be followed in approving applications in the event the funds appropriated under the Act are less than necessary to accommodate all applications. The funds allocated will be reserved for applications on this priority listing in order of priority indices.

The safety of children being educated in buildings under the Commissioner's cognizance is a first priority. A portion of the construction needed to bring existing facilities up to life safety standards requires only repairs or upgrading activities. Construction can be performed which will meet life safety standards and achieve access for the handicapped equal to that called for by section 504 of the Rehabilitation Act of 1973.

Certain facilities cannot be made life safe. In some instances they are old wooden frame buildings with an unacceptable burn rate. Therefore, construction of replacement facilities is necessary. In these cases, the current

priority system precludes the Commissioner from targeting money toward the replacement of those facilities. This in effect, will provide proper space for many of the currently unhoused pupils since they are presently required to be housed in makeshift facilities that have been abandoned from the use they originally served. It is estimated that it will take \$90 million in 1979 dollars to construct replacement facilities where upgrading is not sufficient to meet life safety standards.

(2) *Comment.* A commenter questioned whether the Advisory Council on Historic Preservation had been consulted in developing procedures to assure that this program contributes to the preservation and enhancement of sites and structures of historic, architectural, or archeological significance.

Response. No change has been made in the regulations. The amendments to the regulations are, in this instance simply to revise the priority grouping for funding eligible applications and to define the terms "suitable free public education" and "ability to provide suitable free public education."

C. Location of changes in the
Regulations to Implement the New
Amendments in Pub. L. 81-815

Under § 114.1 (*Definitions*)—Add a new definition (a) "Ability to provide suitable free public education" before (a) "Act" and redesignate paragraph (a) as (a-1).

Add a new definition (w-1) "Suitable free public education" after (w) "Subpriority indices."

Under § 114.5 (*Determination of priority indices and priority groupings for applications*)—Under subparagraph (b)(2) add a new item (ii) and change (ii) to (iii), (iii) to (iv), and (iv) to (v).

The new priority is as follows:

(ii) Applications in cases where upgrading or new construction or both is necessary to meet life safety and handicapped access standards.

D. Citation of legal authority

The reader will find a citation of statutory or other legal authority in parentheses on the line following each substantive provision.

(Catalog of Federal Domestic Assistance Nos. 13.477, School Assistance in Federally Affected Areas—Construction)

Dated: June 6, 1979.

Ernest L. Boyer,
U.S. Commissioner of Education.

Approved: July 16, 1979.

Joseph A. Califano, Jr.,
Secretary of Health, Education, and Welfare.

Accordingly Part 114 of 45 CFR is amended in § 114.1 by adding new paragraph (a) and redesignating paragraph (a) as (a-1), and adding new paragraph (w-1) after paragraph (w); and by revising § 114.5(b) to read as follows:

PART 114—ASSISTANCE FOR
SCHOOL CONSTRUCTION IN AREAS
AFFECTED BY FEDERAL ACTIVITIES

§ 114.1 Definitions.

As used in this part, the term:

(a) *Ability to provide a suitable free public education for the purposes of section 10 of the Act.* The Commissioner considers a local educational agency (LEA) able to provide a suitable free public education if the LEA—

(1) Has the authority under State law to provide suitable free public education to pupils residing on Federal property;

(2) Has not refused to provide that education;

(3) Has the authority to provide educational facilities on property it does not own where the LEA determines that the property is necessary to serve pupils residing on Federal property; and

(4) Has the actual or potential financial resources and/or facilities to provide that education.

(w-1) Free public education is considered "suitable" for purposes of section 10 of the Act if—

(1) The primary language of instruction is English; and

(2) The school facility which a pupil attends or would attend is within the State's established maximum commuting distance from a pupil's home; and

(3) The programs of instruction offered or which can be offered with combined local, State, and Federal resources meet standards for State accreditation or approval. If the particular State has not established standards for accreditation or approval, the Commissioner applies appropriate accreditation associations' standards to assess suitability of the LEA's program of instruction; or

(4) In the judgment of the Commissioner, an arrangement under section 10 would operate, because of adverse social and political factors, to the serious detriment of the children to be served.

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(20 U.S.C. 640(a)(2))

§ 114.5 Determination of priority indices and priority groupings for applications.

(b) For requests under section 10 of the Act, a priority index will be determined for the first pending requested project of each applicant by adding—

(1) The percentage that the estimated number of children for whom minimum school facilities are to be provided is of the total estimated number of all children residing and attending school on the installation at the close of the applicable period; and

(2) The percentage of the estimated school membership at such installation which is without minimum school facilities as of the same time.

However, in no case will the combined percentage used in determining the priority index exceed twice the percentage arrived at in subparagraph (1) of this paragraph. In determining the order of priority for approving applications under section 10, applications will be classified in priority groups for funding from funds allocated for applications under section 10 as prescribed in paragraph (c) of § 114.4. A priority listing will be established for each such group in the following order:

(i) Applications requesting major repairs necessary for the safety of school children or to prevent further deterioration of existing school facilities;

(ii) Applications in cases where upgrading or new construction or both is necessary to meet life safety and handicapped access standards;

(iii) Applications in cases where the LEA which operates the school program in school facilities located on Federal property has given assurance and a firm commitment to the Commissioner that, upon completion of the proposed project, it will accept ownership of such school facilities under section 10(b) of the Act;

(iv) Applications in cases where there are unhoused pupils; and

(v) Applications requesting the construction of capacity or noncapacity school facilities, or the rehabilitation or remodeling of existing school facilities which is required to bring the school facilities up to a standard which will permit the offering of a contemporary educational program.

(20 U.S.C. 640)

[FR Doc. 79-22745 Filed 7-23-79; 8:45 am]

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federal register

Tuesday
July 24, 1979

Part VI

Department of the Interior

Fish and Wildlife Service

**Proposed Listing with Endangered Status
for the American Crocodile and the
Saltwater Crocodile Outside Papua New
Guinea**

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

Endangered and Threatened Wildlife and Plants; Proposed Listing with Endangered Status for the American Crocodile Throughout Its Range and the Saltwater Crocodile Exclusive of the Papua New Guinea Population

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes that the American crocodile (*Crocodylus acutus*) and the saltwater crocodile (*Crocodylus porosus*) populations outside of Papua New Guinea be listed as Endangered species. This action is being taken because both species have suffered serious losses of habitat throughout their ranges and have been subject to extensive poaching for their hides. The Papua New Guinea population of *C. porosus* is not being included in this proposed action because of the assurances of the government of Papua New Guinea that crocodile farming is under strict control within that country and that wild populations are not being jeopardized by such activity. The Florida population of *C. acutus* is already listed as Endangered under provisions of the Act. This rule would provide additional protection to wild populations of both species, presently listed on the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, by further restricting commercial trade in their parts and products.

DATES: Comments from the public must be received by October 26, 1979. Comments from the governments of the countries where these species occur must be received by October 26, 1979.

ADDRESSES: Submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to this rulemaking are available for public inspection during normal business hours at the Service's Office of Endangered Species, 1000 N. Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (703/235-1975).

SUPPLEMENTARY INFORMATION: Background

The American crocodile, *Crocodylus acutus*, ranges throughout the Caribbean Sea, and on the Pacific Coast of Central and South America from Mexico to Ecuador in primarily coastal waters. Portions of the following countries are known to have or have had populations of this species: United States, Mexico, Colombia, Venezuela, Ecuador, Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica, Panama, Trinidad and Tobago, Jamaica, Cuba, Haiti, the Dominican Republic, and Belize. The Florida population is currently listed as Endangered and its Critical Habitat has been determined (see the Federal Registers of September 25, 1975 [40 FR 44149-44151] and September 24, 1976 [41 FR 41914-41916]).

On May 23, 1975, Professor Federico Medem of the Faculty of Science of the National University of Columbia petitioned the Secretary of the Interior to list, under protection of the Endangered Species Act of 1973, the American crocodile throughout its range. However, only the Florida population was actually proposed and eventually listed.

The saltwater, or estuarine, crocodile, *Crocodylus porosus*, ranges throughout Southeast Asia and includes the countries of Australia, Papua New Guinea, Indonesia, Philippines, Malaysia, Thailand, Burma, Bangladesh, India, Cambodia, Vietnam, and Sri Lanka. This species may be the largest of reptiles, with reports of lengths well over 20 feet (7 meters), although leatherback sea turtles may weigh more.

All populations of the saltwater crocodile and all populations of the American crocodile, with the exception of those in Florida, were proposed as Endangered under the Similarity of Appearance clause of the Act (Federal Register of April 6, 1977; 42 FR 18287-18291); no final action has been taken as of this date on that proposal. Populations of *C. acutus* are listed on Appendix II (other than Florida which is on Appendix I) and *C. porosus* on Appendix I (other than Papua New Guinea which is on Appendix II) On the Convention of International Trade in Endangered Species of Wild Fauna and Flora.

In the Federal Register of February 5, 1979 (44 FR 7060-7061), the Fish and Wildlife Service published a Notice of Review on the status of these species. Information contained in the notice summarized existing knowledge concerning their status and the reasons for conducting the review. Persons who desire to review these data should

consult this document or the *Endangered Species Technical Bulletin* of March, 1979; these documents are available from the Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

A total of 15 comments were received in response to the notice. These comments are summarized below:

Pong Leng-EE (Wildlife Conservation Division, Thailand): Mr. Leng-EE agreed that wild populations of the estuarine crocodile are in need of protection in Thailand but requested an exception to any rulemaking for those crocodiles raised on a breeding farm in Samutprakarn province.

Henry Norries (First Secretary, Embassy of Papua New Guinea, Washington, D.C.): Mr. Norries included a report on the status, protection and management of crocodiles in Papua New Guinea. Parts of this report are reprinted below.

1. *Status.*—Papua New Guinea is inhabited by two species of crocodiles: the saltwater or estuarine crocodile, *Crocodylus porosus*, and the freshwater crocodile, *Crocodylus novaeguineae*.

The saltwater crocodile was extensively hunted in the 1950's and 1960's and has been generally much reduced in major rivers and estuaries. Residual populations still exist in certain major rivers and their tributaries, but no reliable estimates are available about the present status of the population. It is believed that the ban on export of skins greater than 20" belly-width provides reasonable protection of the adult population. However, a high proportion of the juveniles are vulnerable to the hunter. There are no indications that the program of farming crocodiles has resulted in an increased decline of the wild population.

The freshwater crocodile is well established in large expanses of freshwater swamp, which restricts the proportion of juveniles which can be caught. Because it occurs in these strongholds in reasonable numbers and because efficient hunting in these areas is generally almost impossible, there does not seem to be any indication that this species may be endangered. The species has, however, been virtually eliminated from the major rivers.

2. *Protection.*—The following laws are relevant to crocodile protection in Papua New Guinea:

1. The fauna (Protection and Control) Act of 1966, its amendments of 1970 and Regulations of 1974;
2. The Customs (Prohibition) Act Regulations, and
3. The Crocodile Trade Act, 1966.

Under these acts and regulations, the illegal and commercial export of crocodile skins has been controlled.

Records are being kept on the export of all crocodile skins.

Crocodiles over 20" belly-width cannot be legally traded; this serves to protect the adult population.

Illegal skins are confiscated and offenders prosecuted.

3. *Management.*—Crocodiles in Papua New Guinea are managed by the National Crocodile Project, assisted by a UNDP/FAO project since 1 January 1977. The objectives of the management program are the following:

1. Prevent species extinction;
2. Assess stocks and enhance recovery towards ecologically optimal levels, and
3. Develop controlled commercial utilization in such a way that ultimately a sustained utilization can be obtained.

With assistance from the UNDP/FAO project, a network of village, business and government crocodile farms has been established as follows (March 1979):

Village farms, 130.
Business Farms, 10.
Government farms, 5.

The objective of the farming program is to raise crocodiles to commercial slaughtering size and to reduce mortality (which is presumed to be higher in the wild).

During the last three years a captive breeding program has been established and the following number of crocodiles of breeding age are kept on the government farm at Moitaka:

Female *C. novaeguineae*, 24.
Male *C. novaeguineae*, 13.
Female *C. porosus*, 30.
Male *C. porosus*, 16.

This program has been successful insofar as most captive females have laid eggs and hatchlings have been successfully reared for three years in succession. This year mortality among hatchlings will be reduced considerably, because of improved facilities. The breeding program of saltwater crocodiles will be stepped up considerably.

The government has agreed with UNDP to extend the FAO project on assistance to the crocodile skin industry to include monitoring and a program has been planned for implementation. It should therefore be possible by the end of 1979 to produce a report on population trends and to arrive at a better understanding of whether or not the saltwater crocodile population is over-exploited.

Dr. Leslie Garrick: Dr. Garrick offered additional information to that contained in the Notice of Review on American crocodile populations in the Canal Zone, Dominican Republic, and Jamaica. He supported listing this species on appendix I of the Convention.

Stefan Graham (Director, Baltimore Zoo): Mr. Graham supported protection for these species because of the threats of taking for hides and lack of protection in many areas of their ranges.

Ray Pawley (Curator of Reptiles, Brookfield Zoo): Mr. Pawley provided data on crocodile populations in the Dominican Republic, particularly at Isla Cabritos. He recommended encouraging the protection of the two breeding groups of American crocodiles occurring at Isla Cabritos.

Peter C. H. Pritchard (Florida Audubon Society): On behalf of the Florida Audubon Society, Dr. Pritchard supported a proposal to list both species as Endangered. With regard to crocodile farms, Dr. Pritchard states:

In some areas, such as Papua New Guinea, the estuarine crocodile is harvested under a reasonably controlled program, and it is probably not necessary for this harvest to be stopped at present. Similarly, estuarine crocodiles are raised commercially on several farms in South-east Asia. However, there is no need for hides from these operations to be exported to the United States, and indeed it would be better if these hides were exported to other areas, such as France and Italy, over which the United States has no control, so that they may partially displace the demand for hides from other areas or of truly endangered crocodilian species.

Seymour Levy (Safari Club International): Mr. Levy provided information on crocodile farming in Papua New Guinea and stressed the need for providing economic incentive. He also stated that he hoped the estuarine crocodile would be retained on Appendix II to the Convention instead of transferring it to Appendix I.

A. de Vos (Project Manager, FAO, Papua New Guinea): Mr. de Vos took issue with Dr. Faith Campbell's statements on crocodile scarcity contained in the Notice of Review by indicating that estuarine crocodiles can be observed "regularly in some numbers" in the Fly, Bensbach, and Turama Rivers. Mr. de Vos also included a statement by M. Raga outlining the crocodile industry in Papua New Guinea in relation to crocodile conservation. Mr. Raga states "even though there may have been some over-exploitation of the wild crocodile population of Papua New Guinea in recent years, the populations of both species (*C. porosus* and *C.*

novaeguineae) are far from threatened at present."

The Service also received information from U.S. embassies in Haiti, Ecuador, Costa Rica, Malaysia and Papua New Guinea which stated that: officials in Malaysia believe the estuarine crocodile to be very endangered; that officials in Papua New Guinea do not believe a ban on the importation of crocodile skins to be in the best interests of either that country or the conservation of the species; that the crocodile is almost extinct in Haiti although there may be a few in Lake Saumatre; studies are underway on the crocodile in Ecuador; crocodiles are uncommon in Costa Rica and there is illegal trade of skins to Nicaragua.

The most completed data on both species were supplied by Dr. F. Wayne King of the New York Zoological Society. He submitted two reports which summarize the known status of these species: "Review of the status of the American crocodile, *Crocodylus acutus*" by F. W. King, H. W. Campbell, and F. Medem, and "Review of the status of the estuarine or saltwater crocodile, *Crocodylus porosus*" by F. W. King, H. W. Campbell, H. Messel, and R. Whitaker. Both reports are extensive and document the decline of the two crocodiles. The summaries are reprinted below:

"In summary, there appears to be no area within the historic range of *Crocodylus acutus* where healthy populations exist without serious threat from exploitation and/or habitat degradation. The species exists today only in isolated, small populations scattered in the more isolated and impenetrable areas within the historical range and, wherever found, it is still hunted commercially or for local consumption (both eggs and flesh) or killed as vermin. Wherever data exist, over-exploitation for hides is clearly indicated as a major factor in the reduction of populations to the present lows, but today this threat is compounded by habitat degradation and/or increased human activities (commercial fisheries, etc.) in the remaining habitat. The species is recognized as endangered by the IUCN/SSC Crocodile Specialist Group."

Crocodylus porosus is a wide-ranging species which is virtually extinct or reduced to small populations throughout the bulk of its range. Very few actual population data are available for the species, but all available observations indicate dramatic population reductions from historical levels as a result of unregulated hide exploitation, vermin control, and habitat loss. The volume of hides being traded internationally has dropped from over

100,000/year to fewer than 20,000/year in the last decade (Fuchs, personal comm.), while prices have been rising. The species is unprotected over most of its range and is most heavily commercialized in those countries without the protection of any program of census or management. The species is only managed, by any modern concept of wildlife management, in Papua New Guinea which still, however, has no active census program. It is effectively protected only in Australia where extensive studies suggest no actual recovery over the last five years.

The proposal of the government of India to place its population of *Crocodylus porosus* on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora is fully supported by the available data, but the vast majority of all other *C. porosus* populations are equally threatened with extinction. Clearly closure of international trade in hides and other products of *C. Porosus* is mandated by the available information. Recognition of the status of the wild populations led the IUCN/SSC Crocodile Specialist Group in 1978 to recommend placement of *Crocodylus porosus* on Appendix I of the CITES. We concur with the recommendation and urge the entire species (all populations) be placed in Appendix I of the CITES until the wild populations have recovered and adequate, national management programs for the species are developed and implemented.

Robert O. Wagner (American Association of Zoological Parks and Aquariums): On behalf of the AAZPA, Mr. Wagner supported the listing of the two crocodiles because of rather dramatic population declines in recent years.

This should be deleted or broadened. We are also relying on other evidence we had before the review and Office of Endangered Species' professional expertise. The Director has determined that the American crocodile populations outside of Florida and all populations of the estuarine (saltwater) crocodile, except those of Papua New Guinea, should be proposed as Endangered species. Those populations of *C. porosus* in Papua New Guinea will be continued to be considered for listing under the Similarity of Appearance clause of the Act (see the Federal Register of April 6, 1977 (42 FR 18287-18291)); a decision concerning this population will be made at a later time.

Section 4(a) of the Act (16 U.S.C. 1531 et. seq.) states:

General—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

- (2) Overutilization for commercial, sporting, scientific, or educational purposes;
- (3) Disease or predation;
- (4) The inadequacy of existing regulatory mechanisms; or
- (5) Other natural or man-made factors affecting its continued existence.

This authority has been delegated to the Director.

Summary of Factors Affecting the Species

These findings are summarized herein under each of the five criteria of Section 4(a) of the Act. These factors, and their application to the American crocodile outside of Florida and the estuarine crocodile populations outside of Papua New Guinea, are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range*—The increasing human population throughout the ranges of these species has resulted in a loss of much available habitat for the crocodiles. Because crocodilians do not tolerate much disturbance, especially during nesting seasons, human populations have impacted the species by harassment as well as by direct destruction of suitable basking and nesting sites. This problem (habitat destruction due to encroaching human population) is especially severe in Central America, the Caribbean, and South America (for the American crocodile) and Southeast Asia, such as Sarawak and Sri Lanka (for the estuarine crocodile). It is most probable that the continuing expansion of human populations in these areas will result in increasing amounts of habitat destruction and harassment (i.e. curtailment of its range) in the future.

2. *Overutilization for commercial, sporting, scientific, or educational purposes*—This is the major factor involved in the decline of both *C. acutus* and *C. porosus*. The hides are extremely valuable in the production of fashionable leather luxury items; this has led to the severe decline or elimination via hunting of virtually all populations of both species where not protected. Indeed, even in countries with restricted taking of and commerce in crocodiles, poaching continues to severely impact crocodilian populations. In some countries, poorly managed and ill-conceived commercial crocodile farming schemes have also resulted in a drain on populations, particularly of *C. porosus*, since they often rely on young collected in the wild. Some farms have gone as far as to hybridize *C. porosus* with protected species in order to circumvent trade and conservation restrictions, thus resulting in a drain on

both species involved. Commercial exploitation can be expected to continue as prices are high and regulatory mechanisms are weak or lacking.

3. *Disease or predation*—These factors are probably not significant in the decline of *C. acutus* and *C. porosus*. However, natural predation may seriously affect the ability of populations already reduced through overexploitation and habitat destruction to maintain themselves.

4. *The inadequacy of existing regulatory mechanisms*—While many of the countries where these species occur have laws to protect crocodilians, they are often ignored, unenforced, or impossible to enforce because of lack of manpower, funds, or magnitude of the problem. The lack of effective means to protect crocodilians is a major problem in the conservation of wild populations of these species; this is especially true with both *C. acutus* and *C. porosus*.

5. *Other natural or man-made factors affecting its continued existence*—Malicious killing of these crocodilians occurs wherever they are found and undoubtedly contributes to their decline, especially in areas near human populations. Crocodiles are also taken accidentally by fishing nets and are killed whenever encountered especially *C. porosus*, where the species has a reputation as a man-eater.

Effects of the Rulemaking

Endangered species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all endangered species. The regulations referred to above, which pertain to Endangered species, are found at Section 17.21 of Title 50, and are summarized below.

With respect to the American crocodile and estuarine crocodile (except the Papua New Guinea population), all prohibitions of Section 9(a)(1) of the Act, as implemented by 50 CFR 17.21, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale these species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Regulations published in the Federal Register of September 26, 1975 (40 FR 44412), codified at 50 CFR 17.22 and

17.23, provided for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances. Such permits involving Endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Endangered Species Act Amendments of 1978

The Endangered Species Act Amendments of 1978 specify that the following be added at the end of subsection 4(a)(1) of the endangered Species Act of 1978:

At the time any such regulation (any proposal to determine a species to be an Endangered or Threatened species) is proposed, the Secretary shall by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat.

Since the species under consideration in the rulemaking are not domestic, this amendment does not apply.

The Endangered Species Act Amendments of 1978 further state the following:

(B) In the case of any regulation proposed by the Secretary to carry out the purposes of this section with respect to the determination and listing of endangered or threatened species and their critical habitats in any State (other than regulations to implement the Convention), the Secretary—

- (i) shall publish general notice of the proposed regulation (including the complete text of the regulation), not less than 60 days before the effective date of the regulation;
- (1) In the Federal Register; and
- (II) If the proposed regulation specifies any

critical habitat, in a newspaper of general circulation within or adjacent to such habitat;

(ii) Shall offer for publication in appropriate scientific journals the substance of the Federal Register notice referred to in clause (i)(I);

(iii) Shall give actual notice of the proposed regulation (including the complete text of the regulation), and any environmental assessment or environmental impact statement prepared on the proposed regulation, not less than 60 days before the effective date of the regulation to all general local governments located within or adjacent to the proposed critical habitat, if any; and

(iv) Shall—(I) if the proposed regulation does not specify any critical habitat, promptly hold a public meeting on the proposed regulation within or adjacent to the area in which the endangered or threatened species is located, if request therefore is filed with the Secretary by any person within 45 days after the date of publication of general notice under clause (i)(I), and

(II) If the proposed regulation specifies any critical habitat, promptly hold a public meeting on the proposed regulation within the area in which such habitat is located in each State, and, if requested, hold a public hearing in each such State.

In the case of the two crocodiles herein considered, Section 4(B)(i)(I) above is hereby complied with. In addition, the following scientific journals will be notified of the proposal and offered a copy of the Federal Register document for either publication or distribution to scientists: Copeia, Herpetologica, Herpetological Review, and the Journal of Herpetology. Since these species are not domestic and no critical habitat is included in the proposal, none of the other amended subsections of this Section are applicable.

Public Comments Solicited

The Director intends that the rules finally adopted will be as accurate and

effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to the American crocodile and Estuarine crocodile;

(2) Additional information concerning the range and distribution of these species.

National Environmental Policy Act

A draft environmental assessment has been prepared pursuant to the Executive Order 12114 and is on file in the Service's Washington Office of Endangered Species, Suite 500, 1000 N. Glebe Road, Arlington, Virginia. It addresses this action as it involves the two crocodilians.

The primary author of this rule is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species (703/235-1975).

Regulations Promulgation

Accordingly, it is proposed that Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations be amended as follows:

1. By adding the American crocodile throughout its range and the estuarine crocodile (exclusive of the Papua New Guinea population) to the list, alphabetically, under "Reptiles" as indicated below:

§ 17.11 Endangered and threatened wildlife.

* * * * *

Species	Range		Status	When listed	Special rules
	Common name	Scientific name	Population	Known distribution	Portion endangered
Reptiles:					
Crocodile, American	Crocodylus acutus	N/A	U.S.A. (FL): Mexico, S. & C. America, Caribbean.	Entire	E 10 N/A
Crocodile, Saltwater (estuarine)	Crocodylus porosus	Entire, except Papua New Guinea	Entire, except Papua New Guinea, Pacific Islands.	Entire, except Papua New Guinea	E N/A

Note.—The Department of the Interior has determined that this rule is not a significant rule and does not require preparation of a regulatory analysis under Executive Order

12044 and 43 CFR 14.

Dated: July 12, 1979.

M. Spear,

Acting Director, Fish and Wildlife Service

[FR Doc. 79-22767 Filed 7-23-79; 8:45 am]

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Part VII

**Merit Systems
Protection Board**

Freedom of Information Act; Privacy Act;
and Government in the Sunshine Act;
Final Rulemaking

MERIT SYSTEMS PROTECTION BOARD**5 CFR Parts 1204, 1205, 1206**

[Docket No. 79-2—Notice 2]

Final Rulemaking; Freedom of Information Act; Privacy Act; Government in the Sunshine Act**AGENCY:** Merit Systems Protection Board.**ACTION:** Final rulemaking.

SUMMARY: These regulations establish procedures for the Merit Systems Protection Board pursuant to the requirements of the Freedom of Information Act; the Privacy Act; and the Government in the Sunshine Act.

EFFECTIVE DATE: July 24, 1979.

FOR FURTHER INFORMATION CONTACT: Alan Greenwald or Deborah House (202-653-7101).

SUPPLEMENTARY INFORMATION: This publication constitutes the final regulations of the Merit Systems Protection Board implementing the Freedom of Information Act (5 U.S.C. 552); the Privacy Act (5 U.S.C. 552a); and the Government in the Sunshine Act (5 U.S.C. 552b).

These regulations were published on March 23, 1979 (44 FR 17964-17967) for interim effect and with a request for comments. Several comments were submitted, most of which suggested changes of a technical nature which have been adopted. Additionally some minor language changes have been made by the Board. The three substantive changes, all contained in the regulations issued under the Privacy Act, are discussed below.

Section 1205.4 Application of the Freedom of Information Act, has been added to the regulations. This section is intended to put individuals on notice that, as required by law, records otherwise subject to the protections from disclosure under the Privacy Act may be subject to disclosure under the Freedom of Information Act.

Given its role as adjudicator of employee appeals, the great majority of records maintained by the Board fall within the category of personnel files. Disclosure of these files is not required under the Freedom of Information Act pursuant to 5 U.S.C. 552(b)(6) if to do so would "constitute a clearly unwarranted invasion of personal privacy." However, under relevant court interpretations it should be recognized that this exemption is not automatically

applicable, but a determination must be made on a case by case basis. Accordingly, such records may be released where the facts and circumstances dictate that such release is appropriate.

Section 1205.15 Medical Records, has been deleted. This section provided that, where necessary, medical records pertaining to an individual might be released only to a physician designated by the individual. This provision was very similar to one adopted by the Civil Service Commission and codified at 5 CFR 297.108(c)(1) pursuant to 5 U.S.C. 552a(f)(3). Reflecting the growing public opinion that individuals should have access to all files pertaining to themselves, the Board has deleted this provision.

A new § 1205.15, Denial of Access, has been added to the rules. The purpose of this section is to put the public on notice that certain files otherwise subject to the access provisions of the Privacy Act may be exempt from disclosure by the Board. Specifically, the records exempted are investigatory files compiled for law enforcement purposes. This exemption is based on the anticipation of the Board that from time to time it will maintain such records in conjunction with an action brought by the Special Counsel. In determining whether these records will be withheld, the Board will analyze whether they are exempt under exemption (b)(7) of the Freedom of Information Act. Application of this exemption requires not only that the records be of an investigatory nature compiled for law enforcement purposes, but also that certain types of harm be demonstrated in order to justify withholding. Thus, denial of disclosure will not be made merely on the basis of the characterization of these records.

One comment suggested that the provisions as now written be substantially expanded. However, the Board's position is that these regulations, which are used by the public, should contain only that information necessary to advise the public of rights under these statutes in a clear and understandable form. Issuance of provisions pursuant to each subsection of these three Acts was determined not to be desirable for that reason. This is not meant, however, to limit application of the statutory provisions in any manner. Those provisions will be applied whenever appropriate.

Issued on July 2, 1979, by order of the Board.

Ruth T. Prokop,
Chair, Merit Systems Protection Board.

5 CFR is amended by adding Parts 1204-1206 to read as follows:

PART 1204—FREEDOM OF INFORMATION ACT**Subpart A—Purpose and Policy**

Sec.
1204.1 Purpose.
1204.2 Policy.

Subpart B—Procedures for Obtaining Records

1204.11 Submission of request.
1204.12 Time limitations and determinations.
1204.13 Fees.
1204.14 Denials.

Subpart C—Appeals

1204.21 Submission.
1204.22 Determinations on appeal.
Authority: 5 U.S.C. 552

Subpart A—Purpose and Policy**§ 1204.1 Purpose.**

The purpose of this part is to set forth the procedures pursuant to the Freedom of Information Act ("the Act") through which the public may obtain records controlled by the Board.

§ 1204.2 Policy.

(a) It is the policy of the Board to release records when:

- (1) The request submitted reasonably describes such records; and
- (2) The request is made in accordance with the rules of this part.

(b) Records shall be disclosed to a requestor unless:

- (1) They are exempt from disclosure under subsection (b) of the Act; and
- (2) Their disclosure would not be in the public interest.

Subpart B—Procedures for Obtaining Records**§ 1204.11 Submission of request.**

(a) *Place.* Requests for copies of records shall be made to the appropriate field office of the Board or the Office of the Secretary of the Merit Systems Protection Board, Washington, D.C. If the requestor has reason to believe the records in question are located in a field office, it is appropriate to submit the request to that office. Requests to the field shall be addressed to the Chief Appeals Officer at the appropriate field office listed in appendix II of 5 CFR Part 1201. Requests shall be made during normal business hours, or submitted by mail. Requests shall be in writing.

(b) *Form.* Each request shall reasonably describe the record including any name, subject matter and number or date where possible so that the Board can identify and locate the record. Requests submitted by mail shall be clearly marked as a "FREEDOM OF INFORMATION ACT REQUEST" on both the envelope and letter.

(c) *Payment.* Requests shall be accompanied by the fee or an offer to pay the fee according to § 1204.13 of this part.

§ 1204.12 Time limitations and determinations.

(a) *Board determinations.* The Board shall make a determination on the request within 10 working days except under "unusual circumstances."

(1) "Unusual circumstances" means:

- (i) The need to obtain the records from other offices;
- (ii) The need to obtain and examine a large number of records; or
- (iii) The need to consult with another agency having substantial interest in the records requested.

(b) *Time extensions.* Where "unusual circumstances" exist, the Board may extend the time period for making a determination on the request for no more than 10 additional working days and shall notify the requestor of the extension.

(c) *Improper request.* If a request or an appeal is not properly labeled or is submitted to the wrong office, the time for processing the request shall run from the time it is received by the proper official.

(d) *Determining official.* Determinations on requests will be made by the Secretary of the Board or the Chief Appeals Officer.

§ 1204.13 Fees.

(a) Requests for records are subject to the following costs for search and duplication:

- (1) If the record(s) is in excess of 50 pages, \$0.10 will be charged for each page. Records under 50 pages will be provided without charge.
- (2) Manual records search.
- (i) First hour of any single request: No fee.

(ii) Each additional hour or fraction thereof: \$5.00.

(iii) Fees for search and duplication of automated records shall be provided upon request.

(b) At their discretion, the Secretary or Chief Appeals Officer may refuse to furnish records prior to receipt of the required fee.

(c) At their discretion, the Secretary or Chief Appeals Officer shall furnish

records without charge or at a reduced charge where the release primarily benefits the general public.

§ 1204.14 Denials.

Denials of a request for a record, in whole or in part, shall be in writing and shall state the reasons for the denial and notify the requestor of the right to appeal the denial.

Subpart C—Appeals**§ 1204.21 Submission.**

(a) *Place.* Appeals shall be addressed to the Chair, Merit Systems Protection Board, Washington, D.C. 20419.

(b) *Form.* Appeals shall be clearly marked as "Freedom of Information Act Appeal" on both the envelope and letter. Appeals must be in writing and shall include:

- (1) A copy of the original request;
- (2) A copy of the written denial; and
- (3) A statement of the reasons why the original denial should be overruled.

§ 1204.22 Determinations on appeal.

(a) Determinations by the Board on the appeal shall be made within 20 working days after receipt.

(b) Determinations on the appeal shall be in writing; shall state the reasons therefor if denied; and shall notify the requestor of the right to judicial review of any denial.

PART 1205—PRIVACY ACT**Subpart A—Scope**

Sec.
1205.1 Purpose.
1205.2 Policy.
1205.3 Definitions.
1205.4 Disclosure of Privacy Act Records.

Subpart B—Procedures for Obtaining Records

1205.11 Submission of request.
1205.12 Time limitations and determinations.
1205.13 Identification.
1205.14 Grant of access.
1205.15 Denial of access.
1205.16 Fees.

Subpart C—Amendment of Records

1205.21 Request for amendment.
1205.22 Action on request.
1205.23 Time limitations.

Subpart D—Appeals

1205.31 Submission of appeal.
1205.32 Determinations on appeal.
Authority: 5 U.S.C. 552a.

Subpart A—Scope**§ 1205.1 Purpose.**

The purpose of this part is to set forth the procedures pursuant to the Privacy Act ("the Act") by which an individual

may make an inquiry regarding a record, gain access to such record, or amend the record.

§ 1205.2 Policy.

It is the policy of the Board to facilitate the full exercise of rights conferred by the Act upon individuals and to insure the privacy of records maintained regarding such individuals. Such records shall contain only that information which is relevant and necessary to the functions of the Board and shall be treated in a manner which is fully in accordance with the provisions of the Act.

§ 1205.3 Definitions.

The definitions of 5 U.S.C. 522a apply to this part and are incorporated herein by reference. As used in this part:

"Inquiry" means a request by an individual regarding whether the Board has a record which pertains to that individual.

"Request for access" means a request by an individual to inspect or copy a record.

"Request for amendment" means a request by an individual to change the substance of a particular record by addition, deletion or other correction.

"Requestor" means the individual requesting access or amendment to a record. The individual may be either the person to whom the record requested pertains; a legal guardian acting on behalf of an individual; or a representative designated by that individual.

§ 1205.4 Disclosure of Privacy Act Records.

Records subject to the Privacy Act may be released to persons other than the person to whom the record pertains if such disclosure is permitted under 5 U.S.C. 552a(b) (1-11). This includes release as required by the Freedom of Information Act.

Subpart B—Procedures for Obtaining Records**§ 1205.11 Submission of request.**

(a) *Place.* Inquiries or requests for access to records shall be made to the appropriate field office of the Board or the Office of the Secretary of the Merit Systems Protection Board, Washington, D.C. 20419. If the requestor has reason to believe the records in question are located in a field office then it is appropriate to submit the request to that office. Requests to the field shall be addressed to the Chief Appeals Officer at the appropriate field office listed in Appendix II of 5 CFR Part 1201.

(b) *Form.* Each submission shall contain the following information:

(1) Name, address and telephone number of the individual to whom the record pertains;

(2) Name, address and telephone number of the individual making the request if the requestor is someone other than the person to whom the record pertains such as an attorney or legal guardian, and evidence of the relationship such as: an authenticated copy of the birth certificate of the minor child, or the court document appointing the individual legal guardian; or an agreement for representation signed by the individual to whom the record pertains;

(3) Such additional information as may assist the Board in responding to the request (for example, the name of the agency which is taking the action, the subject matter of the case, etc.);

(4) Date of inquiry;

(5) Requestor's signature; and

(6) Indication both on the envelope and the letter that the inquiry is a "PRIVACY ACT REQUEST."

(c) Each submission shall comply with the identification requirements set forth in § 1205.13.

§ 1205.12 Time limitations and determinations.

(a) *Board determinations.* The Board shall make a determination on the request within 10 working days except under "unusual circumstances" as described below:

(1) The need to obtain the records from other offices;

(2) The need to obtain and examine a large number of records;

(3) The need to consult with another agency having substantial interest in the records requested; or

(4) Other extenuating circumstances which reasonably prohibit the Board from processing the request within the 10-day period.

(b) *Time extensions.* Where "unusual circumstances" exist, the Board may extend the time period for making a determination on the request for no more than 10 additional working days and shall notify the requestor of the extension.

(c) *Improper request.* If a request or an appeal is not properly labeled or is submitted to the wrong office, the time for processing the request shall run from the time it is received by the proper official.

(d) *Determining official.* Determinations on requests will be made by the Secretary of the Board or the Chief Appeals Officer.

§ 1205.13 Identification.

(a) *In person.* Each individual making a request in person shall be required to present satisfactory proof of identity. In order of preference the following items shall be acceptable:

(1) A document bearing the requestor's photograph; or

(2) A document bearing the individual's signature.

(3) In the event subparagraph (1) or (2) of this paragraph are not available, the requestor will be required to sign a statement asserting his/her identity and acknowledging the requestor's understanding that misrepresentation of identity in order to obtain a record is a misdemeanor and subject to a possible fine of \$5,000 under 5 U.S.C. 552a(i)(3).

(b) *By mail.* The identification of a requestor making a request by mail must be certified by a notary public or equivalent official or contain other information sufficient to identify the requestor.

(c) *Parents of minors, legal guardians and representatives.* Parents of minors, legal guardians and representatives must submit identification pursuant to paragraphs (a) or (b) of this section. Additionally, they must present an authenticated copy of the minor's birth certificate, court order of guardianship, or agreement of representation where appropriate.

§ 1205.14 Grant of access.

(a) The alternative methods of access may be granted for inspection of records:

(1) Personal inspection during normal business hours;

(2) Transfer of records to a suitable Federal facility in closer proximity to the requestor;

(3) Provision of copies by mail.

(b) An individual seeking personal access to records may be accompanied by another individual of his/her choice. However, the requestor shall be required to sign a written statement authorizing the discussion and presentation of his/her record in the accompanying individual's presence.

§ 1205.15 Denial of access.

(a) *Basis.* In accordance with 5 U.S.C. 552a(k)(2) the Board may deny access to records which are of an investigatory nature and are compiled for law enforcement purposes. Such requests will be denied only where access to such records would otherwise be unavailable under exemption (b)(7) of the Freedom of Information Act.

(b) *Form.* All denials of access under this section will be made in writing and

will notify the requestor of the right to judicial review.

§ 1205.16 Fees.

(a) No fees shall be charged by the Board for any other purpose than making copies of records.

(b) It is the policy of the Board to provide one copy of a record upon request free of charge. However, where the requested record exceeds 50 pages, the Board shall charge \$0.10 for each copy.

(c) It is the policy of the Board to provide one copy of the amended pages of any record free of charge as evidence of the amendment.

Subpart C—Amendment of Records

§ 1205.21 Request for amendment.

A request for amendment of a record shall be made to the Chief Appeals Officer at a field office or the Secretary of the Merit Systems Protection Board, Washington, D.C. 20419, depending on which office is maintaining the record. The request shall be in writing and shall be designated on the outside of the envelope and the letter as a "Privacy Act Request" and shall include the following information:

(a) Identification of the record to be amended;

(b) A description of the amendment requested (e.g., addition, deletion, placement of amendment, etc.);

(c) A statement of the basis for the amendment and supporting documentation, if any.

§ 1205.22 Action on request.

(a) *Amendment granted.* Where the amendment requested is granted the requestor shall be notified and supplied a copy of the amendment.

(b) *Amendment denied.* Where the amendment requested is denied in whole or in part the requestor shall be notified in writing and provided the following information:

(1) The basis for the denial; and

(2) The procedures for appealing the denial.

§ 1205.23 Time limitations.

The appropriate official shall acknowledge a request for amendment within 10 days after receipt and shall make a determination on the request.

Subpart D—Appeals

§ 1205.31 Submission of appeal.

(a) *Place.* Appeals shall be addressed to the Chair, Merit Systems Protection Board, Washington, D.C. 20419.

(b) *Form.* Appeals shall be in writing, shall be clearly marked "PRIVACY ACT

APPEAL" on both the envelope and letter; and shall include:

(1) A copy of the original request for amendment;

(2) A copy of the denial; and

(3) A statement of the reasons why the original denial should be overruled.

§ 205.32 Determinations on appeal.

(a) A written determination on the appeal shall be made within 30 working days unless the Chair determines that there is good cause for extension. Where an appeal is improperly labeled or is submitted to an inappropriate official, the time limitation for processing the request shall run from the time it is received by the Chair.

(b) If the amendment is granted on appeal, the Chair shall direct that the amendment be made and shall supply the requestor with a copy of the amended record.

(c) If the amendment is denied, the Chair shall notify the requestor of the denial and inform him/her of:

(1) The basis for the denial;

(2) The right to file a concise statement with the Board stating the reasons for his/her disagreement with the denial which shall become a part of the record; and

(3) The right to judicial review of the decision under 5 U.S.C. 552a(g)(1)(A).

PART 1206—OPEN MEETINGS

Subpart A—Purpose and Policy

Sec.

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1206.2 Policy.

1206.3 Definitions.

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1206.6 Determination to close meeting.

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1206.12 Role of observers.

Authority: 5 U.S.C. 552b.

Subpart A—Purpose and Policy

§ 1206.1 Purpose.

The purpose of this part is to set forth the procedures pursuant to the Government in the Sunshine Act (5 U.S.C. 552b) ("the Act") by which the Board will conduct open meetings.

§ 1206.2 Policy.

It is the policy of the Board to provide the public with the fullest practicable information regarding the decision-making processes of the Board. Board

meetings involving deliberations which determine or result in the joint conduct or disposition of official Board business are presumptively open to the public. It is the intent of these regulations to open such meetings to public observation while protecting individuals' rights and the Board's ability to carry out its responsibilities. Board meetings will be closed in whole or in part only in accordance with the exemptions provided under 5 U.S.C. 552b(c) and where to do so is in the public interest.

§ 1206.3 Definitions.

In this part:

"Meeting" means the deliberations of at least two Board Members where such deliberations determine or result in the joint conduct of official Board business.

"Member" means one of the Members of the Merit Systems Protection Board.

Subpart B—Procedures

§ 1206.4 Notice of meeting.

(a) Notices of Board meetings shall be published in the Federal Register at least one week prior to the meeting. Such notice shall include the following information:

(1) Time;

(2) Place;

(3) Subject of meeting and agenda;

(4) Whether the meeting is to be opened or closed; and

(5) The name and telephone number of a Board official responsible for receiving inquiries regarding the meeting.

(b) The Board may, by majority vote, provide less than one week's notice but such notice shall be provided at the earliest practicable time.

§ 1206.5 Change in meeting plans after notice.

(a) Following notice of a meeting, the time or place of a meeting may be changed only if the change is announced publicly at the earliest practicable time.

(b) Following notice of a meeting, the subject matter of a meeting or the determination to open or close a meeting may be changed only if both of the following conditions are met:

(1) There must be a majority, recorded vote of the Board members that Board business requires the change and that no earlier announcement of such changes was possible; and

(2) There must be a notice of the change in the Federal Register and of the individual Board Members' votes at the earliest practicable time.

§ 1206.6 Determination to close meeting.

(a) *Basis.* The Board, by majority vote, may determine to close a meeting in accordance with the provisions of 5

U.S.C. 552b(c)(1-10) and where it is in the public interest.

(b) *General Counsel Certification.* Where the Board has determined that a meeting shall be closed in whole or in part, the General Counsel shall certify the propriety of doing so and state the basis therefor.

(c) *Vote.* Where the Board has voted to close a meeting, within one day of such vote the Board shall make publicly available a record reflecting the vote of each Member on the question. In addition, within one day of any vote which closed a portion or portions of a meeting to the public, the Board shall make publicly available a full written explanation of its decision to close the meeting together with a list naming all persons expected to attend and identifying their affiliation, unless such disclosure would reveal the information that the meeting itself was closed to protect.

§ 1206.7 Record of meetings.

(a) *Closed Meeting.* Where the Board has determined that a meeting shall be closed in whole or in part the following record shall be maintained:

(1) A transcript of recording of the proceeding;

(2) A copy of the General Counsel's certification;

(3) A statement from the presiding official setting forth the time and place of the meeting and the persons present; and

(4) A recordation of all votes and all documents considered (which may be part of the transcript).

(b) *Open Meetings.* Transcripts or other recordings shall be made of all open meetings of the Board and shall be made available upon request at actual cost.

§ 1206.8 Provision of information to the public.

Information available to the public under this part shall be made available at the Office of the Secretary, Merit Systems Protection Board, Washington, D.C. 20419. Individuals or organizations having a special interest in activities of the Board may submit a request to the Office of the Secretary to be placed on a mailing list for receipt of information available under this part.

Subpart C—Conduct of Meetings

§ 1206.11 Meeting place.

Meetings shall be held in meeting rooms designated in the public announcement. Whenever the number of observers is greater than can be accommodated in the meeting room

designated, alternative facilities shall be made available to the extent possible.

§ 1206.12 Role of observers.

The public may attend open meetings for the sole purpose of observation. Observers may not participate in meetings unless expressly invited to do so. Observers may not create distractions which interfere with the conduct and disposition of Board business and may be asked to leave if they do so. For the portions of meetings which are partially closed, observers shall leave the meeting room upon request.

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of Rules Going Into Effect Today.

List of Public Laws**Last Listing July 20, 1979**

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-375-3030).

S. 1007 / Pub. L. 96-35 "Special International Security Assistance Act of 1979". (July 20, 1979; 93 Stat. 89) Price \$.75.

S. 927 / Pub. L. 96-36 To authorize the Smithsonian Institution to plan for the development of the area south of the original Smithsonian Institution Building adjacent to independence Avenue at Tenth Street, Southwest, in the city of Washington. (July 20, 1979; 93 Stat. 94) Price \$.75.

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7-25-79
Vol. 44 No. 144
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- 43455 **United States Sinai Support Mission** Executive order
- 43477 **Emergency Conservation Programs** USDA proposes rules to govern; comments by 8-8-79
- 43468 **Earthquakes** DOD/Corps of Engineers issues rule concerning the reporting of effects of earthquakes; effective 7-25-79
- 43480 **Employment Authorization for Certain Aliens** Justice/INS proposes rules; comments by 9-24-79
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- 43466 **Securities** SEC issues interpretative releases concerning techniques to be used in drafting trust debentures; effective 7-11-79
- 43533 **Santee Indians** Interior/BIA gives notice of receipt of petition for Federal acknowledgement of existence as Indian tribe, 7-25-79

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Area Code 202-523-5240

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 - 43536 Coat Hanger Rings** ITC issues notice of investigation
 - 43632 Pesticide Products Containing Endrin** EPA issues notice of intent to cancel registrations and denial of registration (Part II of this issue)
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Presidential Documents

43453

Title 3—
The President

Proclamation 4670 of July 23, 1979
Citizenship Day and Constitution Week, 1979

By the President of the United States of America

A Proclamation

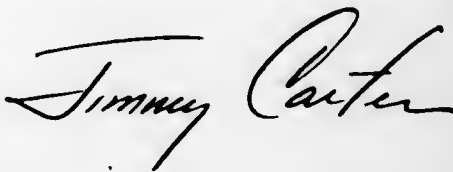
On September 17, 1787, in Independence Hall, Philadelphia, our Founding Fathers adopted the Constitution of the United States. With this great document as its cornerstone, our country has become the finest example in all history of the principle of government by law, in which every individual is guaranteed certain inalienable rights. The strong beliefs of its authors in the worth of the individual and the rights to be enjoyed by all citizens have made the Constitution not only an enduring document but one which finds new life with the passing of years and continues to inspire freedom-seeking people all over the world.

On February 29, 1952, by joint resolution (36 U.S.C. 153), the Congress designated September 17 as Citizenship Day, in commemoration of the formation and signing of the Constitution as a reminder of the privileges and responsibilities of citizenship. By a joint resolution of August 2, 1956 (36 U.S.C. 159), Congress authorized the President to designate the period beginning September 17 and ending September 23 of each year as Constitution Week and to issue a proclamation calling for the observance of that week.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, call upon appropriate Government officials to display the flag of the United States on all Government buildings on Citizenship Day, September 17, 1979. I urge Federal, State and local officials, as well as leaders of civic, educational and religious organizations to conduct meaningful ceremonies and programs on that day.

I also designate as Constitution Week the period beginning September 17 and ending September 23, 1979, and urge all Americans to observe that week with appropriate ceremonies and activities in their schools, churches and in other suitable places in order to foster a better understanding of the Constitution, and of the rights and duties of United States citizens.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of July, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and fourth.



[FR Doc. 79-23137
Filed 7-24-79; 10:18 am]
Billing code 3195-01-M

Presidential Documents

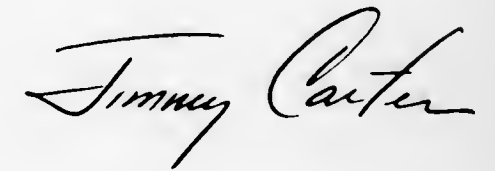
Executive Order 12150 of July 23, 1979

United States Sinai Support Mission

By the authority vested in me as President of the United States of America, including Chapter 6 of Part II of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2348, 2348a.-2348c.), Section 1(b) of Executive Order No. 11896 of January 13, 1976, is hereby amended to read:

"(b) The Mission shall, in accordance with the Foreign Assistance Act of 1961, as amended, including Part II, Chapter 6 thereof, the Joint Resolution of October 13, 1975 (Public Law 94-110, 89 Stat. 572, 22 U.S.C. 2441 note), and the provisions of this Order, carry out the duties and responsibilities of the United States Government to implement the "United States Proposal for the Early Warning System in Sinai" in connection with the Basic Agreement between Egypt and Israel, signed on September 4, 1975, and the Annex to the Basic Agreement, as superseded by the Treaty of Peace between the Arab Republic of Egypt and the State of Israel, signed on March 26, 1979, and Article VII of the Appendix to Annex I of the Treaty of Peace, subject to broad policy guidance received through the Assistant to the President for National Security Affairs, and the continuous supervision and general direction of the Secretary of State pursuant to Section 622(c) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2382(c)).".

THE WHITE HOUSE,
July 23, 1979.



[FR Doc. 79-23138
Filed 7-24-79; 10:19 am]
Billing code 3195-01-M

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1421

Grains and Similarly Handled Commodities; 1979 Crop Farm Stored Peanut Loan and Purchase Program

AGENCY: Commodity Credit Corporation.
ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth for 1979 crop farm stored peanuts (1) the loan and purchase availability dates for quota peanuts, (2) loan availability dates for additional peanuts, (3) the maturity dates, (4) loan and purchase rates on peanuts, (5) location adjustments, and (6) support levels. This rule is needed in order to provide price support on 1979 crop farm stored peanuts.

EFFECTIVE DATE: July 25, 1979.

FOR FURTHER INFORMATION CONTACT: Harold Jamison, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, Washington, D.C. 20013, (202) 447-7973.

SUPPLEMENTARY INFORMATION: A 1979 Crop Peanut Loan and Purchase Program was published in the Federal Register on February 27, 1979, (44 FR 11056) establishing the national average support level for the 1979 crop of quota peanuts at \$420 per ton. Section 403 of the Agricultural Act of 1949, as amended, provides that appropriate adjustments may be made in the level at which peanuts will be supported based on type and other factors.

On April 13, 1979, a notice of proposed rulemaking was published in the Federal Register (44 FR 22081). This notice announced that the Commodity Credit Corporation ("CCC") was preparing to make determinations and issue regulations for 1979 crop peanuts and to

adjust loan and purchase rates for differences in types and other factors, and invited the public to submit written comments.

Six responses were received in relation to the notice. Three sheller associations recommended that the Department use the method proposed in the notice to calculate differentials. One State farm bureau and one county farm bureau recommended that the same sound mature kernel price be established for all types. Two comments were received regarding the support level for loose shelled kernels, one recommended 7 cents per pound, the same as for 1978 and one recommended that such support level be set at 10 cents per pound. One comment received recommended that the value for other kernels be at \$2 per percent. One comment recommended that the discount applicable to Segregation 3 peanuts be at \$25 per ton and one recommended that the discount for Segregation 3 peanuts and freeze damage peanuts be set at \$25 per ton.

After considering the comments received, it was determined that the method of calculating rates proposed in the Federal Register as to warehouse storage loans on April 13, 1979, should be adopted for farm stored peanuts so that all producers will be treated fairly.

The basic rates applicable to warehouse storage loans shall also be applicable for farm stored loans.

Final Rule

The regulations in 7 CFR 1421.291 through 1421.295 and the title of the subpart are revised to read as follows, effective for the 1979 crop of farm stored peanuts. The material previously appearing in this subpart remains in full force and effect as to prior crop years.

Subpart—1979 Crop Farm Stored Peanut Loan and Purchase Program

Sec.
1421.291 Purpose.
1421.292 Availability.
1421.293 Maturity of loans.
1421.294 Loan and purchase rates.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101, 108, 401, 403, and 405, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1445, 1421).

§ 1421.291 Purpose.

The provisions of this Subpart, together with the applicable provisions

of the General Regulations Governing Price Support for the 1978 and Subsequent Crops of Grains and Similarly Handled Commodities, (44 FR 2353, and 3451) and the provisions of the 1978 and Subsequent Crops Peanut Farm Stored Loan and Purchase Supplement, as amended (hereinafter referred to as "the continuing supplement"), which contain regulations of a general nature with respect to loan and purchase operations, apply to loans and purchases for the 1979 crop of farm stored peanuts.

§ 1421.292 Availability.

(a) Loans. Requests for loans must be submitted by producers to the appropriate county ASCS office on 1979 crop farm stored eligible additional peanuts on or before January 31, 1980, and for 1979 crop farm stored eligible quota peanuts on or before March 31, 1980.

(b) Purchases. Producers desiring to offer for purchase 1979 crop eligible quota peanuts not under loan must execute and deliver to the appropriate county ASCS office, on or before April 30, 1980, a Purchase Agreement (Form CCC-614) indicating the approximate quantity of peanuts to be sold to CCC. Additional peanuts are not eligible for purchases.

§ 1421.293 Maturity of Loans.

Unless demand is made earlier, loans on additional and quota peanuts will mature on April 30, 1980.

§ 1421.294 Loan and Purchase Rates.

(a) Loan and purchase rate. Subject to the discounts specified in paragraph (b) of this section, the loan and purchase rates for quota peanuts placed under farm stored loan or purchase shall be the following rates by types per ton:

Type	Dollars per ton
Virginia.....	420
Runner.....	423
Spanish.....	404
Valencia.....	420

Loans on additional peanuts shall be made at 71.43 percent of the quota support rate.

(b) Location adjustment to support prices. The loan and purchase rates specified in paragraph (a) of this section shall be subject to the following discounts for farmers' stock peanuts

placed under a farm stored loan in the States specified where peanuts are not customarily shelled or crushed:

State	Dollars per ton
Arizona	25
Arkansas	10
California	33
Louisiana	7
Mississippi	10
Missouri	10
Tennessee	25

(c) *Settlement values.* The support prices, premiums, and discounts for use in computing the settlement value, under § 1421.289(b)(2) of the continuing supplement, of peanuts acquired by CCC under loan or purchase shall be those specified in § 1446.12 of the 1978 crop peanut warehouse storage loan supplement, including the location adjustments specified therein for peanuts delivered to CCC in States where peanuts are not customarily shelled or crushed.

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from Kay Wygal, ASCS, (202) 447-6695.

Signed at Washington, D.C. on July 12, 1979.

Ray Fitzgerald,
Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-22979 Filed 7-24-79; 8:45 am]
BILLING CODE 3410-05-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

(Docket No. ERA-R-79-23-B)

Mandatory Petroleum Allocation Regulations; Motor Gasoline Allocation Base Period and Adjustments; Correction

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final Rule and Request for Comments; Correction.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing a corrective amendment to the final rule that it issued on July 15, 1979.

1. The amendment includes wholesale purchaser-consumers and bulk purchasers as categories of customers for which wholesale purchaser-resellers of motor gasoline will be required to

make downward adjustments when such resellers' supply obligations decrease.

2. The amendment also clarifies that the downward adjustment provision applies for marketer decreases in supply obligations that have occurred since the corresponding base period month and not just to prospective decreases.

DATES: Effective date: September 1, 1979. Further written comments by September 20, 1979.

ADDRESSES: Written comments to: Office of Hearings Management, Economic Regulatory Administration, Room 2313, Docket No. ERA-R-79-23-B, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert G. Gillette (Comment Procedures), Economic Regulatory Administration, 2000 M Street, NW, Room 2214B, Washington, DC 20461, (202) 254-5201.

William Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street, NW, Room B-110, Washington, DC 20461, (202) 634-2170.

William Caldwell (Regulations and Emergency Planning), Economic Regulatory Administration, 2000 M Street, NW, Room 2304, Washington, DC 20461, (202) 254-8034.

Alan Lockard (Office of Fuels Regulation), Economic Regulatory Administration, 2000 M Street, NW, Room 6222, Washington, DC 20461, (202) 254-7422.

Joel M. Yudson (Office of General Counsel), Department of Energy, 1000 Independence Avenue, SW, Room 6A-127, Washington, DC 20585, (202) 252-6744.

SUPPLEMENTAL INFORMATION: On July 15, 1979, the ERA of the DOE issued a final rule [44 FR 42549, July 19, 1979] that generally continued the provisions of its May 1, 1979 interim final rule. It also established, effective September 1, 1979, a downward adjustment and certification procedure for wholesale purchaser-resellers of motor gasoline whose supply obligations to retail sales outlets decrease. In the July 15 rule, we inadvertently neglected to account for suppliers' decreased obligations resulting from wholesale purchaser-consumers or bulk purchasers going out of business or reducing their allocation entitlements. The corrective amendment issued today, effective September 1, 1979, remedies the omission and includes the latter categories of customers as purchasers for which wholesale purchaser-resellers will have to make downward adjustments when

the resellers' supply obligations to them decrease.

The reasons for including wholesale purchaser-consumers and bulk purchasers in the classes of customers for which downward adjustments will have to be made are the same as for adopting the downward adjustment provision. The downward adjustment provision will ensure that in the current period of shortage mid-level marketers will receive sufficient gasoline to meet their supply obligations to base period customers, but not additional amounts.

We have also made a technical change to clarify that the July 15 provision was intended to apply to decreases in supply obligations that result from resellers' purchasers having gone out of business since the corresponding base period month and not only for prospective decreases.

In addition, since the practice by customers of purchasing less than their entire base period volumes, i.e., "underlifting," does not affect the purchasers' allocation entitlements, we also wish to clarify that the downward adjustment provision adopted on July 15, 1979 and amended today does not apply to underlifting.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 211 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective September 1, 1979.

Issued in Washington, D.C., July 19, 1979.

David J. Bardin,
Administrator, Economic Regulatory Administration.

Section 211.107 is amended by revising paragraph (d) to read as follows:

§ 211.107 Method of allocation.

(d) A wholesale purchaser-reseller will downward adjust its motor gasoline base period use for a current month by the amount that its supply obligations will decrease or have decreased when a retail sales outlet, wholesale purchaser-consumer or bulk purchaser that it supplies will go or has gone out of

business since the corresponding base period month or otherwise terminates or reduces its allocation entitlement from that wholesale purchaser-reseller. The wholesale purchaser-reseller shall immediately certify the downward adjustment to its base period suppliers on a pro-rata basis in proportion to that part of its base period use received from each supplier in the corresponding base period month. Each supplier that receives a certification shall decrease its supply obligation to the wholesale purchaser-reseller by that amount, shall downward adjust its own base period use by that amount and shall certify the adjustment to its base period suppliers.

[FR Doc. 79-22980 Filed 7-24-79; 8:45]

BILLING CODE 6450-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 208

[Reg. ER-1135; Amd. No. 18; Docket 34397]

Air Transportation Performed for Department of Defense

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., July 19, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The Civil Aeronautics Board is eliminating the provisions of its economic regulations which prescribe minimum rates applicable to domestic and international charter service and international individually ticketed or waybilled scheduled service provided for the Department of Defense by air carriers pursuant to contract.

DATES: Adopted: July 19, 1979. Effective: July 19, 1979.

FOR FURTHER INFORMATION CONTACT: Richard B. Hirst, Office of the General Director, International and Domestic Aviation, or Lawrence R. Myers, Office of the General Counsel, 1825 Connecticut Avenue, Washington, D.C. 20428, 202/673-5830; 673-5791.

SUPPLEMENTARY INFORMATION: For reasons discussed in ER-1134, issued today, the Board is revoking 14 CFR 208.101, *Minimum rates and compensation for air transportation performed for the Department of Defense*, which conditions the authority of a supplemental air carrier (now charter air carrier) to provide air transportation pursuant to contract with the Department of Defense upon adherence to the minimum rate structure set forth in 14 CFR 288.7.

§ 208.101 [Revoked and reserved]

Accordingly, in 14 CFR Part 208, *Terms, Conditions and Limitations of Certificates to Engage in Supplemental Air Transportation*, § 208.101, *Minimum rates and compensation for air transportation performed for the Department of Defense*, is revoked and reserved.

(Secs. 204, 403, 404 and 416 of the Federal Aviation Act, as amended; 72 Stat. 743, 758, 760, 771, as amended; (49 U.S.C. 1324, 1373, 1374, 1386).)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-22965 Filed 7-24-79; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 288

[Regulation ER-1134; Amendment No. 68; Docket 34397]

Exemption of Air Carriers for Military Transportation

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The Civil Aeronautics Board is eliminating the provisions of its economic regulations which prescribe minimum rates applicable to domestic and international charter service and international individually ticketed or waybilled scheduled service provided for the Department of Defense by air carriers pursuant to contract. The exemption from tariff-filing requirements which the Board's rules currently provide for these services will be retained. This action is taken on the Board's own initiative in response to changed circumstances in the military air transportation market and to the apparent need for reform of the Board's military ratemaking function in view of recent legislative changes and the Board's experience. The Board is making this rule effective immediately so that the carriers providing services can negotiate with DOD without delay.

DATES: Adopted: July 19, 1979. Effective: July 19, 1979.

FOR FURTHER INFORMATION CONTACT: Richard B. Hirst, Office of the General Director, International and Domestic Aviation, or Lawrence R. Myers, Office of the General Counsel, 1825 Connecticut Avenue, Washington, D.C. 20428, 202/673-5830; 673-5791.

SUPPLEMENTARY INFORMATION: On January 4, 1979, the Board proposed to amend 14 CFR Part 288 to terminate our exercise of authority over the prices of military charter service, Category A

scheduled service, and substitute service,¹ and to rescind three related provisions of our Economic Regulations.² See EDR-370, 44 FR 2179, January 10, 1979. We stated three reasons for our action. First, we observed that changes in the economic circumstances of the air charter industry appear to have eliminated any need to protect charter air carriers from price competition for military business through the regulation of military rates. Second, we noted that our experience with Part 288 has led us to question whether the regulation of current military air transportation prices is an efficient way to supply the Department of Defense (DOD) with both current air transportation and commitments to the Civil Reserve Air Fleet (CRAF). Third, we pointed out that in a series of recent statutory changes, Congress has signalled its intention to place the maximum possible reliance upon competitive market forces for the attainment of satisfactory service and price levels in air transportation. This new orientation was first stated and implemented in the case of domestic cargo service by Public Law 95-163, effective November 7, 1977. Further major changes made by Public Law 95-504, reflected in the revised policies of the Act, make it apparent that the same thrust toward less active regulation is to be pursued in other spheres of Board regulation as well. The minimum rate regulation which is the core of Part 288 is essentially, and in some areas expressly, at odds with this new statutory mandate from Congress.

In response to the notice of proposed rulemaking, two air carriers (Trans World Airlines and Hawaiian Airlines) filed individual comments and six carriers (Airlift International, Flying Tiger Line, Hawaiian Airlines, Seaboard World Airlines, Trans International Airlines, and World Airways), filed comments jointly. The Department of Defense filed an answer to the joint comments of the six carriers and to the comments of TWA. We have carefully reviewed these comments and have decided to make final, with some minor

¹ "Charter service" (encompassing "Category B," "Logair" and "Quicktrans" services) and "Category A transportation," as defined in section 288.1, include the carriage of both persons and property. "Substitute service" is the performance of a carrier's DOD charter service obligation by another carrier on a subcontract basis.

² 14 CFR 208.101 (conditions the operating authority of supplemental carriers on observance of the minimum rates set forth in Part 288); 14 CFR 399.16 (relates military exemption authority to Part 288); and 14 CFR 399.38 (relates tariff-based fares for certain individually ticketed military passengers to the Category A rate of Part 288).

changes, the proposal set forth in the notice of proposed rulemaking.

None of the commenters oppose adoption of the basic proposal. TWA agrees that the structure of military ratemaking should be modified, but argues that the Board should not exempt military rates from the tariff filing requirements of the Federal Aviation Act. In addition, TWA urges the Board to eliminate the Category Y fare. Hawaiian asks that the Board defer the effective date of the proposed rule until it has reviewed current Logair rates and until a substitute ratemaking system is in place. The six air carriers commenting jointly state that they do not oppose termination of the Board's Part 288 rate-setting function. However, they disagree with the Board's statement of historical and economic grounds for the proposed action. The Department of Defense expresses agreement with the joint commenters' view of history and opposition to both of TWA's requests.

1. Comments of Hawaiian

Hawaiian does not object to the substance of our proposal. However, it states that it may "pursue long-term commercial charter commitments for its cargo fleet, and possibly withdraw these aircraft from CRAF (the Civil Reserve Air Fleet), unless some assurance of stability in DOD contract pricing is perceived in the near future." In Hawaiian's view, "the combination of government's immense buying power and the pricing prerogatives open to an array of small carriers in a free market situation" historically have failed to provide satisfactory service to the government and to stimulate air carrier development. Hawaiian also states that the present Logair rate it receives from DOD is too low, and asks the Board to delay the effective date of the rule until a substitute system of ratemaking is in place and until the Board has reviewed and revised upward the present Logair minimum rates.³

Apart from the question of timing, we addressed Hawaiian's concerns thoroughly in the notice of proposed rulemaking. There we documented the development of the former supplemental carriers into "a mature industry segment which relies on the civilian rather than the military market." "The significance of this development is that the actual and potential strength of these carriers' commercial operations places them in a position to bargain effectively with the Department of Defense, and eliminates

³ By a petition filed March 21, 1979, Hawaiian has requested an upward revision in the Logair/Quicktrans minimum rates for L-188 aircraft. See Docket 35117.

⁴ EDR-370, 44 FR 2179, January 10, 1979.

the need for an independent regulatory body to police the price structure of the market. The existence of civilian options means that, in the absence of unusual circumstances, DOD cannot use its purchasing volume to force Hawaiian or any other carrier to accept a price which does not compensate the carrier for both the long-term and the short-term costs of production. If DOD should insist on a price which is not fully compensatory, Hawaiian will be free to reject it and to employ its aircraft in the civilian market.

Instead of casting doubt on this conclusion, Hawaiian's comments tend to support it. Hawaiian's statement that it will concentrate on serving the civilian market unless it is offered adequate compensation for its service to the military shows that Hawaiian is not dependent on the military market for employment of its aircraft. Since DOD must bid for Hawaiian's services in competition with other market opportunities if it wishes to retain them, there is little basis for Hawaiian's concern about the "government's immense buying power."

As we noted in the notice of proposed rulemaking, while civilian market opportunities were not freely available to supplemental carriers when the CAB adopted Part 288 in 1961, this was because of regulatory restrictions which severely limited the access of charter carriers to markets other than the military market. The Board has eliminated these restrictions.

With regard to Hawaiian's concern that the present Logair contract rate is too low, we have decided to make our revision of Part 288 effective immediately, so that Hawaiian and other carriers will be free to negotiate with the Department of Defense without delay. In a separate petition,⁵ Trans International Airlines (TIA) has also urged the Board to revise upward the Logair/Quicktrans Part 288 minimum rate schedule. TIA contends that "there can be no rate adjustment except through the Board's amendment of Part 288 establishing a revised minimum rate for Logair/Quicktrans services," because the Logair/Quicktrans contracts between the carriers and DOD define the price term as the Part 288 minimum rate. While TIA is correct that the parties are bound by whatever rates are set by the Board, the elimination of the minimum rate structure itself is another matter. Under such circumstances, modern contract law generally recognizes that, absent a manifest intent to the contrary, the failure of an "open price" term to be computed as specified

⁵ Docket 35866, "Emergency Petition for Minimum Rate Revision," June 15, 1979.

in the contract does not excuse subsequent performance, but rather obligates the buyer to pay a "reasonable price" for subsequent benefits received.⁶ The contract provisions cited by TIA are not inconsistent with this general principle. By eliminating the Part 288 minimum rate structure now, we are removing an unnecessary regulatory barrier preventing the carriers from negotiating directly and expeditiously with DOD to determine the reasonable price to be paid for their services.⁷

2. Comments of TWA

TWA says that "it shares the Board's view that circumstances in the military air transportation market have changed and that the structure of military ratemaking should be modified." However, TWA proposes that the Board alter its proposed rule in several ways. First, TWA argues that retention of the tariff-filing requirement would promote competition in the military market, while the proposed exemption will inhibit competitive development. Second, TWA contends that the Board should replace the Category Y tariff rules, which permit the transportation of military passengers in scheduled service as a substitute for cancelled Category B charter service, with rules "permitting carriers to file in their tariffs special group fares for the military based on some rational economic inputs." Finally, TWA urges the Board to abolish "different military individually ticketed fares, i.e., 'A', 'Y', 'Z', based on artificial distinctions such as one-way charter rates, etc."

We think the proposed rule satisfies TWA's basic concerns. The rule abolishes the entire Part 288 minimum rate structure, including the Category B charter rate, which has served as the basis for Category A, Y, and Z rates. Thus, the rates for the services which those denominations represent—respectively, less than plane load (including individual) transportation in scheduled service obtained by contract, transportation of passengers in scheduled service as a substitute for cancelled charters obtained by contract, and scheduled international passenger transportation obtained on an individually ticketed basis—will no longer be based on Board-set charter rates. Rather, TWA and other carriers

⁶ See, e.g., Anderson, Ronald A., *On the Uniform Commercial Code* (Lawyers Cooperative Publishing Company, 1970) 2d Ed., Vol. 1, Sec. 2-305:10.

⁷ We are, of course, willing to assist DOD in reaching an interim or final rate adjustment. Such assistance might take the form, for example, of our determining at DOD's request whether rate adjustments recently sought by the carriers in petitions to the Board appear to be consistent with adjustments the Board would have made in the past under Part 288.

interested in providing these services to the Defense Department will be free to negotiate directly with DOD on a purchaser-supplier basis to establish all desired services at economic levels.

DOD states in its answer to TWA that "A reading of EDR-370 makes clear that Category Y fares are not part of the subject matter of this rulemaking." This is correct insofar as the requirement to file Category Y tariffs is concerned, although we intend to consider in the near future, after giving notice to interested persons, whether there is any continued policy justification for this tariff-filing requirement.⁸ However, the Category Y rate will now be freely negotiable between the carriers and DOD, since the Part 288 minimum charter rate to which the Y rate has been tied will no longer exist.

For these same reasons, we see no need to adopt a rule requiring the filing of tariffs for military group fares in order to encourage their development. With the abolition of the Part 288 minimum rate structure, to which these rates have been tied, such fares should develop through the operation of the market if there is an economic basis for them. Since the carriers will no longer be restricted to Board-set rates in carrying DOD traffic in international scheduled service, economic rather than regulatory forces should be the prime determinant of price, and we would expect the workings of the market ultimately to differentiate by price among services with differing costs—for example, between large blocs of seats purchased well in advance, on the one hand, and a single seat purchased a day before departure, on the other.

We are similarly unpersuaded by TWA's contention that the development of competition in the military charter market would be enhanced by our requiring the filing of tariffs. TWA appears to assume that such a requirement would prevent this market from operating on the basis of annual contracts, which TWA considers "extremely unhealthy" because "one, or at best two, carriers might obtain virtually all of the military traffic for a full year to the probable detriment of all concerned." However, merely requiring the filing of tariffs, as TWA proposes, would hardly prevent DOD from

⁸ We will take this opportunity, however, to make two simplifying changes in the Part 288 tariff-filing exemption provisions. First, "substitute service" is implicitly covered by "charter service" and need no longer be separately identified. And second, "Category A transportation" is redesignated more broadly as "military scheduled transportation" to facilitate the possible inclusion within the scope of the exemption, after appropriate procedures, of Category Y and/or other forms of military transportation on scheduled service aircraft.

procuring charter transportation on an annual contract basis. Charter traffic is typically arranged contractually and in advance. If DOD's needs are such that it makes more sense to arrange for charter transportation in annual aggregates rather than by individual flight, the filing of tariffs would not alter that fact or prevent DOD from procuring transportation in that way. The tariffs would simply reflect the terms and conditions under which participating carriers would be willing to provide transportation to DOD within the terms of its procurement needs.

Moreover, we do not agree with TWA that a program of annual competitive bidding, should DOD adopt such an approach, would be anticompetitive. First, DOD clearly perceives advantages in having available to it many, rather than only one or two, suppliers of air transportation, since this is a premise of its present policy of allocating its business among competing carriers. DOD allocates its business on the basis of non-price considerations such as the quality of a carrier's commitment of aircraft to CRAF, rather than on the basis of price. It is permitted to depart from allocation by price under 10 U.S.C. § 2304(a)(16) only after making a determination that "it is in the interest of the national defense to have . . . a supplier available for furnishing . . . services in case of a national emergency." Thus it is unlikely that DOD would adopt a system which allots all DOD's business to one or two carriers.

Second, TWA does not articulate how the outcome of an annual competitive bidding process would be "extremely unhealthy from competitive and other standpoints." Our view of competitive bidding is that it generally stimulates competing firms to offer products and services at a price which approximates their cost as closely as possible. Thus, the most efficient firm obtains the business—the outcome sought by competitive market processes. As we observed in the notice of proposed rulemaking and as we discuss further below, the possibility that a competitive bidding procedure would lead to destructive below-cost bidding has been eliminated by our removal of regulatory barriers to civilian market access by charter carriers, and by the consequent growth of that market.

3. Joint Comments for Airlift, Flying Tiger, Hawaiian, Seaboard, TWA, and World

The six air carriers commenting jointly, like TWA and Hawaiian, do not oppose termination of the Board's Part

288 rate-setting function. However, they object to our statement of the grounds for the proposal in two respects.

First, the six carriers disagree with our statement that protection of supplemental carriers was in large part the justification for the adoption of Part 288 in 1961. Second, they contend that contrary to the views we expressed, the establishment of minimum rates under Part 288 is in fact an efficient way to supply the military with both current air transportation and commitments to CRAF.

The six carriers argue that instead of protecting the supplemental carriers from pressures to price their military services below long run average cost, the Board's purpose in adopting Part 288 was to provide economic support for "the development of a larger and more modern civil airlift capability to be available in the event of national emergency." In fact, the Board sought to do both because it saw both goals as being connected. We sought to preserve the safety and quality of military air service—including, as the six carriers correctly observe, the quality of CRAF—by setting minimum rates to control what we perceived to be destructive bidding practices by supplemental carriers, which in 1961 were largely confined to the military market by regulatory restrictions. These restrictions made it economic for supplemental operators to enter bids as low as variable cost in order to avoid losing military business, because if they did not receive a military contract their lack of authority to effectively enter civilian markets meant that they would not recover any costs at all. Since the supplementals were, in effect, captive suppliers to the Department of Defense by virtue of regulatory restrictions on the markets they could enter, we moved to regulate minimum military contract prices in order to protect them from pressures to enter below-cost bids for military contracts, and thus to prevent deterioration of the safety and quality of military service.⁹ This is made clear from the Congressional testimony of then-CAB Chairman Boyd,¹⁰ quoted in part by the six carriers, but reproduced more fully here:

Now, let me talk for a moment about the prices that the military paid in the past for augmentation airlift in relation to value received. I am speaking with particular reference to the international and overseas MATS contracts and to the period prior to the Board's assertion of rate control.

⁹ Source: *Military Air Transportation: Hearings Before a Subcommittee of the House Committee on Government Operations*, 87th Cong., 1st Sess. (1961), at 12-13 (hereinafter "1961 Hearings").

¹⁰ 1961 Hearings, 85-87.

Certainly, if we look at the prices paid by MATS in terms of the amount of passenger-miles and ton-miles moved, the military indeed received a bargain. Rates as low as 2 cents a passenger-mile for transportation to foreign countries are certainly cheap in relation to what you and I would have to pay for such transportation. Indeed the rates for the military were as low as 25 percent of the rates for the lowest class of individually ticketed service and 60 percent of the typical charter rates.

In terms of the larger aspects of value, however, it is clear that the national interest was being cheated. Too much of the airlift was being performed with obsolete aircraft of the early postwar vintage. Even today, after a period of relative stability and what we believe are reasonably compensatory rates for foreign military transportation, far too few truly modern aircraft are engaged in this program, although I am happy to say that for the first time some modern turbine-powered all-cargo aircraft are to be employed in the MATS program during fiscal 1962. But it is clear that there is too little of this capacity as yet, either considered as a percentage of the total or in absolute numbers.

Airline Revenues Too Low

What is the reason for this unhappy situation? The answer lies in the fact that until the Board asserted jurisdiction over the rates received for MATS business, the revenues received by the carriers were insufficient to enable them to earn the minimum necessary to meet their expenses, put themselves on a sound financial footing and attract the capital necessary to modernize their equipment.

The fact is that under the old system of competitive bidding, without a rate floor, many aircraft operators bid at prices that were marginal and were even below their actual cost. This destructive bidding resulted not only in a lack of adequate earnings but also produced very substantial losses for some of the carriers involved.

This is illustrated by the plight of Overseas National Airways which received MATS awards well above \$20 million in the year ended September 30, 1960, and lost \$2,245,000 in performing service under the contract, even though this carrier has always had the reputation of being a low-cost operator.

Even larger losses were experienced by Seaboard World Airlines, which was then known as Seaboard & Western. World Airways also experienced losses, although on a smaller scale.

Why Destructive Bidding?

The question then that you may logically raise is why do businessmen deliberately commit themselves to such unprofitable contracts? I will not pretend to know the answer in any given case. But there appear to be a number of factors which may explain this phenomenon.

In some instances, mistakes in judgment may be responsible for an uneconomically low bid. In others, a carrier may be forced by a temporary condition such as excess equipment, to quote an unreasonably low bid.

Finally, for some carriers, it is literally a matter of survival. A number of these carriers are primarily engaged in attempting to maintain their existence in the belief that they will be rewarded as new markets, particularly in air cargo, open up. But these carriers have payrolls and other expenses which have to be met today. They need an immediate cash flow. They cannot pass up a substantial Government contract even if it means money losses, since it will provide the cash flow necessary to keep their organizations intact. If they are able to develop enough additional outside business, the profits will offset the losses and they will break even.

We do not believe that any system which allows some competitors to cut prices to out-of-pocket cost or less in the long run a healthy one. Reasonable profits are necessary to insure modernization and growth. Very few financial institutions with money to invest will consider the business of furnishing air transportation to the military a reasonable risk.

Moreover, cutthroat competition introduces instability in the market, resulting in extreme fluctuations in the amount of MATS business awarded to any particular carrier from year to year. Under these conditions, unregulated competitive bidding cannot produce an adequate, modern air fleet.

Low Bids Affect Safety

There is one more aspect to the problem of destructive bidding which ought to be mentioned, and that is the safety factor. I know of no industry in which safety is so closely bound up with economics as the air transportation industry. The point is an obvious one and need not be belabored. In fact, the safety record of our supplementals is a fine one. Nevertheless, a carrier that is devoting most of its energies to stave off bankruptcy is a worrisome problem from the safety standpoint.

Mr. Boyd's remarks were plainly directed at the supplemental carriers. These carriers dominated the military market in terms of market share prior to the adoption of Part 288. In 1961 certificated route carriers received less than 25% of the contract awards made by the Military Air Transportation System (the predecessor of the Military Airlift Command) measured in dollar value. In addition, Mr. Boyd referred to individual supplemental carriers by name, and specifically addressed the safety record of supplemental carriers. Although the considerations which led us in 1961 to regulate minimum military charter rates—the perceived need to protect supplemental carriers from destructive bidding in order to preserve an adequate military airlift—have now been invalidated by the reduction in regulatory barriers to entry by charter carriers into the civilian market, and by the consequent end of the charter operators' dependence on military sales, Mr. Boyd's testimony confirms the accuracy of our account of the historical reasons for our adoption of Part 288.

The six carriers also disagree with our analysis of the efficiency of the Part 288

procurement process. We observed in the notice of proposed rulemaking that while the rates we set under Part 288 and the carrier-submitted data upon which they are based ostensibly reflect only the costs of providing transportation in the current term, in fact the rates also pay the cost of commitment of aircraft to be used in the event of a national emergency (CRAF). Thus we concluded that, if DOD were to purchase these two services separately, it would better be able to obtain each service at a price approximating its cost, and that under such circumstances we would expect the price of current transportation to fall because that price would no longer include the cost of making a CRAF commitment.

The six carriers have not persuaded us that our analysis is incorrect. Their contention that DOD's international charter expenditures from 1960 through 1978 would have been \$2.3 billion greater if the airlift had been purchased at "standard" civil charter rates does not alter the fact that current military transportation prices set under Part 288 pay for both current transportation service and CRAF commitments. Moreover, the methodology the carriers used in their calculation of savings is open to criticism. The carriers appear to have calculated "standard" civil charter rates on the basis of industry-wide average charter prices. A more accurate approximation of the transportation prices available to DOD from 1960 through 1978, if it had allocated business on the basis of price, would be obtained by examining the lowest rates offered by charter carriers to their civilian customers rather than industry-wide average rates. This is because the use of price as a factor in DOD allocation decisions would give increased market shares to carriers with lower-than-average costs and would encourage carriers to submit low bids. Air carriers frequently offer commercial charter rates which are lower than the charter rates paid by DOD, as is shown by the following table:¹¹

Air carrier	Commercial charter rate (July 1977)
Capitol	.0268
TIA	.0290
Arlitt	.0298
Flying Tiger	.0300
World	.0308
Overseas	.0322
Pan Am	.0374
Northwest	.0394

¹¹ Sources: Air Carrier Traffic Statistics, December 1977, for capacity figures; MAC traffic breakdowns from Appendix, CAB ER-1024; rates from CAB Tariffs Division.

When these fares were in effect, the comparable military charter rate¹² was .0318. Thus five air carriers were offering civilian charters at low rates below—in some cases, substantially below—the military rate.

The six carriers further contest our view of the inefficiency of Part 288 on the ground that "the CRAF program has achieved significant progress during the 18 years that the Board has engaged in Part 288 ratemaking." While it is certainly true that the ton-mile capability of CRAF has grown substantially since 1961, it is also true, as the six carriers recognize, that the CRAF Fleet is "not at what have recently been determined to be optimum levels." As we have noted,¹³ this is not only a recent phenomenon but has been a recurrent problem since the adoption of Part 288. It seems evident to us that this problem might well be remedied if MAC simply purchased CRAF commitments separately from current transportation, instead of relying on carriers to provide the service as a by-product of their transportation operations. Such an approach, at a minimum, would provide DOD with information about the costs of providing CRAF commitments, and this would allow DOD to develop a purchasing strategy to obtain an optimum level of commitments to CRAF. The present system, by mixing the cost of CRAF commitments with the cost of providing transportation and then setting prices on an average cost basis, yields no such information, and generally provides DOD with much less control over the make-up of CRAF than a direct purchase system would. In our opinion, the market-oriented approach is sufficiently promising and advantageous to warrant the test of experience.

Finally, the six carriers argue that while, as a matter of economic analysis, it may be logical for DOD to purchase current transportation and CRAF commitments separately, "... this method was in fact attempted prior to 1961, and it failed." We have recounted at length¹⁴ the differences between the highly-restricted charter market of 1961 and the open market of today. We have done so because, as James Bryce said, "The chief practical use of history is to deliver us from plausible false analogies."¹⁵ It may seem plausible to assume that, if the charter carriers were driven to destructive bidding in 1961 by

DOD's use of competitive bidding procurement practices, a resumption of competitive bidding would produce a return to below-cost bidding. However plausible this analogy may appear on its face, it is false because the conditions which produced the 1961 problem no longer exist. Instead, as we have emphasized, they have been replaced by conditions which make it very unlikely that a procurement process taking price into account would elicit below cost bids. These conditions are:

1. The elimination of regulatory barriers which in 1961 largely precluded the entry of charter carriers into the civilian charter market;
2. The growth of the civilian market into the source of more than 75% of the revenues of the charter carriers.¹⁶ In 1961 the civilian charter market supplied only 13.5% of the revenues of the supplemental carriers, while the military market accounted for 71.9%.¹⁷
3. The elimination of regulatory barriers which until recently precluded the entry of charter carriers into scheduled service, providing a further reduction in the charter carriers' dependence on the military market;
4. The increased sophistication of both the charter carrier managements and the Military Airlift Command, which procures air transportation services for DOD. DOD could preserve the advantage of having multiple suppliers, and obtain some of the efficiencies associated with competitive bidding, by using price as an important but not the sole factor in allocating its business among competitive carriers.¹⁸

¹⁶ Source: Annual MAC Commercial Airlift Procurement Data Reports and Air Carrier Financial Statistics submitted to the CAB.

¹⁷ Source: *Supplemental Air Service Proceeding*, Recommended Decision of Examiner 17 (August 27, 1965).

¹⁸ It appears that it might be both economically efficient and consistent with DOD's non-price concerns for DOD to allocate its annual procurement of seat-miles by auction, using a procedure similar to that employed by the Treasury Department to distribute treasury bills, but modified to take into account DOD's transportation interests other than cost. This procedure, known as a non-discriminatory auction, could permit participation in the market by many suppliers. Under such a procedure, each carrier would submit a bid stating the number of seat miles it is willing to provide and the lowest price it is willing to accept. The highest bid accepted by DOD would be the price all carriers would receive, but business would be allocated on the basis of each carrier's bid, with the low bidders receiving preferences. One advantage of this approach is that it would provide an incentive for all participating carriers to submit low (but fully compensatory) bids, which, from DOD's standpoint, would favorably affect the cost of the procurement. A second advantage of this procedure is that it is flexible enough to accommodate DOD's non-price interests. For example, procurement awards to carriers could be restricted to a certain percentage of their total revenues; separate auctions could be held for separate markets; and DOD would be able

The charter carriers now derive the vast bulk of their revenues from civilian operations. Because of their reliance on civilian revenues and their access to both the charter and scheduled service markets, they are now in a position to bargain effectively with the military, which was not the case in 1961. Under present conditions, the use of a price-based procurement system is no more likely to produce rates below long-run average cost than are the everyday commercial transactions of the charter carriers. This means that neither the survival of the charter carrier nor the safety and quality of the military airlift is dependent on a ratemaking system such as Part 288.

Accordingly, the Civil Aeronautics Board revises 14 CFR Part 288, *Exemption of Air Carriers for Military Transportation*, to read as follows:

PART 288—EXEMPTION OF AIR CARRIERS FOR MILITARY TRANSPORTATION

Sec.
288.1 Definitions.
288.2 Exemption.

Authority: Secs. 204, 403, and 416 of the Federal Aviation Act, as amended; 72 Stat. 743, 758, 771, as amended; 49 U.S.C. 1324, 1373, 1386.

§ 288.1 Definitions.

As used in this part: "Military scheduled transportation" means the transportation in scheduled service of individually ticketed passengers or individually waybilled cargo in foreign and overseas air transportation, in air transportation between the 48 contiguous States on the one hand and Hawaii and Alaska on the other hand, and in air transportation within Alaska, pursuant to contract with DOD.

"Charter service" means air transportation in plane-load lots of persons and/or property pursuant to contract with DOD.

"DOD" means the Department of Defense.

§ 288.2 Exemption.

Air carriers providing charter service and military scheduled transportation to DOD are hereby exempted from section 403 of the Act and Part 221, § 207.4, and § 208.32 of this chapter with respect to those services.

to distribute its business among many carriers. We would be happy to assist DOD in establishing such a procedure, or some variant of it, on either an experimental or a more permanent basis.

By the Civil Aeronautics Board:
Phyllis T. Kaylor,
Secretary.
[FR Doc. 79-22968 Filed 7-24-79; 8:45 am]
BILLING CODE 6320-01-M

14 CFR Part 380

[Regulation SPR-163; Amendment No. 5;
Docket 35054]

Public Charters; Extending Consumer Protection Requirements to Other Charter Types

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., July 19, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB extends its recently adopted Public Charter consumer protection requirements to charter flights that are performed under other charter rules, which are being phased out.

DATES: Adopted: July 19, 1979; Effective: September 1 and October 1, 1979, as set out in § 380.19(d).

FOR FURTHER INFORMATION CONTACT: Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION:

The principal rule concerning charter flights that are sold directly to individual members of the general public is 14 CFR Part 380, *Public Charters*. On March 2, 1979, the Board adopted a set of consumer protection amendments to that rule (SPR-156, 44 FR 12971, March 9, 1979.) Those amendments require that charter participants be given refunds when there are major changes in the charter packages that they have purchased. They also include new disclosure requirements for charter advertising and specific requirements for the contracts between charter operators and participants. The amendments were effective generally for operator-participant contracts entered into on or after May 1, 1979, for Public Charters scheduled to depart on or after July 1, 1979. The corresponding requirements for advertising apply to ads distributed or broadcast on or after May 1 for flights scheduled to depart on or after July 1.

When the Public Charter rule was originally adopted in August, 1978, it replaced the more restrictive and complicated Advance Booking, Inclusive Tour, and One-stop-inclusive Tour Charter rules, among others. To ease the transition to Public Charters, the

revocation of those rules (14 CFR Parts 371, 378, and 378a) was made effective January 1, 1979. It also specified that a charter can be performed under the old rules at any time after that date, as long as it is covered by a prospectus filed with the Board before that date.

By January 1, 1979, charter operators had filed prospectuses for a large number of these "old-rule charters", in some cases extending far into the future. Without further Board action, these flights would not be subject to the Public Charter consumer protection rules. The Board therefore proposed on March 14, 1979, to extend the protections adopted for Public Charters in SPR-156 to the old-rule charters (SPDR-67, 44 FR 17191, March 21, 1979). The proposal contemplated that the extension of the rules would apply to advertising distributed or broadcast on or after June 1, 1979, for old-rule charters scheduled to depart on or after July 1, and to operator-participant contracts entered into on or after June 1 for flights scheduled to depart on or after July 1. This would correspond to the May 1-July 1 scheme for Public Charter consumer protection.

Arthurs Travel Center, Inc., filed the only comment in response to this proposal. It generally supported the proposal. However, it stated that the change in rules would require it to reprint brochures and resolicit certain passengers. It argued that the benefits of improved consumer protections for participants must be balanced against the burden that too quick a transition would impose on the charter operator. It therefore suggested a 90-day postponement of the planned effective dates.

Similar concerns with the transition to the rules adopted in SPR-156 for Public Charters led us to grant a blanket waiver of certain aspects of those rules for flights to be performed before October 1. (Order 79-5-2, May 1, 1979, broadened on reconsideration in Order 79-7-14, July 3, 1979.) We have therefore decided to extend the consumer protections to old-rule charters as proposed, but with the delay that Arthurs requested. The rules will therefore apply to advertising and contracts on or after September 1, 1979, for flights on or after October 1, 1979.

SPDR-67 proposed to effect the extension of the consumer protection rules by adding a new § 380.19 to the Public Charter rule. As proposed, paragraph (a) defined "old-rule charter" and paragraphs (b) and (c) set out the substantive requirements. Since that proposal, however, we have adopted final rules to eliminate charter tariff-

filing requirements for direct air carriers. One of those rules has already added § 380.19, *Old-rule charters*, with the same definition in paragraph (a). Paragraph (b) states that tariffs need not be filed for old-rule charters. (SPR-160, 44 FR 33060, June 8, 1979.) Therefore, the substance of the proposed paragraphs (b) and (c) as set out in SPDR-67 now appears in paragraphs (c) and (d).

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 380, *Public Charters*, as follows:

In § 380.19, new paragraphs (c) and (d) are added, to read:

§ 380.19 Old-rule charters.

(c) Indirect air carriers performing old-rule charters shall conform to the requirements of §§ 380.12, 380.30-380.33, and 380.33a of this part as if the old-rule charters were Public Charters.

(d) The requirements set forth in paragraph (c) of this section are effective as follows: § 380.12 applies to old-rule charters scheduled to depart on or after October 1, 1979. §§ 380.30 and 380.33a(d) apply to old-rule charter solicitation materials distributed or broadcast on or after September 1, 1979, but only with respect to charters scheduled to depart on or after October 1, 1979. §§ 380.31-380.33 and 380.33a (except 380.33a(d)) apply to old-rule operator-participant contracts entered into on or after September 1, 1979, but only with respect to charters scheduled to depart on or after October 1, 1979.

(Secs. 101(3), 204, 401, 402, 404, 407, 411, 416, and 1102 of the Federal Aviation Act of 1958, as amended; 72 Stat. 737, 743, 754, 757, 760, 766, 769, 771, 797, 49 U.S.C. 1301, 1324, 1371, 1372, 1374, 1377, 1381, 1386, and 1502.)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-22969 Filed 7-24-79; 8:45 am]
BILLING CODE 6320-01-M

14 CFR Part 399

[Regulation PS-85 Docket 34397
Amendment No. 64]

Policy Statements

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., July 19, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The Civil Aeronautics Board is eliminating the provisions of its economic regulations which prescribe minimum rates applicable to domestic and international charter service and international individually ticketed or

waybilled scheduled service provided for the Department of Defense by air carriers pursuant to contract.

DATES: Adopted: July 19, 1979; Effective: July 19, 1979.

FOR FURTHER INFORMATION CONTACT: Richard B. Hirst, Office of the General Director, International and Domestic Aviation, or Lawrence R. Myers, Office of the General Counsel, 1825 Connecticut Avenue, Washington, D.C. 20428, 202/673-5830; 673-5791.

SUPPLEMENTARY INFORMATION:

For reasons discussed in ER-1134, issued today, the Board is revoking its statement of policy in 14 CFR 399.16 *Military exemptions*, which relates the grant of exemption authority to an air carrier for the performance of Department of Defense contracts to, among other factors, compliance with the minimum rates for military transportation established in 14 CFR 288. Similarly, the Board is revoking 14 CFR 399.38, *Military tariff rates*, which provides that compliance with the Category A passenger rate established in 14 CFR 288.7(d)(1) will be given great weight by the Board in passing upon the lawfulness of tariffs specifying fares for the transportation of individually ticketed passengers in foreign or overseas air transportation or in air transportation between the 48 contiguous States and Hawaii or Alaska.

Accordingly, in 14 CFR Part 399, *Statements of General Policy*, § 399.16, *Military exemptions*, and § 399.38, *Military tariff rates*, are revoked and reserved.

(Secs. 204, 403, 404 and 416 of the Federal Aviation Act, as amended; 72 Stat. 743, 758, 760, 771, as amended; 49 U.S.C. 1324, 1373, 1374, 1386.)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-22968 Filed 7-24-79; 8:45 am]
BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-2975]

The Clorox Co.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent

order, among other things, requires an Oakland, Calif. manufacturer of household cleansers, detergents, bleach, specialty food products and charcoal briquets to cease misrepresenting characteristics, properties, quality or use of any cleanser; to cease advertising any of the above without first having in their possession documentation supporting their claims; to cease failing to maintain adequate records of substantiation documentation; and to cease failing to disclose precautionary measures specified in the proposed order.

DATES: Complaint and order issued July 2, 1979.*

FOR FURTHER INFORMATION CONTACT: William A. Arbitman, Director, 9R, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, Calif. 94102, (415) 558-1270.

SUPPLEMENTARY INFORMATION: On Wednesday, February 1, 1979, there was published in the *Federal Register*, 44 FR 10515, a proposed consent agreement with analysis in the Matter of The Clorox Company, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the Complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows:

Subpart—Advertising Falsely or Misleadingly: § 13.170 Qualities or properties of product or service; § 13.170-16 Cleansing, purifying; § 13.210 Scientific or other relevant facts; § 13.250 Success, use or standing. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-20 Disclosures; § 13.533-45 Maintain records; § 13.533-45(a) Advertising substantiation. Subpart—Failing To Maintain Records: § 13.1051 Failing to maintain records; § 13.1051-10 Accurate; § 13.1051-20 Adequate. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1710 Qualities and properties; § 13.1740 Scientific or other relevant facts; § 13.1755 Success, use or standing. Subpart—Neglecting, Unfairly or Deceptively, To Make Material

* Copies of the Complaint, and the Decision and Order filed with the original document.

Disclosure: § 13.1885 Qualities or properties; § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,
Secretary.

[FR Doc. 79-22927 Filed 7-24-79; 8:45 am]
BILLING CODE 6750-01-M

16 CFR Part 13

[Docket C-2974]

Motherhood Maternity Shops, Inc.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Santa Monica, Calif. manufacturer and seller of maternity wearing apparel and related products and its corporate owner to cease establishing, maintaining and enforcing resale prices and sale periods for their products; soliciting, exchanging or disseminating price information; and compelling adherence to such prices and sale periods through persuasion or coercion. Respondents are additionally prohibited from withholding advertising allowances, or otherwise taking adverse action against recalcitrant retailers.

DATES: Complaint and order issued June 21, 1979.*

FOR FURTHER INFORMATION CONTACT: Leroy Richie, Director, 8R, New York Regional Office, Federal Trade Commission, 2243-EB Federal Building, 26 Federal Plaza, New York, N.Y. 10007. (212) 264-1207.

SUPPLEMENTARY INFORMATION: On Monday, April 16, 1979, there was published in the *Federal Register*, 44 FR 22494, a proposed consent agreement with analysis in the Matter of Motherhood Maternity Shops, Inc., a corporation and MMS of Delaware, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made

* Copies of the Complaint, and the Decision and Order filed with the original document.

its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows:

Subpart-Coercing and Intimidating: § 13.350 Customers or prospective customers. Subpart-Combining or Conspiring: § 13.395 To control marketing practices and conditions; § 13.425 To enforce or bring about resale price maintenance; § 13.430 To enhance, maintain or unify prices; § 13.431 To exchange future price information; § 13.470 To restrain or monopolize trade; § 13.497 To terminate or threaten to terminate contracts, dealings, franchises, etc. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-20 Disclosures; § 13.533-45 Maintain records. Subpart-Cutting Off Supplies or Service: § 13.610 Cutting off supplies or service; § 13.655 Threatening disciplinary action or otherwise. Subpart-Delaying or Withholding Corrections, Adjustments or Action Owed: § 13.675 Delaying or withholding corrections, adjustments or action owed. Subpart-Maintaining Resale prices: § 13.1130 Contracts and agreements; § 13.1145 Discrimination; § 13.1145-5 Against price cutters; § 13.1155 Price schedules and announcements; § 13.1165 Systems of espionage; § 13.1165-80 Requiring information of price cutting.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,
Secretary

[FR Doc. 79-22926 Filed 7-24-79; 8:45 am]
BILLING CODE 6750-01-M

16 CFR Part 13

(Docket 8859)

National Industries, Inc., et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.
ACTION: Dismissal order.

SUMMARY: This order dismisses a complaint charging a Louisville, Ky. firm and its wholly-owned subsidiary with illegally imposing geographic restrictions on licensed bottlers of their soft drink products, on the grounds that the companies are no longer engaged in the soft drink business or the practices which were the focus of the complaint.

DATES: Complaint issued July 15, 1971. Dismissal order issued June 18, 1979.*
FOR FURTHER INFORMATION CONTACT: FTC/DM, Ronald A. Bloch, Washington, D.C. 20580, (202) 523-3552.

SUPPLEMENTARY INFORMATION: In the Matter of National Industries, Inc., a corporation, and Cott Corporation, a corporation.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

The dismissal order, is as follows:
Final Order

The Administrative Law Judge filed his Initial Decision in this matter on April 23, 1979, dismissing the complaint against respondents National Industries, Inc. and Cott Corporation on grounds that neither respondent is now engaged in the soft drink business nor in the practices which were the focus of the complaint. No appeal from the Initial Decision was filed.

The Commission having now determined that the matter should not be placed on its own docket for review, and that the Initial Decision should become effective as provided in § 3.51(a) of the Commission's Rules of Practice. It is ordered that the Initial Decision and Order contained therein shall become effective on June 18, 1979.

By the Commission.
Carol M. Thomas,
Secretary.

[FR Doc. 79-22928 Filed 7-24-79; 8:45 am]
BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 231

(Release No. 33-6090)

Interpretative Releases Relating to the Securities Act of 1933 and General Rules and Regulations Thereunder

AGENCY: Securities and Exchange Commission.

ACTION: Interpretative release.

SUMMARY: The Commission recommends certain techniques in drafting trust indentures to the attention of persons registering offerings of debt securities under the Securities Act of 1933 (15 U.S.C. 77a et seq.) which may permit expedited review by the staff of the registration materials.

DATE: July 11, 1979.

* Copies of the Complaint, Initial Decision Dismissing Complaint, and Final Order filed with the original document.

ADDRESS: Interested persons are invited to write directly to the Office of Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549, with any suggestions or comments.

FOR FURTHER INFORMATION CONTACT: Norman Schou, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549, (202) 755-1240.

SUPPLEMENTARY INFORMATION: The Commission suggests that issuers of debt securities in offerings required to be registered under the Securities Act of 1933 consider certain techniques in drafting trust indentures which may reduce the amount of time spent by the staff in reviewing the documents and thereby shorten the time spent in registration. Recently, the Commission's Division of Corporation Finance has been requested to accelerate the effectiveness of registration statements relating to offerings of debt securities within a few days after the filing. In many cases, review of the filing by the staff is protracted somewhat by the necessity of reviewing a lengthy trust indenture in order to determine its compliance with the Trust Indenture Act of 1939. It is the staff's experience that review of such registration statements may be appreciably accelerated when a trust indenture need not be reviewed in its entirety and has observed certain techniques in drafting trust indentures which simplify and abbreviate review of the indenture. Accordingly, the Commission recommends that prospective trustees, underwriters and registrants of debt offerings expecting early effectiveness of the registration statement consider employing one of the following practices, although, of course, there can be no assurance that the time in registration will necessarily be affected in any particular case.

1. *Use of an incorporating indenture.* Draft a brief indenture containing dates and provisions unique to the offering to be registered and which incorporates by reference a standard form of indenture previously qualified under the Trust Indenture Act, such as the American Bar Foundation's *Sample Incorporating Indenture, Model Debenture Indenture Provisions, All Registered Issues, 1967*, or any other indenture previously qualified by the Commission provided that a copy of it is available for inspection in the Commission's public records system. At present, indentures filed as exhibits to registration statements under the Securities Act of 1933 are retained for so long as the

registrant has a reporting requirement with the Commission plus ten years.

2. *Copy of previously qualified indenture.* Prepare the indenture as a verbatim copy of the *Model Debenture Provisions* or of any other indenture previously qualified by the Commission and publicly available as in paragraph 1 above, with changes only in names, dates and provisions unique to the prospective offering. As supplemental information, furnish the staff with a copy of the model used in preparing the filed document with changes clearly indicated.

3. *Use of previously qualified indenture.* Where securities were authorized for issuance under an indenture previously qualified and a sufficient number remain unissued to cover the issuance to be registered, it is not necessary to prepare a new indenture or to make any new filing under the Trust Indenture Act.

4. *Use of supplemental indenture.* Where a previously qualified indenture is open-ended and authorizes the issuance of an indefinite number of additional securities or series by supplemental indenture, it is necessary only to file the supplemental indenture as an exhibit to the registration statement.

Invitation for Comments

Interested persons are invited to write directly to the Office of the Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549, with any suggestions or comments designed to improve administration of the review process involving trust indentures or for information about the format of indentures.

By the Commission.
George A. Fitzsimmons,
Secretary.

July 11, 1979.
[FR Doc. 79-22888 Filed 7-24-79; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

(T.D. 79-201)

Changes in the Customs Field Organization

AGENCY: U.S. Customs Service,
Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document changes the field organization of the Customs Service by establishing a new port of entry at Valdez, Alaska, in the Anchorage, Alaska, Customs district (Region VIII). This change is needed because of a substantially increased demand for Customs services at Valdez resulting from a change in the method employed in transporting crude Alaskan oil from Valdez to refineries at ports on the Gulf and East Coasts of the United States.

EFFECTIVE DATE: July 25, 1979.

FOR FURTHER INFORMATION CONTACT: Robert Schenarts, Inspection and Control Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8151).

SUPPLEMENTARY INFORMATION: Background

Valdez, Alaska, is the terminus of the Trans-Alaska pipeline and the port of lading for crude oil to be shipped to refineries at ports on the Gulf and East Coasts of the United States via the Panama Canal. Because of the need to enter and clear vessels engaged in the transportation of crude oil from Valdez, a Customs officer has been detailed there temporarily from the Anchorage, Alaska, Customs district. However, with the beginning of the summer tourist season and increased activity at other Alaska ports, it may not be possible to continue this temporary service.

Crude oil presently is loaded on large ships at Valdez, transported down the West Coast of the United States, and transshipped to smaller U.S. flag vessels for shipment through the Panama Canal to refineries on the Gulf and East Coasts. These operations have been conducted at sea, and the overall movement of crude oil from Alaska to the East Coast has been designated as "domestic trade" by the U.S. Department of Commerce. Recently, certain refiners have received approval from the Department of Commerce to move these transshipment operations to a newly constructed on-shore terminal in Panama. Consequently, the movement of oil will lose its "domestic trade" status, and those vessels transporting crude oil to the terminal in Panama from Valdez will have to be entered and cleared by Customs at Valdez before reloading. Once this change in transshipment procedures has been implemented, an average of 10 to 14 vessels per month will require the services of a Customs inspector at Valdez. The Anchorage Customs district then will be requested to furnish Valdez

with an officer on an on-call basis to provide this service whenever needed.

The closest Customs offices to Valdez from which officers can be detailed on a temporary basis are Anchorage, 150 air miles away, and Ketchikan, 800 air miles away. Local weather conditions frequently result in closures of the Valdez airport. Under the circumstances, customs cannot guarantee prompt service to ships which will need to enter and clear at Valdez. Failure to expedite the clearance of these vessels may cause delays in the overall movement of crude oil and thereby contribute to a serious decrease in national oil supplies. Customs, therefore, is of the opinion that the establishment of a port of entry at Valdez as soon as possible is warranted.

Inapplicability of Notice and Delayed Effective Date Provisions

Because any delay in implementing this change could impede the transportation of crude oil to refineries and have a serious impact upon national oil supplies, contrary to the public interest, good cause exists for dispensing with the notice, comment, and delayed effective date provisions of 5 U.S.C. 553. Accordingly, this change is published in the *Federal Register* and *Customs Bulletin* as a final rule.

Changes in the Customs Field Organization

Under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR, 1949-1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 101-5 (44 FR 31057), a new Customs port of entry is established at Valdez, Alaska, in the Anchorage, Alaska, Customs district (Region VIII). The geographical boundaries of the port consist of that area in the State of Alaska as set forth on the U.S. Department of the Interior Geological Survey Maps of Valdez, Alaska (Quadrangles A-6 and A-7), and include the following:

That area in the State of Alaska within the boundaries of section 36 of Township 8 South, Range 7 West; Sections 31, 32, 33, 34, 35, and 36 of Township 8 South, Range 6 West; Sections 2, 3, 10, 11, 14, 15, 16, 17, and 18 of Township 9 South, Range 6 West; Sections 13 and 14 of Township 9 South, Range 7 West of the Copper River Meridian; and the roadway of the Richardson Highway from Section 11 of Township 9 South, Range 6 West to and including the roadway of the unnamed road connecting the Richardson

Highway to Section 14 of Township 9 South, Range 6 West.

Because Valdez is situated in an essentially undeveloped area of Alaska which has not been thoroughly surveyed, the coordinates of the port limits cannot be stated more precisely.

Amendment to the Regulations

To reflect this change, the table in § 101.3(b), Customs Regulations (19 CFR 101.3(b)), is amended by inserting "Valdez, including territory described in T.D. 79-201," directly below "Skagway," in the column headed "Ports of entry" in the Anchorage, Alaska, Customs district (Region VIII).

Regulation Determined to be Nonsignificant

In a directive published in the Federal Register on November 8, 1978 (43 FR 52120), implementing Executive Order 12044, "Improving Government Regulations", the Treasury Department stated that it considers each regulation or amendment to an existing regulation published in the Federal Register and codified in the Code of Federal Regulations to be "significant". However, it has been determined that this amendment does not meet the Treasury Department criteria in the directive for a "significant" regulation because it is nonsubstantive, essentially procedural, does not materially change existing or establish new policy, and does not impose substantial additional requirements or costs on, or substantially alter the legal rights or obligations of, those affected.

Drafting Information

The principal author of this document was Lawrence P. Dunham, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: July 5, 1979.
Richard J. Davis,
Assistant Secretary of the Treasury.
[FR Doc. 79-22925 Filed 7-24-79; 8:45 am]
BILLING CODE 4810-22-M

DEPARTMENT OF JUSTICE

28 CFR Part 0

[Order No. 840-79]

Authority To Sign Indictments When U.S. Attorney Is Recused

AGENCY: Department of Justice.
ACTION: Final rule.

SUMMARY: This order authorizes the United States Attorney to designate any Assistant United States Attorney in his office to perform any function, including the signing of indictments and any other documents and papers, when the United States Attorney has recused himself from the applicable matter. The order amends 28 CFR 0.131.

EFFECTIVE DATE: July 9, 1979.

FOR FURTHER INFORMATION CONTACT: Daniel E. Fromstein, General Litigation and Legal Advice Section, Criminal Division, United States Department of Justice, Washington, D.C. 20530 (202-724-6971).

By virtue of the authority vested in me by 28 U.S.C. 509 and 510, Title 28, Code of Federal Regulations, is amended by revising § 0.131, to provide:

§ 0.131 Designation of Acting United States Attorneys.

Each U.S. Attorney is authorized to designate any Assistant U.S. Attorney in his office to perform the functions and duties of the U.S. attorney during his absence from office, or with respect to any matter from which he has recused himself, and to sign all necessary documents and papers, including indictments, as Acting U.S. Attorney while performing such functions and duties.

Dated: July 9, 1979.
Griffin B. Bell,
Attorney General.
[FR Doc. 79-22920 Filed 7-24-79; 8:45 am]
BILLING CODE 4410-01-M

28 CFR Part 0

[Order No. 839-79]

Coercion of Abortions and Sterilizations

AGENCY: Department of Justice.
ACTION: Final Rule.

SUMMARY: Section 300a-8, Title 42, United States Code, which became effective July 1, 1976, makes it a misdemeanor for certain categories of persons to coerce or endeavor to coerce a person to undergo a sterilization or abortion by threatening loss of, or disqualification for the receipt of, any benefit of service under a program receiving federal financial assistance. Existing Department regulations assign to the Civil Rights Division the enforcement of all federal statutes affecting civil rights except those specifically assigned to the Criminal Division. This order adds the provisions of Section 300a-8 of Title 42, United States Code, to the list of federal

statutes assigned to the Civil Rights Division.

EFFECTIVE DATE: July 9, 1979.

FOR FURTHER INFORMATION CONTACT: John Harmon, Assistant Attorney General, Office of Legal Counsel, United States Department of Justice, Washington, D.C. 20530 (202-633-2041).
By virtue of the authority vested in me by 28 U.S.C. 509, 510, and 5 U.S.C. 301, § 0.50(a) of Subpart J of Part 0 of Chapter I of Title 28, Code of Federal Regulations is amended by adding "abortion and sterilization" immediately after "housing."

Dated: July 9, 1979.
Griffin B. Bell,
Attorney General.
[FR Doc. 79-22921 Filed 7-24-79; 8:45 am]
BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Engineers Corps

33 CFR Part 222

[ER 1110-2-1802]

Engineering and Design; Reporting Earthquake Effects

AGENCY: Corps of Engineers, DOD.
ACTION: Final rule.

SUMMARY: Engineer Regulation 1110-2-1802 pertaining to reporting earthquake effects appeared in the Federal Register issue of February 14, 1979 (44 FR, page 9591). Extensive changes were required because the regulation did not adequately provide for variations in effects from similar magnitude earthquakes in different parts of the United States. This document provides guidance and establishes procedures for assuring the structural integrity and operational adequacy of major Civil Works structures following a significant earthquake. A recent review of Corps practices in dam design revealed a need for updating guidance in gathering data after an earthquake occurs. Post-earthquake evaluations will detect conditions of significant structural distress and provide a basis for timely initiation of restorative and remedial measures.

EFFECTIVE DATE: 25 July 1979.

FOR FURTHER INFORMATION CONTACT: Ernest L. Dodson, Chief, Geotechnical Branch, Office, Chief of Engineers, Department of the Army, Washington, DC 20314, (202) 693-6823.

Note.—The U.S. Army Corps of Engineers has determined that this document does not

contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

In consideration of the above required changes, 33 CFR Part 222 is amended by revising § 222.6 to read as follows.

§ 222.6 Reporting earthquake effects.

(a) **Purpose.** This regulation states policy, defines objectives, assigns functions, and establishes procedures for assuring the structural integrity and operational adequacy of major Civil Works structures following the occurrence of significant earthquakes. It primarily concerns damage surveys following the occurrences of earthquakes.

(b) **Applicability.** This regulation is applicable to all field operating agencies having Civil Works responsibilities.

(c) **References.** (1) ER 1110-2-100 (§ 222.2).

(2) ER 1110-2-1806.

(3) ER 1110-2-8150.

(4) ER 1130-2-419.

(5) State-of-the-Art for Assessing Earthquake Hazards in the United States—WES Miscellaneous Papers S-73-1—Reports 1 thru 14. Available from U.S. Army Engineer Waterways Experiment Station, P.O. Box 631, Vicksburg, Mississippi 39180.

(d) **Policy.** Civil Works structures which could be caused to fail or partially fail by an earthquake and whose failure or partial failure would endanger the lives of the public and/or cause substantial property damage, will be evaluated following potentially damaging earthquakes to insure their continued structural stability, safety and operational adequacy. These structures include dams, navigation locks, powerhouses, and appurtenant structures, (intakes, outlet works, buildings, tunnels, paved spillways) which are operated by the Corps of Engineers and for which the Corps is fully responsible. Also included are major levees, floodwalls, and similar facilities designed and constructed by the Corps of Engineers and for whose structural safety and stability the Corps has a public obligation to be aware of although not responsible for their maintenance and operation. The evaluation of these structures will be based upon post-earthquake inspections which will be conducted to detect conditions of significant structural distress and to provide a basis for timely initiation of restorative and remedial measures.

(e) **Post-Earthquake Inspections and Evaluation Surveys.** (1) **Limitations of Present Knowledge.** The design of

structures for earthquake loading is limited by the infrequent opportunity to compare actual performance with the design. Damage which would affect the function of the project is unlikely if peak accelerations are below 0.1g; but it cannot be assumed that a structure will not be damaged from earthquake loadings below that for which it was designed. Furthermore, earthquakes have occurred in several parts of the country where significant seismic activity had not been predicted by some seismic zoning maps. This indicates the possibility that earthquake induced loads may not have been adequately considered in the design of older structures.

(2) **Types of Reportable Damage.** Many types of structural damage can be induced by ground motion from earthquakes or from large nuclear blasts (which also tend to induce ground vibrations in the more damaging lower frequency ranges). Any post-earthquake change in appearance or functional capability of a major Civil Works structure should be evaluated and reported. Examples are symptoms of induced stresses in buildings made evident by cracked plaster, windows or tile, or in binding of doors or windows; cracked or shifted bridge pier footings or other concrete structures; turbidity or changed static level of water wells; cracks in concrete dams or earth embankments; and misalignment of hydraulic control structures or gates. Induced dynamic loading on earth dams may result in loss of freeboard by settlement, or cause localized quick conditions within the embankment sections or earth foundations. Also, new seepage paths may be opened up within the foundation or through the embankment section. Ground motion induced landslides may occur in susceptible areas of the reservoir rim, causing embankment overtopping by waves and serious damage. All such unusual conditions should be evaluated and reported.

(f) **Inspection and Evaluation Programs.** (1) If the project is located in an area where the earthquake causes significant damage (Modified Mercalli Intensity VII or greater) to structures in the vicinity, the Chief, Engineering Division, should be immediately notified and an engineering evaluation and inspection team should be sent to the project.

(2) If the project is located in an area where the earthquake is felt but causes no or insignificant damage (Modified Mercalli Intensity VI or less) to structures in the vicinity of the project, project operations personnel should

make an immediate inspection. This inspection should determine (1) whether there is evidence of earthquake damage or disturbance, and (2) whether seismic instrumentation, where present, has been triggered. The Chief, Engineering Division should be notified by phone of the results of the inspection. If damage is observed, which is considered to threaten the immediate safety or operational capability of the project, immediate action should be taken as covered in paragraph f(1) of this section. For other situations, the Chief of Engineering Division will determine the need for and urgency for an engineering inspection.

(3) When an engineering inspection of structures is deemed necessary following a significant earthquake, HQDA (DAEN-CWE) WASH DC 20314 will be notified of the inspection program as soon as it is established.

(4) As a general rule, the structures which would be of concern following an earthquake are also the structures which are involved in the inspection program under ER 1110-2-100. Whenever feasible, instrumentation and prototype testing programs undertaken under ER 1110-2-100 to monitor structural performance and under ER 1110-2-8150 to develop design criteria will be utilized in the post-earthquake safety evaluation programs. Additional special types of instrumentation will be incorporated in selected structures in which it may be desirable to measure forces, pressures, loads, stresses, strains, displacements, deflections, or other conditions relating to damage and structural safety and stability in case of an earthquake.

(5) Where determined necessary, a detailed, systematic engineering inspection will be made of the post-earthquake condition of each structure, taking into account its distinctive features. For structures which have incurred earthquake damage a formal technical report will be prepared in a format similar to inspection reports required under ER 1110-2-100. (Exempt from requirements control under paragraph 7-2b, AR 335-15.) The report will include summaries of the instrumentation and other observation data for each inspection, for permanent record and reference purposes. This report will be used to form a basis for major remedial work when required. Where accelerometers or other types of strong motion instruments have been installed, readings and interpretations from these instruments should also be included in the report. The report will contain recommendations for remedial work when appropriate, and will be

transmitted through the Division Engineer for review and to HQDA (DAEN-CWE) WASH DC 20314 for review and approval. For structures incurring no damage a simple statement to this effect will be all that is required in the report, unless seismic instrumentation at the project is activated. (See paragraph h(4) of this section.)

(g) **Training.** The dam safety training program covered by paragraph 6 of ER 1130-2-419 should include post-earthquake inspections and the types of damage operations personnel should look for.

(h) **Responsibilities.** (1) The Engineering Divisions of the District offices will formulate the inspection program, conduct the post-earthquake inspections, process and analyze the data of instrumental and other observations, evaluate the resulting condition of the structures, and prepare the inspection reports. The Engineering division is also responsible for planning special instrumentation felt necessary in selected structures under this program. Engineering Division is responsible for providing the training discussed in paragraph (g) of this section.

(2) The Construction Divisions of the District offices will be responsible for the installation of the earthquake instrumentation devices and for data collection if an earthquake occurs during the construction period.

(3) The Operations Division of the District offices will be responsible for the immediate assessment of earthquake damage and notifying the Chief, Engineering Division as discussed in paragraphs f (1) and (2). The Operations Division will also be responsible for earthquake data collection after the construction period in accordance with the instrumental observation programs, and will assist and participate in the post-earthquake inspections.

(4) The U.S. Geological Survey has the responsibility for servicing and collecting all data from strong motion instrumentation at Corps of Engineers dam projects following an earthquake occurrence. However, the U.S. Army Waterways Experiment Station (WES) is assigned the responsibility for analyzing and interpreting these earthquake data. Whenever a recordable earthquake record is obtained from seismic instrumentation at a Corps project, the Division will send a report of all pertinent instrumentation data to the Waterways Experiment Station, ATTN: WESGH, P.O. Box 631, Vicksburg, Mississippi 39180. The report on each project should include a complete description of the locations

and types of instruments and a copy of the instrumental records from each of the strong motion machines activated. (Exempt from requirements control under paragraph 7-2v, AR 335-15).

(5) The Engineering Divisions of the Division offices will select structures for special instrumentation for earthquake effects, and will review and monitor the data collection, processing, evaluating, and inspecting activities. They will also be specifically responsible for promptly informing HQDA (DAEN-CWE) WASH DC 20314, when evaluation of the condition of the structure or analyses of the instrumentation data indicate the stability of a structure is questionable. (Exempt for requirements control under paragraph 7-2o, AR 335-15.)

(6) Division Engineers are responsible for issuing any supplementary regulations necessary to adapt the policies and instructions herein to the specific conditions within their Division.

(i) **Funding.** Funding for the evaluation and inspection program will be under the Appropriation 96X3123, Operations and Maintenance, General. Funds required for the inspections, including Travel and Per Diem costs incurred by personnel of the Division office or the Office, Chief of Engineers, will be from allocations made to the various projects for the fiscal year in which the inspection occurs.

Pub. L. 738, 74th Congress, 49 Stat. 1570 (33 U.S.C. 701b); Pub. L. 685, 75th Congress, 52 Stat. 802 (33 U.S.C. 540); Pub. L. 92-367, 86 Stat. 506 (33 U.S.C. 467 et seq.)

Source: ER 1100-2-1802.

Dated: July 16, 1979.

Forrest T. Gay, III,

Colonel, Corps of Engineers Executive Director, Engineer Staff.

[FR Doc. 79-22612 Filed 7-24-79; 8:45 am]

BILLING CODE 3710-92-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 2740 and 2910

[Circular No. 2450]

Land Resource Management (2000); Recreation and Public Purposes Act

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking updates the Recreation and Public Purposes Act regulations to reflect the amendments of that Act made by section 212 of the Federal Land Policy and Management Act of 1976 and other changes. Section

212 requires that certain additional criteria be met prior to approving applications, makes changes in the acreage limitations and provides that patents and leases for recreational purposes be made without monetary consideration.

DATE: Effective August 24, 1979.

ADDRESS: Any comments and inquiries should be sent to: Director (320), Bureau of Land Management, 1800 C Street N.W., Washington, D.C. 20420.

FOR FURTHER INFORMATION CONTACT: Mathew Millenbach (202) 343-8731.

SUPPLEMENTARY INFORMATION: The proposed rulemaking on this subject was published in the Federal Register on January 12, 1979 (44 FR 2620). A 60 day comment period was provided. Ten written comments were received during the comment period and were considered in the preparation of this final rulemaking. Eight of the comments were from State governments or agencies and two comments were from Federal agencies. The comments were favorable to the rulemaking, but a number of questions were raised concerning the implementation of its provisions. Several commented that the rulemaking would carry out the intent of Congress and provide an easier process for the acquisition of Federal lands by State and local governments and agencies for the uses specified. One comment questioned whether Federal lands that had been identified because of their special values could be disposed of under the rulemaking. Any Federal lands that meet the criteria of the rulemaking can be disposed of. However, it is highly unlikely that a finding would be made during the decisionmaking process that it would be in the public interest to dispose of such lands unless they were to continue in the same important use. The final rulemaking provides adequate protection to those Federal lands having special designated uses. Further, the danger is lessened by the fact that this rulemaking covers disposals for recreational and public purposes, and only to States and their political subdivisions or nonprofit corporations and associations.

One comment asked what impact the wilderness inventory process now ongoing within the Bureau of Land Management would have on disposals under this rulemaking. Any lands included in wilderness study areas and recommended for inclusion in the Wilderness System will not be available for disposal until Congress has made a decision on the matter.

Another comment expressed the opinion that recreational pursuits connected with wildlife activities should be included in the broader definition of recreational uses and qualified to receive the 6,400 acre entitlement. Section 2741.6 is in conformance with the provisions of the Recreation and Public Purposes Act, as amended, and the suggested comment has not been adopted.

One comment suggested that the statements in the "Summary" and "Supplementary Information" sections did not fully describe the contents of the proposed rulemaking. The two sections, when read in conjunction with the proposed rulemaking, give the public full notice of what the proposed rulemaking is intended to accomplish. Another comment from the same source, questioned the imposition of additional reverter provisions in § 2741.8 of the proposed rulemaking. The reverter provisions have been carefully studied and are proper conditions under a disposal made pursuant to the Recreation and Public Purposes Act, as amended. No change has been made in the section.

A comment pointed out that § 2912.1-1(c) makes no provision for notice and hearing in connection with a revocation or suspension of "any instrument providing for use, occupancy or development of public lands," as provided in section 302(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732). This suggestion has been adopted and § 2912.1-1(c) has been amended to provide for notice and opportunity for a hearing.

Another comment questioned the provision of § 2912.4-2(a) that authorized the amendment of existing leases to comply with the provisions of this rulemaking. This provision is designed to bring existing leases into conformance with the amendments to the Recreation and Public Purposes Act, as well as, other changes made by this final rulemaking. This is a proper authority and no change has been made in the section.

One comment expressed concern that the lands that would be disposed of under this final rulemaking would not be adequately considered under procedures covering the preservation and enhancement of sites and structures of historic, architectural or archeological significance. Prior to a conveyance under the provisions of this final rulemaking, lands will be considered under either the Bureau of Land Management's land use planning system or a decision document that would result in classification of the lands for

disposal, or both. These processes will include a cultural inventory to protect the cultural values.

A change made after studying the proposed rulemaking was the insertion of the word "sex" in § 2741.8. This change was made to correct an oversight in the non-discrimination provision. Another change designed to rectify an omission was the addition of the words "Aleuts, and Eskimos", after the word "Indians" in § 2741.1(a). The amended wording of the rulemaking is now the same as the wording in the definition of "public lands" in the Federal Land Policy and Management Act.

Finally, a change was made in § 2912.1-1(d) to make it clear that leases, as well as conveyances, issued to a State, county, or other State or Federal instrumentality or political subdivision for recreational or historic-monument purposes shall be made without monetary consideration. This amendment is in accord with section 212 of the Federal Land Policy and Management Act, and was inadvertently omitted from the proposed rulemaking.

Editorial and language changes needed to clarify the final rulemaking have been made.

The principal author of this final rulemaking is Mathew Millenbach, Division of Lands and Realty, assisted by the staff of the Division of Legislation and Regulatory Management, Bureau of Land Management.

The Department of the Interior has determined that this document is not a significant regulatory action requiring the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Under the authority of the Recreation and Public Purposes Act, as amended, (43 U.S.C. 865 et seq.), Parts 2740 and 2910, Groups 2700 and 2900, Subchapter B, Chapter II, Title 43 of the Code of Federal Regulations are revised as set forth below.

Guy R. Martin,

Assistant Secretary of the Interior.

July 19, 1979.

1. Part 2740 is revised to read as follows:

PART 2740—RECREATION AND PUBLIC PURPOSES ACT

Subpart 2740—Recreation and Public Purposes Act: General

Sec.

- 2740.0-1 Purpose.
- 2740.0-2 Objective.
- 2740.0-3 Authority.
- 2740.0-5 Definitions.
- 2740.0-6 Policy.
- 2740.0-7 Cross reference.

Subpart 2741—Recreation and Public Purposes Act: Requirements

Sec.

- 2741.1 Lands subject to disposition.
- 2741.2 Qualified applicants.
- 2741.3 Applications.
- 2741.4 Guidelines for conveyances and leases under the act.
- 2741.5 Applications for transfer of title or change of use.
- 2741.6 Acreage limitations and general conditions.
- 2741.7 Price.
- 2741.8 Patent provisions.

Authority: Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.).

Subpart 2740—Recreation and Public Purposes Act: General

§ 2740.0-1 Purpose.

These regulations provide guidelines and procedures for transfer of certain public lands under the Recreation and Public Purposes Act as amended (43 U.S.C. 869 et seq.), to States or their political subdivisions, and to nonprofit corporations and associations, for recreational and public purposes.

§ 2740.0-2 Objective.

The objective is to meet the needs of certain State and local governmental agencies and other qualified organizations for public lands required for recreational and public purposes.

§ 2740.0-3 Authority.

(a) The Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.), commonly known as the Recreation and Public Purposes Act, authorizes the Secretary of the Interior to lease or convey public lands for recreational and public purposes under specified conditions.

(b) Section 211 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1721), authorizes the Secretary of the Interior to convey to States or their political subdivisions unsurveyed islands determined by the Secretary to be public lands of the United States and "omitted lands" under the Recreation and Public Purposes Act without regard to acreage limitations contained in the Act.

§ 2740.0-5 Definitions.

As used in this part, the term:

(a) "Act" means the Recreation and Public Purposes Act as amended by section 212 of the Federal Land Policy and Management Act of 1976.

(b) "Authorized officer" means any employee of the Bureau of Land Management who has been delegated

the authority to perform the duties described in this part.

(c) "Public lands" means any lands and interest in lands administered by the Bureau of Land Management, except lands located on the Outer Continental Shelf and lands held for the benefit of Indians, Aleuts and Eskimos.

§ 2470.0-6 Policy.

(a) To assure development of public lands in accordance with a development plan and compliance with an approved management plan, the authorized officer may require that public lands first be leased under the provisions of subpart 2912 of this title for a period of time prior to issuance of a patent.

(b) Municipal corporations may not secure public lands under this act which are not within convenient access to the municipality and within the same State as the municipality. Other qualified governmental applicants may not secure public lands outside their political boundaries or other area of jurisdiction.

§ 2740.0-7 Cross references.

(a) Requirements and procedures for conveyance of land under the Recreation and Public Purposes Act are contained in Subpart 2741 of this chapter.

(b) Requirements and procedures for leasing of land under the Recreation and Public Purposes Act are contained in Subpart 2912 of this title.

(c) Requirements and procedures for conveyance of unsurveyed islands and omitted lands under Section 211 of the Federal Land Policy and Management Act are contained in Subpart 2742 of this chapter.

Subpart 2741—Recreation and Public Purposes Act: Requirements

§ 2741.1 Lands subject to disposition.

(a) The act is applicable to any public lands except (1) lands withdrawn or reserved for national forests, national parks and monuments, and national wildlife refuges, (2) Indian lands and lands set aside or held for use by or for the benefit of Indians, Aleuts and Eskimos, and (3) lands which have been acquired for specific purposes.

(b) Revested Oregon and California Railroad grant lands and reconveyed Coos Bay Wagon Road grant lands may only be leased to States and counties and to State and Federal instrumentalities and political subdivisions and to municipal corporations.

(c) Section 211 of the Federal Land Policy and Management Act of 1976 does not apply to public lands within

the National Forest System, defined in the Act of August 17, 1974 (16 U.S.C. 1601), the National Park System, the National Wildlife Refuge System and the National Wild and Scenic Rivers System.

§ 2741.2 Qualified applicants.

Applications for any recreational or public purpose may be filed by States, Federal and State instrumentalities and political subdivisions, including counties and municipalities, and nonprofit associations and nonprofit corporations that, by their articles of incorporation or other authority, are authorized to acquire land.

§ 2741.3 Applications.

(a) Applications shall be submitted on forms approved by the Director, Bureau of Land Management.

(b) Each application shall be accompanied by three copies of a statement describing the proposed use of the land. The statement shall show that there is an established or definitely proposed project for such use of the land, present detailed plan and schedule for development of the project and a management plan which includes a description of how any revenues will be used. The provisions of § 1821.2 of this title apply to filings pursuant to this section.

§ 2741.4 Guidelines for conveyances and leases under the act.

(a) Public lands shall be conveyed or leased under the act only for an established or definitely proposed project for which there is a reasonable timetable of development and satisfactory development and management plans.

(b) No public lands having national significance shall be conveyed pursuant to the act.

(c) No more public lands than are reasonably necessary for the proposed use shall be conveyed pursuant to the act.

(d) For proposals involving over 640 acres, public lands shall not be sold or leased pursuant to this act until:

(i) Comprehensive land use plans and zoning regulations for the area in which the lands are located have been adopted by the appropriate State or local authorities.

(ii) The authorized officer has held at least one public meeting on the proposal.

(e) Applications shall not be approved unless and until it has been determined that disposal under the act would serve the national interest following the planning requirements of section 202 of

the Federal Land Policy and Management Act (43 U.S.C. 1712).

(f) Public lands may be determined to be suitable for lease or sale under the act by the authorized officer on his own motion as a result of demonstrated public needs for public lands for recreational or public purposes during the planning process described in section 202 of the Federal Land Policy and Management Act. Potential applicants should contact the authorized officer and furnish him with conceptual plans of the proposed use early in the planning process so that he can plan for the proposed use of the public lands.

(g) lands under the jurisdiction of another agency shall not be determined to be suitable for lease or sale without that agency's approval.

(h) the issuance of a notice that public lands are suitable for sale or lease under the act and are classified as such shall segregate such public lands from all other appropriations, including locations under the mining laws, except as provided in the notice of an amendment thereof. If no application is filed within 18 months after issuance of the notice, the segregation shall be automatically vacated and the public lands restored to their former status.

(i) Patents shall not be issued for sanitary landfill sites, unless it can be shown that when the usefulness of the lands for landfill purposes ends, the land shall be used for recreation or other public purposes as provided in the approved development plan. The land shall be leased until the sanitary landfill has been filled and the subsequent development has been completed.

(j) The act shall not be used to provide sites for the disposal of permanent or long-term hazardous wastes.

§ 2741.5 Applications for transfer or change of use.

(a) Applications under the act for permission to add to or change the use specified in a patent or applications to transfer title to a third party shall be filed as prescribed in § 2741.3 of this title.

(b) Applications for transfer of title are subject to the acreage limitations as prescribed in § 2741.6(a) of this title.

(c) Prior to approval of an application filed under this section, the public lands may be reappraised in accordance with § 2741.7 of this title and the beneficiary required to make such payments as are found justified by the reappraisal.

2741.6 Acreage limitations and general conditions.

(a) Conveyances under the act to any applicant in any one calendar year shall be limited as follows:

(1) Any State or State agency having jurisdiction over the State park system may acquire not more than 6,400 acres for recreational purposes and such additional acreage as may be needed for small roadside parks and rest sites of 10 acres or less each.

(2) Any State or agency or instrumentality of such State may acquire not more than 640 acres for each of its programs involving public purposes other than recreation.

(3) Any political subdivision of a State may acquire for recreational purposes not more than 6,400 acres, and for public purposes other than recreation an additional 640 acres. In addition, any political subdivision of a State may acquire such additional acreage as may be needed for roadside parks and rest sites of not more than 10 acres each.

(4) If a State or political subdivision has failed in any one calendar year to receive 6,400 acres (not counting public lands for small roadside parks and rest sites) and had an application on file on the last day of that year, the State, State park agency or political subdivision may receive additional public lands to the extent that the conveyances would not have exceeded the limitations for that year.

(5) Any nonprofit corporation or nonprofit association may acquire for recreational purposes not more than 640 acres and for public purposes other than recreation an additional 640 acres.

(6) Acreage limitations described in this section do not apply to conveyances made under section 211 of the Federal Land Policy and Management Act of 1976.

(b) Conveyances within any State shall not exceed 25,600 acres for recreational purposes per calendar year, except that should any State park agency or political subdivision fail in one calendar year to receive 6,400 acres other than small roadside parks and rest sites, additional conveyances may be made thereafter to that State park agency or political subdivision pursuant to any application on file on the last day of said year to the extent that the conveyances would not have exceeded the limitations of said year.

(c) No patents shall be issued under the act unless and until the public lands are officially surveyed. This requirement does not apply to islands patented under the authority of section 211(a) of the

Federal Land Policy and Management Act of 1976.

(d) All leases and patents issued under the act shall reserve to the United States all minerals together with the right to mine and remove the same under applicable laws and regulations to be established by the Secretary of the Interior.

§ 2741.7 Price.

(a) Conveyances for recreational or historic-monument purposes to a State, county, or other State or Federal instrumentality or political subdivision shall be issued without monetary consideration.

(b) All other conveyances shall be made at prices established by the Secretary of the Interior through appraisal or otherwise, taking into consideration the purpose for which the land is to be used.

(c) Patents shall be issued only after payment of the full purchase price by a patent applicant.

§ 2741.8 Patent provisions.

(a) All patents under the act shall provide that title shall revert upon a finding, after notice and opportunity for a hearing, that, without the approval of the authorized officer:

(i) The patentee or its approved successor attempts to transfer title to or control over the lands to another;

(ii) The lands have been devoted to a use other than that for which the lands were conveyed;

(iii) The lands have not been used for the purpose for which they were conveyed for a 5-year period; or

(iv) The patentee has failed to follow the approved development plan or management plan.

(b) Patents shall also provide that the Secretary of the Interior may take action to revert title in the United States if the patentee directly or indirectly permits his agents, employees, contractors, or subcontractors (including without limitation lessees, sublessees, and permittees) to prohibit or restrict the use of any part of the patented lands or any of the facilities thereon by any person because of such person's race, creed, color, sex or national origin.

PART 2910—LEASES

2. Subpart 2912 is revised to read as follows:

Subpart 2912—Recreation and Public Purposes Act

Sec.
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Authority: Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.)

Subpart 2912—Recreation and Public Purposes Act

§ 2912.0-7 Cross reference.

The general requirements and procedures under the Recreation and Public Purposes Act are contained in part 2740 of this title.

§ 2912.1 Nature of Interest.

§ 2912.1-1 Terms and conditions of lease.

(a) The term of leases under the Recreation and Public Purposes Act, hereafter referred to as "the Act," shall be fixed by the authorized officer but shall not exceed 20 years for nonprofit associations and nonprofit corporations, and 25 years for Federal, State, and local governmental entities. A lease may contain, at the discretion of the authorized officer, a provision giving the lessee the privilege of renewing the lease for a like period.

(b) Leases shall be issued on a form approved by the Director, Bureau of Land Management and shall contain terms and conditions required by law, and public policy, and which the authorized officer considers necessary for the proper development of the land, for the protection of Federal property, and for the protection of the public interest.

(c) Leases shall be terminable by the authorized officer upon failure of the lessee to comply with the terms of the lease, upon a finding, after notice and opportunity for hearing, that all or part of the land is being devoted to a use other than the use authorized by the lease, or upon a finding that the land has not been used by the lessee for the purpose specified in the lease for any consecutive period specified by the authorized officer. The specified period of non-use or unauthorized use shall not be less than 2 years nor more than 5 years.

(d) Reasonable annual rentals shall be established by the Secretary of the Interior and shall be payable in advance. Upon notification of the amount of the yearly rental, a lease applicant shall be required to pay at least the first year's rental before the lease shall be issued. Upon the voluntary relinquishment of a lease before the expiration of its term, any rental paid for the unexpired portion of the term shall be returned to the lessee

upon a proper application for repayment to the extent that the amount paid covers a full lease year or years of the remainder of the term of the original lease. Leases for recreational or historic-monument purposes to a State, county or other State or Federal instrumentality or political subdivision shall be issued without monetary consideration.

(e) Leases are not transferable except with the consent of the authorized officer. Transferees shall have all the qualifications of applicants under the Act and shall be subject to all the terms and conditions of the regulations in this part.

(f) A lessee shall not be permitted to cut timber from the leased lands without prior permission from the authorized officer.

(g) All leases shall reserve to the United States all minerals together with the right to mine and remove the same under applicable laws and regulations to be established by the Secretary of the Interior.

§ 2912.2 Renewal of leases.

A lessee with a privilege of renewal must notify the authorized officer at least 180 days before the end of the lease period that it will exercise the privilege.

§ 2912.3 Substitution of a new lease.

A lessee may apply for a new lease at any time. Applications for new leases shall be accompanied by consent of the lessee to cancellation of the existing lease upon the issuance of the new lease and by three copies of a statement showing (a) the need for a new lease and (b) any changes in the use or management of the lands or the terms and conditions of the lease which the applicant desires.

§ 2912.4 Leases for solid waste disposal sites.

§ 2912.4-1 Requirement.

Compliance with *Guidelines for the Thermal Processing of Solid Wastes* (40 CFR Part 240), *Guidelines for the Land Disposal of Solid Waste* (40 CFR Part 241), and *Regulations for the Acceptance of Certain Pesticides and Recommended Procedures for the Disposal and Storage of Pesticides and Pesticide Containers* (40 CFR Part 165), and any other regulations or guidelines promulgated pursuant to the Resource Conservation and Recovery Act of 1976 (43 U.S.C. Chapter 82) is required under leases issued for purposes involving disposal of solid waste.

§ 2912.4-2 Procedures.

(a) All new leases shall contain stipulations requiring compliance with the above-referenced regulations and guidelines. Leases and respective plans of development and management already in existence without such specific stipulations shall be amended to require compliance with the above guidelines be lessees. In all cases, the lease must stipulate that failure to comply with the regulations and guidelines shall constitute sufficient grounds for cancellation of the lease.

(b) Lease applications shall include in the plan of development and management detailed description of the methods and procedures that will be employed to achieve compliance with the above regulations and guidelines. The regulations and guidelines delineate minimum standards of performance that must be followed. The recommended methods and procedures in the guidelines are means whereby the requirements may be met. Alternate methods and procedures may be used in meeting the requirements when approved by the authorized officer.

[FR Doc. 79-22823 Filed 7-24-79; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 5670

[U-36534]

Utah; Powersite Restoration No. 752; Partial Revocation of Powersite Reserves No. 42 and No. 732

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: This order partially revokes Powersite Reserves No. 42 and No. 732. The lands to be revoked remain withdrawn under the jurisdiction of the Bureau of Reclamation. The purpose of this order is to clear the official public land status records.

EFFECTIVE DATE: July 25, 1979.

FOR FURTHER INFORMATION CONTACT: Keith Corrigan, 202-343-8731.

By virtue of the authority contained in section 204 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2751; 43 U.S.C. 1714), it is ordered as follows:

1. The Secretary's Order of August 27, 1909, creating temporary Powersite Reserve No. 42, and the Executive Order of December 27, 1919, creating Powersite Reserve No. 732 are hereby revoked so far as they affect the following described lands:

Salt Lake Meridian

T. 5 S., R. 23 E.,
Sec. 11, lot 1, NW¼NE¼, S¼NE¼,
NE¼SE¼;
Sec. 12, lots 3, 10 to 13, inclusive, 18,
SW¼SW¼;
Sec. 13, N¼NE¼, NE¼NW¼.

The areas described aggregate approximately 448.61 acres in Uintah County.

2. All of the above described lands are presently withdrawn by the Secretary's Order of May 6, 1942, for use of the Bureau of Reclamation.

July 18, 1979.

Guy R. Martin,

Assistant Secretary of the Interior.

[FR Doc. 79-22891 Filed 7-24-79; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

50 CFR Part 32

Hunting; Certain National Wildlife Refuges in Nevada

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening of hunting of certain National Wildlife Refuges in Nevada is compatible with the objectives for which these areas were established, will utilize a renewable national resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming hunting seasons for migratory birds, upland game and big game.

EFFECTIVE DATES: August 18, 1979, through June 30, 1980.

FOR FURTHER INFORMATION CONTACT: The Refuge Manager at the address or telephone number listed below in the body of Special Regulations.

General Conditions

Hunting on portions of the following refuges shall be in accordance with applicable State and Federal regulations, subject to additional Special Regulations and conditions as indicated. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. Special conditions applying to individual refuges are listed on the reverse side of maps available at refuge headquarters. No vehicle travel is permitted except on designated roads and trails.

§ 32.12 Special Regulations: Migratory Game Birds; for individual wildlife refuge areas.

Migratory game birds may be hunted on the following refuges:

Fallon National Wildlife Refuge, P.O. Box 1236, Fallon, Nevada 89406, telephone (702) 423-5128.

Stillwater Wildlife Management Area, P.O. Box 1236, Fallon, Nevada 89406, telephone (702) 423-5128.

Pahronagat National Wildlife Refuge, P.O. Box 445, Alamo, Nevada 89001, telephone (702) 725-3417.

Special Conditions: 1. Boats without motors or other flotation devices are permitted on the refuge hunting area only during the migratory waterfowl hunting season.

2. Refuge closed to goose and snipe hunting.

3. Special dove hunting regulations are in effect opening day through the following Monday. All dove hunters, 14 years or older, must have a refuge permit during this period.

Ruby Lake National Wildlife Refuge, Ruby Valley, Nevada 89833, telephone (702) 779-2237.

Special Conditions: Migratory game birds, except doves and pigeons, may be hunted.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Upland game may be hunted on the following refuge areas:

Fallon National Wildlife Refuge, P.O. Box 592, Fallon, Nevada 89406, telephone (702) 423-5128.

Pahronagat National Wildlife Refuge, P.O. Box 232, Alamo, Nevada 89001, telephone (702) 725-3417.

Special Condition: Quail and cottontail rabbit only may be hunted.

Sheldon National Wildlife Refuge, Nevada Headquarters: P.O. Box 111, Lakeview, Oregon 97630, telephone (503) 947-3315.

Stillwater Wildlife Management Area, P.O. Box 1236, Fallon, Nevada 89406, telephone (702) 423-5128.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Big game animals may be hunted on the following refuge areas:

Desert National Wildlife Range, 1500 North Decatur Boulevard, Las Vegas, Nevada 89108, telephone (702) 878-9617.

Special Condition: Desert bighorn sheep only may be hunted.

Sheldon National Wildlife Refuge, Nevada Headquarters: P.O. Box 111, Lakeview, Oregon 97630, telephone (503) 947-3315.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of

the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

The primary author of this document is Lynn C. Howard, Sacramento Area Office, telephone FTS 468-4771, com'l (916) 484-4771.

Dated: July 13, 1979.

William Sweeney,

Area Manager—California-Nevada, U.S. Fish and Wildlife Service.

[FR Doc. 79-22893 Filed 7-24-79 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 32

Hunting; Clear Lake National Wildlife Refuge, Calif.

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Special Regulations.

SUMMARY: The Director has determined that the opening to hunting of Clear Lake National Wildlife Refuge in California is compatible with the objectives for which this area was established, will utilize a renewable national resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming hunting seasons for big game.

EFFECTIVE DATES: August 25, 1979 through September 3, 1979.

FOR FURTHER INFORMATION CONTACT: The Refuge Manager at Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tule Lake, California 96134, Telephone number (916) 667-2231.

General Conditions

Hunting on portions of the Clear Lake refuge shall be in accordance with applicable State and Federal regulations, subject to additional Special Regulations and conditions as indicated. Portions of the refuges which are open to hunting are designated by signs and/or delineated on maps. Special conditions applying to the refuge are listed on the reverse side of maps available at refuge headquarters at Tule Lake. No vehicle travel is permitted except on designated roads and trails.

§ 32.32 Special Regulations; big game; for individual wildlife refuge areas.

Clear Lake National Wildlife Refuge. Special Conditions: 1. Antelope only may be hunted and only during the period specified by California State Hunting Regulations.

2. Only five hunters shall be allowed on the Peninsula "U" section at any one time, on a first-come first-served basis. Entrance will be granted only at the gate located on the Clear Lake Road. This gate will be closed when the kill quota is reached even though the season may still be open.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; (2) and that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Clear Lake National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring

preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

The primary author of this document is Lynn C. Howard, Sacramento Area Office; Telephone FTS 468-4771, com'l (916) 484-4771.

Dated: July 13, 1979.

William Sweeney,

Area Manager, California-Nevada, U.S. Fish and Wildlife Service.

[FR. Doc. 79-22092 Filed 7-24-79; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register

Vol. 44, No. 144

Wednesday, July 25, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[7 CFR Subtitle A]

Title IV, Agricultural Credit Act of 1978; Regulations To Govern Emergency Conservation Programs

AGENCY: Department of Agriculture.

ACTION: Advance Notice of Proposed Rulemaking and Request for Public Comment.

SUMMARY: The Department of Agriculture gives advance notice of forthcoming decisions leading to the implementation of Title IV of the Agricultural Credit Act of 1978, Pub. L. 95-334.

DATE: Comments and suggestions should be submitted on or before August 8, 1979.

ADDRESS: Comments and suggestions should be addressed to Mr. Arnold Miller, Office of the Secretary, Department of Agriculture, Room 117-A, Washington, D.C. 20250, (202) 447-3465.

FOR FURTHER INFORMATION CONTACT: Mrs. Oneida Darley, Assistant to the Deputy Secretary, Room 200-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6158.

SUPPLEMENTARY INFORMATION: Title IV of the Agricultural Credit Act of 1978 authorizes certain emergency conservation programs to control wind erosion, rehabilitate agricultural lands, conserve and enhance water supplies and to reduce hazards to life and property in the event of natural disasters. Forthcoming decisions will include those related to developing regulations to govern the programs authorized by Title IV.

The Secretary has directed that implementation of the programs authorized by Title IV be carried out with a view toward ensuring that they are efficiently administered, uniformly responsive in emergencies, and limited

to practices and measures that are environmentally and economically supportable. In order to achieve these goals, public comment is requested on such issues as: (1) The criteria to be applied in determining whether assistance under the Act will be provided; (2) whether there should be any fixed monetary limitations on the program assistance, and if so, the amount thereof; and (3) the kinds of measures or practices for which assistance will be provided.

Full implementation of the Title IV programs is conditioned upon the appropriation of funds to carry out those authorities.

Section 401 authorizes a program similar to the emergency conservation measures program currently administered by the Agricultural Stabilization and Conservation Service (ASCS). Section 402 authorizes a program similar to the drought and flood conservation program administered by ASCS in 1977. Section 403 authorizes a program similar to the emergency watershed protection program (Section 216) currently administered by the Soil Conservation Service.

Comments and suggestions made in response to this notice should be received by August 8, 1979, in order to be sure of receiving consideration in connection with development of the proposed rules.

Dated: July 20, 1979.

Jim Williams,

Deputy Secretary.

[FR Doc. 79-23015 Filed 7-24-79; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

[7 CFR Part 1099]

[Docket No. AO-183-A36]

Milk in the Paducah, Ky., Marketing Area; Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and To Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends changes in order provisions to allow more milk to move directly from farms

to manufacturing plants when not needed for fluid milk (bottling) uses. This recommended action is based on a dairy farmer cooperative association's proposal considered at a public hearing held June 22, 1979. These changes are needed to reflect current marketing conditions and to permit added efficiencies in disposing of the market's reserve milk supplies.

DATE: Comments are due on or before August 16, 1979.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-4829.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of Hearing—Issued June 4, 1979; published June 7, 1979 (44 FR 32708).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Paducah, Kentucky, marketing area. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, DC 20250, by the 10th day after publication of this decision in the Federal Register. The period for filing exceptions is being limited to 10 days because of the need for amending the order by September 1, 1979. A longer filing period might preclude amending the order by that date.

The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at

the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing conducted at Paducah, Kentucky, on June 22, 1979. Notice of such hearing was issued June 4, 1979 (44 FR 32708).

The material issue on the record of the hearing relates to diversions of producer milk.

Findings and Conclusions

The following findings and conclusions on the material issue are based on evidence presented at the hearing and the record thereof:

Diversions of producer milk. The order should be amended to provide that a cooperative association may divert to nonpool plants up to 33 percent of its member milk physically received at pool plants in the months of April through August and December, and 25 percent in other months. The same percentages also should apply to diversions to nonpool plants by a proprietary handler. The current limits are 25 percent in April through August and 15 percent in other months.

Dairymen, Inc. (DI), which represents a large proportion of producers supplying the market, proposed the changes adopted in this decision. No one opposed the proposal at the hearing or in briefs.

A spokesman for the cooperative testified that the order changes are needed to reflect changes in marketing conditions that have occurred during the past three years. Three changes in marketing conditions were cited to demonstrate the need for higher diversion limits. First, a distributing plant located in Paducah, Kentucky, closed during October 1976, resulting in a loss of Class I sales historically supplied by the cooperative. There now are only two plants in the market that receive and process milk for fluid purposes.

Second, the witness stated that one of the remaining plants now obtains a substantial portion of its milk supply from sources not historically associated with the Paducah market. Thus, another outlet normally supplied by DI was lost. Accordingly, he said, some milk of DI member producers that had been previously pooled on the Paducah order was shifted to plants regulated under other orders. He stated that DI currently pools 40 percent less milk on the Paducah order than it did before these changes took place. He maintained that even at this level of pooling, the cooperative finds it difficult to live within the current diversion limits.

The third change noted by the DI witness was the purchase by DI in 1977 of the fluid processing portion of a plant at Murray, Kentucky. The witness pointed out that the portion of the plant not purchased by DI now is defined as a nonpool plant. The impact of this change, he noted, was that the processing of Class II milk at this location is now in the nonpool portion of the facility. He indicated that under this arrangement milk moved from farms to the Class II operation must be treated as milk diverted from a pool plant if the milk is to remain in the pool. Otherwise, to maintain pool status the milk must first be received at the fluid milk plant and then be reloaded and moved to the adjacent nonpool plant as a transfer, according to the DI representative. He expressed his belief that of the three marketing changes cited this change had had the greatest impact upon the cooperative's ability to pool milk under the current diversion limits.

Proponent's witness maintained that in view of these changes, the current limits on diversions to nonpool plants are unduly limited and should be relaxed. According to the spokesman, receipts at the two remaining distributing plants vary considerably from day to day. He testified that each plant receives some milk each day, but that the daily amounts received vary from 10 percent to 18 percent of the weekly total. The spokesman stated that with only two fluid outlets remaining the cooperative now has less flexibility than before in shifting milk supplies among pool plants and thus needs to be able to divert more milk to nonpool plants in order to efficiently handle the reserve milk supplies needed to accommodate the daily and seasonal milk requirements of pool plants. He further maintained that the higher limits proposed would avoid future unnecessary and costly handling of milk just to maintain pool status for producers historically associated with the market.

The cooperative's witness also urged that the limit applicable to diversions during December be increased from 15 percent to 33 percent of receipts at pool plants. He contended that because of the Christmas holidays, the problem of disposing of milk not needed for fluid uses is just as acute in December as it is during any of the flush production months.

The proposed changes in the diversion provisions should be adopted. The evidence clearly establishes that conditions in the market have changed as described by the proponent, with the result that the cooperative has more

reserve milk than can be efficiently disposed of under current order provisions. DI has found it necessary several times during the past year to incur the costs of additional milk handling (receiving, unloading, reloading, reshipping) for the sole purpose of maintaining pool status for the milk.

The record also demonstrates that DI bears a major responsibility for balancing the market's supplies with the fluid milk needs of distributors. Milk from the cooperative's members accounts for about two-thirds of the total producer milk on the market. With only two distributing plants operating in the market, flexibility is limited for shifting milk away from plants where it is not needed for fluid use to other plants where it is needed.

Even though DI now pools about 40 percent less milk on the market than it did three years ago, the present diversion limits have created problems for the association in efficiently handling reserve milk supplies. At the cooperative's request, the Department suspended the 15 percent diversion limit for the months of November 1978 through March 1979. In each of those months, diversions to nonpool plants exceeded the amounts that could have been diverted absent the suspension.

Although the suspension had the effect of increasing the diversion limit to 25 percent, some milk in December 1978 still had to be received at a pool plant before being moved to a nonpool plant for surplus use in order to maintain pool status for the milk. Data show that for the 12 months of June 1978 through May 1979, the market's Class I utilization was lowest in May, June, July and December, ranging from 77.4 percent in July to 78.9 percent in May. December's utilization, therefore, is comparable to that for May, June and July and is lower than that for other months in which the higher diversion limits apply. The inclusion of December as a month in which greater diversions to nonpool plants would be allowed is warranted on the basis of the record.

Action to change the diversion limits as proposed will benefit DI in that some unloading, pumping, cooling, and reloading of milk can be eliminated. Since most of the milk DI diverts is delivered to essentially the same location as if it were first received and then transferred, transportation savings will be minimal. Nevertheless, the potential for DI and other handlers to save on hauling milk directly to surplus outlets at other locations in the future will be assured should the need arise.

Rulings on Proposed Findings and Conclusions

A brief and proposed findings and conclusions were filed by the proponent cooperative association. The brief, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth below.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Paducah, Kentucky, marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. In § 1099.13, paragraphs (c)(2) and (c)(3) are revised to read as follows:

§ 1099.13 Producer milk.

(c) * * *

(2) If diverted by a cooperative association for its account as milk of its members to nonpool plants which does not exceed 33 percent of the milk physically received from member producers of such cooperative association at pool plants during the month in any of the months of April through August and December and 25 percent in other months, except that if milk of members is diverted by the cooperative association in excess of the specified percentages, no milk diverted by the cooperative association during the month shall be producer milk unless the cooperative association designated the dairy farmers whose milk is not producer milk;

(3) If diverted by a handler in his capacity as the operator of a pool plant, as milk of a producer who is not a member of a cooperative association diverting milk pursuant to paragraph (c)(2) of this section, which does not exceed 33 percent of the aggregate quantity of milk received at such plant from such nonmember producers during the month in any of the months of April through August and December and 25 percent in other months, except that if milk of nonmember producers is diverted by the handler in excess of the specified percentages, no milk diverted by the handler during the month shall be producer milk unless the handler designated the dairy farmers whose milk is not producer milk; and

Note.—This action has not been determined significant under the USDA criteria implementing Executive Order 12044.

Signed at Washington, D.C., on: July 20, 1979.

Irving W. Thomas,
Acting Deputy Administrator, Marketing
Program Operations.

[FR Doc. 79-2380 Filed 7-24-79; 8:45 am]
BILLING CODE 3410-02-M

[7 CFR Part 1124]

Milk in the Oregon-Washington Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend certain order provisions relating to how much milk not needed for fluid (bottling) use may be moved directly from farms to manufacturing plants and still be priced under the order. The proposed suspension would remove the limit on

such movements of milk during the months of July and August 1979. The action was requested by four cooperative associations to assure the efficient disposition of milk not needed for fluid use and to maintain producer status under the order for their dairy farmer members regularly associated with the market.

DATE: Comments are due within 7 days after publication in the Federal Register.

ADDRESS: Comments (2 copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7183.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Oregon-Washington marketing area is being considered for the months of July and August 1979:

In the third sentence of paragraphs (a) and (b) of § 1124.11, the word "not".

All persons who want to comment on the proposed suspension should send two copies of them to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, on or before August 1, 1979.

The period for filing comments is limited because a longer period would not provide the time needed to complete the required procedures and include July 1979 in the suspension period.

The comments that are sent will be made available for public inspection at the Hearing Clerk's office during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed action would remove the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants during the months of July and August 1979. The order now provides that during any month a cooperative association may divert a total quantity of producer milk not in excess of the total quantity received during the month from all member producers at pool plants. Similarly, the operator of a pool plant may divert a total quantity of producer milk not in excess of the total quantity received from producers (for which the operator

of such plant is the handler during the month) at such pool plant.

Four cooperative associations representing a substantial number of producers on the market requested the suspension. The basis for the request is that current marketing conditions require the four associations to handle an increasing quantity of reserve milk supplies during July and August because the demand for milk supplies by their regular fluid outlets this summer is substantially below normal. They indicated that this situation is aggravated by the fact that milk production of their member producers is heavier than normal this summer.

The proponent cooperatives state that their reserve milk supplies are customarily moved directly from member farms to nonpool manufacturing plants. However, because of current marketing conditions, they expect their reserve milk supplies during July and August 1979 to exceed the quantity of producer milk that may be diverted to nonpool manufacturing plants under the order's present diversion limitations. Without the suspension, the cooperatives believe that a substantial part of the milk of their member producers who have regularly supplied the fluid market would have to be moved uneconomically first to pool plants and then to the nonpool manufacturing plants in order to still maintain producer status for such milk in July and August 1979.

Signed at Washington, D.C. on July 20, 1979.

Irving W. Thomas

Acting Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-22981 Filed 7-24-79; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Part 109]

Proposed Rules for Employment Authorization for Certain Aliens

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed Rule.

SUMMARY: The Immigration and Naturalization Service proposes to add a new Part to its regulations to codify the procedures and criteria for the grant of employment authorization to aliens in the United States. Service procedures for the grant of employment authorization are contained in several

different places in the Operations Instructions and in various informal policy statements directed at Service field offices and the proposed regulations are intended to codify in one place in the regulations the procedures to be followed in granting employment authorization to certain aliens in the United States.

DATES: Representations must be received on or before September 24, 1979.

ADDRESSES: Please submit written representations, in duplicate, to the Commissioner of Immigration and Naturalization, Room 7100, 425 Eye Street NW., Washington, D.C. 20538.

FOR FURTHER INFORMATION CONTACT: James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service. Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: The Attorney General's authority to grant employment authorization stems from section 103(a) of the Immigration and Naturalization Act which authorizes him to establish regulations, issue instructions, and perform any actions necessary for the implementation and administration of the Act. The Attorney General's authority has been delegated to the Commissioner of Immigration and Naturalization by 28 CFR 0.105. The authority of the Attorney General to authorize employment of aliens in the United States as a necessary incident of his authority to administer the Act was specifically recognized by the Congress in the enactment of section 6 of Pub. L. 95-571. That provision amended section 245(c) of the Act to bar from adjustment of status any alien (other than an immediate relative of a United States citizen) who after January 1, 1977 engages in unauthorized employment prior to filing an application for adjustment of status.

Service procedures for the grant of employment authorization are contained in several different places in the Operations Instructions and in various informal policy statements directed at Service field offices. The proposed regulations will for the first time codify existing employment authorization procedures.

Under the proposal, aliens who are nonimmigrants maintaining status will continue to comply with the existing regulations relating to permissible employment for their particular nonimmigrant status. Other aliens may apply to the district director for discretionary grant of employment authorization if the alien is an applicant for, and is prima facie entitled to, an immigration benefit (such as adjustment

of status, suspension of deportation, asylum) which if granted would make him eligible to remain in the United States permanently or for an indefinite period of time. An alien who, as an exercise of the Service's prosecutorial discretion, has been allowed to remain in the United States for an indefinite or extended period of time will also be eligible to apply. The proposed regulation states that the application for employment authorization may be granted if the alien establishes that he is financially unable to maintain himself during the applicable period.

In the light of the foregoing, it is proposed to amend Chapter I of Title 8 of the Code of Federal Regulations by adding a new Part 109, as set forth below.

PART 109—EMPLOYMENT AUTHORIZATION

Sec.

109.1 Application.

109.2 Criteria.

Authority: Sec. 103 and 245(c); (8 U.S.C. 1103 and 1255(c))

§ 109.1 Application.

(a) An alien who is maintaining a lawful nonimmigrant status in the United States under section 101(a)(15) of the Act may apply for employment authorization only to the extent permitted by §§ 214.1 and 214.2 of this chapter.

(b) An alien who is not maintaining a lawful nonimmigrant status may apply for employment authorization if he:

- (1) establishes to the satisfaction of the district director that he has a prima facie claim of entitlement to a benefit which, if granted, would make him eligible to remain permanently or indefinitely in the United States; or
- (2) has been granted permission to remain in the United States for an indefinite or extended period of time by the Immigration and Naturalization Service.

§ 109.2 Criteria

An alien described in § 109.1(b) may be granted employment authorization by the district director until the completion of administrative processing, or the completion of the period for which he will be permitted to remain by the Immigration and Naturalization Service, if the alien establishes to the satisfaction of the district director that he is financially unable to maintain himself during that period. No appeal shall lie from a district director's denial of an application for employment authorization under this part.

Public Comment Invited

In accordance with 5 U.S.C. 553, the Service invites representations of interested parties on this proposed rule. All relevant data, views, or arguments submitted on or before September 24, 1979, will be considered. Representations should be submitted in writing, in duplicate, to the Commissioner of the Immigration and Naturalization Service at the address shown at the beginning of this notice.

Dated: July 19, 1979.

Leonel J. Castillo,

Commissioner of Immigration and Naturalization.

Department of Justice
Immigration and Naturalization Service, July 20, 1979

Certification

By virtue of the authority vested in me by Title 8, Code of Federal Regulations, Part 103 a regulation issued by the Attorney General pursuant to Section 103 of the Immigration and Nationality Act,

I hereby certify that the annexed documents are originals, or copies thereof, from the records of the said Immigration and Naturalization Service, Department of Justice, relating to a Notice of Proposed Rulemaking re amendment of 8 CFR Part 109.

File No. CO 845-P, of which the Attorney General is the legal custodian by virtue of Section 103 of the Immigration and Nationality Act.

James A. Kennedy,

Associate Commissioner, Management, Immigration and Naturalization Service.

[FR Doc. 79-22958 Filed 7-24-79; 8:45 am]

BILLING CODE 4410-10-M

CIVIL AERONAUTICS BOARD

[14 CFR Part 383]

[SPDR-71, Docket 34997, dated July 19, 1979]

Consumer Protections for Members of Scheduled-Service Tour Groups

AGENCY: Civil Aeronautics Board.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Civil Aeronautics Board requests comments on new consumer protection provisions for tours operated on scheduled air service. Views are sought on whether consumer protection rules are needed for scheduled-service tours, on the CAB's statutory authority to prescribe such rules, and on the form those rules should take. A petition for rulemaking on this subject was filed by Mr. Steven K. Morrison.

DATES: Comments by: October 23, 1979; reply comments by: November 22, 1979.

Comments and relevant information received after these dates will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: August 7, 1979.

Applications for compensation for the cost of participating in this proceeding by: August 24, 1979.

The Docket Section prepares the Service List and sends it to each person listed, who then serves his comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 34997, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: About the proposed rule—David Schaffer, Office of the General Counsel, Civil Aeronautics Board, Washington, D.C. 20428; (202) 673-5442. About compensated public participation—Russell Patterson, Office of the Managing Director or; (202) 673-5189.

APPLICATIONS FOR COMPENSATED PARTICIPATION:

Because the Board believes that broad public participation will be particularly useful in deciding what, if any, rules are needed to protect members of scheduled-service tour groups, and because we went to hear all relevant viewpoints, we explicitly invite applications for compensation to participate in this rulemaking proceeding. The closing date for applications for financial assistance is August 24, 1979. Eligibility criteria and procedures for compensation are set out in 14 CFR Part 304 (43 FR 56878, December 5, 1978). That part and a handbook explaining the program are available from the Distribution Section, Publications Services Division, Civil Aeronautics Board, Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION:

In SPR-156, 44 FR 12971, March 9, 1979, the Board adopted consumer protection amendments to its Public Charter rule, 14 CFR Part 380. These amendments applied only to tour operators utilizing charter service. During the comment period preceding that rule, some commenters argued that the consumer protection rules should also be made applicable to scheduled service tour operators.

The Federal Trade Commission (FTC) stated in its comment that most of the problems addressed in that rule were also faced by tourists who travel by scheduled air service. It claimed that extending the rule to cover scheduled tour packages was justified by both statutory and case law and that such an extension would allow the board to formulate non-discriminatory rules to insure that one portion of the industry did not gain an unjustified competitive advantage.

Non-charter tours were not covered by SPR-156 because such action was beyond the scope of that rulemaking. To have included non-charter tours would have required an additional proposal and delayed needed regulation.

The Board recognizes that there may be consumer problems on tours operated on scheduled air transportation. The board has received a petition from Mr. Steven K. Morrison asking the Board to amend its rules to apply the charter consumer protection provisions to all tour packages and particularly to those "sold by a scheduled commercial airline." This notice is the Board's response to that petition. The Morrison petition is not, however, the only indication of problems in this area. There is also considerable Congressional concern about consumer abuse by the air travel industry. The House Subcommittee on Commerce, Consumer, and Monetary Affairs of the Committee on Government Operations held hearings on this problem in April. In addition, the Board has logged about 1500 complaints involving tours conducted with scheduled air transportation in the past 3 years.

We do not know whether the problem is serious enough to warrant imposing new regulation on non-charter operators. We receive fewer consumer complaints about scheduled service than about charters, although the former involved more passengers. This may indicate a lower rate of consumer problems for scheduled-service tours. The lower rate may also result from the greater involvement of the airline. With a charter tour, the passenger is dealing with an independent operator, who in turn buys space from an airline. The charter operator is the principal in the transaction with the consumer, and the choice of airline is often not a major consideration in the consumer's selection of a tour. It is thus the charter operator who gets complaints and is liable when there are consumer problems. Although most operators are well-established and conscientious, they may not always be in a position to offer

as immediate relief to aggrieved tour participants as could an airline.

In contrast, the airline is much more directly involved in the sale of scheduled-service tours. It is the principal in the sale of the air transportation, and may also be the principal in the sale of ground accommodations. Thus the scheduled carrier is usually closely identified with the tour package, and may have a strong incentive to resolve consumer problems in order to protect its image. The Board is interested in whether commenters have found or believe this to be the case. In this connection, we would like to know the extent to which airlines have been assisting complainants.

In order better to learn the extent of the problem and what activities need to be regulated, the Board would like more information on the problems consumers have experienced on non-charter tours, and their views on why there have been fewer complaints to the Board about scheduled-service tours than about charter tours. We are especially interested in the views of other government agencies and the kinds of consumer complaints that they have received.

Assuming these consumer problems do warrant new government rules, more information is still needed before specific solutions can be proposed. The charter consumer protection provisions in SPR-156 cannot merely be extended to cover non-charter tours. There are different legal relationships and marketing patterns between charter and non-charter tours. For charters, the tour operator is the principal in the sale to the passenger and the one primarily responsible for marketing the tour. In scheduled service, a tour operator, if there is one, is typically an agent or other intermediary in the transaction and the carrier is more directly involved in the marketing of the tour. These differences appear to call for a different remedy scheme for scheduled-service tours.

Another problem is uncertainty concerning the extent to the Board's jurisdiction over scheduled service-tours. Our regulatory power in this area is derived primarily from section 411 of the Act. That section prohibits unfair and deceptive practices in the sale of air transportation. The ground accommodations, however, are not always an integral part of the sale of the air transportation. It is not clear whether the Board may exercise jurisdiction over the operators of the ground portion of a tour when those ground operators are not themselves engaging in air

transportation, either directly or indirectly.

While the Board does regulate charter operators organizing Public Charter flights (14 CFR Part 380), those rules are based primarily on the operators' status as indirect air carrier. The consumer protection provisions do, however, extend to hotel and other ground accommodations arranged by an operator. We are less certain under what conditions a packager arranging ground accommodations to be sold in connection with scheduled air transportation is an air carrier under the Act, or otherwise within the Board's regulatory jurisdiction.

We suggest the following guidelines for applying consumer protection rules to the ground services and accommodations offered on scheduled service tours. They would apply only where one of the following factors are present:

- (1) The air transportation is advertised in the same brochure or flyer as the ground package;
- (2) The air transportation is advertised as being included in the price of the tour;
- (3) The air transportation will not be sold without the purchase of a ground package; or
- (4) The ground package is held out in the name of the airline. The Board specifically asks commenters to give their opinions on these guidelines in light of the governing statute.

The Board also requests comments on the remedies that would best protect the interests of consumers without unduly increasing the costs to the industry. One possibility is to establish a remedial fund through which aggrieved travel consumers could resolve complaints involving packaged tours and obtain refunds. This fund could apply to both charter and scheduled-service tours. Similar funds already in use in Britain and Canada could serve as models. Travel agents and tour operators might contribute to a central fund to satisfy consumer claims. These contributions might be based on a passenger surcharge, perhaps on the order of 50 cents or a dollar per ticket.

The fund could benefit all parties by providing a standard form of recourse for tour participants with valid complaints. In the charter area, it might be a less burdensome alternative for tour operators than the Board's current bonding and escrow requirements. It is unlikely, however, that in any area the fund could replace the other substantive rules for the protection of tour participants. A consumer protection fund appears to be most beneficial

where it supplements disclosure requirements and good contractual relations between the parties.

There are further questions to be explored on how the fund would be administered, what degree of involvement would be needed in auditing and administering the fund, and whether there would be any anti-competitive effects. There may be anti-competitive problems if, in order to limit claims against the fund, tour operators who perceive themselves as most reliable try to prevent others from participating. Conversely, the more established operators may be reluctant to participate if they believe that others are unnecessarily burdening the fund. The Board requests comments on the advisability and structure of a consumer protection fund.

Accordingly, the Civil Aeronautics Board requests comments on the above issues and the following questions:

- I. What are the statutory limits of the Board's jurisdiction over scheduled-service tours?
- II. If the Board has jurisdiction, should it adopt consumer protection rules for scheduled-service tours, and to what portion of the industry should those rules apply?

- A. What problems have consumers experienced on scheduled-service tours?
- B. Why have there been fewer complaints from members of scheduled-service tour groups than from participants of charter tours?

- C. How much do airlines assist consumers who experience problems on scheduled-service tours?

- III. What sort of remedial scheme should the Board adopt?

- A. Would it be sufficient to require disclosure of the services and terms of the tour?

- B. Should the individual or company that is responsible for satisfactorily performing each portion of the tour be identified?

- C. Under what circumstances, if any, should a participant be entitled to a refund?

- D. Should a consumer protection fund be established?

(Secs. 204, 401, 402, 404, 411, and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754, 757, 760, 769, 771; 49 U.S.C. 1324, 1371, 1372, 1374, 1381, and 1386.)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-22967 Filed 7-24-79; 8:45 am]

BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 792-3087]

RR International, Inc., et al.

Correction

In FR Doc. 79-21894 appearing on page 41219 in the issue of Monday, July 16, 1979 make the following corrections:

On page 41219, in the third column, the first word of the fifteenth line should have read "no".

On page 41219, in the third column, in the first paragraph under "Order, Part I", the thirteenth thru seventeenth lines should have read: "device, variously known as the G.R. Valve, the Turbo-Dyne Energy Chamber, and by other names, or of any other automobile retrofit device as 'automobile retrofit device' is defined in § 301 of the".

On page 41221, in the third column, the fifth line of the second full paragraph should have read: "energy saving characteristic of any product".

[16 CFR Part 13]

[File No. 792 3016]

C. I. Energy Development, Inc.; Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, among other things, would require a Tarzana, Calif., firm and two corporate officers engaged in the advertising, sale and distribution of a product known, among other names, as the G.R. Valve, to cease representing, without reliable substantiation, that installing the G.R. Valve or any substantially similar automobile retrofit device in a motor vehicle will result in fuel economy improvement. They would also be barred from using any endorsement or testimonial which has not been properly authorized; and prohibited from misrepresenting a product endorser's expertise in a field of knowledge, and the conclusions of tests or surveys pertaining to energy consumption or energy saving characteristics of automobile retrofit devices. Additionally, the order would require that product advertising disclose any material connection that may exist between endorser and the firm or its corporate officers.

DATE: Comments must be received on or before September 14, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Ave., NW, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/PE, Linda Colvard Dorian, Washington, D.C. 20580. (202) 724-1524.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6 (f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

[File No. 792-3016]

C. I. Energy Development, Inc., a corporation; Joseph J. London, David A. Mullin, individually and as officers of the corporation

Agreement Containing Consent Order to Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of C. I. Energy Development, Inc., a corporation; Joseph J. London and David A. Mullin, individually and as officers of the corporation, sometimes hereinafter referred to as respondents, and it now appearing that the proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of acts and practices being investigated;

It is hereby agreed by and between the said proposed respondents, and counsel for the Federal Trade Commission that:

1. Proposed respondent C. I. Energy Development, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California, with its principal office and place of business at 18346 Ventura Boulevard, Tarzana, California 91356. Proposed respondents Joseph J. London, and David A. Mullin are officers of said corporation. They formulate, direct, and control the policies, acts, and practices of said

corporation. Joseph J. London's address is 20325 Angelina Street, Woodland Hills, California 91364. David A. Mullin's address is 5247 Armida Drive, Woodland Hills, California 91364.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated or that any of the facts are true as alleged in the draft of the complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34(b) of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and shall become final and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to the proposed respondents; addresses as stated in this agreement shall constitute service. Proposed respondents waive any right they may

have to any other manner of service. The complaint may be used in construing the terms of the order, but no agreement, understanding, representation, or interpretation not contained in the order, complaint, or the aforementioned agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby, and understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for a civil penalty as provided by law for each violation of the order after it becomes final.

Order

Part I

It is ordered that respondents C.I. Energy Development, Inc., a corporation; Joseph J. London, and David A. Mullin, individually and as officers of the corporation, their successors and assigns, either jointly or individually, and the respondents' officers, agents, representatives and employees directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale or distribution of the automobile retrofit device, variously known as the G.R. Valve, the Turbo-Dyne Energy Chamber, and by other names, or of any other automobile retrofit device, as "automobile retrofit device" is defined in § 301 of the Energy Policy and Conservation Act of 1975, 15 U.S.C. § 2011, having substantially similar properties, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that the automobile retrofit device variously known as the G.R. Valve, the Turbo-Dyne Energy Chamber, and by other names, or any other automobile retrofit device having substantially similar properties, will or may result in fuel economy improvement when installed in an automobile, truck, recreational vehicle, or other motor vehicle.

Part II

It is further Ordered that respondents, their successors and assigns, either jointly or individually, and the respondents' officers, agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale,

sale or distribution of any automobile retrofit device as "automobile retrofit device" is defined in § 301 of the Energy Policy and Conservation Act of 1975, 15 U.S.C. § 2011, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that such device will or may result in fuel economy improvement when installed in an automobile, truck, recreational vehicle, or other motor vehicle unless (1) such representation is true, and (2) at the time of making such representation, respondents possess and rely upon written results of dynamometer testing of such device according to the then current urban and highway driving test cycles established by the Environmental Protection Agency and these results substantiate such representation, and (3) where the representation of the fuel economy improvement is expressed in miles per gallon or percentage, all advertising and other sales promotional materials which contain the representation expressed in such a way must also contain, in a way that clearly and conspicuously discloses it, the following disclaimer: "REMINDER: Your actual fuel saving may be less. It depends on the kind of driving you do, how you drive and the condition of your car."

Part III

It is further ordered that respondents, their successors and assigns, either jointly or individually, and the respondents' officers, agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale or distribution of any product or service in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

a. representing, directly or by implication, that an endorser of such product or service has expertise in a field of knowledge unless the endorser has the education, training, and knowledge necessary to be qualified as an expert in that field;

b. using, publishing, or referring to any testimonial or endorsement from any person or organization for such product or service unless, within the twelve (12) months immediately preceding any such use, publication, or reference, respondents have obtained from that person or organization an express written and dated authorization for such use, publication, or reference;

c. failing to disclose a material connection, where one exists, between an endorser of such product or service and any of the respondents. A "material" connection shall mean, for purposes of this Order, any direct or indirect economic interest in the sale of the product or service which is the subject of this endorsement other than (1) a fixed sum payment for the endorsement, all of which is paid before any advertisement containing the endorsement is disseminated, or (2) payment for the endorsement which is directly related to the extent of the dissemination of advertising containing it;

d. representing, directly or by implication, any performance characteristic of such product or service unless (1) at the time of making the representation, respondents possessed and relied upon competent and reliable scientific tests substantiating such representation, and (2) respondents possess a written test report which describes both test procedures and test results. A competent and reliable "scientific test" is one in which one or more persons, qualified by professional training, education and experience, formulate and conduct a test and evaluate its results in an objective manner using testing procedures which are generally accepted in the profession to attain valid and reliable results. The test may be conducted or approved by (a) a reputable and reliable organization which conducts such tests as one of its principal functions, (b) an agency or department of the government of the United States, or (c) persons employed or retained by respondents if they are qualified (as defined above in this paragraph) and conduct and evaluate the test in an objective manner;

e. misrepresenting in any manner the purpose, content, or conclusion of any test or survey pertaining to such product or service;

f. misrepresenting in any manner either consumer preference for such product or service or the results obtained by consumer usage of such product or service;

g. misrepresenting in any manner the performance, efficacy, capacity, or usefulness of such product or service.

Part IV

It is further ordered that respondents, their successors and assigns, either jointly or individually, and the respondents' officers, agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale,

sale or distribution of any product or service in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from failing to maintain the following accurate records which may be inspected by Commission staff members upon fifteen (15) days' notice: copies of and dissemination schedules for all advertisements, sales promotional materials, and post-purchase materials; documents authorizing use, publication or reference to testimonials or endorsements; records of the number of pieces of direct mail advertising sent in each direct mail advertisement dissemination; documents which substantiate or which contradict any claim is a part of the advertising, sales promotional material, or post-purchase materials disseminated by respondents directly or through any business entity. Such records shall be retained by respondents for a period of three (3) years from the last date any such advertising, sales promotional, or post-purchase materials were disseminated.

Part V

It is further ordered that corporate respondent shall forthwith distribute a copy of this Order to each of its operating divisions and to each of its officers, agents, representatives, or employees who are engaged in the preparation and placement of advertisements, and that the individual respondents shall forthwith distribute a copy of this Order to each of their agents, representatives, employees, successors and assigns. Respondents shall also distribute a copy of this Order to any individual or corporation that purchases or has purchased from them, through one purchase or through a series of purchases, more than five (5) of the devices variously known as the G.R. Valve, the Turbo-Dyne Energy Chamber, and by other names.

Part VI

It is further ordered that respondents notify the Commission at least thirty (30) days prior to the effective date of any proposed change in the corporate respondent such as dissolution, assignment, or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the Order.

Part VII

It is further ordered that each individual respondent named herein promptly notify the Commission of the

discontinuance of his present business or employment and of his affiliation with a new business or employment. In addition, for a period of ten years from the effective date of this Order, the respondent shall promptly notify the Commission of each affiliation with a new business or employment. Each such notice shall include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this Order.

Part VIII

It is further ordered that the respondents shall within sixty (60) days after service upon them of this Order file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from C.I. Energy Development, Inc., Joseph J. London, and David A. Mullin.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint charged the respondents with disseminating and causing the dissemination of advertisements containing several false and misleading representations regarding an automobile retrofit device known as the G.R. Valve, the Turbo-Dyne Energy Chamber, and by other names. In particular, the complaint alleged that representations, made in the C.I. Energy Development advertisements, of significant fuel economy improvement for an automobile because of the installation of the G.R. Valve were both false and without a reasonable basis. The complaint further alleged that C.I. Energy Development's advertising represented Gordon Cooper to be an expert in automotive engineering and to be merely an endorser of the valve when in fact he was not an expert in

automotive engineering and he was a principal in the valve's marketing. Finally, the complaint charges that C.I. Energy Development advertisements were deceptive because they misrepresented certain tests of the valve as well as results of consumer usage of it.

The proposed consent order contains the following provisions designed to remedy the advertising violations charged:

Part I prohibits the dissemination of advertising which represents that the G.R. Valve or other automobile retrofit device with substantially similar properties may result in fuel economy improvement when installed in a motor vehicle.

Part II prohibits, for any automobile retrofit device, the making of any representation that the installation of the device in a motor vehicle will result in fuel economy improvement unless the representation is true and is substantiated by results of dynamometer testing according to the Environmental Protection Agency's test cycles. This part further requires a disclaimer to be included in advertising where claims of fuel economy improvement are expressed in miles per gallon or in percentage.

Part III(a) prohibits any representation that an endorser of any product or service has expertise in a field of knowledge unless the endorser has education, training and knowledge sufficient to be qualified as an expert in that field.

III(b) prohibits use of an endorsement from a person or organization in advertising for any product or service unless, during the year immediately preceding the use, express written and dated authorization is obtained from the person or organization.

III(c) requires that, when an endorser has an economic interest in the sale of a product or service marketed by the respondents other than either a fixed sum payment made in full before advertising containing the endorsement is disseminated or an amount determined by the extent of dissemination of advertising containing the endorsement, this economic interest must be disclosed to the public in the advertising.

III(d) prohibits the making of any representation about any performance characteristic of any product or service unless, at the time of making such representation, respondents possess and rely upon competent and reliable scientific tests which substantiate the representation. Respondents also must possess a written test report which

describes both test results and procedures.

III(e) prohibits respondents from misrepresenting the purpose, content or conclusion of any test or survey for any product or service.

III(f) prohibits respondents from misrepresenting consumer preference for or consumer usage of any product or service.

(g) prohibits respondents from misrepresenting the performance, efficacy, capacity, or usefulness of any product or service.

Part IV requires that an advertisement's dissemination schedules, endorsement authorizations associated with the advertisement, and any documents which substantiate or which contradict any claim in the advertisement for any product or service be retained for a period of three years from the last date the advertisement was disseminated.

Part V requires the corporate respondent to distribute a copy of the order to all employees engaged in preparation or placement of advertising. The individual respondents must distribute a copy of the order to their agents or representatives, and all the respondents must distribute a copy of the order to any individual or corporation that has purchased more than five (5) valves from them.

Part VI requires that the respondents notify the Commission at least thirty (30) days before any proposed structural change in the corporation occurs which may affect compliance with the order.

Part VII requires that each of the individual respondents notify the Commission of the discontinuance of this present business and, for a ten year period, of his affiliation with a new business. This notification must include the name and address of the new business as well as a statement indicating the nature of the business.

Part VIII requires that respondents file a compliance report with the Commission within sixty (60) days after the effective date of the order.

The purpose of this analysis is to facilitate public comment of the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Carol M. Thomas,
Secretary.

[FR Doc. 79-22957 Filed 7-24-79; 6:45 am]

BILLING CODE 6750-01-M

[16 CFR Part 13]

[File No. 792 3060]

Leroy Gordon Cooper, Jr., a.k.a. Gordon Cooper; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, among other things, would require an individual from Encino, Calif. engaged in advertising, selling and endorsing a product known, among other names, as the G.R. Valve, to cease representing, without reliable substantiation, that installing the G.R. Valve or any substantially similar automobile retrofit device in a motor vehicle will result in fuel economy improvement. The order would further prohibit Mr. Cooper from using or providing any endorsement or testimonial which has not been properly authorized or which contains unsubstantiated representations; and bar him from misrepresenting an endorser's expertise in a field of knowledge, and the conclusions of tests or surveys relating to the performance of a product or service. Additionally, the order would require that advertising disclose any material economic interest in the sale of a product or service that may exist between endorser and marketer of such product or service.

DATE: Comments must be received on or before September 14, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Ave., NW, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/PE, Linda Colvard Dorian, Washington, D.C. 20580. (202) 724-1524.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6 (f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at

its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

[File No. 792-3060]

Leroy Gordon Cooper, Jr., Also Known as Gordon Cooper, an Individual

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Gordon Cooper, an individual, sometimes hereinafter referred to as respondent, and it now appearing that the proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of acts and practices being investigated;

It is hereby agreed by and between the said proposed respondent and his attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Gordon Cooper is an individual whose address is 5011 Woodley Avenue, Encino, California 91436.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated or that any of the facts are true as alleged in the draft of the complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant

to the provisions of Section 2.34(b) of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereof. When so entered, the order to cease and desist shall have the same force and effect and shall become final and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to the proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right he may have to any other manner of service. The complaint may be used in construing the terms of the order, but no agreement, understanding, representation, or interpretation not contained in the order, complaint, or the aforementioned agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and understands that once the order has been issued, he will be required to file one or more compliance reports showing that he has fully complied with the order, and that he may be liable for a civil penalty as provided by law for each violation of the order after it becomes final.

Order

Part I

It is ordered that respondent Gordon Cooper, an individual, his agents, representatives, employees, successors and assigns, either jointly or individually, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale or distribution of the automobile retrofit device, variously known as the G.R. Valve, the Turbo-Dyne Energy Chamber, and by other names, or of any other automobile retrofit device, as "automobile retrofit device" is defined in section 301 of the Energy Policy and Conservation Act of 1975, 15 U.S.C. section 2011, having substantially similar properties, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that the automobile retrofit device

variously known as the G.R. Valve, the Turbo-Dyne Energy Chamber, and by other names, or any other automobile retrofit device having substantially similar properties, will or may result in fuel economy improvement when installed in an automobile, truck, recreational vehicle, or other motor vehicle.

Part II

It is further ordered that respondent, his agents, representatives, employees, successors and assigns, either jointly or individually, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale or distribution of any automobile retrofit device as "automobile retrofit device" is defined in section 301 of the Energy Policy and Conservation Act of 1975, 15 U.S.C. section 2011, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that such device will or may result in fuel economy improvement when installed in an automobile, truck, recreational vehicle, or other motor vehicle unless (1) such representation is true, and (2) at the time of making such representation, respondent possesses and relies upon written results of dynamometer testing of such device according to the then current urban and highway driving test cycles established by an agency or department of the United States government and these results substantiate such representation, and (3) where the representation of the fuel economy improvement is expressed in miles per gallon or percentage, all advertising and other sales promotional materials which contain the representation expressed in such a way must also contain, in a way that clearly and conspicuously discloses it, the following disclaimer: "REMINDER: Your actual fuel saving may be less. It depends on the kind of driving you do, how you drive and the condition of your car."

Part III

It is further ordered that respondent, his agents, representatives, employees, successors and assigns, either jointly or individually, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale or distribution of any product or service in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

a. representing, directly or by implication, that an endorser of such product or service has expertise in a field of knowledge unless the endorser has the education, training, and knowledge necessary to be qualified as an expert in that field;

b. using, publishing, or referring to any testimonial or endorsement from any person or organization for such product or service unless, within the twelve (12) months immediately preceding any such use, publication or reference, respondent has obtained from that person or organization and express written and dated authorization for such use, publication, or reference;

c. failing to disclose a material connection, where one exists, between an endorser of such product or service and respondent. A "material" connection shall mean, for purposes of this Order, any direct or indirect economic interest in the sale of the product or service which is the subject of this endorsement other than (1) a fixed sum payment for the endorsement, all of which is paid before any advertisement containing the endorsement is disseminated, or (2) payment for the endorsement which is directly related to the extent of the dissemination of advertising containing it;

d. representing, directly or by implication, any performance characteristic of such product or service unless (1) at the time of making the representation, respondent possessed and relied upon competent and reliable scientific tests substantiating the representation, and (2) respondent possesses a written test report which describes both test procedures and test results. A competent and reliable "scientific test" is one in which one or more persons, qualified by professional training, education and experience, formulate and conduct a test and evaluate its results in an objective manner using testing procedures which are generally accepted in the profession to attain valid and reliable results. The test may be conducted or approved by (a) a reputable and reliable organization which conducts such tests as one of its principal functions, (b) an agency or department of the government of the United States, or (c) persons employed or retained by respondent if they are qualified (as defined above in this paragraph) and conduct and evaluate the test in an objective manner;

e. misrepresenting in any manner the purpose, content, or conclusion of any test or survey pertaining to such product or service;

f. misrepresenting in any manner either consumer preference for such product or service or the results obtained by consumer usage of such product or service;

g. misrepresenting in any manner the performance, efficacy, capacity, or usefulness of such product or service.

Part IV

It is further ordered that respondent, his agents, representatives, employees, successors and assigns, either jointly or individually, directly or through any corporation, subsidiary, division or other device in connection with the advertising, offering for sale, distribution or sale of any product or service in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Providing an endorsement which relates directly or by implication to the performance or efficacy of such product or service, or which refers to any characteristic, property, use, or result of use of such product or service, unless:

a. when respondent's endorsement pertains to subject matter falling within respondent's area of expertise, at the time of the first dissemination of such endorsement, respondent possesses and relies upon competent and reliable scientific evidence to substantiate any representation made directly or by implication in the endorsement; or

b. in all other cases, at the time of the first dissemination of such endorsement, respondent has made a reasonable inquiry into the truthfulness of his endorsement, and possesses and relies upon information resulting from such inquiry which substantiates any representation made directly or by implication in the endorsement. "Reasonable inquiry" shall be defined as follows:

(1) obtaining information from at least two competent and reliable sources independent of the advertiser and any other party with an economic interest in the sale of the product or service which is the subject of the endorsement; or

(2) obtaining information from the advertiser or from other parties with an economic interest in the product or service which is the subject of the endorsement and having such information independently evaluated by at least two competent and reliable sources.

2. Failing to disclose a material connection, where one exists, between an endorser of such product or service and its advertiser(s). A "material" connection shall mean, for purposes of this Order, any direct or indirect

economic interest in the sale of the product or service which is the subject of this endorsement other than (1) A fixed sum payment for the endorsement all of which is paid before any advertisement containing the endorsement is disseminated, or (2) payment for the endorsement which is directly related to the extent of the dissemination of advertising containing it.

Part V

It is further ordered that respondent, his agents, representatives, employees, successors and assigns, either jointly or individually, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale or distribution of any product or service in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from failing to maintain the following accurate records which may be inspected by Commission staff members upon fifteen (15) days' notice: copies of and dissemination schedules for all advertisements, sales promotional materials, and post-purchase materials; documents authorizing use, publication, or reference to testimonials or endorsements; documents which substantiate or which contradict any claim which is a part of the advertising, sales promotional material, or post-purchase materials disseminated by respondent directly or through any business entity. Such records shall be retained by respondent for a period of three (3) years from the last date any such advertising, sales promotional, or post-purchase materials were disseminated.

Part VI

It is further ordered that respondent promptly notify the Commission of the discontinuance of his present business or employment. In addition, for a period of ten years from the effective date of this Order, the respondent shall promptly notify the Commission of each affiliation with a new business or employment where he is responsible, directly or, by his delegation, through any employee or agent, for the dissemination or approval of any advertising claim relating to any product or service. Each such notice shall include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with

the business or employment. The terms of this paragraph shall not affect any other obligation arising under this Order.

Part VII

It is further ordered that the respondent shall within sixty (60) days after service upon him of this Order file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied with this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Gordon Cooper.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint charged the respondent with making several false and misleading representations in endorsing an automobile retrofit device known as the G.R. Valve, the Turbo-Dyne Energy Chamber, and by other names. In particular, the complaint alleged that representations made by Gordon Cooper of significant fuel economy improvement for an automobile because of the installation of the G.R. Valve were both false and without a reasonable basis. The complaint further alleged that Gordon Cooper represented himself to be an expert in automotive engineering and to be merely an endorser of the valve when in fact he was not an expert in automotive engineering and he was a principal in the valve's marketing. Finally, the complaint charges that Mr. Cooper misrepresented certain tests of the valve as well as results of consumer usage of it.

The proposed consent order, dealing with Mr. Cooper both as a principal in the valve's marketing and as an endorser, contains the following provisions designed to remedy the advertising violations charged:

Part I prohibits the dissemination of advertising which represents that the G.R. Valve or other automobile retrofit device with substantially similar properties may result in fuel economy improvement when installed in a motor vehicle.

Part II prohibits, for any automobile retrofit device, the making of any

representation that the installation of the device in a motor vehicle will result in fuel economy improvement unless the representation is true and is substantiated by results of dynamometer testing according to driving test cycles established by an agency or department of the United States government. This part further requires a disclaimer to be included in advertising where claims or fuel economy improvement are expressed in miles per gallon or in percentage.

Part III(a) prohibits any representation that an endorser of any product or service has expertise in a field of knowledge unless the endorser has education, training and knowledge sufficient to be qualified as an expert in that field.

Part III(b) prohibits use of an endorsement from a person or organization in advertising for any product or service unless, during the year immediately preceding the use, express written and dated authorization is obtained from the person or organization.

III(c) requires that, when an endorser has an economic interest in the sale of a product or service marketed by respondent other than either a fixed sum payment made in full before advertising containing the endorsement is disseminated or an amount determined by the extent of dissemination of advertising containing the endorsement, this economic interest must be disclosed to the public in the advertising.

III(d) prohibits the making of any representation about any performance characteristic of any product or service unless, at the time of making such representation, respondent possesses and relies upon competent and reliable scientific tests which substantiate the representation. Respondent also must possess a written test report which describes both test results and procedures.

III(e) prohibits respondent from misrepresenting the purpose, content or conclusion of any test or survey for any product or service.

III(f) prohibits respondent from misrepresenting consumer preference for or consumer usage of any product or service.

III(g) prohibits respondent from misrepresenting the performance, efficacy, capacity, or usefulness of any product or service.

Part IV pertains to respondent Gordon Cooper when he is an endorser of a product or service.

IV(1)(a) prohibits respondent, when he is an expert in the subject matter about which he is making claims, from

making claims about a product or service in his endorsement without, at the time the endorsement is first disseminated, possessing and relying upon competent and reliable scientific evidence.

IV(1)(b) prohibits respondent in all other cases, from making claims about a product or service in his endorsement without, at the time the endorsement is first disseminated, having made a reasonable inquiry into the truthfulness of his endorsement and without possessing and relying upon information resulting from his inquiry which substantiates any claim he may make in his endorsement. Reasonable inquiry is defined as either obtaining information on the product or service from at least two competent and reliable sources independent of those persons with an economic interest in the product or service or obtaining information from those persons with an economic interest in the product or service and then having their information evaluated by at least two competent and reliable independent sources.

IV(2) requires that when respondent, as an endorser, has an economic interest in the sale of a product or service marketed by the advertiser other than either a fixed sum payment made in full before advertising containing the endorsement is disseminated or an amount determined by the extent of dissemination of advertising containing the endorsement, this economic interest must be disclosed to the public in the advertising.

Part V requires that an advertisement's dissemination schedules, endorsement authorizations associated with the advertisement, and any documents which substantiate or which contradict any claim in the advertisement for any product or service be retained for a period of three years from the last date the advertisement was disseminated.

Part VI requires that respondent notify the Commission of the discontinuance of his present business and, for a ten year period, of his affiliation with a new business where he is responsible for the dissemination or approval of any advertising claim relating to any product or service. This notification must include the name and address of the new business as well as a statement indicating the nature of the business.

Part VII requires that respondent file a compliance report with the Commission within sixty (60) days after the effective date of the order.

The purpose of this analysis is to facilitate public comment of the proposed order and it is not intended to

constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Carol M. Thomas,
Secretary.

[FR Doc. 79-22956 Filed 7-24-79; 8:45 am]
BILLING CODE 6750-01-M

[16 CFR Part 454]

Advertising and Labeling of Protein Supplements; Publication of Staff Report on Proposed Trade Regulation Rule

AGENCY: Federal Trade Commission.
ACTION: Publication of staff report.

SUMMARY: On July 31, 1978, the notice of publication of the Presiding Officer's report on the proposed trade regulation rule regarding the advertising and labeling of protein supplements was published in the Federal Register, 43 FR 33258.

The San Francisco Regional Office staff report, which summarizes and analyzes the evidence in the rulemaking proceeding on advertising and labeling protein supplements and makes recommendations for final Commission action, has now been made public and placed on Public Record 215-49. The publication of the staff report commences the final 60-day public comment period on both the staff report and the Presiding Officer's report.

DATE: Comments will be accepted for the public record if received on or before September 24, 1979.

ADDRESSES: Comments should be sent to: Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW, Washington, D.C. 20580.

Request for copies of the report should be sent to Public Reference Branch, Room 130, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Karen E. Chandler, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Avenue, San Francisco, CA 94102, (415) 556-1270.

SUPPLEMENTARY INFORMATION: Pursuant to § 1.13(g) of the Commission's rules of practice, the staff has made its report, containing its summary and analysis of the record and its recommendations for a final rule. The report is now available for public comment under the Commission's rules of practice, § 1.13(h).

To help stimulate discussion of certain issues, a memorandum from Albert H. Kramer, Director of the Bureau of Consumer Protection, which discusses the staff report and solicits comment on

particular issues, is attached to the staff report as Appendix D. Commenters are not limited to the issues raised in Mr. Kramer's memorandum but may discuss all aspects of the staff report and Presiding Officer's report. Commentary must be limited to evidence already on the rulemaking record; no new evidence may be submitted.

Requests for copies of the staff report and the Presiding Officer's report should be sent to the Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW, Washington, D.C. 20580. Comments on these reports will be accepted on or before September 24, 1979. Comments should be identified as "Comments on Protein Supplements TRR Reports," and addressed to the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW, Washington, D.C. 20580. When possible, five copies of comments should be submitted.

After the comment period is over the Commission may, pursuant to § 1.13(i) of its rules of practice, allow persons who have previously participated in the rulemaking to make oral presentations to it, unless it determines that such presentations would not significantly assist it in its deliberations. Such presentations shall be confined to information already in the rulemaking record. Request to participate in an oral presentation should be received by the Commission no later than September 24, 1979 and should be sent to the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW, Washington, D.C. 20580.

The Commission cautions all concerned that the staff report has not been reviewed or adopted by the Commission, and that its publication should not be interpreted as reflecting the present views of the Commission or any individual member thereof.

Approved: July 18, 1979.

Albert H. Kramer,

Director, Bureau of Consumer Protection.

[FR Doc. 79-22987 Filed 7-24-79; 8:45 am]

BILLING CODE 6750-01-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL No. 1281-8]

Approval and Promulgation of Implementation Plans: Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability.

SUMMARY: The State of Missouri has submitted State Implementation Plan (SIP) revisions for non-attainment areas in the State of Missouri to fulfill the requirements of the Clean Air Act Amendments of 1977. Interested persons are invited to examine the Missouri SIP revisions and submit comments. A notice of proposed rulemaking describing the revisions will be published at a later date. The period for submittal of comments will extend for 30 days after publication of the proposed rulemaking.

ADDRESSES: Comments should be addressed to Robert J. Chanslor, Air Support Branch, EPA, 324 East 11th Street, Kansas City, Missouri 64106.

The Missouri submissions may be examined during normal business hours at the above address and also at the following locations: EPA, Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C. 20460; Missouri Department of Natural Resources, 2010 Missouri Boulevard, Jefferson City, Missouri 65101; Kansas City, Missouri Health Department, Air Pollution Control, 21st Floor, City Hall, Kansas City, Missouri 64106; Division of Air Pollution Control, 419 City Hall, St. Louis, Missouri 63103; Department of Community Health and Medical Care, 801 South Brentwood Boulevard, Clayton, Missouri 63105; Mid-American Regional Council, 20 West Ninth Street, Kansas City, Missouri 64105; and East-West Gateway Coordinating Council, Pierce Building, Suite 1200, 112 North Fourth Street, St. Louis, Missouri 63102.

FOR FURTHER INFORMATION CONTACT: Robert J. Chanslor, 816-374-3791, (FTS 758-3791).

SUPPLEMENTARY INFORMATION: Section 172 of the Clean Air Act as amended in 1977, requires that states revise their SIPs to provide for the attainment of the National Ambient Air Quality Standards (NAAQS) in areas which have been designated non-attainment. The State of Missouri has submitted SIP revisions in response to requirements of the Clean Air Act.

The purpose of this notice is to announce that the revisions have been formally submitted and are available for public inspection. The public is encouraged to submit written comments on them. A description of the revisions and proposed EPA action on the revisions will be published in the Federal Register as part of a notice of proposed rulemaking at a later date. (42 U.S.C. 7410).

Dated: July 10, 1979.

David R. Alexander,
Regional Administrator.

[FR Doc. 79-22987 Filed 7-24-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1280-8]

Proposed Revision of the Delaware State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule

SUMMARY: On May 3, 1979, the State of Delaware submitted a revised State Implementation Plan (SIP) designed to achieve the National Ambient Air Quality Standard for Ozone (O_3) in New Castle County. The revisions were designed to meet the requirements of Part D of Title I of the Clean Air Act, as amended.

The requirements for an approvable nonattainment SIP are described in a notice published on April 4, 1979 [44 FR 20372 (1979)]. This notice describes the nature of Delaware's submittal and discusses any deficiencies with respect to the requirement of Section 110 and Part D of the Clean Air Act found by EPA's review to date.

DATE: On June 11, 1979, the Regional Administrator, EPA, Region III, published a Notice of Availability [44 FR 33437 (1979)] of the revised Delaware SIP for public inspection. Therefore, the Regional Administrator believes that a 30 day public comment period following publication of this Notice of Proposed Rulemaking will be sufficient to afford the public opportunity to submit comments. Therefore, comments must be submitted on or before August 24, 1979.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for public inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, PA 19106. ATTN: Mr. Harold A. Frankford.

Delaware Department of Natural Resources and Environmental Control, Air Resources Section, Edward Tatnall Building, Capitol Complex, Dover, DE 19901. ATTN: Mr. Robert R. French.

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

All comments on the proposed revision should be directed to:

Mr. Howard Heim, Chief, Air Programs Branch—3AH10, Air & Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, Sixth and Walnut Streets, Philadelphia, PA 19106. ATTN: AH300DE.

FOR FURTHER INFORMATION CONTACT: Mr. Harold A. Frankford (3AH12), U.S. Environmental Protection Agency, Region III, Sixth and Walnut Streets, Philadelphia, PA 19106; phone: 215/597-8392.

SUPPLEMENTARY INFORMATION:

Background

New provisions of the Clean Air Act, enacted in August 1977, Public Law No. 95-95, require States to revise their SIPs for all areas that do not attain the National Ambient Air Quality Standards (NAAQS). The amendments required each State to submit to the Administrator, a list of the NAAQS attainment status for all areas within the State. The Administrator promulgated these lists on March 3, 1978 [43 FR 8962 (1978)] and on September 12, 1978 [43 FR 40502 (1978)]. The New Castle County, Delaware portion of the Metropolitan Philadelphia Interstate Air Quality Control Region (AQCR) was designated as a nonattainment area for ozone (O_3). As a consequence, the State of Delaware was required to develop, adopt, and submit to EPA revisions to its SIP for this nonattainment area by January 1, 1979. The revisions must conform to requirements of Part D of the Clean Air Act and provide for attainment of the NAAQS as expeditiously as practicable. In accordance with these requirements, Austin P. Olney, Secretary, Department of Natural Resources & Environmental Control acting on behalf of Governor Pierre S. DuPont, 4th, submitted a revised SIP on May 3, 1979.

On June 11, 1979 [44 FR 33437 (1979)], EPA published a Notice of Availability of the Delaware SIP revision and invited the public to inspect the plan. As yet, no public comments have been received. EPA has reviewed the SIP revision with respect to the requirements and criteria described or referenced in the Federal Register notice published on April 4, 1979 [44 FR 20372 (1979)]. This notice, to which interested persons may refer, is entitled "General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas", and is incorporated herein by reference. A summary of the criteria for approving SIPs for nonattainment areas follows.

Criteria for Approval

The following list summarizes the basic requirements for nonattainment area plans.

1. Evidence that the proposed SIP revisions were adopted by the State after reasonable notice and public hearing.
2. A provision for expeditious attainment of the standards.
3. A determination of the level of control needed to attain the standards by 1982 and the criteria necessary for approval of any extension beyond that date.
4. An accurate inventory of existing emissions.
5. Provisions for reasonable further progress (RFP) as defined in Section 171 of the Clean Air Act.
6. An identification of emissions growth.
7. A permit program for major new or modified sources, consistent with Section 173 of the Clean Air Act.
8. Use of Reasonably Available Control Technology (RACT) control measures as expeditiously as practicable.
9. Inspection and Maintenance (I/M) if necessary, as expeditiously as practicable.
10. Necessary transportation control measures, as expeditiously as practicable.
11. Enforceability of the regulations.
12. An identification of and commitment to the resources necessary to carry out the plan.
13. State commitments to comply with schedules.
14. Evidence of public, local government, and State involvement and consultation.

In the following sections of this Notice there are several references to the terms "design value" and "rollback." To avoid confusion or misunderstanding, these terms are defined below:

Design Value—the level of existing air quality used as a basis for determining the amount of change of pollutant emissions necessary to attain a desired air quality level.

Rollback—a proportional model used to calculate the degree of improvement in ambient air quality needed for attainment of a national ambient air quality standard.

Description of Proposed SIP Revisions

The State of Delaware officially submitted the revised ozone SIP for New Castle County to the Regional Administrator, EPA, Region III, on May 3, 1979. This revised SIP contains provisions for controlling volatile

organic compound (VOC) emissions from stationary sources and transportation measures designed to reduce VOC emissions from mobile sources. For ozone nonattainment areas, EPA requires the adoption of RACT for eleven VOC source categories. The Delaware SIP regulates sources in 10 of these categories: Solvent metal cleaning; tank-truck gasoline loading terminals; cutback asphalt paving; bulk gasoline plants; gasoline service stations—Stage I controls; storage of petroleum liquids in fixed-roof tanks; surface coating of coils, paper, fabrics, automobiles, and light duty trucks; surface coating of large appliances; surface coating of metal furniture; and petroleum refinery sources. Delaware does not include regulations for surface coating for insulation of magnet wire because no sources within this category are located in New Castle County. In addition, regulations for the surface coating of cans, a subset of one of the above categories, are not included in the SIP. However, Delaware has certified that no can coating operations are located in New Castle County and that none are anticipated.

Ozone

EPA has evaluated the State of Delaware's SIP and has communicated the results of this analysis to the State of Delaware Department of Natural Resources and Environmental Control. The following discussion summarizes EPA's comments on various elements of the Delaware SIP:

(1.) *Adoption after Reasonable Notice and Hearing*—The State of Delaware has adequately satisfied the requirements of this section. Delaware held public hearings concerning the provisions of the SIP on December 12 and 14, 1978, in accordance with Section 110 of the Clean Air Act. The regulations were subsequently adopted by the State on May 3, 1979.

(2.) *Attainment Date*—Based on the May 3, 1979 SIP submittal, the State of Delaware does not anticipate achieving the ozone standard by the end of 1982 in New Castle County. An extension of the deadline until the end of 1987 has been requested. EPA may approve an extension request provided Delaware demonstrates that attainment by 1982 is impossible, despite the implementation of RACT for the VOC stationary source categories and the implementation of reasonably available transportation control measures, including a motor vehicle inspection and maintenance (I/M) program.

(3.) *Control Strategy and Demonstration of Attainment*—The

Delaware SIP was developed on the basis of the .12 ppm ozone standard. A commitment to attain the ozone standard by the end of 1987 was provided.

(4.) *Emission Inventory*—Delaware has submitted a 1978 emission inventory and has committed to develop a 1977 inventory. The mobile source portion of the inventory should be expanded to include mobile source emissions by type of vehicle. Delaware should provide this information to EPA.

(5.) *Reasonable Further Progress (RFP)*—The State of Delaware has provided a satisfactory RFP presentation in its ozone SIP.

(6.) *Margin for Growth*—Source category growth projections were adequately incorporated into the Delaware SIP demonstration. However, a system for tracking emission growth rates was not addressed and should be submitted to EPA.

(7.) *Preconstruction Review*—The State of Delaware submitted a recently enacted Regulation XXV governing requirements of preconstruction review. The provisions of this regulation allow new or modified sources with allowable emissions of volatile organic compounds with Regulation XXV exceeding 50 tons per year or 1,000 pounds per day or 100 pounds per hour, whichever is more restrictive.

The regulation does not now address the question of interstate pollution, as required by the Interpretative Ruling of January 16, 1979 [44 FR 3275 (1979)]. In addition, the term "reconstruction" refers to best available control technology (BACT) rather than to lowest achievable emission rate (LAER). Since Regulation XXV refers to major sources of VOC (the major precursors in the formation of ozone), and since LAER is the applicable emission limitation for major new sources which would cause or contribute to a nonattainment pollutant, Delaware should amend the term "reconstruction" to refer to LAER. Also, the State's definition of "LAER" is unclear in its wording and intent and should be modified. The State has informed EPA of its intent to revise all of the above-noted items and to propose these revisions at a forthcoming public hearing.

(8.) *RACT as Expeditiously as Practicable*—The Control Technique Guidelines (CTG) documents provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information in the CTGs, EPA believes that the submitted regulations represent RACT, except as noted below.

On the points noted below, the State regulations are not supported by the information in the CTGs, and the State must provide an adequate demonstration that its regulations represent RACT, or amend the regulations to be consistent with the information in the CTGs.

(a.) Delaware should justify the exemption granted in § 9.2 of its regulations to any coating line having an emission rate of less than 40 pounds during any one day. This equates to a yearly exemption of approximately 7.5 tons per coating line and a source may contain numerous surface coating lines. Potentially, this exemption could have a significant air quality impact. This exemption from RACT should be adequately justified.

(b.) Delaware's SIP includes a provision in Section 1.1B of its regulations which exempts sources of methyl chloroform (1, 1, 1, trichloroethane) and methylene chloride from the provisions of the SIP. These volatile organic compounds, while not appreciably affecting ambient ozone levels, are potentially harmful. Both methyl chloroform and methylene chloride have been identified as mutagenic in bacterial and mammalian cell test systems, a circumstance which raises the possibility of human mutagenicity and/or carcinogenicity.

Furthermore, methyl chloroform is considered one of the slower reacting VOC's which eventually migrates to the stratosphere where it is suspected of contributing to the depletion of the ozone layer. Since stratospheric ozone is the principal absorber of ultraviolet light (UV), the depletion could lead to an increase of UV penetration resulting in a worldwide increase in skin cancer.

In Section 1.2 of its regulations, however, Delaware has included a requirement that "no person shall substitute either methyl chloroform or methylene chloride for any other VOC for any solvent metal cleaning purpose on or after the effective date of the regulation". EPA endorses Delaware's approach to prohibit possible substitution of these compounds in place of other more photochemically reactive degreasing solvents. Such substitution has already resulted in the use of methyl chloroform in amounts far exceeding that of other solvents. State officials and sources are also advised that there is a strong possibility of future EPA regulatory action to control these compounds.

(9.) and (10.) *I/M and Transportation Control Measures, if necessary, as Expeditiously as Practicable*—Transportation control measures

(TCM's) and an I/M program are required in New Castle County. For more information on these topics, please refer to the TCM section below.

(11.) *Enforceability*—Delaware should amend its VOC regulations to reflect certain enforceability concerns discussed below.

(a.) Test procedures for determining compliance with Sections 5.1, 7.1, 11.1A(3)(iv), 11.2B(3)(iv), and 11.3B(1)(ii) of Delaware's regulations should be specified in the SIP. Respectively, these sections cover delivery vessels, bulk gasoline terminals, cold cleaning facilities, open top vapor degreasers and conveyorized degreasers.

(b.) The definition of "Vapor-Tight" should also be defined in terms of initial positive pressure of 18 inches of water and a vacuum pressure of 6 inches of water.

(c.) Section 51.15(a)(1) of Title 40 CFR states that:

Each plan shall contain legally enforceable compliance schedules setting forth the dates by which all stationary mobile sources or categories of such sources must be in compliance with any applicable requirement of the plan.

Delaware's plan as submitted does not include such compliance schedules for future effective portions of Regulation XXIV concerning Volatile Organic Compound Emissions. The Delaware plan should therefore include such schedules.

(12.) *State Commitments and Resources to Implement and Enforce Adopted Measures*—The State of Delaware adequately commits to devote its existing financial and manpower resources to the implementation of this SIP revision and to seek additional resources as may be required.

(13.) *State Commitments to Comply With Schedules*—EPA has published and will be issuing additional Control Techniques Guideline (CTG) documents for the control of stationary source categories of VOC's. The State of Delaware adequately commits to develop and adopt legally enforceable regulations for all appropriate stationary source categories of VOC's subsequent to EPA's issuance of these guideline documents.

(14.) *Evidence of Public, Local Government and State Involvement and the Analysis of Effects*—The Clean Air Act specifies that a SIP should include evidence of involvement and consultation with public, local government, legislature, and all other interested parties. The State of Delaware, in conjunction with the Wilmington Metropolitan Area Planning

Coordinating Council (WILMAPCO), has satisfied this requirement through a series of public hearings, fair displays, workshops, presentations, and various news media announcements.

The SIP should also contain an analysis of the energy, economic, environmental and social impacts of the plan. Delaware's economic impact analysis is sufficient for the 1979 SIP, however, a more detailed analysis of effects will be required in subsequent SIP submittals.

Summary of Major Issues

(1.) Test methods are not specified for determining compliance with the requirements of the regulations covering gasoline delivery vessels, bulk gasoline terminals, and the three categories of degreasers.

(2.) RACT requirements are not being met for the surface coating regulations.

(3.) Categorical compliance schedules are not contained in the future effective VOC regulations.

Transportation Control Measures

In response to the nonattainment designation for New Castle County, a process of consultation among State agencies and local elected officials resulted in the Governor's certification on March 30, 1978, of the Wilmington Metropolitan Area Planning Coordinating Council (WILMAPC) as the Section 174 agency to develop the transportation component of the 1979 revised Delaware State Implementation Plan. WILMAPCO, an organization composed of locally elected officials, is the Metropolitan Planning Organization for the Wilmington Metropolitan area. This area covers New Castle County, Delaware as well as Salem County in New Jersey and Cecil County in Maryland. The submittal, however, only concerns the New Castle County portion of this metropolitan area.

Based on a regional ozone design value for the Metropolitan Philadelphia Interstate Air Quality Control Region and allowing for transported ozone, the plan using modified linear rollback predicts that the level of control necessary for sources of volatile organic compounds to meet the .12 ppm standard is 50%. Despite the application of RACT on stationary sources, the Federal Motor Vehicle Control Program and implementation of transportation control measures, the rollback technique predicts that an additional reduction of approximately 15% will be needed to attain the NAAQS after 1982. The inability to achieve the ozone standard by 1982 necessitates a schedule for the implementation of a motor vehicle

inspection and maintenance (I/M) program and an analysis and subsequent implementation or transportation control measures necessary for attainment of the NAAQS.

Following an extensive process of considering alternative packages of measures (detailed in the Appendix to the proposed Delaware SIP Revision), the WILMAPCO Council on September 21, 1978, made recommendations of measures to be included in the SIP. The WILMAPCO Council also recommended that the State should seek an extension of the attainment deadline to 1987. The Delaware submittal describes commitments to implement nine transportation measures by December 31, 1982:

(1.) *Motor Vehicle Inspection and Maintenance Program*—Delaware will develop and implement an I/M program for New Castle County. The program is to be in full operation by 1982.

(2.) *Rideshare Program*—A brokerage service program will be implemented on a pilot basis to achieve an increase in vehicle occupancy and to quantify the success of the program.

(3.) *Delaware Authority for Regional Transit (DART) Service Standards Study*—A consultant under contract to WILMAPCO is identifying quantitative performance standards for the DART operation.

(4.) *DART Marketing Study*—WILMAPCO has a study underway to evaluate existing trip patterns to identify potential service areas for DART expansion.

(5.) *Coordinated Signalization Demonstration Project*—The Delaware Department of Transportation will install a computerized signalization system covering 15 miles along U.S. Route 202 and Delaware Route 92. This will be completed in 1980.

(6.) *Staggered and Flexible Work Hours*—WILMAPCO will coordinate a program of staggered work hours among public and private sector employers.

(7.) *Land Use Considerations*—The adopted land use plan for WILMAPCO encourages land uses compatible with public transit and encourages future development in already-developed areas.

(8.) *Bicycle Measures*—This commitment includes a number of actions for implementation in the current Transportation Systems Management Element for New Castle County. These actions include implementation of certain bicycle facility improvements and implementation of the Newark Bikeway System, as well as actions to obtain storage facilities and route permissions.

(9.) *Control of Extended Idling*—This commitment incorporates the Delaware Right Turn-on-Red Light Law as part of the SIP.

Additional Commitments

WILMAPCO has committed to conduct an analysis of 32 measures which relate to the applicable reasonably available control measures described in Section 108(f) of the Clean Air Act. (Analysis of the vapor recovery program will remain the State's responsibility. Similarly, actions for I/M are the State's responsibility, although WILMAPCO will cooperate in this effort.) WILMAPCO developed a detailed description of some of these tasks in its Fiscal Year 1980 Integrated Planning Work Program's application for an Urban Air Quality Planning Grant under Section 175 of the Clean Air Act. This is currently under review by EPA and the U.S. Department of Transportation.

Inspection/Maintenance

On November 3, 1978, the Governor of Delaware submitted a schedule to EPA for the implementation of a motor vehicle inspection and maintenance (I/M) program in New Castle County. The Governor cited the authority of the Motor Vehicle Emissions portion of the Delaware Code (Title 7, Chapter 67) as the enabling legislation for this action. A certification by the Attorney General's Office that the State has basic authorizing legislation for the program is included in the SIP based on Title 7, Chapter 67 and Title 21, Chapter 21 of the Delaware Code.

The Governor has committed to implement an I/M program contingent upon cost effectiveness and new automotive technology. With these contingencies, this commitment is not totally acceptable under Section 172(b)(10) of the Clean Air Act. Therefore, EPA is proposing to accept this commitment on the condition that these contingencies are removed from the SIP within one year from the date of final action on this SIP revision.

The I/M implementation schedule included in the SIP submittal provides for a centralized mandatory inspection/voluntary maintenance program beginning January 1, 1981 and provides for mandatory inspection/mandatory maintenance program beginning January 1, 1982. In addition, the State has committed itself to a program which is adequate to provide a 25.0% reduction of light duty vehicle emissions by December 31, 1987.

EPA finds the program to be adequate if a comprehensive and detailed

regulatory program is carried out as proposed.

Evaluation of Transportation Control Measures

In reviewing the transportation control component of the Delaware SIP, EPA solicited comments from the U.S. Department of Housing and Urban Development and U.S. Department of Transportation. Comments from these agencies will be evaluated along with others before EPA takes final action on the proposed Delaware SIP revision. These comments, along with others, will be considered in the evaluation of transportation control measures.

The following section presents a summary of the salient portions of the transportation component of the revised Plan for Delaware compared with the requirements of EPA's checklist for review of transportation portions of 1979 SIP submittals:

(1.) The definition of New Castle County as the Geographic nonattainment area for both stationary sources and transportation control measures is adequate.

(2.) The 1976 emissions inventory that was used in the submittal is generally adequate. However, EPA requests that the "Highway Vehicles" portion of the mobile source emission inventory be further refined to define the contribution of the categories of heavy duty and light duty vehicles.

(3.) The submittal contains an estimate of emissions reductions that includes documentation of current and future travel demand estimates. The estimated vehicle miles travelled (VMT) increases from the base year 1976 were approximately 13.8% by 1982 and 25.3% by 1987. Through the application of the Federal Motor Vehicle Control Program and through new car replacement, this growth in travel demand projects a negative growth in emissions for motor vehicles. These estimates are adequate.

(4.) The certification WILMAPCO as the Section 174 lead agency for New Castle County, Delaware, is adequate.

Also, on December 27, 1978, The Governor of the State of New Jersey certified WILMAPCO as the Section 174 agency to coordinate an analysis of transportation measures for the Salem County, New Jersey, nonattainment areas for future submittals. For the purpose of the 1979 submittal, the WILMAPCO certification is adequate.

(5.) The identification of tasks and responsibilities for agencies participating in the development of the proposed submittal is generally adequate.

The proposed submittal contains a description of the integration of transportation control measures within the area's transportation planning and programming process. However, the plan does not discuss a description of the process for determining consistency and conformity of transportation plans and programs with the SIP. Criteria for determining conformity should be developed in accordance with forthcoming U.S. Department of Transportation (U.S. DOT) and EPA guidance on this subject.

The SIP contains a draft copy of the WILMAPCO Fiscal Year 1980 Integrated Planning Work Program (IPWP). This IPWP includes a description of tasks proposed to be studied during fiscal years 1980-1981. EPA and the Department of Transportation are currently reviewing this application to determine appropriate funding under Section 175 of the Clean Air Act.

EPA requests WILMAPCO clarify the rationale for deleting from further consideration two transportation measures apparently considered reasonably available, namely a traffic signal preemption stay and reversible traffic lanes.

(6.) While the extent of public participation is adequate, EPA expects a more extensive involvement from public and elected officials during development of an alternatives analysis funded by Section 175 of the Clean Air Act.

(7.) An identification of financial and other resources necessary to carry out the first year of alternatives analysis will be finalized by WILMAPCO when EPA and U.S. DOT complete the review of the Section 175 grant.

(8.) Provisions for progress reporting should include quarterly reports to the Urban Mass Transportation Administrator under Section 175 requirements as well as the providing of information for annual reports of the State's annual assessment of reasonable further progress.

(9.) A specific commitment to use available grants and funds to establish, expand and improve public transportation to meet basic transportation needs, although discussed, is not included in the SIP submittal. This commitment should be submitted to EPA as part of the SIP.

(10.) The emission reduction estimates appear reasonable for the adopted transportation measures. According to EPA guidance, 1/M is projected to effect at least an 8.0% reduction in emissions of hydrocarbons by 1982, and a 25.0% reduction in emissions of hydrocarbons by 1987.

(11.) Section 172(b)(9) of the Act requires identification and analysis of air quality, health, welfare, economic, energy and social effects of the plan revisions required by Section 172 and a summary of the public comment on such analysis. The analysis for the transportation component is adequate at this time. However, a more thorough analysis is to be done in preparing the plan to be submitted by July 1, 1982.

(12.) The SIP includes a discussion for prioritization of air quality activities occurring in the transportation planning and programming process. Future assessment of the long range and transportation system management elements of the adopted transportation plan should include an analysis of air quality effects.

(13.) The measures in the plan must include schedules (including interim milestones) and commitments to implementation by responsible agencies.

Conclusion

The measures proposed today will be in addition to, and not in lieu of, existing SIP regulations. The present emission control regulations of any source will remain applicable and enforceable to prevent a source from operating without controls or under less stringent controls, while it is moving toward compliance with the new regulations (or, if it chooses, challenging the new regulations). Failure of a source to meet applicable pre-existing regulations will result in appropriate enforcement action, including assessment of non-compliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability or enforceability of the new regulations, because of a court order or for any other reason, the pre-existing regulations will be applicable and enforceable.

The only exceptions to this rule are cases where there are conflicts between the requirements of the new regulations and the requirements of the existing regulations such that it would be impossible for sources to comply with the new regulations. In these situations, the State may exempt sources from compliance with the pre-existing regulations. Any exemption granted would be reviewed and acted on by EPA either as part of these proposed regulations or as future SIP revisions.

The public is invited to submit to the address stated above comments on whether the proposed amendments submitted by Delaware should be approved or disapproved or a revision of the Delaware State Implementation Plan.

The Administrator's decision to approve or disapprove this proposed SIP revision will be based on the comments received and on a determination of whether the amendments submitted by Delaware meet the requirements of Part D and Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

A supplement to an April 4, 1979 Notice of Proposed Rulemaking (44 FR 20372 [1979]) was published on July 2, 1979 (44 FR 38583 [1979]) involving, among other things, conditional approval. EPA proposes to conditionally approve the plan where there are minor deficiencies and the State provides assurances that it will submit corrections on a specified schedule. This notice solicits comment on what items should be conditionally approved. A conditional approval will mean that the restrictions on new major source construction will not apply unless, (1) the State fails to submit, by dates to be scheduled, SIP revisions necessary to remedy the deficiencies or (2) the revisions are not approved by EPA.

Deficiencies in the Delaware Plan that are not corrected may be cause for disapproval of these proposed SIP revisions. However, EPA is aware that the State of Delaware is undertaking an effort to rectify plan deficiencies.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401-7642)

Dated: July 17, 1979.

Jack Schramm,

Regional Administrator.

(FR Doc. 79-22964 Filed 7-24-79; 8:45 am)

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1279-8]

State and Federal Administrative Orders Revising the Michigan State Implementation Plan; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period.

SUMMARY: The Environmental Protection Agency is extending the comment period on a proposed rule published June 19, 1979 (44 FR 35263), which proposed disapproval of a revision to the Michigan State Implementation Plan. The extension was requested by Dow Chemical Company. The comment period has been extended from July 19, 1979, to August 6, 1979.

DATES: Comments must be received on or before August 6, 1979.

ADDRESS: Send comments to John McGuire, Regional Administrator, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. Attention: Air Programs Branch.

FOR FURTHER INFORMATION CONTACT: Joel Morbito, Michigan State Specialist, Air Programs Branch, (312) 886-6059.

SUPPLEMENTARY INFORMATION: This notice extends the period for comments to the notice published June 19, 1979 (44 FR 35263), proposing disapproval of a proposed revision to the Michigan State Implementation Plan. The proposed revision sought approval of the continued use of a Supplementary Control System (SCS) for control of emission of sulfur dioxide and particulate matter by Dow Chemical Company, U.S.A. (Dow Chemical) at its Midland, Michigan chemical plant.

In the June 19, 1979 notice USEPA proposed to disapprove the proposed revision to the State Implementation Plan because operation of a Supplementary Control System violates the Clean Air Act prohibition of dispersion techniques.

Because key people were not available for three weeks at the Dow Chemical Company plant and because of the complexity of the subject matter, Dow Chemical sent a letter July 5, 1979, requesting that the comment period for the notice proposing disapproval of the proposed State Implementation revision, published June 19, 1979 (44 FR 35263), be extended from July 19, 1979 to August 6, 1979.

USEPA has decided that the extension of the comment period to August 6, 1979 is a reasonable extension, and the comment period is hereby extended to August 6, 1979.

Dated: July 13, 1979.

John McGuire,

Regional Administrator.

(FR Doc. 79-22945 Filed 7-24-79; 8:45 am)

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 79-175; RM-3359]

Television Broadcast Station in Vancouver, Wash.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of UHF television Channel 49 to Vancouver, Washington, in response to a petition filed by KLRK Broadcasting Corporation. The proposal would provide for a first commercial television station in Vancouver.

DATES: Comments must be filed on or before September 15, 1979, and reply comments must be filed on or before October 5, 1979.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of § 73.606(b), Television Broadcast Stations. (Vancouver, Washington), BC Docket No. 79-175 RM-3359.

Adopted: July 17, 1979.

Released: July 23, 1979.

1. Before the Commission is a petition for rule making (Public Notice No. 1172), issued April 16, 1979, submitted by KLRK Broadcasting Corporation ("petitioner"). The petition seeks the amendment of § 73.606(b) of the Commission's rules, the Television Table of Assignments, by removing the reservation of Channel *14 at Vancouver, Washington, which limits it to noncommercial educational use only. Public Broadcasting Service ("PBS") opposed the proposal and petitioner responded.

2. Vancouver (pop. 41,859), seat of Clark County (pop. 128,454)¹, is located in southwest Washington, directly across the Columbia River from Portland, Oregon. Vancouver is presently assigned Channel *14 (unoccupied and unapplied for). It receives television service from four commercial Portland, Oregon, stations (KATU, Channel 2; KOIN-TV, Channel 6; KGW-TV, Channel 8; and KPTV, Channel 12). Portland is also assigned

¹ Population figures are taken from the 1970 U.S. Census.

Channel 24 on which there are four applications pending.

3. Petitioner argues in favor of deleting the reservation on Channel 14 so that Vancouver can have a local commercial television station. It claims that Vancouver's population has had a 25% increase between 1967 and 1977 and the trend is expected to continue. Petitioner adds that a Vancouver commercial television facility would bring service to southwest Washington in addition to bringing another fully comprehensive television service to the entire Portland metropolitan area with a population of 1,270,900 now reached by only four stations.

4. PBS contends that the noncommercial educational channel reservations should be retained to insure that the unique educational and cultural programming offered by public broadcasting can be made available to as much of the American public as possible. It notes that the Commission has long recognized that public television entities may face difficulties in raising funds to put television stations on the air. Therefore, it argues, reservations must be retained to allow time for the efforts of prospective licensees of public stations to come to fruition. PBS asserts that petitioner has not adequately demonstrated that removal of a reservation is warranted. It questions whether the need for a sixth commercial and third independent service in the market justifies giving up the imported resource of a reserved channel.

5. In reply, petitioner contends that although the channel has been allocated for years there is no sign of interest in or prospect for its use. It argues that it is inequitable to continue the reservation under such circumstances.

6. We believe that petitioner's proposal to bring a first local commercial television service to Vancouver is worth exploring. However, we do not believe the public interest would be served by deleting the educational reservation of the present assignment, especially since another channel can be assigned. Because of the availability of Channel 49 for assignment to Vancouver, there is no need to discuss further the argument between petitioner and Public Broadcasting Service.

7. Since Vancouver is located within 402 kilometers (250 miles) of the United States-Canada border, the proposed assignment of Channel 49 to Vancouver, Washington, requires coordination with the Canadian Government before it can be adopted.

8. Comments are invited on the following proposal to amend the Television Table of Assignments with regard to the city of Vancouver, Washington:

City	Channel No.	
	Present	Proposed
Vancouver, Wash.....	*14	*14, 49

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements, are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

10. Interested parties may file comments on or before September 15, 1979, and reply comments on or before October 5, 1979.

11. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Richard J. Shibem,
Chief, Broadcast Bureau.

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.
[FR Doc. 79-22961 Filed 7-24-79; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 32]

Hunting; Opening of Certain National Wildlife Refuges to Hunting.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: Notice is given that it is proposed to add Felsenthal National Wildlife Refuge, Arkansas, and D'Arbonne National Wildlife Refuge, Louisiana to the refuge areas open for hunting. The Director has received information that this action would be in

accordance with the provisions of all laws applicable to the areas, would be compatible with the principles of sound wildlife management, would otherwise be in the public interest, and that such use is compatible with the major purpose for which the refuges were established. Hunting, subject to annual special regulations, will provide additional public recreational opportunity.

DATES: Comments must be received on or before August 24, 1979.

ADDRESS: Comments may be addressed to the Director, (FWS/RF), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Ronald L. Fowler, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Telephone 202-343-4305.

SUPPLEMENTARY INFORMATION: Ronald L. Fowler is also the primary author of this proposed rulemaking. Areas within the National Wildlife Refuge System are closed to hunting until officially opened by regulation. The Director may open refuge areas to hunting upon a determination that such use is compatible with the major purposes for which such areas were established, that it would be in accordance with provisions of all laws applicable to the area, will be compatible with the principles of sound wildlife management and will otherwise be in the public interest. It is the purpose of this proposed rulemaking to seek public input regarding the opening of the above cited refuges to hunting of migratory game birds, upland game, and big game.

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C) environmental assessments have been prepared on each of these proposals and are available for public inspection and copying at room 2024, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20040, or by mail, addressing the Director at the address above. The policy of the Department of Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed amendment. All relevant comments will be considered by the Department prior to the issuance of a final rulemaking.

The Department of the Interior has determined that this document is not a significant rule and does not require a

regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Accordingly, it is proposed to change 50 CFR Part 32 by the addition of Felsenthal, and D'Arbonne National Wildlife Refuges by amending sections 32.11, 32.21 and 32.31 as follows:

§ 32.11 List of open areas; migratory game birds.

Arkansas
Felsenthal National Wildlife Refuge

Louisiana
D'Arbonne National Wildlife Refuge

§ 32.21 List of open areas; upland game.

Arkansas
Felsenthal National Wildlife Refuge

Louisiana
D'Arbonne National Wildlife Refuge

§ 32.31 List of open areas; big game.

Arkansas
Felsenthal National Wildlife Refuge

Louisiana
D'Arbonne National Wildlife Refuge

Dated: July 18, 1979.

Lynn A. Greenwalt,
Director, U.S. Fish and Wildlife Service.

[FR Doc. 79-22860 Filed 7-24-79; 8:45 am]
BILLING CODE 4310-55-M

Notices

Federal Register

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Wednesday, July 25, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Assignment of Geographic Area for the Fremont Grain Inspection Department, Inc., Fremont, Nebr.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

NOTICE: This notice announces the assignment of geographic area to the Fremont Grain Inspection Department, Inc., Fremont, Nebraska, for the performance of official grain inspection functions. This agency was designated as an official agency effective October 20, 1978, under the United States Grain Standards Act, as amended.

EFFECTIVE DATE: July 25, 1979.

FOR ADDITIONAL INFORMATION CONTACT: J. T. Abshier, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: The Fremont Grain Inspection Department, Inc. (the "Agency"), 603 East Dodge Street, Fremont, Nebraska 68025, was designated on October 20, 1978, as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official inspection functions. The designation also included an interim assignment of geographic area within which this agency would operate.

Section 7(f)(2) of the Act generally provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The geographic area assigned on an interim basis to the Agency was announced in the February 12, 1979, issue of the Federal Register (44 FR 8919-8920).

Interested persons were given until March 29, 1979, to comment on the proposed geographic area. One comment was received. The Sioux City Inspection & Weighing Agency, Inc., Sioux City, Iowa, indicated they had been providing official grain inspection functions in Dixon and Thurston Counties in Nebraska for many years. Accordingly, after review of this matter with the Agency, these two counties were deleted with the Agency's concurrence from the proposed geographic area and added to the geographic area of Sioux City Inspection & Weighing, Inc.

After due consideration of all relevant matters and information available to the U.S. Department of Agriculture, the geographic area assigned to this agency is as follows: In Nebraska, the area shall be bounded:

On the North by: U.S. Route 20 from U.S. Route 81 east to the eastern Pierce County line; the Pierce County line south; the Wayne County line; the Cuming County line; the Burt County line east to the Missouri River;

On the East by: The Missouri River south-southeast to State Route 91; State Route 91 west to the eastern Dodge County line; the Dodge County line south; the southern Dodge County line west to U.S. Route 77; U.S. Route 77 south to the southern Saunders County line;

On the South by: The Saunders County line west; the southern Butler County line west; the southern Polk County line west; and

On the West by: The western Polk County line north to the Platte River; the Platte River northeast to the western Platte County line; the Platte County line north; the northern Platte County line east to U.S. Route 81; U.S. Route 81 north to U.S. Route 20.

In Iowa, the area shall include the following Counties:

1. Carroll, west of U.S. Route 71;
2. Crawford;
3. Harrison, east of State Route 183; and
4. Shelby.

The above has been restated to utilize county lines where possible for clarification purposes and does not alter the above descriptions as originally proposed in any way.

Exceptions to the foregoing geographic area the following locations

situated inside the Agency's area which have been and will continue to be serviced by other official agencies. These have been restated to more accurately describe the locations by the elevator sites serviced rather than by general reference to the city, town or area in which situated:

1. Farmers Cooperative Grain Company and Wagner Mills, Inc., Columbus, Nebraska, in Platte County, to be serviced by Hastings Grain Inspection, Inc.

2. Farmers Coop Business Association, Shelby, Nebraska, in Polk County, to be serviced by Omaha Grain Inspection Service, Inc.

3. Farmers Coop Business Association, Rising City, Nebraska, in Butler County, to be serviced by Omaha Grain Inspection Service, Inc.

4. Charter Oak Grain & Seed and Delanry Grain Company, Charter Oak, Iowa, in Crawford County, to be serviced by Sioux City Inspection and Weighing Agency, Inc.

In addition, the following which are located outside the foregoing contiguous geographic area have been serviced by the Agency and will continue to be serviced by the Agency:

1. Farmers Cooperative and Drumel Grain and Storage, Wahoo, Nebraska, in Saunders County.

2. Juergens Produce and Seed and Farmers Grain and Lumber Company, Carroll, Iowa, in Carroll County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector at other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of the specified service points by contacting the Agency or the Compliance Division, Delegation and Designation Branch, Federal Grain Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

(Sections 8, 9, Pub. L. 94-582, 90 Stat. 2870, 2875 (7 U.S.C. 79, 79a).)

Done in Washington, D.C. on: July 19, 1979.

L. E. Bartelt,
Administrator.

[FR Doc. 79-22970 Filed 7-24-79; 8:45 am]

BILLING CODE 3410-02-M

CIVIL AERONAUTICS BOARD

Air Florida; Issuance of Charter Air Carrier Certificates

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (Order 79-7-118).

SUMMARY: The Board proposes to issue to Air Florida charter air carrier certificates authorizing it to engage in charter air transportation domestically, and between points in the United States and points in Canada, Mexico, Central America, and the Caribbean (Dockets 33142 and 33166). (The complete text of this order is available as noted below).

DATES: All interested persons having objections to the Board's issuing an order making final the tentative findings and conclusions or to the issuance of the proposed charter air carrier certificates shall file with the Board and serve on Air Florida and all U.S. certificated air carriers by August 27, 1979 a statement of objections together with a summary of testimony, statistical data, and other such material expected to be relied upon to support the stated objections. Replies to objections may be filed no later than September 6, 1979.

ADDRESSES: Objections and replies should be filed in Dockets 33142 and 33166, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Teresa A. Smith, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5088.

SUPPLEMENTARY INFORMATION: In the event no objections are filed, the Board may enter an order making final its tentative findings and conclusions.

The complete text of Order 79-7-118 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 79-7-118 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: July 19, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-22940 Filed 7-24-79; 8:45 am]

BILLING CODE 6320-01-M

Alia and Syrianair; Applications To Amend Permits

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 79-7-129.

SUMMARY: The Board proposes to approve the following applications:

Applicant: Alia—The Royal Jordanian Airlines Corporation (Alia)—Docket 34332; Syrian Arab Airlines (Syrianair)—Docket 34311.

Application Date: Alia—December 27, 1978. Syrianair—December 22, 1978.

Authority Sought: Alia and Syrianair applied to renew and amend their permits to add Houston to their route schedules; to increase their weekly frequencies from two to four, and to add Public Charters.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, NO LATER THAN August 15, 1979, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicants, the Department of Transportation, the Department of State, and the Ambassadors of Jordan and Syria. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit or certificate.

ADDRESSES FOR OBJECTIONS:

Dockets 34332, 34311, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

Alia—The Royal Jordanian Airlines Corporation and Syrian Arab Airlines, c/o Robert N. Meiser, P. C., Suite 307, 1300 Connecticut Avenue, N.W., Washington, D.C. 20036.

TO GET A COPY OF THE COMPLETE ORDER:

Request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: The Mediterranean and Africa Area, Bureau of International Aviation, Civil Aeronautics Board; (202) 673-5043.

By the Civil Aeronautics Board: July 19, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-22939 Filed 7-24-79; 8:45 am]

BILLING CODE 6320-01-M

Air Route Nonstop Authority; American Airlines, et al.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-7-132.

SUMMARY: The Board is proposing to grant air route nonstop authority under section 401 of the Federal Aviation Act of 1958, as amended, between Dallas/Ft. Worth, on the one hand, and San Antonio, Austin and Houston, on the other hand, to American, Continental, Ozark, U.S. Air, Inc. d/b/a USAir (formerly Allegheny) and any other fit, willing and able applicant whose fitness can be established by officially noticeable data. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than August 24, 1979, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than August 9, 1979.

ADDRESSES: Objections or Additional Data should be filed in Docket 36173, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT:

James F. Adley, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5412.

SUPPLEMENTARY INFORMATION:

Objections should be served upon the following persons: American Airlines, Continental Air Lines, Ozark Air Lines and USAir.

The Complete text of Order 79-7-132 is available from the Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a

postcard request for Order 79-7-132 to that address.

By the Civil Aeronautics Board: July 19, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-22941 Filed 7-24-79; 8:45 am]
BILLING CODE 6320-01-M

International Air Cargo Corp., Egypt; Application To Amend Foreign Air Carrier Permit

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause: ORDER 79-7-127.

SUMMARY: The Board proposes to approve the following application:

Applicant: International Air Cargo Corporation Egypt (IACC).

Application Date: March 20, 1979. Docket: 35090.

Authority Sought: Amended foreign air carrier permit to add the Netherlands as an intermediate point between Egypt and New York and grant of blanket off-route charter authority.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall file a statement of such objections NO LATER THAN August 13, 1979, with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of Egypt in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit or certificate.

ADDRESSES FOR OBJECTIONS: Docket 35090, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

Applicant: Howard G. Feldman, O'Connor & Hannan, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 518, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Glenn M. Datnoff, Legal Division,

bureau of International Aviation, Civil Aeronautics Board; (202) 673-5035.

By the Civil Aeronautics Board: July 19, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-22942 Filed 7-24-79; 8:45 am]
BILLING CODE 6320-01-M

Priority and Nonpriority Domestic Service Mail Rates

AGENCY: Civil Aeronautics Board.

ACTION: Order to Show Cause 79-7-95.

SUMMARY: The Board is proposing to implement its new procedure for establishing future final mailrates in the Priority and Nonpriority Domestic Service Mail Rates Investigation, Docket 23080-2. The updating formula has been modified to project fuel and non-fuel costs separately. The complete text of the order is available as noted below.

DATES: Interested persons having objections to the rates or related

findings and conclusions proposed should file notice by August 2, 1979, and if notice is filed, written answer and supporting documents should be filed by August 22, 1979.

ADDRESSES: The notices and documents should be filed in Docket 23080-2, Dockets Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Mark Kahan, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5858.

SUPPLEMENTARY INFORMATION: The terms and conditions applicable to the transportation of each class of mail rates proposed here are set forth in Order 79-7-16.

The tentative final mail rates set forth below represent an increase of approximately 9.0 percent over the final mail rates established for the first six months of 1979. About 6.0 percentage points of this increase are due to fuel cost increases.

Final Domestic Service Mail Rates

[July 1, 1979, Through Dec. 31, 1979]

	Calendar year 1974 rates ¹ (cents)	Escalation factors (percent)	Final rates July 1, 1979, through Dec. 31, 1979 (cents)
Linehaul charge per billing ton-mile:			
Sack.....	11.49	55.19	17.83
PAL.....	6.50		10.09
Standard container.....	8.79		13.64
Daylight container.....	7.05		10.94
Terminal charge per pound originated capacity:			
Taxi:			
Sack.....	0.991	55.19	1.538
PAL.....	0.728		1.130
Standard container.....	0.979		1.519
Daylight container.....	0.973		1.510
Departure:			
Sack.....	1.186	16.83	1.386
PAL.....	0.873		1.020
Standard container.....	1.176		1.374
Daylight container.....	1.164		1.360
Noncapacity:			
Sack.....	6.064	48.63	9.013
PAL.....	6.052		8.995
Standard container.....	1.746		2.595
Daylight container.....	1.747		2.597
Total terminal charge per pound originated:			
Sack.....	8.241		11.937
PAL.....	7.653		11.145
Standard container.....	3.901		5.488
Daylight container.....	3.884		5.467

¹ Order 78-11-80, Appendix F.

the metropolitan area may send a postcard request for Order 79-7-95 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

The complete text of Order 79-7-95 is available from our Distribution Section, Room 518, 1825 Connecticut Avenue N.W., Washington, D.C. Persons outside

By the Civil Aeronautics Board: July 16, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-22938 Filed 7-24-79; 8:45 am]
BILLING CODE 6320-01-M

Transpacific and Latin American Service Mail Rates Investigation

AGENCY: Civil Aeronautics Board.

ACTION: Order to Show Cause, 79-7-96.

SUMMARY: The Board is proposing to implement its new procedure for establishing future final mailrates in the Transatlantic, Transpacific and Latin American Service Mail Rates Investigation, Docket 26487. The updating formula has been modified to project fuel and non-fuel costs separately. The complete text of the

order is available as noted below.

DATES: Interested persons having objections to the rates or related findings and conclusions proposed should file notice by August 2, 1979, and if notice is filed, written answer and supporting documents should be filed by August 22, 1979.

ADDRESSES: The notices and documents should be filed in Docket 26487, Dockets Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Mark Kahan, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5858.

SUPPLEMENTARY INFORMATION: The terms and conditions applicable to the transportation of each class of mail rates proposed here are set forth in Order 79-7-16.

Final International Service Mail Rates

[July 1, 1979, through December 31, 1979]

	Calendar year 1974 rates (cents)	Escalation factor (percent)	Final rates July 1, 1979, through Dec. 31, 1979 (cents)
Atlantic Rate Area¹			
Linehaul charge per billing ton-mile:			
Priority and military ordinary mail.....	20.22	41.62	28.64
Space available mail.....	12.96		18.35
Terminal charge per pound originated:			
Priority and military ordinary mail.....	11.39	79.15	20.41
Space available mail.....	10.27		18.40
Pacific Rate Area²			
Linehaul charge per billing ton-mile:			
Priority and military ordinary mail.....	21.88	44.67	31.65
Space available mail.....	13.49		19.52
Terminal charge per pound originated:			
Priority and military ordinary mail.....	13.39	51.44	20.28
Space available mail.....	11.59		17.55
Latin America Rate Area³			
Linehaul charge per billing ton-mile:			
Priority and military ordinary mail.....	21.53	37.06	29.51
Space available mail.....	18.44		22.53
Terminal charge per pound originated:			
Priority and military ordinary mail.....	9.89	(0.55)	9.84
Space available mail.....	9.10		9.05

¹ Order 79-7-17, appendix D-1.

² Order 79-7-17, appendix D-2.

³ Order 79-7-17, appendix D-3.

The complete text of Order 79-7-96 is available from our Distribution Section, Room 518, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-7-96 to the Distribution Section, Civil

Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: July 16, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-22937 Filed 7-24-79; 8:45 am]
BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

New York Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New York Advisory Committee (SAC) of the Commission will convene at 4:30 p.m. and will end at 6:30 p.m. on August 23, 1979, at the Phelps Stokes Fund, Incorporated, 10 East 87 Street, New York, New York 10028.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Eastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 20, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-22948 Filed 7-24-79; 8:45 am]

BILLING CODE 6335-01-M

Virginia Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Virginia Advisory Committee (SAC) of the Commission will convene at 3:00 p.m. and will end at 9:00 p.m. on August 28, 1979 at 1515 Lafayette Boulevard, Fredericksburg, Virginia 22401.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Room 510, Washington, D.C. 20037.

The purpose of this meeting is for the program planning for 1979-81.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 19, 1979.
John I. Binkley,
Advisory Committee Management Officer.
[FR Doc. 79-22949 Filed 7-24-79; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Special Censuses

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. However, because of the need to avoid conflicts with activities involving the conduct of the 1980 census, no additional special censuses will be conducted during the period from August 1, 1979 to January 1, 1981. The Bureau is, therefore, not accepting requests for cost estimates for special censuses at this time. Beginning in the fall of 1980 the Bureau will resume accepting such requests.

State/place special area	County	Date of census	Population
Arizona:			
Apache Junction	Pinal	March 27	10,128
Oro Valley (annexed area)	Pima	March 10	36
Prescott Valley town	Yavapai	February 6	1,806
Arkansas:			
Chidester town	Ouachita	February 9	407
Ravenden town	Lawrence	February 8	318
Idaho:			
Post Falls city	Kootenai	February 12	5,077
Illinois:			
Bourbonnais village	Kankakee	February 7	12,525
Deer Park village	Lake	March 8	1,231
Fisher village	Champaign	February 7	1,541
Glendale Heights	DuPage	November 28, 1978	20,928
Warrenville city	DuPage	March 15	6,805
North Dakota:			
Mercer County	Mercer	January 10	8,282
Tennessee:			
Cookeville city	Putnam	January 1	18,734
Wisconsin:			
Cadott village	Chippewa	March 26	1,244
Fern town	Florence	March 14	118
Somers town	Kenosha	February 21	7,773

[FR Doc. 79-22962 Filed 7-24-79; 8:45 am]
BILLING CODE 3510-07-M

Maritime Administration

Approval of Applicant as Trustee

Notice is hereby given that Northwestern National Bank of Minneapolis, Minneapolis, Minnesota, with offices at 7th and Marquette,

The content of a special census is ordinarily limited to questions on household relationship, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the decennial census.

Summary results of special censuses are published semiannually in the *Current Population Reports—Series P-28*, prepared by the Bureau of the Census. For each area which has a special census population of 50,000 or more, a separate publication showing data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by tracts.

The data shown in the following table are the results of special censuses conducted since July 1, 1978, for which tabulations were completed between May 1, 1979 and June 30, 1979.

Dated: July 20, 1979.

Daniel B. Levine,
Acting Director, Bureau of the Census.

Minneapolis, Minnesota, has been approved as Trustee pursuant to Public Law 89-346 and 46 CFR 221.21-221.30.

By Order of the Assistant Secretary of Commerce for Maritime Affairs.

Dated: July 19, 1979.

Robert J. Patton, Jr.,
Acting Secretary.

[FR Doc. 79-22983 Filed 7-24-79; 8:45 am]
BILLING CODE 3510-15-M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council's Groundfish Advisory Subpanel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), has established a Groundfish Advisory Subpanel (AP) which will meet to review and comment on the draft of the Groundfish Fishery Management Plan (FMP).

DATES: The meeting will convene on Wednesday, August 8, 1979, at 1 p.m.; on Thursday, August 9, 1979, at 8 a.m.; adjourning at approximately 5 p.m. on both days. The meeting is open to the public.

ADDRESS: The meeting will take place at the Le Baron Hotel, 1350 North First Street, San Jose, California 95112.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S. W. Mill Street, Second Floor, Portland, Oregon 97201, telephone: (503) 221-6352.

Dated: July 20, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-22975 Filed 7-24-79; 8:45 am]
BILLING CODE 3510-22-M

South Atlantic Fishery Management Council's Inter-Council Billfish Steering Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Inter-Council Billfish Steering Committee, established under Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), will meet to review the Billfish Fishery Management Plan.

DATES: The meeting will convene on Tuesday, August 14, 1979, at 9 a.m. and will adjourn on Wednesday, August 15, 1979, at 5 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Virgin Isle Hotel, St. Thomas, Virgin Islands.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 308, Charleston, South Carolina 29407, Telephone: (803) 571-4366.

Dated: July 19, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-22974 Filed 7-24-79; 8:45 am]
BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Western Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), will meet to discuss: (1) Draft regulations for the Precious Coral Fishery Management Plan (FMP) and vote on final approval of the FMP; (2) Status of FMP's for the Billfish and Spiny Lobster fisheries; (3) Budgets for FY80, 81, & 82; (4) Fisheries Master Plan for the State of Hawaii; and (5) Conduct other business.

DATES: The meeting will convene on Wednesday, August 22, 1979, at 7 p.m.; Thursday and Friday, August 23 & 24, 1979, at 9 a.m.; and Saturday, August 25, 1979, at 10 a.m.; adjourning on August 22, 1979, at 9 p.m. August 23 & 24, 1979, at 4:30 p.m., and August 25, 1979, at 12 noon. The meeting is open to the public.

ADDRESS: The meeting will take place at the King Kamehameha Hotel, Kailua-Kona, Island of Hawaii.

FOR FURTHER INFORMATION CONTACT: Western Pacific Fishery Management Council, Room 1608, 1164 Bishop Street, Honolulu, Hawaii 96813, Telephone: (808) 523-1368.

Dated: July 19, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-22973 Filed 7-24-79; 8:45 am]
BILLING CODE 3510-22-M

Office of the Secretary

National Voluntary Laboratory Accreditation Program (NVLAP); Quarterly Report

Optional procedures for use in requesting and implementing a National Voluntary Laboratory Accreditation Program have been announced. Optional procedures which can be used by government agencies (15 CFR Part 7b) were published in the *Federal Register* on March 9, 1979 (44 FR 12982-12990). Optional procedures which can be used by private sector organizations (15 CFR Part 7c) were published in the *Federal Register* on April 25, 1979 (44 FR 24274-

24282). This quarterly report covers the period from April 1 to June 30, 1979, and has been prepared in accordance with section 7.17 of the original procedures (15 CFR Part 7a) and that same section in the optional procedures identified above. Publication in the *Federal Register* is not necessary according to the procedures but is deemed appropriate because of the significant advances of the program which have occurred in this time period.

Thermal Insulation Materials

A list of 23 laboratories which have requested NVLAP accreditation for testing thermal insulation materials was published in the last quarterly report which was also printed in the *Federal Register* (44 FR 22139 and 26961, dated April 13 and May 8, 1979, respectively).

Owens-Corning Fiberglas Corporation, in submitting its request to be accredited in a letter dated February 16, 1979 (well before the February 28 deadline for requests to be submitted), also indicated that it wished to have its plant laboratories covered. At the time the last quarterly report was published (as indicated above), the relationship between the research laboratory and the plant laboratories of Owens-Corning was not clear, as a result of which that company's application for accreditation was considered as being for a single laboratory. Subsequent discussions between the NVLAP staff and Owens-Corning have led to the conclusion that each of the company's seven plant laboratories should be included in the program for individual examination and accreditation. The locations of those plant laboratories are as follows:

Owens-Corning Fiberglas—Barrington, NJ
Owens-Corning Fiberglas—Delmar, NY
Owens-Corning Fiberglas—Fairburn, GA
Owens-Corning Fiberglas—Kansas City, KN
Owens-Corning Fiberglas—Newark, OH
Owens-Corning Fiberglas—Santa Clara, CA
Owens-Corning Fiberglas—Waxahachie, TX

Recapitulating, in view of the individual evaluation actions involving the Owens-Corning laboratories, a total of 30 laboratories representing 20 organizations currently are being considered for accreditation in the program.

Freshly Mixed Field Concrete

The National Laboratory Accreditation Criteria Committee for Freshly Mixed Field Concrete (NLACC-2) has met on three occasions and is scheduled to meet again this month in preparation of recommended general and specific criteria for accrediting laboratories. Applications for accreditation will not be accepted until

final criteria are published in the *Federal Register*.

Carpet

A request from the Department of Housing and Urban Development to establish a laboratory accreditation program for carpet under NVLAP (15 CFR Part 7b) was published in the *Federal Register* on June 18, 1979 (44 FR 35000).

Dated: July 19, 1979.

Francis W. Wolek,
Acting Assistant Secretary for Science & Technology.

[FR Doc. 79-22907 Filed 7-24-79; 8:45 am]
BILLING CODE 3510-13-M

DEPARTMENT OF DEFENSE

Department of the Army

Fort Lewis Military Installation; Filing of Environmental Impact Statement

In accordance with the National Environmental Policy Act of 1969, the Army, on July 20, 1979, provided the Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) concerning the on-going missions at the Fort Lewis military installation to include the Yakima Firing Center. The alternatives of discontinuing or reducing operations are also analyzed. Copies of the statement have been forwarded to concerned Federal, state, and local agencies. Interested organizations or individuals may obtain copies from Commander, 9th Infantry Division and Fort Lewis, Attn: AFZH-FEQ, Fort Lewis, Washington 98433, telephone (206) 967-5337 or 5646.

In the Washington area, copies may be seen during normal duty hours, in the Environmental office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, DC 20310, telephone (202) 694-3434.

Bruce A. Hildebrand,
Deputy for Environment, Safety and Occupational Health, OASA (IL&FM).

[FR Doc. 79-22856 Filed 7-24-79; 8:45 am]
BILLING CODE 3710-08-M

Fort Story, Va.; Filing of Environmental Impact Statement

The Army, on July 20, 1979, provided the Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) concerning the ongoing missions at Fort Story, Virginia. The alternatives of maintaining, discontinuing, or changing missions at Fort Story are analyzed. Copies of the statement have

been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies for the cost of reproduction from the Commander, US Army Transportation Center and Fort Eustis, Attn.: Facilities Engineering Directorate, Fort Eustis, Virginia 23604.

In the Washington area, copies may be seen during normal duty hours, in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, DC 20310, Telephone (202) 694-3434.

Bruce A. Hildebrand,
Deputy for Environment, Safety, and Occupational Health, OASA (IL&FM).

[FR Doc. 79-22857 Filed 7-24-79; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Aberdeen Proving Ground, Md.; Filing of Final Environmental Impact Statement

The Army on July 20, 1979 provided the Environmental Protection Agency with the Final Environmental Impact Statement for Establishment of the U.S. Army Nuclear, Biological, Chemical Defense School. The statement assesses the environmental and socioeconomic impacts of establishing an Army Nuclear, Biological, Chemical Defense School at Aberdeen Proving Ground, MD; Ft. McClellan, AL; or Restone Arsenal, AL. On March 29, 1979, the Department of the Army announced Ft. McClellan, AL, at the preferred alternative.

Copies of the Final Environmental Impact Statement have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies from Commander, U.S. Army Training and Doctrine Command, Attn.: ATCS-CSPG, Fort Monroe, Virginia 23651.

In the Washington area, inspection copies may be seen in the Environmental Office, Office of the Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, DC 20310, (phone (202) 694-1163).

Dated: July 16, 1979.

Bruce A. Hildebrand,
Deputy for Environment, Safety, and Occupational Health, OASA (IL&FM).

[FR Doc. 79-22858 Filed 7-24-79; 8:45 am]

BILLING CODE 3710-08-M

Wiggins Pass, Fla.; Detailed Project Report, Intent To Prepare a Draft Environmental Impact Statement

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed plan would provide a navigation channel from the Gulf of Mexico through Wiggins Pass as well as in smaller channels east to Wiggins Pass Marina and south to Vanderbilt Beach. The outside channel will be 1,300 feet long, 150 feet wide by 8 feet deep with 2 feet of required and 2 feet of allowable overdepth. To reduce the possibility of shifting channel alignment between maintenance dredgings, an impoundment basin 100 feet wide by 1,300 feet long at the same depth, will be dredged along the northern edge of the channel. The channels east to Wiggins Pass Marina and south to Vanderbilt Beach will be 50 feet wide and 6 feet deep. Because much of both channels are already these dimensions, dredging will be required only in certain areas. Approximately 90,000 cubic yards of predominantly sandy material dredged from the outer channel at Wiggins Pass and the channel east to Wiggins Pass Marina will be placed on the beach south of Wiggins Pass. Another 30,000 cubic yards of material may be placed in an upland disposal area if it is insuitable for beach disposal. Channel deepening through Turkey Bay will probably result in increased boat speeds across the lake which in turn will increase turbidity and adversely affect aquatic grassbeds in the lake. To decrease this likelihood, the Corps proposes to construct four mangrove breakwaters on the east side of the channel and one on the west side. The breakwaters will be 250 feet long, 10 feet wide with 30-foot spaces between breakwaters to insure adequate tidal flushing and will be situated 50 feet from the channel edge. The tops will be approximately 18 inches above mean low water and 6 inches below mean high water. The breakwaters will be planted with mangroves whose spacing and density will be determined at a later date. In addition to the above, an existing disposal mound on the west side of the channel north of Turkey Bay will be cut in three places to permit tidal flushing in the mangroves behind the berm. The gaps will be 50 feet wide, 100 feet long, 3 feet deep, and be located 350 feet apart.

2. Conceivable alternatives include dredging the channels deeper, dredging

only the Vanderbilt Beach Channel or the Wiggins Pass Marina Channel, or no action.

3. a. The process for determining the scope of issues to be addressed and for identifying the significant issues related to alternative action is underway. A Public Workshop was held December 12, 1978 and a Public Meeting is planned for late summer 1979. The study has been coordinated with the Collier County Board of Commissioners, the U.S. Fish and Wildlife Service, State of Florida, Florida Division of Archives, History and Records Management and the Interagency Archeological Services Division, Department of Interior. Additional meetings may be held as issues become more clearly defined. Affected Federal, State and local agencies, Indian tribes, and other interested organizations and individuals are invited to participate in the identification of issues, problems and needs and the formulation of alternative courses of action by communicating with the addressee listed below.

b. Significant issues to be analyzed in depth in the DEIS include fish and wildlife habitat requisites, water quality considerations, recreation demands, archeological and historical considerations and navigation needs.

c. Consultation with the State Historic Officer and the U.S. Heritage Conservation and Recreation Service has been initiated in accordance with the National Historic Preservation Act of 1966 and Executive Order 11593. Planning has been coordinated with the U.S. Fish and Wildlife Service as required by the Fish and Wildlife Coordination Act of 1973.

4. A scoping meeting was held on December 12, 1978.

5. The DEIS will be available for review in September 1979.

ADDRESS: Questions about the proposed action and DEIS can be referred to Mr. Moray L. Harrell, Chief of the Environmental Quality Section, U.S. Army Engineer District, P.O. Box 4970, Jacksonville, Florida 32201, telephone (904) 791-3615.

Dated: July 13, 1979.

James W. R. Adams,
Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-22862 Filed 7-24-79; 8:45 am]

BILLING CODE 3710-AJ-M

Office of the Secretary of Defense

Privacy Act of 1974; Notice of Systems of Records: Amendments

Correction

In FR Doc. 79-20389, appearing at page 38967 in the issue for Tuesday, July 3, 1979, make the following change:

On page 38987, in the third column, insert the identification number "DWHS P19" directly above the heading "System name".

BILLING CODE 1501-01-M

Privacy Act of 1974; System of Records: Amendment; Correction

In FR Doc. 79-20389, appearing at page 38967, in the issue for Tuesday, July 3, 1979, make the following correction:

On page 38975, in the last column, under the system identification DECOMP PBO3, delete the second section heading "Categories of individuals covered by the system:" and insert: "Categories of records in the system:".

H. E. Lofdahl,

Director, Correspondence and Directive, Washington Headquarters Services, Department of Defense.

[FR Docs 79-22906 Filed 7-24-79; 8:45 am]

BILLING CODE 3810-70-M

Office of the Secretary

Defense Science Board Task Force on EMP Hardening of Aircraft Meeting

The Defense Science Board Task Force on EMP Hardening of Aircraft will meet in closed session August 14-15, 1979 at Defense Nuclear Agency, Alexandria, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will review hardening of U.S. aircraft against EMP and related subjects and will provide recommendations for appropriate actions.

In accordance with 5 U.S.C. App. I 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

Dated: July 2, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79-22902 Filed 7-24-79; 8:45 am]

BILLING CODE 3810-70-M

Defense Science Board Task Force on EMP Hardening of Aircraft Meeting

The Defense Science Board Task Force on EMP Hardening of Aircraft will meet in closed session September 5-6, 1979 at Defense Nuclear Agency, Alexandria, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will review hardening of U.S. aircraft against EMP and related subjects and will provide recommendations for appropriate actions.

In accordance with 5 U.S.C. App. I 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

Dated: July 2, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79-22903 Filed 7-24-79; 8:45 am]

BILLING CODE 3810-70-M

Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-436, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, September 4, 1979; Tuesday, September 11, 1979; Tuesday, September 18, 1979 and Tuesday, September 25, 1979 at 10:00 a.m. in Room 3D-325, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will

consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b. of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency" (5 U.S.C. 552b. (c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b. (c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b. (c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b (4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D-281, The Pentagon, Washington, D.C.

Dated: July 20, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79-22906 Filed 7-24-79; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Standard Oil of California; Consent Order With Standard Oil Company of California

AGENCY: Department of Energy.

ACTION: Notice of Proposed Consent Order and Opportunity for Public Comment.

SUMMARY: Pursuant to 10 CFR 205.199, the Office of Special Counsel (OSC) of the Department of Energy hereby gives notice that it entered into a Consent Order with Standard Oil Company of

California through its subsidiary Chevron U.S.A., Inc., on July 17, 1979. The Consent Order addresses Chevron's compliance with the crude oil transfer pricing regulations, 10 CFR 212.83 and 212.84, for the months October 1973 through May 1975. In the Consent Order, Chevron agrees to reduce its costs claimed for interaffiliate transactions in imported crude oil in that period by \$4.1 million.

As required by 10 CFR 205.199], OSC will receive comments concerning the Consent Order for a period of at least 30 days following publication of this notice (8-24-79). Although the Consent Order has been signed and accepted by the parties, OSC may, after consideration of the comments received, withdraw its acceptance to the Consent Order, attempt to negotiate a modification of the Consent Order, or make the Consent Order final as proposed.

COMMENTS AND FURTHER INFORMATION: Comments received on or before August 31, 1979 will be considered. Comments, and questions concerning the Consent Order should be addressed to:

Leslie Wm. Adams, Assistant Solicitor to the Special Counsel for Compliance, Department of Energy, 1200 Pennsylvania Avenue NW, Room 2140, Washington, D.C. 20461.

Copies of the Consent Order may be received by written request to the same address. Copies will also be available at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue SW., Room GA-152.

SUPPLEMENTARY INFORMATION: Chevron is a refiner subject to the cost calculations and transfer pricing rules of 10 CFR 212.83 and 212.84. These rules are used to determine, among other things, the proper measurement of costs of crude oil imported by a firm through its foreign affiliates.

In April 1977, the Federal Energy Administration (FEA) issued a Notice of Proposed Disallowance to Chevron alleging that the firm had overstated its costs with respect to interaffiliate imported crude oil transactions by \$8.1 million for the period October 1973 through May 1975.

In December 1977, the Office of Special Counsel for Compliance was created within the Department of Energy. In February 1978, the responsibility for the transfer pricing program was transferred from the Office of Enforcement, Economic Regulatory Administration, to the OSC.

OSC and Chevron have discussed the issues raised by the Notice of Proposed Disallowance in conference. In the

course of the discussions, reporting and calculation errors were discovered which resulted in an adjustment of the disallowance to approximately \$6.9 million.

The Consent Order

OSC and Chevron each believe that there is merit to the position each has taken with regard to the Notice of Proposed Disallowance and Chevron's response thereto. However, the parties have found it possible to resolve the issues, particularly Chevron's valuation of a Venezuelan crude oil, without resort to further formal proceedings.

OSC has examined the arguments raised by Chevron, and considered the time and expense which could be involved in the litigation of the issues raised. OSC has concluded that it is in the best interests of the United States to terminate these proceedings through the Consent Order as executed with Chevron. The significant terms of the Consent Order are that:

1. Chevron agrees to reduce its landed costs for the period October 1973 through May 1975 by \$4.1 million. That amount is to be distributed in accordance with an allocation schedule which distributes the major portion pro rata to the amount of Venezuelan Boscan crude oil disallowance initially issued to Chevron in the Notice of Proposed Disallowance. The remaining contested costs for other crude oils are to be disallowed in full.

2. Chevron agrees to recalculate its increased product costs for that period and subsequent months to determine if it will have overrecovered costs by virtue of the landed cost disallowance.

3. Chevron agrees to report to the Office of Special Counsel within 15 days whether it has received overrecoveries and to submit a plan for refunding any amount of overrecovery.

4. The provisions of 10 CFR 205.199], including the publication of this notice, are applicable to the Consent Order.

Submission of Written Comments

Interested persons are invited to comment on this Consent Order by submitting such comments in writing to the address noted above. Comments should be identified on the outside of the envelope and on documents submitted with the designation "Comments on Chevron Transfer Pricing Consent Order." All comments received by 4:30 p.m. EDT on August 31, 1979 will be considered by OSC in evaluating the Consent Order. Modifications of the Consent Order which, in the opinion of OSC, significantly change the terms or

impact of the Consent Order will be published for comment.

Any information or data which, in the opinion of the person furnishing it, is confidential, must be identified as such and submitted in accordance with the procedures of 10 CFR 205.9(f).

Issued in Washington, D.C., July 17, 1979.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 79-22885 Filed 7-24-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Settlements.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the month of May 1979. The Consent Orders represent resolutions of outstanding compliance investigations or proceedings by the DOE and the firms which involve a sum of less than \$500,000 in the aggregate, excluding any penalties and interest. For Consent Orders involving sums of \$500,000 or more, Notice will be separately published in the Federal Register. These Consent Orders are concerned exclusively with payment of the refunded amounts to injured parties for alleged overcharges made by the specified companies during the time periods indicated below, through direct refunds or rollbacks or prices.

For further information regarding these Consent Orders, please contact James C. Easterday, District Manager of Enforcement, Southeast District, Economic Regulatory Administration, 1655 Peachtree Street NE., Atlanta, Georgia 30309, telephone number (404) 881-2661.

Firm name and address	Settlement amount	Product	Period covered	Recipients of settlement
Wholesale LP Gas, Inc., Columbus, MS 39701.	\$65,000.02	Propane	Nov. 1, 1973 to Mar. 31, 1974	Lampton Love, Loden Butane, Northeast Butane, Amory Butane, United Propane, Borden Butane, Mann Propane, Gulf States Ceramic, Baker Gas & Oil, Putnam Gas, True Temper, Bell Liquefied Petroleum, Beneka Corp., Southern Gas, Allgas Service, Hatley Butane, Coombs Gas, Noxubee Gas, Hinton Oil, Sartain Gas, Kerr-McGee Chemical, Alcoa, Covington Propane, and Ackerman Butane.
Herrington LP Gas, Co., Olive Branch, MS 38654.	22,017.20	Propane	Nov. 1, 1973 to Apr. 30, 1978	Mid-South Galvanizing, B.F. Goodrich, Holiday Inn University, Modern Plastics, Holiday Inn Airport, Keene Corp., Unitigars Corp. Residential Customers, and Farm Customers.
Super Oil Co., Johnson City, TN 37601	152,911.43	Gasoline middle distillates	Nov. 1, 1973 to Oct. 31, 1974	Large Volume Jobbers, Tennessee Transport Reseller's, Va. Transport Resellers, Tankwagon Resellers, North Carolina Transport Resellers, Super Outlets—Full Service, Mack Hopson, Tankwagon Consumers, Transport Consumers, and Tankwagon Reseller/Retailer.
Meason Operating Co., Natchez, MS 39120	82,109.27	Crude oil	Sept. 1, 1973 to Mar. 31, 1977	Escrowed to ERA direct and through Ashland Oil, Inc., for distribution in a just and equitable manner in accordance with applicable laws, and regulations.

Issued in Atlanta, Georgia on the 4th day of June 1979.

James C. Easterday,

District Manager.

[FR Doc. 79-22851 Filed 7-24-79; 8:45 am]

BILLING CODE 6450-01-M

Bridewell et al.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Billy Bridewell (Bridewell et al.) and other working interest owners as follows:

Billy Bridewell, 706 Fair Foundation Building, Tyler, Texas 75702.
Bert E. Cobb, c/o Walter R. Gibson, Citizens First National Bank, Trust Department, Tyler, Texas 75702.
William J. Cobb, 478 Fair Foundation Building, Tyler, Texas 75702.
Eugene Jeffers, P.O. Box 6688, Tyler, Texas 75711.
G. Vernon Whyte, 478 Fair Foundation Building, Tyler, Texas 75702.

This Proposed Remedial Order charges Bridewell et al., with pricing violations in the amount of \$168,090.44, caused by Bridewell's inclusion of an injection well in the well count for making the "stripper well" lease determination during the period September 1, 1973 through August 31, 1976 in the state of Texas.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager, Southwest District Enforcement, Department of Energy, Economic Regulatory Administration, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 749-7626. On or before August 8, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW.,

Washington, DC 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 17th day of July 1979.

Wayne I. Tucker,

District Manager, Southwest District Enforcement.

[FR Doc. 79-22854 Filed 7-24-79; 8:45 am]

BILLING CODE 6450-01-M

Hubert Rose; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: July 13, 1979. Comments by September 24, 1979.

ADDRESS: Send comments to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch; 324 East 11th Street; Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Alan L. Wehmeyer, Chief, Crude Products Program Management Branch; 324 East 11th Street; Kansas City, Missouri 64106, (Phone) 816-374-5932.

SUPPLEMENTARY INFORMATION: On July 13, 1979, the office of Enforcement of the

ERA executed a Consent Order with Hubert Rose of Centralia, Illinois. Under 10 CFR 205.199](b), a Consent Order which involves a sum of less than \$500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Hubert Rose (Rose), with its home located in Centralia, Illinois is a firm engaged in the production and sales of crude oil, and is subject to the mandatory petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Rose, the Office of Enforcement, ERA, and Rose entered into a Consent Order significant terms of which are as follows:

1. During the period covered by this Consent Order (September 1, 1973 through July 31, 1975), Rose sold crude oil produced from the Price property and the Ritz property, both located in Jasper County in the State of Illinois, at prices in excess of the ceiling price. All sales were to Union Oil Company.

2. The reason for the overcharges was Rose's erroneous characterization of the Price and Ritz properties as stripper well lease properties. The audit of Rose disclosed that neither the Price property nor the Ritz property qualified for the stripper well lease exemption as defined at 6 CFR 150.54(s) and 10 CFR 210.32. Sales of crude oil at prices in excess of the price rule at 10 CFR 212.73 resulted.

3. It is understood that Rose does not by entering into this Consent Order admit that it has violated any regulations of the DOE.

4. The provisions of 10 CFR 205.199], including the publication of this Notice, are applicable to the consent order.

II. Disposition of Refunded Overcharges

In this Consent Order, Rose agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of \$75,000 together with interest over a period not to exceed twelve (12) months from the effective date of this Consent Order. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199(a).

III. Submission of Written Comments

A. *Potential Claimants.* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may

result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments.* The ERA invites interested persons to comment on the terms, conditions or procedural aspects of this consent Order.

You should send your comments or written notification of a claim to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch; 324 East 11th Street, Kansas City, Missouri 64106. You may obtain a free copy of this Consent Order by writing to the same address or by calling 816-374-5932.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Hubert Rose Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on August 24, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Washington, D.C. on the 18th day of July 1979.

Lindell J. Williams,
Deputy Manager, Central Enforcement District.

[FR Doc. 79-22852 Filed 7-24-79; 8:45 am]
BILLING CODE 6450-01-M

North East Natural Gas Co., Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: July 13, 1979. Comments by August 23, 1979.

ADDRESS: Send comments to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch; 324 East 11th Street; Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, 324 East 11th Street, Kansas City, Missouri 64106, (Phone) 816-374-5932.

SUPPLEMENTARY INFORMATION: On July 13, 1979, the Office of Enforcement of the ERA executed a Consent Order with North East Natural Gas Co., Inc., of Canton, Ohio. Under 10 CFR 205.199(b), a Consent Order which involves a sum of less than \$500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

North East Natural Gas Co., with its home office located in Canton, Ohio, is a firm engaged in the production and sales of crude oil, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of North East Natural Gas Co., Inc., the Office of Enforcement, ERA, and North East Natural Gas Co. Inc., entered into a Consent Order, the significant terms of which are as follows:

1. This Consent Order concerns the claims and disputes resulting from an investigation and audit of North East which focused on North East's production and sales of domestic crude oil during the period September 1, 1973 through March 31, 1977. As a result of its investigation the Office of Enforcement alleges that North East, during the above named period, sold crude oil from four (4) of its properties at a price in excess of that allowed by the price rule at 10 CFR 212.73. These sales were to Quaker State Oil Refining Corporation.

2. The violations referred to in Paragraph 1, above, resulted from selling "old oil" at "stripper" prices, from properties that did not qualify for the "stripper lease exemption," as defined at 10 CFR 212.31 and 212.54.

3. North East does not, by entering into this Consent Order, admit that it has violated any regulations of the DOE.

4. Within thirty (30) days of the effective date of the Consent Order, North East shall deliver a certified check in the sum of \$48,500.00 made payable to the United States Department of Energy. The remainder of the amount to be refunded will be paid by monthly payments within an eighteen (18) month period. At the end of said eighteen (18) month period, any remaining unrefunded overcharges will be paid within the following thirty (30) days by certified check made payable to the United States Department of Energy.

5. The provisions of 10 CFR 205.199], including publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, North East Natural Gas Co., Inc., agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of \$86,604.00. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199(a).

III. Submission of Written Comments

A. *Potential Claimants.* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the

terms, conditions or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch; 324 East 11th Street; Kansas City, Missouri 64106. You may obtain a free copy of this Consent Order by writing to the same address or by calling 816-374-5932.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on North East Natural Gas Co., Inc. Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on August 23, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Washington, D.C. on the 18th day of July 1979.

Lindell J. Williams,
Deputy Manager, Central Enforcement District.

[FR Doc. 79-22853 Filed 7-24-79; 8:45 am]
BILLING CODE 6450-01-M

Young Refining Corp.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to Young Refining Corporation, Huey Road, Post Office Drawer 775, Douglasville, Georgia 30134. This Proposed Remedial Order charges Young Refining Corporation with pricing violations in the amount of \$178,091.00 connected with the sale of No. 2 fuel oil, No. 3 fuel oil, No. 5 fuel oil, and naphtha during the time period November 1, 1973 through April 30, 1974.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James C. Easterday, District Manager of Enforcement, 1655 Peachtree Street, NE, Atlanta, Georgia 30309, Phone: (404) 881-2661. On or before August 8, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, DC 20461, in accordance with 10 CFR 205.193.

Issued in Atlanta, Georgia, on the 6th day of July, 1979.

James C. Easterday,
District Manager of Enforcement, Southeast District.

[FR Doc. 79-22855 Filed 7-24-79; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 79-69]

Richmond Transfer & Storage Co., d.b.a. Richmond Export Service & International Cargo Services; Possible Violations; Order of Investigation and Hearing

The Commission has become aware of activities of a certain carrier-designated off-dock container freight station (CFS) operator, Richmond Transfer and Storage Co., d/b/a/ Richmond Export Service and International Cargo Services (collectively known as RTS).

RTS publishes, and distributes to common carriers by water a "Fact Sheet", which describes the promotional aspects of its business, the free time allowed, and a schedule of services performed and rates charged for RTS' CFS operations.

Many of the services offered by RTS, such as storage, handling, loading, unloading, and free time, are those of a terminal operator as defined in the Commission's General Order 15 (46 CFR Part 533). These services are generally performed after the cargo has left the shipper's custody (or before release to the consignee) and in most respects are identical to the wide range of services which would otherwise be performed by a waterfront terminal operator.

In RTS' "fact Sheet", RTS characterized its operation as a "port facility" and claims that the cost of using its facility is no more than when cargo is delivered directly to the waterfront. Although RTS is performing services, as defined by General Order 15, it has not filed a marine terminal tariff as required by that General Order.

The tariffs of some carriers, who designate RTS as their CFS, provide that cargo received at a carrier's CFS is subject to the appropriate port terminal tariff. RTS' "Fact Sheet" indicates that RTS accepts outbound cargo as much as two weeks before sailing without charge. In Docket No. 555, *Practices, etc., of San Francisco Bay Area Terminals*, 2 U.S.M.C. 709, 713, the Commission's predecessor ordered that the maximum free time period for foreign cargo at San Francisco Bay area terminals was not to exceed 7 days inbound and 10 days outbound (exclusive of Saturdays, Sundays, and holidays), and all Bay Area terminal tariffs reflect

this limitation. RTS' fee time practice appears contrary to the decision in Docket No. 555, *supra*.

Furthermore, it appears that RTS pays some, but not all, freight forwarders a commission for business directed to them by forwarders for unspecified services. Such practice appears to be violative of section 16 and 17 of the Shipping Act, 1916, (46 U.S.C. 815 & 816). Moreover, RTS has not filed a tariff which provides for the payment of any commission to freight forwarders.

Therefore, it is ordered, That pursuant to sections 16, 17 and 22 of the Shipping Act, 1916, an investigation and hearing be instituted to determine if RTS' CFS activities are those of an "other person" subject to the Commission's jurisdiction under section 1, Shipping Act, 1916.

It is further ordered, That it be determined whether RTS' failure to file a tariff with the Commission is violative of General Order 15 and section 17, Shipping Act, 1916.

It is further ordered, That it be determined whether RTS' practice of paying a commission to some freight forwarders is violative of section 16, First, or contrary to section 17, Shipping Act, 1916.

It is further ordered, That it be determined whether RTS' practice of allowing up to two weeks free time for outbound cargo is violative of section 16, First, or section 17, Shipping Act, 1916.

It is further ordered, That the parties address themselves to such additional issues as the presiding Administrative Law Judge may find relevant and material to the violations alleged.

It is further ordered, That RTS, 1015 Market Avenue, Richmond, California, 94894, to made respondent to this proceeding and that the matter be assigned for public hearing before an Administrative Law Judge at a date and place to be determined by the Administrative Law Judge presiding, but in no event, later than January 18, 1980. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, deposition, or other documents, or that the nature of the matters in issue is such that an oral hearing and cross-examination are otherwise necessary for the development of an adequate record;

It is further ordered, That this Order be published in the Federal Register and a copy thereof be served upon the Respondent;

It is further ordered, That any person

other than Respondents and the Commission's Bureau of Hearing Counsel, having an interest and desiring to participate in this proceeding, may do so by filing a timely petition for leave to intervene pursuant to § 502.72 of the Commission's rules;

It is further ordered, That all future notices issued by or on behalf of the Commission, including notice of time and place of hearing or of prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-22859 Filed 7-24-79; 8:45 am]

BILLING CODE 6730-01-M

ENERGY DEPARTMENT

Economic Regulatory Administration

J. R. Parten; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective Date: July 16, 1979.

COMMENTS BY: August 24, 1979.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235 (214) 749-7626.

SUPPLEMENTARY INFORMATION: On July 16, 1979, the Office of Enforcement of the ERA executed a Consent Order with J. R. Parten of Houston, Texas. Under 10 CFR 205.199(b), a Consent Order which involves a sum of less than \$500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

1. The Consent Order

J. R. Parten, with its office located in Houston, Texas, is a firm engaged in crude oil production, and is subject to

the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of crude oil sales, the Office of Enforcement, ERA, and J. R. Parten, entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the audit was September 1973 through December 1976 and it included all sales of crude oil which were made during that period.

2. J. R. Parten improperly applied the provisions of 10 CFR Part 212, Subpart D, when determining the prices to be charged for crude oil; and as a consequence, charged prices in excess of the maximum lawful sales prices resulting in overcharges to its purchaser of crude oil from the Seven J. Stock Farm Lease.

3. J. R. Parten has agreed to refund \$275,000.00 to the U.S. Treasury. The refund will be made in monthly payments beginning September 1, 1979, and continuing until the full amount is paid on February 1, 1980. A detailed schedule of the refund payments is contained in the Consent Order.

4. The sales of crude oil determined by DOE to be in violation were made to a refiner, and because the ultimate consumers are not readily identifiable, the refund will be made through the DOE in accordance with 10 CFR Part 205, Subpart V as provided below.

5. The provisions of 10 CFR 205.199, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, J. R. Parten agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of \$275,000.00 on or before February 1, 1980. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the

Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order. You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling (214) 749-7626.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on J. R. Parten Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on August 24, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 17th day of July, 1979.

Wayne I. Tucker,

District Manager for Enforcement, Southwest District, Economic Regulatory Administration.

[FR Doc. 79-22864 Filed 7-24-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CI 77-844, et al.]

Ashland Exploration, Inc., et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates¹

July 16, 1979.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before July 25, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the

¹ This notice does not provide for consolidation for hearing of the several matters covered herein.

Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per mcf 1,000 ft ³	Pressure base
CI77-844 C, Dec 9, 1978	Ashland Exploration, Inc., P.O. Box 1503, Houston, Texas 77001.	Consolidated Gas Supply Corp., Crook District, Boone County, W. Va.	(1)	14.65
CI79-525 (CI71-827) B, July 2, 1979	Devon Corp. (Kirby Petroleum Co.), 3300 Liberty Tower, Oklahoma City, Okla. 73102	Texas Gas Transmission Corp., Iota Field, Acadia Parish, La.	Depleted, plugged and abandoned and the oil and gas lease terminated prior to the acquisition by Devon of Kirby	
CI79-526 A, July 3, 1979	General American Oil Company of Texas, Meadows Building, Dallas, Tex. 75206.	Transcontinental Gas Pipe Line Corp., block 22, West Cameron area, Gulf of Mexico.	(1)	14.73
CI79-527 E, July 5, 1979	Gulf Oil Corporation (successor in interest to Kewanee Oil Co.), P.O. Box 2100, Houston, Tex. 77001.	Trunkline Gas Co., certain acreage located in the South Mermentau Field, Acadia Parish, La.	(1)	15.025
CI79-528 A, July 9, 1979	Amerasia Hess Corp., 1200 Miami, 6th Floor, Houston, Tex. 77002.	Transcontinental Gas Pipe Line Corp., block 540, West Cameron area, offshore La.	(1)	15.025
CI79-529 E, July 9, 1979	Gulf Oil Corporation (successor in interest to Kewanee Oil Co.).	United Gas Pipe Line Co., certain acreage located in the Lewisburg field, Acadia Parish, La.	(1)	15.025
CI79-530 A, July 10, 1979	Amerasia Hess Corp.	Transcontinental Gas Pipe Line Corp., blocks 37, 38, 57, and 58, Eugene Island area, offshore La.	(1)	15.025
CI79-531 A, July 10, 1979	Warren Petroleum Co., a division of Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	El Paso Natural Gas Co., Eunice Gas processing plant, Lea County, N. Mex.	(1)	14.65

¹ Applicant is willing to accept the applicable national rate pursuant to opinion No. 770, as amended.

² Applicant is filing under Gas Purchase Contract dated June 1, 1979.

³ Effective as of July 1, 1978, applicant acquired all of Kewanee's interest in properties covered by contract dated August 8, 1962, as amended.

⁴ Applicant is willing to accept the applicable maximum lawful price as provided by the Natural Gas Policy Act of 1978.

⁵ Effective as of July 1, 1978, applicant acquired all of Kewanee's interest in properties covered by contract dated October 21, 1974, as amended.

⁶ Applicant is filing under Gas Exchange Agreement dated March 23, 1979.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FER Doc. 79-22864 Filed 7-24-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-509]

Connecticut Light & Power Co., Transmission Agreement

July 18, 1979.

The filing Company submits the following:

Take notice that on July 12, 1979, the Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to Transmission Agreement dated February 23, 1979 between (1) CL&P, The Hartford Electric Company (WMECO) and (2) Mansfield Municipal Light Department (Mansfield).

CL&P states that the Transmission Agreement provides for a transmission service to Mansfield for the wheeling of Mansfield's entitlement in the Vermont Yankee nuclear generating facility during the period from March 1, 1979 to October 31, 1981.

The transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the Northeast Utilities system determined in accordance with Section 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee. The monthly transmission charge is determined by the product of (i) the transmission charge rate (\$/kW-month), and (ii) the number of kilowatts which Mansfield is entitled to receive during such month. The monthly transmission charge will be reduced by 50% to give due recognition for payments made by Mansfield to intervening systems.

CL&P requests an effective date of

March 1, 1979 for the Transmission Agreement.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut; HELCO, Hartford, Connecticut; WMECO, West Springfield, Massachusetts and Mansfield, Mansfield, Massachusetts.

CL&P further states that the filing is in accordance with § 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FER Doc. 79-22865 Filed 7-24-79; 8:45 am]

BILLING CODE 6450-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

July 12, 1979

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated

wells pursuant to the Natural Gas Policy Act of 1978.

Kansas Corporation Commission

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date received at FERC
10. Purchaser(s)

1. 79-11434
2. 15-081-20100
3. 103
4. Helmerich & Payne Inc
5. Jones H No 1
6. Panama Gas Area 538159
7. Haskell KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company

1. 79-11435
2. 15-055-20263
3. 103
4. Helmerich & Payne Inc
5. Jones H No 1
6. Panama Gas Area 538159
7. Finney KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company

1. 79-11436
2. 15-093-20448
3. 103
4. Helmerich & Payne Inc
5. Jones H No 1
6. Panama Gas Area 538159
7. Kearny KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company

1. 79-11437
2. 15-081-20103
3. 103
4. Helmerich & Payne Inc
5. Jones H No 1
6. Panama Gas Area 538159
7. Haskell KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company

1. 79-11438
2. 15-081-20102
3. 103
4. Helmerich & Payne Inc
5. Jones H No 1
6. Panama Gas Area 538159
7. Haskell KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company

1. 79-11439
2. 15-055-20303
3. 103
4. Helmerich & Payne Inc
5. Jones H No 1
6. Panama Gas Area 538159
7. Finney KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company

1. 79-11440
2. 15-081-20122
3. 103
4. Helmerich & Payne Inc
5. Jones H No 1
6. Panama Gas Area 538159
7. Haskell KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company

1. 79-11441
2. 15-081-20139
3. 103
4. Helmerich & Payne Inc
5. Jones H No 1
6. Panama Gas Area 538159
7. Haskell KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company

1. 79-11442
2. 15-081-20134
3. 103
4. Helmerich & Payne Inc
5. Jones H No 1
6. Panama Gas Area 538159
7. Haskell KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Northern Natural Gas Company

1. 79-11443
2. 15-081-20135
3. 103
4. Helmerich & Payne Inc
5. Jones H No 1
6. Panama Gas Area 538159
7. Haskell KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company

1. 79-11444
2. 15-081-20133
3. 103
4. Helmerich & Payne Inc
5. Jones H No 1
6. Panama Gas Area 538159
7. Haskell KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company

1. 79-11445
2. 15-055-20262
3. 103
4. Helmerich & Payne Inc
5. McKee A No 1
6. Panama Gas Area 538159
7. Finney KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company

5. McKee A No 1
6. Panama Gas Area 538159
7. Finney KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company

1. 79-11446
2. 15-093-20427
3. 103
4. Helmerich & Payne Inc
5. Potter A No 1
6. Panama Gas Area 538159
7. Kearny KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company

1. 79-11447
2. 15-055-20279
3. 103
4. Helmerich & Payne Inc
5. Taylor A No 1
6. Panama Gas Area 538159
7. Finney KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company

1. 79-11448
2. 15-055-20280
3. 103
4. Helmerich & Payne Inc
5. Tullett A No 1
6. Panama Gas Area 538159
7. Finney KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company

1. 79-11449
2. 15-055-20257
3. 103
4. Helmerich & Payne Inc
5. Wagner A No 3
6. Panama Gas Area 538159
7. Finney KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company

1. 79-11450
2. 15-055-20258
3. 103
4. Helmerich & Payne Inc
5. Wagner A No 4
6. Panama Gas Area 538159
7. Finney KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company

1. 79-11451
2. 15-093-20447
3. 103
4. Helmerich & Payne Inc
5. White A No 1
6. Panama Gas Area 538159
7. Kearny KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company

1. 79-11452
2. 15-093-20553
3. 103
4. Helmerich & Payne Inc
5. White A No 1
6. Panama Gas Area 538159
7. Kearny KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company

9. July 2, 1979
10. Colorado Interstate Gas Company

1. 79-11453
2. 15-165-00000
3. 108
4. George A Angle
5. #1 Scheuerman A
6. Reichel
7. Rush KS
8. 14.0 million cubic feet
9. July 2, 1979
10. Kansas-Nebraska Natural Gas Company

1. 79-11454
2. 15-165-00000
3. 108
4. George A Angle
5. #1 Holzmeister A
6. Reichel
7. Rush KS
8. 6.0 million cubic feet
9. July 2, 1979
10. Kansas-Nebraska Natural Gas Company

1. 79-11455
2. 15-165-00000
3. 108
4. George A Angle
5. #1 Holzmeister
6. Reichel
7. Rush KS
8. 1.0 million cubic feet
9. July 2, 1979
10. Kansas-Nebraska Natural Gas Company

1. 79-11456
2. 15-165-00000
3. 108
4. George A Angle
5. #1 Hoffmann
6. Reichel
7. Rush KS
8. 2.0 million cubic feet
9. July 2, 1979
10. Kansas-Nebraska Natural Gas Company

1. 79-11457
2. 15-165-00000
3. 108
4. George A Angle
5. #2 Hartman A
6. Reichel
7. Rush KS
8. 37.0 million cubic feet
9. July 2, 1979
10. Kansas-Nebraska Natural Gas Company

1. 79-11458
2. 15-189-20403
3. 103
4. Northern Natural Gas Producing Co
5. Bunton #1 Unit #2
6. Panama Gas Area 538159
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Northern Natural Gas Company

1. 79-11459
2. 15-189-20338
3. 103
4. Mobil Oil Corporation
5. Phillips R S #5
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Northern Natural Gas Company

1. 79-11460

2. 15-189-20363
3. 103
4. Mobil Oil Corporation
5. Sturdy #1 Unit #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Northern Natural Gas Company
1. 79-11461
2. 15-189-20393
3. 103
4. Northern Natural Gas Producing CO
5. Kenoyer #2 Unit #3
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Northern Natural Gas Company
1. 79-11462
2. 15-189-20334
3. 103
4. Mobil Oil Corporation
5. H Wilson #2 Unit #3
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Northern Natural Gas Company
1. 79-11463
2. 15-189-20339
3. 103
4. Northern Natural Gas Producing Comp
5. Parker #1 Farm #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Northern Natural Gas Company
1. 79-11464
2. 15-067-20512
3. 103
4. Mobil Oil Corporation
5. Guy Fairchild Unit #2
6. Panama
7. Grant KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Cities Service Gas Co
1. 79-11465
2. 15-189-20360
3. 103
4. Northern Natural Gas Producing Comp
5. Republic Fee #1 Unit #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Northern Natural Gas Company
1. 79-11466
2. 15-189-20391
3. 103
4. Northern Natural Gas Producing Comp
5. Curry Unit #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Northern Natural Gas Company
1. 79-11467
2. 15-189-20335
3. 103
4. Northern Natural Gas Producing Comp
5. Albert #2 Unit #3
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Northern Natural Gas Company
1. 79-11468
2. 15-189-20394
3. 103
4. Northern Natural Gas Producing Comp
5. Albert #1 Unit #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Northern Natural Gas Company
1. 79-11469
2. 15-189-20545
3. 103
4. Mobil Oil Corporation
5. Tate Hickok Unit #2
6. Panama
7. Kearny KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Cities Service Gas Co
1. 79-11470
2. 15-067-20482
3. 103
4. Mobil Oil Corporation
5. A I. Ingles #2
6. Panama
7. Grant KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Cities Service Gas Co
1. 79-11471
2. 15-189-20368
3. 103
4. Mobil Oil Corporation
5. Gaskill Unit #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Cities Service Gas Co
1. 79-11472
2. 15-189-20345
3. 103
4. Mobil Oil Corporation
5. H J Gilbert Unit #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Cities Service Gas Co
1. 79-11473
2. 15-189-20342
3. 103
4. Mobil Oil Corporation
5. Martha Reynolds B #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Cities Service Gas Co
1. 79-11474
2. 15-189-20344
3. 103
4. Mobil Oil Corporation
5. F F Rapp Unit #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Northern Natural Gas Company
1. 79-11475
2. 15-189-20379
3. 103
4. Mobil Oil Corporation
5. Randall C Hill #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Cities Service Gas Co
1. 79-11476
2. 15-189-20390
3. 103
4. Mobil Oil Corporation
5. Gooch #1 Unit #2
6. Hanke
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Northern Natural Gas Company
1. 79-11477
2. 15-067-20483
3. 103
4. Mobil Oil Corporation
5. Smith-Tune Unit #2
6. Panama
7. Grant KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Cities Service Gas Co
1. 79-11478
2. 15-189-20367
3. 103
4. Mobil Oil Corporation
5. Gilbert-Reynolds Unit #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Cities Service Gas Co
1. 79-11479
2. 15-189-20347
3. 103
4. Mobil Oil Corporation
5. Rapp-Grigsby Unit #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Cities Service Gas Co
1. 79-11480
2. 15-189-20305
3. 103
4. Mobil Oil Corporation
5. Lloyd R Thompson Unit #1
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Northern Natural Gas Company
1. 79-11481
2. 15-189-20331
3. 103
4. Mobil Oil Corporation
5. Webber #2 Unit #3
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Northern Natural Gas Company
1. 79-11482
2. 15-035-21870

3. 102
4. Petroleum Enterprises
5. Fulghum #1
6. Winfield
7. Cowley KS
8. 18.3 million cubic feet
9. July 2, 1979
10. Colonial Corporation
1. 79-11483
2. 15-055-20264
3. 103
4. Helmerich & Payne Inc
5. Bedford A NO 2
6. Panama Gas Area 538159
7. Finney KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company
1. 79-11484
2. 15-055-20304
3. 103
4. Helmerich & Payne Inc
5. Brown C NO 1
6. Panama Gas Area 538159
7. Finney KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company
1. 79-11485
2. 15-093-20517
3. 103
4. Helmerich & Payne Inc
5. Campbell A NO 1
6. Panama Gas Area 53159
7. Kearny KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company
1. 79-11486
2. 15-055-20270
3. 103
4. Helmerich & Payne Inc
5. Carlton B NO 1
6. Panama Gas Area 538159
7. Kearny KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company
1. 79-11487
2. 15-189-20386
3. 103
4. Helmerich & Payne Inc
5. Citizens Building & Loan B NO 2
6. Panama Gas Area 538159
7. Kearny KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company
1. 79-11488
2. 15-093-20415
3. 103
4. Helmerich & Payne Inc
5. Citizens Building & Loan B NO 3
6. Panama Gas Area 538159
7. Kearny KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company
1. 79-11489
2. 15-093-20416
3. 103
4. Helmerich & Payne Inc
5. Citizens Building & Loan B NO 4
6. Panama Gas Area 538159
7. Kearny KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company
1. 79-11490
2. 15-093-20417
3. 103
4. Helmerich & Payne Inc
5. Citizens Building & Loan B No 5
6. Panama Gas Area 538159
7. Kearny KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company
1. 79-11491
2. 15-093-20434
3. 103
4. Helmerich & Payne Inc
5. Citizens Building & Loan B No 6
6. Panama Gas Area 538159
7. Kearny KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company
1. 79-11492
2. 15-093-20435
3. 103
4. Helmerich & Payne Inc
5. Citizens Building & Loan B No 7
6. Panama Gas Area 538159
7. Kearny KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company
1. 79-11493
2. 15-093-20436
3. 103
4. Helmerich & Payne Inc
5. Citizens Building & Loan B No 8
6. Panama Gas Area 538159
7. Kearny KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company
1. 79-11494
2. 15-093-20454
3. 103
4. Helmerich & Payne Inc
5. Citizens Building & Loan B No 9
6. Panama Gas Area 538159
7. Kearny KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company
1. 79-11495
2. 15-093-20548
3. 103
4. Helmerich & Payne Inc
5. Citizens Building & Loan B No 10
6. Panama Gas Area 538159
7. Kearny KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company
1. 79-11496
2. 15-093-20518
3. 103
4. Helmerich & Payne Inc
5. Citizens Building & Loan C No 1
6. Panama Gas Area 538159
7. Kearny KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company
1. 79-11497
2. 15-055-20261
3. 103
4. Helmerich & Payne Inc
5. Jones C No 1
6. Panama Gas Area 538159
7. Finney KS
8. 110.0 million cubic feet
9. July 2, 1979
10. Colorado Interstate Gas Company
1. 79-11507
2. 15-189-20330
3. 103
4. Mobil Oil Corporation
5. Elmo Lodge #1 Unit #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Northern Natural Gas Company
1. 79-11508
2. 15-189-20396
3. 103
4. Mobil Oil Corporation
5. McCoy #1 Unit #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Northern Natural Gas Company
1. 79-11509
2. 15-189-20371
3. 103
4. Northern Natural Gas Producing Comp
5. Lambert #1 Unit #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Northern Natural Gas Company
1. 79-11510
2. 15-189-20355
3. 103
4. Mobil Oil Corporation
5. Grey #1 Unit #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Northern Natural Gas Company
1. 79-11511
2. 15-189-20333
3. 103
4. Mobil Oil Corporation
5. Hutton #1 Unit #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Northern Natural Gas Company
1. 79-11512
2. 15-189-20362
3. 103
4. Mobil Oil Corporation
5. Lowrey #1 Unit #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Northern Natural Gas Company
1. 79-11513
2. 15-189-20382
3. 103
4. Mobil Oil Corporation

5. L Porter Unit #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Northern Natural Gas Company
1. 79-11514
2. 15-189-20383
3. 103
4. Mobil Oil Corporation
5. Hill #1 Unit #3
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Northern Natural Gas Company
1. 79-11515
2. 15-093-20513
3. 103
4. Mobil Oil Corporation
5. USA-White Unit D #2
6. Panama
7. Kearny KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Northern Natural Gas Company
1. 79-11516
2. 15-189-20402
3. 103
4. Northern Natural Gas Producing Comp
5. Olney #1 Unit #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Northern Natural Gas Company
1. 79-11517
2. 15-189-20336
3. 103
4. Northern Natural Gas Producing Comp
5. Citizens State Bank #2 Unit #3
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Northern Natural Gas Company
1. 79-11518
2. 15-093-20524
3. 103
4. Mobil Oil Corporation
5. USA-White Unit C #2
6. Panama
7. Kearny KS
8. 70.0 million cubic feet
9. July 2, 1979
10. Cities Service Gas
1. 79-11519
2. 15-189-20346
3. 103
4. Mobil Oil Corporation
5. O T Gilbert Unit #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 3, 1979
10. Cities Service Gas
1. 79-11520
2. 15-189-20382
3. 103
4. Mobil Oil Corporation
5. Lee Gilbert Unit #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 3, 1979
10. Cities Service Gas
1. 79-11521
2. 15-189-20381
3. 103
4. Northern Natural Gas Producing Co
5. Baker Unit #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 3, 1979
10. Northern Natural Gas Co
1. 79-11522
2. 15-189-20359
3. 103
4. Northern Natural Gas Producing Co
5. Steward #1 Unit #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 3, 1979
10. Northern Natural Gas Co
1. 79-11523
2. 15-189-20328
3. 103
4. Mobil Oil Corporation
5. Bovie #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 3, 1979
10. Northern Natural Gas Co
1. 79-11524
2. 15-189-20320
3. 103
4. Mobil Oil Corporation
5. T G Hicks Unit #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 3, 1979
10. Northern Natural Gas Co
1. 79-11525
2. 15-189-20358
3. 103
4. Mobil Oil Corporation
5. E Carpenter #3(84) Unit #4
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 3, 1979
10. Northern Natural Gas Co
1. 79-11526
2. 15-189-20357
3. 103
4. Mobil Oil Corporation
5. Springer #1 Unit #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 3, 1979
10. Northern Natural Gas Co
1. 79-11527
2. 15-189-20317
3. 103
4. Mobil Oil Corporation
5. G W Shell Unit #1
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 3, 1979
10. Northern Natural Gas Co
1. 79-11528
2. 15-067-20529
3. 103
4. Mobil Oil Corporation
5. Maude Meyer Unit #2
6. Panama
7. Grant KS
8. 70.0 million cubic feet
9. July 3, 1979
10. Cities Service Gas Co
1. 79-11529
2. 15-189-20329
3. 103
4. Mobil Oil Corporation
5. Cutter #1 Unit #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 3, 1979
10. Northern Natural Gas Company
1. 79-11530
2. 15-189-20370
3. 103
4. Northern Natural Gas Producing Comp
5. Ratcliff #1 Unit #2
6. Panama
7. Stevens KS
8. 70.0 million cubic feet
9. July 3, 1979
10. Northern Natural Gas Company
1. 79-11531
2. 15-165-00000
3. 108
4. George A Angle
5. #2 Kaiser
6. Reichel
7. Rush KS
8. 16.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79-11532
2. 15-165-00000
3. 108
4. George A Angle
5. #1 Lippert C
6. Reichel
7. Rush KS
8. 3.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79-11533
2. 15-165-00000
3. 108
4. George A Angle
5. #1 Roth B
6. Reichel
7. Rush KS
8. 15.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79-11534
2. 15-175-20319
3. 103
4. Robert F White
5. Covet Trust No 1
6. Hugoton Field (Krider Zone)
7. Seward KS
8. 60.0 million cubic feet
9. July 3, 1979
10. Northern Natural Gas Company
1. 79-11535
2. 15-127-20418
3. 102
4. Benson Mineral Group
5. Koger #2-30

6. Wilde
7. Morris KS
8. 26.0 million cubic feet
9. July 3, 1979
10. Mapco
1. 79-11536
2. 15-127-20203
3. 102
4. Benson Mineral Group
5. Veal #2-30 Twin
6. Wilde
7. Morris KS
8. 0 million cubic feet
9. July 3, 1979
10. Mapco
1. 79-11537
2. 15-127-20240
3. 102
4. Benson Mineral Group
5. White #4-6
6. Wilde
7. Morris KS
8. 62.0 million cubic feet
9. July 3, 1979
10. Mapco
1. 79-11538
2. 15-127-20120
3. 102
4. Benson Mineral Group
5. White 2-6
6. Wilde
7. Morris KS
8. 60.0 million cubic feet
9. July 3, 1979
10. Mapco
1. 79-11539
2. 15-127-20170
3. 102
4. Benson Mineral Group
5. White 1-6
6. Wilde
7. Morris KS
8. 68.0 million cubic feet
9. July 3, 1979
10. Mapco
1. 79-11540
2. 15-127-20147
3. 102
4. Benson Mineral Group
5. Koger #1-30
6. Wilde
7. Morris KS
8. 23.9 million cubic feet
9. July 3, 1979
10. Mapco
1. 79-11541
2. 15-165-00000
3. 108
4. George A Angle
5. #1 Urban C
6. Reichel
7. Rush KS
8. .1 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79-11542
2. 15-165-00000
3. 108
4. George A Angle
5. #1 OCHS
6. Reichel
7. Rush KS
8. 5.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79-11543
2. 15-007-20495
3. 103
4. Barnett Oil Inc
5. Z-Bar #1
6. Aetna
7. Barber KS
8. 60.0 million cubic feet
9. July 3, 1979
10. Cities Service Gas Co
1. 79-11544
2. 15-129-00000
3. 108
4. Pan Eastern Exploration Company
5. Riley #4
6. Taloga Cherokee
7. Morton KS
8. 4.5 million cubic feet
9. July 3, 1979
10. Panhandle Eastern Pipe Line Company
1. 79-11545
2. 15-119-00000
3. 108
4. Pan Eastern Exploration Company
5. Behnke B #1
6. Singley
7. Meade KS
8. 14.4 million cubic feet
9. July 3, 1979
10. Panhandle Eastern Pipe Line Company
1. 79-11546
2. 15-129-00000
3. 108
4. Pan Eastern Exploration Company
5. Lewis #1
6. Greenwood
7. Morton KS
8. 16.1 million cubic feet
9. July 3, 1979
10. Panhandle Eastern Pipe Line Company
1. 79-11547
2. 15-129-00000
3. 108
4. Pan Eastern Exploration Company
5. Ruggles #1
6. Greenwood
7. Morton KS
8. 5.7 million cubic feet
9. July 3, 1979
10. Pan Eastern Pipe Line Company
1. 79-11548
2. 15-165-00000
3. 108
4. George A Angle
5. #1 Urban K
6. Reichel
7. Rush KS
8. 5.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79-11549
2. 15-165-00000
3. 108
4. George A Angle
5. #2 McGill
6. Reichel
7. Rush KS
8. 19.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79-11550
2. 15-189-20386
3. 103
4. Kansas Petroleum Inc
5. Brecheisen #1
6. Panoma Council Grove
7. Stevens KS
8. 60.0 million cubic feet
9. July 3, 1979
10. Northern Natural Gas Company
1. 79-11551
2. 15-189-20385
3. 103
4. Kansas Petroleum Inc
5. Brecheisen #1-A
6. Council Grove Panoma
7. Stevens KS
8. 60.0 million cubic feet
9. July 3, 1979
10. Northern Natural Gas Company
1. 79-11552
2. 15-165-00000
3. 108
4. George A Angle
5. #2 Hooper
6. Reichel
7. Rush KS
8. 1.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79-11553
2. 15-165-00000
3. 108
4. George A Angle
5. #1 Janson
6. Reichel
7. Rush KS
8. 2.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79-11554
2. 15-165-00000
3. 108
4. George A Angle
5. #2 Janson A
6. Reichel
7. Rush KS
8. 8.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79-11558
2. 15-047-20314
3. 102
4. Benson Mineral Group Inc
5. Gibson #2
6. Wil
7. Edwards KS
8. 109.0 million cubic feet
9. July 3, 1979
10. Panhandle Eastern Pipeline Co
1. 79-11569
2. 15-047-20313
3. 102
4. Benson Mineral Group Inc
5. Gibson #1
6. Wil
7. Edwards KS
8. 109.0 million cubic feet
9. July 3, 1979
10. Panhandle Eastern Pipeline Company
1. 79-11570
2. 15-047-20359
3. 102
4. Benson Mineral Group Inc
5. Schultz 2-A
6. Wil

7. Edwards KS
8. 87.0 million cubic feet
9. July 3, 1979
10. Panhandle Eastern Pipeline Company
1. 79-11571
2. 15-047-20287
3. 102
4. Benson Mineral Group
5. Shultz 1-A
6. Wil
7. Edwards KS
8. 87.0 million cubic feet
9. July 3, 1979
10. Panhandle Eastern Pipeline Co.
1. 79-11572
2. 15-047-20345
3. 102
4. Benson Mineral Group
5. Gibson #4
6. Wil
7. Edwards KS
8. 109.0 million cubic feet
9. July 3, 1979
10. Panhandle Eastern Pipelines Co.
1. 79-11573
2. 15-127-20224
3. 102
4. Benson Mineral Group
5. White 3-6
6. Wilde
7. Morris KS
8. 64.0 million cubic feet
9. July 3, 1979
10. MAPCO
1. 79-11574
2. 15-127-20162
3. 102
4. Benson Mineral Group
5. Veal 2-30
6. Wilde
7. Morris KS
8. 33.0 million cubic feet
9. July 3, 1979
10. MAPCO
1. 79-11596
2. 15-165-00000
3. 108
4. George A. Angle
5. #2 Steitz-Decker
6. Reichel
7. Rush KS
8. 8.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co. Inc.
1. 79-11597
2. 15-165-00000
3. 108
4. George A. Angle
5. #1 Holzmeister B
6. Reichel
7. Rush KS
8. 8.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co. Inc.
1. 79-11598
2. 15-165-00000
3. 108
4. George A. Angle
5. #1 Scherwood
6. Reichel
7. Rush KS
8. 8.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co. Inc.
1. 79-11599
2. 15-165-00000
3. 108
4. George A. Angle
5. #1 Schlitter
6. Reichel
7. Rush KS
8. 2.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co. Inc.
1. 79-11600
2. 15-165-00000
3. 108
4. George A. Angle
5. #1 Lippert B
6. Reichel
7. Rush KS
8. 9.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co. Inc.
1. 79-11601
2. 15-165-00000
3. 108
4. George A. Angle
5. #2 Lippert B
6. Reichel
7. Rush KS
8. 9.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co. Inc.
1. 79-11602
2. 15-165-00000
3. 108
4. George A. Angle
5. #1 Lebsack A
6. Reichel
7. Rush KS
8. 1.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co. Inc.
1. 79-11603
2. 15-165-00000
3. 108
4. George A. Angle
5. #2 Lippert
6. Reichel
7. Rush KS
8. 21.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co. Inc.
1. 79-11604
2. 15-165-00000
3. 108
4. George A. Angle
5. #1 Grumbein A
6. Reichel
7. Rush KS
8. 16.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co. Inc.
1. 79-11605
2. 15-165-00000
3. 108
4. George A. Angle
5. #1 Hoofer
6. Reichel
7. Rush KS
8. 18.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co. Inc.
1. 79-11606
2. 15-165-00000
3. 108
4. George A. Angle
5. #1 Honderick C
6. Reichel
7. Rush KS
8. 1.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co. Inc.
1. 79-11607
2. 15-165-00000
3. 108
4. George A. Angle
5. #6 Lippert A
6. Reichel
7. Rush KS
8. 2.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co. Inc.
1. 79-11608
2. 15-165-00000
3. 108
4. George A. Angle
5. #1 Honderick
6. Reichel
7. Rush KS
8. 11.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co. Inc.
1. 79-11621
2. 15-165-00000
3. 108
4. George A. Angle
5. #2 Legleiter
6. Reichel
7. Rush KS
8. .0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co. Inc.
1. 79-11622
2. 15-165-00000
3. 108
4. George A. Angle
5. #1 Kober A
6. Reichel
7. Rush KS
8. 5.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co. Inc.
1. 79-11623
2. 15-165-00000
3. 108
4. George A. Angle
5. #1 Kober
6. Reichel
7. Rush KS
8. 6.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co. Inc.
1. 79-11624
2. 15-165-00000
3. 108
4. George A. Angle
5. #1 Kleweno A
6. Reichel
7. Rush KS
8. 13.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co. Inc.
1. 79-11625
2. 15-165-00000
3. 108
4. George A. Angle
5. #3 Kansas State
6. Reichel
7. Rush KS
8. 3.0 million cubic feet

9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co. Inc.
1. 79-11626
2. 15-165-00000
3. 108
4. George A. Angle
5. #1 Ochs A
6. Reichel
7. Rush KS
8. 7.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co. Inc.
1. 79-11627
2. 15-165-00000
3. 108
4. George A. Angle
5. #1 Hartman A
6. Reichel
7. Rush KS
8. 9.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co. Inc.
1. 79-11628
2. 15-165-00000
3. 108
4. George A. Angle
5. #1 Odell
6. Reichel
7. Rush KS
8. 3.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co. Inc.
1. 79-11629
2. 15-165-00000
3. 108
4. George A. Angle
5. #2 Ochs B
6. Reichel
7. Rush KS
8. 4.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co. Inc.
1. 79-11630
2. 15-165-00000
3. 108
4. George A. Angle
5. #1 Steitz A
6. Reichel
7. Rush KS
8. 7.0 million cubic feet
9. July 3, 1979
10. Kansas-Nebraska Natural Gas Co. Inc.

New Mexico Department of Energy and Minerals, Oil Conservation Division
1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-11402
2. 47-021-01493
3. 108
4. Allegheny Land & Mineral Co
5. A-204
6. Glenville District
7. Gilmer, WV
8. 1.1 million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp
1. 79-11403
2. 47-041-01088
3. 108
4. Allegheny Land & Mineral Co
5. A-187
6. Court House District
7. Lewis, WV
8. 6.1 million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp
1. 79-11404
2. 47-041-01014
3. 108
4. Allegheny Land & Mineral Co
5. A-188
6. Court House District
7. Lewis, WV
8. 1.8 million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp
1. 79-11405
2. 47-041-00417
3. 108
4. Allegheny Land & Mineral Co
5. A-55
6. Appalachia Basin
7. Lewis, WV
8. 2.3 million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp
1. 79-11406
2. 47-007-00525
3. 108
4. Allegheny Land & Mineral Co
5. A-186
6. Saltlick District
7. Braxton, WV
8. 4.2 million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp
1. 79-11407
2. 47-017-01137
3. 108
4. Allegheny Land & Mineral Co
5. A-250
6. McClellan District
7. Doddridge, WV
8. 6.4 million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp
1. 79-11408
2. 47-017-01025
3. 108
4. Allegheny Land & Mineral Co
5. A-213
6. McClellan District
7. Doddridge, WV
8. 6.4 million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp
1. 79-11409
2. 47-021-01183
3. 108
4. Allegheny Land & Mineral Co
5. A-93
6. Dekalb District
7. Gilmer, WV
8. 9.1 million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp
1. 79-11410
2. 47-017-00941
3. 108
4. Allegheny Land & Mineral Co
5. A-206
6. McClellan District
7. Doddridge, WV
8. 3.0 million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp
1. 79-11411
2. 47-041-00481
3. 108
4. Allegheny Land & Mineral Co

5. A-71
6. Court House District
7. Lewis, WV
8. 2.0 million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11412
2. 47-033-00370
3. 108
4. Allegheny Land & Mineral Co
5. A-275
6. Eagle District
7. Harrison, WV
8. 3.1 million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11413
2. 47-049-00272
3. 108
4. Allegheny Land & Mineral Co
5. A-273
6. Mannington District
7. Marion, WV
8. 2.5 million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11414
2. 47-017-00503
3. 108
4. Allegheny Land & Mineral Co
5. A-113
6. Appalachian Basin (Giant District)
7. Doddridge, WV
8. 2.9 million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11415
2. 47-097-01502
3. 108
4. Allegheny Land & Mineral Co
5. A-356
6. Washington District
7. Upshur, WV
8. 3.9 million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11418
2. 47-097-01070
3. 108
4. Allegheny Land & Mineral Co
5. A-340
6. Washington District
7. Upshur, WV
8. 5.7 million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11417
2. 47-097-01073
3. 108
4. Allegheny Land & Mineral Co
5. A-341
6. Washington District
7. Upshur, WV
8. 7.3 million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11418
2. 47-085-03254
3. 108
4. Allegheny Land & Mineral Co
5. A-343
6. Murphy District
7. Ritchie, WV
8. 9.6 million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11419
2. 47-013-01698
3. 108
4. Allegheny Land & Mineral Co
5. A-22
6. Appalachian Basin (Sherman Dist)
7. Calhoun, WV
8. 3.9 million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11420
2. 47-017-00271
3. 108
4. Allegheny Land & Mineral Co
5. A-24
6. Southwest District Appalachian Basin
7. Doddridge, WV
8. 1.1 million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11421
2. 47-033-00365
3. 108
4. Allegheny Land & Mineral Co
5. A-269
6. Eagle District
7. Harrison WV
8. 1.0 Million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11422
2. 47-097-01504
3. 108
4. Allegheny Land & Mineral Co
5. A-355
6. Washington District
7. Upshur WV
8. 16.1 Million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11423
2. 47-097-01112
3. 108
4. Allegheny Land & Mineral Co
5. A-354
6. Washington District
7. Upshur WV
8. 7.0 Million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11424
2. 47-085-03033
3. 108
4. Allegheny Land & Mineral Co
5. A-301
6. Murphy District
7. Ritchie wv
8. 1.2 Million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11425
2. 47-085-03056
3. 108
4. Allegheny Land & Mineral Co
5. A-297
6. Murphy District
7. Ritchie wv
8. 1.4 Million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11426

2. 47-041-01533
3. 108
4. Allegheny Land & Mineral Co
5. A-325
6. Freemans Creek District
7. Lewis WV
8. 4.8 Million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11427
2. 47-017-01354
3. 108
4. Allegheny Land & Mineral Co
5. A-309
6. McClellan District
7. Doddridge WV
8. 7.3 Million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11428
2. 47-013-01728
3. 108
4. Allegheny Land & Mineral Co
5. A-39
6. Appalachian Basin Washington
7. Calhoun WV
8. 4.4 Million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11429
2. 085-02053
3. 108
4. Allegheny Land & Mineral Co
5. A-40
6. Murphy Dist Appalachian Basin
7. Ritchie WV
8. 4.4 Million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11430
2. 47-041-00388
3. 108
4. Allegheny Land & Mineral Co
5. A-38
6. Appal Basin Freemans Creek
7. Lewis WV
8. 3.4 Million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11431
2. 47-085-03210
3. 108
4. Allegheny Land & Mineral Co
5. A-334
6. Grant District
7. Ritchie WV
8. .8 Million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11432
2. 47-041-01530
3. 108
4. Allegheny Land & Mineral Co
5. A-324
6. Freemans Creek District
7. Lewis WV
8. 4.0 Million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11433
2. 47-097-01001
3. 108
4. Allegheny Land & Mineral Co
5. A-311

6. Washington District
7. Upshur WV
8. 3.7 Million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11498
2. 47-041-00418
3. 108
4. Allegheny Land & Mineral Co
5. A-54
6. Freemans Creek Dist Appal Basin
7. Lewis WV
8. 7.2 Million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11499
2. 47-041-00400
3. 108
4. Allegheny Land & Mineral Co
5. A-45
6. Freemans Creek Dist Appal Basin
7. Lewis WV
8. 3.4 Million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11500
2. 47-017-00284
3. 108
4. Allegheny Land & Mineral Co
5. A-58
6. Southwest District Appal Basin
7. Doddridge WV
8. 3.7 Million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11501
2. 47-021-01137
3. 108
4. Allegheny Land & Mineral Co
5. A-59
6. De Kalb District
7. Gilmer WV
8. 4.6 Million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11502
2. 47-017-01019
3. 108
4. Allegheny Land & Mineral Co
5. A-207
6. McClellan District
7. Doddridge WV
8. 3.0 Million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11503
2. 47-041-01307
3. 108
4. Allegheny Land & Mineral Co
5. A-247
6. Freemans Creek District
7. Lewis WV
8. 1.1 Million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11504
2. 47-017-00538
3. 108
4. Allegheny Land & Mineral Co
5. A-136
6. Giant District
7. Doddridge WV
8. 5.7 Million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11505
2. 47-041-00722
3. 108
4. Allegheny Land & Mineral Co
5. A-131
6. Freemans Creek District
7. Lewis WV
8. 2.7 Million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11506
2. 47-017-00741
3. 108
4. Allegheny Land & Mineral Co
5. A-177
6. McClellan District
7. Doddridge WV
8. 4.7 Million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp.
1. 79-11555
2. 47-017-02281
3. 108
4. Allegheny Land & Mineral Co
5. A-700
6. Southwest District
7. Doddridge WV
8. 8.5 Million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp.
1. 79-11556
2. 47-033-01058
3. 108
4. Allegheny Land & Mineral Co
5. A-659
6. Eagle District
7. Harrison WV
8. 13.2 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp.
1. 79-11557
2. 47-083-00177
3. 108
4. Allegheny Land & Mineral Co
5. A-518
6. Roaring Creek District
7. Randolph WV
8. 3.3 Million cubic feet
9. July 3, 1979
10. Columbia Gas Transmission Corp
1. 79-11558
2. 47-097-01804
3. 108
4. Allegheny Land & Mineral Co
5. A-728
6. Buckhannon District
7. Upshur WV
8. 5.8 Million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp.
1. 79-11559
2. 47-033-01260
3. 108
4. Allegheny Land & Mineral Co
5. A-749
6. Union District
7. Harrison WV
8. 5.6 Million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp.
1. 79-11560
2. 47-097-01796
3. 108
4. Allegheny Land & Mineral Co
5. A-723
6. Buckhannon District
7. Upshur WV
8. 2.1 Million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp.
1. 79-11561
2. 47-097-01283
3. 108
4. Allegheny Land & Mineral Co
5. A-397
6. Union District
7. Upshur WV
8. 12.7 Million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp.
1. 79-11562
2. 47-017-01870
3. 108
4. Allegheny Land & Mineral Co
5. A-680
6. Southwest
7. Doddridge WV
8. 10.1 Million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp.
1. 79-11563
2. 47-083-00230
3. 108
4. Allegheny Land & Mineral Co
5. A-763
6. Middle Fork District
7. Randolph WV
8. 3.4 million cubic feet
9. July 3, 1979
10. Columbia Gas Transmission Corp
1. 79-11575
2. 47-085-03089
3. 108
4. Allegheny Land & Mineral Co
5. A-295
6. Murphy District
7. Ritchie WV
8. 1.4 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11578
2. 47-097-01089
3. 108
4. Allegheny Land & Mineral Co
5. (1-5) A-348
6. Washington District
7. Upshur WV
8. 2.3 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11577
2. 47-097-01110
3. 108
4. Allegheny Land & Mineral Co
5. A-352
6. Washington District
7. Upshur WV
8. 6.9 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11578
2. 47-087-01118
3. 108
4. Allegheny Land & Mineral Co
5. A-358
6. Union District

7. Upshur WV
8. 3.7 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11579
2. 47-017-01297
3. 108
4. Allegheny Land & Mineral Co
5. A-283
6. McClellan District
7. Doddridge WV
8. 8.9 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11580
2. 47-041-00778
3. 108
4. Allegheny Land & Mineral Co
5. A-147
6. Freemans Creek District
7. Lewis WV
8. 1.2 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11581
2. 47-041-00860
3. 108
4. Allegheny Land & Mineral Co
5. A-161
6. Court House District
7. Lewis WV
8. 1.0 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11582
2. 47-085-03046
3. 108
4. Allegheny Land & Mineral Co
5. A-294
6. Murphy District
7. Ritchie WV
8. 5.8 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11583
2. 47-085-02414
3. 108
4. Allegheny Land & Mineral Co
5. A-149
6. Murphy District
7. Ritchie WV
8. 1.9 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11584
2. 47-085-02036
3. 108
4. Allegheny Land & Mineral Co
5. A-34
6. Appal Murphy Dist Basin
7. Ritchie WV
8. 9.0 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11585
2. 47-041-00751
3. 108
4. Allegheny Land & Mineral Co
5. A-107
6. Freemans Creek District
7. Lewis WV
8. 2.7 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp

1. 79-11586
2. 47-017-01136
3. 108
4. Allegheny Land & Mineral Co
5. A-241
6. McClellan District
7. Doddridge WV
8. 5.3 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11587
2. 47-017-01039
3. 108
4. Allegheny Land & Mineral Co
5. A-224
6. Grant District
7. Doddridge WV
8. 6.1 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11588
2. 47-085-02095
3. 108
4. Allegheny Land & Mineral Co
5. A-56
6. Murphy District Appalachian Basin
7. Ritchie WV
8. 2.2 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11589
2. 47-017-00834
3. 108
4. Allegheny Land & Mineral Co
5. A-191
6. Grant District
7. Doddridge WV
8. 3.5 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11590
2. 47-017-00938
3. 108
4. Allegheny Land & Mineral Co
5. A-214
6. McClellan District
7. Doddridge WV
8. 3.7 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11591
2. 47-041-00620
3. 108
4. Allegheny Land & Mineral Co
5. A-116
6. Freemans Creek-District Appalachian
7. Lewis WV
8. 2.0 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11592
2. 47-017-01038
3. 108
4. Allegheny Land & Mineral Co
5. A-226
6. McClellan District
7. Doddridge WV
8. 8.7 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11593
2. 47-041-00578
3. 108
4. Allegheny Land & Mineral Co

5. A-101
6. Freemans Creek District
7. Lewis WV
8. 3.5 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11594
2. 47-041-00687
3. 108
4. Allegheny Land & Mineral Co
5. A-105
6. Freemans Creek District
7. Lewis WV
8. 2.3 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11595
2. 47-041-00404
3. 108
4. Allegheny Land & Mineral Co
5. A-47
6. Freemans Creek Appal Basin
7. Lewis WV
8. 3.4 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11609
2. 47-017-01120
3. 108
4. Allegheny Land & Mineral Co
5. A-242
6. McClellan District
7. Doddridge WV
8. 1.8 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11610
2. 47-021-01608
3. 108
4. Allegheny Land & Mineral Co
5. A-244
6. Gilmer WV
8. 2.6 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11611
2. 47-021-01132
3. 108
4. Allegheny Land & Mineral Co
5. A-51
6. Dekalb Appalachian Basin
7. Gilmer WV
8. 4.6 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11612
2. 47-085-02339
3. 108
4. Allegheny Land & Mineral Co
5. A-134
6. Murphy District
7. Ritchie WV
8. .7 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11613
2. 47-021-01167
3. 108
4. Allegheny Land & Mineral Co
5. A-91
6. Center District
7. Gilmer WV
8. 4.3 million cubic feet

9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11614
2. 47-041-00443
3. 108
4. Allegheny Land & Mineral Co
5. A-63
6. Freemans Creek District
7. Lewis WV
8. .7 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11615
2. 47-021-01508
3. 108
4. Allegheny Land & Mineral Co
5. A-212
6. Glenville District
7. Gilmer WV
8. 1.1 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11616
2. 47-017-00966
3. 108
4. Allegheny Land & Mineral Co
5. A-211
6. Grant District
7. Doddridge WV
8. 4.9 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11617
2. 47-017-01113
3. 108
4. Allegheny Land & Mineral Co
5. A-208
6. McClellan District
7. Doddridge WV
8. 3.6 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11618
2. 47-041-00723
3. 108
4. Allegheny Land & Mineral Co
5. A-132
6. Freemans Creek District
7. Lewis WV
8. 2.7 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11619
2. 47-041-00492
3. 108
4. Allegheny Land & Mineral Co
5. A-76
6. Freemans Creek District
7. Lewis WV
8. .7 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11620
2. 47-041-00689
3. 108
4. Allegheny Land & Mineral Co
5. A-130
6. Freemans Creek District
7. Lewis WV
8. 2.7 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11631

2. 47-097-01759
3. 108
4. Allegheny Land & Mineral Co
5. A-655
6. Buckhannon District
7. Upshur WV
8. 12.9 million cubic feet
9. July 3, 1979
10. Equitable Gas
1. 79-11632
2. 47-033-01227
3. 108
4. Allegheny Land & Mineral Co
5. A-733
6. Union District
7. Harrison WV
8. 15.9 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11633
2. 47-033-01224
3. 108
4. Allegheny Land & Mineral Co
5. A-702
6. Sardis District
7. Harrison WV
8. 3.3 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11634
2. 47-033-01207
3. 108
4. Allegheny Land & Mineral Co
5. A-732
6. Ten Mile District
7. Harrison WV
8. 5.8 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11635
2. 47-021-01180
3. 108
4. Allegheny Land & Mineral Co
5. A-90
6. Center District
7. Gilmer County WV
8. 3.3 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11636
2. 47-097-01794
3. 108
4. Allegheny Land & Mineral Co
5. A-719
6. Buckhannon District
7. Upshur WV
8. 3.2 million cubic feet
9. July 3, 1979
10. Equitable Gas
1. 79-11637
2. 47-001-00913
3. 108
4. Allegheny Land & Mineral Co
5. A-706
6. Union District
7. Barbour WV
8. 9.3 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11638
2. 47-083-00186
3. 108
4. Allegheny Land & Mineral Co
5. A-647

6. Middle Fork District
7. Randolph WV
8. 21.2 million cubic feet
9. July 3, 1979
10. Columbia Gas Transmission Corp
1. 79-11639
2. 47-033-00256
3. 108
4. Allegheny Land & Mineral Co
5. A-180
6. Clay District
7. Harrison WV
8. 4.2 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11640
2. 47-041-02183
3. 108
4. Allegheny Land & Mineral Co
5. A-744
6. Skin Creek District
7. Lewis WV
8. 1.5 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11641
2. 47-017-01891
3. 108
4. Allegheny Land & Mineral Co
5. A-746
6. Southwest District
7. Doddridge WV
8. 9.7 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11642
2. 47-061-00284
3. 108
4. Allegheny Land & Mineral Co
5. A-290
6. Cass District
7. Monongalia County WV
8. 1.8 million cubic feet
9. July 3, 1979
10. Carnegie Natural Gas Company
1. 79-11643
2. 47-021-01148
3. 108
4. Allegheny Land & Mineral Co
5. A-65
6. Dekalb District
7. Gilmer WV
8. 8.8 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11644
2. 47-041-00762
3. 108
4. Allegheny Land & Mineral Co
5. A-143
6. Freemans Creek District
7. Lewis WV
8. 7.8 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11645
2. 47-017-00972
3. 108
4. Allegheny Land & Mineral Co
5. A-209
6. McClellan District
7. Doddridge WV
8. 7.7 million cubic feet
9. July 3, 1979

10. Consolidated Gas Supply Corp
1. 79-11646
2. 47-033-01071
3. 108
4. Allegheny Land & Mineral Co
5. A-652
6. Sardis District
7. Harrison WV
8. 15.1 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11647
2. 47-097-01088
3. 108
4. Allegheny Land & Mineral Co
5. A-346
6. Washington District
7. Upshur WV
8. 4.1 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11648
2. 47-097-01093
3. 108
4. Allegheny Land & Mineral Co
5. A-347
6. Washington District
7. Upshur WV
8. 10.4 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11649
2. 47-097-01072
3. 108
4. Allegheny Land & Mineral Co
5. A-339
6. Washington District
7. Upshur WV
8. 7.7 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11650
2. 47-041-00395
3. 108
4. Allegheny Land & Mineral Co
5. A-43
6. Murphy Appalachian Basin
7. Lewis WV
8. 2.0 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11651
2. 47-085-02052
3. 108
4. Allegheny Land & Mineral Co
5. A-44
6. Murphy Appalachian Basin
7. Ritchie WV
8. 2.2 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11652
2. 47-013-01703
3. 108
4. Allegheny Land & Mineral Co
5. A-29
6. Washington Appalachian Basin
7. Calhoun WV
8. 5.7 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11653
2. 47-041-00678

3. 108
4. Allegheny Land & Mineral Co
5. A-28
6. Freemans Creek Appalachian Basin
7. Lewis WV
8. 5.1 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11654
2. 47-041-00652
3. 108
4. Allegheny Land & Mineral Co
5. A-119
6. Court House Dist Appalachian Basin
7. Lewis WV
8. 7.7 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11655
2. 47-013-01865
3. 108
4. Allegheny Land & Mineral Co
5. A-114
6. Washington-District Appalachian Basin
7. Calhoun WV
8. 3.1 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11656
2. 47-041-00882
3. 108
4. Allegheny Land & Mineral Co
5. A-163
6. Court House District
7. Lewis WV
8. 5.8 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp
1. 79-11657
2. 47-033-00368
3. 108
4. Allegheny Land & Mineral Co
5. A-268
6. Eagle District
7. Harrison WV
8. 3.0 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp.
1. 79-11658
2. 47-017-01294
3. 108
4. Allegheny Land & Mineral Co.
5. A-292
6. McClellan District
7. Doddridge WV
8. 5.1 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp.
1. 79-11663
2. 47-013-01722
3. 108
4. Allegheny Land & Mineral Co.
5. A-35
6. Washington Appalachian Basin
7. Calhoun WV
8. 3.1 million cubic feet
9. July 2, 1979
10. Consolidated Gas Supply Corp.
1. 79-11664
2. 47-021-01258
3. 108
4. Allegheny Land & Mineral Co.
5. A-139
6. Glenville District

7. Gilmer WV
8. 4.8 million cubic feet
9. July 5, 1979
10. Consolidated Gas Supply Corp.
1. 79-11665
2. 47-041-00515
3. 108
4. Allegheny Land & Mineral Co.
5. A-81
6. Freemans Creek District
7. Lewis WV
8. 2.9 million cubic feet
9. July 5, 1979
10. Consolidated Gas Supply Corp.
1. 79-11666
2. 47-041-00514
3. 108
4. Allegheny Land & Mineral Co.
5. A-80
6. Freemans Creek District
7. Lewis WV
8. 6.2 million cubic feet
9. July 5, 1979
10. Consolidated Gas Supply Corp.
1. 79-11667
2. 47-041-01210
3. 108
4. Allegheny Land & Mineral Co.
5. A-229
6. Courthouse District
7. Lewis WV
8. .7 million cubic feet
9. July 3, 1979
10. Consolidated Gas Supply Corp.
1. 79-11668
2. 47-041-00578
3. 108
4. Allegheny Land & Mineral Co.
5. A-86
6. Freemans Creek District
7. Lewis WV
8. 3.7 million cubic feet
9. July 5, 1979
10. Consolidated Gas Supply Corp.
1. 79-11669
2. 47-021-01259
3. 108
4. Allegheny Land & Mineral Co.
5. A-140
6. Glenville District
7. Gilmer WV
8. 4.8 million cubic feet
9. July 5, 1979
10. Consolidated Gas Supply Corp.
1. 79-11670
2. 47-041-00654
3. 108
4. Allegheny Land & Mineral Co.
5. A-121
6. Freemans Creek District
7. Lewis WV
8. 4.0 million cubic feet
9. July 5, 1979
10. Consolidated Gas Supply Corp.
1. 79-11671
2. 47-017-01112
3. 108
4. Allegheny Land & Mineral Co.
5. A-196
6. McClellan District
7. Doddridge WV
8. 5.9 million cubic feet
9. July 5, 1979
10. Consolidated Gas Supply Corp.

1. 79-11672
2. 47-017-00945
3. 108
4. Allegheny Land & Mineral Co.
5. A-216
6. McClellan District
7. Doddridge WV
8. 6.2 million cubic feet
9. July 5, 1979
10. Consolidated Gas Supply Corp.

U.S. Geological Survey, Tulsa, Okla.

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State, or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-11564
2. 35-119-00000-0000-0
3. 102
4. Philco Petroleum Corporation
5. Morgan No. 1
6.
7. Payne OK
8. 25.0 million cubic feet
9. July 3, 1979
10. Phillips Petroleum Company
1. 79-11565
2. 35-119-20979-0000-0
3. 103
4. Philco Petroleum Corporation
5. Morgan No. 1
6.
7. Payne OK
8. 50.0 million cubic feet
9. July 3, 1979
10. Phillips Petroleum Company

1. 79-11566
2. 35-015-20422-0000-0
3. 108
4. Tenneco Oil Company
5. Lefthand 1-23
6. Cogar South
7. Caddo OK
8. 10.8 million cubic feet
9. July 3, 1979
10. Oklahoma Gas & Electric Co.
1. 79-11567
2. 35-017-20912-0000-0
3. 102
4. Donald C. Slawson Oil Producer
5. Hall No. 1-27
6. Watonga Trend
7. Canadian OK
8. 15.0 million cubic feet
9. July 3, 1979
10. Cities Service Gas Co.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this notice in the Federal Register.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22876 Filed 7-24-79; 8:45 am]

BILLING CODE 4910-01-M

BILLING CODE 6450-01-M

[Docket No. CP79-384]**Eastern Shore Natural Gas Co.; Application**

July 16, 1979.

Take notice that on June 26, 1979, Eastern Shore Natural Gas Company (Applicant), P.O. Box 615, Dover, Delaware 19901, filed in Docket No. CP79-384 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to render additional interruptible service to various existing direct-sale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to render additional interruptible service to various direct-sale customers up to the daily volumes shown in the following table:

Customer	Presently authorized daily volume (dt/day)	Proposed daily volume (dt/day)
International Playtex.....	100	600
James Thompson, Inc.....	40	600
Reichhold Polymers, Inc13640		750
Killen Grain Company	80	1,000
Townsend's, Inc.....	60	1,000
City of Easton	1,250	2,500
General Foods	350	3,300
City of Dover	250	8,000

Applicant states that the additional interruptible demands of the existing customers listed above will be supplied from significant increases in Applicant's gas supply as a result of: (1) two successive emergency gas purchases from UGI Corp. (UGI); (2) a gas sales agreement with Delhi Gas Pipeline Corporation (Delhi); and (3) regular deliveries from Transcontinental Gas Pipe Line Corporation's (Transco) improved system supply. It is indicated that Applicant purchased 303,969 dekatherms equivalent of emergency gas

from UGI during February and March 1979 and has also purchased approximately 760,000 dekatherms equivalent of gas from UGI, with deliveries commencing on April 28, 1979, and continuing at a rate of approximately 12,700 dekatherms per day through June 26, 1979. The UGI gas is being supplied to several of the customers listed above who have been curtailed and who have been forced to use oil to satisfy fuel needs which Applicant was unable to satisfy. The UGI gas has been transported from Applicant by Transco. Applicant expects to receive from time to time, additional releases from Transco's system supply.

Applicant states that as a result of the significant increases in gas deliveries by Transco and additional releases expected in the future from Transco, Applicant expects to be able from time to time to meet its customers' requests for interruptible gas service. Such service has not been provided to some of these customers for a period of six to eight years as a result of the general decline in Transco's gas supply throughout the 1970's. On the basis of current information, Applicant states, it appears that the daily requirements of these customers will or may be in excess of the daily volume previously authorized by FPC certificate orders. To facilitate Applicant's ability to meet these requests for interruptible service and thereby avoid the necessity of repeatedly invoking the notice and reporting provisions of 18 CFR 157.45 to accomplish service to these customers, Applicant requests the Commission to supplement Applicant's existing authority to deliver gas to them. No additional facilities are necessary to render service at these levels, Applicant states.

It is stated further that certain of the indicated customers will be using natural gas to displace No. 2, No. 5 and/or No. 6 fuel oil, while others will use natural gas in place of propane. The City of Dover and the City of Easton are currently said to be exposed to severe curtailments by Applicant. They have advised Applicant that the interruptible gas contemplated by this application will be used in order to displace fuel oil. Applicant understands that the City of Dover and the City of Easton have filed requests for public interest exemptions from the requirements of the Powerplant and Industrial Fuel Use Act of 1978.

Several of the existing customers are said to qualify as essential agricultural users under Title IV of the Natural Gas Policy Act of 1978. By increasing the volumes which Applicant would be

authorized to deliver to these customers, Applicant would be better able to meet new Priority 2 (essential agricultural use) demands with less likelihood of *pro rata* curtailment of such users.

It is stated that on May 22, 1979, Transco, acting as agent for Applicant and others, entered into a gas sales agreement with Delhi, pursuant to which Applicant would receive up to 8,500 dekatherms per day equivalent of gas for a 12-month period commencing on or about June 1, 1979. Transco proposes to transport the Delhi gas for Applicant's account pursuant to Natural Gas Policy Act of 1978, Title III. Applicant would take delivery of the gas at its delivery points in Hockessin, Delaware, and Parksburg, Pennsylvania.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 6, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22866 Filed 7-24-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-515]

Gulf Power Co.; Notice of Supplement

July 19, 1979.

The filing Company submits the following:

Take notice that on July 16, 1979, Gulf Power Company (Gulf) filed herein Supplement to its FERC Electric Tariffs providing for changes in loads for service by Gulf to Choctawhatchee Electric Cooperative, Inc., at Santa Rosa (Walton County), Florida. This tariff supplement is proposed to be effective for service commencing on June 15, 1979, and Gulf therefore requests waiver of the Commission's notice requirements to allow such effective dates.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 10, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22867 Filed 7-24-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-380]

National Fuel Gas Supply Corp.; Application

July 16, 1979.

Take notice that on June 22, 1979, National Fuel Gas Supply Corporation (Applicant), Ten Lafayette Square, Buffalo, New York 14240, filed in Docket No. CP79-380 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the installation and operation of a meter and regulator station in order to maintain continuity of services to Applicant's principal sales

customers, National Fuel Distribution Corporation (Distribution), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to install and operate a 6-inch office meter and 3-inch regulatory with a 6-inch relief valve on its Line U at Gunnville Station (Station LN-RS-40T) in northwestern New York State. The proposed facilities, Applicant indicates, are designed to coordinate with changes in Distribution's facilities which involve construction of its Line UM-3 which would extend from Applicant's Gunnville Station to the Billow Station and which would supply Batavia, New York and immediate area, now being supplied entirely through Distribution's P4-8-inch line but in lesser amounts. The proposed facilities would supply 20,640 Mcf of natural gas per day to the proposed UM-3 line of distribution.

Applicant estimates the total cost of the proposed facilities to be \$20,860, which cost would be financed with internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 6, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is

required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22868 Filed 7-24-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket Nos. RP71-107 and RP72-127]

Northern Natural Gas Co.; Revised Tariff Sheets

July 18, 1979

Take notice that on July 10, 1979 Northern Natural Gas Company (Northern) filed Third Revised Volume No. 1 Substitute 19th Revised Sheet No. 4A and Original Volume No. 2 Substitute 19th Revised Sheet No. 1C. Northern states that these sheets are filed as required by Commission Order of June 25, 1979. Northern states that these tariff sheets are filed in order to comply with Ordering Paragraph D of that Order. The tariff sheets have an effective date of June 27, 1979.

North states that copies of the tariff sheets, the explanatory statement and supporting schedules have been mailed to all of its interested customers and state commissions and that a copy of the filing is also available for inspection in Northern's office in Omaha, Nebraska.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22869 Filed 7-24-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-510]

Ohio Power Co.; Termination

July 18, 1979.

The filing Company submits the following:

Take notice that Ohio Power Company (OPCo) on July 13, 1979 tendered for filing a Notice of Termination of OPCo's Service Schedule G of Rate Schedule FERC No. 36 (Service Schedule G—Firm Power to the Dayton Power and Light Company (Dayton)).

Prior written notice given by OPCo on November 12, 1976 under the terms of Service Schedule G provides for no service under the Schedule after May 31, 1979. Therefore, OPCo has requested that the Commission make the Notice of Termination effective any time after that date as provided in 18 CFR 35.15.

According to OPCo, copies of this filing have been served upon Dayton.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 125 N. Capitol Street, NE, Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 8, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22870 Filed 7-24-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-514]

Ohio Power Co.; Notice of Agreement

July 19, 1979.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation (AEP) on July 16, 1979, tendered for filing on behalf of its affiliate, Ohio Power Company (Ohio), Supplement No. 7 dated June 15, 1979 to the Interconnection Agreement dated January 1, 1952, between Ohio and Ohio

Edison Company, designated Ohio Rate Schedule FERC No. 25.

Subsection 4.11 of Supplement No. 7 provides a Demand Charge for Limited Term Power of \$3.75 per kilowatt per month, and subsection 4.12 of Supplement No. 7 for a transmission charge for third party Limited Term Power transactions of \$0.75 per kilowatt per month, proposed to become effective June 30, 1979. Applicant states that since the use of Limited Term Power cannot be accurately estimated, for the twelve-month period succeeding the date of filing, it is impossible to estimate the increase in revenues resulting from this supplement for such period.

Copies of the filing were served upon Ohio Edison Company and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest said application with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 10, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22871 Filed 7-24-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-517]

Ohio Power Co.; Proposed Changes

July 19, 1979.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation (AEP) on July 17, 1979, tendered for filing on behalf of its affiliate, Ohio Power Company (Ohio Company), Modification No. 10 dated June 15, 1979 to the Interconnection Agreement dated December 1, 1963 (1963 Agreement), between Ohio Company and Columbus & Southern Ohio Electric Company (Columbus Company), designated Ohio's Company Rate Schedule FERC No. 32.

Modification No. 10 provides for participation by the parties in Economy Energy transactions involving systems

which are not parties to the 1963 Agreement.

Under the proposed Modification transactions with systems not a party to the 1963 Agreement between the parties would be priced, as was previously contemplated under the 1963 Agreement between the parties, on the basis of costs incurred, plus a sharing by all of the participants of the savings realized by the ultimate receiving system. Transmission losses are one of the costs incurred. Each system participating in an Economy Energy transaction other than as the supplying or receiving system would receive 15% of the savings and the supplying and ultimate receiving system would divide the remainder of the savings. Applicant states that the proposed 15% of savings allocated to each intermediate system was arrived at through negotiation and is intended to recognize that since Economy Energy transactions will depend upon the availability of Economy Energy, the need for another system for such energy and possible transmission restrictions, it is impossible to estimate the transactions and revenues resulting from the proposed service.

Copies of the filing were served upon Columbus & Southern Ohio Electric Company and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22872 Filed 7-24-79; 8:45 am]
BILLING CODE 6450-01-M

[Project No. 2689]

Scott Paper Co.; Application for Amendment of License

July 17, 1979.

Take notice that the Scott Paper Company filed on August 31, 1977, and supplemented on July 24, 1978, an application seeking Commission approval of several modifications to its

constructed Oconto Falls Project No. 2689. The project is located on the Oconto River in the city of Oconto Falls, Oconto County, Wisconsin. Correspondence concerning the application should be sent to: Charles L. Gravett, III, Scott Paper Company, Law Division, Scott Plaza One, Philadelphia, PA 19113; and Bernard A. Foster, III, Nancy J. Hubbard, Ross, March & Foster, 730 15th St., NW, Washington, DC 20005.

On January 18, 1973, the Commission issued a minor license for the project, which included three powerhouses and four generating units with a total installed capacity of 1,070 kW. The project was in poor condition, and the applicant was ordered by the Commission to make repairs. Subsequently, the applicant reconstructed Powerhouse No. 2 and installed a used generating unit rated 1,500kW. The applicant also determined that Powerhouse No. 3 should be abandoned, and thereafter removed the structure. The project now consists of two powerhouses and two generating units with a total installed capacity of 1,860 kW.

Anyone desiring to be heard or to make any protest about this application should file a protest or a petition to intervene with the Federal Energy Regulatory Commission, in accordance with the requirements of the commission's Rules of Practice and Procedure ("Rules"), 18 CFR 1.10 or 1.8 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before Sept. 4, 1979. The Commission's address is: 825 N. Capitol Street, NE, Washington, DC 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22873 Filed 7-24-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket Nos. RP73-114 (PGA79-2) et al.]

Tennessee Gas Pipeline Co.; Notice Granting Extension of Time

July 18, 1979.

On July 6, 1979, Tennessee Gas Pipeline Company filed a motion for

extension of time for complying with Ordering Paragraph (B) of the Commission's June 29, 1979 order in these proceedings. The motion states the material required by Appendix A of the order may be voluminous and time consuming to prepare because Tennessee purchases gas under approximately 800 gas purchase agreements.

Upon consideration, notice is hereby given that an extension of time is granted to and including August 15, 1979 for Tennessee to comply with Ordering Paragraph (B).

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22874 Filed 7-24-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-381]

Texas Gas Transmission Corp.; Application

July 16, 1979.

Take notice that on June 25, 1979, Texas Gas Transmission Corporation (Applicant), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP79-381 an application pursuant to Section 311(a)(1)(A)(ii) of the Natural Gas Policy Act of 1978 for approval to render a transportation service, on an interruptible basis, for the City of Murray, Kentucky (Murray), a resale customer of Applicant, and to construct and operate certain facilities necessary to perform such service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Pursuant to a transportation agreement, dated June 13, 1979, between Applicant and Murray, Applicant proposes to transport and deliver up to 250 Mcf of natural gas per day to Murray, which gas is produced from reserves in Hopkins County, Kentucky, and purchased by Murray from Har-Ken Oil Company. Applicant also proposes to construct and install a meter station and related equipment at or near Block Valve No. 46 on Applicant's No. 1, 26-inch pipeline near Nebo, Hopkins County, Kentucky, in order to effectuate the proposed transportation service. Applicant states that it would receive the volumes of gas it proposes to transport at the proposed meter station and would transport and deliver the gas to Murray at an existing meter station where Applicant makes deliveries to Murray. Applicant further states that the meter station would be owned and operated by Applicant, and that Murray would reimburse Applicant for the costs

associated with the construction and installation of such station. The estimated cost of the proposed facilities is \$10,700.

Applicant states that it would charge Murray for the proposed transportation service an initial rate of 24.26 cents for each Mcf (at 14.73 psia) delivered to Murray.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 6, 1979, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22875 Filed 7-24-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP72-156, PGA 79-2]

Texas Gas Transmission Corp.; Filing of Revised Tariff Sheet

July 12, 1979.

Take notice that on June 15, 1979, Texas Gas Transmission Corporation (Texas Gas) tendered for filing Twenty-Sixth Revised Sheet No. 7, to its FERC Gas Tariff, Third Revised Volume No. 1. The tariff sheet and supporting information are being filed pursuant to the Purchased Gas Adjustment Provisions set out in Section 23 of Texas Gas' tariff and § 10.5 pertaining to the recovery of demand charge adjustments. Also reflected are changes in the Louisiana First Use Tax pursuant to the provisions of Section 25 of Texas Gas' Tariff.

Texas Gas states that the Current Adjustment under the revised tariff sheet reflects rates payable to Texas Gas' suppliers as of August 1, 1979, in accordance with applicable price regulations under the Natural Gas Policy Act of 1978 (NGPA).

Copies of the revised tariff sheet and supporting data are being mailed to Texas Gas' jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition

to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 23, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22876 Filed 7-24-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-516]

The Washington Water Power Co.; Notice of Filing

July 19, 1979.

The filing Company submits the following:

Take notice that on July 17, 1979, the Washington Water Power Company (Washington) tendered for filing copies of a service schedule applicable to what Washington refers to as a "Letter Agreement" between Washington and San Diego Gas & Electric Company (San Diego) for the sale of capacity. Washington states that the capacity will be made available to San Diego during July and August 1979.

Washington requests that the requirements of prior notice be waived and the effective date be made retroactive to July 1, 1979, adding that there would be no effect upon purchasers under other rate schedules.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-22877 Filed 7-24-79; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OTS-00004; FRL 1281-6]

Administrator's Toxic Substances Advisory Committee

AGENCY: Environmental Protection Agency.

ACTION: Notice of Open Meeting.

SUMMARY: There will be a meeting of the Premanufacturing Notification and Existing Chemical Subcommittees of the Administrator's Toxic Substances Advisory Committee (ATSAC) from 9:00 a.m. to 5:00 p.m. on Tuesday, August 14, 1979. The meeting will be held in Room 2117, Waterside Mall, EPA, 401 M Street S.W., Washington, D.C. and will be open to the public.

FOR FURTHER INFORMATION CONTACT: David J. Steinhardt, Interim, Administrative Officer, ATSAC, Office of Toxic Substances (TS-793), Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460. Toll free telephone number (800) 424-9065. In Washington, D.C. call 755-4854.

SUPPLEMENTAL INFORMATION: The purpose of this meeting is to discuss matters related to EPA's implementation of the Toxic Substances Control Act (Pub. L. 94-469). The agenda includes discussion of:

1. Revised premanufacture notice form. In the near future EPA will repropose the notice form in the Federal Register for further public review and comment.
2. EPA's premanufacture notice review process.
3. Status of EPA's review of premanufacture notices received to date.
4. Other premanufacture issues.
5. EPA plans and programs regarding asbestos controls.

The meeting will be open to the public and time will be set aside for public comments. Any member of the public who wishes to present an oral or written statement should contact David J. Steinhardt at the address or phone numbers listed above.

Dated: July 17, 1979.
Steven D. Jellinek,
Assistant Administrator for Toxic
Substances.
[FR Doc. 79-22982 Filed 7-24-79; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 79-173; FCC 79-436]

Booth American Co.; Revocation of License

Adopted: July 12, 1979; Released July 20, 1979.

By the Commission: Commissioners Ferris, Chairman; and Quello absent.

In the matter of revocation of the license of Booth American Company, Stations WJLB and WMZK-FM, Detroit, Michigan:

1. The Commission has before it for consideration the outstanding licenses of the captioned licensee, Booth American Company, to operate Radio Stations WJLB and WMZK-FM, Detroit, Michigan, and the Commission's field inquiries concerning the operation of those stations.¹

2. Information before the Commission raises the following questions:

(a) To determine whether and if so the extent to which, the licensee, or its employees, violated Sections 317 or 508 of the Communications Act of 1934, as amended;

(b) Whether, in light of all the facts and circumstances pertaining thereto, the licensee in its response to the Commission dated January 19, 1976, misrepresented facts to the Commission and/or was lacking in candor;

(c) Whether, in light of all the facts and circumstances pertaining thereto, the licensee formulated, issued and/or implemented meaningful employee conflict of interest policies and controls for both stations and, if so, whether the licensee took supervisory steps to ensure adherence to those policies and controls;

(d) Whether, and if so the extent which, the licensee's employees subordinated the public interest to their own private financial interests in their selection of programming content for WJLB and WMZK-FM;

¹ The Commission also has under consideration an application by Booth American Company to acquire control of the licensee of Television Station KGSC-TV San Jose, California (BTC-781030KE, filed October 30, 1978). Action on this application will be held in abeyance pending the conclusion of the hearing ordered herein. *Jefferson Radio Company, Inc. v. FCC*, 340 F.2d 783 (D.C. Cir. 1964), *Wilton Broadcasting Co.*, 28 FCC 2d 111 (1971) and *Bi-County Broadcasting Corporation*, 34 FCC 2d 117 (1972).

(e) Whether, in light of the evidence adduced under questions (c) and (d), the licensee misrepresented facts to the Commission during the course of its investigation regarding the licensee's conflict of interest policies and controls and their implementation;

(f) Whether, in light of all the facts and circumstances pertaining thereto, the licensee relinquished non-delegable programming responsibilities to the WMZK-FM "foreign directors";

(g) Whether, and if so the extent to which, the licensee failed to maintain effective supervisory procedures to monitor the content of WMZK-FM's foreign language programming;

(h) Whether, in light of the information giving rise to the preceding questions, if found to be true, the licensee possesses the requisite qualifications to remain a licensee of the Commission.

3. Information relating to the above questions has come to the attention of the Commission since the grant of the renewal of licenses for WJLB and WMZK-FM. This information would, if substantiated, warrant a refusal to grant a license or permit or an original application, and raises serious questions, best resolved in a hearing, as to whether Booth American Company has the qualifications to be a licensee of the Commission.

4. Accordingly, IT IS ORDERED, That pursuant to the provisions of Section 312(a) (2) and (4) of the Communications Act of 1934, as amended, Booth American Company IS DIRECTED TO SHOW CAUSE why an Order revoking the licenses of WJLB and WMZK-FM, Detroit Michigan, SHOULD NOT BE ISSUED and to appear and give evidence as to the matters raised in paragraph two, at a hearing to be held at a time and location specified in a subsequent Order, that time to be no less than thirty (30) days from the receipt of the Order.

5. IT IS FURTHER ORDERED, That the Chief of the Broadcast Bureau is directed to serve upon Booth American Company a Bill of Particulars regarding the matters referred to in Questions (a) through (g) inclusive, set out in paragraph two, within thirty (30) days of the release of this Order.

6. IT IS FURTHER ORDERED, That pursuant to Section 312(d) of the Communications Act of 1934, as amended, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Broadcast Bureau.

7. IT IS FURTHER ORDERED, That to avail itself of the opportunity to be heard, the licensee pursuant to Section

1.91(c) of the Commission's Rules, in person or by attorney, shall file with the Commission within thirty days of the receipt of this Order to Show Cause a written appearance stating that he will appear at the hearing and present evidence on the matter specified in the Order. If the licensee fails to file an appearance within the time specified, the right of a hearing shall be deemed to have been waived. See Section 1.92(a) of the Commission's Rules. Where a hearing is waived, a written statement in mitigation or justification may be submitted within thirty days of the receipt of the Order to Show Cause. See Section 1.92(b) of the Commission's Rules. In the event the right to a hearing is waived, the presiding Officer, or the Chief, Administrative Law Judge if no presiding officer has been designated, will terminate the hearing proceeding and certify the case to the Commission in the regular course of business and an appropriate Order will be entered. See Sections 1.92(c) and (d) of the Commission's Rules.

8. IT IS FURTHER ORDERED, That the Secretary of the Commission send a copy of this Order to Show Cause by Certified Mail—Return Receipt Requested to Booth American Company, Licensee of Radio Stations WJLB and WMZK-FM, Detroit, Michigan.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 79-22946 Filed 7-24-79; 8:45 am]
BILLING CODE 6712-01-M

[Report No. A-3]

FM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: July 20, 1979.

Cutoff Date: August 31, 1979.

Notice is hereby given that the applications listed in the attached appendix are hereby accepted for filing. They are potentially eligible for funding from the National Telecommunications and Information Administration (NTIA). They will be considered to be ready and available for processing after August 31, 1979. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on August 31, 1979, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., not

later than the close of business on August 31, 1979.

Petitions to deny any application on this list must be on file with the Commission not later than the close of business on August 31, 1979.

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix

BPED-790427AC: New Watertown, New York.
St. Lawrence Valley Ed. TV Council, Inc.;
Req: 89.5 MHz; Channel No. 20BC; Erp:
4 kw; Haat: 1,150 Ft.

BPED-790606AN: WVBU-FM Lewisburg,
Pennsylvania, Bucknell University; Has:
90.5 MHz; Channel No. 213DS; Erp: .01 kw;
Haat: Ft. (Lic.); Req: 90.5 MHz; Channel No.
213B; Erp: 11.1 kw; Haat: 148 Ft.

[FR Doc. 79-22945 Filed 7-24-79; 8:45 am]
BILLING CODE 6712-01-M

[FCC 79-438; BC Docket No. 79-172; File
Nos. BR-1672 and BRH-918]

WHAV Broadcasting Co., Inc.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: July 12, 1979.

Released: July 20, 1979.

By the Commission: Commissioner Ferris, Chairman; and Quello absent.

In the matter of applications of WHAV Broadcasting Company, Inc., Radio Stations WHAV-AM-FM, Haverhill, Massachusetts, for renewal of licenses; *Memorandum opinion and order*.

1. The Commission has before it for consideration the above-captioned applications and its inquiries into the operation by WHAV Broadcasting Company, Inc., of Radio Stations WHAV-AM-FM, Haverhill, Massachusetts.

2. Information before the Commission raises serious questions as to whether the captioned applicant possesses the qualifications to be or to remain a licensee of the captioned stations. In view of these questions, the Commission is unable to find that a grant of the renewal applications would serve the public interest, convenience and necessity and must, therefore, designate the applications for hearing.

3. Accordingly, IT IS ORDERED, That the captioned applications ARE DESIGNATED FOR A CONSOLIDATED HEARING pursuant to Section 309(e) of the Communications Act of 1934, as amended, at a time and place specified in a subsequent Order, upon the following issues:

(a) To determine whether, and if so the extent to which, the licensee made misrepresentations to the Commission in

its current renewal applications and during the field investigations regarding the employment duties and responsibilities of its assistant general manager.

(b) To determine whether, and if so the extent to which, the licensee violated Section 73.125 of the Commission's Rules by discriminating against female employees in regard to its personnel policies and practices and in working conditions.

(c) To determine whether, and if so the extent to which, the licensee subsequent to the Commission's initial field investigation harassed and otherwise made reprisals against female employees whom it suspected had cooperated with the Commission staff during the course of the investigation.

(d) To determine, in light of the evidence adduced under the preceding issues, whether the licensee possesses the requisite qualifications to be or remain a licensee of the Commission, and whether a grant of the captioned applications would serve the public interest, convenience and necessity.

4. IT IS FURTHER ORDERED, That the Chief, Broadcast Bureau, is directed to serve upon the captioned applicant within thirty (30) days of the release of this Order, a bill of particulars with respect to issues (a) through (c).

5. IT IS FURTHER ORDERED, That the Broadcast Bureau proceed with the initial presentation of evidence with respect to issues (a) through (c), and that the applicant then proceed with its evidence and have the burden of establishing that it possesses the requisite qualifications to be a licensee of the Commission and that a grant of its applications would serve the public interest, convenience and necessity.

6. IT IS FURTHER ORDERED, That to avail itself of the opportunity to be heard, the applicant herein, pursuant to Section 1.221 of the Commission's Rules, in person or by its attorney, shall file with the Commission, within twenty (20) days of the mailing of this Order, a written appearance in triplicate, stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

7. IT IS FURTHER ORDERED, That the applicant herein pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 1.594 of the Commission's Rules, shall give notice of the hearing within the time and in the manner prescribed in such rule and shall advise the Commission thereof as required by Section 1.594(g) of the Rules.

8. IT IS FURTHER ORDERED, That the Secretary of the Commission send

copies of this Order by Certified Mail—Return Receipt Requested to WHAV Broadcasting Company, Inc., licensee of Radio Stations WHAV-AM-FM, Haverhill, Massachusetts.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 79-22947 Filed 7-24-79; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 79-72]

Cargill, Inc. v. Waterman Steamship Corp.; Filing of Complaint

Notice is given that a complaint filed by Cargill, Incorporated against Waterman Steamship Corporation was served July 19, 1979. Complainant alleges that respondent assesses lower rates from river ports to ports in India than from Gulf of Mexico ports to ports in India for shipments of bulgar in violation of sections 16 First and 17 of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before January 19, 1980. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,
Secretary.

[FR Doc. 79-22952 Filed 7-24-79; 8:45 am]
BILLING CODE 6730-01-M

[Docket No. 79-73]

Conference Authority to Publish Drayage Charges at Port of New York; Filing of Petition for Declaratory Order

Notice is given that a petition for declaratory order has been filed by the West Coast of Italy, Sicilian and Adriatic Ports North Atlantic Range Conference. Petitioner seeks an order declaring that the Conference has authority under its basic agreement, FMC No. 2846, to establish, maintain, modify, or eliminate charges for the drayage of cargo between member lines' ocean terminals and the Conrail Portside Terminal at the Port of New York.

Interested persons may inspect and obtain a copy of the petition at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 11101 or may inspect the petition at the Field Offices located at New York, New York; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested persons may submit replies to the petition to the Secretary, Federal Maritime Commission, Washington, D.C., 20573 on or before August 13, 1979. An original and fifteen copies of such replies shall be submitted and a copy thereof served on petitioner. Replies shall contain the complete factual and legal presentation of the replying party as to the desired resolution of the petition.

Francis C. Hurney,
Secretary.

[FR Doc. 79-22951 Filed 7-24-79; 8:45 am]
BILLING CODE 4730-01-M

[Docket No. 79-70]

E. I. du Pont de Nemours & Co. v. Sea-Land Service, Inc.; Filing of Complaint

Notice is given that a complaint filed by E. I. du Pont de Nemours & Company against Sea-Land Service, Inc. was served July 19, 1979. Complainant alleges that respondent has overcharged it for ocean freight in violation of the Shipping Act, 1916 (46 U.S.C. 817).

Hearing in this matter, if any is held, shall commence on or before January 19, 1980. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,
Secretary.

[FR Doc. 79-22953 Filed 7-24-79; 8:45 am]
BILLING CODE 4730-01-M

[Docket No. 79-71]

Saipan Shipping Co., Inc. v. Asiatic Intermodal Seabridge, S.A., et al.; Filing of Complaint

Notice is given that a complaint filed by Saipan Shipping Co., Inc. against Asiatic Intermodal Seabridge, S.A., Cabras Marine Corp., Malayan Towage & Salvage Co., China-Pacific Intermodal,

Ltd., China-Pacific, S.A., Transpac Marine, S.A., Pacific Logistics, S.A., Island Navigation Co., Ltd. and Oceania Line, Inc. was served July 19, 1979. Complainant alleges that respondents, pursuant to an agreement not filed with the Federal Maritime Commission, operated and are operating as common carriers by water in the United States commerce in the trade between Guam and the Northern Mariana Islands without having effective tariffs on file in violation of section 14, 15, 16, 17, and 18 of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before January 19, 1980. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,
Secretary.

[FR Doc. 79-22954 Filed 7-24-79; 8:45 am]
BILLING CODE 4730-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on July 19, 1979. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before August 13, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Civil Aeronautics Board

The CAB requests clearance of new application requirements contained in Part 324, Procedures for Compensating Air Carriers for Losses, of the Board's Procedure Regulations which govern the determination of compensation for losses under section 419(a)(8) of the Airline Deregulation Act of 1978 (Pub. L. 95-504). Section 324.2 outlines the contents that must be included in an "Application for Compensation for Losses" which a carrier must file to receive compensation for losses incurred in complying with a Board order to continue to provide essential air service to a community. Section 324.9 sets forth procedures whereby the Board, upon its own initiative, or a "Petition for Advance Compensation for Losses" filed by a carrier, may order advance payments for a carrier's future losses (projected for continued service to a community) subject to adjustment upon determination of the final rate. The CAB estimates that respondents will be approximately 35 U.S. Scheduled Air Carriers and that reporting burden for filing an application for compensation for losses will average 28 hours per application, and reporting burden for filing a petition for advance compensation for losses will average 12 hours per application.

Norman F. Heyl,
Regulatory Reports Review Officer.

[FR Doc. 79-22917 Filed 7-24-79; 8:45 am]
BILLING CODE 1510-01-M

GENERAL SERVICES ADMINISTRATION

Regional Public Advisory Panel of Architectural and Engineering Service; Meeting

Pursuant to Pub. L. 92-463, Notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 2, 26 Federal Plaza, New York, New York on August 14 and August 15, 1979 starting at 9 a.m., in Room 305-B.

The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of Architect-Engineers under consideration for selection to furnish Supplemental Architect-Engineer Services under five (5) separate multiple award one year contracts covering the following areas in Region 2.

1. New Jersey

2. Western Portion of New York State
3. Eastern Portion of New York State, Puerto Rico and the Virgin Islands
4. Borough of Manhattan of New York, New York
5. New York City (Excluding Manhattan) and Long Island.

The meeting will be open to the public.

Dated: July 19, 1979.

Gerald J. Turetsky,
Regional Administrator.

[FR Doc. 79-22880 Filed 7-24-79; 8:45 am]
BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of August 1979:

Name: Agenda Planning Subcommittee of the National Council on Health Planning and Development

Date and Time: August 13, 1979, 10:00 a.m.-12:30 p.m.

Place: West Building, Room 1103, 840 North Lake Shore Drive, Chicago, Illinois 60611

Open for entire meeting.

Purpose. The objectives of the Agenda Planning Subcommittee are to (1) assist the Chairperson in planning the order and timing of agenda topics for full Council consideration and action to assure that the Secretary will receive advice and/or recommendations on each of its three areas of functional responsibilities under section 1503(a) in an appropriate time and manner; (2) coordinate information about and among subcommittee activities and plans; and (3) provide preliminary review of proposed changes in Council operations.

Agenda. The Subcommittee will plan the agenda for the September 14 meeting of the National Council on Health Planning and Development, and make preliminary plans for the November 8-9 meeting to be held in Los Angeles. In addition, the Subcommittee will discuss plans for a joint meeting in the Fall with representatives from the National Professional Standards Review Council. Finally, the Subcommittee will consider requests for individuals or organizations wishing to make a brief presentation before the Council.

Any individuals or organizations or group of organizations wishing to make

a brief presentation to the Council should write to Mrs. Sally Berger, Chairperson, National Council on Health Planning and Development, 180 N. LaSalle Street, Suite 1521, Chicago, Illinois 60601, identifying the subject and including a brief discussion of the points to be covered. Requests received before or by August 6 will be considered on August 13 by the Agenda Planning Subcommittee. Requests received later will be considered at the October meeting of the Subcommittee.

Anyone requiring information regarding the subject Subcommittee should contact Mrs. S. Judy Silsbee, Executive Secretary, National Council on Health Planning and Development, Room 10-27, Center Building, 3700 East-West Highway, Hyattsville, Maryland, 20782. Telephone (301) 436-7175.

Agenda items are subject to change as priorities dictate.

Dated: July 19, 1979.

James A. Walsh,
Associate Administrator for Operations and Management.

[FR Doc. 79-22914 Filed 7-24-79; 8:45 am]
BILLING CODE 4110-63-M

Office of Human Development Services

[Program Announcement No. 13612-791]

Administration for Native Americans; Program Announcement

AGENCY: Office of Human Development Services, DHEW.

SUBJECT: Extension of Closing Date to Announcement of Availability of Grant Funds for A Native Hawaiian Economic Development Project in the State of Hawaii.

SUMMARY: The Administration for Native Americans announced, in the Federal Register of June 5, 1979 (44 FR 109), that applications would be accepted for grants under Section 803 of the Native Americans Programs Act of 1974, Pub. L. 93-644, as amended in 1978 by Pub. L. 95-568. Regulations governing this program are published in the Code of Federal Regulations in 45 CFR Part 1336.

DATES: The closing date for the applications is hereby extended from July 30, 1979 to August 13, 1979 in order to provide added opportunity for potential grantees to prepare and submit quality project proposals.

(Catalog of Federal Domestic Assistance Program Number: 13-612, Native American Programs)

Dated: July 18, 1979.

David T. Raisen,
Acting Commissioner, Administration for Native Americans.

Approved: July 20, 1979.

Arabella Martinez,
Assistant Secretary for Human Development Services.

[FR Doc. 79-22944 Filed 7-24-79; 8:45 am]
BILLING CODE 4110-92-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

July 16, 1979.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 54.8(a) notice is hereby given that the

Santee Tribe, White Oak Indian Community, Route 1, Box 34M, Holly Hill, South Carolina 29059

has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on June 4, 1979. The petition was forwarded and signed by Hudson Crummie.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 54.8(d) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs' files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20242.

Rick Lavis,
Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 79-22913 Filed 7-24-79; 8:45 am]
BILLING CODE 4310-02-M

Bureau of Land Management

(U-25683)

Coal Lease Offering by Sealed Bid and Oral Auction

July 13, 1979.

U.S. Department of the Interior, Bureau of Land Management, Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111. Notice is hereby given that the lands hereinafter described in Carbon County, Utah, will be offered for coal lease by sealed bid of \$25 per acre minimum bonus followed by oral auction to the qualified bidder of the highest cash amount per acre or fraction thereof, as a bonus for the privilege of leasing the lands in accordance with the provisions of Mineral Leasing Act of February 25, 1920 (41 Stat. 437; 30 U.S.C. Sections 181-263), as amended, and the Department of Energy Organization Act of August 4, 1977 (91 Stat. 565, 42 U.S.C. 7101). The sale will be held at 2:00 p.m., M.D.T., August 8, 1979, in Room 1408 of the University Club Building. Sealed bids may not be modified or withdrawn unless such modification or withdrawal is received before the date, time, and place set for the opening of such bids.

Lands Offered: The land is located in the Book Cliffs Known Recoverable Coal Resources Area in Carbon County, Utah, approximately four miles north of Helper, Utah. The surface overlying the coal is federally owned and is within the area administered by the Moab District Office.

The lands are described as follows:

T. 12 S., R. 9 E., SLM, Utah
Sec. 25, lots 3, 4, SW¼, W½SE¼;
Sec. 26, E½E½.

T. 12 S., R. 10 E., SLM, Utah
Sec. 28, S½;
Sec. 29, NW¼SW¼, E½SE¼;
Sec. 30, lots 3, 4, E½SW¼, N½SE¼,
SW¼SE¼.

Containing 1,172.71 acres.
(Bonus must be computed on the basis of 1,173 acres.)

Coal exists in the lower half of the Blackhawk Formation, which is the middle unit of the Upper Cretaceous Mesaverde Group. Four coal beds (Castlegate 'A', Castlegate 'C', Kenilworth, and Castlegate 'D' in ascending order) underlie the offered area in minable thickness (greater than or equal to 4 feet). Recoverable reserves from the four beds are estimated to be 21,600,000 tons. As received, the coal is expected to average approximately 13,200 Btu per pound and generally less than .5 percent sulfur and less than 9 percent ash. Little difference exists between coal from one bed to the next.

The coal would be classified as high-volatile A and B bituminous under ASTM specification D388-68.

Public Comments: The public is invited to submit written comments concerning the fair market value of the offered coal reserves to the Bureau of Land Management and the U.S. Geological Survey. Public comments will be reviewed and taken into consideration in the determination of fair market value for the offered lands. Comments should address specific factors related to fair market value including: the quantity and quality of the coal resource, the estimated market value of the coal, the estimated cost of producing the coal, the expected rate of industry return, the appropriate discount rate for use in calculating present value along with probable timing and rate of production, the value of the surface estate, and the mining method or methods which would achieve maximum economic recovery of the coal. Documentation of similar market transactions, including location, terms, and conditions may also be submitted at this time.

These comments will be considered in the final determination of fair market value as determined in accordance with 30 CFR 211.63 and 43 CFR 3525.8(b). Should any information submitted as comments be considered to be proprietary by the commenter, the information should be labeled as such and stated in the first page of the submission. Comments should be sent to the State Director, *Utah State Office*, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111, and to the Regional Conservation Manager, Conservation Division, Geological Survey, Box 25046, Denver Federal Center, Denver, Colorado 80225, to arrive no later than August 1, 1979.

Rental and Royalty: A lease issued as a result of this offer will provide for payment of an annual rental of \$3 per acre or fraction thereof. The high bidder shall have the option of acquiring the lease at the escalated royalty rate of 10.4 percent with the successful bonus bid; or acquiring the lease at the standard royalty rate of 8 percent and a bonus of \$2,095.35 per acre plus the successful bonus bid less \$25.00 per acre, as determined in accordance with 30 CFR 211.63.

Detailed Statement: A detailed statement of the terms and conditions of the lease offer and bidding instructions may be obtained from the Bureau of Land Management, Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111. The successful bidder is obligated to pay for

the newspaper publications of this notice.

William G. Leavell,

Associate State Director.

[FR Doc. 79-22350 Filed 7-24-79; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation**Intent To Negotiate for Supplemental Irrigation Water Service Contracts; Boysen Unit, Pick-Sloan Missouri Basin Program, Wyoming**

The Department of the Interior, through the Bureau of Reclamation, intends to begin negotiations with Harley L. Bower, L. U. Sheep Company, and W. L. Culbertson, all of Worland, Wyoming, for long-term supplemental irrigation water service from Boysen Reservoir, a storage feature of Boysen Unit, Pick-Sloan Missouri Basin Program. The proposed contracts will be drafted pursuant to section 9(e) of the Reclamation Project Act of August 4, 1939 (53 Stat. 1186).

These entities have established irrigation operations for which temporary supplemental water service contracts for Boysen Unit storage have been previously required. Harley L. Bower has been contracting on an annual basis since 1974 for 500 acre-feet of water to irrigate 144 acres. L. U. Sheep Company has also been contracting annually since 1974 for 180 acre-feet of water to irrigate 60 acres. W. L. Culbertson has been contracting annually since 1977 for 77 acre-feet of water to irrigate 22 acres.

The United States would deliver water at the outlet works of Boysen Dam, and all costs associated with the carriage and distribution of water to the individual contractor's land would be the responsibility of the contractor. The contractors would be required to pay an appropriate share of the Boysen Unit's annual operating costs and a service charge for water storage and regulation.

The public is invited to submit written comments on the form of the proposed contracts not later than 30 days after the completed contract drafts are declared to be available to the public.

For further information on scheduled negotiations and copies of the proposed contract form, please contact Mr. William E. Crosby, Chief, Economics and Repayment Branch, Division of Water and Land, Bureau of Reclamation, P.O. Box 2553, Billings, Montana 59103, telephone (406) 657-6413.

Dated: July 17, 1979.

R. Keith Higginson,

Commissioner of Reclamation.

[FR Doc. 79-22698 Filed 7-24-79; 8:45 am]

BILLING CODE 4310-09-M

Colusa Basin Drain, Central Valley Project, California; Intent To Initiate Contract Negotiations for a Combination Water Right Settlement and Water Service Contract

The Department of the Interior, through the Bureau of Reclamation, intends to open contract negotiations with water users on Colusa Basin Drain to resolve water rights issues and provide a basis for charging for Central Valley Project (CVP) water which is currently being diverted without reimbursement. A major portion of the water diverted by the water users from Colusa Basin Drain should have been available to downstream water right holders but has been replaced in the Sacramento River with CVP water without remuneration to the United States. In addition to the above quantity, a small portion of the water supply in the drain is return flow from CVP water which has been used for irrigation by Sacramento River diverters under contract with the United States and for which the United States claims all rights. The United States should be reimbursed for both of these portions of water diverted from the Colusa Basin Drain. Letters will be mailed to each water user on the Colusa Basin Drain notifying them of our intention to begin contract negotiations.

Our initial negotiations will be to contract with approximately 60-70 water users along Colusa Basin Drain to provide approximately 88,000 acre-feet of CVP water and to recognize 86,000 acre-feet of diverters' water rights water. A portion of the CFP water supply has been allocated to the Colusa Basin Drain contracting program. This portion was recognized in both the reanalysis of the firm project yield and also in the Secretary of the Interior's decision to help protect water quality in the Sacramento-San Joaquin Delta. As the United States does not intend to import CVP water into the drain, it will not guarantee the adequacy of a physical water supply in the drain. All contract terms and conditions including the water rate, water readjustment procedures, excess land laws, and rules and regulations will be consistent with current water marketing policies.

The public is invited to observe the negotiating sessions and to submit written comments on the form of

proposed contract not later than 30 days after the completed contract draft is declared to be available to the public. The Commissioner of Reclamation will review the comments submitted and based on the number, source, and nature of the comments will decide whether to hold a public hearing.

All meetings scheduled by the Bureau of Reclamation with a potential contractor for the purpose of discussing terms and conditions of a proposed contract shall be open to the general public as observers.

Advance notice of meetings shall be furnished only to those parties having previously furnished a written request for such notice to the office identified below at least 1 week prior to any meeting. All written correspondence concerning the proposed contract shall be made available to the general public pursuant to the terms and procedures of the freedom of Information Act (80 Stat. 383), as amended.

For further information, please contact: Mrs. Betty Riley, Repayment Specialist, Division of Water and Power Resources Management, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825, telephone (916) 484-4620.

Dated: July 17, 1979

R. Keith Higginson,

Commissioner of Reclamation.

[FR Doc. 79-22697 Filed 7-24-79; 8:45 am]

BILLING CODE 4310-09-M

National Park Service**Bus Service to Jefferson National Expansion Memorial; Public Meeting Workshops Concerning Proposed Bus Service to the Gateway Arch and Old Courthouse in St. Louis**

In accordance with Title III of Public Law 95-344, 92 Stat. 477, 16 U.S.C. Section 2301 et seq. (1978), announcement is made of a proposed pilot program of bus service to Jefferson National Expansion Memorial National Historic Site. The public law authorizes the implementation of pilot transportation programs designed to provide urban residents better access to units of the National Park System.

In connection with the proposed service to the Memorial, the public is invited to offer its ideas and suggestions at a series of workshop meetings. The schedule of meetings:

Tuesday, August 7, 1979—Southern Illinois University, Edwardsville, Illinois, 1:30 p.m. (CDT).

Wednesday, August 8, 1979—The Gateway Arch, St. Louis, Missouri, 7:30 p.m. (CDT).

Thursday, August 9, 1979—St. Louis County Public Library, 1640 S. Lindbergh Boulevard, St. Louis County, Missouri, 7:30 p.m. (CDT).

The subject of the workshops will be proposed bus service to Jefferson National Expansion Memorial, including the Gateway Arch and Old Courthouse. Bus service in the St. Louis metropolitan area is provided by Bi-State Development Agency. The National Park Service will fund a pilot program to enable the Agency to provide service to the Memorial for area residents who otherwise would have little or no means of getting there. The Service and the Agency are seeking ideas on the best way to do this, including what routes to use, termination points, what days of the week and what times of day to provide service, and what members of the public need and want a means to reach the Memorial. The public is invited to suggest answers to these questions and any others related to the proposed bus service.

Each of the three workshops will be open to the public. Anyone may file a written statement with the individual listed below. Statements will be accepted through August 9.

All communications or requests for additional information should be addressed to the Superintendent, Jefferson National Expansion Memorial, 11 North Fourth Street, St. Louis, Missouri 63102. Telephone (314) 425-4468.

Dated: July 18, 1979.

Randall R. Pope,

Acting Regional Director, Midwest Region.

[FR Doc. 79-22964 Filed 7-24-79; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-69]

Certain Airtight Cast-Iron Stoves; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register**.

Issued: July 18, 1979.
Donald K. Duvall,
Chief Administrative Law Judge.
 [FR Doc. 79-22990 Filed 7-24-79; 8:45 am]
 BILLING CODE 7020-02-M

[Investigation No. 337-TA-70]

Certain Coat Hanger Rings; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register**.

Issued: July 19, 1979.
Donald K. Duvall,
Chief Administrative Law Judge.
 [FR Doc. 79-22989 Filed 7-24-79; 8:45 am]
 BILLING CODE 7020-02-M

[TA-406-5]

Anhydrous Ammonia From the U.S.S.R.; Investigation and Hearing

Investigation instituted. Following receipt of a petition on July 11, 1979, filed on behalf of twelve U.S. producers and one U.S. distributor of anhydrous ammonia, the U.S. International Trade Commission on July 18, 1979, instituted an investigation under section 406(a) of the Trade Act of 1974 (19 U.S.C. 2436) to determine, with respect to imports of anhydrous ammonia provided for in items 417.22 and 480.65 of the Tariff Schedules of the United States which are the products of the Union of Soviet Socialist Republics (U.S.S.R.), whether market disruption exists with respect to merchandise produced by a domestic industry. Section 406(e)(2) of the Trade Act defines market disruption to exist within a domestic industry if "Imports of an article, like or directly competitive with an article produced by such domestic industry, are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat thereof, to such domestic industry."

Public hearing. A public hearing in connection with this investigation will be held in Washington, D.C., at 10:00 a.m., e.d.t., on Wednesday, August 29, 1979. The hearing will be held in the Hearing Room, United States International Trade Commission Building, 701 E Street, NW., Washington, D.C. All parties will be given an opportunity to be present, to produce evidence, and to be heard at the hearing.

Requests to appear at the hearing should be received in writing in the Office of the Secretary of the Commission not later than 5:00 p.m., Friday, August 24, 1979.

Written statements. Interested parties may submit statements in writing in lieu of, and in addition to, appearing at the public hearing. A signed original and nineteen true copies of such statements should be submitted. To be assured of their being given due consideration by the Commission, such statements should be received not later than Monday, September 10, 1979.

Inspection of petition. The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission and at the New York City office of the Commission located at 6 World Trade Center.

By order of the Commission.
 Issued: July 19, 1979.
Kenneth R. Mason,
Secretary.

[FR Doc. 79-22991 Filed 7-24-79; 8:45 am]
 BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Consent Judgment in United States v. Borden, Inc., Coleman Dairy, Inc., and Dean Foods Co., Inc., and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h), that a proposed consent judgment and a competitive impact statement as set out below have been filed with the United States District Court for the Eastern District of Arkansas, Western Division, in Civil Action LR-C-77-108, *United States v. Borden, Inc.; Coleman Dairy, Inc.; and Dean Foods Products Company, Inc.* The complaint alleged that the defendants and co-conspirators had engaged in a combination and conspiracy to submit collusive and rigged bids to government agencies, school districts, and other institutions, and to fix stabilize, and maintain the wholesale list prices of dairy products sold in central Arkansas. The proposed judgment prohibits the defendants from entering into or maintaining any agreement or understanding to raise, fix, stabilize or maintain the prices of dairy products produced or marketed in Arkansas, or to submit collusive or rigged bids or price quotations to any purchaser of dairy products in

Arkansas. The judgment also requires that each defendant, once a year for the next five years, conduct an audit of its operations to determine compliance with the Final Judgment.

Each year a report of the findings of the audit must be submitted to the Court, the United States and to responsible officers of the defendants. Public comment is invited within the statutory 60 day comment period. Comments should be directed to Barry F. McNeil, Chief, Antitrust Division, Department of Justice, 1100 Commerce Street, Room 8C6, Dallas, Texas 75242.

Dated: July 13, 1979.
Charles F. B. McAleer,
Special Assistant for Judgement Negotiations, Office of Operations, Antitrust Division.

U.S. District Court, Eastern District of Arkansas, Western Division
United States of America, Plaintiff, v. Borden, Inc.; Coleman Dairy, Inc.; and Dean Foods Products Company, Inc., Defendants.
 Civil No. LR-C-77-108.
 Filed: July 13, 1979.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to plaintiff or defendants in this or any other proceeding.

Dated: July 13, 1979.
 For the Plaintiff: John H. Shenfield,
Assistant Attorney General; William E. Swope, Barry F. McNeil, Charles F. B. McAleer, Attorneys, Department of Justice.

For the Defendants: Nathan P. Eimer,
Attorney for Borden, Inc.; Charles R. Hoover, Attorney for Coleman Dairy, Inc.; Richard P. Campbell, Attorney for Dean Food Products Company, Inc., (unsigned), United States Attorney; Sandra W. Cherry, Assistant United States Attorney; Alan A. Pason, J. Michael Weston, Attorneys, Department of Justice, U.S. Department of Justice, Antitrust Division, 1100 Commerce Street, Room 8C6, Dallas, Texas 75242, (214) 749-1275.

U.S. District Court, Eastern District of Arkansas, Western Division

United States of America, Plaintiff, v. Borden, Inc.; Coleman Dairy, Inc., and Dean Foods Products Company, Inc., Defendants.
 Civil No. LR-C-77-108.
 Filed: July 13, 1979.

Final Judgment

Plaintiff, United States of America, having filed its Complaint herein on April 22, 1977, and plaintiff and defendants, by their respective attorneys, having each consented to the making and entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting evidence or admission by plaintiff or defendants, or any of them, in respect to any such issue;

NOW, THEREFORE, before any testimony has been taken herein and without trial or adjudication of any issues of fact or law herein, and upon consent of the parties as aforesaid, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction of the subject matter herein and of the parties hereto. The Complaint states claims upon which relief may be granted against the defendants under Section One of the Sherman Act, 15 U.S.C. 1.

II

As used in this Final Judgment:

(A) "Person" shall mean any individual, corporation, partnership, firm, association, or other business or legal entity.

(B) "Dairy products" means fluid pasteurized and homogenized milk, two percent milk, skim milk, chocolate milk, buttermilk, whipping and table cream, half and half, sour cream, yogurt, cottage cheese, ice cream and ice milk, and butter; and in addition means related products which are not processed from raw milk but which are regularly marketed by dairies such as margarine, non-dairy creamers, orange and other fruit drinks, sherbet, popsicles, and other frozen novelties.

(C) "Dairy" means any person which produces dairy products or which sells and distributes dairy products to customers such as grocery stores, restaurants, hotels, schools, hospitals, military installations or other government agencies.

(D) "Defendant" means defendants Coleman Dairy, Inc.; Dean Foods Products Company, Inc.; and Borden, Inc.

III

The provisions of this Final Judgment are applicable to Coleman Dairy, Inc.; Dean Foods Products Company, Inc.; and Borden, Inc., when acting through the Dairy & Services Division of Borden, Inc.; and to any successor entity thereto and to the parents, subsidiaries, successors and assigns, directors, officers, agents and employees of each such defendant and to all persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Each defendant is enjoined and restrained from directly or indirectly:

(A) Entering into, maintaining or furthering any contract, agreement, understanding, combination or conspiracy to raise, fix, stabilize or maintain the prices of dairy products produced or marketed in the State of Arkansas; and,

(B) Entering into, maintaining or furthering any contract, agreement, understanding, combination or conspiracy to submit collusive or rigged bids, or collusive or rigged price quotations to any purchaser of dairy products in the State of Arkansas.

V

Each defendant is enjoined and restrained from communicating to or exchanging with any other dairy any actual or proposed prices, price lists, price changes, or other terms or conditions of sale at or upon which any dairy product is to be or has been sold in the State of Arkansas. *Provided, however,* That a defendant may (a) communicate such information with a person acting as a distributor of the defendant's dairy products pursuant to a bona fide distributorship agreement; and (b) solely in connection with a proposed or actual bona fide sales transaction, quote to any person a price and other applicable terms and conditions of sale for a specific dairy product.

VI

Each Defendant is ordered and directed to: (A) Furnish within thirty (30) days after the date of entry of this Final Judgment, a copy thereof to each of its officers and directors, and to each of its employees and agents who have any responsibility for the pricing or sale of dairy products in the State of Arkansas.

(B) Furnish a copy of this Final Judgment to each successor to those officers, directors, employees, or agents described in Paragraph (A) of this Section, within thirty (30) days after such successor is employed by or becomes associated with such defendant.

(C) File with this Court and with plaintiff within sixty (60) days after the date of entry of its Final Judgment, an affidavit as to the fact and manner of its compliance with Paragraph (A) of this Section; and

(D) Obtain, from each officer, director, employee and agent served with a copy of this Final Judgment pursuant to Paragraph (B) of this Section, a written statement evidencing such person's receipt of a copy of this Final Judgment, and to retain such statements in its files.

VII

(A) Once each year, for a period of five (5) years, each defendant shall conduct an audit of its operations to determine compliance with the provisions of this Final Judgment. The scope of the audit shall include all dairy plants and sales offices which are involved in the production or marketing of dairy products in the State of Arkansas. The auditors must be given complete cooperation by all personnel of defendants and shall be given

access to all books and records of the defendants.

(B) A detailed description by each defendant as to how the audit will be conducted is to be submitted to the Court and to the plaintiff for approval prior to the initial audit.

(C) As soon as practicable after the anniversary date of this Final Judgment, a report of the findings of the audit shall be filed with the Court, the plaintiff, and submitted to responsible officers of defendants.

VIII

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant made to its principal office, be permitted:

(1) Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment, and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees and agents or such defendants, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to a defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law. If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which that defendant is not a party.

IX

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment or for the modification of any of the provisions herein, and for the enforcement or compliance therewith and punishment of any violation of any of the provisions contained herein.

X

The entry of this Final Judgment is in the public interest.

Dated this _____ day of _____, 1979.

United States District Judge.

In the District Court of the United States,
Eastern District of Arkansas, Western
Division

United States of America, Plaintiff, v.
Borden, Inc.; Coleman Dairy Inc.; and Dean
Foods Products Company, Inc., Defendants.

Civil No. LR-C-77-108.

Filed: July 13, 1979.

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)), the United States of America hereby files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

Nature and Purpose of the Proceeding

On April 27, 1977, the United States filed a complaint under Section 4 of the Sherman Act (15 U.S.C. 4), alleging that beginning at least as early as February 1971, and continuing until sometime in or around June 1976, the defendants and co-conspirators had engaged in a combination of conspiracy to submit collusive and rigged bids to government agencies, school districts, and other institutions, and to raise, fix, stabilize, and maintain the wholesale list prices of dairy products sold in central Arkansas, in violation of Section 1 of the Sherman Act (15 U.S.C. 1). The complaint requested that the Court rule the defendants had been engaged in an unlawful conspiracy in violation of Section 1 of the Sherman Act (15 U.S.C. 1) and to issue an injunction prohibiting its continuance.

Entry by the Court of the proposed Final Judgment will terminate this action against all defendants. The Court will retain jurisdiction over the matter for any further proceedings which might be required to interpret, modify, or enforce the Judgment, or to punish violations of any of the provisions of the Judgment.

II

Description of the Practices Involved in the Alleged Violation

The defendant dairies and co-conspirators are engaged in the production and sale of dairy products in the State of Arkansas.

Defendant Borden, Inc.'s dairy is located in Little Rock, Arkansas. Defendant Coleman Dairy, Inc.'s dairy is also located in Little Rock, Arkansas; and defendant Dean Foods Products Company, Inc. operates dairies at Conway, Arkansas, and Memphis, Tennessee. These defendant corporations are the largest dairies in the State of Arkansas, and their combined sales in the State of Arkansas in 1975 exceeded \$45 million.

The complaint alleges that the defendants engaged in a conspiracy to submit collusive and rigged bids to government agencies, school districts and other institutions in central Arkansas, and to raise, fix, stabilize and maintain the wholesale list prices of dairy products in central Arkansas. The conspiracy involved meetings, discussions and agreements among officials of defendants and co-conspirators concerning bids to be submitted to various institutions and concerning wholesale list prices.

According to the complaint, the conspiracy had the following effects: (a) the prices of dairy products in central Arkansas were raised, fixed and maintained at artificial and non-competitive levels; (b) purchasers of dairy products were deprived of the benefits of free and open competition; and (c) competition among the defendants and co-conspirators was restrained.

III

Procedural History

On August 29, 1977, the Government's complaint and those of certain private plaintiffs, including the State of Arkansas, were consolidated. At the same time, the Court stayed all discovery pending the conclusion of *United States v. Borden, Inc. et al.* (LR-CR-77-80), a criminal action which named, among others, the defendant corporations. On December 27, 1977, the criminal action was terminated when the Court sentenced the remaining defendants on their pleas of *nolo contendere*. After termination of the criminal case the Court lifted the stay on discovery. The United States has continued to be a party to the consolidated action, but has been prohibited by order of the Court from participating in discovery.

IV

Explanation of the Proposed Consent Judgment

The United States and the defendants have agreed that a Final Judgment in the form negotiated by the parties may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act, provided the plaintiff has not withdrawn its consent. The Stipulation provides that there has been no admission with respect to law or fact. Under the provisions of Section 2 (e) of the Antitrust Procedures and Penalties Act, entry of the Judgment is conditioned upon a determination by the Court that it is in the public interest.

A. *Prohibited Conduct.* The proposed Judgment enjoins each defendant from entering into, maintaining or furthering any contract, agreement, understanding, combination of conspiracy to raise, fix, stabilize or maintain the prices of dairy

products, or to submit collusive or rigged bids, or collusive or rigged price quotations to any purchaser of dairy products. Each defendant is further restrained from communicating to or exchanging with any other dairy any actual or proposed prices, price lists, price changes, or other terms or conditions of sale of dairy products. However, a defendant may communicate such information to bona fide distributors, and in connection with a proposed or actual bona fide sales transaction with another dairy.

B. *Scope of the Proposed Judgment.* The Final Judgment applies not only to the defendants but also to their parents, subsidiaries, successors and assigns, directors, officers agents, and employees. It also applies to all persons, in active concert or participation with any defendant, who receive actual notice of the Final Judgment.

Even though defendant Borden, Inc. and Dean Foods Products Company, Inc. do business outside the State of Arkansas, the Judgment is limited geographically to the State of Arkansas, as was the conspiracy. The Judgment is not limited in the time that the restraints imposed apply. Therefore, unless the Court either modifies or vacates all or part of the Judgment, the defendants are forever bound by its prohibitions.

C. *Other Relief.* Further, for a period of five years after the entry of the Judgment, each defendant must each year conduct an audit of its operations to determine its compliance with the provisions of the Final Judgment. A detailed description of how each defendant will conduct the audit must be submitted to the Court and United States for approval prior to the initial audit. Each year, as soon as practicable after the anniversary date of the entry of the Judgment, a report of the findings of the audit shall be filed with the Court, with the United States and submitted to responsible officers of defendants.

D. *Effect of the Proposed Judgment.* The terms of the Judgment are designed to insure that each defendant will act completely independently in determining the prices, and terms and conditions at which it sells or offers to sell dairy products in the State of Arkansas. Compliance with the proposed Judgment will ensure competition among the defendants in the sale of dairy products.

It is the opinion of the Department of Justice that the proposed Final Judgment contains fully adequate provisions to prevent the continuance or recurrence of the violations of the antitrust laws charged in the complaint. The United States is also given access, upon reasonable notice, to the records and employees of the defendants to monitor their compliance with the provisions of the Final Judgment. In the Department of Justice's view, disposition of the lawsuit without further litigation is appropriate in that the proposed Judgment provides all the relief which the United States sought in its complaint.

Alternatives to the Proposed Consent Judgment

The Proposed Final Judgment is substantially in the form submitted initially to the defendants.

VI

Remedies Available to Private Litigants

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages suffered, as well as costs and reasonable attorney fees. Suits have been filed against defendants in the Eastern District of Arkansas alleging violations of the antitrust laws similar to those found in the United States' complaint. These private plaintiffs have been granted discovery of much of the material developed by the United States in the course of the investigation which led to the companion criminal action and already have been substantially assisted by the Government's efforts. *United States v. Borden, Inc.* (LR-CR-77-80). Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. 16(a)), this Final Judgment has no *prima facie* effect in any lawsuits which have been, or may be brought against these defendants.

VII

Procedures Available for Modification of the Proposed Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Judgment should be modified may submit written comments to Barry F. McNeil, Chief, Dallas Office, Antitrust Division, U.S. Department of Justice, 1100 Commerce Street, Room 8C6, Dallas, Texas 75242, within the sixty (60) day period provided by the Act. These comments, and the Department's responses to them, will be filed with the Court and published in the Federal Register. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to its entry if we should determine that some modification of it is necessary.

VIII

No materials and documents of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)) were considered in formulating this proposed Judgment, and consequently, none are being filed.

Alan A. Pason, Attorney, United States, Department of Justice, Antitrust Division, 1100 Commerce Street, Room 8C20, Dallas, Texas 75242 (214) 749-1275. Sandra W. Cherry, Assistant United States Attorney, Eastern District of Arkansas, U.S. Courthouse and Post Office, Room 310, 600 W. Capitol, Little Rock, Arkansas 72201.

[FR Doc. 79-22818 Filed 7-24-79; 8:45 am]

BILLING CODE 4410-01-M

Minimum Wage Study Commission

Cancellation of Committee Meeting

July 20, 1979.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act

(Pub. L. 92-463), announcement is made of the cancellation of the following Commission meeting:

Name: Minimum Wage Study Commission.
Date: August 14, 1979.

Original notification of this meeting appeared in the June 18, 1979 Federal Register.

The Commission will meet in Executive Session on August 3, 1979.

The next regular meeting of the Commission will be held Tuesday, September 11, 1979.

All communications regarding this Commission should be addressed to: Mr. Louis E. McConnell, Executive Director, 1430 K St. NW, Washington, DC 20005, (202) 376-2450.

Louis E. McConnell,

Executive Director.

[FR Doc. 79-22812 Filed 7-24-79; 8:45 am]

BILLING CODE 4510-23-M

National Foundation on the Arts and the Humanities

National Council on the Arts; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the National Council on the Arts will be held on August 10, 1979, from 9:00 a.m.-5:30 p.m., August 11, 1979 from 9:00 a.m.-5:30 p.m., and August 12, 1979 from 9:00 a.m.-1:00 p.m., at the Capitol Hilton Hotel, 16th and K Streets, N.W., Washington, D.C.

A portion of this meeting will be open to the public on Friday, August 10, 1979 from 9:00 a.m.-4:30 p.m. and Saturday, August 11, 1979 from 9:00 a.m.-3:00 p.m. Topics for discussion will include Guidelines for the Theater, Dance, Museum, Federal-State Partnership and Challenge Grant programs; reports from the Task Force on Hispanic American Arts and the Task Force on Communities' Program Policy; Endowment activity in the international field. The remaining sessions of this meeting on Friday, August 10, 1979 from 4:30 p.m.-5:30 p.m.; Saturday, August 11, 1979 from 3:00-5:30 p.m.; and Sunday, August 12, 1979 from 9:00 a.m.-1:00 p.m. are for the purpose of Council review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of March 17, 1977, these sessions may be

closed to the public pursuant to subsections (c) (4), (6) and 9 (B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

Dated: July 20, 1979.

John H. Clark,
Director, Office of Council and Panel
Operations, National Endowment for the Arts.

[FR Doc. 79-22863 Filed 7-24-79; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on August 9-11, 1979, in Room 1046, 1717 H Street, NW, Washington, D.C. Notice of this meeting was published on June 27, 1979 (44 FR 37568).

The agenda for the subject meeting will be as follows:

Thursday, August 9, 1979

8:30 a.m.—12:00 Noon: Executive Session (open)—The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities. The Committee will hear and discuss the report of its Subcommittee on the review of Licensee Event Reports submitted by the operators of commercially licensed nuclear power plants during the period of 1976-78.

1:00 p.m.—2:00 p.m.: Meeting with NRC Staff (Open)—The Committee will hear a report and will discuss NUREG-0396, A Modified Basis for the Development of State and Local Government Radiological Emergency Response Plans for Support of Light-Water Nuclear Power Plants.

2:00 p.m.—6:00 p.m.: Salem Nuclear Generating Station Unit 2 (Open)—The Committee will hear the report of its Subcommittee and consultants who may be present regarding proposed operation of the Salem Nuclear Generating Station Unit 2 and other Westinghouse nuclear power plants of this class, taking into account the lessons learned from the accident which occurred at the Three Mile Island Nuclear Station, Unit 2.

The Committee will hear and discuss reports and presentations as appropriate by members and representatives of the NRC Staff, the Public Service Electric and Gas Company, the Westinghouse Electric Corporation and owners of other Westinghouse nuclear plants of this class.

Portions of this session will be closed as necessary to discuss Proprietary Information related to this matter.

6:00 p.m.-6:30 p.m.: *Executive Session (Open)*—The Committee will hear and discuss the report of its Subcommittee on the review of the LaCrosse Boiling Water Reactor operations.

Portions of this session will be closed as necessary to discuss Proprietary Information related to this matter.

Friday, August 10, 1979

8:30 a.m.-12:30 p.m.: *Executive Session (Open)*—The Committee will discuss underlying causes which contributed to the accident which occurred at the Three Mile Island Nuclear Station, Unit 2.

1:30 p.m.-6:00 p.m. *Executive Session (Open)*—The Committee will discuss proposed ACRS recommendations to the Nuclear Regulatory Commission regarding implications of the accident which occurred at the Three Mile Island Nuclear Station, Unit 2.

The Committee will discuss proposed mechanisms for resolution of generic matters related to light-water nuclear plants which are identified in its report of March 21, 1979 to the Nuclear Regulatory Commission.

Saturday, August 11, 1979

8:30 a.m.-4:00 p.m.: *Executive Session (Open)*—The Committee will discuss proposed ACRS comments and recommendations regarding the implications of the accident which occurred at TMI-2 on March 28, 1979; its proposed report to the NRC regarding

evaluation of Licensee Event Reports; and a proposed report to the NRC regarding pipe cracking in boiling water nuclear plants.

The Committee will discuss its proposed annual report to the U.S. Congress regarding the adequacy of the NRC Safety Research Program. The Committee will discuss its schedule for future activities including resolution of Anticipated Transients Without Scram and will complete discussion of other items considered during this meeting.

The Committee will discuss activities of individual members.

Portions of this session will be closed as necessary to discuss Proprietary Information and to protect information the release of which would represent an unwarranted invasion of personal privacy.

Procedures for the conduct of and participation in ACRS meetings were published in the Federal Register on October 4, 1978 (44 FR 45926). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting.

I have determined in accordance with Subsection 10(d) Pub. L. 92-463 that it is necessary to close portions of this meeting as noted above to protect Proprietary Information (5 U.S.C. 552b(c)(4)) and to protect information the release of which would represent an unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634-1371), between 8:15 a.m. and 5:00 p.m. EDT.

Dated: July 20, 1979.

John C. Hoyle,
Advisory Committee Management Officer.

[FR Doc. 79-22908 Filed 7-24-79; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.41, "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

Dated at Bethesda, Md., this day July 18, 1979.

For the Nuclear Regulatory Commission,
Marvin R. Peterson,

Acting Assistant Director, Export/Import and International Safeguards, Office of International Programs.

U.S. Nuclear Regulatory Commission

Name of applicant, date of application, date received, application number	Material type	Material in kilograms		End-use	Country destination
		Total element	Total isotopes		
Edlow International, 07/05/79, 07/09/79, XSNMO1536.	83.5% enriched uranium	26.0	24.31	Fuel reload for high flux reactor, Grenoble.	France.
Pechiney Ugine Kuhlmann Dev., 07/05/79, 07/11/79, XSNMO1537.	45.5% enriched uranium	28.5	13.0	For fuel fabrication research and development program.	France.
Mitsui & Co., 07/05/79, 07/09/79, XSNMO1538.	3.95% enriched uranium	3,808	102	Reload fuel for Fukushima I, unit 5.	Japan.
Transnuclear, 07/06/79, 07/10/79, XSNMO1539.	83.3% enriched uranium	3,008	2,806	Fuel elements for Hoger Onderwijs Reactor.	Netherlands.

[FR Doc. 79-22908 Filed 7-24-79; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, RS 809-5, is entitled "Qualification Test for Cable Penetration Fire Stops for Use in Nuclear Power Plants" and is intended for Division 1, "Power Reactors." It describes a method acceptable to the NRC staff for meeting the Commission's regulations with respect to the qualification testing of cable penetration fire stops used in nuclear power plants.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of regulatory position in this area. They have not received complete staff review, have not been reviewed by the NRC Regulatory Requirements Review Committee, and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington D.C. 20555, Attention: Docketing and Service Branch, by September 25, 1979.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides or the latest revision of published guides (which may be reproduced) or for placement on an automatic distribution list for single

copies of future guides or draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 17th day of July 1979.

For the Regulatory Commission.

Guy A. Arlotto,
Director, Division of Engineering Standards,
Office of Standards Development.

[FR Doc. 79-22910 Filed 7-24-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. PRM-20-7]

Natural Resources Defense Council, Inc.; Action on Petition for Rulemaking

Please take notice that the Nuclear Regulatory Commission (NRC) has denied a portion of a petition for rulemaking submitted by letter dated August 6, 1976 by the Natural Resources Defense Council, Inc. (NRDC), 2345 Yale Street, Palo Alto, California 94306. The petition requested that the NRC immediately adopt interim regulations setting standards for shallow land disposal of transuranic (TRU) and other low-level radioactive waste as well as prepare a broad programmatic generic environmental impact statement (GEIS) on low-level waste disposal.

A notice of filing of the petition, Docket NO. PRM-20-7, was published in the Federal Register on September 23, 1976 (41 FR 41759) and the public was invited to file comments on the petition within 60 days of publication of notice. (The comment period was later extended to 90 days.) Fourteen of the fifteen responses from industry and the States that were received by the NRC recommended denial of the petition. In addition, the original petitioner (NRDC) filed an "analysis" and comments on the other comments received by the Commission.

Analysis of the issues and points raised by the petition was performed by the NRC staff when the petition was initially reviewed. At that time, the NRC staff concluded that no compelling potential health and safety hazard existed to warrant immediate NRC reassertion of regulatory authority from Agreement States, or immediate implementation of interim regulations as proposed by the petitioner. (NRC staff

rationale for their decision regarding the need for immediate action as proposed by the petitioner is contained in the material presented in *NRC Staff Position on Petition*, which follows in this Notice.) A broad, flexible program for the orderly development of comprehensive regulations governing the management and disposal of low-level radioactive waste by shallow land burial or other alternative methods was initiated and subsequently announced in the Federal Register on December 7, 1977 (42 FR 61904). This program is currently in progress. The regulations and supporting environmental impact statements are scheduled to be issued for public comment in 1980 and will address disposal of all nuclides, including transuranic nuclides.

The Commission believes that a separate GEIS on low-level waste disposal is neither required by the National Environmental Policy Act of 1969 (NEPA) nor necessary for the development of the NRC program. It is intended that the environmental impact statements and other technical documentation being developed to support the forthcoming regulations will be of sufficient scope to address the major issues that would be included in the petitioner's proposed programmatic GEIS. The issues and points raised in the petition and in the petitioner's proposed GEIS outline are, however, being considered by NRC staff as input to their development of waste management regulations and supporting environmental impact statements.

The petitioner has been a participant in the advisory panel for the development of NRC's proposed radioactive waste classification system. In addition, the requirements stated in the recent NRC request for proposals (RS-NMS-79-026) for assistance in the development of the environmental impact statement (EIS) to guide and support the proposed regulation on low-level waste disposal, 10 CFR Part 61, include many of the issues and points raised by this petition.

The remaining sections of this notice include a summary of the petition, a summary of the public comments on the petition, the NRC staff position on the petition, a background discussion of the NRC Waste Management Regulations development effort, and a summary of the NRC staff response to the NRDC "Allegations of Fact."

Summary of Petition

Briefly, the regulations proposed by the petitioner would have required the following:

Long-Lived Transuranic-Contaminated Waste

—The transfer of regulatory authority over long-lived transuranic waste from Agreement States to NRC; (7)¹

—An immediate end to disposal by burial of long-lived transuranic waste with only retrievable storage permitted; (5)

—Payment of fees by persons who produce transuranic waste to finance adequately safe permanent disposal; (6)

—Establishment of a reporting and inspection system operated by NRC (with on-site, unannounced inspection by NRC inspectors) to assure accurate classification of transuranic waste; (3)

Other Low-Level Radioactive Waste

—The suspension of licensing of new or enlarged burial sites until NRC establishes site selection criteria, radioactive release standards setting maximum permissible migration rates for radionuclides away from disposal sites, minimum standards for environmental monitoring programs, and standards for long-term care with mechanisms to finance such care; (10)

—Establishment of minimum fees to be paid (effective immediately) for each cubic foot of waste buried at existing sites to assure adequate funds for long-term care; (4)

Solidification of Low-Level Radioactive Waste Before Shipment

—The solidification of all radioactive waste before shipment to reduce the potential for release to the environment either through accident or sabotage; (7)

The petitioner also requested that the Commission immediately prepare a GEIS on the Commission's program for disposal of low-level radioactive waste. The petition stated that a national program for disposal of low-level waste by shallow land burial represents a major programmatic decision that must be examined in an appropriately broad programmatic GEIS. It also stated that separate statements on individual sites would have difficulty considering the generic questions involved since the present need is to establish criteria for adequate disposal practices, for acceptable sites, and for the type of material that the disposal sites can properly handle.

The petition was accompanied by an appendix suggesting regulation language as well as a "Memorandum of Points" discussing the basis for the petition. A summary of the Memorandum was included in the petition in the form of

¹Indicates the total number of public comments received on each of the NRDC recommendations listed.

ten "allegations of fact" (petitioner's wording). The appendix also included suggestions for the scope and development of the proposed GEIS.

A copy of the petition (Docket No. PRM-20-7) with attachments is available for public inspection in the Commission's Public Document Room (PDR) located at 1717 H Street, NW., Washington, D.C. 20555. Copies of comments on the petition are also available for inspection in the PDR.

Summary of Public Comments

Overall response to the petition was that it not be adopted as proposed. Of the 15 commenters (all industrial or state groups), only one consistently supported the petitioner's recommendations, as stated. In addition, the original petitioner (NRDC) filed comments and an "analysis of comments" on the other comments received by the Commission.²

Proposed Interim Regulations. The comments received did not generally support the necessity of immediate adoption of interim regulations. (The total number of public comments received on each of the NRDC-recommended regulations are listed in the *Summary of Petition* above.) With exception of the NRDC analysis of the comments, little rationale was given to support interim regulations. Ten commenters stated that there was no demonstrated public health and safety risk with present practices and thus there was no justification or legal basis for the interim regulations.

Two of the commenters responded favorably to NRDC's proposed regulations for an immediate end to non-retrievable TRU waste disposal, and for payment of fees by producers of waste for long-term care. Two of the commenters supported the proposed regulations, with one commenter noting the toxicity and long half-lives of TRU. One other commenter suggested that an amendment to the one disposal license³ permitting burial of TRU waste would be more workable than a rulemaking action. The two negative commenters believed that the toxicity and long half-lives of TRU nuclides required careful handling but there was no urgency to the matter. They stated that before regulations are promulgated, a study should be conducted to define TRU

²Material in the analysis that was not directly linked to remarks by another commenter was treated by the NRC staff in the same manner as other comments on the petition.

³The only commercial burial site currently disposing of small quantities of TRU waste by shallow land burial is the site operated by the Nuclear Engineering Company, Inc. (NECO) and located in the center of the Hanford Reservation near Richland, Washington.

waste and the methods by which TRU waste would be disposed. The commenters generally agreed that the producers of waste should be responsible for the costs accrued, but that setting fees by regulation was unworkable.

The commenters were generally negative on NRDC's proposed regulations for transfer of TRU licensing from the Agreement States to the NRC, for suspension of licensing of new or enlarged sites until certain site criteria were adopted, and for solidification of all low-level waste before shipment. The commenters felt that the uniformity allowed by Federal control was a good idea, but that there was no reason to disrupt the Agreement State program. The commenters also thought that suspension of licensing activities was unnecessary and might not be in the public interest. Seven commenters responded to the proposal for solidification requirements, stating that shipment of present quantities of liquid low-level waste is not a major risk and is already regulated. They also stated that many factors should be considered before NRC requires solidification of waste—i.e., concentrations, quantities, probabilities of release, consequence, packaging, costs and benefits.

NRDC "Allegations of Fact." Each of the ten allegations of fact made by the petitioner in support of the petition generally received from one to four comments, not including the petitioner's analysis. The commenters remarked that seven of the allegations of fact were inaccurate or distorted. One allegation received no comments. Two of the allegations of fact—(1) ERDA has prohibited burial of government-TRU waste, and (2) the Atomic Energy Commission (AEC) proposed but did not finalize regulations for commercial-TRU waste burial—were accepted as true. All that commented on these two allegations of fact (except the petitioner) felt that the actions discussed provided insufficient justification for the petition. (See Appendix A for a summary of NRC staff response to the "Allegations of Fact.")

Low-Level Waste Generic Environmental Impact Statement. Comments on the necessity of a GEIS were divided, with one commenter supporting and three opposing. The supportive commenter felt that a GEIS should be done because low-level waste has significant environmental impacts and a comprehensive evaluation had not been done to date. Those opposing stated that there was no need or basis for a GEIS or thought that such a statement should be part of the waste

management GEIS being prepared by the Energy Research and Development Administration (ERDA). (For the reader's information, on October 1, 1977, ERDA was combined with other government agencies to form the Department of Energy (DOE). In April 1979, DOE published a GEIS entitled "Draft Environmental Impact Statement on Management of commercially Generated Radioactive Waste" (DOE/EIS-0046-D). This GEIS focuses on alternative methods for permanent disposal of commercially-generated high-level and TRU waste.

NRC Staff Position on Petition

To recapitulate and consolidate, the NRDC petition essentially requests five kinds of actions from NRC:

1. Reassert regulatory authority for TRU waste from Agreement States and limit TRU waste disposal to a retrievable form.

2. Invoke a moratorium on new or enlarged burial site licensing pending the establishment of certain requirements.

3. Establish a perpetual-care fund by regulation.

4. Restrict transportation of low-level waste in liquid form.

5. Prepare a generic environmental impact statement.

The NRC staff position on these areas, in which the Commission concurs, is as follows:

TRU Waste Disposal. Under Section 274c(4) of the Atomic Energy Act of 1954, as amended NRC must determine existence of a hazard or potential hazard prior to the reassertion of regulatory authority from Agreement States. A somewhat similar finding must be made for the immediate implementation of regulations governing low-level waste disposal or prohibiting TRU waste disposal by shallow land burial. The staff does not believe that current operation of burial grounds in Agreement States would justify the necessary finding that a hazard exists or potentially exists for exercise of this statutory authority. (Earlier NRC publications, such as the NRC Task Force Report, the *Federal Register* Notice announcing the Task Force Report (42 FR 13366, March 10, 1977), and the *Federal Register* Notice announcing the NRC low-level Waste Management Program (42 FR 61904, December 7, 1977), have contained similar statements.) NRC has already initiated a comprehensive program for development of regulations governing the management and disposal of all types of radioactive waste, including TRU waste. Although it is conceivable

that the NRC could initiate an effort to develop temporary "interim" rules as suggested by the petitioner, NRC staff believes that, as a practical matter, well planned "interim" rules could not be prepared on a schedule much different than current, ongoing schedules for regulations development. To do so would delay placing the broader, more comprehensive regulations currently under development into effect. It is for these latter regulations that there is a demonstrated need.

Nonetheless, an interim short-term period will elapse before executive and legislative decisions are made on the issues of management and disposal of radioactive waste and prior to the completion of the regulations currently under development by NRC. The NRC staff notes the concern of the petitioner, the public, and others regarding the safe disposal of TRU and other waste and is investigating the effects of continued short-term TRU burial as well as possible alternatives—such as retrievable storage—to TRU waste burial. In any case, the staff believes that retrievable storage procedures similar to procedures used today by DOE for storage of TRU waste may be necessary for certain types of waste defined by the waste classification regulation when this regulation is adopted.

Today, only the site operated by the Nuclear Engineering Company, Inc. (NECO) and located in the center of the Hanford Reservation near Richland, Washington, accepts TRU-contaminated materials in concentrations greater than ten nanocuries per gram for burial in soil. The disposal site is located on land leased from the Federal Government to the State of Washington, who then subleases a portion of the leased land to the disposal site operator. At the commercial site, the disposal of special nuclear material (SNM), including plutonium, is regulated by NRC. As Washington is an Agreement State, the State of Washington regulates the disposal of source and byproduct material (including TRU isotopes other than plutonium).

The limited burial to date of TRU-contaminated waste in the middle of the Hanford Reservation minimizes any potential future problems since geohydrological, meteorological, and ecological factors regarding the overall Hanford Reservation are well investigated and documented; and extensive monitoring programs are conducted by DOE in addition to those conducted by NECO. No public health and safety problems have been identified with the operation of the

commercial site. Quantities of TRU materials delivered to the commercial disposal site are currently small and, due to executive decisions deferring reprocessing of spent power reactor fuel, should remain small. Total inventories of commercial TRU waste buried at the site as well as inventories that are expected to be delivered in the next few years are small compared to the inventories already existing on the surrounding Hanford Reservation.

The continued burial of plutonium-contaminated waste at the commercial disposal site is under independent review by the NRC licensing staff in considering the renewal of NECO's SNM disposal license at Hanford. Washington is undergoing a similar review for wastes contaminated with other TRU isotopes. A decision whether to allow or prohibit the burial of TRU waste at that site will be made in connection with these licensing reviews. Discussions between DOE, the State of Washington, NECO, and NRC staff have been held regarding the possible discontinuance of TRU burial at the Hanford commercial site. NRC staff understands that the State of Washington is considering action, under the State's authority as site landlord, to discontinue disposal of TRU waste. Any action taken at the site regarding disposal of TRU waste will be closely coordinated between NRC and State staff.

An alternative action (to burial) is acceptance for storage of commercial TRU waste by the Federal government (e.g., DOE), with a charge levied on the waste generator to cover costs of storage, retrieval, repackaging (if necessary), transport, and ultimate disposal. In their report to the President ("Report to the President by the Interagency Review Group on Nuclear Waste Management," TID-29442, March 1979) recommending a national plan for radioactive waste disposal, the Interagency Review Group on Nuclear Waste Management (IRG) recommended that TRU waste should be isolated from the biosphere in a manner similar to that used for isolation of high level waste. The IRG also recommended that legislation be enacted to extend NRC licensing authority to cover DOE activities regarding new DOE facilities for disposal of TRU waste.

NRC is currently developing a waste classification regulation to determine the types of low-level radioactive waste material that can be disposed of by various disposal methods. (See Appendix A for more information.) This regulation is scheduled to be published for public comment in 1980. As a result of the regulation, certain types of waste

will require retrievable storage pending transfer to a repository for final disposal. It is expected that retrievable storage of such waste would be accomplished in a similar manner as that used today for the storage of government-produced TRU waste.

Licensing of New or Enlarged Burial Sites. NRDC interprets the Atomic Energy Act as requiring a moratorium on NRC and Agreement State licensing of new burial sites and expansions of existing sites pending promulgation of Commission regulations governing shallow land burial. This request is based on NRDC's findings that current NRC and State regulation is inadequate as demonstrated by waste migration and other incidents. In addition, NRDC argues that the Commission must regulate by promulgating regulations. Finally, NRDC relies on Section 274(c)(4) of the AEA to assert that the Commission must require Agreement States to apply NRC regulations.

The incidents described by NRDC have been investigated by the NRC staff. In its opinion they do not constitute health or safety hazards to the public which warrant Commission termination of an Agreement State Program pursuant to Section 274j of the AEA, or a Commission moratorium on its own licensing activities. Furthermore, NRDC is incorrect in its legal argument regarding the need for Commission regulations. It is a well-established principle of administrative law that an agency has discretion to proceed by regulation or adjudication. *SEC v. Chenery Corp.*, 322 U.S. 194, 203 (1947). This principle is especially applicable to the Commission because Congress has granted it unusually broad discretion to carry out the Atomic Energy Act. *Vermont Yankee Nuclear Power Corp. v. NRDC*, 55 L. Ed. 2d 450, 474 n. 13 (1978); *Siegel v. AEC*, 400 F. 2d 778, 783 (D.C. Cir. 1968). Therefore, the Commission is not required to impose a moratorium on the licensing of low-level waste disposal pending the promulgation of regulations. Finally, section 274(c)(4) of the AEA does not support NRDC's assertion that the Commission must impose its regulations on Agreement States to satisfy the Commission's "duty" to make a continuing determination that State programs are not leading to hazardous disposal. Section 274(c)(4) imposes no such duty of continuous Commission review. That section allows continuance of NRC authority over the disposal of hazardous materials at the time the Commission enters into a State Agreement if the Commission by regulation or order determines that

continued Federal control is necessary. Furthermore, NRDC's "dual authority" theory is contrary to the recent decision in *NRDC v. NRC*, 8 ELR 20163, 20164 (D.C. Cir. Jan. 6, 1978), in which the Court held the Commission retains no residual authority over individual licensing actions taken by Agreement States.

The staff believes that licensing new or enlarged burial grounds on the basis of need is an option which, for continued assurance of protection of the public health and safety, should not be foreclosed. There is a continuing production of low-level waste at hospitals, universities, laboratories, reactors, etc., that requires disposal and the only currently available disposal method is shallow land burial. Until the regulations governing shallow land burial and alternative disposal methods are established, applications for new or enlarged disposal sites will be handled on a case-by-case basis. Any new licenses that are issued by NRC will be qualified by the provision that the licenses may be modified as new criteria and regulations are developed. Because of NRC's close liaison with the Agreement States, NRC staff expects that the States will initiate similar actions. Every Agreement State's radiological health program is reviewed annually to ensure that it is adequate for the protection of the public health and safety and that it is compatible with similar NRC programs.

Long-Term Care and Funding. Issues related to long-term care and funding of commercial waste disposal sites are being addressed by NRC. The staff believes that such issues, some of which were discussed by the petitioner, can be best resolved within the framework of the existing NRC low-level waste management and regulatory development program. In accordance with the program, NRC has initiated a number of studies to develop funding standards, procedures, and predictive tools.

One particular series of studies has been contracted to determine criteria and standards regarding safety and costs related to decommissioning nuclear fuel cycle facilities. To date, results of studies on a fuel reprocessing plant and a pressurized water reactor have been published. These reports, along with other ongoing studies on a boiling water reactor and facilities associated with the front end of the nuclear fuel cycle, will provide useful data to the regulatory development effort. Of more specific significance to the effort is a study underway to evaluate the safety and costs related to

decommissioning a low-level waste burial site.

This study, scheduled for completion this year, has a five-fold technical emphasis.

1. Provide technical bases for the establishment of operating criteria for existing burial grounds;
2. Identify long-term care requirements for burial grounds;
3. Estimate future financial needs for the decommissioning of burial grounds and evaluate bases for the establishment of financial structures for long-term care of burial grounds;
4. Evaluate potential record keeping needs; and
5. Evaluate the environmental monitoring needs.

NRC also plans to address through our regulations development effort alternative organizational roles involving low-level waste site regulation, site operation, site ownership, financial liability, decommissioning and inspection.

For use in the interim period prior to promulgation of the low level waste regulations, NRC's Division of Waste Management, Office of Nuclear Material Safety and Safeguards, has prepared a technical position on requirements on low level waste burial ground site closure and stabilization. This technical position is being incorporated into the licenses for the three disposal facilities currently open. A copy of this technical position is available for public inspection in the Commission's PDR.

One of the alternative methods to provide long-term funding is, as recommended by the petitioner, the establishment of a special fund based upon a cubic foot charge by NRC regulation. (The NRC Task Force recommended a Federally-administered long-term care fund in NUREG-0217.) However, the establishment by NRC of a long-term care fund through fees based upon volume of materials buried poses difficult questions of law. Although fees for use of property may be established between landlord and tenant, as is currently the case, to order a fee per unit volume of waste by Commission regulation and to establish an earmarked fund would require Congressional authorization.

A federally mandated fee per unit volume of waste that is not a product of the landlord/tenant contract, would be in essence a tax requiring legislative enactment. (See *Federal Power Commission v. New England Power Co.*, 415 U.S. 345 (1974); *National Cable Television Association Inc. v. United States*, 415 U.S. 336 (1974).) The establishment of a special fund based

upon such a tax would also require special legislation.

Based on landlord/tenant (State/site operator) contracts authorized by State law, all six States containing commercial burial sites collected disposal fees from the site operator on a per-cubic-foot basis and place the collected fees into a State fund established for long-term care of the sites. Three sites are presently closed and not collecting fees. (A specific fund for long-term care of the Sheffield, Illinois site was established in 1977 in Illinois. Illinois previously chose to assign the collected fees into the State general Fund.) However, as noted in NUREG-0217, no national standards are available by which States can evaluate the adequacy of existing long-term care funds or collection rates, evaluate proposed changes to long-term care charges, or evaluate amounts that might be needed for corrective actions if major problems develop in site operations. Development of such standards is being addressed in the studies previously discussed as well as other staff efforts.

Transportation of Liquid Low-Level Waste. In the request for regulations prohibiting transportation of all liquid waste, the petitioner observes that the liquid form increases the potential mobility of the waste material. However, the existing regulations adopted by the NRC and the Department of Transportation (DOT) specify the types and limiting concentrations of all radioactive material, including liquids, acceptable for shipment as well as the packaging requirements. As would be expected, materials of greater hazard or mobility are regulated more stringently than materials of lesser hazard or mobility.

For example, liquid radioactive material in Type A quantities must be packaged in or within a leak-resistant and corrosion-resistant inner containment vessel. The packaging must be adequate to prevent loss or dispersal of the contents of the inner container vessel if the package was subjected to a prescribed 30-foot drop test. Either enough absorbent material must be provided to absorb at least twice the volume of the liquid contents or a secondary containment vessel must be provided to retain the radioactive contents under normal conditions of transporting, assuming the failure of the

⁴In the United States, the DOT and the NRC share primary regulatory authority for transport and packaging for transport of radioactive material. The DOT and the NRC partition their overlapping responsibilities by means of a Memorandum of Understanding, last issued in March 1973, between DOT and the Atomic Energy Commission (AEC), the predecessor of NRC.

inner primary containment vessel. Quantities of radioactive material greater than Type A limits can be transported only in Type B packaging, which is designed to more stringent standards such as survivability under certain hypothetical accident conditions. Other, less stringent standards apply to material, such as low specific activity material, containing low concentrations of radioactivity.

The few cases of shipment of low-level liquid waste do not represent a hazard to the public health and safety. Policies in effect at the commercial disposal sites require that only solid waste material may be buried. Liquids, except for liquid scintillation vials, must be solidified before burial.

Liquid scintillation vials are typically small glass vials (about an inch in diameter by a few inches high) containing small quantities of radioactive material (microcuries per liter) in an organic solution. The vials are transported to disposal sites in drums containing enough absorbent material to absorb at least twice the volume of the liquid contents.

Additional processing prior to disposal may be performed at the disposal sites.

As part of a general review of the existing regulations and procedures for the packaging and transportation of radioactive materials, the NRC initiated in June 1975 the development of an "Environmental Impact Statement on the Transportation of Radioactive Material by Air and Other Modes." The final statement (NUREG-0170) was published in December 1977. The statement covered the transportation of all types of radioactive material—from spent fuel to low specific activity material—and indicated that transportation of radioactive material is being conducted under the present regulatory system in an adequately safe manner.

Based on this statement and the staff's continuing review of potential problems associated with transport of radioactive material, the staff concludes that no health and safety problem currently exists to warrant the immediate establishment of regulations prohibiting transportation of liquid waste. Present practices of solidifying and disposing of radioactive waste are being addressed as part of the ongoing NRC low-level waste program.

Low-Level Waste GEIS. The NRC staff believes that issuance of a separate programmatic GEIS as proposed by the petitioner is in this case neither required by NEPA nor necessary to conduct NRC's existing program for study and development of regulations for low-level

waste disposal. The arguments relied upon by NRDC do not compel a GEIS. The facts do not warrant it. At this time, the Commission independently licenses only one such facility located near Sheffield, Illinois.* Five Agreement States license five other low-level waste disposal sites pursuant to their own authorities. (At two of these five sites, Washington and Barnwell, South Carolina, NRC issues a Special Nuclear Material (SNM) license.) Contrary to NRDC's assertion, these State actions are taken pursuant to their own authorities and not under authority delegated by the Commission. *Natural Resources Defense Council v. Nuclear Regulatory Commission*, supra. Furthermore, NRDC's theory of continuing NRC authority over licensing actions by Agreement States leads to dual jurisdiction contrary to the clear expression of Congressional intent in enacting section 274 of the Atomic Energy Act. S. Rep. No. 870, 86th Cong., 1st Sess. 9 (1959). Dual jurisdiction was also explicitly rejected by the Court in *NRDC v. NRC*, supra, which held that the Commission has no residual authority over individual licensing actions taken by Agreement States. Consequently, the only federal licensing actions by the Commission regarding shallow land burial of low-level waste are associated with the licensing of the Sheffield facility and the SNM licenses at Hanford and Barnwell. Any proposed licensing actions for these facilities will be assessed by NRC in accordance with 10 CFR Part 51, and if necessary, an EIS will be prepared.

The technical studies being conducted and environmental impact statements that will be prepared and published to guide and support NRC's regulatory development effort will form a sufficiently large informational and decisional base to obviate any need for a separate GEIS. The EIS used to guide and support the proposed low-level waste regulation will, in part, analyze shallow land burial in the context of alternative disposal methods for low-level waste. Input to the analysis is being provided by a NRC-contracted study of alternative disposal methods. This study is identifying viable alternative disposal methods and submitting to further detailed study alternative methods determined on the basis of a preliminary screening effort. Preliminary results of the study to date have been published in a status report

*The disposal facilities located near Sheffield, Illinois; Beatty, Nevada; and Hanford, Washington were all originally licensed by AEC. Since the time that these three facilities were originally licensed, both Nevada and Washington have become Agreement States.

entitled, "Screening of Alternative Methods for the Disposal of Low-Level Radioactive Waste" (NUREG/CR-0308), October 1978.

The alternatives study may yield several acceptable alternative methods for low-level waste disposal. As part of the NEPA process, shallow land burial must be considered within the context of other alternatives and their technical uncertainties. However, technical criteria and requirements for disposal by shallow land burial are needed to meet regulatory requirements for existing and any new shallow land burial sites. As guided by the EIS, NRC plans to develop technical criteria and requirements for shallow land burial and for identified viable alternatives.

NRC staff is considering the issues raised in the petition and in the petitioner's proposed GEIS outline in their development of the proposed low-level waste disposal regulation and guiding EIS. The request for proposal (RS-NMS-79-026) for this EIS includes many of these issues. In addition to this input, NRC staff is considering public input from an Advance Notice of Proposed Rulemaking which was published in the Federal Register (43 FR 49811) on October 25, 1978, to invite public comments and suggestions on the scope, content, and issues to be addressed in the EIS. The petition and GEIS outline are also being considered as input to NRC's development of the waste classification regulation and guiding EIS. An Advance Federal Register Notice of Proposed Rulemaking on the waste classification EIS is expected to be published shortly.

Further information regarding NRC's program to develop low-level waste regulations is contained in Appendix A.

Dated at Washington, D.C. this 18th day of July 1979.

For the U.S. Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

Appendix A.—Background—NRC Regulatory Development Effort

NRC Task Force. Issues related to Federal versus State regulation of commercial radioactive waste burial grounds were addressed in an NRC Task Force Report ("NRC Task Force Report on Review of the Federal/State Program for Regulation of Commercial Low-Level Radioactive Waste Burial Grounds," NUREG-0217, March 1977; NUREG-0217 Supplement 1, October 1977). These issues were raised by the General Accounting Office (GAO), the Joint Committee on Atomic Energy (JCAE), and the House Committee on Government Operations. The NRDC petition was received after the formation of the Task Force and

referenced the issues raised by the above organizations. The petition—along with the publications and recommendations of a wide range of Congressional, technical, industrial, public, and governmental groups—provided input to the Task Force study and was referenced in the Task Force Report.

After concluding that the States through their regulatory programs have adequately protected the public health and safety, the Task Force made a number of recommendations regarding Federal versus State regulation and other related issues currently affecting commercial burial ground regulation and operation. These recommendations included accelerated development of a specific regulatory program for low-level waste disposal including regulations, standards, and criteria; and studies to identify and evaluate the relative safety and impacts of alternative low-level waste disposal methods.

The staff subsequently published a program plan for low-level waste management entitled "NRC Low-Level Radioactive Waste Management Program" (NUREG-0240, September 1977), including technical studies to prepare a regulatory base, development of regulations, criteria, and supportive EIS's and development of criteria and procedures for applicants to prepare license applications and for NRC to make uniform and timely licensing decisions. To formulate the program, the staff considered the Task Force recommendations; public comments on the Task Force Report; data gleaned from review of technical documents and participation in conferences, meetings, and discussions attended by industrial, state, and public organizations; and considerations of the points and recommendations contained in the petition, comments on the petition, and other correspondence and documents. Periodic updates of NUREG-0240 are planned and the first update is expected in 1979. The progress made to date in NRC's program of technical study and regulation development will be summarized in the update and further refinements to the program discussed.

Radioactive Waste Classification Regulation. As noted in NUREG-0240, NRC plans to propose a radioactive waste classification regulation which will stipulate the kinds and quantities of radioactive material that can be disposed of by various methods. The regulation will also outline general licensee requirements (e.g., confirmatory measurements, record-keeping, inspections) that will ensure proper classification of wastes. NRC is initiating a contractual effort to prepare an environmental impact statement (EIS) to guide and support the waste classification regulation. An Advance Notice of Proposed Rulemaking will soon be published in the Federal Register to request advice, suggestions, and comments on the issues, scope, and content of the EIS used to guide the regulation. The proposed regulation, draft EIS, and draft regulatory guide which will provide assistance to licensees in complying with the regulation are currently scheduled for publication in 1980.

As a starting point for the waste classification regulation and guiding EIS, NRC contracted a waste disposal classification system study which was initiated, in part, to address the public comments received on a rule proposed by the AEC in 1974 to prohibit the burial of TRU-contaminated commercial waste. In this proposed rule, commercial TRU waste in concentrations greater than 10 nanocuries per gram of material would have been consigned to retrievable storage facilities operated by the Federal government pending the development of a facility for the ultimate disposition of the waste. However, numerous problems (e.g., poor justification for the 10 nanocurie per gram limit, no cost-benefit analysis, no accompanying regulatory guides) were identified by persons commenting on the proposed rule, and the rule was never adopted by the AEC for commercial waste.

A ten nanocurie per gram TRU burial limit, however, was adopted by AEC in 1970 for government-produced radioactive waste and this limit is still in effect at sites operated by the Department of Energy (DOE). An investigation is underway in DOE to redefine the concentration levels at which government-produced TRU nuclides may be disposed of by shallow land burial. Some modification of the interim ten nanocurie per gram limit may result based on this investigation.

In the current waste classification study contracted by NRC, TRU waste is not classified as *separate* waste category. Instead, concentrations of individual radionuclides, including TRU nuclides, are classified according to the disposal requirements of the radionuclide concentration. In the study, it was determined that all radioactive waste disposal methods can be placed into one of three generic categories.¹

1. Isolation in a repository or disposal by other means providing a high degree of isolation;
2. Confinement for a period of time with controlled, predictably low release rates; and
3. Discharge directly into the biosphere in a manner similar to that utilized for municipal non-radioactive trash.

The waste disposal categories are not limited to specific disposal methods. However, each category implies general time periods for confinement—e.g., thousands of years for category 1, hundreds of years for category 2, and essentially immediate release for category 3.

A classification methodology was developed which involves identifying a set of exposure events at model waste disposal facilities, describing potential radionuclide transport to man, and calculating limiting concentrations or inventories of radionuclides in waste that may be placed in the model disposal sites to ensure that specified dose guidelines are not exceeded. A status report on the waste classification methodology and applications has been published ("A System for Classifying Radioactive Waste Disposal—What Waste

¹ Further refinements to this basic concept regarding radioactive wastes and disposal methods are being addressed in the study.

Goes Where?"), NUREG-0456, June 1978). A Federal Register notice (43 FR 36722-36725) was issued to announce the availability of the document and to request public comments on the in-progress study. Comments received by the NRC will be incorporated into the further development of the classification system, the completion of the study, and the development of the waste classification regulation. An updated report on the classification system study is planned for publication in 1979.

Rule Making Actions. The licensing requirements for management and disposal of the types of waste defined by the waste classification regulation as well as the technical requirements for various disposal methods will be addressed in two other rule making actions. A proposed regulation (10 CFR Part 60: "Disposal of High-Level Waste in Geologic Repositories") plus a supporting EIS governing the management and disposal of high-level waste are scheduled for publication in a draft form during 1979. Additionally, NRC is now initiating a contractual effort to prepare an EIS to guide and support the development of a proposed regulation 10 CFR Part 61, entitled "Management and Disposal of Low-Level Radioactive Waste." An Advance Federal Register Notice of Rulemaking (43 FR 49811) was issued on October 25, 1978 to request public comments on the contents and scope of the EIS and proposed low-level waste disposal regulation, which are both scheduled to be published for public comment in 1980.

The proposed low-level waste regulation will require conformance with a set of minimal acceptable performance criteria while allowing flexibility in technical approaches. The body of the proposed regulation will provide the licensing requirement for management and disposal of low-level waste, including provisions on preparation of licensing applications, Commission actions on applications, license conditions, tests, inspections, license modifications, and enforcement. Institutional arrangements for low-level waste disposal facilities, including land ownership, facilities operation, financial liability, monitoring, decommissioning, inspection, and long-term care of waste disposal facilities will be addressed.

Appendices to the low-level waste disposal regulation will specify the technical requirements for licensing of shallow land burial and alternative disposal methods, and for disposal of wastes containing very low levels of radioactive material. Specifications regarding waste form/container performance, site selection and suitability, design and operation of sites, monitoring during and after site operations, and decommissioning will be included. An EIS will be prepared to support the regulation that will consider the environmental impacts of shallow land burial and alternative methods of low-level waste disposal.

Summary of NRC Staff Response to NRDC Ten "Allegations of Fact"

The following 10 "allegations of fact" were made by the petitioners in support of the petition for rulemaking:

1. Two of the existing commercially-operated low level waste disposal sites have experienced migration of radionuclides away from burial trenches, less than 15 years after wastes were buried.
2. Evidence from one commercial disposal site suggests that plutonium has migrated from the burial site to surrounding areas.
3. The six existing burial sites were selected without adequate study of the geological, hydrological, topographical, and meteorological conditions of the areas in which the sites were located.
4. Environmental monitoring programs at several existing waste disposal sites are seriously inadequate.
5. Improper practices at existing burial sites have been corrected only extremely slowly and sometimes not at all.
6. A radioactive liquids storage tank at one disposal site has already been the subject of sabotage or vandalism.
7. Plans and funding arrangements for long-term surveillance of the disposal sites are grossly inadequate at several of the existing commercial burial grounds.
8. No site selection criteria or other standards governing the operation of low level waste burial grounds currently exist.
9. The U.S. Energy Research and Development Administration (ERDA) ² which operates burial grounds for the low level radioactive waste generated by the Federal Government has prohibited the burial of waste contaminated by transuranic elements. ERDA currently requires storage of such waste so that it can be retrieved within 20 years.
10. The Atomic Energy Commission proposed regulations prohibiting the burial of transuranic-contaminated waste at commercial burial grounds in September 1974, but never made these regulations final.

The detailed NRC staff response to each of these 10 allegations is available for public inspection in the Commission's Public Document Room (1717 H Street NW, Washington, D.C. 20555). The staff response notes that six of the 10 "allegations of fact" (Numbers 1, 3, 4, 5, 7 and 8) made by the petitioner specifically reference a report to Congress by the Comptroller General of the United States ("Improvements Needed in the Land Disposal of Radioactive Wastes—A Problem of Centuries," General Accounting Office (GAO), January 12, 1976). NRC staff responded to the findings and recommendations of this GAO report by letter to the Comptroller General dated April 2, 1976. Many of the issues raised in the petition, allegations, and GAO report were also covered in some detail in the NRC Task Force Report NUREG-0217, and were used as input for development of the NRC low level radioactive waste management program which was published as NUREG-0240.

The staff response notes that although there have been occurrences where sites have contributed radioactivity to the local environment, at no sites have these occurrences constituted a threat to the public health and safety. The occurrences, however, have indicated a need for more specific criteria and standards for management and

² Now U.S. Department of Energy (DOE).

disposal of low level waste. A number of studies are ongoing by NRC, USCS, EPA, DOE, and State agencies to more completely assess the geohydrological characteristics of the burial sites. These studies as well as a number of other studies are being factored into NRC development of a comprehensive regulation, 10 CFR Part 61, governing the management and disposal of low level waste. Included in this regulation will be specific requirements on waste form; disposal facility siting, design and operation; monitoring; and site closure, funding and long term care. NRC's Division of Waste Management, Office of Nuclear Material Safety and Safeguards, has prepared a technical position on requirements for site closure and stabilization. This technical position is being incorporated into the licenses for the three disposal facilities currently open. Additional technical positions are planned covering other aspects of low level waste disposal operations.

The response also acknowledges that (1) ERDA (now DOE) has an ongoing policy whereby TRU wastes are retrievably stored, and (2) the AEC in 1974 proposed a rule prohibiting burial of commercially-generated TRU waste but never made this rule final. As discussed in the response, NRC plans to replace this proposed 1974 TRU rule with a proposed waste classification regulation used to determine the types of wastes—including but not limited to TRU wastes—that can be disposed of by different methods.

Today, the only commercial disposal site still accepting small quantities of TRU waste for shallow land burial is the site located in the center of the Hanford Reservation near Richland, Washington. No public health and safety problems have been identified with the operation of the commercial site. Disposal of plutonium waste is under independent review by the NRC staff as part of their review of a renewal application for disposal of SNM waste at the site.

[FR Doc. 79-22753 Filed 7-24-79; 8:45 am]
BILLING CODE 7550-01-M

Petitions for Rulemaking; Issuance of Quarterly Report

The Nuclear Regulatory Commission has issued the June 30, 1979, quarterly report on petitions for rulemaking. This report is issued in accordance with 10 CFR 2.802 and is a quarterly summary of petitions for rulemaking that are pending final action.

A copy of this report, designated NRC Petitions for Rulemaking Pending Final Action as of June 30, 1979, is available for inspection and copying at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C.

Requests for single copies of this report, or request to be placed on an automatic distribution list for single copies of future reports, should be made in writing to the Division of Rules and Records, Office of Administration, U.S.

Nuclear Regulatory Commission,
Washington, D.C. 20555.

Dated at Bethesda, Md., this 18th day of
July, 1979.

For the Nuclear Regulatory Commission,
Joseph M. Felton,
Director, Division of Rules & Records, Office
of Administration.

[FR Doc. 79-22911 Filed 7-24-79; 8:45 am]
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OFFICE OF MANAGEMENT AND BUDGET

Procurement System for Audiovisual Productions; Proposed Procedure; Invitation for Public Comment

AGENCY: Office of Management and
Budget, Office of Federal Procurement
Policy.

ACTION: Solicitation of comments on
proposed Government-wide contracting
system for videotape productions.

SUMMARY: OFPP Policy Letter 78-5,
August 28, 1978, established a uniform
Government-wide system for
contracting for motion picture
productions. Since the establishment of
the motion picture contracting system,
members of the audiovisual industry,
Congress, and individual agencies have
urged OFPP to develop a similar system
for videotape productions. To
accomplish this objective, OFPP
convened a task group of members of
the Federal Audiovisual Committee. The
task group submitted its
recommendations for the videotape
system to OFPP on June 1, 1979. OFPP
has reviewed the recommendations and
prepared a new policy letter expanding
the policies contained in Policy Letter
78-5 to include videotape productions.
The new letter is set forth below and
comments are requested on the
videotape contracting policies. OFPP
has already considered comments on
the motion picture production portion of
the proposed system (42 FR, No. 201, p.
5565).

DATES: Comments must be received
before September 20, 1979.

ADDRESS: Comments should be
addressed to the Office of Federal
Procurement Policy, Office of
Management and Budget, Washington,
DC 20503.

FOR FURTHER INFORMATION CONTACT:
Mr. David F. Baker, Deputy Assistant
Administrator for Logistics, telephone
202-395-7207. Copies of the proposed
contract and solicitation documents
referred to in the Policy Letter are
available for review in the Office of

Federal Procurement Policy or copies
may be obtained by contacting Mr.
Baker. These documents closely
resemble the formats previously
developed for motion picture
productions.

James D. Currie,
Acting Administrator.

[Policy Letter No. 78-]

To the Heads of Executive Departments and
Establishments

SUBJECT: Contracting for Motion Picture
Productions and Videotape Productions

1. *Purpose.* This Policy Letter prescribes a
uniform Government-wide system for
contracting for motion picture and videotape
productions. It replaces Policy Letter 78-5
issued by the Office of Federal Procurement
Policy (OFPP) on August 28, 1978.

2. *Applicability.* The specified policy and
procedures will be followed by all executive
departments and agencies.

3. *Background.* Beginning in the early
1970's, various management studies were
made of the Government's audiovisual
contracting programs. These studies
indicated widespread dissatisfaction with the
policies and procedures followed by Federal
agencies and departments in contracting for
the production of audiovisuals, particularly
motion pictures. OFPP Policy Letter 78-5
corrected many of the motion picture
contracting problems noted in the studies and
established a Government-wide system for
contracting for motion pictures. Since the
issuance of Policy Letter 78-5, members of
the audiovisual industry, Congress, and
individual Federal agencies have urged OFPP
to develop a similar system for videotape
productions. This policy letter responds to
those suggestions and establishes one
Government-wide system for both motion
picture and videotape productions.

4. *Policy.* Executive agencies and
departments shall use the uniform
Government-wide system described in
paragraph 9 below in contracting for motion
picture and videotape productions. The
uniform system is intended to:

a. Reduce waste and inefficiency inherent
in many existing departmental and agency
contracting procedures;

b. Ensure that the Government obtains
quality motion picture and videotape
productions at fair, competitive prices;

c. Provide a central point within the
Government where producers can obtain
information on motion picture and videotape
contracting procedures and opportunities; and

d. Increase competition for Government
contracts.

5. *Implementation.* the General Services
Administration and the Department of
Defense shall make such changes to the
Federal Procurement Regulations and the
Defense Acquisition Regulation as are
necessary to implement the uniform
contracting system.

6. *8(a) Contracts.* Contracts made pursuant
to Section 8(a) of the Small Business Act will
be handled in accordance with existing

regulations and use for the uniform system is
not required.

7. *Effective Date.* The motion picture
contracting system required by this policy
letter was initially implemented on March 30,
1979, by Policy Letter 78-5. That system shall
continue in effect as provided herein. The
contracting system for videotape productions
shall become effective January 1, 1980, and
the thereafter solicitations and awards for
such productions shall be in accordance with
the system.

8. *Definitions.* As used in this Policy Letter:
a. "Motion picture production" refers to 8-
mm, 16-mm, 35-mm, and 70-mm sound-on-
film. It does not include videotape, and sound
slide, multi-media productions, or separate
media services.

b. "Videotape production" refers to
production on magnetic videotape. It does not
include motion picture film, sound slide, or
multimedia productions or separate media
services.

c. "Federal Audiovisual Committee" refers
to an interagency committee chaired by
OFPP. The Committee is made up of
representatives from more than 20 Federal
agencies. Its purpose is to advise and assist
in the formulation of Government-wide
audiovisual policy.

d. "Executive Agent" refers to the
Directorate for Audiovisual Management
Policy of the Department of Defense. The
Executive Agent is designated by OFPP and
is responsible for administering and
maintaining the motion picture and videotape
contracting system. The Executive Agent also
serves as the central information source
about the system.

e. "Interagency Audiovisual Review Board"
refers to a sub-group of the Federal
Audiovisual Committee. It is chaired by the
Executive Agent and is used to evaluate
motion picture and videotape productions
submitted by producers interested in
obtaining Government contracts for motion
picture and videotape work.

9. *Uniform System.—a. Open Invitation.* All
persons and firms interested in producing
Government motion picture productions or
videotape productions are required to submit
samples of their work to the Executive Agent.
The Executive Agent will place notices, at
least semi-annually, in the Commerce
Business Daily inviting the submission of
such work samples. Similar notices will be
placed in the trade press where feasible.

b. *Submission of Work Samples.* (1)
Producers interested in motion picture work
must submit a 16-mm sound sample film that
they have produced within the previous three
years.

(2) Producers interested in videotape work
must submit a sample program on ¾ inch, U-
format videocassette that they have produced
during the previous three years.

(3) Each sample film and videotape must be
accompanied by a statement explaining its
purpose, the sponsor, production medium, the
contract price, and/or production cost.

c. *Review of Work Samples.* Work samples
submitted to the Executive Agent will be
reviewed and evaluated by the Interagency
Audiovisual Review Board (IARB). A
minimum of five IARB members must

participate in the evaluation of each work
sample. The public may attend meetings of
the IARB during which sample motion picture
and videotape productions are viewed. The
public may not, however, be present nor
participate in the formal evaluation of the
productions.

d. *Criteria for Evaluating Work Samples.*
Films and videotapes reviewed by the IARB
will be evaluated on the basis of the
following criteria:

(1) Achievement of Purpose(s): Did the
production accomplish its stated purpose?
Was it appropriate for the intended
audience?

0-20 Points

(2) Creativity: Did the production provide a
fresh or innovative way of conveying the
message? Was the manner of presentation
appropriate?

0-20 Points

(3) Continuity: Did the subject develop in a
logical or understandable manner?

0-10 Points

(4) Technical Quality: Did the following
elements, if included in the production
exhibit technical competence?

Direction, Writing, Photography/Camera
Work, Editing, Artwork/Animation,
Narration/Dialogue, Music and Sound,
Special Effects.

0-50 Points

e. *Obtaining Contracts and Placement on
Qualified Producers Lists.* (1) Contracting
with the Executive Agent. The Executive
Agent will offer contracts to all producers
whose films and/or videotapes receive an
average composite score of 70 or more from
the IARB. The contracts will contain
standard provisions covering Government
motion picture or videotape work. Orders for
production and other work will be awarded
under these contracts. The authority for the
contracts is this Policy Letter and 41 U.S.C.
252(c)(10).

(2) Placement of the Qualified Lists.
Producers who sign contracts with the
Executive Agent will be placed on Qualified
Film Producers List (QFPL) or a Qualified
Videotape Producers List (QVPL). Producers,
who qualify on the basis of motion picture
and videotape work samples, may be placed
on both lists.

(3) Continuous Qualification. The QFPL
and QVPL will remain open and producers
may submit work samples to the Executive
Agent at any time. Producers whose initial
films and/or videotapes do not receive a
score of 70 or more may continue to submit
samples until they qualify. All samples will
be reviewed on a first-in, first-out basis.
Producers who initially qualified for the
QFPL under the "grandfather arrangement" in
Policy Letter 78-5 must still submit a work
sample to the Executive Agent within one
year of the date of their original contracts.

(4) Removal from the QFPL or QVPL. A
producer will remain on the QFPL or QVPL
until an agency complains of unsatisfactory
work on a specific production or until the
producer requests removal. If an agency
complains of unsatisfactory work, the IARB
will review the production and the complaint.
When warranted, the IARB may recommend

that the Executive Agent terminate the
producer's contract and remove the producer
from the QFPL or QVPL. Also, producers not
responding to five consecutive solicitations
will be asked if they wish to be removed from
the list(s).

(5) Structure and Distribution of the QFPL
and QVPL. Firms placed on the QFPL or
QVPL will not be classified by subject matter
or geographic area unless they so request.
Copies of the qualified lists will be
distributed by the Executive Agent to all
using agencies and to persons requesting
them.

f. *Agencies' Use of QFPL and QVPL.* (1)
Contacting the Executive Agent. When an
agency needs to have a motion picture of
videotape production produced and
determines to contract for the production, it
will contact the Executive Agent and request
the names of a specific number of producers
from the QFPL or QVPL. The Executive Agent
will furnish names in increments of five. The
names furnished will be selected from the
QFPL or QVPL on a random number,
rotational basis. For every increment of five
names requested, the procuring agency may
select a maximum of two additional names
from the appropriate list. The names provided
by the Executive Agent plus those picked by
the agency, if any, will be placed at the
bottom of the list for future use.

(2) Use of Names. The agency will solicit
proposals from all firms referred by the
Executive Agent and from those
appropriately selected by the agency itself.
Proposals must be solicited from at least five
producers for each requirement (unless a
noncompetitive acquisition is justified in
accordance with agency regulations).
Agencies will determine in light of the
specific film or videotape to be produced
whether more than five proposals should be
solicited. As a general guide, however,
agencies should not request the names of
more than ten producers from the Executive
Agent for productions estimated to cost less
than \$100,000.

g. *Soliciting Proposals.* (1) Use of
Solicitation Formats. Agencies shall use the
solicitation formats developed by the Federal
Audiovisual Committee in soliciting
proposals for specific productions. The
contracts between the producers on the
qualified lists and the Executive Agent
contain standard terms and conditions and
those terms and conditions will not be
repeated in each solicitation or award. The
solicitation formats developed by the Federal
Audiovisual Committee may be obtained
from the Executive Agent.

(2) Two Approaches. When using the
solicitation formats obtained from the
Executive Agent, agencies must first
determine whether scripting will be
separated from production. This is a matter of
judgment involving two approaches to
production. The first approach holds that a
clear separation can be made in some
instances between scripting and production
and that any producer can produce a
satisfactory motion picture or videotape
production from a completed script. The
second approach holds that production of
some films and videotapes (from initial

research through treatment, scripting, and
production) is a continuous process which
requires the continuous involvement of one
creative individual from start to finish.
Solicitation formats have been developed for
each of these approaches and the proper
format must be used depending on the
approach selected.

h. *Scripting Separated from Production.* (1)
Obtaining Scripts. When an agency
determines that scripting for a particular film
or videotape should be separated from
production, the agency will obtain and
approve a script. Generally, scripts may be
obtained directly from writers under existing
small purchase procedures.

(2) Obtaining Production Proposals. Once
the script has been acquired it will be
included in the production specifications and
used by the agency in soliciting competitive
proposals from the firms on the QFPL or
QVPL. Proposals will be solicited in the
appropriate format, in accordance with
paragraph g.(1) above.

(3) Evaluation Criteria.

a) Motion picture and videotape
production proposals, submitted by producers
when scripting has been separated from
production, will be evaluated on the basis of:
—Technical quality of a sample production.
—Creativity, as demonstrated in a sample
production.

—Qualifications of proposed key
production team members, including the
Producer/Director, Editor. Other key
personnel, if designated by agency.

—Relevant experience, demonstrated in
similar past efforts by the same team.

—The proposed production price.

(4) Production Awards. The production
award will be made to the responsible
producer submitting the best proposal, price
and other factors considered.

i. *Scripting Included with Production.* (1)
Obtaining Treatments. Where scripting is to
be included as part of the production effort,
agencies will solicit treatment proposals from
firms on the QFPL or QVPL. The appropriate
solicitation format must be used in
accordance with paragraph g.(1) above.

(2) Evaluation Criteria. Proposals for
treatments will be evaluated by the agency
on the basis of:

—Technical quality of a sample production.
—Creativity, as demonstrated in a sample
production.

—Qualifications of proposed key
production team members, including the
Producer/Director, Scriptwriter/Editor. Other
key personnel, if designated by agency.

—Relevant experience, demonstrated in
similar past efforts by the same team.

—Quality of previous sample treatment or
script if specifically requested by the agency.

(3) Awards for Treatments. Awards for the
development of treatments should generally
be made to at least two producers submitting
proposals. These awards will be made at a
preestablished fixed price determined by the
agency and included in the solicitation.
Subsequent awards for the development of
multiple scripts (not treatments) should be
made only in unusual cases.

(4) Production Awards. The treatments will
be evaluated together with technical and

price proposals for the production, and the award for the scriptwriting and production work will be made to the responsible producer whose proposal is most advantageous to the Government, price and other factors considered.

j. *Responsibility Determinations.* The evaluation criteria contained in paragraphs h. and i. will be used by agencies in evaluating producer proposals. Agency contracting officers, however, will determine a particular offeror's responsibility prior to making an award. For this purpose, financial and other data may be requested.

Administrator

[FR Doc. 79-22861 Filed 7-23-79; 8:45 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 21147; 70-6328]

Appalachian Power Co.; Proposed Issuance and Sale of First Mortgage Bonds to Insurance Company Pursuant to Claimed Exemption From Competitive Bidding

Appalachian Power Company, 40 Franklin Road, Roanoke, Virginia 24009.

Notice is hereby given that Appalachian Power Company ("Appalachian"), an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed with this Commission an application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(b) and 12(c) of the Act and Rules 42(b) and 50(a)(2) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Appalachian proposes to issue and sell by private placement \$35,000,000 aggregate principal amount of its first mortgage bonds ("Bonds"). The Bonds will be sold at par, will mature August 1, 1989, will bear interest payable semiannually at a rate of 10.9% per annum, will be subject to a sinking fund requiring the annual redemption of \$1,750,000 principal amount commencing August 1, 1984, and will be sold to the Equitable Life Assurance Society of the United States. The Bonds will not be redeemable prior to August 1, 1984, if such redemption is for the purpose of refunding them, directly or indirectly, through the use of borrowed funds having an effective interest cost less than the effective interest cost of the Bonds.

The Bonds will be issued under and secured by Appalachian's mortgage and deed of trust, dated as of December 1, 1940, as supplemented and amended and as to be further supplemented and amended by a supplemental indenture. The net proceeds from the sale of the Bonds will be used to pay at maturity the \$35,000,000 principal amount of Appalachian's first mortgage bonds, 7½% Series, due September 1, 1979.

Appalachian claims exemption from the competitive bidding requirements of Rule 50 for its sale of the Bonds pursuant to Rule 50(a)(2). It states that the Bonds will have a maturity of less than ten years, will be issued to an institutional investor and that no finder's or other fee is to be paid to a third person in connection with the sale of the Bonds. Appalachian further claims that the terms of the Bonds compare favorably with the terms of its most recent sale at competitive bidding of first mortgage bonds due May 1, 1987, which bonds were sold (pursuant to order dated May 7, 1979 (HCAR No. 21040)) at an effective interest cost of 11.15%.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that the State Corporation Commission of Virginia and the Public Service Commission of Tennessee have jurisdiction over the proposed transaction, and that no other state commission and no federal commission, other than this Commission, has jurisdiction thereover.

Notice if further given that any interested person may, not later than August 14, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such Rules as provided in Rules 20(a)

and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-22929 Filed 7-24-79; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 21148; 70-6320]

Central & South West Fuels, Inc., et al.; Supplemental Notice of Proposed Indemnity Agreements Concerning Fuel Subsidiary's Mining Activities

July 18, 1979.

In the matter of Central and South West Fuels, Inc., P.O. Box 10773, Golden, Colorado 80401; Central Power and Light Company, P.O. Box 2121, Corpus Christi, Texas 78403; Public Service Company of Oklahoma, 212 East 8th Street, Tulsa, Oklahoma 74119; Southwestern Electric Power Company, P.O. Box 21106, Shreveport, Louisiana 71156; West Texas Utilities Company, P.O. Box 841, Abilene, Texas 79604.

Notice is hereby given that Central Power and Light Company ("CPL"), Public Service Company of Oklahoma ("PSO"), Southwestern Electric Company ("CPL"), Public Service Company of Oklahoma ("PSO"), Southwestern Electric Power Company ("SWEPCO"), and West Texas Utilities Company ("WTU"), each an electric utility subsidiary of Central and South West Corporation, a registered holding company, together with Central and South West Fuels, Inc. ("CSWF"), a fuel subsidiary of CPL, PSO, SWEPCO and WTU, have filed with this Commission a declaration and an amendment thereto pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 12(b) of the Act and Rules 45(b), 90 and 91 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, as amended, which is summarized below, for a complete statement of the proposed transaction.

By order dated August 2, 1978 (HCAR No. 20658), this Commission authorized the creation of CSWF, with CPL, PSO and SWEPCO each owning 30% of CSWF's common stock and WTU owning the remaining 10%. CSWF conducts nonpetroleum fuel exploration, acquisition and development activities

as agent for its owners pursuant to orders issued in File No. 70-6235. As part of this fuel exploration and development program, CSWF contemplates engaging in mining activity in a number of states which require, as a prerequisite to the commencement of such activity, the posting by CSWF of a bond indemnifying the state against potential losses due to CSWF's failure to restore any mined property to its original condition. By notice dated June 1, 1979 (HCAR No. 21078), declarants sought authorization for arrangements under which CSWF would procure a master bond from St. Paul Fire & Marine Insurance Company ("St. Paul") to cover all its operations, and CPL, PSO, SWEPCO and WTU would enter into separate general agreements indemnifying St. Paul for 30%, 30%, 30% and 10%, respectively, of the total of any liability incurred by St. Paul in its position as surety for CSWF under such master bond.

By amendment to their filing declarants state that a master bond arrangement is not feasible and that it would be desirable for CSWF to obtain separate quotes from various carriers on each job site (or series of sites). Therefore CPL, PSO, SWEPCO and WTU each request authorization to execute and deliver from time to time one or more indemnity agreements indemnifying the bonding sureties for 30%, 30%, 30% and 10%, respectively, of the total amount of any liability incurred by such surety in its position as surety for CSWF under a bond covering CSWF's operations. Such authorization would extend indefinitely as long as CSWF is authorized to conduct operations for its owners.

The authorization given in connection with the fuel exploration, acquisition and development activities in File No. 70-6235 provides that the costs incurred by CSWF in the development of a given property be apportioned among its owners not on the basis of their ownership interest in CSWF, but rather on the basis of their ownership interests in that one property. Accordingly, should the owners be called upon to fulfill their obligations under the proposed indemnity agreements (under which agreements their liability would be proportionate to their ownership interests in CSWF) CPL, PSO, SWEPCO and WTU would reimburse each other as necessary to render each company's loss in connection with a particular mining operation proportionate to its ownership interest in that mining operation.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at \$2,700, including legal fees of \$500. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice if further given that any interested person may, not later than August 14, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such Rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-22930 Filed 7-24-79; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 21149; 70-6300]

Consolidated Natural Gas Co., et al.; Post-Effective Amendment Regarding Proposed Long-Term Bank Financing by Holding Company

In the matter of Consolidated Natural Gas Company, 30 Rockefeller Plaza, New York, New York 10020, CNG Coal Company, CNG Development Company Ltd., CNG Producing Company, CNG Research Company, Consolidated Gas Supply Corporation, Consolidated Natural Gas Service Company, Inc., Consolidated System LNG Company, The East Ohio Gas Company, The Peoples

Natural Gas Company, The River Gas Company, West Ohio Gas Company.

Notice is hereby given that Consolidated Natural Gas Company ("Consolidated"), a registered holding company, and certain of its subsidiary companies, CNG Coal Company, CNG Development Company Ltd., CNG Producing Company, CNG Research Company, Consolidated Gas Supply Corporation, Consolidated Natural Gas Service Company, Inc., Consolidated System LNG Company, The East Ohio Gas Company, The Peoples Natural Gas Company, The River Gas Company, and West Ohio Gas Company have filed with this Commission a post-effective amendment to the application-declaration in this proceeding pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By order in this proceeding dated July 2, 1979 (HCAR No. 21129), Consolidated and its subsidiary companies, among other things, were authorized to engage in certain intrasystem financing. Jurisdiction was reserved over the proposed transactions as to which the record was not yet complete, namely the long-term borrowings of Gas Supply, the long-term borrowings of River and East Ohio, the stock issuance of River, and the long-term borrowings of Peoples.

Consolidated now proposes to issue and sell, pursuant to a Credit Agreement with Chase Manhattan Bank, N.A. ("Chase"), acting for itself and as agent for various other banks, its notes up to a maximum of \$75,000,000 outstanding at any one time for up to eight years. The bank loans will be in the form of revolving credits commencing September 4, 1979, or as soon thereafter as Commission approval is received, and may be converted to four-year term loans on September 1, 1983. During the revolving credit period, each bank agrees to make loans to Consolidated from time to time to and including August 31, 1983, up to such bank's commitment under the Credit Agreement. During such period Consolidated may borrow, pay or prepay, and reborrow up to each bank's commitment. Consolidated will have the right at any time upon five New York business days' notice to Chase, as agent, to terminate entirely or reduce the aggregate commitments of the banks. Each loan during the revolving credit period will be evidenced by a Revolving

Credit Note. Interest will be at the prime commercial lending rate of Chase and payable quarterly. A commitment fee of 1/2 of 1% per annum will be charged on the unused portion of the revolving credit commitment.

Under the terms of the Credit Agreement, each bank agrees to make a four-year term loan to Consolidated on September 1, 1983 (the "Conversion Date"), in an amount not exceeding such bank's commitment on the date of such loan. Each term loan will be evidenced by Consolidated's Term Note maturing as to principal in eight equal semi-annual installments, commencing March 1, 1984. The final maturity of the last maturing installment of the Term Notes will be not later than September 1, 1987. Interest on each Term Note will be computed at a rate per annum of 1/4 of 1% above the prime commercial lending rate in effect at Chase from time to time to and including August 31, 1985, and 1/2 of 1% from September 1, 1985, to maturity.

The proposed borrowings by Consolidated will be used to finance, in part, the 1979 capital expenditures of its subsidiary companies, presently estimated at \$185,000,000. The original application-declaration provided that following this proposed \$75,000,000 of bank financing by Consolidated, the interim open account advances to subsidiary companies, to the extent outstanding, will be converted into long-term financing of such subsidiary companies as proposed, and thereafter loans to subsidiary companies for capital expenditures will be evidenced by such long-term financing. With regard to such long-term financing of the subsidiary companies, it is now stated that during the revolving credit period under Consolidated's Credit Agreement with the banks, the loans to subsidiary companies for capital expenditures will be in the form of open account advances payable to Consolidated on or before September 1, 1983. Following the conversion by Consolidated of its revolving credit into term loans under the Credit Agreement, such open account advances to subsidiary companies shall be converted into Term Notes of such subsidiary companies with maturities substantially the same as Consolidated's related term loans under the Credit Agreement. Said open account advances and Term Notes will bear interest at a rate predicated on and substantially equal to the effective cost of money to Consolidated.

Consolidated request authorization to file certificates of notification under Rule 24 on a quarterly basis.

The fees and expenses to be incurred in connection with the proposed issuance and sale of notes to banks by Consolidated are estimated at \$21,000, including legal fees of \$10,000. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed notes.

Notice is further given that any interested person may, not later than August 15, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the post-effective amendment which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-22931 Filed 7-24-79; 8:45 am]
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[Release No. 10787; 812-4473]

Corporate Securities Trust, Intermediate-Term Debt Series 1 and Subsequent Series; Filing of Application Pursuant to Section 6(c) for Order of Exemption From Section 22(d) of the Act

Notice is hereby given that Corporate Securities Trust, Intermediate-Term Debt Series 1, and Subsequent Series ("Applicant") c/o Smith Barney, Harris

Upham & Co. Incorporated, 1345 Avenue of the Americas, New York, New York 10019, registered under the Investment Company Act of 1940 (the "Act") as a unit investment trust, filed an application on May 10, 1979, and an amendment thereto on July 11, 1979, pursuant to Section 6(c) of the Act for an order of the Commission exempting Applicant from compliance with the provisions of Section 22(d) of the Act to the extent necessary to permit Applicant to offer unitholders of all of its Long-Term Debt Series and Intermediate-Term Debt Series ("Debt Series") the opportunity to participate in the Corporate Securities Trust Debt Series Reinvestment Program (the "Reinvestment Program"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Applicant states that it consists of a series of similar but separate unit investment trusts organized under the laws of the State of Massachusetts. According to the application, twelve Long-Term Debt Series have been created, and one additional series, designated Intermediate-Term Debt Series 1 and comprised of a portfolio of obligations possessing somewhat less long-term maturities than the obligations contained in the portfolios of the twelve Long-Term Debt Series, has also been created. The application further states that a registration statement relating to Long-Term Debt Series 13 has been filed with the Commission, but such series has not been organized and such registration statement has not been declared effective. The Applicant indicates that Smith Barney, Harris Upham & Co., Blyth Eastman Dillon & Co. Incorporated, Paine, Webber, Jackson & Curtis Incorporated, and Drexel Burnham Lambert Incorporated act as sponsors for various series of the Applicant (the above-mentioned companies hereinafter called the "Sponsors"). New England Merchants National Bank ("Trustee") acts as trustee for all series of the Applicant.

According to the application, the objectives of each Debt Series are a high level of current income and conversion of capital through an investment in a diversified portfolio of long-term debt obligations (in the case of Long-Term Debt Series) or debt obligations having maturities not exceeding 15 years (in the case of Intermediate-Term Debt Series), and each Debt Series is composed of not less than \$10,000,000 principal amount of interest-bearing obligations deposited by the Sponsors with the Trustee. The

Sponsors have chosen to include in Debt Series portfolios only obligations which, at the time of purchase, had an A or better rating from either Standard & Poor's Corporation or Moody's Investors Service.

Applicant states that at the time of deposit of such obligations the Sponsors receive redeemable units from the Trustee representing the entire ownership of Debt Series (each individual unit representing a fractional undivided interest in the Debt Series) and that these units are offered by the Sponsors for sale to the public at a public offering price computed on the basis of the aggregate offering price of the obligations in such Debt Series portfolio, plus accrued interest on such obligations and a sales charge, currently at 4% of the total public offering price of such units. The Applicant indicates that the Trustee receives the interest and principal paid on the portfolio obligations of each Debt Series and distributes this to the unit holders of the Debt Series on a monthly basis. Such distributions are net of applicable expenses and funds required for the redemption of units.

The Applicant proposes to provide to holders of units of existing and future Debt Series the opportunity to participate in the Reinvestment Program, under which a holder of five or more units of Applicant's Debt Series may elect to have his or her monthly distributions with respect to such units automatically reinvested in units of various Debt Series of the Applicant. The application states that units of ownership in existing Debt Series represent a fractional interest in the portfolio of the issuing Debt Series in the ratio of one unit ("ordinary unit") for each \$1,000 principal amount of obligations in that portfolio. Applicant states that units of such denomination will continue to be issued for sale to the general public, and in addition, units of smaller denomination, representing fractional interests in a ratio of one unit ("reinvestment unit") for each \$10 principal amount of obligations in the portfolio of the issuing Debt Series, will be issued for sale exclusively to participants in the Reinvestment Program, with such smaller denomination units to be sold to participants without the sales charge applicable to sales made to the general public.

According to the application, following enrollment in the Reinvestment Program by a unit holder, the monthly distributions of interest and principal made with respect to his or her units will be retained by the Trustee for

the account of the unit holder, and will be used by the Trustee to purchase units and fractions of units of reinvestment denominations for the unit holders from the Sponsor in each February, May, August and November ("Reinvestment Months"). Units purchased on behalf of participants in the Reinvestment Program will be priced on the basis of the aggregate offering price of the obligations in the portfolio of the Debt Series to which the units relate, plus accrued interest on said obligations, and without the imposition of a sales charge. Funds retained by the Trustee for reinvestment will be held in savings accounts which are interest bearing at the current open pass book rate (presently 5%) to unit holders, and are available for use by the Trustee pursuant to normal banking procedures.

Applicant states that a holder of five or more units of its Debt Series may enroll in the Reinvestment Program at any time with respect to such units by delivering an authorization form to the Trustee, which form is available from the Sponsors. The application further provides that a participant may withdraw from the Reinvestment Program at any time by giving written notice of such withdrawal to the Trustee. In cases where a participant does not give the Trustee written notice of withdrawal at least five days prior to the first day of a Reinvestment Month, the participant will be deemed to have elected to participate in the Reinvestment Program with respect to the particular transaction occurring during that month, and his or her withdrawal will be effective for the next succeeding distribution following the Reinvestment Month.

Applicant represents that the Sponsors, although not obligated to do so, intend to offer a new Debt Series of the Applicant, units of which shall be made available for reinvestment, at or near the beginning of each Reinvestment Month. Applicant states said new Debt Series will differ from existing Debt Series only with respect to the composition of their portfolios and their portfolio derived financial characteristics (for example, yield and public offering of the units). It states that if units of a new Debt Series are not available for purchase in a Reinvestment Month, then the funds retained by the Trustee for reinvestment will be used to purchase units of Debt Series which permit the issuance of units in reinvestment denominations, such units having been previously sold to the public and reacquired by the Sponsors in the course of making a market for such units, including units of

Debt Series created prior to the date of this application. The Sponsors anticipate that this will rarely occur. In cases in which reinvestments are made through this secondary market, Applicant represents that the units so used will constitute units purchased by the Sponsors as market makers and not unsold units remaining from an original distribution of units; the Debt Series of the units so used will have an anticipated remaining maturity of at least ten years; the units so used will meet investment quality criteria at least as high as those applicable to the most recently created Debt Series of the Applicant and will only include obligations of so-called investment grade security rating, that is, BBB or better if rated by Standard & Poor's Corporation or Baa or better if rated by Moody's Investors Service, Inc.; and the Sponsors will at that time be maintaining a secondary market in the units involved so that the Prospectus distributed in connection therewith will be current. To the extent there are no units available for purchase in a Reinvestment Month, funds accumulated by the Trustee for the account of unit holders will be distributed to them.

Applicant asserts that the authorization to reinvest distributions in units of Debt Series of the Applicant given to the Trustee by unit holders participating in the Reinvestment Program will not extend to reinvestment in a Debt Series which materially differs from previous Debt Series, and will be treated as being void for such Debt Series. The Sponsors anticipate that examples of Debt Series manifesting such a material difference would include Debt Series containing obligations in their portfolios which were not at the time of the reinvestment at least as high as the minimum rating assigned by either Standard & Poor's Corporation or Moody's Investors Service, Inc. to obligations in the portfolio of the most recently created Debt Series of the Applicant, but in no event lower than BBB by Standard & Poor's Corporation or Baa by Moody's Investors Service, Inc. Deviations in bond quality (within the Criteria set forth in prospectuses relating to Debt Series of the Applicant), diversification or yield from previous Debt Series will normally not be deemed by Sponsors to be sufficiently material to void an authorization form under the Reinvestment program. Applicant does not assure that the quality and diversification of the portfolio or the yield of any future Debt Series will be similar to previous Debt Series. Descriptions of the Reinvestment

Program provided to unit holders will indicate that differences in portfolio quality, diversification or yield among Debt Series will not ordinarily constitute a sufficiently material difference to disqualify a particular Debt Series from serving as a medium for reinvestment, and will disclose that a participant may acquire an interest through the Reinvestment Program in a Debt Series possessing a portfolio of securities containing one or more securities with a lower rating than the securities contained in the portfolio of the Debt Series in which his or her original investment was made.

Applicant states that after a unit holder has enrolled in the Reinvestment Program, the Trustee will open an account for him or her and will send to the unit holders a confirmation of the opening of the account. Thereafter, whenever a transaction occurs in the account, the unit holder will receive a confirmation statement describing the transaction. Whenever funds in the account are used to purchase new units, a final prospectus relating to the new units will be mailed with the confirmation statement within four business days following the fifteenth day of the Reinvestment Month, or, if such fifteenth day is not a business day for the Trustee, within four business days following the first business day thereafter. Accordingly to the application, the confirmation statement will indicate that such units have been purchased on behalf of the unit holder, and that such transaction will become final unless the unit holder notifies the Trustee within sixteen days from the date of the purchase (which date shall be indicated in the confirmation statement) that he or she does not want that particular purchase made. If the Trustee does not receive such notice within sixteen days from the date of the purchase, the unit holder will be deemed to have accepted the purchase as of the purchase date indicated on the confirmation statement at the price in effect on such date, regardless of subsequent appreciation or depreciation in the price of such units. Applicant states that in the case of a unit holder who rejects the purchase of units, the purchase is rescinded as of the purchase date indicated on the confirmation statement, all funds of the unit holder paid by the Trustee on behalf of the unit holder to the Sponsors on the purchase date for the purchase of such units will be delivered to the unit holder, and the Sponsors will retain the ownership of the units. Applicant further states that after a purchase of units has been rejected, the Sponsors may dispose of

such units, either by sale to the public or by tender to the Trustee for redemption, and that any appreciation or depreciation in the price of such units occurring during the period in which they are owned by the Sponsors (including appreciation or depreciation occurring after the units are purchased on behalf of a unit holder through the operation of the Reinvestment Program and before such purchase is rejected by the unit holder) will accrue exclusively to the Sponsors. To aid a participant who might desire to withdraw from either the Reinvestment Program or a particular transaction, a Termination Form will be enclosed with each confirmation statement and a toll-free telephone number will be established for the use of participants wishing to notify the Trustee of such withdrawal.

The application indicates that unless a withdrawing participant specifically indicates in his or her Termination Form (a) that he or she wishes to withdraw from the Reinvestment Program only for a particular distribution or (b) that he or she wishes to withdraw for less than all Debt Series of the Applicant with respect to which he or she has units enrolled in the Reinvestment Program, he or she will be deemed to have withdrawn completely from the Reinvestment Program in all respects. The application further states that whereas a sale or redemption of some of the units of ordinary denomination enrolled in the Reinvestment Program by a participant will not constitute a withdrawal from the Reinvestment Program with respect to the remaining units so enrolled by such participant, a withdrawal from the program with respect to, or redemption or sale of, any units of reinvestment denomination or fractional units of reinvestment denomination of a Debt Series will constitute the withdrawal from the Reinvestment Program of all other units (other than units of ordinary denomination) held by such unit holder in such Debt Series (but not of any other Debt Series).

Applicant states that if a holder of units of reinvestment denomination or fractional units of reinvestment denomination of a Debt Series withdraws from the Reinvestment Program with regard to distributions made in respect of such units, the Trustee will be authorized to require the redemption of such withdrawn units. In addition, the application provides that if the Reinvestment Program is terminated for any reason, there may be a mandatory redemption of units of reinvestment denomination and

fractional units of reinvestment denomination.

Applicant states that as long as the Sponsors are offering to purchase units of reinvestment denomination, the Sponsors will purchase reinvestment denomination units and fractional units of such series required by the Trustee to be redeemed by making payment therefor to the unit holder, which payment shall be no less than the amount such unit holder would have received from the redemption of such units by the Trustee. Applicant further states that units purchased by the Sponsors in this manner may be tendered to the Trustee for redemption, at the option of the Sponsors, provided that the Sponsors shall not receive for units so purchased a higher price than was paid for them, plus accrued interest.

Applicant states that for recordkeeping and other administrative activities, the Trustee will charge each reinvestment account a quarterly fee of 1.50% of the amount reinvested in such quarter, up to a maximum fee of \$3.00 per quarter. Such fee shall be payable quarterly, on the date on which reinvestments occur, and will be withheld by the Trustee from the reinvestment account. The fee may be increased by the Trustee without the approval of participants in the Reinvestment Program by amounts not exceeding proportional increases in consumer prices for services as measured by the United States Department of Labor's Consumer Price Index entitled "All Services Less Rent," or, if such Index is no longer published, in a similar index to be determined by the Trustee and the Sponsors. The Sponsors have been advised that such provision has rarely been invoked. Applicant asserts that this fee will be the only charge to participants in the Reinvestment Program.

Applicant states that the Sponsors, although not obligated to do so, intend to maintain markets for units of reinvestment denomination by continuously offering to purchase such units at prices based on the aggregate offering price of the obligations in the Debt Series portfolio, plus accrued interest. The Sponsors may reoffer these units to participants in the Reinvestment Program in the situations described above and in the application where no new Debt Series of the Applicant is available for reinvestments. In the event that the Sponsors do not maintain a market for such units, the application provides that a unit holder desiring to dispose of them may only be able to do so by tendering such units to the Trustee

for redemption, on the same terms as units of ordinary denomination.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except either to or through a principal underwriter for distribution or at a current public offering price described in the prospectus, and if such class of securities is being currently offered to the public by or through an underwriter, no principal underwriter of such securities and no dealer shall sell any such security to any person except a dealer, a principal underwriter, or the issuer, except at a current public offering price described in the prospectus.

Section 6(c) of the Act provides that the Commission may, upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes or persons, securities, or transactions from any provision of the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that the sales charges payable by purchasers of units of Debt Series of the Applicant to the Sponsors is intended to compensate them for expenses incurred and efforts made in soliciting sales of such units. The Applicant notes that while unit holders of Debt Series of the Applicant will be notified of the availability of the Reinvestment Program, the Sponsors will not conduct a sales campaign to solicit such participation. Thus, Applicant submits that if units of the Applicant are sold through the Reinvestment Program with a sales load, the sponsors will receive such load without having provided the services which justify its imposition. The Applicant believes that participants in the Reinvestment Program, rather than the Sponsors, should receive the benefit of this cost saving of the elimination of the sales load.

Applicant states that because the Reinvestment Program will generate additional costs on the part of the Trustee relating to additional recordkeeping and other administrative activities, it is reasonable that these costs are paid by the participants by means of the quarterly fee it proposes to charge.

The Applicant believes that provision must be made for mandatory redemption of units of reinvestment denomination and fractional units of

reinvestment denomination when such units are withdrawn from the Program or if the Program is terminated, in order to prevent an increase in the expenses of series of the Applicant resulting from the use of such series as vehicles for reinvestment. Applicants believe that if distributions in respect of such reinvestment units of a series, which would normally be reinvested at no cost to the series, are instead mailed to the holders of such reinvestment units every month, the expenses of the series would increase.

Notice is further given that any interested person may, not later than August 10, 1979 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-23032 Filed 7-24-79; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 10786; 811-2826]

The Dreman Fund, Inc.; Filing of Application Pursuant to Section 8(f) of the Act for an Order Declaring That Company Has Ceased To Be an Investment Company

Notice is hereby given that the Dreman Fund, Inc. ("Fund") Suite 3704,

30 Broad Street, New York, New York 10024, and open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on May 21, 1979, pursuant to Section 8(f) of the Act for an order of the Commission declaring that the Fund has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Fund was incorporated in Maryland. On May 2, 1978, the Fund registered under the Act by filing its Notification of Registration on Form N-8A, and, on the same date, it filed a Registration Statement under the Act on form N-8B-1. On May 5, 1978 it filed a Registration Statement under the Securities Act of 1933 on Form S-5, which became effective on November 16, 1978. The application states that no public offering of shares was made but orders to purchase shares from six shareholders were accepted after the effective date of the registration under the Securities Act of 1933. The application further states that the Fund presently has 11 shareholders. After the Fund received orders from its shareholders to liquidate their shares, the Board of Directors adopted a Plan of Liquidation and Dissolution on March 8, 1979. The Fund's securities were liquidated on the open market within one week thereafter, and on April 11, 1979, the security holders unanimously approved the Plan of Liquidation and Dissolution.

The application indicates that all funds have been distributed to the Fund's shareholders, with the exception of \$1,069.01 withheld to cover accounts payable and \$7,300 withheld to cover a contingent liability for Federal capital gains taxes. The application states that any amount remaining after the actual liabilities have been established and paid will be distributed pro-rata to the shareholders. The application further states that after payment to shareholders of any assets remaining after payment of all liabilities, the Fund will file Articles of Dissolution with the appropriate officials in Maryland.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than August 13, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

(FR Doc. 79-22933 Filed 7-24-79; 8:45 am)
Billing Code 8010-01-M

[Rel. No. 10786; 812-4450]

Kemper Municipal Bond Fund, Inc. and Kemper Financial Services, Inc., Filing of Application for Order Pursuant to Section 6(c) of the Act Granting Exemption From the Provisions of Section 22(d) of the Act

Notice is hereby given that Kemper Municipal Bond Fund, Inc. ("Fund"), 120 South La Salle Street, Chicago, Illinois 60603, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, and Kemper Financial Services, Inc. ("Adviser"), the Fund's investment adviser and principal underwriter (hereinafter the Fund and the Adviser are collectively referred to as "Applicants"), filed an application on March 7, 1979, and amendments thereto on May 17, 1979, June 7, 1979, and July 2, 1979, requesting an order of the Commission, pursuant to Section 6(c) of

the Act, exempting Applicants from the provisions of Section 22(d) of the Act to permit the sale of shares of the Fund at net asset value, without a sales charge, to participants in a reinvestment program proposed to be offered to unitholders of Tax Exempt Income Trust, Series 1 (and subsequent Series) ("Trust"), a unit investment trust registered under the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the Fund invests in municipal bonds, and that its objective is to provide as high a level of current interest income which is exempt from federal income taxes as is consistent with preservation of capital. According to the application, municipal bonds purchased by the Fund must be rated "A" or better by Standard & Poor's Corporation or Moody's Investors Services, Inc. Applicants further state that Tax Exempt Income Trust, Series 1, sponsored by Donaldson, Lufkin & Jenrette Securities Corporation ("Sponsor"), has as its objectives a high level of tax exempt current income and the preservation of capital, and invests in a diversified fixed portfolio of long-term state, municipal and public authority debt obligations which at the time of deposit in the Trust have an "A" or better rating from Standard & Poor's Corporation or Moody's Investors Services, Inc. Applicants state that the Sponsor intends to create additional series of Tax Exempt Income Trust, each series being a separate, but similar, trust.

According to the application, shares of the Fund are offered for sale to the public at their net asset value next computed after an order is received, plus a sales charge which varies from 4.75% (as a percentage of the offering price) on purchases of less than \$25,000, to 1.2% on purchases of \$1,000,000 or more. The application further states that shareholders of the Fund have the option of investing distributions respecting their Fund shares in additional shares of the Fund at net asset value.

Applicants propose to permit unitholders of the Trust to invest their monthly distributions of principal (including capital gains, if any) or interest, or both, in shares of the Fund without a sales charge and without regard to minimum investment requirements ("Program"). The application states that any unitholder could elect to participate in the Program and have distributions automatically

invested in shares of the Fund by filing a notice of election card with the Program Agent, State Street Bank and Trust Company (in the case of Texas residents, through the Sponsor). The application further states that: (i) the Program Agent will mail a notice of election card to each unitholder, accompanied by a prospectus describing the Fund; (ii) the Program will be disclosed in a revision or supplement to the Fund's current registration statement; and (iii) in the case of new purchasers of units or assignees of units, a completed notice of election card must be received by the Program Agent at least ten days prior to the record day applicable to any distribution in order for such election to be in effect as to such distribution.

Applicants state that under the Program distributions on participants' units will be automatically received by the Program Agent who will forward such distributions to the Fund for purchases of shares of the Fund. Applicants further state that, notwithstanding a unitholder's election to have distributions of principal reinvested in the Fund, the proceeds of a redemption of units initiated by a unitholder will be paid directly to the unitholder. The proceeds of redemption, or payment at maturity, of securities held by the Trust will be invested in shares of the Fund in the case of unitholders who have elected to have distributions of principal invested in the Fund. According to the application, participants could at any time by notifying the Program Agent in writing elect to terminate their participation in the Program as to: (i) all Trust distributions; (ii) Trust principal and capital gains distributions; or (iii) Trust interest distributions. Any such written notice must be received by the Program Agent at least 10 days prior to the record day applicable to any distribution in order for such election to be in effect as to such distribution. The application further states that a participant could, at any time, elect to redeem his Fund shares by notifying the Program Agent in writing.

Applicants state that: (i) a notice will be mailed to each unitholder respecting distributions on his units setting forth the total amount of each such distribution and the portions thereof attributable to interest and principal; (ii) distributions to be invested in shares of the Fund will be transferred to the Program Agent who will forward such amounts, immediately upon receipt, to the Fund for the purchase of shares; and (iii) the Program Agent will mail confirmation of purchases of Fund

shares to each participant. Applicants further state that the Program Agent has undertaken to forward redemption requests to the Fund immediately upon receipt.

Applicants submit that once a unitholder is a participant in the Program, such unitholder's interest in the Fund will be identical to that of any shareholder of the Fund and such unitholder will be a shareholder of record of the Fund. Applicants further state that unitholders participating in the Program will be provided with an annual updated prospectus of the Fund, and that such unitholders will have the option of reinvesting Fund distributions in additional shares at net asset value. Applicants state that the expense of offering the Program will be borne by the Adviser.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it except to or through a principal underwriter for distribution or at a current public offering price described in the prospectus, and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person, except a dealer, a principal underwriter or the issuer, except at a current public offering price described in the prospectus. Applicants request an exemption from the provisions of Section 22(d) of the Act to permit the investment of distributions from the Trust in share of the Fund at net asset value pursuant to the Program.

Section 6(c) of the Act provides that the Commission may, upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants submit that the granting of an exemption from the provisions of Section 22(d), of the Act would be consistent with the public interest and with the purposes of Section 22(d) of the Act. They further submit that such exemption would be beneficial to both unitholders and Fund shareholders. Applicants assert that the major portion of the cost of selling investment

company shares is incurred in identifying potential investors and ascertaining their investment objectives. In this respect, they state that the unitholders of the Trust have already been identified as seeking tax exempt income from a diversified portfolio of securities and that little or no additional sales cost could be allocated to the purchase of Fund shares through the Program. Applicants assert that such investors should receive the benefit of these reduced sales expenses through reinvestment at net asset values without the payment of a sales charge. Applicants further assert that the Fund will benefit from the proposed transactions because: (i) the investments in the Fund through the Program will produce a larger asset base and a steady cash flow which will assist meeting redemption requests without liquidating portfolio securities; (ii) to the extent that the Fund's operating expenses do not increase in direct proportion to increases in assets, the increased asset base resulting from the Program will reduce the costs of operations on a per share basis; and (iii) the Fund and its transfer agent have agreed that the transfer agency fees attributable to participant's accounts in the Fund will not exceed, as a percentage of assets, the fees paid by the Fund on its other shareholder accounts. Applicants submit that the Trust also will benefit from the proposed transaction to the extent that it will be able to provide unitholders with the opportunity to invest distributions in an open-end investment company which is similar to the Trust.

Notice is further given that any interested person may, not later than August 10, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act,

an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

(FR Doc. 79-22934 Filed 7-24-79; 8:45 am)
BILLING CODE 8010-01-M

[Release No. 16040; SR-PSE-79-8]

Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

On June 4, 1979, the Pacific Stock Exchange Incorporated filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which would clarify the timing of the implementation of an options trading halt in the event of a regulatory halt in the underlying security. The proposed change would amend PSE Rule VI, Section 37, to provide that whenever a regulatory halt takes place in the underlying security on an exchange where more than 50 percent of the total volume over the past six months has been traded, trading in the options class also will be halted.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-15910, June 11, 1979) and by publication in the Federal Register (44 FR 34679, June 15, 1979).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to options exchanges, and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-22935 Filed 7-24-79; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 21151; 70-6055]

System Fund, Inc., et al.; Post-Effective Amendment Regarding Financing Arrangements Related to the Purchase of Fuel by a Nonutility Subsidiary for Use by the Operating Companies

In the Matter of System Fuels, Inc., 225 Baronne Street, New Orleans, Louisiana 70112, Arkansas Power & Light Company, First National Building, Little Rock, Arkansas 72203, Louisiana Power & Light Company, 142 Delaronde Street, New Orleans, Louisiana 70174, Mississippi Power & Light Company, Electric Building, Jackson, Mississippi 39205, New Orleans Public Service Inc., 317 Baronne Street, New Orleans, Louisiana 70112.

Notice is hereby given that Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light Company, and New Orleans Public Service Inc. (collectively referred to as "Operating Companies"), all public utility subsidiary companies of Middle South Utilities, Inc. ("Middle South"), a registered holding company, together with System Fuels, Inc. ("SFI"), a jointly-owned nonutility subsidiary company of the Operating Companies, have filed a post-effective amendment to their declaration in this proceeding pursuant to Sections 6(a), 7, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45, 50(a)(2) and 50(a)(5) promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the amended declaration, which is summarized below, for a complete statement of the proposed transaction.

By order dated December 30, 1976, the Commission approved an extension of the period through December 31, 1977, during which SFI is authorized to make borrowings from the Operating Companies, parent companies of SFI, to finance its fuel supply business. (HCAR No. 19835). In that proceeding, SFI committed itself to endeavor to obtain funds from external sources under arrangements advantageous to SFI and the Middle South System, in lieu of borrowings from the Operating Companies, to meet SFI's expenditure requirements.

By order dated November 7, 1977, (HCAR No. 20246), the Commission authorized SFI to make borrowings

through the sale of bankers' acceptances under an Acceptance Facility Line of Credit Agreement ("Acceptance Agreement") with Citibank, N.A., New York, New York ("Bank") to finance a portion of its requisite inventory of fuel oil through 1978. Pursuant to the Acceptance Agreement, SFI could borrow and reborrow through November 18, 1978, up to a maximum aggregate amount not to exceed at any one time outstanding the lesser of \$25,000,000 or an amount equal to 50 percent of the fair market value of SFI's fuel oil inventory then in storage at specified locations (the "Acceptance Base"). The period during which SFI could effect such borrowing and reborrowings was extended to November 18, 1979 by order dated November 15, 1978. As of May 31, 1979, SFI's borrowings from the bank under the Acceptance Agreement aggregated \$25,000,000, the proceeds of which were applied by SFI toward the purchase of oil for use, as fuel by the Middle South system. At that date, SFI's fuel oil inventory was 7,200,000 bbls., with an estimated market value of \$131,700,000.

To assure the availability to the Operating Companies and to Arkansas-Missouri Power Company, the other operating subsidiary of Middle South, of an adequate supply of fuel oil through 1979, SFI presently estimates that it will be necessary to maintain an inventory varying between 5,800,000 and 7,800,000 bbls., valued at as much as \$145,000,000, an increase of \$61,000,000 over the amount projected earlier for the maximum fuel inventory for 1979. The maximum value of SFI's fuel oil inventory for 1980 is estimated to be at least as high as the projected 1979 maximum value. Requirements may vary because of seasonal factors, availability of natural gas and other changes in conditions. To finance this increase, authorization is being sought in this filing and in File No. 70-5259 to amend the Acceptance Agreement and the Loan Agreement, dated December 8, 1972, as amended, among SFI, Middle South, the Operating Companies and Hibernia National Bank. The Amendment to the Acceptance Agreement proposed herein would increase the aggregate amount at any one time outstanding which SFI may borrow and reborrow under the Acceptance Agreement to the lesser of \$50,000,000 or an amount equal to 60% of the fair market value of SFI's fuel oil inventory in storage at specified locations (the "New Acceptance Base"). The proposed amendment would also extend the term of the Acceptance Agreement to June 30, 1981. Proceeds

from borrowings under the Acceptance Agreement would be used to finance a portion of SFI's fuel oil inventory.

Based upon the prevailing bid rate of 9.85 percent in effect as of June 28, 1979, for 90-day commercial drafts or bills ineligible for discount with Federal Reserve Banks, and after giving effect to the Acceptance Charge under the Acceptance Agreement, as previously amended, of 1.60 percent per annum payable as to Drafts of SFI accepted and discounted by the Bank, SFI estimates that its cost of money in respect of the proposed borrowings under the Acceptance Agreement, as previously amended would be 11.79 percent per annum.

Changes to reflect the proposed increase in borrowings under the Acceptance Agreement and the proposed extension of its terms will be made in the Security Agreement pursuant to which SFI has granted the Bank a security interest in fuel oil inventories at specified locations in Arkansas and Mississippi. As a result of the proposed changes in the Acceptance Agreement and in order to maintain the security interest granted by SFI to the Bank in its fuel oil inventory at specified locations in Louisiana, SFI will enter into an amendment to the Pledge and a Second Chattel Mortgage and will execute and deliver in pledge to the Bank a Second Mortgage Note in the principal amount of \$25,000,000 pursuant to a Second Pledge Agreement. In all other respects the proposed transactions remain the same.

The companies request exemption from the competitive bidding requirements of Rule 50(b) pursuant to paragraph (a)(5) thereof with respect to the reasonableness of any fees, commissions or other remuneration to be paid in connection with the execution and delivery by SFI of the drafts and consider the execution and delivery to the Bank of the Second Mortgage Note exempt from the requirements of Rule 50(b) pursuant to paragraph (a)(2) thereof. The companies propose to file the requisite certificates of notification under Rule 24 covering the proposed transactions on a quarterly basis.

The fees and expenses to be incurred in connection with the proposed transactions are to be filed by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than August 13, 1979, request in writing that a hearing be held on such matter, stating

the nature of his interest, the reasons for such request and the issues of fact or law raised by said post-effective amendment to the declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such a request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such a request should be served personally or by mail upon the declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-22936 Filed 7-24-79; 8:45 am]
BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 10782; 812-4495]

Lord Abnett Cash Reserve Fund, Inc.; Application for Order of Exemption

July 16, 1979.

Notice is hereby given that Lord Abnett Cash Reserve Fund, Inc. ("Applicant"), 63 Wall Street, New York, New York 10005, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on June 18, 1979, and an amendment thereto on July 2, 1979, for an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit Applicant to compute its net asset value per share, for the purpose of effecting sales, redemptions and repurchases of its shares, to the nearest one cent on a

share value of one dollar. Applicant represents that in all other respects, its portfolio securities will be valued in accordance with the views of the Commission, set forth in Investment Company Act Release No. 9786 (May 31, 1977) ("IC-9786"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund designed as an investment vehicle for individuals, institutions and fiduciaries with temporary cash balances or cash reserves. Applicant represents that its investment objective is maximum current income and preservation of capital through investments in high-quality short-term liquid securities. Applicant states that in pursuit of its objective, it will invest exclusively in high-quality money market instruments consisting of (i) obligations issued or guaranteed by the U.S. Government or any agency or instrumentality thereof; (ii) obligations (including certificates of deposit and bankers' acceptances) of U.S. banks (including foreign branches) and savings and loan associations which at the date of the latest public reporting had total assets in excess of \$1 billion and capital, surplus, and undivided profits in excess of \$100 million; (iii) commercial paper (such as short-term unsecured promissory notes of corporations and variable amount master demand notes) which at the date of investment is rated A-1 by Standard & Poor's Corporation or Prime-1 by Moody's Investor Services, Inc., or, if not rated, is issued by companies having outstanding debt rated AAA or AA by Standard & Poor's or Aaa or Aa by Moody's; (iv) corporate debt securities (bonds and debentures) with no more than 12 months remaining to maturity at date of settlement and rated AAA or AA by Standard & Poor's or Aaa or Aa by Moody's; (v) short-term repurchase agreements with member banks of the Federal Reserve System, primary dealers in U.S. Government securities, or broker-dealers. Applicant represents that such agreements will be limited to transactions with financial institutions believed by Applicant's investment adviser to present minimal credit risks and will be collateralized by underlying money market instruments in which the Applicant may otherwise invest as described above. Applicant states that repurchase agreements entered into with broker-dealers will be for periods not to exceed thirty days and throughout the period the collateral will have a value at least equal to the

amount of the loan (including accrued interest).

Applicant represents that it proposes to (i) utilize the mark-to-market method of valuing its portfolio instruments having remaining maturities in excess of 60 days; (ii) utilize the amortized cost valuation technique for valuing its portfolio instruments having remaining maturities of 60 days or less; and (iii) effect sales, redemptions and repurchases of its shares at prices calculated to the nearest one cent on a share having a nominal value of \$1.00. Applicant further states that it will determine its net asset value per share for purposes of effecting sales, redemptions and repurchases of its shares as of the close of trading on each day the New York Stock Exchange is open for trading, or at such other times as may be determined by its Board of Directors that are not inconsistent with the requirements of the Act and the rules thereunder.

Rule 22c-1 under the Act provides, in part, that no registered investment company issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a-4 under the Act provides, as here relevant, that "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be determined with reference to (1) current market value for portfolio securities with respect to which market quotations are readily available and (2) for other securities and assets, fair value as determined in good faith by the board of directors of the registered company. In IC-9786 the Commission expressed its view that it is inconsistent with Rule 2a-4 for certain money market funds to "round off" calculations of their net asset value of \$1.00, because such a calculation might have the effect of masking the impact of changing values of portfolio securities and therefore might not "reflect" its portfolio valuation as required by Rule 2a-4.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act and the rules thereunder, if and to the extent that such exemption if necessary or appropriate in the public interest and consistent with

the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant requests an exemption to permit it to maintain its net asset value at \$1.00 per share by rounding off its calculation of net asset value to the nearest cent. Applicant submits that the granting of such exemption would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant states that it believes that potential investors in its shares are not concerned with the theoretical differences which might occur between the yield achieved through "market" pricing and the yield computed by using the "penny rounding" valuation method described herein. Applicant further believes that such potential investors are vitally concerned that the net asset value of their shares remain stable and that the daily net income declared on their investment not exhibit the volatility which can often occur when changes in market prices cause changes in yield on a daily or weekly basis, and that they would forego investing in a fund which did not meet these requirements. In addition, Applicant states that granting of the relief requested would provide its shareholders the convenience of being able to determine the value of Applicant's shares simply by knowing the number of shares they own, and would make the task of maintaining an investment record easier.

Applicant asserts that computing its net asset value per share to the nearest one cent on a share value of one dollar as described above will allow it to maintain a constant net asset value per share under usual or ordinary circumstances and thereby permit it to serve the interests and requirements of its shareholders notwithstanding its use of the mark-to-market method, as opposed to the amortized cost method, of valuing its portfolio instruments having remaining maturities in excess of 60 days.

Applicant further represents that its directors have determined in good faith that this proposed method of calculating the net asset value per share of Applicant under the described circumstances is appropriate and in the best interest of its shareholders.

Finally, Applicant contends that a substantial number of money market funds now offer the public a steady \$1.00 price for their shares and that experience has demonstrated that such funds provide a useful investment vehicle for the investors they serve.

Applicant further states that its request for exemption may be conditioned upon its adherence to the following:

1. Applicant's Board of Directors, in supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, will undertake—as a particular responsibility within its overall duty of care owed to Applicant's shareholders—to assure to the extent reasonably practicable, taking into account current market conditions affecting Applicant's investment objective, that the price per share of Applicant's shares as computed for purposes of sales, repurchases and redemptions, rounded to the nearest one cent, will not deviate from \$1.00.

2. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share, and Applicant will not (i) purchase any instrument with a remaining maturity of greater than one year, or (ii) maintain a dollar-weighted average portfolio maturity in excess of 120 days; and

3. Applicant's purchases of portfolio instruments, including securities underlying repurchase agreements, will be limited to those classes of high-quality instruments designated hereinabove.

Notice is further given that any interested person may, not later than August 10, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-22883 Filed 7-24-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21146; 70-6051]

Middle South Utilities, Inc., and Middle South Energy, Inc.; Proposal by Subsidiary To Issue Common Stock to Parent

July 17, 1979.

In the matter of Middle South Utilities, Inc., 225 Baronne Street, New Orleans, Louisiana 70112; Middle South Energy, Inc., 225 Baronne Street, New Orleans, Louisiana 70112.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), a registered holding company, and Middle South Energy, Inc. ("MSEI"), a wholly owned subsidiary of Middle South, have filed a post-effective amendment to an application-declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, 9(a), 10 and 12(f) of the Act and Rule 43 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transaction.

By Commission order dated December 20, 1977 (HCAR No. 20327), MSEI was authorized to issue and sell to Middle South, and Middle South, was authorized to purchase, from time to time, through and including December 31, 1978, 75,000 shares of MSEI's presently authorized but unissued common stock, no par value ("New Common Stock"), at a price of \$1,000 per share for an aggregate cash purchase price of \$75,000,000.

Sales of common stock aggregating 53,000 shares occurred during 1978. By Commission order dated December 27, 1978 (HCAR No. 20849), MSEI was authorized to issue and sell to Middle South, and Middle South was authorized to purchase (i) from time to time, through and including June 30, 1979, up to 10,000 shares of the common stock which were unsold as of December 31, 1978 ("Carryover Shares"), and (ii) from time to time, through and including December 31, 1979, up to 75,000 additional shares of MSEI's authorized but unissued common stock, no par value ("New Common Stock").

As of June 22, 1979 MSEI had sold all of the Carryover Shares and 31,800

shares of the New Common Stock to Middle South.

It is now stated that, based upon MSEI's revised estimate of cash requirements for the remainder of 1979 and during the first half of 1980, in addition to the 43,200 shares of the New Common Stock which were unsold as of June 22, 1979, it may be necessary for MSEI to issue and sell to Middle South during the remainder of 1979 and during the first half of 1980, an aggregate of 50,000 additional shares of its authorized but unissued common stock, no par value ("Additional Shares").

MSEI is authorized by its articles of incorporation to issue up to 1,000,000 shares of its common stock, no par value, and as of June 22, 1979, MSEI had issued and sold an aggregate of 313,800 shares of its common stock, no par value to Middle South for an aggregate cash consideration of \$313,800,000.

MSEI proposes to issue and sell to Middle South up to such 50,000 shares of Additional Shares from time to time through June 30, 1980, at a price of \$1,000 per share for an aggregate cash purchase price of \$50,000,000.

Sales of the Additional Shares will be timed to coincide with MSEI's cash needs which are primarily determined by the nature and pace of the construction work on the Grand Gulf Project. Each such sale will be reported to the Commission by a Certificate filed pursuant to Rule 24.

MSEI will apply the proceeds of sales of Additional Shares to costs incurred by it in the construction of the Grand Gulf Project.

To the extent funds are required from external sources to acquire the Additional Shares, Middle South will obtain such funds through the issuance and sale of its unsecured short-term promissory notes issued under a revolving credit agreement dated June 29, 1978 with a group of banks headed by Manufacturers Hanover Trust Company, New York, New York, as authorized by the Commission's order dated June 15, 1978 (HCAR No. 20593), or through extensions thereof or such other forms of financing as may be approved by the Commission.

Sale of the Carryover Shares and the Additional Shares will enable MSEI to continue construction of the Grand Gulf Project and to maintain capitalization ratios required under various agreements, including its Restated and Amended Bank Loan Agreement with a group of lending banks and its Mortgage and Deed of Trust dated June 15, 1977.

The fees, commissions and expenses to be incurred in connection with the proposed transaction are estimated at

\$5,000, consisting entirely of legal fees. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than August 10, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-22882 Filed 7-24-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21145; 31-771]

Scopar International, Inc.; Application for Exemption Pursuant to Section 3(a)(5)

July 17, 1979.

Notice is hereby given that Scopar International, Inc. ("Scopar"), 316 Aragon Avenue, Coral Gables, Florida 33134, a holding company, has filed an application for exemption pursuant to Section 3(a)(5) of the Public Utility Holding Company Act of 1935 ("Act"). All interested persons are referred to the application, which is summarized below, for a description of Scopar and its subsidiary and a statement as to the

basis upon which an exemption is requested.

Scopar, a Delaware corporation, is engaged through its wholly-owned subsidiary, Empresa Electrica Del Ecuador, Inc. ("Emelec"), a Maine corporation, in the generation, transmission and sale of electricity solely in the Republic of Ecuador. In 1978, Scopar and its subsidiary reported operating income of \$30,006,339 (5.47% of which represented administrative, purchasing, engineering and consulting services rendered to Emelec by the parent and other affiliated companies) and net income of \$3,300,323.

Scopar's principal business is that of a holding company for Emelec, and it has no other subsidiary companies. Neither Emelec nor Scopar owns or operates any facilities used for the generation, transmission, or distribution of electric energy in the United States. Scopar's financial statement shows that it is not and derives no material part of its income, directly or indirectly, from any one or more subsidiary companies which are, a company or companies any part of the business of which within the United States is that of a public utility company within the meaning of the Act.

Section 3(a)(5) provides that the Commission shall exempt a holding company and its subsidiaries if

"such holding company is not, and derives no material part of its income, directly or indirectly, from any one or more subsidiary companies which are, a company or companies the principal business of which within the United States is that of a public-utility company."

Scopar states that, on the basis of the facts stated in its application and summarized herein, it is entitled to an exemption under Section 3(a)(5). Section 3(a) provides that the Commission shall grant an application for exemption "unless and except insofar as it finds the exemption detrimental to the public interest or the interest of investors and consumers * * *."

Notice is further given that any interested person may, not later than August 10, 1979, request in writing that a hearing be held on such matter stating the nature of interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an

attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted in the manner provided in Rule 23 of the general rules and regulations promulgated under the Act or the Commission may take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including notice of the date of hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-22881 Filed 7-24-79; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF STATE

Agency for International Development

Extension of Comment Period on Proposed Change of A.I.D. Policy Regarding Nationality Eligibility for A.I.D.-Financed Contracts for Services

By notice dated June 14, 1979, published in the Federal Register June 21, 1979, Vol. 44, No. 121, page 36283, A.I.D. requested public comment on a proposed change in its nationality policy governing the eligibility of suppliers of services under A.I.D. financing. The deadline for comments was July 20, 1979.

A.I.D. has been requested by several U.S. firms and an association of construction industry firms to extend the deadline, in particular in order to permit consideration of the matter at the association's annual meeting. Accordingly, the deadline for comments is extended to August 20, 1979.

Comments should be addressed to John F. Owens, Deputy Assistant Administrator, Bureau for Program and Management Services, Room 5893, Department of State, Agency for International Development, Washington, D.C. 20523. For further information contact Frank Calkins, (703) 235-9107.

Dated: July 16, 1979.

John F. Owens,
Acting Assistant Administrator, Bureau for Program and Management Services.

[FR Doc. 79-22922 Filed 7-24-79; 8:45 am]
BILLING CODE 4710-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Form 990, Return of Organization Exempt From Income Tax; Adoption of Proposed Revision

Correction

In FR Doc. 79-22008, appearing at page 41600 of the Federal Register for Tuesday, July 17, 1979, portions of Form 990, Return of Organization Exempt from Income Tax was printed incorrectly. Form 990 is reprinted correctly below.

BILLING CODE 1505-01-M

Form 990 Department of the Treasury Internal Revenue Service		Return of Organization Exempt from Income Tax Under section 501(c) (except private foundation), 501(e) or (f) of the Internal Revenue Code		1979	
For the calendar year 1979, or fiscal year beginning , 1979, and ending , 19					
Use IRS label. Otherwise, please print or type.	Name of organization		A Employer identification number (see instructions)		
	Address (number and street)		B If exemption application is pending check here		
	City or town, State, and ZIP code		C If addressed changed check here		
D Check applicable box—Exempt under section <input type="checkbox"/> 501(c) (insert number), <input type="checkbox"/> 501(e) OR <input type="checkbox"/> 501(f).					
E Is this a group return (see instruction K) filed for affiliates? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes" to either, give four-digit group exemption number (GEN)					
Is this a separate return filed by a group affiliate? <input type="checkbox"/> Yes <input type="checkbox"/> No					
NOTE: <input type="checkbox"/> Check here if gross receipts are normally not more than \$10,000 (see instruction T) and do not complete the rest of this return (see instruction C).					
<input type="checkbox"/> Check here if gross receipts are normally more than \$10,000 and line 12 is \$25,000 or less. Complete Parts I, II, IV, and VI and only the shaded items in Parts III and V (see instruction D). If line 12 is more than \$25,000 you must complete the entire return.					
All section 501(c)(3) organizations must also complete Schedule A (Form 990) and attach it to this return.					
Part I Analysis of Revenue, Expenses and Fund Balances			These columns are strictly optional—see instructions		
			Total	Restricted	Unrestricted
Revenue	1 Contributions, gifts, grants and similar amounts received:				
	(a) Directly from the public				
	(b) Through professional fundraisers				
	(c) As allotments from fundraising organizations				
	(d) As government grants				
	(e) Other				
	(f) Total (add lines 1(a) through 1(e)) (attach schedule—see instructions)				
	2 Membership dues and assessments				
	3 Interest				
	4 Dividends				
	5 (a) Gross rents				
	(b) Minus: Rental expenses				
(c) Net rental income					
Expenses	6 Royalties				
	7 (a) Gross amount received from sale of assets other than inventory				
	(b) Minus: Cost or other basis and sales expenses				
	(c) Net gain/loss (attach schedule)				
	8 Special fundraising events and activities:				
	Type of event	Receipts	Expenses		
	(a) Total receipts				
	(b) Total expenses				
	(c) Net income (line 8(a) minus line 8(b))				
	9 (a) Gross sales minus returns and allowances				
	(b) Minus: Cost of goods sold (attach schedule)				
	(c) Gross profit (loss)				
Fund Balances	10 Program service revenue (from Part II, line (f))				
	11 Other revenue (from Part II, line (g))				
	12 Total revenue (add lines 1(f), 2, 3, 4, 5(c), 6, 7(c), 8(c), 9(c), 10 and 11)				
	13 Fundraising (from line 40(B))				
	14 Program services (from line 40(C))				
	15 Management and general (from line 40(D))				
	16 Total expenses (add lines 13 through 15)				
	17 Excess (deficit) for the year (subtract line 16 from line 12)				
18 Fund balances or net worth, beginning of year (from line 65(A))					
19 Other changes in fund balances or net worth (attach explanation)					
20 Fund balances or net worth, end of year (add lines 17, 18 and 19)					

Form 990 (1979)

Page 4

Part VI Statements Regarding Certain Activities

	Expenses	Yes	No
67 Describe each significant program service activity and indicate the expenses paid or incurred:			
(a) _____			
(b) _____			
(c) _____			
(d) _____			
68 Have you engaged in any activities not previously reported to the Internal Revenue Service?			
If "Yes," attach a detailed description of such activities.			
69 Have any changes not previously reported to the Internal Revenue Service been made in your organizing or governing documents?			
If "Yes," attach a copy of the changes.			
70 (a) Did you have unrelated business gross income of \$1,000 or more during the year covered by this return?			
(b) Have you filed a tax return on Form 990-E, Exempt Organization Business Income Tax Return, for this year?			
(c) If you have gross sales or receipts from business activities not reported on Form 990-T, attach a statement explaining your reason for not reporting them on Form 990-T.			
71 Was there a liquidation, dissolution, termination, or substantial contraction during the year (see instructions)?			
If "Yes," attach a schedule of the dispositions for the year showing type of assets disposed of, the dates disposed, the cost or other basis, the fair market value on dates of disposition and the names and addresses of the recipients of the assets distributed.			
72 Are you related (other than by association with a statewide or nationwide organization) through common membership, governing bodies, trustees, officers, etc., to any other exempt or nonexempt organization (see instructions)?			
If "Yes," enter the name of organization _____ and check whether it is <input type="checkbox"/> exempt OR <input type="checkbox"/> nonexempt.			
73 (a) Enter amount expended, if any, directly or indirectly for section 527(e)(2) political purposes			
(b) Did you file Form 1120-POL, U.S. Income Tax Return of Certain Political Organizations, for this year?			
74 Did your organization receive donated services or the use of facilities or equipment at no charge or at substantially less than fair rental value?			
If "Yes," you may, if you choose, indicate the value of such services or usage here. Do not include this amount elsewhere on this return			
The following statements should be completed ONLY by the organizations indicated.			
75 Section 501(c)(5) or (6) organizations.—Did you expend any amounts in connection with any attempt to influence the general public, or segments thereof, with respect to legislative matters or referendums (see instructions and section 1.162-20(c) of the Income Tax Regs.)?			
If "Yes," enter the total amount expended for this purpose			
76 Section 501(c)(7) organizations.—Enter amount of:			
(a) Initiation fees and capital contributions included on line 12			
(b) Gross receipts from general public from use of club facilities included in line 12 (see instructions)			
(c) Does your governing instrument or any written policy statement provide for discrimination against any person because of race, color or religion?			
77 Section 501(c)(12) organizations.—Enter:			
(a) The total amount of gross income received from members or shareholders			
(b) The total amount of gross income received from other sources (do not net amounts due or paid to other sources against amounts due or received from them)			
78 Public interest law firms.—Attach information required by specific instruction for line 78.			
79 The books are in care of _____ Telephone No. _____			
Located at _____			

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature of officer _____ Date _____ Title _____

Paid Preparer's Information: Preparer's signature _____ Firm's name (or yours, if self-employed), address and Zip Code _____ Date _____

★ U.S. GOVERNMENT PRINTING OFFICE : 1979-O-283-248

263-248-1

BILLING CODE 1505-01-C

Office of the Secretary**Certain Fresh Winter Vegetables From Mexico; Termination of Antidumping Investigation****AGENCY:** U.S. Treasury Department.**ACTION:** Termination of antidumping investigation.

SUMMARY: This notice is to advise the public that the antidumping investigation concerning certain fresh winter vegetables from Mexico is being terminated. The termination is based on the withdrawal of the original antidumping petition, as detailed in the body of this notice and appendices hereto.

EFFECTIVE DATE: July 25, 1979.

FOR FURTHER INFORMATION CONTACT: Linda F. Potts, Assistant Director, Office of Tariff Affairs, U.S. Treasury Department, 15th and Pennsylvania Avenue, NW, Washington, D.C. 20220, telephone (202-566-2951).

SUPPLEMENTARY INFORMATION: On September 12, 1978, a petition in proper form was received pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel on behalf of the Southwest Florida Winter Vegetable Growers Association, the Palm Beach-Broward Farmers Committee for Legislative Action, Inc., and the South Florida Tomato and Vegetable Growers, Inc., alleging that certain fresh winter vegetables from Mexico are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) (referred to in this notice as the "Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the Federal Register of October 19, 1978 (43 FR 48755). On April 30, 1979, a notice of "Extension of Antidumping Investigatory Period" was published (44 FR 25283).

For purposes of this notice, the term "certain fresh winter vegetables" means fresh cucumbers, eggplant, peppers, squash, and tomatoes (except cherry tomatoes), the product of Mexico, provided for in items 135.90 through 135.92, 136.20 through 136.22, 137.10, 137.50, and 137.60 through 137.63, respectively, of the Tariff Schedules of the United States, and meeting the United States Department of Agriculture minimum standards for grades as set out in 7 CFR 51.2220 through 51.2239, 51.2190 through 51.2207, 51.3270 through 51.3286, 51.4030 through 51.4062 and 51.1855

through 51.1877, respectively. This investigation concerns only fresh vegetables shipped during the winter vegetable season, meaning shipments of the subject merchandise made during the period November 1 in any year to the last day of the following April inclusive.

Counsel for petitioners submitted a letter dated July 18, 1979, indicating that in order to facilitate negotiations between the Governments of Mexico and the United States to seek a just and equitable solution to problems existing in the winter vegetable market petitioners would withdraw their petition if the Treasury agreed with certain understandings concerning petitioners' right to refile their petition and the time in which Treasury would process any investigation initiated upon such refile. On July 18, 1979, the Treasury Department confirmed these understandings in a letter and on July 19, 1979, counsel for petitioners submitted a letter formally withdrawing the petition. These letters are reproduced as appendices to this notice.

Accordingly, I hereby conclude that based upon the withdrawal of the antidumping petition, it is appropriate to terminate this investigation. This termination is without prejudice to the filing of a subsequent antidumping petition concerning the same products.

Robert H. Mundheim,*General Counsel of the Treasury.*

July 19, 1979.

Van Ness, Feldman & Sutcliffe,
Washington, D.C., July 18, 1979.

Re: Certain Fresh Winter Vegetables from Mexico.

Robert H. Mundheim, Esq.,

General Counsel, Department of the Treasury, Room 3000, 15th and Pennsylvania Avenue NW., Washington, D.C.

Dear Mr. Mundheim: On September 12, 1978, three Florida winter vegetable grower organizations, the Palm Beach-Broward Farmers Committee for Legislative Action Inc., the Southwest Florida Winter Vegetable Growers Association and the South Florida Tomato and Vegetable Association, Inc. (hereinafter Petitioners) filed an antidumping petition with respect to certain fresh winter vegetables imported from Mexico. On October 19, 1978, an Antidumping Proceeding Notice was published and an intense investigation commenced. The Department of the Treasury's tentative determination, which could result in an affirmative finding and a withholding of appraisement, is now required to be made by July 19, 1979, since the Department of the Treasury has exhausted all statutory extensions.

On July 18 and 17, 1979, the Petitioners and their representatives met with officials of the Department of State and the Office of the Special Trade Representative. We were

informed that the Government of Mexico had agreed to enter into negotiations on an expedited basis to seek a just and equitable solution to problems existing in the winter vegetable market. While realizing that we are literally hours away from an objective tentative determination as to whether Mexican winter vegetables are being sold in this country at less than fair value, the Petitioners do not want to act as an impediment to an acceptable negotiated solution to this long standing problem. Accordingly, to facilitate such negotiations, the Petitioners will agree to immediately withdraw their Antidumping Petition if the Department of the Treasury accepts and expressly acknowledges each of the following conditions:

1. The withdrawal of the petition is without prejudice. The Treasury files pertaining to this petition will be retained for at least five years from the date on which the petition is withdrawn. The petitioners may refile the withdrawn petition within 90 days of withdrawal and the Department of the Treasury will accept the resubmitted petition, without condition, as fulfilling all requirements under the statute and regulations for immediately initiating an antidumping investigation.

2. Should the withdrawn petition be refiled within 90 days of withdrawal, the Department of the Treasury will issue its tentative determination within 7 days of such filing and a final determination as expeditiously as possible.

3. Should the withdrawn petition be refiled within 90 days of withdrawal the Treasury determinations will be based on the relevant information in the retained files and the accumulated expertise and extensive statistical data obtained in the development of that information; specifically, the Treasury determinations will involve a determination as to whether there were sales at less than fair value during the 1977-78 winter vegetable growing season as defined in the withdrawn petition.

Any subsequent filing after 90 days of the date of withdrawal of the petition will be processed expeditiously using, among other things, the relevant information in the retained files and the accumulated expertise attained in the development of that information.

Upon receipt of your acceptance and acknowledgement of the above four points, the Petitioners promptly will provide you with a letter confirming the withdrawal of their petition.

Sincerely,

Howard J. Feldman.

The General Counsel of the Treasury,
Washington, D.C., July 18, 1979.Howard J. Feldman, Esq.,
Van Ness, Feldman & Sutcliffe, 1220 19th
Street NW., Washington, D.C.

Dear Mr. Feldman: Thank you for your letter of July 18, in which you agree to withdraw the antidumping petition relating to certain fresh winter vegetables from Mexico, if we accept certain conditions.

Those conditions are acceptable, and we will terminate the investigation as soon as we have your formal withdrawal.

Sincerely,

Robert H. Mundheim.

Van Ness, Feldman & Sutcliffe,
Washington, D.C., July 19, 1979.

Re: Certain Fresh Winter Vegetables from Mexico.

Robert H. Mundheim, Esq.,

General Counsel, Department of the Treasury, Room 3000, 15th and Pennsylvania Avenue NW., Washington, D.C.

Dear Mr. Mundheim: Thank you for your letter of July 18, 1979, in which you confirm the understandings set forth in our letter of July 18, 1979. This constitutes formal notification by the Palm Beach-Broward Farmers Committee for Legislative Action Inc., the Southwest Florida Winter Vegetable Growers Association and the South Florida Tomato and Vegetable Association, Inc., that they are withdrawing their anti-dumping petition concerning certain fresh winter vegetables from Mexico.

Sincerely,

Howard J. Feldman.

[FR Doc. 79-22950 Filed 7-24-79; 8:45 am]

BILLING CODE 4810-22-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 112]

Assignment of Hearings

July 19, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 143496 (Sub-1). United Coach Companies of Tidewater, Inc., now being assigned for hearing on September 10, 1979 (1 week), at Norfolk, VA, location of hearing room will be designated later.

MC 51146 (Sub-664F). Schneider Transport, Inc., now assigned for hearing on July 26, 1979, at Chicago, IL, and will be held in Room 2502, Everett McKinley Dirksen Bldg., 219 S. Dearborn St.

MC 115331 (Sub-469F). Truck Transport, Incorporated, now assigned for hearing on July 30, 1979, at Chicago, IL, and will be held in Room 349, Everett McKinley Dirksen Bldg., 219 S. Dearborn St.

MC 133655 (Sub-128F). Trans-National Truck, Inc., at Chicago, IL, is now assigned for hearing July 26, 1979, is canceled transferred to Modified Procedures.

MC 145102 (Sub-12F). Freymiller Trucking, Inc., now being assigned for hearing on October 30, 1979, (1 day), at Los Angeles, CA, in a hearing room to be designated later.

MC 14138 (Sub-8F). Heavy Transport, Inc., now being assigned for hearing on October 31, 1979, (3 days), at Los Angeles, CA, in a hearing room to be designated later.

MC 107515 (Sub-1205F). Refrigerated Transport Co., Inc., now being assigned for hearing on November 5, 1979, (1 week), at Los Angeles, CA, in a hearing room to be designated later.

MC 134906 (Sub-1, 2, 3, 4, 5, 6, and 7). Cape Air Freight, now assigned for hearing on August 1, 1979, at Louisville, KY, and continued to August 6, 1979, at Chicago, IL, is postponed to October 10, 1979 (3 days), at Louisville, KY, and continued to October 15, 1979 (until complete), at Chicago, IL, in a hearing room to be designated later.

MC 111231 (Sub-67M1). Jones Truck Lines, Inc., now being assigned for hearing on October 30, 1979, (9 days), at Birmingham, AL, in a hearing room to be designated later.

MC-C-7287. Aaacon Auto Transport, Inc., investigation and revocation of certificates, now assigned for hearing on July 23, 1979, (6 weeks), at New York, NY, is canceled and reassigned to July 24, 1979 (4 days), at the Offices of the Interstate Commerce Commission, Washington, DC, and continued to July 30, 1979 (5 weeks), in Room F-2220, Federal Building, 26 Federal Plaza, New York, NY.

MC 82492 (Sub-220F). Michigan & Nebraska Transit Co., Inc., at Chicago, IL, now assigned for hearing October 15, 1979, is canceled transferred to Modified Procedure.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-22898 Filed 7-24-79; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 135]

Motor Carrier Temporary Authority Applications

July 19, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been

made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

By the Commission.
Agatha L. Mergenovich,
Secretary.

Motor Carriers of Property

MC 47583 (Sub-83TA), filed February 12, 1979. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Representative: D.S. Hulst, P.O. Box 225, Lawrence, KS 66044. Mineral wool insulation (fibre glass) (except in bulk), from the facilities of CertainTeed Corporation, located at or near Mountaintop, PA, to points in LA and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): CertainTeed Corporation, P.O. Box 860, Valley Forge, PA 19482. Send protests to: Vernon V. Coble, DS, ICC, 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 47583 (Sub-85TA), filed March 2, 1979, and published in the Federal Register issue of April 3, 1979, and republished as corrected this issue. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Representative: D. S. Hulst, P.O. Box 225, Lawrence, KS 66044. Such commodities as are manufactured, processed, sold, used, distributed or dealt in by Fort Howard Paper Company, a manufacturer of Sanitary Paper Products (except commodities in bulk), between the facilities of Fort Howard Paper Company, located at or

near Green Bay, WI, on the one hand, and, on the other, points in AL, AR, AZ, CA, CO, DC, GA, IL, IN, IA, KS, KY, LA, MA, MD, MI, MN, MO, MS, NC, ND, NE, NJ, NV, NY, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): For Howard Paper Co., P.O. Box 130, 1919 S. Broadway, Green Bay, WI 54305. Send protests to: Vernon V. Coble, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106. The purpose of this republication is to completely show the territorial description which was previously omitted.

MC 146222 (Sub-2TA), filed March 2, 1979, and published in the Federal Register issue of April 3, 1979, and republished as corrected this issue. Applicant: ILCO TRUCKING, INC., P.O. Box 57087, Birmingham, AL 35209. Representative: Alan E. Serby, 3390 Peachtree Road, NE, 5th Floor, Lenox Towers South, Atlanta, GA 30326. Contract, irregular; pipe, fittings, hydrants, valves, iron and steel products and parts and accessories for aforementioned items (except commodities in bulk from the facilities of American Cast Iron Pipe Company located at or near Birmingham, AL to points in the U.S. in or east of the western boundaries of MT, WY, CO and NM, under a continuing contract or contracts with American Cast Iron Pipe Company, for 180 days. Supporting shipper(s): American Cast Iron Pipe Co., P.O. Box 2727, Birmingham, AL 35202. Send protests to: Mabel E. Holston, TA, ICC, Rm 1616, 2121 Building, Birmingham, AL 35203. The purpose of this republication is to reflect the proper commodity description.

MC 146062 (Sub-1TA), filed February 16, 1979. Applicant: J. C. HAULING CO., 6233 Gravois Ave., St. Louis, MO 63116. Representative: Harold L. Fults, P.O. Box 12, Millstadt, IL 62280. Crushed dolomite, in bulk in dump vehicles, from the facilities of Valley Mineral Products Corp., at or near Bonne Terre, MO, to the facilities of Granite City Steel, at Granite City, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Valley Mineral Products Corp., 915 Olive St., St. Louis, MO 63101; Granite City Steel, 20th and State Streets, Granite City, IL 62040. Send protests to: Peter E. Binder, OIC,

ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

[FR Doc. 79-22897 Filed 7-24-79; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 120]

Motor Carrier Temporary Authority Applications

July 3, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 1334 (Sub-28TA), filed June 20, 1979. Applicant: RITEWAY TRANSPORT, INC., 2131 W. Roosevelt St., Phoenix, AZ 85009. Representative: James Kimbro (same address as applicant). Fire resistant products, sealers, insulation materials and cements, polystyrene products, and materials and equipment used in the

manufacture and application of the foregoing commodities, from Orange County, CA to points in AZ, CO, ID, WA, NV, UT, NM, OR and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: United States Mineral Products Co., 1485 S. Main St., Orange, CA 92668. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 8515 (Sub-18TA), filed June 6, 1979. Applicant: TOBLER TRANSFER, INC., Junction Interstate 80 and Illinois 69, Spring Valley, IL 61362. Representative: Leonard Kofkin, 39 South LaSalle Street, Chicago, IL 60603. Chemicals and oxidizing materials (except in bulk) from LaSalle, IL to points in the states of PA, NC, SC, KY, OH, NY, KS and MN for 180 days. An underlying ETA was granted for 90 days. Supporting shipper(s): Carus Chemical Company, 1500 Eighth Street, LaSalle, IL 61301. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 8544 (Sub-37TA), filed June 20, 1979. Applicant: GALVESTON TRUCK LINE CORPORATION, 7415 Wingate, Houston, TX 77011. Representative: Joe G. Fender, 711 Louisiana, Suite 1150, Houston, TX 77002. Garden and water hose and hose fittings from Stillwater, OK to Farmers Branch, TX for 180 days. Supporting shipper(s): Swan Hose Division, Amerace Corp., P.O. Box 509, Worthington, OH 43085. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave. #6610, Houston, TX 77002.

MC 40025 (Sub-8TA), filed June 14, 1979. Applicant: DUST MOTOR SERVICE, INC., 129th St. & Dickey Rd., East Chicago, IN 46312. Representative: Donald W. Smith, Suite 945-9000 Keystone Crossing, Indianapolis, IN 46240. Iron and steel articles, from the facilities of Jones & Laughlin Steel Corp., Western Division, at points in the Chicago Commercial Zone located in IN, to points in IL on and north of U.S. Hwy 36 and points in Christian County, IL for 180 days. An ETA has been granted for 90 days. Supporting shipper(s): Jones & Laughlin Steel Corp. Western Division, 3001 Dickey Rd., E. Chicago, IN. Send protests to: Dave Hunt, T/A, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 52485 (Sub-47TA), filed June 22, 1979. Applicant: RICE TRUCK LINES, P.O. box 2644, Great Falls, MT 59403. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. Used bricks from points in Cascade County, MT to points in King, Pierce, Snohomish and Kitsap Counties, WA, for 180 days.

An underlying ETA seeks 90 days authority. Supporting shipper(s): Thomas R. Jensen, Box 165, Clarkston, UT 84305. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 75835 (Sub-10TA), filed June 19, 1979. Applicant: EDGAR W. ROOT, INC., 17 Hillside Road, Westfield, Massachusetts 01085. Representative: James M. Burns, 1383 Main Street, Springfield, MA 01103. *Such merchandise as is dealt in by retail department stores and catalog order houses and related advertising material*, (1) between the facilities of Sears, Roebuck and Company located at Newington, CT, and points in Hampden, Hampshire, Berkshire and Franklin Counties, MA; and (2) between the facilities of Sears, Roebuck and Company located at Holyoke, MA, and points in Litchfield, Hartford and Tolland Counties, CT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sears, Roebuck and Company, 555 E. Lancaster Avenue, St. Davids, PA 19087. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 94265 (Sub-307TA), filed June 11, 1979. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Route 460 West, Windsor, VA 23487. Representative: John J. Capo, P.O. Box 720434, Atlanta, Ga 30342. *Foodstuffs (except in bulk) in vehicles equipped with mechanical refrigeration*, (1) From plantsite and storage facilities utilized by Vlastic Foods, Inc., at or near Millsboro, DE to the states of WV, VA, NC, SC, and KY. (2) From plantsite and storage facilities utilized by Vlastic Foods, Inc., at or near Greenville, MS to the states of AL, GA and FL. (3) From plantsite and storage facilities utilized by Vlastic Foods, Inc. at or near Memphis, Imlay City, and Bridgeport, MI to the plantsite and storage facilities utilized by Vlastic Foods, Inc. at or near Greenville, MS. (4) From plantsite and storage facilities utilized by Vlastic Foods, Inc. at or near Memphis, Imlay City, and Bridgeport, MI to plantsite and storage facilities utilized by Vlastic Foods, Inc. at or near Millsboro, DE, for 180 days. Supporting shipper(s): Vlastic Foods, Inc., 33200 W. 14 Mile Rd., W. Bloomfield, MI 48033. Send protests to: I.C.C. Fed. Res. Bldg. 101 N. 7th St., rm. 620, Philadelphia, PA 19106.

MC 107295 (Sub-926TA), filed June 13, 1979. Applicant: PRE-FAB TRANSIT CO., P.O. Box 148, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant). *Iron and steel articles*, ex-barge from Madison, IN, to

destinations in the states of IL, IN, and MI for 180 days. An ETA has been granted for 90 days. Supporting shipper(s): Wheeling-Pittsburgh Steel Corp., P.O. Box 118, Pittsburgh, PA 15230. Send protests to: Dave Hunt, T/A, 219 S. Dearborn St., Room 1388, Chicago, IL 60604.

MC 107815 (Sub-11TA), filed June 18, 1979. Applicant: IOWA COACHES, INCORPORATED, 1180 E. Roosevelt Ext., Dubuque, IA 52001. Representative: Steven C. Schoenebaum, 1200 Register & Tribune Bldg. Des Moines, IA 50309. *Passengers and their baggage, in the same vehicle as passengers, in special operations, in round trip, sightseeing, and pleasure tours*, beginning and ending at Dubuque, IA and extending to points in the U.S. (except AK and HI) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): VFW Auxiliary No. 9663, 680 W. Third, Dubuque, IA; Dubuque Packer Pals, 471 Locust St., Dubuque, IA; Christine Zimmer, 201 W. 17th, Dubuque, IA. Send protest to: Herbert W. Allen, DS, ICC 518 Federal Bldg., Des Moines, IA 50309.

MC 110325 (Sub-105TA), filed May 19, 1979. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Esq., Midland Building, 1221 Baltimore Avenue, Kansas City, MO 64105. *General commodities (except those of unusual value, Classes A and B explosives household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)*, between Salt Lake City, UT and Ogden, UT, serving no intermediate points, and serving the termini for purposes of joinder only, over U.S. Hwy 89 (also over Interstate Hwy 15) to Ogden and return over the same route, for 180 days. Note: Applicant proposes to tack the authority sought here with its authority in MC-110325 and Subs thereto. Supporting shipper(s): None. Applicant states the authority sought is to establish a fueling and equipment station between two alternate routes with no new service points. Send protest to: Irene Carlos, T/A, I.C.C., P.O. Box 1551, Los Angeles, CA 90053.

MC 113024 (Sub-162TA), filed June 8, 1979. Applicant: ARLINGTON J. WILLIAMS, INC., 1398 S. DuPont Hwy., Smyrna, DE 19777. Representative: Samuel W. Earnshaw, 833 Washington Bldg., Washington, DC 20005. Contract carrier, irregular routes, *steel wire*, from Mt. Joy, PA to Olney, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Electric Hose & Rubber Co., PO. Box 910, Wilmington, DE 19899. Send protest to:

I.C.C. Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 114274 (Sub-67TA), filed June 12, 1979. Applicant: VITALIS TRUCK LINES, INC., 137 N.E. 48th St. Place, Des Moines, IA 50306. Representative: John Duncan Varda, 121 S. Pinckney St., Madison, WI 53703. *Paper and paper products (except in bulk) and products (except in bulk) produced or distributed by manufacturers and converters of paper and paper products*, from the facilities of Nekoosa Papers, Inc., in Little River Country, AR, to points in CT, DE, IA, IL, IN, MA, MD, MI, MN, NE, NH, NJ, NY, OH, PA, RI, VA and WI for 180 days. Supporting shipper(s): Nekoosa Papers, Inc., 100 Wisconsin River Dr., Port Edwards, WI 54469. Send protest to: Herbert W. Allen, DS, ICC 518 Federal Bldg., Des Moines, IA 50309.

MC 116474 (Sub-65TA), filed June 20, 1979. Applicant: LEAVITTS FREIGHT SERVICE, INC., 3855 Marcola Road, Springfield, OR 97477. Representative: David C. White, Esq., 2400 S. W. Fourth Avenue (503-226-6491), Portland, OR 97201. Contract, irregular in the transportation of *laminated wood products, prefabricated wooden timbers, trusses and beams* from the facilities of Duco-Lam, Inc., at Swishome, OR, to points in MT and WA, under contract with Duco-Lam, Inc., for 180 days. Supporting shipper(s): Duco-Lam, Inc., P.O. Box 297, Drain, OR 97435. Send protest to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S. W. Yamhill St., Portland, Oregon.

MC 117324 (Sub-8TA), filed June 21, 1979. Applicant: FORT DODGE TRANSPORTATION CO., East Highway 20, Fort Dodge, IA 50501. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Passengers and their baggage, in charter operations*, beginning and ending at points in Polk County, IA, and extending to points in the US (except HI) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hawkeye Tours, Inc., 8459 Hickman Rd., Des Moines, IA 50322. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 119785 (Sub-83TA), filed June 22, 1979. Applicant: EIGHT WAY XPRESS, INC., 5402 So. 27th St., Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. *Such merchandise as is dealt in by chain grocery stores*, from the facilities of A. E. Staley Manufacturing Company at Chicago, IL and its commercial zone to points in IA, IN, KY, MI, NE, and WI, for 180 days. An underlying ETA seeks 90 days authority.

Supporting shipper(s): A. E. Staley Manufacturing Company, 2222 Kensington Court, Oak Brook, IL 60520. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 123744 (Sub-57TA), filed June 15, 1979. Applicant: BUTLER TRUCKING COMPANY, P.O. Box 88, Woodland, PA 16881. Representative: E. Steward Butler, P.O. Box 88, Woodland, PA 16881. *Refractories*, from Wellsville, OH to points in PA, MD and NY, for 180 days. An underlying ETA seeks authority for 90 days. Supporting shipper(s): Swank Refractories Company, 400 Rouser Road, Coraopolis, PA 15108. Send protests to: J. J. England, D/S, I.C.C. 2111 Federal Building, Pittsburgh, PA 15222.

MC 123805 (Sub-14TA), filed June 20, 1979. Applicant: LOMAX TRUCKING SERVICE, INC., Rural Route No. 1, Hannibal, MO 63401. Representative: Thomas P. Rose, Jefferson Bldg., Jefferson City, MO 65101. *Crushed bauxite*, in bulk, in dump vehicles, from points in Audrian, Montgomery and Pike Counties, MO to Chicago Heights, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): C. E. Refractories, P.O. Box 88, Vandalia, MO. Send protests to: Vernon V. Coble, D/S, I.C.C., 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 125254 (Sub-62TA), filed June 12, 1979. Applicant: MORGAN TRUCKING CO., P.O. Box 714, Muscatine, IA 52761. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. *Frozen foodstuffs*, between Indianapolis, IN, on the one hand, and, on the other, points in IL, IA, KS, MN, MO, NE, ND, OH, SD, and WI, for 180 days. Restricted to shipments originating at or destined to the facilities of Monument Distribution Warehouse, Inc., Indianapolis, IN. Supporting shipper(s): Monument Distribution Warehouse, Inc., 3320 S. Arlington Ave., Indianapolis, IN 46203. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 126555 (Sub-67TA), filed June 20, 1979. Applicant: UNIVERSAL TRANSPORT, INC., P.O. Box 3000, Rapid City, SD 57709. Representative: Barry C. Burnette (same address as applicant's). *Cement* from Rapid City, SD to points in CO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ramport Materials Co., Jct. Hwy. 95 & 58, Golden, CO 80401. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 126045 (Sub-29TA), filed June 18, 1979. Applicant: ALTER TRUCKING

AND TERMINAL CORPORATION, P.O. Box 3122, Davenport, IA 52808.

Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Tractors (except truck tractors) agricultural machinery and implements, attachments and parts and accessories for the above described commodities*, from the plantsite and warehouse facilities of Duetz Corp. located at or near Davenport, IA, to points in IL, IA, KS, MN, MO, NE, SD and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Duetz Corp., P.O. Box 3687, Davenport, IA 52808. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 128205 (Sub-85TA), filed June 8, 1979. Applicant: BULKMATIC TRANSPORT CO., 12000 South Doty Avenue, Chicago, IL 60628. Representative: Arnold Burke, 180 North La Salle Street, Chicago, IL 60601. *Corn sugar and corn starch* in bulk, from Arco, IL to MI, OH, IN, WI, NY, CO, KY, VA, MO, IA, PA, and WV for 180 days. Supporting shipper(s): CPC International, Inc., International Plaza, Englewood Cliffs, NJ 07632. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 133384 (Sub-3TA), filed June 18, 1979. Applicant: BARBERTON RECON CENTER, INC., 5075 Wooster Road, Barberton, OH 44203. Representative: E. H. van Dueson, P.O. Box 97, 220 West Bridge St., Dublin, OH 43017. *Used automobiles and trucks in secondary movements, in truckaway service*, from the facilities of the Ford Motor Co., at or near Dearborn, MI, to Chicago, IL, Kansas City, MO, Springfield, MO, Mason City, IA, Nashville, TN, Columbus, OH, Darlington, SC, Minneapolis, MN, and Albany, NY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ford Motor Company, Detroit, MI 48243. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 134574 (Sub-30TA), filed June 20, 1979. Applicant: FIGOL DISTRIBUTORS LIMITED, P.O. Box 6298, Station "C", Edmonton, AB, Canada T5B 4K6. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. *Wine*, in containers, from points in CA, OR and WA to points in MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Coors Country, Inc., Box 20251, Billings, MT 59104, Waters Distributing Company, 1011 River Drive So., Great Falls, MT 59404. Send protests to: Paul J. Labane, DS,

ICC, 2602 First Avenue North, Billings, MT 59101.

MC 134724 (Sub-10TA), filed June 22, 1979. Applicant: BIG RIG REFRIGERATION, INC., 6465 So. 86th St., Omaha, NE 68127. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. *Meats and packinghouse products*, from the facilities of Beef Nebraska, Inc., at Omaha, NE to points in NJ, NY, NH, MA and CT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Beef Nebraska, Inc., 3301 G Street, Omaha, NE 68107. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 136545 (Sub-24TA), filed June 21, 1979. Applicant: NUSSBERGER BROS. TRUCKING CO., INC., 929 Railroad St., Prentice, WI 54556. Representative: Richard Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Iron and steel articles* from facilities of Jones & Laughlin Steel Corp., at or near Aliquippa and Pittsburgh, PA to points in WI and MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jones & Laughlin Steel Corp., Rm. 121-1600 W. Carson St., Pittsburgh, PA 15263. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 140484 (Sub-46TA), filed June 19, 1979. Applicant: LESTER COGGINS TRUCKING INC., 22671 E. Edison Ave., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same address as applicant). *Plastic film* in vehicles equipped with mechanical refrigeration units from the facilities of RJR Archer, Inc. at or near Huntsville, AL to all points in the U.S. (except AK and HI) for 180 days. Supporting shipper(s): R J R Archer, Inc., 1450 S. Chillicothe Rd., Aurora, OH 44202. Send protests to: Donna M. Jones, T/A, ICC-BOP, Monterey Bldg., Room 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 140484 (Sub-47TA), filed June 19, 1979. Applicant: LESTER COGGINS TRUCKING INC., 22671 E. Edison Ave., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same address as applicant). *Plastic film* in vehicles equipped with mechanical refrigeration from Aurora, OH to points in the U.S. (except AK and HI) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): R J R Archer, Inc., 1450 S. Chillicothe Rd., Aurora, OH 44202. Send protests to: Donna M. Jones, T/A, ICC-BOP, Monterey Bldg., Room 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 141804 (Sub-238TA), filed June 20, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). *Wrapping paper*, from Longview, WA to the facilities of Avery International, Inc., its divisions and subsidiaries located at Azusa and Monrovia, CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Avery Label, A Division of Avery International, 777 E. Foothill Blvd., Azusa, CA 91702. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 142335 (Sub-9TA), filed June 19, 1979. Applicant: C & E TRUCKING CO., INC., 11910 Greenstone Avenue, Santa Fe Springs, CA 90670. Representative: D. E. Dawson (same address as applicant). *Various glass containers, in cartons, glass container closures, material, equipment and supplies used in the manufacture and distribution of glass containers*, from points and places in Alameda, Contra Costa, and Los Angeles Counties, CA, to points and places in Clark and Washoe Counties, NV and Navajo, Yuma, Gila, Coconino, Cochise, Maricopa, Graham and Pima Counties, AZ, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Glass Container Corporation, 506 North Euclid Street, Anaheim, CA 92801. Send protests to: Irene Carlos, TA, ICC P.O. Box 1551, Los Angeles, CA 90053.

MC 142484 (Sub-8TA), filed June 21, 1979. Applicant: STRINGFELLOW TRANSPORTATION CO., INC., 724 Third Avenue, North, Birmingham, AL 35203. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. *Contract, irregular: Lumber*, from Goodwater, AL to points in the states of GA, IL, IN, IA, KY, LA, MD, MO, MI, MS, NC, NY, OH, PA, SC, TN, VA, WV and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kimberly Clark Corporation, Coosa Pines, AL 35044. Send protests to: Mabel E. Holston, T/A, ICC Room 1616—2121 Building, Birmingham, AL 35203.

MC 142484 (Sub-9TA), filed June 21, 1979. Applicant: STRINGFELLOW TRANSPORTATION COMPANY, INC., 724 Third Avenue, North, Birmingham, AL 35201. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. *Contract, irregular: Pipe, fitting, valves, fire hydrants, castings, and materials and supplies used in the installation thereof*, from the facilities of U.S. Pipe

and Foundry Company in Jefferson County, AL, to points in the states of IL, IN, MI, OH and WI, for 180 days. Supporting shipper(s): U.S. Pipe and Foundry Company, 3300 First Avenue, North, Birmingham, AL 35202. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 145384 (Sub-37TA), filed June 18, 1979. Applicant: ROSE-WAY, INC., 1914 E. Euclid, Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Street sweepers, self-propelled; industrial plant sweepers, self-propelled; brush chippers; jet runway cleaners; sewer cleaners and catch basic cleaners and flushers, mounted or unmounted, and brushes and parts for the above commodities, between the facilities of FMC Corporation Sweeper Division at or near Pomona, CA on the one hand, and, on the other, points in the U.S. (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): FMC Corporation Sweeper Division, 1201 E. Lexington St., Pomona, CA 91766. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.*

MC 145574 (Sub-2TA), filed June 15, 1979. Applicant: RUSS'S MOTOR SERVICE, INC., 5070 Lake St., Melrose Park, IL 60160. Representative: Albert A. Andrin, 180 N. LaSalle St., Chicago, IL 60601. *General commodities (except those of unusual value, class A & B explosives household goods as defined by the Commission, commodities in bulk and livestock) having prior or subsequent movement by rail, air or water*, between the Chicago, IL, Commerical Zone and Racine, WI, Bettendorf and Burlington, IA, and Terra Haute, IN for 180 days. An ETA has been granted for 90 days. Supporting shipper(s): J. I. Case, Inc., 700 State St., Racine, WI 53404. Send protests to: Dave Hunt, T/A, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 146704 (Sub-2TA), filed June 15, 1979. Applicant: FALCON MOTOR TRANSPORT, INC., 1250 Kelly Avenue, Akron, OH 44316. Representative: Michael L. Moushey, 275 East State Street, Columbus, OH 43215. *Contract carrier: irregular routes: beer, in bottles, cans and kegs, between South Valney, NY, on the one hand, and, Steubenville, OH, on the other for 180 days. Supporting shipper(s): Fort Pitt Distributing Co., Inc., 117 South Sixth Street, Steubenville, OH 43952. Send protests to: D/S I.C.C., 101 North 7th Street, Room 620, Philadelphia, PA 19106.*

MC 147365 (Sub-TA), filed June 7, 1979. Applicant: T.O.T.E., INC., 554 University Ave., SW., Atlanta, GA 30310. Representative: S. T. Robinson (same as applicant). *Freight all kinds, except articles of extraordinary value and, Classes A and B explosives, in containers and empty containers, having an immediately prior or subsequent movement by water between the Seaports of Charleston, SC, Savannah, GA, Jacksonville, FL and Mobile, AL on the one hand and points in AL, FL, GA, SC and TN on the other hand, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 9 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.*

MC 147534 (Sub-1TA), filed June 19, 1979. Applicant: SUPERIOR TRUCK LEASING, INC., 4315 So. 79th St., Omaha, NE 68127. Representative: Paul D. Kratz, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. *Contract carrier: irregular routes: Meat, meat products and meat by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 MCC 209 and 766, from Omaha, NE to points in NC and FL, under contract with Armour & Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour & Co., 5023 So. 33rd St., Omaha, NE 68107. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.*

MC 147214 (Sub-1TA), filed June 19, 1979. Applicant: DETERMANN INDUSTRIES INC., 1425 N. Washington Blvd., Camanche, IA 52730. Representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, IA 52001. *Petroleum coke, in dump vehicles, from the facilities of Determann River Terminal at Camanche, IA to Hennepin, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Koch Refining Company, P.O. Box 2256, Wichita, KS 67201. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.*

By the Commission.
H. G. Homme, Jr.,
Secretary.

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[Notice No. 125]

Motor Carrier Temporary Authority Applications

July 10, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 4484 (Sub-10TA), filed June 20, 1979. Applicant: CROWN TRANSPORT, INC., Rural Delivery No. 2, Wampum, PA 16157. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. *Knocked down metal buildings, conduit, duct, raceways, fittings, and parts, and accessories and equipment, materials and supplies used in the manufacture, from Parkersburg, WV to AL, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI,*

SC, TN, VT, VA and WI for 180 days. An underlying ETA seeks 90 days operating authority. Supporting shipper(s): Walker/Parkersburg Division of Textron, Inc., P.O. Box 1828, Parkersburg, WV 26101. Send protests to: J. J. England, DS, 2111 Federal Bldg., 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 8515 (Sub-19TA), filed June 21, 1979. Applicant: TOBLER TRANSFER, INC., Junction Interstate 80 and Illinois 89, Spring Valley, IL 61362. Representative: Leonard R. Kofkin, 39 South La Salle Street, Chicago, IL 60603. (1) *Show and display cases and racks; from Metamora, IL, to points in IN, IA, GA, KS, LA, MI, MN, MO, MS, NE, NC, OH, TX, UT and WI; and (2) Materials, equipment and supplies used by manufacturers of show and display cases and racks, from points in IN, IA, GA, KS, LA, MI, MN, MO, MS, NE, NC, OH, TX, UT and WI; to Metamora, IL for 180 days. Applicant has also filed an underlying ETA seeking 90 days operating authority. Supporting shipper(s): Metamora Woodworking Co., 501 East Madison, Metamora, IL 61548. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.*

MC 8515 (Sub-20TA), filed June 21, 1979. Applicant: TOBLER TRANSFER, INC., Junction Interstate 80 and Illinois 86, Spring Valley, IL 61328. Representative: Leonard R. Kofkin, 39 South La Salle Street, Chicago, IL 60603. *Synthetic plastics and chemical compounds, (except in bulk), between Ottawa, IL and points in IA, IN, KY, MI, MN, MO, OH, TN, WI and WV for 180 days. An underlying ETA was granted for 90 days operating authority. Supporting shipper(s): Borg-Warner Chemicals, International Center, Parkersburg, WV 26101. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.*

MC 30844 (Sub-649TA), filed June 26, 1979. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (same as applicant). *Frozen foodstuff between Indianapolis, IN, on the one hand, and, on the other, points in AL, AR, CO, CT, DE, FL, GA, IL, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, DC, restricted to shipments originating at or destined to the facilities of Monument Distribution*

Warehouse, Inc., Indianapolis, IN, for 180 days. Supporting shipper(s): Monument Distribution Warehouse, Inc., 3320 S. Arlington Ave., Indianapolis, IN 46203. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg. Des Moines, IA 50309.

MC 61445 (Sub-15TA), filed June 8, 1979. Applicant: CONTRACTORS TRANSPORT CORP., 5800 Farrington Ave., Alexandria, VA 22304. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014. *Cranes, personnel and material hoists, and parts and accessories for cranes and hoists, between points in NY, NJ, PA, DE, MD, WV, VA, NC, SC, and DC, for 180 days. An underlying ETA seek 90 days authority. Supporting shipper(s): American Pecco Corp., 10109 Residency Rd., Manassas, VA 22110. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.*

MC 65475 (Sub-26TA), filed June 18, 1979. Applicant: JETCO, INC., 4701 Eisenhower Ave., Alexandria, VA 22304. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Iron and steel and iron and steel articles, from the facilities of Connors Steel Company, Inc., located at Huntington, WV, to pts. in the US (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Connors Steel Co., Inc., P.O. Box 118, Huntington, WV 25706. Send protests to: I.C.C. Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.*

MC 73134 (Sub-5TA), filed June 22, 1979. Applicant: SUPREME EXPRESS & TRANSFER CO., 3311 Chouteau Ave., St. Louis, MO 63103. Representative: Earnest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Non-alcoholic beverages, in containers, from Warrenton, MO to points in IL, KS and IA, for 180 days. Supporting shipper(s): Warrenton Products, Inc., P.O. Box 309, Warrenton, MO. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.*

MC 94265 (Sub-308TA), filed June 14, 1979. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Route 460 West, Windsor, VA 23487. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. *Food, food products and food ingredients, (except in bulk), in tank vehicles, from the facilities of Archer Daniels Midland Co. at or near Decatur, IL to points in AL, GA, FL, MS, NC, SC, VA and WV, for 180 days. Restricted to traffic destined*

to the above destination states. Supporting shipper(s): Archer Daniels Midland Co., P.O. Box 1470, Decatur, IL 62525. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Phila., PA 19106.

MC 98614 (Sub-13TA), filed June 19, 1979. Applicant: ARKANSAS TRANSPORT COMPANY, INC., 100 West Emily, North Little Rock, AR 72214. Representative: J. E. Siegler, P.O. Box 702, Little Rock, AR 72203. Underlying ETA seeks corresponding authority for 90 days. *Petroleum and petroleum products* in bulk in tank trucks from Wynnewood, OK to Danville, AR for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wholesale Distributors, Inc., P.O. Box 184, Danville, AR 72833. Send protests to: William H. Land, Jr., DS, 3108 Federal Building, Little Rock, AR 72201.

MC 98494 (Sub-2TA), filed June 29, 1979. Applicant: J. L. WILKERSON COMPANY, 3737 W. Lower Buckeye Rd., Phoenix, AZ 85009. Representative: David Robinson, 3003 N. Central Ave., Suite 2101, Phoenix, AZ 85012. *Heavy machinery, boilers and road equipment*, between points in AZ on the one hand, and, on the other hand, points in CA, CO, NV, UT, NM and TX (west of U.S. Hwy 63), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Minerals Equipment Co., 2420 S. 16th Ave., Phoenix, AZ, A. J. Gilbert Construction Co., P.O. Box 5288, Bisbee, AZ 85603, and Lake Shore, Inc., P.O. Box 151, Phoenix, AZ 85001. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 109324 (Sub-42TA), filed June 27, 1979. Applicant: GARRISON MOTOR FREIGHT, INC., P.O. Box 1278, Harrison, AR 72601. Representative: Jay C. Miner (same address as applicant). General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) between Ft. Smith, AR and Kansas City, MO, serving no intermediate points, as an alternate route for operating convenience only in conjunction with carrier's authorized regular-route operations between Ft. Smith, AR and Kansas City, MO: from Ft. Smith over U.S. Hwy 71 to Kansas City and return over the same route, for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper(s): Garrison Motor Freight, Inc., P.O. Box 1278, Harrison, AR 72601. Send protests to: William H. Land, Jr., DS,

3108 Federal Bldg., Little Rock, AR 72201.

MC 114334 (Sub-55TA), filed June 21, 1979. Applicant: BUILDERS TRANSPORTATION COMPANY, 3710 Tulane Road, Memphis, TN 38116. Representative: Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. *Iron and steel and iron and steel articles*, from Guntersville, AL to points in AL, FL, GA, KY, MS and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Steel Corporation, 1000 East 80th Place, Merrillville, IN 46410. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building—Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 114334 (Sub-56TA), filed June 25, 1979. Applicant: BUILDERS TRANSPORTATION COMPANY, 3710 Tulane Road, Memphis, TN 38116. Representative: Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. *Iron and steel and iron and steel articles* from St. Louis, MO commercial zone to AR, MS and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): (1) St. Louis Terminals Corporation, One North Market Street, St. Louis, MO 63102. (2) American Sheet & Strip Steel, 812 East Brooks Rd., Memphis, TN 38116. (3) Zelrich Steel Co., 1495 Harbor, Memphis, TN 38110. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building—Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 114604 (Sub-78TA), filed June 13, 1979. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, Forest Park, GA 30050. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., NE, Atlanta, GA 30328. *Apple Products* from the facilities of Shenandoah Apple Co-Operative, Inc., at or near Winchester, VA to points in AL, GA, MS, FL, and TN for 180 days. Supporting shipper(s): Shenandoah Apple Co-Operative, Inc., P.O. Box 435, Winchester, VA 22601. Send protests to: Sara K. Davis, T/A, ICC 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 114604 (Sub-77TA), filed June 14, 1979. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, Forest Park, GA 30050. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., NE, Atlanta, GA 30328. *Sugar, except in bulk*, from points in LA to points in and east of ND, SD, NE, KS, OK and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting

shipper(s): Colonial Sugars, Borden, Inc., Gramercy, LA 70052, Godchaux Henderson, reserve, LA. The South Coast Corp., P.O. Box 8036, Houma, LA 70361. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 116254 (Sub-273TA), filed June 25, 1979. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, AL 35630. Representative: Mr. Hampton M. Mills (same address as applicant). *Liquid caustic soda*, in bulk, in tank vehicles, from Muscle Shoals, AL to points in TN on and east of U.S. Highway 27, for 180 days. Supporting shipper(s): Diamond Shamrock Corporation, 1100 Superior Avenue, Cleveland, OH 44114. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building Birmingham, AL 35203.

MC 116474 (Sub-46TA), filed June 29, 1979. Applicant: LEAVITT'S FREIGHT SERVICE, INC., 3855 Marcola Road, Springfield, OR 97477. Representative: David C. White, 2400 S.W. 4th Ave., Portland, OR 97201, 503-228-8491. Contract, Irregular TREATED POLES from the facilities of McFarland Cascade Company at Eugene, OR to points in Riverside and Imperial Counties, CA and points in AZ under contract with McFarland Cascade Company for 180 days. Supporting shipper(s): McFarland Cascade Company P.O. Box 2667, Eugene, OR 97401. Send protests to: A. E. Odums DS, ICC, 114 Pioneer Courthouse 555 S.W. Yamhill Street, Portland, OR 97204.

MC 116645 (Sub-31TA), filed June 18, 1979. Applicant: DAVIS TRANSPORT CO., P.O. Box 56, Gilcrest, CO 80623. Representative: Richard S. Mandelson, 1660 Lincoln St., Suite 1600, Denver, CO 80264. *Molasses, in bulk*, from Scottsbluff, Gering and Bayard, NE to Lucerne, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Products, Kucerne, CO 80646. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 117815 (Sub-324TA), filed June 28, 1979. Applicant: PULLEY FREIGHT LINES, INC., 405 S.E. 20th St., Des Moines, IA 50317. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Magazines, magazine parts, newspaper supplements and printing paper*, from the facilities of Meredith Corporation at or near Des Moines, IA to points in IL, IN, KS, MI, MN, MO, NE and WI for 180 days. Restricted to the transportation of traffic originating at the named origins and destined to the named destinations. An underlying ETA seeks 90 days authority.

Supporting shipper(s): Meredith Corporation, 5701 SW Park Ave., Des Moines, IA 50305. Send protests to: Herbert W. Allen DS, ICC, 516 Federal Bldg., Des Moines, IA 50309.

MC 119765 (Sub-84TA), filed June 27, 1979. Applicant: EIGHT WAY XPRESS, INC., 5402 South 27th Street, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Meats and packinghouse products* from Omaha, NE to points in NJ, NY, NH, MA and CT for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Marvin R. Bailey, Management Supervisor, Beef Nebraska, Inc., 3301 "G" Street, Omaha, NE 68107. Send protests to: District Supervisor Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 119765 (Sub-85TA), filed June 27, 1979. Applicant: EIGHT WAY XPRESS, INC., 5402 South 27th Street, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Meats and packinghouse products* from Omaha, NE to points in CA, FL, GA, KS, LA, MD, MA, ME, MO, NH, NJ, NY, OH, OK and PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): William Rogers, Traffic Manager, Union Packing Company of Omaha, 4501 South 36th Street, Omaha, NE. Send protests to: District Supervisor Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 121654 (Sub-23TA), filed June 15, 1979. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7436, Savannah, GA 31408. Representative: Richard M. Tettelbaum, Serby & Mitchell, P.C., Fifth Floor, Lenox Towers South, 3390 Peachtree Road, N.E., Atlanta, GA 30326. (1) *Aluminum products and (2) materials, equipment and supplies used in the manufacture, distribution and sale of aluminum products (except commodities in bulk)*, between facilities of Consolidated Aluminum Corporation at or near Gulfport, MS, on the one hand, and on the other, points in AL, GA, FL, NC, SC, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Consolidated Aluminum Corp., P.O. Box 14448, St. Louis, MO 63178. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 121654 (Sub-24TA), filed June 27, 1979. Applicant: COASTAL TRANSPORT AND TRADING COMPANY, P.O. Box 458, Forest Park, GA 30060. Representative: Marc A. Pearl, Serby & Mitchell, P. C., 3390

Peachtree Road, 5th Floor, Atlanta, GA 30326. *Common carrier; Irregular routes; Transporting: lumber and lumber products (except commodities in bulk)*, from the facilities of Continental Forest Industries at or near Statesboro, Hazelhurst, Augusta, and Washington, GA to points in FL, GA, KY, LA, MS, NC, SC, TN and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Continental Forest Industries, P.O. Box 8969, Savannah, GA 31412. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 124964 (Sub-42TA), filed June 25, 1979. Applicant: JOSEPH M. BOOTH d.b.a. J. M. BOOTH TRUCKING, P.O. Box 907, Eustis, FL 32728. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract Carrier, irregular routes, transporting foodstuffs*, (1) from Dunkirk, NY, Champaign, IL, and New Ulm, MN, to points in GA; (2) from Decatur, GA to points in FL, for 180 days. Under a continuing contract or contract or contracts with Kraft, Inc., Chicago, IL. Restricted against the transportation of commodities in bulk. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kraft, Inc., 500 Peshtigo Court, Chicago, IL 60690. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 124964 (Sub-43TA), filed June 25, 1979. Applicant: JOSEPH M. BOOTH d.b.a. J. M. BOOTH TRUCKING, P.O. Box 907, Eustis, FL 32728. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier, irregular routes, transporting foodstuffs*, between points in AL, AR, CT, FL, GA, IL, IN, KS, LA, MI, MD, MN, MO, MS, NC, NJ, NE, NY, OH, PA, TN, TX, SC, VA, and WI, for 180 days. Under a continuing contract or contracts with Kraft, Inc., Chicago, IL. Supporting shipper(s): Kraft, Inc., 500 Peshtigo Court, Chicago, IL 60690. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 124964 (Sub-41TA), filed June 22, 1979. Applicant: JOSEPH M. BOOTH d.b.a. J. M. BOOTH TRUCKING, P.O. Box 907, Eustis, FL 32728. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier, irregular routes, transporting canned and preserved foodstuffs*, from the facilities of Heinz USA, Division of H. J. Heinz Co., located at or near Greenville, SC, to points in AL, FL, GA, MS, TN, and the New Orleans, LA Commercial Zone. Under a continuing

contract or contracts with Heinz USA, Division of H. J. Heinz Co. for 180 days. Restricted to traffic originating at the named facilities and destined to the named destinations. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 124964 (Sub-40TA), filed June 21, 1979. Applicant: JOSEPH M. BOOTH d.b.a. J. M. BOOTH TRUCKING, P.O. Box 907, Eustis, FL 32726. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier, irregular route, transporting such commodities as are sold in or used by operators of restaurant chains (except commodities in bulk)*, (1) between Burger King Facilities, (2) between Burger King facilities and Burger King supplies, and (3) between all points in the US (except AK and HI). Under a continuing contract or contracts with Burger King Corporation, Miami, FL for 180 days. Supporting shipper(s): Burger King Corporation, P.O. Box 520843, Miami, FL 33152. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 126555 (Sub-68TA), filed June 26, 1979. Applicant: UNIVERSAL TRANSPORT, INC., P.O. Box 3000, Rapid City, SD 57709. Representative: Philip A. Nagel (same address as applicant's). (1) *Beer and carbonated beverages* from St. Paul, MN; Milwaukee, WI; Peoria, IL to Rapid City, SD (2) *Glassware* from St. Paul, MN to Rapid City, SD, for 180 days. Supporting shipper(s): Highland Beverages, 802 E. St. Patrick, Rapid City, SD 57709. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 126555 (Sub-33TA), filed June 26, 1979. Applicant: MEAT DISPATCH, INC., 2103 17th St., East, Palmetto, FL 33561. Representative: Robert D. Gundersman, Esq., 710 Statler Bldg., Buffalo, NY 14202. *Contract carrier—Irregular route: (1) Heating and cooling equipment, and gas grills, and (2) parts, materials, supplies and equipment used in the manufacture, production, sale or distribution of such commodities* between Dallas and Garland, TX, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, FL, GA, IL, IN, KS, KY, LA, MI, MS, MO, NM, OH, OK, PA, TN and VA restricted in (1) and (2) above to the transportation of traffic transported under a continuing contract or contracts with Dearborn Stove

Company, a Division of Addison Products Company for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dearborn Stove Company, 3000 West Kingsley St., Garland, TX. Send protests to: Donna M. Jones, T/A, ICC—BOP, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 129645 (Sub-74TA), filed May 31, 1979. Applicant: BASIL J. SMEESTER and JOSEPH C. SMEESTER, d.b.a. Smeester Brothers Trucking, 1330 South Jackson Street, Iron Mountain, MI 49801. Representative: H.G. Denny, 1330 South Jackson Street, Iron Mountain, MI 49801. *Iron and steel articles*, between Midland, PA and all points in IA, MN and WI. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Crucible Inc., Division of Colt Industries, P.O. Box 226, Midland, PA 15059. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 133154 (Sub-10TA), filed June 22, 1979. Applicant: BELL TRANSPORT COMPANY, 16036 Valley Blvd., Fontana, CA 92335. Representative: Jerry I. Michael, 16036 Valley Blvd., Fontana, CA 92335. *CONTRACT: Irregular: Boxes, fibreboard, paperboard or pulpboard; cans, paper or pulpboard, with or without tops, covers or bottoms thereto; cups, paper, plastic containers, cans, cups and trays, with or without covers or lids thereto*; from the facilities of Sealright Company, Inc., at or near Los Angeles, California, to points in Arizona, Nevada and Utah, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting Shipper(s): Sealright Company, Inc., 4209 E. Noakes St., Los Angeles, CA 90023. Send protests to: Irene Carlos, T/A, I.C.C., P.O. Box 1551, Los Angeles, CA 90053.

MC 134134 (Sub-46TA), filed June 27, 1979. Applicant: MAINLINER MOTOR EXPRESS, INC., 4202 Dahlman Avenue, Omaha, NE 68107. Representative: J. F. Crosby, I-80 and Highway 50, P.O. Box 37205, Omaha, NE 68137. *Alcoholic beverages, including wine* (1) from the facilities of Heublein, Inc. at Hartford and East Hartford, CT to Detroit and Allen Park, MI; Paducah, KY; Chicago, IL; and points in their commercial zones (2) from the facilities of Heublein, Inc. at Detroit and Allen Park, MI to Camp Dodge at or near Grimes, IA; Chicago, IL and points in its commercial zone; Eau Claire, Madison, Middleton and Stevens Point, WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): David F. Tucker, Transportation Manager-Spritis, Heublein, Inc., 330 New Park Avenue,

Hartford, CT 06101. Send protests to: District Supervisor Carroll Russell, ICC, Suite 620, 110 North 14th Street; Omaha, NE 68102.

MC 135884 (Sub-17TA), filed June 26, 1979. Applicant: CALDWELL TRUCKING, INC., Holdman Route, Pendleton, OR 97801. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. *Contract, irregular, kitchen and bathroom cabinets from Caldwell, ID to Burney, CA. Supporting shipper(s): Heritage Woodworking Co., P.O. Box 1360, Burney, CA 96013. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.*

MC 136545 (Sub-25TA), filed June 26, 1979. Applicant: NUSSBERGER BROS. TRUCKING CO., INC., 929 Railroad St., Prentice, WI 54556. Representative: Richard Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Steel tubing from facilities of Ohio Steel Tube Co. at or near Shelby, OH to points in MN and to points in WI except those in Dane, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, and Waukesha Counties, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ohio Steel Tube Co., 132 W. Main St., Shelby, OH 44875. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.*

MC 138875 (Sub-209TA), filed June 26, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). *Gum Shellac* (except in bulk), from Attleboro, MA to Portland, OR and their respective commercial zones. Supporting shipper(s): Zehrung Corporation, 2201 N.W. 20th, Portland, OR 97209. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 138875 (Sub-210TA), filed June 26, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh, 11900 Franklin Road, Boise, ID 83705. *Brick* (except in bulk), from Boise, ID to points in WY. 180 days. Supporting shipper(s): The Masonry Center, Inc., P.O. Box 7825, Boise, ID 83707. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 141245 (Sub-12TA), filed June 26, 1979. Applicant: BARRETT TRUCKING CO., INC., 16 Austin Drive, Burlington, VT 05401. Representative: John A. Barrett (same address as applicant).

Such commodities as are dealt in by wholesale, retail and chain grocery and food business houses, from Canton, MA to the facilities of Shoppers Discount Foods, Inc. in Montpelier, VT. An underlying ETA seeks 90 days authority. Supporting shipper(s): Shoppers Discount Foods, Inc., P.O. Box 1046, Montpelier, VT 05602. Send protests to: ICC, P.O. Box 548, Montpelier, VT 05602.

MC 142364 (Sub-17TA), filed June 12, 1979. Applicant: KENNETH SAGELY, d.b.a. SAGELY PRODUCE, 2802 Kibler Road, Van Buren, AR 72956. Representative: John Duncan Varda, 121 South Pinckney Street, Madison, WI 53703. *Paper and paper products* (except in bulk), and *products* (except in bulk) produced or distributed by manufacturers and converters of paper and paper products, from the plantsite and facilities used by Nekoosa Papers, Inc., in Little River County, AR, to points in AZ, CA, ID, IL, IN, IA, KY, MI, MN, MO, ND, NM, OH, PA, SD, TN and WI, for 180 days. Supporting shipper(s): Nekoosa Papers, Inc., 100 Wisconsin River Dr., Port Edwards, WI 54469. Send protests to: William H. Land, Jr., DS, 3108 Federal Office Building, Little Rock, AR 72201.

MC 142364 (Sub-18TA), filed June 28, 1979. Applicant: KENNETH SAGELY, d.b.a. SAGELY PRODUCE COMPANY, P.O. Box 368, Van Buren, AR 72956. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Pulpboard NOIBN*, not corrugated (in skids or rolls) from the facilities of Eastex Division, Temple-Eastex, Inc., at or near Evadale, TX, to points in the United States (except AK, HI and TX) for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper(s): Eastex Division, Temple-Eastex, Inc., P.O. Box 816, Silsbee, TX 77656. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 142715 (Sub-57TA), filed June 25, 1979. Applicant: LENERTZ, INC., P.O. Box 141, South St. Paul, MN 55075. Representative: K. O. Petrick (same as applicant). *Frozen foodstuffs* (except *commodities in bulk*), from Lake Odessa, MI and points in Barry, Allegan and Oceana counties in MI to points in Philadelphia, PA and Salem and Cumberland counties in NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Seabrook Foods, Inc., Seabrook, NJ 08302. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 142715 (Sub-58TA), filed June 28, 1979. Applicant: LENERTZ, INC., P.O. Box 479, South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). *Paper and paper products, of natural and synthetic fibre and materials, equipment and supplies used in the manufacture or distribution of paper and paper products (except commodities in bulk in tank or hopper vehicles)* between Marinette, Green Bay, Oconto Falls and Fond du Lac, WI, on the one hand, and, on the other, points in ND, SD, NE, KS, CO, MN, IA, MO, IL, IN, MI, OH, PA, NY, NJ, and DE, restricted to traffic originating at or destined to the facilities of Scott Paper Co., for 180 days. Supporting shipper(s): Scott Paper Company, Scott Plaza, Philadelphia, PA 19113. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 144505 (Sub-3TA), filed June 26, 1979. Applicant: DOYLE LOVE, d.b.a. LOVE TRUCKING, Route 1, Box 438, Mabank, TX 75147. Representative: Hightower, Alexander and Cook, P.C., 1st Continental Bank Bldg., #301, 5801 Marvin D. Love Freeway, Dallas, TX 75237. *Motorcycles* from Arlington, TX to points in LA, on and south of a line beginning at the LA-TX State line and extending along U.S. Highway 190 to Junction U.S. Highway 90, and then along U.S. Highway 90 to the LA-MS State line for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper(s): Five supporting shippers. Send protests to: Opal M. Jones, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 145384 (Sub-38TA), filed June 28, 1979. Applicant: ROSE-WAY, INC., 1914 E. Euclid, Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Magazines, catalogues, booklets, and parts and sections thereof*, from the facilities of Meredith Corporation at Des Moines, IA to points in AZ, CA, ID, NM, NV, OR, UT and WA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Meredith Corporation, 5701 SW Park Ave., Des Moines, IA 50305. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 147054 (Sub-2TA), filed June 20, 1979. Applicant: JAMES RAY BRADY, d.b.a. J. R. BRADY TRUCKING, Rt. 3, Box 265, Kannapolis, NC 28081. Representative: James Ray Brady (same as applicant). *Fabric, cotton & rayon pc. goods finished and unfinished* from Shelby, NC, Bamberg, SC and

Milledgeville, GA to San Antonio, TX and San Francisco and Los Angeles, CA and their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack the authority herein applied for with MC-147054R. Supporting shipper(s): Concord Warehousing Co., Lanscot Arlen Fabric's Inc., P.O. Box 1212, Concord, NC. Send protests to: Terrell Price, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 147074 (Sub-6TA), filed June 21, 1979. Applicant: E Z FREIGHT LINES, Gould Street & E. 46th Street, Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Such commodities manufactured, distributed or used by manufacturers of sporting and recreational equipment. From Celina, OH and Milwaukee, WI to points in CT, DC, DE, GA, ME, MD, MA, NH, NY, PA, RI, TN, VA, and NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Frabill Mfg. Co., Div. of Huffy Corp., 2018 South First Street, Milwaukee, WI 53207. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 147295 (Sub-1TA), filed June 13, 1979. Applicant: C & C TRANSPORTATION COMPANY P.O. Box 2016, Fairview Heights, IL 62208. Representative: Charles M. Long (address same as applicant). *Steel pipe and tubing*; from the facilities of Edison Pipe & Tubing Inc. at Pine Bluff, AR; Tampa, FL; Chicago, IL; E. St. Louis, IL; New Orleans, LA; St. Louis, MO; Columbus, OH; Dallas, Houston and Rosenberg, TX; and facilities of Wheeling Pittsburg Steel, Wheeling, WV and their commercial zones; to AL, AR, IN, FL, GA, IL, IA, KS, LA, MI, MS, MN, NE, NC, OH, OK, PA, SC, TN, TX, WI, KY, WV, VA, for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Edison Pipe & Tubing Co., 721 Olive Street, St. Louis, MO 63101. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 147455 (Sub-TA), filed May 29, 1979. Applicant: W. F. BROADWATER TRUCKING CO., Rt. 2, Box 39-D, Grantsville, MD 21536. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25528. *Refractories, refractory products and equipment and materials used in manufacture thereof* between Harbison Walker Refractories at Jennings, MD, on the one hand, and on the other, points in DE, MD, NJ, NY, OH, PA, VA, and WV for 180 days.

Supporting shipper(s): Harbison Walker Refractories, Division of Dresser Industries, Inc., No. 2 Gateway Center, Pittsburgh, PA 15222. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 147424 (TA), filed May 14, 1979. Applicant: SOUTHWIRE COMPANY, Transportation Division, 126 Fertilla Street, Carrollton, GA 30117. Representative: Theodore M. Forbes, Jr., 4000 First National Bank Tower, Atlanta, GA 30303. *Specific commodities, as stated in Appendix 1, 2 and 3 to wit: PVC Plastic Resin, Color concentrates, paint, paper products—NOIBN and crude rubber synthetic. Limitation: no hauling of bulk commodities or in tank vehicles* from on the one hand, Wilmington, DE, Henry, IL, Perryville, MD, Charlotte, NC, Akron, OH, Cincinnati, OH, Cleveland, OH, Mansfield, OH, Grand Junction, TN and on the other hand, all points in GA. Part II: *For paper products, NOIBN* from on the one hand, Anniston, AL, Brewton, AL, Mobile, AL, Crossett, AR, Little Rock, AR, Fernandina Beach, FL, Jacksonville, FL, Bogalusa, LA, Pineville, LA, Plymouth, NC, Chester, PA, Philadelphia, PA, Columbia, SC, Dallas, TX, Houston, TX, Silsbee, TX, and on the other hand, all points in GA. Part III: *For crude rubber synthetics* from on the one hand, Camden, AR, Baton Rouge, LA, Borger, TX, Port Neches, TX and on the other hand, all points in GA for 180 days. Supporting shipper(s): Sun Products Corp., P.O. Box 1280, Carrollton, GA 30117, Dixie Converting Corp., P.O. Box 1446, Carrollton, GA 30117, and Associated Rubber Co., P.O. Box 245, Tallapoosa, GA 30176. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 147495 (Sub-1TA), filed June 22, 1979. Applicant: PRESTWOOD TRUCKING & LEASING, INC., P.O. Box 789, Hartsville, SC 29550. Representative: Peter A. Greene, 900 17th Street, N.W., Washington, DC 20006. *Manufactured forest products*, from the facilities of Weyerhaeuser Company, Inc., in NC to points in VA, DE, MD, WV, OH, IN, DC, NJ, PA, NY, CT, RI, MA, VT, NH, ME, TN and KY, for 180 days. An underlying ETA for 90 days authority. Supporting shipper(s): Weyerhaeuser Company, P.O. Box 787, Plymouth, NC 27962. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 147534 (Sub-2TA), filed June 28, 1979. Applicant: SUPERIOR TRUCK LEASING, INC., 4315 So. 79th St.,

Omaha, NE 68127. Representative: Paul D. Kratz, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. *Contract carrier*: irregular routes: *Carpets, floor coverings and rugs*, from Dalton and Eton, GA and Chicago, IL to Council Bluffs, IA, for 180 days, under contract with Michael's Carpets and Furniture. An underlying ETA seeks 90 days authority. Supporting shipper(s): Michael's Carpets and Furniture, 3211 Nebraska Ave., Council Bluffs, IA. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 39414 (Sub-16TA), filed March 12, 1979, and published in the *Federal Register* issue of April 25, 1979, and republished as corrected this issue. Applicant: TYLER TRUCK LINES, INC., 2824 Judge Rd., Oakfield, NY 14125. Representative: S. Michael Richards/Raymond A. Richards, P.O. Box 225, Webster, NY 14580. *Contract carrier*: irregular routes. *Adhesives, building materials, gypsum & gypsum products, paint and paint products and plasterboard joint system (except in bulk)*, from the facilities of the United States Gypsum Co. at Woodbridge Township, NJ to New York and Pennsylvania, for 180 days. The purpose of this republication is correct the origin point which is Woodbridge Township, NJ in lieu of Woodbridge Township, NY.

MC 52704 (Sub-223TA), filed May 8, 1979, and published in *Federal Register* issue of June 13, 1979, and republished as corrected this issue. Applicant: GLENN MCCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Glass containers*, from Henryetta, OK to Martinsville, VA and Eden, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Midland Glass Co., Inc., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203. The purpose of this republication is to reflect the Sub as 223TA.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-22896 Filed 7-24-79; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. 107]

Permanent Authority Decisions

Decided: June 21, 1979.

The following applications filed on or before February 28, 1979, are governed

by Special Rule 247 of Commission's *Rules of Practice* (49 CFR 1100.247). For applications filed before March 1, 1979, these rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the *Federal Register*. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the *Rules of Practice* which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after July 25, 1979.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may

have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

H. G. Homme, Jr.,
Secretary.

MC 488 (Sub-11F), filed January 30, 1979. Applicant: BREMEN'S EXPRESS COMPANY, a corporation, 318 Haymaker Road, Monroeville, PA 15146. Representative: Edward Goldberg, 1408 Law & Finance Building, Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *refractory products (except commodities in bulk)*, and (2) *materials and supplies (except commodities in bulk)*, used in the manufacture and installation of refractories from points in Clearfield, PA, to (a) those points in WV on and north of U.S. Hwy 50, and (b) those points in OH on and east of a line beginning at Cleveland, OH and extending over Interstate Hwy 77 to junction U.S. Hwy 21 near Akron, then over U.S. Hwy 21 to junction Interstate Hwy 77 near Strasburg, then over Interstate Hwy 77 to the OH-WV State line. (Hearing site: Pittsburgh, PA.)

MC 125708 (Sub-151F), filed July 27, 1978, previously published in *Federal Register* August 31, 1978 as republished this issue. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 West 152nd Street, East Chicago, IN 46312. Representative: Joseph H. Klostermann, 109 S. Velma, South Roxana, IL 62087. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *animal feed, feed ingredients, and additives*, and (2) *materials and supplies* used in the manufacture and distribution of animal feeds (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near Mattoon, IL, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NJ, NY, NH, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI, restricted to the transportation of traffic originating at or destined to the above described territory (except AL). (Hearing site: St. Louis, MO, or Washington, DC.)

Note.—This republication shows AR as a destination instead of AK.

MC 141759 (Sub-9F), filed February 26, 1979, previously published April 27, 1979, and republished this issue. Applicant: OHIO PACIFIC EXPRESS, INC., 2385 S. High St., Columbus, OH 43207. Representative: Thomas F. Kilroy, Suite 406, Executive Bldg., 6901 Old Keene Mill Rd., Springfield, VA 22150. To operate as a *contract carrier*, by

motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities as are dealt in by manufacturers of glass and glass products*, (except commodities in bulk), from Columbus, OH, to points in AL, AR, AZ, CA, CO, GA, ID, LA, MS, MT, NV, NM, OK, OR, TX, UT, WA, and WY, under continuing contracts with Federal Glass, Division of Federal Paperboard Company. (Hearing site: Columbus, OH.)

Note.—This republication shows AR as a destination state instead of AK.

MC 147178F, filed February 9, 1979. Applicant: INFLATION FIGHTERS TRANSPORT, INC., 101 State Street, Suite 304, Springfield, MA 01103. Representative: David M. Marshall (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic products* and (2) *materials, equipment, and supplies* used in the manufacture and sale of plastic products, between points in MA, CA, IL, NY, NJ, and TX, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Mobil Chemical Company, Petrochemical Division, of Holyoke, MA. (Hearing site: Boston, MA, or Washington, DC.)

[FR Doc. 79-22901 Filed 7-24-79; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. 108]

Permanent Authority Decisions

Decided: June 22, 1979.

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the *Federal Register*. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected*. A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the applications, or, (b) where the service is not limited to the

facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find,

preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed on or before August 24, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.
H. G. Homme, Jr.,
Secretary.

MC 30618 (Sub-16F), filed April 2, 1979. Applicant: HENRY V. RABOUIN, INC., Richmond Road, P.O. Box 204, Pittsfield, MA 01201. Representative:

Sherwood Guernsey, II, 57 Wendell Avenue, Pittsfield, MA 01201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *taic and talc tailings*, from points in Windsor County, VT, to points in MD, DE, and PA, (except those points in PA east and south of a line beginning at the NY-PA State line and extending over U.S. Hwy 15 to junction Interstate Hwy 76, then over Interstate Hwy 76 to the PA-NJ State line). (Hearing site: Albany, NY, or Boston, MA.)

MC 103498 (Sub-58F), filed April 2, 1979. Applicant: B & L TRUCK LINES, INC., 339 East 34th Street, Lubbock, TX 79404. Representative: Richard Hubbert, P.O. Box 10238, Lubbock, TX 79408. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper, paper products, and waste paper*, between points in MO, KS, IL, AR, LA, TX, MS, TN, IA, CO, OK, NE, and MN. (Hearing site: Lubbock or Dallas, TX.)

MC 112989 (Sub-93F), filed April 2, 1979. Applicant: WEST COAST TRUCK LINES, INC., 85647 Hwy 99 South, Eugene, OR 97405. Representative: John W. White (same address as applicant). To operate as a *common carrier*, by motor vehicles, in interstate or foreign commerce, over irregular routes, transporting (1) *knocked-down buildings*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of knocked-down buildings, between Carson City, NV, on the one hand, and, on the other, points in AZ, CA, ID, MT, OR, UT, and WA. (Hearing site: Carson City, NV.)

MC 112989 (Sub-94F), filed April 2, 1979. Applicant: WEST COAST TRUCK LINES, INC., 85647 Hwy 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *refractory products*, from Pittsburg, CA, to points in OR, WA, ID, UT, and NV. (Hearing site: Los Angeles, CA.)

MC 114569 (Sub-297F), filed April 2, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum and aluminum articles*, from Hannibal, OH, to those points in the United States in and west of MN, IA, MO, AR, and LA

(except AK and HI). (Hearing site: Pittsburgh, PA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 114569 (Sub-298F), filed April 2, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *printing paper*, from Johnsonburg, PA, to those points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI). (Hearing site: Harrisburg, PA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 119619 (Sub-133F), filed April 2, 1979. Applicant: DISTRIBUTORS SERVICE CO., a corporation, 2000 W. 43rd Street, Chicago, IL 60609. Representative: Arthur J. Piken, Suite 1515, One Lefrak City Plaza, Flushing, NY 11368. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce over irregular routes, transporting *foodstuffs* (except frozen foodstuffs and commodities in bulk), (1) from the facilities of Ragu Foods, Inc., at Rochester, NY, to Owensboro and Henderson, KY, and (2) from Owensboro and Henderson, KY, to points in IN, IL, IA, KS, MN, MO, NE, and WI. (Hearing site: New York, NY, or Washington, DC.)

MC 119789 (Sub-566F), filed April 2, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) (a) *plastic siding* and (b) *fittings and accessories* used in the installation of plastic siding, from Weatherford, TX, to points in the United States (except AK, HI, and TX), and (2) *materials and supplies* used in the manufacture and distribution of plastic siding, in the reverse direction. (Hearing site: Dallas or Fort Worth, TX.)

MC 119789 (Sub-567F), filed April 2, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from North East, PA, to points in CA. (Hearing site: Buffalo, NY.)

MC 119789 (Sub-570F), filed April 2, 1979. Applicant: CARVAN

REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic articles* from Danville, IL, Mount Vernon, IN, and Rolla, MO, to points in AL, AZ, AR, CA, FL, GA, LA, MS, NM, OK, and TX, (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of plastic articles (except commodities in bulk), in the reverse direction. (Hearing site: Dallas or Fort Worth, TX.)

MC 119789 (Sub-571F), filed April 2, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., P.O. Box (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *electrical appliances, electrical equipment, and parts* for electrical equipment and electrical appliances, from Ripon, WI, to points in AL, AR, AZ, CA, CO, FL, GA, LA, MS, NV, NM, OK, OR, TX, UT, and WA; (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), from the destinations indicated in (1) above to the origin named in (1) above, and (3) *electrical appliances, electrical equipment, and parts* for electrical appliances and electrical equipment, from Searcy, AR, to Ripon, WI.

MC 123329 (Sub-47F), filed April 2, 1979. Applicant: H. M. TRIMBLE & SONS LTD., P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Representative: Ray F. Koby, 314 Montana Building, Great Falls, MT 59401. To operate as a *common carrier*, by motor vehicle, in foreign commerce, only, over irregular routes, transporting *molasses*, in bulk, in tank vehicles, from the facilities of Meenderinck Molasses, in Whatcom County, WA, to the port of entry on the international boundary line between the United States and Canada at or near Sumas, WA. (Hearing site: Great Falls, MT.)

Note.—Dual operations may be involved.

MC 123329 (Sub-48F), filed April 2, 1979. Applicant: H. M. TRIMBLE AND SONS LTD., P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Representative: Ray F. Koby, 314 Montana Building, Great Falls, MT 59401. To operate as a *common carrier*, by motor vehicle, in foreign commerce, only, over irregular routes, transporting

grape juice, in bulk, in tank vehicles, from Paw Paw, MI, to the port of entry on the international boundary line between the United States and Canada at or near Portal, ND. (Hearing site: Great Falls, MT.)

Note.—Dual operations may be involved.

MC 133689 (Sub-265F), filed April 2, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street, SW, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bedding products, and materials and supplies* used in the manufacture and distribution of bedding products (except commodities in bulk), from Cloquet, MN, to the facilities of Lifetime Foam Products, Inc., at (a) Batavia, IL, Philadelphia, PA, Conyers, GA, and Kansas City, MO, restricted to the transportation of traffic destined to the named facilities. (Hearing site: St. Paul, MN.)

MC 134369 (Sub-12F), filed March 5, 1979. Applicant: CARLSON TRANSPORT, INC., P.O. Box R, Byron, IL 61010. Representative: Allan C. Zuckerman, 39 S. LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sand and sand with additives*, in bulk, from the facilities of Acme Resin Company, division of CPC International, Inc., at Chicago, IL, to those points in the United States on and east of U.S. Hwy 85. (Hearing site: Chicago, IL.)

MC 134388 (Sub-20F), filed April 2, 1979. Applicant: HOME RUN, INC., Three East Washington Street, Jamestown, OH 45335. Representative: Boyd B. Ferris, 50 West Broad Street, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *buildings*, and (2) *component parts, materials, supplies, and fixtures* used in the erection or assembly of buildings (except commodities in bulk), between points in FL, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract with Ryan Homes, Inc., of Pittsburgh, PA. (Hearing site: Columbus, OH or Pittsburgh, PA.)

MC 136268 (Sub-22F), filed April 2, 1979. Applicant: WHITEHEAD SPECIALTIES, INC., 1017 Third Avenue, Monroe, WI 53566. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. To operate

as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Chicago, IL, to points in WI. (Hearing site: Madison, WI, or Chicago, IL.)

MC 136818 (Sub-68F), filed April 2, 1979. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum products*, in packages, from Maryland Heights, MO, to points in CO, KS, MT, NM, TX, UT, and WY. (Hearing site: Phoenix, AZ.)

Note.—Dual operations may be involved.

MC 136899 (Sub-37F), filed April 2, 1979. Applicant: HIGGINS TRANSPORTATION LTD., P.O. Box 192, Richland Center, WI 53581. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper, paper products, cellulose products, and textile softeners*, from the facilities of Procter & Gamble Paper Products Co., at (a) Green Bay, Marinette, and Menasha, WI, and (b) Cheboygan, MI, to points in IL, IN, IA, KS, MN, MO, NE, ND, OH, and SD. (Hearing site: Madison, WI, or Cincinnati, OH.)

MC 138359 (Sub-12F), filed April 2, 1979. Applicant: LENNEMAN TRANSPORT, INC., 10 North Michigan Street, Hutchinson, MN 55350. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages* (except in bulk), from Milwaukee, WI, to Bismarck, ND, under continuing contract(s) with Ed Phillips and Sons Company of North Dakota, of Bismarck, ND. (Hearing site: St. Paul, MN.)

MC 140389 (Sub-51F), filed April 2, 1979. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Louisville Freezer

Center, at Louisville, KY, to Memphis, TN, Smithfield, VA, points in SC, and those points in NC west of U.S. Hwy 1; and (2) *foodstuffs* (except meats, meat products and meat byproducts, and articles distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 768, and commodities in bulk), in vehicles equipped with mechanical refrigeration, from the origin facilities named in (1) above, to points in AL, FL, GA, TN (except Memphis and its commercial zone), VA (except Smithfield and its commercial zone), and those points in NC east of U.S. Hwy 1. (Hearing site: Louisville, KY, or Atlanta, GA.)

Note.—The person or persons who appear to be engaged in common control with another carrier must either file an application under 49 U.S.C. § 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary.

MC 142508 (Sub-71F), filed April 2, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum products* (except in bulk), from Wood River, IL, Kansas City, MO, and Toledo, OH, to Denver, CO, Des Moines, IA, Kansas City, MO, and Grand Island, Omaha, and Scottsbluff, NE. (Hearing site: Omaha or Lincoln, NE.)

MC 145918 (Sub-2F), filed April 2, 1979. Applicant: 1st O & D, INC., 2035 South Halsted, Chicago, IL 60608. Representative: James Robert Evans, 145 W. Wisconsin Avenue, Neenah, WI 54956. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by retail automotive stores, from Chicago, IL, to points in AL, AR, AZ, CO, CT, DE, FA, GA, ID, IN, IA, KS, KY, LA, MA, ME, MD, MI, MN, MS, MO, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WV, WI, and DC, under a continuing contract (s) with Sovereign Oil Company, of Chicago, IL. (Hearing site: Chicago, IL.)

MC 146079 (Sub-3F), filed April 2, 1979. Applicant: JACKSON TRANSPORT, a corporation, Rural Route 1 Box 410A, Clayton, IN 46118. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To

operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *materials, equipment, and supplies* used in the manufacture of motor vehicles, and (2) *containers* used in the distribution of the commodities in (1) above, between Indianapolis, IN, on the one hand, and, on the other, Laredo and Dallas, TX. (Hearing site: Indianapolis, IN.)

MC 146128 (Sub-1F), filed April 2, 1979. Applicant: MERRITT FOODS COMPANY, a corporation, d.b.a. MERRITT REFRIGERATED SERVICE, 2840 Guinotte Street, Kansas City, MO 64120. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, in vehicles equipped with mechanical refrigeration, from Chicago, IL, to points in IA, KS, and MO. The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Kansas City, MO.)

Note.—Dual operations may be involved.

MC 146139 (Sub-2F), filed April 2, 1979. Applicant: BAY SANITATION, INC., 2414 M-22, P.O. Box 594, Leland, MI 49654. Representative: Jack D. Larson (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *carpet and building materials* (except commodities in bulk, in tank vehicles), between Traverse City, MI, on the one hand, and, on the other, points in FL, GA, AL, SC, and NC, under a continuing contract(s) with Lynch Acoustical and Specialties, Inc., of Traverse City, MI. (Hearing site: Lansing, MI.)

MC 146329 (Sub-3F), filed April 2, 1979. Applicant: W-H TRANSPORTATION, INC., P.O. Box 1222, Wausau, WI 54401. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by (1) manufacturers and dealers of agriculture equipment, (except commodities in bulk), and (2) manufacturers and dealers of industrial equipment (except commodities in bulk), from Racine, WI, and Burlington and Bettendorf, IA, to points in KS, MT, and

NE. (Hearing site: Racine or Milwaukee, WI.)

[FR Doc. 79-22900 Filed 7-24-79; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. 24]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, and Intrastate Applications

Dated: July 11, 1979.

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission on or before August 24, 1979, with a copy being furnished the applicant. Protests to these applications will be *rejected*.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can

be found at 43 FR 50908, as modified at 43 FR 60277.

Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 124879 (Sub-54 M1F), filed April 6, 1979. Applicant: C. R. ENGLAND & SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Daniel E. England (same address as applicant). Petitioner holds motor *common carrier* certificate in MC 124679 (Sub-54), issued on April 13, 1976, authorizing the transportation, in interstate or foreign commerce, over irregular routes, of *foodstuffs*, in vehicles equipped with mechanical refrigeration, from Salt Lake City, UT, to points in CT, MD, MA, NJ, NY, OH, PA, RI, VA, WV, IL, IN, MI, and DC, restricted to the transportation of traffic originating at the named origin. By the instant petition, petitioner seeks to modify the authority as follows: Delete the equipment restriction. (Hearing site: Salt Lake City, UT.)

Replications of Grants of Operating Rights Authority Prior to Certification Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before August 24, 1979. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 115828 (Sub-318F) (Republication), filed June 1, 1978, published in the Federal Register issue of June 6, 1978, and republished this issue. Applicant: W. J. DIGBY, INC., 1960 31st Street,

Commerce City, CO 80022. Applicant's representative: Howard Gore (same address as applicant). A Decision of the Commission, Review Board No. 2, decided June 18, 1979, and served July 5, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle over irregular routes, transporting *foodstuffs* (except in bulk, in tank vehicles), from the facilities of Central Packing Co., at or near Boulder and Denver, CO, to points in the United States (except Alaska, Colorado, and Hawaii), restricted to the transportation of traffic originating at the named origin facilities, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description.

Motor Carrier Operating Rights Applications Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission on or before August 24, 1979, with a copy being furnished the applicant. Protests to these applications will be *rejected*.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by

applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 101474 (Sub-25F), filed March 14, 1979. Applicant: RED TOP TRUCKING COMPANY, INC., 7020 Cline Ave., Hammond, IN 46323. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes transporting *material* for recycling, and *scrap metal*, between points in AL, AR, CO, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NJ, NY, NC, ND, OH, OK, PA, SC, SD, TN, TX, VA, WV, and WI. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 144789 (Sub-1F), filed November 28, 1979, previously published in Federal Register January 11, 1979 and March 1, 1979. Applicant: SUZANNE V. KING, d.b.a. ERNIE'S MOBILE HOME TRANSPORT, 5779 Feather River Boulevard, Marysville, CA 95901. Representative: Marvin Handler, 100 Pine Street, Suite 2550, San Francisco, CA 94111. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (a) *trailers* (mobile homes) in initial movements only, designed to be drawn by passenger automobiles (except travel trailers and camping trailers), and (b) *Buildings*, complete or in sections mounted on wheeled undercarriages, restricted to shipments originating at points of manufacture or assembly, between points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY. (Hearing site: San Francisco or Los Angeles, CA.)

Note.—This republication clarifies the commodity description.

Finance Applications—Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections

11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission on or before August 24, 1979. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conversation Act of 1975.

Motor Carrier Board Transfer Proceedings

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission on or before August 24, 1979. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopsis form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-FC-78040, filed February 28, 1979. Transferee: DON HAUSAUER TRUCKING, INC., Route 1, Carufel's First Addition, Bismarck, ND 58501. Transferor: Don Hausauer, d.b.a. DON HAUSAUER TRUCKING, 56 Carlin St., Fort Lincoln, ND 58501. Representative: Charles E. Johnson, P.O. Box 1982, Bismarck, ND 58501. Authority sought for the purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-144351, issued October 20, 1978, as follows: *Heavy farm machinery*, except parts thereof, from South St. Paul and Minneapolis, MN, to Streeter, ND, and points in Emmons, Logan and McIntosh, ND, and for acquisition by Don Hausauer, Ervin E. Mund, and Andrew Frison, of control of the rights through the purchase. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78140, filed April 23, 1979. Transferee: SPORT AND WATER SAFETY INSTITUTE, LTD., 3365 Main Street, College Park, Georgia 30337. Transferor: EASY TRAVEL TOURS, INC., 4147 Norman Road, Stone Mountain, Georgia 30083. Representative: Bruce E. Mitchell, Esq., Serby & Mitchell, P.C., 3390 Peachtree Road, Atlanta, Georgia 30326. Authority sought for the purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-142206 issued March 27, 1978 authorizing the transportation of passengers and their baggage, in the same vehicle with passengers, in round trip charter operations beginning and ending at Clarkston, Decatur, East Point, Marietta, Riverdale, Roswell, Stone Mountain, and Tucker, GA, and extending to points in Alabama, Florida, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee. Transferee holds no authority from the Commission. Application for temporary lease has not been filed.

MC-FC-78181, filed June 11, 1979. Transferee: R & TW SERVICE CO., a corporation, 6504 Airport Hwy., Holland, OH 43528. Transferor: ALFONS F. SOBB, d.b.a. AL SOBB'S AUTO SALES AND SERVICE, 2817 Lagrange St., Toledo, OH 43608. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. Authority sought for the purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-104181, issued June 1, 1943, as follows: *Wrecked or disabled automobiles, buses, trucks, tractors, trailers, semi-trailers, and*

house trailers, in tow-away service, over irregular routes, between points in Lucas County, OH, on the one hand, and, on the other, points in IN, the lower Peninsula of MI, and those in PA on and West of U.S. Hwy 219. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78189, filed June 14, 1979. Transferee: THE CONNECTICUT COMPANY, d.b.a. AIRFIELD SERVICE, 132 Allyn St., Hartford, CT 06103. Transferor: The Airfield Service Company, 193 Turnpike Road, Windsor Locks, CT 06098. Representatives: Thomas W. Murrett, 342 North Main St., West Hartford, CT 06117; Harvey S. Levinson, 101 Pearl St., Hartford, CT 06103. Authority sought for the purchase by transferee of transferor's operating rights in Certificate No. MC-115581 Sub 3, issued August 24, 1970, as follows: *Passengers and their baggage*, and express mail and newspapers in the same vehicle with passengers, and baggage of passengers in a separate vehicle, between Hartford, CT, and Granby, CT, serving all intermediate points, over a specified regular route; and passengers and their baggage, and express and newspapers in the same vehicle with passengers, and baggage of passengers in separate vehicles, between Westfield, MA, and Hoskins, CT, serving all intermediate points, over a specified regular route. The certificate authorizes incidental charter operations in interstate or foreign commerce. Transferee holds no authority from the Commission. An application for temporary authority has been filed.

MC-FC-78190, filed June 11, 1979. Transferee: GILBERT A. DEWING, d.b.a. BENJAMIN & DEWING LINE SERVICE, Enosburg Falls, VT 05450. Transferor: Ephrem D. Bouchard, Mackey St., Milton, VT 05468. Representative: Alan D. Overton, 3 Main St., Essex Junction, VT 05452. Authority sought for the purchase by transferee of the operating rights of transferor, as set forth in Permit MC 118631 (Sub-4), issued February 13, 1970, as follows: *Dry fertilizers and dry fertilizer ingredients*, from ports of entry on the United States-Canada Boundary line, in Franklin and Orleans Counties, VT, and Franklin and Clinton Counties, NY, to points in Franklin, Orleans, Caledonia, Grand Isle, Windsor, Crittenden, Lamoille, Washington, Addison and Orange, VT, points in Coos, Grafton, Carroll, and Sullivan Counties, NH, and those in Essex, Clinton, Franklin, St. Lawrence, Jefferson, and Lewis Counties, NY,

under continuing contract with Brockville Chemical Industries, LTD. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78193, filed June 14, 1979. Transferee: ALGONQUIN ASSOCIATES, INC., d.b.a. TWELVE GATE HORSE TRANSPORTATION, 63A Community Place, Long Branch, NJ 07740. Transferor: TWELVE GATE FARM, INC., 150 Phalanx Rd., Lincroft, NJ 07738. Representative: Harold L. Reckson, 33-28 Halsey Rd., Fair Lawn, NJ 07410. Authority sought for the purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-113297, issued December 12, 1972, as follows: *Livestock*, other than ordinary livestock, and in connection therewith, *personal effects of attendants and supplies and equipment*, including mascots used in the care and/or exhibition of such animals, between points in NJ, on the one hand, and, on the other, points in MA, ME, CT, RI, NC, SC, WV, VA, NJ, NY, MD, PA, DE, and DC. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78196, filed June 15, 1979. Transferee: FRED SEBA, Route 2, Bosworth, MO 64623. Transferor: Harry E. Kimber, P.O. Box 173, Utica, MO 64686. Representative: Warren H. Sapp, P.O. Box 18047, Kansas City, MO 64112. Authority sought for the purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC-141907, issued April 3, 1978, as follows: *dry feed ingredients*, from points in AR, IL, IA, KS, NE, and OK, to the facilities of Milbank Mills, Inc., at Chillicothe, MO, under continuing contract(s) with Milbank Mills, Inc., of Chillicothe, MO. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC 78198 filed June 12, 1979. Transferee: SPRINGFIELD SCHOOL BUS CO., doing business as TRAVEL TIME, 99 Arnold Street, Springfield, MA 01119. Transferor: PETER PAN BUS LINES, INC., 1778 Main Street, Springfield, MA 01103. Representative: Charles A. Webb, Suite 800 South, 1800 M Street, N.W. Washington, DC 20036. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate MC 61016, issued March 18, 1976, as follows: *passengers and their*

baggage and express and newspapers in the same vehicle with passengers, between Springfield, MA and Stafford Springs, CT, serving the intermediate points of East Longmeadow, Hampden, and Monson, MA, and the off-route point of Stafford, CT over CT Hwy 19: from Springfield over unnumbered hwy via East Longmeadow and Hampden, MA, to Monson, MA, then over MA Hwy 32 to MA-CT State line, then over CT Hwy 32 to Stafford Springs, and return over the same route. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 USC 11349.

MC-FC-78199, filed June 11, 1979. Applicant: SURE-WAY TRANSPORTATION, Inc., 4000 I-70 Drive N.W., Columbia, MO 65201. Representative: Tom B. Kretsinger, Kretsinger & Kretsinger, 20 East Franklin, Liberty, MO 64068. Authority sought for purchase by Sure-way Transportation, Inc., of a portion of the operating rights of Oliver Motor Service, Inc., P.O. Box 223, East Highway 54, Mexico, MO 65265. Operating rights sought to be transferred are contained in MC 124511 (sub-39), issued October 24, 1969, from mines near Unionville and Columbia, MO, to points in IA, IL, NE and KS. Transferee has filed an application for temporary authority under Section 210a(b). Transferee holds no authority from the commission.

MC-FC-78200, filed June 11, 1979. Transferee: MCINTIRE TRANSPORTATION, INC., 450 Main St., Stoneham, MA 02180. Transferor: MCINTIRE BUS LINES, Inc., 450 Main St., Stoneham, MA 02180. Representative: Harvey Rowe, 26 Lynde St., Salem, MA 01970. Transferees Representative: Mary E. Kelley, 22 Stearns Ave., Medford, MA 02155. Transferors Representative. Authority sought for the purchase by transferee of the operating rights of transferor, as set forth in Certificate MC-31558, issued June 10, 1952, as follows: *Passengers and their baggage*, in special or charter service, from points in Middlesex County, MA, to point in ME, MA, NH, and RI, and return, restricted to traffic originating at the points indicated. Transferee presently holds no authority from this Commission. Application for temporary authority has not been filed under 49 U.S.C. 11349.

MC-FC-78203, filed June 22, 1979. Transferee: JOSEPH CAVALLERI, d.b.a. F. A. TAYLOR TRUCKING CO., 273 Ash Street, Bridgeport, CT 06605. Transferor: DOROTHY A. MALLOY, d.b.a. F. A. TAYLOR TRUCKING CO., 273 Ash

Street, Bridgeport, CT 06605. Representative Thomas W. Murrett, 342 North Main Street, West Hartford, CT 06117. Authority sought for the purchase by transferee of the operating rights of transferor set forth in Certificate of Registration MC 120149 Sub issued August 28, 1968 and corresponding Connecticut Division of Public Utilities Control Certificate C-193, as follows: *General commodities*, other than household goods and office furniture and equipment, and other than commodities which necessitate the use of dump trucks, tank trucks or special equipment, for hire as a motor common carrier from his headquarters in Bridgeport and upon call received at his headquarters, between any points within this state, over such routes and highways within this state as may be necessary in the performance of his common carrier service, subject to such regulations and conditions as the Commission may from time to time prescribe with respect to the conduct of his business. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78206, filed June 22, 1979. Transferee: DONALD W. SHEA, d.b.a. SHEA'S TRANSFER, 569 State St., Meadville, PA 16335. Transferor: Donald J. Shea and Stanley J. Shea, a Partnership, d.b.a. SHEA'S TRANSFER, Same address as Transferee. Representative: James L. McNamara, 1400 Baldwin Bldg., Erie, PA 16501. Authority sought for purchase by transferee of the transferor's operating rights in Certificate MC 5220 issued July 10 1969, authorizing household goods, between Meadville, PA, on the one hand, and, on the other, points in OH, NY and WV. Transferee holds no authority from the Commission. A temporary authority application has not been filed.

Motor Carrier Alternate Route Deviations—Notice

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before August 24, 1979.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Property

MC 29555 (Deviation No. 33), BRIGGS TRANSPORTATION CO., North 400, Griggs-Midway Bldg., St. Paul, MN 55104, filed June 22, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: from Kansas City, MO, over Interstate Hwy. 70 to Denver, CO, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: from Kansas City, MO, over U.S. Hwy. 71 to junction Iowa Hwy. 2, then over Iowa Hwy. 2 to junction U.S. Hwy. 275, then over U.S. Hwy. 275 to Omaha, NE, then over U.S. Hwy. 275 to junction U.S. Hwy. 30, then over U.S. Hwy. 30 to Sidney, NE, then over Nebraska Hwy. 19 to junction Colorado Hwy. 113, then over Colorado Hwy. 113 to junction Colorado Hwy. 138, then over Colorado Hwy. 138 to junction U.S. Hwy. 6, then over U.S. Hwy. 6 to Denver, CO, and return over the same route.

MC 29910 (Deviation No. 42), ARKANSAS-BEST FREIGHT SYSTEM, INC., P.O. Box 48, Fort Smith, AR 72902, filed June 5, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: from Cleveland, OH, over Interstate Hwy 480 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction U.S. Hwy 46, then over U.S. Hwy 46 to junction NJ Hwy 31, then over NJ Hwy 31 to junction Interstate Hwy 78, then over Interstate Hwy 78 to junction Interstate Hwy 287, then over Interstate Hwy 287 to junction U.S. Hwy 1, then over U.S. Hwy 1 to Edison, NJ, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: from Cleveland, OH, over U.S. Hwy 422 to junction OH Hwy 8, then over OH Hwy 8, via Akron to Canton, OH, then over U.S. Hwy 30 to junction PA turnpike, then over PA turnpike to junction U.S. Hwy 11, then over U.S. Hwy 11 to Harrisburg, PA, then over U.S. Hwy 22, and unnumbered Hwys to junction NJ Hwy 28, then over NJ Hwy 28 to junction U.S. Hwy 1, then over U.S. Hwy 1 to Edison, NJ, and return over the same route.

RESTRICTIONS: service is subject to restrictions as follows: (1) that carrier, in operating over the PA turnpike shall handle only traffic which is moving between points in MA, RI, CT, and the metropolitan area of New York, NY, including Jersey City, Newark, and Elizabeth, NJ, on the one hand, and, on the other, points west of the OH-IN State line and points in OH north of U.S. Hwy 30 and Lima, OH, on U.S. Hwy 30; or that which is moving between points south of Elizabeth, NJ, on the one hand, and, on the other, points west of the IL-IN State line, including Gary, IN; (2) that authority applicable shall continue only so long as carrier shall, by reason of other authority granted, be entitled or authorized to operate over other routes between the terminals of the said above specified two routes.

MC 69833 (Deviation No. 33), ASSOCIATED TRUCK LINES INC., 200 Monroe Ave. NW., 6th Floor, Grand Rapids, MI 49503, filed July 6, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: from junction U.S. Hwy. 40 and Interstate Hwy. 64 at East St. Louis, IL, over Interstate Hwy. 64 to junction U.S. Hwy. 31 at Louisville, KY, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: from East St. Louis, IL, over U.S. Hwy. 40 to Indianapolis, IN, then over U.S. Hwy. 31 to Columbus, IN, then over alternate U.S. Hwy. 31 to Seymour, IN, then over U.S. Hwy. 50 to junction U.S. Hwy. 31, then over U.S. Hwy. 31 to Sellersburg, IN, then over U.S. Hwy. 31W to Louisville, KY, and return over the same route.

MC 80430 (Deviation No. 22), GATEWAY TRANSPORTATION CO., INC., 455 Park Plaza Dr., La Crosse, WI 54601, filed June 25, 1979, as amended. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: from Youngstown, OH, north over Ohio Hwy. 193, to junction Interstate Hwy. 80, then over Interstate Hwy. 80 to junction Interstate Hwy. 280, then over Interstate Hwy. 280 to Newark, NJ, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: from Youngstown, OH, over Ohio Hwy. 7 to

North Lima, OH, then over Ohio Hwy. 165 to the Ohio-Pennsylvania State line, then over Pennsylvania Hwy. 51 to Rochester, PA, then over Pennsylvania Hwy. 65 to Pittsburgh, PA, then over U.S. Hwy. 22 to Harrisburg, PA, then over U.S. Hwy. 422 to Philadelphia, PA, then across the Delaware River to Camden, NJ, then over U.S. Hwy. 130 to junction U.S. Hwy. 206, then over U.S. Hwy. 206 to Trenton, NJ, then over U.S. Hwy. 1 to New York, NY, and return over the same route.

Motor Carrier Intrastate Application(s)—Notice

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

New York Docket No. T-1587, filed June 15, 1979. Applicant: VAN'S AUTO & AIR EXPRESS, INC., C.P.O. Box 609, Kingston, NY 12401. Representative: Bruce J. Robbins, 118-21 Queens Blvd., Forest Hills, NY 11375. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General Commodities*, between all points in the Counties of Albany, Columbia, Delaware, Dutchess, Greene, Orange, Putnam, Rockland, Sullivan, Ulster and Westchester, and the Cities of Albany, New York, Oneonta and Troy. Intrastate, interstate and foreign commerce authority sought. HEARING: Date, Time and place not yet fixed. Requests for procedural information should be addressed to New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

Irregular-Route Motor Common Carriers of Property—Elimination of Gateway Letter Notices

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before August 6, 1979. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 107002 (Sub-E237) (correction), filed May 12, 1974, published in the Federal Register of August 26, 1975. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Barth (same as above). *Anthol, cymene, esterified tall oil, liquid soap, nylene, paracymene, paramethane, hydro peroxide, pinene, pine oil, pine pitch, pine tar, rasin, rasin liquor, rasin sizing, rasin solution, synthetic gums and resins, tall oil, tall oil fatty acid, tall oil pitch, turpentine, and zinc resins*, in bulk, in tank vehicles, from the facilities of Tenneco Chemicals, Inc., (now Reichhold Chemicals, Inc.) at Pensacola, FL, to points in NJ, NY, and PA. (Gateway eliminated: Bay Minette, AL.) Purpose of republication—clarify such number.

MC 107012 (Sub-674E), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Uncrated*.

1. From points in CA, to points in AL, CT, DE, DC, FL, GA, KY, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, TN, VT, VA and WV.

2. From points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou and Yuba Counties, CA, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White, Williamson, Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iriquois, Jasper, Kankakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermilion and Wabash Counties, IL; Crawford, Clay, Daviess, Dubois, Gibson, Greene, Knox, Lawrence, Martin, Monroe, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spender, Sullivan, Vanderburgh, Vermillion, Vigo, Warrick, Boone, Clinton, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, Shelby and Tipton Counties, IN; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA; points in MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; Adams, Brown, Butler, Champaign, Clark, Clermont, Clinton, Darke, Greene, Hamilton, Highland, Miami, Montgomery, Preble, Shelby, Warren, Ashland, Ashtabula, Carroll, Columbiana, Cuyahoga, Erie, Geauga, Harrison, Holmes, Huron, Jefferson, Lake, Lorain, Mahoning, Medina, Portage, Stark, Summit, Trumbull, Tuscarawas, Wayne, Coshocton, Crawford, Delaware, Fairfield, Fayette,

Franklin, Knox, Licking, Logan, Madison, Marion, Morrow, Pickaway, Richland, Union, Athens, Belmont, Gallia, Guernsey, Hocking, Jackson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Vinton and Washington Counties, OH.

3. From points in Inyo, Fresno, Kings and Tulare Counties, CA, to points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White, Williamson, Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iriquois, Jasper, Kankakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermilion and Wabash Counties, IL; Crawford, Clay, Daviess, Dubois, Gibson, Greene, Knox, Lawrence, Martin, Monroe, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spender, Sullivan, Vanderburgh, Vermillion, Vigo, Warrick, Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Boone, Clinton, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, Shelby and Tipton Counties, IN; Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw and Wayne Counties, MI; points in MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve,

Scott, Shannon, Stoddard and Wayne Counties, MO; points in OH.

4. From points in Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, CA, to points in AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White, Williamson, Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iriquois, Jasper, Kankakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermillion and Wabash Counties, IL; Crawford, Clay, Daviess, Dubois, Gibson; Greene, Knox, Lawrence, Martin, Monroe, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spender, Sullivan, Vanderburgh, Vermillion, Vigo, Warrick, Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Boone, Clinton, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, Shelby and Tipton Counties, IN; points in LA; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren and Washington Counties, MO; points in OH; Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX.

5. From points in Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara and Ventura Counties, CA, to points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in IL; points in IN; points in MI; points in MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron,

Prairie, Pulaski, Saline and White Counties, AR, points in IL; points in IN; Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Trause, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Alger, Delta, Dickinson, Marquette, Menominee, Schoolcraft, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren, Chippewa, Luce and Mackinac Counties, MI; points in MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, St. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren and Washington Counties, MO; points in OH; Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Buffalo, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI.

6. From points in San Bernardino County, CA, to points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in IL; points in IN; points in MI; points in MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron,

Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; points in OH; Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI.

7. From points in Imperial, Riverside and San Diego Counties, CA, to points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties AR; points in IL; points in IN; Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA; points in MI; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Attala, Clairborne, Clarke, Copiah, Hinds, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Simpson, Smith, Winston, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster and Yalobusha Counties, MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren and Washington Counties, MO; points in OH; Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee,

Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Buffalo, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI.

8. From points in Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White, Williamson, Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iriquois, Jasper, Kankakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermillion and Wabash Counties, IL; points in IN; Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint

Joseph and Van Buren Counties, MI; points in MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren and Washington Counties, MO; points in OH. (Gateway eliminated: Greene County, AR.)

MC 119777 (Sub-E249), filed June 19, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, KY 42431. Representative: James P. Barnett (same as above). *Iron and steel articles*, as described in Appendix V to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 (except commodities which because of size or weight require the use of special equipment). From the plant site of Tennessee Forging Steel Corporation near Harriman, TN to points in PA and New York, NY. **RESTRICTION:** Restricted to the transportation of shipments originating at the plant site of Tennessee Forging Steel Corporation near Harriman, TN. (Gateway—KY.)

MC 119777 (Sub-E248), filed June 19, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, KY 42431. Representative: James P. Barnett (same as above). *Iron and steel articles*, as described in Appendix V to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209. From points in Boyd County, KY to points in AR, IA, MO (except St. Louis and points in the St. Louis commercial zone as defined by the Commission), and OK. **RESTRICTION:** The service authorized herein is restricted to the transportation of commodities which do not require the use of special equipment. (Gateway—Cabell County, WV.)

MC 107012 (Sub-E675), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Uncrated:*

1. From points in ID, to points in AL, FL, GA, KY, LA, MS, NC, SC and TN.
2. From points in Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley and Washington Counties, ID, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita,

Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in CT; points in DE; points in DC; Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White and Williamson Counties, IL; Crawford, Clay, Daviess, Dubois, Gibson, Greene, Knox, Lawrence, Martin, Monroe, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spender, Sullivan, Vanderburgh, Vermillion, Vigo, Warrick, Boone, Clinton, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, Shelby and Tipton Counties, IN; points in ME; points in MD; points in MA; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; points in NH; points in NJ; Broome, Cayuga, Chemung, Chenango, Courtland, Delaware, Madison, Onondaga, Ontario, Otsego, Schoharie, Schuyler, Seneca, Tioga, Tompkins, Wayne, Yates, Albany, Bronx, Columbia, Dutchess, Greene, Kings, Nassau, New York, Orange, Putnam, Queens, Rensselaer, Richmond, Rockland, Sullivan, Ulster, Westchester, Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren, Washington, and Suffolk Counties, NY; Adams, Brown, Butler, Champaign, Clark, Clermont, Clinton, Darke, Greene, Hamilton, Highland, Miami, Montgomery, Preble, Shelby, Warren, Coshocton, Crawford, Delaware, Fairfield, Fayette, Franklin, Knox, Licking, Logan, Madison, Marion, Morrow, Pickaway, Richland, Union, Athens, Belmont, Gallia, Guernsey, Hocking, Jackson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Vinton and Washington Counties, OH; Adams, Bedford, Blair, Cambria, Centre, Clearfield, Clinton, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lycoming, Mifflin, Montour, Northumberland, Perry, Snyder, Tioga, Union, Berks, Bucks, Chester, Delaware, Lancaster, Lebanon, Lehigh, Montgomery, Northampton, Philadelphia, Schuylkill, York, Bradford, Carbon, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne, Wyoming, Allegheny, Armstrong, Beaver, Butler,

Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties, PA; points in RI; Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX; points in VT; points in VA; points in WV.

3. From points in Benewah, Bonner, Boudry, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties, ID, to points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; New London County, CT; Kent and Sussex Counties DE; District of Columbia; Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White and Williamson Counties, IL; Crawford, Clay, Daviess, Dubois, Gibson, Greene, Knox, Lawrence, Martin, Monroe, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spender, Sullivan, Vanderburgh, Vermillion, Vigo and Warrick Counties, IN; Aroostook, Penobscot, Piscataquis, Somerset, Hancock, Knox, Waldo and Washington Counties, ME; Anne Arundel, Calvert, Caroline, Charles, Montgomery, Prince Georges, Queen Annes, St. Marys, Talbot, Dorchester, Somerset, Wicomico and Worcester Counties, MD; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; Athens, Belmont, Gallia, Guernsey, Hocking, Jackson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Vinton and Washington Counties, OH; Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk,

Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX; Arlington, Caroline, Culpeper, Essex, Fairfax, Fauquier, King, George, Orange, Prince William, Spotsylvania, Stafford and Westmoreland Counties and Independent Cities of: Alexandria, Fairfax, Falls Church and Fredericksburg; Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Campbell, Carroll, Charlotte, Craig, Dickenson, Floyd, Franklin, Giles, Grayson, Halifax, Henry, Highland, Lee, Montgomery, Nelson, Patrick, Pittsylvania, Pulaski, Roanoke, Rockbridge, Russell, Scott, Smyth, Tazewell, Washington, Wise and Wythe Counties and Independent Cities of: Bedford, Bristol, Buena Vista, Clifton Forge, Covington, Danville, Galax, Lexington, Lynchburg, Martinsville, Norton, Radford, Roanoke, Salem, So. Boston and Staunton; Accomack, Gloucester, Greensville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex and York Counties and Independent Cities of: Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach and Williamsburg; Accomack, Gloucester, Greensville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex and York Counties and Independent Cities of: Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach and Williamsburg; Albemarle, Amelia, Brunswick, Buckingham, Charles City, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Hanover, Henrico, James City, King and Queen, King William, Louisa, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince Edward and Prince George Counties and Independent Cities of: Charlottesville, Colonial Heights, Hopewell, Petersburg, Richmond and Waynesboro, VA; Greenbrier, McDowell, Mercer, Monroe, Pocahontas, Raleigh, Summers, Wyoming, Braxton, Clay, Fayette, Kanawha, Nicholas, Webster, Boone,

Cabell, Lincoln, Logan, Mingo, Putnam and Wayne Counties, WV

4. From points in Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in CT; points in DE; Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White and Williamson Counties, IL; Crawford, Clay, Daviess, Dubois, Gibson, Greene, Knox, Lawrence, Martin, Monroe, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spender, Sullivan, Vanderburgh, Vermillion, Vigo and Warrick Counties, IN; points in ME; points in MD; points in MA; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; points in NH; points in NJ; Albany, Bronx, Columbia, Dutchess, Greene, Kings, Nassau, New York, Orange, Putnam, Queens, Rensselaer, Richmond, Rockland, Sullivan, Ulster, Westchester, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren, Washington, and Suffolk Counties, NY; Adams, Brown, Butler, Champaign, Clark, Clermont, Clinton, Darke, Greene, Hamilton, Highland, Miami, Montgomery, Preble, Shelby, Warren, Athens, Belmont, Gallia, Guernsey, Hocking, Jackson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Vinton and Washington Counties, OH; Adams, Bedford, Blair, Cambria, Centre, Clearfield, Clinton, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lycoming, Mifflin, Montour, Northumberland, Perry, Snyder, Tioga, Union, Berks, Bucks, Chester, Delaware, Lancaster, Lebanon, Lehigh, Montgomery, Northampton, Philadelphia, Schuylkill, York, Bradford, Carbon, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne, Wyoming, Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties, PA; points in RI; Anderson, Angelina, Bowie, Camp,

Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX; points in VT; points in VA; points in WV. (Gateway Eliminated: Greene County, AR.)

MC 107012 (Sub-E876), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Uncrated*, (1.) From points in FL, to points in CA, CO, ID, IA, KS, MN, MO, MT, NV, ND, OR, SD, UT, WA, and WY. (2.) From points in Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, and Sarasota, FL, to points in AZ; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, JoDaviess, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft Counties, MI; points in NM; points in OK; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector,

Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Farmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX; points in WI. (3.) From points in Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns and Union Counties, FL, to points in AZ; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren and Woodford Counties, IL; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft Counties, MI; points in NM; points in OK; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell,

Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Farmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward and Winkler Counties, TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas, Washburn, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI. (4.) From points in Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie Counties, FL, to points in AZ; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White, Williamson, Cook, Dupage, Kane, Kendall, Lake, Will, Adams, Brown, Cass, Fulton, Hancock, Henderson,

McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, Jodavies, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL; Ballard, Caldwell, Calloway, Carlisle, Crittenden, Daviess, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Trigg, Union and Webster Counties, KY; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft Counties, MI; points in NM; points in OK; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; Andrews, Archer, Baylor, Blanco, Borden Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith Titus, Upshur, Van Zandt and Wood Counties, TX; points in WI. (5.) From points in Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter and Volusia Counties, FL, to points in AZ; Clark, Hempstead, Howard, Lafayette, Little River, Miller,

Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White, Williamson, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, Jodavies, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside, and Winnebago Counties, IL; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft Counties, MI; points in NM; points in OK; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward and Winkler Counties, TX; Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk,

Saint Croix, Sawyer, Taylor, Vilas, Washburn, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI. (6.) From points in Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL, to points in Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal, Santa Cruz and Yuma Counties, AZ; Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren and Washington Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Cook, DuPage, Kane, Kendall, Lake, Will, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, Jodavies, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Trause, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogema, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Alger, Delta, Dickinson, Marquette, Menominee, Schoolcraft, Chippewa, Luce and Mackinac Counties, MI; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Colfax, Harding, Mora, Taos and Union Counties, NM; Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Beaver, Cimarron, Texas, Canadian, Carter, Cleveland, Creek, Garfield, Grady, Grant, Hughes, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Logan, Love, McClain, Marshall, Murray, Noble, Okfuskee, Oklahoma, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Seminole and Stephens Counties, OK;

points in WI. (7.) From points in Columbia, Dixie, Franklin, Gadsden, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL, to points in AZ; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, Jodavies, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alger, Delta, Dickinson, Marquette, Menominee and Schoolcraft Counties, MI; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra, Socorro, Colfax, Harding, Mora, Taos and Union Counties, NM; points in OK; Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward and Winkler Counties, TX; points in WI. (Gateway Eliminated: Greene County, AR)

MC 119777 (Sub-E243), filed June 19, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, KY 42431. Representative: James P. Barnett (same as above). *Iron and steel articles*, as described in Appendix V to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 (except commodities which because of size or weight require the use of special equipment), (1) From Cleveland, Canton, Youngstown and Warren, OH

and points in Allegheny, Beaver, Mercer, Venango and Westmoreland Counties, PA to points in WV on and west of a line beginning at Huntington, WV and running along WV Hwy. 10 to junction with U.S. Hwy. 119, thence along U.S. Hwy. 119 to the WV-KY State Line, and (2) From points in Allegheny, Beaver, Mercer, Venango, Westmoreland and Washington Counties, PA to points in Hamilton and Butler Counties, OH. (Gateway—KY.)

MC 119777 (Sub-E244), filed June 19, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, KY 42431. Representative: James P. Barnett (same as above). *Iron and steel articles*, as described in Appendix V to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209, From points in Cook Du Page and Will Counties, IL and Lake La Porte and Porter Counties, IN to points in AR and MO, restricted to the transportation of traffic destined to the named destinations. (Gateway—Plantsite of Jones & Laughlin Steel Corporation in Putnam Co., IL.)

MC 119777 (Sub-E245), filed June 19, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, KY 42431. Representative: James P. Barnett (same as above). *Scrap iron*, (1) From IL to points in AL, FL and GA, (2) From IN to points in LA and MS, (3) From OH and PA to points in AR, LA, MS, OK and TX, (4) From WV to points in AR, OK and TX, and (5) From New York, NY to points in AR, KS, LA, MS, OK and TX. (Gateway—Calvert City, KY.)

MC 119777 (Sub-E247), filed June 19, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, KY 42431. Representative: James P. Barnett (same as above). (1) *Steel sheets and iron and steel plates, channels, angles, crop ends, mine roof washers and couplings*, and (2) *Coated pipe, alloy pipe and iron and steel casing, pipe and tubing*, except commodities which because of size or weight require the use of special equipment, From New York, NY and points in KY, OH, PA, WV and points in TN on and east of U.S. Hwy. 127 to points in AZ and NM. (Gateway—Sparta, IL.)

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-22000 Filed 7-24-79; 8:45 am]
BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 144

Wednesday, July 25, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., August 3, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE

INFORMATION: Jane Stuckey, 254-6314.

[S-1477-79 Filed 7-23-79; 11:33 am]

BILLING CODE 6361-01-M

2

July 20, 1979.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: July 27, 1979, 10 a.m.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(1) Docket Nos. RP77-56 and RP78-89 (Depreciation Rates), Northern Natural Gas Company.

(2) Docket No. RP77-106, Transcontinental Gas Pipeline Corporation.

(3) Docket No. RP71-41, United Gas Pipeline Company.

CONTACT PERSON FOR MORE

INFORMATION: Kenneth F. Plumb, Secretary, telephone (202) 275-4166.

[S-1475-79 Filed 7-23-79]

BILLING CODE 6460-01-M

3

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF

PREVIOUS ANNOUNCEMENT: Vol. 44, FR, page 43145, date of publication July 23, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., July 28, 1979.

PLACE: 1700 G. Street NW., Sixth Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE

INFORMATION: Franklin O. Bolling, (202-377-6677).

CHANGES IN THE MEETING:

The following item has been added to the agenda for the open meeting:

FIRA Implementation: Expanded Supervisory Authority, Federal Register Document.

Announcement is being made at the earliest practicable time.

No. 255, July 23, 1979.

[S-1480-79 Filed 7-23-79; 3:43 pm]

BILLING CODE 6720-01-M

4

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF

PREVIOUS ANNOUNCEMENT: July 20, 1979, 44 FR 42840.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: July 25, 1979, 10 a.m.

CHANGE IN THE MEETING: Addition of the following item to the closed session:

2. Docket No. 76-11: Agreement Nos. 150 DR-7 and 3103 DR-7

[S-1479-79 Filed 7-23-79; 3:43 pm]

BILLING CODE 6730-01-M

5

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS.

"FEDERAL REGISTER" CITATION OF

PREVIOUS ANNOUNCEMENT: 44 FR, 41633, July 17, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11 a.m., Friday, July 20, 1979.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting; was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

Federal Reserve Bank and Branch director appointments. (This matter was originally announced for a meeting on June 27, 1979.)

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: July 20, 1979.

Theodore E. Allison, Secretary of the Board.

[S-1476-79 Filed 7-23-79; 11:33 am]

BILLING CODE 6210-01-M

6

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:30 a.m., Monday, July 30, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposals under Regulation Q (Interest on Deposits) that would include:

(a) subjecting certain member bank repurchase agreements to interest rate ceilings (proposed earlier for public comment; docket no. R-0229);

(b) applying deposit rate ceilings to additional funds deposited in an existing time account;

(c) permitting member banks to apply the recently revised early withdrawal penalty to time deposits entered into before July 1, 1979;

(d) increasing rates of interest on certain categories of short-term time deposits;

(e) requiring penalty-free payment of time deposits prior to maturity upon the death of the depositor (proposed earlier for public comment; docket no. R-0228); and

(f) permitting penalty-free withdrawals of time deposits prior to maturity where the owner has been determined incompetent.

2. Any agenda items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for \$5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: July 23, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-1481-79 Filed 7-23-79; 3:43 pm]

BILLING CODE 6210-01-M

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NATIONAL MEDIATION BOARD.

TIME AND DATE: 2 p.m., Wednesday, August 1, 1979.

PLACE: Board Hearing Room, 8th Floor, 1425 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(1) Ratification of Board actions taken by notation voting during the month of July 1979.

(2) Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's Office following the meeting.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary, tel: (202) 523-5920.

Date of Notice: July 23, 1979.

[S-1478-79 Filed 7-23-79; 3:43 pm]

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Wednesday
July 25, 1979

Part II

Environmental Protection Agency

Endrin; Intent To Cancel Registrations
and Denial of Applications for
Registration of Pesticide Products
Containing Endrin, and Statement of
Reasons

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1278-7; OPP-30000/4C]

Endrin; Intent To Cancel Registrations and Denial of Applications for Registration of Pesticide Products Containing Endrin, and Statement of Reasons

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).
ACTION: Notice of Intent to Cancel Registrations and Denial of Applications for Registration of Pesticide Products Containing Endrin; Analysis of Comments (Position Document 4) Concerning Endrin.

SUMMARY: On July 27, 1976, the Environmental Protection Agency published in the *Federal Register* (41 FR 31316) a notice of rebuttable presumption against registration and continued registration (RPAR) of pesticide products containing endrin. Registrants and other interested persons were provided the opportunity to submit data and information to rebut the presumption. After reviewing all available information, the Agency determined that three risk presumptions announced in the endrin RPAR had not been rebutted—the risks of significant population reductions of non-target organisms, acute toxicity to wildlife, and teratogenicity—and that the risks posed by the uses of endrin were of sufficient concern to require the Agency to consider whether there were offsetting economic, social, or environmental benefits.

The Agency also reviewed information relating to the benefits of the uses of endrin and, after considering risks in relation to benefits, determined that some risks may be reduced by modifying the terms and conditions of registration for some uses and by cancelling or denying applications for registration for other uses. These preliminary decisions were announced in the Notice of Determination Concluding the Endrin RPAR, published on November 2, 1978 (43 FR 51132) (the "Preliminary Notice") and are detailed further in this Notice.

This Notice initiates actions to cancel unconditionally the registrations of the following uses of endrin: use on cotton in all areas east of Interstate Highway #35; use on small grains to control all pests other than they army cutworm, the pale western cutworm and grasshoppers; use on apple orchards in Eastern States to control meadow voles; use on sugarcane to control the

sugarcane borer; and use on ornamentals. This notice also notifies applicants for new registrations of these uses of endrin, as well as applicants for registration of endrin for use in unenclosed bird perch treatments, that these applications are denied.

This Notice also initiates actions to cancel the registrations of the following uses of endrin unless registrants modify the terms and conditions of registration as required by this Notice: use on cotton west of Interstate Highway #35; use on small grains to control army cutworms and pale western cutworms; use on apple orchards in Eastern States to control the pine vole and in Western States to control meadow voles; use on sugarcane to control the sugarcane beetle; use for conifer seed treatment; and use in enclosed bird perch treatments. This Notice also notifies applicants for new registrations of these uses of endrin, as well as applicants for registration of endrin for use as tree paint (in Texas); for use on alfalfa and clover seed crops (in Colorado), and for use on small grains to control grasshoppers (in Montana), that these applications are denied unless they are corrected to include the terms and conditions of registration specified in this Notice.

FOR FURTHER INFORMATION CONTACT: William S. Cox, Project Manager, Special Pesticide Review Division, Office of Pesticide Programs (TS-791), EPA, 401 M Street, SW., Washington, DC 20460, 202-557-7973.

SUPPLEMENTARY INFORMATION: Position Document 4 (PD 4), which accompanies this Notice, discusses in detail the comments which were received concerning Position Document 3 (P 3) and the Preliminary Notice. The comments of the FIFRA Scientific Advisory Panel and the Secretary of Agriculture are included in their entirety as Appendices to PD 4.

I. Introduction

On October 20, 1978, the Environmental Protection Agency issued a Notice of Determination pursuant to 40 CFR 162.11(a)(5), Concluding the Endrin RPAR (the "Preliminary Notice"). (43 FR 51132, November 2, 1978). The Preliminary Notice was accompanied by a Position Document ("PD") 3, which set forth in detail the Agency's analysis of comments received during the rebuttal phase of the endrin RPAR, and the Agency's reasons and factual bases for the regulatory actions which it initiated.

With respect to the principal uses of endrin, the Agency determined: (1)(a)

That the risks of the uses of endrin on cotton in all States east of the Mississippi River and in Arkansas, Louisiana, Missouri and those portions of Oklahoma and Texas east of Interstate Highway #35 are greater than the social, economic and environmental benefits of use; (b) that the risks of the use of endrin on cotton on other areas are greater than the social, economic and environmental benefits unless risk reductions are accomplished by modifications in the terms of conditions of registration, as described in the Preliminary Notice; (2)(a) that the risks of the uses of endrin on small grains to control pests other than army cutworms, pale western cutworms and grasshoppers are greater than the social, economic and environmental benefits of use; (b) that the risks of the uses of endrin on small grains to control army cutworms, pale western cutworms, and grasshoppers are greater than the social, economic and environmental benefits unless risk reductions are accomplished by modifications in the terms or conditions of registration, as described in the preliminary Notice; and (3)(a) that the risks of the use of endrin on apple orchards in Eastern States to control meadow voles are greater than the social, economic and environmental benefits of use; (b) that the risks of the use of endrin on apple orchards in Eastern States to control the pine vole and in Western States to control meadow voles are greater than the social, economic and environmental benefits of use unless risk reductions are accomplished by modifications in the terms or conditions of registration, as described in the Preliminary Notice.

Accordingly, the Agency initiated actions to cancel or deny registrations for the use of endrin on cotton in all areas east of Interstate Highway #35, to cancel or deny registrations for the use of endrin on small grains to control pests other than the army cutworm, the pale western cutworm, and grasshoppers, and to cancel or deny registrations for the use of endrin on apple orchards in Eastern States to control meadow voles. Further, the Agency initiated action to cancel or deny registrations for the uses of endrin on cotton in areas other than those delineated for cancellation, on small grains to control the army cutworm, pale western cutworm and grasshoppers, and on apple orchards to control the pine vole in Eastern States and to control meadow voles in Western States unless the specified changes in the terms and conditions of registration are accomplished. The Agency further determined that these modifications in

the terms or conditions of registration accomplish significant risk reductions and that these risk reductions can be achieved without significant impacts on the benefits of the uses.

The Agency's conclusions and actions initiated with respect to those uses of endrin which account for a small proportion of the total endrin used were summarized in Section III of the Preliminary Notice.

The remainder of this Notice and the accompanying PD 4 set forth in detail the Agency's analysis of comments submitted by the Secretary of Agriculture, the FIFRA Scientific Advisory Panel (SAP) and other interested parties regarding the reasons and factual bases for the regulatory actions announced in the Preliminary Notice.

This Notice is organized into four Sections. This introduction is Section I. Section II, entitled "Legal Background", is a general discussion of the regulatory framework within which these actions are taken. Section III and the accompanying PD 4 announce the regulatory actions which the Agency is implementing concerning endrin and set forth the bases for the decisions. Section IV, entitled "Procedural Matters", is a brief discussion of the procedures which will be followed in implementing the regulatory actions which the Agency is announcing in this Notice.

II. Legal Background

In order to obtain a registration for a pesticide under the Federal Insecticide, Fungicide and Rodenticide Act, as amended (FIFRA), a manufacturer must demonstrate that the pesticide satisfies the statutory standards for registration. That standard requires (among other things) that the pesticide perform its intended function without causing "unreasonable adverse effects on the environment" [section 3(c)(5)]. "Unreasonable adverse effects on the environment" is defined as "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide" [section 2(bb)]. In effect, this standard requires a finding that the benefits of each use of the pesticide exceed the risks of use, when the pesticide is used in accordance with the terms and conditions of registration, or in accordance with widespread and commonly recognized practice. The manufacturer's burden of proving that a pesticide satisfies the registration standard continues as long as the registration remains in effect. Under § 6 of FIFRA, the Administrator is required

to cancel the registration of a pesticide or modify the terms and conditions of registration whenever he determines that the pesticide no longer satisfies the statutory standard for registration.¹

The Agency created the RPAR process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration and to provide a structure for gathering and evaluating information about the risks and benefits of these uses. This structure invites public participation at major points in the evaluation process.

The RPAR process is set forth at 40 CFR 162.11. This section provides that a rebuttable presumption shall arise if a pesticide meets or exceeds any of the risk criteria set out in the regulations. After an RPAR is issued, registrants and other interested persons are invited to review the data upon which the presumption is based and to submit data and information to rebut the presumption. Respondents may rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant exposure either to man or to the animal or plant populations of concern with regard to the adverse effect in question.² Further, in addition

¹ The statutory standard for registration also requires that the pesticide satisfy the labeling requirements of FIFRA. These requirements are set out in the statutory definition of "misbranded" [section 2(q)]. Among other things, that section provides that a pesticide is misbranded if "the labeling . . . does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any . . . [restrictions] imposed under section 3(d) . . . are adequate to protect health and the environment." The Agency can require changes to the directions for use of a pesticide in most circumstances either by finding that the pesticide is misbranded if the labeling is not changed, or by finding that the pesticide would cause unreasonable adverse effects on the environment, unless labeling changes are made which accomplish risk reductions.

² 40 CFR 162.11(a)(4) provides that registrants and applicants may rebut a presumption against registration by sustaining the burden of proving: "(1) In the case of a pesticide which meets or exceeds the criteria for risk set forth in paragraphs (a)(3) (i) or (iii) that when considered with the formulation, packaging, method of use, and proposed restrictions on and directions for use and widespread and commonly recognized practices of use, the anticipated exposure to an applicator or user and to local, regional or national populations of nontarget organisms is not likely to result in any significant adverse effects; or (ii) in the case of a pesticide which meets or exceeds the criteria for risk set forth in paragraph (a)(3)(ii) that when considered with proposed restrictions on use and widespread and commonly recognized practices of use, the pesticide will not concentrate, persist, or accrue to levels in man or the environment likely to result in any significant chronic adverse effects; or (iii) that the determination by the Agency that the pesticide meets or exceeds any of the criteria for risk was in error." A primary purpose of the RPAR is to screen for appropriate action those pesticide

to submitting evidence to rebut the risk presumption, registrants may submit evidence as to whether the economic, social, and environmental benefits of the use of the pesticide subject to the presumption outweigh the risks of use.

The regulations require the Agency to conclude an RPAR by issuing a Notice of Determination. In that Notice, the Agency states and explains its position on the question whether the risk presumption has been rebutted. If the Agency determines that the presumption has not been rebutted, it also considers information relating to the social, economic, and environmental costs and benefits which registrants and other interested persons submitted to the Agency and any other benefits information known to the Agency. If the Agency determines that the risks of a pesticide use appear to outweigh its benefits, the RPAR process finally concludes with a Notice of Intent to Cancel or Denial of Application for Registration, pursuant to FIFRA section 6(b)(1) or section 3(c)(6).

When the uses of a pesticide appear to pose risks which are greater than benefits, the Agency considers modifications to the terms and conditions of registration which can reduce risk, and the impacts of such modifications to the terms or conditions of registration on the benefits of the use. The risk reduction measures, short of cancellation, which are available to the Agency include requiring changes in the directions for use on the pesticide's labeling, and classifying the pesticide for "restricted use", pursuant to FIFRA section 3(d).³

FIFRA requires the Agency to submit notices issued pursuant to section 6 to the Secretary of Agriculture for comment and to provide the Secretary of Agriculture with an analysis of the impact of the proposed action on the agricultural economy [section 6(b)]. The Agency is required to submit these documents to the Secretary at least 60 days before making the Notice effective by sending it to registrants or making it

uses which pose risks which are of sufficient concern to require the Agency to consider whether offsetting benefits justify the risks. Accordingly, the Agency's approach to rebuttal determinations concentrates on whether the risk concerns which are central to each RPAR proceeding have in fact been answered.

³ On January 31, 1978, the Administrator of the Agency classified all uses of endrin for restricted use and limited them to use by or under the direct supervision of certified applicators (40 CFR 162.31; 43 FR 5788, February 9, 1978). The uses were classified under the Agency's Optional Procedures for Classification of Pesticide Uses by Regulation (40 CFR 162.30; 42 FR 44170, September 1, 1977). All uses of endrin will remain so classified for restricted use unless and until such time as they may be unconditionally cancelled.

public. If the Secretary of Agriculture comments in writing within 30 days of receiving the Notice, the Agency is required to publish the Secretary's comments and the Administrator's response to those comments, together with the Notice. The statute also requires the Administrator to submit notices issued pursuant to section 6 to a Scientific Advisory Panel (SAP) for comment on the impact of the proposed action on health and the environment, at the same time and under the same procedures as those described for review by the Secretary of Agriculture [section 25(d)].

Although not required to do so under the statute, the Agency decided that it is consistent with the general theme of the RPAR process and the Agency's overall policy of open decision-making to afford an opportunity to registrants and other interested persons to comment on the bases for the proposed action during the time that the proposed action is under review by the Secretary of Agriculture and the SAP. Accordingly, the Preliminary Notice and PD 2/3 were made available to registrants and other interested persons at the time the decision documents were transmitted for formal external review. (The Preliminary Notice was published in the *Federal Register*; interested persons were notified that PD 2/3 was available through publication of a Notice of Availability in the *Federal Register* and by other means.) Registrants and other interested persons were allowed the same period of time to comment, 30 days, that the statute provides for receipt of comments from the Secretary of Agriculture and the SAP. The Agency considered comments received after this date, to the extent it was possible to do so, consistent with orderly decision-making.

III. Determinations and Announcement of Regulatory Actions

As detailed in the Preliminary Notice and PD 2/3, the Agency considered information on the risks associated with the uses of endrin, including information submitted by registrants and other interested persons in rebuttal to the endrin RPAR. The Agency also considered information on the social, economic, and environmental benefits of the uses of endrin subject to the RPAR, including benefits information submitted by registrants and other interested persons in conjunction with their rebuttal submissions, and information submitted by the United States Department of Agriculture. The Agency's assessment of the risks and benefits of the uses of endrin subject to

this RPAR, its conclusions and determinations on whether any uses of endrin pose unreasonable adverse effects on the environment, and its determination on whether modifications in terms or conditions of registration reduce risks sufficiently (as an alternative to cancellation) to eliminate any unreasonable adverse effects, were summarized in the Preliminary Notice and set forth in detail in PD 2/3. PD 2/3 was adopted by the Agency as its Statement of Reasons for the determinations and actions announced in the Preliminary Notice and as its analysis of the impacts of the proposed regulatory actions on the agricultural economy.

This Notice constitutes the Agency's Final Notice of Determination Concluding the Endrin RPAR. It reflects modifications in the Agency's initial determinations on the risks, benefits, and unreasonable adverse effects of the uses of endrin which the Agency has concluded are appropriate after review of the comments and information received concerning PD 2/3 and the Preliminary Notice from the Secretary of Agriculture, the SAP, and other sources. This Notice also reflects the modifications in the regulatory actions announced in the Preliminary Notice which the Agency has concluded are appropriate, in light of the comments and other information received on PD 2/3 and the Preliminary Notice from all sources. PD 4, which accompanies this Notice, discusses in detail the information that was received⁴ and the Agency's reasons for changing or not changing its initial determinations and the regulatory actions announced in the Preliminary Notice. Finally, this Notice announces the regulatory actions which the Agency is implementing concerning endrin. The Agency hereby incorporates PD 2/3 and PD 4 as its Statement of Reasons for these actions.

A. Determinations on Risks

The endrin RPAR was based on information indicating that endrin posed the following risks to humans and the environment: (1) Oncogenicity; (2) fetotoxic and teratogenic effects; (3) fatalities to endangered species; (4) significant population reductions in non-target organisms; (5) acute toxicity to wildlife; and (6) acute hazards to humans and domestic animals through dermal exposure.

As PD 2/3 explained, the Agency determined, based on the RPAR record,

⁴The comments received from the SAP and the Secretary of Agriculture are attached as Appendices to PD 4. All other comments are available for public inspection in the endrin public file.

that the weight of the evidence on oncogenicity indicates that endrin is unlikely to pose an oncogenic risk to humans. Moreover, the Agency determined that the risk presumptions for acute dermal toxicity and fatalities to endangered species had been rebutted.⁵ As PD 2/3 also explained, the Agency determined that information submitted during the RPAR was insufficient to remove the Agency's concerns that endrin causes significant population reductions in non-target organisms, that it poses a risk of acute toxicity to wildlife and that it poses a risk of teratogenicity to humans. The Agency concluded that these risks are associated, to differing degrees, with most uses of endrin and are of sufficient magnitude to require the Agency to determine whether the uses of endrin offer offsetting social, economic or environmental benefits.

B. Determinations on Benefits

The uses of endrin which are subject to this Notice fall into four categories: cotton uses; small grains uses; apple orchard uses; and other uses.⁶

1. *Cotton Uses.* Endrin is used on cotton crops, principally for control of the cotton bollworm and the tobacco budworm. For this use, endrin is formulated almost exclusively in combination with methyl parathion, endrin serving as an adjuvant to methyl parathion. Endrin is a minor cotton insecticide, and its use has declined in recent years as resistance to it has become widespread in some areas.

Numerous alternative pesticides are registered with EPA for control of the cotton bollworm and tobacco budworm, and several of the alternatives are at least as efficacious as, and less hazardous than, the endrin-methyl parathion formulation.

The Agency has determined that the use of endrin on cotton provides small benefits to users and no benefits to any other group. Cancellation of this use would cause current endrin users to use

⁵In connection with its evaluation of the risk presumption relating to endangered species, the Agency consulted with the United States Fish and Wildlife Service (FWS) pursuant to section 7 of the Endangered Species Act of 1973, 16 U.S.C. 1531. The FWS has expressed its biological opinion that the continued use of endrin in accordance with the regulatory actions initiated by the Preliminary Notice is not likely to "jeopardize the continued existence" of threatened or endangered species, nor to result in the destruction or adverse modification of their critical habitats. The biological opinion of the FWS is attached as an Appendix to PD 4.

⁶The category of "other uses" comprises: sugarcane: seed treatments for conifers, watermelons and vegetables; alfalfa and clover seed crops; ornamentals; tree paint; and perch treatments for controlling birds.

alternative pesticides whose cost per acre treatment would not be significantly greater than endrin's and whose use over a growing season might increase growers' production costs by an aggregate amount on the order of \$1 million.

2. *Small Grains Uses.* Endrin's use to control the army cutworm and the pale western cutworm on wheat provides substantial benefits to growers. No federally-registered alternative pesticides are available for control of the pale western cutworm, and the Agency has concluded that, if uncontrolled, the pale western cutworm would damage crops sufficiently to reduce wheat yields by 4.7 million bushels annually. Although this would have a minor impact on total United States wheat production, it would reduce the gross revenues of endrin users by approximately \$15 million annually. Alternative pesticides are available to control the army cutworm, but they are more expensive than endrin. Endrin users' production costs would increase by an aggregate of approximately \$1.2 million annually if alternatives were used.

3. *Apple Orchard Uses.* Endrin is applied as a post-harvest ground spray to control voles (mice) in many apple-producing areas. Alternative pesticides are available but they do not provide the same level of control as endrin for certain pests. The replacement of endrin with zinc phosphide, the only federally-registered interstate pesticide whose efficacy is comparable to endrin's, would result in a 6.7% annual loss in apple production on the acreage currently treated with endrin. This loss of production would reduce annual revenues of producers now using endrin by approximately \$5.3 million. The replacement of endrin with chlorophacinone and diphacinone, pesticides registered for use in certain apple-producing states, would result in a 3.3% annual loss in apple production on the acreage currently treated with endrin. This loss of production would reduce revenues of producers now using endrin by approximately \$2.4 million. The Agency has determined that production losses of this magnitude would cause the price of apples to increase.

4. *Other Uses.* The Agency has determined that virtually no benefits are associated with the uses of endrin on sugarcane to control the sugarcane borer and on ornamentals. The Agency has determined that some benefits are associated with the following uses of endrin: seed treatments for conifers, watermelons and vegetables; tree paint;

and perch treatments for controlling birds. The Agency has determined that some potential benefits are associated with the use of endrin on alfalfa and clover seed crops and on sugarcane to control the sugarcane beetle.

C. Determinations on Unreasonable Adverse Effects

The Agency has made the following unreasonable adverse effect determinations with respect to the uses of endrin subject to this RPAR:

1. *Determinations on Cotton Uses.* The Agency has determined that the use of endrin on cotton in all areas east of Interstate Highway #35 (including all states east of the Mississippi River, Arkansas, Louisiana, Missouri, and portions of Texas and Oklahoma) poses risks which are greater than the social, economic and environmental benefits of the use. Accordingly, the Agency has determined that the use of endrin on cotton crops in these areas will generally cause unreasonable adverse effects on the environment, when used in accordance with widespread and commonly recognized practice.

The Agency has also determined that risks of the use of endrin on cotton in areas west of Interstate Highway #35 are greater than the social, economic and environmental benefits of these uses unless risk reductions are accomplished by modifications in the terms or conditions of registration, as described below. The Agency has determined, further, that these modifications in the terms or conditions of registration accomplish significant risk reductions and that these risk reductions can be achieved without significant impacts on the benefits of the use. Accordingly, the Agency has determined that, unless these changes in the terms or conditions of registration are accomplished, the use of endrin on cotton in areas west of Interstate Highway #35 will generally cause unreasonable adverse effects on the environment, when used in accordance with widespread and commonly recognized practice, and the labeling of endrin products for use on cotton in those areas will not comply with the provisions of FIFRA.

2. *Determinations on Small Grains Uses.* The Agency has determined that the use of endrin on small grains to control pests other than the army cutworm, the pale western cutworm and grasshoppers poses risks which are greater than the social, economic and environmental benefits of the use. Accordingly, the Agency has determined that these uses of endrin will generally cause unreasonable adverse effects on

the environment, when used in accordance with widespread and commonly recognized practice.

The Agency has also determined that the risks of the use of endrin on small grains to control the army cutworm and the pale western cutworm and to control grasshoppers in Montana are greater than the social, economic and environmental benefits of these or conditions of registration, as described below. The Agency has determined, further, that these modifications in the terms or conditions of registration accomplish significant risk reductions and that these risk reductions can be achieved without significant impacts on the benefits of the uses. Accordingly, the Agency has determined that, unless these changes in the terms or conditions of registration are accomplished, the use of endrin on small grains to control the army cutworm and the pale western cutworm and to control grasshoppers in Montana will generally cause unreasonable adverse effects on the environment, when used in accordance with widespread and commonly recognized practice, and the labeling of endrin products for use on small grains to control these pests will not comply with the provisions of FIFRA.

3. *Determinations on Apple Orchard Uses.* The Agency has determined that the use of endrin in apple orchards in Eastern States for control of meadow voles poses risks which are greater than the social, economic and environmental benefits of the use. Accordingly, the Agency has determined that this use of endrin will generally cause unreasonable adverse effects on the environment, when used in accordance with widespread and commonly recognized practice.

The Agency has also determined that the risks of the use of endrin in apple orchards in Eastern States for control of the pine vole and in apple orchards in Western States for control of meadow voles are greater than the social, economic and environmental benefits of these uses, unless risk reductions are accomplished by modifications in the terms or conditions of registration, as described below. The Agency has determined, further, that these modifications in the terms or conditions of registration accomplish significant risk reductions and that these risk reductions can be achieved without significant impacts on the benefits of the uses. Accordingly, the Agency has determined that, unless these changes in the terms or conditions of registration are accomplished, the use of endrin in apple orchards in Eastern States to control the pine vole and in apple

orchards in Western States to control meadow voles will generally cause unreasonable adverse effects on the environment, when used in accordance with widespread and commonly recognized practice, and the labeling of endrin products for use on apple orchards to control these pests will not comply with the provisions of FIFRA.

4. *Determinations on Other Uses. a. Sugarcane.* The Agency has determined that the use of endrin on sugarcane to control the sugarcane borer poses risks which are greater than the social, economic and environmental benefits of the use. Accordingly, the Agency has determined that this use of endrin will generally cause unreasonable adverse effects on the environment, when used in accordance with widespread and commonly recognized practice.

The Agency has also determined that the risks of the use of endrin on sugarcane to control the sugarcane beetle are greater than the social, economic and environmental benefits of this use, unless risk reductions are accomplished by modifications in the terms or conditions of registration, as described below. The Agency has determined, further, that these modifications in the terms or conditions of registration accomplish significant risk reductions and that these risk reductions can be achieved without significant impacts on the benefits of the use. Accordingly, the Agency has determined States to control the pine vole and in apple orchards in Western States to control meadow voles will generally cause unreasonable adverse effects on the environment, when used in accordance with widespread and commonly recognized practice, and the labeling of endrin products for use on apple orchards to control these pests will not comply with the provisions of FIFRA.

4. *Determinations on Other Uses. a. Sugarcane.* The Agency has determined that the use of endrin on sugarcane to control the sugarcane borer poses risks which are greater than the social, economic and environmental benefits of the use. Accordingly, the Agency has determined that this use of endrin will generally cause unreasonable adverse effects on the environment, when used in accordance with widespread and commonly recognized practice.

The Agency has also determined that the risks of the use of endrin on sugarcane to control the sugarcane beetle are greater than the social, economic and environmental benefits of this use, unless risk reductions are accomplished by modifications in the terms or conditions of registration, as

described below. The Agency has determined, further, that these modifications in the terms or conditions of registration accomplish significant risk reductions and that these risk reductions can be achieved without significant impacts on the benefits of the use. Accordingly, the Agency has determined that, unless these changes in the terms or conditions of registration are accomplished, the use of endrin on sugarcane to control this pest will generally cause unreasonable adverse effects on the environment, when used in accordance with widespread and commonly recognized practice, and the labeling of endrin products for use on sugarcane to control this pest will not comply with the provisions of FIFRA.

b. *Ornamentals.* The Agency has determined that the use of endrin on ornamentals poses risks which are greater than the social, economic and environmental benefits of the uses. Accordingly, the Agency has determined that these uses of endrin will generally cause unreasonable adverse effects on the environment, when used in accordance with widespread and commonly recognized practice.

c. *Conifer Seeds; Alfalfa and Clover Seed Crops; Tree Paint.* The Agency has determined that the risks of the uses of endrin on conifer seeds, on alfalfa and clover seed crops (in Colorado), and as tree paint (in Texas) are greater than the social, economic and environmental benefits of these uses, unless risk reductions are accomplished by modifications in the terms or conditions of registration, as described below. The Agency has determined, further, that these modifications in the terms or conditions of registration accomplish significant risk reductions and that these risk reductions can be achieved without significant impacts on the benefits of the uses. Accordingly, the Agency has determined that, unless these changes in the terms or conditions of registration are accomplished, these uses of endrin will generally cause unreasonable adverse effects on the environment, when used in accordance with widespread and commonly recognized practice, and the labeling of endrin products for these uses will not comply with the provisions of FIFRA.

d. *Bird Perch Treatments.* The Agency has determined that the use of endrin in unenclosed bird perch treatments poses risks which are greater than the social, economic and environmental benefits of the use. Accordingly, the Agency has determined that this use of endrin will generally cause unreasonable adverse effects on the environment, when used

in accordance with widespread and commonly recognized practice.

The Agency has also determined that the risks of the use of endrin in "Rid-A-Bird" and other enclosed bird perch treatments are greater than the social, economic and environmental benefits of this use, unless risk reductions are accomplished by modifications in the terms or conditions of registration, as described below. The Agency has determined, further, that these modifications in the terms or conditions of registration accomplish significant risk reductions and that these risk reductions can be achieved without significant impacts on the benefits of the uses. Accordingly, the Agency has determined that, unless these changes in the terms or conditions of registration are accomplished, the uses of endrin in "Rid-A-Bird" and other enclosed bird perch treatments will generally cause unreasonable adverse effects on the environment, when used in accordance with widespread and commonly recognized practice, and the labeling of endrin products for this use will not comply with the provisions of FIFRA.

D. Announcement of Regulatory Actions

Based upon these determinations (developed in detail in PD 2/3 and PD 4), the Agency is initiating the following regulatory actions, and this document shall constitute its Notice of Intent regarding these actions:

1. Cancellation and denial of registrations of endrin products for use, on cotton in all areas east of Interstate Highway #35 (including all states east of the Mississippi River, Arkansas, Louisiana, Missouri, and portions of Texas and Oklahoma).

Cancellation and denial of registrations of endrin products for use on cotton in areas west of Interstate Highway #35 unless registrants or applicants for registration modify the terms or conditions of registration as follows: Modification of the label of endrin products for use on cotton in areas west of Interstate Highway #35 to add the following:

For use in areas west of Interstate Highway #35 only.

Required Clothing for Female Workers

Female ground applicators, mixers and loaders and flagpersons must wear long-sleeved shirts and long pants made of a closely woven fabric, and wide-brimmed hats. Mixers and loaders must also wear rubber or synthetic rubber boots and aprons.

Warning to Female Workers

The United States Environmental Protection Agency has determined that endrin causes birth defects in laboratory animals. Exposure to endrin during pregnancy should be avoided. Female workers must be sure to wear all protective clothing and use all protective equipment specified on this label. In case of accidental spills or other unusual exposure, cease work immediately and follow directions for contact with endrin.

Equipment

Ground Application.—For use with boom-nozzle ground equipment. Apply at not less than 5 gallons total mixture, water and chemical, per acre. Do not use nozzle liquid pressure at greater than 40 psi (pounds per square inch). Do not use cone nozzle size smaller than 0.16 gallons per minute (gpm) at 40 psi such as type D2-25 or TX-10, or any other atomizer or nozzle giving smaller drop size.

Aerial Application.—Do not apply at less than 2 gallons total mixture of water and chemical per acre. Do not operate nozzle liquid pressure over 40 psi (pounds per square inch) or with any fan nozzle smaller than 0.4 gallons per minute (gpm) or fan angle greater than 65 degrees such as type 6504. Do not use any cone type nozzles smaller than 0.4 gpm nor whirl plate smaller than #46 such as type D4-46 or any other atomizer or nozzle giving smaller drop size. Do not release this material at greater than 10 feet height above the crop.

Application Restrictions

Do not apply this product within 1/4 mile of human habitation.

Do not apply this product by air within 1/4 mile or by ground within 1/4 mile of lakes, ponds, or streams. Application may be made at distances closer to ponds owned by the user but such application may result in excessive contamination and fish kills.

Do not apply when rainfall is imminent.

Apply only when wind velocity is between 2 mph and 10 mph.

Procedures To Be Followed if Fish Kills Occur or if Ponds are Contaminated

In case of fish kills, fish must be collected promptly and disposed of by burial. Ponds in which fish kills have occurred, and user-owned ponds exposed to endrin by application at distances closer than otherwise prohibited, must be posted with signs stating: "Contaminated: No Fishing." Signs must remain for one year after a

fish kill has occurred or for six months after lesser contamination unless laboratory analysis shows endrin residues in the edible portion of fish to be less than 0.3 parts per million (ppm).

Prophylactic Use

Unnecessary use of this product can lead to resistance in pest populations and subsequent lack of efficacy.

2. Cancellation and denial of registration of endrin products for use on small grains to control all pests other than the army cutworm, the pale western cutworm and grasshoppers. Cancellation and denial of registration of endrin products for use on small grains for control of the army cutworm, the pale western cutworm and grasshoppers unless registrants or applicants for registration modify the terms or conditions of registration as follows:

Modification of the label of endrin products for use on small grains to control the army cutworm, the pale western cutworm and grasshoppers to add the following:

Required Clothing for Female Workers

Female ground applicators, mixers and loaders and flagpersons must wear long-sleeved shirts and long pants made of a closely woven fabric, and wide-brimmed hats. Mixers and loaders must also wear rubber or synthetic rubber boots and aprons.

Warning to Female Workers

The United States Environmental Protection Agency has determined that endrin causes birth defects in laboratory animals. Exposure to endrin during pregnancy should be avoided. Female workers must be sure to wear all protective clothing and use all protective equipment specified on this label. In case of accidental spills or other unusual exposure, cease work immediately and follow directions for contact with endrin.

Equipment

Ground application.—For use with boom-nozzle ground equipment. Apply at not less than 5 gallons total mixture, water and chemical, per acre. Do not use nozzle liquid pressure at greater than 40 psi (pounds per square inch). Do not use cone nozzle size smaller than 0.16 gallons per minute (gpm) at 40 psi such as type D2-25 or TX-10, or any other atomizer or nozzle giving smaller drop size.

Aerial application.—Do not apply at less than one gallon total mixture of water and chemical per acre. Do not operate nozzle liquid pressure over 40

psi (pounds per square inch) or with any nozzle smaller than 0.4 gallons per minute (gpm) or fan angle greater than 65 degrees such as type 6504. Do not use any cone type nozzles smaller than 0.4 gpm nor whirl plate smaller than #46 such as type D4-46 or any other atomizer or nozzle giving smaller drop size. Do not release this material at greater than 10 ft. height above the crop.

Application Restrictions

Do not apply this product within 1/4 mile of human habitation.

Do not apply this product by air within 1/4 mile or by ground within 1/4 mile of lakes, ponds or streams. Application may be made at distances closer to ponds owned by the user but such application may result in excessive contamination and fish kills.

Do not apply when rainfall is imminent.

Apply only when wind velocity is between 2 mph and 10 mph.

Procedures To Be Followed if Fish Kills Occur or if Ponds are Contaminated

In case of fish kills, fish must be collected promptly and disposed of by burial. Ponds in which fish kills have occurred, and user-owned ponds exposed to endrin by application at distances closer than otherwise prohibited, must be posted with signs stating: "Contaminated: No Fishing." Signs must remain for one year after a fish kill has occurred or for six months after lesser contamination unless laboratory analysis shows endrin residues in the edible portions of fish to be less than 0.3 part per million (ppm).

Pests for Which This Product May Be Applied

This product may be applied to control the following pests only: army cutworm; pale western cutworm; grasshoppers. [NOTE: currently grasshoppers may only be included on endrin products for use in Montana only.]

3. Cancellation and denial of registration of endrin products for use in apple orchards in Eastern States to control meadow voles.

Cancellation and denial of registration of endrin products for use in apple orchards in Eastern States to control the pine vole and in Western States to control meadow voles unless registrants or applicants for registration modify the terms or conditions of registration as follows:

Modification of the label of endrin products for use in apple orchards in Eastern States to control the pine vole

and in Western States to control meadow voles to add the following:

Required Clothing for Female Workers

Female applicators, mixers and loaders must wear long-sleeved shirts and long pants made of a closely woven fabric, and wide-brimmed hats. Mixers and loaders must also wear rubber or synthetic rubber boots and aprons.

Warning to Female Workers

The United States Environmental Protection Agency has determined that endrin causes birth defects in laboratory animals. Exposure to endrin during pregnancy should be avoided. Female workers must be sure to wear all protective clothing and use all protective equipment specified on this label. In case of accidental spills or other unusual exposure, cease work immediately and follow directions for contact with endrin.

Application Restrictions

Do not apply this product within 50 feet of lakes, ponds or streams.

Do not apply this product within 50 feet of areas occupied by unprotected humans.

Do not apply when rainfall is imminent.

Procedures To Be Followed if Fish Kills Occur

In case of fish kills, fish must be collected promptly and disposed of by burial. Ponds in which fish kills have occurred must be posted with signs stating: "Contaminated: No Fishing." Signs must remain for one year after a fish kill has occurred unless laboratory analysis shows endrin residues in the edible portion of fish to be less than 0.3 parts per million (ppm).

Equipment

Apply by ground equipment only.

Use a very coarse spray with minimum pressure necessary to penetrate ground cover. Do not apply as a fine spray. Power air blast equipment must be modified to meet the above application restriction. Consult the State recommendations for acceptable methods of adapting equipment.

Prophylactic Use

Unnecessary use of this product can lead to resistance in the vole population and subsequent lack of efficacy.

Pests for Which This Product May Be Applied

This product may be applied to control the following pests only:

Eastern United States—Pine Vole (*Microtus pinetorum*)
Western United States—Meadow Voles (*Microtus species*)

4. Cancellation and denial of registration of endrin products for use on sugarcane to control the sugarcane borer. Cancellation and denial of registration of endrin products for use on sugarcane to control the sugarcane beetle unless registrants or applicants for registration modify the terms or conditions of registration as follows:

Modification of the label of endrin products for use on sugarcane to control the sugarcane beetle to add the following:

Required Clothing for Female Workers

Female applicators, mixers and loaders must wear long-sleeved shirts and long pants made of a closely woven fabric, and wide-brimmed hats. Mixers and loaders must also wear rubber or synthetic rubber boots and aprons.

Warning to Female Workers

The United States Environmental Protection Agency has determined that endrin causes birth defects in laboratory animals. Exposure to endrin during pregnancy should be avoided. Female workers must be sure to wear all protective clothing and use all protective equipment specified on this label. In case of accidental spills or other unusual exposure, cease work immediately and follow directions for contact with endrin.

Application Restrictions

Apply only with low-pressure ground equipment. Cover furrows with soil promptly after application.

Pests for Which This Product May Be Applied

This product may be applied only to control the sugarcane beetle.

5. Cancellation and denial of registration of endrin products for use on ornamentals.

6. Cancellation and denial of registration of endrin products for use for conifer seed treatments unless registrants or applicants for registration modify the terms or conditions or registration as follows:

Modification of the label of endrin products for use for conifer seed treatments to add the following:

Application Restrictions

Do not sow treated seed when large numbers of migratory birds are expected.

7. Denial of registration of endrin products for use as tree paint unless

applicants for registration modify the terms or conditions or registration as follows:

Modification of the label of endrin products for use as tree paint to add the following:

Required Clothing for Female Workers

Female workers handling or applying this product must wear long-sleeved shirts and long pants made of a closely woven fabric, wide-brimmed hat, and rubber or synthetic rubber boots and aprons.

Warning to Female Workers

The United States Environmental Protection Agency has determined that endrin causes birth defects in laboratory animals. Exposure to endrin during pregnancy should be avoided. Female workers must be sure to wear all protective clothing and use all protective equipment specified on this label. In case of accidental spills or other unusual exposure, cease work immediately and follow directions for contact with endrin.

8. Denial of registration of endrin products for use on alfalfa and clover seed crops unless applicants for registration modify the terms or conditions of registration as follows:

Modification of the label of endrin products for use on alfalfa and clover seed crops to add the following:

Required Clothing for Female Workers

Female ground applicators, mixers and loaders and flagpersons must wear long-sleeved shirts and long pants made of a closely woven fabric, and wide-brimmed hats. Mixers and loaders must also wear rubber or synthetic rubber boots and aprons.

Warning to Female Workers

The United States Environmental Protection Agency has determined that endrin causes birth defects in laboratory animals. Exposure to endrin during pregnancy should be avoided. Female workers must be sure to wear all protective clothing and use all protective equipment specified on this label. In case of accidental spills or other unusual exposure, cease work immediately and follow directions for contact with endrin.

Equipment

Ground Application—For use with boom-nozzle ground equipment. Apply at not less than 5 gallons total mixture, water and chemical, per acre. Do not use nozzle liquid pressure at greater than 40 psi (pounds per square inch). Do not use cone nozzle size smaller than 0.16

gallons per minute (gpm) at 40 psi such as type D2-25 or TX-10, or any other atomizer or nozzle giving smaller drop size.

Aerial Application—Do not apply at less than 2 gallons total mixture of water and chemical per acre. Do not operate nozzle liquid pressure over 40 psi (pounds per square inch) or with any fan nozzle smaller than 0.4 gallons per minute (gpm) or fan angle greater than 65 degrees such as type 6504. Do not use any cone type nozzles smaller than 0.4 gpm nor whirl plate smaller than #46 such as type D4-46 or any other atomizer or nozzle giving smaller drop size. Do not release this material at greater than 10 feet height above the crop.

Application Restrictions

Do not apply this product within 1/4 mile of human habitation.

Do not apply this product by air within 1/4 mile or by ground within 1/4 mile of lakes, ponds or streams. Application may be made at distances closer to ponds owned by the user but such application may result in excessive contamination and fish kills.

Do not apply when rainfall is imminent.

Apply only when wind velocity is between 2 mph and 10 mph.

Procedures To Be Followed if Fish Kills Occur or if Ponds are Contaminated

In case of fish kills, fish must be collected promptly and disposed of by burial. Ponds in which fish kills have occurred, and user-owned ponds exposed to endrin by application at distances closer than otherwise prohibited, must be posted with signs stating: "Contaminated: No Fishing." Signs must remain for one year after a fish kill has occurred or for six months after lesser contamination unless laboratory analysis shows endrin residues in the edible portion of fish to be less than 0.3 parts per million (ppm).

9. Denial of applications for registration of endrin for use in unenclosed bird perch treatments.

Cancellation and denial of applications for registration of endrin for use in "Rid-A-Bird" and other enclosed bird perch treatments unless registrants or applicants for registration modify the terms or conditions of registration as follows:

Modification of the label of endrin products for use in enclosed bird perch treatments to add the following:

Required Clothing for Female Workers

Female workers handling this product must wear long-sleeved shirts and long

pants made of a closely woven fabric, wide-brimmed hats, and rubber or synthetic rubber aprons.

Warning to Female Workers

The United States Environmental Protection Agency has determined that endrin causes birth defects in laboratory animals. Exposure to endrin during pregnancy should be avoided. Female workers must be sure to wear all protective clothing and use all protective equipment specified on this label. In case of accidental spills or other unusual exposure, cease work immediately and follow directions for contact with endrin.

Special Warning

Do not use within one mile of roosting sites or within two miles of nesting sites of peregrine falcons, as identified by the United States Fish and Wildlife Service.

IV. Procedural Matters

This Notice initiates actions to cancel unconditionally the registrations of the following uses of endrin: use on cotton in all areas east of Interstate Highway #35; use on small grains to control all pests other than the army cutworm, the pale western cutworm and grasshoppers; use on apple orchards in Eastern States to control meadow voles; use on sugarcane to control the sugarcane borer; and use on ornamentals. This Notice also notifies applicants for new registrations of these uses of endrin, as well as applicants for registration of endrin for use on unenclosed bird perch treatments, that these applications are denied.

This Notice also initiates actions to cancel the registrations of the following uses of endrin unless registrants modify the terms and conditions of registration as required by this Notice: use on cotton west of Interstate Highway #35; use on small grains to control army cutworms and pale western cutworms; use on apple orchards in Eastern States to control the pine vole and use on apple orchards in Western States to control meadow voles; use on sugarcane to control the sugarcane beetle; use for conifer seed treatment; and use in enclosed bird perch treatments. This Notice also notifies applicants for new registrations of these uses of endrin, as well as applicants for registration of endrin for use as tree paint (in Texas), for use on alfalfa and clover seed crops (in Colorado), and for use on small grains to control grasshoppers (in Montana), that these applications are denied unless they are corrected to include the terms and conditions of registration specified in this Notice.

Under Sections 6(b) and 3(c) of FIFRA, applicants, registrants and other interested or affected parties may request a hearing on the cancellation and denial actions that this Notice initiates. This Section of the Notice explains how affected persons may request a hearing, and the consequences of requesting or failing to request a hearing in accordance with the procedures specified in this Notice.

A. Procedures for Requesting a Hearing

1. **Deadline for requesting a hearing on the cancellation actions.** (a) Registrants affected by the cancellation actions initiated by this Notice may request a hearing on *specific registered uses* of endrin within 30 days of receipt of this Notice, or on or before [30 days from publication], whichever occurs later. (b) Any other person adversely affected by the cancellation actions initiated by this Notice may request a hearing on *specific registered uses* of endrin on or before [30 days from publication].

2. **Deadline for requesting a hearing on the denial actions.** Applicants for new registration of the uses affected by the denials announced in this Notice may request a hearing on *specific uses* of endrin within 30 days of receipt of this Notice, or on or before [30 days from publication], whichever occurs later. Other interested persons may request a hearing with the concurrence of the applicant during the time period available to the applicant.

3. **How to request a hearing.** All registrants, applicants, and other interested or affected parties who request a hearing must file the request in accordance with the Agency's Rules of Practice Governing Hearings (40 CFR Part 164). These procedures specify, among other things, that: 1) all requests for a hearing must be accompanied by objections that are specific for *each use* for which a hearing is requested [40 CFR 164.20(b)] and 2) that all requests must be *received* by the Hearing Clerk within the applicable thirty (30) day time period [40 CFR 164.5(a)]. Failure to comply with these requirements will automatically result in denial of the request for a hearing.

Requests for hearings must be submitted to: Hearing Clerk (A-110), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

B. Consequences of Filing or Failing To File a Hearing Request

1. **Consequences of filing a timely and effective hearing request.** If a hearing on the Administrator's cancellation or

denial of registration of a specific use or uses of endrin is requested in a timely and effective manner, the hearing will be governed by the Agency's Rules of Practice for Hearings under FIFRA Section 6 (40 CFR Part 164). In the event of a hearing, the cancellation and denial actions subject to the hearing will not become effective except pursuant to orders of the Administrator at the conclusion of the hearings.

2. *Consequences of failure to file in a timely and effective manner.* If a hearing on the Administrator's unconditional cancellation or denial of registration of any specific use of endrin is not requested in accordance with the procedures specified above within the applicable 30-day time period, cancellation or denial of registration of the specific use of endrin becomes final and effective at the end of the 30-day period.

If a hearing on the Administrator's conditional cancellation or denial of registration of any specific use of endrin is not requested in accordance with the procedures specified above within the applicable 30-day time period, the Agency, immediately after the 30-day period, will notify registrants and applicants of the procedures to be followed to amend their registrations and applications for registration in order to include the terms and conditions of registration specified in this Notice. That notification will establish the date(s) on which the cancellations and denials will become effective unless the registrants and applicants have applied to amend their registrations or their applications for registrations to include the terms and conditions of registration specified in this Notice, and will provide other necessary instructions and information.

Dated: July 17, 1979.

Steven D. Jellinek,
Assistant Administrator for Toxic
Substances.

**Appendix A—Federal Insecticide,
Fungicide, and Rodenticide Act (FIFRA)
Scientific Advisory Panel**

*Review of Notice of Determination
Concluding the Rebuttable Presumption
Against Registration (RPAR) of Pesticide
Products Containing Endrin*

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel has completed review of plans by the Environmental Protection Agency (EPA) for initiation of regulatory action on endrin pesticide products under the provisions of Section 6(b) of FIFRA as amended. The review was completed after open meetings were conducted in Arlington, Virginia, during the periods of October 26–27, 1978, and December 14–15, 1978.

Maximum public participation was encouraged during formal review of all aspects of the conclusion of the RPAR on endrin. Federal Register notices announcing meetings in October and December were published in the Federal Register on October 18, 1978, and October 30, 1978, respectively. In addition, telephonic calls and special mailings were sent to the general public who had previously expressed an interest in activities of the Panel. Written statements relative to regulatory action on endrin were received over a period of several weeks from the Velsicol Chemical Corporation, and expert witnesses which submitted documents in behalf of the Velsicol Chemical Corporation; the Cooperative Extension Service of New York State; U.S. Department of Interior; the Environmental Defense Fund; Dr. Melvin Reuber, pathologist; Dr. Elizabeth L. Anderson, Executive Director, Carcinogen Assessment Group of EPA; and EPA technical staff. In addition, oral comments were received from EPA staff, USDA staff, members of the pesticide industry, EDF, Extension Service of New York State, and the general public.

In consideration of all matters brought out during Panel meetings, matters detailed in written and oral statements, and careful study of all documents submitted by the Agency, the Panel submits the following report on endrin:

The FIFRA Scientific Advisory Panel is especially indebted to Dr. Melvin Reuber of Columbia, Maryland, and Dr. Roy Albert of the EPA Carcinogen Assessment group for their forthright scientific debate on the potential carcinogenicity of endrin.

Aside from the exceptions noted below the Scientific Advisory Panel agrees with the Agency's proposed course of action for the continued registration of endrin as outlined in Endrin Position Document 2/3, submitted to the Panel on October 19, 1978:

(1) The required label changes for the continued registration of endrin for the control of pale western and army cutworms and grasshoppers should include a ¼ mile distance restriction from human habitation so as to more adequately protect humans from exposure.

(2) The Agency should actively seek to find alternate means to endrin for the safe and effective control of pine and western meadow voles.

(3) The required label changes for the continued registration of endrin for pine and western meadow vole control and as a conifer seed treatment should include a geographic restriction in accordance with the report received from the Director of the Fish and Wildlife Service so that endangered species may be adequately protected.

(4) The Panel is concerned with the risks inherent with the prophylactic use of endrin and urges that the Agency reexamine the label statements regarding such use.

(5) The Panel wishes to reiterate its concern with the lack of adequate pesticide monitoring data and the importance of such data in evaluating health impacts. In the case of endrin we are particularly concerned about the lack of such data both for endrin and 12-keto-endrin, a major toxic metabolite.

For the Chairman.

Dated: December 19, 1978.

H. Wade Fowler, Jr.,
Executive Secretary, FIFRA Scientific
Advisory Panel.

Appendix B

Department of Agriculture,
Office of the Secretary,
Washington, D.C. November 22, 1978.

Hon. Douglas M. Costle (A-100),
Administrator, U.S. Environmental Protection
Agency, Washington, D.C.

Dear Mr. Costle: This is the United States Department of Agriculture's response to the U.S. Environmental Protection Agency's (EPA) Notice of Determination pursuant to 40 CFR 182.11(a)(5), concluding the Rebuttable Presumption Against Registration (RPAR) on endrin, and EPA's proposed intent to cancel and/or modify the terms and conditions of registration, pursuant to Section 6(b)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The notice, dated October 23, 1978, indicates EPA is proposing to (a) cancel certain uses of endrin, and (b) retain certain uses with label modifications.

The U.S. Department of Agriculture and State Cooperators, under the National Agricultural Pesticide Impact Assessment Program (NAPIAP), have been pleased to interact with EPA in developing informational materials upon which the proposed EPA regulatory action is based. We are also pleased to have the opportunity to review the Notice of Determination and the accompanying position document. We are dedicated to mutual resolution of problems involving actual health risks to the consumer and the applicator or farm worker as well as adverse effects on the environment.

We concur that endrin should be classified as a restricted use pesticide and, thus, applied only by or under the supervision of certified applicators. We commend EPA for selecting regulatory options that are consistent with the biological and economic assessments. These include retaining uses in all States on small grains for the pale western cutworm, *Agrotis orthogonia* (Morrison), the army cutworm, *Euxoa auxiliaris* (Grote), and for grasshoppers; in apple orchards for the pine vole, *Microtus pinetorum*, and the western meadow vole, *Microtus montanus*; on sugarcane for the sugarcane beetle, *Eutheola rugiceps* (Le Conte); for seed treatment of conifers, watermelons, vegetables, and melons; in alfalfa and clover seed crop production; use as a tree paint; and the perch treatment for nuisance bird control. We also agree with the continued use of endrin for control of cotton pests in areas where there is a low potential for aquatic contamination.

However, the Department has several issues of concern relative to the regulatory options proposed as follows:

1. We question the advisability of requiring protective clothing for all female workers. The teratogenic risk, as defined, should apply only to female workers capable of bearing children.

2. It would seem appropriate in aerial applications that the wind velocities be

stated only as to the maximum miles per hour allowed rather than a range. We further believe that flying heights be consistent for all crops. A range of wind velocities and variable flying height limitations will pose operational difficulties for aerial applicators that do not appear to be warranted.

3. The use of the word "only" in identifying the vole species to be controlled in apple orchards may cause unnecessary enforcement problems when more than one species is established in an orchard. We assume that the destruction of eastern meadow voles incidental to the control of pine voles would not be considered inconsistent with labeling. Also, we do not believe the statement on prophylactic use adds anything to the usefulness of the label information and should be deleted.

4. We are concerned that the decisionmaking process employed by EPA in evaluating minor use patterns may result in cancellations without adequate justification. For example, it is being proposed that the use of endrin for chinch bug control in small grains be cancelled because only limited benefit data was presented. A similar situation occurred in the chlorobenzilate Notice of Determination regarding Arizona citrus, and minor uses on deciduous fruits and nuts. These actions do not seem to be consistent with the intent of the RPAR process for analyzing benefits and risks. It would seem more logical and highly desirable to retain these minor uses until an unreasonable adverse effect can be clearly demonstrated.

5. We believe the cancellation of uses on cotton in the Southeast and the Delta will have limited economic impact at the present time. However, a number of entomologists in the cotton producing States have pointed out that the use of endrin on cotton could become critical if current alternative pesticides are lost through the regulatory process, reduced market availability, or become less effective. As indicated in our November 4, 1978 report, on page 5-18, these entomologists requested the use of endrin on cotton be retained in Alabama, Arkansas, Mississippi, Florida, Georgia, and New Mexico. It is not clear why a one-quarter mile buffer requirement would be inadequate in the Southeast and Delta States. Data presented to EPA by Dr. Virgil Freed (Oregon State University) and the current use experience in Arkansas seems to clearly indicate that a one-quarter mile buffer is adequate in all geographic areas.

It has been almost two years since the States provided use and benefit data. Because changes may have occurred in pest management strategies, we have contacted all States for any new information that may be available. This will be forwarded to you if and when received.

In summary, we concur with the proposed restrictions on the use of endrin for cotton and other crops, with one major exception. We believe endrin should be available to Southeast and Delta cotton producers using the one-quarter mile buffer restriction. We are confident EPA will give favorable consideration to our suggestions and recommendations in developing the final registration determinations. The opportunity

to have cooperated on this important agricultural matter is very much appreciated.

Please let us know if additional information would be helpful.

Sincerely,

Bob Bergland,
Secretary.

Appendix C-1

U.S. Department of the Interior,
Fish and Wildlife Service,
Washington, D.C., December 11, 1978.

In reply refer to: FWS/OES 375.0.

Mr. Douglas M. Costle,
Administrator, Environmental Protection
Agency, 401 M Street SW., Washington,
D.C.

Dear Mr. Costle: This responds to your November 8, 1978, request for reinitiation of consultation under Section 7 of the Endangered Species Act of 1973 on the use of the pesticide endrin relative to its impact on Endangered and Threatened species. This biological opinion should be considered as an extension of my biological opinion of June 8, 1978, a copy of that opinion is enclosed for your information.

The species considered in this opinion are the same as those considered in the June 8, 1978, opinion with the addition of the American peregrine falcon (*Falco peregrinus anatum*).

Our June 8, 1978, opinion concluded that pesticide products containing endrin are not likely to jeopardize the continued existence of the listed species considered in the opinion, or result in the destruction or adverse modification of their Critical Habitats provided the Environmental Protection Agency (EPA) develop new label restrictions designed to reduce the likelihood of exposing endangered species to endrin and that EPA reinitiate Section 7 consultation prior to final action involving new label restrictions.

The EPA has developed new regulatory actions for endrin and this document represents the U.S. Fish and Wildlife Service's Biological Opinion on these new regulatory actions. This opinion will follow the format established in our June 8, 1978, opinion.

Fish and Mollusks

In my June 8, 1978, opinion I stated that although there is currently no evidence to indicate that Threatened or Endangered species are being exposed to toxic amounts of endrin under existing use restrictions, it is apparent that if Threatened or Endangered fish species are exposed to toxic amounts of endrin it is likely that their continued existence could be jeopardized or their Critical Habitats destroyed or modified. Therefore, it was recommended that EPA develop new label restrictions which would put more stringent controls on the use of endrin to reduce the potential of introducing endrin into the aquatic ecosystems of Threatened or Endangered fish and mollusks.

The EPA has responded to this recommendation by canceling the use of endrin on cotton in all areas east of Interstate Highway #35; by adding use restrictions to

the cotton, small grain and alfalfa and clover seed crops labels prohibiting use within one-fourth mile of streams, lakes or ponds (except ponds owned by the users in cotton applications), prohibiting use when rainfall is imminent and when wind velocity is greater than ten miles per hour; by requiring aerial applications of endrin be released at no greater altitude than 19 feet above the crop for cotton and 10 feet above the crop for small grains and alfalfa and clover seed crops; by prohibiting application within 50 feet of lakes, streams or ponds and prohibiting use when rain is imminent for orchard control of pine and western meadow voles; by requiring use of low pressure ground equipment and prompt covering of furrows with soil after application for sugarcane beetle control; and by canceling all ornamental uses of endrin. These additional use restrictions are anticipated to significantly reduce the potential for introducing endrin into the aquatic ecosystems of Threatened or Endangered species of fish and mollusks. Therefore, it is my biological opinion that the use of endrin under these proposed label restrictions is not likely to jeopardize the continued existence of threatened species of fish and mollusks or adversely modify their Critical Habitats.

Birds

My June 8, 1978, opinion indicated that exposure of Threatened or Endangered birds to endrin could occur from direct application but would normally be expected to occur through drift from aerial applications or from feeding in areas contaminated from run-off after application. The EPA's new proposed use restrictions for endrin, as cited above, alleviate our concern for adverse impact to Threatened and Endangered birds via drift and run-off during and after endrin usage.

Secondary poisoning of Threatened or Endangered birds is a potential problem which EPA has addressed through labeling on the cotton, small grain, orchard, and alfalfa and clover seed crop uses by requiring prompt burial of fish, if fish kills are experienced. Strict adherence to the requirement will eliminate the potential of secondary poisoning to brown pelicans and will significantly reduce the potential for secondary poisoning of bald eagles and peregrine falcons.

The use of endrin treated conifer seeds offers the potential for secondary kill if seed-eating birds are incidentally poisoned by feeding on the treated seed. Peregrine falcons and bald eagles may prey upon impacted birds and secondary poisoning could possibly ensue. The EPA has addressed this potential problem by prohibiting applications when large numbers of migratory birds are expected.

The use of endrin for pine vole and western meadow vole control in orchards offers the potential for secondary poisoning to the bald eagle and peregrine falcon. Orchards generally have large populations of birds and rabbits, as well as other animals. When birds and rabbits are adversely impacted by endrin they become prime targets for raptors such as the bald eagle and peregrine falcon. If eagles or peregrines consume endrin poisoned birds,

rabbits or other small mammals, secondary poisoning may ensue.

Since endrin is used only after harvest, the areas of impact for Arctic peregrine falcons would be their major wintering areas. The major wintering area is defined in my previous opinion. These wintering areas generally are not in the range of the target species, however, the potential for exposure still exists. The area of potential impact on bald eagles and American peregrine falcons would be those areas in which eagles and falcons are known to nest and feed. More specific information on these sites may be obtained from the Fish and Wildlife Service Regional Directors.

Therefore, it is my biological opinion that the use of endrin for pine vole and western meadow vole control in orchards is likely to jeopardize the continued existence of the Arctic peregrine falcon, the American peregrine falcon and the bald eagle when used in their normal ranges.

The proposed registration actions concerning Sorbikill and Rid-a-Bird are not likely to impact the endangered species being considered in this opinion. Therefore, it is my biological opinion that the cancellation of Sorbikill and label changes for Rid-a-Bird are not likely to jeopardize the continued existence of Threatened or Endangered species or adversely modify their Critical Habitat.

The proposed label restrictions, as discussed in the fish and mollusks section, will significantly reduce the potential hazard of endrin to the whooping crane, Attwater's prairie chicken and Mississippi sandhill crane. Therefore, it is my biological opinion that the use of endrin under the proposed label restrictions is not likely to jeopardize the continued existence of the whooping crane, Mississippi sandhill crane and Attwater's prairie chicken or adversely modify their Critical Habitats.

Cumulative Effects

Endrin is a chlorinated hydrocarbon. As such, it has the potential to cause sublethal reproductive impairment in birds. Much of the population decline of bald eagles and peregrine falcons is attributed to reproductive impairment caused by the contamination of their food supply by chlorinated hydrocarbons. Thus, any increase in chlorinated hydrocarbon contamination of bald eagle, American peregrine falcon and Arctic peregrine falcon food supplies must be considered a contributory factor to their decline. The use of endrin in areas where bald eagles and peregrine falcons may feed, as described above, must be considered inconsistent with their conservation and thus contributing to a situation which may jeopardize the continued existence of these species.

Reasonable and Prudent Alternatives

The use of endrin in orchards for control of pine voles and western meadow voles should be prohibited in the wintering habitat of the Arctic peregrine falcon (defined above) and in American peregrine falcon and bald eagle nesting and feeding ranges. The changes should be relatively easy to make because of

the very limited distribution of pine voles and western meadow voles in the areas of concern. The Fish and Wildlife Service (FWS) will be available to define these ranges.

Conclusion and Recommendations

Based on review of the above information and other information and data available to the Service, it is my biological opinion that the registration actions and labeling restrictions proposed by EPA for the use of endrin on cotton, small grains, sugarcane, ornamentals, conifer seeds, tree paint, Sorbikill and Rid-a-Bird are not likely to jeopardize the continued existence of the listed species considered herein or result in destruction or adverse modification of their Critical Habitats. The proposed registration actions and label restrictions for the use of endrin in orchards is likely, through cumulative effects, to jeopardize the continued existence of the bald eagle (*Haliaeetus leucocephalus*), American peregrine falcon (*Falco peregrinus anatum*), and Arctic peregrine falcon (*Falco peregrinus tundrius*) unless use restrictions are expanded as stated in the alternative section above or in a similar fashion. The orchard use is not likely to jeopardize the continued existence of the other listed species considered herein or result in destruction or adverse modification of their Critical Habitats.

Sincerely yours,

Lynn A. Greenwalt,
Director.

Appendix C-2

United States Department of the Interior,
Fish and Wildlife Service,
Washington, D.C. 20240.
March 8, 1979.

In Reply Refer To:
FWS/OES 375.4

Mr. Douglas M. Costle, Administrator
U. S. Environmental Protection Agency, 401
M Street SW., Washington, D.C. 20460.

Dear Mr. Costle: This responds to your November 8, 1978, request for reinitiation of consultation under Section 7 of the Endangered Species Act of 1973 on the use of the pesticide endrin relative to its impact on Endangered and Threatened species and their habitats.

Based upon conversations with your representatives at a January 10, 1979, meeting, subsequent conversations with your representatives and the receipt of additional information on bald eagle wintering areas, present and historic peregrine falcon range and restoration sites, laboratory data, field observations and the location of apple orchards, which was not available for my biological opinion of December 14, 1978, I have revised my biological opinion relative to the orchard use of endrin and its impact on the Endangered bald eagle (*Haliaeetus leucocephalus*), Arctic peregrine falcon (*Falco peregrinus tundrius*) and American peregrine falcon (*Falco peregrinus anatum*). My biological opinion relative to other uses of endrin and other Endangered or Threatened species remains unchanged. A copy of that opinion is enclosed for your information.

As stated in the biological opinion, the use of endrin for pine vole and western meadow vole control in orchards offers the potential for secondary poisoning to the bald eagle and peregrine falcon. Individuals in the State of Washington suspect that endrin sprayed in orchards is poisoning waterfowl, quail, chukar partridges and songbirds. This has not been well documented by laboratory analyses and the extent of the problem remains undefined. Laboratory analysis of a male kestrel found dead in an orchard in Washington in 1978 indicated levels of endrin in the lipid sufficient to suspect endrin poisoning as the cause of death. The source of the endrin is unknown. The State of New York made an effort to determine the environmental effects of endrin used for orchard mouse control in the late fall and winter of 1977-78. The studies included the monitoring of wildlife, soil, water, and fish. Unfortunately, the laboratory analyses have not been completed and the final results of the monitoring are not yet available.

Bald eagles do not normally winter in eastern apple areas. The nearest concentration of wintering eagles to apple areas occurs in Sullivan County, New York. Western apple areas, however, do contain populations of wintering bald eagles. This is particularly true of the Columbia River and its tributaries. A food habits study being conducted in the State of Washington indicates that in one area (Wells Pool) coot and other birds were the most important food items during the winter of 1977-78. In another area (Chief Joseph Pool) chukar partridges were the most important food items. Both of these locations are in the orchard areas of the state. As previously stated, endrin used in orchards is suspected of poisoning waterfowl and partridges in the State of Washington. Lab analyses have so far failed to satisfactorily substantiate this suspicion. Therefore, the potential for secondary poisoning cannot be considered a real threat.

Based on the above information, it is my biological opinion that the use of endrin for pine vole and western meadow vole control in orchards is not likely to jeopardize the continued existence of the bald eagle.

The current and historic range of the American peregrine falcon in the western part of the county does not overlap areas of commercial apple production in Washington and Idaho. American peregrines in the eastern part of the county were extirpated in the 1950's and early 1960's primarily because of the effects of environmental contaminants. In recent years, attempts have been made to reintroduce peregrine falcons to their former range in the Northeast. Several of the reintroduction sites are in the general proximity of commercial apple orchards. Endrin was used in New York State, in the vicinity of one of the release sites, during the winter of 1977-78. To date, there has been no indication of conflict between this use and the peregrine reintroduction program, but final results of New York State's monitoring program are not yet available.

Based on the above information, it is my biological opinion that the use of endrin for pine and western meadow vole control in orchards is not likely to jeopardize the

continued existence of the American peregrine falcon.

My opinion of December 14, 1978, expressed concern for the Arctic peregrine falcon where its wintering habitat overlaps the range of the pine vole. From subsequent information provided by your representatives, I have learned that apples are not commercially grown in that overlapping area, therefore, endrin is not likely to be used in apple orchards in the wintering habitat of Arctic peregrines. Based on this information, it is my biological opinion that the use of endrin for pine and meadow vole control in apple orchards is not likely to jeopardize the continued existence of the Arctic peregrine falcon.

Cumulative Effects

My biological opinion of December 14, 1978, expressed the concern that endrin, being a chlorinated hydrocarbon, had the potential to accumulate in the food chains of bald eagles and peregrine falcons to levels that could cause sublethal reproductive impairment. Additional discussions with experts concerning the metabolic breakdown of endrin in avian species and levels thought to produce reproductive impairment in avian species have allayed my fears. Thus, while much of the population decline of bald eagles and peregrine falcons is attributed to reproductive impairment caused by the contamination of their food supply by chlorinated hydrocarbons, it is not believed that the use of endrin in apple orchards will contribute to the reproductive impairment experienced by these species.

Conclusions and Recommendations

Based on review of the above information and other information and data available to the Service, it is my biological opinion that the use of the pesticide endrin in apple orchards for control of pine and western meadow voles is not likely to jeopardize the continued existence of the bald eagle, American peregrine falcon, or Arctic peregrine falcon. If, however, new information indicating a possible effect, either direct or indirect, or on any Endangered species becomes available (either from the New York State monitoring program or the State of Washington, or any other source) consultation must be reinitiated.

Sincerely yours,

Lynn A. Greenwalt,
Director.

Enclosure.

Endrin—Position Document 4

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I. Introduction

The Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA) [7 U.S.C. Section 136 *et seq.*] regulates all pesticide products. Section 6(b) of FIFRA authorizes the Administrator of the Environmental Protection Agency ("EPA" or the "Agency") to issue a notice of intent to cancel the registration of a pesticide or to change its classification if it appears to him that the pesticide or its labeling "does not comply with the provisions of [FIFRA] or, when used in accordance with widespread and commonly recognized practice, generally causes unreasonable adverse effects on the environment."

The Agency designed the Rebuttable Presumption Against Registration (RPAR) process to gather risk and benefit information about problem pesticides and to make balanced decisions concerning them in a manner which allows all interested groups to participate. This process is set forth in 40 CFR 162.11.

On July 27, 1976, the Agency issued an RPAR notice for pesticide products containing endrin (41 FR 31316). The endrin RPAR was one of the first issued by the Agency. At the time it was issued, Agency RPAR procedures were still in a formative stage, and a detailed Position Document 1 did not accompany the endrin RPAR notice. Copies of this Document, however, were provided to all registrants and other concerned parties.

On October 20, 1978, the Agency issued Endrin: Position Document 2/3 (EPA, 1978; hereinafter called PD 2/3), and published a Notice of Determination and Availability of the Position Document in the Federal Register on November 2, 1978 (43 FR 51132). In PD 2/3 the Agency analyzed the rebuttals it received in response to the original RPAR notice, presented its analysis of both the risks and benefits associated with the uses of endrin, and proposed a decision to conclude the RPAR process.

FIFRA requires the Agency to submit notices issued pursuant to Section 6 to the Secretary of Agriculture ("Secretary" or "USDA") for comment on the impact of the proposed action on the agricultural economy [Section 6(b)] and to a Scientific Advisory Panel (SAP) for comment on the impact of the

proposed action on health and the environment [Section 25(d)]. The Agency is required to submit these documents to the Secretary and the SAP at least 60 days before making the final notice effective by sending it to registrants and making it public. The Secretary and the SAP may comment in writing within 30 days of receiving the notice; the Agency is required to publish any of their comments and the Administrator's responses with publication of the final notice.

Additionally, since the RPAR notice indicated that endrin had caused fatality to an endangered species, the Agency was required by Section 7 of the Endangered Species Act of 1973 (18 U.S.C. 1531; see also 50 CFR Part 402, 43 FR 870) to initiate formal consultation with the U.S. Fish and Wildlife Service, U.S. Department of the Interior ("FWS"). The biological opinion submitted to the Agency by the FWS on June 8, 1978 requested the Agency to take appropriate action to reduce risks to endangered species from the use of endrin and to reinstate formal consultation on the proposed actions (Greenwalt, 1978a). The comments of the FWS to the actions proposed in PD 2/3 were made on December 14, 1978 and in a supplementary revision on March 1, 1979 (Greenwalt, 1978b; 1979).

The Agency is not required under the statute to afford registrants and other interested persons an opportunity to comment on the bases for the proposed action while it is under review by USDA and the SAP. However, the Agency decided that it was consistent with the purpose of the RPAR process and the Agency's overall policy of open decisionmaking to do so. Accordingly, PD 2/3 solicited such public comments.

The Agency has received a number of public comments in response to the November 2, 1978 Notice of Determination and the Endrin PD 2/3. Responses from the SAP, USDA, the FWS, Velsicol Chemical Corporation ("Velsicol"), which is the sole manufacturer of endrin in the United States, the Environmental Defense Fund (EDF), and other interested parties have been analyzed and are addressed in Section II of this document. The entire responses from the SAP, USDA and the FWS are contained in the Appendices to this PD 4.

II. Analysis of Comments

A. Comments Relating to Risk

1. *Teratogenicity.* Comments have been received regarding the validity of the tests on which the Agency relied in concluding that endrin has a teratogenic

potential, regarding levels of exposure that can reasonably be anticipated, and regarding a margin of safety (MOS) that can be considered as "ample". These comments and the Agency's responses are:

a. *Validity of the Tests.* The Agency's risk analysis (PD 2/3) noted that a single exposure of 5 mg/kg endrin on the eighth day of pregnancy caused significant numbers of meningoencephalocoeles in hamsters. A no-observed-effect-level (NOEL) of 1.5 mg/kg was established by this study (Chernoff et al., 1978a). Although the teratogenic studies were discussed at length in the FIFRA-SAP Meeting of October 26, 1978 (Transcript of Proceedings, hereinafter referred to as SAP, date, page) the SAP did not make a formal comment on this issue. A consultant for Velsicol seemingly challenged the validity of the Chernoff study (Velsicol, Exh. 31) but the points raised were rebutted by Chernoff et al. (1978b). Velsicol's second consultant accepted the validity of the NOEL of 1.5 mg/kg (Velsicol, Exh. 30, p. 8). Since Velsicol and its first consultant now apparently accept the validity of the established NOEL for purposes of risk assessment (Velsicol, p. 38 and Exh. 61) the details of the related comments and rebuttal do not require further discussion.

b. *Levels of Exposure that can be Anticipated.* The Agency's exposure analysis focused on dermal exposure to bystanders and persons associated with the process of applying endrin and on the ingestion of contaminated fish. The Agency believes that dermal exposure to applicators and bystanders can be reduced adequately by requiring protective clothing, prohibiting application within specified distances from human habitation and similar measures less stringent than cancellation. Ingestion exposure, however, is of particular concern to the Agency because the contamination of fish-bearing waters by runoff is difficult to control, especially where endrin is used on cotton in areas which receive substantial rainfall.

Velsicol has challenged the validity of the Agency's estimate of potential exposure from the consumption of contaminated fish. The Agency based its risk assessment on the consumption of 250g of fish containing 1.0 ppm endrin. This level of exposure was conceived, not as a "worst case" estimate, but as a reasonable one (SAP, October 26, 1978, p. 14). Velsicol did not challenge the use of 250g but contends that 0.4 ppm is the highest concentration of endrin that can be expected to occur in fish (Velsicol, p.

39 and Exh. 5) and relies on the National Pesticide Monitoring Program (NPMP, Seabolt, 1978) results to support its contention.

It is true that the highest concentration of endrin in fish reported for 1977 in the NPMP was 0.4 ppm. However, the NPMP samples fish from major rivers throughout the nation without regard to sources of potential contamination. Moreover, the sampling program is not designed to determine maximum residues that might occur in fish in cropland areas. NPMP samples from Alabama, Arkansas, Louisiana, Mississippi and Tennessee were taken in major rivers where cotton is grown on only a small fraction of the drainage area; where only a small fraction of the cotton that is grown is actually treated with endrin (EPA, 1977); and without regard to actual or potential runoff episodes. Thus, it is somewhat surprising to find endrin present at any concentrations in the fish sampled. The widespread and regular occurrence of endrin in these fish is strong evidence that endrin is likely to be present in much higher concentrations in fish more closely associated with cotton culture.

Levels of endrin in the edible portion of catfish killed by endrin may in fact exceed 4 ppm (Mount and Putnicki, 1966). Since the record establishes that fish kills have been associated with the use of endrin, especially on cotton, it can reasonably be expected that fish-bearing waters have been contaminated with sub-lethal doses of endrin with a much greater frequency. Velsicol's consultant (Velsicol, Exh. 5) has estimated that fish exposed to sub-lethal doses of endrin could accumulate as much as 2.0 ppm. Thus, the Agency's use of 1.0 ppm endrin as a concentration that could reasonably be anticipated in fish consumed by humans is on firm ground.¹

What must be anticipated in the field is a wide range of endrin residue levels in fish that vary in the probability of occurrence—from the infrequent but very high levels associated with dead and dying fish through all degrees of sub-lethally exposed fish. The amounts of such fish that may be consumed in a day may range widely from small (125 g) through large (250 g) to exceptional portions (500 g). Ranges in the margins

¹ Velsicol also relies on estimates of runoff concentrations which would allegedly occur if a quarter-mile barrier strip were to be imposed to show that the resulting concentrations would be "safe" for fish and apparently for residues in the fish (Velsicol p. 26; Exh. 24). As discussed more fully in Section II C 3, the Agency cannot rely upon their calculations and assumptions involved in the barrier strip model and cannot reasonably conclude that residue levels would be acceptable under that proposal.

of safety associated with these variables will be presented below.

c. *Adequacy of the Margin of Safety (MOS).* The Agency has no rule of general applicability for determining the amplexness of the teratogenic margin of safety associated particular compounds—each chemical is evaluated individually. In evaluating endrin the Agency noted that humans might be 50 times more sensitive to the convulsive effects of endrin than are hamsters and concluded that such a difference in sensitivity might also be true for teratogenic effects (PD 2/3, p. 51). Thus, the Agency concluded that exposure levels that would give rise to an MOS of 500 or lower would be cause for concern. Both the SAP (SAP, October 26, 1979, pp. 30–32) and Velsicol (Velsicol, p. 40 and Exh. 32) objected to the derivation of this MOS. Informally, the SAP members indicated that an ample MOS should be somewhere between 100 and 1000 but could arrive at no scientific method for establishing an appropriate value (SAP, October 26, 1979, pp. 28–34, 124–126). No formal recommendation was made.

Velsicol has attempted to make several points bearing on the assessment of teratogenic risk that require a clarifying response:

(1) Velsicol claims that the "actual" NOEL lies somewhere between the lowest observed effect level (5 mg/kg) and the observed NOEL (1.5 mg/kg) (Velsicol, pp. 41–2, Footnote (FN 7)). This contention is merely speculative. The Agency must rely on established values in estimating the MOS.

(2) Velsicol argues that an MOS of 100 is appropriate for endrin. Velsicol states "As Dr. Wilson notes (Exhibit 32), and as the Agency Acknowledges (Position Document 2/3, p. 51). However, a margin of safety of 100 is normally ample for low potential environmental teratogens such as pesticides" (Velsicol, p. 40). The Agency has neither characterized pesticides in general nor endrin specifically as "low potential environmental teratogens". Further, what the Agency did say concerning the adequacy of margins of safety was:

While the Agency has not established official guidelines for determining the adequacy of the MOS for teratogens in general, Agency toxicologists believe that an MOS below 100 would be a matter of serious concern. Interpreting these values, however, requires a judgement based on other factors associated with characteristics of the chemical, routes of exposure, and the probability of various levels of exposure. Thus, the above value should not be construed as an established Agency policy but only as a toxicological guideline for risk assessment against which benefits must be balanced and additional

safely requirements imposed (PD 2/3, p. 50–1).

(3) Velsicol's consultant, Dr. Wilson, has taken exception to the informal comments by the SAP suggesting that an MOS of 1000 might be appropriate. According to Dr. Wilson, "The only reasonable justification for a margin of safety of 1000 would be in the event that endrin were an environmental pollutant of no or negative economic importance and totally without benefit to man. To the contrary, it makes a significant contribution toward providing food and fiber to meet human needs" (Velsicol, Exh. 35). Clearly, Dr. Wilson's concept of the adequacy of an MOS is not cast solely in terms of assessing risk, per se, but is predicated on assumptions concerning environmental pollution and benefits of use. In admitting, however, that a MOS of 1000 may be justified in some circumstances, Dr. Wilson apparently concedes that the teratogenic risk at margins of safety greater than 100 may be cause for concern.²

As discussed above, the Agency does take benefits into account in reaching a final regulatory decision concerning a use of a pesticide. Here, the facts that meningoencephalocoele is a serious defect and that the benefits from the use of endrin on cotton are very low lead the Agency to conclude that an MO greater than 100 is appropriate for this use of endrin.

(4) Another of Velsicol's arguments implicitly objects to the Agency's use of any MOS at all. Velsicol contends that a pregnant woman would have to consume "ludicrously massive amounts of endrin-contaminated fish to incur a teratogenic hazard" (Velsicol, p. 38). Velsicol then goes on to calculate the amount of "maximally contaminated" fish³ that a pregnant woman would have to consume "in order to incur the threshold teratogenic dose" (Velsicol, p. 39). Presentation of the data in this fashion completely ignores the concept of providing an adequate margin of safety to prevent susceptible persons from ever

² In fact, Dr. Wilson's reasoning would indicate that an MOS of between 100 and 1000 is appropriate for endrin. Endrin was found in the vast majority of the fish inhabiting all major rivers sampled by the NPMP in Alabama, Arkansas, Louisiana, Mississippi and Tennessee in 1977 (Seabolt, 1978) and it has occurred at lethal or near lethal levels in the brains of brown pelicans, white pelicans and bald eagles (PD 2/3, pp. 37–9). While endrin may not share the apparent ubiquity of certain other organochlorines in the environment, it certainly qualifies as an "environmental pollutant". Further, the value of endrin in protecting the nation's cotton crop, rather than being "significant", is marginal at best.

³ Velsicol assumes this to be at levels of 0.4 ppm rather than 1 ppm even though the same consultant elsewhere estimates that sublethal doses may result in bioaccumulation as high as 2 ppm.

receiving a "threshold teratogenic dose". The Agency must reject any approach to risk assessment which is premised on the expression of risk in terms of exposure with no margin of safety associated with it. Rather, the Agency must exercise its judgement based on the margins of safety which are afforded by the levels of exposure that can reasonably be anticipated.

The following table indicates the teratogenic margins of safety associated with various levels of consumption of contaminated fish by a 60 kg woman:

Endrin concentration (ppm)	Level of consumption (grams)		
	125	250	500
0.1	7500	3750	1870
0.5	1500	750	375
1.0	750	375	187
2.0	375	187	93
4.0	187	93	46

The Agency's illustration of a MOS of 375 associated with the consumption of 250 g of fish containing 1.0 ppm endrin (PD 2/3, p. 58) should be put in the context of the total array of possible risk situations rather than isolated as a single point of contention. As indicated in the above table, the lowest MOS that can reasonably be anticipated (46) would result from an opportunistic harvest of fish in the final throes of endrin toxicity that are consumed in very large quantity, perhaps because refrigeration is lacking. Such a scenario can reasonably be anticipated but may not be a very common event.⁴ On the other hand, judging by NPMP data, women consuming fish caught in the major rivers of the Delta region would commonly be exposed to endrin residues but seldom at levels providing an MOS of less than 1,000. Between these two extremes lies an area of intermediate teratogenic risk that is associated with the consumption of fish from many ponds and streams that are contaminated by sublethal levels of endrin because of their proximity to cotton culture. The risks from such exposure must be considered as unreasonable in light of the low benefits associated with the use of endrin on cotton.

2. *Acute Toxicity to Wildlife.* Velsicol (pp. 46–51) has commented as some length on the issue of acute toxicity to wildlife, emphasizing theoretical reasons why the Agency erred in

⁴ While pesticides are deliberately used to harvest fish in some parts of the world, it is more reasonable to hypothesize that adults or children may encounter fish in distress from endrin toxicity, may harvest these fish before they are dead, and that pregnant women may consume these fish.

presuming the existence of this risk and noting an absence of confirmatory evidence. Their major argument is that many forms of wildlife will develop an avoidance response from consuming sublethal levels of endrin. The Agency agrees, in principle, that, because of behavioral characteristics, certain individuals or certain species may not be susceptible to poisoning by endrin. On the other hand, the record indicates that wildlife kills have been observed from the use of endrin on wheat in Colorado (Hinkle, 1979); on cotton fields in California and Alabama, and on alfalfa in California (Bushong, 1978). It can reasonably be inferred from these incidents that the foliar application of endrin at any registered dosage has a potential for killing wildlife, despite the theorizing of Velsicol's consultant (Velsicol, Exh. 46). This conclusion is not ameliorated by self-serving allegations of lack of observed effects which are not supported by an appropriate investigation or analysis.⁴ The Agency is not aware of adequate surveys conducted by wildlife biologists that demonstrate the absence of adverse effects on wildlife from the use of endrin.

3. *Population Reduction of Aquatic Organisms.* In PD 2/3 the Agency set forth the circumstances surrounding many events that led the Agency to conclude that runoff of endrin has been a major cause of the reported fish kills. Velsicol does not dispute that endrin may have caused fish kills in the past but persists in maintaining that the "reported problems arose from misapplication or misuse of endrin" (Velsicol, p. 45). Velsicol's claims of misuse are purely conjectural and are insufficient to overcome the presumption of risk.⁵

Perhaps the most persuasive evidence that the lethal endrin concentrations associated with many fish kills arose from normal application practices rather

⁴For instance, Warren Smith (Velsicol, FN 11) has reported that deer, woodchucks and rabbits continued to thrive a year after orchards in New York were treated with endrin. Deer, however, are browsers unlikely to be feeding extensively on the ground vegetation of orchards, woodchucks should all be in hibernation at the time endrin is applied, and rabbits have a high reproductive potential to compensate for any excessive mortality. Mr. Smith's training is not in the area of wildlife biology and his argument reflects this lack of expertise. Moreover, the report of the monitoring study of these orchards by wildlife biologists is not yet available.

⁵Moreover, Velsicol contends that "the empirical data of sporadic fish kills relied upon by the Agency actually tend to confirm Dr. Freed's theoretical kinetics" concerning runoff potential (discussed more fully in Section II C 3, below) (Velsicol, p. 23). Whether or not this is true, this argument appears to be inconsistent with Velsicol's misuse argument since Dr. Freed's theoretical kinetics are not based on misuse.

than from misuse stems from the association of those incidents with toxaphene as well. Velsicol has asserted that "Toxaphene was identified by the Agency as the causal agent in many of the very same PERS incidents which earlier had been attributed to endrin" (Velsicol, FN 12, emphasis in original). As noted on PD 2/3 (p. 22), such a coincidence does not serve to exonerate endrin. The frequent coincidence of high concentrations of both endrin and toxaphene, however, is strong circumstantial evidence that the source of both is runoff since it is highly improbable that both endrin and toxaphene were misapplied or misused independently of each other on numerous occasions at the same time and general area. The Agency continues to believe that most fish kills that have resulted from either endrin, toxaphene or both were the result of use consistent with the label. As discussed more fully below, the Agency also remains unconvinced that a 1/4 mile barrier strip will adequately reduce runoff of these pesticides.

4. *Fatality to Endangered Species.* At the request of the Director of the U.S. Fish and Wildlife Service (Greenwalt, 1978a) the Agency reinitiated Section 7 Consultation prior to determining what final actions to take with respect to endrin. In response, the FWS expressed the opinion, in essence, that most of the Agency's proposed regulatory actions and use restrictions alleviated the FWS' concern for adverse impacts of endrin to threatened and endangered species (Greenwalt, 1978b). An exception made by the FWS was that the use of endrin to control orchard mice was likely to jeopardize the continued existence of the Arctic and American peregrine falcons and the bald eagle when used in the normal ranges of these birds.

At the FIFRA-SAP meeting (SAP, October 28, 1978 pp. 102-3) the Agency's attention was directed to an unpublished manuscript by Stickel et al. (Undated) in which endrin was identified as the cause of death for two bald eagles. This manuscript was not previously available to the endrin RPAR record. The SAP formally recommended that the Agency address the concerns of the FWS by imposing geographical restrictions for the use of endrin in orchards (Fowler, 1978). EDF, relying on the FWS position, proposed cancellation of additional endrin uses (Hinkle, 1979).

Following additional investigations among its staff and consultation with the Agency, however, the FWS revised its position on the use of endrin to control orchard mice, concluding in essence that a case for risk to the Arctic

and American peregrine falcons and to bald eagles could not be substantiated by currently available information (Greenwalt, 1979). Accordingly, the FWS concluded that the use of endrin to control voles in orchards is not likely to jeopardize the continued existence of those species. Any new evidence, however, could require a reappraisal of the FWS' opinion.

Velsicol has made several comments on the risks to endangered species (Velsicol, pp. 54-8) that do not affect the Agency's position but which require response.

(1) Velsicol states, "In view of the evidence on the Louisiana brown pelican presented by Velsicol and in view of the conclusion drawn by Director Greenwalt, the Agency has conceded that the endangered species trigger had been rebutted successfully (Position Document 2/3, pp. 33-40)". While the Position Document does in fact conclude that "the risk to endangered species has been rebutted for the brown pelican", the Agency specifically rejected all of Velsicol's arguments as the basis for such a conclusion (PD 2/3, pp. 35-8). Further, the probable fatality to two bald eagles noted in PD 2/3 and the confirmed fatality of two additional bald eagles introduced to the record by the SAP are sufficient to maintain the Agency's concern for that species. However, the Agency has addressed this concern by requiring that fish killed by endrin be collected and buried, thus substantially reducing the most likely source of exposure to bald eagles. With this new requirement, the Agency agrees that the continued use of endrin "is not likely to jeopardize the continued existence of the bald eagle" (Greenwalt, 1979).

(2) Velsicol contests the conclusion of the FWS regarding the potential for secondary poisoning of raptors from birds and rabbits that may be exposed to endrin-treated orchards by citing reports submitted by Warren Smith (Velsicol, p. 57, FN 11). As noted above (FN 5) however, Mr. Smith's observations on wildlife do not address the issue. The relevant document on this issue will be the report of the monitoring program conducted in New York in 1977 and this report, as indicated in PD 2/3 (pp. 61-2), is not yet available because chemical analyses are incomplete.

(3) Velsicol cites the opinion of Dr. Howard regarding hazards of secondary poisoning potential to falcons and eagles. However, Velsicol specifically addresses lack of hazard associated with the consumption of orchard mice (Velsicol, p. 58) rather than the non-

target birds and rabbits that are the concern of the FWS.

In summary, the Agency agrees with the revised position of the FWS in concluding that the available evidence does not support the conclusion that the use of endrin is likely to jeopardize the continued existence of peregrine falcons and bald eagles and also concurs that the situation should be reevaluated as new information becomes available. Thus, the available evidence does not require changes in the Agency's position on endangered species.

5. *Oncogenicity.* The Agency's Carcinogen Assessment Group (CAG) analyzed the available evidence on the oncogenicity of endrin and concluded that endrin was unlikely to be a human carcinogen. Accordingly, in PD 2/3, the Agency took the position that the oncogenicity "trigger" had been rebutted. Dr. Melvin Reuber criticized the Agency's conclusion. Dr. Reuber made an oral presentation to the SAP on October 28, 1978 and submitted written comments to the SAP and to the Agency (Reuber, 1978a; b). The CAG has submitted written responses (Anderson, 1978a; b). At the December 14, 1978 SAP meeting, Dr. Reuber and Dr. Roy Albert, Chairman of the CAG, both discussed the issue of endrin's oncogenicity and responded to Panel members' questions.

Dr. Reuber's major points are (1) that most of the oncogenic studies conducted with endrin are invalid for various reasons and the negative findings reported from such studies should receive no weight in assessing the oncogenicity of endrin and (2) that certain of the studies resulted in statistically significant increases in tumors associated with exposure to endrin. The CAG responded that some of the allegedly positive results involved differences of opinion among pathologists. For instance, Dr. Reuber's diagnosis of certain liver tumors in the FDA rat study could not be confirmed by two other consultant pathologists. Since Dr. Reuber declined an invitation to participate in a joint examination of the slides, the CAG accepted the opinion of the other pathologists. While the CAG acknowledged that most of the available studies had some deficiencies, it also indicated that all contributed some information and it determined, on balance, that the slight indication of positive endrin effect found in the FDA rat study and the Kettering mouse study was insufficient to indicate that endrin was likely to be a human carcinogen. (For detailed discussion, see SAP, December 14, 1978).

EDF also commented on the oncogenicity issue at the SAP meeting

and in a submission to the Agency (Hinkle, 1979). EDF argues that respectable scientific authority is sufficient evidence upon which the Agency may rely in a determination and that such authority does not have to reflect a majority opinion. EDF alleges that critical questions regarding the endrin studies remain unanswered and, especially in light of Dr. Reuber's diagnosis, the issue of endrin's carcinogenicity remains an open question. Dr. Albert, in response to similar questioning by the SAP, indicated that Dr. Reuber's opinions had been given a great deal of attention by the CAG (SAP, Dec. 14, 1978, p. 35).

Velsicol has also submitted comments on the question of oncogenicity and the Agency must respond to certain of their statements. By incomplete quotation of the NCI Technical Report Series No. 12 (Velsicol, Exh. 48), Velsicol has incorrectly implied that the NCI conclusions were unqualified. Velsicol reported that NCI had concluded that endrin "was not carcinogenic for * * * rats or for * * * mice" (Velsicol, p. 53). The full statement reads, "It is concluded that under the condition of this bioassay, endrin was not carcinogenic for Osborne-Mendel rats or for B6C3F1 mice." By removing the limitations on the conclusion, Velsicol has improperly generalized its applicability. The NCI clearly did not speak to the conclusions of other existing tests, to what might be the case in other strains of rodents, or to how differences in conditions might have affected the outcome of the NCI tests.

Velsicol's comments also incorrectly characterized both the SAP's and the Agency's positions with respect to the oncogenic status of endrin. Velsicol states, "Moreover, the Agency's Scientific Advisory Panel reviewed the evidence of record and concurred in the Agency's conclusion that endrin is not carcinogenic." (Velsicol, p. 53). In fact, the SAP has made no formal comment on the issue and thus has neither concurred in nor dissented from the Agency's conclusion. Moreover, it is the Agency's position only that the weight of the evidence is that endrin is "unlikely to be a human carcinogen" (PH 2/3, p. 44); the Agency has never unqualifiedly concluded that "endrin is not carcinogenic." The Agency recognized that there was some evidence suggestive of oncogenic effects but that the evidence as a whole supported the conclusion that endrin is unlikely to be a human carcinogen. That there was insufficient evidence for the Agency to consider endrin a probable human carcinogen does not mean—as

Velsicol suggests—that the Agency has made an unqualified negative finding.

In summary, the Agency has concluded that it is not necessary to modify the determinations set forth in PD 2/3 that endrin is unlikely to be a human carcinogen and that the oncogenicity "trigger" has been rebutted for endrin.

B. Comments Relating to Benefits

1. *Cotton.*—The USDA (Bergland, 1978) comments:

We believe the cancellation of uses on cotton in the Southeast and Delta will have limited economic impact at the present time. However, a number of entomologists in the cotton producing States have pointed out that the use of endrin on cotton could become critical if current alternative pesticides are lost through the regulatory process, reduced market availability, or become less effective.

In response, the Agency is pleased that the USDA concurs with the Agency's analysis of the present benefits of endrin on cotton which provides the basis for its regulatory decision. If future events indicate a substantial change in the risk/benefit picture, at that time the Agency can reconsider its regulatory decision.

Velsicol has commented extensively on the essentiality of endrin in Integrated Pest Management Programs (IPMP), especially for control of the bollworm complex, and on the economic impact of an endrin cancellation (Velsicol, pp. 60-74). Velsicol states that experts in Alabama, Arkansas, and Mississippi have presented data which indicate that bollworm resistance to endrin in those states is not currently a widespread or major problem (Velsicol, pp. 62 and 66) but that it remains effective on light to moderate infestations. Judicious use of endrin, allegedly, can retard the development of resistance to newer pesticides. Velsicol offers some recent data on treatment costs indicating that a replacement of endrin with the most likely non-RPAR pesticides would result in a total increase in costs of \$1,436,116 rather than the Agency's estimate of \$717,850.

The Agency's perception of the benefits from the use of endrin on cotton differs only in detail from Velsicol's. The Agency's understanding is that bollworm resistance to endrin per se is virtually complete (Lincoln, 1979; EPA, 1977) and therefore, as Velsicol indicates, endrin is currently formulated for use on cotton mainly in combination with methyl parathion. Moreover, Velsicol admits that the combination is generally efficacious only for light to moderate infestations. While the Agency concedes that some benefits

could be derived from the use of endrin on cotton, Velsicol's claim of essentiality is hardly supported by the dramatic decline in use in Mississippi, "from approximately 275,000 pounds in 1973 to approximately 75,000 pounds in 1977, and even less in 1978" (Velsicol, Exh. 18). The Agency agrees in principle that the use of a variety of pesticides may be desirable to retard the development of resistance and that endrin could theoretically continue to play some role in IPM programs. Velsicol's claims that endrin is essential for this purpose, however, are not supported by the record.

Velsicol's conclusion that a cancellation of endrin would increase costs by \$1.4 million rather than the Agency's estimate of \$0.72 million may well reflect current costs of pesticides more accurately than did the Agency's analysis which was based on 1976 values. Even so, the impact projected by Velsicol is probably exaggerated for several reasons. First, Velsicol has eliminated toxaphene and EPN as alternatives because a notice of RPAR has been issued for toxaphene and because EPN is on the pre-RPAR list (Velsicol, p. 63). However, both chemicals are presently available, and it is simply too early to predict whether they will become unavailable at some point in the future. Additionally, Velsicol's analysis fails to account for the reduction in benefits that would result from the regulatory action it would prefer, imposition of a 1/4 mile distance restriction from water (and human habitation) in the states east of Interstate Highway 35 (I-35). Even under Velsicol's analysis, however, its conclusion with regard to endrin's economic importance to the cotton growing industry is remarkably similar to the Agency's and the Agency continues to maintain that endrin is only of minor significance to the cotton industry.

2 Small Grains. USDA (Bergland, 1978) has criticized the Agency for an alleged failure to give sufficient consideration to the possible benefits of relatively insignificant uses of endrin for which economic data may be lacking, such as the use of endrin to control chinch bugs. With respect to the use of endrin for chinch bugs, however, public response to the proposed decision set forth in PD 2/3 indicates that the Agency was correct in attributing little or no economic value to endrin. Dr. Leroy Brooks (Kansas), the only proponent of the use, did not renew his appeal for retaining that use after the issuance of PD 2/3, although he submitted other comments to the USDA

(Brooks, 1978). No other comments (including those from Velsicol) were received on chinch bugs and the USDA did not specify other uses with respect to which USDA believed the agency incorrectly assessed the benefits of endrin.

Velsicol's comments with regard to the use of endrin on small grains contain factual errors. Regarding Kansas, Velsicol claims that 1,200,000 acres are treated with endrin (presumably for control of pale western cutworm) and, for Oklahoma, 2,000,000 acres are said to be infested and treated for army cutworm (Velsicol, pp. 76-7). These values are inconsistent with the cited references, with the Agency's estimate of usage, and with Velsicol's own production and sales figures. Regarding pale western cutworms in Kansas, Dr. Brooks stated that, "Some localized infestations requiring treatment of 10 to 20 thousand acres occur every two to three years. Large scale outbreaks . . . that would necessitate treatments over a much larger area (possibly up to a million acres) could occur . . ." (Velsicol, Exh. 58). Regarding Oklahoma, Dr. Coppock reported that, "Between five and six million acres of winter wheat were sprayed for the greenbug [emphasis added] and army cutworms during that time [1976]" (Coppock, 1976) and Velsicol's estimate can not be derived from that reference. The Agency's estimate for all states combined was an annual average of 416,000 acres for pale western and 691,000 acres for army cutworms. Velsicol's own production estimates indicate a range in usage on small grains from 201,000 pounds in 1976 to 25,000 pounds in 1977 (PD 2/3, p. 6). At 3-4 oz. active ingredient of endrin per acre, these amounts would have treated from a maximum of one million acres in 1976 to a minimum of one hundred thousand acres in 1977. Thus, the Agency's analysis may have overestimated the benefits of endrin's use on small grains somewhat but Velsicol's claims of treated acreage can not be remotely supported by their own production and sales figures, which were provided by Velsicol to provide a more accurate picture of recent usage.

EDF has protested that there are many available substitutes registered for grasshopper control in small grains and rangeland (Hinkle, 1979). However, endrin is not registered for use in rangeland and several of EDF's alternative pesticides are not registered for use on small grains. PD 2/3 (p. 39) incorrectly listed phorate as an alternative since it is recommended as a border treatment in Montana. To clarify

the record, the only federally registered alternatives for the use of endrin on wheat are malathion, parathion, methyl parathion and toxaphene.

Velsicol has submitted new data on the efficacy of various insecticides to control grasshoppers in Oklahoma (Coppock and Pitts, undated). The authors concluded that the results of these tests indicate that endrin (as well as malathion, parathion and toxaphene) gave excellent control under the test conditions.

3. Apple Orchards. Velsicol's comments on the benefits of endrin's use in apple orchards contains some misplaced criticisms of the Agency's Benefit Analysis (EPA, 1977). Velsicol states that the Agency inappropriately focus upon total apple acres when assessing endrin, and infers that the Agency was naive in not recognizing the "economically disastrous" effects of voles in affected orchards. Velsicol also states that the Agency's national estimates of the effect of an endrin cancellation upon apple supplies is "misleading". Further, Velsicol charges that "the Agency has attempted to minimize the vole problem". Velsicol concludes by asserting that the Agency should have limited its analysis to vole-infested orchards and should have extended the analysis beyond the three-year time horizon presented in the Benefit Analysis (Velsicol, pp. 78-9).

These assertions reflect some misunderstandings about the benefit analysis. The inclusion of the effect of an endrin cancellation upon national apple supplies and prices is neither "misleading" nor an "attempt to minimize the vole problem" but normal Agency procedure. The Endrin Benefit Analysis for Orchards also includes an extensive discussion of producer-level impacts, including analysis of apple losses, production cost changes, farm level prices, and farm revenues. The cost-effectiveness of endrin and various alternative control strategies used by apple growers are also discussed at length. Since the effects of an endrin cancellation may extend beyond current users, the Agency was prudent in not limiting the analysis to owners of vole-infested orchards.

With regard to the three-year time horizon used in the report, the Agency is fully aware that impacts could extend beyond this period. However, available data do not permit an accurate assessment of the economic effects likely to occur in the long term (EPA, 1977 pp. 74-5, 80-1, 84-5).

C. Comments Relating to Regulatory Options

1. Designation of Target Species in Apple Orchards. USDA (Bergland, 1978) notes, "The use of the word 'only' in identifying the vole species to be controlled in apple orchards may cause unnecessary enforcement problems when more than one species is established in an orchard. We assume that the destruction of eastern meadow voles incidental to the control of pine voles would not be considered inconsistent with the labeling." Additionally, Dr. Don Hayne (personal communication, Nov. 14, 1978) has noted that the Agency's use of the terms "eastern" and "western" meadow voles has no basis in scientific nomenclature. Dr. Ross Byers (1978) has indicated that the prairie vole (*Microtus ochrogaster*) has behavioral characteristics similar to that of the pine vole and that the need for endrin to control this species in the mid-West should be investigated.

Having received no additional information, the Agency is unable to address Dr. Byers' concern. The Agency agrees with Dr. Haynes Point. Accordingly, labels for use in apple orchards should designate the pest species as follows:

Eastern United States: Pine Voles (*Microtus pinelorum*)
Western United States: Meadow Voles (*Microtus species*)

The distribution of commercial apple growing areas is such that the broad geographical limits do not pose problems of interpretation.

USDA is correct in its assumption that the destruction of meadow voles incidental to the control of pine voles from the use of endrin in eastern orchards containing both pine voles and meadow voles would not be inconsistent with the label. The use of the word "only" on the label is necessary, however, to preclude the use of endrin where it is intended to control meadow voles rather than pine voles in the East. The presence of pine voles in an orchard in the East may not be used as a pretext for the use of endrin intended only to control meadow voles.

2. Equipment. USDA commented that, for aerial application, wind velocities should be stated as the maximum allowed (i.e. 10 mph) rather than as a range (i.e. 2-10 mph) and that the flying heights should be the same for all crops. Additionally, the State of North Carolina recommended that the label specify "apply only with ground equipment" for use in apple orchards (Blaylock, 1978).

In specifying a minimum wind velocity for aerial application, the Agency is following the recommendation of Velsicol's Expert Panel (Akesson, 1977) and believes that this represents sound advice for controlling drift because it is supported by empirical data relating to conditions and dispersion of drift. The variable height of application referred to by USDA stems from a typographical error. The maximum height for aerial application should be 10 feet above all crops. While it is unlikely that anyone would attempt to control voles by treating apple orchards with endrin by air, such an attempt would be extremely hazardous. Accordingly, such application will be prohibited by a label restriction.

3. Distance Restriction from Aquatic Habitats. a. *Cotton Usage East of Interstate Highway 35.* The Agency concluded in the Endrin PD 2/3 that the hazard of endrin to fish arises from transport to water by both drift and runoff. It concluded that a distance restriction can substantially reduce endrin contamination of water resulting from drift, but that no information was available to assess the impact of a distance restriction on the reduction of contamination from runoff. In response to the recommended regulatory option in PD 2/3 to cancel endrin use on cotton east of Interstate Highway 35, Velsicol submitted an extensive discussion defending the efficacy of a 1/4 mile restriction from water bodies in diminishing endrin runoff to water in the southeastern United States. The Agency has already engaged in several exchanges of comments on the runoff question with Velsicol and its consultant, both prior to and during the SAP proceedings (Velsicol Exh. 21, 22, 23, 25; Severn, 1978; SAP, October 28, 1978). The Agency will now respond to Velsicol's position on this matter, as developed in its comments on Position Document 2/3 (Velsicol, pp. 17-30). In Velsicol's summary, the following points were made:

(a) Endrin is strongly adsorbed to soil particles at the application site;

(b) Endrin has a "comparatively short residual life" in the environment;

(c) Not more than 1% of applied endrin would be carried to the edge of a treated plot by an intense rainfall;

(d) An intervening 1/4 mile of bare cultivated soil would reduce runoff concentrations of endrin to 1% of this 1%, or 0.01% of the amount applied;

(e) Vegetation in the barrier strip would further reduce the runoff by another factor of 10;

(f) Maximum concentration in a pond containing two acre-feet of water resulting from application of 1.25 lbs of endrin to one acre separated from the pond by a barrier strip covered with vegetation would be approximately 2 ppt (parts per trillion);

(g) The efficacy of the distance restriction has been demonstrated by the reduction in fish kills observed in Arkansas after the imposition of a distance restriction;

(h) The acceptability of the distance restriction is also demonstrated by its imposition in Mississippi as part of an emergency exemption for synthetic pyrethroid application to cotton;

(i) Monitoring data from Alabama confirm the efficacy of intervening land in decreasing endrin residues in ponds;

(j) Distance restrictions imposed by the United States Forest Service for pesticide applications in forest areas also support the efficacy of distance restrictions in reducing contamination of adjacent waters; and

(k) In summary, the evidence that a quarter-mile barrier would render endrin runoff from southeastern cotton fields innocuous is overwhelming, and warrants revision of the Agency's preliminary recommendation to cancel the cotton use in the Southeast.

The Agency's response will discuss each of these points in order.

(a) *Adsorption of Endrin to Soil.* The Agency accepts the view put forward by Velsicol that endrin may be strongly bound to soil or suspended sediment. It is generally agreed (Pionke and Chesters, 1973; USDA/EPA, 1976) that compounds which are strongly adsorbed will move mostly on sediment particles. Thus the major mode of runoff transport of endrin is probably through erosion processes.

Since endrin is applied as a foliar spray, rather than directly to the ground, a potential problem appears to be washoff from the foliage soon after application. The record of endrin-related fish kills appears to be correlated with rainfall incidents. Estimates of the amount of pesticide deposited on foliage from aerial application vary, but 50% on foliage and 50% on the ground appears to be a reasonable estimate. Sparr et al. (1966) observed a concentration of endrin in runoff water during a rainfall event seven days after application which was higher than that found during irrigation prior to the rain and stated:

We believe that this higher endrin concentration resulted from washing the endrin off the foliage.

While there are major flaws in this study (the particulate fraction of the

runoff was apparently not analyzed, although this fraction would be expected to contain most of the endrin, as noted above), the study at least suggests that foliar washoff during a rainfall event is an additional consideration in evaluating the overall extent of endrin transport by runoff.

Another study indicating that foliar washoff of pesticides from cotton makes an important contribution to runoff was recently reported by Willis et al. (1976). These workers applied toxaphene and other pesticides to cotton in a nearly flat watershed equipped with instrumentation to measure surface runoff and sediment and chemical yields at the point where runoff entered a four-acre pond. They found a total of 0.038 lbs/acre of toxaphene in runoff during the period from August to February (a period of low sediment yield); a total of 9 lbs/acre of toxaphene had been applied in August and September. They concluded that the freshly sprayed leaves were an important source of toxaphene in runoff in August and September. These workers also observed that:

Current cultural practices in the Mississippi Delta may be intensifying sediment and chemical transport from agricultural fields. After harvest, many farmers shred plant residues, till the soil, and form rows. The fields are left with little or no vegetative cover throughout the winter and early spring, and are subject to the erosive forces of rainfall and runoff until adequate cover develops.

Since, as noted above, endrin is bound to soil particles, this study suggests that substantial runoff transport of endrin may occur under current cotton cultural practices.

(b) *Environmental Persistence of Endrin.* Velsicol concluded that endrin has a comparatively short residual life in the environment. Persistence on foliage or soil is an important issue, since the longer a chemical resides at the site of application, the more opportunity there will be for runoff events to occur. The Agency realizes that although persistence is not an important factor for runoff events which occur immediately following application, it can be an important factor in later runoff events.

Velsicol cited studies on endrin photodegradation (Baker and Applegate, 1974) and soil metabolism (Castro and Yoshida, 1971; Matsumura et al., 1971) in support of its conclusions with regard to endrin persistence. The study by Baker and Applegate used blacklight lamps to irradiate thin films of endrin and other pesticides on glass in the laboratory; they reported a 10-30%

photodecomposition of endrin in 20 hours, compared to dark controls. This study has little utility for evaluating the environmental photodegradation of endrin, since it presents no data on the photochemistry of soil-bound endrin. It is likely that bound endrin would be much less accessible to sunlight and in addition might be inherently less photoreactive. The artificial light source employed also makes this study less valid. The claim that mirex was photodegraded suggests that the emission spectrum of the lamps used extended to well below 290 nm (the lower limit of natural sunlight), since mirex has virtually no absorption above 250 nm and no photoreaction could be detected using natural sunlight (Alley et al., 1974). In summary, the information presented by Baker and Applegate may not be used as a reliable indicator of the environmental photodegradation of endrin.

The soil metabolism study of Castro and Yoshida (1971) was performed in flooded and upland soils in the Philippines. Endrin was found to degrade rapidly in a flooded soil but was in fact quite persistent (88% recovered after two months) when the same soil was maintained at 80% of the maximum water-holding capacity.

This study is of dubious utility in evaluating persistence of endrin in the soils of the southeastern United States. A monitoring study performed in 1966 in Greenville, Mississippi (USDA, 1968) found high residues of endrin in soil more than one year after treatment. Soybeans planted in these soils had endrin residues resulting from translocation. While the studies of Matsumura et al. (1971) showed that 25 of 150 soil cultures had the capacity to degrade endrin in laboratory culture, it is clear that endrin can be sufficiently persistent in the southeastern United States to survive a winter season.

(c) *Estimates of Extent of Runoff From Treated Fields.* Velsicol concluded that, as a worst case, not more than 1% of the endrin applied would be carried to the edge of a treated plot by soil erosion. In support of this conclusion, a limited number of controlled runoff studies were cited, in which the total amount of pesticide leaving the field was measured to be less than 1%. However, two recent reviews (Pionke and Chesters, 1973; Leonard et al., 1976) have compiled a much larger number of such runoff studies; the overall range of extent of loss varied from 0.007% to approximately 40%, with 11 studies reporting losses in excess of 1%. These studies encompassed a wide range of conditions (type of pesticide and

application conditions, rainfall characteristics, type of soil, crop, slope, etc.), all of which strongly influence runoff, as noted by Velsicol. In addition, a very recent study (Smith et al., 1978) used paraquat as a tracer compound for estimation of sediment transport in a Southern Piedmont watershed. When applied to the soil surface, runoff losses of paraquat commonly exceeded 5%. Although no cover crop was present in this case, it appears that sediment transport of bound pesticides can be a significant source of aquatic contamination. Precise predictions of the behavior of endrin when applied to cotton in the Southeast may not be made based on data currently available. However, based on the studies which are available, the Agency concludes that a 1% runoff yield, while reasonable some of the time, is certainly not a "worst case" since substantially higher values have been observed.

(d) *Efficiency of a Barrier Strip in Reducing Runoff.* The Agency in PD 74 concluded that no information was available on which to base a quantitative estimate of the efficacy of intervening land in reducing the runoff potential of endrin. This conclusion derived in part from the observation that quantitative runoff studies (as discussed in (c) above) commonly measured runoff immediately adjacent to the treated field. This point was also made by Velsicol. However, the summary document submitted by Velsicol also states that:

... on the basis of this worst-case runoff model, Dr. Freed calculated that the quarter-mile barrier (assuming it was bare-cultivated) would reduce runoff concentrations of endrin to 1% of what they would be under similar worst-case circumstances with no barrier strip ... (Velsicol, p. 25)

The calculation referred to above is the use of the Universal Soil Loss Equation and a sediment delivery ratio equation to calculate the amount of chemical in overland runoff; the value computed was 0.0127 pounds. The values of the input parameters for the equations are not presented, nor is the manner of carrying out the calculation. In any event, these calculations are not based on any field experiments with endrin, despite Velsicol's contention that detailed data and other information have been provided to the Agency to evaluate endrin runoff.

There is no question but that intervening land areas can have the effect of reducing sediment runoff and thus sediment-bound pesticide transport. However, erosion continues as a major problem; for example, an annual sediment yield of 11.6 tons per

acre was measured on nearly flat land in the Mississippi Delta (Willis et al., 1976). A general equation for the amount of sediment transported overland apparently is not available. Values of the ratio of sediment transported from a specific area by erosion to the amount received by a body of water range from about 0.1 to 0.3 (USDA/EPA, 1975). This report also concluded that:

The sediment discharged to large rivers is usually less than one-fourth of that eroded from the land surface.

Obviously, this amount will vary with rainfall intensity and previous surface conditions, as well as the distance over which it is transported. A major runoff event may also pick up sediment deposited during prior runoff events (USDA/EPA, 1976).

In conclusion, the Agency's perception is that it is not possible to predict the extent of overland transport of endrin by erosive processes because of the variable nature of these processes and thus, the efficacy of a barrier strip in reducing endrin runoff cannot be predicted. The Agency concludes that Velsicol's contention that a "worst case" of endrin transport across a ¼ mile barrier strip is 1% of that leaving the treated field is not justified.

(e) *Effect of Vegetation in Attenuating Runoff.* Velsicol concluded that vegetative cover on the proposed barrier strip would further reduce endrin transport by a factor of ten. An exploratory survey (Moubry et al., 1967) of endrin runoff through heavy turf in a Wisconsin orchard was cited, in which no endrin was detectable in runoff water; the water was observed to be devoid of silt. The relevance of this study to cotton runoff is questionable, since it does not appear that cotton fields generally are surrounded by heavy turf. The observations of Willis et al. (1976), quoted above, suggest that very little vegetative cover may be available throughout much of the year in cotton culture. For the cover and management factor appearing in the Universal Soil Loss Equation, a value of 0.34-0.4, corresponding to about 60% reduction in sediment yield, is an approximate value for cotton (USDA/EPA, 1975). This indicates that a factor of ten is too large to be a reasonable estimate of the effect of vegetative cover on a barrier strip in reducing endrin runoff from cotton fields.

(f) *Calculation of Maximum Endrin Concentration.* Based on its estimates of endrin runoff from a treated plot, across a barrier strip, and through vegetation, Velsicol calculated that the maximum concentration in a two acre-foot pond

located ¼ mile away from a single treated acre would be 2 ppt. As discussed above, the Agency does not accept these three estimated runoff percentages, or, therefore, the calculated pond concentration based on them. Moreover, the use of a single acre as a plot size is particularly unreasonable; clearly, many acres of cotton could be treated in a single watershed. As noted by Leonard et al. (1976):

The pesticide load in runoff and on sediment times the areal extent of usage is the pesticide dosage entering the receiving water.

The Agency believes that integrated sampling of a watershed area, in which all of the runoff is channeled through a flume and sampled continuously, is the only reliable way to quantitate pesticide losses in runoff. The studies by Willis et al. (1976) and Smith et al. (1978) are examples of such studies. In the absence of adequate data of this nature, the Agency can not reasonably conclude that Velsicol's calculation of maximum endrin concentration in receiving waters is supported.

(g) *The Arkansas Distance Restriction.* Velsicol stated that a reduction in fish kills in Arkansas following imposition of a ¼ mile aerial application distance restriction from commercial fish ponds and hatcheries demonstrates the efficacy of such restrictions in diminishing runoff transport. Arkansas and Mississippi are areas of intensive commercial catfish farming. Crockett et al. (1975) sampled catfish from 50 farms in 1970 and reported that 76% of the fish samples contained endrin. They concluded that aerial transport of endrin from nearby cotton areas was the most probable route of contamination. They also observed that commercial fish ponds are generally constructed to prevent the entry of surface runoff. Thus it appears likely that the reason that the imposed distance restriction resulted in a decrease in fish kills, to the extent that those data are accurate and complete, was because drift was the main source of contamination of the commercial fish ponds. The Agency accordingly concludes that the alleged success of the distance restriction in Arkansas does not answer the question of reduction in runoff transport.

(h) *The Emergency Exemption in Mississippi.* Velsicol claimed that the imposition of a ¼ mile distance restriction for an emergency exemption involving certain synthetic pyrethroids in Mississippi and the resulting lack of fish kills demonstrates the efficacy of the restriction in diminishing runoff.

However, a ¼ mile restriction was imposed as a condition of the emergency exemption use as a precautionary measure to reduce aquatic contamination while adequate data were being developed for registration purposes; it was not imposed on the basis of any particular data or information regarding environmental transport or the effectiveness of a barrier strip in reducing transport. The alleged absence of reported fish kills alone is insufficient to support Velsicol's conclusion. Velsicol did not establish that conditions which cause runoff were associated with the use of the pyrethroids. To the extent that runoff conditions may have been present, the absence of reported fish kills is not evidence that substantial transport did not take place since the transported materials may not have been at lethal concentrations; sublethal concentrations of endrin are of substantial concern to the Agency. Without an adequate analysis and additional empirical data, Velsicol's observation on synthetic pyrethroids gives little, if any, support to its position on the effectiveness of a barrier strip in reducing the transport of endrin by runoff.

(i) *Alabama monitoring data.* The Alabama monitoring data (Elliott, undated) reported a wide range of endrin residues in pond water, sediment, fish, soil, forage, rats and birds. Endrin treatment history was not reported, so that correlation between endrin use and resulting environmental residues is not possible. This study was not designed to evaluate the efficacy of the distance restriction in diminishing endrin residues in water, and no conclusions regarding the efficacy can be drawn from the study.

(j) *Distance Restrictions in Forest Areas.* The United States Forest Service employs distance restrictions for pesticide applications in forest areas primarily to reduce drift. Since vegetative cover and soil surface conditions in forest areas are entirely different from those expected adjacent to southeastern cotton fields, the Agency concludes that distance restrictions used in the forest have no relevance to cotton agriculture.

(k) *Summary.* Velsicol stated that there is overwhelming evidence that a ¼ mile distance restriction would render innocuous any endrin runoff from southeastern cotton fields. The Agency has reviewed all the information submitted by Velsicol concerning this issue, as well as additional information cited above. The Agency concludes that endrin transport to water by runoff would still be a substantial possibility if

the distance restriction were to be imposed, and that no reliable information is available to insure that the attenuation of this transport by a barrier strip would consistently be of the order of magnitude suggested by Velsicol. Accordingly, the conclusions submitted by Velsicol on the issue of runoff cannot be considered adequate to support its proposal of allowing endrin use on cotton in the southeast subject to a ¼ mile distance restriction from water.

Additionally, Velsicol has stated that its proposed distance restrictions from bodies of water "would reduce runoff to innocuous levels even under worst-case circumstances"; that "the Agency has acknowledged the validity of this point with respect to small grains regions and western cotton regions where heavy rainfall is infrequent . . ."; and the "The Agency also agrees with Velsicol that a similar distance restriction of 50 feet is appropriate for the apple orchard use" (Velsicol, p. 24). These statements distort the Agency's position on the effectiveness of barrier strips in reducing runoff. In all cases where the Agency has proposed was to reduce to acceptable levels relative to the perceived benefits of usage. In the case of orchards, at the very place cited by Velsicol (PD ¾, p. 157), the Agency stated that:

Major risks to fish and wildlife would remain because of the high application rate to the terrestrial habitat and because the potential for runoff would be little affected by a distance restriction of 50 feet.

(b) *Small Grains.* In response to the Agency's proposal to permit applications of endrin adjacent to ponds owned by the user, Velsicol has repeated its proposal to prohibit applications within ¼ mile of all lakes, ponds, and streams (Velsicol, p. 90). In PD ¾ the Agency presented its rationale for excepting ponds owned by the user. As a matter of policy, the farmer should have the right to choose between risking his fish and protecting his wheat (PD ¾, p. 145). Velsicol has given no reason for denying the farmers that option, and Agency sees no reason to change its position.

Dr. Leroy Brooks (1978) has recommended that the distance restriction be reduced to ¼ mile if endrin is applied by ground equipment. Dr. Brooks' recommendation is consistent with the intent of the use restriction. Drift from a boom ground sprayer two feet above the wheat will travel less than half the distance than will the drift from an airplane at an elevation of 10 feet if both have similar

nozzles and pressures. Therefore a ¼ mile distance restriction is appropriate for such ground equipment and will be so indicated on the label.

4. *Distance Restriction from Human Habitation.* The SAP questioned the basis for the Agency's proposal to prohibit application of endrin within 150 yards of human habitation (SAP, Dec. 15, 1978 pp. 5-6) and recommended that the distance be extended to ¼ mile from human habitation (Fowler, 1978). Velsicol supported the imposition of a quarter-mile restriction. The basis for the Agency's proposal, set forth in PD ¾ (p. 128), was that the MOS for teratogenic risk estimated for a distance of 150 yards is ample (5500). Neither the SAP nor Velsicol demonstrated any deficiency in the Agency's assessment.

The Agency believes that since there is an ample MOS at 150 yards, the imposition of a ¼ mile restriction would unnecessarily reduce the economic benefits to users. However, the Agency recognizes that its risk estimate assumed compliance by the applicator regarding equipment, wind speed and other restrictions and that in the absence of full compliance, the MOS would vary by an unknown amount. Therefore, in consideration of the recommendations of both the SAP and Velsicol and for consistency in the specification of distances on labels, the Agency will compromise its position and direct that this restriction be modified to read "¼ mile" (220 yards) instead of "150 yards."

5. *Posting of Contaminated Ponds.* In the event of a fish kill, the Agency proposed that the pond be posted "Contaminated: No Fishing" for a period of one year. Velsicol characterizes this warning as "inadequate" and indicates that a more appropriate warning would be as follows: "Contaminated: Use of this Water for Drinking, Fishing, Swimming or Other Recreational Purposes Is Prohibited" (Velsicol, p. 90). Velsicol's position, however, is unsupported by any analysis. A direct overspray was estimated to produce a concentration of 0.009 mg/l (9 ppb) in a pond 2 feet deep (Velsicol, Exh. 5). Were a woman to drink as much as a gallon of water containing 10 ppb endrin, the MOS would be 2,000. In consideration of the low solubility of endrin in water and its high adsorption on fine particulate matter, the Agency believes that negligible amounts of endrin would be adsorbed by a swimmer. Consequently, consumption of fish caught from contaminated ponds appears to be the only exposure route of significant concern. This concern is adequately dealt with by the Agency's proposal.

Other issues concerning posting have also been raised. One is whether the duration of posting should be less than a year. Another is whether posting is necessary in situations where contamination is likely but the level is below that which kills fish. The latter issue was raised at the SAP meeting (SAP, October 28, 1978, p. 121) but was left unresolved. Unfortunately, available field data are inadequate for precise standard setting. It seems reasonable and prudent, however, to require that, if treatment is made at distances closer than ¼ mile by air or ½ mile by ground from ponds owned by the user, that such ponds be posted for a period of 6 months if no fish are killed and 12 months if a fish kill occurs. In any case, fishing may be permitted if laboratory analysis indicates that endrin concentration in the edible portion of fish do not equal or exceed 0.3 ppm (which is the current FDA Action Level for endrin residues in fish), since the MOS for a pregnant woman consuming 315 g (11 oz.) of fish contaminated at this level is 1,000. These restrictions may be revised when a body of data regarding residue reduction in the field becomes available.

6. *Teratogenicity Warning.* The Preliminary Determination proposed that appropriate endrin labels bear a "Warning to Female Workers" that "Excessive Exposure to Endrin May Cause Birth Defects". Velsicol opposes the inclusion of such a warning on endrin labels. (Velsicol, p. 88.) The bases for Velsicol's opposition and the Agency's responses are:

a. *The margin of safety for applicators is 300 and this is three times the acceptable level.* Barring accidents and assuming that they follow label instructions, applicators and other workers are at little risk from the teratogenic effects of endrin. One of the purposes of the warning, however, is to insure that vulnerable female workers are aware of the potential risks so that they may exercise the appropriate precautions and respond properly to accidental exposure. One drop of a 19.7% EC formulation contains 10 mg of endrin and 10% absorption of that drop provides an MOS of only 75 for teratogenic effects. Certainly such potential exposure should be of substantial concern. Further, as discussed above, the Agency does not conclude that an MOS of 100 is "acceptable" for all teratogenic risks.

b. *Also, the phrase "excessive exposure to endrin may cause birth defects" is factually inaccurate because exposure to threshold teratogenic levels of endrin would cause acute toxicity or death to humans before such exposure*

could cause birth defects (see p. 41 of this response and Exhibit 43). The references cited do not elaborate on the above issue but only indicate that endrin may cause single convulsions in humans at dosages of 0.20 to 0.25 mg/kg and multiple convulsions of 1 mg/kg. It is the Agency's position that, since teratogenic effects in the hamster were observed at doses which did not produce convulsions or other overt signs of toxicity, the same relative relationship may exist for humans. That is, a teratogenic hazard in humans may occur before any toxic warning signs are observed. Velsicol's argument would have some validity only if terata in test animals were associated only with severe toxic effects in the dams, which is not the case with endrin. In addition, even if endrin did cause acute toxicity in humans at doses below the teratogenic threshold, the teratogenic concern would not thereby be eliminated.

The Agency recognizes, however, that the Warning to Female Workers "Excessive exposure to endrin may cause birth defects" can be modified to affirmatively and explicitly reflect the Agency's scientific conclusions concerning the teratogenicity of endrin, while at the same time adequately warning vulnerable female workers so that they may exercise appropriate precautions. On the first point, one commenter (Brooks, 1978) has suggested that the warning indicate that the evidence concerning birth defects relates to experimental animals; on the second, Velsicol has asserted that only pregnant workers are at risk of birth defects (although Agency notes that the period of vulnerability has not been established). Accordingly, the Agency has determined to change the first sentence of the Warning to Female Workers from "Excessive exposure to endrin may cause birth defects" to the following two sentences, "The United States Environmental Protection Agency has determined that endrin causes birth defects in laboratory animals. Exposure to endrin during pregnancy should be avoided."

c. *If a teratogenicity warning is warranted for a weak teratogen such as endrin with only a remote likelihood of exposure to pregnant women, strong teratogens to which women are commonly exposed . . . should contain teratogenicity warnings as well.* The Agency does not agree that endrin should be characterized as a "weak" teratogen.¹ It agrees, in principle, that

¹ Velsicol's characterization of endrin as a "weak" teratogen apparently derives from statements made by one of its consultants regarding the Chernoff study (Velsicol, Exh. 30, p. 8 and SAP,

many compounds should bear teratogenicity warnings and intends to implement that principle when appropriate.

7. *Protective Clothing for Workers.* The USDA commented, "We question the advisability of requiring protective clothing for all female workers. The teratogenicity risk, as defined, should apply only to female workers capable of bearing children." On the other hand, Velsicol states, "Protective clothing should be worn by men as well as women. This is because any hazards to applicators or field workers would be from acute exposure, not from a teratogenic hazard" (Velsicol, p. 91).

Since the risk criterion for acute dermal toxicity for endrin had been rebutted by Velsicol, the Agency determined only to impose additional protective clothing requirements for female workers since they were imposed on the basis of a teratogenic risk. On that point, although it is true that only women who are capable of bearing children are at risk, the Agency believes that it is prudent to impose protective clothing requirements for all women involved in application of endrin since the vast majority of such female workers are likely to be of childbearing age.

8. *Warnings on Prophylactic Use.* In its Notice of Determination, the Agency proposed the following language, "Prophylactic Use. Unnecessary use of this product can lead to resistance in pest populations and subsequent lack of efficacy." The Agency received several comments on this proposal.

The USDA commented, "We do not believe the statement on prophylactic use adds anything to the usefulness of the label information and should be deleted" (Bergland, 1978). The SAP report indicated that, "The Panel is concerned with the risks inherent with the prophylactic use of endrin and urges that the Agency reexamine the label statements regarding such use" (Fowler, 1978). Velsicol's comment was, "Velsicol proposed to prohibit prophylactic use of

October 28, 1978, p. 51 and Velsicol, Exh. 32). At the SAP meeting, Velsicol's consultant stated, "... there is some teratogenic potential, albeit a low level for this compound [endrin], but that potential occur only at maternal toxic levels or very near to maternal toxic levels" (SAP, p. 51). The basis for this position has never been made clear. Previously, the consultant stated, "A single dose as high as 10 mg/kg produced no maternal toxicity and had no effect on intrauterine mortality or growth of the offspring. Two types of malformations . . . were significantly increased at the three highest single doses, 5.0, 7.5, and 10.0 mg/kg" (Velsicol, Exh. 30, pp. 5-6). It appeared, on further discussion at the SAP meeting (SAP pp. 51-4), that the consultant's misperceptions of the data should have been rectified. The record is clear that frank terata were produced by single doses of endrin that were substantially below doses which caused observable maternal toxicity to hamsters.

endrin. The Agency's proposed label language, however, merely is in the form of a warning and is not emphatic enough deterrent against prophylactic use" (Velsicol, p. 90). Finally, Dr. Ross Byers (Byers, 1978) wrote:

The statement, page 33 concerning "Prophylactic Use" is not based on fact. Resistance in vole populations is not the result of using Endrin when not needed! Where resistance develops is when partial control is achieved through low dosage applications and/or poor application technique. Partial control allows sufficient animals within the area to continue the reproduction of survivors in the presence of the toxicant. Pine vole populations were first found resistant to Endrin in the areas most seriously infested and where growers were using reduced rates per acre and/or using rather poor application techniques.

The comments of USDA and the SAP on prophylactic use are diametrically opposed and in neither case is the basis for the position fully articulated. The Agency can only respond by a fuller explanation of its position.

The Agency considered imposing a prohibition against prophylactic use (that is, use when economic infestations are not present), such as that encouraged by Velsicol, rather than a warning. The Agency decided against the prohibition because it believed such a restriction would be generally unenforceable. Unless substantial damage is visible, it is usually not possible to determine, after control measures have been applied, whether or not the controlled populations had been at economic levels. In any event, the Agency believes that the educational aspect of the proposed label language accomplishes the Agency's primary objective in this respect, so that a prohibition *per se* is not necessary.

Dr. Byers' account is not necessarily at variance with the principles on which the Agency relies in its concerns about resistance. Dr. Byers indicates that repeated usage was necessary because of poor control and implicates the poor control as a critical factor in the development of resistance. While, historically, this may have been the case in Virginia, the reason for making frequent applications is not relevant to the principles of natural selection that lead to genetic resistance; selection should be even more rapid if repetitive control is highly effective. Dr. Byers' comment does highlight the importance of proper application methods and the proposed label changes regarding rates and equipment should help to prevent situations such as those described by Dr. Byers.

9. *Enforcement.* The EDF notes that pests other than those for which the Agency proposes to maintain registration may occur in small grains and orchards and asks, "How does the 1978 amendment (Section 2(ee)), which allows use on a site against pests not named on the label, affect these 'cancelled' uses?" (Hinkle, 1979). The Agency was cognizant of this problem and addressed it in accordance with Section 2(ee) of FIFRA by requiring that the labeling specifically state that endrin may be used "only" for the pests specified on the label, after it was determined that the use of endrin against other pests would cause an unreasonable adverse effect on the environment. The Agency is aware that strict enforcement of label restrictions may be impossible but believes that, where its regulatory actions have been reasonable, an adequate level of compliance can be anticipated. Any substantial evidence that misuse has become a common practice would provide a basis for further regulatory action.

10. *Grasshopper Control.* EDF strenuously opposes the "proposed use of endrin" to control grasshoppers, citing the existence of risks to wildlife and livestock from the use of endrin on wheat and the availability of safer alternatives (Hinkle, 1979). To clarify the status of this use, when the Agency began its risk/benefit analysis, the only registration for endrin to control grasshoppers was for small grains in Montana. This old state registration is now pending as an application for federal registration for use in Montana under 40 CFR Section 162.17. While PD 2/3 was in preparation, the Agency also received endrin registrations for special local needs in the states of Nebraska and Oklahoma, pursuant to Section 24(c) of FIFRA, to control grasshoppers both in winter wheat and as perimeter treatments in noncropland (but not on rangeland). However, the 24(c) registrations for use in Oklahoma expired on December 31, 1978 and the Agency is not aware of any proposal for renewal. The registrations for Nebraska will expire on August 2, 1979, prior to the time endrin would be used on winter wheat for grasshopper control. Further, at the time Nebraska registered these uses, it indicated that they would not be renewed unless Velsicol supplied additional data supporting the safety and efficacy of the use. In the event that Oklahoma or Nebraska should renew these registrations under Section 24(c), the Agency shall then determine whether or not to disapprove them.

Thus the only decision pending at this time concerning the use of endrin to control grasshoppers is on small grains only (not non-cropland and not rangeland) in Montana only. EDF's submission does not appreciable contribute to the Agency's analysis of this use, since much of the risk data referred to by EDF was not submitted for review by the Agency, and it does not appear from EDF's description that it was specifically related to endrin's use for grasshopper control. In light of data submitted by Velsicol concerning the efficacy of endrin for controlling grasshoppers (Coppock and Pitts, Undated), the Agency has no basis to amend its regulatory decision set forth in PD 2/3 concerning the use of endrin to control grasshoppers on small grains in the State of Montana only.

11. *Conifer Seed Treatment.* PD 2/3 concluded that the terms and conditions of registration for endrin products used for treatment of conifer seed should be modified to include an "Application Restriction" stating "Do not apply when large numbers of migratory birds are expected." Although the agency did not receive any formal comments on the language of this modification, the Agency has determined upon its own re-examination that some ambiguity will be removed, and the intent of the restriction clarified, by amending the "Application Restriction" statement to read: "Do not sow treated seed when large numbers of migratory birds are expected."

D. *Comments Relating to Procedural Matters.* The Agency has received several comments with regard to the RPAR process and how, in the case of endrin, the Agency has administered the process. Since some of these comments reflect misunderstanding, misconstrue the record, or otherwise influence the public perception of Agency activities, the issues raised by these comments require some discussion and clarification.

1. *Availability of the Agency's Rebuttal Analysis.* Velsicol has stated that "the [RPAR] regulations require the Administrator to issue prior to initiation of a risk/benefit analysis a notice of determination as to whether the cited risk presumptions have been rebutted. See 40 CFR 162.11(a)(5). In the case of the endrin RPAR, however, the Agency's rebuttal analysis was not made available to Velsicol until after the Agency's risk/benefit analysis had been

* Endrin is also used for watermelon seed treatment (Florida) and melons and vegetable seed treatment (California). The Agency proposed to accept these uses without any restrictions. No comments were received on this proposal.

completed." (Velsicol, pp. 5-6, FN1, emphasis in original).

Velsicol has misinterpreted the relevant provisions of the RPAR regulations. It is true that § 162.11 (a)(5)(ii) states that " * * * if after review of the evidence submitted in rebuttal the Administrator determines that the applicant or registrant has not rebutted the presumption * * *, then he shall issue a notice in accordance with sections 3(c)(6), or 6(b)(1) of the Act * * *, as appropriate, for the use(s) of the pesticide subject to the presumption and not rebutted." However, § 162.11 (a)(5)(iii) specifically provides that "in determining whether to issue a notice pursuant to section 3 (c)(6) or section 6 (b)(1) * * * in accordance with paragraph (a)(5)(ii) of this § 162.11, the Administrator may, in his discretion, take into account staff recommendations resulting from preliminary analysis, if any, concerning the balancing of risks against benefits." In other words, the regulations clearly contemplate that the Administrator may evaluate benefits, and the balancing of those benefits against risks, in determining whether or not to issue a notice of intent to cancel or deny registration in cases where the risk presumptions have not been rebutted. Contrary to Velsicol's assertions, nothing in those regulations or otherwise requires the Administrator to issue a separate document as to whether the risk presumptions have been rebutted, prior to initiating the risk/benefit analysis.*

2. *Use of Relevant Information on Risk Assessment.* Velsicol has alleged that the Agency "apparently was unable to take into account * * * in Position Document 2/3 significant risk information on teratogenicity and other matters which had been developed at the Agency's request" (Velsicol, pp. 7 and 17). Although the Agency extended the opportunity to Velsicol to comment upon the teratogenicity issue prior to the issuance of PD 2/3, the matters referred to were certainly not developed "at the Agency's request." Moreover, while the Agency indicated a willingness to consider any new information for its

* Velsicol also argues that the Agency's alleged refusal to disclose its rebuttal analysis prior to completion of its risk/benefit analysis "unnecessarily delayed Velsicol from developing further information on the Agency's remaining risk concerns." (Ibid). Even assuming that the regulations contemplate repeated opportunities for registrants to rebut presumptions of risk (by "developing further information" after it is determined that the presumption was not rebutted by the initial submission), the Agency does not believe that Velsicol was prejudiced in the circumstances of this case. In any event, the Agency accepted Velsicol's comments on PD 2/3 on January 5, 1979—over two months after Velsicol received a copy of PD 2/3.

potential impact on the pending decision, preliminary reviews by the Agency indicated that none of Velsicol's last minute submissions contained any information that required any change in the Agency's position. And, as indicated in this PD 4, the Agency has reviewed and commented on all relevant information supplied by Velsicol before making this final decision, so that the Agency's review process has not resulted in any prejudice to Velsicol.

3. *Development of State Programs for Use on Cotton.* Representatives of the states of Alabama, Arkansas and Mississippi requested the Agency to defer the final decision on the use of endrin on cotton until the States can develop programs that would substantially alter the risk/benefit picture (Lane, 1979; Lincoln, 1979a; Coley, 1979). The Agency responded by indicating that it wishes to encourage the development of such programs in general but, in the absence of new information, the Agency had no basis for deferring a decision already overdue (Johnson, 1979a). It also indicated that should new information on risk/benefit relationships be developed, including the institution of state programs which would establish appropriate controls to enhance the risk/benefit ratio for the use of endrin on cotton, it would then be appropriate for the Agency to reconsider the registration of endrin for use on cotton in areas east of I-35.

The state of Arkansas then proposed that the State would establish a new category for certain restricted use pesticides such as endrin, in effect making them available for use only under emergency conditions to be identified by extension personnel (Martin, 1979). The Agency responded that many specific details of such a program would have to be developed for further consideration, that a revised risk/benefit analysis would be necessary, and that any new decisions proposed by the Agency would require reconsideration with the FWS and public review (Johnson, 1979b). Thus, the Agency still has no basis for deferring its decision but will reconsider it whenever it is justified by the availability of new information.

III. Conclusions

After considering the comments received from the USDA, the SAP, the FWS, Velsicol and other concerned parties, the Agency has decided to make the following revisions to the Notice of Determination:

A. *Registration for Use on Cotton.* 1. *Warning to Female Workers.* "Excessive exposure to endrin may

cause birth defects" will be amended to read, "The United States Environmental Protection Agency has determined that endrin causes birth defects in laboratory animals. Exposure to endrin during pregnancy should be avoided."

2. *Aerial Application.* "Do not release this material at greater than 19 feet height above the crop" will be amended to read " * * * 10 feet height above the crop."

3. *Application Restrictions.* "Do not use this product within 150 yards of human habitation" will be amended to read "Do not apply this product within 1/4 mile of human habitation."

"Do not use this product within 1/4 mile of streams, lakes, or ponds. Application may be made within 1/4 mile of ponds owned by the user, but application within 200 yards of such ponds may result in fish kill" will be amended to read, "Do not apply this product by air within 1/4 mile or by ground within 1/4 mile of lakes, ponds, or streams. Application may be made at distances closer to ponds owned by the user but such application may result in excessive contamination and fish kills."

4. *Procedures to be Followed if Fish Kills Occur.* In case of fish kills, fish must be collected promptly and disposed of by burial. At ponds, post signs stating: Contaminated: No Fishing. Signs must remain for one year after fish kill has occurred" will be amended to read, "Procedures to be Followed if Fish Kills Occur or if Ponds are Contaminated. In case of fish kills, fish must be collected promptly and disposed of by burial. Ponds in which fish kills have occurred, and user-owned ponds exposed to endrin by application at distances closer than otherwise prohibited, must be posted with signs stating: 'Contaminated: No Fishing.' Signs must remain for one year after a fish kill has occurred or for six months after lesser contamination unless laboratory analysis shows endrin residues in the edible portion of fish to be less than 0.3 parts per million (ppm)."

5. Add: "For use in areas west of Interstate Highway #35 only".

B. *Registration for Use on Small Grains.* Amendments 1, 2, 3, and 4 for cotton (A, above) are applicable for small grains.

C. *Registration for Use in Apple Orchards.* 1. Amend the "Warning to Female Workers" as above.

2. *Pests for Which this Product May be Applied.* "This product may be applied to control the following pests only: Pine vole; western meadow vole" will be amended to read, "This product may be applied to control the following pests only: Eastern United States-Pine

Voles (*Microtus pinetorum*); Western United States-Meadow Voles (*Microtus species*)".

3. *Equipment.* Add, "Apply by ground equipment only."

4. *Procedures to be Followed if Fish Kills Occur.* "In case of fish kills, fish must be collected promptly and disposed of by burial. At ponds, post signs stating: 'Contaminated: No Fishing'. Signs must remain for one year after fish kill has occurred." will be amended to read "In case of fish kills, fish must be collected promptly and disposed of by burial. Ponds in which fish kills have occurred must be posted with signs stating: 'Contaminated: No Fishing'. Signs must remain for one year after a fish kill has occurred unless laboratory analysis shows endrin residues in the edible portion of fish to be less than 0.3 parts per million (ppm)."

D. *Registrations for Use on Sugarcane.* Amend the "Warning to Female Workers" as above.

E. *Registration for Treatment of Conifer Seed Application Restrictions.* "Do not apply when large numbers of migratory birds are expected" will be amended to read: "Do not sow treated seed when large numbers of migratory birds are expected."

F. *Registrations for Use as Tree Paint.* Amend the "Warning to Female Workers" as above.

G. *Registration of Use on Alfalfa and Clover Seed Crops.* Amendments 1, 2, 3, and 4 for cotton (A, above) are applicable to alfalfa and clover seed crops.

H. *Registration for Use in Enclosed Bird Perch Treatments.* Amend the "Warning to Female Workers" as above.

Except for the above amendments, all provisions of the Notice of Determination will be adopted as the final decision on the registration and continued registration of pesticide products containing endrin.

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Part III

**Environmental
Protection Agency**

Water Quality Criteria; Availability

ENVIRONMENTAL PROTECTION AGENCY

(FRL 1255-4A)

Water Quality Criteria; Availability**AGENCY:** Environmental Protection Agency.**ACTION:** Notice of availability.

SUMMARY: EPA is announcing the availability for public comment of water quality criteria for 26 of the remaining 38 of the 65 pollutants listed as toxic under the Clean Water Act (CWA). When published in final after public comment, these water quality criteria may form the basis for enforceable standards. The criteria were developed pursuant to section 304 of the CWA and in compliance with a court order. Summaries of both aquatic-based and health-based criteria and the criteria formulation sections of the documents are published below. We anticipate publishing criteria for the remaining 12 toxic pollutants within the next 30 days.

DATES: Written comments should be submitted to the person listed below by October 23, 1979.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Mackenthun, Director, Criteria and Standards Division (WH-585), Office of Water Planning and Standards, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, telephone 202/755-0100.

SUPPLEMENTAL INFORMATION: EPA published 27 water quality criteria for public comment on March 15, 1979, (44 FR 15926). At that time EPA published a preamble for the criteria, a methodology for deriving aquatic life criteria, a methodology for deriving human health criteria, a summary of specific issues for commenters to address and summaries of the individual criteria documents. The information contained in the March 15 publication applies to the criteria published in this notice.

AVAILABILITY OF DOCUMENTS: Copies of the complete documents will be sent to all persons who requested copies of the initial criteria prior to the time they were published and to those who commented on the first 27 criteria. When ordering documents from this source, please specify the PB number for each document. These are listed at the end of this document. Other persons wishing to review the full documents may obtain copies from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia (703) 557-4650. The documents also are available for public inspection and copying during

normal business hours at: Public Information Reference Unit, U.S. Environmental Protection Agency, Room 2404 (rear), 401 M Street SW., Washington, D.C. 20460. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services. Copies of these documents will also be available for review in the EPA Regional Office libraries.

Dated: June 29, 1979.

Barbara Blum,
Acting Administrator.**Acenaphthene****Criteria Summary**

Freshwater Aquatic Life. The data base for freshwater aquatic life is insufficient to allow use of the Guidelines. The following recommendation is inferred from toxicity data for saltwater organisms.

For acenaphthene the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 110 µg/l as a 24-hour average and the concentration should not exceed 240 µg/l at any time.

Saltwater Aquatic Life. For acenaphthene the criterion to protect saltwater aquatic life as derived using the Guidelines is 7.5 µg/l as a 24-hour average and the concentration should not exceed 17 µg/l at any time.

Human Health. For the protection of human health from the toxic properties of acenaphthene, the ambient water criterion is determined to be 20 µg/l.

Basis for the Criteria

Freshwater Aquatic Life. No freshwater criterion can be derived for acenaphthene using the Guidelines because no Final Chronic Value for either fish or invertebrate species or a good substitute for either value is available.

Results obtained with acenaphthene and saltwater organisms indicate how a criterion may be derived.

For acenaphthene and saltwater organisms, 0.44 times the Final Acute Value is less than the Final Chronic Value which is derived from results of an embryo-larval test with the sheephead minnow. Therefore, it seems reasonable to estimate a criterion for acenaphthene and freshwater organisms using 0.44 times the Final Acute Value.

The maximum concentration of acenaphthene is the Final Acute Value of 240 µg/l and the 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on freshwater aquatic organisms have been reported to be caused by

concentrations lower than the 24-hour average concentration.

For acenaphthene the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 110 µg/l as a 24-hour average and the concentration should not exceed 240 µg/l at any time.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

Final Fish Acute Value = 240 µg/l
Final Invertebrate Acute Value = 1,700 µg/l
Final Acute Value = 240 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = 520 µg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 520 µg/l
0.44 × Final Acute Value = 110 µg/l

Saltwater Aquatic Life. The maximum concentration of acenaphthene is the Final Acute Value of 17 µg/l and the 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on saltwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For acenaphthene the criterion to protect saltwater aquatic life as derived using the Guidelines is 7.5 µg/l as a 24-hour average and the concentration should not exceed 17 µg/l at any time.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

Final Fish Acute Value = 330 µg/l
Final Invertebrate Acute Value = 17 µg/l
Final Acute Value = 17 µg/l
Final Fish Chronic Value = 53 µg/l
Final Invertebrate Chronic Value = not available
Final Plant Value = 500 µg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 53 µg/l
0.44 × Final Acute Value = 7.5 µg/l

Human Health. So little research has been performed on acenaphthene that its mammalian and human health effects are virtually unknown. The two toxicity studies available (Knobloch, et al. 1969; Reshetnyuk, et al. 1970) are inadequate for the basis of a criterion due to the experimental designs (lack of controls, small number of animals, etc.) Therefore, until more toxicological data are generated, particularly teratogenic data in view of the effects of acenaphthene on cell division, an interim criterion based upon organoleptic data is proposed. The lowest human responses were reported at 0.022 to 0.22 ppm (Lillard and Powers, 1975), and thus 20 µg/l is the

recommended criterion. It must be emphasized, however, that this value is not related to health effects and that the significance of odor thresholds is unknown. This value will need to be reviewed once more toxicological data are available.

Acrolein**Criteria Summary**

Freshwater Aquatic Life. For acrolein the criterion to protect freshwater aquatic life as derived using the Guidelines is 1.2 µg/l as a 24-hour average and the concentrations should not exceed 2.7 µg/l at any time.

Saltwater Aquatic Life. The data base for saltwater aquatic life is insufficient to allow use of the Guidelines. The following recommendation is inferred from toxicity data for freshwater organisms.

For acrolein the criterion to protect saltwater aquatic life as derived using procedures other than the Guidelines is 0.88 µg/l as a 24-hour average and the concentration should not exceed 2.0 µg/l at any time.

Human Health. For the protection of human health from the adverse effects of acrolein ingested through the consumption of water and fish a criterion of 6.5 µg/l is suggested.

Basis for the Criteria

Freshwater Aquatic Life. The maximum concentration of acrolein is the Final Acute Value of 2.7 µg/l and the 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For acrolein the criterion to protect freshwater aquatic life as derived using the Guidelines is 1.2 µg/l as a 24-hour average and the concentration should not exceed 2.7 µg/l at any time.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

Final Fish Acute Value = 10 µg/l
Final Invertebrate Acute Value = 2.7 µg/l
Final Acute Value = 2.7 µg/l
Final Fish Chronic Value = 3.3 µg/l
Final Invertebrate Chronic Value = 4.7 µg/l
Final Plant Value = not available
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 3.3 µg/l
0.44 × Final Acute Value = 1.2 µg/l

Saltwater Aquatic Life. No saltwater criterion can be derived for acrolein using the Guidelines because no Final Chronic Value for either fish or invertebrate species or a good substitute for either value is available.

Results obtained with acrolein and freshwater organisms indicate how a criterion may be estimated.

For acrolein and freshwater organisms 0.44 times the Final Acute Value is less than the Final Chronic Value which is derived from results of a life cycle test with the fathead minnow. Therefore, it seems reasonable to estimate a criterion for acrolein and saltwater organisms using 0.44 times the Final Acute Value.

The maximum concentration of acrolein is the Final Acute Value of 2.0 µg/l and the estimated 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on saltwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For acrolein the criterion to protect saltwater aquatic life as derived using procedures other than the Guidelines is 0.88 µg/l as a 24-hour average and the concentration should not exceed 2.0 µg/l at any time.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

Final Fish Acute Value = 41 µg/l
Final Invertebrate Acute Value = 2.0 µg/l
Final Acute Value = 2.0 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = not available
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = not available
0.44 × Final Acute Value = 0.88 µg/l

Human Health. Although acrolein is mutagenic in some test systems (see "Mutagenicity" section) and can bind to mammalian DNA (see "Acute Effects on Experimental Systems" section), current information indicates that acrolein is not a carcinogen or cocarcinogen ("Carcinogenicity" section). Water quality criteria for acrolein could be derived from the TLV, chronic inhalation studies, and subacute oral studies using noncarcinogenic biological responses.

Stokinger and Woodward (1958) have described a method for calculating water quality criteria from TLV's. Essentially, this method consists of deriving an acceptable daily intake (ADI) for man from the TLV by making assumptions on breathing rate and absorption. The ADI is then partitioned into permissible amounts from drinking water and other sources. However, because the TLV is based on the prevention of the irritant effects of acrolein on inhalation exposures, such a

criterion would have little, if any, validity.

A criterion could also be calculated based on chronic inhalation data. As summarized in the "Chronic Toxicity to Experimental Animals" section, female hamsters exposed to acrolein at 9.2 mg/m³ in the air, seven hours per day, five days per week, for 52 weeks evidenced slight hematologic changes, significant decreases in liver weight, and significant increases in lung weights (Feron and Kruysse, 1977).

This study cannot be used to derive a criterion by standard methods because a no observable effect level (NOEL) was not obtained. Nonetheless, by making assumptions of respiratory volume and retention, the exposure data from this study can be converted to a mg/kg dose and an "equivalent" water exposure level can be calculated. The average body weight for the hamsters at the end of the exposure was about 100 g. Assuming a mean minute volume of 33 ml for a 100 g hamster (Robinson, 1968) and a retention of 0.75, the average daily dose is estimated at 68.3 µg/animal (9.2 mg acrolein/m³ × 0.033 l/min × 1 m³/1000 liters × 60 min/hour × 7 hours/day × 5 days/7 days × 0.75) or 683 µg/kg. Using an uncertainty factor of 1000 (NAS, 1977, p. 108), an estimated "unacceptable" daily dose for man is 0.683 µg/kg or 47.8 µg/man, assuming a 70-kg body weight.

A criterion based on this daily dose level would be unsatisfactory for two reasons. First, as indicated above, the dose data used to derive the standard are not based on a NOEL. In this respect, the derived criterion represents an undesirably high level in water. Secondly, the criterion is based on an inhalation study. Given the probable instability of acrolein in the gastrointestinal tract, the use of inhalation data may not be suitable for deriving a criterion.

In Drinking Water and Human Health, the National Academy of Sciences (NAS, 1977) summarized the study by Newell (1958) in which acrolein was added to the drinking water of rats at concentrations of 5, 13, 32, 80, and 200 mg/l for 90 days without apparent adverse effects (see "Subacute Toxicity to Experimental Animals" section). Because this study did not involve a chronic exposure, the National Academy of Sciences (1977) declined to derive an acceptable daily intake for man based on this study. However, McNamara (1976) has suggested that subacute exposures can be used to estimate chronic no-effect levels. Based on an extensive review of the literature comparing subacute and chronic toxicity

tests, McNamara (1976) noted that "for 95 percent of chemical compounds . . . (on which data were available) . . . a three-month no-effect dose/ten will produce no effects in a lifetime." Using this approximation for acrolein, the no-observable-effect level for acrolein on rats can be estimated at 20 mg/l of water. Assuming a daily water consumption of 35 ml/day and a body weight of 450 g (ARS Sprague-Dawley, 1974), the chronic no-effect dose for rats is estimated at 1.56 mg/kg. This value may be converted into an ADI for man by applying an uncertainty factor. Since the chronic no-effect dose is merely an estimate based on observed relationships between subacute and chronic toxicity, an uncertainty factor of 1000 is recommended (see NAS, 1977, p. 804). Thus, the estimated ADI for man is 15.6 µg/kg or 109 µg/man, assuming a 70-kg body weight. Therefore, consumption of 2 liters of water daily and 18.7 grams of contaminated fish having a bioconcentration factor of 790, would result in, assuming 100 percent gastrointestinal absorption of acrolein, a maximum permissible concentration of 6.50 µg/l for the ingested water:

$$\frac{109 \mu\text{g}}{(2 \text{ liters} + (790 \times 0.018)) \times 1.0} = 6.50 \mu\text{g/l}$$

This criterion does not consider other significant sources of exposure to acrolein such as inhalation. In addition, this criterion may be above the organoleptic level for acrolein, which has not been determined in man.

Antimony

Criteria Summary

Freshwater Aquatic Life. For an antimony the criterion to protect freshwater aquatic life as derived using the Guidelines is 120 µg/l as a 24-hour average and the concentration should not exceed 1,000 µg/l at any time.

Saltwater Aquatic Life. For saltwater aquatic life, no criterion for antimony can be derived using the Guidelines, and there are insufficient data to estimate a criterion using other procedures.

Human Health. For the protection of human health from the adverse effects of antimony ingested through the consumption of contaminated water and fish a criterion of 145 µg/l is suggested.

Basis for the Criteria

Freshwater Aquatic Life. The maximum concentration of antimony is the Final Acute Value of 1,000 µg/l and the 24-hour average concentration is the Final Chronic Value of 120 µg/l. No important adverse effects on freshwater aquatic organisms have been reported to

be caused by concentrations lower than the 24-hour average concentration.

For antimony the criterion to protect freshwater aquatic life as derived using the Guidelines is 120 µg/l as a 24-hour average and the concentration should not exceed 1,000 µg/l at any time.

Summary of Available Data. The concentrations below have been rounded to two significant figures. All concentrations herein are expressed in terms of antimony.

Final Fish Acute Value = 5,600 µg/l
Final Invertebrate Acute Value = 1,000 µg/l

Final Acute Value = 1,000 µg/l
Final Fish Chronic Value = 120 µg/l
Final Invertebrate Chronic Value = 1,000 µg/l

Final Plant Value = 640 µg/l
Residue Limited Toxicant Concentration = not available
Final Chronic Value = 120 µg/l
0.44 × Final Acute Value = 400 µg/l

Saltwater Aquatic Life. No saltwater criterion can be derived for antimony using the Guidelines because no Final Chronic Value for either fish or invertebrate species or a good substitute for either value is available, and there are insufficient data to estimate a criterion using other procedures.

Summary of Available Data. The concentrations below have been rounded to two significant figures. All concentrations herein are expressed in terms of antimony.

Final Fish Acute Value = not available
Final Invertebrate Acute Value = not available

Final Acute Value = not available
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available

Final Plant Value = greater than 4,200 µg/l
Residue Limited Toxicant Concentration = not available
Final Chronic Value = greater than 4,200 µg/l
0.44 × Final Acute Value = not available

Human Health. At the present time, there are essentially no existing community epidemiology studies that provide information on health effects associated with antimony exposure among the general population of the United States or other countries. This is primarily due, as indicated earlier, to the lack of any recognizable public health problems having been previously associated with environmental exposures to antimony. Rather, one is limited to extrapolating, as best as can be done, from human occupational health and animal toxicology studies.

Pulmonary, cardiovascular, dermal, and certain effects on reproduction, development, and longevity are among the health effects best associated with

antimony exposure. The pulmonary effects, however, are almost exclusively associated with inhalation exposures and have much less relevance than the other effects in considering possible bases for development of criteria for a water standard. The pulmonary effects are, therefore, not considered here, but rather the main emphasis is placed on the latter types of effects listed.

Cardiovascular changes have been well associated with exposure to antimony and probably represent the most serious antimony-related human health effects demonstrated thus far. Specifically, in humans, various ECG changes e.g., altered T-wave patterns, have been consistently observed following exposures to either trivalent or pentavalent antimonial compounds and have been interpreted as being indicative of at least temporary cardiotoxic effects of antimony.

Indications of even more severe, possibly permanent myocardial damage in humans have been obtained in the form of histopathological evidence of cardiac edema, myocardial fibrosis, and other signs of myocardial structural damage. Parallel findings of functional changes in ECG patterns and of histopathological evidence of myocardial structural damage have also been obtained in animal toxicology studies using controlled exposures to antimony compounds.

As for the other types of effects reasonably well associated with antimony exposures, only very limited data exist regarding such effects, and they are presently insufficient to allow definitive conclusions to be drawn regarding important exposure parameters determining their induction in humans. For example, certain skin irritation effects, e.g., rashes, have been noted to occur with high levels of occupational antimony exposure, especially under conditions of extreme heat; similar dermal effects have been reported for at least some patients undergoing therapeutic treatments with systemic injections of antimonials. There does yet exist, however, any evidence to suggest that dermal effects would result from oral ingestion of antimony compounds. In regard to effects on reproduction, development, and longevity, the available evidence linking such effects to antimony is almost entirely derived from animal toxicology studies and consists primarily of data suggesting that: (1) prenatal exposures can interfere with conception, (2) chronic oral exposure via feeding can result in postnatal retardation of growth as indexed by body weight gain, and (3) chronic oral

exposure via drinking water can induce alterations in certain blood chemistry parameters and significantly shorten survival time or lifespan. Such effects, however, have not yet been well replicated in other animal studies; and only very limited analogous antimony-induced effects on reproduction have yet been demonstrated to occur in humans.

In summary, myocardial effects are among the most serious and best characterized human health effects that can presently be linked with antimony exposure; as such, setting an ambient water criterion predicated on protecting the general public from antimony-induced myocardial effects is the most desirable course of action if sufficient information on dose-effect relationships for myocardial effects exists. Failing that, then, the very limited animal toxicology literature on reproduction, development, and longevity effects would offer an alternative basis.

Dose-Effect/Dose-Response Relationships. The previous section summarizes the very limited information presently available regarding a qualitative description of adverse health effects associated with antimony exposure. Ideally, the main objective of the present section would be to provide further information regarding the characterization of dose-effect/dose-response relationships that hold for the induction of the key health effects expected to provide a basis for setting a criterion for antimony. In regard to the definition of "dose-effect" and "dose-response" relationships, Pfister (1976) explains the distinction between effect and response in the following terms: "Effect is taken to indicate the variable change due to a dose in a specific subject; and 'response' is the number of individuals in a group showing that effect, i.e., the number of 'reactors' showing a specific effect at a particular defined dose level. Unfortunately, it is virtually impossible to characterize key antimony-induced health effects in such quantitative terms due to the very limited data base that presently exists.

For example, data reported for the studies by Brieger et al. (1954) suggest an inhalation no-effect level for myocardial effects as likely being around 0.5 mg/m³. Air concentrations of antimony trisulfide ranging from 0.58 to 5.5 mg/m³ (with most 3.0 mg/m³) were associated with the induction of altered ECG patterns and some deaths attributed to myocardial damage among certain antimony workers (Brieger, et al. 1954). Also, in parallel studies on animals, Brieger, et al. (1954), observed ECG alterations in rats and rabbits at antimony exposures of 3.1 to 5.6 mg/m³,

confirming that antimony, per se can specifically produce myocardial effects of the type observed with the occupational exposures. Unfortunately, for present purposes, however, no adequate data exist on oral exposures to antimony compounds which would support reasonable estimates regarding likely no-effect levels for the induction of myocardial effects via antimony ingestion. Nor is there sufficient information on relative absorption rates following oral or inhalation exposures to antimony to allow for extrapolation of likely dose-effect relationships for oral exposures from the limited inhalation exposure data. Consequently, it is presently impossible to recommend a water criterion level based on projected no-effect levels for myocardial damage.

In the absence of sufficient information to develop a criterion based on known antimony myocardial effects in humans, the most viable alternative is to focus on animal toxicology studies demonstrating antimony-induced effects on reproduction, development, and longevity. From the animal studies, those pertaining to prenatal reproductive effects, e.g., Belyaeva (1967) and Casals (1972), employed inhalation exposures or systemic injections of antimony compounds, and their result cannot presently be extrapolated very well to project the likely impact of oral exposures. Similarly, the few human studies where effects on reproduction were reported (Belyaeva, 1965; Aiello, 1955) deal with inhalation exposures in occupational settings and cannot now be used to extrapolate likely oral exposure no-effect levels.

Turning to effects on postnatal development and longevity, a study by Gross, et al. (1955) presents evidence for growth retardation occurring when rats were chronically fed diets containing two percent antimony trioxide, but a no-effect level for growth retardation cannot be deduced from the results reported. The studies by Schroeder (Kanasawa and Schroeder, 1969; Schroeder, et al. 1970) containing data on antimony effects on growth and longevity, on the other hand, indicate that oral exposure to 5 ppm of antimony in drinking water had no effect on the rate of growth of either rats or mice. The 5 ppm exposure level, however, was effective in producing significant, although relatively slight reductions in lifespans for animals of both species and altered blood chemistries for exposed rats. It is, therefore, recommended that the 5 ppm exposure level producing such effects be taken as a "lowest observed effect level" (LOEL)

in animals that likely approximates the "no-effect" level for antimony induced effects on growth and longevity. If one calculates acceptable daily intake for man using the value of 5 mg/l of antimony and the uncertainty factor of 100 in view of no presently available human epidemiological data regarding such effect would result in a recommended criterion of 145 µg/l.

$$\text{Dose/day} = \frac{5 \text{ (mg/l)} \times 25 \text{ ml/day/rat}}{0.3 \text{ kg/rat}} = 416.67 \text{ (}\mu\text{g/kg/day)}$$

$$\frac{416}{100} = 4.16 = 4.2 \text{ (}\mu\text{g, ADI)}$$

$$\begin{aligned} 4.2 \times 70 &= 294 \mu\text{g (ADI for 70 kg/man)} \\ 2(X) + (\text{Average fish intake}) (F)(X) &= \text{Daily intake} \\ 2(X) + (0.0187)(1.4)(X) &= 294 \\ 99\% &= 1\% \\ 2.0262(X) &= 294 \\ (X) &= 145 \mu\text{g/l} \\ (\text{criterion}) \\ 100 &= \text{uncertainty factor} \\ 2 &= \text{amount of water ingested, l/day} \\ X &= \text{antimony concentration, mg/l} \\ 0.0187 &= \text{amount of fish/shellfish products consumed, kg/day} \\ F &= \frac{1.4 \text{ mg.sb/kg fish}}{\text{mg.sb/l of water}} \\ &= \text{Bioconcentration factor (BCF)} \end{aligned}$$

Drinking water contributes 99 percent of the assumed exposure while eating contaminated fish products accounts for one percent. The criterion level for antimony in ambient water can alternatively be expressed as 11 mg/l, if exposure is assumed to be from the consumption of fish and shellfish alone.

$$\begin{aligned} X + 0.0187 \times 1.4 &= 294 \\ X &= 0.0262 \times 294 \\ X &= 11.308 \\ X &= 11 \text{ (mg/l)} \end{aligned}$$

Chlorinated Phenols

Criteria Summary

Freshwater Aquatic Life. For 4-chlorophenol the criterion to protect freshwater aquatic life as derived using the Guidelines is 45 µg/l as a 24-hour average and the concentration should not exceed 180 µg/l at any time.

For 2,4,6-trichlorophenol the criterion to protect freshwater aquatic life as derived using the Guidelines is 52 µg/l as a 24-hour average and the concentration should not exceed 150 µg/l at any time.

Saltwater Aquatic Life. For saltwater aquatic life, no criterion for any chlorinated phenol can be derived using the Guidelines, and there are insufficient

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data to estimate a criterion using other procedures.

Human Health. For the protection of human health from the adverse effects of chlorinated phenols in water, the following criteria are recommended:

Monochlorophenols

3-chlorophenol—50 µg/l
4-chlorophenol—30 µg/l

Dichlorophenol

2,5-dichlorophenol—3.0 µg/l
2,6-dichlorophenol—3.0 µg/l

Trichlorophenol

2,4,5-trichlorophenol—10 µg/l
2,4,6-trichlorophenol—100 µg/l

Tetrachlorophenol*

2,3,4,6-tetrachlorophenol—263 µg/l

Basis for the Criteria

Freshwater Aquatic Life. Flavor impairment studies with rainbow trout exposed to various chlorinated phenols showed tainting occurred from 23 µg/l to 84 µg/l and tainting will become the basis for criteria. Criteria can be calculated only for 4-chlorophenol and 2,4,6-trichlorophenol since those are the only two chlorinated phenols for which both acute toxicity data and tainting data exist. Tainting was not caused by 4-chlorophenol and 2,4,6-trichlorophenol at 45 µg/l and 52 µg/l, respectively, and these concentrations are the 24-hour average concentrations. The maximum concentrations of 4-chlorophenol and 2,4,6-trichlorophenol are the Final Acute Values of 180 and 150 µg/l respectively.

No freshwater criterion can be derived for other chlorinated phenols using the Guidelines because no Final Chronic Value for either fish or invertebrate species or a good substitute for either value is available, and there are insufficient data to estimate a criterion using other procedures.

For 2,4,6-trichlorophenol the criterion to protect freshwater aquatic life as derived using the Guidelines is 52 µg/l as a 24-hour average and the concentration should not exceed 150 µg/l at any time.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

4-chlorophenol

Final Fish Acute Value = 540 µg/l
Final Invertebrate Acute Value = 180 µg/l
Final Acute Value = 180 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = 4,800 µg/l
Residue Limited Toxicant
Concentration = not available

*This criterion is based on toxicological effects; all other criterion are based on organoleptic effects.

Final Chronic Value = 45 µg/l for tainting
0.44 × Final Acute Value = 79 µg/l

2,4,6-trichlorophenol

Final Fish Acute Value = 150 µg/l
Final Invertebrate Acute Value = 240 µg/l
Final Acute Value = 150 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = 5,900 µg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 52 µg/l for tainting
0.44 × Final Acute Value = 66 µg/l

4-chloro-3-methylphenol

Final Fish Acute Value = 5.4 µg/l
Final Invertebrate Acute Value = not available
Final Acute Value = 5.4 µg/l
Final Fish Chronic Value = not available.
Final Invertebrate Chronic Value = not available
Final Plant Value = 95,000 µg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 95,000 µg/l
0.44 × Final Acute Value = 2.4 µg/l

4-chloro-2-methylphenol

Final Fish Acute Value = 330 µg/l
Final Invertebrate Acute Value = 12 µg/l
Final Acute Value = 12 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = 93,000 µg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 93,000 µg/l
0.44 × Final Acute Value = 5.3 µg/l

2,4-dichloro-6-methylphenol

Final Fish Acute Value = 230 µg/l
Final Invertebrate Acute Value = 17 µg/l
Final Acute Value = 17 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = not available
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = not available
0.44 × Final Acute Value = 7.5 µg/l

2,4,5-trichlorophenol

Final Fish Acute Value = 63 µg/l
Final Invertebrate Acute Value = 110 µg/l
Final Acute Value = 63 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = 1,200 µg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 1,200 µg/l
0.44 × Final Acute Value = 28 µg/l

2,3,4,6-tetrachlorophenol

Final Fish Acute Value = 20 µg/l
Final Invertebrate Acute Value = 12 µg/l
Final Acute Value = 12 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = 600 µg/l

Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 600 µg/l
0.44 × Final Acute Value = 5.3 µg/l

2,3,5,6-tetrachlorophenol

Final Fish Acute Value = 24 µg/l
Final Invertebrate Acute Value = 23 µg/l
Final Acute Value = 23 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = 2,700 µg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 2,700 µg/l
0.44 × Final Acute Value = 10 µg/l

Saltwater Aquatic Life. Flavor impairment studies with aquatic organisms indicate that flavor impairment may be an especially important factor in determining water quality criteria for chlorophenols. Unfortunately, data necessary to establish a saltwater criterion based on tainting are unavailable.

For saltwater aquatic life, no criterion for any chlorinated phenol can be derived using the Guidelines, and there are insufficient data to establish a criterion using other procedures.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

4-chlorophenol

Final Fish Acute Value = 790 µg/l
Final Invertebrate Acute Value = 510 µg/l
Final Acute Value = 510 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = 3,300 µg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 3,300 µg/l
0.44 × Final Acute Value = 220 µg/l

2,4,5-trichlorophenol

Final Fish Acute Value = 250 µg/l
Final Invertebrate Value = 66 µg/l
Final Acute Value = 66 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = 890 µg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 890 µg/l
0.44 × Final Acute Value = 29 µg/l

2,3,5,6-tetrachlorophenol

Final Fish Acute Value = 280 µg/l
Final Invertebrate Acute Value = 380 µg/l
Final Acute Value = 280 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = 440 µg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 440 µg/l
0.44 × Final Acute Value = 120 µg/l

2,4-dichloro-6-methylphenol

Final Fish Acute Value = not available
Final Invertebrate Acute Value = not available
Final Acute Value = not available
Final Fish Chronic Value = less than 27 µg/l
Final Invertebrate Chronic Value = not available
Final Plant Value = not available
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = less than 27 µg/l
0.44 × Final Acute Value = not available

Human Health. The chlorinated phenols which are the subject of this document are the monochlorophenols (3- and 4-chlorophenol); the dichlorophenols (2,5-; 2,6-; 2,3-; 4,6-; and 3,4-dichlorophenols); the trichlorophenols (2,4,5-; 3,4,5-; 2,4,6-; 2,3,4-; 2,3,5-; and 2,3,6-trichlorophenol) and the tetrachlorophenols (2,3,4,5-; 2,3,4,6-; and 2,3,5,6-tetrachlorophenols). In addition, the monochlorocresols are discussed.

Three chlorinated phenols have been the subject of separate criteria documents: 2-chlorophenol, 2,4-dichlorophenol and pentachlorophenol.

There are very little data on most of these compounds on chronic mammalian effects. However, the organoleptic effects of these compounds have been well documented (table 1).

There are toxicity data on 2,4,5-trichlorophenol.

McColister, et al. (1961), in a 98 day feeding study on rats, demonstrated the No Observable Effect Level (NOEL) for 2,4,5-trichlorophenol to be 100 mg/kg. Using the National Academy of Sciences' recommended uncertainty factor of 1000 (Drinking Water and Health, 1977) the Acceptable Daily Intake (ADI) is calculated to be 0.1 mg/kg of body weight, or 7 mg for a 70 kg person.

For the sake of establishing water quality criteria, it is assumed that on the average a person ingests 2 liters of water and 18.7 grams of fish. Since fish may bioaccumulate substances, a bioconcentration factor (BCF) is used in the calculation. The BCF for 2,4,5-trichlorophenol is 130 and was derived by U.S. EPA ecological laboratories in Duluth, Minnesota.

The equation for calculating an acceptable amount of 2,4,5-trichlorophenol in water based on the ingestion of 2 liters of drinking water and 18.7 grams of fish is:

$$(2\text{ l}) \times (0.0187 \times F) \times \text{ADI}$$

where

2 l = 2 liters of drinking water
0.0187 kg = amount of fish consumed daily
F = bioconcentration factor (130 for 2,4,5-trichlorophenol)

ADI = Allowable Daily Intake (mg/day for a 70 kg person)
 $(2\text{ l}) \times (0.0187 \times 130) \times \text{ADI} = 7.0\text{ mg}$
 $2 \times 2.43 \times \text{ADI} = 7.0$
 $4.86 \times \text{ADI} = 7.0$
 $\text{ADI} = 1.44\text{ mg/l}$

There are no toxicity data for tetrachlorophenol, but because of the similarities between tetra- and pentachlorophenol and the lower acute toxicity of tetrachlorophenol, it is reasonable to set the water criterion on the basis of the more extensive toxicologic data base for pentachlorophenol.

The criterion is established as follows. The no observable effect level (NOEL) for pentachlorophenol is 3 mg/kg. Since the chlorophenols are rapidly excreted by mammals, an uncertainty factor of 100 is used to establish the acceptable human exposure of 0.03 mg/kg per day. A water intake of 2 l/day and an average body weight of 70 kg are assumed. The acceptable whole body exposure is then 70 kg times 0.03 mg/kg/day which equals 2.1 mg/day.

Assuming that the total exposure is from ingesting 2 liters of drinking water and 18.7 grams of fish, the following calculation has been established:

$$(2\text{ l}) \times (0.0187 \times \text{BCF}) = \text{ADI}$$

where

2 l = amount of drinking water consumed
0.0187 kg = amount of fish consumed
BCF = bioconcentration factor (320 for tetrachlorophenol)
ADI = Acceptable Daily Intake (2.1 mg)

In tetrachlorophenol, which is based on the use of chronic toxicologic data and an uncertainty factor of 100, the recommended criterion level is 263 µg/l. Drinking water contributes 25 percent of the assumed exposure while eating contaminated fish products accounts for 75 percent. The criterion level can alternatively be expressed as 351 if exposure is assumed to be from the consumption of fish and shellfish products alone.

The organoleptic properties of the chlorinated phenols are well known. These compounds have been reported to impart a medicinal-like odor and taste to water and to the flesh of aquatic organisms raised in contaminated water. Summaries of the reported taste/odor threshold levels of various chlorophenols in water or in aquatic organisms are presented in Table 1 and Table 2, respectively.

Water quality criteria for 2-chlorophenol and 2,4-dichlorophenol based on organoleptic effects were published in FR 15946, 1979. These criteria of 0.3 µg/l and 0.5 µg/l, respectively, were derived from the data

reported by Hoak (1957) and are based on the odor threshold of these compounds in water.

The criteria for various other mono-, di-, and trichlorophenols have been derived and are based on the lower of the odor threshold in water or the tainting threshold in aquatic organisms (see Table 3).

Since the criterion derived for tetrachlorophenol based on its toxic effects is lower than that derived as a result of its organoleptic properties, the former criterion is recommended.

There are no available data on monochlorocresols upon which to base a criterion.

Table 1.—Comparison of Odor Thresholds for Chlorophenols in Water

Compound	Threshold-ppb (µg/l)	Reference*
2-chlorophenol	0.33 ppb - 30"	2
	2 ppb - 25"	3
	6 ppb - NS*	4
3-chlorophenol	200 ppb - 30°C	2
4-chlorophenol	33 ppb - 30°C	2
	250 ppb - 25°C	3
	900 - 1350 ppb	4
2,4-dichlorophenol	0.65 ppb - 30°C	2
	2 ppb - 25°C	3
2,5-dichlorophenol	3.3 ppb - 30°C	2
2,6-dichlorophenol	33 ppb - 25°C	3
2,4,5-trichlorophenol	11 ppb - 25°C	2
2,4,6-trichlorophenol	100 ppb - 30°C	2
	1000 ppb - 25°C	3
2,3,4,6-tetrachlorophenol	815 ppb - 30°C	2

* 2—Hoak, 1957; 3—Burtisheff, et al., 1952; 4—Campbell, et al., 1958.
* NS—temperature not specified.

Table 2.—Summary of Threshold Concentrations of Chlorinated Phenols in Water That Cause Tainting of the Flesh of Aquatic Organisms

Compound	Threshold (µg/l)	Reference*
2-chlorophenol	15.0	1
	15.0	2
3-chlorophenol	60.0	1
4-chlorophenol	60.0	1
	60.0	2
2,4-dichlorophenol	5.0	2
	10.0	3

* 1—Schulze, E., 1961; 2—Tess, J. L., 1959; 3—Chumsey, D. L., 1966.

Table 3.—Recommended Water Quality Criteria

Compound	Criterion from organoleptic effects	Criterion from toxicological data
Monochlorophenols		
3-chlorophenol	50 µg/l	none
4-chlorophenol	80 µg/l	none
Dichlorophenols		
2,5-dichlorophenol	3.0 µg/l	none
2,6-dichlorophenol	3.0 µg/l	none
Trichlorophenols		
2,4,5-trichlorophenol	10 µg/l	1500 µg/l
2,4,6-trichlorophenol	100 µg/l	
Tetrachlorophenol*		
2,3,4,6-tetrachlorophenol	900 µg/l	263 µg/l

*The criterion will be based on toxicological effects

Copper**Criteria Summary**

Freshwater Aquatic Life. For copper the criterion to protect freshwater aquatic life as derived using the Guidelines is " $\epsilon(0.65 \ln(\text{hardness}) - 1.94)$ " as a 24-hour average and the concentration should not exceed " $\epsilon(0.88 \ln(\text{hardness}) - 1.03)$ " at any time.

Saltwater Aquatic Life. For copper the criterion to protect saltwater aquatic life as derived using the Guidelines is 0.79 $\mu\text{g/l}$ as a 24-hour average and the concentration should not exceed 18 $\mu\text{g/l}$ at any time.

Human Health. For copper the criterion to protect human health is 1 mg/l .

Freshwater Aquatic Life. The maximum concentration of copper is the Final Acute Value of $\epsilon(0.88 \ln(\text{hardness}) - 1.03)$ and the 24-hour average concentration is the Final Chronic Value of $\epsilon(0.65 \ln(\text{hardness}) - 1.94)$. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

Summary of Available Data. All concentrations herein are expressed in terms of copper.

Final Fish Acute Value = $\epsilon(0.72 \ln(\text{hardness}) + 0.83)$

Final Invertebrate Acute Value = $\epsilon(0.88 \ln(\text{hardness}) - 1.03)$

Final Acute Value = $\epsilon(0.88 \ln(\text{hardness}) - 1.03)$

Final Fish Chronic Value = $\epsilon(0.65 \ln(\text{hardness}) - 1.94)$

Final Invertebrate Chronic Value = $\epsilon(0.65 \ln(\text{hardness}) - 1.42)$

Final Plant Value = 1 $\mu\text{g/l}$

Residue Limited Toxicant

Concentration = not available
Final Chronic Value = $\epsilon(0.65 \ln(\text{hardness}) - 1.94)$

Saltwater Aquatic Life. The maximum concentration of copper is the Final Acute Value of 1.8 $\mu\text{g/l}$ and the 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on saltwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

Summary of Available Data. The concentrations below have been rounded to two significant figures. All concentrations herein are expressed in terms of copper.

Final Fish Acute Value = 19 $\mu\text{g/l}$

Final Invertebrate Acute Value = 1.8 $\mu\text{g/l}$

Final Acute Value = 1.8 $\mu\text{g/l}$

Final Fish Chronic Value = not available

Final Invertebrate Chronic Value = 11 $\mu\text{g/l}$

Final Plant Value = 5.0 $\mu\text{g/l}$

Residue Limited Toxicant

Concentration = not available
Final Chronic Value = 5.0 $\mu\text{g/l}$
 $0.44 \times \text{Final Acute Value} = 0.79 \mu\text{g/l}$

Human Health. Copper is an essential dietary element for humans and animals. A level of 2 mg per day will maintain adults in balance and has been considered adequate, although because of interactions with other dietary constituents which limit absorption and utilization, a requirement level must be considered in conjunction with such constituents as zinc, iron, fiber, and ascorbic acid. The minimum level meeting requirements for copper intake in intravenous feeding was 22 μg copper/kg body weight.

The short biological half life of copper and the homeostasis that exists in humans prevents copper from accumulating, even with dietary intakes considerably in excess of 2 mg per day. In the opinion of many investigators, there is much more likelihood of a copper deficiency occurring than of a toxicity developing with current dietary and environmental situations.

Although acute and chronic levels of intake may occur, there are no good data which define these levels. It has been suggested that chronic intakes of 15 mg of copper per day may produce observable effects, but if zinc and iron intakes are also increased, much higher levels may be consumed without adverse reactions. The data for acute toxicity are even more uncertain, since practically all human information stems from cases of attempted suicide.

The available literature leads to the conclusion that copper does not produce teratogenic, mutagenic, or carcinogenic effects. The limited information available indicates that where such action has occurred, e.g., with mixtures of copper sulfate and lime, arsenic, or enediols, the copper should be considered as interacting with the other materials and not as the active material.

The current drinking water standard of 1 mg/l is considered to be well below any minimum hazard level, even for special groups at risk such as very young children, and therefore it is recommended that this standard be maintained.

Cyanide**Criteria Summary**

Freshwater Aquatic Life. For free cyanide (expressed as CN) the criterion to protect freshwater aquatic life as derived using the Guidelines is 1.4 $\mu\text{g/l}$ as a 24-hour average and the concentration should not exceed 38 $\mu\text{g/l}$ at any time.

Saltwater Aquatic Life. For saltwater aquatic life, no criterion for free cyanide can be derived using the Guidelines, and there are insufficient data to estimate a criterion using other procedures.

Human Health. For cyanide, the criterion to protect human health from the toxic properties of cyanide ingested through water and through contaminated aquatic organisms is 0.2 $\text{mg CN}^-/\text{l}$.

Basis for the Criteria

Freshwater Aquatic Life. The maximum concentration of free cyanide is the Final Acute Value of 38 $\mu\text{g/l}$ and the 24-hour concentration is the Final Chronic Value of 1.4 $\mu\text{g/l}$. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For free cyanide (expressed as CN) the criterion to protect freshwater aquatic life as derived using the Guidelines is 1.4 $\mu\text{g/l}$ as a 24-hour average and the concentration should not exceed 38 $\mu\text{g/l}$ at any time.

Summary of Available Data. All concentrations herein are for free cyanide expressed as CN. The concentrations below have been rounded to two significant figures.

Final Fish Acute Value = 38 $\mu\text{g/l}$

Final Invertebrate Acute Value = 60 $\mu\text{g/l}$

Final Acute Value = 38 $\mu\text{g/l}$

Final Fish Chronic Value = 1.4 $\mu\text{g/l}$

Final Invertebrate Chronic Value = 4.9 $\mu\text{g/l}$

Final Plant Value = 7.790 $\mu\text{g/l}$

Residue Limited Toxicant Concentration = not available

Final Chronic Value = 1.4 $\mu\text{g/l}$

$0.44 \times \text{Final Acute Value} = 17 \mu\text{g/l}$

Saltwater Aquatic Life. No saltwater criterion can be derived for free cyanide using the Guidelines because no Final Chronic Value for either fish or invertebrate species or a good substitute for either value is available, and there are insufficient data to estimate a criterion using other procedures.

Summary of Available Data. All values are for free cyanide expressed as CN. The concentrations below have been rounded to two significant figures.

Final Fish Acute Value = not available

Final Invertebrate Acute Value = not available

Final Acute Value = not available

Final Fish Chronic Value = not available

Final Invertebrate Chronic Value = not available

Final Plant Value = 3,000 $\mu\text{g/l}$

Residue Limited Toxicant Concentration = not available

Final Chronic Value = 3,000 $\mu\text{g/l}$

$0.44 \times \text{Final Acute Value} = \text{not available}$

Table 1.—Basis and Derivation of Cyanide Criterion

Exposure levels *	Route	Species	Calculated daily exposure	Margin of safety *	Investigator
9.2 mg/m^3	Inhalation	Man	60.6 mg^b	162	El Ghawabi, et al. 1975. ¹
2.5 mg/m^3	Inhalation	Man	16.5 mg^b	41	DHEW, PHS, 1976. ²
12 mg/kg	Oral	Rat	840 mg^c	20.8	Howard and Hentzel, 1955. ³

* NOAEL.

^b Based on 100% retention and on alveolar exchange of 6.6 m^3 for 8 hours.

^c Rat data converted to human equivalent assuming food consumption of 60 g/kg for rats and 70 kg for humans.

^d Daily exposure compared with 0.4 mg/day exposure from the consumption of 2 l water containing 0.2 mg/l .

¹ El Ghawabi, S. H., et al. 1975. Chronic cyanide exposure: a clinical, radioisotope, and laboratory study. Br. J. Ind. Med. 32:215.

² Howard, J. W., and R. F. Hentzel. 1955. Chronic toxicity for rats of food treated with hydrogen cyanide. J. Agr. Food Chem. 3:325.

³ DHEW, PHS, 1976. Center for Disease Control, National Institute for Occupational Safety and Health, NIOSH Criteria for Recommended Standard Occupational Exposure to Hydrogen Cyanide and Cyanide Salts (HCN, KCN, and Ca(CN)₂). DHEW, NIOSH Publ. No. 77-108. U.S. Government Printing Office, Washington, D.C.

Human Health. As shown in Table 1, the criterion of 0.2 $\text{mg CN}^-/\text{l}$ allows for safety factors ranging from 41 to 2100. El Ghawabi, et al. (1975)¹ studied the effects of chronic cyanide exposure in the electroplating sections of three Egyptian factories. A total of 36 male employees with exposures up to 15 years were studied and compared with a control group of 20 normal, non-smoking males. Only minimal differences with respect to thyroid gland size and function were found. The El Ghawabi study was given considerable weight in formulating the NIOSH² recommendations for occupational exposure which gives a safety factor of 41 when applied to drinking water by the usual extrapolations (Table 1). Finally, a safety factor of 2,100 is obtained using the results of a two year chronic feeding study in rats. When fed at the rate of 12 mg/kg per day over the equivalent of a lifetime, these rats showed no overt signs of cyanide poisoning, and hematological values were normal. Gross and microscopic examinations of tissues revealed no abnormalities. The only abnormality found was an elevation of thiocyanate levels in the liver and kidneys. Consequently the ADI for man is derived by taking the no observable adverse effect level in mammals (12 mg/kg/day) multiplied by the weight of the average man (70 kg) and dividing by a safety factor of 100. Thus:

$$\text{ADI} = 12 \text{ mg/kg/day} \times 70 \text{ kg} \div 100 = 8.4 \text{ mg/day}$$

The equation for calculating the criterion for the cyanide content of water given an Acceptable Daily Intake is

$$2X + [(0.0187)(F)(X)] = \text{ADI}$$

Where

2 = amount of drinking water, l/day

X = cyanide concentration in water, mg/l

0.0187 = amount of fish consumed, kg/day

F = bioconcentration factor, mg cyanide/kg

fish per $\text{mg cyanide/l water}$

ADI = limit on daily exposure for a 70 kg

person = 8.4 mg/day

$2X + (0.0187)(2.3)X = 8.4$

$X = 4.16 \text{ mg/l}$

Thus, the current and recommended criteria (0.2 mg/l) has a margin of safety of 20.8 (4.16 \div 0.2).

No new additional evidence was encountered to suggest that the 1962 PHS Drinking Water Standard for cyanide should be lowered. The concentration of 0.2 mg/l or less is easily achieved by proper treatment and concentrations in excess of that amount have been encountered only on rare occasions in U.S. water supplies. The experience since 1962 suggests that 0.2 $\text{mg CN}^-/\text{l}$ is a safe criterion not only for man but for most species of fish as well. Although cyanide has been implicated in fish kills, these represent isolated, accidental and localized cases of pollution where the cyanide concentrations must have been greatly in excess of the P.H.S. limit.

Cyanide is unlikely to become a widespread environmental pollutant because of its low degree of persistence in the biosphere. It is not accumulated or stored in mammals and there is no evidence for its biomagnification in food chains. Well controlled attempts to show cumulative toxic effects have not been successful. No data exist to suggest that cyanide produces such irreversible effects as mutagenesis, teratogenesis or cancer.

3,3'-Dichlorobenzidine (DCB)**Criteria Summary**

Freshwater Aquatic Life. For freshwater aquatic life, no criterion for any dichlorobenzidine can be derived using the Guidelines, and there are

insufficient data to estimate a criterion using other procedures.

Saltwater Aquatic Life. For saltwater aquatic life, no criterion for any dichlorobenzidine can be derived using the Guidelines, and there are insufficient data to estimate a criterion using other procedures.

Human Health. For the maximum protection of human health from the potential carcinogenic effects of exposure to dichlorobenzidine through ingestion of water and contaminated aquatic organisms, the ambient water concentration is zero. Concentrations of toxaphene estimated to result in additional lifetime cancer risks ranging from no additional risk to an additional risk of 1 in 100,000 are presented in the Criterion Formulation section of this document. The Agency is considering setting criteria at an interim target risk level in the range of 10^{-6} , 10^{-4} , or 10^{-2} with corresponding criteria of 0.1 $\mu\text{g/l}$, 0.01 $\mu\text{g/l}$ and 0.001 $\mu\text{g/l}$ respectively.

Basis for the Criteria

Freshwater Aquatic Life. No freshwater criterion can be derived for dichlorobenzidine using the Guidelines because no Final Chronic Value for either fish or invertebrate species or a good substitute for either value is available, and there are insufficient data to estimate a criterion using other procedures.

Saltwater Aquatic Life. No saltwater criterion can be derived for dichlorobenzidine using the Guidelines because no Final Chronic Value for either fish or invertebrate species or a good substitute for either value is available, and there are insufficient data to estimate a criterion using other procedures.

Human Health. The water quality criterion for DCB is based on the induction of papillary transitional cell carcinomas of the urinary bladder and hepatic carcinomas in female beagle dogs, given an oral dose of 100 $\text{mg 3,3'-dichlorobenzidine, three times per week}$ for six weeks, then five times per week continuously for up to 7.1 years (Stula, et al. 1978).¹ Dose-response data for dogs were selected because dogs developed urinary bladder tumors, as do humans, when exposed to certain aromatic amines. The concentration of DCB in water, calculated to keep the lifetime cancer risk below 10^{-6} is 0.10 $\mu\text{g/l}$.

Under the Consent Decree in *NRDC vs. Train*, criteria are to state "recommended maximum permissible concentrations (including where

¹ Stula, E. F., J. R. Barnes, H. Sherman, C. F. Reinhardt, J. A. Zapp, Jr. 1978. J. Environmental Pathology and Toxicology, 1: 475-490.

appropriate, zero) consistent with the protection of aquatic organisms, human health, and recreational activities." DCB is suspected of being a human carcinogen. Because there is no recognized safe concentration for a human carcinogen, the recommended concentration of DCB in water for maximum protection of human health is zero.

Because attaining a zero concentration level may be infeasible in some cases and in order to assist the Agency and States in the possible future development of water quality regulations, the concentrations of DCB corresponding to several incremental

lifetime cancer risk levels have been estimated. A cancer risk level provides an estimate of the additional incidence of cancer that may be expected in an exposed population. A risk of 10^{-6} for example, indicates a probability of one additional case of cancer for every 100,000 people exposed, a risk of 10^{-5} indicates one additional case of cancer for every million people exposed, and so forth.

In the Federal Register notice of availability of draft ambient water quality criteria, EPA stated that it is considering setting criteria at an interim target risk level of 10^{-5} , 10^{-6} or 10^{-7} as shown in the table below.

Exposure assumptions	Risk levels and corresponding criteria ¹			
	0	10^{-7}	10^{-6}	10^{-5}
2 liters of drinking water and consumption of 18.7 grams fish and shellfish ²	0	0.001 µg/l	0.01 µg/l	0.1 µg/l
Consumption of fish, shellfish only	0	0.002 µg/l	0.02 µg/l	0.2 µg/l

¹Calculated by applying a modified "one hit" extrapolation model described in the FR 15926, 1979. Since the extrapolation model is linear to low doses, the additional lifetime risk is directly proportional to the water concentration. Therefore, water concentrations corresponding to other risk levels can be derived by multiplying or dividing one of the risk levels and corresponding water concentrations shown in the table by factors such as 10, 100, 1,000, and so forth.

²Forty-eight percent of DCB exposure results from the consumption of aquatic organisms which exhibit an average bioconcentration potential of 100 fold. The remaining 52 percent of DCB exposure results from drinking water.

Concentration levels were derived assuming a lifetime exposure to various amounts of DCB, (1) occurring from the consumption of both drinking water and aquatic life grown in water containing the corresponding DCB concentrations and, (2) occurring solely from consumption of aquatic life grown in the waters containing the corresponding DCB concentrations.

Although total exposure information for DCB is discussed and an estimate of the contributions from other sources of exposure can be made, this data will not be factored into the ambient water quality criteria formulation because of the tenuous estimates. The criteria presented, therefore, assume an incremental risk from ambient water exposure only.

Summary of Pertinent Data. The water quality criterion for DCB is based on the induction of papillary transitional cell carcinomas of the urinary bladder and hepatic carcinomas in female beagle dogs, given an oral dose of 100 mg DCB, three times per week for six weeks, then five times per week continuously for periods up to 7.1 years (Stula, et al. 1978).¹ The incidence of urinary bladder carcinomas observed in DCB-treated dogs was 5/5 as compared to 0/8 in the control group. The incidences of hepatic carcinomas were 4/5 and 0/8 in DCB-treated and control groups, respectively.

The criterion was calculated from the following parameters.

$n_{tw} = 4.5^*$ (urinary bladder carcinomas)
 $N_{tw} = 5$
 $n_{th} = 4$ (hepatic carcinoma)
 $N_{th} = 5$
 $n_c = 0$
 $N_c = 6$
 $Le = 7.1$ yrs.
 $le = 7.1$ yrs.
 $L = 8.65$ yrs.
 d (timeweighted average concentration) = 7.36 mg/kg/day
 $F = 0.0187$ kg
 $R = 100$
 $W = 11.391$ kg

Based on these parameters, the one-hit slope (B_H) is 1.036 (mg/kg/day)⁻¹ for urinary bladder carcinomas and 0.724 (mg/kg/day)⁻¹ for hepatic carcinomas. The resulting water concentration for DCB, calculated to keep the individual lifetime cancer risk below 10^{-6} , is 0.10 micrograms per liter.

Dichloropropanes/Dichloropropenes

Criteria Summary

Freshwater Aquatic Life. For 1,1-dichloropropane the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 410 µg/l as a 24-hour average and the

^{*}This underestimate of the true number, based on Burkson's correction factor, was chosen in order to obtain a finite mathematical estimate.

concentration should not exceed 930 µg/l at any time.

For 1,2-dichloropropane the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 920 µg/l as a 24-hour average and the concentration should not exceed $2,100$ µg/l at any time.

For 1,3-dichloropropane the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is $4,800$ µg/l as a 24-hour average and the concentration should not exceed $11,000$ µg/l at any time.

For 1,3-dichloropropene the criterion to protect freshwater aquatic life as derived using the Guidelines is 18 µg/l as a 24-hour average and the concentration should not exceed 250 µg/l at any time.

Saltwater Aquatic Life. For saltwater aquatic life, no criterion for 1,1-dichloropropane can be derived using the Guidelines, and there are insufficient data to estimate a criterion using other procedures.

For 1,2-dichloropropane the criterion to protect saltwater aquatic life as derived using procedures other than the Guidelines is 400 µg/l as a 24-hour average and the concentration should not exceed 910 µg/l at any time.

For 1,3-dichloropropane the criterion to protect saltwater aquatic life as derived using the Guidelines is 79 µg/l as a 24-hour average and the concentration should not exceed 180 µg/l at any time.

For 1,3-dichloropropene the criterion to protect saltwater aquatic life as derived using procedures other than the Guidelines is 5.5 µg/l as a 24-hour average and the concentration should not exceed 14 µg/l at any time.

Human Health. For the protection of human health from the adverse effects of dichloropropanes and dichloropropenes ingested through the consumption of contaminated fish and water, the following criteria are suggested:

Dichloropropanes— 200 µg/l

Dichloropropenes— 0.63 µg/l

Basis for the Criteria

Freshwater Aquatic Life. No freshwater criterion can be derived for any dichloropropane using the Guidelines because no Final Chronic Value for either fish or invertebrate species or a good substitute for either value is available.

However, data for 1,3-dichloropropane and saltwater

organisms can be used as the basis for estimating criteria.

For 1,3-dichloropropane and saltwater organisms, 0.44 times the Final Acute Value is less than the Final Chronic Value derived from a life cycle test with the mysid shrimp. Therefore, a reasonable estimate of criteria for dichloropropanes and freshwater organisms would be 0.44 times the Final Acute Value. The lack of a Final Fish Acute Value for 1,3-dichloropropane and freshwater fish is probably not important since the Final Fish Acute Value is greater than the Final Invertebrate Acute Value for all three cases with freshwater and saltwater organisms in which both values are available.

1,1-dichloropropane

The maximum concentration of 1,1-dichloropropane is the Final Acute Value of 930 µg/l and the estimated 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the estimated 24-hour average concentration.

For 1,1-dichloropropane the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 410 µg/l as a 24-hour average and the concentration should not exceed 930 µg/l at any time.

1,2-dichloropropane

The maximum concentration of 1,2-dichloropropane is the Final Acute Value of $2,100$ µg/l and the estimated 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the estimated 24-hour average concentration.

For 1,2-dichloropropane the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 920 µg/l as a 24-hour average and the concentration should not exceed $2,100$ µg/l at any time.

1,3-dichloropropane

The maximum concentration of 1,3-dichloropropane is the Final Acute Value of $11,000$ µg/l and the estimated 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the estimated 24-hour average concentration.

For 1,3-dichloropropane the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is $4,800$ µg/l as a 24-hour average and the concentration should not exceed $11,000$ µg/l at any time.

1,3-dichloropropene

The maximum concentration of 1,3-dichloropropene is the Final Acute Value of 250 µg/l and the 24-hour average concentration is the Final Chronic Value of 18 µg/l. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For 1,3-dichloropropene the criterion to protect freshwater aquatic life as derived using the Guidelines is 18 µg/l as a 24-hour average and the concentration should not exceed 250 µg/l at any time.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

1,1-dichloropropane

Final Fish Acute Value = $14,000$ µg/l

Final Invertebrate Acute Value = 930 µg/l

Final Acute Value = 930 µg/l

Final Fish Chronic Value = not available

Final Invertebrate Chronic Value = not available

Final Plant Value = not available

Residue Limited Toxicant

Concentration = not available

Final Chronic Value = not available

$0.44 \times$ Final Acute Value = 410 µg/l

1,2-dichloropropane

Final Fish Acute Value = $42,000$ µg/l

Final Invertebrate Acute Value = $2,100$ µg/l

Final Acute Value = $2,100$ µg/l

Final Fish Chronic Value = not available

Final Invertebrate Chronic Value = not available

Final Plant Value = not available

Residue Limited Toxicant

Concentration = not available

Final Chronic Value = not available

$0.44 \times$ Final Acute Value = 920 µg/l

1,3-dichloropropane

Final Fish Acute Value = not available

Final Invertebrate Acute Value = $11,000$ µg/l

Final Acute Value = $11,000$ µg/l

Final Fish Chronic Value = not available

Final Invertebrate Chronic Value = not available

Final Plant Value = $48,000$ µg/l

Residue Limited Toxicant

Concentration = not available

Final Chronic Value = $48,000$ µg/l

$0.44 \times$ Final Acute Value = $4,800$ µg/l

1,3-dichloropropene

Final Fish Acute Value = 850 µg/l

Final Invertebrate Acute Value = 250 µg/l

Final Acute Value = 250 µg/l

Final Fish Chronic Value = 18 µg/l

Final Invertebrate Chronic Value = not available

available

Final Plant Value = $5,000$ µg/l

Residue Limited Toxicant

Concentration = not available

Final Chronic Value = 18 µg/l

$0.44 \times$ Final Acute Value = 110 µg/l

Saltwater Aquatic Life. The maximum concentration of 1,3-dichloropropane is the Final Acute Value of 180 µg/l and the 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on saltwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For 1,3-dichloropropane and saltwater organisms the Final Invertebrate Acute Value divided by the Final Fish Acute Value is 180 µg/l/ $13,000$ µg/l = 0.014 . The comparable quotient for 1,2-dichloropropane and freshwater organisms is $2,100$ µg/l/ $57,000$ µg/l = 0.037 . The average quotient is 0.028 . Multiplying this value times the Final Acute Value for 1,2-dichloropropane and saltwater fish results in an estimated Final Invertebrate Acute Value of $0.028 \times 35,000$ µg/l = 910 µg/l. Thus the estimated Final Acute Value for 1,2-dichloropropane is 910 µg/l. Multiplying this Final Acute Value by 0.44 gives 400 µg/l.

For 1,3-dichloropropane and saltwater organisms, 0.44 times the Final Acute Value is less than the Final Chronic Value derived from a life cycle test with the mysid shrimp. Therefore, a reasonable estimate of a criterion for 1,2-dichloropropane and saltwater organisms would be 0.44 times the Final Acute Value.

The maximum estimated concentration of 1,2-dichloropropane is the Final Acute Value of 910 µg/l and the estimated 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on saltwater aquatic organisms have been reported to be caused by concentrations lower than the estimated 24-hour average concentration.

For 1,3-dichloropropene and freshwater fish the Final Chronic Value divided by the Final Acute Value is 18 µg/l/ 850 µg/l = 0.021 . Multiplying this value times the Final Acute Value for 1,3-dichloropropene and saltwater fish results in an estimated Final Fish Chronic Value of 0.021×260 µg/l = 5.5 µg/l. Thus the estimated Final Chronic Value is 5.5 µg/l and is slightly lower than 0.44 times the Final Acute Value.

The maximum concentration of 1,3-dichloropropene is the Final Acute Value of 14 µg/l and the estimated 24-hour average concentration is the Final Chronic Value of 5.5 µg/l. No important adverse effects on saltwater aquatic organisms have been reported to be

caused by concentrations lower than the estimated 24-hour average concentrations.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

1,2-dichloropropane

Final Fish Acute Value = 35,000 µg/l

Final Invertebrate Acute Value = not available

Final Acute Value = 35,000 µg/l

Final Fish Chronic Value = not available

Final Invertebrate Chronic Value = not available

Final Plant Value = not available

Residue Limited Toxicant

Concentration = not available

Final Chronic Value = not available

0.44 × Final Acute Value = 15,000 µg/l

1,3-dichloropropane

Final Fish Acute Value = 13,000 µg/l

Final Invertebrate Acute Value = 180 µg/l

Final Acute Value = 180 µg/l

Final Fish Chronic Value = not available

Final Invertebrate Chronic Value = 600 µg/l

Final Plant Value = 66,000 µg/l

Residue Limited Toxicant

Concentration = not available

Final Chronic Value = 600 µg/l

0.44 × Final Acute Value = 79 µg/l

1,3-dichloropropene

Final Fish Acute Value = 260 µg/l

Final Invertebrate Acute Value = 14 µg/l

Final Acute Value = 14 µg/l

Final Fish Chronic Value = not available

Final Invertebrate Chronic Value = not available

Final Plant Value = 1,000 µg/l

Residue Limited Toxicant

Concentration = not available

Final Chronic Value = 1,000 µg/l

0.44 × Final Acute Value = 6.2 µg/l

Human Health. The Ostwald coefficient (λ) is defined as the ratio of the concentration of a gas in a liquid to the concentration of the gas in an equivalent volume of gas above that liquid. By definition, the Ostwald coefficient of a gas and water at any particular temperature could be expressed:

$$\lambda = \frac{\text{water solubility (g/l)}}{\text{conc. or vapor (g/l) at a partial pressure equal to vapor pressure}}$$

In the criteria formulation, the Ostwald coefficient for water is used as that for blood. A review of data on volatile anesthetic agents indicated this approach was acceptable. The applicability of this procedure can be used to estimate X_b .

The determined blood concentrations of PDC in rabbits and dogs after a seven-hour exposure period are from exposure data, blood levels that are calculated based on the Ostwald coefficient determined here (see below), and a hematocrit of 0.50. The data are as follows:

Animal	Exposure conc. (mg/l)	Blood conc. found (mg/l)	Blood conc. calculated (mg/l)
Rabbits	10.3	15-29	26.6
Rabbits	6.0	6-11	16.7
Dogs	4.7	13-16	13.0

Dichloropropene

It was determined that vapor pressure P (20° C) = 40 mm Hg and P (38° C) = 90 mm Hg. Unfortunately the only solubility data available was that for 20° C. However, data available on trichloroethylene and chloroform indicated that

$$\frac{P_{17^\circ}}{P_{20^\circ}} = 0.512$$

A similar relationship was found for ether. This factor was utilized for PDC:

Solubility in water = 2.7 g/l

$$\text{Concentration in air} = n/v = \frac{P}{RT} = \frac{40}{62 \times 293} = 0.0022 \text{ mole/l} = 0.25 \text{ g/l}$$

$$20^\circ = \frac{2.7}{0.25} = 10.8$$

$$38^\circ = 10.8 \times 0.512 = 5.5$$

Dichloropropene

A valid vapor pressure value for DCP could not be identified as such.

Therefore, the vapor in air density of DCP (cis and trans) of 1.4 at 37.8° C is used. Vapor air density (D) can be expressed as:

$$D = \frac{P_d}{P} + \frac{P' - P}{P}$$

where P = vapor pressure (at 37.8°)
 P' = ambient pressure (760 mm Hg)
 d = vapor density (3.6 for DCP)

Therefore

$$P = \frac{P' D - P}{d - 1} = 109 \text{ mm Hg}$$

This is a feasible relationship to the vapor pressure of 90 mm Hg at 38° C reported for PDC. An assumption of parallelism for plots of log vapor pressure vs. $1/T$ for PDC and DCP is reasonable. Thus the vapor pressure of DCP at 20° C can be assumed to be 59 mm Hg. This conversion is necessary since the only available solubility data for DCP is at 20°.

Thus

$$n/v = \frac{P}{RT} = \frac{59}{62 \times 293} = 0.0012 \text{ moles/l} = 0.36 \text{ g/l}$$

solubility of DCP in water at 20° = 1.0 g/l

$$20^\circ = \frac{1.0 \text{ g/l}}{0.36 \text{ g/l}} = 2.8$$

$$38^\circ = 2.8 \times 0.512 = 1.4$$

D-D^a, in one study was found to have a vapor pressure of 35 mm Hg at 20°; in another it was found to have a vapor pressure of 31.3 mm Hg at 20° C.

If these values are accurate, then the mixture of PDC and DCP can be assumed to be a negative deviation from Raoult's law. Measurements of partial pressure of binary solutions show that most of them can be classified as deviating from Raoult's law, either positively or negatively. The implication of this behavior of mixtures of PDC and

DCP has been discussed in this document as regards the interpretation of mutagenicity data.

The derivation of k is the most speculative portion of the model. From the data presented earlier, it can be assumed that the rat excretes 80 percent of a dose in 24 hours. It is likely, however, that PDC and DCP fit a two compartment pharmacokinetic model, at the least. Only the first (water) compartment in the rat can be reasonably estimated from the data available. Based on differences in glomerular filtration rate/weight relationships between rat and man, the k of a rat was reduced from $0.80 \times 24 \text{ hr}^{-1}$ to $0.25 \times 24 \text{ hr}^{-1}$. This is a moderate estimate which should also allow for known higher rates of biotransformation in the rat when compared to man.

The volume of distribution (V_D) of the compounds was assumed to be in a total body water plus fat:

Thus

$$V_D = V_{TBW} + (V_F \times w/f)$$

where

V_{TBW} = volume of total body water (36L in 70 kg man)

V_F = volume of fat (10 l in 70 kg man)

w/f = o/w = blood/water partition coefficient (taken as octanol/water partition coefficient).

A major consideration is the time necessary for the blood to reach equilibrium with the fat. Because this process is slow, the possibility exists for significant elevation of X_b , if V_D as calculated above is used.

To account for this, it was recognized that the NOAEL inhalation exposures were based on seven to eight hours of exposure. Consequently, a safety factor was incorporated in the V_D calculation such that the lipid space was corrected to include only that apparent fat volume which would be filled during 8 hours to exposure.

Thus

$$V_D = V_{TBW} + (V_F \times o/w \times F_{sh})$$

where

F_{sh} = fraction of final equilibrium level of substance fat after 8 hours.

$$F_{sh} = 1 - e^{-kt}$$

$$\ln(1 - F) = -kt$$

where

k =

plasma flow rate per minute in fat (0.11)

V_F O/W

t = 480 minutes

Dichloropropene

o/w = 105

F_{sh} = 0.05

$$V_D = 36 + (10 \times 105 \times 0.05) = 89$$

Dichloropropene

o/w = 43

F_{sh} = 0.11

$$V_D = 36 + (10 \times 43 \times 0.11) = 83$$

Criteria

As stated above:

$$ADI = \frac{\text{Ingestion NOAEL}}{\text{Uncertainty factor}}$$

The uncertainty factor for both PDC and DCP was taken as 100 based on the fact that the inhalation data utilized appears highly reliable and conversions to ingestion NOAEL have built in underestimation factors.

Finally:

$$CR = \frac{ADI}{2 + (BCF \times 0.0187)}$$

where

CR = water quality criterion

2 = liters of water consumed per day

BCF = bioconcentration factor in edible

portion fish (obtained from USEPA

Duluth Laboratory)

0.0187 = estimated consumption (kg) by an individual daily

Dichloropropene

The inhalation NOAEL for PDC is 75 ppm (350 mg/m³) which is the ACGIH TLV

λ = 5.5

X_b = 0.35 mg/l

X_b = 5.5×0.35 = 1.9 mg/l

V_D = 89 l

k = $0.25 \times 24 \text{ hr}^{-1}$

$$ADI = \frac{0.25 \times 1.9 \times 89}{100} = 420 \text{ µg/day}$$

BCF = 5.8

$$CR = \frac{420}{2 + (5.8 \times 0.0187)} = 200 \text{ µg/l}$$

Dichloropropene

The inhalation NOAEL for DCP is 1 ppm (4.5 mg/m³) which is that recommended by Torkelson and Oyen (1977).¹

λ = 1.4

X_b = 4.5

X_b = 1.4×4.5 = 6.3 µg/l

V_D = 83

k = $0.25 \times 24 \text{ hr}^{-1}$

$$ADI = \frac{0.25 \times 6.3 \times 83}{100} = 1.3 \text{ µg/day}$$

BCF = 2.9

$$CR = \frac{1.3 \text{ µg}}{2 + (2.9 \times 0.0187)} = 0.63 \text{ µg/l}$$

In summary, based upon the use of an inhalation no-observed-adverse-effect-level in rats (DCP), and an uncertainty factor of 100, the criterion level corresponding to the estimated acceptable daily intake of 1.3 µg/day for

¹ Torkelson, R. R., and F. Oyen. 1977. The toxicity of 1,3-dichloropropene as determined by repeated exposure of laboratory animals. Jour. Am. Ind. Hyg. Assoc. 38: 217.

DCP and 420 µg/day for PDC is .6 µg/l and 200 µg/l, respectively. Drinking water accounts for 95 percent of the assumed exposure for PDC and 98 percent for DCP. The criterion level can alternatively be expressed as 3.9 mg/l for PDC and 24 µg/l for DCP if exposure is assumed to be from the consumption of fish and shellfish products alone.

These criterion formulations assure that 100% of man's exposure is assigned to the ambient water pathway as information on other likely exposure situations is unavailable.

Dinitrotoluenes

Criteria Summary

Freshwater Aquatic Life. For 2,3-dinitrotoluene the criterion to protect freshwater aquatic life as derived using the Guidelines is 12 µg/l as a 24-hour average and the concentration should not exceed 27 µg/l at any time.

For 2,4-dinitrotoluene the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 620 µg/l as a 24-hour average and the concentration should not exceed 1,400 µg/l at any time.

Saltwater Aquatic Life. For 2,3-dinitrotoluene the criterion to protect saltwater aquatic life as derived using procedures other than the Guidelines is 4.4 µg/l as a 24-hour average and the concentration should not exceed 10 µg/l at any time.

For saltwater aquatic life, no criterion for 2,4-dinitrotoluene can be derived using the Guidelines, and there are insufficient data to estimate a criterion using other procedures.

Human Health. For the maximum protection of human health from the potential carcinogenic effects of exposure to 2,4-dinitrotoluene through ingestion of water and contaminated aquatic organisms, the ambient water concentration is zero. Concentrations of 2,4-dinitrotoluene estimated to result in additional lifetime cancer risks ranging from no additional risk to an additional risk of 1 in 100,000 are presented in the Criterion Document. The Agency is considering setting criteria at an interim target risk level in the range of 10^{-5} , 10^{-6} , or 10^{-7} with corresponding criteria of 740 ng/l, 74.0 ng/l, and 7.4 ng/l, respectively.

Basis for the Criteria

Freshwater Aquatic Life—2,3-dinitrotoluene. The maximum concentration of 2,3-dinitrotoluene is the Final Acute Value of 27 µg/l and the 24-hour average concentration is 0.44 times

the Final Acute Value. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For 2,3-dinitrotoluene the criterion to protect freshwater aquatic life as derived using the Guidelines is 12 µg/l as a 24-hour average and the concentration should not exceed 27 µg/l at any time.

2, 4-dinitrotoluene. Results obtained with 2,3-dinitrotoluene and freshwater organisms indicate how a criterion may be estimated for 2,4-dinitrotoluene and freshwater organisms.

For 2,3-dinitrotoluene and freshwater organisms 0.44 times the Final Acute Value is less than the Final Chronic Value based on an embryo-larval test with the fathead minnow. Therefore, a reasonable estimate of a criterion for 2,4-dinitrotoluene and freshwater organisms would be 0.44 times the Final Acute Value.

The maximum concentration of 2,4-dinitrotoluene is the Final Acute Value of 1,400 µg/l and the estimated 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For 2,4-dinitrotoluene the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 620 µg/l as a 24-hour average and the concentration should not exceed 1,400 µg/l at any time.

Summary of Available Data

The concentrations below have been rounded to two significant figures.

2,3-dinitrotoluene

Final Fish Acute Value = 46 µg/l
Final Invertebrate Acute Value = 27 µg/l
Final Acute Value = 27 µg/l
Final Fish Chronic Value = 17 µg/l
Final Invertebrate Chronic Value = not available

Final Plant Value = 1,400 µg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 17 µg/l
0.44 x Final Acute Value = 12 µg/l

2,4-dinitrotoluene

Final Fish Acute Value = 4,300 µg/l
Final Invertebrate Acute Value = 1,400 µg/l
Final Acute Value = 1,400 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available

Final Plant Value = not available
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = not available
0.44 x Final Acute Value = 620 µg/l

Saltwater Aquatic Life

Results obtained with 2,3-dinitrotoluene and freshwater organisms indicate how a criterion may be estimated for 2,4-dinitrotoluene and saltwater organisms.

For 2,3-dinitrotoluene and freshwater organisms 0.44 times the Final Acute Value is less than the Final Chronic Value based on an embryo-larval test with the fathead minnow. Therefore, a reasonable estimate of the criterion for 2,3-dinitrotoluene and saltwater organisms would be 0.44 times the Final Acute Value.

The maximum concentration of 2,3-dinitrotoluene is the Final Acute Value of 10 µg/l and the estimated 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on saltwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For 2,3-dinitrotoluene the criterion to protect saltwater aquatic life as derived using procedures other than the Guidelines is 4.4 µg/l as a 24-hour average and the concentration should not exceed 10 µg/l at any time.

Summary of Available Data

The concentrations below have been rounded to two significant figures.

2,3-dinitrotoluene

Final Fish Acute Value = 340 µg/l
Final Invertebrate Acute Value = 10 µg/l
Final Acute Value = 10 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available

Final Plant Value = 370 µg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 370 µg/l
0.44 x Final Acute Value = 4.4 µg/l

Human Health. The data from the bioassay of 2,4-DNT for possible carcinogenicity obtained by the National Cancer Institute (NCI, 1978)¹

¹NCI, 1978. Bioassay of 2,4-dinitrotoluene for possible carcinogenicity. National Cancer Institute Carcinogenesis Technical Report Series No. 54. U.S.D.H.E.W. (NIH) Pub. No. 78-1380. U.S. Government Printing Office, Washington, D.C.

and Lee, et al. 1978² were used for the determination of a water quality criterion for the protection of human health. The criterion was developed from the animal carcinogenicity data utilizing a linear non-threshold model.

The rat carcinogenicity studies with dietary administration of 2,4-DNT showed increased incidences of fibroadenomas of the subcutaneous tissue and inanition in male rats and fibroadenomas of the mammary gland and inanition in female rats.

Under the Consent Decree in *NRDC vs. Train*, criteria are to state "recommended maximum permissible concentrations (including where appropriate, zero) consistent with the protection of aquatic organisms, human health, and recreational activities." 2,4-DNT is suspected of being a human carcinogen. Because there is no recognized safe concentration for a human carcinogen, the recommended concentration of 2,4-DNT in water for maximum protection of human health is zero.

Because attaining a zero concentration level may be infeasible in some cases and in order to assist the Agency and States in the possible future development of water quality regulations, the concentrations of 2,4-DNT corresponding to several incremental lifetime cancer risk levels have been estimated. A cancer risk level provides an estimate of the additional incidence of cancer that may be expected in an exposed population. A risk of 10⁻⁵ for example, indicates a probability of one additional case of cancer for every 100,000 people exposed, a risk of 10⁻⁶ indicates one additional case of cancer for every million people exposed, and so forth.

In the Federal Register notice of availability of draft ambient water quality criteria, EPA stated that it is considering setting criteria at an interim target risk level of 10⁻⁵, 10⁻⁶ or 10⁻⁷ as shown in the table below.

²Lee, C. C., et al. 1978. Mammalian toxicity of munition compounds. Phase III: Effects of life-time exposure. Part I: 2,4-Dinitrotoluene. U.S. Army Medical Research and Development Command Contract No. DAMD-17-74-C-4073. Report No. 7, September, 1978.

Exposure assumptions (per day)	Risk levels and corresponding criteria ¹			
	0	10 ⁻⁷	10 ⁻⁶	10 ⁻⁵
2 liters of drinking water and consumption of 18.7 grams fish and shellfish. ²		7.4 ng/l	74.0 ng/l	740 ng/l
Consumption of fish and shellfish only.		156 µg/l	1.56 µg/l	15.6 µg/l

¹Calculated by applying a modified "one-hit" extrapolation model described in the Methodology Document to the animal bioassay data presented in Appendix I and in Table II. Since the extrapolation model is linear at low doses, the additional lifetime risk is directly proportional to the water concentration. Therefore, water concentrations corresponding to other risk levels can be derived by multiplying or dividing one of the risk levels and corresponding water concentrations shown in the table by factors such as 10, 100, 1000 and so forth.

²Approximately five percent of the DNT exposure results from the consumption of aquatic organisms which exhibit an average bioconcentration potential of 5.5 fold. The remaining 95 percent of DNT exposure results from drinking water.

Concentration levels were derived assuming a lifetime exposure to various amounts of DNT, (1) occurring from the consumption of both drinking water and aquatic life grown in waters containing the corresponding DNT concentrations and, (2) occurring solely from consumption of aquatic life grown in the waters containing the corresponding DNT concentrations. Although total exposure information for chloroform is discussed and an estimate of the contributions from other sources of exposure can be made, this data will not be factored into ambient water quality criteria. The criteria presented, therefore, assume an incremental risk from ambient water exposure only.

Summary of Pertinent Data

The water quality criterion for 2,4-dinitrotoluene is derived from the oncogenic effects observed in the mammary gland and liver of female Charles River CD rats fed 200 ppm in the diet. The time-weighted average dose of 45 mg/kg/day was given in the feed for 24 months, with the surviving animals sacrificed one month later. The mammary tumor incidence was 11/23 and 33/35 in the control and treated groups, respectively. The incidence of hepatocellular carcinomas and neoplastic nodules was 0/23 and 24/34 in the control and treated groups, respectively. Assuming a fish bioconcentration factor of 5.5, the criterion is calculated from the following parameters:

^at mammary = 33
^bt mammary = 35
^cc mammary = 11
^cc mammary = 23
^at liver = 24
^bt liver = 34
^cc liver = 0
^cc liver = 23
le = 24 months
le = 25 months
d = 45 mg/kg/day
R = 5.5
L = 25 months
W = 0.464 kg
F = 0.0187 kg/day

Based on these parameters, the one-hit slope, ^aH, is 2.95 × 10⁻¹ for mammary tumors and 1.53 × 10⁻¹ for hepatocellular carcinomas and hepatocellular neoplastic nodules. The resulting water concentration of 2,4-dinitrotoluene calculated to keep the individual lifetime cancer risk below 10⁻⁵ is 740 ng/l.

Diphenylhydrazine

Criteria Summary

Freshwater Aquatic Life. For 1,2-diphenylhydrazine the criterion to protect freshwater aquatic life as derived using the Guidelines is 17 µg/l as a 24-hour average and the concentration should not exceed 38 µg/l at any time.

Saltwater Aquatic Life. For saltwater aquatic life, no criterion for 1,2-diphenylhydrazine can be derived using the Guidelines, and there are insufficient data to estimate a criterion using other procedures.

Human Health. For the maximum protection of human health from the potential carcinogenic effects of exposure to 1,2-diphenylhydrazine through ingestion of water and contaminated aquatic organisms, the ambient water concentration is zero. Concentrations of 1,2-diphenylhydrazine estimated to result in additional lifetime cancer risks ranging from no additional risk to an additional risk of 1 in 100,000 are presented in the Criterion Formulation section of this document. The Agency is considering setting criteria at an interim target risk level in the range of 10⁻⁵, 10⁻⁶, or 10⁻⁷ with corresponding criteria of 0.4 µg/l, 0.04 µg/l and 0.004 µg/l, respectively.

Basis for the Criteria

Freshwater Aquatic Life. The maximum concentration of 1,2-diphenylhydrazine is the Final Acute Value of 38 µg/l and the 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For 1,2-diphenylhydrazine the criterion to protect freshwater aquatic life as derived using the Guidelines is 17 µg/l as a 24-hour average and the concentration should not exceed 38 µg/l at any time.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

Final Fish Acute Value = 38 µg/l
Final Invertebrate Acute Value = 170 µg/l
Final Acute Value = 38 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = 49 µg/l
Final Plant Value = not available
Residue Limited Toxicant Concentration = not available
Final Chronic Value = 49 µg/l
0.44 x Final Acute Value = 17 µg/l

Saltwater Aquatic Life. No saltwater criterion can be derived for 1,2-diphenylhydrazine using the Guidelines because no Final Chronic Value for either fish or invertebrate species or a good substitute for either value is available, and there are insufficient data to estimate a criterion using other procedures.

Human Health. An evaluation of the subacute, acute and chronic toxicity, with the exception of carcinogenicity is impossible because of only scanty data. No current guidelines or standards presently exist for DPH. Diphenylhydrazine has been shown to produce carcinogenic responses in rats and mice (NCI, 1974¹; Pliss, 1974²). Since the NCI (1978)³ study represents the only report in which all the data can be analysed, it will be used as a basis for formulating a criterion.

More specifically, the data on the induction of cancer in male and female rats and female mice were chosen for analysis because they all had significantly increased tumor formation following DPH treatment (i.e. dietary). The respective criterion levels obtained from applying the standard water quality dose extrapolation/criteria calculation methodology are given in the following table.

1,2-Diphenylhydrazine Induction of Tumors in Mice and Rats^a

Species	Sex	Estimated criterion level at 10 ⁻⁵ risk ^b
Mouse	Female	1.43 µg/l
Rat	Female	1.32 µg/l
	Male	5.14 µg/l
		0.38 µg/l

^aData taken from NCI, 1978. ¹(Tech No. 92, 1978).

^bCalculated by applying a modified "one-hit" extrapolation model described in the Federal Register 1062-5, 1979.

It can be seen that male rats appear to have the lowest tolerance for DPH.

Under the Consent Decree in *NRDC vs. Train*, criteria are to state "recommended maximum permissible

¹National Cancer Institute, 1978. Bioassay of hydrazobenzene for possible carcinogenicity. DHEW Publication No. (NIH) 78-1342.

²Pliss, G.B. 1974. Carcinogenic properties of hydrazobenzene. Vop. Onkol. 20: 53.

concentrations (including where appropriate, Zero) consistent with the protection of aquatic organisms, human health, and recreational activities." DPH is suspected of being a human carcinogen. Because there is no recognized safe concentration for human carcinogens the recommended concentration of DPH in water for maximum protection of human health is zero.

Because attaining a zero concentration level may be infeasible in some cases and in order to assist the Agency and States in the possible future development of water quality regulations, the concentrations of DPH

corresponding to several incremental lifetime cancer risk levels have been estimated. A cancer risk level provides an estimate of the additional incidence of cancer that may be expected in an exposed population. A risk of 10^{-6} for example, indicates a probability of one additional case of cancer for every 100,000 people exposed, a risk of 10^{-5} indicates one additional case of cancer for every million people exposed, and so forth.

In the Federal Register notice of availability of draft ambient water quality criteria, EPA stated that it is considering setting criteria at an interim target risk level of 10^{-5} , 10^{-6} or 10^{-7} as shown in the table below.

Exposure assumptions	Risk levels and corresponding criteria ¹			
	0	10^{-7}	10^{-6}	10^{-5}
2 liters of drinking water and consumption of 18.7 grams fish and shell-fish ²	0	4 ng/l	40 ng/l	400 ng/l
Consumption of fish and shellfish only..	0	.019 µg/l	.019 µg	1.9 µg/l

¹Calculated by applying a modified "one-hit" extrapolation model described in the FR 15926, 1979. Since the extrapolation model is linear to low doses, the additional lifetime risk is directly proportional to the water concentration. Therefore, water concentrations corresponding to other risk levels can be derived by multiplying or dividing one of the risk levels and corresponding water concentrations shown in the table by factors such as 10, 100, 1000 and so forth.

²Twenty-one percent of the DPH exposure results from the consumption of aquatic organisms which exhibit an average bioconcentration potential of 29 fold. The remaining percent of DPH exposure results from drinking water.

Concentration levels were derived assuming a lifetime exposure to various amounts of DPH, (1) occurring from the consumption of both drinking water and aquatic life grown in water containing the corresponding DPH concentrations and, (2) occurring solely from consumption of aquatic life grown in the waters containing the corresponding DPH concentrations.

Although a total exposure evaluation for DPH is desirable there are no data to support a total exposure analysis. The criteria presented, therefore, assume an incremental risk from assumed ambient water exposure only.

For DPH the case for criterion development is based upon the existence of carcinogenicity responses in animals (rats and mice).

Because of the lack of investigations for other chronic and acute responses, there is no information on other effects in either human or animal systems. Thus, the criterion proposed should be considered as precautionary until further studies can be used in the overall toxicity evaluations.

Summary of Pertinent Data

The water quality criterion for 1,2-diphenylhydrazine is based on the induction of hepatocellular carcinomas and neoplastic nodules in male Fischer

344 rats, exposed to 0.03 percent (300 ppm) 1,2-diphenylhydrazine in the diet *ad libitum* for 78 weeks (NCI, 1978).¹ The incidence of hepatocellular carcinomas and neoplastic nodules was 37/49 and 1/48 in the treated and control groups, respectively. The criterion was calculated from the following parameters:

$n_t = 37$
 $N_t = 49$
 $n_c = 1$
 $N_c = 48$
 $L = 104$ weeks
 $l = 78$ weeks
 $L = 104$ weeks
 $d^* = 15$ mg/kg/day
 $F = .0187$ kg/day
 $R = 29$
 $W = 0.375$ kg

Based on these parameters, the "one-hit" slope (B_H) is 0.715 (mg/kg/day)⁻¹. The resulting water concentration of 1,2-diphenylhydrazine, calculated to keep the individual lifetime cancer risk below 10^{-5} , is 0.40 µg/l.

¹The dose (expressed as mg/kg (body weight)/day) is based on the assumption that the amount of diet consumed by rats each day was five percent of their body weight.

0.05×0.375 kg = 0.01875 kg diet/day.
 0.01875 kg diet/day \times 300 mg/kg = 5.625 mg 1,2 DPH/day.
 5.625 mg 1,2 DPH/day / 0.375 kg = 15 mg/kg/day.

Endosulfan

Criteria Summary

Freshwater Aquatic Life. For endosulfan the criterion to protect freshwater aquatic life as derived using the Guidelines is 0.042 µg/l as a 24-hour average and the concentration should not exceed 0.49 µg/l at any time.

Saltwater Aquatic Life. For saltwater aquatic life, no criterion for endosulfan can be derived using the Guidelines, and there are insufficient data to estimate a criterion using other procedures.

Human Health. For the protection of human health from the toxic properties of endosulfan ingested through water and through contaminated aquatic organisms, the ambient water criterion is determined to be 0.1 mg/l.

Basis for the Criteria

Freshwater Aquatic Life. The maximum concentration of endosulfan is the Final Acute Value of 0.49 µg/l and the 24-hour average concentration is the Final Chronic Value of 0.042 µg/l. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For endosulfan the criterion to protect freshwater aquatic life as derived using the Guidelines is 0.042 µg/l as a 24-hour average and the concentration should not exceed 0.49 µg/l at any time.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

Final Fish Acute Value = 0.49 µg/l
 Final Invertebrate Acute Value = 0.60 µg/l
 Final Acute Value = 0.49 µg/l
 Final Fish Chronic Value = 0.042 µg/l
 Final Invertebrate Chronic Value = 0.84 µg/l
 Final Plant Value = 2.000 µg/l
 Residue Limited Toxicant
 Concentration = not available
 Final Chronic Value = 0.042 µg/l
 $0.44 \times$ Final Acute Value = 0.22 µg/l

Saltwater Aquatic Life. No saltwater criterion can be derived for endosulfan using the Guidelines because no Final Chronic Value for either fish or invertebrate species or a good substitute for either value is available, and there are insufficient data to estimate a criterion using other procedures.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

Final Fish Acute Value = 0.061 µg/l
 Final Invertebrate Acute Value = 0.040 µg/l
 Final Acute Value = 0.040 µg/l
 Final Fish Chronic Value = not available
 Final Invertebrate Chronic Value = not available
 Final Plant Value = 1.000 µg/l
 Residue Limited Toxicant
 Concentration = not available

Final Chronic Value = 1.000 µg/l
 $0.44 \times$ Final Acute Value = 0.018 µg/l

Human Health. Establishing a scientific basis for evaluating the hazard of endosulfan to man is difficult. At very high levels of acute exposure, humans show central nervous system (CNS) symptoms and may die. Several studies report endosulfan has been used for suicides.

Workers who failed to use good safety practices (i.e., to cover skin and use respiratory protection) have died from endosulfan exposure. In one incident, three persons exposed showed CNS symptoms; two of them died. It therefore appears that the most toxic potential effect to man is that of CNS toxicity

since the available data indicate a lack of carcinogenic, mutagenic, or teratogenic potential. The absence of reports on toxic effects associated with the proper use of endosulfan (particularly such effects as skin sensitization or other human symptoms) has been noted.

There appears to be considerable species variation in toxic effects. Of the species tested with endosulfan, cattle are the most sensitive to the neurotoxic effects and would therefore be a "worst case" model for human toxicity. There are much more controlled toxicity data on rodents, but cattle appear to be closer in sensitivity and effects to man. Data on CNS toxicity to cattle are presented in Table 13.

Table 13.—Lethality and CNS Toxicity of Endosulfan in Cattle

Dose, route	Number animals exposed	Time to CNS toxicity (hours)	Percent exposed showing CNS effects	Time to death (days)	Percent exposed dying
12.5 mg/kg, oral	2	10	100	8	50
0.12 percent formulation, dermal	250	5	20	1	4
4 percent dust, dermal	5	2	100	1	80
35 percent powder, dermal	30	5	(*)	(*)	50

*Apparently 100 percent.
 *Hours to days.

The relevance of these high exposure levels to a water quality criterion presents additional sources of calculation error. The CNS toxicity in these studies is an acute symptom of high exposure. All reported human poisonings, however, have resulted from accident, human error, or suicidal intention. The reported poisonings of man and the most sensitive other mammal, cattle, have occurred after acute, high level exposure to concentrated endosulfan. These levels will not occur in drinking water. The key question then is, are there any data in the toxicology reports or studies to indicate that CNS effects can occur after chronic, very low level exposure to endosulfan?

Tiberin, et al. reported occasional EEG alteration in one of three men one year after a convulsive seizure following exposure to endosulfan. Terziev, et al. report that autopsy on an endosulfan suicide case showed "changes in the neurons" among lesions in other organs. In female rats, exposed for 78 weeks and orally autopsied or necropsied, cause of death was not indicated in the report. Rats, although more resistant to toxicity than man or cattle, demonstrate no histopathological changes in the brain after receiving high doses of endosulfan orally for 78 weeks, or most of a lifetime.

Cerebral hemorrhage was reported in seven female rats that died early in the

controlled metabolic studies in man have been reported, although Demeter and Heyndrickx report that endosulfan sulfate is a metabolite in humans. This metabolite is approximately as toxic to mice as the parent isomers but no specific CNS effects were reported (based on toxicity trials on the pure compound).

The toxicity of endosulfan is somewhat greater in animals with deficiencies of dietary protein. The differences in even a dose as high as an LD50 are not great enough, however, to ascribe any potential human hazard to this mechanism or to suggest that protein-deprived humans would be more sensitive to chronic exposure to endosulfan in drinking water.

It can be concluded that (a) the controlled studies uniformly report CNS toxicity following acute high level exposure and (b) there has been no indication reported of specific lesions in mammals related to mortality following chronic exposure.

A water quality criterion could be based on the lowest no-effect level (NOEL) reported for endosulfan in test species. Available data on no-effect levels are summarized in Table 14.

The lowest NOEL reported in the published literature is 2.0 mg endosulfan per kilogram feed when fed to mice for 78 weeks (Weisburger, et al. 1978).¹ This dose corresponds to 0.4 mg endosulfan/kilogram body weight per day for a typical 25 gram mouse consuming 5 grams feed/day:

¹Weisburger, J.H., et al. 1978. Bioassay of endosulfan for possible carcinogenicity. National Cancer Institute Division of Cancer Cause and Prevention, National Institutes of Health, Public Health Service, U.S. Department of Health, Education, and Welfare, Bethesda, Maryland, Pub. 78-1312. Report by Hazleton Laboratories to NCI, NCI-CG-TR-82.

$$\left(\frac{2.0 \text{ mg endosulfan}}{1,000 \text{ g feed}} \right) \left(\frac{5 \text{ g feed}}{\text{mouse-day}} \right) \left(\frac{\text{mouse}}{0.025 \text{ Kg}} \right) = 0.4 \text{ mg/Kg/day}$$

Applying a 0.01 animal to human uncertainty factor to this dosage gives an upper limit for nonoccupational daily

exposure (ADI) of 0.28 mg/kg body weight for a 70 kg person:

$$\left(\frac{0.4 \text{ mg}}{\text{Kg-day}} \right) (0.01) \left(\frac{70 \text{ Kg}}{\text{person}} \right) = 0.28 \text{ mg/day}$$

For the purpose of establishing a water quality criterion, human exposure to endosulfan is considered to be based

on ingestion of 2 l of water and 18.7 g of fish/day. The amount of water ingested is approximately 100 times greater than

the amount of fish consumed. The fish bioconcentration factor for endosulfan of 28 has been established.

Table 14.—No-Effect Dose Levels for Endosulfan on Different Species and Biochemical Parameters

Species	Organ/tissue	Effect observed	No-effect dose	Route administered ¹
Rats		Lethality	≥55 mg/kg=LD ₅₀	Acute oral (Intragastric).
Rat		Lethality	40 mg/kg=LD ₅₀	Acute oral.
Rat	Liver	Cholinesterase inhibition	88 mg/kg minimum	Acute oral.
Rat	Liver	Microsome enzyme function	50 ppm diet	Diet (2 weeks).
Rat	Embryo	Teratogenicity	10 mg/kg	Oral (Gestation Day 7-14).
Rat (female Osborne-Mendel)		Lethality	445 ppm diet	Diet (78 weeks).
Hamsters		Lethality	70 mg/kg	Acute oral.
Hamsters	Liver	Enzyme inhibition: GPT, LDH	134 mg/kg minimum	Acute oral.
Mice		Weight depression	3.2 ppm diet	Diet (8 weeks).
Mice (female B6C3F1)		Lethality	2.0 ppm diet	Diet (78 weeks).
Rabbit	Eye	Inflammation and irritation	1:1,000 aqueous	Instillation.
Rabbit	Eye	Inflammation and irritation	20 pct aqueous solution	Instillation.
Rabbit	Skin	Irritation	100 mg/kg	Dermal.
Chickens	Egg	Hatchability	0.07 mg/egg	Yolk injection.
Dog		Gross and microscopic lesions	0.75 mg/kg/day	Oral (52 weeks).
Salmonella typhimurium	Strains TA98, 100, 1534, and 1978.	Base-pair substitution (mutagenicity)	1.0 mg/plate	

¹ Single dose unless otherwise noted.

The equation for calculating the criterion for endosulfan content of water is:

$$(2)(X) + (0.0187)(F)(X) = ADI$$

where: 2 = amount of drinking water was consumed, l/day

X = endosulfan concentration in water, mg/l

0.0187 = amount of fish consumed, Kg/day
F = bioconcentration factor, mg endosulfan/Kg fish per mg endosulfan/l water

ADI = limit on daily exposure for a 70 Kg person

For F = 28

$$2X + (0.0187)(28)(X) = 0.28$$

$$2.5286 X = 0.28$$

$$X = 0.1 \text{ mg/l}$$

Endrin

Criteria Summary

Freshwater Aquatic Life. For endrin the criterion to protect freshwater aquatic life as derived using the Guidelines is 0.0020 µg/l as a 24-hour average and the concentration should not exceed 0.10 µg/l at any time.

Saltwater Aquatic Life. For endrin the criterion to protect saltwater aquatic life as derived using the Guidelines is 0.0047 µg/l as a 24-hour average and the concentration should not exceed 0.031 µg/l at any time.

Human Health. For the protection of human health from the toxic properties of endrin ingested through water and

contaminated organisms, the ambient water criterion is determined to be 1 µg/l.

Freshwater Aquatic Life. The maximum concentration of endrin is the Final Acute Value of 0.10 µg/l and the 24-hour average concentration is the Final Chronic Value of 0.0020 µg/l. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

Final Fish Acute Value = 0.10 µg/l

Final Invertebrate Acute Value = 0.30 µg/l

Final Acute Value = 0.10 µg/l

Final Fish Chronic Value = 0.033 µg/l

Final Invertebrate Chronic Value = not available

Final Plant Value = 480 µg/l

Residue Limited Toxicant

Concentration = 0.0020 µg/l

Final Chronic Value = 0.0020 µg/l

0.44 x Final Acute Value = 0.044 µg/l

Saltwater Aquatic Life. The maximum

concentration of endrin is the Final

Acute Value of 0.031 µg/l and the 24-

hour average concentration is the Final

Chronic Value of 0.0047 µg/l. No

important adverse effects on saltwater

aquatic organisms have been reported to

be caused by concentrations lower than

the 24-hour average concentration.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

Final Fish Acute Value = 0.056 µg/l

Final Invertebrate Acute Value = 0.031 µg/l

Final Acute Value = 0.031 µg/l

Final Fish Chronic Value = 0.028 µg/l

Final Invertebrate Chronic Value = 0.0075 µg/l

Final Plant Value = 0.2 µg/l

Residue Limited Toxicant

Concentration = 0.0047 µg/l

Final Chronic Value = 0.0047 µg/l

0.44 x Final Acute Value = 0.014 µg/l

Human Health. The limited

teratogenic and mutagenic studies on

endrin suggest that effects are induced

with high endrin doses. However, an

unusual administration route was used

and unrealistically high endrin levels

were employed in these studies. Such

levels do not occur in water supplies

under normal circumstances, therefore,

the results of these studies were not

used as the basis for the criterion. More

toxicological data must be gathered

about these potential effects of endrin

before a final conclusion can be

reached. The available data do not

indicate that endrin is carcinogenic.

On the basis of long-term dietary

studies in mammals and occupational

exposures in man, a realistic water

criterion may be proposed. Maximum

no-effect dietary levels of endrin

reported for experimental animals are:

Ethylbenzene

Criteria Summary

Freshwater Aquatic Life. For freshwater aquatic life, no criterion for ethylbenzene can be derived using the Guidelines, and there are insufficient data to estimate a criterion using other procedures.

Saltwater Aquatic Life. For saltwater aquatic life, no criterion for ethylbenzene can be derived using the Guidelines, and there are insufficient data to estimate a criterion using other procedures.

Human Health. For the protection of human health from the toxic properties of ethylbenzene ingested through water, the ambient water quality criterion is 1.1 mg/l.

Basis for the Criteria

Freshwater Aquatic Life. No freshwater criterion can be derived for ethylbenzene using the Guidelines because no Final Chronic Value for either fish or invertebrate species or a good substitute for either value is available, and there are insufficient data to estimate a criterion using other procedures.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

Final Fish Acute Value = 10,000 µg/l

Final Invertebrate Acute Value = 3,000 µg/l

Final Acute Value = 3,000 µg/l

Final Fish Chronic Value = greater than 33 µg/l

Final Invertebrate Chronic Value = not available

Final Plant Value = greater than 440,000 µg/l

Residue Limited Toxicant

Concentration = not available

Final Chronic Value = greater than 33 µg/l

0.44 x Final Acute Value = 1,300 µg/l

Saltwater Aquatic Life. No saltwater criterion can be derived for

ethylbenzene using the Guidelines

because no Final Chronic Value for

either fish or invertebrate species or a

good substitute for either value is

available, and there are insufficient data

to estimate a criterion using other

procedures.

Summary of Available Data. The

concentrations below have been

rounded to two significant figures.

Final Fish Acute Value = 10,000 µg/l

Final Invertebrate Acute Value = 3,000 µg/l

Final Acute Value = 3,000 µg/l

Final Fish Chronic Value = greater than 33 µg/l

Final Invertebrate Chronic Value = not available

Final Plant Value = greater than 440,000 µg/l

Residue Limited Toxicant

Concentration = not available

Final Chronic Value = greater than 33 µg/l

0.44 x Final Acute Value = 1,300 µg/l

Saltwater Aquatic Life. No saltwater

criterion can be derived for

ethylbenzene using the Guidelines

because no Final Chronic Value for

ethylbenzene using the Guidelines because no Final Chronic Value for either fish or invertebrate species or a good substitute for either value is available, and there are insufficient data to estimate a criterion using other procedures.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

Final Fish Acute Value = 41,000 µg/l

Final Invertebrate Acute Value = 1,500 µg/l

Final Acute Value = 1,500 µg/l

Final Fish Chronic Value = not available

Final Invertebrate Chronic Value = not available

Final Plant Value = greater than 440,000 µg/l

Residue Limited Toxicant

Concentration = not available

Final Chronic Value = greater than 440,000 µg/l

0.44 x Final Acute Value = 660 µg/l

Human Health. The threshold limit

value (TLV) of 434 mg/m³ (100 ppm) EB

represents what is believed to be a

maximal concentration to which a

worker may be exposed for eight hours

per day, five days per week over his

working lifetime without hazard to

health or well-being (Amer. Conf. Gov't

Ind. Hyg., 1977).¹ To the TLV, Stokinger

and Woodward (1958)² apply terms

expressing respiratory volume during an

eight hour period (assumed to be 10 m³)

and a respiratory absorption coefficient

appropriate to the substance under

consideration. In addition, the five-day-

per-week occupational exposure is often

converted to a seven-day-per-week

equivalent in keeping with the more

continuous pattern of exposure to

drinking water.

According to the model, the amount of

ethylbenzene that may be taken into the

bloodstream and presumed to be

noninjurious and which, hence, may be

taken in water each day is:

435 mg/m ³	x 10 m ³	x 0.5	x 5/7 week	= 1555 mg/day
(TLV)	Respiratory intake term	Respiratory absorption coefficient	Proportion of week exposed	Maximum noninjurious intake

A safety factor of 1000 is used since no long-term or acute human data are available, and there is very little information from experimental animals (Nat. Acad. Sci., 1977).³ Thus, 1555 mg/day divided by 1000=1.555 or 1.6 mg/day.

To calculate an acceptable amount of EB in ambient water, the methodology

assumes a maximal daily intake of 2

¹ American Conference of Governmental Industrial Hygienists. 1977. Threshold limit values for chemical substances and physical agents in the workroom environment with intended changes for 1977.

² Stokinger, H.E., and R.L. Woodward. 1958. Toxicologic methods for establishing drinking water standards. Jour. Am. Water Works Assoc. 50: 515.

³ National Academy of Sciences 1977. Drinking water and health. Washington, D.C.

liters of water per day, the consumption of 18.7 grams of fish/shellfish per day, a

bioconcentration factor of 42 for fish and 50 percent absorption.

(4)	(2+42 (0.0187))	0.5	- 1.8 mg/day
Upper intake limit—	Oral intake term	Gastrointestinal absorption coefficient	Maximum noninjurious intake

Solving for x, the value derived is 1.1 mg/l. According to Stokinger and Woodward (1958) "This derived value represents an approximate limiting concentration for a healthy adult population; it is only a first approximation in the development of a tentative water quality criterion. . . . several adjustments in this value may be necessary. . . . Other factors, such as taste, odor and color may outweigh health considerations because acceptable limits for these may be below the estimated health limit."

It should also be noted that the basis for the above recommended limit, the TLV for EB, is the avoidance of irritation, rather than chronic effects (Am. Conf. Ind. Hyg., 1977). Should chronic effects data become available, both TLV's and recommendations based on them will warrant reconsideration.

In summary, based on a threshold limit value, and an uncertainty factor of 1000, the criterion level for ethylbenzene corresponding to the calculated acceptable daily intake of 1.6 mg/day, is 1.1 mg/l. Drinking water contributes 72 percent of the assumed exposure while eating contaminated fish products accounts for 28 percent. The criterion level can alternatively be expressed as 2.0 mg/l if exposure is assumed to be from the consumption of fish and shellfish products alone.

Haloethers

Criteria Summary

Freshwater Aquatic Life. For 4-bromophenylphenyl ether the criterion to protect freshwater aquatic life as derived using the Guidelines is 6.2 µg/l as a 24-hour average and the concentration should not exceed 14 µg/l at any time.

Saltwater Aquatic Life. For saltwater aquatic life, no criterion for 4-bromophenylphenyl ether can be derived using the Guidelines, and there are insufficient data to estimate a criterion using other procedures.

Human Health. Because of a lack of adequate toxicological data on non-human mammals and humans,

protective criteria cannot be derived at this time for any haloether discussed in this document.

Basis for the Criteria

Freshwater Aquatic Life. The maximum concentration of 4-bromophenylphenyl ether is the Final Acute Value of 14 µg/l and the 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For 4-bromophenylphenyl ether the criterion to protect freshwater aquatic life as derived using the Guidelines is 6.2 µg/l as a 24-hour average and the concentration should not exceed 14 µg/l at any time.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

4-bromophenylphenyl ether

Final Fish Acute Value = 660 µg/l
Final Invertebrate Acute Value = 14 µg/l
Final Acute Value = 14 µg/l
Final Fish Chronic Value = 9.1 µg/l
Final Invertebrate Chronic Value = not available
Final Plant Value = not available
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 9.1 µg/l
0.44 x Final Acute Value = 6.2 µg/l

Saltwater Aquatic Life. No saltwater criterion can be derived for any haloether using the Guidelines because no Final Chronic Value for either fish or invertebrate species or a good substitute for either value is available, and there are insufficient data to estimate a criterion using other procedures.

Human Health. 1. Bis(2-chloroisopropyl)ether: A reliable criterion cannot be calculated for this ether because a long-term "no adverse effect" level cannot be established for mammals. A criterion might be derived from a bioassay described in the criteria document using non-tumor pathology. However, in the low dose groups, both male and female mice evidenced an

increased incidence of centrilobular necrosis of the liver which was not seen in the high dose groups.

2. Chlorinated Aromatic Ethers: As indicated in Section V.A., the TLV for chlorophenyl phenyl ether is 500 µg/m³. By a process analogous to that used by Stokinger and Woodward, this standard could be used to calculate a water criterion. However, since the TLV for these compounds is based on preventing chloracne, rather than chronic toxicity, such a calculation would not be appropriate. Because of the lack of data on both toxicologic effects and environmental contamination, the hazard posed by these compounds cannot be estimated.

Halomethanes

Criteria Summary

Freshwater Aquatic Life. For methyl chloride the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 7,000 µg/l as a 24-hour average and the concentration should never exceed 16,000 µg/l at any time.

For methyl bromide the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 140 µg/l as a 24-hour average and the concentration should never exceed 320 µg/l at any time.

For methylene chloride the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 4,000 µg/l as a 24-hour average and the concentration should never exceed 9,000 µg/l at any time.

For bromoform the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 840 µg/l as a 24-hour average and the concentration should never exceed 1,900 µg/l at any time.

Saltwater Aquatic Life. For methyl chloride the criterion to protect saltwater aquatic life as derived using procedures other than the Guidelines is 3,700 µg/l as a 24-hour average and the concentration should never exceed 8,400 µg/l at any time.

For methyl bromide the criterion to protect saltwater aquatic life as derived using procedures other than the Guidelines is 170 µg/l as a 24-hour average and the concentration should never exceed 380 µg/l at any time.

For methylene chloride the criterion to protect saltwater aquatic life as derived using procedures other than the

Guidelines is 1,900 µg/l as a 24-hour average and the concentration should never exceed 4,400 µg/l at any time.

For bromoform the criterion to protect saltwater aquatic life as derived using the Guidelines is 180 µg/l as a 24-hour average and the concentration should never exceed 420 µg/l at any time.

Human Health. For the protection of human health from the toxic properties of halomethanes ingested through water and through contaminated aquatic organisms, the ambient water criteria for the halomethanes discussed in this document are:

Compound	Criterion level (µg/l)
Chloromethane (Methyl Chloride)	2
Bromomethane (Methyl Bromide)	2
Dichloromethane (Methylene Chloride)	2
Bromodichloromethane	2
Tribromomethane (Bromoform)	2
Dichlorodifluoromethane	3,000
Trichlorofluoromethane	32,000

Basis for the Criteria

Freshwater Aquatic Life. No freshwater criterion can be derived for any halomethane using the Guidelines because no Final Chronic Value for either fish or invertebrate species or a good substitute for either value is available.

However, results obtained with halomethanes and freshwater and saltwater fish and invertebrate species indicate how criteria may be estimated.

For bromoform and methylene chloride with freshwater and saltwater organisms and for chloroform and carbon tetrachloride with freshwater organisms, the Final Invertebrate Acute Value divided by the Final Fish Acute Value is 0.46, 0.24, 0.16, 0.090, 0.11, and 0.17 respectively, for an average of 0.21. Multiplying this value times the Final Acute Values for methyl chloride and methyl bromide with freshwater fish results in estimated freshwater Final Invertebrate Acute Values of 0.21 x 77,000 µg/l = 16,000 µg/l and 0.21 x 1,500 µg/l = 320 µg/l respectively. Thus the Final Acute Values for methyl chloride and methyl bromide would be based on these estimated values and are 16,000 µg/l and 320 µg/l respectively.

For chloroform and freshwater organisms the Final Chronic Value is about the same as 0.44 times the Final Acute Value, and for bromoform and saltwater organisms the Final Chronic Value is greater than 0.44 times the Final Acute Value, even though a chronic value is available for fish or invertebrates in both cases. Therefore, it seems reasonable to estimate criteria for other halomethanes and freshwater

organisms using 0.44 times the Final Acute Value.

The estimated maximum concentration of methyl chloride is the Final Acute Value of 16,000 µg/l and the 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For methyl chloride the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 7,000 µg/l as a 24-hour average and the concentration should never exceed 16,000 µg/l at any time.

The estimated maximum concentration of methyl bromide is the Final Acute Value of 320 µg/l and the 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For methyl bromide the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 140 µg/l as a 24-hour average and the concentration should never exceed 320 µg/l at any time.

The maximum concentration of methylene chloride is the Final Acute Value of 9,000 µg/l and the 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration. For methylene chloride the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 4,000 µg/l as a 24-hour average and the concentration should never exceed 9,000 µg/l at any time.

The maximum concentration of bromoform is the Final Acute Value of 1,900 µg/l and the 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For bromoform the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 840 µg/l as a 24-hour average and the concentration should never exceed 1,900 µg/l at any time.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

Methyl Chloride

Final Fish Acute Value = 77,000 µg/l

Final Invertebrate Acute Value = not available

Final Acute Value = 77,000 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available

Final Plant Value = not available
Residue Limited Toxicant

Concentration = not available
Final Chronic Value = not available
0.44 x Final Acute Value = 34,000 µg/l

Methyl Bromide

Final Fish Acute Value = 1,500 µg/l
Final Invertebrate Acute Value = not available

Final Acute Value = 1,500 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available

Final Plant Value = not available
Residue Limited Toxicant

Concentration = not available
Final Chronic Value = not available
0.44 x Final Acute Value = 660 µg/l

Methylene Chloride

Final Fish Acute Value = 38,000 µg/l
Final Invertebrate Acute Value = 9,000 µg/l
Final Acute Value = 9,000 µg/l

Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available

Final Plant Value = greater than 660,000 µg/l
Residue Limited Toxicant

Concentration = not available
Final Chronic Value = greater than 660,000 µg/l
0.44 x Final Acute Value = 4,000 µg/l

Bromoform

Final Fish Acute Value = 4,100 µg/l
Final Invertebrate Acute Value = 1,900 µg/l
Final Acute Value = 1,900 µg/l

Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available

Final Plant Value = 110,000 µg/l
Residue Limited Toxicant

Concentration = not available
Final Chronic Value = 110,000 µg/l
0.44 x Final Acute Value = 840 µg/l

Saltwater Aquatic Life. No saltwater criterion can be derived for methylene chloride, methyl bromide or methyl chloride using the Guidelines because no Final Chronic Value for either fish or invertebrate species or a good substitute for either value is available.

However, results obtained with halomethanes and freshwater and saltwater fish and invertebrate species indicate how criteria may be derived.

For bromoform and methylene chloride with freshwater and saltwater organisms and for chloroform and carbon tetrachloride with freshwater organisms, the Final Invertebrate Acute Value divided by the Final Fish Acute Value is 0.46, 0.24, 0.16, 0.090, 0.11, and 0.17 respectively, for an average of 0.21. Multiplying this value times the Final Acute Values for methyl chloride and

methyl bromide with saltwater fish results in estimated saltwater Final Invertebrate Acute Values of $0.21 \times 40,000 \mu\text{g/l} = 8,400 \mu\text{g/l}$ and $0.21 \times 1,800 \mu\text{g/l} = 380 \mu\text{g/l}$ respectively. Thus the Final Acute Values for methyl chloride and methyl bromide would be based on these estimated values and are $8,400 \mu\text{g/l}$ and $380 \mu\text{g/l}$ respectively.

For chloroform and freshwater organisms the Final Chronic Value is about the same as 0.44 times the Final Acute Value, and for bromoform and saltwater organisms the Final Chronic Value is greater than 0.44 times the Final Acute Value, even though a chronic value is available for fish or invertebrate species in both cases. Therefore, it seems reasonable to estimate criteria for other halomethanes and saltwater organisms using 0.44 times the Final Acute Value.

The estimated maximum concentration of methyl chloride is the Final Acute Value of $8,400 \mu\text{g/l}$ and the 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on saltwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For methyl chloride the criterion to protect saltwater aquatic life as derived using procedures other than the Guidelines is $3,700 \mu\text{g/l}$ as a 24-hour average and the concentration should never exceed $8,400 \mu\text{g/l}$ at any time.

The estimated maximum concentration of methyl bromide is the Final Acute Value of $380 \mu\text{g/l}$ and the 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on saltwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For methyl bromide the criterion to protect saltwater aquatic life as derived using procedures other than the Guidelines is $170 \mu\text{g/l}$ as a 24-hour average and the concentration should never exceed $380 \mu\text{g/l}$ at any time.

The maximum concentration for methylene chloride is the Final Acute Value of $4,400 \mu\text{g/l}$ and the 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on saltwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration. For methylene chloride the criterion to protect saltwater aquatic life as derived using procedures other than the Guidelines is $1,900 \mu\text{g/l}$ as a 24-hour average and the concentration should never exceed $4,400 \mu\text{g/l}$ at any time.

The maximum concentration of bromoform is the Final Acute Value of $420 \mu\text{g/l}$ and the 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on saltwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For bromoform the criterion to protect saltwater aquatic life as derived using the Guidelines is $180 \mu\text{g/l}$ as a 24-hour average and the concentration should never exceed $420 \mu\text{g/l}$ at any time.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

Methyl Chloride

Final Fish Acute Value = $40,000 \mu\text{g/l}$

Final Invertebrate Acute Value = not available

Final Acute Value = $40,000 \mu\text{g/l}$

Final Fish Chronic Value = not available

Final Invertebrate Chronic Value = not available

Final Plant Value = not available

Residue Limited Toxicant Concentration = not available

Final Chronic Value = not available

$0.44 \times \text{Final Acute Value} = 18,000 \mu\text{g/l}$

Methyl Bromide

Final Fish Acute Value = $1,800 \mu\text{g/l}$

Final Invertebrate Acute Value = not available

Final Acute Value = $1,800 \mu\text{g/l}$

Final Fish Chronic Value = not available

Final Invertebrate Chronic Value = not available

Final Plant Value = not available

Residue Limited Toxicant Concentration = not available

Final Chronic Value = not available

$0.44 \times \text{Final Acute Value} = 790 \mu\text{g/l}$

Methylene Chloride

Final Fish Acute Value = $49,000 \mu\text{g/l}$

Final Invertebrate Acute Value = $4,400 \mu\text{g/l}$

Final Acute Value = $4,400 \mu\text{g/l}$

Final Fish Chronic Value = not available

Final Invertebrate Chronic Value = not available

Final Plant Value = greater than $660,000 \mu\text{g/l}$

Residue Limited Toxicant Concentration = not available

Final Chronic Value = greater than $660,000 \mu\text{g/l}$

$0.44 \times \text{Final Acute Value} = 1,900 \mu\text{g/l}$

Bromoform

Final Fish Acute Value = $2,600 \mu\text{g/l}$

Final Invertebrate Acute Value = $420 \mu\text{g/l}$

Final Acute Value = $420 \mu\text{g/l}$

Final Fish Chronic Value = $1,400 \mu\text{g/l}$

Final Invertebrate Chronic Value = not available

Final Plant Value = $12,000 \mu\text{g/l}$

Residue Limited Toxicant Concentration = not available

Final Chronic Value = $1,400 \mu\text{g/l}$

$0.44 \times \text{Final Acute Value} = 180 \mu\text{g/l}$

Human Health. Data on current levels of the halomethanes in water, food, and ambient air are not sufficient to permit adequate estimates of total human exposures from these media. Available data discussed in an earlier section of this report (Occurrence) indicate that the greatest human exposure to the trihalomethanes occurs through the consumption of liquids (including drinking water and beverages containing it), and that exposure to chlorofluorocarbons, chloromethane, dichloromethane, and bromomethane occurs primarily by inhalation.

Observed correlations among concentrations of trihalomethanes in finished water are attributed to the presence of common organic precursor materials in raw water.

Among the halomethanes considered in this report, bromodichloromethane seems to predominate in drinking waters. Concentrations of bromodichloromethane in raw and finished water samples are generally in the area of $6 \mu\text{g/l}$ or less, and thus represent a reasonable upper limit for anticipated levels of any halomethane in water (excluding chloroform and carbon tetrachloride).

Recent reports showing that chloromethane, bromomethane, tribromomethane, dichloromethane, and bromodichloromethane exhibit carcinogenic and/or mutagenic effects in certain bioassay systems suggest the need for conservatism in the development of water quality criteria for the protection of human health. Since the presently available carcinogenicity data base for these compounds is judged qualitatively informative but quantitatively inadequate for risk extrapolation, an alternative approach is necessary for criteria development.

At present levels in relatively unpolluted raw and finished waters ($10 \mu\text{g/l}$), the halomethanes pose little threat for the production of non-carcinogenic toxic effects in humans. However, the possibility of carcinogenic effects must be evaluated in light of current and past exposures to halomethanes via water supplies. Limited epidemiologic studies have failed to show a clear association between cancer mortality and bromine-containing trihalomethanes at levels in water of about $5\text{--}10 \mu\text{g/l}$. Since the possible association between human cancers and halomethanes cannot presently be disproven, it would be wise to limit their presence in water to no more than the median levels which are currently encountered (pending better human risk data). Thus, a maximum level of $6 \mu\text{g/l}$ in raw and finished

waters could be considered as acceptable for bromomethane, chloromethane, dichloromethane, tribromomethane, and bromodichloromethane. From the limited animal bioassay data which are available in the strain A mouse lung tumor system, a daily human intake of halomethanes at $12 \mu\text{g/day}$ ($6 \mu\text{g/l} \times 2 \text{ l/day}$) represents a dose which is about 100,000-fold less than the minimum daily dose of tribromomethane which caused a significant increase in tumor formation in mice. Since there exists considerable uncertainty over the human carcinogenic risks of halomethanes, a safety factor of 100,000 seems prudent for the development of an interim standard for all halomethanes pending the results of further research.

The $6 \mu\text{g/l}$ maximum acceptable concentration for bromomethane, chloromethane, tribromomethane, dichloromethane, and bromodichloromethane does not take into consideration the contribution to total exposure from air and food. Exposure via these media cannot be accurately predicted, although it is likely that it is sufficiently large for chloromethane, dichloromethane, and bromomethane to warrant the recommendation of a water quality criterion below $6 \mu\text{g/l}$. Present levels of these three compounds are generally much less than $6 \mu\text{g/l}$ and it is not likely that current anthropogenic sources would significantly increase their level in water.

For criteria setting purposes it is recommended that a criterion of $2 \mu\text{g/l}$ be adopted for this group of halomethanes, based upon analogy to the structure and biological activity of chloroform. Despite the presently inadequate data base for most of these compounds, it can nevertheless be predicted that similar biological effects, including neoplastic transformation, may be encountered. Since the recommended criterion for chloroform was derived from reliable experimental data, it represents the most applicable value for all of the halomethanes which are suspected carcinogens.

Evidence for mutagenicity of dichlorodifluoromethane is equivocal and there is no evidence as yet for carcinogenicity as a result of direct exposure. Chronic toxicity data for dichlorodifluoromethane are quite limited. In the only long-term (two years) feeding study reported (U.S. EPA,

1978,¹ citing Sherman, 1974²) the maximum dose level producing no observed adverse effect (in dogs) was 80 mg/kg/day . Applying an uncertainty factor of 1000 (NAS, 1977³) to this data yields a presumptive "acceptable daily intake" of 0.08 mg/kg/day . For a man weighing 70 kg, consuming two liters of water per day and absorbing at 100 percent efficiency, and assuming that the water is the sole source of exposure, this acceptable intake level translates into a criterion level as follows: $(0.08 \text{ mg/kg/day})/2 = 2.8 \text{ mg/l}$.

There is no evidence for mutagenicity of trichlorofluoromethane, and no evidence as yet for carcinogenicity as a result of direct exposure. The only data on toxicity testing using prolonged exposure at relatively low test concentrations are from a report (Jenkins, et al. 1970⁴) which showed no observed adverse effects in rats and guinea pigs exposed continuously by inhalation for 90 days at $5,810 \text{ mg/m}^3$. If the reference man weighing 70 kg breathed this atmosphere and absorbed the compound at 50 percent efficiency, his estimated exposure dose would be $5,810 \times 23 \times 0.5 = 64,515 \text{ mg/day}$ or 922 mg/kg/day . Applying an uncertainty factor of 1000 (NAS, 1977³) to this data yields a presumptive "acceptable daily intake" of 0.922 mg/kg/day for trichlorofluoromethane. Assuming man's weight to be 70 kg and his absorption of ingested compound to be 100 percent efficient, and that his sole source of exposure is water consumed at two liters/day, the acceptable intake is translated into a criterion level as follows: $(0.922 \text{ mg/kg/day})/2 = 32.3 \text{ mg/l}$.

Criterion levels intended to protect the public against unacceptable risk of toxicity, mutagenicity, or carcinogenicity from exposure to selected halomethanes in water for consumption, derived as described in the foregoing text, are summarized as follows (rounded off):

Compound	(mg/l)
Bromodichloromethane	2×10^{-3}
Tribromomethane	2×10^{-3}
Dichloromethane	2×10^{-3}
Bromomethane	2×10^{-3}
Chloromethane	2×10^{-3}
Dichlorodifluoromethane	3
Trichlorofluoromethane	32

¹ U.S. EPA. 1978. Environmental hazard assessment report, major one- and two-carbon saturated fluorocarbons, review of data. EPA 560/8-78-003. Off. Toxic Subst. Washington, D.C.

² Sherman, H. 1974. Long-term feeding studies in rats and dogs with dichlorodifluoromethane (Freon 12 Food Freezant). Unpubl. rep. Haskell Lab.

³ National Academy of Sciences. 1977. Drinking water and health. Washington, D.C.

⁴ Jenkins, L. J., et al. 1970. Repeated and continuous exposure of laboratory animals to trichlorofluoromethane. Toxicol. Appl. Pharmacol. 18:133.

Adoption of the presently recommended criterion for chloroform ($2 \mu\text{g/l}$) as the recommended level for other possibly carcinogenic halomethanes should provide an adequate margin of safety in the absence of sufficient data for quantitative risk assessment. This criterion is intended to reduce carcinogenic risks to the public, and takes into account the fact that exposure to halomethanes also occurs through foods and via inhalation. Although the potential carcinogenicity of bromodichloromethane, tribromomethane, dichloromethane, bromomethane, and chloromethane cannot be adequately assessed at present, the adoption of an interim water quality standard in excess of $2 \mu\text{g/l}$ may be interpreted as approval to discharge larger quantities of these substances than of chloroform. Such a practice is clearly unwarranted until such time that concerns over possible carcinogenic activity have been resolved.

Isophorone

Criteria Summary

Freshwater Aquatic Life. The data base for freshwater aquatic life is insufficient to allow use of the Guidelines. The following recommendation is inferred from toxicity data for saltwater organisms.

For isophorone the criterion to protect freshwater aquatic life as derived using the Guidelines is $2,100 \mu\text{g/l}$ as a 24-hour average and the concentration should not exceed $4,700 \mu\text{g/l}$ at any time.

Saltwater Aquatic Life. For isophorone the criterion to protect saltwater aquatic life as derived using the Guidelines is $97 \mu\text{g/l}$ as a 24-hour average and the concentration should not exceed $220 \mu\text{g/l}$ at any time.

Human Health. For the protection of human health from the toxic properties of isophorone ingested through water, the criterion is $460 \mu\text{g/l}$.

Basis for the Criteria

Freshwater Aquatic Life. No freshwater criterion can be derived for isophorone using the Guidelines because no Final Chronic Value for either fish or invertebrate species or a good substitute for either value is available.

Results obtained with isophorone and saltwater organisms indicate how a criterion may be estimated.

For isophorone and saltwater organisms, 0.44 times the Final Acute Value is less than the Final Chronic Value derived from results of an

embryo-larval test with the sheepshead minnow. Therefore, it seems reasonable to estimate a criterion for isophorone and freshwater organisms using 0.44 times the Final Acute Value.

The maximum concentration of isophorone is the Final Acute Value of 4,700 µg/l and the estimated 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects of freshwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For isophorone the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 2,100 µg/l as a 24-hour average and the concentration should not exceed 4,700 µg/l at any time.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

Final Fish Acute Value = 31,000 µg/l
Final Invertebrate Acute Value = 4,700 µg/l
Final Acute Value = 4,700 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available

Final Plant Value = 120,000 µg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 120,000 µg/l
0.44 × Final Acute Value = 2,100 µg/l

Saltwater Aquatic Life. The maximum concentration of isophorone is the Final Acute Value of 220 µg/l and the 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on saltwater organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For isophorone the criterion to protect saltwater aquatic life as derived using the Guidelines is 97 µg/l as a 24-hour average and the concentration should not exceed 220 µg/l at any time.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

Final Fish Acute Value = not available
Final Invertebrate Acute Value = 220 µg/l
Final Acute Value = 220 µg/l
Final Fish Chronic Value = 7,700 µg/l
Final Invertebrate Chronic Value = not available

Final Plant Value = 110,000 µg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 7,700 µg/l
0.44 × Final Acute Value = 97 µg/l

Human Health. Based on the available data on the toxicological effects of isophorone absorption in both man and experimental animals, a

calculated water quality criterion for isophorone can only be based upon a non-carcinogenic effect. Water quality criteria may therefore be derived from the TLV, acute oral LD₅₀ values, or from subacute oral toxicity data using non-carcinogenic biological responses. Criteria derivations based on all three approaches are presented below.

Criterion Based on TLV: Stokinger and Woodward (1958) presented a method for calculating water quality criteria from TLV's. Essentially, this method consists of deriving an acceptable daily intake (ADI) from the TLV by making assumptions on breathing rate, and respiratory and gastrointestinal absorption. Stokinger and Woodward assumed that the daily total pollutant uptake from air at the TLV concentration can be safely tolerated, and that this safe quantity of pollutant per day can be similarly tolerated in drinking water. The ADI is then partitioned into permissible amounts from drinking water and from other sources.

The International Commission on Radiological Protection (1974) has estimated that the "reference man" breathes 7.6 m³ of air during eight hours of "light activity." Since respiratory absorption rates are unknown, 50 percent absorption of inhaled isophorone will be assumed. In addition, the five day per week TLV may be converted to a seven day per week equivalent to reflect the more continuous pattern of exposure via drinking water. An ADI for man can be thus calculated from the TLV by multiplying by these factors:

$$28 \text{ mg/m}^3 \times 7.6 \text{ m}^3 \times 0.5 \times 5 \text{ days/7 days} = 76 \text{ mg/day}$$

Since estimates of isophorone exposure from non-water sources are not available, it will be assumed that total isophorone exposure is attributable to the ingestion of drinking water and fish and shellfish. For the purpose of estimating a criterion it will be further assumed that the maximal daily intake of water is 2 liters, that the consumption of fish/shellfish amounts to 18.7 grams/day, and that the gastrointestinal absorption of isophorone is 100 percent. Also a bioconcentration factor of 16 has been calculated for fish (EPA, 1979b). A water quality criterion may then be calculated as:

$$\frac{76 \text{ mg/man}}{[21 \div (16 \times 0.0187)] \times 1.0} = 33 \text{ mg/l}$$

It should be noted that the TLV is based on the prevention of the irritant effects of isophorone on inhalation exposures, rather than on chronic effects. Consequently, the calculation of a criterion by this approach probably has little validity in this case.

Criterion Based on Acute Oral Toxicity Data: McNamara (1976) has suggested that data from acute exposures can be used to estimate chronic no-effect levels for toxic responses to chemical absorption. Based on an extensive review of the literature comparing the results of acute and chronic toxicity bioassays, McNamara noted that "for 95 percent of chemical compounds . . . [on which data were available] . . . LD₅₀/1000 will produce no effects in a lifetime." Using this approximation for isophorone, and an average oral LD₅₀ value of 2 g/kg (Effects section), the no observable effect level for isophorone in rats can be estimated at 2 mg/kg/day. This value may be converted into an ADI by applying an appropriate uncertainty factor to account for species extrapolation and limitations of the data. Since the chronic no-effect dose is merely an estimate based on observed relationships between acute and chronic toxicity, an uncertainty factor of 1000 is recommended (see NAS, 1977, p. 804). Thus, the estimated ADI for man is 2 µg/kg or 140 µg/man, assuming a 70 kg body weight. By assuming that man consumes 2 liters of water per day, that man is additionally exposed daily to 18.7 grams of fish and shellfish which bioaccumulate isophorone from water by a factor of 16, and that gastrointestinal absorption is 100 percent, the corresponding no adverse effect level in water can be calculated as

$$\frac{140 \text{ µg/day}}{[21 \div (16 \times 0.0187)] \times 1.0} = 61 \text{ µg/l}$$

Based on these calculations, the criterion for isophorone should not exceed 0.06 mg/l.

Criterion Based on Subacute Oral Data: As summarized in the Effects section, no significant effects were produced in beagle dogs by feeding isophorone in gelatin capsules at levels up to 150 mg/kg/day for 90 days (EPA, 1979a). Due to the fact that this study did not involve a truly chronic exposure, the NAS (1977) guidelines for establishing an acceptable daily intake for man are not directly applicable. McNamara (1976) has suggested, however, that subacute exposures can be used to estimate chronic no-effect exposure levels.

McNamara (1976) found that for 95 percent of chemical compounds for which data were available, a three month no-effect dose/10 will yield a level which should produce no adverse effects in a lifetime. By using this relationship, the chronic no-effect dose for dogs is calculated to be:

$$\frac{150 \text{ mg/kg}}{10} = 15 \text{ mg/kg}$$

The application of an uncertainty factor of 1000 is suggested to convert this value to an ADI (see NAS, 1977, p. 804). Therefore, an estimated ADI for man is 15 µg/kg or 1050 µg/man, assuming a 70 kg body weight. Consumption of 2 liters of water daily and of 18.7 grams of contaminated aquatic organisms which have a bioconcentration factor of 16 would result in, assuming gastrointestinal absorption of isophorone, a maximum permissible concentration of 0.46 mg/l for the ingested water:

$$\frac{1050 \text{ µg/day}}{[21 \div (16 \times 0.0187)] \times 1.0} = 457 \text{ µg/l}$$

In conclusion, permissible levels for isophorone in water have been derived on the basis of a TLV (33 mg/l), acute oral toxicity data (0.06 mg/l) and a 90-day feeding study in dogs (0.46 mg/l). Although this exercise has yielded figures which may have some utility in the protection of human health, the presently available scientific data base is inadequate to support a reliable criterion. The most prudent approach at this time would be to recommend only an interim criterion pending the results of future research, including the planned NCI bioassay. An interim criterion of 0.46 mg/l could be recommended in cases where water is the sole source of exposure to isophorone, because the basis for this value is a well defined no-effect level derived from a higher vertebrate species (dog) subjected to subchronic oral exposure. Since current levels of isophorone in drinking water are usually less than 3 µg/l, although amounts as high as 9.5 µg/l have been reported, an ample margin of safety apparently exists.

Summary of Pertinent Data. Calculation of appropriate isophorone concentration in saturated air.

For a sample of ideal gas,
PV = nRT

where

P = pressure
V = volume
n = number of moles
R = universal gas constant
T = absolute temperature

Since n = g/mw, the ideal gas equation can be rearranged as follows to calculate the approximate number of grams of compound contained in a particular volume of gas at a specified temperature and pressure:

$$PV = \frac{g}{mw} RT$$

$$g = \frac{PV(mw)}{RT}$$

At 25°C, the vapor pressure of isophorone is 0.44 mm. Assuming a 1 liter volume of air,

$$g = \frac{0.44 \text{ mm} \times 1 \text{ liter} \times 138.21 \frac{\text{g}}{\text{mole}}}{0.082 \frac{\text{liter-atm}}{\text{mole}^\circ\text{K}} \times 298^\circ\text{K}}$$

$$= 0.00327 \text{ g} = 3.27 \text{ mg}$$

The approximate ppm equivalent concentration of isophorone in saturated air can then be calculated from the relationship:

$$\frac{(\text{mg/l}) (24,450 \text{ ml/mole})}{mw} = \text{ppm}$$

$$\frac{(3.27 \text{ mg/l}) (24,450 \text{ ml/mole})}{138.21 \text{ g/mole}} = 578 \text{ ppm}$$

Naphthalene

Criteria Summary

Freshwater Aquatic Life. For freshwater aquatic life, no criterion for naphthalene can be derived using the Guidelines, and there are insufficient data to estimate a criterion using other procedures.

Saltwater Aquatic Life. For saltwater aquatic life, no criterion for naphthalene can be derived using the Guidelines, and there are insufficient data to estimate a criterion using other procedures.

Human Health. For the protection of human health from the toxic properties of naphthalene ingested through water and through contaminated aquatic organisms, the ambient water criterion is determined to be 143 µg/l.

Basis for the Criteria

Freshwater Aquatic Life. No freshwater criterion can be derived for naphthalene using the Guidelines because no Final Chronic Value for

either fish or invertebrate species or a good substitute for either value is available, and there are insufficient data to estimate a criterion using other procedures.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

Final Fish Acute Value = 21,000 µg/l
Final Invertebrate Acute Value = 350 µg/l
Final Acute Value = 350 µg/l
Final Fish Chronic Value = greater than 33 µg/l
Final Invertebrate Chronic Value = not available

Final Plant Value = 33,000 µg/l
Residue Limited Toxicant 00 percent
Concentration = not available
Final Chronic Value = greater than 33 µg/l
0.44 × Final Acute Value = 150 µg/l

Saltwater Aquatic Life. No saltwater criterion can be derived for naphthalene using the Guidelines because no Final Chronic Value for either fish or invertebrate species or a good substitute for either value is available, and there are insufficient data to estimate a criterion using other procedures.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

Final Fish Acute Value = 300 µg/l
Final Invertebrate Acute Value = 20 µg/l
Final Acute Value = 20 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available

Final Plant Value = not available
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = not available
0.44 × Final Acute Value = 8.8 µg/l

Human Health. All chronic toxicity studies using naphthalene have failed to demonstrate any carcinogenic activity except for those performed by Knake (1956). This author found an excess occurrence of lymphosarcoma when naphthalene was given by the subcutaneous route to rats, and lymphocytic leukemia when naphthalene was chronically painted on the skin of mice using benzene as a solvent. However, the naphthalene used in this study was derived from coal tar and contained ten percent or more unidentified impurities. Furthermore, a known experimental carcinogen, carbolfuchsin, was applied prior to each injection of naphthalene in the former study. In light of these defects, carcinogenicity data derived from this

study cannot be used as a basis for a naphthalene water criterion.

No other chronic toxicity studies are available that can be used as an adequate basis for a naphthalene criterion. Furthermore, there are no adequate epidemiologic studies that can be used as a basis.

The ACGIH (1971) has recommended a time-weighted threshold limit value for an industrially exposed population of 50 mg/m³ (50 µg/l) of naphthalene vapor in air. This value was set to prevent workers with exposure to naphthalene vapors from getting eye irritation. It is unclear, however, whether exposures to water containing naphthalene in excess of this level (50 µg/l) might also result in mucous membrane irritation. Until further information is available on the direct irritant properties of naphthalene in water, the ACGIH threshold limit value cannot be used as a basis for a naphthalene water criterion.

Mahvi, et al. (1977) noted a dose related response by C57 B1/6J mice given intraperitoneal injections of naphthalene in sesame oil. No bronchiolar epithelial changes were noted in two control groups. The authors noted minimal bronchiolar epithelial changes in the treated group receiving 6.4 mg/kg body weight of naphthalene. Severe, reversible damage to bronchiolar epithelial cells was noted among two higher dosage groups. The results of this study can be used as the basis for the criterion. The minimal effect level of 6.4 mg/kg of body weight is equivalent to a 448 mg dose for a 70 kg man and can reasonably be used as a basis for calculating an acceptable daily dosage if it is reduced by a factor of 1000, which equals 448 µg, to protect sensitive individuals (NAS, 1977).

No pharmacokinetic data are available on the absorption of naphthalene by the oral route. Because of its high octanol: water partition coefficient (Krishnamurthy and Wasik, 1978), it is reasonable to expect that naphthalene in water should be nearly completely absorbed and an absorption efficiency of 100 percent can be assumed.

For the purposes of establishing a water quality criterion, human exposure to naphthalene is considered to be based on ingestion of 2 liters of water and 18.7 g of fish. Fish bioaccumulate naphthalene from water by a factor of 60.

With these considerations in mind, the following equation has been established:

$$2L \cdot X + (0.0187 \times 60) \cdot X = 448 \mu\text{g}$$

Where:

448 µg = limit on daily exposure for a 70 kg person (ADI)

2 L = amount of drinking water consumed

0.0187 kg = amount of fish consumed

60 = bioaccumulation factor

Solving for X:

$$X = 143 \mu\text{g/l}$$

Thus, the water level would have to be limited to 143 µg/l to limit the daily intake of naphthalene to 448 µg.

Nickel

Criteria Summary

Freshwater Aquatic Life. For nickel the criterion to protect freshwater aquatic life as derived using the Guidelines is "e^{(1.01 \cdot \ln(\text{hardness}) - 1.02)}" as a 24-hour average and the concentration should not exceed "e^{(0.47 \cdot \ln(\text{hardness}) + 4.19)}" at any time.

Saltwater Aquatic Life. For nickel the criterion to protect saltwater aquatic life as derived using procedures other than the Guidelines is 220 µg/l as a 24-hour average and the concentration should not exceed 510 µg/l at any time.

Human Health. For nickel the criterion to protect human health is 50 µg/l.

Basis for the Criteria

Freshwater Aquatic Life. The maximum concentration of nickel is equal to the Final Acute Value as given by e^{(0.47 \cdot \ln(\text{hardness}) + 4.19)} and the 24-hour average concentration is the Final Chronic Value as given by e^{(1.01 \cdot \ln(\text{hardness}) - 1.02)}. No important adverse effects on freshwater organisms have been reported to be caused by concentrations lower than the 24-hour average concentration other than the possible changes in diatom diversity discussed in the Criterion Document.

Summary of Available Data. The concentrations below have been rounded to two significant figures. All concentrations herein are expressed in terms of nickel.

Final Fish Acute Value = e^{(0.74 \cdot \ln(\text{hardness}) + 4.92)}
Final Invertebrate Acute Value = e^{(0.47 \cdot \ln(\text{hardness}) + 4.19)}

Final Acute Value = e^{(0.47 \cdot \ln(\text{hardness}) + 4.19)}
Final Fish Chronic Value = e^{(1.01 \cdot \ln(\text{hardness}) - 1.02)}
Final Invertebrate Chronic Value = e^{(1.01 \cdot \ln(\text{hardness}) - 1.02)}

Final Final Plant Value = 100 µg/l
Residue Limited Toxicant Concentration = not available

Final Chronic Value = e^{(1.01 \cdot \ln(\text{hardness}) - 1.02)}

Saltwater Aquatic Life. Criterion: for nickel the criterion to protect saltwater aquatic life as derived using procedures other than the Guidelines is 220 µg/l as a 24-hour average and the concentration should not exceed 510 µg/l at any time.

Summary of Available Data. The concentrations below have been rounded to two significant figures. All concentrations herein are expressed in terms of nickel.

Final Fish Acute Value = 14,000 µg/l
Final Final Invertebrate Acute Value = 510 µg/l
Final Acute Value = 510 µg/l

Human Health. In arriving at a criterion for nickel, several factors must be taken into account. There is little evidence for accumulation of nickel in various tissues. Absorption through the gastrointestinal tract is minimal. Acute exposure of man to nickel is chiefly of concern in workplaces where nickel carbonyl or nickel dust are present at high levels. In these situations inhalation is the main route of entry and the lung is the critical organ although, in some instances of high exposure, the central nervous system may also be involved.

The major problem posed by nickel for the U.S. population at large is nickel hypersensitivity, mainly via contact with many nickel-containing commodities. Nickel could play a role in altering defense mechanisms against xenobiotic agents in the respiratory tract, leading to enhanced risk for respiratory tract infections.

While nickel has a possible role as a co-carcinogen in producing respiratory cancer, as suggested by animal studies, this remains to be demonstrated. There is no evidence for carcinogenicity due to the presence of nickel in water. The role of nickel as an essential element is a confounding factor in any risk estimate.

In order to develop a risk assessment based on toxicological effects other than carcinogenicity, dose-response data would be most helpful. However, while the frequency or extent of various effects of nickel are related to the level or frequency of nickel exposure in man, the relevant data do not permit any quantitative estimation of dose-response relationships. The lowest levels of nickel associated with adverse health effects, therefore, must be used in establishing a criterion level for nickel in drinking water.

To arrive at a risk estimate for nickel, a modification of the approach used for non-stochastic effects (Fed. Register 44(52):15980, March 15, 1979) has been adopted.

The studies cited in this document have not demonstrated a no observable effect level (NOEL). Therefore, the study demonstrating the lowest observable effect level (LOEL) for nickel in drinking water has been used to arrive at a non-stochastic risk estimate.

In the study of Schroeder and Mitchener adverse effects in rats were demonstrated at a level of 5 ppm in drinking water. Three generations of rats were continuously exposed to 5 ppm of nickel in drinking water. In each of the generations, increased numbers of runs and enhanced neonatal mortality were seen. A significant reduction in litter size and a reduced proportion of males in the third generation also were observed.

To adapt the LOEL into an Acceptable Daily Intake (ADI) for man, the LOEL is divided by an uncertainty factor of 100, as detailed in a recent National Academy of Sciences report and adopted by the U.S. Environmental Protection Agency (Fed. Register 44(52):15980, March 15, 1979). The choice of this factor is based on the absence of long-term or acute human data, scanty results on experimental animals, and an absence of evidence for carcinogenicity.

When the uncertainty factor of 100 is applied to 5 ppm, the lowest level at which adverse effects may occur is then 0.05 ppm. It can be concluded that levels in water below this concentration would not result in adverse health effects.

Nitrobenzene

Criteria Summary

Freshwater Aquatic Life. For nitrobenzene the criterion to protect freshwater aquatic life as derived using the Guidelines is 480 µg/l as a 24-hour average and the concentration should not exceed 1,100 µg/l at any time.

Saltwater Aquatic Life. For nitrobenzene the criterion to protect saltwater aquatic life as derived using procedures other than the Guidelines is 53 µg/l as a 24-hour average and the concentration should not exceed 120 µg/l at any time.

Human Health. For the prevention of adverse effects due to the organoleptic properties of nitrobenzene in water, the criterion is 30 µg/l.

Basis for the Criteria

Freshwater Aquatic Life. The maximum concentration of nitrobenzene is the Final Acute Value of 1,100 µg/l and the 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For nitrobenzene the criterion to protect freshwater aquatic life as derived using the Guidelines is 480 µg/l as a 24-hour average and the concentration should not exceed 1,100 µg/l at any time.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

Final Fish Acute Value = 8,000 µg/l
Final Invertebrate Acute Value = 1,100 µg/l
Final Acute Value = 1,100 µg/l
Final Fish Chronic Value = greater than 2,400 µg/l

Final Invertebrate Chronic Value = not available

Final Plant Value = 43,000 µg/l

Residue Limited Toxicant

Concentration = not available

Final Chronic Value = greater than 2,400 µg/l

0.44 × Final Acute Value = 480 µg/l

Saltwater Aquatic Life. No saltwater criterion can be derived for nitrobenzene using the Guidelines because no Final Chronic Value for either fish or invertebrate species or a good substitute for either value is available.

Results obtained with nitrobenzene and freshwater organisms indicate how a criterion may be estimated.

For nitrobenzene and freshwater organisms 0.44 times the Final Acute Value is less than the Final Chronic Value which is derived from an embryo-larval test with the fathead minnow. Therefore, it seems reasonable to estimate a criterion for nitrobenzene and saltwater organisms using 0.44 times the Final Acute Value.

The maximum concentration of nitrobenzene is the Final Acute Value of 120 µg/l and the estimated 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on saltwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For nitrobenzene the criterion to protect saltwater aquatic life as derived using procedures other than the Guidelines is 53 µg/l as a 24-hour average and the concentration should not exceed 120 µg/l at any time.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

Final Fish Acute Value = 8,700 µg/l
Final Invertebrate Acute Value = 120 µg/l
Final Acute Value = 120 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available

Final Plant Value = 9,700 µg/l

Residue Limited Toxicant

Concentration = not available

Final Chronic Value = 9,700 µg/l

0.44 × Final Acute Value = 53 µg/l

Human Health. There is no established criterion for nitrobenzene in water. Because there are little or no data available on the toxicity of nitrobenzene ingested in drinking water, or on the

teratogenic, mutagenic, or carcinogenic effects of nitrobenzene in general, experimental testing is necessary before an oral ingestion based criterion can be derived. It is recommended that testing in these areas of toxicity be implemented so that the effects of nitrobenzene on mammals may be better understood.

Using the methodology of Stokinger and Woodward (1958)¹ a water quality criteria (WQC) is derived using the organoleptic level and the TLV.

Organoleptic Level: minimum detectable odor level in water is 0.03 µg/l = 30 µg/l.

Assuming a daily intake of 2 liters of water, the total intake of nitrobenzene based on this criteria would be 60 micrograms/day. Recommended WQC = 30 µg/l.

A calculation of the percentage of exposure attributable to fish and shellfish products is not applicable to a criterion based upon organoleptic effects. Since an organoleptic effect is not based on a toxicological assessment, it would be inappropriate to apportion a percentage of exposure to the consumption of toxicologically contaminated fish.

TLV: TLV = 5 mg/m³, air intake = 10 m³/day; assume 80 percent absorption: (5 mg/m³) × (10 m³/day) × (0.8) = 40 mg/day average over seven days: 40 mg/day × 5/7 = 29 mg/day

Assuming 100 percent gastrointestinal absorption of nitrobenzene and consuming 2 liters of water daily and 18.7 grams of contaminated fish having a bioconcentration factor of 4.3, would result in a maximum permissible concentration of 13.9 mg/l for the ingested water:

$$\frac{29 \text{ mg/day}}{2 \text{ liter} + (4.3 \times 0.0187) \times 1.0} = 13.9 \text{ mg/l}$$

WQC using TLV = 13.9 mg/l

Since the WQC using TLV is well above the detectable odor level of nitrobenzene, water containing this concentration of nitrobenzene would not be esthetically acceptable for drinking. Even though the limitations of using organoleptic data as a basis for establishing a WQC are recognized, it is recommended that a WQC of 30 µg/l be established at the present time. This level may be altered as more data are developed upon which to calculate a WQC.

The analysis and recommendations generated in this document are based on

¹Stokinger, H. E., and R. L. Woodward, 1958. Toxicological methods for establishing drinking water standards. Jour. Am. Water Works Assoc. 517.

the literature available to date. If future reports indicate that nitrobenzene may be carcinogenic, mutagenic or teratogenic, a reassessment of the WQC will be necessary.

Nitrophenols

Criteria Summary

Freshwater Aquatic Life. For 2-nitrophenol the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 2,700 µg/l as a 24-hour average and the concentration should not exceed 6,200 µg/l at any time.

For 4-nitrophenol the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 240 µg/l as a 24-hour average and the concentration should not exceed 550 µg/l at any time.

For 2,4-dinitrophenol the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 79 µg/l as a 24-hour average and the concentration should not exceed 180 µg/l at any time.

For 2,4-dinitro-6-methylphenol the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 57 µg/l as a 24-hour average and the concentration should not exceed 130 µg/l at any time.

For 2,4,6-trinitrophenol the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 1,500 µg/l as a 24-hour average and the concentration should not exceed 3,400 µg/l at any time.

Saltwater Aquatic Life. For saltwater aquatic life, no criterion for 2-nitrophenol can be derived using the Guidelines, and there are insufficient data to estimate a criterion using other procedures.

For 4-nitrophenol the criterion to protect saltwater aquatic life as derived using the Guidelines is 53 µg/l as a 24-hour average and the concentration should not exceed 120 µg/l at any time.

For 2,4-nitrophenol the criterion to protect saltwater aquatic life as derived using procedures other than the Guidelines is 37 µg/l as a 24-hour average and the concentration should not exceed 84 µg/l at any time.

For saltwater aquatic life, no criterion for 2,4-dinitro-6-methylphenol can be derived using the Guidelines, and there are insufficient data to estimate a criterion using other procedures.

For 2,4,6-trinitrophenol the criterion to protect saltwater aquatic life as derived using procedures other than the Guidelines is 150 µg/l as a 24-hour average and the concentration should not exceed 340 µg/l at any time.

Human Health. To protect human health from the adverse effects of various nitrophenols ingested in contaminated water and fish, suggested criteria are as follows:

Mononitrophenols—no criterion
Dinitrophenols—68.6 µg/l
Trinitrophenols—10 µg/l
Dinitroresols—12.8 µg/l

Basis for the Criteria

Freshwater Aquatic Life. For 4-nitrophenol and saltwater organisms 0.44 times the Final Acute Value is less than the Final Chronic Value which is derived from results of an embryo-larval test with the sheepshead minnow. Therefore, it seems reasonable to estimate criteria for nitrophenols and freshwater organisms using 0.44 times the Final Acute Value.

2-nitrophenol

The maximum concentration of 2-nitrophenol is the Final Acute Value of 6,200 µg/l and the estimated 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For 2-nitrophenol the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 2,700 µg/l as a 24-hour average and the concentration should not exceed 6,200 µg/l at any time.

4-nitrophenol

The maximum concentration of 4-nitrophenol is the Final Acute Value of 550 µg/l and the estimated 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For 4-nitrophenol the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 240 µg/l as a 24-hour average and the concentration should not exceed 550 µg/l at any time.

2,4-dinitrophenol

The maximum concentration of 2,4-dinitrophenol is the Final Acute Value of 180 µg/l and the estimated 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For 2,4-dinitrophenol the criterion to protect freshwater aquatic life as

derived using procedures other than the Guidelines is 79 µg/l as a 24-hour average and the concentration should not exceed 180 µg/l at any time.

2,4-dinitro-6-methylphenol

The maximum concentration of 2,4-dinitro-6-methylphenol is the Final Acute Value of 130 µg/l and the estimated 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For 2,4-dinitro-6-methylphenol the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 57 µg/l as a 24-hour average and the concentration should not exceed 130 µg/l at any time.

2,4,6-trinitrophenol

The maximum concentration of 2,4,6-trinitrophenol is the Final Acute Value of 3,400 µg/l and the estimated 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For 2,4,6-trinitrophenol the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 1,500 µg/l as a 24-hour average and the concentration should not exceed 3,400 µg/l at any time.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

2-nitrophenol

Final Fish Acute Value = 6,200 µg/l
Final Invertebrate Acute Value = not available
Final Acute Value = 6,200 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = 35,000 µg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 35,000 µg/l
0.44 x Final Acute Value = 2,700 µg/l

4-nitrophenol

Final Fish Acute Value = 4,200 µg/l
Final Invertebrate Acute Value = 550 µg/l
Final Acute Value = 550 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = 4,900 µg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 4,900 µg/l
0.44 x Final Acute Value = 240 µg/l

2,4-dinitrophenol

Final Fish Acute Value = 610 µg/l
Final Invertebrate Acute Value = 180 µg/l
Final Acute Value = 180 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = 1,500 µg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 1,500 µg/l
0.44 x Final Acute Value = 79 µg/l

2,4-dinitro-6-methylphenol

Final Fish Acute Value = 130 µg/l
Final Invertebrate Acute Value = 130 µg/l
Final Acute Value = 130 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = 50,000 µg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 50,000 µg/l
0.44 x Final Acute Value = 57 µg/l

2,4,6-trinitrophenol

Final Fish Acute Value = 23,000 µg/l
Final Invertebrate Acute Value = 3,400 µg/l
Final Acute Value = 3,400 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = 62,000 µg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 62,000 µg/l
0.44 x Final Acute Value = 1,500 µg/l

Saltwater Aquatic Life. For 4-nitrophenol and saltwater organisms 0.44 times the Final Acute Value is less than the Final Chronic Value which is derived from results of an embryo-larval test with the sheepshead minnow. Therefore, it seems reasonable to estimate criteria for other nitrophenols and saltwater organisms using 0.44 times the Final Acute Value.

4-nitrophenol

The maximum concentration of 4-nitrophenol is the Final Acute Value of 120 µg/l and the estimated 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on saltwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For 4-nitrophenol the criterion to protect saltwater aquatic life as derived using the Guidelines is 53 µg/l as a 24-hour average and the concentration should not exceed 120 µg/l at any time.

2,4-dinitrophenol

The maximum concentration of 2,4-dinitrophenol is the Final Acute Value of 84 µg/l and the estimated 24-hour average concentration is 0.44 times the Final Acute Value. No important

adverse effects on saltwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For 2,4-dinitrophenol the criterion to protect saltwater aquatic life as derived using procedures other than the Guidelines is 37 µg/l as a 24-hour average and the concentration should not exceed 84 µg/l at any time.

2,4,6-trinitrophenol

The maximum concentration of 2,4,6-trinitrophenol is the Final Acute Value of 340 µg/l and the estimated 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on saltwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For 2,4,6-trinitrophenol the criterion to protect saltwater aquatic life as derived using procedures other than the Guidelines is 150 µg/l as a 24-hour average and the concentration should not exceed 340 µg/l at any time.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

4-nitrophenol

Final Fish Acute Value = 4,000 µg/l
Final Invertebrate Acute Value = 120 µg/l
Final Acute Value = 120 µg/l
Final Fish Chronic Value = 940 µg/l
Final Invertebrate Chronic Value = not available
Final Plant Value = 7,400 µg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 940 µg/l
0.44 x Final Acute Value = 53 µg/l

2,4-dinitrophenol

Final Fish Acute Value = 1,900 µg/l
Final Invertebrate Acute Value = 84 µg/l
Final Acute Value = 84 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = 93,000 µg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 93,000 µg/l
0.44 x Final Acute Value = 37 µg/l

2,4,6-trinitrophenol

Final Fish Acute Value = 20,000 µg/l
Final Invertebrate Acute Value = 340 µg/l
Final Acute Value = 340 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = 63,000 µg/l
Residue Limited Toxicant
Concentration = not available
Final Fish Chronic Value = 63,000 µg/l
0.44 x Final Acute Value = 150 µg/l

Human Health

Mononitrophenols—no criterion
Dinitrophenols—68.6 µg/l

Trinitrophenols—10 µg/l
Dinitroresols—12.8 µg/l

Uncertainty factors used for criteria formulation have been loosely adapted from Drinking Water and Health (Natl. Acad. Sci., 1977).¹

In the absence of data on chronic mammalian effects no water criteria for human health can be established for the mononitrophenol isomers at this time.

Information on the dinitrophenol isomers is limited to 2,4-dinitrophenol. Spencer, et al. (1948),² in a six-month feeding study with rats demonstrated the no-observable-effect level (NOEL) for 2,4-dinitrophenol to be between 5.4 mg/kg and 20 mg/kg. Taking the lower of the two figures and assuming a 70 kg man consumes 2 liters of water daily and 18.7 grams of contaminated fish having a BCF of 2.4, the NOEL for humans based on the results obtained in rats may be calculated as follows:

$$\frac{5.4 \text{ mg/kg} \times 70 \text{ kg} = 378 \text{ mg}}{2 \text{ liters} + (2.4 \times 0.0187) \times 1.0} = 185.3 \text{ mg/l}$$

Based on these calculations no biological effect would be predicted in a man drinking water containing 185.3 mg/l 2,4-DNP.

Experience with the use of 2,4-DNP as an anti-obesity drug in the 1930's indicates that adverse effects, including cataract formation, may occur in humans exposed to as little as 2 mg/kg/day. The drug was frequently used in an uncontrolled manner and the available data do not allow the calculation of a no-adverse-effect level in humans. It is clear, however, that ingestion of 2 mg/kg/day 2,4-DNP for a protracted period may result in adverse effects, including cataracts, in a small proportion of the population. Assuming a 70 kg man consumes 2 liters of water daily and 18.7 grams of contaminated fish having a BCF of 2.4 and assuming 100 percent gastrointestinal absorption of 2,4-DNP, a 2 mg/kg dose of 2,4-DNP would result if drinking water contained 68.6 mg/l of 2,4-DNP.

$$\frac{140 \text{ mg/day}}{2 \text{ liters} + (2.4 \times 0.0187) \times 1.0} = 68.6$$

These data taken together with the demonstrated bacterial mutagenicity of 2,4-DNP (Demerec, et al. 1951)³ and the suspected ability of the compound to induce chromosomal breaks in

¹National Academy of Sciences. 1977. Drinking water and health. Washington, D.C.

²Spencer, H.C., et al. 1948. Toxicological studies on laboratory animals of certain alkyl dinitrophenols used in agriculture. Jour. Ind. Hyg. Toxicol. 30: 10.

³Demerec, M., et al. 1951. A survey of chemicals for mutagenic action on *E. coli*. The Am. Natur. 85: 119.

mammals (Mitra and Manna, 1971)⁴ suggest that an uncertainty factor of 1,000 should be used in criteria formulation.

The suggested water criterion for 2,4-DNP is, therefore:

$$\frac{68.6 \text{ mg/l}}{1,000} = 68.6 \text{ } \mu\text{g/l}$$

The available data are insufficient to enable calculation of water criterion levels for the remaining dinitrophenol isomers. For the present, it seems reasonable to assume that the 2,4-dinitrophenol criterion would be appropriate for the other isomers.

Chronic mammalian toxicology data for the trinitrophenols are absent from the literature. An outbreak of microscopic hematuria among shipboard U.S. Navy personnel exposed to 2,4,6-trinitrophenol in drinking water has been reported, however. Although it is not possible to precisely estimate either the 2,4,6-trinitrophenol water level or duration of exposure required for the development of hematuria, 2,4,6-trinitrophenol levels of 10 mg/l and 20 mg/l were detected in drinking water aboard two ships at the time of the outbreak.

Based on the presumed development of hematuria in humans at drinking water levels of 10 mg/l and the evidence indicating mutagenic activity in bacteria, an uncertainty factor of 1,000 is suggested for formulation of the 2,4,6-trinitrophenol water criteria:

$$\frac{10 \text{ mg/l}}{1,000} = 10 \text{ } \mu\text{g/l}$$

Since available data are insufficient to enable calculation of water criterion levels for the remaining trinitrophenol isomers, it seems reasonable to assume, for the present, that the 2,4,6-trinitrophenol criterion is appropriate for the other isomers.

Although 4,6-dinitro-o-cresol (DNOC) is considered a cumulative poison in humans, probably as a result of slow metabolism and inefficient excretion, true chronic or subacute effects have never been reported in either humans or experimental animals. Since DNOC is not a cumulative poison in experimental animals, extrapolation to humans from long-term animal studies is of questionable value.

The no-observable-effect level (NOEL) for DNOC respiratory exposure in humans has been reported as 0.2 mg/m³

air (Nat. Inst. Occup. Safety Health, 1978).⁵ NIOSH (1978) has, in fact, recommended that the current Federal workplace environmental limit of 0.2 mg/m³ be retained, based on the available data.

It is possible to calculate the anticipated daily exposure of a 70 kg human male exposed to 0.2 mg/m³ for an eight-hour period. If one assumes the average minute volume is 28.6 liters of air/minute (average minute volume for a man doing light work—NIOSH, 1978)⁵ the anticipated daily exposure is 39 μg/kg/day. Since the NOEL's calculated from long-term experimental animal studies are considerably higher than this value, it will be used as a basis for the suggested water criterion.

If one assumes that absorption of DNOC across the respiratory tract is identical to gastrointestinal absorption, and that a 70 kg human male consumes 2 liters of water daily and 18.7 g of contaminated fish having a BCF of 7.5, the following calculations indicate the maximum allowable levels of DNOC in drinking water based on the NIOSH air standard values:

$$\begin{aligned} 39 \text{ } \mu\text{g/kg/day} \times 70 \text{ kg} &= 2.73 \text{ mg/day} \\ \frac{2.73 \text{ mg/day}}{(2/1 + (7.5 \times 0.0187)) \times 1.0} &= 1.28 \text{ mg/l} \end{aligned}$$

In view of the lack of data indicating chronic effects and the existence of a very recent Federal guideline for human exposure, an uncertainty factor of 100 is chosen for the protection of the general public. The suggested criterion for 4,6-dinitro-o-cresol (and in the absence of adequate data, the other dinitrocresol isomers) is

$$\frac{1.28 \text{ mg/l}}{100} = 12.8 \text{ } \mu\text{g/l}$$

Phenol

Criteria Summary

Freshwater Aquatic Life. For phenol the criterion to protect freshwater aquatic life as derived using the Guidelines is 600 μg/l as 24-hour average, and the concentration should not exceed 3,400 μg/l at any time.

Saltwater Aquatic Life. For saltwater aquatic life, no criterion for phenol can be derived using the Guidelines, and there are insufficient data to estimate a criterion using other procedures.

Human Health. For the protection of human health from phenol ingested through water and through

contaminated aquatic organisms the concentration in water should not exceed 3.4 mg/l.

Basis for the Criteria

Freshwater Aquatic Life. The maximum concentration of phenol is the Final Acute Value of 3,400 μg/l and the 24-hour average concentration is the Final Chronic Value of 600 μg/l. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For phenol the criterion to protect freshwater aquatic life as derived using the Guidelines is 600 μg/l as a 24-hour average, and the concentration should not exceed 3,400 μg/l at any time.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

Final Fish Acute Value = 4,000 μg/l
Final Invertebrate Acute Value = 3,400 μg/l
Final Acute Value = 3,400 μg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = 600 μg/l
Final Plant Value = 20,000 μg/l
Residue Limited Toxicant

Concentration = not available
Final Chronic Value = 600 μg/l
0.44 × Final Acute Value = 1,500 μg/l

Saltwater Aquatic Life. No saltwater criterion can be derived for phenol using the Guidelines because no Final Chronic Value for either fish or invertebrate species or a good substitute for either value is available, and there are insufficient data to estimate a criterion using other procedures.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

Final Fish Acute Value = 620 μg/l
Final Invertebrate Acute Value = 960 μg/l
Final Acute Value = 620 μg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available

Final Plant Value = not available
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = not available
0.44 × Final Acute Value = 270 μg/l

Human health. Heller and Pursell (1938) reported no significant effects in a multi-generation feeding study in rats at 100, 500, and 1000 mg/l of phenol in drinking water for five generations and at 3000 and 5000 mg/l for three generations. Assuming a daily water intake of 30 ml and an average bodyweight of 300 grams, these rats would have received daily doses of 10, 50, 100, 300, and 500 mg/kg/day. The upper range approaches a single LD₅₀ dose per day. Deichmann and Oesper (1940) reported no significant effects in

rats receiving approximately 70, 100, or 163 mg/kg/day in their drinking water for 12 months. However, both of these studies did not report detailed pathological or biochemical studies but relied mostly on the weights and the general appearance of the animals for evaluation. In a more recent study (Dow Chemical Co., 1976), 135 dosings by gavage over six months at 100 mg/kg/dose resulted in some liver and kidney damage. At 50 mg/kg/dose the exposure resulted in only slight kidney damage. It must be borne in mind that in the first two studies the phenol is incorporated into the drinking water so that the daily dose is taken gradually. In the Dow study the phenol is administered in a single slug. A 500-fold uncertainty factor

applied to the 50 mg/kg exposure in the Dow study would provide an estimated acceptable level of 0.1 mg/kg/day for man. In the case of phenol a great deal of information on human exposure exists. Long term animal data are available as well, however, the detail in these studies is very incomplete. Shorter term studies of sufficient detail provide the lowest dose level in animal studies for which an adverse effect was seen. It was judged that the existing data did not fully satisfy the requirements for the use of a 100X uncertainty factor but were better than the requirements for a 1000X uncertainty factor (Table 9). Consequently, an intermediate 500X uncertainty factor was selected.

Table 9.—Guidelines for Using Uncertainty Factors
(NAS Drinking Water and Human Health, 1977)

Uncertainty Factor = 10	Valid experimental results from studies on prolonged ingestion by man, with no indication of carcinogenicity.
Uncertainty Factor = 100	Experimental results of studies of human ingestion not available or scanty (e.g., acute exposure only.) Valid results of long-term feeding studies on experimental animals or in the absence of human studies, valid animal studies on one or more species. No indication of carcinogenicity.
Uncertainty Factor = 1,000	No long term or acute human data. Scanty results on experimental animals. No indication of carcinogenicity.

When one examines the amount of phenol absorbed through inhalation near the TLV of 20 mg/m³ for occupational exposures by using the Stokinger and Woodward model (1958), then at a breathing rate of 10 m³ for an eight hour day with 75 percent absorption and a body weight of 70 kg, a man would absorb approximately 2.14 mg/kg/working day, assuming no skin absorption. The use of the Stokinger-Woodward model may be applicable to estimate acceptable intake from water.

It has been established that phenol is absorbed rapidly by all routes and subsequently is distributed rapidly. If a ten-fold safety factor is applied to the projected doses absorbed from inhalation at the TLV (which already incorporates some safety factors), then the projected acceptable level would be 0.2 mg/kg/day. The estimate from animal data is 0.1 mg/kg/day. On the basis of chronic toxicity data in animals and man, an estimated acceptable daily intake for phenol in man should be 0.1 mg/kg/day or 7.0 mg/man, assuming a 70 kg body weight. Therefore, consumption of 2 liters of water daily and 18.7 grams of contaminated fish having a bioconcentration factor of 2.3, would result in assuming 100% gastrointestinal absorption of phenol, a maximum permissible concentration of 3.4 mg/l for the ingested water:

$$\begin{aligned} 7.0 \text{ mg/day} \\ (2 \text{ liters} + (2.3 \times 0.0187)) \times 1.0 &= 3.4 \text{ mg/l} \end{aligned}$$

This water quality criterion is in the range of reported taste and odor threshold values for phenol which have been reported. It is recognized that when ambient water containing this concentration of phenol is chlorinated, various chlorinated phenols may be produced in sufficient quantities to produce objectionable taste and odors. However, the ambient water quality criterion for phenol is based on phenol alone. For the criteria of 2-chlorophenol, 2,4-dichlorophenol and other chlorophenols, reference should be made to their specific criterion documents.

Phthalate Esters

Criteria Summary

Freshwater Aquatic Life. For freshwater aquatic life, no criterion for any phthalate ester can be derived using the Guidelines, and there are insufficient data to estimate a criterion using other procedures.

Saltwater Aquatic Life. For saltwater aquatic life, no criterion for any phthalate ester can be derived using the Guidelines, and there are insufficient data to estimate a criterion using other procedures.

Human Health. For the protection of human health from the toxic properties of phthalate esters ingested through water and through contaminated aquatic organisms, the ambient water criteria for dimethyl phthalate and diethyl phthalate are determined to be 160 mg/l and 80 mg/l, respectively. The water quality criteria for dibutyl phthalate and di-2-ethylhexyl phthalate are determined to be 5 mg/l and 10 mg/l, respectively.

Basis for the Criteria

Freshwater Aquatic Life. No freshwater criterion can be derived for any phthalate ester using the Guidelines because no Final Chronic Value for either fish or invertebrate species or a good substitute for either value is available, and there are insufficient data to estimate a criterion using other procedures.

Summary of Available Data. All concentrations below have been rounded to two significant figures.

butylbenzyl phthalate

Final Fish Acute Value = 6,100 μg/l
Final Invertebrate Acute Value = 3,700 μg/l
Final Acute Value = 3,700 μg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = 110 μg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 110 μg/l
0.44 × Final Acute Value = 1,600 μg/l

diethyl phthalate

Final Fish Acute Value = 14,000 μg/l
Final Invertebrate Acute Value = 2,100 μg/l
Final Acute Value = 2,100 μg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = 86,000 μg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 86,000 μg/l
0.44 × Final Acute Value = 920 μg/l

dimethyl phthalate

Final Fish Acute Value = 6,900 μg/l
Final Invertebrate Acute Value = 1,300 μg/l
Final Acute Value = 1,300 μg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = 39,000 μg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 39,000 μg/l
0.44 × Final Acute Value = 570 μg/l

di-n-butyl phthalate

Final Fish Acute Value = 310 μg/l
Final Invertebrate Acute Value = 36 μg/l
Final Acute Value = 36 μg/l

⁴Mitra, A. B., and C. K. Manna. 1971. Effect of some phenolic compounds on chromosomes of bone marrow cells of mice. Indian Jour. Med. Res. 59: 1442.

⁵National Institute for Occupational Safety and Health. 1978. Criteria for a recommended standard: Occupational exposure to dinitro-ortho-cresol. Dept. of Health, Education, and Welfare. Washington, D.C.

Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = not available
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = not available
0.44 x Final Acute Value = 16 µg/l

di-2-ethylhexylphthalate

Final Fish Acute Value = not available
Final Invertebrate Acute Value = 450 µg/l
Final Acute Value = 450 µg/l
Final Fish Chronic Value = 0.63 µg/l
Final Invertebrate Chronic Value = less than 0.59 µg/l
Final Plant Value = not available
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = less than 0.59 µg/l
0.44 x Final Acute Value = 200 µg/l

Saltwater Aquatic Life. No saltwater criterion can be derived for any phthalate ester using the Guidelines because no Final Chronic Value for either fish invertebrate species or a good substitute for either value is available, and there are insufficient data to estimate a criterion using other procedures.

Summary of Available Data.**butylbenzyl phthalate**

Final Fish Acute Value = 66,000 µg/l
Final Invertebrate Acute Value = 170 µg/l
Final Acute Value = 170 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = 170 µg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 170 µg/l
0.44 x Final Acute Value = 75 µg/l

diethyl phthalate

Final Fish Acute Value = 4,400 µg/l
Final Invertebrate Acute Value = 130 µg/l
Final Acute Value = 130 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = 66,000 µg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 66,000 µg/l
0.44 x Final Acute Value = 57 µg/l

dimethyl phthalate

Final Fish Acute Value = 8,600 µg/l
Final Invertebrate Acute Value = 1,300 µg/l
Final Acute Value = 1,300 µg/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = 28,000 µg/l
Residue Limited Toxicant
Concentration = not available
Final Chronic Value = 28,000 µg/l
0.44 x Final Acute Value = 570 µg/l

Human Health. From the available information, the phthalic acid esters

have not been found to be carcinogenic in animals or man. At high doses when injected i.p., the esters can act as teratogenic agents and possibly as mutagenic agents in rats. These esters also have an effect upon gonads in rats. Evidence is also at hand to show that the esters may bring about biochemical and pathological changes in the liver of rats when repeatedly administered orally or by i.p. When solubilized in blood components, DEHP has demonstrated liver involvement when these products have been repeatedly administered i.v. to monkeys. Inhalation studies in rats and man suggest that certain phthalates may be responsible for neurological disorders, but these results need further verification since other non-phthalate esters may also have been present leading to the problems.

Since a number of phthalate esters are in the environment or may be present in water, it was thought appropriate to review chronic toxicity data for those esters in which well established chronic toxicity data were reported to establish

an "allowable daily intake" (ADI). In calculating the ADI, an uncertainty factor of 100 was used based upon a 70 kg person. Table 11 taken from Shibko (1974), lists eight esters in which the "no effect" dose was established from chronic toxicity studies in rats or dogs. The table also includes the number of days the animals were fed the specific phthalate esters and the calculated ADI. It will be noted that the ADI ranged from a low of 9.8 mg/day for dicyclohexyl phthalate to a high of 700 mg/day for dimethyl phthalate.

For the sake of establishing water quality criteria, it is assumed that on the average a person ingests 2 liters of water and 18.7 grams of fish. The amount of water ingested is approximately 100 times greater than the amount of fish consumed. Since fish may biomagnify the esters to various degrees, a "biomagnification factor" (F) is used in the calculation. Biomagnification factors for dimethyl, diethyl, dibutyl and di-2-ethylhexyl esters were derived by the EPA ecological laboratories, Duluth (see Ingestion from Foods).

Table 11.—Calculated Allowable Daily Intake in Water and Fish for Various Phthalate Esters

Ester	No effect dose ¹ (mg/kg/day)	Species	Days	ADI ² (mg/day)	F ³	Recommended criteria mg/l
1. Dimethyl	1000	Rat	104	700.0	130	160
2. Diethyl	625	Dog	52	438.0	270	60
3. Dibutyl	18	Dog	52	12.8	26	5
4. Dicyclohexyl	14	Dog	52	9.8	(*)	
5. Methyl phthalyl ethyl glycolate	750	Rat	104	525.0	(*)	
6. Ethyl phthalyl ethyl glycolate	250	Rat	104	175.0	(*)	
7. Butyl phthalyl ethyl glycolate	140	Dog	104	98.0	(*)	
8. Di-2-ethylhexyl	60	Dog	52	42.0	95	10

¹From: Shibko, 1974.²Allowable Daily Intake for 70 kg person (100 safety factor).³F = Biomagnification factor.

*Not established.

Due to lack of data, bioconcentration factors could not be derived for dicyclohexyl, methyl phthalyl ethyl glycolate, ethyl phthalyl ethyl glycolate and butyl phthalyl ethyl glycolate.

The equation for calculating an acceptable amount of ester in water based on ingestion of 2 liters of water and 18.7 g fish is:

$$(2/l) X + (0.0187 \times F) X = \text{ADI}$$

where 2/l = 2 liters of drinking water consumed
0.0187 kg = amount of fish consumed daily
F = biomagnification factor
ADI = Allowable Daily Intake (mg/day for 70 kg person)

For example, consider that the ADI for dimethyl phthalate is 700 mg/day and the biomagnification factor is 130, the above equation can be solved as follows:

$$2X + (0.0187 \times 130)X = 700$$

$$2X + (2.43)X = 700$$

$$4.43X = 700$$

$$X = 158 \text{ (or } \approx 160 \text{ mg/l)}$$

Thus, the recommended water quality criterion is 160 mg/l.

Similar calculations were made for each of the esters and are presented below:

Diethyl

$$2/lX + (0.0187 \times 270)X = 438$$

$$2X + 5.05X = 438$$

$$7.05X = 438$$

$$X = 62 \text{ mg/l (or } \approx 60 \text{ mg/l)}$$

Dibutyl

$$2/lX + (0.0187 \times 26)X = 12.8$$

$$2X + .468X = 12.8$$

$$2.468X = 12.8$$

$$X = 5.10 \text{ mg/l (or } \approx 5 \text{ mg/l)}$$

Di-2-ethylhexyl

$$2/lX + (0.0187 \times 95)X = 42$$

$$2/l + 1.7765 = 42$$

$$3.7765X = 42$$

$$X = 11.12 \text{ mg/l (or } \approx 10 \text{ mg/l)}$$

Thus, the recommended water quality criteria for four phthalate esters are:

dimethyl, 160 mg/l
diethyl, 60 mg/l
dibutyl, 5 mg/l
di-2-ethylhexyl, 10 mg/l
(see Table 11).

It seems clear that exposure from the water route presents no real risk to the population in regard to the phthalate esters. Reported levels of phthalate esters in U.S. surface waters have only been in the ppb range; at approximately 1 to 2 µg/l [see Ingestion from Water section].

Other routes of exposure such as inhalation (industrial sites manufacturing the esters), dermal exposure, consumption of certain fatty or fatty-like foods and certain fish will be the major contributors to the body-load of phthalate esters. Phthalate ester residues in foods such as margarine, cheese and milk may, on some occasions, reach 50 ppm. Also a special group at risk will be patients to whom chronic transfusions of blood and blood products are administered.

Although it is recognized that routes of exposure other than water contribute more to the body burden of phthalate esters, this information will not be considered in forming ambient water quality criteria until additional analysis can be made. Therefore, the criteria presented assumed a risk estimate based only on ambient water exposure.

The need for more accurate residue content of foods, fish and water is still very apparent and, as more data become available, a reevaluation should be made as to the possible hazard to the population by the ingestion of phthalate esters.

Polychlorinated Biphenyls**Criteria Summary**

Freshwater Aquatic Life. For polychlorinated biphenyls the criterion to protect freshwater aquatic life as derived using the Guidelines is 0.0015 µg/l as a 24-hour average and the concentration should not exceed 6.2 µg/l at any time.

Saltwater Aquatic Life. For polychlorinated biphenyls the criterion to protect saltwater aquatic life as derived using the Guidelines is 0.024 µg/l as a 24-hour average and the concentration should not exceed 0.20 µg/l at any time.

Human Health. For the maximum protection of human health from the potential carcinogenic effects of exposure to chloroform through ingestion of water and contaminated aquatic organisms, the ambient water concentration is zero. Concentrations of chloroform estimated to result in additional lifetime cancer risks ranging from no additional risk to an additional risk of 1 in 100,000 are presented in the Criterion Formulation section of this document. The Agency is considering setting criteria at an interim target risk level in the range of 10⁻⁶, 10⁻⁵, or 10⁻⁷ with corresponding criteria of 0.2 ng/l, 0.02 ng/l and 0.002 ng/l respectively.

Basis for the Criteria

Freshwater Aquatic Life. The maximum concentration of polychlorinated biphenyls is the Final Acute Value of 6.2 µg/l and the 24-hour average concentration is the Final Chronic Value of 0.0015 µg/l. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For polychlorinated biphenyls the criterion to protect freshwater aquatic life as derived using the Guidelines is 0.0015 µg/l as a 24-hour average and the concentrations should not exceed 6.2 µg/l at any time.

Summary of Available Data

Final Fish Acute Value = 7.7 µg/l
Final Invertebrate Acute Value = 6.2 µg/l
Final Acute Value = 6.2 µg/l
Final Fish Chronic Value = 0.20 µg/l
Final Invertebrate Chronic Value = 0.73 µg/l
Final Plant Value = 0.10 µg/l
Residue Limited Toxicant
Concentration = 0.0015 µg/l
Final Chronic Value = 0.0015 µg/l
0.44 x Final Acute Value = 2.7 µg/l

Saltwater Aquatic Life. The maximum concentration of polychlorinated biphenyls is the Final Acute Value of 0.20 µg/l and the 24-hour average concentration is the Final Chronic Value of 0.024 µg/l. No important adverse effects on saltwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For polychlorinated biphenyls the criterion to protect saltwater aquatic life as derived using the Guidelines is 0.024 µg/l as a 24-hour average and the concentration should not exceed 0.20 µg/l at any time.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

Final Fish Acute Value = not available
Final Invertebrate Acute Value = 0.20 µg/l

Final Acute Value = 0.20 µg/l
Final Fish Chronic Value = 0.049 µg/l
Final Invertebrate Chronic Value = not available
Final Plant Value = 0.1 µg/l
Residue Limited Toxicant
Concentration = 0.024 µg/l
Final Chronic Value = 0.024 µg/l
0.44 x Final Acute Value = 0.087 µg/l

Human Health. An assessment of carcinogenic risk will be made by extrapolation from animal data using a linear (non-threshold) model. The model used takes into account the bioaccumulation of PCBs in fish and shellfish. It is assumed that an average of 2 liters/day of water are consumed along with 18.7 g of fish taken from that water source. Exposures from other food sources, air or occupational exposure are not included in the risk assessment.

Among the studies reviewed by this document, only one appears suitable for use in the cancer risk assessment. None of the mouse studies involved feeding for most or all of a lifetime and are therefore unsuitable. Of the rat studies, the only one involving long term exposure and adequate numbers of animals is the study in Sherman rats by Kimbrough, et al. (1975)¹.

This study has some drawbacks in that it lacks any evidence of a dose-response (due to the use of only one dose level), it tests only one sex of the species, and only one commercial mixture of PCBs was tested. Yet the experimental design is a good one in many ways: the treatment was given over a good proportion of the lifespan, there was an appropriate route (food) and distribution of exposure (uniform dose over time), the authors provided good documentation of the actual intake dose, a sufficiently large number of experimental and control animals were used to detect a statistically significant increase in tumors and there was a thorough and well documented description of the pathology (hepatocellular carcinoma). The NCI study (1978)² was the only other study involving a long term exposure and was suggestive of a carcinogenic effect; however, the lack of an adequate number of animals renders it unsuitable as a study upon which to base an estimate of carcinogenic risk.

Under the Consent Decree in *NRDC vs. Train*, criteria are to state "recommended maximum permissible concentrations (including where

¹Kimbrough, R. D., et al. 1975. Induction of liver tumors in Sherman strain female rats by polychlorinated biphenyl Aroclor 1260. *Jour. Natl. Cancer Inst.* 55: 1453.

²National Cancer Institute. 1978. Bioassay of Aroclor 1254 for possible carcinogenicity. Carcinogenesis Technical Report Series No. 38, DHEW Publ. No. (NIH) 78-838, 62 pp.

appropriate, zero) consistent with the protection of aquatic organisms, human health, and recreational activities." PCBs are suspected of being human carcinogens. Because there is no recognized safe concentration for a human carcinogen, the recommended concentration of PCBs in water for maximum protection of human health is zero.

Because attaining a zero concentration level may be infeasible in some cases and in order to assist the Agency and States in the possible future development of water quality regulations, the concentration of PCBs corresponding to several incremental

lifetime cancer risk levels have been estimated. A cancer risk level provides an estimate of the additional incidence of cancer that may be expected in an exposed population. A risk of 10^{-5} for example, indicates a probability of one additional case of cancer for every 100,000 people exposed, a risk of 10^{-6} indicates one additional case of cancer for every million people exposed, and so forth.

In the Federal Register notice of availability of draft ambient water quality criteria, EPA stated that it is considering setting criteria at an interim target risk level of 10^{-5} , 10^{-6} or 10^{-7} as shown in the table below.

Exposure assumptions (per day)	Risk levels and corresponding criteria ¹			
	0	10^{-5}	10^{-6}	10^{-7}
2 liters of drinking water and consumption of 18.7 grams fish and shellfish ²	0	0.002 ng/l	0.02 ng/l	0.2 ng/l
Consumption of fish and shellfish only..	0	0.002 ng/l	0.02 ng/l	0.2 ng/l

¹ Calculated by applying a modified "one-hit" extrapolation model described in FR 15926, 1979. Since the extrapolation model is linear at low doses, the additional lifetime risk is directly proportional to the water concentration. Therefore, water concentrations corresponding to other risk levels can be derived by multiplying or dividing one of the risk levels and corresponding water concentrations shown in the table by factors such as 10, 100, 1,000, and so forth.

² Approximately 99.8 percent of the PCB exposure results from the consumption of aquatic organisms which exhibit an average bioconcentration potential of 46,000 fold. The remaining 0.2 percent of PCB exposure results from drinking water.

Concentration levels were derived assuming a lifetime exposure to various amounts of PCBs, (1) occurring from the consumption of both drinking water and aquatic life grown in waters containing the corresponding PCB's concentrations and, (2) occurring solely from consumption of aquatic life grown in the waters containing the corresponding PCB concentrations. Although total exposure information for PCBs is discussed and an estimate of the contributions from other sources of exposure can be made, this data will not be factored into ambient water quality criteria formulation until additional analysis can be made. The criteria presented, therefore, assume an incremental risk from ambient water exposure only.

The very low limits suggested by this risk estimate are due in large part to the very large bioaccumulation factor in fish (46,000). This figure is an average for a wide variety of saltwater and freshwater organisms (see section on ingestion from foods).

As possible strategies to reduce human exposures to PCBs are considered, the relative contributions of ingested water and fish should be kept in mind. At the assumed consumption rate of 2l of drinking water and 18.7 g of fish/day, over 99 percent of the dietary PCBs will be obtained from fish.

Strategies which focus separately on the reduction of PCB levels in water and fish for human consumption might be more practical and productive than a single standard for water which takes bioaccumulation in fish into account.

A final comment about the risk level derived from this study is that it is based on animal data which are statistically weak. The weight of evidence indicates that PCBs are carcinogenic in rodents. However, the carcinogenic activities of these compounds are not great. An acceptable noncarcinogenic level could be established with greater certainty if better quantitative data on carcinogenicity were available. Studies with larger numbers of animals designed to measure relatively small effects are needed. Also, the rats appears to be much less sensitive to the acute and subacute effects of PCBs than man or non-human primates. Further investigation of the effects of PCBs in Rhesus monkeys, particularly with reference to the gastric lesions produced, would be useful.

Summary of Pertinent Data. The water quality criterion for PCBs is derived from the hepatocellular carcinoma and neoplastic nodule response of Sherman strain female rats fed 100 ppm Aroclor 1260 (Kimbrough, et al., 1975).¹ A time-weighted average

dose of 88.4 ppm was administered for approximately 21.5 months and the animals were observed for an additional six weeks before terminal sacrifice. The incidence of hepatocellular carcinoma and neoplastic nodules was 170/184 in the treated group and 1/173 in the control group. Assuming a fish bioaccumulation factor of 46,000, the criterion is calculated from the following parameters:

$n_t = 170$
 $N_t = 184$
 $n_c = 1$
 $N_c = 173$
 $Le = 730$ days
 $le = 645$ days
 $d = 88.4 \times 0.05 = 4.42$ mg/kg/day
 $w = 0.4$ kg
 $L = 730$ days
 $R = 46,000$
 $F = 0.0187$ kg/day

Based on these parameters, the one-hit slope B_H is 3.25 (mg/kg/day).⁻¹. The resulting water concentration of PCBs calculated to keep the individual lifetime cancer risk below 10^{-5} is 0.24 nanograms per liter.

Toluene

Criteria Summary

Freshwater Aquatic Life. The data base for freshwater aquatic life is insufficient to allow use of the Guidelines. The following recommendation is inferred from toxicity data for saltwater organisms.

For toluene the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 2,300 μ g/l as a 24-hour average and the concentration should not exceed 5,200 μ g/l at any time.

Saltwater Aquatic Life. For toluene the criterion to protect saltwater aquatic life as derived using the Guidelines is 100 μ g/l as a 24-hour average and the concentration should not exceed 230 μ g/l at any time.

Human Health. For the protection of human health from the toxic properties of toluene ingested through water and through contaminated aquatic organisms, the ambient water criterion is determined to be 17.4 mg/l.

Basis for the Criteria

Freshwater Aquatic Life. No freshwater criterion can be derived for toluene using the Guidelines because no Final Chronic Value for either fish or invertebrate species or a good substitute for either value is available.

Data for toluene and saltwater organisms can be used to estimate a criterion.

For toluene and saltwater organisms 0.44 times the Final Acute Value is less than the Final Chronic Value derived from results of an embryo-larval test with the sheepshead minnow. Therefore, a reasonable estimate of a criterion for toluene and freshwater organisms would be 0.44 times the Final Acute Value.

The maximum concentration of toluene is the Final Acute Value of 5,200 μ g/l and the estimated 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For toluene the criterion to protect freshwater aquatic life as derived using procedures other than the Guidelines is 2,300 μ g/l as a 24-hour average and the concentration should not exceed 5,200 μ g/l at any time.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

Final Fish Acute Value = 5,200 μ g/l
 Final Invertebrate Acute Value = 13,000 μ g/l
 Final Acute Value = 5,200 μ g/l
 Final Fish Chronic Value = not available
 Final Invertebrate Chronic Value = not available
 Final Plant Value = 250,000 μ g/l
 Residue Limited Toxicant
 Concentration = not available
 Final Chronic Value = 250,000 μ g/l
 $0.44 \times$ Final Acute Value = 2,300 μ g/l

Saltwater Aquatic Life. The maximum concentration of toluene is the Final Acute Value of 230 μ g/l and the 24-hour average concentration is 0.44 times the Final Acute Value. No important adverse effects on saltwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For toluene the criterion to protect saltwater aquatic life as derived using the Guidelines is 100 μ g/l as a 24-hour average and the concentration should not exceed 230 μ g/l at any time.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

Final Fish Acute Value = 2,000 μ g/l
 Final Invertebrate Acute Value = 230 μ g/l
 Final Acute Value = 230 μ g/l
 Final Fish Chronic Value = 320 μ g/l
 Final Invertebrate Chronic Value = not available
 Final Plant Value = 8,000 μ g/l
 Residue Limited Toxicant
 Concentration = not available
 Final Chronic Value = 320 μ g/l
 $0.44 \times$ Final Acute Value = 100 μ g/l

Human Health

Existing Guidelines and Standards. The only current guideline for toluene

exposure has been established to prevent adverse health effects from the chemical in occupational settings. The present standard is 100 ppm (375 mg/m³), determined as a time-weighted average exposure for an eight hour workday, with a ceiling of 200 ppm (NIOSH, 1973). Skin and eye exposure is to be minimized. This standard was set primarily on the basis of subjective and objective signs of mucus membrane irritation and deficits in central nervous system function upon acute inhalation exposure of human subjects to 200 ppm toluene. Short-term inhalation of 100 ppm was apparently without demonstrable effect in humans. Reports reviewed by the National Institute for Occupational Safety and Health (1973) also have failed to indicate adverse effects on the hematopoietic, hepatorenal, or other systems of workers routinely inhaling approximately 100 ppm toluene.

A review of potentially harmful effects of chemical contaminants of drinking water was undertaken by the Committee on Safe Drinking Water of the National Academy of Sciences (1977). The recommendations of this committee were to be used by the U.S. EPA as the scientific basis for revision or ratification of the Interim Primary Drinking Water Regulations promulgated under the Safe Drinking Water Act of 1974. Toluene was one of the organic chemicals considered here. Although it was concluded that toluene and its major metabolite, benzoic acid, were relatively non-toxic, the committee felt there was insufficient toxicological data available to serve as a basis for setting a long-term ingestion standard. It was recommended that studies be conducted to produce relevant information (NAS, 1977). Toluene has recently been considered for a second time by a reorganized Toxicology Subcommittee of the Safe Drinking Water Committee of the National Academy of Sciences. Results of the deliberations of this group have not yet been made public.

There are no Federal or State guidelines, nor standards for general atmospheric pollution by toluene.

Current Levels of Exposure. Toluene has been detected in raw water and in finished water supplies of several communities in the United States. Levels of up to 11 μ g/l were found in finished water from the New Orleans area (U.S. EPA, 1975a). In a nationwide survey of water supplies from ten cities, six were discovered to be contaminated with toluene (U.S. EPA, 1975b). Concentrations of 0.1 and 0.7 μ g/l were measured in two of these water

supplies. Toluene was detected in 1 of 111 communities' finished drinking waters during a second nationwide survey (U.S. EPA, 1977). In a subsequent phase of this survey, toluene was found in one raw water and three finished waters out of 11 surveyed (U.S. EPA, 1977). A level of 19 μ g/l measured by gas chromatography/mass spectrometry, was found in one of these finished waters, and 0.5 μ g/l was found in another.

There is a paucity of data available on levels of toluene in foods. Toluene was detected in fish caught from polluted waters in the proximity of petroleum and petrochemical plants in Japan (Ogata and Miyake, 1973). A concentration of 5 μ g/g was measured in the muscle of one such fish. Two major metabolites of toluene, benzaldehyde and benzoic acid, naturally occur in foods or are intentionally added. Benzaldehyde is a flavoring agent, while benzoic acid is a preservative. Benzoic acid is also given in large oral doses to humans as a clinical method for measuring liver function.

Although toluene has been detected in the atmosphere, concentrations are many times lower than vapor levels considered to be potentially harmful in occupational settings. An atmospheric concentration of 39 ppm toluene was measured in Zurich, Switzerland (Grob and Grob, 1971). An average level of 37 ppb toluene was observed in Los Angeles air in 1966 (Lonneman, et al. 1968). The maximum amount detected there was 129 ppb. Comparable levels were found upon evaluation of air in Toronto, Canada (Pilar and Graydon, 1973). The maximum concentration of toluene measured in Toronto was 188 ppb, while the average concentration was 30 ppb. The atmospheric levels of toluene in both Toronto and Los Angeles varied considerably according to the time of day and sampling location (Pilar and Graydon, 1973; Altshuler, et al. 1971). Thus, it appears that atmospheric toluene in urban areas arises primarily from automotive emissions, with solvent losses as a secondary source.

The most significant toluene inhalation exposures occur in occupational and inhalant abuse settings. Occupational exposure levels are generally lower than the current standard of 100 ppm, although short exposures to higher vapor concentrations occur. Purposeful inhalation of toluene vapors in order to inebriate oneself is a quite different situation, since the participant may inhale extremely high concentrations repeatedly for months or years. Toluene

concentrations as high as 20,000 to 30,000 ppm can produce intoxication within minutes under such circumstances.

Special Groups at Risk. At present levels of exposure to toluene in the environment, available toxicological data do not suggest that any group in the general population would be at risk. Exposure to levels of the chemical necessary to produce physiological or toxicological effects would be anticipated primarily in occupational or solvent abuse situations. Environmental contribution of toluene in such settings should be minimal.

Basis and Derivation of Criterion. Although acute exposure to high levels of toluene can result in marked central nervous system depression, this action is rapidly reversible upon cessation of exposure in both laboratory animals (Peterson and Bruckner, 1976) and in man (Longley, et al. 1967). When administered acutely in quite large doses to animals, toluene can alter the metabolism and bioactivity of certain chemicals which are degraded by the mixed function oxidase system. Toluene appears to have little capacity to cause residual tissue injury. There is no conclusive evidence that the parent compound or its metabolites are mutagenic, although they have apparently not been tested in an *in vitro* mutagenicity assay (Dean, 1978). Toluene has not been found to be teratogenic in laboratory animals (Roche and Hine, 1968; Hudak and Ungvary, 1978). Toluene has not been demonstrated to be carcinogenic when applied to the skin of mice (Poel, 1963; Doak, et al. 1978) or when administered by inhalation at concentrations of up to 300 ppm for as long as 18 months to male and female rats (Gibson, 1979). There are no accounts in the literature in which cancer in a human population is attributed specifically to toluene.

A number of investigations of the subacute and chronic toxicity of toluene have been carried out. Although the majority of emphasis has been placed upon inhalation exposure, Wolf, et al. (1956) did conduct a long-term, oral dosing study in which female rats were given 118, 354, and 590 mg/kg of toluene in olive oil by stomach tube 5 times weekly for 193 days. No adverse effects on growth, appearance and behavior, mortality, organ/body weights, blood urea nitrogen levels, bone marrow counts, peripheral blood counts, or morphology of major organs were observed at any dose level. The lack of toxicity reported here is supported by findings of other groups of investigators who found no evidence of residual

injury in a variety of animal species subjected to toluene vapors for varying times over periods as long as 18 months (Jenkins, et al. 1970; Carpenter, et al. 1976; Bruckner and Peterson, 1978; Rhudy, et al. 1978; Gibson, 1979).

Therefore, it seems reasonable that the highest dose utilized by Wolf, et al. (1956), namely 590 mg/kg, might serve as the basis for calculating an "Acceptable Daily Intake" for toluene. Although 590 mg/kg will be considered here as a "maximum-no-effect" dose, it should be recognized that the actual "maximum-no-effect" dose may be higher, since Wolf, et al. (1956) did not determine a "minimum-toxic-dose." Reynolds and Yee (1968) saw no effect on several parameters of hepatotoxicity in rats given a single oral dose of 2.4 g/kg toluene. The oral, acute LD₅₀ for toluene in young, adult rats is reported to be 7.0 g/kg (Wolf, et al. 1956). It is possible that the actual "maximum-no-effect" dose may be lower than 590 mg/kg, should alternative indices of toxicity be evaluated. Man may prove to be more sensitive to toluene than experimental animals. Thus, assuming a 70 kg body weight, it seems appropriate that a safety factor of 1,000 be applied in the following calculation:

$$\frac{590 \text{ mg/kg} \times 70}{1000} = 41.3 \text{ mg/kg}$$

Therefore, consumption of 2/l of water daily and 18.7/g of contaminated fish having a bioconcentration factor of 20, would result in, assuming 100 percent gastrointestinal absorption of toluene, a maximum permissible concentration of 17.4 mg/l for the ingested water:

$$\frac{41.3 \text{ mg/day}}{(2 \text{ liters} + (20 \times 0.0187) \times 1.0)} = 17.4 \text{ mg/l}$$

Toxaphene

Criteria Summary

Freshwater Aquatic Life. For toxaphene the criterion to protect freshwater aquatic life as derived using the Guidelines is 0.007 µg/l as a 24-hour average and the concentration should not exceed 0.47 µg/l at any time.

Saltwater Aquatic Life. For toxaphene the criterion to protect saltwater aquatic life as derived using the Guidelines is 0.019 µg/l as a 24-hour average and the concentration should not exceed 0.12 µg/l at any time.

Human Health. For the maximum protection of human health from the potential carcinogenic effects of exposure to toxaphene through ingestion of water and contaminated aquatic

organisms, the ambient water concentration is zero. Concentrations of toxaphene estimated to result in additional lifetime cancer risks ranging from no additional risk to an additional risk of 1 in 100,000 are presented in the Criterion Formulation section of this document. The Agency is considering setting criteria at an interim target risk level in the range of 10⁻⁶, 10⁻⁵, or 10⁻⁴, with corresponding criteria of 0.5 ng/l, 0.05 ng/l, and 0.005 ng/l, respectively.

Basis for the Criteria

Freshwater Aquatic Life. The maximum concentration of toxaphene is the Final Acute Value of 0.47 µg/l and the 24-hour average concentration is the Final Chronic Value of 0.007 µg/l. No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For toxaphene the criterion to protect freshwater aquatic life as derived using the Guidelines is 0.007 µg/l as a 24-hour average and the concentration should not exceed 0.47 µg/l at any time.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

Final Fish Acute Value = 0.92 µg/l
Final Invertebrate Acute Value = 0.46 µg/l
Final Acute Value = 0.46 µg/l
Final Fish Chronic Value = 0.007 µg/l
Final Invertebrate Chronic Value = 0.06 µg/l
Final Plant Value = not available
Residue Limited Toxicant
Concentration = 0.011 µg/l
Final Chronic Value = 0.007 µg/l
0.44 × Final Acute Value = 0.20 µg/l

Saltwater Aquatic Life. The maximum concentration of toxaphene is the Final Acute Value of 0.12 µg/l and the 24-hour average concentration is the Final Chronic Value of 0.019 µg/l. No important adverse effects on saltwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For toxaphene the criterion to protect saltwater aquatic life as derived using the Guidelines is 0.019 µg/l as a 24-hour average and the concentration should not exceed 0.12 µg/l at any time.

Summary of Available Data. The concentrations below have been rounded to two significant figures.

Final Fish Acute Value = 0.44 µg/l
Final Invertebrate Acute Value = 0.12 µg/l
Final Acute Value = 0.12 µg/l
Final Fish Chronic Value = 0.12 µg/l
Final Invertebrate Chronic Value = 0.019 µg/l
Final Plant Value = 0.15 µg/l
Residue Limited Toxicant
Concentration = 0.39 µg/l
Final Chronic Value = 0.019 µg/l
0.44 × Final Acute Value = 0.053 µg/l

Human Health. Various water concentrations of toxaphene have been recommended to protect man and aquatic organisms from the organoleptic or toxic properties of this compound (see "Existing Guidelines and Standards" section). These concentrations with the accompanying rationale, are summarized below:

Level	Rationale
5.0 µg/l	Organoleptic effects
2.5 µg/l	Non-carcinogenic mammalian toxicity
8.75 µg/l	Non-carcinogenic mammalian toxicity
0.44 µg/l	Non-carcinogenic mammalian toxicity
0.008 µg/l	Aquatic toxicity data

Additionally, carcinogenic responses have been induced in mice and rats by toxaphene (National Cancer Institute, 1979).¹ These results, together with the positive mutagenic response, constitute substantial evidence that toxaphene is likely to be a human carcinogen. Estimated criterion levels for toxaphene in water can be calculated using the linear, non-threshold model described in the Federal Register, March 15, 1979, and the results of the National Cancer Institute bioassay of toxaphene for carcinogenicity (see Summary of Pertinent Data).

Under the Consent Decree in *NRDC v. Train*, criteria are to state "recommended maximum permissible concentrations (including where appropriate, zero) consistent with the protection of aquatic organisms, human health, and recreational activities." Toxaphene is suspected of being a human carcinogen. Because there is no recognized safe concentration for human carcinogens, the recommended concentration of toxaphene in water for maximum protection of human health is zero.

Because attaining a zero concentration level may be infeasible in some cases and in order to assist the Agency and States in the possible future development of water quality regulations, the concentrations of toxaphene corresponding to several incremental lifetime cancer risk levels have been estimated. A cancer risk level provides an estimate of the additional incidence of cancer that may be expected in an exposed population. A risk of 10⁻⁶ for example, indicates a probability of one additional case of cancer for every 100,000 people exposed, a risk of 10⁻⁵ indicates one additional case of cancer for every million people exposed, and so forth.

In the Federal Register notice of availability of draft ambient water

¹ National Cancer Institute, 1979. Bioassay of Toxaphene for possible carcinogenicity. DHEW Publication No. (NIH) 73-837

quality criteria, EPA stated that it is considering setting criteria at an interim

target risk level of 10^{-5} , 10^{-6} or 10^{-7} as shown in the table below.

Exposure assumptions	Risk levels and corresponding criteria ¹			
	0	10^{-5}	10^{-6}	10^{-7}
2 liters of drinking water and consumption of 18.7 grams fish and shellfish ²	0	0.005 ng/l	0.05 ng/l	0.5 ng/l
Consumption of fish and shellfish only..	0	0.005 ng/l	0.05 ng/l	0.5 ng/l

¹ Calculated by applying a modified "one hit" extrapolation model described in the FR 15826, 1979. Since the extrapolation model is linear to low doses, the additional lifetime risk is directly proportional to the water concentration. Therefore, water concentrations corresponding to other risk levels can be derived by multiplying or dividing one of the risk levels and corresponding water concentrations shown in the table by factors such as 10, 100, 1,000, and so forth.
² 99 percent of the toxaphene exposure results from the consumption of aquatic organisms which exhibit an average bioconcentration potential of 18,000 fold. The remaining percent of toxaphene exposure results from drinking water.

Concentration levels were derived assuming a lifetime exposure to various amounts of toxaphene. (1) occurring from the consumption of both drinking water and aquatic life grown in water containing the corresponding toxaphene concentrations and, (2) occurring solely from consumption of aquatic life grown in the waters containing the corresponding toxaphene concentrations.

Although total exposure information for toxaphene is discussed and an estimate of the contributions from other sources of exposure can be made, this data will not be factored into ambient water quality criteria formulation because of the tenuous estimates and the conflicting information regarding the trend of toxaphene residues in food until additional analysis can be made. The criteria presented, therefore, assume an incremental risk from ambient water exposure only.

Summary of Pertinent Data

The water quality criterion for toxaphene is derived from the development of hepatocellular carcinomas and neoplastic nodules in the B C F male mice given the low dose of toxaphene in the NCI bioassay study. In that group, a time-weighted average dose of 99 ppm was administered in the diet for 80 weeks and the animals were observed for additional 10 weeks before terminal sacrifice. The incidence of hepatocellular carcinomas and neoplastic nodules was 7/48 and 40/49 in the pooled control and treated groups, respectively. Assuming a fish bioconcentration factor of 18,000, the criterion is calculated from the following parameters:

nt = 40
Nt = 49
nc = 7
Nc = 48
Le = 900 days
le = 665 days
d = 99 ppm \times 0.136 = 13.50 mg/kg/day
w = 0.033 kg
L = 900 days
R = 18,000
F = 0.0187 kg/day

Based on these parameters, the one-hit slope (B_1) is 4.42 (mg/kg/day). The resulting water concentration of toxaphene calculated to keep the individual risk below 10^{-5} , is 4.4×10^{-4} micrograms/liter.

Zinc

Criteria Summary

Freshwater Aquatic Life. For zinc the criterion to protect freshwater aquatic life as derived using the Guidelines is " $0.67 \cdot \ln(\text{hardness}) + 0.67$ " as a 24-hour average and the concentration should not exceed " $0.64 \cdot \ln(\text{hardness}) + 2.46$ " at any time.

Saltwater Aquatic Life. For saltwater aquatic life, no criterion for zinc can be derived using the Guidelines, and there are insufficient data to estimate a criterion using other procedures.

Human Health. For the prevention of adverse effects due to the organoleptic properties of zinc, the current standard for drinking water of 5 mg/l was adopted for ambient water criterion.

Basis for the Criteria

Freshwater Aquatic Life. The maximum concentration of zinc is the Final Acute Value of " $0.64 \cdot \ln(\text{hardness}) + 2.46$ " and the 24-hour average concentration is the Final Chronic Value of " $0.67 \cdot \ln(\text{hardness}) + 0.67$ ". No important adverse effects on freshwater aquatic organisms have been reported to be caused by concentrations lower than the 24-hour average concentration.

For zinc the criterion to protect freshwater aquatic life as derived using the Guidelines is " $0.67 \cdot \ln(\text{hardness}) + 0.67$ " as a 24-hour average and the concentration should not exceed " $0.64 \cdot \ln(\text{hardness}) + 2.46$ " at any time.

Summary of Available Data. All concentrations herein are expressed in terms of zinc.

Final Fish Acute Value = " $0.67 \cdot \ln(\text{hardness}) + 3.63$ "
Final Invertebrate Acute Value = " $0.64 \cdot \ln(\text{hardness}) + 2.46$ "
Final Acute Value = " $0.64 \cdot \ln(\text{hardness}) + 2.46$ "
Final Fish Chronic Value = " $0.67 \cdot \ln(\text{hardness}) + 0.67$ "
Final Invertebrate Chronic Value = " $0.64 \cdot \ln(\text{hardness}) + 2.00$ "
Final Plant Value = 30 μ g/l
Residue Limited Toxicant Concentration = not available
Final Chronic Value = " $0.67 \cdot \ln(\text{hardness}) + 0.67$ "

Saltwater Aquatic Life. No saltwater criterion can be derived for zinc using the Guidelines because no Final Chronic Value for either fish or invertebrate species or a good substitute for either value is available, and there are insufficient data to estimate a criterion using other procedures.

Summary of Available Data. The concentrations below have been rounded to two significant figures. All concentrations herein are expressed in terms of zinc.

Final Fish Acute Value = 9,000 μ g/l
Final Invertebrate Acute Value = 41 μ g/l
Final Acute Value = 41 μ g/l
Final Fish Chronic Value = not available
Final Invertebrate Chronic Value = not available
Final Plant Value = 50 μ g/l
Residue Limited Toxicant Concentration = not available
Final Chronic Value = 50 μ g/l
 $0.44 \times$ Final Acute Value = 18 μ g/l

Human Health. Zinc is an essential element and is not a carcinogenic agent. Studies on experimental animals and on human beings given zinc for therapeutic purposes together with observations of occupationally exposed persons show that large doses of zinc can be tolerated for a long periods, provided that the copper status is normal.

Daily ingestion of about 150 mg of zinc as the sulphate has not resulted in adverse effects in most patients even after several months of treatment. A reduction of copper levels has been reported in patients with diseases such as sickle cell anemia and coeliac disease. A reduction of the dose of zinc and copper supplementation corrected the copper deficiency.

Laboratory animals have been shown to tolerate zinc concentration in the range of 100 to 300 mg/kg food and even higher for long periods when the intake of copper has been adequate. Copper deficient animals have been shown to be more susceptible. In many animal experiments zinc concentration in the diet of 1000 to 2000 mg/kg have been reported to be without effect. These

concentrations should be compared to the average zinc content of human food, which is about 10 mg/kg.

The water quality criterion for zinc in water based on available data on effects of ingested zinc would be about 10 mg/l for the adult U.S. population. Assuming a water intake of 2 liters per day, this exposure would not cause more than an additional intake of 20 mg which can be well tolerated. This concentration is above the present standard for drinking water which is 5 mg/l based on organoleptic effects.

There are some indications that infants and small children may have a high intake of water and an additional intake of 10 to 20 mg might have an influence on copper metabolism in children with low copper intakes or with copper deficiency due to, e.g. intestinal diseases. However, due to insufficient amount of information available for this special group at risk, derivation of criterion lower than the current standard would be difficult to justify. Therefore, it is recommended that the current level be maintained for water quality criteria purposes (5 mg/l). As additional information becomes available reconsiderations of appropriateness of the current standard should be performed.

Acenaphthene	PB 296 782
Acrolein	PB 296 788
Antimony	PB 296 789
Chlorinated Phenols	PB 296 790
Copper	PB 296 791
Cyanide	PB 296 792
Dichlorobenzidine	PB 296 793
Dichloropropanes/propenes	PB 296 799
2,4 Dinitrotoluene	PB 296 794
Diphenylhydrazine	PB 296 795
Endosulfan	PB 296 783
Endrin	PB 296 785
Ethylbenzene	PB 296 784
Haloethers	PB 296 786
Halomethanes	PB 296 797
Isophorone	PB 296 798
Naphthalene	PB 296 788
Nickel	PB 296 800
Nitrobenzene	PB 296 801
Nitrophenols	PB 296 802
Phenol	PB 296 787
Phthalate Esters	PB 296 804
Polychlorinated biphenyls (PCB)	PB 296 803
Toluene	PB 296 805
Toxaphene	PB 296 806
Zinc	PB 296 807

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Register Federal

Wednesday
July 25, 1979

Part IV

Department of the Interior

Fish and Wildlife Service

Determination that *Sagittaria Fasciculata*
is an Endangered Species

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Determination that *Sagittaria fasciculata* is an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Sagittaria fasciculata* (bunched arrowhead) to be an Endangered species. This plant occurs in North Carolina and South Carolina. The range of *Sagittaria fasciculata* has been reduced due to past drainage and development of suitable habitats. Only two extant populations now exist, one of which has recently been greatly depleted and is now very vulnerable. Both populations occur on privately owned lands. The determination that *Sagittaria fasciculata* is an Endangered species extends to this plant the protection provided by the Endangered Species Act of 1973, as amended.

DATE: This rulemaking becomes effective on August 31, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Harold J. O'Connor, Acting Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202/343-4646.

SUPPLEMENTARY INFORMATION:

Background

The Secretary of the Smithsonian Institution, in response to Section 12 of the Endangered Species Act, presented his report on plant species to Congress on January 9, 1975. This report, designated as House Document No. 94-51, contained lists of over 3,100 U.S. vascular plant taxa considered to be endangered, threatened, or extinct. On July 1, 1975, the Director published a notice in the Federal Register (40 FR 27823-27924) of his acceptance of the report of the Smithsonian Institution as a petition to list these species under Section 4(c)(2) of the Act, and of his intention thereby to review the status of the plant taxa named within as well as any habitat which might be determined to be critical.

On June 16, 1976, the Service published a proposed rulemaking in the Federal Register (41 FR 24523-24572) to determine approximately 1,700 vascular plant species to be Endangered species pursuant to Section 4 of the Act. This list of 1,700 plant taxa was assembled on the basis of comments and data

received by the Smithsonian Institution and the Service in response to House Document No. 94-51 and the above mentioned Federal Register publication.

Sagittaria fasciculata was included in both the July 1, 1975, notice of review and the June 16, 1976, proposal. A public hearing on the June 16, 1976 proposal was held on August 4, 1976, in Washington, D.C. In the June 24, 1977, Federal Register, the Service published a final rulemaking (42 FR 32373-32381, to be codified at 50 CFR) detailing the regulations to protect Endangered and Threatened plant species. The rules establish prohibitions and a permit procedure to grant exceptions to the prohibitions under certain circumstances.

The Department has determined that this listing does not meet the criteria for significance in the Department Regulations implementing Executive Order 12044 (43 CFR Part 14) or require the preparation of a regulatory analysis.

Summary of Comments and Recommendations

Section 4(b)(1)(C) of the Act requires that a summary of all comments and recommendations received be published in the Federal Register prior to adding any species to the List of Endangered and Threatened Wildlife and Plants.

Hundreds of comments on the general proposal of June 16, 1976 were received from individuals, conservation organizations, botanical groups, and business and professional organizations. Few of these comments were specific in nature in that they did not address individual plant species. Most comments addressed the program or the concept of Endangered and Threatened plants and their protection and regulation. These comments are summarized in the April 26, 1978, Federal Register publication which also determined 13 plant species to be Endangered or Threatened species (43 FR 17909-17916). The Governors of North Carolina and South Carolina were both notified of the proposed action. The Governors themselves submitted no comments on the proposed action, but conservation agencies of both States did reply. Two comments were received concerning *Sagittaria fasciculata*. One comment was submitted by a professional botanist and the other by the Department of the Army (Fort Jackson, South Carolina). Both comments concerned the distribution of *Sagittaria fasciculata* in South Carolina.

Conclusion

After a thorough review and consideration of all the information available, the Director has determined that *Sagittaria fasciculata* E. O. Beal

(bunched arrowhead) is in danger of becoming extinct throughout all or a significant portion of its range due to one or more of the factors described in Section 4(a) of the Act.

These factors and their application to *Sagittaria fasciculata* are as follows:

(1) *Present or threatened destruction, modification or curtailment of its habitat or range.* Historically *Sagittaria fasciculata* has been collected from four locations—one in Buncombe County, North Carolina; two in Henderson County, North Carolina; and one in Greenville County, South Carolina.

The Buncombe County, North Carolina location was known only from a 1896 herbarium specimen which only gave general locality information. Local botanists have searched suitable habitats in Buncombe County but no recent records of the species in that County have been found. It is speculated that the Buncombe County site was destroyed by the extensive development of the general area since 1896. Several botanists noted a population which once occurred in Henderson County, North Carolina which was also destroyed by drainage of its habitat.

Two extant populations occur today. The extant population in Henderson County, North Carolina has been greatly reduced in size by past industrial development, road construction, and herbicide use. The population at this site occurs in a seepage located near a highway and adjacent to a railroad bank. Grading and filling operations associated with the widening of the adjacent highway, along with resultant changes in the drainage pattern of the area, have decreased the habitat of *Sagittaria fasciculata* at this location. Herbicides sprayed along the railroad also damaged the population. In early 1979 Southern Railroad reworked the section of railroad where the plants occurred, destroying all of the North Carolina population except for a small number near the highway. The remaining population at this location is very small and extremely vulnerable.

The Greenville County, South Carolina population occurs in a power line right of way, along the headwaters of a river. The open nature of this habitat which is maintained by Duke Power Company is probably responsible for the vigorous nature of the *Sagittaria fasciculata* plants present at this location. Maintaining the right of way with methods compatible with the survival of the population will be necessary to protect *Sagittaria fasciculata* at this location.

Both extant populations occur on private land and could be further threatened by future development.

(2) *Overutilization for commercial, sporting, scientific or educational purposes.* Interest or curiosity generated by listing this species could lead to collecting and vandalism. The North Carolina population has been so severely reduced in size already that any collecting could easily eliminate the population.

(3) *Disease or predation* (including grazing). Not applicable to this species.

(4) *The inadequacy of existing regulatory mechanisms.* There currently exist no State or Federal laws protecting this species or its habitat.

(5) *Other natural or man-made factors affecting its continued existence.* The small size and number of the populations cause this species to be in greater danger of extinction due to natural fluctuations in the population. The early successional nature of the species also contributes to the danger of its extinction due to the loss of suitable habitat. As woody vegetation or taller herbaceous plants overtop *Sagittaria fasciculata* plants their continued existence is doubtful. Habitat manipulation through removal of woody vegetation and other plants should be carried out at both extant sites.

Effect of the Rulemaking

Section 7(a) of the Act as amended in 1978 provides:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act. Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an "agency action") does not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of section 7 of the Endangered Species Act Amendments of 1978.

§ 17.12 Endangered and threatened plants.

Species		Range		Status	When listed	Special rules
Scientific name	Common name	Known distribution	Portion of range endangered			
Alismataceae—Water plantain family:						
<i>Sagittaria fasciculata</i>	Bunched arrowhead.....	U.S.C. (N.C and S.C.)	Entire	E		N/A

Dated: July 19, 1979.

Robert S. Cook,

Deputy Director, Fish and Wildlife Service.

Provisions for Interagency Cooperation were published on January 4, 1978, in the Federal Register (43 FR 870-876) and codified at 50 CFR Part 402. These regulations are intended to assist Federal agencies in complying with Section 7(a) of the Act. This rulemaking requires Federal agencies to satisfy these statutory and regulatory obligations with respect to this species.

Endangered species regulations in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered species. The regulations which pertain to Endangered plant species, are found at §§ 17.61-17.63 (42 FR 32378-32381).

Section 9(a)(2) of the Act, as implemented by § 17.61 would apply. With respect to any species of plant listed as endangered, it is, in general, illegal for any person subject to the jurisdiction of the United States to import or export such species; deliver, receive, carry, transport or ship such species in interstate or foreign commerce by any means and in the course of a commercial activity; or sell or offer such species for sale in interstate or foreign commerce. Certain exceptions apply to agents of the Service and State conservation agencies.

Section 10 of the Act and regulations published in the Federal Register of June 24, 1977 (42 FR 32373-32381, 50 CFR Part 17), also provide for the issuance of permits under certain circumstances to carry out otherwise prohibited activities involving Endangered plants.

Effect Internationally

In addition to the protection provided by the Act, the Service will review the status of this species to determine whether it should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate Appendices to that Convention and whether it should be considered under other appropriate international agreements.

National Environmental Policy Act

An environmental assessment has been prepared and is on file in the

Service's Washington Office of Endangered Species. The assessment is the basis for a decision that this determination is not a major Federal action which significantly affects the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

Endangered Species Act Amendments of 1978

The Endangered Species Act Amendments of 1978 added the following provision to subsection 4(a)(1) of the Endangered Species Act of 1973:

At the time any such regulation [to determine a species to be an Endangered or Threatened species] is proposed, the Secretary shall by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat.

Populations of *Sagittaria fasciculata* have already been greatly reduced in size and could be threatened by taking or vandalism, activities not prohibited by the Endangered Species Act of 1973. Publication of critical habitat maps would make this species more vulnerable and therefore it would not be prudent to determine critical habitat at this time.

Sagittaria fasciculata was proposed for listing as an endangered plant on June 16, 1976. Since it has been determined to be imprudent to designate critical habitat for this species at this time and all listing requirements of the Act have been satisfied, the Service now proceeds with this final rulemaking to determine this species to be endangered under the authority contained in the Endangered Species Act of 1973, as amended (16 USC 1531-1543).

The primary author of this rule is Ms. E. La Verne Smith, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240, (703-235-1975).

Regulation Promulgation

Accordingly, § 17.12 of Part 17 of Chapter I of Title 50 of the U.S. Code of Federal Regulations is amended as follows:

1. Section 17.12 is amended by adding, in alphabetical order by family, genus, species, the following plant:

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Wednesday
July 25, 1979

Part V

**Department of the
Interior**

Fish and Wildlife Service

Endangered and Threatened Wildlife and
Plants; U.S. Populations of Seven
Endangered Species

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR 17]

Endangered and Threatened Wildlife and Plants; U.S. Populations of Seven Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notification that the populations of seven endangered species are not currently protected by the Endangered Species Act.

SUMMARY: With this notice, the Service recognizes that, through an oversight in the listing of seven endangered species the U.S. populations of these species are not currently covered by the endangered classification which is given to the species as a whole. These species are: short-tailed albatross, thick-billed parrot, wood bison, northern swift fox, jaguar, margay and ocelot. Since the Service had assumed that the U.S. populations of these species were provided the protection of the Endangered Species Act of 1973, action will be taken as quickly as possible to propose them for listing and to correct the oversight which currently excludes them from classification under the Act.

DATES: Comments on this notice should be received by September 28, 1979.

ADDRESSES: Send all communications to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Phone 703/235-1975.

SUPPLEMENTARY INFORMATION:

Background

The purpose of this notice is to inform the public and concerned State and Federal agencies that, through an oversight, United States populations of the following species are not currently listed under the Endangered Species Act of 1973: short-tailed albatross (*Diomedea albatrus*), thick-billed parrot (*Rhynchopsitta pachyrhyncha*), wood bison (*Bison bison athabasca*), northern swift fox (*Vulpes velox hebes*), jaguar (*Panthera onca*), margay (*Felis wiedii*) and ocelot (*Felis pardalis*).

The Endangered Species Conservation Act of 1969 required that in listing a native species as endangered, the Governor of any State in which such species was resident was to be consulted. In the case of the above

seven species, they were placed on the list as endangered "foreign species" under the 1969 Act and none of the Governors of the States in which they are resident was contacted at the time. Thus the native populations of these species were never formally proposed for listing pursuant to the criteria and procedures of the 1969 Act. Because the "foreign" and "native" species lists were combined under the 1973 Act, the oversight involving the native populations of the listed foreign species was not discovered until recently. Therefore, the native populations of these species are not listed as endangered, although foreign populations are listed and receive all the protection of the Act. It has always been the intent of the Service that all populations of the above seven species deserve to be listed as endangered, whether they occur in the United States or in foreign countries. Therefore, the Service intends to take action as quickly as possible to propose the U.S. populations of these species for listing, and will correct the oversight that excludes them from the current list. Until final action is taken on that proposal, U.S. populations of the above species have no official standing under the Act. However, it is emphasized that the status of these native populations is truly endangered and that it is only as a result of an oversight that they are currently excluded from the protection of the Act. All Federal and State agencies, therefore, are requested and urged to provide them with the same considerations, wherever possible, that they would receive as endangered species until such time as they can be listed.

This notice was prepared by John L. Paradiso, Office of Endangered Species, 703/235-1975).

Dated: July 17, 1979.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 79-22955 Filed 7-24-79; 8:45 am]

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Part VI

Department of the Interior

Fish and Wildlife Service

**Endangered and Threatened Wildlife and
Plants; Review of the Status of the
Wilbur Springs Shore Bug**

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR 17]

Endangered and Threatened Wildlife and Plants Review of the Status of the Wilbur Springs Shore Bug**AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Notice of status review.

SUMMARY: The Service will review the status of *Saldula usingeri*, the Wilbur Springs shore bug, to determine if it should be added to the List of U.S. Endangered and Threatened Wildlife. A petition received by the Services has presented sufficient data to warrant this review.

DATES: Information regarding the status of this species should be submitted on or before September 28, 1979.

ADDRESSES: Comments and data submitted in connection with this review should be sent to the Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold J. O'Connor, Acting Associate Director—Federal Assistance, Fish and Wildlife Service, Washington, D.C. 20240, phone: 202/343-4646.

SUPPLEMENTARY INFORMATION:

Background

On March 7, 1979 Mr. Antonio Andrade petitioned the U.S. Fish and Wildlife Service to list three insect species as threatened or endangered. Section 4(a) of the Endangered Species Act of 1973 states that the Secretary may determine a species to be endangered or threatened because of any of the following factors:

1. The present or threatened destruction, modification, or curtailment of its habitat or range;
2. Overutilization for commercial, sporting, scientific, or educational purposes;
3. Disease or predation;
4. The inadequacy of existing regulatory mechanisms; or
5. Other natural or manmade factors affecting its continued existence.

This authority has been delegated to the Director, Fish and Wildlife Service. The Service has determined that, with respect to *Saldula usingeri*, the petition provides substantial evidence indicating because of factors 1 and 4, and that the species may be endangered or threatened. This species is presently known only from Wilbur Hot Springs,

Colusa County, California. Proposed geothermal development in the area may adversely affect the Wilbur Hot Springs watershed and therefore threaten the insect.

The Service is seeking the views of the Governor of California, and is soliciting from him information on the status of *Saldula usingeri*. Other interested parties are invited to submit any factual information, especially publications and written reports, which is germane to this status review. The information received in response to this notice of review will be used to determine if this species should be proposed for Federal listing as a Threatened or Endangered species.

This notice of review was prepared by Dr. Michael M. Bentzien, Office of Endangered Species (703/235-1975).

Dated: July 3, 1979.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 79-22956 Filed 7-24-79; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of Rules Going Into Effect Today.

Next Week's Deadlines for Comments On Proposed Rules

	AGRICULTURE DEPARTMENT		CONSUMER PRODUCT SAFETY COMMISSION
	Agricultural Marketing Service—	38854	7-3-79 / Omnidirectional citizens band base station antennas; development of standard; comments by 8-2-79
31186	5-31-79 / Regulations (other than rules of practice) under the Perishable Agricultural Commodities Act, 1930; proposed rule; comments by 7-30-79	38857	7-3-79 / Safety standard for architectural glazing materials; partial revocation; comments by 7-30-79
	Farmers Home Administration—		[See also 44 FR 31218, 5-31-79]
31161	5-31-79 / Associations; community facility loans amendments; comments by 7-30-79		COST ACCOUNTING STANDARDS BOARD
35231	6-19-79 / Funding formula for Special Supplemental Food Program for Women, Infants and Children; comments by 8-3-79	30347	5-25-79 / Accounting standard for independent research and development and bid and proposal costs; comments by 7-30-79
	Food and Nutrition Service—		DEFENSE DEPARTMENT
31665	6-1-79 / Use of certain proteolytic enzymes in certain meat and poultry products; comments by 8-1-79		Engineers Corps—
	Forest Service—	30892	5-29-79 / Use of nonstructural measures in planning for flood damage reduction; comments by 7-30-79
32005	6-4-79 / Sale and disposal of timber from Federal land; comments by 8-3-79		Navy Department—
	CIVIL AERONAUTICS BOARD	38910	7-3-79 / Privacy Act rulemaking amendments; comments by 8-2-79
31199	5-31-79 / Overseas military personnel charters; comments by 7-30-79	38961	7-3-79 / Privacy Act; systems of records; comments by 8-2-79
	COMMERCE DEPARTMENT		Office of the Secretary—
	Maritime Administration—	38967	7-3-79 / Privacy Act; systems of records; comments by 8-2-79
31239	5-31-79 / Operating differential subsidy for bulk cargo vessels engaged in worldwide services; amendment of trading restrictions; comments by 7-30-79	38990	7-3-79 / Privacy Act; systems of records; comments by 8-2-79
			ENDANGERED SPECIES SCIENTIFIC AUTHORITY
		31858	8-1-79 / American Ginseng; exportation of Appendix II species; comments by 7-31-79
		31584	5-31-79 / Exports of Appendix II species; American alligator—proposed export findings for the 1979 harvest season; comments by 7-30-79
			ENERGY DEPARTMENT
		30982	5-29-79 / Electric and hybrid/vehicle program, small business planning grants; comments by 7-30-79
			Economic Regulatory Administration—

- 32225 6-5-79 / Inclusion of additional petroleum substitutes in the entitlements program; comments by 8-1-79
- 36937 6-25-79 / Middle distillates; special allocation; comments by 7-31-79
- Federal Energy Regulatory Commission—
- 40064 7-9-79 / Cost of providing electric service; collection and reporting of information; petitions for reconsideration due by 7-30-79
- 40898 7-13-79 / Incremental pricing; load-balancing facilities; exemptions (2 documents); comments by 8-1-79
- 40072 7-9-79 / Natural gas pipelines; certain transportation, sales and assignments; comments by 7-30-79
- 38863 7-3-79 / Rates and exemptions for qualifying cogeneration and small power production facilities; comments on staff paper by 8-1-79
- Hearings and Appeals Office—
- 36934 6-25-79 / Oil, administrative procedures and sanctions; comments by 8-1-79
- ENVIRONMENTAL PROTECTION AGENCY**
- 32005 6-4-79 / Air pollution; approval and promulgation of implementation plans; Arizona; comments by 8-3-79
- 38578 7-2-79 / Approval and promulgation of implementation plans; Florida, proposed plan revision; comments by 8-1-79
- 38581 7-2-79 / Approval and promulgation of implementation plans; South Carolina, proposed plan revision; comments by 8-1-79
- 38583 7-2-79 / Approval and promulgation of implementation plans; statutory restriction on new sources under certain circumstances for nonattainment areas; comments by 8-1-79
- 38912 7-3-79 / California; approval and implementation of air quality plan; comments by 8-2-79
- 37961 6-29-79 Delayed compliance order issued by the state of Utah through the Air Conservation Committee to Kaibab Industries, Panguitch, Utah; comments by 7-30-79
- 34637 6-22-79 / Judicial review under Clean Water Act; races to the courthouse; comments by 8-3-79
- [See also 44 FR 32006, 6-4-79]
- 37960 6-29-79 / Receipt of implementation plan revision for the State of Rhode Island; comments by 7-30-79
- 38575 7-2-79 / Sewage treatment grant limitations provided by Section 316 of the Clean Air Act; comments by 8-1-79
- 31596 5-31-79 / Standards of performance for new stationary sources and national emission standards for hazardous air pollutants; definition of "commenced"; comments by 7-30-79
- EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**
- 42721 7-20-79 / 706 Agencies; proposed designations; comments by 8-3-79
- FEDERAL COMMUNICATIONS COMMISSION**
- 3680 6-20-79 / AM Stereophonic broadcasting; reply comments by 8-3-79
- 38913 7-3-79 / Compliance with CEQ regulations; comments by 8-2-79
- 32419 6-6-79 / FM broadcast station in Brush, Colo.; changes in table of assignments; comments by 7-30-79
- 29126 5-18-79 / FM broadcast station in North Platte, Nebr., changes in table of assignments; reply comments by 7-30-79
- 36085 6-20-79 / Helicopters; frequency for use for air-to-air communications; reply comments by 8-2-79
- 33439 6-11-79 / Proposed changes in assignments for FM broadcast station in East Wenatchee, Wash.; comments by 7-30-79
- 33440 6-11-79 / Proposed changes in assignments for FM broadcast station in Osage, Kansas; comments by 7-30-79
- 34170 6-14-79 / Television broadcast station in Oklahoma City, Okla.; change in table of assignments; comments by 7-30-79
- 32420 6-8-79 / Type acceptance for transmitting equipment used in branch A, B, and D and standards to govern radiation characteristics on antennas; comments by 8-1-79
- FEDERAL TRADE COMMISSION**
- 32231 6-5-79 / Howard Johnson Co.; consent to agreement with an analysis to aid public comments; comments by 8-3-79
- 31241 5-31-79 / Over-the-counter drugs; publication of staff report on proposed trade regulation rule; comments by 7-30-79
- HEALTH, EDUCATION, AND WELFARE DEPARTMENT**
- Food and Drug Administration—
- 31669 6-1-79 / Canned peas; amendment of standards; comments by 7-31-79
- Social Security Administration—
- 38879 7-3-79 / Disability and blindness, determination for benefits payment; comments by 8-2-79
- INTERIOR DEPARTMENT**
- Office of the Secretary—
- 33498 6-11-79 / Grazing management program for East Roswell, N. Mex.; comments by 7-29-79
- 33499 6-11-79 / Grazing management program, Ried County, Utah; comments by 7-30-79
- LIBRARY OF CONGRESS**
- Copyright Office—
- 40147 7-9-79 / Status of Translators; comments by 7-31-79
- NATIONAL TRANSPORTATION SAFETY BOARD**
- 34422 6-14-79 / Proposed limitation of accident reporting requirements; comments by 8-3-79
- PERSONNEL MANAGEMENT OFFICE**
- 30820 5-29-79 / Personnel records and files, protection of privacy; comments by 7-30-79
- SECURITIES AND EXCHANGE COMMISSION**
- 30924 5-29-79 / Filings by self-regulatory organizations of proposed rule changes; comments by 7-31-79
- [Corrected at 44 FR 36070, 6-20-79]
- 36068 6-20-79 / Oil and gas producers; disclosure requirements; comments by 7-31-79
- 26702 5-4-79 / Statement of management on internal accounting control; comments by 7-31-79
- TRANSPORTATION DEPARTMENT**
- Coast Guard—
- 38778 7-2-79 / Lights and retroreflective material for life preservers and other lifesaving equipment; comments by 8-1-79
- Federal Aviation Administration—
- 25867 5-3-79 / Domestic, flag and supplement air carriers and commercial operators of large aircraft; wind shear equipment requirements; comments by 8-3-79
- 33389 6-8-79 / Special Federal Aviation Regulation No. 40; operation of model DC-10 airplanes in United States prohibited; comments by 8-3-79
- Federal Highway Administration—
- 25434 5-1-79 / National bridge inspection standards; amendment; comments by 7-30-79
- National Highway Traffic Safety Administration—
- 36204 6-21-79 / State highway safety agencies; authority and functions; comments by 8-1-79

- Saint Lawrence Seaway Development Corporation—
- 35256 6-19-79 / Joint seaway provisions; comments by 8-3-79
- TREASURY DEPARTMENT**
- Alcohol, Tobacco and Firearms Bureau—
- 38573 7-2-79 / Distilled spirits plant losses after tax determination; comments by 8-1-79
- 6740 2-2-79 / Wine, distilled spirits and malt beverages; labeling and advertising; comments by 8-3-79
- [Comment period extended at 44 FR 32014, 6-4-79]
- Comptroller of the Currency—
- 31984 6-4-79 / Securities Exchange Act; disclosure rules; comments by 8-3-79
- 31190 5-31-79 / Securities offering disclosure rules; comments by 7-30-79
- Internal Revenue Service—
- 31025 5-30-79 / Companion sitting placement services; exemption from employer status; comments by 7-30-79
- 32251 6-5-79 / Extensions of temporary reduction of withholding of income tax at source; comments by 7-30-79
- 27181 5-9-79 / Foreign earned income exclusion and the deduction for excess foreign living costs; comments by 7-30-79
- 31228 5-31-79 / Income tax; election to treat pre-1974 plan participation as post-1973 participation; comments by 7-30-79
- Next Week's Meetings:**
- ARTS AND HUMANITIES, NATIONAL FOUNDATION**
- 41976 7-18-79 / Humanities Panel Advisory Committee, Washington, D.C. (closed), 8-3-79
- CIVIL RIGHTS COMMISSION**
- 40911 7-13-79 / Alabama Advisory Committee, Montgomery, Ala. (open), 7-30-79
- 40657 7-12-79 / Georgia Advisory Committee, Atlanta, Ga. (open), 8-3-79
- 40368 7-10-79 / Illinois Advisory Committee, Fort Wayne, Indiana (open), 7-30-79
- 40658 7-12-79 / Kentucky Advisory Committee, Lexington, Ky. (open), 8-1-79
- 40912 7-13-79 / Minnesota Advisory Committee, Saint Paul, Minn. (open), 8-9-79
- 37967 6-29-79 / Washington Advisory Committee, Seattle, Wash. (open), 8-3-79
- COAL, PRESIDENT'S COMMISSION ON**
- 41993 7-18-79 / Seminar; education for contract administration in coal industry, Washington, D.C. (open), 8-2-79
- Industry and Trade Administration—
- 40109 7-9-79 / Numerically Controlled Machine Tool Technical Advisory Committee, Washington, D.C. (closed), 7-31-79
- National Oceanic and Atmospheric Administration—
- 39572 7-6-79 / Gulf of Mexico and South Atlantic Fishery Management Council's Coral Advisory Subpanel, Hopeville, Ga. (open), 7-30 and 7-31-79
- 25263 4-30-79 / Mid-Atlantic Fishery Management Council's Scientific and Statistical Committee, Philadelphia, Pa. (open), 7-30-79
- 41276 7-16-79 / New England Fishery Management Council, Peabody, Mass. (open), 8-1 and 8-2-79
- DEFENSE DEPARTMENT**
- Energy Research Office—
- 39606 7-8-79 / High Energy Physics Advisory Panel, Germantown, Md. (open), 8-1-79
- Office of the Secretary—
- 40220 7-9-79 / Defense Science Board Advisory Committee, Newport, R.I. (open), 7-30 through 8-3-79
- Office of the Secretary—
- 30149 5-24-79 / Wage Committee, Washington, D.C. (closed), 7-31-79
- ENERGY DEPARTMENT**
- Environment Office—
- 41286 7-16-79 / Environmental Advisory Committee, Seattle, Wash. (open), 8-2-79
- Office of the Secretary—
- 37678 6-28-79 / Business Environment Task Group of the Committee on Materials and Manpower Requirements, Houston, Tex. (open), 8-2-79
- 37678 6-28-79 / Regulatory Impact Task Group of the Committee on Materials and Manpower Requirements, Houston, Tex. (open), 8-3-79
- ENVIRONMENTAL PROTECTION AGENCY**
- 39608 7-6-79 / Environmental Measurements Advisory Committee Science Advisory Board, Rosslyn Va. (open), 7-30 and 7-31-79
- 37682 6-28-79 / Management Advisory Group to the Municipal Construction Division, Boston, Mass. (open), 7-31 thru 8-2-79
- FEDERAL COMMUNICATIONS COMMISSION**
- 41265 7-16-79 / Telephone network; connection of terminal equipment to private line services, etc., Washington, D.C. (open), 7-30 thru 8-3-79
- FEDERAL EMERGENCY MANAGEMENT AGENCY**
- 39309 7-5-79 / National Academy for Fire Prevention and Control Board of Visitors, Emmitsburg, Md. (open), 7-31-79
- HEALTH, EDUCATION, AND WELFARE DEPARTMENT**
- Assistant Secretary for Health Office—
- 41965 7-18-79 / President's Council on Physical Fitness and Sports, Washington, D.C. (open), 8-2-79
- Education Office—
- 38416 6-29-79 / Bilingual education, each of the ten regional headquarters cities (open), 7-31-79
- 37170 6-25-79 / Biomedical Sciences Program, Boston, Mass. (open), 8-3-79
- 37170 6-25-79 / Biomedical Sciences Program, New York, N.Y. (open), 8-3-79
- 37170 6-25-79 / Biomedical Sciences Program, Philadelphia, Pa. (open), 8-3-79
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- 37170 6-25-79 / Biomedical Sciences Program, Chicago, Ill. (open), 8-3-79
- 37170 6-25-79 / Biomedical Sciences Program, Dallas, Tex. (open), 8-3-79
- 37170 6-25-79 / Biomedical Sciences Program, Kansas City, Mo. (open), 8-3-79
- 37170 6-25-79 / Biomedical Sciences Program, Denver, Colo. (open), 8-3-79
- 37170 6-25-79 / Biomedical Sciences Program, San Francisco, Calif. (open), 8-3-79
- 37170 6-25-79 / Biomedical Sciences Program, Seattle, Wash. (open), 8-3-79
- 41572 7-17-79 / Community Education Advisory Council, Washington, D.C. (open), 8-2 and 8-3-79
- 38364 6-29-79 / Emergency School Aid, each of the ten regional headquarters cities and Washington, D.C. (open), 8-1-79
- 38400 6-29-79 / Financial assistance to local and state agencies to meet special educational needs, each of the ten regional headquarters cities (open), 7-30-79

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federal register

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- 43902 Fair Market Rent and Adjustment Provisions** HUD/Sec'y amends schedules based on new methodology utilizing median rents; effective 10-1-79 (Part III of this issue)
- 43806 Class Deviation** EPA issues provisions for solid and hazardous waste management program support grants
- 43712 Public Works Projects** Commerce/EDA revises the method of determining supplementary grant rates; effective 7-26-79; comments by 9-24-79
- 43730 Commercial Motor Vehicles** DOT/FHWA amends Federal Motor Carrier Safety Regulations; effective 4-1-82
- 43858, 43861, 43864 Hazardous and Forbidden Materials** DOT/MTB/RSPA proposes regulation amendments concerning identification and description systems and commercial transportation; comments by 10-18-79 (Part II of this issue) (3 documents)

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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- 43737 **Federal Credit Unions** NCUA provides guidelines for use in chartering and developing unions; comments by 10-1-79
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- 43720 **Fuel Economy of Motor Vehicles** EPA makes a technical amendment concerning the compact car class for fuel economy purposes; effective 7-28-79
- 43749 **National Environmental Policy** WRC proposes regulations providing policy implementation; comments by 8-30-79
- 43711 **Insurance Activities** NCUA clarifies the policy concerning the scope of Federal credit union authority; effective 7-28-79
- 44106 **Passenger Route Authority and Commuter Carriers** CAB proposes data to be submitted with applications; comments by 9-24-79; reply comments by 10-15-79 (Part VI of this issue)
- 44118 **Environmental Matters** DOD/AF proposes policy and guidance in the decision-making process; comments by 8-27-79 (Part VII of this issue)
- 43751 **National Environmental Policy** Justice promulgates regulations implementing procedural provisions; comments by 8-27-79
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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Regulation 622]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period July 27-August 2, 1979. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: July 27, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act.

The committee met on July 24, 1979 to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity

of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges continues to be very limited.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, the emergency nature of this regulation warrants publication without opportunity for further public comment, in accord with emergency procedures in Executive Order 12044. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An impact analysis is available from Malvin E. McGaha, (202) 447-5975.

§ 908.922 Valencia Orange Regulation 622.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period July 27, 1979, through August 2, 1979, are established as follows:

- (1) District 1: 238,000 cartons;
- (2) District 2: 212,000 cartons;
- (3) District 3: Unlimited.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" means the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: July 25, 1979.

Charles R. Brader,
Director, Fruit and Vegetable Division,
Agricultural Marketing Service.

[FR Doc. 79-23313 Filed 7-25-79; 11:27 am]

BILLING CODE 3410-02-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 721

Statement of Interpretation—Insurance Activities

AGENCY: National Credit Union Administration.

ACTION: Interpretation of General Applicability.

SUMMARY: The purpose of this action is to clarify the policy of the National Credit Union Administration concerning the scope of Federal credit union authority in the area of insurance activity. Pursuant to 12 CFR Part 721.1, Federal credit unions are authorized to undertake to facilitate their members' voluntary purchase of types of insurance incidental to promotion of thrift or the borrowing of money for provident and productive purposes.

EFFECTIVE DATE: Immediately July 26, 1979.

ADDRESS: National Credit Union Administration, 2025 M Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Todd A. Okun, Senior Attorney, or Ross P. Kendall, Staff Attorney, Office of General Counsel, at the above address. Telephone: (202) 632-4870.

SUPPLEMENTAL INFORMATION: The Insurance Activities regulation was promulgated in 1972 and was designed to delineate the parameters of Federal credit union activity in the insurance field. The regulation was based upon section 107(15) of the Federal Credit Union Act (12 U.S.C. 1757(15)), which provides Federal credit unions with the authority to exercise such incidental powers as shall be necessary or requisite to enable them to carry out effectively the business for which they are incorporated. Consistent with the limitations inherent in this "necessary or requisite" language, the underlying theme throughout the regulation is that the credit union, if it is to perform any agency function, may act as the agent of its members, educating them and assisting them in their acquisition of beneficial insurance coverage. However, credit unions are expressly forbidden from assuming an agency role on behalf of an insurer. Section 721.1(j) of the regulation directs that the credit union

... may not, directly or indirectly, act as agent for an insurer * * * in processing of claims or in any other agency capacity for such insurer * * * (Emphasis supplied.) Quite clearly, the regulation does not interpret the incidental powers clause of the Federal Credit Union Act as permitting an agency relationship on behalf of an insurer.

In November of 1972, shortly after the regulation itself became final, an exception to § 721.1(j) was created in the area of loan protection and life savings insurance. The exception took the form of an addendum to a Legal Opinion, and was neither published for comment nor widely circulated. Despite the clear intent of the regulation as a whole, the exception indicated that with respect to these two types of insurance, participation by the credit union in the claims adjustment process would be permitted.

On the strength of this exception, credit unions made arrangements with insurers to participate in what became known as "draft payment systems." Although the mechanics of the various plans differed in certain respects, all were characterized by active credit union participation in the claims adjustment process. Typically, the insurer in the group policy situation would authorize the credit union to draw drafts against the insurer's own bank account to satisfy claims presented to the credit union by members under their certificates of insurance. Thus, instead of forwarding the claims to the insurer as an agent of the member, the credit union was now settling claims as an agent of the insurer. Generally, the claims paid were subject either to approval or review by the insurer, although the credit union itself would not be held liable for a wrongful payment. This system was utilized mainly in cases where the claim of the insured was easily proved. For example, claims predicated on death of the insured would be payable by the credit union upon presentation of a death certificate by a representative of the insured. In cases where a doubt or question as to coverage arose, the credit union would be instructed to forward the claim to the insurer for handling.

Implementation of these types of plans generally resulted in a relatively quicker settlement of insurance claims. However, notions of convenience are, without more, insufficient to justify an exception to the clear mandate of the insurance regulation and the clear implication of the incidental powers clause of the Federal Credit Union Act. Activity that places the credit union into

an agency relationship with an insurer is not an activity that is "necessary or requisite" to the business for which the credit union is incorporated.

Accordingly, the following represents the National Credit Union Administration's interpretation of the scope of permissible activity under 12 CFR Part 721.1(j). It is expected that Federal credit unions will take the action necessary to bring their relationships with insurers into conformance with this interpretation.

IRPS NO. 79-5

Interpretive Ruling on Permissible Insurance Activity Under 12 CFR 721.1(j)

Section 721.1(j) of 12 CFR reads in pertinent part as follows:

[T]he credit union may not, directly or indirectly, act as agent for an insurer or trust or association described in subsection (e) of this section in processing of claims or in any other agency capacity for such insurer or trust or association described in subsection (e) of this section. * * *

The National Credit Union Administration interprets this language as precluding active credit union participation on behalf of an insurer in the insurance claims settlement process. Specifically precluded by this interpretation is credit union participation in a draft payment system that involves the presentation and settlement of claims by the credit union, with subsequent reimbursement of the credit union by the insurer. Under the above quoted regulatory language and the statutory language from which it derives (found in the incidental powers clause of the Federal Credit Union Act (12 U.S.C. 1757(15)), any arrangement with an insurer exhibiting these characteristics is no longer permissible. Previously issued opinions and rulings to the contrary are withdrawn. Activity deemed permissible is that which is limited to the forwarding of claim forms to the insurer for processing. It is fully expected that Federal credit unions and their insurers will voluntarily make the adjustments necessary to bring their relationship into conformance with this interpretation.

Lawrence Connell,
Chairman.

July 10, 1979.

[FR Doc 79-23017 Filed 7-25-79; 8:45 am]

BILLING CODE 7935-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Part 305

Supplementary Grant Rates for Public Works Projects

AGENCY: Economic Development Administration (EDA), Department of Commerce.

ACTION: Interim rule.

SUMMARY: This amendment revises the method of determining rates applicable to EDA grants which supplement public works grants of other Federal agencies. EDA's supplementary grant rate regulation establishes a methodology, based on statutory factors, for determining maximum grant rates for different types of projects. As amended, this regulation allows EDA to consider the special nature of jointly funded projects in determining the appropriate grant rates for such projects. The intended effect of this amendment is to improve EDA's ability to participate with other Federal agencies in funding public works projects, thereby improving the provision of Federal assistance to recipients.

DATES: Effective date: July 26, 1979. Comments by: September 24, 1979.

ADDRESSES: Send comments to: Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION ON THIS AMENDMENT CONTACT: James F. Marten, U.S. Department of Commerce, Room 7009, Washington, D.C. 20230, (202) 377-5441.

SUPPLEMENTARY INFORMATION: Under section 101(a)(2) of the Public Works and Economic Development Act of 1965 (PWEDA), as amended (42 U.S.C. 3131), EDA is authorized to make supplementary grants both for projects which receive EDA direct public works grants and for projects which receive assistance under grant-in-aid programs of other Federal Agencies. Section 101(c) of PWEDA limits the total Federal share of the funding for any project so assisted to 80 percent of the project's costs. Section 101(c) also establishes factors to be considered in determining a particular project's grant rate within that 80 percent maximum. EDA has implemented the considerations described in section 101(c) by establishing a supplementary grant rate schedule in its public works grants regulations at 13 CFR 305.5. This

regulation contains a single method of determining supplementary grant rates both for projects for which EDA provides the direct grant and for projects for which direct funding is provided by another Federal agency. 13 CFR 305.5(b)(1) describes factors relating to the nature of a project which may affect the grant rate for which such project is eligible. Subsection (b)(3) lists a series of maximum grant rates, within the statutory maximum for Federal participation, which limit the amount of assistance a project can receive under title I of PWEDA. These maximums reflect considerations required by section 101(c) of PWEDA for the determination of grant rates.

As amended, § 305.5(b)(1) recognizes that jointly funded projects are characterized by special features which should be considered in determining their grant rates. An evaluation of these factors would allow EDA to supplement the other Federal agency's funding of a project to up to 80 percent of the project's allowable costs. However, EDA's participation in such projects may not exceed the area grant rate restrictions of subsection (b)(3).

Certain other changes have been made to subsections (a) and (b) of § 305.5 for reasons of clarity. Subsection (a) has been rewritten to clarify the scope of applicability of the regulation. Subsection (b)(1) has been revised to eliminate verbiage; and subsection (b)(3) has been reworded to clarify the type of funds to which the area grant rate maximums apply.

In accordance with the criteria of Department of Commerce Administrative Order 218-7, EDA has determined that this amendment is not a significant regulation subject to the requirements of Executive Order 12044. However, in furtherance of the policies of that executive order, EDA will accept written comments on the amendment on or before September 24, 1979. After all comments are received, EDA will evaluate the suggestions and may revise this interim regulation, if appropriate, before publishing it as a final rule.

Accordingly, EDA amends 13 CFR Part 305 by amending § 305.5 as follows:

§ 305.5 Supplementary grant rates.

(a) Subject to the limitation on the maximum Federal share of project financing set forth in this section, EDA may make supplementary grants to enable eligible applicants under § 305.2 to take maximum advantage of EDA direct grants under § 305.4 and to enable such applicants to take maximum advantage of such existing or future Federal grant-in-aid programs that in the

opinion of the Assistant Secretary further the purposes of the Act.

(b) In determining the amount of supplementary grant assistance, the Assistant Secretary will take into consideration the following factors:

(1) * * *
(iv) In the case of projects for which EDA supplements direct grants of other Federal agencies, the total Federal funding may be up to 80 percent of the project's costs (except as allowed by paragraph (b)(3)(i), (ii) or (iii)) in consideration of the following characteristics of such projects:

(A) The special Federal attention focused on such projects;

(B) The concentrated Federal efforts to assist the communities where such projects are located;

(C) The several program goals which such projects will carry out;

(D) The several Congressional mandates which such projects are required to meet; and

(E) The efficient delivery of Federal assistance through coordinated projects which avoid separate Federal grants and minimize administrative duplication.

(3) The maximum grant rate of funds granted under the authority of title I of the Act for projects in designated areas, determined by relative needs, is as follows:

[Sec. 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, as amended (40 FR 56702, as amended)]

Dated: July 20, 1979.

Robert T. Hall,

Assistant Secretary for Economic Development.

[FR Doc. 79-22906 Filed 7-25-79; 8:45 am]

BILLING CODE 3510-24-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 79-NW-3]

Special Use Airspace; Temporary Restricted Area Designation and Alteration; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: In a rule published in the Federal Register on June 14, 1979, (44 FR 34114) under the "exclusions", the center of the town of Roy, was incorrectly

published as Lat. 47°05'00" N., when in fact it is 47°00'00" N. This action corrects that error, thereby conforming with the area as described in the rule for "airspace exclusion."

EFFECTIVE DATE: July 26, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION: Federal Register Document 79-18512 was published on June 14, 1979 (44 FR 34114) which described a Temporary Restricted Area in the vicinity of Fort Lewis, Wash. An error in the latitude coordinates for the center of the town of Roy, Wash., was published as 47°05'00" N., when actually it is 47°00'00" N., located on page 34115, second column, line six beginning with paragraph "Excluding the airspace 2,000 feet AGL." This action corrects that coordinate.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, FR Doc. 79-18512 as published in the Federal Register on June 14, 1979, beginning on page 34114 is amended in the sixth line, center column of page 34115 in the paragraph beginning with "Excluding the airspace 2,000 feet AGL" by deleting "47°05'00" N.," and substituting "47°00'00" N.," therefor.

[Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.]

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on July 18, 1979.

William E. Broadwater,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-23001 Filed 7-25-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

(Airspace Docket No. 79-RM-15)

Extension of Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule.

SUMMARY: This amendment extends Victor Airway V-55 from Grand Forks, N. Dak., to Bismarck, N. Dak. This action improves air traffic control efficiency by providing a reduced mileage route between those two points to accommodate an increased instrument traffic requirement in that area.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. John Watterson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

History

On May 24, 1979, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to extend V-55 from Grand Forks, N. Dak., to Bismarck, N. Dak. (44 FR 30102). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. The comments received expressed no objection. However, subsequent to issuance of the notice it was determined that a one degree error was made in the description of the proposed extension. The correct Bismarck radial should have been 067°T (055°M) rather than 066°T (055°M). That error is minor and is corrected herein. With that exception, this amendment is that proposed in the amendment. Section 71.123 was republished in the Federal Register on January 2, 1979 (44 FR 307).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) extends V-55 from Grand Forks, N. Dak., to Bismarck, N. Dak. This action provides a shorter route between those two points that benefits an increased amount of IFR aircraft operations within that area. The airspace from 3,500 feet MSL to 10,000 feet MSL between 42 miles and 76 miles southwest of Grand Forks is excluded during the time that the Devils Lake East Military Operations Area (MOA) is active.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 307) is amended, effective 0901 G.m.t., October 4, 1979, as follows:

Under V-55—"Grand Forks, N. Dak." is deleted and "Grand Forks, N. Dak.; INT Grand Forks 239° and Bismarck, N. Dak., 067° radials; Bismarck. The airspace from 3,500 feet MSL to 10,000 feet MSL between 42 miles and 76 miles southwest of Grand Forks is excluded during the time that the Devils Lake East Military Operations Area is activated by NOTAM." is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on July 18, 1979.

William E. Broadwater,
Chief, Airspace and Air Traffic Rules
Division.

[FR Doc. 79-23002 Filed 7-25-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 91

(Docket No. 14607; Amdt. No. 91-157)

Airworthiness Review Program;
Minimum Equipment Lists (MEL)**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule.

SUMMARY: The purpose of this amendment is to adopt a regulatory mechanism by which general aviation operators may obtain approval to operate, under certain conditions, their multiengine aircraft with certain instruments and equipment inoperable that are not necessary for safe operation. This amendment is in response to public proposals submitted as part of the Airworthiness Review Program. The amendment standardizes and simplifies the regulatory procedures applicable to operations with inoperable

instruments and equipment when those items are not needed in the interest of safety.

EFFECTIVE DATE: November 1, 1979.

FOR FURTHER INFORMATION CONTACT: Edward C. Wood, Airworthiness Review Branch, (AFS-910), Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone 202-755-8714.

SUPPLEMENTARY INFORMATION: This amendment is the eighth in a series of amendments issued as part of the Airworthiness Review Program. The following amendments have previously been issued as part of that program:

Title and FR Citation

Form Number and Clarifying Revisions (40 FR 2576; Jan. 14, 1975)

Rotorcraft Anticollision Light Standards (41 FR 5290; Feb. 5, 1976)

Miscellaneous Amendment (41 FR 55454; Dec. 20, 1976)

Powerplant Amendments (42 FR 15034; March 17, 1977)

Equipment and Systems Amendments (42 FR 36960; July 18, 1977)

Flight Amendments (43 FR 2302; Jan. 18, 1978)

Airframe Amendments (43 FR 50578; Oct. 30, 1978)

The amendment now being issued is based on Notice 75-20, which was published in the Federal Register on May 20, 1975 (40 FR 22110). Interested persons have been afforded an opportunity to participate in the making of this amendment and due consideration has been given to all matter presented. The more significant comments received in response to Notice 75-20 are discussed below. Based on those comments and after further review within the FAA, significant substantive changes have been made to the proposed rules, and those changes are also discussed below.

Background

As indicated in Notice 75-20, modern aircraft are being operated with increasing amounts of installed equipment not essential for safe operations under all operating conditions. Much of that equipment is required for certain kinds of operation (such as VFR day or IFR) or for certain types of operating conditions (such as operations in icing conditions). Other equipment may be installed in the aircraft for the convenience of the operator. For whatever purpose installed, the aircraft must, with the installed equipment, continue to meet the regulatory standards under which it was type certificated, and the equipment, itself, must meet the

applicable requirements in those standards.

In connection with the foregoing, § 21.181(a)(1) of the Federal Aviation Regulations provides, in pertinent part, that a standard airworthiness certificate for an aircraft is effective as long as the maintenance, preventive maintenance, and alterations are performed in accordance with Parts 43 and 91, and § 91.72(a) prohibits aircraft operations unless the aircraft has a current airworthiness certificate. Section 91.165 provides that aircraft must be regularly inspected and that between those inspections defects must be repaired in accordance with Part 43. Under § 43.13, the person maintaining an aircraft must ensure that the aircraft is at least equal to its original or properly altered condition following maintenance. Also in this connection, § 91.29 prohibits the operation of an aircraft unless it is in an airworthy condition.

Those provisions in conjunction with the aircraft type certificate act to prohibit the operation of an aircraft with certain equipment deviations (i.e. conditions involving installed inoperable equipment or equipment not installed in the aircraft but required for an aircraft operating condition or kind of operation, under the aircraft's type certificate). Therefore, even though an item of equipment may have been installed purely for the convenience of the operator, aircraft operations with that item of installed equipment inoperable might be prohibited although the aircraft could be safely operated if the equipment were to be removed.

With respect to equipment required for a particular kind of operation or operating condition, if this equipment is inoperable, other kinds of operations of the aircraft should not be prohibited where the equipment is not needed for safety. However, operation of an aircraft in such a case should be permitted only if the pilot is aware of the status of the equipment and appropriate operating conditions and limitations are available to the pilot to indicate the procedures that must be followed for the safe operation of the aircraft. A prohibition would be appropriate in circumstances where a pilot might tend to rely on an inoperable item of installed equipment.

In complying with the regulations referenced above, operators subject to the operating rules of Part 91 have sometimes been burdened with delays and increased costs attributable to the need to expeditiously repair or replace inoperable instruments or equipment which under the circumstances existing at the time were not needed in the interest of safety. This has not been the

case with respect to air carriers and commercial operators of large aircraft since under the applicable operating rules, specifically §§ 121.303(d) and 121.627, a mechanism exists for permitting continued flight with inoperable instruments and equipment under appropriate circumstances. Recently this regulatory mechanism, commonly referred to as the Minimum Equipment List or "MEL," has been adopted within revised Part 135 for multiengine aircraft operated by air taxi operators (see § 135.179 at 43 FR 46797; October 10, 1978).

To provide relief for Part 91 operators, Notice 75-20 contained proposals for rules that would amend the type certification requirements to provide for the development of an "Equipment Deviation List" (EDL) which would contain the information needed by pilots to operate their aircraft safely in particular circumstances with specified instruments and equipment inoperable. Amendments to the airworthiness certification parts, as well as to Parts 43, 91, and 135, were proposed in Notice 75-20 to effectuate the EDL concept. The EDL, as proposed, would be prepared generally by the aircraft manufacturer for each aircraft type. In this respect the EDL concept differed sharply from the existing MEL mechanism which has its foundation in the operating rules and is developed through a joint effort of the operators, FAA, and the aircraft manufacturer.

Discussion of Comments

Fifteen comments were received in response to Notice 75-20. A number of commenters were associations which presented the views of manufacturers and operators. Several comments were also received from foreign airworthiness authorities. In general, those who commented on Notice 75-20 were in favor of rule making to provide relief for Part 91 operators to permit, under appropriate circumstances, operations with inoperable equipment and instruments. However, a majority of those commenters in favor of rule making further indicated that the proposed EDL procedure would be unnecessarily burdensome, time-consuming, and costly for both the industry and the FAA. The reasons given fall essentially into three broad categories.

Since the EDL would become a type certification requirement, the burden of providing it would fall solely on the aircraft manufacturer. However, the commenters argued that the manufacturer before delivery of an aircraft cannot know the maintenance

capability, probable atmospheric conditions, topographical parameters, or airport facilities associated with the aircraft purchaser's operation. In contrast, under the MEL procedures used by Part 121 operators, the development of the MEL is primarily accomplished by operationally-oriented people (the operator and the FAA) who are in the best position to make an assessment of operational conditions.

Second, it was contended that any change to an EDL would necessitate an amendment of the aircraft type certificate. Based on their experience, the commenters asserted that obtaining FAA approval of such amendments is time-consuming and costly whereas, under current MEL procedures, FAA approval for an MEL change can be obtained quickly and conveniently.

Third, in the commenters' view, an aircraft manufacturer would find it difficult to develop a single EDL that would apply to all aircraft configurations which might be covered under one type certificate because of the numerous equipment options offered and the likelihood of modifications being incorporated in the field.

In summation, most of the commenters suggested that the FAA could attain the objective of Notice 75-20 more simply by adopting an enabling regulation which would make MEL privileges available to those who operate under Part 91. However, one commenter believed that the use of MELs should be limited to operators who have an established program of operational and maintenance control and who are adequately monitored by the FAA. Several other comments also indicated a desire for the application of regulatory restraint by the FAA in granting relief.

In the light of these comments, and after further review, the FAA has concluded that adoption of the EDL regulations proposed in Notice 75-20 would unnecessarily burden and restrict the general aviation industry. In accordance with Executive Order 12044, the regulatory process must ensure that compliance costs, paperwork, and other burdens on the public are minimized and that meaningful alternatives are considered and analyzed before a regulation is issued. Based on these considerations, the FAA has determined that the most practical regulatory approach to provide needed relief is to adopt the existing MEL concept for use by general aviation operators. Such a course parallels the approach already taken by the FAA in the recently revised Part 135. In this connection it should be noted that the MEL regulatory approach

adopted in Part 135, and being adopted here for Part 91, has built-in restraints and controls which will provide the necessary level of safety for all general aviation operators.

Discussion of Amendment

This amendment adopts a new § 91.30 to Part 91 which conforms, in many respects, to the recently adopted § 135.179 in revised Part 135. Under the rule, Part 91 operators could, with specified exceptions, obtain the authority to operate an aircraft with inoperable instruments or equipment. To obtain that authority, the operator would be required to obtain a letter of authorization from the FAA to use an MEL. In addition to requiring that current aircraft status records be made available to the pilot, the rule specifies that operations conducted under the MEL must be conducted in accordance with the conditions and limitations contained in the MEL as well as in the letter authorizing its use. In this way, the necessary level of safety will be maintained.

Procedurally, the new rule allows operations with inoperable instruments and equipment that are covered under an MEL without violating §§ 91.27, 91.29, and 91.165. The MEL and the letter of authorization for use of the MEL constitute a supplemental type certificate for the aircraft under which inoperable instruments and equipment, not required for the specific operation being conducted, are not considered to be airworthiness defects. In this situation, the aircraft conforms to its supplemental type certificate and continues to be in an airworthy condition with a valid airworthiness certificate provided all the conditions and limitations specified in the MEL and letter of authorization are met.

An MEL developed for use under new § 91.30 may not include equipment and instruments that are essential for safe operation under all operating conditions and that are required, either specifically or otherwise, for the aircraft to meet the airworthiness standards under which it was type certificated. In order to include instruments and equipment on an MEL, the operator must show that the aircraft can comply with the airworthiness standards although the instruments and equipment are inoperable. In this connection, an important element of the MEL system is the requirement that aircraft records be made available to the pilot describing the instruments and equipment that are inoperable.

It should be noted that new § 91.30 applies only to operators of multiengine aircraft, consistent with § 135.179.

However, based on the experience that will be gained during the administration of §§ 135.179 and 91.30, the FAA will reevaluate the need for, and the benefits to be gained from, extending the new MEL rule to single-engine aircraft.

A person who wishes to operate a multiengine aircraft under § 91.30 may request authorization from the FAA Flight Standards District Office having jurisdiction over the area in which that operator is located. Upon a showing by the operator concerning the type of operations planned, the District Office will advise as to the conditions which must be met and where appropriate will assist in the development of an MEL applicable to the specific aircraft.

In view of the severe burden placed on Part 91 operators because of the lack of authority to use MELs and the increasing number of exemption requests being processed concerning the use of MELs by Part 91 operators, the FAA has determined that relief is appropriate without further delay. While the rule being adopted differs from that proposed in Notice 75-20, the underlying rationale for the rule and the issues involved are the same. Those issues have been addressed in the comments received. Because of this and since no additional burden is being placed on any person, additional notice and public procedure are impracticable and unnecessary.

Adoption of the Amendment

Accordingly, Part 91 of the Federal Aviation Regulations (14 CFR Part 91) is amended by adding a new § 91.30 effective November 1, 1979, to read as follows:

§ 91.30 Inoperable instruments and equipment for multi engine aircraft.

(a) No person may take off a multiengine civil aircraft with inoperable instruments or equipment installed unless the following conditions are met:

(1) An approved Minimum Equipment List exists for that aircraft.

(2) The aircraft has within it a letter of authorization, issued by the FAA Flight Standards Office having jurisdiction over the area in which the operator is located, authorizing operation of the aircraft under the Minimum Equipment List. The letter of authorization may be obtained by written request of the airworthiness certificate holder. The Minimum Equipment List and the letter of authorization constitute a supplemental type certificate for the aircraft.

(3) The approved Minimum Equipment List must:

(i) Be prepared in accordance with the limitations specified in paragraph (b) of this section.

(ii) Provide for the operation of the aircraft with the instruments and equipment in an inoperable condition.

(4) The aircraft records available to the pilot must include an entry describing the inoperable instruments and equipment.

(5) The aircraft is operated under all applicable conditions and limitations contained in the Minimum Equipment List and the letter authorizing the use of the list.

(b) The following instruments and equipment may not be included in a Minimum Equipment List:

(1) Instruments and equipment that are either specifically or otherwise required by the airworthiness requirements under which the aircraft is type certificated and which are essential for safe operations under all operating conditions.

(2) Instruments and equipment required by an airworthiness directive to be in operable condition unless the airworthiness directive provides otherwise.

(3) Instruments and equipment required for specific operations by this part.

(c) A person authorized to use an approved Minimum Equipment List issued under Part 121 or 135 for a specific aircraft may use that Minimum Equipment List in connection with operations conducted with that aircraft under this part.

(d) Notwithstanding any other provision of this section, an aircraft with inoperable instruments or equipment may be operated under a special flight permit issued in accordance with §§ 21.197 and 21.199 of this chapter.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended [49 U.S.C. 1354(a), 1421, and 1423]; sec. 6(c), Department of Transportation Act [49 U.S.C. 1653(c)])

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034); February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to: Edward C. Wood, Airworthiness Review Branch, (AFS-910), Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. Telephone 202-755-8714.

Issued in Washington, D.C., on July 18, 1979.

Langhorne Bond,

Administrator.

[FR Doc. 79-23003 Filed 7-25-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 19363; Amdt. No. 1143]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from

Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is \$135.00.

FOR FURTHER INFORMATION CONTACT: Lewis O. Ola, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the *Federal Register* expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30

days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * *Effective October 4, 1979*

College Station, TX—Easterwood Field, VOR Rwy 10 (TAC), Amdt. 13
College Station, TX—Easterwood Field, VOR Rwy 28, Amdt. 5

* * * *Effective September 6, 1979*

Auburn, AL—Auburn-Opelika, VOR Rwy 28, Amdt. 7
Auburn, AL—Auburn-Opelika, VOR/DME-A, Amdt. 5
Demopolis, AL—Demopolis Municipal, VOR/DME-A, Amdt. 1
San Francisco, CA—San Francisco Intl, VOR Rwy 19L, Amdt. 6
San Francisco, CA—San Francisco Intl, VOR Rwy 28L/R, Amdt. 18
San Francisco, CA—San Francisco Intl, VOR-B, Amdt. 5
Connersville, IN—Mettel Field, VOR/DME-A, Amdt. 2
Southern Pines, NC—Pinehurst-Southern Pines, VOR-A, Amdt. 11
Aguadilla, PR—Borinquen, VOR Rwy 8 (TAC), Amdt. 1

* * * *Effective July 12, 1979*

Newton, KS—Newton City-County, VOR/DME Rwy 35, Amdt. 6
Bennettsville, SC—Marlboro County, VOR/DME-A, Amdt. 2

* * * *Effective July 5, 1979*

Ontario, CA—Ontario Intl, VOR Rwy 25 (TAC), Amdt. 5

* * * Effective June 12, 1979

Bartow, FL—Bartow Muni, VOR/DME Rwy 9, Amdt. 4

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

* * * Effective October 4, 1979

College Station, TX—Easterwood Field, LOC BC Rwy 18, Amdt. 5

* * * Effective September 6, 1979

Texarkana, AR—Texarkana Muni/Webb Field, LOC BC Rwy 4, Amdt. 6
San Francisco, CA—San Francisco Intl, LOC BC-A, Amdt. 5

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * Effective October 4, 1979

College Station, TX—Easterwood Field, NDB Rwy 34, Amdt. 4

* * * Effective September 6, 1979

Blytheville, AR—Blytheville Muni, NDB-A, Amdt. 1
Helena-West Helena, AR—Thompson Robbins, NDB Rwy 17, Amdt. 3
Texarkana, AR—Texarkana Muni/Webb Field, NDB Rwy 22, Amdt. 7
Connersville, IN—Mettel Field, NDB Rwy 18, Amdt. 6
Worcester, MA—Worcester Muni, NDB Rwy 11, Amdt. 10
Worcester, MA—Worcester Muni, NDB Rwy 29, Amdt. 3
Plattsburgh, NY—Plattsburgh Muni, NDB Rwy 34, Original
Florence, SC—Florence City-County, NDB Rwy 9, Amdt. 10
Sparta, TN—Sparta-White County, NDB Rwy 3, Amdt. 2
Farmville, VA—Farmville Muni, NDB Rwy 3, Amdt. 2

* * * Effective July 12, 1979

Bennettsville, SC—Marlboro County, NDB Rwy 6, Amdt. 3

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

* * * Effective October 4, 1979

College Station, TX—Easterwood Field, ILS Rwy 34, Amdt. 4

* * * Effective September 6, 1979

Texarkana, AR—Texarkana Muni/Webb Field, ILS Rwy 22, Amdt. 9
San Francisco, CA—San Francisco Intl, ILS Rwy 19L, Amdt. 15
San Francisco, CA—San Francisco Intl, ILS Rwy 28L, Amdt. 14
San Francisco, CA—San Francisco Intl, ILS Rwy 28R, Amdt. 3
Worcester, MA—Worcester Muni, ILS Rwy 11, Amdt. 10
New York, NY—John F. Kennedy Int'l, ILS Rwy 22R, Amdt. 3
Florence, SC—Florence City-County, ILS Rwy 9, Amdt. 10
Laredo, TX—Laredo International, ILS Rwy 17C, Amdt. 4

San Antonio, TX—San Antonio Intl, ILS Rwy 30L, Amdt. 4

* * * Effective July 17, 1979

Chattanooga, TN—Lovell Field, ILS Rwy 2, Amdt. 1

* * * Effective July 6, 1979

Marion, IL—Williamson County, ILS Rwy 20, Amdt. 5

* * * Effective June 16, 1979

Atlanta, GA—Charlie Brown County, ILS Rwy 8R, Amdt. 11

5. By amending § 97.33 RNAV SIAPs identified as follows:

* * * Effective September 6, 1979

Auburn, AL—Auburn-Opelika, RNAV Rwy 36, Amdt. 2
Connersville, IN—Mettel Field, RNAV Rwy 18, Amdt. 1
London, KY—London-Corbin-Magee Field, RNAV Rwy 5, Original
Southern Pines, NC—Pinehurst-Southern Pines, RNAV Rwy 23, Amdt. 5
(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on July 20, 1979.

John S. Kern,
Acting Chief, Aircraft Programs Division.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 79-23007 Filed 7-25-79; 8:45 am]
BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9091]

Pillsbury Co., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Dismissal order.

SUMMARY: This order dismisses a complaint issued on November 11, 1976

charging a Minneapolis, Minn., manufacturer of food products with violation of federal laws by acquiring Fox Deluxe Foods, Inc., a Chicago, Ill. producer and seller of frozen pizza. The Commission dismissed the complaint on ground that the merger is not illegal since it is unlikely to have significant anticompetitive effect in the national market for frozen prepared pizza.

DATES: Complaint issued on Nov. 11, 1976. Dismissal order issued June 15, 1979.¹

FOR FURTHER INFORMATION CONTACT: FTC/C, Alfred F. Dougherty, Jr., Washington, D.C. 20580. (202) 523-3601.

SUPPLEMENTARY INFORMATION: In the Matter of The Pillsbury Company, a corporation, and Fox Deluxe Foods, Inc., a corporation.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

The Dismissal Order is as follows:

Final Order

This matter has been heard by the Commission upon the appeals of complaint counsel and respondent from the initial decision and upon briefs and oral argument in support of and in opposition to the appeals. For the reasons stated in the accompanying Opinion, the Commission has denied the appeals.

It is ordered, That pp. 1-50 of the Initial Decision of the Administrative Law Judge be adopted as the Findings of Fact of the Commission, except insofar as they are inconsistent with the accompanying opinion. Pages 51-63 of the Initial Decision are not adopted.

It is further ordered, That the complaint be dismissed.

By the Commission, with Commissioner Dixon dissenting.

Carol M. Thomas,
Secretary.

[FR Doc. 79-23095 Filed 7-25-79; 8:45 am]

BILLING CODE 6750-01-M

¹ Copies of the Complaint, Order Amending Complaint, First Amended Complaint, Initial Decision, Errata Re Initial Decision, Opinion of the Commission, Concurring Opinion of Chairman Pertschuk, Dissenting Opinion of Commissioner Dixon, and Final Order are filed with the original document.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Social Security Administration

20 CFR Part 404

Federal Old-Age, Survivors, and Disability Insurance (1950-); Extension of Recovery Period

Correction

In FR Doc. 79-10585, appearing in the issue of Friday, April 6, 1979, at page 20652, make the following corrections:

(1) On page 20652, in the last column under the heading of "Prior Policy", in the twelfth line down, correct "no" to read "not" and on the same page in the same column, under the same heading, the thirteenth line down correct "montly" to read "monthly".

(2) On page 20653, in the first column, under the heading of "The Final Rules", in the seventh line down, correct repayment to read "repaying" and on the same page, in the middle column, the fourth full paragraph, in the fourth line, correct the number "13.804" of the catalogue number to read "13.805".

BILLING CODE 1505-01-M

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

25 CFR Part 700

Commission Operations and Relocation Procedures; Revision of Regulations Regarding Resale of Property

AGENCY: Navajo and Hopi Indian Relocation Commission.

ACTION: Final rule.

SUMMARY: This notice amends the Resale of Property regulations which would allow the Navajo and Hopi Indian Relocation Commission to dispose of property which has been purchased from relocatees by giving it to the tribal government having jurisdiction over said property or to remove or destroy said property after a determination has been made that it constitutes a substantial risk to public health and safety.

EFFECTIVE DATE: July 26, 1979.

FOR FURTHER INFORMATION CONTACT: Paul M. Tessler, CFR Liaison Officer, Navajo and Hopi Indian Relocation Commission, 2717 N. Steves Boulevard, Building A, Flagstaff, AZ 86001. Telephone No.: (602) 779-3311, extension 1376 FTS: 281-1378.

The principal author is William G. Lavell, Field Solicitor, Valley Bank

Center, Suite 2080, 201 N. Central Avenue, Phoenix, Arizona 85073.

SUPPLEMENTARY INFORMATION: On May 30, 1979, there was published in the Federal Register (44 FR 31024) a notice of proposed Revision of Regulations concerning Resale of Property. Interested persons were given until June 29, 1979, to submit comments regarding the Proposed Rule. No comment was received. Accordingly, § 700.12 is revised in its final form to read as follows:

§ 700.12 Disposal of property.

Property acquired by the Commission pursuant to the Act shall be disposed of in one of the following manners:

(a) If the Commission determines that the property acquired constitutes a substantial risk to public health and safety, the Commission may remove or destroy the property.

(b) The Commission may transfer the property acquired by gratuitous conveyance to the tribe exercising jurisdiction over the area. Notice of such transfer shall be in writing and shall be completed within thirty days from the finalization of all property acquisition procedures, unless the tribe notifies the Commission in writing within that time that the property transfer is refused. In the event of a refusal by the tribe, the Commission shall remove or destroy the property.

Sandra Massetto,
Chairperson, Navajo and Hopi Indian Relocation Commission.

[FR Doc. 79-23078 Filed 7-25-79; 8:45 am]
BILLING CODE 4310-HB-M

DEPARTMENT OF JUSTICE

Attorney General

28 CFR Part 55

[Order No. 841-79]

Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups; Interpretative Guidelines; Amendments

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: As a result of litigation, the coverage under the minority language provisions of the Voting Rights Act has been changed for three counties.

EFFECTIVE DATE: July 26, 1979.

FOR FURTHER INFORMATION CONTACT: David H. Hunter, Civil Rights Division, Department of Justice, Washington, D.C. 20530 (202-724-7439).

By virtue of the authority vested in me by 5 U.S.C. 301, 28 U.S.C. 509, 510, and Pub. L. 94-73, Part 55 of Chapter I of Title 28, Code of Federal Regulations, is amended as follows:

The Appendix to Part 55 lists all jurisdictions covered under the minority language provisions of the Voting Rights Act, sections 4(f)(4) and 203(c), 42 U.S.C. 1973b(f)(4) and 1973aa-1a(c). Since that Appendix was last amended (42 FR 35970 (July 13, 1977)) the coverage of certain jurisdictions has been modified as a result of suits brought under sections 4(a) and 203(d) of the Act, 42 U.S.C. 1973b(a) and 1973aa-1a(d). *Doi v. Bell*, C.A. No. 77-0256 (D. Hawaii Jan. 9, 1978); *Choctaw and McCurtain Counties, Oklahoma v. United States*, C.A. No. 78-1250 (D.D.C. May 12, 1978). The changes that have been made are as follows:

Maui County, Hawaii: Delete coverage under sec. 203(c), Japanese American. (Coverage under sec. 203(c), Filipino American, is unchanged.)

Choctaw and McCurtain Counties, Oklahoma: Delete coverage under sec. 4(f)(4). (Coverage under sec. 203(c) is retained.)

Dated: July 13, 1979.

Griffin B. Bell,
Attorney General.

[FR Doc. 79-23094 Filed 7-25-79; 8:45 am]
BILLING CODE 4410-01-M

POSTAL SERVICE

39 CFR Part 111

Overprinting of Unauthorized Designs, Messages, or Other Markings on Stamps

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule amends postal regulations so as to make invalid for use as postage any postage stamps on which any unauthorized design, message, or other marking has been overprinted. The need for this regulation was suggested by inquiries by Postal Service customers with regard to the validity as postage of overprinted stamps. Under present regulations stamps that are mutilated or defaced (i.e., canceled) are considered invalid. The term "unauthorized design, message, or marking" in the final rule is intended to exclude from invalidation authorized markings, such as precanceled stamps and precanceled postmarks under §§ 143.1 and 143.3 of the Domestic Mail Manual.

EFFECTIVE DATE: August 27, 1979.

FOR FURTHER INFORMATION CONTACT: Charles R. Braun, (202) 245-4620.

SUPPLEMENTARY INFORMATION: On September 6, 1978 the Postal Service published for comment its proposal to revise the regulations as described above. (43 FR 39593). The Postal Service received eight letters of comment referring to this proposal, which were divided between those in favor (5), those opposed (1), and those discussing other postal matters (2).

The argument against the proposal was to the effect that stamps individualized through overmarking or overprinting were "in the best American tradition of Freedom of Speech and should not be banned or unduly controlled." The prohibition which was proposed, however, was not an absolute prohibition against the marking or printing of private messages on postage stamps, or against the communication of private messages through the mails. The rule would leave undisturbed the general rule that "postage stamps when purchased by the public become the property of the purchaser", 9 Op. Solic. P.O. Dep't No. 544 at 646 (1944), under which a purchaser of postage stamps may generally mark or overprint his property as he pleases.¹ Nor would the rule interfere with businesses which overprint stamps with non-commercial messages, and re-sell the overprinted stamp at a profit to collectors of such articles who do not intend to use the stamps as postage.

The prohibition in the regulation is limited only to private markings on stamps to be used for postage, or the attached selva area beyond the perforations, on which private markings or overprintings may interfere with postal operations in which the prompt and unimpeded recognition of genuine mint postage stamps is necessary. Since the proposal would do just that and nothing more, it would not be an undue restraint of commercial or other speech.

When this proposed rule was published in the *Federal Register* in September 1978, it was drafted as an amendment to Chapter I of the Postal Service Manual. Since that time, however, Chapter I of the Postal Service Manual has been replaced by the Domestic Mail Manual, which, among other things, carries forward the

regulations on validity of stamps and goes into effect on July 30, 1979. See 44 FR 39742. In view of the imminent obsolescence (with certain exceptions not pertinent here) of Chapter I of the Postal Service Manual, the final rule in this rulemaking has been drafted as an amendment of the Domestic Mail Manual. The numbering system of Part 142—Stamps (Adhesive) in the Domestic Mail Manual is the same, except for the subsections, as it was in the Postal Service Manual.

In consideration of the foregoing, the Postal Service hereby adopts without change, except for an amendment of 142.3d to comply with the Wetlands Loan Extension Act of 1976, Pub. L. No. 94-215, the following amendment of the Domestic Mail Manual:

Part 142—Stamps (Adhesive)

Amend § 142.3 of the Domestic Mail Manual by revising it to read as follows:

142.3 Validity of Stamps. All postage stamps issued by the United States since 1860 are good for postage from any point in the United States or from any other place where the United States domestic mail service operates, except from the Panama Canal Zone where special Canal Zone stamps are used, and except as provided in this section. The following are not good for postage:

- Mutilated or defaced stamps.
- Stamps cut from stamped envelopes, aerogrammes, or postal cards.
- Stamps covered or coated in such manner that the cancelling or defacing marks cannot be imprinted directly on the stamps.
- Nonpostage stamps (migratory-bird hunting and conservation stamps, U.S. saving and thrift stamps, etc.)
- Postage due, special delivery, special handling, and certified mail stamps.
- United Nations stamps, except on mail deposited at United Nations, N.Y.
- Stamps of other countries.
- Stamps on which any unauthorized design, message, or other marking has been overprinted.

(39 U.S.C. 401(2), 404(a)(2), 404(a)(4), 410(a))

W. Allen Sanders,

Acting Deputy General Counsel.

[FR Doc. 79-23030 Filed 7-25-79; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 600

[FRL 1278-6]

Fuel Economy of Motor Vehicles; Technical Amendment

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is making a technical amendment to Part 600 of the EPA regulations. The purpose of this technical amendment is to correct an error in the definition of the compact car class for fuel economy purposes. This error caused the compact and mid-size car classes to overlap. The current compact class includes an interior volume index greater than or equal to 100 cubic feet but less than 120 cubic feet. The amended classification specifies an interior volume index greater than or equal to 100 cubic feet but less than 110 cubic feet.

DATES: This amendment is effective on July 26, 1979.

FOR FURTHER INFORMATION CONTACT: Elizabeth Gelpke, Regulatory Management Staff, ANR-455, Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460; 202-755-0596.

SUPPLEMENTARY INFORMATION: A compact car as currently defined is a car with an interior volume index from 100 to 120 cubic feet. The definition of a mid-size car is a passenger automobile with an interior volume index greater than or equal to 110 cubic feet but less than 120 cubic feet. This amendment was necessary to eliminate the overlap between these two classes in the case of cars with interior volume indices between 110 and 120.

By issuing the following technical amendment directly as a final rule, EPA is foregoing the prior issuance of a notice of proposed rulemaking (NPRM) and the opportunity for public comment is unnecessary. The amendment simply corrects an error in the regulation and imposes no additional burden on the regulated industry in complying with the regulations. For these reasons, EPA finds good cause to dispense with public comment in accordance with 5 U.S.C. § 553(b). Certification for the 1980 model year is currently underway. Therefore, to avoid any further confusion, EPA is making this regulation effective upon publication in the *Federal Register*.

Under Executive Order 12044 EPA is required to judge whether a regulation is

"significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: July 20, 1979.

Michael P. Walsh,

Acting Assistant Administrator.

Part 600 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

1. Section 600.315-78(a)(1)(iv) is amended to read as follows:

§ 600.315-78 Classes of comparable automobiles.

(a) * * *

(1) * * *

(iv) *Compact cars.* Interior volume index greater than or equal to 100 cubic feet but less than 110 cubic feet.

[Title V of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 1901 et seq., as amended by Title III of the Energy Policy and Conservation Act, Pub. L. 94-163, 89 Stat. 871.]

[FR Doc. 79-23113 Filed 7-25-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

41 CFR Part 12-60

[OST Docket No. 19; Amdt. No. 79-4]

Procurement Regulations

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Final rules.

SUMMARY: These regulations revise the procedures of the Department of Transportation Contract Appeals Board in two significant ways. They specify new procedures required by the enactment of the Contract Disputes Act of 1978, Pub. L. 95-563, which went into effect March 1, 1979. In large measure this has been accomplished by adopting substantial portions of the Uniform Rules of Procedures for Boards of Contract Appeals issued on February 26, 1979 and May 31, 1979, by the Office of Federal Procurement Policy as guidelines for such rules. At the same time the present issuance also carries out a substantial revision to the Board's earlier procedures designed to simplify the language of the Board's rules and to

make them more intelligible to the general public.

EFFECTIVE DATE: July 26, 1979.

FOR FURTHER INFORMATION CONTACT: Gerson B. Kramer, Chairman, Department of Transportation Contract Appeals Board, Room 9126, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 426-4305.

SUPPLEMENTARY INFORMATION: This revision changes the contract appeals procedures published in the *Federal Register*, May 27, 1967 (32 FR 7772), amended September 23, 1967 (32 FR 13411), reissued March 4, 1972 (37 FR 4887), and again reissued September 8, 1977 (42 FR 45176). The primary purpose for issuing the new rules at this time is to set in place necessary revisions mandated by the enactment of the Contract Disputes Act of 1978. Major revisions mandated by the Act are new and special optional expedited small claims procedures for claims of \$10,000 or less, and optional accelerated procedures for claims of \$50,000 or less. Another major feature mandated by the statute is the addition of subpoena power and a rule governing the use of subpoenas. Also added are rules governing third party practice and the audit of quantum claims which have been added to accord with the expanded jurisdiction conferred on the Board by the statute.

In April 1978 the Board published for public comment a tentative revision of its rules which was designed to bring its procedures into substantial conformity with the Uniform Rules of Procedures for Boards of Contract Appeals, as proposed by the National Conference of Boards of Contract Appeals Members. More recently the Office of Federal Procurement Policy issued a set of interim uniform rules of procedures for Boards of Contract Appeals for use as guidelines. The Board's present regulations incorporate large portions of the OFPP issuance but in some respects embody a reorganization of the format of the rules to make them more intelligible. Additionally, the Board's present issuance also alters a few rules to prescribe a more orderly and easily understood procedure, particularly with respect to the exercise of procedural options under the new Disputes Act. In one instance, that pertaining to the issuance of subpoenas, the Board's new rule differs from the OFPP guideline. The Board's subpoena rule eliminates the written request requirement for the issuance of subpoenas, the time limits for making such requests and the necessity of exhausting voluntary alternatives before making such

requests but adds a 100 mile geographical limit to the reach of subpoenas, without special request.

Recognizing that some of the rules issued prescribe new and untried procedures, particularly those pertaining to expedited small claims procedures, accelerated procedures, and the issuance of subpoenas, the Board solicits additional comments from contractors, members of the bar and the general public pertaining to the operation of its rules for a period of one year following their issuance.

Drafting Information

The principal persons involved in drafting these regulations are: Gerson B. Kramer, Chairman, Department of Transportation Contract Appeals Board, and Board members Emanuel P. Snyder, Thaddeus V. Ware, and Howard L. Auten.

Part 12-60 of Title 41, Code of Federal Regulations, is revised to read as appears below.

PART 12-60—CONTRACT APPEALS

Sec.

12-60.000 Scope of part.

12-60.001 Definitions.

Subpart 12-60.1—Contract Appeals Board

12-60.101 Establishment.

12-60.102 Qualifications of members.

12-60.103 Jurisdiction and authority of the Board and its members.

12-60.104 *Ex Parte* communications.

Subpart 12-60.2—Contract Appeals Procedures

12-60.201 General.

12-60.202 Rules of procedure.

12-60.203 Effective date.

Authority: 80 Stat. 931, 92 Stat. 2363, 41 U.S.C. 601.

§ 12-60.000 Scope of part.

This part establishes the Department of Transportation Contract Appeals Board, pursuant to Pub. L. 95-563, prescribes its functions and procedures, and provides for the appointment of a Chair, a Vice-Chair, and Members of the Board and sets forth their duties.

§ 12-60.001 Definitions.

For the purposes of this part—

(a) "Appellant" means the contractor who appeals;

(b) "Board" means the Department of Transportation Contract Appeals Board;

(c) "Administrative Judge" means a member of the Board selected and appointed to serve pursuant to the Contract Disputes Act of 1978.

(d) "The contracting officer" means the Government's contracting officer

¹ There is a statutory prohibition against impressing commercial messages on postage stamps and other U.S. Government obligations or securities, 18 U.S.C. 8-475 (1976). Enforcement responsibility for this prohibition is vested principally in the U.S. Secret Service, 18 U.S.C. 3056 (1976). This regulation has no effect on this statutory provision, which appears to be intended to prevent advertising falsely implying U.S. Government sponsorship of private products or services.

whose decision is appealed, or the successor contracting officer;

(e) "The parties" means the appellant and the contracting officer; and

(f) "The Secretary" means the Secretary of Transportation.

Subpart 12-60.1 Contract Appeals Board

§ 12-60.101 Establishment.

A Department of Transportation Contract Appeals Board is hereby established. The Secretary appoints the members of the Board and designates the Chair and Vice-Chair of the Board.

§ 12-60.102 Qualifications of members.

Each member of the Board must be a qualified attorney who is admitted to practice before the highest court of a State or the District of Columbia. Members of the Board are selected and appointed to serve in the same manner as hearing examiners appointed pursuant to Section 3105 of Title 5 of the United States Code, with the additional requirement that each member shall have had not fewer than five years' experience in public contract law.

§ 12-60.103 Jurisdiction and authority of the Board and its members.

(a) The Board hears and decides: (1) Appeals from decisions made by contracting officers relating to contracts awarded by the Department of Transportation and its constituent administrations; (2) appeals from decisions of contracting officers relating to contracts awarded by any other executive agency when such agency or the Administrator for Federal Procurement Policy has designated the Board to decide the appeal; and, (3) other matters as directed by the Secretary which are not inconsistent with statutory duties. In each case, the Board shall make a final decision which is impartial, fair, and just to the parties and is supported by the record of the case and the law. The Administrative Judge assigned to hear an appeal has authority to act for the Board in all matters with respect to such appeal. Included in such authority is the authority to sign subpoenas and the power to authorize the Recorder of the Board to issue subpoenas pursuant to Section II of the Contract Disputes Act of 1978. (41 U.S.C. 610)

(b) An Administrative Judge may not act for the Board or participate in a decision if that Judge has participated directly in any aspect of the award or administration of the contract involved.

(c) Except for appeals considered under the expedited small claims or accelerated procedures, appeals are

assigned to a panel of three Administrative Judges of the Board. The decision of a majority of the panel shall constitute the decision of the Board.

§ 12-60.104 Ex Parte Communications.

Ex parte communications, that is, written or oral communications with the Board by or for one party only without notice to the other, are not permitted. No member of the Board or of the Board's staff shall consider, nor shall any person directly or indirectly involved in an appeal submit to the Board or to the Board's staff, off-the-record, any evidence, explanation, analysis, or advice, whether written or oral, regarding any matter at issue in an appeal. This provision does not apply to consultation between Board members nor to *ex parte* communications concerning the Board's administrative functions or procedures.

§ 12-60.201 General.

(a) It is the intent of these rules to provide for the just and inexpensive determination of appeals without unnecessary delay. It is the objective of the Board's preliminary procedures to encourage full disclosure of relevant and material facts, and to discourage surprise. Each specified time limitation is a maximum, and should not be fully used if the action described can be accomplished in a shorter period. The Board may extend any time limitation for good cause and in accordance with legal precedent.

(b) Ordinarily, the appellant has the burden of proof.

§ 12-60.202 Rules of procedure.

These rules shall govern the procedures in all contract disputes appealed to the Board.

Preliminary Procedures

Rule 1. *How to appeal a contracting officer's decision.* (a) Notice of an appeal shall be in writing and mailed or otherwise furnished to the Board within 90 days from the date of receipt of a contracting officer's decision. A copy of the notice shall be furnished to the contracting officer from whose decision the appeal is taken.

(b) Where the contractor has submitted a claim of \$50,000 or less to the contracting officer and has requested a written decision within 60 days from receipt of the request, and the contracting officer has not done so, the contractor may file a notice of appeal as provided in subparagraph (a) above, citing the failure of the contracting officer to issue a decision.

(c) Where the contractor has submitted a claim in excess of \$50,000 to the contracting officer and the contracting officer has failed to issue a decision within a reasonable time, the contractor may file a notice of appeal as

provided in subparagraph (a) above, citing the failure to issue a decision.

(d) Upon docketing of appeals filed pursuant to (b) or (c) above, the Board, at its option, may stay further proceedings pending issuance of a final decision by the contracting officer within the time fixed by the Board or order the appeal to proceed without the contracting officer's decision.

Rule 2. *Contents of notice of appeal.* A notice of appeal must indicate that an appeal is intended and identify the contract by number, the administration, bureau, or office concerned with the dispute, the decision from which the appeal is taken, and the amount in dispute, if known. The notice of appeal shall be signed by the appellant, or by an officer of an appellant corporation or member of an appellant firm, or by an appellant's authorized representative or attorney.

Rule 3. *Docketing of Appeals.* Following receipt by the Board of the original notice of an appeal, the appellant and the contracting officer are promptly notified of its receipt and docketing by the Board, and the Board furnishes a copy of these rules to the appellant.

Rule 4. *Preparation, contents, organization, forwarding, and status of appeal file.* (a) *Duties of contracting officer.* Within 30 days after receipt of notice that an appeal has been docketed, the contracting officer shall assemble and transmit to the Board, with a copy to the appellant and the Government attorney, an appeal file consisting of all documents pertinent to the appeal, including:

- (1) The contracting officer's decision and findings of fact from which the appeal is taken;
- (2) The contract, including pertinent specifications, modifications, plans, and drawings;
- (3) All correspondence between the parties pertinent to the appeal, including the letters of claim in response to which the decision was issued;
- (4) Transcripts of any testimony taken during the course of proceedings, and affidavits or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board; and
- (5) Any additional information considered pertinent.

(b) *Duties of the appellant.* Within 30 days after receipt of a copy of the appeal file assembled by the contracting officer, the appellant may supplement the file by transmitting to the Board any additional documents which it considers pertinent to the appeal and shall furnish two copies of such documents to the Government attorney.

(c) *Organization of appeal file.* Documents in the appeal file may be originals or legible facsimiles or authenticated copies, and shall be arranged in chronological order where practicable, numbered sequentially, tabbed, and indexed to identify the contents of the file. The contracting officer's final decision and the contract shall be conveniently placed in the file for ready reference.

(d) *Lengthy documents.* The Board may waive the requirement of furnishing to the other party copies of bulky, lengthy, or out-of-size documents in the appeal file when a party has shown that doing so would impose

an undue burden. At the time a party files with the Board a document as to which such a waiver has been granted, the other party shall be notified that the document or a copy is available for inspection at the offices of the Board or of the party filing the document.

(e) *Status of documents in appeal file.* Documents contained in the appeal file are, without further action by the parties, a part of the record upon which the Board renders its decision, unless a party objects to the consideration of a particular document at or before the hearing or, if there is no hearing on the appeal, before closing the record. If objection to a document is made, the Board rules upon its admissibility into the record as evidence in accordance with Rules 17 and 23.

Rule 5. *Service of documents.* A copy of every written communication submitted to the Board shall be sent to every party to the dispute. Such communications shall be sent by delivering in person or by mailing, properly addressed with postage prepaid, to the opposing party or, where the party is represented by counsel, to its counsel. Each communication with the Board shall be accompanied by a statement, signed by the originating party, saying when how, and to whom a copy was sent.

Rule 6. *Computation and extension of time limits.* (a) *Computation.* Except as otherwise provided by law, in computing any period of time prescribed by these rules, or by any order of the Board, the day of the event from which the designated period of time begins to run is not included, but the last day of the period is included unless it is a Saturday, Sunday, or a legal holiday, in which case the period runs to the end of the next business day.

(b) *Extensions.* All requests for extensions of time shall be submitted to the Board in writing and shall state good cause for the request.

Rule 7. *Motions.* Motions are made by filing an original and two copies, together with any supporting papers, with the Board. Motions may also be made upon the record, in the presence of the other party, at a prehearing conference or a hearing. The Board considers any timely motion:

- (a) For extensions of time (Rule 6) or to cure defaults;
- (b) To require that a pleading be made more definite and certain, or for leave to amend a pleading (Rule 14);
- (c) To dismiss for lack of jurisdiction (Rule 34); to dismiss for failure to prosecute (Rule 36); or to grant summary relief because a pleading does not raise a justiciable issue;
- (d) For discovery, for interrogatories to a party, or for the taking of depositions (Rules 18 and 19);
- (e) To reopen a hearing; or to consider a decision (Rule 33); or
- (f) For any other appropriate order.

The Board may, on its own motion, initiate any such action by notice to the parties. Unless a longer time is allowed by the Board, a party who receives a motion shall file any answering material within 20 days after the date of receipt. The Board makes an order on each motion that is appropriate and just to the parties, and upon conditions that will promote efficiency in disposing of the appeal.

The Board may permit oral hearing or argument on motions, and may require the presentation of briefs.

Election of Procedures

Rule 8. *Appellant's Election of Procedures.*

(a) In every appeal the appellant is required to elect one of the following procedures:

- (1) A hearing under the Board's regular procedure (Rule 12);
- (2) A hearing under the small claims (expedited) procedure, if applicable (Rule 9);
- (3) A hearing under the Board's accelerated procedure, if applicable (Rule 10); or
- (4) Submission on the written record without a hearing (Rule 11). Also see Rule 11 with respect to the Government's right to waive a hearing.

(b) The small claims (expedited) procedure is available where the amount in dispute is \$10,000 or less (Rule 9). The accelerated procedure is available where the amount in dispute is \$50,000 or less (Rule 10). In deciding whether the small claims (expedited) or accelerated procedure is applicable to an appeal, any question regarding the amount in dispute shall be determined by the Board.

(c) The appellant's election of one of the above procedures shall be made in writing within 30 days after receipt of the appeal file unless such period is extended by the Board for good cause shown. The election may not be withdrawn except with permission of the Board and for good cause shown.

Rule 9. *The small claims (expedited) procedure.* (a) The small claims (expedited) procedure provides for simplified rules of procedure to facilitate the decision of an appeal, whenever possible, within 120 days from the date such procedure is elected.

(b) Promptly upon receipt of an appellant's election of the small claims (expedited) procedure, the assigned Administrative Judge shall take the following actions, if feasible, in an informal meeting or a telephone conference with both parties:

- (1) Identify and simplify the issues in dispute;
- (2) Establish a simplified procedure appropriate to the particular appeal;
- (3) Determine whether the appellant desires a hearing and, if so, fix a time and place for the hearing; and
- (4) Establish a schedule for the expedited resolution of the appeal.

(c) The subpoena power set forth in Rule 24 is available for use under the small claims (expedited) procedure.

(d) The filing of pleadings, motions, discovery proceedings or prehearing procedures will be permitted only to the extent consistent with the requirement of conducting the hearing at the scheduled time and place or, if no hearing is scheduled, of closing the record at an early time so as to permit a decision of the appeal within the 120 day time limit. The Board, in its discretion, may impose shortened time periods for any actions required or permitted under these rules, necessary to enable the Board to decide the appeal within the 120 day time limit, allowing whatever time, up to 30 days, that the Board considers necessary for the

preparation of the decision after closing the record and the filing of briefs, if any.

(e) Decisions in appeals considered under the small claims (expedited) procedure are rendered by a single Administrative Judge. Written decisions of appeals considered under this procedure are short and contain only summary findings of fact and conclusions. If there has been a hearing on the appeal, the presiding Administrative Judge may, in his discretion, hear closing oral arguments of the parties and then render an oral decision on the appeal. Such decision will include summary findings of fact and conclusions. Whenever such an oral decision is rendered, the Board subsequently furnishes the parties with a written transcript of the oral decision for record and payment purposes and to commence the time period for the filing of a motion for reconsideration under Rule 33.

(f) Decisions of the Board under the small claims (expedited) procedure shall have no value as precedent. Except in cases of fraud, decisions rendered under the small claims (expedited) procedure may not be appealed by either party.

Rule 10. *The accelerated procedure.* (a) The accelerated procedure makes available a procedure where the appeal is resolved, whenever possible, within 180 days from the date such procedure is elected.

(b) Promptly upon receipt of appellant's election of the accelerated procedure, the assigned Administrative Judge shall take the following actions, if feasible, in an informal meeting or a telephone conference with both parties:

- (1) Identify and simplify the issues in dispute;
- (2) Establish a simplified procedure appropriate to the particular appeal;
- (3) Determine whether a hearing is desired and, if so, fix a time and place for a hearing; and
- (4) Establish a schedule for the accelerated resolution of the appeal.

(c) The subpoena power set forth in Rule 24 is available for use under the accelerated procedure.

(d) The filing of pleadings, motions, discovery proceedings or prehearing procedures will be permitted only to the extent consistent with the requirement of conducting the hearing at the scheduled time and place or, if no hearing is scheduled, the closing of the record at an early time so as to permit decision of the appeal within the 180 day limit. The Board, in its discretion, may impose shortened time periods for any actions required or permitted under these rules, necessary to enable the Board to decide the appeal within the 180 day limit, allowing whatever time, up to 30 days, that the Board considers necessary for the preparation of the decision after closing the record and the filing of briefs, if any.

(e) Decisions in appeals considered under the accelerated procedure are rendered by a single Administrative Judge, subject to the concurrence of the Vice-Chair or another assigned Administrative Judge. In the event of an even division on an appeal, the Chair participates in the decision of the appeal. Written decisions of appeals considered

under this procedure are short and contain only summary findings of fact and conclusions. In cases where the amount in dispute is \$10,000 or less and there has been a hearing under the accelerated procedure the presiding Administrative Judge may, in his discretion, hear closing oral arguments of the parties and then render an oral decision on the appeal. Such decision will include summary findings of fact and conclusions. Whenever such an oral decision is rendered the Board subsequently furnishes the parties with a written transcript of the oral decision for record and payment purposes and to commence the time period for the filing of a motion for reconsideration under Rule 33.

(f) Decisions of the Board under the accelerated procedure are published and have precedential value. Such decisions may be appealed by either party.

Rule 11. *Submission of appeal without a hearing.* Either party may elect to waive a hearing and to submit its case upon the record before the Board pursuant to Rule 17. Submission of a case without hearing does not relieve a party from the necessity of proving the facts supporting that party's allegation or defenses. Affidavits, depositions, admissions, answers to interrogatories, and stipulations may be employed to supplement other documentary evidence in the Board record. The Board may permit such submission to be supplemented by oral argument (transcribed if requested) and by briefs in accordance with Rule 26.

Rule 12. *Regular Procedure.* Under the regular procedure the parties are required to file pleading with the Board (Rule 13). The regular procedure affords the parties an opportunity to make full use of prehearing and discovery procedures. Hearings under the regular procedure are conducted in the same manner as before courts of the United States in non-jury trials.

General Procedures

Rule 13. *Pleadings.* (a) *Complaint.* Under the regular procedure the appellant, within 30 days after receipt of the appeal file, shall file with the Board an original and two copies of a complaint setting forth simple, concise, and direct statements of each of its claims, alleging the basis, with appropriate reference to contract provisions, for each claim, and the dollar amount claimed. This pleading shall fulfill the generally recognized requirements of a complaint, although no particular form is required. If the complaint is not filed within 30 days and, in the opinion of the Board, the issues before the Board are sufficiently defined, the appellant's claim and notice of appeal may be deemed to be its complaint, and the parties are so notified.

(b) *Answer.* Within 30 days from receipt of said complaint or a Rule 13(a) notice from the Board, the Government shall file with the Board an original and two copies of an answer, setting forth simple, concise, and direct statements of the Government's defense to each claim asserted by appellant. This pleading shall fulfill the generally recognized requirements of an answer and shall set forth any affirmative defenses as appropriate. Should the answer not be filed within 30 days, the Board may, in its

discretion, enter a general denial on behalf of the Government, and the parties are so notified.

Rule 14. *Amendments of pleadings or record.* (a) *Pleadings.* The Board upon its own initiative or upon application by a party may, in its discretion, order a party to make a more definite statement of the complaint or answer, or to reply to an answer. The application for such an order suspends the time for responsive pleading. The Board may, in its discretion and within the proper scope of the appeal, permit either party to amend its pleadings upon conditions just to both parties.

(b) *Record.* When an issue within the proper scope of the appeal, but not raised by the pleadings, is tried by consent of the parties or by permission of the Board, the issue is treated in all respects as if it had been raised. A motion to amend the pleadings to conform to the proof may be made but is not required. If evidence is objected to at a hearing on the ground that it is not within an issue raised by the pleadings, it may be admitted in evidence, but the objecting party may be granted a continuance if necessary to enable him to meet such evidence.

Rule 15. *Prehearing briefs.* The Board may, in its discretion, require the parties to submit prehearing briefs in any case in which a hearing has been elected under the regular procedure. (Rule 8(a)(1)). If the Board does not ask for briefs, either party may, upon notice to the other party, furnish a prehearing brief to the Board. In any case where a prehearing brief is submitted, it shall be furnished so as to be received by the Board at least 15 days prior to the date set for hearing, and a copy shall be furnished simultaneously to the other party.

Rule 16. *Prehearing Conference.* (a) Whether the case is to be submitted on the written record or be heard under any hearing procedure, the Board, upon its own initiative or upon the application of any party, may call upon the parties to appear before the Board for a conference to consider:

- (1) The simplification, clarification or severing of the issues;
- (2) The possibility of obtaining stipulations, admissions, agreements on documents, understandings on matters already of record, or similar agreements which will avoid unnecessary proof;
- (3) The limitation of the number of expert witnesses and the avoidance of similar cumulative evidence;
- (4) The possibility of agreement disposing of all or any of the issues in dispute; and
- (5) Such other matters as may aid in the disposition of the appeal.

The result of the conference is set forth in an appropriate memorandum or order which becomes part of the record.

(b) In addition to the procedures provided in subparagraph (a) above, the Board may direct any party whose claim is based in whole or in part on books of account or other records to furnish to the other party a statement showing the items and figures intended to be proved, with adequate reference to the books and records from which such figures were taken, and to make

all such books and records available for examination by the other party. The Board may also direct any party to whom such a statement of items and figures has been submitted (1) to make an examination of such books or records or waive challenge of the accuracy of the statement submitted as reflecting the contents of such books and records; and (2) to furnish the submitting party a schedule or schedules showing the results of such examination, with specific references to the books and records from which such figures were taken, where the examining party's results and figures are different from those contained in the statement submitted.

Rule 17. *The record of the appeal.* (a) *Contents.* The record upon which the Board's decision is rendered consists of the appeal file (Rule 4) and, if filed, the pleadings, prehearing conference memoranda or orders, prehearing briefs, depositions and interrogatories and answers to interrogatories received in evidence, admissions, stipulations, transcripts of hearings, hearing exhibits, post-hearing briefs, and documents which the Board has specifically made a part of the record. The record is available for inspection at the offices of the Board at all reasonable times.

(b) *Time of closing the record.* Except as the Board, in its discretion, may otherwise order, no proof is received in evidence after completion of the hearing of the appeal or, in cases submitted on the record, after notification by the Board that the case is ready for decision.

(c) *Weight of the evidence.* The weight to be attached to any evidence of record rests within the sound discretion of the Board. The Board may require any party to submit additional evidence on any matter relevant to the appeal.

Discovery Procedures

Rule 18. *Discovery—Depositions.* (a) *General policy and protective orders.* The parties are encouraged to engage in voluntary discovery procedures. In connection with any deposition or other discovery procedure, the Board may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, undue burden or expense. Such orders may include limitations on the scope, method, time and place for discovery, or provisions for protecting the secrecy of confidential information or documents.

(b) *Obtaining a deposition.* After an appeal has been docketed, the Board upon application of any party and for good cause shown, may order the taking of testimony of any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for purposes of discovery. The application for such order shall specify whether the purpose of the deposition is for discovery or for use as evidence.

(c) *Orders on depositions.* The time, place, and manner of taking depositions are as mutually agreed upon by the parties, or failing such agreement, as ordered by the Board.

(d) *Use as evidence.* No testimony taken by deposition is considered as part of the evidence in the hearing of an appeal unless and until such testimony is offered and received in evidence at the hearing. Testimony by deposition is not ordinarily received in evidence if the deponent is present and can testify at the hearing. However, any deposition may be used to contradict or impeach the testimony of a witness at the hearing. In cases submitted on the record, the Board, in its discretion, may receive depositions as evidence to supplement the record.

(e) *Expenses.* Each party bears its own expenses associated with discovery, unless, in the discretion of the Board, the expenses are apportioned otherwise.

(f) *Subpoenas.* Where appropriate, any party may request that a subpoena be issued under the provisions of Rule 24.

Rule 19. *Interrogatories to parties, admission of facts, and inspection of documents.* (a) *Interrogatories to parties.* After an appeal has been filed with the Board, a party may serve on the other party written interrogatories to be answered separately in writing, signed under oath, and returned within 30 days of receipt by the answering party. Within 30 days after service the answering party may object to any interrogatory and the Board determines the extent to which the interrogatory is permitted.

(b) *Admission of facts.* After an appeal has been filed with the Board, a party may serve upon the other party a written request for the admission of specified facts. If the request is to admit the genuineness of any document or the truth of any facts stated in a document, a copy of such document shall be served with the request. Within 30 days after receipt of the request, the party served shall answer each requested admission of facts or file objections thereto in writing. The factual propositions set out in the request are deemed admitted, if the answering party, willfully and without good cause, fails to respond to the request for admissions.

(c) *Production and inspection of documents.* After an appeal has been filed with the Board, a party may serve upon the other party a written request to produce and permit the inspection and copying or photographing of any designated documents, not privileged, regarding any matter which is relevant to the appeal.

(d) Any discovery under this rule shall be subject to the provisions of Rule 18(a) with respect to general policy and protective orders.

Hearings

Rule 20. *Time and place of hearing.* Hearings will be held at such places determined by the Board to best serve the interests of the parties and the Board. Hearings will be scheduled at the discretion of the Board with due consideration to the regular order of appeals, the requirements for accelerated or expedited procedures and other pertinent factors. On request of any party and for good cause, the Board, in its discretion, change the date of hearing.

Rule 21. *Notice of hearing.* The parties are given at least 15 days notice of the time and place set for hearing. In scheduling hearings, the Board gives due regard to the desires of the parties and the requirement for the just and inexpensive determination of appeals without unnecessary delay. Notices of hearings shall be promptly acknowledged by the parties.

Rule 22. *Unexcused absence of a party.* The unexcused absence of a party at the time and place set for hearing is not an occasion for delay. In the event of such absence, the presiding Administrative Judge may order the hearing to proceed or, in his discretion, may invoke the provisions of Rule 36.

Rule 23. *Nature of hearings.* (a) Hearings are as informal as may be reasonable and appropriate under the circumstances. At the hearing the parties may offer such relevant evidence as they deem appropriate and as would be admissible under the Federal Rules of Evidence, subject, however, to the sound discretion of the presiding Administrative Judge in supervising the extent and manner of presenting the evidence. In general, admissibility is governed by relevancy and materiality. Copies of documents, affidavits, or other evidence not ordinarily admissible under judicial rules or evidence, may be admitted in the discretion of the presiding Administrative Judge. The weight to be attached to evidence presented in any particular form is within the discretion of the Board, taking into consideration all the circumstances of the particular case. Stipulations of fact agreed upon by the parties may be used as evidence at the hearing. The parties may stipulate the testimony that would be given by a witness if the witness were present. In any case, the Board may require evidence in addition to that offered by the parties.

(b) Witnesses before the Board are examined orally under oath or affirmation, unless the facts are stipulated, or the Board otherwise orders.

Rule 24. *Subpoenas.* (a) *General.* Every subpoena shall state the name of the Board and the title of the appeal and shall command each person to whom it is directed to attend and give testimony, and, if appropriate, to produce books, papers, documents, or tangible things, at a time and place therein specified. Subpoenas (including those calling for the production of documentary evidence) are signed by an Administrative Judge or by the Recorder of the Board but otherwise left blank when furnished to the party requesting the subpoena. The party to whom the subpoena is issued shall fill it in before service.

(b) *Subpoenas for attendance at hearing.* At the request of any party, subpoenas for the attendance of witnesses at a hearing are issued. A subpoena requiring the attendance of a witness at a hearing may be served at any place within 100 miles of the place of hearing specified in the subpoena; but the Board, upon proper application and for good cause shown by the requesting party, may authorize the service of a subpoena at any other place.

(c) *Subpoenas for production of documentary evidence.* A subpoena, in

addition to requiring attendance to testify, may also command any person to whom it is directed to produce books, papers, documents, or tangible things designated therein. A subpoena calling for such production shall show the general relevance and reasonable scope of the evidence sought.

(d) *Subpoenas for taking depositions.* Subpoenas in aid of depositions (including those for the production of books, papers, documents, or tangible things) may be issued by the Recorder of the Board upon a showing that the parties have agreed to, or the Board has ordered, the taking of depositions under Rule 18. The service of subpoenas in aid of depositions shall be limited to the city or county wherein the witness resides or is employed or transacts business in person. If a subpoena is desired at other locations, a specific ruling of the Board is required.

(e) *Requests to Quash or Modify.* Upon written request by a person under subpoena or by a party, made within 10 days after service but in any event not later than the time specified in the subpoena for compliance, the board may (1) quash or modify the subpoena if it is unreasonable and oppressive or for other good cause shown, or (2) require the person in whose behalf the subpoena was issued to advance the reasonable costs of producing subpoenaed books and papers. Where circumstances require, the Board may act upon such a request at any time after a copy has been served upon the opposing party.

(f) *Foreign country.* A subpoena directed to a witness in a foreign country shall issue under the circumstances and in the manner, and be served as provided in 28 U.S.C. § 1781-1784.

(g) *Service.* A subpoena may be served by a United States Marshal or a deputy, or by any person not a party who is not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by tendering the subpoena to that person with the fees for one day's attendance and the mileage allowed by law (28 U.S.C. 1821). When the subpoena is issued on behalf of the United States or an officer or agency of the United States, fees and mileage need not be tendered.

(h) *Fees.* The party at whose instance a subpoena is issued shall be responsible for the payment of witness fees and mileage, as well as the fees and mileage of the officer who serves the subpoena. The failure to make payment of such charges on demand may be deemed by the Board as a sufficient ground for striking the testimony of the witness and the books, papers, documents, or tangible things produced.

(i) *Contumacy or refusal to obey a subpoena.* In case of contumacy or refusal to obey a subpoena by a person who resides, is found, or transacts business within the jurisdiction of a United States District Court, the Board will apply to the court through the Attorney General of the United States for an order requiring the person to appear before the Board or a member thereof to give testimony or produce evidence or both. Any failure of any such person to obey the order of the court may be punished by the court as a contempt thereof.

Rule 25. *Copies of papers.* When books, records, papers or documents have been received in evidence, a true copy or any material or relevant part may be substituted during or at the conclusion of the hearing.

Rule 26. *Posthearing briefs.* Posthearing briefs may be submitted upon such terms as may be agreed upon by the parties and the presiding Administrative Judge at the conclusion of the hearing.

Rule 27. *Transcript of proceedings.* Testimony and argument at hearings are reported verbatim, unless the Board otherwise orders. Transcripts or copies of the proceedings are supplied to the parties and others at such rates as may be fixed by the Board.

Rule 28. *Withdrawal of exhibits.* After a decision has become final, the Board, in its discretion, upon request and after notice to the other party, may direct or permit the withdrawal of all or part of original exhibits. The substitution of true copies of exhibits or photographs of physical objects may be required by the Board as a condition of withdrawal.

Parties

Rule 29. *Representation of the Parties.* (a) *The Appellant.* An individual appellant may appear before the Board in person, a corporation by an officer, a partnership or joint venture by a member, or any of these by an attorney-at-law admitted to practice before the highest court of the District of Columbia or any State, Commonwealth, or territory of the United States. An attorney representing an appellant shall file a written notice of appearance with the Board.

(b) *The Government.* Government counsel may, in accordance with their authority, represent the interest of the Government before the Board. They shall file notices of appearance with the Board.

Rule 30. *Third Party Practice.* The Board, on its own motion, or on the motion of any party may (1) notify any and all persons with legal capacity to sue and be sued and who appear to have an interest in the subject matter of any pending appeal to appear as a party or parties and assert their interest therein; or (2) on motion of the Government may summon any such third person or persons against whom the Government may be asserting a claim or contingent claim for recovery of money paid by the Government in respect of the transaction or matter which constitutes the subject of the appeal to appear as a party or parties and defend their interest, if any, in such appeal. Such motion if made by an appellant shall be filed at the time the complaint is filed; if made by the Government it shall be filed on or before the date on which the Government is required to answer.

Rule 31. *Settlement.* A dispute may be settled at any time before the Board renders its decision by the appellant filing a written notice withdrawing the appeal or by written stipulation of the parties settling the dispute. Proceedings may be suspended while the parties are considering settlement.

Decisions and Reconsideration of Decisions

Rule 32. *Decisions.* Decisions of the Board are rendered in writing. Copies are forwarded simultaneously to both parties. The rules of the Board and all final orders and decisions are open for public inspection at the offices of the Board in Washington, D.C. Decisions of the Board are made solely upon the record, as described in Rule 17.

Rule 33. *Motion for reconsideration.* A motion for reconsideration shall set forth specifically the grounds relied upon to sustain the motion and shall be filed within 30 days from the date of receipt of a copy of the Board's decision.

Dismissals and Sanctions

Rule 34. *Dismissal for lack of jurisdiction.* Any motion addressed to the jurisdiction of the Board shall be promptly filed. A hearing on the motion may be afforded on application of either party. The Board has the right at any time on its own motion to raise the issue of its jurisdiction to proceed with a particular case and do so by an appropriate order, affording the parties an opportunity to be heard.

Rule 35. *Dismissal without prejudice.* When the Board is unable to proceed with disposition of an appeal for reasons not within its control, such appeal is placed in a suspense status. In any case where such suspension has continued, or it appears that it may continue for a period in excess of one year, the Board may dismiss the appeal without prejudice to its restoration to the Board's docket when the cause of suspension has been eliminated. Unless either party or the Board acts to reinstate any appeal so dismissed within three years from the date of dismissal, the dismissal is automatically converted to a dismissal with prejudice without further action by the parties or the Board.

Rule 36. *Dismissal for failure to prosecute or defend.* Whenever a record discloses the failure of any party to file documents required by these rules, respond to notices or correspondence from the Board, comply with orders of the Board, or otherwise indicates a party's intention not to continue the prosecution or defense of an appeal, the Board may issue an order requiring the offending party to show cause why the appeal should not be dismissed or granted, as appropriate.

Rule 37. *Sanctions.* If any party fails or refuses to obey an order issued by the Board, the Board may make such order in regard to the failure as it considers necessary to the just and expeditious conduct of the appeal, including dismissal with prejudice.

Court Remands

Rule 38. *Remand from court.* Whenever any court remands a case to the Board for further proceedings, each of the parties shall, within 20 days of such remand, submit a report to the Board recommending procedures to be followed so as to comply with the court's order. The Board considers the reports and enters special orders governing the handling of the remanded case. To the extent the court's directive and time limitations permit, such orders conform to these rules.

§ 12-60.203 Effective date.

This part shall apply to all appeals relating to contracts entered into on or after March 1, 1979, and at the contractor's election, to appeals relating to earlier contracts with respect to claims pending before the contracting officer on March 1, 1979, or initiated thereafter. In addition, the Board may, upon notice to the parties, apply any part of these rules not mandated by the Contract Disputes Act of 1978 to any appeal pending under the prior rules of the Board; however, if any party to such an appeal objects, in writing, within 20 days after receipt of notice, these rules do not apply unless the Board finds their application to be just and warranted. The contract appeals rules in effect prior to the publication of these rules shall remain in effect for the completion of appeals pending on March 1, 1979.

Issued in Washington, D.C., on July 10, 1979.

Brock Adams,

Secretary of Transportation.

[FR Doc. 79-22742 Filed 7-25-79; 8:45 am]

BILLING CODE 4810-62-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5672

[S-2708]

California; Reservoir Site Restoration No. 52; Revocation of Reservoir Site Reserve No. 17; Opening of Lands in Powersite Reserve No. 328 and Power Projects Nos. 2179 and 2467 Subject to Section 24 of the Federal Power Act

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: This order revokes Reservoir Site Reserve No. 17 and opens certain lands in Powersite Reserve No. 328 and Power Projects Nos. 2179 and 2467 to the provisions of section 24 of the Federal Power Act of June 10, 1920. This action is required in order to permit an exchange between the Bureau of Land Management and the Merced Irrigation District.

EFFECTIVE DATE: July 26, 1979.

FOR FURTHER INFORMATION CONTACT: Louis B. Bellesi, 202-343-8731.

By virtue of the authority contained in section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by the Federal Power Commission (now Federal Energy

Regulatory Commission) in DA-1098-California, it is ordered as follows:

1. The Executive Order of June 8, 1926, creating Reservoir Site Reserve No. 17 is hereby revoked as to the following described land:

Mount Diablo Meridian

T. 3 S., R. 15 E.,
Sec. 35, SW ¼ SE ¼.

2. The Executive Order of December 31, 1912, creating Powersite Reserve No. 328 and Power Projects Nos. 2179 and 2467, filed February 21, 1963, and April 24, 1964, respectively, are hereby opened subject to the provisions of Section 24 of the Federal Power Act as to the following described land:

Mount Diablo Meridian

T. 4 S., R. 15 E.,
Sec. 14, E ½ SE ¼ SE ¼;
Sec. 23, NE ¼ SE ¼.

T. 5 S., R. 15 E.,
Sec. 3, lots 7 through 15 (formerly lot 2 in SW ¼ SE ¼) and that part of the bed of the Merced River fronting lots 10 and 11.

The areas described above aggregate 121.50 acres in Mariposa County.

In DA-1098-California, the Federal Power Commission (now the Federal Energy Regulatory Commission) determined that the value of the above lands in sections 14 and 23, T. 4 S., R. 15 E., and section 3, T. 5 S., R. 15 E., for power development purposes will not be injured or destroyed by location, entry, or selection under the public land laws subject to the provisions of section 24 of the Federal Power Act and further subject to the inclusion in the instrument of conveyance of a covenant binding upon the patentee, its successor or assigns, providing that the use of the land will not endanger health, create a nuisance, or otherwise be incompatible to the overall operation of Power Projects Nos. 2179 and 2467.

3. The State of California has waived its preference right for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818, as to the 40-acre tract.

4. This revocation is in furtherance of consummating an exchange under section 206 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2756, 43 U.S.C. 1716, which will benefit a Federal land program.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, Room E-2841, Federal

Office Building, 2800 Cottage Way, Sacramento, California 95825.

July 19, 1979.

Guy R. Martin,

Assistant Secretary of the Interior.

[FR Doc. 79-23075 Filed 7-25-79; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Ch. II

[Public Land Order 5667]

Alaska

Correction

In FR Doc. 79-19896 appearing on page 37508 in the issue of Wednesday, June 27, 1979 make the following change.

On page 37508, in the third column the paragraph numbered "1." should have read:

1. As listed in paragraph 1.a. on page 5433, column 3, *Federal Register*, Vol. 44, of PLO 5657 under Copper River Meridian, the description for T. 28 N., R. 6 E., Sections 1 through 34, is modified to read T. 28 N., R. 6 E., Sections 31 through 34. The description for T. 28 N., R. 7 E., Sections 1 through 20 is deleted. These modifications are made to reflect the T. 28 N., Rs. 6 and 7 E., are protracted as partial townships and do not contain all the sections listed in the original description.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[SS Docket No. 78-394; FCC 79-422]

Private Land Mobile Radio Service; Changing the Method for Assigning Frequencies for Trunked Systems in the 806-866 MHz Bands

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: The Federal Communications Commission (FCC) amends its rule to modify the frequencies assignment procedures for trunked radio systems in 806-821 and 851-866 MHz bands. The existence rule requires FCC to assign frequency for trunked radio systems in this band sequential. This sequential assignment caused intermodulation interference and reduced efficiency when these systems combine several transmitters on one antenna. The new rule permits FCC to assign frequency for trunked radio systems according non-sequential block arrangement of frequency. This new arrangement will lessen intermodulation interference and

will increase the efficiency of trunked radio systems.

EFFECTIVE DATE: August 27, 1979.

ADDRESSES: Federal Communications Commission, 1919 M Street N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Neal Pike, Private Radio Bureau (202) 632-6497.

Report and Order

Adopted: July 12, 1979.

Released: July 18, 1979.

In the matter of amendment of § 90.365 (§ 89.751) of the Commission's Rules to change the method for assigning frequencies for trunked systems in the 806-866 MHz bands, SS Docket No. 78-394. See 44 FR 22079, April 13, 1979.

1. On January 8, 1979, the Commission released a Notice of Proposed Rule Making proposing rule changes which would provide for modified procedures in the assignment of frequencies for trunked radio systems from those now specified in the rules.¹ The Notice was published in the *Federal Register* on January 18, 1979 (44 FR 3736). In the case of trunked systems, it has been alleged that the present method of assigning frequencies may result in significant increase in system costs, in high levels of intermodulation interference, and perhaps more significantly, in reduction of system efficiency. Therefore, the Commission studied a number of alternative frequency assignment methodologies for trunked systems in the 806 to 821 MHz and 851 to 866 MHz bands.

2. Primary consideration was given to retaining the sequential assignment procedure now prescribed by the rules but this was rejected because of the reasons given. A random assignment procedure was also considered but was not chosen because it would be difficult to administer; it provides little incentive to applicants to reduce interference by using interference suppression techniques and it is inconsistent with the overall plan for 800 MHz under which the Commission assigns

¹ The rules adopted by the Commission in Docket 18202 provide for the assignment of frequencies for trunked and for conventional radio systems in the 806-821 and 851-866 MHz bands sequentially; that is, assign the first assignable frequency followed by the next assignable frequency and proceed to the end of the band in a uniform 25 kHz channeling. Section 90.365(a) (formerly 88.751(a)). See also *Land Mobile Radio Service, Second Report and Order*, Docket 18262, 46 FCC 2d 732 (1974). The rules also provide for the assignment of a minimum of five and a maximum of twenty contiguous channel pairs for the operation of trunked systems authorized in the Public Safety, Industrial, and Land Transportation Radio Services in the 806-822 and in the 851-866 MHz bands.

frequencies in a standard assignment plan.

3. A third alternative was studied and, while somewhat complex, it does retain many of the advantages of sequential assignment procedures. In addition, it permits system configurations which reduce intermodulation problems and allows the use of more effective and efficient combining techniques.

4. This procedure divides the 200 channels now allocated for trunked systems into ten twenty-channel blocks with ten channel spacing between frequencies within the block. It further arranges each twenty-channel block into five-channel groups with forty channel spacings between successive frequencies in each five-channel group. In addition, it arranges these five-channel groups into four blocks with twenty-channel spacings and one, ten-channel spacing between five-channel groups. It offsets successive twenty-channel blocks by one channel to form ten, twenty-channel blocks. This arrangement is shown in the appendix (Table 1 and 2) and was proposed by the Commission in the Notice.

5. Comments were filed by five parties² and there were no reply comments filed. All parties supported the proposed changes to the rules. Motorola suggested that there was, however, one ambiguity in the proposed procedure that should be resolved. This ambiguity arises from presently type accepted limitations. They point out correctly that there had been no equipment submitted for type acceptance that encompasses more than five (5) channels. As a result, they said all grants up to now have been limited to five channels although applicants had requested twenty channels which is permitted by the rules. They maintain that while it appears logical to place a five-channel limit on grants now, it would be prudent to plan frequency assignments in anticipation of future need.

6. They felt that to do this most efficiently, attempts should be made to avoid the assignment of adjacent channels to the same systems as long as possible. They suggested that this could best be accomplished by assigning the first applicant the first five channels from Block 1 (see Appendix Table 1), the second applicant in the same geographic area should be assigned the first five channels from Block 2, etc. This pattern would presumably permit the later assignment of additional channels in a

given system from the same block and would not result in the assignment of adjacent channels to the same system.

7. We agree that under the proposed rule certain situations may result in adjacent channels being assigned to applicants who later expand their systems and that intermodulation problems may result from such assignments. However, instead of modifying the proposed procedures as Motorola suggested we prefer to modify the procedures in such a way as to provide the flexibility to avoid intermodulation interference where it appears justified. Such changes are reflected in the appendix.

8. Finally, we realized that this approach is a compromise derived from many possible formulations and that there could be other similar methodologies that achieve the same objectives. Therefore, in the Notice, we requested comments with suggestions on any other reasonable methods. No comments were received addressing this matter so we are taking no further action to explore other methodologies.

9. In view of the foregoing, the Commission concludes that the public interest will be served by amending the rules to permit a modified procedure for assigning frequencies for trunked radio systems in the 806 to 821 and 851 to 866 MHz frequency bands.

10. Accordingly, it is ordered, pursuant to the authority contained in Section 4(i) and 303 of the Communications Act of 1934, as amended, that Part 90 of the Commission's rules is amended effective August 27, 1979, as set forth in the attached appendix. It is further ordered that this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission,
William J. Tricarico,
Secretary.

Appendix

PART 90—PRIVATE LAND MOBILE RADIO SERVICE

Part 90 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. In § 90.365 (formerly 89.751), paragraph (a)(1) and (h) are amended to read as follows:

§ 90.365 Selection and assignment of frequencies.

(a) The Commission will select and assign frequencies for operation in the 806–821 MHz and 851–866 MHz bands.

(1) For trunked systems, the assignment of frequencies will be made,

in accordance with applicable loading criteria and in accordance with the following.

(i) All Mobile and control station frequencies will be chosen from those allocated in the 806–821 MHz band. Mobile station transmitting frequencies will commence with Channel No. 1 at 820.9875 MHz, followed by Channel No. 2 at 820.9625 MHz, and proceed to the band end with uniform 25 kHz channeling; and base station transmitting frequencies will be selected by the Commission and assigned from those allocated in the 851–866 MHz band, commencing with Channel No. 1 at 865.9875 MHz, followed by Channel No. 2 at 865.9625 MHz, and proceed to the band end with uniform 25 kHz channeling.

(ii) The spacing between associated mobile and base station frequencies shall be, uniformly, 45 MHz.

(iii) Frequencies will be assigned in minimum groups of five and in maximum groups of twenty channel pairs in accordance with Table 1 and Table 2.

(iv) Five channel applicants will be assigned the next available five-channel group provided that such an assignment does not result in adjacent channels being assigned in the same system. In this case an alternate five-channel assignment will be made.

(v) Ten and fifteen channel applicants will be given the next two or three five-channel groups provided they are within the same block.

(vi) Each applicant for twenty-channels will be assigned the next successive complete twenty-channel block.

(vii) Frequencies for applicants for other than 5, 10, 15, or 20 channels will be selected by taking integral multiples of 5 channels within a twenty-channel block with the remaining channels (less than 5 channels) made up from any groups already broken. If these are unavailable, a group will be broken.

(h) See table below:

Table 1.—Channelization for Trunked Systems
(Other than Chicago)

Block	Channels
1	1-41-81-121-161 21-61-101-141-181 11-51-91-131-171 31-71-111-151-191 2-42-82-122-162 22-62-102-142-182 12-52-92-132-172 32-72-112-152-192 3-43-83-123-163 23-63-103-143-183 13-53-93-133-173 33-73-113-153-193 4-44-84-124-164
2	
3	
4	

Table 1.—Channelization for Trunked Systems—
Continued

Block	Channels
5	24-64-104-144-184 14-54-94-134-174 34-74-114-154-194 5-45-85-125-165 25-65-105-145-185 15-55-95-135-175 35-75-115-155-195 6-46-86-126-166 26-66-106-146-186 16-56-96-136-176 36-76-116-156-196 7-47-87-127-167 27-67-107-147-187 17-57-97-137-177 37-77-117-157-197 8-48-88-128-168 28-68-108-148-188 18-58-98-138-178 38-78-118-158-198 9-49-89-129-169 29-69-109-149-189 19-59-99-139-179 39-79-119-159-199 10-50-90-130-170 30-70-110-150-190 20-60-100-140-180 40-80-120-160-200

Table 2.—Chicago Plan

Block	Channels
1	1-2-3-4-5
2	6-7-8-9-10
3	11-47-83-119-155 24-65-101-137-173 20-56-92-128-164 38-74-110-146-182 12-48-84-120-156 30-66-102-138-174 21-57-93-129-165 39-75-111-147-183 13-49-85-121-157 31-67-103-139-175 22-58-94-130-166 40-76-112-148-184 14-50-86-122-158 32-68-104-140-176 23-59-95-131-167 41-77-113-149-185 15-51-87-123-159 33-69-105-141-177 24-60-96-132-168 42-78-114-150-186 16-52-88-124-160 34-70-106-142-178 25-61-97-133-169 43-79-115-151-187 17-53-89-125-161 35-71-107-143-179 26-62-98-134-170 44-80-116-152-188 18-54-90-126-162 36-72-108-144-180 27-63-99-135-171 45-81-117-153-189 19-55-91-127-163 37-73-109-145-181 28-64-100-136-172 46-82-118-154-190 191 through 200
4	
5	
6	
7	
8	
9	
10	
11	
12	

¹ Reserved for contiguous assignments or as a frequency pool for assignments to systems with odd number of channels.

[FR Doc. 79-23010 Filed 7-25-79; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. No. 79-14]

Organization and Delegation of Powers and Duties; Office of Small and Disadvantaged Business Utilization

AGENCY: Department of Transportation.
ACTION: Final rule.

SUMMARY: This change establishes an Office of Small and Disadvantaged Business Utilization and delegates to the Director, Office of Small and Disadvantaged Business Utilization authority currently vested in the Assistant Secretary for Administration by regulation. This authority relates to the management and operation of the Department's logistic, procurement, and grant programs as they pertain to the utilization of small and disadvantaged businesses. The authority being delegated to the Director, Office of Small and Disadvantaged Business Utilization will be used to implement policies consistent with the requirements of sections 8 and 15 of the Small Business Act, as amended by section 221k of Pub. L. 95-507 (15 U.S.C. 637 and 644). This authority is being delegated to the Director, Office of Small and Disadvantaged Business Utilization because the functions set out in sections 8 and 15 can be more effectively administered by the Director since he or she will be better able to handle issues that relate directly to procurement and grant programs for small and disadvantaged businesses.

EFFECTIVE DATE: July 26, 1979.

FOR FURTHER INFORMATION CONTACT: Marie Birnbaum, Office of Management Planning, Office of the Secretary, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426-3234.

SUPPLEMENTAL INFORMATION: Since this Amendment relates to Departmental management, procedures and practices, it is excepted from notice and public procedure requirements and it may be made effective immediately.

Discussion of Delegation

Section 1.23(e) of Title 49 of the Code of Federal Regulations contains a Delegation of Authority from the Secretary to the Assistant Secretary for Administration to be responsible for every facet of logistic and procurement policy.

Sections 8 and 15 of the Small Business Act, as amended by Section

221k of Pub. L. 95-507 (15 U.S.C. 637 and 644), authorize the establishment in each Federal agency having procurement powers of an office to be known as "Office of Small and Disadvantaged Business Utilization". The Director of each such office derives the authority to manage his or her office from sections 8 and 15. Under these sections, the Director is appointed by the head of the agency and is responsible only to the head or his or her deputy.

An Office of Small and Disadvantaged Business Utilization is being established within the Department of Transportation, and the Director of that office will be responsible for implementation and execution of the functions and duties set out in sections 8 and 15 of the Small Business Act as they relate to the Department. This amendment delegates the subject authority to the Director, Office of Small and Disadvantaged Business Utilization. In addition, the amendment revises the delegation of authority to the Assistant Secretary for Administration concerning the responsibility for logistic and procurement policy to specifically exclude responsibility for the implementation of sections 8 and 15 of the Small Business Act.

Accordingly, Part 1 of Title 49 of the Code of Federal Regulations (49 CFR Part 1) is amended as follows, effective July 26, 1979.

§ 1.22 [Amended]

1. In § 1.22, paragraph (a) is amended by striking the word "and" directly following "the Office of Public Affairs"; and inserting directly after the words "the Office of Deepwater Ports", the words "and the Office of Small and Disadvantaged Business Utilization".

2. In § 1.23, paragraph (e) is amended by inserting the words "(Except for the responsibility listed in paragraph (n) of this section)" directly following "logistic and procurement policy", and by adding a new paragraph (n) to read as follows:

§ 1.23 Spheres of primary responsibility.

(n) Office of Small and Disadvantaged Business Utilization. Implementation and execution of the Department's functions and duties under sections 8 and 15 of the Small Business Act, as amended (15 U.S.C. 637 and 644).

3. Subpart C is amended by adding § 1.65, to read as follows:

§ 1.65 Delegation to the Director of the Office of Small and Disadvantaged Business Utilization.

The Director of the Office of Small and Disadvantaged Business Utilization

²Comments were filed by ANCOM, Inc., Robert L. Bingham of Elgin, Illinois, Motorola, Inc., Repco, Inc., and the Special Industrial Radio Service Association, Inc. (SIRSA).

is delegated the authority to exercise Departmental responsibility for the implementation and execution of functions and duties under sections 8 and 15 of the Small Business Act, as amended (15 U.S.C. 637 and 644).

(Sec. 9(e)(1), Department of Transportation Act (49 U.S.C. 1657(e)(1)))

Issued in Washington, D.C., on July 13, 1979.

Brock Adams,

Secretary of Transportation.

[FR Doc. 79-22741 Filed 7-25-79; 8:45 am]

BILLING CODE 4910-62-M

49 CFR Part 1

[OST Docket No. 1: Amdt. No. 97-13]

Delegation to the Commandant of the Coast Guard

AGENCY: Department of Transportation.

ACTION: Final rule.

SUMMARY: This change delegates to the Commandant of the Coast Guard certain authority vested in the President by the Outer Continental Shelf Lands Act Amendments of 1978 which has been delegated to the Secretary. This authority relates to the determination of financial responsibility of offshore facilities required in conjunction with offshore oil pollution liability and compensation. These powers and duties are delegated to the Commandant since they are an integral part of the implementation and administration of the Offshore Oil Pollution Compensation Fund.

EFFECTIVE DATE: This Amendment is effective on July 26, 1979.

FOR FURTHER INFORMATION CONTACT: CDR Richard J. Beaver, USCG, Title III Fund Project Staff, Room 6125, Department of Transportation, Nassif Building, 400 Seventh St., SW., Washington, D.C. 20590. (202) 426-2606.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental rules of organization, it is exempted from notice and public procedure requirements and it may be made effective in fewer than 30 days after publication in the Federal Register.

Drafting Information

The principal persons involved in drafting this rule are: Commander Richard J. Beaver, USCG, Title III Fund Project Staff, U.S. Coast Guard; and Richard P. Clark, Office of the General Counsel, Office of the Secretary.

Discussion of Delegation

Effective January 12, 1979, the Secretary delegated to the Commandant of the Coast Guard all Secretarial functions, with certain, limited, exceptions, relating to the oil pollution compensation and liability scheme of Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 670-685, 43 U.S.C. 1811-1824). See 44 FR 2395, Jan. 11, 1979.

On February 26, 1979, the President, in Executive Order 12123 (44 FR 11199), delegated to the Secretary of Transportation the authority vested in the President by Section 305(b) of Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 678, 43 U.S.C. 1815(b)) pertaining to the determination of financial responsibility relating to offshore facilities. In keeping with the basic delegation of Secretarial functions relative to the implementation and administration of Title III to the Coast Guard, this additional duty is delegated to the Coast Guard.

Accordingly, Part I of Title 49 of the Code of Federal Regulations is amended by revising § 1.46(z) to read as follows:

§ 1.46 Delegations to the Commandant of the Coast Guard.

* * * * *

(z) Carry out the functions vested in the Secretary by the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) as amended, Titles III and VI of the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372), and Executive Order 12123, except as reserved by § 1.44(p) and delegated by § 1.53(a)(6).

(Sec. 9(e), Department of Transportation Act, (49 U.S.C. 1657(e)))

Issued in Washington, D.C., on June 8, 1979.

Brock Adams,

Secretary of Transportation.

[FR Doc. 79-22740 Filed 7-25-79; 8:45 am]

BILLING CODE 4910-62-M

Federal Highway Administration

49 CFR Part 399

[BMCS Docket No. MC-58-1; Amendment No. 78-8]

Step, Handhold, and Deck Requirements on Commercial Motor Vehicles

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Federal Motor Carrier Safety Regulations (FMCSR) by establishing a

new Part 399 (Employee Safety and Health Standards) which was proposed in the Federal Register on Thursday, March 2, 1978 (43 FR 8566). Subparts A through K are being reserved. Subpart L prescribes step, handhold, and deck requirements on commercial motor vehicles (trucks and truck-tractors) having a high profile cab-over-engine (COE) configuration, for entrance, egress and back of cab access, manufactured on and after April 1, 1982. Studies have shown that slips and falls are a substantial problem in the motor carrier industry. These requirements are intended to enhance the safety of motor carrier employees.

EFFECTIVE DATE: April 1, 1982.

FOR FURTHER INFORMATION CONTACT:

Mr. Gerald J. Davis, Chief, Driver Requirements Branch, Regulations Division, Bureau of Motor Carrier Safety, (202-426-9767), or Mr. Gerald M. Tierney, Attorney, Motor Carrier and Highway Safety Law Division, (202-426-0346), Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking (NPRM) was published on February 15, 1978, at 43 FR 6638, setting forth a proposal to issue specific requirements for steps, handholds and deck plating to afford individuals increased stability and safety while entering and exiting the cab and while performing work-related duties on other areas of the vehicle.

Many of the commenters, especially manufacturers, felt the NPRM was design-restrictive. Consequently, on March 14, 1979, a public briefing was held to advise those who responded to the NPRM as to what our intended final rule would include. All commenters to the rulemaking docket were invited to participate in the briefing, other interested parties also attended.

While our intention has not altered, we have revised the proposed requirements to specify a performance-type regulation. The basic theory, to provide a system which allows a person to have three limbs on the system at all times, including transition between immediate positions, is being adopted. The standard will apply to all truck-tractors having a high profile cab-over-engine (COE) configuration.

Background

For a number of years the Bureau of Motor Carrier Safety (BMCS) has been collecting information on injuries to motor carrier employees involving slip

and fall injuries in, on or about commercial motor vehicles. In addition to the statistical information collected in the "Slips and Falls" survey and analysis for the period of December 1975 to August 1976, the BMCS surveyed and observed drivers during a week-long roadside inspection with respect to their use of steps and handholds and their experience in the area of slips and falls. The information in the above cited report coupled with the roadside inspection information has led to the conclusion that vehicles with better step, deck, and handhold systems must be provided to protect these employees and provide a safer workplace.

Several sources have been consulted during this entire rulemaking effort. The references include: (1) "Slips and Falls—Truck Related Personal Injury Accidents," Bureau of Motor Carrier Safety, Federal Highway Administration, Washington, D.C., July 1977; (2) Liberty Mutual Study, "Driver Falls While Mounting or Dismounting Cab Over Engine Tractor Trailer Cabs," by Charles H. Irvine, March 10, 1967; (3) Recommended Practice No. 404,

American Trucking Association, Regular Common Carrier Conference, Cab and Driver Study Group, January 1976; (4) SAE Handbook 1977; (5) SAE J833a, "U.S.A. Male and Female Physical Dimensions for Construction and Industrial Equipment Design," Part II, SAE Handbook 1977; (6) U.S. Army Specification, Body Van, Vehicle-Mounted, General Specifications for MIL-8-13207D (ME) CS1966, August 12, 1976; (7) Human Factors Engineering Guide to Equipment Design, Joint Army-Navy-Air Force Steering Committee, 1972; (8) H. W. Stoudt, A. Damon, R. A. McFarland and J. Roberts, "Weight, Height and Selected Body Dimensions of Adults, United States 1960-62," Public Health Service Publication No. 1000, Series 11, No. 8, U.S. Government Printing Office, Washington, D.C.; (9) A. Damon, H. W. Stoudt and R. A. McFarland, "The Human Body in Equipment Design," Harvard University Press, Cambridge, Mass., 1966, p. 317; (10) C. T. Morgan, J. Cook, A. Chapanis, M. Lund, "Human Engineering Guide to Equipment Design," McGraw-Hill, New York, N.Y., 1963, p. 535; (11) D. Jack, H. Estes and P. Grace, "Operator Grip Strength" Automotive Safety Research Office, BSBS, Ford Motor Company, Dearborn, MI, May 19, 1978 (copy attached as Annex III); (12) Garrett, J. W., "The Adult Human Hand: Some Anthropometric and Biochemical Considerations," *Human Factors*, 1971 13(2) (17-131).

Comments to the Notice of Proposed Rulemaking

Basically, the comments to the NPRM supported the objective of providing a safer means of getting in and out of a commercial motor vehicle. Commenters felt BMCS had taken a realistic approach to a complex problem. However, many felt the proposed regulation was too design restrictive and would inhibit manufacturers in possibly designing a better system in future years. The comments expressed the view that it was unnecessary to specify certain areas such as openings, finger entrapment and sharp edges, since these areas would surely be taken into account by the manufacturers. The commenters generally agreed with the concept of initially applying the regulation to the high profile COE configuration. Several commenters, including drivers and driver groups felt the effective date should be immediate; one even suggested retrofit. Certain manufacturers commented that an effective date corresponding with normal model year change should be adopted.

The majority of commenters objected to the requirements set forth for front of cab access, contending there was no data substantiating a need for protection in this area. It was pointed out that there are very few times a driver is required to climb upon the front portion of a vehicle.

Although the Motor Vehicle Manufacturers Association, in their comments, did not totally agree that a regulation was the answer to the slip and fall problem, they developed an alternative approach to the original proposal. Their submitted alternative was based on general human performance criteria and describes minimum performance requirements to be met in designing a step, handhold, and deck system without imposing design restrictions.

Public Briefing

The requirements in the NPRM were not intended to be design restrictive. However, the overwhelming concern of the major truck manufacturers was that the proposed rule could restrict the manufacturers in the development of better designs in the future. Therefore, it was determined that a minimum performance standard, as opposed to a design standard, for step, handhold, and deck requirements, should be required.

Since this performance-oriented standard was considerably different from the proposed rule, the BMCS held a public briefing on March 14, 1979, in

which all commenters to the docket were invited to participate in the discussion of the final regulation before issuance. The proposed regulations was presented and comments and questions were entertained throughout the briefing. The main points discussed included: (1) definitions of high profile COE truck and truck tractors and slip resistance; (2) The decision to apply the regulation to one type tractor configuration first with the other tractor configurations and trailer area to follow; and (3) The placement of the new requirements in Part 399, Employee Safety and Health Standards, as opposed to part 393, Parts and Accessories Necessary for Safety Operation. The participants were then given additional time to comment in writing.

Generally, the commenters agreed that the proposed regulation discussed in the briefing was a great improvement over the NPRM.

Addressing the effective date of the regulation, one commenter requested an earlier date, another requested a date to coincide with the model year change. Currently, it is the BMCS' practice to make equipment rule changes effective April 1, or October 1 of each year. Therefore, we have chosen an effective date of April 1, 1982.

An objection was raised that the vertical height distance of the first step should be measured at Gross Vehicle Weight not unladen weight. However, since the measurement of height above ground in terms of an unladen vehicle defines the highest step condition, and it is not unusual that vehicles are driven many times empty, our position is that the vertical height distance of the first step should be measured at unladen weight.

An objection was raised as to whether the requirement that a three-point contact system, to obtain access to the back of cab, was a practicable performance standard. The commenter expressed concern that in order to accommodate a variety of configurations, manufacturers would have to do additional research and study. Since several manufacturers already provide a three-point contact system in this area, we see no reason why this requirement cannot be accommodated.

The question of overall vehicle width was raised. Specifically, would safety devices such as grab rail, mirrors, etc. be allowed to exceed the general 96-inch overall width requirement applicable to vehicles operating on the Interstate Highway System? This matter is

currently being considered under separate legal action.

Several commenters recommended that the definition of high profile COE be clarified. As requested, it has been redefined.

Discussion of Rule

This regulation applies to high profile COE trucks and truck-tractors manufactured on and after April 1, 1982. The high profile COE is being considered initially, since there is a greater potential risk of a slip or fall occurring on a vehicle having a floor height higher than the front tires of the vehicle.

There are several illustrations provided along with definitions, to indicate how to measure minimum performance criteria.

The step, deck, and handhold requirements have been established for any individual within the 5th and 95th percentiles of anthropometric measures as described by the 1962 Health Examination Survey, "Weight, Height, and Selected Body Dimensions of Adults, United States 1960-1962."

The 127 millimeter (5 inch) disc defining minimum foot accommodation approximates a 95th percentile male foot with boot. This rule addresses the necessary elements of step clearance depth and width simultaneously. The step strength requirement defines the vertical static load relative to an increment of step width thereby providing a maximum performance requirement for testing the material used. The strength requirements are needed to ensure that all handholds, steps, and decks will support not only the weight of the individual but meet certain rigidity requirements for purposes of stability.

Addressing size, shape and strength, each handhold shall be free of sharp edges, have an effective peripheral grip length that permits full grasp by any person and shall withstand a horizontal static load of at least 114 kilograms (250 pounds) uniformly distributed.

A test procedure has been established for purposes of insuring that the intent of this performance standard will be met.

This final rule is intended to enhance the safety of motor carrier employees. A copy of the final Regulatory Evaluation accompanying this rule, which examines the need for this regulatory action and assesses its potential impacts, is available in the public docket for review. As indicated later in this document, the FHWA has determined that the economic consequences of the final rule are not significant.

Accordingly, Title 49, Code of Federal Regulations, Subtitle B, Chapter III is amended by establishing a new Part 399 as follows:

PART 399—EMPLOYEE SAFETY AND HEALTH STANDARDS

Subpart A Through K [Reserved]

Subpart L—Step, Handhold, and Deck Requirements for Commercial Motor Vehicles

Sec.	Purpose and scope.
399.201	Purpose and scope.
399.203	Applicability.
399.205	Definitions.
399.207	Truck and truck-tractor access requirements.
399.209	Test procedures.
399.211	Maintenance.

Authority: 49 U.S.C. 304, 1655; 49 CFR 1.48 and 301.60.

Subpart L—Step, Handhold, and Deck Requirements for Commercial Motor Vehicles

§ 399.201 Purpose and scope.

This subpart prescribes step, handhold, and deck requirements on commercial motor vehicles. These requirements are intended to enhance the safety of motor carrier employees.

§ 399.203 Applicability.

This subpart applies to all trucks and truck-tractors, having a high profile cab-over-engine (COE) configuration, for entrance, egress and back of cab access, manufactured on and after April 1, 1982.

§ 399.205 Definitions.

Cab-over-engine (COE)—A truck or truck-tractor having all, or the front portion, of the engine under the cab.

COE—High profile—A COE having the door sill step above the height of the front tires.

Deck plate—A horizontal surface designed to provide a person with stable footing for the performance of work such as the connection and disconnection of air and electrical lines, gaining access to permanently-mounted equipment or machinery or for similar needs.

Door sill step—Any step normally protected from the elements by the cab door when closed.

Effective peripheral grip—Any shaped surface, free of sharp edges, in which a full grasp can be made to secure a handhold by a person.

Fingertip grasp—A handhold surface which provides a person contact restricted to finger segments 1 and/or 2

only; or which limits wrap-around closure of finger segment 1 with the palm of the hand to 90 degrees as shown in Illustration I.

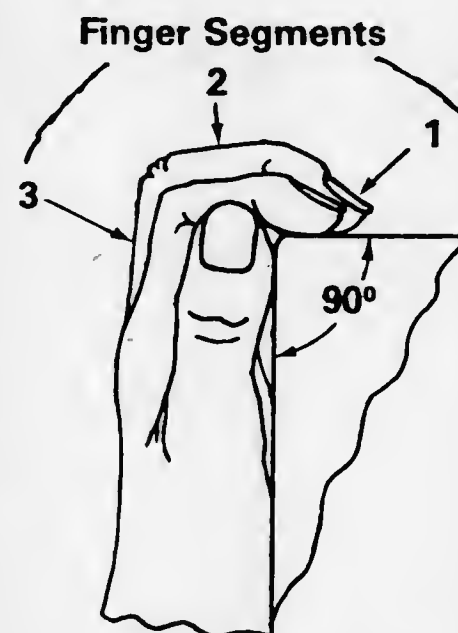


Illustration I
Fingertip Grasp

Full grasp—A handhold surface which provides a person contact with finger segments 2 and 3 and which provides space for finger segment 1 to wrap around toward the palm of the hand beyond the 90-degree surface restriction shown in Illustration I. The handhold need not require contact between fingers and thumb. For example, the hand position shown in Illustration II qualifies as full grasp.

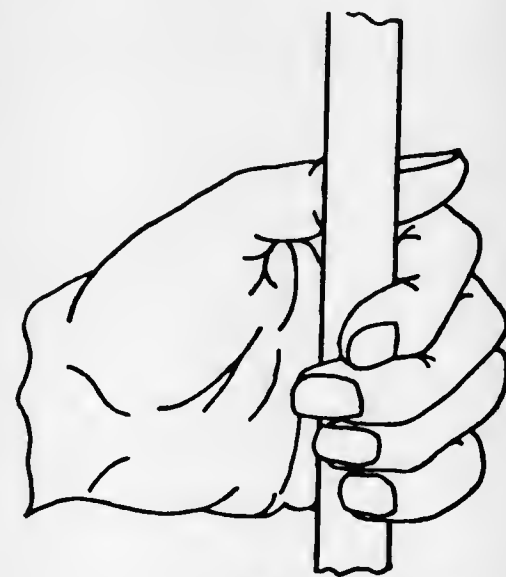


Illustration II
Full Grasp

Ground—The flat horizontal surface on which the tires of a motor vehicle rest.

Handhold—That which qualifies as providing full grasp if a person is able to find a hand position on the handhold which allows more than fingertip grasp.

Handprint—The surface area contacted by the hand when grasping a handhold. The size of this area is the width of the hand across the metacarpal and half the circumference of the handhold. The hand breadth of the typical person is 88.9 millimeters (3.5 inches).

Person—Any individual within the 5th percentile female adult through the 95th percentile male adult of anthropometric measures as described by the 1962 Health Examination Survey, "Weight, Height and Selected Body Dimensions of Adults, United States 1960-1962" which is incorporated by reference. It is Public Health Service publication No. 1000-Series 11—No. 8 and is for sale from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. When ordering use NTIS Accession No. PB 267174. It is also available for inspection at the Office of the Federal Register library, Room 8301, 1100 L Street, NW, Washington, D.C. 20408. This incorporation by reference was approved by the Director of the Federal Register on July 17, 1979. These materials are incorporated as they exist on the date of the approval and a notice of any change in these materials will be published in the Federal Register.

Slip resistant material—Any material designed to minimize the accumulation of grease, ice, mud or other debris and afford protection from accidental slipping.

§ 399.207 Truck and truck-tractor access requirements.

(a) **General rule.** Any person entering or exiting the cab or accessing the rear portion of a high profile COE truck or truck-tractor shall be afforded sufficient steps and handholds, and/or deck plates to allow the user to have at least 3 limbs in contact with the truck or truck-tractor at any time. This rule applies to intermediate positions as well as transition between intermediate positions. To allow for changes in climbing sequence, the step design shall include, as a minimum, one intermediate step of sufficient size to accommodate two feet. **Exception.** If air and electrical connections necessary to couple or uncouple a truck-tractor from a trailer are accessible from the ground, no step, handholds or deck plates are required to permit access to the rear of the cab.

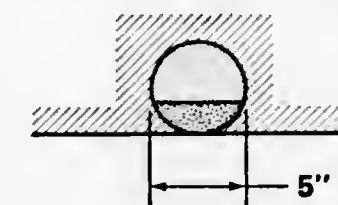
(b) **Performance requirements.** All high profile COE trucks or truck-tractors shall be equipped on each side of the vehicle where a seat is located, with a sufficient number of steps and handholds to conform with the requirements of paragraph (a) of this section and shall meet the performance requirements:

(1) **Vertical height.** All measurements of vertical height shall be made from ground level with the vehicle at unladen weight.

(2) **Distance between steps.** The distance between steps, up to and including the door sill step, shall provide any person a stable resting position which can be sustained without body motion and by exerting no more arm force than 35 percent of the person's body weight per grasp during all stages of entry and exit. This criterion applies to intermediate positions as well as transition between intermediate positions above ground level.

(i) When the ground provides the person foot support during entry or is the final step in the sequence during

Single - foot Accommodation



Two - foot Accommodation

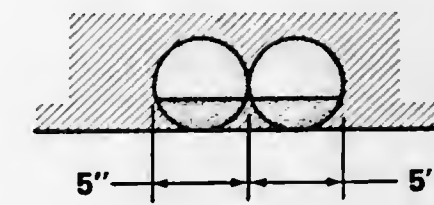


Illustration III
Foot Accommodation

Note.—The 127 millimeter (5 inch) disc is only intended to test for a minimum depth and width requirement. The step need not retain the disc at rest.

(5) **Step strength.** Each step must withstand a vertical static load of at least 204 kilograms (450 pounds) uniformly distributed over any 127 millimeter (5 inch) increment of step width.

(6) **Handhold location.** A handhold must be located within the reach of any person entering or exiting the vehicle.

(7) **Exterior mounting specifications for handholds.** Each handhold, affixed to the exterior of the vehicle, shall have at least 38 millimeters (1.5 inches) clearance between the handhold and the surface to which it is mounted for the distance between its mounting points.

(8) **Handhold size and shape.** Each handhold shall be free of sharp edges (minimum 1 millimeter [0.04 inch] radius) and have an effective peripheral

exit, and the step is 508 millimeters (20 inches) or more above ground, the stable resting position shall be achievable by the person using both hands to grasp the handhold(s) and requiring no more arm force than 35 percent of body weight per grasp.

(ii) The vertical height of the first step shall be no more than 609 millimeters (24 inches) from ground level.

(3) **Construction.** Each step or deck plate shall be of a slip resistant design which minimizes the accumulation of foreign material. Wherever practicable, a self-cleaning material should be used.

(4) **Foot accommodation.** Step depth or clearance and step width necessary to accommodate a climbing person are defined by using a minimum 127 millimeter (5 inch) diameter disc as shown in Illustration III.

(i) **Single foot accommodation.** The disc shall fit on a tread rung, or in a step recess, with no exterior overhang.

(ii) **Two-foot accommodation.** Two discs shall fit on a tread rung, or in a step recess, with no exterior overhang.

grip length that permits full grasp by any person.

(9) **Handhold strength.** Each handhold shall withstand a horizontal static load of at least 114 kilograms (250 pounds) uniformly distributed over the area of a hand print and applied away from the mounting surface.

(10) **Deck plates.** Deck plates shall be on the rear of a truck-tractor as necessary to couple or uncouple air and/or electrical connections.

(11) **Deck plate strength.** Each deck plate shall be capable of withstanding the vertical static load of at least 205 kilograms (450 pounds) uniformly distributed over a 127 millimeter (5 inch) diameter disc.

§ 399.209 Test procedures.

(a) The force exerted on a handhold will be measured using a handheld - spring scale or force transducer which can be attached to the vehicle and is

free to rotate into alignment with a person's hand position.

(b) Hand grasp will be evaluated by observing the handgrip of any individual who conforms with the definition of "person" appearing in § 399.205 of this subpart.

§ 399.211 Maintenance.

All steps, handholds, and/or deck plates required by this subpart shall be adequately maintained to serve their intended function.

Note.—The Federal Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. A regulatory evaluation is available for inspection in the public docket and may be obtained by contacting Mr. Gerald J. Davis of the program office at the address specified above.

Issued on: July 11, 1979.

Robert A. Kaye,

Director, Bureau of Motor Carrier Safety.

[FR Doc. 79-22782 Filed 7-25-79; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

Salmon Fisheries Off the Coasts of Washington, Oregon, and California; Emergency Regulation Implementing Fishery Management Plan

AGENCY: National Oceanic and Atmospheric Administration/Department of Commerce.

ACTION: Emergency Amendment of Regulations.

SUMMARY: This emergency rule amends final regulations issued on July 18, 1979 to implement the Fishery Management Plan for the Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California, as amended in 1979. This amendment responds to an order of the Federal District Court for the District of Oregon issued on July 23, 1979 to allocate additional salmon to Treaty Indian fishing grounds. The amendment further closes the fishery conservation zone north of Cape Falcon, Oregon to commercial salmon fishing from July 25 through August 3, and from September 1 through September 8. Therefore, the Assistant Administrator for Fisheries finds that an emergency involving the

salmon resource exists, and consequently public comment prior to the effective date of this rule is impractical, unnecessary and contrary to the public interest, and there is good cause for this rule to take effect on the date specified below.

EFFECTIVE DATE: July 24, 1979 until September 8, 1979.

FOR FURTHER INFORMATION CONTACT: Donald R. Johnson, Northwest Regional Director, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109, (206) 442-7575.

Accordingly, 50 CFR Part 661 is amended by revising paragraph (a)(1)(ii), and adding a new paragraph (f), to § 661.9 as follows:

§ 661.9 Commercial fishing.

(a) * * *

(1) * * *

(ii) The season for all salmon species, including coho, shall begin on July 1, 1979, and terminate on July 24; reopen on August 4, and terminate on August 31.

* * * * *

(f) *Recreational fishing restriction.* No person shall engage in recreational fishing for salmon during any period closed to commercial fishing for salmon in Management Area A while on a fishing vessel with troll gear on board.

(Pub. L. 94-265, 16 U.S.C. 1801 et seq.; 50 CFR 661.12)

Signed: July 24, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-23014 Filed 7-24-79; 10:50 am]

BILLING CODE 3510-22-M

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1036]

[Docket No. A0-179-A44]

Milk in the Eastern Ohio-Western Pennsylvania Marketing Area; Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: The hearing is being held to consider changes in the order that have been proposed by milk distributors and dairy farmer cooperatives. Some of the changes would increase the rate of funding for the advertising and promotion program and allow any producer who does not wish to participate in that program to request and receive a refund any month of the year. Another proposed change would eliminate the channeling of handler payments to producers and cooperatives through the market administrator unless the handler has been delinquent in making these payments three times within a calendar year. Proponents have indicated that these changes are needed to reflect current marketing conditions.

DATE: August 14, 1979.

ADDRESS: Holiday Inn, Pittsburgh Airport, 1406 Beers School Road, Coraopolis, Pennsylvania 15108.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6273.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing to be held at the Holiday Inn—Pittsburgh Airport, 1406 Beers School Road, Coraopolis, Pennsylvania 15108, beginning at 9:30 a.m., August 14, 1979,

with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Milk Marketing, Inc.

Proposal No. 1

Amend the funding rate for the advertising and promotion program from a 5 cent per hundredweight assessment to a rate determined yearly by multiplying the average of the monthly uniform prices for the twelve-month period ending April 30 by three-quarters of one percent and rounding to the nearest whole cent. The resulting figure would be the funding rate for the twelve-month period beginning with July of each year. This proposal would require conforming changes in several sections of the order.

Proposed by Greater Pittsburgh Dairy Industry Association and Meadow Brook Dairy Co.

Proposal No. 2

Eliminate the channeling of handler payments to producers and cooperatives through the market administrator unless the handler has been delinquent in making payments three times within a calendar year. A handler shall be considered delinquent when he has not made in full any of the payments due to a producer, a cooperative association or the market administrator by the dates specified in the order, except when the delinquency occurs inadvertently or unintentionally. The order shall provide rules and regulations for verification of payments made by handlers to

producers and cooperative associations. A handler who has been delinquent three times within a calendar year shall channel his payments through the market administrator until the handler has met all prescribed payment obligations for three consecutive months or for a shorter period if the market administrator is satisfied that the handler is in compliance.

The proposal includes revision of the order's payment dates for handlers who are not delinquent. For milk delivered to a handler by a producer during the first 15 days of the month a partial payment must be made by the end of the month. The final payment for milk is due by the 20th day of the following month or the fifth day after the market administrator announces the uniform price, whichever is later. A cooperative association authorized to collect payments for its members must be paid 2 days before payments are due to individual producers or by the fourth day after the handler receives the cooperative's bill, whichever is later. Handlers must pay a cooperative for milk on which the cooperative is a handler by the seventeenth day of the following month or by the fourth day after the handler receives the cooperative's bill, whichever is the later date.

Proposal No. 3

Modify § 1036.78 "Charges on overdue accounts" to provide that any unpaid obligation of a handler to cooperatives or independent producers, except when the delinquency or underpayment occurs inadvertently or unintentionally, shall be increased one percent beginning on the first day after the due date of such obligation, and such one percent shall be paid by a particular handler to the cooperatives or independent producers who were not timely paid.

Proposed by Eastern Milk Producers Cooperative Association, Inc.

Proposal No. 4

Amend the funding rate for the advertising and promotion program from a 5 cent per hundredweight assessment to a rate determined by the market administrator as soon as possible after October 15 by multiplying the average of the monthly uniform prices for the twelve-month period ending September 30 by three-quarters of one percent and

rounding to the nearest whole cent. The resulting figure would be the funding rate for the following calendar year. This proposal would require conforming changes in several sections of the order.

Proposal No. 5

1. Amend § 1036.120 (b), (c) and (d) as follows:

§ 1036.120 Procedure for requesting refunds.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first fifteen days of any month for milk to be marketed during the remainder of the calendar year beginning on the first day of the current month, or until said refund request is cancelled by the producer during said calendar year.

(c) A dairy farmer who first acquires producer status under this part after the fifteenth day of any month may, upon application filed with the market administrator pursuant to paragraphs (a) and (b) of this section, be eligible for refund on all his marketings against which an assessment is withheld for the period from the date of his first marketing as a new producer through the end of such calendar year. This paragraph also shall be applicable to all producers during the period between the effective date of this paragraph and the beginning of the first full calendar month for which the opportunity exists for such producer to request a refund pursuant to paragraph (b) of this section.

(d) A producer who, with respect to any month, has appropriately filed a request for refunds of advertising and promotion program assessments on his marketings of milk under another Federal order shall be eligible (on the basis of his request filed under the other order) for refunds with respect to his producer milk under this order against which an assessment is withheld.

2. In § 1036.121 revise paragraphs (a), (b) and (c), redesignate paragraphs (c) and (d) as paragraphs (d) and (e), and add a paragraph (f) as follows:

§ 1036.121 Duties of the market administrator.

(a) As soon as possible after October 15 of each year, compute the rate of withholding by multiplying the simple average of the monthly uniform prices for the 12-month period ending September 30 by three-quarters of one percent (.0075) and rounding the result to the nearest whole cent. This rate shall apply during the ensuing calendar year.

(b) As soon as possible after the rate of the withholding is computed pursuant to paragraph (a) of this section, notify in writing each producer currently shipping milk to handlers regulated by this part and any new producer who subsequently commences such shipments, of the withholding rate and the procedure by which refunds may be requested pursuant to § 1036.120.

(c) Set aside the amounts subtracted under § 1036.61(c-1) into an advertising and promotion fund separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amounts held in reserve to cover refunds pursuant to paragraphs (c) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to a producer the amount of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producer, but not in amounts that exceed the rate established pursuant to paragraph (a) of this section on the volume of milk of such producer for which deductions were made pursuant to § 1036.61(c-1).

(3) To each producer, on or before the twentieth day of each month, a refund for which the producer has made application pursuant to § 1036.120. Such refund shall be at the rate determined pursuant to paragraph (a) of this section for such producer's milk for which deductions were made pursuant to § 1036.61(c-1) for the second preceding month, less the amount of any refund otherwise made to the producer pursuant to paragraph (c)(2) of this section.

(f) Annually, conduct a referendum to determine representation on the Agency pursuant to § 1036.113(c).

Proposal No. 6

Amend § 1036.71 to provide that payments due to the market administrator from a cooperative association handler are offset against payments due to the cooperative pursuant to § 1036.73(c).

Proposed by National Farmers Organization

Proposal No. 7

To § 1036.71 add a paragraph (f) as follows:

§ 1036.71 Payments to the market administrator

(f) Payments due the market administrator from a cooperative association handler may be offset by payments determined by the market administrator to be due the cooperative association pursuant to § 1036.73(c).

Proposed by Producers Dairy Co.

Proposal No. 8

Eliminate the channeling of cooperative association payments to it's producers through the market administrator, if the cooperative pays it's members by the dates these payments would otherwise be due to the market administrator.

Proposed by the Dairy Division, Agricultural Marketing Service

Proposal No. 9

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, P.O. Box 30128, Cleveland, Ohio 44130, or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, DC 20250 or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture.
Office of the Administrator, Agricultural Marketing Service.
Office of the General Counsel.
Dairy Division, Agricultural Marketing Service (Washington office only).
Office of the Market Administrator, Eastern Ohio-Western Pennsylvania Marketing Area.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, DC, on: July 20, 1979.

William T. Manley,
Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-23111 Filed 7-25-79; 8:45 am]

BILLING CODE 3410-02-M

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 701]

Organization and Operations of Federal Credit Unions

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: This rule will revise the chartering and charter amendment policies and procedures for Federal credit unions and will provide for public comment on NCUA's chartering policies, practices, and procedures. The rule provides guidelines for use in chartering and developing Federal credit unions. The rule is also intended to cover the majority of new charter and charter amendment situations.

DATE: Comments must be received on or before October 1, 1979.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, Room 4202, 2025 M Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Jon W. Lander, Office of Examination and Insurance at the above address. Telephone (202) 254-8760.

SUPPLEMENTARY INFORMATION:

1. Background

The regulations and guidelines implementing NCUA's chartering policy have been under study for many months. As a result of that study, a number of changes in NCUA's charter regulations, guidelines, and organizing manual are being proposed.

NCUA's objective is a charter policy that is consistent, while at the same time sufficiently flexible to enable consideration of individual cases. Under this approach, no one situation will necessarily result in a change in the established policies. However, through this method, the Administration will be able to continue to test and evaluate its application of policy in line with the statute. NCUA encourages groups that desire credit union service to submit their requests for review by our staff. The administration staff will assist prospective groups to obtain charters.

The Administration also offers assistance to officials of Federal credit unions to obtain charter amendments.

The booklet, *Organizing a Federal Credit Union*, will be renamed *Chartering and Organizing Manual for Federal Credit Unions*. The Manual will be revised and kept current by means of numbered changes issued in accordance with regulatory requirements. Specific discussions of each type of common bond situation (occupational, associational, community) are provided as in the 1972 publication.

The revised Manual contains two sections. Chapters in Section I include basic information written specifically for those persons interested in credit unions or who wish to obtain credit union service through either a new Federal credit union charter or a charter amendment to an existing Federal credit union. Chapters in Section II include the more technical information concerning common bond, economic advisability, and investigation requirements.

2. Public Comment Procedure

In order to provide public comment on NCUA's chartering policies, practices, and procedures, notice is hereby given of completion of the *Chartering and Organizing Manual for Federal Credit Unions*. Copies of a draft of this publication will be forwarded to each State credit union regulatory authority and to state and national trade associations for their comments. A copy of the draft of the proposed Manual will be available upon request by any interested person. If you are interested in providing comments on the Manual, please forward your request to the following address and a copy will be mailed directly to you:

National Credit Union Administration, Office of Administration/Division of Office Services Publications, Washington, D.C. 20456.

In accordance with NCUA's Report on Implementation of Executive Order 12044—Improving Government Regulations, NCUA's regulatory analysis, *Studies in Federal Credit Union Charter Policies*, is also available upon request. Comments on the Manual and the Regulation must be received on or before October 1, 1979.

3. Highlights of the Proposed Manual

a. People Resources

The interest and ability of key people often make the difference between the success or failure of a new credit union. As part of the investigation of the character and fitness of subscribers, the organizer is required to assist the group

in selecting appropriate people to serve as the first group of officials. The qualifications to consider in selecting officials are discussed in Chapter 6 of the Manual.

Since the development of "people" resources (voluntarism) continues to be a major factor in the success of most credit unions, sophisticated services are not expected to be offered until the credit union officials have learned "the business" of operating a credit union. The officials elected by the members will decide when to offer additional services as their capital increases and their "people" resources are developed.

b. Common Bond

Membership in each Federal credit union is necessarily controlled or limited by Section 109 of the Federal Credit Union Act, which reads in part " . . . Federal credit union membership shall be limited to groups having a common bond of occupation or association, or to groups within a well-defined neighborhood, community, or rural district." NCUA and its predecessor agencies have developed chartering policies which from time to time are rewritten and updated to reflect changing social, commercial and economic conditions.

Over the years, various studies have been made of the "common bond" concept and chartering policies and practices of Federal and State credit union supervisory authorities. If any conclusion can be drawn from these studies, it is that the precise meaning of "common bond" differs from person to person and seems to change over time.

NCUA defines common bond as the sharing of some unifying factor or characteristic among persons which simultaneously links them together and distinguishes them from the general public. This unifying factor must be something more than an unfocused, generalized agreement on a given topic, or a common belief or philosophy on matters of general concern.

c. Economic Advisability

According to Section 104 of the FCU Act, NCUA is responsible for determining "the economic advisability of establishing the proposed credit union." Despite the importance of long term economic viability and even the presence of factors which would financially justify a new charter or charter amendment, the applicant must keep in mind that common bond criteria must be met first.

In evaluating the evidence that a credit union is likely to be an economic success, NCUA considers the field of

membership type (occupational, associational, or community) and factors such as location and convenience (payroll deductions versus cash payment or walk-in office service versus service by mail). In addition, the manual presents economic guidelines which help the applicant group itself decide whether to proceed with the completion of a charter application. The economic advisability investigation of proposed community charters is likely to be more extensive than that required for occupational or associational groups.

NCUA has retained the minimum potential membership guidelines for chartering a Federal credit union to enable a prospective group to decide whether they are capable of supporting a credit union within their particular common bond group. The minimums are based on NCUA's experience with well over 23 thousand charters and are subject to revision as economic circumstances change.

d. Overlap Policies

The common bond requirement for a Federal credit union charter ensures that each Federal credit union service a defined field of membership. However, it is not unusual for persons to be eligible for membership in more than one credit union since each common bond type has an equal opportunity to receive a charter under the Act. Because State authorities also have their own chartering policies, some overlap of credit union services exists now and will occur in the future.

NCUA will review the facts in each chartering situation to determine whether an overlap of credit union service should be permitted. The decision to permit an overlap in a given case will be based on economic advisability issues (materiality and economic impact) in addition to the common bond considerations mentioned in the preceding discussions.

e. Occupational Charter Policies

NCUA permits occupational charters based on a common bond of employment by the same employer, employment in certain related activities in the same general locality, or employment within a very limited specified area. All common bond principles that apply to occupational groups are contained in Section II, Chapter 3 of the Manual.

Two new Federal credit union field of membership groups are recognized in the revised Manual—Medical Groups and Combined Government Groups. There is a broader discussion and more examples of each charter group than in

the 1972 edition of the Manual, but the variety of charters permitted under occupational charter policies has not changed appreciably.

f. Associational Charter Policies

NCUA permits associational charters based on a common bond resulting from membership in an organization, participation in whose activities develops common loyalties, mutual benefits, and mutual interests. The common bond principles that apply to associational groups are contained in Section II, Chapter 4 of the Manual.

Two new Federal credit union field of membership groups are recognized in the revised Manual—Feminist Groups and Central Credit Union Groups. Community Act Program Groups have been removed from the Manual since these organizations may qualify for charters on a community basis.

More discussion and examples of each associational group type have been added to the revised Manual. However, the variety of the charters has not changed appreciably from the 1972 edition.

g. Community Charter Policies

NCUA permits community charters based on a common bond among persons who reside or work in a well-defined neighborhood, community, or rural district. Community common bond principles are presented in Section II, Chapter 5 of the Manual.

The term "community" more accurately reflects the type of residential charter authorized under Section 109 of the FCU Act.

The distinction between rural and urban community groups is based on Standard Metropolitan Statistical Areas (SMSAs) as defined by the Office of Management and Budget. The numerical 25,000 population limit has been removed from the policy. Removal of this limit necessitates a more extensive investigation of the field of membership and of a new charter's economic advisability. It is the applicant's responsibility to demonstrate that the area proposed for the field of membership represents a well-defined neighborhood, community, or rural district. An NCUA examiner will make an independent analysis of the applicant's economic advisability claims and proposed field of membership.

More guidelines have been added to the Manual for rural and urban community groups. Sample fields of membership have been expanded to reflect revised rural-urban distinctions, and examples of exclusion clauses and "work in" wording are provided. The

new Community Development Federal Credit Union charter policy is referred to in this chapter.

h. Investigation and Chartering Procedure

Chapter 6 of the Manual includes a comprehensive discussion of the organization procedure for Federal credit unions. Discussion has been expanded to clarify that the guidelines for investigating and chartering a new Federal credit union are intended to be flexible. Investigation requirements vary to some extent depending on the type of group applying for a charter (occupational, associational, or community). The listing of specific ineligible groups that appeared in the 1972 Manual edition has been deleted. Each potential Federal credit union will be evaluated on its own merits. If a group does not meet requirements, the specific reasons why will be provided to the applicant group as indicated in the proposed regulation.

The organizer is responsible for determining the accuracy of the information contained in or accompanying the investigation report. The organizer and the group will need to evaluate share pledges in specific detail. For all new community Federal credit unions, an NCUA examiner will conduct a separate investigation. The organizer is required to inform the group that the Regional Director may request additional information on any charter application in order to complete the investigation.

The new charter application form, NCUA 4014, is intended to serve a dual purpose. It requires a credit union's officials to establish initial operating goals for share capital to be reviewed by NCUA prior to chartering. The form can also be used by the officials to evaluate progress in the early months of operation. The form is intended to help officials learn credit union management processes critical to the success of a Federal credit union. Instructions for completing investigation reports have been removed from the revised Manual and are included on page 4 of the forms themselves.

i. Charter Amendments

Chapter 4, Section I of the Manual contains a discussion of the factors that officials of an existing Federal credit union should consider when requesting a charter amendment. A step-by-step listing of required information which applies to all occupational and associational charter amendment requests is included. Specific common bond principles which apply to new

charters and charter amendments are covered in Section II of the Manual for each field of membership type.

j. Standard "usual wording"

The standard "usual wording" included in a Federal credit union's field of membership is designed to provide credit union service to additional persons who share a common bond with the basic group, whether it be employees, association members, or residents. The Administration is presently considering adopting language that would define the "usual wording" phrases in a manner similar to that set forth below.

"Members of their immediate families" includes any relative by blood or marriage, or foster and adopted children, living under the same roof and in the same household with:

a. (In an occupational charter) a credit union member who is or was an employee of the employer(s) specified in the field of membership of the credit union;

b. (In an associational charter) a credit union member who is or was a member of the association(s) specified in the field of membership of the credit union;

c. (In a community charter) a credit union member who is or was a resident or is or was employed in the area specified in the field of membership of the credit union.

This family membership definition ties eligibility to only the first generation living under the same roof in the same household with a member who is or was a part of the basic sponsor group. This definition would permit family members of an employee, association member, or resident (who is a member of the FCU) to join the credit union while living under the same roof in the same household. Under current bylaw definitions, family members under the same roof in the same household may not join the FCU even though the employee member may still be employed by the same employer but at another location. Several Federal credit unions have adopted a bylaw amendment to include second generation family members (grandchildren, sons-in-law, daughters-in-law). Those Federal credit unions whose bylaws presently provide for this wording may continue to operate with their existing bylaw definition.

The pensioners or annuitants clause permits retirees to join any Federal credit union that serves the company from which they retired.

The spouses of persons who died while within the field of membership of

this credit union includes widows or widowers of deceased persons who either were members at the time of death or who were eligible for membership at the time of death.

Employees of this credit union includes persons who perform any service for the credit union, except in instances where:

a. The credit union for whom the persons perform the services does not have control of the wages and salary for such services, or

b. The credit union is paying for the services of an independent contractor for services to the credit union.

Accordingly, NCUA proposes to delete the Organizing Manual for Federal Credit Unions from 12 CFR 701.2 and 701.14 and revise 12 CFR 701.1 to read as set forth below.

July 20, 1979.
Lawrence Connell,
Chairman.

(Sec. 103, 84 Stat. 49 (12 U.S.C. 1753); Sec. 104, 84 Stat. 49 (12 U.S.C. 1754); Sec. 108, 84 Stat. 49 (12 U.S.C. 1758); Sec. 109, 84 Stat. 49 (12 U.S.C. 1759); Sec. 120, 73 Stat. 635 (12 U.S.C. 1766); and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).)

§ 701.1 Organizing a Federal credit union.

(a) Persons desiring to form a Federal credit union shall:

(1) Submit a charter application in accordance with the requirements of this regulation and guidelines contained in the *Chartering and Organizing Manual for Federal Credits Unions*.

(2) Select at least seven but not more than ten persons to be the subscribers. These subscribers must be from, and representative of, the group constituting the field of membership.

(b) The subscribers shall:

(1) Determine by meetings, personnel contacts, or by survey:

(i) The number and general location of those people who intend to support the credit union by pledging a portion of their savings to be paid into the credit union within 30 days after the charter has been approved; and

(ii) The dollar volume of such pledges.

(2) Select at least five qualified persons who agree to serve on the board of directors, three qualified persons who agree to serve on the credit committee, and three qualified persons who agree to serve on the supervisory committee.

(c) A charter-organization meeting and the first meeting of officials shall be held in accordance with guidelines presented in the *Chartering and Organizing Manual for Federal Credit Unions*.

(d) The completed charter applications—Investigation Report,

Application and Agreement for Insurance of Accounts, Organization Certificate, Report of Official and Agreement to Serve (completed by each official), and Management Report for New Federal Credit Unions—shall be submitted to the appropriate regional office of the National Credit Union Administration.

(e) The investigation documentation for a charter application or charter amendment must establish that the following requirements have been met:

(1) That the proposed field of membership conforms to common bond principles:

(i) NCUA defines common bond as the sharing of some unifying factor or characteristic among persons that simultaneously links them together and distinguishes them from the general public. This unifying factor must be something more than an unfocused, generalized agreement on a given topic, or a common belief or philosophy on matters of general concern.

(ii) Occupational Federal credit unions may be chartered on the basis of a common bond of employment by the same employer, employment in certain related activities in the same general locality, or employment within a very limited specified area.

(iii) Associational Federal credit unions may be chartered on the basis of a common bond resulting from membership in an organization, participation in whose activities develops common loyalties, mutual benefits, and mutual interests.

(iv) Community Federal credit unions may be chartered on the basis of a common bond among persons who reside or work in a well-defined neighborhood, community, or rural district.

(2) That the economic advisability of establishing and insuring the proposed Federal credit union or amending the field of membership of an existing Federal credit union is supported in accordance with the requirements of this regulation and guidelines contained in the *Chartering and Organizing Manual for Federal Credit Unions*.

(3) That any overlap of credit union service is supported in accordance with the guidelines in the *Chartering and Organizing Manual for Federal Credit Unions*.

(4) That the general character and fitness of the subscribers is supported in accordance with the guidelines in the *Chartering and Organizing Manual for Federal Credit Unions*.

(5) For community charters, that the applicant has published a notice of intent to charter a community Federal

credit union in one newspaper of general circulation for three successive days in the geographic area to be served by the credit union. The notice shall state that any comments are to be provided in writing to the appropriate Regional Office of NCUA within 30 days of the last date of the notice. The notice must be included with the applicant's other written documents and reports.

(f) Unless otherwise specified by the officials, standard "usual wording" is included in the field of membership. The following clauses are considered standard:

(1) "Spouses of persons who died while within the field of membership of this credit union";

(2) "Employees of this credit union";

(3) "Persons retired as pensioners or annuitants from the above employment";

(4) "Members of their immediate families"; and

(5) "Organizations of such persons."

(g) All new Federal credit union charters and all charter amendments shall be approved or disapproved in accordance with the requirements and guidelines set forth in this regulation and the *Chartering and Organizing Manual for Federal Credit Unions*. If a charter application or charter amendment is disapproved, the officials will be advised in writing what:

(1) Common bond requirement(s) were not met;

(2) Economic factor(s) were not met;

(3) Corrective measure(s) are necessary in order to meet requirements; and

(4) Alternative(s) the group may wish to consider.

[FR Doc. 79-22904 Filed 7-25-79; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Chapter I]

[Summary Notice No. PR-79-7]

Petitions for Rule Making; Summary of Petitions Received and Dispositions of Petitions Denied

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part

11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and be received on or before: September 24, 1979.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Petition Docket No. —, 800

Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-24), Room 916, FAA Headquarters Building (FOB 10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on July 20, 1979.
Carl B. Schellenberg,
Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Rulemaking

Docket No.	Petitioner	Description of the rule requested
DESCRIPTION OF RULE		
19348	Department of the Navy	The United States Navy has submitted a request to establish an Airport Traffic Area 14 CFR Part 93 Special Rule for Willow Grove, Pennsylvania Naval Air Station (NAS).
PETITIONER'S REASONS FOR RULE		
		The United States Navy has advised the Federal Aviation Administration of several near midair collision incidents and unauthorized landings by civil aircraft at Willow Grove Naval Air Station to support its need for a 14 CFR Part 93 Special Rule. The Navy cited that Warrington and Turner Field Airports are located in the Willow Grove NAS Airport Traffic Area, and that operations from these airports present a potential for a midair collision because pilots operating to and from Warrington and Turner Field Airports are not required to contact the Willow Grove tower under the provisions of 14 CFR Section 91.87.

Petitions for Rulemaking: Denied

None during the period from June 23 through July 20, 1979.

[FR Doc. 79-23004 Filed 7-25-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 78-PC-2]

Rescission of Hawaiian Reporting Points and Airway Segments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to rescind the LOBBS and RISES reporting points and eight airway segments that are no longer required in the Hawaiian airspace system. This action would reduce chart clutter and possible confusion in flight planning.

DATES: Comments must be received on or before August 27, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Pacific-Asia Region, Attention: Chief, Air Traffic Division, Docket No. 78-PC-2, Federal Aviation Administration, P.O. Box 4009, Honolulu, Hawaii 96813.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230),

Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Pacific-Asia Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 4009, Honolulu, Hawaii 96813. All communications received on or before August 27, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would rescind the LOBBS and RISES reporting points and the following airway segments:

1. All of V-1. This airway presently extends from the PARIS INT to Hilo.

2. The V-2 south alternate. This airway extends from Honolulu via the Peble INT to Lanai. (R-3104 is subdivided into A, B and C areas.)

3. The V-4 segment from Koko Head to the RISES reporting point.

4. The V-6 segment from Maui to Hilo.

5. The V-7 segment from Kona to Lanai.

6. The V-18 segment from Arbor INT to Romie INT.

7. All of V-19. This airway presently extends from Hilo to an INT near the LOBBS INT.

8. The V-24 segment from Maui to the LOBBS INT.

This action would reduce chart clutter and possible confusion in flight planning.

ICAO Considerations

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of an Annex 11 to the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.127 and § 71.215 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 343, 653) as follows:

In § 71.127:

a. V-1, title and text is deleted.

b. Under V-2 "Hawaii, including a south alternate;" is deleted and "Hawaii;" is substituted therefor. Also "R-3104" is deleted and "R-3104A, R-3104B and R-3104C" is substituted therefor.

c. Under V-4 all after "254° radials," is deleted and "Koko Head," is substituted therefor.

d. Under V-6 all after "331° radials," is deleted and "to Maui," is substituted therefor.

e. Under V-7 the text is amended to read "From Lanai to Molokai."

f. Under V-16 "013° radials;" is deleted and "336° radials;" is substituted therefor.

g. V-19, title and text is deleted.

h. Under V-24 the text is amended to read "From Lanai to Maui."

In § 71.215:

a. LOBBS: title and text is deleted.

b. RISES: title and text is deleted.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on July 20, 1979.

William E. Broadwater,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-23006 Filed 7-25-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-SW-18]

Alteration of Victor Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to redesignate alternate airway V-163W between Brownsville, Tex., and Corpus Christi, Tex., as V-70. This alteration is necessary in order to simplify air traffic control instructions to foreign pilots. On occasion, language differences and similar sounding airways can be misunderstood by some foreign pilots who may then proceed along an incorrect route, thereby creating additional controller workload. This action would help improve pilot-controller communications.

DATES: Comments must be received on or before August 27, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southwest Region, Attention: Chief, Air Traffic Division, Docket No. 79-SW-18, P.O. Box 1689, Fort Worth, Tex. 76101.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before August 27, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments,

in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rule Making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would rename V-163W between Brownsville, Tex., and Corpus Christi, Tex., as V-70. There have been incidents where foreign pilots have been cleared from Brownsville via V-163W, and the pilots proceed via V-163. The unnecessary confusion of similar sounding airways appears to be the problem. By extending V-70 from Corpus Christi to Brownsville via the V-163W radials and redesignating that portion of V-163W as V-70. The confusion concerning similar sounding airways would be resolved. Subpart C of Part 71 was republished in the Federal Register on January 2, 1979 (44 FR 307).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 307) as follows:

Under V-163

"INT of Brownsville 358" and Corpus Christi, Tex., 178" radials; 27 miles standard width, 37 miles 7 miles wide (3 miles E and 4 miles W of center), Corpus Christi;" is deleted and "Corpus Christi;" is substituted therefor.

Under V-70

"From Corpus Christi, Tex., via" is deleted and "From Brownsville, Tex., via INT Brownsville 358" and Corpus Christi 178" radials; 27 miles standard width, 37 miles 7 miles wide (3 miles E and 4 miles W of centerline, Corpus Christi;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65).

The FAA has determined that this document involves a proposed

regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on July 18, 1979.

William E. Broadwater,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-22776 Filed 7-25-79; 8:45 am]
BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-SO-43]

Extension of Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to extend Victor Airway V-290 from Elizabeth City, N.C., to Hatteras Inlet, N.C., via Manteo, N.C. This action would provide a positive IFR routing to the outer islands that would avoid special use airspace, thereby increasing air safety.

DATES: Comments must be received on or before August 27, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 79-SO-43, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before August 27, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would extend V-290 from Elizabeth City, N.C., via Manteo, N.C., NDB to Hatteras Inlet, N.C., NDB. This proposal would provide a federal airway to the outer islands in the Cape Hatteras area. This airway would clear all special use airspace in that area except in the Stumpy Point MOA. However, the military has agreed to reduce the southeast corner of Stumpy Point MOA in order to provide sufficient airspace for V-290. This action would aid flight planning, increase air safety and reduce controller workload.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 307) as follows:

§ 71.123 [Amended]

V-290 is amended to read as follows: From Rainelle, W. Va., via Montebello, Va.; to Flat Rock, Va. From Franklin, Va., via Elizabeth City, N.C.; INT Elizabeth City 131" and Manteo, N.C., NDB 311" bearing; Manteo NDB; INT Manteo NDB 139" and Hatteras Inlet, N.C., NDB 029" bearing; to Hatteras NDB. That airspace 8,000 feet MSL and above is excluded between Manteo and Hatteras Inlet during time of activation of the Pamlico A or B MOAs by NOTAM.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on July 18, 1979.

William E. Broadwater,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-22777 Filed 7-25-79; 8:45 am]
BILLING CODE 4910-13-M

[14 CFR Part 73]

[Airspace Docket No. 79-SO-44]

Alteration of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the boundary of the Fort Benning, Ga.,¹ Restricted Area R-3002F by extending the southwest boundary 3 nautical miles. This action would ensure containment of an activity which would be hazardous to flight operations and provide flight safety during periods when the Redeye Missile is fired.

DATES: Comments must be received on or before August 22, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 79-SO-44, P.O. Box 20636, Atlanta, Ga. 30320.

¹The map was filed as a part of the original document.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga., 30320. All communications received on or before August 22, 1979 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C., 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) that would alter Restricted Area R-3002 by extending the southwest boundary of R-3002F 3 nautical miles. The additional area is required for the containment of the Redeye Missile. The missile would be launched approximately four times per year and requiring four hours for

each launch. The using agency (Commanding Officer, Fort Benning, Ga.) will serve as lead agency for purposes of compliance with the National Environmental Policy Act. Subpart B of Part 73 was republished in the *Federal Register* on January 2, 1979 (44 FR 686).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 73.30 of the Federal Aviation Regulations (14 CFR Part 73) as republished (44 FR 686) as follows:

§ 73.30 [Amended]

Under Section 73.30 R-3002F Fort Benning, Ga., is amended to read as follows:
Boundaries. Beginning at Lat. 32°31'46" N., Long. 84°51'13" W; thence along the Central of Georgia Railroad to Lat. 32°32'10" N., Long. 84°40'40" W; to Lat. 32°31'20" N., Long. 84°40'20" W; thence along Upatoi Creek to Lat. 32°31'46" N., Long. 84°39'25" W; to Lat. 32°18'30" N., Long. 84°39'25" W; to Lat. 32°18'55" N., Long. 84°41'45" W; thence along the Central of Georgia Railroad to Lat. 32°20'54" N., Long. 84°47'20" W; to Lat. 32°20'00" N., Long. 84°47'20" W; to Lat. 32°27'00" N., Long. 84°52'53" W; to Lat. 32°29'17" N., Long. 84°52'32" W; to Lat. 32°29'17" N., Long. 84°51'35" W; to Lat. 32°30'19" N., Long. 84°51'35" W; to Lat. 32°30'19" N., Long. 84°52'21" W; to Lat. 32°30'50" N., Long. 84°52'15" W; thence along the Central of Georgia Railroad to point of beginning.

Designated altitudes. 14,000 feet MSL to FL 250.

Time of Designation. Continuous.

Controlling agency. Federal Aviation Administration, Atlanta ARTC Center.

Using agency. Commanding Officer, Fort Benning, Ga.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1345(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65).

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C. on July 17, 1979.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-22749 Filed 7-25-79; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Office of Science and Technology

[15 CFR Part 10]

Revision of Procedures for the Development of Voluntary Product Standards

AGENCY: Department of Commerce.

ACTION: Proposed Rulemaking.

SUMMARY: The Department of Commerce proposes to revise the procedures which are used in the development of Voluntary Product Standards (15 CFR Part 10). A decision has been made by the Department of Commerce to reduce the level of standards development services provided by the National Bureau of Standards under the current procedures, and by so doing encourage the development of voluntary product standards by private standards-writing organizations. The proposed procedures state that services related to the development and maintenance of such standards will be available only on a cost reimbursable basis. Additionally, it is proposed that all present standards will be withdrawn unless it can be demonstrated that they meet the criteria for sponsorship by the Department.

DATE: Comments must be received on or before September 24, 1979.

ADDRESS: Send comments in four copies to: Dr. Jordan J. Baruch, Assistant Secretary for Science and Technology, Room 3862, U.S. Department of Commerce, Washington, D.C. 20230 (202) 377-3111.

FOR FURTHER INFORMATION CONTACT: Mr. Karl G. Newell, Jr., Office of Engineering Standards, National Bureau of Standards, Washington, D.C. 20234 (301) 921-2356.

SUPPLEMENTARY INFORMATION: In keeping with a continuing policy of encouraging the development of voluntary product standards under appropriate procedures of private standards-writing organizations, the Department of Commerce has decided to reduce the level of standards development services provided by the National Bureau of Standards under the Voluntary Product Standards (VPS) program (15 CFR Part 10). This

regulation will be achieved by withdrawing all existing Voluntary Product Standards unless proponent groups or other interested parties can demonstrate that sponsorship by the Department for a particular standard should be continued because of such factors as substantial public impact, the inability of private standard-writing organizations to effectively process or maintain the standard, or that lack of government sponsorship of the standard would result in significant public disadvantage for legal reasons or reasons of domestic and international trade. Similarly, projects for the development of new standards or the revision of existing standards will not be undertaken unless it can be shown that government sponsorship is desirable for the same reasons. These changes to the procedures will permit, in accordance with § 10.13(a), the withdrawal of existing standards without further notice of intent. In cases where the Department of Commerce agrees to sponsor a standards project under the foregoing criteria, services provided by the National Bureau of Standards to develop or maintain such standards will be provided only on a cost reimbursable basis. Private standards-writing organizations will be encouraged to sponsor those Voluntary Product Standards which are withdrawn.

All comments furnished in response to this notice will be made part of the public record and will be available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 5319, Main Commerce Building, 14th Street between E Street and Constitution Avenue, NW., Washington, D.C. 20230.

Dated: July 23, 1979.

Jordan J. Baruch,

Assistant Secretary for Science and Technology.

Part 10 of Title 15 CFR is proposed to be revised to read as follows:

Sec.

10.0 General.

10.1 Initiating development of a new standard.

10.2 Funding.

10.3 Development of proposed standard.

10.4 Establishment of the Standard Review Committee.

10.5 Development of a recommended standard.

10.6 Procedures for acceptance of recommended standard.

10.7 Procedure when a recommended standard is not supported by a consensus.

10.8 Standing Committee.

10.9 Publication of standard.

Sec.

10.10 Review of published standards.

10.11 Revision or amendment of a standard.

10.12 Editorial changes.

10.13 Withdrawal of a published standard.

10.14 Effect of procedures.

Authority: Sec. 2, 31 Stat. 1449, as amended, sec. 1, 64 Stat. 371; 15 U.S.C. 272. Reorganization Plan No. 2 of 1946, Part VI.

§ 10.0 General.

(a) *Introduction.* The Department of Commerce (hereinafter referred to as the "Department") recognizes the importance, the advantages, and the benefits of voluntary standards and standardization activities. Such standards may cover, but are not limited to, terms, classes, sizes (including sizes of packaged consumer commodities and body sizes for wearing apparel), dimensions, capacities, quality levels, performance criteria, inspection requirements, marking requirements, testing equipment, test procedures, and installation procedures. Economic growth is promoted through:

(1) Reduction of manufacturing costs, inventory costs, and distribution costs;

(2) Better understanding among manufacturers, producers, or packagers (hereinafter referred to as producers), distributors, users, and consumers; and

(3) Simplification of the purchase, installation, and use of the product being standardized.

(b) *Requirements for Department of Commerce sponsorship.* The Department may sponsor the development of a Voluntary Product Standard, if upon receipt of a request, the Department determines that:

(1) The proposed standard is likely to have substantial public impact;

(2) The proposed standard reflects the broad interest of an industry group or an organization concerned with the manufacture, production, packaging, distribution, testing, consumption, or use of the product, or the interest of a Federal or State agency;

(3) The proposed standard would not duplicate a standard published by, or actively being developed or revised by, a private standards-writing organization to such an extent that it would contain similar requirements and test methods for identical types of products, unless such duplication was deemed by the Department to be in the public interest;

(4) Lack of government sponsorship would result in significant public disadvantage for legal reasons or reasons of domestic and international trade;

(5) The proposed standard is not appropriate for development and maintenance by a private standards-writing organization; and

(6) The proposed standard will be funded by a proponent organization or government agency to cover costs for administrative and technical support services provided by the Department.

(c) *Role of the Department.* The Department assists in the establishment of a Voluntary Product Standard as follows:

(1) Acts as an unbiased coordinator in the development of the standard;

(2) Provides editorial assistance in the preparation of the standard;

(3) Supplies such assistance and review as is required to assure the technical soundness of the standard;

(4) Seeks satisfactory adjustment of valid points of disagreement;

(5) Determines the compliance with the criteria established in these procedures for such voluntary standards;

(6) Provides secretarial functions for each committee appointed by the Department under these procedures;

(7) Publishes the standard as a public document;

(8) Administers the funds for administrative and technical support services; and

(9) Seeks listing for standards developed under these procedures as American National Standards through the accredited organization procedures of the American National Standards Institute when deemed appropriate by the Department.

(d) *Role of producers, distributors, users, and consumers.* Producers, distributors, users, consumers, and other interested groups may contribute to the development of a Voluntary Product Standard as follows:

(1) Initiate and participate in the development of the standard;

(2) Provide technical or other relevant counsel, as appropriate, relating to the standard;

(3) Promote the use of, and support for, the standard; and

(4) Assist in keeping the standard current with respect to advancing technology and marketing practices.

§ 10.1 Initiating development of a new standard.

(a) Any group or association of producers, distributors, users, or consumers, or a testing laboratory, or a State or Federal agency, may request the Department to initiate the development and publication of a Voluntary Product Standard under these procedures. Requests shall be in writing, signed by a representative of the group or agency, and forwarded to the Department. The initial request may be accompanied by a

copy of a draft of the suggested standard.

(b) The request shall contain the following information:

(1) The purpose and scope of the suggested standard;

(2) The names and addresses of the officers of the group or association, if the request is submitted by a group other than a State or Federal agency or other than a nationally recognized organization;

(3) Evidence that the development and publication of the standard meets the criteria for Department sponsorship required in § 10.0(b); and

(4) A commitment to provide sufficient funding to cover all Department costs associated with the development and maintenance of the proposed Voluntary Product Standard.

(c) The Department may require additional information such as technical, marketing, or other appropriate data essential to discussion and development of the proposed standard, including, but not limited to, physical, mechanical, chemical, or performance characteristics, and production figures.

(d) Upon receipt of an appropriate request and, after a determination by the Department that the development of a Voluntary Product Standard is justified, the Department may initiate the development by requesting that a draft of the suggested standard be prepared by an appropriate committee, provided such a draft has not previously been submitted under paragraph (a) of this section.

(e) The Department may initiate the development of a Voluntary Product Standard, if such action is deemed by the Department to be in the public interest, notwithstanding the absence of a request from an outside source. A voluntary standard initiated by the Department shall be processed in accordance with all requirements of these procedures and shall be developed in the same manner as a voluntary standard initiated by any group referred to in paragraph (a) of this section.

(f) An agreement regarding funding procedures and receipt of a deposit estimated by the Department to be sufficient to cover the first year's costs shall occur prior to the initiation of any project.

§ 10.2 Funding.

Groups who represent producers, distributors, consumers or users, or others that wish to act or continue to act as proponent organizations for the development or maintenance of a Voluntary Product Standard will be

required to pay for administrative and technical support services provided by the National Bureau of Standards, and such other direct or indirect costs associated with the development or maintenance of the standard as may be deemed appropriate by the Department, including costs to the Department in connection with the operation of the Standard Review Committee and the Standing Committee. Proponents of standards that meet project selection criteria established in these procedures shall furnish an initial deposit of funds sufficient to cover the first year's services, and other costs. Estimated annual costs will be based on an hourly rate for salary and overhead established by the Department for NBS administrative and technical support services plus estimates of direct costs to provide funds for such items as the travel of committee members unable to otherwise attend committee meetings, travel for Department staff, and printing costs. Project funds will be reviewed annually. Excess funds may be refunded or applied to the next accounting period. Should funds from deposits be inadequate during an accounting period, work on the project will continue only if funds are restored to a level estimated adequate to complete the 12-month period.

§ 10.3 Development of proposed standard.

(a) A proposed standard as submitted to the Department:

(1) Shall be based on adequate technical information, or, in the case of size standards (including standards covering the quantities for packaged consumer commodities), on adequate marketing information, or both, as determined to be appropriate by the Department;

(2) Shall not be contrary to the public interest;

(3) Shall be technically appropriate and such that conformance or nonconformance with the standard can be determined either during or after the manufacturing process by inspection or other procedures which may be utilized by either an individual or a testing facility competent in the particular field;

(4) Shall follow the form prescribed by the National Bureau of Standards. (Copies of the recommended format may be obtained upon request from the Office of Engineering Standards, National Bureau of Standards, Washington, D.C. 20234);

(5) Shall include performance requirements if such are deemed by the Department to be technically sound,

feasible, and practical, and the inclusion of such is deemed to be appropriate; and

(6) May include dimension, sizes, material specifications, product requirements, design stipulations, component requirements, test methods, testing equipment descriptions, and installation procedures. The appropriateness of the inclusion in a standard of any particular item listed in this subparagraph shall be determined by the Department.

(b) A proposed standard that is determined by the Department to meet the criteria set forth in paragraph (a) of this section may be subjected to further review by an appropriate individual, committee, organization, or agency (either government or nongovernment, but not associated with the proponent group).

(c) A proposed standard may be circulated by the Department to appropriate producers, distributors, users, consumers, and other interested groups for consideration and comment as well as to others requesting the opportunity to comment.

(d) The proponent group or appropriate committee which drafted the initial proposal under § 10.1(d) shall consider all comments and suggestions submitted by the reviewer designated under paragraph (b) of this section, and those received by the Department as a result of any circulation under paragraph (c) of this section, and may make such adjustments in the proposal as are technically sound and as are believed to cause the standard to be generally acceptable to producers, distributors, users, consumers, and other interested parties. The proposal will then be submitted to the Department for further processing.

§ 10.4 Establishment of the Standard Review Committee.

(a) The Department will establish and appoint the members of a Standard Review Committee within a reasonable time after receiving a proposed standard. The committee will consist of qualified representatives of producers, distributors, and users or consumers of the product for which a standard is sought and any other appropriate general interest groups such as State and Federal agencies. Representatives of Federal agencies shall be advisory, nonvoting members. (Alternates to committee members may be designated by the Department). When deemed appropriate by the Department, project funds under § 10.2 may be made available to assure participation by all interests on the committee at required meetings.

(b) A Standard Review Committee may remain in existence for a period necessary for the final development of the standard, or for 2 years, whichever is less.

(c) The Department will be responsible for the organization of the committee. Any formal operating procedures developed by the committee shall be subject to approval by the Department. The committee may conduct business either in a meeting or through correspondence, but only if a quorum participates. A quorum shall consist of two-thirds of all voting members of the committee. A majority of the voting members of the committee participating shall be required to approve any actions taken by the committee except for the action of recommending a standard to the Department, the requirements for which are contained in § 10.5(b).

§ 10.5 Development of a recommended standard.

(a) The Standard Review Committee, with the guidance and assistance of the Department and, if appropriate, the reviewer designated under § 10.3(b), shall review a proposed standard promptly. If the committee finds that the proposal meets the requirements set forth in § 10.3(a), it may recommend to the Department that the proposal be circulated for acceptance under § 10.6. If, however, the committee finds that the proposal being reviewed does not meet the requirements set forth in § 10.3(a), the committee shall change the proposal, after consulting with the proponent group, so that these requirements are met, before recommending such proposal to the Department.

(b) The recommendation of a standard by the Standard Review Committee must be approved by at least three-quarters, or rejected by more than one-quarter, of all of the members of the committee eligible to vote. The voting on the recommendation of a standard shall be conducted by the Department if conducted by letter ballot. If such voting is accomplished at a meeting of the committee, the balloting shall be either by roll call or by signed written ballot conducted by the Department or the chairman of the committee. If conducted by the chairman, a report of the vote shall be made to the Department within 15 days. If the balloting at the meeting does not result in either approval by at least three-quarters of all members (or alternates) eligible to vote (whether present or not), or rejection by more than one-quarter of the members (or alternates) of the committee eligible to vote, the balloting shall be disregarded

and the Department will subsequently conduct a letter ballot of all members of the committee.

(c) Any member of the committee casting a negative ballot shall have the right to support his objection by furnishing the chairman of the committee and the Department with a written statement setting forth the basis for his objection. The written statement of objection must be filed within 15 days after the date of the meeting during which the voting on the standard was accomplished, or, in the case of a letter ballot, within the time limit established for the return of the ballot.

(d) At the time a recommended standard is submitted to the Department, the Chairman of the Standard Review Committee shall furnish a written report in support of the committee's recommendation. Such report shall include a statement with respect to compliance with the requirements as established by these procedures, a discussion of the manner in which any objections were resolved, and a discussion of any unresolved objections together with the committee's reasons for rejecting such unresolved objections.

§ 10.6 Procedures for acceptance of recommended standard.

(a) Upon receipt from the Standard Review Committee of a recommended standard and report, the Department shall give appropriate public notice and distribute the recommended standard for acceptance unless:

(1) Upon a showing by any member of the committee who has voted to oppose the recommended standard on the basis of an unresolved objection, the Department determines that if such objection were not resolved, the recommended standard:

(i) Would be contrary to the public interest, if published;

(ii) Would be technically inadequate; or

(iii) Would be inconsistent with law or established public policy; or

(2) The Department determines that all criteria and procedures set forth herein have not been met satisfactorily or that there is a legal impediment to the recommended standard.

(b) Distribution for acceptance or rejection for the purpose of determining general concurrence will be made to a list compiled by the Department, which, in the judgment of the Department, shall be representative of producers, distributors, and users and consumers.

(c) Distribution for comment will be made to any party filing a written request with the Department, and to

such other parties as the Department may deem appropriate, including testing laboratories and interested State and Federal agencies.

(d) The Department will analyze the recommended standard and the responses received under paragraphs (b) and (c) of this section. If such analysis indicates that the recommended standard is supported by a consensus, it will be published as a Voluntary Product Standard by the Department. *Provided*, That all other requirements listed in these procedures have been satisfied.

(e) The following definitions shall apply to the terms used in this section:

(1) "Consensus" means general concurrence and, in addition, no substantive objection deemed valid by the Department.

(2) "General concurrence" means acceptance among those responding to the distribution made under paragraph (b) of this section in accordance with the conditions set forth in paragraph (f) of this section.

(3) "Substantive objection" means a documented objection based on grounds that one or more of the criteria set forth in these procedures has not been satisfied.

(4) "Average industry acceptance" means a percentage equal to the sum of the percentages of acceptance obtained from responses to distribution of the recommended standard in the producer segment, the distributor segment, and the user and consumer segment, divided by three. No consideration will be given to volume of production or volume of distribution in determining average industry acceptance.

(5) "Producer segment" means those persons who manufacture or produce the product covered by the standard.

(6) "Distributor segment" means those persons who distribute at wholesale or retail the product covered by the standard.

(7) "User and consumer segment" means those persons who use or consume the product covered by the standard.

(8) "Acceptance by volume of production" means the weighted percentage of acceptance of those responding to the distribution in the producer segment. The weighting of each response will be made in accordance with the volume of distribution represented by each respondent.

(9) "Acceptance by volume of distribution" means the weighted percentage of acceptance of those responding to the distribution in the distributor segment. The weighting of

each response will be made in accordance with the volume of distribution represented by each respondent.

(f) A recommended standard shall be deemed to be supported by general concurrence whenever:

(1) An analysis of the responses to the distribution under paragraph (b) of this section indicates:

(i) An average industry acceptance of not less than 75 percent;

(ii) Acceptance of not less than 70 percent by the producer segment, the distributor segment, and the user and consumer segment, each segment being considered separately; and

(iii) Acceptance by volume of production and acceptance by volume of distribution of not less than 70 percent in each case: *Provided*, That the Department shall disregard acceptance by volume of production or acceptance by volume of distribution or both unless, in the judgment of the Department, accurate figures for the volume of production of distribution are reasonably available and an evaluation of either or both of such acceptances is deemed necessary by the Department; or

(2) The Department determines that publication of the standard is appropriate under the procedures set forth in paragraph (g) of this section and, in addition, an analysis of the responses to the distribution under paragraph (b) of this section indicates:

(i) An average industry acceptance of not less than 66 2/3 percent;

(ii) Acceptance of not less than 60 percent by the producer segment, the distributor segment, and the user and consumer segment, each segment being considered separately; and

(iii) Acceptance by volume of production and acceptance by volume of distribution of not less than 60 percent in each case: *Provided*, That the Department shall disregard acceptance by volume of production or acceptance by volume of distribution or both unless, in the judgment of the Department, accurate figures for the volume of production or distribution are reasonably available and an evaluation of either or both of such acceptances is deemed necessary by the Department.

(g) A recommended standard which fails to achieve the acceptance requirements of paragraph (f)(1) of this section, but which satisfies the acceptance criteria of paragraph (f)(2) of this section, will be returned to the Standard Review Committee for reconsideration. The committee, by the affirmative vote of not less than three-quarters of all members eligible to vote,

may resubmit the recommended standard without change to the Department with a recommendation that the standard be published as a Voluntary Product Standard. The Department shall then conduct a public rulemaking hearing in accordance with the requirements of law as set forth in section 553 of Title 5, United States Code, to assist it in determining whether publication of the standard is in the public interest. If the Department determines that publication of the standard is in the public interest, the standard will be published as a Voluntary Product Standard.

§ 10.7 Procedure when a recommended standard is not supported by a consensus.

If the Department determines that a recommended standard is not supported by a consensus, the Department may:

(a) Return the recommended standard to the Standard Review Committee for further action, with or without suggestion;

(b) Terminate the development of the recommended standard under these procedures; or

(c) Take such other action as it may deem necessary or appropriate under the circumstances.

§ 10.8 Standing committee.

(a) The Department will establish and appoint the members of a Standing Committee prior to the publication of a standard. The committee may include members from the Standard Review Committee, and will consist of qualified representatives of producers, distributors, and users or consumers of the product covered by the standard, and representatives of appropriate general interest groups such as municipal, State, and Federal agencies. Representatives of Federal agencies shall be advisory, nonvoting members. (Alternates to committee members may be designated by the Department). When deemed appropriate by the Department, project funds may be made available to assure participation by all interests on the committee at required meetings.

(b) Appointments to a Standing Committee may not exceed a term of 5 years. However, the committee may be reconstituted by the Department whenever appropriate, and members may be reappointed by the Department to succeeding terms. Appointments to the committee will be terminated upon the withdrawal of the standard.

(c) The Department will be responsible for the organization of the committee. Any formal operating

procedures developed by the committee shall be subject to approval by the Department. The committee may conduct business either in a meeting or through correspondence, but only if a quorum participates. A quorum shall consist of two-thirds of all voting members of the committee. A majority of the voting members of the committee participating shall be required to approve any actions taken by the committee except for the approval of revisions of the standard which shall be governed by the provisions of § 10.5(b), (c), and (d).

(d) The members of a Standing Committee should be knowledgeable about:

(1) The product or products covered by the standard;

(2) The standard itself; and

(3) Industry and trade practices relating to the standard.

(e) The committee shall:

(1) Keep itself informed of any advancing technology or marketing practices that might affect the standard;

(2) Provide the Department with interpretations of provisions of the standard upon request;

(3) Make recommendations to the Department concerning the desirability or necessity of revising or amending the standard;

(4) Receive and consider proposals to revise or amend the standard; and

(5) Recommend to the Department the revision or amendment of a standard.

§ 10.9 Publication of standard.

(a) A Voluntary Product Standard published by the Department under these procedures will be assigned an appropriate number for purposes of identification and reference. Public notice will be given regarding the publication and identification of the standard. A voluntary standard by itself has no mandatory or legally binding effect. Any person may choose to use or not to use such a standard. Appropriate reference in contracts, codes, advertising, invoices, announcements, product labels, and the like may be made to a Voluntary Product Standard published under these procedures. Such reference shall be in accordance with such policies as the Department may establish, but no product may be advertised or represented in any manner which would imply or tend to imply approval or endorsement of that product by the Department or by the Federal Government.

(b) Included in the costs to the proponent will be a fee, when appropriate, to cover the initial publication expenses incurred in

printing the final standard. This fee will entitle the proponent group to one thousand copies of the standard. Additional copies may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

§ 10.10 Review of published standards.

(a) Each standard published under these or previous procedures will be reviewed regularly to determine the feasibility of transferring sponsorship to a private standards-writing organization.

(b) Each standard published under these or previous procedures will be reviewed by the Department, with such assistance of the Standing Committee or others as may be deemed appropriate by the Department, within 5 years after initial issuance or last revision and at least every 5 years thereafter. The purpose of this review will be to determine whether the standard has become obsolete, technically

inadequate, no longer acceptable to or used by the industry, or inconsistent with law or established public policy.

(c) If any of the above conditions is found to exist, the Department will initiate action to amend, revise, or withdraw the standard in accordance with 10.11 or 10.13. If none of the above conditions is found to exist, the standard will be kept in effect provided adequate funding is maintained.

§ 10.11 Revision or amendment of a standard.

(a) A published standard shall be subject to revision or amendment when it is determined to be inadequate by its Standing Committee or by the Department for one or more of the following reasons or for any other appropriate reason:

(1) Any portion of the standard is obsolete, technically inadequate, or no longer generally acceptable to or used by the industry;

(2) The standard or any part of it is inconsistent with law or established public policy; or

(3) The standard or any part of it is being used to mislead users or consumers or is determined to be against the interest of users, consumers, or the public in general.

(b) A revision of a standard shall be considered by the Department to include changes which are comprehensive in nature, which have a substantive effect on the standard, which change the level of performance or safety, or the design characteristics of the product being standardized, or which cannot reasonably be injected into a standard

without disturbing the general applicability of the standard. Each suggestion for revision shall be submitted by the Department to the Standing Committee for appropriate consideration. The Standing Committee will serve the same functions in the revision of a standard as the Standard Review Committee serves in the development of a new standard. The processing of a revision of a standard will be dependent upon the age of the standard as computed from its effective date and will be accomplished as follows:

(1) A proposed revision of a standard older than 5 years at the time such proposed revision is submitted to the Standing Committee by the Department shall be processed as a new standard under these procedures and, when approved for publication, the standard shall be republished and reidentified to indicate the year in which the revision became effective. The revised standard will supersede the previously published standard.

(2) A proposed revision of a standard less than 5 years at the time such proposed revision is submitted to the Standing Committee by the Department shall be processed as a new standard except that:

(i) Distribution for acceptance or rejection shall be made to an appropriate list of producers, distributors, and users and consumers compiled by the Department;

(ii) If the revision affects only one subsection of the requirement section and/or only one subsection of the test methods section, it may be circulated separately for determining consensus and subsequently published as an addendum to the standard with appropriate dissemination and public notice of the addendum; and

(iii) If the revision does not change the level of performance or safety, or the design characteristics of the product being standardized, the standard need not be reidentified.

(c) An amendment to a standard shall be considered by the Department to be any non-editorial change which is not comprehensive in nature, which has no substantive effect on the standard, which does not change the level of performance or safety, or the design characteristics of the product being standardized, and which reasonably can be injected into a standard without disturbing the general applicability of the standard. Each suggestion for amendment shall be submitted by the Department to the Standing Committee for appropriate consideration. An amendment to a standard recommended

by not less than 90 percent of the members of the committee eligible to vote and found acceptable by the Department, will be published as an addendum (until the standard is republished) and distributed to acceptors of record. Public notice of the amendment shall be given and copies of the amendment shall be distributed to those filing written requests.

§ 10.12 Editorial changes.

The Department may, without prior notice, make such editorial or other minor changes as it deems necessary to reduce ambiguity or to improve clarity in any proposed, recommended, or published standard, or revision or amendment thereof.

§ 10.13 Withdrawal of a published standard.

(a) *Standards Published Prior to the Effective Date of These Procedures.* All standards published prior to the effective date of these procedures will be withdrawn unless proponent groups or other interested parties submit a request to retain a particular standard to the Director of the National Bureau of Standards. The request must be submitted within 60 days from the effective date of these procedures and must demonstrate that the standard meets the criteria set out in § 10.10(b). The Director may retain those standards for which a request was received when he determines the criteria have been met. If the Director determines that a particular standard does not meet these criteria, after consultation with the Standing Committee, or if no request is received, the standard will be withdrawn without further requests for comments.

(b) *Standards Published After the Effective Date of These Procedures or Expressly Retained Under paragraph (a) of this section.* Any standard published under these procedures may be withdrawn by the Department at any time. Such action will be taken, if, after consultation with the Standing Committee as provided in paragraph (c) of this section, and after public notice, the Department determines that the standard is: Obsolete; technically inadequate; no longer generally acceptable to and used by the industry; inconsistent with law or established public policy; not in the public interest; or otherwise inappropriate; and revision or amendment is not feasible or would serve no useful purpose. Additionally, a standard may be withdrawn if it cannot be demonstrated that a particular standard has substantial public impact, that it does not duplicate a standard

published by a private standards-writing organization, or that lack of government sponsorship would result in significant public disadvantage for legal reasons or for reasons of domestic and international trade. The Department may withdraw a standard if costs to maintain such a standard are not reimbursed by the proponent or other government agencies.

(c) Before withdrawing a standard published under these procedures, the Department will review the relative advantages and disadvantages of amendment, revision, development of a new standard, or withdrawal with the members of the Standing Committee, if such committee was appointed within the previous 5 years.

(d) Public notice of intent to withdraw an existing standard published under these procedures will be given and a 30-day period will be provided for the filing of written objections to the withdrawal. Such objections to the withdrawal will be considered and analyzed by the Department before a final decision is made to withdraw the standard. The Department will give public notice of the withdrawal of an existing standard not less than 60 days prior to the effective date of such withdrawal.

(e) Withdrawal will terminate the authority to refer to the published standard as a voluntary standard developed under Department procedures, from the effective date of the withdrawal.

§ 10.14 Effect of procedures.

Nothing contained in these procedures shall be deemed to apply to the development, publication, revision, amendment, or withdrawal of any standard which is not identified as a "Voluntary Product Standard" by the Department. The authority of the Department with respect to engineering standards activities generally, including the authority to publish appropriate recommendations not identified as "Voluntary Product Standards," is not limited in any way by these procedures.

[FR Doc. 79-23016 Filed 7-25-79; 8:45 am]

BILLING CODE 3510-18-M

WATER RESOURCES COUNCIL

[18 CFR Part 707]

Compliance With the National Environmental Policy Act

AGENCY: U.S. Water Resources Council.

ACTION: Proposed rule.

SUMMARY: The Water Resources Council proposes to publish regulations

providing policies to guide implementation of the National Environmental Policy Act (NEPA) as required by regulations of the Council on Environmental Quality published November 29, 1978 (40 CFR Part 1500-1508).

DATE: Comments are due on or before August 30, 1979.

ADDRESS: Send comments to the Director, U.S. Water Resources Council, 2120 L Street, N.W., Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Policy Analysis Division, U.S. Water Resources Council, Washington, D.C. 20037. (202/254-6453).

SUPPLEMENTARY INFORMATION: In 1971, the Water Resources Council (WRC) issued Policy Statement No. 2 to comply with the National Environmental Policy Act (NEPA). As part of its further effort to comply with NEPA requirements, the WRC in 1977 prepared draft Policy Statement No. 2 (revised) and draft Procedures for Preparation and Incorporation of Environmental Impact Statements in Reports. These procedures were directed toward the preparation of Environmental Impact Statements, Level A Framework Studies and Assessments, Level B Regional or River Basin Plans, and Comprehensive Coordinated Joint Plans and Special Studies. The policy statement and procedures were published for comment in the Federal Register September 23, 1977.

During the comment period for these draft procedures, it was learned that the Council on Environmental Quality (CEQ) would publish its final regulations for implementing NEPA in the near future. The decision was made to hold any action on the draft procedures and policy statement until CEQ published its new regulations. This delay would allow WRC to make its procedures compatible with the new CEQ regulations.

On November 29, 1978, CEQ published its Regulations for Implementing the Procedures Provisions of the National Environmental Policy Act (43 FR 55978-56007, 40 CFR Parts 1500-1508). A provision of these regulations requires that all Federal agencies issue NEPA implementing procedures before July 30, 1979.

At its meeting of July 18, 1979, the WRC approved the proposed rule and indicated its intent that final rules be published no later than 90 days after publication of the proposed rules.

It is proposed to amend 18 CFR Chapter VI by adding a new Part 707 to read as follows:

PART 707—COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

Subpart A—General

- Sec.
707.1 Background.
707.2 Purpose.
707.3 Applicability.

Subpart B—Water Resources Council Implementing Procedures

- 707.4 Early involvement in private and State and local activities requiring Federal approval.
707.5 Ensuring that environmental documents are actually considered in agency decisionmaking.
707.6 Typical classes of action requiring similar treatment under NEPA.
707.7 Environmental information.

Authority: National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); EO 11991, 42 FR 26967, 3 CFR, 1977 Comp., p. 123.

Subpart A—General

§ 707.1 Background.

(a) The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.) establishes national policies and goals for the protection of the environment. Section 102(2) of NEPA contains certain procedural requirements directed toward the attainment of such goals. In particular, all Federal agencies are required to give appropriate consideration to the environmental effects of their proposed actions in their decisionmaking and to prepare detailed environmental statements on recommendations or reports on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.

(b) Executive Order 11991 of May 24, 1977, directed the Council on Environmental Quality (CEQ) to issue regulations to implement the procedural provisions of NEPA. Accordingly, CEQ issued final NEPA regulations (40 CFR Part 1500-1508) on November 29, 1978, which are binding on all Federal agencies as of July 30, 1979. These regulations provide that each Federal agency shall as necessary adopt implementing procedures to supplement the regulations. Section 1507.3(b) of the NEPA regulations identifies those sections of the regulations which must be addressed in agency procedures.

§ 707.2 Purpose.

The purpose of this Part is to establish procedures which supplement the NEPA regulations and provide for the implementation of those provisions identified in Section 1507.3(b) of the regulations.

§ 707.3 Applicability.

This part applies to all organizational elements of the Water Resources Council as an independent executive agency.

Subpart B—Water Resources Council Implementing Procedures

§ 707.4 Early involvement in private and State and local activities requiring Federal approval.

(a) Section 1501.2(d) of the NEPA regulations requires agencies to provide for early involvement in actions which, while planned by private applicants or other non-Federal entities, require some form of Federal approval or action. Actions planned elsewhere but requiring approval or further action by the Water Resources Council or designated Federal officials (such as river basin commission chairpersons) include the following:

(1) Formal adoption, approval or transmittal of regional water resource management plans, Level B plans, and special studies carried out by river basin commissions, interagency committees, or other designated non-Federal or partially non-Federal sponsors.

(2) Water Resources Council recommendations for Federal action based on plans and studies listed in (a) immediately above.

(b) To implement the requirements of § 1501.2(d) with respect to these actions the Water Resources Council shall:

(1) Prepare where practicable generic guidelines describing the scope and level of environmental information required from planning and study participants as a basis for evaluating their proposed actions, and make these guidelines available upon request.

(2) Provide such guidance on a case-by-case basis to those requesting Water Resources Council sponsorship and funding of planning studies as listed above.

These responsibilities shall be performed by the Director of the Water Resources Council or his designee.

(c) To facilitate compliance with these requirements, river basin commissions, regional interagency committees, and other non-Federal or partially non-Federal planning entities are expected to:

(1) Consult with appropriate Federal, regional, State and local agencies and other potentially interested parties during preliminary study or planning stages to ensure that all pertinent environmental factors are identified;

(2) Notify the Water Resources Council or responsible Federal official (e.g., river basin commission chairpersons) of all known parties

potentially affected by or interested in actions proposed by studies or plans.

§ 707.5 Ensuring that environmental documents are actually considered in agency decisionmaking.

(a) Section 1505.1 of the NEPA regulations contains requirements to ensure adequate consideration of environmental documents in agency decisionmaking. To implement these requirements, Water Resources Council officials shall:

(1) Consider all relevant

environmental documents in evaluating actions proposed in plans and studies;

(2) Make all relevant environmental documents, comments and responses part of the record in formal rulemaking or adjudicatory proceedings;

(3) Ensure that all relevant environmental documents, comments and responses accompany the proposed actions through existing review processes;

(4) Consider only those alternatives encompassed by the range of alternatives discussed in the relevant

environmental documents when evaluating proposals for agency action;

(5) Where an EIS has been prepared, consider the specific alternatives analyzed in the EIS when evaluating the proposal which is the subject of the EIS.

(b) For each of the Water Resources Council's principal programs, the following chart identifies the point at which the NEPA process begins, the point at which it ends, and the key agency officials or offices required to consider environmental documents in their decisionmaking.

Principal program	Start of NEPA process	Completion of NEPA process	Key officials or offices required to consider environmental documents
Regional water resource management plans	Beginning of planning process	Approval of plans or studies by river basin commissions, the water resources council or its designated sponsors.	Responsible Federal officials of designated sponsors river basin commission, chairman Federal study manager, water resources council chairman, members, and representatives.
Level B plans	Preparation of plan of study	Approval of plans or studies by river basin commissions, the water resources council or its designated sponsors.	Responsible Federal officials of designated sponsors river basin commission, chairman Federal study manager, water resources council chairman, members, and representatives.
Special studies	Preparation of plan of study	Approval of plans or studies by river basin commissions, the water resources council or its designated sponsors.	Responsible Federal officials of designated sponsors river basin commission, chairman Federal study manager, water resources council chairman, members, and representatives.

§ 707.6 Typical classes of action requiring similar treatment under NEPA.

(a) Section 1507.3(c)(2) in conjunction with § 1508.4 requires agencies to establish three typical classes of action for similar treatment under NEPA. These typical classes of action are set forth below:

Actions normally requiring EIS's	Actions normally requiring assessments but not necessarily EIS's	Actions normally not requiring assessments or EIS's
Regional water resources management plans	Establishment of, and implementing guidance (including significant changes) for principles, standards, and procedures for planning water and related land resources.	State planning grants
Level B plans special studies	Significant Federal interagency water policy decisions.	

(b) The Water Resources Council shall independently determine whether an EIS or an environmental assessment is required where:

(1) A proposal for Water Resources Council action is not covered by one of the typical classes of action above;

(2) For actions which are covered, the presence of extraordinary circumstances indicates that some other level of environmental review may be appropriate.

§ 707.7 Environmental information.

Interested persons may contact the Director, Water Resources Council, 2120 L Street, N.W., Washington, D.C. 20037, for information regarding the Council's compliance with NEPA.

Dated: July 23, 1979.

Leo M. Eisel,
Director.

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BILLING CODE 9410-01-M

DEPARTMENT OF JUSTICE

[28 CFR Ch. I]

Procedures for Implementing the National Environmental Policy Act

AGENCY: Department of Justice.

ACTION: Proposed procedures.

SUMMARY: On November 29, 1978, the Council on Environmental Quality (CEQ) promulgated regulations implementing the procedural provisions of the National Environmental Policy Act (NEPA). CEQ required federal agencies to as necessary adopt procedures to supplement their regulations. As a result, the Department of Justice and certain subunits are proposing procedures to facilitate compliance with NEPA.

DATE: Written comments will be received on these proposed procedures. Comments must be received on or before August 27, 1979.

ADDRESS: Comments should be addressed to Zoe E. Baird, Office of Legal Counsel, Department of Justice, Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: Zoe E. Baird, Office of Legal Counsel, Department of Justice, Washington, D.C. 20530, (202) 633-2048.

SUPPLEMENTARY INFORMATION: The National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq., requires all federal agencies to give appropriate consideration to the environmental effects of their proposed actions in their decisionmaking and to prepare detailed environmental statements on proposals for legislation significantly affecting the quality of the human environment and on other major federal actions significantly affecting the quality of the human environment. CEQ issued regulations to implement the procedural provisions of NEPA (to be codified at 40 CFR Part 1500-1508, hereafter referred to by section number), under the direction of Executive Order

11991. These regulations require all agencies to prepare supplemental procedures as necessary to implement the regulations § 1507.3. The procedures are to be brief and are to contain only information not already specified in the CEQ regulations but which is necessary to facilitate Department compliance with NEPA.

The Department of Justice has endeavored to assure that where NEPA is applicable, its requirements will be met consistently with the goals of reducing paperwork and delay. Major Departmental subunits have reviewed their activities to determine which are covered by NEPA. CEQ has been consulted regularly throughout this process. The Department of Justice has determined that most of its actions do not come within the definition of "major federal actions" invoking the NEPA process. The Department of Justice is primarily engaged in activities in the litigation framework and in giving legal advice and these actions are excluded from the definition of "major federal action" by CEQ regulations § 1508.18.

The Bureau of Prisons, the Drug Enforcement Administration and the Immigration and Naturalization Service have developed proposed procedures to supplement the proposed Departmentwide procedures for those activities not conducted elsewhere in the Department which necessitate environmental review. The Law Enforcement Assistance Administration has been reviewing its existing regulations (28 CFR Part 19) to determine revisions compelled by the new CEQ regulations and will propose any such revisions at a future date.

The requirements of 5 U.S.C. 553 (informal rulemaking) and Executive Order 12044 (improving government regulations) do not apply to these procedures. The provisions of the Department of Justice and subunit procedures that provide for internal management of NEPA review are exempt under 5 U.S.C. 553(a)(2) and section 6(b)(3) of Executive Order 12044. Other provisions interpret the CEQ regulations in the context of Department activities and are therefore exempt under 5 U.S.C. 553(b)(A) and the Department of Justice's understanding of the coverage of the Executive Order. These regulations are not "significant" within the meaning of section 2(e) of the Executive Order and section III(D) of the Department report on implementation of the Executive Order, 44 FR 30461.

A comment period of thirty days is being provided due to the immediacy of the July 30, 1979, effectiveness date of the CEQ regulations.

I. Department of Justice Procedures for Implementing the National Environmental Policy Act

Subpart A—General

- Sec.
- 1 Background.
 - 2 Purpose.
 - 3 Applicability.
 - 4 Major Federal Action.

Subpart B—Implementing Procedures

- 5 Typical Classes of Action
- 6 Ensuring Environmental Documents Are Actually Considered in Agency Decision-making
- 7 Legislative Proposals
- 8 Classified Proposals
- 9 Emergencies
- 10 Ensuring Department NEPA Compliance
- 11 Environmental Information

Subpart A—General

Sec. 1 Background

(a) The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) establishes national policies and goals for the protection of the environment. Section 102(2) of NEPA contains certain procedural requirements directed toward the attainment of such goals. In particular, all federal agencies are required to give appropriate consideration to the environmental effects of their proposed actions in their decision-making and to prepare detailed environmental statements on proposals for legislation significantly affecting the quality of the human environment and on other major federal actions significantly affecting the quality of the human environment.

(b) Executive Order 11991 of May 24, 1977, directed the Council on Environmental Quality (CEQ) to issue regulations to implement the procedural provisions of NEPA. Accordingly, CEQ issued final NEPA regulations (40 CFR Part 1500–1508) on November 29, 1978, which are effective July 30, 1979. These regulations provide that each federal agency shall as necessary adopt implementing procedures to supplement the regulations. Section 1507.3(b) of the NEPA regulations identifies those sections of the regulations which must be addressed in agency procedures.

Sec. 2 Purpose

The purpose of this part is to establish procedures which supplement the relevant provisions of the NEPA regulations and to provide for the implementation of those provisions identified in § 1507.3(b) of the regulations.

Sec. 3 Applicability

These procedures apply to all organizational elements of the Department of Justice. These procedures are supplemented by those issued separately by the Bureau of Prisons, the Drug Enforcement Administration, the Immigration and Naturalization Service and the Law Enforcement Assistance Administration.

Sec. 4 Major Federal Action

Section 1508.18 of the NEPA regulations defines "major federal action." "Major federal action" does not include "major federal action." "Major federal action" does not include action taken by the Department of Justice within the framework of judicial or administrative enforcement proceedings or civil or criminal litigation, including but not limited to the submission of consent or settlement agreements and investigations. Neither does "major federal action" include the rendering of legal advice.

Subpart B—Implementing Procedures

Sec. 5 Typical Classes of Action

(a) Section 1507.3(b)(2) and § 1508.4 of the NEPA regulations require agencies to establish three typical classes of action for similar treatment under NEPA. These classes of action are: (1) Actions normally requiring environmental impact statements (EIS); (2) Actions normally not requiring assessments or EIS; (3) Actions normally requiring assessments but not necessarily EIS.

(1) *Actions Normally Requiring EIS.* None.

(2) *Actions Normally Not Requiring Assessments or EIS.* Actions not significantly affecting the human environment.

(3) *Actions Normally Requiring Assessments But Not Necessarily EIS.* (i) Proposals for major federal action; (ii) proposals for legislation developed by or with the significant cooperation and support of the Department of Justice and for which the Department has primary responsibility for the subject matter.

(b) The Department of Justice shall independently determine whether an EIS or an environmental assessment is required where:

(1) A proposal for agency action is not covered by one of the typical classes of action above; or

(2) For actions which are covered, the presence of extraordinary circumstances indicates that some other level of environmental review may be appropriate.

Sec. 6 Ensuring Environmental Documents Are Actually Considered in Agency Decision-making.

Section 1505.1 of the NEPA regulations contains requirements to ensure adequate consideration of environmental documents in agency decision-making. To implement these requirements, the Department of Justice shall:

(1) Consider from the earliest possible point in the process all relevant environmental documents in evaluating proposals for Department action;

(2) Ensure that all relevant environmental documents, comments and responses accompany the proposal through existing Department review processes;

(3) Consider only those alternatives encompassed by the range of alternatives discussed when evaluating proposals for Department action, or if it is desirable to consider substantially different alternatives, first supplement the environmental document to include analysis of the additional alternatives;

(4) Where an EIS has been prepared, consider the specific alternatives analyzed in the EIS when evaluating the proposal which is the subject of the EIS.

Sec. 7 Legislative Proposals

Each subunit of the Department of Justice which develops or significantly cooperates and supports a bill or legislative proposal to Congress which may have an effect on the environment shall, in the early stages of development of the bill or proposal, undertake an assessment to determine whether the legislation will significantly affect the environment. The Office of Legislative Affairs shall monitor legislative proposals to assure that Department procedures for legislation are complied with. Requests for appropriations need not be so analyzed.

If the Department of Justice has primary responsibility for the subject matter involved and if the subunit affected finds that the bill or legislative proposal has a significant impact on the environment, that subunit shall prepare a legislative environmental impact statement in compliance with § 1506.8 of the NEPA regulations.

Sec. 8 Classified Proposals

If an environmental document includes classified matter, a version containing only unclassified material shall be prepared unless the head of the Office, board or division determines that preparation of an unclassified version is not feasible.

Sec. 9 Emergencies

CEQ shall be consulted when emergency circumstances make it necessary to take a major federal action with significant environmental impact without following otherwise applicable procedural requirements under NEPA.

Sec. 10 Ensuring Department NEPA Compliance

The Land and Natural Resources Division shall have final responsibility for ensuring compliance with these provisions.

Sec. 11 Environmental Information

Interested persons may contact the Land and Natural Resources Division for information regarding the Department of Justice compliance with NEPA.

Dated: July 23, 1979.

Larry A. Hammond,
Deputy Assistant Attorney General, Office of Legal Counsel.

Bureau of Prisons.—Procedures Relating to the Implementation of National Environmental Policy Act

1. *Authority:* (CEQ Regulations) NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 *et seq.*) Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977.)

2. *Purpose:* This guide shall apply to efforts associated with the leasing, purchase, design, construction, management, operation and maintenance of new and existing Bureau of Prisons facilities as well as the closing of existing Bureau of Prisons institutions. These procedures shall be used by the Regional Facilities Administration staff as well as the Central Office of Facilities Development and Operations staff. Activities concerning Bureau of Prisons compliance with NEPA shall be handled by and coordinated with these staff members and coordinated by Central Office Personnel. (Reference shall be made to Part 1507—Agency Compliance of the CEQ Regulations.)

3. *Agency Description:* The Bureau of Prisons, a component of the U.S. Department of Justice, is responsible for providing custody and care to committed Federal offenders in an integrated system of correctional institutions across the nation.

The Bureau of Prisons performs its mission of protecting society by implementing the judgments of the Federal courts and safeguarding Federal offenders committed to the custody of the Attorney General.

The administration of the Federal Prison System consists of six divisions. The central office in Washington, D.C., is supplemented by five regional offices located in Atlanta, San Francisco, Dallas, Kansas City, and Philadelphia.

4. (Reference: § 1501.2(d)(1)—CEQ Regulations) The Bureau of Prisons shall

make available the necessary technical staff to review proposals and prepare feasibility studies for facilities under consideration for possible use as Federal correctional institutions. (Reference: § 1501.2(d)(2)—CEQ Regulations) At the appropriate time after project funding approval, the Bureau of Prisons, having identified a preferred general area for a new facility, will inform the members of Congress representing the affected locale of the intent to pursue the establishment of a Federal correctional institution in the area. This activation might include but not be limited to: (1) The construction of a new facility; (2) or Surplus Federal, state, or local facility to the Bureau of Prisons for prior use. The Bureau of Prisons shall advise and inform interested parties concerning proposed plans which might result in implementation of the NEPA regulations. After initial informal contacts have been made, the Bureau of Prisons will, with the aid of local area officials, begin to identify desired locations for the proposed new facility. In the event of proposed activation of an existing facility for prison use, the Bureau of Prisons shall seek initial involvement among local officials and advise on alternative courses of action.

In either case, if the issues appear significantly controversial, an informal public hearing will be held to present the issues to the community and seek their involvement in the planning process. Upon completion of the preliminary groundwork described above, the Bureau of Prisons will issue an A-95 letter of intent to (1) either file an EIS; (2) file an EIA; or (3) discontinue the efforts of locating a facility in the proposed area.

5. *Public Involvement:* (Reference: Part 1506.6(3)—CEQ Regulations) Information regarding the policies of the Bureau of Prisons for implementing the NEPA process can be obtained from: Bureau of Prisons Facilities Development and Operations Office, 320 First Street, NW., Washington, D.C. 20534.

6. *Supplemental Statements:* (Reference: Part 1502.9(c)(3)—CEQ Regulations) If it is necessary to prepare a supplement to a Draft or Final Environmental Impact Statement, and if it is determined that the information is not of such a significant nature as to require circulation of the supplement, the supplement shall be introduced into the project administrative record. Copies of the supplement shall be distributed by the Bureau of Prisons upon written request. If during the review of the Draft any new findings are presented which necessitate publications or portions or all of the supplement it shall be included in the final EIS.

7. *Bureau of Prisons Decisionmaking Procedures:* (Reference: Part 1501.1 (a) through (e)—CEQ Regulations) Major decision points likely to involve the NEPA process:

1. Construction of a new Federal correctional institution.
2. Closing of an existing Federal correctional institution.
3. Activation of a surplus facility for conversion to a Federal correctional institution.

4. Significant change from the original mission of a Federal correctional institution.

5. New construction at an existing Federal correctional institution which might significantly impact upon the existing community environment.

When the inclusion of certain voluminous data in environmental documents would prove impractical, the Bureau of Prisons will summarize the data and retain the original material as a part of its administrative record for the project. This material will be made available to the public in a central place to be designated in Environmental Impact Statements, and upon written request or court order copies of specified material will be provided. A charge may be made for copying, in accordance with current Department of Justice guidelines for reproduction of records.

Decisionmakers shall verify the consideration of all available options in the EIS with a comparative analysis of the alternatives to be considered in the decisionmaking process.

8. Those Actions Which Normally Do Require Environmental Impact Statements: (Reference: § 1507.3(b)(2)(ii)—CEQ Regulations) (1) New Federal correctional institution construction projects.

(2) Acquisition of surplus facilities for conversion to Federal correctional institutions, if the impact upon the quality of the human environment is likely to be significant.

(3) The closing of an existing Federal correctional institution, if that is likely to have a significant impact upon the quality of the human environment.

(4) Significant change from the original mission of a Federal correctional institution when the issue is likely to have an impact upon the quality of the human environment.

(5) New construction at an existing Federal correctional institution which would significantly affect the physical capacity, when the action is likely to have an impact upon the quality of the human environment.

(6) New construction at an existing Federal correctional institution which would significantly impact upon the quality of the community environment.

9. Those Actions Which Normally do not Require Either an Environmental Impact Statement or an Environmental Assessment: (Reference: Part 1507.3(b)(2)(ii) and Part 1508.4—CEQ Regulations) (1) Increase or decrease in population of a facility, above or below its physical capacity.

(2) Construction projects for existing facilities, including but not limited to: additions and remodeling; replacement of building systems and components; maintenance and operations, repairs, and general improvements; when such projects do not significantly alter the program of the facility or significantly impact upon the quality of the environment in the community.

10. Those Actions Which Normally Require Environmental Assessments but not Necessarily Environmental Impact Statements: (Reference: § 1507.3(b)(2)(iii)—CEQ Regulations) (1) Acquisition of surplus facilities for conversion to Federal correctional institution.

(2) Construction of additional facilities at an existing institution when the impact on the local environment is not seen to be significant, but when the alteration of programs or operations may be controversial.

(3) The closing of an institution or significant reduction in population of an institution when the impact on the local environment is not seen to be significant.

11. *Emergency Actions:* (Reference: Part 1506.11—CEQ Regulations). After consultation with the Council on Environmental Quality regarding alternative courses of action, the Bureau of Prisons shall take action without observing the provisions of the CEQ Regulations and these Bureau of Prisons Procedures in the following cases:

(1) When the replacement of suddenly unavailable local utilities, services, and/or resources, due to circumstances beyond the control of the Bureau of Prisons, is vital to the lives and safety of inmates and staff or protection of U.S. Government property.

(2) When unforeseen circumstances, such as greatly increased judicial commitments, suddenly dictate the activation of facilities to house increased numbers of Federal

offenders and detainees significantly above the physical capacity of the combined Bureau of Prisons facilities in order to insure the lives and safety of inmates and staff or protection of U.S. Government property.

(3) When the sudden destruction of or damage to institutions dictates immediate replacement in order to protect the lives and safety of inmates and staff and protection of U.S. Government property.

Drug Enforcement Administration Procedures

Part 1000 Compliance With the National Environmental Policy Act.

Sec. 1000.1 Applicability.

Sec. 1000.2 Typical Classes of Action Requiring Similar Treatment Under NEPA.

Sec. 1000.3 Environmental Information.

Sec. 1000.1 Applicability.

This part applies to all organizational elements of the Drug Enforcement Administration [DEA].

Sec. 1000.2 Typical Classes of Action Requiring Similar Treatment Under NEPA.

(a) Section 1507.3(c)(2) in conjunction with § 1508.4 requires agencies to establish three typical classes of action for similar treatment under NEPA. These typical classes of action are set forth below:

(1) Actions normally requiring EIS	(2) Actions normally not requiring environmental assessments or EIS (Categorical exclusions)	(3) Actions normally requiring environmental assessments but not necessarily EIS
None	Scheduling of drugs as controlled substances Establishing quotas for controlled substances Registration of persons authorized to handle controlled substances. Storage and destruction of controlled substances	Eradication of plant species from which controlled substances may be extracted.

(b) For the principal DEA program requiring environmental review, the following chart identifies the point at which the NEPA process begins, the point at which it ends, and the key agency officials or offices required to consider environmental documents in their decisionmaking.

Principal program	Start of NEPA process	Completion of NEPA process	Key officials or offices required to consider environmental documents
Eradication of plant species from which controlled substances may be extracted.	Prepare an environmental assessment.	Final review of environmental assessment or Environmental Impact Statement	Office of Science and Technology.

(c) The DEA shall independently determine whether an EIS or an environmental assessment is required where:

(1) A proposal for agency action is not covered by one of the typical classes of action in (a) above; or

(2) For actions which are covered, the presence of extraordinary circumstances indicates that some other level of environmental review may be appropriate.

Sec. 1000.3 Environmental Information

Interested persons may contact the Office of Science and Technology for information regarding the DEA compliance with NEPA.

Immigration and Naturalization Service Procedures Relating to the Implementation of the National Environmental Policy Act

1. *General.* These procedures are published pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 et seq.), the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309

of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

2. *Purpose.* These procedures shall apply to efforts associated with the leasing, purchase, design, construction, and maintenance of new and existing INS facilities. All activities concerning the Immigration and Naturalization Service's compliance with NEPA shall be coordinated with Central Office Engineering staff.

3. *Agency Description.* The INS administers and enforces the immigration and nationality laws. This includes determining the admissibility of persons seeking entry into the United States and adjudicating requests for benefits and privileges under the immigration and nationality laws. The enforcement actions of INS involve the prevention of illegal entry of persons into the United States and the investigation and apprehension of aliens already in the country who because of inadmissibility at entry or

misconduct committed following entry may be subject to deportation.

In carrying out its statutory enforcement responsibilities, the INS is authorized to arrest and detain aliens believed to be deportable and to effectuate removal from the U.S. of aliens found deportable after hearing.

4. *Designation of Responsible Official.* The Chief Engineer, Facilities and Engineering Branch shall be the liaison official for INS with the Council on Environmental Quality, the Environmental Protection Agency, and the other departments and agencies concerning environmental matters. Duties of the Chief Engineer include:

(a) Insuring compliance with the requirements of NEPA and that the actions with respect to the fulfillment of NEPA are coordinated;

(b) Providing for procedural and substantive training on environmental issues, policy, procedures and clearance requirements;

(c) Providing guidance in the preparation and processing of Environmental Impact Statements; and

(d) Participating in policy formulation, as necessary, in the application of the requirements of the National Environmental Policy Act of 1969.

5. *NEPA and INS Planning.* (a) INS will make available to the public proposals and feasibility studies for facilities under consideration for possible use as INS facilities.

(b) Interested parties identified as such by the local clearinghouse (as established by the Office of Management and Budget Circular No. A-95) will be advised and informed concerning proposed plans which might involve NEPA regulations.

(c) Upon completion of the preliminary groundwork described above, INS will issue an A-95 Letter of Intent to:

(1) File an Environmental Impact Assessment (EIA);

(2) File an Environmental Impact Statement (EIS). (Reference: 1501.2—CEQ Regulations.)

6. *Public Involvement.* Information regarding the policies of INS for implementing the NEPA process can be obtained from: Immigration and Naturalization Service, Facilities and Engineering Branch, 425 I Street NW., Washington, D.C. 20536. (Reference: Part 1506.6(3)—CEQ Regulations.)

7. *Supplemental Statements.* If it is necessary to prepare a supplement to a draft of a Final Environmental Impact Statement, and if it is determined that the information is not of a significant nature requiring circulation, the supplement shall be introduced into the administrative record pertaining to the project. Copies of the supplement shall be distributed by INS upon written request. If during the review of the draft any new findings are presented which necessitate publication of portions or all of the supplement, it shall be included in the Final EIS. (Reference: Part 1502.9(e)(3)—CEQ Regulations.)

8. *INS Decisionmaking Procedure.* (a) *Policy.*—(1) the Chief Engineer will consider all practical means, including the "no-action"

alternative and other alternatives to the proposed action, which will enhance, protect, and preserve the quality of the environment, restore environmental quality previously lost, and minimize and mitigate unavoidable adverse effects. He will analyze and study the environment together with engineering, economic, social and other considerations to insure balanced decisionmaking in the overall public interest.

(2) During INS project planning and the related decisionmaking process, environmental effects will be weighed together with the engineering, economic and social and other considerations affecting the public interest.

(b) *Preparation of the environmental impact statements.* (1) Situations where Environmental Impact Statements (EIS) are required are described in section 102(2)(C) of NEPA. EIS constitute an integral part of the plan formulation process and serve as a summation and evaluation of the effects, both beneficial and adverse, that each alternative action would have on the environment, and as an explanation and objective evaluation of the plan which is finally recommended.

(2) Should the Chief Engineer determine in assessing the impact of a minor action that an environmental statement is not required, the determination to that effect will be placed in the project file. This negative determination shall be made available to the public upon request and shall include a statement of the facts and the basis for the decision.

(3) When inclusion of certain voluminous data in an EIS would prove to be impractical, INS will summarize the data and retain the original material as a part of its administrative record for the project. This material will be made available to the public in a central place to be designated in the EIS, and upon written request or court order, copies of specified material will be provided. A charge for the reproduction of records may be made in accordance with current Department of Justice guidelines. (Reference: Part 1505 CEQ Regulations.)

9. Actions Which Normally Do Require Environmental Impact Statements:

(a) Construction of a new INS facility which would have a significant impact upon the environment.

(b) Construction of a new addition to an existing INS facility which would significantly affect the physical capacity and which would have a significant impact upon the environment. (Reference: § 1507.3(b)(2)(i)—CEQ Regulations.)

10. Actions Which Normally Do Not Require Either An Environmental Impact Statement Or An Environmental Assessment:

(a) Construction projects for existing facilities including but not limited to: remodeling; replacement of building systems and components; maintenance and operations repairs and general improvements when such projects do not significantly alter the initial occupancy and program of the facility or significantly impact upon the environment.

(b) Increase or decrease in population of a facility within its physical capacity.

(c) Construction or acquisition of temporary facilities or locations due to natural disasters, or emergency situations.

(Reference: Part 1507.3(b)(2)(ii) and Part 1508.4—CEQ Regulations.)

11. *Actions Which Normally Require An Environmental Assessment But Not Necessarily Environmental Impact Statements:* (a) Construction of a new INS facility which may have some impact upon the environment.

(b) Construction of a new addition to an existing INS facility which may affect the physical capacity and may have some impact upon the environment.

(c) Closing of an INS facility which may have some impact on the environment. (Reference: § 1507.3(b)(2)(iii)—CEQ Regulations.)

(FR Doc. 79-23102 Filed 7-25-79; 8:45 am)

BILLING CODE 4410-01-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Ch. I]

[FRL 1283-1]

Waiver of 1981 Motor Vehicle Emission Standard for Carbon Monoxide (CO); Amended Date of Closing of Public Hearing Record

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of the extension of the period of public comment.

SUMMARY: This notice announces that the July 23, 1979, closing date pertaining to submission of comments and information requests for waiver of the effective date of the 1981 CO standard for light-duty motor vehicles has been extended to July 30, 1979.

ADDRESS: All comments and information on manufacturers' applications for waiver of the 1981 CO standard should be submitted to: Public Docket EN-79-4, U.S. Environmental Protection Agency, Central Docket Section (A-130), Room 2903B Waterside Mall, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Glenn Unterberger, Mobile Source Enforcement Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; (202) 426-9434.

SUPPLEMENTARY INFORMATION: EPA conducted public hearings on July 9-12, 1979, under section 202(b)(5) of the Clean Air Act, as amended, to consider requests by General Motors Corporation, Chrysler Corporation, American Motors Corporation, British Leyland, Volkswagen, and Toyota for waiver of the effective date of the 1981 model year light-duty vehicle emission standard for CO. The June 19, 1979,

Federal Register notice (44 FR 35262) announcing the public hearing stated that all comments and other information should be submitted to the public record before July 23, 1979.

In order to afford subpoenaed witnesses at the July 9-12 hearing an adequate opportunity to submit additional information which EPA's Hearing Panel requested at the hearing, EPA hereby extends the closing date of the public record to July 30, 1979.

Dated: July 20, 1979.

Marvin B. Durning,
Assistant Administrator for Enforcement.

[FR Doc. 79-23100 Filed 7-25-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1282-3]

Availability of Implementation Plan Revision for State of Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability and Advance Notice of Proposed Rulemaking.

SUMMARY: EPA announces to day that additional elements of the State of Oregon Implementation Plan revision due for submittal by January 1, 1979 under the Clean Air Act Amendments of 1977 have been received and are available for public inspection.

The public is invited to submit written comments to the record which will be held open for the receipt of public comments through August 27, 1979. Further, the comment period for the Oregon Notice of Availability, published in the Federal Register on July 6, 1979 (44 FR 39485) is hereby extended to August 27, 1979. Thus, a single due date is provided for comments on both of the Notices of Availability.

A Notice of Proposed Rulemaking describing the plan and the action that EPA intends to take regarding the proposed revisions will be published in the Federal Register after the initial thirty (30) day public comment period has closed. A second period for the submittal of written comments will extend for thirty (30) days after the publication of the Notice of Proposed Rulemaking.

DATE: Comments are due by August 27, 1979.

ADDRESSES: The Oregon submittal may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection

Agency, 401 M Street SW., Washington, D.C. 20460.

Library, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101.

State of Oregon, Department of Environmental Quality, Yeon Building, Fourth Floor, 522 S.W., 5th Avenue, Portland, OR 97207.

COMMENTS SHOULD BE ADDRESSED TO:

Laurie M. Kral, Air Programs Branch, M/S 629, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT:

Michael J. Schultz, Air Programs Branch, M/S 625, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone No. (206) 442-1226, (FTS 399-1226).

SUPPLEMENTAL INFORMATION: Section 142 of the Clean Air Act, as amended in August 1977, requires that states submit revisions to their implementation plans by January 1, 1979 to provide for the attainment of the national ambient air quality standards (NAAQS) in areas designated non-attainment. On March 3, 1978 (43 FR 8962) EPA designated certain areas in Oregon as non-attainment. Subsequently, on April 4, 1979 EPA published in the Federal Register the General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Non-Attainment Areas (44 FR 20372). The General Preamble is hereby incorporated into this Advance Notice of Proposed Rulemaking.

The State has responded by preparing implementation plan revisions as required by the Act for the non-attainment designation referred to above. The specific Oregon SIP revisions being announced today are as follows:

1. *Ozone control strategies for Portland, Salem, and Medford.* Pursuant to the July 10, 1979 Federal Register discussion on this subject, the State Environmental Quality Commission adopted recently developed strategies for attainment of the 0.12 ppm NAAQS standard. These are to serve as an interim measure for attainment of the State 0.08 ozone standard.

2. *Table of contents and SIP introduction.* Revisions were made as dictated by the addition of ozone control strategies.

3. *Rules of the local Lane Regional Air Pollution Authority.* The purpose of this notice is to call the public's attention to the fact that these revisions have been formally submitted to EPA and are available for public inspection at the locations noted above. The public is encouraged to submit written comments regarding the proposed

revisions and thus participate in this rulemaking activity.

Those interested may wish to first read the General Preamble for proposed rulemaking published by the EPA in the Federal Register on April 4, 1979 (44 FR 20372) which identifies the major considerations that will guide EPA's evaluation of proposed SIP revisions. A more detailed description of the proposed Oregon SIP revisions will be published in the Federal Register at a later date as part of a Notice of Proposed Rulemaking.

(Section 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502)).

Dated: July 18, 1979.

Donald DuBois,

Regional Administrator.

[FR Doc. 79-23101 Filed 7-25-79; 8:45 am]

BILLING CODE 6560-01-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Meeting

Notice is hereby given in accordance with Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, (the Act) and paragraph 8b of Office of Management and Budget Circular No. A-63 (Revised March 27, 1974) (the OMB Circular), that a meeting of the General Advisory Committee (GAC) is scheduled to be held on August 9, 1979 from 9 a.m. to 6 p.m. and on August 10, 1979 from 9 a.m. to 6 p.m. at 2201 C Street, NW., Washington, D.C., in Room 7516.

The purpose of the meeting is for the GAC to receive briefings and hold discussions concerning arms control and related issues which will involve national security matters classified in accordance with Executive Order 12065, dated June 28, 1978.

The meeting will be closed to the public in accordance with the determination of July 18, 1979 made by the Director of the U.S. Arms Control and Disarmament Agency pursuant to Section 10(d) of the Act and paragraph 8d(2) of the OMB Circular that the meeting will be concerned with matters of the type described in 5 U.S.C. 552(b)(1). This determination was made pursuant to a delegation of authority from the Office of Management and Budget dated June 25, 1973, issued under the authority of Executive Order 11686 dated October 7, 1972 and continued by Executive Order 11769 dated February 21, 1974.

Dated: July 24, 1979.

Charles R. Oleszycki,
Advisory Committee Management Officer.

[FR Doc. 79-23274 Filed 7-25-79; 8:45 am]

BILLING CODE 6820-32-M

CIVIL AERONAUTICS BOARD

[Order 79-7-147]

Atlanta-Nashville Nonstop Air Route Authority; Braniff Airways, et al.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (79-7-147).

SUMMARY: The Board is proposing to grant Atlanta-Nashville nonstop air route authority under Section 401 of the Federal Aviation Act of 1958, as amended, to Braniff Airways, Ozark Air Lines, USAir (formerly Allegheny Airlines) and any other fit, willing and able applicant whose fitness can be established by officially noticeable data. The complete text of this order is available as noted below.

DATES: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file, by August 27, 1979, a statement of objections together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings shall be served upon all parties listed below.

ADDRESSES: Objections to issuance of a final order should be filed in the Dockets Section, Civil Aeronautics Board, Washington, D.C., 20428, in Docket 36187, which we have entitled the *Atlanta-Nashville Show-Cause Proceeding*.

In addition, copies of such filings should be served on Delta Air Lines, Braniff Airways, Ozark Air Lines, USAir, American Airlines, Continental Air Lines, Eastern Air Lines, National Airlines, Northwest Airlines, Trans World Airlines, Western Air Lines, United Air Lines, Frontier Airlines, Hughes Airwest, North Central Airlines, Piedmont Aviation, Southern Airways, Texas International Airlines, Florida Airlines, Southeastern Commuter Airlines, Airbama, Tennessee Airways, Air Kentucky, Vale International Airlines, Comair, the Bureaus of Aeronautics of the Georgia and Tennessee Departments of Transportation, the Mayors of Atlanta and Nashville, the Commissioner of Aviation of Hartsfield Atlanta International Airport and the Chairman of the Metropolitan Nashville Airport Authority.

Federal Register

Vol. 44, No. 145

Thursday, July 26, 1979

FOR FURTHER INFORMATION CONTACT:

Philip J. Reinke, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., 20428, (202) 673-5105.

SUPPLEMENTARY INFORMATION: The complete text of Order 79-7-147 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, NW., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-7-147 to the Distribution Section, Civil Aeronautics Board, Washington, D.C., 20428.

By the Civil Aeronautics Board: July 19, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-23084 Filed 7-25-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-7-130]

Nonstop Authority Between Various Locations; Continental Airlines

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-7-130.

SUMMARY: The Board is proposing to grant nonstop authority between Dallas/Fort Worth and Houston, and between and among Detroit, Cleveland, and Pittsburgh to Continental Air Lines for Route 29 and any other fit, willing and able applicant whose fitness can be established by officially noticeable data. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than August 30, 1979, a statement of objection, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than August 14, 1979.

ADDRESSES: Objections or Additional Data should be filed in Docket 36172, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Mary Catherine Terry, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428, (202) 673-5384.

SUPPLEMENTARY INFORMATION: Objections should be served upon Continental Air Lines.

The complete text of Order 79-7-130 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-7-130 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: July 19, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-23080 Filed 7-25-79; 8:45 am]
BILLING CODE 6320-01-M

[Order 79-7-133]

Nonstop Authority to Texas International Airlines

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-7-133.

SUMMARY: The Board is proposing to grant Salt Lake City-Reno nonstop authority to Texas International Airlines, Salt Lake City-Reno/ Las Vegas nonstop authority to PSA, and any of the authority at issue to any other fit, willing and able applicant whose fitness can be established by officially noticeable data. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than August 23, 1979, a statement of objection, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than August 8, 1979.

ADDRESSES: Objections or Additional Data should be filed in Docket 36175, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Carol A. Szekey, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825

Connecticut Avenue, Washington, D.C. 20428, (202) 673-5380.

SUPPLEMENTARY INFORMATION:

Objections should be served upon the following persons: Texas International Airlines, Pacific Southwest Airlines, Ozark Airlines and the Mayors of Salt Lake City, Las Vegas and Reno.

The complete text of Order 79-7-133 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-7-133 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: July 19, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-23082 Filed 7-25-79; 8:45 am]
BILLING CODE 6320-01-M

[Order 79-7-131]

New Authority to U.S. Air, Inc., et al.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show-Cause (Order 79-7-131).

SUMMARY: The Board is proposing to award new authority under section 401 of the Federal Aviation Act, as amended, in the Pittsburgh-El Paso-Albuquerque-San Diego and Houston-El Paso-Albuquerque markets to U.S. Air, Inc., d.b.a. USAir (formerly Allegheny), Ozark Air Lines and any other fit, willing, and able applicants.

The complete text of this order is available as noted below.

DATES: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file by August 30, 1979, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings shall be served upon all parties listed below.

ADDRESSES: Objections to the issuance of a final order, or answers to the show-cause order, should be filed in the Dockets Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 36174, which we have entitled the *Pittsburgh/Houston-El Paso/Albuquerque-San Diego Show-Cause Proceeding*.

In addition, copies of such filings should be served on Allegheny Airlines, American Airlines, Continental Air Lines, Frontier Airlines, Ozark Air Lines, the City of Houston, the Houston

Chamber of Commerce, the County of Allegheny, Pa., and the Pittsburgh Airport Advisory Committee.

FOR FURTHER INFORMATION CONTACT:

Samuel J. Lebowich, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5329.

SUPPLEMENTARY INFORMATION: In the event no objections are filed, the Secretary of the Board will enter an order making final the tentative findings and conclusions contained in the show-cause order.

The complete text of Order 79-7-131 is available from the Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 79-7-131 to that address.

By the Civil Aeronautics Board: July 19, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-23081 Filed 7-25-79; 8:45 am]
BILLING CODE 6320-01-M

[Order 79-7-145]

Nonstop Certificated Air Route Authority; Frontier Airlines, Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-7-145.

SUMMARY: The Board is proposing to grant Las Vegas-Memphis and Las Vegas-Little Rock nonstop certificated air route authority under the Federal Aviation Act of 1958, as amended, to Frontier Airlines, Inc. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than August 24, 1979, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections or Additional Data should be filed in Docket 32449, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Gerard N. Boller, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5330.

SUPPLEMENTARY INFORMATION: Objections should be served upon the following persons: Frontier Airlines, Inc.

The complete text of Order 79-7-145 is available from the Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 79-7-145 to that address.

By the Civil Aeronautics Board: July 19, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-23083 Filed 7-25-79; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Computer Systems Technical Advisory Committee and Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Computer Systems Technical Advisory Committee and the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held on Wednesday, August 15, 1979, at 9:00 a.m. in Room 15022, the Federal Building, 450 Golden Gate Avenue, San Francisco, California.

The Computer Systems Technical Advisory Committee and the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee were initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committees, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committees, where they have expertise in such matters, advise the Office of Export Administration, Bureau of Trade Regulation, with respect to questions involving (a) technical matters, (b) worldwide availability and actual utilization of production technology, (c) licensing procedures which may affect the level of export controls applicable to computer systems, peripherals, components and related test equipment, including technical data or other information related thereto, and (d) exports of the aforementioned commodities and technical data subject to multilateral controls in which the

United States participates including proposed revisions of any such multilateral controls.

The joint Committee meeting has five parts:

General Session

1. Opening remarks by the Chairmen.
2. Presentation of papers or comments by the public.
3. Discussion of technical factors in computer systems and computer peripherals as related to export controls.
4. Report on the current work program of the Committees:
 - (a) Computer Systems Technical Advisory Committee: (1) Licensing Procedures Subcommittee, (2) Foreign Availability Subcommittee, (3) Hardware Subcommittee, (4) Technology Transfer Subcommittee.
 - (b) Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee: (1) Memory and Media Subcommittee, (2) Foreign Availability Subcommittee, (3) Display and Terminals Subcommittee, (4) Export Regulations Subcommittee.
5. Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committees. Written statements may be presented at any time before or after the meeting.

The Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, has formally determined, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed by each of the aforementioned Technical Advisory Committees in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense of foreign policy. All materials to be reviewed and discussed by the Committees during the Executive Session of the joint meeting have been properly classified under Executive Order 11652 or 12065. All Committee members have appropriate security clearances.

Copies of the minutes of the General Session will be available by calling Mrs. Margaret Cornejo, Policy Planning

Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, phone 202-477-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Following are the dates of approval of the Notices of Determination to close portions of the series of meetings of the Technical Advisory Committees involved in this joint meeting, and of any subcommittees thereof, the dates the full texts of the Notices of Determination were published in the Federal Register, and the Federal Register citations:

Computer Systems Technical Advisory Committee: Date approved: September 6, 1978. Date published: September 14, 1978 (43 FR 41071).

Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee: Date approved: September 6, 1978. Date published: September 14, 1978 (43 FR 41071).

Dated: July 11, 1979.

Lawrence J. Brady,

Deputy Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 79-23112 Filed 7-25-79; 8:45 am]
BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement for Clearing, Snagging, and Shelterbelt Construction for Flood Control on the Snake River below Warren, Minn.

AGENCY: St. Paul District, U.S. Army Corps of Engineers.

ACTION: Revision of availability date for the Draft Environmental Impact Statement.

SUMMARY: A previous Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS) published in the Federal Register, Vol. 43, No. 224, 20 November 1978, indicated that the DEIS would be made available to the public by January 1979. Delays in the engineering studies for the hydraulic and economic analyses have made it necessary to revise the completion date for the Draft EIS.

The proposed action would provide for the snagging, clearing, and construction and shelterbelts along selected reaches of the Snake River to reduce rural flooding.

In addition to the proposed action, the following reasonable alternatives have been identified:

1. No action, i.e., no reduction in frequency or duration of flooding.
2. Nonstructural methods, i.e., flood warning and emergency protection, flood insurance, flood proofing, floodplain regulation, and floodplain evacuation.
3. Levee and flooding system, i.e., inclosing approximately 1,700 acres of river corridor.
4. Channel modification, i.e., enlarging the existing river channel to contain at least the 10-year flood.
5. Diversion channel to the Red River, i.e., excavating a 6.8-mile diversion channel, which would contain the 10-year flood, to the Red River.
6. Upstream reservoirs, i.e., constructing three upstream reservoirs to retain runoff waters, thereby reducing downstream flooding.

Copies of the Draft EIS will be provided to all concerned Federal, State, and local agencies, private organizations, and individuals. Anyone else who is interested in reviewing this document is invited to do so and should contact the St. Paul District, Corps of Engineers, to assure they are included on the mailing list.

No significant issues are involved with this project.

Our review of the project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality Regulations, and applicable Corps of Engineers regulations and guidance.

A scoping meeting will not be held for the preparation of the Draft EIS because of previous coordination efforts to identify significant issues, involving Federal, State, and local agencies; interested citizen groups; and individual citizens.

The Draft Environmental Impact Statement will be made available during the fourth quarter (July-September) of Fiscal Year 1979.

Questions concerning the proposed action and the Draft EIS can be directed to: Colonel William W. Badger, District Engineer, St. Paul District, Corps of Engineers, 1135 U.S. Post Office and Customs House, St. Paul, Minnesota 55101.

Dated: July 18, 1979.

William W. Badger,
Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-23053 Filed 7-25-79; 8:45 am]

BILLING CODE 3710-CY-M

Intent To Prepare a Draft Environmental Impact Statement for Operations and Maintenance of Four Projects in the Mermentau Basin, Louisiana

AGENCY: US Army Corps of Engineers, DOD.

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. *Proposed Action.* The proposed action consists of maintenance dredging, flood control, operation of water control structures, and clearing and snagging in four existing projects. The projects: (1) Mermentau River, Louisiana; (2) Mermentau River, Bayous Nezpique and Des Cannes, Louisiana; (3) Bayou Plaquemine Brule', Louisiana, and; (4) Bayou Queue de Tortue, Louisiana, are located in the Mermentau River basin, southwestern Louisiana.

2. *Alternatives:* a. *Alternative Methods of Disposal.* (1) Dredge hydraulically onto adjacent areas.

(2) Dredge hydraulically onto adjacent lake bottoms.

(3) Dredge hydraulically onto diked areas.

(4) Dredge by casting and stacking.

(5) Complete removal of dredge material.

b. *No Action.*

3. *Scoping Process.* a. A Public Hearing was held at Lake Arthur, Louisiana, on December 1975, on the Mermentau River and Bayous Nezpique and Des Cannes project to discuss dredged material disposal plans and procedures in conformance with Section 404 of the Federal Water Pollution Control Act of 1972. Effects which the proposed disposal will have on human health, welfare, or amenities, and the aquatic environment, ecological systems and economic potentialities were also discussed. A meeting was held at the New Orleans District Office in April, 1977, with environmental agency representatives and local interests. Representatives discussed their positions relative to a U.S. Fish and Wildlife Service letter report regarding current and possible alternative water level operations and regulations of Mermentau Basin waters. Problems and significant issues addressed in the DEIS were met during preparation of the DEIS by close cooperation with the U.S. Fish and Wildlife Service, Louisiana Department of Wildlife and Fisheries, and other environmental agencies. Interested organizations and individuals will be strongly encouraged to participate in identification of needs, problems, and alternative courses of

action during the review period of the DEIS.

b. Issues significant to the proposed action addressed in the DEIS include environmental impacts resulting from (a) disposal of dredged materials, and (b) operation and maintenance of the barrier structures during rice irrigation season to prevent saltwater intrusion into the upper Mermentau River and Grand and White Lakes. Additionally, effects of maintenance of the control structures on fish and wildlife habitat requisites are analyzed.

c. Planning was coordinated with the U.S. Fish and Wildlife Service representatives in conjunction with the Corps, the Louisiana Department of Wildlife and Fisheries, and local agencies. Procedures addressed in the Fish and Wildlife Coordination Act (1958) and the Endangered Species Act (and amendments) (1978) were followed as they relate to the project.

4. Periodic reviews will be held with cooperating Federal, state, and local agencies especially in areas of evaluation of U.S. Fish and Wildlife Service proposed saltwater barrier operation alternatives.

5. The DEIS is scheduled to be completed and available for review on 27 July 1979.

ADDRESS: Questions concerning the proposed action and DEIS can be directed to Mr. Jeffrey Carlton, US Army Corps of Engineers, Environmental Quality Section (LMNPD-RE), P.O. Box 60267, New Orleans, Louisiana 70160, telephone (504) 865-1121, Extension 378.

Dated: July 18, 1979.

Frederick M. Chatry,
Acting District Engineer.

[FR Doc. 79-23054 Filed 7-25-79; 8:45 am]

BILLING CODE 3710-84-M

Office of the Secretary

DoD Advisory Group on Electron Devices; Meeting

Working Group C (Mainly Imaging and Display) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session on 5 September 1979, at 201 Varick Street, 9th Floor, New York, N.Y. 10014.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This special device area includes such programs as infrared and night vision sensors. The review will include classified programs details throughout.

In accordance with 5 U.S.C. App 1, § 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

Dated: July 23, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives,
Washington Headquarters Services,
Department of Defense.

[FR Doc. 79-23011 Filed 7-25-79; 8:45 am]

BILLING CODE 3810-70-M

Task Force on Evaluation of Audit, Inspection and Investigative Components of the Department of Defense; Meeting

Pursuant to the Federal Advisory Committee Act, as amended, § 10, 5 U.S.C. app. § 10 (1976), notice is hereby given that a meeting of the Task Force on Evaluation of Audit, Inspection and Investigative Components of the Department of Defense will be held on July 31, 1979 at 10:00 AM in Room 3D973, The Pentagon, Washington, D.C.

The mission of the Task Force is to advise Congress and the Secretary of Defense with respect to the effectiveness of the audit, inspection and investigative components of the Department of Defense.

The meeting will be open to the public.

Dated: July 23, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives,
Washington Headquarters Services,
Department of Defense.

[FR Doc. 79-23012 Filed 7-25-79; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Analysis of Refiners' No. 2 Distillate Costs and Revenues: July 1976-December 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of a public hearing

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a public hearing to be held on September 13, 1979, regarding the relationship between refiners' increased costs and increased revenues of No. 2 distillate since decontrol. The hearing will address the fairness and effectiveness of using a cost revenue study approach for evaluating the reasonableness of No. 2 distillate prices at the refiner level and alternative methods of evaluating refiner prices of No. 2 distillate.

DATES: Hearing Date: September 13, 1979, 9:30 a.m.

Comments Due: August 31, 1979, 4:30 p.m.

Requests to Speak: August 29, 1979, 4:30 p.m.

ADDRESSES: Send written comments (10 copies) and requests to speak to Public Hearing Management, Box XA-1, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

Hearing Location: Room 2105, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Mrs. Debra Kidwell (Public Hearing Management), 2000 M Street, N.W., Room 2313, Washington, D.C. 20461, (202) 254-5201.

William Gillespie, Economic Regulatory Administration, 2000 M Street, N.W., Room 2130, Washington, D.C. 20461, (202) 632-5140.

William Mayo Lee (Office of General Counsel), Department of Energy, 1000 Independence Avenue, S.W., Room 6A-127, Washington, D.C. 20585, (202) 252-6754.

SUPPLEMENTARY INFORMATION:

- I. Background.
- II. Scope of Public Hearing.
- III. Type of Hearing and Participants.
- IV. Written Comments and Public Hearing Procedures.

I. Background

On March 13, 1979, DOE issued a Notice of Public Hearing (44 FR 16031, March 16, 1979) to announce a pre-hearing conference to be held on Friday, March 23, 1979, to discuss procedures and a timeframe for a proposed public hearing on the relation of refiners' costs and revenues for No. 2 distillates. The notice stated that the matters to be addressed at the hearing would include the methodology, findings, and economic implication of a study prepared by DOE entitled *Analysis of Refiners' No. 2 Distillate Costs and Revenues: July 1976-December 1978*. This report may be obtained from the ERA Public Affairs Office, Room B110, 2000 M Street, N.W., Washington, D.C. 20461.

In response to issues and concerns expressed at the March 23 pre-hearing conference, DOE announced a second pre-hearing conference to be held on June 12, 1979, to discuss the scope of the proposed public hearing and to review comments received by DOE regarding the methodology used in its cost-revenue study. In addition, DOE extended the time period to request to participate in the proposed public hearing to April 9, 1979, and established procedures and a timeframe for DOE to respond to comments and questions regarding the methodology used in its cost-revenue study.

II. Scope of Public Hearing

The issue to be discussed at the public hearing DOE is announcing today is what would be the most effective monitoring system for evaluating the reasonableness of No. 2 distillate prices at the refiner level. In particular the public hearing will address the fairness and effectiveness of using a cost-revenue study approach and alternative methods of evaluating refiner prices of No. 2 distillates.

The March 1979 DOE cost-revenue study compares the No. 2 distillate cost and revenue relationship since decontrol assuming the controls in effect in July 1976 had continued. DOE invites comments on the need to have a cost-revenue, or some other type of monitoring system. If there is a need for a monitoring system, DOE invites comments regarding alternative monitoring systems DOE can initiate which are more appropriate than the study for evaluating the reasonableness of No. 2 distillate prices at the refiner level. In particular, comments should address the practical aspects of implementing any proposed alternative monitoring system and explain the reasons why it is an improvement over the current cost-revenue study approach to monitoring the relationship between increased costs and revenues for No. 2 distillates.

III. Type of Hearing and Participants

DOE has determined that the hearing will be a legislative type hearing and not a judicial or quasi-judicial type hearing with cross examination of witnesses. Because the issue to be discussed is basically a policy issue we believe a legislative type hearing will facilitate the discussion of the current system of monitoring No. 2 distillate prices and encourage the free flow of ideas and suggestions regarding alternative monitoring schemes. If it develops that there are disputes as to critical issues of fact, DOE reserves the right also to hold

an evidentiary hearing to resolve such issues. The procedures which DOE will follow at the public hearing are discussed in Part IV-B of this notice.

The 21 participants in the public hearing are listed in Appendix A. Only participants may speak at the public hearing although the public is invited to attend the hearing and to submit written comments regarding the issue to be discussed at the hearing.

We encourage participants in the hearing to submit their comments to DOE and to other participants in the hearing as far in advance of the hearing as possible in order that DOE and the other participants may conduct a thorough review of each participant's comments. DOE will make all comments received in this public hearing available to each of the participants.

IV. Written Comments and Public Hearing Procedures

A. Written Comments

The public and participants in this public hearing are invited to submit data, views or arguments with respect to the issue set forth in this notice. Comments should be identified on the outside envelope and on documents submitted with the designation "Analysis of Cost-Revenues for No. 2 Distillates." Ten copies should be submitted. All comments received will be available for public inspection in the DOE Freedom of Information Office, Room GA-152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Comments should be received by August 31, 1979, 4:30 p.m. in order to be considered. DOE will distribute copies of all participants' comments to each participant.

Any information or data submitted to DOE which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination. No information or data which could be confidential shall be distributed to other participants in the public hearing.

B. Public Hearings

1. *Procedure for Requesting Participation.* The time and place for the hearing is indicated in the "DATES" and "ADDRESSES" section of this notice. If necessary to present all testimony, the hearing will be continued at 9:30 a.m. on the next business day following the first day of the hearing.

Participants in the public hearing may make a written request for an opportunity to make an oral presentation at the hearing. The request should contain a phone number where you may be contacted through the day before the hearing.

We will notify each person selected to be heard before 4:30 p.m., September 5, 1979. Persons scheduled to speak at the hearing must send 100 copies of their statement to the Office of Public Hearings Management, Room 2313, 2000 M Street, N.W., Washington, D.C. by 4:30 p.m., September 12, 1979.

2. *Conduct of the Hearing.* We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing, which will not be judicial in nature. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

The public and participants in the hearing may submit questions to be asked by the presiding officer of any person making a statement at the hearing. Such questions should be submitted to the address indicated above for requests to speak before 4:30 p.m. on the day prior to the hearing. If at the hearing you decide that you would like to ask a question of a witness, you may submit the question, in writing, to the presiding officer. In either case the presiding officer will determine whether the time limitations permit it to be presented for a response.

Any further procedural rules needed for the proper conduct of a hearing will be announced by the presiding officer.

A transcript of the hearing will be made, and the entire record of the hearing including the transcript, will be retained by the DOE and made available for inspection at the Freedom of Information Office, Room GA-152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In the event that it becomes necessary for us to cancel the hearing, we will

make every effort to publish advance notice in the *Federal Register* of such cancellation. Moreover, we will give actual notice to all persons scheduled to testify at the hearing. However, it is not possible to give actual notice of cancellation or changes to persons who are not participants. Accordingly, persons desiring to attend the hearing are advised to contact DOE on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

Issued in Washington, D.C., July 22, 1979.

David J. Bardin,
Administrator, Economic Regulatory
Administration.

Appendix A

The participants in the public hearing are:

1. Amerada Hess Corporation.
2. Atlantic Richfield Company.
3. Exxon Corporation.
4. Gulf Oil Corporation.
5. Marathon Oil Corporation.
6. Phillips Petroleum Company.
7. Sun Oil Company.
8. Texaco, Inc.
9. Standard Oil of Indiana.
10. Federal Trade Commission, Bureau of Competition.
11. Justice Department, Antitrust Division.
12. National Oil Jobbers Council.
13. Consumer Energy Council of America.

For State Governments

Offices of the Attorney General

14. Commonwealth of Massachusetts.
15. State of Vermont.
16. State of Maine.
17. State of New Hampshire.
18. State of Rhode Island.
19. State of Connecticut.

Energy Offices

20. State of New Jersey.
21. State of New York.

[FR Doc. 79-23103 Filed 7-25-79; 8:45 am]

BILLING CODE 6450-01-M

BTA Oil Producers; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment of Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

EFFECTIVE DATE: June 20, 1979.

COMMENTS BY: August 27, 1979.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District of Enforcement, Department of Energy, Economic Regulatory Administration, 2626 W. Mockingbird Lane, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager, Southwest District of Enforcement, Department of Energy, Economic Regulatory Administration, 2626 W. Mockingbird Lane, P.O. Box 35228, Dallas, Texas, phone (214) 767-7745.

SUPPLEMENTARY INFORMATION: On June 20, 1979, the Office of Enforcement of the ERA executed a Consent Order with BTA Oil Producers of Midland, Texas. Under 10 CFR § 205.199(b), a Consent Order which involves a sum of less than \$500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

Because the DOE and BTA Oil Producers wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with BTA Oil Producers effective as of the date of its execution by the DOE and BTA Oil Producers.

I. The Consent Order

BTA Oil Producers, with its home office located in Midland, Texas, is a firm engaged in the production and sale of crude oil, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement, ERA, and BTA Oil Producers entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the audit was September 1, 1973 through December 31, 1976, and it included all sales of crude oil to the Permian Corporation, Basin Incorporated, Mobil

Oil Corporation and Gulf Oil Corporation.

2. BTA Oil Producers improperly applied the provisions of 10 CFR Part 212, Subpart D when determining the prices to be charged for its crude oil, as a consequence, the above firms were overcharged on some of their purchases.

3. BTA Oil Producers agrees to refund to the DOE \$298,663.28 plus interest within 24 months of the effective date of the Consent Order.

4. The provisions of 10 CFR 205.199], including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, BTA Oil Producers agrees to refund in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I. 1. above, the sum of \$298,663.28 within 24 months of the effective date of the Consent Order. The Refund shall be by certified check in twenty-four monthly installments, each monthly installment to equal at least 1/24th of the full amount of overcharges, plus interest, made payable to the Department of Energy and will be delivered to the Assistant Administrator for Enforcement ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amount in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR § 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR § 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR § 205.199(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a

claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily to the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of the potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager, Southwest District of Enforcement, Department of Energy, Economic Regulatory Administration, 2626 West Mockingbird Lane, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling (214) 767-7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on BTA Oil Producers Consent Order." We will consider all comments we receive by 4:30 p.m., local time, thirty days after publication. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR § 205.9(f).

Issued in Dallas, Texas on the 19th day of July, 1979.

Wayne I. Tucker,
District Manager, Southwest District of Enforcement.

[FR Doc. 79-23076 Filed 7-25-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 51006-6043-01-77]

Martin Unit No. 1; Florida Power & Light Co.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Determination to Classify the Florida Power and Light Company Martin Unit No. 1 as an Existing Facility.

SUMMARY: On April 17, 1979, Florida Power and Light Company (FPL) requested the Economic Regulatory Administration (ERA) of the Department

of Energy (DOE) to classify Martin Unit No. 1 as an existing facility pursuant to § 515.6 of the Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979 (44 FR 17464) and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620 (FUA).

ERA has completed its analysis of FPL's request and has determined that FPL has satisfactorily demonstrated that it would suffer a substantial financial penalty in excess of 25 percent of the total projected project cost as of November 9, 1978, within the meaning of § 515.6 of the Revised Interim Rule.

ERA has determined that FPL's Martin Unit No. 1 is an "existing" facility and is now subject to the provisions of Title III of FUA.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461. Phone: (202) 634-2170

Charles A. Falcone, Director, Division of Existing Facilities Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 31281, Washington, D.C. 20461. Phone: (202) 254-7450.

James H. Heffernan (Office of the General Counsel), Department of Energy, 12th and Pennsylvania Avenue, N.W., Room 7134, Washington, D.C. 20461. Phone: (202) 633-8814.

Robert L. Davies, Deputy Assistant Administrator, Office of Fuels Regulation, Economic Regulatory Administration, 2000 M Street, N.W., Room 3128L, Washington, D.C. 20461. Phone: (202) 254-7442.

SUPPLEMENTARY INFORMATION: (1) On April 17, 1979, pursuant to ERA's Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979, FPL requested that ERA classify FPL's Martin Unit No. 1 as an "existing" facility. A conference was held at FPL's request on Wednesday, April 18, 1979. On May 14, 1979, ERA published a summary of FPL's request for classification in the Federal Register and requested comments by interested persons on or before June 4, 1979.

(2) A copy of ERA's Summary of Analysis dated June 20, 1979, is available for examination in the Office of Public Information, at the above address.

Issued in Washington, D.C. July 20, 1979.

Robert L. Davies,
Acting Assistant Administrator, Office of
Fuels Conversion, Economic Regulatory
Administration.

[FR Doc. 79-23105 Filed 7-25-79; 8:45 am]

BILLING CODE 6450-01-M

Powerplant and Industrial Fuel Use Act; Issuance of Orders Granting Temporary Public Interest Exemptions

The Economic Regulatory
Administration (ERA) of the Department

Docket Number	Owner	Generating station location	Powerplant ident.	Middle distillate
50633-2845-07-41	Columbus & Southern Ohio Elec. Co.	Walnut (Groveport, Ohio)	#7	29,047
50633-2845-08-41	Inc. Company.		#8	24,761
50633-2845-09-41			#9	132,857
51100-0710-21-41	Georgia Power Company	McDonough (Smyrna, Georgia)	CT 1	14,297
51100-0710-22-41			CT 2	14,297
51100-0700-01-41		Atkinson (Smyrna, Georgia)	#1	129,818
51100-0700-02-41			#2	116,885
51100-0700-03-41			#3	103,737
51100-0700-04-41			#4	116,767
51100-0700-21-41			CT 1	14,027
51100-0699-21-41		Arkwright (Macon, Georgia)	CT 1	7,610
51100-0699-22-41			CT 2	7,610
51888-2048-01-41	Mississippi Power Company	Watson (Gulfport, Miss.)	#1	232,601
51888-2048-02-41			#2	232,601
51888-2048-03-41			#3	465,202
53333-4076-31-41	Wisconsin Public Service Company	Marmette (Marinette, Wisc.)	CT 31	61,904
53333-4076-32-41	ny.		CT 32	102,380
53333-4076-31-41		Weston (Marathon County, Wisc.)	CT 31	33,333
53333-4076-32-41			CT 32	326,190
61007-9046-01-41	Applied Energy Incorporated	Naval Training (San Diego, Calif.)	#1	153,719
61007-9045-01-41		32nd Street (San Diego, Calif.)	#1	433,269
66001-9042-01-41	Reeay Creek Utilities Company	Lake Buena Vista (Lake Buena Vista, Fla.)	#1	29,761
66001-9042-02-41			#2	29,761
50154-1560-25-41	Baltimore Gas & Electric Company	Westport (Baltimore, Md.)	CT 5	26,000
50154-1558-26-41				
51738-9043-01-41		Riverside (Baltimore County, Md.)	CT 6	26,000
51738-9043-02-41	Madison Gas & Electric Company	Blount (Madison, Wisc.)	#1	8,000
51738-9043-03-41			#2	1,800
51738-9043-11-41			#3	7,800
51738-3983-21-41		Sycamore (Madison, Wisc.)	#11	200
51738-3983-22-41			CT 1	4,300
51738-3991-21-41			CT 2	8,500
51738-3991-22-41	Madison Gas & Electric Company	Fitchburg (Madison, Wisc.)	CT 1	19,800
51738-9674-21-41			CT 2	13,300
54020-3115-25-41		Nine Springs (Madison, Wisc.)	CT 1	1,400
52786-2056-55-41	Metropolitan Edison Company	Titus (Reading, Penn.)	CT 5	4,357
52564-0141-04-41	St. Joseph Light & Power Company	Lake Road (St. Joseph, Mo.)	CC 5	38,200
52564-0141-05-41	ny.			
52564-0141-06-41	Salt River Project	Agua Fria (Glendale, Ariz.)	#4	50,000
52564-0147-05-41			#5	50,000
52564-0147-06-41			#6	50,000
52564-0147-06-41		Kyrone (Tempe, Ariz.)	#5	17,500
50653-2491-22-41			#6	12,500
50653-2491-23-41	Consolidated Edison Company of Astoria	(Queens, NY)	CT 2	32,000
50653-2491-24-41	New York, Inc.		CT 3	32,000
50653-2499-21-41			CT 4	32,000
50653-2499-22-41		Narrows (New York, NY)	CT 1	29,000
50653-2500-22-41			CT 2	29,000
50653-2500-23-41		Ravenswood (Queens, NY)	CT 2	30,000
50653-2500-24-41			CT 3	30,000
50653-2500-25-41			CT 4	3,000
50653-2500-26-41			CT 5	3,000
50653-2500-27-41			CT 6	3,000
50653-2500-28-41			CT 7	3,000
50653-2500-29-41			CT 8	4,000
50653-2500-30-41			CT 9	4,000
50653-2500-31-41			CT 10	4,000
51007-0624-21-41			CT 11	4,000
51007-0624-22-41	Florida Power Corporation	Avon Park (Avon Park, Florida)	CT 1	18,000
51007-0630-21-41			CT 2	16,000
51007-0630-22-41	Florida Power Corporation	Higgins (Oldsmar, Florida)	CT 1	20,000
51007-0630-23-41			CT 2	20,000
51007-0630-24-41			CT 3	27,000
52181-2628-01-41			CT 4	17,000
52181-2632-01-41	Orange & Rockland Utilities, Inc.	Hillburn (Hillburn, NY)	#1	15,000
50105-0171-01-41		Shoemaker (Hillburn, NY)	#1	15,000
50105-0171-02-41	Arkansas Power & Light Company	Mabelvale (Little Rock, Ark.)	#1	3,750
50105-0171-03-41	ny.		#2	3,750
50105-0171-04-41			#3	3,750
50105-0167-01-41			#4	3,750
50105-0167-02-41		Lynch (North Little Rock, Ark.)	#1	33,532
50105-0167-03-41			#2	65,841
			#3	155,627

of Energy hereby gives notice that on July 19, 1979, it issued orders granting temporary public interest exemptions pursuant to the authorities granted it by Section 311(e) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 et seq., and 10 CFR 501.68 and 10 CFR 508, from the prohibitions of Section 301(a) (2) and (3) of the Act to the following powerplants:

Docket Number	Owner	Generating station location	Powerplant ident.	Middle distillate
50490-1396-05-41	Central Louisiana Electric Company	Coughlin (St. Landry, Louisiana)	#5	773
50490-1396-06-41	ny.		#6	14,170
50490-1396-07-41			#7	36,390
50490-1400-03-41		Teché (Baldwin, La.)	#3	7,814
50101-0116-21-41	Arizona Public Service Company	Ocotillo (Tempe, Ariz.)	CT 1	4,300
50101-0116-22-41			CT 2	4,300
50101-0117-21-41		West Phoenix (Phoenix, Ariz.)	CT 1	5,300
50101-0117-22-41			CT 2	5,300
50101-0118-21-41		Saguaro (Red Rock, Ariz.)	CT 1	5,200
50101-0118-22-41			CT 2	5,200
50101-0120-21-41		Yuma (Yuma, Ariz.)	CT 1	17,800
50101-0120-22-41			CT 2	17,800
50101-0120-23-41			CT 3	45,400
50868-2444-08-41	El Paso Electric Company	Rio Grande (Dona Ana County, N.M.)	#8	374,311
64001-9014-51-41	Lakeworth Utilities Authority	Smith (Lakeworth, Fla.)	CGT-2/S-5	25,000
50570-2060-08-41	City of Clarksdale, Mississippi	South (Clarksdale, Miss.)	#8	30,000
50570-2060-09-41			#9	220,000
51070-0663-21-41	Gainesville-Alachua County Regional Electric, Water & Sewer Utilities Board	Deerhaven (Hague, Fla.)	CT 1	8,445
51070-0663-22-41			CT 2	6,845
51070-0664-21-41		Kelly (Gainesville, Fla.)	CT 1	985
51070-0664-22-41			CT 2	665
51070-0664-23-41			CT 3	1,840

Petitions were received and filed pursuant to 10 CFR 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230) with ERA for temporary public interest exemptions for the use of natural gas as a primary energy source. Notice of the petitions and the proposed order granting these temporary exemptions were published in the Federal Register on May 11 and June 1, 1979, (44 FR 27668 and 44 FR 31677). Written comments were requested on the proposed orders. All comments received were considered by ERA.

A general comment from Allied Chemical Corporation expressed concern that the chemical industry have experienced production curtailments and plant shutdowns due to inadequate gas supplies for nonsubstitutable feedstock and process needs at the same time that DOE has concluded that excess supplies of natural gas are available. The Allied Chemical Corporation comment did not refer to any specific region nor did it specify impacts resulting from any particular petition or proposed order. All other comments received were in support of the petitions. For example, the State of Florida Public Service Commission has stated, " * * * the Commissioners have unanimously expressed the opinion that where gas is available and not allocated to uses having a higher priority, we would hope for environmental reasons that it would be used as a fuel by Florida utilities which, are, as you know, heavily oil dependent."

The State of Wisconsin Public Service Commission's Chairman wrote, "In light of the present gas and oil supply situation, I concur that granting a

temporary exemption from the prohibition against the use of natural gas contained in Section 301(a)(2) and (3) as proposed in the draft order is consistent with the public interest."

All comments that referred to specific petitions were supportive of them. However, not all the petitions listed received specific comments.

Comments which identified significant issues relating to individual petitions have been evaluated and are addressed in the individual orders granting those petitions. These temporary exemptions will allow the above-named units to burn an estimated total of 26,582,738 MCF of natural gas annually, notwithstanding the prohibitions of Section 301(a) 2 and 3 of FUA, displacing an estimated 4,659,857 barrels of middle distillate fuel oil.

These temporary exemptions shall become effective sixty days following publication of this notice of issuance of these orders in the Federal Register in accordance with Section 702(a) of FUA. These temporary exemptions shall be in effect for a period of five years, and are subject to termination by ERA upon six months written notice, if ERA determines such termination to be in the public interest.

All of the above-named powerplants have received these temporary exemptions by certified mail. In addition, copies of all comments received during the public comment period and the temporary exemptions granted this date will be available for public inspection and copying in the Public Information Office located in Room B-110 2000 M Street, N.W., Washington, D.C. 20461.

Any questions regarding these temporary exemptions should be directed to Mr. Charles A. Falcone, Director, Existing Facilities Conversion

Division, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, Room 3128, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-7450.

Issued in Washington, D.C., on July 20, 1979.

Robert L. Davies,
Acting Assistant Administrator, Office of
Fuels Conversion, Economic Regulatory
Administration.

[FR Doc. 79-23104 Filed 7-25-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RP72-110]

Algonquin Gas Transmission Co.; Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

July 20, 1979

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on July 13, 1979, tendered for filing 49th Revised Sheet No. 10 to its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas states that this sheet is being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment Provision set forth in Section 17 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1. Such rates reflect an increase in the cost of purchased gas from its supplier, Texas Eastern Transmission Corporation, proposed to be effective August 1, 1979, and an adjustment to amortize the June 30, 1979 balance in Algonquin Gas' Unrecovered Purchased Gas Cost Account (Account 191).

Algonquin Gas also states that the proposed effective date of the revised tariff sheet as prescribed by Section 17 is September 1, 1979.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18, CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 2, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to

intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-23090 Filed 7-25-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. R179-39]

An-Son Corp.; Petition for Special Relief

July 19, 1979.

Take notice that on June 11, 1979, An-Son Corporation (An-Son), 3814 N. Santa Fe, Oklahoma City, Oklahoma 73118 filed a petition for special relief in Docket No. R179-39 pursuant to Section 2.76 of the Commission's General Policy and Interpretations.

An-Son seeks an increase in rate from 49.9¢ to \$1.45 per Mcf for the sale of gas produced from the Benjamin Nine #1 Well, N.E. Holland Field, Beaver County, Oklahoma. The purchaser is Northern Natural Gas Company. According to the petition, An-Son installed compressor facilities in order to recover the maximum amount of gas. The petition further states that the well has been operated at a loss for the past 12 months due to increased operating expenses occasioned by monthly rental payments on the compressor.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before August 10, 1979. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-23061 Filed 7-25-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP72-142 and RP76-135 (PGA78-4) (AP78-1)]

Cities Service Gas Co.; Informal Settlement Conference

July 20, 1979

Take notice that on August 9, 1979 at 10:00 a.m. there will be an informal conference of all interested persons for the purpose of continued settlement discussions in these proceedings. The meeting place for the conference will be at the Federal Energy Regulatory Commission, 825 N. Capitol N.E., Washington, D.C. 20426. The room will be posted on the second floor.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention as a party in these proceedings.

All parties will be expected to come fully prepared to discuss the merits of the issues arising in these proceedings and to make commitments with respect to such issues and any offers of settlement or stipulation discussed at the conference.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-23062 Filed 7-25-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP75-158]

Consolidated Gas Corp.; Notice of Petition To Amend

July 19, 1979.

Take notice that on June 11, 1979, Consolidated Gas Supply Corporation, (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP75-158 a petition to amend further the order issued May 29, 1975¹ in the instant docket pursuant to Section 7 of the Natural Gas Act for authorization to modify a construction schedule, all as more fully set forth in the petition to amend which is on file with the Commission and open for public inspection.

The petition indicates that on November 27, 1974, Consolidated filed an application for approval of a four-year program to replace its West Virginia wet gas transmission system. By order issued May 29, 1975, Consolidated was authorized to

¹This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 100.1), it was transferred to the FERC.

construct and operate the entire program to replace its wet gas transmission system. Since the time of that order, Consolidated has had several modifications to the program all with Commission approval.

By this petition, Consolidated requests authorization to modify again the authorized replacement program.

Consolidated states that it proposes to modify further the wet gas transmission system replacement program by advancing the following projects from 1980 to 1979:

(1) the construction and operation of a 1.9-mile portion from Collins Station to Middle Run Junction, of the 6.2 miles of new 8-inch Line No. TL-424 previously approved;

(2) the abandonment of 1.6 miles of 20-inch Line No. H-45 from Collins Junction to Maxwell Junction, and 0.5 mile of 12-inch Line No. TL-326 from Maxwell Junction to Middle Run Junction; and

(3) the reclassification from transmission to production of a 0.7-mile portion from Collins Station to Collins Junction of the 4.1 miles of 8-inch Line No. H-15 previously approved.

Consolidated further states that it also proposes to defer until 1981 the relocation of one 440 horsepower compressor engine from Maxwell Station to Collins Station, as previously authorized for 1979.

The proposed modifications are scheduling changes only and no new sales or services are proposed, it is asserted.

The petition asserts that the requested authorizations contemplate the relocation of the 440 horsepower compressor engine from Maxwell Station to Collins Station in 1979, and the related piping changes between Smithburg Station and Middle Run Junction in 1980. In effect, Consolidated proposes to reverse the sequence of those projects by deferring the former until 1981 and advancing the latter to 1979. The purpose of the proposed change is to afford additional time for Consolidated to field test portions of it revamped wet gas transmission and production facilities in the subject area, in light of recent declines in the level of wet gas volumes being made available in the area by local purchase and production. Should the available quantities of gas continue to decline, Consolidated asserts, it is likely that no additional horsepower would be required at Collins Station, and, in that event, the 440 horsepower engine now located at Maxwell Station could be used elsewhere on Consolidated's system, or abandoned by sale. Deferral of the relocation would permit a deferral

of approximately \$282,100 in relocation costs with the possibility that such expenditures could be avoided completely.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D. C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-23063 Filed 7-25-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2745]

City of Santa Clara, Calif.; Application for Major License

July 16, 1979.

Take notice that an application for a major license was filed on April 4, 1974, under the Federal Power Act (16 U.S.C. §§ 791(a)-825(r)), by the City of Santa Clara, California (Applicant) for the Mokelumne River Project No. 2745. The project is located in Alpine, Amador, and Calaveras Counties, California on the Mokelumne, North Fork Mokelumne, and Bear Rivers. The project affects public lands of the United States within the Eldorado, Stanislaus, and Toiyabe National Forests. Correspondence regarding the application should be sent to: Mr. D. R. Von Raesfeld, City Manager, City of Santa Clara, 1500 Warburton Avenue, Santa Clara, California 95050.

The Mokelumne River Project, which was originally licensed in 1925, is currently operated by Pacific Gas and Electric Company (PG&E). The original license expired on November 23, 1975. PG&E continues to operate the project in accordance with the terms of annual licenses issued by this Commission pursuant to section 15 of the Federal Power Act (16 U.S.C. § 808 (a)). On December 26, 1972, PG&E filed an application for a new major license for the project. Thus, the City of Santa

Clara's application for the Mokelumne River Project competes with the application filed by PG&E.

The Mokelumne River project has a total installed capacity of 192,750 kW and consists of:

(A) *Storage Dams and Reservoirs*—(1) Upper Blue Lake Dam, an earth-fill dam 837 feet long and 31 feet high, containing a 51-foot-wide spillway and two 18-inch-diameter steel outlet pipes through the dam; (2) Upper Blue Lake Reservoir having a storage capacity of 7,300 acre-feet and a surface area of 343 acres at elevation 8,137.5 feet (all elevations are U.S.G.S. datum); (3) Lower Blue Lake Dam, an earth-fill dam 1,063 feet long and 40 feet high, containing a 60-foot-wide spillway and two 30-inch-diameter steel outlet pipes through the dam; (4) Lower Blue Lake Reservoir having a storage capacity of 5,091 acre-feet and a surface area of 198 acres at elevation 8,053.4 feet; (5) Twin Lake Dam, an earth-fill dam 1,520 feet long and 22 feet high, containing two 12-inch-diameter steel outlet pipes through the dam; (6) Twin Lake Spillway, 18 feet wide, located approximately 4,000 feet east of Twin Lake Dam; (7) Twin Lake Reservoir having a storage capacity of 1,207 acre-feet and a surface area of 106 acres at elevation 8,144.7 feet; (8) Meadow Lake Dam, a rock-fill dam 775 feet long and 77 feet high, containing a 45-foot-wide spillway and two 30-inch-diameter steel outlet pipes through the dam; (9) Meadow Lake Reservoir having a storage capacity of 5,656 acre-feet and a surface area of 140 acres at elevation 7,774.4 feet; (10) Upper Bear River Dam, a rock-fill dam 760 feet long and 77 feet high, containing a 354-foot-wide spillway and three 16-inch-diameter steel outlet pipes through the dam; (11) Upper Bear River Reservoir having a storage capacity of 6,959 acre-feet and a surface area of 169 acres at elevation 5,876 feet; (12) Lower Bear River Dam No. 1, a rock-fill dam 979 feet long and 249 feet high, and Dam No. 2, a rock-fill dam 865 feet long and 145 feet high; (13) a spillway, 14 feet wide and 316 feet long, located in solid rock between the Lower Bear River Dams; (14) an outlet tunnel, 10 feet wide, 12 feet high and 1,085 feet long, passing beneath the left abutment of Dam No. 1 and discharging into the Bear River; (15) Lower Bear River Reservoir having a storage capacity of 49,079 acre-feet and a surface area of 727 acres at elevation 5,818.2 feet; (16) Salt Springs Dam, a rock-fill dam 1,257 feet long and 328 feet high; (17) a 480-foot-wide spillway, controlled by radial gates, located adjacent to Salt Springs Dam; (18) an outlet tunnel, 19 feet in diameter,

passing beneath the right abutment of Salt Springs Dam; and (19) Salt Springs Reservoir having a storage capacity of 141,857 acre-feet and a surface area of 963 acres at elevation 3,959.2 feet.

(B) *Salt Springs Development*—(1) a tunnel connected to a penstock, 475 feet long, diverting water from the Salt Springs Reservoir to the powerhouse; (2) Salt Springs Powerhouse containing a 29,700-kW generating unit and a 9,350-kW generating unit; (3) an outdoor substation; and (4) a 16.5-mile-long, 115-kV transmission line.

(C) *Tiger Creek Development*—(1) Tiger Creek Conduit extending 17.8 miles along the North Fork Mokelumne River from the Salt Springs Powerhouse to Tiger Creek Regulator Dam and Reservoir, thence 2.52 miles to Tiger Creek Forebay Dam and Reservoir; (2) five conduits diverting flows into the Tiger Creek Conduit from Cole Creek, Bear River, Beaver Creek, East Panther Creek, and West Panther Creek; (3) a penstock, 4,940 feet long, extending from the Tiger Creek Forebay to the Tiger Creek Powerhouse; (4) Tiger Creek Powerhouse containing two 25,500-kW generating units; (5) Tiger Creek Afterbay Dam and Reservoir; (6) an outdoor substation; and (7) two 230-kV transmission lines, one 23.2 miles long and the other 13.8 miles long.

(D) *West Point Development*—(1) West Point Tunnel, 12.8 feet wide and 15.6 feet high, extending 2.73 miles from the Tiger Creek Afterbay; (2) a 650-foot-long penstock extending from the tunnel to the powerhouse; (3) West Point Powerhouse containing a 13,600-kW generating unit; (4) an outdoor substation; and (5) a 23.5-mile-long, 60-kV transmission line.

(E) *Electra Development*—(1) a diversion dam near the West Point Powerhouse; (2) Electra Tunnel, 12.8 feet wide and 15.6 feet high, extending 8.15 miles from the West Point Powerhouse Tailrace to Tabeaud Reservoir; (3) Tabeaud Reservoir having a capacity of 1,158 acre-feet; (4) a power conduit, consisting of 2,900 feet of tunnel and 3,000 feet of penstock, extending from Tabeaud Reservoir to the Electra Powerhouse; (5) Electra Powerhouse containing three 29,700-kW generating units; (6) a concrete afterbay dam below the powerhouse; and (7) an outdoor substation.

The Mokelumne River Project has the following existing recreational facilities: 63 camp units at four locations at or near the Upper and Lower Blue Lakes; picnic areas near Tiger Creek, Lake Tabeaud, and Salt Springs; and the facilities at Lower Bear River Reservoir which include the Bear River Resort,

two campgrounds, one picnic area, a summer home tract, a Boy Scout camp, 97 campground units, and three unimproved boat launching sites.

Applicant proposes to develop the following additional recreational facilities: two campgrounds, the first phase of a group camp, two picnic areas, a parking lot, and a visitor's station near the Upper and Lower Blue Lakes; a 10-unit boat access campground and a 25-unit overnight campground near the Lower Bear Reservoir; a nature trail at Lake Tabeaud and fishing access areas at Electra Tunnel Outlet and Mill Creek.

Applicant proposes to use the energy output of the project within its system and the integrated electrical system of the Northern California Power Agency.

Anyone desiring to be heard or to make any protests about this application should file a protest or a petition to intervene with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure ("Rules"), 18 CFR § 1.10 or § 1.8 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before September 14, 1979. The Commission's address is: 825 N. Capitol Street, NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23034 Filed 7-25-79; 8:45 am]

BILLING CODE 6450-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

July 17, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

California Department of Conservation; Division of Oil and Gas

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator

5. Well Name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date received at FERC
10. Purchaser(s)
1. 79-11865
2. 04-077-20306
3. 102
4. McCulloch Oil & Gas Corp
5. No 1 Rossi-Stewart
6. Pescadero/Arbor Ave Prospect Tracy
7. San Joaquin, CA
8. 110.0 million cubic feet
9. July 5, 1979
- 10.

1. 79-11866
2. 04-095-20378
3. 102
4. McCulloch Oil & Gas Corp
5. Hastings Oil No 1-22
6. Lindsey Slough Prospect
7. Soland County, CA
8. 2920.0 million cubic feet
9. July 5, 1979
- 10.
1. 79-11867
2. 04-011-20112
3. 102
4. Great Basins Petroleum Co
5. Phillips-Munnell 2-15
6. Arbuckle
7. Colusa, CA
8. 182.5 million cubic feet
9. July 5, 1979
10. Pacific Gas and Electric Co

1. 79-11868
2. 04-011-20101
3. 102
4. Great Basins Petroleum Co
5. Phillips-Munnell 1-15
6. Arbuckle
7. Colusa, CA
8. 110.0 million cubic feet
9. July 5, 1979
10. Pacific Gas and Electric Co

1. 79-11869
2. 04-103-20098
3. 102
4. McFarland Energy Inc
5. NRC-Bettencourt #1
6. East Rice Creek Gas
7. Tehama, CA
8. 273.8 million cubic feet
9. July 5, 1979
- 10.

Florida Department of Natural Resources, Bureau of Geology, Oil and Gas Section

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date received at FERC
10. Purchaser(s)

1. 79-05646
2. 02-133-20177
3. 107
4. Exxon Corp
5. N L Golden No 23-5

6. Jay/Lel
7. Santa Rosa, FL
8. million cubic feet
9. April 20, 1979
10. Florida Gas Transmission Co

Louisiana Office of Conservation

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date received at FERC
10. Purchaser(s)

1. 79-11727
2. 17-055-20151
3. 102
4. Chevron USA Inc
5. D P Arceneaux #2
6. Duson
7. Lafayette, LA
8. 918.0 million cubic feet
9. July 5, 1979
10. Texas Gas Transmission Corp

1. 79-11728
2. 17-045-20440
3. 102
4. Phillips Petroleum Company
5. Williams U #1
6. Bayou Postillion
7. Iberia, LA
8. 665.0 million cubic feet
9. July 5, 1979
10. Southern Natural

1. 79-08578 (Revised)
2. 17-053-20508
3. 102 103
4. Union Texas Petroleum
5. Mallet No 3
6. Lake Arthur
7. Jefferson Davis
8. 2658.0 million cubic feet
9. June 13, 1979
10. Texas Gas Transmission Corp

1. 79-08592 (Revised)
2. 17-061-20166
3. 102 103
4. Bass Enterprises Production Co
5. SMK RA SUC Colvin No 2
6. Hico-Knowles
7. Lincoln, LA
8. 0 million cubic feet
9. June 13, 1979
10. United Gas Pipeline Co

1. 79-08595 (Revised)
2. 17-099-20718
3. 102 103
4. Texaco Inc
5. 10300 RA SUA St. Martin PSB #22
6. Plumb Bob
7. St Martin, LA
8. 193.0 million cubic feet
9. June 13, 1979
10. United Gas Pipeline Co

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator

5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-11732
2. 30-045-10988
3. 108
4. El Paso Natural Gas Company
5. SJ 32-9 Unit #64
6. Blanco-Mesaverde Gas
7. San Juan, NM
8. 24.1 million cubic feet
9. July 6, 1979
10. El Paso Natural Gas Company

1. 79-11733
2. 30-015-10826
3. 108
4. Tenneco Oil Company
5. GJ West Coop Unit #14
6. Grayburg Jackson
7. Eddy, NM
8. 5.7 million cubic feet
9. July 5, 1979
10. Phillips Petroleum Company

1. 79-11734
2. 30-015-10813
3. 108
4. Tenneco Oil Company
5. GJ West Coop Unit #39
6. Grayburg Jackson
7. Eddy, NM
8. 0 million cubic feet
9. July 5, 1979
10. Phillips Petroleum Company

1. 79-11735
2. 30-015-10809
3. 108
4. Tenneco Oil Company
5. GJ West Coop Unit #37
6. Grayburg Jackson
7. Eddy, NM
8. 3.4 million cubic feet
9. July 5, 1979
10. Phillips Petroleum Company

1. 79-11736
2. 30-025-01929
3. 108
4. Tenneco Oil Company
5. Kemintz Wolfcamp Unit #11
6. Kemintz Wolfcamp
7. Lea, NM
8. 8.6 million cubic feet
9. July 5, 1979
10. Phillips Petroleum

1. 79-11737
2. 30-015-10808
3. 108
4. Tenneco Oil Company
5. GJ West Coop Unit #32
6. Grayburg Jackson
7. Eddy, NM
8. 4.7 million cubic feet
9. July 5, 1979
10. Phillips Petroleum Company

1. 79-11738
2. 30-015-22144
3. 103
4. Mesa Petroleum Co
5. Potter Federal Com #1
6. Undesignated Cisco
7. Eddy, NM
8. 300.0 million cubic feet

9. July 5, 1979
10. El Paso Natural Gas Co
1. 79-11870
2. 30-025-00000
3. 103
4. Cities Service Company
5. SE Maljamar Grayburg SA Unit #410
6. Maljamar (C-SA)
7. Lea, NM
8. 2.5 million cubic feet
9. July 6, 1979
10. Phillips Petroleum Company
1. 79-11871
2. 30-039-07259
3. 108
4. El Paso Natural Gas Co
5. SJ 28-5 Unit #53
6. Blanco-Mesaverde Gas
7. Rio Arriba, NM
8. 14.2 million cubic feet
9. July 5, 1979
10. El Paso Natural Gas Co

Utah Division of Oil, Gas and Mining

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-11729
2. 43-047-30304
3. 102
4. Gas Producing Enterprises Inc
5. Natural Buttes 27-33-9-21
6. Bitter Creek
7. Uintah, UT
8. 142.0 million cubic feet
9. July 5, 1979
10. Colorado Interstate Gas Co

1. 79-11730
2. 43-047-30385
3. 102
4. Belco Development Corporation
5. Natural Buttes Unit 31-12B 30385
6. Natural Buttes Unit
7. Uintah, UT
8. 10.0 million cubic feet
9. July 5, 1979
10. Colorado Interstate Gas Co

1. 79-11731
2. 43-047-30281
3. 102
4. Belco Development Corporation
5. NBU 10-29B 30281
6. Natural Buttes Unit
7. Uintah, UT
8. 170.0 million cubic feet
9. July 5, 1979
10. Colorado Interstate Gas Co

1. 79-11873
2. 43-047-30272
3. 102
4. Belco Development Corporation
5. Natural Buttes Unit 31-36B 30272
6. Natural Buttes Unit
7. Uintah, UT
8. 250.0 million cubic feet
9. July 6, 1979
10. Colorado Interstate Gas Co

1. 79-11874
2. 43-047-30435
3. 102
4. Belco Development Corporation
5. Natural Buttes Unit 43-36B 30435
6. Natural Buttes Unit
7. Uintah, UT
8. 10.0 million cubic feet
9. July 6, 1979
10. Colorado Interstate Gas Co
1. 79-11875
2. 43-047-30361
3. 102
4. Belco Development Corporation
5. Natural Buttes Unit 23-19B 30361
6. Natural Buttes Unit
7. Uintah, UT
8. 20.0 million cubic feet
9. July 6, 1979
10. Colorado Interstate Gas Co
1. 79-11876
2. 43-047-30267
3. 102
4. Belco Development Corporation
5. Natural Buttes Unit 3-2B 30267
6. Natural Buttes Unit
7. Uintah, UT
8. 260.0 million cubic feet
9. July 6, 1979
10. Colorado Interstate Gas Co
1. 79-11877
2. 43-047-30335
3. 102
4. Gas Producing Enterprises Inc
5. Natural Buttes 5-31-9-22
6. Bitter Creek
7. Uintah, UT
8. 142.0 million cubic feet
9. July 6, 1979
10. Colorado Interstate Gas Co
1. 79-11878
2. 43-047-30243
3. 102
4. Gas Producing Enterprises Inc
5. Natural Buttes 3-32-9-22
6. Bitter Creek
7. Uintah, UT
8. 350.0 million cubic feet
9. July 6, 1979
10. Colorado Interstate Gas Co

Virginia Department of Labor and Industry, Division of Mines and Quarries

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-11879
2. 45-027-20258-0003
3. 103
4. Ashland Exploration Inc
5. Clinchfield Coal Corp #7-077051
6. Virginia
7. Buchanan, VA
8. 17.9 million cubic feet
9. July 6, 1979
10. Consolidated Gas Supply Corp

U.S. Geological Survey,
Albuquerque, N. Mex.

1. Control number (FERC/State)
 2. API well number
 3. Section of NCPA
 4. Operator
 5. Well name
 6. Field or OCS area name
 7. County, State or block no.
 8. Estimated annual volume
 9. Date received at FERC
 10. Purchaser(s)
1. 79-11673
 2. 30-045-22475-0000-0
 3. 103
 4. J Gregory Merrion & Robert L Bayles
 5. Chaco #4
 6. Waw Fruitland Pictured Cliffs
 7. San Juan, NM
 8. 35.0 million cubic feet
 9. July 5, 1979
 10. El Paso Natural Gas Company
1. 79-11674
 2. 30-045-20956-0000-0
 3. 108 Denied
 4. Jerome P McHugh
 5. Pinon #1
 6. Basin Dakota
 7. San Juan, NM
 8. 17.0 million cubic feet
 9. July 5, 1979
 10. El Paso Natural Gas Company
1. 79-11675
 2. 30-039-05167-0000-0
 3. 108
 4. Trans Delta Oil & Gas Co Inc
 5. Jicarilla B-4
 6. South Blanco
 7. Rio Arriba, NM
 8. 0 million cubic feet
 9. July 5, 1979
 10. El Paso Natural Gas Company
1. 79-11676
 2. 30-039-05164-0000-0
 3. 108
 4. Trans Delta Oil & Gas Co Inc
 5. Jicarilla C-1
 6. South Blanco
 7. Rio Arriba, NM
 8. 5.3 million cubic feet
 9. July 5, 1979
 10. El Paso Natural Gas Company
1. 79-11677
 2. 30-039-05129-0000-0
 3. 108
 4. Trans Delta Oil & Gas Co Inc
 5. Jicarilla C-2
 6. South Blanco
 7. Rio Arriba, NM
 8. 5.1 million cubic feet
 9. July 5, 1979
 10. El Paso Natural Gas Company
1. 79-11678
 2. 30-039-05142-0000-0
 3. 108
 4. Trans Delta Oil & Gas Co Inc
 5. Jicarilla C-3
 6. South Blanco
 7. Rio Arriba, NM
 8. 7.3 million cubic feet
 9. July 5, 1979
 10. El Paso Natural Gas Company
1. 79-11679
 2. 30-039-05165-0000-0
 3. 108
 4. Trans Delta Oil & Gas Co Inc
 5. Jicarilla C-4
 6. South Blanco
 7. Rio Arriba, NM
 8. 0.5 million cubic feet
 9. July 5, 1979
 10. El Paso Natural Gas Company
1. 79-11680
 2. 30-039-05091-0000-0
 3. 108
 4. Trans Delta Oil & Gas Co Inc
 5. Jicarilla D-2
 6. South Blanco
 7. Rio Arriba, NM
 8. 5.1 million cubic feet
 9. July 5, 1979
 10. El Paso Natural Gas Company
1. 79-11681
 2. 30-039-05112-0000-0
 3. 108
 4. Trans Delta Oil & Gas Co Inc
 5. Jicarilla D-4
 6. South Blanco
 7. Rio Arriba, NM
 8. 5.9 million cubic feet
 9. July 5, 1979
 10. El Paso Natural Gas Company
1. 79-11682
 2. 30-039-05130-0000-0
 3. 108
 4. Trans Delta Oil & Gas Co Inc
 5. Jicarilla K-2
 6. South Blanco
 7. Rio Arriba, NM
 8. 16.1 million cubic feet
 9. July 5, 1979
 10. El Paso Natural Gas Company
1. 79-11683
 2. 30-039-05143-0000-0
 3. 108
 4. Trans Delta Oil & Gas Co Inc
 5. Jicarilla K-3
 6. South Blanco
 7. Rio Arriba, NM
 8. 18.1 million cubic feet
 9. July 5, 1979
 10. El Paso Natural Gas Company
1. 79-11684
 2. 30-039-05178-0000-0
 3. 108
 4. Trans Delta Oil & Gas Co Inc
 5. Jicarilla K-4
 6. South Blanco
 7. Rio Arriba, NM
 8. 16.1 million cubic feet
 9. July 5, 1979
 10. El Paso Natural Gas Company
1. 79-11685
 2. 30-039-05265-0000-0
 3. 108
 4. Trans Delta Oil & Gas Co Inc
 5. Melik Federal 3
 6. South Blanco
 7. Rio Arriba, NM
 8. 7.5 million cubic feet
 9. July 5, 1979
 10. El Paso Natural Gas Company
1. 79-11686
 2. 30-039-05119-0000-0
 3. 108
 4. Trans Delta Oil & Gas Co Inc
 5. Peggy Federal 1
6. South Blanco
 7. Rio Arriba, NM
 8. 1.3 million cubic feet
 9. July 5, 1979
 10. El Paso Natural Gas Company
1. 79-11687
 2. 30-039-05153-0000-0
 3. 108
 4. Trans Delta Oil & Gas Co Inc
 5. Posty Federal 1
 6. South Blanco
 7. Rio Arriba, NM
 8. 8.3 million cubic feet
 9. July 5, 1979
 10. El Paso Natural Gas Company
1. 79-11688
 2. 30-039-05223-0000-0
 3. 108
 4. Trans Delta Oil & Gas Co Inc
 5. Smock Federal No 1
 6. South Blanco
 7. Rio Arriba, NM
 8. 1.0 million cubic feet
 9. July 5, 1979
 10. El Paso Natural Gas Company
1. 79-11689
 2. 30-039-20800-0000-0
 3. 108
 4. Arapahoe Drilling Co
 5. Schalk 52-4
 6. Gobernador Pictured Cliffs
 7. Rio Arriba County, NM
 8. 0 million cubic feet
 9. July 5, 1979
 10. Northwest Pipeline
1. 79-11690
 2. 30-045-08348-0000-0
 3. 108
 4. Southland Royalty Co
 5. Hare #6
 6. Aztec Pictured Cliffs
 7. San Juan, NM
 8. 12.0 million cubic feet
 9. July 5, 1979
 10. Southern Union Gathering Co
1. 79-11691
 2. 30-045-08087-0000-0
 3. 108
 4. Southland Royalty Co
 5. Hare #11
 6. Aztec Pictured Cliffs
 7. San Juan, NM
 8. 9.0 million cubic feet
 9. July 5, 1979
 10. Southern Union Gathering Co
1. 79-11692
 2. 30-045-00000-0000-0
 3. 108
 4. Southland Royalty Co
 5. Reid #6
 6. Aztec Pictured Cliffs
 7. San Juan, NM
 8. 10.0 million cubic feet
 9. July 5, 1979
 10. Southern Union Gathering Co
1. 79-11693
 2. 30-045-08277-0000-0
 3. 108
 4. Southland Royalty Co
 5. Hare #7
 6. Aztec Pictured Cliffs
 7. San Juan, NM
 8. 15.0 million cubic feet
 9. July 5, 1979
 10. Southern Union Gathering Co
1. 79-11694
 2. 30-045-08472-0000-0
 3. 108
 4. Southland Royalty Co
 5. Hare #8
 6. Aztec Pictured Cliffs
 7. San Juan, NM
 8. 11.0 million cubic feet
 9. July 5, 1979
 10. Southern Union Gathering Co
1. 79-11695
 2. 30-045-07452-0000-0
 3. 108
 4. Southland Royalty Co
 5. Reid #10
 6. Aztec Pictured Cliffs
 7. San Juan, NM
 8. 15.0 million cubic feet
 9. July 5, 1979
 10. Southern Union Gathering Co
1. 79-11696
 2. 30-039-05986-0000-0
 3. 108
 4. Southland Royalty Co
 5. Arizona Jicarilla A #3
 6. Blanco Pictured Cliffs
 7. Rio Arriba, NM
 8. 5.0 million cubic feet
 9. July 5, 1979
 10. Gas Company of New Mexico
1. 79-11697
 2. 30-039-06665-0000-0
 3. 108
 4. Southland Royalty Co
 5. Arizona Jicarilla B #B-1
 6. Blanco Pictured Cliffs
 7. Rio Arriba, NM
 8. 12.0 million cubic feet
 9. July 5, 1979
 10. Gas Company of New Mexico
1. 79-11698
 2. 30-039-05886-0000-0
 3. 108
 4. Southland Royalty Co
 5. Arizona Jicarilla A #4
 6. Blanco Pictured Cliffs
 7. Rio Arriba, NM
 8. 3.0 million cubic feet
 9. July 5, 1979
 10. Gas Company of New Mexico
1. 79-11699
 2. 30-039-06580-0000-0
 3. 108
 4. Southland Royalty Co
 5. Arizona Jicarilla B #B-2
 6. Blanco Pictured Cliffs
 7. Rio Arriba, NM
 8. 14.0 million cubic feet
 9. July 5, 1979
 10. Gas Company of New Mexico
1. 79-11700
 2. 30-045-20528-0000-0
 3. 108
 4. Southland Royalty Co
 5. Cain #19
 6. Fulcher Kutz Pictured Cliffs
 7. San Juan, NM
 8. 13.0 million cubic feet
 9. July 5, 1979
 10. Southern Union Gathering Co
1. 79-11701
 2. 30-045-07448-0000-0

3. 108
 4. Southland Royalty Co
 5. McClanahan #2
 6. Aztec Pictured Cliffs
 7. San Juan, NM
 8. 7.0 million cubic feet
 9. July 5, 1979
 10. Southern Union Gathering Co
1. 79-11702
 2. 30-045-10768-0000-0
 3. 108
 4. Southland Royalty Co
 5. Grenier #10
 6. Aztec Pictured Cliffs
 7. San Juan, NM
 8. 12.0 million cubic feet
 9. July 5, 1979
 10. Southern Union Gathering Co
1. 79-11703
 2. 30-045-20500-0000-0
 3. 108
 4. Southland Royalty Co
 5. Grenier #19
 6. Blanco Pictured Cliffs
 7. San Juan, NM
 8. 14.0 million cubic feet
 9. July 5, 1979
 10. Southern Union Gathering Co
1. 79-11704
 2. 30-045-06898-0000-0
 3. 108
 4. Southland Royalty Co
 5. Hanks #15
 6. Basin Dakota
 7. San Juan, NM
 8. 18.0 million cubic feet
 9. July 5, 1979
 10. Southern Union Gathering Co
1. 79-11705
 2. 30-045-11708-0000-0
 3. 108
 4. Southland Royalty Co
 5. Hanks #19
 6. Blanco Pictured Cliffs
 7. San Juan, NM
 8. 15.0 million cubic feet
 9. July 5, 1979
 10. Southern Union Gathering Co
1. 79-11706
 2. 30-045-20513-0000-0
 3. 108
 4. Southland Royalty Co
 5. East #17
 6. Aztec Pictured Cliffs
 7. San Juan, NM
 8. 3.0 million cubic feet
 9. July 5, 1979
 10. Southern Union Gathering Co
1. 79-11707
 2. 30-045-20511-0000-0
 3. 108
 4. Southland Royalty Co
 5. East #15
 6. Aztec Pictured Cliffs
 7. San Juan, NM
 8. 8.0 million cubic feet
 9. July 5, 1979
 10. Southern Union Gathering Co
1. 79-11708
 2. 30-045-12073-0000-0
 3. 108
 4. Supron Energy Corporation
 5. Hodges #12
 6. Basin Dakota
7. San Juan, NM
 8. 0 million cubic feet
 9. July 5, 1979
 10. El Paso Natural Gas Company
1. 79-11710
 2. 30-045-05683-0000-0
 3. 108
 4. Supron Energy Corporation
 5. Hodges #13
 6. Basin Dakota
 7. San Juan, NM
 8. 0 million cubic feet
 9. July 5, 1979
 10. El Paso Natural Gas Company
1. 79-11711
 2. 30-045-05683-0000-0
 3. 108
 4. Supron Energy Corporation
 5. Newsom #14
 6. Basin Dakota
 7. San Juan, NM
 8. 0 million cubic feet
 9. July 5, 1979
 10. El Paso Natural Gas Company
1. 79-11712
 2. 30-045-11850-0000-0
 3. 108
 4. Supron Energy Corporation
 5. Newsom #16
 6. Basin Dakota
 7. San Juan, NM
 8. 0 million cubic feet
 9. July 5, 1979
 10. El Paso Natural Gas Company
1. 79-11713
 2. 30-045-11856-0000-0
 3. 108
 4. Supron Energy Corporation
 5. Newsom #18
 6. Basin Dakota
 7. San Juan, NM
 8. 0 million cubic feet
 9. July 5, 1979
 10. El Paso Natural Gas Company
1. 79-11714
 2. 30-045-12146-0000-0
 3. 108
 4. Supron Energy Corporation
 5. Newsom #19
 6. Basin Dakota
 7. San Juan, NM
 8. 0 million cubic feet
 9. July 5, 1979
 10. El Paso Natural Gas Company
1. 79-11715
 2. 30-045-20219-0000-0
 3. 108
 4. Supron Energy Corporation
 5. Newsom #20
 6. Basin Dakota
 7. San Juan, NM
 8. 0 million cubic feet
 9. July 5, 1979
 10. El Paso Natural Gas Company
1. 79-11716
 2. 30-045-23125-0000-1
 3. 103
 4. Southland Royalty Co
 5. Childers #2
 6. Blanco PC
 7. San Juan, NM
 8. 70.0 million cubic feet
 9. July 5, 1979
 10. Southern Union Gathering Co
1. 79-11717
 2. 30-045-23125-0000-2
 3. 103
 4. Southland Royalty Co
 5. Childers #2
 6. Undesignated Fruitland
 7. San Juan, NM
 8. 70.0 million cubic feet
 9. July 5, 1979
 10. Southern Union Gathering Co
1. 79-11718
 2. 30-045-22649-0000-0
 3. 103
 4. Southland Royalty Co
 5. Cooper #9
 6. Fulcher Kutz Pictured Cliffs
 7. San Juan, NM
 8. 70.0 million cubic feet
 9. July 5, 1979
 10. Southern Union Gathering Co
1. 79-11719
 2. 30-045-22866-0000-0
 3. 103
 4. Southland Royalty Co
 5. East 4A
 6. Blanco Mesa Verde
 7. San Juan, NM
 8. 182.0 million cubic feet
 9. July 5, 1979
 10. Southern Union Gathering Co
1. 79-11720
 2. 30-045-22865-0000-0
 3. 103
 4. Southland Royalty Co
 5. East 5A
 6. Blanco Mesa Verde
 7. San Juan, NM
 8. 185.0 million cubic feet
 9. July 5, 1979
 10. Southern Union Gathering Co
1. 79-11721
 2. 30-045-22853-0000-0
 3. 103
 4. Southland Royalty Co
 5. East 9A
 6. Blanco Mesa Verde
 7. San Juan, NM
 8. 185.0 million cubic feet
 9. July 5, 1979
 10. Southern Union Gathering Co
1. 79-11722
 2. 30-045-22867-0000-0
 3. 103
 4. Southland Royalty Co
 5. East 22-A
 6. Blanco Mesa Verde
 7. San Juan, NM
 8. 182.0 million cubic feet
 9. July 5, 1979
 10. Southern Union Gathering Co
1. 79-11723
 2. 30-045-23076-0000-0
 3. 103
 4. Southland Royalty Co

5. Grenier A #1-A
6. Blanco Mesa Verde
7. San Juan, NM
8. 182.0 million cubic feet
9. July 5, 1979
10. Southern Union Gathering Co
1. 79-11724
2. 30-045-22268-0000-0
3. 103
4. Southland Royalty Co
5. Grenier #3-A
6. Blanco Mesa Verde
7. San Juan, NM
8. 182.0 million cubic feet
9. July 5, 1979
10. Southern Union Gathering Co
1. 79-11725
2. 30-045-20887-0000-0
3. 108
4. El Paso Natural Gas Company
5. Mudge 30
6. Blanco-Pictured Cliffs Gas
7. San Juan, NM
8. 21.5 million cubic feet
9. July 5, 1979
10. El Paso Natural Gas Company
1. 79-11726
2. 30-045-21430-0000-0
3. 108
4. El Paso Natural Gas Company
5. Forrest 4
6. Aztec-Pictured Cliffs Gas
7. San Juan, NM
8. 19.3 million cubic feet
9. July 5, 1979
10. El Paso Natural Gas Company
1. 79-11835
2. 30-045-22465-0000-0
3. 103
4. Southland Royalty Co
5. Horton #1-A
6. Blanco Mesa Verde
7. San Juan, NM
8. 182.0 million cubic feet
9. July 5, 1979
10. Southern Union Gathering Co
1. 79-11836
2. 30-039-05122-0000-0
3. 108
4. Trans Delta Oil & Gas Co Inc
5. Jicarilla E-1
6. South Blanco
7. Rio Arriba, NM
8. 4.8 million cubic feet
9. July 6, 1979
10. El Paso Natural Gas Company
1. 79-11837
2. 30-039-62313-0000-0
3. 108
4. Trans Delta Oil & Gas Co Inc
5. Jicarilla E 1 X
6. South Blanco
7. Rio Arriba, NM
8. 4.2 million cubic feet
9. July 6, 1979
10. El Paso Natural Gas Company
1. 79-11838
2. 30-039-05057-0000-0
3. 108
4. Trans Delta Oil & Gas Co Inc
5. Jicarilla F 2
6. South Blanco
7. Rio Arriba, NM
8. 13.5 million cubic feet
9. July 6, 1979
10. El Paso Natural Gas Company
1. 79-11839
2. 30-039-82313-0000-0
3. 108
4. Trans Delta Oil & Gas Co Inc
5. Jicarilla F-3
6. South Blanco
7. Rio Arriba, NM
8. 14.1 million cubic feet
9. July 6, 1979
10. El Paso Natural Gas Company
1. 79-11840
2. 30-039-82314-0000-0
3. 108
4. Trans Delta Oil & Gas Co Inc
5. Jicarilla F-4
6. South Blanco
7. Rio Arriba, NM
8. 10.0 million cubic feet
9. July 6, 1979
10. El Paso Natural Gas Company
1. 79-11841
2. 30-039-05060-0000-0
3. 108
4. Trans Delta Oil & Gas Co Inc
5. Jicarilla G-2
6. South Blanco
7. Rio Arriba, NM
8. 5.3 million cubic feet
9. July 6, 1979
10. El Paso Natural Gas Company
1. 79-11842
2. 30-039-08064-0000-0
3. 108
4. Trans Delta Oil & Gas Co Inc
5. Jicarilla G-3 X
6. South Blanco
7. Rio Arriba, NM
8. 8.1 million cubic feet
9. July 6, 1979
10. El Paso Natural Gas Company
1. 79-11843
2. 30-039-05071-0000-0
3. 108
4. Trans Delta Oil & Gas Co Inc
5. Jicarilla G-4
6. South Blanco
7. Rio Arriba, NM
8. 8.0 million cubic feet
9. July 6, 1979
10. El Paso Natural Gas Company
1. 79-11844
2. 30-045-08714-0000-0
3. 108
4. Southland Royalty Co
5. Cornell #7
6. Fulcher Kutz Pictured Cliffs
7. San Juan, NM
8. 11.0 million cubic feet
9. July 6, 1979
10. Southern Union Gathering Co
1. 79-11845
2. 30-045-08358-0000-0
3. 108
4. Southland Royalty Co
5. Reid #2
6. Fulcher Kutz Pictured Cliffs
7. San Juan, NM
8. 5.0 million cubic feet
9. July 6, 1979
10. Southern Union Gathering Co
1. 79-11846

2. 30-045-20532-0000-0
3. 108
4. Southland Royalty Co
5. Hanks #23
6. Fulcher Kutz Pictured Cliffs
7. San Juan, NM
8. 14.0 million cubic feet
9. July 6, 1979
10. Southern Union Gathering Co
1. 79-11847
2. 30-045-23076-0000-0
3. 103
4. Southland Royalty Co
5. Grenier A 1#1-A
6. Blanco Pictured Cliffs
7. San Juan, NM
8. 70.0 million cubic feet
9. July 6, 1979
10. Southern Union Gathering Co
1. 79-11848
2. 30-045-22704-0000-0
3. 103
4. Southland Royalty Co
5. Grenier A #7
6. Aztec Pictured Cliffs
7. San Juan, NM
8. 75.0 million cubic feet
9. July 6, 1979
10. Southern Union Gathering Co
1. 79-11849
2. 30-045-23122-0000-0
3. 103
4. Southland Royalty Co
5. Grenier A #8
6. Basin Dakota
7. San Juan, NM
8. 50.0 million cubic feet
9. July 6, 1979
10. Southern Union Gathering Co
1. 79-11850
2. 30-045-23122-0000-0
3. 103
4. Southland Royalty Co
5. Grenier A #8
6. Blanco Mesa Verde
7. San Juan, NM
8. 180.0 million cubic feet
9. July 6, 1979
10. Southern Union Gathering Co
1. 79-11851
2. 30-045-23126-0000-0
3. 103
4. Southland Royalty Co
5. Harrison #2
6. Undesignated Fruitland
7. San Juan, NM
8. 70.0 million cubic feet
9. July 6, 1979
10. Southern Union Gathering Co
1. 79-11852
2. 30-045-23126-0000-0
3. 103
4. Southland Royalty Co
5. Harrison #2
6. Blanco Pictured Cliffs
7. San Juan, NM
8. 70.0 million cubic feet
9. July 6, 1979
10. Southern Union Gathering Co
1. 79-11853
2. 30-045-22608-0000-0
3. 103
4. Southland Royalty Co
5. NYE 3A

6. Blanco Mesa Verde
7. San Juan, NM
8. 182.0 million cubic feet
9. July 6, 1979
10. Southern Union Gathering Co
1. 79-11854
2. 30-045-22459-0000-0
3. 103
4. Southland Royalty Co
5. Primo Mudge #1A
6. South Blanco Pictured Cliffs
7. San Juan, NM
8. 70.0 million cubic feet
9. July 6, 1979
10. Southern Union Gathering Co
1. 79-11855
2. 30-045-22456-0000-0
3. 103
4. Southland Royalty Co
5. Vanderslice #1-A
6. Blanco Pictured Cliffs
7. San Juan, NM
8. 70.0 million cubic feet
9. July 6, 1979
10. Southern Union Gathering Co
1. 79-11856
2. 30-045-00000-0000-0
3. 103
4. Southland Royalty Co
5. Waller Unit 1-A
6. Blanco Pictured Cliffs
7. San Juan, NM
8. 70.0 million cubic feet
9. July 6, 1979
10. El Paso Natural Gas Company
1. 79-11857
2. 30-045-22561-0000-0
3. 103
4. Southland Royalty Co
5. Burnt Mesa #1A
6. Blanco Mesa Verde
7. San Juan, NM
8. 182.0 million cubic feet
9. July 6, 1979
10. Northwest Pipeline Corp
1. 79-11858
2. 30-045-22319-0000-0
3. 103
4. Southland Royalty Co
5. Culpepper Martin #7-A
6. Blanco Mesa Verde
7. San Juan, NM
8. 182.0 million cubic feet
9. July 6, 1979
10. Southern Union Gathering Co
1. 79-11859
2. 30-045-22322-0000-0
3. 103
4. Southland Royalty Co
5. Culpepper Martin #5A
6. Blanco Mesa Verde
7. San Juan, NM
8. 182.0 million cubic feet
9. July 6, 1979
10. Southern Union Gathering Co
1. 79-11860
2. 30-045-22266-0000-0
3. 103
4. Southland Royalty Co
5. Davis 2-A
6. Blanco Mesa Verde
7. San Juan, NM
8. 180.0 million cubic feet
9. July 6, 1979

10. Southern Union Gathering Co
1. 79-11861
2. 30-045-22267-0000-0
3. 103
4. Southland Royalty Co
5. Davis #4A
6. Blanco Mesa Verde
7. San Juan, NM
8. 182.0 million cubic feet
9. July 6, 1979
10. Southern Union Gathering Co
1. 79-11862
2. 30-045-22314-0000-0
3. 103
4. Southland Royalty Co
5. Davis #6A
6. Blanco Mesa Verde
7. San Juan, NM
8. 182.0 million cubic feet
9. July 6, 1979
10. Southern Union Gathering Co
1. 79-11863
2. 30-045-22852-0000-0
3. 103
4. Southland Royalty Co
5. Decker 2-A
6. Blanco Mesa Verde
7. San Juan, NM
8. 182.0 million cubic feet
9. July 6, 1979
10. Southern Union Gathering Co
1. 79-11864
2. 30-045-22320-0000-0
3. 103
4. Southland Royalty Co
5. Decker 3-A
6. Blanco Mesa Verde
7. San Juan, NM
8. 182.0 million cubic feet
9. July 6, 1979
10. Southern Union Gathering Co
1. 79-11872
2. 30-039-21138-0000-0
3. 108
4. John E. Schalk
5. Schalk 29-4 #4
6. Gobernador Pictured Cliffs
7. Rio Arriba, County, NM
8. .0 million cubic feet
9. July 6, 1979
10. Northwest Pipeline
- U.S. Geological Survey, Casper, Wyo.
1. Control Number (FERC/State)
2. API Well Number
3. Section of NCPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 79-11741
2. 05-103-07774-0000-0
3. 108
4. Chandler & Associates Inc
5. North Douglas Creek Fed 11-6
6. Douglas Creek
7. Rio Blanco CO
8. .1 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11778

2. 05-103-07954-0000-0
3. 18
4. Tipperary Oil and Gas Corp
5. USA 1-31-B
6. Cathedral
7. Rio Blanco CO
8. 16.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corp
1. 79-11780
2. 05-045-06061-0000-0
3. 108
4. Tipperary Oil and Gas Corp
5. USA 1-E-1
6. Soldier Canyon Unit
7. Garfield CO
8. 13.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Company
1. 79-11781
2. 05-103-08085-0000-0
3. 102
4. Coseka Resources (USA) Limited
5. Taiga Federal 14-T-20
6. Thunder
7. Rio Blanco CO
8. 37.2 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11787
2. 05-103-07776-0000-0
3. 108
4. Chandler & Associates Inc
5. North Douglas Creek Fed 6-11
6. Dragon Trail
7. Rio Blanco CO
8. .1 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Company
1. 79-11791
2. 05-045-06092-0000-0
3. 108
4. Tipperary Oil and Gas Corp
5. USA 1-30-F
6. Bear Gulch Unit
7. Garfield CO
8. 6.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corp
1. 79-11797
2. 05-045-06129-0000-0
3. 103
4. Texas Gas Exploration Corporation
5. Federal 43-3 Well
6. Bridle Field
7. Garfield CO
8. 243.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11806
2. 05-103-08086-0000-0
3. 102
4. Coseka Resources (USA) Limited
5. Taiga Federal 7-F-21
6. Thunder
7. Rio Blanco CO
8. 43.3 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Company
1. 79-11811
2. 05-103-08236-0000-0
3. 103
4. Mountain Fuel Supply Company
5. Lower Horse Draw 10-1

6. Lower Horse Draw
7. Rio Blanco CO
8. 91.3 million cubic feet
9. July 5, 1979
10. Mountain Fuel Resources Inc
1. 79-11812
2. 05-103-07778-0000-0
3. 108
4. Chandler & Associates Inc
5. North Douglas Creek Fed 9-11
6. Dragon Trail
7. Rio Blanco CO
8. .1 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11818
2. 05-103-08045-0000-0
3. 108
4. Tipperary Oil and Gas Corp
5. USA 4-36-A
6. Cathedral
7. Rio Blanco CO
8. 14.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corp
1. 79-11823
2. 05-103-08276-0000-0
3. 103
4. Mountain Fuel Supply Company
5. Mountain Fuel Supply Federal #8-1
6. Lower Horse Draw Area
7. Rio Blanco CO
8. 36.5 million cubic feet
9. July 5, 1979
10. Mountain Fuel Resources Inc
1. 79-11824
2. 05-103-08220-0000-0
3. 103
4. Mountain Fuel Supply Co
5. MFS Federal Well No. 12-2
6. Lower Horse Draw Area
7. Rio Blanco County CO
8. 55.0 million cubic feet
9. July 5, 1979
10. Mountain Fuel Resources Inc
1. 79-11826
2. 05-045-06130-0000-0
3. 103
4. Texas Gas Exploration Corporation
5. Federal 43-4 Well
6. Bridle Field
7. Garfield CO
8. 80.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11827
2. 05-103-08025-0000-0
3. 102
4. Coseka Resources (USA) Limited
5. Taiga Federal 2-F-20
6. Thunder
7. Rio Blanco CO
8. 66.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Company
1. 79-11828
2. 05-103-08087-0000-0
3. 102
4. Coseka Resources (USA) Limited
5. Taiga Federal 8-G-21
6. Thunder
7. Rio Blanco CO
8. 41.6 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Company
1. 79-11829
2. 05-103-08040-0000-0
3. 102
4. Coseka Resources (USA) Limited
5. Taiga Federal 1-G-20
6. Thunder
7. Rio Blanco CO
8. 5.1 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Company
1. 79-11830
2. 05-103-08195-0000-0
3. 102
4. Coseka Resources (USA) Limited
5. Taiga Federal 4-RX-16
6. Thunder
7. Rio Blanco CO
8. 50.6 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Company
1. 79-11831
2. 05-103-08049-0000-0
3. 102
4. Coseka Resources (USA) Limited
5. Taiga Federal 3-L-20
6. Thunder
7. Rio Blanco CO
8. 13.5 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Company
1. 79-11832
2. 05-045-06111-0000-0
3. 108
4. Tipperary Oil and Gas Corp
5. ACCO 1-35
6. Twin Buttes
7. Garfield CO
8. 20.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corp
1. 79-11765
2. 25-071-21572-0000-0
3. 102
4. Midlands Gas Corporation
5. 2071 1-2071 Federal
6. Bowdoin
7. Phillips MT
8. 60.0 million cubic feet
9. July 5, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79-11767
2. 25-005-21980-0000-0
3. 103
4. Tricentral US Inc
5. US 10-4-30-18
6. Tiger Ridge
7. Blaine MT
8. 159.0 million cubic feet
9. July 5, 1979
10. Northern Natural Gas Company
1. 79-11769
2. 25-005-21981-0000-0
3. 103
4. Tricentral United States Inc
5. US 4-3-30-18
6. Tiger Ridge
7. Blaine MT
8. 200.8 million cubic feet
9. July 5, 1979
10. Northern Natural Gas Company
1. 79-11770
2. 25-071-21451-0000-0
3. 102
4. Midlands Gas Corporation
5. 3270 #1 Federal
6. Bowdoin
7. Phillips MT
8. 36.0 million cubic feet
9. July 5, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79-11771
2. 25-071-21440-0000-0
3. 102
4. Midlands Gas Corporation
5. 1460 Federal #1
6. Bowdoin
7. Phillips MT
8. 60.0 million cubic feet
9. July 5, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79-11772
2. 25-071-21436-0000-0
3. 102
4. Midlands Gas Corporation
5. 1861 #1 Federal
6. Bowdoin
7. Phillips MT
8. 84.0 million cubic feet
9. July 5, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79-11773
2. 25-071-21386-0000-0
3. 102
4. Midlands Gas Corporation
5. 2570 #1 Federal
6. Bowdoin
7. Phillips MT
8. 30.0 million cubic feet
9. July 5, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79-11803
2. 25-005-21394-0000-0
3. 108
4. Tricentral United States Inc
5. Federal 10-12-27-18
6. Sawtooth Mountain
7. Blaine MT
8. 15.3 million cubic feet
9. July 5, 1979
10. Northern Natural Gas Company
1. 79-11825
2. 25-005-21274-0000-0
3. 108
4. Tricentral United States Inc
5. Federal 1-15-27-18
6. Sawtooth Mountain
7. Blaine MT
8. 4.5 million cubic feet
9. July 5, 1979
10. Northern Natural Gas Company
1. 79-11816
2. 33-053-00765-0000-0
3. 102
4. Exeter Exploration Company
5. Federal 15-2
6. Mon Dak
7. McKenzie, ND
8. 50.0 million cubic feet
9. July 5, 1979
10. Montana-Dakota Utilities Company
1. 79-11739
2. 43-013-30444-0000-0
3. 102
4. Gulf Oil Corporation
5. UTE 1-22-81
6. Undesignated

7. Duchesne, UT
8. 32.0 million cubic feet
9. July 5, 1979
10.
1. 79-11745
2. 43-013-20179-0000-0
3. 103
4. Santa Fe Energy Company
5. ODC Tribal Gulf UTE #3-9
6. Indian Ridge
7. Duchesne, UT
8. 27.0 million cubic feet
9. July 5, 1979
10.
1. 79-11766
2. 43-019-00000-0000-0
3. 108
4. Willard Pease Oil & Gas Co
5. Federal No 1-143
6. Cisco Springs
7. Grand, UT
8. 10.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corp
1. 79-11779
2. 43-019-30125-0000-0
3. 108
4. Willard Pease Oil & Gas Co
5. Cardmoore No 1-A
6. Cisco Springs
7. Grand, UT
8. 10.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corp
1. 79-11794
2. 43-019-16029-0000-0
3. 108
4. Willard Pease Oil & Gas Co
5. A W Cullen No 1
6. Cisco Springs Field
7. Grand Co, UT
8. 10.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corp
1. 79-11813
2. 43-007-10216-0000-0
3. 108
4. Reserve Oil Inc
5. Peters Point #1
6. Peters Point Unit
7. Carbon, UT
8. 11.6 million cubic feet
9. July 5, 1979
10. Uinta Pipeline Corp
1. 79-11740
2. 49-035-05751-0000-0
3. 108
4. Belco Petroleum Corporation
5. E 16 05751
6. Big Piney Shallow
7. Sublette, WY
8. 7.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11742
2. 49-035-09021-0000-0
3. 108
4. Belco Petroleum Corporation
5. C 56-2509021
6. Big Piney
7. Sublette, WY
8. 2.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11743
2. 49-035-09089-0000-0
3. 108
4. Belco Petroleum Corporation
5. C 57-2509089
6. Big Piney
7. Sublette, WY
8. 5.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11744
2. 49-035-03903-0000-0
3. 108
4. Belco Petroleum Corporation
5. B-30-25 03903
6. Big Piney
7. Sublette, WY
8. 16.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11746
2. 49-023-04955-0000-0
3. 108
4. Belco Petroleum Corporation
5. FSU 1 04955
6. Emigrant Springs
7. Lincoln, WY
8. 16.0 million cubic feet
9. July 5, 1979
10. FMC Corporation
1. 79-11747
2. 49-035-06035-0000-0
3. 108
4. Belco Petroleum Corporation
5. B 3-23 06035
6. Big Piney
7. Sublette, WY
8. 15.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11748
2. 49-035-06075-0000-0
3. 108
4. Belco Petroleum Corporation
5. Salathe 1-14 06075
6. Big Piney
7. Sublette, WY
8. 1.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11749
2. 49-035-05940-0000-0
3. 108
4. Belco Petroleum Corporation
5. B-6-35 05940
6. Big Piney
7. Sublette, WY
8. 5.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11750
2. 49-035-06134-0000-0
3. 108
4. Belco Petroleum Corporation
5. Superior Marshall 1-34 06134
6. Big Piney
7. Sublette, WY
8. 9.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11751
2. 49-035-04128-0000-0
3. 108
4. Belco Petroleum Corporation
5. BNG 23-32 04128
6. Tip Top
7. Sublette, WY
8. 11.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11752
2. 49-035-02390-0000-0
3. 108
4. Belco Petroleum Corporation
5. BNG 6-33 02390
6. Tip Top Shallow
7. Sublette, WY
8. 16.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11753
2. 49-035-10595-0000-0
3. 108
4. Belco Petroleum Corporation
5. C 65-33 10595
6. Big Piney
7. Sublette, WY
8. 5.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11754
2. 49-035-02115-0000-0
3. 108
4. Belco Petroleum Corporation
5. C 8-14 02115
6. Big Piney
7. Sublette, WY
8. 5.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11755
2. 49-035-10438-0000-0
3. 108
4. Belco Petroleum Corporation
5. C 64-33 10438
6. Big Piney
7. Sublette, WY
8. 10.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11756
2. 49-035-03509-0000-0
3. 108
4. Belco Petroleum Corporation
5. C 18-14 03509
6. Big Piney
7. Sublette, WY
8. 14.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11757
2. 49-035-06015-0000-0
3. 108
4. Belco Petroleum Corporation
5. B-4-26 06015
6. Big Piney
7. Sublette, WY
8. 9.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11758
2. 49-035-06159-0000-0
3. 108
4. Belco Petroleum Corporation
5. S 2-21 06159
6. Big Piney
7. Sublette, WY
8. 7.0 million cubic feet

9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11759
2. 49-035-02086-0000-0
3. 108
4. Belco Petroleum Corporation
5. S 4-34 02086
6. Big Piney
7. Sublette, WY
8. 10.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11760
2. 49-035-06572-0000-0
3. 108
4. Belco Petroleum Corporation
5. C 31-25 06572
6. Big Piney
7. Sublette, WY
8. 8.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11761
2. 49-035-05779-0000-0
3. 108
4. Belco Petroleum Corporation
5. C-2-14 05779
6. Big Piney-Labarge
7. Sublette, WY
8. 1.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11762
2. 49-035-07420-0000-0
3. 108
4. Belco Petroleum Corporation
5. MCD 1-19 07420
6. Big Piney
7. Sublette, WY
8. 2.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11763
2. 49-013-20730-0000-0
3. 107
4. Monsanto Company
5. Long Butte Unit #2
6. Lysite
7. Fremont, WY
8. 1095.0 million cubic feet
9. July 5, 1979
10. Michigan Wisconsin Pipeline Company
1. 79-11764
2. 49-035-20358-0000-0
3. 108
4. Mobil Oil Corporation
5. Tip Top F13-9G N/P
6. Tip Top
7. Sublette, WY
8. 9.6 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11768
2. 49-035-03165-0000-0
3. 108
4. Belco Petroleum Corporation
5. B 18 03165
6. Big Piney
7. Sublette, WY
8. 4.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11774
2. 49-009-21427-0000-0
3. 103
4. Mitchell Energy Corporation
5. Federal 2-4 L H W-62623
6. Mikes Draw
7. Converse, WY
8. 1.0 million cubic feet
9. July 5, 1979
10.
1. 79-11775
2. 49-035-08202-0000-0
3. 108
4. Belco Petroleum Corporation
5. BNC 70-2808202
6. Tip Top Shallow
7. Sublette, WY
8. 13.0 million cubic feet
9. July 9, 1979
10. Northwest Pipeline Corporation
1. 79-11776
2. 49-035-08466-0000-0
3. 108
4. Belco Petroleum Corporation
5. BNC-82 28 08466
6. Tip Top Shallow
7. Sublette, WY
8. 18.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11777
2. 49-035-02674-0000-0
3. 108
4. Belco Petroleum Corporation
5. B-1702674
6. Big Piney
7. Sublette, WY
8. 3.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11782
2. 49-003-05258-0000-0
3. 108
4. Mobil Oil Corporation
5. Manderson Unit F41-24G
6. Manderson
7. Big Horn, WY
8. 13.3 million cubic feet
9. July 5, 1979
10. Montana-Dakota Utilities Co
1. 79-11783
2. 49-023-20007-0000-0
3. 108
4. Mobil Oil Corporation
5. Trojan T51X-5G (Muddy Unit)
6. Hogsback
7. Lincoln, WY
8. 12.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corp
1. 79-11784
2. 49-035-03052-0000-0
3. 108
4. Belco Petroleum Corporation
5. S 6-21 03052
6. Big Piney
7. Sublette, WY
8. 17.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11785
2. 49-005-24627-0000-0
3. 102
4. Gulf Oil Corp
5. Jordan Federal 1-23
6. Hartzog Draw
7. Campbell, WY
8. 18.0 million cubic feet
9. July 5, 1979
10. Phillips Petroleum Co
1. 79-11786
2. 49-005-24628-0000-0
3. 102
4. Gulf Oil Corp
5. Camblin Federal 1-24
6. Hartzog Draw
7. Campbell, WY
8. 18.0 million cubic feet
9. July 5, 1979
10. Phillips Petroleum Co
1. 79-11788
2. 49-035-07027-0000-0
3. 108
4. Belco Petroleum Corporation
5. C 41C-3 07027
6. Big Piney
7. Sublette, WY
8. 8.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11789
2. 49-035-05752-0000-0
3. 108
4. Belco Petroleum Corporation
5. B51-1405752
6. Big Piney
7. Sublette, WY
8. 6.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11790
2. 49-005-24635-0000-0
3. 103
4. Exxon Corporation
5. Casada Federal Com 1 Well #1
6. Hartzog Draw
7. Campbell, WY
8. 20.0 million cubic feet
9. July 5, 1979
10. Phillips Petroleum Company
1. 79-11792
2. 49-025-05401-0000-0
3. 102
4. Forest Oil Corporation
5. Grieve Unit Well #20 ID #49-025-0540
6. Grieve Unit Field
7. Natrona, WY
8. 1460.0 million cubic feet
9. July 5, 1979
10. Northern Gas Company
1. 79-11793
2. 49-035-03126-0000-0
3. 108
4. Belco Petroleum Corporation
5. C 14-11 03126
6. Big Piney
7. Sublette, WY
8. 3.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11795
2. 49-009-21460-0000-0
3. 103
4. Petroleum Inc
5. Federal Mortons Inc #2-28
6. Mike Draw (Teapot)
7. Converse, WY
8. 18.0 million cubic feet
9. July 5, 1979

10. Phillips Petroleum Co
1. 79-11796
2. 49-005-24936-0000-0
3. 102
4. Cities Service Co
5. Federal AX #1
6. Pumpkin Buttes
7. Campbell, WY
8. 12.0 million cubic feet
9. July 5, 1979
10.
1. 79-11798
2. 49-035-08302-0000-0
3. 108
4. Belco Petroleum Corporation
5. SCU 2-908302
6. Big Piney
7. Sublette, WY
8. 3.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11799
2. 49-035-03937-0000-0
3. 108
4. Belco Petroleum Corporation
5. B-32-15 03937
6. Big Piney
7. Sublette, WY
8. 1.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11800
2. 49-035-03900-0000-0
3. 108
4. Belco Petroleum Corporation
5. B-31-2 03900
6. Big Piney
7. Sublette, WY
8. 4.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11801
2. 49-005-24725-0000-0
3. 103
4. Davis Oil Company
5. Sherwood Federal #1
6. Hilgert
7. Campbell, NY
8. 20.0 million cubic feet
9. July 5, 1979
10. Phillips Petroleum Compay
1. 79-11802
2. 49-041-20129-0000-0
3. 107
4. Mountain Fuel Supply Company
5. Butcher Knife Spring #5
6. Butcher Knife Spring
7. Uinta, NY
8. 730.0 million cubic feet
9. July 5, 1979
10. Mountain Fuel Supply Company
1. 79-11804
2. 49-035-20355-0000-0
3. 108
4. Belco Petroleum Corporation
5. TIU 1-33 20355
6. Long Island Unit
7. Sublette, WY
8. 14.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11805
2. 49-023-20124-0000-0
3. 108
4. Belco Petroleum Corporation
5. ESU 7 20124
6. Emigrant Springs
7. Lincoln, WY
8. 19.0 million cubic feet
9. July 5, 1979
10. FMC Corporation
1. 79-11807
2. 49-035-04575-0000-0
3. 108
4. Belco Petroleum Corporation
5. CBU 7-2704575
6. Big Piney
7. Sublette, WY
8. 16.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11808
2. 49-035-06303-0000-0
3. 108
4. Belco Petroleum Corporation
5. E 22-31 06303
6. Big Piney
7. Sublette, WY
8. 18.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11809
2. 49-035-12496-0000-0
3. 108
4. Belco Petroleum Corporation
5. S 14-21 12496
6. Middle Piney Creek
7. Sublette, WY
8. 20.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11810
2. 49-035-10608-0000-0
3. 108
4. Belco Petroleum Corporation
5. C 66-28 10608
6. Big Piney
7. Sublette, WY
8. 4.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11814
2. 49-009-21440-0000-0
3. 103
4. Mesa Petroleum Co
5. Teckla Federal 1-15
6. Mikes Draw
7. Converse County, WY
8. 21.9 million cubic feet
9. July 5, 1979
10. Liquid Energy Corporation
1. 79-11815
2. 49-037-20991-0000-0
3. 103
4. Forest Oil Corporation
5. Shiprock Federal #22-1
6. Shiprock Federal #22-1
7. Sweetwater, WY
8. .0 million cubic feet
9. July 5, 1979
10. Colorado Interstate Gas Company
1. 79-11817
2. 49-005-24758
3. 102
4. Pennzoil Company
5. Pennzoil Federal 1-23
6. Hartzog Draw
7. Campbell, WY
8. 18.0 million cubic feet
9. July 5, 1979
10. Phillips Petroleum Company
1. 79-11819
2. 49-035-07500
3. 108
4. Belco Petroleum Corporation
5. S 12-2707500
6. Big Piney
7. Sublette, WY
8. 15.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11820
2. 49-035-10418
3. 108
4. Belco Petroleum Corporation
5. C 63-34 10418
6. Big Piney
7. Sublette, WY
8. 6.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11821
2. 49-035-12395
3. 108
4. Belco Petroleum Corporation
5. SCU 6-21 12395
6. Star Corral Unit
7. Sublette Co, WY
8. 20.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11822
2. 49-035-05325
3. 108
4. Belco Petroleum Corporation
5. ELBU 6-22 05325
6. East LaBarge
7. Sublette, WY
8. 4.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline Corporation
1. 79-11833
2. 49-025-05419
3. 102
4. Forest Oil Corporation
5. Grieve Unit Well #10 ID #49-025-0541
6. Grieve Unit Field
7. Natrona, WY
8. 1460.0 million cubic feet
9. July 5, 1979
10. Northwest Gas Company
1. 79-11834
2. 49-035-05036
3. 108
4. Belco Petroleum Corporation
5. CBU 12-190503b
6. Big Piney
7. Sublette, WY
8. 6.0 million cubic feet
9. July 5, 1979
10. Northwest Pipeline

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825

North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this notice in the **Federal Register**.

Please reference the FERC Control Number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FER Doc. 79-23044 Filed 7-25-79; 8:15 am]

BILLING CODE 6450-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

July 19, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Louisiana Office of Conservation

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 79-12180
2. 17-111-21301
3. 108
4. K D Lankford Jr. et. al.
5. Pennzoil Fee 61A GRU #2
6. Monroe Gas
7. Union, LA
8. 20.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Co

1. 79-12181
2. 17-111-21300
3. 108
4. K D Lankford Jr. et. al.
5. Pennzoil Fee 61A GRU #1
6. Monroe Gas
7. Union, LA
8. 20.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Co

1. 79-12182
2. 17-111-21475-
3. 103
4. K D Lankford Jr. & L&N DRLG Co.
5. Edwards #1
6. Monroe Gas
7. Union, LA
8. 42.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Co

1. 79-12183
2. 17-111-21501
3. 103
4. K D Lankford Jr. & L&N DRLG Co
5. Pace #1
6. Monroe Gas
7. Union, LA
8. 28.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line

1. 79-12184
2. 17-067-21189
53. 103
4. K D Lankford Jr. & L&N DRLG Co
5. Tensas Delta #5
6. Monroe Gas
7. Morehouse, LA
8. 31.0 million cubic feet
9. July 11, 1979
10. United Gas pipe line Co

1. 79-12185
2. 17-067-21190
53. 103
4. K D Lankford Jr. & L&N DRLG Co
5. Tensas Delta #6
6. Monroe Gas
7. Morehouse, LA
8. 31.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Co

1. 79-12186
2. 17-067-21191
3. 103
4. K D Lankford Jr. & L&N DRLG Co
5. Tensas Delta #7
6. Monroe Gas
7. Morehouse, LA
8. 31.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Co

1. 79-12187
2. 17-067-21192
53. 103
4. K D Lankford Jr. & L&N DRLG Co
5. Tensas Delta #8
6. Monroe Gas
7. Morehouse, LA
8. 31.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Co

1. 79-12188
2. 17-067-21185
3. 103
4. K D Lankford Jr. & L&N DRLG Co
5. Tensas Delta #1
6. Monroe Gas
7. Morehouse, LA
8. 31.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Co

1. 79-12189
2. 17-067-21186
3. 103
4. K D Lankford Jr. & L&N DRLG Co
5. Tensas Delta #2
6. Monroe Gas
7. Morehouse, LA
8. 31.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Co

4. K D Lankford Jr. & L&N DRLG Co
5. Tensas Delta #3
6. Monroe Gas
7. Morehouse, LA
8. 31.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Co

1. 79-12191
2. 17-111-21465
3. 103
4. K D Lankford Jr. & L&N DRLG Co
5. Moore #1
6. Monroe Gas
7. Union, LA
8. 31.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Co

1. 79-12192
2. 17-111-21466
53. 103
4. K D Lankford Jr. & L&N DRLG Co
5. Moore #2
6. Monroe Gas
7. Union, LA
8. 31.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Co

1. 79-12193
2. 17-073-20453
3. 108
4. IMC Exploration Company
5. Richland Plantation #F-114 (#2)
6. Monroe Gas Field
7. Ouachita, LA
8. 1.9 million cubic feet
9. July 11, 1979
10. Mid Louisiana Gas Company

1. 79-12194
2. 17-073-20454
3. 108
4. IMC Exploration Company
5. Richland Plantation #F-115 (#2)
6. Monroe Gas Field
7. Ouachita, LA
8. 1.9 million cubic feet
9. July 11, 1979
10. Mid Louisiana Gas Company

1. 79-12195
2. 17-073-20455
3. 108
4. IMC Exploration Company
5. Richland Plantation #F-116 (#3)
6. Monroe Gas Field
7. Ouachita, LA
8. 1.9 million cubic feet
9. July 11, 1979
10. Mid Louisiana Gas Company

1. 79-12196
2. 17-073-20457
3. 108
4. IMC Exploration Company
5. Richland Plantation #F-118 (#5)
6. Monroe Gas Field
7. Ouachita, LA
8. 1.9 million cubic feet
9. July 11, 1979
10. Mid Louisiana Gas Company

1. 79-12197
2. 17-073-20458
3. 108
4. IMC Exploration Company
5. Richland Plantation #F-119 (#6)
6. Monroe Gas Field
7. Ouachita, LA

8. 1.9 million cubic feet
9. July 11, 1979
10. Mid Louisiana Gas Company

1. 79-12198
2. 17-073-20459
3. 108
4. IMC Exploration Company
5. Richland Plantation #F-120 (#7)
6. Monroe Gas Field
7. Ouachita, LA
8. 1.9 million cubic feet
9. July 11, 1979
10. Mid Louisiana Gas Company

1. 79-12199
2. 17-073-20460
3. 108
4. IMC Exploration Company
5. Richland Plantation #F-121 (#8)
6. Monroe Gas Field
7. Ouachita, LA
8. 1.9 million cubic feet
9. July 11, 1979
10. Mid Louisiana Gas Company

1. 79-12200
2. 17-073-00000
3. 108
4. Pennzoil Producing Company
5. Breard Mrs. H.A. No. 3
6. Monroe
7. Ouachita, LA
8. 1.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Company

1. 79-12201
2. 17-073-00000
3. 108
4. Pennzoil Producing Company
5. Cole J. T. No. 2
6. Monroe
7. Ouachita, LA
8. 1.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Company

1. 79-12202
2. 17-073-00000
3. 108
4. Pennzoil Producing Company
5. Breard Mrs. H.A. No. 4
6. Monroe
7. Ouachita, LA
8. 4.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Company

1. 79-12203
2. 17-067-00370
3. 108
4. Pennzoil Producing Company
5. Crossett No. 44
6. Monroe
7. Morehouse, LA
8. 1.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Company

1. 79-12204
2. 17-067-00138
3. 108
4. Pennzoil Producing Company
5. Crossett No. 50
6. Monroe
7. Morehouse, LA
8. 7.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Company

1. 79-12205
2. 17-067-00472
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 78
6. Monroe
7. Morehouse, LA
8. 11.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Company

1. 79-12206
2. 17-067-00086
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 61
6. Monroe
7. Morehouse, LA
8. 15.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Company

1. 79-12207
2. 17-067-00493
3. 108
4. Pennzoil Producing Company
5. Crossett No 38
6. Monroe
7. Morehouse, LA
8. 6.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Company

1. 79-12208
2. 17-067-00479
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 74
6. Monroe
7. Morehouse, LA
8. 5.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Company

1. 79-12209
2. 17-073-20456
3. 108
4. IMC Exploration Company
5. Richland Plantation #F-117 (#4)
6. Monroe Gas Field
7. Ouachita, LA
8. 1.9 million cubic feet
9. July 11, 1979
10. MID Louisiana Gas Company

1. 79-12210
2. 17-073-00000
3. 108
4. Pennzoil Producing Company
5. Cole J T No 3
6. Monroe
7. Ouachita, LA
8. 5.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Company

1. 79-12211
2. 17-067-00474
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 79
6. Monroe
7. Morehouse, LA
8. 6.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Company

1. 79-12212
2. 17-067-00499
3. 108
4. Pennzoil Producing Company

5. Crossett No 33
6. Monroe
7. Morehouse, LA
8. 11.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Company

1. 79-12213
2. 17-033-20033
3. 103
4. Goldking Production Company
5. R L Kleinpeter No 3-D (161610)
6. Siegen (NA-2 RA)
7. East Baton Rouge, Par, LA
8. 36.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Company

1. 79-12214
2. 17-033-20030-0000-1
3. 103
4. Goldking Production Company
5. Terrace Land Co No 1 (159763)
6. Siegen (NS-3 RB SU)
7. East Baton Rouge, LA
8. 60.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Company

1. 79-12215
2. 17-033-20030-0000-2
3. 103
4. Goldking Production Company
5. Terrace Land Company No 1-D (155675)
6. Siegen (NS-2 RB SU)
7. East Baton Rouge, LA
8. 26.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Company

1. 79-12216
2. 17-033-20040
3. 103
4. Goldking Production Company
5. R L Kleinpeter No 4
6. Siegen (10500 RA SU)
7. East Baton Rouge, LA
8. 36.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Company

1. 79-12217
2. 17-023-21078-0000-1
3. 103
4. Union Oil Company of California
5. Yount Lee Oil Company No 65
6. Sweet Lake
7. Cameron, LA
8. 5.3 million cubic feet
9. July 11, 1979
10. Columbia Gas Transmission Corp

1. 79-12218
2. 17-023-21078-0000-2
3. 103
4. Union Oil Company of California
5. Yount Lee Oil Company No 65D
6. Sweet Lake
7. Cameron, LA
8. 6.2 million cubic feet
9. July 11, 1979
10. Columbia Gas Transmission Corp

1. 79-12219
2. 17-023-21148
3. 103
4. Union Oil Company of California
5. Yount Lee Oil Company No 66
6. Sweet Lake
7. Cameron, LA
8. 4.0 million cubic feet

9. July 11, 1979
10. Columbia Gas Transmission Corp
1. 79-12220
2. 17-023-21152
3. 103
4. Union Oil Company of California
5. Yount Lee Oil Company No 67
6. Sweet Lake
7. Cameron, LA
8. 9.1 million cubic feet
9. July 11, 1979
10. Columbia Gas Transmission Corp
1. 79-12221
2. 17-099-20720
3. 103
4. Davis Oil Company
5. St Martin Land Company # 1
6. Lake Larose
7. St Martin Parish, LA
8. 265.0 million cubic feet
9. July 11, 1979
10. Transcontinental Gas Pipe Line Corp
1. 79-12222
2. 17-067-21188
3. 103
4. K D Lankford Jr & L&N DRLG Co
5. Tensas Delta #4
6. Monroe Gas
7. Morehouse, LA
8. 31.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Co
1. 79-12223
2. 17-111-21561
3. 103
4. K D Lankford Jr & L&N DRLG Co
5. Bracknell #1
6. Monroe Gas
7. Union, LA
8. 25.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Co
1. 79-12224
2. 17-111-21462
3. 103
4. K D Lankford Jr & L&N DRLG Co
5. Meeks #2
6. Monroe Gas
7. Union, LA
8. 35.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Co
1. 79-12225
2. 17-111-21463
3. 103
4. K D Lankford Jr & L&N DRLG Co
5. Meeks #3
6. Monroe Gas
7. Union, LA
8. 33.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Co
1. 79-12226
2. 17-111-21464
3. 103
4. K D Lankford Jr & L&N DRLG Co
5. Meeks #4
6. Monroe Gas
7. Union, LA
8. 45.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Co
1. 79-12227

2. 17-111-21502
3. 103
4. K D Lankford Jr & L&N DRLG Co
5. McGough #1
6. Monroe Gas
7. Union, LA
8. 20.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Co
1. 79-12228
2. 17-111-21503
3. 103
4. K D Lankford Jr & L&N DRLG Co
5. McGough #2
6. Monroe Gas
7. Union, LA
8. 20.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Co
1. 79-12229
2. 17-111-21504
3. 103
4. K D Lankford Jr & L&N DRLG Co
5. McGough #3
6. Monroe Gas
7. Union, LA
8. 20.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Co
1. 79-12230
2. 17-111-21460
3. 103
4. K D Lankford Jr & L&N DRLG Co
5. Gardner #1
6. Monroe Gas
7. Union, LA
8. 20.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Co
1. 79-12231
2. 17-111-21551
3. 103
4. K D Lankford Jr & L&N DRLG Co
5. Gardner #2
6. Monroe Gas
7. Union, LA
8. 23.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Co
1. 79-12232
2. 17-101-21049
3. 103
4. Cockrell Corporation
5. PA CA-1 SU St Mary Bank No 9
6. Patterson
7. St Mary, LA
8. 218.0 million cubic feet
9. July 11, 1979
10. Tennessee Gas Pipeline Company
Southern Natural Gas Co on System
1. 79-12233
2. 17-067-21169
3. 103
4. Primos Production Co
5. Tensas Delta C#12
6. Monroe Gas Field
7. Morehouse, LA
8. 13.7 million cubic feet
9. July 11, 1979
10. United Gas Pipeline
1. 79-12234
2. 17-067-21224
3. 103
4. Primos Production Co

5. Tensas Delta C#13
6. Monroe Gas Field
7. Morehouse, LA
8. 15.3 million cubic feet
9. July 11, 1979
10. United Gas Pipeline
1. 79-12235
2. 17-067-21225
3. 103
4. Primos Production Co.
5. Tensas Delta C #14
6. Monroe Gas Field
7. Morehouse, LA
8. 15.3 million cubic feet
9. July 11, 1979
10. United Gas Pipeline
1. 79-12236
2. 17-067-21226
3. 103
4. Primos Production Co.
5. Tensas Delta C #15
6. Monroe Gas Field
7. Morehouse, LA
8. 15.3 million cubic feet
9. July 11, 1979
10. United Gas Pipeline
1. 79-12237
2. 17-067-21227
3. 103
4. Primos Production Co.
5. Tensas Delta C #16
6. Monroe Gas Field
7. Morehouse, LA
8. 15.3 million cubic feet
9. July 11, 1979
10. United Gas Pipeline
1. 79-12238
2. 17-067-21253
3. 103
4. Primos Production Co.
5. Tensas Delta C #18
6. Monroe Gas Field
7. Morehouse, LA
8. 15.3 million cubic feet
9. July 11, 1979
10. United Gas Pipeline
1. 79-12239
2. 17-111-21717
3. 103
4. Primos Production Co.
5. Grayling #14
6. Monroe Field
7. Union, LA
8. 30.8 million cubic feet
9. July 11, 1979
10. United Gas Pipeline
1. 79-12240
2. 17-111-21718
3. 103
4. Primos Production Co.
5. Grayling #15
6. Monroe Field
7. Union, LA
8. 27.7 million cubic feet
9. July 11, 1979
10. United Gas Pipeline
1. 79-12241
2. 17-111-21702
3. 103
4. Primos Production Co.
5. Fee 105 #2
6. Monroe Field
7. Union, LA
8. 22.6 million cubic feet

9. July 11, 1979
10. United Gas Pipeline
1. 79-12242
2. 17-111-21715
3. 103
4. Primos Production Co.
5. Fee 105 #3
6. Monroe Field
7. Union, LA
8. 10.3 million cubic feet
9. July 11, 1979
10. United Gas Pipeline
1. 79-12243
2. 17-067-21287
3. 103
4. Primos Production Co.
5. Georgia Pacific A #1
6. Monroe Field
7. Morehouse, LA
8. 17.5 million cubic feet
9. July 11, 1979
10. United Gas Pipeline
1. 79-12244
2. 17-067-21288
3. 103
4. Primos Production Co.
5. Georgia Pacific A #2
6. Monroe Field
7. Morehouse, LA
8. 15.4 million cubic feet
9. July 11, 1979
10. United Gas Pipeline
1. 79-12245
2. 17-067-21289
3. 103
4. Primos Production Co.
5. Georgia Pacific A #3
6. Monroe Field
7. Morehouse, LA
8. 13.3 million cubic feet
9. July 11, 1979
10. United Gas Pipeline
1. 79-12246
2. 17-067-21299
3. 103
4. Primos Production Co.
5. Georgia Pacific A #5
6. Monroe Field
7. Morehouse, LA
8. 15.4 million cubic feet
9. July 11, 1979
10. United Gas Pipeline
1. 79-12247
2. 17-109-22099-
3. 102
4. McMoran Exploration Co
5. C R DuPlantis No 2 161678
6. Sunrise
7. Terrebonne, LA
8. 35.0 million cubic feet
9. July 11, 1979
10.
1. 79-12248
2. 17-097-20453
3. 107
4. Gulf Oil Corporation
5. 16600 TUSC Ra Suf I Thistlethwaite N
6. Moncrief
7. St Landry, LA
8. 1500.0 million cubic feet
9. July 11, 1979
10. Louisiana Intrastate Corporation
1. 79-12249

2. 17-033-20039
3. 107
4. Amoco Production Company
5. 16400 TUSC Ra Sub C B Pennington No
6. Port Hudson
7. East Baton Rouge, LA
8. 2190.0 million cubic feet
9. July 11, 1979
10. Louisiana Intrastate Gas Corp
1. 79-12250
2. 17-053-20553
3. 103
4. Union Texas Petroleum A/
5. Hughes No A-7
6. Lake Arthur Section 36 T10S R4W
7. Jefferson Davis, LA
8. 4000.0 million cubic feet
9. July 11, 1979
10. Texas Gas Transmission Corporation
1. 79-12251
2. 17-027-20466
3. 103
4. Enserch Exploration Inc
5. OK SMK BRA SUI No 1
6. Oaks (Smackover)
7. Claiborne, LA
8. 1083.0 million cubic feet
9. July 11, 1979
10. Louisiana Gas Intrastate Inc of SHR
1. 79-12252
2. 17-027-20413
3. 103
4. Enserch Exploration Inc
5. T S Sale Jr No 2
6. Oaks (Smackover)
7. Claiborne, LA
8. 498.0 million cubic feet
9. July 11, 1979
10. Louisiana Gas Intrastate Inc Fuel Service
Company
1. 79-12253
2. 17-013-20354
3. 103
4. Southern Natural Gas Company
5. BRC CV SU T A LOE ETAL #3
6. Bear Creek Field
7. Bienville, LA
8. 0 million cubic feet
9. July 11, 1979
10. Southern Natural Gas Company
1. 79-12254
2. 17-101-21003
3. 103
4. Southern Natural Gas Company
5. PA DB-3 RC SU C Cremaldi No 2
6. Patterson
7. St Mary, LA
8. 3660.0 million cubic feet
9. July 11, 1979
10. Southern Natural Gas Company
1. 79-12255
2. 17-101-21037
3. 103 107
4. Southern Natural Gas Company
5. Pa Db-3 Rc Su J P Duhe No 6
6. Patterson
7. St Mary, LA
8. 2084.0 million cubic feet
9. July 11, 1979
10. Southern Natural Gas Company
1. 79-12256
2. 17-726-20140-0000-1
3. 103
4. Kerr-McGee Corporation

5. Brs 20 5300 Su S L 1998 #39
6. Breton Sound Block 20
7. Plaquemines, LA
8. 3.7 million cubic feet
9. July 11, 1979
10. Southern Natural Gas Company
1. 79-12257
2. 17-726-20140-0000-2
3. 103
4. Kerr-McGee Corporation
5. Brs 20 5200 Su S L 1998 #39-D
6. Breton Sound Block 20
7. Plaquemines, LA
8. 13.8 million cubic feet
9. July 11, 1979
10. Southern Natural Gas Company
1. 79-12258
2. 17-726-20155
3. 103
4. Kerr-McGee Corporation
5. S L 2000 Well No 47
6. Breton Sound Block 20 Field
7. Plaquemines Parish, LA
8. 4 million cubic feet
9. July 11, 1979
10. Southern Natural Gas Company
1. 79-12259
2. 17-726-20161
3. 103
4. Kerr-McGee Corporation
5. S L 2000 Well No 48
6. Breton Sound Blk 20 Fld
7. Plaquemines Parish, LA
8. 1.4 million cubic feet
9. July 11, 1979
10. Southern Natural Gas Company
1. 79-12260
2. 17-109-22016
3. 103
4. Pennzoil Producing Company
5. Laterre No 34
6. Lirette
7. Terrebonne, LA
8. 350.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Company, Columbia
Gas Transmission Corp
1. 79-12261
2. 17-109-22015
3. 103
4. Pennzoil Producing Company
5. Laterre No 33
6. Lirette
7. Terrebonne, LA
8. 350.0 million cubic feet
9. July 11, 1979
10. United Gas Pipe Line Company, Columbia
Gas Transmission Corp
1. 79-12262
2. 17-109-22015
3. 103
4. Pennzoil Producing Company
5. Laterre No 33-D
6. Lirette
7. Terrebonne, LA
8. 350.0 million cubic feet
9. July 12, 1979
10. United Gas Pipe Line Company, Columbia
Gas Transmission Corp
1. 79-12263
2. 17-111-20378
3. 108
4. IMC Exploration Company
5. Bryan #4 (Trico C B Bryan #1)

6. Monroe Gas Field
7. Union, LA
8. 7.3 million cubic feet
9. July 12, 1979
10. Mid Louisiana Gas Company
1. 79-12264
2. 17-111-20390
3. 108
4. IMC Exploration Company
5. Rabun #26 (Trico Rabun #3)
6. Monroe Gas Field
7. Union, LA
8. 3.5 million cubic feet
9. July 12, 1979
10. Mid Louisiana Gas Company
1. 79-12265
2. 17-111-20382
3. 108
4. IMC Exploration Company
5. A Smith #11 (Trico A Smith #1)
6. Monroe Gas Field
7. Union, LA
8. 3.5 million cubic feet
9. July 12, 1979
10. Mid Louisiana Gas Company
1. 79-12266
2. 17-111-20411
3. 108
4. IMC Exploration Company
5. B E Smith #12 (Trico B E Smith #1)
6. Monroe Gas Field
7. Union, LA
8. 3.9 million cubic feet
9. July 12, 1979
10. Mid Louisiana Gas Company
1. 79-12267
2. 17-111-20404
3. 108
4. IMC Exploration Company
5. Olin Gas Trans Corp #68 (Trico Mont)
6. Monroe Gas Field
7. Union, LA
8. 2.9 million cubic feet
9. July 12, 1979
10. Mid Louisiana Gas Company
1. 79-12268
2. 17-111-20388
3. 108
4. IMC Exploration Company
5. Rabun #25 (Trico Rabun #1)
6. Monroe Gas Field
7. Union, LA
8. 8.3 million cubic feet
9. July 12, 1979
10. Mid Louisiana Gas Company
1. 79-12269
2. 17-111-20407
3. 108
4. IMC Exploration Company
5. Graves #3 (Trico Graves #2)
6. Monroe Gas Field
7. Union, LA
8. 4.1 million cubic feet
9. July 12, 1979
10. Mid Louisiana Gas Company
1. 79-12270
2. 17-073-20452
3. 108
4. IMC Exploration Company
5. Central Immigration #F-122 (Trico C)
6. Monroe Gas Field
7. Ouachita, LA
8. 5.5 million cubic feet
9. July 12, 1979
10. Mid Louisiana Gas Company
1. 79-12271
2. 17-073-20461
3. 108
4. IMC Exploration Company
5. Spade #2 (Trico Spade #1)
6. Monroe Gas Field
7. Ouachita, LA
8. 6.0 million cubic feet
9. July 12, 1979
10. Mid Louisiana Gas Company
1. 79-12272
2. 17-099-20717
3. 103
4. Shell Oil Co
5. WLVE KK RA SU JL&S UA No 7
6. West Lake Verret
7. St. Martin, LA
8. 100.0 million cubic feet
9. July 12, 1979
10. United Gas Pipe Line Co
1. 79-12273
2. 17-721-20295
3. 103
4. Shell Oil Co
5. SPB 24 T RE SU SL 1008 No 126
6. South Pass Block 24
7. Plaquemines, LA
8. 180.0 million cubic feet
9. July 12, 1979
10. Tennessee Gas Pipeline Co. Air Products & Chemical Inc
1. 79-12274
2. 17-721-20303
3. 103
4. Shell Oil Co
5. SPB 24 T RE SU SL 1008 No 130
6. South Pass Block 24
7. Plaquemines, LA
8. 150.0 million cubic feet
9. July 12, 1979
10. Tennessee Gas Pipeline Co. Air Products & Chemical Inc
1. 79-12275
2. 17-721-20292
3. 103
4. Shell Oil Co
5. SPB 24 Q RB SU SL 1008 No 125
6. South Pass Block 24
7. Plaquemines, LA
8. 20.0 million cubic feet
9. July 12, 1979
10. Tennessee Gas Pipeline Co. Air Products & Chemical Inc
1. 79-12276
2. 17-721-20287
3. 103
4. Shell Oil Co
5. SPB 24 T RA SU SL 998 No 174
6. South Pass Block 24
7. Plaquemines, LA
8. 280.0 million cubic feet
9. July 12, 1979
10. Tennessee Gas Pipeline Co. Air Products & Chemical Inc
1. 79-12277
2. 17-721-20291
3. 103
4. Shell Oil Co
5. SPB 24 T RD SU SL 998 No 176
6. South Pass Block 24
7. Plaquemines, LA
8. 70.0 million cubic feet
9. July 12, 1979
10. Tennessee Gas Pipeline Co. Air Products & Chemical Inc
1. 79-12278
2. 17-721-20278
3. 103
4. Shell Oil Co
5. SPB 24 P-Q RA SU SL 1008 No 116
6. South Pass Block 24
7. Plaquemines, LA
8. 70.0 million cubic feet
9. July 12, 1979
10. Tennessee Gas Pipeline Co. Air Products & Chemical Inc
1. 79-12279
2. 17-721-20301
3. 103
4. Shell Oil Co
5. SPB 27 N&B RC SU SL 1011 No 87
6. South Pass Block 27
7. Plaquemines, LA
8. 10.0 million cubic feet
9. July 12, 1979
10. Tennessee Gas Pipeline Co
1. 79-12280
2. 17-721-20285
3. 103
4. Shell Oil Co
5. SPB 27 N4 RC SU SL 1012 No 260
6. South Pass Block 27
7. Plaquemines, LA
8. 60.0 million cubic feet
9. July 12, 1979
10. Tennessee Gas Pipeline Co. Air Products & Chemical Inc
1. 79-12281
2. 17-721-20286
3. 103
4. Shell Oil Co
5. SPB 27 NRA SU SL 1012 No 280
6. South Pass Block 27
7. Plaquemines, LA
8. 40.0 million cubic feet
9. July 12, 1979
10. Tennessee Gas Pipeline Co. Air Products & Chemical Inc
1. 79-12282
2. 17-721-20296
3. 103
4. Shell Oil Co
5. SPB 27 N RA SU SL 1012 No 285
6. South Pass Block 27
7. Plaquemines, LA
8. 35.0 million cubic feet
9. July 12, 1979
10. Tennessee Gas Pipeline Co. Air Products & Chemical Inc
1. 79-12283
2. 17-721-20306
3. 103
4. Shell Oil Co
5. SPB 27 NZ RH SU SL 1007 No. B-103
6. South Pass Block 27
7. Plaquemines, LA
8. 10.0 million cubic feet
9. July 12, 1979
10. Tennessee Gas Pipeline Co. Air Products & Chemical Inc
1. 79-12284
2. 17-709-20219
3. 103
4. Shell Oil Co
5. El 18 O RC SU SL 1665 No 28
6. Eugene Island Block 18
7. St Mary-Offshore, LA

8. 11.0 million cubic feet
9. July 12, 1979
10. Tennessee Gas Pipeline Company
1. 79-12285
2. 17-067-00000
3. 108
4. Pennzoil Producing Company
5. Crossett No 9
6. Monroe
7. Morehouse, LA
8. 13.0 million cubic feet
9. July 12, 1979
10. United Gas Pipe Line Company
1. 79-12286
2. 17-067-00000
3. 108
4. Pennzoil Producing Company
5. Crossett No 22
6. Monroe
7. Morehouse, LA
8. 5.0 million cubic feet
9. July 12, 1979
10. United Gas Pipe Line Company
1. 79-12287
2. 17-067-00000
3. 108
4. Pennzoil Producing Company
5. Crossett No 26
6. Monroe
7. Morehouse, LA
8. 1.0 million cubic feet
9. July 12, 1979
10. United Gas Pipe Line Company
1. 79-12288
2. 17-067-00491
3. 108
4. Pennzoil Producing Company
5. Crossett No 28
6. Monroe
7. Morehouse, LA
8. 10.0 million cubic feet
9. July 12, 1979
10. United Gas Pipe Line Company
1. 79-12289
2. 17-067-00492
3. 108
4. Pennzoil Producing Company
5. Crossett No 32
6. Monroe
7. Morehouse, LA
8. 11.0 million cubic feet
9. July 12, 1979
10. United Gas Pipe Line Company
1. 79-12290
2. 17-067-00409
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & DEV CO No 86
6. Monroe
7. Morehouse, LA
8. 1.0 million cubic feet
9. July 12, 1979
10. United Gas Pipe Line Company
1. 79-12291
2. 17-067-00447
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & DEV CO No 83
6. Monroe
7. Morehouse, LA
8. 13.0 million cubic feet
9. July 12, 1979
10. United Gas Pipe Line Company
1. 79-12292
2. 17-067-00136
3. 108
4. Pennzoil Producing Company
5. Crossett No 58
6. Monroe
7. Morehouse, LA
8. 1.0 million cubic feet
9. July 12, 1979
10. United Gas Pipe Line Company
1. 79-12293
2. 17-067-00446
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 64
6. Monroe
7. Morehouse, LA
8. 5.0 million cubic feet
9. July 12, 1979
10. United Gas Pipe Line Company
1. 79-12294
2. 17-067-00484
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 73
6. Monroe
7. Morehouse, LA
8. 12.0 million cubic feet
9. July 12, 1979
10. United Gas Pipe Line Co
1. 79-12295
2. 17-067-00477
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 76
6. Monroe
7. Morehouse, LA
8. 7.0 million cubic feet
9. July 12, 1979
10. United Gas Pipe Line Company
1. 79-12296
2. 17-067-00473
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 77
6. Monroe
7. Morehouse, LA
8. 14.0 million cubic feet
9. July 12, 1979
10. United Gas Pipe Line Company
1. 79-12297
2. 17-111-01974
3. 108
4. Pennzoil Producing Company
5. Cook No 1
6. Monroe
7. Union, LA
8. 8.0 million cubic feet
9. July 12, 1979
10. United Gas Pipe Line Company
1. 79-12298
2. 17-067-00456
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 82
6. Monroe
7. Morehouse, LA
8. 7.0 million cubic feet
9. July 12, 1979
10. United Gas Pipe Line Company
1. 79-12299
2. 17-067-00099
3. 108
4. Pennzoil Producing Company
5. Crossett No 41
6. Monroe
7. Morehouse, LA
8. 6.0 million cubic feet
9. July 12, 1979
10. United Gas Pipe Line Company
1. 79-12300
2. 17-075-22466
3. 102 103
4. Texaco Inc
5. Vub Delta Duck Club #1
6. Raphael Pass
7. Plaquemines, LA
8. 113.0 million cubic feet
9. July 12, 1979
10. Tennessee Gas Pipeline Co
1. 79-12301
2. 17-033-20042
3. 107
4. Amoco Production Company
5. 16400 Tusc Ra Suc T D Bickham Jr #1
6. Port Hudson
7. East Baton Rouge LA
8. 1679.0 million cubic feet
9. July 12, 1979
10. Louisiana Intrastate Gas Corp
1. 79-12302
2. 17-067-21312
3. 103
4. Primos Production Co
5. Georgia Pacific A #7
6. Monroe Field
7. Morehouse, LA
8. 10.3 million cubic feet
9. July 12, 1979
10. United Gas Pipeline
1. 79-12303
2. 17-067-21301
3. 103
4. Primos Production Co
5. Georgia Pacific A #11
6. Monroe Field
7. Morehouse, LA
8. 16.4 million cubic feet
9. July 12, 1979
10. United Gas Pipeline
1. 79-12304
2. 17-067-21300
3. 103
4. Primos Production Co
5. Georgia Pacific A #10
6. Monroe Field
7. Morehouse, LA
8. 20.5 million cubic feet
9. July 12, 1979
10. United Gas Pipeline
1. 79-12305
2. 17-067-21302
3. 103
4. Primos Production Co
5. Georgia Pacific A #12
6. Monroe Field
7. Morehouse, LA
8. 18.5 million cubic feet
9. July 12, 1979
10. United Gas Pipeline
1. 79-12306
2. 17-067-21293
3. 103
4. Primos Production Co
5. Georgia Pacific A #13
6. Monroe Field
7. Morehouse, LA
8. 16.4 million cubic feet

9. July 12, 1979
10. United Gas Pipeline
1. 79-12307
2. 17-067-21294
3. 103
4. Primos Production Co
5. Georgia Pacific A #14
6. Monroe Field
7. Morehouse LA
8. 17.5 million cubic feet
9. July 12, 1979
10. United Gas Pipeline
1. 79-12308
2. 17-067-21307
3. 103
4. Primos Production Co
5. Georgia Pacific A #16
6. Monroe Field
7. Morehouse LA
8. 15.4 million cubic feet
9. July 12, 1979
10. United Gas Pipeline
1. 79-12309
2. 17-067-21308
3. 103
4. Primos Production Co
5. Georgia Pacific A #19
6. Monroe Field
7. Morehouse LA
8. 12.3 million cubic feet
9. July 12, 1979
10. United Gas Pipeline
1. 79-12310
2. 17-089-20375
3. 103
4. Exxon Corporation
5. P Ra Sui Sarpy Bros No 28
6. Good Hope
7. St Charles LA
8. 55.0 million cubic feet
9. July 12, 1979
10. United Gas Pipe Line Co
1. 79-12311
2. 17-089-20387
3. 103
4. Exxon Corporation
5. P Ra Sur Sarpy Bros No 26
6. Good Hope
7. St Charles LA
8. 55.0 million cubic feet
9. July 12, 1979
10. United Gas Pipe Line Co
1. 79-12312
2. 17-001-20677
3. 103
4. Petro-Lewis Funds Inc
5. Kerr #6
6. Ellis
7. Acadia Parish LA
8. 500.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12313
2. 17-075-22348
3. 102
4. McMoran Exploration Co
5. State Lease 6655 No 3D
6. Bastian Bay
7. Plaquemines LA
8. 155.0 million cubic feet
9. July 12, 1979
10. Transcontinental Gas Pipeline Corp
1. 79-12314

2. 17-075-22217
3. 102
4. McMoran Exploration Co
5. A M Kitchen No 1 152865
6. Bastian Bay
7. Plaquemines LA
8. 636.0 million cubic feet
9. July 12, 1979
10. Transcontinental Gas Pipeline
1. 79-12315
2. 17-075-22230
3. 102
4. McMoran Exploration Co
5. A M Kitchen No 2
6. Bastian Bay
7. Plaquemines LA
8. 564.0 million cubic feet
9. July 12, 1979
10. Transcontinental Gas Pipeline
1. 79-12316
2. 17-111-20319
3. 108
4. Vanguard Petroleum Corp
5. Olinkraft #1
6. Monroe Gas
7. Union LA
8. 9.5 million cubic feet
9. July 12, 1979
10. Louisiana Power & Light Co
1. 79-12317
2. 17-111-20321
3. 108
4. Vanguard Petroleum Corp
5. Olinkraft #2
6. Monroe Gas
7. Union LA
8. 8.5 million cubic feet
9. July 12, 1979
10. Louisiana Power & Light Co
1. 79-12318
2. 17-111-20326
3. 108
4. Vanguard Petroleum Corp
5. Turner #1
6. Monroe Gas
7. Union LA
8. 7.3 million cubic feet
9. July 12, 1979
10. Louisiana Power & Light Co
1. 79-12319
2. 17-111-20328
3. 108
4. Vanguard Petroleum Corp
5. Turner #2
6. Monroe Gas
7. Union LA
8. 6.6 million cubic feet
9. July 12, 1979
10. Louisiana Power & Light Co
1. 79-12320
2. 17-111-20327
3. 108
4. Vanguard Petroleum Corp
5. Turner #3
6. Monroe Gas
7. Union LA
8. 7.3 million cubic feet
9. July 12, 1979
10. Louisiana Power & Light Company
1. 79-12321
2. 17-725-20195
3. 103
4. Shell Oil Co
5. SL1357 No 50

6. Main Pass Block 69
7. Plaquemines LA
8. 15.0 million cubic feet
9. July 12, 1979
10. Tennessee Gas Pipeline Co Air Products & Chemical Inc
1. 79-12322
2. 17-127-20731
3. 103
4. Jackie D Nelson
5. La Pacific #1 Ser #160998
6. Hattaway Branch
7. Winn LA
8. 36.0 million cubic feet
9. July 12, 1979
10. United Gas Pipe Line Co
1. 79-12323
2. 17-061-20139
3. 103
4. Diamond Shamrock Corp
5. S B Colvin No 1
6. Ruston
7. Lincoln LA
8. 14.0 million cubic feet
9. July 12, 1979
- 10.
1. 79-12324
2. 17-099-00000
3. 103
4. Pano Tech Exploration Corp
5. LLR MB RA SUJ M-8 Martha Knight #2D
6. Lake La Rose
7. St Martin LA
8. 1500.0 million cubic feet
9. July 12, 1979
10. Southern Natural Gas Co
1. 79-12325
2. 17-075-22390
3. 103
4. Exxon Corp
5. LW 6700 A RA SU S L 212 No 87
6. Lake Washington
7. Plaquemines LA
8. 60.0 million cubic feet
9. July 12, 1979
10. Tennessee Gas Pipeline Co
1. 79-12326
2. 17-109-22016
3. 103
4. Exxon Corp
5. LIR 9500 RA SU Laterre Co 34-D
6. Lirette
7. Terrebonne LA
8. 1200.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp, United Gas Pipeline
1. 79-12328
2. 17-109-22014-0000-2
3. 103
4. Exxon Corp
5. LIR 10500 RA SU Laterre Co 32
6. Lirette
7. Terrebonne LA
8. 2200.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp, United Gas Pipeline
1. 79-12329
2. 17-033-20033
3. 103
4. Goldking Production Company
5. R L Kleinpeter No 3 (158809)
6. Siegen (NS-3 RASU)

7. East Baton Rouge Parla
8. 48.0 million cubic feet
9. July 12, 1979
10. United Gas Pipe Line Company
1. 79-12327
2. 17-109-22014-0000-1
3. 103
4. Exxon Corp
5. LIR 10250 RA SU Laterre Co 32-D
6. Lirette
7. Terrebonne LA
8. 1450.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp, United Gas Pipeline

Montana Board of Oil and Gas Conservation

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 79-12175
2. 25-005-21085
3. 108
4. Tricentral United States Inc
5. Ramberg 29-10-31-18
6. Tiger Ridge
7. Blaine MT
8. 12.0 million cubic feet
9. July 10, 1979
10. Northern Natural Gas Company
1. 79-12176
2. 25-005-21085
3. 108
4. Tricentral United States Inc
5. Ramberg 29-10-31-18
6. Tiger Ridge
7. Blaine MT
8. 12.0 million cubic feet
9. July 10, 1979
10. Northern Natural Gas Company
1. 79-12177
2. 25-005-22047
3. 102
4. Tricentral United States Inc
5. Roberts 33-6-31-19
6. Tiger Ridge
7. Blaine MT
8. 246.4 million cubic feet
9. July 10, 1979
10. Northern Natural Gas Company
1. 79-12178
2. 25-041-21003
3. 108
4. Tricentral United States Inc
5. Olson 15-11-31-17
6. Tiger Ridge
7. Hill County MT
8. 18.5 million cubic feet
9. July 10, 1979
10. Northern Natural Gas Company
1. 79-12179
2. 25-005-22045
3. 103
4. Tricentral US Inc
5. Sorensen 18-6-31-19
6. Bowes
7. Blaine MT

8. 146.0 million cubic feet
9. July 10, 1979
10. Northern Natural Gas Company
- U.S. Geological Survey, Albuquerque, N. Mex.
1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 79-12150
2. 30-045-12094-0000-0
3. 108
4. Supron Energy Corporation
5. Newsom A-5
6. Basin Dakota
7. San Juan NM
8. .0 million cubic feet
9. July 10, 1979
10. El Paso Natural Gas Company
1. 79-12147
2. 30-045-11852-0000-0
3. 108
4. Supron Energy Corporation
5. Hodges #9
6. Basin Dakota
7. San Juan NM
8. .0 million cubic feet
9. July 10, 1979
10. El Paso Natural Gas Company
1. 79-12148
2. 30-045-05736-0000-0
3. 108
4. Supron Energy Corporation
5. Foster #3
6. Basin Dakota
7. San Juan NM
8. .0 million cubic feet
9. July 10, 1979
10. El Paso Natural Gas Company
1. 79-12149
2. 30-045-13012-0000-0
3. 108
4. Supron Energy Corporation
5. Newsom A-4
6. Basin Dakota
7. San Juan NM
8. .0 million cubic feet
9. July 10, 1979
10. El Paso Natural Gas Company
1. 79-12151
2. 30-045-05997-0000-0
3. 108
4. Supron Energy Corporation
5. Newsom B-8
6. Basin Dakota
7. San Juan NM
8. .0 million cubic feet
9. July 10, 1979
10. El Paso Natural Gas Company
1. 79-12152
2. 30-045-12122-0000-0
3. 108
4. Supron Energy Corporation
5. Newsom B-15
6. Basin Dakota
7. San Juan NM
8. .0 million cubic feet

9. July 10, 1979
10. El Paso Natural Gas Company
1. 79-12153
2. 30-045-05872-0000-0
3. 108
4. Supron Energy Corporation
5. Nickson #9
6. Basin Dakota
7. San Juan NM
8. .0 million cubic feet
9. July 10, 1979
10. El Paso Natural Gas Company
1. 79-12154
2. 30-045-05924-0000-0
3. 108
4. Supron Energy Corporation
5. Nickson #11
6. Basin Dakota
7. San Juan NM
8. .0 million cubic feet
9. July 10, 1979
10. El Paso Natural Gas Company
1. 79-12155
2. 30-039-21609-0000-0
3. 103
4. Consolidated Oil & Gas Inc
5. McIntyre No 1-A
6. Blanco Mesa Verde
7. Rio Arriba NM
8. 73.0 million cubic feet
9. July 10, 1979
10. Gas Company of New Mexico
1. 79-12156
2. 30-045-22624
3. 103
4. Billy J Knott
5. Knott #1
6. San Juan
7. San Juan, NM
8. 48.0 million cubic feet
9. July 10, 1979
10. El Paso Natural Gas Co
1. 79-12157
2. 30-045-09616
3. 108
4. Billy J Knott
5. Kelly #1
6. Blanco Mesa Verde
7. San Juan, NM
8. 19.0 million cubic feet
9. July 10, 1979
10. El Paso Natural Gas Co
1. 79-12158
2. 30-045-23129
3. 103
4. Southland Royalty Co
5. Jernigan #3A
6. Blanco Mesa Verde
7. San Juan, NM
8. 182.0 million cubic feet
9. July 10, 1979
10. Southern Union Gathering Co
1. 79-12159
2. 30-045-22642
3. 103
4. Southland Royalty Co
5. Browning Stewart #5
6. Fulchers Kutz Pictured Cliffs
7. San Juan, NM
8. 73.0 million cubic feet
9. July 10, 1979
10. Southern Union Gathering Co
1. 79-12160

2. 30-045-23022
 3. 103
 4. Southland Royalty Co
 5. Davis #17
 6. Aztec Pictured Cliffs
 7. San Juan, NM
 8. 75.0 million cubic feet
 9. July 10, 1979
 10. Southern Union Gathering Co
 1. 79-12161
 2. 30-045-22852
 3. 103
 4. Southland Royalty Co
 5. Decker 2-A
 6. Blanco Pictured Cliffs
 7. San Juan, NM
 8. 70.0 million cubic feet
 9. July 10, 1979
 10. Southern Union Gathering Co
 1. 79-12162
 2. 30-045-22560
 3. 103
 4. Southland Royalty Co
 5. Decker A #4
 6. Blanco Pictured Cliffs
 7. San Juan, NM
 8. 70.0 million cubic feet
 9. July 10, 1979
 10. Southern Union Gathering Co
 1. 79-12163
 2. 30-045-08950
 3. 108
 4. Southland Royalty Co
 5. J Hudson #2
 6. Fulcher Kutz Pictured Cliffs
 7. San Juan, NM
 8. 1.0 million cubic feet
 9. July 10, 1979
 10. Southern Union Gathering Co
 1. 79-12164
 2. 30-045-07563
 3. 108
 4. Southland Royalty Co
 5. Browning Stewart #4
 6. Fulcher Kutz Pictured Cliffs
 7. San Juan, NM
 8. 8.0 million cubic feet
 9. July 10, 1979
 10. Southern Union Gathering Co
 1. 79-12165
 2. 30-045-07459
 3. 108
 4. Southland Royalty Co
 5. Aztec #3
 6. Fulcher Kutz Pictured Cliffs
 7. San Juan, NM
 8. 9.0 million cubic feet
 9. July 10, 1979
 10. Southern Union Gathering Co
 1. 79-12166
 2. 30-045-06715
 3. 108
 4. Southland Royalty Co
 5. Whitley #3
 6. South Blanco Pictured Cliffs
 7. San Juan, NM
 8. 18.0 million cubic feet
 9. July 10, 1979
 10. Southern Union Gathering Co
 1. 79-12167
 2. 30-045-00000
 3. 108
 4. Southland Royalty Co
 5. Hudson A D #1
6. Fulcher Kutz Pictured Cliffs
 7. San Juan, NM
 8. 3.0 million cubic feet
 9. July 10, 1979
 10. Southern Union Gathering Co
 1. 79-12168
 2. 30-045-07336
 3. 108
 4. Southland Royalty Co
 5. McClanahan #6
 6. Fulcher Kutz Pictured Cliffs
 7. San Juan, NM
 8. 16.0 million cubic feet
 9. July 10, 1979
 10. Southern Union Gathering Co
 1. 79-12169
 2. 30-045-07370
 3. 108
 4. Southland Royalty Co
 5. McClanahan #10
 6. Aztec Pictured Cliffs
 7. San Juan, NM
 8. 2.0 million cubic feet
 9. July 10, 1979
 10. Southern Union Gathering Co
 1. 79-12170
 2. 30-039-05864
 3. 108
 4. Southland Royalty Co
 5. Arizona Jicarilla #2
 6. Blanco Pictured Cliffs
 7. Rio Arriba, NM
 8. 3.0 million cubic feet
 9. July 10, 1979
 10. Gas Co of New Mexico
 1. 79-12171
 2. 30-045-20518
 3. 108
 4. Southland Royalty Co
 5. Cooper #8
 6. Fulcher Kutz Pictured Cliffs
 7. San Juan, NM
 8. 15.0 million cubic feet
 9. July 10, 1979
 10. Southern Union Gathering Co
 1. 79-12172
 2. 30-045-00000
 3. 108
 4. Southland Royalty Co
 5. Cornell #3
 6. Fulcher Kutz Pictured Cliffs
 7. San Juan, NM
 8. 10.0 million cubic feet
 9. July 10, 1979
 10. Southern Union Gathering Co
 1. 79-12173
 2. 30-045-07508
 3. 108
 4. Southland Royalty Co
 5. Reid #4
 6. Aztec Pictured Cliffs
 7. San Juan, NM
 8. 12.0 million cubic feet
 9. July 10, 1979
 10. Southern Union Gathering Co
 1. 79-12174
 2. 30-045-08695
 3. 108
 4. Southland Royalty Co
 5. Grenier B #3
 6. Basin Dakota
 7. San Juan, NM
 8. 14.0 million cubic feet
 9. July 10, 1979

10. Southern Union Gathering Co
U.S. Geological Survey, Casper, Wyo.

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-12146
2. 49-029-20352
3. 108
4. Phillips Petroleum Company
5. Seaboard—A No 1
6. Whistle Creek
7. Park, WY
8. 14.0 million cubic feet
9. July 10, 1979
10. Montana-Dakota Utilities Co
1. 79-12330
2. 49-003-20486
3. 102
4. American Quasar Petroleum Co
5. Dobie Creek 1-11
6. 498 FEL & 953 ESL (SE SE) Sec 11-T4
7. Big Horn, WY
8. .0 million cubic feet
9. July 11, 1979
10. Montana-Dakota Utilities Co
1. 79-12331
2. 49-005-24652
3. 103
4. Cities Service Co
5. Federal A1 #1
6. Hartzog Draw
7. Campbell, WY
8. 27.0 million cubic feet
9. July 11, 1979
10. Panhandle Eastern Pipe Line Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this notice in the Federal Register.

Please reference the FERC Control Number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23051 Filed 7-25-79; 8:45 am]

BILLING CODE 6450-01-M

Determinations by Jurisdictional Agencies under the Natural Gas Policy Act of 1978

July 19, 1979

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New York Department of Environmental Conservation, Bureau of Mineral Resources

1. Control Number (F.E.R.C./State)
 2. API Well number
 3. Section of NGPA
 4. Operator
 5. Well Name
 6. Field or OCS area name
 7. County, State or Block No.
 8. Estimated Annual volume
 9. Date received at FERC
 10. Purchaser(s)
 1. 79-11887
 2. 31-013-13624
 3. 102
 4. Bounty Oil & Gas Inc
 5. Bruce and Byron Shearman #1
 6. Busti
 7. Chautauqua, NY
 8. 20.0 Million cubic feet
 9. July 9, 1979
 10. National Fuel Gas Dist Corp
 1. 79-11888
 2. 31-013-13635
 3. 102
 4. Bounty Oil & Gas Inc
 5. Edward Peterson #2
 6. Busti
 7. Chautauqua, NY
 8. 52.0 Million cubic feet
 9. July 9, 1979
 10. National Fuel Gas Distrib Corp
 1. 79-11889
 2. 31-013-13634
 3. 102
 4. Bounty Oil & Gas Inc
 5. Edward Peterson #1
 6. Busti
 7. Chautauqua, NY
 8. 14.0 Million cubic feet
 9. July 9, 1979
 10. National Fuel Gas Distrib Corp
 1. 79-11890
 2. 31-013-12713
 3. 103
 4. Joseph Mikula
 5. Sprague #2
 6. Lake Shore
 7. Chautauqua, NY
 8. 102.0 Million cubic feet
 9. July 9, 1979
 10. National Fuel Gas
 1. 79-11891
 2. 31-013-08756
 3. 108
 4. Meridan Exploration Corp
 5. Village of Forestville #1-272
 6. West Mud Lake
 7. Chautauqua, NY
 8. 6.4 Million cubic feet
9. July 9, 1979
 10. National Fuel Gas Dist Corp
 1. 79-11892
 2. 31-013-08757
 3. 108
 4. Meridan Exploration Corp
 5. Houck Unit 1-328
 6. West Mud Lake
 7. Chautauqua, NY
 8. 3.3 Million cubic feet
 9. July 9, 1979
 10. National Fuel Gas Dist Corp
 1. 79-11893
 2. 31-013-07649
 3. 108
 4. Meridan Exploration Corp
 5. W D Lanworthy et al 1-268 (for Pied)
 6. West Mud Lake
 7. Chautauqua, NY
 8. 1.8 Million cubic feet
 9. July 9, 1979
 10. National Fuel Gas Dist Corp
 1. 79-11894
 2. 31-013-10094
 3. 108
 4. Meridan Exploration Corp
 5. Albin LaSalle 1-328
 6. Lamberton
 7. Chautauqua, NY
 8. 4.5 Million cubic feet
 9. July 9, 1979
 10. National Fuel Gas Dist Corp
 1. 79-11895
 2. 31-013-05129
 3. 108
 4. Meridan Exploration Corp
 5. A Leone 1-326
 6. Lamberton
 7. Chautauqua, NY
 8. 5.7 Million cubic feet
 9. July 9, 1979
 10. National Fuel Gas Dist Corp
 1. 79-11896
 2. 31-013-09355
 3. 108
 4. Meridan Exploration Corp
 5. Newman #1
 6. Lamberton
 7. Chautauqua, NY
 8. 6.6 Million cubic feet
 9. July 9, 1979
 10. National Fuel Gas Dist Corp
 1. 79-11897
 2. 31-013-10093
 3. 108
 4. Meridan Exploration Corp
 5. Gerald Stalter 1-327
 6. Lamberton
 7. Chautauqua, NY
 8. 5.7 Million cubic feet
 9. July 9, 1979
 10. National Fuel Gas Dist Corp
 1. 79-11898
 2. 31-013-08281
 3. 108
 4. Meridan Exploration Corp
 5. D Zahm Unit 1-270
 6. West Mud Lake
 7. Chautauqua, NY
 8. 3.5 Million cubic feet
 9. July 9, 1979
 10. National Fuel Gas Dist Corp

North Dakota Geological Survey

1. Control Number (F.E.R.C./State)
 2. API Well number
 3. Section of NGPA
 4. Operator
 5. Well Name
 6. Field or OCS area name
 7. County, State or Block No.
 8. Estimated Annual volume
 9. Date received at FERC
 10. Purchaser(s)
 1. 79-11994
 2. 33-105-00772
 3. 103
 4. Texakota Inc
 5. H Borstad #4-3 Permit #6594
 6. Madison—West Tioga
 7. Williams, ND
 8. 15.6 Million cubic feet
 9. July 9, 1979
 10. Aminoil USA
 1. 79-11995
 2. 33-105-00704
 3. 103
 4. Texakota Inc
 5. M Borstad #4-4 Permit #6770
 6. Madison—West Tioga
 7. Williams, ND
 8. 14.6 Million cubic feet
 9. July 9, 1979
 10. Aminoil USA
 1. 79-11996
 2. 33-053-00752
 3. 102
 4. Gas Producing Enterprises Inc
 5. GPE-ALAO 1-147-105 BN #1
 6. So Cartwright
 7. McKenzie, ND
 8. 12.0 Million cubic feet
 9. July 11, 1979
 10. Montana Dakota Utilities
 1. 79-11997
 2. 33-053-00799
 3. 102
 4. Gas Producing Enterprises Inc
 5. GPE-ALAO 15-146-103 BN #1
 6. Poker Jim
 7. McKenzie, ND
 8. 57.0 Million cubic feet
 9. July 11, 1979
 10. Montana Dakota Utilities
 1. 79-11998
 2. 33-053-00766
 3. 102
 4. Gas Producing Enterprises Inc
 5. GPE-ALAO 9-146-103 BN #1
 6. Poker Jim
 7. McKenzie, ND
 8. 46.0 Million cubic feet
 9. July 11, 1979
 10. Montana Dakota Utilities
- West Virginia Department of Mines, Oil and Gas Division**
1. Control number (FERC/State)
 2. API well number
 3. Section of NGPA
 4. Operator
 5. Well name
 6. Field or OCS area name
 7. County, State or block No.
 8. Estimated annual volume
 9. Date received at FERC
 10. Purchaser(s)

1. 79-11935
2. 47-041-21488
3. 108
4. Union Drilling Inc
5. C W Hinzman 1134
6. Skin Creek District
7. Lewis, WV
8. 1.3 million cubic feet
9. July 9, 1979
10. Equitable Gas Co
1. 79-11899
2. 47-001-20525
3. 108
4. Union Drilling Inc
5. Lena Paugh 1226
6. Elk District
7. Barbour, WV
8. 8.2 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11900
2. 47-097-21189
3. 108
4. Union Drilling Inc
5. Joan & Wm C Haney 1203
6. Washington District
7. Upshur, WV
8. 9.7 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11901
2. 47-001-20366
3. 108
4. Union Drilling Inc
5. Carlton W Cook #2 1157
6. Pleasant District
7. Barbour, WV
8. 11.9 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11902
2. 47-007-20905
3. 108
4. Union Drilling Inc
5. Isaac Fleming 1228
6. Salt Lick
7. Braxton, WV
8. 1.7 million cubic feet
9. July 9, 1979
10. Equitable Gas Co
1. 79-11903
2. 47-041-20780
3. 108
4. Union Drilling Inc
5. Edna Eskew 1031
6. Skin Creek District
7. Lewis, WV
8. 3.5 million cubic feet
9. July 9, 1979
10. Equitable Gas Co
1. 79-11904
2. 47-001-20364
3. 108
4. Union Drilling Inc
5. Virginia C McDonald 1155
6. Pleasant District
7. Barbour, WV
8. 9.1 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11905
2. 47-041-21648
3. 108
4. Union Drilling Inc
5. H C Summers #3 1195
6. Skin Creek District
7. Lewis, WV
8. 8.5 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11906
2. 47-097-21434
3. 108
4. Union Drilling Inc
5. Mildred Tenney 1275
6. Meade District
7. Upshur, WV
8. 5.4 million cubic feet
9. July 9, 1979
10. Equitable Gas Co
1. 79-11907
2. 47-001-20354
3. 108
4. Union Drilling Inc
5. H R Lang & W R Johnson 1152
6. Elk District
7. Barbour, WV
8. 19.2 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11908
2. 47-001-20532
3. 108
4. Union Drilling Inc
5. C W Paugh 1229
6. Pleasant District
7. Barbour, WV
8. 6.2 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11909
2. 47-097-20939
3. 108
4. Union Drilling Inc
5. R A Morgan 1121
6. Meade District
7. Upshur, WV
8. 4.3 million cubic feet
9. July 9, 1979
10. Equitable Gas Co
1. 79-11910
2. 47-091-20087
3. 108
4. Union Drilling Inc
5. Wade F Smith 1197
6. Courthouse District
7. Taylor, WV
8. 2.3 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11911
2. 47-097-21218
3. 108
4. Union Drilling Inc
5. Dewitt & Mellie J Warner 1207
6. Washington District
7. Upshur, WV
8. 3.0 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11912
2. 47-097-20935
3. 108
4. Union Drilling Inc
5. Maynard Post 1120
6. Warren District
7. Upshur, WV
8. 10.0 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11913
2. 47-001-20382
3. 108
4. Union Drilling Inc
5. Lillian W Post 1167
6. Pleasant District
7. Barbour, WV
8. 8.6 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11914
2. 47-001-20300
3. 108
4. Union Drilling Inc
5. William B Smith 1130
6. Pleasant District
7. Barbour, WV
8. 7.9 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11915
2. 47-041-01611
3. 108
4. Union Drilling Inc
5. H C Summers #2 1175
6. Skin Creek District
7. Lewis, WV
8. 4.4 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11916
2. 47-097-21123
3. 108
4. Union Drilling Inc
5. Paul & Bertha Crites 1182
6. Buckhannon District
7. Upshur, WV
8. 4.8 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11917
2. 47-097-21171
3. 108
4. Union Drilling Inc
5. Gore Corp 1199
6. Washington District
7. Upshur, WV
8. 3.8 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11918
2. 47-097-20971
3. 108
4. Union Drilling Inc
5. Edward W. Wereley 1129
6. Warren District
7. Upshur, WV
8. 2.1 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11919
2. 47-001-20424
3. 108
4. Union Drilling Inc
5. C M Adams Heirs 1193
6. Pleasant District
7. Barbour, WV
8. 5.7 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11920

2. 47-041-21398
3. 108
4. Union Drilling Inc
5. Hocus Hawkins #2 1106
6. Skin Creek District
7. Lewis, WV
8. 3.7 million cubic feet
9. July 9, 1979
10. Equitable Gas Co
1. 79-11921
2. 47-001-20595
3. 108
4. Union Drilling Inc
5. Lillian W Post #2
6. Pleasant District
7. Barbour, WV
8. 16.9 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11922
2. 47-001-20618
3. 108
4. Union Drilling Inc
5. Inez P Howe 1286
6. Pleasant District
7. Barbour, WV
8. 3.6 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11923
2. 47-097-21427
3. 108
4. Union Drilling Inc
5. C Davis Casto 1270
6. Meade District
7. Upshur, WV
8. 5.5 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11924
2. 47-097-21480
3. 108
4. Union Drilling Inc
5. John C Davis 1298
6. Union District
7. Upshur, WV
8. 6.1 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11925
2. 47-007-20901
3. 108
4. Union Drilling Inc
5. Harper J Fisher 1223
6. Holly District
7. Braxton, WV
8. 1.9 million cubic feet
9. July 9, 1979
10. Equitable Gas Co
1. 79-11926
2. 47-097-21453
3. 108
4. Union Drilling Inc
5. Dencie & Warren Turner 1283
6. Washington District
7. Upshur, WV
8. 4.8 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11927
2. 47-097-20296
3. 108
4. Union Drilling Inc
5. William B Smith 1128
6. Pleasant
7. Barbour, WV
8. 12.5 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply
1. 79-11928
2. 47-097-20645
3. 108
4. Union Drilling Inc
5. Harold Casto 1030
6. Warren district
7. Upshur, WV
8. 8.0 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11929
2. 47-097-21238
3. 108
4. Union Drilling Inc
5. George & Margaret Eskew 1211
6. Union district
7. Upshur, WV
8. 5.0 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11930
2. 47-001-20632
3. 108
4. Union Drilling Inc
5. Agnes Honc 1295
6. Pleasant district
7. Barbour, WV
8. 9.1 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11931
2. 47-097-21487
3. 108
4. Union Drilling Inc
5. John C Davis #2 1303
6. Washington district
7. Upshur, WV
8. 5.4 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11932
2. 47-001-20613
3. 108
4. Union Drilling Inc
5. John A Mosesso 1282
6. Pleasant district
7. Barbour, WV
8. 4.0 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11933
2. 47-001-20516
3. 108
4. Union Drilling Inc
5. Sadie C Lake 1215
6. Pleasant district
7. Barbour, WV
8. 10.1 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11934
2. 47-001-20574
3. 108
4. Union Drilling Inc
5. Laco B Corder #2 1265
6. Pleasant district
7. Barbour, WV
8. 16.9 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11935
2. 47-041-21936
3. 108
4. Union Drilling Inc
5. Claude Clark 1108
6. Skin Creek district
7. Lewis, WV
8. .3 million cubic feet
9. July 9, 1979
10. Equitable Gas Co
1. 79-11937
2. 47-001-20498
3. 108
4. Union Drilling Inc
5. Agnes Baker 1210
6. Elk district
7. Barbour, WV
8. 4.6 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11938
2. 47-097-21405
3. 108
4. Union Drilling Inc
5. Nettie Reger 1261
6. Buckhannon district
7. Upshur, WV
8. 2.4 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11939
2. 47-001-20569
3. 108
4. Union Drilling Inc
5. Rosaltha Law Heirs #4 1260
6. Pleasant district
7. Barbour, WV
8. 6.1 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11940
2. 47-001-20305
3. 108
4. Union Drilling Inc
5. Marvin Curkendall 133
6. Union district
7. Barbour, WV
8. 2.4 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11941
2. 47-097-21240
3. 108
4. Union Drilling Inc
5. Gore Corp #2 1212
6. Washington district
7. Upshur, WV
8. 1.9 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11942
2. 47-001-20623
3. 108
4. Union Drilling Inc
5. Williamson-Mitchell Unit 1293
6. Pleasant district
7. Barbour, WV
8. 3.4 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11943
2. 47-001-20314

3. 108
4. Union Drilling Inc
5. Rosaltha Law Heirs 1138
6. Pleasant district
7. Barbour, WV
8. 5.9 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11944
2. 47-097-21079
3. 108
4. Union Drilling Inc
5. Levera A Clark 1165
6. Banks district
7. Upshur, WV
8. 10.4 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11945
2. 47-091-20089
3. 108
4. Union Drilling Inc
5. Ann Ross Dunn 1202
6. Flemington district
7. Taylor, WV
8. 14.4 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11946
2. 47-001-20369
3. 108
4. Union Drilling Inc
5. Frank A & Neva C McDaniel 1162
6. Elk district
7. Barbour, WV
8. 6.4 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11947
2. 47-097-21068
3. 108
4. Union Drilling Inc
5. J C & Molly McCoy #2 1161
6. Meade district
7. Upshur, WV
8. 6.3 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11948
2. 47-097-21106
3. 108
4. Union Drilling Inc
5. Burl Riffle 1174
6. Meade district
7. Upshur, WV
8. 7.6 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11949
2. 47-001-20429
3. 108
4. Union Drilling Inc
5. Dora Morrow Heirs 1194
6. Pleasant district
7. Barbour, WV
8. 1.8 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11950
2. 47-001-20524
3. 108
4. Union Drilling Inc
5. William E Talbott 1225
6. Elk district
7. Barbour, WV
8. 3.0 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11951
2. 47-001-20250
3. 108
4. Union Drilling Inc
5. Hazel Nutter 1117
6. Elk district
7. Barbour, WV
8. 8.1 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11952
2. 47-097-21065
3. 108
4. Union Drilling Inc
5. J C & Kyle O Brady 1158
6. Banks district
7. Upshur, WV
8. 3.2 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11953
2. 47-041-21421
3. 108
4. Union Drilling Inc
5. Earl Talbott 1114
6. Collins Settlement district
7. Lewis, WV
8. 5.1 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11954
2. 47-097-21374
3. 108
4. Union Drilling Inc
5. Frederick E Seeley #2 1249
6. Washington district
7. Upshur, WV
8. 12.8 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11955
2. 47-097-21134
3. 108
4. Union Drilling Inc
5. Billy Reger 1191
6. Union district
7. Upshur, WV
8. 6.3 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11956
2. 47-001-20456
3. 108
4. Union Drilling Inc
5. Philip Mayle 1204
6. Pleasant district
7. Barbour, WV
8. 9.9 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11957
2. 47-097-21217
3. 108
4. Union Drilling Inc
5. Gore Corp 1206
6. Washington district
7. Upshur, WV
8. 1.1 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp

1. 79-11958
2. 47-097-21120
3. 108
4. Union Drilling Inc
5. Dayton & Tenney 1181
6. Washington District
7. Upshur, WV
8. 9.4 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp.
1. 79-11959
2. 47-041-21385
3. 108
4. Union Drilling Inc
5. Roy Kadabaugh 1125
6. Skin Creek District
7. Lewis, WV
8. 6.8 million cubic feet
9. July 9, 1979
10. Equitable Gas Co.
1. 79-11960
2. 47-001-20337
3. 108
4. Union Drilling Inc
5. Bott Yocco 1149
6. Pleasant District
7. Barbour, WV
8. 4.3 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11961
2. 47-001-20557
3. 108
4. Union Drilling Inc
5. Truman E & Eileen Core
6. Elk District
7. Barbour, WV
8. 4.3 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11962
2. 47-097-21157
3. 108
4. Union Drilling Inc
5. R A Morgan #2 1196
6. Meade District
7. Upshur, WV
8. 5.8 million cubic feet
9. July 9, 1979
10. Equitable Gas Co
1. 79-11963
2. 47-091-20086
3. 108
4. Union Drilling Inc
5. Claget H Ross 1179
6. Flemington District
7. Taylor, WV
8. 4.3 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11964
2. 47-001-20389
3. 108
4. Union Drilling Inc
5. Virginia C McDonald 1172
6. Pleasant District
7. Barbour, WV
8. 7.0 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11965
2. 47-097-21087
3. 108
4. Union Drilling Inc

5. Mildred C Potter 1170
6. Meade District
7. Upshur, WV
8. 7.5 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11966
2. 47-001-20392
3. 108
4. Union Drilling Inc
5. D H Patsey 1173
6. Pleasant District
7. Barbour, WV
8. 19.3 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11967
2. 47-097-21169
3. 108
4. Union Drilling Inc
5. Basil & Charles Hinkle 1200
6. Buckhannon District
7. Upshur, WV
8. 2.7 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11968
2. 47-007-20719
3. 108
4. Union Drilling Inc
5. Grover Singleton 1171
6. Salt Lick District
7. Braxton, WV
8. 1.7 million cubic feet
9. July 9, 1979
10. Equitable Gas Co.
1. 79-11969
2. 47-097-21085
3. 108
4. Union Drilling Inc
5. S A Lane 1169
6. Meade District
7. Upshur, WV
8. 2.2 million cubic feet
9. July 9, 1979
10. Equitable Gas Co.
1. 79-11970
2. 47-097-21430
3. 108
4. Union Drilling Inc
5. Lemmie E Brady 1271
6. Meade District
7. Upshur, WV
8. 9.0 million cubic feet
9. July 9, 1979
10. Equitable Gas Co.
1. 79-11971
2. 47-001-20335
3. 108
4. Union Drilling Inc
5. Billy Reger 1148
6. Elk District
7. Barbour, WV
8. 2.9 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11972
2. 47-041-21715
3. 108
4. Union Drilling Inc
5. Crittendon White Heirs 1216
6. Freemans Creek
7. Lewis, WV
8. 12.9 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11973
2. 47-097-21275
3. 108
4. Union Drilling Inc
5. Gore Corp #3 1222
6. Washington District
7. Upshur, WV
8. 3.6 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11974
2. 47-097-21023
3. 108
4. Union Drilling Inc
5. Roy B Lane 1145
6. Meade District
7. Upshur, WV
8. 3.6 million cubic feet
9. July 9, 1979
10. Equitable Gas Co.
1. 79-11975
2. 47-097-20862
3. 108
4. Union Drilling Inc
5. Jansen Wereley 1101
6. Banks District
7. Upshur, WV
8. 8.2 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11976
2. 47-001-20584
3. 108
4. Union Drilling Inc
5. Virginia C McDonald #2 1272
6. Pleasant District
7. Barbour, WV
8. 20.3 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11977
2. 47-001-20592
3. 108
4. Union Drilling Inc
5. Virginia C McDonald #3
6. Pleasant District
7. Barbour, WV
8. 13.9 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11978
2. 47-041-21263
3. 108
4. Union Drilling Inc
5. Brooks McNemar
6. Skin Creek District
7. Lewis, WV
8. 7.1 million cubic feet
9. July 9, 1979
10. Equitable Gas Co.
1. 79-11986
2. 47-001-20565
3. 108
4. Union Drilling Inc
5. P B Gould 1213
6. Skin Creek District
7. Lewis, WV
8. 11.6 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11987
2. 47-097-21388
3. 108
4. Union Drilling Inc
5. Mildred C Potter 1251

8. Meade District
7. Upshur, WV
8. 2.7 million cubic feet
9. July 9, 1979
10. Equitable Gas Co.
1. 79-11988
2. 47-041-21514
3. 108
4. Union Drilling Inc
5. Union Drilling Inc 1142
6. Skin Creek District
7. Lewis, WV
8. 2.0 million cubic feet
9. July 9, 1979
10. Equitable Gas Co
1. 79-11989
2. 47-097-21017
3. 108
4. Union Drilling Inc
5. Stella Murphy 1143
6. Union District
7. Upshur, WV
8. 1.6 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11990
2. 47-097-20951
3. 108
4. Union Drilling Inc
5. Lamon & Carol Wimer 1126
6. Banks District
7. Upshur, WV
8. 8.1 million cubic feet
9. July 9, 1979
10. Columbia Gas Transmission Corp
1. 79-11991
2. 47-041-21884
3. 108
4. Union Drilling Inc
5. Mary A. Hull 1290
6. Collins Settlement
7. Lewis, WV
8. 9.0 million cubic feet
9. July 9, 1979
10. Equitable Gas Co
1. 79-11992
2. 47-001-20195
3. 108
4. Union Drilling Inc
5. Carlton Cook 1099
6. Elk District
7. Barbour, WV
8. 16.4 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-11993
2. 47-041-20217
3. 108
4. Union Drilling Inc
5. Leonard Mouser 1105
6. Elk District
7. Barbour, WV
8. 11.8 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp

U.S. Geological Survey, Los Angeles, Calif.

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.

8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-11885
2. 04-029-58507-0000-0
3. 102
4. Oxy Petroleum Inc
5. Chevron-USTAN-USLA No. 13x-4
6. Cal Canal
7. Kern, CA
8. 146.0 million cubic feet
9. July 9, 1979
10. Belridge Oil Company

U.S. Geological Survey, Metairie, La.

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-11880
2. 17-711-40418-0000-0
3. 102
4. Union Oil Company of California
5. OCS 0827 well No G-9
6. Ship Shoal Block 208
7. 209
8. 730.0 million cubic feet
9. July 9, 1979
10. Transcontinental Gas Pipe Line Corp
1. 79-11881
2. 17-705-40169-0000-0
3. 102
4. Union Oil Company of California
5. OCS-C 2870 #A-2
6. Vermilion
7. 60
8. 1400.0 million cubic feet
9. July 9, 1979
10. Northern Natural Gas Co Texas Eastern
Transmission Corp Florida Gas
Transmission Corp Florida Power & Light
Corp
1. 79-11882
2. 17-705-40200-0000-0
3. 102
4. Union Oil Company of California
5. OCS 0205 No E-6
6. Vermilion
7. 38
8. 60.0 million cubic feet
9. July 9, 1979
10. Tennessee Gas Pipeline Co
1. 79-11883
2. 17-705-40130-0000-0
3. 102
4. Union Oil Company of California
5. OCS-C 2870 #A-1
6. Vermilion
7. 60
8. 985.0 million cubic feet
9. July 9, 1979
10. Northern Natural Gas Co Texas Eastern
Transmission Corp Florida Gas
Transmission Corp Florida Power & Light
Corp
1. 79-11884
2. 17-702-40398-0000-0
3. 102
4. Union Oil Company of California

5. OCS-G 2023 No A-5
6. West Cameron
7. 593
8. 2000.0 million cubic feet
9. July 9, 1979
10. Texas Eastern Transmission Corp
1. 79-11886
2. 42-711-40177-0000-0
3. 102
4. Aminoil Development Inc
5. OCS-G-2421 Well No A-8D
6. High Island
7. A-330
8. .0 million cubic feet
9. May 17, 1979
10. National Fuel Gas Supply Corp United
Gas Pipeline Natural Gas Pipeline Co of
Amer Transco; Tennessee Gas P/L Corp

U.S. Geological Survey, Albuquerque, N. Mex.

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-11999
2. 30-039-20781-0000-0
3. 108
4. Jerome P. McHugh
5. Cougar #1
6. Gavilan Pictured Cliffs
7. Rio Arriba, NM
8. 10.0 million cubic feet
9. July 9, 1979
10. El Paso Natural Gas Company

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's office of Public Information, room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this notice in the Federal Register.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23052 Filed 7-25-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ID-1872]

D. J. Winfield; Application

July 19, 1979.

Take notice that on July 5, 1979, D. J. Winfield filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions.

Position, Corporation, and Classification

Assistant Treasurer and Assistant Secretary:
Arkansas Power & Light Company; Electric Utility.
Assistant Treasurer and Assistant Secretary:
Arkansas-Missouri Power Company; Electric Utility.
Assistant Treasurer and Assistant Secretary:
Louisiana Power & Light Company; Electric Utility.
Assistant Treasurer and Assistant Secretary:
Mississippi Power & Light Company; Electric Utility.
Assistant Treasurer and Assistant Secretary:
New Orleans Public Service, Inc.; Electric Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23064 Filed 7-25-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. TC79-135]

Eastern Shore Natural Gas Co.; Petition

July 17, 1979.

Take notice that on July 3, 1979, Eastern Shore Natural Gas Company (Eastern), P.O. Box 615, Dover, Delaware 19901, filed in Docket No. TC79-135 a petition pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(c)) for a declaratory order stating that the volumes of natural gas Eastern has and would purchase from UGI Corporation (UGI) and supplied to several curtailed

industrial customers in order to displace fuel oil, and the volumes of gas Eastern would purchase from Delhi Gas Pipeline Corporation (Delhi) for the same purpose, would not be considered to be an Eastern supply or market in any future curtailment or market classification proceeding, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Eastern states that it has purchased 303,969 dekatherms equivalent of oil-displacement gas from UGI during February and March 1979, and, further that Eastern has also purchased approximately 1,520,000 dekatherms equivalent of oil-displacement gas from UGI, with deliveries commencing April 18, 1979 and continuing at a rate of approximately 12,700 dekatherms equivalent of gas per day through August 25, 1979. The UGI gas is being supplied to six customers who have been curtailed and who have been forced to use No. 2, No. 5 and No. 6 oil to satisfy fuel needs which Eastern was unable to satisfy. The UGI gas has been transported for Eastern by Transcontinental Gas Pipe Line Corporation (Transco).

Eastern would also receive up to 8,500 dekatherms equivalent of gas per day for a 12-month period from Delhi, this gas would be purchased by Transco, acting as agent for Eastern. Transco proposes to transport the Delhi gas for Eastern's account pursuant to the Natural Gas Policy Act Title III and applicable Commission regulations. Eastern would take delivery at Hockessin, Delaware and Parkesburg, Pennsylvania. Eastern would be responsible for payment of transportation charges. Eastern would also use the gas it purchases from Delhi in order to satisfy the fuel needs of some of the same customers who are currently receiving the UGI gas.

Any person desiring to be heard or to make any protest with reference to said petition should on or before August 8, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a

petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23035 Filed 7-25-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-511]

The Hartford Electric Light Co.; Filing

July 20, 1979

The filing Company submits the following: Take Notice that on July 16, 1979, The Hartford Electric Light Company ("HELCO") tendered for filing an initial rate schedule of an exchange agreement (the "Agreement") between HELCO, The Connecticut Light and Power Company ("CL&P"), Western Massachusetts Electric Company ("WMECO"), together (the "Exchange Party") and Boston Edison Company ("BECO"). The Agreement, dated as of April 1, 1979, provides for BECO to exchange capacity in the Pilgrim Nuclear Generating Unit located in Plymouth, Massachusetts, for gas turbine capacity from the Exchange Party Units located at South Meadow Generating Station in Hartford, Connecticut, Cos Cob Station in Greenwich, Connecticut and Silver Lake Station in Pittsfield, Massachusetts.

The Agreement provides that the parties will determine prior to 12:01 a.m. on Saturday of each week during the Term of the Agreement whether it is economically advantageous to the parties that an exchange, pursuant to the Agreement, shall take place during that week.

The Exchange Party will pay capacity and energy charges to BECO in an amount equal to the kilowatts of capacity exchanged for each hour during the week that an exchange takes place times \$0.0140 per kilowatt-hour, subject to the operation of the Pilgrim Unit at or above 450,000 kilowatt hours per hour and the availability of at least two of the following three BECO: New Boston Units No. 1 and No. 2 and Mystic Unit No. 7. BECO will pay the Exchange Party's incremental cost of producing energy from the Exchange Party units plus a Variable Maintenance Charge for each hour times the BECO entitlement percentage in the Exchange Party units for any hours during the exchange that the Exchange Party units were actually operated by the New England Power Exchange (NEPEX).

HELCO, CL&P, WMECO, and BECO request an effective date of April 1, 1979 for the Agreement.

CL&P, WMECO, and BECO have filed certificates of concurrence in this docket.

The Agreement has been executed by the HELCO, CL&P, WMECO, and by BECO and copies have been mailed to each to them.

HELCO further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest for the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426 in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 10, 1979. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23065 Filed 7-25-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ES79-48]

Iowa Public Service Co.; Application

July 20, 1979.

Take notice that on July 17, 1979, Iowa Public Service Company (Applicant) filed an application seeking an order pursuant to Section 204 of the Federal Power Act authorizing the issuance of up to \$50,000,000 principal amount of First Mortgage Bonds (New Bonds). Applicant proposes to sell the New Bonds at competitive bidding in accordance with the applicable requirements of Section 34.1a of the Commission's regulations. This request supplants a previous authority granted the company to negotiate for the placement of \$25,000,000 of First Mortgage Bonds under this docket.

Applicant is incorporated under the laws of the State of Iowa, with its principal business office in Sioux City, Iowa, and is engaged in the electric utility business in northwestern, north central and east central Iowa and a few small communities in South Dakota.

Applicant proposes to use the net proceeds from the sale of the securities (1) to meet expenditures for the construction program, and (2) to pay off short-term loans, if any, incurred prior to

the sale of the New Bonds to secure funds for construction purposes.

Any person desiring to be heard or to make any protest with reference to said application should, on or before July 31, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23066 Filed 7-25-79; 8:45 am]
BILLING CODE 6450-01-M

[Project No. 2743, Terror Lake]

**Kodiak Electric Association, Inc.;
Application for Major License
(Unconstructed)**

July 18, 1979.

Take notice that on January 23, 1979, an application was filed by the Kodiak Electric Association, Inc. (Correspondence to: David S. Nease, Jr., Manager, Kodiak Electric Association, Inc., Post Office Box 787, Kodiak, Alaska 99615) for major license for the Terror Lake Project affecting U.S. lands under the jurisdiction of the U.S. Fish and Wildlife Service and the Bureau of Land Management of the Department of Interior and the U.S. Coast Guard of the Department of Transportation. The proposed project would be located on the Terror River, Shotgun Creek, Falls Creek, Rolling Rock Creek, and the Mount Glottoff Glacier drainage basin, in Kodiak Island Borough.

The unconstructed Terror Lake Project would have an installed capacity of 20,000 kW and would consist of the following principal project works: (1) a rock-fill dam, 156 feet high and 2,040 feet long at its crest, located at the outlet of the existing Terror Lake and having an adjacent side channel spillway; (2) Terror Lake Reservoir, with a surface area of 850 acres and usable storage of 78,000 acre-feet at normal maximum reservoir elevation, 1,383 feet (U.S.C.G.S. datum); (3) a diversion dam at the outlet of the lake below Mount

Glottoff Glacier diverting water into the Terror River above the reservoir; (4) a tunnel, 26,311 feet long and 10 feet in diameter, between the Terror Lake Reservoir and an outlet portal above the Kizhuyak River; (5) diversion dams on Shotgun Creek, Falls Creek, and Rolling Rock Creek; (6) shafts and tunnels connecting the Falls Creek and Rolling Rock Creek diversions with the Terror Lake Reservoir tunnel; (7) a steel penstock, 3,400 feet long and varying in diameter from 96 inches to 56 inches, between the outlet portal and the powerhouse; (8) a surface powerhouse at elevation 107 feet in the Kizhuyak Valley containing two generating units of 10,000 kW each with provisions for a third; (9) a substation adjacent to the powerhouse; (10) port facilities near the outlet of the Kizhuyak River; (11) access roads throughout the project area; (12) a 17.3-mile-long, 69-kV transmission line extending from the powerhouse substation to the Kodiak system at a substation within the U.S. Coast Guard Reservation.

Recreational Development: A definitive recreation plan has not been formulated to date. However, an interest has been expressed for the possible development for a camping area at the mouth of the Kizhuyak River and for several miles of hiking trails along the river.

Use of Project Energy: Project energy would be distributed throughout Applicant's present and expanding system to meet its load requirements.

Protest or Petition to Intervene: Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before September 17, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23036 Filed 7-25-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-512]

Long Island Lighting Co.; Filing

July 20, 1979.

Take notice that on July 16, 1979, Long Island Lighting Company (LILCO) tendered for filing an amendment to the Transmission Agreement between LILCO and the Power Authority of the State of New York (PASNY) for the benefit of three municipal utilities on Long Island: Freeport, Greenport and Rockville Centre. The Transmission Agreement was accepted for filing on May 31, 1979, and designated as "Rate Schedule FERC No. 29."

According to the Company, the Transmission Agreement contemplates that the charges for transmission service will be recalculated annually to be effective June 1 of each year. This amendment entitled "Transmission Service Agreement—Revised Wheeling Rates" reflects the agreement of PASNY and LILCO to change the rates as of June 1, 1979 to be in effect until at least June 1, 1980. The new rates reflect the application of the same methodology used to develop the rates in Rate Schedule FERC No. 29, but to more recent data.

Any person wishing to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 10, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23067 Filed 7-25-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP78-252]

Michigan Wisconsin Pipe Line Co. et al.; Petition To Amend

July 17, 1979.

Take notice that on June 27, 1979, Michigan Wisconsin Pipe Line Company (Mich Wis), One Woodward Avenue, Detroit, Michigan 48226, Northern Natural Gas Company (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, and Transcontinental Gas Pipe Line Corporation (Transco), 2700 South Post Oak Road, Houston, Texas 77001, filed in Docket No. CP78-252 a petition to amend the order issued August 21, 1978 in the instant docket pursuant to Section 7(c) of the Natural Gas Act for authorization for Mich Wis and Northern jointly to own and operate, with Transco, an offshore pipeline and related facilities, all as more fully set forth in the petition to amend which is on file with the Commission and open for public inspection.

In the said order Transco was authorized to construct and operate, *inter alia*, certain facilities referred to as the South Pelto facilities. In the application filed by Transco, it was indicated that Transco was willing to utilize its facilities to transport natural gas for other pipeline purchasers in the South Pelto area, and further, indicated that it had under consideration the possibility of a joint ownership arrangement with such other pipeline purchasers although at the time of filing the application no definitive agreements had been reached.

Pursuant to a gas purchase contract dated March 8, 1979, Mich Wis has acquired the right to purchase the gas reserves attributable to a 12.5 percent interest of American Natural Gas Production Company in South Pelto area Blocks 8, 12, and 13 and pursuant to a gas purchase contract dated January 11, 1979, Mich Wis has also acquired the right to purchase the gas reserves attributable to a 12.5 percent interest of General Crude Oil Company in South Pelto area Block 13. Moreover, Mich Wis is presently finalizing a gas purchase contract with Aminoil U.S.A. Inc. covering Aminoil's 4.5 percent interest in both of South Pelto area Blocks 8 and 13. The combined deliverability attributable to these interests is projected by Mich Wis to be 7,000 Mcf of natural gas per day from South Pelto area Blocks 8 and 13, and 1,300 Mcf of natural gas per day for South Pelto area Block 12.

Pursuant to a gas purchase contract dated September 1, 1978, Northern has acquired the right to purchase the natural gas reserves underlying South Pelto area Blocks 8 and 13 attributable to a 25 percent interest in each of the blocks of Oil Development Company of Texas. Moreover, pursuant to a gas purchase contract dated August 22, 1978, Northern has acquired the right to purchase the natural gas reserves also underlying Blocks 8 and 13 attributable to a 13.5 percent interest in the same two blocks of Santa Fe Energy, Inc. The combined deliverability attributable to the interests is projected by Northern to be 12,000 Mcf of natural gas per day.

To assist Mich Wis and Northern in effectuating receipt of the gas supplies in the South Pelto area, Transco has agreed to permit Mich Wis and Northern to share in the ownership and operation of the South Pelto facilities. In accordance with the terms and conditions set forth in a Construction, Ownership, Operation and Maintenance Agreement, dated December 20, 1978, among Mich Wis, Northern, and Transco, the individual ownership percentages proposed are as follows:

	Mich Wis	Northern	Transco
Segment 1.....	25.00	42.86	32.14
Segment 2.....	17.29	25.00	57.71
Segment 3.....	6.89	10.08	82.94

The percentages of Mich Wis's and Northern's South Pelto area Blocks 8 and 13 gas supplies which are projected to be 7,000 Mcf and 12,000 Mcf of natural gas, respectively, are delivered at the production platform in Block 13, and Mich Wis's South Pelto area Block 12 gas supplies comprising 1,300 Mcf of gas per day are delivered at the proposed underwater connection in Block 9. The Agreement further provides that Mich Wis, Northern and Transco shall be entitled to utilize their percentage interest in each of the segments for the transportation of their gas, such rights to the use of capacity being equal to each party's initial capacity requirements.

Modification of the said order would allow Mich Wis and Northern jointly to own and operate undivided portions of the South Pelto facilities in accordance with the said percentages, it is indicated.

Participation with Transco in the South Pelto facilities, Transco assets, would enable Mich Wis and Northern to make their gas supplies available for additional transportation from Ship

Shoal area Block 70 via Transco's Southeast Louisiana Gathering System to onshore redelivery points.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 8, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23037 Filed 7-25-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP77-60]

Michigan Wisconsin Pipe Line Co.; Order Accepting for Filing and Suspending Proposed Tariff Sheets Granting Waiver of Notice Requirements and Consolidating Proceedings

Issued: July 18, 1979.

By order dated March 30, 1979 the Commission approved a settlement agreement in this proceeding. In compliance with that order Michigan Wisconsin filed revised tariff sheets on April 9, 1979¹ to reflect changes to its resale and transportation rate schedules and, also, to the General Terms and Conditions of the tariff.² The revised tariff sheet for the resale rate schedule contains adjustments that reflect (1) an approved GRI rate adjustment effective January 1, 1979, (2) approved PGA rate adjustments effective May 1, 1978 and November 1, 1978, (3) the proposed repricing of company-owned production at the national rate pursuant to Section VIII of the settlement agreement, (4) a

¹In response to a deficiency letter, Michigan Wisconsin submitted supplemental information on May 9, 1979.

²The tariff sheets filed by Michigan Wisconsin included: Volume No. 1, Original Volume No. 1 of Michigan Wisconsin's FERC Gas Tariff, First Revised Volume No. 2, Substitute Eighth Revised Sheet Nos. 92, 110, 129 and 130, Substitute Seventh Revised Sheet Nos. 141, 142 and 171, Substitute Fifth Revised Sheet Nos. 231, 232, 297, 315 and 339, Substitute Third Revised Sheets Nos. 420 and 421, Substitute Original Sheet Nos. 597, 612 and 619.

proposed negative one-half cent per Mcf advance payment adjustment pursuant to Section IV of the settlement agreement, and (5) a proposed increase of 0.08 cent per Mcf in Michigan Wisconsin's demand charge adjustment because of both a reduction in the cost of service and a change to a United cost allocation formula.³

Based upon a review of Michigan Wisconsin's filing, the Commission finds that with the exception of the advance payment rate contained in the resale rate schedule (Original Sheet No. 7 to FERC Gas Tariff, Original Volume No. 1), the proposed filing is consistent with the settlement agreement. For the advance payment balances, the information submitted by Michigan Wisconsin is not sufficient to determine whether they are just and reasonable because the maximum 5-year repayment periods required by Order Nos. 410, 410-A, 441, 465, and 499 may have expired. Accordingly, the Commission will accept without suspension those portions of the filing other than proposed Original Sheet No. 7 to FERC Gas Tariff, Original Volume No. 1 that sets forth the resale rate schedule. The resale rate schedule will be accepted for filing, suspended and waiver of the notice requirements granted such that it shall become effective March 30, 1979, subject to refund.

In resolving the advance payments issue, the Commission notes that Michigan Wisconsin has pending a general rate increase request in Docket No. RP79-39. The Commission recently observed that the proper treatment of advance payments is an issue in that proceeding and, also, in another proceeding involving the company, Docket No. RP73-14, *et al.* Those proceedings were consolidated for purposes of hearing and decision on the issue of advance payments.⁴

The advance payment issues in Docket Nos. RP79-39, *et al.* and this Docket NO. RP77-60 involve common issues of law and fact. Docket No. RP79-39 is in its preliminary stages and a hearing has not yet commenced. Accordingly, the Commission shall consolidate the proceedings for purposes of hearing and decision on the advance payment issue.

The Commission orders: (A) Subject to the conditions of Ordering Paragraph

³United Gas Pipe Line Company, 50 FPC 1348 (1973) rehearing denied 51 FPC 1014, *aff'd sub nom. Consolidated Gas Supply Corp. v. FPC* 172 U.S. App. D.C. 162 (1975), 520 Fed. 1176 (D.C. Cir. 1975).

⁴Order Accepting for Filing and Suspending Proposed Tariff Sheets Subject to Conditions and Consolidating Proceedings, issued June 8, 1979, Docket No. RP73-14 (PGA79-1) (DCA79-1) (AP79-2) and RP79-39.

(B) below, Michigan Wisconsin Pipe Line Company's proposed Original Volume No. 1 to F.E.R.C. Gas Tariff and proposed revised tariff sheets to First Revised Volume No. 2 to F.E.R.C. Gas Tariff are accepted for filing and waiver of notice requirements is granted such that the filing shall become effective March 30, 1979.

(B) Michigan Wisconsin Pipe Line Company's proposed Original Sheet No. 7 to F.E.R.C. Gas Tariff, Original Volume No. 1 is accepted for filing and suspended, and waiver of notice requirements is granted such that the filing shall become effective March 30, 1979, subject to refund.

(C) Docket No. RP77-60 and Docket No. RP79-39 *et al.*, are consolidated for the purposes of hearing and decision on the issue of advance payments. The consolidated proceeding shall be conducted pursuant to the procedural schedule to be set in Docket NO. RP79-39 *et al.*

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23038 Filed 7-25-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-386]

Montana-Dakota Utilities Co.; Application

July 17, 1979.

Take notice that on June 27, 1979, Montana-Dakota Utilities Co. (MDU), 400 North Fourth Street, Bismarck, North Dakota 58501, filed in Docket No. CP79-386 an application pursuant to Section 311(a)(1) of the Natural Gas Policy Act of 1978 for approval of a transportation agreement that would extend for a fixed period in excess of two years, all as more fully set forth in the application which is on file with the commission and open for public inspection.

The application states that Colorado Interstate Gas Company (CIG), MDU, Fuel Resources Development Company (FUELCO), Cheyenne Light, Fuel and Power Company (Cheyenne Light), and Energetics, Inc. have entered into a gas transportation and exchange agreement dated November 21, 1978. Under the said agreement, natural gas is to be produced by Energetics, Inc., from acreage in Williams and McKenzie Counties, North Dakota. Fuelco, which is an affiliate of Cheyenne Light, has purchase rights to this gas under previously existing arrangements. The parties to the said agreement have provided that Energetics and Fuelco would cause the Energetics production

to be gathered and processed through the Tioga Natural Gasoline Plant in Williams County, North Dakota which is operated by Aminoil USA, Inc. MDU is already connected to the tailgate of the Tioga Plant and is presently purchasing an average of 20-25,000 Mcf per day under various other contracts, it is asserted.

Under the said agreement, MDU would receive all of the gas produced by Energetics which is available for sale at the tailgate of the Tioga Plant. Fuelco has assigned to Cheyenne Light the purchase rights to the residue gas during the months of December through March and has assigned to MDU the purchase rights to the residue gas during the months of April through November of each year. The daily volume of gas to be received by MDU is estimated to average 1,500 Mcf and on an annual basis, MDU would purchase approximately 366,000 Mcf for its own account and would transport by displacement, and deliver to CIG, approximately 181,500 Mcf for the account of Cheyenne Light, MDU states.

CIG has filed in Docket No. CP79-321 an application for approval under Section 311(a) of the Natural Gas Policy Act to transport these volumes for the account of Cheyenne Light. The gas delivered to CIG for the account of Cheyenne Light would be delivered at or near wellhead delivery points in the Madden field in Fremont County, Wyoming where both MDU and CIG now purchase gas or at a point of interconnection between the two companies' systems in a processing plant site owned by AMOCO Production Company located in Park County, Wyoming or at other mutually agreeable delivery points, if the other specified delivery points are not sufficient to allow the necessary deliveries.

The volumes delivered to CIG would be thermally equivalent volumes and CIG would then transport and deliver the gas to Cheyenne Light through CIG's system.

The term of the agreement is from November 21, 1978 through April 1, 1983 and thereafter until terminated by any party upon one year's prior written notice. It is estimated that initial deliveries of natural gas would commence on or about December 1, 1979.

MDU would not impose a transportation charge as such for the volume of gas to be delivered to CIG for Cheyenne Light's account because in lieu of a transportation charge, MDU has obtained the right to purchase a substantial volume of the gas to be delivered.

The said agreement provides that the transporting parties would accomplish the proposed transportation service on a best efforts basis. MDU states that it has sufficient capacity to perform the proposed transportation service without detriment or disadvantage to its existing customers who are dependent on MDU's general system supply.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 8, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23039 Filed 7-25-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. GP 79-19 and GP 79-21]

Montana-Dakota Utilities Co.; Order Granting Petitions for Declaratory Order and Granting Interim Adjustment

Issued: July 17, 1979.

On May 16, 1979, the Great Western Sugar Company (Great Western) filed in Docket No. GP79-21, and the Holly Sugar Corporation (Holly) filed in Docket No. GP79-19, petitions seeking a declaratory order of the Commission¹ regarding the interpretation by Montana-Dakota Utilities Co. (MDU) of Section 281.107(c)(1)(ii) of the Commission's Interim Curtailment Order issued March 6, 1979. This order was incorporated in MDU's tariff pursuant to a March 16, 1979, filing in Docket No. TC79-38, which was made effective on April 1, 1979. Great Western's application states that MDU interprets its tariff "to impose a limitation on its supply obligation to its direct essential agricultural users to the contractual limitations as reduced by curtailment" (Petition of Great Western, at page 1). Both Great Western and Holly seek an order declaring that a pipeline's supply obligation to a direct essential

agricultural user under Section 281.107(c)(1)(ii) of the Interim Curtailment Rule (18 CFR 281.107(c)(1)(ii)) is determined by the full contractual volumes without regard to any limitation thereon resulting from curtailment.

Great Western states it owns and operates two factories, one in Billings, Montana and one in Lovell, Wyoming, which use natural gas furnished by MDU in the processing of sugar beets into refined sugar and dried beet pulp for use as a livestock feed. Holly states that it operates several plants at which sugar is processed from sugar beets, among them a plant in Worland, Wyoming and Sidney, Montana, each served by MDU. Each petitioner qualifies as an essential agricultural user of natural gas under the regulations issued by the Secretary of Agriculture.²

On March 16, 1979, MDU filed in Docket No. TC79-38 tariff sheets to provide, on an interim basis as part of its FERC Gas Tariff, a plan for the delivery of natural gas for essential agricultural and high priority uses in accordance with Section 401 of NGPA. The tariff sheets filed by MDU adopted and incorporated by reference the regulations promulgated in Section 281.101 through 281.111 of the Interim Curtailment Rule.³ On March 31, 1979, the Commission accepted MDU's filing.⁴ Section 281.107(c)(1) of the Commission's Rule, as incorporated by reference in MDU's tariff, provides as follows:

(c) Essential agricultural supply obligation.
(1) Direct essential agricultural supply obligation:

The direct essential agricultural supply obligation of an interstate pipeline with respect to a particular curtailment period with respect to an essential agricultural user which is a direct sale customer of the interstate pipeline is the lesser of:

- (i) the volumes certified by the Secretary of Agriculture as essential agricultural volumetric requirements and calculated under 7 CFR paragraph 2900.4; or
- (ii) the volume which may be delivered by the interstate pipeline to the direct sale customer without causing the interstate pipeline to exceed any volumetric limitations set out in the contract between the interstate pipeline and such direct sale customer

²7 CFR 2900, *et seq.*, "Food and Natural Fiber Processing" issued by the Secretary of Agriculture's authority under Section 401 of the Natural Gas Policy Act of 1978, effective March 1, 1979, as amended May 14, 1979.

³Part 281 of the Regulations was promulgated in Interim Regulations for the Implementation of Section 401 of the Natural Gas Policy Act of 1978, Docket No. RM78-13 (March 6, 1979).

⁴"Order Accepting Tariff Sheets" issued in *Alabama-Tennessee Pipeline Company, et al.*, Docket Nos. TC79-51, *et al.* (March 30, 1979).

¹Holly's pleading was further denominated as a protest pursuant to Section 281.110 of the Interim Curtailment Rule.

(without regard to any contract provision which would otherwise restrict delivery because of supply or capacity shortage of the interstate pipeline).

MDU interprets Section 281.107 to provide that the volumetric requirements calculated under the Secretary of Agriculture's rule exceed the volumetric limitations under MDU's present contracts with Holly and Great Western (40 percent of Base Period Requirements).⁴ Therefore, MDU reasons, the volumetric limitations set forth in the annual contracts are a "cap" on MDU's supply obligations to essential agricultural use establishments. The petitioners seek the total entitlement they had in 1975 (the Base Period) and cite the annual contracts with MDU, as merely contract provisions which would restrict delivery because of supply shortage on the interstate pipeline.⁵

On June 6, 1979, the Commission issued a notice of the petitions for a declaratory order (44 FR 33143). In its notice the Commission requested briefs to assist it in resolving the questions raised by Great Western and Holly, MDU and the Commission Staff (Staff) Reply Briefs were filed by Great Western, Holly, Initial Briefs were filed by Great Western, Holly and MDU.

The briefs filed, together with our recent order following 180-day suspension of curtailment proceedings,⁷ are helpful to the resolution of the question presented in that they provide necessary background information concerning MDU's curtailment history. MDU has been curtailing since November 18, 1976, pursuant to tariff sheets implementing a proposed interim settlement filed with the Commission on August 31, 1976.⁸ This plan established four priorities of service. In order to preclude more serious curtailment in the future, MDU commenced curtailment of deliveries to its Priority 4 customers on a planned schedule of reductions calculated from each customers' base period requirements. The base period from which the reductions arose was the contractual volumes available to those customers in 1975.⁹ The schedule called

for a 20 percent reduction in base period requirements the first year, a 40 percent reduction the second year, a 60 percent reduction the third year and an 80 percent reduction in each succeeding year until 1985. Our order, of June 11, 1979, following 180-day suspension, approved generally this method of curtailment on the MDU system. To implement curtailment on the system MDU executes new contracts each year with its Priority 4 customers reflecting the reduced delivery obligations. Thus, MDU's contracts¹⁰ with its Priority 4 customers specify a volumetric limitation based on 40 percent of their base period requirements.

MDU Proposes to serve Great Western and Holly $\frac{1}{2}$ ths of the 40 percent of their Base Period Requirements during the period between the expiration of their existing annual contract¹¹ and the remaining time covered by the Interim Curtailment Rule.¹² It is MDU's position that the contentions of Holly and Great Western are without merit and do not justify the relief which they requested (Initial Brief of MDU at page 2). MDU characterizes the request as seeking an absolute exemption from curtailment instead of the relative preference contemplated by NGPA for agricultural users. MDU relies upon the following language from the Interim Curtailment Rule.¹³

"... The interstate pipeline's supply obligation to direct essential agricultural users is limited to the requirements certified by the Secretary of Agriculture as long as those requirements do not cause a direct end-user to exceed its contractual entitlement with the interstate pipeline or a local distribution company to exceed its contractual entitlement with the interstate pipeline. In either case, contract entitlement would be determined without regard to contract conditions which permit deliveries to be interrupted under certain circumstances. (Emphasis added)

MDU cites the following language from page 11 of the Interim Rule:

"... Interstate pipelines are required to provide gas to supply the certified volumetric requirements for those users designated by the USDA . . . However, the interstate pipeline is not required to deliver natural gas to any customers in violation of any volumetric limitation set out in the contract between the interstate pipeline and its customers. (Emphasis added)

MDU asserts that the contract "cap" is the 40 percent figure mentioned in the

annual contracts, not that volume delivered prior to the settlement agreement. MDU also states that after June 30, 1979 the present annual contract will expire and, petitioners will have no contractual volumes whatsoever (Initial Brief of MDU at page 10).

We cannot agree with the reasoning of MDU. The Interim Curtailment Rule provides that essential agricultural users served directly by an interstate pipeline will receive the lesser of:

(i) the volume certified by the Secretary of Agriculture as essential agricultural volumetric requirements and calculated under 7 C.F.R. § 2900.4; or

(ii) the volume which may be delivered by the interstate pipeline to the direct sale customer without causing the interstate pipeline to exceed any volumetric limitations set out in the contract between the interstate pipeline and such direct sale customer (without regard to any contract provision which would otherwise restrict delivery because of supply or capacity shortage of the interstate pipeline). (Emphasis added)

There is no argument that Great Western and Holly are essential agricultural user nor is there any doubt they are served directly by MDU, an interstate pipeline. The only question to be answered is whether deliveries of gas to Great Western and Holly in excess of the 40 percent contract allocation would "exceed any volumetric limitations set out in the contract between the interstate pipeline and [the] direct sale customer (without regard to any contract provision which would otherwise restrict delivery because of supply or capacity shortage)." We find that MDU's annual contract revisions with its Priority 4 customers (the 40 percent contract this year) were entered into so as to restrict deliveries of gas because of supply or capacity shortage. Great Western and Holly would, therefore, be entitled to the lesser of the volume certified by the Secretary of Agriculture or the volume specified by contract prior to curtailments. MDU's interpretation of Section 281.107(c)(1)(ii) as imposing a "cap" limiting its obligations to essential agricultural users to "40 percent of Base Period Requirements" misconstrues the intent and effect of the Interim Curtailment Rule. Indeed, MDU's tariff concedes that the volumetric limitations in MDU's contracts with its direct customers are based on supply shortages. Section 2.2 of MDU's tariff provides in pertinent part as follows:

2.2 Annual Curtailment.

(a) For any Supply Year when Seller will experience an annual gas supply deficiency . . . Seller shall determine the approximate total annual volume of gas which will be

available to meet all of Seller's requirements and the approximate annual volume which will be curtailed. Using the priority categories specified in Section 2.3, Seller shall notify all customers whose Base Period Requirements cannot be met of the approximate percent of service which such customers will receive during the applicable Supply Year in each affected priority category or categories . . .

(b) The Annual Quantity for each customer shall be the sum of (a) the Base Period Requirements by priority category or categories which can be completely met and (b) the Base Period Requirements in the priority category or categories which cannot be completely met. In determining (b), Seller shall multiply the customer's Base Period Requirements by the percent level of service to be provided in each respective priority category. The percent level of service shall be determined by subtracting from 100 percent the percent obtained by dividing the volume of curtailment which must be imposed during the Supply Year in the respective priority category by the total of all Base Period Requirements in such priority category.

Clearly, MDU's annual contracts with petitioners were entered into in a curtailment context and the annual volumes are based upon a percentage of petitioner's Base Period Requirements. Under these circumstances MDU should be required to serve the full contractual volumes to which Great Western and Holly would have been entitled absent institution of MDU's curtailment plan. A volumetric limit imposed "because of supply or capacity shortage," such as MDU's 40 percent of Base Period Entitlements, is to be disregarded for purposes of the pipeline's supply obligation. We, therefore, find that petitioners are entitled to their full Base Period Entitlement, in effect prior to the filing of MDU's interim curtailment plan, through the period ending October 31, 1979.

In its Reply Brief of June 22, 1979, MDU alleges a detrimental impact on its system if required to serve 100 percent of petitioners' requirements. We find MDU's allegations to be vague especially given the limited duration of the relief. To the extent that MDU believes that a long range negative impact will result from permitting essential agricultural users to receive gas at pre-curtailment contractual levels rather than reduced levels, it should make that showing when it files its tariff implementing Order No. 29, the Permanent Curtailment Rule. The language herein construed remains in effect for the duration of the interim rule which expires by its own terms on October 31, 1979. We, therefore, grant relief to Great Western and Holly for the duration of the Interim Curtailment Rule, as requested.

The Commission finds: (1) A declaratory order addressing the construction by MDU of its tariff provisions should be issued as requested by Holly and Great Western.

(2) The public interest requires that MDU deliver to Holly and Great Western their full entitlements of natural gas for high priority agricultural uses up to the volumes delivered immediately prior to the imposition of MDU's curtailment plan.

(3) This interpretation is based on the Interim Curtailment Rule and as such shall remain valid through October 31, 1979.

The Commission orders: (A) The petitions for a declaratory order, filed by Great Western and Holly, are granted.

(B) Until October 31, 1979, MDU is directed to deliver to Great Western and Holly their full entitlements of natural gas for high priority agricultural uses up to the volumes delivered immediately prior to the imposition of MDU's curtailment plan.

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23040 Filed 7-25-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-401]

The Montana Power Co.; Application July 19, 1979

Take notice that on July 6, 1979, The Montana Power Company (Applicant), 40 East Broadway, Butte, Montana 59701, filed in Docket No. CP79-401 an application pursuant to Section 3 of the Natural Gas Act for authorization to import quantities of natural gas from the Province of Alberta, Canada, into the State of Montana and pursuant to Executive Order No. 10485 for a permit authorizing the construction, operation, and maintenance of facilities at the international boundary between the United States and Canada for the importation of said quantities of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to import approximately 1,060 Mcf of gas per day or 364,600 Mcf in any consecutive 12-month period or approximately 3,707,000 Mcf of gas during the term of the license which was received by Canadian-Montana Pipeline Company from the National Energy Board of Canada for exportation to Applicant. Applicant would pay the going Canadian border price for such gas which would be

produced from the Reagan Blackleaf Field in Alberta. In order to accomplish the purchase and importation of such gas, Applicant proposes to construct approximately one mile of 4 1/2-inch pipeline from a point at the international boundary to a point in Montana connecting with Applicant's existing gathering system. The gas would then be transmitted to Applicant's existing processing facilities where it would be upgraded to pipeline quality specifications and then transmitted to Applicant's distribution system for use by Montana consumers.

Applicant states that it is 65 percent dependent on Canadian natural gas to meet the needs of its customers and that it has been deriving a substantial portion of its total gas supply from Canada for more than 25 years. Applicant indicates that the subject gas would help to meet its present and future market requirements and that these gas reserves, previously authorized for export by the Canadian Authorities, would serve as an assured long-term source of natural gas supply.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23066 Filed 7-25-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP77-98]

Natural Gas Pipeline Co. of America; Filing of Revised Tariff Sheets for Rate Year December 1, 1977, Through November 30, 1978

July 20, 1979

Take notice that on July 13, 1979, Natural Gas Pipeline Company of America (Natural) tendered for filing revised tariff sheets for Third Revised Volume No. 1 and Second Revised Volume No. 2 of its FERC Gas Tariff.

Natural states the revised tariff sheets, filed pursuant to the applicable provisions of the Stipulation and Agreement accepted and approved (as conditioned) by Commission letter order issued May 15, 1979, at Docket No. RP77-98, set out the rates effective for the period December 1, 1977, through November 30, 1978.

Copies of this filing were served upon the company's jurisdictional customers and interested parties to Docket No. RP77-98.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 2, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23069 Filed 7-25-79; 8:45 am]
BILLING CODE 6450-01-M

Docket No. CP75-217

Northern Natural Gas Co.; Petition To Amend

July 16, 1979

Take notice that on June 20, 1979, Northern Natural Gas Company (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP75-217 a petition to amend the order of January 8, 1976, issued in said docket pursuant to section 7(c) of the Natural Gas Act authorizing Petitioner to exchange natural gas with and sell natural gas to Kansas-Nebraska Natural Gas Company, Inc. (Kansas-Nebraska), in Fremont County, Wyoming, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that on January 8, 1976, the Commission issued a joint order in Docket Nos. CP 75-217 and CP75-222 authorizing Northern, *inter alia*, to exchange natural gas with, and sell gas to Kansas-Nebraska, in accordance with

a sale, exchange, and transportation agreement between Northern and Kansas-Nebraska, dated June 5, 1974.

Subsequent to the above authorization Petitioner and Kansas-Nebraska entered into a letter agreement which added the Federal No. 1-19 well located in Fremont County, Wyoming, to the agreement between them. Pursuant to a letter agreement dated March 13, 1979, the Federal No. 1 well located in Fremont County was deleted from the agreement. It is stated that this well proved non-productive and on July 24, 1974, it was plugged and abandoned.

Northern indicates that to facilitate the expeditious connection of gas, it requests authorization to add and delete wells under the terms of the agreement as required from time to time. Such authorization would be limited to Fremont County, Wyoming. Kansas-Nebraska has budget-type authorization, it is stated, to construct and operate jurisdictional facilities to receive new supply; and such authorization specifically includes permission to construct and operate such facilities in the implementation of authorized transportation or exchange arrangements with other pipelines.

Accordingly, Kansas-Nebraska would install jurisdictional facilities required to connect wells under the agreement to its system pursuant to its budget-type certificate for gas-purchase facilities. Northern would reimburse Kansas-Nebraska for any such facilities installed to accommodate its gas.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 6, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a

petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23041 Filed 7-25-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP79-78]

Pacific Gas Transmission Co., Rate Change

July 20, 1979

Take notice that on July 18, 1979, Pacific Gas Transmission Company tendered for filing a "Notice of Rate Change to Reflect Increase in the Price of Canadian Gas in Cost of Service Charges and Request for Expedited Consideration."

PGT states that its filing is made in compliance with the Federal Power Commission's orders in Docket No. RP73-111 which require PGT to make filings pursuant to Section 4 of the Natural Gas Act before there is reflected in PGT's cost of service charges any increase in the cost of gas imposed or required by Canadian authorities.

PGT indicates that its filing will effect increases in rates charged under its PL-1 Rate Schedule which is applicable to sales of gas made by PGT to its one customer for sale, Pacific Gas and Electric Company.

The filed changes in rates will reflect in PGT's cost of service charges certain increases mandated by Canadian authorities in the price of gas imported from Canada, commencing August 11, 1979. PGT presently obtains more than 99% of its entire supply of gas from Canada at a border price which is the Canadian dollar equivalent of \$2.30 (U.S.) per Mcf of 1000 Btu gas. PGT recites that on July 12, 1979, the Canadian Governor-in-Council (i.e., federal cabinet) ordered that existing National Energy Board (NEB) export licenses would be amended, effective August 11, 1979, to increase the border export price to the Canadian dollar equivalent of \$2.80 (U.S.) per Mcf of 1000 Btu gas payable in Canadian dollars in accordance with a monetary exchange formula specified by the NEB. On the basis of expected volumes and Btu content, PGT estimates that the effect of the August 11, 1979 increase would be approximately \$195,400,000 (U.S.) on an annualized basis.

PGT advises that copies of its filing have been mailed to its customers and to interested state commissions. PGT requests that expedited consideration be given to the instant filing and that the

filing be allowed to become effective on less than 30 days notice.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23070 Filed 7-25-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-376]

Panhandle Eastern Pipe Line Co. and Trunkline Gas Co.; Application

July 16, 1979

Take notice that on June 21, 1979, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1348, Kansas City, Missouri 64141, and Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001 (Applicants), filed in Docket No. CP79-376 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Mississippi River Transmission Corporation (MRT), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicants request authorization to transport natural gas for MRT pursuant to the terms of a transportation agreement dated April 16, 1979, among Applicants and MRT, which gas MRT has purchased in the North Reydon Area of Roger Mills County, Oklahoma, and Hemphill County, Texas. Pursuant to the terms of the transportation agreement, Panhandle would receive deliveries of natural gas for MRT's account from Kansas-Nebraska Natural Gas Company, Inc. (K-N),¹ at an existing point of interconnection between the facilities of K-N and Panhandle in

¹ Pursuant to the terms of a transportation and purchase agreement, dated April 16, 1979, between MRT and K-N, K-N would transport for MRT's account natural gas purchased by MRT in the North Reydon Area and deliver a portion of the gas to Panhandle in Dewey County, Oklahoma.

Dewey County, Oklahoma, or at any other mutually agreeable point; and Applicants would transport the gas from said point through their facilities and redeliver the gas to MRT at an existing point of interconnection between the facilities of MRT and Trunkline in Clay County, Illinois.

Applicants state that for the first five years of the gas transportation agreement among them and MRT, Panhandle would receive from K-N for MRT's account a daily contract demand of 15,750 Mcf of natural gas per day, and that at the end of the first five year term, MRT has the option to reduce the daily contract demand level to be in effect for the remainder of the term of the agreement to a volume not less than 50 percent of the daily contract demand level in effect at the date of such nomination. Panhandle would receive 5,250 Mcf of natural gas per day for MRT on an interruptible basis, it is said. The agreement provides that the volumes of gas delivered to MRT by Trunkline at the redelivery point would be reduced by 5 percent during the months April through October for fuel use and unaccounted-for gas and that the volumes of gas delivered to MRT at the redelivery point would be so reduced by 7 percent during the months November through March.

As a portion of the consideration for entering into the agreement, Applicants indicate, MRT has agreed to sell to Panhandle up to 12.5 percent of the volumes of natural gas delivered by MRT to K-N at MRT's purchase price plus costs.

Applicants state that they would charge MRT for the proposed transportation service a monthly charge of \$74,520, which charge is based upon a daily transportation quantity of 13,500 Mcf of natural gas at 14.73 psia saturated. In the event Panhandle fails or is unable to take natural gas at the point of receipt for MRT's account upon any day or days, the monthly charge shall be reduced 18.5 cents for each Mcf deficiency on such days; however, if MRT delivers or causes to be delivered to Panhandle volumes of gas in excess of the transportation quantity at the receipt point, the transportation charge would be increased 18.15 cents for each Mcf of excess gas taken on such day or days, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 7, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules

of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23071 Filed 7-25-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP73-36]

Panhandle Eastern Pipe Line Co.; Change in Tariff

July 20, 1979.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on July 18, 1979 tendered for filing Thirtieth Revised Sheet No. 3-A and Seventh Revised Sheet No. 3-B to its FERC Gas Tariff, Original Volume No. 1. Panhandle submits that these revised tariff sheets reflect rate adjustments as follows:

(1) A DCA Commodity Surcharge Adjustment pursuant to Section 16.6(e) of the General Terms and Conditions; and

(2) A Louisiana First Use Tax (LFUT) Rate Surcharge pursuant to Section 20 of the General Terms and Conditions; and

(3) A Rate Adjustment pursuant to (A) Section 18.4 of the General Terms and Conditions and (B), Article IX of the Stipulation and Agreement, such

adjustment reflecting a proposed Pipeline supplier rate adjustment to be effective concurrently herewith; and

(4) A PGA Rate Adjustment pursuant to (A) Section 18.2 of the General Terms and conditions and (B), Article IX of the Stipulation and Agreement, which reflects the current cost of gas and recovery of amounts in the deferred purchased gas cost account; and

(5) An Advance payment tracking adjustment pursuant to Article XII of the Stipulation and Agreement; and

(6) A Purchased Gas Transmission and Compression and Transportation Revenue tracking adjustment pursuant to Article X of the Stipulation and Agreement.

(7) The elimination of the Estimated NGPA Surcharge Calculated pursuant to Section 154.38(d)(4)(x) of the Commission's Regulations.

The proposed effective date of these revised tariff sheets is September 1, 1979.

Panhandle states that copies of its filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 6, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23072 Filed 7-25-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-388]

Panhandle Eastern Pipe Line Co. and Trunkline Gas Co.; Application

July 16, 1979.

Take notice that on June 28, 1979, Panhandle Eastern Pipe Line Company (Panhandle) and Trunkline Gas Company (Trunkline), both at P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP79-388 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public

convenience and necessity authorizing the transportation of natural gas on behalf of United Gas Pipe Line Company (United) and the construction and operation of certain facilities related to such transportation, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants seek authorization to receive, transport, and redeliver to United natural gas pursuant to a transportation contract dated May 25, 1979, between Applicants and United pursuant to which Panhandle would receive the gas for United's account from ONG Western, Inc. (ONG), at a point on Panhandle's system in Dewey County, Oklahoma. ONG would sell the gas to United pursuant to Section 311(b) of the Natural Gas Policy Act of 1978.

The point of receipt would be at the inlet side of an existing measuring station on Panhandle's system in Dewey County, Oklahoma. Applicants have agreed to transport and exchange said gas with redelivery by Trunkline to United at either a proposed interconnection between the facilities of Trunkline and United in St. Mary Parish, near Garden City, Louisiana, or an existing interconnection between the facilities of Trunkline and United near Olla, LaSalle Parish, Louisiana.

The gas to be transported under the agreement would be a firm quantity of 60,000 Mcf per day. In addition to such firm quantity, Applicants have agreed to transport up to 40,000 Mcf per day on a best-efforts basis.

United would pay Panhandle a monthly charge of \$338,400, subject to adjustment, based on the firm quantity of 60,000 Mcf per day. Such monthly charge would be subject to an adjustment of 18.54 cents per Mcf for any excess or deficiency in quantities which Panhandle would be able to take at the point of receipt as a result of the Commission's determination that all or part of the gas to be transported is required by ONG to provide adequate service to its pipeline customers, the monthly charge would be reduced by 18.54 cents per Mcf of such deficiency.

The monthly charge would not be reduced beyond one percent of the current effective monthly charge. Applicants state the monthly charge would also be subject to increases or decreases as a result of Trunkline or Panhandle rate proceedings. Panhandle would pay Trunkline for its *pro rata* share of the transportation service from the amounts paid by United. Panhandle would retain six percent of the gas received for fuel usage.

Panhandle proposes to utilize existing pipeline and related metering facilities for the receipt and measurement of gas at the point of receipt. Trunkline proposes to install a tap in its Garden City point of redelivery. United would install a tap in its existing pipeline at the proposed interconnection near Garden City, Louisiana. If the secondary redelivery point near Olla, Louisiana, should be utilized pursuant to agreement, United would operate and maintain the regulating and measuring equipment.

Trunkline also seeks authorization to construct and operate certain facilities at the primary point of redelivery, near Garden City, Louisiana. The cost of such facilities is estimated to be \$285,000 which Trunkline proposes to finance from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 6, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23042 Filed 7-25-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket Nos. G-2629, et al.]

Phillips Petroleum Co., et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates

July 20, 1979.¹

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective

¹ This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft. ³	Pressure base
C-2629, C, July 11, 1979	Phillips Petroleum Co., 5 C4 Phillips Building, Bartlesville, Okla. 74004.	Northern Natural Gas Co., Spraberry Plant, Midland County, Tex.	(?)	14.73
C-7643, D, July 12, 1979	Mobil Oil Corp., Nine Greenway Plaza, Suite 2700, Houston, Tex. 77048.	Northern Natural Gas Co., Hugoton field, Stevens County, Kans.	To release gas for irrigation fuel.	
CI62-929, D, July 11, 1979	Phillips Petroleum Co.	Northern Natural Gas Co., Azalea Plant, Midland County, Tex.	(?)	
CI78-181, D, July 13, 1979	Texaco Inc., P.O. Box 2100, Denver, Colo. 80201.	Colorado Interstate Gas Co., Delaney Rim Area, Sweetwater County, Wyo.	Gas well completed on acreage proposed for abandonment is not economical for buyer to connect.	
CI78-182, D, July 13, 1979	Texaco Inc.	Colorado Interstate Gas Co., Delaney Rim Area, Sweetwater County, Wyo.	Gas well completed on acreage proposed for abandonment is not economical for buyer to connect.	
CI79-533, A, July 9, 1979	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Pacific Offshore Pipeline Co., Hondo field, offshore California.	(?)	14.73
CI79-534, A, July 9, 1979	The Superior Oil Co., P.O. Box 1521, Houston, Tex. 77001.	Colorado Interstate Gas Co., Antelope Ridge field, Lea County, N. Mex.	(?)	14.65
CI79-535, A, July 12, 1979	Pogo Producing Co., c/o Pennzoil Co., P.O. Box 2967, Houston, Tex. 77001.	United Gas Pipe Line Co., High Island block 279, east addition, south extension, offshore Texas.	(?)	14.65
CI79-536, A, July 12, 1979	Pennzoil Oil & Gas, Inc., c/o Pennzoil Co., P.O. Box 2967, Houston, Tex. 77001.	United Gas Pipe Line Co., High Island block 279, east addition, south extension, offshore Texas.	(?)	15.025
CI79-537, A, July 13, 1979	Texaco Inc., P.O. Box 60252, New Orleans, La. 70160.	Columbia Gas Transmission Corp., East Cameron blocks 370 and 371 and West Cameron block 643, offshore Louisiana.	(?)	

¹ Applicant is filing under Letter Agreement dated 6-1-74.

² The gas purchase agreements between Murphy H. Baxter, a small producer holding certificate No. CS76-649 and Phillips expired and have been replaced with contracts executed after the passage of the Natural Gas Policy Act of 1978 to authorize the sale of that additional residue natural gas attributable to that interest in an amendment to the certificate in Docket No. G-2629, which will be accomplished at the Spraberry Plant delivery point rather than the Azalea Plant delivery point.

³ Applicant is willing to accept a permanent certificate in accordance with the Natural Gas Policy Act of 1978 and the Commission's Regulations under said Act.

⁴ Applicant is willing to accept the applicable national rate pursuant to Opinion No. 770, as amended.

⁵ Applicant is willing to accept a certificate of public convenience and necessity conditioned in price to the applicable ceiling rates as established by the Natural Gas Policy Act of 1978.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 79-23073 Filed 7-25-79; 8:45 am]
BILLING CODE 6450-01-M

Pipeline Advisory Committee on Valuation; Meeting

July 20, 1979

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Pipeline Advisory Committee on Valuation will meet on Tuesday, August 14, 1979, from 9:30 a.m.

to 12 noon, at the Federal Energy Regulatory Commission, 941 N. Capitol St., NE., Conference Room 3200, Washington, D.C.

The purpose of this meeting is to present to each member, the Committee's objectives, scope of activities and duties to be performed. It is planned that this will be an informal

organizational type meeting. Take further notice that, pursuant to authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity.

Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

organizational type meeting.

The meeting is open to the public. A transcript of the meeting will be available for public review and copying at FERC's Office of Public Information, Room 1000, 825 North Capitol St., NE., between the hours of 8:30 a.m. and 5 p.m. Monday through Friday except Federal Holidays. In addition, any

person may purchase a copy of the transcript from the reporter.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23046 Filed 7-25-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ID-1873]

Rodney J. Estrada; Application

July 19, 1979.

Take notice that on July 5, 1979, Rodney J. Estrada filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Position, Corporation, and Classification

Assistant Treasurer and Assistant Secretary;
Arkansas Power & Light Company; Electric Utility.

Assistant Treasurer and Assistant Secretary;
Arkansas-Missouri Power Company; Electric Utility.

Assistant Treasurer and Assistant Secretary;
Louisiana Power & Light Company; Electric Utility.

Assistant Treasurer and Assistant Secretary;
Mississippi Power & Light Company; Electric Utility.

Assistant Treasurer and Assistant Secretary;
New Orleans Public Service, Inc.; Electric Utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20425, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 23074 Filed 7-25-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. GP79-46]

State of Mississippi; Preliminary Finding

Issued: July 13, 1979.

On May 29, 1979, the Oil and Gas Board for the State of Mississippi submitted to the Commission a notice of determination that the Gwinville GU 103-A, Well No. 1 met all the

requirements of a stripper well under section 108 of the Natural Gas Policy Act of 1978 (NGPA) and Commission regulations implementing that section. The Commission published notice of the determination on June 25, 1979.

Section 108(b) of the NGPA provides that in order to qualify as a stripper well, a well must, among other things, produce at its maximum efficient rate of flow (MER) during the 90-day production period upon which the application is based. Section 271.804(d) of the Commission's regulations stipulates the methods by which a jurisdictional agency may find that a well produced at its MER during the 90-day production period. These methods are: (1) determination of MER in accordance with recognized conservation practices established by the jurisdictional agency; (2) determination of MER based on a presumption that a well produced at its MER if during the 12-month period ending concurrently with the 90-day production period the well produced at a rate not exceeding an average of 60 Mcf per production day; or (3) determination of MER based on flow tests or other substantial evidence which measures the capability of the well to produce natural gas. If none of these methods is appropriate or available, a jurisdictional agency may defer making a determination and designate a 12-month period during which the applicant may secure relevant data pursuant to method (2).

The material submitted in support of this determination does not include an MER finding pursuant to methods (1) or (3) above. It does contain records for a 12-month period ending concurrently with the 90-day production period, pursuant to method (2). However, these records indicate that the well did not produce at all during the first 10 months of the 12-month period.

Section 271.804(d)(2) stipulates that an MER presumption may be established "if during the 12-month period ending concurrently with the 90-day production period . . . such well produced nonassociated natural gas at a rate which did not exceed an average of 60 Mcf per production day." (emphasis added) While the Commission recognizes that over the course of a 12-month period a well may occasionally be shut down for several days or weeks as part of normal production procedures, we do not believe that a well which is not producing at all during the 9-month period preceding the 90-day production period can be presumed to have produced at its MER during the 90-day production period. An MER presumption cannot reasonably be made unless the

jurisdictional agency is able to review a record which sets forth the production pattern and rate of production over a 12-month period during which the well was actually in production.

On the basis of the record submitted with this determination, the Commission hereby makes a preliminary finding, pursuant to 18 CFR § 275.202(a)(1)(i), that the determination submitted by the State of Mississippi Oil and Gas Board that the Gwinville GU 103-A, Well No. 1 qualifies as a section 108 stripper well, is not supported by substantial evidence in the record on which the determination was made.

By direction of the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23043 Filed 7-25-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-513]

Southern California Edison Co.; Filing

July 20, 1979

The filing Company submits the following:

Take notice that on July 16, 1979, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, an agreement, dated June 20, 1979, with the Pacific Gas and Electric Company ("Pacific"). This agreement is entitled "Edison-Pacific 1979 Transmission Service Agreement".

Under the terms of this Agreement, Edison will provide firm and interruptible transmission service between the systems of Pacific and the Department of Water and Power of the City of Los Angeles during the months of June, July and August 1979. Edison will charge Pacific for transmission, dispatching and scheduling services and Pacific will reimburse Edison in kind for transmission losses associated with all scheduled deliveries of energy at the rate of 1.64% of hourly scheduled deliveries of energy.

Edison has requested that the prior notice requirement be waived and that the Agreement be made effective as of June 4, 1979.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Pacific Gas and Electric Company.

Any person desiring to be heard or to protest this application should file a petition to Intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 and § 1.10 of the Commission's rules of practice and

procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 10, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23047 Filed 7-25-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP78-36 et al.]

Southern Natural Gas Co. et al.; Proposed Changes in FPC Gas Tariff

July 20, 1979

Take notice that Southern Natural Gas Company (Southern) on July 12, 1979 tendered for filing proposed changes to its FPC Gas Tariff Sixth Revised Volume No. 1. Southern proposes to modify the penalty provision in each of its Contract Demand and General Service Rate Schedules in order to permit its customers to take small amounts of unauthorized overrun gas without incurring a penalty. Also, Southern proposes an amendment to its curtailment plan which will change Southern's allocation procedures from a Mcf basis to a Btu basis. Both of these proposed tariff changes implement provisions of stipulations and agreements in Docket Nos. RP78-36 and RP74-6, et al., and have previously been approved by the Federal Energy Regulatory Commission.

Copies of the filing were served upon Southern's jurisdictional customers, interested State regulatory commissions, and all parties in the above-captioned proceedings.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 1, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23048 Filed 7-25-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-392]

Texas Gas Transmission Corp.; Application

July 19, 1979

Take notice that on July 2, 1979, Texas Gas Transmission Corporation (Applicant), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP79-392 an application pursuant to Section 7 of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission and approval to abandon for a twelve-month period commencing November 5, 1979, and the operation of various field compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction, acquisition, relocation, and operation and abandonment of facilities which would not result in changing Applicant's system saleable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment under Section 157.7(g) would not exceed \$3,000,000 and no single project would exceed \$500,000. Applicant proposes to finance the costs of said facilities from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a

proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23049 Filed 7-25-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP73-35]

Trunkline Gas Co.; Change in Tariff

July 20, 1979.

Take notice that on July 16, 1979 Truckline Gas Company (Trunkline) tendered for filing Twenty-Ninth Revised Sheet No. 3-A to its FERC Gas Original Volume No. 1. Trunkline submits that this revised tariff sheet reflects rate adjustments as follows:

(1) A PGA Rate Adjustment in accordance with (A) Section 18 of the General Terms and Conditions; and (B), Article VII (Transportation Revenues and Credits) of the Agreement as to Rates and Related Matters in Docket No. RP78-11 which reflects increases in the current cost of gas and recovery of amounts in the deferred purchased gas cost account; and

(2) A Louisiana First Use Tax (LFUT) Rate Surcharge in accordance with Section 20 of the General Terms and Conditions; and

(3) An Advance Payment tracking adjustment pursuant to Article V of the Agreement as to Rates and Related Matters in Docket No. RP78-11, and

(4) A Purchased Gas Transmission and Compression tracking adjustment

pursuant to Article VI of the Agreement as to Rates and Related Matters in Docket No. RP78-11.

(5) The elimination of the Estimated NGPA Surcharge Calculated Pursuant to Section 154.38(d)(4)(x) of the Commission's Regulations.

An effective date of September 1, 1979 is proposed.

Trunkline states that copies of its filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-23050 Filed 7-25-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Price of Americium-241

AGENCY: Department of Energy.

ACTION: Notice of Price Increase.

SUMMARY: The U.S. Department of Energy hereby announces an increase in the sales price for Americium-241 from \$600 per gram to \$800 per gram.

Notice entitled, "Americium-241 Notice of Price Increase", published in the *Federal Register*, May 24, 1977 (42 FR 26450) is hereby superseded.

The foregoing action has been determined to be consistent with the requirements of Section 81 of the Atomic Energy Act, as amended.

DATE: This price increase is effective July 26, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. John L. Burnett, Division of Nuclear Sciences, ER-14, Office of Basic Energy Sciences, U.S. Department of Energy, Washington, D.C. 20545, MS J-309, (301) 353-3613.

Issued in Washington, D.C., July 18, 1979.

Charles E. Cathey,

Director, Division of Budgets and Program Coordination, Office of Energy Research.

[FR Doc. 79-23077 Filed 7-25-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1282-8]

Solid and Hazardous Waste Management Program Support Grants; Class Deviation

Under authority of 40 CFR 30.1000, EPA has issued a class deviation from the provisions of 40 CFR 35.710(c) for the fiscal year 1979 solid and hazardous waste management program support grants funded under sections 3011 and 4008(a)(1) of the Resource Conservation and Recovery Act of 1976.

The class deviation waives the provision of 40 CFR 35.710(c) which specifies that funds not obligated by the Regional Administrator within six months following the date of the final advice of allowance for that region will revert to the Administrator for reallocation to regions which can demonstrate a need for funds in excess of their final regional allowance. The Regional Administrators received the final advices of allowance on December 31, 1978, and unobligated funds are scheduled to revert to the Administrator on June 30, 1979, for reallocation under 40 CFR 35.710(c).

Under our policy to publish class deviations in the *Federal Register*, EPA is publishing the deviation as part of this notice.

For further information contact: Mr. Alexander J. Greene, Director, Grants Administration Division (PM-216), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 (Telephone Number 202/755-0850).

Dated: July 17, 1979.

C. W. Carter,

Acting Assistant Administrator for Planning and Management.

Dated: July 17, 1979.

T. C. Jorling,

Assistant Administrator for Water and Waste Management.

U.S. Environmental Protection Agency

Date: July 17, 1979.

Subject: Class Deviation from 40 CFR 35.710(c), Solid and Hazardous Waste Management Program Support Grants.

From: Alexander J. Greene, Director, Grants Administration Division (PM 216).

To: Regional Administrators.

Section 35.710(c) of the EPA solid and hazardous waste management program support grant regulations requires, in part, that "... funds not obligated by the Regional Administrator within six months following the date of the final advice of allowance for that region will revert to the Administrator for reallocation to regions which can demonstrate a need for funds in excess of their final regional allowance."

The regions received the final advices of allowance for FY 79 grant funds on December 31, 1978; unobligated funds will revert to the Administrator on June 30, 1979. Currently, eight of the regions have unobligated funds.

Most of the work of the State hazardous and solid waste programs is directly affected by major EPA guidelines, criteria, and regulations now under development. Since EPA has proposed regulations, the bulk of the State work needed can be predicted. But for some States, due to their degree of program development, the final promulgation of the regulations (with any changes from the proposed) is critical to determining exactly what effort is needed. Subtitle D guidelines and criteria are due for final promulgation in June and July 1979. Subtitle C regulations are scheduled for final promulgation by January 1, 1980. For this reason, in numerous cases the regions and the States will be unable to complete negotiations for the entire amount of the States' allotments prior to June 30.

I am approving a class deviation from section 35.710(c) for all unobligated fiscal year 1979 grant funds under sections 3011 and 4008(a)(1) of the Resource Conservation and Recovery Act of 1976. This approval waives the reallocation process for fiscal year 1979. Unobligated funds are to remain in the Regional Offices for use by the States as originally allotted. Any unobligated funds remaining after award of State grants will be available for reallocation to other States within the region as determined by the Regional Administrator.

Dated: July 17, 1979.

Concur:

C. W. Carter,

Assistant Administrator for Planning and Management.

Dated: June 25, 1979.

Concur:

T. C. Jorling,

Assistant Administrator for Water and Waste Management.

[FR Doc. 79-23098 Filed 7-25-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

Minority Advisory Committee; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory

body scheduled to assemble during the month of August 1979.

Minority Advisory Committee, ADAMHA

August 15-17, 9:00 a.m.—Open meeting, Room 17-09B, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

Contact: Ernest F. Hurst, Room 13C-15, Parklawn Building, 301-443-3838.

Purpose: The Minority Advisory Committee, ADAMHA, advises the Secretary, Department of Health, Education, and Welfare, and the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, on needs, programs, and activities regarding minority alcohol, drug abuse, and mental health matters, and makes recommendations for possible solutions which meet the needs and concerns of minority groups throughout the United States. The Committee functions in an advisory capacity to the Administrator, ADAMHA on these matters which relate to the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health.

Agenda: On August 15, the Committee will review its role, functions, objectives, and priorities. The agenda for August 16 will include meetings with the Administrator and Institute Directors; a status report of ADAMHA's response to recommendations of the First Annual Conference on Minority Group Alcohol, Drug Abuse, and Mental Health Issues; a continuation of role, functions, objectives, and priorities of the Committee. On August 17, the Committee will discuss plans for the Second Annual Conference on Minority Group Alcohol, Drug Abuse, and Mental Health Issues; second phase of the Racial Minority Manpower Development and Training Report; selection of Committee members as liaison to Institutes and delineation of roles; special reports from Committee members. Agenda items are subject to change as priorities dictate.

Mr. James C. Helsing, Deputy Director, Office of Public Affairs, ADAMHA, will furnish on request, summaries of the meeting and a roster of the Committee members. Mr. Helsing is located in Room 6C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3783.

Dated: July 20, 1979.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-22987 Filed 7-25-79; 8:45 am]

BILLING CODE 4110-88-M

Office of Education

Education Appeal Board

AGENCY: Office of Education, HEW.

ACTION: Notice of Jurisdiction.

SUMMARY: This notice advises the general public that the Education Appeal Board assumed jurisdiction over

appeals previously accepted for review by the predecessor to the Education Appeal Board, the Title I Audit Hearing Board. Any proceeding after the effective date in all the listed appeals will be governed by the interim final regulations establishing the Education Appeal Board.

EFFECTIVE DATE: June 29, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. David S. Pollen, Chairman, Education Appeal Board, Telephone (202) 245-7835.

SUPPLEMENTARY INFORMATION: Under the interim final regulations establishing the Education Appeal Board (44 FR 30528, May 25, 1979), the Education Appeal Board has succeeded the Title I Audit Hearing Board. As noted in the preamble to the regulations, the Education Appeal Board assumed jurisdiction over appeals previously accepted for review by the Title I Audit Hearing Board. Any proceedings after the effective date in all these appeals will be governed by the interim final regulations establishing the Education Appeal Board.

Appeals previously accepted for review by the Title I Audit Hearing Board include:

1. *Appeal of Arizona*, Docket No. 1-(37)-78, Audit Control No. 09-60006;
2. *Appeal of Arizona*, Docket No. 2-(38)-78, Audit Control No. 10003-09;
3. *Appeal of Colorado*, Docket No. 6-(42)-78, Audit Control No. 08-80004;
4. *Appeal of Florida*, Docket No. 3-(49)-79, Audit Control No. 08-80104;
5. *Appeal of Florida*, Docket No. 9-(45)-78, Audit Control No. 04-70001;
6. *Appeal of Hawaii*, Docket No. 3-(39)-78, Audit Control No. 60002-09;
7. *Appeal of Hawaii*, Docket No. 4-(50)-79, Audit Control No. 90000-09;
8. *Appeal of Illinois*, Docket No. 3-(18)-76, Audit Control No. 50006-05;
9. *Appeal of Indiana*, Docket No. 6-(36)-77, Audit Control No. 70000-05;
10. *Appeal of Kansas*, Docket No. 4-(19)-76, Audit Control No. 40002-07;
11. *Appeal of Kentucky*, Docket No. 1-(31)-77, Audit Control No. 70005-04;
12. *Appeal of Michigan*, Docket No. 2-(2)-73, Audit Control No. 05-10010;
13. *Appeal of Michigan*, Docket No. 9-(24)-76, Audit Control No. 05-10403;
14. *Appeal of Minnesota*, Docket No. 1-(1)-73, Audit Control No. 10013-07;
15. *Appeal of Nebraska*, Docket No. 4-(40)-78, Audit Control No. 07-70002;
16. *Appeal of Nevada*, Docket No. 2-(48)-79, Audit Control No. 80001-09;
17. *Appeal of New Jersey*, Docket No. 14-(29)-76, Audit Control No. 50006-02;
18. *Appeal of New Jersey*, Docket No. 4-(6)-74, Audit Control No. B-164031(1);
19. *Appeal of New Mexico*, Docket No. 5-(20)-76, Audit Control No. 20093-06;
20. *Appeal of New Mexico*, Docket No. 5-(35)-77, Audit Control No. 70000-06;

21. *Appeal of North Carolina*, Docket No. 12-(27)-76, Audit Control No. 20159-04;
22. *Appeal of North Dakota*, Docket No. 8-(44)-78, Audit Control No. 08-70037;
23. *Appeal of Ohio*, Docket No. 5-(41)-78, Audit Control No. 05-60107;
24. *Appeal of Oklahoma*, Docket No. 4-(34)-77, Audit Control No. 80001-06;
25. *Appeal of Pennsylvania*, Docket No. 10-(25)-76, Audit Control No. 50000-03;
26. *Appeal of Pennsylvania*, Docket No. 2-(32)-77, Audit Control No. 50002-03;
27. *Appeal of South Carolina*, Docket No. 10-(46)-78, Audit Control No. 04-70012;
28. *Appeal of Texas*, Docket No. 7-(43)-78, Audit Control No. 06-70004;
29. *Appeal of Washington*, Docket No. 1-(47)-79, Audit Control No. 10-70001;
30. *Appeal of West Virginia*, Docket No. 3-(33)-77, Audit Control No. 03-70002;
31. *Appeal of Wisconsin*, Docket No. 8-(23)-76, Audit Control No. 05-40070.

Section 100e.43 of the interim final regulations establishing the Education Appeal Board provides that an interested person, group, or agency may, upon application to the Board Chairperson, intervene in appeals before the Education Appeal Board.

The application must indicate to the satisfaction of the Board Chairperson or, as appropriate, the Panel Chairperson, that the intervenor has information relevant to the specific issues raised in the appeals. If an application to intervene is approved, the intervenor becomes a party to the proceedings.

All such applications or questions should be addressed to Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue, S.W., Room 4051, Washington, D.C. 20202, telephone (202) 245-7835.

[20 U.S.C. 1234]

(Catalog of Federal Domestic Assistance Number Not Applicable.)

Dated: July 18, 1979.

Mary F. Berry,

(Acting) U.S. Commissioner of Education.

[FR Doc. 79-23009 Filed 7-25-79; 8:45 am]

BILLING CODE 4110-02-M

School Assistance in Federally Affected Areas; Extension of Filing Date for Fiscal Year 1979 Applications

Sections 2, 3, and 4 of Pub. L. 81-874 ("the Act") provide financial assistance to local educational agencies burdened by Federal activities which reduce the local tax base or increase the number of children attending the schools of that agency. Section 5 of the Act provides that, to apply for this assistance, a local educational agency must submit an application to the appropriate State educational agency. The State educational agency certifies the application and then forwards it to the

Commissioner. Current regulations, 45 CFR 115.11 and 115.12 establish, subject to certain exceptions, January 31 of the appropriate fiscal year as the filing date for the Commissioner's receipt of these applications. The regulations provide that the Commissioner will not approve applications received after the applicable filing date. For fiscal year 1979 applications, this filing date was Wednesday, January 31, 1979.

The Commissioner has learned that application of these regulations has unfairly penalized local educational agencies that, despite their efforts to submit timely applications, were prevented from doing so for one unforeseen reason or another. It is not the intent of the regulations to deny this Federal assistance to local educational agencies in these circumstances. Therefore notice is hereby given that the filing date for fiscal year 1979 is extended to August 27, 1979 for those local educational agencies able to demonstrate at this time that they made reasonable efforts to submit timely applications, but were prevented from doing so through no fault of their own.

For further information please contact William L. Stormer, Director, Division of School Assistance in Federally Affected Areas, U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

(Catalog of Federal Domestic Assistance Number 13.478, School Assistance in Federally Affected Areas—Maintenance and Operation (Impact Aid) Program)

Dated: July 20, 1979.

Mary F. Berry.

Acting U.S. Commissioner of Education.

[FR Doc. 79-73008 Filed 7-25-79; 8:45 am]

BILLING CODE 4110-02-M

President's Commission on Foreign Language and International Studies Hearing

AGENCY: President's Commission on Foreign Language and International Studies.

ACTION: Notice of Hearing.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming hearing of the President's Commission on Foreign Language and International Studies. It also describes the functions of the Commission. Notice of these hearings is required under the Federal Advisory Committee Act, (5 U.S. Code, Appendix I, Section 10 (a) (2)). This document is intended to notify the general public of its opportunity to attend:

DATES: August 9-10, 1979.

ADDRESS: State Capitol Building, Honolulu, Hawaii.

FOR FURTHER INFORMATION CONTACT: Nan Bell, Staff Director, 1832 M Street, NW., Suite 837, Washington, D.C. 20036, (202) 653-5817.

The President's Commission on Foreign Language and International Studies is established under Executive Order 12054 (April 21, 1978) and Section 9 (a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. Appendix I). The Commission is directed to:

(A) Conduct such public hearings, inquiries, and studies as may be necessary to make recommendations to the President and the Secretary of Health, Education, and Welfare.

(B) The objectives of the Commission shall be to:

(1) Recommend means for directing public attention to the importance of foreign language and international studies for the improvement of communications and understanding with other nations in an increasingly interdependent world;

(2) Assess the need in the United States for foreign language and area specialists, ways in which foreign language and international studies contribute to meeting these needs, and the job market for individuals with these skills;

(3) Recommend what foreign language area studies programs are appropriate at all academic levels and recommend desirable levels and kinds of support for each that should be provided by the public and private sectors;

(4) Review existing legislative authorities and make recommendations for changes needed to carry out most effectively the Commission's recommendations.

The hearing will take place in Honolulu on August 9, 1979 from 8:15 a.m. to 5 p.m. and on August 10, 1979, from 10:00 a.m. to 12:00 p.m. The agenda on August 9 will include the following:

(1) Statement on work and priorities of the Commission;

(2) Presentations on the foreign language and international studies situation in Hawaii at all levels of education, and the business and international trades needs in this state;

(3) Concurrent panel discussion on international education in the schools and colleges, foreign language education in the U.S., international exchanges, advanced training and research, and business and international trade needs.

On August 10, small group meetings will be held with the East-West Center, special interest group leaders and the media.

Signed at Washington, D.C., on July 19, 1979.

Nan P. Bell,

Staff Director.

[FR Doc. 79-23045 Filed 7-25-79; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

(INT DES 79-42)

Arizona: Secretarial Land Use Plan for the Addition of Land to the Havasupai Indian Reservation, Coconino County, Ariz.; Availability of Draft Environmental Statement

Pursuant of Section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Indian Affairs, Department of the Interior has prepared a draft environmental statement for the addition of land to the Havasupai Indian Reservation, Coconino County, Arizona.

The environmental statement considers the effects of the plan which includes 20 divisions, each addressing a separate type of action for developing or preserving the reservation addition. These divisions include: Agriculture, Cultural Resources, Domestic Water, Energy, Fencing, Grazing, Law Enforcement, Residence, Revegetation, Stock Water Development, Support Facilities, Transportation and Communications, Flight Restrictions, Public Access to Adjacent National Park Lands, Roads, Telephone and Radio, Trails Visitor Use, Waste Management, and Wildlife Management.

Copies of the statement are available for inspection at the following locations:

Bureau of Indian Affairs, Environmental Quality Services, Room 4554, Department of the Interior, Washington, D.C. 20245, Telephone (202) 343-8248.

Bureau of Indian Affairs, Truxton Canyon Agency, Valentine, Arizona 86437, Telephone (602) 769-2241.

Bureau of Indian Affairs, Phoenix Area Office, Room 502, 3030 North Central Avenue, Phoenix, Arizona 85012, Telephone (602) 261-4195.

Single copies of the statement are available upon request to the Phoenix Area Office at the above address.

The Department of the Interior invites written comments on the draft statement to be submitted by September 21, 1979, to the Area Director, Phoenix Area Office, P.O. Box 7007, Phoenix, Arizona 85011.

Dated: July 23, 1979.

Larry E. Meierotto,

Assistant Secretary of the Interior.

[FR Doc. 79-23018 Filed 7-25-79; 8:45 am]

BILLING CODE 4310-02-M

Arizona: Secretarial Land Use Plan for the Addition of Land to the Havasupai Indian Reservation, Coconino County, Ariz.; Availability of Land Use Plan

On January 3, 1975, Pub. L. 93-620 was signed providing for an enlargement of Grand Canyon National Park, as well as the adjacent Havasupai Indian Reservation. Pub. L. 93-620 added approximately 185,000 acres to the Reservation in addition to 95,300 acres within Grand Canyon National Park which were designated as a permanent traditional use area of the Havasupai Indian Tribe.

Section 10(b)(4) of the Act provides the following:

A study shall be made by the Secretary, in consultation with the Havasupai Tribal Council, to develop a plan for the use of this land by the tribe which shall include the selection of areas which may be used for residential, educational, and other community purposes for members of the tribe and which shall not be inconsistent with, or detract from, park uses and values; Provided further, That before being implemented by the Secretary, such plan shall be made available through his offices for public review and comment, shall be subject to public hearings, and shall be transmitted, together with a complete transcript of the hearings, at least 90 days prior to implementation, to the Committees on Interior and Insular Affairs of the United States Congress; and Provided further, That any subsequent revisions of this plan shall be subject to the same procedures as set forth in this paragraph:

In accordance with Section 10(b)(4) of Pub. L. 93-620, copies of the Secretarial Land Use Plan for the Addition to the Havasupai Indian Reservation are available at the following locations:

Bureau of Indian Affairs, Environmental Quality Services, Room 4554, Department of the Interior, Washington, D.C. Telephone (202) 343-8248.

Bureau of Indian Affairs, Truxton Canyon Agency, Valentine, Arizona 86347, Telephone (602) 769-2241.

Bureau of Indian Affairs, Phoenix Area Office, Room 502, 3030 North Central Avenue, Phoenix, Arizona 85012, Telephone (602) 261-4195.

Single copies of the Secretarial Land Use Plan are available upon request to the Phoenix Area Office at the above address.

The Department of the Interior invites written comments on the Secretarial Land Use Plan to be submitted by September 21, 1979, to the Area Director,

Phoenix Area Office, P.O. Box 7007, Phoenix, Arizona 85011.

Dated: July 23, 1979.

Larry E. Meierotto,

Assistant Secretary of the Interior.

[FR Doc. 79-23019 Filed 7-25-79; 8:45 am]

BILLING CODE 4310-02-M

Arizona: Secretarial Land Use Plan for the Addition of Land to the Havasupai Indian Reservation, Coconino County, Ariz.; Public Hearings

On January 3, 1975, Pub. L. 93-620 was signed providing for an enlargement of Grand Canyon National Park, as well as the adjacent Havasupai Indian Reservation. Pub. L. 93-620 added approximately 185,000 acres to the Reservation in addition to 95,300 acres within Grand Canyon National Park which were designated as a permanent traditional use area of the Havasupai Indian Tribe.

Section 10(b)(4) of the Act provides the following:

A study shall be made by the Secretary, in consultation with the Havasupai Tribal Council, to develop a plan for the use of this land by the tribe which shall include the selection of areas which may be used for residential, educational, and other community purposes for members of the tribe and which shall not be inconsistent with, or detract from, park uses and values; Provided further, That before being implemented by the Secretary, such plan shall be made available through his offices for public review and comment, shall be subject to public hearings, and shall be transmitted, together with a complete transcript of the hearings, at least 90 days prior to implementation, to the Committees on Interior and Insular Affairs of the United States Congress; and Provided further, That any subsequent revisions of this plan shall be subject to the same procedures as set forth in this paragraph:

In accordance with Section 10(b)(4) of Pub. L. 93-620, public hearings on the Secretarial Land Use Plan will be held at the following locations:

September 11, 1979, 9 a.m., Havasupai Tribal Council Building, Supai, Arizona.

September 12, 1979, 9 a.m., Chamber of Commerce Building, Junction of Highways 66 and 93, Kingman, Arizona.

September 14, 1979, 9 a.m., Holiday Inn, 1000 West Highway 66, Flagstaff, Arizona.

Oral and written comments are invited. The number of persons desiring to present oral statements may make it necessary to limit the time allowed for any single statement. Written comments supplementary to, or in lieu of, oral statements will be accepted at the hearings. Copies of the Draft Environmental Statement may be obtained from the Phoenix Area Office, Bureau of Indian Affairs, 3030 North Central Avenue, Suite 502, Phoenix, Arizona 85012, telephone (602) 261-4195.

Those desiring to make an oral presentation at the hearings should make that fact known by advising the Phoenix Area Office in advance of the hearing or by registering on the date and at the place of the hearing prior to the scheduled hour.

Dated: July 23, 1979.

Larry E. Meierotto,

Assistant Secretary of the Interior.

[FR Doc. 79-23020 Filed 7-25-79; 8:45 am]

BILLING CODE 4310-02-M

Public Hearings

Public Hearings on the Secretarial Land Use Plan for the Addition of Land to the Havasupai Indian Reservation will be held at the following times and locations:

September 11, 1979, 1:00 p.m., Havasupai Tribal Council Building, Supai, Arizona.

September 12, 1979, 1:00 p.m., Chamber of Commerce Building, Junction of Highways 66 and 93, Kingman, Arizona.

September 14, 1979, 1:00 p.m., Holiday Inn, 1000 West Highway 66, Flagstaff, Arizona.

The hearings are being held to enable interested individuals, representatives of organizations, and public officials to present comments concerning the Department of the Interior's Draft Environmental Impact Statement identified above. The statement considers the effects of the plan which includes 20 divisions, each addressing a separate type of action for developing or preserving the reservation addition. These divisions include: Agriculture, Cultural Resources, Domestic Water, Energy, Fencing, Grazing, Law Enforcement, Residence, Revegetation, Stock Water Development, Support Facilities, Transportation and Communications, Flight Restrictions, Public Access to Adjacent National Park Lands, Roads, Telephone and Radio, Trails, Visitor Use, Waste Management, and Wildlife Management.

Oral and written comments are invited. The number of persons desiring to present oral statements may make it necessary to limit the time allowed for any single statement. Written comments supplementary to, or in lieu of, oral statements will be accepted at the hearings. Copies of the Draft Environmental Statement may be obtained from the Phoenix Area Office, Bureau of Indian Affairs, 3030 North Central Avenue, Suite 502, Phoenix, Arizona 85012, telephone (602) 261-4195.

Those desiring to make an oral presentation at the hearings should

make that fact known by advising the Phoenix Area Office in advance of the hearing or by registering on the date and at the place of hearing prior to the scheduled hour.

Dated: July 23, 1979.

Larry E. Meierotto,

Assistant Secretary of the Interior.

[FR Doc. 79-23021 Filed 7-25-79; 8:45 am]

BILLING CODE 4310-02-M

[Navajo Area Office Redelegation Order 2]

Redelegation of Authority

May 23, 1979.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 and redelegated by the Commissioner to the Area Directors in 10 BIAM 3.

The following Navajo Order 2 supersedes the existing Navajo Order 1 (32 FR 15765 Navajo 151-967). All previously issued documents related to Navajo Order 1 that are presently in force will not require revision.

The purpose of this release is to substantially increase the Superintendents authority in certain areas, thereby improving services to the Indian people. Major changes are involved in the Real Property and Credit Section of the Delegations.

Part I—General

Section 1.1 Appeals. Any action taken by an Agency Superintendent, or other officer pursuant to this order shall be subject to the right of appeal. An appeal may be taken from the decision of such Agency Superintendent, or other officer to the Area Director, Navajo Area Office. An appeal must be filed in writing with such Agency Superintendent, or other officer and shall be promptly transmitted by him with the record in the case to the Area Director, Navajo Area Office. Any action taken by the Area Director pursuant to the order shall be subject to the right of appeal to the Commissioner of Indian Affairs, pursuant to 25 CFR 2. Any appeal action taken by the Commissioner of Indian Affairs pursuant to this order shall also be subject to a further appeal process to the Board of Indian Appeals pursuant to 25 CFR 2.19.

Section 1.2 Limitations. Redelegations of authority made by this order are not to be construed as depriving or relieving the Area Director of the authority delegated to him by the Commissioner of Indian Affairs.

Section 1.3 Authority of Assistant Area Directors. The Assistant Area Directors and those persons authorized to act in their stead during their absence from the respective offices may exercise any and all authority delegated to the Area Director by the Commissioner of Indian Affairs.

The Navajo Redelegation reads as follows:

Part 2—Authority of Superintendents and Project Manager of the Navajo Indian Irrigation Project

Subject to the provisions of Part 1, Agency Superintendents and the Project Manager and those persons acting in their stead may exercise the authority of the Area Director for:

Section 2.12 Leases and permits. To approve leases and permits (not including mineral leases) for homesites, agricultural purposes, mission sites, and residential sites when authorized by law in accordance with 25 CFR 131, except the following:

(a) Approval of leases for a duration in excess of 65 years including extensions.

(b) Approval of lease amendments changing the lease purpose and or reducing the rental fee.

(c) Approval of leases of ceded or surplus lands unless the title thereto has been restored to the tribe or leasing has been authorized by a specific statute.

(d) Approval and revision of forms prescribed by 25 CFR.

(e) Modification of forms approved by the Secretary of the Interior, Commissioner of Indian Affairs and/or the Area Director.

(f) Approval of business site leases.

Section 2.13 Certify allotment eligibility. To approve and certify eligibility for allotment on the Public Domain pursuant to 10 BIAM 3.1.

Section 2.14 Mineral leases. To approve sand, gravel, pumice and building stone leases and permits on trust restricted Tribal or individually-owned lands except lands purchased or reserved for Agency or school purposes.

Section 2.15 Rights-of-way. To grant permission to survey pursuant to 25 CFR Part 161.

Section 2.16 Roads. To close roads when required for public safety, fire prevention or suppression, fish or game protection or to prevent damage to unstable roadbed pursuant to 25 CFR 162.6.

Functions Relating to Credit Matters

Section 2.20 Approval of loans and modifications of loans. Except for loans to members of the Central Loan Committee and to members of this immediate staff, approve applications for loans and modifications of loans made by the Navajo Revolving Credit Program, where the total indebtedness by the borrower to the Navajo Tribe does not exceed \$50,000.00, pursuant to 25 CFR 91, subject to the availability of funds and limitations in the approved Declaration of Policies and Plan of Operation.

Section 2.21 Loan security.

(a) The approval of mortgages of trust chattels of an Indian.

(b) The approval of Assignment of Income from Trust Property on lands of an Indian and Assignment of Trust Property and Power to Lease, except where the assignment is to secure a loan from a non-Bureau lender and the borrower is already indebted for a loan made pursuant to 25 CFR 91 that is secured by such an assignment.

(c) The approval of mortgages of leasehold interests on homesites located on trust and restricted Indian lands.

Section 2.22 Organizational documents and plan of operation. The review and approval of organizing documents and plan of operation of business entities borrowing from the Navajo Revolving Loan Program.

Section 2.23 Accounting and records systems. The review and approval of accounting and records systems used by borrowers from the Navajo Revolving Credit Program.

Section 2.24 Indian business development program grants. The review of applications and approval of nonreimbursable grants to acquire, establish or expand Indian-owned business enterprises pursuant to 25 CFR 80.

Part 3. Authority of Specifically Designated Employees

Subject to the provision of Part 1 and in addition to the above redelegation, the Superintendent of the Eastern Navajo Agency or person acting in his stead is further redelegated the authority of the Area Director to approve all mineral, oil and gas leases on restricted Tribal land or individually owned Indian lands pursuant to Parts 171-172-177, 25 CFR with the following exceptions:

(a) Approving leases or permits on lands purchased or reserved for Agency or school purposes;

(b) Granting permission to negotiate leases;

(c) Approving leases on Tribal Trust Land;

(d) Approving payment of overriding royalty; and

(e) Assigning separate horizons or strata of the subsurface.

The effective date of this redelegation will be July 26, 1979.

Ted S. Koenig,

Acting Area Director, Navajo Area Office.

Approved: July 13, 1979.

Jose A. Zuni,

Acting Deputy Commissioner of Indian Affairs.

[FR Doc. 79-23053 Filed 7-25-79; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[Serial No. I-07702]

Idaho; Proposed Withdrawal and Reservation of Lands

July 16, 1979.

The U.S. Forest Service, Department of Agriculture, on October 22, 1956, filed application, Serial No. I-07702, for the withdrawal of the following described lands from location under the mining laws, subject to valid existing rights:

T. 12 N., R. 8 E., Boise Meridian, Idaho,
Sec. 6, N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 13 N., R. 8 E., Boise Meridian, Idaho,
Sec. 31, W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$.

The area described aggregates 60 acres in Valley County. The U.S. Forest

Service desires that the land be withdrawn to protect the Deer Flat Campground. It is located on the Cascade-Stanley Forest Highway and is used extensively by fishermen, hunters and campers from July 1 to October 15, yearly. It is one of the few campgrounds located on this highway.

On or before August 27, 1979, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal, may submit their views in writing to the undersigned authorized officer of the Bureau of Land Management.

A public hearing was held in 1958 and as a result no adverse comments were received.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by ge a26jy3.0008the applicant agency. The determination of the Secretary will be published in the Federal Register. A separate notice will be sent to each interested party of record.

All communications in connection with this proposed withdrawal, should be addressed to the undersigned officer, Bureau of Land Management, Federal Building, 550 West Fort Street, Box 042, Boise, Idaho 83724.

Vincent S. Strobel,
Chief, Branch of L&M Operations.

[FR Doc. 79-22998 Filed 7-25-79; 8:45 am]

BILLING CODE 4310-84-M

[W-68575]

Wyoming; Application

July 13, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Natural Gas Pipeline Company of America of Chicago, Illinois filed an application for a right-of-way to construct two 4 inch pipelines and related metering and dehydration facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 18 N., R. 94 W.,
Sec. 16, S $\frac{1}{2}$ SW $\frac{1}{4}$
Sec. 18, lot 20;
Sec. 20, NW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 28, S $\frac{1}{2}$ SW $\frac{1}{4}$

The proposed pipeline will transport natural gas from the Nickel No. 1 Well in the SW $\frac{1}{4}$ of section 16 and the Nickel No. 2 Well in the SW $\frac{1}{4}$ of section 28 to points of connection with existing pipelines, all located in T. 18 N., R. 94

W. The related metering and dehydration facilities are to be located entirely within the proposed 50 foot right-of-way in sections 16 and 28, T. 18 N., R. 94 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-22999 Filed 7-25-79; 8:45 am]

BILLING CODE 4310-84-M

[W-68585]

Wyoming; Application

July 16, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 4 $\frac{1}{2}$ inch O.D. pipeline, a 4' by 6' meter house and related metering and dehydration facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 17 N., R. 96 W.,
Sec. 8, S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 10, NW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 18, S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ and
NW $\frac{1}{4}$ SE $\frac{1}{4}$.

The proposed pipeline will transport natural gas from No. 2-18 Bluewater Federal Well located in the SW $\frac{1}{4}$ of section 18, to a point of connection with City Service Gas Company's existing pipeline located in section 3, all within T. 17 N., R. 96 W. The proposed 4' by 6' meter house and related metering and dehydration facilities are to be located entirely within the proposed 50 foot right-of-way in the SW $\frac{1}{4}$ of section 18, T. 17 N., R. 96 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be

approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 137 N., P.O. Box 1869, Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-23000 Filed 7-25-79; 8:45 am]

BILLING CODE 4310-84-M

Outer Continental Shelf, North Atlantic; Proposed Oil and Gas Lease Sale No. 42

In connection with oil and gas leasing on the Outer Continental Shelf, the Secretary of the Interior has established a policy relating to sale notices to further and enhance consultation with the affected coastal States. That policy includes providing the affected States with the opportunity to review the draft proposed sale notice prior to its final publication in the Federal Register. The following is a draft sale notice for proposed Sale No. 42 in the offshore waters of the North Atlantic area. This notice is hereby published as a matter of information to the public.

Dated: July 20, 1979.

Arnold E. Petty,

Acting Associate Director, Bureau of Land Management.

Approved: July 20, 1979.

Cecil D. Andrus,

Secretary of the Interior.

Proposed Notice of Sale

1. **Authority.** This notice is published pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343), as amended, and the regulations issued thereunder (43 CFR Part 3300).

2. **Filing of Bids.** Sealed bids will be received by the Manager, New York Outer Continental Shelf (OCS) Office, Bureau of Land Management, _____ Hotel, Providence, Rhode Island. Bids may be delivered to that address in person from 1:00 p.m. to 5:00 p.m., e.s.t., October 29, 1979; or by personal delivery to that address between the hours of 8:30 a.m., e.s.t., and 9:30 a.m., e.s.t., October 30, 1979. Bids received by the Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the

Manager prior to 9:30 a.m. e.s.t., October 30, 1979. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in 44 FR 24348.

3. *Method of Bidding.* A separate bid in a sealed envelope, labeled "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10 a.m., e.s.t., October 30, 1979," must be submitted for each tract. A suggested form appears in paragraph 17 of this notice. Bidders are advised that tract numbers are assigned solely for administrative purposes and are not the same as block numbers found on official protraction diagrams. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft, certified check, or money order payable to the order of the Bureau of Land Management. No bid for less than a full tract as described in paragraph 13 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places, as well as submit a sworn statement that the bidder is qualified under 43 CFR Subpart 3302. The suggested form for this statement to be used in joint bids appears in paragraph 18. Other documents may be required of bidders under 43 CFR 3302.4. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. *Bonus Bidding With a Fixed Sliding Scale Royalty.* Bids on 42-18, 42-19, 42-20, 42-26, 42-27, 42-28, 42-78, 42-79, 42-80, 42-81, 42-89, 42-97, 42-98, 42-111, 42-112, 42-113, 42-117, 42-118, 42-119, 42-122, 42-123, 42-124, 42-125, 42-126, 42-127, 42-128, 42-130, 42-131, 42-132, 42-133, 42-134, 42-135, 42-136, 42-137, 42-138, 42-139, 42-140, 42-141, 42-142, 42-143, 42-144, 42-145, 42-146, 42-150, 42-151, 42-152, 42-153, 42-154, 42-155, 42-156, 42-157, 42-158, 42-162, 42-163, 42-164, 42-165, 42-166, 42-167, 42-168, 42-171, 42-172, 42-173, 42-174, 42-175, 42-176, 42-177, and 42-178 must be submitted on a cash bonus bid basis with the percent royalty due in amount or value of production saved, removed or sold fixed according to the sliding scale formula described below. This formula fixes the percent royalty at a level determined by the value of lease production during each calendar quarter. For purposes of determining the percent royalty due on production during a quarter, the value of production

during the quarter will be adjusted for inflation as described below. The determination of the value of the production on which royalty is due will be made pursuant to 30 CFR 250.64 and Sec. 6(b) of the lease form.

The fixed sliding scale formula operates in the following way: when the quarterly value of production, adjusted for inflation, is less than \$15,929,026 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than \$15,929,026 million, but less than or equal to \$3423.822697 million, the royalty percent due on the unadjusted value or amount of production is given by

$$R_j = b (\ln (V_j/S))$$

where

R_j = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j
 $b = 9.0$

\ln = natural logarithm

V_j = the value of production in quarter

j , adjusted for inflation, in millions of dollars

$$S = 2.5$$

When the adjusted quarterly value of production is greater than \$3423.822697 million, a royalty of 65.00000 percent in amount or value or production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

In determining the quarterly percent royalty due, R_j , the calculation will be rounded to five decimal places (for example, 18.59859 percent). This calculation will incorporate the adjusted quarterly value of production, V_j , in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 19.743026 millions of dollars).

The form of sliding scale royalty schedule is illustrated in Figure 1. Note that the effective quarterly royalty rate depends upon the inflation adjusted quarterly value of production. However, this rate is applied to the unadjusted quarterly value of production to determine the royalty payments due.

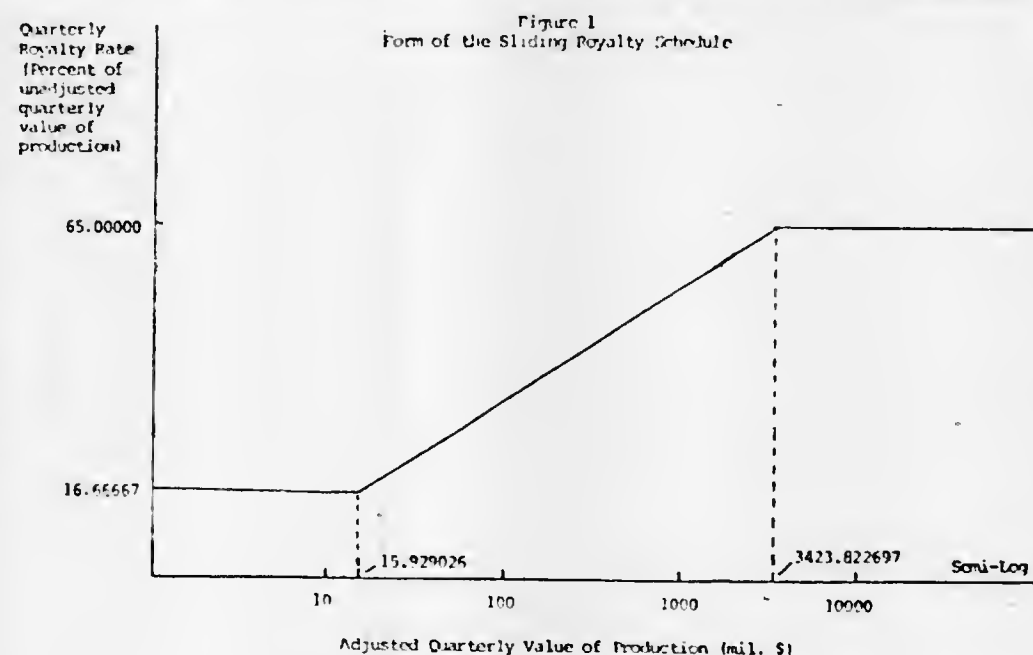


TABLE 1. HYPOTHETICAL QUARTERLY ROYALTY CALCULATIONS

(1) Actual Value of Quarterly Production (Millions of dollars)	(2) GNP Fixed Weighted Price Index	(3) Inflation Factor ^a	(4) Adjusted Value of Quarterly Production ^b (Millions of \$)	(5) Percent Royalty Rate ^c	(6) Royalty Payment ^c (Millions of Dollars)
10,000,000	200.0	4/3	7,500,000	16.66667	1,666,667
30,000,000	200.0	4/3	22,500,000	19.77502	5,932,506
90,000,000	200.0	4/3	67,500,000	29.66253	26,696,277
270,000,000	200.0	4/3	202,500,000	39.55004	106,785,108
810,000,000	200.0	4/3	607,500,000	49.43755	400,444,155
10,000,000	250.0	5/3	6,000,000	16.66667	1,666,667
30,000,000	250.0	5/3	18,000,000	17.76673	5,330,019
90,000,000	250.0	5/3	54,000,000	27.65424	24,888,816
270,000,000	250.0	5/3	162,000,000	37.54175	101,362,725
810,000,000	250.0	5/3	486,000,000	47.42926	384,177,096

^a Column (2) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).

^b Column (1) divided by inflation factor.

^c Column (1) times Column (5) divided by 100.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production saved, removed, or sold as determined pursuant to 30 CFR 250.64 and Sec. 6 (b) of the lease form. The timing of procedures for inflation adjustments and determinations of the royalty due will be specified at a later date. Table 1 provides hypothetical examples of quarterly royalty calculations using the sliding scale formula just described under two different values for the quarterly price index.

Leases awarded on the basis of cash bonus bid with fixed sliding scale royalty will provide for a yearly rental or minimum royalty payment of \$8 per hectare or fraction thereof.

Bidders for these tracts should recognize that the Department of Energy is authorized, under Section 302(b) and (c) of the Department of Energy Organization Act, to establish production rates for all Federal Oil and Gas leases.

5. *Bonus Bidding With a Fixed Constant Royalty.* Bids on the remaining tracts to be offered at this sale must be on cash bonus basis with fixed royalty of 16 2/3 percent. Leases which may be issued will provide for a yearly rental payment or minimum royalty payment of \$8 per hectare or fraction thereof. A suggested cash bonus bid form is shown in paragraph 17.

6. *Equal Opportunity.* Each bidder must have submitted by 9:30 a.m., e.s.t., October 30, 1979 the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (November 1973), and the Affirmative Action Representation Form, Form 1140-7 (December 1971).

7. *Bid Opening.* Bids will be opened on October 30, 1979, beginning at 10

a.m., e.s.t., at the address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing and recording bids received and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, October 30, 1979, that bid will be returned unopened to the bidder, as soon thereafter as possible.

8. *Deposit of Payment.* Any cash, cashier's checks, certified checks, bank draft, or money orders submitted with a bid may be deposited in a suspense account in the Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

9. *Withdrawal of Tracts.* The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for that tract.

10. *Acceptance or Rejection of Bids.* The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

(a) The bidder has complied with all requirements of this notice and applicable regulations;

(b) The bid is the highest valid cash bonus bid; and

(c) The amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bid will be considered for acceptance unless it offers a cash bonus in the amount of \$62 or more per hectare or fraction thereof.

11. *Successful Bidders.* Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid together with the first year's annual rental and satisfy the bonding requirements of 43 CFR 3304.1 within the time provided in 43 CFR 3302.5.

12. *Protraction Diagram.* Tracts offered for lease may be located on the following protraction diagrams which are available from the Manager, New York Outer Continental Shelf Office, Bureau of Land Management, 26 Federal Plaza, Suite 32-120, New York, New York 10007, at \$2 each.

(a) Outer Continental Shelf Official Protraction Diagram No. NK 19-8, Chatham (Approved April 18, 1979).

(b) Outer Continental Shelf Official Protraction Diagram No. NK 19-9, (Approved March 20, 1975).

(c) Outer Continental Shelf Official Protraction Diagram No. NK 19-11, (Approved October 31, 1974).

(d) Outer Continental Shelf Official Protraction Diagram No. NK 19-12, (Approved April 29, 1975).

13. *Tract Descriptions.* The tracts offered for bid are as follows:

Note.—There may be gaps in the numbers of the tracts listed. Some of the blocks identified in the final environmental statement may not be included in this notice.

OCS Official Protraction Diagram No. NK 19-8, Chatham

[Approved April 18, 1979]

Tract	Block	Description	Hectares
42-3	643	All	2304
42-6	916	All	2304
42-7	917	All	2304
42-8	961	All	2304
42-9	962	All	2304
42-10	1006	All	2304

Official Protraction Diagram NK 19-9

[Approved March 20, 1975]

Tract	Block	Description	Hectares
42-11	883	All	2304
42-12	884	All	2304
42-15	926	All	2304
42-16	927	All	2304
42-17	928	All	2304
42-18	930	All	2304
42-19	931	All	2304
42-20	932	All	2304
42-24	970	All	2304
42-25	971	All	2304
42-26	974	All	2304
42-27	975	All	2304
42-28	976	All	2304

Official Protraction Diagram NK 19-11

[Approved October 31, 1974]

Tract	Block	Description	Hectares
42-38	38	All	2304
42-39	39	All	2304
42-40	80	All	2304
42-41	81	All	2304
42-42	82	All	2304
42-43	83	All	2304
42-44	84	All	2304
42-45	123	All	2304
42-46	124	All	2304
42-47	125	All	2304
42-48	126	All	2304
42-49	167	All	2304
42-50	168	All	2304
42-51	169	All	2304
42-52	171	All	2304
42-53	172	All	2304
42-54	214	All	2304
42-55	215	All	2304
42-56	216	All	2304
42-57	258	All	2304
42-58	259	All	2304
42-59	260	All	2304

Official Protraction Diagram NK 19-12

[Approved April 29, 1975]

Tract	Block	Description	Hectares
42-76	1	All	2304
42-77	2	All	2304
42-78	6	All	2304

Official Protraction Diagram NK 19-12—Continued
[Approved April 29, 1975]

Tract	Block	Description	Hectares
42-79	7	All	2304
42-80	8	All	2304
42-81	12	All	2304
42-88	45	All	2304
42-89	56	All	2304
42-90	57	All	2304
42-96	89	All	2304
42-97	99	All	2304
42-98	100	All	2304
42-99	101	All	2304
42-105	133	All	2304
42-106	134	All	2304
42-107	135	All	2304
42-108	136	All	2304
42-109	137	All	2304
42-110	138	All	2304
42-111	142	All	2304
42-112	143	All	2304
42-113	144	All	2304
42-114	145	All	2304
42-115	146	All	2304
42-116	177	All	2304
42-117	186	All	2304
42-118	187	All	2304
42-119	188	All	2304
42-120	189	All	2304
42-121	190	All	2304
42-122	226	All	2304
42-123	227	All	2304
42-124	228	All	2304
42-125	229	All	2304
42-126	230	All	2304
42-127	231	All	2304
42-128	232	All	2304
42-129	233	All	2304
42-130	266	All	2304
42-131	267	All	2304
42-132	269	All	2304
42-133	270	All	2304
42-134	271	All	2304
42-135	272	All	2304
42-136	273	All	2304
42-137	274	All	2304
42-138	310	All	2304
42-139	311	All	2304
42-140	312	All	2304
42-141	313	All	2304
42-142	314	All	2304
42-143	315	All	2304
42-144	316	All	2304
42-145	317	All	2304
42-146	318	All	2304
42-147	322	All	2304
42-148	323	All	2304
42-149	324	All	2304
42-150	353	All	2304
42-151	354	All	2304
42-152	355	All	2304
42-153	356	All	2304
42-154	357	All	2304
42-155	358	All	2304
42-156	359	All	2304
42-157	360	All	2304
42-158	361	All	2304
42-159	365	All	2304
42-160	366	All	2304
42-161	367	All	2304
42-162	397	All	2304
42-163	398	All	2304
42-164	399	All	2304
42-165	400	All	2304
42-166	401	All	2304
42-167	402	All	2304
42-168	403	All	2304
42-169	409	All	2304
42-170	410	All	2304
42-171	443	All	2304
42-172	444	All	2304
42-173	445	All	2304
42-174	447	All	2304
42-175	492	All	2304
42-176	493	All	2304
42-177	536	All	2304
42-178	537	All	2304

14. *Lease Terms and Stipulations.* All leases issued as a result of this sale will be for an initial term of 5 years. Leases

issued as a result of this sale will be on Form 3300-1 (September 1978), available from the Manager, New York Outer Continental Shelf Office, at the address stated in paragraph 2. Section 6 of the lease form will be amended for tracts offered on a cash bonus basis with a fixed sliding scale royalty, listed in paragraph 12 as follows:

Sec. 6. *Royalty on Production.* (a) To pay the lessor a royalty of that percent in amount or value of production saved, removed or sold from the leased area as determined by the sliding scale royalty formula as follows. When the quarterly value of production, adjusted for inflation, is less than \$15.929026 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than \$15.929026 million, but less than or equal to \$3423.822697 million, the royalty percent due on the unadjusted value or amount of production is given by

$$R_j = b(Ln(V_j/S))$$

where

R_j = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

$$b = 9.0$$

Ln = natural logarithm

V_j = the value of production in quarter j , adjusted for inflation, in millions of dollars

$$S = 2.5.$$

When the adjusted quarterly value of production is greater than \$3423.822697 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

In determining the quarterly percent royalty due, R_j , the calculation will be rounded to five decimal places (for example, 18.59859 percent). This calculation will incorporate the adjusted quarterly value of production, V_j , in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 19.743026 millions of dollars). Gas of all kinds (except Helium) is subject to royalty. The lessor shall determine whether production royalty shall be paid in amount or value.

Except as otherwise noted, the following stipulations will be included in each lease resulting from this sale. In the following stipulations the term Supervisor refers to the Atlantic Area Oil and Gas Supervisor for Operations of the Geological Survey and the term Manager refers to the Manager of the New York OCS Office of the Bureau of Land Management.

Stipulation No. 1

If the Supervisor having reason to believe that a site, structure or object of historical or archeological significance hereinafter referred to as "cultural resource", may exist in the lease area, gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation," the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys as well as other pertinent natural and cultural environmental data shall be examined by a qualified marine survey archeologist to determine if indications are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archeologist shall be submitted by the lessee to the Supervisor and to the Manager for review.

If such cultural resource indicators are present the lessee shall: (1) locate the site of such operation so as not to adversely affect the identified location; or (2) establish, to the satisfaction of the Supervisor, on the basis of further archeological investigation conducted by a qualified marine survey archeologist or underwater archeologist using such survey equipment and technique as deemed necessary by the Supervisor, either that such operation will not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archeologist shall be submitted to the Supervisor and the Manager for their review. Should the Supervisor determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the Supervisor has given directions as to its preservation.

The lessee agrees that if any site, structure, or object of historical or archeological significance should be

discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the Supervisor, and make every reasonable effort to preserve and protect the cultural resource from damage until the Supervisor has given directions as to its preservation.

Stipulation No. 2

If biological populations or habitats which may require additional protection are identified by the Supervisor in the leasing area, the Supervisor will require the lessee to conduct environmental surveys or studies, as approved by the Supervisor, to determine the extent and composition of biological populations or habitats, and the effects of proposed or existing operations on the populations or habitats which might require additional protective measures. The Supervisor shall provide written notice to the lessee of his decision to require such surveys. The nature and extent of any surveys or studies will be determined by the Supervisor on a case-by-case basis.

Based on any surveys or studies which the Supervisor may require of the lessee, the Supervisor may require the lessee to: (1) relocate the site of operations so as not to affect adversely the significant biological populations or habitats deserving protection; or (2) modify operations in such a way as not to affect adversely the significant biological populations or habitats deserving protection.

The lessee shall submit all data obtained in the course of such surveys to the Supervisor, with the locational information for drilling or other activity. The lessee may take no action that might result in any effect on the biological populations or habitats surveyed, until the Supervisor provides written directions to the lessee, with regard to permissible actions.

In the event that important biological populations or habitats are identified subsequent to commencement of operations, the lessee shall make every reasonable effort to preserve and protect all biological populations and habitats within the lease area, until the Supervisor provides written instructions to the lessee with regard to the biological populations or habitats identified.

Stipulation No. 3

Pipelines will be required, (1) if pipeline rights-of-way can be

determined and obtained, (2) if laying such pipelines is technically feasible and environmentally preferable, and (3) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of the intergovernmental planning program for assessment and management of transportation of Outer Continental Shelf oil and gas with the participation of Federal, State, and local government and industry. Where feasible and environmentally preferable, all pipelines, including both flow lines and gathering lines for oil and gas, shall be buried to a depth suitable for adequate protection from water currents, sand waves, storm scouring, fisheries' trawling gear, and other factors as determined on a case-by-case basis. Where burial is not required, all valves, taps, or other irregular surfaces that might be vulnerable or might damage fishing gear will be buried to a minimum of one foot below the surface or covered with an approved protective dome which will allow commercial trawl gear to pass over the structure without snagging or damaging the structure or fishing gear.

Following the completion of pipeline installation, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the Supervisor. Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels pursuant to the Ports and Waterways Safety Act of 1972 as amended (46 U.S.C. 391a).

Stipulation No. 4

Drill cuttings and drilling muds shall be disposed of by shunting the material through a downpipe to a depth of 20-50 feet below the ocean surface or by transporting these materials to pre-selected disposal sites approved by the Supervisor, and the Environmental

Protection Agency. Based on the composition of produced formation waters and the site-specific environmental conditions, the Supervisor may require reinjection of such formation waters.

Stipulation No. 5

(The lease for the following tract will include this stipulation, which will apply only to operations within the designated portion of this tract: 42-43, NW ¼, N ½ SW ¼).

Portions of this tract may contain a shallow "bright spot" seismic amplitude anomaly which may be indicative of a shallow gas deposit. Surface occupancy above this anomaly and drilling through the anomaly will not be allowed unless or until the lessee has demonstrated to the Supervisor's satisfaction that a potentially hazardous accumulation of shallow gas does not exist or that exploratory drilling operations, structures (platforms), casing, and wellheads can be placed, or drilling plans designed to assure safe operations in the area above the anomaly. This may necessitate all exploration for and development of oil and gas be performed from locations outside the area of concern, either within or outside this lease block.

Stipulation No. 6

(Leases for the following tracts will include this stipulation, which will apply only to operations within the designated portions of such tracts: 42-165, SE ¼ SE ¼; 42-166, S ½; 42-172, NE ¼ NE ¼; 42-173, E ½, N ½ NW ¼, SE ¼ NW ¼, E ½ SW ¼; 42-176, S ½ SW ¼, SE ¼; and 42-177, S ½, S ½ NE ¼, NE ¼ NE ¼, SE ¼ NW ¼).

Portions of this tract may be subject to mass movement of sediments related to unstable slopes, possible surface creep or buried slump related features. Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas, and the emplacement of pipelines will not be allowed within the designated portion of the lease block unless or until the lessee has demonstrated to the Supervisor's satisfaction that mass movement of sediments is unlikely or that exploratory drilling operations, structures (platforms), casing, wellheads and pipelines can be safely designed to protect the environment if such mass movement occurs at the proposed location. This may necessitate all exploration for and development of oil and gas be performed from locations outside the area of unstable sediments.

either within or outside of this lease block.

If exploratory drilling operations are allowed, site specific surveys shall be conducted to determine the potential for slumping and mass movement of sediments. If emplacement of structures (platforms) or seafloor wellheads for production or storage of oil and gas are allowed, all slump blocks or mass movements of sediments in the lease block must be mapped.

Stipulation No. 7

(To be included only in the lease resulting from this sale for tract 42-178).

All of this tract may be subject to mass movement of sediments. Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas, and the emplacement of pipelines will not be allowed within this lease block unless the lessee has demonstrated to the Supervisor's satisfaction that mass movement of sediments is unlikely or that exploratory drilling operations, structures (platforms), casing, wellheads and pipelines can be safely designed to protect the environment in case such mass movement occurs at the proposed location. This may necessitate all exploration for and development of oil or gas be performed from locations off this block and outside the area of unstable sediments.

If exploratory drilling operations are allowed, site specific surveys shall be conducted to determine the potential for slumping and mass movement of sediments. If emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas is allowed, all slump blocks or mass movement of sediments in the lease block must be mapped.

Stipulation No. 8

The lessee shall include in his exploration and development plans submitted under 30 CFR 250.34 a proposed fisheries training program for review and approval by the Supervisor pursuant to this stipulation. The training program shall be for the personnel involved in vessel operations (related to offshore exploration and development and production operations); and platform and shorebased supervisors. The purpose of the training program shall be to familiarize persons working on the project of the value of the commercial fishing industry and the methods of offshore fishing operations and the potential hazards, conflicts and impacts resulting from offshore oil and gas activities. The program shall be

formulated and implemented by qualified and experienced instructors in the kinds of fishing activities, methods of communication and navigational safety.

Stipulation No. 9

(To be included in any leases resulting from this sale for the sliding scale royalty tracts listed in paragraph 4 of this notice).

(a) The royalty rate on production saved, removed or sold from this lease is subject to consideration for reduction under the same authority that applies to all other oil and gas leases on the Outer Continental Shelf (30 CFR 250.12(e)). The Director, Geological Survey, may grant a reduction for only one year at a time. Reduction of royalty rates will not be approved unless production has been underway for one year or more.

(b) Although the royalty rate specified in Sec. 6(a) of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16 2/3 percent of the production saved, removed or sold from the lease area may be taken as royalty in amount, except as provided in Sec. 15(d) of this lease; the royalty on any portion of the production saved, removed or sold from the lease in excess of 16 2/3 percent may only be taken in value of the production saved, removed or sold from the lease area.

Stipulation No. 10

(To be included only in the lease resulting from this sale for tract 42-3).

(a) The lessee agrees that prior to operating or causing to be operated on its behalf boat or aircraft traffic into individual, designated warning areas, the lessee shall coordinate and comply with instructions from the Commander Submarine Squadron Two, Naval Submarine Base, New London, Connecticut. Such coordination and instruction will provide for positive control of boats and aircraft operating into the warning areas at all times.

(b) Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occurs in, on, or above the Outer Continental Shelf, to any person or persons or to any property of any person or persons who are agents, employees or invitees of the lessee, its agents, independent contractors or subcontractors doing business with the lessee in connection with any activities being performed by

the lessee in, on, or above the Outer Continental Shelf, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors, or subcontractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with, the programs and activities of the Commander Submarine Squadron Two, Naval Submarine Base, New London, Connecticut or other appropriate military agency.

Notwithstanding any limitations of the lessee's liability in section 14 of the lease, the lessee assumes the risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, or the United States, its contractors or subcontractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents or any independent contractors or subcontractors doing with the lessee in connection with the programs and activities of the aforementioned military installations and agencies, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, or subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under theories of strict or absolute liability or otherwise.

(c) The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors or subcontractors emanating from individual, designated defense warning areas in accordance with requirements specified by the Commander Submarine Squadron Two, Naval Submarine Base, New London, Connecticut, to the degree necessary to prevent damage to, or unacceptable interference with, Department of Defense flight, testing or operational activities conducted within individual, designated warning areas. Necessary monitoring, control, and coordination with the lessee, his agents, employees, invitees, independent contractors or subcontractors, will be effected by the commander of the appropriate onshore military installation conducting operations in the particular warning area. Provided, however, that control of such electromagnetic emissions shall permit at least one

continuous channel of communication between a lessee, its agents, employees, invitees, independent contractors or subcontractors and onshore facilities.

15. *Information to Lessees.* On September 18, 1978, Congress passed amendments to the OCS Lands Act of 1953. Some sections of current regulations applicable to OCS leasing operations are inconsistent with this new legislation, and the legislation requires the issuance of some new regulations. The inconsistencies will be corrected by rulemakings and the new regulations will be issued as soon as possible. Nevertheless, bidders are notified that such regulations shall apply to all leases offered at this lease sale and shall supersede all inconsistent provisions in current regulations applicable to OCS leasing operations.

Some of the tracts offered for lease may fall in areas which may be included in fairways, precautionary zones, or traffic separation schemes. Corps of Engineers permits are required for construction of any artificial islands, installations and other devices permanently or temporarily attached to the seabed located on the Outer Continental Shelf Lands in accordance with Section 4(e) of the Outer Continental Shelf Lands Act, as amended.

Bidders are advised that the Departments of the Interior and Transportation have entered into a memorandum of Understanding dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

Bidders are also advised that in accordance with Sec. 16 of each lease offered at this sale the lessor may require a lessee to operate under a unit, pooling or drilling agreement and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with either a different royalty rate or a royalty rate based on a sliding scale.

In the enforcement of Stipulation 2, the Supervisor will receive recommendations from a committee composed of designated representatives of the Bureau of Land Management, U.S. Fish and Wildlife Service, U.S. Geological Survey, the National Marine Fisheries Service, the Environmental Protection Agency, and representatives of the affected States. It is intended that this committee will remain in existence throughout the operating life of the field. The Supervisor will consult with the committee in identifying areas or resources of biological importance, on

the conduct of the biological surveys by lessees, and on the appropriate course of action after the surveys have been conducted.

In applying safety, environmental, and conservation laws and regulations, the Supervisor, in accordance with Sec. 21(b) of the OCS Lands Act, as amended will require the use of the best available and safest technologies which the Secretary determines to be economically feasible, wherever failure of equipment would have a significant effect on safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technologies. To the extent practical, the Supervisor will

consult with the relevant Federal agencies and the affected State(s) in the execution of these responsibilities.

Bidders are advised that the Secretary of the Interior had directed that a development phase environmental impact statement be prepared for the North Atlantic lease sale area. The content of this EIS will be in accordance with the rules and regulations promulgated by the Department.

16. *OCS Orders.* Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Outer Continental Shelf Atlantic Orders, as of their effective date, and any other applicable OCS Order as it becomes effective.

17. *Suggested Bid Form.* It is suggested that bidders submit their bids in the following form to the Manager, New York Outer Continental Shelf Office, at the address stated in paragraph 2:

Oil and Gas Bid

The following bid is submitted for an oil and gas lease on the tract of the Outer Continental Shelf specified below:

Tract No.	Total Amount Bid	Amount per Hectare	Amount of Cash Bonus Submitted with Bid
Proportionate Interest of Company(s) Submitting Bid			
Company	Percent Interest		
Address	N.Y. Misc. No.		
Signature (Please type signer's name under signature)			

18. *Required Joint Bidders Statement.* In the case of joint bids, each joint bidder is required to execute a joint bidder's statement before a notary public and submit it with his bid. A suggested form for this statement is shown below.

Joint Bidder's Statement

I hereby certify that _____ (entity submitting bid) is eligible under 43 CFR 3302 to bid jointly with the other parties submitting this bid.

Signature
(Please type signer's name under signature)

Sworn to and subscribed before me this _____ day of _____ 19__

NOTARY PUBLIC

State of _____
County of _____

St. George Basin, Alaska Outer Continental Shelf; Call for Nominations of and Comments on Areas for Oil and Gas Leasing for Tentative Sale No. 70

Purpose of Call

Section 102 of the Outer Continental Shelf Lands Act Amendments of 1978 describes the purposes of that Act. One of the purposes is to establish policies and procedures intended to expedite exploration and development of the Outer Continental Shelf (OCS) in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade. Equally important purposes include balancing energy resources development with the protection of the human, marine and coastal environments, as well as assuring States and local governments the opportunity to review and comment on decisions relating to OCS activities. To assist the Secretary of the Interior in carrying out these purposes, and pursuant to 43 CFR 3301.3, nominations are hereby requested for areas on the St. George Basin Outer Continental Shelf for possible oil and gas leasing under the Outer Continental Shelf Lands Act, (43 U.S.C. 1331-1343), as amended. Pursuant to 43 CFR 3301.4, the Secretary is also requesting comments on the possible environmental impacts and potential use conflicts in specified areas.

Description of the Area

The area of the Call for Nominations and Comments for the St. George Basin is located in the eastern Bering Sea between longitudes 185°W and 171°W. It extends from latitude 58°N southward to the 3-mile Federal/State boundary on the northern side of the Aleutian Islands. Significant geographical features bounding the area include Nunivak Island to the north, Bristol Bay on the east, Samalga and Unalaska Islands on the south, and the Pribilof Islands to the northwest.

Nominations will be considered for any or all of that part of the following blocks located in the OCS mapped areas listed below:

1. NN 2-6: Blocks 1-40, 45-86, 89-130, 133-174, 177-218, 221-262, 265-306, 309-350, 353-391, 397-434, 441-476, 485-520, 529-583, 573-607, 617-650, 661-693, 705-736, 749-779, 793-822, 837-866, 881-896, 899-910, 925-940, 944-953, 969-985, 988-996, inclusive.
2. NN 2-8: Blocks 1-17, 20-27, 45-56, 60-61, 64-69, 89-100, 108-114, 133-144, 152-158, 177-187, 196-200, 221-231, 265-268, 271-273, 309-311, 353-354, 397-398, inclusive.

3. NN 3-3: Blocks 2-42, 46-86, 90-130, 134-174, 178-218, 222-262, 266-306, 310-350, 354-394, 398-438, 442-482, 486-526, 530-570, 574-614, 618-658, 662-702, 706-737, 741-746, 750-780, 785-790, 794-820, 831-834, 838-863, 874-878, 882-906, 918-919, 926-951, 970-986, 992-995, 1014-1026, inclusive.
4. NN 3-5: Blocks 2-13, 45-57, 89-100, 133-144, 177-189, 221-233, 265-277, 309-320, 354-364, 401-408, 445-449, 488-491, 532, 533, inclusive.

5. NN 2-2: All blocks.
6. NN 2-4: All blocks.
7. NN 3-1: All blocks.
8. NO 2-8: All blocks.
9. NO 2-8: All blocks.
10. NO 3-5: All blocks.
11. NO 3-7: All blocks.

These blocks may be found on the following Outer Continental Shelf Official Protraction Diagrams, which may be purchased for \$2.00 each from the Manager, Alaska OCS Office, Bureau of Land Management, P.O. Box 1159, Anchorage, Alaska 99510. The street address is 800 A Street, Anchorage, Alaska.

OCS Official Protraction Diagrams

1. NN 2-2: —
2. NN 2-4: Okmuk Canyon.
3. NN 2-6: Umnak.
4. NN 2-8: Samalga Island.
5. NN 3-1: —
6. NN 3-3: Akutan.
7. NN 3-5: Unalaska (Revised October 24, 1978).
8. NO 2-6: St. Paul Island.
9. NO 2-8: St. George Island.
10. NO 3-5: —
11. NO 3-7: —

Instructions on Call

Nominations must be described in reference to the Outer Continental Shelf Leasing Maps or Official Protraction Diagrams prepared by the Bureau of Land Management (BLM), Department of the Interior and referred to above. Only whole blocks or properly described subdivisions thereof, not less than one-quarter of a block, may be nominated. Although individual company nominations are considered to be privileged and confidential information, the names of persons or entities submitting nominations or comments will be of public record.

Those nominating twelve blocks or more are requested to arrange their nominations into three groups according to the priority of their interest.

In addition to nominations, we are seeking comments about particular geological, environmental, biological, archaeological, socioeconomic conditions or problems, or other information which might bear upon potential leasing and development of particular blocks where available.

Comments should be as specific as possible in identifying specific blocks or areas which should receive special concern and analysis in any leasing decision.

Nominations and comments must be submitted not later than October 31, 1979, in envelopes labeled "Nominations of Tracts for Leasing in the Outer Continental Shelf—St. George Basin" or "Comment on Leasing in the Outer Continental Shelf—St. George Basin," as appropriate. They must be submitted to the Director, Attention 540, Bureau of Land Management, Department of the Interior, Washington, DC 20240. Copies must be sent to the Assistant Conservation Manager, U.S. Geological Survey, P.O. Box 259, Anchorage, Alaska 99510, and to the Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management, at the address cited above.

Use of Information From Call

Nominations will be evaluated and used along with other geologic and geophysical information to determine what, if any, tracts should be tentatively selected for further environmental analysis pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347) and the OCS Lands Act, as amended. Generally, because of limits on the geographical scope of areas which can be successfully planned for a single sale, only a portion of the tracts nominated are selected for further environmental analysis and possible leasing.

Comments will be considered along with other relevant information available to the Secretary to determine what tracts should be designated for further environmental analysis and study. As a general rule, tracts which are believed to have potential for the production of hydrocarbons are not excluded from further environmental study unless the Secretary has sufficient information to conclude that it is not possible for those tracts to be developed in an environmentally safe manner.

In any event, selection of tracts for further environmental analyses does not insure that the tracts will be subsequently offered for lease or that they will be deleted for environmental or use conflicts. It simply insures that more information will be available when that decision is made. In performing additional environmental analyses leading to a sale decision, the Department will take into account comments received as it determines particular areas and issues for attention.

Final selection of tracts for competitive bidding will be made only

at a later date after compliance with established Departmental procedures and all requirements of the National Environmental Policy Act of 1969. Notice of any tracts finally selected for competitive bidding will be published in the Federal Register stating the conditions and terms for leasing and the place, date and hour at which bids will be received and opened.

Arnold E. Petty,

Acting Associate Director, Bureau of Land Management.

Approved: July 23, 1979.

Larry E. Meierotto,

Assistant Secretary of the Interior.

[FR Doc. 79-23023 Filed 7-25-79; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 24276(f)]

Colorado, R/W Application for Pipeline Western Slope Gas Co.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Western Slope Gas Company, P.O. Box 840, Denver, Colorado 80201, has applied for a right-of-way for a 4" buried natural gas pipeline approximately 0.99 mile long, to hook up the Fuelco 20-2 and 20-3 natural gas wells in the East Douglas Field across the following Public Lands:

Sixth Principal Meridian, Rio Blanco County, Colorado

- T. 2 S., R. 101 W.,
Section 17: E½SE¼;
Section 20: E½.

The above-named gathering system will enable the applicant to collect natural gas in an area through which the pipeline will pass and to convey it to the applicant's customers in the Grand Junction, Colorado market area. The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Western Slope Gas Company.

Any comment, claim or objections must be filed with the Chief, Branch of

Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

Effective Date: July 18, 1979.

Andrew W. Heard, Jr.,

Leader, Craig Team, Branch of Adjudication.

[FR Doc. 79-23057 Filed 7-25-79; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 24402u, Colorado 25122 o, p, u, v, and w]

Colorado; R/W Applications for Pipeline Northwest Pipeline Corp.

July 18, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corporation, P.O. Box 1526, Salt Lake City, Utah 84110, has applied for rights-of-way for the East Douglas and Foundation Creek Gathering Systems approximately .710 miles across the following Public Lands:

Sixth Principal Meridian, Rio Blanco and Garfield Counties, Colo.

- T. 3 S., R. 101 W.,
Section 14: E½SE¼.
T. 4 S., 102 W.,
Section 20: NW¼NW¼.
Section 24: SW¼SE¼;
Section 26: NE¼NE¼;
Section 28: Lot 7, SW¼SE¼.
T. 5 S., R. 102 W.,
Section 13: NW¼NE¼.
T. 5 S., R. 103 W.,
Section 2: SE¼NW¼.

The above-named gathering system will enable the applicant to collect natural gas in the area through which the pipeline will pass and to convey it to the applicant's customers.

The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Northwest Pipeline Corporation.

Any comment, claim or objections must be filed with the Chief, Branch of

Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

Andrew W. Heard, Jr.,

Leader, Craig Team, Branch of Adjudication.

[FR Doc. 79-23058 Filed 7-25-79; 8:45 am]

BILLING CODE 4310-84-M

Montana; Wilderness Inventory

July 19, 1979.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public review period for Beartrap Canyon and Humbug Spires Instant Study Areas intensive wilderness inventory.

SUMMARY: The Montana State Office of the Bureau of Land Management (BLM) announces the completion of intensive wilderness inventories for the Beartrap Canyon and Humbug Spires Instant Study Areas. Both areas are located in the Butte, Montana, BLM District and have been administered as designated primitive areas.

The intensive inventories follow guidelines provided in the Bureau's Wilderness Inventory Handbook, dated September 1978, and are the first step in the wilderness review process for such designated areas.

The Beartrap Canyon study area consists of 2,861 acres within the designated primitive area and included 2,095 acres of contiguous BLM administered lands. All lands within the designated primitive area, and 1,155 acres of contiguous BLM lands, were determined to have wilderness characteristics and are hereby designated a proposed wilderness study area. The remaining 940 acres of BLM contiguous lands are proposed to be dropped from further wilderness consideration.

The Humbug Spires study area contains 7,041 acres within the designated primitive area and 4,260 acres of contiguous BLM administered lands. Approximately 125 acres of contiguous lands are proposed to be dropped from further wilderness consideration. The remaining lands were determined to have wilderness characteristics and are hereby designated a proposed wilderness study area.

DATES: A thirty-day public comment period from August 1-30 to review the intensive inventory findings and recommendations is hereby initiated.

ADDRESS: Inventory documents may be obtained by writing: Bureau of Land Management, 220 North Alaska, P.O. Box 308, Butte, Montana 59701.

Public comments should be submitted to the same address by August 30, 1979.

Kannon Richards,
Acting State Director.

[FR Doc. 79-23059 Filed 7-25-79; 8:45 am]

BILLING CODE 4310-84-M

Pacific Outer Continental Shelf; Availability of Official Protraction Diagram

AGENCY: Department of the Interior, Bureau of Land Management; Pacific Outer Continental Shelf.

ACTION: Availability of Official Protraction Diagram.

ADDRESS: 300 N. Los Angeles St., Los Angeles, CA 90012.

FOR FURTHER INFORMATION CONTACT: William E. Grant (FTS 798-7234).

Notice is hereby given that, effective with this publication, the following OCS Official Protraction Diagram, formerly labeled 'Cape Mendocino,' is available, for information only, in the Pacific Outer Continental Shelf Office, Bureau of Land Management, Los Angeles, CA. In accordance with Title 43, Code of Federal Regulations, this protraction diagram is the basic record for the description of mineral and oil and gas lease offers in the geographic area it represents.

Outer Continental Shelf Official Protraction Diagram

Description: NK 10-10, Eureka, Revised.

Approval Date: April 18, 1979.

Copies of this diagram are for sale at two dollars (\$2.00) per copy by the Manager, Pacific Outer Continental Shelf Office, Bureau of Land Management, 300 N. Los Angeles St., Rm. 7127, Los Angeles, CA 90012. Checks or money orders should be made payable to the Bureau of Land Management.

William E. Grant,

Manager, Pacific Outer Continental Shelf Office.

[FR Doc. 79-23056 Filed 7-25-79; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

[Order No. 1]

Administrative Officer, Chattahoochee River NRA, Smyrna, Ga.; Delegation of Authority

Section 1. *Administrative Officer.* The Administrative Officer may execute, approve, and administer contracts not in excess of \$10,000 for supplies, equipment or services in conformity with the applicable regulations and statutory authority and subject to the availability of appropriated funds.

(National Park Service Order No. 77 (38 FR 7478), as amended; Southeast Region Order No. 6 (42 FR 59428).)

Dated: June 22, 1979.

John W. Henneberger,
Superintendent, Chattahoochee River National Recreation Area.

[FR Doc. 79-23110 Filed 7-25-79; 8:45 am]

BILLING CODE 4310-70-M

Upper Delaware Citizens Advisory Council; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Upper Delaware Citizens Advisory Council will be held at 10 a.m., September 8, 1979, at the Damascus Township School, Route 371, Damascus, Pa. The Advisory Council was established by Public Law 95-625, section 704(f) to encourage maximum public involvement in the development and implementation of plans and programs authorized by the Act and section noted above. The Council is to meet and report to the Delaware River Basin Commission, to the Secretary of the Interior and to the Governors of New York and Pennsylvania on the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region.

The members of the Council are:

Herbert J. Fabricant, Chairman, Goshen, New York
George H. Frosch, Hancock, New York
A. Joy Rowe, Hancock, New York
Karen Ridley, Sparrowbush, New York
Jimmy McGough, Eldred, New York
Harry Thielhelm, Lackawaxen, Pennsylvania
Robert S. VanArsdale, Shohola, Pennsylvania
Douglas Hay, Mill Rift, Pennsylvania
Clinton P. Dennis, Equinunk, Pennsylvania
LaRue Elmore, Damascus, Pennsylvania
Daniel Gales, Hancock, New York
Carl Grund, Narrowsburg, New York
Arthur J. Aikens, Delancy, New York
David A. Pardy, Goshen, New York

The matters to be discussed at this meeting include:

1. Role, organization and function of the Advisory Council.
2. Procedures and schedule for Advisory Council meetings.
3. Section 704 of the National Parks & Recreation Act of 1978.
4. General guidelines for land and water use control measures.
5. Management plan for the Upper Delaware and boundary map.
6. Interim management for the Upper Delaware.
7. New business.

The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited, and persons will be accommodated on a first-come, first served basis. Any member of the public may file with the Council a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact David A. Kimball, Chief Planner, Mid-Atlantic Region, National Park Service, 143 South Third Street, Philadelphia, Pennsylvania 19106, area code 215 597-9655.

Minutes of the meeting will be available for inspection four weeks after the meeting at the Mid-Atlantic Regional Office.

Dated: July 19, 1979.

Richard L. Stanton,
Regional Director, Mid-Atlantic Region.

[FR Doc. 79-23109 Filed 7-25-79; 8:45 am]

BILLING CODE 4310-70-M

[Order No. 5]

Administrative Officer, Cumberland Gap National Historical Park; Delegation of Authority

Section 1. *Administrative Officer.* The Administrative Officer may execute, and approve contracts not in excess of \$50,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

Section 2. *Redelegation.* The authority delegated in this Order No. 5 may not be redelegated.

Section 3. *Revocation.* This order supersedes Order No. 4 dated June 9, 1976, and published in 41 FR 35735 August 24, 1976.

(National Park Service Order No. 77 (38 FR 7478) as amended; Southeast Region Order No. 6 (42 FR 59428) published November 17, 1977)

Dated: June 18, 1979.

Thomas L. Hartman,
Superintendent, Cumberland Gap National Historical Park.

[FR Doc. 79-23107 Filed 7-25-79; 8:45 am]

BILLING CODE 4310-70-M

Cape Cod National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, August 24, 1979.

The Commission was established pursuant to Public Law 91-383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

The Commission will have an all day field inspection trip to study the Off-Road Vehicle (ORV) operation in the Province Lands. Commission members will meet initially at 10 a.m. at the Province Lands Visitor Center, Race Point Road, Provincetown, Massachusetts.

The meeting is open to the public. However, there will be no transportation provided the general public, and anyone wishing to accompany the Commission may provide his/her own transportation.

Interested persons may file written statements with the Commission which should be sent to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Herbert Olsen, Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts 02663, Telephone 617-349-3785. Minutes of the meeting will be available for public information and copying four weeks after the meeting at the office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts.

Dated: July 20, 1979.

Herbert Olsen,
Superintendent, Cape Cod National Seashore.

[FR Doc. 79-23106 Filed 7-25-79; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacture of Controlled Substances; Application

Pursuant to 21 U.S.C. 823(a)(1), and

§ 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 9, 1979, Burroughs Wellcome Co., US 11-13 North, P.O. Box 1887, Greenville, North Carolina 27834, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic class of controlled substances listed below:

Drug	Schedule
Opium Extracts (9610)	II
Opium Fluid Extracts (9620)	II
Opium Tinctures (9630)	II
Opium Powders (9639)	II
Opium Granulated (9640)	II
Concentrate of Poppy Straw (9670)	II
Codeine (9050)	II

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than August 24, 1979.

Dated: July 19, 1979.

Peter B. Bensinger,
Administrator, Drug Enforcement Administration.

[FR Doc. 79-23025 Filed 7-25-79; 8:45 am]

BILLING CODE 4410-09-M

Importation of Controlled Substances; Application

Notice is hereby given that on January 3, 1979, and March 13, 1979, Burroughs Wellcome Co., U.S. 11-13 North, P.O. Box 1887, Greenville, North Carolina 27834, made application to the Drug Enforcement Administration to be registered as an importer of the basic class of controlled substances listed below:

Drug	Schedule
Imported Raw Opium (9600)	II
Poppy Straw (Opium Plant Form) (9650)	II
Concentrate of Poppy Straw (9670)	II

Any comments or objections may be addressed to the Administrator, Drug Enforcement Administration, United

States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than August 24, 1979.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 79-23024 Filed 7-25-79; 8:45 am]

BILLING CODE 4410-09-M

THE NATIONAL COMMISSION ON AIR QUALITY

Policy on Public Access to Records Policy

The National Commission on Air Quality intends to make fullest possible disclosure of Commission records consistent with the Commission's responsibilities and functions as an agency in the legislative branch. Responses to requests for disclosure will be made as promptly as possible.

Although this policy is consistent with the Public Information section of the Administrative Procedure Act (5 U.S.C. 552), no application of that Act to the National Commission on Air Quality is to be inferred.

Records Covered and Exceptions

All documentary materials under the control of the Commission will be available for public inspection except for records in the following categories:

(1) Material exempted from disclosure by statute;

(2) Records containing trade secrets or commercial or financial information which is considered privileged or confidential. This exception pertains to information which would not customarily be made public by the person from whom it was obtained and includes instances where the Commission has properly obligated itself not to disclose the information it has received;

(3) Internal or interagency communications, including but not limited to memoranda, work papers prepared by Commission staff or consultants for the use of the Commission, records of staff or Commission deliberations on internal matters, and documents, which if

prematurely disclosed would interfere with the achievement of the purpose for which they were prepared; and

(4) Material contained in personnel, medical or similar files which is disclosed would constitute a clearly unwarranted invasion of privacy.

Procedures for Inspection of Records

A public reading room will be open daily between 9 a.m. and 5 p.m., except Saturdays, Sundays and holidays, at 499 South Capitol Street, S.W., Second Floor, Washington, D.C., for inspection of transcripts of Commission hearings and meetings. The Commission's Public Participation Plan describes plans for disseminating information compiled by the Commission for use in its study of air quality issues. Requests for these documents and for permission to inspect other records and materials should be directed to the Office of Public Affairs, 499 South Capitol Street, S.W., Washington, D.C., 20003, telephone (202) 245-6355. The Assistant Director for Public Affairs and Administration will make the initial determination on whether the record can be identified and whether disclosure is permitted under this policy.

A person whose request to inspect a record is refused may in writing seek reconsideration of the request by the Director, whose determination will be final.

Copying of Records

Every effort will be made to accommodate requests for copies of records, subject to the availability of the Commission's limited facilities.

Dated: July 20, 1979.

William H. Lewis, Jr.,

Director.

[FR Doc. 79-23031 Filed 7-25-79; 8:45 am]

BILLING CODE 6820-98-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and Working Groups, and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published June 27, 1979 (44 FR 37568). Those meetings which are definitely scheduled have had, or will

have, an individual notice published in the Federal Register approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee and Working Group meetings usually begin at 8:30 a.m. The exact time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee and Working Group meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the August 1979 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634-3267, ATTN: Mary E. Vanderholt) between 8:15 a.m. and 5:00 p.m., EDT.

Subcommittee and Working Group Meetings

**Three Mile Island, Unit 2 Accident—Implications Re Nuclear Power Plant Design*, July 26-27, 1979, Washington, D.C. The Ad Hoc Subcommittee will address the topic of further ACRS review of pending applications for operating licenses as a result of the accident, and specifically, the Salem Nuclear Power Station, Unit 2 which will serve as a prototype for the near-term Westinghouse operating license stage plants to focus the discussion. Notice of this meeting was published on July 12 and 19, 1979.

**Advanced Reactors*, August 7, 1979, Washington, D.C. The Subcommittee will continue its review of matters related to NRC sponsored research on the safety of advanced reactor designs. Notice of this meeting was published July 23, 1979.

**Regulatory Activities*, August 8, 1979, Washington, D.C. The Subcommittee will review proposed regulatory guides and revisions to existing regulatory guides; also, it may discuss pertinent activities which affect the current licensing process and/or reactor operation. Notice of this meeting was published July 24, 1979.

**Three Mile Island, Unit 2 Accident—Implications Re Nuclear Power Plant Design*, August 8, 1979 (Afternoon), Washington, D.C. The Ad Hoc

Subcommittee will discuss implications of the accident, including the underlying causes contributing to it. Notice of this meeting was published July 24, 1979.

**Fluid Dynamics*, August 16-17, 1979, San Francisco, CA. The Subcommittee will review the status of the Mark I and II Boiling-Water Reactor Containment Programs.

**Combination of Dynamic Loads*, August 22, 1979, San Francisco, CA. The Ad Hoc subcommittee will review the topic of combination of dynamic loads on structures, components, and systems.

**Emergency Core Cooling System*, August 27-28, 1979, Idaho Falls, ID. The Subcommittee will review NRC Research Programs on LOFT, Semiscale, BEACON, and RELAP.

**Waste Management*, August 28-29, 1979 (Tentative), Washington, D.C. The Subcommittee will review NRC Waste Management Research Programs in terms of their goals, budgets, and priorities.

ACRS Full Committee Meetings

August 9-11, 1979.—A. *Evaluation of Licensee Event Reports.

B. *Review of proposed operation of Westinghouse reactors of the Salem Nuclear Generating Station, Unit 2 class.

C. *Three Mile Island Nuclear Station, Unit 2 Accident—Review of underlying causes contributing to, and implications of, the accident.

D. *La Crosse Boiling-Water Reactor—Evaluation.

E. *Pipe cracking in Boiling-Water Reactors.

F. *Resolution of Anticipated Transients Without Scram (ATWS) and generic matters related to Light-Water Reactors.

G. *Discussion of a modified basis for development of emergency plans in support of light-water nuclear power plants (NUREG-0396).

September 6-8, 1979. Agenda to be announced.

October 4-6, 1979. Agenda to be announced.

Dated: July 23, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-23026 Filed 7-25-79; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a proposed revision to a guide in its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been

developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft, temporarily identified by its task number, RS 901-5, is proposed Revision 1 to Regulatory Guide 1.58 and is entitled "Qualification of Nuclear Power Plant Inspection, Examination, and Testing Personnel." It describes methods for the qualification of inspection, examination, and testing personnel for all types of nuclear power plants. The proposed guide will endorse ANSI N45.2.6-1978, "Qualifications of Inspection, Examination, and Testing Personnel for Nuclear Power Plants."

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review, have not been reviewed by the NRC Regulatory Requirements Review Committee, and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington D.C. 20555, Attention: Docketing and Service Branch, by September 28, 1979.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides or the latest revision of published guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides or draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document

Control. a Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 19th day of July, 1979.

For The Nuclear Regulatory Commission.

Guy A. Arlotto,

Director, Division of Engineering Standards, Office of Standards Development.

[FR Doc. 79-23029 Filed 7-25-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-382]

Negative Declaration Supporting Extension of Construction Permit No. CPPR-103; Expiration Date for the Waterford Steam Electric Station, Unit No. 3

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the Louisiana Power and Light Company's (permittee) request to extend the latest construction completion date of the construction permit for the Waterford Steam Electric Station, Unit No. 3, (CPPR-103) which is located in St. Charles Parish, Louisiana. The permittee has requested that the earliest and latest dates for completion of construction of the Waterford plant be extended from June 1, 1978, and December 31, 1979, to August 1, 1980, and August 1, 1982.

The Commission's Division of Site Safety and Environmental Analysis (staff) has prepared an environmental impact appraisal relative to this change to CPPR-103. Based upon this appraisal, the staff concluded that an environmental impact statement for this particular action is not warranted because, pursuant to the Commission's regulations in 10 CFR Part 51 and the Council on Environmental Quality's Guidelines, 40 CFR 1500.6, the Commission has determined that this change to the construction permit is not a major Federal action significantly affecting the human environment.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Local Public Document Room established for the Waterford Steam Electric Station Unit 3 in the University of New Orleans Library, Louisiana Collection Lakefront, New Orleans, Louisiana 70122.

Dated at Bethesda, Maryland, this 19th day of July, 1979.

For The Nuclear Regulatory Commission.
Ronald L. Ballard,
Chief, Environmental Projects Branch 1,
Division of Site Safety and Environmental
Analysis.

[FR Doc. 79-23028 Filed 7-25-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-382]

Louisiana Power & Light Co., Waterford Steam Electric Station, Unit No. 3; Order Extending Construction Completion Date

Louisiana Power & Light Company is the holder of Construction Permit No. CPPR-103 issued by the Atomic Energy Commission on November 14, 1974, for the construction of the Waterford Steam Electric Station, Unit No. 3 presently under construction at the company's site in St. Charles Parish, Louisiana. By letter dated June 23, 1977, Louisiana Power and Light Company filed a request for an extension of the latest construction completion date for the facility from December 31, 1979, to August 1, 1982. In response to our letter dated February 23, 1978, the applicant filed additional information on September 5, 1978, to justify the request. The extension was requested because construction has been delayed due to (1) delay in receipt of the construction permit due primarily to the antitrust review; (2) engineering development; (3) additional quality assurance requirements; (4) lower than expected productivity of construction subcontractors; and (5) temporary reductions in construction work force.

This action involves no significant hazards consideration; good cause has been shown for the delay; and the extension is for a reasonable period the bases for which are set forth in the staff evaluation dated July 19, 1979. The preparation of an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the Order other than that which has already been predicted and described in the Commission's Final Environmental Statement for the Waterford Steam Electric Station, Unit No. 3 published in March 1973 and the Draft Environmental Statement published in October 1972. A Negative Declaration and an Environmental Impact Appraisal have been prepared and are available, as are the above stated documents, for public inspection at the Commission's Public Document Room, 1717 H Street, N.W.,

¹ Effective January 20, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and permits in effect on that day continued under the authority of the Nuclear Regulatory Commission.

Washington, D.C. 20555 and at the local public document room established for the Waterford Steam Electric Station, Unit No. 3 in the University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

It is hereby ordered that the latest completion date for CPPR-103 be extended from December 31, 1979, to June 1, 1982.

Date of Issuance: July 19, 1979.

For the Nuclear Regulatory Commission.

D. B. Vassallo,

Acting Director, Division of Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 79-23027 Filed 7-25-79; 8:45 am]

BILLING CODE 7590-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 79-30]

Special Investigation Report, Safety Recommendations and Responses; Availability

Special Investigation Report

Standardized Maps for Hazardous Materials Accidents (NTSB-HZM-79-1).—Problems reported by emergency response personnel in developing preemergency plans and making tactical decisions during hazardous materials transportation emergencies prompted the National Transportation Safety Board to conduct this special investigation. The investigation disclosed a need to improve methods for predicting the expected behavior of hazardous materials in emergencies, for both preplanning and tactical uses, and existing information sources were found to be inadequate for these purposes.

A method to improve the recording of hazardous materials behavior in accident investigations that will improve preplanning and tactical decisionmaking for hazardous materials emergencies was identified and has been adopted as a tentative accident reporting standard by the Safety Board for accidents involving hazardous materials. Using standard-scale maps developed by the U.S. Geological Survey, the Safety Board will overlay on these maps accident gas clouds, flying fragments from explosions, and burn patterns from fireballs. The resulting plots are intended to help emergency personnel with planning as well as the actual location of police and evacuation lines during future hazardous materials emergencies.

The Safety Board will use the maps to chart the scenes of appropriate hazardous materials accidents which it investigates in the future. The Board also invited each of 17 government and industry agencies and organizations to use the new maps and to share its own accident scene maps with others. Copies of the special investigation report are now available to the public.

Safety Recommendation Letters

Aviation

A-79-58 and 59.—Last March 3, Rocky Mountain Airways Flight 726, a DeHavilland DASH 7, N27RM, landed at Stapleton International Airport, Denver, Colo., with the nose landing gear retracting. As a result, the lower forward nose section was damaged slightly, but the three crewmembers and 49 passengers aboard were not injured. The Safety Board's investigation of this incident revealed that accumulated ice in the nose wheel well had caused the gear doors to freeze shut and prevented the nose gear from extending. Investigation also disclosed possible inadequacies in the design of the DASH 7's nose gear system and in the emergency procedures section of the DASH 7 flight manual. The ice and slush accumulation in the nose wheel well came from snow and slush covered taxiways and runways at airports where the aircraft had operated earlier in the day.

As a result of its investigation of this incident, the Safety Board believes that the Federal Aviation Administration should take action to preclude the possibility of similar failures. Accordingly, on July 19, the Safety Board recommended that the FAA:

Issue an Airworthiness Directive to require that sequencing nose gear doors be installed on all DASH 7 aircraft and to require that the sequencing nose gear door systems be operational for all flights during which ice or snow could accumulate in the nose wheel well. (A-79-58)

Review and revise as necessary the aircraft emergency procedures section of the DASH 7 flight manual to include information on use of the emergency cabin pressurization outflow valve to divert warm cockpit air to the nose gear wheel when icing is suspected. (A-79-59)

Each of these recommendations is designated "Class I—Urgent Action."

A-79-60.—Last December 4 Rocky Mountain Airways, Inc., Flight 217, a DeHavilland DHC-6, crashed on a mountain about 8 nmi east-northeast of Steamboat Springs, Colo. According to an official FAA interpretation of 14 CFR 135.159 (new 135.165), the airplane was not properly equipped with navigation

equipment. The official interpretation of the regulation had been provided at the Safety Board's request during the Board's earlier investigation of an accident involving a DeHavilland DHC-6-200, operating as Alaska Aeronautical Industries, Inc., Flight 302, on September 6, 1977. In this earlier case the airplane was also improperly equipped with navigation equipment.

Although the lack of proper equipment did not contribute to the cause of either accident, the Safety Board is concerned about this recurring noncompliance with the requirements for suitable navigation equipment. Evidently, FAA inspectors responsible for the surveillance of 14 CFR Part 135 operators are not uniformly assuring compliance with the regulation. Accordingly, on July 17 the Safety Board recommended that FAA:

Issue an operations bulletin directing all operations inspectors who are responsible for the surveillance of 14 CFR Part 135 operators to assure that 14 CFR 135.159 (new 14 CFR 135.165) is complied with uniformly in accordance with the official legal interpretation of this regulation by the FAA. (Class II, Priority Action) (A-79-60)

Pipeline

P-79-14 through 19.—In view of the potential for a major catastrophe, six "Class I—Urgent Action" recommendations were issued by the Safety Board on July 13 as a result of the Board's preliminary findings concerning two oil spills which occurred last month on the Trans Alaska Pipeline System (TAPS). These leaks were observed on June 10 and June 15, located at TAPS mileposts 166 and 734, respectively. The first spill was spotted on the surface of the Atigun River 166 miles south of the pipeline terminal at Prudhoe Bay, Alaska. The second spill was spotted north of pump station No. 12 near the Little Tonsina River.

Both spills occurred in pipeline sections buried in ground considered to be bedrock or thaw—stabilized earth and, therefore, were not insulated. Temporary repairs were made at both leaks; these leaks were at wrinkles in the pipe that probably could have been detected by a curvature monitoring pig that was to be developed as part of an operational agreement between Alyeska Pipeline Service Company, the operating company, and the U.S. Government oversight agency, the Department of the Interior.

One of the operating requirements of the agreement called for the development and use of a curvature monitoring program to detect, record, and analyze aberrations in the vertical and horizontal curvature of the pipe at

critical locations along the pipeline. Alyeska developed a "super-pig" to run through the pipe to perform this measurement requirement. Curvature monitoring runs were to be completed periodically according to the agreement. The pipeline has been carrying oil since June 1977. Baseline data definition was completed for the super-pig in May 1978. A confirmation run to authenticate the baseline was completed last December, but no monitoring runs have yet been undertaken. The confirmation run showed no significant curvature differences when compared to the baseline.

In order to maintain proper surveillance, the Safety Board believes that Alyeska should be performing these monitoring activities regularly, at least quarterly, before and after each freeze/thaw cycle. The wrinkles in the pipe near each of the leaks probably could have been detected by the monitoring system if it had been operational. The next run of the super-pig is scheduled for July 1979. Based on the past performance of Alyeska in following through on curvature monitoring runs, the Safety Board is concerned about possible delay in completing the scheduled run.

Accordingly, the Safety Board has recommended that the U.S. Department of the Interior:

Enforce the operational requirements of the agreement between Alyeska and Interior, especially those related to system integrity surveillance. (P-79-14)

Monitor the Alyeska reevaluation of ground stabilization in all areas where the pipeline is buried without insulation in bedrock or ground considered to be thaw stabilized. (P-79-15)

In a separate letter, also forwarded July 13, the Safety Board recommended that Alyeska Pipeline Service Company:

Complete the scheduled run of the curvature monitoring device expeditiously to determine other locations with abnormal buckles or bends. (P-79-16)

Develop and implement an inspection program adequate to detect curvature aberrations. Inspections should be completed at least quarterly. (P-79-17)

Reevaluate the ground stabilization in all areas where the pipeline is buried without insulation in bedrock or ground considered to be thaw stabilized. Take corrective action where ground movement has occurred due to thawing. (P-79-18)

Fabricate a variety of special split-sleeve repair clamps large enough to encompass pipe wrinkles similar to those encountered in the latest failures. These repair sleeves should be stored to provide for rapid disposition to leak sites. (P-79-19)

Also on July 13 the Board informed the Secretary, U.S. Department of Energy, of

its recommendations to Alyeska and Interior and noted that implications of a long-term shutdown of TAPS are staggering. TAPS now provides 1.2 million barrels of crude oil per day, with an ultimate capacity of 2.0 million barrels per day, and the current throughput represents approximately 7 percent of the daily crude oil requirement of the United States. The operating and procedural deficiencies observed over the past 2 years have made the Board sensitive to the potential for destruction of life and property along the 800-mile pipeline system. Two pump station spills occurred in the summer of 1977, one of which resulted in an explosion in which a pump station was destroyed and one person was killed.

Responses to Safety Recommendations

Aviation

A-73-41.—The Federal Aviation Administration on July 13 informed the Safety Board of action taken to implement this recommendation, developed as a result of Board investigation of three 1972 accidents—one involving a United Air Lines Boeing 737 at Midway Airport, Chicago, Ill.; another involving a North Central Airlines DC-9 at O'Hare International Airport, also at Chicago; and the third involving an Eastern Air Lines Lockheed L-1011 at Miami, Fla. The recommendation asked FAA to amend 14 CFR 25.812 to require provisions for the stowage of a portable, high-intensity light at cabin attendant stations and to amend 14 CFR 121.310 to require such portable, high-intensity lights at cabin attendant stations.

FAA's July 16, 1973, letter advised that a regulatory project would be initiated. FAA now advises that the Airworthiness Review Program Amendment No. 7 was published on October 30, 1978. The proposal to add a new paragraph 25.812(1) was withdrawn and paragraph 121.310(1) was revised to require flashlight stowage provisions that are readily accessible from each cabin attendant seat.

A-76-122, 124, 125, 126, 127, and 128.—FAA's July 16 letter responds to the Safety Board's comments of May 23 concerning FAA's response of December 29, 1978 (44 FR 2440, January 11, 1979). The recommendations emanated from the Safety Board's special study, "Flightcrew Coordination Procedures in Air Carrier Instrument Landing System Approach Accidents" (NTSB-AAS-76-5).

The Safety Board on May 23 advised that recommendations A-76-122 and A-

76-127 have been classified as "Closed—Acceptable Action," and the Secretary, Department of Transportation, was so advised by a letter from the Board forwarded July 5, 1977. A copy of this correspondence was forwarded to FAA.

With reference to A-76-124, A-76-125, and A-76-126, the Safety Board does not believe the contents of FAA Notice 8430.277 are totally responsive. Specific to recommendation A-76-124, the procedures requiring the pilot not flying to monitor the flight instruments are generally satisfactory. However, the May 23 letter points out, neither the revised manual nor the notice requires that those flightcrew procedures which involve a transfer or exchange of visual scanning responsibilities specify that the appropriate crewmember announce that he is relinquishing previously assigned duties or responsibilities; the Board continues to believe that more specificity in this regard is essential. In response, FAA says it believes the altitude callouts, as outlined in Order 8430.6B, are adequate and the need is for strict adherence. To incorporate more specificity in regard to changes of responsibility for instrument scan versus visual scan, a new subparagraph (g) will be added to paragraph 1435. This addition will require principal operations inspectors to insure that assigned air carrier training programs include a procedure which clearly describes how the pilot who is changing scanning responsibilities will alert the other flightcrew members of the change. FAA's July 16 letter states that a specific instruction will be added to insure that procedures will require one pilot to monitor instruments for rates of descent and airspeed all the way to roundout so as to prevent the "duck under" tendency which may occur in marginal visibility. The completion date is estimated to be August 31.

Recommendation A-76-125 was concerned with limiting sighting callouts to those visual cues associated with the runway environment. The Safety Board on May 23 said that Handbook 8430.6B does not make a positive statement that limits sighting callouts and additional comments in 8430.6B, Page 875(g)2, or Page 876(h)1 are needed. In response, FAA believes, as stated in Notice 8430.277, strict adherence to recommended callout procedures should suffice. To add emphasis to this, FAA is going to add rationale for not making other than the standardized callouts. This will be added as another note after subparagraph (f) in paragraph 1435 of Order 840.6B, completion date estimated to be August 31.

The Safety Board said, with reference to recommendation A-76-126 which called for standard altitude callouts to be used on all approaches and under all conditions, that although Handbook 8430.6B contains only one callout procedure to be used during an approach, it does not specify that such procedures should be the same for both visual meteorological conditions and instrument meteorological conditions. Since the Board is aware that flight manuals do, in fact, contain different approach procedures for visual flight rules than for instrument flight rules, the Board said on May 23 that the intent of its recommendation is not fulfilled by the provisions of the Handbook. In response, FAA notes that only one callout procedure is presently listed in Order 8430.6B. However, it is designed for use on instrument approaches. Since the rates of descent, altitude, and airspeed callouts are also applicable to all approaches to landings, instructions will be added to emphasize that the applicable callouts will be made on VFR approaches also. Completion date is estimated for August 31.

In a separate letter dated March 23 commenting on FAA's February 5 response regarding recommendation A-76-128 (44 FR 18750, March 29, 1979), the Safety Board was pleased to note that Federal Aviation Regulations § 121.417(b)(4) has been issued to require a review and discussion of previous aircraft accidents and incidents pertaining to actual emergency situations. The Board advised that the status of this recommendation is now classified as "Closed—Acceptable Action."

Highway

H-78-1 through 4.—The Federal Highway Administration on July 16 provided a further response to H-78-2, one of four recommendations issued to FHWA following Safety Board investigation of the collision of the S.S. MARINE FLORIDIAN with the Benjamin Harrison Bridge at Hopewell, Va., February 24, 1977. The recommendation asked FHWA to work with the U.S. Coast Guard to develop specifications for design, and issue guidelines for placement of dolphins, fenders, and other energy absorption and/or vessel redirection devices for protecting both bridge and vessel during an accidental impact.

FHWA's interim response of last September 20 (see 43 FR 47018, October 12, 1978) indicated that a research study was underway and that results should be available soon. Accompanying FHWA's July 16 letter is a copy of the

report, "The State of the Art Bridge Protective Systems and Devices," which resulted from a research contract sponsored by the Coast Guard. FHWA reports that Coast Guard is currently entering into a contract with a consultant to prepare guidelines and specifications for energy absorption systems such as fenders and dolphins. This follow-on study is scheduled for completion in mid-1980.

The Safety Board last December 12 acknowledged FHWA's response letters of September 20 and September 22 regarding H-78-2 and the other recommendations, H-78-1, 3, and 4. In connection with the latter recommendations, the Safety Board indicated that the actions taken by FHWA are satisfactory. Referring to H-78-1, the Board said that its intent in forwarding the recommendation was to have FHWA identify the problem of traffic control on movable bridges and pier protection from vessels passing the structure. The Board agreed that FHWA's acceptance of the existence of the problem precludes the need for a costly study and advised that this recommendation has been closed—reconsidered by the Board. Recommendations H-78-3 and 4 will be kept open pending completion of the handbook, Manual on Traffic Control Devices, and notification of the Federal-Aid Highway Program Manual and publication of the technical advisory on surveillance and control.

Note.—Single copies of the Safety Board's accident reports are available without charge, as long as limited supplies last. Copies of recommendation letters issued by the Board, response letters and related correspondence are also available free of charge. All requests for copies must be in writing, identified by report or recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)))

Margaret L. Fisher,

Federal Register Liaison Officer.

July 23, 1979.

[FR Doc. 79-23085 Filed 7-25-79; 8:45 am]

BILLING CODE 4910-58-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

July 23, 1979.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out; Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear

under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Donald W. Barrowman—447-6202

New Forms

Economics, Statistics, and Cooperatives Service

Western Corn Belt Retail Fertilizer Market Survey

Single Time

Sample of Fertilizer Retailers—180 responses; 180 hours

Charles A. Ellett, 395-5080

Science and Education Administration
Organic Farming Study
SEA-644

Single Time

Organic Farmers—40 responses; 80 hours

Charles A. Ellett, 395-5080

Revisions

Economics, Statistics, and Cooperatives Service

*Potato Price Inquiries

Other (see SF-83)

Potato Growers and Shippers—4,100 responses; 1,025 hours

Charles A. Ellett, 395-5080

Economics, Statistics, and Cooperatives Service

*Prices Received by Farmers

Monthly

Buyer, Sellers of Farm Products—59,148 responses; 6,903 hours

Charles A. Ellett, 395-5080

Food Safety and Quality Service

*Regulations Governing the Voluntary Inspection and Grading of Egg Products

7 CFR 2855

On Occasion

Egg Products Processors—1,930 responses; 245 hours

Charles A. Ellett, 395-5080

Reinstatements

Agricultural marketing Service

*Regulations (other than rules of practice) and Related Forms Under PACA

7 CFR 46; FV 211, 211A, & FV 232

On Occasion

Comm. Merchants, Dealers, Brokers
Con. Bus. Sub. to PACA—19,800 responses; 5,383 hours

Charles A. Ellett, 395-5080

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michaels—377-4217

New Forms

Bureau of the Census

1979 Farm and Ranch Irrigation Survey
79-A62

Single Time

Farm & Ranch Irrigators—24,000

responses; 17,280 hours

Office of Federal Statistical Policy & Standard, 673-7974

Industry and Trade Administration
Steel mill products shipments—1978

ITA-9030

Single time

Steel producers—200 responses; 200 hours

Off. of Federal Statistical Policy & Standard, 673-7974

Revisions

Bureau of the Census

*School enrollment supplement—
October 1979 CPS

CPS-1

Annually

66,000 households in CPS sample—
66,000 responses; 8,800 hours

Off. of Federal Statistical Policy & Standard, 673-7974

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—697-1195

Extensions

Departmental and other

*Youth attitude tracking study

Semi-annually

16-21 year old, male civilians—10,400 responses; 5,200 hours

David P. Caywood, 395-6140

Reinstatements

Departmental and other

Reserve component attitude study
Single time

Description not furnished by agency—
4,500 responses; 2,250 hours

David P. Caywood, 395-6140

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—252-5214

New Forms

Underground coal mining productivity survey form;

Surface coal mining productivity survey form

ET407A & 407B

Single time

Coal mine employees—120 responses; 2,880 hours

Jefferson B. Hill, 395-5867

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Peter Gness—245-7488

New Forms

Center for Disease Control

Attitudes and practices of private physicians related to influenza immunization

Single time

Private physicians—1,000 responses; 500 hours

Off. of Federal Statistical Policy & Standard, 673-7974

National Institutes of Health

Hanes I follow-up feasibility study
Single time

Follow back interview of persons in
Hanes I pretest—560 responses; 64 hours

Off. of Federal Statistical Policy & Standard, 673-7974

Revisions

Office of the Secretary

Income survey development program
1979 research panel (Wave 4)

OS-15-79

Quarterly

Household members in national probability sample—81,613 responses; 30,062 hours

Off. of Federal Statistical Policy & Standard, 673-7974

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—John T. Murphy—755-5190

New Forms

Community planning and development
Targeted jobs demonstration program

pre-application and application
Single time

All units of general local government—
215 responses; 1,160 hours

Budget review division, 395-4775

Policy development and research

Tenant survey
Single time
Public housing tenants—1,125 responses;
732 hours
Arnold Strasser, 395-5080

DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—William L. Carpenter—343-6716

New Forms

National Park Service
Visual air quality rating form
Single time
Park visitors—1,000 responses; 500 hours
Charles A. Ellett, 395-5080

DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M. Oliver—523-6341

New Forms

Employment and Training
Administration
Employment service counseling process
survey MT-1072
Single time
Employees of Employment Security
Office—3,600 responses; 1,200 hours
Arnold Strasser, 395-5080
Employment and Training
Administration
Evaluation of the ES Job Information
Service (JIS) MT-1073
Single time
Employment Security Offices in the
U.S.—2,400 responses; 1,608 hours
Arnold Strasser, 395-5080

NATIONAL ENDOWMENT FOR THE HUMANITIES

Agency Clearance Officer—Victor Loughnan—724-0308

New Forms

Summer stipend application and card
Annually
College professors—1,600 responses;
1,600 hours
Laverne V. Collins, 395-3214

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—John J. Stanton—245-3064

New Forms

Training survey of State hazardous
waste program
Personnel
Single time
State agency official—100 responses; 50 hours
Edward H. Clarke, 395-5867

UNITED STATES INTERNATIONAL TRADE COMMISSION

Agency Clearance Officer—Charles Ervin—523-0267

New Forms

Producers' questionnaire
Single time
All producers of ammonia—70 responses; 560 hours
Susan B. Geiger, 395-5867
David R. Lenthold,
Acting Deputy Associate Director for
Regulatory Policy and Reports Management.

(FR Doc. 79-23108 Filed 7-25-79; 8:45 am)

BILLING CODE 3110-01-M

POSTAL RATE COMMISSION

[Docket No. MC78-3]

Electronic Mail Classification Proposal, 1978; Inquiry Regarding Administration Policy Statement

Issued: July 23, 1979.

On July 19, 1979, President Carter issued a statement outlining the Administration's policy position on the role of the United States Postal Service in electronic mail.¹ The statement notes that the position it embodies results from a study to which the Departments of Commerce (particularly its National Telecommunications and Information Administration), Justice, Agriculture, State, and Labor, the National Aeronautics and Space Administration, the Postal Service, the Council of Economic Advisors, the Council on Wage and Price Stability, the Office of Management and Budget, and the White House Domestic Policy Staff all contributed. The regulatory agencies having jurisdiction related to the issues studied—the Federal Communications Commission and this Commission—did not participate.

It is clear from the policy statement itself that it is not intended to bear directly on the specific questions arising in this proceeding; and it is, of course, not part of the hearing record on which we must decide this case. In and of itself, the policy statement is not a document on which we can rely for the purposes of making the findings required by sections 3622 and 3623 of the Act.

We observe, however, that the policy statement sets forth certain terms and conditions on which the Administration approves Postal Service participation in electronic mail service, and that "[t]hese conditions have been accepted by Postmaster General William F. Bolger." Statement, p. 1.

¹ A copy of the statement as received at the Commission's offices is attached as Appendix A.

Under these circumstances, it is obvious that the Postal Service's future planning environment is likely to be influenced significantly by the statement. More immediately important is the question whether the Postal Service's E-COM proposal currently before us is consistent with the Administration policy position to which the Postmaster General has acceded. If the policy statement has suggested to the Service any amendments or modifications to its proposal, or any material change in the future direction of its planning for electronic mail which is relevant to the issues in the proceeding and bears on the record material so far assembled, it is obviously important for the Commission to be aware of that fact.

Similarly, the OOC's proposal, advanced through the testimony of witnesses Sirbu and Vezza, also has potential implications for the future development of an electronic mail system. While the OOC, unlike the Service, has neither participated in the formulation of the policy statement nor taken any public position on its terms, a similar evaluation of his proposal in terms of comparison with the Administration statement would be valuable.

Finally, we note that two other agencies of the Federal government—the Department of Justice and NTIA—were contributors to the policy statement and are also participants in the present docket. The insights which these agencies may have into the implications of the policy statement may, to the extent they relate to the present decisional record, be of considerable assistance to the Commission in deciding this case on that record.

We mention these participants in particular because of the obvious special relationship that one or more aspects of their participation in this docket has to the Administration policy declaration. It is not our intent to suggest that contributions from any other participant in the case are not welcome. We therefore invite all participants to submit legal and policy memoranda stating their views on the application of the record evidence in this case to the concerns expressed by the Administration, so far as the latter affect the issue herein.

In requesting the parties to address these matters, we reiterate that we are required, and intend, to decide this proceeding in accordance with the standards of § 3624—that is, on the evidentiary record alone. Consequently, we emphasize that the legal and policy memoranda we invite should be keyed

as specifically as possible to the record. Abstract discussion of points in the Administration statement is unlikely to be of material assistance in arriving at a decision if it cannot be related to evidence of record. With that proviso, we are prepared to permit broad latitude in the issues to be discussed. While it is our common practice in issuing Notices of Inquiry to frame at least some of the issues to be addressed, we believe the breadth of the present subject is such that more comprehensive and useful responses will result if we do not attempt, at this stage, to channel the discussion very strictly. In addition, of course, the statement itself suggests a number of significant areas, such as competition, system configuration and ownership, timing, and other matters specifically mentioned therein.

The Commission orders: (A) All participants in this docket are invited to file legal and policy memoranda regarding the relationship of any matters dealt with in the Administration's July 19, 1979, policy statement on electronic mail to the issues and the record in this case, on or before August 13, 1979.

(B) Reply memoranda shall be filed on or before August 20, 1979.

By the Commission.

David F. Harris,
Secretary.

Appendix A

President Carter today announced the Administration's position on the role of the U.S. Postal Service in electronic mail. The President declared his support for new services proposed by USPS, which will use long distance telecommunications systems to feed messages into the normal mailstream for delivery by postal carriers. At the same time he concluded the USPS should be prohibited from offering end-to-end electronic services.

The services favored by the President will provide faster mail delivery while reducing costs. Mr. Carter's endorsement carries with it eight conditions which will ensure that all forms of electronic communications will be open to full and fair competition. These conditions have been accepted by Postmaster General William F. Bolger.

1. The Administration opposes any legislative or regulatory efforts to restrict competition or entry in the electronic message field. In particular, it opposes any extension of the private express statutes beyond letter mail to cover electronic transmission.

2. USPS electronic operations should not be subsidized by tax money or by revenues from other USPS services.

3. The USPS electronic service should be established as a separate entity for accounting and ratemaking purposes to ensure that it is operated in a competitive fashion and to avoid the cross-subsidization of electronic service by regular mail services.

4. The USPS should make its delivery services available to all electronic carriers at the same rates as those it charges itself.

5. The USPS electronic service will be reviewed within the next five years, before the major investment is made, to evaluate its competitive impact and its potential to improve postal services and to ensure that no cross-subsidies or other anticompetitive actions are involved.

6. The USPS should purchase electronic transmission services from carriers rather than building a transmission network.

7. To ensure that interconnection with the mail delivery system is available to all companies, technical interconnection standards should be developed through a cooperative effort by the American National Standards Institute, the USPS, the private carriers, and an impartial arbiter, if needed.

8. The existing regulatory system should be used to regulate the prices of the new services; i.e., the Federal Communications Commission should regulate the pricing of the electronic transmission portion of the electronic message service and the Postal Rate Commission should regulate the pricing of mail delivery. This regulatory system should be reexamined after five years to determine whether any statutory change is needed.

Background

Postal Service use of electronic technology may be seen as a natural evolution of the national postal system which has traditionally taken advantage of new ways of moving the mail as they have become available (stage coach, railroad, trucks, airplanes). On the other hand, it may be seen as the entry of a Government agency into the field of Electronic Message Services (EMS). Although both postal and electronic communications services are provided by the government in most of the developed world, (usually by a PTT—Postal Telephone and Telegraph ministry) this country's electronic communications have been provided by the private sector.

One prospective use by USPS of electronic technology involves a current case before the Postal Rate Commission (PRC) and the Federal Communications Commission (FCC). Under the proposed service, Electronic Computer Originated Mail (ECOM), the Postal Service would solicit and accept electronic data stored in computer files (such as monthly billing information) transmit it electronically around the country (via contracted common carrier), generate the appropriate messages, print them on paper and automatically stuff them into envelopes for the first manual sorting at a post office near the local mail carrier for delivery. The USPS believes it can reduce substantially the handling, labor, and transportation costs that would be associated with regular letter mail and further states that it is required to pass these savings on to the mailer. USPS expects the average price of each electronic message would eventually be 9¢ or 10¢ (1979 dollars) in the 1985-95 period, when a follow-on system called EMSS (Electronic Message Service System) would be established.

The President concluded that it was neither feasible nor desirable for the Postal Service to acquire a monopoly over electronic input and transmission of any proposed offering. Common carriers in that area are regulated under the Communications Act of 1934 by the FCC, whose policy for the past decade has been to stimulate competitive entry. The electronic message industry is increasingly competitive.

The President also concluded that as long as physical delivery through the mails exists as a primary means of communications to a large segment of the population, the USPS should take advantage of electronic communications to improve its service. However, he proposed that the USPS establish an interconnection policy to facilitate electronic message service by private companies to feed into the mail service.

Terminology

General knowledge of the terminology used to distinguish the groupings of electronic services is helpful to understand the extent and limits of the Administration's endorsement.

Generation I. USPS or electronic carriers accept messages in hard copy form which are converted to electronic impulses for electronic transmission to the destination facility where the messages are reconstructed in hard copy form for subsequent processing, sorting and physical delivery by carriers. (Example: A postal facsimile system with physical delivery by postal carriers.)

—Input—hard copy
—Output—hard copy with physical delivery by USPS

Generation II. USPS or electronic carriers accept messages in electronic form for subsequent electronic routing, processing, sorting and electronic transmission to destination facility where hard copy generation of mail would take place for physical distribution and final delivery by carriers. (Examples: E-COM Generation II and EMSS services as contemplated by USPS.)

—Input—electronic
—Output—hard copy with physical delivery by USPS

Note.—USPS EMSS services contemplate multi-media message input, i.e., hard copy, magnetic tape, and electronic, a combination of Generations I and II.

Generation III. Electronic carrier accepts messages in electronic form for subsequent electronic routing, processing, sorting and electronic transmission to recipient's place of business or residence where a hard copy may or may not be produced. USPS has no plan to provide this service. (Example: Private firms now have such services oriented toward business, and several are testing such services for message display on the home television set.)

—Input—electronic
—Output—electronic at customer terminal

The Administration's support of USPS entry into Generations I and II is based upon a number of considerations. Among the most important are the following:

1. *Productivity and Efficiency.* The national interest requires a Postal Service which can serve all Americans and interface with the world's postal services efficiently and economically. The Service has progressively achieved productivity improvements by mechanization and automation in processing conventional mail. Since the creation of the USPS in 1971, its mail volume has increased 13 percent (from 87 billion pieces in 1971 to nearly 97 billion pieces in 1978) while its manpower has decreased 11 percent (from 730,000 workers to 660,000). But the future potential in these areas is closing in. A postal EMS is the logical next step to achieve further cost reduction and mail processing improvements. It allows USPS to improve efficiency and economy of mail service by continuing to use technological advances to increase productivity, speed and dependability of services.

2. *Postal Tradition.* EMS Generations I and II are in complete consonance with the USPS historic mission and function. They are clearly distinguishable from the generation III end-to-end communications services which the private sector telecommunications carriers provide.

3. *Universal Nationwide Coverage.* USPS Generations I and II concepts adhere to the social and business practices of the mailing public in order to meet the marked needs of households, small and large businesses, rural and urban areas. The major businesses using private telecommunications carriers to interconnect their own plants and offices will need a USPS Generation II, as well as the conventional mail system, to deliver mail throughout the country.

4. *International Electronic Mail.* "Intelpost," is an experimental international service that is scheduled to be provided by the USPS beginning this year. USPS has agreed to arrangements with the postal administrations of several other nations: The United Kingdom, France, Federal Republic of Germany, Belgium, Netherlands, Argentina and Iran. Seven countries have already shown strong interest in participating: Canada, Mexico, Switzerland, Japan, Sweden, Australia and the Peoples Republic of China. The Administration believes it to be in the national interest to go forward with the experiment in order to determine if a genuine market need exists for the service.

The President's decision follows a six-month study coordinated by Domestic Policy Advisor Stuart Eizenstat. These agencies participated in the study: Commerce; Justice; Agriculture; State; Labor; Treasury; NASA; the Postal Service; Council of Economic Advisors; Council on Wage and Price Stability; the Office of Management and Budget; and the Domestic Policy Staff. Primary agency support came from the Commerce Department's National Telecommunications and Information Administration.

[FR Doc. 79-23118 Filed 7-25-79; 8:45 am]

BILLING CODE 7715-01-M

PRESIDENT'S COMMISSION ON THE ACCIDENT AT THREE MILE ISLAND

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following meetings:

Name: President's Commission on the Accident at Three Mile Island.
Place: Washington, D.C., Georgetown University, Hall of Nations, The Edmund Walsh Building (36th Street, NW., between N and Prospect Streets, NW.).
Time: Thursday, August 2, 9:00 a.m.—6:00 p.m.; Friday, August 3, 9:00 a.m.—12 noon.
Proposed Agenda:
I. Briefing Sessions
II. Testimony of Witnesses
III. Discussion of issuance of subpoenas *ad testificandum* and *duces tecum*.

The Commission was established by Executive Order 12130 on April 11, 1979, to conduct a comprehensive study and investigation of the accident involving the nuclear power facility on Three Mile Island in Pennsylvania.

On August 1, 1979, the Commission will meet in closed session for staff briefings on the conduct and status of its investigation and on the presentation of documents and oral testimony at the public hearings. Upon completion of the receiving of testimony and any other business on August 3, 1979, the Commission will go into closed session to discuss issuance of subpoenas for subsequent meetings.

These meetings will be held pending notification and approval by GSA Administrator.

Except for these designated closed sessions, the meetings are open to the public. Inquiries should be addressed to Barbara Jorgenson (202/653-7677).

Barbara Jorgenson,
Public Information Director.
July 23, 1979.

[FR Doc. 79-23119 Filed 7-25-79; 8:45 am]

BILLING CODE 6820-AJ-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 10790; 812-4498]

Fuqua Investment Co.; Filing of Application

July 20, 1979.

In the matter of Fuqua Investment Company and J. B. Fuqua 4004 First National Bank Tower, Atlanta, Georgia 30303.

Notice is hereby given that Fuqua Investment Company ("FIC"), a Georgia corporation, and J. B. Fuqua, president, sole shareholder and director of FIC (collectively, "Applicants"), filed an application on June 18, 1979, for an order

of the Commission pursuant to Section 17(d) of the Investment Company Act of 1940 ("Act") and Rule 17d-1 thereunder permitting Applicants to carry out the terms of an agreement dated February 8, 1979, and amended April 2, 1979, ("Agreement"), settling certain litigation with S-G Securities, Inc. ("Company"), a registered closed-end, diversified, management investment company, affiliated with FIC and Fuqua by virtue of FIC's ownership of the Company's common shares. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that Fuqua, through his ownership of FIC, currently owns 600,000 Common Shares of the Company (\$.10 par value), representing 36.9% of the 1,624,795 Common Shares outstanding, and that neither FIC nor Fuqua owns any of the 660,000 outstanding \$1.70 Cumulative Preference Shares ("Preference Shares") (\$.10 par value) of the Company. The application also states that both Common Shares and Preference Shares are listed for trading on the American Stock Exchange. Applicants state that following FIC's acquisition of an aggregate of 400,000 Common Shares, through market purchases and a limited number of privately negotiated purchases occurring in August and September of 1978, the Company commenced a lawsuit in United States District Court for the District of Massachusetts ("Court") alleging, among other things, that such purchases were made in violation of certain provisions of the federal securities laws and the Massachusetts Take-Over Law, and seeking injunctive relief against Applicants. On December 19, 1978, the Court issued a preliminary injunction enjoining Applicants from acquiring additional Common Shares and voting those Common Shares acquired in market purchases, unless and until: (1) rescission was offered to each person who, directly or indirectly, sold Common Shares to FIC in the market, and (2) Applicants informed those persons of Applicants' intention to acquire control of the Company. According to FIC, the rescission offer commenced on December 28, 1978, and terminated on January 18, 1979, without any qualifying request for rescission having been presented.

Applicants state that on February 8, 1979, they entered into the Agreement with the Company which, *inter alia*, provides generally that: (1) the Company would nominate persons designated by Applicants for election as directors at

the 1979 annual meeting of stockholders of the Company ("Annual Meeting"); (2) Applicants would support the adoption at the Annual Meeting of certain amendments to the Company's Restated Certificate of Incorporation ("Charter"), summarized below, which Applicants believe provide certain protections for the Company's shareholders, particularly those holding Preference Shares; (3) Applicants' affiliates and associates would be restricted from entering into certain types of transactions with the Company; (4) Applicants and the Company would seek dismissal of the litigation; (5) Applicants would purchase from the Company an additional 200,000 Common Shares at a price 65% above the net asset value of such shares; and (6) Applicants would cause the Company (a) to invest the proceeds of the sale of 200,000 Common Shares in high grade debt securities and (b) to use the proceeds, if necessary, to pay the next eight consecutive quarterly dividends payable on Preference Shares. Applicants further state that certain of these provisions have been carried out, while others remain executory.

The application states that, among other things, the proposed Charter amendments would provide that (1) a vote of more than 50 percent of the total number of shares outstanding of each class of shares of the Company would be required to approve (a) any merger, consolidation or plan of reorganization involving the Company or (b) any transaction which would cause the Company to lose its tax qualification under Subchapter M of the Internal Revenue Code of 1954, and (2) each class of shareholders of the Company would be represented on the Board of Directors by an equal number of directors, subject to the continuing right of Preference Shareholders to elect a majority of directors in the event of an arrearage of two years in the payment of preferred dividends. The application further states that the Agreement specifies that: (1) all candidates for election as directors by the holders of Common Shares ("Common Directors") and Preference Shares ("Preference Directors") would be selected by Fuqua; (2) all candidates for election as Preference Directors must be acceptable to the Company; and (3) Fuqua would represent and warrant that none of the Preference Director candidates was an affiliate or an associate of himself or FIC.

Applicants represent, in addition to and notwithstanding their obligations under the Agreement, and in the event the order they request is granted, that

they: (1) will permit the Company to select the persons to be nominated as candidates for election as Preference Directors at the Annual Meeting, and (2) shall not seek or accept reimbursement from the Company for fees or expenses (legal or otherwise) incurred in connection with obtaining control of the Company. According to the application, two of the candidates for election as Preference Directors may be selected by the Company from among a list of five persons to be proposed by Fuqua (one of the persons so selected may be one of the two Preference Director candidates heretofore proposed by Applicants), and the third candidate for election as a Preference Director shall be N. Preston Breed, who is currently a Preference Director. Applicants represent that the Company, by letter, has agreed to the selection of candidates in this manner. Another letter, offered as an exhibit to the application, expresses the view of the Company's Board of Directors that the adoption of the amendments to the Charter, along with the other covenants agreed to by Fuqua, will provide both classes of shareholders with adequate protection in the event a transaction of major consequence is proposed by Fuqua.

According to the application, if a preponderance (which is defined as all the Common Share Directors and at least one Preference Share Director) of Fuqua's nominees are elected, Applicants expect, among other things, to review the Company's operations and financial condition and, based upon that review, to make a determination whether the Company should continue its current investment policies or adopt different investment policies, or change its structure to that of a non-diversified investment company, a holding company, or an operating company. Although Applicants state that any such change in the fundamental structure of the Company may involve a merger or similar combination with FIC or another affiliated company of Fuqua, they represent that they do not have any present intention to effect such a combination. Applicants state that if a preponderance of Fuqua's nominees are elected, Applicants will also cause the termination of the Company's counseling agreement with Liberty Investment Management Corp., and that all investment advisory services will thereafter be rendered to the Company by its own officers and employees.

Section 2(a)(3)(A) of the Act defines the term "affiliated person" of another person to include any person directly or indirectly owning, controlling, or holding with the power to vote, 5 per centum or

more of the outstanding voting securities of such other person. Accordingly, because of FIC's ownership of shares of the Company, and Fuqua's ownership of shares of FIC, it appears that FIC is an affiliated person of the Company and that Fuqua is an affiliated person of FIC. Section 17(d) of the Act and Rule 17d-1 thereunder, taken together, provide, in part, that it is unlawful for any affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, to effect any transaction in which such investment company is a joint participant, without the permission of the Commission. Rule 17d-1 provides, in part, that in passing upon applications for orders granting such permission, the Commission will consider (1) whether the participation of the investment company in such transaction on the basis proposed is consistent with the provisions, policies and purposes of the Act, and (2) the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Applicants submit that the terms of the transactions contemplated by the Agreement and the undertakings set forth herein meet the standards of Rule 17d-1 and that, accordingly, the participation of the Company in such transactions would be consistent with the provisions, policies and purposes of the Act and would not be on a basis less advantageous than that of other participants. Applicants state that the purchase by FIC, at the demand of the Company, of the 200,000 additional Common Shares was at a price of \$3.04 per share, at a time when the Common Shares were trading at a price of approximately \$2.00 per share on the American Stock Exchange and their net asset value per share was \$1.84. Accordingly, Applicants submit that the effect of this sale was to increase Fuqua's stake in the Company and to enhance the net asset value per share of the Company. Applicants assert that these effects redound to the benefit of the holders of Common Shares and Preference Shares alike, and that because the monies paid by FIC for the 200,000 Common Shares must be invested with the utmost care and used, if necessary, to pay dividends on the Preference Shares, the Agreement allocates an additional benefit to the holders of Preference Shares.

Applicants submit that in return for the Company's commitment to support the candidates named by Fuqua for election as directors of the Company, they agreed to support the proposed amendments to the Charter. Applicants

note that: (1) The litigation, which was dismissed with prejudice on February 9, 1979, did not involve a claim against FIC or Fuqua for money damages, and (2) the rescission offer ordered by the Court was made with alacrity and terminated in accordance with the terms approved by the Court.

Applicants believe that all shareholders of the Company will benefit from the Agreement through having a new management which will have a large stake in the future of the Company and which will adopt business policies to benefit shareholders. Applicants submit that the terms of the Agreement were negotiated at arm's length, and that at no time has any officer or director of the Company been a representative, nominee, affiliate or associate of Applicants. They further submit that since their intention to obtain operating control of the Company continues unabated, a denial of the order requested would, in all probability, have the anomalous result of forcing a proxy contest, with expense and detriment to both Applicants and the Company, in a situation where incumbent management and Applicants have arrived at a mutually acceptable resolution of their differences.

Notice is further given that any interested person may, not later than August 13, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issues in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-23033 Filed 7-25-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 6094; (18-45)]

Gardner, Carton & Douglas Profit Sharing Plan; Filing of Application

July 20, 1979.

Notice is hereby given that Gardner, Carton & Douglas ("Applicant"), One First National Plaza, Chicago, IL 60610, a law firm organized as a partnership under the laws of Illinois, has, on June 6, 1979, filed an application for exemption from the registration requirements of the Securities Act of 1933 (the "Act") for interests or participations in Applicant's Profit Sharing Plan (the "Plan") for its legal staff and office administrator. All interested persons are referred to this document, which is on file with the Commission, for the facts and representations contained therein, which are summarized below.

I. Introduction

The Plan covers Applicant's partners and employees engaged in the practice of law and its office administrator, all of whom must meet the Plan's eligibility requirements. As of May 15, 1979, approximately 36 partners and five associates were participants in the Plan, and one former partner was a beneficiary of the Plan. Since the Plan covers partners of Applicant who are deemed to be "employees" within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954, as amended (the "Code"), the Plan is excepted from the exemption provided by Section 3(a)(2) of the Act for interests or participations in certain employee benefit plans. Section 3(a)(2) of the Act provides, however, that the Commission may exempt from the provisions of Section 5 of the Act any interest or participation issued in connection with a pension or profit sharing plan which covers employees some or all of whom are employees within the meaning of Section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

II. Description and Administration of the Plan

The Plan is a profit sharing plan that was originally established as of January 1, 1968, and was amended and restated in its entirety as of January 1, 1976. Applicant has received confirmation from the Internal Revenue Service that the Plan qualifies under Section 401(a) of the Code. A summary of the Plan, which is subject to the reporting requirements of the Employee Retirement Income Security Act of 1974, has been delivered to each participant and each person currently receiving benefits from the Plan.

The Plan is administered by an Administrative Committee, consisting of two or more members appointed by Applicant, and a Plan Administrator, who is appointed by the Committee. This Committee has overall authority and responsibility for administration of the Plan, including interpretation of the Plan and determination of the amount, manner and time of payments of benefits.

Contributions to the Plan are made by Applicant on behalf of each participant in an amount based upon a percentage of the participant's compensation for each fiscal year. The percentage is applied uniformly to all participants up to a maximum amount allowable. Proportionate reductions in contributions may result if total contributions would exceed a certain percentage of Applicant's net income. In addition, each participant may, but is not required to, make voluntary contributions in an amount equal to a percentage of the participant's compensation up to a maximum amount allowable. With approval of the Administrative Committee, participants may withdraw voluntary contributions, but not Applicant contributions, prior to distribution.

All contributions to the Plan are made to the Gardner, Carton Profit Sharing Trust (the "Trust"), created in connection with the Plan. The trustees must maintain on their books a separate account for contributions made by Applicant on behalf of each participant and another separate account for each participant's voluntary contributions. The trustees, who are appointed by Applicant, have discretionary powers to invest all contributions in the manner they deem proper.

Applicant has the power to appoint and remove the trustees of the Trust, the Plan Administrator and the Administrative Committee. Applicant also has the power to amend the Plan and the Trust; however, no amendment

may cause any of the Plan's assets to be used or diverted for any purpose other than the exclusive benefit of the participants or their beneficiaries.

III. Discussion

Applicant submits that the primary intent of Congress when enacting Section 3(a)(2) of the Act was to prevent the sale, without registration, of interests in mass-marketed plans offered by financial institutions to self-employed persons who might not be able to protect adequately their interests and those of participating employees. Applicant maintains that if it were a corporation rather than a partnership, or if partners were not eligible to participate in the Plan, the interests and participations issued in connection with the Plan clearly would be exempt from the provisions of the Act pursuant to Section 3(a)(2) thereof. Applicant further submits that the nature of its Plan and participants is such that it falls outside the purpose of Section 3(a)(2).

Applicant states that the Plan is not a prototype or master plan marketed by a financial institution. Applicant further states that it and the participants in the Plan are engaged in providing legal services which involve financially sophisticated and complex matters. Finally, the characteristics of the Plan are essentially no different from the plans maintained by many single corporate employers for which Section 3(a)(2) provides an exemption.

Accordingly, Applicant concludes that the granting of an exemption under Section 3(a)(2) for interests or participations in the Plan is appropriate in the public interest and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than August 15, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this application, accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed to: George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following August

15, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-23032 Filed 7-25-79; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION Coast Guard

[CGD 78-135a]

Waiver of Navigation and Vessel Inspection Laws and Regulations; Suspension of Requirements for Survey, Inspections, and Measurement of M/V Lionheart

AGENCY: Coast Guard, DOT.

ACTION: Notice of extension of order.

SUMMARY: The Coast Guard has extended for four months the order suspending the provisions of law requiring survey, inspection, and measurement of the M/V *Lionheart*. The order was due to expire on June 30, 1979. As extended it will expire on October 31, 1979. The extension has been granted to allow the M/V *Lionheart* to continue in present service pending a Coast Guard evaluation for continuing the order for a further period.

DATES: The comments requested in this notice must be received on or before August 31, 1979.

ADDRESSES: All comments should be submitted to Commandant (G-CMC/81), (CGD 78-135a), U.S. Coast Guard, Washington, D.C. 20590. The comments and other materials pertaining to this notice will be available for examination and copying at the Marine Safety Council, Room 2418, 2100 Second Street, S.W., Washington, D.C. 20590 (202) 426-1477.

FOR FURTHER INFORMATION CONTACT: Commander Lloyd C. Burger, c/o Commandant (G-MV1/83) U.S. Coast Guard, Washington, D.C. 20590 (202) 426-2178.

SUPPLEMENTARY INFORMATION: As stated below, interested persons are invited to submit written comments to the Coast Guard to assist in the upcoming evaluation for continuing the current order beyond October 31, 1979. Persons submitting comments should include their names and addresses, identify this notice (CGD 78-135a) and

give reasons for the comments. Comments are desired to provide additional information upon which to base a decision. All comments received before the expiration of the comment period will be considered in the evaluation.

Drafting Information

The principal persons involved in drafting this extension order are Cdr. Lloyd C. Burger, Office of Merchant Marine Safety, and William R. Register, Office of the Chief Counsel.

Discussion

1. On October 24, 1978, the Coast Guard issued an order suspending until June 30, 1979, the provisions of law requiring survey, inspection, and measurement by officers of the United States for the foreign built vessel M/V *Lionheart*. The order included a condition that the vessel engage solely in the United States-Ecuador trade. Notice of the order was published in the Federal Register of November 2, 1978 (43 FR 51161).

2. As stated in the notice of November 2, 1978, the order was necessary because of restraints imposed by the Ecuadorian government on the shipping trade between the United States and Ecuador. Suspending the provisions of law requiring survey, inspection, and measurement allowed the vessel to be registered under United States laws following its sale to a U.S. corporation, and thus allowed its continued use in the United States-Ecuador shipping trade. Also as stated in the notice, two vessels that were scheduled to engage in the United States-Ecuador trade were currently under construction but, because of construction delays, delivery was not anticipated until March 1979. Accordingly, the order was made effective through June 30, 1979, in order to provide sufficient time for entry of those vessels into service.

3. On June 2, 1979, an application for extending the October 24, 1978 order was submitted. The applicant stated that additional construction delays have occurred in the construction of vessels scheduled to engage in the United States-Ecuador trade. The additional delays have been principally due to the closing of the shipyard that was building the two vessels, thus, necessitating alternative arrangements for completion of construction.

4. In determining whether to extend the current order, the Coast Guard consulted with the Maritime Administration, the Federal Maritime Commission, and the Department of State. The information obtained through consultation, and the information supplied by the applicant, indicated

that, although the date of completion of the vessels currently under construction cannot be stated with certainty, the considerations requiring issuance of the order in the first instance remain and warrant extending the order. Accordingly, a determination was made to extend the order for four months to allow the M/V *Lionheart* to continue in present service to provide adequate opportunity for a determination of when a replacement vessel will be available. As currently extended, the order will expire on October 31, 1979. Copies of the extension order, the application for extension, and the correspondence from the Maritime Administration, Department of State, and Federal Maritime Commission are available for examination at the Marine Safety Council.

5. Comments from interested members of the public are requested.

[46 U.S.C. 82; 49 U.S.C. 1655(b); E.O. 10289; and 49 CFR 1.45(a).]

Dated: July 23, 1979.

J. B. Hayes,
Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 79-23139 Filed 7-25-79; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

[Summary Notice No. PE-79-14]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of petitions issued.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: August 15, 1979.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Petition Docket No. _____, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-24), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on July 20, 1979.

Carl B. Schellenberg,
Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
19345	Pope Valley Parachute Center	14 CFR § 105.43(a)(1)	To allow foreign nationals to use their equipment at the Pope Valley Parachute Center without complying with the equipment and packing requirements of Section 105.43.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
11789	Transmeridian Air Cargo, Ltd.	14 CFR Pts. 21, 32, 61, 63, and 91.	To amend Exemption No. 2532, as amended, to permit petitioner's United Kingdom Civil Aviation Authority certificated mechanics to exercise the privileges of equivalent U.S. airman certificates to perform FAA prescribed maintenance and inspection on petitioner's CL-44 aircraft N447T for a period of one year until those mechanics obtain equivalent U.S. airman certificates. <i>Granted 6/29/79.</i>
19305	Airlife Int'l, Inc.	14 CFR § 121.155 and Pts. 21, 61, 63, 91, and 121.	To permit Airlife International, Inc. (Airlife), to dry lease B-727-172C aircraft N727AL to Compania de Aviaci6n Faucett (Faucett), S.A., on a part time basis, and to permit Faucett's operation of aircraft N727AL in accordance with Airlife's FAA-approved minimum equipment list, and to permit Faucett flight crewmembers to obtain U.S. pilot and flight engineer certificates to allow them to serve as required flight crewmembers on B-727 aircraft N727AL. <i>Granted 7/6/79.</i>
18927	Airlife Int'l, Inc.	14 CFR 121.389(a)(2)	To permit operation of DC-8-33 and DC-8-54 series aircraft with less navigational equipment than required by the regulation. <i>Denied 7/6/79.</i>
19105	Midwest Piper Flight, Inc.	14 CFR Section 135.136(b)(old)	To allow Midwest Piper Flight, Inc., pilots, conducting emergency medical evacuation flights in conjunction with Wesley Medical Center, to have two rest periods of four hours duration instead of 10 hours in 24 consecutive hours. <i>Partial grant 7/6/79.</i>
18234	British Airways	14 CFR Parts 21, 61, 63, and 91	To permit petitioner to amend Exemption No. 2607, as amended, to include an additional airman in the appendix so that he may serve as a flight crewmember on leased, U.S.-registered L-1011 aircraft N323EA. <i>Granted 7/9/79.</i>
18238	Flugleider, H.F., and Seaboard World Airlines	14 CFR Parts 21, 43, 61, 63, 91, and 121.	To amend Exemption No. 2602, as amended, to change the classification of Einar Elias Gudlaugsson from co-pilot to captain. <i>Granted 7/9/79.</i>
19303	Experimental Aircraft Association	14 CFR § 21.181(a)(3)	To allow the petitioner to extend the effective duration of certain experimental category airworthiness certificates. <i>Granted 7/13/79.</i>
18350	Great Western Airlines	14 CFR 121.360	To allow the petitioner an extension of Exemption No. 2613A from FAR 121.360 which allows the operation of CV-580 aircraft N5821 in all cargo operations without a ground proximity warning system installed. <i>Granted 7/13/79.</i>
19295	Yemen Airways	14 CFR Pts. 21 and 91	To amend Exemption No. 2767 to allow the petitioner to use Trans World Airlines B-727 continuous airworthiness maintenance program. <i>Granted 7/3/79.</i>
19173	Braniff Intl.	14 CFR § 43.17	To allow Canadian Pacific Airlines' mechanics to perform maintenance work on Braniff's aircraft at Amsterdam, Netherlands. <i>Granted 7/13/79.</i>

[FR Doc. 79-23005 Filed 7-25-79; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY Customs Service

[T.D. 79-198; Customs Delegation Order No. 57]

Order Delegating Authority Under the Military Personnel and Civilian Employees Claims Act to Certain Customs Officers

By virtue of the authority vested in me by Treasury Department Order No. 177-22, Revision 2 (34 FR 156), I hereby delegate to Regional Commissioners of Customs the authority to settle and pay claims not in excess of \$15,000 arising under 31 U.S.C. 240-242 made by an employee of the U.S. Customs Service for damage to, or loss of, personal property incident to his service, when there is no doubtful question of law or fact.

The payment of claims pursuant to this delegation shall be in accordance with regulations issued by the Department of the Treasury (31 CFR Part 4).

This Order supersedes Customs Delegation Order No. 30, T.D. 67-103 (32 FR 6373).

Dated: July 17, 1979.

R. E. Chasen,

Commissioner of Customs.

[FR Doc. 79-23114 Filed 7-25-79; 8:45 am]

BILLING CODE 4810-22-M

[T.D. 79-199; Customs Delegation Order No. 58]

Order Delegating Authority Under the Federal Tort Claims Act to Certain Customs Officers

By virtue of the authority vested in me by Treasury Department Order No. 145, Revision 3 (32 FR 3066), I hereby delegate to the Regional Commissioner of Customs the authority to consider, ascertain, adjust, determine, deny or settle and pay claims not in excess of \$25,000 arising under 28 U.S.C. 2672 by reason of the negligent or wrongful act or omission of any employee of the Customs Service.

This order supersedes Customs Delegation Order No. 53, dated February 11, 1976 (TD 76-47, 41 FR 7551).

Dated: July 17, 1979.

R. E. Chasen,

Commissioner of Customs.

[FR Doc. 79-23115 Filed 7-25-79; 8:45 am]

BILLING CODE 4810-22-M

[T.D. 79-209]

Reorganization of U.S. Customs Service Headquarters

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General Notice.

SUMMARY: This notice is to advise that the U.S. Customs Service will reorganize

its Headquarters and establish the following four major offices: The Office of Management Integrity, the Office of the Comptroller, the Office of Border Operations, and the Office of Commercial Operations.

The main objectives of the reorganization are to structure a tightly knit policy making organization at the Headquarters level and to achieve, through the streamlining and consolidation of functional responsibilities, a balanced emphasis on both the business and enforcement components of the Customs Service, thereby enhancing the Customs Service responsiveness to the general public.

The Office of Management Integrity will serve as the "Inspector General" for Customs and be concerned with compliance with laws and regulations, the proper use of resources and funds, and the personal integrity of Customs employees. The Office of the Comptroller will manage all funds and resources of Customs, provide all administrative support, including automatic data processing support, and provide a centralized planning capability. The Office of Border Operations will control all Customs operational activities along the borders, such as law enforcement, investigations, and passenger/carrier inspections. The Office of Commercial Operations will be concerned with all matters pertaining to duty assessment, regulations and rulings, and commercial trade.

EFFECTIVE DATE: The reorganization will begin August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Edward L. Kittredge, Public Information Division, Office of the Comptroller, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5286).

Dated: July 20, 1979.

R. E. Chasen,

Commissioner of Customs.

[FR Doc. 79-23116 Filed 7-25-79; 8:45 am]

BILLING CODE 4810-22-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 122]

Motor Carrier Temporary Authority Applications

July 6, 1979.

The following are notices of filing of applications for temporary authority under Section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application

is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" Docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 989 (Sub-34TA), filed June 5, 1979. Applicant: IDEAL TRUCK LINES, INC., P.O. Box 330, Norton, KS 67645.

Representative: Michael J. Ogborn, P.O. box 82028, Lincoln, NE 68501. *General commodities* (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (1) between Kansas City, MO and its commercial zone and Salina, KS and its commercial zone, from Kansas City, MO over Interstate Hwy 70 to Salina, KS, serving no intermediate points and return over the same route; and (2) between Kansas City, MO and its commercial zone and Des Moines, IA and its commercial zone, from Kansas City, MO over Interstate Hwy 35 to Des Moines, IA and return over the same route, for 180 days, common, irregular; An underlying ETA seeks 90 days authority. Supporting shipper(s): Fuel savings only. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Bldg., Wichita, KS 67202.

MC 22509 (Sub-17TA), filed June 1, 1979. Applicant: MISSOURI-NEBRASKA EXPRESS, INC., 5310 St. Joseph Avenue, St. Joseph, MO 64505. Representative: E. Wayne Farmer, 27th Floor, City Center

Square, P.O. Box 26010, Kansas City, MO 64196. *Paper, paper products, commodities used in the manufacture, and/or distribution of paper and paper products*, between St. Joseph, MO, on the one hand, and, on the other, Miamisburg, Middletown, and Lockland, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): St. Joseph Packaging, 4515 Easton Road, St. Joseph, MO 64503. Send protests to: Vernon Coble, DS, ICC, 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 25798 (Sub-383TA), filed June 15, 1979. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). *Frozen foodstuffs* between Indianapolis, IN, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, OK, TN, and TX for 180 days. Restricted to shipments originating at or destined to the facilities of Monument Distribution Warehouse, Inc., Indianapolis, IN. An underlying ETA seeks 90 days authority. Supporting shipper(s): Monument Distribution Warehouse, Inc., 3320 S. Arlington Ave., Indianapolis, IN 46203. Send protests to: Donna M. Jones, T/A, ICC, BOP, Suite 101, 8410 N.W. 53rd Terrace, Miami, FL 33166.

MC 35628 (Sub-414TA), filed May 31, 1979. Applicant: INTERNATIONAL MOTOR FREIGHT SYSTEM, 134 Grandville Avenue, SW., Grand Rapids, MI 49503. Representative: Michael P. Zell, 134 Grandville Ave. SW., Grand Rapids, MI 49503. *Meats, meat products, meat by-products, and articles* distributed by meat packing houses as described in Sections A, C and D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides & commodities in bulk) between Britt and Mason City, IA, on the one hand, and on the other, points in the United States (except AK & HI), restricted to shipments originating or destined to the facilities utilized by Lauridsen Foods, Inc., at or near Britt, IA and Armour and Co. at Mason City, IA. For 180 days. Supporting shipper(s): Armour and Co., Greyhound Tower, Phoenix AZ 85077. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 40088 (Sub-2TA), filed May 28, 1979. Applicant: L. L. BUCHANAN AND CO., INC., d.b.a. BUCHANANA AUTO FREIGHT, 115 W. D. Street, Yakima, WA 98902. Representative: L. K. Buchanan, 115 W. D. St., Yakima, WA 98902. *General commodities*, except those of unusual value, and except dangerous explosives, household goods

as defined in Practices of Motor Common Carriers of Household Goods. 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading for 180 days. A corresponding ETA MC 40088 R was filed this day. A corresponding permanent will by filed within 60 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Coast Carloading Co., 1829 S. E. Center St., P.O. Box 42208, Portland, OR 97202. Superior Fast Freight, 1830 S.E. Center, Portland, OR 97202. Send protests to: R. V. Dubay, 114 Pioneer Courthouse, Portland, OR 97204.

MC 48948 (Sub-15TA), filed May 29, 1979. Applicant: THE HOCKING CARTAGE CO., R.R. No. 2, P.O. Box 373, Logan, OH 43138. Representative: Robert W. Gardier, Jr., 100 E. Broad St., Columbus, OH 43215. *Pipe or duct or elbows, pipe fittings, chimney assemblies, and materials and supplies used in the manufacture thereof*, between Logan, OH, on the one hand, and, on the other, points in the states of MI, PA, IN, KY and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Metalbestos Systems, Division of Wallace Murray Corp., P.O. Drawer 957, Logan, OH 43138. Send protests to: D/S I.C.C., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 48958 (Sub-180TA), filed June 5, 1979. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). *Roofing, and roofing materials, products, supplies and equipment*, (a) from the facilities of Monier Company, at or near Phoenix, AZ to points in CO, KS, NE and WY and (b) from the facilities of Monier Company, at or near Denver, CO to points in IA, KS, NE, NM, UT and WY for 180 days. Applicant has filed underlying ETA seeking 90 days authority. Supporting shipper(s): Monier Company, 6001 Dexter St., Denver, CO 80022. Send protests to: D/S Roger L. Buchanan, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, CO 80202.

MC 48958 (Sub-181TA), filed May 31, 1979. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Ave., Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). *Transformers and related electrical and switching equipment*, from points in MO to points in AZ, CA, CO, IA, IL, IN, KS, NE, NM, NV, OH, OK, TX, UT and WY for 180 days. Supporting shipper(s): Westinghouse Electric Corporation, 500 Westinghouse Drive, Jefferson City, MO 65101. Send protests to: D/S Roger L.

Buchanan, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, CO 80202.

MC 52579 (Sub-181TA), filed May 21, 1979. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, NJ 07094. Representative: Herbert Burstein, Esq., One World Trade Center, Suite 2373, New York, NY 10048. *Wearing apparel in mixed loads and accessories, supplies and equipment used in the manufacture and selling of wearing apparel*. Between KY, OH, NY, on the one hand and on the other, CA, CO, FL, GA, IL, IN, MI, MN, MS, NJ, NC, PA, SC, & TX, for 180 days. Supporting shipper(s): Joseph and Feiss Company, 4600 Teiderman Road, Cleveland, OH, and Woodward & Lothrop, 131 M St., NE, Washington, DC. Send protests to: Robert E. Johnston, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 52579 (Sub-182TA), filed May 21, 1979. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, NJ 07094. Representative: Herbert Burstein, Esquire, One World Trade Center, Suite 2373, New York, NY 10048. *Wearing apparel on hangers and in cartons; and department store merchandise*. Between FL and AL on the one hand and on the other, NY, NJ, CT, Dallas, TX, Chicago, IL and Washington, DC, for 180 days. Supporting shipper(s): 19 supporting shippers. Send protests to: Robert E. Johnston, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 52579 (Sub-183TA), filed May 22, 1979. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, NJ 07094. Representative: Herbert Burstein, Esq., One World Trade Center, Suite 2373, New York, NY 10048. *Wearing apparel in cartons and on hangers*. Between NC and SC on the one hand, and on the other, GA, NJ, NY, Los Angeles, CA, Dallas, TX, Chicago, IL, DC and GA, for 180 days. Supporting shipper(s): There are 14 supporting shippers to this application. They may be examined at the Newark, NJ field office or at Washington, DC. Send protests to: Robert E. Johnston, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 52579 (Sub-184TA), filed May 25, 1979. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, NJ 07094. Representative: Herbert Burstein, Esq., One World Trade Center, Suite 2373, New York, NY 10048. *Garments on hangers and wearing apparel in cartons*. Between Los Angeles, CA on the one hand and on the other, FL, GA, TN, for 180 days. Supporting shipper(s): Exclusive Industries, Inc., 700 E. Jefferson Blvd., Los Angeles, CA 90011.

Cole of California, 2615 Fruitland Avenue, Los Angeles, CA 90058, Hal Alpert Enterprises, Inc., 3101 So. Main St., Los Angeles, CA 90007, Imperial Leather & Sportswear, Inc., 3310 S. Main St., Los Angeles, CA 90007. Send protests to: Robert E. Johnston, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 52579 (Sub-185TA), filed June 1, 1979. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, NJ 07094. Representative: Julius Saltzman, One Gilbert Drive, Secaucus, NJ 07094. *Wearing apparel on hangers and in packages, along with uncut material and wearing apparel accessories, supplies and equipment used in the conduct of manufacturing and selling of wearing apparel*. Between Bernice, Louisiana and New York, NY commercial zone. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stanley Michael, Inc., 114 West 26th Street, New York, NY 10001. Send protests to: Robert E. Johnston, D/S, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 52709 (Sub-365TA), filed June 14, 1979. Applicant: RINGSBY TRUCK LINES, INC., P.O. Box 7240, 3980 Quebec St., Denver, CO 80207. Representative: Rick Barker (same address as above). (1) *Containers and container closures; and (2) pallets, packaging materials and dunnage* (1) from Denver and Golden, CO to points in the U.S.; and (2) from points in the U.S. to Denver and Golden, CO and points in their commercial zones, and points in IL, IN, KS, MI, MO, NE, OH, OK, TX and WI. Restriction: Restricted in (2) above to traffic destined to the facilities of the Continental Group, Inc., at the named destination points and states. Requests 180 days authority. Supporting shipper(s): The Continental Group, Inc., 5401 W. 65th St., Chicago, IL 60638. Send protests to: D/S, Roger L. Buchanan, ICC, 721 19th St., 492 U.S. Customs House, Denver, CO 80202.

MC 56679 (Sub-122TA), filed May 14, 1979. Applicant: BROWN TRANSPORT CORP., 352 University Ave., SW, Atlanta, GA 30310. Representative: Leonard S. Cassell, (same as applicant). *General commodities, usual exceptions*, between the facilities of Boise Cascade at Itasca, Addison, Elk Grove Village, Chicago, IL, Atlanta, GA, Charlotte, NC, Nashville, TN, Jacksonville, Tampa, Miami, FL, also serving between points in the commercial zones of points specified for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Boise Cascade Corp., P.O. Box 7747, Boise, ID 83707. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlantic, GA 30309.

MC 72069 (Sub-23TA), filed May 30, 1979. Applicant: BLUE HEN LINES, INC., Box 565, Milford, DE 19963. Representative: Chester A. Zyblut, 1030—15th St., N.W., Washington, DC 20005. *Malt beverages and related advertising material*, from the facilities of Pabst Brewing Company, Newark, NJ and Pabst (Houston Co.), GA to points in MD and DE, for 90 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. R. Behrends, Pabst Brewing Company, 917 W. Juneau Ave., Milwaukee, WI 53201. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 73688 (Sub-93TA), filed May 25, 1979. Applicant: SOUTHERN TRUCKING CORPORATION, P.O. Box 7195, 1500 Orenda Avenue, Memphis, TN 38107. Representative: Diane Price, Route 6, Box 15, North Little Rock, AR 72118. *Plastic Pipe and fittings* from Memphis, TN to points in the states of AL, AR, GA, IN, KY, LA, MS, MO, NC, SC, FL and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mid-American Industries, Inc., P.O. Box 13224, 2365 Harbor Avenue, Memphis, TN 38113. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building—Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 73688 (Sub-94TA), filed May 31, 1979. Applicant: SOUTHERN TRUCKING CORPORATION, P.O. Box 7195, 1500 Orenda Avenue, Memphis, TN 38107. Representative: Diane Price, Route 6, Box 15, North Little Rock, AR 72118. *Lumber and lumber products and wood and wood products* between Cotton Plant, AR, on the one hand, and, on the other, points in AL, KS, LA, MS, MO, OK and TX, for 180 days. Restricted to traffic originating at or destined to Cotton Plant, AR. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cotton Plant Plywood Corp., Drawer 130, Cotton Plant, AR 72036. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building—Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 76429 (Sub-7TA), filed May 30, 1979. Applicant: STEWART TRUCK LINE, INC., P.O. Box 109, Dry Ridge, Ky. 41035. Representative: George M. Catlett, Atty., Suite 708 McClure Bldg., Frankfort, Ky. 40601. *General commodities*, (with the usual exceptions), between the facilities of Sprague Meter Division of Textron, Inc., at Owenton, KY., on the one hand, and, on the other, Chicago, IL; South Bend, Elkhart, and Bremen, IN, and West Allis, WI, and points within their respective

commercial zones. An Underlying ETA seeks 90 days authority. (Applicant does not intend to tack this authority to other authority held by it and it does not intend to interline with other carriers.) Supporting shipper(s): Gary L. Walker, Sprague Meter Division of Textron, Inc., P.O. Box 482, Owenton, KY 40359. Send protests to: Linda H. Sypher, D/S, ICC, 426 Post Office Bldg., Louisville, Ky.

MC 78228 (Sub-126TA), filed May 21, 1979. Applicant: J MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., Esq., 2310 Grant Bldg., Pittsburgh, PA 15219. *Zinc, zinc oxide, zinc dust and zinc dross*, between the facilities of St. Joe Zinc Company, Division of St. Joe Minerals Corp. at Josephstown, PA, on the one hand, and, on the other points, in NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): St. Joe Zinc Co., Div. of St. Joe Minerals Corp., Two Oliver Plaza, Pittsburgh, PA 15222. Send protests to: J. A. Niggemyer, DS, 416 Old P.O. Bldg., Wheeling, WV 26003.

MC 78228 (Sub-127TA), filed May 29, 1979. Applicant: J MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., Esq., 2310 Grant Bldg., Pittsburgh, PA 15219. *Coke, in bulk, in dump vehicles*, from Portsmouth, OH, to points in KY, IL, IN, OH, PA, VA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Semet Solvay Division of Allied Chemical Corporation, P.O. Box 1013R, Morristown, NJ 07960. Send protests to: J. A. Niggemyer, DS, 416 Old P.O. Bldg., Wheeling, WV 26003.

MC 82079 (Sub-78TA), filed May 30, 1979. Applicant: KELLER TRANSFER LINES, INC., 5635 Clay Avenue SW., Grand Rapids, MI 49503. Representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, MI 49503. *Candy, confectionery and foodstuffs* (except in bulk) in mechanically refrigerated vehicles from the warehouse site of Hershey Foods Corporation at Taylor, MI to points in the following counties in IN: Allen, DeKalb, Elkhart, Kosciusko, LaGrange, LaPorte, Marshall, Noble, St. Joseph, Starke, Steuben, Whitley. For 180 days. Supporting shipper(s): Hershey Foods Corporation, 19 East Chocolate Avenue, Hershey, PA 17033. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 88368 (Sub-36TA), filed May 21, 1979. Applicant: CARTWRIGHT VAN LINES, INC., 11901 Cartwright Ave., Grandview, MO 64060. Representative: C. Max Stewart (same as applicant). *Recreational park, restaurant, playground and show furniture, fixtures*.

equipment, displays, murals, panels, plaques and materials and accessories, supplies and parts thereto, from the facilities of Miracle Recreation Equipment Company at or near Grinnell (Poweshiek County IA to points in FL, MO, NV, PA, and TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Miracle Recreation Equipment Company, P.O. Box 275, Grinnell, IA 50112. Send protests to: DS John V. Barry, ICC, 600 Federal Bldg., 911 Walnut, Kansas City, MO 64106.

MC 97068 (Sub-17TA), filed -----, 1979. Applicant: H. S. ANDERSON TRUCKING COMPANY, P.O. Box 3656, Port Arthur, TX 77640. Representative: J. C. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Pipe, fittings, valves, hydrants, castings, parts and accessories* therefor, and *materials and supplies* used in the installation thereof, and *iron and steel articles*, between Bessemer and Birmingham, AL, and points in their commercial zones, on the one hand, and, on the other, points in AR, KS, LA, MS, OK, TN, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Cast Iron Pipe Company, P.O. Box 2727, Birmingham, AL 35202, and McWane Cast Iron Pipe Co., Inc., P.O. Box 11446, Birmingham, AL 35202. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave. No. 8610, Houston, TX 77002.

MC 99619 (Sub-2TA), filed May 30, 1979. Applicant: WALPOLE TRANSPORTATION CO., INC., 275 Stone St. (P.O. Box 387), Walpole, MA 02081. Representative: Robert F. O'Neil (same address as applicant). *Contract carrier: irregular routes; paper and paper articles, new furniture, store and office fixtures* from Walpole, MA to points in ME, NH, VT, CT, RI and NY and return of above listed commodities. (Restriction: restricted to shipments to schools) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Henry S. Wolkins Co., 1167 Main St., Walpole, MA 02081. Send protests to: John B. Thomas, DS, ICC, 150 Causeway Street, Boston, MA 02114.

MC 103498 (Sub-64TA), filed May 18, 1979. Applicant: B&L TRUCK LINES, INC., 339 East 34th Street, Lubbock, TX 79404. Representative: Richard Hubbard, P.O. Box 10236, Lubbock, TX 79408. *Building board, wall or insulating*, from the facilities of National Gypsum Co., at Mobile, AL, to points in AR, KS, OK, LA, MO and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gold Bond Building Products, Division of National Gypsum Co., 2001 Rexford Road, Charlotte, NC 28211.

Send protests to: Martha A. Powell, TA, ICC, Room 9 A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 103798 (Sub-44TA), filed May 22, 1979. Applicant: MARTEN TRANSPORT, LTD., Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. *Foodstuffs (except commodities in bulk)* from the facilities of Jen's, Inc., at Duluth, MN and Superior, WI to points in AZ, CA, CO, ID, MT, OR, UT and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jen's, Inc., 525 Lake Avenue South, Duluth, MN 55802. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 106398 (Sub-916TA), filed May 22, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (same address as applicant). *Fabricated structural steel, steel vessels, steel pipe and fabricated pipe*, from the facilities of Southeast Pipe Fabricators, Inc. at Crossett, AR, to all points in the United States (except AK and HI), for 180 days. Supporting shipper(s): Southeast Pipe Fabricators, Inc., P.O. Box 673, Crossett, AR 71635. Send protests to: Connie Stanley, TA, ICC, Room 240 Old Post Office, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-917TA), filed May 23, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (same address as applicant). *Steel wire and rods (spools and bundles)*, from the facilities of A. G. Whaley Company, Andrews, SC, to points and places in SC, NC, VA, GA, AL, & TN, for 180 days. Supporting shipper(s): A. G. Whaley Company, P.O. Box 367, Andrews, SC 29510. Send protests to: Connie Stanley, TA, ICC, Room 240 Old Post Office, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-918TA), filed May 25, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (same address as applicant). *Iron and steel articles*, from the facilities of Georgetown Steel Corporation, at Georgetown, SC, to points in IL, PA, MI, OH, MD, IN & NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Georgetown Steel Corporation, P.O. Box 619, Georgetown, SC 29440. Send protests to: Connie Stanley, Room 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-919TA), filed June 1, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa,

OK 74103. Representative: Irvin Tull (same address as applicant). *Concrete products and materials, equipment and supplies used in the manufacture and installation of concrete products*, between the facilities of Price Brothers Company, Dayton, OH, and Virginia Beach, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Price Brothers Company, 367 West Second Street, Dayton, OH 45401. Send protests to: Connie Stanley, Room 240 Old Post Office, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 107678 (Sub-72TA), Applicant: HILL & HILL TRUCK LINE, INC., 14942 Talcott Ave., Houston, TX 77015. Representative: Edward D. Brown (same as applicant). *Pole Line construction material and raw material used in fabrication of pole line construction material* from Belle Chasse, LA to all pts in the U.S.; *Raw material* from pts in AL and TX to Belle Chasse, LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Power Enterprises, Inc., P.O. Box 6261, New Orleans, LA 70174. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave. #8610, Houston, TX 77002.

MC 108119 (Sub-163TA), filed May 30, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. *Iron and steel articles* from Cook County, IL and Lake and Porter Counties, IN to Kansas City, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Butler Manufacturing Company, 7400 East 13th Street, Kansas City, MO 64126. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 108119 (Sub-164TA), filed June 4, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. *Knocked down steel buildings* between Oklahoma City, OK on the one hand, and, on the other, points in CA, AZ, ID, NE and UT, for 180 days. Supporting shipper(s): Star Manufacturing Company, 8600 South Interstate Hwy. 35, Oklahoma City, OK 73109. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 109538 (Sub-33TA), filed June 1, 1979. Applicant: CHIPPEWA MOTOR FREIGHT, INC., 1000 E. 41st Street, P.O.

Box 850, Sioux Falls, SD 57101. Representative: Dennis Riswold (same address as applicant's). *Meats, meat products, meat-by-products, and articles distributed by meat packinghouses* as described in Sections A, B & C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 & 766 (except hides and skins and commodities in bulk) from the facilities utilized by John Morrell & Co. at or near Sioux Falls, SD and Estherville, IA to points in IL, IN, MI & OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Morrell & Co., 208 S. LaSalle St., Chicago, IL 60604. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 109818 (Sub-54TA), filed May 23, 1979. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, Davenport, IA 52804. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. *Meat, meat products, meat by-products and articles distributed by meat packinghouses, as described in Sections A, C, & D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk)*, between the facilities of Lauridsen Foods, Inc. at or near Britt, IA, and the facilities of Armour & Company at or near Mason City, IA, on the one hand, and, on the other, points in IL, IN, KS, MN, MO, NE, & WI, restricted to the transportation of shipments originating at the named origins and destined to points in the destination states, for 180 days. Supporting shipper(s): Armour & Company, Greyhound Tower, Phoenix, AZ 85077. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 109818 (Sub-55TA), filed May 30, 1979. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, Davenport, IA 52804. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. *Bananas* from Tampa, FL to Terra Haute, IN; Milan and Chicago, IL; Detroit and Grand Rapids, MI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Turbana Banana Corporation, P.O. Box 340009, Coral Gables, FL 33134. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 112989 (Sub-105TA), filed May 29, 1979. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr., 85647 Highway 99 South, Eugene, Oregon 97405. *Laminated Veneer Lumber* from the facilities of Trus Joist Corp located at or near

Eugene and Junction City, OR to Granger, Indianapolis and Anderson, IN; Gordon and Philadelphia, PA; Delaware and Wooster, OH; Des Moines, IA; Decatur, IL; Independence, MO; and Luxemburg, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Trus Joist Corporation, 93747 Highway 99 South, Junction City, OR 97448. Send protests to: A. E. Odoms, DS, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 S. W. Yamhill St., Portland, OR 97204.

MC 113429 (Sub-7TA), filed June 4, 1979. Applicant: MICHAEL CONTRIS dba CONTRIS TRUCKING, RR No. 1, 6975 Faulkner Rd., Harrod, OH 45850. Representative: Michael Contris (same address as applicant). *Contract, irregular, iron and steel, plates, sheets, shapes, castings and forgings*, from Akron, Canton, Cleveland, Mansfield, Massillon and Youngstown, OH; Gary, IN; Beaver Falls and Pittsburgh, PA and Huntington, WV to Battle Creek, Benton Harbor, Grand Rapids and Jackson, MI; *lift trucks* from Battle Creek, MI to Chicago, IL; Akron, Cleveland and Youngstown, OH; Camp Hill and Greensburg, PA and Roanoke, VA; *axles* from Clark Equipment Company plant at Statesville, NC to Clark Equipment Co. plants at Battle Creek and Kalamazoo, MI. Service at origins and destinations is to include the commercial zones of the cities listed under a continuing contract or contracts with Clark Equipment company for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Clark Equipment Co., 525 N. 24th St., Battle Creek, MI 49016. Send protests to: D/S, I.C.C. 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 113678 (Sub-819TA), filed May 29, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). *Meats, meat products, meat by-products, and articles distributed by meat packinghouses (except in bulk)* from Huron, SD to points in CO (representative destinations—Denver, Grand Junction, Colorado Springs, Pueblo), for 180 days. Supporting shipper(s): Armour Fresh Meats Co., Greyhound Towers of Phoenix, Phoenix, AZ 85077. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 113678 (Sub-820TA), filed May 29, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). *Charcoal, charcoal briquettes, hickory chips,*

charcoal lighter fluid, fireplace logs (made of compressed sawdust), and related Bar-B-Q supplies, from facilities of Husky Industries, Inc. at White City, OR to points in AZ, CA, ID, CO, MT, NV, WA, and WY, for 180 days. An underlying 90 day ETA seeks identical authority. Supporting shipper(s): Husky Industries, Inc., 62 Perimeter Center East, Atlanta, GA 30346. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 113828 (Sub-268TA), filed May 15, 1979. Applicant: O'BOYLE TANK LINES, INC., P.O. Box 30006, Washington, DC 20014. Representative: William P. Sullivan, 1320 Fenwick Ln, Silver Spring, MD 20910. *Salt cake*, from Baltimore, MD to Hopewell, VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Continental Forest Ind., P.O. Box 201, Hopewell, VA 23860. Send protests to: I.C.C., Fed. Res. Bank Bldg., 105 N. 7th St., Rm. 620, Phila., PA 19106.

MC 114569 (Sub-320TA), filed May 17, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins, (same address as applicant). (1) *Sponge vinyl, imitation leather on rolls*, from New York City, NY and its commercial zone to Memphis, TN; and (2) *Plastic sheeting rolled on tubes*, from Stratford, CT to Memphis, TN for 180 days. Supporting shipper(s): Trojan Luggage Co., 2070 Channel Ave., Memphis, TN 38113. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., Pa 19106.

MC 115569 (Sub-321TA), filed May 17, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins, (same address as applicant). (1) *Canned goods*, from New Orleans, LA to Fairless Hills, PA; Plymouth, MI; Ft. Wayne, IN; Lawrence, KS and Sparks, NV, for 180 days. An underlying ETA seeks days seeks 90 days authority. Supporting shipper(s): Baumer Foods, Inc., 4301 Tulane Ave., New Orleans, LA 70119. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., Pa 19106.

MC 114569 (Sub-322TA), filed May 23, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins, (same as applicant). *Bananas and agricultural commodities* the transportation of which is exempt from economic regulation per title 49 U.S.C. Section 1052.6 when transported at same time in same vehicle from Port Newark, NJ; Baltimore MD; and Albany, NY and

their commercial zones to points-in MI, OH, IL, IN, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chiquita Brands, Inc., 15 Mercedes Drive, Montvale, NJ 07645. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phil., PA 19106.

MC 114569 (Sub-323TA), filed May 31, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins, (same as applicant). *Boards, blocks or panels, NOI, honeycomb cellular construction* from Michigan City, IN and Park Forest South, IL to points in TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): International Honeycomb Co., 1149 Central Ave., Park Forest South, IL 60466. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phil., PA 19106.

MC 114829 (Sub-21TA), filed May 29, 1979. Applicant: GENERAL CARTAGE COMPANY, INC., West Route 30, Rock Falls, IL 61081. Representative: Bernard J. Kompare, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. Contract carrier: irregular routes. *Iron and steel articles*, from Schaumburg, IL to points in IA, under continuing contract with the Earl M. Jorgensen Co. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Earle M. Jorgensen Co., 1900 Mitchell Blvd., Roselle, IL 60172. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 115669 (Sub-190TA), filed May 21, 1979. Applicant: DAHLSTEN TRUCK LINE, INC., 101 West Edgar St., P.O. Box 95, Clay Center, NE 68933. Representative: Wilbur G. Hoyt (same address as applicant). *Iron and steel articles*, from points in the Chicago, IL commercial zone to the facilities of Cessna Fluid Power Division at Hutchinson, KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cessna Fluid Power Division, P.O. Box 1028, Hutchinson, KS 67501. Send protests to: Carroll Russell, ICC, Suite 620, 110 N. 14th St., Omaha, NE 68102.

MC 117119 (Sub-748TA), filed May 23, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. BOX 188, Elm Springs, AR 72728. Representative: L. M. McLean (same as applicant). *Tires and tread rubber* from Findlay, OH and Texarkana, TX to the facilities of Vista Tire Service at Boise, ID, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Vista Tire Service, 503 Vista Ave., Boise, ID 83705. Send protests to: William H. Land, Jr.,

District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 117119 (Sub-749TA), filed May 25, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. BOX 188, Elm Springs, AR 72728. Representative: Martin M. Geffon, P.O. Box 156, Mt. Laurel, NJ 08054. Chemicals, (except in bulk), from Carteret, NJ to Seattle, WA, as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): FMC Corp., Industrial Chemical Div., 2000 Market St., Philadelphia, PA 19103. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 117119 (Sub-750TA), filed May 31, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same as applicant). Fruit juice and concentrate, not frozen (except commodities in bulk) in vehicles equipped with mechanical refrigeration from Ontario, CA to points in AL, GA, IL, IA, MA, MD, MN, NC, OH, VA and to New Orleans, LA; Detroit, MI and St. Louis, MO, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Green Spot Company, 520 Mission Street, South Pasadena, CA 91030. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 117439 (Sub-66TA), filed June 13, 1979. Applicant: BULK TRANSPORT, INC., P.O. Box 1429, Baton Rouge, LA 70821. Representative: Edward A. Winter, 235 Rosewood Dr., Metairie, LA 70005. Applicant is seeking authority to operate as a common carrier over irregular routes transporting *sand, in bulk and in bags*, from points in LA to points in AL, MS, and TX, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Stan-Blast Abrasives Co., Inc., P.O. Box 968, Harvey, LA 70059. Technical Sands of Louisiana, Inc., P.O. Box 1836, Covington, LA 70433. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 117568 (Sub-19TA), filed June 1, 1979. Applicant: WADE TRUCK LINES, INC., P.O. Box 156, Verona, MO 65769. Representative: Charles B. Fain, Fain & Fain, 333 Madison Street, Jefferson City, MO 65101. *Contract, Irregular, Fine chemicals, dental instruments and equipment, veterinary products, nutritional products for infant care,*

dental models for industrial purposes, beauty care instruments and products and commodities in bulk used in the manufacture of products by the food, drug, and agricultural industries, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Syntex Agribusiness, Inc., P.O. Box 1246, Springfield, MO 65805. Send protests to: DS John V. Barry, ICC, 600 Federal Bldg., 911 Walnut, Kansas City, MO 64106.

MC 118159 (Sub-338TA), filed June 11, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. *Such commodities as are dealt in by home improvement stores*, (1) from Red Lion, PA, Shelby, OH, and Mount Pleasant and Centerville, IA, to the facilities of The Wickes Corporation at Arkadelphia, Crossett, Jonesboro, Springdale, and Russellville, AR; Bakersfield, Fowler, Fremont, Lancaster, Modesto, Napa, Ontario, Petaluma, Salinas, San Marcos, Stockton, Tulare, and Tustin, CA; Boulder, Ft. Collins, Greeley, LaSalle, and Longmont, CO; Bradenton, Daytona Beach, Englewood, Fort Myers, Fort Pierce, Jacksonville, Lake City, Melbourne, New Smyrna Beach, St. Augustine, Sarasota, and Venice, FL; Carrollton, Cartersville, Cedartown, College Park, Dalton, Doraville, Douglasville, Forest Park, Mableton, Rome, Albany, Athens, Columbus, Augusta, Macon, Marietta, and Tucker, GA; Lawrence and Wichita, KS; Allen, Bowling Green, Franklin, Lexington, Louisville, Owensboro, Paducah, Shelbyville, and Winchester, KY; Monroe, Alexandria, Baton Rouge, Hammond, Houma, Lafayette, New Iberia, Ruston, and Shreveport LA; Tupelo, Greenville, and Jackson, MS; Mosby and Springfield, MO; Burlington, Clint Farmville, Goldsboro, Greensboro, Greenville, Kinston, Morehead City, Raleigh, Roanoke Rapids, Rockingham, Salisbury, Shelby, Statesville, and Wilmington, NC; Oklahoma City and Ponca City, OK; Greenville, Anderson, Cayce, Columbia, Conway, Florence, Greenwood, Hardeeville, Orangeburg, Rock Hill, Seneca, Spartanburg, North Charleston, and West Charleston, SC; Chattanooga, Jackson, and Murfreesboro, TN; Richardson, Amarillo, Grapevine, Tyler, Alvin, Austin, College Station, Corpus Christi, Georgetown, Harling, Lufkin, New Braunfels, Victoria, McAllen, and Beaumont, TX, and Danville and Petersburg, VA; and (2) from Red Lion, PA, Shelby, OH, and Mount Pleasant

and Centerville, IA, to the facilities of The Wickes Corporation at Bartlett, Breese, Farmer City, Galesburg, Gurnee, Lonest, Plainfield, Decatur, Quincy, and Tolono, IL; Indianapolis, Anderson, Bloomfield, Columbus, Ellettsville, Elwood, Hillsboro, Hometown, Kokomo, Lafayette, Longansport, Marion, Mishawaka, Schererville, Wincennes, and Wanatah, IN; Davenport, Des Moines, Dubuque, Iowa City, and Waterloo, IA; Omaha, NE, and Copley, Alpha, Columbus, Elyria, Galion, Monroe, Neward, Newcomerstown, Norwalk, Ontario, Rootstown, Sandusky, Shelby, Springfield, and Holland, OH, restriction: Part (2) above is authorized only for stop-off shipments whose final destination is located in the destination territory named in (1) above, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wickes Lumber, 515 North Washington Avenue, Saginaw, MI 48607. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 118959 (Sub-231TA), filed June 8, 1979. Applicant: JERRY LIPPS, INC., 130 S. Frederick, Cape Girardeau, MO 63701. Representative: Marc J. Blumenthal, 39 S. LaSalle St., Chicago, IL 60603. *Silica, silica products and materials, equipment, and supplies* used in the manufacture, distribution or sale of silica products between Alexander County, IL on the one hand, and, on the other, points in IN, KS, MO, WI, and GA, for 180 days. Supporting shipper(s): Illinois Mineral Company, 2035 Washington, Cairo, IL 62914. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 118959 (Sub-232TA), filed June 15, 1979. Applicant: JERRY LIPPS, INC., 130 S. Frederick St., Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 S. LaSalle, Chicago, IL 60603. *Foodstuffs* and materials, equipment and supplies used in the manufacture, sale or distribution of foodstuffs, except commodities in bulk, between the facilities used by the Procter & Gamble Company at or near Lexington, KY on the one hand, and, on the other, points in CA, CO, FL, IL, IN, KS, LA, MI, MO, NE, OH, TN, TX, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Procter & Gamble Company, P.O. Box 599, Cincinnati, OH 45201. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 118959 (Sub-233TA), filed June 6, 1979. Applicant: JERRY LIPPS, INC., 130 S. Frederick St., Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. Paper and paper products; materials, equipment and supplies used in the manufacture, sale or distribution of paper and paper products between the facilities of Sorg Paper Company at or near Middletown, OH on the one hand, and, on the other, points in IL and MO. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sorg Paper Company, 901 Manchester Ave., Middletown, OH 45042. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, Mo 63101.

MC 119019 (Sub-5TA), Applicant: B.N.M. FERTILIZER TRANSPORT, INC., 6414 E. Houston Rd., Houston, TX 77028. Representative: Joe G. Fender, 711 Louisiana, Suite 1150, S. Tower, Houston, TX 77002. *Potash* in bulk from Lea and Eddy Counties in NM to points in TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fertilizer Company of Texas, P.O. Box 3444, Pasadena, TX 77501. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave., #8610, Houston, TX 77002.

MC 119118 (Sub-63TA), filed June 6, 1979. Applicant: McCURDY TRUCKING, INC., P.O. Box 388, RT #981 S. Latrobe, PA 15650. Representative: Craig B. O'Rourke (same as applicant). *Malt beverages and related materials and supplies*, warehouse sites in Onondaga and Oswego Counties, NY to points in the States of DE, MD, NJ, NY, NC, PA, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Miller Brewing Company, 3939 W. Highland Blvd., Milwaukee, WI 53208. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 119349 (Sub-17TA), filed June 7, 1979. Applicant: STARLING TRANSPORT LINES, INC., P.O. Box 1733, Fort Pierce, FL 33450. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. *Petroleum, petroleum products, vehicle body sealer, and sound deadener compound* (except commodities in bulk) from Congo and St. Marys, WV to points in AL, SC, LA, AR, TX, OK, MI, MN, and UT for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Quaker State Oil Refining Corp., P.O. Box 989, Oil City, PA 16301. Send protests to: Donna M. Jones, T/A, ICC-BOP, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 119619 (Sub-137TA), filed May 17, 1979. Applicant: DISTRIBUTORS SERVICE CO., 2000 West 43rd Street, Chicago, IL 60609. Representative: Arthur J. Piken, Esquire, One Lefrak City Plaza, Flushing, NY 11368. *Sugar*, (except in bulk), from Buffalo, NY and points at or near Buffalo, NY to the States of MI, IN, IL, WI, MN, IA and Lincoln, NB for 180 days. An underlying ETA was granted for 90 days' authority. Supporting shipper(s): U.S. Sugar Company, 54 Fulton Street, Buffalo, NY 14204. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 119789 (Sub-604TA), filed June 1, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., (address same as applicant). *Liquid plastic and urethane coating in containers in mechanically refrigerated equipment* from St. Louis, MO to points in the U.S. on and east of U.S. Highway 85 and materials and supplies used in the manufacture and distribution of liquid plastic and urethane coating from points in the U.S. on and east of U.S. Highway 85 to St. Louis, MO and Riverside, CA for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Foam Systems Company, 1989 Atlanta Ave., Riverside, CA 92507. Send protests to: Opal M. Jones, 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 119789 (Sub-605TA), filed June 1, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., P.O. Box 226188, Dallas, TX 75266. *Foodstuffs (except in bulk)* from the facilities of Snackmaster Division, M&M Mars at Albany, GA to AZ, CA, AR, CO, GA, IL, IN, KY, LA, MD, MA, MI, MN, MO, NV, NJ, NY, NM, NC, OH, OK, OR, TX, UT, WA, WI, FL, for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): M&M/MARS, Snack-master Division, P.O. Box 3289, Albany, GA 31706. Send protests to: Opal M. Jones, 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 119789 (Sub-606TA), filed June 4, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., (address same as above). *Liquid plastic, in containers, in mechanically refrigerated equipment*, from Metairie, LA to Atlanta, GA; Seattle, WA; Portland, OR; Sacramento, CA; Minneapolis, MN; Niles, MI; St. Louis,

MO; Pittsburgh, PA; and Buffalo, NY for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Foam Systems Co., P.O. Box 5347, Riverside, CA 92507. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 146786 (Sub-2F), filed March 19, 1979. Applicant: R. B. STUCKY & N. M. STUCKY, a partnership, d.b.a. S&S DAIRIES, Route 2, Moundridge, KS 67107. Representative: Clyde N. Christey, Kansas Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *liquid sweeteners*, in bulk, (a) from Muncie, KS, and Koekuk, IA, to Denver, CO, (b) from Koekuk, IA, and Johnstown and Wheatridge, CO, to Hutchinson, KS, and (c) between Denver, CO, and Hutchinson, KS; (2) *liquid ice cream mixes* from Denver, CO, to Hutchinson, KS; and (3) *plastic jugs*, from Hutchinson, KS, to points in MO, NE, CO, and OK, under continuing contract(s), in (1), (2) and (3) above, with Jackson Ice Cream Co., Inc., of Hutchinson, KS. (Hearing site: Kansas City, MO.)

Note.—Dual operations may be involved.

MC 146937 (Sub-1F), filed March 19, 1979. Applicant: ALL STAR AIR FREIGHT, INC., 7001 W. 20th Ave., Hialeah, FL 33014. Representative: John P. Bond, 2766 Douglas Rd., Miami, FL 33133. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cloth fabrics, garment hangers, and wearing apparel*, between points in Dade County, FL, on the one hand, and, on the other, Leaksville, MS, under continuing contract(s) with Niki-Lu Ind., Inc., of Miami Lakes, FL. (Hearing site: Miami, FL.)

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-23092 Filed 7-25-79; 8:45 am]
BILLING CODE 7035-01-M

[Notice No. 123]

Motor Carrier Temporary Authority Applications

July 6, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6)

copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 119789 (Sub-607TA), filed June 5, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (address same as above). *Foodstuffs (except in bulk)* from points in FL to TX, OK, KS, NE, LA, IA, and MO for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s) Adams Packing Association, Inc., Auburndale, FL 33823. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 119789 (Sub-608TA), filed June 8, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (address same as above). *Non-alcoholic beverages in containers*, from Columbus, OH to AL, FL, and GA for 180 days. Underlying ETA filed for 90 days. Supporting shipper(s): Shasta Beverage,

Inc., 26901 Industrial Blvd., Hayward, CA 94545. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 119789 (Sub-609TA), filed June 14, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same as applicant). *Citrus Products, other than frozen from Alamo and Donna, TX to OH, PA, TN, MO, LA, GA, NC, MA, NY, AL, MD, MI, IL, IN, KY, OK, IA, MN, and D.C.* for 180 days. An underlying ETA for 90 days authority filed. Supporting shipper(s): Crest Fruit Company, 100 N. Tower Street, Alamo, TX 78516. Send protests to: Opal M. Jones, Trans. Asst., ICC Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 119988 (Sub-201TA). Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Mike Cox, (same as applicant). *Wood cellulose fibre mulch (except in bulk)* between Evadale, TX on the one hand and on the other pts in the U.S. (except AL, HI and TX), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Evacell Products, Inc., P.O. Box 148, Evadale, TX 77615. Send protests to: John F. Mensing, DS, ICC 515 Rusk Ave. No. 8610, Houston, TX 77002.

MC 120618 (Sub-18TA), filed May 30, 1979. Applicant: SCHALER TRUCKING CORPORATION, 5700 West Minnesota Street, Indianapolis, IN 46241. Representative: John R. Bagileo, 700 World Center building, 918 16th Street, NW, Washington, DC 20006. *Iron and steel articles* from the facilities of United States Steel Corp. located at or near Fairless, Dravosburg, Homestead, Duquesne, Clairton, McKees Rocks, Johnstown, McKeesport, and Vandergrift, PA, Lorain, Cleveland and Youngtown, OH to all points in the States of IN, IL (on or East of Route 51), and OH (on or South of Route 70 for 180 days. Supporting shipper: United States Steel Corporation, 600 Grant Street, Room 568, Pittsburgh, PA 15230. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 121799 (Sub-1TA), filed May 21, 1979. Applicant: CARPET DELIVERY SERVICE, INC., 2808 N. 29th Ave., Hollywood, FL 33020. Representative: John P. Bond, Esq., 276 Douglas Road, Miami, FL 33133. *Carpets, carpeting, carpet remnants, wrapped and*

unwrapped in rolls between points in AL, GA, KY, MS, NC, SC, and TN, on the one hand, and, on the other, points in FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are fourteen supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Donna M. Jones, T/A, ICC, Suite 101 8410 N.W. 53rd Terr., Miami, FL 33166.

MC 123048 (Sub-452TA), filed May 23, 1979. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st St., Racine, WI 53406. Representative: John Bruemmer, 121 W. Doty St., Madison, WI 53703. *Materials, equipment and supplies (except commodities in bulk) used in the manufacture, sale and distribution of agricultural equipment and parts*, from points in the U.S. (except AK & HI) to the facilities of Gehl Co. at West Bend, WI and Madison, SD, for 180 days. Supporting shipper(s): Gehl Co., 43 E. Water St., West Bend, WI 53095. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 123048 (Sub-453TA), filed May 24, 1979. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st St., Racine, WI 53406. Representative: John Bruemmer, 121 W. Doty St., Madison, WI 53703. *Materials, equipment and supplies (except commodities in bulk) used in the manufacture, sale and distribution of agricultural equipment and parts*, from Dixon and Fulton, IL; Armstrong, IA; and Moundridge, KS to the facilities of Kasten Mfg. Corp. at Allenton, WI, for 180 days. Supporting shipper(s): Kasten Mfg. Corp., 536 Main St., P.O. Box 328, Allenton, WI 53002. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 123048 (Sub-454TA), filed June 7, 1979. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st St., Racine, WI 53406. Representative: John Bruemmer, 121 W. Doty St., Madison, WI 53703. *Iron and steel articles* from Gerald, MO to points in AR, IL, IN, IA, KY, LA, MI, MN, NE, OH, PA, TN, TX & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bull Moose Tube Co., Box 214, Gerald, MO. 63037. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 123639 (Sub-161TA), filed May 17, 1979. Applicant: J. B. MONTGOMERY, INC., 5565 E. 52nd Ave., Commerce City, CO 80022. Representative: Don L. Bryce

(same address as applicant). *Foodstuffs (except in bulk)* in mechanical refrigerated vehicles between points in IL, on the one hand, and on the other, points in MO for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): Continental Freezers of Illinois, 4220 South Kildare Blvd., Chicago, IL 60632; Land O' Frost, Inc., 1685 Chicago Ave., Lansing, IL; United States Cold Storage, 8424 W. 47th St., Lyons, IL 60534. Send protests to: D/S Roger L. Buchanan, Interstate Commerce Commission, 721 19th St., 492 Customs House, Denver, CO 80202.

MC 124078 (Sub-969TA), filed June 5, 1979. Applicant: SCHWERMAN TRUCKING CO., 611 S. 28th St., Milwaukee, WI 53215. Representative: Richard Prevette (same address as applicant). *Cement, in bulk*, from Universal, PA to Batch Plant of Tousley-Bixter Construction Co., Inc., near New Lebanon, IN on Indiana Hwy. 54, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): U.S. Steel Corp., 600 Grant St., Pittsburgh, PA 15230. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124078 (Sub-970TA), filed June 5, 1979. Applicant: SCHWERMAN TRUCKING CO., 611 S. 28th St., Milwaukee, WI 53215. Representative: Richard Prevette (same address as applicant). *Sand, in bulk*, (1) from Bridgman, MI to Defiance, OH and (2) Muskegon, MI to Danville, IL; Bedford, IN and Defiance, OH, for 180 days. Supporting shipper(s): Central Foundry, Div. GMC, 77 W. Center St., Saginaw, MI 48605. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124078 (Sub-971TA), filed June 7, 1979. Applicant: SCHWERMAN TRUCKING CO., 611 S. 28th St., Milwaukee, WI 53215. Representative: Richard Prevette (same address as applicant). *Oil well, drilling mud* in bulk and bags from facilities of Arnold & Clark in Houma, LA to points in MS, for 180 days. Supporting shipper(s): Arnold & Clark, P.O. Box 7036, Houma, LA 70360. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124078 (Sub-972TA), filed June 8, 1979. Applicant: SCHWERMAN TRUCKING COMPANY, 611 S. 28th St., Milwaukee, WI 53215. Representative: Richard H. Prevette (same address as applicant). *Liquid fertilizer*, in bulk, in tank vehicles, from Dubuque, IA to points in WI, for 180 days. Supporting shipper(s): Allied Chemical Corp., P.O. Box 2120, Houston, TX 77001. Send

protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124839 (Sub-44TA), filed June 1, 1979. Applicant: BUILDERS TRANSPORT, INC., P.O. Box 7057, Savannah, GA 31408. Representative: B. M. Shirley (same as applicant). *Contract Carrier: Irregular Routes: Textiles and textile products and materials, equipment and supplies used in the manufacture or distribution of textiles and textile products* between Waynesboro, VA, on the one hand, and, on the other, points in AL, GA, MS, NC, SC and TN under continuing contract with E. I. du Pont de Nemours & Co., of Wilmington, DE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): E. I. du Pont de Nemours & Co., Inc., Transportation & Distribution Dept., 10th & Market Sts., Room 2048, DuPont Bldg., Wilmington, DE 19898. Send protests to: G. H. Fauss, Jr., D/S, ICC, Box 35008, 400 W. Bay St., Jacksonville, FL 32202.

MC 125368 (Sub-67TA), filed May 23, 1979. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher (same address as applicant). *Meats, meat products and supplies used in the manufacture of meat products* between the facilities of White Packing Company, King George, VA, on the one hand, and, on the other, points in AR, CO, CT, FL, IA, KS, LA, MA, MO, NE, NH, NY, OK, SC, SD, WV, and WI, for 180 days. An underlying ETA seeking 90 days authority has been filed. Supporting shipper(s): White Packing Company, Inc., P.O. Box 95, King George, VA 22485. Send protests to: Archie W. Andrews, D/S, ICC, P.O. Box 26896, Raleigh, NC 27611.

MC 125368 (Sub-68TA), filed May 23, 1979. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher (same address as applicant). *Container carriers, forest handling equipment, machinery and supplies* between the facilities of Dunham Manufacturing Company, Inc., Minden, LA, on the one hand, and, on the other, points in AL, AR, CT, DE, DC, FL, GA, KY, LA, MD, MA, MS, NJ, NC, NY, PA, RI, SC, TN, VA, and WV, for 180 days. An underlying ETA has been filed seeking 90 days authority. Supporting shipper(s): Dunham Manufacturing Company, Inc., P.O. Box 430, Minden, LA 71055. Send protests to: Archie W. Andrews, D/S, ICC, P.O. Box 28896, Raleigh, NC 27611.

MC 125368 (Sub-69TA), filed June 14, 1979. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher, P.O. Box 26, Holly Ridge, NC 28445. *Frozen foodstuffs* between Indianapolis, IN on the one hand, and, on the other, points in AL, AR, CO, CT, DE, FL, GA, IL, IA, KS, LA, MA, ME, MD, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and DC, restricted to shipments originating at or destined to the facilities of Monument Dist. Whse., Inc., Indianapolis, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Monument Distribution Warehouse, Inc., 3320 S. Arlington Ave., Indianapolis, IN 46203. Send protests to: Terrell Price, 800 Briar Creek Road, Room CC516, Charlotte, NC 28205.

MC 125368 (Sub-70TA), filed June 14, 1979. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher, P.O. Box 26, Holly Ridge, NC 28445. *Combines, combine attachments and parts thereof when moving in the same shipment* from the facilities of or utilized by International Harvester Company at East Moline and Moline, IL to the states of AL, FL, GA, KY, MS, NC, SC, TN, VA, and WV, for 180 days. Supporting shipper(s): International Harvester Company, 401 N. Michigan Ave., Chicago, IL 60611. Send protests to: Terrell Price, 800 Briar Creek Road, Room CC516, Charlotte, NC 28205.

MC 125648 (Sub-4TA), filed May 14, 1979. Applicant: C. WHITE & SON, INC., Evans Road, Rocky Hill, CT 06067. Representative: Gerald A. Joseloff, 80 State Street, Hartford, CT 06103. *Petroleum and petroleum products* (a) from Providence, RI to points in CT and points in MA on and west of MA Highway 12; (b) from New Haven, CT to points in MA on and west of MA Highway 12; and (c) from Boston, MA to points in CT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): F. L. Roberts & Co., Inc., 93 West Broad Street, Springfield, MA 01105. Send protests to: J. D. Perry, Jr., DS, ICC, 135 High Street, Hartford, CT 06101.

MC 125708 (Sub-174TA), filed May 18, 1979. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 W. 152nd Street, East Chicago, IN 46312. Representative: Anthony C. Vance, Esq., 1307 Dolley Madison Blvd., McLean, VA 22101. *Metal articles* (1) from OH, PA, NJ, IL, MD, KY, IA, IN, NY, WV, to

Norcross, GA, Birmingham, AL, Greenville and Greensboro, NC, and Richmond, VA; (2) from Norcross, GA, to FL, SC, NC, MS, TN, LA, AR, and VA. *Restriction:* (1) and (2) are restricted to transportation originating at or destined to facilities of J. M. Tull Metals Company for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. M. Tull Metals Company, P.O. Box 725, 4285 Old Peachtree Rd., Norcross, GA 30071. Send protests to: David Hunt, Room 1386, 219 South Dearborn St., Chicago, IL 60604.

MC 125708 (Sub-175TA), filed May 23, 1979. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 W. 152nd Street, East Chicago, IN 46312. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. *Upholstered chairs* from the facilities of La-z-Boy Midwest at Neosho, Mo, to points in AL, AR, FL, GA, IL, IN, KY, LA, MI, MS, OH, OK, PA, TN, and TX for 180 days. Supporting shipper(s): La-z-Boy Midwest, Neosho, MO. Send protests to: David Hunt, Room 1386, 219 South Dearborn St., Chicago, IL 60604.

MC 126118 (Sub-162TA), filed May 22, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). *Central air conditioning units, air handling units, heating units, and equipment, materials, and supplies used in the manufacture, sale, and distribution thereof*, between Fort Smith, AR and Tyler, TX, and points in their commercial zones, on the one hand, and on the other, points in the US (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Electric Company, Troup Highway, Tyler, TX 75711. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 126118 (Sub-163TA), filed June 1, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, Nebraska 68501. Representative: David R. Parker, (same as above). *Carpet, carpet samples, and equipment, materials and supplies used in the manufacture and distribution thereof* (1) From Lincoln, NE and points in its commercial zone to points in CA, CO, IL, IN, IA, KS, MI, MN, MO, NE, NY, ND, OH, PA, SD, UT, WI and WY and (2) From points in CA, GA, and VA to Lincoln, NE and points in its commercial zone. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lincoln Carpet Mills, Inc., Bldg. 310, Lincoln Air Park West, Lincoln, NE 68528, Harry Kingery, Transportation Manager. Send

protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 126309 (Sub-1TA), filed May 30, 1979. Applicant: JAMES E. GOONAN, Rt. 1, Box 97, Browntown, WI 53522. Representative: James A. Spiegel, 6425 Odana Road, Madison, WI 53719. *Contract carrier; irregular routes; Petroleum products, in bulk, in tank vehicles*, from Amboy, IL to South Wayne, WI, restricted to transportation performed under a continuing contract(s) with Pecatonica Oil Co. Cooperative, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pecatonica Oil Co. Cooperative, Box 138, S. Wayne, WI 53587. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 127579 (Sub-21TA), filed June 4, 1979. Applicant: HAULMARK TRANSFER, INC., 1100 North Macon Street, Baltimore, MD 21205. Representative: Glenn M. Heagerty (same as applicant). *Such merchandise as is dealt in by a book distributor* (except in bulk), from Westminster and Savage, MD to Paterson, Carlstadt, and Jersey City, NJ and Chicago, IL. (2) To Westminster and Savage, MD from New York, NY, Dunmore, PA, Crawfordville, IN and Saddlebrook and Kearney, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Random House, Inc., 400 Hahn Road, Westminster MD 21157. Send Protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 128648 (Sub-22TA), filed May 17, 1979. Applicant: Trans-United, Inc., 425 West 152nd Street, P.O. Box 2081, East Chicago, IN 46312. Representative: Joseph Winter, 29 South La Salle Street, Chicago, IL 60603. *Contract carrier: over irregular routes; Metal articles*, from the facilities of Modulus Corporation at Gary, IN to Gilbert, Hassayampa and Parker, AZ, Kaufman and McCoy, TX, and Clearfield, UT, under continuing contract with Modulus Corporation for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Gary Screw and Bolt Division of Modulus Corporation, 7th & Alabama Street, Gary, IN 46401. Send Protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 129219 (Sub-18TA), filed June 7, 1979. Applicant: CMD TRANSPORTATION, INC., 12340 S. E. Dumolt Road, Clackamas, OR 97015. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030, 503-667-

6173. *Contract, Irregular, Battery Boxes, Covers and Vents* from City of Industry, CA, to Eugene, Canby, Beaverton, and Portland, OR, for 180 days. Supporting shipper(s): The Richardson Company, 2701 Lake Street, Melrose Park, Illinois 60160. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S.W. Yamhill St., Portland, OR 97204.

MC 129328 (Sub-13TA), filed May 23, 1979. Applicant: PALTEX TRANSPORT CO., P.O. Box 296, Palestine, TX 75801. Representative: Kenneth R. Hoffman, 801 Vaughn Bldg., Austin, TX 78701. (1) *Contract carrier, irregular routes; Paper and paper products*, except in bulk, from the facilities of Clevepak Corporation at or near Dallas, TX, to points in AZ, CA, CO, GA, KS, MO and TN; (2) *Materials, equipment and supplies*, except in bulk, used in the manufacture, sale or distribution of paper and paper products from points in AZ, CA, CO, GA, KS, MO and TN to the facilities of Clevepak Corporation at or near Dallas, TX; (3) *Paper and paper products*, except in bulk, from the facilities of Clevepak Corporation at or near Franklinton, GA, to points in AL, FL, LA, MS, NC, SC and TN; (4) *Materials, equipment and supplies*, except in bulk, used in the manufacture, sale or distribution of paper and paper products from points in AL, FL, LA, MS, NC, SC and TN, to the facilities of Clevepak Corporation at or near Franklinton, GA, for 180 days. An underlying ETA seeks 90 days authority. Authority sought by this application is restricted to a transportation service to be provided under a continuing contract or contracts with Clevepak Corporation. Supporting shipper(s): Clevepak Corporation, 1010 West Mockingbird Lane, Suite 130, Dallas, TX 75247. Send protests to: Martha A. Powell, TA, ICC, Room 9A27 Federal Bldg., 819 Taylor, Fort Worth, TX 76102.

MC 133119 (Sub-1TA), filed May 30, 1979. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, P.O. Box 206, Akron, IA 51001. Representative: A. J. Swanson, P.O. Box 81849, Lincoln, NE 68501. *Meats, meat products and meat by-products, articles distributed by meat packinghouses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers, as described in Sections A, C, and D to the report in Descriptions in Motor Carrier Certificates 61 MCC 209 and 786, (except commodities in bulk)*, (1) from the facilities of Armour and Co. at Mason City, IA and the facilities of Lauridsen Foods, Inc. at or near Britt, IA to points in the United States (except AK, HI, PA, NY, NJ, CT, MA, RI, VT,

NH, and ME) and (2) from the destination area described in (1) above to the facilities of Armour & Co. at Mason City, IA and the facilities of Lauridsen Foods, Inc. at or near Britt, IA, for 180 days, restricted parts (1) and (2) to the transportation of traffic originating at the named destinations. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour & Co., Greyhound Tower, Phoenix, AZ 85077. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 133659 (Sub-5TA), filed May 30, 1979. Applicant: LIVINGSTON STORAGE AND TRANSFER CO., INC., 4301 Allied Drive, Columbus, GA 31903. Representative: C. Jack Pearce, 1000 Connecticut Avenue, NW, No. 1200, Washington, DC 20036. *Those commodities, the transportation of which by reason of their size or weight requires specialized handling or equipment* (1) from Chattahoochee, Muscogee and Harris Counties, GA and Lee and Russell Counties, AL to points in GA, AL, that portion of MS east of Interstate 55 from the TN border to and including Jackson and on or east of Rt. 49 from Jackson to and including Gulfport, that portion of TN south of Interstate Rt. 40, that portion of NC both on or west of US Hwy 21 and south of Interstate 40, that portion of SC on or west of US Hwy 21 from the NC border to and including Columbia and west of Interstate 26 from Columbia to and including Charleston and that portion of FL north of Interstate 4 and St. Petersburg, FL (2) from Jefferson and Etowah Counties, AL to Chattahoochee, Muscogee and Harris Counties, GA and Lee and Russell Counties, AL and those commodities on return if rejected or for the purposes of repair, further manufacturing or other handling by the original shipper. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 14 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 133659 (Sub-6TA), filed May 30, 1979. Applicant: LIVINGSTON STORGE AND TRANSFER CO., INC., 4301 Allied Drive, Columbus, GA 31903. Representative: C. Jack Pearce, 1000 Connecticut Avenue, NW, No. 1200, Washington, DC 20036. *Scrap metal, ferrous and non-ferrous* between all points and places in GA, AL, that portion of MS east of Interstate 55 from the TN border to and including Jackson and on or east of Rt. 49 from Jackson to

and including Gulfport; that portion of TN south of Interstate 40; that portion of NC both on or west of US Hwy 21 and south of Interstate 40, that portion of SC on or west of US Hwy 21 from the NC border to and including Columbia and west of Interstate 26 from Columbia to and including Charleston and that portion of FL north of Interstate 4 and St. Petersburg, FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. T. Knight & Sons, Inc., 521 Broadway, Columbus, GA, and Hirsch Metals, 2303-7th St., Macon, GA, Commercial Metals, 717 Highland Ave., Atlanta, GA. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 133708 (Sub-39TA), filed June 11, 1979. Applicant: FISKE BROS., INC., 12467 East South St., Artesia, CA 90701. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. *Cement, in bulk, in pneumatic equipment*, from San Diego, CA to points in Nevada and Utah, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Melwire Trading Company, Inc., 4400 San Fernando Rd., Glendale, CA 91204. Send protests to: Irene Carlos, T/A I.C.C., P.O. Box 1551, Los Angeles, CA 90053.

MC 133959 (Sub-13TA), filed May 23, 1979. Applicant: LEWIS ALBAUGH AND MELVIN ALBAUGH d.b.a. ALBAUGH TRUCK LINE, 112 Main St., Elkart, IA 50073. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Contract authority. (1) Trailers* from the facilities of The Fruehauf Corp. at Charlotte, NC; Fort Wayne, IN; Fort Worth, TX; Fresno, CA; Uniontown, PA; and Waverly, OH to points in the United States except AK and HI. (2) *Trailers in secondary movement and trailer equipment and accessories* between the facilities of The Fruehauf Corp. at points in the United States except AK and HI. (3) *Equipment, materials and supplies used in the manufacture of trailers* from points in the United States except AK and HI to the facilities of The Fruehauf Corporation at Charlotte, NC; Fort Madison, IA; Fort Wayne, IN; Fort Worth, TX; Fresno, CA; Memphis, TN; Omaha, NE; Middletown and Uniontown, PA, and Waverly, OH. Restricted in parts (1), (2) and (3) to traffic originating at or destined to the facilities of The Fruehauf Corporation, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Fruehauf Corp., P.O. Box 238, Detroit, MI 48332. Send protests to:

Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 134979 (Sub-15TA), filed May 21, 1979. Applicant: DAGGETT TRUCK LINE, INC., Frazee, MN 56544. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Contract carrier*: irregular routes: *Foodstuffs (except commodities in bulk)*, from the facilities of Jen's Inc., located at Duluth, MN, and Superior, WI, to points in AZ, CA, CO, ID, MT, OR, UT and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jen's, Inc., 525 Lake Avenue South, Duluth, MN 55802. Send protests to: H. E. Farsdale, DS, ICC, Bureau of Operations, Room 268 Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 136008 (Sub-106TA), filed May 24, 1979. Applicant: JOE BROWN COMPANY, INC., 20 Third Street N.E., Ardmore, OK 73401. Representative: John Tipsword, P.O. Box 6210, Moore, OK 73153. *Gypsum*, in bulk, from Fort Dodge, IA, to the facilities of the Ashgrove Cement Company, at Louisville, NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Gypsum Company, 101 South Wacker Drive, Chicago, IL 60606. Send protests to: Connie Stanley, Room 240 Old Post Office 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 136008 (Sub-107TA), filed May 25, 1979. Applicant: JOE BROWN COMPANY, INC., 20 Third Street N.E., Ardmore, OK 73401. Representative: John Tipsword, P.O. Box 6210, Moore, OK 73153. *Feed grade phosphates*, in bulk, in tank vehicles, (1) from Houston, TX, to OK, KS, AR, & MO; and (2) from Joplin, MO to AR, KS, OK & TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Occidental Chemical Company, P.O. Box 1185, Houston, TX 77001. Send protests to: Connie Stanley, Room 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 136008 (Sub-108TA), filed May 25, 1979. Applicant: JOE BROWN COMPANY, INC., 20 Third Street N.E., Ardmore, OK 73401. Representative: John Tipsword, P.O. Box 6210, Moore, OK 73153. *Sand*, in bulk, in dump or tank vehicles, from the facilities of Dresser Industries, Inc., at or near Dubberly, LA, to all points in the states of GA, MS, & TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dresser Industries Inc., 601 Jefferson, Suite 2116, Houston, TX 77002. Send protests to: Connie Stanley, Room 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 136008 (Sub-109TA), filed June 7, 1979. Applicant: JOE BROWN COMPANY, INC., 20 Third Street N.E., Ardmore, OK 73401. Representative: John Tipsword, P.O. Box 6210, Moore, OK 73153. *Sand*, from LaSalle and Ogle Counties, IL, to points in AL, AR, CO, IN, IA, KS, LA, MT, MS, MO, MT, NE, NM, ND, OK, TN, TX, UT, & WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dowell Div. of Dow Chemical Co., P.O. Box 21, Tulsa, OK 74102. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 136008 (Sub-110TA), filed June 8, 1979. Applicant: JOE BROWN COMPANY, INC., 20 Third Street N.E., Ardmore, OK 73401. Representative: John Tipsword, P.O. Box 6210, Moore, OK 73153. *Barite*, from Washington County, MO, TO AR, LA, & TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Oilfield Products Group, Dresser Industries, Inc., 601 Jefferson, Suite 2116, Houston, TX 77005. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 136008 (Sub-111TA), filed June 11, 1979. Applicant: JOE BROWN COMPANY, INC., 20 Third Street N.E., Ardmore, OK 73401. Representative: John Tipsword, P.O. Box 6210, Moore, OK 73153. *Bulk hydrated lime*, in bulk, from Cleburne, TX, to all points in OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Texas Lime Company, Subsidiary of Rangaire Corp., Highway 174 South, P.O. Box 851, Cleburne, TX 76031. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 214 N.W. 3rd, Oklahoma City, OK 73102.

MC 136008 (Sub-112TA), filed June 11, 1979. Applicant: JOE BROWN COMPANY, INC., 20 Third Street N.E., Ardmore, OK 73401. Representative: John Tipsword, P.O. Box 6210, Moore, OK 73153. *Crushed limestone*, from Mosher, MO, to Bacon, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): PPG Industries, Inc., P.O. Box 400, Wichita Falls, TX 76307. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 136008 (Sub-113TA), filed June 12, 1979. Applicant: JOE BROWN COMPANY, INC., 20 Third Street N.E., Ardmore, OK 73401. Representative: John Tipsword, P.O. Box 6210, Moore, OK 73153. *Clay*, in bulk, from the facilities of Dresser Industries, at Kossee, TX, to Seneca, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dresser Industries, Inc., Oilfield Products Group, 601 Jefferson, Suite 2116, Houston, TX 77002. Send protests to: Connie Stanley, ICC, Room 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 136098 (Sub-2TA), filed May 18, 1979. Applicant: DUANE A. LOBDELL, d.b.a. LOBDELL TRANSPORTATION, Box 386, Lena, IL 61048. Representative: Michael W. O'Hara, 300 Reisch Building, Springfield, IL 62701. (1) *anhydrous ammonia, dry and liquid fertilizer*, from East Dubuque, IL, to points in IA, MN and WI, restricted to movements originating at the plant site of N-Ren Corporation at East Dubuque, IL; (2) *anhydrous ammonia, and liquid fertilizer*, from Clinton, IL, to points in IL and WI, restricted to movements originating at the plant site of Hawkeye Chemical Co. and Pillsbury Company, Carnes terminal, at Clinton, IA for 180 days. An ETA has been granted for 90 days. Supporting shipper(s): N-Ren Corporation, P.O. Box D, East Dubuque, IL. Mapco, Inc., Athens, IL. Send protests to: David Hunt, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 136528 (Sub-5TA), filed May 17, 1979. Applicant: GREAT NORTHEASTERN INC., P.O. Box 115, Blue Ball, PA 17506. Representative: Christian Graf, 407 N. Front St., Harrisburg, PA 17101. *Contract carrier, irregular routes: Farm, dairy and water treatment equipment, materials and supplies, and cleaning products, paint and pesticides*, from the facilities of Babson Bros. Co. at Oak Brook, IL, Hillside, IL, and the facilities of Pfantstiehl Detergent Chemicals, Inc. at Romeoville, IL, to points in CT, DE, MD, MA, ME, NH, NJ, NY, OH, PA, RI, VT, VA, WV and DC for 180 days. Restricted against transportation of commodities in bulk and commodities which, because of size or weight, require the use of special equipment. Restricted to transportation to be performed under a continuing contract with Babson Bros. Co., of Oak Brook, IL. An underlying ETA seeks 90 days authority. Supporting shipper(s): Babson Bros. Co., 2100 S. York Rd., Oak Brook, IL 60521. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 188308 (Sub-79TA), filed May 29, 1979. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39208. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. *Foodstuffs (except in bulk, in tank vehicles)* from the facilities of Kraft, Inc. at or near Lakeland, FL to points in MO, MS, LA, and TX, for 180 days. Supporting shipper(s): KRAFT, INC., 500 Peshtigo Court, Chicago, IL 60690. Send protests to: Alan Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 138438 (Sub-55TA), filed March 26, 1979. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 1329 Pennsylvania Ave., Hagerstown, MD 21740. *Brick(s)* from points in NC, SC, TN, VA, and PA to points in MD, PA, VA, WV, DC. Restriction: (A) Restricted against traffic originating at Creighton in Alleghany County, Leesport, Lewis Run (McKean County), Mount Pleasant Township, Natrona Heights (Alleghany County), Oxford Township, Porter Township (Clarion County), Tarentum (Alleghany County), Summerville (Jefferson County), Watsonstown, Delaware Township (Montour County), and Armstrong County, PA, and destined to points in MD, PA, VA, WV, DC. (B) Restricted against traffic originating at Madison, Durham, Salisbury and Thomasville, NC; and Cheraw and Columbia, SC, and destined to points in MD and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United Materials & Services, Inc., 129 Park St., Vienna, VA 22180. Send protests to: T. M. Esposito, 101 S. 7th St., Room 3238, Phila., PA 19106.

MC 138438 (Sub-56TA), filed May 22, 1979. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A-1, Williamsport, MD 21795. Representative: Edw. N. Button, 1329 Pennsylvania Ave., Hagerstown, MD 21740. *Masonry building materials*, from Devault, PA and Martinsburg, WV and their respective commercial zones, to points in MD, VA and DC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Masonry Materials and Services, Inc., P.O. Box 4433, Silver Spring, MD 20904. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 138438 (Sub-57TA), filed May 29, 1979. Applicant: D. M. BOWMAN, INC., Rt. 2 Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 1329 Pennsylvania Ave., Hagerstown, MD 21740. *Spring water* from Danbury and Tolland, CT, and their respective commercial zones, to pts. in the East of

OH, KY, TN and AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): F W F, Inc., 41 Valley Rd., Greenwich, CT 06807. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 138438 (Sub-58TA), filed May 29, 1979. Applicant: D. M. BOWMAN, INC., Rt. 2 Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 1329 Pennsylvania Ave., Hagerstown, MD 21740. *Brick(s)* from pts. in MD, to pts. in CT, MA, NJ, NY, PA, and RI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Consolidated Brick & Building Supplies, Inc., 17 Front St., Weymouth, MA 02188 and Moranz Brick Corp. 352 Montgomery Avenue, Marion, PA 19066. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 138438 (Sub-59TA), filed June 4, 1979. Applicant: D. M. BOWMAN, INC., Rt. 2 Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 1329 Pennsylvania Ave., Hagerstown, MD 21740. *Wood products and pallets* between pts. in the states of DE, MD, NJ, NY, PA and VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Moran Lumber Sales, Inc., P.O. Box 365, Villanova, PA 19005. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 138438 (Sub-60TA), filed June 4, 1979. Applicant: D. M. BOWMAN, INC., Rt. 2 Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 1329 Pennsylvania Ave., Hagerstown, MD 21740. *Brick and clay products*, from Tuscarawas County, OH to pts. in MD, VA, and the District of Columbia, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Potomac Valley Brick & Supply Company, 5515 Randolph Rd., Rockville, MD 20852. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 138469 (Sub-152TA), filed June 13, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. (1) *foodstuffs*, except in bulk, from Lexington, KY, to points in AZ, CA, CO, NV, NM, OR, TX, UT, and WA; and (2) *cleaning compounds and toilet preparations*, except in bulk, from Kankakee and Momence, IL, to points in CA, LA, MD, MA, NY, and TX, for 180 days, restricted in parts (1) and (2) above to the transportation of traffic originating at or destined to the facilities utilized by

Procter and Gamble Company. Supporting shipper(s): The Procter and Gamble Company, P.O. Box 599, Cincinnati, OH 45201. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 139349 (Sub-14TA), filed May 18, 1979. Applicant: E. Z. FREIGHT LINES, Gould Street and E. 46th St., Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract, irregular. Plastic film sheeting and rods* from Newcomerstown, OH to points in CT, DE, KY, MA, MI, NJ, NY, PA, and RI, under a continuing contract or contracts with The General Tire & Rubber Company for 180 days. Supporting shipper(s): The General Tire & Rubber Company, 1 General Street, Akron, OH 44329. Send protests to: Robert E. Johnston, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 139979 (Sub-6TA), filed June 11, 1979. Applicant: AMERICAN COLLOID CARRIER CORPORATION, P.O. Box 951, Scottsbluff, NE 69361. Representative: James P. Beck, 717-17th St., Suite 2600, Denver, CO 80202. *Contract carrier*: irregular routes: *Soy bean meal, in bulk*, from points in NE to points in ID, under continuing contract with American Colloid Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Colloid Company, P.O. Box 228, Skokie, IL 60077. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 140379 (Sub-6TA), filed June 1, 1979. Applicant: TRANSPORT SERVICE, INC., 216 Amaral Street, East Providence, RI 02914. Representative: Jeffrey A. Vogelmann, Suite 400, Overlook Bldg., 8121 Lincoln Road, Alexandria, VA 22312. *Contract-irregular, Brass articles, bronze articles, and copper articles*, from the facilities of Bridgeport Brass Company located at or near Indianapolis, IN to points in CT, MA, NJ, NY, PA, and RI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bridgeport Brass Company, P.O. Box 41519, Indianapolis, IN 46241. Send protests to: Gearld H. Curry, D/S, ICC, 24 Weybosset St., Room 102, Providence, RI 02903.

MC 140389 (Sub-66TA), filed June 4, 1979. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 12568, Atlanta, GA 30315. *Frozen foodstuffs*, between Indianapolis, IN, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MS, NC, SC, and TN, restricted to shipments

originating at or destined to the facilities of Monument Distribution Warehouse, Inc., Indianapolis, IN, for 180 days. Supporting shipper(s): Monument Distribution Warehouse, Inc., 3320 S. Arlington Avenue, Indianapolis, IN 46203. Send protests to: Mabel E. Holston, T/A. ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 140829 (Sub-263TA), filed May 24, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, Esq., 55 Madison Ave., Morristown, NJ 07960. *Outdoor recreational equipment and heating and air conditioning apparatus*, from the facilities of the Coleman Company, Inc., at or near Wichita, KS to points in MA, MN, NJ, NY, PA, RI, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Coleman Company, Inc., 250 N. St. Francis, Wichita, KS 67201. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 140829 (Sub-264TA), filed May 31, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, Esq., 55 Madison Ave., Morristown, NJ 07960. *Magnesium in bales*, from the facilities of American Magnesium Company, at or near Snyder, TX to points in IL, IN, IA, KY, NE, NJ, OH, PA, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Magnesium Co., Route 1, Box 666, Snyder, TX 79549. Send protests to: Carroll Russell, ICC, Suite 620, 110 N. 14th St., Omaha, NE 68102.

MC 140829 (Sub-265TA), filed June 4, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, Esq., 55 Madison Ave., Morristown, NJ 07960. *Adhesives and fabrics (except in bulk, in tank vehicles) from Bainbridge and Glen Cove, NY to points in IL and MO*. An underlying ETA seeks 90 days authority. Supporting shipper(s): Borden Chemical, Division Borden, Inc., 180 E. Broad St., Columbus, OH 43215, Robert V. Peabody, Distribution Manager. Send protests to: D/S, Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 140829 (Sub-266TA), filed June 5, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, Esq., 55 Madison Ave., Morristown, NJ 07960. (1) Diesel fuel supplement and air brake system anti-freeze from the facilities of Power Service Products, Inc. at or near Weatherford, TX to points in the States of IA, KS, MN, MO, NY, OH, PA and WI,

(2) Empty cans from the facilities utilized by Power Service Products, Inc., at or near Oil City, PA to Weatherford, TX. Supporting shipper(s): Power Service Products, Inc., P.O. Box 459, Weatherford, TX 76086, Ruth Swain, Traffic Manager. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 140829 (Sub-267TA), filed June 11, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, Esq., 55 Madison Ave., Morristown, NJ 07960. *Meat, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A, C, and D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, and materials, equipment and supplies used by meat packers, (except hides and commodities in bulk)*, between Mason City and Britt, IA and points in CT, IL, MA, MI, NJ, NY, PA, RI, and WI, for 180 days, restricted to the transportation of shipments originating at the above named origins and destined to the indicated destinations. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour and Company, Greyhound Tower, Phoenix, AZ 85077. Send protests to: Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 140829 (Sub-268TA), filed June 11, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, Esq., 55 Madison Ave., Morristown, NJ 07960. *Frozen meat*, from the ports of New Jersey and New York to points in the states of IL, IN, IA, KS, MI, MN, MO, NE, OH, OK, TX, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Orleans International, 6030 Joy Rd., Detroit, MI. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 141499 (Sub-2TA), filed May 22, 1979. Applicant: ERIC ANNETT, 1821 Grove Ave., Sebring, FL 33870. Representative: (same as applicant). *Passengers and their baggage in special operations in round-trip sightseeing or pleasure tours from points in Charlotte, Highlands, Hardee, DeSoto, Glades, Okeechobee, and Polk Counties, FL to points and places in the U.S. (except HI) for 180 days*. Supporting shipper(s): There are six supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Donna M. Jones, T/A, ICC-BOP, Monterey Bldg., Suite 101,

8410 N.W. 53rd Terrace, Miami, FL 33166.

MC 141578 (Sub-2TA), filed June 13, 1979. Applicant: KEE TRANSPORTATION COMPANY, 1830 E. 21st Street, P.O. Box 37437, Jacksonville, FL 32205. Representative: Norman J. Bolinger, 1729 Gulf Life Tower, Jacksonville, FL 32207. *Foundry sand and abrasive sand, in packages*, from the plant site of E. I. duPont de Nemours & Co., Inc., at or near Starke, FL, to points in Jacksonville, FL and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): E. I. duPont de Nemours & Co., Inc., P.O. Drawer 753, Starke, FL 32091. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 22278 (Sub-54TA), filed April 19, 1979. Applicant: TAKIN BROS. FREIGHT LINE, INC., 2125 Commercial Street, Waterloo, IA 50702. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, by regular route. Between Chicago, IL, and Milwaukee, WI, serving all intermediate points in WI: from Chicago over IL Hwy 42A to jct U.S. Hwy 41, then over U.S. Hwy 41 to jct U.S. Hwy 41, then over U.S. Hwy 41 to jct IL Hwy 173, then over IL Hwy 173 to jct IL Hwy 42, then over IL Hwy 42 to the IL-WI State line, then over WI Hwy 32 to jct WI Hwy 100, then over WI Hwy 100 to jct WI Hwy 59, and then over WI Hwy 59 to Milwaukee, and return over the same route. Between the jct U.S. Hwy 41 and IL Hwy 173, over U.S. Hwy 41 to Milwaukee, and return over the same route. Restriction: The service authorized in the two paragraphs next above to and from Milwaukee and intermediate points in WI is restricted to traffic moving to and from points on said carrier's authorized routes other than points in the Chicago, IL, Commercial Zone, as defined by the Commission. Between Chicago, IL and Elkhart, IN, serving all intermediate points: from Chicago over U.S. Hwy 12 to Michigan City, IN, then over U.S. Hwy 35 to jct U.S. Hwy 20, then over U.S. Hwy 20 to jct IN Hwy 2, then over IN Hwy 2 to South Bend, IN, and then over U.S. Hwy 33 to Elkhart, and return over the same route. Between Chicago, IL, and Cleveland, OH, serving all intermediate points, and the off-route points of

LaPorte, IN, and Painesville, OH: from Chicago over U.S. Hwy 20 jct OH Hwy 120 (formerly OH Hwy 102), then over OH Hwy 120 to Toledo, OH, then over OH Hwy 2 to Port Clinton, OH (also from Toledo over OH Hwy 120 to jct OH Hwy 163, then over OH Hwy 163 to Port Clinton), then over OH Hwy 57 to jct OH Hwy 254, and then over OH Hwy 254 to Cleveland, and return over the same route. Between South Bend, IN, and Detroit, MI, serving all intermediate points: from South Bend over U.S. Hwy 20 to Elkhart, IN, then over IN Hwy 120 to Bristol, IN (also from South Bend over U.S. Hwy 20 to jct IN Hwy 112, then over IN Hwy 120 to Bristol), then over IN Hwy 15 to jct U.S. Hwy 131, then over U.S. Hwy 131 to Mottville, MI, and then over U.S. Hwy 112 to Detroit, and return over the same route. Between Detroit, MI, and Toledo, OH, serving all intermediate points and the off-route point of Ecorse, MI: from Detroit over U.S. Hwy 25 to Toledo, and return over the same route. Between South Bend, IN, and Cleveland, OH, serving all intermediate points: from South Bend over U.S. Hwy 20 to jct OH Hwy 49, then over OH Hwy 49 to Edon, OH, then over OH Hwy 34 to Bryan, OH, then over OH Hwy 34 to jct U.S. Hwy 6, then over U.S. Hwy 6 to Sandusky, OH, then over U.S. Hwy 250 to Milan, OH, then over OH Hwy 113 to Elyria, OH, then over OH Hwy 57 to jct OH Hwy 254, and then over OH Hwy 254 to Cleveland, and return over the same route. Between Pittsburgh, PA, and Mansfield, OH, serving all intermediate points, and the off-route points of East Pittsburgh, Trafford, Carnegie and Derry, PA, Galion and Plymouth, OH: from Pittsburgh over PA Hwy 51 to Beaver, PA (also from Pittsburgh over PA Hwy 65 (formerly PA Hwy 88), to Rochester, PA, and then across the Beaver River to Beaver, PA), then over PA Hwy 51 to the PA-OH State line, then OH Hwy 14, via Unity, OH, to jct OH Hwy 14A, then over OH Hwy 14A to Salem, OH, then over U.S. Hwy 62 to Canton, OH, then over U.S. Hwy 30 to Mansfield (also from Canton over U.S. Hwy 62 to jct unnumbered Hwy, then over unnumbered Hwy to Massillon, OH, and then over U.S. Hwy 30 to Mansfield), and return over the same routes. From Pittsburgh to Salem, OH, as specified above, then over OH Hwy 14A to Deerfield, OH, then over OH Hwy 14 via Edinburg, OH, to Cleveland, OH, then over U.S. Hwy 42 to Mansfield, and return over the same route. From Pittsburgh as specified above to Unity, OH, then over OH Hwy 14 to jct OH Hwy 7, then over OH Hwy 7 to

Youngstown, OH, then over OH Hwy 18 to Edinburg, OH, and then as specified above to Mansfield, and return over the same route. Between Pittsburgh, PA, and Baltimore, MD, serving all intermediate points, and the off-route points of Alexandria and Rosslyn, VA, points in Allegheny, Beaver, Fayette, Washington, and Westmoreland Counties, PA, and points in MD within 20 miles of Baltimore: from Pittsburgh over U.S. Hwy 30 via Bedford, PA, to Breezewood, PA, then over PA Hwy 126 to Warfordsburg, PA, then over U.S. Hwy 522 to Hancock, MD, then over U.S. Hwy 40 to Baltimore and return over the same route. From Pittsburgh over U.S. Hwy 22 to Armagh, PA, then over PA Hwy 56 to jct U.S. Hwy 220, then over U.S. Hwy 220 to Bedford, PA, then to Baltimore as specified above, and return over the same route. From Pittsburgh over PA Hwy 51 to Uniontown, PA, then over U.S. Hwy 40 to Baltimore, and return over the same route. Between Baltimore, MD, and Washington, DC, serving all intermediate points: from Baltimore over U.S. Hwy 1 to Washington, and return over the same route. Between Philadelphia, PA, and Washington, DC, serving all intermediate points, and off-route points in the Philadelphia, PA, Commercial Zone, as defined by the Commission 17 M.C.C. 533, and the Washington, DC, Commercial Zone, as defined by the Commission in 3 M.C.C. 243, and those within five miles of Baltimore, MD: from Philadelphia over U.S. Hwy 1 to Washington, and return over the same route. From Philadelphia over U.S. Hwy 13 to jct U.S. Hwy 40, then over U.S. Hwy 40 to Baltimore, MD, and then to Washington as specified above, and return over the same route. Between New York, NY, and Philadelphia, PA, serving all intermediate points on the specified routes, and the off-route points within 10 miles of the specified routes, those in NY within 30 miles of NY, NY, those in PA within 30 miles of City Hall, PA, those in NJ within 30 miles of Newark, and those in NJ within 15 miles of City Hall, Camden, as follows: From New York over U.S. Hwy 1 to Philadelphia and return over the same route. From New York over U.S. Hwy 1 to Morrisville, PA, then over U.S. Hwy 13 to Philadelphia, and return over the same route. From New York over U.S. Hwy 1 to Elizabeth, NJ, then over NJ Hwy 27 to Princeton, NJ, then over U.S. Hwy 206 to Trenton, NJ, and then over U.S. Hwy 1 to Philadelphia, and return over the same route. From New York over U.S. Hwy 1 to jct U.S. Hwy 130 (formerly NJ Hwy 25), then over U.S. Hwy 130 to Camden, NJ, and then across

the Delaware River to Philadelphia, and return over the same route. Irregular routes: Between Chicago, IL, on the one hand, and, on the other, points in Lake, McHenry, Kane, DuPage, and Will Counties, IL, points in that portion of DeKalb County, IL, east of IL Hwy 23, and points in that portion of Kankakee County, IL, north of a line beginning at the jct of the western boundary of Kankakee County and IL Hwy 17, then east on IL Hwy 17 to the jct of IL Hwy 114, then east on IL Hwy 114 to the IL-IN border, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack this authority with its existing authority in MC-87909 and MC-22278, and they intend to interline with other carriers.

Note.—Common control may be involved.

MC 25518 (Sub-22TA), filed May 14, 1979, and published in the Federal Register issue of June 26, 1979, and republished as corrected this issue. Applicant: JOHN BUNNING TRANSFER COMPANY, INC., Box 128, Rock Springs, WY 82901. Representative: Truman A. Stockton, Jr., The 1650 Grand Street Building, Denver, CO 80203. (1) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts; (2) *machinery, materials, equipment, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; (3) *earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells; and (4) *commodities*, the transportation of which because of size or weight require the use of special equipment, and of related articles and supplies when their transportation is incidental to the transportation of commodities which by reason of size or weight require special equipment, between points in that part of the U.S. in and west of ND, SD, NE, KS, OK and TX (except AK and HI), for 180 days. An

underlying ETA seeks 90 days authority. Applicant presently holds authority in MC 25518 and subs thereto to transport the considered commodities to, from or between certain states requested in the instant application. Applicant has filed a permanent authority application duplicating in whole the instant application. By these applications, applicant is seeking to remove gateways and to extend its operations. Applicant is seeking some duplicating authority and requested in its permanent authority application that any authority presently held duplicating that requested in the permanent authority be cancelled upon the issuance of the authority sought therein. The purpose of this republication is to show the complete scope of application, as previously omitted.

Republication: Previously published in the *Federal Register* on April 27, 1979. Purpose of republication is to show applicant's intention to tack and interline. MC 107478 (Sub-44TA), filed March 9, 1979. Applicant: OLD DOMINION FREIGHT LINE, INC., P.O. Box 2006, High Point, NC 27261. Representative: K. Edward Wolcott, 235 Peachtree Street, NE., Atlanta, GA 30303. On June 24, 1979, the Motor Carrier Board granted the authority as published on April 27, 1979, and also approved applicant's request to tack with its existing authority and to interline with other carriers. Petitions for reconsideration may be filed within 20 days from the date of this publication. Send petitions for reconsideration to: The Secretary, Interstate Commerce Commission, Washington, DC 20423.

MC 119988 (Sub-192TA), filed February 26, 1979, and published in the *Federal Register* issue of April 20, 1979, and republished as corrected this issue. Applicant: GREAT WESTERN TRUCKING COMPANY, INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Mike Cox, Highway 103 E., P.O. Box 1384, Lufkin, TX 75901. Common carrier over irregular routes. (1) *plumbing fixtures and supplies* (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) from Brown and Wood Counties, TX to Kohler, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kohler Company, P.O. Box A, Kohler, WI 53044. Send protests to: John F. Mensing, ICC, 8610 Federal Building, 515 Rusk Avenue, Houston, TX 77002. The purpose of this republication is to add the territorial description as previously omitted.

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-23093 Filed 7-25-79; 8:45 am]
BILLING CODE 7035-01-M

[Amdt. No. 1 to I.C.C. Order No. 41 Under Service Order No. 1344]

The Atchinson, Topeka & Santa Fe Railroad Co.; Rerouting Traffic

To: All Railroads: Upon further consideration of I.C.C. Order No. 41, (The Atchison, Topeka and Santa Fe Railroad Company), and good cause appearing therefor:

It is ordered, I.C.C. Order no. 41 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall remain in effect until modified or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., July 15, 1979.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., July 12, 1979.
Interstate Commerce Commission.
Joel E. Burns,
Agent.

[FR Doc. 79-23091 Filed 7-25-79; 8:45 am]
BILLING CODE 7035-01-M

[I.C.C. Order No. 42-A; Under Service Order No. 1344]

Burlington Northern, Inc.; Rerouting Traffic

To: All railroads: Upon further consideration of I.C.C. Order No. 42, (Burlington Northern Inc.), and good cause appearing therefor:

It is ordered, I.C.C. Order No. 42 is vacated.

This order shall become effective July 11, 1979, and shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. A copy shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., July 11, 1979.

Interstate Commerce Commission.
Joel E. Burns,
Agent.

[FR Doc. 79-23090 Filed 7-25-79; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 241; Rule 19; Exemption No. 241]

Chicago, Milwaukee, St. Paul & Pacific Railroad Co.; Car Service Rules

There is an emergency movement of military supplies from Crane, Indiana, to Leland, North Carolina. The originating carrier has insufficient system cars of suitable dimensions immediately available for loading with this traffic. Sufficient cars of other ownerships having suitable dimensions are available on the lines of the originating carrier and on its connections, and compliance with Car Service Rules 1 and 2 would prevent the timely assembly and use of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, the Car Service Division of the Association of American Railroads is authorized to direct the movement to the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Milwaukee), the railroads designated by the Car Service Division are authorized to move to, and the Milwaukee is authorized to accept, assemble, and load not to exceed 100 empty plain boxcars with military supplies from Crane, Indiana, to Leland, North Carolina, regardless of the provisions of Car Service Rules 1 and 2.

Effective July 5, 1979.
Expires July 31, 1979.
Interstate Commerce Commission.
Joel E. Burns,
Agent.
[FR Doc. 79-23090 Filed 7-25-79; 8:45 am]
BILLING CODE 7035-01-M

[I.C.C. Order No. 45 Under Service Order No. 1344]

Duluth & Northeastern Railroad Co.; Rerouting Traffic

In the opinion of Joel E. Burns, Agent, the Duluth & Northeastern Railroad Company is unable to transport promptly all traffic offered for movement over its lines between Cloquet, Minnesota, and Saginaw, Minnesota, because of washouts.

It is ordered: (a) *Rerouting traffic.* The Duluth & Northeastern Railroad Company, being unable to transport promptly all traffic offered for movement over its lines between Cloquet, Minnesota, and Saginaw,

Minnesota, because of washouts, that line and its connections are authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Acceptance of traffic in interchange.* In the event the Duluth & Northeastern Railroad Company cannot accept traffic in interchange from a connecting carrier, the delivering carrier, after establishing such condition, may reroute or divert the traffic via any available route.

(c) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(d) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided for under this order.

(e) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(f) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(g) *Effective date.* This order shall become effective at 9:00 a.m., July 5, 1979.

(h) *Expiration date.* This order shall expire at 11:59 p.m., July 31, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all

railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., July 5, 1979.
Interstate Commerce Commission.
Joel E. Burns,
Agent.
[FR Doc. 79-23087 Filed 7-25-79; 8:45 am]
BILLING CODE 7035-01-M

[Amendment to Special Permission No. 79-2800]

Emergency Fuel Surcharge—Special Procedures Based on Commission Fuel Index; Authorization of Master Tariff

Decided: July 19, 1979.

The decisions in Ex Parte No. 311, *Expedited Procedures for Recovery of Fuel Costs*, order motor carriers to compensate owner-operators for increased fuel costs on the basis of weekly indexes. Special Permission No. 79-2800 authorizes the carriers to recover these costs, also the increased fuel costs in their own operations, by the filing of percentage surcharges upon not less than 1 day's notice. The surcharges are required to be published in supplements to individual tariffs. Thousands of these supplements have been filed.

Since the Commission intends to review the surcharge index weekly, it is expected that the surcharge supplements will be reissued regularly. This will result in printing, mailing, filing, posting, and examining of thousands of additional supplements.

This procedure is expensive, substantially increases the use of paper and labor, and is unduly burdensome. We believe, due to the extraordinary circumstances involved, that the publication of a master tariff to reflect only the surcharges announced by the Commission is warranted.

We believe that such a master tariff should be filed by an organization having nationwide authority. The National Motor Freight Traffic Association, Inc. has this authority and, for the reasons and subject to the conditions set forth herein, we authorize the association to file the master tariff.

We wish to emphasize that the carriers are free to exercise their right of independent action to publish lesser surcharges than those that will appear in the master tariff. Use of the master tariff is for convenience of publication

only and is not intended to encourage higher surcharges than would otherwise be warranted.

This decision does not significantly affect the quality of the human environment.

It is ordered: 1. The National Motor Freight Traffic Association, Inc. is authorized to file a master surcharge tariff and supplements thereto on not less than 1 day's notice. The tariff or supplements shall be filed without delay. Each new surcharge shall cancel the surcharge it replaces. The tariff may contain only the latest maximum surcharges authorized under Ex Parte No. 311, must be indicated to expire not later than one year from its effective date, and must state that the surcharges apply only when specifically referred to by tariffs of motor carriers (common or contract) or their agents. No flagouts or exceptions may be shown in the tariff. The tariff shall not show a list of participating carriers.

2. Motor carriers and their agents wishing to establish the authorized maximum surcharge may file or reissue connecting-link supplements to their tariffs upon not less than 1 day's notice to connect the tariffs to the master tariff. The connecting-link supplements may also be canceled on 1 day's notice. The connecting-link supplements may be published in blanket form. Each supplement must specifically refer to the master tariff by ICC designation. The supplement shall cancel all increases previously filed to the tariff under Ex Parte No. 311 procedures. Powers of attorney will be unnecessary.

3. The master tariff shall specifically identify each surcharge therein as (a) applying to all truckload traffic; (b) applying to less-than-truckload traffic of carriers using owner-operators; and (c) applying to less-than-truckload traffic of carriers not using owner-operators. Each connecting-link supplement shall specifically state the type (truckload, LTL owner-operator, LTL nonowner-operator) of surcharge that applies for the carrier's account. Any services which consume fuel for which a surcharge will apply shall be specifically identified in the connecting-link supplement.

4. The "pass-through" certification required by paragraph numbered "4" in the decisions served June 15, 1979 or July 3, 1979 must be shown in the connecting-link supplement and not in the master tariff.

5. While a particular tariff is connected to the master tariff by the connecting-link supplement, that tariff may not publish any other fuel related adjustment under Ex Parte No. 311.

6. The National Motor Freight Traffic Association, Inc. shall furnish on request a copy of the master tariff to each carrier or agent that files a connecting-link supplement. The carrier or agent shall furnish copies to tariff subscribers on request.

7. The terms of the original permission, as heretofore amended, shall remain the same in all other respects.

8. This decision is effective July 31, 1979.

9. Notice of this amendment shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy to the Director, Office of the Federal Register, for publication therein.

By the Commission, Special Permission Board, Members Geisenkotter, Nelson and Sullivan (Chairman Geisenkotter did not participate).

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-23086 Filed 7-25-79; 8:45 am]
BILLING CODE 7035-01-M

[I.C.C. Order No. P-25]

St. Louis Southwestern Railway Co.; Passenger Train Operation

The National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Chicago, Illinois, and Laredo, Texas. The operation of these trains requires the use of the tracks and other facilities of the Missouri Pacific Railroad Company (MP) between St. Louis, Missouri, and Laredo. A portion of these MP tracks between Big Sandy, Texas, and Texarkana, Arkansas-Texas, are temporarily out of service because of a derailment. An alternate route is available between these points via the lines of the St. Louis Southwestern Railway Company between Big Sandy and Texarkana.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, (a) Pursuant to the authority vested in me by order of the Commission served March 6, 1978, and

of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562 (c)), the St. Louis Southwestern Railway Company is directed to permit the use of its tracks and facilities for the movement of trains of the National Railroad Passenger Corporation between a connection with the Missouri Pacific Railroad Company at Big Sandy, Texas, and a connection with the Missouri Pacific at Texarkana, Arkansas-Texas.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(d) *Effective date.* This order shall become effective at 5:30 p.m., CDT, July 4, 1979.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., CDT, July 5, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

This order shall be served upon the St. Louis Southwestern Railway Company and upon the National Railroad Passenger Corporation, and a copy of this order shall be filed with the Director, Office of the Federal Register.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 79-23088 Filed 7-25-79; 8:45 am]

BILLING CODE 7035-01-M

[Permanent authority Decisions Volume No. 62]

Permanent Authority Applications Decision-Notice

Correction

In FR Doc. 79-16788 appearing at page 31061 in the issue for May 30, 1979, make the following correction:

On page 31064, in the third column, in the paragraph designated MC 115826 (Sub-404F), in the 19th line, insert the State abbreviation "RI" between State abbreviations for "PA" and "VT".

BILLING CODE 1505-01-M

[Volume No. 65]

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 79-16906 appearing at page 31375 in the issue for May 31, 1979, make the following corrections:

(1) On page 31376, in the third column, in the 26th line, insert the word "requires" between the words "weight" and "the".

(2) On page 31376, in the third column, in the 34th line, insert the number "57" between the abbreviation "Hwy" and the word "to".

BILLING CODE 1505-01-M

[Volume No. 98]

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 79-21420 appearing at page 40581 in the issue for July 11, 1979, make the following correction:

On page 40584, in the third column, in the paragraph designated MC 116763 (Sub-500F), in the 6th line, substitute the word "contract" for the word "common".

BILLING CODE 1505-01-M

Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 4:25 p.m., Thursday, July 19, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission Meeting.

CHANGES IN THE MEETING: Additional item considered—

At the conclusion of its Closed Meeting on July 19, 1979, the Commission discussed recent newspaper reports that the staff was reevaluating the Gannett-Combined Communications Corporation merger. The Commission then requested the staff to circulate an item relating to the basis for the staff's reevaluation as soon as possible. A transcript of this portion of the meeting will be available for inspection in Room 222 by Friday, July 27, 1979.

Additional information concerning this matter may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: July 23, 1979.

[S-1486-79 Filed 7-24-79; 3:43 pm]

BILLING CODE 6712-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of change in subject matter of agency meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, July 23, 1979, the

Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director John G. Heimann (Comptroller of the Currency), concurred in by Director William M. Isaac (Appointive), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a memorandum proposing the payment of architectural fees in connection with the renovation of space occupied by the New York Regional Office.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: July 23, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1486-79 Filed 7-24-79; 3:24 pm]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of changes in subject matter of agency meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, July 23, 1979, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director John G. Heimann (Comptroller of the Currency), concurred in by Director William M. Isaac (Appointive), that Corporation business required the addition of the following matters to the agenda for consideration at the meeting, on less than seven days' notice to the public:

Application of the proposed Medford State Bank, Medford, Oregon, for Federal deposit insurance.

Request by the Comptroller of the Currency for a report from the Corporation on the competitive factors involved in the proposed purchase of assets of and assumption of liability to pay deposits made in Bank of North Charleston, North Charleston, South Carolina, by The National Bank of South Carolina, Sumter, South Carolina.

Memorandums proposing the retention of consultant services and outside counsel in

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connection with a proposed real estate acquisition by the Corporation.

The Board further determined, by the same majority vote, that the public interest did not require consideration of the matters added to the agenda in a meeting open to public observation; that the matters could be considered in a closed meeting by authority of subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act"; and that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: July 23, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1487-79 Filed 7-24-79; 3:24 pm]

BILLING CODE 6714-01-M

4

FEDERAL ELECTION COMMISSION.

FEDERAL REGISTER NO. FR-S-1465.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, July 26, 1979, at 10 a.m.

CHANGE IN MEETING:

The following item has been added to the open portion of the meeting—

Final audit report, Indiana Republican State Central Committee.

The following item has been added to the closed portion of the meeting—

Discussion of audit report of Republican State Central and Executive Committees of Ohio, including Sunshine Determination.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Public Information Officer, Telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary to the Commission.

[S-1482-79 Filed 7-24-79; 11:11 am]

BILLING CODE 6715-01-M

5

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, July 31, 1979, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance; Personnel.

DATE AND TIME: Wednesday, August 1, 1979, at 10 a.m.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Matters carried over from Executive session of July 31, 1979.

DATE AND TIME: Thursday, August 2, 1979, at 10 a.m.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

- Setting of dates for future meetings.
- Correction and approval of minutes.
- Advisory opinion 1979-38 V. Bruce Whitehead, Corporate Counsel for Hardee's Food Systems, Inc.
- 1980 Election and related matters.
- Appropriations and budget.
- Pending legislation.
- Classification actions.
- Routine administrative matters.

Portions Closed to the Public

Any matters not concluded on July 31, 1979 and August 1, 1979.

PERSONS TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Public Information Officer, Telephone: 202-523-4065.

Lena L. Stafford,
Acting Secretary to the Commission.

[S-1485-79 Filed 7-24-79; 3:24 pm]
BILLING CODE 6715-01-M

6

FEDERAL LABOR RELATIONS AUTHORITY.

TIME AND DATE: 10 a.m., Tuesday, July 31, 1979.

PLACE: Department of Labor Building, 200 Constitution Avenue, NW., Room C5515, Seminar Room 2, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Space procurement for FLRA offices.
2. Status of fiscal year 1979 and 1980 budgets.
3. Status of FLRA personnel regulations.
4. Options regarding printing and publication of FLRA documents.
5. Development of casehandling and work productivity systems.
6. Report on pending Panama Canal Treaty legislation, H.R. 1716, as it relates to the FLRA.

CONTACT PERSON FOR MORE

INFORMATION: Harold D. Kessler, Deputy Executive Director, telephone (202) 632-3920.

July 24, 1979.

[S-1483-79 Filed 7-24-79; 3:24 pm]
BILLING CODE 6325-19-M

7

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

July 24, 1979.

TIME AND DATE: 10 a.m., July 27, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

2. Eastern Associated Coal Corporation, WEVA 79-117-R (Petition for Discretionary Review).

It was determined by a unanimous vote of Commissioners that Commission business required that a meeting be held on this item and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFO: Jean Ellen, 202-653-5632.

[S-1489-79 Filed 7-24-79; 3:46 pm]
BILLING CODE 6820-12-M

8

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

July 24, 1979.

TIME AND DATE: 10 a.m., July 31, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

The Commission will hear oral arguments on the following cases:

1. Kentland-Elkhorn Coal Corporation, PIKE 78-399; and Helen Mining Company, PITT 79-11-P.
2. Magma Copper Company, DENV 78-533-M

CONTACT PERSON FOR MORE

INFORMATION: Jean Ellen, 202-653-5632.

[S-1490-79 Filed 7-24-79; 3:46 pm]
BILLING CODE 6820-12-M

9

UNITED STATES RAILWAY ASSOCIATION.

TIME AND DATE: 9 a.m., August 2, 1979.

PLACE: 955 L'Enfant Plaza North SW., Board Room, Room 2-500, Fifth Floor, Washington, D.C.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS:

Portions Closed to the Public (9 a.m.)

1. Consideration of internal personnel matters.

2. Review of Conrail proprietary and financial information for monitoring and investment purposes.

3. Review of Missouri-Kansas-Texas Railroad Company proprietary and financial information.

4. Litigation report.

Portions Open to the Public (1:30 p.m.)

5. Approval of minutes of the July 12, 1979 Board of Directors meeting.

6. Review of D&H financial results.

7. Consideration of Supplemental Transaction Proposal.

8. Report on Conrail monitoring.

9. Consideration of Conrail drawdown request for August.

10. Consideration of 211(h) loan program.

11. Contract Actions (extensions and approvals).

CONTACT PERSON FOR MORE

INFORMATION: Alex Bilanow, (202) 426-4250.

[S-1484-79 Filed 7-24-79; 3:24 pm]
BILLING CODE 6240-01-M

Thursday
July 26, 1979

Part II

Department of Transportation

Materials Transportation Bureau and
Research and Special Programs
Administration

Hazardous Materials, Forbidden Materials,
and United Nations Shipping Descriptions

Federal Register

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Part 172]

[Docket No. HM-126A; Notice No. 79-9]

Display of Hazardous Materials Identification Numbers; Improved Emergency Response Capability; Descriptions for Organic Peroxides; Extension of Comment Period

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: The Materials Transportation Bureau (MTB) published a notice of proposed rulemaking in the Federal Register on June 7, 1979 (44 FR 32972; Docket No. HM-126A; Notice No. 79-9), proposing the adoption of a numerical identification system for hazardous materials transported in commerce. The purpose of the proposed regulations is to improve the capability of emergency response personnel (fire, police, et al.) to quickly identify hazardous materials and to assure the accurate transmission of information to and from the scenes of accidents involving hazardous materials.

The MTB proposes in this additional proposal to list each organic peroxide (with identification number) that may be shipped in commerce in order that the different kinds of risks presented by these materials may be recognized during implementation of emergency response procedures.

DATES: Comments, on this additional proposal and comments on Notice No. 79-9 published on June 7, 1979, must be received on or before October 18, 1979.

ADDRESS COMMENTS TO: Dockets Branch, Materials Transportation Bureau, Washington, D.C. 20590 (telephone: 202-472-2726). It is requested that five copies be submitted.

FOR FURTHER INFORMATION CONTACT: Lee E. Metcalfe, Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590, 202-426-5056.

SUPPLEMENTARY INFORMATION: The MTB is developing a rulemaking proposal for future publication that will pertain to organic peroxides. It will be primarily addressed to packaging and special shipping requirements. Considering its recent proposal under this Docket

pertaining to the display of hazardous materials identification numbers to provide an improved emergency response capability, the MTB believes that, during the interim, it is necessary that most of the organic peroxides that may be shipped in commerce be separately identified and assigned individual identification numbers. This will provide the capability to give separate recognition to the different risks posed by organic peroxides, such as (1) the differing degrees of thermal sensitivity; (2) violence of thermal decomposition; (3) susceptibility to ignition by friction; (4) flammability; and (5) corrosivity.

Approximately 135 organic peroxide entries would be added to the Hazardous Materials Table. Although packaging would not be listed for each new organic peroxide entry, each is cross-referenced to an entry that is already in the Table that has packaging and other requirements which are applicable to the new entry. Each of the new entries has an identification number which would be entered with the name of the material on shipping papers and packages. The identification numbers would be used as a basis for referencing appropriate emergency response information. Certain United Nations and IMCO entries contain concentrations that are greater than those authorized by the DOT regulations and thus would not be acceptable for transportation in the higher concentrations. For example, diisopropylbenzene hydroperoxide has a maximum of 72 percent in solution in the IMCO entry whereas only 60 percent peroxide is authorized in the entry in Section 172.101. Therefore, only a maximum of 60 percent peroxide may be offered for transportation or transported under the DOT regulations.

Paragraph (b)(5) of Section 172.100 would be revised to establish a requirement for entering on a shipping paper, and marking on the package, the technical name of each organic peroxide offered for transportation. While the proper shipping name derives from the technical name entry for each organic peroxide, the organic peroxide entry referenced by the word "see" would continue to contain the requirements for columns 4, 5, 6, and 7 in Section 172.101 until a complete rulemaking proposal for organic peroxides is developed, proposed, and adopted. In light of the proposals made in this Notice, and in consideration of a number of requests for further time to comment on Notice No. 79-9, the MTB is extending the comment period on that Notice to

coincide with the closing date for comments on this Notice.

The primary drafters of this Notice are Charles W. Schultz and Lee E. Metcalfe of the Materials Transportation Bureau.

In consideration of the foregoing, it is proposed to amend Part 172 of Title 49, Code of Federal Regulations as follows:

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

1. In § 172.100 paragraph (b)(5) would be revised to read as follows:

§ 172.100 Purpose and use of the table.

(b) * * *

(5) Except for organic peroxides, when one entry references another entry by use of a "see", if both names are in Roman type, either name may be used as a proper shipping name (e.g., Isopropanol *see* Alcohol, n.o.s.). For an organic peroxide, the technical name shall be used as its proper shipping name.

2. Section 172.101, the Hazardous Materials Table, would be revised by the addition of the following entries in their appropriate alphabetical sequence in Column 2 with the accompanying identification number for each in Column 3.

§ 172.101 Hazardous materials table. [Amended]

- 2080 Acetylacetone peroxide (3,5-Dimethyl-3,5-dihydroxydioxolane-1,2), maximum concentration 40 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2081 Acetylbenzoyl peroxide. See Acetyl benzoyl peroxide solution, not over 40% peroxide.
- 2083 Acetyl cyclohexanesulphonyl peroxide, maximum concentration 32 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2082 Acetyl cyclohexanesulphonyl peroxide, maximum concentration 82 percent, wetted with minimum 12 percent water. See Organic peroxide, solid, n.o.s.
- 2084 Acetyl peroxide. See Acetyl peroxide, solution, not over 25% peroxide.
- 2891 tert-Amyl-perneodecanoate, with at least 25 percent phlegmatizer. See Organic peroxide, liquid or solution, n.o.s.
- 2898 tert-Amylperoxy-2-ethylhexanoate, technical pure. See Organic peroxide, liquid or solution, n.o.s.
- 2089 Benzoyl peroxide, from 30 percent to maximum 50 percent with inert solid. See Benzoyl peroxide.
- 2087 Benzoyl peroxide, not more than 72 percent as a paste. See Benzoyl peroxide.
- 2086 Benzoyl peroxide, more than 72 percent but less than 95 percent as a paste. See Benzoyl peroxide.

- 2090 Benzoyl peroxide not more than 77 percent with water. See Benzoyl peroxide.
- 2088 Benzoyl peroxide, more than 77 percent but less than 95 percent with water. See Benzoyl peroxide.
- 2085 Benzoyl peroxide, technical pure or more than 52 percent with inert solid. See Benzoyl peroxide.
- 2894 Bis(4-tert-butylcyclohexyl) peroxydicarbonate, maximum concentration 42 percent, stable dispersion in water. See Organic peroxide, liquid or solution, n.o.s.
- 2154 Bis(4-tert-butylcyclohexyl) peroxydicarbonate, technical pure. See Organic peroxide, solid, n.o.s.
- 2111 2,2-Bis(tert-butylperoxy)butane, maximum concentration 55 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2885 1,1-Bis(tert-butylperoxy)cyclohexane, with at least 13 percent phlegmatizer and 47 percent inorganic inert solid. See Organic peroxide, solid, n.o.s.
- 2897 1,1-Bis(tert-butylperoxy)cyclohexane, with at least 50 percent phlegmatizer. See Organic peroxide, liquid or solution, n.o.s.
- 2180 1,1-Bis(tert-butylperoxy)cyclohexane, maximum, 77 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2181 1,2-Bis(tert-butylperoxy)cyclohexane, maximum 77 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2179 1,1-Bis(tert-butylperoxy)cyclohexane, technical pure. See Organic peroxide, solid, n.o.s.
- 2112 1,4-Bis(2-tert-butylperoxyisopropyl)benzene, 1,3-Bis(2-tert-butylperoxyisopropyl)benzene, and mixtures thereof, technical pure or more than 40 percent inert solid. See Organic peroxide, solid, n.o.s.
- 2146 1,1-Bis(tert-butylperoxy)-3,3,5-trimethylcyclohexane, maximum 57 percent in solvent. See Organic peroxide, liquid or solution, n.o.s.
- 2147 1,1-Bis(tert-butylperoxy)-3,3,5-trimethylcyclohexane, maximum 58 percent with inert solid. See Organic peroxide, solid, n.o.s.
- 2145 1,1-Bis(tert-butylperoxy)-3,3,5-trimethylcyclohexane, technical pure. See Organic peroxide, liquid or solution, n.o.s.
- 2168 2,2-Bis(4,4-di-tert-butylperoxycyclohexyl)propane, maximum 42 percent with inert solid. See Organic peroxide, solid, n.o.s.
- 2148 Bis(1-hydroxycyclohexyl) peroxide, technical pure. See Organic peroxide, solid, n.o.s.
- 2889 Bis(isotridecyl)peroxydicarbonate, technical pure. See Organic peroxide, liquid or solution, n.o.s.
- 2593 Bis(2-methylbenzoyl) peroxide, with at least 15 percent water. See Organic peroxide, solid, n.o.s.
- 2597 Bis(3,5,4-trimethyl-1,2-dioxolanyl-3) peroxide as a paste with at least 50 percent phlegmatizer. See Organic peroxide, solid, n.o.s.
- 2128 Bis(3,5,5-trimethylhexanoyl) peroxide, technical pure or in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2141 n-Butyl-4,4-bis(tert-butylperoxy)valerate, maximum 52 percent with inert solid. See Organic peroxide, solid, n.o.s.
- 2140 n-Butyl-4,4-bis(tert-butylperoxy)valerate, technical pure. See Organic peroxide, liquid or solution, n.o.s.
- 2093 tert-Butyl hydroperoxide, maximum 72 percent with water. See Organic peroxide, liquid or solution, n.o.s.
- 2094 tert-Butyl hydroperoxide, over 72 percent to maximum 90 percent with water. See Organic peroxide, liquid or solution, n.o.s.
- 2092 tert-Butyl hydroperoxide, maximum 80 percent in Di-tert-butyl peroxide and solvent. See Organic peroxide, liquid or solution, n.o.s.
- 2092 tert-Butyl hydroperoxide, maximum 80 percent in Di-tert-butyl peroxide or solvent. See Organic peroxide, liquid or solution, n.o.s.
- 2105 tert-Butyl monoperoxophthalate, technical pure. See Organic peroxide, solid, n.o.s.
- 2096 tert-Butyl peracetate, maximum concentration 52 percent solution. See Organic peroxide, liquid or solution, n.o.s.
- 2095 tert-Butyl peracetate, maximum concentration 76 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2890 tert-Butyl perbenzoate, with at least 50 percent inert organic solid. See Organic peroxide, solid, n.o.s.
- 2098 tert-Butyl perbenzoate, maximum concentration 75 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2097 tert-Butyl perbenzoate, technical pure or more than 75 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2183 tert-Butyl percrotonate, maximum 76 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2887 tert-Butylper[2,2-ethyl]hexanoate, maximum 12 percent and 2,2-Bis(tert-butylperoxy)butane, maximum concentration 14 percent with at least 14 percent phlegmatizer and 60 percent inert inorganic solid. See Organic peroxide, solid, n.o.s.
- 2886 tert-Butylper[2-ethyl]hexanoate, maximum concentration 30 percent and 2,2-Bis(tert-butylperoxy)butane, maximum concentration 35 percent with at least 35 percent phlegmatizer. See Organic peroxide, liquid or solution, n.o.s.
- 2888 tert-Butylper[2-ethyl]hexanoate, with at least 50 percent phlegmatizer. See Organic peroxide, liquid or solution, n.o.s.
- 2143 tert-Butylper[2-ethyl]hexanoate, technical pure. See Organic peroxide, liquid or solution, n.o.s.
- 2562 tert-Butylperisobutyrate, maximum 52 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2142 tert-Butylperisobutyrate, more than 52 percent but not more than 77 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2100 tert-Butyl permaleate, maximum concentration 55 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2101 tert-Butyl permaleate, maximum 55 percent in paste. See Organic peroxide, solid, n.o.s.
- 2099 tert-Butyl permaleate, technical pure. See Organic peroxide, solid, n.o.s.
- 2177 tert-Butyl perneodecanoate, maximum concentration 77 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2594 tert-Butyl perneodecanoate, technical pure. See Organic peroxide, liquid or solution, n.o.s.
- 2170 n-Butyl peroxydicarbonate, maximum concentration 27 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2169 n-Butyl peroxydicarbonate, maximum concentration 52 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2551 tert-Butyl peroxydiethylacetate, maximum 33 percent with tert-Butyl perbenzoate, maximum 33 percent and solvent. See Organic peroxide, liquid or solution, n.o.s.
- 2144 tert-Butyl peroxydiethylacetate, technical pure. See Organic peroxide, liquid or solution, n.o.s.
- 2103 tert-Butyl peroxy isopropyl carbonate, technical pure. See Organic peroxide, liquid or solution, n.o.s.
- 2596 3-tert-Butylperoxy-3-phenylphthalide. See Organic peroxide, solid, n.o.s.
- 2104 tert-Butyl peroxy-3,5,5-trimethyl hexanoate, (tert-butyl perisononanoate), technical pure. See Organic peroxide, liquid or solution, n.o.s.
- 2110 tert-Butyl perpivalate, maximum concentration 77 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2115 p-Chlorobenzoyl peroxide, maximum concentration 52 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2114 p-Chlorobenzoyl peroxide, maximum 52 percent as a paste. See Chlorobenzoyl peroxide.
- 2113 p-Chlorobenzoyl peroxide, maximum 75 percent with water. See Chlorobenzoyl peroxide.
- 2755 3-Chloroperoxybenzoic acid, maximum concentration 86 percent. See Organic peroxide, liquid or solution, n.o.s.
- 2118 Cyclohexanone peroxide, maximum 72 percent in solution with not more than 9 percent available oxygen. See

- Cyclohexanone peroxide, 50 to 85% peroxide.
- 2096 Cyclohexanone peroxide, maximum 72 percent as a paste with not more than 9 percent available oxygen. See Cyclohexanone peroxide, 50 to 85% peroxide.
- 2120 Decanoyl peroxide, technical pure. See Organic peroxide, solid, n.o.s.
- 2163 Diacetone alcohol peroxide, maximum 57 percent in solution with maximum 9 percent hydrogen peroxide, minimum 26 percent diacetone alcohol and minimum 9 percent water; total active oxygen content maximum 10 percent. See Organic peroxide, liquid or solution, n.o.s.
- 2149 Dibenzyl peroxydicarbonate, maximum 87 percent with water. See Organic peroxide, solid, n.o.s.
- 2107 Di-tert-butyl diperphthalate, maximum concentration 55 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2108 Di-tert-butyl diperphthalate, maximum 55 percent as a paste. See Organic peroxide, solid, n.o.s.
- 2106 Di-tert-butyl diperphthalate, technical pure. See Organic peroxide, liquid or solution, n.o.s.
- 2102 Di-tert-butyl peroxide or tert-Butyl peroxide, technical pure. See Organic peroxide, liquid or solution, n.o.s.
- 2151 Di-sec-butyl peroxydicarbonate, maximum concentration 52 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2150 Di-sec-butyl peroxydicarbonate, technical pure. See Organic peroxide, liquid or solution, n.o.s.
- 2895 Dicyetyl peroxydicarbonate, maximum concentration 42 percent, stable dispersion in water. See Organic peroxide, liquid or solution, n.o.s.
- 2164 Dicyetyl peroxydicarbonate, technical pure. See Organic peroxide, solid, n.o.s.
- 2137 2,4-Dichlorobenzoyl peroxide, maximum 75 percent with water. See Organic peroxide, solid, n.o.s.
- 2139 2,4-Dichlorobenzoyl peroxide, maximum concentration 52 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2138 2,4-Dichlorobenzoyl peroxide, maximum 52 percent as a paste. See Organic peroxide, solid, n.o.s.
- 2121 Dicumyl peroxide, technical pure or in a mixture with inert solid. See Dicumyl peroxide, dry.
- 2153 Dicyclohexyl peroxydicarbonate, maximum 91 percent with water. See Organic peroxide, solid, n.o.s.
- 2152 Dicyclohexyl peroxydicarbonate, technical pure. See Organic peroxide, solid, n.o.s.
- 2123 Di(2-ethylhexyl) peroxydicarbonate, maximum concentration 87 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2122 Di(2-ethylhexyl) peroxydicarbonate, technical pure. See Organic peroxide, liquid or solution, n.o.s.
- 2175 Diethyl peroxydicarbonate, maximum concentration 27 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2178 2,2-Dihydroperoxypropane, maximum 25 percent with inert organic solid. See Organic peroxide, solid, n.o.s.
- 2182 Diisobutyl peroxide, maximum 52 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2171 Diisopropylbenzene hydroperoxide, solution. See Diisopropylbenzene hydroperoxide solution, not over 60% peroxide.
- 2156 2,5-Dimethyl-2,5-bis(tert-butylperoxy)hexane, maximum 52 percent with - inert solid. See Organic peroxide, solid, n.o.s.
- 2155 2,5-Dimethyl-2,5-bis(tert-butylperoxy)hexane, technical pure. See Organic peroxide, liquid or solution, n.o.s.
- 2159 2,5-Dimethyl-2,5-bis(tert-butylperoxy)hexyne-3, maximum 52 percent with inert solid. See Organic peroxide, solid, n.o.s.
- 2158 2,5-Dimethyl-2,5-bis(tert-butylperoxy)hexyne-3, technical pure. See Organic peroxide, solid, n.o.s.
- 2157 2,5-Dimethyl-2,5-bis(2-ethylhexanoylperoxy)hexane, technical pure. See Organic peroxide, liquid or solution, n.o.s.
- 2173 2,5-Dimethyl-2,5-di(benzoylperoxy)hexane, maximum 82 percent with - inert solid. See Organic peroxide, solid, n.o.s.
- 2172 2,5-Dimethyl-2,5-di(benzoylperoxy)hexane, technical pure. See Organic peroxide, solid, n.o.s.
- 2174 2,5-Dimethyl-2,5-dihydroperoxyhexane. See Dimethylhexane dihydroperoxide (with 30% or more water).
- 2892 Dimyristyl peroxydicarbonate, maximum 22 percent, stable dispersion in water. See Organic peroxide, liquid or solution, n.o.s.
- 2595 Dimyristyl peroxydicarbonate, technical pure. See Organic peroxide, solid, n.o.s.
- 2130 Di-n-nonanoyl peroxide or pelargonyl peroxide, technical pure. See Organic peroxide, liquid or solution, n.o.s.
- 2176 Di-n-propyl peroxydicarbonate, technical pure. See Organic peroxide, solid, n.o.s.
- 2592 Distearyl peroxydicarbonate, with 15 percent stearyl alcohol. See Organic peroxide, solid, n.o.s.
- 2598 Ethyl 3,3-bis(tert-butylperoxy)butyrate, with at least 50 percent of inert, inorganic solid. See Organic peroxide, solid, n.o.s.
- 2185 Ethyl 3,3-bis(tert-butylperoxy)butyrate, maximum 77 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2184 Ethyl 3,3-bis(tert-butylperoxy)butyrate, technical pure. See Organic peroxide, solid, n.o.s.
- 2166 3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetroxanone, maximum 52 percent with inert solid. See Organic peroxide, solid, n.o.s.
- 2167 3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetroxanone, maximum concentration 52

- percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2165 3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetroxanone, technical pure. See Organic peroxide, solid, n.o.s.
- 2118 1-Hydroxy-1'-hydroperoxydicyclohexyl peroxide, technical pure and mixtures with bis(1-hydroxycyclohexyl) peroxide or Cyclohexanone peroxide, maximum 72 percent as a paste or in solution. See Cyclohexanone peroxide, 50 to 85% peroxide.
- 2117 1-Hydroxy-1'-hydroperoxydicyclohexyl peroxide, technical pure and mixtures with bis(1-hydroxycyclohexyl) peroxide or Cyclohexanone peroxide. See Cyclohexanone peroxide, 50 to 85% peroxide.
- 2119 1-Hydroxy-1'-hydroperoxydicyclohexyl peroxide, technical pure, and mixtures with bis(1-hydroxycyclohexyl) peroxide or Cyclohexanone peroxide. See Cyclohexanone peroxide, 50 to 85% peroxide.
- 2134 Isopropyl peroxydicarbonate maximum concentration 52 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2133 Isopropyl peroxydicarbonate, technical pure. See Isopropyl percarbonate, unstabilized.
- 2124 Lauroyl peroxide, technical pure. See Lauroyl peroxide.
- 2893 Lauroyl peroxide, maximum concentration 42 percent, stable dispersion in water. See Organic peroxide, liquid or solution, n.o.s.
- 2550 Methyl ethyl ketone peroxide, maximum concentration 50 percent with not more than 10 percent available oxygen. See Organic peroxide, liquid, or solution, n.o.s.
- 2563 Methyl ethyl ketone peroxide, maximum 50 percent with more than 10 percent available oxygen. See Organic peroxide, liquid or solution, n.o.s.
- 2127 Methyl ethyl ketone peroxide, maximum 60 percent. See Organic peroxide, liquid or solution, n.o.s.
- 2126 Methyl isobutyl ketone peroxide, maximum concentration 62 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2756 Organic peroxide, mixture. See Organic peroxide, solid, n.o.s. or Organic peroxide, liquid or solution, n.o.s. as appropriate.
- 2255 Organic peroxide, sample n.o.s. See Organic peroxide, solid, n.o.s. or Organic peroxide, liquid or solution, n.o.s. as appropriate.
- 2899 Organic peroxide, trial quantity, n.o.s. See Organic peroxide, solid, n.o.s. or Organic peroxide, liquid or solution, n.o.s. as appropriate.
- 2131 Peracetic acid solution. See Peracetic acid solution, not over 40% peracetic acid and not over 6% hydrogen peroxide.
- 2132 Propionyl peroxide, maximum concentration 28 percent in solution. See Organic peroxide, liquid or solution, n.o.s.
- 2135 Succinic acid peroxide, technical pure. See succinic acid peroxide.

- 2136 Tetralin hydroperoxide, technical pure. See Organic peroxide, solid, n.o.s.
- 2160 1,1,3,3-Tetramethylbutyl hydroperoxide, technical pure. See Organic peroxide, liquid or solution, n.o.s.
- 2161 1,1,3,3-Tetramethyl butylperoxy-2-ethyl hexanoate, technical pure. See Organic peroxide, liquid or solution, n.o.s.
- (49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1, and paragraph (a)(4) of App. A to Part 106.

Note.—The Materials Transportation Bureau has determined that the proposals in the notice, if implemented, would not result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (43 FR 9583) nor an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation is available in the public docket.

Issued in Washington, D.C. on July 13, 1979.

Alan I. Roberts,
Associate Director for Hazardous Materials
Regulation, Materials Transportation Bureau.

[FR Doc. 79-22370 Filed 7-25-79; 8:45 am]
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[49 CFR Parts 172 and 173]

[Docket No. HM-159; Notice No. 79-12]

Forbidden Materials

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs administration, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to add the names of materials to the Hazardous Materials Table (49 CFR 172.101) that the MTB considers to be too hazardous to be permitted in commercial transportation. The proposed addition of materials to the Table has been modified in this notice based on comments received on the Advance Notice of Proposed Rulemaking published in the Federal Register on February 23, 1978 (43 FR 7449). Also, it is proposed that N-methyl-N'-nitro-N-nitrosoguanidine be listed in the Table as a flammable solid and a new § 173.179 be added prescribing the packaging requirements for this material. In addition, the MTB is proposing certain changes to §§ 173.21 and 173.51 pertaining to forbidden materials and packaging.

DATE: Comments must be received on or before October 18, 1979.

ADDRESS COMMENTS TO: Dockets Branch, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Charles W. Schultz, Technical Division,

Office of Hazardous Materials, Regulation, 2100 Second Street, S.W., Washington, D.C. 20590, phone 202-755-4906.

SUPPLEMENTARY INFORMATION: On February 23, 1978, the MTB published an Advance Notice of Proposed Rulemaking (43 FR 7449) concerning materials which are believed to be too hazardous to be permitted in commercial transportation. The Advance Notice included four lists of materials and requested that the public comment on the following three questions:

1. Should the Hazardous Materials Table be the consolidated central location for the listing of forbidden materials by chemical name or should that listing be placed in a separate section?

2. What, if any, additional materials should be identified in the regulations as forbidden?

3. Are there any materials listed in this notice which do not meet the regulatory criteria making them a forbidden material? If so, identify these materials and explain why they should not be considered forbidden materials.

A total of fifty-three comments were received and evaluated. Only one commenter was opposed to having a list of forbidden materials. The reasons for this opposition were that no list could be complete, the absence of a specific chemical from the list would imply that it is not forbidden, and there is no need for a list because the regulations provide criteria for prohibiting certain materials from being transported. The MTB disagrees and believes that all known materials considered to be too hazardous for transportation should be included in a list. This has been done previously, however, the list has not been as extensive as the list presently proposed.

All other commenters were in favor of incorporating forbidden materials in Title 49, Code of Federal Regulations (49 CFR). Thirteen commenters stated that these materials should only be placed alphabetically in only 49 CFR 172.101 based on the fact that there should only be a single source list for all hazardous materials. Four commenters suggested that a separate list be provided in some other section of the regulations. This was based on the belief that a separate section would be easier to use and would more easily identify these materials. Five commenters stated that the forbidden materials should be put in both 49 CFR 172.101 and another section. The basis for this position is that the commenters felt that all

materials should be included in the Table in § 172.101 but that the list of forbidden materials also be included in a separate section so that persons could more easily determine which materials are forbidden without a complete review of the Table in § 172.101. The MTB believes that placing the names of forbidden materials only in § 172.101 is better than the other two alternatives because: (1) A person using the regulations should start at the Hazardous Materials Table and if it is noted that a material is forbidden he does not have to look any further; (2) A person using the regulations could possibly overlook the forbidden materials if they were in a separate section; and (3) Placing the materials in both § 172.101 and another section results in unnecessary duplication of regulations, causes confusion, and does not contribute appreciably to safety.

Two commenters were concerned that if a material was shown as forbidden this would mean that solutions of that material or devices containing that material would also be forbidden. This is not the intent of the MTB and this is made clear in the proposed change to § 172.100.

Two commenters stated that certain triazoles have properties which would indicate they are forbidden but other triazole compounds do not have such properties. Pending further detailed investigation into these chemicals, triazoles are being removed from the proposed list. The same situation exists with triazones which were also deleted from the proposal.

One commenter submitted reports from the Bureau of Explosives (B of E) which classed the material, Bis 2-fluoro-2,2-dinitro ethylformal, (PEFO), as a Class A explosive. The MTB is in agreement with the report and, therefore, this material has been deleted from this proposed list as a forbidden material.

One commenter suggested that the material, nitroisobutanetriol trinitrate, be added to the list and another commenter stated that the material, t-butoxy-carbonylazide, should be added. Based on the information submitted on each of these materials, they have been added as forbidden materials. Two commenters recommended that the concentration of ketone peroxides be expressed in terms of active oxygen, rather than percentage of peroxide, and that the active oxygen content of these materials be limited to 9 percent. The MTB agrees with the data submitted and has incorporated such changes in this notice.

Twenty-five commenters opposed forbidding the transportation of N-methyl-N'-nitrosoguanidine because it is a very important reagent in cancer and mutagenic research. The MTB does not believe that the product should be shipped under § 173.65(d) which provides essentially no regulation. A proposal has been made for shipping limited amounts of this chemical in packaging recommended by the B of E. The MTB is proposing to class this material as a flammable solid when packaged in accordance with B of E recommended packaging.

In the Advance Notice it was proposed to list by name the forbidden explosives now appearing in § 173.51. The MTB has reconsidered this proposal and is now proposing to include two new entries in § 172.101 which are referenced to 173.51. These are "Forbidden Explosives" and "Explosives, forbidden." In this proposal, 173.51 has been rewritten to make it clearer and concise. The major proposed changes in this section include: the inclusion of most of the fireworks with explosives because fireworks are classed as explosives; the revision of the present entry "fireworks containing copper sulfate and a chlorate" to include any acidic metal salt and a chlorate due to the fact that the hazard of spontaneous combustion is not limited only to copper sulfate and a chlorate; and the inclusion of devices in an effort to be consistent with other sections of 49 CFR governing explosives which also include devices.

"Forbidden materials," with a reference to § 173.21, is a proposed new entry which did not appear in the Advanced Notice. Section 173.21 would be amended for clarification. This section applies to any material considered to be forbidden and is not limited to materials falling within established hazard classes. Included in the proposed revision of this section is a prohibition against the offering of packages that evolve a dangerous quantity of flammable gas or vapor released from a material not otherwise subject to the regulations, e.g. the release of flammable blowing agent vapors from a manufactured product in such quantities that an explosive mixture would be created within the transport vehicle. It is also proposed that each refrigeration method, when used as a means of stabilization, be approved by the Associate Director for Operations and Enforcement. This change is in accord with the approval withdrawals presently being handled by amendments published under Docket HM-163.

This proposed rulemaking, which would prohibit the transportation of certain materials known to be susceptible to accidental detonation in a fire (other than an explosive), is responsive to Recommendation No. 3 in the National Transportation Safety Board's report (No. NTSB-RAR-76-1) on the explosion which occurred in Wenatchee, Washington on August 6, 1974.

The principal drafters of this document are Charles W. Schultz and Delmer F. Billings, Office of Hazardous Materials Regulation, and George W. Tenley, Jr., Office of the Chief Counsel, Research and Special Programs Administration.

In consideration of the foregoing, it is proposed to amend Parts 172 and 173 of Title 49, Code of Federal Regulations, as follows:

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

1. In § 172.100 paragraph (d) would be revised to read as follows:

§ 172.100 Purpose and use of the table.

(d) Column 3 contains a designation of the hazard class corresponding to each proper shipping name or the word "Forbidden." A material for which the class entry is "Forbidden" may not be offered or accepted for transportation. The prohibition against the transport of chemicals and mixtures thereof applies to commercial or research grade material. This prohibition does not apply to these materials when diluted, stabilized or incorporated in devices, if they are classed in accordance with the definitions of hazardous materials contained in Part 173 of this subchapter. When re-evaluation of test data or new test data indicates a need to modify the hazard class or labels specified for a material specifically identified in § 172.101, these data should be reported to the Associate Director, Office of Hazardous Materials Regulation.

2. Section 172.101 would be amended by adding the following entries in alphabetical order in column 2, followed by the word "FORBIDDEN" in column 3. All entries would be in italics to indicate that they are not proper shipping names. Also, following the proposed list of forbidden materials is an entry "N-Methyl-N'-nitro-N-nitrosoguanidine which is to be added in bold type in alphabetical order with the described information in the appropriate columns:

§ 172.101 Hazardous materials table. [Amended]

Acetyl acetone peroxide with an available oxygen content exceeding 9 percent by weight.
Acetyl benzoyl peroxide, solid, or in solution exceeding 40 percent by weight.
Acetyl cyclo hexane sulfonyl peroxide wetted with less than 12 percent water by weight or a solution exceeding 32 percent by weight.
Acetylene (liquid).
Acetylene silver nitrate.
Acetyl peroxide, solid, or in solution exceeding 25 percent by weight.
Aluminum or magnesium dross, wet or hot.
Ammonium azide.
Ammonium bromate.
Ammonium fulminate.
Ammonium nitrite.
Antimony sulfide and a chlorate, mixtures of.
Arsenic sulfide and a chlorate, mixtures of.
Ascoridole (organic peroxide).
Azauric acid (salt of), (dry).
Azidodithiocarbonic acid.
Azidoethyl nitrate.
Azido guanidine picrate (dry).
5-Azido-1-hydroxy tetrazole.
Azido hydroxy tetrazole (mercury and silver salts).
3-Azido-1,2-Propylene glycol dinitrate.
Azotetrazole (dry).
Benzoxadiazoles (dry).
Benzene diazonium chloride (dry).
Benzene diazonium nitrate (dry).
Benzene trioxonide.
Benzoyl azide.
Biphenyl trioxonide.
2,2-Bis(t-Butylperoxy) butane exceeding 55 percent by weight in solution.
2,2-Bis(4,4-ditertiary butylperoxy cyclohexyl) propane exceeding 42 percent by weight with inert solid.
Bis(1-hydroxytetrazole) (dry).
Bromine azide.
4-Bromo-1,2-dinitrobenzene (unstable at 59° C.).
1-Bromo-2-nitrobenzene (unstable at 59° C.).
Bromosilane.
1, 2, 4-Butane triol trinitrate.
t-Butoxy carbonyl azide.
t-Butyl diperphthalate exceeding 55 percent by weight in solution.
n-Butyl peroxydicarbonate exceeding 52 percent by weight in solution.
t-Butyl hydroperoxide exceeding 90 percent by weight in water.
t-Butyl peracetate exceeding 76 percent by weight solution.
t-Butyl perisobutyrate exceeding 77 percent by weight in solution.
Cabozone.
Chlorine azide.
Chlorine dioxide (not hydrate).
Coal briquettes, hot.
Copper acetylide.
Copper amine azide.
Copper tetramine nitrate.
Cyanuric triazide.
Cyclotetramethylene tetranitramine (dry) (HMX).
Diacetone alcohol peroxide with an available oxygen content exceeding 9 percent by weight.
Diazodinitrophenol (dry).

p-Diazidobenzene.
1,2-Diazidoethane.
1,3-Diazopropane.
1,1' Diazoaminonaphthalene.
Diazoaminotetrazole (dry).
Diazodiphenylmethane.
Diazonium nitrates (dry).
Hexanitrodiphenyl urea.
Hexanitrodiphenyl urea.
Hexanitroethane.
Hexanitrooxanilide.
Hydrazine azide.
Hydrazine chlorate.
Hydrazine dicarbonic acid diazide.
Hydrazine perchlorate.
Hydrazine selenate.
Hydroxyl amine iodide.
Hyponitrous acid.
Iodoso and iodoxy compounds (dry).
Initiating explosives (dry).
Inositol hexanitrate (dry).
Inulin trinitrate (dry).
Iodine azide (dry).
Iridium nitratopentamine iridium nitrate.
Iso thiocyanic acid (polymerization hazard).
Lead azide (dry).
Lead mononitrosorsinate (dry).
Lead picrate (dry).
Lead styphnate (dry).
Mannitol tetranitrate.
Mercurous azide.
Mercury acetylide.
Mercury iodide aquabasic ammonobasic (iodide of Million's base).
Mercury nitride.
Mercury oxycyanide.
Metal salts of methyl nitramine (dry).
Methazoic acid.
Methylamine dinitramine and dry salts thereof.
Methylamine nitroform.
Methylamine perchlorate, (dry).
Methylene glycol dinitrate.
Methylethyl ketone peroxide with an available oxygen content exceeding 9 percent by weight.
a-Methylglucoside tetranitrate.
a-Methylglycerol trinitrate.
Methyl isobutyl ketone peroxide with an available oxygen content exceeding 9 percent by weight.
Methyl nitrate.
Methyl picric acid, (heavy metal salts of).
Methyl trimethylol methane trinitrate.
Monochloroacetone (unstabilized).
Naphthalene diazonide.
Naphthyl amineperchlorate.
Nickel picrate.
Nitrated paper (unstable).
Nitrates of diazonium compounds.
N-Nitroaniline.
m-Nitrobenzene-diazonium perchlorate.
6-Nitro-4-diazotoluene-3-sulfonic acid, (dry).
Nitroethylene polymer.
Nitroethyl nitrate.
Nitrogen triiodide.
Nitrogen triiodide monoamine.
Nitroguanidine nitrate.
1-Nitro Hydantoin.
Nitro isobutane triol trinitrate.
Nitromannite, (dry).
N-Nitro-N-methylglycolamide nitrate.
2-Nitro-2-methylpropanol nitrate.
m-Nitrophenyldinitro methane.
Nitrosugars, (dry).

Hexanitroazoxy benzene.
2,4,6,2',4',6' Hexanitro-3,3'-dihydroxyazo-benzene (dry).
2,4,6,2',3',4',-Hexanitrodiphenylamine.
2,4,6,3',4',6',-Hexanitrodiphenylether.
N,N' (hexanitrodiphenyl) ethylene dinitramine, (dry).
Hexanitrodiphenyl urea.
Hexanitroethane.
Hexanitrooxanilide.
Hydrazine azide.
Hydrazine chlorate.
Hydrazine dicarbonic acid diazide.
Hydrazine perchlorate.
Hydrazine selenate.
Hydroxyl amine iodide.
Hyponitrous acid.
Iodoso and iodoxy compounds (dry).
Initiating explosives (dry).
Inositol hexanitrate (dry).
Inulin trinitrate (dry).
Iodine azide (dry).
Iridium nitratopentamine iridium nitrate.
Iso thiocyanic acid (polymerization hazard).
Lead azide (dry).
Lead mononitrosorsinate (dry).
Lead picrate (dry).
Lead styphnate (dry).
Mannitol tetranitrate.
Mercurous azide.
Mercury acetylide.
Mercury iodide aquabasic ammonobasic (iodide of Million's base).
Mercury nitride.
Mercury oxycyanide.
Metal salts of methyl nitramine (dry).
Methazoic acid.
Methylamine dinitramine and dry salts thereof.
Methylamine nitroform.
Methylamine perchlorate, (dry).
Methylene glycol dinitrate.
Methylethyl ketone peroxide with an available oxygen content exceeding 9 percent by weight.
a-Methylglucoside tetranitrate.
a-Methylglycerol trinitrate.
Methyl isobutyl ketone peroxide with an available oxygen content exceeding 9 percent by weight.
Methyl nitrate.
Methyl picric acid, (heavy metal salts of).
Methyl trimethylol methane trinitrate.
Monochloroacetone (unstabilized).
Naphthalene diazonide.
Naphthyl amineperchlorate.
Nickel picrate.
Nitrated paper (unstable).
Nitrates of diazonium compounds.
N-Nitroaniline.
m-Nitrobenzene-diazonium perchlorate.
6-Nitro-4-diazotoluene-3-sulfonic acid, (dry).
Nitroethylene polymer.
Nitroethyl nitrate.
Nitrogen triiodide.
Nitrogen triiodide monoamine.
Nitroguanidine nitrate.
1-Nitro Hydantoin.
Nitro isobutane triol trinitrate.
Nitromannite, (dry).
N-Nitro-N-methylglycolamide nitrate.
2-Nitro-2-methylpropanol nitrate.
m-Nitrophenyldinitro methane.
Nitrosugars, (dry).

1,7-Octadiene-3,5-diyne-1,8-dimethoxy-9-octadecynoic acid.
Pentanitroaniline, (dry).
Peracetic acid in excess of 40 percent concentration by weight.
Pentaerythrite tetranitrate (dry).
m-Phenylene diaminediperchlorate (dry).
Phosphorous (white or red) and a chlorate, mixtures of.
Potassium carbonyl.
Propionyl peroxide exceeding 28 percent by weight in solution.
Pyridine perchlorate.
Quebrachitol pentanitrate.
Selenium nitride.
Shaped charges (commercial) containing more than 8 ounces of explosives.
Silver acetylde (dry).
Silver azide (dry).
Silver chlorite (dry).
Silver fulminate (dry).
Silver oxalate (dry).
Silver picrate (dry).
Sodium picryl peroxide.
Sodium tetra nitride.
Sucrose octanitrate (dry).
Sulfur and chlorate, loose mixtures of.
Tetra azido benzene quinone.
Tetra ethylammonium perchlorate (dry).
Tetra methylene diperoxide dicarbamide.
Tetra nitro diglycerin.
2,3,4,6-Tetra nitrophenol.
2,3,4,6-Tetranitrophenyl methyl nitramine.
2,3,4,6-Tetra nitrophenyl nitramine.
Tetra nitro resorcinol (dry).
2,3,5,6-Tetra nitroso nitrobenzene (dry).
2,3,5,6-Tetra nitroso-1,4-dinitrobenzene.
Tetrazine (dry).
Tetrazolyl azide (dry).
Trichloro methyl perchlorate.
Triformoxime trinitrate.
Trimethylene glycoldiperchlorate.
Trimethylol nitro methane trinitrate.
1,3,5-Trimethyl-2,4,6-trinitrobenzene.
Trinitro acetic acid.
Trinitroacetone nitrile.
Trinitro amine cobalt.
2,4,6-Trinitro-1,3-diazobenzene.
Trinitroethanol.
Trinitroethyl nitrate.
Trinitromethane.
2,4,6-Trinitroso-3-methyl nitraminoanisole.
1,3,5-Trinitronaphthalene.
2,4,6-Trinitrophenyl guanidine (dry).
2,4,6-Trinitrophenyl nitramine.
2,4,6-Trinitrophenyl trimethylol methyl nitramine trinitrate (dry).
2,4,6-Trinitro-1,3,5-triazido benzene, (dry).
Tri(beta-nitroxy ethyl) ammonium-nitrate.
Trinitrotetramine cobalt nitrate.
Tris, bis-bifluoroamino diethoxy propane (TVOPA).
Vinyl nitrate polymer.
p-Xylyl diazide.

For the material N-Methyl-N'-nitro-N-nitrosoguanidine, the following entries would be added to the Table: in Column 1, no entry; in Column 2, **N-Methyl-N'-nitro-N-nitrosoguanidine** [not exceeding 25 grams in one outside packaging]; in Column 3, Flammable solid; in Column 4, Flammable solid; in Column 5(a), none; in Column 5(b), 173.179; in Column 6(a) Forbidden; in Column 6(b),

Forbidden; in Column 7(a), 4; in Column 7(b), 5; and in Column 7(c); no entry.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGING

3. Section 173.21 would be revised to read as follows:

§ 173.21 Forbidden materials and packages.

(a) Unless otherwise provided in this subchapter, the offering for transportation of the following is forbidden:

(1) A hazardous material in the same packaging, freight container, or overpack with another hazardous material, the mixing of which would be liable to cause a dangerous evolution of heat or gas, or produce corrosive materials, except as provided in §§ 173.152(a) and 173.242(a) and (b).

(2) A package containing a material which is liable to decompose or polymerize at a temperature of 130° F. (54.4° C.) or less with an evolution of a dangerous quantity of heat or gas unless stabilized or inhibited in a manner that will preclude such dangerous evolutions. Refrigeration may be used as a means of stabilization only when approved by the Associate Director for OE.

(3) Packages which evolve a dangerous quantity of flammable gas or vapor released from a material not otherwise subject to this subchapter.

(4) Packages containing materials (other than those classed as explosives) which will detonate in a fire.

(5) Any package containing a cigarette lighter or other similar device with fuel and equipped with an ignition element, unless the design of the device and its packaging insofar as they affect safety in transportation have been examined and approved by MTB. (An approval which was issued by the B of E remains valid to the same extent as if it had been issued by MTB.) For lighters containing gases, also see § 173.308.

4. Section 173.51 would be revised to read as follows:

§ 173.51 Forbidden explosives.

(a) Unless otherwise provided in this subchapter, the transportation of the following explosives is forbidden:

(1) Explosive compounds, mixtures or devices which ignite spontaneously or undergo marked decomposition when subjected to a temperature of 167° F. (75° C.) for 48 consecutive hours.

(2) New explosive compounds, mixtures or devices except as provided for in § 173.86.

(3) Explosive mixtures or devices containing an ammonium salt and a chlorate.

(4) Explosive mixtures or devices containing an acidic metal salt and a chlorate.

(5) Leaking or damaged packages of explosives.

(6) Nitroglycerin, diethylene glycol dinitrate or other liquid explosives not authorized by § 173.53 (e) or (h). (For shipment by motor vehicle other than by common carriers, see § 177.822(b) of this subchapter.)

(7) Loaded firearms.

(8) Fireworks that combine an explosive and a detonator or blasting cap.

(9) Fireworks containing yellow or white phosphorous.

(10) Toy torpedoes, the maximum outside dimension of which exceeds 7/8-inch, or toy torpedoes containing a mixture of potassium chlorate, black antimony, and sulfur with an average weight of explosive composition in each torpedo exceeding four grains.

5. A new § 173.179 would be added to read as follows:

§ 173.179 N-Methyl-N'-nitro-N-nitrosoguanidine.

N-Methyl-N'-nitro-N-nitrosoguanidine must be packaged as follows: Quantities may not exceed 25 grams and must be placed in a polyethylene bottle which is tightly closed and the closure secured in place with pressure sensitive tape. The bottle must be sealed in a polyethylene bag constructed of polyethylene at least 4 mils thick. The bag containing the bottle must be cushioned in a hermetically sealed can with non-combustible cushioning material. There must be at least one inch of cushioning material between any part of the bag and any inner surface of the can. The metal can must be cushioned in a DOT 12B fiberboard box constructed of at least 350 pound test fiberboard. There must be at least one inch of cushioning material between any surface of the can and any inner surface of the fiberboard box.

Authority: 49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A. to Part 1, and paragraph (a)(4) of App. A. Part 106.

Note.—The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring the preparation of an economic impact statement under Executive Order 12044 and DOT implementing procedures (43 FR 9582), nor an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation is available for review in the Docket.

Issued in Washington, D.C., on July 13, 1979.

Alan I. Roberts,
Associate Director for Hazardous Materials,
Regulation, Materials Transportation Bureau.

[FR Doc. 79-22371 Filed 7-25-79; 8:45 am]

BILLING CODE 4910-60-M

[49 CFR Parts 171, 172, and 176]

[Docket No. HM-171; Notice No. 79-11]

Use of United Nations Shipping Descriptions

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Hazardous Materials Regulations to authorize the optional use of United Nations shipping descriptions and identification numbers for certain hazardous materials in place of the descriptions required by existing Department of Transportation (DOT) regulations. This proposal is intended to facilitate the international transportation of hazardous materials and to minimize the economic burdens imposed on shippers by the multiplicity of package markings and shipping paper descriptions now required to comply with both the domestic and international standards. In addition, the proposal would provide optional stowage locations for hazardous materials when transported by vessel. The optional stowage locations authorized are those provided for the particular hazardous material in the International Maritime Dangerous Goods (IMDG) Code published by the Inter-Governmental Maritime Consultative Organization (IMCO).

DATE: Comments by October 18, 1979.

ADDRESS COMMENTS TO: Dockets Branch, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590. Comments may be reviewed in the dockets Branch, Room 6500, Trans Point Building, between 8:30 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: LCDR Edward A. Altemos, USCG, International Standards Coordinator, Office of Hazardous Materials Regulation, Materials Transportation Bureau, 2100 Second Street SW., Washington, D.C., 20590, 202-426-0656.

SUPPLEMENTARY INFORMATION: In recent years increasing worldwide recognition has been accorded the IMCO IMDG Code as the basic standard governing

the international transport of packaged hazardous materials by sea. At this time at least twenty-eight nations have incorporated the IMCO Code in whole or in part into their national hazardous materials regulations. Included in this number is the vast majority of the industrialized nations, nations with which the United States conducts a vigorous trade in packaged hazardous materials.

One serious problem confronting the United States exporter or importer of hazardous materials is the disparity between shipping descriptions which may be required for the same hazardous material under the DOT's Hazardous Materials Regulations and the IMCO Code. Since the DOT regulations do not currently provide for the use of IMCO shipping descriptions, when the IMCO and DOT shipping descriptions for a particular hazardous material differ, the shipper finds it necessary to mark both shipping names on the package and to include both shipping names on the shipping papers. This duplicity of effort is necessary in order to insure that the shipment can move under DOT regulations to a port, will be accepted for transportation by vessel, and finally will be deemed suitable for discharge and subsequent transport in foreign countries. The Materials Transportation Bureau (MTB) believes that, in general, the costs incurred by the shipper in dual marking of packages and dual description of hazardous materials on shipping papers are disproportionate to any possible safety benefit which may be achieved by this practice. Also, such a practice creates confusion during the transportation of these materials.

With the publication of the revised and consolidated DOT Hazardous Materials Regulations under Docket HM-103/112, a provision was included in the regulations that allowed hazardous materials (except Class A and B explosives and radioactive materials) being imported to or exported from, or transiting the United States, classified and labeled in accordance with the IMCO Code to be transported by any mode of transport within the United States. This provision was included to alleviate difficulties arising from the different classification and labeling requirements that may be provided for the same hazardous material under the IMCO Code and DOT regulations. The purpose of this notice is, in essence, to extend this authorization to include use of the IMCO shipping description as well as the IMCO classification and label. In addition, this notice would expand the applicability of this authorization to

domestic as well as international shipments. This action is taken in recognition of the fact that when hazardous materials packages are initially marked and labeled during production, the shipper may have no idea as to whether his hazardous material will be sold domestically or will be exported. To maintain a distinction between the shipping description requirements based upon ultimate destination of the hazardous material would lead to either remarking and relabeling packages prior to exporting them, or to initially marking both DOT and IMCO shipping names on the package when it is filled. Neither of these alternatives is considered to be a significant improvement over the practice mandated by the present situation.

On January 17, 1978, the National Transportation Safety Board (NTSB) issued Safety Recommendation I-78-1 in which the NTSB recommended that the Secretary of Transportation:

Develop, publish and maintain an official list of regulated hazardous materials that cross-references all U.S., U.N., IMCO, and IATA commodity descriptions and reference numbers. The list should be arranged for convenient use by all persons engaged in the export or import of hazardous materials. (Class II, Priority Action (I-78-1))

As a supporting argument for this recommendation, the NTSB made reference to the aircraft crash at Boston, Massachusetts, in 1973. While the MTB is not convinced that the existence of such a list would have in any way mitigated the catastrophic results of the Boston incident, the MTB strongly supports the principle underlying this recommendation; that is, that hazardous materials shipping descriptions used in all modes of international transport should be made readily available in a form convenient for use. MTB believes that this goal can be achieved by including these international shipping descriptions in the DOT Hazardous Materials Regulations. Implementation of NTSB Safety Recommendation I-78-1 is, therefore, an ancillary purpose for this notice.

In its recommendation, the NTSB makes reference to UN (United Nations), IMCO and IATA (International Air Transport Association) commodity descriptions. Since the shipping names used in the IMCO Code are, for the most part, extracted from the recommendations of the United Nations Committee of Experts on the Transport of Dangerous Goods, publication of the IMCO shipping descriptions will include the vast majority of the entries in the United Nations recommendations. In

addition, since the IMCO recommendations are operative modal recommendations which have been implemented by many governments whereas the UN recommendations are not, it is considered more appropriate for the time being to publish only the descriptions used in the operative international recommendations.

Regarding the NTSB's suggested use of IATA descriptions, the MTB is of the opinion that most of the IATA descriptions are the same as those listed in § 172.101. Also, the International Civil Aviation Organization (ICAO) is currently developing regulations for the international transport of hazardous materials by air. Inclusion of ICAO descriptions in the optional list (upon promulgation of the ICAO regulations) is considered an appropriate action since ICAO is the recognized

intergovernmental organization charged with the responsibility for developing safety standards for international air transport. Therefore, it is envisioned that the list of shipping descriptions proposed in this notice will eventually be expanded to incorporate ICAO descriptions as appropriate. It should be noted, however, that, as with IMCO, the ICAO descriptions are based upon descriptions recommended by the UN Committee of Experts. For this reason, it is anticipated that the vast majority of the IMCO descriptions contained in this notice will ultimately be authorized descriptions under the ICAO regulations. The similarity between the descriptions authorized by IMCO and ICAO is not coincidental, but rather is a result of an intensive effort under way at these organizations to harmonize international requirements for the transportation of hazardous materials by sea and air through recognition of the recommendations developed by the UN Committee of Experts.

The descriptions proposed in this notice are those appearing in the IMCO Code (as modified by Amendments 14-76 and 15-77) that describe hazardous materials which would generally not be classified as Class A or B explosives or radioactive materials under the DOT regulations. Entries in the IMCO Code which clearly apply only to hazardous materials which would be classified as Class A or B explosive or radioactive materials have not been included in this notice since authorization to use the appropriate IMCO classification and labels for such materials is not authorized by the DOT regulations at this time.

The drafter of this document is LCDR Edward A. Altemos, USCG, Office of Hazardous Materials Regulation. The

following is an analysis and explanation, by section, of the more significant features of this proposal.

Section 171.2. Two minor amendments are proposed to this section to include a reference to § 176.11 which was inadvertently omitted from the revision of this paragraph published under Docket HM-103/112.

Section 171.12. Paragraph (b) of this section is no longer considered necessary since the provisions of this paragraph are contained in the proposed § 172.102(b). Therefore, it is proposed that this paragraph be replaced by an appropriate cross reference to § 172.102.

Section 172.102. A new § 172.102 would be added. This section would contain the Optional Hazardous Materials Table as well as the text necessary to explain the table and implement its use.

Paragraph (a) of this section sets forth the basic purpose of the Optional Hazardous Materials Table which is to provide hazardous materials description, classification, labeling and vessel stowage requirements which may be used for certain hazardous materials as an alternative to the corresponding requirements provided in § 172.101. However, materials subject to the DOT regulations that are not considered dangerous under IMCO recommendations would have to be transported in accordance with the applicable DOT regulations. This exclusion has been included to insure that it is clearly understood that materials such as a combustible liquid with a flash point greater than 141° F. (in packagings of a capacity exceeding 110 gallons), which would not be considered dangerous according to IMCO definitions, would be subject to all applicable DOT requirements. A statement is also included in this paragraph to clarify the fact that many of the materials shown in the Optional Hazardous Materials Table are not subject to the DOT regulations and that their inclusion in the optional list does not constitute a designation of the material as a hazardous material. Only materials designated as hazardous materials in § 172.101 or covered by the prohibition specified in §§ 173.21 and 173.51 would be subject to the DOT regulations.

Entries for materials not designated as hazardous in § 172.101 would be retained in the optional list to alert persons who may be engaged in importing or exporting such materials that the materials may be considered hazardous under widely applied international standards and to provide basic guidance relative to the

classification and labeling of these materials in international transport.

Paragraph (b) of § 172.102 proposes conditions under which the description, class or label(s) provided in the Optional Hazardous Materials Table could be used in lieu of the DOT description, classification or label(s), respectively. Class A and B explosives and Radioactive materials would be excluded from application of the provisions of § 172.102. Therefore, in order for a shipper to determine if he may use the Optional Hazardous Materials Table he would first establish the classification of the hazardous material under consideration in accordance with all applicable requirements of the DOT regulations. This is particularly important in the case of explosives where the classification may not necessarily be established solely by the shipper. Once the shipper has classified the hazardous material as provided in the DOT regulations, has determined that the material is not a Class A or B explosive or a Radioactive material, and is not a forbidden material, he could then proceed to use the Optional Hazardous Materials Table if he so desired.

The conditions in the existing § 171.12(b) under which the IMCO class and label(s) may be used when a hazardous material is transported by air, highway or rail have been retained in § 172.102(b), with the exception of the condition previously discussed that limited the application of the paragraph to import, export or transiting shipments. It is proposed that the IMCO shipping name may only be used when the material conforms to all additional defining or limiting conditions prescribed for the description in the appropriate schedule in the IMCO Code. Individual IMCO Code schedules often contain criteria or additional information which limit the applicability of a particular description, and the MTB believes that these additional provisions should be observed in selecting an IMCO shipping description from § 172.102. The use of IMCO shipping name is also made conditional upon inclusion of the UN number shown for the entry (if any) in the Optional Hazardous Materials Table immediately after the required class entry in the shipping papers. This would be required not only to insure consistency with the United Nations standards for transport documentation, but also to enhance emergency response capabilities. Additional information concerning the use of the UN number for emergency response purposes is provided in the preamble to the Docket HM-126A

Notice of Proposed Rulemaking which was published on June 7, 1979 (44 FR 32972).

Paragraph (c) of § 172.102 would require that the description for a material designated as a hazardous substance in § 172.101 be augmented by the technical name of the substance if that name does not appear in the optional shipping description. This is to insure that hazardous substances do not lose their basic identity when a shipper chooses to utilize a shipping description from the Optional Hazardous Materials Table in place of the name that would be otherwise required by § 172.101.

Paragraphs (d) through (j) explain the content of columns 1 through 7 respectively of the Optional Hazardous Materials Table. Column 1 contains the letter "N" adjacent to certain entries. This indicates that the particular shipping description, class and label(s) shown in § 172.102 are not acceptable alternatives to the applicable DOT requirements in § 172.101 and, therefore, may not be used. This prohibition would be imposed only when the MTB believes the IMCO description and/or classification appearing in § 172.102 will not adequately communicate the hazard(s) of the material in all modes of transport.

Column 2 of the Optional Hazardous Materials Table lists the proper shipping names contained in the IMCO Code. The basic format of entries and methods of selection and presentation of proper shipping names on shipping documents and packages are identical to those in § 172.101. As previously discussed, entries that are contained in the IMCO Code which describe materials that could only be classified as Class A or B explosives or Radioactive materials under DOT regulations have been omitted from the list. Also omitted from the Optional Hazardous Materials Table are a limited number of entries from the IMCO Code which:

(1) Are not included in the UN recommendations and to which no UN number has been assigned;

(2) Are not "N.O.S." entries that would require addition of the technical name of the hazardous material; and,

(3) In the opinion of the MTB, are not sufficiently explicit to permit appropriate response measures to be initiated in the event of an incident.

Examples of such entries are the IMCO shipping names "Acaricides" and "Nematocides." Hazardous materials falling within such descriptions will, therefore, be transported under the next most appropriate description in § 172.102 (such as Poisonous liquid,

n.o.s., in the case of the above examples), or under the appropriate description in § 172.101.

Column 3 of the Optional Hazardous Materials Table sets forth the IMCO hazard class or division of the material as appropriate. Paragraph (f) of § 172.102 includes a brief definition of each of the IMCO hazard classes and divisions and refers the user to the IMCO Code for more detailed definitions.

Column 4 of the table indicates the United Nations number assigned to the material, if any. In certain cases where no UN number has been assigned to a particular material, the MTB has inserted in Column 4 the UN number of the appropriate generic, or "n.o.s.," entry under which the material would be included. In such cases, the UN number listed has been shown in parentheses.

Column 5 specifies the labels to be applied to the hazardous material. Specifications for the labels may be either as provided in the DOT regulations or in the IMCO Code. The label described as "St. Andrew's Cross" in this column refers to the label specified for Division 6.1, Packaging Group III materials in the UN and IMCO recommendations.

Column 6, which is for informational purposes only, provides the packaging group assigned to the material in the IMCO Code. An explanation of the meaning and purpose of this grouping system, as well as the grouping criteria developed for certain hazard classes, is presented in the recommendations prepared by the United Nations Committee of Experts on the Transport of Dangerous Goods. These recommendations, entitled "Transport of Dangerous Goods," may be obtained from the United Nations bookstores in New York or Geneva, Switzerland. The MTB believes that a number of individuals involved in the international transportation of hazardous materials have gained sufficient working knowledge of the grouping system to merit the inclusion of packaging groups in the Optional Hazardous Materials Table.

Column 7 sets forth the vessel stowage requirements for the hazardous materials as provided in the IMCO Code. Although § 172.101 was revised with the publication of Docket HM-103/112 to include IMCO stowage requirements to the maximum extent possible, the differences between shipping descriptions for certain hazardous materials in the DOT regulations and the IMCO Code made it impossible to include the IMCO stowage requirements for all hazardous

materials. The MTB believes that consistency between the DOT and IMCO stowage requirements is necessary to insure that vessels loaded in United States ports will not be in violation of the stowage requirements in force in those nations who have adopted the IMCO Code into their national regulations, and vice versa. Inclusion of the majority of the IMCO shipping descriptions in the Optional Hazardous Materials Table would make it possible to authorize the use of IMCO stowage when hazardous materials are transported under an appropriate IMCO description. The meanings of numbers used to designate acceptable stowage locations are explained in the proposed § 172.102(j). The numbers used in § 172.102 retain the same meaning assigned to them in § 172.101; however, the explanations of the meanings of these numbers have been revised in an effort to provide greater clarity.

Section 172.201. Paragraph (a)(4)(i) of this section would be amended to allow the optional insertion of the entries "IMCO" or "IMCO Class" in the hazardous materials description on the shipping papers. The MTB believes that certain shippers may desire to include these entries to clarify the fact that a hazardous material is being offered under its IMCO classification, particularly when this classification differs from that provided for the material in § 172.101.

Section 176.11. A new paragraph (f) would be added to permit hazardous materials classed, labeled and described in accordance with the Optional Hazardous Materials Table to be stowed as provided in that Table. The purpose of this authorization is explained elsewhere in this notice.

In consideration of the foregoing, it is proposed to amend Parts 171, 172 and 176 of Title 49, Code of Federal Regulations as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. § 171.2 paragraphs (a) and (b) would be amended by adding "in § 176.11 of this subchapter and" immediately preceding "§ 171.12" in the first line of each paragraph.

2. § 171.12 paragraph (b) would be revised to read as follows:

§ 171.12 Import and export shipments.

(b) Provisions under which certain hazardous materials may be transported when classified, labeled and described

in accordance with the IMCO Code are set forth in § 172.102 of this subchapter.

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

3. The title of Part 172 would be amended by replacing the word "TABLE" with the word "TABLES."

4. The title of Subpart B would be amended by replacing the word "TABLE" with the word "Tables."

5. A new § 172.102 would be added to read as follows:

§ 172.102 Purpose and use of the optional hazardous materials table.

(a) The Optional Hazardous Materials Table set forth in this section provides description, classification, labeling and vessel stowage requirements which may be used as an alternative to the corresponding requirements in § 172.101 under conditions set forth in this section. The provisions of this section do not apply to materials designated as hazardous materials under this subchapter that are not subject to the requirements of the IMCO Code. This section does not designate materials as hazardous materials. Such designations are made only in § 172.101. A number of materials listed in this section may not be subject to the requirements of this subchapter, but they are subject to regulation under widely applied international standards and are listed in this section in the interest of providing consistency with those standards and to alert persons offering or accepting these materials for transportation that they may be subject to regulation in international transport.

(b) The requirements of § 172.101 notwithstanding, a hazardous material (other than Class A or B explosives and Radioactive materials) may be classed, labeled or described in accordance with this section provided the material conforms to all additional defining or limiting conditions prescribed for the description in the appropriate schedule of the IMCO Code. When a material is transported by air, highway or rail under the description and IMCO class or division provided in this section, the shipping paper required by § 172.202(a)(2) must include a class name set forth in this subchapter that most appropriately corresponds to the IMCO class or division. In addition, the UN number specified for the material in this section must be included immediately after the required class entry. For example, according to this section the shipping description and

IMCO division for ethylene oxide are "Ethylene oxide 2.1." While ethylene oxide would be classed as a flammable liquid under § 172.101, the class in this subchapter that most closely corresponds to the IMCO class is "flammable gas." The proper entry would be "Ethylene oxide, Flammable gas, UN1040" or "Ethylene Oxide, 2.1, Flammable gas, UN1040."

(c) If a hazardous material that is designated as a hazardous substance in § 172.101, is offered, accepted or transported under an acceptable shipping name from the Optional Hazardous Materials Table that does not contain the technical name of the designated hazardous substance, the proper shipping name must include the technical name of the hazardous substance in parentheses immediately following the selected entry.

(d) Column 1 contains the letter "N" immediately adjacent to certain entries. The letter "N" means that the entry is not an acceptable alternative and the material must be transported under the appropriate entry in § 172.101.

(e) Column 2 lists the optional proper shipping names for hazardous materials. Proper shipping names are limited to those shown in Roman type (not Italics). In the selection of a proper shipping name to describe a particular material, if the correct technical name is not shown, or is not appropriate, selection must be made from the general descriptions or "n.o.s." entries corresponding to the specific hazard class of the material being shipped. The name that most appropriately describes the material must be used, i.e., an alcohol must be shipped as an alcohol n.o.s. rather than flammable liquid n.o.s. unless the technical name of the alcohol is listed, e.g., methanol. Some mixtures may be more aptly described by their application such as "Paint" or "Cleaning compound."

(1) Shipping names may be entered in either upper or lower case letters.

(2) The words in italics are not part of the proper shipping name but may be used in addition to the proper shipping name. The word "or" in italics indicates that any terms in the sequence may be used as the proper shipping name as appropriate.

(3) When one entry references another entry by use of a "see", if both names are in Roman type, either name may be used as a proper shipping name (e.g., Methyl alcohol *see* Methanol). (f) Column 3 contains the hazard class or division designated for the material in the IMCO Code. In the case of explosives, a letter designating the "compatibility group" of the substance

or article is also included immediately following the division. Detailed definitions of the classes, divisions and compatibility groups are provided in the IMCO Code. Basic definitions of the IMCO classes and divisions are as follows:

(1) Class 1—Explosives.

(i) Division 1.1—Substances and articles which have a mass explosion hazard.

(ii) Division 1.2—Substances and articles which have a projection hazard but not a mass explosion hazard.

(iii) Division 1.3—Substances and articles which have a fire hazard and either a minor blast hazard or a minor projection hazard or both, but not a mass explosion hazard.

(iv) Division 1.4—Substances and articles which present no significant hazard.

(v) Division 1.5—Very insensitive substances.

(2) Class 2—Gases (compressed, liquefied or dissolved under pressure).

(i) Division 2.1—Flammable gases.

(ii) Division 2.2—Nonflammable gases.

(iii) Division 2.3—Poison gases.

(3) Class 3—Flammable liquids.

(i) Division 3.1—Low flash point group (liquids with flash points below 0°F.)

(ii) Division 3.2—Intermediate flash point group (liquids with flash points of 0°F. or above but less than 73°F.).

(iii) Division 3.3—High flash point group (liquids with flash points of 73°F. or above but less than 141°F.).

(4) Class 4—Flammable solids or substances.

(i) Division 4.1—Flammable solids.

(ii) Division 4.2—Substances liable to spontaneous combustion.

(iii) Division 4.3—Substances emitting flammable gases when wet.

(5) Class 5—Oxidizing substances.

(i) Division 5.1—Oxidizing substances or agents.

(i.) Division 5.2—Organic peroxides.

(6) Class 6—Poisonous and infectious substances.

(i) Division 6.1—Poisonous substances.

(ii) Division 6.2—Infectious substances.

(7) Class 7—Radioactive substances.

(8) Class 8—Corrosives.

(9) Class 9—Miscellaneous dangerous substances.

(g) Column 4 contains the United Nations number listed for the substance or article in the IMCO Code. A number of substances or articles have no United Nations number provided for them in the IMCO Code. For some of these entries, the United Nations number of the article or substance which most appropriately

corresponds to that particular entry is shown in parentheses.

(h) Column 5 specifies the labels to be applied to each outside packaging. Specifications for labels required shall be either as provided in this subchapter or as provided in the IMCO Code.

(i) Column 6 provides the packaging group specified for the material in the IMCO Code.

(j) Column 7 specifies each of the authorized stowage locations on board cargo vessels and passenger vessels and certain additional requirements for shipments of listed hazardous materials. Section 176.63 of this subchapter sets forth the physical requirements for each of the authorized stowage locations listed in Column 7. The authorized stowage locations are defined as follows:

(1) "1" means the material must be stowed "on deck."

(2) "2" means the material must be stowed "under deck."

(3) "3" means the material must be stowed "under deck away from heat."

(4) "1.2" means the material may be stowed either "on deck" or "under deck"; however, "under deck" stowage should be used if available.

(5) "1.3" means the material may be stowed either "on deck" or "under deck away from heat"; however, "under deck away from heat" stowage should be used if it is available.

(6) "5" means the material is forbidden and may not be offered or accepted for transportation by vessel.

Optional Hazardous Materials Table.

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172.102 Optional Hazardous Materials Table

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identi- fication Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a) Cargo vessel	(b) Pas- senger vessel	(c) Other requirements
	Acetal	3.1	UN 1088	Flammable Liquid	II	1,3	5	Keep cool
	Acetaldehyde	3.1	UN 1089	Flammable Liquid	I	1,3	5	Keep cool
	Acetic acid, solution containing not less than 80% of acid	3.3	UN 1842	Flammable Liquid, Corrosive	II	1,2	1,2	
	Acetic anhydride	8	UN 1715	Corrosive	II	1,2	1,2	Separate longitudinally by an intervening complete compartment or hold from explosives
	Acetone	3.1	UN 1090	Flammable Liquid	II	1,3	5	
	Acetone cyanohydrin, stabilized	6.1	UN 1541	Poison	I	1	5	Shade from radiant heat. Stow 'away from' acids and alkalis
	Acetone oils	3.2	UN 1091	Flammable Liquid	II	1,2	1	
	Acetonitrile. See Methyl cyanide	5.2	UN 2080	Organic Peroxide	II	1	5	
	Acetyl acetone peroxide, maximum concentration 40% in solution	5.2	UN 2081	Organic Peroxide	II	1	5	
	Acetyl benzoyl peroxide, maximum concentration 45% in solution	8	UN 1716	Corrosive	I	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Acetyl bromide	8	UN 1717	Corrosive, Flammable Liquid	I	1	1	Keep dry. Shade from radiant heat. Stow separated longitudinally by an intervening complete compartment or hold from explosives
	Acetyl chloride	5.2	UN 2082	Organic Peroxide	I	1	5	Maximum transport temperature -10 degrees C
	Acetyl cyclohexane sulphonyl peroxide, maximum concentration 82%, wetted with minimum 12% water	5.2	UN 2083	Organic Peroxide	II	1	5	Maximum transport temperature -10 degrees C
	Acetyl cyclohexane sulphonyl peroxide, maximum concentration 32% in solution	8	UN 1898	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Acetyl iodide	5.2	UN 2084	Organic Peroxide	II	1	5	
	Acetyl peroxide, maximum concentration 27% in solution	2.1	UN 1001	Flammable Gas	--	1	1	Shade from radiant heat. Stow 'separate from' chlorine
	Acetylene, dissolved	6.1	UN 2504	St. Andrews Cross	III	1,2	1,2	
	Acetylene tetrabromide	8	UN 1718	Corrosive	III	1,2	1,2	Glass carboys in hampers prohibited under deck
	Acid butyl phosphate	8	UN 1786	Corrosive	I	1	5	Stow 'away from' fluorides
	Acid mixtures, hydrofluoric and sulphuric	8	UN 1796	Corrosive	1/II	1	5	Stow 'away from' fluorides
	Acid mixtures, nitrating acid	8	UN 1826	Corrosive	1/II	1	5	Stow 'away from' fluorides
	Acid mixtures, spent	3.1	UN 1092	Flammable Liquid, Poison	I	1,3	5	Keep cool
	Acids, liquid, n.o.s. See Corrosive liquids, n.o.s.	6.1	UN 2074	St. Andrews Cross	III	1	1	Shade from radiant heat. Keep cool. Glass carboys prohibited on passenger vessels
	Acrolein, inhibited	8	UN 2218	Corrosive	II	1	1	Keep cool
	Acrylamide	3.1	UN 1093	Flammable Liquid, Poison	I	1,2	5	
	Acrylic acid, inhibited	6.1	UN 2074	St. Andrews Cross	III	1	1	Shade from radiant heat. Keep cool. Glass carboys prohibited on passenger vessels
	Acrylonitrile, inhibited	8	UN 2218	Corrosive	II	1	1	Keep cool
	Activated carbon. See Carbon, activated							
	Activated charcoal. See Carbon, activated							
	Adhesives, n.o.s. See Cement, adhesive, containing a flammable liquid							
	Adiponitrile	6.1	UN 2205	St. Andrews Cross	III	1,2	1,2	Shade from radiant heat
N	Aerosol dispensers, with a capacity of 1400 cubic cm. or more	2	UN 1950		--			
	Aerosol dispensers, with a capacity below 1400 cubic cm.:							
	(1) more than 10% by weight of total contents consisting of flammable gas	2.1	UN 1950	Flammable Gas	--	1,3	1,3	
	(2) internal pressure greater than 160 psig at 130 deg F.	2.2	UN 1950	Nonflammable Gas	--	1,3	1,3	
	(3) more than 45% by weight of total contents consisting of flammable liquid. This limit is reduced to 35% if there is any flammable gas present.	3.1	UN 1950	Flammable Liquid	--	1,3	1,3	
		3.2	UN 1950	Flammable Liquid	--	1,3	1,3	
		3.3	UN 1950	Flammable Liquid	--	1,3	1,3	
	(4) more than 10% by weight of toxic substances in the liquid concentrate	6.1	UN 1950	Poison	1/II	1,3	1,3	
		6.1	UN 1950	St. Andrews Cross	III	1,3	1,3	
	(5) more than 5% by weight of corrosive substances in the liquid concentrate	8	UN 1950	Corrosive	--	1,3	1,3	
	(6) as specified under Group 2 on page 9011 of IMCO Code	9	UN 1950	None	--			
	Aerosols or aerosol product. See Aerosol dispensers							
	Agents, blasting, Type B. See Explosives, blasting, Type B							
	Agents, blasting, Type E. See Explosives, blasting, Type E							
	Air, compressed	2.2	UN 1002	Nonflammable Gas	--	1,2	1,2	
	Air, liquid	2.2	UN 1003	Nonflammable Gas, Oxidizer	--	1,3	1,3	Stow 'separate from' acetylene. Do not over-stow
	Alarm devices, explosive	1.4 S	UN 0001	None. Package to be marked '1.4 S'	--	1,3	1,3	
	Alcohol, denatured	3.2	UN 1095	Flammable Liquid	II	1,2	1	
		3.3	UN 1095	Flammable Liquid	II	1,2	1,2	
	Alcohol, industrial	3.2	UN 1096	Flammable Liquid	II	1,2	1	
		3.3	UN 1096	Flammable Liquid	II	1,2	1,2	
	Alcohols, (non-toxic), n.o.s.	3.2	UN 1987	Flammable Liquid	II	1,2	1	
		3.3	UN 1987	Flammable Liquid	II	1,2	1	
	Alcohols, (toxic), n.o.s.	3.2	UN 1986	Flammable Liquid, Poison	II	1,2	1	
		3.3	UN 1986	Flammable Liquid, Poison	II	1,2	1	

2 172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identifi- cation Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a) Cargo vessel	(b) Pas- senger vessel	(c) Other requirements
	Aldehydes, (non-toxic), n.o.s.	3.2	UN 1989	Flammable Liquid	II	1,2	1	
	Aldehydes, (toxic), n.o.s.	3.3	UN 1989	Flammable Liquid	II	1,2	1,2	
		3.2	UN 1988	Flammable Liquid,	II	1,2	1	
		3.3	UN 1988	Poison	II	1,2	1,2	
	Aldrin and its mixtures	6.1	UN 1542	Poison	II/III	1,2	1,2	
	Alkali metal amalgams, n.o.s.	4.3	UN 1389	Dangerous When Wet	I	1,2	1,2	
	Alkali metal amides, n.o.s.	4.3	UN 1390	Dangerous When Wet	II	1,2	5	
	Alkali metal dispersions, n.o.s.	4.3	UN 1391	Dangerous When Wet	I	1,2	5	
	Alkali metals, liquid alloys of	4.3	UN 1421	Dangerous When Wet	I	1,2	5	
	Alkaline caustic liquids, n.o.s. See Caustic alkali liquids, n.o.s.							
	Alkaline corrosive liquids, n.o.s. See Corrosive liquids, n.o.s.							
	Alkaline earth metal amalgams, n.o.s.	4.3	UN 1382	Dangerous When Wet	I	1,2	1,2	
	Alkaloids, (poisonous), and their salts, n.o.s.	6.1	UN 1544	Poison	I/II	1,2	1,2	
		6.1	UN 1544	St. Andrews Cross	III	1,2	1,2	
	Alkanesulphonic acids	8	UN 1899	Corrosive	II	1,2	1	
	Alloys of alkaline earth metals, (non-pyrophoric), n.o.s.	4.3	UN 1393	Dangerous When Wet	II	1,2	5	
	Allyl alcohol	3.2	UN 1098	Flammable Liquid,	I	1,2	1	
				Poison				
	Allyl bromide	3.2	UN 1099	Flammable Liquid	I	1,2	1	
	Allyl chloride	3.1	UN 1100	Flammable Liquid,	I	1,2	5	Keep cool
				Poison				
	Allyl chlorocarbonate. See Allyl chloroformate							
	Allyl chloroformate	8	UN 1722	Corrosive	I	1	5	Keep dry. Stow 'separated longitudinally' by an intervening complete compartment or hold from explosives
	Allyl iodide	8	UN 1723	Corrosive	I	1	5	Keep dry
	Allyl isothiocyanate, stabilized	6.1	UN 1545	Poison	II	1	5	Shade from radiant heat
	Allyl trichlorosilane, stabilized	8	UN 1724	Corrosive	II	1	1	Keep dry. Stow 'separated longitudinally' by an intervening complete compartment or hold from explosives
	Aluminium alkyl halides, in solution	4.2	UN 2220	Spontaneously Combustible	II	1	1	
	Aluminium alkyl halides, pure	4.2	UN 2221	Spontaneously Combustible	I	1	1	
	Aluminium alkylchlorides	4.2	UN 2003	Spontaneously Combustible	I	1	1	
	Aluminium alkyls	4.2	UN 2003	Spontaneously Combustible	I	1	1	
	Aluminium bromide, (anhydrous or solutions)	8	UN 1725	Corrosive	II	1,2	1,2	Keep dry
	Aluminium carbide	4.3	UN 1394	Dangerous When Wet	II	1,2	1,2	
	Aluminium chloride, (anhydrous or solutions)	8	UN 1726	Corrosive	II	1,2	1,2	Keep dry
	Aluminium ferrosilicon, powder	4.3	UN 1395	Dangerous When Wet	II	1,2	1,2	
	Aluminium hydride	4.2	UN 2463	Spontaneously Combustible	I	1,2	5	
	Aluminium nitrate	5.1	UN 1438	Oxidizer	III	1,2	1,2	
	Aluminium phosphide	6.1	UN 1397	Poison, Dangerous When Wet	I	1,2	1,2	Stow 'away from' acids and oxidizing substances
	Aluminium, powder, coated	4.1	UN 1309	Flammable Solid	III	1,2	1,2	Keep dry. Stow 'away from' nonflammable gases and poisons
	Aluminium, powder, pyrophoric. See Pyrophoric metals							
	Aluminium, powder, uncoated, non-pyrophoric	4.3	UN 1396	Dangerous When Wet	II	1,2	1,2	Keep dry. Stow 'away from' nonflammable gases and poisons
	Aluminium silicon, powder, uncoated	4.3	UN 1398	Dangerous When Wet	III	1,2	1,2	
	Aluminium tributyl	4.2	UN 2003	Spontaneously Combustible	I	1	1	
	Aluminium triethyl	4.2	UN 1102	Spontaneously Combustible	I	1	1	
	Aluminium trimethyl	4.2	UN 1103	Spontaneously Combustible	I	1	1	
	Aminophenols (o-, m-, p-)	6.1	UN 2512	St. Andrews Cross	III	1,2	1,2	
	Ammonia, anhydrous, liquefied, and ammonia solutions below S.G. 0.88 at 15 degrees C. ammonia liquid and ammonia solutions in water containing over 50% of ammonia.	2.3	UN 1005	Poison Gas	--	1,2	5	Stow 'separate from' chlorine
	Ammonia, solutions below S.G. 0.88 at 15 degrees C. containing more than 35% and not above 50% ammonia.	2.2	UN 2073	Nonflammable Gas	--	1,2	5	Stow 'separate from' chlorine
	Ammonia solutions having a density (specific gravity) between 0.880 and 0.937 at 15 deg C. in water, containing more than 10% and not more than 35% by weight ammonia.	8	UN 2672	Corrosive	III	1,2	1,2	Stow 'away from' living quarters
	Ammonium arsenate	6.1	UN 1546	Poison	II	1,2	1,2	Stow 'away from' alkalis
	Ammonium bifluoride. See Ammonium hydrogen fluoride							
	Ammonium dichromate	5.1	UN 1439	Oxidizer	II	1,2	1,2	Stow 'away from' foodstuffs
	Ammonium dinitro-o-cresolate	9	UN 1843	None	II	1,2	1,2	Stow 'away from' heavy metals, 'separated from' flammable substances and 'separated by' an intervening complete compartment or hold from explosives
	Ammonium fluoride	6.1	UN 2505	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids
	Ammonium hydrogen fluoride	8	UN 1727	Corrosive	II	1,2	1,2	Keep dry
	Ammonium metavanadate	6.1	UN 2859	Poison	II	1,2	1,2	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identifi- cation Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a) Cargo vessel	(b) Pas- senger vessel	(c) Other requirements
	Ammonium nitrate, containing more than 0.2% by weight of combustible substances, including any organic substance calculated as carbon, to the exclusion of any other added substance	1.1 D	UN 0222	Explosive (1.1D)	--	1,2	1,2	
	Ammonium nitrate, containing not more than 0.2% of combustible material (including organic material calculated as carbon) and free from any other added matter	5.1	UN 1942	Oxidizer	III	1,2	1,2	
	Ammonium nitrate fertilizer, containing ammonium nitrate, n.o.s.	5.1	UN 2072	Oxidizer	III	1,2	1,2	
	Ammonium nitrate fertilizers, of the same composition as defined in class 5.1 on pages 5015 and 5016 of the IMCO Code but containing greater amounts of organic and/or combustible material than specified in these entries	1.1 D	UN 0223	Explosive (1.1D)	--	1,2	1,2	
	Ammonium nitrate fertilizers, Type A							
	(1) Uniform non-segregating mixtures of ammonium nitrate with added matter which is inorganic and chemically inert towards ammonium nitrate, containing not less than 90% of ammonium nitrate and not more than 0.2% of combustible material (including organic material calculated as carbon), or containing less than 90% but more than 70% of ammonium nitrate and not more than 0.4% of total combustible material	5.1	UN 2067	Oxidizer	III	1,2	1,2	
	(2) Uniform non-segregating mixtures of ammonium nitrate with calcium carbonate and/or dolomite, containing more than 80% but less than 90% of ammonium nitrate and not more than 0.4% of total combustible material	5.1	UN 2068	Oxidizer	III	1,2	1,2	
	(3) Uniform non-segregating mixtures of ammonium nitrate/ammonium sulphate, containing more than 45% but not more than 70% of ammonium nitrate and containing not more than 0.4% of total combustible material	5.1	UN 2069	Oxidizer	III	1,2	1,2	
	(4) Uniform non-segregating mixtures of nitrogen/phosphate or nitrogen/potash types or complete fertilizers of nitrogen/phosphate/potash type, containing more than 70% but less than 90% of ammonium nitrate and not more than 0.4% of total combustible material	5.1	UN 2070	Oxidizer	III	1,2	1,2	1,2
	Ammonium nitrate fertilizers, Type B. Uniform non-segregating mixtures of nitrogen/phosphate or nitrogen/potash types or complete fertilizers of nitrogen/phosphate/potash type, containing not more than 70% of ammonium nitrate and not more than 0.4% of total added combustible material or containing not more than 45% of ammonium nitrate with unrestricted combustible material	9	UN 2071	None	III	1,2	1,2	
	Ammonium perchlorate	5.1	UN 1442	Oxidizer	II	1,2	5	Stow 'away from' powdered metals
	Ammonium persulphate	5.1	UN 1444	Oxidizer	III	1,2	1,2	
	Ammonium picrate, wetted with not less than 10% water	4.1	UN 1310	Flammable Solid	I	1	5	Stow 'away from' heavy metals
	Ammonium picrate, wetted with not less than 33 1/3% of water	4.1	UN 1310	Flammable Solid	I	1,2	5	Stow 'away from' heavy metals
	Ammonium polyvanadate	6.1	UN 2861	Poison	II	1,2	1,2	
	Ammunition, illuminating, with or without burster, expelling charge or propelling charge	1.4 G	UN 0297	Explosive (1.4G)	--	1,3	1,3	
	Ammunition, incendiary (other than water-activated ammunition), without white phosphorus or phosphides, with or without burster, expelling charge or propelling charge	1.4 G	UN 0300	Explosive (1.4G)	--	1,3	1,3	
	Ammunition, practice	1.4G	UN 0362	Explosive (1.4G)	--	1,3	1,3	
	Ammunition, proof	1.4G	UN 0363	Explosive (1.4G)	--	1,3	1,3	
	Ammunition, (tear producing), non-explosive, with neither burster nor expelling charge, non-fused	6.1	UN 2017	Poison	II	1,2	5	Keep dry
	Ammunition, tear-producing, with burster, expelling charge or propelling charge	1.4 G	UN 0301	Explosive (1.4G), Poison, Corrosive	--	1,3	1,3	
	Ammunition, (toxic), non-explosive, with neither burster nor expelling charge, non-fused	6.1	UN 2016	Poison	II	1,2	5	Keep dry
	Amorces	1.4 S	UN 0022	None. Package to be marked '1.4 S'	--	1,3	1,3	
	Amyl acetates	3.2	UN 1104	Flammable Liquid	II	1,2	1	
		3.3	UN 1104	Flammable Liquid	II	1,2	1,2	
	Amyl alcohols	3.2	UN 1105	Flammable Liquid	II	1,2	1	
		3.3	UN 1105	Flammable Liquid	II	1,2	1,2	
	Amyl chloride	3.2	UN 1107	Flammable Liquid	II	1,2	1	
	Amyl formates	3.3	UN 1109	Flammable Liquid	II	1,2	1,2	
	Amyl hydride. See Pentane							
	Amyl mercaptan	3.2	UN 1111	Flammable Liquid	II	1,2	1	
	Amyl methyl ketone	3.3	UN 1110	Flammable Liquid	III	1,2	1,2	
	Amyl nitrate	3.3	UN 1112	Flammable Liquid	II	1,2	1,2	
	Amyl nitrite	3.1	UN 1113	Flammable Liquid	II	1,2	5	Keep cool
	Amyl trichlorosilane	8	UN 1728	Corrosive	II	1	1	Keep dry. Stow 'separated by an intervening complete compartment or hold from' explosives
	Amylamine	3.2	UN 1106	Flammable Liquid	II	1,2	1	
	n-Amylene	3.1	UN 1108	Flammable Liquid	I	1,2	5	
	Aniline	6.1	UN 1547	Poison	II	1,2	1,2	Stow 'away from' acids and oxidizers
	Aniline hydrochloride	6.1	UN 1548	St. Andrews Cross	III	1,2	1,2	Stow 'away from' alkalis
	Aniline oil. See Aniline							
	o-Anisidine	6.1	UN 2431	St. Andrews Cross	III	1,2	1,2	
	Anisoyl chloride	8	UN 1729	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Anti-freeze. See Flammable liquid preparations, n.o.s.							
	Antimony chloride. See Antimony trichloride, liquid or solid							

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identifi- cation Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a) Cargo vessel	(b) Pas- senger vessel	(c) Other requirements
	Antimony compounds, (inorganic), n.o.s.	6.1	UN 1549	Poison	I/II	1,2	1,2	
	Antimony lactate	6.1	UN 1550	St. Andrews Cross	III	1,2	1,2	
	Antimony pentachloride, liquid	8	UN 1730	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on pas- senger vessels
	Antimony pentachloride, solutions	8	UN 1731	Corrosive	II	1	1	Glass carboys prohibited on passenger vessels
	Antimony pentafluoride	8	UN 1732	Corrosive, Poison	II	1	5	Keep dry
	Antimony potassium tartrate	6.1	UN 1551	St. Andrews Cross	III	1,2	1,2	
	Antimony trichloride, liquid	8	UN 1733	Corrosive	II	1	1	Keep dry
	Antimony trichloride, solid	8	UN 1733	Corrosive	II	1,2	1,2	Keep dry
	Argon, compressed	2.2	UN 1006	Nonflammable Gas	-	1,3	1,3	
	Argon, liquid	2.2	UN 2039	Nonflammable Gas	-	1,3	1,3	
	Arsenic acid, liquid	6.1	UN 1553	Poison	I	1,2	1,2	
	Arsenic acid, solid	6.1	UN 1554	Poison	II	1,2	1,2	
	Arsenic bromide	6.1	UN 1555	Poison	II	1,2	1,2	
	Arsenic chloride. See Arsenic trichloride							
	Arsenic compounds, (liquid), n.o.s.	6.1	UN 1556	Poison	I/II	1,2	1,2	
	Arsenic compounds, (solid), n.o.s.	6.1	UN 1557	Poison	I/II	1,2	1,2	Keep dry.
	Arsenic, metallic	6.1	UN 1558	Poison	II	1,2	1,2	
	Arsenic pentoxide	6.1	UN 1559	Poison	II	1,2	1,2	
	Arsenic sulphides, (solid), n.o.s. See Arsenic compounds, (solid), n.o.s.							
	Arsenic trichloride	6.1	UN 1560	Poison	I	1,2	1,2	
	Arsenic trioxide	6.1	UN 1561	Poison	II	1,2	1,2	
	Arsenical dust	6.1	UN 1562	Poison	II	1,2	1,2	
	Arsenical flue dust. See Arsenical dust							
	Arsine	2.3	UN 2188	Poison Gas, Flammable Gas	-	1	5	Stow 'away from' living quarters
	Articles, explosive, n.o.s.	1.4B	UN 0350	Explosive (1.4B)	-	1,3	1,3	
		1.4C	UN 0351	Explosive (1.4C)	-	1,3	1,3	
		1.4D	UN 0352	Explosive (1.4D)	-	1,3	1,3	
		1.4G	UN 0353	Explosive (1.4G)	-	1,3	1,3	
		1.4S	UN 0349	None. Package to be marked '1.4S'	-	1,3	1,3	
	Asbestos, blue	9	UN 2212	None	II	1,2	1,2	
	Asbestos, white	9	UN 2590	None	III	1,2	1,2	
	Asphalt cut-backs. See Cut-backs, asphalt or bitumen							
	Bags, (empty and unwashed), having contained Potassium nitrate or sodium nitrate	4.1	UN 1359	Flammable Solid	III	1,2	5	
	Barium, alloys, non-pyrophoric	4.3	UN 1399	Dangerous When Wet	II	1,2	5	
	Barium alloys pyrophoric	4.2	UN 1854	Spontaneously Combustible	II	1	5	
	Barium azide, containing at least 50% water or alcohol	6.1	UN 1571	Poison	II	1,2	1,2	Stow 'away from' heavy metals
	Barium chlorate	5.1	UN 1445	Oxidizer, Poison	II	1,2	1,2	Stow 'away from' foodstuffs and powdered metals, 'separate from' ammonium com- pounds
	Barium compounds, n.o.s.	6.1	UN 1564	Poison	I/II	1,2	1,2	
	Barium cyanide	6.1	UN 1565	Poison	III	1,2	1,2	
	Barium, metal, non-pyrophoric	4.3	UN 1400	Dangerous When Wet	II	1,2	5	Stow 'away from' acids
	Barium nitrate	5.1	UN 1446	Oxidizer, Poison	II	1,2	1,2	
	Barium oxide	6.1	UN 1884	St. Andrews Cross	III	1,2	1,2	
	Barium perchlorate	5.1	UN 1447	Oxidizer, Poison	II	1,2	1,2	Stow 'away from' powdered metals and foodstuffs
	Barium permanganate	5.1	UN 1448	Oxidizer, Poison	II	1,2	1,2	Stow 'away from' foodstuffs and 'separate from' ammonium compounds and hydro- gen peroxide
	Barium peroxide	5.1	UN 1449	Oxidizer, Poison	II	1,2	1,2	Keep dry. Stow 'away from' foodstuffs
	Batteries, electric, storage, wet or filled	8	UN 1734	Corrosive	III	1,2	1,2	
	Battery fluid, acid	8	UN 1735	Corrosive	II	1,2	1,2	Glass carboys in hampers prohibited under deck
	Battery fluid, alkaline corrosive	8	UN 1735	Corrosive	II	1,2	1,2	
	Battery fluid, alkaline corrosive, with storage battery	8	UN 1735	Corrosive	II	1,2	1,2	
	Benzaldehyde	3.3	UN 1990	Flammable Liquid	III	1,2	1,2	
	Benzene	3.2	UN 1114	Flammable Liquid	II	1,2	1	
	Benzene sulphonyl chloride	6.1	UN 2225	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids and alkalis
	Benidine	6.1	UN 1885	Poison	II	1,2	1,2	
	Benzine	3.1	UN 1115	Flammable Liquid	II	1,2	5	
	Benzonitrile	3.2	UN 1115	Flammable Liquid	II	1,2	1	
	Benzotrithloride	3.3	UN 1115	Flammable Liquid	II	1,2	1,2	
	Benzoyl chloride	8	UN 2224	Poison	II	1,2	1,2	Stow 'away from' acids
		8	UN 2226	Corrosive	II	1,2	1,2	Stow 'away from' living quarters
		8	UN 1736	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on pas- senger vessels
	Benzoyl peroxide, in a concentration of more than 72% but less than 95% as a paste	5.2	UN 2086	Organic Peroxide	I	1	5	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identifi- cation Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a) Cargo vessel	(b) Pas- senger vessel	(c) Other requirements
	Benzoyl peroxide, in a concentration of not more than 72% as a paste	5.2	UN 2087	Organic Peroxide	II	1	5	
	Benzoyl peroxide, in a concentration of not more than 55% as a paste	5.2	UN 2087	Organic Peroxide	II	1	5	
	Benzoyl peroxide, in a concentration of more than 80% but less than 95% with water	5.2	UN 2088	Organic Peroxide	I	1	5	
	Benzoyl peroxide, in a concentration of not more than 80% with water	5.2	UN 2090	Organic Peroxide	II	1	5	
	Benzoyl peroxide, in concentrations from 30% to maximum 52% with inert solid	5.2	UN 2089	Organic Peroxide	II	1	5	
	Benzoyl peroxide, technical pure or in a concentration of more than 52% with inert solid	5.2	UN 2085	Organic Peroxide	I	1	5	
	Benzyl bromide	8	UN 1737	Corrosive	II	1	5	Keep dry
	Benzyl chloride	8	UN 1738	Corrosive	II	1	5	Keep dry. Stow 'separated longitudinally by an intervening complete compartment or hold from' explosives
	Benzyl chloroformate	8	UN 1739	Corrosive	I	1	5	Keep dry
	Benzyl cyanide, liquid	6.1	UN 2470	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids
	Benzylidene chloride	6.1	UN 1886	Poison	II	1	5	
	Beryllium compounds	6.1	UN 1566	Poison	II	1,2	1,2	
	Beryllium, metal powder	6.1	UN 1567	Poison, Flammable Solid	II	1,2	1,2	Segregation same as for flammable solids
	Bhusa	4.1	UN 1327	None	III	1,2	1,2	Stow 'away from' animal or vegetable oils
	Bifluorides, n.o.s.	8	UN 1740	Corrosive	II	1,2	1,2	Keep dry
	Bis-(1-hydroxy cyclohexyl) peroxide, technical pure	5.2	UN 2148	Organic Peroxide	II	1	5	
	Bis-(2-methylbenzoyl)peroxide, with at least 15% water	5.2	UN 2593	Organic Peroxide	I	1	5	Maximum transport temperature 30 deg C
	1,4-Bis-(2-tert-butylperoxy isopropyl) benzene, or 1,3-bis-(2-tert-bu- tylperoxy isopropyl) benzene, and mixtures thereof, (including technical pure or in a concentration of more than 40% with inert solid)	5.2	UN 2112	Organic Peroxide	II	1	5	
	Bis-(3,5,5-trimethyl-1,2-dioxolanyl-3)peroxide, as a paste with at least 50% phlegmatizer	5.2	UN 2597	Organic Peroxide	II	1	5	Maximum transport temperature 30 deg C
	2,2-Bis-(4,4-di-tert-butylperoxy cyclohexyl) propane, maximum con- centration 42% with inert solid	5.2	UN 2168	Organic Peroxide	II	1	5	
	Bis-(4-tert-butyl cyclohexyl) perdicarbonate, technical pure	5.2	UN 2154	Organic Peroxide	II	1	5	Maximum transport temperature 30 deg C
	1,1-Bis-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane, technical pure	5.2	UN 2145	Organic Peroxide	II	1	5	
	1,1-Bis-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane, maximum concentration 57% in solvent	5.2	UN 2146	Organic Peroxide	II	1	5	
	1,1-Bis-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane, maximum concentration 58% with inert solid	5.2	UN 2147	Organic Peroxide	II	1	5	
	2,2-Bis-(tert-butylperoxy) butane, maximum concentration 55% in solution	5.2	UN 2111	Organic Peroxide	II	1	5	
	1,1-Bis-(tert-butylperoxy) cyclohexane, technical pure	5.2	UN 2179	Organic Peroxide	II	1	5	
	1,1-Bis-(tert-butylperoxy) cyclohexane, maximum concentration 77% in solution	5.2	UN 2180	Organic Peroxide	II	1	5	
	1,2-Bis-(tert-butylperoxy) cyclohexane, maximum concentration 77% in solution	5.2	UN 2181	Organic Peroxide	II	1	5	
	Blasting cap assemblies, non electric	1.4B	UN 0361	Explosive (1.4B)	-	1,3	1,3	
	Blasting caps, electric	1.4B	UN 0255	Explosive (1.4B)	-	1,2	5	Portable magazine or metal locker. Do not handle blasting caps with any high explo- sive. Do not handle blasting caps at the same time high explosives are being loaded
	Blasting caps, non-electric	1.4B	UN 0267	Explosive (1.4B)	-	1,2	5	Portable magazine or metal locker. Do not handle blasting caps with any high explo- sive. Do not handle blasting caps at the same time high explosives are being loaded
	Bleaching powder. See Calcium hypochlorite mixtures, dry, contain- ing 39% or less, but more than 10% available chlorine							
	Blue asbestos. See Asbestos, blue							
	Bombs, smoke, containing a corrosive liquid, non-explosive, without initiating device	8	UN 2028	Corrosive	II	1,2	5	Keep dry. Stow 'away from' living quarters
	Borate and chlorate, mixtures	5.1	UN 1458	Oxidizer	II	1,2	5	Stow 'away from' powdered metals and 'sep- arate from' ammonium compounds
	Bordeaux arsenites, liquid	6.1	UN 1568	Poison	II	1,2	1,2	
	Bordeaux arsenites, solid	6.1	UN 1568	Poison	II	1,2	1,2	
	Borneol	4.1	UN 1312	None. Package to be marked 'Class 4.1'	III	1,2	1,2	
	Boron trichloride	2.3	UN 1741	Poison Gas, Corrosive	-	1	5	Shade from radiant heat. Stow 'away from' foodstuffs and living quarters
	Boron trifluoride	2.3	UN 1008	Poison Gas	-	1	5	Stow 'away from' foodstuffs and living quar- ters
	Boron trifluoride acetic acid complex	8	UN 1742	Corrosive	II	1,2	1,2	
	Boron trifluoride propionic acid complex	8	UN 1743	Corrosive	II	1,2	1,2	
	Boa toe gum. See Nitrocellulose							
	Brake fluid, hydraulic	3.2	UN 1118	Flammable Liquid	II	1,2	1	
	Bromates, (inorganic), n.o.s.	5.1	UN 1450	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals and 'sep- arate from' ammonium compounds
	Bromine, (and solutions)	8	UN 1744	Corrosive, Poison	I	1	5	Keep cool
	Bromine pentafluoride	8	UN 1745	Corrosive, Poison, Oxidizer	I	1	5	Shade from radiant heat. Stow 'away from' all other corrosives
	Bromine trifluoride	8	UN 1746	Corrosive, Poison	I	1	5	Shade from radiant heat
	1-Bromo-2,3-epoxypropane	6.1	UN 2558	Poison	I	1	5	

6 172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identifi- cation Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a)	(b)	(c)
						Cargo vessel	Pass- enger vessel	Other requirements
	Bromoacetic acid, <i>solid</i>	8	UN 1938	Corrosive	II	1,2	1,2	Keep dry
	Bromoacetic acid, <i>solution</i>	8	UN 1938	Corrosive	II	1,2	1,2	Glass carboys in hampers not permitted under deck
	Bromoacetone	6.1	UN 1569	Poison	II	1	5	Segregation same as for flammable liquids
	Bromocetyl bromide	8	UN 2513	Corrosive	II	1	1	Glass carboys prohibited on passenger vessels
	Bromobenzyl cyanide	6.1	UN 1694	Poison	I	1	5	Keep cool
	Bromochloromethane	9	UN 1887	None	III	1,2	1,2	Stow 'away from' foodstuffs
	Bromoform	6.1	UN 2515	St. Andrews Cross	III	1,2	1,2	
	Bromotrifluoromethane	2.2	UN 1009	Nonflammable Gas	—	1,2	1,2	
	Brucine	6.1	UN 1570	Poison	II	1,2	1,2	
	Butadiene, <i>inhibited</i>	2.1	UN 1010	Flammable Gas	—	1,2	1	Stow 'away from' living quarters
	Butane or butane mixtures	2.1	UN 1011	Flammable Gas	—	1,2	1	Stow 'away from' living quarters
	Butanol	3.3	UN 1120	Flammable Liquid	II	1,2	1,2	
	sec-Butanol	3.3	UN 1121	Flammable Liquid	II	1,2	1,2	
	tert-Butanol	3.2	UN 1122	Flammable Liquid	II	1,2	1	
	n-Butyl-4,4-bis-(tert-butyl-peroxy) valerate, <i>technical pure</i>	5.2	UN 2140	Organic Peroxide	II	1	5	
	n-Butyl-4,4-bis-(tert-butyl-peroxy) valerate, <i>maximum concentration 52% with inert solid</i>	5.2	UN 2141	Organic Peroxide	II	1	5	
	n-Butyl acetate	3.2	UN 1123	Flammable Liquid	II	1,2	1	
	sec-Butyl acetate	3.2	UN 1124	Flammable Liquid	II	1,2	1	
	Butyl alcohol. See Butanol							
	sec-Butyl alcohol. See sec-Butanol							
	tert-Butyl alcohol. See tert-Butanol							
	n-Butyl bromide	3.3	UN 1126	Flammable Liquid	II	1,2	1,2	
	n-Butyl chloride	3.2	UN 1127	Flammable Liquid	II	1,2	1	
	tert-Butyl cumene peroxide. See tert-Butyl cumyl peroxide							
	tert-Butyl cumyl peroxide, <i>technical pure</i>	5.2	UN 2091	Organic Peroxide	II	1	5	
	tert-Butyl diperoxophthalate. See tert-Butyl diperphthalate							
	tert-Butyl diperphthalate, <i>maximum concentration 55% in solution</i>	5.2	UN 2107	Organic Peroxide	II	1	5	
	tert-Butyl diperphthalate, <i>maximum concentration 55% as a paste</i>	5.2	UN 2108	Organic Peroxide	II	1	5	
	tert-Butyl diperphthalate, <i>technical pure</i>	5.2	UN 2106	Organic Peroxide	II	1	5	
	Butyl ether. See Dibutyl ethers							
	n-Butyl formate	3.2	UN 1128	Flammable Liquid	II	1,2	1	
	tert-Butyl hydroperoxide, in a concentration over 72% to maximum 90% with water	5.2	UN 2094	Organic Peroxide	I	1	5	
	tert-Butyl hydroperoxide, <i>maximum concentration 72% with water</i>	5.2	UN 2093	Organic Peroxide	II	1	5	
	tert-Butyl hydroperoxide, <i>maximum concentration 80% in di-tert-butyl peroxide and/or solvent</i>	5.2	UN 2092	Organic Peroxide, Flammable Liquid (only if flashpoint of solvent is 23 deg C. or below)	I	1	5	
	tert-Butyl monoperoxophthalate. See tert-Butyl monoperoxphthalate							
	tert-Butyl monoperoxphthalate, <i>technical pure</i>	5.2	UN 2105	Organic Peroxide	II	1	5	
	tert-Butyl per-(2-ethyl) hexanoate, <i>technical pure</i>	5.2	UN 2143	Organic Peroxide	II	1	5	Maximum transport temperature 20 deg C
	tert-Butyl per-neodecanoate, <i>maximum concentration 77% in solution</i>	5.2	UN 2177	Organic Peroxide	II	1	5	Maximum transport temperature 5 deg C
	tert-Butyl peracetate, in a concentration of more than 52% to a maximum concentration of 76% in solution	5.2	UN 2095	Organic Peroxide	II	1	5	
	tert-Butyl peracetate, <i>maximum concentration 52% in solution</i>	5.2	UN 2096	Organic Peroxide	II	1	5	
	tert-Butyl perbenzoate, <i>maximum concentration 75% in solution</i>	5.2	UN 2098	Organic Peroxide	II	1	5	
	tert-Butyl perbenzoate, <i>technical pure or in a concentration of more than 75% in solution</i>	5.2	UN 2097	Organic Peroxide	II	1	5	
	tert-Butyl percrotonate, <i>maximum concentration 76% in solution</i>	5.2	UN 2183	Organic Peroxide	II	1	5	
	n-Butyl perdicarbonate, in a concentration of more than 27% to a maximum concentration of 52% in solution	5.2	UN 2169	Organic Peroxide	II	1	5	Maximum transport temperature -10 deg C
	n-Butyl perdicarbonate, <i>maximum concentration 27% in solution</i>	5.2	UN 2170	Organic Peroxide	II	1	5	Maximum transport temperature 0 deg C
	tert-Butyl perdiethylacetate, (in a maximum concentration of 33%), with tert-butyl perbenzoate, (in a maximum concentration of 33%), and solvent	5.2	UN 2551	Organic Peroxide	II	1	5	
	tert-Butyl perdiethylacetate, <i>technical pure</i>	5.2	UN 2144	Organic Peroxide	II	1	5	
	tert-Butyl perisobutyrate, in a concentration of more than 52% to a maximum concentration of 77% in solution	5.2	UN 2142	Organic Peroxide	II	1	5	Maximum transport temperature 15 deg C
	tert-Butyl perisobutyrate, <i>maximum concentration 52% in solution</i>	5.2	UN 2562	Organic Peroxide	II	1	5	Maximum transport temperature 15 deg C
	tert-Butyl permaleate, <i>maximum concentration 55% in solution</i>	5.2	UN 2100	Organic Peroxide	II	1	5	
	tert-Butyl permaleate, <i>maximum concentration 55% as a paste</i>	5.2	UN 2101	Organic Peroxide	II	1	5	
	tert-Butyl permaleate, <i>technical pure</i>	5.2	UN 2099	Organic Peroxide	II	1	5	
	tert-Butyl peroxide, <i>technical pure</i>	5.2	UN 2102	Organic Peroxide, Flammable Liquid	II	1	5	
	tert-Butyl peroxy-(2-ethyl) hexanoate. See tert-Butyl per-(2-ethyl) hexanoate							
	tert-Butyl peroxy-3,5,5-trimethyl hexanoate, <i>technical pure</i>	5.2	UN 2104	Organic Peroxide	II	1	5	
	tert-Butyl peroxy isopropyl carbonate, <i>technical pure</i>	5.2	UN 2103	Organic Peroxide	II	1	5	
	tert-Butyl peroxy-neodecanoate. See tert-Butyl per-neodecanoate							
	tert-Butyl peroxyacetate. See tert-Butyl peracetate							
	tert-Butyl peroxybenzoate. See tert-Butyl perbenzoate							
	tert-Butyl peroxycrotonate. See tert-Butyl percrotonate							
	n-Butyl peroxydicarbonate. See n-Butyl perdicarbonate							

172.102 Optional Hazardous Materials Table (Cont'd)

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(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identifi- cation Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a)	(b)	(c)
						Cargo vessel	Pass- enger vessel	Other requirements
	tert-Butyl peroxydiethylacetate. See tert-Butyl perdiethylacetate							
	tert-Butyl peroxydiethylacetate with tert-butyl perbenzoate. See tert-Butyl perdiethylacetate with tert-butyl perbenzoate							
	tert-Butyl peroxyisobutyrate. See tert-Butyl perisobutyrate							
	tert-Butyl peroxyvalerate. See tert-Butyl permaleate							
	tert-Butyl perpyvalate. See tert-Butyl perpivalate							
	tert-Butyl perpivalate, <i>maximum concentration 77% in solution</i>	5.2	UN 2110	Organic Peroxide	II	1	5	Maximum transport temperature 0 deg C
	Butyl phosphoric acid. See Acid butyl phosphate							
	Butyl propionate	3.3	UN 1914	Flammable Liquid	II	1,2	1,2	
	Butyl trichlorosilane	8	UN 1747	Corrosive	II	1	1	Keep dry. Stow 'separated longitudinally by an intervening complete compartment or hold from' explosives
	n-Butylamine	3.2	UN 1125	Flammable Liquid	II	1,2	1	
	Butylene	2.1	UN 1012	Flammable Gas	—	1,2	1	Stow 'away from' living quarters
	tert-Butylperneodecanoate, <i>technical pure</i>	5.2	UN 2594	Organic Peroxide	II	1	5	Maximum transport temperature -5 deg C
	3-tert-Butylperoxy-3-phenyl phthalide, <i>technical pure</i>	5.2	UN 2596	Organic Peroxide	II	1	5	
	Butylphenols, <i>liquid</i>	6.1	UN 2228	St. Andrews Cross	III	1,2	1,2	
	Butylphenols, <i>solid</i>	6.1	UN 2229	St. Andrews Cross	III	1,2	1,2	
	Butyraldehyde	3.2	UN 1129	Flammable Liquid	II	1,2	1	
	Cacodylic acid	6.1	UN 1572	Poison	II	1,2	5	Stow 'away from' acids
	Cadmium compounds	6.1	UN 2570	St. Andrews Cross	III	1,2	1,2	
	Caesium, <i>metal</i>	4.3	UN 1407	Dangerous When Wet	I	1,2	5	
	Caesium nitrate	5.1	UN 1451	Oxidizer	III	1,2	1,2	
	Caesium, <i>powdered</i> . See Pyrophoric metals							
	Calcium arsenate	6.1	UN 1573	Poison	II	1,2	1,2	
	Calcium arsenite and arsenite, <i>solid mixtures</i>	6.1	UN 1574	Poison	II	1,2	1,2	
	Calcium bisulphite, <i>solution</i> . See Calcium hydrogen sulphite, <i>solution</i>							
	Calcium carbide	4.3	UN 1402	Dangerous When Wet	II	1,2	1,2	Stow 'away from' copper, its alloys and its salts
	Calcium chlorate	5.1	UN 1452	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals and 'separate from' ammonium compounds
	Calcium chlorite	5.1	UN 1453	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals and cyanides, 'separate from' ammonium compounds
	Calcium cyanamide, <i>containing more than 0.1% of calcium carbide</i>	4.3	UN 1403	Dangerous When Wet	III	1,2	1,2	
	Calcium cyanide	6.1	UN 1575	Poison	I	1,2	1,2	Stow 'away from' acids
	Calcium dithionite	4.2	UN 1923	Spontaneously Combustible	III	1,2	5	Keep dry
	Calcium hydride	4.3	UN 1404	Dangerous When Wet	I	1,2	5	
	Calcium hydrogen sulphite, <i>solution</i>	8	UN 1901	Corrosive	II	1,2	1,2	
	Calcium hypochlorite, <i>dry, including mixtures containing more than 39% available chlorine (8.8% available oxygen)</i>	5.1	UN 1748	Oxidizer	II	1,2	1,2	
	Calcium hypochlorite mixtures, <i>dry containing 39% or less, but not more than 10% available chlorine</i>	9	UN 2208	None	III	1,2	1,2	Stow 'separate from' flammable liquids and acids, 'away from' combustible materials
	Calcium, <i>metal and alloys, non-pyrophoric</i>	4.3	UN 1401	Dangerous When Wet	II	1,2	5	
	Calcium nitrate	5.1	UN 1454	Oxidizer	III	1,2	1,2	
	Calcium perchlorate	5.1	UN 1455	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals
	Calcium permanganate	5.1	UN 1456	Oxidizer	II	1,2	1,2	Stow 'separate from' ammonium compounds and hydrogen peroxide
	Calcium peroxide	5.1	UN 1457	Oxidizer	II	1,2	1,2	Keep dry
	Calcium phosphide	4.3	UN 1360	Dangerous When Wet	I	1	5	
	Calcium, <i>powdered</i>	4.2	UN 1855	Spontaneously Combustible	II	1	5	
	Calcium resinate, <i>fused</i>	4.1	UN 1314	Flammable Solid	III	1,2	1,2	
	Calcium resinate, <i>technical pure</i>	4.1	UN 1313	Flammable Solid	III	1,2	1,2	
	Calcium silicide	4.3	UN 1405	Dangerous When Wet	II	1,2	1,2	
	Calcium silicon	4.3	UN 1406	Dangerous When Wet	III	1,2	1,2	
	Campbor oil	3.3	UN 1130	Flammable Liquid	III	1,3	1,3	
	Capryloyl peroxide. See n-Octanoyl peroxide							
	Caps, blasting. See Blasting caps							
	Caps, percussion	1.4 S	UN 0044	None. Package to be marked '1.4 S'	—	1,3	1,3	
	Caps, toy. See Amorce							
	Carbolic acid. See Phenol							
	Carbon, activated	4.2	UN 1362	Spontaneously Combustible	III	1,2	1,2	Keep cool
	Carbon bisulphide. See Carbon disulphide							
	Carbon dioxide	2.2	UN 1013	Nonflammable Gas	—	1,2	1,2	
	Carbon dioxide and nitrous oxide, <i>mixtures</i>	2.2	UN 1015	Nonflammable Gas	—	1,2	1,2	
	Carbon dioxide and oxygen, <i>mixtures</i>	2.2	UN 1014	Nonflammable Gas	—	1,2	1,2	
	Carbon disulphide	3.1	UN 1131	Flammable Liquid, Poison	I	1	5	Keep cool. Not permitted on any vessel carrying explosives
	Carbon monoxide	2.1	UN 1016	Flammable Gas, Poison Gas	—	1	5	Stow 'away from' living quarters
	Carbon, non-activated, of animal or vegetable origin	4.2	UN 1361	Spontaneously Combustible	III	1,2	1,2	Keep cool. Stow 'away from' oily matter

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172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identifi- cation Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a)	(b)	(c)
						Cargo vessel	Pass- enger vessel	Other requirements
N	Carbon paper. See Paper, treated with unsaturated oils, incompletely dried							
	Carbon remover, liquid	3.2	UN 1132	Flammable Liquid	II	1,2	1	
	Carbon sulphide. See Carbon disulphide							
	Carbon tetrabromide	6.1	UN 2516	St. Andrews Cross	III	1,2	1,2	Shade from radiant heat
	Carbon tetrachloride	6.1	UN 1846	Poison	II	1,2	1,2	
	Carbonyl chloride. See Phosgene							
	Carbonyl fluoride	2.3	UN 2417	Poison Gas	—	1	5	Stow 'away from' living quarters
	Carbonyl sulfide	2.3	UN 2204	Poison Gas, Flammable Gas	—	1	5	Stow 'away from' living quarters
	Cartouche	2.1	UN 2037	Flammable Gas	—			
	Cartridge cases, empty, with primer. See Cases, cartridges, empty, with primer							
	Cartridges for weapons, blank	1.4 C 1.4 S	UN 0338 UN 0014	Explosive (1.4C) None. Package to be marked '1.4 S'	— —	1,3 1,3	1,3 1,3	
	Cartridges for weapons, other than blank	1.4 S	UN 0012	None. Package to be marked '1.4 S'	—	1,3	1,3	
	Cartridges for weapons, with inert projectile	1.4 C	UN 0339	Explosive (1.4C)	—	1,3	1,3	
	Cartridges, oil well	1.4 C	UN 0278	Explosive (1.4C)	—	1,3	1,3	
	Cartridges, power device	1.4 C 1.4 S	UN 0276 UN 0323	Explosive (1.4C) None. Package to be marked '1.4 S'	— —	1,3 1,3	1,3 1,3	
	Cartridges, signal	1.4 G	UN 0312	Explosive (1.4G)	—	1,3	1,3	
	Cases, cartridge, empty, with primer	1.4 C	UN 0379	Explosive (1.4C)	—	1,3	1,3	
	Cases, cartridges, empty, with primer	1.4 S	UN 0055	None. Package to be marked '1.4 S'	—	1,3	1,3	
	Casinghead gasoline	3.1	UN 1257	Flammable Liquid	II	1,2	5	
	Caustic alkali liquids, n.o.s.	8	UN 1719	Corrosive	II	1,2	1,2	
	Caustic potash. See Potassium hydroxide, solution							
	Caustic potash, solid. See Potassium hydroxide, solid							
	Celluloid, in blocks, rods, rolls, sheets, tubes, etc. (scrap excluded)	4.1	UN 2000	Flammable Solid	III	1,2	1,2	
	Celluloid, scrap	4.2	UN 2002	Spontaneously Combustible	II	1	5	
	Cement, adhesive, (containing a flammable liquid), n.o.s.	3.2 3.3	UN 1133 UN 1133	Flammable Liquid Flammable Liquid	II II	1,2 1,2	1 1,2	
	Cement, (liquid), n.o.s. See Cement, adhesive, (containing a flammable liquid), n.o.s.							
	Charcoal, activated. See Carbon, activated							
	Charcoal, non-activated, of animal or vegetable origin. See Carbon, non-activated							
	Charges, shaped, flexible, linear, metal clad	1.4 D	UN 0237	Explosive (1.4D)	—	1,3	1,3	
	Chloral, anhydrous, inhibited	6.1	UN 2075	Poison	II	1	5	
	Chlorate and borate, mixtures. See Borate and chlorate mixtures							
	Chlorate and magnesium chloride, mixtures	5.1	UN 1459	Oxidizer	II	1,2	5	Stow 'away from' powdered metals and 'separate from' ammonium compounds
	Chlorates, (inorganic), n.o.s.	5.1	UN 1461	Oxidizer	II	1,2	5	Stow 'away from' powdered metals and 'separate from' ammonium compounds
	Chlorinated anthracene oil	6.1	UN 2230	Poison	II	1,3	1,3	Stow 'away from' sources of heat. Segregation same as for flammable liquids
	Chlorine	2.3	UN 1017	Poison Gas, Oxidizer	—	1	5	Stow 'away from' living quarters and organic materials, 'separate from' acetylene, ammonia, diborane and hydrogen
	Chlorine trifluoride	2.3	UN 1749	Poison Gas, Oxidizer, Corrosive	—	1,2	5	Stow 'away from' food stuffs and living quarters
	Chlorites, (inorganic), n.o.s.	5.1	UN 1462	Oxidizer	II	1,2	5	Stow 'away from' powdered metals and cyanides, 'separate from' ammonium compounds
	3-Chloro-4-methylphenyl isocyanate	6.1	UN 2236	Poison	II	1,2	1,2	Shade from radiant heat
	p-Chloro-o-anisidine	6.1	UN 2233	St. Andrews Cross	III	1,2	1,2	
	Chloro-o-nitrotoluene	6.1	UN 2433	St. Andrews Cross	III	1,2	1,2	
	4-Chloro-o-toluidine hydrochloride	6.1	UN 1579	St. Andrews Cross	III	1,2	1,2	
	Chloroacetaldehyde	6.1	UN 2232	Poison	II	1	5	
	Chloroacetic acid, liquid	8	UN 1750	Corrosive	II	1,2	1,2	Glass carboys in hampers not permitted under deck
	Chloroacetic acid, solid	8	UN 1751	Corrosive	II	1,2	1,2	Keep dry
	Chloroacetone, stabilized	6.1	UN 1695	Poison	II	1	5	
	Chloroacetophenone	6.1	UN 1697	Poison	II	1	5	
	Chloroacetyl chloride	8	UN 1752	Corrosive	II	1	5	
	Chloroanilines, liquid	6.1	UN 2019	Poison	II	1,2	1,2	Keep dry
	Chloroanilines, solid	6.1	UN 2018	Poison	II	1,2	1,2	
	Chlorobenzene	3.3	UN 1134	Flammable Liquid	II	1,3	1,3	
	p-Chlorobenzoyl peroxide, maximum concentration 75% with water	5.2	UN 2113	Organic Peroxide	II	1	5	
	p-Chlorobenzoyl peroxide, maximum concentration 52% as a paste	5.2	UN 2114	Organic Peroxide	II	1	5	
	p-Chlorobenzoyl peroxide, maximum concentration 52% in solution	5.2	UN 2115	Organic Peroxide	II	1	5	
	p-Chlorobenzyl chloride	6.1	UN 2235	St. Andrews Cross	III	1,2	1,2	
	Chlorodifluoromethane	2.2	UN 1974	Nonflammable Gas	—	1,2	1,2	

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172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identifi- cation Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a)	(b)	(c)
						Cargo vessel	Pass- enger vessel	Other requirements
	Chlorodifluoromethane	2.2	UN 1018	Nonflammable Gas	—	1,2	1,2	
	Chlorodifluoromethane and chloropentafluoroethane, mixture with a fixed boiling point containing about 49% of chlorodifluoromethane	2.2	UN 1973	Nonflammable Gas	—	1,2	1,2	
	Chlorodinitrobenzene	6.1	UN 1577	Poison	II	1,2	1,2	
	2-Chloroethanol	3.3	UN 1135	Flammable Liquid	II	1,2	1,2	
	Chloroform	6.1	UN 1888	Poison	II	1,2	1,2	
	Chloronitroanilines	6.1	UN 2237	St. Andrews Cross	III	1,2	1,2	
	Chloronitrobenzenes (o-, m-, p-)	6.1	UN 1578	Poison	II	1,2	1,2	
	Chloropentafluoroethane	2.2	UN 1020	Nonflammable Gas	—	1,2	1,2	
	m-Chloroperoxybenzoic acid, maximum concentration 86%	5.2	UN 2755	Organic Peroxide	II	1	5	
	Chlorophenates, liquid	6.1	UN 2021	St. Andrews Cross	III	1,2	1,2	
	Chlorophenates, solid	6.1	UN 2020	St. Andrews Cross	III	1,2	1,2	
	Chlorophenols, liquid	6.1	UN 2021	St. Andrews Cross	III	1,2	1,2	
	Chlorophenols, solid	6.1	UN 2020	St. Andrews Cross	III	1,2	1,2	
	Chlorophenyl trichlorosilane	8	UN 1753	Corrosive	II	1	1	Keep dry
	Chloropicrin	6.1	UN 1580	Poison	I	1	5	
	Chloropicrin and methyl bromide, mixtures	6.1	UN 1581	Poison	—	1	5	Shade from radiant heat
	Chloropicrin and methyl chloride, mixtures	6.1	UN 1582	Poison	—	1	5	
	Chloropicrin mixtures, n.o.s.	6.1	UN 1583	Poison	I/II	1	5	
	Chloroplatinic acid, solid	6.1	UN 2507	St. Andrews Cross	III	1,2	1,2	
	Chloroprene, inhibited	8	UN 2507	Corrosive	III	1,2	1,2	
	Chloropropionic acid	3.2	UN 1991	Flammable Liquid	I	1,2	1	
	Chlorosulphonic acid, with or without sulphur trioxide	8	UN 2511	Corrosive	III	1,2	1,2	Glass carboys prohibited on passenger vessels
	Chlorotetrafluoroethane	8	UN 1754	Corrosive	I	1	1	Glass carboys prohibited on passenger vessels
	Chlorotoluidines	2.2	UN 1021	Nonflammable Gas	—	1,2	1,2	
	Chlorotrifluoroethane. See Trifluorochloroethane	6.1	UN 2239	St. Andrews Cross	III	1,2	1,2	
	Chlorotrifluoroethylene. See Trifluorochloroethylene							
	Chlorotrifluoromethane	2.2	UN 1022	Nonflammable Gas	—	1,2	1,2	
	Chromic acid, solid. See Chromium trioxide, anhydrous							
	Chromic acid, solution	8	UN 1755	Corrosive	II	1	1	
	Chromic anhydride. See Chromium trioxide, anhydrous							
	Chromic fluoride, solid	8	UN 1756	Corrosive	II	1,2	1,2	
	Chromic fluoride, solution	8	UN 1757	Corrosive	II	1,2	1,2	
	Chromium oxychloride	8	UN 1758	Corrosive	I	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Chromium trioxide, anhydrous	5.1	UN 1463	Oxidizer, Corrosive	II	1,2	1,2	Stow 'away from' foodstuffs
	Chromosulphuric acid	8	UN 2240	Corrosive	I	1,2	1	Carboys not permitted on passenger vessels and permitted only on deck on cargo vessels
	Chrysotile. See Asbestos, white							
	Cigarettes, self-lighting	4.1	UN 1867	Flammable Solid	III	1,2	1,2	Keep dry
	Cleaning compound. See Flammable liquid preparations, n.o.s.							
	Cleaning compounds, liquid, corrosive	8	UN 1759	Corrosive	II	1,2	1,2	
	Coal gas	2.1	UN 1023	Flammable Gas, Poison Gas	—	1	5	Stow 'away from' living quarters
	Coal tar distillate	3.2	UN 1136	Flammable Liquid	—	1,2	1	
	Coal tar light oil	3.3	UN 1136	Flammable Liquid	—	1,2	1,2	
	Coal tar naphtha	3.2	UN 1137	Flammable Liquid	—	1,2	1	
	Coal tar oil. See Coal tar distillate	3.3	UN 1137	Flammable Liquid	—	1,2	1,2	
	Coating solution	3.2	UN 2553	Flammable Liquid	II	1,2	1	
	Cobalt naphthenates, powder	3.3	UN 1139	Flammable Liquid	II	1,2	1	
	Cobalt resinates, precipitated	4.1	UN 2001	Flammable Solid	III	1,2	1,2	
	Cocculus, solid	4.1	UN 1318	Flammable Solid	III	1,2	1,2	
	Cologne spirits. See Ethanol	6.1	UN 1584	Poison	II	1,2	1,2	
	Columbian spirits. See Methanol							
	Components, explosive train, n.o.s.	1.4B 1.4S	UN 0383 UN 0384	Explosive (1.4B) None. Package to be marked '1.4S'	— —	1,3 1,3	1,3 1,3	
	Compressed or liquefied gases, (flammable, non-toxic), n.o.s.	2.1	UN 1954	Flammable Gas	—	1	5	Stow 'away from' living quarters
	Compressed or liquefied gases, (flammable, toxic), n.o.s.	2.1	UN 1953	Flammable Gas, Poison Gas	—	1	5	Stow 'away from' living quarters
	Compressed or liquefied gases, (non-flammable, non-toxic), n.o.s.	2.2	UN 1956	Nonflammable Gas	—	1,2	1,2	
	Compressed or liquefied gases, (non-flammable, toxic), n.o.s.	2.3	UN 1955	Poison Gas	—	1	5	Stow 'away from' living quarters
	Copper acetoarsenite	6.1	UN 1585	Poison	II	1,2	1,2	
	Copper arsenite	6.1	UN 1586	Poison	II	1,2	1,2	
	Copper cyanide	6.1	UN 1587	Poison	II	1,2	1,2	Stow 'away from' acids
	Copra	4.2	UN 1363	None. Package to be marked 'Class 4.2'	III	1,2	1,2	Keep dry. Protect from sparks and open flame
	Cord, detonating, flexible	1.4 D	UN 0289	Explosive (1.4D)	—	1,3	1,3	
	Cord, detonating, mild effect, metal clad	1.4 D	UN 0104	Explosive (1.4D)	—	1,3	1,3	
	Cord, igniter	1.4 G	UN 0066	Explosive (1.4G)	—	1,3	1,3	

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(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identifi- cation Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a) Cargo vessel	(b) Pas- senger vessel	(c) Other requirements
	Corrosive liquids, n.o.s.	8	UN 1760	Corrosive	II	1	4	
	Corrosive solids, n.o.s.	8	UN 1759	Corrosive	I/II/III	1	5	
	Cosmetics, n.o.s. See Perfumery products							
	Cotton, dry. See Fibres, vegetable, dry							
	Cotton waste, oily	4.2	UN 1364	Spontaneously Combustible	III	1,2	1,2	Keep dry. Stow 'separate from' explosives, animal oils or vegetable oils
	Cotton, wet or contaminated	4.2	UN 1365	Spontaneously Combustible	III	1,2	1,2	Keep dry
	Cresols (o-, m-, p-)	6.1	UN 2076	Poison	II	1,2	1,2	
	Cresylic acid	6.1	UN 2022	Poison	II	1,2	1,2	
	Crotonaldehyde, inhibited	3.2	UN 1143	Flammable Liquid	I	1,2	1	
	Crotonylene	3.1	UN 1144	Flammable Liquid	I	1,2	5	Keep cool
	Cumene hydroperoxide, technical pure	5.2	UN 2116	Organic Peroxide	I	1	5	
	Cupric cyanide. See Copper cyanide							
	Cupriethylenediamine, solution	8	UN 1761	Corrosive, Poison	II	1,2	1,2	
	Cut-backs, asphalt or bitumen	3.2	UN 1999	Flammable Liquid	II	1,2	1	
		3.3	UN 1999	Flammable Liquid	II	1,2	1,2	
	Cutters, cable, explosive	1.4 S	UN 0070	None. Package to be marked '1.4 S'	-	1,3	1,3	
	Cyanide mixtures. See Cyanides, (inorganic), n.o.s.							
	Cyanides, (inorganic), n.o.s.	6.1	UN 1588	Poison	I/II	1,2	1,2	Stow 'away from' acids.
		6.1	UN 1935	St. Andrews Cross Poison	III	1,2	1,2	
	Cyanides, solutions	6.1	UN 1026	Poison	I	1,2	1,2	Stow 'away from' acids
	Cyanogen	2.3	UN 1026	Poison Gas, Flammable Gas	-	1	5	Stow 'away from' foodstuffs and living quar- ters.
	Cyanogen bromide	6.1	UN 1889	Poison, Corrosive	I	1	5	Shade from radiant heat. Segregation same as for corrosives
	Cyanogen chloride, inhibited	2.3	UN 1589	Poison Gas	-	1	5	
	Cyanuric chloride (cyanuric trichloride)	8	UN 2670	Corrosive	II	1,2	1,2	Keep dry
	1,5,9-Cyclododecatriene	8	UN 2518	Corrosive	III	1	5	Stow 'away from' living quarters
	Cyclohexane	3.1	UN 1145	Flammable Liquid	II	1,2	5	
	Cyclohexanone	3.3	UN 1915	Flammable Liquid	III	1,2	1,2	
	Cyclohexanone peroxide. See 1-Hydroxy-1'-hydroperoxy dicyclo- hexyl peroxide and mixtures, etc.							
	Cyclohexenyl trichlorosilane	8	UN 1762	Corrosive	II	1	1	Keep dry
	Cyclohexyl isocyanate	6.1	UN 2488	Poison	II	1	5	Shade from radiant heat. Stow 'away from' sources of heat
	Cyclohexyl trichlorosilane	8	UN 1763	Corrosive	II	1	1	Keep dry
	Cyclopentane	3.1	UN 1146	Flammable Liquid	II	1,2	5	
	Cyclopropane	2.1	UN 1027	Flammable Gas	-	1,2	1	Stow 'away from' living quarters
	p-Cymene	3.3	UN 2046	Flammable Liquid	II	1,2	1,2	
	Decaborane	4.1	UN 1868	Flammable Solid, Poison	II	1,2	1,2	
	Decahydronaphthalene	3.3	UN 1147	Flammable Liquid	II	1,2	1,2	
	Decalin. See Decahydronaphthalene							
	Decanoyl peroxide, technical pure	5.2	UN 2120	Organic Peroxide	II	1	5	Maximum transport temperature 15 deg C
	Detonators for ammunition	1.4B 1.4S	UN 0365 UN 0366	Explosive (1.4B) None. Package to be marked '1.4S'	- -	1,3 1,3	1,3 1,3	
	Deuterium	2.1	UN 1957	Flammable Gas	-	1,2	5	Stow 'away from' living quarters
	Di-(2-ethylhexyl) perdicarbonate, technical pure	5.2	UN 2122	Organic Peroxide	II	1	5	Maximum transport temperature -20 deg C
	Di-(2-ethylhexyl) perdicarbonate, maximum concentration 67% in solution	5.2	UN 2123	Organic Peroxide	II	1	5	Maximum transport temperature -15 deg C
	Di-(2-ethylhexyl) peroxydicarbonate. See Di-(2-ethylhexyl) perdicar- bonate							
	Di-(n-butyl)amine	8	UN 2248	Corrosive, Flammable Liquid	II	1,2	1,2	Segregation same as for flammable liquids
	Di-n-propyl perdicarbonate. See Di-n-propyl peroxydicarbonate							
	Di-n-propyl peroxydicarbonate, technical pure	5.2	UN 2176	Organic Peroxide	I	1	5	Maximum transport temperature -25 deg C
	Di-sec-butyl perdicarbonate, maximum concentration 52% in solution	5.2	UN 2151	Organic Peroxide	II	1	5	Maximum transport temperature -10 deg C
	Di-sec-butyl perdicarbonate, technical pure	5.2	UN 2150	Organic Peroxide	I	1	5	Maximum transport temperature -20 deg C
	Di-sec-butyl peroxydicarbonate. See Di-sec-butyl perdicarbonate							
	Diacetone alcohol	3.2	UN 1148	Flammable Liquid	II	1,2	1	
	Diacetone alcohol peroxides, maximum 57% in solution with maxi- mum 9% hydrogen peroxide, minimum 26% diacetone alcohol and minimum 9% water; total active oxygen content maximum 10%	5.2	UN 2163	Organic Peroxide	I/II/III	1,2	1,2	Maximum transport temperature 25 deg C
	Dibenzyl perdicarbonate, maximum concentration 87% with water	5.2	UN 2149	Organic Peroxide	I	1	5	Maximum transport temperature 25 deg C
	Dibenzyl peroxydicarbonate. See Dibenzyl perdicarbonate							
	Dibenzylchlorosilane	8	UN 2434	Corrosive	II	1	1	Keep dry
	Diborane	2.1	UN 1911	Flammable Gas, Poison Gas	-	1	5	Stow 'away from' foodstuffs and living quar- ters, 'separated from' chlorine
	Dibutyl ethers	3.3	UN 1149	Flammable Liquid	III	1,2	1,2	
	Dicetyl perdicarbonate, technical pure	5.2	UN 2164	Organic Peroxide	II	1	5	Maximum transport temperature 20 deg C
	Dicetyl peroxydicarbonate. See Dicetyl perdicarbonate							

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identifi- cation Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a) Cargo vessel	(b) Pas- senger vessel	(c) Other requirements
	Dichloroacetic acid	8	UN 1764	Corrosive	II	1,2	1,2	Glass carboy in hampers not permitted under deck
	Dichloroacetyl chloride	8	UN 1754	Corrosive	II	1	5	Keep dry
	Dichloroanilines	6.1	UN 1590	Poison	II	1,2	1,2	Stow 'away from' acids
	p-Dichlorobenzene	9	UN 1592	None	III	1,2	1,2	Stow 'away from' foodstuffs
	Dichlorobenzenes (o-, m-)	6.1	UN 1591	St. Andrews Cross	III	1,2	1,2	
	2,4-Dichlorobenzoyl peroxide, maximum concentration 75% with water	5.2	UN 2137	Organic Peroxide	II	1	5	
	2,4-Dichlorobenzoyl peroxide, maximum concentration 52% as a paste	5.2	UN 2138	Organic Peroxide	II	1	5	
	2,4-Dichlorobenzoyl peroxide, maximum concentration 52% in solu- tion	5.2	UN 2139	Organic Peroxide	II	1	5	
	Dichlorodifluoromethane	2.2	UN 1028	Nonflammable Gas	-	1,2	1,2	
	sym-Dichlorodimethyl ether	6.1	UN 2249	Poison	I	1	5	
	Dichloroethyl ether	3.3	UN 1916	Flammable Liquid, Poison	II	1,2	1,2	
	Dichloroethylene	3.2	UN 1150	Flammable Liquid	II	1,2	1	
	Dichloroisopropyl ether	6.1	UN 2490	Poison	II	1,2	1	
	Dichloromethane	6.1	UN 1593	St. Andrews Cross	III	1,2	1,2	
	Dichloromono-fluoromethane	2.2	UN 1029	Nonflammable Gas	-	1,2	1,2	
	Dichloropentanes	3.3	UN 1152	Flammable Liquid	II	1,2	1,2	
	Dichlorophenyl isocyanates	6.1	UN 2250	Poison	II	1,3	1,3	Shade from radiant heat. Stow 'away from' sources of heat
	Dichlorophenyl trichlorosilane	8	UN 1766	Corrosive	II	1	1	Keep dry
	Dichloropropene	3.3	UN 2047	Flammable Liquid	II	1,2	1,2	
	Dichlorosilane	2.3	UN 2189	Poison Gas, Flammable Gas	-	1	5	Stow 'away from' living quarters
	Dichlorotetrafluoroethane	2.2	UN 1958	Nonflammable Gas	-	1,2	1,2	
	Dichromates, (inorganic), n.o.s.	5.1	UN 1464	Oxidizer	II	1,2	1,2	Stow 'away from' foodstuffs
	Dicumyl peroxide, technical pure or in a mixture with inert solid	5.2	UN 2121	Organic Peroxide	II	1	5	
	Dicyclohexyl perdicarbonate, maximum concentration 91% with water	5.2	UN 2153	Organic Peroxide	I	1	5	Maximum transport temperature 5 deg C
	Dicyclohexyl perdicarbonate, technical pure	5.2	UN 2152	Organic Peroxide	I	1	5	Maximum transport temperature 5 deg C
	Dicyclohexyl peroxydicarbonate. See Dicyclohexyl perdicarbonate							
	Dicyclohexylamine	8	UN 2565	Corrosive	III	1	5	Keep dry
	Dicyclopentadiene	3.3	UN 2048	Flammable Liquid	II	1,2	1,2	
	Didymium nitrate	5.1	UN 1465	Oxidizer	III	1,2	1,2	
	1,2-Diethoxyethane	3.3	UN 1153	Flammable Liquid	III	1,2	1,2	
	Diethyl dichlorosilane	8	UN 1767	Corrosive	II	1	1	Keep dry. Separate longitudinally by an in- tervening compartment or hold from ex- plosives
	Diethyl ether	3.1	UN 1155	Flammable Liquid	I	1,2	5	Keep cool
	Diethyl ketone	3.2	UN 1156	Flammable Liquid	II	1,2	1	
	Diethyl-p-nitrosoaniline	4.2	-	Spontaneously Combustible	-	1,2	5	
	Diethyl perdicarbonate, maximum concentration 27% in solution	5.2	UN 2175	Organic Peroxide	II	1	5	Maximum transport temperature -10 deg C
	Diethyl peroxydicarbonate. See Diethyl perdicarbonate							
	Diethyl sulphate	6.1	UN 1594	Poison	II	1	1	
	Diethylaluminum chloride	4.2	UN 1101	Spontaneously Combustible	I	1	1	
	Diethylamine	3.1	UN 1154	Flammable Liquid	II	1,2	5	Keep cool
	N,N-Diethylaniline	6.1	UN 2432	St. Andrews Cross	III	1,2	1,2	
	Diethylbenzene	3.3	UN 2049	Flammable Liquid	II	1,2	1,2	
	Diethylenetriamine	8	UN 2079	Corrosive	II	1,2	1,2	Stow 'away from' acids, copper and copper alloys, and living quarters; 'separate from' nitric acid
	Diethylmagnesium	4.2	UN 1367	Spontaneously Combustible	I	1	5	Prohibited on any ship carrying explosives
	Diethylzinc	4.2	UN 1366	Spontaneously Combustible	I	1	5	Prohibited on any ship carrying explosives
	1,1-Difluoroethane	2.1	UN 1030	Flammable Gas	-	1,2	1	Stow 'away from' living quarters
	1,1-Difluoroethylene	2.1	UN 1999	Flammable Gas	-	1,2	5	Stow 'away from' living quarters
	Diffuoromono-chloroethane	2.1	UN 1031	Flammable Gas	-	1,2	1	Stow 'away from' living quarters
	Diffuorophosphoric acid, anhydrous	8	UN 1768	Corrosive	II	1,2	1,2	
	2,2-Dihydroperoxy propane, maximum concentration 25% with inert organic solid	5.2	UN 2178	Organic Peroxide	II	1	5	
	Diisobutyl ketone	3.3	UN 1157	Flammable Liquid	III	1,2	1,2	
	Diisobutylene, (isomeric compounds)	3.2	UN 2050	Flammable Liquid	II	1,2	1	
	Diisooctyl acid phosphate	8	UN 1902	Corrosive	III	1,2	1,2	Glass carboys in hampers not permitted under deck
	Diisopropyl ether	3.1	UN 1199	Flammable Liquid	II	1,2	5	Keep cool
	Diisopropyl perdicarbonate, technical pure	5.2	UN 2133	Organic Peroxide	II	1	5	Maximum transport temperature -15 deg C
	Diisopropyl perdicarbonate, maximum concentration 52% in solu- tion	5.2	UN 2134	Organic Peroxide	II	1	5	Maximum transport temperature -10 deg C
	Diisopropylamine	3.2	UN 1158	Flammable Liquid	II	1,2	1	
	Diisopropylbenzene hydroperoxide, maximum concentration 72% in solution	5.2	UN 2171	Organic Peroxide	I	1	5	

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(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identi- fication Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a) Cargo vessel	(b) Pas- senger vessel	(c) Other requirements
	2,5-Dimethyl-2,5-bis-(2-ethylhexanoylperoxy) hexane, technical pure	5.2	UN 2157	Organic Peroxide	II	1	5	Maximum transport temperature 20 deg C
	2,5-Dimethyl-2,5-bis-(benzoylperoxy) hexane, technical pure	5.2	UN 2172	Organic Peroxide	II	1	5	
	2,5-Dimethyl-2,5-bis-(benzoylperoxy) hexane, maximum concentra- tion 82% with inert solid	5.2	UN 2173	Organic Peroxide	II	1	5	
	2,5-Dimethyl-2,5-bis-(tert-butylperoxy) hexane, technical pure	5.2	UN 2155	Organic Peroxide	II	1	5	
	2,5-Dimethyl-2,5-bis-(tert-butylperoxy) hexane, maximum concentra- tion 52% with inert solid	5.2	UN 2156	Organic Peroxide	II	1	5	
	2,5-Dimethyl-2,5-bis-(tert-butylperoxy) hexyne-3, technical pure	5.2	UN 2158	Organic Peroxide	II	1	5	
	2,5-Dimethyl-2,5-bis-(tert-butylperoxy) hexyne-3, maximum concentra- tion 52% with inert solid	5.2	UN 2159	Organic Peroxide	II	1	5	
	2,5-Dimethyl-2,5-dihydroperoxy hexane, maximum concentration 82% with water	5.2	UN 2174	Organic Peroxide	I	1	5	
	3,5-Dimethyl-3,5-dihydroxydioxolane-1,2. See Acetyl acetone perox- ide, maximum concentration 40% in solution	3.2	UN 1161	Flammable Liquid	II	1,2	1	
	Dimethyl carbonate	2.1	UN 1033	Flammable Gas	—	1,2	1	Stow 'away from' living quarters
	Dimethyl ether	4.2	UN 1369	Spontaneously Combustible	II	1,2	5	Stow 'away from' foodstuffs
	Dimethyl-p-nitrosoaniline	6.1	UN 1595	Poison	I	1	5	
	Dimethyl sulphate	3.1	UN 1164	Flammable Liquid	I	1,3	5	Keep cool
	Dimethyl sulphide	8	UN 2267	Corrosive	III	1,2	1	Keep dry. Shade from radiant heat. Glass carboys prohibited on passenger vessels
	Dimethyl thiophosphoryl chloride	2.1	UN 1032	Flammable Gas	—	1,2	5	Stow 'away from' living quarters
	Dimethylamine, anhydrous	3.2	UN 1160	Flammable Liquid	II	1,2	1	
	Dimethylamine, solution	6.1	UN 2522	Poison	II	1,2	1	
	Dimethylaminoethyl methacrylate	6.1	UN 2253	Poison	II	1,3	1,3	Stow 'away from' sources of heat
	N,N-Dimethylaniline	3.1	UN 2457	Flammable Liquid	II	1,2	5	
	Dimethylbutane	3.2	UN 1162	Flammable Liquid, Corrosive	I	1,2	1	
	Dimethyldichlorosilane	3.3	UN 2051	Flammable Liquid	II	1,3	1,3	
	Dimethylethanolamine	6.1	UN 2265	St. Andrews Cross	III	1,3	1,3	Stow 'away from' sources of heat and halo- genated hydrocarbons
	N,N-Dimethylformamide	3.2	UN 1163	Flammable Liquid	I	1,2	1	Stow 'separate from' corrosive liquids and oxidizers
	2,5-Dimethylhexane-2,5-dihydroperoxide. See 2,5-Dimethyl-2,5-dihy- droxy hexane	4.2	UN 1368	Spontaneously Combustible	I	1	5	Prohibited on any ship carrying explosives
	Dimethylhydrazine, unsymmetrical	2.1	UN 2044	Flammable Gas	—	1,2	1	Stow 'away from' living quarters
	Dimethylmagnesium	4.2	UN 1370	Spontaneously Combustible	I	1	5	Prohibited on any ship carrying explosives
	2,2-Dimethylpropane	5.2	UN 2595	Organic Peroxide	II	1	5	Maximum transport temperature 20 deg C
	Dimethylzinc	6.1	UN 1598	Poison	II	1,2	1,2	
	Dimethylperoxydicarbonate, technical pure	6.1	UN 1596	Poison	II	1,2	1,2	
	4,6-Dinitro-o-cresol	6.1	UN 1597	Poison	II	1,2	1,2	
	Dinitroanilines	6.1	UN 1599	Poison	II	1,2	5	Stow 'away from' heavy metals and their compounds. Segregation same as for flam- mable liquids if flash point below 61 deg C
	Dinitrobenzenes (o-, m-, p-)	4.1	UN 1320	Flammable Solid, Poison	I	1,2	5	Stow 'away from' heavy metals and their compounds and sodium compounds
	Dinitrophenol, solution in water or flammable liquid	4.1	UN 1321	Flammable Solid, Poison	I	1,2	5	Stow 'away from' heavy metals and their compounds
	Dinitrophenol, wetted with not less than 15% of water	4.1	UN 1322	Flammable Solid	I	1,2	5	Stow 'away from' heavy metals and their compounds
	Dinitroresorcinols, wetted with not less than 33 1/3% of water	6.1	UN 1600	Poison, Flammable Liquid	II	1,2	1,2	Segregation same as for flammable liquids
	Dinitrotoluenes, liquid	6.1	UN 2038	Poison	II	1,2	1,2	
	Dinitrotoluenes, solid	3.2	UN 1165	Flammable Liquid	II	1,2	1	
	Dioxane	3.2	UN 1166	Flammable Liquid	II	1,2	1	
	Dioxolane	3.3	UN 2052	Flammable Liquid	II	1,2	1,2	
	Dipentene	8	UN 1769	Corrosive	II	1	1	Keep dry
	Diphenyl dichlorosilane	6.1	UN 1698	Poison	I	1	5	
	Diphenylmethane diisocyanate (M.D.I.)	6.1	UN 1699	Poison	I	1	5	
	Diphenylmethyl bromide	9	UN 2489	None	III	1,3	1,3	Stow 'away from' foodstuffs
	Dipropylene triamine	8	UN 1770	Corrosive	II	1	5	
	Disinfectants, corrosive, liquid	8	UN 2269	Corrosive	III	1,2	1,2	
	Disinfectants, (poisonous), n.o.s.	8	UN 1903	Corrosive	II	1,2	1,2	
	Distearylperoxydicarbonate, with 15% of stearyl alcohol	6.1	UN 1601	Poison	I/II	1,2	1,2	Stow 'separate from' foodstuffs.
	Disuccinic acid peroxide. See Succinic acid peroxide	6.1	UN 1601	St. Andrews Cross	III	1,2	1,2	Stow 'separate from' foodstuffs.
	Divinyl ether, inhibited	9	UN 1601	None	III	1,2	1,2	Stow 'away from' foodstuffs
	Dodecyl trichlorosilane	5.2	UN 2592	Organic Peroxide	II	1	5	
	Dressing, leather. See Flammable liquid preparations, n.o.s.	3.1	UN 1167	Flammable Liquid	II	1,3	5	Keep cool
	Driers, (paint or varnish, liquid), n.o.s.	8	UN 1771	Corrosive	II			
	Driers, (paint or varnish, solid), n.o.s.	3.2	UN 1168	Flammable Liquid	II	1,2	1	
		3.3	UN 1168	Flammable Liquid	II	1,2	1,2	
		4.1	UN 1371	Flammable Solid	III	1,2	1,2	

172.102 Optional Hazardous Materials Table (Cont'd)

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(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identi- fication Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a) Cargo vessel	(b) Pas- senger vessel	(c) Other requirements
	Dye intermediates, (poisonous, liquid or solid), n.o.s.	6.1	UN 1602	Poison	I/II	1,2	1,2	
	Electrolyte, acid. See Battery fluid, acid	6.1	UN 1602	St. Andrews Cross	III	1,2	1,2	
	Electrolyte, alkaline. See Battery fluid, alkaline corrosive							
	Enamels. See Paints, etc.							
	Endrin, mixtures, dry or liquid	6.1	UN 2065	Poison	I/II	1,2	1,2	If flashpoint below 61 deg C segregation same as for flammable liquids.
	Engine starting fluid, with flammable gas	6.1	UN 2065	St. Andrews Cross	III	1,2	1,2	If flashpoint below 61 deg C. segregation same as for flammable liquids
	Epibromohydrin. See 1-Bromo-2,3-epoxypropane	2.1	UN 1960	Flammable Gas	—	1,2	5	Stow 'away from' living quarters
	Epichlorohydrin	6.1	UN 2023	Poison, Flammable Liquid (only if flashpoint is below 23 deg C.)	II	1,2	1,2	Separation same as for flammable liquids
	Eradicators, paint or grease, liquid. To be classified and labeled ac- cording to the principle hazardous constituent	—	UN 1850		—	1,2	1	
	Ethane, compressed	2.1	UN 1035	Flammable Gas	—	1,2	5	
	Ethane, liquid	2.1	UN 1961	Flammable Gas	—	1,2	5	
	Ethanol	3.2	UN 1170	Flammable Liquid	II	1,2	1	
	Ethanolamine, and solutions thereof	8	UN 2491	Corrosive	III	1,2	1,2	Stow 'away from' copper, copper alloys, copper compounds and rubber products
	Ether. See Diethyl ether							
	2-Ethoxyethanol	3.3	UN 1171	Flammable Liquid	III	1,2	1,2	
	2-Ethoxyethyl acetate	3.3	UN 1172	Flammable Liquid	III	1,2	1,2	
	Ethyl-3,3-bis-(tert-butylperoxy)butyrate, with at least 50% inert, inor- ganic solid	5.2	UN 2598	Organic Peroxide	II	1	5	
	Ethyl-3,3-bis-(tert-butylperoxy) butyrate, technical pure	5.2	UN 2184	Organic Peroxide	II	1	5	
	Ethyl-3,3-bis-(tert-butylperoxy) butyrate, maximum concentration 77% in solution	5.2	UN 2185	Organic Peroxide	II	1	5	
	Ethyl acetate	3.2	UN 1173	Flammable Liquid	II	1,2	1	
	Ethyl acrylate, inhibited	3.2	UN 1917	Flammable Liquid	II	1,2	1	
	Ethyl alcohol. See Ethanol							
	Ethyl aldehyde. See Acetaldehyde							
	Ethyl aluminium dichloride	4.2	UN 1924	Spontaneously Combustible	I	1	1	
	Ethyl aluminium sesquichloride	4.2	UN 1925	Spontaneously Combustible	I	1	1	
	Ethyl borate	3.2	UN 1176	Flammable Liquid	II	1,2	1	
	Ethyl bromide	9	UN 1891	None	II	1,2	1,2	Stow 'away from' foodstuffs and living quar- ters
	Ethyl bromoacetate	6.1	UN 1603	Poison	II	1	5	
	Ethyl butyl ether	3.2	UN 1179	Flammable Liquid	II	1,2	1	
	Ethyl butyrate	3.3	UN 1180	Flammable Liquid	II	1,2	1,2	
	Ethyl chloride	2.1	UN 1037	Flammable Gas	—	1,2	5	Stow 'away from' living quarters
	Ethyl chloroacetate	3.3	UN 1181	Flammable Liquid	II	1,2	1,2	
	Ethyl chlorocarbonate. See Ethyl chloroformate							
	Ethyl chloroformate	3.2	UN 1182	Flammable Liquid, Poison, Corrosive	I	1,2	1	
	Ethyl crotonate	3.2	UN 1862	Flammable Liquid	II	1,2	1	
	Ethyl dichloroarsine	6.1	UN 1892	Poison	I	1	5	
	Ethyl ether. See Diethyl ether							
	Ethyl formate	3.1	UN 1190	Flammable Liquid	II	1,3	5	Keep cool
	Ethyl hexaldehyde	3.3	UN 1191	Flammable Liquid	III	1,2	1,2	
	Ethyl lactate	3.3	UN 1192	Flammable Liquid	III	1,2	1,2	
	Ethyl methyl ether	2.1	UN 1039	Flammable Gas	—	1,2	1	Stow 'away from' living quarters
	Ethyl methyl ketone	3.2	UN 1193	Flammable Liquid	II	1,2	1	
	Ethyl methyl ketone peroxide(s), maximum concentration 60%	5.2	UN 2127	Organic Peroxide	I	1	5	
	Ethyl methyl ketone peroxide(s), maximum concentration 50%, con- taining not more than 10% available oxygen	5.2	UN 2550	Organic Peroxide	I	1	5	
	N-Ethyl-n-benzylaniline	6.1	UN 2274	St. Andrews Cross	III	1,2	1,2	
	Ethyl nitrite, solutions	3.1	UN 1194	Flammable Liquid	I	1,3	5	Keep cool
	Ethyl oxalate	6.1	UN 2525	St. Andrews Cross	III	1,2	1	
	Ethyl propionate	3.2	UN 1195	Flammable Liquid	II	1,2	1	
	Ethyl silicate. See Tetraethyl silicate							
	Ethylamine	2.1	UN 1036	Flammable Gas	—	1,2	5	
	N-Ethylaniline	6.1	UN 2272	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids
	2-Ethylaniline	6.1	UN 2273	St. Andrews Cross	III	1,2	1,2	
	Ethylbenzene	3.3	UN 1175	Flammable Liquid	II	1,2	1,2	
	Ethylbutyl acetate	3.3	UN 1177	Flammable Liquid	III	1,2	1,2	
	2-Ethylbutyraldehyde	3.2	UN 1178	Flammable Liquid	II	1,2	1	
	Ethylidichlorosilane	3.2	UN 1183	Flammable Liquid	II	1,2	1	
	Ethylene chlorohydrin. See 2-Chloroethanol							
	Ethylene, compressed	2.1	UN 1962	Flammable Gas	—	1,2	5	Stow 'away from' living quarters
	Ethylene dibromide	6.1	UN 1605	Poison	II	1,2	1,2	
	Ethylene dichloride	3.2	UN 1184	Flammable Liquid	II	1,2	1	

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(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identifi- cation Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a)	(b)	(c)
						Cargo vessel	Pass- enger vessel	Other requirements
	Ethylene glycol diethyl ether. See 1,2-Diethoxyethane	6.1	UN 2369	St. Andrews Cross	III	1,3	1,3	Stow 'away from' sources of heat. Segregation same as for flammable liquids
	Ethylene glycol monobutyl ether							
	Ethylene glycol monoethyl ether. See 2-Ethoxyethanol							
	Ethylene glycol monoethyl ether acetate. See 2-Ethoxyethyl acetate							
	Ethylene glycol monomethyl ether	3.3	UN 1188	Flammable Liquid	III	1,2	1,2	
	Ethylene glycol monomethyl ether acetate	3.3	UN 1189	Flammable Liquid	III	1,2	1,2	
	Ethylene, liquid	2.1	UN 1038	Flammable Gas	—	1,2	5	Stow 'away from' living quarters
	Ethylene oxide and carbon dioxide, mixtures containing not more than 10% carbon dioxide	2.1	UN 1041	Flammable Gas	—	1,2	1	Stow 'away from' living quarters
	Ethylene oxide and carbon dioxide, mixtures containing not more than 17% of ethylene oxide	2.1	UN 1952	Flammable Gas	—	1,2	1	Stow 'away from' living quarters
	Ethylene oxide, containing not more than 0.2% of nitrogen	2.1	UN 1040	Flammable Gas	—	1,2	1	Stow 'away from' living quarters
	Ethylendiamine	8	UN 1604	Corrosive	II	1,2	1,2	Stow 'away from' oxidizers. Segregation same as for flammable liquids
	Ethyleneimine, inhibited	3.2	UN 1185	Flammable Liquid, Poison	I	1,2	1	
	2-Ethylhexylamine	8	UN 2276	Corrosive	III	1,2	1,2	
	Ethylphenyldichlorosilane	8	UN 2435	Corrosive	II	1	1	Keep dry
	Ethyltrichlorosilane	3.2	UN 1196	Flammable Liquid, Corrosive	II	1,2	1	
	Explosives, blasting, Type B	1.5 D	UN 0331	(Explosive (1.5D))	—	6	5	
	Explosives, blasting, Type E	1.5 D	UN 0332	(Explosive (1.5D))	—	6	5	
	Extracts, aromatic, liquid	3.2	UN 1169	Flammable Liquid	II	1,2	1	
	Extracts, flavouring, liquid	3.2	UN 1169	Flammable Liquid	II	1,2	1,2	
	Fabric, animal or vegetable, containing more than 5% of animal or vegetable oil	3.2	UN 1197	Flammable Liquid	II	1,2	1	
	Fabric, animal or vegetable, containing more than 5% of animal or vegetable oil	4.2	UN 1373	Spontaneously Combustible	III	1,2	1,2	
	Ferric arsenate	6.1	UN 1606	Poison	II	1,2	1,2	
	Ferric arsenite	6.1	UN 1607	Poison	II	1,2	1,2	
	Ferric chloride, anhydrous or solutions	8	UN 1773	Corrosive	III	1,2	1,2	
	Ferric nitrate	5.1	UN 1466	Oxidizer	III	1,2	1,2	
	Ferrocenium	4.1	UN 1323	Flammable Solid	II	1,2	1,2	
	Ferrosilicon, containing between 30% and 90% silicon	4.3	UN 1408	Dangerous When Wet, Poison	III	1,2	1,2	Stow in a well ventilated compartment
	Ferrous arsenate	6.1	UN 1608	Poison	II	1,2	1,2	
	Fertilizer ammoniating solution, containing free ammonia in excess of 35% ammonia	2.2	UN 1043	Nonflammable Gas	—	1,2	5	Stow 'away from' living quarters
	Fibres, animal or vegetable, burnt, wet or damp	4.2	UN 1372	Spontaneously Combustible	III	1,2	1,2	
	Fibres, animal or vegetable, containing more than 5% of animal or vegetable oil	4.2	UN 1373	Spontaneously Combustible	III	1,2	1,2	
	Fibres, vegetable, dry	4.1	—	None	—	1,2	1,2	Stow 'away from' animal or vegetable oils
	Fillers, liquid. See Paints, etc.							
	Film from which gelatine has been removed. See Celluloid, scrap							
	Film, motion picture, nitrocellulose base, exposed or unexposed, developed or undeveloped	4.1	UN 1324	Flammable Solid	III	1,2	1,2	Stow 'away from' flammable substances. Maximum 250 Kg. net on deck on passenger vessels
	Film, motion picture, nitrocellulose base, old film	4.1	UN 1324	Flammable Solid	III	1	5	Stow 'away from' flammable substances
	Fire extinguisher charges, corrosive liquid	8	UN 1774	Corrosive	II	1,2	1,2	
	Fire extinguishers, containing compressed or liquefied gas	2.2	UN 1044	Nonflammable Gas	—	1,2	1,2	
	Fireworks, Type D	1.4 G	UN 0336	Explosive (1.4G)	—	1,3	1,3	
		1.4 S	UN 0337	None. Package to be marked '1.4 S'	—	1,3	1,3	
	Fishmeal or fish scrap, antioxidant treated. Unrestricted moisture content.	4.2	UN 2216	Spontaneously Combustible	II/III	1,2	1,2	Double strip stowage recommended. Provide good surface and through ventilation
	Fishmeal or fish scrap, antioxidant treated. Moisture content between 5% and 11% by weight. Fat content not more than 18% by weight.	9	UN 2216	None	III	1,2	1,2	
	Fishmeal or fish scrap, antioxidant treated. Moisture content greater than 6% but not exceeding 12% by weight. Fat content exceeding 18% by weight.	4.2	UN 2216	None. Package to be marked 'Class 4.2'.	III	1,2	1,2	
	Fishmeal or fish scrap, not antioxidant treated. Unrestricted moisture content.	4.2	UN 1374	Spontaneously Combustible	II/III	1,2	1,2	Double strip stowage recommended. Provide good surface and through ventilation
	Fishmeal or fish scrap, not antioxidant treated. Moisture content greater than 6% but not exceeding 12% by weight. Fat content not exceeding 12% by weight.	4.2	UN 1374	None. Package to be marked 'Class 4.2'.	III	1,2	1,2	
	Fishmeal or fish scrap, not antioxidant treated. Moisture content greater than 6% but not exceeding 12% by weight. Fat content greater than 12% but not exceeding 15% by weight.	9	UN 1374	None	III	1,2	1,2	
	Flammable liquid preparation, n.o.s.	3.2	UN 1142	Flammable Liquid	II	1,2	1	
	Flammable liquids, (non-toxic), n.o.s.	3.3	UN 1142	Flammable Liquid	II	1,2	1,2	
	Flammable liquids, (toxic), n.o.s.	3.2	UN 1993	Flammable Liquid	II	1,2	1	
		3.3	UN 1993	Flammable Liquid	II	1,2	1,2	
		3.2	UN 1992	Flammable Liquid, Poison	II	1,2	1	
		3.3	UN 1992	Flammable Liquid, Poison	II	1,2	1,2	
	Flammable solids, n.o.s.	4.1	UN 1325	Flammable Solid	II	1,2	1,2	

172.102 Optional Hazardous Materials Table (Cont'd)

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(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identifi- cation Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a)	(b)	(c)
						Cargo vessel	Pass- enger vessel	Other requirements
	Flax, dry. See Fibres, vegetable, dry	8	UN 1775	Corrosive	II	1,2	1,2	
	Fluoboric acid	2.3	UN 1045	Poison Gas, Oxidizer	—	1	5	Stow 'away from' foodstuffs, organic materials, and living quarters
	Fluoric acid. See Hydrofluoric acid, solution							
	Fluorine	8	UN 1776	Corrosive	II	1,2	1,2	
	Fluorophosphoric acid, anhydrous	8	UN 1777	Corrosive	I	1	5	Keep dry. Stow 'away from' fluorides
	Fluorosulphonic acid	8	UN 1778	Corrosive	II	1,2	1,2	
	Fluosilicic acid	3.3	UN 1198	Flammable Liquid	II	1,2	1,2	Stow 'away from' foodstuffs
	Formaldehyde, in solutions	9	UN 2209	None	III	1,2	1,2	Stow 'away from' foodstuffs
	Formaldehyde, solutions flashpoint above 61 degrees C							
	Formalin. See Formaldehyde							
	Formic acid	8	UN 1779	Corrosive	II	1,2	1,2	Glass carboy in hampers prohibited
	Fuel, aviation, turbine engine	3.2	UN 1863	Flammable Liquid	II	1,2	1	
	Fumaryl chloride	8	UN 1780	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Fungicides, (poisonous), n.o.s.	6.1	UN 1609	Poison	I/II	1,2	1,2	Stow 'separate from' foodstuffs.
		6.1	UN 1609	St. Andrews Cross	III	1,2	1,2	Stow 'separate from' foodstuffs.
		9	UN 1609	None	III	1,2	1,2	Stow 'away from' foodstuffs
	Furfural	3.3	UN 1199	Flammable Liquid	II	1,2	1,2	
	Fuse, detonating, mild effect, metal clad	1.4 D	UN 0104	Explosive (1.4D)	—	1,3	1,3	
	Fuse, igniter, tubular, metal clad	1.4 G	UN 0103	Explosive (1.4G)	—	1,3	1,3	
	Fuse, safety	1.4 S	UN 0105	None. Package to be marked '1.4 S'	—	1,3	1,3	
	Fuel oil	3.2	UN 1201	Flammable Liquid	II	1,2	1	
	Fuzes, detonating	1.4 S	UN 0367	None. Package to be marked '1.4 S'	—	1,3	1,3	
	Fuzes, detonating	1.4 B	UN 0257	Explosive (1.4B)	—	1,3	1,3	
	Fuzes, igniting	1.4 S	UN 0368	None. Package to be marked '1.4 S'	—	1,3	1,3	
	Gas cartridges	2.1	UN 2037	Flammable Gas	—	1	5	Stow 'away from' living quarters
	Gas drips, hydrocarbon	3.2	UN 1864	Flammable Liquid	II	1,2	1	
	Gas oil	3.3	UN 1202	Flammable Liquid	II	1,2	1,2	
	Gasoline	3.1	UN 1203	Flammable Liquid	II	1,2	5	
	Germane	2.3	UN 2192	Poison Gas, Flammable Gas	—	1	5	Stow 'away from' living quarters
	Germicides, (poisonous), n.o.s.	6.1	(UN 2588)	Poison	I/II	1,2	1,2	Stow 'separate from' foodstuffs.
		6.1	(UN 2588)	St. Andrews Cross	III	1,2	1,2	Stow 'separate from' foodstuffs.
		9	(UN 2588)	None	III	1,2	1,2	Stow 'away from' foodstuffs
	Glycerol trinitrate, solution up to 1% in alcohol	3.2	UN 1204	Flammable Liquid	II	1,2	1	
	Grenades, practice, hand or rifle	1.4 S	UN 0110	None. Package to be marked '1.4 S'	—	1,3	1,3	
	Guanidine nitrate	9	UN 1467	None	III	1,2	1,2	Stow 'separate from' nitro compounds, chlorates or acids
	Gutta percha, solution	3.3	UN 1205	Flammable Liquid	II	1,2	1,2	
	Hafnium metal powder, dry	4.2	UN 2545	Spontaneously Combustible	II	1	5	
	Hafnium metal powder, wet, with not less than 25% water (a visible excess of water must be present)	4.1	UN 1326	Flammable Solid	II	1,2	5	
	Halogenated irritating liquids, n.o.s.	6.1	UN 1610	Poison	I/II	1	5	
		6.1	UN 1610	St. Andrews Cross	III	1	5	
	Hay	4.1	UN 1327	None	III	1,2	1,2	Stow 'away from' animal or vegetable oils
	Helium, compressed	2.2	UN 1046	Nonflammable Gas	—	1,2	1,2	
	Helium, liquid	2.2	UN 2041	Nonflammable Gas	—	1,2	1,2	
	Hemp, dry. See Fibres, vegetable, dry							
	Heptane	3.2	UN 1206	Flammable Liquid	II	1,2	1	
	Hexachlorobutadiene	6.1	UN 2279	St. Andrews Cross	III	1,2	1,2	
	Hexadecyl trichlorosilane	8	UN 1781	Corrosive	II	1	1	Keep dry
	Hexaethyl tetraphosphate	6.1	UN 1611	Poison	I/II	1,2	5	
		6.1	UN 1611	St. Andrews Cross	III	1,2	5	
	Hexaethyl tetraphosphate and compressed gas mixture	6.1	UN 1612	Poison, Non-flammable	I/II	1	5	Shade from radiant heat. Segregation same as for non-flammable gas
		6.1	UN 1612	Compressed gas	III	1	5	Shade from radiant heat. Segregation same as for non-flammable gas
				St. Andrews Cross				
				Non-flammable				
				Compressed Gas				
	Hexafluoroacetone	2.3	UN 2420	Poison Gas	—	1	5	Stow 'away from' living quarters
	Hexafluoroacetone hydrate	6.1	UN 2552	Poison	II	1,2	1	
	Hexafluorophosphoric acid	8	UN 1782	Corrosive	II	1,2	1,2	
	Hexafluoropropylene	2.2	UN 1858	Nonflammable Gas	—	1,2	1,2	
	Hexaldehyde	3.3	UN 1207	Flammable Liquid	III	1,2	1,2	
	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetraoxazane, technical pure	5.2	UN 2165	Organic Peroxide	I	1	5	
	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetraoxazane, maximum concentration 52% with inert solid	5.2	UN 2166	Organic Peroxide	II	1	5	

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172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identifi- cation Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a)	(b)	(c)
						Cargo vessel	Pass- enger vessel	Other requirements
	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetroxane, maximum concentration 52% in solution	5.2	UN 2167	Organic Peroxide	II	1	5	
	Hexamethylenediamine, solid	8	UN 2280	Corrosive	III	1,2	1,2	Keep cool
	Hexamethylenediamine, solution	8	UN 1783	Corrosive, Poison	II	1,2	1,2	
	Hexamine	4.1	UN 1328	Flammable Solid	III	1,2	1,2	
	Hexane	3.1	UN 1208	Flammable Liquid	II	1,2	5	
	Hexyl trichlorosilane	8	UN 1784	Corrosive	II	1	1	Keep dry
	Hydrazine, anhydrous and solutions containing less than 36% water, by weight	8	UN 2029	Corrosive, Poison	I	1	5	
	Hydrazine, solutions containing 36% or more water, by weight	8	UN 2030	Corrosive, Poison	II	1,2	5	Under deck not permitted if containing less than 64% water by weight. Stow 'away from' nitric acids and perchloric acids exceeding 50% acid by weight
	Hydrides, (metal), n.o.s.	4.3	UN 1409	Dangerous When Wet	I	1,2	5	
	Hydriodic acid	8	UN 1787	Corrosive	II	1	1	Glass carboys prohibited on passenger vessels
	Hydrobromic acid	8	UN 1788	Corrosive	II	1	1	Glass carboys prohibited on passenger vessels. Stow 'away from' fluorides
	Hydrocarbon gases (and mixtures of such gases, compressed), n.o.s.	2.1	UN 1964	Flammable Gas	—	1,2	1	Stow 'away from' living quarters
	Hydrocarbon gases (and mixtures of such gases, liquefied), n.o.s.	2.1	UN 1965	Flammable Gas	—	1,2	1	Stow 'away from' living quarters
	Hydrochloric acid	8	UN 1789	Corrosive	II	1	1	Glass carboys prohibited on passenger vessels. Stow 'away from' fluorides
	Hydrocyanic acid, anhydrous. See Hydrogen cyanide							
	Hydrocyanic acid, aqueous solution of not more than 20% of hydrogen cyanide	6.1	UN 1613	Poison	I	1	5	
	Hydrofluoric acid, solution	8	UN 1790	Corrosive	I/II	1	5	Keep cool
	Hydrofluoric and sulphuric acid, mixtures. See Acid mixtures, hydrofluoric and sulphuric							
	Hydrofluosilicic acid. See Fluosilicic acid							
	Hydrogen and methane, mixtures	2.1	UN 2034	Flammable Gas	—	1,2	5	Stow 'away from' living quarters
	Hydrogen bromide, anhydrous	2.3	UN 1048	Poison Gas, Corrosive	—	1	5	Stow 'away from' foodstuffs and living quarters
	Hydrogen chloride, anhydrous	2.3	UN 1050	Poison Gas, Corrosive	—	1	5	Stow 'away from' foodstuffs and living quarters
	Hydrogen, compressed	2.1	UN 1049	Flammable Gas	—	1,2	5	Stow 'separate from' chlorine, 'away from' living quarters
	Hydrogen cyanide, anhydrous, stabilized	2.3	UN 1051	Poison Gas, Flammable Gas	—	1	5	Stow 'away from' foodstuffs and living quarters
	Hydrogen cyanide, anhydrous, stabilized, absorbed in a porous inert material	6.1	UN 1614	Poison	I	1	5	Shade from radiant heat
	Hydrogen fluoride, anhydrous	2.3	UN 1052	Poison Gas, Corrosive	—	1	5	Stow 'away from' foodstuffs and living quarters
	Hydrogen iodide, anhydrous	2.3	UN 2197	Poison Gas, Corrosive	—	1	5	Stow 'away from' living quarters
	Hydrogen iodide, solution. See Hydriodic acid							
	Hydrogen peroxide, concentrations of 8% up to 40% peroxide	5.1	UN 2014	Oxidizer	II	1,2	1	Shade from radiant heat. Stow 'away from' powdered metals and 'separate from' permanganates
	Hydrogen peroxide, concentrations of over 40% up to 60% peroxide	5.1	UN 2014	Oxidizer, Corrosive	II	1	5	Shade from radiant heat. Stow 'away from' powdered metals and 'separate from' permanganates
	Hydrogen peroxide, stabilized, concentrations of over 60% peroxide	5.1	UN 2015	Oxidizer, Corrosive	I	1	5	Permitted only under conditions approved by the Department
	Hydrogen selenide	2.3	UN 2202	Poison Gas, Flammable Gas	—	1	5	Stow 'away from' living quarters
	Hydrogen sulphide	2.1	UN 1053	Flammable Gas, Poison Gas	—	1	5	Stow 'away from' foodstuffs and living quarters
	Hydrosilicofluoric acid. See Fluosilicic acid							
	1-Hydroxy-1'-hydroperoxy dicyclohexyl peroxide, and mixtures with bis-(1-hydroxy cyclohexyl) peroxide, in a concentration of more than 90% with less than 10% water	5.2	UN 2117	Organic Peroxide	I	1	5	
	1-Hydroxy-1'-hydroperoxy dicyclohexyl peroxide, and mixtures with bis-(1-hydroxy cyclohexyl) peroxide, in a concentration of 90% or less with at least 10% water	5.2	UN 2119	Organic Peroxide	I	1	5	
	1-Hydroxy-1'-hydroperoxy dicyclohexyl peroxide, and mixtures with bis-(1-hydroxy cyclohexyl) peroxide, maximum concentration 72% as a paste or in solution	5.2	UN 2118	Organic Peroxide	I	1	5	
	Hypochlorite, solutions containing more than 5% available chlorine	8	UN 1791	Corrosive	II/III	1,2	1	Glass carboys in hampers prohibited under deck
	Igniters	1.4 G	UN 0325	Explosive (1.4G)	—			
	Inflammable gas for lighters. See Lighters, for cigars and cigarettes, containing flammable gas							
	Inflammable liquid preparations, n.o.s. See Flammable liquid preparations, n.o.s.							
	Inflammable liquids, (non-toxic), n.o.s. See Flammable liquids, (non-toxic), n.o.s.							
	Inflammable liquids, (toxic), n.o.s. See Flammable liquids, (toxic), n.o.s.							
	Inflammable solids, n.o.s. See Flammable solids, n.o.s.							
	Ink, printers	3.2	UN 1210	Flammable Liquid	II	1,2	1	
		3.3	UN 1210	Flammable Liquid	II	1,2	1,2	
	Insecticide gases, (non-toxic), n.o.s.	2.1	UN 1968	Flammable Gas	—	1,2	1	
		2.2	UN 1968	Nonflammable Gas	—	1,3	1,3	

172.102 Optional Hazardous Materials Table (Cont'd)

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(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identifi- cation Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a)	(b)	(c)
						Cargo vessel	Pass- enger vessel	Other requirements
	Insecticide gases, (toxic), n.o.s.	2.3	UN 1967	Poison Gas	—	1	5	Shade from radiant heat
	Insecticides, n.o.s.	6.1	UN 1615	Poison	I/II	1,2	1,2	Stow 'separate from' foodstuffs
		6.1	UN 1615	St. Andrews Cross	III	1,2	1,2	Stow 'separate from' foodstuffs
		9	UN 1615	None	III	1,2	1,2	Stow 'away from' foodstuffs
	Iodine monochloride	8	UN 1792	Corrosive	II	1	5	Keep dry
	Iron carbonyl	3.1	UN 1994	Flammable Liquid, Poison	I	1	5	Shade from radiant heat
	Iron chloride. See Ferric chloride							
	Iron oxide, spent	4.2	UN 1376	Spontaneously Combustible	III	1,2	5	
	Iron pentacarbonyl. See Iron carbonyl							
	Iron sesquichloride. See Ferric chloride							
	Iron sponge, spent. See Iron oxide, spent							
	Iron swarf, e.g. borings, cuttings, drillings, filings, shavings, turnings	4.2	UN 2793	None	—	1,2	1,2	Stow 'away from' living quarters
	Isobutane or isobutane mixtures	2.1	UN 1969	Flammable Gas	—	1,2	1	
	Isobutanol	3.3	UN 1212	Flammable Liquid	II	1,2	1,2	
	Isobutyl acetate	3.2	UN 1213	Flammable Liquid	II	1,2	1	
	Isobutyl alcohol. See Isobutanol							
	Isobutyl aldehyde. See Isobutyraldehyde							
	Isobutyl methyl ketone peroxide, maximum concentration 62% in solution	5.2	UN 2126	Organic Peroxide	I	1	5	
	Isobutylamine	3.2	UN 1214	Flammable Liquid	II	1,2	1	Stow 'away from' living quarters
	Isobutylene	2.1	UN 1055	Flammable Gas	—	1,2	1	Stow 'away from' living quarters
	Isobutyraldehyde	3.1	UN 2045	Flammable Liquid	II	1,2	5	Keep cool
	Isobutyryl peroxide, maximum concentration 52% in solution	5.2	UN 2182	Organic Peroxide	II	1	5	Maximum transport temperature -20 deg C
	Isocyanates (and solutions)	3.1	UN 2478	Flammable Liquid, Poison	II	1	5	Stow 'away from' living quarters and sources of heat
	Isocyanates (with a boiling point below 300 degrees C and a flashpoint of 23 degrees C or above, and their solutions), n.o.s.	6.1	UN 2206	Poison, Flammable Liquid (only if flashpoint of the substance or solution is below 61 deg C.)	II	1,3	1,3	Shade from radiant heat. Stow 'away from' sources of heat. Segregation same as for flammable liquids if flashpoint below 61 deg C
	Isocyanates (with a boiling point of 300 degrees C and above and their solutions), n.o.s.	9	UN 2207	None	III	1,2	1,2	Stow 'away from' foodstuffs and sources of heat
	Isononanoyl peroxide, technical pure or in solution	5.2	UN 2128	Organic Peroxide	II	1	5	Maximum transport temperature 0 deg C
	Isocetene	3.1	UN 1216	Flammable Liquid	II	1,2	5	
	Isopentane	3.1	UN 1265	Flammable Liquid	I	1,2	5	
	Isophorone diisocyanate	6.1	UN 2290	Poison	II	1,2	1	Glass carboys prohibited on passenger vessels
	Isophoronediamine	8	UN 2289	Corrosive	III	1,2	1,2	Keep cool
	Isoprene, inhibited	3.1	UN 1218	Flammable Liquid	I	1,2	5	
	Isopropanol	3.2	UN 1219	Flammable Liquid	II	1,2	1	
	Isopropyl acetate	3.2	UN 1220	Flammable Liquid	II	1,2	1	
	Isopropyl acid phosphate	8	UN 1793	Corrosive	III	1,2	1,2	Glass carboys in hampers prohibited under deck
	Isopropyl alcohol. See Isopropanol							
	Isopropyl nitrate	3.2	UN 1222	Flammable Liquid	II	1,2	1	
	Isopropyl peroxydicarbonate. See Diisopropyl perdicarbonate							
	Isopropylamine	3.1	UN 1221	Flammable Liquid	I	1,2	5	Keep cool
	Isopropylbenzene	3.3	UN 1918	Flammable Liquid	II	1,2	1,2	
	Jute, dry. See Fibres, vegetable, dry							
	Kapok, dry. See Fibres, vegetable, dry							
	Kerosene	3.3	UN 1223	Flammable Liquid	II	1,2	1,2	
	Ketones, (liquid, non-toxic), n.o.s.	3.2	UN 1224	Flammable Liquid	II	1,2	1	
		3.3	UN 1224	Flammable Liquid	II	1,2	1,2	
	Ketones, (liquid, toxic), n.o.s.	3.2	UN 1224	Flammable Liquid, Poison	II	1,2	1	
		3.3	UN 1224	Flammable Liquid, Poison	II	1,2	1,2	
	Krypton, compressed	2.2	UN 2056	Nonflammable Gas	—	1,2	1,2	
	Krypton, liquid	2.2	UN 2042	Nonflammable Gas	—	1	5	
	Lacquer base. See Paints, etc.							
	Lacquer chips. See Paints, etc.							
	Lacquers. See Paints, etc.							
	Lauroyl peroxide, technical pure	5.2	UN 2124	Organic Peroxide	II	1	5	
	Lead acetate	6.1	UN 1616	St. Andrews Cross	III	1,2	1,2	
	Lead arsenates	6.1	UN 1617	Poison	II	1,2	1,2	
	Lead arsenites	6.1	UN 1618	Poison	II	1,2	1,2	
	Lead compounds, (water soluble), n.o.s.	6.1	UN 2291	St. Andrews Cross	III	1,2	1,2	
	Lead cyanide	6.1	UN 1620	Poison	II	1,2	1,2	Stow 'away from' acids
	Lead dioxide	5.1	UN 1872	Oxidizer	III	1,2	1,2	Stow 'away from' foodstuffs
	Lead dross. See Lead sulphate, containing more than 3% free acid							
	Lead nitrate	5.1	UN 1469	Oxidizer, Poison	II	1,2	1,2	Stow 'away from' foodstuffs
	Lead perchlorate	5.1	UN 1470	Oxidizer, Poison	II	1,2	1,2	Stow 'away from' powdered metals and foodstuffs
	Lead peroxide. See Lead dioxide							

18 172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identi- fication Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a)	(b)	(c)
						Cargo vessel	Pass- enger vessel	Other requirements
	Lead sulphate, containing more than 3% free acid	8	UN 1794	Corrosive	II	1,2	1,2	
	Life-rafts, inflatable	9	—	None	—	1,2	1,2	
	Lighter fuels, cigar and cigarette	3.2	UN 1226	Flammable Liquid	II	1,2	1	
	Lighters for cigars and cigarettes, etc., containing fuel	3.2	UN 1226	Flammable Liquid	II	1,2	1	
	Lighters for cigars and cigarettes, etc., containing flammable gas	2.1	UN 1057	Flammable Gas	—	1	1	Stow 'away from' living quarters. Not permitted in nonventilated containers
	Lighters, fuse	1.4 S	UN 0131	None. Package to be marked '1.4 S'	—	1,3	1,3	
	Liquefied non-flammable gases charged with nitrogen, carbon dioxide or air	2.2	UN 1058	Nonflammable Gas	—	1,2	1,2	
	Lithium alkyls	4.2	UN 2445	Spontaneously Combustible	I	1	1	
	Lithium aluminium hydride	4.3	UN 1410	Dangerous When Wet	I	1,2	5	
	Lithium aluminium hydride, ethereal	4.3	UN 1411	Dangerous When Wet, Flammable Liquid	I	1	5	
	Lithium amide	4.3	UN 1412	Dangerous When Wet	II	1,2	5	
	Lithium borohydride	4.3	UN 1413	Dangerous When Wet	I	1,2	5	
	Lithium hydride	4.3	UN 1414	Dangerous When Wet	I	1,2	5	
	Lithium hypochlorite, dry, including mixtures containing more than 39% available chlorine (8.8% available oxygen)	5.1	UN 1471	Oxidizer	II	1,2	1,2	
	Lithium, (metal)	4.3	UN 1415	Dangerous When Wet	II	1,2	5	
	Lithium peroxide	5.1	UN 1472	Oxidizer	II	1,2	1,2	Keep dry
	Lithium silicon	4.3	UN 1417	Dangerous When Wet	II	1,2	1,2	
	London purple	6.1	UN 1621	Poison	II	1,2	1,2	
	Lye. See Sodium hydroxide							
	Magnesium alloys, containing more than 50% magnesium, pellets, turnings or ribbon	4.1	UN 1869	Flammable Solid	III	1,2	1,2	Stow 'away from' nonflammable gases and poisons
	Magnesium alloys, containing more than 50% magnesium, powder, non-pyrophoric	4.3	UN 1418	Dangerous When Wet	II	1,2	1,2	Stow 'away from' nonflammable gases and poisons
	Magnesium aluminium phosphide	4.3	UN 1419	Dangerous When Wet	I	1	5	
	Magnesium arsenate	6.1	UN 1622	Poison	II	1,2	1,2	
	Magnesium bromate	5.1	UN 1473	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals, 'separate from' ammonium compounds
	Magnesium diamide	4.2	UN 2004	Spontaneously Combustible	II	1	1	
	Magnesium diphenyl	4.2	UN 2005	Spontaneously Combustible	I	1	1	
	Magnesium hydride	4.3	UN 2010	Dangerous When Wet	I	1,2	5	
	Magnesium nitrate	5.1	UN 1474	Oxidizer	III	1,2	1,2	
	Magnesium, pellets, turnings or ribbon	4.1	UN 1869	Flammable Solid	III	1,2	1,2	Stow 'away from' nonflammable gases and poisons
	Magnesium perchlorate	5.1	UN 1475	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals
	Magnesium peroxide	5.1	UN 1476	Oxidizer	II	1,2	1,2	Keep dry
	Magnesium phosphide	4.3	UN 2011	Dangerous When Wet, Poison	I	1	5	
	Magnesium, powder, non-pyrophoric	4.3	UN 1418	Dangerous When Wet	II	1,2	1,2	Stow 'away from' nonflammable gases and poisons
	Maleic anhydride	8	UN 2215	None	III	1,2	1,2	Stow 'away from' foodstuffs
	Maneb, or maneb preparation(s) containing 60% or more maneb	4.2	UN 2210	Spontaneously Combustible	III	1,2	1,2	Stow 'away from' acids, living quarters and foodstuffs
	Manganese ethylene-bis-dithiocarbamate. See Maneb							
	Manganese resinate	4.1	UN 1330	Flammable Solid	III	1,2	1,2	
	Matches, fuse	4.1	UN 2254	Flammable Solid	III	1,2	1,2	
	Matches, safety	9	UN 1944	None	III	1,2	1,2	Keep dry
	Matches, strike anywhere	4.1	UN 1331	Flammable Solid	III	1,2	1	
	Matches, wax 'vesta'	4.1	UN 1945	Flammable Solid	III	1,2	1	
N	Medicines, n.o.s. to be classified and labeled according to the principle hazardous constituent	—	UN 1851	—	—	—	—	
	MEKP. See Ethyl methyl ketone peroxide							
	p-Menthane hydroperoxide, technical pure	5.2	UN 2125	Organic Peroxide	I	1	5	
	Mercaptans and mercaptan mixtures, (liquid), n.o.s.	3.1	UN 1228	Flammable Liquid	II	1,2	5	Keep cool
	Mercuric acetate. See Mercury acetate							
	Mercuric arsenate	6.1	UN 1623	Poison	II	1,2	1,2	
	Mercuric bromide. See Mercury bromides							
	Mercuric chloride	6.1	UN 1624	Poison	II	1,2	1,2	
	Mercuric cyanide. See Mercury cyanide							
	Mercuric nitrate	6.1	UN 1625	Poison	II	1,2	1,2	
	Mercuric oxycyanide. See Mercury oxycyanide							
	Mercuric potassium cyanide	6.1	UN 1626	Poison	I	1,2	1,2	Stow 'away from' acids
	Mercuric sulphate	6.1	UN 1645	Poison	II	1,2	1,2	
	Mercuriol. See Mercury nucleate							
	Mercurous acetate. See Mercury acetate							
	Mercurous bromide. See Mercury bromides							
	Mercurous nitrate. See Mercury acetate							
	Mercurous sulphate	6.1	UN 1628	Poison	II	1,2	1,2	
	Mercury acetate	6.1	UN 1629	Poison	II	1,2	1,2	

172.102 Optional Hazardous Materials Table (Cont'd)

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(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identi- fication Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a)	(b)	(c)
						Cargo vessel	Pass- enger vessel	Other requirements
	Mercury ammonium chloride	6.1	UN 1630	Poison	II	1,2	1,2	
	Mercury benzoate	6.1	UN 1631	Poison	II	1,2	1,2	
	Mercury bisulphate	6.1	UN 1633	Poison	II	1,2	1,2	
	Mercury bromides	6.1	UN 1634	Poison	II	1,2	1,2	
	Mercury compounds, (inorganic), n.o.s.	6.1	UN 2024	Poison	I/II	1,2	1,2	
	Mercury compounds, (organic), n.o.s.	6.1	UN 2025	Poison	I/II	1,2	1,2	
	Mercury cyanide	6.1	UN 1636	Poison	II	1,2	1,2	Stow 'away from' acids
	Mercury gluconate	6.1	UN 1637	Poison	II	1,2	1,2	
	Mercury iodide	6.1	UN 1638	Poison	II	1,2	1,2	
	Mercury nucleate	6.1	UN 1639	Poison	II	1,2	1,2	
	Mercury oleate	6.1	UN 1640	Poison	II	1,2	1,2	
	Mercury oxide	6.1	UN 1641	Poison	II	1,2	1,2	Stow 'away from' acids
	Mercury oxycyanide	6.1	UN 1642	Poison	II	1,2	1,2	
	Mercury potassium iodide	6.1	UN 1643	Poison	II	1,2	1,2	
	Mercury salicylate	6.1	UN 1644	Poison	II	1,2	1,2	
	Mercury thiocyanate	6.1	UN 1646	Poison	II	1,2	1,2	
	Mesityl oxide	3.3	UN 1229	Flammable Liquid	II	1,2	1,2	
	Metal alkyls, n.o.s.	4.2	UN 2003	Spontaneously Combustible	I	1	5	Shade from radiant heat. Stow 'separate from flammable liquids or gases, oxidizers or organic peroxides
	Metalddehyde	4.1	UN 1242	Flammable Solid	III	1,2	1,2	
	Methacrylic acid, inhibited	8	UN 2531	Corrosive	II	1	1	Keep cool. Glass carboys prohibited on passenger vessels
	Methane or natural gases with a high methane content, compressed	2.1	UN 1971	Flammable Gas	—	1,2	5	Stow 'away from' living quarters
	Methane or natural gases with a high methane content, refrigerated liquid	2.1	UN 1972	Flammable Gas	—	1	5	Stow 'away from' living quarters
	Methanol	3.2	UN 1230	Flammable Liquid, Poison	II	1,2	1	
	2-Methyl-1,3-butadiene. See Isoprene							
	2-Methyl-5-ethylpyridine	6.1	UN 2300	St. Andrews Cross	III	1,2	1,2	
	Methyl acetate	3.2	UN 1231	Flammable Liquid	II	1,2	1	
	Methyl acetone	3.2	UN 1232	Flammable Liquid	II	1,2	1	
	Methyl acetylene, mixed with 15% to 20% propadiene	2.1	UN 1060	Flammable Gas	—	1,2	1	Stow 'away from' living quarters
	beta-Methyl acrolein. See Crotonaldehyde, inhibited							
	Methyl acrylate, inhibited	3.2	UN 1919	Flammable Liquid	II	1,2	1	
	Methyl alcohol. See Methanol							
	Methyl aluminium sesquibromide	4.2	UN 1926	Spontaneously Combustible	I	1	1	
	Methyl aluminium sesquichloride	4.2	UN 1927	Spontaneously Combustible	I	1	1	
	Methyl amyl ketone. See Amyl methyl ketone							
	Methyl bromide	2.3	UN 1062	Poison Gas	—	1	5	
	Methyl bromide and chloropicrin, mixtures. See Chloropicrin and methyl bromide, mixtures							
	Methyl bromide and ethylene dibromide, liquid mixtures	6.1	UN 1647	Poison	I	1	1	
	Methyl butyrate	3.2	UN 1237	Flammable Liquid	II	1,2	1	
	Methyl chloride	2.1	UN 1063	Flammable Gas	—	1,2	5	Stow 'away from' living quarters
	Methyl chloride and chloropicrin, mixtures. See Chloropicrin and methyl chloride, mixtures							
	Methyl chloride and methylene chloride, mixtures	2.1	UN 1912	Flammable Gas	—	1,2	5	
	Methyl chloroacetate. See Methyl chloroformate							
	Methyl chloroformate	3.2	UN 1238	Flammable Liquid, Poison, Corrosive	I	1,2	1	
	Methyl cyanide	6.1	UN 1648	Poison, Flammable Liquid	II	1	5	Shade from radiant heat. Segregation as for flammable liquids
	Methyl cyclohexane	3.2	UN 2296	Flammable Liquid	II	1,2	1	
	Methyl cyclopentane	3.1	UN 2298	Flammable Liquid	II	1,2	5	
	Methyl dichloroacetate	6.1	UN 2299	St. Andrews Cross	III	1,2	1,2	
	Methyl ethyl ether. See Ethyl methyl ether							
	Methyl ethyl ketone peroxide(s). See Ethyl methyl ketone peroxide							
	Methyl ethyl ketone. See Ethyl methyl ketone							
	Methyl formate	3.1	UN 1243	Flammable Liquid	I	1,3	5	Keep cool
	Methyl isobutyl carbinol	3.3	UN 2053	Flammable Liquid	III	1,2	1,2	
	Methyl isobutyl ketone	3.2	UN 1245	Flammable Liquid	II	1,2	1	
	Methyl isocyanate and solutions	3.1	UN 2480	Flammable Liquid, Poison	I	1	5	Stow 'away from' living quarters and sources of heat
	Methyl isopropenyl ketone, inhibited	3.2	UN 1246	Flammable Liquid	II	1,2	1	
	Methyl magnesium bromide, in ethyl ether	4.2	UN 1928	Spontaneously Combustible	I	1	5	
	Methyl methacrylate, monomer, inhibited	3.2	UN 1247	Flammable Liquid	II	1,2	1	
	Methyl propionate	3.2	UN 1248	Flammable Liquid	II	1,2	1	
	Methyl propyl ketone	3.2	UN 1249	Flammable Liquid	II	1,2	1	
	Methyl sulphide. See Dimethyl sulfide							
	Methyl trichloroacetate	6.1	UN 2533	St. Andrews Cross	III	1,2	1	

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172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identifi- cation Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a)	(b)	(c)
						Cargo vessel	Pass- enger vessel	Other requirements
	Methyl vinyl ketone	3.2	UN 1251	Flammable Liquid	II	1,2	1	
	Methylal	3.1	UN 1234	Flammable Liquid	II	1,2	5	Keep cool
	Methylamine, anhydrous	2.1	UN 1061	Flammable Gas	—	1,2	5	
	Methylamine, aqueous solution	3.1	UN 1235	Flammable Liquid	II	1,2	5	Keep cool. Stow 'away from' mercury and its compounds
	Methylamyl acetate	3.3	UN 1233	Flammable Liquid	III	1,2	1,2	
	N-Methylaniline	6.1	UN 2294	St. Andrews Cross	III	1,2	1,2	
	Methylchloromethyl ether	3.1	UN 1239	Flammable Liquid	II	1	5	Keep cool
	Methyldichlorosilane	3.2	UN 1242	Flammable Liquid, Corrosive	I	1,2	1	
	Methylene bis (phenylene isocyanate). See Diphenylmethane diisocyanate							
	Methylene chloride. See Dichloromethane							
	Methylhydrazine	3.2	UN 1244	Flammable Liquid, Corrosive	I	1,2	1	
	Methylmercaptan	2.1	UN 1064	Flammable Gas	—	1,2	1	Stow 'away from' living quarters
	Methylphenyldichlorosilane	8	UN 2437	Corrosive	II	1	1	Keep dry. Segregation same as for flammable liquids
	Methyltrichlorosilane	3.2	UN 1250	Flammable Liquid, Corrosive	II	1,2	1	
	Mischmetal, powder	4.1	UN 1333	Flammable Solid	II	1,2	5	Stow 'separate from' flammable substances and oxidizers
	Mischmetal, slabs or ingots	4.1	UN 1333	Flammable Solid	III	1,2	1,2	Stow 'separate from' flammable substances and oxidizers
	Mixed acid. See Acid mixtures, nitrating acid							
	Mixed acid, spent. See Acid mixtures, spent							
	Molybdenum pentachloride	8	UN 2508	Corrosive	III	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Monoethylamine. See Ethylamine							
	Monomethylamine, anhydrous. See Methylamine, anhydrous							
	Monomethylamine, aqueous solution. See Methylamine, aqueous solution							
	Monopropylamine	3.1	UN 1277	Flammable Liquid	II	1,2	5	
	Morpholine	3.3	UN 2054	Flammable Liquid	II	1,2	1,2	
	Motor fuel anti-knock mixtures	6.1	UN 1649	Poison	I	1	5	If flashpoint below 61 deg C segregation same as for flammable liquids
	Motor fuel, n.o.s.	3.1	(UN 1203)	Flammable Liquid	II	1,2	5	
	Motor spirit. See Gasoline							
	Muriatic acid. See Hydrochloric acid							
	Naphtha distillate	3.2	(UN 1268)	Flammable Liquid	II	1,2	1	
	Naphtha, petroleum	3.2	UN 1255	Flammable Liquid	II	1,2	1	
	Naphtha, solvent	3.2	UN 1256	Flammable Liquid	II	1,2	1	
	Naphthalene, crude or refined	4.1	UN 1334	Flammable Solid	III	1,2	1,2	
	Naphthylamine (alpha)	6.1	UN 2077	St. Andrews Cross	III	1,2	1,2	
	Naphthylamine (beta)	6.1	UN 1650	Poison	II	1,2	1,2	
	alpha-Naphthylthiourea	6.1	UN 1651	Poison	II	1,2	1,2	
	Naphthylurea	6.1	UN 1652	Poison	II	1,2	1,2	
	Naphthalene, molten	4.1	UN 2304	Flammable Solid	III	1	1	Protect from sparks and open flame
	Natural gases with a high methane content. See Methane or natural gases, etc.							
	Natural gasoline. See Casinghead gasoline							
	Neohexane. See Dimethyl butane							
	Neon, compressed	2.2	UN 1065	Nonflammable Gas	—	1,2	1,2	
	Neon, liquid	2.2	UN 1913	Nonflammable Gas	—	1	5	
	Nickel carbonyl	3.1	UN 1259	Flammable Liquid, Poison	I	1	5	Keep cool. Prohibited on any ship carrying explosives
	Nickel catalyst, finely divided, activated or spent, wetted with not less than 40% of water or other suitable liquid	4.2	UN 1378	Spontaneously Combustible	II	1,2	1	
	Nickel cyanide	6.1	UN 1653	Poison	II	1,2	1,2	
	Nicotine	6.1	UN 1654	Poison	II	1,2	1,2	
	Nicotine, (compounds and preparations), n.o.s.	6.1	UN 1655	Poison	I/II	1,2	1,2	
	Nicotine hydrochloride, and solutions	6.1	UN 1655	St. Andrews Cross	III	1,2	1,2	
	Nicotine salicylate	6.1	UN 1656	Poison	II	1,2	1,2	
	Nicotine sulphate, solid or solution	6.1	UN 1657	Poison	II	1,2	1,2	
	Nicotine tartrate	6.1	UN 1658	Poison	II	1,2	1,2	
	Nitrate of soda and potash, mixture. See Sodium nitrate and potash, mixture							
	Nitrates, (inorganic), n.o.s.	5.1	UN 1477	Oxidizer	II	1,2	1,2	
	Nitrating acid. See Acid mixtures, nitrating acid							
N	Nitric acid, other than red fuming, all concentrations	8	UN 2031	Corrosive	I/II			
N	Nitric acid, red fuming	8	UN 2032	Corrosive, Oxidizer	I			
	Nitric oxide	2.3	UN 1660	Poison Gas, Oxidizer	—	1	5	Stow 'away from' foodstuffs and living quarters

172.102 Optional Hazardous Materials Table (Cont'd)

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(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identifi- cation Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a)	(b)	(c)
						Cargo vessel	Pass- enger vessel	Other requirements
	Nitric oxide and nitrogen tetroxide, mixtures	2.3	UN 1975	Poison Gas, Oxidizer	—	1	5	Stow 'away from' foodstuffs, organic materials and living quarters
	3-Nitro-4-chlorobenzotrifluoride	6.1	UN 2307	Poison	II	1,2	1,2	
	Nitroanilines (o-, m-, p-)	6.1	UN 1661	Poison	II	1,2	1,2	
	Nitrobenzene	6.1	UN 1662	Poison	II	1,2	1,2	
	Nitrobenzenesulphonic acid	8	UN 2305	Corrosive	II	1,2	1,2	
	Nitrobenzol. See Nitrobenzene							
	Nitrobenzotrifluoride	6.1	UN 2306	Poison	II	1,2	1,2	
	Nitrocellulose, containing at least 25% alcohol, by weight, and not exceeding 12.6% nitrogen by dry weight	4.1	UN 2556	Flammable Solid	I	1	5	Shade from radiant heat, keep away from heat and open flame
	Nitrocellulose, containing at least 18% plasticizing substance, by weight, and not exceeding 12.6% nitrogen by dry weight	4.1	UN 2557	Flammable Solid	I	1	1	Shade from radiant heat. Keep away from heat and open flame
	Nitrocellulose, containing at least 25%, by weight, water	4.1	UN 2555	Flammable Solid	II	1	5	Shade from radiant heat. Keep away from heat and open flame
	Nitrocellulose, in solution in flammable liquids	3.2	UN 2059	Flammable Liquid	II	1,2	1	
	Nitrocellulose, wetted with, by weight, more than 40% flammable liquids	3.3	UN 2060	Flammable Liquid	II	1,2	1,2	
	Nitrocellulose, wetted with, by weight, more than 40% flammable liquids	3.2	—	Flammable Liquid	II	1,2	1	
	Nitrocellulose, wetted with, by weight, more than 40% flammable liquids	3.3	—	Flammable Liquid	II	1,2	1,2	
	Nitrocresols	6.1	UN 2446	Poison	III	1,2	1,2	
	Nitrogen, compressed	2.2	UN 1066	Nonflammable Gas	—	1,2	1,2	
	Nitrogen dioxide	2.3	UN 1067	Poison Gas, Oxidizer	—	1	5	Stow 'away from' foodstuffs, organic materials and living quarters
	Nitrogen, liquid	2.2	UN 2040	Nonflammable Gas	—	1	5	
	Nitrogen trifluoride	2.3	UN 2451	Poison Gas	—	1	5	Stow 'away from' living quarters and organic materials
	Nitrogen trioxide	2.3	UN 2421	Poison Gas	—	1	5	Stow 'away from' living quarters and readily combustible substances
	Nitroglycerin solution, up to 1% in alcohol. See Glyceryl trinitrate, solution							
	Nitroguanidine, wetted with not less than 20% of water	4.1	UN 1336	Flammable Solid	I	1,2	5	
	Nitrohydrochloric acid	8	UN 1798	Corrosive	I	1	5	Stow 'away from' fluorides
	Nitromethane	3.3	UN 1261	Flammable Liquid	II	1,2	1,2	
	Nitromuriatic acid. See Nitrohydrochloric acid							
	Nitronaphthalene	4.1	UN 2538	Flammable Solid	III	1,2	1,2	
	Nitrophenols (o-, m-, p-)	6.1	UN 1663	St. Andrews Cross	III	1,2	1,2	
	p-Nitrosodimethylaniline	4.2	UN 1369	Spontaneously Combustible	II	1,2	5	Stow 'away from' foodstuffs
	Nitrostarch, wetted with not less than 20% of water	4.1	UN 1337	Flammable Solid	I	1	5	
	Nitrosyl chloride	2.3	UN 1069	Poison Gas, Corrosive	—	1	5	Stow 'away from' foodstuffs and living quarters
	Nitrosylsulphuric acid	8	UN 2308	Corrosive	II	1	5	Stow 'away from' organic materials
	Nitrotoluenes (o-, m-, p-)	6.1	UN 1664	Poison	II	1,2	1,2	
	Nitrous oxide	2.2	UN 1070	Nonflammable Gas, Oxidizer	—	1,2	1,2	
	Nitroxyls (o-, m-, p-)	6.1	UN 1665	Poison	II	1,2	1,2	
	Nonane	3.3	UN 1920	Flammable Liquid	II	1,2	1,2	
	n-Nonanoyl peroxide, technical pure	5.2	UN 2130	Organic Peroxide	II	1	5	Maximum transport temperature 0 deg C
	Nonyl trichlorosilane	8	UN 1799	Corrosive	II	1	1	Keep dry
	Octadecyl trichlorosilane	8	UN 1800	Corrosive	II	1	1	Keep dry
	Octafluorocyclobutane	2.2	UN 1976	Nonflammable Gas	—	1,2	1,2	
	Octane and its isomers	3.2	UN 1262	Flammable Liquid	II	1,2	1	
	n-Octanoyl peroxide, technical pure	5.2	UN 2129	Organic Peroxide	II	1	5	Maximum transport temperature 10 deg C
	Octyl trichlorosilane	8	UN 1801	Corrosive	II	1	1	Keep dry
	Oil gas	2.1	UN 1071	Flammable Gas, Poison Gas	—	1	5	Stow 'away from' living quarters
	Oleum. See Sulphuric acid, fuming							
	Organic peroxides, mixture (this description must be supplemented with the name of the primary constituent of the mixture)	5.2	UN 2756	Organic Peroxide	I/II	1	5	
	Organic peroxides, n.o.s.	5.2	UN 2255	Organic Peroxide	—			
	Organophosphates, (poisonous), n.o.s.	6.1	UN 1893	Poison	I/II	1,2	1,2	
	Osmium tetroxide	6.1	UN 1893	St. Andrews Cross	III	1,2	1,2	
	Oxalates, water soluble	6.1	UN 2471	Poison	I	1,2	1	
	Oxidizing substances, n.o.s.	6.1	UN 2449	St. Andrews Cross	III	1,2	1,2	
	Oxygen and carbon dioxide, mixtures. See Carbon dioxide and oxygen mixtures	5.1	UN 1479	Oxidizer	II	1,2	1,2	
	Oxygen, compressed	2.2	UN 1072	Nonflammable Gas, Oxidizer	—	1,2	1,2	
	Oxygen difluoride	2.3	UN 2190	Poison Gas	—	1	5	Keep dry. Stow 'away from' living quarters and readily combustible substances
	Oxygen, liquid	2.2	UN 1073	Nonflammable Gas, Oxidizer	—	1	5	Stow 'separate from' acetylene. Do not over-stow
	Paint, enamel, lacquer, stain, shellac, varnish, polish, filler (liquid), lacquer base and thinner (not including substances containing nitrocellulose for which see Nitrocellulose)	3.2	UN 1263	Flammable Liquid	II/III	1,2	1	
	Paint, enamel, lacquer, stain, shellac, varnish, polish, filler (liquid), lacquer base and thinner (not including substances containing nitrocellulose for which see Nitrocellulose)	3.3	UN 1263	Flammable Liquid	II/III	1,2	1,2	
	Paper, treated with unsaturated oils, incompletely dried	4.2	UN 1379	Spontaneously Combustible	III	1,2	1,2	

22 172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identifi- cation Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a) Cargo vessel	(b) Pas- senger vessel	(c) Other requirements
	Paraformaldehyde	4.1	UN 2213	None. Package to be marked 'Class 4.1'	III	1,2	1,2	
	Paraldehyde	3.3	UN 1264	Flammable Liquid	III	1,2	1,2	
	Parathion, and mixtures, solid, liquid or under compressed gas	6.1	UN 1668	Poison	I/II	1,2	1,2	Shade cylinders from radiant heat.
	Pentaborane	6.1	UN 1668	St. Andrews Cross	III	1,2	1,2	Shade cylinders from radiant heat
	Pentachloroethane	4.2	UN 1380	Spontaneously Combustible	I	1	5	
	Pentane	6.1	UN 1669	Poison	II	1,2	1,2	
	Pentane	3.1	UN 1265	Flammable Liquid	I	1,2	5	
	Peracetic acid, maximum concentration 43% in acetic acid or in a mixture of acetic acid and water, with in either case not more than 6% hydrogen peroxide and not more than 1% sulphuric acid	5.2	UN 2131	Organic Peroxide, Corrosive	I	1	5	
	Perborates, (inorganic), n.o.s.	5.1	UN 1480	Oxidizer	II	1,2	1,2	
	Perchlorates, (inorganic), n.o.s.	5.1	UN 1481	Oxidizer	II	1,3	1,3	Stow 'away from' powdered metals
	Perchloric acid, not exceeding 50%, by weight, of acid	8	UN 1802	Corrosive, Oxidizer	II	1	1	Stow 'away from' hydrazine
	Perchloric acid, over 50% and not exceeding 72% of acid	5.1	UN 1873	Oxidizer, Corrosive	I	1	5	
	Perchloroethylene. See Tetrachloroethylene							
	Perchloromethyl-mercaptan	6.1	UN 1670	Poison	I	1	5	
	Perchloryl fluoride	2.3	(UN 1955)	Poison Gas	-	1	5	Stow 'away from' living quarters and readily combustible substances
	Perfumery products, flammable liquid	3.2	UN 1266	Flammable Liquid	II	1,2	1	
	Permanganates, (inorganic), n.o.s.	3.3	UN 1266	Flammable Liquid	II	1,2	1,2	
	Peroxides, (metallic), n.o.s.	5.1	UN 1482	Oxidizer	II	1,2	1,2	Stow 'separate from' ammonium compounds, hydrogen peroxide and strong liquid acids
	Pesticides, (high hazard, solid or liquid), n.o.s.	5.1	UN 1483	Oxidizer	II	1,2	1,2	
	Pesticides, (liquid, non-toxic), n.o.s.	6.1	UN 2588	Poison	I/II	1,2	1,2	Stow 'separate from' foodstuffs.
	Pesticides, (liquid, toxic), n.o.s.	6.1	UN 2588	St. Andrews Cross	III	1,2	1,2	Stow 'away from' foodstuffs
	Pesticides, (low hazard, solid or liquid), n.o.s.	3.2	UN 1996	Flammable Liquid	II	1,2	1	
	Petrol. See Gasoline	3.3	UN 1996	Flammable Liquid	II	1,2	1,2	
	Petroleum crude oil	3.2	UN 1995	Flammable Liquid, Poison	II	1,2	1	
	Petroleum distillates, n.o.s.	3.3	UN 1995	Flammable Liquid, Poison	II	1,2	1,2	
	Petroleum ether. See Petroleum spirit							
	Petroleum gases, liquefied	3.1	UN 1267	Flammable Liquid	II	1,2	5	
	Petroleum oil	3.2	UN 1267	Flammable Liquid	II	1,2	1	
	Petroleum spirit	3.3	UN 1267	Flammable Liquid	II	1,2	1,2	
	Phenetidines	3.1	UN 1270	Flammable Liquid	II	1,2	1	
	Phenol	3.2	UN 1270	Flammable Liquid	II	1,2	1,2	
	Phenolsulphonic acid, liquid	3.3	UN 1270	Flammable Liquid	II	1,2	1,2	
	Phenyl isocyanate	3.1	UN 1271	Flammable Liquid	II	1,2	5	
	Phenyl trichloroethane	3.2	UN 1271	Flammable Liquid	II	1,2	1	
	Phenylacetone. See Benzyl cyanide, liquid	3.3	UN 1271	Flammable Liquid	II	1,2	1,2	
	Phenylcarbamylamine chloride	6.1	UN 2311	St. Andrews Cross	III	1,2	1,2	
	Phenylhydrazine	6.1	UN 1671	Poison	II	1,2	1,2	
	Phenylmercuric acetate	8	UN 1803	Corrosive	II	1,2	1	Metal drums only under deck
	Phenylmercuric compounds, n.o.s.	6.1	UN 2487	Poison	II	1	5	Shade from radiant heat
	Phenylmercuric hydroxide	8	UN 1804	Corrosive	II	1	1	Keep dry
	Phenylmercuric nitrate	6.1	UN 1672	Poison	I	1	5	
	Phenylmercuric nitrate	6.1	UN 1673	St. Andrews Cross	III	1,2	1,2	
	Phenylmercuric nitrate	6.1	UN 2572	Poison	II	1,2	1,2	
	Phenylmercuric nitrate	6.1	UN 1674	Poison	II	1,2	1,2	
	Phenylmercuric nitrate	6.1	UN 2026	Poison	I/II	1,2	1,2	
	Phenylmercuric nitrate	6.1	UN 2026	St. Andrews Cross	III	1,2	1,2	
	Phenylmercuric nitrate	6.1	UN 1894	Poison	II	1,2	1,2	
	Phenylmercuric nitrate	6.1	UN 1895	Poison	II	1,2	1,2	
	Phosphene	2.3	UN 1076	Poison Gas, Corrosive	-	1	5	Stow 'away from' living quarters
	Phosphine	2.3	UN 2199	Poison Gas, Flammable Gas	-	1	5	Stow 'away from' living quarters
	o-Phosphoric acid, liquid	8	UN 1805	Corrosive	III	1,2	1,2	Glass carboys in hampers prohibited under deck. Keep dry
	o-Phosphoric acid, solid	8	UN 1805	Corrosive	III	1,2	1,2	
	Phosphoric anhydride. See Phosphorus pentoxide							
	Phosphorus bromide. See Phosphorus tribromide							
	Phosphorus chloride. See Phosphorus trichloride							
	Phosphorus, amorphous	4.1	UN 1338	Flammable Solid	III	1,2	1,2	
	Phosphorus heptasulphide, free from yellow or white phosphorus	4.1	UN 1339	Flammable Solid	II	1,2	1	Stow 'separate from' oxidizing substances
	Phosphorus oxybromide	8	UN 1939	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Phosphorus oxychloride. See Phosphoryl chloride							
	Phosphorus pentachloride	8	UN 1806	Corrosive	II	1	1	Keep dry

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identifi- cation Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a) Cargo vessel	(b) Pas- senger vessel	(c) Other requirements
	Phosphorus pentafluoride	2.3	UN 2198	Poison Gas	-	1	5	Stow 'away from' living quarters
	Phosphorus pentasulphide, free from yellow or white phosphorus	4.1	UN 1340	Flammable Solid	II	1,2	1,2	Stow 'separate from' oxidizing substances
	Phosphorus pentoxide	8	UN 1807	Corrosive	II	1,2	1,2	Glass bottles prohibited under deck
	Phosphorus sesquisulphide, free from yellow or white phosphorus	4.1	UN 1341	Flammable Solid	II	1,2	1	Stow 'separate from' oxidizing substances
	Phosphorus tribromide	8	UN 1808	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Phosphorus trichloride	8	UN 1809	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Phosphorus trifluoride	2.3	(UN 1955)	Poison Gas	-	1	5	Stow 'away from' living quarters
	Phosphorus trisulphide, free from yellow or white phosphorus	4.1	UN 1343	Flammable Solid	II	1,2	1	Stow 'separate from' oxidizing substances
	Phosphorus white, molten	4.2	UN 2447	Spontaneously Combustible	I	1	5	
	Phosphorus, white or yellow, dry	4.2	UN 1381	Spontaneously Combustible	I	1,2	5	
	Phosphorus, white or yellow, in water	4.2	UN 1381	Spontaneously Combustible	I	1,2	5	
	Phosphoryl chloride	8	UN 1810	Corrosive	II	1	1	Glass carboys prohibited on passenger vessels
	Phthalic anhydride, dust, powder or molten liquid	8	UN 2214	None	III	1,2	1,2	Stow 'away from' foodstuffs and oxidizing substances
	Picric acid, wetted with not less than 10% of water	4.1	UN 1344	Flammable Solid	I	1	5	Stow 'away from' heavy metals and their compounds
	Picric acid, wetted with not less than 30% of water	4.1	UN 1344	Flammable Solid	I	1,2	5	Stow 'away from' heavy metals and their compounds
	Pine oil	5.2	UN 2162	Organic Peroxide	I	1	5	
	Pivaloyl chloride	3.3	UN 1272	Flammable Liquid	III	1,2	1,2	
	Plastics moulding materials evolving flammable vapours	8	UN 2438	Corrosive, Flammable Liquid	II	1	5	Shade from radiant heat. Segregation same as for flammable liquids
	Plastics, (spontaneously combustible), n.o.s.	9	UN 2211	None	III	1,2	1,2	
	Poisonous liquids, n.o.s.	4.2	UN 2006	Spontaneously Combustible	III	1	5	
	Poisonous solids, n.o.s.	6.1	UN 2810	Poison	I/II	1,2	1,2	
	Polishes. See Paints, etc.	6.1	UN 2810	St. Andrews Cross	III	1,2	1,2	
	Polishing fluid. See Flammable liquid preparations, n.o.s.	6.1	UN 2811	Poison	I/II	1,2	1	
	Polystyrene beads, expandable, containing flammable liquid. See Plastics moulding materials	6.1	UN 2811	St. Andrews Cross	III	1,2	1,2	
	Potassium arsenate	6.1	UN 1677	Poison	II	1,2	1,2	
	Potassium arsenite	6.1	UN 1678	Poison	II	1,2	1,2	
	Potassium bifluoride, solid	8	UN 1811	Corrosive	II	1,2	1,2	Keep dry
	Potassium bifluoride, solution	8	UN 1811	Corrosive	II	1,2	1,2	
	Potassium borohydride	4.3	UN 1870	Dangerous When Wet	I	1,2	5	
	Potassium bromate	5.1	UN 1484	Oxidizer	II	1,2	1,2	Stow 'separate from' ammonium compounds and 'away from' powdered metals
	Potassium chlorate	5.1	UN 1485	Oxidizer	II	1,2	1,2	Stow 'separate from' ammonium compounds and 'away from' powdered metals
	Potassium cuprocyanide	6.1	UN 1679	Poison	II	1,2	1,2	Stow 'away from' acids
	Potassium cyanide	6.1	UN 1680	Poison	I	1,2	1,2	Stow 'away from' acids
	Potassium dithionite	4.2	UN 1929	Spontaneously Combustible	II	1,2	5	Keep dry
	Potassium fluoride	6.1	UN 1812	St. Andrews Cross, Corrosive	III	1,2	1,2	Stow 'away from' acids
	Potassium hydrogen fluoride. See Potassium bifluoride, solution							
	Potassium hydroxide, solid	8	UN 1813	Corrosive	II	1,2	1,2	Keep dry
	Potassium hydroxide, solution	8	UN 1814	Corrosive	II	1,2	1,2	
	Potassium hypochlorite, solution. See Hypochlorite, solutions, etc.							
	Potassium metal	4.2	UN 2257	Spontaneously Combustible	II	1,2	5	
	Potassium, metal alloys	4.3	UN 1420	Dangerous When Wet	II	1,2	5	
	Potassium metavanadate	6.1	UN 2864	Poison	II	1,2	1,2	
	Potassium nitrate	5.1	UN 1486	Oxidizer	III	1,2	1,2	
	Potassium nitrate and sodium nitrite, mixture	5.1	UN 1487	Oxidizer	II	1,2	1,2	Stow 'separate from' ammonium compounds and cyanides, and 'away from' foodstuffs
	Potassium nitrate bags, empty. See Bags, empty and unwashed, etc.							
	Potassium nitrite	5.1	UN 1488	Oxidizer	II	1,2	1,2	Stow 'separate from' ammonium compounds and cyanides, and 'away from' foodstuffs
	Potassium oxide	8	UN 2033	Corrosive	II	1,2	1,2	Keep dry
	Potassium perchlorate	5.1	UN 1489	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals
	Potassium permanganate	5.1	UN 1490	Oxidizer	II	1,2	1,2	Stow 'separate from' ammonium compounds and hydrogen peroxide
	Potassium peroxide	5.1	UN 1491	Oxidizer	I	1,2	1,2	Keep dry
	Potassium persulphate	5.1	UN 1492	Oxidizer	III	1,2	1,2	
	Potassium phosphide	4.3	UN 2012	Dangerous When Wet, Poison	I	1	5	
	Potassium silicofluoride, solid	6.1	UN 2655	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids
	Potassium-sodium, alloy	4.3	UN 1422	Dangerous When Wet	I	1,2	5	

24 172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identi- fication Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a) Cargo vessel	(b) Pas- senger vessel	(c) Other requirements
	Potassium sulphide, anhydrous or containing less than 30% water of crystallization	4.2	UN 1382	Spontaneously Combustible	II	1,2	1,2	Stow 'separate from' liquid acids
	Potassium sulphide, hydrated, containing not less than 30% water of crystallization	8	UN 1847	Corrosive	II	1,2	1,2	Stow 'separate from' explosives and acids
	Primers, cannon	1.4 G	UN 0320	Explosive (1.4G)	—	1,3	1,3	
	Primers, cap type	1.4B 1.4S	UN 0378 UN 0044	Explosive (1.4B) None. Package to be marked '1.4S'	— —	1,3 1,3	1,3 1,3	
	Primers, tubular	1.4G 1.4S	UN 0320 UN 0376	Explosive (1.4G) None. Package to be marked '1.4S'	— —	1,3 1,3	1,3 1,3	
	Projectiles, inert, with tracer	1.4 S	UN 0345	None. Package to be marked '1.4 S'	—	1,3	1,3	
	Propane	2.1	UN 1978	Flammable Gas	—	1,2	1	Stow 'away from' living quarters
	Propanol	3.2	UN 1274	Flammable Liquid	II	1,2	1	
	Propionaldehyde	3.2	UN 1275	Flammable Liquid	II	1,2	1	
	Propionic acid, solution containing not less than 80% acid	8	UN 1848	Corrosive	III	1,2	1,2	
	Propionic anhydride	8	UN 2496	Corrosive	III	1,2	1,2	Stow 'separated by a complete compartment or hold from' organic peroxides, and 'separated longitudinally by an intervening complete compartment or hold from' explosives
	Propionyl chloride	8	UN 1815	Corrosive, Flammable Liquid	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Propionyl peroxide, maximum concentration 28% in solution	5.2	UN 2132	Organic Peroxide	II	1	5	Keep dry. Stow 'separated longitudinally by an intervening complete compartment or hold from' explosives
	n-Propyl acetate	3.2	UN 1276	Flammable Liquid	II	1,2	1	Maximum transport temperature 15 deg C
	sec-Propyl alcohol. See Isopropanol							
	n-Propyl alcohol. See Propanol							
	Propyl chloride	3.1	UN 1278	Flammable Liquid	II	1,2	5	Keep cool
	Propyl formates	3.2	UN 1281	Flammable Liquid	II	1,2	1	
	n-Propyl nitrate	3.2	UN 1865	Flammable Liquid	II	1,2	1	
	Propyl trichlorosilane	8	UN 1816	Corrosive	II	1	1	Keep dry. Stow 'separated longitudinally by an intervening compartment or hold from' explosives
	Propylamine. See Monopropylamine							
	Propylene	2.1	UN 1077	Flammable Gas	—	1,2	1	Stow 'away from' living quarters
	Propylene dichloride	3.2	UN 1279	Flammable Liquid	II	1,2	1	
	Propylene oxide, inhibited	3.1	UN 1280	Flammable Liquid	I	1,2	5	Keep cool
	Propyleneimine, inhibited	3.2	UN 1921	Flammable Liquid	I	1,2	1	
	Pyridine	3.2	UN 1282	Flammable Liquid, Poison	II	1,2	1	
	Pyrophoric alloys	4.2	UN 1383	Spontaneously Combustible	II	1	5	
	Pyrophoric fuel, n.o.s.	4.2	UN 1375	Spontaneously Combustible	I	1	5	Prohibited on vessels carrying explosives
	Pyrophoric liquids, n.o.s. See Pyrophoric fuel, n.o.s.							
	Pyrophoric metals	4.2	UN 1383	Spontaneously Combustible	II	1	5	
	Pyrosulphuryl chloride	8	UN 1817	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Pyroxylin. See Nitrocellulose							
	Pyrrolidine	3.2	UN 1922	Flammable Liquid	II	1,2	1	
	R 12. See Dichlorodifluoromethane							
	R 22. See Chlorodifluoromethane							
	Rags, oily	4.2	UN 1856	Spontaneously Combustible	III	1,2	1,2	Keep dry
	Rare gases, mixtures	2.2	UN 1979	Nonflammable Gas	—	1,2	1,2	
	Rare gases, mixtures with nitrogen	2.2	UN 1981	Nonflammable Gas	—	1,2	1,2	
	Rare gases, mixtures with oxygen	2.2	UN 1980	Nonflammable Gas	—	1,2	1,2	
	Receptacles, small, containing flammable compressed gas, not fitted with a dispersion device, not refillable	2.1	UN 2037	Flammable Gas	—	1,2	1,2	
	Reducing liquid. See Flammable liquid preparation, n.o.s.							
	Refrigerant gases, n.o.s.	2.1	UN 1078	Flammable Gas	—	1	1	
	Release devices, explosive	2.2	UN 1078	Nonflammable Gas	—	1,2	1,2	
	Removing liquid. See Flammable liquid preparations, n.o.s.	1.4 S	UN 0173	None. Package to be marked '1.4 S'	—	1,3	1,3	
	Resin, solution in flammable liquid	3.2	UN 1866	Flammable Liquid	II	1,2	1	
	Rivets, explosive	3.3	UN 1866	Flammable Liquid	II	1,2	1,2	
	Road asphalt, liquid, tars or oil. See Cut-backs, asphalt or bitumen	1.4 S	UN 0174	None. Package to be marked '1.4 S'	—	1,3	1,3	
	Rodenticides, n.o.s.	6.1	UN 1681	Poison	I/II	1,2	1,2	Stow 'separate from' foodstuffs.
		6.1	UN 1681	St. Andrews Cross	III	1,2	1,2	Stow 'separate from' foodstuffs.
		9	UN 1681	None	III	1,2	1,2	Stow 'away from' foodstuffs
	Rosin oil	3.2	UN 1286	Flammable Liquid	III	1,2	1	
		3.3	UN 1286	Flammable Liquid	III	1,2	1,2	
	Rubber scrap, powdered or granulated	4.1	UN 1345	Flammable Solid	II	1,2	1,2	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identi- fication Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a) Cargo vessel	(b) Pas- senger vessel	(c) Other requirements
	Rubber shoddy. See Rubber scrap	3.2	UN 1287	Flammable Liquid	II	1,2	1	
	Rubber solution	3.3	UN 1287	Flammable Liquid	II	1,2	1,2	
	Rubidium, (metal)	4.3	UN 1423	Dangerous When Wet	I	1,2	5	
	Sand acid. See Fluosilicic acid							
	Seed cake, containing vegetable oil, mechanically expelled seeds, containing more than 10% of oil or more than 20% of oil and moisture combined	4.2	UN 1386	None. Package to be marked 'Class 4.2'	III	1,2	5	
	Seed cake, containing vegetable oil, solvent extractions and expelled seeds, containing not more than 10% of oil and, when the amount of moisture is higher than 10%, not more than 20% of oil and moisture combined	4.2	UN 1386	None. Package to be marked 'Class 4.2'	III	1,2	1,2	
	Seed cake, containing vegetable oil, solvent extractions containing not more than 1.5% of oil and 11% of moisture	4.2	UN 2217	None. Package to be marked 'Class 4.2'	III	1,2	1,2	
	Selenic acid	8	UN 1905	Corrosive	I	1,2	1,2	Keep dry
	Selenium hexafluoride	2.3	UN 2194	Poison Gas	—	1	5	Stow 'away from' living quarters
	Shale oil	3.2	UN 1288	Flammable Liquid	II	1,2	1	
		3.3	UN 1288	Flammable Liquid	II	1,2	1,2	
	Sheep dips, (poisonous), n.o.s.	6.1	UN 1682	Poison	I/II	1,2	1,2	Stow 'separate from' foodstuffs.
		6.1	UN 1682	St. Andrews Cross	III	1,2	1,2	Stow 'separate from' foodstuffs.
		9	UN 1682	None	III	1,2	1,2	Stow 'away from' foodstuffs.
	Shellac. See Paints, etc.							
	Signal devices, hand	1.4S	UN 0373	None. Package to be marked '1.4S'	—	1,3	1,3	
	Signal devices, smoke, without explosive sound unit	1.4 G	UN 0191	Explosive (1.4G)	—	1,3	1,3	
	Signals, smoke, without explosive sound unit	1.4 G	UN 0197	Explosive (1.4G)	—	1,3	1,3	
	Silane	2.3	UN 2203	Poison Gas, Flammable Gas	—	1	5	Shade from radiant heat. Stow 'away from' living quarters, 'separate from' oxidizers
	Silicofluoric acid. See Fluosilicic acid							
	Silicofluorides, solid, n.o.s.	6.1	(UN 2811)	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids
	Silicon chloride. See Silicon tetrachloride							
	Silicon powder, amorphous	4.1	UN 1346	Flammable Solid	III	1,2	1,2	
	Silicon tetrachloride	8	UN 1818	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Silicon tetrafluoride	2.3	UN 1859	Poison Gas, Corrosive	—	1	5	
	Silver arsenite	6.1	UN 1683	Poison	II	1,2	1,2	
	Silver cyanide	6.1	UN 1684	Poison	II	1,2	1,2	Stow 'away from' strong liquid acids
	Silver nitrate	5.1	UN 1493	Oxidizer	II	1,2	1,2	Stow 'away from' foodstuffs
	Sisal, dry. See Fibre, vegetable, dry							
	Sludge acid	8	UN 1906	Corrosive	II	1,2	1	Stow 'away from' fluorides. Metal drums only under deck
	Soda lime	8	UN 1907	Corrosive	III	1,2	1,2	Keep dry
	Sodium aluminate, solution	8	UN 1819	Corrosive	II	1,2	1,2	
	Sodium amalgam	4.3	UN 1424	Dangerous When Wet	I	1,2	1,2	
	Sodium amide	4.3	UN 1425	Dangerous When Wet	II	1,2	5	
	Sodium-ammonium-vanadate	6.1	UN 2863	Poison	II	1,2	1,2	
	Sodium arsenate	6.1	UN 2473	St. Andrews Cross	III	1,2	1,2	
	Sodium arsenite	6.1	UN 1685	Poison	II	1,2	1,2	
	Sodium arsenite, aqueous solutions	6.1	UN 1686	Poison	I/II	1,2	1,2	
	Sodium arsenite, solid	6.1	UN 1686	St. Andrews Cross	III	1,2	1,2	
	Sodium azide	6.1	UN 2027	Poison	II	1,2	1,2	Stow 'away from' oxidizers and organic peroxides
	Sodium bisulphate, solid. See Sodium hydrogen sulphate							
	Sodium bisulphate, solution. See Sodium hydrogen sulphite, solution							
	Sodium borohydride	4.3	UN 1426	Dangerous When Wet	I	1,2	5	
	Sodium bromate	5.1	UN 1494	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals, 'separate from' ammonium compounds
	Sodium cacodylate	6.1	UN 1688	Poison	II	1,2	1,2	Stow 'away from' acids
	Sodium chlorate	5.1	UN 1495	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals, 'separate from' ammonium compounds
	Sodium chlorite	5.1	UN 1496	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals, 'separate from' ammonium compounds
	Sodium chlorite, solution containing more than 5% available chlorine	8	UN 1908	Corrosive	II	1,2	1	Glass carboys in hampers not permitted under deck
	Sodium cuprocyanide, solid	6.1	UN 2316	Poison	I	1,2	1,2	Keep dry. Stow 'separate from' acids
	Sodium cyanide	6.1	UN 1689	Poison	I	1,2	1,2	Stow 'away from' acids
	Sodium dinitro-o-cresolate, wetted with not less than 10% of water	4.1	UN 1348	Flammable Solid, Poison	I	1	5	Stow 'away from' heavy metals and their compounds
	Sodium dinitro-o-cresolate, wetted with not less than 15% of water	4.1	UN 1348	Flammable Solid, Poison	I	1,2	5	Stow 'away from' heavy metals and their compounds
	Sodium dithionite	4.2	UN 1384	Spontaneously Combustible	II	1,2	1,2	New metal drums only under deck
	Sodium fluoride, solid	6.1	UN 1690	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids
	Sodium fluoride, solution	6.1	(UN 2810)	Poison	II	1,2	1,2	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identi- fication Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Storage Requirements		
						(a) Cargo vessel	(b) Pas- senger vessel	(c) Other requirements
	Sodium hydrate. See Sodium hydroxide, solution							
	Sodium hydride	4.3	UN 1427	Dangerous When Wet	I	1,2	5	
	Sodium hydrogen fluoride	8	UN 2439	Corrosive	II	1,2	1,2	Keep cool and dry
	Sodium hydrogen sulphate, containing more than 3% free acid	8	UN 1821	Corrosive	II	1,2	1,2	
	Sodium hydrogen sulphite, solution	8	UN 1909	Corrosive	II	1,2	1,2	
	Sodium hydrosulphide, solid	4.2	UN 2318	Spontaneously Combustible	II	1,2	1,2	
	Sodium hydroxide, solid	8	UN 1823	Corrosive	II	1,2	1,2	Keep dry
	Sodium hydroxide, solution	8	UN 1824	Corrosive	II	1,2	1,2	
	Sodium, (metal)	4.3	UN 1428	Dangerous When Wet	II	1,2	5	
	Sodium metal, dispersion in organic liquids	4.3	UN 1429	Dangerous When Wet	I	1,2	5	
	Sodium methylate	4.3	UN 1431	Dangerous When Wet	I	1,2	1	
	Sodium methylate, solutions in alcohol	3.2	UN 1289	Flammable Liquid	II	1,2	1	
		3.3	UN 1289	Flammable Liquid	II	1,2	1,2	
	Sodium monoxide	8	UN 1825	Corrosive	II	1,2	1,2	Keep dry
	Sodium nitrate	5.1	UN 1498	Oxidizer	III	1,2	1,2	
	Sodium nitrate and potash, mixture	5.1	UN 1478	Oxidizer	II	1,2	1,2	
	Sodium nitrate and potassium nitrate, mixtures	5.1	UN 1499	Oxidizer	III	1,2	1,2	
	Sodium nitrate bags, empty. See Bags, empty and unwashed, etc.							
	Sodium nitrite	5.1	UN 1500	Oxidizer	II	1,2	1,2	
	Sodium pentachlorophenate	6.1	UN 2567	Poison	II	1,2	1,2	
	Sodium perchlorate	5.1	UN 1502	Oxidizer	II	1,2	1,2	Stow 'away from' foodstuffs, 'separate from' ammonium compounds and cyanides. Paper bags prohibited on passenger vessels
	Sodium permanganate	5.1	UN 1503	Oxidizer	II	1,2	1,2	Stow 'separate from' ammonium compounds and hydrogen peroxide
	Sodium peroxide	5.1	UN 1504	Oxidizer	I	1,2	1	Keep dry. Stow 'away from' powdered metals, permanganates, and combustible packagings and cargo
	Sodium persulphate	5.1	UN 1505	Oxidizer	III	1,2	1,2	
	Sodium phenolate, solid	8	UN 2497	Corrosive	III	1,2	1,2	
	Sodium phosphide	4.3	UN 1432	Dangerous When Wet, Poison	I	1	5	
	Sodium picramate, wetted with not less than 20% of water	4.1	UN 1349	Flammable Solid	I	1,2	5	Stow 'away from' heavy metals and their compounds
	Sodium-potassium, alloy. See Potassium-sodium, alloy							
	Sodium silicofluoride, solid	6.1	UN 2674	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids
	Sodium sulphide, anhydrous or containing less than 30% water of crystallization	4.2	UN 1385	Spontaneously Combustible	II	1,2	1,2	Stow 'separate from' acids
	Sodium sulphide, hydrated, containing not less than 30% water of crystallization	9	UN 1849	None	II	1,2	1,2	Stow 'separate from' explosives and acids
	Solvents, (non-toxic), n.o.s.	3.2	UN 1998	Flammable Liquid	II	1,2	1	
		3.3	UN 1998	Flammable Liquid	II	1,2	1,2	
	Solvents, (toxic), n.o.s.	3.2	UN 1997	Flammable Liquid, Poison	II	1,2	1	
		3.3	UN 1997	Flammable Liquid, Poison	II	1,2	1,2	
	Spent mixed acid. See Acid mixtures, spent							
	Spirits of salts. See Hydrochloric acid							
	Squibs	1.4 S	UN 0206	None. Package to be marked '1.4 S'	-	1,3	1,3	
	Stains. See Paints, etc.							
	Stannic chloride, anhydrous	8	UN 1827	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Stannic chloride pentahydrate	8	UN 2440	Corrosive	III	1,2	1,2	Keep dry
	Stannic phosphides	4.3	UN 1433	Dangerous When Wet	I	1	5	
	Steel swarf. See Iron swarf							
	Stibine	2.3	(UN 1953)	Poison Gas, Flammable Gas	-	1	5	Stow 'away from' living quarters
	Straw	4.1	UN 1327	None	III	1,2	1,2	Stow 'away from' animal or vegetable oils
	Strike anywhere matches. See Matches, strike anywhere							
	Strontium, alloys, non-pyrophoric	4.3	UN 1434	Dangerous When Wet	II	1,2	5	
	Strontium arsenite	6.1	UN 1691	Poison	II	1,2	1,2	
	Strontium chlorate	5.1	UN 1506	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals, 'separate from' ammonium compounds
	Strontium nitrate	5.1	UN 1507	Oxidizer	III	1,2	1,2	
	Strontium perchlorate	5.1	UN 1508	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals
	Strontium peroxide	5.1	UN 1509	Oxidizer	II	1,2	1,2	Keep dry
	Strontium phosphide	4.3	UN 2013	Dangerous When Wet, Poison	I	1	5	
	Strontium, powdered. See Pyrophoric metals							
	Strychnine, and salts	6.1	UN 1692	Poison	I	1,2	1,2	
	Styrene monomer, inhibited	3.3	UN 2055	Flammable Liquid	II	1,2	1,2	
	Succinic acid peroxide, technical pure	5.2	UN 2135	Organic Peroxide	I	1	5	
	Sulphides, n.o.s.	4.2	-	Spontaneously Combustible	III	1	5	
	Sulphur chlorides	8	UN 1828	Corrosive	I	1	1	Keep dry. Glass carboys prohibited on passenger vessels

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identi- fication Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Storage Requirements		
						(a) Cargo vessel	(b) Pas- senger vessel	(c) Other requirements
	Sulphur dichloride. See Sulphur chlorides							
	Sulphur dioxide	2.3	UN 1079	Poison Gas	-	1,2	5	Stow 'away from' living quarters
	Sulphur hexafluoride	2.2	UN 1080	Nonflammable Gas	-	1,2	1,2	Protect from sparks and open flame. Stow 'separate from' oxidizing substances
	Sulphur, lump or powder	4.1	UN 1350	Flammable Solid	III	1,2	1,2	Stow 'separate from' oxidizers, 'away from' living quarters. Protect from sparks and open flame
	Sulphur, molten	4.1	UN 2448	Flammable Solid	III	1	1	
	Sulphur tetrafluoride	2.3	UN 2418	Poison Gas	-	1	5	Stow 'away from' living quarters
	Sulphur trioxide, stabilized	8	UN 1829	Corrosive	I	1,2	1,2	Keep dry. Glass bottles not permitted under deck. Stow 'away from' other corrosives except nitric and sulphuric acids
	Sulphuric acid, containing more than 51% acid	8	UN 1830	Corrosive	II	1,2	1	Stow 'away from' fluorides and all other corrosives except nitric acids, sulphur trioxide and other sulphuric acids
	Sulphuric acid, containing not more than 51% acid	8	UN 1830	Corrosive	II	1,2	1	Stow 'away from' fluorides. Glass carboys in hampers not permitted under deck
	Sulphuric acid, fuming	8	UN 1831	Corrosive	I	1,2	1	Stow 'away from' fluorides and all other corrosives except nitric acids, sulphur trioxide and other sulphuric acids
	Sulphuric acid, spent	8	UN 1832	Corrosive	II	1,2	1	Stow 'away from' fluorides. For concentrations of more than 51% acid, stow 'away from' all other corrosives except nitric acids, sulphur trioxide and other sulphuric acids
	Sulphuric and hydrofluoric acid, mixtures. See Acid mixtures, hydrofluoric and sulphuric							
	Sulphuric anhydride. See Sulphur trioxide, stabilized							
	Sulphurous acid	8	UN 1833	Corrosive	II	1,2	1	Glass carboys in hampers not permitted under deck
	Sulphuryl chloride	8	UN 1834	Corrosive	I	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Sulphuryl fluoride	2.2	UN 2191	Nonflammable Gas, Corrosive	-	1,2	5	Stow 'away from' living quarters
	T.E.L. See Motor fuel anti-knock mixtures							
	Tars, liquid. See Cut-backs, asphalt or bitumen							
	Tear gas candles, non-explosive	6.1	UN 1700	Poison	II	1	5	
	Tear gas grenades, non-explosive. See Tear gas candles							
	Tear gas, (irritating substances, liquid or solid), n.o.s.	6.1	UN 1693	Poison	I/II	1	5	
		6.1	UN 1693	St. Andrews Cross	III	1	5	
	Tellurium hexafluoride	2.3	UN 2195	Poison Gas	-	1	5	Stow 'away from' living quarters
	Tetrabromoethane. See Acetylene tetrabromide							
	1,1,2,2-Tetrachloroethane	6.1	UN 1702	Poison	II	1,2	1,2	
	Tetrachloroethylene	6.1	UN 1897	St. Andrews Cross	III	1,2	1,2	
	Tetraethyl dithiopyrophosphate, liquid and mixtures	6.1	UN 1704	Poison	I/II	1	5	
		6.1	UN 1704	St. Andrews Cross	III	1	5	
	Tetraethyl dithiopyrophosphate with gases, including solutions and mixtures thereof	6.1	UN 1703	Poison, Non-flammable Compressed Gas	I/II	1	5	
		6.1	UN 1703	St. Andrews Cross	III	1	5	
	Tetraethyl lead. See Motor fuel anti-knock mixtures							
	Tetraethyl pyrophosphate and compressed gas, mixture	6.1	UN 1705	Poison, Non-flammable Compressed Gas	I/II	1	5	Shade from radiant heat. Segregation same as for nonflammable gases
		6.1	UN 1705	St. Andrews Cross	III	1	5	Shade from radiant heat. Segregation same as for nonflammable gases
	Tetraethyl silicate	3.3	UN 1292	Flammable Liquid	II	1,2	1,2	Glass carboys prohibited on passenger vessels
	Tetraethylenepentamine	8	UN 2320	Corrosive	III	1,2	1,2	Stow 'away from' living quarters
	Tetrafluoroethylene, inhibited	2.2	UN 1081	Nonflammable Gas	-	1,2	1,2	Stow 'away from' living quarters and readily combustible substances, 'separate from' hydrogen
	Tetrafluorohydrazine	2.3	(UN 1955)	Poison Gas	-	11	5	
	Tetrafluoromethane	2.2	UN 1982	Nonflammable Gas	-	1,2	1,2	
	Tetrahydrofuran	3.1	UN 2056	Flammable Liquid	II	1,2	5	Keep cool
	Tetralin hydroperoxide, technical pure	5.2	UN 2136	Organic Peroxide	I	1	5	
	1,1,3,3-Tetramethyl butyl hydroperoxide, technical pure	5.2	UN 2160	Organic Peroxide	II	1	5	
	1,1,3,3-Tetramethyl butyl peroxy-2-ethyl hexanoate, technical pure	5.2	UN 2161	Organic Peroxide	I	1	5	Maximum transport temperature 20 deg C
	Tetramethylammonium hydroxide	8	UN 1835	Corrosive	II	1,2	1,2	
	Tetranitromethane	5.1	UN 1510	Oxidizer	I	1	5	Shade from radiant heat. Stow 'away from' foodstuffs
	Textile waste, (wet), n.o.s.	4.2	UN 1857	Spontaneously Combustible	III	1,2	1,2	
	Thallium chlorate	5.1	UN 2573	Oxidizer, POISON	II	1,2	1,2	
	Thallium compounds	6.1	UN 1707	Poison	II	1,2	1,2	
	Thinners. See Paints, etc.							
	Thinning liquid. See Flammable liquid preparations, n.o.s.							
	Thiocarbonyl chloride. See Thiophosgene							
	Thioglycolic acid	8	UN 1940	Corrosive	II	1,2	1,2	Glass carboys in hampers prohibited under deck
	Thionyl chloride	8	UN 1836	Corrosive	I	1	1	Keep dry. Glass carboys prohibited on passenger vessels

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identifi- cation Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a)	(b)	(c)
						Cargo vessel	Pass- enger vessel	Other requirements
	Thiophosgene	6.1	UN 2474	Poison	II	1,2	1	Stow 'away from' acids
	Thiophosphoryl chloride	8	UN 1837	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on pas- enger vessels
	Tin chloride, fuming. See Stannic chloride, anhydrous							
	Tin tetrachloride. See Stannic chloride, anhydrous							
	Tinctures, medicinal	3.2	UN 1293	Flammable Liquid	II	1,2	1	
	Titanium hydride	4.1	UN 1871	Flammable Solid	II	1,2	5	
	Titanium metal powder, dry	4.2	UN 2546	Spontaneously Combustible	II	1,2	5	
	Titanium metal powder, wet, with not less than 25% water (a visible excess of water must be present)	4.1	UN 1352	Flammable Solid	II	1,2	5	
	Titanium tetrachloride	8	UN 1838	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on pas- enger vessels
	Titanium trichloride	4.2	UN 2441	Spontaneously Combustible, Corrosive	II	1,2	1,2	
	Toe puffs, nitrocellulose base	4.1	UN 1353	Flammable Solid	III	1	5	
	Toluene	3.2	UN 1294	Flammable Liquid	II	1,2	1	
	Toluene diisocyanate (T.D.I.). See Isocyanates, with a boiling point below 300 deg C							
	Toluidines (o-, m-, p-)	6.1	UN 1708	Poison	II	1,2	1,2	Stow 'away from' acids
	2,4-Toluylenediamine	6.1	UN 1709	St. Andrews Cross	III	1,2	1,2	
	Tracers for ammunition	1.4 G	UN 0306	Explosive (1.4G)	-	1,3	1,3	
	Tributylamine	8	UN 2542	Corrosive	III	1,2	1,2	
	Trichloroacetic acid, solid	8	UN 1839	Corrosive	II	1,2	1,2	Keep dry
	Trichloroacetic acid, solutions	8	UN 2564	Corrosive	II	1,2	1	Glass carboys in hampers prohibited under deck
	Trichloroacetyl chloride	8	UN 2442	Corrosive	II	1	5	Keep dry
	Trichlorobenzene, liquid	6.1	UN 2321	St. Andrews Cross	III	1,2	1,2	
	Trichlorobutene	6.1	UN 2322	St. Andrews Cross	III	1,3	1,3	
	Trichloroethylene	6.1	UN 1710	St. Andrews Cross	III	1,2	1,2	Stow 'away from' sources of heat. Segrega- tion same as for flammable liquids
	Trichlorosilane	4.3	UN 1295	Dangerous When Wet, Flammable Liquid	I	1	5	
	Tricresylphosphate, with more than 3% ortho isomer	6.1	UN 2574	Poison	II	1,2	1,2	
	Triethylaluminum. See Aluminium triethyl							
	Triethylamine	3.2	UN 1296	Flammable Liquid	II	1,2	1	
	Triethylenetetramine	8	UN 2259	Corrosive	II	1,2	1	Stow 'separate from' nitric acid, 'away from' acids, copper and copper alloys and living quarters
	Trifluorobromomethane. See Bromotrifluoromethane							
	Trifluorochloroethane	2.2	UN 1983	Nonflammable Gas	-	1,2	1,2	
	Trifluorochloroethylene	2.1	UN 1082	Flammable Gas	-	1,2	1	Stow 'away from' living quarters
	Trifluorochloromethane. See Chlorotrifluoromethane							
	Trifluoroethane	2.1	UN 2035	Flammable Gas	-	1,2	1	Stow 'away from' living quarters
	Trifluoromethane	2.2	UN 1984	Nonflammable Gas	-	1,2	1,2	
	Triisobutyl aluminium	4.2	UN 1930	Spontaneously Combustible	I	1	1	
	Trimethylaluminum. See Aluminium trimethyl							
	Trimethylamine, anhydrous	2.1	UN 1083	Flammable Gas, Poison Gas	-	1	5	Stow 'away from' living quarters
	Trimethylamine, aqueous solutions containing not more than 30% of trimethylamine	3.2	UN 1297	Flammable Liquid	II	1,2	1	Stow 'away from' mercury and its com- pounds
	Trimethylchlorosilane	3.2	UN 1298	Flammable Liquid, Corrosive	I	1,2	1	
	Trimethylcyclohexylamine	8	UN 2326	Corrosive	III	1,2	1,2	Glass carboys prohibited on passenger vessels
	3,3,5-Trimethylhexamethylene diamine	8	UN 2327	Corrosive	III	1,2	1,2	Glass carboys prohibited on passenger vessels
	Trimethylhexamethylene diisocyanate	6.1	UN 2328	Poison	II	1,2	1	
	Trinitrobenzene, wetted with not less than 10% of water	4.1	UN 1354	Flammable Solid	I	1	5	Stow 'away from' heavy metals and their compounds
	Trinitrobenzoic acid, wetted with not less than 10% of water	4.1	UN 1355	Flammable Solid	I	1	5	Stow 'away from' heavy metals and their compounds
	Trinitrophenol, wetted. See Picric acid, wetted							
	Trinitrotoluene, wetted with not less than 10% of water	4.1	UN 1356	Flammable Solid	I	1	5	Stow 'away from' heavy metals and their compounds
	Tripropylene	3.2	UN 2057	Flammable Liquid	II	1,2	1	
	Tris-(1-aziridinyl)phosphine oxide, solution	3.3	UN 2057	Flammable Liquid	II	1,2	1,2	
	Tungsten hexafluoride	6.1	UN 2501	Poison	II	1,2	1,2	
	Turpentine	2.3	UN 2196	Poison Gas	-	1	5	Stow 'away from' living quarters
	Turpentine substitute	3.3	UN 1299	Flammable Liquid	III	1,2	1,2	
	U.D.M.H. See Dimethylhydrazine, unsymmetrical							
	Urea hydrogen peroxide	5.1	UN 1511	Oxidizer	III	1,2	1,2	Keep dry. Shade from radiant heat
	Urea nitrate, wetted with not less than 10% of water	4.1	UN 1357	Flammable Solid	I	1,2	1,2	
	Valeraldehyde	3.2	UN 2058	Flammable Liquid	II	1,2	1	
	Valeryl chlorides	8	UN 2502	Corrosive	II	1	1	Keep dry

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identifi- cation Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements		
						(a)	(b)	(c)
						Cargo vessel	Pass- enger vessel	Other requirements
	Vanadium oxitrichloride	8	UN 2443	Corrosive	II	1	1	Keep dry. Stow 'away from' organic com- pounds
	Vanadium pentoxide, non-fused form	6.1	UN 2862	Poison	II	1,2	1,2	
	Vanadium tetrachloride	8	UN 2444	Corrosive	I	1	1	Keep dry. Glass carboys prohibited on pas- enger vessels
	Vanadium trichloride	8	UN 2475	Corrosive	III	1,2	1,2	Keep dry
	Vanadium trioxide, non-fused form	6.1	UN 2860	Poison	II	1,2	1,2	
	Varnish. See Paints, etc.							
	Vinyl acetate, inhibited	3.2	UN 1301	Flammable Liquid	II	1,2	1	Stow 'away from' living quarters
	Vinyl bromide, inhibited	2.1	UN 1085	Flammable Gas	-	1,2	1	Stow 'away from' living quarters
	Vinyl chloride, inhibited	2.1	UN 1086	Flammable Gas	-	1,2	1	Stow 'away from' living quarters
	Vinyl ethyl ether, inhibited	3.1	UN 1302	Flammable Liquid	I	1,3	5	Keep cool
	Vinyl fluoride, inhibited	2.1	UN 1860	Flammable Gas	-	1,2	1	Stow 'away from' living quarters
	Vinyl isobutyl ether, inhibited	3.2	UN 1304	Flammable Liquid	II	1,2	1	
	Vinyl methyl ether, inhibited	2.1	UN 1087	Flammable Gas	-	1,2	1	Stow 'away from' living quarters
	Vinyl trichlorosilane, inhibited	3.2	UN 1305	Flammable Liquid, Corrosive	I	1,2	1	
	Water-gas	2.1	(UN 1953)	Flammable Gas, Poison Gas	(UN 1953)	1	5	Stow 'away from' living quarters
	White asbestos. See Asbestos, white							
	White phosphorus, dry. See Phosphorus, white or yellow, dry							
	White phosphorus, wet. See Phosphorus, white or yellow, in water							
	Wood alcohol. See Methanol							
	Wool waste, wet	4.2	UN 1387	Spontaneously Combustible	III	1,2	1,2	
	Xenon	2.2	UN 2036	Nonflammable Gas	-	1,2	1,2	
	Xylenes	3.2	UN 1307	Flammable Liquid	II	1,2	1,2	
	Xylenols	3.3	UN 1307	Flammable Liquid	II	1,2	1,2	
	Xylidines	6.1	UN 2261	Poison	II	1,2	1,2	Stow 'away from' acids
	Xylols. See Xylenes							
	Xylol bromide	6.1	UN 1711	Poison	II	1	5	
	Yellow phosphorus, dry. See Phosphorus, white or yellow, dry							
	Yellow phosphorus, wet. See Phosphorus, white or yellow, in water							
	Zinc arsenate and arsenite, solid mixtures	6.1	UN 1712	Poison	II	1,2	1,2	
	Zinc ashes	4.3	UN 1435	Dangerous When Wet	III	1,2	1,2	Stow 'away from' powdered metals, 'separate from' ammonium compounds
	Zinc chlorate	5.1	UN 1513	Oxidizer	II	1,2	1,2	Keep dry
	Zinc chloride, anhydrous	8	UN 2331	Corrosive	III	1,2	1,2	
	Zinc chloride, solution	8	UN 1840	Corrosive	III	1,2	1,2	
	Zinc cyanide	6.1	UN 1713	Poison	I	1,2	1,2	Stow 'away from' acids
	Zinc dithionite	9	UN 1931	None	III	1,2	1,2	Keep dry. Stow 'away from' acids
	Zinc ethyl. See Diethylzinc							
	Zinc nitrate	5.1	UN 1514	Oxidizer	II	1,2	1,2	
	Zinc permanganate	5.1	UN 1515	Oxidizer	II	1,2	1,2	Stow 'separate from' ammonium compounds and hydrogen peroxide
	Zinc peroxide	5.1	UN 1516	Oxidizer	II	1,2	1,2	Keep dry
	Zinc phosphide	6.1	UN 1714	Poison, Dangerous When Wet	II	1,2	1,2	Stow 'away from' acids and oxidizers
	Zinc, powder or dust, non-pyrophoric	4.3	UN 1436	Dangerous When Wet	II	1,2	1,2	
	Zinc, powder or dust, pyrophoric. See Pyrophoric metals							
	Zirconium hydride	4.1	UN 1437	Flammable Solid	II	1,2	5	
	Zirconium, metal, dry, coiled wire, finished metal sheets, strip (thinner than 18 microns)	4.2	UN 2009	Spontaneously Combustible	III	1	5	
	Zirconium, metal, dry coiled wire or finished metal sheets, strip (thin- ner than 254 microns but not thinner than 18 microns)	4.1	(UN 1325)	Flammable Solid	-	1,2	1,2	
	Zirconium, metal, dry, powder or sponge	4.2	UN 2008	Spontaneously Combustible	II	1	5	
	Zirconium metal powder, dry	4.2	UN 2008	Spontaneously Combustible	II	1	5	
	Zirconium metal powder, wet with not less than 25% water (a visible excess of water must be present)	4.1	UN 1358	Flammable Solid	II	1,2	5	
	Zirconium picramate, wetted with not less than 20% of water	5.1	UN 1517	Oxidizer	I	1	5	Stow 'away from' heavy metals and their salts
	Zirconium, scrap	4.2	UN 1932	Spontaneously Combustible	III	1	5	
	Zirconium, suspended in flammable liquid	3.1	UN 1308	Flammable Liquid	II	1	5	Keep cool
	Zirconium tetrachloride	8	UN 2503	Corrosive	III	1,2	1,2	Keep dry

6. § 172.201 paragraph (a)(4)(i) would be revised to read as follows:

§ 172.201 General entries.

(a) * * *

(i) When appropriate, the entries "IMCO" or "IMCO Class" may be entered immediately before or immediately following the class entry in the basic description.

PART 176—CARRIAGE BY VESSEL

7. In § 176.11 paragraph (f) would be added to read as follows:

§ 176.11 Exceptions.

(f) The stowage requirements of § 172.101 of this subchapter notwithstanding, a hazardous material which is classed, labeled and described in accordance with § 172.102 may be stowed as provided in that section.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1, and paragraph (a)(4) of App. A, Part 106).

Note.—The Materials Transportation Bureau has determined that this proposed regulation will not have a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (43 FR 9582) nor an environmental impact which would require the preparation of an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation is available for review in the Docket.

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Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

- HOUSING AND URBAN DEVELOPMENT DEPARTMENT**
Office of Assistant Secretary for Community Planning and Development—
37478 6-26-78 / Community development block grants; Small Cities program
- JUSTICE DEPARTMENT**
Drug Enforcement Administration—
40888 7-13-79 / Determination of schedules for preparations containing narcotic drugs
- POSTAL SERVICE**
37229 6-26-79 / American Samoa; mail security regulations

List of Public Laws**Last Listing July 24, 1979**

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

H.R. 3978 / Pub. L. 96-37 To amend the Federal Trade Commission Act to exempt savings and loan institutions from the application of certain provisions contained in such Act (July 23, 1979; 93 Stat. 95) Price \$.75

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_____	Title 12—Banks and Banking (Parts 1 to 199)	6.00	_____
		Total Order	\$ _____

[A Cumulative checklist of CFR issuances for 1978 appears in the first issue of the Federal Register each month under Title 1. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected)]

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Book 2 of 2 Books
Thursday, July 26, 1979

Part III—HUD:
Amendment of Fair Market Rent Schedules and
Rent Adjustment Provisions

Part IV—EPA:
Proposed Health Effects Test Standards for Toxic
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Registered Federal Real Estate

Thursday
July 26, 1979

Part III

Department of Housing and Urban Development

Office of Assistant Secretary for
Housing—Federal Housing Commissioner

Amendment of Fair Market Rent
Schedules and Rent Adjustment
Provisions

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**Office of Assistant Secretary for Housing—Federal Housing Commissioner****24 CFR Parts 803, 882, and 888****[Docket No. R-79-670]****Amendment of Fair Market Rent Schedules and Rent Adjustment Provisions****AGENCY:** Department of Housing and Urban Development (HUD).**ACTION:** Final rule.

SUMMARY: HUD is amending the schedules that set forth the Fair Market Rents for the Section 23 and Section 8 Housing Assistance Payments Programs for Existing Housing. The amended schedules are based on a new methodology utilizing the median rents derived from the most recent Annual Housing Survey (AHS) data of units meeting Section 8 program standards and rented by recent movers. HUD updates these median rents to October 1, 1979 by using a rent inflation factor based on the Consumer Price Indexes (CPI) for rents and utilities. HUD recalculated the schedule for all market areas in the United States and published them for comment on June 22, 1979. Fair Market Rents reflect the average rents currently being charged for available standard units in the applicable county or Standard Metropolitan Statistical Area (SMSA).

HUD also is amending the provisions governing rent adjustments in the Section 8 Existing Housing Program in light of the new methodology for establishing Fair Market Rents.

EFFECTIVE DATE: October 1, 1979 retroactive to March 29, 1979.

FOR FURTHER INFORMATION CONTACT: Nancy S. Chisholm, Director, Economic and Market Analysis Division, PD&R, HUD, Washington, D.C. 20410, 202-755-4977. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: HUD gave notice on June 22, 1979, at 42 FR 36698, that it was proposing to amend Title 24 of the Code of Federal Regulations by revising Part 803, Schedule B and Part 888, Schedule B to amend the schedules that set forth Fair Market Rents (FMRs) under the Section 8 and Section 23 Housing Assistance Payments Programs for Existing Housing. HUD also proposed to amend the rent adjustment provisions of Part 882. Interested parties were given until

July 23, 1979 to submit written comments.

Later Consideration of Comments

HUD recognizes that there is an immediate need to revise the schedules to reflect changes in market conditions since the last general revision to the Fair Market Rent Schedules was published on March 29, 1978.

To avoid additional delay, HUD has determined to publish for effect the schedules as published for comment on June 22, 1979. *Even though the FMRs are being published for effect, all comments received will be carefully considered, and the Fair Market Rent Schedules will be amended in the near future for those market areas for which HUD determines amendments are warranted.* This procedure is necessary because: (1) The large volume of comments received on the proposed Fair Market Rent Schedules makes a rapid analysis impractical, and (2) In many cases, additional justification and/or verification from HUD field offices of the data submitted is necessary prior to publication of revised schedules.

Retroactive Effect

Since the U.S. Housing Act of 1937, as amended, requires that HUD revise FMRs annually, the revised FMR schedules are retroactive to March 29, 1979, the anniversary date of the last general revision. Annual rent adjustments and the Public Housing Agency PHA administrative fees shall be computed retroactive to the anniversary date of their Contract on or after March 29, 1979. However, rents for Contracts executed since March 29, 1979 do not qualify for a revision at this time. There is no justification to increase these latter rents prior to the annual anniversary date since the owners agreed to enter into Contract under the outstanding FMR limitations.

FMR Hold Harmless

In an SMSA or county where previously published FMRs were equal to or higher than the AHS based rents calculated for 1979, the previous FMRs were not reduced. They remain in effect and are published in the current schedule. These "hold harmless" FMRs will be retained at their present level until the use of the AHS methodology results in FMR determinations which are higher than those previously approved.

For areas where the FMRs are held harmless, two numbers will be shown on the current revised schedule: the top number is the approved FMR and the bottom number indicates the dollar difference between the FMR and the

AHS based rent derivation. For example, if the previously published FMR for a two-bedroom non-elevator unit in an SMSA was \$270 and the subsequent AHS based rent calculation is \$250, the top number is the Hold Harmless FMR of \$270 and the bottom number is the \$20 difference. Since elevator FMRs are eliminated by this publication, any new Contracts for elevator units must be at the FMR as published herein.

Rent Adjustments

Another result of the change in the method for establishing Fair Market Rents proposed by the June 22, 1979 publication is that the Fair Market Rents will not be increased this year in some areas and therefore some owners would not be eligible for an adjustment of Contract Rents this year and perhaps for several years. The Department recognizes that a policy which does not permit an adjustment to reflect increased rental costs might result in the eviction of a significant number of assisted families. Therefore, in the June 22, 1979 publication, HUD proposed to amend § 882.108 of the Section 8 Existing Regulations to permit Contract Rent Adjustments as follows:

The annual adjustment permitted may not exceed the greater of:

(a) For Contracts entered into before January 29, 1979, the amount computed by applying the percentage change in Fair Market Rents or for Contracts entered into on or after January 29, 1979, the amount computed by applying the Annual Adjustment Factor subject in either case to the Fair Market Rent limitation.

OR

(b) 50 percent of the amount resulting from applying the applicable factor without regard to the Fair Market Rent limitation.

HUD has now determined that the rent adjustment policy proposed in the June 22 publication could be confusing to owners as well as to Public Housing Agencies administering the program. Therefore, HUD has determined to simplify the procedure by permitting all Contract Rent Adjustments to be made without regard to the FMR limitation in § 882.106(a).

Therefore, § 882.108 is being amended to permit annual adjustment as follows:

(a) For Contracts entered into on or after January 29, 1979, the amount computed by applying the Annual Adjustment Factor.

(b) For Contracts entered into before January 29, 1979, the greater of the amount computed by applying the

percentage change in Fair Market Rent or the amount computed by applying the applicable Annual Adjustment Factor.

For Contracts where the rent adjustment is based on the percentage change in FMRs, PHAs should take particular care in applying the rent reasonableness test which continues to apply in all cases. This is especially important in areas where the increase in FMRs is significantly larger than the Annual Adjustment Factor. In these cases, PHAs should consider the amount of increase which would result from application of the Annual Adjustment Factor in determining whether the rent is reasonable.

NEPA

The Department has determined that these regulations do not constitute a major Federal action significantly affecting the quality of the human environment. Accordingly, a Finding of Inapplicability of Environmental Impact has been prepared and is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, at the address specified above. Accordingly, 24 CFR Chapter VIII is revised to read as follows:

1. Section 882.108(a) is revised to read:

§ 882.108 Rent adjustments.

(a) Contract Rents shall be adjusted as provided in paragraphs (a) (1) and (2) of this section upon request to the PHA by the owner. However, the unit must be in Decent, Safe and Sanitary condition and the owner must otherwise be in compliance with the terms of the lease and the Contract. Subject to the foregoing and § 882.106(b) (the rent reasonableness limitations) adjustments to Contract Rents shall be as follows:

(1) *Annual Adjustments.* (i) Notwithstanding any Contract provisions to the contrary, annual adjustments as of any anniversary date shall be determined as follows:

(A) For a Contract entered into on or after January 29, 1979, the applicable Section 8 Annual Adjustment Factor (24 CFR Part 888, Schedule C) most recently published by HUD in the Federal Register;

(B) For a Contract entered into before January 29, 1979, the greater of the percent change in the applicable published Existing Housing Fair Market Rent (with appropriate reduction in the adjustment where utilities are paid directly by the Family); or the applicable Annual Adjustment Factor;

(ii) Adjustments under paragraph (a)(1) shall only be approved if the owner has the legal right to terminate the tenancy on the anniversary date.

Contract Rents may be adjusted upward or downward, as may be appropriate. However, in no case shall the adjusted rent be less than the Contract Rent on the effective date of the Contract.

This notice of Final rulemaking is issued under the authority of section 7(d), Department of HUD Act (42 U.S.C. 3535(d)); Section 5(b) of the U.S. Housing Act of 1937 (42 U.S.C. 1437c(b)).

Issued in Washington, D.C., July 18, 1979.

Lawrence B. Simons,
Assistant Secretary for Housing—Federal Housing Commissioner.

BILLING CODE 4210-01-M

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOSTON, MASSACHUSETTS AREA OFFICE					
SMSA: LEWISTON-AUBURN, ME	151	171	203	234	256
SMSA PART: ANDROSCOGGIN STATE: ME	13	4	6	8	
SMSA: PORTLAND, ME	171	201	237	278	326
SMSA PART: CUMBERLAND STATE: ME	33	34	40	52	70
SMSA PART: YORK STATE: ME	171	201	237	278	326
SMSA PART: YORK STATE: ME	33	34	40	52	70
NON SMSA					
NON SMSA PART: ANDROSCOGGIN STATE: ME	151	180	212	244	276
COUNTY: AROOSTOOK STATE: ME	155	183	216	238	260
COUNTY: AROOSTOOK STATE: ME	34	36	43	38	34
NON SMSA PART: CUMBERLAND STATE: ME	151	180	212	244	276
COUNTY: FRANKLIN STATE: ME	141	162	191	211	231
COUNTY: FRANKLIN STATE: ME	18	12	15	8	2
COUNTY: HANCOCK STATE: ME	141	162	191	211	231
COUNTY: HANCOCK STATE: ME	20	15	18	11	5
COUNTY: KENNEBEC STATE: ME	151	171	203	224	245
COUNTY: KENNEBEC STATE: ME	28	21	27	21	16
COUNTY: KNOX STATE: ME	141	162	191	211	231
COUNTY: KNOX STATE: ME	18	12	15	8	2
COUNTY: LINCOLN STATE: ME	141	162	191	211	231
COUNTY: LINCOLN STATE: ME	18	12	15	8	2
BOSTON, MASSACHUSETTS AREA OFFICE					
NON SMSA					
COUNTY: OXFORD STATE: ME	141	162	191	211	231
COUNTY: OXFORD STATE: ME	18	12	15	8	2
COUNTY: PENOBSCOT STATE: ME	151	171	203	224	245
COUNTY: PENOBSCOT STATE: ME	30	24	30	24	19
COUNTY: PISCATAQUIS STATE: ME	141	162	191	211	231
COUNTY: PISCATAQUIS STATE: ME	20	15	18	11	5
COUNTY: SAGadahoc STATE: ME	151	171	203	224	245
COUNTY: SAGadahoc STATE: ME	28	21	27	21	16
COUNTY: SOMERSET STATE: ME	141	162	191	211	231
COUNTY: SOMERSET STATE: ME	18	12	15	8	2
COUNTY: WALDO STATE: ME	141	162	191	211	231
COUNTY: WALDO STATE: ME	20	15	18	11	5
COUNTY: WASHINGTON STATE: ME	141	162	191	211	231
COUNTY: WASHINGTON STATE: ME	20	15	18	11	5
NON SMSA PART: YORK STATE: ME	151	180	212	244	276
NON SMSA PART: YORK STATE: ME	3				
SMSA: BOSTON, MA	235	266	316	364	411
SMSA PART: ESSEX STATE: MA	30	17	23	27	30
SMSA PART: MIDDLESEX STATE: MA	235	266	316	364	411
SMSA PART: MIDDLESEX STATE: MA	30	17	23	27	30
SMSA PART: NORFOLK STATE: MA	235	266	316	364	411
SMSA PART: NORFOLK STATE: MA	30	17	23	27	30

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOSTON, MASSACHUSETTS AREA OFFICE					
SMSA: BOSTON, MA	235	266	316	364	411
SMSA PART: PLYMOUTH STATE: MA	30	17	23	27	30
COUNTY: SUFFOLK STATE: MA	235	266	316	364	411
COUNTY: SUFFOLK STATE: MA	30	17	23	27	30
SMSA: BROCKTON, MA	184	223	262	302	341
SMSA PART: BRISTOL STATE: MA					
SMSA PART: NORFOLK STATE: MA	184	223	262	302	341
SMSA PART: PLYMOUTH STATE: MA	184	223	262	302	341
SMSA: FALL RIVER, MA-RI	164	197	231	266	301
SMSA PART: BRISTOL STATE: MA	2				
SMSA: FITCHBURG-LEMINSTER, MA	164	197	231	266	301
SMSA PART: MIDDLESEX STATE: MA	2				
SMSA PART: WORCESTER STATE: MA	164	197	231	266	301
SMSA PART: WORCESTER STATE: MA	2				
SMSA: LAWRENCE-HAVERHILL, MA-NH	190	223	262	316	354
SMSA PART: ESSEX STATE: MA	6			14	18
SMSA: LOWELL, MA-NH	216	246	289	334	365
SMSA PART: MIDDLESEX STATE: MA	54	49	58	68	64
BOSTON, MASSACHUSETTS AREA OFFICE					
SMSA: NEW BEDFORD, MA	164	197	231	266	301
SMSA PART: BRISTOL STATE: MA	2				
SMSA PART: PLYMOUTH STATE: MA	164	197	231	266	301
SMSA PART: PLYMOUTH STATE: MA	2				
SMSA: PITTSFIELD, MA	164	188	221	255	278
SMSA PART: BERKSHIRE STATE: MA	40	37	44	51	47
SMSA: PROVIDENCE-WARWICK-PAWTUCKET, RI-MA	164	193	234	269	304
SMSA PART: BRISTOL STATE: MA					
SMSA PART: NORFOLK STATE: MA	164	199	234	269	304
SMSA PART: WORCESTER STATE: MA	164	199	234	269	304
SMSA PART: WORCESTER STATE: MA					
SMSA: SPRINGFIELD-CHICPEE-HOLYOKE, MA-CT	181	220	259	298	337
SMSA PART: HAMPDEN STATE: MA					
SMSA PART: HAMPSHIRE STATE: MA	181	220	259	298	337
SMSA PART: HAMPSHIRE STATE: MA					
SMSA PART: WORCESTER STATE: MA	181	220	259	298	337
SMSA PART: WORCESTER STATE: MA					
SMSA: WORCESTER, MA	198	226	264	304	333
SMSA PART: WORCESTER STATE: MA	59	57	65	75	74

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOSTON, MASSACHUSETTS AREA OFFICE					
NON SMSA					
COUNTY: BARNSTABLE	219	245	295	332	369
STATE: MA	59	50	66	69	71
NON SMSA PART: BERKSHIRE	164	197	231	266	301
STATE: MA	2				
NON SMSA PART: BRISTOL	164	197	231	266	301
STATE: MA	2				
COUNTY: DUKES	219	245	295	332	369
STATE: MA	59	50	66	69	71
NON SMSA PART: ESSEX	184	223	262	302	341
STATE: MA					
COUNTY: FRANKLIN	172	202	238	274	309
STATE: MA	6				
NON SMSA PART: HAMPDEN	164	197	231	266	301
STATE: MA	2				
NON SMSA PART: HAMPSHIRE	164	197	231	266	301
STATE: MA	2				
NON SMSA PART: MIDDLESEX	180	205	242	278	304
STATE: MA	18	8	11	12	3
COUNTY: NANTUCKET	160	195	229	263	298
STATE: MA					
NON SMSA PART: NORFOLK	180	205	242	278	304
STATE: MA	18	8	11	12	3
NON SMSA PART: PLYMOUTH	167	197	231	266	303
STATE: MA	5				2
BOSTON, MASSACHUSETTS AREA OFFICE					
NON SMSA					
NON SMSA PART: WORCESTER	164	197	231	266	301
STATE: MA	2				
COUNTY: ADDISON	167	191	227	275	297
STATE: VT	38	34	42	62	56
COUNTY: BENNINGTON	167	191	227	275	297
STATE: VT	43	40	50	71	66
COUNTY: CALEDONIA	153	182	215	259	284
STATE: VT	24	25	30	46	43
COUNTY: CHITTENDEN	167	191	233	291	313
STATE: VT	38	34	48	78	72
COUNTY: ESSEX	146	167	196	217	241
STATE: VT	17	10	11	4	
COUNTY: FRANKLIN	153	182	215	259	284
STATE: VT	24	25	30	46	43
COUNTY: GRAND ISLE	153	182	215	259	284
STATE: VT	24	25	30	46	43
COUNTY: LAMOILLE	146	167	196	217	241
STATE: VT	17	10	11	4	
COUNTY: ORANGE	153	182	215	259	284
STATE: VT	24	25	30	46	43
COUNTY: ORLEANS	153	182	215	259	284
STATE: VT	24	25	30	46	43
COUNTY: RUTLAND	167	191	227	275	297
STATE: VT	38	34	42	62	56

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOSTON, MASSACHUSETTS AREA OFFICE					
NON SMSA					
COUNTY: WASHINGTON	153	182	215	259	284
STATE: VT	24	25	30	46	43
COUNTY: WINDHAM	167	202	238	275	309
STATE: VT	1			1	
COUNTY: WINDSOR	167	191	227	275	297
STATE: VT	38	34	42	62	56
SMSA: LAWRENCE-HAVENHILL, MA-NH	190	223	262	316	359
SMSA PART: ROCKINGHAM	5			14	18
STATE: NH					
SMSA: LOWELL, MA-NH	216	246	289	334	365
SMSA PART: HILLSBOROUGH	54	49	58	68	64
STATE: NH					
SMSA: MANCHESTER, NH	175	218	260	316	359
SMSA PART: HILLSBOROUGH	31	43	54	79	91
STATE: NH					
SMSA: MERRIMACK	175	218	260	316	359
STATE: NH	31	43	54	79	91
SMSA: ROCKINGHAM	175	218	260	316	359
STATE: NH	31	43	54	79	91
SMSA: NASHUA, NH	175	218	260	316	359
SMSA PART: HILLSBOROUGH	18	27	35	57	66
STATE: NH					
NON SMSA					
COUNTY: BELKNAP	159	181	215	248	271
STATE: NH	15	6	9	11	3
BOSTON, MASSACHUSETTS AREA OFFICE					
NON SMSA					
COUNTY: CARROLL	144	175	206	237	268
STATE: NH					
COUNTY: CHESHIRE	167	202	238	274	309
STATE: NH	1				
COUNTY: COOS	146	167	196	217	241
STATE: NH	17	10	11	4	
COUNTY: GRAFTON	146	167	196	217	241
STATE: NH	17	10	11	4	
NON SMSA PART: HILLSBOROUGH	159	191	225	259	293
STATE: NH	2				
NON SMSA PART: MERRIMACK	159	191	225	259	293
STATE: NH	2				
NON SMSA PART: ROCKINGHAM	159	181	215	248	271
STATE: NH	15	6	9	11	3
COUNTY: STRAFFORD	159	181	215	238	259
STATE: NH	36	31	39	35	30
COUNTY: SULLIVAN	159	181	215	238	259
STATE: NH	30	24	30	25	18
SMSA: FALL RIVER, MA-RI	164	197	231	266	301
SMSA PART: NEWPORT	2				
STATE: RI					
SMSA: NEW LONDON-NORWICH, CT-RI	160	195	229	263	298
SMSA PART: WASHINGTON					
STATE: RI					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOSTON, MASSACHUSETTS AREA OFFICE					
SMSA: PROVIDENCE-WARWICK-PAWTUCKET, RI-MA					
SMSA PART: BRISTOL STATE: RI	164	199	234	269	304
SMSA PART: KENT STATE: RI	164	199	234	269	304
SMSA PART: NEWPORT STATE: RI	164	199	234	269	304
SMSA PART: PROVIDENCE STATE: RI	164	199	234	269	304
SMSA PART: WASHINGTON STATE: RI	164	199	234	269	304
NON SMSA					
NONSMSA PART: KENT STATE: RI	164 2	197	231	266	301
NONSMSA PART: NEWPORT STATE: RI	160	195	229	263	298
NONSMSA PART: PROVIDENCE STATE: RI	164 2	197	231	266	301
NONSMSA PART: WASHINGTON STATE: RI	160	195	229	263	298
HARTFORD, CONNECTICUT AREA OFFICE					
SMSA: BRIDGEPORT, CT					
SMSA PART: FAIRFIELD STATE: CT	184	224	264	303	343
SMSA PART: NEW HAVEN STATE: CT	184	224	264	303	343
SMSA: BRISTOL, CT					
SMSA PART: HARTFORD STATE: CT	177 2	213	251	289	326
SMSA PART: LITCHFIELD STATE: CT	177 2	213	251	289	326
SMSA: DANBURY, CT					
SMSA PART: FAIRFIELD STATE: CT	169 3	202	238	274	309
SMSA PART: LITCHFIELD STATE: CT	169 3	202	238	274	309
SMSA: HARTFORD, CT					
SMSA PART: HARTFORD STATE: CT	207	251	295	339	383
SMSA PART: LITCHFIELD STATE: CT	207	251	295	339	383
SMSA PART: MIDDLESEX STATE: CT	207	251	295	339	383
SMSA PART: NEW LONDON STATE: CT	207	251	295	339	383
SMSA PART: TOLLAND STATE: CT	207	251	295	339	383

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
HARTFORD, CONNECTICUT AREA OFFICE					
SMSA: MERIDEN, CT					
SMSA PART: NEW HAVEN STATE: CT	167 1	202	238	274	309
SMSA: NEW BRITAIN, CT					
SMSA PART: HARTFORD STATE: CT	177 2	213	251	289	326
SMSA: NEW HAVEN-WEST HAVEN, CT					
SMSA PART: MIDDLESEX STATE: CT	163 17	210 8	239 1	277 3	318 9
SMSA PART: NEW HAVEN STATE: CT	183 17	210 8	239 1	277 3	318 9
SMSA: NEW LONDON-NORWICH, CT-RI					
SMSA PART: MIDDLESEX STATE: CT	160	195	229	263	298
SMSA PART: NEW LONDON STATE: CT	160	195	229	263	298
SMSA: NORWALK, CT					
SMSA PART: FAIRFIELD STATE: CT	184	224	264	303	343
SMSA: SPRINGFIELD-CHICOFEE-HOLYOKE, MA-CT					
SMSA PART: TOLLAND STATE: CT	181	220	259	298	337
SMSA: STAMFORD, CT					
SMSA PART: FAIRFIELD STATE: CT	221 37	284 60	328 64	389 86	418 75
SMSA: WATERBURY, CT					
SMSA PART: LITCHFIELD STATE: CT	167 1	202	238	274	309
HARTFORD, CONNECTICUT AREA OFFICE					
SMSA: WATERBURY, CT					
SMSA PART: NEW HAVEN STATE: CT	167 1	202	238	274	309
NON SMSA					
NONSMSA PART: FAIRFIELD STATE: CT	169 3	202	238	274	309
NONSMSA PART: HARTFORD STATE: CT	177 2	213	251	289	326
NONSMSA PART: LITCHFIELD STATE: CT	156	189	222	256	289
NONSMSA PART: MIDDLESEX STATE: CT	156	189	222	256	289
NONSMSA PART: NEW HAVEN STATE: CT	167 1	202	238	274	309
NONSMSA PART: NEW LONDON STATE: CT	160	195	229	263	298
NONSMSA PART: TOLLAND STATE: CT	160	195	229	263	298
COUNTY: WINDHAM STATE: CT	160	195	229	263	298

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BUFFALO, NEW YORK AREA OFFICE					
SMSA: ALBANY-SCHENECTADY-TROY, NY					
COUNTY:ALBANY STATE:NY	173	210	247	284	321
COUNTY:MONTGOMERY STATE:NY	173	210	247	284	321
COUNTY:RENSSELAER STATE:NY	173	210	247	284	321
COUNTY:SARATOGA STATE:NY	173	210	247	284	321
COUNTY:SCHENECTADY STATE:NY	173	210	247	284	321
SMSA: BINGHAMTON, NY-PA					
COUNTY:BROOME STATE:NY	150 20	173 15	205 19	247 33	285 43
COUNTY:TIOGA STATE:NY	150 20	173 15	205 19	247 33	285 43
SMSA: SYRACUSE, NY					
COUNTY:MADISON STATE:NY	158 1	191	225	259	293
COUNTY:ONONDAGA STATE:NY	158 1	191	225	259	293
COUNTY:OSWEGO STATE:NY	158 1	191	225	259	293
SMSA: UTICA-ROME, NY					
COUNTY:HERKIMER STATE:NY	151 26	172 20	204 25	243 37	280 48
BUFFALO, NEW YORK AREA OFFICE					
SMSA: UTICA-ROME, NY					
COUNTY:ONEIDA STATE:NY	151 26	172 20	204 25	243 37	280 48
NON SMSA					
COUNTY:CAYUGA STATE:NY	152	185	217	250	283
COUNTY:CHENANGO STATE:NY	142 13	165 9	197 13	227 16	251 12
COUNTY:CLINTON STATE:NY	121	147	173	200	226
COUNTY:COLUMBIA STATE:NY	124	151	177	204	231
COUNTY:CORTLAND STATE:NY	152	185	217	250	283
COUNTY:DELAWARE STATE:NY	129	156	184	211	239
COUNTY:ESSEX STATE:NY	132 11	152 5	180 7	200	226
COUNTY:FRANKLIN STATE:NY	113	138	162	186	211
COUNTY:FULTON STATE:NY	121	147	173	200	226
COUNTY:GREENE STATE:NY	147 23	168 17	200 23	222 18	245 14

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CG), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BUFFALO, NEW YORK AREA OFFICE					
NON SMSA					
COUNTY:HAMILTON STATE:NY	121	147	173	200	226
COUNTY:JEFFERSON STATE:NY	113	138	162	186	211
COUNTY:LEWIS STATE:NY	113	138	162	186	211
COUNTY:OTSEGO STATE:NY	129	156	184	211	239
COUNTY:ST. LAWRENCE STATE:NY	113	138	162	186	211
COUNTY:SCHENECTADY STATE:NY	121	147	173	200	226
COUNTY:TOMPKINS STATE:NY	152	185	217	250	283
COUNTY:WARREN STATE:NY	128 7	162 15	189 16	209 9	228 2
COUNTY:WASHINGTON STATE:NY	132 11	152 5	180 7	200	226
SMSA: BUFFALO, NY					
COUNTY:ERIE STATE:NY	158 3	188	221	254	287
COUNTY:NIAGARA STATE:NY	158 3	188	221	254	287
BUFFALO, NEW YORK AREA OFFICE					
SMSA: ELMIRA, NY					
COUNTY:CHEMUNG STATE:NY	129	156	184	211	239
SMSA: ROCHESTER, NY					
COUNTY:LIVINGSTON STATE:NY	198	241	284	326	369
COUNTY:MONROE STATE:NY	198	241	284	326	369
COUNTY:ONTARIO STATE:NY	198	241	284	326	369
COUNTY:ORLEANS STATE:NY	198	241	284	326	369
COUNTY:WAYNE STATE:NY	198	241	284	326	369
NON SMSA					
COUNTY:ALLEGANY STATE:NY	113	138	162	186	211
COUNTY:CATTARAUGUS STATE:NY	113	140 2	168 6	186	211
COUNTY:CHAUTAUQUE STATE:NY	139 26	174 36	206 44	233 47	258 47
COUNTY:GENESE STATE:NY	149 36	171 33	204 42	226 40	250 39
COUNTY:SCHUYLER STATE:NY	140 11	160 4	192 8	212 1	239

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BUFFALO, NEW YORK AREA OFFICE NON SMSA					
COUNTY: SENECA STATE: NY	152	185	217	250	283
COUNTY: STEUBEN STATE: NY	140 11	160 4	192 6	212 1	239
COUNTY: WYOMING STATE: NY	113	138	162	186	211
COUNTY: Yates STATE: NY	152	185	217	250	283
NEW YORK, NEW YORK AREA OFFICE SMSA: NASSAU-SUFFOLK, NY					
COUNTY: NASSAU STATE: NY	239 57	302 81	353 93	414 115	477 139
COUNTY: SUFFOLK STATE: NY	239 57	302 81	353 93	414 115	477 139
SMSA: NEW YORK CITY, NY-NJ					
COUNTY: BRONX STATE: NY	214	260	306	352	398
COUNTY: KINGS STATE: NY	214	260	306	352	398
COUNTY: NEW YORK STATE: NY	214	260	306	352	398
COUNTY: PUTNAM STATE: NY	214	260	306	352	398
COUNTY: QUEENS STATE: NY	214	260	306	352	398
COUNTY: RICHMOND STATE: NY	214	260	306	352	398
COUNTY: ROCKLAND STATE: NY	214	260	306	352	398
COUNTY: WESTCHESTER STATE: NY	214	260	306	352	398
SMSA: Poughkeepsie, NY COUNTY: DUTCHESS STATE: NY	174	211	248	286	323

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NEW YORK, NEW YORK AREA OFFICE NON SMSA					
COUNTY: ORANGE STATE: NY	166	201	237	272	308
COUNTY: SULLIVAN STATE: NY	166	201	237	272	308
COUNTY: ULSTER STATE: NY	166	201	237	272	308
NEWARK, NEW JERSEY AREA OFFICE SMSA: ATLANTIC CITY, NJ					
COUNTY: ATLANTIC STATE: NJ	135	164	193	222	251
SMSA: PHILADELPHIA, PA-NJ					
COUNTY: BURLINGTON STATE: NJ	209	253	298	343	387
COUNTY: CAMDEN STATE: NJ	209	253	298	343	387
COUNTY: GLOUCESTER STATE: NJ	209	253	298	343	387
SMSA: TRENTON, NJ					
COUNTY: MERCER STATE: NJ	153	186	219	251	284
SMSA: VINELAND-MILVILLE-BRIDGETON, NJ					
COUNTY: CUMBERLAND STATE: NJ	159 24	180 16	213 20	247 25	270 19
SMSA: WILMINGTON, DE-PA MD					
COUNTY: SALEM STATE: NJ	207	251	295	340	384
NON SMSA					
COUNTY: CAPE MAY STATE: NJ	184 23	210 14	250 20	276 11	304 5
COUNTY: OCEAN STATE: NJ	211 50	225 29	267 37	297 32	326 27
SMSA: ALLENTOWN-BETHLEHEM-EASTON, PA-NJ					
COUNTY: WARREN STATE: NJ	179 2	215	253	291	329

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NEWARK, NEW JERSEY AREA OFFICE					
SMSA: JERSEY CITY, NJ					
COUNTY: HUDSON	159	181	210	241	273
STATE: NJ	12	3			
SMSA: LONG BRANCH-ASBURY PARK, NJ					
COUNTY: MONMOUTH	178	214	252	290	328
STATE: NJ	2				
SMSA: NEW BRUNSWICK-REAR AMBOY-SAYREVILLE, NJ					
COUNTY: MIDDLESEX	189	228	269	309	350
STATE: NJ	1				
SMSA: NEW YORK CITY, NY NJ					
COUNTY: BERGEN	214	260	306	352	398
STATE: NJ					
SMSA: NEWARK, NJ					
COUNTY: ESSEX	195	237	279	321	363
STATE: NJ					
COUNTY: MORRIS	195	237	279	321	363
STATE: NJ					
COUNTY: SOMERSET	195	237	279	321	363
STATE: NJ					
COUNTY: UNION	195	237	279	321	363
STATE: NJ					
SMSA: PATERSON-CLIFTON PASSAIC, NJ					
COUNTY: PASSAIC	228	277	326	375	424
STATE: NJ					
NON SMSA					
COUNTY: HUNTERDON	198	228	269	300	335
STATE: NJ	18	9	12	4	
COUNTY: SUSSEX	180	219	257	296	335
STATE: NJ					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (C01), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CARIBBEAN AREA OFFICE					
SMSA: CAGUAS					
MUNICIPIO: ALL	147	178	210	241	272
STATE: PR					
SMSA: MAYAGUEZ					
MUNICIPIO: ALL	182	221	260	299	337
STATE: PR					
SMSA: PONCE					
MUNICIPIO: ALL	224	272	320	368	415
STATE: PR					
NON SMSA					
MUNICIPIO: ALL OTHER	140	170	200	230	259
STATE: PR					
ST. CHAR. AMALIE	248	301	355	408	461
STATE: VI					
ST. CROIX	203	246	290	333	376
STATE: VI					
ST. THOMAS	231	280	330	379	428
STATE: VI					
REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BALTIMORE, MARYLAND AREA OFFICE					
SMSA: BALTIMORE, MD					
COUNTY: ANNE ARUNDEL	201	244	287	330	373
STATE: MD					
COUNTY: BALTIMORE	201	244	287	330	373
STATE: MD					
COUNTY: CARROLL	201	244	287	330	373
STATE: MD					
COUNTY: HARTFORD	201	244	287	330	373
STATE: MD					
COUNTY: HOWARD	201	244	287	330	373
STATE: MD					
COLUMBIA	214	259	305	351	396
STATE: MD					
INDEP. CITY: BALTIMORE	201	244	287	330	373
STATE: MD					
SMSA: WASHINGTON, DC-MD VA					
COUNTY: CHARLES	214	259	305	351	396
STATE: MD					
SMSA: WILMINGTON, DE-MD MD					
COUNTY: CECIL	207	251	295	340	384
STATE: MD					
NON SMSA					
COUNTY: ALLEGANY	131	159	187	215	243
STATE: MD					
COUNTY: CALVERT	190	225	250	300	360
STATE: MD	18	16	4	17	40

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (C01), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BALTIMORE, MARYLAND AREA OFFICE					
NON SMSA					
COUNTY: CAROLINE STATE: MD	177	215	253	291	329
COUNTY: DORCHESTER STATE: MD	177	215	253	291	329
COUNTY: FREDERICK STATE: MD	173 1	209	246	300 17	333 13
COUNTY: GARRETT STATE: MD	131	159	187	215	243
COUNTY: KENT STATE: MD	177	215	253	291	329
COUNTY: QUEEN ANNES STATE: MD	177	215	253	291	329
COUNTY: ST. MARYS STATE: MD	172	209	246	283	320
COUNTY: SOMERSET STATE: MD	177	215	253	291	329
COUNTY: TALBOT STATE: MD	177	215	253	291	329
COUNTY: WASHINGTON STATE: MD	172	209	246	283	320
COUNTY: WICOMICO STATE: MD	177	215	253	291	329
COUNTY: WORCESTER STATE: MD	177	215	253	291	329
PHILADELPHIA, PENNSYLVANIA AREA OFFICE					
SMSA: ALLENTOWN-BETHLEHEM-EASTON, PA-NJ					
COUNTY: CARBON STATE: PA	179 2	215	253	291	329
COUNTY: LEHIGH STATE: PA	179 2	215	253	291	329
COUNTY: NORTHAMPTON STATE: PA	179 2	215	253	291	329
SMSA: BINGHAMTON, NY-PA					
COUNTY: SUSQUEHANNA STATE: PA	150 20	173 15	205 19	247 33	285 43
SMSA: HARRISBURG, PA					
COUNTY: CUMBERLAND STATE: PA	162 38	186 35	222 45	257 53	282 51
COUNTY: DAUPHIN STATE: PA	162 38	186 35	222 45	257 53	282 51
COUNTY: FERRY STATE: PA	162 38	186 35	222 45	257 53	282 51
SMSA: LANCASTER, PA					
COUNTY: LANCASTER STATE: PA	123	150	176	203	229
SMSA: NORTHEAST, PA					
COUNTY: LACKAWANNA STATE: PA	139 26	161 23	192 30	214 28	234 23
COUNTY: LUZERNE STATE: PA	139 26	161 23	192 30	214 28	234 23

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CG), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PHILADELPHIA, PENNSYLVANIA AREA OFFICE					
SMSA: NORTHEAST, PA					
COUNTY: MONROE STATE: PA	139 26	161 23	192 30	214 28	234 23
SMSA: PHILADELPHIA, PA-NJ					
COUNTY: BUCKS STATE: PA	209	253	298	343	387
COUNTY: CHESTER STATE: PA	209	253	298	343	387
COUNTY: DELAWARE STATE: PA	209	253	298	343	387
COUNTY: MONTGOMERY STATE: PA	209	253	298	343	387
COUNTY: PHILADELPHIA STATE: PA	209	253	298	343	387
SMSA: READING, PA					
COUNTY: BERKS STATE: PA	151 18	173 11	205 15	239 20	262 15
SMSA: WILLIAMSPORT, PA					
COUNTY: LYCOMING STATE: PA	120	146	172	198	224
SMSA: YORK, PA					
COUNTY: ADAMS STATE: PA	138	167	197	226	256
COUNTY: YORK STATE: PA	138	167	197	226	256
NON SMSA					
COUNTY: BRADFORD STATE: PA	129	156	184	211	239
COUNTY: CENTRE STATE: PA	120	146	172	198	224
COUNTY: CLINTON STATE: PA	120	146	172	198	224
COUNTY: COLUMBIA STATE: PA	113	138	162	186	211
COUNTY: FRANKLIN STATE: PA	107	130	153	176	199
COUNTY: JUNIATA STATE: PA	97	118	139	160	180
COUNTY: LEBANON STATE: PA	123 26	142 24	169 30	197 37	217 37
COUNTY: MIFFLIN STATE: PA	97	118	139	160	180
COUNTY: MONTGOMERY STATE: PA	97	118	139	160	180
COUNTY: NORTHAMPTON STATE: PA	120 23	140 22	166 27	184 24	205 25
COUNTY: PIKE STATE: PA	113	138	162	186	211
COUNTY: SCHUYLKILL STATE: PA	126 35	144 34	174 44	193 44	214 45

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CG), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PHILADELPHIA, PENNSYLVANIA AREA OFFICE					
NON SMSA					
COUNTY: SNYDER STATE: PA	97	118	139	160	180
COUNTY: SULLIVAN STATE: PA	120	146	172	198	224
COUNTY: TIOGA STATE: PA	129	156	184	211	239
COUNTY: UNION STATE: PA	97	118	139	160	180
COUNTY: WAYNE STATE: PA	168 55	194 56	232 70	255 69	264 73
COUNTY: WYOMING STATE: PA	134 21	156 18	186 24	239 53	265 54
SMSA: WILMINGTON, DE-NJ-MD					
COUNTY: NEW CASTLE STATE: DE	207	251	295	340	384
NON SMSA					
COUNTY: KENT STATE: DE	177	215	253	291	329
COUNTY: SUSSEX STATE: DE	177	215	253	291	329
PITTSBURGH, PENNSYLVANIA AREA OFFICE					
SMSA: CHARLESTON, WV					
COUNTY: KANAWHA STATE: WV	156	190	224	257	291
COUNTY: PUTNAM STATE: WV	156	190	224	257	291
SMSA: HUNTINGTON-ASHLAND, WV-KY-OH					
COUNTY: CABELL STATE: WV	146	178	209	240	272
COUNTY: WAYNE STATE: WV	146	178	209	240	272
SMSA: PARKERSBURG-MARIETTA, WV-OH					
COUNTY: WIRT STATE: WV	160	195	229	264	298
COUNTY: WOOD STATE: WV	160	195	229	264	298
SMSA: STEUBENVILLE WEIRION, OH-WV					
COUNTY: BROOKE STATE: WV	141	171	202	232	262
COUNTY: HANCOCK STATE: WV	141	171	202	232	262
SMSA: WHEELING, WV OH					
COUNTY: MARSHALL STATE: WV	141	171	202	232	262
COUNTY: OHIO STATE: WV	141	171	202	232	262

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PITTSBURGH, PENNSYLVANIA AREA OFFICE					
NON SMSA					
COUNTY: BARBOUR STATE: WV	150	182	214	247	279
COUNTY: BERKELEY STATE: WV	150	182	214	247	279
COUNTY: BOONE STATE: WV	119	145	170	196	222
COUNTY: BRAXTON STATE: WV	119	145	170	196	222
COUNTY: CALHOUN STATE: WV	119	145	170	196	222
COUNTY: CLAY STATE: WV	119	145	170	196	222
COUNTY: DODDRIE STATE: WV	150	182	214	247	279
COUNTY: FAYETTE STATE: WV	119	145	170	196	222
COUNTY: GILMER STATE: WV	119	145	170	196	222
COUNTY: GRANT STATE: WV	150	182	214	247	279
COUNTY: GREENBRIER STATE: WV	119	145	170	196	222
COUNTY: HAMPSHIRE STATE: WV	150	182	214	247	279
COUNTY: HARDY STATE: WV	150	182	214	247	279
COUNTY: HARRISON STATE: WV	150	182	214	247	279
COUNTY: JACKSON STATE: WV	119	145	170	196	222
COUNTY: JEFFERSON STATE: WV	150	182	214	247	279
COUNTY: LEWIS STATE: WV	150	182	214	247	279
COUNTY: LINCOLN STATE: WV	119	145	170	196	222
COUNTY: LOGAN STATE: WV	119	145	170	196	222
COUNTY: MCDOWELL STATE: WV	124	151	178	204	231
COUNTY: MARION STATE: WV	150	182	214	247	279
COUNTY: MASON STATE: WV	119	145	170	196	222
COUNTY: MERCER STATE: WV	124	151	178	204	231
COUNTY: MINERAL STATE: WV	131	159	187	215	243

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PITTSBURGH, PENNSYLVANIA AREA OFFICE					
NON SMSA					
COUNTY: MINGO STATE: WV	119	145	170	196	222
COUNTY: MONONGALIA STATE: WV	150	182	214	247	279
COUNTY: MONROE STATE: WV	119	145	170	196	222
COUNTY: MORGAN STATE: WV	150	182	214	247	279
COUNTY: NICHOLAS STATE: WV	119	145	170	196	222
COUNTY: PENDLETON STATE: WV	150	182	214	247	279
COUNTY: PLEASANTS STATE: WV	160	195	229	264	298
COUNTY: POCAHONTAS STATE: WV	119	145	170	196	222
COUNTY: PRESTON STATE: WV	150	182	214	247	279
COUNTY: RALEIGH STATE: WV	119	145	170	196	222
COUNTY: RANDOLPH STATE: WV	150	182	214	247	279
COUNTY: RITCHIE STATE: WV	160	195	229	264	298
COUNTY: ROANE STATE: WV	119	145	170	196	222
COUNTY: SUMMERS STATE: WV	119	145	170	196	222
COUNTY: TAYLOR STATE: WV	150	182	214	247	279
COUNTY: TUCKER STATE: WV	150	182	214	247	279
COUNTY: TYLER STATE: WV	131	159	187	215	243
COUNTY: UPSHUR STATE: WV	150	182	214	247	279
COUNTY: WEBSTER STATE: WV	119	145	170	196	222
COUNTY: WETZEL STATE: WV	131	159	187	215	243
COUNTY: WYOMING STATE: WV	119	145	170	196	222
SMSA: ALTOONA, PA					
COUNTY: BLAIR STATE: PA	134 27	151 21	193 40	221 45	245 46
SMSA: ERIE, PA					
COUNTY: ERIE STATE: PA	130 11	150 5	178 7	207 10	227 5

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CD), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PITTSBURGH, PENNSYLVANIA AREA OFFICE					
SMSA: JOHNSTOWN, PA					
COUNTY: CAMBRIA STATE: PA	140 43	165 47	200 61	225 65	250 70
COUNTY: SOMERSET STATE: PA					
COUNTY: SOMERSET STATE: PA	140 43	165 47	200 61	225 65	250 70
SMSA: PITTSBURGH, PA					
COUNTY: ALLEGHANY STATE: PA	187	227	267	307	347
COUNTY: BEAVER STATE: PA	187	227	267	307	347
COUNTY: WASHINGTON STATE: PA	187	227	267	307	347
COUNTY: WESTMORELAND STATE: PA	187	227	267	307	347
NON SMSA					
COUNTY: ARMSTRONG STATE: PA	110	134	158	182	206
COUNTY: BEDFORD STATE: PA	107	130	153	176	199
COUNTY: BUTLER STATE: PA	132 22	154 20	182 24	203 21	223 17
COUNTY: CAMERON STATE: PA	120	146	172	198	224
COUNTY: CLARION STATE: PA	110	134	158	182	206
COUNTY: CLEARFIELD STATE: PA	120	146	172	198	224
COUNTY: CRAWFORD STATE: PA	115	140	164	189	214
COUNTY: ELK STATE: PA	120	146	172	198	224
COUNTY: FAYETTE STATE: PA	98	119	140	161	182
COUNTY: FOREST STATE: PA	115	140	164	189	214
COUNTY: FULTON STATE: PA	107	130	153	176	199
COUNTY: GREENE STATE: PA	98	119	140	161	182
COUNTY: HUNTINGDON STATE: PA	107	130	153	176	199
COUNTY: INDIANA STATE: PA	110	134	158	182	206
COUNTY: JEFFERSON STATE: PA	120	146	172	198	224
COUNTY: LAWRENCE STATE: PA	115	140	164	189	214
COUNTY: MCKEAN STATE: PA	113	138	162	186	211

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CD), MARCH 29, 1979

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PITTSBURGH, PENNSYLVANIA AREA OFFICE NON SMSA					
COUNTY: MERCER STATE: PA	115	140	164	189	214
COUNTY: FOTTER STATE: PA	113	138	162	186	211
COUNTY: VENANGO STATE: PA	115	140	164	189	214
COUNTY: WARREN STATE: PA	115	140	164	189	214
RICHMOND, VIRGINIA AREA OFFICE SMSA					
COUNTY: JOHNSON CITY KINGS-PORT-BRISTOL, TN-VA STATE: VA	154	187	220	253	286
COUNTY: WASHINGTON STATE: VA	154	187	220	253	286
INDEP. CITY: BRISTOL STATE: VA	154	187	220	253	286
SMSA: LYNCHBURG, VA COUNTY: AMHERST STATE: VA	189	229	270	310	351
COUNTY: APPOMATTOX STATE: VA	189	229	270	310	351
COUNTY: CAMPBELL STATE: VA	189	229	270	310	351
INDEP. CITY: LYNCHBURG STATE: VA	189	229	270	310	351
SMSA: NEWPORT NEWS HAMPTON, VA COUNTY: GLOUCESTER STATE: VA	182	221	260	299	338
COUNTY: JAMES CITY STATE: VA	182	221	260	299	338
COUNTY: YORK STATE: VA	182	221	260	299	338
INDEP. CITY: HAMPTON STATE: VA	182	221	260	299	338

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND, VIRGINIA AREA OFFICE SMSA: NEWPORT NEWS HAMPTON, VA INDEP. CITY: NEWPORT NEWS STATE: VA	182	221	260	299	338
INDEP. CITY: FOGUOSUN STATE: VA	182	221	260	299	338
INDEP. CITY: WILLIAMSBURG STATE: VA	182	221	260	299	338
SMSA: NORFOLK-VIRGINIA BEACH-PORTSMOUTH, VA-NC INDEP. CITY: CHESAPEAKE STATE: VA	191	232	273	314	355
INDEP. CITY: NORFOLK STATE: VA	191	232	273	314	355
INDEP. CITY: PORTSMOUTH STATE: VA	191	232	273	314	355
INDEP. CITY: SUFFOLK STATE: VA	191	232	273	314	355
INDEP. CITY: VIRGINIA BEACH STATE: VA	191	232	273	314	355
SMSA: PETERSBURG-COLONIAL HEIGHTS-HOPEWELL, VA COUNTY: DINWIDDIE STATE: VA	201	245	288	331	375
COUNTY: PRINCEGEORGE STATE: VA	201	245	288	331	375
INDEP. CITY: COLONIAL HEIGHTS STATE: VA	201	245	288	331	375
SMSA: PETERSBURG-COLONIAL HEIGHTS-HOPEWELL, VA INDEP. CITY: HOPEWELL STATE: VA	201	245	288	331	375
INDEP. CITY: PETERSBURG STATE: VA	201	245	288	331	375
SMSA: RICHMOND, VA COUNTY: CHARLES CITY STATE: VA	194	235	277	319	360
COUNTY: CHESTERFIELD STATE: VA	194	235	277	319	360
COUNTY: GOOCHLAND STATE: VA	194	235	277	319	360
COUNTY: HANOVER STATE: VA	194	235	277	319	360
COUNTY: HENRICO STATE: VA	194	235	277	319	360
COUNTY: NEW KENT STATE: VA	194	235	277	319	360
COUNTY: POWHATAN STATE: VA	194	235	277	319	360
INDEP. CITY: RICHMOND STATE: VA	194	235	277	319	360
SMSA: ROANOKE, VA COUNTY: BOTETOURT STATE: VA	172	209	246	283	320

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND, VIRGINIA AREA OFFICE					
SMSA: ROANOKE, VA					
COUNTY: CRAIG STATE: VA	172	209	246	283	320
COUNTY: ROANOKE STATE: VA	172	209	246	283	320
INDEP. CITY: ROANOKE STATE: VA	172	209	246	283	320
INDEP. CITY: SALEM STATE: VA	172	209	246	283	320
NON SMSA					
COUNTY: ACCOMACK STATE: VA	177	215	253	291	329
COUNTY: ALBEMARLE STATE: VA	201	245	288	331	375
COUNTY: ALLEGHANY STATE: VA	172	209	246	283	320
COUNTY: AMELIA STATE: VA	201	245	288	331	375
COUNTY: AUGUSTA STATE: VA	150	182	214	247	279
COUNTY: BATH STATE: VA	150	182	214	247	279
COUNTY: BEDFORD STATE: VA	189	229	270	310	351
COUNTY: BLAND STATE: VA	124	151	178	204	231
COUNTY: BRUNSWICK STATE: VA	201	245	288	331	375
COUNTY: BUCHANAN STATE: VA	124	151	178	204	231
COUNTY: DICKINSON STATE: VA	201	245	288	331	375
COUNTY: CAROLINE STATE: VA	201	245	288	331	375
COUNTY: CARROLL STATE: VA	138	168	198	228	270
COUNTY: CHARLOTTE STATE: VA	169	229	270	310	351
COUNTY: CLARKE STATE: VA	150	182	214	247	279
COUNTY: CULPEPER STATE: VA	172	209	246	283	320
COUNTY: CUMBERLAND STATE: VA	201	245	288	331	375
COUNTY: DICKENSON STATE: VA	128 14	151	179 1	204	250 19
COUNTY: ESSEX STATE: VA	201	245	288	331	375

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND, VIRGINIA AREA OFFICE					
NON SMSA					
COUNTY: FAUQUIER STATE: VA	172	209	246	283	320
COUNTY: FLOYD STATE: VA	172	209	246	283	320
COUNTY: FLUVANIA STATE: VA	201	245	288	331	375
COUNTY: FRANKLIN STATE: VA	136	165	194	224	253
COUNTY: FREDERICK STATE: VA	150	182	214	247	279
COUNTY: GILES STATE: VA	172	209	246	283	320
COUNTY: GRAYSON STATE: VA	138	168	198	228	270
COUNTY: GREENE STATE: VA	201	245	288	331	375
COUNTY: GREENSVILLE STATE: VA	201	245	288	331	375
COUNTY: HALIFAX STATE: VA	189	229	270	310	351
COUNTY: HENRY STATE: VA	172	209	246	283	320
COUNTY: HIGHLAND STATE: VA	150	182	214	247	279
COUNTY: ISLE OF WIGHT STATE: VA	136	165	194	224	253
COUNTY: KING + QUEEN STATE: VA	201	245	288	331	375
COUNTY: KING GEORGE STATE: VA	172	209	246	283	320
COUNTY: KING WILLIAM STATE: VA	201	245	288	331	375
COUNTY: LANCASTER STATE: VA	201	245	288	331	375
COUNTY: LEE STATE: VA	149 25	166 15	210 32	228 24	271 40
COUNTY: LOUISA STATE: VA	201	245	288	331	375
COUNTY: LUNENBURG STATE: VA	201	245	288	331	375
COUNTY: MADISON STATE: VA	201	245	288	331	375
COUNTY: MATHEWS STATE: VA	136	165	194	224	253
COUNTY: MECKLENBURG STATE: VA	201	245	288	331	375
COUNTY: MIDDLESEX STATE: VA	136	165	194	224	253

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND, VIRGINIA AREA OFFICE					
NON SMSA					
COUNTY: MONTGOMERY STATE: VA	172	209	246	283	320
COUNTY: NELSON STATE: VA	189	229	270	310	351
COUNTY: NORTHAMPTON STATE: VA	177	215	253	291	329
COUNTY: NORTHUMBERLAND STATE: VA	201	245	288	331	375
COUNTY: NOTTOWAY STATE: VA	201	245	288	331	375
COUNTY: ORANGE STATE: VA	201	245	288	331	375
COUNTY: PAGE STATE: VA	150	182	214	247	279
COUNTY: PATRICK STATE: VA	172	209	246	283	320
COUNTY: PITTSYLVANIA STATE: VA	189	229	270	310	351
COUNTY: PRINCE EDWARD STATE: VA	201	245	288	331	375
COUNTY: PULASKI STATE: VA	172	209	246	283	320
COUNTY: RAPPAHANNOCK STATE: VA	172	209	246	283	320
COUNTY: RICHMOND STATE: VA	201	245	288	331	375
COUNTY: ROCKBRIDGE STATE: VA	150	182	214	247	279
COUNTY: ROCKINGHAM STATE: VA	150	182	214	247	279
COUNTY: RUSSELL STATE: VA	149 25	166 15	210 32	228 24	271 40
COUNTY: SHENANDOAH STATE: VA	150	182	214	247	279
COUNTY: SMYTH STATE: VA	149 25	166 15	210 32	228 24	271 40
COUNTY: SOUTHAMPTON STATE: VA	138 2	165	194	224	253
COUNTY: SPOTSYLVANIA STATE: VA	172	209	246	283	320
COUNTY: STAFFORD STATE: VA	172	209	246	283	320
COUNTY: SURRY STATE: VA	136	165	194	224	253
COUNTY: SUSSEX STATE: VA	201	245	288	331	375
COUNTY: TAZEWELL STATE: VA	149 25	166 15	210 32	228 24	271 40

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND, VIRGINIA AREA OFFICE					
NON SMSA					
COUNTY: WARREN STATE: VA	150	182	214	247	279
COUNTY: WESTMORELAND STATE: VA	201	245	288	331	375
COUNTY: WISE STATE: VA	149 25	166 15	210 32	228 24	271 40
COUNTY: WYTHE STATE: VA	172	209	246	283	320
INDEP. CITY: BEDFORD STATE: VA	189	229	270	310	351
INDEP. CITY: BUENA VISTA STATE: VA	150	182	214	247	279
INDEP. CITY: CHARLOTTESVILLE STATE: VA	201	245	288	331	375
INDEP. CITY: CLIFTON FORGE STATE: VA	172	209	246	283	320
INDEP. CITY: COVINGTON STATE: VA	172	209	246	283	320
INDEP. CITY: DANVILLE STATE: VA	189	229	270	310	351
INDEP. CITY: EMPORIA STATE: VA	201	245	288	331	375
INDEP. CITY: FRANKLIN STATE: VA	172	209	246	283	320
INDEP. CITY: FREDERICKSBURG STATE: VA	172	209	246	283	320
INDEP. CITY: GALAX STATE: VA	138 13	168	198	228	270
INDEP. CITY: HARRISBURG STATE: VA	150	182	214	247	279
INDEP. CITY: LEXINGTON STATE: VA	150	182	214	247	279
INDEP. CITY: MARTINSVILLE STATE: VA	172	209	246	283	320
INDEP. CITY: NORTON STATE: VA	149 25	166 15	210 32	228 24	271 40
INDEP. CITY: RADFORD STATE: VA	172	209	246	283	320
INDEP. CITY: SOUTH BOSTON STATE: VA	189	229	270	310	351
INDEP. CITY: STAUNTON STATE: VA	150	182	214	247	279
INDEP. CITY: WAYNESBORO STATE: VA	150	182	214	247	279
INDEP. CITY: WINCHESTER STATE: VA	150	182	214	247	279

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
WASHINGTON, D.C. AREA OFFICE SMSA: WASHINGTON, DC-MD-VA COUNTY: MONTGOMERY STATE: MD	214	259	305	351	396
COUNTY: PRINCE GEORGE STATE: MD	214	259	305	351	396
COUNTY: WASHINGTON STATE: DC	214	259	305	351	396
COUNTY: ARLINGTON STATE: VA	214	259	305	351	396
COUNTY: FAIRFAX STATE: VA	214	259	305	351	396
COUNTY: LOUDOUN STATE: VA	214	259	305	351	396
COUNTY: PRINCEWILLIAM STATE: VA	214	259	305	351	396
INDEP. CITY: ALEXANDRIA STATE: VA	214	259	305	351	396
INDEP. CITY: FAIRFAX STATE: VA	214	259	305	351	396
INDEP. CITY: FALLS CHURCH STATE: VA	214	259	305	351	396
INDEP. CITY: MANASSAS STATE: VA	214	259	305	351	396
INDEP. CITY: MANASSAS PARK STATE: VA	214	259	305	351	396
REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA, GEORGIA AREA OFFICE SMSA: ALBANY, GA COUNTY: DOUGHERTY STATE: GA	136	165	194	224	253
COUNTY: LEE STATE: GA	136	165	194	224	253
SMSA: ATLANTA, GA COUNTY: BUTTS STATE: GA	169	206	242	278	315
COUNTY: CHEROKEE STATE: GA	169	206	242	278	315
COUNTY: CLAYTON STATE: GA	169	206	242	278	315
COUNTY: COBB STATE: GA	169	206	242	278	315
COUNTY: DE KALB STATE: GA	169	206	242	278	315
COUNTY: DOUGLAS STATE: GA	169	206	242	278	315
COUNTY: FAYETTE STATE: GA	169	206	242	278	315
COUNTY: FORSYTH STATE: GA	169	206	242	278	315
COUNTY: FULTON STATE: GA	169	206	242	278	315

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA, GEORGIA AREA OFFICE SMSA: ATLANTA, GA COUNTY: GWINNETT STATE: GA	169	206	242	278	315
COUNTY: HENRY STATE: GA	169	206	242	278	315
COUNTY: NEWTON STATE: GA	169	206	242	278	315
COUNTY: PAULDING STATE: GA	169	206	242	278	315
COUNTY: ROCKDALE STATE: GA	169	206	242	278	315
COUNTY: WALTON STATE: GA	169	206	242	278	315
SMSA: AUGUSTA, GA-SC COUNTY: COLUMBIA STATE: GA	177	215	253	291	329
COUNTY: RICHMOND STATE: GA	177	215	253	291	329
SMSA: CHATTANOOGA, TN-GA COUNTY: CATOOSA STATE: GA	156	190	224	274 17	298 7
COUNTY: DADE STATE: GA	156	190	224	274 17	298 7
COUNTY: WALKER STATE: GA	156	190	224	274 17	298 7
SMSA: COLUMBUS, GA-AL COUNTY: CHATTAHOOCHEE STATE: GA	151	184	216	249	281
COUNTY: COLUMBUS STATE: GA	151	184	216	249	281
SMSA: MACON, GA COUNTY: BIBB STATE: GA	136	165	194	224	253
COUNTY: HOUSTON STATE: GA	136	165	194	224	253
COUNTY: JONES STATE: GA	136	165	194	224	253
COUNTY: TWIGGS STATE: GA	136	165	194	224	253
SMSA: SAVANNAH, GA COUNTY: BRYAN STATE: GA	163 25	174 6	198	228	257
COUNTY: CHATHAM STATE: GA	163 25	174 6	198	228	257
COUNTY: EFFINGHAM STATE: GA	163 25	174 6	198	228	257
NON SMSA COUNTY: APPLING STATE: GA	138	168	198	228	257
COUNTY: ATKINSON STATE: GA	138	168	198	228	257

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA, GEORGIA AREA OFFICE NON SMSA					
COUNTY: BACON STATE: GA	138	168	198	228	257
COUNTY: BAKER STATE: GA	136	165	194	224	253
COUNTY: BALDWIN STATE: GA	136	165	194	224	253
COUNTY: BANKS STATE: GA	155	198	222	255	289
COUNTY: BARROW STATE: GA	155	188	222	255	289
COUNTY: BARTON STATE: GA	128	156	183	211	238
COUNTY: BEN HILL STATE: GA	136	165	194	224	253
COUNTY: BERRIEN STATE: GA	136	165	194	224	253
COUNTY: BLECKLEY STATE: GA	136	165	194	224	253
COUNTY: BRANTLEY STATE: GA	149	181	213	245	277
COUNTY: BROOKS STATE: GA	136	165	194	224	253
COUNTY: BULLOCK STATE: GA	138	168	198	228	260 3
COUNTY: BURKE STATE: GA	156	190	224	257	291
COUNTY: CALHOUN STATE: GA	136	165	194	224	253
COUNTY: CAMDEN STATE: GA	149	181	213	245	277
COUNTY: CANDLER STATE: GA	138	168	198	228	257
COUNTY: CARROLL STATE: GA	146	178	209	240	272
COUNTY: CHARLTON STATE: GA	149	181	213	245	277
COUNTY: CHATTAUGA STATE: GA	133	162	191	219	248
COUNTY: CLARKE STATE: GA	155	188	222	255	289
COUNTY: CLAY STATE: GA	136	165	194	224	253
COUNTY: CLINCH STATE: GA	136	165	194	224	253
COUNTY: COFFEE STATE: GA	138	168	198	228	257
COUNTY: COLQUITT STATE: GA	136	165	194	224	253

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA, GEORGIA AREA OFFICE NON SMSA					
COUNTY: COOK STATE: GA	136	165	194	224	253
COUNTY: COWETA STATE: GA	146	178	209	240	272
COUNTY: CRAWFORD STATE: GA	136	165	200 6	229 5	276 23
COUNTY: CRISP STATE: GA	136	165	194	224	253
COUNTY: DAWSON STATE: GA	131 3	156 8	191 8	213 2	254 16
COUNTY: DECATUR STATE: GA	136	165	194	224	253
COUNTY: DODGE STATE: GA	136	165	194	224	253
COUNTY: DOOLY STATE: GA	136	165	194	224	253
COUNTY: EARLY STATE: GA	136	165	194	224	253
COUNTY: ECHOLS STATE: GA	136	165	194	224	253
COUNTY: ELBERT STATE: GA	155	188	222	255	289
COUNTY: EMANUEL STATE: GA	156	190	224	257	291
COUNTY: EVANS STATE: GA	138	168	198	228	257
COUNTY: FANNIN STATE: GA	128	156	183	211	238
COUNTY: FLOYD STATE: GA	128	156	183	211	238
COUNTY: FRANKLIN STATE: GA	155	188	222	255	289
COUNTY: GILMER STATE: GA	128	156	183	211	238
COUNTY: GLASCOCK STATE: GA	156	190	224	257	291
COUNTY: GLYNN STATE: GA	149	181	213	245	277
COUNTY: GORDON STATE: GA	133	162	191	219	248
COUNTY: GRADY STATE: GA	136	165	194	224	253
COUNTY: GREENE STATE: GA	155	188	222	255	289
COUNTY: HAGERSHAM STATE: GA	128	156	183	211	238
COUNTY: HALL STATE: GA	155	188	222	255	289

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA, GEORGIA AREA OFFICE NON SMSA					
COUNTY: HANCOCK STATE: GA	136	165	194	224	253
COUNTY: HARALSON STATE: GA	128	156	183	211	238
COUNTY: HARRIS STATE: GA	151	184	216	249	281
COUNTY: HART STATE: GA	155	188	222	255	289
COUNTY: HEARD STATE: GA	151	184	216	249	281
COUNTY: IRWIN STATE: GA	136	165	194	224	253
COUNTY: JACKSON STATE: GA	155	188	222	255	289
COUNTY: JASPER STATE: GA	136	165	194	224	253
COUNTY: JEFF DAVIS STATE: GA	138	168	198	228	257
COUNTY: JEFFERSON STATE: GA	156	190	224	257	291
COUNTY: JENKINS STATE: GA	156	190	224	257	291
COUNTY: JOHNSON STATE: GA	136	165	194	224	253
COUNTY: LAMAR STATE: GA	146	178	209	240	272
COUNTY: LANIER STATE: GA	136	165	194	224	253
COUNTY: LAURENS STATE: GA	136	165	194	224	253
COUNTY: LIBERTY STATE: GA	160 22	189 21	225 27	259 31	298 41
COUNTY: LINCOLN STATE: GA	156	190	224	257	291
COUNTY: LONG STATE: GA	138	168	198	228	257
COUNTY: LOWNDES STATE: GA	136	165	194	224	253
COUNTY: LUMPKIN STATE: GA	128	156	183	211	243 5
COUNTY: MCDUFFIE STATE: GA	156	190	224	257	291
COUNTY: MCINTOSH STATE: GA	149	181	213	245	277
COUNTY: MACON STATE: GA	136	165	194	224	253
COUNTY: MADISON STATE: GA	155	188	222	255	289

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA, GEORGIA AREA OFFICE NON SMSA					
COUNTY: MARION STATE: GA	151	184	216	249	281
COUNTY: MERIWETHER STATE: GA	151	184	216	249	281
COUNTY: MILLER STATE: GA	136	165	194	224	253
COUNTY: MITCHELL STATE: GA	136	165	194	224	253
COUNTY: MONROE STATE: GA	136	165	194	224	253
COUNTY: MONTGOMERY STATE: GA	138	168	198	228	257
COUNTY: MORGAN STATE: GA	155	188	222	255	289
COUNTY: MURRAY STATE: GA	133	162	191	219	248
COUNTY: OCONEE STATE: GA	155	188	222	255	289
COUNTY: OGLETHORPE STATE: GA	155	188	222	255	289
COUNTY: PEACH STATE: GA	136	165	194	224	253
COUNTY: PICKENS STATE: GA	128	156	183	211	238
COUNTY: PIERCE STATE: GA	149	181	213	245	277
COUNTY: PIKE STATE: GA	146	178	209	240	272
COUNTY: POLK STATE: GA	128	156	183	211	238
COUNTY: PULASKI STATE: GA	136	165	194	224	253
COUNTY: PUTNAM STATE: GA	136	165	194	224	253
COUNTY: QUITMAN STATE: GA	151	184	216	249	281
COUNTY: RABUN STATE: GA	128	156	183	211	238
COUNTY: RANDOLPH STATE: GA	136	165	194	224	253
COUNTY: SCHLEY STATE: GA	151	184	216	249	281
COUNTY: SCREVEN STATE: GA	128	156	183	211	238
COUNTY: SEMINOLE STATE: GA	136	165	194	224	253
COUNTY: SPALDING STATE: GA	146	178	209	240	272

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CO) MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA, GEORGIA AREA OFFICE NON SMSA					
COUNTY: STEPHENS STATE: GA	155	188	222	255	289
COUNTY: STEWART STATE: GA	151	184	216	249	281
COUNTY: SUMTER STATE: GA	151	184	216	249	281
COUNTY: TALBOT STATE: GA	151	184	216	249	281
COUNTY: TALIAFERRO STATE: GA	156	190	224	257	291
COUNTY: TATNALL STATE: GA	138	168	198	228	257
COUNTY: TAYLOR STATE: GA	136	165	194	224	253
COUNTY: TELFAIR STATE: GA	136	165	194	224	253
COUNTY: TERRELL STATE: GA	136	165	194	224	253
COUNTY: THOMAS STATE: GA	135	165	194	224	253
COUNTY: TIFT STATE: GA	136	165	194	224	253
COUNTY: TOOMBS STATE: GA	138	168	198	228	257
COUNTY: TOWNS STATE: GA	128	156	183	211	238
COUNTY: TREUTLEN STATE: GA	136	165	194	224	253
COUNTY: TROUP STATE: GA	151	184	216	249	281
COUNTY: TURNER STATE: GA	136	165	194	224	253
COUNTY: UNION STATE: GA	128	156	183	211	238
COUNTY: UPSON STATE: GA	146	178	209	240	272
COUNTY: WARE STATE: GA	149	181	213	245	277
COUNTY: WARREN STATE: GA	156	190	224	257	291
COUNTY: WASHINGTON STATE: GA	136	165	194	224	253
COUNTY: WAYNE STATE: GA	138	168	198	228	257
COUNTY: WEBSTER STATE: GA	151	184	216	249	281
COUNTY: WHEELER STATE: GA	136	165	194	224	253

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (C), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA, GEORGIA AREA OFFICE NON SMSA					
COUNTY: WHITE STATE: GA	128	156	183	211	238
COUNTY: WHITFIELD STATE: GA	133	162	191	219	248
COUNTY: WILCOX STATE: GA	136	165	194	224	253
COUNTY: WILKES STATE: GA	156	190	224	257	291
COUNTY: WILKINSON STATE: GA	136	165	194	224	253
COUNTY: WORTH STATE: GA	136	165	194	224	253
BIRMINGHAM, ALABAMA AREA OFFICE SMSA: ANNISTON, AL COUNTY: CALHOUN STATE: AL	119	145	170	196	222
SMSA: BIRMINGHAM, AL COUNTY: JEFFERSON STATE: AL	165	201	236	271	307
COUNTY: ST. CLAIR STATE: AL	165	201	236	271	307
COUNTY: SHELBY STATE: AL	165	201	236	271	307
COUNTY: WALKER STATE: AL	165	201	236	271	307
SMSA: COLUMBUS, GA AL COUNTY: RUSSELL STATE: AL	151	184	216	249	281
SMSA: FLORENCE, AL COUNTY: COLBERT STATE: AL	129	157	185	213	241
COUNTY: LAUDERDALE STATE: AL	129	157	185	213	241
SMSA: GADSDEN, AL COUNTY: ETOWAH STATE: AL	119	145	170	196	222
SMSA: HUNTSVILLE, AL COUNTY: LIMESTONE STATE: AL	164	199	235	270	305

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (C), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMSSCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)
REGION 4

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BIRMINGHAM, ALABAMA AREA OFFICE					
SMSA: HUNTSVILLE, AL					
COUNTY: MADISON	164	199	235	270	305
STATE: AL					
COUNTY: MARSHALL	164	199	235	270	305
STATE: AL					
SMSA: MOBILE, AL					
COUNTY: BALDWIN	139	167	189	217	246
STATE: AL	7	7			
COUNTY: MOBILE	139	167	189	217	246
STATE: AL	7	7			
SMSA: MONTGOMERY, AL					
COUNTY: AUTAUGA	131	159	187	215	243
STATE: AL					
COUNTY: ELMORE	131	159	187	215	243
STATE: AL					
COUNTY: MONTGOMERY	131	159	187	215	243
STATE: AL					
SMSA: TUSCALOOSA, AL					
COUNTY: TUSCALOOSA	155	188	222	255	289
STATE: AL					
NON SMSA					
COUNTY: BARBOUR	149	181	213	245	277
STATE: AL					
COUNTY: BIBB	155	188	222	255	289
STATE: AL					
NON SMSA					
COUNTY: BLOUNT	119	145	170	196	222
STATE: AL					
COUNTY: BULLOCK	131	159	187	215	243
STATE: AL					
COUNTY: BUTLER	149	181	213	245	277
STATE: AL					
COUNTY: CHAMBERS	151	184	216	249	281
STATE: AL					
COUNTY: CHEROKEE	119	145	170	196	222
STATE: AL					
COUNTY: CHILTON	155	188	222	255	289
STATE: AL					
COUNTY: CHOCTAW	151	184	216	249	281
STATE: AL					
COUNTY: CLARKE	142	173	203	234	265
STATE: AL					
COUNTY: CLAY	119	145	170	196	222
STATE: AL					
COUNTY: CLEBURNE	128	156	183	211	238
STATE: AL					
COUNTY: COFFEE	149	181	213	245	277
STATE: AL					
COUNTY: CONE	142	173	203	234	265
STATE: AL					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO) MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMSSCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)
REGION 4

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BIRMINGHAM, ALABAMA AREA OFFICE					
NON SMSA					
COUNTY: COOSA	131	159	187	215	243
STATE: AL					
COUNTY: COUINGION	149	181	213	245	277
STATE: AL					
COUNTY: CRENSHAW	149	181	213	245	277
STATE: AL					
COUNTY: CULLMAN	119	145	170	196	222
STATE: AL					
COUNTY: DALE	149	181	213	245	277
STATE: AL					
COUNTY: DALLAS	131	159	187	215	243
STATE: AL					
COUNTY: DE KALB	133	162	191	219	246
STATE: AL					
COUNTY: ESCAMBIA	173	210	248	285	322
STATE: AL					
COUNTY: FAYETTE	155	188	222	255	289
STATE: AL					
COUNTY: FRANKLIN	129	157	185	213	241
STATE: AL					
COUNTY: GENEVA	149	181	213	245	277
STATE: AL					
COUNTY: GREENE	155	188	222	255	289
STATE: AL					
COUNTY: HALE	155	188	222	255	289
STATE: AL					
COUNTY: HENRY	149	181	213	245	277
STATE: AL					
COUNTY: HOUSTON	149	181	213	245	277
STATE: AL					
COUNTY: JACKSON	133	162	191	219	248
STATE: AL					
COUNTY: LAMAR	155	188	222	255	289
STATE: AL					
COUNTY: LAWRENCE	129	157	185	213	241
STATE: AL					
COUNTY: LEE	151	184	216	249	281
STATE: AL					
COUNTY: LOWNDES	131	159	187	215	243
STATE: AL					
COUNTY: MACON	131	159	187	215	243
STATE: AL					
COUNTY: MARENGO	151	184	216	249	281
STATE: AL					
COUNTY: MARION	155	188	222	255	289
STATE: AL					
COUNTY: NONROE	142	173	203	234	265
STATE: AL					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO) MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BIRMINGHAM, ALABAMA AREA OFFICE					
NON SMSA					
COUNTY: MORGAN STATE: AL	164	199	235	270	305
COUNTY: PERRY STATE: AL	131	159	187	215	243
COUNTY: PICKENS STATE: AL	155	188	222	255	269
COUNTY: PIKE STATE: AL	149	181	213	245	277
COUNTY: RANDOLPH STATE: AL	151	184	216	249	281
COUNTY: SUMTER STATE: AL	151	184	216	249	281
COUNTY: TALLADIGA STATE: AL	119	145	170	196	222
COUNTY: TALLAPOOSA STATE: AL	131	159	187	215	243
COUNTY: WASHINGTON STATE: AL	142	173	203	234	265
COUNTY: WILCOX STATE: AL	142	173	203	234	265
COUNTY: WINSTON STATE: AL	155	188	222	255	289
COLUMBIA, SOUTH CAROLINA AREA OFFICE					
SMSA: AUGUSTA, GA-SC					
COUNTY: AIKEN STATE: SC	177	215	253	291	329
SMSA: CHARLESTON, SC					
COUNTY: DORCHESTER STATE: SC	183	223	262	302	341
COUNTY: CHARLESTON STATE: SC	183	223	262	302	341
COUNTY: DORCHESTER STATE: SC	183	223	262	302	341
SMSA: COLUMBIA, SC					
COUNTY: LEXINGTON STATE: SC	177	215	253	291	329
COUNTY: RICHLAND STATE: SC	177	215	253	291	329
SMSA: GREENVILLE-SPARTANBURG, SC					
COUNTY: GREENVILLE STATE: SC	150	182	214	247	279
COUNTY: PICKENS STATE: SC	150	182	214	247	279
COUNTY: SPARTANBURG STATE: SC	150	182	214	247	279
NON SMSA					
COUNTY: ABBEVILLE STATE: SC	131	159	187	215	243

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CG), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLUMBIA, SOUTH CAROLINA AREA OFFICE					
NON SMSA					
COUNTY: ALLENDALE STATE: SC	156	190	224	257	291
COUNTY: ANDERSON STATE: SC	131	159	187	215	243
COUNTY: BAMBERG STATE: SC	156	190	224	257	291
COUNTY: BARNWELL STATE: SC	156	190	224	257	291
COUNTY: BEAUFORT STATE: SC	156	190	224	257	291
COUNTY: CALHOUN STATE: SC	141	171	202	232	262
COUNTY: CHEROKEE STATE: SC	131	159	187	220 5	250 7
COUNTY: CHESTER STATE: SC	142	173	203	234	265
COUNTY: CHESTERFIELD STATE: SC	140	170	200	230	260
COUNTY: CLARENDON STATE: SC	141	171	202	232	262
COUNTY: COLLETON STATE: SC	156	190	224	257	291
COUNTY: DARLINGTON STATE: SC	140	170	200	230	260
COUNTY: DILLON STATE: SC	140	170	200	230	260
COUNTY: EDGEFIELD STATE: SC	156	190	224	257	291
COUNTY: FAIRFIELD STATE: SC	141	171	202	232	262
COUNTY: FLORENCE STATE: SC	140	170	200	230	290 30
COUNTY: GEORGETOWN STATE: SC	140	170	200	230	260
COUNTY: GREENWOOD STATE: SC	131	159	187	215	243
COUNTY: HAMPTON STATE: SC	156	190	224	257	291
COUNTY: HORRY STATE: SC	140	170	200	230	260
COUNTY: JASPER STATE: SC	138	168	198	228	257
COUNTY: Kershaw STATE: SC	141	171	202	232	262
COUNTY: LANCASTER STATE: SC	142	173	203	234	265
COUNTY: LAURENS STATE: SC	131	159	187	215	243

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLUMBIA, SOUTH CAROLINA AREA OFFICE					
NON SMSA					
COUNTY: LEE STATE: SC	141	171	202	232	262
COUNTY: MCCORMICK STATE: SC	156	190	224	257	291
COUNTY: MARION STATE: SC	140	170	200	230	260
COUNTY: MARLBORO STATE: SC	140	170	200	230	260
COUNTY: NEWBERRY STATE: SC	141	171	202	232	262
COUNTY: OCONEE STATE: SC	131	159	187	220 5	250 7
COUNTY: ORANGEBURG STATE: SC	141	171	202	232	262
COUNTY: SALUDA STATE: SC	156	190	224	257	291
COUNTY: SUMTER STATE: SC	141	171	202	232	262
COUNTY: UNION STATE: SC	131	159	187	215	243
COUNTY: WILLIAMSBURG STATE: SC	140	170	200	230	260
COUNTY: YORK STATE: SC	142	173	203	234	265
GREENSBORO, NORTH CAROLINA AREA OFFICE					
SMSA: ASHEVILLE, NC					
COUNTY: BUNCOMBE STATE: NC	141	171	202	232	262
COUNTY: MADISON STATE: NC	141	171	202	232	262
SMSA: BURLINGTON, NC					
COUNTY: ALAMANCE STATE: NC	163	198	233	268	303
SMSA: CHARLOTTE-GASTON, NC					
COUNTY: GASTON STATE: NC	198	240	282	325	367
COUNTY: MECKLENBURG STATE: NC	198	240	282	325	367
COUNTY: UNION STATE: NC	198	240	282	325	367
SMSA: FAYETTEVILLE, NC					
COUNTY: CUMBERLAND STATE: NC	181	220	259	297	336
SMSA: GREENSBORO-WINSTON-SALEM-HIGH POINT, NC					
COUNTY: DAVIDSON STATE: NC	138	168	198	228	257
COUNTY: FORSYTH STATE: NC	138	168	198	228	257
COUNTY: GUILFORD STATE: NC	138	168	198	228	257

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GREENSBORO, NORTH CAROLINA AREA OFFICE					
SMSA: GREENSBORO-WINSTON-SALEM-HIGH POINT, NC					
COUNTY: RANDOLPH STATE: NC	138	168	198	228	257
COUNTY: STOKES STATE: NC	138	168	198	228	257
COUNTY: YADKIN STATE: NC	138	168	198	228	257
SMSA: NORFOLK-VIRGINIA BEACH-PORTSMOUTH, VA-NC					
COUNTY: CURRITUCK STATE: NC	191	232	273	314	355
SMSA: RALEIGH-DURHAM, NC					
COUNTY: DURHAM STATE: NC	174	212	249	286	324
COUNTY: ORANGE STATE: NC	174	212	249	286	324
COUNTY: WAKE STATE: NC	174	212	249	286	324
SMSA: WILMINGTON, NC					
COUNTY: BRUNSWICK STATE: NC	151	184	216	249	281
COUNTY: NEW HANOVER STATE: NC	151	184	216	249	281
NON SMSA					
COUNTY: ALEXANDER STATE: NC	147	179	211	243	274
NON SMSA					
COUNTY: ALLEGHANY STATE: NC	138	168	198	228	257
COUNTY: ANSON STATE: NC	132	160	189	217	246
COUNTY: ASHE STATE: NC	138	168	198	228	257
COUNTY: AVERY STATE: NC	141	171	202	232	262
COUNTY: BEAUFORT STATE: NC	174	212	249	287	324
COUNTY: BLTIE STATE: NC	136	165	194	224	253
COUNTY: BLADEN STATE: NC	181	220	259	297	336
COUNTY: BURKE STATE: NC	147	179	211	243	274
COUNTY: CABARRUS STATE: NC	132	160	189	217	246
COUNTY: CALDWELL STATE: NC	147	179	211	243	274
COUNTY: CAMDEN STATE: NC	136	165	194	224	253
COUNTY: CARTERET STATE: NC	151	184	216	249	281

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GREENSBORO, NORTH CAROLINA AREA OFFICE NON SMSA					
COUNTY: CASWELL STATE: NC	189	229	270	310	351
COUNTY: CATAWBA STATE: NC	147	179	211	243	274
COUNTY: CHATHAM STATE: NC	181	220	259	297	336
COUNTY: CHEROKEE STATE: NC	133	162	191	219	248
COUNTY: CHOWAN STATE: NC	136	165	194	224	253
COUNTY: CLAY STATE: NC	141	171	202	232	262
COUNTY: CLEVELAND STATE: NC	147	179	211	243	274
COUNTY: COLUMBUS STATE: NC	151	184	216	249	281
COUNTY: CRAVEN STATE: NC	151	184	216	249	281
COUNTY: DARE STATE: NC	174	212	249	287	324
COUNTY: DAVIE STATE: NC	163	198	233	268	303
COUNTY: DUPLIN STATE: NC	151	184	216	249	281
COUNTY: EDGEcombe STATE: NC	136	165	194	224	253
COUNTY: FRANKLIN STATE: NC	136	165	194	224	253
COUNTY: GATES STATE: NC	136	165	194	224	253
COUNTY: GRAHAM STATE: NC	141	171	202	232	262
COUNTY: GRANVILLE STATE: NC	136	165	194	224	253
COUNTY: GREENE STATE: NC	174	212	249	287	324
COUNTY: HALIFAX STATE: NC	136	165	194	224	253
COUNTY: HARNETT STATE: NC	181	220	259	297	336
COUNTY: HAYWOOD STATE: NC	141	171	202	232	262
COUNTY: HENDERSON STATE: NC	141	171	202	232	262
COUNTY: HERTFORD STATE: NC	136	165	194	224	253
COUNTY: HOKE STATE: NC	181	220	259	297	336

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GREENSBORO, NORTH CAROLINA AREA OFFICE NON SMSA					
COUNTY: HYDE STATE: NC	174	212	249	287	324
COUNTY: IREDELL STATE: NC	132	160	189	217	246
COUNTY: JACKSON STATE: NC	141	171	202	232	262
COUNTY: JOHNSTON STATE: NC	174	212	249	287	324
COUNTY: JONES STATE: NC	151	184	216	249	281
COUNTY: LEE STATE: NC	181	220	259	297	336
COUNTY: LENOIR STATE: NC	151	184	216	249	281
COUNTY: LINCOLN STATE: NC	142	173	203	234	265
COUNTY: MCDOWELL STATE: NC	141	171	202	232	262
COUNTY: WACON STATE: NC	141	171	202	232	262
COUNTY: MARTIN STATE: NC	174	212	249	287	324
COUNTY: MITCHELL STATE: NC	141	171	202	232	262
COUNTY: MONTGOMERY STATE: NC	163	198	233	268	303
COUNTY: MOORE STATE: NC	163	198	233	268	303
COUNTY: NASH STATE: NC	136	165	194	224	253
COUNTY: NORTHAMPTON STATE: NC	136	165	194	224	253
COUNTY: ONSLOW STATE: NC	151	184	216	249	281
COUNTY: PAMLICO STATE: NC	151	184	216	249	281
COUNTY: PASQUOTANK STATE: NC	136	165	194	224	253
COUNTY: PENDER STATE: NC	151	184	216	249	281
COUNTY: PEROQUIMANS STATE: NC	136	165	194	224	253
COUNTY: PERSON STATE: NC	136	165	194	224	253
COUNTY: PITT STATE: NC	174	212	249	287	324
COUNTY: POLK STATE: NC	131	159	187	215	243

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

0 BEDROOMS 1 BEDROOM 2 BEDROOMS 3 BEDROOMS 4 BEDROOMS

GREENSBORO, NORTH CAROLINA AREA OFFICE
NON SMSA

COUNTY: RICHMOND STATE: NC	132	160	189	217	246
COUNTY: ROBESON STATE: NC	181	220	259	297	336
COUNTY: ROCKINGHAM STATE: NC	138	168	198	228	257
COUNTY: ROWAN STATE: NC	132	160	189	217	246
COUNTY: RUTHERFORD STATE: NC	147	179	211	242	274
COUNTY: SAMPSON STATE: NC	181	220	259	297	336
COUNTY: SCOTLAND STATE: NC	132	160	189	217	246
COUNTY: STANLY STATE: NC	132	160	189	217	246
COUNTY: SURRY STATE: NC	138	168	198	228	257
COUNTY: SWAIN STATE: NC	141	171	202	232	262
COUNTY: TRANSYLVANIA STATE: NC	141	171	202	232	262
COUNTY: TYRRELL STATE: NC	174	212	249	287	324
COUNTY: VANCE STATE: NC	136	165	194	224	253
COUNTY: WARREN STATE: NC	136	165	194	224	253
COUNTY: WASHINGTON STATE: NC	174	212	249	287	324
COUNTY: WATAUGA STATE: NC	147	179	211	243	274
COUNTY: WAYNE STATE: NC	174	212	249	287	324
COUNTY: WILKES STATE: NC	138	168	198	228	257
COUNTY: WILSON STATE: NC	136	165	194	224	253
COUNTY: YANCEY STATE: NC	141	171	202	232	262

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

0 BEDROOMS 1 BEDROOM 2 BEDROOMS 3 BEDROOMS 4 BEDROOMS

JACKSON, MISSISSIPPI AREA OFFICE

SMSA: BILOXI-GULFPORT, MS

COUNTY: HANCOCK
STATE: MS142 173 203 247 291
13 26COUNTY: HARRISON
STATE: MS142 173 203 247 291
13 26COUNTY: STONE
STATE: MS142 173 203 247 291
13 26SMSA: JACKSON, MS
COUNTY: HINDS
STATE: MS

158 192 226 259 293

COUNTY: RANKIN
STATE: MS

158 192 226 259 293

SMSA: MEMPHIS, TN-AR MS
COUNTY: DE SOTO
STATE: MS

160 195 229 263 298

SMSA: PASCAGOULA-NUSS POINT, MS
COUNTY: JACKSON
STATE: MS142 173 203 247 291
13 26

NON SMSA

COUNTY: ADAMS
STATE: MS127 148 174 216 238
5 16 12COUNTY: ALCORN
STATE: MS129 160 185 215 259
3 2 18COUNTY: AMITE
STATE: MS127 148 174 216 238
5 16 12

NON SMSA

COUNTY: ATTALA
STATE: MS

120 146 172 198 224

COUNTY: BENTON
STATE: MS

141 171 202 232 262

COUNTY: BOLIVAR
STATE: MS138 149 182 215 238
18 3 10 17 14COUNTY: CALHOUN
STATE: MS

131 159 187 215 243

COUNTY: CARROLL
STATE: MS

120 146 172 198 224

COUNTY: CHICKASAW
STATE: MS137 159 187 215 243
6COUNTY: CHOCTAW
STATE: MS

131 159 187 215 243

COUNTY: CLAIBORNE
STATE: MS

120 146 172 198 224

COUNTY: CLARKE
STATE: MS

151 184 216 249 281

COUNTY: CLAY
STATE: MS

131 159 187 215 243

COUNTY: COAHOMA
STATE: MS

141 171 202 232 262

COUNTY: COPIAH
STATE: MS

120 146 172 198 224

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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REGION 4

JACKSON, MISSISSIPPI AREA OFFICE
NON SMSA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COUNTY: COVINGTON STATE: MS	151	184	218	249	281
COUNTY: FORRESI STATE: MS	151	184	216	249	281
COUNTY: FRANKLIN STATE: MS	127 5	148	174	216 18	238 12
COUNTY: GEORGE STATE: MS	142	173	203	234	265
COUNTY: GREENE STATE: MS	142	173	203	234	265
COUNTY: GRENADA STATE: MS	120	146	172	198	224
COUNTY: HOLMES STATE: MS	120	146	172	198	224
COUNTY: HUMPHREYS STATE: MS	138 18	149 3	182 10	215 17	238 14
COUNTY: ISSAQUENA STATE: MS	138 18	149 3	182 10	215 17	238 14
COUNTY: ITAWAMBA STATE: MS	137 6	159	187	215	243
COUNTY: JASPER STATE: MS	151	184	216	249	281
COUNTY: JEFFERSON STATE: MS	127 5	148	174	216 16	238 12
COUNTY: JEFFERSON DA STATE: MS	127 14	142 5	172 11	216 31	238 28
COUNTY: JONES STATE: MS	151	184	216	249	281
COUNTY: KEMPER STATE: MS	151	184	216	249	281
COUNTY: LAFAYETTE STATE: MS	141	171	202	232	262
COUNTY: LAMAR STATE: MS	151	184	216	249	281
COUNTY: LAUDERDALE STATE: MS	151	184	216	249	281
COUNTY: LAWRENCE STATE: MS	127 14	142 5	172 11	216 31	238 28
COUNTY: LEAKE STATE: MS	120	146	172	198	224
COUNTY: LEE STATE: MS	131	160 1	187	215	259 16
COUNTY: LEFLORE STATE: MS	120	146	172	198	224
COUNTY: LINCOLN STATE: MS	127 14	142 5	172 11	216 31	238 28
COUNTY: LOWMEYER STATE: MS	138 7	159	188 1	215	243

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4

JACKSON, MISSISSIPPI AREA OFFICE
NON SMSA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COUNTY: MADISON STATE: MS	120	146	172	198	224
COUNTY: MARION STATE: MS	113	137	161	185	210
COUNTY: MARSHALL STATE: MS	141	171	202	232	262
COUNTY: MONROE STATE: MS	131	160 1	187	215	259 16
COUNTY: MONTGOMERY STATE: MS	120	146	172	198	224
COUNTY: NESHOBIA STATE: MS	151	184	216	249	281
COUNTY: NEWTON STATE: MS	151	184	216	249	281
COUNTY: NOXUBEE STATE: MS	131	159	187	215	243
COUNTY: OKTIBBEHA STATE: MS	131	159	187	215	243
COUNTY: PANOLA STATE: MS	141	171	202	232	262
COUNTY: PEARL RIVER STATE: MS	133 20	160 23	193 32	227 62	291 81
COUNTY: PERRY STATE: MS	151	184	216	249	281
COUNTY: PIKE STATE: MS	127 14	142 5	172 11	216 31	238 28
COUNTY: PONTOTOC STATE: MS	137 6	159	187	215	243
COUNTY: PRENTISS STATE: MS	137 6	159	187	215	243
COUNTY: QUITMAN STATE: MS	141	171	202	232	262
COUNTY: SCOTT STATE: MS	120	146	172	198	224
COUNTY: SHARKEY STATE: MS	138 18	149 3	182 10	215 17	238 14
COUNTY: SIMPSON STATE: MS	120	148	172	198	224
COUNTY: SMITH STATE: MS	120	146	172	198	224
COUNTY: SUNFLOWER STATE: MS	138 18	149 3	182 10	215 17	238 14
COUNTY: TALLAHATCHIE STATE: MS	120	146	172	198	224
COUNTY: TATE STATE: MS	141	171	202	232	262
COUNTY: TIPPAN STATE: MS	141	171	202	232	262

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
JACKSON, MISSISSIPPI AREA OFFICE					
NON SMSA					
COUNTY: TISHOMINGO STATE: MS	137 8	157	185	213	241
COUNTY: TUNICA STATE: MS	141	171	202	232	262
COUNTY: UNION STATE: MS	131	160 1	187	215	259 16
COUNTY: WALTHALL STATE: MS	127 14	142 5	172 11	216 31	238 28
COUNTY: WARREN STATE: MS	120	146	172	198	224
COUNTY: WASHINGTON STATE: MS	138 18	149 3	182 10	215 17	238 14
COUNTY: WAYNE STATE: MS	151	184	216	249	281
COUNTY: WEBSTER STATE: MS	131	159	187	215	243
COUNTY: WILKINSON STATE: MS	122	148	174	200	226
COUNTY: WINSTON STATE: MS	151	184	216	249	281
COUNTY: YALOBUSHA STATE: MS	120	146	172	198	224
COUNTY: YAZOO STATE: MS	120	146	172	198	224
SMSA: FORT LAUDERDALE-HOLLYWOOD, FL COUNTY: BROWARD STATE: FL	279	338	398	458	518
SMSA: FORT MYERS-CAPE CORAL, FL COUNTY: LEE STATE: FL	209	254	299	344	389
SMSA: MIAMI, FL COUNTY: DADE STATE: FL	255	309	364	419	473
SMSA: WEST PALM BEACH-BOCA RATON, FL COUNTY: PALM BEACH STATE: FL	234	284	334	384	434
NON SMSA					
COUNTY: CHARLOTTE STATE: FL	209	254	299	344	389
COUNTY: COLLIER STATE: FL	165	201	237	272	308
COUNTY: GLADES STATE: FL	165	201	237	272	308
COUNTY: HENDRY STATE: FL	165	201	237	272	308
COUNTY: MARTIN STATE: FL	165	201	237	272	308
COUNTY: MONROE STATE: FL	165	201	237	272	308

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
JACKSONVILLE, FLORIDA AREA OFFICE					
SMSA: GAINESVILLE, FL COUNTY: ALACHUA STATE: FL	165	201	237	272	308
SMSA: JACKSONVILLE, FL COUNTY: BAKER STATE: FL	174	212	249	287	324
COUNTY: CLAY STATE: FL	174	212	249	287	324
COUNTY: DUVAL STATE: FL	174	212	249	287	324
COUNTY: NASSAU STATE: FL	174	212	249	287	324
COUNTY: ST. JOHNS STATE: FL	174	212	249	287	324
SMSA: PANAMA CITY, FL COUNTY: BAY STATE: FL	165	201	237	272	308
SMSA: PENSACOLA, FL COUNTY: ESCAMBIA STATE: FL	173	210	248	285	322
COUNTY: SANTA ROSA STATE: FL	173	210	248	285	322
SMSA: TALLAHASSEE, FL COUNTY: LEON STATE: FL	165	201	237	272	308
SMSA: TALLAHASSEE, FL COUNTY: WAKULLA STATE: FL	165	201	237	272	308
NON SMSA					
COUNTY: BRADFORD STATE: FL	149	181	213	245	277
COUNTY: CALHOUN STATE: FL	165	201	237	272	308
COUNTY: COLUMBIA STATE: FL	149	181	213	245	277
COUNTY: DIXIE STATE: FL	165	201	237	272	308
COUNTY: FLAGLER STATE: FL	158	192	226	259	293
COUNTY: FRANKLIN STATE: FL	165	201	237	272	308
COUNTY: GADSDEN STATE: FL	165	201	237	272	308
COUNTY: GILCHRIST STATE: FL	165	201	237	272	308
COUNTY: GULF STATE: FL	165	201	237	272	308
COUNTY: HAMILTON STATE: FL	149	181	213	245	277

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
JACKSONVILLE, FLORIDA AREA OFFICE					
NON SMSA					
COUNTY: HOLMES STATE: FL	165	201	237	272	308
COUNTY: JACKSON STATE: FL	165	201	237	272	308
COUNTY: JEFFERSON STATE: FL	165	201	237	272	308
COUNTY: LAFAYETTE STATE: FL	149	181	213	245	277
COUNTY: LEVY STATE: FL	165	201	237	272	308
COUNTY: LIBERTY STATE: FL	165	201	237	272	308
COUNTY: MADISON STATE: FL	165	201	237	272	308
COUNTY: MARION STATE: FL	165	201	237	272	308
COUNTY: OKALOOSA STATE: FL	173	210	248	285	322
COUNTY: PUTNAM STATE: FL	165	201	237	272	308
COUNTY: SUWANNEE STATE: FL	149	181	213	245	277
COUNTY: TAYLOR STATE: FL	165	201	237	272	308
COUNTY: UNION STATE: FL	149	181	213	245	277
COUNTY: WALTON STATE: FL	173	210	248	285	322
COUNTY: WASHINGTON STATE: FL	165	201	237	272	308
SMSA: DAYTONA BEACH, FL COUNTY: VOLUSIA STATE: FL	158	192	226	259	293
SMSA: MELBOURN-TITUSVILLE-COCOA, FL COUNTY: BREVARD STATE: FL	207	251	295	340	384
SMSA: ORLANDO, FL COUNTY: ORANGE STATE: FL	202	245	288	331	374
COUNTY: OSCEOLA STATE: FL	202	245	288	331	374
COUNTY: SEMINOLE STATE: FL	202	245	288	331	374
NON SMSA					
COUNTY: INDIAN RIVER STATE: FL	165	201	237	272	308
COUNTY: LAKE STATE: FL	158	192	226	259	293

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
JACKSONVILLE, FLORIDA AREA OFFICE					
NON SMSA					
COUNTY: OKEECHOBEE STATE: FL	165	201	237	272	308
COUNTY: ST. LUCIE STATE: FL	165	201	237	272	308
SMSA: BRADENTON, FL COUNTY: MANATEE STATE: FL	209	254	299	344	389
SMSA: LAKELAND-WINIER HAVEN, FL COUNTY: POLK STATE: FL	172	209	246	283	320
SMSA: SARASOTA, FL COUNTY: SARASOTA STATE: FL	209	254	299	344	389
SMSA: TAMPA-ST. PETERSBURG, FL COUNTY: HILLSBOROUGH STATE: FL	172	209	246	283	320
COUNTY: PASCO STATE: FL	172	209	246	283	320
COUNTY: PINELLAS STATE: FL	172	209	246	283	320
NON SMSA					
COUNTY: CITRUS STATE: FL	172	209	246	283	320
COUNTY: DE SOTO STATE: FL	209	254	299	344	389
COUNTY: HARDEE STATE: FL	209	254	299	344	389
COUNTY: HERNANDO STATE: FL	172	209	246	283	320
COUNTY: HIGHLANDS STATE: FL	165	201	237	272	308
COUNTY: SUMTER STATE: FL	158	192	226	259	293

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE, KENTUCKY AREA OFFICE					
SMSA: CINCINNATI, OH-KY-IN					
COUNTY: BOONE	168	204	240	276	312
STATE: KY					
COUNTY: CAMPBELL	168	204	240	276	312
STATE: KY					
COUNTY: KENTON	168	204	240	276	312
STATE: KY					
SMSA: CLARKSVILLE-HOPKINSVILLE, TN-KY					
COUNTY: CHRISTIAN	156	190	224	257	291
STATE: KY					
SMSA: EVANSVILLE, IN-KY					
COUNTY: HENDERSON	138	170	201	218	238
STATE: KY	21	27	33	25	19
SMSA: HUNTINGTON-ASHLAND, WV-KY-OH					
COUNTY: BOYD	146	178	209	240	272
STATE: KY					
COUNTY: GREENUP	146	178	209	240	272
STATE: KY					
SMSA: LEXINGTON-FAYETTE, KY					
COUNTY: BOURBON	167	203	238	274	310
STATE: KY					
COUNTY: CLARK	167	203	238	274	310
STATE: KY					
COUNTY: FAYETTE	167	203	238	274	310
STATE: KY					
SMSA: LEXINGTON-FAYETTE, KY					
COUNTY: JESSAMINE	167	203	238	274	310
STATE: KY					
COUNTY: SCOTT	167	203	238	274	310
STATE: KY					
COUNTY: WOODFORD	167	203	238	274	310
STATE: KY					
SMSA: LOUISVILLE, KY-IN					
COUNTY: BULLITT	166	188	221	261	287
STATE: KY	11			7	
COUNTY: JEFFERSON	166	188	221	261	287
STATE: KY	11			7	
COUNTY: OLDHAM	166	188	221	261	287
STATE: KY	11			7	
SMSA: OWENSBORO, KY					
COUNTY: DAVENESS	176	213	251	289	327
STATE: KY					
NON SMSA					
COUNTY: ADAMS	133	160	187	217	238
STATE: KY	27	31	35	42	40
COUNTY: ALLEN	133	160	187	217	236
STATE: KY	15	17	18	23	19
COUNTY: ANDERSON	167	203	238	274	310
STATE: KY					
COUNTY: BALLARD	133	160	189	217	246
STATE: KY	1				

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE, KENTUCKY AREA OFFICE					
NON SMSA					
COUNTY: BARREN	133	160	187	217	238
STATE: KY	15	17	18	23	19
COUNTY: BATH	167	203	238	274	310
STATE: KY					
COUNTY: BELL	133	160	187	217	238
STATE: KY	9	9	9	13	7
COUNTY: BOYLE	133	160	187	217	238
STATE: KY	27	31	35	42	40
COUNTY: DRACKEN	176	213	251	289	327
STATE: KY					
COUNTY: DREATHITT	133	160	187	217	238
STATE: KY	27	31	35	42	40
COUNTY: BRECKINRIDGE	171	207	244	281	317
STATE: KY					
COUNTY: BUTLER	133	160	187	217	238
STATE: KY	15	17	18	23	19
COUNTY: CALDWELL	137	167	196	226	255
STATE: KY					
COUNTY: CALLOWAY	133	160	189	217	246
STATE: KY	1				
COUNTY: CARLISLE	133	160	189	217	246
STATE: KY	1				
COUNTY: CARROLL	176	213	251	289	327
STATE: KY					
COUNTY: CARTER	133	160	187	217	238
STATE: KY	14	15	17	21	16
COUNTY: CASEY	133	160	187	217	238
STATE: KY	27	31	35	42	40
COUNTY: CLAY	133	160	187	217	238
STATE: KY	27	31	35	42	40
COUNTY: CLINTON	133	160	187	217	238
STATE: KY	15	17	18	23	19
COUNTY: CRITTENDON	137	167	196	226	255
STATE: KY					
COUNTY: CUMBERLAND	133	160	187	217	238
STATE: KY	15	17	18	23	19
COUNTY: EDMONSON	133	160	187	217	238
STATE: KY	15	17	18	23	19
COUNTY: ELLIOTT	133	160	187	217	238
STATE: KY	14	15	17	21	16
COUNTY: ESTILL	167	203	238	274	310
STATE: KY					
COUNTY: FLEMING	176	213	251	289	327
STATE: KY					
COUNTY: FLOYD	133	160	187	217	238
STATE: KY	14	15	17	21	16
COUNTY: FRANKLIN	167	203	238	274	310
STATE: KY					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4 0 BEDROOMS 1 BEDROOM 2 BEDROOMS 3 BEDROOMS 4 BEDROOMS

LOUISVILLE, KENTUCKY AREA OFFICE
NON SMSA

COUNTY: FULTON STATE: KY	133 1	160	189	217	246
COUNTY: GALLATIN STATE: KY	176	213	251	289	327
COUNTY: GARRARD STATE: KY	133 27	160 31	187 35	217 42	238 40
COUNTY: GRANT STATE: KY	176	213	251	289	327
COUNTY: GRAVES STATE: KY	133 1	160	189	217	246
COUNTY: GRAYSON STATE: KY	171	207	244	281	317
COUNTY: GREEN STATE: KY	133 27	160 31	187 35	217 42	238 40
COUNTY: HANCOCK STATE: KY	137	167	196	226	255
COUNTY: HARDIN STATE: KY	171	207	244	281	317
COUNTY: HARLAN STATE: KY	133 9	160 9	187 9	217 13	238 7
COUNTY: HARRISON STATE: KY	167	203	238	274	310
COUNTY: HART STATE: KY	171	207	244	281	317
COUNTY: HENRY STATE: KY	171	207	244	281	317
COUNTY: HICKMAN STATE: KY	133 1	160	189	217	246
COUNTY: HOPKINS STATE: KY	137	167	196	226	255
COUNTY: JACKSON STATE: KY	133 27	160 31	187 35	217 42	238 40
COUNTY: JOHNSON STATE: KY	133 14	160 15	187 17	217 21	238 16
COUNTY: KNOTT STATE: KY	133 27	160 31	187 35	217 42	238 40
COUNTY: KNOX STATE: KY	133 9	160 9	187 9	217 13	238 7
COUNTY: LARUE STATE: KY	171	207	244	281	317
COUNTY: LAUREL STATE: KY	133 9	160 9	187 9	217 13	238 7
COUNTY: LAWRENCE STATE: KY	133 14	160 15	187 17	217 21	238 16
COUNTY: LEE STATE: KY	133 27	160 31	187 35	217 42	238 40
COUNTY: LESLIE STATE: KY	133 27	160 31	187 35	217 42	238 40

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4 0 BEDROOMS 1 BEDROOM 2 BEDROOMS 3 BEDROOMS 4 BEDROOMS

LOUISVILLE, KENTUCKY AREA OFFICE
NON SMSA

COUNTY: LETCHER STATE: KY	133 27	160 31	187 35	217 42	238 40
COUNTY: LEWIS STATE: KY	176	213	251	289	327
COUNTY: LINCOLN STATE: KY	133 27	160 31	187 35	217 42	238 40
COUNTY: LIVINGSTON STATE: KY	133 1	160	189	217	246
COUNTY: LOGAN STATE: KY	133 15	160 17	187 18	217 23	238 19
COUNTY: LYON STATE: KY	133 1	160	189	217	246
COUNTY: MCCracken STATE: KY	133 1	160	189	217	246
COUNTY: MCCREARY STATE: KY	133 9	160 9	187 9	217 13	238 7
COUNTY: MCLEAN STATE: KY	137	167	196	226	255
COUNTY: MADISON STATE: KY	167	203	238	274	310
COUNTY: MAGOFFIN STATE: KY	133 27	160 31	187 35	217 42	238 40
COUNTY: MARION STATE: KY	171	207	244	281	317
COUNTY: MARSHALL STATE: KY	133 1	160	189	217	246
COUNTY: MARTIN STATE: KY	133 14	160 15	187 17	217 21	238 16
COUNTY: MASON STATE: KY	176	213	251	289	327
COUNTY: MEADE STATE: KY	171	207	244	281	317
COUNTY: MENIFEE STATE: KY	133 27	160 31	187 35	217 42	238 40
COUNTY: MERCER STATE: KY	167	203	238	274	310
COUNTY: METCALFE STATE: KY	133 15	160 17	187 18	217 23	238 19
COUNTY: MONROE STATE: KY	133 15	160 17	187 18	217 23	238 19
COUNTY: MONTGOMERY STATE: KY	167	203	236	274	310
COUNTY: MORGAN STATE: KY	133 27	160 31	187 35	217 42	238 40
COUNTY: MUHLENBERG STATE: KY	137	167	196	226	255
COUNTY: NELSON STATE: KY	171	207	244	281	317

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE, KENTUCKY AREA OFFICE					
NON SMSA					
COUNTY: NICHOLAS STATE: KY	167	203	238	274	310
COUNTY: OHIO STATE: KY	137	167	196	226	255
COUNTY: OWEN STATE: KY	176	213	251	289	327
COUNTY: OWSLEY STATE: KY	133 27	160 31	187 35	217 42	238 40
COUNTY: PENDLETON STATE: KY	176	213	251	289	327
COUNTY: PERRY STATE: KY	133 27	160 31	187 35	217 42	238 40
COUNTY: PIKE STATE: KY	133 14	160 15	187 17	217 21	238 16
COUNTY: POWELL STATE: KY	167	203	238	274	310
COUNTY: PULASKI STATE: KY	133 27	160 31	187 35	217 42	238 40
COUNTY: ROBERTSON STATE: KY	176	213	251	289	327
COUNTY: ROCKCASTLE STATE: KY	133 27	160 31	187 35	217 42	238 40
COUNTY: ROWAN STATE: KY	133 14	160 15	187 17	217 21	238 16
COUNTY: RUSSELL STATE: KY	133 27	160 31	187 35	217 42	238 40
COUNTY: SHELBY STATE: KY	171	207	244	281	317
COUNTY: SIMPSON STATE: KY	133 15	160 17	187 18	217 23	238 19
COUNTY: SPENCER STATE: KY	171	207	244	281	317
COUNTY: TAYLOR STATE: KY	133 27	160 31	187 35	217 42	238 40
COUNTY: TODD STATE: KY	156	190	224	257	291
COUNTY: TRIGG STATE: KY	156	190	224	257	291
COUNTY: TRIMBLE STATE: KY	171	207	244	281	317
COUNTY: UNION STATE: KY	137	167	196	226	255
COUNTY: WARREN STATE: KY	133 15	160 17	187 18	217 23	238 19
COUNTY: WASHINGTON STATE: KY	171	207	244	281	317
COUNTY: WAYNE STATE: KY	133 9	160 9	187 9	217 13	238 7

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE, KENTUCKY AREA OFFICE					
NON SMSA					
COUNTY: WEBSTER STATE: KY	137	167	196	226	255
COUNTY: WHITLEY STATE: KY	133 9	160 9	187 9	217 13	238 7
COUNTY: WOLFE STATE: KY	133 27	160 31	187 35	217 42	238 40
SMSA: CHATTANOOGA, TN-GA					
COUNTY: HAMILTON STATE: TN	156	190	224	274 17	298 7
COUNTY: MARION STATE: TN	156	190	224	274 17	298 7
COUNTY: SEQUATCHIE STATE: TN	156	190	224	274 17	298 7
SMSA: JOHNSON CITY-KINGSPORT-BRISTOL, TN-VA					
COUNTY: CARTER STATE: TN	154	187	220	253	286
COUNTY: HAWKINS STATE: TN	154	187	220	253	286
COUNTY: SULLIVAN STATE: TN	154	187	220	253	286
COUNTY: UNICOI STATE: TN	154	187	220	253	286
COUNTY: WASHINGTON STATE: TN	154	187	220	253	286
SMSA: KNOXVILLE, TN					
COUNTY: ANDERSON STATE: TN	156	190	224	266 9	291
COUNTY: BLOUNT STATE: TN	156	190	224	266 9	291
COUNTY: KNOX STATE: TN	156	190	224	266 9	291

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KNOXVILLE, TENNESSEE AREA OFFICE					
SMSA: KNOXVILLE, TN					
COUNTY: UNION	156	190	224	266	291
STATE: TN				9	
NON SMSA					
COUNTY: BLEDSOE	133	162	191	219	248
STATE: TN					
COUNTY: BRADLEY	133	162	191	219	248
STATE: TN					
COUNTY: CAMPBELL	124	151	178	204	231
STATE: TN					
COUNTY: CLAIBORNE	124	151	178	204	231
STATE: TN					
COUNTY: COCKE	124	151	178	204	231
STATE: TN					
COUNTY: CUMBERLAND	124	151	178	204	231
STATE: TN					
COUNTY: FENTRESS	124	151	178	204	231
STATE: TN					
COUNTY: GRAINGER	124	151	178	204	231
STATE: TN					
COUNTY: GREENE	154	187	220	253	286
STATE: TN					
COUNTY: GRUNDY	133	162	191	219	248
STATE: TN					
COUNTY: HAMBLEN	124	151	178	204	231
STATE: TN					
COUNTY: HANCOCK	154	187	220	253	286
STATE: TN					
COUNTY: JEFFERSON	124	151	178	204	231
STATE: TN					
COUNTY: JOHNSON	154	187	220	253	286
STATE: TN					
COUNTY: LOUDON	124	151	178	204	231
STATE: TN					
COUNTY: MCMINN	133	162	191	219	248
STATE: TN					
COUNTY: MEIGS	133	162	191	219	248
STATE: TN					
COUNTY: MONROE	124	151	178	204	231
STATE: TN					
COUNTY: MORGAN	124	151	178	204	231
STATE: TN					
COUNTY: PICKETT	118	143	169	194	219
STATE: TN					
COUNTY: POLK	133	162	191	219	248
STATE: TN					
COUNTY: RHEA	133	162	191	219	248
STATE: TN					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KNOXVILLE, TENNESSEE AREA OFFICE					
NON SMSA					
COUNTY: ROANE	124	151	178	204	231
STATE: TN					
COUNTY: SCOTT	124	151	178	204	231
STATE: TN					
COUNTY: SEVIER	124	151	178	204	231
STATE: TN					
SMSA: MEMPHIS, TN-AR-MO					
COUNTY: SHELBY	160	195	229	263	298
STATE: TN					
COUNTY: TIPTON	160	195	229	263	298
STATE: TN					
NON SMSA					
COUNTY: BENTON	156	190	224	257	291
STATE: TN					
COUNTY: CARROLL	128	156	183	211	238
STATE: TN					
COUNTY: CHESTER	128	156	183	211	238
STATE: TN					
COUNTY: CROCKETT	128	156	183	211	238
STATE: TN					
COUNTY: DECATUR	128	156	183	211	238
STATE: TN					
COUNTY: DYER	128	156	183	211	238
STATE: TN					
COUNTY: FAYETTE	141	171	202	232	262
STATE: TN					
COUNTY: GIBSON	128	156	183	211	238
STATE: TN					
COUNTY: HARDEMAN	141	171	202	232	262
STATE: TN					
COUNTY: HARDIN	129	157	185	213	241
STATE: TN					
COUNTY: HAYWOOD	128	156	183	211	238
STATE: TN					
COUNTY: HENDERSON	128	156	183	211	238
STATE: TN					
COUNTY: HENRY	128	156	183	211	238
STATE: TN					
COUNTY: LAKE	132	160	189	217	246
STATE: TN					
COUNTY: LAUDERDALE	128	156	183	211	238
STATE: TN					
COUNTY: MCNAIRY	138	157	185	227	241
STATE: TN	9			14	
COUNTY: MADISON	128	156	183	211	238
STATE: TN					
COUNTY: OBION	132	160	189	217	246
STATE: TN					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KNOXVILLE, TENNESSEE AREA OFFICE					
NON SMSA					
COUNTY: WEAVER STATE: TN	128	156	183	211	238
SMSA: CLARKSVILLE-HOPKINSVILLE, TN-KY					
COUNTY: MONTGOMERY STATE: TN	156	190	224	257	291
SMSA: NASHVILLE-DAVIDSON, TN					
COUNTY: CHEATHAM STATE: TN	189	229	270	310	351
COUNTY: DAVIDSON STATE: TN	189	229	270	310	351
COUNTY: DICKSON STATE: TN	189	229	270	310	351
COUNTY: ROBERTSON STATE: TN	189	229	270	310	351
COUNTY: RUTHERFORD STATE: TN	189	229	270	310	351
COUNTY: SUMNER STATE: TN	189	229	270	310	351
COUNTY: WILLIAMSON STATE: TN	189	229	270	310	351
COUNTY: WILSON STATE: TN	189	229	270	310	351
NON SMSA					
COUNTY: BEDFORD STATE: TN	133	162	191	219	248
COUNTY: CANNON STATE: TN	118	143	169	194	219
COUNTY: CLAY STATE: TN	118	143	169	194	219
COUNTY: COFFEE STATE: TN	133	162	191	219	248
COUNTY: DE KALB STATE: TN	118	143	169	194	219
COUNTY: FRANKLIN STATE: TN	164	199	235	270	305
COUNTY: GILES STATE: TN	133	162	191	219	248
COUNTY: HICKMAN STATE: TN	133	162	191	219	248
COUNTY: HOUSTON STATE: TN	156	190	224	257	291
COUNTY: HUMPHREYS STATE: TN	156	190	224	257	291
COUNTY: JACKSON STATE: TN	118	143	169	194	219
COUNTY: LAWRENCE STATE: TN	133	162	191	219	248
COUNTY: LEWIS STATE: TN	133	162	191	219	248

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KNOXVILLE, TENNESSEE AREA OFFICE					
NON SMSA					
COUNTY: LINCOLN STATE: TN	164	199	235	270	305
COUNTY: MACON STATE: TN	118	143	169	194	219
COUNTY: MARSHALL STATE: TN	133	162	191	219	248
COUNTY: MAURY STATE: TN	133	162	191	219	248
COUNTY: MOORE STATE: TN	133	162	191	219	248
COUNTY: OVERTON STATE: TN	118	143	169	194	219
COUNTY: PERRY STATE: TN	118	143	169	194	219
COUNTY: PUTNAM STATE: TN	118	143	169	194	219
COUNTY: SMITH STATE: TN	118	143	169	194	219
COUNTY: STEWART STATE: TN	156	190	224	257	291
COUNTY: TROUSDALE STATE: TN	118	143	169	194	219
COUNTY: VAN BUREN STATE: TN	118	143	169	194	219
COUNTY: WARREN STATE: TN	118	143	169	194	219
COUNTY: WAYNE STATE: TN	129	157	185	213	241
COUNTY: WHITE STATE: TN	118	143	169	194	219

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHICAGO, ILLINOIS AREA OFFICE					
SMSA: CHICAGO, IL					
COUNTY: COOK	219	248	293	339	383
STATE: IL	26	13	17	22	24
COUNTY: DU PAGE	219	248	293	339	383
STATE: IL	26	13	17	22	24
COUNTY: KANE	219	248	293	339	383
STATE: IL	26	13	17	22	24
COUNTY: LAKE	219	248	293	339	383
STATE: IL	26	13	17	22	24
COUNTY: MCHENRY	219	248	293	339	383
STATE: IL	26	13	17	22	24
COUNTY: WILL	219	248	293	339	383
STATE: IL	26	13	17	22	24
SMSA: DAVENPORT-ROCK ISLAND-MOLINE, IA-IL					
COUNTY: ROCK ISLAND	183	223	262	302	341
STATE: IL					
SMSA: KANKAKEE, ILLINOIS					
COUNTY: KANKAKEE	167	192	228	254	287
STATE: IL	13	5	7		
SMSA: ROCKFORD, IL					
COUNTY: BOONE	170	207	244	280	317
STATE: IL					
COUNTY: WINNEBAGO	170	207	244	280	317
STATE: IL					
NON SMSA					
COUNTY: CARROLL	154	187	221	254	287
STATE: IL					
COUNTY: DE KALB	175	212	250	288	325
STATE: IL					
COUNTY: GRUNDY	175	212	250	288	325
STATE: IL					
COUNTY: JO DAVIES	139	169	199	229	259
STATE: IL					
COUNTY: KENDALL	175	212	250	288	325
STATE: IL					
COUNTY: LEE	160	194	228	263	297
STATE: IL					
COUNTY: OGLE	160	194	228	263	297
STATE: IL					
COUNTY: STEPHENSON	160	194	228	263	297
STATE: IL					
COUNTY: WHITESIDE	154	187	221	254	287
STATE: IL					
SMSA: BLOOMINGTON-NORMAL, IL					
COUNTY: MCLEAN	160	194	228	263	297
STATE: IL					
SMSA: CHAMPAIGN-URBANA-RANTOUL, IL					
COUNTY: CHAMPAIGN	183	215	253	293	339
STATE: IL	6		2	10	
SMSA: DAVENPORT-ROCK ISLAND-MOLINE, IA-IL					
COUNTY: MCHENRY	183	223	262	302	341
STATE: IL					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHICAGO, ILLINOIS AREA OFFICE					
SMSA: DECATUR, IL	167	203	239	275	311
COUNTY: MACON					
STATE: IL					
SMSA: PEORIA, IL					
COUNTY: PEORIA	183	223	262	302	341
STATE: IL					
COUNTY: TAZEWELL	183	223	262	302	341
STATE: IL					
COUNTY: WOODFORD	183	223	262	302	341
STATE: IL					
SMSA: ST LOUIS, MO-IL					
COUNTY: CLINTON	175	213	250	288	325
STATE: IL					
COUNTY: MADISON	175	213	250	288	325
STATE: IL					
COUNTY: MONROE	175	213	250	288	325
STATE: IL					
COUNTY: ST CLAIR	175	213	250	288	325
STATE: IL					
SMSA: SPRINGFIELD, IL					
COUNTY: MCNARD	167	203	239	275	311
STATE: IL					
COUNTY: SANGAMON	167	203	239	275	311
STATE: IL					
NON SMSA					
COUNTY: ADAMS	140	170	200	231	261
STATE: IL					
COUNTY: ALEXANDER	114	139	163	188	213
STATE: IL					
COUNTY: BOND	127	155	182	209	237
STATE: IL					
COUNTY: BROWN	140	170	200	231	261
STATE: IL					
COUNTY: BUREAU	154	187	221	254	287
STATE: IL					
COUNTY: CALHOUN	127	155	182	209	237
STATE: IL					
COUNTY: CASS	167	203	239	275	311
STATE: IL					
COUNTY: CHRISTIAN	167	203	239	275	311
STATE: IL					
COUNTY: CLARK	160	194	228	263	297
STATE: IL					
COUNTY: CLAY	127	155	182	209	237
STATE: IL					
COUNTY: COLLS	177	215	253	291	329
STATE: IL					
COUNTY: CRANFORD	160	194	228	263	297
STATE: IL					
COUNTY: CUMBERLAND	177	215	253	291	329
STATE: IL					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMSSCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)
REGION 5

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHICAGO, ILLINOIS AREA OFFICE NON SMSA					
COUNTY DE WITT STATE: IL	167	203	239	275	311
COUNTY DOUGLAS STATE: IL	177	215	253	291	329
COUNTY LOGAN STATE: IL	177	215	253	291	329
COUNTY EDWARDS STATE: IL	117	143	168	193	219
COUNTY EFFINGHAM STATE: IL	127	155	182	209	237
COUNTY LAYETTE STATE: IL	127	155	182	209	237
COUNTY FORD STATE: IL	177	215	253	291	329
COUNTY FRANKLIN STATE: IL	133	161	190	218	247
COUNTY FULTON STATE: IL	160	194	228	263	297
COUNTY GALLATIN STATE: IL	117	143	168	193	219
COUNTY GREENE STATE: IL	127	155	182	209	237
COUNTY HAMILTON STATE: IL	117	143	168	193	219
COUNTY HANCOCK STATE: IL	140	170	200	231	261
COUNTY HARDIN STATE: IL	114	139	163	188	213
COUNTY HENDERSON STATE: IL	140	170	200	231	261
COUNTY IROQUOIS STATE: IL	154	187	221	254	287
COUNTY JACKSON STATE: IL	133	161	190	218	247
COUNTY JASPER STATE: IL	127	155	182	209	237
COUNTY JEFFERSON STATE: IL	133	161	190	218	247
COUNTY KERSY STATE: IL	127	155	182	209	237
COUNTY JOHNSON STATE: IL	114	139	163	188	213
COUNTY KNOX STATE: IL	160	194	228	263	297
COUNTY LA SALLE STATE: IL	175	212	250	288	325
COUNTY LAWRENCE STATE: IL	117	143	168	193	219

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMSSCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)
REGION 5

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHICAGO, ILLINOIS AREA OFFICE NON SMSA					
COUNTY LIVINGSTON STATE: IL	175	212	250	288	325
COUNTY LOGAN STATE: IL	167	203	239	275	311
COUNTY MCDONOUGH STATE: IL	160	194	228	263	297
COUNTY MACOUPIN STATE: IL	127	155	182	209	237
COUNTY MARION STATE: IL	127	155	182	209	237
COUNTY MARSHALL STATE: IL	160	194	228	263	297
COUNTY MASON STATE: IL	167	203	239	275	311
COUNTY MASSAC STATE: IL	114	139	163	188	213
COUNTY MERCER STATE: IL	154	187	221	254	287
COUNTY MONTGOMERY STATE: IL	127	155	182	209	237
COUNTY MORGAN STATE: IL	167	203	239	275	311
COUNTY MOULTRIE STATE: IL	167	203	239	275	311
COUNTY PERRY STATE: IL	133	161	190	218	247
COUNTY PIATT STATE: IL	177	215	253	291	329
COUNTY PIKE STATE: IL	140	170	200	231	261
COUNTY POPE STATE: IL	114	139	163	188	213
COUNTY PULASKI STATE: IL	114	139	163	188	213
COUNTY PUTNAM STATE: IL	175	212	250	288	325
COUNTY RANDOLPH STATE: IL	133	161	190	218	247
COUNTY RICHLAND STATE: IL	127	155	182	209	237
COUNTY SALINE STATE: IL	117	143	168	193	219
COUNTY SCHUYLER STATE: IL	140	170	200	231	261
COUNTY SCOTT STATE: IL	167	203	239	275	311
COUNTY SHELBY STATE: IL	167	203	239	275	311

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHICAGO, ILLINOIS AREA OFFICE NON SMSA					
COUNTY: STARK STATE: IL	160	194	228	263	297
COUNTY: UNION STATE: IL	114	139	163	188	213
COUNTY: VERMILION STATE: IL	177	215	253	291	329
COUNTY: WADASH STATE: IL	117	143	168	193	219
COUNTY: WARREN STATE: IL	160	194	228	263	297
COUNTY: WASHINGTON STATE: IL	133	161	190	218	247
COUNTY: WAYNE STATE: IL	127	155	182	209	237
COUNTY: WHITE STATE: IL	117	143	168	193	219
COUNTY: WILLIAMSON STATE: IL	133	161	190	218	247
COLUMBUS, OHIO AREA OFFICE SMSA: CINCINNATI, OH-KY-IN COUNTY: CLERMONT STATE: OH	168	204	240	276	312
COUNTY: HAMILTON STATE: OH	168	204	240	276	312
COUNTY: WARREN STATE: OH	168	204	240	276	312
SMSA: DAYTON, OH COUNTY: GREENE STATE: OH	175	212	250	288	325
COUNTY: MONTGOMERY STATE: OH	175	212	250	288	325
COUNTY: PREBLE STATE: OH	175	212	250	288	325
SMSA: HAMILTON-MIDDLETOWN, OH COUNTY: BUTLER STATE: OH	152	185	217	250	283
NON SMSA COUNTY: ADAMS STATE: OH	152	185	217	250	283
COUNTY: BROWN STATE: OH	152	186	217	250	283
COUNTY: CLINTON STATE: OH	152	185	217	250	283
COUNTY: HIGHLAND STATE: OH	152	185	217	250	283

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLUMBUS, OHIO AREA OFFICE SMSA: AKRON, OH COUNTY: PORTAGE STATE: OH	181	220	259	298	337
COUNTY: SUMMIT STATE: OH	181	220	259	298	337
SMSA: CANTON, OH COUNTY: CARROLL STATE: OH	154 13	178 6	213 11	248 16	271 8
COUNTY: STARK STATE: OH	154 13	178 6	213 11	248 16	271 8
SMSA: CLEVELAND, OH COUNTY: CUYAHOGA STATE: OH	174 3	207	244	284 3	323 6
COUNTY: GEauga STATE: OH	174 3	207	244	284 3	323 6
COUNTY: LAKE STATE: OH	174 3	207	244	284 3	323 6
COUNTY: MEDINA STATE: OH	174 3	207	244	284 3	323 6
SMSA: LIMA, OH COUNTY: PUTNAM STATE: OH	139	169	199	229	259
SMSA: LORAIN ELYRIA, OH COUNTY: LORAIN STATE: OH	176	214	252	289	327
SMSA: MANSFIELD, OH COUNTY: RICHLAND STATE: OH	148	180	211	243	275
SMSA: STEUBENVILLE-WEIRTON, OH-WV COUNTY: JEFFERSON STATE: OH	141	171	202	232	262
SMSA: TOLEDO, OH-MI COUNTY: FULTON STATE: OH	161	195	230	264	299
COUNTY: LUCAS STATE: OH	161	195	230	264	299
COUNTY: OTTAWA STATE: OH	161	195	230	264	299
COUNTY: WOOD STATE: OH	161	195	230	264	299
SMSA: YOUNGSTOWN-WARREN, OH COUNTY: MAHONING STATE: OH	154	187	221	254	287
COUNTY: TRUMBULL STATE: OH	154	187	221	254	287
NON SMSA COUNTY: ASHLAND STATE: OH	146	177	208	240	271
COUNTY: ASHTABULA STATE: OH	146	177	208	240	271

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLUMBUS, OHIO AREA OFFICE					
NON SMSA					
COUNTY: COLUMBIANA STATE: OH	128	156	183	211	239
COUNTY: CRAWFORD STATE: OH	148	180	211	243	275
COUNTY: DEFIANCE STATE: OH	139	169	199	229	259
COUNTY: ERIE STATE: OH	146	177	208	240	271
COUNTY: HANCOCK STATE: OH	146	177	208	240	271
COUNTY: HARRISON STATE: OH	113	137	162	186	211
COUNTY: HENRY STATE: OH	146	177	208	240	271
COUNTY: HOLMES STATE: OH	128	156	183	211	239
COUNTY: HURON STATE: OH	146	177	208	240	271
COUNTY: PAULDING STATE: OH	139	169	199	229	259
COUNTY: SANDUSKY STATE: OH	146	177	208	240	271
COUNTY: SENECA STATE: OH	146	177	208	240	271
COUNTY: TUSCARAWAS STATE: OH	128	156	183	211	239
COUNTY: WAYNE STATE: OH	146	177	208	240	271
COUNTY: WILLIAMS STATE: OH	139	169	199	229	259
COUNTY: WYANDOT STATE: OH	148	180	211	243	275
SMSA: COLUMBUS, OH					
COUNTY: DELAWARE STATE: OH	172	208	245	282	318
COUNTY: FAIRFIELD STATE: OH	172	208	245	282	318
COUNTY: FRANKLIN STATE: OH	172	208	245	282	318
COUNTY: MADISON STATE: OH	172	208	245	282	318
COUNTY: PICKAWAY STATE: OH	172	208	245	282	318
SMSA: DAYTON, OH					
COUNTY: MIAMI STATE: OH	175	212	250	289	325
SMSA: HUNTINGTON-AMHLAND, WV-KY-OH					
COUNTY: LAWRENCE STATE: OH	146	178	209	240	272

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (COT), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLUMBUS, OHIO AREA OFFICE					
SMSA: LIMA, OH					
COUNTY: ALLEN STATE: OH	139	169	199	229	259
COUNTY: AUGLAIZE STATE: OH	139	169	199	229	259
COUNTY: VAN WERT STATE: OH	139	169	199	229	259
SMSA: PARKERSBURG-MARILTTA, WV-OH					
COUNTY: WASHINGTON STATE: OH	160	195	229	264	298
SMSA: SPRINGFIELD, OH					
COUNTY: CHAMPAIGN STATE: OH	136	165	194	224	253
COUNTY: CLARK STATE: OH	136	165	194	224	253
SMSA: WHEELING, WV-OH					
COUNTY: BELMONT STATE: OH	141	171	202	232	262
NON SMSA					
COUNTY: ATHENS STATE: OH	147 8	169	202 3	229	259
COUNTY: COSHOCTON STATE: OH	134 6	156	183	211	239
COUNTY: DARKE STATE: OH	136	165	194	224	253
COUNTY: FAYETTE STATE: OH	123	149	176	202	229
COUNTY: GALLIA STATE: OH	117 15	135 11	166 20	184 16	203 13
COUNTY: GUENSEY STATE: OH	135	164	193	222	251
COUNTY: HARDIN STATE: OH	139	169	199	229	259
COUNTY: HOCKING STATE: OH	139	169	199	229	259
COUNTY: JACKSON STATE: OH	123	149	176	202	229
COUNTY: KNOX STATE: OH	148	180	211	243	275
COUNTY: LICKING STATE: OH	136 1	164	193	222	251
COUNTY: LOGAN STATE: OH	136	165	194	224	253
COUNTY: MARION STATE: OH	123	149	176	202	229
COUNTY: MEIGS STATE: OH	102	124	146	168	190
COUNTY: MERCER STATE: OH	139	169	199	229	259

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (COT), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLUMBUS, OHIO AREA OFFICE					
NON SMSA					
COUNTY: MONROE STATE: OH	113	137	162	186	211
COUNTY: MORGAN STATE: OH	139	169	199	229	259
COUNTY: MORRISON STATE: OH	148	180	211	243	275
COUNTY: MUSKINGUM STATE: OH	135	164	193	222	251
COUNTY: NOBLE STATE: OH	139	169	199	229	259
COUNTY: PERRY STATE: OH	135	164	193	222	251
COUNTY: PIKE STATE: OH	133 10	155 6	187 11	208 6	230 1
COUNTY: ROSS STATE: OH	123	149	176	202	229
COUNTY: SCIOTO STATE: OH	127 25	145 21	174 28	194 26	212 22
COUNTY: SHELBY STATE: OH	136	165	194	224	253
COUNTY: UNION STATE: OH	123	149	176	202	229
COUNTY: VINTON STATE: OH	123	149	176	202	229
SMSA: ANN ARBOR, MI					
COUNTY: WASHTENAW STATE: MI	226	274	323	371	420
SMSA: DETROIT, MI					
COUNTY: LIVINGSTON STATE: MI	206	250	294	338	382
COUNTY: MACOMB STATE: MI	206	250	294	338	382
COUNTY: OAKLAND STATE: MI	206	250	294	338	382
COUNTY: ST. CLAIR STATE: MI	206	250	294	338	382
COUNTY: WAYNE STATE: MI	206	250	294	338	382
SMSA: TOLEDO, OH-MI					
COUNTY: MONROE STATE: MI	161	195	230	264	299
NON SMSA					
COUNTY: LENAWEE STATE: MI	146	177	208	240	271
SMSA: BAY CITY, MI					
COUNTY: BAY STATE: MI	177	215	253	291	329
SMSA: DETROIT, MI					
COUNTY: LAPEER STATE: MI	206	250	294	338	382

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DETROIT, MICHIGAN AREA OFFICE					
SMSA: FLINT, MI					
COUNTY: GENESEE STATE: MI	186	226	265	305	345
COUNTY: SHIAWASSEE STATE: MI	186	226	265	305	345
SMSA: SAGINAW, MI					
COUNTY: SAGINAW STATE: MI	177	215	253	291	329
NON SMSA					
COUNTY: ALCONA STATE: MI	160	194	228	263	297
COUNTY: ALPENA STATE: MI	160	194	228	263	297
COUNTY: ARENAC STATE: MI	160	194	228	263	297
COUNTY: GLADWIN STATE: MI	160	194	228	263	297
COUNTY: HURON STATE: MI	160	194	228	263	297
COUNTY: IOSCO STATE: MI	160	194	228	263	297
COUNTY: MIDLAND STATE: MI	160	194	228	263	297
COUNTY: MONTMORENCY STATE: MI	160	194	228	263	297
COUNTY: OGEMAW STATE: MI	160	194	228	263	297
COUNTY: OSCODA STATE: MI	160	194	228	263	297
COUNTY: PRESQUE ISLE STATE: MI	160	194	228	263	297
COUNTY: SANILAC STATE: MI	226	274	323	371	420
COUNTY: TUSCOLA STATE: MI	160	194	228	263	297
SMSA: BATTLE CREEK, MI					
COUNTY: BARRY STATE: MI	159	193	227	261	295
COUNTY: CALHOUN STATE: MI	159	193	227	261	295
SMSA: GRAND RAPIDS, MI					
COUNTY: KENT STATE: MI	156	190	223	256	290
COUNTY: OTTAWA STATE: MI	156	190	223	256	290
SMSA: JACKSON, MI					
COUNTY: JACKSON STATE: MI	159	193	227	261	295
SMSA: KALAMAZOO-PORTAGE, MI					
COUNTY: KALAMAZOO STATE: MI	190	231	272	312	353

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DETROIT, MICHIGAN AREA OFFICE					
SMSA: KALAMAZOO-PORTAGE, MI					
COUNTY: VAN BUREN	190	231	272	312	353
STATE: MI					
SMSA: LANSING-EAST LANSING, MI					
COUNTY: CLINTON	202	245	289	332	375
STATE: MI					
COUNTY: EATON	202	245	289	332	375
STATE: MI					
COUNTY: INGHAM	202	245	289	332	375
STATE: MI					
COUNTY: IONIA	202	245	289	332	375
STATE: MI					
SMSA: MUSKEGON-NORTON SHORES-MUSKEGON HEIGHTS, MI					
COUNTY: MUSKEGON	141	172	202	232	263
STATE: MI					
COUNTY: OCEANA	141	172	202	232	263
STATE: MI					
NON SMSA					
COUNTY: ALGER	141	172	202	232	263
STATE: MI					
COUNTY: ALLEGAN	141	172	202	232	263
STATE: MI					
COUNTY: ANTRIM	141	172	202	232	263
STATE: MI					
COUNTY: BARAGA	141	172	202	232	263
STATE: MI					
COUNTY: BENZIE	141	172	202	232	263
STATE: MI					
COUNTY: BERRIEN	162	203	231	266	301
STATE: MI		6			
COUNTY: BRANCH	159	193	227	261	295
STATE: MI					
COUNTY: CASS	162	197	231	266	301
STATE: MI					
COUNTY: CHARLEVOIX	141	172	202	232	263
STATE: MI					
COUNTY: CHEBOYGAN	160	194	228	263	297
STATE: MI					
COUNTY: CHIPPEWA	160	194	228	263	297
STATE: MI					
COUNTY: CLARE	160	194	228	263	297
STATE: MI					
COUNTY: CRAWFORD	160	194	228	263	297
STATE: MI					
COUNTY: DELTA	141	172	202	232	263
STATE: MI					
COUNTY: DICKINSON	141	172	202	232	263
STATE: MI					
COUNTY: EMMET	141	172	202	232	263
STATE: MI					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DETROIT, MICHIGAN AREA OFFICE					
NON SMSA					
COUNTY: GOGEBIC	128	156	183	211	239
STATE: MI					
COUNTY: GROS TRAVERSE	176	203	229	265	328
STATE: MI	35	31	27	33	65
COUNTY: GRATIOT	117	147	176	188	213
STATE: MI	3	8	13		
COUNTY: HILLSDALE	159	193	227	261	295
STATE: MI					
COUNTY: HOUGHTON	141	172	202	232	263
STATE: MI					
COUNTY: IRON	141	172	202	232	263
STATE: MI					
COUNTY: ISABELIA	160	194	228	263	297
STATE: MI					
COUNTY: KALKASKA	141	172	202	232	263
STATE: MI					
COUNTY: KEWEENAW	141	172	202	232	263
STATE: MI					
COUNTY: LAKE	141	172	202	232	263
STATE: MI					
COUNTY: LEELANAU	141	172	202	232	263
STATE: MI					
COUNTY: LUCE	160	194	228	263	297
STATE: MI					
COUNTY: MACKINAC	160	194	228	263	297
STATE: MI					
COUNTY: MANISTEE	141	172	202	232	263
STATE: MI					
COUNTY: MARQUETTE	141	178	202	232	263
STATE: MI		6			
COUNTY: MASON	141	172	202	232	263
STATE: MI					
COUNTY: MECOSTA	141	172	202	232	263
STATE: MI					
COUNTY: MENOMINEE	141	172	202	232	263
STATE: MI					
COUNTY: MISSAUKEE	141	172	202	232	263
STATE: MI					
COUNTY: MONTCALM	141	172	202	232	263
STATE: MI					
COUNTY: NEWAYGO	141	172	202	232	263
STATE: MI					
COUNTY: ONTONAGON	128	156	183	211	239
STATE: MI					
COUNTY: OSCEOLA	141	172	202	232	263
STATE: MI					
COUNTY: OISEWO	160	194	228	263	297
STATE: MI					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMSSCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)
REGION 5
0 BEDROOMS 1 BEDROOM 2 BEDROOMS 3 BEDROOMS 4 BEDROOMS

DETROIT, MICHIGAN AREA OFFICE					
NON SMSA					
COUNTY: ROSCOMMON, STATE: MI	160	194	228	263	297
COUNTY: ST. JOSEPH STATE: MI	162	197	231	266	301
COUNTY: SCHOOLCRAFT STATE: MI	141	172	202	232	263
COUNTY: WEXFORD STATE: MI	141	172	202	232	263
INDIANAPOLIS, INDIANA AREA OFFICE					
SMSA: ANDERSON, IN					
COUNTY: MADISON STATE: IN	153	186	219	252	285
SMSA: BLOOMINGTON, IN					
COUNTY: MONROE STATE: IN	166	202	238	273	309
SMSA: CINCINNATI, OH-KY-IN					
COUNTY: DEARBORN STATE: IN	168	204	240	276	312
SMSA: EVANSVILLE, IN-KY					
COUNTY: GIBSON STATE: IN	138 21	170 27	201 33	218 25	238 19
COUNTY: POSEY STATE: IN	138 21	170 27	201 33	218 25	238 19
COUNTY: VANDERBURGH STATE: IN	138 21	170 27	201 33	218 25	238 19
COUNTY: WARRICK STATE: IN	138 21	170 27	201 33	218 25	238 19
SMSA: FORT WAYNE, IN					
COUNTY: ADAMS STATE: IN	179	218	256	295	333
COUNTY: ALLEN STATE: IN	179	218	256	295	333
COUNTY: DE KALB STATE: IN	179	218	256	295	333

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR. 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMSSCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)
REGION 5
0 BEDROOMS 1 BEDROOM 2 BEDROOMS 3 BEDROOMS 4 BEDROOMS

INDIANAPOLIS, INDIANA AREA OFFICE					
SMSA: FORT WAYNE, IN					
COUNTY: WELLS STATE: IN	179	218	256	295	333
SMSA: GARY-HAMMOND-EAST CHICAGO, IN					
COUNTY: LAKE STATE: IN	167	203	239	275	311
COUNTY: PORTER STATE: IN	167	203	239	275	311
SMSA: INDIANAPOLIS, IN					
COUNTY: BOONE STATE: IN	171	207	244	282 1	321 4
COUNTY: HAMILTON STATE: IN	171	207	244	282 1	321 4
COUNTY: HANCOCK STATE: IN	171	207	244	282 1	321 4
COUNTY: HENDRICKS STATE: IN	171	207	244	282 1	321 4
COUNTY: JOHNSON STATE: IN	171	207	244	282 1	321 4
COUNTY: MARION STATE: IN	171	207	244	282 1	321 4
COUNTY: MORGAN STATE: IN	171	207	244	282 1	321 4
COUNTY: SHELBY STATE: IN	171	207	244	282 1	321 4
SMSA: KOKOMO, IN					
COUNTY: HOWARD STATE: IN	166	202	238	273	309
COUNTY: TIPTON STATE: IN	166	202	238	273	309
SMSA: LAFAYETTE-WEST LAFAYETTE, IN					
COUNTY: TIPPECANOE STATE: IN	175	212	250	288	325
SMSA: LOUISVILLE, KY-IN					
COUNTY: CLARK STATE: IN	166 11	188	221	261 7	287
COUNTY: FLOYD STATE: IN	166 11	188	221	261 7	287
SMSA: MUNCIE, IN					
COUNTY: DELAWARE STATE: IN	153	186	219	252	285
SMSA: SOUTH BEND, IN					
COUNTY: MARSHALL STATE: IN	175	212	250	288	325
COUNTY: ST. JOSEPH STATE: IN	175	212	250	288	325
SMSA: TERRE HAUTE, IN					
COUNTY: CLAY STATE: IN	160	194	228	263	297
COUNTY: SULLIVAN STATE: IN	160	194	228	263	297

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR. 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
INDIANAPOLIS, INDIANA AREA OFFICE					
SMSA: TERRE HAUTE, IN					
COUNTY: VERMILLION STATE: IN	160	194	228	263	297
COUNTY: VIGO STATE: IN	160	194	228	263	297
NON SMSA					
COUNTY: BARTHOLOMEW STATE: IN	166	202	238	273	309
COUNTY: BENTON STATE: IN	175	212	250	288	325
COUNTY: BLACKFORD STATE: IN	153	186	219	252	285
COUNTY: BROWN STATE: IN	166	202	238	273	309
COUNTY: CARROLL STATE: IN	175	212	250	288	325
COUNTY: CASS STATE: IN	166	202	233	273	309
COUNTY: CLINTON STATE: IN	175	212	250	288	325
COUNTY: CRAWFORD STATE: IN	147	178	210	241	273
COUNTY: DAVIESS STATE: IN	117	143	168	193	219
COUNTY: DECATUR STATE: IN	166	202	238	273	309
COUNTY: DUBOIS STATE: IN	117	143	168	193	219
COUNTY: ELKHART STATE: IN	162	197	231	266	301
COUNTY: FAYETTE STATE: IN	152	185	217	250	283
COUNTY: FOUNTAIN STATE: IN	175	212	250	288	325
COUNTY: FRANKLIN STATE: IN	152	185	217	250	283
COUNTY: FULTON STATE: IN	162	197	231	266	301
COUNTY: GRANT STATE: IN	153	186	219	252	285
COUNTY: GREENE STATE: IN	160	194	228	263	297
COUNTY: HARRISON STATE: IN	147	178	210	241	273
COUNTY: HENRY STATE: IN	153	186	219	252	285
COUNTY: HUNTINGTON STATE: IN	139	169	199	229	259

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
INDIANAPOLIS, INDIANA AREA OFFICE					
NON SMSA					
COUNTY: JACKSON STATE: IN	166	202	238	273	309
COUNTY: JASPER STATE: IN	154	187	221	254	287
COUNTY: JAY STATE: IN	153	186	219	252	285
COUNTY: JEFFERSON STATE: IN	147	178	210	241	273
COUNTY: JENNINGS STATE: IN	166	202	238	273	309
COUNTY: KNOX STATE: IN	143 26	160 17	192 24	203 10	236 17
COUNTY: KOSCIUSKO STATE: IN	162	197	231	266	301
COUNTY: LAGRANGE STATE: IN	162	197	231	266	301
COUNTY: LA PORTE STATE: IN	154	187	221	254	287
COUNTY: LAWRENCE STATE: IN	166	202	238	273	309
COUNTY: MARTIN STATE: IN	117	143	168	193	219
COUNTY: MIAMI STATE: IN	166	202	238	273	309
COUNTY: MONTGOMERY STATE: IN	175	212	250	288	325
COUNTY: NEWTON STATE: IN	154	187	221	254	287
COUNTY: NOBLE STATE: IN	139	169	199	229	259
COUNTY: OHIO STATE: IN	152	185	217	250	283
COUNTY: ORANGE STATE: IN	147	178	210	241	273
COUNTY: OWEN STATE: IN	166	202	238	273	309
COUNTY: PARKE STATE: IN	160	194	228	263	297
COUNTY: PERRY STATE: IN	117	143	168	193	219
COUNTY: PIKE STATE: IN	117	143	168	193	219
COUNTY: POLASKI STATE: IN	154	187	221	254	287
COUNTY: PUINAM STATE: IN	166	202	238	273	309
COUNTY: RANDOLPH STATE: IN	153	186	219	252	285

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
INDIANAPOLIS, INDIANA AREA OFFICE					
NON SMSA					
COUNTY: RIPLEY STATE: IN	152	185	217	250	283
COUNTY: RUSH STATE: IN	166	202	238	273	309
COUNTY: SCOTT STATE: IN	147	178	210	241	273
COUNTY: SPENCER STATE: IN	117	143	168	193	219
COUNTY: STARKE STATE: IN	154	187	221	254	287
COUNTY: STEUBEN STATE: IN	139	169	199	229	259
COUNTY: SWITZERLAND STATE: IN	152	185	217	250	283
COUNTY: UNION STATE: IN	152	185	217	250	283
COUNTY: WABASH STATE: IN	139	169	199	229	259
COUNTY: WARREN STATE: IN	175	212	250	288	325
COUNTY: WASHINGTON STATE: IN	147	178	210	241	273
COUNTY: WAYNE STATE: IN	153	186	219	252	285
COUNTY: WHITE STATE: IN	175	212	250	288	325
COUNTY: WHITLEY STATE: IN	139	169	199	229	259

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MILWAUKEE, WISCONSIN AREA OFFICE					
SMSA: APPLETON-OSHKOSH, WI					
COUNTY: CALUMET STATE: WI	168	205	241	277	313
COUNTY: OUTAGAMIE STATE: WI	168	205	241	277	313
COUNTY: WINNEBAGO STATE: WI	168	205	241	277	313
SMSA: DULUTH-SUPERIOR, MN-WI					
COUNTY: DOUGLAS STATE: WI	169 33	194 29	235 41	260 36	287 34
SMSA: EAU CLAIRE, WI					
COUNTY: CHIPPEWA STATE: WI	129 1	156	183	211	239
COUNTY: EAU CLAIRE STATE: WI	129 1	156	183	211	239
SMSA: GREEN BAY, WI					
COUNTY: BROWN STATE: WI	153	186	219	252	285
SMSA: JANESVILLE-BELOIT, WI					
COUNTY: ROCK STATE: WI	148	180	211	243	275
SMSA: KENOSHA, WI					
COUNTY: KENOSHA STATE: WI	176	214	252	289	327
SMSA: LA CROSSE, WI					
COUNTY: LA CROSSE STATE: WI	140	170	200	231	261
SMSA: MADISON, WI					
COUNTY: DANE STATE: WI	183	222	261	300	339
SMSA: MILWAUKEE, WI					
COUNTY: MILWAUKEE STATE: WI	177 1	214	252	290	328
COUNTY: OZAUKEE STATE: WI	177 1	214	252	290	328
COUNTY: WASHINGTON STATE: WI	177 1	214	252	290	328
COUNTY: WAUKESHA STATE: WI	177 1	214	252	290	328
SMSA: MINNEAPOLIS-ST PAUL, MN-WI					
COUNTY: ST CROIX STATE: WI	209	253	298	343	387
SMSA: RACINE, WI					
COUNTY: RACINE STATE: WI	176	214	252	289	327
NON SMSA					
COUNTY: ADAMS STATE: WI	148	180	211	243	275
COUNTY: ASHLAND STATE: WI	128	156	183	211	239
COUNTY: BARRON STATE: WI	128	156	183	211	239

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MILWAUKEE, WISCONSIN AREA OFFICE NON SMSA					
COUNTY: BAYFIELD STATE: WI	128	156	183	211	239
COUNTY: BUFFALO STATE: WI	140	170	200	231	261
COUNTY: BURNETT STATE: WI	149	181	213	245	277
COUNTY: CLARK STATE: WI	156	190	224	257	291
COUNTY: COLUMBIA STATE: WI	148	180	211	243	275
COUNTY: CRAWFORD STATE: WI	139	169	199	229	259
COUNTY: DODGE STATE: WI	148	180	211	243	275
COUNTY: DOOR STATE: WI	153	186	219	252	285
COUNTY: DUNN STATE: WI	128	156	183	211	239
COUNTY: FLORENCE STATE: WI	141	172	202	232	263
COUNTY: FOND DU LAC STATE: WI	148	180	211	243	275
COUNTY: FOREST STATE: WI	141	172	202	232	263
COUNTY: GRANT STATE: WI	139	169	199	229	259
COUNTY: GREEN STATE: WI	160	194	228	263	297
COUNTY: GREEN LAKE STATE: WI	148	180	211	243	275
COUNTY: IOWA STATE: WI	148	180	211	243	275
COUNTY: IRON STATE: WI	128	156	183	211	239
COUNTY: JACKSON STATE: WI	140	170	200	231	261
COUNTY: JEFFERSON STATE: WI	148	180	211	243	275
COUNTY: JUNEAU STATE: WI	140	170	200	231	261
COUNTY: KEWAUNEE STATE: WI	153	186	219	252	285
COUNTY: LAFAYETTE STATE: WI	139	169	199	229	259
COUNTY: LANGLAUE STATE: WI	156	190	224	257	291
COUNTY: LINCOLN STATE: WI	156	190	224	257	291

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 28, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MILWAUKEE, WISCONSIN AREA OFFICE NON SMSA					
COUNTY: MANITOWOC STATE: WI	153	186	219	252	285
COUNTY: MARATHON STATE: WI	156	190	224	257	291
COUNTY: MARINETTE STATE: WI	141	172	202	232	263
COUNTY: MARQUETTE STATE: WI	148	180	211	243	275
COUNTY: MENOMINEE STATE: WI	141	172	202	232	263
COUNTY: MONROE STATE: WI	140	170	200	231	261
COUNTY: OCONTO STATE: WI	141	172	202	232	263
COUNTY: ONEIDA STATE: WI	156	190	224	257	291
COUNTY: PERIN STATE: WI	128	156	183	211	239
COUNTY: PIERCE STATE: WI	149	181	213	245	277
COUNTY: POLK STATE: WI	149	181	213	245	277
COUNTY: PORTAGE STATE: WI	156	190	224	257	291
COUNTY: PRICE STATE: WI	156	190	224	257	291
COUNTY: RICHLAND STATE: WI	148	180	211	243	275
COUNTY: ROCK STATE: WI	160	194	228	263	297
COUNTY: RUSK STATE: WI	128	156	183	211	239
COUNTY: SAUK STATE: WI	148	180	211	243	275
COUNTY: SAWYER STATE: WI	128	156	183	211	239
COUNTY: SHAWANO STATE: WI	141	172	202	232	263
COUNTY: SHEBOYGAN STATE: WI	148	180	211	243	275
COUNTY: TAYLOR STATE: WI	156	190	224	257	291
COUNTY: TREMPERLEAU STATE: WI	140	170	200	231	261
COUNTY: VERNON STATE: WI	140	170	200	231	261
COUNTY: VILAS STATE: WI	156	190	224	257	291

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MILWAUKEE, WISCONSIN AREA OFFICE					
NON SMSA					
COUNTY: WALWORTH STATE: WI	148	180	211	243	275
COUNTY: WASHBURN STATE: WI	128	156	183	211	239
COUNTY: WAUPACA STATE: WI	141	172	202	232	263
COUNTY: WAUSHARA STATE: WI	148	180	211	243	275
COUNTY: WOOD STATE: WI	156	190	224	257	291
MINNEAPOLIS-ST. PAUL, MINNESOTA AREA OFFICE					
SMSA: DULUTH-SUPERIOR, MN-WI	169	194	235	260	287
COUNTY: ST. LOUIS STATE: MN	33	29	41	36	34
SMSA: FARGO-MOORHEAD, I.D.-MN	155	181	215	251	278
COUNTY: CLAY STATE: MN	6		2	6	1
SMSA: GRAND FORKS, N.D.-MN	149	181	213	245	277
COUNTY: POLK STATE: MN					
SMSA: MINNEAPOLIS-ST. PAUL, MN-WI	209	253	298	343	387
COUNTY: ANOKA STATE: MN					
COUNTY: CARVER STATE: MN	209	253	298	343	387
COUNTY: CHISAGO STATE: MN	209	253	298	343	387
COUNTY: DAKOTA STATE: MN	209	253	298	343	387
COUNTY: HENNEPIN STATE: MN	209	253	298	343	387
COUNTY: RAMSEY STATE: MN	209	253	298	343	387
COUNTY: SCOTT STATE: MN	209	253	298	343	387
COUNTY: WASHINGTON STATE: MN	209	253	298	343	387

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MINNEAPOLIS-ST. PAUL, MINNESOTA AREA OFFICE					
SMSA: MINNEAPOLIS-ST. PAUL, MN-WI	209	253	298	343	387
COUNTY: WRIGHT STATE: MN					
SMSA: ROCHESTER, MN	172	209	246	283	320
COUNTY: OLMTED STATE: MN					
SMSA: ST. CLOUD, MN	187	227	267	307	347
COUNTY: BENTON STATE: MN					
COUNTY: SHERBURNE STATE: MN	187	227	267	307	347
COUNTY: STEARNS STATE: MN	187	227	267	307	347
NON SMSA					
COUNTY: AITKIN STATE: MN	120	145	171	197	228
COUNTY: BECKER STATE: MN	149	181	213	245	277
COUNTY: BELTRAMI STATE: MN	125	145	174	197	223
5			3		
COUNTY: BIG STONE STATE: MN	120	145	171	197	223
COUNTY: BLUE EARTH STATE: MN	187	227	267	307	347
COUNTY: BROWN STATE: MN	187	227	267	307	347
COUNTY: CARLTON STATE: MN	128	156	183	211	239
COUNTY: CASS STATE: MN	120	145	171	197	223
COUNTY: CHIPPEWA STATE: MN	125	145	174	197	223
5			3		
COUNTY: CLEARWATER STATE: MN	149	181	213	245	277
COUNTY: COOK STATE: MN	128	156	183	211	239
COUNTY: COTTONWOOD STATE: MN	125	145	174	197	223
5			3		
COUNTY: CROW WING STATE: MN	187	227	267	307	347
COUNTY: DODGE STATE: MN	177	215	253	291	329
COUNTY: DOUGLAS STATE: MN	125	145	174	197	223
5			3		
COUNTY: FARIBAULT STATE: MN	187	227	267	307	347
COUNTY: FILLMORE STATE: MN	177	215	253	291	329
COUNTY: FREEBORN STATE: MN	177	215	253	291	329

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CO) MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MINNEAPOLIS-ST. PAUL, MINNESOTA AREA OFFICE					
NON SMSA					
COUNTY: GOODHUE STATE: MN	149	181	213	245	277
COUNTY: GRANT STATE: MN	120	145	171	197	223
COUNTY: HOUSTON STATE: MN	140	170	200	231	261
COUNTY: HUBBARD STATE: MN	120	145	171	197	223
COUNTY: ISANTI STATE: MN	149	181	213	245	277
COUNTY: ITASCA STATE: MN	135 7	156	188 5	211	239
COUNTY: JACKSON STATE: MN	152	185	217	250	283
COUNTY: KANABEC STATE: MN	149	181	213	245	277
COUNTY: KANDIYOHI STATE: MN	187	227	267	307	347
COUNTY: KITTSON STATE: MN	149	181	213	245	277
COUNTY: KOOCHICHIING STATE: MN	128	156	183	211	239
COUNTY: LAC QUI PARL STATE: MN	120	145	171	197	223
COUNTY: LAKE STATE: MN	128	156	183	211	239
COUNTY: LAKE OF WOOD STATE: MN	120	145	171	197	223
COUNTY: LE SUEUR STATE: MN	187	227	267	307	347
COUNTY: LINCOLN STATE: MN	152	185	217	250	283
COUNTY: LYON STATE: MN	152	185	217	250	283
COUNTY: MCLEOD STATE: MN	187	227	267	307	347
COUNTY: MAHOMEN STATE: MN	149	181	213	245	277
COUNTY: MARSHALL STATE: MN	149	181	213	245	277
COUNTY: MARTIN STATE: MN	187	227	267	307	347
COUNTY: MEEKER STATE: MN	187	227	267	307	347
COUNTY: MILLE LACS STATE: MN	149	181	213	245	277
COUNTY: MORRISON STATE: MN	187	227	267	307	347

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MINNEAPOLIS-ST. PAUL, MINNESOTA AREA OFFICE					
NON SMSA					
COUNTY: MOWER STATE: MN	177	215	253	291	329
COUNTY: MURRAY STATE: MN	152	185	217	250	283
COUNTY: NICOLLET STATE: MN	187	227	267	307	347
COUNTY: NOBLES STATE: MN	152	185	217	250	283
COUNTY: NORMAN STATE: MN	149	181	213	245	277
COUNTY: OTTER TAIL STATE: MN	149	181	213	245	277
COUNTY: PENNINGTON STATE: MN	149	181	213	245	277
COUNTY: PINE STATE: MN	149	181	213	245	277
COUNTY: PIPESTONE STATE: MN	152	185	217	250	283
COUNTY: POPE STATE: MN	120	145	171	197	223
COUNTY: RED LAKE STATE: MN	149	181	213	245	277
COUNTY: REDWOOD STATE: MN	125 5	145	174 3	197	223
COUNTY: RENVILLE STATE: MN	120	145	171	197	223
COUNTY: RICE STATE: MN	149	181	213	245	277
COUNTY: ROCK STATE: MN	152	185	217	250	283
COUNTY: ROSEAU STATE: MN	149	181	213	245	277
COUNTY: SIBLEY STATE: MN	187	227	267	307	347
COUNTY: STEELE STATE: MN	177	215	253	291	329
COUNTY: STEVENS STATE: MN	125 5	145	174 3	197	223
COUNTY: SWIFT STATE: MN	125 5	145	174 3	197	223
COUNTY: TODD STATE: MN	120	145	171	197	223
COUNTY: TRAVERSE STATE: MN	120	145	171	197	223
COUNTY: WABASHA STATE: MN	177	215	253	291	329
COUNTY: WADENA STATE: MN	120	145	171	197	223

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MINNEAPOLIS-ST. PAUL, MINNESOTA AREA OFFICE					
NON SMSA					
COUNTY: WASECA STATE: MN	177	215	253	291	329
COUNTY: WATONWAN STATE: MN	187	227	267	307	347
COUNTY: WILKIN STATE: MN	149	181	213	245	277
COUNTY: WINONA STATE: MN	140	170	200	231	261
COUNTY: YELLOW MEDIC STATE: MN	125 5	145	174 3	197	223
DALLAS, TEXAS AREA OFFICE					
SMSA: ALBUQUERQUE, NM					
COUNTY: BERNALILLO STATE: NM	151	184	216	249	281
COUNTY: SANDOVAL STATE: NM	151	184	216	249	281
NON SMSA					
COUNTY: CATRON STATE: NM	127	154	181	208	236
COUNTY: CHAVES STATE: NM	130 3	154	181	208	236
COUNTY: COLFAX STATE: NM	151	184	216	249	281
COUNTY: CURRY STATE: NM	123 2	147	173	199	225
COUNTY: DE BACA STATE: NM	121	147	173	199	225
COUNTY: DONA ANA STATE: NM	130 3	154	181	208	236
COUNTY: EDDY STATE: NM	130 3	154	181	208	236
COUNTY: GRANT STATE: NM	127	154	181	208	236
COUNTY: GUADALUPE STATE: NM	121	147	173	199	225

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE					
NON SMSA					
COUNTY: HARDING STATE: NM	121	147	173	199	225
COUNTY: HIDALGO STATE: NM	127	154	181	208	236
COUNTY: LEA STATE: NM	130 3	154	181	208	236
COUNTY: LINCOLN STATE: NM	127	154	181	208	236
COUNTY: LOS ALAMOS STATE: NM	151	184	216	249	281
COUNTY: LUNA STATE: NM	151	184	216	249	281
COUNTY: MCKINLEY STATE: NM	151	184	216	249	281
COUNTY: MORA STATE: NM	151	184	216	249	281
COUNTY: OTERO STATE: NM	130 3	154	181	208	236
COUNTY: QUAY STATE: NM	121	147	173	199	225
COUNTY: RIO ARRIJIDA STATE: NM	151	184	216	249	281
COUNTY: ROOSEVELT STATE: NM	121	147	173	199	225
COUNTY: SAN JUAN STATE: NM	139 6	162	191	219	248
COUNTY: SAN MIGUEL STATE: NM	151	184	216	249	281
COUNTY: SANTE FE STATE: NM	151	184	216	249	281
COUNTY: SIERRA STATE: NM	127	154	181	208	236
COUNTY: SOCORRO STATE: NM	127	154	181	208	236
COUNTY: TAOS STATE: NM	151	184	216	249	281
COUNTY: TORRANCE STATE: NM	151	184	216	249	281
COUNTY: UNION STATE: NM	121	147	173	199	225
COUNTY: VALENCIA STATE: NM	151	184	216	249	261
SMSA: DALLAS-FORT WORTH, TX					
COUNTY: COLLIN STATE: TX	186	225	265	305	344
COUNTY: DALLAS STATE: TX	186	225	265	305	344

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE					
SMSA: DALLAS-FORT WORTH, TX					
COUNTY: DENTON STATE: TX	186	225	265	305	344
COUNTY: ELLIS STATE: TX	186	225	265	305	344
COUNTY: KAUFMAN STATE: TX	186	225	265	305	344
COUNTY: ROCKWALL STATE: TX	186	225	265	305	344
SMSA: KILLEEN-TEMPLE, TX					
COUNTY: BELL STATE: TX	159	193	227	262	296
COUNTY: CORVELL STATE: TX	159	193	227	282	296
SMSA: LONGVIEW-MARSHALL, TX					
COUNTY: GREGG STATE: TX	129	157	185	213	241
SMSA: SHERMAN-DENISON, TX					
COUNTY: GRAYSON STATE: TX	137	167	196	226	255
SMSA: TEXARKANA, TX-AR					
COUNTY: BOWIE STATE: TX	115 2	137	161	185	210
SMSA: TYLER, TX					
COUNTY: SMITH STATE: TX	129	157	185	213	241
SMSA: WACO, TX					
COUNTY: MCLENNAN STATE: TX	159	193	227	262	296
NON SMSA					
COUNTY: ANDERSON STATE: TX	129	157	185	213	241
COUNTY: CAMP STATE: TX	113	137	161	185	210
COUNTY: CHEROKEE STATE: TX	129	157	185	213	241
COUNTY: COOKE STATE: TX	137	167	196	228	255
COUNTY: DELTA STATE: TX	212	257	303	348	394
COUNTY: FALLS STATE: TX	159	193	227	262	296
COUNTY: FANNIN STATE: TX	137	167	196	226	255
COUNTY: FRANKLIN STATE: TX	129	157	185	213	241
COUNTY: FREESTONE STATE: TX	159	193	227	262	296
COUNTY: HENDERSON STATE: TX	129	157	185	213	241

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE					
NON SMSA					
COUNTY: HILL STATE: TX	159	193	227	262	296
COUNTY: MOPKINS STATE: TX	137	167	198	226	255
COUNTY: HUNT STATE: TX	137	167	196	228	255
COUNTY: LAMAR STATE: TX	113	137	161	185	210
COUNTY: LIMESTONE STATE: TX	159	193	227	262	296
COUNTY: MILAM STATE: TX	147	179	211	243	274
COUNTY: NAVARRO STATE: TX	137	167	196	226	255
COUNTY: RAINS STATE: TX	137	167	196	226	255
COUNTY: RED RIVER STATE: TX	113	137	161	185	210
COUNTY: RUSK STATE: TX	129	157	185	213	241
COUNTY: TITUS STATE: TX	113	137	161	185	210
COUNTY: UPSHUR STATE: TX	129	157	185	213	241
COUNTY: VAN ZANDT STATE: TX	137	167	196	228	255
COUNTY: WOOD STATE: TX	129	157	185	213	241
SMSA: ABILENE, TX					
COUNTY: CALLAHAN STATE: TX	142	173	203	234	265
COUNTY: JONES STATE: TX	142	173	203	234	265
COUNTY: TAYLOR STATE: TX	142	173	203	234	265
SMSA: DALLAS-FORT WORTH, TX					
COUNTY: HOOD STATE: TX	186	225	265	305	344
COUNTY: JOHNSON STATE: TX	186	225	265	305	344
COUNTY: PARKER STATE: TX	186	225	265	305	344
COUNTY: TARRANT STATE: TX	186	225	265	305	344
COUNTY: WISE STATE: TX	186	225	265	305	344
SMSA: SAN ANGELO, TX					
COUNTY: TOM GREEN STATE: TX	142	173	203	234	265

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE					
SMSA: WICHITA FALLS, TX					
COUNTY: CLAY	156	190	224	257	291
STATE: TX					
COUNTY: WICHITA	158	190	224	257	291
STATE: TX					
NON SMSA					
COUNTY: ARCHER	156	190	224	257	291
STATE: TX					
COUNTY: BAYLOR	156	190	224	257	291
STATE: TX					
COUNTY: BOSQUE	159	193	227	262	296
STATE: TX					
COUNTY: BROWN	142	173	203	234	265
STATE: TX					
COUNTY: COKE	142	173	203	234	265
STATE: TX					
COUNTY: COLEMAN	142	173	203	234	265
STATE: TX					
COUNTY: COMANCHE	142	173	203	234	265
STATE: TX					
COUNTY: CONCHO	142	173	203	234	265
STATE: TX					
COUNTY: CROCKETT	150	182	214	247	279
STATE: TX					
COUNTY: EASTLAND	142	173	203	234	265
STATE: TX					
COUNTY: ERATH	137	167	196	228	255
STATE: TX					
COUNTY: FOARD	156	190	224	257	291
STATE: TX					
COUNTY: HAMILTON	159	193	227	262	296
STATE: TX					
COUNTY: HARDEMAN	156	190	224	257	291
STATE: TX					
COUNTY: HASKELL	142	173	203	234	265
STATE: TX					
COUNTY: IRION	142	173	203	234	265
STATE: TX					
COUNTY: JACK	156	190	224	257	291
STATE: TX					
COUNTY: KIMBLE	142	173	203	234	265
STATE: TX					
COUNTY: KNOX	142	173	203	234	265
STATE: TX					
COUNTY: LAMPASAS	159	193	227	262	296
STATE: TX					
COUNTY: MCCULLOCH	142	173	203	234	265
STATE: TX					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS-BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE					
NON SMSA					
COUNTY: MASON	142	173	203	234	265
STATE: TX					
COUNTY: MENARD	142	173	203	234	265
STATE: TX					
COUNTY: MILLS	142	173	203	234	265
STATE: TX					
COUNTY: MONTAGUE	137	167	196	226	255
STATE: TX					
COUNTY: PALO PINTO	137	167	196	226	255
STATE: TX					
COUNTY: REAGAN	150	182	214	247	279
STATE: TX					
COUNTY: RUNNELS	142	173	203	234	265
STATE: TX					
COUNTY: SAN SABA	142	173	203	234	265
STATE: TX					
COUNTY: SCHLEICHER	142	173	203	234	265
STATE: TX					
COUNTY: SHACKLEFORD	142	173	203	234	265
STATE: TX					
COUNTY: SOMERVELL	137	167	196	226	255
STATE: TX					
COUNTY: STEPHENS	142	173	203	234	265
STATE: TX					
COUNTY: STERLING	142	173	203	234	265
STATE: TX					
COUNTY: SUTTON	142	173	203	234	265
STATE: TX					
COUNTY: THROCKMORTON	156	190	224	257	291
STATE: TX					
COUNTY: WILBARGER	156	190	224	257	291
STATE: TX					
COUNTY: YOUNG	156	190	224	257	291
STATE: TX					
SMSA: BEAUMONT-PORT ARTHUR-ORANGE, TX					
COUNTY: HARDIN	169	181	213	245	277
STATE: TX	20				
COUNTY: JEFFERSON	169	181	213	245	277
STATE: TX	20				
COUNTY: ORANGE	169	181	213	245	277
STATE: TX	20				
SMSA: BRYAN-COLLEGE STATION, TX					
COUNTY: BRAZOS	169	179	211	243	274
STATE: TX	22				
SMSA: GALVESTON-TEXAS CITY, TX					
COUNTY: GALVESTON	154	178	209	240	272
STATE: TX	8				
SMSA: HOUSTON, TX					
COUNTY: BRAZORIA	188	229	269	309	350
STATE: TX					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS-BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE					
SMSA: HOUSTON, TX					
COUNTY: FORT BEND STATE: TX	188	229	269	309	360
COUNTY: HARRIS STATE: TX	188	229	269	309	360
COUNTY: LIBERTY STATE: TX	188	229	269	309	360
COUNTY: MONTGOMERY STATE: TX	188	229	269	308	360
COUNTY: WALLER STATE: TX	188	229	269	308	350
NON SMSA					
COUNTY: ANGELINA STATE: TX	144 15	157	185	213	241
COUNTY: AUSTIN STATE: TX	146	178	209	240	272
COUNTY: BURLESON STATE: TX	147	179	211	243	274
COUNTY: CHAMBERS STATE: TX	146	178	209	240	272
COUNTY: COLORADO STATE: TX	146	178	209	240	272
COUNTY: GRIMES STATE: TX	147	179	211	243	274
COUNTY: HOUSTON STATE: TX	144 15	157	185	213	241
COUNTY: JASPER STATE: TX	146	178	209	240	272
COUNTY: LEON STATE: TX	147	179	211	243	274
COUNTY: MADISON STATE: TX	147	179	211	243	274
COUNTY: MATAGORDA STATE: TX	146	178	209	240	272
COUNTY: NACOGDOCHES STATE: TX	144 15	157	185	213	241
COUNTY: NEWTON STATE: TX	146	178	209	240	272
COUNTY: POLK STATE: TX	146	178	209	240	272
COUNTY: ROBERTSON STATE: TX	147	179	211	243	274
COUNTY: SABINE STATE: TX	144 24	149 3	172	199 1	232 8
COUNTY: SAN AUGUSTIN STATE: TX	144 24	149 3	172	199 1	232 6
COUNTY: SAN JACINTO STATE: TX	146	178	209	240	272

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS-BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE					
NON SMSA					
COUNTY: SHELBY STATE: TX	144 24	149 3	172	199 1	232 8
COUNTY: TRINITY STATE: TX	144 15	157	185	213	241
COUNTY: TYLER STATE: TX	146	178	209	240	272
COUNTY: WALKER STATE: TX	146	178	209	240	272
COUNTY: WASHINGTON STATE: TX	146	178	209	240	272
COUNTY: WHARTON STATE: TX	146	178	209	240	272
SMSA: AMARILLO, TX					
COUNTY: POTTER STATE: TX	136	165	194	224	253
COUNTY: RANDALL STATE: TX	136	165	194	224	253
SMSA: EL PASO, TX					
COUNTY: EL PASO STATE: TX	183	223	262	302	341
SMSA: LUBBOCK, TX					
COUNTY: LUBBOCK STATE: TX	142	173	203	234	265
SMSA: MIDLAND, TX					
COUNTY: MIDLAND STATE: TX	150	182	214	247	279
SMSA: ODESSA, TX					
COUNTY: ECTOR STATE: TX	150	182	214	247	279
NON SMSA					
COUNTY: ANDREWS STATE: TX	150	182	214	247	279
COUNTY: ARMSTRONG STATE: TX	136	165	194	224	253
COUNTY: BAILEY STATE: TX	142	173	203	234	265
COUNTY: BORDEN STATE: TX	150	182	214	247	279
COUNTY: BREWSTER STATE: TX	150	182	214	247	279
COUNTY: BRISCOE STATE: TX	136	165	194	224	253
COUNTY: CARSON STATE: TX	136	165	194	224	253
COUNTY: CASTRO STATE: TX	136	165	194	224	253
COUNTY: CHILDRESS STATE: TX	156	190	224	257	291
COUNTY: COCHRAN STATE: TX	142	173	203	234	265

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS-BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE NON SMSA					
COUNTY: COLLINGSWORTH STATE: TX	136	165	194	224	253
COUNTY: COTTLE STATE: TX	156	190	224	257	291
COUNTY: CRANE STATE: TX	150	182	214	247	279
COUNTY: CROSBY STATE: TX	142	173	203	234	265
COUNTY: CULBERSON STATE: TX	141	171	202	232	262
COUNTY: DALLAM STATE: TX	136	165	194	224	253
COUNTY: DAWSON STATE: TX	150	182	214	247	279
COUNTY: DEAF SMITH STATE: TX	136	165	194	224	253
COUNTY: DICKENS STATE: TX	142	173	203	234	265
COUNTY: DONLEY STATE: TX	136	165	194	224	253
COUNTY: FISHER STATE: TX	142	173	203	234	265
COUNTY: FLOYD STATE: TX	142	173	203	234	265
COUNTY: GAINES STATE: TX	150	182	214	247	279
COUNTY: GARZA STATE: TX	142	173	203	234	265
COUNTY: GLASSCOCK STATE: TX	150	182	214	247	279
COUNTY: GRAY STATE: TX	136	165	194	224	253
COUNTY: HALE STATE: TX	142	173	203	234	265
COUNTY: HALL STATE: TX	136	165	194	224	253
COUNTY: HANSFORD STATE: TX	136	165	194	224	253
COUNTY: HARTLEY STATE: TX	136	165	194	224	253
COUNTY: HEMPHILL STATE: TX	136	165	194	224	253
COUNTY: HOCKLEY STATE: TX	142	173	203	234	265
COUNTY: HOWARD STATE: TX	150	182	214	247	279
COUNTY: HUDSPETH STATE: TX	141	171	202	232	262

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE NON SMSA					
COUNTY: HUTCHINSON STATE: TX	136	165	194	224	253
COUNTY: JEFF DAVIS STATE: TX	141	171	202	232	262
COUNTY: KENT STATE: TX	142	173	203	234	265
COUNTY: KING STATE: TX	142	173	203	234	265
COUNTY: LAMB STATE: TX	142	173	203	234	265
COUNTY: LIPSCOMB STATE: TX	136	165	194	224	253
COUNTY: LOVING STATE: TX	150	182	214	247	279
COUNTY: LYNN STATE: TX	142	173	203	234	265
COUNTY: MARTIN STATE: TX	150	182	214	247	279
COUNTY: MITCHELL STATE: TX	132	160	189	217	246
COUNTY: MOORE STATE: TX	136	165	194	224	253
COUNTY: MOTLEY STATE: TX	142	173	203	234	265
COUNTY: NOLAN STATE: TX	142	173	203	234	265
COUNTY: OCHILTREE STATE: TX	136	165	194	224	253
COUNTY: OLDHAM STATE: TX	136	165	194	224	253
COUNTY: PARMER STATE: TX	136	165	194	224	253
COUNTY: PECOS STATE: TX	150	182	214	247	279
COUNTY: PRESIDIO STATE: TX	141	171	202	232	262
COUNTY: REEVES STATE: TX	150	182	214	247	279
COUNTY: ROBERTS STATE: TX	136	165	194	224	253
COUNTY: SCURRY STATE: TX	142	173	203	234	265
COUNTY: SHERMAN STATE: TX	136	165	194	224	253
COUNTY: STONEWALL STATE: TX	142	173	203	234	265
COUNTY: SWISHER STATE: TX	136	165	194	224	253

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6

0 BEDROOMS 1 BEDROOM 2 BEDROOMS 3 BEDROOMS 4 BEDROOMS

DALLAS, TEXAS AREA OFFICE
NON SMSACOUNTY: TERRELL
STATE: TX

150 182 214 247 279

COUNTY: TERRY
STATE: TX

142 173 203 234 265

COUNTY: UPTON
STATE: TX

150 182 214 247 279

COUNTY: WARD
STATE: TX

150 182 214 247 279

COUNTY: WHEELER
STATE: TX

136 165 194 224 253

COUNTY: WINKLER
STATE: TX

150 182 214 247 279

COUNTY: YOAKUM
STATE: TX

142 173 203 234 265

SMSA: LONGVIEW-MARSHALL, TX
COUNTY: HARRISON
STATE: TX

129 157 185 213 241

NON SMSA

COUNTY: CASS
STATE: TX

113 137 161 185 210

COUNTY: MARION
STATE: TX

120 148 172 198 224

COUNTY: MORRIS
STATE: TX

113 137 161 185 210

COUNTY: PANOLA
STATE: TX

120 146 172 198 224

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6

0 BEDROOMS 1 BEDROOM 2 BEDROOMS 3 BEDROOMS 4 BEDROOMS

LITTLE ROCK, ARKANSAS AREA OFFICE

SMSA: FAYETTEVILLE-SPRINGDALE, AR
COUNTY: BENTON
STATE: AR

137 167 196 226 255

COUNTY: WASHINGTON
STATE: AR

137 167 196 226 255

SMSA: FORT SMITH, AR-OK
COUNTY: CRAWFORD
STATE: AR

119 145 170 196 222

COUNTY: SEBASTIAN
STATE: AR

119 145 170 196 222

SMSA: LITTLE ROCK-NORTH LITTLE ROCK, AR
COUNTY: PULASKI
STATE: AR

164 199 235 270 305

COUNTY: SALINE
STATE: AR

164 199 235 270 305

SMSA: MEMPHIS, TN-AR-MO
COUNTY: CRITTENDEN
STATE: AR

160 195 229 263 298

SMSA: PINE BLUFF, AR
COUNTY: JEFFERSON
STATE: AR

133 162 191 219 248

SMSA: TEXARKANA, TX-AR
COUNTY: LITTLE RIVER
STATE: AR

115 137 161 185 210

COUNTY: MILLER
STATE: AR

115 137 161 185 210

NON SMSA

COUNTY: ARKANSAS
STATE: AR

133 162 191 219 248

COUNTY: ASHLEY
STATE: AR

120 146 172 198 224

COUNTY: BAXTER
STATE: AR

141 171 202 232 262

COUNTY: BOONE
STATE: AR

141 171 202 232 262

COUNTY: BRADLEY
STATE: AR

120 146 172 198 224

COUNTY: CALHOUN
STATE: AR

120 146 172 198 224

COUNTY: CARROLL
STATE: AR

141 171 202 232 262

COUNTY: CHICOT
STATE: AR

120 146 172 198 224

COUNTY: CLARK
STATE: AR

118 143 169 194 219

COUNTY: CLAY
STATE: AR

132 160 189 217 246

COUNTY: CLEBURNE
STATE: AR

118 143 169 194 219

COUNTY: CLEVELAND
STATE: AR

133 162 191 219 248

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6 0 BEDROOMS 1 BEDROOM 2 BEDROOMS 3 BEDROOMS 4 BEDROOMS

LITTLE ROCK, ARKANSAS AREA OFFICE

NON SMSA

COUNTY: COLUMBIA STATE: AR	120	146	172	198	224
COUNTY: CONWAY STATE: AR	118	143	169	194	219
COUNTY: CRAIGHEAD STATE: AR	132	160	189	217	246
COUNTY: CROSS STATE: AR	132	160	189	217	246
COUNTY: DALLAS STATE: AR	120	146	172	198	224
COUNTY: DESHA STATE: AR	120	146	172	198	224
COUNTY: DREW STATE: AR	120	146	172	198	224
COUNTY: FAULKNER STATE: AR	118	143	169	194	219
COUNTY: FRANKLIN STATE: AR	119	145	170	196	222
COUNTY: FULTON STATE: AR	118	143	169	194	219
COUNTY: GARLAND STATE: AR	118	143	169	194	219
COUNTY: GRANT STATE: AR	133	162	191	219	248
COUNTY: GREENE STATE: AR	132	160	189	217	246
COUNTY: HEMPSTEAD STATE: AR	113	137	161	185	210
COUNTY: HOTSPRING STATE: AR	118	143	169	194	219
COUNTY: HOWARD STATE: AR	113	137	161	185	210
COUNTY: INDEPENDENCE STATE: AR	118	143	169	194	219
COUNTY: IZARD STATE: AR	118	143	169	194	219
COUNTY: JACKSON STATE: AR	133	162	191	219	248
COUNTY: JOHNSON STATE: AR	118	143	169	194	219
COUNTY: LAFAYETTE STATE: AR	113	137	161	185	210
COUNTY: LAWRENCE STATE: AR	132	160	189	217	246
COUNTY: LEE STATE: AR	132	160	189	217	246
COUNTY: LINCOLN STATE: AR	133	162	191	219	248

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6 0 BEDROOMS 1 BEDROOM 2 BEDROOMS 3 BEDROOMS 4 BEDROOMS

LITTLE ROCK, ARKANSAS AREA OFFICE

NON SMSA

COUNTY: LOGAN STATE: AR	119	145	170	196	222
COUNTY: LONOKE STATE: AR	133	162	191	215	248
COUNTY: MADISON STATE: AR	137	167	196	226	255
COUNTY: MARION STATE: AR	141	171	202	232	262
COUNTY: MISSISSIPPI STATE: AR	132	160	189	217	246
COUNTY: MONROE STATE: AR	133	162	191	219	248
COUNTY: MONTGOMERY STATE: AR	118	143	169	194	219
COUNTY: NEVADA STATE: AR	113	137	161	185	210
COUNTY: NEWTON STATE: AR	141	171	202	232	262
COUNTY: OUACHITA STATE: AR	120	146	172	198	224
COUNTY: PERRY STATE: AR	118	143	169	194	219
COUNTY: PHILLIPS STATE: AR	132	160	189	217	246
COUNTY: PIKE STATE: AR	118	143	169	194	219
COUNTY: POINSETT STATE: AR	132	160	189	217	246
COUNTY: POLK STATE: AR	119	145	170	196	222
COUNTY: POPE STATE: AR	118	143	169	194	219
COUNTY: PRAIRIE STATE: AR	133	162	191	219	248
COUNTY: RANDOLPH STATE: AR	132	160	189	217	246
COUNTY: ST. FRANCIS STATE: AR	132	160	189	217	246
COUNTY: SCOTT STATE: AR	119	145	170	196	222
COUNTY: SEARCY STATE: AR	141	171	202	232	262
COUNTY: SEVIER STATE: AR	113	137	161	185	210
COUNTY: SHARP STATE: AR	118	143	169	194	219
COUNTY: STONE STATE: AR	118	143	169	194	219

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LITTLE ROCK, ARKANSAS AREA OFFICE					
NON SMSA					
COUNTY: UNION STATE: AR	120	146	172	198	224
COUNTY: VAN BUREN STATE: AR	113	143	169	194	219
COUNTY: WHITE STATE: AR	133	162	191	219	248
COUNTY: WOODRUFF STATE: AR	133	162	191	219	248
COUNTY: YELL STATE: AR	119	145	170	196	222
NEW ORLEANS, LOUISIANA AREA OFFICE					
SMSA: BATON ROUGE, LA					
PARISH: ASCENSION STATE: LA	203	246	290	333	377
PARISH: E BATON ROUG STATE: LA	203	246	290	333	377
PARISH: LIVINGSTON STATE: LA	203	246	290	333	377
PARISH: W BATON ROUG STATE: LA	203	246	290	333	377
SMSA: LAFAYETTE, LA					
PARISH: LAFAYETTE STATE: LA	132 10	151 3	181 7	211 11	241 15
SMSA: LAKE CHARLES, LA					
PARISH: CALCASIEU STATE: LA	154	187	220	253	286
SMSA: NEW ORLEANS, LA					
PARISH: JEFFERSON STATE: LA	173	210	247	284	321
PARISH: ORLEANS STATE: LA	173	210	247	284	321
PARISH: ST BERNARD STATE: LA	173	210	247	284	321
PARISH: ST TAMMANY STATE: LA	173	210	247	284	321
NON SMSA					
PARISH: ACADIA STATE: LA	122	148	174	200	226

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NEW ORLEANS, LOUISIANA AREA OFFICE					
NON SMSA					
PARISH: ALLEN STATE: LA	154	187	220	253	286
PARISH: ASSUMPTION STATE: LA	136	165	194	224	253
PARISH: BEAUREGARD STATE: LA	154	187	220	253	286
PARISH: CAMERON STATE: LA	154	187	220	253	286
PARISH: E FELICIANA STATE: LA	122	148	174	200	226
PARISH: EVANGELINE STATE: LA	122	148	174	200	226
PARISH: IBERIA STATE: LA	122	148	174	200	226
PARISH: IBERVILLE STATE: LA	122	148	174	200	226
PARISH: JEFFERSON DA STATE: LA	154	187	220	253	286
PARISH: LAFOURCHE STATE: LA	136	165	194	224	253
PARISH: PLAQUEMINES STATE: LA	133	165	194	224	253
PARISH: POINTE COUPE STATE: LA	122	148	174	200	226
PARISH: ST CHARLES STATE: LA	136	165	194	224	253
PARISH: ST HELENA STATE: LA	122	148	174	200	226
PARISH: ST JAMES STATE: LA	136	165	194	224	253
PARISH: ST JOHN THE STATE: LA	136	165	194	224	253
PARISH: ST LANDRY STATE: LA	122	148	174	200	226
PARISH: ST MARTIN STATE: LA	122	148	174	200	226
PARISH: ST MARY STATE: LA	122	148	174	200	226
PARISH: TANGIPAHOA STATE: LA	114 1	137	161	185	210
PARISH: TERREBONNE STATE: LA	136	165	194	224	253
PARISH: VERMILION STATE: LA	122	148	174	200	226
PARISH: WASHINGTON STATE: LA	114 1	137	161	185	210
PARISH: W FELICIANA STATE: LA	122	148	174	200	226

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NEW ORLEANS, LOUISIANA AREA OFFICE					
SMSA: ALEXANDRIA, LA					
PARISH: GRANT STATE: LA	129	157	185	213	241
PARISH: RAPIDES STATE: LA	129	157	185	213	241
SMSA: MONROE, LA					
PARISH: OUACHITA STATE: LA	129	157	185	213	241
SMSA: SHREVEPORT, LA					
PARISH: BOSSIER STATE: LA	159	193	227	262	298
PARISH: CADDO STATE: LA	159	193	227	262	296
PARISH: WEBSTER STATE: LA	159	193	227	262	296
NON SMSA					
PARISH: AVOYELLES STATE: LA	129	157	185	213	241
PARISH: BIENVILLE STATE: LA	120	146	172	198	224
PARISH: CALDWELL STATE: LA	129	157	185	213	241
PARISH: CATAHOULA STATE: LA	129	157	185	213	241
PARISH: CLAIBORNE STATE: LA	120	146	172	198	224
PARISH: CONCORDIA STATE: LA	122	148	174	200	226
PARISH: DE SOTO STATE: LA	120	146	172	198	224
PARISH: EAST CARROLL STATE: LA	129	157	185	213	241
PARISH: FRANKLIN STATE: LA	129	157	185	213	241
PARISH: JACKSON STATE: LA	129	157	185	213	241
PARISH: LA SALLE STATE: LA	129	157	185	213	241
PARISH: LINCOLN STATE: LA	129	157	185	213	241
PARISH: MADISON STATE: LA	129	157	185	213	241
PARISH: MOREHOUSE STATE: LA	129	157	185	213	241
PARISH: NATCHITOCHES STATE: LA	120	146	172	198	224
PARISH: RED RIVER STATE: LA	120	146	172	198	224
PARISH: RICHLAND STATE: LA	129	157	185	213	241

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NEW ORLEANS, LOUISIANA AREA OFFICE					
NON SMSA					
PARISH: SABINE STATE: LA	120	146	172	198	224
PARISH: TENSAS STATE: LA	129	157	185	213	241
PARISH: UNION STATE: LA	129	157	185	213	241
PARISH: VERNON STATE: LA	154	187	220	253	286
PARISH: WEST CARROLL STATE: LA	129	157	185	213	241
PARISH: WINN STATE: LA	129	157	185	213	241
OKLAHOMA CITY, OKLAHOMA AREA OFFICE					
SMSA: LAWTON, OK					
COUNTY: COMANCHE STATE: OK	156	190	224	257	291
SMSA: OKLAHOMA CITY, OK					
COUNTY: CANADIAN STATE: OK	160	194	228	262	296
COUNTY: CLEVELAND STATE: OK	160	194	228	262	296
COUNTY: MCCLAIN STATE: OK	160	194	228	262	296
COUNTY: OKLAHOMA STATE: OK	160	194	228	262	296
COUNTY: POTTAWATOMIE STATE: OK	160	194	228	262	296
NON SMSA					
COUNTY: ALFALFA STATE: OK	131	159	187	215	243
COUNTY: BEAVER STATE: OK	136	165	194	224	253
COUNTY: BECKHAM STATE: OK	131	159	187	215	243
COUNTY: BLAINE STATE: OK	131	159	187	215	243
COUNTY: CADDO STATE: OK	156	190	224	257	291

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OKLAHOMA CITY, OKLAHOMA AREA OFFICE NON SMSA					
COUNTY: CARTER STATE: OK	115 5	134	159 1	186 5	205
COUNTY: CIMARRON STATE: OK	136	165	194	224	253
COUNTY: COTTON STATE: OK	156	190	224	257	291
COUNTY: CUSTER STATE: OK	131	159	187	215	243
COUNTY: DEWEY STATE: OK	131	159	187	215	243
COUNTY: ELLIS STATE: OK	131	159	187	215	243
COUNTY: GARFIELD STATE: OK	131	159	187	215	243
COUNTY: GARVIN STATE: OK	110	134	158	181	205
COUNTY: GRADY STATE: OK	115 5	134	159 1	186 5	205
COUNTY: GRANT STATE: OK	131	159	187	215	243
COUNTY: GREER STATE: OK	156	190	224	257	291
COUNTY: HARMON STATE: OK	156	190	224	257	291
COUNTY: HARPER STATE: OK	131	159	187	215	243
COUNTY: JACKSON STATE: OK	156	190	224	257	291
COUNTY: JEFFERSON STATE: OK	156	190	224	257	291
COUNTY: JOHNSTON STATE: OK	110	134	158	181	205
COUNTY: KAY STATE: OK	128	156	183	211	238
COUNTY: KINGFISHER STATE: OK	131	159	187	215	243
COUNTY: KIOWA STATE: OK	156	190	224	257	291
COUNTY: LINCOLN STATE: OK	131	159	187	215	243
COUNTY: LOGAN STATE: OK	131	159	187	215	243
COUNTY: LOVE STATE: OK	110	134	158	181	205
COUNTY: MAJOR STATE: OK	131	159	187	215	243
COUNTY: MARSHALL STATE: OK	137	167	196	226	255

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OKLAHOMA CITY, OKLAHOMA AREA OFFICE NON SMSA					
COUNTY: MURRAY STATE: OK	115 5	134	159 1	186 5	205
COUNTY: NOBLE STATE: OK	131	159	187	215	243
COUNTY: PAYNE STATE: OK	135 7	156	187 4	218 7	240 2
COUNTY: PONTOTOC STATE: OK	115 5	134	159 1	186 5	205
COUNTY: ROGER MILLS STATE: OK	131	159	187	215	243
COUNTY: SEMINOLE STATE: OK	110	134	158	181	205
COUNTY: STEPHENS STATE: OK	156	190	224	257	291
COUNTY: TEXAS STATE: OK	136	165	194	224	253
COUNTY: TILLMAN STATE: OK	156	190	224	257	291
COUNTY: WASHITA STATE: OK	131	159	187	215	243
COUNTY: WOODS STATE: OK	131	159	187	215	243
COUNTY: WOODWARD STATE: OK	131	159	187	215	243
SMSA: FORT SMITH, AR-OK COUNTY: LE FLORE STATE: OK	119	145	170	196	222
COUNTY: SEQUOYAH STATE: OK	119	145	170	196	222
SMSA: TULSA, OK COUNTY: CREEK STATE: OK	168	204	240	276	312
COUNTY: MAYES STATE: OK	168	204	240	276	312
COUNTY: OSAGE STATE: OK	168	204	240	276	312
COUNTY: ROGERS STATE: OK	168	204	240	276	312
COUNTY: TULSA STATE: OK	168	204	240	276	312
COUNTY: WAGONER STATE: OK	168	204	240	276	312
NON SMSA					
COUNTY: ADAIR STATE: OK	137	167	196	226	255
COUNTY: ATOKA STATE: OK	110	134	158	181	205
COUNTY: BRYAN STATE: OK	137	167	196	226	255

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OKLAHOMA CITY, OKLAHOMA AREA OFFICE					
NON SMSA					
COUNTY: CHEROKEE STATE: OK	137	167	196	226	255
COUNTY: CHOCTAW STATE: OK	113	137	161	185	210
COUNTY: COAL STATE: OK	110	134	158	181	205
COUNTY: CRAIG STATE: OK	123	149	176	202	229
COUNTY: DELAWARE STATE: OK	137	167	196	226	255
COUNTY: HASKELL STATE: OK	119	145	170	196	222
COUNTY: HUGHES STATE: OK	110	134	158	181	205
COUNTY: LATIMER STATE: OK	119	145	170	196	222
COUNTY: MCCURTAIN STATE: OK	113	137	161	185	210
COUNTY: MCINTOSH STATE: OK	128	156	183	211	238
COUNTY: MUSKOGEE STATE: OK	137	167	196	226	255
COUNTY: NOWATA STATE: OK	128	156	183	211	238
COUNTY: OKFUSKEE STATE: OK	131	159	187	215	243
COUNTY: OKMULGEE STATE: OK	128	156	183	211	238
COUNTY: OTTAWA STATE: OK	123	149	176	202	229
COUNTY: PAWNEE STATE: OK	128	156	183	211	238
COUNTY: PITTSBURG STATE: OK	119	145	170	196	222
COUNTY: PUSHMATAHA STATE: OK	119	145	170	196	222
COUNTY: WASHINGTON STATE: OK	128	156	183	211	238

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN ANTONIO, TEXAS AREA OFFICE					
SMSA: AUSTIN, TX					
COUNTY: HAYS STATE: TX	225	273	321	369	418
COUNTY: TRAVIS STATE: TX	225	273	321	369	418
COUNTY: WILLIAMSON STATE: TX	225	273	321	369	418
SMSA: BROWNSVILLE-HARLINGEN-SAN BENITO, TX					
COUNTY: CAMERON STATE: TX	137 19	159 16	189 20	221 27	244 25
SMSA: CORPUS CHRISTI, TX					
COUNTY: NUECES STATE: TX	164	199	235	270	305
COUNTY: SAN PATRICIO STATE: TX	164	199	235	270	305
SMSA: LAREDO, TX					
COUNTY: WEBB STATE: TX	173	210	248	285	322
SMSA: MC ALLEN-PAHAR-EDINBURG, TX					
COUNTY: HIDALGO STATE: TX	137 19	159 16	189 20	221 27	244 25
SMSA: SAN ANTONIO, TX					
COUNTY: BEXAR STATE: TX	186	226	266	306	346
COUNTY: COMAL STATE: TX	186	226	266	306	346
SMSA: SAN ANTONIO, TX					
COUNTY: GUADALUPE STATE: TX	186	226	266	306	346
NON SMSA					
COUNTY: ARANSAS STATE: TX	173	210	248	285	322
COUNTY: ATASCOSA STATE: TX	138	168	198	228	257
COUNTY: BANDERA STATE: TX	158	192	226	259	293
COUNTY: BASTROP STATE: TX	147	179	211	243	274
COUNTY: BEE STATE: TX	173	210	248	285	322
COUNTY: BLANCO STATE: TX	147	179	211	243	274
COUNTY: BROOKS STATE: TX	173	210	248	285	322
COUNTY: BURNET STATE: TX	147	179	211	243	274
COUNTY: CALDWELL STATE: TX	147	179	211	243	274
COUNTY: CALHOUN STATE: TX	138	168	198	228	257

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN ANTONIO, TEXAS AREA OFFICE					
NON SMSA					
COUNTY: DE WITT STATE: TX	138	168	198	228	257
COUNTY: DIMMIT STATE: TX	173	210	248	285	322
COUNTY: DUVAL STATE: TX	173	210	248	285	322
COUNTY: EDWARDS STATE: TX	138	168	198	228	257
COUNTY: FAYETTE STATE: TX	146	128	209	240	272
COUNTY: FRIO STATE: TX	138	168	198	228	257
COUNTY: GILLESPIE STATE: TX	138	168	198	228	257
COUNTY: GOLIAD STATE: TX	138	168	198	228	257
COUNTY: GONZALES STATE: TX	138	168	198	228	257
COUNTY: JACKSON STATE: TX	138	168	198	228	257
COUNTY: JIM HOGG STATE: TX	173	210	248	285	322
COUNTY: JIM WELLS STATE: TX	173	210	248	285	322
COUNTY: KARNES STATE: TX	138	168	198	228	257
COUNTY: KENDALL STATE: TX	138	168	198	228	257
COUNTY: KENEDY STATE: TX	173	210	248	285	322
COUNTY: KERR STATE: TX	138	168	198	228	257
COUNTY: KINNEY STATE: TX	138	168	198	228	257
COUNTY: KLEBERG STATE: TX	173	210	248	285	322
COUNTY: LA SALLE STATE: TX	173	210	248	285	322
COUNTY: LAUACA STATE: TX	138	168	198	228	257
COUNTY: LEE STATE: TX	147	179	211	243	274
COUNTY: LIVE OAK STATE: TX	173	210	248	285	322
COUNTY: LLANO STATE: TX	147	179	211	243	274
COUNTY: MCMULLIN STATE: TX	173	210	248	285	322

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN ANTONIO, TEXAS AREA OFFICE					
NON SMSA					
COUNTY: MAVERICK STATE: TX	138	168	198	228	257
COUNTY: MEDINA STATE: TX	138	168	198	228	257
COUNTY: REAL STATE: TX	138	168	198	228	257
COUNTY: REFUGIO STATE: TX	173	210	248	285	322
COUNTY: STARR STATE: TX	173	210	248	285	322
COUNTY: UVALDE STATE: TX	138	168	198	228	257
COUNTY: VAL VERDE STATE: TX	138	168	198	228	257
COUNTY: VICTORIA STATE: TX	138	173 5	210 12	230 2	257
COUNTY: WILLACY STATE: TX	173	210	248	285	322
COUNTY: WILSON STATE: TX	138	168	198	228	257
COUNTY: ZAPATA STATE: TX	173	210	248	285	322
COUNTY: ZAVALA STATE: TX	138	168	198	228	257
KANSAS CITY, MISSOURI AREA OFFICE					
SMSA: KANSAS CITY, MO-KS					
COUNTY: CASS STATE: MO	171	207	244	281	317
COUNTY: CLAY STATE: MO	171	207	244	281	317
COUNTY: JACKSON STATE: MO	171	207	244	281	317
COUNTY: PLATTE STATE: MO	171	207	244	281	317
COUNTY: RAY STATE: MO	171	207	244	281	317
COUNTY: JOHNSON STATE: KS	171	207	244	281	317
COUNTY: WYANDOTTE STATE: KS	171	207	244	281	317
SMSA: ST. JOSEPH, MO					
COUNTY: ANDREW STATE: MO	124	151	177	204	231
COUNTY: BUCHANAN STATE: MO	124	151	177	204	231
SMSA: SPRINGFIELD, MO					
COUNTY: CHRISTIAN STATE: MO	122	148	174	200	227
COUNTY: GREENE STATE: MO	122	148	174	200	227

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KANSAS CITY, MISSOURI AREA OFFICE NON SMSA					
COUNTY: ATCHISON STATE: MO	124	151	177	204	231
COUNTY: BARRY STATE: MO	122	148	174	200	227
COUNTY: BARTON STATE: MO	107	130	153	176	198
COUNTY: BATES STATE: MO	124	151	177	204	231
COUNTY: BENTON STATE: MO	124	151	177	204	231
COUNTY: CALDWELL STATE: MO	124	151	177	204	231
COUNTY: CAMDEN STATE: MO	150	182	214	247	279
COUNTY: CARROLL STATE: MO	124	151	177	204	231
COUNTY: CEDAR STATE: MO	107	130	153	176	198
COUNTY: CHARITON STATE: MO	150	182	214	247	279
COUNTY: CLINTON STATE: MO	124	151	177	204	231
COUNTY: DADE STATE: MO	122	148	174	200	227
COUNTY: DALLAS STATE: MO	122	148	174	200	227
COUNTY: DAVIES STATE: MO	124	151	177	204	231
COUNTY: DE KALB STATE: MO	124	151	177	204	231
COUNTY: GENTRY STATE: MO	124	151	177	204	231
COUNTY: GRUNOY STATE: MO	124	151	177	204	231
COUNTY: HARRISON STATE: MO	124	151	177	204	231
COUNTY: HENRY STATE: MO	124	151	177	204	231
COUNTY: HICKORY STATE: MO	122	148	174	200	227
COUNTY: HOLT STATE: MO	124	151	177	204	231
COUNTY: JASPER STATE: MO	107	130	153	176	198
COUNTY: JOHNSON STATE: MO	124	151	177	204	231
COUNTY: LACLEDE STATE: MO	133	161	190	218	247

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (COT), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KANSAS CITY, MISSOURI AREA OFFICE NON SMSA					
COUNTY: LAFAYETTE STATE: MO	124	151	177	204	231
COUNTY: LAWRENCE STATE: MO	122	148	174	200	227
COUNTY: LINN STATE: MO	150	182	214	247	279
COUNTY: LIVINGSTON STATE: MO	124	151	177	204	231
COUNTY: McDONALD STATE: MO	107	130	153	176	198
COUNTY: MERCER STATE: MO	124	151	177	204	231
COUNTY: MILLER STATE: MO	150	182	214	247	279
COUNTY: MORGAN STATE: MO	150	182	214	247	279
COUNTY: NEWTON STATE: MO	107	130	153	176	198
COUNTY: NODAWAY STATE: MO	124	151	177	204	231
COUNTY: PETTIS STATE: MO	124	151	177	204	231
COUNTY: POLK STATE: MO	122	148	174	200	227
COUNTY: PULASKI STATE: MO	133	161	190	218	247
COUNTY: PUTNAM STATE: MO	150	182	214	247	279
COUNTY: ST. CLAIR STATE: MO	107	130	153	176	198
COUNTY: SALINE STATE: MO	124	151	177	204	231
COUNTY: STONE STATE: MO	122	148	174	200	227
COUNTY: SULLIVAN STATE: MO	150	182	214	247	279
COUNTY: TANLY STATE: MO	122	148	174	200	227
COUNTY: VERNON STATE: MO	107	130	153	176	198
COUNTY: WEBSTER STATE: MO	122	148	174	200	227
COUNTY: WORTH STATE: MO	124	151	177	204	231
SMSA: LAWRENCE, KS COUNTY: DOUGLASS STATE: KS	161	195	230	264	299

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KANSAS CITY, MISSOURI AREA OFFICE					
SMSA: TOPEKA, KS					
COUNTY: JEFFERSON STATE: KS	161	195	230	264	299
COUNTY: OSAGE STATE: KS	161	195	230	264	299
COUNTY: SHAWNEE, STATE: KS	161	195	230	264	299
SMSA: WICHITA, KS					
COUNTY: BUTLER STATE: KS	144	174	205	236	266
COUNTY: SEDGWICK STATE: KS	144	174	205	236	266
NON SMSA					
COUNTY: ALLEN STATE: KS	107	130	153	176	198
COUNTY: ANDERSON STATE: KS	129	157	185	213	241
COUNTY: ATCHISON STATE: KS	129	157	185	213	241
COUNTY: BARBER STATE: KS	114	139	163	188	213
COUNTY: BARTON STATE: KS	123	149	176	202	229
COUNTY: BOURBON STATE: KS	107	130	153	176	198
COUNTY: BROWN STATE: KS	129	157	185	213	241
COUNTY: CHASE STATE: KS	114	139	163	188	213
COUNTY: CHAUTAUQUA STATE: KS	114	139	163	188	213
COUNTY: CHEROKEE STATE: KS	107	130	153	176	198
COUNTY: CHEYENNE STATE: KS	123	149	176	202	229
COUNTY: CLARK STATE: KS	114	139	163	188	213
COUNTY: CLAY STATE: KS	123	149	176	202	229
COUNTY: CLOUD STATE: KS	123	149	176	202	229
COUNTY: COFFEY STATE: KS	129	157	185	213	241
COUNTY: COMANCHE STATE: KS	114	139	163	188	213
COUNTY: COWLEY STATE: KS	114	139	163	188	213
COUNTY: CRAWFORD STATE: KS	107	130	153	176	198

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (COT), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KANSAS CITY, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY: DECATUR STATE: KS	123	149	176	202	229
COUNTY: DICKINSON STATE: KS	123	149	176	202	229
COUNTY: DONIPHAN STATE: KS	129	157	185	213	241
COUNTY: EDWARDS STATE: KS	114	139	163	188	213
COUNTY: ELK STATE: KS	114	139	163	188	213
COUNTY: ELLIS STATE: KS	123	149	176	202	229
COUNTY: ELLSWORTH STATE: KS	123	149	176	202	229
COUNTY: FINNEY STATE: KS	114	139	163	188	213
COUNTY: FORD STATE: KS	114	139	163	188	213
COUNTY: FRANKLIN STATE: KS	129	157	185	213	241
COUNTY: GEARY STATE: KS	129	157	185	213	241
COUNTY: GOVE STATE: KS	123	149	176	202	229
COUNTY: GRAHAM STATE: KS	123	149	176	202	229
COUNTY: GRANT STATE: KS	114	139	163	188	213
COUNTY: GRAY STATE: KS	114	139	163	188	213
COUNTY: GREELEY STATE: KS	123	149	176	202	229
COUNTY: GREENWOOD STATE: KS	114	139	163	188	213
COUNTY: HAMILTON STATE: KS	114	139	163	188	213
COUNTY: HARPER STATE: KS	114	139	163	188	213
COUNTY: HARVEY STATE: KS	114	139	163	188	213
COUNTY: HASKELL STATE: KS	114	139	163	188	213
COUNTY: HODGEMAN STATE: KS	114	139	163	188	213
COUNTY: JACKSON STATE: KS	129	157	185	213	241
COUNTY: JEWELL STATE: KS	123	149	176	202	229

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (COT), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE D- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KANSAS CITY, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY: KEARNEY STATE: KS	114	139	163	188	213
COUNTY: KINGMAN STATE: KS	114	139	163	188	213
COUNTY: KIOWA STATE: KS	114	139	163	188	213
COUNTY: LABETTE STATE: KS	107	130	153	176	198
COUNTY: LANE STATE: KS	123	149	176	202	229
COUNTY: LEAVENWORTH STATE: KS	161	195	230	264	299
COUNTY: LINCOLN STATE: KS	123	149	176	202	229
COUNTY: LINN STATE: KS	129	157	185	213	241
COUNTY: LOGAN STATE: KS	123	149	176	202	229
COUNTY: LYON STATE: KS	129	157	185	213	241
COUNTY: McPHERSON STATE: KS	123	149	176	202	229
COUNTY: MARION STATE: KS	114	139	163	188	213
COUNTY: MARSHALL STATE: KS	129	157	185	213	241
COUNTY: READE STATE: KS	114	139	163	188	213
COUNTY: MIAMI STATE: KS	129	157	185	213	241
COUNTY: MITCHELL STATE: KS	123	149	176	202	229
COUNTY: MONTGOMERY STATE: KS	107	130	153	176	198
COUNTY: MORRIS STATE: KS	123	149	176	202	229
COUNTY: MORTON STATE: KS	114	139	163	188	213
COUNTY: NEMAHA STATE: KS	129	157	185	213	241
COUNTY: NEUSHO STATE: KS	107	130	153	176	198
COUNTY: NESS STATE: KS	123	149	176	202	229
COUNTY: NORTON STATE: KS	123	149	176	202	229
COUNTY: OSBORN STATE: KS	123	149	176	202	229

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KANSAS CITY, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY: OTTAWA STATE: KS	123	149	176	202	229
COUNTY: PAWNEE STATE: KS	114	139	163	188	213
COUNTY: PHILLIPS STATE: KS	123	149	176	202	229
COUNTY: POTTAWATOMIE STATE: KS	129	157	185	213	241
COUNTY: PRATT STATE: KS	114	139	163	188	213
COUNTY: RAWLINS STATE: KS	123	149	176	202	229
COUNTY: RENO STATE: KS	114	139	163	188	213
COUNTY: REPUBLIC STATE: KS	123	149	176	202	229
COUNTY: RICE STATE: KS	123	149	176	202	229
COUNTY: RILEY STATE: KS	141 12	162 5	195 10	217 4	241
COUNTY: ROOKS STATE: KS	123	149	176	202	229
COUNTY: RUSH STATE: KS	123	149	176	202	229
COUNTY: RUSSELL STATE: KS	123	149	176	202	229
COUNTY: SALINE STATE: KS	123	149	176	202	229
COUNTY: SCOTT STATE: KS	123	149	176	202	229
COUNTY: SEWARD STATE: KS	114	139	163	188	213
COUNTY: SHERIDAN STATE: KS	123	149	176	202	229
COUNTY: SHERMAN STATE: KS	123	149	176	202	229
COUNTY: SMITH STATE: KS	123	149	176	202	229
COUNTY: STAFFORD STATE: KS	114	139	163	188	213
COUNTY: STANTON STATE: KS	114	139	163	188	213
COUNTY: STEVENSON STATE: KS	114	139	163	188	213
COUNTY: SUMNER STATE: KS	114	139	163	188	213
COUNTY: THOMAS STATE: KS	123	149	176	202	229

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KANSAS CITY, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY: TREGO STATE: KS	123	149	176	202	229
COUNTY: WABAUNSEE STATE: KS	129	157	185	213	241
COUNTY: WALLACE STATE: KS	123	149	176	202	229
COUNTY: WASHINGTON STATE: KS	129	157	185	213	241
COUNTY: WICHITA STATE: KS	123	149	176	202	229
COUNTY: WILSON STATE: KS	107	130	153	176	198
COUNTY: WOODSON STATE: KS	107	130	153	176	198
OMAHA, NEBRASKA AREA OFFICE					
SMSA: CEDAR RAPIDS, IA					
COUNTY: LINN STATE: IA	182	222	261	300	339
SMSA: DAVENPORT-ROCK ISLAND-MOLINE, IA-IL					
COUNTY: SCOTT STATE: IA	183	223	262	302	341
SMSA: DES MOINES, IA					
COUNTY: POLK STATE: IA	193	235	276	318	359
COUNTY: WARREN STATE: IA	193	235	276	318	359
SMSA: DUBUQUE, IA					
COUNTY: DUBUQUE STATE: IA	139	169	212 13	240 11	274 15
SMSA: OMAHA, NE-IA					
COUNTY: POTTAWATTAMI STATE: IA	176	213	251	289	326
SMSA: SIOUX CITY, IA-NE					
COUNTY: WOODBURY STATE: IA	137	170 4	203 7	246 21	279 24
SMSA: WATERLOO-CEDAR FALLS, IA					
COUNTY: BLACK HAWK STATE: IA	152	185	231 14	272 22	328 45
NON SMSA					
COUNTY: ADAIR STATE: IA	142	173	204	234	265

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE					
NON SMSA					
COUNTY: ADAMS STATE: IA	136	165	194	224	253
COUNTY: ALLAMAKEE STATE: IA	139	169	199	229	259
COUNTY: APPANOOSE STATE: IA	142	173	204	234	265
COUNTY: AUDUBON STATE: IA	136	165	194	224	253
COUNTY: BENTON STATE: IA	182	222	261	300	339
COUNTY: BOONE STATE: IA	142	173	204	234	265
COUNTY: BREMLER STATE: IA	152	185	217	250	283
COUNTY: BUCHANAN STATE: IA	152	185	217	250	283
COUNTY: BUENA VISTA STATE: IA	136	165	194	224	253
COUNTY: BUTLER STATE: IA	152	185	217	250	283
COUNTY: CALHOUN STATE: IA	136	165	194	224	253
COUNTY: CARROLL STATE: IA	136	165	194	224	253
COUNTY: CASS STATE: IA	136	165	194	224	253
COUNTY: CEDAR STATE: IA	182	222	261	300	339
COUNTY: CERRO GORDO STATE: IA	152	185	217	250	283
COUNTY: CHEROKEE STATE: IA	137	166	196	225	255
COUNTY: CHICKASAW STATE: IA	152	185	217	250	283
COUNTY: CLARKE STATE: IA	142	173	204	234	265
COUNTY: CLAY STATE: IA	136	165	194	224	253
COUNTY: CLAYTON STATE: IA	139	169	199	229	259
COUNTY: CLINTON STATE: IA	154	187	221	254	287
COUNTY: CRAWFORD STATE: IA	137	166	196	225	255
COUNTY: DALLAS STATE: IA	142	173	204	234	265
COUNTY: DAVIS STATE: IA	142	173	204	234	265

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE NON SMSA					
COUNTY: DECATUR STATE: IA	142	173	204	234	265
COUNTY: DELAWARE STATE: IA	139	169	199	229	259
COUNTY: DES MOINES STATE: IA	140	170	203 3	231	261
COUNTY: DICKINSON STATE: IA	149 13	165	194	224	253
COUNTY: EMMET STATE: IA	136	165	194	224	253
COUNTY: FAYETTE STATE: IA	152	185	217	250	283
COUNTY: FLOYD STATE: IA	152	185	217	250	283
COUNTY: FRANKLIN STATE: IA	152	185	217	250	283
COUNTY: FREMONT STATE: IA	136	165	194	224	253
COUNTY: GREENE STATE: IA	136	165	194	224	253
COUNTY: GRUNDY STATE: IA	152	185	217	250	283
COUNTY: GUTHRIE STATE: IA	136	165	194	224	253
COUNTY: HAMILTON STATE: IA	136	165	194	224	253
COUNTY: HANCOCK STATE: IA	152	185	217	250	283
COUNTY: HARDIN STATE: IA	152	185	217	250	283
COUNTY: HARRISON STATE: IA	136	165	194	224	253
COUNTY: HENRY STATE: IA	140	170	200	231	261
COUNTY: HOWARD STATE: IA	139	169	199	229	259
COUNTY: HUMBOLDT STATE: IA	136	165	194	224	253
COUNTY: IOWA STATE: IA	137	166	196	225	255
COUNTY: IOWA STATE: IA	182	222	261	300	339
COUNTY: JACKSON STATE: IA	139	169	199	229	259
COUNTY: JASPER STATE: IA	142	173	204	234	265
COUNTY: JEFFERSON STATE: IA	142	173	204	234	265

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE NON SMSA					
COUNTY: JOHNSON STATE: IA	182	222	261	300	339
COUNTY: JONES STATE: IA	182	222	261	300	339
COUNTY: KEOKUK STATE: IA	142	173	204	234	265
COUNTY: KOSKUTH STATE: IA	152	185	217	250	283
COUNTY: LEE STATE: IA	140	170	200	231	261
COUNTY: LOUISA STATE: IA	154	187	221	254	287
COUNTY: LUCAS STATE: IA	142	173	204	234	265
COUNTY: LYON STATE: IA	152	185	217	250	283
COUNTY: MADISON STATE: IA	142	173	204	234	265
COUNTY: MAHASKA STATE: IA	142	173	204	234	265
COUNTY: MARION STATE: IA	142	173	204	234	265
COUNTY: MARSHALL STATE: IA	142	173	204	234	265
COUNTY: MILLS STATE: IA	136	165	194	224	253
COUNTY: MITCHELL STATE: IA	152	185	217	250	283
COUNTY: MONROE STATE: IA	137	166	196	225	255
COUNTY: MONROE STATE: IA	142	173	204	234	265
COUNTY: MONTGOMERY STATE: IA	136	165	194	224	253
COUNTY: MUSCATINE STATE: IA	154	187	221	254	287
COUNTY: O'BRIEN STATE: IA	137	166	196	225	255
COUNTY: OSCEOLA STATE: IA	152	185	217	250	283
COUNTY: PAGE STATE: IA	136	165	194	224	253
COUNTY: PAOLI ALTO STATE: IA	136	165	199 5	229 5	253
COUNTY: PLYMOUTH STATE: IA	137	166	196	225	255
COUNTY: POCAHONTAS STATE: IA	136	165	194	224	253

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMSSCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)
REGION 7

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE NON SMSA					
COUNTY: POWESHIEK STATE: IA	142	173	204	234	265
COUNTY: RINGGOLD STATE: IA	142	173	204	234	265
COUNTY: SAC STATE: IA	136	165	194	224	253
COUNTY: SHELBY STATE: IA	136	165	194	224	253
COUNTY: SIOUX STATE: IA	137	166	196	225	255
COUNTY: STORY STATE: IA	142	173	204	234	265
COUNTY: TAMA STATE: IA	142	173	204	234	265
COUNTY: TAYLOR STATE: IA	136	165	194	224	253
COUNTY: UNION STATE: IA	142	173	204	234	265
COUNTY: VAN BUREN STATE: IA	142	173	204	234	265
COUNTY: WAPELLO STATE: IA	142	173	204	234	265
COUNTY: WASHINGTON STATE: IA	154	187	221	254	287
COUNTY: WAYNE STATE: IA	142	173	204	234	265
COUNTY: WEBSTER STATE: IA	150 14	173 8	223 29	236 12	260 7
COUNTY: WINNEBAGO STATE: IA	152	185	217	250	283
COUNTY: WINNEBESHA STATE: IA	139	169	199	229	259
COUNTY: WORTH STATE: IA	152	185	217	250	283
COUNTY: WRIGHT STATE: IA	136	165	194	224	253
SMSA: LINCOLN, NE COUNTY: LANCASTER STATE: NE	159 23	192 27	215 21	244 20	276 23
SMSA: OMAHA, NE-IA COUNTY: DOUGLAS STATE: NE	176	213	251	289	326
COUNTY: SARPY STATE: NE	176	213	251	289	326
SMSA: SIOUX CITY, IA-NE COUNTY: DAKOTA STATE: NE	137	170 4	203 7	246 21	279 24
NON SMSA COUNTY: ADAMS STATE: NE	130	159	187	215	243

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMSSCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)
REGION 7

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE NON SMSA					
COUNTY: ANTELOPE STATE: NE	130	159	187	215	243
COUNTY: ARTHUR STATE: NE	130	159	187	215	243
COUNTY: BANNER STATE: NE	128	156	183	211	239
COUNTY: BLAINE STATE: NE	130	159	187	215	243
COUNTY: BOONE STATE: NE	130	159	187	215	243
COUNTY: BOX BUTTE STATE: NE	128	156	183	211	239
COUNTY: BOYD STATE: NE	130	159	187	215	243
COUNTY: BROWN STATE: NE	130	159	187	215	243
COUNTY: BUFFALO STATE: NE	132 2	159 4	191 4	234 19	258 15
COUNTY: BURT STATE: NE	136	165	194	224	253
COUNTY: BUTLER STATE: NE	136	165	194	224	253
COUNTY: CASS STATE: NE	136	165	194	224	253
COUNTY: CEDAR STATE: NE	137	166	196	225	255
COUNTY: CHASE STATE: NE	149	181	213	245	277
COUNTY: CHERRY STATE: NE	130	159	187	215	243
COUNTY: CHEYENNE STATE: NE	128	156	183	211	239
COUNTY: CLAY STATE: NE	130	159	187	215	243
COUNTY: COLFAX STATE: NE	136	165	194	224	253
COUNTY: CUMING STATE: NE	137	166	196	225	255
COUNTY: CUSTER STATE: NE	130	159	187	215	243
COUNTY: DAWES STATE: NE	128	156	183	211	239
COUNTY: DAWSON STATE: NE	130	159	187	215	243
COUNTY: DEUEL STATE: NE	128	156	183	211	239
COUNTY: DIXON STATE: NE	137	166	196	225	255

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE NON SMSA					
COUNTY: OODGE STATE: NE	136	165	194	224	253
COUNTY: DUNDY STATE: NE	149	181	213	245	277
COUNTY: FILLMORE STATE: NE	136	165	194	224	253
COUNTY: FRANKLIN STATE: NE	130	159	187	215	243
COUNTY: FRONTIER STATE: NE	130	159	187	215	243
COUNTY: FURNAS STATE: NE	130	159	187	215	243
COUNTY: GAGE STATE: NE	136	165	200 6	224	253
COUNTY: GARDEN STATE: NE	128	156	183	211	239
COUNTY: GARFIELD STATE: NE	130	159	187	215	243
COUNTY: GOSPEL STATE: NE	130	159	187	215	243
COUNTY: GRANT STATE: NE	130	159	187	215	243
COUNTY: GREELEY STATE: NE	130	159	187	215	243
COUNTY: HALL STATE: NE	130	159	191 4	269 54	297 54
COUNTY: HAMILTON STATE: NE	130	159	187	215	243
COUNTY: HARLAN STATE: NE	130	159	187	215	243
COUNTY: HAYES STATE: NE	130	159	187	215	243
COUNTY: HITCHCOCK STATE: NE	130	159	187	215	243
COUNTY: HOLT STATE: NE	137	166	196	225	255
COUNTY: HOOKER STATE: NE	130	159	187	215	243
COUNTY: HOWARD STATE: NE	130	159	187	215	243
COUNTY: JEFFERSON STATE: NE	136	165	194	224	253
COUNTY: JOHNSON STATE: NE	136	165	194	224	253
COUNTY: KEARNEY STATE: NE	130	159	187	215	243
COUNTY: KEITH STATE: NE	130	159	187	215	243

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE NON SMSA					
COUNTY: KEYSA PAHA STATE: NE	137	166	196	225	255
COUNTY: KIMBALL STATE: NE	128	156	183	211	239
COUNTY: KNOX STATE: NE	137	166	196	225	255
COUNTY: LINCOLN STATE: NE	130	159	187	215	243
COUNTY: LOGAN STATE: NE	130	159	187	215	243
COUNTY: LOUP STATE: NE	130	159	187	215	243
COUNTY: MCPHERSON STATE: NE	130	159	187	215	243
COUNTY: MADISON STATE: NE	137	166	196	225	255
COUNTY: MERRICK STATE: NE	130	159	187	215	243
COUNTY: MORRILL STATE: NE	128	156	183	211	239
COUNTY: NANCE STATE: NE	130	159	187	215	243
COUNTY: NEMAH STATE: NE	136	165	194	224	253
COUNTY: NUCKOLLS STATE: NE	130	159	187	215	243
COUNTY: OTTOE STATE: NE	136	165	194	224	253
COUNTY: PAWNEE STATE: NE	136	165	194	224	253
COUNTY: PERKINS STATE: NE	149	181	213	245	277
COUNTY: PHELPS STATE: NE	130	159	187	215	243
COUNTY: PIERCE STATE: NE	137	166	196	225	255
COUNTY: PLATTE STATE: NE	136	165	194	224	253
COUNTY: POLK STATE: NE	136	165	194	224	253
COUNTY: RED WILLOW STATE: NE	130	159	187	215	243
COUNTY: RICHARDSON STATE: NE	136	165	194	224	253
COUNTY: ROCK STATE: NE	137	166	196	225	255
COUNTY: SALINE STATE: NE	136	165	194	224	253

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE					
NON SMSA					
COUNTY: SAUNDERS STATE: NE	136	165	194	224	253
COUNTY: SCOTTS BLUFF STATE: NE	128	156	192 9	216 5	239
COUNTY: SEWARD STATE: NE	136	165	194	224	253
COUNTY: SHERIDAN STATE: NE	128	156	183	211	239
COUNTY: SHERMAN STATE: NE	130	159	187	215	243
COUNTY: SIOUX STATE: NE	128	156	183	211	239
COUNTY: STANTON STATE: NE	137	166	196	225	255
COUNTY: THAYER STATE: NE	136	165	194	224	253
COUNTY: THOMAS STATE: NE	130	159	187	215	243
COUNTY: THURSTON STATE: NE	137	166	196	225	255
COUNTY: VALLEY STATE: NE	130	159	187	215	243
COUNTY: WASHINGTON STATE: NE	136	165	194	224	253
COUNTY: WAYNE STATE: NE	137	166	196	225	255
COUNTY: WEBSTER STATE: NE	130	159	187	215	243
COUNTY: WHEELER STATE: NE	130	159	187	215	243
COUNTY: YORK STATE: NE	136	165	194	224	253

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ST. LOUIS, MISSOURI AREA OFFICE					
SMSA: COLUMBIA, MO					
COUNTY: BOONE STATE: MO	150	182	214	247	279
SMSA: ST. LOUIS, MO-IL					
COUNTY: FRANKLIN STATE: MO	175	213	250	288	325
COUNTY: JEFFERSON STATE: MO	175	213	250	288	325
COUNTY: ST. CHARLES STATE: MO	175	213	250	288	325
COUNTY: ST. LOUIS STATE: MO	175	213	250	288	325
INDEP. CITY: ST. LOUIS STATE: MO	175	213	250	288	325
NON SMSA					
COUNTY: ADAIR STATE: MO	150	182	214	247	279
COUNTY: AUDRAIN STATE: MO	150	182	214	247	279
COUNTY: BOLLINGER STATE: MO	117	143	168	193	219
COUNTY: BUTLER STATE: MO	117	143	168	193	219
COUNTY: CALLAWAY STATE: MO	150	182	214	247	279
NON SMSA					
COUNTY: CAPE GIRARDE STATE: MO	118 1	143	168	193	219
COUNTY: CARTER STATE: MO	117	143	168	193	219
COUNTY: CLARK STATE: MO	140	170	200	231	261
COUNTY: COLE STATE: MO	150	182	214	247	279
COUNTY: COOPER STATE: MO	150	182	214	247	279
COUNTY: CRAWFORD STATE: MO	133	161	190	218	247
COUNTY: DENT STATE: MO	133	161	190	218	247
COUNTY: DOUGLAS STATE: MO	122	148	174	200	227
COUNTY: DUNKLIN STATE: MO	117	143	168	193	219
COUNTY: GASCONADE STATE: MO	133	161	190	218	247
COUNTY: HOWARD STATE: MO	150	182	214	247	279
COUNTY: HOWELL STATE: MO	122	148	174	200	227

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ST. LOUIS, MISSOURI AREA OFFICE NON SMSA					
COUNTY: IRON STATE: MO	133	161	190	218	247
COUNTY: KNOX STATE: MO	150	182	214	247	279
COUNTY: LEWIS STATE: MO	140	170	200	231	261
COUNTY: LINCOLN STATE: MO	133	161	190	218	247
COUNTY: MACON STATE: MO	150	182	214	247	279
COUNTY: MADISON STATE: MO	133	161	190	218	247
COUNTY: MARIES STATE: MO	133	161	190	218	247
COUNTY: MARION STATE: MO	140	170	200	231	261
COUNTY: MISSISSIPPI STATE: MO	117	143	168	193	219
COUNTY: MONITEAU STATE: MO	150	182	214	247	279
COUNTY: MONROE STATE: MO	150	182	214	247	279
COUNTY: MONTGOMERY STATE: MO	133	161	190	218	247
COUNTY: NEW MAURIO STATE: MO	117	143	168	193	219
COUNTY: OREGON STATE: MO	122	148	174	200	227
COUNTY: OSAGE STATE: MO	150	182	214	247	279
COUNTY: OZARK STATE: MO	122	148	174	200	227
COUNTY: PEMISCOT STATE: MO	117	143	168	193	219
COUNTY: PERRY STATE: MO	133	161	190	218	247
COUNTY: PHELPS STATE: MO	133	161	190	218	247
COUNTY: PIKE STATE: MO	133	161	190	218	247
COUNTY: RALLS STATE: MO	140	170	200	231	261
COUNTY: RANDOLPH STATE: MO	150	182	214	247	279
COUNTY: REYNOLDS STATE: MO	133	161	190	218	247
COUNTY: RIPLEY STATE: MO	117	143	168	193	219

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - ENAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ST. LOUIS, MISSOURI AREA OFFICE NON SMSA					
COUNTY: ST FRANCOIS STATE: MO	133	161	190	218	247
COUNTY: STE GENEVIEV STATE: MO	133	161	190	218	247
COUNTY: SCHUYLER STATE: MO	150	182	214	247	279
COUNTY: SCOTLAND STATE: MO	150	182	214	247	279
COUNTY: SCOTT STATE: MO	118 1	143	168	193	219
COUNTY: SHANNON STATE: MO	122	148	174	200	227
COUNTY: SHELBY STATE: MO	150	182	214	247	279
COUNTY: STODDARD STATE: MO	117	143	168	193	219
COUNTY: TEXAS STATE: MO	133	161	190	218	247
COUNTY: WARREN STATE: MO	133	161	190	218	247
COUNTY: WASHINGTON STATE: MO	133	161	190	218	247
COUNTY: WAYNE STATE: MO	117	143	168	193	219
COUNTY: WRIGHT STATE: MO	122	148	174	200	227

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - ENAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION B	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
NON SMSA					
COUNTY: ALBANY STATE: WY	133	162	191	219	248
COUNTY: BIG HORN STATE: WY	139	169	199	229	258
COUNTY: CAMPBELL STATE: WY	133	162	191	219	248
COUNTY: CARBON STATE: WY	133	162	191	219	248
COUNTY: CONVERSE STATE: WY	133	162	191	219	248
COUNTY: CROOK STATE: WY	139	169	199	229	258
COUNTY: FREMONT STATE: WY	133	162	191	219	248
COUNTY: GOSHEN STATE: WY	133	162	191	219	248
COUNTY: HOT SPRINGS STATE: WY	139	169	199	229	258
COUNTY: JOHNSON STATE: WY	133	162	191	219	248
COUNTY: LARAMIE STATE: WY	185 52	210 48	235 44	259 40	284 36
COUNTY: LINCOLN STATE: WY	133	162	191	219	248
COUNTY: NATRONA STATE: WY	133	182 20	244 53	269 50	295 47
COUNTY: NIOBRARA STATE: WY	133	162	191	219	248
COUNTY: PARK STATE: WY	139	169	199	229	258
COUNTY: PLATTE STATE: WY	133	162	191	219	248
COUNTY: SHERIDAN STATE: WY	133	162	191	219	248
COUNTY: SUBLETTE STATE: WY	133	162	191	219	248
COUNTY: SWEETWATER STATE: WY	133	162	191	219	248
COUNTY: TETON STATE: WY	182	221	260	299	338
COUNTY: UINTEA STATE: WY	133	162	191	219	248
COUNTY: WASHAKIE STATE: WY	139	169	199	229	258
COUNTY: WESTON STATE: WY	139	169	199	229	258
SMSA: COLORADO SPRINGS, CO					
COUNTY: EL PASO STATE: CO	159	193	227	261	295

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION B	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
SMSA: COLORADO SPRINGS, CO					
COUNTY: TELLER STATE: CO	159	193	227	261	295
SMSA: DENVER-BOULDER, CO					
COUNTY: ADAMS STATE: CO	183	223	262	301	341
COUNTY: ARAPAHOE STATE: CO	183	223	262	301	341
COUNTY: BOULDER STATE: CO	183	223	262	301	341
COUNTY: DENVER STATE: CO	183	223	262	301	341
COUNTY: DOUGLAS STATE: CO	183	223	262	301	341
COUNTY: GILPIN STATE: CO	183	223	262	301	341
COUNTY: JEFFERSON STATE: CO	183	223	262	301	341
SMSA: FORT COLLINS, CO					
COUNTY: LARIMER STATE: CO	156	189	223	269 13	312 22
SMSA: GREELEY, CO					
COUNTY: WELD STATE: CO	156	189	223	256	290
SMSA: PUEBLO, CO					
COUNTY: PUEBLO STATE: CO	164	199	234	269	304
NON SMSA					
COUNTY: ALAMOSA STATE: CO	164	199	234	269	304
COUNTY: ARCHULETA STATE: CO	133	162	191	219	248
COUNTY: BACA STATE: CO	164	199	234	269	304
COUNTY: BENT STATE: CO	164	199	234	269	304
COUNTY: CHAFFEE STATE: CO	164	199	234	269	304
COUNTY: CHEYENNE STATE: CO	156	189	223	256	290
COUNTY: CLEAR CREEK STATE: CO	156	189	223	256	290
COUNTY: CONEJOS STATE: CO	164	199	234	269	304
COUNTY: COSTILLA STATE: CO	164	199	234	269	304
COUNTY: CROWLEY STATE: CO	164	199	234	269	304
COUNTY: CUSTER STATE: CO	164	199	234	269	304
COUNTY: DELTA STATE: CO	133	162	191	219	248

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
NON SMSA					
COUNTY: DELORES STATE: CO	133	162	191	219	248
COUNTY: EAGLE STATE: CO	133	162	191	219	248
COUNTY: ELBERT STATE: CO	156	189	223	256	290
COUNTY: FREMONT STATE: CO	164	199	234	269	304
COUNTY: GARFIELD STATE: CO	133	162	191	219	248
COUNTY: GRAND STATE: CO	156	189	223	256	290
COUNTY: GUNNISON STATE: CO	133	162	191	219	248
COUNTY: HINSDALE STATE: CO	133	162	191	219	248
COUNTY: HUERFANO STATE: CO	164	199	234	269	304
COUNTY: JACKSON STATE: CO	133	162	191	219	248
COUNTY: KIOWA STATE: CO	164	199	234	269	304
COUNTY: KIT CARSON STATE: CO	156	189	223	256	290
COUNTY: LAKE STATE: CO	156	189	223	256	290
COUNTY: LA PLATA STATE: CO	133	162	191	219	248
COUNTY: LAS ANIMAS STATE: CO	164	199	234	269	304
COUNTY: LINCOLN STATE: CO	164	199	234	269	304
COUNTY: LOGAN STATE: CO	156	189	223	256	290
COUNTY: MESA STATE: CO	157 24	181 19	244 53	268 49	295 47
COUNTY: MINERAL STATE: CO	164	199	234	269	304
COUNTY: MOFFAT STATE: CO	133	162	191	219	248
COUNTY: MONTEZUMA STATE: CO	133	162	191	219	248
COUNTY: MONTROSE STATE: CO	133	162	191	219	248
COUNTY: MORGAN STATE: CO	156	189	223	256	290
COUNTY: OTERO STATE: CO	164	199	234	269	304

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
NON SMSA					
COUNTY: OURAY STATE: CO	133	162	191	219	248
COUNTY: PARK STATE: CO	156	189	223	256	290
COUNTY: PHILLIPS STATE: CO	156	189	223	256	290
COUNTY: PITKIN STATE: CO	133	162	191	219	248
COUNTY: PROWERS STATE: CO	164	199	234	269	304
COUNTY: RIO BLANCO STATE: CO	133	162	191	219	248
COUNTY: RIO GRANDE STATE: CO	164	199	234	269	304
COUNTY: ROUTT STATE: CO	133	162	191	219	248
COUNTY: SAGUACHE STATE: CO	164	199	234	269	304
COUNTY: SAN JUAN STATE: CO	133	162	191	219	248
COUNTY: SAN MIGUEL STATE: CO	133	162	191	219	248
COUNTY: SEDGWICK STATE: CO	156	189	223	256	290
COUNTY: SUMMIT STATE: CO	156	189	223	256	290
COUNTY: WASHINGTON STATE: CO	156	189	223	256	290
COUNTY: YUMA STATE: CO	156	189	223	256	290
SMSA: FARGO-MOORHEAD, N.D.-MN					
COUNTY: CASS STATE: ND	155 6	181	215 2	251 6	278 1
SMSA: GRAND FORKS, N.D.-MN					
COUNTY: GRAND FORKS STATE: ND	149	181	213	245	277
NON SMSA					
COUNTY: ADAMS STATE: ND	142	173	204	234	265
COUNTY: BARNES STATE: ND	149	181	213	245	277
COUNTY: BENSON STATE: ND	149	181	213	245	277
COUNTY: BILLINGS STATE: ND	142	173	204	234	265
COUNTY: BOTTINEAU STATE: ND	142	173	204	234	265
COUNTY: BOWMAN STATE: ND	142	173	204	234	265

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
NON SMSA					
COUNTY BURKE STATE:ND	142	173	204	234	265
COUNTY BURLEIGH STATE:ND	145 1	173	204	237 3	265
COUNTY CAVALIER STATE:ND	149	181	213	245	277
COUNTY DICKEY STATE:ND	149	181	213	245	277
COUNTY DIVIDE STATE:ND	142	173	204	234	265
COUNTY DUNN STATE:ND	142	173	204	234	265
COUNTY EDDY STATE:ND	149	181	213	245	277
COUNTY EMMONS STATE:ND	142	173	204	234	265
COUNTY FOSTER STATE:ND	143	181	213	245	277
COUNTY GOLDEN VALLY STATE:ND	142	173	204	234	265
COUNTY GRANT STATE:ND	142	173	204	234	265
COUNTY GRIGGS STATE:ND	143	181	213	245	277
COUNTY HETTINGER STATE:ND	142	173	204	234	265
COUNTY KIDDER STATE:ND	142	173	204	234	265
COUNTY LA MOORE STATE:ND	149	181	213	245	277
COUNTY LOGAN STATE:ND	149	181	213	245	277
COUNTY MCHENRY STATE:ND	142	173	204	234	265
COUNTY MCINTOSH STATE:ND	149	181	213	245	277
COUNTY MCKENZIE STATE:ND	142	173	204	234	265
COUNTY MCLEAN STATE:ND	142	173	204	234	265
COUNTY MERCER STATE:ND	142	173	204	234	265
COUNTY MORTON STATE:ND	142	173	204	234	265
COUNTY MOUNTRAIL STATE:ND	142	173	204	234	265
COUNTY NELSON STATE:ND	149	181	213	245	277

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
NON SMSA					
COUNTY OLIVER STATE:ND	142	173	204	234	265
COUNTY PEMBINA STATE:ND	149	181	213	245	277
COUNTY PIERCE STATE:ND	142	173	204	234	265
COUNTY RAMSEY STATE:ND	149	181	213	245	277
COUNTY RANSOM STATE:ND	149	181	213	245	277
COUNTY RENVILLE STATE:ND	142	173	204	234	265
COUNTY RICHLAND STATE:ND	149	181	213	245	277
COUNTY ROLETTE STATE:ND	142	173	204	234	265
COUNTY SARGENT STATE:ND	149	181	213	245	277
COUNTY SHERIDAN STATE:ND	142	173	204	234	265
COUNTY SIOUX STATE:ND	142	173	204	234	265
COUNTY SLOPE STATE:ND	142	173	204	234	265
COUNTY STARK STATE:ND	142	173	204	234	265
COUNTY STEELE STATE:ND	149	181	213	245	277
COUNTY STUTSMAN STATE:ND	149	181	213	245	277
COUNTY TOWNER STATE:ND	149	181	213	245	277
COUNTY TRAILL STATE:ND	149	181	213	245	277
COUNTY WALSH STATE:ND	149	181	213	245	277
COUNTY WARD STATE:ND	146 4	173	204	237 3	265
COUNTY WELLS STATE:ND	142	173	204	234	265
COUNTY WILLIAMS STATE:ND	142	173	204	234	265
SMSA: BILLINGS, MT	161	183	219	252	275
COUNTY YELLOWSTONE STATE:MT	22	14	20	23	17
SMSA: GREAT FALLS, MT	139	169	242	314	341
COUNTY CASCADE STATE:MT			43	85	83

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE NON SMSA					
COUNTY BEAVERHEAD STATE MT	147	178	210	242	273
COUNTY BIG HORN STATE MT	139	169	199	229	258
COUNTY BLAINE STATE MT	139	169	199	229	258
COUNTY BROADWATER STATE MT	139	169	199	229	258
COUNTY CARBON STATE MT	139	169	199	229	258
COUNTY CARTER STATE MT	139	169	199	229	258
COUNTY CHOUTEAU STATE MT	139	169	199	229	258
COUNTY CUSTER STATE MT	139	169	199	229	258
COUNTY DANIELS STATE MT	148	180	212	243	275
COUNTY DAWSON STATE MT	139	169	199	229	258
COUNTY DEER LODGE STATE MT	147	178	210	242	273
COUNTY FALLON STATE MT	139	169	199	229	258
COUNTY FERGUS STATE MT	139	169	199	229	258
COUNTY FLATHEAD STATE MT	147	178	210	242	273
COUNTY GALLATIN STATE MT	141 2	169	236 37	271 42	297 39
COUNTY GARFIELD STATE MT	139	169	199	229	258
COUNTY GLACIER STATE MT	139	169	199	229	258
COUNTY GOLDEN VALLE STATE MT	139	169	199	229	258
COUNTY GRANITE STATE MT	147	178	210	242	273
COUNTY HILL STATE MT	139	169	199	229	258
COUNTY JEFFERSON STATE MT	139	169	199	229	258
COUNTY JUDITH BASIN STATE MT	139	169	199	229	258
COUNTY LAKE STATE MT	147	178	210	242	273
COUNTY LEWIS & CLARK STATE MT	139	179 10	253 54	297 68	327 69

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5 BR = 145 PERCENT OF 2 BR FMR; 6 BR = 165 PERCENT OF 2 BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE NON SMSA					
COUNTY LIBERTY STATE MT	139	169	199	229	258
COUNTY LINCOLN STATE MT	147	178	210	242	273
COUNTY MCCONE STATE MT	139	169	199	229	258
COUNTY MADISON STATE MT	147	178	210	242	273
COUNTY MEAGHER STATE MT	139	169	199	229	258
COUNTY MINERAL STATE MT	147	178	210	242	273
COUNTY MISSOULA STATE MT	147	180 2	210	275 33	305 32
COUNTY MUSSELSHELL STATE MT	139	169	199	229	258
COUNTY PARK STATE MT	139	169	228 27	249 20	273 15
COUNTY PETROLIUM STATE MT	139	169	199	229	258
COUNTY PHILLIPS STATE MT	139	169	199	229	258
COUNTY PONDERA STATE MT	139	169	199	229	258
COUNTY POWDER RIVER STATE MT	139	169	199	229	258
COUNTY POWELL STATE MT	147	178	210	242	273
COUNTY PRAIRIE STATE MT	139	169	199	229	258
COUNTY RAVALLI STATE MT	147	178	210	242	273
COUNTY RICHLAND STATE MT	148	180	212	243	275
COUNTY ROOSEVELT STATE MT	148	180	212	243	275
COUNTY ROSEBUSH STATE MT	139	169	199	229	258
COUNTY SANDERS STATE MT	147	178	210	242	273
COUNTY SHERIDAN STATE MT	148	180	212	243	275
COUNTY SILVER BOW STATE MT	147	178	210	242	273
COUNTY STILLWATER STATE MT	139	169	199	229	258
COUNTY SWEET GRASS STATE MT	139	169	199	229	258

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5 BR = 145 PERCENT OF 2 BR FMR; 6 BR = 165 PERCENT OF 2 BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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REGION B	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
NON SMSA					
COUNTY: TETON STATE: MT	139	169	199	229	258
COUNTY: TOOLE STATE: MT	139	169	199	229	258
COUNTY: TREASURE STATE: MT	139	169	199	229	258
COUNTY: VALLEY STATE: MT	139	169	199	229	258
COUNTY: WHEATLAND STATE: MT	139	169	199	229	258
COUNTY: WIBAUX STATE: MT	148	180	212	243	275
COUNTY: YL-ST-NY-PK STATE: MT	139	169	199	229	258
SMSA: PROVO-OREM, UT					
COUNTY: UTAH STATE: UT	156	189	223	258	290
SMSA: SALT LAKE CITY-OGDEN, UT					
COUNTY: DAVIS STATE: UT	171 3	204	240	276	312
COUNTY: SALT LAKE STATE: UT	171 3	204	240	276	312
COUNTY: TOOELE STATE: UT	171 3	204	240	276	312
COUNTY: WEBER STATE: UT	171 3	204	240	276	312
NON SMSA					
COUNTY: BEAVER STATE: UT	209	254	298	343	388
COUNTY: BOX ELDER STATE: UT	133	162	191	219	248
COUNTY: CACHE STATE: UT	133	162	191	219	248
COUNTY: CARBON STATE: UT	133	162	213 22	249 30	274 26
COUNTY: DAGGETT STATE: UT	133	162	191	219	248
COUNTY: DUCHESNE STATE: UT	133	162	191	219	248
COUNTY: EMERY STATE: UT	133	162	191	219	248
COUNTY: GARFIELD STATE: UT	209	254	298	343	388
COUNTY: GRAND STATE: UT	133	162	191	219	248
COUNTY: IRON STATE: UT	209	254	298	343	388

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION B	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
NON SMSA					
COUNTY: JUAB STATE: UT	133	162	191	219	248
COUNTY: KANE STATE: UT	209	254	298	343	388
COUNTY: MILLARD STATE: UT	133	162	191	219	248
COUNTY: MORGAN STATE: UT	133	162	191	219	248
COUNTY: PIUTE STATE: UT	133	162	191	219	248
COUNTY: RICH STATE: UT	133	162	191	219	248
COUNTY: SAN JUAN STATE: UT	133	162	191	219	248
COUNTY: SANPETE STATE: UT	133	162	191	219	248
COUNTY: SEVIER STATE: UT	133	162	191	219	248
COUNTY: SUMMIT STATE: UT	133	162	191	219	248
COUNTY: UTAH STATE: UT	133	162	191	219	248
COUNTY: WASATCH STATE: UT	133	162	191	219	248
COUNTY: WASHINGTON STATE: UT	209	254	298	343	388
COUNTY: WAYNE STATE: UT	133	162	191	219	248
SMSA: RAPID CITY, S.D.					
COUNTY: MEADE STATE: SD	134	162	200 9	221 1	249
COUNTY: PENNINGTON STATE: SD	134	162	200 9	221 1	249
SMSA: SIOUX FALLS, SD					
COUNTY: MINNEHAHA STATE: SD	152	185	217	250	283
NON SMSA					
COUNTY: AURORA STATE: SD	152	185	217	250	283
COUNTY: BEADLE STATE: SD	152	185	217	250	283
COUNTY: BENNETT STATE: SD	134	162	191	220	249
COUNTY: BON HOMME STATE: SD	137	166	196	225	255
COUNTY: BROOKINGS STATE: SD	152	185	217	250	283
COUNTY: BROWN STATE: SD	134	162	191	222 2	249

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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REGION 8

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE NON SMSA					
COUNTY: BRULE STATE: SD	134	162	191	220	249
COUNTY: BUFFALO STATE: SD	134	162	191	220	249
COUNTY: BUTTE STATE: SD	134	162	191	220	249
COUNTY: CAMPBELL STATE: SD	134	162	191	220	249
COUNTY: CHARLES MIX STATE: SD	137	166	196	225	255
COUNTY: CLARK STATE: SD	134	162	191	220	249
COUNTY: CLAY STATE: SD	123	149	176	202	229
COUNTY: CODINGTON STATE: SD	134	162	191	220	249
COUNTY: CORSON STATE: SD	134	162	191	220	249
COUNTY: CUSTER STATE: SD	134	162	200 9	220	249
COUNTY: DAVISON STATE: SD	152	185	217	250	283
COUNTY: DAY STATE: SD	134	162	191	220	249
COUNTY: DEUEL STATE: SD	134	162	191	220	249
COUNTY: DEWEY STATE: SD	134	162	191	220	249
COUNTY: DOUGLAS STATE: SD	137	166	196	225	255
COUNTY: EDMUNDS STATE: SD	134	162	191	220	249
COUNTY: FALL RIVER STATE: SD	134	162	200 9	220	249
COUNTY: FAULK STATE: SD	134	162	191	220	249
COUNTY: GRANT STATE: SD	134	162	191	220	249
COUNTY: GREGORY STATE: SD	134	162	191	220	249
COUNTY: HAAKON STATE: SD	134	162	191	220	249
COUNTY: HAMLIN STATE: SD	134	162	191	220	249
COUNTY: HAND STATE: SD	152	185	217	250	283
COUNTY: HANSON STATE: SD	152	185	217	250	283

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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REGION 8

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE NON SMSA					
COUNTY: HARDING STATE: SD	134	162	191	220	249
COUNTY: HUGHES STATE: SD	143 9	166 4	220 29	243 23	269 20
COUNTY: HUTCHINSON STATE: SD	137	166	196	225	255
COUNTY: HYDE STATE: SD	134	162	191	220	249
COUNTY: JACKSON STATE: SD	134	162	191	220	249
COUNTY: JERAULD STATE: SD	152	185	217	250	283
COUNTY: JONES STATE: SD	134	162	191	220	249
COUNTY: KINGSBURY STATE: SD	152	185	217	250	283
COUNTY: LAKE STATE: SD	152	185	217	250	283
COUNTY: LAWRENCE STATE: SD	134	162	191	220	249
COUNTY: LINCOLN STATE: SD	152	185	217	250	283
COUNTY: LYMAN STATE: SD	134	162	191	220	249
COUNTY: MCCOOK STATE: SD	152	185	217	250	283
COUNTY: MCPHERSON STATE: SD	134	162	191	220	249
COUNTY: MARSHALL STATE: SD	134	162	191	220	249
COUNTY: MELLETT STATE: SD	134	162	191	220	249
COUNTY: MINER STATE: SD	152	185	217	250	283
COUNTY: MOODY STATE: SD	152	185	217	250	283
COUNTY: PERKINS STATE: SD	134	162	191	220	249
COUNTY: POTTER STATE: SD	134	162	191	220	249
COUNTY: ROBERTS STATE: SD	134	162	191	220	249
COUNTY: SANBORN STATE: SD	152	185	217	250	283
COUNTY: SHANNON STATE: SD	134	162	191	220	249
COUNTY: SPINK STATE: SD	134	162	191	220	249

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
NON SMSA					
COUNTY: STANLEY STATE: SD	143 9	166 4	220 29	243 23	269 20
COUNTY: SULLY STATE: SD	134	162	191	220	249
COUNTY: TODD STATE: SD	134	162	191	220	249
COUNTY: TRIPP STATE: SD	134	162	191	220	249
COUNTY: TURNER STATE: SD	152	185	217	250	283
COUNTY: UNION STATE: SD	137	166	196	225	255
COUNTY: WALWORTH STATE: SD	134	162	191	220	249
COUNTY: WASHBAUGH STATE: SD	134	162	191	220	249
COUNTY: YANKTON STATE: SD	137	166	196	225	255
COUNTY: ZIEBACH STATE: SD	134	162	191	220	249

REGION 9	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
HONOLULU, HAWAII AREA OFFICE					
SMSA: HONOLULU, HI					
COUNTY: HONOLULU STATE: HI	247	300	353	464 58	502 43
NON SMSA					
COUNTY: HAWAII STATE: HI	300	364	428	493	557
COUNTY: KAUAI STATE: HI	300	364	428	493	557
COUNTY: MAUI STATE: HI	300	364	428	493	557
COUNTY: GUAM STATE: HI	263	319	375	431	488

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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REGION 9	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOS ANGELES, CALIFORNIA AREA OFFICE					
SMSA: BAKERSFIELD, CA					
COUNTY: KERN STATE: CA	160 8	200 15	225 7	300 49	350 66
SMSA: LOS ANGELES-LONG BEACH, CA					
COUNTY: LOS ANGELES STATE: CA	195	236	278	345 25	412 51
SMSA: OXNARD-SIMI VALLEY-VENTURA, CA					
COUNTY: VENTURA STATE: CA	200 4	238	281	323	365
SMSA: SANTA BARBARA-SANTA MARIA-LOMPOC, CA					
COUNTY: SANTA BARBARA STATE: CA	212	258	303	349	394
NON SMSA					
COUNTY: SAN LUIS OBI STATE: CA	180 29	217 33	274 58	313 64	354 73
SMSA: PHOENIX, AZ					
COUNTY: MARICOPA STATE: AZ	199	241	284	327	369
NON SMSA					
COUNTY: APACHE STATE: AZ	145	177	208	240	271
COUNTY: COCONINO STATE: AZ	145	177	208	240	271
COUNTY: GILA STATE: AZ	145	177	208	240	271
COUNTY: MOHAVE STATE: AZ	145	177	208	240	271
COUNTY: NAUVAO STATE: AZ	146	177	208	240	271
COUNTY: PINAL STATE: AZ	146	177	208	240	271
COUNTY: NAVAPAI STATE: AZ	146	177	208	240	271
COUNTY: YUMA STATE: AZ	146	177	208	240	271
SMSA: TUCSON, AZ					
COUNTY: PIMA STATE: AZ	183	222	261	301	340
NON SMSA					
COUNTY: COCHISE STATE: AZ	146	177	208	240	271
COUNTY: GRAHAM STATE: AZ	146	177	208	240	271
COUNTY: GREENLEE STATE: AZ	146	177	208	240	271
COUNTY: SANTA CRUZ STATE: AZ	146	177	208	240	271
SMSA: SAN DIEGO, CA					
COUNTY: SAN DIEGO STATE: CA	188	228	268	308	348
NON SMSA					
COUNTY: IMPERIAL STATE: CA	151	184	216	249	281

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOS ANGELES, CALIFORNIA AREA OFFICE					
SMSA: ANAHEIM-SANTA ANA-GARDEN GROVE, CA					
COUNTY: ORANGE	209	249	293	368	418
STATE: CA	4			31	37
SMSA: RIVERSIDE-SAN BERNARDINO-ONTARIO, CA					
COUNTY: RIVERSIDE	170	201	236	300	350
STATE: CA	5			29	43
COUNTY: SAN BERNARDINO	170	201	236	300	350
STATE: CA	5			29	43
NON SMSA					
COUNTY: INYO	151	184	216	249	281
STATE: CA					
COUNTY: MONO	151	184	216	249	281
STATE: CA					
SAN FRANCISCO, CALIFORNIA AREA OFFICE					
SMSA: FRESNO, CA					
COUNTY: FRESNO	170	207	244	285	317
STATE: CA				5	
SMSA: MODESTO, CA					
COUNTY: STANISLAUS	168	193	228	285	316
STATE: CA	9			23	20
NON SMSA					
COUNTY: KINGS	151	184	217	271	316
STATE: CA			1	22	35
COUNTY: MADERA	151	184	217	271	316
STATE: CA			1	22	35
COUNTY: MARIPOSA	159	193	228	271	316
STATE: CA				9	20
COUNTY: MERCED	162	193	228	271	316
STATE: CA	3			9	20
COUNTY: TULARE	162	184	217	285	316
STATE: CA	11		1	36	35
SMSA: RENO, NV					
COUNTY: WASHOE	209	254	298	343	388
STATE: NV					
NON SMSA					
COUNTY: CHURCHILL	209	254	298	343	388
STATE: NV					
COUNTY: DOUGLAS	209	254	298	343	388
STATE: NV					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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REGION 9	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN FRANCISCO, CALIFORNIA AREA OFFICE					
NON SMSA					
COUNTY: ELKO	209	254	298	343	388
STATE: NV					
COUNTY: ESMEERALDA	209	254	298	343	388
STATE: NV					
COUNTY: EUREKA	209	254	298	343	388
STATE: NV					
COUNTY: HUMBOLDT	209	254	298	343	388
STATE: NV					
COUNTY: LANDER	209	254	298	343	388
STATE: NV					
COUNTY: LYON	209	254	298	343	388
STATE: NV					
COUNTY: MINERAL	209	254	298	343	388
STATE: NV					
COUNTY: NYE	209	254	298	343	388
STATE: NV					
COUNTY: ORMSLEY	209	254	298	343	388
STATE: NV					
COUNTY: PERSH. NG	209	254	298	343	388
STATE: NV					
COUNTY: STOREY	209	254	298	343	388
STATE: NV					
COUNTY: WHITE PINE	209	254	298	343	388
STATE: NV					
INDEP. CITY: CARSON CITY	209	254	298	343	388
STATE: NV					
SMSA: SACRAMENTO, CA					
COUNTY: PLACER	178	216	254	299	330
STATE: CA				7	
COUNTY: SACRAMENTO	178	216	254	299	330
STATE: CA				7	
COUNTY: YOLO	178	216	254	299	330
STATE: CA				7	
SMSA: STOCKTON, CA					
COUNTY: SAN JOAQUIN	172	208	245	288	319
STATE: CA				6	
NON SMSA					
COUNTY: ALPINE	159	193	228	268	315
STATE: CA				26	19
COUNTY: AMADOR	159	193	228	268	315
STATE: CA				26	19
COUNTY: BUTTE	168	204	240	277	313
STATE: CA					
COUNTY: CALAVERAS	159	193	228	268	315
STATE: CA				26	19
COUNTY: COLUSA	168	204	240	277	313
STATE: CA					
COUNTY: EL DORADO	168	204	240	277	313
STATE: CA					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN FRANCISCO, CALIFORNIA AREA OFFICE					
NON SMSA					
COUNTY: GLENN STATE: CA	168	204	240	277	313
COUNTY: LASSEN STATE: CA	164 16	185 5	228 16	271 28	298 23
COUNTY: MODOC STATE: CA	164 16	185 5	228 16	271 28	298 23
COUNTY: NEVADA STATE: CA	168	204	240	277	313
COUNTY: PLUMAS STATE: CA	164 16	185 5	228 16	271 28	298 23
COUNTY: SHASTA STATE: CA	164 16	185 5	228 16	271 28	298 23
COUNTY: SIERRA STATE: CA	164 16	185 5	228 16	271 28	298 23
COUNTY: SISKIYOU STATE: CA	164 16	185 5	228 16	271 28	298 23
COUNTY: SUTTER STATE: CA	168	204	240	277	313
COUNTY: TEHAMA STATE: CA	164 16	185 5	228 16	271 28	298 23
COUNTY: TRINITY STATE: CA	164 16	185 5	228 16	271 28	298 23
COUNTY: TUOLUMNE STATE: CA	159	193	228	288 26	315 19
COUNTY: YUBA STATE: CA	168	204	240	277	313
SMSA: SALINAS-SEASIDE-MONTEREY, CA					
COUNTY: MONTEREY STATE: CA	199 2	240	282	378 51	405 38
SMSA: SAN FRANCISCO-OAKLAND, CA					
COUNTY: ALAMEDA STATE: CA	217	264	310	360 3	433 30
COUNTY: CONTRA COSTA STATE: CA	217	264	310	360 3	433 30
COUNTY: MARIN STATE: CA	217	264	310	360 3	433 30
COUNTY: SAN FRANCISCO STATE: CA	217	264	310	360 3	433 30
COUNTY: SAN MATEO STATE: CA	217	264	310	360 3	433 30
SMSA: SAN JOSE, CA					
COUNTY: SANTA CLARA STATE: CA	238	289	340	391	442
SMSA: SANTA CRUZ, CA					
COUNTY: SANTA CRUZ STATE: CA	183 10	210	271 24	326 42	391 70
SMSA: SANTA ROSA, CA					
COUNTY: SONOMA STATE: CA	190 17	214 4	271 24	326 42	391 70

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO), MARCH 29, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN FRANCISCO, CALIFORNIA AREA OFFICE					
SMSA: VALLEJO-FAIRFIELD-NAPA, CA	188	229	269	310	350
COUNTY: NAPA STATE: CA	188	229	269	310	350
COUNTY: SOLANO STATE: CA	188	229	269	310	350
NON SMSA					
COUNTY: DEL NORTE STATE: CA	148	180	223 11	271 28	298 23
COUNTY: HUMBOLDT STATE: CA	164 16	185 5	223 11	271 28	298 23
COUNTY: LAKE STATE: CA	188	229	269	310	350
COUNTY: MENDOCINO STATE: CA	173	210	247	284	321
COUNTY: SAN BENITO STATE: CA	173	210	247	285 1	321
SMSA: LAS VEGAS, NV					
COUNTY: CLARK STATE: NV	214	259	305	351	396
NON SMSA					
COUNTY: LINCOLN STATE: NV	203	254	298	343	388
REGION 10					
ANCHORAGE, ALASKA AREA OFFICE					
SMSA: ANCHORAGE, AK					
DISTRICT: ANCHORAGE STATE: AK	332	404	475	546	618
NON SMSA					
DISTRICT: ALEUTIAN I. STATE: AK	332	404	475	546	618
DISTRICT: ANGOON STATE: AK	332	404	475	546	618
DISTRICT: BARROW STATE: AK	557 225	614 210	696 221	776 230	847 229
DISTRICT: BETHEL STATE: AK	332	404	475	546	618
DISTRICT: BRISTOL B.B. STATE: AK	332	404	475	546	618
DISTRICT: BRISTOL 547 STATE: AK	332	404	475	546	618
DISTRICT: CORDOVA-WILKA STATE: AK	332	404	475	546	618
DISTRICT: FAIRBANKS STATE: AK	332	404	475	546	618
DISTRICT: HAINES STATE: AK	332	404	475	546	618
DISTRICT: JUNEAU STATE: AK	339 7	404	475	546	618

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANCHORAGE, ALASKA AREA OFFICE					
NON SMSA					
DISTRICT: KENAI-COOK STATE: AK	332	404	475	546	618
DISTRICT: KETCHIKAN STATE: AK	332	404	475	546	618
DISTRICT: KOBUK STATE: AK	332	404	475	546	618
DISTRICT: KODIAK STATE: AK	332	404	475	546	618
DISTRICT: KUSKOWIM STATE: AK	332	404	475	546	618
DISTRICT: MATANUSKA-SU STATE: AK	332	404	475	546	618
DISTRICT: NOME STATE: AK	332	404	475	546	618
DISTRICT: OUTER KETCHIK STATE: AK	332	404	475	546	618
DISTRICT: PR. OF WALES STATE: AK	332	404	475	546	618
DISTRICT: SEWARD STATE: AK	332	404	475	546	618
DISTRICT: SITKA STATE: AK	332	404	475	546	618
DISTRICT: SKAGWAY-YUKT STATE: AK	332	404	475	546	618
DISTRICT: SE FAIRBANKS STATE: AK	332	404	475	546	618
DISTRICT: UPPER YUKON STATE: AK	332	404	475	546	618
DISTRICT: VLDZ-CHIN-WH STATE: AK	332	404	475	546	618
DISTRICT: WADE HAMPTON STATE: AK	332	404	475	546	618
DISTRICT: WRNGLL-PTRE STATE: AK	332	404	475	546	618
DISTRICT: YKN-KOYKH STATE: AK	332	404	475	546	618

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PORTLAND, OREGON AREA OFFICE					
SMSA: BOISE CITY, ID					
COUNTY: ADA STATE: ID	174 10	199	247 13	270 1	304
NON SMSA					
COUNTY: ADAMS STATE: ID	164	199	234	269	304
COUNTY: BANNOCK STATE: ID	162	221	260	299	338
COUNTY: BEAR LAKE STATE: ID	133	162	191	219	248
COUNTY: BENEWAH STATE: ID	147	178	210	242	273
COUNTY: BINGHAM STATE: ID	182	221	260	299	338
COUNTY: BLAINE STATE: ID	182	221	260	299	338
COUNTY: BOISE STATE: ID	164	199	234	269	304
COUNTY: BONNER STATE: ID	147	178	210	242	273
COUNTY: BONNEVILLE STATE: ID	182	221	260	299	338
COUNTY: BOUNDARY STATE: ID	147	178	210	242	273
COUNTY: BUTTE STATE: ID	182	221	260	299	338
COUNTY: CAMAS STATE: ID	162	221	260	299	338
COUNTY: CANYON STATE: ID	164	199	234	269	304
COUNTY: CARIBOU STATE: ID	182	221	260	299	338
COUNTY: CASSIA STATE: ID	182	221	260	299	338
COUNTY: CLARK STATE: ID	182	221	260	299	338
COUNTY: CLEARWATER STATE: ID	147	178	210	242	273
COUNTY: CUSTER STATE: ID	182	221	260	299	338
COUNTY: ELMORE STATE: ID	164	199	234	269	304
COUNTY: FRANKLIN STATE: ID	133	162	191	219	248
COUNTY: FREMONT STATE: ID	182	221	260	299	338
COUNTY: GEM STATE: ID	164	199	234	269	304

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B: FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PORTLAND, OREGON AREA OFFICE NON SMSA					
COUNTY: GOODING STATE: ID	182	221	260	299	338
COUNTY: IDAHO STATE: ID	147	178	210	242	273
COUNTY: JEFFERSON STATE: ID	182	221	260	299	338
COUNTY: JEROME STATE: ID	182	221	260	299	338
COUNTY: KOOTENAI STATE: ID	147	178	210	242	273
COUNTY: LATAH STATE: ID	155 8	178	210	242	273
COUNTY: LEMHI STATE: ID	182	221	260	299	338
COUNTY: LEWIS STATE: ID	147	178	210	242	273
COUNTY: LINCOLN STATE: ID	112	221	260	299	338
COUNTY: MADISON STATE: ID	112	221	260	299	338
COUNTY: MINIDOKA STATE: ID	112	221	260	299	338
COUNTY: NEZ PERCE STATE: ID	115 8	178	210	242	273
COUNTY: ONEIDA STATE: ID	131	162	191	219	248
COUNTY: Owyhee STATE: ID	164	199	234	269	304
COUNTY: PAYETTE STATE: ID	164	199	234	269	304
COUNTY: POWER STATE: ID	182	221	260	299	338
COUNTY: SHOSHONE STATE: ID	147	178	210	242	273
COUNTY: TETON STATE: ID	182	221	260	299	338
COUNTY: TWIN FALLS STATE: ID	182	221	260	299	338
COUNTY: VALLEY STATE: ID	164	199	234	269	304
COUNTY: WASHINGTON STATE: ID	164	199	234	269	304
SMSA: EUGENE-SPRINGFIELD, OR COUNTY: LANE STATE: OR	174 18	197 B	236 13	286 40	322 32
SMSA: PORTLAND, OR-WA COUNTY: CLATSOP STATE: WA	174 2	209	246	296 13	322 2

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR, 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B: FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PORTLAND, OREGON AREA OFFICE SMSA: PORTLAND, OR-WA COUNTY: CLACKAMAS STATE: OR	174 2	209	246	296 13	322 2
COUNTY: MULTNOMAH STATE: OR	174 2	209	246	296 13	322 2
COUNTY: WASHINGTON STATE: OR	174 2	209	246	296 13	322 2
SMSA: SALEM, OR COUNTY: MARION STATE: OR	190	230	271	312	352
COUNTY: POLK STATE: OR	190	230	271	312	352
NON SMSA COUNTY: KILLICKITAT STATE: WA	150 2	180	212	243	275
COUNTY: SHAMANIA STATE: WA	150 2	180	212	243	275
COUNTY: BAKER STATE: OR	138	167	197	227	256
COUNTY: LENTON STATE: OR	190	230	271	312	352
COUNTY: CLATSOP STATE: OR	156 8	180	212	243	275
COUNTY: COLUMBIA STATE: OR	156 8	180	212	243	275
COUNTY: COOS STATE: OR	159 3	189	223	256	290
COUNTY: CROOK STATE: OR	148	180	212	243	275
COUNTY: CURRY STATE: OR	159 3	189	223	256	290
COUNTY: DESCHUTES STATE: OR	148	180	212	243	275
COUNTY: DOUGLAS STATE: OR	156	189	223	256	290
COUNTY: GILLIAM STATE: OR	138	167	197	227	256
COUNTY: GRANT STATE: OR	138	167	197	227	256
COUNTY: HARNEY STATE: OR	164	199	234	269	304
COUNTY: HOOD RIVER STATE: OR	150 2	180	212	243	275
COUNTY: JACKSON STATE: OR	165 9	190 1	223	265 9	305 15
COUNTY: JEFFERSON STATE: OR	148	180	212	243	275
COUNTY: JOSEPHINE STATE: OR	156	189	225 2	260 4	290

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR, 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AMS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PORTLAND, OREGON AREA OFFICE NON SMSA					
COUNTY: KLAMATH STATE: OR	156	189	223	256	290
COUNTY: LAKE STATE: OR	156	189	223	256	290
COUNTY: LINCOLN STATE: OR	190	230	271	312	352
COUNTY: LINN STATE: OR	190	230	271	312	352
COUNTY: MALHEUR STATE: OR	164	199	234	269	304
COUNTY: MORROW STATE: OR	138	167	197	227	256
COUNTY: SHERMAN STATE: OR	150 2	180	212	243	275
COUNTY: TILLAMOOK STATE: OR	156 6	180	212	243	275
COUNTY: UMATILLA STATE: OR	138	167	197	227	256
COUNTY: UNION STATE: OR	138	167	197	227	256
COUNTY: WALLOWA STATE: OR	138	167	197	227	256
COUNTY: WASCO STATE: OR	150 2	180	212	243	275
COUNTY: WHEELER STATE: OR	138	167	197	227	256
COUNTY: YAMHILL STATE: OR	160 12	180	215 3	270 27	295 20

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SEATTLE, WASHINGTON AREA OFFICE SMSA: SEATTLE-EVERETT, WA					
COUNTY: KING STATE: WA	193	234	275	316	357
COUNTY: SNOHOMISH STATE: WA	193	234	275	316	357
SMSA: TACOMA, WA COUNTY: PIERCE STATE: WA	167	202	238	302 28	330 21
SMSA: YAKIMA, WA COUNTY: YAKIMA STATE: WA	138	167	197	227	256
NON SMSA COUNTY: CHELAN STATE: WA	147	178	210	242	273
COUNTY: CLALLAM STATE: WA	168	204	240	277	313
COUNTY: COWLITZ STATE: WA	154 6	201 21	226 14	313 70	338 63
COUNTY: DOUGLAS STATE: WA	147	178	210	242	273
COUNTY: GRAYS HARBOR STATE: WA	168	204	240	277	313
COUNTY: ISLAND STATE: WA	168	204	240	277	313
COUNTY: JEFFERSON STATE: WA	168	204	240	277	313
NON SMSA COUNTY: KITSAP STATE: WA	168	204	243 3	304 27	350 17
COUNTY: KITTITAS STATE: WA	138	167	197	227	256
COUNTY: LEWIS STATE: WA	168	204	240	277	313
COUNTY: MASON STATE: WA	168	204	240	277	313
COUNTY: OKANOGAN STATE: WA	147	178	210	242	273
COUNTY: PACIFIC STATE: WA	168	204	240	277	313
COUNTY: SAN JUAN STATE: WA	168	204	240	277	313
COUNTY: SHAGIT STATE: WA	168	204	240	277	313
COUNTY: THURSTON STATE: WA	168	204	240	277	313
COUNTY: WAHKIAHUM STATE: WA	148	160	212	243	275
COUNTY: WHATCOM STATE: WA	168	204	240	277	313
SMSA: RICHLAND-KENNEWICK-PASCO, WA COUNTY: BENTON STATE: WA	165 27	201 34	245 48	314 87	354 98

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS. FOR AREAS WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SEATTLE, WASHINGTON AREA OFFICE					
SMSA: RICHLAND-KENNEWICK-PASCO, WA					
COUNTY: FRANKLIN	165	201	245	314	354
STATE: WA	27	34	48	87	98
SMSA: SPOKANE, WA					
COUNTY: SPOKANE	174	211	248	293	339
STATE: WA				6	17
NON SMSA					
COUNTY: ADAMS	147	178	210	242	273
STATE: WA					
COUNTY: ASOTIN	147	178	210	242	273
STATE: WA					
COUNTY: COLUMBIA	147	178	210	242	273
STATE: WA					
COUNTY: FERRY	147	178	210	242	273
STATE: WA					
COUNTY: GARFIELD	147	178	210	242	273
STATE: WA					
COUNTY: GRANT	147	178	210	242	273
STATE: WA					
COUNTY: LINCOLN	147	178	210	242	273
STATE: WA					
COUNTY: PEND OREILLE	147	178	210	242	273
STATE: WA					
COUNTY: STEVENS	147	178	210	242	273
STATE: WA					
COUNTY: WALLA WALLA	138	172	245	308	339
STATE: WA		5	48	81	83
COUNTY: WHITMAN	147	178	210	242	273
STATE: WA					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR
6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE
CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWEST NUMBER OF BEDROOMS. FOR AREAS
WHERE THE FAIR MARKET RENTS ARE HELD HARMLESS, TWO NUMBERS WILL BE SHOWN. THE TOP NUMBER IS THE APPROVED FMR AND THE
BOTTOM NUMBER INDICATES THE DOLLAR DIFFERENCE BETWEEN THE APPROVED FMR AND THE AHS BASED RENT.

PREPARED BY HUD - EMAD (CO) MARCH 29, 1979

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[FR Doc. 79-22752 Filed 7-25-79; 8:45 am]
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Thursday
July 26, 1979

Part IV

Environmental
Protection Agency

Proposed Health Effects Test Standards
for Toxic Substances Control Act Test
Rules and Proposed Good Laboratory
Practice Standards for Health Effects

Environmental Protection Agency
Federal Register

ENVIRONMENTAL PROTECTION AGENCY

(FRL 1279-6; OTS-046003B)

(40 CFR Parts 770, 771, 772)

Proposed Health Effects Test Standards for Toxic Substances Control Act Test Rules; Proposed Good Laboratory Practice Standards for Health Effects; Extension of Comment Period and Rescheduling of Public Meeting**AGENCY:** Office of Toxic Substances, Environmental Protection Agency (EPA).**ACTION:** Notice extending the time period for comments on a notice of proposed rulemaking and rescheduling a public meeting.

SUMMARY: This notice extends the time period for the submission of comments on two proposed rulemaking actions: (1) the proposed Health Effects Test Standards for Toxic Substances Control Act Test Rules (Chronic Effects Test Standards) and (2) the proposed Good Laboratory Practice Standards for Health Effects. The comment period is extended from August 7, 1979, to October 16, 1979. This notice also reschedules public meetings on the two proposals for October 15 and 16 in Chicago. The extension and the rescheduling are made on the initiative of the Agency so that the end of the comment period and the date of the public meeting will coincide.

DATE: Interested persons are invited to submit written comments to the EPA on the proposed test standards prior to the close of business on or before October 16, 1979. The public meetings on the two proposals are rescheduled for October 15 and 16 in Chicago.

ADDRESSES: Written views and comment should bear the document control number OTS No. 046003B and should be submitted to: Document Control Officer, Office of Toxic Substances (TS-793), EPA, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Industry Assistance Office, Office of Toxic Substances (TS-799), EPA, 401 M Street, SW., Washington, D.C. 20460. Telephone No.: 800-424-9065 (toll free). In Washington, D.C. call 554-1404.

SUPPLEMENTARY INFORMATION: On May 9, 1979 (44 FR 27334), the EPA issued a notice of proposed rulemaking proposing regulations on: (1) the Health Effects Test Standards for Toxic Substances Control Act Test Rules (Chronic Effects Test Standards) and (2) the Good

Laboratory Practice Standards for Health Effects (40 CFR Parts 770-772). Interested persons were invited to submit comments to the EPA on the proposed test standards prior to the close of business on or before August 7, 1979.

In the same notice of proposed rulemaking, the EPA announced public meetings on the proposed test standards to be held during the week of July 9 in Chicago and during the week of July 16 in Washington, D.C. Subsequently, the EPA announced in the issue of June 28, 1979 (44 FR 37682) the postponement of the public meetings. The meetings have now been rescheduled for October 15 and 16 in Chicago.

Consequently, the Agency has determined that the close of the comment period on the proposed test standards should coincide with the dates of the public meeting in Chicago. Therefore, the deadline for the submission of comments to the EPA on the proposed test standards is extended to the close of business on or before October 16, 1979.

Dated: July 18, 1979.

Steven Jellinek,

Assistant Administrator for Toxic Substances.

[FR Doc. 79-23648 Filed 7-25-79; 8:45 am]

BILLING CODE 6560-01-M

(40 CFR Part 772)

(FRL 1269-7; OTS 046005)

Office of Toxic Substances; Proposed Health Effects Test Standards for Toxic Substances Control Act Test Rules**AGENCY:** Environmental Protection Agency.**ACTION:** Proposed rule and notice of public meetings.

SUMMARY: This action proposes test standards for the development of health effects data on chemical substances and mixtures for which testing will be required under the Toxic Substances Control Act (TSCA). Standards are proposed for the testing of acute and subchronic toxicity, mutagenic effects, teratogenic/reproductive effects, and metabolism studies. The Environmental Protection Agency (EPA) will codify these proposed standards for incorporation into future chemical specific TSCA Section 4 test rules. In addition, the Agency may also use these standards to respond to Section 4(g) petitions for test standards for new chemical substances.

EPA proposes these test standards under Section 4 of TSCA. It is intended that data from these proposed standards will be utilized by EPA to determine whether the tested chemicals present an unreasonable risk to human health and may be used to support regulatory actions to eliminate or reduce such a risk.

The test methods proposed here are substantially similar to the methods proposed by EPA for its pesticide registration program. See the "Proposed Guidelines for Registering Pesticides in the U.S.; Hazard Evaluation: Humans and Domestic Animals" (43 FR 37336, August 22, 1978).

DATES: Interested persons are invited to submit written comments to EPA on these proposed test standards no later than the close of business on or before October 16, 1979. EPA has extended the comment period for its May 9, 1979 proposal on Chronic Effects Test Standards and Good Laboratory Practices (44 FR 27334 *et seq.*) to end on the same date as given above for this proposal. EPA has scheduled a public meeting on this proposal as well as the proposal in the Chronic Effects and the Good Laboratory Practice Standards for Health Effects published May 9, 1979 (44 FR 27334 *et seq.*). This meeting will be held on October 15 and 16, 1979, in Chicago. See Section VIII, Public Meetings, for further information.

ADDRESSES: Written views and comments should bear the document control number OTS No. 046005 and should be submitted to: Document Control Officer, Office of Toxic Substances (TS-793), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

PUBLIC MEETINGS: EPA plans to hold a two-day public meeting on this proposal and the proposal on Chronic Effects and Good Laboratory Practices published on May 9, 1979 (44 FR 27334 *et seq.*) on October 15 and 16, 1979 in Chicago. The public meeting will be held at: Holiday Inn—Chicago West, 1900 North Mannheim Street, Melrose Park, Illinois 60160. (EPA has canceled the previously announced public meetings on the May 9 Chronic Effects proposal and related GLP so that all the health effects test standards may be considered together in October's public meeting.) Additional information on this meeting is presented in Section VIII, "Public Meetings."

FOR FURTHER INFORMATION CONTACT: Industry Assistance Office, Office of Toxic Substances (TS-799), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460,

Telephone No. 800-424-9065 (toll-free). (In Washington, D.C., call 554-1404).

SUPPLEMENTARY INFORMATION: The following is an index to the remainder of this preamble.

- I. Introduction.
- II. Background.
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- V. Proposed Test Standards.
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I. Introduction

In the May 9, 1979, Federal Register, EPA proposed under Section 4 of the Toxic Substances Control Act (TSCA) (Pub. L. 94-469; 90 Stat. 2006; 15 U.S.C. 2603) standards for the development of data on chronic health effects (44 FR 27334 *et seq.*). With the proposal, EPA initiated the process to codify health effects standards for incorporation into future TSCA Section 4 test rules. Today, EPA is continuing the process of codifying test standards by proposing standards for testing chemicals for acute and subchronic toxicity, mutagenic effects, teratogenic effects, reproductive effects, and metabolism studies.

Later this year, the Agency will propose the first chemicals to be tested in accordance with Section 4 test standards. In the present rulemaking to codify test standards, the issues center on the suitability of the proposed generic standards for testing chemicals under future Section 4 test rules. In later rulemakings to require the testing of specific chemicals or categories of chemicals, the issues will center on the need to test the identified chemicals.

When EPA determines that chemical substances satisfy the testing prerequisites in Section 4(a), these chemical substances will be joined in Section 4(a) test rules with the standards finalized as a result of today's proposal, or with revisions or modifications of these standards, as necessary and appropriate.

EPA's legal authority to require testing of chemical substances in accordance with test standards and the use of test data for assessing the risk potential of toxic substances are set forth in the May 9, 1979, Federal Register notice proposing Chronic Health Effects Standards (44 FR 27335-36).

II. Background

According to the May 9, 1979, Federal Register notice, new Parts 770, 771, and 772 would be added to Chapter I of Title 40 of the Code of Federal Regulations. Proposed Part 770—"Test Rules for

Chemical Substances and Mixtures"—provides information and other general regulatory criteria applicable to all health and environmental effects test rules. Part 771—"Identification of Chemical Substances and Mixtures to be Tested"—will identify the specific chemical substances to be tested using certain specific test standards when chemical specific test rules are promulgated. Part 772—"Standards for the Development of Test Data"—states the test methods to be used when a manufacturer or processor is required to test those chemicals that will be listed under Part 771.

The May 9 notice proposed two of the Part 772 subparts. Subpart B—"Good Laboratory Practice Standards" (44 FR 27362)—proposes general standards for conducting animal bioassay laboratory health effects studies. Subpart D—"Chronic Health Effects" (44 FR 27350-27362)—proposes standards for oncogenic effects, non-oncogenic chronic effects, and combined oncogenic/non-oncogenic chronic effects. Today, EPA is proposing additional subparts: Subpart A (General Requirements); Subpart C (Acute and Subchronic Health Effects); Subpart E (Mutagenic Effects); Subpart F (Teratogenic/Reproductive Effects), and Subpart I (Other Health Effects—Metabolism).

III. Consistency With Pesticide Guidelines

In the notice proposing the chronic effects test standards, EPA stated its policy of reducing the burden on the regulated public that might arise from conflicting requirements under different sets of test regulations and guidelines that may be promulgated under different Federal authorities (44 FR 27344). By this proposal, the Agency continues to implement this policy by proposing test standards under TSCA regulations substantially similar to EPA's guidelines for testing required to support pesticide registration under the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"); 7 U.S.C., Section 136 *et seq.*

EPA's Office of Pesticide Programs has proposed test standards which contain data requirements comparable to those proposed under TSCA test standards. The proposed FIFRA rules are published at 43 FR 37336 (August 22, 1978); the comment period closed on November 20, 1978, but is being reopened to solicit additional comments. A separate notice in the Federal Register will indicate the date that will reopen the FIFRA comment period.

TSCA and FIFRA may differ with respect to when a test must be performed, however, EPA has decided that the standards for performing that test should be the same under either authority, to the extent permitted by different statutory requirements. Accordingly, EPA is proposing under TSCA health effects test methods and data reporting requirements for acute and subchronic effects, teratogenic/reproductive effects, mutagenic effects, and metabolism studies similar to those which EPA proposed under FIFRA in August, 1978, and is incorporating in this proceeding the public record in the FIFRA proceeding.

Note.—Other health effects test standards (e.g. neurotoxicity) are being developed and will be proposed in future TSCA test rule proceedings.

Since the organizations of the TSCA and FIFRA standards differ, it would be useful to briefly summarize the different standards to facilitate understanding of how the various sections relate. FIFRA has proposed human hazard evaluation test rules as Subpart F of Part 163, volume 40 of the Code of Federal Regulations (40 CFR, Part 163). Section 163.80 sets forth general requirements for human hazard testing. These requirements include general personnel qualifications and other general good laboratory practice standards for the conduct of laboratory studies, including animal care standards, necropsy procedures, tissues, and slide preparation. The FIFRA rules also set forth general reporting requirements in § 163.80-4.

Subsequent sections of Part 163. Subpart F deal with specific test methods—acute (Section series 163.81), subchronic (Section series 163.82), chronic including oncogenic (Section series 163.83), teratogenic/reproductive (Section series 163.84), mutagenic (Section series 163.85), and general metabolism (Section series 163.86). The sections describing each test generally begin with a paragraph entitled "When required," which establishes the conditions under which the particular test is needed to support pesticide registration. A paragraph entitled "Standards" states the acceptable methods for performing the test. These standards cover such aspects of test methodology as the substance to be tested and its condition; the selection of test species; the age, sex and number of test animals; the route and duration of exposure; the number and selection of dose levels; clinical testing and observation; and necropsy and histopathology as they apply to specific

tests. A paragraph describing the data reporting requirement for each specific test follows the "Standards" paragraph.

The TSCA health effects standards are organized differently to some extent as a result of the different statutory requirements of the separate acts. Part 770 contains provisions that relate to the authority of EPA under TSCA, such as general compliance requirements, confidentiality provisions, and general definitions. Part 771, which will contain the chemicals to be tested under TSCA, will serve a purpose similar to the "when required" paragraph of the FIFRA test rules. Part 771 will identify the substance to be tested (after EPA makes the findings required by Section 4(a) of TSCA), will provide deadlines for submission of data, and prescribe standards for the development of data by reference to the test standards in Part 772.

Part 772, which will identify acceptable test standards for development of data, will be consistent with the comparable provisions of the FIFRA test rules. As currently proposed, however, there are basic organizational differences in the TSCA and FIFRA test rules. Where the FIFRA good laboratory practice standards for all health effects testing under FIFRA are generally set forth in § 163.80-3 and -4 (43 FR 37352-55) and in a new proposal § 163.80-6 and -7, the TSCA good laboratory practice standards may be found in two different parts of the TSCA standards. First, Subpart A states basic requirements for personnel, general pathology, test substance concentration, dietary considerations, and contaminant analysis. Second, the TSCA Good Laboratory Practice Standards section (Subpart B, Part 772) contains general provisions on such matters as conduct of laboratory studies, animal care, and personnel requirements that will apply to all health effects testing.

Any differences between FIFRA and TSCA good laboratory practice requirements will be resolved before either regulation is finalized.

At the heart of the TSCA standards are the specific sections describing the required methods to be used for each test. These sections are comparable to the "Standard" paragraph of the FIFRA test rule sections, and deal with such factors as selection of species, sex, age and number of test animals; route and duration of exposure; number and selection of dose levels; clinical testing and observation; and test specific requirements for necropsy and histopathology. These are the factors that will govern how a test is to be performed. In this notice, EPA proposes

for its TSCA standards the basic test methods (with some modifications) proposed in August 1978 for the equivalent FIFRA test standards. In addition, EPA proposes as part of its TSCA standards the same data reporting requirements as the FIFRA rules.

All persons commenting on these proposed TSCA test standards should carefully review the FIFRA proposed rules and comment on the applicability of the FIFRA standards for use as test standards under TSCA. Any of the proposed FIFRA methods may be adopted as TSCA test standards following Agency review of the public comments from both the FIFRA and TSCA proceedings.

While the TSCA test methods proposed today are in many respects the same as the comparable FIFRA methods, EPA believes that it should solicit additional comments on issues as they relate to the proposed tests. These additional issues will be referenced in this notice as they apply to the specific test.

IV. Basis and Purpose

The primary purpose of toxicological studies is to determine the adverse effects of chemicals on biological systems and to acquire data on dose-response characteristics of the test system following exposure. These data may then provide information relating to risks to human health or the environment posed by a chemical substance.

Toxicity testing can be divided into two major categories—short-term and long-term testing. The major differences between these studies, in addition to duration of exposure, is the number and range of dose levels employed. In general, more dose levels and a greater dose range are employed in short-term studies in order to estimate the dose-response relationship of the chemical.

Acute toxicity studies are designed to determine the toxic effects of exposure to a chemical over a short time period. These studies generally provide data to determine the median lethal dose (LD₅₀) of a chemical substance (its relative toxicity), but also may provide data to approximate its mode(s) of action, to determine its specific toxic effect(s) on target organs and functions, and to determine the existence and extent of species differences in sensitivity to a chemical.

Subchronic toxicity studies consist of repeated exposure (usually daily) to a chemical substance over a period of approximately 90 days. These data provide information on the major toxic

effects of test substances and target organs or functions that may be affected following multiple doses. These studies may also provide information on the delayed effects of chemicals that may be due to bioaccumulation of test substances or their metabolites. The reversibility of these effects as well as the kinetic characteristics of the chemicals may also be studied. Subchronic test information is of fundamental importance in designing long-term studies in which exposure may extend for several months or years.

The major objective of teratogenic and reproductive testing is to identify chemical substances that may affect the production of offspring and the normal development of the fetus and offspring. The thalidomide tragedy of the early 1960's clearly indicates the importance of knowing the impact of chemicals on the developing fetus and its eventual survival. This proposal is intended to provide standards for the development of data indicating effects on reproductive organs and general reproductive performance, fertilization, implantation, toxic effects on the pregnant mother, the embryonic period (tissue differentiation and organogenesis), the fetal period (prenatal growth and functional maturation), birth, lactation and maternal care of the offspring, and postnatal growth, survival, and fecundity.

In addition to the Agency's concerns for the normal development of the fetus and newborn offspring, the impact of chemicals on future generations is of fundamental importance. The chemical substance may have its effect upon the genetic material within the nucleus of the cell(s) of either the reproductive organs of the male (sperm) and/or female (eggs), upon the genetic material of developing or maturing offspring, or upon the somatic cells of the test species. In order to evaluate these types of effects, the Agency will be proposing that certain mutagenic tests be performed with specific chemical substances. It is intended that these mutagenic tests will provide information relating to whether a chemical substance may present a risk or causing genetic damage to humans. At present, no definitive method is available to directly measure mutagenic potential in humans. Therefore, mammalian, nonmammalian, and microbial systems are used to provide information to evaluate the mutagenic hazard to humans caused by exposure to particular chemicals.

EPA also recognizes that selected mutagenic tests have potential benefit in

concomitant screening and that the scientific community is actively assessing the results of both *in vitro* and *in vivo* bioassay methods. This issue need not be elaborated in this proceeding, however, since EPA's decision concerning the circumstances under which mutagenic tests will be required will properly be the issue in proceedings on rules that designate specific chemicals for testing under Part 771 of the TSCA regulations. The public will be provided adequate opportunity to comment should the Agency consider whether certain of the proposed mutagenic test methods should be used for oncogenic screening.

The Office of Testing and Evaluation in EPA is assessing the current status of tests in genetic toxicology through its Gene-Tox program. Panels of experts are reviewing the literature on a number of mutagenic test systems, including the thirteen test standards listed in the FIFRA rules and proposed in this proceeding. As a part of this evaluation, the experts are considering the significance of the previous test results within each system, the adequacy of the test methods, and will recommend the most efficient test battery to detect potential mutagenic effects. The deliberations of the Gene-Tox program will be considered in the final rulemaking proceedings. In addition, scientific review processes will be employed in arriving at final standards. These deliberations including those of the Gene-Tox program will be taken into consideration as a part of the final rulemaking proceedings.

These metabolism studies are designed to develop information on the disposition of a test substance within the test system. In the case of these health effects studies, the test system would be at least one mammalian species, preferably the rat. However, more than one species would be desirable, in particular, other species anticipated to be used in long-term studies. More specifically, these metabolism studies would provide information on how the test substance is absorbed and transported within the test system, how it changes form including transformation into other chemicals (i.e. metabolites), or how and to what extent it accumulates in the test species. These studies are of particular importance in selecting test species for long-term studies. The bioaccumulation of the test substance or its metabolites may well impact upon the long-term, low level exposure(s) and the subsequent toxicity of the test substance.

Some confusion has been expressed with respect to the use of the term "metabolism" studies in the FIFRA proposal. This issue has been raised on the basis that the objectives of the standards proposed are concerned with the kinetic properties of the test substance in the biological test system. The World Health Organization is considering the use of the term "chemobiokinetic" to describe these types of kinetic studies whereas some scientists have suggested the term "toxicokinetic". The Agency invites public comment on the appropriate term to be used to describe these types of studies.

V. Proposed Test Standards

General

A detailed discussion of the major scientific issues involved in this proposal is presented in the preamble to the FIFRA proposal (43 FR 37336). Issues discussed in this preamble to the TSCA proposal are those required because EPA believes that further consideration and comment are needed. This section of the preamble outlines the proposed TSCA test standards and briefly discusses the additional scientific issues involved.

EPA is proposing as standards for development of test data under TSCA the basic test methods (with some modifications) proposed by the Agency's Office of Pesticide Programs under FIFRA. The public is invited to submit comments on the applicability of using the specifically referenced FIFRA standards as TSCA standards. The Office of Testing and Evaluation (OTE) will be working closely with the Office of Pesticide Programs (OPP) to harmonize their respective standards so that they may be published as final rules that are as consistent as possible in form and content as permitted by both statutes.

Those who have already commented on the proposed FIFRA rules need not resubmit those same comments on this proposal because all public comments will be reviewed by both OTE and OPP before final publication of test rules. However, further additional comments are invited.

Although the proposed TSCA and FIFRA test methods and reporting requirements are generally the same, EPA notes below issues associated with certain test methods that may result in further change in test rules. The public is also specifically invited to comment on any of the issues discussed, as well as any other issues that deal with alternative test methods. Comments

should be as specific as possible and state reasons why one alternative is preferable to another. Appropriate references should be included.

Summary of Standards

Subpart A—General Requirements

Section 772.100-1 General.—This section describes the general scope and purpose of the test standards in Part 772 and states that the applicability of these standards will be specified in Part 771 of this subchapter.

Section 772.100-2 General Standards for Health Effects.—This section describes general requirements that are applicable to all health effects studies. These requirements include the basic standards for specific personnel, submission of study plans when specified, test or control substance concentration, dietary requirements when specified (i.e., chronic, reproductive, and teratogenic studies), contaminant analysis of feeds and/or vehicles, clinical and general pathology procedures, and general reporting requirements. These general requirements are referenced in standards on specific effects in subsequent subparts. The specific effects standards in the other subparts also will specify more detailed test standards on the same subject when appropriate.

When the specific test standards are promulgated in the near future for Ecological Effects and Chemical Fate, Subpart A will be amended to include those additional General Requirements.

In addition, several of the General Requirements now proposed in Subpart A have been previously proposed in Subpart D for the Chronic Effects Standards (44 FR 27334-27362). When Subpart D is promulgated as a final rule, those general requirements will be deleted from Subpart D and listed in Subpart A.

This TSCA proposal differs from the FIFRA proposal in that it sets forth specific qualifications for certain scientific and support personnel, whereas EPA has previously proposed these specific personnel requirements in its TSCA Chronic Effects Test Standards (see 44 FR 27388, 27350-51). EPA requests comment on which qualifications are appropriate for personnel conducting tests under TSCA and FIFRA.

The TSCA proposal also proposes the same general data reporting requirements for acute and subchronic, mutagenic, teratogenic, reproductive, and metabolism studies as contained in the proposed FIFRA rules (§ 163.80-4; 43

FR 37354-55). However, the Agency is considering a common format for all test data. EPA is participating with other members of the Interagency Regulatory Liaison Group (IRLG) in developing a common government-wide data format. EPA will consider comments on any of the various data reporting schemes proposed under TSCA or FIFRA or any alternative method for developing data format provisions.

The TSCA proposal also requires detailed analyses of test and control substances (§ 772.100-2(b)(3) of Subpart A). The same section was proposed as part of the TSCA Chronic Effects Test Standards (§ 772.113-1(g); 44 FR 27338-9, 27351). The FIFRA proposal lists the analytical requirements for test substances in § 163.80-3 under the title "Test Substance", in § 163.80-4 under "Substance tested", and in Subpart D, chemistry requirements, § 163.61-6.

The general histopathology methods and other general clinical procedures described in the TSCA proposal for acute and subchronic tests as well as those proposed for teratogenic and reproductive tests are those proposed for the TSCA Chronic Effects Test Standards (§ 772.113-3(b) (1) and (2); 44 FR 27357-27359). These standards are more detailed in their description of how to carry out certain procedures such as gross necropsy than those in the FIFRA proposal (§ 163.80-3(b) (1) and (11); also see FIFRA sections on individual tests, for example, §§ 163.81 and 163.82).

The extent of necropsy and histopathology that should be conducted for various types of studies has been the subject of considerable discussion. This proposal, as well as the FIFRA proposal, requires rather extensive procedures even for acute toxicity studies because the Agency believes that these procedures are necessary to identify reliably the potential toxic effects of a chemical. Microscopic tissue examination, even for acute studies, may be necessary to reveal valuable information about toxic effects which would not be observable through observation of the whole animal. A more detailed discussion of the Agency's position on this issue is contained in the preambles to the FIFRA rules and the TSCA Chronic Effects Test Standards. (See 43 FR 37343-44; 44 FR 27343.)

The proposed TSCA test standards for health effects testing state that observations of animals must be made to insure that losses in any test group due to cannibalism, autolysis of tissues, misplacement, or similar management problems do not jeopardize the validity of the study. In this regard, losses must

not exceed 5 percent for groups of animals greater than 20 per group and a loss no greater than one (1) animal per group for group sizes less than 20. (See Subpart A, § 772.100-2(b)(6)). In addition, the Agency proposes that animals must be observed at least every 12 hours. The loss of animals due to management problems are less likely under these provisions. The limits of loss (e.g. 5%) and frequency of observation are more stringent than proposed in the FIFRA rule, which requires a 10% loss limit and observations at least once each morning and late afternoon thereafter. The public is invited to comment on the appropriateness of these quality control procedures.

Subpart C—Acute and Subchronic Health Effects

Section 772.112-10 General.—This section includes requirements and definitions generally applicable to acute and subchronic health effects testing. Acute effects are defined as short-term health effects following single administration of a test substance. Subchronic studies are defined as "health effects following continuous or repeated administration of a test substance over a period of approximately 90 days."

Section of TSCA proposal	Test standards	Section of FIFRA proposal
772.112-21	Acute oral toxicity study	163.81-1(b) and (c)
772.112-22	Acute dermal toxicity study	163.81-2(c) and (d)
772.112-23	Acute inhalation toxicity study	163.81-3(b) and (c)
772.112-24	Primary eye irritation study	163.81-4(c) and (d)
772.112-25	Primary dermal irritation study	163.81-5(c) and (d)
772.112-26	Dermal sensitization study	163.81-6(b) and (c)
772.112-31	Subchronic oral dosing studies	163.82-1(c) and (d)
772.112-32	Subchronic 90-day dermal toxicity study	163.82-3(c) and (d)
772.112-33	Subchronic inhalation toxicity study	163.82-4(c) and (d)

EPA requests comment on all aspects of the acute and subchronic test methods as set forth in this notice and the proposed FIFRA rules. There are several issues concerning the conduct of testing on which EPA requests comment, as follows:

(1) **Age and Number of Species.** Scientific opinion varies with respect to the age and number of species that should be required in acute studies. The proposed FIFRA guidelines, and the standards proposed in this notice, require only one species and age at the start of the study. The Agency, however, recognizes that increasing the number of species and age range tested would decrease the possibility of missing a potentially toxic effect due to variability in the susceptibility of various species

The acute effects following a single exposure to a test substance will be utilized to estimate the hazard from accidental test substance exposure, to provide information relating to handling and labeling of the test substance, and to provide information for subchronic studies. The acute studies also will be utilized to estimate the relative toxicity and lethality of the test substance. In addition, observation will be made of the physical appearance and behavioral syndromes of toxicity.

The subchronic effects data will be utilized to estimate the hazard associated with multiple, short-term exposures of the test substance. These subchronic studies will provide additional information to help evaluate kinetic characteristics of the test substance and will provide information on the impact of the test substance on various functional systems within the host. This information also will be utilized to estimate anticipated effects of chronic exposures.

The principle sections of Subpart C are the test methods sections for individual tests.

The following list summarizes the section and title of the test standard and the corresponding test standard from the FIFRA proposal.

assessment studies but is also sensitive to the additional costs imposed by such requirements. However, EPA is considering histopathology on all observable changes found at gross necropsy in acute oral studies. In addition, the final test standards for acute dermal studies (§ 772.112-22(b)(5) of Subpart C) may require histopathology of all tissues with gross changes in addition to the skin. The use and the selection of appropriate tissues to be weighed at gross necropsy as a measure of organ specific toxicity is also a scientific question posed in acute and subchronic studies. The Agency may modify the number and types of tissues to be weighed in these studies as a result of public comment and further assessment by the Agency. The public is invited to comment on these potential changes and is requested to provide the supporting scientific rationale for all recommendations submitted.

(3) **Exposure Period.** The Agency is considering at least a 4-hour exposure period in acute inhalation studies (§ 772.112-23(a)(3)). The FIFRA proposal requires at least a 1-hour exposure period but may require up to 4 hours (§ 163.81-3(b)(4); 43 FR 37357). It may be that only potent chemicals would be effective with only a 1-hour exposure period and, therefore, this requirement may be modified. In addition, the use of pathogen-free animals for inhalation studies is an issue that is being considered for the final rule. The use of these animals would help clarify the effects of the test substance without compromising the histopathology. The public is invited to comment further on these issues and to submit appropriate scientific rationale and data.

(4) **Subchronic Studies.** One of the major issues that is of concern to the Agency relates to the appropriate use of 90-day, subchronic studies in nonrodents (e.g. dog). The Agency has proposed that preliminary toxicology studies of at least 90 days are required to select the chronic dose levels for long-term studies (see 44 FR 27357 and 27360). If the intent of the study is only for purposes of selecting chronic dose levels, the Agency may consider using subchronic data from 90-day studies. However, if the intent of the study is to evaluate the data for hazard assessment purposes, then the 6-month study is required.

(5) **Starting Age of Nonrodent.** The TSCA and FIFRA proposals require that non-rodents be started on study at 4-6 months of age. The Agency also intends to use the subchronic data from the non-rodent as guidance for long-term studies and has proposed a 10-week starting age

for the dog in the requirements as stated in the proposed Chronic Effects Test Standards (44 FR 27334 *et seq.*). The Agency recognizes that the starting age of the nonrodent (e.g. the dog) at 10 weeks of age may present certain problems such as obtaining weaned animals and acclimatizing them appropriately before the initiation of the study. It has also been suggested that blood chemistry and hematology measurements will be somewhat variable in the younger animals. The Agency requests comment including supporting scientific data as to the appropriate age to start the dog when attempting to meet the needs of evaluating subchronic data for hazard assessment purposes as well as guidance for long-term chronic studies.

(6) **Extent of Histopathology.** The selection of tissues in subchronic studies for histopathologic examination also may be more extensive in the final TSCA and FIFRA rules. The public is encouraged to comment on the present list of tissues for histopathologic examination including the procedural approach described for setting priorities

in the evaluation of rodent tissues for histologic examination according to test group (See §§ 772.112-31, 772.112-32, and 772.112-33).

Subpart E—Mutagenic Effects. Section 772.114-1 General.

The Agency is concerned with the potential of certain chemical substances to cause mutations in humans and other species. A detailed discussion of this potential health problem can be found in the preamble to the FIFRA Guidelines (43 FR 37347-37349, August 22, 1978) and in a paper entitled "Criteria for Evaluating the Mutagenicity of Chemicals" ("Criteria Paper"). The latter document was published as Addendum III to the FIFRA proposed rule.

The Agency proposes as TSCA test standards the proposed FIFRA mutagenic test methods including the general discussion in § 163.84-1(a), (d), (e), and (f) of the FIFRA proposal (43 FR 37388-89).

The following list summarizes the corresponding mutagenic effects standards from the proposed FIFRA rules and those proposed as a part of these proceedings under TSCA.

Subsection of TSCA proposal	Test standard	Subsection of FIFRA proposals
772.114-1	General requirements for mutagenic tests	163.84-1(a)(d)(e)(f)
772.114-2	Test standards for detecting gene mutation	163.84-2
772.114-3	Test standards for heritable chromosomal mutations	163.84-3
772.114-4	Test standards for detecting effects in DNA repair or recombination as an indicator of genetic damage	163.84-4

As a part of the annual review of test methods under TSCA, the current status of the mutagenic effects test standards will be reviewed and amended as appropriate. The public is invited to comment on these test methods.

Subpart F—Teratogenic/Reproductive Health Effects

Section 772.116-1 General.—This section deals with the scope and purpose as well as the applicability of teratogenic and reproductive studies. These health effects data will be used to assess the hazard of a test substance on the production of offspring and on the normal development of the fetus and offspring. More specifically, the teratogenic studies will provide information on the potential of a test substance to produce defects in progeny (offspring) resulting from exposure during gestation. Reproductive effects studies will provide hazard assessment information resulting in an impairment of reproduction due to test substance exposure.

The test standards for both teratogenic and reproductive effects tests reference the general requirements for personnel, chemical analyses, dietary consideration, clinical observations, pathology procedures, and general reporting requirements in Subpart A of this subchapter (see Section 772.100-2).

In addition, a Study Plan is proposed in these standards for reproductive effects studies only. The Study Plan must be submitted to EPA ninety days prior to the initiation of the reproductive effects studies. Submission of this Study Plan to the Agency does not mean that EPA intends to approve or disapprove the Study Plan. The Study Plan must contain the information as stated in Section 772.100-2(b)(2), Subpart A. The Agency believes that acute and subchronic studies as well as teratogenic, mutagenic and metabolic studies are of a short-term nature and review of these procedures can best be

handled following submission of the test results to the Agency.

It is also proposed that Summary Reports be submitted on a quarterly basis for reproductive studies which would provide a current status of the study. It is expected that these interim summary reports be brief (5-10 pages) and provide summary information on significant findings of such parameters as survival, weight changes, clinical test results, accumulative incidence to developmental alterations and toxicity.

Section 772.116-2 Teratogenic Test Standards.—The proposed TSCA teratogenic standards are adopted from § 163.83-3 (b) and (c), *Teratogenicity Studies*, of the FIFRA proposal (43 FR 37382-84). Comments should be directed to all issues raised in the FIFRA record. EPA requests additional comments on the following issues related to the conduct of teratogenic studies:

(1) EPA is considering requiring reporting of individual live fetal weights, rather than only requiring the average live fetal weight, in order to determine unusual patterns of reduced maturity.

(2) The number of rabbits in each test and control group may be increased from 12 to at least 20, the same number used for rat, mouse or hamster tests.

(3) More extensive soft tissue or skeletal examinations of fetuses may be required.

(4) The inclusion of data from animals which show 100 percent fetal death may be required.

Section 772.116-3 Reproductive Effects Test Standards.—The Agency proposes to adopt § 163.84-4 (b) and (c), *Reproduction Study*, of the FIFRA proposal as TSCA Section 4 Standards.

EPA requests comment on all issues on reproductive effects studies raised in the proceeding on the FIFRA guidelines. The Agency notes that certain additional issues are being considered with respect to conduct of reproductive effects studies:

(1) Should the number of males and females in each dose group be equal in order to generate equal statistical evaluation for males and females? The proposal requires 10 males per dose group and enough females to produce 20 litters. See A. K. Palmer, "Some thoughts of reproductive studies for safety evaluation," *Toxicology: Review and Prospect*, Proceedings of the European Society for the Study of Drug Toxicity, vol. XIV, p. 82. Excerpta Medica International Congress Series No. 288.

(2) The proposal requires dosing of the first two generations of a three generation study. EPA is considering dosing only the first generation in order to determine the effect on the second

generation of *in utero* exposure to the test substance. Dosing of the second generation as it matures may result in confusing the *in utero* effects with the effects of direct dosing.

(3) EPA is considering whether to use a "split study" technique whereby half the second generation is sacrificed near term and the other half sacrificed after weaning. The sacrifice near term allows better assessment of fertility and while implantation sites are still present. An estimate of embryo and fetal wastage can also be made. In the remaining half, general performance relating to reproduction and pathology from *in utero* exposure and lactation can be assessed. This split study may necessitate a greater number of animals be used in the reproductive effects study.

(4) EPA may require under certain circumstances, more extensive examination of test animals including offspring.

Subpart I. Other Health Effects

Section 772.119-1 General Metabolism Test Standards.—The Agency proposes as TSCA test standards the test methods stated in the *General Metabolism Studies* from the FIFRA proposal (§ 163.85-1 (a), (c), (d), and (e); 43 FR 37394-96).

In general, these proposed standards may be used to estimate the extent to which the test substance and/or its metabolites are absorbed, distributed, and bioaccumulated. This information will be used in the assessment of species selection, route of administration, and dose selection rationale for long-term studies.

During the development of the pesticide standards, considerable discussion focused on the issue of the appropriate number of species to be used in metabolism studies. The economic and scientific factors involved in using more than one species for metabolism studies still remains an open issue. The public is invited to submit further comment on this issue.

Request for Comments on Proposed Test Standards

In the previous paragraphs of this preamble, several issues of scientific concern have been raised. The public is invited to submit comments and supporting scientific data on any issue in the proposed standards. Comments on the following issues are of particular interest to the Agency:

(a) Qualification of professional personnel conducting these tests.

(b) Choice of species including sex and status of the females (e.g. nonpregnant, nulliparous).

(c) The appropriate number of test animals per group necessary to make adequate and reliable comparisons.

(d) The age and weight of the animals at the start of the study.

(e) Number of dose levels, and the rationale for dose selection necessary to achieve adequate exposure and dose-response information.

(f) The extent and detail of fasting before dosing.

(g) The selection of tissues for gross and microscopic pathology including the extent of the microscopic evaluation.

(h) The selection of appropriate mutagenic tests.

(i) The frequency of weight measurements during each study.

VI. Economic Analysis

A regulatory analysis is not required with respect to these proposed standards because the standards themselves do not impose any costs on any person at this time. Rather, these standards are being developed as part of an array of standards to be used selectively as needed. EPA believes, however, that the proposed standards are necessary to assure that data developed through test rules are adequate for their intended use in hazard and risk assessments. Abbreviated test standards could result in a significant reduction in the quality and reliability of the resulting data and could preclude adequate assessment of hazard potential.

The estimated cost per chemical of each test (unit cost) required by the FIFRA rules was analyzed by the Office of Pesticide Programs in a report entitled "Economic Impact Analysis of Proposed Guidelines for Registering Pesticides in the United States" (43 FR 39664, September 6, 1978, Table 12). The Agency has received a few comments concerning these estimated unit costs. The OPP cost analysis and the comments received on these costs are available upon request from the Industry Assistance Office at the address listed at the beginning of this preamble under "For Further Information Contact". The Agency invites comment on the OPP estimates and the subsequent comments on these estimates.

Because of the substantial similarity between the TSCA health effects standards proposed today and the proposed FIFRA standards, the OPP cost analysis and the subsequent comments are used as the basis for this proposal. The Agency intends to review the FIFRA cost estimates when it prepares

the cost analysis on the final health effects test standards. Therefore, EPA requests comment on the following issues:

(1) The difference in unit cost between the proposed TSCA and FIFRA standards, since these two have differences in personnel requirements, Good Laboratory Practice requirements, and other requirements.

(2) The extent to which the FIFRA estimates require revision and/or updating.

(3) The increase or decrease in unit cost resulting from any modifications to the standards discussed in this preamble, and

(4) The increase or decrease in unit cost resulting from any modifications to the standards suggested by the commenter.

VII. Public Participation

During the development of these standards for proposal as FIFRA Guidelines, several public meetings were held. A detailed discussion and listings of these meetings are cited in the Preamble to the FIFRA proposal (43 FR 37336, August 22, 1978).

Note.—Comments previously presented to the Agency in response to the proposed Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Guidelines for the Registration of Pesticides (43 FR 37336, August 22, 1978), will be reviewed along with any comments to this proposal in finalizing the TSCA Standards. Previous submitters to the FIFRA proposal may supplement their earlier comments with respect to the FIFRA Guidelines as referenced in this proposal as appropriate requirements for Section 4 of TSCA.

VIII. Public Meetings

EPA plans to hold a two-day public meeting at the Holiday Inn-Chicago West (Melrose Park, Illinois) on October 15 and 16, 1979. This meeting will address both this proposal and the proposal of May 9, 1979 on the Chronic Health Effects and Good Laboratory Practice Standards for Health Effects (44 FR 27334 *et seq.*). The public meetings mentioned in the May 9 proposal have been canceled by EPA to allow all the Section 4 health effects standards to be addressed together. The written comment period for the earlier proposal has been extended to end on the same date as does this proposal's, October 16, 1979.

The purpose of this public meeting is to enable interested persons to provide oral comments in the proposed rulemaking to EPA officials who are directly responsible for developing the standards in this rulemaking. All remarks and presentations will be

transcribed by EPA and entered on the public record. EPA officials responsible for developing these test standards will conduct the meeting and use the following format. The moderator will recognize people from the floor who wish to comment, discuss or clarify issues in both proposals; he will call for remarks on each part and subpart in its order of appearance in this combined rulemaking, viz., Part 770, Part 772, Subparts A through F and I.

IX. Public Record

EPA has established a public record for his rulemaking (docket number OTS 046005) which, along with a complete index, is available for inspection in the OTS Reading Room from 9:00 a.m. to 5:00 p.m. on working days (Room 447E, 401 M Street, S.W., Washington, D.C. 20460.) This record includes basic information considered by the Agency in developing this proposal. The Agency will supplement the record with additional information as it is received. The record includes the following categories of information:

(1) US EPA-OTS, "Proposed Health Effects Test Standards for Toxic Substances Control Act Test Rules" (44 FR 27334 *et seq.*).

(2) US EPA-OPP, "Proposed Guidelines for Registering Pesticides in the United States: Hazard Evaluation: Humans and Domestic Animals" (43 FR 37336 *et seq.*), and all public comments received on this proposal.

(3) US EPA-OTS, "Proposed Good Laboratory Practice Standards for Health Effects" (44 FR 27369 *et seq.*).

(4) US EPA-OPP, "Economic Impact Analysis and Reports Impact Analysis of Guidelines for Registering Pesticides in the United States" (43 FR 39644 *et seq.*).

(5) Minutes, summaries, or transcripts relating to public meetings held to develop the FIFRA and TSCA standards.

(6) Correspondence and public comments between outside persons and EPA personnel pertaining to development of the FIFRA and TSCA standards. (This does not include any inter- or intra-Agency memoranda unless specifically noted on the index of the rulemaking record).

(7) Scientific documents supporting and/or relating to the scientific issues raised in this proceeding.

Published documents cited in any document in this record are incorporated in the record by reference. The record of the proceedings to establish guidelines for human and domestic animal hazard evaluation under FIFRA is incorporated in the

record in this proceeding by reference (FIFRA docket no. 30023). EPA will accept additional material for the record at any time between this proposal and the final designation of the rulemaking record. EPA will identify the complete rulemaking record on or before the date of promulgation of these requirements, as prescribed by TSCA Section 19(a)(3). The final rule will also permit persons to point out any errors or omissions in the record. The record of this proceeding is available in the OTS Reading Room.

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

[Section 4, Toxic Substances Control Act (TSCA) (90 Stat. 2006; 15 U.S.C. 2603).]

Dated: July 13, 1979.

Douglas M. Costle,
Administrator, Environmental Protection Agency.

On May 9, 1979, at 44 FR 27334, EPA proposed to add a new Part 772 to title 40 of the Code of Federal Regulations consisting of Subparts B and D. The remaining subparts of proposed Part 772 were reserved. In this document EPA proposes to add Subparts A, C, E, F, and I to the proposed Part 772 to read as set forth below.

PART 772—STANDARDS FOR DEVELOPMENT OF TEST DATA

Subpart A—General Requirements

Sec.
772.100-1 General.
772.100-2 General standards for health effects.

Appendix A.
Appendix B—Dietary requirements and contaminant analysis.

Subpart C—Acute and Subchronic Health Effects

772.112-10 General.
772.112-21 Acute oral toxicity study.
772.112-22 Acute dermal toxicity study.
772.112-23 Acute inhalation toxicity study.
772.112-24 Primary eye irritation study.
772.112-25 Primary dermal irritation study.
772.112-26 Dermal sensitization study.
772.112-31 Subchronic oral dosing studies.
772.112-32 Subchronic 90-day dermal toxicity study.
772.112-33 Subchronic inhalation toxicity study.

Subpart E—Mutagenic Effects**Sec.**

772.114-1 General.

772.114-2 Test standards for detecting gene mutations.

772.114-3 Test standards for detecting heritable chromosomal mutations.

772.114-4 Test standards for detecting effects on DNA repair or recombination as an indicator of genetic damage.

Subpart F—Teratogenic/Reproductive Health Effects

772.116-1 General.

772.116-2 Teratogenic effects test standards.

772.116-3 Reproductive effects test standards.

Subpart I—Other Health Effects

772.119-1 General metabolism test standards.

Authority: Section 4: Toxic Substances Control (TSCA), 90 Stat. 2006; 15 U.S.C. 2603.

Subpart A—General Requirements**§ 772.100-1 General.**

(a) *Scope and purpose.* The standards in this subpart are designed to provide general test requirements for health and environmental effects test standards subject to test regulations under the Toxic Substance Control Act (TSCA) (Pub. L. 94-469, 90 Stat. 2003, 15 U.S.C. 2601 *et seq.*). The EPA will use these data and information to assess the risk chemicals may present to human health and the environment.

(b) *Applicability.* These standards apply to the development of health and environmental effects data from the testing of chemicals specified in part 771 of this subchapter.

§ 772.100-2 General standards for health effects.

(a) *Scope.* The standards contained in this section apply to all health effects studies in Section 772. Specific subsections of Section 772 contain complementary and additional requirements that are test standard specific on the same subject. In such a case, the specific standards in the subsection apply in addition to those specified in this subpart.

(b) *Basic standards for testing.*—(1) *Specific personnel requirements.* For the purposes of these test standards:

(i) There are two types of qualified pathologists:

(A) Board-Certified or Board Eligible pathologist(s) who have a minimum of three years of experience in pathology of the species of laboratory animals to be used; or

(B) Other doctorate pathologists (D.V.M., M.D., Ph. D., D.D.S., D.O.) who

have a minimum of three years of experience in gross, clinical, and/or histopathology of the species of laboratory animals to be used.

(ii) A qualified veterinarian is one who is Board-Certified or eligible for certification by the American College of Laboratory Animal Medicine, and who has a minimum of two years of experience in laboratory animal science; and

(iii) There are two types of qualified technical employees:

(A) One certified by the American Society of Clinical Pathology (HTASCP), or with equivalent training and experience.

(B) One certified or eligible for certification by the American Association of Laboratory Animal Science (LTAALAS), or with equivalent training and experience.

(2) *Submission of study plan.* (i) When required by a specific test standard, the sponsor(s) of a study must submit a detailed study plan to the Agency at least 90 days before the study is initiated.

(ii) The following information must be submitted:

(A) The name and address of the sponsor and testing facility including responsible administrative officials and project manager(s);

(B) Brief summaries of the training and experience of each professional involved in the study, including Study Director, Veterinarian, Toxicologist(s), Pathologist(s) and Pathology Assistants;

(C) Study protocol including rationale for species strain selection, dose selection (and supporting data), route(s) of exposure, modifications or variance from applicable TSCA standards and rules;

(D) Summary of expected spontaneous chronic diseases (including tumors), genealogy, and lifespan of the test species;

(E) Description of diet to be used and source of diet;

(F) Data on test substance and stability under test and storage conditions;

(G) Schedule for initiation and completion of major phases of long-term(s); schedule for submission of interim progress and final reports to EPA.

(3) *Test or control substance concentration.* When required by the applicable test standard, the tester must document that, at the time of administration, the test substance or mixture administered contains no less than 90 percent of the designated test substance concentration as specified in the sponsor-approved protocol. To

accomplish this objective, the tester must conduct and document stability studies in accordance with Subpart B, § 772.110-1, prior to initiation of a study and analyze the administered substance or mixture to determine:

(i) The rate of loss of the test substance by elution, degradation, or other means;

(ii) The major degradation products, if any; and

(iii) Analyze for initial concentration.

The initial mean concentration of the test substance must not vary more than ± 5 percent from the designated concentration. To assure homogeneity in a test mixture, variability among randomly selected samples (at least 3) from the test mixture must not exceed ± 10 percent from the mean of the samples.

Note.—If a vehicle is needed in the preparation of the test mixture, either to dissolve, dilute or otherwise facilitate mixing or administering the test substance, the vehicle should be selected to have the following characteristics:

(1) It facilitates absorption but does not substantially alter the extent of distribution, metabolism, or retention of the test substance;

(2) It does not alter the chemical properties of the test substance or substantially enhance, reduce, or alter the toxic characteristics of the test substance;

(3) It does not substantially affect the food or water consumption or the nutritional status of the animals;

(4) It does not produce substantial physiological effects at the levels used in the study.

(4) *Dietary requirements.* (i) When required by the applicable test standards, all rodents must be fed the standardized diet containing the nutrient levels and produced by feed stocks or ingredients as listed in Appendix B of this section unless EPA approves another diet that the sponsor proposes as a substitute. The sponsor must request and obtain EPA approval at the time of study plan submission (see paragraph (b)(2)) for diets for non-rodent species.

(ii) The tester must not use feed 90 days after its manufacture. The tester must maintain as a part of the raw data a log showing the date each batch/lot of feed was manufactured and the last date it was administered.

(5) *Contaminant analysis of feeds and/or vehicles.* The sponsor must have each batch/lot of feed and vehicle analyzed to determine concentrations of contaminants listed in Appendix B of this section. The Agency considers this list to be minimal and not all inclusive. The Agency encourages the tester to

conduct additional analyses for other contaminants that may affect the interpretation of the study results.

(6) *Clinical procedures.* (i) A veterinarian, as specified in § 772.100-2 (b)(1)(ii), must ascertain and be responsible for the health status and care of all test animals during the study. A technical employee, as specified in § 772.100-2 (b)(1)(iii)(B), must be responsible for the daily observations and care of the test animals.

(ii) *Observation of animals.* (A) Each test animal must be identified by a specific identification number. The tester must account for all animals at the end of the study. The tester must establish and adhere to standard operating procedures for housing, feeding, handling, and care of test animals as specified in § 772.110-1. To further assure the development of valid data, observation of animals must be made by a qualified technical employee or by a qualified professional scientist (e.g. veterinarian or toxicologist) at least every 12 hours throughout the test period to ensure that losses in any test group due to cannibalism, autolysis of tissues, misplacement, or similar management problems do not exceed 5 percent for groups of animals greater than 20 per group and a loss no greater than one (1) animal per group for group sizes less than 20. EPA may consider a study to be unacceptable for purposes of satisfying a test rule requirement if losses do not meet these requirements.

(B) Technical employees or qualified veterinarians must conduct routine clinical examinations on all test animals. Clinical examination, unless required otherwise by a specific test standard, must include weighing of each animal, at approximately the same time of day, at least once a week during the first 13 weeks, and every two weeks thereafter and observing all animals in relation to food and water consumption, morbidity, mortality and causes thereof, loss of animals for whatever reason, signs of toxicity, pharmacologic effects, and behavioral changes.

(iii) *Killing of test animals.* Animals which appear during the study as moribund, injured, or weak, and not expected to survive to the next observation, must be killed to preclude the loss of tissues from cannibalism and/or autolysis. Animals surviving to the termination of the study must also be killed. A technical employee or qualified veterinarian must obtain blood samples for hematologic determinations from each animal immediately before it is killed or as it is killed. The method used for killing must be humane and the same throughout the study. The tester

must select a method of killing which will not produce interfering pathologic lesions.

(7) *Pathology procedures.* A Board-Certified or Board-Eligible pathologist as specified in § 772.100-2 (b)(1)(i)(A), must be responsible for the planning and conduct of all pathology procedures and histopathology examination, as well as for the final interpretation of all pathology data. Other doctorate pathologists, as specified in § 772.100-2 (b)(1)(i)(B), are also acceptable for conducting procedures in their disciplines of specialization, under the direct supervision of a Board-Certified or Board-Eligible pathologist as specified in § 772.100-2(b)(1)(i)(A).

Note.—Direct supervision means that the supervisor is immediately available for consultation, as necessary. This consultation may be done in person or by telephone.

(i) *Gross necropsy.*

(A) Qualified pathologists, as specified in § 772.100-2(b)(1)(i), must perform or personally supervise the necropsies. Other appropriately trained technical employees, as specified in § 772.100-2(b)(1)(iii)(A) may assist in the necropsy.

Note.—personal supervision means that the supervisor is immediately available for consultation at the site.

(B) Animals must be necropsied as soon as possible after death but no later than 16 hours after death. If necropsy cannot be performed immediately after the animal is killed or found dead, the animal must be immediately refrigerated (but not frozen) at temperatures low enough to minimize tissue autolysis (4–8° C). Animals found dead upon routine clinical examination must be necropsied as soon as possible to salvage usable tissues.

(C) The gross necropsy must include an initial physical examination of the external surfaces and all orifices followed by an internal examination of tissues and organs *in situ*. The examination must include the following: external and internal portions of all hollow organs; cranial cavity and external surfaces of the brain and spinal cord; nasal cavity and paranasal sinuses; neck with its associated organs and tissues; thoracic, abdominal, and pelvic cavities with their associated organs and tissues; and the muscular/skeletal carcass. The urinary bladder and lungs must be inflated with a proper fixative to allow for better gross examination and preservation.

(ii) *Tissue preservation.* A technical employee or qualified pathologist must immediately preserve all tissues and organs from all test animals in 10

percent buffered formalin or another recognized and accepted fixative appropriate for the specific tissue(s).

(iii) *Preparation of tissue for microscopic examination.* A pathologist or a technical employee, as specified in § 772.100-2(b)(1), must prepare all specimens for microscopic examination.

(A) *Tissue fixation and trimming.* The technical employee or qualified pathologist must fix tissues for the appropriate times for the fixative utilized. A pathologist must perform or directly and personally supervise tissue trimming. Routinely, tissues must be trimmed to a thickness of no more than 0.4 cm for subsequent processing. Parenchymal organs must be trimmed to allow for the largest surface areas possible for subsequent microscopic examination. Hollow organs must be trimmed to allow for a cross section mount from mucosa to serosa. Lymph nodes must be bisected through the hilus, if possible.

(B) *Slide preparation.* A technical employee or qualified pathologist must cut tissues routinely at a thickness of three to six micra (3 to 6 μ), in no case exceeding 10 μ . All tissues must be stained routinely with hematoxylin and eosin (H&E). EPA encourages the use of special stains appropriate to the specific neoplasm, lesion, or tissue. Multiple sections (step cuts) must be made on each tissue or organ that contains gross evidence of a neoplasm or lesion and on each tissue or organ in which a metastasis may be anticipated. The tester must identify all blocks and microscopic slides by reference to the animal's specific identification number and must preserve and hold them in accordance with § 772.110-1(j)(2).

(iv) *Microscopic examination and evaluation.*

(A) Qualified pathologists as described in § 772.100-2(b)(1)(i), must perform the microscopic examination and evaluation with subsequent diagnosis. The same pathologist must examine and evaluate all microscopic slides from all test animals of a given species.

(B) The pathologist must record, document, and report all microscopic findings including all abnormalities, lesions, neoplasms, metastatic tumors and their anatomic location.

(v) *Additional Examinations.* All adverse health effects observed during the course of the study must be examined. When there is clinical evidence of specific toxicologic or pharmacologic effects related to specific target organs, the necropsy and microscopic examinations of the suspected target organs must be

conducted in greater detail. For example, when there is clinical evidence of neurologic effects, multiple sections from brain, spinal cord, and nerves must be examined.

(8) *Reporting of data.* Each test report submitted under this subpart must satisfy the reporting requirements of this section, unless a specific test standard elsewhere in this subchapter directs otherwise.

(i) *General requirements.* (A) *Identification.* Each test must identify:

(1) The laboratory where the test was performed, by name and address; and

(2) Each party primarily responsible for any written or other matter contained in the report, and the portions of the report for which the person is responsible.

(B) *Verification.* Each test report must be: (1) Signed by each of the senior scientific personnel (including the laboratory director) responsible for performing and supervising the testing, and preparing, reviewing, and approving the test report; and

(2) Certified by the sponsor or an authorized agent of the sponsor as a complete and unaltered copy of the report provided by the testing laboratory, whether independent or owned, operated, or controlled by the sponsor.

(ii) *Format and content.* The test report must include all information necessary to provide a complete and accurate description and evaluation of the test procedures and results. A test report must contain at least three parts: A summary and evaluation of the test results; a description of the test procedures, and the data and information required by each applicable section of this subpart. Particular information, data, or analysis may be required more than that it is required. Units of measurement must be in the metric system, but the English system may also be used when appropriate. In no instance must the systems be mixed (e.g., mg/sq. in.) nor should both systems be used alternately within a test report.

(A) *Summary and evaluation of test results.* This section of the test report must contain a summary and analysis of the data, and a statement of the conclusions drawn from the analysis. The summary must highlight any and all positive data or observations, and any deviations from control data which may be indicative of toxic effects. The summary must be presented in sufficient detail to permit independent evaluation of the results.

(B) *Description of the test procedure.* This section of the test report must include, but not be limited to, the following information (if a sponsor

believes the reporting requirements are inapplicable, the sponsor must submit an explanatory statement to this effect):

(1) *Deviation from standards.* The report must indicate all ways in which the test procedure fails to meet applicable standards for acceptable testing contained in this subpart, and must state the reasons for such deviations.

(2) *Methodology.* Specifications of test methods, including a full description of the experimental design and procedures, the length of the study, and the dates on which the study began and ended must be stated.

(3) *Substance tested.* Identification of the test substance must be provided, including:

(i) Chemical name, chemical abstract member (CAS) or code number, molecular structure, and a qualitative and quantitative determination of its chemical composition (including names and quantities of known contaminants and impurities, so far as is technically feasible; the determinations must also include quantities of unknown materials, if any, so that 100 percent of the sample tested is accounted for);

(ii) Manufacturer and lot number of the substance; relevant properties of the substance tested, such as physical state, pH, stability, and purity; and

(iii) Identification and composition of any vehicles (e.g., diluents, suspending agents, and emulsifiers) or other materials used in administering the test substance.

(4) *Animal data.* Animal data must include:

(i) Species and strain used, rationale for selection of species (if the species is other than the species preferred or required by sections of this subpart), and rationale for selection of strain;

(ii) Source of supply of the animals;

(iii) Description of any pretest conditioning, including diet and quarantine;

(iv) Method of randomization used in assigning animals to test or control groups;

(v) Numbers of animals of each sex in each test or control group; and

(vi) Age and condition of animals at beginning of study.

(5) *Environmental conditions.* A description of the caging conditions must include: Number (and any change in number) of animals per cage, bedding material, ambient temperature, and humidity, photoperiod, and identification and description of the diet of the test animal.

(6) *Dosing.* Dosing information must include:

(i) All dose levels administered;

(ii) Method and frequency of administration (including hour of dosing in relation to photoperiod);

(iii) Total volume of material (i.e., test substance plus vehicle) contained in individual dosings;

(iv) Duration of treatment;

(v) If the test substance is administered in the feed or by another vehicle, the method of randomization used in selecting samples to assay, the assay method used to determine the stability and homogeneity of the test substance being administered, and the results of this assay;

(vi) For each dose level, the mean total amount of test substance administered per animal; and

(vii) The rationale (including discussion of alternatives) for selection of the vehicle.

(7) *Treatment for infectious diseases.* A description of the treatment(s) used to prevent or control infectious diseases if such treatment was undertaken during a test or shortly before a test was begun. Such a description must include, for each individual affected animal:

(i) Its identification number;

(ii) The nature and severity of the disease, if present;

(iii) The date of first observation and duration of disease, if present;

(iv) The nature of the treatment for disease or disease prevention, and the dates of such treatment; and

(v) The outcome of the treatments in relation to the disease and the test results.

(8) *Observations.* Frequency, duration, and method of observation of the animal.

(9) *References.* Statistical and any other methods employed for analyzing the raw data; a list of references to any published literature used in developing the test protocol, performing the testing, making and interpreting observations, and compiling and evaluating the results.

(C) *Reporting requirements for specific tests.* This section of the test report must include all data, information, and analysis required by the "Data reporting and evaluation" paragraphs of the sections in this subchapter.

(iii) *Statistical procedures.* (A) *General.* Statistical techniques are required for several toxicological analyses, such as the LD₅₀ calculations for acute oral and acute dermal toxicity studies (§§ 772.112-21 and 772.112-22), the LC₅₀ calculations for acute inhalation toxicity study (§ 772.112-23), and the median particle size analyses used to describe the aerosol clouds in the acute and subchronic inhalation

studies (§§ 772.112-23 and 772.112-33). Median lethal doses are to be measured within a 95 percent confidence limit of 20 percent of the median. When not feasible, e.g., due to inherently variable responses or to difficulties in administering the test substance, the tester must explain why the limit was exceeded. In addition, appropriate statistical methods must be used to summarize experimental data, to express trends, and to evaluate the significance or differences in data from individual test groups. The methods used must reflect the current state of the art. A list of references in the appendix to this section represents some of the techniques currently in use.

(B) *Standard deviation and standard error.* All data averages or means must be accompanied by standard deviations, to indicate the amount of variability in the raw data. In addition, the standard errors of the means should also be calculated, since they are useful in comparing means from different test groups; however, notations of statistically significant differences, accompanied by the confidence level or probability, may be used in place of the standard errors. Other methods of expressing data dispersion may also be used, when appropriate.

Appendix A

(1) The following are a few of many good textbooks in statistics:

(i) Remington, R. D., and M. A. Schork. 1970. *Statistics with Applications to the Biological and Health Sciences*. Prentice-Hall, New York. (Includes a chapter on nonparametric methods [Chapter 12. Distribution Free and Nonparametric Methods] which are useful for nonnormally distributed data.)

(ii) Rohlf, F. J. and R. R. Sokal. 1969. *Statistical Tables*. W. H. Freeman & Co., San Francisco.

(iii) Sokal, R. R. and F. J. Rohlf. 1969. *Biometry*. W. H. Freeman & Co., San Francisco.

(iv) Von Fraunhofer, J. A., and J. J. Murray. 1976. *Statistics in Medical, Dental, and Biological Studies*. Tri-Med Books Limited, London.

(2) The following are examples of available computer programs which can be used in the statistical processing of data but generally involve a large computer operation. There are also many desk-top minicomputers which supply similar computer programs for statistical analyses.

(i) Dixon, W. J., ed. 1970. *Biomedical Computer Programs (BMD)*. 2nd Ed. University of California Press, Los Angeles.

(ii) Nie, N. H., C. H. Hull, J. G. Jenkins, K. Steinbrenner, and D. H. Bent. 1975. *Statistical Package for the Social Sciences (SPSS)*. 2nd Ed. McGraw-Hill, New York.

Appendix B

Dietary Requirements and Contaminant Analysis

Dietary Requirements. This Appendix provides dietary requirements and contaminant analysis of feeds and vehicles for use as required in specific test standards.

(a) *Nutrient Requirements.* The diet used must be manufactured from the following ingredients and no others. (Reference: Nutrient Requirements of Laboratory Animals, Third Revised Edition, National Academy of Sciences, Washington, D.C., 1978.)

(1) *Ingredients:*

Fish meal,
Soybean meal,
Alfalfa meal,
Corn gluten meal,
Ground whole wheat,
Ground No. 2 yellow shelled corn,
Ground whole oats,
Wheat middlings,
Brewers dried yeast,
Soy oil,
Salt, Dicalcium phosphate, and
Ground limestone.
(i) A vitamin premix must be prepared from the following vitamin sources:
Vitamin A Palmitate or Acetate,
D activated animal sterol,
Menadione activity,
Alpha-tocopherol acetate,
Choline Chloride,
Folic Acid,
Niacin,
d-Calcium Pantothenate,
Riboflavin Supplement,
Thiamine mono nitrate,
B12 Supplement,
Pyridoxine hydrochloride, and
d-Biotin.

A mineral premix must be prepared from the following compounds:

Cobalt carbonate,
Copper sulfate,
Iron sulfate,
Magnesium oxide,
Manganese oxide,
Zinc oxide, and
Calcium iodate.

Microanalysis.—The total calculated concentration of nutrients in the diet are from the ingredients and from the vitamin and mineral fortifications at the time of manufacture must be as follows:

	Minimum (percent)
Crude protein.....	18.0
Crude fat.....	4.3
Crude fiber.....	4.2
Ash.....	6.0

Nutrient concentrations in final diet must not vary from the individually stated values by more than 10%.

	Minimum
Amino Acids (total diet): Arginine.....	0.95 percent
Lysine.....	.80 percent
Methionine.....	.38 percent
Cystine.....	.27 percent
Tryptophan.....	.20 percent

	Minimum	Maximum
Glycine.....	1.00 percent	
Histidine.....	.38 percent	
Leucine.....	1.50 percent	
Isoleucine.....	.95 percent	
Phenylalanine.....	.90 percent	
Tyrosine.....	.60 percent	
Threonine.....	.65 percent	
Valine.....	.95 percent	
Minerals:		
Calcium.....	1.15 percent	
Phosphorus.....	.90 percent	
Potassium.....	.80 percent	
Sodium.....	.33 percent	
Magnesium.....	.20 percent	
Iron.....	345 mg/kg	
Zinc.....	50 mg/kg	
Manganese.....	140 mg/kg	
Copper.....	12 mg/kg	
Cobalt.....	.80 mg/kg	
Iodine.....	1.85 mg/kg	

	Minimum	Maximum
Vitamins:		
Vitamin A.....	15.0	75.00 IU/g
Vitamin D.....	4.0	10.00 IU/g
Alpha-tocopherol.....	50.0	mg/kg
Thiamine.....	14.0	mg/kg
Riboflavin.....	7.0	mg/kg
Niacin.....	65.0	mg/kg
Pantothenic Acid.....	32.0	mg/kg
Choline.....	1900.0	mg/kg
Pyridoxine.....	10.0	mg/kg
Folic Acid.....	2.0	mg/kg
Biotin.....	0.3	mg/kg
Vitamin B12.....	14.0	Mcg/lb
Vitamin K.....	3.0	mg/kg
For autoclavable diet:		
Vitamin A.....	30.0	mg/kg
Thiamin.....	70.0	mg/kg
Vitamin K.....	20.0	mg/kg

The diet must be void of any feed additives containing antibiotics or estrogen activity. When diet is purchased for feeding in meal form, it must be manufactured by regrounding pellets.

(2) *Approximate Analysis.*—Analysis for nutrient content of both ingredients and the finished product must be conducted in accordance with the procedures of the Association of Official Agricultural Chemists (1975) and must be expressed as a nutrient content percentage by weight on an air-dry basis.

(3) *Ingredient Standards.*—Ingredients used in the manufacture of this ration must not be contaminated with any more than 3 percent of foreign materials such as other grains, weed seeds, chaff, etc. Nor will any mold, must, or insect/rodent infestation be allowed. The average minimum nutrient concentrations of ingredients used in the manufacture of this ration must be equal to the values published in the National Academy of Sciences Publication 1684, United States-Canadian Tables of Food Composition.

The data from these analyses must be made available to the facility using the product.

(4) *Feed Additives and Processing Restrictions.*—The product must contain no antibiotics, other preservatives or estrogen additives of any kind. All milling and warehousing conditions and/or restrictions, as specified in the latest issue of the national Institutes of Health Standard No. 1, apply to the feed covered by this specification. The product must not be altered in any manner that will affect the final nutrient content.

(5) **Labeling**—Each bag must be clearly marked with the name of the product, the name of the manufacturer, the net weight, the ingredients, the guaranteed analysis of its contents, the date (month, day, and year) the manufacturing process was completed, and the batch number under which it was processed.

(b) **Contaminant analysis of feeds and vehicles.**

Parameter	Specification limitation	
	Minimum	Maximum
Aflatoxin (B1, B2, G1, G2) ppb		5
Estrogenic Activity, ppb (DES eq.)		1
Endane, ppb		20
Hepatochlor, ppb		20
Malathion, ppm		2.5
OOT (Total), ppb		100
Dieldrin, ppb		20
Cadmium, ppb		160
Arsenic, ppm		1.0
Lead, ppm		1.5
Mercury, ppb		100
Selenium, ppm	0.1	0.6
PCB, ppb		50
Nitrosamines, ppb		10

Subpart C—Acute and Subchronic Health Effects

§ 772.112-10 General.

(a) **Scope and purpose.** The standards in this subpart are designed to develop data on acute and subchronic health effects of chemical substances and mixtures ("chemicals") subject to acute and subchronic health effects test regulations under the Toxic Substances Control Act (TSCA) (P.L. 94-469, 90 Stat. 2003, 15 U.S.C. 2601 et. seq.). The EPA will use these data to assess the risk of acute and subchronic effects these chemicals may present to human health.)

(b) **Applicability.** These standards apply to the development of acute and subchronic health effects data from the testing of chemicals specified in Part 771 of this subchapter.

(c) **Definitions.** The definitions in Section 3 of the TSCA, and the definitions in § 770.2, § 772.113-1(c), and § 772.110-1(a)(3), entitled "Good Laboratory Practice Standard for Health Effects," apply to Subpart C. In addition, the following definitions also apply to Subpart C:

(1) "Acute effects" means short-term health effects following a single administration of a test substance;

(2) "Acute toxicity" means the total of adverse effects following a single administration of a test substance;

(3) "Subchronic effects" means health effects following continuous or repeated administration of a test substance over a period of approximately 90 days;

(4) "Subchronic toxicity" means the total of adverse effects following continuous or repeated administration of a test substance over a period of approximately 90 days;

(d) **Good Laboratory Practice Standards for Acute and Subchronic Health Effects.** The Good Laboratory Practice Standards for Health Effects in § 772.110-1, Subpart B, apply to Subpart C.

(e) **Specific Personnel Requirements.** The specific personnel requirements in Subpart A, § 772.110-2(b), apply to Subpart C.

(f) **Test or Control Substance Concentration.** Section 772.100-2(b)(3) of Subpart A apply to Subpart C.

§ 772.112-21 Acute oral toxicity study.

(a) **Study design.** (1) *Species.* Testing must be performed with the laboratory rat.

(2) *Sex and age.* Young adult male and female animals must be used.

(3) *Number of animals and selection of dose levels.* (i) A trial test is recommended for the purpose of establishing a dosing regimen which must include one dose level higher than the expected LD₅₀. If data based on testing with at least 5 animals per sex are submitted showing that no toxicity is evident at 5g/kg, no further testing at other dose levels is necessary. If mortality is produced, the requirements of paragraph (a)(3)(ii) of this section must apply.

(ii) Enough animals per dose level and sufficient dose levels spaced appropriately must be used to produce test groups with mortality rates between 10 percent and 90 percent and to permit the calculation of the LD₅₀ for males and females with a 95 percent confidence interval of 20 percent or less. At least 3 dose levels of the test substance, in addition to controls (if any), must be tested. Though the group sizes may vary for each dose level, each group must contain equal numbers of male and female animals.

(4) **Control animals.** (i) A concurrent vehicle control group is recommended if the vehicle or diluent used in administering the test substance would be expected to elicit any important acute toxicologic response, or if there are insufficient data on the acute effects of the vehicle.

(ii) A concurrent untreated control group is not required.

(5) **Dosing.** All animals must be dosed by gavage. All animals must receive the same concentration of dosing solution. They should also receive about the same volume of dosing solution, which should not exceed 4-5 ml per animal.

(6) **Duration of test.** The animals must be observed for at least 14 days after dosing, or until all signs of reversible toxicity subside, whichever occurs later.

(b) **Study Conduct.** (1) *Fasting.* Food shall be withheld from the animals the night prior to dosing.

(2) **Observation.** The animals must be observed frequently during the day of dosing and checked at least every 12 hours throughout the test period. The following must be recorded: Nature, onset, severity, and duration of all gross or visible toxic or pharmacological effects, e.g., abnormal or unusual cardiovascular, respiratory, excretory, behavioral, or other activity, as well as signs indicating an adverse effect on the central nervous system (paralysis, lack of coordination, staggering); pupillary reaction; and time of death. The weight of each animal must be determined at least semi-weekly (3-4 day intervals) throughout the test period, and at death.

(3) **Sacrifice and necropsy.** All test animals living at the termination of the observation period must be sacrificed. All test animals, whether dying by sacrifice or during the test must be subjected to a complete gross necropsy following their death, in accordance with § 772.100-2(b)(7), Subpart A. All abnormalities must be recorded.

(c) **Data reporting and evaluation.** In addition to the information required by § 772.100-2(b)(8), Subpart A, the test report must include the following information:

(1) Tabulation of response data by sex and dose level (i.e., number of animals dying per number of animals showing signs of toxicity per number of animals exposed);

(2) Time of death after dosing.

(3) LD₅₀ for each sex for each test substance calculated at the end of the observation period (with method of calculation specified);

(4) 95 percent confidence interval for the LD₅₀; and

(5) Dose-response curve and slope.

Appendix

(1) The following publications provide information on acceptable methods of calculating the LD₅₀:

(i) Finney, D.J. 1971. Probit Analysis. 3d Ed., Chapters 3 and 4. Cambridge University Press: Cambridge, Eng.

(ii) J. T. Litchfield, Jr., and F. Wilcoxon. 1949. A simplified method of evaluating dose-effect experiments. J. Pharmacol. Exp. Therap. 96:99-115.

(iii) Thompson, W. R. 1947. Use of moving averages and interpolation to estimate median effective dose. Bacteriological Rev. 11:115-145.

(iv) Weil, C.S. 1952. Tables for convenient calculation of median effective dose and instructions in their use. Biometrics 8:249-263.

(2) The following publications contain additional useful information:

(i) Boyd, E. M. 1972. Predictive Toxicometrics (Chapters 14, 15, and 16). Bristol, Scientechia Publisher, Ltd. (dist.: Williams and Wilkins Co., Baltimore.)

(ii) Committee for the Revision of NAS Publication 1138, Committee on Tox., Nat. Res. Council. 1977. Principles and Procedures for Evaluating and Toxicity of Household Substances. Pp. 1-18. Prepared for the Consumer Product Safety Commission. Nat. Acad. Sci.: Washington, D.C.

(iii) Hagan, E. C. 1965. Appraisal of the Safety of Chemicals in Foods, Drugs, and Cosmetics. Pp. 17-25. Association of Food and Drug Officials of the United States Topeka, Kans.

(iv) Loomis, T. A. 1974. Essentials of Toxicology. 2nd Ed. Pp. 145-215. Lea & Febiger: Philadelphia.

(v) Paget, G. E., ed., 1970. Methods in Toxicology. Pp. 49-82. F. A. Davis & Co. Philadelphia.

(vi) Weil, C. S. 1972. Guidelines for experiments to predict the degree of safety of a material for man. Toxicol. Appl. Pharmacol. 21:194-199.

(vii) Weil, C. S. and G. J. Wright. 1967. Intra- and interlaboratory comparative evaluation of a single oral test. Toxicol. Appl. Pharmacol. 11:378-388.

§ 772.112-22 Acute dermal toxicity study.

(a) **Study design.** (1) *Condition of test substance.* If the test substance is a liquid, it must be applied as a liquid. If the test substance is a solid, it must be slightly moistened (made pasty) with physiological saline before application.

(2) *Species.* Testing must be performed with at least one mammalian species, preferably albino rabbits. An alternative species may be used if the sponsor can provide sufficient data and/or rationale to demonstrate that it is a more appropriate species for a specific test substance.

(3) *Age.* Young adult male and female animals must be used.

(4) **Number of animals and selection of dose levels.** (i) A trial test is recommended for the purpose of establishing a dosing regimen which must include one dose level higher than the expected LD₅₀ and at least one dose level below the expected LD₅₀. If data based on testing with at least 5 animals per sex with abraded skin are submitted showing that no toxicity is evident at 2 g/kg, no further testing at other dose levels is necessary. If mortality is produced, the requirements of paragraph (a)(4)(ii) of this section apply.

(ii) The number of animals per dose level, and the number and spacing of dose levels must be chosen to produce test groups with mortality rates between 10 percent and 90 percent, and permit calculation of the LD₅₀ (abraded skin and intact skin) of males and females

with a 95 percent confidence interval of 20 percent or less. At least 3 dose levels of the test substance, in addition to controls, must be tested. Though the group sizes may vary for each dose level, the groups must contain equal numbers of male and female animals.

(5) **Control animals.** A concurrent untreated control group of animals is required. A concurrent vehicle control group is required if a vehicle or diluent used in administering the test substance would be expected to elicit any important acute toxicologic response, or if there are insufficient data on the acute effects of the vehicle.

(b) **Study conduct.** (1) *Application.* In all animals, the application site must be free of hair. In addition, the application sites in abraded-skin groups must be abraded in such a way as to penetrate the stratum corneum but not the dermis. The test substance must be kept in contact with the skin of at least 10 percent of the body surface (for rabbits) for at least 24 hours. (See Draize (1944) for equivalent sq. cm of body surface.) The preferred application site is a band around the trunk of the test animal. A wrapping material such as gauze covered by impervious, nonreactive rubberized or plastic material should be used to retard evaporation and keep the test substance in contact with the skin. At the end of the exposure period, the wrapping should be removed and the skin wiped (but not washed) to remove any test substance still remaining.

(2) **Duration of observation.** Animals must be observed for at least 14 days after dosing or until all signs of reversible toxicity in survivors subside, whichever occurs later.

(3) **Observation.** Animals must be observed frequently during the day of administration of the test and checked at least every 12 hours throughout the test period. The following must be recorded: Nature, onset, severity, and duration of each toxic and pharmacologic sign, such as abnormal or unusual cardiovascular, respiratory, excretory, behavioral, or other activity, as well as signs indicating an adverse effect on the central nervous system (paralysis, lack of coordination, staggering); pupillary reaction; and time of death. The weight of each animal must be determined at least semi-weekly (3-4 day intervals) throughout the test period, and at death.

(4) **Sacrifice and necropsy.** All animals living at the termination of the observation period must be sacrificed. All test animals, whether dying by sacrifice or during the test, must be subjected to a complete gross necropsy following their death, in accordance

with § 772.100-2(b)(7), Subpart A. All abnormalities must be recorded.

(5) **Histopathology.** Examination of skin must include histological examination of treated tissue in accordance with § 772.100-2(b)(7), Subpart A.

(c) **Data reporting and evaluation.** In addition to the information required by § 772.100-2(b)(8) and paragraphs (b) (3), (4), and (5) of this section, the test report must include the following information:

(1) Tabulation of response data by sex and dose level (i.e., number of animals dying per number of animals showing signs of toxicity per number of animals exposed);

(2) Time of death after treatment;

(3) Time of recovery for fully recovered animals;

(4) LD₅₀ for each sex for each test substance for animals with abraded skin and for animals with intact skin, calculated at the end of the observation period (with method of calculation specified);

(5) 95 percent confidence interval for each LD₅₀; and

(6) Dose-response curve, and slope (with confidence limits).

Appendix

(1) Committee for the Revision of NAS Publication 1138, Committee on Tox., Nat. Res. Council. 1977. Principles and Procedures for Evaluating the Toxicity of Household Substances. Pp. 1-8, 23-55. Prepared for the Consumer Product Safety Commission Nat. Acad. Sci., Washington, D.C.

(2) Draize, J. H., G. Woodard, and H. O. Calvery. 1944. Methods for study of irritation and toxicity of substance applied topically to skin and mucous membranes. J. Pharmacol. Exp. Ther. 83:377-390.

(3) Draize, J. H. 1965. Appraisal of the Safety of Chemicals in Foods, Drugs, and Cosmetics—Dermal Toxicity. Pp. 46-59. Assoc. of Food and Drug Officials of the United States. Topeka, Kans.

(4) Marzulli, F. N., and H. I. Maibach. 1977. Dermal Toxicology and Pharmacology (Advances in Modern Toxicology). Vol. 4. Hemisphere Publishing Corp., Washington D.C.

§ 772.112-23 Acute inhalation toxicity study.

(a) **Study design.** (1) *Species, sex, and age.* Testing must be performed with the laboratory rat. Young adult male and female animals must be used.

(2) **Number of animals and selection of dose levels.** (i) A trial test is recommended for the purpose of establishing a dosing regimen which must include one dose level higher than the expected LC₅₀ and at least one dose level below the expected LC₅₀. If data based on testing with at least 5 animals per sex are submitted showing that no

toxicity is evident at 5 mg/1, no further testing at other dose levels is necessary. If mortality is produced, the requirements of paragraph (a)(2)(ii) of this section apply.

(ii) The number of animals per dose level, and the number and the spacing of dose levels must be chosen to produce test groups with mortality rates between 10 percent and 90 percent, and to permit calculation of the LC_{50} with a 95 percent confidence limit of 20 percent or less. At least 4 dose levels of the test substance, in addition to controls, must be tested. Though the group sizes may vary for each dose level, the group must contain an equal number of male and female animals.

(3) *Duration of test.* In selecting the exposure period, allowance must be made for changed concentration equilibration time. Where there is no difficulty in maintaining a steady concentration of the test substance in the chamber(s), the exposure period must be at least 1 hour. Where there is some difficulty in maintaining a study concentration the exposure period must last up to 4 hours. The animals must be observed for 14 days, or until all signs of reversible toxicity subside, whichever occurs later.

(4) *Use of solvent.* A solvent may be added to the test substance, if necessary, to help generate an exposure atmosphere. If a product's labeling instructions specify the use of a particular solvent, that solvent is preferred. If no solvent is specified in the product's labeling instructions, the solvent, if any, which is used to formulate the product should be used.

(5) *Control groups.* (i) A concurrent untreated control group is required.

(ii) If any solvent, other than water, is used in generating the exposure atmosphere, a vehicle control group must be tested. The vehicle control group must be exposed to an atmosphere containing the greatest concentration of solvent present in any test system.

(b) *Study conduct.* (1) *Exposure chamber design and operation.*

(i) Inhalation exposure techniques described in this section are based on the use of whole-body inhalation chambers which allow the experimental animals to receive whole-body dermal exposure and possible large oral exposure, as well as the exposure by inhalation. In some cases, the investigators will want to use other inhalation exposure techniques involving face masks, head-only exposure, intratracheal instillation, or other similar techniques which reduce or preclude added dermal and oral

exposures. Some alternative techniques are described by Phalen, 1976. When alternative techniques are used, the procedures and results must be reported in a manner similar to that required with the use of whole-body inhalation chambers.

(ii) Animals must be tested in a dynamic air flow exposure chamber. The chamber design must be chosen to enable production of an evenly distributed exposure atmosphere throughout the chamber. The chamber design also should minimize crowding of the test animals and maximize their exposure to the test substance.

(2) *Operation measurements.* The following measurements must be taken with care to avoid major fluctuations in the air concentrations or major discrepancies in the operation of the chambers.

(i) *Air flow.* The rate of air flow through the chamber must be measured continuously.

(ii) *Chamber concentrations.* (A) Nominal concentrations must be calculated for each run by dividing the amount of the test substance used for the generating system by the air flowing through the chamber during the exposure.

(B) Actual chamber concentrations must be determined by samples of chamber air taken near to the breathing zone of the animals as frequently as necessary to obtain an averaged integrated external exposure which is representative of the entire exposure period. The system used to generate the vapor, gas, or aerosol should be such that the chamber concentrations and particle size distributions are controlled under stable conditions, reflecting the current state-of-the-art, and should not vary in a range greater than 30 percent of the average (range/mean equal to or less than 30 percent).

(iii) *Temperature and Humidity.* The temperature must be maintained at $24 \pm 2^\circ \text{C}$, and the humidity within the chamber at 40-60 percent. Both must be monitored continuously.

(iv) *Oxygen.* The rate of air flow through the chamber must be adjusted to insure that the oxygen content of exposure atmosphere is at least 19 percent.

(v) *Particle Size Measurement.* (A) *General.* In the case of gases and vapors, particulate sampling should be carried out at intervals to insure the animals are not being exposed to unknown and unexpected particulate materials. Aerosol particle size measurements should be made on samples taken at the breathing level of the animals. These analyses should be

carried out using techniques and equipment reflective of the state-of-the-art. All of the suspended aerosol (on a gravimetric basis) should be accounted for, even when most of the aerosol is not respirable.

(B) *Sizing Analysis.* The sizing analysis should be in terms of equivalent aerodynamic diameters and should be represented as geometric mean (median) diameters and their geometric standard deviations (see NIOSH syllabus in the Appendix to this section), as calculated from log probability graphs or computer programs. The size analyses should be carried out frequently during the development of the generating system to insure proper stability of aerosol particles, and only as often thereafter during the exposure as is necessary to determine adequately the consistency of particle distributions to which the animals are exposed, maintaining at least 20 percent of the particles at 10 microns or less. At a minimum, these analyses should be carried out once per hour for each level of exposure for gaseous test substances, twice per hour for liquid test substances, and 4 times per hour for dusts and powders.

(3) *Observation.* The animals must be observed frequently during the day of dosing and checked at least every 12 hours throughout the test period, for at least 14 days after dosing or until all signs of reversible toxicity subside, whichever occurs later. The following must be recorded: Nature, onset, severity, and duration of all gross or visible toxic or pharmacologic effects, i.e., abnormal or unusual cardiovascular, respiratory, excretory, behavioral, or other activity, as well as signs indicating an adverse effect on the central nervous system (paralysis, lack of coordination, staggering); pupillary reactions; and time of death. The weight of each animal must be determined on the day of dosing, 2, 3, 4, 7, and 14 days after dosing, weekly thereafter, and at death.

(4) *Sacrifice and Necropsy.* All animals living at the termination of the observation period must be sacrificed. All test animals, whether dying by sacrifice or during the test, must be subjected to a complete gross necropsy following their death, in accordance with § 772.100-2(b)(7), Subpart A. Examination must include nasal passages, trachea, bronchi, and lungs, and any other tissues known to be affected by the test substance. All abnormalities must be recorded.

(5) *Preservation of tissues and histopathology examination.* The following are required:

(i) Those tissues designated in paragraph (b)(5)(ii) of this section must be placed in suitable fixative as soon as possible. Tissues and microscopic slides must be prepared according to the standards set forth in § 772.100-2(b)(7)(ii) and (iii), Subpart A. Tissue samples, tissue blocks, and microscopic slides must be preserved and held in accordance with § 772.110-1(j).

(ii) The following tissues must be examined microscopically:

(A) Lungs, liver, and kidneys at all dose levels.

(B) Any tissue or organ that appears abnormal, at any dosage level, as determined in the necropsy examination.

(iii) The histopathology findings must be recorded and reported as required by paragraph (c)(10) of this section.

(c) *Data reporting evaluation.* In addition to information required by § 772.100-2(b)(8), Subpart A, and paragraphs (b)(3) and (b)(4) of this section, the test report must include the following:

(1) Vapor pressure and particulate size (median size with geometric standard deviation).

(2) Description of the chamber design and operation, including type of chamber, its dimensions, the source of makeup air and its conditioning (heating or cooling) for use in the chamber, the treatment of exhausted air, the housing and maintenance of the animals in the chambers, and similar related information. Equipment for measuring temperatures and humidity, the generating system, and the methods of analyzing airborne concentrations and particle sizing must be described.

(3) The following operation data must be tabulated both individually and in summary form, using means and standard deviations (with or without ranges) in tabular form. The data summaries must be grouped according to experimental groups, and nonexpected differences (such as in temperature and airflow) and must be tested for statistical significance.

(i) Airflow rates through the chamber;

(ii) Chamber temperature and humidity;

(iii) Nominal concentrations;

(iv) Actual concentrations; and

(v) Median particle sizes and their geometric standard deviations and percent of particles 10 microns or less.

(4) Tabulation of the response data (number of animals dying per number of animals showing signs of toxicity per number of animals exposed) at each exposure level by sex, and time of death after dosing;

(5) Tabulation of the body weights on the day of dosing, 2, 3, 4, 7, and 14 days after dosing, weekly thereafter, and at death.

(6) The LC_{50} (calculated on an exposure of one hour) for each sex for each test substance;

(7) Specification of the method used for LC_{50} calculation;

(8) The 95 percent confidence interval for the LC_{50} ;

(9) The dose-response curve and slope (with confidence limits); and

(10) The histopathology findings including a complete record of lesions and abnormalities observed, and the histological diagnosis and characterization of each kind of lesion or abnormality observed, naming those which apparently caused death or morbidity.

Appendix

The following texts and articles give the reader some breadth of scope as well as sufficient detail to develop and carry out inhalation toxicity studies.

(1) *General references.*

(i) Altman, P. L., et al. 1968. Handbook of Respiration. Aero Medical Laboratory, Wright-Patterson Air Force Base, Ohio. (Includes extensive data on humans and animals).

(ii) Casarett, L. J., and J. L. 1975. Toxicology. Basic Science to Poisons. MacMillan Publishing Co., New York. (Good text on general toxicology, includes Chapter 9 "Toxicology of the Respiratory System.")

(iii) Committee for the Division of NAS Publication 1178, Committee on Toxicity, Nat. Res. Council. 1977. Principles and Procedures for Evaluating the Toxicity of Household Substances. Pp. 6-22, 61-75. Prepared for the Consumer Product Safety Council, Nat. Acad. Sci., Washington, D.C.

(iv) Committee J. H. 1977. Toxicology and Respiration. 2nd ed. Year Book Medical Publishing Co., Chicago. (Includes the animal physiology, physiology, and pathology of the lungs in humans.)

(v) Hatch, T. G., and P. Cross. 1964. Pulmonary Deposition and Retention of Inhaled Aerosols. Academic Press, New York. (Comprehensive text which deals with the anatomy, physiology, deposition, and retention and pathological changes in the lung.)

(vi) Hayes, W. J. 1975. Toxicology of Pesticides. Williams and Wilkins Company, Baltimore. (This is good general text for pesticide toxicity and includes sections on inhalation toxicity.)

(vii) ICRP Committee, P. Morrow (Chairman). 1966 and 1967. Deposition and retention models for internal dosimetry of the human respiratory tract. Health Phys. 12:173-207 (1966). Errata and revisions to report. Health Phys. 13:1251. (1967).

(viii) MacFarland, H. N. 1976. Chapter 5: Respiratory Toxicology. Pp. 121-154 in Essays in Toxicology, Vol. 7. Hayes, W. J., ed. Academic Press: New York.

(ix) National Institute of Occupational Health and Safety. 1973. The Industrial Environment—its Evaluation and Control. Supt. Doc., Gov. Print. Off.: Washington, D.C. (Contains many practical chapters which cover the evaluation of the environment and the effects of chemicals.)

(2) *Advanced monographs.*

(i) Davies, C. N., ed. 1961. Inhaled Particles and Vapours. Proceedings of an International Symposium organized by the British Occupational Hygiene Society, Oxford, March 29-April 1, 1960. Pergamon Press: New York.

(ii) Davies, C. N., ed. 1967. Inhaled Particles and Vapours II. Proceedings of an International Symposium organized by the British Occupational Hygiene Society, Cambridge, September 28-October 1, 1965. Pergamon Press: New York.

(iii) Hanna, M. G., P. Nettesheim, and J. R. Gilbert, Jr. 1970. Inhalation Carcinogenesis. USAEC, Conf. No. 691001. Clearinghouse for Federal Scientific and Technical Information, Springfield, VA.

(iv) Hook, G. E. R., and G. W. Lucier, eds. 1976. Target Organ Toxicity: Lung. Environ. Health Perspect. 16:1-167.

(v) Mercer, T. T., P. E. Morrow, and W. Stober. 1972. Assessment of Airborne Particles. Charles C. Thomas, Springfield, Ill.

(vi) Walton, W. H., ed. 1970. Inhaled Particles III. Proceedings of an International Symposium organized by the British Occupational Hygiene Society, London, September 14-23, 1970. Volumes I and II. Unwin Brothers Limited, Gresham Press, Surrey, England.

(vii) Walton, W. H., ed. 1975. Inhaled Particles IV. Proceedings of an International Symposium organized by the British Occupational Hygiene Society, London, September 22-26, 1975. Volumes I and II. Pergamon Press: New York.

(3) *Exposure systems.*

(i) Drew, R. T., and S. Laskin. 1973. Environmental inhalation chambers. Pp. 1-41 in Methods of Animal Experimentation, Vol. IV. Academic Press Inc., New York and London.

(ii) Fraser, D. A., R. E. Bales, M. Lippmann, and H. E. Stokinger. 1959. Exposure Chambers for Research in Animal Inhalation. Public Health Service Monograph No. 57. U.S. Government Printing Office: Washington, D.C.

(iii) Gage, J. C. 1970. Experimental Inhalation Toxicity. Pp. 258-277 in Methods in Toxicology. G. E. Paget, ed. Blackwell Sci. Pub.: Oxford and Edinburgh.

(iv) Hinners, R. G., J. K. Burkart, and C. L. Puntie. 1968. Animal inhalation exposure chambers. Arch. Environ. Health 16:194-206.

(v) Phalen, R. F. 1976. Inhalation exposure of animals. Environ. Health Perspect. 16:17-24.

(vi) Roe, F. J. C. 1958. Inhalation tests. In Modern Trends in Toxicology, Vol. 1. Boyland, E. and R. Goulding, eds. Appleton-Century-Crofts: New York.

(4) *Generating systems.* Gas and vapor generating is relatively simple compared to the large number of different systems needed to generate aerosols of solids and liquids. Besides the following references, all of the

advanced monographs in paragraph (3) contain descriptions of generating systems.

(i) Drew, R. T., and M. Lippmann. 1972. Section I Calibration of air sampling instruments. II. Production of test atmospheres for instrument calibration. In: Air Sampling Instruments. 4th Ed. ACGIH 1972.

(ii) Fraser, D. A., et al. 1959. Exposure Chambers for Research in Animal Inhalation. Public Health Monograph No. 57. Supt. Doc., U.S. Gov. Print. Off., Washington, D.C.

(iii) Gage, J. C. 1970. Experimental inhalation toxicity. Pp 258-277 in Methods in Toxicology. G. E. Paget, Ed. Blackwell Sci. Pub.: Oxford and Edinburgh.

(iv) Raabe, O. G. 1970. Generation and characterization of aerosols. Pp. 123 in Inhalation Carcinogenesis. USAEC Conf. 691001. M. G. Hanna et al. Clearinghouse for Federal Scientific and Technical Information: Springfield, Va.

(5) Sampling methods.

(i) Lippmann, M. 1972. Respiratory dust sampling.

Section G in Air Sampling Instruments. 4th ed. American Conference of Governmental Hygienists: Cincinnati.

(ii) Morrow, P. E. 1964. Evaluation of inhalation hazard based upon the respirable dust concept and the philosophy and application of selective sampling. Amer. Ind. Hyg. Assoc. 25:213-236.

(iii) National Institute of Occupational Health and Safety. 1973. The Industrial Environment—Its Evaluation and Control. Supt. Doc., Gov. Print. Off. (Has several good chapters on sampling, and on chemical, instrumental, and physical analyses of atmospheres.)

(iv) Peterson, C. M. 1972. Aerosol sampling for particle size analyses. Section F. Respiratory dust sampling. In Air Sampling Instruments. 4th ed. American Conference of Governmental Hygienists: Cincinnati.

(v) Preining, O., D. Sheesley, N. Djordjevic, et al. 1967. The size distribution of aerosols produced by air blast nebulization. J. Colloid and Interface Sci. 23:3.

(vi) Silverman, L., C. E. Billings, M. W. Corsi, et al. 1971. Particle Size Analysis in Industrial Hygiene. Academic Press, Inc.: New York and London. (Sampling size analysis and instrumentation with an emphasis on hygiene and air cleaning.)

(6) Pulmonary function testing. Pulmonary function tests have been widely used in the evaluation of human respiratory function but less widely used in animal research. Such analyses may be required to indicate subtle damage to the pulmonary system.

(i) Alarie, Y., A. Krumm, H. Jennings, R. Haddock, et al. 1971. Distribution of ventilation in cyanomolgus monkeys. Arch. Environ. Health 22:633. (Illustrates testing in a primate.)

(ii) Amdur, M. O., and J. Mead. 1958.

Mechanics of respiration in unanesthetized guinea pigs. Am. J. Physiol. 192:364. (Illustrates function testing in a rodent.)

(iii) Comroe, J. H., et al. 1962. The Lung. Clinical Physiology and Pulmonary Function Tests. 2d Ed. Year Book Med. Publ., Inc.: Chicago. (Provides a discussion of pulmonary

testing along with anatomy and physiology of the human respiratory system.)

(iv) Comroe, J. H. 1965. Physiology of Respiration. Year Book Med. Publ., Inc.: Chicago. (Similar to Comroe et al., 1962 (above).)

(v) Mauderly, J., and J. Pickrell. 1973. Pulmonary function testing of unanesthetized beagle dogs. In: Research Animals in Medicine. L. Harmison, ed. DHEW Pub. No. NIH 72-333. (Illustrates function testing in the dog.)

§ 772.112-24 Primary eye irritation study.

(a) *Study Design.* (1) *Condition of test substance.*

(i) If the test substance is a liquid, it must be placed in the eye undiluted, in accordance with paragraph (b) of this section.

(ii) If the test substance is a solid or granular product, it must be ground into a fine dust or powder. The test substance must not be moistened before it is placed in the eye in accordance with paragraph (b) of this section.

(2) *Species.* Testing must be performed with the albino rabbit.

(3) *Age and condition of animals.* Young adult animals should be used. The eyes must be examined using fluorescein dye procedures at least 24 hours before application of the test substance. Animals showing preexisting corneal injury are to be eliminated.

(4) *Number of animals.* At least nine animals must be used.

(5) *Number and selection of dose.* A dose of 0.1 ml of liquid or 100 mg of solid must normally be applied to each test eye. Smaller quantities may be used when the standard quantities would be lethal, or when 100 mg of the solid cannot feasibly be administered to the eye.

(6) *Caging.* Caging must be designed to minimize exposure to sawdust, wood chips, and other extraneous materials that might enter the eye.

(b) *Study Conduct.* The test substance must be placed on the everted lower lid of one eye; the upper and lower lids are then to be gently held together for 1 second before releasing to prevent loss of material. The other eye, remaining untreated, serves as a control. The treated eyes of six rabbits must remain unwashed. The remaining three rabbits receive test material, and then the treated eye is flushed for one minute with lukewarm water starting no sooner than 20-30 seconds after instillation. A local anaesthetic to reduce pain in test animals may be used prior to administration of the test substance, provided that evidence can be presented indicating no significant difference in toxic reaction to the test substance will result from use of the anaesthetic.

(c) *Observation and scoring.* (i) *Observation.* Readings of ocular lesions must be made at 24, 48, and 72 hours after treatment and at 4 and 7 days after treatment. Readings must be made every 3 days thereafter, if injury persists, for at least 13 days after treatment or until all signs of reversible toxicity subside. Grading and scoring of irritation are to be performed in accordance with the following tables (from Draize, J. H., et al. (1965)). The most serious effects, such as pannus or blistering of the conjunctivae and other effects indicative of corrosive action must be reported separately.

(ii) Table of scale of weight scores for grading the severity of ocular lesions.

I. Cornea

(A) Opacity—Degree of Density (Area Taken for Reading) Scattered or diffuse area—details of iris clearly visible—1. Easily discernible translucent areas, details of iris slightly obscured—2. Opalescent areas, no details of iris visible, size of pupil barely discernible—3. Opaque, iris invisible—4.

(B) Area of Cornea Involved.

One quarter (or less) but not zero—1. Greater than one quarter—less than one-half—2. Greater than one-half—less than three-quarters—3. Greater than three quarters up to whole area—4.

Score equals AXBX5 Total maximum = 80.

II. Iris

(A) *Values.*—Folds above normal, congestion, swelling, circumcorneal injection (any one or all of these or combination of any thereof), iris still reacting to light (sluggish reaction is positive)—1. No reaction to light, hemorrhage; gross destruction (any one or all of these)—2. Score AX5 total possible maximum = 10.

III. Conjunctivae

(A) Redness (Refers to Palpebral Conjunctivae Only).

Vessels definitely injected above normal—1. More diffuse, deeper crimson red, individual vessels not easily discernible—2. Diffuse beefy red—3.

(B) *Chemosis.*—Any swelling above normal (includes nictitation membrane)—1. Obvious swelling with partial eversion of the lids—2. Swelling with lids about half closed—3. Swelling with lids about half closed to completely closed—4.

(C) *Discharge.*—Any amount different from normal (does not include small amount observed in inner canthus of normal animals)—1. Discharge with moistening of the lids and hairs just adjacent to the lids—2. Discharge with moistening of the lids and considerable area around the eye—3. Score (A + B + C) × 2 Total maximum = 20. The maximum total score is the sum of all scores obtained for the cornea, iris, and conjunctivae.

(d) *Data reporting and evaluation.* In addition to the information required by § 772.100-2(b)(8), Subpart A, the test report must include the following information:

- (1) pH value of each test substance.
- (2) In tabular form, the following data for each individual animal and the averages and range for each test group (eyes washed and unwashed):
 - (i) The primary eye irritation score at 24, 48, and 72 hours and 4 and 7 days and any other readings; and
 - (ii) Description of any serious lesions.

Appendix

(1) The following references provide specific information on protocols useful for evaluation of eye irritation.

(i) Committee for the Revision of NAS Publication 1138, Committee on Tox. Nat. Res. Council. 1977. Principles and Procedures for Evaluating the Toxicity of Household Substances. Pp. 1-9, 23-55. Prepared for the Consumer Product Safety Commission. Nat. Acad. Sci., Washington, D.C.

(ii) Draize, J. H., G. Woodard, and H. O. Calvery. 1944. Methods for the study of irritation and toxicity of substances applied topically to the skin and mucous membranes. J. Pharmacol. Exp. Ther. 83:377-390.

(iii) Draize, J. H. 1965. Appraisal of the Safety of Chemicals in Foods, Drugs, and Cosmetics—Dermal Toxicity. pp. 49-52. Assoc. of Food and Drug Officials of the U.S. Topeka, Kans.

(iv) Draize, J. H. 1959. The Appraisal of Chemicals in Foods, Drugs, and Cosmetics. pp. 36-45. Association of Food and Drug Officials of the U.S. Austin, Tex.

(2) The following general references also provide good instruction on eye irritation studies:

(i) Federal Hazardous Substances Act Regulations. 16 U.S.C. 1500.

(ii) Loomis, T. A. 1974. Essentials of Toxicology. 2d Ed. Pp. 207-213. Lea & Febiger, Philadelphia.

§ 772.112-25 Primary dermal irritation study.

(a) *Study Design.* (1) *Condition of test substance.* (i) If the substance is a liquid, it must be applied undiluted.

(ii) If the test substance is a solid, it must be slightly moistened with physiological saline before application.

(2) *Species.* Testing must be performed in at least one mammalian species, preferably the albino rabbit. Selection of other species and strains may be acceptable, but must be justified.

(3) *Age.* Young adult animals must be used.

(4) *Number of Animals.* At least six animals must be used.

(5) *Number and selection of dose levels.* A dose of 0.5 ml of liquid or 0.5 g of solid or semisolid is to be applied to each application site.

(6) *Control groups.* (i) A vehicle control group is required if the vehicle is known to cause any toxic dermal reactions or if there is insufficient information about the dermal effects of the vehicle.

(ii) Separate animals are not required for an untreated control group. Each animal serves as its own control.

(b) *Study Conduct.* The test substance must be introduced under 1-inch square gauze patches. The patches must be applied to two intact and two abraded skin sites on each animal. In all animals, the application sites must be clipped free of hair. In addition, the abrasion must penetrate the stratum corneum, but not the dermis. A wrapping material such as gauze covered by an impervious, nonreactive rubberized or plastic material should be used to retard evaporation and keep the test substance in contact with the skin. The animals should be restrained. The test substance must be kept in contact with the skin for 24 hours. At the end of the exposure period, the wrapping should be removed and the skin wiped (but not washed) to remove any test substance still remaining. It may be necessary to rinse off the material if colored test substances are used.

(c) *Observation and scoring.* Animals must be observed and signs of erythema and edema must be scored at 24 hours and 72 hours after application of the test substance. The irritation is to be scored according to the technique of Draize, J. H. (1959). Observation for irritation and scoring of any irritation must continue daily until all irritation subsides or is obviously irreversible.

(d) *Data reporting and evaluation.* In addition to the information required by § 772.100-2(b)(8), Subpart A, the test report must include the following information:

- (1) pH value of each test substance.
- (2) In tabular form, the following data for each individual animal and averages and ranges for each test group:
 - (i) Scores for erythema and edema at 24 hours, at 72 hours, and at any subsequent observations; and
 - (ii) Primary skin irritation scores according to the technique of Draize.

Appendix

(1) The following references provide specific information on protocols useful for evaluation of dermal irritation:

(i) Draize, J. H., G. Woodward, and H. O. Calvery. 1944. Methods for the study of irritation and toxicity of substances applied typically to the skin and mucous membranes. J. Pharmacol. Exp. Ther. 83:377-390.

(ii) Draize, J. H. 1965. Appraisal of the Safety of Chemicals in Foods, Drugs, and Cosmetics—Dermal Toxicity. pp. 48-59. Assoc.

of Food and Drug Officials of the United States. Topeka, Kans.

(iii) Draize, J. H. 1959. The Appraisal of Chemicals in Foods, Drugs, and Cosmetics. pp. 36-45. Association of Food and Drug Officials of the United States, Austin, Tex.

(iv) Marzulli, F. N., and H. I. Maibach. 1977. Dermato-Toxicology and Pharmacology (Advances in Modern Toxicology). Vol. 4. Hemisphere Publishing Corp.: Washington, D.C.

(2) The following general references also provide good instruction on dermal irritation studies:

(i) Committee for the Revision of NAS Publication 1138, Committee on Tox., Nat. Res. Council. 1977. Principles and Procedures for Evaluating the Toxicity of Household Substances. Pp. 1-9, 23-59. Prepared for the Consumer Product Safety Commission. National Acad. Sci.: Washington, D.C.

(ii) Federal Hazardous Substances Act Regulations. 16 U.S.C. 1500.

(iii) Loomis, T. A. 1974. Essentials of Toxicology. 2d ed., pp. 207-213. Lea & Febiger, Philadelphia.

§ 772.112-26 Dermal sensitization study.

(a) *Study Design.* (1) *Condition of test substance.* The test substance must be applied undiluted. If the test substance causes marked irritation, it must be diluted with physiological saline until a concentration is found which produces only slight irritation. If the test substance is a solid to be injected intradermally, it should be dissolved in a minimum amount of physiological saline.

(2) *Species.* The test must be performed in at least one mammalian species. The albino guinea pig is the preferred species.

(3) *Age and sex.* Young adult males should be used when albino guinea pigs are tested. Young adults of either sex may be used when albino rabbits are tested.

(4) *Number of animals.* At least 10 animals must be used.

(5) *Number and selection of dose levels.* (i) An initial dose of 0.05 ml must be injected intradermally. This dose must be followed by injection of 0.1 ml three times weekly on alternate days for 3 weeks, so that a total of 10 treatments is administered. Following the 10th sensitizing treatment, the animals should be set aside for 2 weeks after which they should be challenged by a final injection (Landsteiner and Jacobs, 1935).

(ii) If the intradermal injection is impractical because the substance is highly irritating or cannot be dissolved or suspended in a form allowing injection, topical patch application can be substituted using the same schedule but 0.5 ml per application. For patch applications, other materials such as

water or alcohol can be used to moisten the test substance (see Buehler, E. V., 1965).

(6) *Controls.* (i) A positive control, using a known sensitizing agent, is recommended.

(ii) A concurrent vehicle control group is not required.

(b) *Study conduct.* (i) *Preparation of test animals.* Hair must be removed first by clipping and then by shaving from a strip running from flank to trunk along each side of each animal. This procedure must be repeated as necessary.

(ii) *Intradermal injection.* After preparation of the test animal, the test substance must be injected intradermally. The first sensitizing injection must be made by starting at one end of one strip. The succeeding injections must be made by moving along the shaved strip choosing a new location for each treatment.

(c) *Observation and scoring.* Erythema, edema, and other lesions must be scored at 24 hours and 48 hours after each application, according to the standard method (Draize, 1959).

(d) *Data reporting and evaluation.* In addition to the basic information required by § 772.100-2(b)(8), Subpart A, the following information must be reported:

(1) Tabular data for each animal on scores for erythema and edema at 24 and 48 hours postapplication or injection.

(2) Tabular data for the average score from all sensitizing treatments and the score of the challenge treatment.

Appendix

(1) Buehler, E. V. 1965. Delayed contact hypersensitivity in the guinea pig. Arch. Dermatol. 91:171-175.

(2) Committee for the Revision of NAS Publication 1138, Committee on Tox., Nat. Res. Council. 1977. Principles and Procedures for Evaluating the Toxicity of Household Substances. Pp.1-9, 23-55. Prepared for the Consumer Product Safety Commission, Nat. Acad. Sci. Washington, D.C.

(3) Draize, J. H. 1959. The Appraisal of Chemicals in Foods, Drugs and Cosmetics. Association of the Food and Drug Officials of the U.S., Houston, Tex.

(4) Landsteiner, K., and J. Jacobs. 1935. Studies on sensitization of animals with simple chemical compounds. J. Exp. Med. 61:643-656.

(5) Marzulli, F. N., and H. I. Maibach. 1974. The use of graded concentration in studying skin sensitizers: experimental contact sensitization in men. Food Cosmet. Toxicol. 12(2):219-227.

(6) Marzulli, F. N., and H. I. Maibach. 1977. Dermato-Toxicology and Pharmacology (Advances in Modern Toxicology), vol. 4. Hemisphere Pub. Corp.: Washington, D.C.

(7) Schwartz, L. 1969. Twenty-two years experience in the performing of 200,000 prophetic patch test. Southern Med. Journal 53:478-483.

§ 772.112-31 Subchronic oral dosing studies.

(a) *Study Design.* (1) *Species.* Testing must be performed in at least two mammalian species, preferably the same species and strain for which chronic studies are anticipated. Once species must be a generally recognized strain of laboratory rat. The second species may be a nonrodent. The nonrodent species should usually be the dog. Selection of a nonrodent species other than the dog will require full and adequate justification which should consider such factors as the comparative metabolism of the chemical and species sensitivity to the toxic effects of the test substance, as evidenced by the results of other studies.

(2) *Sex and age.* Equal numbers of males and females of each species and strain tested must be used. The tester must begin to dose as soon as possible after weaning and environmental acclimatization but no later than six weeks of age for rodents and at 4-6 months of age for dogs.

(3) *Control group.* A concurrent control group is required. This group must be an untreated control group or, if a vehicle is used in administering the test substance, a vehicle control group. If the toxic properties of the vehicle are not known or cannot be made available, both untreated and vehicle control groups are required.

(4) *Number of animals.* Each test group and concurrent control group must contain at least 20 animals of each sex in studies with rats and at least 6 of each sex in studies with nonrodents. This number must be increased by the number, if any, scheduled to be sacrificed before completion of the study, such as, for example, rats on which hematology and blood chemistry determinations are made before and during the study.

(5) *Duration of testing.* (i) In studies with rodents, the substance being tested must be administered for at least 90 days.

(ii) In studies with nonrodents, the substance being tested must be administered daily for at least 6 months.

(6) *Number of dose levels and dose selection.* (i) At least three dose level groups (in addition to the control groups) must be tested.

(ii) The highest dosage level must result in toxicological or pharmacological effects, but not cause more than 10 percent fatalities. This

level should be higher than that expected for human exposure.

(iii) The lowest dosage level must be one which does not induce any evidence of toxicity.

(7) *Route of administration.* The test substance must be administered in the animal's diet. Oral intubation may be allowed if the physical characteristics of the test substance so dictate. The chosen method must be used for all levels. If the test substance is administered by oral intubation, the amount of test substance must be adjusted weekly or biweekly to maintain a constant dose level in mg/kg (body weight). If the test substance is administered in the diet, either a constant concentration (ppm) or a constant dose level in mg/kg (body weight) must be used. The selection of dosage units of administration in the diet must be consistent with that for chronic feeding studies (Section 772.113-3 Subpart D).

(b) *Study Conduct.* (1) *Observation of animals.* All toxicological and pharmacological signs shall be recorded daily, including their time of onset, intensity, and duration. Such signs include but are not limited to: Mortality; and cardiovascular, respiratory, excretory, behavioral, and central nervous system (paralysis, ataxia, and pupillary reaction) effects. Observations must be made by an appropriately trained observer. Food consumption must be measured weekly during the test, and the animals must be weighed at least weekly. The animals must be observed as specified in Subpart A, § 772.100-2(b)(6)(ii). A complete ophthalmological examination must be conducted by a veterinarian on all nonrodents at the termination of the study.

(2) *Clinical laboratory testing.* The following determinations must be made at the time indicated below for each type of testing. For rodents, these determinations must be made on at least 10 animals of each sex in each group. For nonrodents, these determinations must be made on all animals in each group. Depending on the techniques used, it may be necessary to sacrifice animals to make the required clinical determinations. In case of said sacrifice, additional animals must be added to the study as provided by paragraph (a)(4) of this section.

(i) *Hematology.* Hematology determinations must be made as follows: For nonrodents shortly before the beginning of dosing, at least every 30 days thereafter, and at the termination of the testing period; and for rodents, shortly before the beginning of dosing,

at an intermediate time, and at the termination of the testing period. The following hematology determinations must be made: Hematocrit, hemoglobin, erythrocyte count, total and differential leukocyte counts, platelet count, and, if signs of anemia are present, reticulocyte count.

(ii) *Blood chemistry.* Blood chemistry determinations must be performed as follows: For nonrodents, shortly before the beginning of dosing, at an intermediate time, and at the termination of the study. Nonrodents must be fasted for 1 day prior to obtaining blood samples. The following determinations must be made: Calcium, potassium, serum lactic dehydrogenase, serum glutamic pyruvic transaminase, serum glutamic oxaloacetic transaminase, glucose, blood urea nitrogen, direct and total bilirubin, serum alkaline phosphatase, total cholesterol, albumin, globulin, total protein, and such other determinations as may be necessary for adequate toxicological evaluation. The following determinations may also be useful: Chloride, uric acid, blood creatinine, and gamma-glutamyl transpeptidase.

(iii) *Cholinesterase inhibition tests.* If the test substance contains a carbamate, an organophosphate, or any chemical that produces acetyl cholinesterase inhibition, the enzyme activity for plasma and red blood cell must be monitored shortly before the beginning of dosing, at least twice during the study, and at the end of the study, and the enzyme activity for brain must be monitored at the termination of the study. In addition, when nonrodents are used, monitoring of the enzyme activity must be performed twice before the beginning of dosing. Additionally, serial determinations may be useful to provide data on time-course of development of inhibition, extent of inhibition, and recovery from inhibition (e.g., after removal from treated diet); the undertaking of such determinations should not, however, result in over-stress of the test animals.

(iv) *Urinalysis.* Urinalysis must be performed as follows: for rodents, at least once (at an intermediate time) during the testing period, and again at the termination of the testing period; and for nonrodents, shortly before the beginning of dosing, every 60 days thereafter, and at the termination of the test. Nonrodents must be fasted 1 day prior to collection of urine samples. Each animal must be evaluated individually. The urinalysis must include

specific gravity or osmolality, pH, protein, glucose, ketones, bilirubin, and urobilinogen, as well as microscopic examination of formed elements. Results of these determinations must be expressed in quantitative terms by appropriate grading scales.

(v) *Additional tests.* Depending on the known or suspected properties of the test substance, such other determinations as may be necessary for adequate toxicological evaluation must be performed.

(3) *Handling of moribund and dead animals.* (i) *Moribund animals.* Moribund animals must be sacrificed to lessen the likelihood of unobserved death and subsequent autolysis or cannibalism.

(ii) *Tissue loss and dead animals.* Requirements concerning tissue loss and the handling of dead animals are specified in Subpart A, § 772.100-2(b)(6) and (7), respectively.

(4) *Gross necropsy.* (i) The standards set for necropsy procedures in § 772.100-2(b)(7), Subpart A, must apply.

(ii) All test animals in the study must be subjected to gross necropsy, which must include examination of the external surface; all orifices; the cranial cavity; carcass; the external and cut surfaces of the brain and spinal cord; the thoracic, abdominal and pelvic cavities and their viscera; and the cervical tissues and organs.

(iii) In addition, the following organs must be weighed: Liver, kidneys, heart, gonads, and brain. Also, for nonrodents, thyroid (with parathyroid), adrenals, and pituitary must be weighed. Prior to being weighed, organs must be carefully dissected and properly trimmed to remove fat and other contiguous tissue in a uniform manner. They must be weighed as soon as possible after dissection to avoid drying.

(iv) The gross necropsy findings must be recorded and reported in accordance with paragraph (g)(3) of this section.

(v) Tissue samples must be preserved and held in accordance with § 772.110-1(j), Subpart B.

(5) *Histopathology examination.* (i) *General.* A histopathology examination shall be performed on the organs and tissues of all animals in accordance with this paragraph.

(ii) *Nonrodents.* The following organs and tissues, when present, of each test animal must be subjected to microscopic study: all gross lesions, brain (at least 3 levels from the forebrain, midbrain, and hindbrain), spinal cord (at least 2 levels), eye, pituitary, salivary gland, heart, thymus, thyroid with parathyroid, lungs with mainstem bronchi, trachea, esophagus, stomach, small and large

intestines, adrenals, pancreas, liver, gall bladder, kidneys, urinary bladder, aorta, testes, prostate, ovaries, corpus and cervix uteri, spleen, a representative lymph node, bone (with marrow), skeletal muscle, skin, sciatic nerve, and mammary gland. Sites from which bone and lymph nodes are taken must be indicated.

(iii) *Rodents.* The following organs and tissues of each test animal must be subjected to microscopic study:

(A) *All animals in control and high dose groups.* All gross lesions, brain (at least 3 levels), eye, pituitary, salivary gland, heart, thymus, thyroid (with parathyroid), lungs with mainstem bronchi, trachea, esophagus, stomach, small and large intestines, adrenals, pancreas, liver, kidneys, urinary bladder, testes, prostate, ovaries, corpus and cervix uteri, spleen, bone (with marrow), and skeletal muscle. Section of bone (with marrow, when present) should be taken from sternbrae, vertebrae, or the tibio-femoral joint (the last will also include attached muscle).

(B) *All animals in intermediate and low dosage groups.* Liver, kidney, heart, any gross lesion, and any target organ either at the high dose or from laboratory tests or clinical observation at any treatment level.

(iv) Tissue and slide preparation and retention.

(A) The standards set forth in § 772.100-2(b)(7)(ii), Subpart A apply.

(B) Tissue samples, tissue blocks, and microscopic slides must be preserved and held in accordance with § 772.110-1(j), Subpart B.

(v) *Examiner.* The standards set forth in § 772.100-2(b)(1)(i), Subpart A apply.

(vi) *Records.* The histopathology findings must be recorded and reported as required by paragraph (c)(4) of this section.

(c) *Data reporting and evaluation.* In addition to the general reporting requirements of § 772.100-2(b)(8), Subpart A, a subchronic oral dosing study test report must contain the following information, presented in the format specified (unless adequate justification is supplied to present these data in another form):

(1) Animal records and clinical laboratory data. The following

information must be arranged by test group (dose level and sex). All means must be accompanied by standard deviation.

(i) Significant time periods, for individual animals. In tabular form, data must be provided showing, for each animal:

(A) Its identification number;

(B) Whether it died by sacrifice, and if so, whether it was moribund before sacrifice;

(C) Its age at the beginning of the study;

(D) The week of the test when sacrifice occurred or the animal's death was noted; and

(E) Its age at death.

(ii) Variation from requirements, for individual animals. In tabular form, data must be provided showing, for each animal that was not subjected to gross necropsy and histopathology examination in accordance with requirements of this section:

(A) Its identification number;

(B) The manner of variation; and

(C) The reasons for failure to comply with the requirements of this section.

(iii) Toxic, pharmacologic, and behavioral effects for individual animals. In tabular form, data must be provided showing, for each animal:

(A) Its identification number;

(B) The date of observation of each sign of toxicity, pharmacological effect, or behavioral abnormality; and

(C) A description of the toxic sign, pharmacological effect, or behavioral abnormality. If such a response occurs repeatedly, it need be described only once and may thereafter be described by reference, with any variations noted as appropriate.

(iv) Toxic, pharmacologic, and behavioral effects for test animals. In tabular form, data must be provided showing, for each test group (dose level and sex):

(A) A list of each sign of toxicity, pharmacological effect, or behavioral abnormality affecting any animal in the test group;

(B) For each sign, effect, or abnormality, the number of animals affected;

(C) For each sign, effect, or abnormality, the median time from the beginning of the study to the first observation of such response; and

(D) The median age at death of animals not sacrificed.

(v) Food and body weight data, for individual animals. In tabular form, data must be provided showing, for each animal:

(A) Its identification number;

(B) Measured food consumption at weekly intervals throughout the test period; and

(C) Body weight measured weekly throughout the test period.

(vi) Food and body weight data, means. In tabular and graphic form, data must be provided showing, for each test group (dose level and sex):

(A) Mean measured food consumption at weekly intervals throughout the test period; and

(B) Mean body weight measured weekly during the test period.

(vii) Weekly survival and sacrifice data. In tabular form, data must be provided showing: the number of animals in each group which remained alive at the end of each 7-day interval, the number of animals in each group that were sacrificed or otherwise died during each 7-day interval, and the number that died by sacrifice and were moribund before sacrifice.

(viii) Clinical laboratory test protocol.

(A) The rationale for timing of the clinical laboratory tests, if different from the standards set forth in paragraph (d) of this section; and

(B) The method and rationale for selecting animals for the clinical laboratory tests.

(ix) Clinical laboratory testing, for each animal. In any appropriate form, data must be submitted showing, for each animal:

(A) Its identification number; and
(B) The results of any hematological, blood chemistry, cholinesterase inhibition, urinalysis, and other clinical laboratory tests performed.

(x) *Clinical laboratory testing, for each test group.* In any appropriate form, data must be submitted showing, for each test group (dose level and sex), the average of the results of each hematologic, blood chemical, cholinesterase inhibition, urinalysis, and other clinical laboratory test performed.

(2) *Gross necropsy.* For all means in the data required in this subparagraph, the standard deviation must be stated. The following test information, arranged by test groups (dose level and sex), must be supplied in tabular form:

(i) Data showing the identification number of any animal in which any gross abnormality or gross lesion was noted, and containing, for each such animal, a description of each gross abnormality (including measurements), and the date (if known) when it was first observed. Gross abnormalities observed repeatedly need be described only once and may thereafter be described by reference, with any variations noted, as necessary.

(ii) Data showing the number of animals in which any type of gross abnormality was observed.

(iii) Data showing, for each animal: Its identification number, weights of the organs listed under paragraph (b)(4) of this section, and corresponding organ-to-body weight ratios.

(iv) Data showing the mean weights of each type of organ listed under

paragraph (b)(4) of this section, and mean organ-to-body weight ratios.

(3) *Histopathology data.* The following information must be arranged by test group (dose level and sex). All means must be accompanied by standard deviation. The number of data units on which a calculation is based must be reported for all percentages and means.

(i) *Descriptions of lesions, for each animal.* Data must be submitted in any appropriate form showing:

(A) For each animal, its identification number, and a complete description and diagnosis of every lesion in the animal. Nonneoplastic lesions which are observed frequently or which are common in both treated and control animals should be graded. (Descriptions of neoplasms may also include grading.) A commonly used scale such as \pm , 1, 2, 3, and 4, for degrees ranging from very slight to extreme can be used, but other scales are acceptable. If known, the description and diagnosis should identify any lesion which caused the animal to be moribund or to die. The description and diagnosis must include the time of appearance (if any) for each lesion. Abnormalities observed repeatedly need to be described only once, and may subsequently be supplied by reference, with any individual variations noted as necessary.

(B) For each animal, a table or paragraph listing the tissues found to be normal.

(C) If a grading system is used, a description of the system.

(ii) *Counts and incidence of lesions, by test groups.* Data must be submitted in tabular form showing, for each test group:

(A) The number of animals at the start of the test, and the number of animals in which any lesion was found;

(B) The number of animals affected by each different type of lesion, the average grade of each type of lesion, the number of animals examined for each type of lesion, and the percentage of those animals examined which were affected by each type of lesion; and

(C) The number of each different type of lesion.

(iii) *Incidence of tumors.* If a tumor is observed in any animal, the report must include a complete description and diagnosis of each tumor as required in § 772.113-1(k)(2)(i)(D), Subpart D.

(4) *Evaluation of data.* An evaluation of the test results (including their statistical analysis), based on clinical findings, gross necropsy findings, and histopathology results, must be made and supplied. This submission must include an evaluation of the relationship, if any, between the

animals' exposure to the test substance and the incidence and severity of all abnormalities, including behavioral and clinical abnormalities, gross and histopathologic lesions, organ weight changes, effects on mortality, and any other toxic effects. The evaluation must also include dose-response curves for any toxic or pharmacologic effect which appear to be compound-related for the various groups, and a description of statistical methods.

Appendix

(1) Committee for the Revision of NAS Publication 1138, Committee on Tox., Nat. Res. Council. 1977. Principles and Procedures for Evaluating the Toxicity of Household Substances. Pp. 1-21, 74-85. Prepared for the Consumer Product Safety Commission. Nat. Acad. Sci.: Washington, D.C.

(2) The following publications contain additional useful information:

(i) Boyd, E. M. 1972. Predictive Toxicometrics. Chapters 14, 15, and 16. Bristol, Sciencetech Publishers, Ltd. (dist. Williams and Wilkins Co.: Baltimore).

(ii) Draize, J. H. 1959. The Appraisal of Chemicals in Foods, Drugs, and Cosmetics, pp. 26-30. Association of Food and Drug Officials of the United States. Austin, Tex.

(iii) Hagan, E. G. 1965. Appraisal of the Safety of Chemicals. Pp. 17-25 in Appraisal of Chemicals in Foods, Drugs, and Cosmetics. Association of Food and Drug Officials of the United States. Topeka, Kansas.

§ 772.112-32 Subchronic 90-Day Dermal Toxicity Study.

(a) *Study Design.* (1) *Species.* The albino rabbit weighing between 2.3 and 3.0 kg is the animal of choice. Selection of other species may be acceptable but must be justified.

(2) *Sex and age.* Equal numbers of young adult animals of both sexes must be used.

(3) *Number of animals.* At least 10 animals per sex per dose level must be used.

(4) *Number and selection of dose levels.* (i) At least three dose levels (in addition to controls) must be tested.

(ii) The highest dose level must show toxicological or pharmacological effects, but not cause more than 10 percent fatalities. This level should be higher than that expected for human exposure. If the test substance shows severe irritancy at this level, it should be diluted to a concentration such that primary skin irritation will not interfere with assessment of systemic toxicity.

(iii) The lowest dose level must be one which does not induce any evidence of toxicity.

(iv) If a vehicle is used in administering the test substance, all animals must receive about the same volume of dosing solution (i.e., the

combined volume of test substance and vehicle should be similar for all dose levels).

(5) *Control groups.* A concurrent control group is required. This group must be an untreated control group or, if a vehicle is used in administering the test substance, a vehicle control group. If the toxic properties of the vehicle are not known or cannot be made available, both untreated and vehicle control groups are required.

(b) *Study Conduct.* (1) *General.* The hair must be clipped from the dorsal surface of the animal once per week throughout the study. Applications of test material must be made on the clipped unabrased skin and cover an area equivalent to 10 percent of the body surface area. The treated skin must be covered with patches secured in place with surgical hypoallergenic adhesive tape. The trunk of the animal must be covered with impervious material.

(2) *Duration.* The subchronic dermal exposure must be carried out with one application of the test material on each of 5 days per week for 13 consecutive weeks. Occlusion must last 6 hours daily. Half of the animals from each test group must be sacrificed following the last day of dosing. The remaining animals must be observed daily for a 2-week period following treatment and then sacrificed.

(3) *Observations.* All toxicological and pharmacological signs must be recorded daily, including their time of onset, intensity, and duration. Such signs include but are not limited to: Mortality; and dermal, cardiovascular, respiratory, excretory, behavioral, and central nervous system (paralysis, ataxia, and pupillary reaction) effects. Dermal irritation readings according to the method of Draize (1965) must be taken daily for the first 3 weeks of treatment and weekly thereafter. Observations must be made by an appropriately trained observer immediately prior to the next application of test substance. Food consumption must be measured weekly during the test. The animals must be observed at least every 12 hours as specified in Subpart A, § 772.100-2(b)(6).

(4) *Clinical laboratory testing.* The following determinations must be made at the times indicated for each type of testing. These determinations must be made on at least 5 animals of each sex in each group.

(i) *Hematology.* The following hematology determinations must be made at the beginning (shortly before dosing), at an intermediate time, and at the end of the test: Hematocrit,

hemoglobin, erythrocyte count, total differential leukocyte counts, platelet count, and, if signs of anemia are present, reticulocyte counts.

(ii) *Blood chemistry.* The following blood chemistry determinations must be made at the beginning (shortly before dosing), at an intermediate time, and at the end of the test: Calcium, potassium, serum glutamic oxaloacetic transaminase, glucose, blood urea nitrogen, direct and total bilirubin, total cholesterol, serum alkaline phosphates, albumin, globulin, total protein, and such other determinations as may be necessary for adequate toxicological evaluation. The following additional determinations may also be useful: Chloride, uric acid, blood creatinine, and gamma-glutamyl transpeptidase.

(iii) *Cholinesterase inhibition tests.* If the test substance contains a carbamate, an organophosphate, or any chemical that produces acetyl cholinesterase inhibition, the enzyme activity for plasma and red blood cell must be monitored twice immediately before the beginning of the dosing, at least twice during the study, and at the end of the study, and the enzyme activity for brain must be monitored at the termination of the study. Additionally, serial determinations may be useful to provide data on time-course of development of inhibition, extent of inhibition, and recovery from inhibition (e.g., after removal from treatment); the undertaking of such determinations should not, however, result in over-stress of test animals.

(iv) *Additional tests.* Depending on the known or suspected properties of the active ingredient or the test substance, such other determinations as may be necessary for adequate toxicological evaluation should be performed.

(5) *Body weights.* Body weights of individual animals must be recorded at the beginning of the test and weekly thereafter.

(6) *Handling of moribund and dead animals.* (i) *Moribund animals.*

Moribund animals must be sacrificed to lessen the likelihood of unobserved death and subsequent autolysis or cannibalism.

(ii) *Tissue loss and dead animals.* Requirements concerning tissue loss and the handling of dead animals are specified in Subpart A, § 772.100-2(b) (6) and (7), respectively.

(7) *Gross necropsy.* (i) The standards for necropsy procedures in § 772.100-2(b)(7), Subpart A apply.

(ii) All animals in the study must be subjected to gross necropsy, which must include examination of the external surface; all orifices; brain and spinal

cord; the thoracic, abdominal and pelvic cavities and their viscera; and the cervical tissues and organs.

(iii) In addition, the following organs must be weighed: Liver, kidneys, heart, gonads, brain, thyroid (with parathyroid), adrenals, and pituitary. Prior to being weighed, organs must be carefully dissected and properly trimmed to remove fat and other contiguous tissue in a uniform manner. They must be weighed as soon as possible after dissection to avoid drying.

(iv) The gross necropsy findings must be recorded and reported in accordance with paragraph (c)(2) of this section.

(v) Tissue samples must be preserved and held in accordance with § 772.110-1(j).

(b) *Histopathology examination.* (i) *General.* A histopathology examination must be performed on the organs and tissues of all animals in accordance with this paragraph.

(ii) *Microscopic studies.* The following organs and tissues of each test animal must be subjected to microscopic study.

(A) *All animals in control and high dosage groups.* All lesions, brain (at least three levels from the forebrain, midbrain, hindbrain), eye, pituitary, salivary gland, heart, thymus, thyroid (with parathyroid), lungs with mainstem bronchi, esophagus, stomach, small and large intestines, adrenals, pancreas, liver, kidneys, testes, urinary bladder, ovaries, corpus and cervix uteri, spleen, a representative lymph node, bone (with marrow), skeletal muscle, mammary gland, and any other target tissue. Multiple sections of treated and untreated skin must be studied. Sites from which bone and lymph nodes are taken must be indicated.

(B) *All animals in intermediate and low dosage groups.* Liver, kidney, heart, any gross lesion, and any target organ observed at the high dose, or any target organ suggested from laboratory tests or clinical observations at any treatment level.

(iii) Tissue and slide preparation and retention.

(A) The standards set forth in § 772.100-2(b)(7) (ii) and (iii), Subpart A, apply.

(B) Tissue samples, tissue blocks, and microscopic slides must be preserved and held in accordance with § 772.110-1(j).

(iv) *Examiner.* The standards set forth in § 772.100-2(b)(1)(i), Subpart A, apply.

(v) *Records.* The histopathology findings must be recorded and reported as required by paragraph (c)(3) of this section.

(c) *Data reporting and evaluation.* In addition to information meeting the

general reporting requirements of § 772.100-2(b)(8), Subpart A, a subchronic 90-day dermal toxicity study test report must contain the following information, supplied in the format specified:

(1) *Animal records and clinical laboratory data.* The following information must be arranged by test group (dose level and sex). All means must be accompanied by standard deviation.

(i) Significant time periods, for individual animals. In tabular form, data must be provided showing, for each animal:

(A) Its identification number;

(B) Whether it died by sacrifice, and if so, whether it was moribund before sacrifice;

(C) Its age at the beginning of study;

(D) The week of the test when sacrifice occurred or the animal's death was noted; and

(E) Its age at death.

(ii) Variation from requirements, for individual animals. In tabular form, data must be provided showing, for each animal that was not subjected to gross necropsy and histopathology examination in accordance with requirements of this section.

(A) Its identification number;

(B) The manner of variation; and

(C) The reasons for failure to comply with the requirements of this section.

(iii) Toxic, pharmacologic, and behavioral effects, for individual animals. In tabular form, data must be provided showing, for each animal:

(A) Its identification number;

(B) The date of observation of each sign of toxicity, pharmacological effect, or behavioral abnormality; and

(C) A description of the toxic sign, pharmacological effect, or behavioral abnormality. If such a response occurs repeatedly, it need be described only once and may thereafter be described by reference. For each animal, a report of local skin effects, graded according to the system described in Draize (1965) must be submitted.

(iv) Toxic, pharmacologic, and behavioral effects, for test groups. In tabular form data must be provided showing, for each test group (dose level and sex):

(A) A list of each sign of toxicity (including local skin effects, pharmacological effect, or behavioral abnormality affecting any animal in the test group;

(B) For each sign, effect, or abnormality, the number of animals showing such effect, sign, or abnormality;

(C) For each sign, effect, or abnormality, the median time from the beginning of the study to when such response was first observed; and

(D) The median age at death of animals not sacrificed.

(v) Food and body weight data, for individual animals. In tabular form, data must be provided showing, for each animal:

(A) Its identification number;

(B) Measured food consumption

weekly throughout the test period; and

(C) Body weight measured weekly throughout the test period.

(vi) Food and body weight data, averages. In tabular and graphic form, data must be provided showing, for each test group (dose level and sex):

(A) Mean food consumption measured weekly throughout the test period; and

(B) Mean body weight measured weekly throughout the test period.

(vii) Weekly survival and sacrifice data. In tabular form, data must be provided showing: The number of animals in each group which remained alive at the end of each 7-day interval, the number of animals in each group that were sacrificed or otherwise died during each 7-day interval, and the number that died by sacrifice and were moribund before sacrifice.

(viii) Clinical laboratory test protocol. The method and rationale for selecting animals for the clinical laboratory tests.

(ix) Clinical laboratory testing, for each animal. In any appropriate form data must be submitted showing, for each animal:

(A) Its identification number; and

(B) The results of any hematologic, blood chemistry, cholinesterase inhibition, and other clinical laboratory tests performed.

(x) Clinical laboratory testing, for each test group. In any appropriate form, data must be submitted showing, for each test group (dose level and sex), the average of the results of each hematologic, blood chemistry, cholinesterase inhibition, and other clinical laboratory test performed.

(2) *Gross necropsy data.* For all means in the data required in this paragraph, the standard deviation must be stated. The following test information, arranged by test groups (dose level and sex), must be supplied in tabular form.

(i) Data showing the identification number of any animal in which any gross abnormality or gross lesion was noted, and containing, for each such animal, a description of each gross abnormality or gross lesion (including measurements), and the date (if known) when the gross abnormality or lesion was first observed. Gross abnormalities

or lesions observed repeatedly need be described only once and may thereafter be described by reference, with any variations noted, as necessary.

(ii) Data showing, for each test group, the number of animals in which each type of gross abnormality was observed.

(iii) Data showing, for each animal: Its identification number, weight of its organs listed under paragraph (b)(7) of this section, and corresponding organ-to-body weight ratios and organ-to-brain weight ratios.

(iv) Data showing the mean weights of each type of organ, listed under paragraph (b)(7) of this section, mean organ-to-body weight ratios, and mean organ-to-brain weight ratios.

(3) *Histopathology data.* The following information must be arranged by test group (dose level and sex): All means must be accompanied by standard deviation. The number of data units on which a calculation is based must be reported for all percentages and averages.

(i) Descriptions of lesions, for each animal. Data must be submitted in a appropriate form showing:

(A) For each animal, its identification number, and a complete description and diagnosis of every lesion in the animal. Nonneoplastic lesions which are observed frequently or which are common in both treated and control animals should be graded. (Descriptions of neoplasms may also include grading.) A commonly used scale such as \pm , 1, 2, 3, and 4 for degrees ranging from very slight to extreme can be used, but others are acceptable. If known, the description and diagnosis must include the time of appearance (if known) for each lesion. Abnormalities observed repeatedly need be described only once, and may subsequently be supplied by reference, with individual variations noted as necessary.

(B) For each animal, a paragraph listing the tissues examined and designation by check mark of those tissues found to be normal.

(C) If a grading system is used, a description of the system.

(ii) Counts and incidence of lesions by test groups. Data must be submitted in tabular form showing for each test group:

(A) The number of animals at the start of the test, the number of animals surviving to the termination of the test, and the number of animals in which any lesion was found;

(B) The number of animals affected by each different type of lesion, the average grade of each type of lesion, the number of animals examined for each type of lesion, and the percentage of those

animals examined which were affected by each type of lesion; and

(C) The number of each different type of lesion.

(iii) *Incidence of tumors.* If a tumor is observed in any animal, the report must include a complete description and diagnosis of each tumor as required in § 772.113-1(k)(2)(i)(D), Subpart D.

(4) *Evaluation of data.* An evaluation of the test results (including their statistical analysis), based on clinical findings, gross necropsy findings, and histopathology results must be made and supplied. This submission must include an evaluation of the relationship, if any, between the animals' exposure to the test substance and the incidence and severity of all abnormalities, including behavioral and clinical abnormalities, gross histopathologic lesions, organ weight changes, effects on mortality, and other effects. The evaluation must include dose-response curves for any toxic or pharmacologic effect which appears to be compound-related for the various groups, and a description of statistical methods.

Appendix

Committee for the Revision of NAS Publication 1138, Committee on Tox., Nat. Res. Council. 1977. Principles and Procedures for Evaluating the Toxicity of Household Substances. Pp. 1-9, 23-59, 74-85. Prepared for the Consumer Product Safety Commission. Nat. Acad. Sci.: Washington, D.C.

Draize, J. H. 1965. Appraisal of the Safety of Chemicals in Foods, Drugs, and Cosmetics. Association of Food and Drug Officials of the United States. Topeka, Kans.

§ 772.112-33 Subchronic inhalation toxicity study.

(a) *Study design.* (1) *Species and Age.* Testing must be performed on young adult laboratory rats.

(2) *Number and Sex of Test Animals.* A minimum of 10 animals per sex per exposure level must be used. This number must be increased by the number, if any, scheduled to be sacrificed before completion of the study, such as, for example, rats on which hematology and blood chemistry determinations are made before and during the study.

(3) *Number and selection of exposure concentration levels.* (i) At least three exposure concentration levels, in addition to the control(s), must be used.

(ii) The lowest atmospheric concentration must not show toxic effects.

(iii) The highest atmospheric concentration must demonstrate some toxicological effects, but not cause more than 10 percent fatalities. This level should be higher than that expected for human exposure.

(iv) All exposure levels and control(s) must be performed concurrently.

(4) *Duration of testing.* Animals must be exposed to the test substance at least 6 hours per day for at least 5 days per week over a 90-day period. Longer or more continuous exposures may be selected, depending on the test substance and the expected use pattern of the test substance. If shorter or less continuous exposures seem appropriate, the tester must consult with the Agency concerning the exposure times.

(5) *Use of vehicle.* A vehicle may be added to the test substance, if necessary, to help generate an exposure atmosphere. If the product's labeling instructions specify the use of a vehicle, that vehicle is preferred. If no vehicle is specified in the product's labeling instructions, the vehicle, if any, that has been used to formulate the product should be used, if possible.

(6) *Controls.* (i) *Vehicle control.* If any vehicle other than water is used in generating the exposure atmosphere, a concurrent solvent control group is required.

(ii) *Negative control.* A concurrent negative control group is required. These control animals must be treated in the same manner as all other test animals (including placement in exposure chambers), except that this control group must not be exposed to an atmosphere containing the test substance or any solvent.

(b) *Study conduct.* (1) *Exposure chamber design and operation.* Inhalation exposure techniques described in this section are based on the use of whole-body inhalation chambers. In such chambers, the experimental animals receive whole-body dermal exposure and possibly large oral exposure, as well as exposure by inhalation. In some cases, the tester may want to use other inhalation exposure techniques involving face masks, head-only exposures, intratracheal instillation, and other similar techniques which reduce or preclude dermal and oral exposures. Some alternative techniques are described by Phalen, 1976. When alternative techniques are used, the procedures and results must be reported in a manner similar to that required with the use of whole-body inhalation chambers.

(2) *Operational measurements.* The following measurements must be taken, with care to avoid major fluctuations in the air concentrations or major discrepancies in the operation of the chambers:

(i) *Air flow.* The rates of air flow through the chamber must be measured continuously.

(ii) *Chamber concentrations.* (A) Nominal concentrations must be calculated for each test exposure by dividing the amount of the agent used for the generating system by the air flow through the chamber during the exposure.

(B) Actual concentrations must be determined by samples of chamber air taken near the breathing zone of the animals as frequently as necessary to obtain an averaged integrated external exposure which is representative of the entire exposure period. The system used to generate the vapor, gas, aerosol must be such that the chamber concentrations are controlled under stable conditions, reflecting the current state-of-the-art, and must not vary in a range greater than 30 percent of the average (range/mean equal to or less than 30 percent).

(iii) *Temperature and Humidity.* The temperature must be maintained at $24 \pm 2^\circ \text{C}$ and the humidity within the chamber at 40-60 percent. Both must be monitored continuously.

(iv) *Oxygen.* The rate of air flow through the chamber must be adjusted to insure that the oxygen content of the exposure atmosphere is at least 19 percent.

(v) *Particle size measurements.*

(A) *General.* In the case of gases and vapors, particle size measurements must be carried out at intervals to insure the animals are not being exposed to unknown and unexpected materials. Aerosol particle size measurements must be made on samples taken at the breathing level of the animals. These analyses must be carried out using techniques and equipment reflective of the state-of-the-art. All of the suspended aerosol (on a gravimetric basis) must be accounted for, even when most of the aerosol is not respirable.

(b) *Sizing analysis.* The sizing analysis must be in terms of equivalent aerodynamic diameters and must be represented as geometric mean (median) diameters and their geometric standard deviation (see NIOSH syllabus for reference) as calculated from log-probability graphs or computer programs. The size analyses must be carried out frequently during the development of the generating system to insure proper stability of aerosol particles and only as often thereafter during the exposure as is necessary to determine adequately the consistency of particle distributions to which the animals are exposed. At a minimum, these analyses must be carried out a daily basis.

(3) *Observation of animals.* All toxicological and pharmacological signs must be recorded daily, including their time of onset, intensity, and duration. Observations must be made at least 12 hours throughout the test period and, in particular, at the times the animals are exposed to the test substance. [Also see Subpart A, § 772.100-2(b)(6).] Such signs include, but are not limited to: Mortality; and cardiovascular, respiratory, excretory, behavioral, and central nervous system (paralysis, ataxia, and pupillary reaction) effects. Observations must be made by an appropriately trained observer. Food consumption must be measured weekly during the test, and the animals must be weighed at least weekly. Surveillance of animals must be made according to the requirements stated in Subpart A, § 772.100-2(b)(6).

(4) *Clinical laboratory testing.* The following determinations must be made at the times indicated below for each type of testing. These determinations must be made on at least five animals of each sex in each group. Depending on the technique used, it may be necessary to sacrifice animals to make the required clinical determinations. In case of such sacrifice, the number of animals started in the study must be increased by the number scheduled or anticipated to be killed before the end of the study.

(i) *Hematology.* The following hematology determinations must be made on at least five animals of each sex in each group at the beginning (before dosing), at an intermediate time, and at the termination of the testing period: Hematocrit, hemoglobin, erythrocyte count, total and differential leukocyte counts, platelet count, and if signs of anemia are present, reticulocyte count.

(ii) *Blood Chemistry.* Blood chemistry determinations must be performed at the beginning (before dosing), at an intermediate time, and at the termination of the study. The following determinations must be made: Calcium, potassium, serum lactic dehydrogenase, serum glutamic pyruvic transaminases, serum glutamic oxaloacetic transaminase, glucose, blood urea nitrogen, direct and total bilirubin, total cholesterol, serum alkaline phosphatase, albumin globulin, total protein, and such other determinations as may be necessary for adequate toxicological evaluation. The following additional determinations may also be useful: Chloride, uric acid, blood creatinine, and gammaglutamyl transpeptidase.

(iii) *Cholinesterase inhibition tests.* If the test substance contains a carbamate, an organophosphate, or any chemical

that produces acetyl cholinesterase inhibition, the enzyme activity for plasma and red blood cell must be monitored twice before treatment, twice during treatment, and at the termination of the study, and the enzyme activity for brain at the termination of the study.

(iv) *Additional tests.* Additional tests such as blood pH, blood CO_2 , specific enzyme analyses, and pulmonary function tests should be carried out in order to conform the diagnosis of suspected disease states or to help to follow the development of disease states known to occur with exposure to the test substance(s).

(5) *Handling of moribund and dead animals.* (i) *Moribund animals.*

Moribund animals must be sacrificed to lessen the likelihood of unobserved death and subsequent autolysis or cannibalism.

(ii) *Tissue loss and dead animals.* Requirements concerning tissue loss and the handling of dead animals are specified in Subpart A, § 772.100-2(b)(6) and (7), respectively.

(6) *Gross necropsy.* (i) the standards set forth for necropsy procedures in § 772.100-2(b)(7)(i) must apply.

(ii) All animals in this study must be subjected to gross necropsy, which must include examination of the external surface; all orifices; the cranial cavity, carcass; the external and cut surfaces of the brain; spinal cord; the thoracic; abdominal, and pelvic cavities, and their viscera; and the cervical tissues and organs. The following organs and tissues must be examined for gross lesions: Adrenals, heart, lungs, trachea, bronchi, nasal passages and paranasal sinuses, spleen, liver, kidneys, stomach, small and large intestines, pancreas, ovary and uterus, testes with epididymis, prostate, urinary bladder, eye, bone (with marrow), and skin. Tissues in which any gross lesions are seen must be preserved for microscopic study.

(iii) Special treatment of the lung must be undertaken for morphological evaluation of the development of emphysema. Thus, the lungs must be removed *in toto*, weighed, and perfused intratracheally or intrabronchially (depending on the species) with an amount of 10 percent neutral buffered formalin that is equal to approximately 75 percent of the total lung capacity for that species. A maximum of 25 cc of water should be used for perfusion.

(iv) In addition, the organs which must be weighed include the brain, liver, kidneys, and heart. Prior to being weighed, organs must be carefully dissected and properly trimmed to remove fat and other contiguous tissue in a uniform manner. They must be

weighed as soon as possible after dissection to avoid drying.

(v) The gross necropsy findings must be recorded and reported in accordance with paragraph (c)(4) of this Section.

(vi) Tissue samples must be preserved and held in accordance with § 772.110-1(j).

(7) *Histopathology examination.* (i) To the extent indicated below in paragraphs (A) and (B), the following tissues must be examined microscopically:

(A) In the control and highest dose-level animals: Brain (at least 3 levels from the forebrain, midbrain, and hindbrain), eye, pituitary, salivary gland, thymus, heart, esophagus, lungs (with mainstem bronchi), trachea, nasal passages and paranasal sinuses, liver, stomach, small and large intestines, spleen, kidneys, thyroid (with parathyroid), adrenals, pancreas, urinary bladder, aorta, testes, ovaries, corpus and cervix uteri, bone (with marrow), skeletal muscle, skin, and all other tissues in which lesions were observed at necropsy; and

(B) In all other animals, the lungs, trachea, nasal passages and paranasal sinuses, liver, kidneys, and all tissues in which lesions were seen at necropsy and in which abnormalities were observed during the histopathology examination described in paragraph (b)(7)(i)(A) of this section.

(ii) Tissues and microscopic slides must be prepared according to the standards set forth in § 772.100-2(b)(7)(ii) and (iii), Subpart A. Tissue samples, tissue blocks, and microscopic slides must be preserved and held in accordance with § 772.110-1(j). A qualified pathologist must have final responsibility for the histopathology examination. The standards set forth in § 772.100-2(b)(1)(i), Subpart A, must apply.

(iv) The histopathology findings must be recorded and reported as required by paragraph (c)(5) of this section.

(c) *Data reporting and evaluation.* In addition to information meeting the general reporting requirements of § 772.100-2(b)(8), Subpart A, the test report must contain the following information, presented in the format specified:

(1) *Test conditions.* (i) *Chamber and generating system.* Description of the chamber design and operation including type of chamber, its dimensions, the source of make-up air and its conditioning (heating or cooling) for use in the chamber, the treatment of exhausted air, the housing and maintenance of the animals in the chambers, and similar related

information. Equipment for measuring of temperature and humidity, the generating system, and the methods of analyzing airborne concentrations and particle sizing must be described.

(ii) *Exposure data.* The following chamber operational data must be tabulated individually and in summary form using means and standard deviations (with or without ranges) in tabular format. The data summaries must be grouped according to experimental groups, and the non-expected differences (such as temperature or airflow) tested for statistical significance.

(A) Airflow rates through the chamber;

(B) Chamber temperature and humidity;

(C) Nominal concentrations;

(D) Actual concentrations; and

(E) Median particle sizes and their geometric standard deviations.

(2) *Animal Records and Clinical Laboratory Data.* The following information must be arranged by test group (dose level and sex). All means must be accompanied by standard deviation.

(i) Significant Time Periods, for Individual Animals. In tabular form, data must be provided showing, for each animal:

(A) Its identification number;

(B) Whether it died by sacrifice, and if so, whether it was moribund before sacrifice;

(C) Its age at the beginning of study;

(D) The week of the test when sacrifice occurred or the animal's death was noted; and

(E) Its age at death.

(ii) Variation from Requirements, for Individual Animals. In tabular form, data must be provided showing, for each animal that was not subjected to gross necropsy and histopathology examination in accordance with requirements of this section:

(A) Its identification number;

(B) The manner of variation; and

(C) The reasons for failure to comply with the requirements of this section.

(iii) Toxic, Pharmacologic, and Behavioral Effects, for Individual Animals. In tabular form, data must be provided showing, for each animal:

(A) Its identification number;

(B) The date of observation of each sign of toxicity, pharmacological effect, or behavioral abnormality; and

(C) A description of the toxic sign, pharmacological effect, or behavioral abnormality. If such a response occurs repeatedly, it need be described only once and may thereafter be described by reference.

(iv) Toxic, Pharmacologic, and Behavioral Effects, for test Groups. In tabular form, data must be provided showing, for each test group (dose level and sex):

(A) A list of each sign of toxicity, pharmacological effect, or behavioral abnormality affecting any animal in the test group;

(B) For each sign, effect, or abnormality, the number of animals showing such effect, sign, or abnormality;

(C) For each sign, effect, or abnormality, the median time from the beginning of the study to when such response was first observed; and

(D) The median age at death of animals not sacrificed.

(v) Food and Body Weight Data, for Individual Animals. In tabular form, data must be provided showing, for each animal:

(A) Its identification number;

(B) Measured food consumption weekly throughout the test period;

(C) Body weight measured weekly throughout the test period.

(vi) *Food and body weight data, averages.* In tabular and graphic form, data must be provided showing, for each test group (dose level and sex):

(A) Mean measured food consumption weekly throughout the test period; and

(B) Mean body weight measured weekly throughout the test period.

(vii) *Weekly survival and sacrifice data.* In tabular form, data must be provided showing: The number of animals in each group which remained alive at the end of each 7-day interval, the number of animals in each group that were sacrificed or otherwise died during each 7-day interval, and the number that died by sacrifice and were moribund before sacrifice.

(viii) *Clinical laboratory test protocol.*

(A) The rationale for the timing of clinical laboratory test, if different from the standards set forth in paragraph (b)(4) of this section; and

(B) The method and rationale for selecting animals for the clinical laboratory tests.

(ix) *Clinical laboratory testing for each animal.* In any appropriate form, data must be submitted showing, for each animal:

(A) Its identification number; and

(B) The results of any hematological, blood chemistry, cholinesterase inhibition, and other clinical laboratory tests performed.

(x) *Clinical laboratory testing, for each test group.* In any appropriate form, data must be submitted showing, for each test group (dose level and sex), the average of the results of each

hematologic, blood chemical, cholinesterase inhibition, and other clinical laboratory test performed.

(3) *Gross Necropsy data.* For all averages in the data required in this subparagraph, the standard deviation must be stated. The following test information, arranged by test groups (dose level and sex), must be supplied in tabular form:

(i) Data showing the identification number of any animal in which any gross abnormality was noted, and containing, for each such animal, a description of each gross abnormality (including measurements), and the date (if known) when it was first observed. Gross abnormalities observed repeatedly need be described only once and may thereafter be described by reference, with any variations noted, as necessary.

(ii) Data showing the number of animals in which any type of gross abnormality was observed.

(iii) Data showing, for each animal: Its identification number, weights of its organs listed under paragraph (b)(6)(ii) of this section and corresponding organ-to-body weight ratios.

(iv) Data showing the mean weights of each type of organ listed under paragraph (b)(6)(ii) of this section, and mean organ-to-body weight ratios.

(4) *Histopathology data.* The following information must be arranged by test group (dose level and sex). All means must be accompanied by standard deviation. The number of data units on which a calculation is based must be reported for all percentages and means.

(i) Description of Lesions, for each Animal. Data must be submitted in an appropriate form showing:

(A) For each animal, its identification number, and a complete description and diagnosis of every lesion in the animal. Non-neoplastic lesions which are observed frequently or which are common in both treated and control animals must be graded. (Descriptions of neoplasms may also include grading.) A commonly-used scale such as ± 1 , 2, 3, and 4 for degrees ranging from very slight to extreme can be used, but other scales are also acceptable. If known, the description and diagnosis must identify any lesion which caused the animal to be moribund or to die. The description and diagnosis must include the time of appearance (if known) for each lesion. Abnormalities observed repeatedly need be described only once, and may subsequently be supplied by reference, with any individual variations noted as necessary.

(B) For each animal, a paragraph listing the tissues examined and

designation by check mark of those tissues found to be normal.

(C) If a grading system is used, a description of the system.

(ii) Counts and Incidence of Lesions, by Test Groups. Data must be submitted in tabular form showing, for each test group:

(A) The number of animals at the start of the test, the number of animals surviving to the termination of the test, and the number of animals in which any lesion was found;

(B) The number of animals affected by each different type of lesion, the average grade of each type of lesion, the numbers examined for each type of lesion, and the percentage of those animals examined which were affected by each type of lesion; and

(C) The number of each different type of lesion.

(iii) Incidence of Tumors. If a tumor is observed in any animal, the report must include a complete description and diagnosis of each tumor as required in Section 772.113-1(k)(2).

(5) *Evaluation of Data.* An evaluation of the test results (including their statistical analysis), based on clinical findings, gross necropsy findings, and histopathology results, must be made and supplied. This submission must include an evaluation of the relationship, if any, between the animals' exposure to the test substance and the incidence and severity of all abnormalities, including behavioral and clinical abnormalities, gross and histopathologic lesions, organ weight changes, effects on mortality, and any other toxic effects. The evaluation must also include dose-response curves for any toxic or pharmacological effect which appear to be compound-related for the various groups, and a description of statistical methods.

Appendix

See the Appendix to § 772.112-23 for suitable sources of information on inhalation toxicology, exposure systems, generating systems, sampling methods, pulmonary function testing, and data interpretation.

Subpart E—Mutagenic Effects

§ 772.114-1 General.

(a) *Scope.* The standards in this subpart are designed to develop data on mutagenic health effects of chemical substances and mixtures ("chemicals") subject to mutagenic effects test regulations under the Toxic Substances Control Act (TSCA) (P.L. 94-469, 90 Stat. 2003, 15 U.S.C. 2601 *et seq.*).

(b) *Purpose.* (1) The objective of mutagenic testing is to assess the potential hazard to human beings of

chemical substances or mixtures due to their interaction with genetic mechanisms with resultant heritable change (mutation). A large body of knowledge in the area of genetics leads to the conclusion that an increase in expressed genetic diseases can occur in the human population as a result of mutagenic chemicals.

(2) Mutation is a universal biologic mechanism underlying genetic changes in all systems. Mutations are generally observed to be deleterious in reference to the normal environment for an organism. The usual target molecule, DNA, is chemically the same in all cellular organisms. Therefore, test results from a wide variety of cells and organisms are relevant to the assessment of the mutagenic potential of a chemical for humans. One or a few molecules reacting with germ cell DNA may cause a heritable lesion.

(3) This heritable genetic change can occur by a variety of genetic mechanisms. This genetic change can be classified under gene mutations and chromosomal aberrations. In addition to detection methods that utilize phenotypic or structural end points, the potential of chemical to induce primary DNA damage can be detected by measuring stimulation or inhibition of recombination or repair. The following paragraphs present details of genetic end points that must be assessed to determine the potential of a chemical to cause mutations. It is recognized that, in some cases, the underlying chemical mechanisms may be the same for gene mutations and chromosomal aberrations when DNA is the target.

(i) *Gene mutations.* (A) *Point mutations.* These are intralocus changes which include base pair substitutions (transitions and transversions), frame shift mutations, and small deletions and insertions (which are larger than frame shift mutations or base pair substitutions but smaller than the gene itself).

(B) *Small multilocus mutations.* These are usually deletions where a locus has been physically removed from the chromosome in combination with other loci in the adjacent chromosome region.

(ii) *Chromosomal mutations.* (A) *Numerical changes.* Of special concern are monosomy and trisomy, such as may be produced by nondisjunction; these changes are termed aneuploidy. Also of concern are euploidy changes, especially triploidy and tetraploidy.

(B) *Structural changes.* These are large deletions, duplications, inversions, and translocations which are produced by chromosomal breaks and/or

misreplication and/or misrecombination effects.

(iii) Primary DNA damage: Stimulation of recombination.

(A) Mitotic crossing over

(B) Gene conversion

(C) Sister-chromatid exchange

(iv) Primary DNA damage: Repair stimulation and inhibition

(A) Nonreplicative DNA synthesis

(B) Differential killing of DNA-repair-deficient organisms

(c) *Data reporting and evaluations.* In addition to the general information required by § 772.100-2(b)(8) and any specific information derived pursuant to the test standards of §§ 772.114-2, 772.114-3, and 772.114-4, the following information must be reported:

(1) The reasons for using a given mutagenic test;

(2) A complete description of the test performed, including the rationales for the selection of species, strains, and cell types used;

(3) A complete history of the strain or cell type used, as well as the methods used to maintain and monitor the genetic integrity of the organism or cell type;

(4) The spontaneous mutation frequency given by concurrent controls and, if possible, by historical controls from the same laboratory and literature citation;

(5) The nature and results of genetic tests employed for defining an observed mutant phenotype as a heritable genetic effect;

(6) The sensitivity of the test system to chemical induction of mutations presented by positive controls, historical data, and references;

(7) The sensitivity and reproducibility of the test method documented from past work in the laboratory and references;

(8) The rationale for selection of dosage levels;

(9) The dose-response tabulations and curves with accompanying tabulation of normal growth characteristics and toxic effects of the test substance;

(10) The mutation frequency, expressed both numerically and as percentages or fractions;

(11) Where appropriate for insect and mammalian tests, number of males and/or females exposed and their age; broods or litters observed; number with mutations per number of progeny matings;

(12) The statistical method used for analysis, and the reference for the method;

(13) The statistical considerations used for the selection of number of test organisms and cells, supported by the

appropriate references as to the power of the individual test at the concentrations of compound under test and the number of organisms and cells used, compared to the background controls;

(14) All repeat tests, particularly of microbial or *in vitro* tests; and

(15) Photographs of microscope slides necessary to define chromosomal aberration observed in a specific test. (Slides must be retained in accordance with § 772.110-1(j).)

(d) *General standards for testing.* (1) Sample sizes must be sufficiently large to yield conclusions of adequate precision. Statistical analyses must be appropriate to the experimental design used and to the inquiries motivating the tests.

(2) Culture conditions for *in vitro* tests which may affect detection of mutants and give falsely high or low figures for reasons other than chemical induction must be avoided.

(3) Tests must be performed in all respects in a manner known to give positive results for a wide range of chemical mutagens.

(4) Dose-response curves, reproducibility of results within each test, and similarity of results in comparison with other tests in the same class of genetic end points, will indicate the validity of each test.

(5) The appropriate genetic test must be performed or the rationale presented to define the genetic characteristics of any observed mutations.

(6) When a specific methodology is referenced in §§ 772.114-2, 772.114-3, and 772.114-4, the tester must perform the test following that methodology with essential modifications only. The rationale for a deviation from the methodology must be reported. Discussion with the Agency is required prior to conducting a study other than in accordance with the required methodology.

(e) *Standards for metabolic activation.* (1) Chemicals are often nonmutagenic unless converted to an active mutagen by metabolic processing. The reverse can also occur. Therefore, an understanding of the toxicology of a compound is essential, and a metabolic activation system must be incorporated into any test system other than intact mammals and insects.

(2) The test substance must be tested both in the presence and the absence of mammalian tissue extracts (with appropriate cofactors) which have been demonstrated to convert a wide range of chemical "premutagens" (substances which are mutagenically inactive in the absence of the tissue extracts) to

mutagenically active substances. Rat or mouse liver extracts are acceptable. The tissue must be preinduced for the relevant enzymatic activities when appropriate. The inducer should be effective for the class of compounds under test. Other tissue extracts should be used in addition to liver extracts when the principal site of metabolism of the test substance is known not to be the liver, or when other tissues, including plant tissue, are known to give positive results with chemicals structurally related to these chemicals.

(3) As standardized procedures become available, it will be advisable to test for the presence of mutagens in the urine (and other body fluids) of animals to which the test chemical has been administered. Steps should be taken to free conjugated substances (e.g., by glucuronidase treatment) prior to testing urine.

(4) Data from an *in vivo* host-mediated activation assay may be submitted in addition to data from *in vitro* activation systems. The data from the *in vivo* host-mediated assay does not alone satisfy the requirements for metabolic activation systems. The target cells in the *in vivo* host-mediated assay should be inserted into the host tissues or cavities, taking care to minimize host effects on the target cells and to maximize the interaction between the potential metabolic activation components with the indicator organisms.

§ 772.114-2 Test standards for detecting gene mutations.

(a) *Controls for tests for detecting gene mutations.* All assays must be run with concurrent positive and negative controls with the possible exception of the mouse specific locus test.

(1) *Positive controls.* Positive control compounds must be selected to demonstrate both the sensitivity of the indicator organism and the functioning of the metabolic activation system. Positive controls should also be selected to demonstrate the sensitivity of the indicator cells or organisms to a compound with chemical characteristics similar to those of the test substance. For instance, an alkylating agent should be used as a control for an expected alkylator, and an intercalating agent for a suspected intercalator. Where applicable, the positive control should be administered by the same route as the test substance.

(2) *Negative controls.* Both a solvent and nonsolvent negative control must also be included.

(b) *Detection of gene mutations in bacteria.* (1) *Choice of organisms.* The

bacteria used must include strains capable of detecting base pair substitutions (both transitions and transversions) and frameshift mutations. The known spectrum of chemical mutagens capable of being detected by the strains must be considered when selecting the strains. The strains must also be highly sensitive to a wide range of chemical mutagens. They may include strains whose cell wall, DNA repair, or other capabilities have been altered to increase sensitivity (Ames, 1975; McCann *et al.*, 1975). Although sensitive bacterial assays for forward mutations at specific loci or over some portion of the entire genome may also be appropriate, at the present time the most sensitive and best-characterized bacteria for mutagenic testing are those capable of indicating reverse mutations at specific loci. Highly volatile compounds and gases will require special techniques for testing.

(2) *Methodology.* (i) *General.* The test must be performed in all respects in a manner known to give positive results for a wide range of chemical mutagens at low concentrations. A metabolic activation system must be utilized. (See § 772.114-1(e)). The sensitivity and reproducibility of the metabolic activation systems and strains used must be evaluated both by reference to past work with the method and by the concurrent use of positive controls.

(ii) *Plate assays.* In general, a test substance should be tested both by a spot test, in which a concentration gradient of the chemical is established in agar, and by plate incorporation assays at various concentrations. The spot test may not be useful if the test substance is insoluble in water, since this will prevent diffusion from the spot. Test conditions should minimize the possible effects of extraneous nutrients, contamination by other bacteria, and high levels of spontaneous mutants.

(iii) *Liquid suspension assays.* A few chemicals (e.g., diethyl-nitrosamine and dimethyl-nitrosamine) will give positive results only in tests in which the test substance, the bacteria, and the metabolic activation system are incubated together in liquid prior to plating, but not in a plate incorporation assay (Bartsch *et al.*, 1976). Thus, it may be useful to conduct tests in liquid suspension as well as on agar plates. This is particularly recommended if the agar plate test gives ambiguous results or evidence of killing, or if a bacterial DNA repair test gives a positive result while the plate mutagenesis test does not.

(3) *Doses.* (i) *Plate assay.* For testing by the plate incorporation assay, a wide

range of test doses should be used. There are as yet no simple methods for accurately predicting the doses of a chemical which are toxic to the bacteria under the conditions of the plate incorporation assay. Some indication of toxicity can be obtained by carefully examining the background growth on the agar plates at different test concentrations, and by comparing the number of mutants with the expected spontaneous background number. The highest level should be one which inhibits growth of the bacteria, unless this is not possible due to limited solubility of the test substance. Other doses should span at least a 1,000-fold range downward from the highest dose, and should be separated by no more than a factor of five between successive doses. Doses in a narrow range should generate data for an adequate dose-response curve for any test substance giving a mutagenic response.

(ii) *Liquid suspension assay.* For testing in liquid suspension, the highest dose should cause killing of at least 50 percent of the bacteria under the conditions of the assay or be in the range of 25-50 milligrams/ml of suspension. The highest dose tested may be lower than this due to limited solubility of the test substance. Additional doses should be separated by no more than a factor of five between successive doses. Doses in a narrow range should generate data for an adequate dose-responsive curve for any test substance giving a mutagenic response.

(4) *Data reporting and evaluation.* Results in the liquid suspension test must be expressed both as "mutants per surviving cell" and as "mutants per initial cells."

(c) *Detection of gene mutations in eukaryotic micro-organisms.* (1) *Choice of organism.* The organisms chosen must include strains capable of detecting base pair substitutions (both transitions and transversions) and frameshift mutations occurring in the nuclear genetic material. Strains of organisms that are as sensitive as possible to the test substance must be employed. These might include, for example, strains of *Saccharomyces*, *Schizosaccharomyces*, *Neurospora*, and *Aspergillus* that have been developed for the detection of reverse mutations and, to a more limited extent, forward mutation. Strains will likely become available eventually which will have increased sensitivity to chemical mutagens by virtue of other genetic alteration such as DNA repair deficiency. Effort should be made to employ such strains when they are

developed, in order to cover the widest possible spectrum of genetic alterations.

(2) *Methodology.* (i) *General.* The test must be performed in all respects in a manner known to give positive results for a wide range of chemical mutagens. The test must incorporate a metabolic activation system. (See § 772.114-1(e)). The sensitivity and reproducibility of the method used must be evaluated both by reference to past work with the method and by concurrent use of positive controls. When possible, a compound must be tested in a liquid suspension test as well as a spot test. Highly volatile or gaseous compounds will require special techniques for testing.

(ii) *Plate assay.* Plate incorporation assays and spot tests should employ a wide range of doses, because there is no way of accurately determining the toxicity of the test substance under the conditions of the assay. Consideration should be given to minor modification of existing protocols to enhance the sensitivity of the test for certain compounds (e.g., spotting the compound versus incorporation into top agar, or replicating onto selective media after treatment for a period which permitted growth versus plate testing directly on selective media).

(iii) *Liquid suspension assay.* For liquid suspension tests, a preliminary experiment must be run to determine the toxicity of the compound in terms of colony-forming ability. Based on the determined toxicity, the highest dose tested must be toxic and result in at least 50 percent killing. A wide range of doses must be tested. Doses in a narrow part of the range should generate data for an adequate dose-response curve for any test substance giving mutagenic response. Consideration should be given to minor modification of existing protocols to promote maximum sensitivity to tests, such as prolonged treatment up to 96 hours under conditions that encourage growth of cells and/or conidia.

(3) *Data reporting and evaluation.* Results in liquid suspension must be expressed as a frequency of mutants in the surviving population, and spot test results must be expressed as mutants per unit population plated.

(d) *Detection of gene mutations in insects.* (1) *Choice of organisms.* The organisms chosen must include species and strains of insects capable of detecting forward gene mutations and small deletions in a significant portion of the genome. Of the different assay systems available in insects, the classical sex-linked recessive lethal test in *Drosophila* has superior

discriminatory power for genetic effects, since a large number of genes are screened.

(2) *Methodology.* (i) *General.* The genetic test employed must be the most sensitive available that is capable of detecting a wide range of chemical mutagens at low concentration levels. The sex-linked recessive lethal test (Abrahamson and Lewis, 1971) is recommended, since it samples one fifth of the *Drosophila* genome. The route of exposure must be abdominal injection, inhalation, or by feeding, depending upon the chemical characteristics of the test substance.

(ii) *Dose levels.* The doses must include a toxic concentration, a subtoxic concentration, and a lowest detectable effect concentration, if possible.

(e) *Detection of gene mutations in somatic cells in culture.* A number of tests in mammalian somatic cells in culture are available in which specific locus effects may be detected in response to chemical exposure. (Shapiro *et al.*, 1972; Sato *et al.*, 1972; Chu, 1971).

(1) *Choice of cell systems.* The cell line used must have demonstrated sensitivity to chemical induction of specific-locus mutations by a variety of chemicals. The lines must be chosen for ease of cultivation, freedom from biological contaminants such as mycoplasmas, high and reproducible cloning efficiencies, definition of genetic detection loci, and relative karyotypic stability. The inherent capabilities of the test cells for metabolic activation of promutagens to active mutagens should also be considered, as well as the use of metabolic activation systems similar to those used with microorganisms.

(2) *Methodology.* (i) *General.* The test must be performed in all respects in a manner known to give positive results for a wide range of chemical mutagens. The sensitivity of the system, metabolic activation capability, and its reproducibility must be evaluated by reference to past work and by the concurrent use of positive controls. Culture conditions which may affect the detection of mutations and give falsely high or low figures for reasons other than chemical induction must be avoided. Definition of detected genetic loci studied and verification that the observed phenotypic changes are indeed genetic alterations must be presented.

(ii) *Doses.* A wide range of test doses must be used. The toxicity of the chemical to the cells must be determined. Dose response curves for cell inactivation and mutant induction must be determined.

(f) *Detection of gene mutations in mammals.* (1) *Choice of organisms.* One

mammalian test (the specific locus test in mice) is available at the current time to detect specific gene mutations induced in the germ cells of mice exposed to a mutagen (Russell, 1951; Searle, 1975). The test requires large numbers of animals for marginal sensitivity, and laboratories with the necessary mouse colonies and expertise are limited. In addition, there is concern that not all types of mutagenic events, e.g., base-pair substitutions, can easily be detected. However, this test does have the great advantage of estimating germ cell risk to genes in response to defined dose levels by the appropriate exposure route for toxicological evaluation in an intact animal. Other tests using biochemical markers in intact mammals are in the developmental stage and should be considered when they become available.

(2) *Methodology.* The test must be designed to detect changes in specific genetic loci in response to exposure at various dose levels to chemical mutagens. The exposure route should be the same as the expected human exposure route.

§ 772.114-3 Test standards for detecting heritable chromosomal mutations.

(a) *Controls for tests for detecting chromosomal damage.* Concurrent vehicle controls must be performed. Where appropriate, blank controls must be performed. Normal growth curves must be determined. Positive controls must be performed using a compound known to produce chromosomal defects and, if possible, to be structurally and/or mechanistically related to the test substance. The positive control should be run at dose levels comparable to the test compound. Where applicable, the positive control must be administered by the same exposure route as the test substance.

(b) *Detection of heritable chromosomal damage by the in vivo cytogenetics test in mammals.* (1) *General.* Cytological techniques are available to detect chromosomal anomalies in mammals *in vivo*. These procedures can be classified into methodologies designed to detect damage expressed in germ cells during early embryogenesis (non-transmitted and transmitted) and in somatic tissue (acute and chronic effects). The somatic tissue is normally bone marrow; the testis is used for germinal cells (Cohen and Hirschhorn, 1971; and Lubs and Samuelson, 1976).

(2) *Methodology.* Mammals must be used. The route of administration of the test substance must correspond to the principal expected route of human

exposure to the test substance, or a rationale must be presented for use of an alternate route. Dosage regimens may be acute or subacute, but the dose schedule rationale must be specified and should reflect the expected human exposure. The medium must be optimal for the tissue employed. Double blind reading of the slides must be performed, and the microscope slides must be coded by reference to each animal's identification number. The micronucleus test may be used in addition to the *in vivo* cytogenetics test.

(3) *Data reporting and evaluation.* In addition to the basic information required by § 772.100-2(b)(8) and § 772.114-1(c), the following information must be reported:

(i) Vernier settings for the microscope;

(ii) Number of normal cells and all aberrations in chromatids or chromosomes by the individual types of aberrations;

(iii) A definition of breakdown by the individual type of aberration, including chromatid and chromosomal breaks, and stable and unstable intra- and inter-chromatid and -chromosome rearrangements, accompanied by photographs; and

(iv) Identification of chromosomal gaps separately.

(c) *Detection of heritable chromosomal damage using insects.* (1) *General.* Because of the superior size and morphology of chromosomes in some cells of *Drosophila*, the study of chromosomes in this insect has many advantages over comparable studies with other organisms. In addition, genetic confirmation of results is relatively simple. The selection of the species and strain must be on the basis of known sensitivity to the chemical induction of chromosomal defects. The available types of tests for chemically-induced defects include those for chromosomal rearrangements such as reciprocal translocation and position-effect tests, X or Y chromosome loss, and half-translocation tests (Abrahamson and Lewis, 1971). *Drosophila* also possesses the capability of metabolically activating at least some premutagens in a manner similar to mammals (Vogel, 1975).

(2) *Methodology.* The test method must be capable of demonstrating a heritable chromosomal effect.

(3) *Data reporting and evaluation.* In addition to the general information required by § 772.100-2(b)(8) and the specific requirements of § 772.114-1(c), the following must be reported:

(i) The staining and mounting techniques;

(ii) The criteria for scoring;

(iii) Numerical scoring of chromosomes, rather than percentages or fractions;

(iv) Characterization of the potentially sensitive germ-cell stages; and

(v) Description of each type of chromosomal lesion accompanied by photographs used to define the types of lesions.

(d) *Detection of heritable chromosomal effects by the dominant lethal test in mammals.* (1) *General.* This test is thought to reflect

chromosomal aberrations, but, by definition, it does not always measure heritable chromosomal effects. Many chemicals which induce dominant lethality are known to induce heritable chromosomal aberrations (not measured in this test). The actual measure in the dominant lethal test is early fetal loss. The assumption is that chromosomal abnormalities produced in sperm may be responsible for the developmental errors leading to the death of the zygote.

(2) *Methodology.* The methodology of the test is described by Epstein (1972). Toxicological factors and modifications are discussed by Green and Springer (1975) and Green *et al.* (1975). Acute, subchronic, and chronic exposure by various routes must be performed in a manner consistent with expected human exposure. Dosing and mating schedules must be designed to allow a sampling of potential effects on all sperm cell stages through meiosis.

(e) *Detection of heritable chromosomal effects by the heritable translocation test in mammals.* (1) *General.* Unlike the cytogenetic and dominant lethal tests, the heritable translocation test in rodents and/or insects allows analysis of heritability of chromosomal damage, i.e., the

observation of an explicit genetic effect chemically induced in a parental generation and observed in progeny generations. The rodent tests possess the added advantage of reflecting mammalian metabolism in an intact organism. Induced effects on germ cell stages must be sampled through meiosis.

(2) *Methodology.* The heritable translocation test must be performed in rodents. The test must be designed to estimate defined genetic effects in mammalian germ cells in response to exposure to chemicals over a wide dose range by an appropriate route of administration. Dosing and mating schedules must be designed to allow a sampling of sperm cell stages throughout meiosis. Parental males must be treated and their male progeny mated to determine their semi-sterility or sterility. Cytogenetic analysis must be performed on males which are identified as sterile

or semisterile to confirm the underlying chromosomal abnormality.

§ 772.114-4 Test standards for detecting effects on DNA repair or recombination as an indicator of genetic damage.

(a) *Controls.* All considerations discussed in § 772.114-2(a) are applicable. For a DNA repair test, the negative control must be a compound which is toxic to the indicator cells but is not more toxic to the deficient cells than to the repair-competent cells.

(b) *Detection of genetic damage in bacteria by DNA repair.* (1) *General.* (i) When the DNA of a cell is damaged by a chemical mutagen, the cell will utilize its DNA repair enzymes to attempt to correct the damage. Cells which have reduced capability of repairing DNA may be more susceptible to the action of chemical mutagens, as detected by increased killing. For suspension test using DNA repair-deficient bacteria, the positive control should be similar in toxicity to the test substance.

(ii) The DNA repair test in bacteria determines if the test substance is more toxic to DNA repair-deficient cells than it is to DNA repair-competent cells. Such differential toxicity is taken as an indication that the chemical interacts with the DNA of the exposed cells to produce increased levels of genetic damage.

(2) *Choice of organisms.* Two bacterial strains, with no known genetic differences other than DNA repair capability, must be used. The strains selected must be known to be capable of indicating the activity of a wide range of chemical mutagens. The spectrum of chemical mutagens capable of being detected by the strains and procedures used must be reported.

(3) *Methodology.* (i) *Plate test.* A compound should be tested by spotting a quantity on an agar plate which has had a lawn of the indicator organisms spread over it. After a suitable incubation period, the zone of inhibition around the spot must be measured for each strain and compared for the DNA repair-competent and DNA repair-deficient strains. If no discrete zone of inhibition is seen with either strain, then the results of the test are not meaningful and the test substance should be tested in liquid suspension.

(ii) *Liquid suspension test.* The liquid suspension test must be performed by comparing the rates at which given concentrations of the test substance will kill each of the two indicator strains when incubated in liquid suspension. Conditions should be adjusted so that significant killing of the DNA repair-competent strain occurs, if this is

possible. Methodology is discussed in Kelly *et al.* (1969) and Rosenkranz *et al.* (1976).

(iii) *Doses.* The dose levels of test substance used in the plate or suspension test must be adjusted so that significant toxicity to the DNA repair-competent strain is measured. In the plate test, this means that a zone of inhibition must be visible; in the suspension test, significant loss of cell viability must be measured. This may not be possible if the test substance is not toxic to the bacteria or if, in the plate test, it does not dissolve in and diffuse through the agar. The same dose levels must be used in exposing the DNA repair-competent strains as for the repair-deficient strains.

(c) *Detection of genetic damage in mammalian somatic cells in culture: unscheduled DNA synthesis.* (1) *General.* DNA damage induced by chemical treatment of a cell may be

measured as an increase in unscheduled DNA synthesis which is an indication of increased DNA repair. Unrepaired or misrepaired alterations may result in gene mutations or in breaks or exchanges which can lead to deletion and/or duplication of larger gene sequences or to translocations which may affect gene function by position effects (Stich, 1970; Stolz *et al.*, 1974).

(2) *Methodology.* (i) *General.* Primary or established cell cultures with normal repair function repair must be used. Standardized human cell strains from repositories are recommended. Controls should be performed to detect changes in scheduled DNA synthesis at appropriate sections in the experimental design. The media conditions must be optimal for measuring repair synthesis.

(ii) *Dose.* At least five dose levels must be used, and the time in the cycle of synchronous or non-proliferating cells at which exposure takes place must be given. The maximum test substance dose must induce toxicity, and the dosing period with the test substance must not be less than sixty minutes.

(3) *Data reporting and evaluation.* In addition to the general information required by § 772.100-2(b)(8) and § 772.114-1(c), the following information must be reported:

(i) The specific activity and concentration of the tritiated thymidine as well as its source, lot number, and purity; and

(ii) Details of culturing, maintenance of cells lines, and medium.

(d) *Detection of genetic damage in eukaryotic microorganisms.* (1) *General.* One can effectively study the chromosomes of eukaryotic microorganisms by employing classical

genetic methodologies which depend upon the behavior and interaction of specific markers placed judiciously within the genome. These methods have been developed over several decades and have applied in recent years to the study of induced genetic damage (Zimmerman, 1971, 1973, 1975; Brusick and Andrews, 1974).

(2) *Choice of organisms.* Diploid strains of yeasts that detect mitotic crossing-over and/or mitotic gene conversion must be used. Additionally, as appropriate strains are developed, monitoring for induced non-disjunction and other effects may be possible. Mitotic crossing-over must be detected in a strain of organism in which it is possible, by genetic means, to determine with reasonable certainty that reciprocal exchange of genetic information has occurred. Strains used to detect mitotic gene conversion must be capable of demonstrating by genetic means that gene conversion has indeed occurred rather than some other genetic phenomenon. Strains employed for genetic testing must be of proven sensitivity to a wide range of mutagens.

(3) *Methodology.* (i) *General.* In general, chemicals must be tested in liquid suspension tests. Spot tests for induced mitotic gene conversion are available and may also be used. Specific modifications of treatment protocols such as duration of treatment, temperature, pH, and treatment medium must be justified. Results from liquid suspension tests must be expressed as recombinants per surviving population, and results from the plate test must be expressed as recombinants per initial cell population. Highly volatile compounds and gases will require special techniques for testing. Some compounds may present solubility problems and will, therefore, require special consideration for selection of the most suitable solvent.

(ii) *Doses.* Test substances must be tested first under conditions simulating the actual genetic test in order to determine toxicity. Based on results from these tests, the highest dose level must be toxic. Lower treatment levels should cover a 1000-fold range downward from the highest dose, and should be separated by not more than a factor of 10 between successive doses. An adequate dose-response curve must be generated for any test substance giving a positive response.

(e) *Detection of genetic damage in mammalian cells in culture: sister chromatid exchange.* (1) *General.* Sister-chromatid exchange in mammalian cells in culture appears to be a valuable ancillary test for detecting genetic

damage. Other tests for detecting potential genetic damage may be available where chromosomal effects are seen as the genetic end-point.

(2) *Methodology.* (i) *General.* Exponentially growing cells of mammals in culture must be treated with chemicals and allowed to go through a cell division prior to assay for sister-chromatid exchange. The cell system must be chosen for a stable karyotype, low stable background of spontaneous sister-chromatid exchanges, and known capability of responding to chemical induction of sister-chromatid exchange. Metabolic activation must be incorporated where the characteristics and compatibility of the system for activation allows.

(ii) *Doses.* The maximum dose level must cause some cell death. A minimum of three dose levels above the control must be tested.

Appendix

(1) *General references.* The following sources provide general background material for mutagenic testing. In addition, the Journal of Mutation Research is publishing a series on standardized mutation testing procedures (Sobels, F. J. 1975. Editorial, Mut. Res. 31:1). Auerbach, C. 1976. Mutation Research: Problems, Results and Perspectives. John Wiley Press: New York.

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Subpart F—Teratogenic/Reproductive Health Effects

§ 772.116-1 General.

(a) *Scope and purpose.* The standards in this subpart are designed to develop data on teratogenic and reproductive health effects of chemical substances and mixtures ("chemicals") subject to teratogenic/reproductive health effects test regulations under the Toxic Substances Control Act (TSCA) (P.L. 94-469, 90 Stat. 2003, 15 U.S.C. 2601 *et seq.*). The EPA will use these data to assess the risk of teratogenic and reproductive health effects these chemicals may present to human health.

(b) *Applicability.* These standards apply to the development of teratogenic and reproductive health effects data from the testing of chemicals specified in Part 771 of this subchapter.

(c) *Definitions.* The definitions in Section 3 of the TSCA and the definitions in § 770.2 and § 772.110-1(a)(3), entitled "Good Laboratory Practice Standards for Health Effects," apply to Subpart F. In addition, the following definitions also apply to Subpart F:

(1) "Teratogenic" means the potential of a test substance to produce defects in progeny (offspring) resulting from perinatal exposure;

(2) "Reproductive effects" means impairment of reproduction;

(3) "Developmental effects" means adverse health effects during any or all phases of development and maturation following single, continuous, or repeated administration of a test substance.

(4) "Reproductive toxicity" means the total or accumulated toxicity of a test substance during any or all phases of conception, development, and maturation.

(d) *Good Laboratory Practice Standards for Teratogenic/Reproductive Health Effects.* The Good Laboratory Practice Standards for Health Effects in § 772.110-1, Subpart B, apply to Subpart F.

(e) *Specific personnel requirements.* The specific personnel requirements in

Subpart A, § 772.100-2(b) apply to Subpart F.

(f) *Submission of study plan.* The sponsor(s) of a study must submit a detailed study plan to the Agency at least 90 days before the initiation of a "reproductive study." The requirement for study plan submission in Subpart A, § 772.100-2(b)(2), applies to the reproductive studies in Subpart F. Study plans for teratogenicity studies are not required prior to their initiation.

(g) *Test or control substance concentration.* Section 772.100-2(b)(3) of Subpart A, apply to Subpart C.

(h) *Dietary requirements.* The dietary requirements as specified in Appendix B, Subpart A, apply to Subpart F.

(i) *Contaminant analysis of feeds and/or vehicles.* The specific requirements as specified in Appendix B, Subpart A, apply to Subpart F.

§ 772.116-2 Teratogenic effects test standards.

(a) *Study design.* (1) *Species and strain.* Testing must be performed in at least two mammalian species. The rat, mouse, hamster, or rabbit are acceptable. Other species may be used if adequate justification is supplied. One species must be the same as the species used in the reproductive study. Strains with low fecundity must not be used. Historical teratogenic data for the specific strain tested must be submitted.

(2) *Sex and age.* All test and control animals must be young, mature, pregnant females of uniform age, size, and parity. Prima gravida females are preferred.

(3) *Control groups.* Concurrent control group(s) are required as follows:

(i) A positive control group is required, unless historical data from the laboratory performing the test are submitted which demonstrate that the strains of animals being used are sensitive to known teratogenic agents.

(ii) A vehicle control group is required if a vehicle is used in administering the test substance. In addition, if there are insufficient data on toxic properties of the vehicle used in administering the test substance, an untreated (negative) control group receiving a sham treatment (e.g., physiological saline) is also required.

(iii) If no vehicle is used in administering the test substance, a separate control group receiving a sham treatment (e.g., physiological saline) is required.

(4) *Number of animals.* Each test and control group must include 20 or more pregnant females for rat, mouse, and hamster, and at least 12 pregnant females for rabbit.

(5) *Duration of test and time of delivery.* (i) The test substance must be administered daily beginning at, or before, the time of implantation and continuing through the period of major organogenesis. Exposure of each species must encompass the gestation period up to the day before term.

(ii) Fetuses must be delivered by cesarean section approximately 1 day prior to term.

(iii) Females (parents) must ordinarily be sacrificed at time of cesarean section unless conditions indicate earlier sacrifice as required by paragraph (ii) of this section.

(6) *Dosage.* (i) At least three dosage levels must be tested in addition to the control(s).

(ii) The highest dosage level must induce some fetal or maternal toxicity, as demonstrated by body weight reduction or other toxic signs, but not cause more than 10 percent maternal fatalities. This level must be higher than that expected for human exposure.

(iii) The intermediate dose(s) must be spaced logarithmically (or at some approximate comparable point) between the high and low dosage level and must induce some observable fetal effects attributable to the test substance, when possible.

(iv) The low dosage level must induce no observable adverse effects attributable to the test substance.

(v) The dose administered to each animal must be based on the individual animal's body weight on the first day of test substance administration.

(vi) Dosing must be scheduled at approximately the same time during the day.

(7) *Route of administration.* To the extent possible, route(s) of administration should be comparable to the expected or known routes of human exposure. The test rules in Part 771 will specify the route(s) to be employed for a particular chemical.

(b) *Study conduct.* (1) *Animal care.* Food and water must be provided *ad libitum*. Pregnant females must be provided nesting materials or justification for not providing such material must be submitted. Animals may be individually caged or group caged.

(2) *Observation.* (i) The requirements for observation of animals as specified in Subpart A, § 772.100-2(b)(6) apply to Subpart F. Each such observation must be made by an appropriately-trained observer, who must note and record behavioral abnormalities, and all clinical signs of toxicity, including mortality.

(ii) Any female showing signs of abortion or premature delivery must be sacrificed on the day such evidence is observed. These animals must be analyzed, and all observations reported separately.

(iii) Females must be weighed at the first day of test substance administration and at sacrifice.

(3) *Necropsy.* (i) Immediately after the female is sacrificed, the uterus must be excised and weighed, then examined for fetal resorption, number of live fetuses and number of dead or resorbed fetuses. The litter weight of live fetuses must be determined.

(ii) One-half of each litter must be examined for skeletal anomalies, and the remaining one-half of each litter must be examined for soft tissue anomalies.

(iii) External and soft tissue examination of the fetuses must be performed by or under the supervision of an individual experienced and suitably trained in teratogenic studies. The sex of each fetus must be determined, if possible. Gross observations of the skeleton and external and internal organs must be made with the aid of a dissecting microscope (or other instrument providing similar magnification). The internal gross morphology must be examined by sectioning through soft tissues (using razor blade sectioning or comparable techniques).

(iv) The necropsy data must be recorded and reported in accordance with paragraph (3) of this section.

(v) Entire fetuses must be preserved and held in accordance with § 772.110-1(j), Subpart B.

(c) *Data reporting and evaluation.* In addition to the basic information required by § 772.100-2(b)(8), Subpart A, the final test report must include the following information, presented in the format specified:

(1) *Test protocol.* Rationale for selection of the species and strain used.

(i) Dose levels (expressed as mg/kg of body weight per day) administered, and the rationale for their selection; and the number of days of tests substance administration.

(ii) Route and method of administration utilized and the rationale for selection if other than oral intubation.

(iii) Positive control data or historical data from the laboratory performing the test which demonstrate the sensitivity of the strains being used.

(iv) Justification statement for not providing nesting materials for pregnant females, if such materials were not provided.

(2) *Maternal data.* (i) The following information, arranged by test groups, must be supplied in tabular form:

(A) Data showing, for each animal:

(1) Its identification number;

(2) Its age (or approximate age) at the start of the test;

(3) Data of caesarian section and sacrifice;

(4) Body weight on first day of dosing;

(5) Its body weight at sacrifice (actual, and corrected (by subtracting gravid uterus));

(6) The body weight change based on the foregoing weight measurements; and

(7) Any signs of abortion or premature delivery.

(B) Data showing, for each dose level:

(1) The number of animals initially on study;

(2) The number and percent that died;

(3) The number and percent that were pregnant; and

(4) The average maternal body weight change.

(ii) The following test information must be supplied in any appropriate form: A description of all observed signs of toxicity accompanied by the animal's identification number, test group, and date(s) of observation.

(3) *Fetal data.* When an anomaly is difficult to describe, a photograph of it may be submitted. All means must be accompanied by standard deviation. The following information arranged by test group must be supplied in tabular form:

(i) Numerical data showing, for each litter:

(A) Identification numbers;

(B) Number and percent of live fetuses;

(C) Average live fetal weight;

(D) Number of each sex, if determined;

(E) Number and percent of dead and resorbed fetuses;

(F) Number of implantations; and

(G) Number and percent of fetuses with any soft tissue or skeletal abnormality.

(ii) Anomaly data showing, for each litter:

(A) Identification number(s);

(B) Number of fetuses examined by necropsy;

(C) Number and percent of fetuses having soft tissue anomalies;

(D) Number of fetuses examined for skeletal anomalies;

(E) Number and percent of fetuses having skeletal anomalies; and

(F) Incidence and a full description of each type of anomaly.

(iii) Cumulative data showing, for each dose level:

(A) Identification of the dose level group;

(B) Number of litters examined;

(C) Number of implantations per litter;

(D) Average number of live fetuses per litter;

(E) Average of live fetal weights;

(F) Percent of dead and resorbed fetuses per litter;

(G) Number and percent of fetuses bearing anomalies of each kind observed;

(H) Number and percent of fetuses bearing any anomaly;

(I) Number and percent of abnormal fetuses per litter; and

(J) Number and percent of litters having anomalous fetuses.

(4) *Evaluation.* The litter or dam is an accepted unit for evaluation. Data on individual fetuses with anomalies should also be considered.

(i) Evaluation of the results with respect to observed effects, must include:

(A) An evaluation of the relationship, if any, between exposure to the test substance and the anomalies and all other toxic signs observed; and

(B) An indication of the dosage level at which no toxic effects attributable to the test substance would appear.

(ii) Statistical analyses must be performed to assist in the reporting and evaluation of data. All statistical methods used should be identified by reference and/or fully described.

Appendix

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(2) Collins, T.F.X., and E.V. Collins. 1976. Current methodology in teratogenicity research. Pp. 155-175 in *Advances in Modern Toxicology*. M.A. Mehlman (NIH), ed. Vol. 1. Part 1. New Concepts in Safety Evaluation. M.A. Mehlman, R. Shapiro, and H. Blumenthal. Hemisphere Pub. Corp.: Washington, D.C.

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(15) Wilson, J. G. 1973. Environmental birth defects. Academic Press, Inc.: New York.

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§ 772.116-3 Reproductive effects test standards.

(a) *Study design.* (1) *Species.* Testing must be performed in at least one mammalian species which may be the same as one of the two species used in the teratogenic effects study pursuant to § 772.116-2 of this subpart. The rat is preferred.

(2) *Number and sex of animals.* In testing with rodents, each dose and control group must contain enough females to produce approximately 20 litters (20 sampling units) at each breeding, assuming typical mating and fertility for the strain. At least 10 fertile males per dose in the first mating of the F₁ generation must be used. Subsequently at least 10 males per dose level are required.

(3) *Number of doses and dose selection.* (i) At least three dose level groups, in addition to the control group, must be tested.

(ii) The highest dose level must produce an observable toxicological or

pharmacological effect in the test animals, but not cause more than 10 percent fatalities. This level must be higher than that expected for human exposure.

(iii) The lowest dose level must produce no observable adverse effects.

(4) *Control group.* Concurrent control groups are required as follows:

(i) A vehicle control group is required if a vehicle is used in administering the test substance. If there are insufficient data on the toxic properties of the vehicle used in administering the test substance, a separate control group receiving no chemical treatment is also required.

(ii) If no vehicle is used in administering the test substance, a separate control group receiving a sham treatment (e.g., physiological saline) is required.

(5) *Route of administration.* To the extent possible, route(s) of administration should be comparable to the expected or known routes of human exposure. The test rules in Part 771 will specify the route(s) to be employed for a particular chemical.

(6) *Duration of testing.* (i) The test substance must be administered to two generations of animals, F₀ and F₁. A third generation of animals, F₂, will be exposed to the test substance *in utero* and through nursing.

(ii) Dosing of animals in the F₀ generation must begin as soon as possible after weaning and acclimatization, and in any case before the animals are 6 weeks old. The test substance must be administered daily to the F₀ generation. Dosing must continue until all F₁ generation animals have been weaned.

(iii) Dosing of the animals selected from the F₁ generation for breeding must begin as soon as the animals are weaned (approximately 30 days after birth). The test substance must be administered daily to these animals, dosing must continue until 30 days after all F₂ animals have been weaned. (Dosing of animals from F₁ generation is not required if they have not been selected for breeding.)

(b) *Study conduct.* (1) *Breeding.* After the F₀ generation animals such as rodents and lagomorphs have received the test substance for at least 100 days, they must be bred to produce the F₁ generation. Appropriate numbers of males and females must be selected at random from different litters of the F₁ generation for breeding. After the test substance has been administered to these animals for at least 120 days, they must be bred to produce the F₂ generation. Figure 1 of the Appendix

indicates an acceptable breeding and dosing schedule.

(2) *Animal care.* Pregnant females must be caged separately and furnished with nesting materials.

(3) *Observations.* The requirements for observation of animals as specified in Subpart A, § 772.100-2(b)(6) apply to Subpart F.

(i) *Frequency.* Each animal must be observed for effects as long as it is being exposed to the test substance. Animals must be observed as frequently as necessary to obtain the data required by paragraph (c) of this section and Subpart A, Section 772.100-2(b)(6).

(ii) *Growth and delivery data.* The weight of each weanling must be recorded weekly to weight maturity and monthly thereafter. The dates of delivery must be recorded.

(iii) *Maternal data.* Observation must be made of the general condition and behavior of mothers, including nesting and nursing. Any abnormalities must be recorded.

(iv) *Paternal data.* Measurements must be made of spermatogenesis of all males in the F₀, F₁, and F₂ generations used to produce the subsequent generations. Such measurements should be undertaken within one week after breeding. In addition, or as an alternative, histopathology examinations of the tests, as indicated in paragraph (c)(11) of this section, must be undertaken. Additional useful information may be obtained by histopathology examinations of the tests of males in the F₀ and F₂ generations, particularly those males used for producing the subsequent generations. If spermatogenesis or histopathology of tests is evaluated in males in the F₀ and F₂ generations, such males should be of the same approximate age and should have been dosed for the same approximate length of time as males used in the F₁ generation (at the time the F₁ generation males were examined).

(v) *Litter data.* All litters must be examined as soon as possible after delivery. Where possible, effort should be made to prevent cannibalism of young. The following must be recorded: Litter size; number of stillborn; and number of live births. Viability counts and pup weight must be recorded at birth, four days after birth, and weaning. Additional viability counts between the fourth day and weaning are required for non-rodents. Any physical or behavioral abnormalities must be recorded.

(4) *Gross necropsy and histopathology.* (i) *F₁ generation.* Ten males and 25 females from each dose level and the control group must be subjected to a complete gross necropsy

and histopathology examination. The animals must be chosen from the F_1 generation animals used to produce the F_2 generation. The animals must be sacrificed at the end of the required period of dosing. The necropsy and histopathology examination must include examination of the reproductive organs.

(ii) F_1 and F_2 generation. A complete gross necropsy and histopathology examination must be conducted on five randomly selected weanlings of each sex from each test group (dose level and sex) in each generation (F_1 and F_2).

(iii) *Conduct of examinations.* All examinations must be conducted by or under the supervision of a qualified pathologist. The standards set forth in § 772.100-2(b)(1) and (7), Subpart A Apply.

(c) *Data reporting and evaluation.* The tester must submit to EPA the following reports:

"Study Plan" as required in § 772.100-2(b)(2), Subpart A;

"Interim Quarterly Summary Reports" outlining the current status of the study including any significant findings; and a "Final Test Report".

In addition to the basic information required by § 772.100-2(b)(8), Subpart A, the "Final Test Report" must include the following information, presented in the format specified:

(1) *Test protocol.* (i) The rationale for species and strain selection; and

(ii) The rationale for selection for the dosage levels; dosage levels must be reported as mg/kg/day as well as ppm.

(2) *Animal data.* For all means in the data required in this subparagraph, such means must be accompanied by the standard deviation.

(i) *Female data.* The following information relating to the reproduction of each female must be supplied in tables, with footnotes and description where appropriate:

(A) For each animal: Date of delivery; and unusual or abnormal behavior during estrous, gestation, or delivery; and fertility.

(B) Cumulative data showing means for controls and each dose level group in the F_0 and F_1 generation: the gestation index; approximate duration of gestation; and number and percent of animals showing behavioral abnormalities in connection with reproductive activity.

(C) For each mother: Its identification number; any abnormalities in nesting or nursing; total number of offspring per litter; number and percent of live and dead offspring; and general condition of offspring and mother through weaning.

(D) For each dose level and control group in the F_0 and F_1 generation: The fertility index; average size of litter; average number of dead and live offspring per litter; and number and percent of mothers showing behavioral abnormalities in nesting and nursing.

(ii) *Male data.* For each male evaluated for spermatogenesis in accordance with paragraph (b)(3)(iv) of this section: identification number and the results of the evaluation.

(iii) *Litter data on preweanling animals.* The following litter data on preweanling animals must be supplied in tables, with footnotes and descriptions where appropriate:

(A) For each litter arranged by dose level and generation: Total litter size; number and percent of stillborn; number and percent of live births; viability index; lactation index; weekly viability counts and weekly weight of each pup from day 4 of life to weaning; and number and nature of physical abnormalities observed.

(B) For each dose level and generation: Mean weekly weight of all pups from day 4 of life to weaning; number and percent of pups with physical or behavioral abnormalities; number and percent of pups surviving at birth, 1 week, and 3 weeks; and mean viability and lactation indices.

(iv) *Litter data on postweanling and mature animals.* the following information, arranged by test group (dose level and sex), must be supplied in tabular form (unless adequate justification is supplied to present these data in another form):

(A) For each animal: Its identification number; its age at the beginning of the study; its age at death and manner of death; and its weight, as measured weekly through 1 month of age and monthly thereafter.

(B) Cumulative data showing means for each control and test group: The weekly or monthly weights; and the number and percent of animals with behavioral abnormalities.

(3) *Gross necropsy data.* The following test information, arranged by test groups (dose level and sex) must be reported:

(i) Data showing the identification of any animal for which any gross abnormality or lesion was observed, and containing for each such animal a description of each abnormality or lesion. Gross abnormalities or lesions observed repeatedly in gross necropsies need be described only once and thereafter may be described by reference.

(ii) Data showing the number of animals affected by each type of

abnormality or lesion; and the number of animals in which any abnormality or lesion was observed.

(4) *Evaluation.* (i) Evaluation of the results with respect to all toxic or pharmacological effects, including:

(A) An evaluation of the relationships, if any, between exposures to the test substance and the incidence and severity of effects (including effects on reproduction, behavior, tumors and lesions, and mortality).

(B) An indication of the dosage level at which no toxic effects attributable to the test substance would appear.

(ii) Statistical analyses must be performed to assist in the reporting and evaluation of data. All statistical methods used must be identified by reference and/or fully described.

Appendix

(1) Figure 1. This figure indicates an acceptable breeding and dosing schedule for the reproduction study described in § 772.116-3.

(2) Definitions of reproductive indices:

(i) "Fertility index" means the percentage of mating resulting in pregnancy.

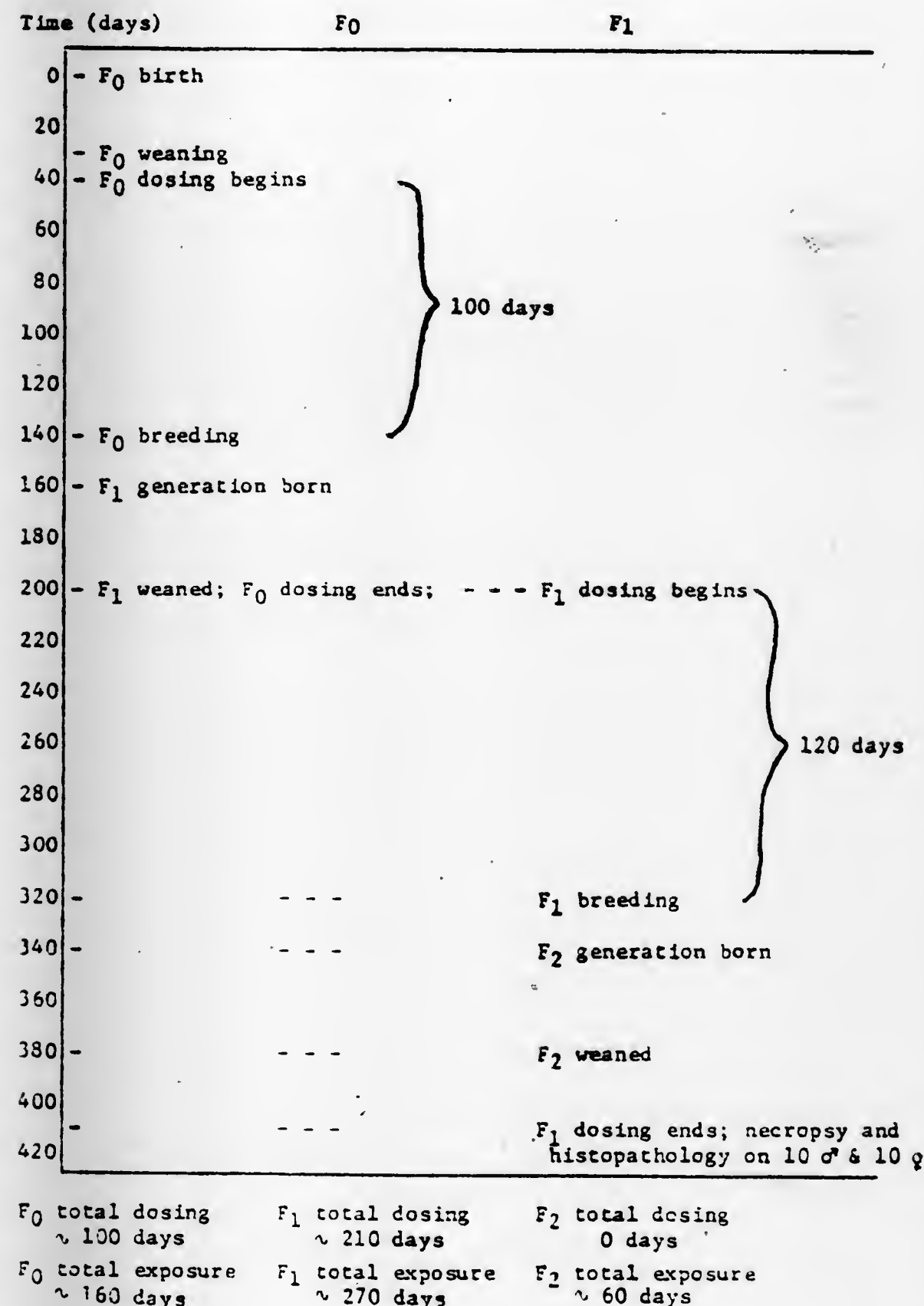
(ii) "Gestation index" means the percentage of pregnancies resulting in the birth of live litters.

(iii) "Viability index" means the percentage of animals born that survived 4 days or longer.

(iv) "Lactation index" means the percentage of animals alive at 4 days that survived the 21-day lactation period.

BILLING CODE 5560-01-M

Figure 1. Approximate breeding and dosing schedule for Reproduction Study



BILLING CODE 5560-01-C

(3) References:

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Subpart I—Other Health Effects

§ 772.119-1 General Metabolism Test Standards.

(a) *Scope.* The standards in this subpart are designed to develop data on metabolic effects of chemical substances and mixtures ("chemicals") subject to health effects test regulations under the Toxic Substances Control Act (TSCA). (Pub. L. 94-469, 90 Stat. 2003, 15 U.S.C. 2601 et seq.).

(b) *Purpose.* A general metabolism study is required for the following major purposes:

(1) To identify and, to the extent possible, quantify significant metabolites;

(2) To determine any possible bioaccumulation and/or bioretention of the test substance and/or metabolites;

(3) To determine test substance absorption as a function of dose;

(4) To characterize route(s) and rate(s) of test substance excretion;

(5) To relate test substance absorption to the duration of exposure of the animals; and

(6) To obtain an estimate of binding of the test substance and/or its metabolites by target macromolecules in potential target organs.

(c) *Applicability.* These standards apply to the development of health effects data from the testing of chemicals specified in Part 771 of this subchapter.

(d) *Definitions.* The definitions in section 3 of the TSCA and the definitions in § 770.2 and § 772.110-1(a)(3), entitled "Good Laboratory Practice Standards for Health Effects," apply to Subpart I.

(e) *Study Design.* (1) *Substances to be tested.* Single dose testing must be performed with the radioactively

labeled form of the test substance. If a radioactively labeled form cannot be used, consultation with the Agency is required. The label, preferably ^{14}C , must be positioned at a site in the molecule which is not subject to enzymatic attack. Labeling with ^3H by the witzbach procedure is unsatisfactory. In addition, some animals must receive repetitive doses of nonradioactively labeled test substance.

(2) *Test animal.* (i) *Species.* Testing must be performed in at least one mammalian species, preferably the laboratory rat of the same strain used in the chronic study (§ 772.113-3) or the oncogenicity study (§ 772.113-2).

(ii) *Age and sex.* Young adult male and female animals must be used.

(iii) *Number.* At least five animals per sex per test group must be tested.

(3) *Routes of administration.* The oral route (intubation) is required for dosing all radioactive forms, except for the single intravenous administration described for Group A in paragraph (f)(1)(i) of this section. Nonradioactive test substance may be given either by oral intubation or incorporated in the diet.

(4) *Dose levels.* At least two dose levels are required. The high dose level must produce some toxic or pharmacologic sign, and the low dose level must produce no toxic or pharmacologic sign, as demonstrated by an acute oral toxicity study.

(f) *Study conduct.* (1) The following four groups of animals must be studied.

(i) Group A animals must each receive only a single intravenous dose of the radioactively labeled test substance at the low dose level.

(ii) Group B animals must each receive only a single oral dose of radioactively labeled test substance at the low dose level.

(iii) Group C animals must each receive a series of daily oral doses of the nonradioactively labeled test substance (either by intubation or incorporated in the diet) over a period of at least 2 weeks, followed within 24 hours by a single oral intubation of the radioactively labeled test substance, each dose consisting of the low dose level.

(iv) Group D animals must each receive only a single oral dose of radioactively labeled test substance at the high dose level.

(2) *Time period and caging.* The animals in each group must be kept in individual metabolism cages for 7 days after the radioactive dose or until 95 percent of the administered dose is excreted (whichever occurs first), at which time the animals must be killed.

(3) *Analysis.* (i) *Levels of radioactivity.* (A) Levels of radioactivity in blood, urine, feces, and expired air must be measured at appropriate intervals throughout the study for all groups. However, if a preliminary study shows that no volatile radioactive materials are exhaled during the period of zero to 24 hours after dosing, such evidence may be submitted in lieu of measuring radioactivity of expired air for this study.

(B) For all groups, levels of radioactivity in tissues and organs must be measured at sacrifice by combustion to $^{14}\text{CO}_2$, with particular attention to bone, brain, fat, gonads, heart, kidney, liver, muscle, spleen, any tissue or organ which demonstrated pathology, and residual carcass.

(C) Samples of tissues and organs obtained at sacrifice, for all groups, must be extracted by nonpolar and polar solvents, and these extracts assayed for level of radioactivity. Extracted tissue residues can be combusted to $^{14}\text{CO}_2$ or solubilized with an appropriate solubilizing agent to measure the residual radioactivity.

(ii) *Chemical assay.* Urine and extracts of feces from all groups must be subjected to thin-layer chromatography and radiochromatogram scanning (or similar technique) for a determination of the extent of test substance biotransformation. Metabolites must be identified by use of methodology such as gas chromatography coupled with mass spectroscopy and chemical synthesis. An assay method for detection of each major metabolite may be requested by the Agency.

(4) *Calculations.* (i) *Rate of absorption.* The rate of test substance absorption must be determined from plasma levels of the test substance plus metabolites (e.g., from total ^{14}C) for each animal in groups A, B, C, and D at a series of time intervals (e.g., 0.25, 0.5, 1, 2, 4, 6, and 8 hours) after dosing with radioactively labeled compound. Means and standard errors must be calculated for groups A, B, C, and D.

(ii) *Extent of absorption.* The extent of test substance absorption must be determined from the ratio of total excreted urinary or fecal radioactivity at each of several time periods after dosing:

Percent absorbed = total excreted urinary radioactivity (group B or C or D)/total excreted urinary radioactivity (group A) \times 100 or Percent absorbed = total excreted fecal radioactivity (group B or C or D)/total excreted fecal radioactivity (group A) \times 100. Calculations of this kind must be made from data obtained at several

intervals, such as 24, 48, 72, 96, 120, 144, and 168 hours. In order to obtain mean values and standard errors, these calculations must be made for individual animals in groups B, C, and D (numerator), using mean values for group A (denominator). Using standard statistics, these determinations for groups B and D will indicate whether or not absorption is dose dependent.

(iii) *Tissue binding.* Determinations as to whether the test substance and/or its metabolites bind covalently to tissues must be made for all groups by comparison of data from paragraph (f)(3)(i)(B) with data from paragraph (f)(3)(i)(C), each of this section.

(g) *Data reporting and evaluation.* (1) *Reporting.* The study must be reported in detail. Raw data may be contained in appendixes. In addition to information meeting the general reporting requirements of § 772.100-2(b)(8), Subpart A, the following data derived from tests on animals in all groups (described in paragraph (f) of this section) must be reported:

(i) Levels of radioactivity, together with percent recovery of the administered dose, in plasma, excreta, and the following tissues and organs of animals in all groups: Bone, brain, fat, gonads, heart, kidney, liver, muscle, spleen, tissues which displayed pathology, and residual carcass;

(ii) A semilogarithmic plot of plasma test substance concentration (expressed as nanogram equivalents of test substance/ml, as calculated from the specific activity of the test substance versus time, including a calculation of plasma $t_{1/2}$ for all groups;

(iii) Percent absorption, by groups B, C, and D, determined from urinary or fecal radioactivity;

(iv) A full description of the sensitivity and precision of all procedures used to produce the data; and

(v) Information on the specific radioactivity of the test substance and site(s) of labeling.

(vi) Counting efficiency data must be made available to the Agency upon request.

(2) *Evaluation.* An evaluation of the data produced by this study must be submitted. The following points may be helpful in developing this evaluation.

(i) Plotting test substance plasma concentration (logarithmically) against time (arithmetically) will demonstrate the phases of absorption, tissue distribution (alpha), and excretion (beta) after test substance administration.

(ii) The curve representing intravenous test substance dosing will show only the tissue distribution and

excretion phases. The data points can be used to calculate the half-times of tissue distribution (alpha) and excretion (beta). The calculations can be done by linear regression; estimates can be made graphically by the "feathering" method.

(iii) The urinary excretion data can be used similarly to calculate the half-time of the beta phase, following the pattern explained in paragraph (g)(2)(i) of this section.

(iv) The beta-phase $t_{1/2}$ values will indicate clearly the potential of the test substance for bioaccumulation. Specific sites of bioaccumulation will be evident from the tissue distribution data.

(v) An analog computer can be used to prepare graphical plots of the probable plasma patterns after multiple dosing. A series of such plots can be prepared from data of groups B, C, and D. These plots will predict the steady-state plasma levels and the time necessary to attain them.

(vi) Predictions from group B data must be considered to be confirmed when group C data are not significantly different from group B data, with respect to peak plasma level; time at which peak plasma level occurred; $t_{1/2}$ for the alpha phase; and $t_{1/2}$ for the beta phase.

(vii) In addition to the material required above, the report should include a discussion section, in which the authors indicate clearly how they relate the metabolic and pharmacokinetic data to toxicologic observations in animals, and also to risks, if any, to human health. When the authors conclude that these relationships cannot be made on the basis of existing data, they should meet with Agency personnel to decide upon the design of additional studies.

(e) *Additional metabolic studies.* Additional, more specific studies may be required to clarify important points. Some areas for possible further study include: Binding by macromolecules in the blood, liver, gonads, and other tissues; placental transfer; entrance into breast milk; biotransformation by specific organs or tissues; absorption by dermal or inhalation routes of exposure; and measurement of levels of the test substance and its metabolites in the gonads. Plasma binding studies can be conducted, usually, *in vitro* with plasma. Placental transfer of a test substance can be determined readily by dosing pregnant rodents with radioactively labeled test substance and assaying their fetuses for radioactivity. Entrance of a test substance into breast milk can be determined similarly in rodents. Biotransformation studies can be performed, usually, with whole liver

homogenates or with liver fractions such as microsomes or cytosol.

Appendix

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1979 Federal Register

Thursday
July 26, 1979

Part V

Department of Health, Education, and Welfare

Office of Education

Basic Educational Opportunity Grant
Program

Family Contribution Schedules

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**DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE****Office of Education****[45 CFR Part 190]****Basic Educational Opportunity Grant
Program; Family Contribution
Schedules****AGENCY:** Office of Education, HEW.**ACTION:** Notice of proposed rulemaking.

SUMMARY: The family contribution schedules are the formulas used to measure financial need for the purpose of computing the amount of a student's award under the Basic Educational Opportunity Grant Program. The legislation governing the program requires that these schedules be submitted annually for public comment and for review by both Houses of Congress. The changes being proposed for 1980-81 in the family contribution schedules are intended to accomplish a number of objectives. Several of the changes are necessitated by the adoption of a common student aid application form for 1980-81. Others reflect a change in the assessment rate of income for independent students with dependents and in the treatment of income and assets of dependent students. Another revises the conditions under which a student may file a Basic Grant Supplemental Form using estimated data for the first calendar year of the award period instead of base year data.

DATES: Comments must be received on or before September 10, 1979.

ADDRESSES: Written comments should be sent to William Moran, Chief, Basic Grant Policy Section, Division of Policy and Program Development, ROB-3, Room 4318, 400 Maryland Avenue S.W., Washington, D.C. 20202. Comments will be available for public inspection at the above address between 8:30 a.m. and 4:30 p.m. Monday through Friday (except Federal holidays).

FOR FURTHER INFORMATION CONTACT: William Moran, (202) 472-4300.

SUPPLEMENTARY INFORMATION:**General Background**

These proposed changes in the family contribution schedules for 1980-81 are being submitted for public comment. The final regulations resulting from this notice of proposed rulemaking will be in effect for the 1980-81 award period. The proposed changes are described below.

Summary of Proposed Changes**1. Changes relating to the adoption of a
common student aid application form.**

In an effort to simplify the student aid application process, the Office of Education plans to adopt, beginning with the 1980-81 award period, a common form on which students may apply for a Basic Grant and for aid under the three campus-based programs. The common form has been developed by staff members of the Bureau of Student Financial Assistance working closely with the Coalition for the Coordination of Student Financial Aid.

The draft form has been reviewed by financial aid administrators, representatives from State agencies, students, and Congressional staff. The form will include data elements necessary to compute the Basic Grant Eligibility Index and the expected family contribution under Uniform Methodology (UM). It will also include a minimal number of additional data elements considered essential for a financial aid officer to have in determining whether adjustments should be made in the UM expected family contribution in individual cases. Three of the changes in the Family Contribution Schedules for 1980-81 relate to the adoption of the common form.

**1. Replace the unusual expense offset
with an unusual medical expense offset
and eliminate Casualty and Theft
Losses as a line item on the form.**

Section 411(a)(3)(B)(ii)(V) of the Higher Education Act of 1965 provides that one criterion which shall be used in determining Basic Grant eligibility will be: "Any unusual expenses of the student or his family, such as unusual medical expenses, and those which may arise from a catastrophe." To reflect this statutory provision, the current Family Contribution Schedules provide an unusual expense offset, equal to the amount by which the sum of unreimbursed medical and dental expenses and unreimbursed losses resulting from a catastrophe exceeds 20% of effective family income. In the 1979-80 application, lines 25 and 44 reflect medical and dental expenses (for dependent and independent applicants respectively). And, casualty and theft losses are reported on lines 26 and 45.

In the 1980-81 form we propose to delete the casualty and theft loss line item. We feel that these losses generally will still be reflected without the need for an offset and a separate line item on the application. Losses which affect investments and real estate will be reflected through lower amounts

reported in those two line items. Losses affecting other family possessions which have been replaced through cash purchases will be reflected through a lower amount reported in the line item for cash, savings, and checking accounts. Additionally, if after an application has been submitted, the student or the student's parents suffer a loss of, or damage to, assets because of a natural disaster in an area declared a National Disaster Area by the President, asset amounts on the SER may be corrected to reflect the loss. Also, if an applicant qualified under any of the conditions for filing a Supplemental Form, asset amounts will be adjusted to reflect current value at the time of filing the application which accompanies the Supplemental Form. We feel that the number of applicants having casualty and theft losses which are not reflected through these other means is not of sufficient size to warrant a line item on the form. The line item for reporting medical and dental expenses—the other item included in computing the unusual expense offset—will remain on the form for 1980-81.

In the 1980-81 Family Contribution Schedules, we are proposing to replace the unusual expense offset by an unusual medical expense offset. For dependent applicants this offset will equal the amount by which the sum of unreimbursed medical and dental expenses exceeds 20% of the effective income of the parents. For independent applicants the offset will equal the amount by which the sum of unreimbursed medical and dental expenses exceeds 20% of the student's effective family income.

**2. Elimination of "custody" from the
criteria for determining which parent's
income should be reported for a student
whose parents are divorced or
separated.**

Currently § 190.33(c) of the Family Contribution Schedule regulations provides that in the case of a dependent student whose parents are separated or divorced, income information shall be provided by the parent who has or had custody of the student. If custody was not awarded, or if parents have or had equal custody, the income to be reported will be that of the parent with whom the applicant resided for the greater portion of the 12 month period preceding the date of the application. If neither of those criteria apply, the income to be reported will be that of the parent who is providing or has most recently provided the greater portion of the student's support.

In most instances, the question of which parent has custody is irrelevant

for applicants over seventeen years of age—approximately 99% of the dependent applicant population. Thus, for 1980-81, as part of the effort to simplify the application and the instructions, we propose to eliminate this criterion. Section 190.33 of the Family Contribution Schedule regulations will be revised to provide that if the parents are divorced or separated, income information shall be provided by the parent with whom the applicant resided for the greater portion of the 12 month period preceding the date of application. If the student did not live with either parent during that period or lived with each for an equal amount of time, the income to be reported will be that of the parent who

has provided the greater portion of the student's support during that period. If neither of the above criteria apply, the income to be reported will be that of the parent who provided the greater portion of the student's support during the period beginning January 1, 1979 and ending twelve months prior to the date of the application.

**3. Elimination of the third year in the
criteria for determining "independent
student" status.**

Currently, the three criteria of the independent student definition must be met for the base year and both of the calendar years in which the award period occurs.

For 1979-80, the questions are as follows:

Section C.—Applicant's Status

	1978?		1979?		1980?	
	Yes	No	Yes	No	Yes	No
Did or will applicant live with parents for more than six weeks during—						
Did or will parents claim applicant as a U.S. income tax exemption for—						
Did or will applicant receive assistance worth more than \$250 from parents during—						

The third calendar year of the current definition requires a projection from all applicants concerning residence with parents until at least mid-February in the second calendar year of the award period. The third year income tax criterion will be a projection for all applicants. And, the answer to the question about parental financial support in the third calendar year could also be a projection throughout the remainder of the period when an application may be filed. Thus, in the vast majority of cases the answers to the questions pertaining to the third year of the definition will be projections.

Many applicants simply do not know at the time they file the application what their status will be in the third year. If an applicant has answered "NO" to all three questions for the first two years, it is highly unlikely that he or she will project a "YES" for the third year. Thus, it is only in rare cases that a student's status would be determined solely on the basis of what he or she answers for the third year. In any event, since the applicant's projection for the third year is usually a guess based on his or her status for the first two years, the question for the third year is generally

not a valid means for determining the applicant's dependency status. Thus, we are proposing to delete the third year from the definition of an "independent student" in § 190.42 of the Family Contribution Schedules for 1980-81. In the common student aid application form for 1980-81, the questions on the applicant's status will cite only the years 1979 and 1980. When the Family Contribution Schedules are published as final regulations, identical changes in the independent student definition will be made for the regulations governing each of the three campus-based programs (National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grants).

II Changes in income treatment**1. Adjustment of family size offsets**

The family-size offsets included in the family contribution schedules are intended to provide for basic family expenses which must be met before any contribution toward a student's educational costs can be expected. In order to establish a standard for determining the amount of these expenses, the Basic Grant program

adopted, during its initial year of operation, the "Weighted Average Thresholds at Low Income Level" developed by the Social Security Administration and published by the Bureau of the Census. These expenses are based on the food costs of families of given sizes, and make certain assumptions about additional expenses of shelter and other family needs. These base-line data have been updated annually to accommodate the increases in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor.

In applying for Basic Grants for the 1980-81 award period, applicants report actual financial data for the calendar year 1979, i.e., the "base year" for the 1980-81 award period. To derive the family size offsets for the 1979 base year, those used for 1978 will be adjusted to correspond to the actual increase in the Consumer Price Index published by the Bureau of Labor Statistics at the end of the year. Since this notice of proposed rulemaking is published well before the conclusion of the year, the amounts in the 1980-81 family contribution schedule are estimated by increasing those used for 1979-80 by 9.2%. When the final regulation is published, these estimated amounts will be replaced by family size offsets based on the actual Consumer Price Index statistics for 1979 as published by the Department of Labor.

**2. Include income and assets for
dependent student and spouse.**

Currently the income of a dependent student and the dependent student's spouse is not assessed in computing a student's Basic Grant eligibility index. Section 190.37 of the Family Contribution Schedule regulations provides that the dependent applicant's assets will be assessed at 33%. However, no assessment is made of the assets of the dependent student's spouse. The program has received considerable criticism for ignoring these potential resources.

A recent analysis of a representative sample of 1977 dependent student income reported by students and parents filing the Financial Aid Form (FAF) of the College Scholarship Service showed that:

- 65.4% of dependent students have annual earnings less than \$1,000
- 92.3% of dependent students have annual earnings less than \$3,000
- 98.5% of dependent students have annual earnings less than \$6,000
- 99.95% of dependent students have annual earnings less than \$15,000.

These data support the conclusion that, in general, dependent student

income would not be a significant factor for most students in determining their Basic Grant eligibility index. However, they also support the criticism that in some instances the Basic Grant Program is ignoring substantial resources for dependent students.

In the 1980-81 Family Contribution Schedules we propose to revise § 190.37 to include the assets of the dependent student's spouse as well as those of the dependent student. The assessment rate for the assets of single dependent students will remain at 33%. For married dependent students, an asset reserve of \$25,000 will be established, and any assets in excess of the reserve will be assessed at a rate of 5%. This procedure will parallel the asset treatment which has been adopted, beginning with the 1979-80 award period, for married independent students, except that there will not be an additional asset reserve for farm and business assets.

Additionally, we propose to incorporate into the formula the base year taxable and nontaxable income of the dependent student and his or her spouse. In assessing the income of the dependent student and spouse, offsets will be established in the same way that they are established for independent students and dependent student's parents. However, the dependent student's offset will be reduced to account for the parental share of maintenance expenses for that student which is already included in the family size offset for that dependent student's parents. This adjustment will avoid double counting of allowances for maintenance expenses in the formula.

In many instances a married dependent student will be considered dependent because he or she has answered "Yes" for the base year to one of the three questions which determine an applicant's status. That is, the applicant may have lived with his or her parents for six weeks in the base year, and thus for Basic Grant purposes be categorized as a dependent student. But since that period of residence with the parents, the applicant has married and established a separate household. In this situation the dependent student's spouse would not be included in the family size of the dependent student's parents and thus would not be included in the regular family size offset. Since the income of the dependent student's spouse is to be assessed, there should, of course, be an offset against that income. Thus, an offset for the married dependent student will be established which will be derived by adding to the single dependent's offset an amount equivalent to that allowed for each

family member in the household of the dependent student's parents.

The dependent student offset will be subtracted from the income of the dependent student and spouse. For single dependent students, 75% of the remainder will be included in computing the student's eligibility index. For married dependent students, 25% of the remainder will be included. These assessment rates are identical to those which we are proposing for assessing the income of single independent students and independents with a spouse, respectively. This is consistent with our philosophy that the student, as direct beneficiary of his or her postsecondary education, should be required to contribute a larger portion of his or her resources for that education than would be expected from the parents of the student.

For 1980-81 we are proposing that the amount of the offset against income for the single dependent student be set at \$2,550, which is equal to the offset for the single independent student (\$3,750) minus an average share of parental contribution to the dependent student's maintenance expenses (\$1,200). For the married dependent student the offset will be \$3,750.

As noted earlier, the amounts of the offsets included in this notice of proposed rulemaking will be replaced by family size offsets based on actual Consumer Price Index statistics when the 1980-81 Family Contribution Schedules are published as final regulations.

3. *Reduction in the rates of assessing the discretionary income of independent students with dependents.*

In the 1979-80 Family Contribution Schedules several changes were made which were intended to provide more equity for independent students. One of these changes was a revision in the method of treating assets of independent students with dependents in calculating Basic Grant eligibility. Prior to 1979-80 assets of all independent students were assessed at 33% with no asset reserve. The 1979-80 schedules revised the asset treatment for dependent student's parents. A personal asset reserve of \$25,000 was established—with a reserve of up to \$50,000 for applicants with farm and business assets—and an assessment rate of 5% is applied to assets above the level of the reserve. This change was made in recognition of the fact that independent students with dependents have family responsibilities similar to those of the parents of dependent students.

For 1980-81 we are proposing to apply the principle of the similarity between dependent students' parents and independent students with dependents to the assessment of discretionary income. Currently, the single independent student's effective family income is assessed at 75%. The income of a married independent student with no dependents other than a spouse is assessed at 50%. And the income of an independent student who has dependents other than a spouse is assessed at 40%. For 1980-81 we are proposing to reduce the assessment rate of discretionary income for independent students with no dependents other than a spouse from 50% to 25%, and the rate for independent students with dependents other than a spouse from 40% also to 25%. These two reductions in the assessment rates of discretionary income diminish the gap between the treatment of the discretionary income of independent students with dependents and the treatment of the discretionary income of dependent students' parents, which is assessed at a rate of 10 1/2%.

III. Revision in the conditions under which a student may file a Supplemental Form

1. *Delete "loss of unemployment benefits" and add "loss of any nontaxable benefits."*

The Supplemental Form is used to report drastic changes in family financial circumstances by using estimated data for the first year of the award period when base year data would be an inappropriate measurement for determining Basic Grant eligibility.

An applicant may file a Supplemental Form only if he or she meets one of several specific conditions set forth in § 190.39 of the Family Contribution Schedule for dependent students or § 190.48 of the Family Contribution Schedule for independent students. Several of the conditions under which a Supplemental Form may be filed concern the loss of employment. A dependent student may file a Supplemental Form if a parent whose base year income is reported on the original application has been unemployed for ten weeks or more during the calendar year following the base year or has been unable to pursue normal income producing activities for a similar period of time because of a disability or loss or damage to income producing property caused by a natural disaster. An independent student may file a Supplemental Form if the spouse whose base year income is reported has been unemployed for ten weeks or more during the year following the base year.

Additionally, an independent applicant also qualifies to file a Supplemental Form if he or she was employed full-time for at least thirty weeks during the base year and is no longer employed full-time.

Currently, these criteria in the Family Contribution Schedules allowing an applicant to have his or her eligibility index recomputed because of a loss of earnings are not paralleled by similar criteria for reporting a loss of nontaxable benefits. At present the loss of unemployment benefits is the only instance in which the loss of nontaxable income qualifies as a condition for filing a Supplemental Form. The Family Contribution Schedules provide that the form may be filed if someone whose base year income was reported has had his or her unemployment benefits expire during the base-year or the calendar year after the base year.

For 1980-81 we are proposing to revise the conditions for filing a Supplemental Form so that the loss of earned income and the loss of nontaxable benefits will be treated similarly in Basic Grant eligibility index computations. The current condition for reporting the expiration of unemployment benefits will be replaced by a broader condition which will permit the filing of a Supplemental Form if the parent of a dependent student or an independent student whose base year income is reported has had any type of nontaxable benefits expire during the base year or the calendar year following the base year. (The one exception to this condition will be the loss of veteran's benefits, since these are already reported on the original application as a projected figure for the award period.)

(Catalog of Federal Domestic Assistance No. 13.539, Basic Educational Opportunity Grant Program.)

Dated: July 13, 1979.

Mary F. Berry,

Acting U.S. Commissioner of Education.

Dated: July 18, 1979.

Joseph A. Califano, Jr.,

Secretary of Health, Education, and Welfare.

PART 190—BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

Subparts C and D of Part 190 of Title 45 of the Code of Federal Regulations are proposed to be revised to read as follows:

Subpart C—Expected Family Contribution for Dependent Students

Sec.

- 190.31 Indicators of financial strength.
- 190.32 Special definitions.
- 190.33 Effective family income.
- 190.33a Effective student income.

Sec.

- 190.34 Computation of the expected family contribution for a dependent student from the effective family income.
- 190.34a Computation of the expected family contribution for a dependent student from effective student income.
- 190.35 Computation of the expected contribution from parental assets.
- 190.36 Computation of the expected contribution from parental income and assets, adjusted for number of family members enrolled in programs of postsecondary education.
- 190.37 Computation of the expected contribution from student's (and spouse's) assets.
- 190.38 Computation of the total expected family contribution.
- 190.39 Extraordinary circumstances affecting the expected family contribution determination for a dependent student.

Subpart D—Expected Family Contribution for Independent Students

- 190.41 Indicators of financial strength.
- 190.42 Special definitions.
- 190.43 Effective family income.
- 190.44 Computation of the expected family contribution for an independent student from effective family income.
- 190.45 Computation of the expected contribution from the assets of the independent student (and spouse).
- 190.46 Computation of the total expected contribution from the student's (and spouse's) income and assets, adjusted for number of family members enrolled in programs of postsecondary education.
- 190.47 (Reserved)
- 190.48 Extraordinary circumstances affecting the expected family contribution determination for an independent student.

Authority: Pursuant to the authority contained in title IV of the Higher Education Act of 1965, as amended (Pub. L. 89-329), the Commissioner proposes to amend the regulations in 45 CFR Part 190.

Subpart C—Expected Family Contribution for Dependent Students

§ 190.31 Indicators of financial strength.

"Expected family contribution" for a dependent student means the amount that the student and his or her family may reasonably be expected to contribute toward the cost of his or her education for an award period. Each of the following elements of financial strength will be considered in determining the family contribution for a dependent student:

- (a) The effective incomes of the student and the student's spouse, and the student's parent(s).
- (b) The number of family members in the household of the student's parent(s).
- (c) The number of family members in the household of the student's parent(s) who are enrolled in, on at least a half-

time basis, a program of postsecondary education.

(d) The assets of (i) the student and his or her spouse, and (ii) the student's parent(s).

(e) The marital status of the student.

(f) The unusual expenses of the student's parent(s). These unusual expenses are limited to medical and dental expenses.

(g) The additional expenses incurred when both parents of the student are employed or when a family is headed by a single parent who is employed.

(h) The tuition paid by the student's parents for dependent children, other than the student, who were enrolled in an elementary or secondary school.

(20 U.S.C. 1070a(a)(3)(B)(iii))

§ 190.32 Special definitions.

For purposes of this subpart:

"Assets" means cash on hand including amounts in checking and savings accounts, trusts, stocks, bonds, other securities, real estate, home (if owned), income producing property, business equipment, and business inventory.

However, for Native American students, the following shall not be considered as an asset of the student or his or her family in determining the expected family contribution:

(a) Any property received under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.) or the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.).

(b) Any property that may not be sold or encumbered without the consent of the Secretary of Interior, or

(c) Any other property held in trust for the student or his family by the United States Government.

"Business assets" means property that is used in the operation of a trade or business, including real estate, inventories, buildings, machinery and other equipment, patents, franchise rights, and copyrights.

"Dependent of the student's parents" means the student and any of the following persons for whom the parents provide or will provide more than one-half support during 1980:

(a) Other children of the student's parents, or

(b) Persons living with the parents at the time that the Basic Grant application is filed.

"Dependent student" means any student who does not qualify as an independent student as defined in § 190.42(a).

"Dependent student offset" means an offset from the effective income of a dependent student and his or her spouse

to meet the basic needs of the student and spouse. This offset is derived by subtracting from the family size offset for a single independent student the "average" parental share for maintenance expenses for the student which is already a part of the parents' family size offset. The "average" parental share is the average increase in the family size offset for each family member above one in the family size. For 1980-81 this amount is \$1,200.

"Effective family income" and "effective income of the student and spouse" are described in § 190.33 and 190.33a respectively.

(20 U.S.C. 1070a(a)(3)(B)(iii))

"Employment expense offset" means an allowance to meet expenses relating to employment when both parents are employed or when one parent qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

(20 U.S.C. 1070a(a)(3)(B)(ii)(V))

"Family size offset" means an allowance to meet the subsistence expenses of a family, including food, shelter, clothing, and other basic needs. This offset is derived from the "Weighted Average Thresholds at the Low Income Level," as developed by the Social Security Administration.

"Farm assets" means any property owned and used in the operation of a farm for profit, including real estate, livestock, livestock products, crops, farm machinery, and other equipment inventories. A farm is not considered to be operated for profit if crops or livestock are raised mainly for the use of the family, even if some income is derived from incidental sales.

"Federal income tax" means (a) the tax on income paid to the U.S. Government under chapter 2 of the Internal Revenue Code, or (b) the tax on income paid to the Governments of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands under the laws applicable to those jurisdictions, or (c) the comparable taxes paid to the central government of a foreign country.

(20 U.S.C. 1070a(a)(3)(b)(iii))

"Medical expenses" means unreimbursed medical and dental expenses, except premiums for medical insurance, that may be deducted under section 213 of the Internal Revenue Code paid in 1979 by the parents of the student unless the student files an application with the Commissioner under the provisions of § 190.39. In that

case the expenses reported are those paid in 1980.

"Net assets" means the current market value at the time of application of the assets included in the definition of "assets" minus the outstanding liabilities (indebtedness) against those assets.

"Parent" means the student's mother or father. An adoptive parent is considered the student's mother or father.

(20 U.S.C. 1070a(a)(3)(B) unless otherwise noted)

§ 190.33 Effective family income.

(a) Effective family income is the annual adjusted family income minus the Federal income tax paid or payable for the year that adjusted gross income is used in the calculation of the student's Basic Grant.

(b) "Annual adjusted family income" means, except as provided in paragraphs (c), (d), (e), and (f) of this section, and § 190.39—

(1) The sum received in 1979 by the student's parents from—

(i) Adjusted gross income, as defined in section 62 of the Internal Revenue Code, regardless of whether the parent filed an income tax return;

(ii) Investment income upon which no Federal income tax need be paid. An example of such income is the interest on municipal bonds; and

(iii) Other income upon which no Federal income tax need be paid. Examples of such income include child support payments, income from income maintenance programs such as welfare benefits, and Social Security benefits;

(2) Any Social Security benefits paid to the student in 1979; and

(3) One-half of any veteran's benefits to be paid to the student under chapters 34 and 35 of the United States Code for the 1980-81 award period.

(c) For a Native American student, the annual adjusted family income does not include the income received by the student's parents under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.) or the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.).

(d) For a student whose parents are divorced or separated, the following procedures apply for reporting a parent's income to determine the annual adjusted family income—

(1) Report only the income, as described in paragraph (b) of this section, of the parent with whom the student resided for the greater portion of the 12 month period preceding the date of the application.

(2) If the preceding criterion does not apply, report only the income of the

parent who provided the greater portion of the student's support for the 12 month period preceding the date of application.

(3) If neither of the preceding criteria apply, report only the income of the parent who provided the greater support for the period commencing January 1, 1979 and ending 12 months prior to the date of application.

(e) The following rule applies if either a parent whose income is taken into account paragraph (d), or a parent who is a widow or widower and whose income is taken into account under paragraph (b) has remarried. The income of that parent's spouse shall be included in determining the student's annual adjusted family income if, in either 1979 or 1980, the student—

(1) Has received or will receive financial assistance of more than \$750 in either or those years from that spouse, or

(2) Has lived or will live for more than six weeks in either of those years in the home of the parent and that spouse.

(f) The annual adjusted family income does not include any student financial assistance except those veteran's benefits cited in subparagraph (b)(3).

(20 U.S.C. 1070a(a)(3)(B))

§ 190.33a Effective student income.

(a) Effective student income is the annual adjusted income of the student (and spouse for a married student) minus the Federal income tax paid or payable for the year that adjusted gross income is used in the calculation of the student's Basic Grant.

(b) "Annual adjusted income of the student and spouse" means, except as provided in paragraphs (c), (d) and (e) of this section, and § 190.39—

(1) The sum received in 1979 by the student and spouse from—

(i) Adjusted gross income, as defined in section 62 of the Internal Revenue Code, regardless of whether the student or spouse filed an income tax return.

(ii) Investment income upon which no income tax need be paid. An example of such income is the interest on municipal bonds; and

(iii) With the exception of Social Security benefits for the student, other income upon which no Federal income tax need be paid. Example of such income include child support payment, and income from income maintenance programs such as welfare benefits.

(c) For a Native American student, the annual adjusted income of the student and spouse does not include the income received by the student or spouse under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.) or the Alaska

Native Claims Settlement Act (43 U.S.C. 1601, et seq.).

(d) In the case of a student who is separated, the spouse's income shall not be considered in determining the "annual adjusted income of the student and spouse".

(e) The annual adjusted income of the student and spouse does not include any student financial assistance.

(20 U.S.C. 1070a(a)(3)(B))

§ 190.34 Computation of the expected family contribution for a dependent student from the effective family income.

The expected family contribution for a dependent student from effective family income is calculated as follows:

(a) Determine the parents' discretionary income by deducting the following offsets from the effective family income:

(1) A family size offset in the amount specified in the following table.

Family size offsets	
Family members:	Amount
2	\$4,850
3	5,900
4	7,500
5	8,800
6	10,000
7	11,050
8	12,250
9	13,400
10	14,400

Plus \$1,000 for each additional family member over 10

In determining the family size, the following rules apply—

(i) If the parents are not divorced or separated, family members include the student's parents, and the dependents of the student's parents.

(ii) If the parents are divorced or separated and not remarried, family members include the parent whose income is included in computing the effective family income and that parent's dependents.

(iii) If the parents are divorced and the parent whose income is included in computing the effective family income has remarried, or if the parent was a widow or widower who has remarried, family members also include, in addition to those people referenced in subparagraph (a)(1)(ii), the new spouse and any dependents of the new spouse if that spouse's income is included in determining the effective family income.

(2) An unusual expense offset equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20% of effective income of the parents. The expenses that may be reported are those expenses paid by the student's parents during 1979, unless the student files an application with the Commissioner under the provisions of § 190.39. In that

case, the expenses reported will be those paid in 1980. The expenses of both parents are included only if the incomes of both are subject to inclusion in determining the effective family income. Similarly, a step-parent's expenses are included only if his or her income was subject to inclusion.

(3) An employment expense offset in the amount specified as follows—

(i) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, use the lesser of \$1500 or 50% of the earned income (income earned by work) of the parent with the lesser earned income.

(ii) If a parent qualifies as a head of household as defined in section 2 of the Internal Revenue Code, use the lesser of \$1500 or 50% of his or her earned income.

The earned income figure to be used in all cases is that figure for 1979 unless the student files an application with the Commissioner under the provisions of § 190.39. In that case, the figure to be used is the one for 1980.

(4) An educational expense offset equal to the tuition paid by the student's parents for dependent children, other than the student, enrolled in elementary or secondary school. The tuition which may be reported is the tuition paid in 1979 unless the student files an application with the Commissioner under the provisions of § 190.39. In that case, the tuition reported will be that paid in 1980.

(b) If the parents' discretionary income is a positive amount, multiply it by 10.5% to determine the expected contribution from the effective family income. If the parents' discretionary income is negative, there is no expected contribution from the effective family income.

(20 U.S.C. 1070a(a)(3)(B))

§ 190.34a Computation of the expected family contribution for a dependent student from effective student income.

(a) Determine the student's discretionary income by deducting from effective student income the relevant dependent student offset.

Dependent Student Offset	
Single student	2550
Married student	3750

(b) If the student's discretionary income is a positive amount, multiply it by one of the following figures to determine the expected contribution from effective student income:

(1) 75% for the single dependent student, or

(2) 25% for the married dependent student.

If the student's discretionary income is negative, there is no expected contribution from effective student income.

(20 U.S.C. 1070a(a)(3)(B))

§ 190.35 Computation of the expected contribution from parental assets.

Except as provided for in paragraph (d), the expected contribution from parental assets is determined in the following manner:

(a) If the net assets do not include farm or business assets, deduct an asset reserve of \$25,000 from the net assets.

(b) If the net assets include farm or business assets as defined in § 190.32, deduct an asset reserve from the net assets as follows—

(1) If farm or business assets are less than farm or business debts, deduct an asset reserve of \$25,000 from the net value of all assets.

(2) If farm or business assets exceed farm or business debts, and the net value of non-farm and non-business assets is \$25,000 or more, deduct an asset reserve of.

(i) \$25,000 from non-farm and non-business assets, and

(ii) \$25,000 from farm and business assets.

(3) If farm or business assets exceed farm or business debts and the net value of non-farm and non-business assets is less than \$25,000, deduct an asset reserve of \$50,000 from the net value of all assets.

(4) If the result obtained in (1), (2)(ii), or (3) is a negative amount, it shall be changed to zero.

(c) The expected contribution from parental assets equals five percent of the remainder obtained in subparagraph (a) or (b).

(d) If the calculation of discretionary income required by § 190.34(a) produces a negative number, the expected contribution from parents' assets, calculated under paragraph (c) shall be reduced by the amount of that negative discretionary income.

(e)(1) If the student's parents are separated, or divorced and not remarried, only the assets of the parent whose income is included in computing annual adjusted family income shall be considered.

(2) However, if that parent has remarried, or if the parent was a widow or widower who has remarried, and the parent's spouse's income is also included under § 190.33, the assets of that parent's spouse shall also be included.

(20 U.S.C. 1070a(a)(3)(B))

§ 190.36 Computation of the expected contribution from parental income and assets, adjusted for number of family members enrolled in programs of postsecondary education.

(a) For each grant, the amount expected from parental income as determined in § 190.34(b) is added to the amount expected from parental assets as determined in § 190.35.

(b)(1) For each grant, the combined expectation determined in paragraph (a) is adjusted in the following manner for the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which Basic Grant assistance is requested:

Number of family members enrolled in programs of postsecondary education	Expected contribution per student from combined contribution
1	100% of the contribution determined in paragraph (a)
2	70% of the contribution determined in paragraph (a)
3	50% of the contribution determined in paragraph (a)
4 or more	40% of the contribution determined in paragraph (a)

(2) Family members are those persons referenced in § 190.34(a)(1).

(20 U.S.C. 1070a(a)(3)(B))

§ 190.37 Computation of the expected contribution from the assets of the dependent student (and spouse).

(a) The expected contribution from the net assets of a single dependent student equals 33% of the amount of those assets.

(b) The expected contribution from the net assets of the married dependent student and spouse is determined in the following manner.

(1) Deduct an asset reserve of \$25,000 from the net assets. If the result is negative, it shall be changed to zero.

(2) The expected contribution from assets equals 5% of the remainder obtained in subparagraph (1).

(20 U.S.C. 1070a(a)(3)(B))

§ 190.38 Computation of the total expected family contribution.

For each grant the total expected family contribution is the sum of—

(a) The expected contribution from the parents' income and assets as determined in § 190.36.

(b) The expected contribution from effective student income as determined in § 190.34a, and

(c) The expected contribution from the student's (and spouse's) assets as determined in § 190.37.

(20 U.S.C. 1070a(a)(3)(B))

§ 190.39 Extraordinary circumstances affecting the expected family contribution determination for a dependent student.

(a) An applicant may submit an application to the Commissioner for determination of his or her expected family contribution using income data from 1980 instead of 1979 if—

(1) A parent whose income was or would have been included in the computation of the expected family contribution has died in 1979 or 1980.

(2) A parent whose income was or would have been included in the computation of the expected family contribution has lost his or her job for at least 10 weeks during 1980.

(3) A parent whose income was or would have been included in the computation of the expected family contribution has been unable to pursue normal income-producing activities for at least 10 weeks during 1980 because of (i) disability, or (ii) loss or damage to income-producing property as a result of a natural disaster.

(4) The parents of the applicant have become separated or divorced after the applicant submitted his or her application, or

(5) A parent whose income was or would have been included in the computation has had a complete loss of a particular type of nontaxable benefits in 1979 or 1980. Types of nontaxable income would include unemployment benefits, Social Security benefits, welfare, etc.

(b) An application submitted under paragraph (a) shall include the effective family income and the effective income of the student and spouse already received for 1980 and an estimate of those effective incomes to be received for the remainder of that year.

(c) An applicant may submit a revised application to reflect changes in asset amounts reported on the previously submitted application if the applicant or the applicant's family has suffered a loss of or damage to assets resulting from a natural disaster in an area that has been declared a national disaster area by the President of the United States.

(20 U.S.C. 1070a(a)(3)(B)(i)(V))

Subpart D—Expected Family Contribution for Independent Students

§ 190.41 Indicators of financial strength.

"Expected Family Contribution" for an independent student means the amount that the student his or her

spouse may reasonably be expected to contribute toward the cost of his or her education for an award period. Each of the following elements of financial strength will be considered in determining the family contribution for independent students:

(a) The effective family income of the independent student and spouse.

(b) The number of family members in the household of the student and spouse.

(c) The number of family members in the household of the student and spouse who are enrolled in, on at least a half-time basis, a program of postsecondary education.

(d) The assets of the student and spouse.

(e) The unusual expenses of the student and spouse. These unusual expenses are limited to medical and dental expenses.

(f) The additional expenses incurred when both the student and spouse are employed or when the employed student qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

(g) The tuition paid by the student or spouse for dependent children enrolled in an elementary or secondary school.

(20 U.S.C. 1070a(a)(3)(C)).

§ 190.42 Special definitions.

The definitions of "assets", "business assets", "farm assets", "family size offset", "Federal income tax", "medical expenses", "net assets", and "parent" are set forth in § 190.32.

"Department" means the student's spouse and any of the following persons for whom the student or spouse provides or will provide more than one-half support during 1980: (a) Children of the student or spouse; or (b) Persons living with the student and spouse at the time that the Basic Grant application is filed.

"Effective family income" is described in § 190.43.

"Employment expense offset" means an allowance to meet expenses relating to employment when both the independent student and his or her spouse are employed or when the independent student qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

"Independent student" means:

(a) A student who for 1979 or 1980—

(1) Has not been claimed and will not be claimed as an exemption for Federal income tax purposes by his or her parent(s) for either of these years;

(2) Has not received and will not receive financial assistance of more than \$750 from his or her parent(s) in either of these years; and

(3) Has not lived and will not live for more than six weeks in the home of his or her parent(s) in either of these years; or

(b) A student whose last surviving parent for who financial information would have been reported on the application under the provisions of Subpart C has died in 1979 or 1980.

(20 U.S.C. 1070a(a)(3)(B)(iii))

§ 190.43 Effective family income.

(a) Effective family income is the annual adjusted family income minus the Federal income tax paid or payable for the year that adjusted gross income is used in the calculation of the student's Basic Grant.

(b) "Annual adjusted family income" means, except as provided in paragraphs (c), (d), and (e) of this section and § 190.48—

(1) The sum received in 1979 by the student and spouse from—

(i) Adjusted gross income, as defined in section 62 of the Internal Revenue Code, regardless of whether the student or spouse filed an income tax return;

(ii) Investment income upon which no Federal income tax need be paid. An example of such income is the interest on municipal bonds; and

(iii) Other income upon which no Federal income tax need be paid. Examples of such income include child support payments, income from income maintenance programs such as welfare benefits and Social Security benefits.

(2) One-half of any veteran's benefits to be paid to a student under Chapters 34 and 35 of the United States Code for the 1980-81 award period.

(c) For a Native American student, the annual adjusted family income does not include the income received by the student or spouse under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.) or the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.)

(d) In the case of a student who is separated, the spouse's income shall not be considered in determining the annual adjusted family income.

(e) The annual adjusted family income does not include any student financial assistance except those veteran's benefits cited in subparagraph (b)(2).

(20 U.S.C. 1070a(a)(3)(B) and (C))

§ 190.44 Computation of the expected family contribution for an independent student from effective family income.

The expected family contribution for the independent student from effective family income is calculated as follows:

(a) Determine discretionary income by deducting the following offsets from the effective family income.

(1) A family size offset in the amount specified in the following table.

Family size offsets	
Family members	Amount
1	\$3,750
2	4,850
3	5,900
4	7,500
5	8,800
6	10,000
7	11,050
8	12,250
9	13,400
10	14,400

Plus \$1,000 for each additional family member over 10

In determining the family size, the following rules apply—

(i) Family members normally include the student and spouse and their dependents.

(ii) However, if the student is divorced or separated, the spouse (ex-spouse) and his or her dependents are not counted in the family size.

(2) An unusual expense offset equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20% of effective family income. The expenses that may be reported are those expenses paid by the student and spouse in 1979, unless the student files an application with the Commissioner under the provisions of § 190.48. In that case, the expenses reported will be those paid in 1980. The expenses of both the student and spouse are included only if the incomes of both are subject to inclusion in determining the effective family income.

(3) An employment expense offset in the amount specified as follows—

(i) If both the student and spouse were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, use the lesser of \$1,500 or 50% of the earned income (income earned by work) of the person with the lesser earned income.

(ii) If a student qualifies as a head of household as defined in section 2 of the Internal Revenue Code, use the lesser of \$1,500 or 50% of his or her earned income.

The earned income figure to be used in all cases is that figure for 1979, unless the student files an application with the Commissioner under the provisions of § 190.48. In that case the figure to be used is the one for 1980.

(4) An educational expense offset equal to the tuition paid by the student and spouse for dependent children enrolled in elementary or secondary school. The tuition that may be reported is the tuition paid in 1979, unless the student files an application with the Commissioner under the provisions of

§ 190.48. In that case the tuition reported will be that paid in 1980.

(20 U.S.C. 1070a(a)(3)(B))

(b) If the discretionary income is a positive amount, multiply it by one of the following figures to determine the expected family contribution from the effective family income of the student and spouse:

(1) 75% for the single independent student with no dependents; or

(2) 25% for the independent student with one or more dependents (including a spouse).

If the discretionary income is negative, there is no expected family contribution from effective family income.

(20 U.S.C. 1070a(a)(3)(C))

§ 190.45 Computation of the expected contribution from the assets of the independent student (and spouse).

(a) Except as provided in paragraph (c), the expected contribution from the net assets of the single independent student with no dependents equals 33% of the amount of those assets.

(b) For an independent student with dependents, except as provided in paragraph (c), the expected contribution from the assets of the student and spouse is determined in the following manner:

(1) If the net assets do not include farm or business assets, deduct an asset reserve of \$25,000 from the net assets.

(2) If the net assets include farm or business assets as defined in § 190.42, deduct an asset reserve from the net assets as follows—

(i) If farm or business assets are less than farm or business debts, deduct an asset reserve of \$25,000 from the net value of all assets.

(ii) If farm or business assets exceed farm or business debts, and the net value of non-farm and non-business assets is \$25,000 or more, deduct an asset reserve of,

(A) \$25,000 from non-farm and non-business assets, and

(B) \$25,000 from farm and business assets.

(iii) If farm or business assets exceed farm or business debts and the net value of non-farm and non-business assets is less than \$25,000, deduct as asset reserve of \$50,000 from the net value of all assets.

(iv) If the result obtained in (2)(i), (2)(ii)(B), or 2(iii) is a negative amount, it shall be changed to zero.

(3) The expected contribution from assets equals 5% of the remainder obtained in subparagraph (1) or (2).

(c) If the calculation of discretionary income required by § 190.44(a) produces

a negative number, the expected contribution from the student's (and spouse's) assets calculated under paragraph (b)(3) shall be reduced by the amount of that negative discretionary income.

(20 U.S.C. 1070a (a)(3) (B) and (C))

§ 190.46 Computation of the total expected contribution from the student's (and spouse's) income and assets, adjusted for number of family members enrolled in programs of postsecondary education.

(a) For each grant, the amount expected from family income as determined in § 190.44 is added to the amount expected from assets as determined in § 190.45.

(b) For each grant, the combined expectation determined in paragraph (a) is adjusted in the following manner for the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which Basic Grant assistance is requested.

Number of family members enrolled in institutions of postsecondary education	Expected contribution per student from combined contribution
1	100% of the contribution determined in paragraph (a).
2	70% of the contribution determined in paragraph (a).
3	50% of the contribution determined in paragraph (a).
4 or more	40% of the contribution determined in paragraph (a).

Family members are those persons referenced in § 190.44(a)(1).

(20 U.S.C. 1070a(a)(3)(C))

§ 190.47 [Reserved]

§ 190.48 Extraordinary circumstances affecting the expected family contribution determination for an independent student.

(a) An applicant may submit an application to the Commissioner for determination of his or her expected family contribution using income data from 1980 instead of 1979 if—

(1) A spouse whose income was or would have been included in the computation of the expected family contribution has died in 1979 or 1980,

(2) A spouse whose income was or would have been included in the computation of the expected family contribution has lost his or her job for at least 10 weeks during 1980,

(3) An applicant or spouse whose income was or would have been included in the computation of the expected family contribution has been unable to pursue normal income-producing activities for at least 10

weeks during 1980 because of (i) disability or (ii) loss or damage to income-producing property as a result of natural disaster,

(4) The applicant has become separated or divorced after he or she submitted his or her application,

(5) The applicant was employed full-time in 1979 (at least 35 hours per week for minimum of 30 weeks during 1979) and is no longer employed full-time,

(6) An applicant or spouse whose income was or would have been included in the computation of the expected family contribution has had a complete loss of a particular type of nontaxable benefits in 1979 or 1980. Types of nontaxable income would include unemployment benefits, Social Security benefits, welfare, etc.

(7) An applicant's last surviving parent for whom financial information was reported on an earlier application for the award period has died.

(b) An application submitted under paragraph (a) shall include the effective family income already received for 1980 and an estimate of the effective family income to be received for the remainder of that year.

(c) An applicant may submit a revised application to reflect changes in asset amounts reported on the previously submitted application if the applicant or the applicant's spouse has suffered a loss of or damage to assets resulting from a natural disaster in an area that has been declared a national disaster area by the President of the United States.

(20 U.S.C. 1070a(a) (3) (B) (i) (V) and (a)(3)(C))

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Thursday
July 26, 1979

Part VI

Civil Aeronautics
Board

Data To Be Submitted With Application
for Passenger Route Authority Filed With
the Board and by Commuter Carriers
Serving an Eligible Point; Proposed
Rulemaking

CIVIL AERONAUTICS BOARD

[14 CFR Part 204]

[EDR-385, Docket No. 36176; Dated: July 19, 1979]

Data To Be Submitted With Applications for Passenger Route Authority Filed With the Board and by Commuter Carriers Serving an Eligible Point**AGENCY:** Civil Aeronautics Board.**ACTION:** Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to establish a new regulation setting forth the data which applicants for passenger route authority and commuter carriers serving an eligible point must file with the Board to allow it to determine their fitness. This rulemaking was undertaken at the Board's initiative.

DATES: Comments by September 24, 1979. Reply comments by October 15, 1979. Comments and relevant information received after these dates will be considered by the Board only to the extent practicable.

ADDRESSES: Comments should be sent to Docket 36176, Docket Section; Civil Aeronautics Board; 1825 Connecticut Avenue, NW.; Washington, D.C. 20428. Comments may be examined in Room 711 at the address above as they are received.

FOR FURTHER INFORMATION CONTACT: Paul L. Gretch, Deputy Director of the Bureau of Domestic Aviation, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673-5373.

SUPPLEMENTARY INFORMATION:**I. Background**

We are required, by various sections of the Federal Aviation Act, to determine whether an applicant for route authority is fit, willing, and able to perform the air transportation in question properly and to conform to the provisions of the Act and the rules, regulations and requirements issued under it.¹

Under the Civil Aeronautics Act of 1938, which created the Board, new entrants into air transportation and existing carriers seeking expanded operating rights were required under section 401 to meet public need and fitness tests for certification. The latter required us to find that each applicant

was "fit, willing and able" to perform air transportation.²

Because of the grandfather provision in the 1938 Act, qualifying air mail contract carriers operating prior to the passage of the Act were certificated without reference to either test.³ New entrants since 1938, including the seven surviving local service carriers, were required to establish fitness in considerable depth in their initial certification proceedings. However, because adjudication of the public need test under the statute then in force and as the interpreted required a detailed evidentiary presentation of the applicant's financial position, current and prospective operating plans, and entrepreneurial, managerial and operational personnel, the distinction between the public need and fitness tests was not well defined, and in many respects the same evidence was used to make each finding.

Once a carrier had achieved initial certification—either under the grandfather provision or after detailed hearing—no express evidentiary showing was required to establish fitness in subsequent certificate proceedings. Route cases indicate that, with rare exceptions, a carrier already licensed and operating would be considered fit for the purposes of the grant of additional operating authority without an express evidentiary showing of fitness, even though it might propose to change the nature of its operations substantially, e.g., operate larger aircraft (including moving from non-jet aircraft), or enter long-haul or dense routes that it had not previously served. Hence, it became routine to expand the operating authority of existing carriers based only on record evidence relating to the public need test, the fitness test being satisfied by implicit reliance on officially noticeable facts, such as operating schedules and financial, traffic and other information filed under our general reporting requirements, or by reliance on the public need evidence.

An express fitness test has never been prescribed under section 416 of the Act, which deals with our power to exempt carriers from certificate licensing and other economic regulatory requirements. However, a review of our practice over the years reveals that we have considered and resolved questions relating to fitness in the cases of both class exemptions and particular

exemptions granted to non-certificated carriers. We have, on a case-by-case basis, evolved standards for evaluating the fitness of each exemption applicant or class of applicants. Generally, in the case of operating certificated carrier applicants for exemption authority, fitness is assumed. Under Part 298, a class exemption governing for the most part non-certificated air taxis and commuters, we require only that the operator carry adequate insurance and hold a valid FAA operating license. In most other cases involving non-certificated carriers, the CAB staff has contacted FAA personnel to determine whether the exempted applicant is in compliance with FAA regulations, and has also examined the applicant's CAB consumer compliance record. In some cases the backgrounds of the principals of the applicant, as individuals, have been investigated.

Our policies in implementing the fitness test have been subject to Congressional oversight at all times since 1938. Because no change was made in the fitness provisions of the statute at the time of passage of the Federal Aviation Act of 1958 or thereafter until 1978, we assume that Congress did not desire any change in our practice on fitness.⁴

II. The Need for This Regulation

Several developments in recent months necessitate a more systematic approach to determining carriers' fitness. First, as we eased entry into the air transportation industry, we began to receive more requests for certificate authority from applicants that had not previously provided commercial air transportation. We need to establish guidelines to govern the submission of evidence in these cases.

Second, the Airline Deregulation Act passed in October of 1978 contains several sections which relate to fitness. Section 401 retains verbatim the requirement that we must find that each applicant is fit, willing and able to perform transportation properly and to conform to the provisions of the Act and our rules, regulations and requirements in order to grant its application. In addition, the declaration of policy in section 102 has been reformulated and includes in its first and second paragraphs, the following:

(1) The assignment and maintenance of safety as the highest priority in air commerce, and prior to the authorization of new air transportation services, full

¹The economic title of the 1938 Act was reenacted without substantial change in the Federal Aviation Act of 1958.

²Today these carriers survive as the 10 domestic trunk carriers and Pan American, and serve over 90 percent of the domestic market measured by Revenue Passenger Miles.

³The Act was amended in 1963 to establish charter-only operations as a new class of carrier, "supplemental air carriers," and we were instructed to monitor the conduct of these carriers under a "continuing fitness" requirement.

evaluation of the recommendations of the Secretary of Transportation on the safety implications of such new services and full evaluation of any report or recommendation submitted under section 107 of this Act.

(2) The prevention of any deterioration in established safety procedures, recognizing the clear intent, encouragement, and dedication of the Congress to the furtherance of the highest degree of safety in air transportation and air commerce, and the maintenance of the safety vigilance that has evolved within air transportation and air commerce and has come to be expected by the traveling and shipping public.

We are also required to assure the continuing fitness of all certificated carriers (section 401(r)), and domestic all-cargo (section 418) operations are authorized solely on the basis of a fitness finding.⁵

On the hand, the revised Act mandates the certification of carriers under section 401(d)(5) (dealing with the award of dormant authority) without any fitness findings by the Board.⁶ Moreover, as in the predecessor statute, the exemption provision (which has been considerably liberalized under the new law) does not contain any express requirement that we find that the recipient of an exemption is fit.

Finally, we are required to assure the fitness and reliability of air carriers proposing to provide essential air services to small communities under section 419. Since other provisions of the Act now provide a much greater freedom for certificated carriers to exit points—subject only to our finding a suitable replacement carrier if the provision of essential air service is involved—commuter carriers will be relied on to a much greater degree for service to the smaller communities. In addition, section 419(c)(2) requires us to find fit any commuter carrier providing service to any eligible point. An eligible point is any currently certificated point, whether suspended or not. Therefore, since virtually all currently registered commuters serve at least one eligible point, the revised Act requires us in effect to make fitness findings for all commuter carriers.

⁵Cargo was deregulated in 1977 by Pub. L. 95-163, November 9, 1977. After that Act was passed, we revised Part 291 of our regulations, 14 CFR Part 291, to provide for the filing of fitness data for domestic all-cargo carriers and to prescribe procedures for processing them. Consequently, this regulation does not cover such operations.

⁶Applicants for dormant authority are required only to have aircraft certificated by the FAA for common carriage or the carriage of mail and to certify that they will comply with the Board's rules and regulations.

The Deregulation Act's emphasis on the ease of entry and exit in an economic context has led to the filing of more applications by non-operating carriers and to more operating carriers proposing substantial changes in operation, both of which place additional demands on us in making fitness determinations.

This increased attention to fitness has led us to conclude that we must adopt guidelines setting forth the fitness data which must be filed with applications for route authority.⁷ We have determined that applicants for route authority should each be required to establish initial fitness (except for dormant authority) and that continuing fitness will apply to all certificated carriers regardless of the section of the Act under which its license issues. In addition, the regulation would require the same data from applicants for exemption authority as those applying for authority under section 401 of the Act. We believe that Congress intended to assure as high a degree of safety and consumer protection in these operations as in those conducted by carriers certificated under section 401. Our fitness inquiry should relate to the scope of the proposed operations and should not depend on under which section of the Act the applicant happens to file.

We recognize that there will be exemption requests that are extremely limited in scope and for which the filing of all of the required fitness evidence would constitute an undue burden unnecessary for the protection of passengers or shippers.⁸ If an applicant believes that its exemption request falls within this category, it may request a waiver of our evidentiary requirements.

The one class of applicants for exemptions which will automatically be excluded from the requirements of the rule is air taxis that are not commuter air carriers as defined by Part 298 of our regulations. Because air taxis are very small and operate on an *ad hoc* basis, we believe that they do not present the need for consumer protection created by scheduled operations. For example,

⁷We use the term "route authority" in this regulation to include charter authority.

⁸For example, we receive a number of requests from uncertificated carriers for exemption authority to fly a single flight or a few flights for a single charterer on an emergency basis. Usually, the flight is scheduled to depart in a few days if not hours. We have granted this type of request in the past, subject only to the applicant having the necessary authority from the FAA, and we would expect to continue to grant this type of authority on the same basis. Since the authority is so limited and usually only for a single charterer, the risk for consumers is also limited. Moreover, the burden of providing the proposed fitness data, and the time in which we would have to review it, likely would prevent the proposed operation.

because air taxis generally do not collect advance payments from future passengers, there is less reason to be concerned with the financial risk they pose to consumers. We should also note that air taxis will still be subject to safety regulation by the FAA, our liability insurance requirements and consumer protection measures adopted by the state(s) in which they operate.

Moreover, in passing the Deregulation Act Congress extended the fitness requirement only to commuter air carriers serving an eligible point, implying that it did not intend for us to determine the fitness of air taxis that are not commuter air carriers. While we are extending the fitness requirement to other applicants for exemptions that are not subject to an express statutory requirement, there are sound policy reasons for not extending the requirement to air taxis. First—and foremost—is that we do not believe, for the reasons stated above that operations by air taxis present the need for consumer protection created by scheduled operations. (See our discussion in ER-1123, 44 FR 30080, May 24, 1979).

Second, attempting to determine the fitness of air taxis would present us with a nearly impossible task. There are nearly 4,000 air taxis operating in the United States. Not only do the operations of each air taxi vary greatly from those of other air taxis, but the *ad hoc* nature of their business means that each air taxi's operations may vary greatly from year to year. Even if we had the staff to attempt this undertaking, it would thus be extremely difficult to determine whether any given air taxi is "fit."

Finally, because the *ad hoc* nature of their operations would require us to collect extensive information before attempting to determine their fitness, such an attempt would impose significant costs on air taxis. Given the small size of most air taxis, it is likely that requiring them to file this information would put many of them out of business. In light of the limited risk these operators pose, we do not believe that this cost can be justified by the benefits which could be expected from such a requirement.

Our proposed guidelines will help to assure that (1) we have all the information we need to make fitness determinations required by the Act, (2) applicants are treated equitably and (3) applicants are not required to supply more information than we need to make out fitness determinations. This last point deserves further elaboration.

Our guidelines require varying amounts of data from different classes of applicants. Since we have less reason to be concerned with the fitness of carriers that are already operating safely and without apparent undue risks to consumers, we are requiring less data from them. Conversely, we have more reason to be concerned about carriers that we have not previously certificated and are therefore requiring them to submit more data. For certificated carriers that are proposing a change in their operations, the intensity of our concern will depend largely on the scope of the proposed change.⁹ Finally, since Congress has directed us to determine not only the fitness, but also the reliability of carriers providing essential air service, they will be required to submit data not required of other applicants.

Similarly, by framing the guidelines as standard filing requirements, we have avoided the need for all applicants to file types of information which we need only in particular cases. Thus, the guidelines set forth the fitness data we will need for all applicants in a given category. As we determine that we need additional data from an applicant in a particular case, we will require that applicant to supply us with that information. In this way we will be able to tailor the data which must be submitted to the circumstances of each case, easing the burden on applicants.

We should emphasize that adopting these guidelines will not allow us to make fitness determinations mechanically. Since the fitness of a particular applicant is intimately related to the scope of its proposed operations, we will still need to evaluate the particular circumstances of each case before we will be able to determine whether a given applicant should be found fit. We expect that it will be necessary to hold a hearing to determine the fitness of most applicants seeking first certification or a particularly dramatic change in their scope of operations. On the other hand, some changes in operations may not require that an applicant go through a full hearing to prove its fitness. We will continue to allow the applicant to request the type of procedures it wants employed, i.e., show cause, formal evidentiary hearing, etc. Once the data is received, we will review it to determine whether the procedure requested by the applicant is calculated

⁹ Generally, a significant change in the scope of certificated operations would include, but is not limited to, changes from charter to scheduled authority, cargo to passenger authority, short-haul to long-haul operations, and large increases in the number of markets served.

to produce sufficient and reliable evidence upon which we can determine the applicant's fitness.

The data required by the regulation would provide us with the basic information we need to determine whether or not an application should be granted and whether restrictions should be placed on any authority granted. In addition, we will have available (1) consumer complaints submitted to us, (2) financial, traffic and other information submitted to us under our reporting requirements, (3) our records concerning the carrier's compliance with our regulations, including those relating to consumer protection, (4) the results of any staff audits of carriers, particularly those providing essential air service, and (5) safety information and evaluation provided by the Federal Aviation Administration (FAA) under an interagency agreement we will discuss below.

Our proposal would provide us with sufficient material to make our fitness determination in most cases. In addition, we would reserve the right to require an applicant or carrier to provide whatever further information is required by the special circumstances in a particular case. The filing requirements we propose to impose upon carriers are, of course, tentative at this time. We will issue a final rule setting forth the requirements we ultimately adopt after we have had an opportunity to review the public's comments.

III. Evidentiary Requirements

To understand our reasons for requiring the different types of information asked for by our guidelines, one must first understand the purpose of the fitness findings Congress has directed us to make. An understanding of the use to which each type of data will be put also helps explain why we are proposing to require some type of information from some classes of applicants and not from other classes.

A. Safety

By requiring us to find carriers fit, Congress intended to assure that the applicant is able to operate safely and without undue financial risk to its customers before it can hold itself out as a common carrier. However, we have little expertise in safety matters. We are an economic regulatory agency. Our function in the safety area is not to determine the airworthiness of a particular carrier's operations, but rather to formulate the proper questions to ask the FAA so they can determine the airworthiness of applicants seeking route authority from us and report to us on what they have determined. We must

rely heavily on their evaluation of the carriers' safety because we simply do not have the capability to do so. We have, however, at all times considered FAA evaluations of safety an important element of our fitness determinations and will continue to do so in the future.

To enable the FAA to evaluate the airworthiness of carriers more effectively in the future and to satisfy ourselves that the FAA's determinations are made on the best evidence available, we have recently entered into an interagency agreement with the FAA. Our agreement provides for the mutual exchange of information relating to the safety of a carrier. By supplying the FAA with information regarding the possibly precarious financial position of a carrier, we will alert it to the need to monitor the carrier's fleet and operations more closely. By informing us of which carriers' fleets may pose a safety hazard, the FAA will identify for us those carriers whose technical fitness may be in question. We believe that this agreement will enable both agencies to perform their duties more fully and insure a higher standard of safety in commercial air transportation.

There are several types of data relating to safety which we are proposing that applicants file with us. First, we are asking most applicants to describe their current fleet, any additional aircraft which they would need to perform the proposed transportation and their plans for financing the purchase and/or lease of the additional aircraft. This information, together with the general financial data which we are requiring and which is otherwise available to us, will allow us to request the FAA's assistance in judging whether the applicant will have and be able to maintain aircraft which can perform safely the services it proposes.

We are also requiring most applicants to submit a list of all safety related actions which the FAA has brought against them or a closely related person or corporation. This information will help us to formulate inquiries to the FAA on safety, and to determine whether the applicant's past operations, or those of a closely connected person or corporation, give rise to any reason to doubt its ability to comply with our regulations if we certify it. To some extent, the information we are requiring regarding the applicant's key personnel will also help us in making this determination.

We are not proposing to require that any of this information be filed by certificated carriers proposing a change in operation which is not substantial.

We believe that the fact that such carriers have been operating safely warrants a presumption, absent some indication to the contrary, that they will be able to perform similar operations safely in the future. We will, however, consider any information relating to such carrier's fitness submitted by third parties or which we acquire independently before finding such applicants fit. We have also reserved the right to require these applicants to submit whatever information we, or our staff, feel is necessary to determine their fitness.

This data, together with safety evaluations provided by the FAA and information otherwise available to us, should allow us to assure that every carrier providing commercial air transportation is able to conduct its operations safely.

B. Consumer Protection

In fitness matters, our primary expertise lies in the area of consumer protection. In the context of fitness determinations, our role in protecting consumers takes several forms. As we will discuss below, our concerns in this area range from fraud to anticompetitive practices and, in the case of essential air service, the reliability of the carrier.

The proposed rule requires an applicant to submit data so we can make an assessment of whether its proposed operations create a significant danger of financial harm to consumers. Obviously, there are financial risks to consumers inherent in any operation, whether a carrier has been operating successfully for decades or is new to the air transportation industry. We cannot assure against all risks. Our concerns for consumer protection are designed to assure that consumers are not presented with unacceptable financial risks that can be foreseen and guarded against. Our focus will be on whether there is anything about a particular applicant which would lead us to believe that special protection for consumers is needed.

Unfair Practices. Perhaps the most important protection we seek to provide consumers is the minimization of unfair practices. To help us assure that each carrier to which we grant authority will deal with its customers fairly, we are asking most carriers to provide (1) a description of all relevant complaints lodged against it, or a closely connected corporation, in the last five years, (2) a list of all orders issued in the past ten years finding it, or a closely connected person or corporation, guilty of violations of the Act or our rules and (3) a description of all charges of unfair or deceptive or anticompetitive business

practices, fraud, felony or antitrust violations brought against the applicant, or a closely connected person or corporation.

In addition, we are requiring carriers seeking initial certification or to provide essential air service to submit a statement from the State office handling consumer complaints in each state in which the carrier operates regarding its consumer complaint record for the preceding three years. Since we are unlikely to have any or as much information on these carriers as those that are already certificated, this will allow us to exclude carriers whose past behavior suggests that they present irremediable threats to consumers or to condition certificates to provide extra protection from unfair practices to those consumers who are most dependent on the applicant's services.

We are not requiring certificated carriers to provide this data because we believe our continuing fitness findings on these carriers, which we discuss below, together with the enforcement powers of our Bureau of Consumer Protection provide an adequate assurance that these carriers will not threaten their customers unfairly. We are, however, reserving the right to require these and all other applicants to provide whatever information we may feel is necessary to protect the public in a given case.

Anticompetitive Practices. One area of consumer protection which Congress has directed us to provide is the prevention of unnecessary anticompetitive practices.

To allow us to determine whether an applicant's proposed operations will have any anticompetitive effects, we are asking most applicants to provide (1) a description of its key personnel, including the stock holdings and other interests of each which might deter competition, (2) a description of all charges of antitrust violations brought against the applicant or a closely connected person or corporation, (3) a list of all persons having a substantial interest in the applicant, together with relevant information about each such person, (4) a list of the applicant's subsidiaries, with a description of each and its relationship to the applicant, and (5) a list of stock held by the applicant which might deter competition. This data should allow us to assure that the service we authorize will not have any unnecessary anticompetitive effects.

We are not requiring certificated carriers proposing a change in operations which is not substantial to provide any of this information because we believe our continuing fitness

findings on these carriers, together with the enforcement powers of our Bureau of Consumer Protection, provides an adequate assurance that any unnecessarily anticompetitive practices will be detected and eliminated. For the same reason, we are requiring certificated carriers proposing a substantial change in operations to submit only a list of new key personnel which would be hired because of the proposed change and a description of any charges of antitrust violations brought against it or a closely connected person or corporation. Again, however, we are reserving the right to require any applicant to submit any additional data which is necessary to provide this protection in a particular case.

We are also requiring applicants for authority to provide essential air transportation and commuter carriers serving an eligible point but not applying for certificate authority or to provide essential air transportation to submit only a description of any charges of antitrust violations brought against it or a closely connected person or corporation. Because of the limited extent of these carriers' operations, a more extensive requirement would be unduly burdensome. We will, however, at all times closely monitor the fares and practices of these carriers to assure that they do not exploit any monopolistic positions to the detriment of consumers.

Financial Risk. A final area of protection our fitness determinations provide to all consumers is freedom from an unacceptable financial risk that can be foreseen and guarded against. Except in the case of essential air service, which we discuss below, our concern in this area is not with assuring that the proposed services will be provided profitably, or even that they will be provided at all. Rather, our purpose is to protect consumers from significant risks created by mismanagement and/or inadequate financing if the service is provided. A paradigm example of such a risk would be that created by a carrier that proposed to acquire a substantial reservations book, accompanied by advance payments, for a service which it could not provide.

To help us in providing this protection, we are asking most applicants to provide (1) a description of their key personnel, including experience and expertise, (2) historic financial data relating to the operations of the applicant and closely connected corporations,¹⁰ (3) a description of judgments outstanding against the

¹⁰ To the extent necessary, our staff will audit the financial data submitted by carriers and applicants.

applicant and closely connected corporations, and (4) a description of the proposed service. This will help us to assure that consumers' funds will not be seriously jeopardized by a lack of managerial skills or financial stability.

In addition, we are asking applicants that do not already hold certificate authority from us to supply a forecast Balance Sheet for the year ending after its initially proposed operations are normalized. Non-certificated carriers which are not currently operating commercial flights or which propose to add new aircraft will also be required to file a forecast Income Statement for the year ending after the initially proposed operations are normalized. At our discretion, we will require a similar Income Statement from certificated carriers proposing a substantial change in their operations. This information will help us to determine that there has been adequate financial planning to protect consumers from a significant danger of financial risk. As we stated in Order 79-1-75, dated January 12, 1979, these requirements will not be used to determine whether an applicant will be able to obtain the financing necessary to implement its proposal, but only to determine whether the proposal, if carried out, will present consumers with unacceptable financial risks.

We are not requiring certificated carriers which are proposing a change in operations which is not substantial to file any of this information because we believe that our continuing fitness determinations, together with the operating history of these applicants, provides adequate assurance that their customers will not face unacceptable financial risks. We are, however, reserving the right to require these and all other applicants to file whatever information is required by the circumstances in a particular case.

Reliability. We are required, in the case of carriers providing essential air service, to determine service reliability as well as fitness. Unlike operations under sections 401 and 418, which are permissive, operations under section 419 are mandatory in the sense that we must assure that they continue until replaced and must back the services by the payment of government funds if needed. Consequently, our inquiry into the carrier's ability to provide essential air service is quite different from that for 401 and 418 carriers. For those carriers, we have no obligation to insure that they in fact provide the service they propose. On the other hand, to meet our statutory obligation to ensure the continuous availability of essential air service at each eligible point, we must

satisfy ourselves that the designated carrier can in fact provide that service. Accordingly, under section 419, we will look to the carrier's reliability to provide the proposed service in addition to its basic fitness to do so.

To help us to make this determination, we are requiring an applicant that wishes to provide essential air transportation to file (1) a description of its current fleet, including the average number of hours each type of aircraft is currently flown per day and an estimate of the impact the proposed essential air service would have on its utilization of its fleet, (2) a description of the back-up aircraft available to it, (3) a description of the fuel available to it to perform the proposed essential air services and its contracts with fuel suppliers, (4) a detailed schedule of the service to be provided, (5) its systemwide on-time and completion record for the preceding five years, (6) a traffic forecast, including a load factor analysis and an estimate of the number of seats available to and from the eligible point each day, and (7) a statement from the State PUC, if any, or other office handling consumer complaints in each state in which the carrier operates regarding its consumer complaint record for the preceding three years.

Because these services are, by definition, essential to those who use them, we are very concerned that the carrier chosen to provide them will be able to offer high quality service which is not disrupted by financial or organizational problems. By making it easier for certificated carriers to discontinue service in these markets, Congress has increased small communities' reliance on these carriers. In doing so, Congress took care to assure that the communities would not be left without reliable service by (1) making authority to provide essential air transportation mandatory, (2) providing for subsidy of service which would not otherwise be provided reliably and (3) directing us to take special care in seeing that this service is provided reliably. We believe that the information we are requiring, together with the audits we are doing of these carriers (which we discuss below), will allow us to assure that carriers which are chosen to provide essential air transportation perform their duties well. To the extent we find it necessary, we reserve the right to require whatever additional information is required to provide this assurance in a particular case.

IV. Fitness Determinations

Once we have received the evidence we need to determine whether the

applicant can operate safely, without an unacceptable risk to its consumers and (in the case of carriers providing essential air transportation) reliably, we have three options open to us. First, if we find that the applicant poses no concerns in the safety or consumer areas and, where appropriate, is reliable, we can and will find it fit. If we also find that the other conditions precedent to awarding the authority applied for are present, e.g., that the service is consistent with the public convenience and necessity, we will award authority to the applicant.

If we find reason to question whether the applicant can provide the service for which it has applied safely, without an unacceptable risk to its customers and (in the case of essential air transportation) reliably, there are two options available to us. We can, of course, find the applicant unfit and deny it the authority for which it has applied. Our other alternative, assuming we find that the other conditions, precedent exist, is to award the applicant authority with whatever conditions we find are necessary to safeguard the public. Because Congress has mandated us to promote competitive whenever possible, we prefer to use the latter alternative unless conditioning the authority cannot adequately protect the public against the risk posed by the carrier's service.

Depending on our concern with the carrier's fitness, there are a variety of conditions we may employ to protect the public. If we have reason to suspect that the applicant may not deal fairly with its customers or may lack adequate financial and/or managerial resources, we can require it to post a bond or set up an escrow account prior to commencing operations.¹¹ If we are concerned that the carrier's operations may be unnecessarily anticompetitive, we may require it to dispose of stock or sever relationships which might prevent it from competing effectively.

The information we are requiring in our regulation is designed to allow us to decide which of our three alternatives—certification (or exemption), denial or conditions—should be employed in a given case to best serve the public. The information will allow us to determine first whether the proposed operations might pose an undue risk to the public. If we have reason to suspect that they may pose an undue risk, the data will allow us to decide whether the public can be

¹¹ We have recently imposed an escrow account condition in the Aeroamerica case. We required that consumers' funds be paid not to the carrier, but into a trust from which the carrier can obtain reimbursement on presentation of proof that the agreed services have been rendered. See Order 79-1-128.

protected adequately from those risks by the use of conditions.

V. Continuing Fitness

In addition to finding applicants fit before they are granted route authority and finding providers of essential air transportation reliable, there are several additional safeguards we employ to protect the public. First, the Deregulation Act requires us to assure that all carriers with route authority remain fit. This requirement is made especially significant by the fact that some carriers, such as those which received their authority under the "Grandfather Clause" of the Civil Aeronautics Act or the "Unused Authority" provision of the Deregulation Act have never been found fit.¹² Our continuing fitness findings will also allow us to assure that carriers found fit on the basis of an illustrative service proposal submitted with their applications are fit to provide the type of service they ultimately operate.¹³

Our determinations of continuing fitness will be based primarily upon information already available to us, such as consumer complaints, financial data submitted under our reporting requirements and our experience with the carrier's compliance with the Act and our regulations. We are also requiring carriers to file updated reports from the FAA and State PUC or other office handling consumer complaints, verification that they have the level of insurance required by Board regulations and, in some cases, updated financial information. In addition, the interagency agreement we have entered into with the FAA will provide us with a continuing source of information regarding carriers' safety. We will keep a file on each carrier to allow us continuously to monitor its fitness. As we have noted above, we will also provide the FAA with any information which our monitoring uncovers relating

¹² We intend to issue an evidence request with certificates issued under the "Unused Authority" provision to allow us to determine the fitness of carriers operating pursuant to such authority if we have not otherwise found them fit, or the carrier is not currently going through a fitness proceeding. For example, if a carrier has never been found fit by the Board, we would issue it a request for the evidence required for carriers seeking certificated status and set the matter for hearing; if the dormant authority awarded represented a substantial change in the operations of a carrier that we had already found fit, we would request the evidence listed under that section of the rule; if the carrier has already been found fit or its fitness is currently being litigated, we would not seek further information except under our confronting fitness requirements.

¹³ If the carrier's actual operations differ greatly from those in its illustrative service proposal, we will require it to submit additional fitness data and may hold a hearing to determine its fitness to provide the service it actually operates.

to carriers' ability to operate safely to allow it to perform its functions more effectively.

We are also conducting audits of carriers, particularly those providing essential air service, to assure that the public is adequately protected. These audits, which cover the carrier's financial standing, its operating history and its standing in the communities it serves, also provide additional assurance that commercial air transportation will be provided safely, reliably and without undue risk to passengers and shippers.

Finally, we have or will have a variety of other regulations designed to safeguard the traveling public. Section 401(q) of the revised Act contemplates the Board issuing regulations requiring all carriers to maintain liability insurance. We expect to issue a proposed rule shortly which will set forth insurance requirements for all certificated carriers. Also, Part 250 provides protection to passengers who are denied a seat on a flight on which they hold a confirmed reservation. Part 251 prohibits various anticompetitive interests and interlocking relationships. There are, of course, numerous other regulations imposed by both us and the FAA to protect the public. We believe that these additional safeguards, together with the fitness determinations that this regulation would allow us to make, will insure a uniformly high standard of safety and consumer protection in the air transportation industry. We invite interested persons to comment on any aspect of the proposed regulation which they believe can be improved to allow us to achieve this goal.

Accordingly, the Civil Aeronautics Board proposes to add a new Part 204 to Chapter II, Title 14, Code of Federal Regulations, to read:

PART 204—DATA TO BE SUBMITTED WITH APPLICATIONS FOR PASSENGER ROUTE AUTHORITY FILED WITH THE BOARD AND BY COMMUTER CARRIERS SERVING AN ELIGIBLE POINT

Subpart A—General Provision

Secs.

204.1 Purpose.

204.2 Definitions.

Subpart B—Filing Requirements

204.3 Certificated carriers proposing a change in operations which is not substantial.

204.4 Certificated carriers proposing a substantial change in operations.

204.5 Applicants not currently holding certificate authority.

Sec.

204.6 Applicants for authority to provide essential air transportation.

204.7 Commuter carriers serving an eligible point but not applying for certificate authority or to provide essential air transportation.

204.8 Continuing fitness.

Authority.—Secs. 204, 401, 407, 419 of the Federal Aviation Act as amended, 72 Stat. 743, 92 Stat. 1732, 49 U.S.C. 1324, 1371, 1377, 1389).

Subpart A—General Provision

§ 204.1 Purpose.

This regulation sets forth the fitness data which must be submitted with application for passenger route authority filed with the Board and by commuter carriers serving an eligible point.

§ 204.2 Definitions.

(a) "Certificate Authority" means authority to provide air transportation granted by the Board in the form of a certificate of public convenience and necessity except authority granted under sections 401(d)(5) or 418 of the Act. "Certificated Carriers" are those which hold certificate authority.

(b) "Citizen of the United States" means (1) an individual who is a citizen of the United States or one of its possessions, or (2) a partnership of which each member is such an individual, or (3) a corporation or association created or organized under the laws of the United States or of any State, Territory, or possession of the United States, of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions.

(c) "Commercial Flights" are those on which the carrier transports passengers and/or cargo for hire.

(d) "Commuter Air Carrier" means an air taxi operator which (1) performs at least five round trips per week between two or more points and publishes flight schedules which specify the times, days of the week and places between which they are performed, or (2) transports mail by air under a contract or contracts with the United States Postal Service when the total amount of the contract or contracts is estimated at the beginning of any reporting period (January 1 and July 1) to be in excess of \$20,000 over the next twelve months.

(e) "Eligible Point" means any point in the United States to which, on October 24, 1978, any air carrier was providing service pursuant to a certificate issued

under section 401 of the Act or was authorized pursuant to such certificate to provide such service, but such service was suspended on October 24, 1978.

(f) "Essential Air Transportation" is that transportation which the Board has found to be essential under section 419 of the Act.

(g) "Fit" means fit, willing and able to perform the air transportation in question properly and to conform to the provisions of the Act and the rules, regulations and requirements issued pursuant to the Act.

(h) "Key Personnel" include officers, directors and key management personnel.

(i) "Non-certificated Carriers" are those which do not hold certificate authority.

(j) "Normalized Operations" are those which are relatively free of start-up costs and temporary barriers to full scale operations posed by the carrier's limited experience.

(k) "Relevant Corporations" are the (1) applicant or commuter carrier, (2) its predecessor(s) and affiliate(s), (3) its predecessor(s)' affiliate(s) and (4) companies over which it, its predecessor(s), its affiliate(s) and/or its predecessor(s)' affiliate(s) exercised control at the time in question.

(l) "Route Authority" means certificate or exemption authority to provide non-essential air transportation issued by the Board. "Route Authority" includes authority to provide charter air transportation.

(m) "Substantial Change in Operations" includes, but is not limited to, changes from charter to scheduled authority, cargo to passenger authority, short-haul to long-haul operations, and large increases in the number of markets served.

(n) "Substantial Interest" means five percent or more of the outstanding voting stock in the corporation.

Subpart B—Filing Requirements

§ 204.3 Certified carriers proposing a change in operations which is not substantial.

Certificated carriers applying for route authority which would not substantially change their operations will be presumed to be fit and need not file any information relating to their fitness to provide the additional services. Such carriers will be found fit on the basis of officially noticeable materials unless the Board concludes, from its own analysis or information submitted by third parties, that such carrier may not be fit to provide the service which it seeks to provide. In that case, the Board, may

require the applicant carrier to file whatever information it feels is necessary to determine the carrier's fitness.

§ 204.4 Certificated carriers proposing a substantial change in operations.

Certificated carriers proposing a substantial change in their operations must, to the extent such information has not already been filed with the Board, file the following with their applications for route authority:

(a) the identity of key personnel who would be employed by the applicant for the proposed operations, including:

- (1) Their names and addresses;
- (2) The experience, expertise and responsibilities of each;
- (3) The citizenship of each;
- (4) The amount of the applicant's stock held by each; and
- (5) A description of the officerships, directorships, shares of stock (if 5 percent or more of total voting stock outstanding) and other interests each has in any air carrier, foreign air carrier, common carrier or person substantially engaged in the business of aeronautics or person whose principal business (in purpose or fact) is the holding of stock in or control of any air carrier, foreign air carrier, common carrier or person substantially engaged in the business of aeronautics.

(b) A description of every formal complaint regarding compliance with the Act or any orders, rules, regulations or requirements issued pursuant to the Act lodged against any relevant corporation or key personnel employed (or to be employed) by any relevant corporation in the past five years. Such description shall indicate the final disposition or current status of each complaint.

(c) A list of all orders issued in the past ten years finding any relevant corporation, key personnel employed (or to be employed) by any relevant corporation or person having a substantial interest in any relevant corporation guilty of violations of the Act or any order, rule or regulation issued pursuant to the Act.

(d) A description of all actions taken by the FAA under 14 CFR 13.15, 13.17, 13.19 and/or 13.23 against any relevant corporation, key personnel employed (or to be employed) by any relevant corporation or person having a substantial interest in any relevant corporation. Such description shall include the disposition or current status of each such action.

(e) A description of all charges of unfair or deceptive or anticompetitive business practices or of fraud, felony, or

antitrust violation, brought against any relevant corporation, person having a substantial interest in any relevant corporation, or key personnel employed (or to be employed) by any relevant corporation. Such descriptions shall include the disposition or current status of each such proceeding.

(f) A copy of all 10K Reports filed by a relevant corporation with the Securities and Exchange Commission in the past three years. If the 10K Reports are not available, the previous three years' Balance Sheets and Income Statements for all relevant corporations. Such Balance Sheets and Income Statements should be accompanied by an opinion of an independent certified or licensed public accountant who has audited or reviewed the Balance Sheet and Income Statements in accordance with applicable accounting standards.

(g) If requested by the Board, a forecast Income Statement for the first normalized year of initially proposed operations. Such statements shall include estimated revenue block hours and revenue miles by type of aircraft, number of passengers and number of tons of mail and cargo carried, transport revenues and an estimate of the traffic which would be generated in each market receiving the proposed service. Such statements shall also include an explanation of the derivation of unit costs used in estimating operating expenses and a description of the manner in which costs and revenues are allocated.

(h) A description of the applicant's current fleet of aircraft and its plans for the purchase and/or lease of additional aircraft, including:

- (1) The number of each type of aircraft owned and to be purchased or leased;
- (2) The applicant's plans for financing the acquisition and/or lease of additional aircraft;
- (3) A sworn affidavit stating that each type of aircraft owned, to be leased and to be purchased has been certified by the FAA and complies with all FAA safety standards; and
- (4) A narrative description of the carrier's operations after the proposed change.

§ 204.5 Applicants not currently holding certificate authority.

Applicants not currently holding certificate authority shall file the following with their applications for route authority:

(a) The name, address, and telephone number of the applicant.

(b) The form of the applicant's organization.

(c) The state law(s) under which the applicant is organized.

(d) A sworn affidavit stating that the applicant is a citizen of the United States.

(e) The identity of the key personnel who would be employed by the applicant, including:

- (1) Their names and address;
- (2) The experience, expertise and responsibilities of each;
- (3) The amount of the applicant's stock held by each;
- (4) The citizenship of each; and
- (5) A description of the officerships, directorships, shares of stock (if 5 percent or more of total voting stock outstanding) and other interests each holds in any air carrier, foreign air carrier, common carrier, person substantially engaged in the business of aeronautics or person whose principal business (in purpose or fact) is the holding of stock in or control of any air carrier, common carrier or person substantially engaged in the business of aeronautics.

(f) A list of all persons having a substantial interest in the applicant. Such list shall include:

- (1) Each person's name, address and citizenship;
- (2) The amount of stock held by each such person and the principal business of any person for whose account, if other than the holder, such interest is held;
- (3) If any two or more persons holding a substantial interest in the applicant are related by blood or marriage, such relationship(s) shall be included in the list; and
- (4) If any person, or subsidiary of a person, having a substantial interest in the applicant is an air carrier, a foreign air carrier, substantially engaged in the business of aeronautics, a common carrier, an officer or director of an air carrier, a foreign air carrier, a person substantially engaged in the business of aeronautics and/or a common carrier and/or a holder of 10 percent or more of total outstanding voting stock of an air carrier, a foreign air carrier, a person substantially engaged in the business of aeronautics and/or a common carrier, the list shall describe such relationship(s).

(g) A list of the applicant's subsidiaries, if any. Such list shall include a description of each subsidiary's principal business and a description of each subsidiary's relationship to the applicant.

(h) A list of the applicant's shares of stock in, or control of, any air carrier, foreign air carrier, common carrier, or person substantially engaged in the business of aeronautics.

(i) Copies of 10K Reports, if any, filed with the Securities and Exchange Commission by any relevant corporation in the past three years.

(j) To the extent any relevant corporations has been engaged in any business prior to filing of the application and to the extent the information listed below is not included in 10K Reports filed pursuant to paragraph (i) of this section each applicant shall provide copies of the following, using Generally Accepted Accounting Principles, for the three most recent calendar or fiscal years:

- (1) The Balance Sheet of all relevant corporations;
- (2) The Income Statement of all relevant corporations;
- (3) The Statement of Changes in Financial Position of all relevant corporations;
- (4) A Statement of Significant Accounting Policies of each relevant corporation;
- (5) A Statement of Significant Events Occurring Subsequent to the most recent Balance Sheet date for each relevant corporation;
- (6) All footnotes applicable to the financial statements; and
- (7) An aging of each relevant corporation's accounts receivable and accounts payable more than 60 days old.

All such financial statements should be accompanied by an opinion of an independent certified or licensed public accountant who has audited or reviewed the statements in accordance with applicable accounting standards.

(k) A list of each action and outstanding judgment for more than \$5,000 against any relevant corporation. Such list shall include the amount of each judgment, the party to whom it is payable and how long it has been outstanding.

(l) The number of actions and outstanding judgments of less than \$5,000 against each relevant corporation and the total amount owed by each relevant corporation on such judgments.

(m) Such other historic financial information as is requested by the Board.

(n) A description of the applicant's current fleet of aircraft, if any, and its plans for the purchase and/or lease of additional aircraft, including:

- (1) The number of each type of aircraft owned and to be purchased or leased;
- (2) The applicant's plans for financing the acquisition and/or lease of additional aircraft; and
- (3) A sworn affidavit stating that each type of aircraft owned, to be leased and to be purchased has been certified by

the FAA and currently complies with all FAA safety standards.

(o) A description of every formal complaint regarding compliance with the Act or orders, rules, regulations, or requirements issued pursuant to the Act lodged against any relevant corporation or key personnel employed (or to be employed) by any relevant corporation in the past five years. Such descriptions shall indicate the current status or final disposition of each complaint.

(p) A list of all orders issued in the past ten years finding any relevant corporation, key personnel employed (or to be employed) by any relevant corporation or person having a substantial interest in any relevant corporation guilty of violations of the Act or any order, rule or regulation issued pursuant to the Act.

(q) A description of all actions taken by the FAA under 14 CFR 13.15, 13.17, 13.19 and/or 13.23 against any relevant corporation, key personnel employed (or to be employed) by any relevant corporation or person having a substantial interest in any relevant corporation. Such descriptions shall include the disposition or current status of each such action.

(r) A description of all charges of unfair or deceptive or anticompetitive business practices, or of fraud, felony or antitrust violation, brought against any relevant corporation, person having a substantial interest in any relevant corporation, or key personnel employed (or to be employed) by any relevant corporation. Such descriptions shall include the disposition or current status of each such proceeding.

(s) A statement from the State office handling consumer complaints in each state in which the applicant, any relevant corporation or any of their key personnel operates regarding their respective consumer complaint records for the preceding three years.

(t) An illustrative description of the type of service to be operated if the application is granted, including:

- (1) An illustrative service proposal;
- (2) A forecast Balance Sheet for the year ending after the initially proposed operations are normalized; and
- (3) If the applicant is not currently operating commercial flights or proposes to add new aircraft to its fleet, a forecast Income Statement for the year ending after the initially proposed operations are normalized. Such Income Statement shall include estimated revenue block hours (or airborne hours, for charter operators) and revenue miles by type of aircraft, number of passengers and number of tons of mail and cargo carried, transport revenues and an

estimate of the traffic which would be generated in each market receiving the proposed service. Such statements shall also include an explanation of the derivation of unit costs used in estimating operating expenses and a description of the manner in which costs and revenues are allocated.

(u) A description of all federal, state and/or foreign authority under which the applicant has conducted and/or is conducting transportation operations.

§ 204.6 Applicants for authority to provide essential air transportation.

Applicants for authority to provide essential air transportation shall include with the application:

(a) The name and address of the applicant.

(b) The form of the applicant's organization.

(c) The state law(s) under which the applicant is organized.

(d) A sworn affidavit stating that the applicant is a citizen of the United States.

(e) The identity of the key personnel which would be employed by the applicant, including

(1) Their names and addresses;

(2) The experience, expertise and responsibilities of each;

(3) The amount of applicant's stock held by each; and

(4) The citizenship of each.

(f) A list of the applicant's subsidiaries, if any. Such list shall include a description of each subsidiary's principal business and a description of each subsidiary's relationship to the applicant.

(g) Copies of 10K Reports, if any, filed with the Securities and Exchange Commission by any relevant corporation in the past three years.

(h) To the extent any relevant corporation has been engaged in any business prior to filing of the application and to the extent the information listed below is not included in 10K Reports filed pursuant to paragraph (g) of this section each applicant shall provide copies of the following, using Generally Accepted Accounting Principles, for the three most recent calendar or fiscal years:

(1) The Balance Sheet of all relevant corporations;

(2) The Income Statement of all relevant corporations;

(3) The Statement of Changes in Financial Position of all relevant corporations;

(4) A Statement of Significant Accounting Policies of each relevant corporation;

(5) A Statement of Significant Events Occurring Subsequent to the most recent Balance Sheet date for each relevant corporation;

(6) All footnotes applicable to the financial statements; and

(7) An aging of each relevant corporation's accounts receivable and accounts payable more than 60 days old.

All such financial statements should be accompanied by an opinion of an independent certified or licensed public accountant who has audited or reviewed the statements in accordance with applicable accounting standards.

(i) A list of each action and outstanding judgment for more than \$5,000 against any relevant corporation. Such list shall include the amount of each judgment, the party to whom it is payable and how long it has been outstanding.

(j) The number of actions and outstanding judgments of less than \$5,000 against each relevant corporation and the total amount owed by each relevant corporation on such judgments.

(k) Such other historic financial information as is requested by the Board and/or its staff.

(l) A description of the applicant's current fleet of aircraft, if any, and its plans for the purchase and/or lease of additional aircraft, including

(1) The number of each type of aircraft owned and to be purchased or leased;

(2) The applicant's plans for financing the acquisition and/or lease of additional aircraft;

(3) A sworn affidavit stating that each type of aircraft owned, to be leased and to be purchased has been certified by the FAA and currently complies with all FAA safety standards;

(4) A description of the average number of hours each type of aircraft is currently flown per day; and

(5) An estimate of the impact the proposed essential air services would have on the applicant's utilization of its aircraft fleet.

(m) A description of the back-up aircraft capacity available to the applicant, including:

(1) The number and type of such aircraft;

(2) The conditions under which such aircraft will be available to the applicant;

(3) The applicant's plans for financing the acquisition and/or lease of such additional aircraft; and

(4) A sworn affidavit stating that all such aircraft have been certified by the FAA and currently comply with all FAA safety standards.

(n) A description of the fuel available to perform the proposed essential air services and the applicant's contracts with fuel suppliers.

(o) A detailed schedule of the service to be provided, including times of arrivals and departures, the type of aircraft to be used for each flight, and the fares to be charged.

(p) A list of all orders issued in the past ten years finding any relevant corporation, key personnel employed (or to be employed) by any relevant corporation or person having substantial interest in any relevant corporation guilty of violations of the Act or any order, rule or regulation issued pursuant to the Act.

(q) A description of all actions taken by the FAA under 14 CFR 13.15, 13.17, 13.19 and/or 13.23 against any relevant corporation, key personnel employed (or to be employed) by any relevant corporation or person having a substantial interest in any relevant corporation. Such descriptions shall include the disposition or current status of each such action.

(r) A description of all charges of unfair or deceptive or anti-competitive business practices, or of fraud, felony or antitrust violation, brought against any relevant corporation, person having a substantial interest in any relevant corporation, or key personnel employed (or to be employed) by any relevant corporation. Such descriptions shall include the disposition or current status of each such proceeding.

(s) A description of every formal complaint regarding compliance with the Act or orders, rules, regulations, or requirements issued pursuant to the Act against any relevant corporation or key personnel employed (or to be employed) by any relevant corporation in the past five years. Such descriptions shall indicate the current status or final disposition of each complaint.

(t) A statement from the State Public Utilities Commission and all other State offices handling consumer complaints in each state in which the carrier operates regarding its consumer complaint record for the preceding three years.

(u) The applicant's systemwide on-time and completion record for the preceding five years.

(v) A forecast Income Statement for the first year following the initiation of the proposed essential services. Such statement shall include

(1) Subsidy needed, if subsidy is requested;

(2) Estimated block hours and revenue miles by type of aircraft;

(3) Number of passengers and number of tons of mail carried;

(4) Transport revenues and an estimate of the traffic which would be generated in each market receiving the proposed service;

(5) An explanation of the derivation of estimates of operating expenses; and

(6) A description of the manner in which costs and revenues are allocated.

(w) A traffic forecast including a load factor analysis on all segments between the small community and the hub; and an estimate of the number of seats available to and from the eligible point each day.

(x) A description of all federal, state and/or foreign authority under which the applicant has conducted and/or is conducting transportation operations.

§ 204.7 Commuter carriers serving an eligible point but not applying for certificate authority or to provide essential air transportation.

Commuter carriers serving an eligible point but not applying for certificate authority or to provide essential air transportation shall file the following information with the Board:

(a) The name and address of the carrier.

(b) The form of the carrier's organization.

(c) The state law(s) under which the carrier is organized.

(d) A description of all federal, state and/or foreign authority under which the carrier has conducted and/or is conducting transportation operations.

(e) A sworn affidavit stating that the carrier is a citizen of the United States.

(f) The identity of the key personnel which are, or would be, employed by the carrier including their names and addresses, the experience, expertise and responsibilities of each, the amount of applicant's stock held by each, and the citizenship of each.

(g) Copies of 10K Reports, if any, filed with the Securities and Exchange Commission by any relevant corporation in the past three years.

(h) To the extent any relevant corporation has been engaged in any business prior to filing of the application and to the extent the information listed below is not included in 10K Reports filed pursuant to paragraph (g) of this section, each applicant shall provide copies of the following, using Generally Accepted Accounting Principles, for the three most recent calendar or fiscal years:

(1) The Balance Sheet of all relevant corporations;

(2) The Income Statement of all relevant corporations;

(3) The Statement of Changes in Financial Position of all relevant corporations;

(4) A Statement of Significant Accounting Policies of each relevant corporation;

(5) A Statement of Significant Events Occurring Subsequent to the most recent Balance Sheet date for each relevant corporation;

(6) All footnotes applicable to the financial statements; and

(7) An aging of each relevant corporation's accounts receivable and accounts payable more than 60 days old.

All such financial statements should be accompanied by an opinion of an independent certified or licensed public accountant who has audited or reviewed the statements in accordance with applicable accounting standards.

(i) A list of each action and outstanding judgment for more than \$5,000 against any relevant corporation. Such list shall include the amount of each judgment, the party to whom it is payable and how long it has been outstanding.

(j) The number of outstanding actions and judgments of less than \$5,000 against each relevant corporation and the total amount owed by each relevant corporation on such judgments.

(k) Such other historic financial information as is requested by the Board.

(l) A description of the applicant's current fleet of aircraft, including

(1) The number of each type of aircraft owned and/or leased; and

(2) A sworn affidavit stating that each type of aircraft owned and leased has been certified by the FAA and currently complies with all FAA safety standards.

(m) A list of all orders issued in the past ten years finding any relevant corporation, key personnel employed (or to be employed) by any relevant corporation or person having a substantial interest in any relevant corporation guilty of violations of the Act or any order, rule or regulation issued pursuant to the Act.

(n) A description of all actions taken by the FAA under 14 CFR 13.15, 13.17, 13.19 and/or 13.23 against any relevant corporation, key personnel employed (or to be employed) by any relevant corporation or person having a substantial interest in any relevant corporation. Such descriptions shall include the disposition or current status of each such action.

(o) A description of all charges of unfair or deceptive or anticompetitive business practices, or of fraud, felony or antitrust violation, brought against any

relevant corporation, person having a substantial interest in any relevant corporation, or key personnel employed (or to be employed) by any relevant corporation. Such descriptions shall include the disposition or current status of each such proceeding.

(p) A description of every formal complaint regarding compliance with the Act or orders, rules, regulations, or requirements issued pursuant to the Act lodged against any relevant corporation or key personnel employed (or to be employed) by any relevant corporation in the past five years. Such description shall indicate the current status or final disposition of each complaint.

(q) A list of the markets the carrier serves and the number of weekly round trips it provides in each.

§ 204.8 Continuing fitness.

Every carrier holding certificate and/or exemption authority issued by the Board, including those holding only authority granted under sections 401(d)(5) or 418, shall file the following with the Board by June 30, 1981, and at least once every three years thereafter:

(a) The name and address of the carrier.

(b) A statement from the State Public Utilities Commission and all other State offices handling consumer complaints in each state in which the carrier operates regarding its consumer complaint record for the preceding three years.

(c) A statement from the Federal Aviation Administration regarding its safety record for the preceding three years.

(d) A sworn affidavit stating that the carrier holds at least the level of insurance required by the Board's regulations.

(e) To the extent it has not already been filed with the Board pursuant to the Board's financial reporting requirements, each carrier (other than those operating pursuant to authority granted under Part 298 of our regulations, which shall be subject to the filing requirements of Part 298) shall provide copies of the following, using Generally Accepted Accounting Principles, for the three most recent calendar or fiscal years:

(1) The Balance Sheet of all relevant corporations;

(2) The Income Statement of all relevant corporations;

(3) The Statement of Changes in Financial Position of all relevant corporations;

(4) A Statement of Significant Accounting Policies of each relevant corporation;

(5) A Statement of Significant Events Occurring Subsequent to the most recent Balance Sheet date for each relevant corporation;

(6) All footnotes applicable to the financial statements; and

(7) An aging of each relevant corporation's accounts receivable and accounts payable more than 60 days old.

All such financial statements should be accompanied by an opinion of an independent certified or licensed public accountant who has audited or reviewed the statements in accordance with applicable accounting standards.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-23079 Filed 7-25-79; 8:45 am]

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Thursday
July 26, 1979

Part VII

Department of Defense

Department of the Air Force

Environmental Impact Analysis Process

federal register

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DEPARTMENT OF DEFENSE

Department of the Air Force

[32 CFR Part 989]

Environmental Impact Analysis Process (EIAP)

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Proposed rule.

SUMMARY: The Department of the Air Force proposes to add a new part 989 to Subchapter T of 32 CFR, consisting of § 989.1 through § 989.34. This new part will provide policy and guidance for consideration of environmental matters in the Air Force decision-making process. It implements the Council on Environmental Quality National Environmental Policy Act Regulations (43 FR 55990-56007, November 29, 1978), and supersedes Air Force Regulation 19-2, November 22, 1974. Interested persons are invited to participate in this rulemaking by submitting comments to the contact person listed below.

DATE: Comments must be received by August 27, 1979.

ADDRESS: Comments should be submitted to: AFESC/DEV, Tyndall AFB, Florida 32403.

FOR FURTHER INFORMATION CONTACT: Captain Dwight E. Clark, Air Force Engineering and Services Center, Environmental Planning Directorate, Tyndall AFB, Florida 32403 (phone: 904-283-2819).

SUPPLEMENTARY INFORMATION: In accordance with the Council on Environmental Quality National Environmental Policy Act Regulations and Department of Defense Directive 6050.1, the United States Air Force, has developed implementing procedures that apply to Air Force policies related to the Environmental Impact Analysis Process. The implementing procedures result in a complete revision of Air Force Regulation 19-2, November 22, 1974. The procedures presented are the result of an extensive test and evaluation effort conducted at eight Air Force installations. The proposed regulation incorporates recommendations received during the six-month test and evaluation. Activities conducted in all functional areas were investigated to identify those categories of activities which do not have a significant impact on the environment and those categories of activities which normally require an Environmental Assessment or Impact Statement. The results of this investigation are shown in § 989.29.

The legal authority for this part is 10 U.S.C. 8012. The new part is proposed to read as follows:

SUBCHAPTER T—ENVIRONMENTAL PROTECTION

PART 989—ENVIRONMENTAL IMPACT ANALYSIS PROCESS (EIAP)

Sec.

989.1 Purpose.

989.2 Statutory and regulatory basis.

989.3 Air Force general responsibilities.

989.4 Command support and budgeting for the EIAP.

989.5 Information on the Air Force EIAP.

989.6 Concept and background.

989.7 Identifying and describing the proposed action.

989.8 Using the CATEX qualification table.

989.9 General information.

989.10 Types of analysis and documentation.

989.11 Preparing an environmental assessment.

989.12 The environmental assessment certificate.

989.13 General information.

989.14 Preparing and publicizing the finding of no significant impact.

989.15 Background information.

989.16 EIS format and content.

989.17 Preparing the draft EIS.

989.18 The scoping process.

989.19 Lead agency.

989.20 Cooperating agencies.

989.21 Obtaining public and agency review.

989.22 Reviewing environmental impact statements prepared by other federal agencies.

989.23 Revising the draft environmental impact statement.

989.24 Processing the final EIS.

989.25 General information.

989.26 Developing the mitigation program.

989.27 General information.

989.28 Determining if a supplement is required.

989.29 Categorical exclusion qualification table.

989.30 Procedures for holding informal public hearings on draft environmental impact statements.

989.31 Preparation of AF Form 813, Request for Environmental Impact Analysis.

989.32 Preparation of AF Form 814, Preliminary Environmental Survey.

989.33 Preparation of AF Form 815, The Environmental Assessment Certificate.

989.34 Table of contents for environmental impact statements.

§ 989.1 Purpose.

This part implements the National Environmental Policy Act. The President's Council on Environmental Quality regulations and DOD Directive 6050.1, Environmental Effects in the United States of Department of Defense Actions. This part contains the policies, procedures and responsibilities for the Air Force EIAP. It describes how the EIAP identifies actions that are normally

exempt from environmental documentation, or concludes with the preparation and use of Findings of No Significant Impact or Environmental Impact Statements. It applies to all Air Force installations, the Air Force Reserve, the Air National Guard, (ANG), and contractor operated activities performed in Air Force-owned industrial facilities within the United States and its territories.

Subpart A—Basis of and General Responsibilities for the Program

§ 989.2 Statutory and regulatory basis.

(a) *The National Environmental Policy Act (NEPA) of 1969 (PL 91-190).* The NEPA requires all federal agencies to analyze the potential environmental impacts of all proposed actions and use that analysis in making a decision or recommendation whether and how to proceed with an action. The Air Force EIAP, as well as NEPA, is intended to provide a process that will assist decision-makers in making better decisions based on an understanding of potential environmental consequences. The President's Council on Environmental Quality (CEQ) regulations contain procedures for use by all federal agencies in implementing NEPA. This part contains specific procedural requirements for Air Force implementation of NEPA. In order to comply with the law and to complete the EIAP, the CEQ regulations and this part must be used together. Throughout this part specific sections of the CEQ regulations are referenced. Detailed definitions of many of the terms found in this part are available in the CEQ regulations. All sections of NEPA and the CEQ regulations apply whether or not they are specifically referenced.

(b) *Changes and supplements.* Send comments on this part to Air Force Engineering and Services Center, Environmental Planning Directorate (HQ AFESC/DEV), Tyndall AFB, FL 32403. Command supplements are to be used only when there is a unique command requirement. Proposed supplements must be approved by the Director of Engineering and Services (HQ USAF/LEE). ANG installation comments will be forwarded through the State Adjutant General and the National Guard Bureau (NGB).

(c) *Disposal of documentation.* Documentation must be disposed of IAW AFM 12-50.

§ 989.3 Air Force general responsibilities.

(a) *Initiators of Actions.* Each office, unit or activity that initiates Air Force

actions has a role in the EIAP as the action proponent. The proponent:

(1) Makes the analysis to determine if the proposed action has the potential for significant impact on the quality of the human environment. If the action does not normally have a significant impact on the environment and qualifies for a categorical exclusion (CATEX), it requires no further EIAP documentation.

(2) Provides a complete Description of Proposed Action and Alternatives (DOPAA) and other pertinent information on AF Form 813, "Request for Environmental Impact Analysis," when the action is not excluded from EIAP documentation.

(3) Identifies key decision points and ensures that the EIAP is properly phased to provide environmental documents to the decision-maker at all decision points.

(4) Consults with the environmental planning function and assists in preparing environmental documents during all phases of the EIAP.

(b) *Air Force Commanders:*

(1) Make sure that environmental attributes are analyzed and considered in making recommendations or decisions and make sure that all actions are planned and carried out in a manner designed to avoid adverse effects on the quality of the human environment. If it is not possible to avoid adverse environmental impacts, every reasonable effort must be made to make these effects less severe.

(2) Make sure that the EIAP is initiated at the earliest possible time so that appropriate documents are available for use by the decision-maker.

(c) *HQ USAF:*

(1) All Air Staff Offices:

(i) Analyze the environmental consequences of their actions.

(ii) Make sure that their program management directives, regulations, directives, instructions, and other major policy publications are reviewed for environmental consequences.

(iii) Review, in their areas of expertise, environmental impact analysis documents sent to the Air Staff.

(2) DCS/Logistics and Engineering, the Director of Engineering and Services (HQ USAF/LEE):

(i) Serves as the primary point of contact on all matters pertaining to this part.

(ii) Manages the technical, functional, policy, and security review requirements for all environmental impact analysis documents.

(iii) Coordinates with the Secretary of the Air Force Office of Information (SAF/OI), regarding the public release of environmental impact documents, comments received on the documents,

and all related news releases (clearance to release documents, however, should be made at the lowest possible level).

(iv) Coordinates with the Secretary of the Air Force, Office of Legislative Liaison, regarding release of documents to congressional delegations.

(v) Retains a copy of each draft and final environmental impact statement (EIS) prepared within the Air Force until the project is completed and the documents are cleared for destruction. Ensures that unclassified statements are available to the public.

(vi) Advises commands and the NGB in special cases of the need to prepare and submit environmental impact analysis documents.

(vii) In conjunction with Air Staff organizations, determines if a public hearing should be held on a draft EIS.

(3) Secretary of the Air Force, Office of Information:

(i) Provides clearance for all environmental materials to be formally presented to agencies and individuals outside of the Department of the Air Force in order to safeguard classified or privileged information as required by law (see AFRs 12-30, 190-12 and 190-17).

(ii) Examines proposed agency actions for their potential to adversely affect installation and surrounding regional accord by evaluating the base or command Office of Information public affairs report.

(iii) If unresolved or potential controversy in regard to the environment becomes or threatens to become a public issue, coordinates USAF and intermediate command information, releases and provides public affairs guidance. Guidance is prepared in coordination with SAF/GC and SAF/MIQ.

(iv) Reviews proposed news releases submitted as part of every environmental statement package. Ensures that simultaneous release of draft (or final) environmental statement and public announcement of statement's availability is made unless specifically waives.

(d) Air Force Engineering and Services Center (AFESC):

(1) Air Force Regional Civil Engineers (AFRCs). AFRCs help the environmental planning function during scoping by identifying and coordinating with state and federal agencies, and assist in designating cooperating agencies. The ANG installation environmental planning function, assisted by the State Adjutant General agencies and the NGB, will identify and coordinate with state and federal agencies and designate cooperating

agencies. Coordination with the AFRCs will be accomplished when appropriate. Additionally, AFRCs coordinate comments on other agencies' EISs that are of regional or local significance.

(2) Environmental Planning Directorate (AFESC/DEV):

(i) Provides for technical review of environmental documents for the Air Force and maintains a staff to assist and guide all phases of the EIAP.

(ii) Provides information concerning performance standards when standards are available.

(iii) Obtains and coordinates Air Force Comments on EISs from other agencies that are national in scope or of particular interest to the Air Force.

(e) *Environmental planning function.* The environmental planning function manages the EIAP. At the installation level, the Engineering and Environmental Planning Branch of Base Civil Engineering is the environmental planning function, and at the major command it is the Environmental Planning Division. The environmental planning function for the Air Staff is the AFESC/DEV. At the ANG installation level, the Base Civil Engineer is the environmental planning function, and at the NGB it is the Air Directorate, Civil Engineering Division, Environmental Protection Branch. Organizations that do not have an environmental planning function use the environmental planning function at the next higher level. The environmental planning function:

(1) Manages the EIAP.

(2) Obtains and manages technical analyses.

(3) Prepares or manages the contract preparation of environmental documents.

(4) Identifies and documents performance standards which relate to local activities.

(f) *Environmental Protection Committee.* During the EIAP, the Environmental Protection Committee reviews, and recommends approval or disapproval of environmental findings and documents.

(g) *Bioenvironmental Engineer.*

Provides technical assistance to the environmental planning function in the areas of environmental standards, effects and monitoring capabilities.

(h) *Staff Judge Advocate.* (1) Advises the environmental planning function on legal questions, including the legal sufficiency of the EIAP and environmental documents. State headquarters will provide assistance to the ANG installation environmental planning function as required.

(2) Advises the environmental planning function during the process of

identifying and determining the scope of issues to be addressed.

(3) Manages public hearings.

(i) Information Officer:

(1) Advises the Commander and the environmental planning function on the potential for environmental controversy of proposed actions. State headquarters will provide assistance to the ANG installation environmental planning function as required.

(2) Has overall responsibility for all public affairs aspects of the EIAP except for public hearings where the IO handles only the public notice and media coverage aspects.

(3) Helps the environmental planning function identify and determine the scope of issues to be addressed in EISs.

(f) *Major Command.* Each major command, the NGB, and separate operating agency makes sure that the EIAP is completed for all actions at command and at installation level where they are host command as stated in this part and as directed by HQ USAF/LEE.

(k) *Specific Commands.* Air Force Systems Command (AFSC) and Air Force Logistics Command (AFLC) have the following additional responsibilities:

(l) HQ AFSC:

(i) Prepares environmental impact analysis documents at the beginning of research and development programs and updates them throughout the life of a program as significant new information becomes available. Consideration should be given to the following:

(A) Magnitude of Air Force investment in the program.

(B) The likelihood of widespread applications of technology.

(C) The degree of environmental impact that would occur if the technology were widely applied.

(D) The extent to which continued investment in the new technology is likely to restrict future alternatives.

(ii) Makes sure that environmental documentation for research, development, tests and evaluation (RDT&E) contracts are completed prior to contract award.

(iii) Makes sure that appropriate environmental documents are available to the decision-makers at intermediate decision points such as meetings of the Air Force Systems Acquisition Review Council and the Defense Systems Acquisition Review Council.

(iv) Makes sure that the system program office or the project office budgets for environmental analyses for all RDT&E programs and projects.

(2) HQ AFLC. Prepares environmental impact analyses documents and supporting technical documents on

materials (the use or disposal of which may affect the environment) before the material is placed in use by the Air Force or whenever a change governing a material's use takes place.

§ 989.4 Command support and budgeting for the EIAP.

(a) *Command Support.* Environmental impact analysis often involves many functional activities, scientific disciplines and public agencies. Though the EIAP is the responsibility of, and is conducted under the management of the environmental planning function, it consists of a dual team approach. Development of DOPAA is best accomplished by a team led by the initiator of the proposal or a functional subordinate commander or staff chief organizationally responsible for planning, programming or carrying out the proposal. A similar team approach under the management of the environmental planning function is required for scientific, interdisciplinary analysis and interagency and intergovernmental coordination. To be effective, the EIAP requires command direction and support in the establishment and operation of these teams.

(b) *Budgeting and Funding.* (1) Budgeting and funding for EIAP efforts are major command and NGB responsibilities. The environmental planning function is the office of primary responsibility (OPR). In AFSC, the system program office or project office is responsible for budgeting and funding EIAP efforts related to RDT&E activities.

(2) The AFSC budgets and funds for selected sources of technical and scientific expertise for environmental studies. AFSC assists environmental planning functions in obtaining contractors for preparation of environmental documents.

§ 989.5 Information on the Air Force EIAP.

(a) *Information on the NEPA Process.* Contact the Deputy for Environment and Safety, Office of the Assistant Secretary of the Air Force for Manpower, Reserve Affairs and Installations (SAF/MIQ) for information regarding the decision level for a particular action or for information on the status of the EIAP for any proposed action. The decision-maker for most actions which require the preparation of an Environmental Impact Statement is normally the Secretary of the Air Force.

(b) Assistance to Applicants (see CEQ regulation 1501.2(d)).

(1) Air Force involvement is reasonably foreseeable for the following types of actions initiated by private

parties, state or local agencies, and other non-Air Force entities:

(i) Easements and right-of-ways on Air Force lands.

(ii) Grazing and timber leases.

(iii) Permits, licenses, use agreements or other grants of real property.

(2) Air Force organizations use public notices or other means to inform applicants for permits, leases, or other related actions of the studies and information required for Air Force compliance with NEPA. Also the organization advises applicants of the assistance available through the Air Force.

Subpart B—Determining if an Action Qualifies for a Categorical Exclusion

§ 989.6 Concept and background.

(a) Concept of the CATEX (see CEQ regulations 1501.1, 1507.3(b) and 1508.4). The Air Force may choose to "categorically exclude" from environmental analysis and documentation actions that do not have significant impacts on the human environment. If a proposed action qualifies for a CATEX, no additional environmental analysis or documentation is required before the action may be decided upon.

(b) CATEX Qualification Overview.

(1) For the first step, the action proponent identifies and describes the proposed action. Then the proponent uses the Categorical Exclusion Qualification Table (§ 989.29) and makes the CATEX determination.

(2) The following criteria are used to establish the requirement for an EA or an EIS for actions:

(i) Resulting in bringing pollution levels up to, or above, an accepted threshold level or resulting in further continuance of an already adverse condition.

(ii) Having an irreversible and significant impact or precipitating long term environmental changes in an area.

(iii) Incompatible with the existing character or future development of an area.

(iv) Overburdening existing or proposed public services, facilities and utilities.

(v) Significantly affecting the ecosystem of an area or living conditions of man, animals, marine or wildlife.

(vi) Adversely affecting sites or buildings having historic, architectural or archeological merit.

(vii) Significantly degrading the existing quality of the human environment.

(viii) Posing a threat to public health or safety.

(ix) Impacting scarce, non-renewable energy and natural resources.

(x) Being highly controversial on environmental grounds.

(xi) Having a significant impact on flood plains, wetlands, coastal zones or prime farmlands.

(xii) Impacting threatened or endangered species.

§ 989.7 Identifying and describing the proposed action.

(a) Identifying the Action. The proponent should identify component parts of the total action in order to properly use the CATEX table (§ 989.29). For example: Movement of a squadron of aircraft to a base may be a basic action; whereas, hangar construction and aircraft parking apron construction could be implementing actions.

§ 989.8 Using the CATEX qualification table.

(a) *Actions in Group I.* If the basic action and all implementing actions are listed under Group I, no documentation is required and the proponent may proceed with the proposed action.

(b) *Actions in Group II.* (1) If the proponent finds that any one of the actions is listed in Group II, the action does not qualify for categorical exclusion unless it meets performance standards. Actions in Group II may be categorically excluded from further analysis or require an EA or EIS based on the possible effects caused by intensity and location of the activity. The proponent initiates AF form 813 and the environmental planning function makes one of the following determinations:

(i) Implementation of the proposed action results in exceeding performance standards, or the effects cannot be readily determined; and, therefore, an EA is required.

(ii) The total action meets performance standards and the proponent may proceed with the proposed action and maintain the AF Form 813 in the project file.

(2) Performance standards represent established, or recognized, threshold limits beyond which the potential for environmental impact exists. Environmental attributes, such as air, water, noise, and land use are of primary importance. The measurements include consideration of pollution resulting from the action itself and the cumulative effect on the environment. For air quality, this would be represented by source performance

standards and ambient air quality standards, respectively.

(c) *Actions in Group III.* If the proponent finds that any actions are listed in Group III, it means that the action does not qualify for a categorical exclusion. Either an Environmental Assessment or an Environmental Impact Statement must be prepared. The proponent sends an AF Form 813 to the environmental planning function to request preparation of these documents.

(d) *Extraordinary circumstances.*

Categorical exclusions do not cover all possible conditions. If the action, based on a review of the previous criteria, has potential for environmental impact, the CATEX is not applied; and the EIAP is initiated with AF Form 813. Use the AF Form 813 for activities not found in the Categorical Exclusion Qualification Table.

Subpart C—Requesting Environmental Impact Analysis

§ 989.9 General information.

(a) Concept of Requesting Environmental Impact Analysis. The proponent uses AF Form 813, Request for Environmental Impact Analysis (see § 989.31), to request assistance from the environmental planning function. AF Form 813 also provides the initial documentation of the proposed action in the EIAP.

§ 989.10 Types of analyses and documentation.

(a) Types of Analyses:

(1) *CATEX determination.* An analysis made when actions fall in Group II (§ 989.29) to determine if the action meets specific performance standards necessary to qualify for a CATEX.

(2) *Preliminary environmental survey.* The preliminary environmental survey is an optional professional service. It is designed to provide environmental planning assistance in the early stages of proposal development and is used by the proponent when a better understanding of the potential environmental problems associated with the proposed action is desired. Such insight permits the proponent to continue planning the proposal with a greater sensitivity for potentially significant environmental impacts and to develop mitigation strategies in early planning where they may have a less disruptive impact on planning elements.

(3) *Environmental assessment (EA).* An EA is a document containing technical and scientific analyses of the potential environmental consequences of a proposed action and its

alternatives. The EA provides sufficient information to verify the requirement for an EIS or support a Finding of No Significant Impact (see Subpart D).

(4) *Environmental impact statement (EIS).* An EIS provides more detailed technical and scientific analyses of the potential environmental consequences of a proposed action and its alternatives than that contained in an EA. The draft EIS serves to inform federal, state and local agencies and the public about the potential impacts of the proposed action. The final EIS gives comments received and serves to inform the decision-maker and other interested persons of potential impacts of the proposed action (see Subpart F).

(b) Processing AF Form 813:

(1) The major portions of AF Form 813 are the Purpose and Need and the Description of the Proposed Action and Alternatives. Together, these two parts form what is known as the DOPAA and are the responsibility of the proponent. The DOPAA describes the action, the alternatives and selection criteria used to determine the alternatives, and how and when the action would be implemented. If the action is complex or the proponent desires help to prepare the DOPAA, the proponent should get in touch with the environmental planning function before completing Part II of AF Form 813. When reasonable alternative actions exist, the proponent identifies, develops and documents the alternatives, including alternatives that are outside the Air Force's jurisdiction (see CEQ regulation 1502.14(c)).

(2) The Environmental Protection Committee (EPC) member who represents the proponent on the EPC reviews AF Form 813 and, if necessary, helps the proponent prepare Part II of the form.

(3) The organization commander signs the request.

(4) The request is sent to the environmental planning function.

(5) The environmental planning function manages the accomplishment of the environmental analysis. An estimated completion date of the environmental analysis must be given to the proponent after receipt of the AF Form 813. The environmental planning function prepares Part IV, "Environmental Planning Response." The environmental planning function also helps the proponent, if necessary, in preparing Part II of AF Form 813.

(6) The EPC reviews and approves recommendations made by the environmental planning function in Part IV, "Environmental Planning Response."

(c) AF Form 814, The Preliminary Environmental Survey:

(1) The proponent requests a preliminary environmental survey by checking the appropriate block on AF Form 813.

(2) AF Form 813 is then sent to the environmental planning function.

(3) The environmental planning function is responsible for preparing the AF Form 814 (see § 989.32). AF Form 814 is attached to AF Form 813 and returned to the proponent.

Subpart D—The Environmental Assessment (EA)

§ 989.11 Preparing and environmental assessment.

(a) Environmental Assessment Concept (see CEQ regulations 1501.3 and 1508.9).

(1) An EA documents the technical analysis used to determine whether the probable environmental consequences of the proposed action and the alternatives are significant as defined in CEQ regulations. If the EA shows that the probable environmental consequences of the proposed action or alternatives may be significant, the end product of the EIAP may be an EIS. If not, the end product of the EIAP is a Finding of No Significant Impact.

(2) The preparation of an EA should not require extensive research. EAs normally are not lengthy documents; however, an EA must be complete enough to permit a reasonable decision on whether to prepare a Finding of No Significant Impact or a draft EIS.

(b) Processing the Environmental Assessment:

(1) The initiator of AF Form 813, Request for Environmental Impact Analysis, prepares items of Parts I and II that apply. The form is then sent to the environmental planning function.

(2) The environmental planning function prepares or manages the contract preparation of the EA. It establishes and maintains records of all individuals, agencies and groups contacted during the analysis; researches and obtains environmental planning data bearing on the proposed action; consults with and obtains analyses of impacted environmental attributes from Air Force experts; and prepares the EA with assistance from the proponent.

(i) The environmental planning function may develop an EIAP work plan depending upon the complexity of the assessment process, but always prepares a work plan and a mile stone schedule when it has been concluded that a proposed draft EIS is required.

(ii) The environmental planning function may also set up an informal scoping process (see § 989.18(a)) to help

organize the analysis. Under this informal scoping process the steps outlined in CEQ regulations are not mandatory, but may be used as guidelines.

(iii) When the environmental planning function receives a request for an EA, it first determines if contractual assistance is required. If contractual assistance is required, the request for an EA should be approved at the lowest appropriate funding authority level.

(iv) The environmental planning function must notify the proper Air Force Regional Civil Engineer (AFRCE) before any meetings with federal regional or state officials. The environmental planning function will forward copies of any correspondence with or from these agencies to the AFRCE. The AFRCE will be responsible for setting up meetings with federal regional officials. The ANG installation environmental planning function will coordinate meetings with federal, regional and state officials with the State Adjutant General and the NGB. The NGB will advise the AFRCE when appropriate.

(v) When the EA is completed, the environmental planning function initiates AF Form 815, Environmental Assessment Certificate.

(3) The Staff Judge Advocate and the Information Officer provide professional consultation and services to assist the environmental planning function in gaining public involvement and obtaining interagency and intergovernmental coordination of the EA.

(c) Format and Content of the Environmental Assessment (see CEQ regulation 1508.9).

(1) EA topics are limited to:

(i) The Description of Proposed Action and Alternatives (DOPAA), prepared by the proponent, includes:

(A) A brief explanation of the underlying purpose and need. Describe the benefits of the proposed action in terms of specific Air Force or broader national policy. In addition to the above narrative, cite congressional guidance, Executive Orders, Public Laws or other supporting directives.

(B) A description of the proposed action and alternatives (see § 989.16(a)(6)). Include only reasonable, operationally acceptable alternatives and the selection criteria used in arriving at these alternatives. Reasonable alternatives are defined as those that the proponent would implement to accomplish the objectives in preference to a "no action" alternative.

(ii) A description of the potential environmental consequences of the proposed action and each alternative; or the scientific basis for no probable significant environmental effects. This section is the responsibility of the environmental planning function.

(iii) A list of offices and persons consulted, prepared by the environmental planning function. Identify subject matter on which the offices or persons were consulted for ready reference and inclusion in any permanent EA project record.

(2) The format includes:

(i) Section A—DOPAA. Same information as items 8 and 9 of AF Form 813 (§ 989.31).

(ii) Section B—Environmental Consequences. Use the Air Force Environmental Reference Number (AFERN) system as a guide and address only potentially impacted or significant attributes.

(iii) Section C—Offices, Agencies and Persons Consulted.

§ 989.12 The environmental assessment certificate.

(a) Environmental Assessment Certificate Concept. The Environmental Assessment Certificate contains the environmental planning function's certification and recommendations following the preparation of the EA and also includes the necessary approvals and concurrences.

(b) Processing AF Form 815, the Environmental Assessment Certificate:

(1) The environmental planning function prepares the EA after analyzing the potential environmental consequences of the proposed action and alternatives. The project environmental planner who directs the analysis certifies its completeness.

(2) Environmental Planning Function Recommendation: The Chief of Engineering and Environmental Planning Branch at installation level, Chief of Environmental Planning Division at MAJCOM level, or Director of Environmental Planning at the Air Force Engineering and Services Center (AFESC), based on the EA, recommends that:

(i) A Finding of No Significant Impact is appropriate and can be supported or,

(ii) A draft EIS is required (see CEQ regulation 1501.4(e)(2)). If a Finding of No Significant Impact is recommended, the environmental planning function prepares and sends it to the Environmental Protection Committee (EPC). The environmental planning function also determines if a 30-day waiting period is required and briefly discusses the reason for the waiting

period in the "Remarks" section of AF Form 815.

(3) The chairperson of the EPC reviews the recommendation of the environmental planning function. The EPC is authorized to approve or disapprove the Finding of No Significant Impact when the final approval authority for implementing proposed action is within the approval authority of the proponent's commander. The ANG EPC has the final approval/disapproval authority for Findings of No Significant Impact for proposed ANG actions. Findings of No Significant Impact for line items forwarded for the Military Construction Program (MCP) may be approved at the MAJCOM and the NGB. All other Findings of No Significant Impact must be approved by the EPC of the next higher approval level. If the preparation of a draft EIS has been recommended, the EPC must concur with the recommendation, get the concurrence of the proponent and then get the approval of the next higher level EPC. The next higher level EPC will resolve conflicts between the EPC and the proponent.

(4) The proponent's commander reviews the recommendation for a draft EIS and either concurs, revises the proposed action and resubmits AF Form 813, or decides to take no action.

(5) The form is then returned to the environmental planning function which either begins the public notice process, if required, for the Finding of No Significant Impact or begins the EIS preparation phase.

Subpart E—Finding of No Significant Impact

§ 989.13 General Information.

(a) Finding of No Significant Impact Concept (See CEQ regulations 1501.4(e) and 1508.13). A Finding of No Significant Impact is prepared when, as a result of the Environmental Assessment, it is determined that the proposed action has no significant impact on the quality of the human environment. The Finding of No Significant Impact is a concise document that explains the reasons why the proposed action will not have a significant effect on the human environment. It consists of a brief statement summarizing the proposed action and its effects. If the action does not have effects of national or local interest, the Finding of No Significant Impact is satisfied with a completed AF Form 815 and the attached EA.

§ 989.14 Preparing and publicizing the finding of no significant impact.

(a) Finding of No Significant Impact Preparation:

(1) The Finding of No Significant Impact is prepared by the environmental planning function if the chief of the environmental planning function determines one is appropriate (see CEQ regulation 1501.4(e)(2)).

(2) The EA and the Finding of No Significant Impact is then reviewed by the EPC for technical and functional accuracy and completeness. It also goes to the Office of Information for security and policy review.

(3) All Findings of No Significant Impact must have the approval of the Legal Office. If a legal office does not agree with the issuance of a Finding of No Significant Impact, the documentation is forwarded to the next higher level for resolution.

(4) The Finding of No Significant Impact is then approved by the Commander with the final approval authority for deciding on the action. For line items forwarded for the Military Construction Program, the MAJCOM or the NGB may approve the finding.

(5) If a Finding of No Significant Impact is prepared as a result of an Air Staff decision that a draft EIS is not necessary, the above steps must be performed by the Air Staff. Findings of No Significant Impact are submitted to AF/JACL, SAF/GC, and SAF/MIQ for their approval before AF/LEEV approves them.

(b) Providing Public Notice of the Finding of No Significant Impact (see CEQ regulations 1501.4(e) and 1508.6). Notice is required for actions with effects of national or local interest.

(1) The environmental planning function manages the task of providing public notice of the Finding of No Significant Impact. The environmental planning function is specifically responsible for:

(i) Notifying the Office of Management and Budget Circular No. A-95 clearinghouses.

(ii) Making the Finding of No Significant Impact available to the public.

(2) AF/LEEV prepares notices for the Federal Register when the action has effects of national interests and forwards to Federal Register Liaison Officer, 1947 AS/DASJR.

(3) The Office of Information prepares and releases the public notices.

Subpart F—The Environmental Impact Statement (EIS)—General Information

§ 989.15 Background Information.

(a) Concept of Preparing an EIS (see CEQ regulations 1502.1, 1502.2 and 1502.9). An EIS is prepared when the Environmental Assessment (EA) shows a potential for significant impact or when the action is one that has been determined to usually require an EIS. The EIS serves two basic purposes:

(1) The draft EIS is a mechanism that provides the public and various agencies an opportunity to review the environmental factors to be considered by the decision-maker and to make substantive comment so that the document may be made as correct and complete as possible.

(2) The final EIS provides the decision-maker with the description of the potential significant environmental impacts of the proposed action and its alternatives.

(b) EIS Overview:

(1) The EIS is developed in two stages: a draft and a final. The draft EIS may be revised by the Air Force based on public and agency comments. The final EIS includes public and agency comments as part of the record for the decision-maker.

(2) A draft EIS and final EIS are normally prepared by the level initiating or proposing the action, but they are approved by HQ USAF, MAJCOMs and the NGB should play a primary role in preparation of draft EISs and final EISs originating from base level organizations. They are sent for approval as proposed draft EISs and proposed final EISs.

(c) Assistance in Preparing the EIS:

(1) The Environmental Protection Committee (EPC) designates a team, under the leadership of the environmental planning function, to prepare the EIS. The team is normally composed of the environmental protection planner, the proponent, the bioenvironmental engineer, the staff judge advocate, the information officer, local Air Force personnel with technical or scientific training related to areas of environmental concern, and other contributors with special skills.

(2) The Air Force Engineering and Services Center (AFESC) has an interdisciplinary staff of experts who are available to the team through the MAJCOMs for guidance and assistance. The AFESC also has contract support for doing environmental studies and may obtain specialized natural and biological science studies for development of EAs and EISs from the USAF Occupational and Environmental

Health Laboratory (AFR 181-17) and other Air Force organizations.

§ 989.16 EIS format and content.

(a) EIS Format and Content (see CEQ regulation 1502.10 through 1502.18). EISs include (see § 989.34):

(1) Cover sheet (see CEQ regulation 1502.11). The one paragraph abstract should describe only the proposed action and alternatives and the corresponding significant environmental consequences.

(2) Summary (see CEQ regulation 1502.12). Since the EIS is itself designed to be a summary of technical reports, background studies, transcripts of hearings, and public comments, this summary need not further summarize the EIS. Instead, the summary should call the reader's attention to the major findings of the environmental analyses, areas of controversy, and any unresolved issues. List all federal permits, licenses and other entitlements that must be obtained prior to proposal implementation. Indicate if it is uncertain whether these documents are required. For an analysis of the issues, the reader must go to the EIS. Do not include detailed information from the body of the EIS.

(3) Table of Contents. The table of contents is shown in § 989.34. Further breakout of the sections is not necessary unless the EIS is particularly long.

(4) Air Force Environmental Reference Number (AFERN) System. The AFERN System is an Air Force numerical indexing of environmental attributes used in impact analysis and in organizing the EIS. In the body of the EIS, only address AFERNs where impacts have been identified. Address these attributes in a logical manner that provides smooth transitions for the reader. Include the AFERN listing.

(5) Purpose and Need for Action (see CEQ regulation 1502.13). This section explains the basic goal of the proposal in terms of the Air Force mission and provides information to explain the origin of the need, such as congressional directives, change in mission or testing of new equipment.

(6) Alternatives Including the Proposed Action: (see CEQ regulation 1502.14).

(i) A description of the proposed action and all reasonable alternatives including those not within Air Force jurisdiction and the "No Action" alternative. Describe the selection criteria used and compare alternatives against the criteria. Identify whether actions are substitute for, or an addition to, existing missions and evaluate separate and cumulative impacts. Siting

actions, such as aircraft beddowns and proposed facility sitings, should not only address alternative geographical areas but should also identify and discuss impact of possible operationally acceptable variations in the intensity of the proposed mission (e.g., number of aircraft, flying activity or building intensity).

(ii) A comparative presentation of the environmental consequences of the proposed action and the reasonable alternatives. Organize the presentation of the environmental consequences using the AFERN system and, if suitable, use tables and graphics for comparative purposes.

(iii) A description of any mitigation measures nominated for incorporation into the proposed action and alternatives, as well as other reasonable mitigation measures available.

(iv) Identification of both the environmentally preferred alternative and the Air Force preferred alternative and a presentation of the rationale for how these were identified.

(v) A listing of alternatives which were eliminated from detailed study. Briefly discuss the reasons that each alternative was eliminated based on selection criteria.

(7) Affected Environment (see CEQ regulation 1502.15).

This section presents information about existing conditions in sufficient detail so that the reader can fully understand how the proposed action and alternatives could impact each attribute. Information is limited to those environmental attributes that were identified as being potentially significantly impacted. Organize this section using the AFERN system.

(8) Environmental Consequences (see CEQ regulation 1502.16). This section presents the scientific and analytic basis for the comparisons in the proposed action and alternatives section.

Organize this section using the AFERN system. Discuss:

(i) The direct and indirect effects and their significance. For each effect discussed in the proposed action and alternatives section include:

(A) The methodology used to identify the effect. Include data sources, latest available data, and relevant limitations to either methodology or data. Be consistent in measures of comparison.

(B) Additional discussion of the effects to include energy requirements and conservation potential as appropriate. As necessary, include a discussion of energy supply assurance, alternate energy conversion, advanced energy technology and energy

optimization. Do not repeat data or information in the alternative section.

(ii) Relationship between the proposed action and objectives of land-use plans, policies and controls that may be federal, state, regional or local in nature.

(iii) Adverse environmental effects that cannot be avoided should the proposal or alternatives be implemented. This section brings together only those effects that have been identified as being adverse and for which no mitigation measures can be used.

(iv) Relationship between short-term uses of the environment, long-term productivity, and trade offs between short- and long-term costs and benefits.

(v) Irreversible or irretrievable commitments of resources, to include energy and conservation potential, that would be involved if the proposed action were implemented.

(vi) Whenever relevant to (i) through (v) of this section, public or agency comment, either challenging or supporting the analysis, may be summarized and incorporated into the narrative.

(9) List of Preparers (see CEQ regulation 1502.17). For all individuals listed in this section, give the name, position title, and special expertise. The listing of preparers should be divided into two parts: those who prepared the EIS and those who prepared the appendices. For preparers of:

(i) The EIS, include only members of the actual statement preparation team.

(ii) Appendices, list the preparers of each individual study.

(10) List of Agencies, Organizations and Persons Receiving Statements. Each entry should include as much of the following information as possible: Name, title, organization and address. Divide the listings as follows:

(i) Federal agencies.

(ii) State or regional agencies.

(iii) Local agencies.

(iv) Private agencies and organizations.

(v) Private citizens.

Place the listings in alphabetical order.

(11) Index. Limit the index to items that are addressed in more than one section or that are not identified by an AFERN number.

(i) Appendices (see CEQ regulations 1502.18 and 1507.3(c)). Appendices are prepared to provide the background for the discussions in the EIS and, if necessary, to supplement the EIS with any classified portions of the proposed actions and alternatives. They should follow the same format as the related

sections in the EIS. The order in which alternatives are discussed should be the same as in the EIS, and the sequence of topics should be the same. Use similar presentation styles. If the EIS section is primarily tabular, then the appendix should be primarily tabular.

(b) Environmental Document Preparation and Processing Costs. The environmental planning function must maintain an estimate of the direct costs incurred solely to prepare and process Environmental Documents. As soon as it is recognized that the EIAP may result in significant costs to the Air Force, and at a minimum when it has been determined that a proposed draft EIS will be prepared, cost documentation begins. Break down the costs as follows:

(1) Salaries of military and civilian personnel.

(2) Travel costs.

(3) Research costs related to the draft EIS.

(4) Contract and consultant costs.

(5) Administrative costs.

(6) Costs of public hearings and other related meetings.

(c) Classified Environmental Statements. The fact that a proposed action is classified does not relieve the proponent of the action from complying with the requirements of this part. Environmental statements, both draft and final, must be prepared, safeguarded, and disseminated according to the requirements applicable to classified information. If feasible, organize these statements so that classified portions can be contained in appendices and the unclassified portions can be made available to the public.

Subpart G—The Draft EIS

§ 989.17 Preparing the draft EIS.

(a) *Draft EIS Concept.* The Draft is prepared and sent through command channels to HQ USAF/LEEV as a proposed draft Environmental Impact Statement. The Air Staff either approves the proposed draft EIS for release or determines that a draft EIS is not required, in which case the Air Staff prepares a Finding of No Significant Impact.

(b) *Proposed Draft EIS Preparation Steps.* Proposed Draft EIS preparation starts when the action is identified as one which normally requires an EIS or after return of AF Form 815 to the environmental planning function and includes the following steps:

(1) The environmental planning function prepares the initial EIAP work plan including initial scoping plans to be included in the "Notice of Intent" (see

(b)(4) of this section). AFESC/DEV is notified as soon as a determination is made to prepare a draft EIS.

(2) The Environmental Protection Committee (EPC) appoints the EIAP team.

(3) The proponent refines the Description of the Proposed Action and Alternatives for use in the "Notice of Intent."

(4) "Notice of Intent" is prepared by the environmental planning function in coordination with the proponent, the Staff Judge Advocate, and Office of Information. It is processed through command channels to AF/LEEV.

(i) "Notice of Intent" includes (see CEQ regulation 1508.22). In addition to the DOPAA and scoping plans, the name and address of a person within the Air Force who can answer questions about the proposed action and the EIAP, normally a representative of a MAJCOM, the Air Staff, the NGB, or SAF/MIQ, is provided.

(ii) The "Notice of Intent" is published per EPA Guidelines (see CEQ regulations 1501.7, 1506.6, and 1508.22).

(A) The environmental planner prepares the notice required for the Federal Register and forwards it through command channels to AF/LEEV for release.

(B) The Information Officer prepares the news release.

(C) The environmental planning function notifies the A-95 clearinghouses and prepares letters and similar notifications.

(D) As appropriate, SAF/LL notifies congressional committees and delegations.

(5) The environmental planning function prepares the detailed EIAP work plan.

(6) The proponent refines the DOPAA.

(7) The environmental planning function begins the scoping process.

(8) The Office of Information manages the publicizing of scoping meetings. Scoping meetings are National Environmental Policy Act (NEPA) related meetings and must be publicized in accordance with CEQ regulations, Sections 1501.7 and 1506.8(b) (see § 989.18(a)).

(9) The environmental planning function prepares or manages the contract preparation of the proposed draft EIS. During the proposed draft EIS preparation, the environmental planning function keeps the proper Air Force Regional Civil Engineer (AFRCE) notified before any exchanges and meetings with state and federal regional officials. The environmental planning function will forward copies of any correspondence with or from these

agencies to the AFRCE. The ADRCE is responsible for setting up meetings with federal regional officials. When appropriate, the ANG environmental planning functions will advise the AFRCE or their exchanges and meetings with state and federal regional officials.

(10) The environmental planning function sends the proposed draft EIS to the major command or NGB environmental planning function for review. The majcom or NGB makes sure that proposed draft EISs within the command are complete prior to forwarding to AFESC.

(11) The major command, NGB, or separate operating agency sends 15 copies of the proposed draft EIS to AFESC/DEV with the recommendation that it become a draft EIS along with a proposed news release; or a recommended copy of a proposed Finding of No Significant Impact. Recommend the proposed draft EIS be sent to AFESC nine months prior to the decision point.

(12) AFESC reviews the proposed draft EIS for technical sufficiency. AFESC assists the MAJCOM and the NGB with recommended revisions, if required, and forwards the draft EIS to HQ USAF/LEEV after the revisions have been made.

(13) HQ USAF Environmental Protection Committee performs a functional review of the draft EIS. After coordination with SAF/GC and SAF/MIQ, HQ USAF/LEEV advises the major command, the NGB, or separate operating agency and AFESC of one of three courses of action.

(i) That the statement will be processed as a draft EIS. HQ USAF/LEEV continues the processing. The Secretary of the Air Force, Office of Information, performs a security and policy review. The draft EIS is returned to the originating environmental planning function for document reproduction and distribution. When the EIS has been cleared for release, including coordination with the NGB for ANG actions, AF/LEEV handles distribution to Congressional delegations through SAF/LL and official filing with the Environmental Protection Agency. Filing procedures will be those prescribed by EPA guidelines. All other distribution is handled by the responsible environmental planning function.

(ii) That the statement will be processed as a draft EIS, but that there are recommended content changes. The proposed draft EIS is returned to the major command, or separate operating agency, through AFESC for action, as

necessary, concerning the recommendations.

(iii) That a draft EIS is not required. HQ USAF/LEEV prepares the Finding of No Significant Impact, briefly stating the Air Force decision and reasons for this finding, staffs it as stated in § 989.14(a)(5), and returns a copy to the originating environmental planning function. The environmental planning function with the assistance of the Office of Information then makes the Finding of No Significant Impact available to the public. The Finding of No Significant Impact is kept with the original project file.

§ 989.16 The scoping process.

(a) Scoping Process Concept (see CEQ regulation 1501.7). One goal of the scoping process is to identify and eliminate from detailed study the issues that are not significant. A second goal is to organize the EIS preparation effort, particularly when other federal, state or local agencies are involved as cooperating agencies (see § 989.21(b)).

(b) Scoping Process Responsibilities:

(1) The environmental planning function is responsible for managing the scoping process.

(2) The AFRCE is responsible for identifying and arranging federal and state agencies' participation in the scoping process.

(3) The Staff Judge Advocate and the Office of Information also help identify scoping participants.

(c) The Scoping Process:

(1) The scoping process starts when the Air Force decides a draft EIS is necessary. However, before the scoping process starts, a "Notice of Intent" must be published (see CEQ regulations 1501.7 and 1508.22).

(2) The first step in the scoping process is to use the Air Force Environmental Technical Information System (ETIS) to develop a preliminary list of potential impacts. Contact AFESC/DEV for assistance with ETIS. This preliminary list and the Environmental Assessment (EA) serve as the starting point for discussions on the scope of the proposed draft EIS and the issues to be further analyzed.

(3) The second step in the scoping process is to identify potential participants.

(i) Potential participants can be divided into two groups.

(A) Potential cooperating agencies, because they have responsibility for preparing parts of the proposed draft EIS.

(B) Potentially affected federal, state, and local agencies who are likely to have valuable information that could be

used to scope and prepare the draft EIS. Other required participants are identified in the CEQ regulations.

(ii) Once participants have been identified and the baseline documents prepared, the scoping process should be structured to meet the needs of the individual situation.

§ 989.19 Lead agency.

(a) Lead Agency Concept (see CEQ regulations 1501.5 and 1508.16). The lead agency is the agency that has prepared or has taken primary responsibility to prepare the EIS. In most cases, the lead agency is the agency proposing the action. In a few cases, the action of two or more agencies may be so closely related that one EIS should be prepared for both actions. In these cases, the lead agency must be identified.

(b) Air Force initiated actions. Determining the lead agency begins when the environmental planning function has recommended that a proposed draft EIS is required and the proponent has decided to proceed with the action. The environmental planning function reviews the action to determine if conditions identified in § 1501.5(a) of CEQ regulations apply.

(1) If the determination is that the conditions do apply, the environmental planning function prepares a report briefly describing the proposal, identifying what and how other federal agencies are involved and recommends which agency should be named the lead agency. This report is sent to HQ USAF/LEEV. HQ USAF/LEEV coordinates the report with SAF/MIQ who takes steps to have a lead agency designated. After the agency is named, HQ USAF/LEEV informs the environmental planning function of further proposed draft EIS preparation involvement.

(2) If the determination is that the conditions do not apply, proceed with proposed draft EIS preparation.

(3) If a determination cannot be made, consult with HQ USAF/LEEV.

(c) Actions initiated by other Federal agencies. There may be cases when the Air Force desires to be lead agency for an action started by another federal agency, or when the other agency would want the Air Force to be lead agency. All requests from another federal agency for the Air Force to act as lead agency are processed by HQ USAF/LEEV and SAF/MIQ. If such a request is received at the installation, the NGB, or major command level, send it to HQ USAF/LEEV. If the Air Force becomes the lead agency, HQ USAF/LEEV names the environmental planning function responsible for preparing the proposed draft EIS.

§ 989.20 Cooperating agencies.

(a) Cooperating Agencies Concept (see CEQ regulation 1501.6). In order to obtain agency cooperation early in the NEPA process, other federal agencies may be brought into a cooperative role with the lead agency. In addition, State and local agencies may also serve as cooperating agencies by agreement with the lead agency.

(b) Selecting Cooperating Agencies (see CEQ regulation 1501.6). Any federal agency which has jurisdiction by law is a cooperating agency. Other agencies should be selected to be cooperating agencies based on their expertise in an environmental area of concern, and their ability to provide assistance.

(1) Cooperating agencies are proposed or nominated by the environmental planning function during the initial stages of the scoping process. The Air Force Environmental Technical Information System and the EA are used to identify areas of potential impact, and publications such as Air Force Environmental Planning Bulletin (EPB) #15 (Jan 78) can be used to identify the federal agencies that have jurisdiction by law over these areas. EPB #15 can also be used to identify federal agencies that have special expertise in other areas. The AFRCE shall be consulted to identify State and local agencies.

(2) A list of required and recommended cooperating agencies is prepared by the environmental planning function and is sent to HQ USAF/LEEV who, with SAF/MIQ, reviews the list and makes plans with the agencies.

(3) When the list of cooperating agencies is formalized, HQ USAF/LEEV provides the environmental planning function with a list of contacts at all the agencies.

(c) Acting as a cooperating agency. In some instances, other federal agencies may want the Air Force to be a cooperating agency.

(1) If an installation, the NGB, or major command receives a request to act as a cooperating agency, send the request to HQ USAF/LEEV who coordinates with SAF/MIQ. SAF/MIQ makes further arrangements.

(2) If the Air Force becomes a cooperating agency, HQ USAF/LEEV notifies the environmental planning functions or Air Force agencies involved.

Subpart H—The Public Comment Period

§ 989.21 Obtaining public and agency review.

(a) Concept of Public and Agency Environmental Impact Statement

Review. Public and agency review of the draft Environmental Impact Statement is obtained by:

(1) Asking for written comments.

(2) Holding public hearings (see § 989.30). The public comment period normally lasts 45 days from the date the availability of the draft EIS is published in the Federal Register. This date will usually be the Friday following the week in which the draft EIS was distributed to the public and delivered to the EPA. SAF/MIQ may grant waivers for unique situations.

(b) Circulating the Draft EIS (see CEQ regulations 1502.18(d), 1502.19, and 1503.4(c)).

(1) Draft EISs are sent by the environmental planning function to:

(i) All cooperating agencies.

(ii) Any federal agency that has jurisdiction by law or special expertise with respect to any potential environmental impact identified in the draft EIS and any federal, State or local agency authorized to develop and enforce environmental standards within the affected area identified in the draft EIS.

(iii) Appropriate State and areawide A-95 clearinghouses.

(iv) Appropriate Federal Regional Councils.

(v) All local governments within affected areas identified in the draft EIS.

(vi) All agencies, organizations or persons contacted during statement preparation.

(vii) Any person, organization or agency requesting the EIS.

(viii) Local Libraries.

(2) Do not circulate summaries instead of the draft EIS without HQ USAF/LEEV and SAF/MIQ approval.

(3) If appendices are prepared, they need not be circulated with the statement if copies are provided to all local libraries within the affected areas defined in the draft EIS and the locations of the copies are listed in the draft EIS. The appendices should, however, be readily available on request.

§ 989.22 Reviewing environmental impact statements prepared by other Federal agencies.

(a) Air Forces review—matters of broad significance or application. When the issue discussed in the draft EIS has Air Force-wide implications or has broad policy implications, the review is managed by AFESC. If the installation, the NGB, major command or AFRCE receives a request to review a draft EIS they believe fits this description, they should send it to AFESC. AFESC notifies the agency that it is

coordinating the review and provides a point of contact. AFESC may request the installation, the NGB, major command or AFRCE to review the EIS and provide comments, but AFESC is responsible for coordinating comments and preparing a response to the other federal agencies.

(b) Air Force review—issues of regional or local significance. The review of draft EISs having only regional or local significance is the responsibility of the AFRCE. Other organizations receiving requests for review of such statements should send them to the appropriate AFRCE who notifies the agency that it is coordinating the review. The AFRCE may request comments from the installation major command, AFESC or HQ USAF/LEEV, but it is an AFRCE responsibility to coordinate the comments and provide a response to the other agency. The AFRCE provides HQ USAF/LEEV with a quarterly listing and brief summary of substantive comments for draft EISs it has reviewed during that period.

(c) Air Force review—Determination of OPR for Review Management. AF/LEEV designates the OPR for review of EISs from other federal agencies that do not fit the above categories.

Subpart I—Preparing the Final Environmental Impact Statement

§ 989.23 Revising the draft environmental impact statement.

(a) Incorporating Comments into the Final EIS (see CEQ regulation 1503.4). Substantive comments and their response may be located throughout the various sections of the final EIS or they may be collected at the ends of sections or even made a separate section. Representative opposing views may also be included in the body of the EIS. All written substantive comments, and public hearing transcripts are usually attached to the final EIS as an appendix. A reference to the Air Force response is given adjacent to each specific question or comment.

(b) Updating List of Agencies, Organizations and Persons Receiving Statements. In the final EIS, list only those agencies, organizations, groups or persons who submitted comments on the draft EIS or requested a copy of the final EIS.

§ 989.24 Processing the final EIS.

(a) Within the Air Force:

(1) The MAJCOM or NGB sends the proposed final EIS to AFESC for technical sufficiency review.

(2) After AFESC review is complete and MAJCOM or NGB incorporates

necessary changes, fifteen copies of the proposed final EIS are sent to HQ USAF/LEEV with the recommendation that it be released, along with one copy of a proposed news release.

(3) HQ USAF/LEEV coordinates the proposed final EIS with the HQ USAF Environmental Protection committee (EPC), SAF/GC and SAF/MIQ. The Secretary of the Air Force, Office of Information, performs a security and policy review.

(4) After the proposed final EIS is approved for release it is returned to the originating environmental planning function for document reproduction and distribution. AF/LEEV handles distribution to Congressional delegations through SAF/LL and official filing with the Environmental Protection Agency.

(b) Distributing the final EIS. The final EIS is distributed to the individuals listed in § 989.21(b) and § 989.23(b).

Subpart J—Developing a Mitigation Program

§ 989.25 General information.

(a) Mitigation Program Concept. The development of a mitigation program is a three-step process. It begins during the preparation of Environmental Assessments and Draft Environmental Impact Statements where it is an integral part of impact identification. The second step occurs following the completion of a Final Environmental Impact Statement when the final mitigation program is developed. Initially the mitigation program addresses both the proposed action and the reasonable alternatives. The final step occurs after a decision on the proposal is made, when the mitigation program for the chosen action is finalized.

(b) Responsibilities Assigned:

(1) Environmental Planning function (see CEQ regulations 1505.2, 1505.3 and 1508.19). The Environmental Planning Function:

(i) Develops and assists in monitoring Air Force mitigation measures

(ii) Coordinates with other agencies that are responsible for mitigation actions.

(iii) Responds to requests for progress reports from cooperating or commenting agencies and to request for information from the public.

(2) Proponent. The proponent assists the environmental planning function in developing the mitigation program.

(3) The Decision-maker (see CEQ regulation 1505.2). The office having approving authority for the action is responsible for preparing the "Record of

Decision" and enforcing the mitigation program.

(4) The Environmental Protection Committee (EPC). The EPC except at the Air Staff is responsible for monitoring the mitigation program.

§ 989.26 Developing the mitigation program.

(a) Identifying Mitigation Measures (see CEQ regulations 1502.14(g), 1502.15(g), 1505.2(c) and 1508.19). Identifying mitigation measures for the proposed action and all reasonable alternatives is an integral part of impact identification. Therefore, as soon as an adverse impact is determined, identification of mitigation measures begins. When identifying mitigation measures, consider measures which both prevent and reduce the amount of impact as well as measures that may be in the jurisdiction of another agency. Both the draft EIS and the final EIS must discuss the mitigation measures available to offset the potential adverse impacts of the proposed action and alternatives. The Finding of No Significant Impact should also discuss mitigation measures when potential mitigation was the basis for determining that there was no significant impact. A Finding of No Significant Impact is not signed unless the proponent of the action agrees to adopt the mitigation measures upon which the Finding of No Significant Impact is based. Identifying functional and technical mitigation measures is a joint responsibility of the proponent and the environmental planning function.

(b) Initial identification of mitigation measures. After completing the Finding of No Significant Impact or final EIS, the proponent and Director of Environmental Planning develop a preliminary mitigation program which is included in the decision package for the action. There should be a mitigation program for the proposed action and each reasonable alternative. The mitigation program should include all measures identified in the Finding of No Significant Impact or final EIS unless subsequent research has determined that they are not practical or not productive. The mitigation program includes the following information:

(1) Brief description of all measures recommended, including the office responsible for accomplishing the program.

(2) How the program would be implemented.

(3) How the program would be monitored and records maintained.

(4) Initial contacts or arrangements that have been made with other agencies who would have responsibility for a mitigation measure. (see CEQ regulation 1505.3).

(c) Finalizing the Mitigation Program (see CEQ regulations 1505.2 and 1505.3). After a decision is made to implement either the proposed action or one of the alternatives, the Air Force decision-maker prepares a "record of decision". The proponent and environmental planning function now finalize the mitigation program for the chosen action. The information listed in paragraph (b) of this section is now developed in full. The final mitigation plan is completed, and mitigation measures made ready before the action is carried out.

(d) Monitoring mitigation measures. Monitoring the progress of mitigation efforts after implementation is a key responsibility of the Environmental Protection Committee. A progress record should be maintained that may be used to respond to inquiries from the public or other agencies. The proponent has the responsibility to take corrective steps if mitigation measures are not properly performed. If another federal agency is not fulfilling its mitigation agreements, the proponent should refer the matter to AFESC and the appropriate AFRC.

Subpart K—Preimplementation Verification

§ 989.27 General information.

(a) Preimplementation verification concept. There may be considerable periods of time between the analysis of an action, the decision to proceed, and implementation of the action. During these periods, changes in conditions

may have occurred. Therefore, before any action is decided upon or implemented, the proponent must verify that there have been no changes. If the details of the action have changed, then it must be determined if a supplement to the Finding of No Significant Impact or Environmental Impact Statement is required.

(b) Responsibilities assigned. The proponent reviews the action before decision-making and before implementation and advises the environmental planning function if there have been any changes. The environmental planning function determines to what extent any changes affect the prior analysis. The environmental planning function reports its findings to the EPC, which decides whether and what type of additional analysis may be needed. The decision of the EPC must be concurred in by the legal office represented on the EPC. If the legal office does not concur, the situation must be reviewed by the EPC of the next higher approval level.

§ 989.28 Determining if a supplement is required.

(a) Changes that Require Supplements (see CEQ regulation 1502.9(c)). The Finding of No Significant Impact or EIS must be supplemented if change occurs which may be relevant to environmental concerns. The Finding of No Significant Impact or EIS must also be supplemented when there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. The supplement contains a description of, and an explanation for, the change and revisions to all appropriate sections of the original document. Revisions must be in the same format and style as the original. Make supplements available to the public in the same manner as the original document.

§ 989.29 Categorical exclusion qualification table.

Activity type	Group I ¹	Group II ^{2,3}	Group III ⁴
1. Established base operating, maintenance and repair, and support services being performed on a recurring routine basis according to the existing procedures (except weather modifications and manpower change).	X		
2. Weather modification.			X
3. Manpower increases resulting from a transfer of functions.		X	
4. Routine manpower decreases and increases (exclude base closure or reductions and mission realignment actions) involving relocation to another installation.		X	

Activity type	Group I ¹	Group II ^{2,3}	Group III ⁴
5. Routine manpower decreases (exclude base closure or reduction and mission realignment actions) not involving relocation to another installation and including conversion to contractor operation in accordance with AFM 26-1 and AFR 40-350.	X		
6. Changes to existing procedures for base operating and support services (except those involving fuels, radars, waste disposal, aircraft maintenance, munitions/ordnance or activities involving hazardous materials).	X		
7. Changes to existing procedures or locations for base operating and support services involving fuels, radars, pollutants or land disturbances, aircraft maintenance, munitions/ordnance or hazardous materials including regulations, instructions, manuals and technical orders which implement these changes.		X	
8. Changes to existing traffic circulation, transportation system, or vehicular routing.		X	
9. Inspections.	X		
10. Established recurring and routine non-flying training operations performed in accordance with existing procedures and activity levels.	X		
11. Changes to existing procedures/location/activity levels for non-flying training operations except where chemicals, ordnance/munitions, radars, pollutants or land disturbances are involved.	X		
12. Changes to existing procedures/locations/activity levels for non-flying training operations involving chemicals, ordnance/munitions, radars, pollutants or land disturbance.		X	
13. Carrying out maneuvers on nonmilitary real estate.			X
14. Actions which may affect rare, threatened or endangered species.			X
15. Actions which interfere with wildlife migration or disturb refuges, wilderness areas, sanctuaries or national seashores.			X
16. Actions affecting archeological, cultural, historical, prime farm or park sites.			X
17. Projects which may result in environmental controversy.			X
18. Actions which affect flood plains, wetlands, or coastal zone management areas.			X
19. Natural Resources Plans (to include land, grazing, cropland, forest, fish and wildlife, landscape development and outdoor recreation management plans).			X
20. Interior and exterior construction not resulting in discharge of toxic or hazardous emissions (excluding Military Construction Program items) and not changing land use of the building.	X		
21. All other interior and exterior construction.		X	
22. Proposed line items for the military construction program (Use AFR 86-1 Procedures for programming).		X	
23. Facility and utility system maintenance and repair.	X		
24. Actions disrupting or threatening to disrupt or overburden public services, facilities or improvements.		X	
25. Aerial Applications of pesticides.			X
26. Installation of Power Plants or major power lines (lease or in-house).			X
27. Repair and Replacement of Real Property Installed Equipment (RPIE).	X		
28. Earth moving, dredging, or quarrying operations, or operations that significantly disturb natural vegetation.		X	
29. Installation of communications and electronics equipment which generate electromagnetic radiation external to the facility at locations where equipment did not previously exist or where EMR emission is increased above previous levels or exceeds applicable standards.		X	
30. Installation of communications and electronic equipment associated with cable systems which use existing right of ways, easements and distribution systems for which there is no additional unfavorable environmental impact.	X		
31. Real Property actions associated with ongoing mission activity unless otherwise covered by a specific activity type.	X		
32. Real property out grants.		X	
33. Timber sales.		X	
34. Licenses and permits.		X	
35. Mineral surveys not involving drilling or other ground disturbances.	X		
36. Disposal of facilities to include site modification.		X	
37. Real property land excessing action.			X
38. Land withdrawals.			X
39. Fee/Easement/Lease Acquisitions.			X
40. Closing or limiting access to areas that were previously open to the public.			X
41. Opening areas that were previously closed to the public including off road use of vehicles.			X

Activity type	Group I ¹	Group II ^{2,3}	Group III ⁴
42. Establishing/renewing Air Force test ranges			⁵ X
43. Joint use of Air Force bases			⁵ X
44. Air Force joint use of non-military airports			⁵ X
*45. Nonsupersonic flying operations conducted (1) at or above 3000' (above ground level) or (2) within established areas.	X		
46. All flying (including supersonic) operations conducted within international airspace not impacting underlying noise sensitive areas.	X		
47. Nonsupersonic flying operations conducted below 3000' above ground level for the purpose of visual observation by assembled gatherings (Example: Aerial demonstration teams).	X		
48. Supersonic flying operations above 30,000' (above mean sea level).	X		
49. The establishment of approach and departure procedures (visual and non-visual) which do not route traffic over noise sensitive areas or those at or above 3000' above ground level.	X		
50. Requests for the establishment of Terminal Radar Service areas (TRSAs) or Terminal Control areas (TCAs).	X		
51. Requests for the establishment of special-use airspace (restricted areas, warning areas, military operating areas) and military training routes, having a base altitude at or above 3000' (above ground level).	X		
52. The deployment of aircraft and associated personnel and equipment for contingency purposes.	X		
53. Deployments not covered items 1 or 52		X	
54. All flying operations and all airspace actions not listed in this table.			⁵ X
55. All procurement activities (except for Research Development Test and Evaluation activities, as shown in table, and devices which emit pollutants or the award of major contracts for supply of natural resources).	X		
56. Award of major contracts for supply of natural resources.		X	
57. Existing depot work load operations performed in accordance with existing procedures.	X		
58. Changes to depot work load operations not requiring SAF/AL review and approval.	X		
59. Changes to depot work load operations requiring SAF/AL review and approval.			⁵ X
60. Paper RDT&E studies for which there is no commitment of AF resources other than manpower or money.	X		
61. Computer simulations and mathematical studies	X		
62. Basic research with no release of noxious effluents or emissions.	X		
63. Exploratory development with no release of noxious effluents or emissions.	X		
64. Basic research and exploratory development which releases noxious effluents or hazardous emissions.			⁵ X
65. Weapons/ordnance/munitions test programs carried out in accordance with existing procedures in an established test area except those involving chemical residual or radioactive materials.	X		
66. Chemical or biological test programs carried out in accordance with existing procedures in established test areas provided procedures have been evaluated for environmental effects.	X		
67. Chemical or biological programs using procedures which have not been previously evaluated.		X	
*68. Development or purchase of new chemical or biological materials.			⁵ X
69. Relocation and disposal of chemical or biological materials.			⁵ X
70. Development or initial acquisition of new communication or electronics systems which demonstrate performance characteristics different than the existing system.		X	
71. Development or purchase of a new type of aircraft or substantially modified propulsion systems.			⁵ X
72. Development or purchase of new weapons system (including ordnance and munitions).			⁵ X
73. Laser activities outside of buildings			⁵ X
74. Significant changes to procedures, location, type or amount of test programs.		X	
75. Tests with greater than 1 ton high explosives.			⁵ X
76. Aircraft and missile Research and Development and Operational test programs carried out in accordance with existing procedures in established test areas where resulting emissions do not add measurably to ambient conditions.	X		
77. Aircraft and missile test programs resulting in measurable changes to ambient conditions.		X	

Activity type	Group I ¹	Group II ^{2,3}	Group III ⁴
78. Base Opening			⁵ X
79. Base Expansion		X	
80. Base/Mission Realignment		X	
81. Base Closure			⁵ X
82. Foreign Military Sales	X		⁵ X
83. Any action which increases or extends any ongoing action where health related standards are already exceeded or would cause these standards to be exceeded.			
84. Preparation of regulations, directives manuals or other guidance that implement, without substantial change, the regulations, directives, manuals or other guidance of higher headquarters or an other federal agency which have already been evaluated.	X		
85. Preparation of regulations, directives, manuals and other guidance related to actions which qualify for categorical exclusion.	X		
86. Preparation of regulations, directives, manuals and other guidance not covered in 84 or 85.		X	
87. Evaluation of any continuing activity which has been cited for being in violation by a governmental agency.			⁵ X
88. Technical orders, system specifications and other guidance covering the introduction, use, transportation, handling, storage, or disposal of fuels, toxic and hazardous materials and substances, chemical, ordnance/munitions and pollutants.		X	

¹ Qualifies for CATEX. No documentation required.

² Qualifies for CATEX only if performance standards are met. (Submit AF form 813.)

³ Performance standards exist at Federal, State and local levels. AFESC will provide performance standards periodically; however, the environmental planner has the primary responsibility for identifying and documenting these standards on a local basis (Refer to Subpart 8).

⁴ Does not qualify for CATEX. (Submit AF form 813.)

⁵ EA required.

⁶ In order to assess flying operations use AFR 19-2 in conjunction with AFR's 55-2, 55-34 and 55-48.

⁷ Before such materials are purchased for use, acceptable disposal methods must be available and considered in approving purchases.

§ 989.30 Procedures for holding informal public hearings on draft environmental impact statements.

(a) General Information:

(1) CEQ regulation, § 1506.6(c). The Air Force solicits the view of public and special interest groups and in appropriate cases, holds informal public hearings on the proposed action.

(2) The Office of The Judge Advocate General and its field organization are responsible for all phases of the public hearings from preliminary arrangements through forwarding of the hearing transcript to the environmental planning function.

(b) When a Hearing is Appropriate (CEQ regulation, § 1506.6). Informal public hearings may be appropriate if:

(1) The Air Force determines that there is substantial environmental controversy concerning the proposed action or substantial interest in holding the hearing (CEQ regulation, § 1506.6(c)(1)).

(2) The public has information to convey to the decision-maker not otherwise easily or conveniently presented, or readily available; or

(3) The request for a public hearing, together with supporting reasons why such a hearing will be helpful, is made

by an organization with jurisdiction over or substantial interest in the action; and (CEQ regulation, § 1506.6(c)(2)).

(4) There is no overriding consideration of national security that makes a hearing illegal (for example, classified status of a proposal).

(c) Notice of Hearing: (CEQ regulation, § 1506.6).

(1) The hearing must not be held less than 15 days after EPA publishes notice of the filing of the draft EIS in the Federal Register (CEQ regulation, Sections 1506.9 and 1506.10) (The hearing should usually be completed not less than 15 days before the end of the comment period).

(2) Announcement of the hearing must be distributed to all interested individuals and agencies, including the print and electronic media (CEQ regulation, Section 1506.3(i)-(viii)). Under certain circumstances it may be necessary to purchase an advertisement announcing the time and place of the hearing, as well as other pertinent particulars (AFM 177-102). In the case of an action with effects of national concern, such notice must also include publication in the Federal Register and notice by mail to national organizations with interest in the matter (1506.6(b)(2)).

The notice in the Federal Register should be published at least 15 days before the hearing date. Such notices may be published less than 15 days before the hearing date if the justification for abbreviating the notice period is placed in the notice. Due to the required leadtime, the notice should arrive at HQ USAF/LEEV approximately 30 days before the hearing date.

(3) The notice should include:

(i) Date, time, place and subject of the proposed hearing.

(ii) A description of the general format of the hearing.

(iii) The name and phone number of a person to contact for more information.

(iv) The request that speakers submit (in writing or by return call) their intention to participate with an indication of which environmental impact they wish to address.

(v) Any limitation on the length of oral statements.

(vi) A suggestion that statements of considerable length be submitted in writing.

The Federal Register notice should also include a summary of the proposed action, the summary of the environmental impact and the offices or locations where the draft EIS and appendices are available for examination.

(d) Availability of the draft EIS to the Public (CEQ regulations, §§ 1506.6 and 1502.19). Copies of the draft EIS should be available for distribution to the public at an Air Force installation in the area of the proposed action and public hearings. Copies of the draft EIS also must have been forwarded to the appropriate State, regional and metropolitan clearinghouses, unless the Governor of the state involved has designated some other point to receive this information. At the same time the statement is sent to the EPA, other federal agencies and Federal Regional Councils. Local outlets such as libraries, county commissioners' offices, etc., should also receive copies of the draft EIS for inspection by the public. A complete set of background studies and supporting documents referenced in the EIS should also be made available for public inspection and copying, at cost, at main library facilities or on the Air Force installation in the vicinity of the public hearing.

(e) *Place of the Hearing.* The hearing should be held at a time and place and in an area readily accessible to military and civilian organizations and individuals interested in the proposed action. Generally, it is preferable to hold the hearings in a civilian facility when public groups reasonably can be expected to attend.

(f) *Hearing Officer:*

(1) Ordinarily, The Judge Advocate General selects a Judge Advocate who has experience in conducting public meetings to preside over the hearing.

(2) The primary duty of the presiding officer is to make sure that the hearing is orderly; that it is recorded; and that all parties having an interest in the matter have a reasonable opportunity to speak. The presiding officer should attempt to direct the speakers' attention to the purpose of the hearing, which is to consider the environmental impacts of the proposed project. Undue limitation of speakers, on the other hand, may deny important information to the decision-maker.

(3) The hearing officer should state at the beginning of the hearing that he or she is not a fact-finder and makes no recommendation on the project. The hearing officer need not be personally knowledgeable of the project, other than having familiarized himself or herself with the draft environmental impact statement. In no event should he or she personally have participated in developing the project or have rendered legal advice or assistance with respect to it. The principal qualification should be the ability to conduct a hearing.

(g) *Record of the hearing.* A verbatim transcribed record of the hearing, including all positions, as well as all questions raised and the responses, must be prepared. All written exhibits sent to the hearing officer during the hearing, or before the record is completed, should be appended to the record as attachments, as should a list of persons speaking at the hearing, the organizations or interests they represent and their addresses. A verbatim transcript or summary of the hearing must be included as an appendix to the final environmental impact statement. Persons who request a copy of the transcript, subject to copying charges, should be mailed a copy when it is completed.

(h) *Hearing format.* Use the following format as a general guideline for conducting a hearing. Hearing officers should tailor the format to meet the hearing objectives. These objectives are to provide information to the public and to record the opinions of interested

persons for later evaluation along with the proposed action.

(1) *Organizing speakers by subject.* If time and circumstances permit, the hearing officer should group speakers by subject matter. For example, all persons wishing to address water quality issues, so that the EIS preparation team can more easily review the transcript. Speakers wishing to address several subjects should be asked if they would be willing to make separate presentations.

(2) *Recording of Attendees (CEQ regulation, § 1502.19(c)).* A list of all persons desiring to speak at the hearing should be made to help the hearing officer recognize these individuals, to ensure an accurate transcript of the hearing, and to provide a mailing address in order that any person, organization, or agency that provided substantive comments at the hearing may receive a copy of the Final Environmental Impact Statement. Assistants should be stationed at the doors of the hearing room to provide cards on which individuals can indicate their names, addresses, telephone numbers, organizations, titles, whether they desire to make a statement at the hearing and what environmental area they wish to address. The cards can then be used by the hearing officer to call upon individuals who desire to make statements. The cards, or copies, should be given to the environmental planning function after the transcript is completed. Note that Privacy Act implications preclude demanding this information.

(3) *Introductory remarks.* The hearing officer should first introduce himself or herself and the EIS preparation team and make a brief statement as to the purpose of the hearing, stating the general ground rules for its conduct. This is an appropriate time to welcome any dignitaries who are present. The presiding officer should stress that the presiding officer does not make any decision whether the proposed project is to be continued, modified or abandoned.

(4) *Explanation of the proposed action.* The Air Force EIS preparation team chief should next explain the proposed action, alternatives and the potential environmental consequences, and how the EIAP is conducted.

(5) *Questions by attendees.* After the proposed action, alternatives, and the consequences are explained, the hearing officer should give attendees a chance to ask questions to clarify points that may not have been understood. It may be necessary to reply in writing, at a later date, to some of the questions. In these cases, the hearing officer should verify

that the record has the name and address of the person asking the question. While the Air Force EIS preparation team should be as responsive as possible in answering questions that seek information about the proposal, they should not become involved in debate over the merits of the proposed action. Cross-examination of speakers, either Air Force or public, is not part of this kind of informal hearing. However, all questions asked should be included in the hearing record.

(6) *Statement of attendees.* The persons attending the hearing must be given a chance to present oral or written statements. The hearing officer should be sure that the recorder has the name and address of each person before submitting an oral or written statement. The attendees should be permitted to submit written statements during the hearing and within a reasonable time following the hearing. A reasonable length of time should be allotted for oral statements and if a limitation is contemplated, it should be included in the public notice of the hearing. The limit may be waived at the discretion of the presiding officer. Individuals who want to make a written or oral statement, but did not indicate this on the card submitted when they entered the meeting, should be given a chance to do so after identifying themselves, their organization and address. Those who have not previously indicated a desire to speak will be recognized only after those who had signified their intentions to speak have spoken.

(7) *Ending or Extending the Hearing.* The presiding officer has the power to end the hearing in the event of uncontrollable disorder, if the speakers become repetitive or for other good cause. In any such case, a statement must be made for the record on the reasons for termination. The presiding officer may also extend the hearing beyond originally announced dates. The extension should be announced during the meeting and appropriate local notice provided.

(i) *Adjournment of the Hearing.* After all persons have had the opportunity to speak or when a representative view of the public has been obtained, or when the time set for the hearing has ended, the hearing officer adjourns the hearing. In some circumstances, such as the likelihood that new and relevant information remains to be presented, an additional separate meeting may be justified. In such cases, the hearing officer should announce that another public hearing will be scheduled or is under consideration and that appropriate notice of a decision to

continue these hearings will be announced in the same way as the original hearing was announced. Because of leadtime constraints, Federal Register notice requirements may be waived by HQ USAF/JA. At the conclusion of the hearing, the attendees should be informed that they have 2 weeks to include additional remarks in the record of the hearing. They should also be informed of the last day of the commenting period on the draft environmental impact statement.

§ 989.31 Preparation of AF Form 813, Request for Environmental Impact Analysis.

(a) If more than one AF Form 813 is prepared for the same proposal, use the same control number for each, just add a suffix: (A) (B) (C) etc., for each additional form. In this case the requestor is responsible for completing item 3.

(b) The requestor is responsible for preparing Parts I and II, and must complete the following items:

- Item 1—Environmental planning function serving requestor.
- Items 2 and 5—Self-explanatory.
- Item 6—Check type of assistance needed according to this regulation.
- Item 7—Self-explanatory.
- Item 8—Enter a clear and concise description of the purpose and need for the action, to include date of implementation, which conforms to the guidance in this regulation.
- Item 9—Alternatives are not required for CATX determinations or preliminary environmental surveys.

(c) The requestor coordinates the AF Form 813 with the organization's representative on the Environmental Protection Committee and the organization commander.

Item 10—the EPC member that assisted the proponent certifies that he or she is aware of the proposed action and has reviewed Items 8 and 9.

Item 11—The organization commander verifies that the proposal is under consideration for implementation.

(d) Item 12—If an analysis is requested that will require contractual assistance, approval must be obtained from the command level authorized to approve and fund the required contract sources.

(e) Items 13, 14 and 15—completed by environmental planning function.

(f) Item 16—EPC review.

§ 989.32 Preparation of AF Form 814, Preliminary Environmental Survey.

- Item 1—From AF Form 813.
- Item 2—From AF Form 813.
- Items 3 and 4—Self-explanatory.

Item 5—Remarks: Provide discussion as necessary for effects shown in Item 4. Also include potential controversy, possible mitigation measures and any other relevant information about the action or its effects.

Items 6 thru 8—Self-explanatory.

§ 989.33 Preparation of AF Form 815, The Environmental Assessment Certificate.

Item 1—From AF Form 813.

Item 2—From AF Form 813.

Item 3—Self-explanatory.

Item 4—Environmental Planning Function (at the MAJCOM signed by Chief, Environmental Planning Division; at the Air Staff signed by AFESC).

Item 5—Used to provide explanation for recommendation in Item 4. Example, used to explain why a 30-day waiting period is required.

Item 6—Self-explanatory.

Item 7—Self-explanatory.

Item 8—Completed by initiating organization for AF Form 813.

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Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79-23089 Filed 7-25-79; 6:45 am]

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7-27-79
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HEW/FDA announces hearing before Public Board of Inquiry on proposal to refuse approval of application for marketing as contraceptive agent in humans; written notices of participation by 8-27-79
- 44422 Women, Infants and Children** USDA/FNS sets requirements for operation of Special Supplemental Food Program (Part IV of this issue)
- 44141 Farm Marketing Quotas and Acreage Allotments**
USDA/ASCS amends, adds, changes, and updates certain rules for determining acreage; effective 7-27-79
- 44175 Mattress Pads** CPSC proposes to amend flammability standards for certain types of pads; comments by 9-20-79
- 44173 Free and Reduced-Rate Transportation** CAB terminates rulemaking proceeding
- 44206 Television Receivers** CPSC terminates proceeding to develop proposed standard; effective 7-27-79
- 44196 Television Broadcasting and Cable Television**
FCC extends comment periods regarding syndicated program exclusivity rules, and inquiry into economic relationship; comments by 9-17-79, reply comments by 10-17-79

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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- 44310 Wood and Plastic Spring Clothespins** Office of the Special Representative for Trade Negotiations invites comments on possible reallocation of quota shortfall; comments by 8-3-79
- 44149 Surety Bonds** CAB publishes interpretation of rules concerning when a charter operator must obtain additional bonding coverage; effective 7-19-79
- 44154 Methyl Alcohol From Canada** Treasury/Customs publishes a finding of dumping; effective 7-27-79
- 44177 Glycyrrhizin** HEW/FDA extends comment period on proposal to affirm GRAS status as direct human food ingredient; comments by 10-15-79
- 44178, 44180 Neomycin Sulfate** HEW/FDA proposes to revoke provisions for certification of nonsterile drug for prescription compounding, and sterile drug for parenteral use; comments by 9-25-79, requests for informal conference by 8-27-79 (2 documents)
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Rules and Regulations

Federal Register
Vol. 44, No. 146
Friday, July 27, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

GENERAL ACCOUNTING OFFICE

4 CFR Part 6

Acceptance and Retention of Certain Gifts and Decorations From Foreign Governments by U. S. Employees

AGENCY: General Accounting Office.
ACTION: Final rule.

SUMMARY: This rule amends part 6 of Title 4, Code of Federal Regulations to implement 5 U.S.C. Sec 7342 (1976) as amended by Pub. L. No. 95-105. This law authorizes the acceptance and retention of certain gifts and decorations from foreign governments by employees of the United States. Certain other amendments and technical corrections to part 6 are also included.

EFFECTIVE DATE: July 27, 1979.

FOR FURTHER INFORMATION CONTACT: Richard T. Cambosos, Attorney Advisor, Office of General Counsel, General Accounting Office, Washington, D.C. 20548 (202-275-5544).

SUPPLEMENTARY INFORMATION: Clause 8, section 9, article 1, of the Constitution of the United States prohibits an officer or employee of the United States from accepting gifts of any nature from foreign governments unless authorized by the Congress. The Congress has given its limited consent to the acceptance of certain gifts or decorations in 5 U.S.C. 7342 (1976) as amended by Pub. L. No. 95-105, August 17, 1977, 91 Stat. 862. These regulations issued today implement this provision of law with respect to the employees of the General Accounting Office (GAO).

Generally, an employee is authorized to accept and retain during any calendar year a gift valued at \$100 or less from a foreign government. See § 6.17(c)(2)(i)(A) and (3)(i)(A). Reference is to Title 4, Code of Federal Regulations

unless otherwise noted. While certain gifts in excess of \$100 in value also might be accepted by the employee (see § 6.17(c)(1), (2) and (3)), tangible gifts valued at over \$100 accepted by employees from a foreign government during any calendar year are deemed to have been accepted on behalf of the United States and must be deposited with this Office within 60 days of acceptance. See § 6.17(c)(3)(ii)(A). However, when the \$100 limit on an employee's acceptance of tangible gifts is exceeded only by aggregating the value of a number of gifts received separately throughout the year, deposit with this Office is not required until 60 days following close of the calendar year. See § 6.17(c)(3)(ii)(B).

An employee is also authorized to retain and wear decorations awarded by foreign governments if tendered in recognition of active field service in time of combat operations, or awarded for other outstanding or unusually meritorious performance. See § 6.17(c)(4).

It should be pointed out that the term "employee" by definition includes not just someone who actually is working for this Office, but also includes certain members of his family. Furthermore, when organizations are under contract with this Office to perform services as experts or consultants, then any individual involved in the performance of these services is an "employee" for purposes of application of the law as implemented by these regulations. See § 6.17(a)(1). Thus, the acceptance of a gift or decoration by a spouse or child of someone working for GAO is subject to the requirements of these regulations.

It should also be pointed out that the definition of "foreign government" is not limited to a national government but includes lesser governmental authorities within a nation, and multinational organizations in which any of these units of a foreign government participates. See § 6.17(a)(2). Thus, even if tendered by an organization or city, a gift or decoration may be considered tendered by a foreign government for the purposes of the regulations.

With one exception, the regulations require approval by GAO's Committee on Ethics and Conflicts of Interest of the employee's acceptance of all gifts or decorations tendered by foreign governments. The one exception

involves a situation where a member of the household of someone working for the GAO is working for another agency to which 5 U.S.C. 7342 applies and that agency has approved his acceptance of a gift or decoration. See § 6.17(d)(2)(iv). Additionally, in some cases, GAO's approval must be obtained in advance. See § 6.17(c)(1). Furthermore, statements must be filed with GAO concerning the acceptance of gifts even though GAO's approval of acceptance of the gift is not required. See § 6.17(d)(2)(iv). Finally, a listing of the information set forth in some of the statements filed are annually forwarded to the Secretary of State for publication in the Federal Register. See § 6.17(f).

Employees should be diligent in complying with the law's filing requirements since it authorizes the Attorney General to bring a civil action in any United States district court against an employee who fails to deposit or report a gift as required by 5 U.S.C. 7342 as amended by Pub. L. No. 95-105. The court may assess a penalty against an employee who fails to comply in any amount not to exceed the value of the gift received plus \$5,000.

PART 6—CODE OF ETHICS

Accordingly, Part 6 of Chapter I of Title 4 CFR is hereby amended and corrected as follows:

1. The citation of authority is amended to read as follows:
Authority: Sec. 311, 42 Stat. 25, as amended (31 U.S.C. 52; interpret or apply 18 U.S.C. 201-218) unless otherwise noted.
2. Amending § 6.3(b)(3) to read as follows:

§ 6.3 Definitions.

- In this part:
- • • • •
 - (b) "Special Government Employee" means—
• • • • •
 - (3) Experts and consultants appointed under section 401 of the General Accounting Office Act of 1974, 31 U.S.C. Sec. 52c and section 204(d) of the Legislative Reorganization Act of 1970, as amended, 31 U.S.C. 1154(d).
• • • • •
3. Amending § 6.17 to read as follows:

§ 6.17 Gifts and decorations from foreign governments.

(a) *Definitions.* In this section:

(1) "Employee" means—

(i) An "employee" or "special government employee" as defined by § 6.3 (a) and (b), respectively. When an organization is under contract with this Office to perform services as an expert or consultant, then any individual involved in the performance of these services is an "employee" for the purpose of this section.

(ii) The spouse of an "employee" as defined in paragraph (a)(1)(i) of this section (unless such individual and his spouse are separated) or the dependent of an "employee" as defined in paragraph (a)(1)(i) of this section. However, it does not include a spouse or dependent who is an employee of any other agency of the legislative, judicial, or executive branch of the United States Government, a territory or possession of the United States, or the Government of the District of Columbia. For the purpose of this section, a "dependent" is one within the meaning of section 152 of the Internal Revenue Code of 1954 (26 U.S.C. 152).

(2) "Foreign government" means—

(i) Any unit of foreign governmental authority, including any foreign national, State, local and municipal government;

(ii) Any international or multinational organization whose membership is composed of any unit of foreign government described in paragraph (a)(2)(i) of this section.

(iii) Any agent or representative of any such unit or such organization, while acting in that capacity.

(3) "Gift" means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government.

(4) "Decoration" means an order, device, medal, badge, insignia, emblem, or award tendered by, or received from, a foreign government.

(5) "Minimal value" means a retail value in the United States at the time of acceptance of \$100 or less.

(6) "Committee" means the Committee on Ethics and Conflicts of Interest established by § 6.49.

(b) *Prohibited activities concerning acceptance of gifts or decorations by employees.* An employee may not:

(1) Request or otherwise encourage the tender of a gift or decoration;

(2) Accept a gift or decoration other than in accordance with the rules and procedures set forth in this section.

(c) *Employee's acceptance procedure.*

(1) *Gifts of travel or expenses for travel in excess of minimal value.* (i) Except as provided in paragraph (c)(2)

of this section, no gift of travel or expenses for travel in excess of minimal value shall be accepted by an employee unless approved in advance by the Committee. Employees seeking advance approval of such gifts of travel or expenses for travel shall submit a request to the appropriate reviewing official setting forth:

(A) The employee's name and position with the agency;

(B) A description of the travel or expenses for travel to be provided;

(C) The nature and purpose of the travel;

(D) The estimated value in the United States of the travel or expenses for travel at the expected time of the travel; and

(E) The identity of the foreign government making the offer of the gift and the identity of a representative of the foreign government who could be contacted concerning the offer.

(ii) Upon receipt of the employee's request, the reviewing official shall verify the information contained in the request. Any additional relevant information should be appended to the request and a copy provided the employee. Upon completion of the verification, the reviewing official shall forward the request to the Committee for its consideration.

(iii) The Committee shall consider and approve the request when it determines either that:

(A) The travel or expenses are for travel entirely outside the United States (see paragraph (c)(1)(iv) of this section), appropriate (see paragraph (c)(1)(v) of this section), and consistent with the interests of the United States (see paragraph (c)(1)(vi) of this section); or

(B) To refuse the gift of travel or expenses for travel would be likely to cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States.

(iv) A request shall not be disapproved solely because a portion of travel takes place within the United States when the cost for any such travel within the United States is not borne by the foreign government.

(v) Whether the acceptance of the gift of travel or expenses for travel from a foreign government in excess of minimal value is appropriate depends upon the facts and circumstances involved in each offer. If acceptance of such a gift would create a conflict of interest or apparent conflict of interest that is substantial enough to affect the integrity of the employee's service *vis a vis* the foreign government and which could not be corrected by changing the assigned duties of the employee, then acceptance

is inappropriate and such request shall be denied. However, where the only way such a conflict or apparent conflict of interest could be avoided is by reassignment or the employee, then approval may be denied under paragraph (c)(1)(vi) should it be determined that reassignment is inconsistent with the interest of this Office.

(vi) Whether the acceptance of the gift of travel or expenses for travel from a foreign government in excess of minimal value is consistent with the interests of the United States includes considerations ranging from the policies and goals of the Government as a whole, as well as the concerns and interest of this Office, which might be affected by acceptance of this gift.

(vii) An employee shall file a statement with the Assistant to the Comptroller General for Administration with 30 days of accepting travel or expenses for travel as authorized by paragraph (c)(1) of this section. This statement shall contain:

(A) The name and position of the employee;

(B) A brief description of the gift and the circumstances qualifying acceptance (*i.e.*, basis for approval by Committee); and,

(C) The identity of the foreign government and the name and position of the individual who presented the gift.

(2) *Employee's acceptance of gifts of travel or expenses for travel without advance approval by the Committee.*

(i) Employees may accept gifts of travel or expenses for travel from a foreign government without advance approval by the Committee when:

(A) The travel or expense for travel is of minimal value; or

(B) The travel or expense for travel is provided for travel entirely outside the United States (see paragraph (c)(1)(iv) of this section) for the primary purpose of, and is reasonably necessary to, facilitating the employee's performing the work of this Office.

(ii) An employee shall file a statement containing the information required by paragraph (c)(1)(vii) of this section with the appropriate reviewing official:

(A) Within 60 days of the end of the calendar year when the aggregate value of all gifts accepted under authority of paragraph (c)(2)(i)(A) of this section from a particular foreign government during the calendar year is in excess of minimal value; or,

(B) Within 60 days of the employee's acceptance of gifts of travel or expenses for travel under authority of paragraph (c)(2)(i)(B).

(iii) Upon receipt of the employee's statement, the reviewing official shall verify the information contained in the statement. Any additional relevant information should be appended to the statement and a copy provided the employee. Upon completion of the verification, the reviewing official shall forward the statement to the Committee for its consideration.

(iv) The Committee shall review the statement to determine if acceptance without advance approval of the Committee was authorized by paragraph (c)(2)(i) of this section. If it is determined that acceptance without advance approval by the Committee was not authorized, then the Committee shall determine whether such gift of travel or expenses for travel would have been approved had a request for advance approval been submitted in accordance with paragraph (c)(1) of this section.

(3) *Gifts other than for travel or expenses for travel.*

(i) An employee may accept a gift other than for travel or expenses for travel from a foreign government when:

(A) The gift is of minimal value, tendered and received as a souvenir or mark of courtesy;

(B) The gift is for the expense of employee participation in conferences, seminars, training programs or workshops directly related to employee performance of his official duties.

(C) The gift is for medical treatment; or

(D) To refuse it would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States.

(ii)(A) When a tangible gift of more than minimal value is accepted by an employee from a foreign government, the gift is deemed to have been accepted on behalf of the United States and upon acceptance shall become the property of the United States. A gift of a set of items shall be valued as a set even though the items might have been received separately. The gift shall be deposited by the employee with the agency within 60 days of its acceptance by the employee. In order to avoid this consequence, employees should refuse acceptance of a gift of more than minimal value whenever possible.

(B) For purposes of paragraph (c)(3)(ii)(A) of this section, when the aggregate value of all tangible gifts of minimal value received by an employee from a particular foreign government during a calendar year exceeds the minimal value, the employee shall retain such gifts as he selects not to exceed \$100 in value and deposit the remainder

with the agency within 60 days of the close of the calendar year.

(iii) Tangible gifts required to be deposited with this Office by paragraph (c)(3)(ii) of this section shall be accompanied by a statement containing:

(A) The name and position of the employee;

(B) A brief description of the gift or gifts and the circumstances qualifying acceptance or acceptances;

(C) The identity, if known, of the foreign government and the name and position of the individual or individuals who presented the gift;

(D) The date of acceptance of the gift or gifts; and,

(E) The estimated value in the United States of the gift or gifts (individually) at the time of acceptance or acceptances.

(iv) Within 60 days of either accepting or receiving (whichever may occur first) from a foreign government a gift of more than minimal value (other than a tangible gift of more than minimal value or a gift of travel or expenses for travel), including a gift for employee participation in conferences, seminars, training programs, workshops, or medical treatment, an employee shall file with the appropriate reviewing official a statement containing the information required to be included in statements by paragraph (c)(3)(iii) of this section.

(v) When the aggregate value of all gifts of minimal value (other than those gifts of minimal value for which a statement is required to be filed by paragraphs (c)(2)(ii)(A) or (c)(3)(ii)(B) of this section) received from a particular foreign government in a calendar year exceeds minimal value, the employee shall file a statement within 60 days of the end of the calendar year with the appropriate reviewing official. The statement shall contain the information required to be included in statements by paragraph (c)(3)(iii) of this section. In order to avoid confusion as to the estimated value of a gift of a meal provided to the employee while performing the work of this Office (which meal is not otherwise furnished:

(A) as part of travel or expenses for travel and covered by statements filed under paragraphs (c)(1)(i) or (c)(2)(ii); (B) in conjunction with any conferences, seminars, training programs or workshops and covered by statements filed under (c)(3)(iv) of this section; or, (C) in conjunction with any medical treatment received by an employee and covered by statements filed under (c)(3)(iv) of this section), and avoid possible embarrassment resulting from attempts to ascertain their value, the following values shall be ascribed to

meals: breakfast, \$2.50; lunch \$5.00; and dinner, \$7.50. If, without making potentially embarrassing inquiries, the employee is aware (from menus, conference brochures, etc.) of the actual value of a meal, the actual value shall be used.

(vi) The reviewing official shall verify the gift and the information contained in the employee's statement. However, this verification shall not include an independent appraisal of a tangible gift's value. Any additional relevant information should be appended to the statement and a copy provided to the employee. The reviewing official shall forward the statements together with the gift to the Committee for its review.

(vii) The Committee shall review the statement and determine whether the employee's acceptance is authorized by paragraph (c)(3)(i) of this section.

(4) *Employee's request for approval of retaining and wearing decoration.* (i) No decoration awarded an employee shall be retained or worn unless approved by the Committee.

(ii) Within 60 days of receiving an award of a decoration, an employee shall submit a request to retain or wear the decoration, together with the decoration, to the appropriate reviewing official setting forth:

(A) The name and position of the employee;

(B) A brief description of the decoration;

(C) The action or activity of the employee resulting in the foreign government's decision to make the award of a decoration; and

(D) The identity of the foreign government which awarded the decoration and the identity of a representative of the foreign government who could be contacted concerning the award of the decoration.

(iii) Upon receipt of the employee's request, the reviewing official shall verify the information in the employee's request. Any additional relevant information should be appended to the request and a copy provided the employee. Upon completion of the verification, the reviewing official shall forward the request, together with the decoration, to the Committee for its consideration.

(iv) The Committee shall consider and approve the request if the decoration was tendered in recognition of active field service in time of combat operations, or awarded for other outstanding or unusually meritorious performance.

(v) When a request to retain and wear a decoration is disapproved by this Office, the decoration will be deemed to

have been accepted on behalf of the United States and shall become the property of the United States to be disposed of under paragraph (e)(1)(i) of this section.

(d) *Committee procedures* (1)(i) The Committee shall give the employee concerned and, if necessary, the representative of the foreign government offering the gift or awarding the decoration an opportunity to explain the situation. After careful consideration, the Committee shall make the determination required by paragraphs (c)(1)(iii) concerning acceptance of travel or expense for travel in excess of minimal value, (c)(2)(iv) concerning acceptance of travel or expense for travel without advance approval by the Committee, (c)(3)(vii) concerning acceptance of all other gifts, or (c)(4)(iv) concerning acceptance of decorations. If there is any question about the value of the gift, the Committee shall obtain an appraisal of the gift, the results of which shall be incorporated in the Committee's decision.

(ii) Decisions of the Committee will require the assent of at least four members present and voting.

(iii) Before making any determination required by this section, the Committee may consult with the Director of the International Division or any other officials it may deem appropriate. The employee concerned shall be present during such consultation.

(iv) The Committee will notify the employee in writing of its decision.

(v) An employee who believes that he or she has been aggrieved by the decision of the Committee may request a review of his case by the Comptroller General. He may do this by addressing a memorandum to the Comptroller General in which he identifies himself, his position and assignment, the decision appealed from and his reasons for requesting reconsideration. The employee may have, but will not be entitled to, a hearing.

(vi) After careful consideration, the Comptroller General will notify the employee in writing of his decision which will be final.

(vii) Until a final disposition is made of the matter, the gift or decoration shall remain in the custody of this Office. Once a final disposition of the matter has taken place the gift or decoration shall either be returned to the employee or retained by this Office for disposition under paragraph (e) of this section.

(viii)(A) Whenever it is determined by the Committee that an employee's acceptance of a gift or decoration from a foreign government was not authorized by 5 U.S.C. 7342 as implemented by

these regulations, the Committee shall request a report from the appropriate reviewing official as to whether this unauthorized acceptance has resulted in a conflict or apparent conflict of interest. This report shall be issued by the appropriate reviewing official and considered by the Committee in accordance with the procedures set forth in Secs. 6.62, 6.63 and 6.64 of this part.

(B) The Committee shall recommend any disciplinary action it deems appropriate to the responsible agency official concerning an employee who has violated any requirement set forth in 5 U.S.C. 7342 as implemented by these regulations.

(C) The Committee shall refer to the Attorney General all matters concerning possible violation of the filing provisions of 5 U.S.C. Sec. 7342 as implemented by these regulations.

(ix) The same standard for determining whether a conflict of interest or apparent conflict of interest exists under Sec. 6.47 (a) or (b), respectively, shall apply for determining whether a conflict of interest or apparent conflict of interest has resulted from a gift or decoration having been made to an employee under this section.

(2)(i) The appropriate reviewing officials for employees as defined in Sec. 6.3(a) are set forth in Sec. 6.56(a).

(ii) The appropriate reviewing officials for special government employees as defined in Sec. 6.3(b) are set forth in Sec. 6.56(b).

Where an organization is performing services for this Office as an expert or consultant, any individual involved in the performance of such services shall file as a special government employee in the same manner the organization would were it deemed an individual.

(iii) Any person required to file a statement or request with the General Accounting Office only because he is the spouse or dependent of a person employed by this Office (see Sec. 6.17(a)(1)(ii)) may have that request or statement filed on his behalf by the person employed by the General Accounting Office. Any statement filed directly by the spouse or dependent shall be countersigned by the person employed by this Office. The spouse or dependent shall have the same rights under any provision of this section as would a person employed by the General Accounting Office. However, where the spouse or dependent is also employed by the General Accounting Office, that spouse or dependent shall file directly with this Office his statement or request. This statement or

request shall indicate that his spouse or the person on whom he is dependent is also employed by the General Accounting Office and give the name of that person.

(iv) When a gift or decoration is accepted and retained by the spouse or dependent of a person employed by the General Accounting Office with the approval of an agency (other than the General Accounting Office) of the executive, legislative or judicial branch of the United States Government, a territory or possession of the United States or the government of the District of Columbia, the person employed by the General Accounting Office shall file a statement with the appropriate reviewing official setting forth that approval. While this statement shall be reviewed, additional approval by this Office shall not be required.

(v) Except as provided in paragraph (d)(2)(iv) of this section, gifts or decorations tendered to spouses or dependents of employees shall also be considered as tendered to the employee.

(vi) Only one statement need be filed with respect to any gift or decoration to an employee or his spouse or dependent.

(e) *Deposit and disposal of gifts or decorations* (1)(i) The Assistant to the Comptroller General for Administration shall take custody and control of all gifts or decorations deposited with this Office for agency use or disposal as required by this section.

(ii) The Assistant to the Comptroller General for Administration shall upon deposit of gift or decoration as required by this section, request the Committee to convene to determine whether the gift or decoration shall be accepted for official agency use or disposed of as provided in paragraph (e)(2) of this section. In determining whether to accept the gift or decoration for official agency use, the Committee shall consider the nature and value of the gift, possible official agency uses, security necessary to safeguard the gift, or decoration while retained for official agency use, and any other factors which might be relevant.

(iii) In deciding among the possible official agency uses of a gift or decoration, the Committee shall select the use which affords the greatest access (within the limits imposed by security considerations) to a gift or decoration by employees of this Office and members of the general public. In no circumstances shall the Committee approve a use which primarily benefits an individual rather than the agency and which is primarily personal in nature.

(iv) The Committee shall notify the Comptroller General of its decision in writing. The Comptroller General shall

review the Committee's decision in which he may concur or modify or reverse. No disposition concerning the gift or decoration shall take place until the Comptroller General has completed his review.

(v) Upon terminating official agency use, the gift shall be disposed of by the Assistant to the Comptroller General for Administration as provided by paragraph (e)(2) of this section.

(2)(i) The Assistant to the Comptroller General for Administration shall dispose of gifts or decorations either by returning the gift or decoration to the donor or forwarding the gift or decoration to the Administrator of General Services for his disposition as provided by law. However, before disposing of any gift or decoration, the Assistant to the Comptroller General for Administration shall consult with the appropriate official of the Department of State in order to determine whether any adverse effects upon United States foreign relations might result from the proposed disposition of the gift or decoration. No gift or decoration shall be returned to a donor when to do so would have an adverse effect upon United States foreign relations.

(ii) This disposition shall take place within 30 days of either final determination by this office not to accept a gift or decoration for official agency use, or the termination of official agency use of a gift or decoration.

(f) The Assistant to the Comptroller General for Administration shall compile a listing of all statements filed as required by paragraphs (c)(1)(vii), (c)(2)(ii), and (c)(3)(iii) of this section (but not statements filed as required by paragraphs (c)(3)(iv) and (d)(2)(iv) of this section) and transmit this listing to the Secretary of State by January 31 of each year for publication in the *Federal Register*. The listing shall include the information required by employees to be included in their statements by paragraphs (c)(1)(vii) or (c)(3)(iii) of this section. (5 U.S.C. 7342(g)(1).)

§§ 6.33, 6.49, 6.56, 6.65 [Amended]

4. The reference to the "Director of Management Services" in §§ 6.33, 6.49(b)(ii), 6.56(a) (2)(iv) and (5), and 6.65(e), is amended to read "Assistant to the Comptroller General for Administration."

Elmer B. Staats,

Comptroller General of the United States.

[FR Doc. 79-23302 Filed 7-26-79; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 331

Emergency Plant Pest Regulations Governing Interstate Movement of Certain Products and Articles; Scleroderris Canker (European Strain)

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document gives notice of the existence of an emergency situation and amendment of regulations related thereto due to the discovery of the disease Scleroderris canker (European strain) in parts of New Hampshire and in additional areas of New York and Vermont. Research has indicated that the disease will also attack additional hosts, *Larix* spp. (larch), and *Pseudotsuga menziesii* (Douglas fir). Therefore, this document amends the Scleroderris canker (European strain) emergency plant pest regulations governing interstate movement of certain products and articles from regulated portions of New York and Vermont. The emergency regulations are amended by extending the regulations to the State of New Hampshire and to additional areas in New York and Vermont. The emergency regulations are further amended by adding the genera *Larix* spp. and *Pseudotsuga menziesii* as additional hosts regulated because of Scleroderris canker (European strain). The emergency regulations are also amended by deleting the section on treatment procedures. These amendments are needed in order to prevent the spread of Scleroderris canker (European strain), and to clarify the regulations.

EFFECTIVE DATE: July 27, 1979.

FOR FURTHER INFORMATION CONTACT: H. V. Autry, 301-436-8247.

SUPPLEMENTARY INFORMATION: Scleroderris canker (European strain) is a serious fungus disease that can kill mature and immature trees of the species of larch, pine, and spruce as well as Douglas fir (*Pseudotsuga menziesii*). Once infection becomes established in the tops of trees, most of the stand will be killed within 3 years. Artificial spread of this plant disease can occur with the movement of nursery stock, Christmas trees, wreaths, branches, twigs, and other parts of infected trees of the genera *Larix*, *Pinus*, and *Picea* and of *Pseudotsuga menziesii*. The outbreak of the

devastating strain, or so-called European strain, of Scleroderris canker in New Hampshire and in additional areas of New York and Vermont particularly poses a potential threat to older pine and spruce plantations located throughout the Northeast and Great Lakes States, and Canada.

A document was published in the *Federal Register* on October 18, 1977 (42 FR 55804), giving notice of existence of an emergency situation because of the discovery of infections of a new strain of Scleroderris canker in pine and spruce trees in parts of New York and Vermont. The document also established emergency regulations regulating the interstate movement from New York and Vermont of, among other things, nursery stock, Christmas trees, wreaths, branches, and twigs of any species of the genera *Pinus* and *Picea*. Infections of the disease have since been found in a portion of Coos County in New Hampshire; in the additional counties of Fulton in New York, and Addison, Chittenden, Essex, and Orange in Vermont; and also in additional areas of the previously regulated counties of Clinton, Essex, Franklin, Hamilton, Herkimer, Jefferson, Lewis, Oneida, Oswego, and St. Lawrence in New York, and Franklin, Orleans, and Washington in Vermont.

Infections of the disease have also been found in additional hosts, larch trees (*Larix*) and in Douglas fir trees (*Pseudotsuga menziesii*).

This document deletes the section on procedures for treatment of products and articles infected with the Scleroderris canker (European strain). The section is deleted at this time because the treatment to be used in such procedures is still in the research stage.

Based on above information, Mr. James O. Lee, Jr., Deputy Administrator of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, has determined that, in order to prevent the possibility of artificially spreading Scleroderris canker (European strain) with nursery stock, Christmas trees, wreaths, branches, and twigs of the genera *Larix* and of *Pseudotsuga menziesii* to noninfested areas of the United States, emergency regulations restricting the movement of such regulated articles from infected areas in New Hampshire and the additional infected areas in New York and Vermont to other areas of the United States must be promulgated immediately. The emergency exists because there is a possibility that these articles listed as regulated articles can carry Scleroderris canker (European strain) to other areas of the United

States, unless they have not been exposed to the infection.

Logs and pulpwood free of twigs and branches are not specifically listed as being subject to these emergency measures because the movement of such articles would not create a risk of spread of such plant disease.

Therefore, the emergency regulations in Chapter III, Title 7 of the Code of Federal Regulations, § 331.5 are amended in the following respects:

Section 331.5(a) is amended by adding to the regulated areas all or parts of Coos County in New Hampshire, Fulton County in New York, and Addison, Chittenden, Essex, and Orange Counties in Vermont; and by extending the regulated area in Clinton, Essex, Franklin, Hamilton, Herkimer, Jefferson, Lewis, Oneida, Oswego, and St. Lawrence Counties in New York; and in Franklin, Orleans, and Washington Counties in Vermont. The State of New Hampshire is regulated for the first time.

Section 331.5(b) is amended by adding *Larix*, and *Pseudotsuga menziesii* to the list of the species of nursery stock and other articles regulated because of Scleroderris canker (European strain).

Other minor editorial changes are made.

Accordingly, pursuant to the provisions of the Federal Plant Pest Act (7 U.S.C. 150aa-150jj), § 331.5, the notice of existence of emergency and regulations related thereto with respect to Scleroderris canker (European strain) (7 CFR 331.5, 42 FR 55804 and 55805) is hereby amended to read as follows:

Subpart—Scleroderris Canker (European Strain)

§ 331.5 Notice of existence of emergency and regulations related thereto.

(a) Infections of the Scleroderris canker (European strain), *Gremmeniella abietina* (Lagerb.) Morelet, a dangerous plant disease not widely prevalent or distributed within and throughout the United States had previously been found in parts of the States of New York and Vermont, and it was determined that it was necessary to adopt, as an emergency measure, a rule imposing restrictions, as provided for in this section, upon the interstate movement of certain products and articles, from the regulated portions of said States described in the regulations, in order to prevent the interstate dissemination of said plant disease.

Because of the discovery of Scleroderris canker (European strain) in parts of Coos County in New Hampshire; and in the additional counties of Fulton in New York, and

Addison, Chittenden, Essex, and Orange in Vermont; and also in additional areas of the previously regulated counties of Clinton, Essex, Franklin, Hamilton, Herkimer, Jefferson, Lewis, Oneida, Oswego, and St. Lawrence in New York, and Franklin, Orleans, and Washington in Vermont, it has now been determined that it is necessary to extend the rule previously adopted as an emergency measure to impose restrictions, as provided for in this section, upon the interstate movement of certain products and articles from the regulated portions of said counties as hereinafter described, in order to prevent the interstate dissemination of said plant disease; and to continue in effect the emergency measures imposing restrictions upon the interstate movement of certain products and articles from the previously regulated portions of the States of New York and Vermont as described in the regulations.

Accordingly, the products and articles specified in paragraph (b) of this section shall not be moved interstate from all or parts of said counties in New Hampshire, New York, and Vermont listed below:

New Hampshire

Coos County. The township of Jefferson.

New York

Clinton County. The towns of Ausable, Black Brook, Clinton, Dannemora, Ellenburg, Peru, Plattsburgh, Saranac, and Schuyler Falls.

Essex County. The towns of Keene, Moriah, Newcomb, North Elba, St. Armand, and Wilmington.

Franklin County. The entire county.

Fulton County. The towns of Oppenheim and Stratford.

Hamilton County. The towns of Arietta, Indian Lake, Inlet, Long Lake, and Morehouse.

Herkimer County. The towns of Fairfield, Herkimer, Little Falls (North of the Mohawk River), Manheim, Newport, Norway, Ohio, Russia, Salisbury, Schuyler, and Webb; and the city of Little Falls (North of the Mohawk River).

Jefferson County. The towns of Adams, Antwerp, Champion, Ellisburg, Le Rav, Lorraine, Philadelphia, Rodman, Rutland, Watertown, Wilna, and Worth; and the city of Watertown.

Lewis County. The entire county.

Oneida County. The towns of Annsville, Ava, Boonville, Camden, Deerfield, Florence, Floyd, Forestport, Lee, Marcy, Remsen, Steuben, Trenton, Vienna, and Western; and the cities of Rome and Utica.

Oswego County. The towns of Amboy, Albion, Boylston, Constantia, Orwell, Parish, Redfield, Richland, Sandy Creek, and Williamstown.

St. Lawrence County. The towns of Brasher, Canton, Clare, Clifton, Colton, Edwards, Fine, Fowler, Hermon, Hopkinton,

Lawrence, Madrid, Norfolk, Parishville, Piercefield, Pierrepoint, Pitcairn, Potsdam, Russell, and Stockholm.

Warren County. The town of Johnsburg.

Vermont

Addison County. The townships of Ripton and Starksboro.

Caledonia County. The townships of Hardwick, Peacham, and Wheelock.

Chittenden County. The townships of Milton and Underhill.

Essex County. The township of Maidstone.

Franklin County. The townships of Bakerfield, Enosburg, and Montgomery.

Lamoille County. The entire county.

Orange County. The townships of Orange and Washington.

Orleans County. The townships of Craftsbury, Glover, Greensboro, and Lowell.

Washington County. The townships of Berlin, Calais, East Montpelier, Middlesex, Moretown, Northfield, Waterbury, Woodbury, and Worcester, and the city of Montpelier unless:

(1) Such products and articles originate in an area in the said regulated portions of counties, which has been inspected by such an inspector of the United States Department of Agriculture authorized by the Secretary of Agriculture to enforce the provisions of the Plant Quarantine Act, and he has found that the interstate movement of the products and articles from such areas will not involve a risk of disseminating said infections, and the products and articles are accompanied by a certificate issued by such an inspector signifying that they are eligible for interstate movement; or

(2) Such products and articles are moved under permit issued by such an inspector to an approved destination for consumption, processing, or other handling in accordance with procedures prescribed by said inspector, when upon evaluation of the circumstances involved in each specific case he determines that such movement will not result in the spread of the Scleroderris canker and requirements of other applicable Federal domestic plant quarantines have been met.

(b) The following products and articles are subject to the emergency measures imposed under this section:

(1) Nursery stock, Christmas trees, wreaths, branches, twigs of any species of the genera of *Larix*, *Pinus*, and *Picea* and the species *Pseudotsuga menziesii*; or any parts of such products or articles, of any species of the genera of *Larix*, *Pinus*, and *Picea* and the species *Pseudotsuga menziesii*; except logs or pulpwood without twigs or branches.

(2) Any other products, articles, or means of conveyance, of any character whatsoever, not covered by subparagraph (1) of this paragraph, when it is determined by an inspector that they present a hazard of spread of the Scleroderris canker, and the person in possession thereof has been so notified.

(Sec. 105, 71 Stat. 32, sec. 106, 71 Stat. 33, sec. 107, 71 Stat. 34 (7 U.S.C. 150aa-150jj); 37 FR 28464, 28477, as amended; 38 FR 19141)

Due to the possibility that Scleroderris canker (European strain) could be spread artificially to other areas of the United States, an emergency situation exists requiring immediate action to control the spread of this disease, a dangerous plant disease which is not widely prevalent or distributed within an throughout the United States.

Therefore, pursuant to the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that further notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest, and good cause is found for making this final rule effective less than 30 days after publication of this document in the Federal Register.

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by James O. Lee, Jr., Deputy Administrator, Plant Protection and Quarantine Programs, APHIS, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 20th day of July 1979.

Thomas G. Darling,

Acting Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc. 79-23976 Filed 7-26-79; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Stabilization and Conservation Service

7 CFR Part 718

[Amendment 4]

Farm Marketing Quotas and Acreage Allotments; Determination of Acreage and Compliance

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This amendment adds, changes, and updates certain of the rules for determining acreage under the

set-aside and marketing quota programs. These changes are required because of changes in the programs, most notably the decision of the Secretary of Agriculture to have set-aside programs in 1979 for various commodities, and to improve the administration of the programs.

EFFECTIVE DATE: July 27, 1979.

FOR FURTHER INFORMATION CONTACT: Samuel T. Brown, Production Adjustment Division, Agricultural Stabilization and Conservation Service, U.S.D.A., P.O. Box 2415, Washington, D.C. 20013, (202) 447-6817.

SUPPLEMENTARY INFORMATION: This rule provides for the application of new rules for measurement variance to marketing quota crop acreages and provides administrative variance rules for marketing quota crops, program crops and set-aside acreage.

The rules for providing Notice of Measured Acreage have been expanded to require such notice to each farm operator when a farm is measured, remeasured or checked for adjustment credit. This rule provides other changes to clarify administrative procedures in determining crop and land use acreages for 1979 and subsequent crop years for marketing quota crops, program crops and set-aside.

Since producers are certifying compliance with 1979 programs and need to know the changes provided by this rule, it is hereby found and determined that compliance with the public rulemaking requirements of 5 U.S.C. 553 and Executive Order 12044 is impracticable and contrary to the public interest.

Final Rule

Accordingly, 7 CFR, Part 718 is amended as follows:

1. Section 718.1 is amended to read as follows:

§ 718.1 Applicability.

The provisions of this part apply to compliance determinations for 1979 and subsequent years as authorized by the Agricultural Adjustment Act of 1938, as amended, with respect to the programs administered by the Agricultural Stabilization and Conservation Service through State and county committees.

2. Section 718.2 is amended by (1) adding a new paragraph (b)(1), (2) redesignating paragraphs (b)(1) through (19) as paragraphs (b)(2) through (20) and (3) revising the redesignated paragraph (b)(6) to read as follows:

§ 718.2 Definitions.

(b) *Other terms* (1) *Administrative Variance*. A prescribed amount within which the determined acreage can differ from a program requirement and still be considered as having met the program requirement.

(6) *Measurement Variance*. A prescribed amount within which the determined acreage can differ from the reported acreage and the reported acreage can still be considered as correctly reported and used for program purposes.

3. Section 718.4 is amended by adding a new paragraph (b)(1)(v) and by revising paragraph (c) to add a provision for Kansas and revise a provision for Ohio to read as follows:

§ 718.4 Committee responsibilities.

(b) . . .
(1) . . .

(v) Prescribe, upon approval of the Deputy Administrator, a method for use by each county committee to determine compliance by either measuring all farms or randomly selected farms.

(c) . . .

Kansas

Minimum row width. Thirty inches for corn and grain sorghum.

Ohio

(1) *Deduction credit*. (i) *Minimum width* of twenty links. (ii) *Minimum area* of 0.3 acre except 0.03 acre for tobacco.

4. Section 718.5 is amended by revising paragraphs (a), (b) and (d) to read as follows:

§ 718.5 Producer services.

(a) . . .

(1) When the request is made after the date established by the State committee for accepting such requests except as provided in paragraph (a)(1) of § 718.6.

(b) *Types of producer service*. Services include but are not limited to measuring land areas (including premeasurement) and set-aside acreage, measuring quantities of farm-stored commodities and appraising yield of crops.

(d) *Premeasurement*. The acreage requested to be premeasured shall not exceed the effective farm allotment for the program year for marketing quota

crops, except for flue-cured tobacco. For flue-cured tobacco, the acreage requested to be premeasured shall not exceed 100 percent of the flue-cured farm acreage allotment in effect for the program year. However, 110 percent of the farm acreage allotment for flue-cured tobacco may be premeasured when the producer agrees the bottom four leaves will not be harvested and agrees to pay for a farm visit to assure compliance with this requirement. The farm shall be considered to be in compliance with the allotment or program requirement for the farm if the entire allotment or program requirement for the program year was premeasured and the crop is planted or the proper land use is within the staked area. Only the acreage measured (if less than the allotment or program requirement was premeasured and is found within such staked area) shall be guaranteed for the current program year.

5. Section 718.6 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 718.6 Determining farm operator adherence to program requirements.

(a) . . .

(1) *Accepting a late filed report.* A farm operator's report may be accepted after the established date for reporting provided evidence of the crop is still available for inspection and determination, and (i) with respect to a farm that is otherwise eligible to receive program benefits, (a) the county committee determines that the producer's failure to timely file was caused by a condition beyond the producer's control and (b) the farm operator pays the cost of the farm visit, or (ii) the state committee finds, based on the county committee's report of facts and recommendations, that a case is meritorious and the Deputy Administrator concurs.

(2) *Corrected report.* The farm operator may correct a report of acreage anytime up to and including the final reporting date for the crop or land use provided the error was not discovered as a result of a farm visit by a representative of the Agricultural Stabilization and Conservation Service.

(b) *Quality Control.* A representative number of farms in accordance with instructions issued by the Deputy Administrator shall be visited by an authorized representative of the Agricultural Stabilization and Conservation Service to ascertain the acreage or production or to determine adherence to any requirement specified

as a prerequisite for obtaining program benefits.

(c) *Variance Rules Applicability.* There are no variances when the total acreage of NCA crops, a marketing quota crop, or set-aside (including voluntary diversion) is determined using producer service prior to planting. For farms using producer service on an acreage less than the allotment, permitted acreage of NCA, or set-aside (including voluntary diversion), the variances shall apply only to the acreages for which producer service was not furnished. Variances apply to the total acreage of NCA crops, a marketing quota crop or set-aside (including voluntary diversion) acreage for which producer services are furnished after planting but before the operator reports the acreage as provided in subparagraphs (1) and (2) of this paragraph. Variances apply to the adjusted acreage for farms using producer service after planting but before the operator reports the acreage and which have a determined acreage greater than the marketing quota crop allotment, permitted NCA acreage or an acreage less than the required set-aside (including voluntary diversion) by more than the applicable variance rule in subparagraph (1) or (2) of this paragraph (c).

(1) *Administrative Variance.* (i) *Applicable in counties measuring all farms.* Marketing quota crop acreage, permitted NCA crop acreage, set-aside acreage or adjusted acreage as determined in accordance with this Section 718.6 shall be deemed in compliance with the program requirement when such determined acreage does not differ from the program requirement by more than the larger of 0.1 acre or 2 percent of the applicable acreage allowed or required.

(ii) *Applicable in counties measuring all acreages of a marketing quota crop.* The marketing quota crop acreage as determined in accordance with this Section 718.6 shall be deemed in compliance with the effective farm allotment or program requirement (110 percent of the effective farm allotment for flue-cured tobacco when agreement is made to leave four lower leaves unharvested) when such determined acreage does not exceed the effective farm allotment by more than the larger of 0.1 acre or 2 percent of the allotment.

(2) *Measurement Variance.* Applicable in counties using random selection.

(i) *Marketing quota crops.* The crop acreage is either:

(a) The reported acreage when the marketing quota crop acreage as

determined in accordance with this section does not differ from the reported acreage by more than the larger of 0.1 acre or 2 percent of the reported acreage, or

(b) The determined acreage in all other cases.

(ii) *NCA program crops, permitted NCA, set-aside and voluntary diversion.* The crop acreage is the determined acreage. Program requirements shall be considered to have been met provided the acreage determined in accordance with this section does not differ from the reported acreage (for program crops) or program requirements (for permitted NCA, set-aside and voluntary diversion) by more than the larger of 1.0 acre or 5 percent but not to exceed 25 acres.

6. Section 718.9 is revised to read as follows:

§ 718.9 Notice of measured acreage.

Written Notice of Measured acreage shall be on a form prescribed by the Deputy Administrator and shall constitute notice to all interested producers on the farm. The county committee shall furnish such notice to each farm operator when a farm is measured, remeasured, or checked for adjustment credit.

7. Section 718.11 is revised to read as follows:

§ 718.11 Adjustment of acreages.

(a) *General.* The farm operator or other interested producer on a farm who elects to adjust an acreage of a crop or land use in order to become eligible for program benefits must notify the county committee of such election within 15 days of notification by the county committee as provided in § 718.9 and pay the cost of a farm visit to determine the adjusted acreage. The adjusted acreage shall be used for program purposes except that if the requirements of this section are not met, the acreage initially determined shall be considered as the appropriate crop or land use acreage for the farm.

(b) *Peanuts.* The farm operator may adjust an acreage of peanuts by disposing of the excess peanuts, which were included in the farm operator's initial report of acreage (in counties using random selection) or on any farm in a county measuring all peanut acreage prior to combining (picked and/or thrashed) any peanuts of the same type. Such disposition of excess peanuts must be accomplished by:

(1) Leaving the peanuts in the ground. Peanuts disposed of in this manner may be hogged off.

(2) Harvesting as green peanuts for boiling when the excess acreage is designated for disposal as green peanuts.

(3) Plowing peanuts under before any peanuts are dug from the ground. The disposition of peanuts in this manner shall be witnessed by a representative of the Agricultural Stabilization and Conservation Service when such peanuts could be harvested for nuts.

(4) Plowing under or shredding, under the supervision of a representative of the Agricultural Stabilization and Conservation Service, dug peanuts:

(i) Which are damaged to the extent that it would not be economically feasible to thresh the dug peanuts for nuts, or

(ii) Which the county committee, with the concurrence of the State committee, determined were in excess of the farm allotment and were inadvertently dug from the ground.

(5) Any other method authorized by the Deputy Administrator and supervised by a representative of the Agricultural Stabilization and Conservation Service when unusual circumstances justify special handling.

(c) *Tobacco.* The farm operator may adjust an acreage of tobacco (except flue-cured) by disposing of such excess tobacco prior to the marketing of any of the same kind of tobacco from the farm. The disposition shall be witnessed by a representative of the Agricultural Stabilization and Conservation Service and may take place before, during, or after the harvesting of the same kind of tobacco grown on the farm; *Provided*, that no credit will be allowed toward the disposition of excess acreage after the tobacco is harvested, but prior to marketing, unless the county committee determines that such tobacco is representative of the entire crop from the farm of the kind of tobacco involved. Disposition of excess tobacco will avoid marketing quota penalties but will not establish eligibility for price support (except kinds of tobacco covered by Part 724 of these Regulations in counties where all tobacco of the same kind is being measured).

(d) *ELS Cotton.* In counties measuring all farms, the farm operator may adjust the acreage to the allotment.

(e) *Program Crops and Set-Aside Acreage.* In counties where all farms are measured by ASCS, the farm operator may adjust:

(i) Excess NCA crop acreage to meet program requirements;

(ii) Other NCA crop acreage to reduce required set-aside; or

(iii) Set-aside acreage by designating additional acreage as set-aside including

voluntary diversion) provided the land meets and has throughout the year met all eligibility requirements.

(Sec. 314, 373, 375, 52 Stat. 48, as amended, 65, as amended, 66, as amended; 7 U.S.C. 1314, 1373, 1374, 1375))

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria and does not require preparation of an impact statement.

Signed at Washington, D.C. on July 17, 1979.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 79-23184 Filed 7-26-79; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 209]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period July 29-August 4, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: July 29, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on July 24, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The

committee reports the demand for lemons is generally good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the *Federal Register* (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, the emergency nature of this regulation warrants publication without opportunity for further public comment, in accord with emergency procedures in Executive Order 12044. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An impact analysis is available from Malvin E. McGaha, 202-447-5975.

§ 910.509 Lemon Regulation 209.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period July 29, 1979, through August 4, 1979, is established at 275,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: July 25, 1979.

Charles R. Brader,
Director, Fruit and Vegetable Division,
Agricultural Marketing Service.

[FR Doc. 79-23425 Filed 7-26-79; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 921

[Peach Regulation 16]

Fresh Peaches Grown in Designated Counties in Washington; Limitation of Shipments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation contains minimum grade, size and pack requirements for the handling of shipments of fresh peaches from

Washington. This regulation takes into consideration the marketing situation facing the Washington peach industry, and is necessary to assure that shipments of peaches will be of suitable quality and size and appropriately packed in the interest of consumers and producers.

EFFECTIVE DATES: August 1, 1979, through July 31, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* Notice was published in the *Federal Register* issue of June 28, 1979 (44 FR 37627), that the Department was giving consideration to a proposal which would limit the handling of fresh peaches grown in designated counties in Washington by establishing a regulation under the marketing agreement and Order No. 921 (7 CFR Part 921) regulating the handling of fresh peaches grown in such designated counties. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The notice provided opportunity for public comment pertaining to this regulation. No comments were filed.

This regulation is based upon appraisal of the current and prospective crop and marketing conditions. Washington's 1979 fresh peach shipments are estimated at 8,500 tons, compared with 10,006 tons last year. The regulation herein specified, is designed to prevent the handling on and after August 1, 1979, of low quality and small size peaches and provide orderly marketing in the interest of producers and consumers, consistent with the objectives of the act.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the committee, and upon other available information, it is hereby found that the limitation of handling of such peaches, as herein provided, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the *Federal Register* (5 U.S.C. 553) in that (1) notice of proposed rulemaking concerning this regulation, with an effective date as herein specified, was published in the *Federal Register* (44 FR 37627), and no objection to this regulation or such effective date was received; (2) compliance with this regulation will not require any special preparation on the part of the persons subject thereto

which cannot be completed by the effective time hereof; and (3) shipments of the current crop of peaches are expected to be in progress on and after the effective date hereof and this regulation should be applicable, insofar as practicable, to all shipments of such peaches in order to effectuate the declared policy of the act.

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044. A determination has been made that this action should not be classified "significant". An Impact Statement is available from Malvin E. McGaha, (202) 447-5975.

§ 921.316 Peach Regulation 16.

Order (a) During the period August 1, 1979, through July 31, 1980, no handler shall handle any lot of peaches unless such peaches meet the following applicable requirements, or are handled in accordance with paragraph (a)(5) of this section.

(1) *Minimum grade.* Such peaches shall grade at least Washington Extra Fancy Grade: *Provided*, That peaches which grade Washington Fancy Grade or better may be handled if they are packed in the Western lug box or the standard peach box.

(2) *Minimum size.* (i) Such peaches of any variety, except peaches of the Elberta varieties, when packed in any container except the standard peach box, shall measure not less than 2 3/4 inches in diameter.

(ii) Such peaches of any variety when packed in the standard peach box shall measure not less than 2 1/4 inches in diameter.

(iii) Such peaches of the Elberta varieties when packed in any container shall measure not less than 2 1/4 inches in diameter.

(3) *Uniform firmness.* Such peaches in individual containers shall have a reasonably uniform degree of firmness.

(4) *Pack.* (i) Such peaches in loose or jumble packs shall be in containers of a capacity equal to or greater than that of a Western lug box and shall contain not less than 26 pounds net weight of peaches: *Provided*, That such containers of peaches having less than 26 pounds net weight may be handled if such containers are well filled, and

(ii) Such peaches other than peaches in loose or jumble packs in any containers shall meet the standard pack requirements as set forth in the Washington Standards for Peaches (Order No. 1212) or the U.S. Standards for Peaches (7 CFR 2851.1210 et seq.).

(5) Notwithstanding any other provisions of this section any individual

shipment of peaches sold by the producer or at an established packinghouse which meets each of the following requirements may be handled without regard to the provisions of this paragraph, of § 921.41 (Assessments), and of § 921.55 (Inspection and Certification) if:

(i) The shipment consists of peaches sold for home use and not for resale; and

(ii) The shipment does not, in the aggregate, exceed 500 pounds, net weight of peaches.

(b) The terms "Washington Extra Fancy Grade", "Washington Fancy Grade" and "mature" shall have the same meaning as when used in the Washington Standards for Peaches (effective October 18, 1971), issued by the State of Washington Department of Agriculture; the term "loose or jumble pack" shall mean that the peaches are not placed in the container in rows, cups, compartments, or otherwise are not placed in the containers in symmetrical order; the term "standard peach box" shall mean a container with inside dimensions of 4 1/4 to 6 by 11 1/2 by 16 inches; the term "Western lug box" shall mean any container with inside dimensions of 7 by 11 1/2 by 18 inches; the term "well filled" shall mean that the level of fruit is filled at least to the top edge of the container; the term "diameter" shall mean the greatest distance measured through the center of the peach at right angles to a line running from the stem to the blossom end; and terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in the marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended 7 U.S.C. 601-674).

Dated: July 23, 1979.

William J. Doyle,
Acting Deputy Director, Fruit and Vegetable
Division, Agricultural Marketing Service.

(FR Doc. 79-23186 Filed 7-26-79, 8:45 am)
BILLING CODE 3410-02-M

7 CFR Part 922

[Apricot Regulation 19]

Apricots Grown in Designated Counties in Washington; Limitation of Shipments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation specifies minimum grade, maturity and size

requirements for the handling of fresh Washington apricots. These requirements are designed to provide consumers with an ample supply of acceptable quality apricots and to provide orderly marketing in the interest of producers.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447-5975.

SUPPLEMENTARY INFORMATION: On June 28, 1979, notice of proposed rulemaking was published in the *Federal Register* (44 FR 37627), regarding a proposed regulation to be made effective on August 1, 1979, pursuant to the marketing agreement and Order No. 922, both as amended (7 CFR Part 922) regulating the handling of apricots grown in Washington. The proposed regulation was recommended by the Washington Apricot Marketing Committee, established pursuant to the marketing agreement and order. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The notice allowed interested persons until July 10, 1979, to submit written comments in connection with the proposed regulation. None were received.

The regulation is based upon an appraisal of current and prospective crop and market conditions. Total 1979 season production of Washington apricots is estimated at 2,000 tons. The regulation is designed to assure shipment of fruit of acceptable quality and maturity in the interest of consumers and producers consistent with the objectives of the act.

After consideration of all relevant matter presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the committee and other available information, it is hereby found that the regulation will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date until 30 days after publication in the *Federal Register* (5 U.S.C. 553), and in that (1) shipments of the current crop of apricots are expected to begin on or about the effective date hereof, and this regulation should be applicable, insofar as practicable, to all such shipments in order to effectuate the declared policy of the act; (2) interested persons were given an opportunity to submit information and views on the regulation at an open meeting; (3) a notice of proposed regulation for Washington apricots was published in the *Federal Register* (44 FR 37627) and no objections thereto were received; and

(4) the regulation herein specified is the same as the proposed regulation.

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044. A determination has been made that this action should not be classified "significant". An Impact Statement has been prepared and is available from Malvin E. McGaha, (202) 447-5975.

§ 922.319 Apricot Regulation 19.

(a) During the period August 1, 1979, through July 31, 1980, no handler shall handle any container of apricots unless such apricots meet the following applicable requirements, or are handled in accordance with subparagraph (3) of this paragraph:

(1) *Minimum grade and maturity requirements.* Such apricots grade not less than Washington No. 1 and are at least reasonably uniform in color: *Provided*, That such apricots of the Moorpark variety in open containers shall be generally well matured; and

(2) *Minimum size requirements.* Such apricots measure not less than 1 1/2 inches in diameter except that apricots of the Blenheim, Glenril, and Tilton varieties when packed in unlidded containers may measure not less than 1 1/4 inches: *Provided*, That not more than 10 percent, by count, of such apricots may fail to meet the applicable minimum diameter requirement.

(3) Notwithstanding any other provision of this section, any individual shipment of apricots which meets each of the following requirements may be handled without regard to the provisions of this paragraph, of § 922.41 (Assessments), and of § 922.55 (Inspection and Certification):

(i) The shipment consists of apricots sold for home use and not for resale;

(ii) The shipment does not, in the aggregate, exceed 500 pounds, net weight, of apricots; and

(iii) Each container is stamped or marked with the words "not for resale" in letters at least one-half inch in height.

(b) Terms used in the amended marketing agreement and order shall when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; "diameter" and "Washington No. 1" shall have the same meaning as when used in the State of Washington Department of Agriculture Standards for Apricots, effective May 31, 1966; "reasonably uniform in color" means that the apricots in the individual container do not show sufficient variation in color to materially affect the general appearance of the apricots; and "generally well matured" means that

with respect to not less than 90 percent, by count, of the apricots in any lot of containers, and not less than 85 percent, by count, of such apricots in any container in such lot, at least 40 percent of the surface area of the fruit is at least as yellow as Shade 3 on the U.S. Department of Agriculture Standard Ground Color Chart of Apples and Pears in the Western States.

(Secs. 1-19, 48 Stat. 31, as amended, 7 U.S.C. 601-674).

Dated: July 24, 1979.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable
Division, Agricultural Marketing Service.

(FR Doc. 79-23187 Filed 7-26-79, 8:45 am)
BILLING CODE 3410-02-M

7 CFR Part 924

[Prune Regulation 17]

Fresh Prunes Grown in Designated Counties in Washington and Umatilla County, Ore.; Limitation of Shipments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation prescribes minimum grade and size requirements on the handling of fresh Washington-Oregon Prunes during August 1, 1979, through August 31, 1980. This regulation takes into consideration the marketing situation facing the Washington-Oregon prune industry and is necessary to assure that shipment of prunes will be of suitable quality and size in the interest of consumers and producers.

EFFECTIVE DATES: August 1, 1979, through August 31, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447-5975.

SUPPLEMENTARY INFORMATION: On July 2, 1979, notice of proposed rulemaking was published in the *Federal Register* (44 F.R. 38531), regarding a proposed regulation to be made effective under the marketing agreement, as amended, and Order No. 924, as amended (7 CFR Part 924), regulating the handling of prunes grown in designated counties in Washington and in Umatilla County, Oregon. This notice allowed interested persons until July 13, 1979, to file written comments pertaining to this proposed regulation. None was submitted. The regulation was recommended by the Washington-Oregon Fresh Prune Marketing Committee established pursuant to the said marketing agreement and order. This program is effective under the Agricultural

Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

This action is based on an appraisal of the crop and current and prospective market conditions. Shipments of prunes from the production area are expected to begin on or about August 1, 1979. The regulation is designed to prevent the handling of low quality and small sized prunes which do not provide consumer satisfaction and to promote orderly marketing in the interest of producers and consumers consistent with the objectives of the act.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the Washington-Oregon Fresh Prune Marketing Committee, and other available information, it is hereby found and determined that the regulation, as hereinafter set forth is in accordance with the provisions of the said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the *Federal Register* (5 U.S.C. 553) in that (1) notice of proposed rulemaking concerning this regulation, with an effective date as hereinafter specified, was published in the *Federal Register* (44 F.R. 38531), and no objection to this regulation or such effective date was received; (2) compliance with the regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof; and (3) shipments of the current crop of such prunes are expected to begin on or about the effective date hereof and this regulation should be applicable, insofar as practicable, to all shipments of such prunes in order to effectuate the declared policy of the act.

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044. A determination has been made that this action should not be classified "significant". An Impact Statement has been prepared and is available from Malvin E. McGaha, (202) 447-5975.

§ 924.317 Prune Regulation 17.

Order. (a) During the period August 1, 1979, through August 31, 1980, no handler shall handle any lot of prunes, except prunes of the Brooks variety, unless:

(1) such prunes grade at least U.S. No. 1, except that only two-thirds of the

surface of the prune is required to be purplish color, and such prunes measure not less than 1 1/4 inches in diameter as measured by a rigid ring; *Provided*, That the following tolerances, by count, of the prunes in any lot shall apply in lieu of the tolerance for defects provided in the United States Standards for Grades of Fresh Plums and Prunes: A total of not more than 15 percent for defects, including therein not more than the following percentage for the defect listed:

(i) 10 percent for prunes which fail to meet the color requirement;

(ii) 10 percent for prunes which fail to meet the minimum diameter requirement;

(iii) 10 percent for prunes which fail to meet the remaining requirements of the grade; *Provided*, that not more than one-half of this amount, or 5 percent, shall be allowed for defects causing serious damage, including in the latter amount not more than 1 percent for decay, or.

(2) Such prunes are handled in accordance with paragraph (b) of this section.

(b) Notwithstanding any other provision of this regulation, any individual shipment which, in the aggregate, does not exceed 500 pounds net weight, of prunes of the Stanley or Merton varieties of prunes, or 350 pounds net weight, of prunes of any variety other than Stanley or Merton varieties of prunes, which meets each of the following requirements may be handled without regard to the provisions of paragraph (a) of this section, and of §§ 924.41 and 924.55:

(1) The shipment consists of prunes sold for home use and not for resale, and

(2) Each container is stamped or marked with the handler's name and address and with the words "not for resale" in letters at least one-half inch in height.

(c) The term "U.S. No. 1" shall have the same meaning as when used in the United States Standards for Fresh Plums and Prunes (7 CFR 2851.1520-2851.1538); the term "purplish color" shall have the same meaning as when used in the Washington State Department of Agriculture Standards for Italian Prunes (April 29, 1978), and in the Oregon State Department of Agriculture Standards for Italian Prunes (October 5, 1977); the term "diameter" means the greatest dimension measured at right angles to a line from the stem to blossom end of the fruit; and, except as otherwise specified, all other terms shall have the same meaning as when used in the amended marketing agreement and order.

(d) Prune Regulation 16 (43 F.R. 31001) is hereby terminated August 1, 1979.

(Secs. 1-19, 46 Stat 31, as amended; 7 U.S.C. 601-764)

Dated: July 23, 1979.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-23188 Filed 7-26-79, 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 945

Irish Potatoes Grown in Certain Designated Counties in Idaho and Malheur County, Oreg.; Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh market shipments of potatoes grown in certain counties in Idaho and Malheur County, Oregon, to be inspected and meet minimum grade, size, cleanliness, maturity and pack requirements. The regulation should promote orderly marketing of such potatoes and keep less desirable qualities and sizes from being shipped to consumers.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Peter G. Chapogas (202) 447-5432.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 98 and Order No. 945, both as amended (7 CFR 945), regulate the handling of potatoes grown in designated counties in Idaho and Malheur County, Oregon. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Idaho-Eastern Oregon Potato Committee, established under the order, is responsible for its local administration.

This regulation is based upon recommendations made by the committee at its public meeting in Twin Falls, Idaho, on May 31, 1979.

The regulation is similar to those issued during past seasons. The grade, size, cleanliness, maturity, pack and inspection requirements specified herein are necessary to prevent potatoes of low quality or undesirable sizes from being distributed to fresh market outlets. These specific requirements will benefit consumers and producers by standardizing and improving the quality of the potatoes shipped from the production area, thereby promoting orderly marketing, and will tend to effectuate the declared policy of the act.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements are inappropriate or unreasonable.

A specified quantity of potatoes may be exempt from maturity requirements to (1) permit growers to make test diggings without loss of the potatoes so harvested or (2) to allow a lot to be shipped which after regrading, meets the grade and size requirements but then fails to meet the maturity requirements, possibly due to further "skinning" as a result of running the potatoes over the grader again.

Shipments are permitted to certain special purpose outlets without regard to minimum grade, size, cleanliness, maturity and pack requirements, provided that safeguards are met to prevent such potatoes from reaching unauthorized outlets. Since no purpose is served by regulating potatoes used for charity purposes, such shipments are also exempt. Certified seed and seed pieces cut from stock eligible for certification are exempt, because requirements for this outlet differ greatly from those for fresh market.

Potatoes used for experimentation have special requirements and do not normally enter commercial channels of trade. Potatoes for most processing uses are exempt under the legislative authority for this part.

Requirements for export shipments differ from those for domestic markets. While the standard quality requirements are desired in foreign markets, smaller sizes are more acceptable. In commercial prepeeling, operators can use potatoes with surface defects which are undesirable for the tablestock market, and smaller sizes are acceptable. Therefore, different requirements are set forth for export and prepeeling shipments.

Findings. After considering all relevant matters, including the proposal in the notice, it is found that the following handling regulation will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of this regulation until 30 days after its publication in the *Federal Register* (5 U.S.C. 553) in that (1) shipments of potatoes grown in the production area will begin on or about the effective date specified herein, (2) to maximize benefits to producers, this regulation should apply to as many shipments as possible during the marketing season, (3) notice was given in the June 15, 1979, *Federal Register* (44 FR 34508) allowing

interested persons until July 15, 1979, to file comments, and none was filed, and (4) compliance with this regulation, which is similar to regulations issued during previous seasons, requires no special preparation by handlers subject to it which cannot be completed by the effective date.

The regulation is as follows:

§ 945.337 [Removed]

Section 945.338 is added to read as follows:

§ 945.338 Handling regulation.

During the period August 1, 1979, through August 15, 1980, no person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a) through (d) of this section, or unless such potatoes are handled in accordance with paragraphs (e) and (f), or (g) of this section.

(a) *Minimum quality requirements.*

(1) *Grade.* All varieties—U.S. No. 2 or better grade.

(2) *Size.* (i) *Round red varieties*—1 1/4 inches minimum diameter.

(ii) *All other varieties*—2 inches minimum diameter, or 4 ounces minimum weight.

(iii) *All varieties*—Size B if U.S. No. 1 grade.

(3) *Cleanliness.* All varieties—"fairly clean."

(b) *Minimum maturity requirements.*

(1) *White Rose and red skin varieties:* Each year from August 1 through December 31, "moderately skinned"; during other periods no maturity requirements.

(2) *Norgold varieties:* Each year from August 1 through August 15, "moderately skinned"; during other periods "slightly skinned."

(3) *All other varieties:* "Slightly skinned."

(4) *Exceptions:* (i) Subject to compliance with subdivision (iii) of this subparagraph, any lot of potatoes not exceeding a total of 50 hundredweight of each variety may be handled for any producer without regard to the foregoing maturity requirements.

(ii) If an officially inspected lot of potatoes meets the foregoing maturity requirements, but fails to meet the grade and size requirements, the lot may be regraded. If, after regrading, such lot then meets the grade and size requirements but fails to meet the maturity requirements, as indicated by the applicable Federal-State inspection certificate, such lot if not exceeding 100 hundredweight shall be exempt from the foregoing maturity requirements if the handler complies with subdivision (iii) of this subparagraph.

(iii) Prior to each shipment of potatoes exempt from the foregoing maturity requirements, the handler thereof shall report to the committee the name and address of the producer of such potatoes, and each such shipment shall be handled as an identifiable entity.

(c) *Pack.*

(1) When 50-pound containers (except master containers) of long varieties of potatoes are marked with a count, size or similar designation they must meet the count, average count and weight ranges for the count designation listed below.

	Range		
	Count	Average count ¹	Weight
Larger than 50 size	10 pct over or under	5 pct over or under	15 oz or larger
Size:			
50	45 to 55	48 to 53	12 to 19
60	54 to 66	57 to 63	10 to 16
70	63 to 77	67 to 74	9 to 15
80	72 to 88	78 to 84	8 to 13
90	81 to 99	86 to 95	7 to 12
100	90 to 110	95 to 105	6 to 10
110	99 to 121	105 to 116	5 to 9
120	108 to 132	114 to 126	4 to 8
130	117 to 143	124 to 137	4 to 8
140	126 to 154	133 to 147	4 to 8
Smaller than 140 size	10 pct over or under	5 pct over or under	4 to 8

¹ Applicable to lots.

The following tolerances by weight, are provided for potatoes in any lot which fail to meet the weight range for the designated count:

(i) not to exceed 5 percent for undersize; and

(ii) not to exceed 10 percent for oversize.

(2) Potatoes packed in 50-pound cartons shall be U.S. No. 1 or better grade. However, potatoes of U.S. Extra

No. 1 grade shall be no smaller than 110 size nor larger than 60 size.

(d) *Inspection.*

(1) No handler shall handle potatoes unless such potatoes are inspected by either the Idaho Federal-State Inspection Service or Oregon Federal-State Inspection Service and are covered by a valid inspection certificate except when relieved of such requirement pursuant to paragraphs (e) and (f), or (g) of this section.

(2) Each lot moving by truck shall be accompanied by a copy of a valid inspection certificate.

(e) *Special purpose shipments.*

(1) The minimum grade, size, cleanness, maturity and pack requirements set forth in paragraphs (a), (b) and (c) of this section shall not be applicable to shipments of potatoes for any of the following purposes:

- (i) Charity;
- (ii) Certified seed;
- (iii) Seed pieces cut from stock eligible for certification as certified seed;
- (iv) Experimentation; and
- (v) Canning, freezing and "other processing" as hereinafter defined: Except shipments of potatoes for the purpose specified in this subdivision (v) shall be exempt from inspection requirements specified in § 945.65 and paragraph (d) of this section and from assessment requirements specified in § 945.42.

(2) The minimum grade, size, cleanness, maturity and pack requirements set forth in paragraphs (a), (b) and (c) of this section shall be applicable to shipments of potatoes for each of the following purposes:

- (i) *Export:* Except potatoes of a size not smaller than 1½ inches in diameter may be shipped if the potatoes grade not less than U.S. No. 2; and
- (ii) *Prepeeling:* Except potatoes of a size not smaller than 1½ inches in diameter may be shipped if the potatoes grade not less than Idaho Utility or Oregon Utility grade.

(f) *Safeguards.*

(1) Each handler making shipments of potatoes for charity, seed pieces cut from stock eligible for certification, experimentation, export, or for prepeeling pursuant to paragraph (e) of this section shall:

- (i) First, apply to the committee for and obtain a Certificate of Privilege to make shipments for each purpose;
- (ii) Upon request by the committee, furnish reports of each shipment pursuant to the applicable Certificate of Privilege;
- (iii) At the time of applying to the committee for a Certificate of Privilege, or promptly thereafter furnish the

committee with a receiver's or buyer's certification that the potatoes so handled are to be used only for the purpose stated in the application and that such receiver will complete and return to the committee such periodic receiver's reports that the committee may require.

(iv) Mail to the office of the committee a copy of the bill of lading for each Certificate of Privilege shipment promptly after the date of shipment;

(v) Bill each shipment directly to the applicable receiver.

(2) Each handler making shipments of potatoes for canning, freezing, or "other processing" pursuant to paragraph (e) of this section shall:

(i) First apply to the committee for and obtain a Certificate of Privilege to make shipments for processing;

(ii) Make shipments only to those firms whose names appear on the committee's current list of manufacturers of potato products;

(iii) Upon request by the committee, furnish reports of each shipment pursuant to the applicable Certificate of Privilege;

(iv) Mail to the committee's office a copy of the bill of lading for each Certificate of Privilege shipment promptly after the date of shipment;

(v) Bill each shipment directly to the applicable processor.

(3) Each receiver of potatoes for processing pursuant to paragraph (e) of this section shall:

(i) Complete and return an application form for listing as a manufacturer of potato products;

(ii) Certify to the committee and to the Secretary that potatoes received from the production area for processing will be used for such purposes and will not be placed in fresh market channels;

(iii) Report on shipments received as the committee may require and the Secretary approve.

(g) *Minimum quantity exception.* Each handler may ship up to, but not to exceed, five hundredweight of potatoes any day without regard to the inspection and assessment requirements of this part, but this exception shall not apply to any shipment that exceeds five hundredweight of potatoes.

(h) *Definitions.* The terms "U.S. Extra No. 1," "U.S. No. 1," "U.S. No. 2," "Size B," "fairly clean," "moderately skinned," and "slightly skinned," shall have the same meaning as when used in the United States Standards for Potatoes (7 CFR 2851.1540-2851.1566), including the tolerances set forth therein. The term "prepeeling" means the commercial preparation in a prepeeling plant of clean, sound, fresh potatoes by washing,

peeling or otherwise removing the outer skin, trimming, sorting, and properly treating to prevent discoloration preparatory to sale in one or more of the styles of peeled potatoes described in § 2852.2422 of the United States Standards for Peeled Potatoes (7 CFR 2852.2421-2852.2433). The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing." The terms "Idaho Utility" grade and "Oregon Utility" grade shall have the same meaning as when used in the standards for potatoes for the respective State. Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 98 and Order No. 945, both as amended.

(i) *Applicability to imports.* Pursuant to § 8e of the act and § 980.1 "Import regulations" (7 CFR 980.1), Irish potatoes of the long varieties imported during the effective period of this section shall meet the grade, size, quality and maturity requirements specified in paragraphs (a) and (b) of this section. (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

This final rule has been reviewed under the USDA criteria implementing Executive Order 12044. A determination has been made that this action should not be classified "significant." An Impact Analysis has been prepared and is available from Peter G. Chapogas (202) 447-5432.

Dated July 23, 1979 to become effective August 1, 1979.

William J. Doyle,
Acting Deputy Director, Fruit and Vegetable
Division, Agricultural Marketing Service.
[FR Doc. 79-23185 Filed 7-26-79; 8:45 am]
BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Revision of REA Bulletin 415-1; Sale of Property by Telephone Borrowers

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: REA hereby issues a File With for REA Bulletin 415-1 which allows borrowers to make direct sales to the end user of terminal equipment and/or associated wiring, provided that the sale conforms with existing Federal and state regulatory requirements.

EFFECTIVE DATE: July 27, 1979.

FOR FURTHER INFORMATION CONTACT: Frank H. Norris, Chief, Loans and Management Branch, Telephone Operations and Standards Division, telephone number (202) 447-5252.

SUPPLEMENTAL INFORMATION: This action permits direct sales to end users of terminal equipment and/or associated wiring, provided that the sale conforms with existing Federal and state regulatory requirements. Such sales may be made on a credit basis if the borrower determines that a credit sale is reasonable and the extension of credit will not exceed 12 calendar months from the date of the sale. Proceeds from the sale of terminal equipment and/or associated wiring to the end user may be applied to the general funds account provided that the borrower establish and maintain appropriate records demonstrating that the sale was to an end user, and that the total sale did not exceed 20 percent of gross investment in Accounts 231 and 232 or \$50,000 of the gross investment in Account 234, as appropriate.

Since the material contained herein is a matter relating to a loan program of the Rural Electrification Administration, the relevant provisions of the Administrative Procedures Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date are inapplicable. However, in accordance with the spirit of the public policy set forth in 5 U.S.C. 553, interested persons may submit written comments, suggestions, data or arguments to the contact address given above. Material thus submitted will be evaluated and acted upon in the same manner as if the document were a proposal. Until such time as further changes are made, the File With to REA Bulletin 415-1 shall remain in effect, thus permitting the public business to proceed more expeditiously.

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been

prepared and is available from Mr. Joseph M. Flanagan, Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated: July 19, 1979.

Tom Burgum,
Acting Deputy Administrator.

[FR Doc. 79-23978 Filed 7-26-79; 8:45 am]
BILLING CODE 3410-15-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-79-31]

Emergency Adoption of Special Rule No. 2 to Part 212—Motor Gasoline End-User Minimum Purchase Rule

AGENCY: Economic Regulatory Administration Department of Energy.

ACTION: Notice of Cancellation of Public Hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of the cancellation of a public hearing on Special Rule No. 2 of Part 212—the Motor Gasoline End-User Minimum Purchase Rule—scheduled for 9:30 a.m. on July 31, 1979 at 2000 M Street, N.W., Washington, D.C. (June 25, 1979; 44 FR 36937). The hearing is being cancelled because only one person indicated an interest in testifying at the hearing, and, when informed that he would be the only witness, he stated that preferred to provide his comments in writing.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Comment Procedures), Economic Regulatory Administration, 2000 M Street NW., Room 2214, Washington, D.C. 20461, (202) 254-5201.

Maurice Boehl (Regulations and Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street NW., Washington, D.C. 20461, (202) 254-7200.

Issued in Washington, D.C., July 23, 1979.

Douglas G. Robinson,
Deputy Administrator for Policy, Economic Regulatory Administration.

[FR Doc. 79-23197 Filed 7-26-79; 8:45 am]
BILLING CODE 6450-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 380

[Regulation SPR-156A; Interpretation]

Interpretation of Regulations Concerning Surety Bonds

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on July 19, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Interpretation of regulation concerning surety bonds.

SUMMARY: This interpretation concerns when a charter operator must obtain additional bonding coverage under the CAB's Public Charter rules if claims have been filed against the operator. Additional coverage will be required only for claims involving loss of participants' money directly, or events entitling participants to refunds under the Board's regulations.

DATES: Adopted: July 19, 1979. Effective: July 19, 1979.

FOR FURTHER INFORMATION CONTACT: Patricia T. Szrom, Special Authorities Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5088.

SUPPLEMENTARY INFORMATION: The Board has received waiver applications from two charter operators, International Weekends' Charter Tours (Weekends) and GWV Travel (GWV), with respect to the bonding requirement in § 380.34 of the Board's Special Regulations. All charter operators are required to maintain a bond, or a bond and escrow combination arrangement, to protect passengers' payments. Both International and GWV have \$200,000 bonds in combination with escrow accounts, and both are defendants in separate class action suits seeking damages in excess of their bond coverage.

Weekends and GWV requested waiver of the existing Board requirement that they provide additional coverage for "outstanding claims against the bond" as a precondition to operating any more charters. They note that additional bonding would necessitate the posting of 100 percent collateral, which would be a severe financial hardship. They regard the class actions as without merit, and assert that it is unfair that the mere assertion of any claim, no matter how frivolous, should bring a halt to the operation of further charters or require heavy additional expense. They assert that professional liability insurance policies covering

each operator's "professional errors and omissions" are sufficient to satisfy any eventual judgments in the class actions.

In 1977 the Board began to require tour operators who wished to extend an existing bond's coverage to a new series of charters to certify that there were no outstanding claims against the bond, or to obtain new bond coverage to the extent that there were. The action was in response to the failure of Diamond Tours, which had run charters without new bonding after having been subjected to large numbers of claims for failure to provide contracted ground accommodations. The policy was most prominently applied in early 1978 in a case involving Nationwide Leisure Corporation, where the operator was required to obtain new bonding coverage after having been sued for improper hotel substitutions.¹ The Board decided not to examine the nature or plausibility of the claims, but to require settlement of the claims or an increase in the bond amount to cover them.

We have reviewed carefully the policies and factual premises that led to our decision in the *Nationwide Leisure* matter, and have decided, in light of succeeding events, that the policy should be more closely defined, lest it be applied in a way that would be unreasonably burdensome to tour operators and unjustifiably costly to the public.

The primary purpose of the bond is to safeguard the funds paid by charter participants. Its function is similar to that of the escrow, and a response to the fact that, considering the various parties that must handle participants' money before it finds its way to the ultimate provider of services, the depository system cannot give total protection. For example, a participant's payment typically goes first to a travel agent, then to the charter operator, before being deposited in an escrow account. The bond provides protection (but only to participants) against loss of funds during this transit period, and additionally insures that refunds can be made to the participant where required by the operator-participant contract. The close relationship between the bond and the escrow system is evidenced by the regulatory scheme itself: § 380.34 gives the charter operator the option of having a bond for the whole charter price (or more, depending on the length of the charter) and no escrow, or a smaller bond with an escrow. Further evidence of the bond's mission is

contained in the key language of its condition:

Now, therefore, the condition of this obligation is such that if the Principal shall pay or cause to be paid to charter participants any sum or sums for which the Principal may be held legally liable by reason of the Principal's failure faithfully to perform, fulfill, and carry out all contracts, agreements and arrangements made by the Principal while this bond is in effect with respect to the receipt of moneys from charter participants and proper disbursement thereof pursuant to and in accordance with the provisions of part 380 of the Board's special regulations, then this obligation shall be void, otherwise to remain in full force and effect. 14 CFR Part 380, Appendix A. (Emphasis added.)

Thus, the bond is in essence protection against inability of the charter operator to satisfy an adverse judgment based on the operator's obligations concerning the "receipt of moneys and proper disbursement thereof." As this language indicates, the bond is intended to insure the performance of contracts to the extent that they concern the receipt and disbursement of charter participants' funds. The regulations require two contracts for the protection of charter participants' funds: The depository agreement (§ 380.34) and the operator-participant contract (§§ 380.31, 380.32). Both are concerned with the receipt and disbursement of participants' funds. The depository agreement specifies how participants' funds are transmitted (by check or money order made payable either to the depository account or to a travel agent) and how the depository bank must disburse them. The operator-participant contract must describe not only the amount and schedule of payments, but also how payments are to be made to the bank. In addition, the operator-participant contract must specify a number of participant rights to refunds, which are disbursements of participants' funds back to the participant. A principal function of the bond is to insure that participants have the additional protection of the bond if any of these contract rights concerning receipt and disbursement of their monies are violated and the charter operator does not satisfy the claim.

In the past, we have not examined the nature of claims against charter operators to see whether they fit into these categories of transmission of payments or refunds. The bringing of large class-action lawsuits such as those against GWW and Weekends, however, raises urgently the question whether the bonds should be considered impaired by them. We emphasize that we are not judging or reflecting on the validity of the claims. The bond is not central to

these claims, and in fact the phrase "claim against the bond" is a misnomer. The claims are against the operator, while the bond is a separate requirement imposed by the Board to ensure that if certain types of claims against operators—those relating to the receipt and disbursement of participants' funds—are brought to judgment, the funds will be there to pay the judgment.

It is the essence of our system of private law that any person can sue any other person for any reason whatsoever. While there are various devices for summary disposition of frivolous claims, they are not screened or censored in any way at the point of filing; and in our busier court systems, it may actually be years before they reach the point in the docket where any judgment is made as to their validity. In this context, for the Board to interpret its bond requirement so that the mere filing of a lawsuit, regardless of its nature, will force a tour operator to have to raise funds on the order of \$200,000 to remain in business seems to be grossly unfair to the operator. The public also loses. If the operator is able to raise collateral for a new bond, the cost is ultimately reflected in higher charter prices. If it is not able to, another low-cost travel option, and another competitor, is lost entirely.

There are two broad types of situations in which the bond must be considered to furnish unquestionable protection to charter participants. The first is protection of money in its progress from the participants to the providers of services, most commonly airlines and hotel operators. The second is the guarantee of refunds that are due to charter participants under the operator-participant contract. These will include, but are not limited to, refunds required in the event of a major change in the charter. A major change is a: (1) flight delay of more than 48 hours, or change of departure or return date, except where due to a flight delay of less than 48 hours; (2) change of origin or destination cities; (3) hotel change not provided for in the contract; or (4) price increase of more than 10 percent. Other occurrences triggering an explicit right to refund under the contract are also considered covered. These are the only types of claims that we will consider to impair a bond. We will not, therefore, consider claims based on the quality of services provided, flight delays, or other acts or omissions, aside from those that involve the handling of participants' funds or give rise to a refund right under the explicit terms of the operator-participant contract, to impair a bond.

This policy, while it does not assure the maximum possible coverage achievable through bonding, gives participants protection against the most important contingencies. Flight cancellations and hotel changes are far more disruptive of a trip than minor delays or dissatisfactions with service. The latter may be legitimate claims, for which compensation may be due, but they are not of the magnitude that justifies the expense of bonding. Each additional protection has its price, and we do not think it reasonable that a charter operator should have to find a guarantor for every claim, no matter how trivial. The absence of bonding does not mean that participants cannot recover for poor service or other problems, since the charter operator remains liable for contract breaches. It only means that the charter operator's obligations are not independently guaranteed by a third party.

In the present case, the claims are based on allegations of flight delays not amounting to "major changes" under our regulations. In the GWW case, plaintiffs alleged a 20-hour delay on departure and a 4-hour delay on the return flights. In Weekends, plaintiffs alleged a 6-hour delay in arrival and a two-stop, rather than a nonstop, flight on the outbound leg. Under the current Part 380, these would not routinely entitle participants to refund of their payments. It appears that these charter operators did disburse participants' money for the contracted services. Thus, the claims in the two cases do not constitute "claims outstanding against the bond" within the meaning of § 380.28(a)(2) and Appendix C to Part 380, unless the operator-participant contracts specifically provide for refunds in the event of flight delays or unannounced stops. In the absence of such provisions, there will be no need for the operators to provide additional coverage for such claims.

In the future, claims clearly outside the class for which additional coverage is required need not be reported. Claims about which there is some doubt must be reported. In computing the amount of bond impairment for claims falling within the class outlined here, no more than the charter price for each claimant may be counted against the bond coverage. This is because the surety's liability to each claimant under the bond is limited to the charter price. Thus, if the charter price is \$500 per person, and a class action is brought on behalf of 100 participants claiming a total of \$1 million in compensatory and punitive damages, the bond would be impaired by at most \$50,000.

This interpretation will take effect immediately. Since this is an interpretative and not a substantive rule, we find that notice and comment procedures are unnecessary and the rule may be made effective less than 30 days after publication.

(Sec. 204, 401, 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754, 92 Stat. 1731; 49 U.S.C. 1324, 1371, 1386.)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-23213 Filed 7-26-79; 8:45 am]

BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-2969]

Appliance Dealers Cooperative, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires a Newark, NJ appliance dealers cooperative, its executive director, 22 member companies, and five affiliated firms to cease harassing, intimidating or otherwise attempting to control or interfere with retailers' resale pricing; advertising; sale and distribution of consumer products; selection of customers; or their right to locate and operate businesses in any geographic area. The cooperative is further required to supply its members, on an equal and timely basis, with all relevant information relating to its purchase and sale of merchandise; and cause its by-laws to be adjusted so as to be consistent with the terms of the order.

DATES: Complaint and order issued June 7, 1979.¹

FOR FURTHER INFORMATION CONTACT: Leroy Richie, Director, 8R, New York Regional Office, Federal Trade Commission, 2243-EB Federal Bldg., 26 Federal Plaza, New York, NY 10007. (212) 264-1207.

SUPPLEMENTARY INFORMATION: On Tuesday, February 13, 1979, there was published in the *Federal Register*, 44 FR 9395, a proposed consent agreement with analysis in the Matter of Appliance Dealers Cooperative, a corporation, and

¹ Copies of the Complaint and decision and Order are filed with the original document.

Murray Gidseg, individually and as Executive Director of said corporation, and Ace Electronic Service Co., Inc., a corporation, and Solar Appliance Centers, Inc., a corporation, and Ajay Appliance Sales & Service, Inc., a corporation, and Apex Appliance Distributors, Inc., a corporation, and Bell Appliance Co., Inc., a corporation, and Paul Bergman, an individual trading and doing business as Brown's Appliance Co., and Charles Stein, an individual trading and doing business as Economy Stove & Plumbing Supply Co., and Flynn Appliances, Inc., a corporation, and Frank Schwartz, an individual trading and doing business as Franks Sales & Service Co., and Goldklang's Appliance City, Inc., a corporation, and Town Appliance, Inc., a corporation, and Harvey's of New Milford, Inc., a corporation, and Karl's Sales & Service Co., Inc., a corporation, and Keystone Appliance Co., Inc., a corporation, and Lichtman Bros., Inc., a corporation, and Mrs. G. Inc., a corporation, and Paul's Home Furnishings Co., Inc., a corporation, and Rooney Appliance, Inc., a corporation, and Schenck Appliance Corporation, a corporation, and Summerton Appliance, Inc., a corporation, and Les Turchin, Inc., a corporation, and Tru-Home Sales Co., Inc., a corporation, and Turchin's Department Stores, Inc., a corporation, and Turchin's-Rex, Inc., a corporation, and Uneeda Appliance Co., Inc., a corporation, and Uneeda Brook's, Inc., a corporation, and Uneeda Appliance Company of Bayonne, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing and Intimidating: Section 13.367 Members. Subpart—Combining or Conspiring: Section 13.388 To control allocations and solicitation of customers; § 13.395 To control marketing practices and conditions; § 13.405 To discriminate unfairly or restrictively in general; § 13.425 To enforce or bring about resale price maintenance; § 13.450 To limit distribution or dealing to regular established or acceptable channels or classes; § 13.472 To restrain

¹ See Industry Letter dated February 17, 1978, to Tour Operators and Direct Air Carriers.

cooperatives' activities. Subpart—Corrective Actions and/or Requirements: Section 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–60 Release of general, specific, or contractual constrictions, requirements, or restraints. Subpart—Cutting Off Supplies or Service: Section 13.610 Cutting off supplies or service; § 13.635 Refusing sales to, or same terms and conditions; § 13.655 Threatening disciplinary action or otherwise. Subpart—Discriminating Between Customers: Section 13.685 Discriminating between customers; 13.685–10 Federal Trade Commission Act. Subpart—Discriminating In Price Under Section 5, Federal Trade Commission Act: Section 13.894 Unequal discounts. Subpart—Maintaining Resale Prices: Section 13.1130 Contracts and agreements; § 13.1140 Cutting off supplies; § 13.1145 Discrimination; § 13.1160 Refusal to sell.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,

Secretary.

[FR Doc. 79-20102 Filed 7-26-79; 9:45 am]

BILLING CODE 6790-01-M

16 CFR Part 13

[Docket No. 9096]

Howard Enterprises, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: This order, among other things, requires a Nampa, Idaho firm and its corporate president, engaged in compiling, publishing and distributing consumer reports through franchises and otherwise, to cease disseminating such reports without following reasonable procedures to ensure that reported information is accurate and will be used for permissible purposes. They are prohibited from furnishing "Alert Lists" (lists of consumers who have allegedly passed bad checks) to subscribers who do not have a legitimate business need for information regarding all listed consumers, unless such lists are coded to protect consumers' identity until subscriber's need has been established. A statement advising recipients of statutory requirements and prohibitions must accompany each disseminated consumer report. Additionally, the order requires the firm and its president to

obtain from all franchisees and prospective franchisees a written agreement obligating them to comply with the terms of the order.

DATES: Complaint issued February 8, 1977. Final order issued June 12, 1979.¹

FOR FURTHER INFORMATION CONTACT: Thomas Armitage, Director 10R, Seattle Regional Office, Federal Trade Commission, 28th Floor, Federal Bldg., 915 Second Ave., Seattle, Wash. 98174. (206) 442-4655.

SUPPLEMENTARY INFORMATION: In the Matter of Howard Enterprises, Inc., a corporation; Ralph R. Howard, individually and as an officer of said corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows:

Subpart—Collecting, Assembling, Furnishing or Utilizing Consumer Reports: Section 13.382 Collecting, assembling, furnishing or utilizing consumer reports; 13.382–1 Confidentiality, accuracy, relevancy, and proper utilization; 13.382–1(a) Fair Credit Reporting Act; 13.382–5 Formal regulatory and/or statutory requirements; 13.382–5(a) Fair Credit Reporting Act. Subpart—Corrective Actions and/or Requirements: Section 13.533 Corrective actions and/or requirements; 13.533–37 Formal regulatory and/or statutory requirements.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 64 Stat. 1128–36; 15 U.S.C. 1681–1681t)

The Final Order, including further order requiring report of compliance therewith, is as follows:

Final Order

This matter having been heard by the Commission upon the appeal of complaint counsel from the initial decision and upon briefs in support thereof and opposition thereto, and the Commission, for the reasons stated in the accompanying opinion having substantially granted the appeal; therefore

It is ordered that pages 1 to 15 of the initial decision of the ALJ be, and they hereby are, adopted as Findings of Fact of the Commission, except to the extent inconsistent with the Commission's findings of fact and conclusions of law contained in the accompanying opinion.

Other findings of fact and conclusions of law of the Commission are contained in the accompanying Opinion.

¹ Copies of the Complaint, Initial Decision, Opinion, and Final Order filed with the original document.

It is further ordered That the following order cease and desist be, and it hereby is, entered:

Part I

It is ordered That Respondent Ralph R. Howard, his agents, representatives, employees, successors, and assigns, directly or indirectly through any corporation, subsidiary, division or other device, in connection with the collecting, preparing assembling and/or furnishing of consumer reports, as "consumer report" is defined in Section 603(d) of the Fair Credit Reporting Act (Pub. L. 91-508, 15 U.S.C. 1681 *et seq.*), and interpreted in the accompanying Opinion of the Commission, shall cease and desist from:

A. Furnishing any consumer report to any person, unless such report is furnished:

1. In response to the order of a court having jurisdiction to issue such order; or

2. In accordance with the written instructions of the consumer to whom the report relates; or

3. To a person which respondent has reason to believe intends to use the information:

a. In connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer; or

b. For employment purposes; or

c. In connection with the underwriting of insurance involving the consumer; or

d. In connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status; or

e. In connection with a legitimate business need for the information in connection with a business transaction involving each consumer reported upon.

B. Furnishing "Alert Lists," or any other list, index, or compilation of consumer reports, unless encoded in such a way that a user can determine the identity of any consumer reported on only through the use of additional information and identification to be provided by the consumer at the time of the transaction with the user.

C. Failing to maintain reasonable procedures necessary to limit the furnishing of consumer reports to the purposes listed under Section 604 of the Fair Credit Reporting Act, as required by Section 607(a) of the Fair Credit Reporting Act, including, but not necessarily limited to, procedures:

1. Requiring prospective users of consumer reports to identify themselves.

2. Requiring prospective users of consumer reports to certify the purposes for which the information in such reports is sought,

3. Requiring prospective users of consumer reports to certify that the information in such reports will be used for no other purposes than those which have been certified.

4. Verifying the identity of new prospective users of consumer reports prior to furnishing consumer reports to such users, and

5. Verifying the uses certified by prospective users of consumer reports prior to furnishing consumer reports to said users.

D. Furnishing consumer reports to persons under circumstances in which there are reasonable grounds for believing that such reports will not be used for purposes listed in Section 604 of the Fair Credit Reporting Act.

E. Failing to follow reasonable procedures to assure maximum possible accuracy of information concerning the individuals to whom consumer reports relate, as required by Section 607(b) of the Fair Credit Reporting Act, including but not necessarily limited to, procedures:

1. To ensure with reasonable certainty that information about consumers is accurate before placing it on "Alert Lists" or other such compilations;

2. To ensure that prospective users provide prompt notice as to information which is no longer accurate and therefore should be deleted from the "Alert List" of other compilation, and

3. Requiring prospective users to agree in writing to comply with the procedures described in E.2. above.

F. Failing to include the following statement on a fact sheet to be included with any "Alert List" or other consumer reports published and distributed by Respondent, with such conspicuousness and clarity as is likely to be read and understood by users of such consumer reports:

"The following information is subject to the Fair Credit Reporting Act which regulates use of consumer reports. It must be used for the following permissible purposes and no other:

(1) In connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or collection of an account of, the consumer; or

(2) In connection with employment purposes; or

(3) In connection with the underwriting of insurance involving the consumer; or

(4) In connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status; or

(5) In connection with a legitimate business need for the information in connection with a business transaction involving the consumer.

The Fair Credit Reporting Act, Pub. L. 91-508, Section 619, states "Any person who knowingly and willfully obtains information on a consumer from a consumer reporting agency under false pretenses shall be fined not more than \$5,000 or imprisoned not more than one year, or both."

Part II

It is further ordered That Respondents, Howard Enterprises, Inc., its successors and assigns, and its officers, and Ralph R. Howard, individually and as an officer of Howard Enterprises, Inc., and Respondents' agents, representatives, employees, successors, and assigns, directly or indirectly through any corporation, subsidiary, division, or other device, in connection with the sale, or offering for sale, of franchises, licenses, or business opportunities provided by Respondents to others, and in connection with Respondents' continuing business relationships with such others, in or affecting commerce, as commerce is defined in the Federal Trade Commission Act, shall:

A. Cease and desist from selling or providing in any manner franchises, licenses, or business opportunities (hereinafter referred to in Section II of this order as "franchises") to others to engage in the collecting, preparation, assembling or furnishing of consumer reports, as "consumer report" is defined in Section 603(d) of the Fair Credit Reporting Act and interpreted in the accompanying opinion of the Commission, unless Respondents (1)

obtain written agreements from the purchasers or recipients of franchises (hereinafter referred to in Section II of this order as "franchisees") in which the franchisees agree to conform their practices to the requirements of Section I of this order, (2) retain copies of such agreements during the period of any business relationship with the franchisees, and (3) make such agreements available for inspection and copying on request by Commission representatives.

B. (1) Obtain from each of the Respondents' franchisees existing in such capacity on the day this order is served on Respondents, the written agreements of the franchisees to conform their practices to the requirements of Section I of this order, (2) retain copies of such agreements during the period of any business relationship with the said franchisees, and (3) make such agreements available for inspection and copying on request by Commission representatives.

C. Discontinue any further business relationship with any franchisee described in paragraph II.B. above which has failed to comply with paragraph II.B. within sixty (60) days of the service of this order upon Respondents.

D. Discontinue any further business relationship with any current or future franchisee which fails to comply with the terms of Section I of this order.

Part III

It is further ordered That Respondents Ralph R. Howard and Howard Enterprises deliver a copy of this order to cease and desist to all present and future employees of said Respondents engaged in the preparation and/or furnishing of consumer reports, and that said Respondent secure a signed statement acknowledging receipt of said order from all such personnel.

Part IV

It is further ordered That Respondents deliver a copy of this order and a copy of the Fair Credit Reporting Act to each of their present franchise or license holders within thirty days, to all future franchise or license holders, and to any entity connected with said Respondents who distribute consumer reports as "consumer report" is defined in Section 603(d) of the Fair Credit Reporting Act and interpreted in the accompanying opinion of the Commission.

Part V

It is further ordered That Respondents notify the Commission at least thirty days prior to any proposed change in the corporate Respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation or corporations, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

Part VI

It is further ordered That the Respondents herein shall, within sixty days after service of this order, file with the Commission a written report setting forth in detail the manner and form of their compliance with this order.

Carol M. Thomas,

Secretary.

[FR Doc. 79-23164 Filed 7-26-79, 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket No. 9003]

Nestle Alimentana, S.A., et al.;
Prohibited Trade Practices, and
Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, requires a Vevey, Switzerland food processor and an affiliated Panamanian holding company to divest within one year, the entire frozen prepared foods facility located in Darien, Wisconsin, together with the associated frozen bulk vegetable processing facility and adjoining cold storage warehouse. Additionally, for ten years, effective from January 7, 1975, the date of the complaint, Nestle would not be permitted to make any large acquisition in the frozen prepared foods industry without prior Commission approval.

DATES: Complaint issued January 7, 1975. Decision issued July 9, 1979.¹

FOR FURTHER INFORMATION CONTACT: FTC/C. Alfred F. Dougherty, Jr., Washington, DC 20580, (202) 523-3601.

SUPPLEMENTARY INFORMATION: On Wednesday, April 25, 1979, there was published in the *Federal Register*, 44 FR 24304, a proposed consent agreement with analysis in the matter of Nestle Alimentana, S.A., a Swiss corporation, and Unilac Inc., a Panamanian corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in

¹ Copies of the Complaint, and the Decision and Order filed with the original document.

the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows:

Subpart-Acquiring Corporate Stock or Assets: Section 13.5 Acquiring corporate stock or assets; 13.5-20 Federal Trade Commission Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18.)

Carol M. Thomas,

Secretary.

[FR Doc. 79-23162 Filed 7-26-79, 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF TREASURY

Customs Service

19 CFR Part 153

[T. D. 79-210]

Antidumping; Methyl Alcohol From Canada

AGENCY: U.S. Treasury Department.

ACTION: Finding of Dumping.

SUMMARY: This notice is to inform the public that separate investigations conducted under the Antidumping Act, 1921, as amended, by the U.S. Treasury Department and the U.S. International Trade Commission, respectively, have resulted in determinations that methyl alcohol from Canada is being sold at less than fair value and that these sales are injuring an industry in the United States. On this basis, a finding of dumping is being issued and, generally, all unappraised entries of this merchandise will be liable for the possible assessment of special dumping duties.

EFFECTIVE DATE: July 27, 1979.

FOR FURTHER INFORMATION CONTACT: Vincent Kane, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) (referred to in this notice as "the Act"), gives the Secretary of the Treasury responsibility for the determination of sales at less than fair value. Pursuant to this authority, the Secretary has determined that methyl alcohol from Canada is being sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)). (Published in the *Federal Register* of March 30, 1979, 44 FR 19090).

Section 201(a) of the Act (19 U.S.C. 160(a)) gives the United States International Trade Commission responsibility for determining whether, by reason of such sales at less than fair value, a domestic industry is being or is likely to be injured. The Commission has determined, and on June 29, 1979, it notified the Secretary of the Treasury that an industry in the United States is likely to be injured by reason of the importation of methyl alcohol from Canada that is being sold at less than fair value within the meaning of the Act. Notice of this determination was published in the *Federal Register* of July 12, 1979 (44 FR 40734).

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to methyl alcohol from Canada.

Methyl alcohol, also known as methanol, is classifiable under item numbers 427.9600 and 427.9700 of the Tariff Schedules of the United States Annotated.

Accordingly, § 153.46 of the Customs Regulations (19 CFR 153.46) is being amended by adding the following to the list of findings of dumping currently in effect

Merchandise	Country	Treasury decision
Methyl alcohol	Canada	79-210

(Sec. 201, 407, 42 Stat. 11, as amended, 18 (19 U.S.C. 160, 173)

Robert H. Mundheim,
General Counsel of the Treasury.

July 23, 1979.

[FR Doc. 79-23230 Filed 7-26-79, 8:45 am]

BILLING CODE 4810-22-M

19 CFR Part 159

[T.D. 79-211]

Liquidation of Duties; Final Countervailing Duty Determination; Amoxicillin Trihydrate and its Salts From Spain

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Final Countervailing Duty Determination.

SUMMARY: This notice is to advise the public that a countervailing duty investigation has resulted in a final determination that the Government of Spain grants to producers and exporters of amoxicillin trihydrate and its salts benefits which constitute bounties or grants within the meaning of the countervailing duty law. Deposited

countervailing duties in the amount of these benefits will be required at the time of entry in addition to duties normally collected on dutiable shipments of the merchandise.

EFFECTIVE DATE: July 27, 1979.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: On February 2, 1979, a notice of "Preliminary Countervailing Duty Determination" was published in the *Federal Register* (44 FR 6820). The notice stated that it had been preliminarily determined that benefits bestowed by the Government of Spain upon the manufacture, production, or exportation of amoxicillin trihydrate constitute the payment of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303) (hereinafter referred to as the "Act"). The instant determination includes amoxicillin trihydrate and its salts, as provided for in item number 407.8517 Tariff Schedules of the United States Annotated. This description is used in order to cover all those products which receive the benefits under consideration.

The benefits are received in the form of an overrebate upon export of the Spanish indirect tax, the "Desgravacion Fiscal." The overrebate consists of three elements: (1) the rebate of taxes on services and non-component inputs which are not physically incorporated in the final product, (2) a credit for a tax assessed on transactions between manufacturers and wholesalers which, in fact, is not assessed on export sales; and (3) a number of "parafiscal" taxes included in the computation of the rebate, which are charges assessed for services provided and which are not levied on an *ad valorem* basis.

The submission of comments by interested parties has been invited, but no additional data have been received. After consideration of the available information, it is hereby determined that exports of amoxicillin trihydrate and its salts from Spain benefit from bounties or grants within the meaning of section 303 of the Act.

The amount of the overrebate has been determined in accordance with the "Notice of Revised Method for Calculation of Bounty or Grant with Regard to Certain Indirect Taxes," published in the *Federal Register* on January 17, 1979 (44 FR 3478).

Accordingly, notice is hereby given that amoxicillin trihydrate and its salts which are imported directly or indirectly

from Spain, if entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*, will be subject to the payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed.

In accordance with section 303 of the Act and until further notice, the net amount of such bounties or grants has been ascertained and determined to be 0.62 percent of the f.o.b. value of the merchandise.

Effective on or after the publication date of this notice, and until further notice, upon the entry, or withdrawal from warehouse, for consumption of such amoxicillin trihydrate and its salts imported directly or indirectly from Spain, which benefit from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration. To the extent that it can be established to the satisfaction of the Commissioner of Customs that imports of amoxicillin trihydrate and its salts from Spain are benefiting from a bounty or grant smaller than the amount which otherwise would be applicable under the above declaration, the smaller amount so established shall be assessed and collected.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacture, production or exportation of amoxicillin trihydrate and its salts from Spain.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting after the last entry for "Spain", the words "amoxicillin trihydrate and its salts" in the column headed "Commodity", the number of this Treasury Decision in the column headed "Treasury Decision" and the words "Bounty Declared-Rate" in the Column headed "Action".

(R.S. 251, as amended, secs. 303, as amended, 624, 46 Stat. 687, as amended, 759 (19 U.S.C. 66, 1303, 1624).)

This final determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order No. 101-5, May 16, 1979, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 154.47 of the Customs Regulations (19 CFR 159.47), insofar as

they pertain to the issuance of a final countervailing duty determination by the Commissioner of Customs, are hereby waived.

July 23, 1979.

Robert H. Mundheim,

General Counsel of the Treasury.

[FR Doc. 79-23219 Filed 7-26-79, 8:45 am]

BILLING CODE 4810-22-M

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 510

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect the change of sponsor for several new animal drug applications (NADA's) from Jensen-Salsbery Laboratories, Division of Richardson-Merrell, Inc., to Jensen-Salsbery Laboratories, Division of Burroughs Wellcome Co.

EFFECTIVE DATE: July 27, 1979.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Jensen-Salsbery Laboratories, Division of Burroughs Wellcome Co., has requested the amendment of several NADA's to provide for the change of sponsor. The regulations are amended to reflect the change.

Under the agency's supplemental approval policy for new animal drug applications the change requested is a Category I change. Accordingly, approval of the request does not require a reevaluation of the data and information in the parent applications.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 510 is amended in § 510.600 in paragraph (c)(1) and (2) by revising the entry for Jensen-Salsbery Laboratories to read as follows:

PART 510—NEW ANIMAL DRUGS

§ 510.600 Names, addresses, and code numbers of sponsors of approved applications.

(c) * * *	
(1) Alphabetical listing of sponsors	
Firm name and address	Drug listing No.
* * * * *	
Jensen-Salsbery Laboratories, Division of Burroughs Wellcome Co. Kansas City, MO 64141.	017220
* * * * *	
(2) Numerical listing of sponsors	
Firm name and address	Drug listing No.
* * * * *	
Jensen-Salsbery Laboratories Division of Burroughs Wellcome Co. Kansas City, MO 64141.	017220
* * * * *	

Effective date. This regulation is effective July 27, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: July 20, 1979.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 79-23168 Filed 7-26-79; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF LABOR**Mine Safety and Health Administration****30 CFR Part 57****Health and Safety Standards—Metal and Nonmetallic Underground Mines****CFR Correction**

The purpose of this document is to inform the public that the reserved entry published in Title 30 Code of Federal Regulations in 1977 and 1978 for mandatory standards 57.21-28 and 57.21-29 is not correct. These standards were revised and promulgated correctly in the *Federal Register* on June 10, 1976 (41 FR 23618) and published in the 1976 Code. They were omitted, however, from the CFR editions of July 1, 1977 and July 1, 1978. They will appear correctly in the July 1, 1979 edition of Title 30, CFR.

This error of omission does not in any way affect the validity or enforceability of these standards.

The correct standards read as follows: 57.21-28 Mandatory. Booster fans shall be:

(a) Operated by permissible drive units maintained in permissible condition.

(b) Operated only in air containing less than 1.0 percent methane.

(c) Kept in continuous operation when persons are in active workings of the mine affected by such fans.

57.21-29 Mandatory. Booster fans shall be:

(a) Provided with an automatic signal device to give warning or alarm should the fan system malfunction. The signal device shall be so located that it can be seen or heard by a responsible person at all times when persons are underground.

(b) Equipped with a device that automatically deenergizes the power in affected active workings should the fan system malfunction.

(c) Provided with air locks, the doors of which open automatically should the fan stop.

(d) Equipped with two sets of controls capable of starting, stopping, and reversing the fans. One set of controls shall be located at the fans. A second set of controls shall be at another location remote from the fans.

BILLING CODE 6820-27-M

DEPARTMENT OF DEFENSE**Department of the Army****32 CFR Part 633**

[Army Reg. 195-2]

Individual Requests for Access or Amendment of CID Reports of Investigation

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Army is amending its regulation on Criminal Investigation Activities (AR 195-2) to permit individuals to request amendment of criminal investigation records maintained by the US Army Criminal Investigation Command (USACIDC). The amendment provides the procedures for individuals to request amendment of USACIDC investigative records pertaining to them that are exempt from amendment under procedures set forth in 32 CFR Part 505 (Army Regulation 340-21).

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Russell A. Powell, Chief, Release of Information Division, (202) 756-2281 or write to: Commander, US Army Criminal Investigation Command, ATTN: CIJA-RI, 5611 Columbia Pike, Falls Church, VA 22041.

SUPPLEMENTARY INFORMATION: The proposed amendment was published in the *Federal Register* issue of May 14, 1979 (44 FR 28008) for public comment

by June 11, 1979. No comments were received; accordingly, 32 CFR is amended by adding a new Subchapter 1 and a new Part 633 as set forth below:

PART 633—INDIVIDUAL REQUESTS FOR ACCESS OR AMENDMENT OF CID REPORTS OF INVESTIGATION**Subchapter 1—Law Enforcement and Criminal Investigations**

Sec.

633.11 Access to CID reports.

633.12 Amendment to CID reports.

633.13 Submission of requests.

Authority: Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012.

§ 633.11 Access to CID reports.

All requests for access to CID reports made under the Privacy or Freedom of Information Acts will be processed in accordance with AR 340-21 and AR 340-17, respectively.

§ 633.12 Amendment to CID reports.

USACIDC reports of investigation (ROI) are exempt from the amendment provisions of the Privacy Act and AR 340-21. Requests for amendment will be considered only under the provisions of this regulation. Requests to amend USACIDC reports will be granted only if the individual submits new, relevant and material facts that are determined to warrant their inclusion in or revision of the ROI. The burden of proof is on the individual to substantiate the request. Requests to delete a person's name from the title block will be granted only if it is determined that there is not probable cause to believe that the individual committed the offense for which he or she is listed as a subject. It is emphasized that the decision to list a person's name in the title block of a USACIDC report of investigation is an investigative determination that is independent of whether or not subsequent judicial, nonjudicial or administrative action is taken against the individual. Within these parameters, any changes in the ROI rest within the sole discretion of the Commanding General. USACIDC, whose decision will constitute final action on behalf of the Secretary of the Army with respect to this regulation.

633.13 Submission of requests.

Requests for access to or amendment of USACIDC investigative reports will be forwarded to Commander, USACIDC, ATTN: CIJA-RI, 5611 Columbia Pike, Falls Church, VA 22041.

Source: AR 195-2.

By authority of the Secretary of the Army.

Dated: July 20, 1979.

Rome D. Smyth,

Colonel, U.S. Army Director, Administrative Management, TAGCEN.

[FR Doc. 79-23216 Filed 7-26-79; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers**33 CFR Part 208****Flood Control Regulations; Marshall Ford Dam and Reservoir, Colorado River, Tex.**

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notification of Authority Citation.

SUMMARY: At 44 FR 24551, April 26, 1979, the U.S. Army Corps of Engineers published the final rule relating to the regulation of Marshall Ford Dam and Reservoir, Colorado River, Texas. That revised regulation plan was jointly supported by the Corps of Engineers, the Bureau of Reclamation and the Lower Colorado River Authority. This document adds the authority citation under which that revision was issued.

EFFECTIVE DATE: May 25, 1979.

ADDRESSES: HQDA (DAEN-CWE-HY) Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Edgar P. Story, Engineering Division, Civil Works Directorate, Office of the Chief of Engineers, Washington, D.C., 20314 (202-693-7330).

SUPPLEMENTARY INFORMATION: The proper authority citation for the rule document 79-12849 which amended § 208.19 published at 44 FR 24551 is as follows:

(Section 7, Pub. L. 78-534, 58 Stat. 890 (33 U.S.C. 709).)

Dated: July 19, 1979.

Maximilian Imhoff,

Colonel, Corps of Engineers, Executive Director of Civil Works.

[FR Doc. 79-23215 Filed 7-26-79; 8:45 am]

BILLING CODE 3710-92-M

DEPARTMENT OF THE INTERIOR**National Park Service****36 CFR Part 7****Special Regulations, Areas of the National Park System; Gateway National Recreation Area; Public Lewdness**

AGENCY: National Park Service.

ACTION: Final Rule.

SUMMARY: Regulations currently in effect at the Gateway National Recreation Area do not provide adequate enforcement authority for the prohibition of lewd behavior. This rule will extend the authority of the National Park Service to enforce New York State law already applicable at the Gateway National Recreation Area which proscribes such activity.

EFFECTIVE DATE: July 27, 1979.

ADDRESSES: Comments should be directed to: Superintendent, Gateway National Recreation Area, Building #69, Floyd Bennett Field, Brooklyn, New York 11234.

FOR FURTHER INFORMATION CONTACT: Herbert S. Cables, Jr., Superintendent, Gateway National Recreation Area. Telephone: (212) 252-9150.

SUPPLEMENTARY INFORMATION:**Background**

The regulation is being promulgated in response to a growing concern by the visiting public as well as residents adjacent to Gateway National Recreation Area. The purpose is to allow for enforcement by the National Park Service of New York Penal Code, Section 245.000 regarding public lewdness. The absence of a Federal Regulation specific to public lewdness has hampered any attempts at regulating such behavior, primarily on the bathing beaches of Jacob Riis Park and elsewhere within Gateway National Recreation Area.

Regulations similar to this one exist in most State or local ordinances and laws, and have generally been deemed enforceable and appropriate for control of lewd behavior. The regulation also provides for consistency in enforcement between both the National Park Service on lands under its jurisdiction and local and State administering agencies on nearby beaches in the State of New York.

Due to the problems encountered during the current summer bathing season and the fact that this regulation has been in force as a part of the New York Penal Code for some time, the National Park Service has determined that immediate implementation of this regulation is necessary to adequately provide for proper use and the maintenance of order at Gateway National Recreation Area. Therefore, it is deemed both unnecessary and contrary to the public interest to provide a notice of proposed rulemaking on this action or delay the effective date for 30 days after publication. However, interested persons who wish to make comments or suggestions on this

regulation may do so by writing the Superintendent. All comments received will be reviewed to determine if revision of these regulations is necessary.

Authority

Section 3 of the Act of August 25, 1916, (39 Stat. 535, as amended, 16 U.S.C. 3); the Act of October 27, 1972 (85 Stat. 1311, 16 U.S.C. 460 cc-2); 245 DMI (42 FR 12931); National Park Service Order 77 (38 FR 7478, as amended).

Drafting Information

The following persons participated in the writing of this regulation: Terry Ryan, Regional Solicitor's Office, Newton, Massachusetts; Donald L. Jackson, North Atlantic Region, National Park Service.

Impact Analysis

The National Park Service has determined that this document is not a significant rule requiring preparation of a regulatory analysis under Executive Order 12044 and Part 14 of Title 43 of the Code of Federal Regulations; nor is it a major Federal Action significantly affecting the quality of the human environment, which would require preparation of an Environmental Impact Statement.

Daniel J. Tobin, Jr.,

Associate Director, Management and Operations.

In consideration of the foregoing,

§ 7.29 of Title 36, Code of Federal Regulations is amended by the addition of a new paragraph (c) as follows:

§ 7.29 Gateway National Recreation Area.

(c) *Public Lewdness.* Section 245.00 of the New York Penal Code is hereby adopted and incorporated into the regulations of this Part. Section 245.00 provides that:

A person is guilty of public lewdness when he intentionally exposes the private and intimate parts of his body in a lewd manner or commits any other lewd act (a) in a public place, or (b) in private premises under circumstances in which he may readily be observed from either a public place or from other private premises, and with intent that he be so observed.

[FR Doc. 79-23210 Filed 7-26-79; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5671

(OR 17492)

Oregon; Powersite Restoration No. 717; Partial Revocation of Powersite Reserve No. 108

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: This order will partially revoke Powersite Reserve No. 108 as to certain lands lying along the Walla Walla River in northeastern Oregon. The lands will be restored to operation of the public land laws.

EFFECTIVE DATE: August 24, 1979.

FOR FURTHER INFORMATION CONTACT: Louis B. Bellesi, 202-343-8731.

By virtue of the authority contained in section 204 of the Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination of the Federal Power Commission (now the Federal Energy Regulatory Commission) in DA-544—Oregon, it is ordered as follows:

1. The Executive Order of July 2, 1910, creating Powersite Reserve No. 108 is hereby revoked so far as it affects the following described land:

Williamette Meridian
Public Land:

T. 4 N., R. 37 E.,
Sec. 9, NE¼SE¼;
Sec. 10, lots 1 and 4 and SE¼NW¼;
Sec. 11, lot 7;
Sec. 12, SE¼NE¼;
Sec. 14, lots 1 and 2, W¼NE¼ and NW¼;
Sec. 15, N¼NE¼.

Containing 645.80 acres.

Nonpublic Land:

T. 4 N., R. 37 E.,
Sec. 12, lots 1, 2, 3, and 4, NE¼SW¼ and N¼SE¼;
Sec. 13, N¼NW¼ and SW¼NW¼.

Containing 399.76 acres.

The areas described, including both public and nonpublic land, aggregates 1,045.56 acres in Baker County.

2. The State of Oregon has waived its right to select lands for highway rights-of-ways or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

3. At 10 a.m., on August 24, 1979, the public lands described above shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m., on August

24, 1979, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The public lands described above have been and continue to be open to applications and offers under the mineral leasing laws, and to location under the United States mining laws. Inquiries concerning the lands should be addressed to the Chief, Branch of Land and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

July 19, 1979.

Guy R. Martin,

Assistant Secretary of the Interior.

(FR Doc. 79-23217 Filed 7-26-79; 8:45 am)

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

(BC Docket No. 79-69; RM-3257)

FM Broadcast Station in Beloit, Kansas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a first Class A FM channel to Beloit, Kansas, in response to a petition filed by Robert D. Zellmer. The channel can be used to bring a first fulltime local radio service to the community.

EFFECTIVE DATE: August 31, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Beloit, Kansas); report and order (Proceeding Terminated).

Adopted: July 18, 1979.

Released: July 25, 1979.

By the Chief, Broadcast Bureau:

1. The Commission has before it the *Notice of Proposed Rule Making*, adopted April 2, 1979, 44 FR 21045, in the above-entitled proceeding, instituted in response to a petition filed by Robert D. Zellmer ("petitioner"). Petitioner proposed the assignment of Channel 288A to Beloit, Kansas, as that community's first FM assignment. No oppositions to the proposal were received.

2. Beloit (pop. 4,121), seat of Mitchell County (pop. 8,010),¹ is located 97 kilometers (60 miles) northwest of Salinas, Kansas. There is no local aural broadcast service in Beloit or elsewhere in Mitchell County. Channel 288A can be assigned to that community in conformity with the minimum distance separation requirements. Petitioner reaffirms his intention to file for the channel, if assigned.

3. In support of his proposal, petitioner submitted information with respect to Beloit which is persuasive as to its need for a first FM channel assignment.

4. We believe that the public interest would be served by the assignment of Channel 288A to Beloit, Kansas. An interest has been shown for its use, and such an assignment would provide Beloit and Mitchell County with a first local aural broadcast service.

5. Accordingly, *it is ordered*, That effective August 31, 1979, the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, is amended with respect to the community listed below:

City	Channel No.
Beloit, Kansas	288A

6. Authority for the adoption of the amendment is contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

8. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

(FR Doc. 79-23148 Filed 7-26-79; 8:45 am)

BILLING CODE 6712-01-M

47 CFR Part 73

(BC Docket No. 78-378; RM-3189)

FM Broadcast Station in Hadley, New York; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order

SUMMARY: Action taken herein assigns FM Channel 228A to Hadley, New York.

¹ Population figures are taken from the 1970 U.S. Census.

in response to a petition filed by the Adirondack Broadcasters Association. The channel could be used to provide a first local aural broadcast service to Hadley.

EFFECTIVE DATE: August 31, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Hadley, New York); report and order. (Proceeding Terminated).

Adopted: July 18, 1979.

Released: July 24, 1979.

By the Chief, Broadcast Bureau:

1. The Commission has under consideration the *Notice of Proposed Rule Making*, adopted December 12, 1978, 43 FR 59405, proposing the assignment of Channel 228A as a first FM assignment to Hadley, New York. The *Notice* was issued in response to a petition filed by Adirondack Broadcasters Association ("petitioner"). Petitioner filed supporting comments reaffirming its intention to promptly apply for the channel, if assigned. No oppositions to the petition were filed.

2. Hadley (pop. 1,128), in Saratoga County (pop. 121,679)¹, is located approximately 72 kilometers (45 miles) north of Albany, New York. There is no local aural broadcast service in Hadley.

3. Petitioner states that Hadley is in a steadily growing area which attracts a large tourist population during the summertime. Petitioner states that the proposed station would serve other small communities in the area by presenting local news coverage that would be responsive to their needs.

4. The Canadian Government has given its concurrence to the proposed assignment of Channel 228A to Hadley, New York.

5. We have given careful consideration to the proposal and believe that Channel 228A should be assigned to Hadley, New York. An interest has been shown for its use and the assignment would provide the community with an opportunity to acquire its first local broadcast service which would be in the public interest.

6. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as

¹ Population figures are taken from the 1970 U.S. Census.

amended, and § 0.281 of the Commission's Rules.

7. In view of the foregoing, *it is ordered*, That effective August 31, 1979, § 73.202(b) of the Commission's Rules the FM Table of Assignments, as regards Hadley, New York, is amended to read as follows:

City and Channel No.

Hadley, New York—228A.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

9. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communication Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

(FR Doc. 79-23154 Filed 7-26-79; 8:45 am)

BILLING CODE 6712-01-M

47 CFR Part 73

(BC Docket No. 78-182; RM-3084)

FM Broadcast Station in Metropolis, Illinois; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a Class A FM channel to Metropolis, Illinois. Petitioner, Owensboro On The Air, Inc., states the assigned channel can be used to provide a first full-time local aural broadcast service to the community.

EFFECTIVE DATE: August 31, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Metropolis, Illinois); report and order (Proceeding Terminated).

Adopted: July 18, 1979.

Released: July 25, 1979.

By the Chief, Broadcast Bureau:

1. The Commission here considers a proposal for the assignment of FM Channel 252A to Metropolis, Illinois, as that community's first FM assignment. This proceeding was initiated by a *Notice of Proposed Rule Making*, adopted June 14, 1978, 43 FR 27572, based on a petition filed by Owensboro

On The Air, Inc. ("petitioner"). Supporting comments were filed by petitioner reaffirming its intention to file for the channel, if assigned. Comments were also filed by Purchase Sound, Inc. ("Purchase") to which petitioner responded.

2. Metropolis (pop. 6,940), seat of Massac County (pop. 13,889),¹ is located approximately 16 kilometers (10 miles) northwest of Paducah, Kentucky. Metropolis is presently served by a daytime-only AM Station (WMOK).

3. Petitioner states that Metropolis is the retail and industrial center of Massac County. It has submitted sufficient information with respect to Metropolis to demonstrate its need for a first FM assignment.

4. In its filing in this proceeding, Purchase points to its reply comments in another proceeding,² which it believes has a bearing on the action to be taken here. Specifically, Purchase asserts that the assignment of Channel 252A at Metropolis, Illinois, would preclude assigning the channel to Wickliffe or Bardwell, Kentucky.

5. In reply, petitioner acknowledges the conflict between a Channel 252A assignment to either Wickliffe or Bardwell, and its use at Metropolis. However, it emphasizes its view that the proposed channel is needed at Metropolis to bring the first full-time aural broadcast service to the community.

6. A study by the Commission's engineering staff reveals that Channel 252A cannot be assigned to Wickliffe because it cannot meet the distance separation requirements and still provide principal city coverage. Although it can be assigned to Bardwell, no interest in such an assignment has been shown. Consequently, we do not consider this matter an impediment to favorable action on the Metropolis proposal. A demand has been expressed for an FM channel in Metropolis, Illinois. The assignment can be made in conformity with the minimum distance separation requirements and bring a needed service to the community. Accordingly, we will assign Channel 252A to Metropolis.

7. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

¹ Population figures are taken from the 1970 U.S. Census.

² This proceeding (Docket No. 21504) involves proposals concerning FM assignments to Wickliffe and Mayfield, Kentucky, and Henderson, Tennessee.

8. In view of the foregoing, *it is ordered*. That effective August 31, 1979, § 73.202(b) of the Commission's Rules and Regulations, the FM Table of Assignments, is amended to read as follows:

City	Channel No.
Metropolis, Illinois	252A

9. *It is further ordered*. That this proceeding is terminated.

10. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79-23150 Filed 7-26-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 78-257; RM-3079; RM-3122; RM-3212]

FM Broadcast Stations in Lake Placid, Saranac Lake and Tupper Lake, N.Y. and South Burlington, Vt.; Changes made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: FCC added new FM channels at Lake Placid, New York (Channel 288A), Tupper Lake, New York (Channel 272A), and South Burlington, Vermont (Channel 237A), at the request of parties who wish to build new FM stations in the three communities. The Commission also substituted Channel 269A for Channel 237A at Saranac Lake, New York (which is presently an unused assignment) in order to be able to make the three other assignments.

EFFECTIVE DATE: September 3, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Carol P. Foelak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Tupper Lake, Saranac Lake, and Lake Placid, New York, and South Burlington, Vermont.); report and order (Proceeding Terminated).

Adopted: July 19, 1979.

Released: July 25, 1979.

By the Chief, Broadcast Bureau:

1. In response to a petition filed by DeHart Broadcasting Corporation ("DeHart"), and comments filed by WIRD, Inc. ("WIRD"), we adopted a *Notice of Proposed Rule Making*, 43 FR 37724 (1978). It proposed (1) to add FM Channel 269A to Saranac Lake, New York; (2) to delete Channel 237A from Saranac Lake and add it to Lake Placid, New York; and (3) add Channel 272A to Tupper Lake, New York. DeHart wished to build a station at Tupper Lake, and WIRD had filed an application for a construction permit to build a new station using the present Channel 237A. Saranac Lake, assignment at Lake Placid, as permitted by the 10 mile rule (Section 73.203).

City ¹	Present	Proposed	G and K No. 1	G and K No. 2
Lake Placid, New York		237A	268A	269A
Saranac Lake, New York	237A	269A	268A	
Tupper Lake, New York		272A	272A	272A
South Burlington, Vermont			237A	237A

¹Community data on new communities proposed: Tupper Lake (1970 population 4,854) in Franklin County (1970 population 43,931) is about 88 kilometers (55 miles) south of the Canadian border and 105 kilometers (65 miles) west southwest of Burlington, Vermont. It has no local aural service. South Burlington (1970 population 10,032) is adjacent to Burlington (1970 population 38,633) and is 58 kilometers (36 miles) south of the Canadian border. South Burlington has no local aural service. Burlington has three full-time AM and two Class C FM stations. Lake Placid, according to the 1975 U.S. Census estimates had a population of 2,825, and is within 10 miles of Saranac Lake, which had a 1970 population of 6,086. Lake Placid presently has one daytime AM station, and Saranac Lake has one full-time AM station.

4. For reasons discussed below, we will adopt the "G and K No. 1" proposal. This will accommodate everyone who wishes to build a station and still leave Saranac Lake with an assignment for future development.¹

5. WIRD says that there is a great need for a first nighttime service at Lake Placid, which it hopes to provide on Channel 237A. Its only reason for opposing the assignment of Channel 288A at Lake Placid is that is short spaced by three miles to a Canadian assignment, so that it would not be able to operate a station on Channel 288A from its existing WIRD-AM transmitter site, which it says is the only practicable site. Now that Canadian government approval has been obtained for a three mile short spacing of Channel 288A, to allow a station on Channel 288A be operated from WIRD's site, this is no longer an impediment. The site already meets all domestic spacing requirements.

6. WW was concerned with the impact that any assignment in the area might have on its petition to assign Channel 224A to Ogdensburg, New York, and substitute Channel 237A for 224A at Gouverneur, New York. Subsequently we acted on its petition.

2. *Pleadings*. Comments were timely filed by the following: (1) DeHart, affirming its intent to apply for and build a station at Tupper Lake, if an assignment is made there; (2) Howard Ginsberg and Russel Kinsley ("G and K"), who made two counter-proposals to allow assignment of Channel 237A to South Burlington, Vermont, where they wish to build a station; (3) WIRD; and (4) The Wireless Works, Inc. ("WW"). Reply comments were timely filed by Vermont Broadcasting Corporation and International Television Corporation, both opposing any assignment at South Burlington. First we will describe the proposals before us and then turn to problems raised by commenting parties.

3. The options before us are set forth in the following chart:

and the channel assignments it requested have been made. Even so, Channel 237A can still be used at South Burlington.

7. This leaves only the objections of Vermont Broadcasting Corporation and International Television Corporation to any assignment at South Burlington. Both are licensees of stations in Burlington, and they argue that South Burlington is not a separate community but rather is part of Burlington, which they maintain is already amply served by radio stations. Further, if considered as a Burlington assignment, they note that G and K's proposed site would not provide principal community coverage to all of Burlington.

8. Contrary to the opponents arguments, G and K have provided enough information to show that South Burlington is a separate community. It has a substantial population, being the seventh largest community in Vermont, has a number of business enterprises, and its own local government (council and city manager). Further, in any close case we would tend to decide in favor of

¹ Fortunately, the original problems with this approach have been resolved.

bringing new service to a community, since increasing diversity of programming for an audience is one of our most fundamental goals. G and K's Plan No. 1 is preferable to No. 2, which would deprive Saranac Lake of any assignment. The site proposed by G and K is 7 miles southwest of South Burlington. Although it is short spaced to an adjacent channel Canadian station, Canadian government approval has been obtained for the short spacing. The site meets all domestic spacing requirements, and a station operating from this site should be able to provide the required city coverage to South Burlington.

9. Accordingly, *it is ordered*. That effective September 3, 1979, Section 73.202(b) of the Rules, the FM Table of Assignments, is amended as follows:

City and Channel No.

Lake Placid, N.Y.—288A
Saranac Lake, N.Y.—269A
Tupper Lake, N.Y.—272A
South Burlington, VT.—237A

10. Authority for the action taken herein is found in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

11. *It is further ordered*. That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79-23145 Filed 7-26-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 78-384; RM-3187; RM-3201]

FM Broadcast Station in Scottville, Mich.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a first Class A FM channel to Scottville, Michigan, in responses to petitions filed by Eldon Stielstra and Eugene A. Barre. The channel assignment could be used to provide a first local aural broadcast service to the community.

EFFECTIVE DATE: August 31, 1979.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Scottville, Michigan); report and order (Proceeding Terminated).

Adopted: July 18, 1979.

Released: July 25, 1979.

By the Chief, Broadcast Bureau: 1. The Commission now considers the *Notice of Proposed Rule Making*, 43 FR 60310, adopted December 12, 1978, in response to two petitions filed by Eldon Stielstra and Eugene A. Barre. Both petitions proposed the assignment of channel 240A to Scottville, Michigan, as that Community's first FM assignment. Letters from local citizens have been submitted in support of the proposed assignment. Petitioners reaffirmed their intent to file an application for the proposed channel, if assigned.

2. Scottville (pop. 1,202), in Mason County (pop. 22,612), is located approximately 129 kilometers (80 miles) northwest of Grand Rapids, Michigan, near the eastern shore of Lake Michigan. There is no local aural broadcast service in Scottville. Channel 240A could be assigned to Scottville in compliance with the minimum distance separation requirements.

3. In support of their proposals, petitioners assert that Scottville is the center of some of the State's finest recreational and farming regions, with the land immediately surrounding Scottville being used for the growing of fruit, vegetables and grain. Petitioners add that the principal industry, Stokley-Van Camp Foods, employs 425 people during the packing season.

4. The Canadian Government has given its concurrence to the proposed assignment of Channel 240A to Scottville, Michigan.

5. We believe that the public interest would be served by the assignment of FM Channel 240A to Scottville, Michigan. An interest has been expressed for its use, and such an assignment could provide the community with its first local aural broadcast service.

6. Accordingly, *it is ordered*. That effective August 31, 1979, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended as it pertains to the community listed below:

¹ Population figures are taken from the 1970 U.S. Census.

City	Channel No.
Scottville, Michigan	240A

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

8. *It is further ordered*. That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79-23149 Filed 7-26-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 79-74; RM-3148]

Television Broadcast Station in Dillingham, Alaska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a first VHF television channel to Dillingham, Alaska, in response to a petition from the city. The assignment would make possible a station which could provide a first local television service to the community.

EFFECTIVE DATE: August 31, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Dillingham, Alaska); report and order (Proceeding Terminated).

Adopted: July 18, 1979.

Released: July 24, 1979.

By the Chief, Broadcast Bureau: 1. The Commission has before it the *Notice of Proposed Rule Making*, 44 FR 21048, in response to a petition filed by the City of Dillingham ("petitioner"), requesting the assignment of VHF television Channel 10 to Dillingham, Alaska. Supporting comments were filed by petitioner in which it reaffirmed its intention to file an application for the proposed channel, if assigned. No oppositions to the proposal were received.

2. Dillingham (pop. 914),¹ is located in southwest Alaska, approximately 265 kilometers (165 miles) southeast of Bethel and more than 500 kilometers (310 miles) southwest of Anchorage. There are no television channels assigned to Dillingham.

3. As we indicated in the *Notice*, the proposed assignment meets the distance separation requirements and other technical criteria. Petitioner submitted information with respect to Dillingham and its need for a first television channel assignment.

4. In view of the foregoing, we conclude that it would be in the public interest to make the requested assignment to provide a first local television service to Dillingham.

5. Accordingly, it is ordered, That effective August 31, 1979, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended with regard to the city listed below:

City	Channel No.
Dillingham, Alaska	10

6. Authority for the action taken herein is found in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

8. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

Federal Communications Commission.

Richard J. Shiben,
Chief, Broadcast Bureau.

[FR Doc. 79-23151 Filed 7-26-79; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 26

Public Entry and Use, Arctic National Wildlife Range Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulations.

SUMMARY: The Director has determined that the opening to public entry and use of the Arctic National Wildlife Range is compatible with the objectives for which these areas were established and will provide additional recreational

opportunity to the public. These special regulations describe the conditions under which public entry and use will be permitted on the Arctic National Wildlife Range.

EFFECTIVE DATES: These regulations are effective from date of publication (July 27, 1979) through May 31, 1980.

FOR FURTHER INFORMATION CONTACT: Averill Thayer, Refuge Manager, Arctic National Wildlife Range, Federal Building and Courthouse, 101 12th Ave., Box 20, Fairbanks, Alaska 99701. Telephone number: 907-452-1951, extension 250.

SUPPLEMENTARY INFORMATION: The primary author of this document is Averill Thayer, Refuge Manager, Arctic National Wildlife Range. The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation. The recreational use authorized by these regulations will not interfere with the primary purposes for which the Arctic National Wildlife Range was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976, and Public Land Order 2214. Funds are available for the administration of recreational activities permitted by these regulations. Public Entry And Use is allowed on the Arctic National Wildlife Range in accordance with all applicable State and Federal regulations, subject to the following special regulations.

§ 26.34 Special regulations concerning public access, use and recreation for individual National Wildlife Refuges.

Arctic National Wildlife Range

1. Permission to enter or use that portion of the refuge selected by the Native villages under the Alaska Native Claims Settlement Act should be obtained from the respective village.

2. Except in emergencies or when specially permitted, aircraft may land only on lakes, streams and gravel bars.

3. Aircraft must remain at least 2,000 feet above the ground; except when landing and taking off or in event of adverse weather or other emergencies.

4. Snow machines less than 46 inches in width may be used for subsistence purposes, provided snow depth is sufficient to protect underlying vegetation. All other motorized land vehicles are prohibited, unless authorized by Special Use Permits.

5. The use of motorized watercraft is prohibited, except on the Beaufort Sea.

6. Wild berries may be picked for personal use.

7. Firearms and other weapons may be possessed, provided they are of the type that may be legally possessed under existing State and Federal regulations. Target shooting and plinking are prohibited.

8. Domestic animals shall not be permitted to enter the Wildlife Range. The Refuge Manager may issue Special Use Permits authorizing pack animals and dog teams. Permits are not required for dog teams and pack dogs being used in subsistence activities.

9. All refuse that is not completely burned must be removed from the Wildlife Range.

The provisions of these Proposed Special Regulations supplement the General Regulations which govern Public Use and Entry on wildlife refuge areas, which are set forth in Title 50 Code of Federal Regulations, Parts 26 and other applicable State and Federal Regulations. The public is invited to offer suggestions and comments at any time.

Dated July 20, 1979.

Le Roy W. Soul,
Deputy Alaska Area Director, U.S. Fish & Wildlife Service.

[FR Doc. 79-23218 Filed 7-26-79; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 32

Hunting; National Wildlife Refuges in Montana and Wyoming

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulations.

SUMMARY: The Director has determined that the opening to hunting of certain National Wildlife Refuges is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. These special regulations describe the condition under which hunting will be permitted on

portions of certain National Wildlife Refuges in Montana and Wyoming.

DATES: September 1, 1979, through January 20, 1980.

FOR FURTHER INFORMATION CONTACT:

The Area Manager, or appropriate Refuge Manager, at the address or telephone number listed below:

Wally Steucke, Area Manager, U.S. Fish and Wildlife Service, Room 3035, Federal Building, 316 North 26th Street, Billings, Montana 59101. Telephone: (406) 657-6115. Robert Pearson, Refuge Manager, Benton Lake National Wildlife Refuge, P.O. Box 450, Black Eagle, Montana 59414. Telephone: (406) 727-7400.

Eugene Sipe, Refuge Manager, Bowdoin National Wildlife Refuge, P.O. Box J, Malta, Montana 59538. Telephone: (406) 654-2863.

Larry Calvert, Refuge Manager, Charles M. Russell, UL Bend, and Lake Mason National Wildlife Refuges, P.O. Box 110, Lewistown, Montana 59457. Telephone: (406) 538-8707.

Robert Twist, Refuge Manager, Lee Metcalf National Wildlife Refuge, P.O. Box 257, Stevensville, Montana 59870. Telephone: (406) 777-5552.

John E. Wilbrecht, Refuge Manager, National Elk Refuge, Box C, Jackson, Wyoming 83001. Telephone: (307) 733-2627.

SUPPLEMENTAL INFORMATION: General:

Hunting on portions of the following refuges shall be in accordance with applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. Special conditions applying to individual refuges and maps are available at refuge headquarters or from the office of the Area Manager (addresses listed above).

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires that before any area of the refuge system is used for forms of recreation not directly related to the primary purposes and functions of the area, the Secretary must find that: (1) Such recreational use will not interfere with the primary purposes for which the area was established; and (2) funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these refuges were established. Funds are available for the administration of the

recreational activities permitted by these regulations.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

§ 32.12 Special Regulations: Hunting of migratory game birds for individual wildlife refuge areas.

Montana

Benton Lake National Wildlife Refuge

Public hunting of geese, ducks, coot and mergansers is permitted on approximately 4,100 acres of the Benton Lake National Wildlife Refuge, Black Eagle, Montana.

The following special regulations apply: 1. The refuge will be open to hunting from one-half hour before sunrise to 12:00 noon on the first two days of the general waterfowl season only. Thereafter, hunting hours will be from one-half hour before sunrise to sunset each day.

2. Refuge roads and dikes are closed to hunting. Hunters with retrievers or boats may hunt from the specifically posted 5/6 dike area.

3. Access to and from refuge hunting areas will be on designated roadways only. (This prohibits access from the refuge onto adjacent private lands.)

4. Vehicle travel will be restricted to designated roadways and parking will be restricted to designated parking areas.

5. Hunters are prohibited from constructing permanent blinds on the refuge. Hunting blinds are provided by the refuge. Daily occupancy of the blinds will be on a first come-first served basis.

6. Boats without motors may be used in conjunction with waterfowl hunting activities.

Bowdoin National Wildlife Refuge

Hunting of migratory waterfowl and coot is permitted on approximately 6,200 acres of the Bowdoin National Wildlife Refuge, Malta, Montana.

Charles M. Russell and UL Bend National Wildlife Refuges

Hunting of migratory game birds is permitted on approximately 700,000 acres of the Charles M. Russell and UL Bend National Wildlife Refuges, Lewistown, Montana. Vehicle travel is permitted only on designated roads and trails and all off-road vehicle traffic is prohibited.

Lake Mason National Wildlife Refuge

Hunting of migratory game birds is permitted on approximately 1,600 acres of Lake Mason National Wildlife Refuge, Lewistown, Montana.

Vehicle travel is permitted only on designated roads and trails. Vehicle parking is permitted only in designated areas. No motorized watercraft is allowed.

Lee Metcalf National Wildlife Refuge

Hunting of ducks, geese, coots and mergansers is permitted on portions of Lee Metcalf National Wildlife Refuge, Stevensville, Montana.

The following special regulations apply: 1. All hunters must enter the public hunting area through appropriate check stations.

2. Hunters will be limited to 3 shells per duck of the daily bag limit.

3. All hunters must set blind selection pointer to "taken" upon selecting a blind, and return blind selection pointer to "open" upon leaving the hunting area.

4. Placing blind selection pointer to "taken" determines the occupant of the blind.

5. During periods of high hunter demand, as determined by the Refuge Manager, hunters will be limited to one period only during a day: Period No. 1: Start of shooting hours to 12 noon. Period No. 2: 1 p.m. until close of shooting hours.

6. Hunters must be within 10 feet of designated blind sites while attempting to take and taking of waterfowl game birds.

7. Blind sites will be limited to five hunters each.

8. A designated area will be open to the taking of ducks, geese, coot and mergansers by means of falconry from the opening of the migratory waterfowl season through November 26, 1978. No firearms may be carried in this area.

9. The public hunting area will be closed to entry from 1 hour after sunset until 1½ hours before sunrise.

10. No fishing equipment of any type will be permitted on the public hunting area.

11. Boats are not permitted.

§ 32.22 Special Regulations: Hunting of upland game birds for individual wildlife refuge areas.

Montana

Bowdoin National Wildlife Refuge

Hunting of upland game birds is permitted on approximately 6,200 acres of Bowdoin National Wildlife Refuge, Malta, Montana.

¹ 1970 U.S. Census.

Charles M. Russell and UL Bend National Wildlife Refuges

Sage grouse, sharp-tailed grouse, gray partridge, and ring-necked pheasant hunting is permitted on approximately 700,000 acres of the Charles M. Russell National Wildlife Refuge and UL Bend National Wildlife Refuges, Lewistown, Montana.

Vehicle travel is permitted only on designated roads and trails, and all off-road vehicle traffic is prohibited.

§ 32.32 Special Regulations: Hunting of big game for individual wildlife refuge areas.

Montana

Charles M. Russell and UL Bend National Wildlife Refuges

Either sex elk, either sex antelope and antlered mule deer may be hunted with firearms on the Charles M. Russell and UL Bend National Wildlife Refuges, Lewistown, Montana. Either sex white-tailed deer may also be hunted in Phillips, Valley, McCone, Fergus and Garfield Counties. In addition, either sex elk, mule deer, and white-tailed deer archery hunting is permitted from September 8, 1979, to October 14, 1979. These areas comprise approximately 750,000 acres.

Vehicle travel is permitted only on designated roads and trails and all off-road vehicle traffic is prohibited, including the retrieval of downed game.

Lee Metcalf National Wildlife Refuge

The taking of white-tailed and/or mule deer by bow and arrow will be permitted on designated areas of Lee Metcalf National Wildlife Refuge by means of archery only. The following special conditions apply:

- 1. All hunters must check in and out at checking stations.
- 2. No firearms may be carried in this area.
- 3. The public hunting area will be closed to entry from one hour after sunset until one and one-half hours before sunrise.

Wyoming

National Elk Refuge

Public hunting of elk on the National Elk Refuge, Jackson, Wyoming, is permitted from October 20 through December 9, 1979, on approximately 16,327 acres. Any elk may be hunted during the period from October 20 to November 2, and only antlerless elk may be hunted during the period from November 3 to December 9, 1979. Hunting shall be in accordance with the following special conditions:

- 1. A special permit is required in addition to a valid 1979 State elk hunting license. One hundred twenty special permits (for three hunt periods each week) shall be issued to applicants by drawing at refuge headquarters at 3:00 p.m. on Fridays, October 19, 26 and November 2, 9, 16, 23, 30, unless the Area 77 season closes earlier. Forty permits will be valid for Saturday and Sunday; 40 permits valid Monday and Tuesday; and 40 permits valid Wednesday, Thursday and Friday, each week.
 - 2. Applicants for a special permit must have a hunter safety certification or a current hunter safety instructor card.
 - 3. Persons successful in drawing a permit may not draw again in succeeding drawing, but may apply for unissued permits available after each drawing.
 - 4. Persons without permits may accompany special permit holders, but only permit holders are allowed to possess a firearm. Anyone entering hunt area must wear fluorescent orange, meeting state requirements.
 - 5. Permits will be revoked in the event of a violation of refuge regulations and can result in denial of future privileges on the refuge.
 - 6. Access to the refuge is only through the main gate east of refuge headquarters in Jackson.
 - 7. Vehicles must be parked only in designated parking areas.
 - 8. All motorized travel is prohibited in the hunt area, except that vehicles will be permitted on designated trails after 4:15 p.m. to dark each day to facilitate retrieval of elk killed. Horses are permitted.
 - 9. Citizens Band (C.B.) radios are not allowed in hunt areas.
- July 16, 1979.
Wally Steucke,
Area Manager.
JFR Doc. 79-21159 Filed 7-26-79; 8:45 am
BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 44, No. 146
Friday, July 27, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE
Food and Nutrition Service
[7 CFR Parts 272 and 275]
[Amendment No. 147]
Food Stamp Program; Food Stamp Act of 1977, Points and Hours of Certification and Issuance Services

Correction
In FR Doc. 79-21729, published at page 41076, as Part IV, on Friday, July 13, 1979, on page 41086, Appendices A and B are corrected to read as follows:
BILLING CODE 1505-01-M

Appendix A

Minimum Certification Service Requirements

Size of County or City*	Basic Certification Service Hours (one office)	Service within 30 mile Radius
0-250	30 hours per month/ minimum of some hours per week	Yes, minimum 4 hours every two weeks
251 and above	35 hours per week	Yes, minimum 4 hours every two weeks

* Size is given in number of participating food stamp households. Cities are those incorporated cities considered to be project areas.

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APPENDIX B

MINIMUM ISSUANCE SERVICE REQUIREMENTS

	HIR Card	ATP Card
Opportunity to Participate	30 days from date of application	30 days from date of application
Expedited Service	Three calendar days from filing * date (excluding weekends and holidays)	One calendar day from receipt of ATP (excluding weekends and holidays)
Regular Issuance Cycle and Within 30 Mile Radius)	Two days between 1st and 15th, minimum 6 hours	6 hours within 7 calendar days following receipt
Other Issuance Services	6 hours per calendar week	6 hours per calendar week
Service for Elderly and Disabled	Mail issuance/authorized representative (either State or self provided)/ other appropriate means	

* This requirement is referenced from §273.2(1)(3) published at 43 FR 47846 on October 17, 1978.

BILLING CODE 1505-01-C

DEPARTMENT OF AGRICULTURE
Agricultural Stabilization and
Conservation Service

[7 CFR Part 799]

Compliance With the National
Environmental Policy Act (NEPA)

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Proposed Rule.

SUMMARY: This revised rule prescribes the ASCS procedures for compliance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4332). These procedures supplement the NEPA Regulations issued by the Council on Environmental Quality (CEQ) (40 CFR Parts 1500-1508). These procedures together with the CEQ regulations and USDA regulations provide the guidance necessary to fully comply with the revised NEPA process in carrying out ASCS actions and programs. This revised rule will supersede the earlier guidelines issued by ASCS on December 20, 1974 (39 FR 43996) for implementing Section 102(2)(c) of NEPA.

DATES: Written comments to this proposal are due on or before September 25, 1979.

ADDRESSES: Conservation and Environmental Protection Division, ASCS, USDA, 3096 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Ellsworth R. DeMasters (ASCS) (202) 447-6825.

SUPPLEMENTARY INFORMATION: On December 20, 1974, the Agricultural Stabilization and Conservation Service published a final rule for the implementation of the environmental impact statement (EIS) process as required under Section 102(2)(c) of the National Environmental Policy Act (NEPA). Such regulation has been used in administering ASCS programs since that date. The CEQ, based on Executive Order 11991, recently issued regulations on agency compliance with the NEPA environmental impact process. These CEQ regulations require all Federal agencies to initiate procedures to comply with such NEPA regulations no later than July 30, 1979.

These proposed rules have been developed in consultation with the staff of the Council on Environmental Quality and the Office of Environmental Quality Activities of the USDA. Part 799 of this chapter is hereby amended to read as follows:

PART 799—COMPLIANCE WITH THE
NATIONAL ENVIRONMENTAL POLICY
ACT (NEPA)—AGENCY GUIDELINES
TO SUPPLEMENT NEPA
REGULATIONS ISSUED BY CEQ AND
USDA.

- Sec.
- 799.1 Background.
 - 799.2 Purpose.
 - 799.3 Applicability.
 - 799.4 ASCS officials and offices responsible for carrying out NEPA.
 - 799.5 Definition.
 - 799.6 Adoption of regulations issued by others in implementing the procedural provisions of NEPA.
 - 799.7 Early involvement in private and State and local activities requiring Federal approval.
 - 799.8 Making supplements to EISs a part of the final administrative record.
 - 799.9 Ensuring that environmental factors are considered in agency decisionmaking.
 - 799.10 Criteria and identification of ASCS actions as to degree of involvement under the NEPA process.
 - 799.11 Expedited procedures.
 - 799.12 Program termination.
 - 799.13 Environmental information.

Appendix 1—Organization Chart—ASCS—USDA

Appendix 2—Form ASCS—929

Authority: National Environmental Policy Act (NEPA), as amended, 42 U.S.C. 4321 et seq.; Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991 May 24, 1977); 5 U.S.C. 301; 40 C.F.R. 1507.3; and Title 7, Chapter XXXI, Part 3100, Subpart B.

§ 799.1 Background

The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.) establishes national policies and goals for the protection of the environment. Section 102(2) of NEPA contains certain procedural requirements directed toward the attainment of such goals. The Section also requires all Federal agencies to give appropriate consideration to the environmental effects of their proposed actions in their decisionmaking and to prepare detailed environmental statements on recommendations or reports on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. Executive Order 11991 of May 24, 1977, directed the Council on Environmental Quality (CEQ) to issue regulations to implement the procedural provisions of NEPA. Accordingly, CEQ issued final NEPA regulations (40 CFR Part 1500-1508) on November 29, 1978, which are binding on all Federal agencies as of July 30, 1979. These regulations provide that each Federal

agency shall as necessary adopt implementing procedures to supplement the regulations. Section 1507.3(b) of the CEQ regulations on NEPA identifies those items which must be addressed in agency procedures.

§ 799.2 Purpose.

The purpose of this part is to establish agency procedures which supplement NEPA regulations issued by CEQ and USDA. This regulation together with such NEPA regulations issued by CEQ and USDA will supersede regulations issued by the Agricultural Stabilization and Conservation Service (ASCS) on December 20, 1974 under Title 7, Subchapter F—Part 799, "Preparation of Environmental Impact Statement Guidelines."

§ 799.3 Applicability.

This part together with effective NEPA regulations issued by CEQ and USDA applies to all programs administered by ASCS which might have significant impacts on the environment.

§ 799.4 ASCS officials and offices responsible for carrying out NEPA.

(a) *Responsible officials.* The Administrator of ASCS, or his designee, is the responsible Federal official for carrying out the purpose of NEPA for all ASCS programs. County committees, State committees, and Directors of Washington Divisions, within their respective areas of responsibility with the assistance of the ASCS representative on the USDA Environmental Quality Committee, shall assist the Administrator in complying with the policies and purposes of NEPA generally, and, in particular, in determining whether the quality of the human environment will be significantly affected in implementing agency programs and preparing the necessary environmental documents.

(b) *Offices responsible for carrying out NEPA.*—(1) *Washington divisions.* Legislative proposals and multi-State and national programs or major revisions of national programs.

(2) *State committees.* Major actions on a State or area basis within a State.

(3) *County committees.* Major actions within a county.

(c) All environmental assessments, EIS's and similar documents will be forwarded through the appropriate agency channels to the ASCS representative on the environmental quality committee for review and submission to the Administrator.

§ 799.5 Definitions.

The term "environmental evaluation" means agency appraisal of the potential or likely environmental impacts of proposed legislation, a new program, a major change in a program, an action related to a program or an action related to part of a program which will be used by the responsible agency official to determine whether or not an environmental assessment and/or environmental impact statement is needed. Such appraisal shall relate to the same environmental concerns as an environmental impact statement. The environmental evaluation shall particularly consider the adverse affects of ASCS actions on the environmental factors listed on Form ASCS-929 and on the considerations of significantly in § 1508.27 of CEQ regulations on NEPA. As required, the environmental evaluation shall be made by an interdisciplinary team.

§ 799.6 Adoption of regulations issued by others in implementing the procedural provisions of NEPA.

In addition to provisions provided for in this Part 799, ASCS adopts the NEPA regulations issued by CEQ (40 CFR Parts 1500-1508) and NEPA regulations issued by USDA (Title 7, Chapter XXXI, Part 3100, Subpart B).

§ 799.9 Early involvement in private and State and local activities requiring Federal approval.

(a) Section 1501.2(d) of the NEPA regulations requires agencies to provide for early involvement in actions which, while planned by private applicants or other non-Federal entities, require some form of Federal approval.

(b) To implement the requirements of § 1501.2(d) with respect to these actions ASCS shall:

(1) Prepare where practicable generic guidelines describing the scope and level of environmental information required from applicants as a basis for evaluating their proposed actions, and make these guidelines available upon request.

(2) provide such guidance on a project-by-project basis to applicants seeking assistance from ASCS.

(3) Upon receipt of an application for agency approval, or notification that an application will be filed, consult as required with other appropriate parties to initiate and coordinate the necessary environmental analyses.

(c) The responsibilities under this Section shall be coordinated by the Conservation and Environmental Protection Division of the Agricultural

Stabilization and Conservation Service, Washington, D.C.

(d) To facilitate compliance with paragraph (a) of this section, private applicants and other non-Federal entities are expected to:

(1) Contact ASCS as early as possible in the planning process for guidance on the scope and level of environmental information required to be submitted in support of their application;

(2) Conduct any studies which are deemed necessary and appropriate by ASCS to determine the impact of the proposed action on the human environment;

(3) Consult with appropriate Federal, regional, State and local agencies and other potentially interested parties during preliminary planning stages to ensure that all environmental factors are identified;

(4) Submit applications for all Federal, regional, State and local approvals as early as possible in the planning process;

(5) Notify ASCS as early as possible of all other Federal, regional, State, local and Indian tribe actions required for project completion so that ASCS may coordinate all Federal environmental reviews; and

(6) Notify ASCS of all known parties potentially affected by or interested in the proposed action.

§ 799.8 Making supplements to EISs a part of the final administrative record.

Where ASCS evaluates a proposal on the basis of a formal administrative record, and an EIS on the proposal has been prepared, any supplement to the EIS shall be made a part of the formal record before a final decision on the proposal is made.

§ 799.9 Ensuring that environmental factors are considered in agency decisionmaking.

(a) Section 1501.1 of the NEPA regulations contains requirements to ensure adequate consideration of environmental factors in agency decisionmaking. To implement these requirements, ASCS officials shall:

(1) Consider all relevant environmental factors in evaluating proposals for agency action;

(2) Make all relevant environmental documents, comments and responses part of the record in formal rulemaking or adjudicatory proceedings;

(3) Ensure that all relevant environmental documents, comments and responses accompany the proposal through existing agency review processes;

(4) Consider only those alternatives encompassed by the range of alternatives discussed in the relevant environmental documents when evaluating proposals for agency action.

(5) Where an EIS has been prepared, consider the specific alternatives analyzed in the EIS when evaluating the proposal which is the subject of the EIS.

(b) The major decision points for involving the NEPA process in ASCS programs will relate to four categories of ASCS activities that have or are likely to have significant environmental impacts on the human environment. The categories are:

(1) Legislative Proposals.

(2) Initial Program Implementation.

(3) Major changes in ongoing Programs.

(4) Major environmental concerns with ongoing Programs.

(c) The decision points for NEPA involvement in program categories in paragraph (b) of this section shall begin at the time ASCS begins developing proposed legislation, begins the planning stage for implementing a new or changed program or receives notice that an ongoing program may have a significant adverse impact on the quality of the human environment. Where a legislative environmental impact statement or assessment is part of the formal transmittal of a legislative program proposal to Congress, such legislative environmental impact statement or assessment may negate the need for the subsequent preparation of a program impact statement when ASCS implements the resulting program. The decision whether or not such additional statement is needed will be made by an interdisciplinary team. The NEPA process on legislative proposals and ASCS programs is carried out at the national level.

(d) Individual farm participation in ASCS programs will normally not require any major involvement with the NEPA process. The practices carried out under ASCS programs that might have impacts on the quality of the human environment will normally have been related to in environmental assessments or impacts statements on the respective program. In addition, all practices carried out under ASCS programs which require technical assistance from the Soil Conservation Service (SCS) are subject to an environmental evaluation by SCS. The ASC county committee (COC) will consider the SCS determination of environmental significance in its decisionmaking process. For those practices which might significantly affect the quality of the human environment, the county

committee shall make an environmental evaluation before approval. If the environmental evaluation shows that the implementation of a proposed ASCS practice on an individual farm will have significant adverse effects on the quality of the human environment, the COC will not approve the practice implementation until after the completion of the NEPA-EIS process in accordance with this part. It is hereby determined that individual farm participation in acreage set-aside, acreage allotments, price support and loans and other similar or related programs will not significantly affect the quality of the human environment.

(e) The county committee with the assistance of a local interdisciplinary team, as necessary, shall make an environmental evaluation of all proposed pooling agreements and special projects under ASCS programs involving a number of farmers in a local geographic area that have a potential for significantly affecting the quality of the human environment. The NEPA process shall begin with the initial involvement of ASCS personnel in the planning or development of pooling agreements or special projects. If it is determined from an environmental evaluation that the implementation of a proposed pooling agreement or a proposed special project will have a significant adverse impact on the quality of the human environment, the completion of the NEPA-EIS process in accordance with these regulations will be necessary before approval.

§ 799.10 Criteria and Identification of ASCS actions as to degree of involvement under the NEPA process.

(a) ASCS will for each of its legislative proposals, initial program implementations, program changes or any related actions make a determination by the use of an environmental evaluation, whether such actions will potentially have a significant impact on the quality of the human environment.

(b) Section 1507.3(c)(2) in conjunction with § 1508.4 of NEPA regulations issued by CEQ requires agencies to establish those typical classes of actions for treatment under NEPA. The typical classes of action for ASCS are set forth below:

(1) Actions Normally Requiring EIS.

(i) Production adjustment programs to balance supply and demand of specified commodities, through cropland set-aside or other acreage diversion.

(ii) Agricultural Conservation Program.

(iii) Other major actions that are determined after an environmental

evaluation and/or an environmental assessment to significantly affect the quality of the human environment.

(2) Actions Normally Not Requiring Assessments or EISs.

(i) Individual farm participation in ASCS programs.

(ii) Production adjustment programs for tobacco, peanuts and extra long staple cotton.

(iii) Emergency Conservation Program.

(iv) Water Bank Program.

(v) Forestry Incentives Program.

(vi) Sugar Program.

(vii) Wool and Mohair Incentives Program.

(viii) Bee and Dairy Indemnity Programs.

(ix) Commodity Income Support and Disaster Protection Programs.

(x) Facility Loan Program.

(xi) Grain Reserve Program.

(xii) Livestock Feed Program.

(xiii) Naval Stores Program.

(xiv) Other major actions that are determined after an environmental evaluation not to significantly affect the quality of the human environment.

(c) ASCS will independently determine by an environmental evaluation whether and EIS or an environmental assessment is required on actions included in paragraph (b) of this section where the presence of extraordinary circumstances or other unforeseeable factors indicate that some other level of environmental review may be appropriate.

(d) If an environmental evaluation indicates that an action will significantly affect the quality of the human environment, the preparation of an environmental assessment and/or an EIS will be necessary.

§ 799.11 Expedited procedures.

Where emergency circumstances make it necessary to take action with significant environmental impact without following the provisions of the NEPA regulations issued by CEQ, USDA, and ASCS, ASCS will, by working through the USDA Office of the Coordinator of Environmental Quality Activities, consult with CEQ and/or EPA about alternative arrangements (7 CFR 3100.36).

§ 799.12 Program termination.

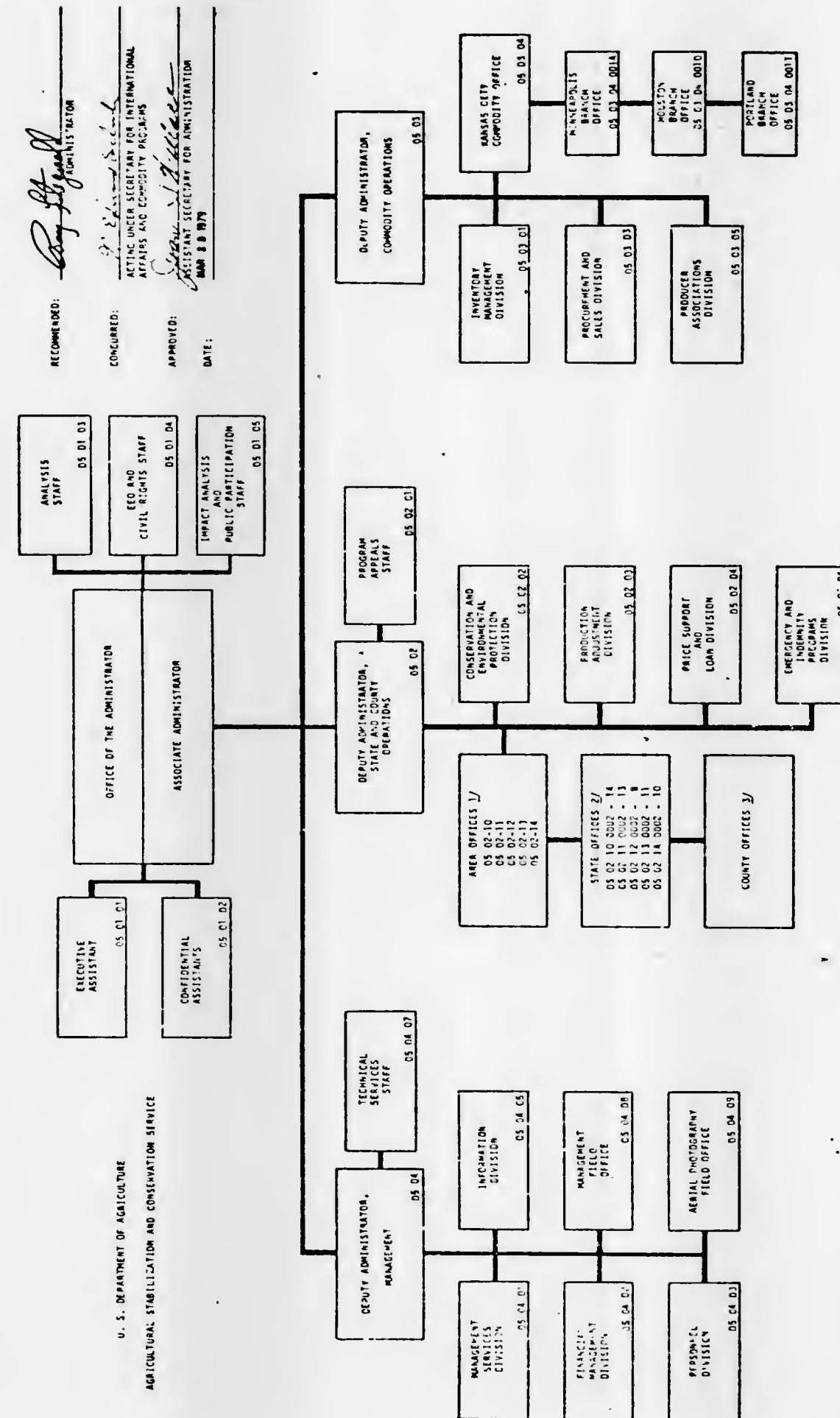
An environmental assessment or an EIS will not be needed when a program or part of a program is discontinued because of a mandatory legislative requirement where the enabling legislation for such program does not provide authority to ameliorate or mitigate any resulting environmental

effects on the quality of the human environment.

§ 799.13 Environmental information.

Interested persons may contact the Conservation and Environmental Protection Division for information regarding ASCS compliance with NEPA. BILLING CODE 3410-05-M

Appendix 1



Appendix 2

ASCS-929
10-1-781U. S. DEPARTMENT OF AGRICULTURE
Agricultural Stabilization and Conservation Service

MATRIX OF ENVIRONMENTAL RELATIONSHIPS

ENVIRONMENTAL FACTORS	POTENTIAL ALTERNATIVES				
	FUTURE WITH- OUT PROGRAM	PROPOSED PROGRAM	1/	1/	1/
Land Cover					
Soil Erosion					
Loss of Prime Cropland					
Water Quantity					
Water Quality					
Ground-Water Quality					
Air Quality					
Odor					
Noise					
Radiation					
Energy Supply					
Pesticides					
Fertilizers					
Woodland Production					
Wildlife Habitat					
Fish Production					
Recreation					
Timber Production					
Wetlands					
Natural Streams					
Service Industries					
Economic					
Population Migration					
Social Values					
Unique					
Archaeological					
Historical					
Natural					
Endangered Species					
Landscape					

REMARKS

Relationship of Impacts Toward the Environment: + Slight; ++ Moderate; +++ Important. 1/ Last alternative to proposed program.

Note.—This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should be classified "significant" under those criteria. It has also been determined that an impact analysis and an Environmental Impact Statement are not necessary since the NEPA process under this regulation is not significantly different than the process currently used by ASCS.

Signed at Washington, D.C., on July 16, 1979.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 79-32977 Filed 7-26-79; 8:45 am]
BILLING CODE 3410-05-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Part 7]

Participation by National Banks in the Sale of Single-Premium Annuity Contracts; Advance Notice of Proposed Rulemaking

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency is considering the issuance of an interpretive ruling regarding the permissibility of national banks' involvement in the sale of single-premium annuity contracts underwritten by insurance companies. The Comptroller has determined that the issues involved are of sufficient complexity and significance to warrant public participation to facilitate a comprehensive gathering of relevant facts, and the identification and selection of a course or alternate courses of action. This notice will solicit relevant public comments on the issues involved to assist the Comptroller in determining whether an interpretive ruling is required.

COMMENTS MUST BE RECEIVED ON OR BEFORE: September 25, 1979.

ADDRESS: Comments should be sent in triplicate to: Mr. John E. Shockey, Chief Counsel, Comptroller of the Currency, Washington, D.C. 20219.

FOR FURTHER INFORMATION CONTACT: Thomas P. Vartanian, Attorney, Comptroller of the Currency, Washington, D.C. 20219 (202) 447-1880.

SUPPLEMENTARY INFORMATION: Since December 1977, this Office has received ruling requests from three insurance

companies and one insurance agency seeking to market single-premium annuity contracts through national banks. Those submissions request the Comptroller to review the annuity proposals and issue a ruling affirming the authority of national banks to participate in such programs under 12 U.S.C. 24 (Seventh), the federal statute which sets forth the powers of national banks.¹ Staff review of these submissions suggests that the legal and policy issues which the proposals raise may be better addressed with the benefit of public participation in an informal rulemaking proceeding. The Comptroller believes that such a proceeding will ensure a comprehensive gathering of all relevant facts, will distinguish and focus legal and policy decisions, and will foster identification and selection of a course or alternate courses of action.

The Proposed Annuity Program

The ruling requests received by this Office have generally described identical annuity programs. After an agreement is reached between a national bank and the sponsoring insurance company, the bank will become a group annuity contract holder, but it will not own the group annuity contract. Thereafter, the bank will be able to enroll its customers in the plan by assisting them to complete the appropriate applications, and will receive expense reimbursements for its services from the insurance company. It is assumed that a participating bank will advertise and announce the availability of the program to its customers using various promotional materials it has prepared or has been provided by the insurance company. Generally, no direct or specific endorsement of the annuity program will be given by the participating bank other than that which can be implied from the fact that the annuity contracts are available through the bank.

Each customer who completes an application form for an annuity will receive a certificate of participation. At that time, the customer (certificate

¹ Section 24 (Seventh) of Title 12 of the United States Code provides in pertinent part:

[A] national banking association * * * shall have power—

.....
Seventh. To exercise by its board of directors or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking; by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin, and bullion; by loaning money on personal security; and by obtaining, issuing, and circulating notes according to the provisions of this chapter.

holder) will furnish the bank with a check for the premium payable to "Insurance Company at National Bank." The bank will accept the deposit and apply it to a segregated account created in the name of "Insurance Company for the benefit of [the annuitant]." The insurance companies contend that they will, in effect, be funding tax deferred annuities by automatically depositing the entire amount of the premiums paid by the certificate holders into accounts segregated from any other general assets of the company and from the accounts of other certificate holders under the group contract.

Each account will be for the benefit of the individual annuitant, but will be owned by the insurance company. However, as presently structured, each customer's segregated account will be separately insured by the Federal Deposit Insurance Corporation up to the maximum \$40,000. The bank will pay the insurance company its usual rate of interest on these accounts and will usually have the authority to enroll customers without prior approval provided that the annuitant is a natural person 90 years of age or less.

The purchaser of the annuity will look exclusively to the insurance company for performance of the annuity contract. In the event of customer complaints, claims, maturity, or death prior to maturity, all communication would be directly between the customer or his legal representative and the insurance company. As proposed, a national bank would not be involved in any of these transactions except to the extent that it is required to pay funds from an account to honor annuity disbursement checks drawn by the insurance company. The customer may have some discretion to determine the date on which annuity payments will begin under the terms of the contract. Payments to the annuitant are generally made out of the deposits maintained at the bank in that particular annuitant's name.

The annuitant's cash value in the annuity will usually be the single premium paid, plus interest accumulated at 3 or 4% per year, compounded annually. The insurance company would make up the difference of interest payable if the bank paid less than the stated amount of interest on the deposits made for the benefit of an annuitant. In addition, certain "excess interest" similar to a dividend can be accrued for the annuitant's benefit pursuant to the terms of the contract document and subject to the discretion of the Board of Directors of the insurance company. As an annuity, the

program offers the attraction of tax deferral on interest, a feature which is not available with respect to interest income generated by a normal savings account in a national bank. With respect to this type of annuity, the Internal Revenue Service apparently has determined that the insurance company will be the recipient of the interest earned on the deposits and is the owner of the deposits for purposes of determining the insurance company's gross investment income under 804(b) of the Internal Revenue Code.

The submissions reviewed by this Office indicate that at least one state (Wisconsin) has approved participation in the program for its state banks. Wisconsin's Commissioner of Banking has indicated that state banks which wish to offer this annuity program to their customers are not required to obtain an insurance license since they will merely be accepting deposits and engaging in certain nondiscretionary administrative duties. Advisory opinions rendered by Wisconsin's Office of the Commissioner of Savings and Loan and by the General Counsel's Office of the Federal Home Loan Bank Board indicate that both federal and state chartered savings and loan associations have no power to act as insurance agents or engage in the insurance business directly, but may make insurance programs available to their members and aid in the marketing of such insurance programs, as long as they are not acting as insurance agents within the purview of applicable state law. Accordingly, some state banks and savings and loan associations in the State of Wisconsin are already engaged in programs offering annuity contracts such as those under consideration here.

The Comptroller has been asked to approve national bank participation in the annuity programs as submitted for the following reasons:

(1) Participation by national banks will not result in national banks or their employees becoming "insurance agents" under 12 U.S.C. 92.²

² Section 92 of Title 2 of the United States Code provides in pertinent part:

In addition to the powers now vested by law in national banking associations organized under the laws of the United States any such association located and doing business in any place the population of which does not exceed five thousand inhabitants, as shown by the last preceding decennial census, may, under such rules and regulations as may be prescribed by the Comptroller of the Currency, act as the agent for any fire, life, or other insurance company authorized by the authorities of the State in which such bank is located to do business in said State, by soliciting and selling insurance and collecting premiums on policies issued by such companies; and may receive for services so rendered such fees or commissions as may be agreed upon between the said

(2) The activities of national banks in connection with the proposed program that are not expressly authorized by applicable federal law will be minimal, and will be convenient or useful in connection with the performance of one of the banks' established activities under 12 U.S.C. 24 (Seventh), the express power to receive deposits.

(3) The proposed program, including national banks' participation therein, will be in the public interest.

Issues for Comment

The Comptroller invites comment on any facet of the proposed program which may explain or amplify the involvement of national banks or discuss the relevant legal authority regarding their participation. Comments are specifically requested on the following areas of interest:

(1) The relevancy and applicability of 12 U.S.C. 92 with respect to the participation of national banks in the program and the possibility of their being considered "agents" as that term is used in that statute.

(2) The function of a participating bank and the nature of its activities in the program as related or compared to those of an insurance agent or an insurance company.

(3) The permissibility of the activity under 12 U.S.C. 24 (Seventh) either as an incidental banking power or the exercise of the express power to accept deposits.

(4) Comparability of a bank's activities under the program to trust, ERISA, IRA, tax and other financial services which national banks are permitted to render.

(5) The applicability and effect of federal and state securities laws.

(6) The applicability and effect of federal and state insurance laws.

(7) Tangible and intangible benefits which a bank may derive from participation in the program, and inversely, interests and relationships between the bank, the insurance company, the directors and officers of both, and the customer which may be in any way detrimental to a bank's position in the community.

(8) The need for limitation or conditioning of an approval of the plan, or for imposition of other regulatory requirements, restraints or monitoring procedures.

(9) The need for disclosure to the consumer of the bank's position in the transaction and the consumer's rights and obligations with respect to the bank, the insurance company and the account.

association and the insurance company for which it may act as agent.

(10) The benefits offered by the annuity plan for investors and savers, especially the middle-income investors and small-savers to whom this plan may be most attractive, and the extent to which it provides an additional financial service not otherwise available to them.

All comments submitted will be available for public inspection at the Comptroller's Offices, 490 L'Enfant Plaza, Washington, D.C. If it is determined to be in the public interest to proceed further after consideration of the available data and comments received in response to this notice, a notice of proposed rulemaking will be issued for additional comment.

Dated: July 19, 1979.

Lewis G. Odom, Jr.,

Acting Comptroller of the Currency.

[FR Doc. 79-33282 Filed 7-26-79; 8:45 am]

BILLING CODE 4810-33-M

CIVIL AERONAUTICS BOARD

[14 CFR Part 223]

[EDR-309B, Docket 29912, Dated July 20, 1979]

Free and Reduced-Rate Transportation

AGENCY: Civil Aeronautics Board.

ACTION: Termination or rulemaking proceeding.

SUMMARY: The CAB is terminating a rulemaking proceeding in which it had proposed to require that carriers obtain CAB approval before providing free or reduced-rate transportation pursuant to a contract or agreement with a foreign government or pursuant to a foreign government law or directive. The CAB had also proposed to require the filing of government laws or directives requesting free or reduced-rate transportation. Under current regulations, such laws or directives need not be filed with the CAB, and carriers can provide free or reduced-rate transportation pursuant to such laws, directives, contracts or agreements before obtaining CAB approval. We believe the proposed prior approval and filing requirements would increase administrative costs for both the industry and the CAB and would be inconsistent with our recent efforts to reduce unnecessary restrictions in this area. We have not encountered significant problems under our current rules and, therefore, find no basis to finalize the proposed rule.

DATED: July 20, 1979.

FOR FURTHER INFORMATION CONTACT: David R. Parker, Attorney-Advisor, Civil Aeronautics Board, 1825 Connecticut Ave., N.W., Washington, D.C. 20428, 202/673-5224.

SUPPLEMENTARY INFORMATION: Section 223.2(b)(3) of the Board's Economic Regulations permits carriers to furnish free or reduced-rate foreign and overseas transportation pursuant to government contracts or agreements, and government laws or directives.¹ Currently, such contracts and agreements must be filed with the Board and are subject to disapproval. Government laws and directives are not expressly required to be filed; however, the proviso to § 223.2(b)(3) prohibits furnishing government-ordered, reduced-rate transportation to members of the "general public". Where carriers provide transportation for the general public the proviso empowers the Board to require the filing of an applicable tariff. The term "general public" is not defined in Part 223.

In EDR-309 (41 FR 45848, October 18, 1976) the Board proposed amending § 223.2(b)(3) to require the filing of laws and government directives. We also proposed requiring carriers to obtain Board approval prior to furnishing transportation under § 223.2(b)(3), whether pursuant to government contract, agreement, law or directive.² We have received comments from two foreign governments, five foreign air carriers, five domestic air carriers, a national travel agent association and a state agency; and numerous individual comments from members of the travel industry—particularly travel journalists. Except for the four American carriers supporting our proposals, response has been overwhelmingly negative.

¹ 14 CFR § 223.2(b)(3).

² The proposal was to amend § 223.2(b) to read as follows:

(b) Any carrier engaged in overseas or foreign air transportation may provide free or reduced-rate overseas or foreign air transportation to:

(3) Other persons to whom such carrier is required to furnish free or reduced-rate transportation by law or government directive or by a contract or agreement, now or hereafter in effect, between such carrier and the government of any country served by such carrier, but only to the extent so required and only if such law or government directive or contract or agreement is filed with the Board and the provision of such transportation is approved by the Board; *Provided, however,* that the Board may without prior notice direct the carrier to file a tariff covering free or reduced-rate overseas or foreign air transportation pursuant to a law, government directive, contract, or agreement that requires the furnishing of such transportation to the public or to any segment thereof.

The responding foreign carriers³ and foreign governments⁴ presented essentially the same arguments in opposing the proposal. Generally, they argued that the Board lacks statutory power to disapprove a directive of foreign carrier and that the proposed rule would be extremely burdensome when applied to individual requests—especially those arising on short notice. They suggested that if government ordered transportation is a real problem, the Board should pursue remedies under bilateral agreements.

Pan American World Airways claimed that the proposed rule would impose administrative burdens upon both the Board and the industry disproportionate to the *de minimus* amount of transportation provided under § 223.2(b)(3); that the proposed rule would serve no regulatory purpose; that a reporting requirement would suffice if the Board wants to monitor the amount of government ordered transportation; and that a reporting requirement could be less burdensome and could permit carriers to respond to short notice requests.

The American Society of Travel Agents (ASTA) alleged that no significant abuse has been shown, and until abuse has been shown, and is demonstrated, there is no basis to require prior approval of government laws, directives, contracts and agreements; that the Board's Bureau of Enforcement (now the Bureau of Consumer Protection) is perfectly capable of addressing any abuses which may exist; and that the filing requirement for government orders would impose a tremendous administrative burden upon the carriers and Board staff.

The Director of Tourism of the Connecticut Department of Commerce claimed that familiarization tours by foreign journalists are an effective way to promote tourism in Connecticut. He opposed any action placing obstacles to transporting top-ranked international journalists pursuant to § 223.2(b)(3).

Finally, we have received numerous comments from travel journalists, unanimously opposing the proposed rule. In particular, they feared that prior approval would preclude carriers from offering transportation on short notice and would have the overall effect of reducing the amount of free familiarization travel offered to those employed in the travel writing industry.

³ Japan Air Lines, Lufthansa German Airlines, Swiss Air, Sabena Belgian World Airlines and Scandinavian Airlines System.

⁴ The Federal Republic of Germany and the Swiss Air Office (via the Embassy of Switzerland).

Comments submitted by U.S. carriers (save for Pan American) generally supported the proposed rule. Trans World Airlines (TWA) claimed that foreign governments are increasingly issuing orders on behalf of persons ineligible under Part 223; that TWA declines to transport such persons; that foreign carriers have not shown similar restraint (frequently succeeding in gathering substantial group business directly related to "government ordered" transportation); and that the proposed rule would erode the unfair advantage foreign air carriers gain by honoring orders to transport ineligible persons.

The other U.S. carriers supporting the proposed rule prefaced their support with reservations. American Airlines hoped the Board would not use prior approval to restrict legitimate and beneficial government ordered transportation. Braniff suggested that language be added making it clear that any tariff filed under § 223.2(b)(3) is subject to the tariff filing procedures set forth in Part 221. Finally, Northwest Airlines requested that we clarify the "general public" proviso of § 223.2(b)(3).

For the reasons stated below, we have decided not to adopt the proposed rules.

First, we have decided not to require prior approval of government contracts and agreements. This requirement, we had believed, would benefit the industry by removing the uncertainties caused by the possibility of Board disapproval of a contract or agreement immediately before or after the transportation is scheduled to be furnished. Upon further examination, however, this requirement appears unnecessary. No commenter has indicated that the uncertainty believed to exist under the current rule presents a problem. If uncertainty is a problem, more rigorous regulation is unlikely to resolve it; a better solution may be to leave these problems to the carriers and governments to resolve. Since we are currently conducting a generic review of our free and reduced-rate transportation policies we may give this question further consideration in that context.

Secondly, we will not require the filing and prior approval of government directives. The Board initially proposed this requirement to obtain more accurate information on the amount of such transportation and because it believed this would alert us to potential violations of the proviso of § 223.2(b)(3). However, collecting this information would impose administrative costs on both the industry and the Board, and although the Board perceived a problem when it proposed this rule, we have subsequently encountered no significant

problem under our current rules. Therefore, the proposed rule would furnish no regulatory objective. Moreover, since this proceeding began, we have substantially relaxed our regulatory policies in the free and reduced-rate transportation area. Recently we stated that the decision to offer free or reduced-rate travel is a judgment best left to the carrier.⁵ Consistent with this policy, we reject the prior approval and filing requirements, leaving it to the carriers to decide, in the first instance, the terms and conditions under which they will honor government directives. If genuine problems arise, we will first try to resolve them through negotiations with foreign governments before imposing costly restrictions on the industry.

Northwest and TWA claimed that many carriers are furnishing free transportation to members of the "general public" in violation of the proviso to § 223.2(b)(3). Northwest requested that we clarify certain terms in that proviso to eliminate the confusion resulting from varying interpretations. Although we will not add any clarifying language, it may be helpful to explain the Board's intention when it added the "general public" proviso to § 223.2(b)(3).

We added the "general public" proviso to § 223.2(b)(3) in 1966.⁶ Our purpose, at that time, was to prevent carriers from evading the tariff filing requirement of the Act by obtaining government directives. This step was considered necessary because of the action of the French Government, in 1964, directing Air France to provide reduced-rate transportation to French "youths" between the ages of 16 and 28. Air France did not file a tariff, which the Board could have protested under the bilateral agreement with France, and argued that none was necessary because § 223.2(b)(3) authorized such transportation as a government order. We added the proviso to § 223.2(b)(3) merely to close this loophole by requiring the filing of such open-ended directives ordering reduced-rate transportation for a large segment of the general public over an extended period of time. Thus, the term "general public"—as used in § 223.2(b)(3)—was never intended to preclude from eligibility specifically named individuals (even though they may ordinarily be considered members of the general public). Nor was the term intended to limit government-ordered transportation exclusively to persons employed in

⁵ Orders 78-12-10 and 78-6-15.

⁶ See, FR-461 (31 FR 6584, May 3, 1966) and EDR-90 (30 FR 11178, August 31, 1965).

travel or travel-related fields, as TWA seems to suggest. The "general public" proviso only prohibits transporting broad categories of persons pursuant to open-ended government directives which should ordinarily be filed as a tariff. Since the Air France incident, however, we have not encountered such conduct; therefore, we see no reason to further clarify the proviso. Although TWA and Northwest allege that abuse exists, the conduct complained of—the carriage of specifically named individuals pursuant to government orders—does not violate the proviso. Carriers transporting such persons are legally within their rights under § 223.2(b)(3).

For the reasons set forth above, we conclude the proposed rule is unnecessary. Accordingly, we terminate the proceeding in Docket 29912.

(Sec. 204, 403 and 416 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758 and 771; 49 U.S.C. 1324, 1373 and 1386.)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-23214 Filed 7-26-79; 8:45 am]

BILLING CODE 6320-01-M

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1632]

Decubitus and Absorbent Mattress Pads; Proposed Exemption From Flammability Testing Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to amend the Standard for the Flammability of Mattresses (and Mattress Pads) (FF 4-72) and the regulations issued under that standard to exempt from the standard (1) those mattress pads that are designed, manufactured, and marketed for use on top of mattresses for the prevention and/or healing of decubitus ulcers (bed sores) and (2) absorbent mattress pads and bed sheets designed, manufactured, and marketed for use of persons who suffer from urinary incontinence. The Commission believes that such pads may be excluded from the standard because, under typical use conditions, they do not present the same hazard of cigarette ignition as do conventional mattresses and mattress pads. The amendment would allow manufacturers of these pads to distribute them without having complied with the test

requirements of the standard. However, the exempted mattress pads would be required to be accompanied by a warning statement, or to bear a label, warning the user that the pads have not been tested under the Standard for the Flammability of Mattresses (and Mattress Pads) and that they may be subject to ignition and hazardous smoldering from cigarettes.

DATES: Interested persons are invited to submit written data, views, or arguments on any aspect of the proposal on or before September 20, 1979.

Interested persons will have an opportunity to make an oral presentation of data, views, or arguments on September 10, 1979. All persons wishing to make an oral presentation must notify Richard Danca of the Office of the Secretary no later than August 27, 1979. A written summary of the material to be presented should be submitted to the Office of the Secretary by September 5, 1979.

The proposed effective date is the date of publication of any final exemption issued by the Commission.

ADDRESSES: Written comments should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

All material which the Commission has that is relevant to this proceeding, including any comments that may be received on this proposal, may be seen in, or copies obtained from, the Office of the Secretary, Consumer Product Safety Commission, Third Floor, 1111 18th Street, N.W., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: L. J. Sharman, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, phone (301) 492-6453.

SUPPLEMENTARY INFORMATION: The standard for the Flammability of Mattresses (and Mattress Pads) (FF 4-72) is set forth at 16 CFR Part 1632. This standard states that mattresses and mattress pads shall be tested by exposing the surfaces of mattresses and mattress pads to ignited cigarettes in prescribed ways to determine the ignition resistance of the mattress or pad. The standard requires both prototype and production testing, which involves testing samples selected in a manner specified in the standard. Alternate sampling plans for production testing are set forth in Subpart B of Part 1632. For the purposes of this standard, a "mattress pad" is a "thin, flat, mat or cushion for use on top of a mattress" (§ 1632.6 (p)).

The Commission has received requests for an interpretation of whether

the Standard applies to the following types of mattress pads:

(1) Decubitus pads, which are pads designed to prevent, and assist in the healing of, bed sores, and

(2) Absorbent bed pads or sheets designed to absorb urine, thereby reducing the skin irritation and increasing the comfort of persons suffering from urinary incontinence.

Decubitus pads provide air circulation around the afflicted area and relieve pressure by providing better weight distribution, thereby providing comfort to a bedridden patient. Presently there are several products which are considered to be decubitus bed pads. One type is a solid piece of polyurethane foam, convoluted into an "egg crate" configuration. The "peaks and valleys" created by the convolution measure about 1/2 inch at the thinnest point of the pad and about 1 3/4 inch at its thickest point. The other type of decubitus bed pad has a polyester pile surface approximately 1" long which utilizes a knit construction to create the pile surface and a knit backing. The pile is thick and dense and resembles sheepskin. It is also believed that a small percentage of the market consists of natural sheepskin.

The Commission has previously considered whether these types of pads are subject to the mattress standard. On October 3, 1975, the Commission determined that a convoluted type of bed pad did not fall within the definition of "mattress pad" since it was not flat. However, the Commission considers the pile type of decubitus pad to fall within the definition of mattress pad.

The absorbent mattress pads absorb urine, thereby keeping the patient drier and reducing the number of bed linen changes. The Commission is aware of two types of absorbent mattress pads. One type of pad is multilayered and reusable. It has a brushed nylon layer which allows urine to pass through it while remaining dry and a rayon "soaker" layer which absorbs and disperses the urine. The other type of absorbent pad is a disposable pad consisting of three layers. It has a non-woven top layer with an absorbent filler material and a polypropylene backing.

The Commission believes these two types of absorbent pads are "mattress pads" as defined in the standard.

Even though the Commission concludes that absorbent pads and pile-type decubitus pads are "mattress pads" as defined in the mattress flammability standard, and therefore subject to the requirements of the standard, the Commission's preliminary examination of the possible flammability hazard

associated with these products supports the conclusion that, in the circumstances under which these pads are likely to be used, there is little likelihood of cigarette ignition of these pads. The Commission's technical staff has examined certain of these pads that are currently commercially available and has concluded that these products would probably not ignite from a smoldering cigarette under the test conditions specified in the standard. Furthermore, the data available from the National Electronic Injury Surveillance System and other sources disclose only one injury associated with mattress pads of the types for which the exemption has been requested. This incident occurred in a hospital and involved the death of a patient. At the time of the fire, the pad was not being used for its intended purpose, but rather as a bib. It also appears that the ignition source (an open flame) was not the smoldering cigarette type of ignition that is addressed by the mattress flammability standard. In addition, subsequent tests on similar pads by the Commission indicate that this pad would have passed the tests of the standard.

The Commission is also advised that decubitus and absorbent pads are generally restricted in size so that they cover only such parts of the mattress as are necessary to accomplish the purposes of the pad. Accordingly, the Commission has decided to propose that these products be exempted from the standard.

The Commission realizes that the proposed exemption of these two products carries with it some degree of consumer exposure to hazards which the standard was intended to reduce or eliminate. Therefore, the proposed exemption contains a requirement that any such mattress pads be accompanied by a conspicuous and legible warning statement, or bear a conspicuous and legible label, which warns the user that the pad has not been tested and that it may be ignited by cigarettes.

Since the proposed rule grants an exemption, the delayed effective date provision of the administrative Procedure Act (5 U.S.C. 533(d)) is not applicable, and the amendment is proposed to become effective upon publication of the final rule in the **Federal Register**. The Commission believes that this effective date is in the public interest since it is desirable that unnecessary requirements be removed as soon as reasonably possible.

Conclusion

For the reasons stated above, the Commission has preliminarily concluded that, for the mattress pads described above, the testing requirements of the Standard for the Flammability of Mattresses (and Mattress Pads) are not needed to adequately protect the public against the risk of the occurrence of fire.

Proposal

Therefore, pursuant to section 4 of the Flammable Fabrics Act, as amended (sec. 4, 67 Stat. 112, as amended 68 Stat. 770, 81 Stat. 569; 15 U.S.C. 1193), and under the authority vested in the Consumer Product Safety Commission by the Consumer Product Safety Act (sec. 30(b), 86 Stat. 1231; 15 U.S.C. 2779 (b)), the Commission proposes to amend Part 1632, Subchapter D, Chapter II, Title 16, of the Code of Federal Regulations as follows:

1. Section 1632.2 is amended by adding a new paragraph (e) reading as follows:

1632.2 Scope and application.

(e) Mattress pads or padding designed, manufactured, and marketed for the prevention and/or healing of decubitus ulcers (bed sores), and mattress pads or padding designed, manufactured, and marketed for use to absorb urine, are excluded from testing under this standard if the requirements of § 1632.31(j) are met.

2. Section 1632.31 is amended by revising the section heading and by adding a new paragraph (j) as follows:

§ 1632.31 Mattresses—Labeling, recordkeeping, requirements, guaranties, and exemptions.

(j) *Exemption for decubitus and absorbent mattress pads or padding.* (1) Mattress pads or padding designed, manufactured, and marketed for the prevention and/or healing of decubitus ulcers (bed sores), and absorbent mattress pads or padding designed, manufactured, and marketed for use to absorb urine, are exempt from the testing requirements of the Standard if they comply with the requirements of paragraph (j)(2) of this section.

(2)(i) In order to be exempt from the testing requirements of the Standard, each mattress pad described in paragraph (j)(1) of this section that is intended to be sold in a size such that it is suitable for use as an individual mattress pad without being divided into smaller pieces must bear a label, or be provided with an accompanying warning statement, that is conspicuous

and legible under the usual conditions or retail sale and that states:

Warning: This product may be subjected to ignition and hazardous smoldering from cigarettes. It has not been tested under the Federal Standard for the Flammability of Mattresses (and Mattress Pads) (FF 4-72).

(ii) In order to be exempt from the testing requirements of the Standard, each quantity of mattress padding intended to be sold in sizes larger than that suitable for use as an individual mattress pad must have the warning statement or label of paragraph (i)(2)(i) of this section so that it is conspicuous and legible when the padding is delivered to the purchaser.

Dated: July 24, 1979.

Sadye Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 79-23204 Filed 7-26-79; 8:45 am]

BILLING CODE 6355-01-M

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Ch. I]

Regulation of Leverage Transactions as Contracts for Future Delivery

AGENCY: Commodity Futures Trading Commission.

ACTION: Notification of intention to make statutory determination.

SUMMARY: The Commission is announcing its intention to determine, effective January 1, 1980, that leverage transactions for the delivery of gold and silver bullion or bulk coins of the type presently being offered to the public are contracts for future delivery within the meaning of the Commodity Exchange Act, as amended, 7 U.S.C. 1, *et seq.* (1976), and, therefore, are required to be regulated as such.

FOR FURTHER INFORMATION CONTACT: David R. Merrill, Office of General Counsel, 2033 K Street, NW., Washington, D.C. 20581; telephone (202) 254-9880.

SUPPLEMENTARY INFORMATION: On March 12, 1979, the Commission published a notice proposing, and soliciting public comment on, two possible approaches to the regulation of leverage transactions for the delivery of

gold and silver bullion and bulk coins.¹ The first involves determining that these leverage transactions are contracts for future delivery within the meaning of the Commodity Exchange Act and, therefore, should be regulated accordingly. This approach is based upon several analyses prepared by the Commission's staff, most recently a September 5, 1978, memorandum to the Commission from its Office of General Counsel which was also published for comment as an attachment to the Commission's March 12 release. The second approach involves the promulgation of a comprehensive regulatory scheme applicable to gold and silver leverage transaction separate from the Commission's system regulating contracts for future delivery.

Having considered the comments it has received on its proposals and the recommendations of its staff, the Commission on July 10, 1979, decided to pursue the first of these approaches. In recognition of the interest expressed by its Congressional oversight committees regarding the Commission's determination that leverage transactions are contracts for future delivery,² the Commission has also informed those committees of the Commission's intentions. In the absence of a statutory change, the Commission expects to take final action on its determination sometime before the proposed effective date of January 1, 1980. Notice of that action will, of course, be published in the **Federal Register**.

The Commission wishes to make clear that Commission Rule 31.1, which imposes a moratorium on the entry into the gold and silver leverage transaction business, continues in effect.³ The moratorium does not apply to persons engaged in such a business on June 1, 1978.

Issued in Washington, D.C. on July 24, 1979.

Jane K. Stuckey,

Secretary, Commodity Futures Trading Commission.

[FR Doc. 79-23226 Filed 7-26-79; 8:45 am]

BILLING CODE 6351-01-M

¹ 44 FR 13494-13501 (March 12, 1979).

² S. Rep. No. 1239, 95th Cong., 2d Sess. 28 (1978) (The Conference Report on S. 2391 (The Futures Trading Act of 1978)).

³ 43 FR 56885-56887 (December 5, 1978).

DEPARTMENT OF ENERGY Federal Energy Regulatory Commission

[18 CFR Part 292]

[Docket Nos. RM79-54 and RM79-55]

Small Power Production and Cogeneration Facilities—Qualifying Status; Staff Paper Discussing Commission Responsibilities To Establish Rules Regarding Rates and Exemptions for Qualifying Cogeneration and Small Power Production Facilities Pursuant to Section 210 of the Public Utility Regulatory Policy Act of 1978

Issued: July 23, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Regional Hearings.

SUMMARY: This notice establishes the dates and locations of regional hearings on rulemaking proceedings which will impact small power production and cogeneration facilities.

DATES: July 23, 1979, 9:30 a.m., San Francisco, California, July 27, 1979, 9:30 a.m., Chicago, Illinois, July 30, 1979, 9:30 a.m., Washington, D.C. Request to participate 7 days before hearing. Comments by August 1, 1979.

ADDRESS: Request to participate and comments to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 N. Capitol St., NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Robert E. Cackowski, Deputy Director, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C. 20426 (202) 275-4779.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23191 Filed 7-26-79; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration
[21 CFR Part 184]

[Docket No. 77N-0034]

Ammoniated Glycyrrhizin; Proposed Affirmation of GRAS Status as Direct Human Food Ingredient With Specific Limitations; Amendment; Extension of Comment Period

AGENCY: Food and Drug Administration.
ACTION: Extension of Comment Period.

SUMMARY: The agency extends the comment period on its amended proposal to affirm the generally

recognized as safe (GRAS) status of ammoniated glycyrrhizin as a direct human food ingredient with specific limitations. This action is taken in response to two requests for extension of the comment period.

DATE: Written comments by October 15, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In the Federal Register of May 15, 1979 (44 FR 28334), the Food and Drug Administration (FDA) amended its proposal to affirm the GRAS status of ammoniated glycyrrhizin as a direct human food ingredient with specific limitations. Interested persons were invited to submit comments on the amended proposal by July 16, 1979.

On June 15, 1979, a letter was received from the Henry H. Ottens Manufacturing Co., Inc. The firm requested a 90-day extension of the comment period for the amended GRAS affirmation proposal for ammoniated glycyrrhizin to allow sufficient time to prepare comments on the proposed rule.

Additionally, a second request was received on June 26, 1979 from Burditt and Calkins for a 6-month extension of the comment period for the amended proposal.

The agency regards the opportunity to comment on GRAS affirmation proposals as an important part of the GRAS review process. An extension of the comment period for this proposal would be appropriate. However, a 6-month extension of the comment period would unduly delay the rulemaking proceedings. The agency has considered both requests and has determined that an extension of the comment period for 90 days would provide ample time for all interested parties to prepare and submit comments to the May 15, 1979, amended proposal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the comment period for the amended GRAS affirmation proposal for ammoniated glycyrrhizin is extended an additional 90 days.

Accordingly, interested persons may, on or before October 15, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 465, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding the proposal. The envelope containing the comments should be prominently marked "Ammoniated Glycyrrhizin." Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 20, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

(FR Doc. 79-23130 Filed 7-24-79; 10:18 am)
BILLING CODE 4110-03-M

Food and Drug Administration

[21 CFR Parts 201, 207, and 314]

[Docket No. 78N-0320]

Requirements for Designating the Manufacturer's Name on a Drug or Drug Product Label; Reopening of Comment Period and Availability of Department of Justice Analysis of Economic Effects of Proposal

Correction

In FR Doc. 79-19722 appearing at page 37234 in the issue for June 26, 1979, make the following corrections:

(1) On page 37235, in the middle column, in the 6th line from the top of the page, substitute the word "if" for the word "is".

(2) On page 37236, in the first column, in the 27th line from the top of the page, substitute the word "of" for the word "or".

BILLING CODE 1505-01-M

[21 CFR Part 444]

[Docket No. 79N-0155]

Neomycin Sulfate for Prescription Compounding; Proposed Revocation of Certification

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) proposes to amend the antibiotic drug regulations by revoking provisions for certification of nonsterile neomycin sulfate for prescription compounding. This action is being taken because the risks of the drug outweigh the drug's benefits. This proposal, when final, would remove the drug from the market.

DATE: Comments by September 25, 1979; requests for an informal conference by August 27, 1979. FDA proposes that the final rule based on this proposal effective 60 days after its date of publication in the Federal Register.

ADDRESS: Written comments or requests for an informal conference to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Merle L. Givson, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4310.

SUPPLEMENTARY INFORMATION: This proposed rule would revoke the provisions of the antibiotic drug regulations that provide for certification of nonsterile neomycin sulfate for prescription compounding. This action is being taken because (1) the drug is being used for indications for which it lacks evidence of effectiveness and for which there is clinical evidence of significant risk to the patient and (2) the drug is no longer necessary for the use for which it was initially made available—as a dermatologic preparation—because neomycin sulfate is available from manufacturers in prepared forms for dermatologic use.

Neomycin sulfate was first approved for marketing on March 7, 1951 and became subject to batch certification on May 1, 1963. A regulation published in the Federal Register of March 21, 1964 (29 FR 3622) provided for the certification of nonsterile neomycin sulfate for prescription compounding. The regulation was intended to make available to pharmacists bulk neomycin sulfate for the extemporaneous preparation of drugs for dermatologic use. Because the drug was shipped in bulk for pharmacy compounding, it was permitted to be shipped without full disclosure labeling, i.e., a package insert. As a consequence, its labeling did not identify the drug's approved indications for use and did not give much of the other information, such as adverse reactions or warnings, commonly found in prescription drug labeling.

As part of the Drug Efficacy Study Implementation (DESI), the agency published its findings in the Federal Register of May 13, 1970 and February 29, 1972 (35 FR 7464 and 37 FR 4224) regarding the National Academy of Science/National Research Council (NAS/NRC) review of the efficacy of certain neomycin sulfate preparations

for their labeled indications. Nonsterile neomycin sulfate for prescription compounding was not reviewed because, as noted, its labeling did not identify its indications for use. Among other findings, the 1972 DESI notice announced that sterile neomycin sulfate powder lacked substantial evidence of effectiveness for a variety of uses including (1) its use in wet dressings, packs, and irrigations to treat secondarily infected wounds and ulcers, and (2) its use for intestinal instillation in emergency abdominal surgery.

As a result of the DESI review, 5- and 10-gram (g) packages of sterile neomycin sulfate were no longer certified and only a small vial size, 0.35 g neomycin per vial, was left on the market. A proposal to revoke certification of sterile neomycin sulfate powder, published elsewhere in this issue of the Federal Register, discusses in more detail the 1970 and 1972 DESI announcements.

Information that the agency has reviewed over the past few years from several sources shows that because the larger packages of sterile neomycin sulfate powder are no longer available, nonsterile neomycin sulfate for prescription compounding is being sterilized or otherwise processed for use in irrigation solutions and for other uses in the treatment of conditions for which the drug lacks evidence of effectiveness. Information that the agency has received from drug manufacturers of neomycin sulfate for prescription compounding, as well as information in the published literature, strongly suggests that the drug is being used to prepare solutions that are then sterilized and used for intraperitoneal irrigations, intrapleural irrigations, and irrigations of other surgical wounds. For example, one manufacturer has informed the agency of its "relative certainty" that the nonsterile powder for prescription compounding is being sterilized and used for a variety of purposes. The company asked that the regulation providing for certification of the product be amended to require warnings regarding the possible risks of drug use. The company has also informed FDA that it has received more than 100 written inquiries concerning the sterilization, stability, and use for topical irrigation of neomycin sulfate solutions, which were presumably to be compounded from the bulk nonsterile drug.

The scientific literature also supports a conclusion that nonsterile neomycin sulfate is being widely misused. An article in *Hospital Pharmacy* (Vol. 7, No. 5, 1972, pp. 146-149) refers to the discontinuation of larger sizes of sterile

neomycin and describes procedures for preparing a sterile solution from available nonsterile neomycin sulfate. The article suggests several uses for such a preparation, including its use as a wet dressing for extensive burns, in irrigation of wounds, and in intraperitoneal instillation. Copies of the manufacturer's letter to FDA and the article from *Hospital Pharmacy* have been placed on file in the office of the Hearing Clerk, FDA (address above).

The certification statistics for nonsterile neomycin sulfate for prescription compounding also show that significant amounts of the drug are now being used for indications lacking substantial evidence of effectiveness. The amounts of the drug certified for all manufacturers for the years 1969 through 1977 are as follows:

Year	Amount (kg)
1969	1,307.9
1970	1,619.2
1971	1,652.2
1972	3,231.8
1973	2,629.9
1974	3,094.7
1975	3,382.2
1976	3,643.6
1977	2,180.7

These figures show a dramatic increase in the amount of nonsterile neomycin sulfate for prescription compounding certified after the publication of the February 29, 1972 DESI notice that, in effect, significantly reduced the availability of sterile neomycin sulfate.

Thus, the unavailability of large packages of sterile neomycin sulfate has apparently resulted in significant quantities of nonsterile neomycin sulfate for prescription compounding being used for indications lacking evidence of effectiveness. Such uses are not only without benefit, but they expose the patient to the risk of serious toxic effects, including ototoxicity (hearing loss) and nephrotoxicity (kidney damage). There have been a growing number of reports in the literature of serious adverse reactions to the use in irrigation solutions of neomycin sulfate solutions. There is evidence that significant amounts of the drug are absorbed systemically following its use in irrigation solution, amounts comparable to amounts absorbed when the drug is taken systemically. As a consequence, use of neomycin sulfate as an irrigant may produce the same toxic effects as are produced by the drug's systemic use.

In view of this data showing significant use of neomycin sulfate for prescription compounding for

indications for which the drug not only lacks substantial evidence of effectiveness but also poses risks for the patient, the agency asked the Anti-Infective Agents Advisory Committee to consider the problems associated with the continued certification of this product. At its meeting on April 4 and 5, 1977, the Committee recommended the immediate inclusion on the labeling for this product of a boxed warning emphasizing the drug's ototoxicity and nephrotoxicity. Additionally, the Committee recommended that the agency take steps to end the marketing of the product if, after a period of time to be determined by the agency, manufacturers failed to submit adequate data to establish the safety and efficacy of the drug for specific indications. Copies of the minutes of the Committee meeting are available for public inspection at the office of the Hearing Clerk, address given above, between 9 a.m. and 4 p.m., Monday through Friday.

FDA has evaluated the Advisory Committee's recommendation and all other available data and tentatively concludes that it is in the best interest of the public no longer to accept neomycin sulfate for prescription compounding for certification. Because sufficient data to ensure adequately the safe and effective use of neomycin sulfate for prescription compounding currently do not exist, the agency does not believe that the continued marketing of the drug pending the submission of further data, as recommended by the Advisory Committee, is justified. The primary purpose in certifying this drug—to make available a bulk product for the compounding of neomycin sulfate dermatologics—is now served by the availability of a variety of commercially prepared dermatologic drug products. Because the current misuse of this product creates an unfavorable benefit-to-risk ratio and because neomycin sulfate is available from manufacturers in prepared form for dermatologic use, the continued certification of nonsterile neomycin sulfate for prescription compounding should be discontinued.

FDA proposes to make this revocation effective 60 days after date of publication of a final rule in the Federal Register. If the proposal is finalized, all outstanding certificates for batches of neomycin sulfate for prescription compounding will be revoked on the date that revision of the regulation is effective. The agency also proposes to request a recall to the retail level for all products covered by these certificates. If a recall takes place, holders of the certificates will be notified by letter of

the revocations and of the details of the recall request.

Neomycin sulfate for prescription compounding is only one of several neomycin sulfate preparations made available through the certification process. Other preparations, including otic, ophthalmic, oral, and dermatologic dosage forms, continue to be regularly certified and marketed and are not affected by this proposal.

The agency has determined that this document does not contain an agency action covered by § 25.1(b) (21 CFR 25.1(b)) and, therefore, consideration by the agency of the need for preparing an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 444 be amended by revoking and reserving § 444.942a *Neomycin sulfate for prescription compounding*.

Interested persons may, on or before September 25, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Interested persons may, also, on or before August 27, 1979, submit to the Hearing Clerk (address above) a request for an informal conference. The participants in an informal conference, if one is held, will have until August 27, 1979, or 15 days from the day of the conference, whichever is later, to submit their comments.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: July 17, 1979.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 79-22899 Filed 7-26-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 444]

[Docket No. 79N-0151]

Certification of Sterile Neomycin Sulfate for Parenteral Use; Proposed Revocation of Provisions

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration proposes to amend the antibiotic regulations to revoke provisions for certification of neomycin sulfate in sterile vials for parenteral use. This action is being taken on the basis of widespread evidence that the drug's risks outweigh its benefit. This action would remove these drug products from the market.

DATES: Comments by September 25, 1979; requests for informal conference by August 27, 1979. FDA proposes that the final regulation based on this proposal become effective 60 days after the date of its publication in the *Federal Register*.

ADDRESS: Written comments or requests for an informal conference to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Merle Gibson, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857. 301-443-4310.

SUPPLEMENTARY INFORMATION: FDA is proposing to revoke the regulation providing for certification of sterile neomycin sulfate for parenteral use.

Neomycin sulfate was discovered in 1949 when Waksman and Lechevalier isolated a soil organism, *Streptomyces fradiae*, which produced a new antibiotic containing a group of antibacterial substances. When purified, it was found to be a complex of three compounds, neomycins A, B, and C. Each compound demonstrated its own antibacterial activity. Commercial neomycin preparations consist primarily of neomycin B.

Before 1970, the approved labeling of neomycin sulfate indicated the drug for a number of uses, including:

(1) Intramuscular use (as an injectable) in certain serious systemic infections and urinary tract infections;

(2) Intraperitoneal instillation in treating peritonitis and preventing peritonitis following peritoneal contamination during surgery;

(3) Topical use in dressings, packs, and irrigations; and

(4) Intestinal instillation in emergency abdominal surgery.

The pre-1970 labeling for neomycin sulfate warned of the drug's potential ototoxicity (predominantly auditory toxicity or hearing loss) and nephrotoxicity (kidney damage).

On May 13, 1970 (35 FR 7464) and February 29, 1972 (37 FR 4224), notices pertaining to neomycin sulfate sterile powder were published in the *Federal Register* as a result of the Drug Efficacy Study Implementation (DESI 7837).

The May 1970 notice announced FDA's conclusions regarding certain preparations of neomycin sulfate sterile powder reviewed by the National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Group and provided an opportunity for comment and for submission of pertinent data to support the indications.

The February 1972 notice amended the earlier notice as a result of a reevaluation of the antibiotic drug preparations involved. The 1970 notice as amended by the 1972 notice included findings that:

1. Neomycin sulfate sterile powder is effective for intramuscular use in the treatment of urinary tract infections due to susceptible strains of certain organisms (*Pseudomonas aeruginosa*, *Klebsiella pneumoniae*, *Proteus vulgaris*, *Escherichia coli*, and *Enterobacter aerogenes*).

2. The drug lacks substantial evidence of effectiveness for all other labeling claims. These include: treatment of peritonitis (intraperitoneal instillation) and prevention of peritonitis following peritoneal contamination during surgery; for use as wet dressings, packs, or irrigations in secondarily infected wounds and ulcers, varicose ulcers, and infections of the eye; and for intestinal instillation in emergency abdominal surgery.

3. Labeling for the remaining marketed preparations should include a "Box Warning" and statements in the "Precautions" and "Adverse Reactions" sections emphasizing the potential nephrotoxic and ototoxic effects of neomycin sulfate and its potential for causing respiratory paralysis from neuromuscular blockade.

4. Previously marketed package sizes of 5 and 10 grams of sterile powder are inappropriate for preparation of solutions for intramuscular

administration. A separate regulation published in the *Federal Register* of February 29, 1972 (37 FR 4188), amended the provision for certification of sterile neomycin sulfate, § 148i.1 (21 CFR 148i.1, later recodified as § 444.42a (21 CFR 444.42a) in the *Federal Register* of May 30, 1974 (39 FR 18922)), to restrict the vial size to 0.35 gram (g) of neomycin.

In summary, based on the agency's conclusions after evaluation of NAS/NRC reports, the approved labeling for neomycin sulfate sterile powder was restricted to intramuscular administration for the treatment of certain urinary tract infections. Additionally, because of the drug's toxicity, the labeling stated that the drug should be reserved for hospitalized cases in which no other antimicrobial agent is effective. As a result of these procedures only a small vial size, 0.35 g neomycin per vial, was allowed to remain on the market.

Certain other neomycin sulfate preparations were not affected by the provisions of the February 1972 regulation. These include products for dermatologic use that are currently under review (and were discussed in the preamble to the proposal to establish a monograph for over-the-counter (OTC) topical antibiotic drug products published in the *Federal Register* of April 1, 1977 942 FR 17642)) and nonsterile neomycin sulfate for prescription compounding, a preparation available in containers of 10 to 100 g that has been used for the extemporaneous compounding of dermatologic drug products. A proposal to revoke certification for this preparation is published elsewhere in this issue of the *Federal Register*.

In light of clinical evidence that significant amounts of neomycin sulfate are systemically absorbed following dosing by most routes of administration, and, particularly, that neomycin sulfate has induced significant toxicity by the various parenteral routes (intramuscular, intrapleural, intraperitoneal, etc.), the agency has become increasingly concerned about the continued availability of sterile neomycin sulfate for parenteral use. The ototoxicity and nephrotoxicity due to neomycin sulfate is now well established (Refs. 1 through 7, 9, and 12 through 17). These toxicities may or may not be dose related and no safe parenteral dosage regimen has been recognized (Ref. 7). Moreover, neomycin sulfate, an aminoglycoside, is more toxic than other members of that chemical group, e.g., gentamicin, kanamycin, and streptomycin sulfates (Refs. 3 and 12). The drug causes cochlear damage that is

manifest histologically by destruction of both inner and outer hair cells. It may also block the efferent synapsis. Ototoxicity is progressive to involve the entire auditory frequency range. It can occur abruptly or insidiously, at doses as low as 2 g, and may progress days, weeks, and even months after discontinuation of the drug (Refs. 1, 4, 7, 9, and 12). Although nephrotoxicity is often reversible after dosing, ototoxicity caused by neomycin sulfate is irreversible (Refs. 1, 2, 4, 9, 12, and 14). Neomycin ototoxicity is additive to the ototoxicity of other aminoglycosides and other ototoxic drugs (Refs. 7 and 9).

Neomycin sulfate is a potent producer of neuromuscular paralysis with respiratory arrest (Refs. 1, 4, 6, 9, and 15). Neomycin sulfate is recognized as having an undesirable sensitization potential (i.e., allergic response) (Refs. 1, 9, 12, and 17). Moreover, cross-sensitization to structurally related aminoglycosides may occur (Refs. 1, 6, 11, 12, and 17). The agency is particularly concerned about the risk of cross-sensitization because it may preclude future therapy with other potentially lifesaving aminoglycoside antibiotics (Refs. 9 and 12). In this regard, the agency has received a number of adverse reaction reports telling of hypersensitivity reaction to neomycin sulfate.

Some of the adverse reaction reports show that the sterile powder certified by FDA only for intramuscular use (i.e., as an injectable) in the treatment of urinary tract infections is being used to prepare irrigation solutions. As indicated above, the use of neomycin sulfate in the irrigation of wounds has been found to be without substantial evidence of effectiveness. Moreover, there is no evidence to provide safe concentrations and safe dosage limits for this use, and there is evidence that significant amounts of neomycin sulfate are absorbed systemically following its use in an irrigant solution during surgery, amounts that are comparable to amounts absorbed from an intramuscular injection site (Refs. 9, 12, 13, and 16). Use of neomycin sulfate as an irrigant may thus cause the same toxic effects as are produced by intramuscular administration (Refs. 4, 6, 9, 14, and 16). With respect to this use, the agency has received reports of total or partial deafness, ear disorders, kidney failure, heart arrest, paralysis, and coma.

Based on this evidence, FDA's Anti-Infective Agents Advisory Committee was requested to consider the advisability of allowing the continued marketing of sterile neomycin sulfate for

parenteral use. At a meeting on April 4, 1977, the Committee concluded that the risk/benefit ratio for parenteral neomycin sulfate did not warrant its continued marketing and recommended that the dosage form no longer be certified. The Committee expressed its concern about unapproved uses of neomycin sulfate, including its use as an irrigant. Additionally, the Committee stated that in its opinion there is essentially no known use of this dosage form in the practice of medicine for the single remaining approved indication, treatment of urinary tract infection. (Many authors (Refs. 6, 8, and 17) agree with this opinion.)

In its consideration of this issue, the Committee noted that newer, safer antibiotics, as effective as parenteral neomycin sulfate, are available and have been widely accepted and that, therefore, neomycin sulfate is no longer an appropriate treatment for this indication.

Copies of the minutes of the Anti-Infective Agents Advisory Committee meeting are available for public inspection at the office of the Hearing Clerk (address above) between 9 a.m. and 4 p.m., Monday through Friday.

The agency has evaluated all available data and tentatively concludes that the risks involved in the use of parenteral neomycin sulfate outweigh any benefits that might be derived from such use, and that provisions for its certification, therefore, should be revoked.

FDA proposes to make this revocation effective 60 days after date of publication of the final rule in the *Federal Register*. If this proposal to revoke certification of sterile neomycin sulfate is finalized, all outstanding certificates for batches of sterile neomycin sulfate packaged for parenteral use will be revoked on the date the regulation is effective. The agency also proposes to require a recall to the retail level for all products covered by these certificates. In the event of a recall, holders of the certificates will be notified by letter of the revocations and of the details of the recall request.

Other dosage forms of neomycin sulfate (oral, dermatologic, ophthalmic, and otic) and sterile and nonsterile bulk neomycin sulfate used in the preparation of some of these dosage forms will not be affected by this action.

The agency has determined that this document does not contain an agency action covered by 21 CFR 25.1(b) and, therefore, consideration by the agency of the need for preparing an

environmental impact statement is not required.

References

The following material is on public file in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, where it may be seen by interested persons from 9 a.m. to 4 p.m., Monday through Friday.

(1) Lechevalier, H. F., "The 25 Years of Neomycin," *CRC Critical Reviews in Microbiology*, pp. 359-397, 1975.

(2) Jawetz, E., "Polymyxin, Neomycin, Bacitracin" in "Antibiotics Monograph No. 5," Edited by Welch, H. and F. Marti-Ibanez, Medical Encyclopedia, Inc., New York, p. 40, 1956.

(3) Lowry, L. L., M. May, and P. Pastore, "Acute Histopathologic Inner Ear Changes in Deafness Due to Neomycin: A Case Report," *Annals of Otolaryngology and Rhinology and Laryngology*, 82:876-880, 1973.

(4) Masur, H., P. K. Whelton, and A. Whelton, "Neomycin Toxicity Revisited," *Archives of Surgery*, 111:822-825, 1976.

(5) Noone, P., "Use of Antibiotics: Aminoglycosides," *British Medical Journal*, 2(6136): 549-552, 1978.

(6) Weinstein, L., "Antimicrobial Agents: Streptomycin, Gentamicin, and Other Aminoglycosides," in "The Pharmacological Basis of Therapeutics," 5th Ed., Edited by Goodman, L. S. and A. Gilman, The MacMillan Company, New York, pp. 1178-1180, 1975.

(7) American Medical Association Department of Drugs, Chapter 52, "Aminoglycosides" in "American Medical Association Drug Evaluations," 3d Ed., Publishing Sciences Group, Inc., Littleton, MA, pp. 765-766, 1977.

(8) Hoeprich, P. D., "Antimicrobials and Anthelmintics for Systemic Therapy," in "Infectious Diseases," 2d Ed., Edited by Hoeprich, P. D., Harper & Row, Hagerstown, MD, pp. 172-173, 1977.

(9) The Medical Letter, Inc., "Topical Neomycin," *The Medical Letter*, Vol. 15, No. 25, 1973.

(10) Nachamie, B. A., R. S. Siffert, and M. S. Bryer, "A Study of Neomycin Instillation Into Orthopedic Surgical Wounds," *Journal of the American Medical Association*, 204:687-689, 1968.

(11) Schorr, W. F., F. J. Wenzel, and S. I. Hegedus, "Cross-Sensitivity and Aminoglycoside Antibiotics," *Archives of Dermatology*, 197:533-539, 1973.

(12) Anderson, M. D., "Neomycin Ototoxicity Associated with Wound Irrigation in the Local Treatment of Osteomyelitis," *Journal of Florida Medical Association*, 65:20-21, 1978.

(13) Weinstein, A. J., M. C. McHenry, and T. L. Gavan, "Systemic Absorption of Neomycin Irrigating Solutions," *Journal of the American Medical Association*, 238:152-153, 1977.

(14) Myerson, M., H. F. Knight, A. J. Gambarini, and T. L. Curan, "Intraleural Neomycin Causing Ototoxicity," *The Annals of Thoracic Surgery*, 9:483-486, 1970.

(15) Kelly, P. J., W. J. Martin, and M. B. Coventry, "Chronic Osteomyelitis 11 Treatment with Closed Irrigation and Suction," *Journal of the American Medical Association*, 213:1843-1848, 1970.

(16) Gruhl, V. R., "Renal Failure, Deafness, and Brain Lesions Following Irrigation of the Mediastinum with Neomycin," *Annals of Thoracic Surgery*, 11:376-379, 1971.

(17) Gardner, S., "Over-the-Counter Drugs," *Federal Register*, 42 FR 17660-17667, April 1, 1977.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 444 be amended in § 444.42a by revising paragraph (a)(2) and (3), deleting paragraph (a)(4), and revising paragraph (b)(1)(i) (d) and (ii) to read as follows:

§ 444.42a Sterile neomycin sulfate.

(a) * * *

(2) *Labeling*. It is to be labeled in accordance with the requirements of § 432.5(b) of this chapter.

(3) *Request for certification; samples*. In addition to the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, toxicity, moisture, pH, and identity.

(ii) *Samples required*:

(a) For all tests except sterility: 10 packages, each containing approximately 300 milligrams.

(b) For sterility testing: 20 packages, each containing approximately 300 milligrams.

* * *

(b) * * *

(1) * * *

(i) * * *

(d) *Preparation of sample*. Dissolve an accurately weighed sample in sufficient 0.1M potassium phosphate buffer pH 8.0 (solution 3), to give a stock solution of convenient concentration. Further dilute the stock solution with sufficient solution 3 to obtain a reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

* * *

(ii) *Plate assay using Staphylococcus aureus (ATCC 6538P)*. Proceed as directed in paragraph (b)(1)(i) of this section, except that the reference concentration of the sample under test is 10.0 micrograms of neomycin per milliliter; the concentrations of the standard curve solutions are 6.4, 8.0, 10.0, 12.5, 15.6 micrograms of neomycin

* Available from: American Type Culture Collection, 12301 Parklawn Drive, Rockville, MD 20852.

per milliliter; and the suspension of the test organism, *Staphylococcus aureus* (ATCC 6538P),¹ is adjusted so that a 1:19 dilution will give 25 percent light transmission and the usual inoculum for each 100 milliliters of agar for the seed layer is 0.2 milliliter of diluted suspension.

Interested persons may, on or before September 25, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Interested persons may also, on or before August 27, 1979 submit to the Hearing Clerk (address above) a request for an informal conference. The participants in an informal conference, if one is held, will have until September 25, 1979 or 15 days from the day of the conference, whichever is later, to submit their comments.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: July 17, 1979.

J. Richard Crout,
Director, Bureau of Drugs.

[FR Doc. 79-22890 Filed 7-26-79; 8:45 am]
BILLING CODE 4110-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 203]

[Docket No. R-79-695]

Sales of Insured Mortgage or Loan to Approved Mortgagee or Lender

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of Proposed Rule to Congress under

Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the *Federal Register*. This Notice lists and summarizes for public information a rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations Office of General Counsel, 451 7th Street SW., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the rulemaking document described below:

PART 203—SALES OF INSURED MORTGAGE OR LOAN TO APPROVED MORTGAGEE OR LENDER

This proposed rule amendment to 24 CFR Part 203, would change the responsibility for notifying HUD of sales of insured mortgages and loans from both the seller and the buyer to only the seller. The present process is time-consuming because it requires the seller to initiate a HUD-prescribed form and send this form to the buyer, who then completes his portion of the form and submits it to HUD. The proposed rule would also decrease the number of days HUD requires to receive such notification from 30 to 15 calendar days. Until notification has been received by HUD of the transfer of the mortgagee or lender or until termination of the insurance contract, the mortgagee or lender of record with HUD will be responsible for payment of mortgage insurance premiums.

(Sec. 7(o), Department of HUD Act, (42 U.S.C. 3535(o)), sec. 324, Housing and Community Development Amendment of 1978.)

Issued at Washington, D.C., July 20, 1979.

Patricia Roberts Harris,
Secretary, Department of Housing and Urban Development.

[FR Doc. 79-23275 Filed 7-26-79; 8:45 am]

BILLING CODE 4210-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[44 CFR Part 67]

[Docket No. FI-5666]

Proposed Flood Elevation Determination for the City of Hoxie, Lawrence County, Ark., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Hoxie, Lawrence County, Arkansas.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Clerk's Office, City Hall, 400 SW Hartigan, Hoxie, Arkansas 74233. Send comments to: Mayor J. M. Johnson, City Hall, 400 S.W. Hartigan, Hoxie, Arkansas 74233.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW, Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Hoxie, Lawrence County, Arkansas.

In accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed

to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Turkey Creek	Harding Street	265
	Highway 63-East Bound	264

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: July 5, 1979.

Charles M. Plaxico, Jr.,
Acting Federal Insurance Administrator.

[FR Doc. 79-23195 Filed 7-26-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5667]

Proposed Flood Elevation Determinations for the Town of New Roads, Pointe Coupee Parish, La., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of New Roads, Pointe Coupee Parish, Louisiana.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second

publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, 237 West Main Street, New Roads, Louisiana 70760.

Send comments to: Mayor Trina O. Scott, Town Hall, 237 West Main Street, New Roads, Louisiana 70760.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of New Roads, Pointe Coupee Parish, Louisiana. In accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Portage Canal.....	Just upstream of Corporate Limits	26
	Just upstream of Wooden Bridge	26
	Just downstream of Missouri Pacific Railroad.	26

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act

of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: July 5, 1979.

Charles M. Plaxico, Jr.,
Acting Federal Insurance Administrator.

[FR Doc. 79-23194 Filed 7-26-79; 8:45 am]

BILLING CODE 4210-23-M

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 42, 63, and 64]

[CC Docket No. 78-96; FCC 79-442]

Regulatory Policies Concerning the Provision of Domestic Public Message Services by Entities Other Than the Western Union Telegraph Co. and Proposed Amendments to Parts 63 and 64 of the Rules

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry and proposed rulemaking.

SUMMARY: The Proposals in this notice concern the provision of public message services (including telegram service). The Commission is proposing the following major changes:

(1) Eliminate § 64B of the FCC Rules which require Western Union to perform over 1500 speed of service studies annually. Instead, public message service (PMS) carriers would be required to publish speed of service standards in their tariffs and make reports on speed of service related complaints.

(2) A definition of "public message services" would be established.

(3) Sections of Part 63 of the FCC Rules covering agency and office hour changes and closings be modified. The proposals will make procedures for these closings simpler.

(4) The international formula used for distributing international traffic originated in the U.S. among international carriers would be modified.

These proposals are a result of an earlier Commission action which authorized competition in the public message service market. See 71 FCC 2d 471. Many of the rules to be changed were originally designed for regulating a monopoly market. The need for such rules in a competitive market is now under consideration.

DATES: Comments must be received on or before August 27, 1979 and Reply

comments must be received on or before September 14, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. **FOR FURTHER INFORMATION CONTACT:** Leonard S. Sawicki, Room 546, Common Carrier Bureau, (202) 632-6363.

In the matter of regulatory policies concerning the provision of domestic public message services by entities other than the Western Union Telegraph Company and proposed amendment to Parts 63 and 64 of the Commission's rules.

Notice of Inquiry and Proposed Rulemaking

Adopted: July 19, 1979.

Released: July 23, 1979.

By the Commission: Commissioner Quello absent.

1. In our Memorandum, Opinion and Order (MO&O) in *Domestic Public Message Services*, 71 FCC 2d 471 (1979) ¹ (Order), we stated our intention to propose rule changes consistent with our findings in that Order. That decision established a policy of multiple entry for public message services. In this Notice, we propose revised rules for WU and other PMS carriers and solicit comments and suggestions for further rule changes.

2. In anticipation of the outcome of CC Dockets 78-95 and 78-96 (*Domestic Public Message Services*), the parties in the proceeding suggested some changes which could be made in our Rules. ² Most of the comments dealt with parts 61, 63 and 64 of our Rules. The most frequently mentioned rules concerned tariff support requirements, telegraph office and agency closing, information supporting facility authorization requests and telegraph speed of service studies. The rule changes proposed in this Notice reflect those expressions of interest as well as the analysis of our staff. ³ However, the Commission is

¹ Review pending sub nom. *Western Union Telegraph Co. v. FCC*, D.C. Circuit No. 79-1152. The Court on June 18, 1979 stayed the Commission's order, subject to automatic suspension of the stay order when the Commission issues a notice proposing modification or termination of regulation of Western Union.

² See the comments of American Facsimile Systems, Inc., National Telecommunications and Information Administration, Telenet and the reply comments of Southern Pacific Communications, Western Union and American Satellite Corp., among others.

³ Some parties urged that we simplify or eliminate the tariff change support requirements of Section 61.38. These are requirements of general applicability and will not be taken up in the narrower (PMS) context of this Notice. They will be addressed in our Competitive Services Rulemaking discussed at the Commission's May 17, 1979 open meeting. While we believe that we should minimize our regulation in the PMS market, we are cognizant of Western Union's position as the sole source of

Footnotes continued on next page

aware that there may be other areas of the Rules which are not touched upon in this Notice and which could be modified in light of our PMS decision. Parties submitting comments are encouraged to identify other portions of the Rules which are not singled out in this Notice and offer suggestions for their disposition. We now turn to specific rule changes.

Domestic Telegraph Speed of Service Studies (Section 64, Subpart B)

3. Section 64B of our Rules contains detailed instructions for speed of service studies which are performed weekly by Western Union (WU) at offices in 22 cities and at WU's three Central Telephone Bureaus (§ 64.230). As a result of this Section, WU performs about 1500 speed of service studies annually. The Common Carrier Bureau's Complaints and Service Standards Branch receives monthly summaries of the studies. The speed of service studies act as a measure of the performance of Western Union in meeting the service standards set out in Section 2.24.3 of its FCC Tariff No. 255. ⁴

4. These studies are somewhat useful in the Service Standards Branch's on-going monitoring activities and have found some use in past Commission proceedings, but there are some questions whether these studies, as now constituted, are necessary. While the offices surveyed likely account for a relatively large portion of Western Union's traffic, the detailed reports only cover a small percentage of the company's 5212 locations (193 offices and 5019 agencies). ⁵ We have no reason to believe that the service rendered at

Footnotes continued from last page
⁴ Tele/TVX exchange service and the revenue contributions of this service to WU's overall service mix (Order, pars. 111-118 and 127-132). This, of course, complicates consideration of rates for any of WU's services, including PMS. Because the requirements of Section 61.38 now apply to all carriers' tariff changes (and not peculiarly to WU) and because the questions of the future applicability of that Section transcend the narrow nature of this PMS rulemaking, we shall defer consideration of those tariff support requirements to an Inquiry which shall properly review the burdens placed on all competitive carriers in the context of their peculiar market situations.

⁵ With certain exceptions for times of heavy traffic volume, the delivery standards for telegrams are 2 hours if delivered by telephone or teletype and 5 hours if delivered by messenger. Overnight telegrams are to be delivered by 2:00 P.M. on the day after the message is filed.

⁶ We also receive occasional agency inspection reports performed by WU which include some speed of service information. Section 63.91(d) requires inspections of Class 9C and 11B agencies every 3 months, if the agency handles more than 20 messages daily and every six months for these classes of agencies which handle less traffic. As of December 31, 1977, there were 2098 Class 9C and 1544 Class 11B agencies. Section 63.91 of the Rules will also be eliminated under our proposal.

these locations is uncharacteristic of service in Western Union's many other locations despite the lack of detailed studies. Also, it is most likely that competitive entry would first occur in the areas of highest traffic density. This would act as a stimulus to WU to maintain the best possible service and, under existing procedures, we would be in the position of requiring WU to measure service quality in the greatest detail in those locations where the services would be expected to be the best, while we would receive little information on those areas with fewer alternate services.

5. The Commission does have another indicator of WU's service quality—the complaints which we receive and process in the Common Carrier Bureau. However, this is probably not a good indicator of service quality for a number of reasons. First, our complaint process was not designed to be an indicator of service quality, but rather a protective and enforcement mechanism. Second, many of the complaints we receive concern situations where the consumer has already attempted to rectify the complaint with the carrier and was not satisfied. Third, a number of complaints are referred to state regulatory agencies where the complaint is clearly within a state's jurisdiction. The latter two circumstances indicate that we do not handle most of the complaints registered against a carrier, since it is likely that these are satisfied at the company or state commission level. Therefore, while the complaints process now yields some information indicative of the quality of services, it is not very representative of the total number of complaints generated by a subject carrier's service.

6. The Commission proposes to eliminate the requirements of Part 64B of the Rules. In its stead, we would institute a much simpler service standards and reporting system for all public message service (PMS) carriers. We would require that all PMS carriers publish delivery standards in their tariffs, such as those in Western Union's FCC Tariff No. 255. ⁶ These standards, although presently more indicative of lowest acceptable delivery standards than target delivery times, are intended to give the public assurances that efforts will be made to deliver the messages in a timely fashion and serve as a basis for comparison among services. Also, they will give users a basis for complaint or refund if the service standard is not met. The Commission will be flexible in the

⁶ The carriers need not replicate the exact standards of Western Union. They may vary with types of service, price or any other reasonable standard.

matter of the acceptance of delivery standards, understanding that it is in the best interests of competing carriers to maintain standards which are responsive to public demand, cost and its own service capabilities. Our intended flexibility in this matter cannot be overemphasized. Our major goal in proposing published standards is to assure that customers who are promised, say, "next day delivery," will get next day delivery or have some means of relief if service is not provided as promised. We see this as no major burden to a conscientious firm.

7. The reporting aspects of our proposed system are very simple. The carrier would report twice each year the number of service speed-related complaints (those handled and settled directly by the company and those referred to it by state commissions and the FCC), the number of refunds, and the dollar amount of refunds paid out during the six month reporting period. We believe that this will be an adequate indication of overall service quality, as perceived by those individuals using the service. If complaint levels indicate serious erosion of service quality, the Commission will have the option of taking action to ensure improvement.

8. In our Order in *Domestic Public Message Services*, 71 FCC 2d at 504-05, we noted that we expected the number of options available to business customers to begin to expand to the public at large. If our reasoned expectations are correct, and more substitute services become available, it will be possible for the public to choose among many services and suppliers to satisfy its message demand. In such circumstances, it would not be necessary for us to continue to receive continued reports on the number of complaints and service quality. ⁷ The presence of sufficient alternatives would force competitors to offer good service or lose business. With this in mind, we plan to have the reporting requirements discussed above expire four years after the effective date of the new rules, if we do not act to retain them. The four year period is chosen to coincide with the minimum three year monitoring of this market noted in paragraph 151 of our Order plus a year to account for lags in filing and preparing reports by the carriers, staff review, filing petitions, and the preparation of an order to extend the effectiveness of the rules if necessary. We believe this to be a fair application of minimal reporting requirements for a limited time which will give us a fair view of the transition

⁷ We would, of course, continue to process complaints.

from a monopoly to a more competitive market.

9. The new rules which would replace Part 64B are:

§ 64.202 Each carrier furnishing public message service must establish speed of service standards and appropriate refund provisions in its tariffs.

§ 64.203 Each carrier furnishing public message service shall file a report with the Commission every six months beginning _____, listing the number of complaints, the number of refunds paid and the dollar amount of those refunds. This provision expires four years after the effective date of this rule unless extended by the Commission.

Definition of Public Message Service

10. In *Domestic PMS*, 71 FCC 2d at 493, n. 11, we announced our intention to seek a definition of "public message service." * Such a definition should incorporate at least the concepts of public accessibility and the record nature of the message. It should also be broad enough to encompass those situations where the customer has the option of having the message delivered orally or in written form as is common in the provision of today's telegram service. See 71 FCC 2d at 493, 494-95, 500, 505-06.

11. We propose the following definition of public message service:

Public Message Service: Electronic transmission of messages accepted in written or oral form by the carrier or its agent at a public location or carrier premises where such messages are reduced, as required, to computerized or other electronic (or from oral to written) form by the carrier or its agent and the intended recipient receives or has access to the message in written or visual form. Special equipment is not essential for the customer to use the service.

12. This is a fairly narrow definition of public message service which only explicitly accounts for acceptance in written or oral (not computer) forms. We obviously do not wish to have a definition so broad as to conflict with those in our Tentative Decision in the *Second Computer Inquiry* (FCC 79-307, July 2, 1979) and thus encompass message services which would not be clearly *public* in nature. We visualize this type service as one where an individual may file a message by walking into an office or calling the message into the carrier (or its agent) without the need for special equipment. The key to this definition is acceptance at a "public location or carrier premises." This allows for a number of

types of origination by the customer but emphasizes the "public" nature of the service. This definition would include over-the-counter and telephone acceptance of messages at offices, agencies and Central Telephone Bureaus. As the definition stands, it would not include origination by computer tapes, terminals and other machines (e.g., Telex), even if the overall character of this service was "public message." thus, of the three classes of Mailgram (computer, machine * and voice originated) only voice originated would be included because it is the only one of the three in which the message is reduced to written form, electronically transmitted and delivered in a hard copy to recipients. Telegrams received and delivered over the telephone are included as well because they are reduced to computerized form by WU and the customer does have the option of receiving a hard copy (e.g., a confirmation copy sent by mail). Naturally the definition excludes those firms which are not common carriers and Telex/TWX-type exchange services. Telex/TWX exchange service messages are merely switched on a real-time or store-and-forward basis by the carrier.)

13. The definition contemplates situations where the recipient may pick-up the message at the carrier's premises and anticipates that office or home delivery provided by the carrier need not be an essential function of a public message service. This allows for use of private means of physical pick-up or delivery (at the distant end of the transmission). Since sub-sections 3(a) and 3(b) of the Act refer to "all instrumentalities, facilities, apparatus and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission" 47 U.S.C. § 3(a) and (b) we seek comment on whether we should include the physical delivery function within the definition of PMS and, if so, the regulatory implications thereof.

14. Certain types of services are now being offered where an individual can easily become a "subscriber" to a service and send a communication at a carrier's location. Such subscriptions take the form of, say, a six dollar fee (per month, five dollars of which go toward the first message). There is no termination charge, apparently no waiting time between subscription and the rendition of service and no special equipment is necessary. Such

"subscription" services are included in the definition where "subscribers" may send communications by filing their messages at a public location. This counteracts situations where carriers could charge minimal advance subscription fees solely as a device to discourage occasional users or discriminate among potential users. The "subscriber" buys the right to carry a message into the carrier's service location and have the message transmitted, still paying a per-message fee (which may be debited against the subscription fees). We believe it is possible that the use of a subscription fee as a means of discrimination among customers, where no additional service is given as a result of the fee, is detrimental to the development of new public message services. We seek comments concerning the rule of and justification for such subscription fees and how they should be treated in determining whether a service should be considered a "public" message service.

15. As noted above, the proposed definition does not include computer or machine originated Mailgram. While an individual need not have special equipment to use Mailgram service (voice originated), clearly computer and machine originated Mailgram do require special equipment for their use (and to benefit from lower rates). This situation raises an interesting question (as do Telex-originated telegrams). Although the product (output) of the service is the same and the process for each class uses similar WU facilities once the message is accepted,¹⁰ the methods of acceptance vary so greatly in functional characteristics that certain classes of Mailgram are inaccessible to the public at large thus removing them from the domain of public services. The question here is whether the Commission should look at the service, as a whole (and as tariffed) from a product standpoint (a Mailgram is a Mailgram, regardless of the method of origination) and view the *overall* service as a public service (because anyone can send a Mailgram without the use of specific equipment) or should focus on the functional aspects of each type of Mailgram and make distinctions among them on the basis of their public availability. The first course runs the risk of encompassing specific sub-categories of service beyond the reach of the general public but does include those situations where a service produces the same product for any user, regardless of the method of origination. This could have implications for questions of rate discrimination among

¹⁰Clearly, different modifications are made to the Infomaster System for different means of input.

users of the same service—if the various types of Mailgram and telegram are in fact the same service.

16. One advantage of the functional approach is that it allows the Commission to be more precise in its definition of public message services and would allow greater consistency between our treatment of PMS and the handling of "enhanced non-voice" services outlined in the *Second Computer Inquiry*. We request the parties to comment on the question of how we should view situations like those presented by the types of Mailgram service and machine originated telegrams. The parties should offer suggestions and specific language for changes to the definition.

17. We must add at this point that since we are proposing a definition of PMS and asking comments, it is clear that we are still seeking the bounds of the PMS market. There may be some overlap with the "enhanced non-voice" service classification as proposed in the *Second Computer Inquiry*. (See *Tentative Decision and Further Notice of Inquiry*, FCC 79-307, released July 2, 1979). In the *Second Computer Inquiry*, we are addressing the market structure for "enhanced non-voice" service offerings. Insofar as the *Second Computer Inquiry* or this PMS proceeding may be relevant to assessing the structure under which WU and other entities provide PMS, the records of both proceedings may be relied upon in reaching any determination in this regard. If the parties believe that there are any special characteristics of the PMS market which are relevant to assessing the structure under which PMS services should be provided, they should be addressed in this proceeding.

Applicability of the International Formula

18. In *Domestic PMS*, we noted that there "appears to be no compelling reason to discriminate against Western Union in its ability to provide service or to modify its existing service." 71 FCC 2d at 524. We now seek comments concerning the effects of the international formula on the ability of Western Union to provide or modify its service or its ability to compete with Graphnet or other possible entrants. The formula, as now constituted, requires Western Union to distribute outbound unrouted international messages among the international record carriers (IRC's) in proportion to each of the IRC's shares of the outbound routed messages. This alone should not cause major problems for Western Union. However, the situation is complicated by the nature of

Graphnet's agreements with ITT Worldcom and RCA Globcom and WU. These agreements tie the distribution of outbound unrouted traffic to the amount of inbound traffic carried by Graphnet. These particular Graphnet-IRC agreements are the subject of a petition for partial reconsideration filed by TRT and will be disposed of in a separate order.

19. In 1943, Congress gave the Commission the authority to approve (or disapprove) the merger of Postal Telegraph and Western Union. That year, the Commission approved the merger of the two firms. As a result of this merger, a monopoly over domestic telegraph communications was formed. When Congress gave the Commission the authority to approve such a merger, it did not address itself the possibility that new, competitive public message carriers would arise.¹¹ It is important to remember that the nature of communications demand, supply and technology were considerably different in that era than they are today. 71 FCC 2d at 493-98. It was such changed conditions which caused us to review the need for WU's telegram monopoly and led us to approve Graphnet's application and adopt a "multiple entry" policy for domestic PMS.

20. Before the 1943 merger, the major carriers offering domestic service (Postal and WU) exchanged traffic with the International Record Carriers on contractual bases.¹² Congress sought to preserve the essence of such contracts, to the extent possible, when it adopted Section 222 of the Act,¹³ while protecting the IRCs from possible anti-competitive actions on the part of the merged

¹¹An examination of the legislative history of Section 222 of the Communications Act bears this out. The staff could find no reference to future competitive entry in the following Congressional materials: To Authorize a Complete Study of the Telegraph Industry: Hearings on S. Res. 95 Before the Subcomm. on Interstate Commerce U.S. Senate, 76th Cong. 1st Sess. (1939); Study of the Telegraph Industry: Hearings on S. Res. 95 Before the Subcomm. on Interstate Commerce U.S. Senate, Parts 1 and 2, 77th Cong., 1st Sess. (1941); S. Rep. No. 769, 77th Cong. 1st Sess. (1941); Consolidations and Mergers of Telegraph Operations: Hearings on S. 2598 Before a Subcomm. of the House Comm. on Interstate and Foreign Commerce, 77th Cong., 2d Sess. (1942); S. Reps. Nos. 1490 and 2664, 77th Cong., 2d Sess. (1942); S. Rep. No. 13, 78th Cong., 1st Sess. (1943); H.R. Reps. Nos. 69 and 142, 78th Cong. 1st Sess. (1943).

¹²Western Union was both a domestic and an international carrier at that time.

¹³47 U.S.C. § 222(e)(1), through (3). See also the Report of the Committee on Interstate Commerce (U.S. Senate), 77th Congress, 1st Session, Oct., 1941, p. 22 where the committee spoke of the ability of the carriers to work out traffic distribution methods, approved by the FCC. Congress intentionally left out a specific distribution formula.

domestic carriers.¹⁴ As a condition of the merger, WU was required to divest itself of its international operations (47 U.S.C. § 222(c)(2) and the provisions of § 222(b) which barred consolidation of domestic and international carriers). However, Congress saw that divestiture might be delayed because of a number of WU's long-term legal obligations. (See 47 U.S.C. § 222(c)(2) where the statute calls for divestment "within a reasonable time . . . as soon as the legal obligations, if any, of the carrier to be so divested will permit".) For this reason, Congress did not make divestment a pre-condition of merger. In the interim, Congress imposed a requirement for a formula to govern distribution of traffic which would prevent WU from using its domestic monopoly power to the detriment of its international carriers. Thus, the consolidated domestic carrier could not favor its own international subsidiary (until the time of divestiture) nor could it favor any single international carrier to the detriment of other IRCs by negotiating a formula which did not consider the existing (pre-merger) rights of the IRCs. The statute charged the FCC with the responsibility of insuring that the IRCs were treated equitably by the domestic monopolist.

21. The origin of the WU telegraph monopoly, the fact that Congress did not address itself to the possibility of a renewal of PMS competition, the intent to protect existing contractual provisions between domestic and international carriers, and the recognition that the interests of the IRCs and the public should be protected all bear on our interpretation of Section 222(e) in the light of new competition in domestic PMS. There can be no question that the intent of Section 222 was to provide for a "just, reasonable and equitable" distribution of traffic among the IRCs in the face of the proposed merger between Postal and WU and that there be no preference given to an international arm of a merged carrier (§ 222(b), (c) and (e)). These objectives must be assessed in the context of the permissive nature of the merger provisions. 71 FCC 2d at 491-92. The import of this permissive authority can be understood by an examination of the probable effects of actions which would have denied consummation of the merger. The language of Section 222 speaks in terms of the "merged" carrier. In 1943, it was improbable that Postal and WU would not merge. However, if they had not, it is clear on the face of

¹⁴H.R. Rep. No. 142, 78th Cong., 1st Sess. (1943): "This will require the Commission, in each case, to give due regard to the contracts under which the carriers were operating, and had rights, prior to the consolidation of merger."

*There is a definition of a "public message service" in Part 21. That definition only applies to domestic public land mobile radio service.

*The term machine, in this case, denotes station terminals including teletypewriters or teleprinter devices.

the statute¹⁵ that the provisions of Section 222 would not have applied and the *status quo* (at least in relationship to the international carriers) would have been maintained. This implies that the contractual arrangements among the domestic and international carriers would have remained in force. It also means that an international formula would have had to be developed as an interim measure to protect the IRCs and the public from the monopoly power of a merged domestic carrier.

22. This analysis of Section 222 attempts to discern the intent of Congress which must necessarily be related to technological and market realities of today which were not foreseen in 1943. Now that competition is once again a reality in the domestic PMS market, we must assess the efficacy of applying, in the same manner as we have in the past, a provision of the Act which was indisputably placed in effect only to combat the perceived problems of monopoly control of an enterprise which was once an essential portion of the nation's communications infrastructure.¹⁶ Our decision in *Domestic PMS* once again places the public message market in a structural position similar to that of the pre-merger era with the exception that Western Union is not operating in the international market.

23. We propose to substitute for a rigid international formula a system that will allow the domestic and international carriers to negotiate agreements for the handling of inbound and outbound international traffic and file tariffs based on such agreements.¹⁷ This proposal would allow the

development of an active market in the handling of inbound and outbound unrouted international traffic. The international carriers would now be able to use their inbound traffic and their associated revenues as a bargaining tool just as the domestic carriers would be able to use the outbound traffic (and the associated revenues) as a negotiating instrument. Domestic carriers could conceivably vary their rates from different classes or qualities of service. This scheme should not prejudice any single IRC beyond any problems which may now exist under the international formula, for now the volume of inbound messages will be given greater significance in their relations with domestic carriers.¹⁸ This proposal will still provide a means for the Commission to consider the public interest aspects of the agreements negotiated by the carriers so that the terms by which the carriers distribute message traffic can be judged to be just, reasonable, equitable and in the public interest as required by Section 222(e)(3) of the Act. In our view, it is likely that the proposed method will enable the carriers to negotiate the best possible prices which will act to keep hinterland rates as low as possible, benefiting the public by keeping the costs of providing international service down. The proposal will move away from a fixed method to a more fluid method of distribution and bring market forces into play as an important adjunct to our regulation. The Commission would still retain the authority to approve the carriers' agreements for the method of distribution of international traffic, consistent with Section 222(e) of the Act, as we have indicated.

24. Today, the majority (about 75%) of outbound message traffic filed with WU is unrouted. This implies indifference to (or ignorance of) the choice of IRCs available to the public. Under our proposal the domestic carriers will have an incentive to increase the public's recognition of their services and to build trust in their reliability. This activity would be predicated on attempts by each domestic carrier to increase its share of outbound (especially unrouted outbound) messages. This would give each carrier greater bargaining power with the IRCs (and greater revenues). It should help make the public more aware of the service choices available to it. Obviously, public recognition that there are PMS competitors will aid in the

¹⁸ This is not to say, however, that where opportunities for unlawful cross-subsidization exist, we would not require that such rates be supported by costs.

development of a functioning domestic PMS market.

25. We seek comments on our proposal and welcome modification or alternate proposals. For example, TRT Telecommunications Corporation has argued that Graphnet should be subject to Section 222(e); that is, Graphnet should be bound by the existing international formula (TRT comments in CC Dockets 78-95 and 78-96, pp. 5-6). TRT has also raised this issue on reconsideration. Parties are requested to address the TRT proposal in their comments. Other alternatives include (1) applying the formula to Graphnet (and future entrants) for an interim period, until our Gateway proceeding (Docket 19660) is resolved and (2) applying the proposed new method in the existing gateways only and applying the present formula to Graphnet (and future entrants) for all hinterland traffic and revisit the formula problem after the resolution of Docket 19660. Docket 19660 concerns applications by the IRCs to increase the number of places where they are allowed to operate in the United States. The gateway proposals are pertinent here because those cities already have alternate sources of supply (the IRCs). If there are additional gateways authorized, this may affect the number of messages covered by the formula by increasing the number of messages which would be filed directly with the IRCs or increasing the number of routed messages filed with domestic carriers because of heightened public awareness of IRC operations, thus perhaps minimizing the results of any final changes. The commenting parties are requested to provide the rationale for their suggested changes or alternatives, as well as estimate the effects of changes in the existing formula on their operations and the public's use and perceptions of both domestic and international message service. We also wish to know how such a proposal will affect Graphnet's and Western Union's market penetration and whether such a plan would result in an equitable (and more efficient) set of relationships among domestic and international carriers and between competing domestic carriers. Specifically, we would also like to explore the likely implications of Western Union's established name and market position in respect to Graphnet and any other carriers who may in the future participate in the domestic handling of international messages. Parties should also address whether our proposal will have any negative effect on rates and accessibility and availability of service to the public.

Finally, we will expect parties to address relevant positions regarding the Commission's authority to adopt its proposal or any alternatives they may consider.

Agency and Office Changes (Various Sections of Part 63)

26. Part 63 of the Rules ("Extension of Lines and Discontinuance of Service by Carriers") contains a number of specific rules which govern the closure of individual telegraph offices and agencies. This part also governs the entry of new firms and the establishment of new lines. In *Domestic Public Message Services*, 71 FCC 2d at 522, we waived Sections 63.01(1), 63.01(m) and 63.01(n) to facilitate the entry of new firms. We also stated our intention "to minimize our regulatory involvement in this area [PMS], with regard not only to new entrants, but to Western Union as well." *Id.* at 524.

27. Most of the telegraph-related rules found in part 63 deal with "discontinuance, reduction or impairment of service." The Rules are very detailed and are intended to effectuate the "discontinuance, reduction and impairment of service" provisions of Section 214(a) of the Communications Act:

No carrier shall discontinue, reduce, or impair service to a community, or part of a community, unless and until there shall first have been obtained from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected thereby: except that the Commission may, upon appropriate request being made, authorize temporary or emergency discontinuance, reduction or impairment of service, or partial discontinuance, reduction or impairment of service, without regard to the provisions of this section . . . nothing in this section shall be construed to require a certificate or other authorization from the Commission for any installation, replacement or other changes in plant, operation, or equipment, other than new construction, which will not impair the adequacy or quality of service provided.

28. Section 214(b) requires notification of the Secretaries of the Army and the Navy and the Governor of the affected state and assures those notified the right to be heard.

29. Despite the requirements of Section 214 and our Rules, the number of Western Union offices and agencies have declined drastically (except for a small increase in 1977) and the nature of telegraph service has changed. *Domestic PMS*, 71 FCC 2d at 493-97. One major change has been the de-emphasis of the role of agencies and offices and greater reliance on the Central Telephone Bureaus, especially for the acceptance

of telegrams. The other major changes are the development of substitutes and the willingness of other firms to enter the public message service market which led to our *Domestic PMS* decision. It is our intention in this rulemaking to reduce, simplify, or eliminate our rules governing office and agency changes and bring those rules more in line with the current trends in the public message service area, consistent with our obligations under Section 214.

30. With the increased availability of substitutes, the increased dependence on the telephone for the provision of telegraph service and the decreased geographic coverage of Western Union's offices and agencies without apparent harm to the public interest, there is little reason to keep our current complicated set of rules covering office and agency changes. We wish to reduce the requirements of our rules and yet meet the (de-)certification and notice requirements of the act and allow the opportunity for those affected to be heard. Our proposals will apply to all PMS carriers. We further propose some rules which will be commonly applied to agencies and offices to facilitate the processing of any changes.¹⁹

31. A. *Changes in hours of operation.* Currently, Section 63.60(c) requires formal application for the reduction of hours of service at a "public telegraph office" (with certain exceptions).²⁰ Agency hour changes are often handled under Section 63.63 ("Emergency discontinuance, reduction and impairment"). In a typical case, this is because the agents may change the hours of their business—a situation over which the carrier has little, if any control.²¹ The emergency application is filed and at the end of the 60-day emergency period, the carrier requests a permanent change by filing an informal request (Section 63.505). Hour changes are nearly always granted.

32. The end of Western Union's public message monopoly and the reduced use of telegraph service call into question our need for regulating the hours which carriers keep open their places of business.

The presence of competitors and the fact that Western Union's offices and agencies provide more than telegram

¹⁹ The proposed changes to Part 63 are listed in the appendix to this Notice.

²⁰ These exceptions are for situations where another office in the community will continue to provide service (63.66); the office is located at a deactivated military establishment (63.66), and where the Commission has specified certain circumstances for branch offices and main offices (63.68).

²¹ See the exception listed in 63.60(a)(2) and the definition of "Emergency discontinuance, reduction or impairment of service" in 63.60(b).

service (e.g. money order) weigh on the carrier to be judicious in setting office hours which allow for reasonable (and revenue producing) consumer access to its services. It is also noteworthy that Western Union can only directly control the hours of its less than two hundred offices. The other five thousand locations are agencies, mostly co-located with businesses whose hours are under the control of their owners. As noted, above, when these hours change, the Commission usually grants the request filed after the fact by Western Union. Further, telegrams are accepted by WU from any phone in the country via WATS lines any hour of the day. This helps ameliorate the effects of hour reductions.

33. We propose to eliminate our existing requirements for changes in hours of service. There appears to be no reason for such detailed regulation in an era of growing substitutes and in light of conditions in the telegram market. As we have noted, many of the hour changes approved by us have been after-the-fact affirmations of temporary or emergency authority sought under Section 63.63. This is because of the widespread use of agencies by Western Union. We expect that new entrants offering public message services will also rely greatly on agents. This will only dilute further the Commission's already limited control over hours changes. Section 214(a) of the Act gives the Commission authority to "upon appropriate request, authorize temporary or emergency discontinuance, reduction, or impairment of service, or partial discontinuance, reduction, or impairment of service, without regard to the provisions of this section" (emphasis added). With telegram service now primarily oriented toward use of the telephone, 71 FCC 2d at 495, there will be little, if any dislocation or impairment of service by taking this step.

34. The language of Section 214(a) quoted above states that we may use such authority "upon appropriate request." This implies that we may determine the nature of an "appropriate request." It may be that case-by-case requests for hour changes are no longer appropriate under the market conditions described above and in our order. Therefore, we propose to grant a single, general request by any PMS carrier for the ability to change hours of service at agency or office locations without notification to the Commission of such changes for individual locations. Grant of such a request would cover all hour changes at any of the carrier's locations and would eliminate the need for future.

case-by-case requests. A request for such general authority may be made at any time and would be deemed granted within twenty-one days after application, absent further action by the Commission.

B. Agency and Office Closings.

35. Telegraph agency and office closings are now covered in Sections 63.502 and 63.503 (formal applications under Section 63.62(c)) and Sections 63.64, 63.66, 63.68 and 63.505 of our Rules.²² These rules require detailed information about traffic in locations to be closed, alternate services and the rationale for the closing, among other things. Consistent with our pronouncements in our Order, we propose to modify the Commission's Rules to allow the maximum flexibility possible for Western Union and other PMS carriers. We would consolidate our rules so that office and agency closings in the normal course of business will be treated in the same fashion. Recognizing the nature of agency locations, and the frequency of emergency discontinuance of agencies, we propose to make appropriate provisions for such situations.²³

36. For a normal, discontinuance or the conversion of an office to agency operation, we propose the following. The carrier will give notice to the public of the closing for a period of at least 30 days.²⁴ The carrier will also inform the FCC of the location of the office or agency to be closed or converted. If no comments are received within 40 days of the original notice, the location may be closed or converted. If adverse comments are received, the Commission staff will notify the carrier to that effect. The carrier may then file an application for discontinuance comparable to the information now called for under Section 63.505 within seven days after the end of the original 40 day period. The carrier must, of course, comply with the notice requirements of Section 214(b) of the Act (notification of the Secretaries of the Army and Navy and the Governor of the affected state).

37. For situations where a carrier loses an agent through no action of its own (e.g., agent goes out of business), the carrier need only notify the Commission of the name and location of the agent. This will make it unnecessary for the carrier to file an emergency

discontinuance under Section 63.63. The only requirement we shall place on the carrier is to make available the right to become an agent to any suitable individual who wishes to establish operations in a location where the carrier has lost its only agency. This would remove the burden now placed on Western Union to seek a new agent, yet insure that local interests have the ability to pursue the opportunity for continued service to a community which otherwise would be left without an agency. This requirement would apply to all PMS carriers.

38. We believe that these proposals for office changes represent a fair balance between the requirements of Section 214 of the Act and our desire to minimize our regulatory involvement in this area. However, we welcome suggestions of ways to further our goal of minimal regulation of PMS. Any recommendations concerning office and agency changes should explicitly take into account the constraints of Section 214 and offer specific wording for any new rules.

39. The Commission is concerned, among other items mentioned in this Notice, with the period of transition from a monopoly to a more competitive market. As the domestic PMS market takes form over the next few years, we will be carefully watching its development. In our proposals, we have attempted to strike a balance between our desire to allow such market development with minimum regulatory involvement and our perception of the need to protect the public interest through a transition period to competition where the interaction of market forces will assist in, if not largely displace, a need for our detailed involvement.

40. Someday, we may be able to reduce our regulation in this area even farther than we are now proposing. For example, it may become possible to regulate PMS carriers in much the same manner as we now regulate, say, resale carriers, thus eliminating the need for specific PMS rules. We wish to have the parties comment on what further actions we could take to reduce our regulation of PMS and what market characteristics would trigger such changes (e.g., a certain number of firms, market concentration measure, some measure of geographic coverage of the firms, combinations of measures, etc.). We also request comments concerning the control which the commission should exercise in the future over agency and office changes. This is particularly important in light of Section 214(a) of the Act which governs discontinuance,

reduction or impairment of service. Specifically, we would like the parties to discuss (but not necessarily restrict themselves) whether and how the reliance on the telephone in PMS service, the availability of facilities for resale and the character of public message services of the future affect the Commission's role under the discontinuance, reduction and impairment of service provisions of Section 214. For example, given the nature of modern PMS and its reliance on the telephone and mails, should agency closures be considered discontinuances? If so, what should the Commission's involvement be in such a situation?

41. The parties should be cognizant of the fact that the discontinuance provisions of Section 214(a) were added at the time of the WU-Postal Telegraph merger. Changed technologies, lowered entry costs (resale), and the possible proliferation of record services and serving locations all force a review of those provisions of the Act. Our discussion of the 1943 changes to Section 214 elsewhere in this Notice leads us to suggest that the intent of the statute was to protect the public from monopoly control over an essential communications service. In the absence of such monopoly control, we seek comments on the extent to which we must exercise control over PMS service changes in relation to the intent and history of Section 214.

Part 42

42. The Commission solicits comments from Western Union and other parties on possible changes to Part 42 of our Rules ("Preservation of Records of Communication Common Carriers") as they relate to telegram or public message service. While Part 42 was mentioned on the record of CC Dockets 78-95 and 78-96, the dearth of specific comments concerning it made it impossible for the Commission to assemble reasonable proposals for disposition of any telegram-related rules in Part 42. Any suggestions put forth by the parties should be specific and recommend alternative rules, where deemed necessary, and provide a justification for any proposed change (or elimination).

Conclusion

43. It is ordered, Pursuant to Sections 4(i), 4(j), 201-205, 214, 222, 403 and 404 of the Communications Act of 1934, that there is hereby instituted a Notice of Inquiry and Proposed Rulemaking on the foregoing matters. Interested parties may file comments on or before August

27, 1979 and reply comments on or before September 14, 1979. All relevant and timely comments filed in accordance with Sections 1.415 and 1.419 of our Rules and Regulations will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in its final decision.

44. It is further ordered, That the Secretary shall cause a copy of this Notice to be published in the *Federal Register*.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix: Changes to Part 63

§ 63.01 Contents of Applications

Change to read:

(h)(3) The types of toll telephone or public message service offices to be established.

Note.—This eliminates the need to specify pickup and delivery service to be offered from newly established PMS offices.

§ 63.60 Definitions

Change to read:

(a)(1) The closure by a carrier of a public message office, a telephone exchange rendering interstate or foreign telephone toll service, a public toll station serving a community or part of a community, or a public coast station as defined in § 81.3 of this chapter; the term "closure" of a public message office includes the substitution of an agency or jointly-operated office for an office operated directly by the carrier but does not include the substitution of one telegraph agency office for another telegraph agency office, except where an increase in charges to the public results:

(a)(2) The reduction in hours of service by a carrier at a telephone exchange rendering interstate or foreign telephone toll service, at any public toll station (except at a toll station at which the availability of service to the public during any specific hours is subject to the control of the agent or other persons controlling the premises on which such office or toll station is located and is not subject to the control of such carrier), or at a public coast station; the term "reduction in hours of service" does not include a shift in hours which does not

result in any reduction in the number of hours of service.

(a)(3) Eliminated.

Notes.—The change in (a)(1) reflects the changes in our office and agency closure rules. The change in (a)(2) reflects our policy on office closures; i.e., to treat them as partial discontinuances and grant a general authority to change hours as required by business conditions. The elimination of (a)(3) which dealt with messenger service reflects our view stated in the discussion of the PMS definition that physical (messenger) delivery by the carrier is not necessarily an essential part of PMS.

Change to read:

(c) Public message service: Electronic transmission of messages accepted in written or oral form by a carrier or its agent at a public location or carrier premises where such messages are reduced, as required, to computerized or other electronic (or from written to oral) form by the carrier or its agent and the intended recipient receives or has access to the message in written or visual form. Special equipment is not essential for the customer to use the service.

(d) "Public Message Office" means an office at which messages may be accepted from the public for transmission and from which messages may be delivered to the public; the term includes seasonal, agency, and jointly-operated offices but does not include toll stations:

(e) "Seasonal Office" means a public message office operated for a specific period or periods each year;

(f) "Jointly-Operated Office" means a public message office operated jointly by a carrier with any other person;

(g) "Agency Office" means a public message office operated by an agent of the carrier;

Notes.—The changes of 63.60 (c-g) reflect the new definition of public message service, and remove references to "telegraph." Section 61.30(d), the definition of "Main Office," is eliminated.

§ 63.64 Change title to read:

Alternative procedure in certain specified cases involving public coast stations.

Note.—This section will no longer apply to telegraph offices.

§ 63.66 Change to read:

§ 63.66 Closure of or reduction of hours of service at telephone exchanges at military establishments.

Where a carrier desires to close or reduce hours of service at a telephone exchange located at a military establishment because of the deactivation of such establishment, it

may, in lieu of filing formal application, file in quintuplicate an informal request. Such request shall make reference to this section and shall set forth the class of office, address, date of proposed closure or reduction, description of service to remain or be substituted, statement as to any difference in charges to the public, and the reasons for the proposed closure or reduction. Authority for such closure or reduction shall be deemed to have been granted by the Commission, effective as of the 15th day following the date of filing of such request, unless, on or before the 15th day, the Commission shall notify the carrier to the contrary.

Note.—This situation for PMS carriers will be covered in new Section 63.67.

§ 63.67 Eliminate existing section and replace with:

§ 63.67 Public Message Service Office and Agency Closings: Conversion of Offices to Agencies

(a) Where a carrier desires to close a public message service office or agency, or convert from office to agency operation, the carrier must:

(i) Notify the Federal Communications Commission of the location of the office or agency involved, and

(ii) Post a public notice for thirty days in the manner described in § 63.90(a) (1-5, 7, 8) and mail notices to any affected tie-line customers.

(b) If no adverse comments are received at the Federal Communications Commission within forty days after the first notice, the location may be closed.

(c) If adverse comments are received at the Federal Communications Commission within forty days, the carrier shall provide the information requested under Section 63.505 pertinent to PMS within seven additional days. If the Commission does not act within twenty-one more days the informal request will be considered granted.

§ 63.68 Delete the section.

§ 63.90 Change to read:

§ 63.90 Publication and posting of notices.

(a) Immediately upon the filing of an application or informal request (except a request under § 63.67, § 63.68, or § 63.70) for authority to close or otherwise discontinue the operation, or reduce the hours of service at, a telephone exchange (except an exchange located at a military establishment), or a public coast station, the applicant shall post . . . [continued as now written]

Note.—The appropriate sections of Section 63.90 are referenced in the new Section 63.67.

²² Sections 63.506 and 63.507 contain the application forms related to Sections 63.67 and 63.68 respectively. Sections 63.64, 63.66 and 63.505 do not apply exclusively to telegraph service.

²³ See also footnote 6, *supra*.

²⁴ This is the same notice now required in Section 63.90(a), except we would eliminate the need for publication of the notice in a newspaper of general circulation.

- § 63.91 Delete.
 § 63.502 Delete.
 § 63.503 Delete.
 § 63.506 Delete.
 § 63.507 Delete.

[FR Doc. 79-23155 Filed 7-26-79; 8:45 am]
 BILLING CODE 6712-01-M

[47 CFR Part 73]

[BC Docket No. 79-178; RM-3160]

FM Broadcast Station in Granbury, Tex.; Proposed changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a Class C FM channel to Granbury, Texas, in response to a petition filed by Heritage Broadcasting Company. The channel could be used to provide Granbury with its first local broadcast outlet.

DATES: Comments must be filed on or before September 16, 1979, and reply comments on or before October 6, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Jonathan David, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Granbury, Texas); notice of proposed Rule Making.

Adopted: July 18, 1979.

Released: July 25, 1979.

By the Chief, Broadcast Bureau.

1. Heritage Broadcasting Company has filed a petition for rule making¹ requesting an amendment of the FM Table of Assignments (§ 73.202(b) of the Commission's Rules) by the assignment of FM Channel 294 to Granbury, Texas.

2. Granbury is the seat of Hood County and is located about 59 kilometers (35 miles) southwest of Fort Worth, Texas. According to the 1970 U.S. Census, Granbury had a population of 2,473, and Hood County, a population of 6,368. Granbury has no local broadcast service.

3. Petitioner argues that Granbury needs a first local service and that this Class C channel is the appropriate means to bring needed service to this area. In this connection, it points to first and second FM service which a station on this channel could provide if it

operated with 100 KW ERP and an antenna height of 1,000 feet above average terrain. Although another pending petition (for Stephenville, Texas) involves a proposal which could bring service to some of these areas, it is clear that some first and second FM service would remain. Under these circumstances, we are willing to consider the proposal.²

4. If Channel 294 were assigned as proposed, preclusion would occur on that channel and on adjacent channels. It would preclude otherwise possible assignments at the following Texas Communities which lack any local aural service: Ranger (pop. 3,094), Gorman (1,236), DeLeon (2,170), Electra (3,895), Munday (1,726), Knox City (1,536), Haskell (3,655), Rule (1,024), Menard (1,740), and Dunlin (2,810). Petitioner should show whether alternative channels are available for assignment to these communities.

5. Although additional information is needed before final action can be taken, the Commission is persuaded that the proposal is worth exploring. Accordingly, the Commission proposes to amend the FM Table of Assignments (§ 73.202(b) of the Commission's Rules) with regard to Granbury, Texas, as follows:

City and Channel No.

Granbury, Tex.: Present:—Proposed: 294.

6. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 below before a channel will be assigned.

7. Interested parties may file comments on or before September 16, 1979, and reply comments on or before October 6, 1979.

8. For further information concerning this proceeding, contact Jonathan David, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at

² As petitioner recognizes, because of the nighttime coverage of the Dallas AM stations, no first or second full-time aural service would be involved.

the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g), and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making*, above.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making above. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* above. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the

person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

(FR Doc. 79-23147 Filed 7-26-79; 8:45 am)
 BILLING CODE 6712-01-M

[47 CFR Part 73]

[BC Docket No. 79-177; RM-3370]

FM Broadcast Station in Thomaston, Ga.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Action taken herein proposes the assignment of an FM channel to Thomaston, Georgia, in response to a petition filed by Sunbelt Communications, Inc. Petitioner states the proposed channel could provide a first fulltime local aural broadcast service in Thomaston, Georgia.

DATES: Comments must be filed on or before September 16, 1979, and reply comments on or before October 6, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Thomaston, Georgia); notice of proposed rulemaking.

Adopted: July 18, 1979.

Released: July 24, 1979.

By the Chief, Broadcast Bureau.

1. *Petitioner, Proposal, Comments:* (a) A petition for rulemaking¹ was filed on April 2, 1979, by Sunbelt Communications, Inc. ("petitioner"), requesting the assignment of Channel 237A to Thomaston, Georgia, as that

¹ Public Notice of the petition was given on May 4, 1979. Report No. 1176.

community's first FM assignment. No responses to the proposal were received.

(b) The channel could be assigned in compliance with the minimum distance separation requirements, provided the transmitter site is located approximately 6 kilometers (4 miles) southwest of Thomaston.

(c) Petitioner states that it will apply for the channel, if assigned.

2. *Community Data:* (a) *Location:* Thomaston, seat of Upson County, is located approximately 97 kilometers (60 miles) east of the Georgia-Alabama border, and 109 kilometers (68 miles) south of Atlanta, Georgia.

(b) *Population:* Thomaston—10024; Upson County—23,505.²

(c) *Local Aural Service:* Thomaston is served locally by two daytime-only AM stations (WSFT and WKNG).

3. *Economic Data:* Petitioner claims that the population of Thomaston is growing, and it notes that the community serves as the major trading center for this rural section of Georgia. Petitioner states that the proposed channel could provide Thomaston with its first FM facility in addition to a first nighttime aural service. Petitioner has submitted detailed information with respect to Thomaston in order to demonstrate its need for a first FM assignment.

4. In view of the apparent need for a first fulltime local aural broadcast service in Thomaston, Georgia, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with regard to Thomaston, Georgia:

City and Channel No.

Thomaston, Ga.; Present:—Proposed 237A.

5. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained below and are incorporated by reference herein.

Note:—A showing of continuing interest is required by paragraph 2 below before a channel will be assigned.

6. Interested parties may file comments on or before September 16, 1979, and reply comments on or before October 6, 1979.

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are

² Population figures are taken from the 1970 U.S. Census.

prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* above.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making above. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* above. All submissions by parties to this proceeding or persons acting on behalf

¹ Public Notice of the filing of the petition was given on August 2, 1978. Report No. 1135.

of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[PR Doc. 79-23146 Filed 7-26-79; 8:45 am]
BILLING CODE 6712-01-M

[47 CFR Part 73]

[BC Docket No. 79-176 and RM-3171; RM-3387]

Television Broadcast Station in Riverside and Santa Ana, Calif.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of UHF TV Channel 62 to Riverside, California, for noncommercial educational television use or to Santa Ana, California, for commercial use. Channel 62 cannot be assigned to both cities because of spacing requirements. The Riverside request was made by Bethel Broadcasting, Inc., and the Santa Ana request was made by Asian American Telecasters.

DATES: Comments must be filed on or before September 16, 1979, and reply comments must be filed on or before October 6, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of Amendment of Section

73.606(b) Table of Assignments, Television Broadcast Stations. (Riverside and Santa Ana, California); Notice of proposed rule making.

Adopted: July 18, 1979.
Released: July 24, 1979.

By the Chief, Broadcast Bureau:

1. *Petitioner, Proposal, Comments:* (a) The Commission has before it, and will consider jointly, the petitions of Bethel Broadcasting, Inc.¹ ("Bethel"), and Asian American Telecasters², ("Asian"), regarding Riverside and Santa Ana, California.

(b) The petition of Bethel requests the assignment of UHF television Channel 62 to Riverside, California, for noncommercial educational television use.

(c) The petition of Asian requests the assignment of UHF television Channel 62 to Santa Ana, California, for commercial use.

2. *Demographic Data:* (a) *Location:* Riverside, seat of Riverside County, is located in southern California, approximately 90 kilometers (55 miles) east of Los Angeles. Santa Ana, seat of Orange County, is located approximately 56 kilometers (35 miles) south of Los Angeles. Both are part of the Los Angeles television market.

(b) *Population:* Riverside—140,089; Riverside County—459,074. Santa Ana—156,601; Orange County—1,420,386.³

(c) *Present Television Service:* Riverside—Channel 46 is presently assigned to Riverside, but is being used at Guasti, California, by Station KSBN. Santa Ana—Channel 40 is assigned to Santa Ana but is now being used in Fontana, California, by Station KTBN-TV.⁴ Channel *50 is assigned to Santa Ana but is being used at Huntington Beach by noncommercial educational Station KOCE-TV. Both Riverside and Santa Ana receive television service from Los Angeles.

3. Bethel states that Riverside is a rapidly growing city whose population in 1978 was estimated at 150,612, as compared to 140,089 in 1970. It asserts that community leaders and area residents attest to the growth of Riverside and the need for a local noncommercial educational broadcast service. Bethel has submitted other information with respect to Riverside

¹Public Notice of the petition was given on August 2, 1978, Report No. 1135.

²Public Notice of the petition was given on June 27, 1979, Report No. 1161.

³Population figures are taken from the 1970 U.S. Census.

⁴KTBN-TV has applied (BPCT-5154) to change its city of license to Santa Ana. Saddleback Broadcasting Company, Inc. has also applied (BPCT-5203) for Channel 40 at Santa Ana.

and its need for a television channel assignment.

4. Asian American asserts that Santa Ana is a growing locality in need of service. It points out that Chamber of Commerce figures for Santa Ana show that its population has increased 17% between 1970 and 1978. Asian American argues in favor of assigning the channel to Santa Ana so that it could be used to provide a unique Asian-oriented service for Orange and Los Angeles Counties in addition to another service in Santa Ana.

5. Both Bethel and Asian state they would apply for the channel in their respective communities, if assigned.

6. Each of the petitioners have made a sufficient public interest showing to warrant assignment of a channel as proposed. Since spacing restriction preclude assigning the channel to both communities, we are inviting comments on the appropriate locality for the assignment. The choice is important, as a staff study reveals that Channel 62 is the last channel which would be assigned to Riverside, Santa Ana, or elsewhere to serve the entire Los Angeles area.

7. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, It Is Proposed To Amend the Table of Television Assignments in Section 73.606(b), with respect to the cities listed below:

City	Channel No.	
	Present	Proposed
Riverside, California	46	46, *62
Santa Ana, California	40, *50- 40, *50-	62

8. In view of the fact that Riverside and Santa Ana are within 320 kilometers (199 miles) of the Mexican border, the proposed assignment of Channel *62 to Riverside or Channel 62 to Santa Ana, California, are subject to concurrence by the Mexican Government.

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated herein by reference.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

10. Interested parties may file comments on or before September 16, 1979, and reply comments on or before October 6, 1979.

11. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involves channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.
Richard J. Shiben,
Chief, Broadcast Bureau.

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the TV Table of Assignments, Section 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in

connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[PR Doc. 79-23153 Filed 7-26-79; 8:45 am]
BILLING CODE 6712-01-M

[47 CFR Part 73]

[BC Docket No. 79-179; RM-3335]

Television Broadcast Station in Tullahoma, Tenn.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a first television channel to Tullahoma, Tennessee. Petitioner, Quin/Abi Broadcasting, Inc., states the proposed channel could bring a first local television service to the community.

DATES: Comments must be filed on or before September 16, 1979, and reply comments on or before October 6, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Tullahoma, Tennessee); notice of Proposed Rule Making.

Adopted: July 18, 1979.

Released: July 25, 1979.

By the Chief, Broadcast Bureau.

1. The Commission has before it for consideration a petition for rulemaking,¹ filed by Quin/Abi Broadcasting, Inc. ("petitioner"), licensee of AM Station WJIG and Station WJIG-FM, Tullahoma, Tennessee, seeking the assignment of UHF television Channel 64 to Tullahoma, Tennessee, for commercial use. Channel 64 can be assigned to Tullahoma in compliance with the minimum distance separation requirements and other technical criteria. No responses to the proposal have been received.

2. Tullahoma (pop. 15,311), is located in south central Tennessee, on the border of Coffee and Franklin Counties (pop. 32,572 and 27,289,² respectively). It is situated approximately 90 kilometers (55 miles) northwest of Chattanooga. Tullahoma has no television assignments.

3. Petitioner states that Tullahoma is the largest city in Coffee County. It asserts that the city and most of Coffee County receive no Grade A service but only receive Grade B service from cities over 80 kilometers (50 miles) distant. Petitioner claims that the proposed television station would serve in excess of 100,000 people.

4. Petitioner is the licensee of the existing AM and FM stations in Tullahoma. Under § 73.636(a)(1) of the Commission's Rules, no new VHF television-FM combinations may be created. However, UHF television-FM common ownership combinations as would result in this instance are treated on a case-by-case basis. See Note 8 of § 73.636. Consequently, in connection with any application for a new station at Tullahoma, petitioner may be required to provide a showing that its being the licensee of both an FM and a television broadcast station in the same community would not be contrary to the public interest.

5. In view of the fact that the proposed assignment could provide for the establishment of a first local television

¹Public Notice of the petition was given on March 14, 1979, Report No. 1167.

²Population figures are taken from the 1970 U.S. Census.

service in Tullahoma, the Commission finds it would serve the public interest to seek comments in rule making. Accordingly, the Commission proposes to amend § 73.606(b) of the Commission's Rules, the Television Table of Assignments, as follows:

City and Channel No.

Tullahoma, Tenn.; Present:—; Proposed: 64 +.

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before September 16, 1979, and reply comments on or before October 6, 1979.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Richard J. Shibem,
Chief, Broadcast Bureau.

Attachment: Appendix

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the TV Table of Assignments, Section 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits

or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference

Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 79-23152 Filed 7-26-79; 8:45 am]

BILLING CODE 6712-01-M

(47 CFR Part 76)

[Docket No. 20988; RM-2721; Docket No. 21284; RM-2919; FCC 79-426]

Cable Television Syndicated Program Exclusivity Rules; Inquiry Into the Economic Relationship Between Television Broadcasting and Cable Television

AGENCY: Federal Communications Commission.

ACTION: Comment and reply dates in Dockets 20988 and 21284 extended to September 17, 1979 and October 17, 1979 respectively.

SUMMARY: In response to a petition from the National Association of Broadcasters a 60 day extension of time for the filing of comments and reply comments in Docket 20988 and 21284 was granted. A request by Association of Independent Television Stations *et al.* for the commencement of a trial type hearing was dismissed as prematurely filed.

DATES: Comment and reply comment dates extended until September 17, 1979 and October 17, 1979 respectively.

FOR FURTHER INFORMATION CONTACT: Stephen Bailey, Cable Television Bureau (202) 632-6468.

SUPPLEMENTARY INFORMATION:

Order

[44 FR 28347, May 15, 1979]

Adopted: July 12, 1979.

Released: July 19, 1979.

In the Matter of Cable Television Syndicated Program Exclusivity Rules. Docket 20988, RM-2721.

In the Matter of Inquiry Into the Economic Relationship Between Television Broadcasting and Cable Television, Docket 21284, RM-2919.

1. The Commission has received a "Joint Motion For Revision of Procedures" in this Docket filed jointly by Association of Independent Television Stations, Inc.; Caucus for Producers for Producers, Writers, and Directors; Metromedia, Incorporated; Motion Picture Association of America, Inc.; National Association of Broadcasters; National UHF Broadcasting Association; and Screen

Actors Guild.¹ This petition asks that the procedures in this rulemaking proceeding be amended to:

Designate the factual issues in dispute for hearing before an Administrative Law Judge. Allow the proponents for each viewpoint to present witnesses supporting that position; permit cross-examination and rebuttal.

Direct the Administrative Law Judge to certify the record to the Commission.

Suspend the filing of comments until after completion of the evidentiary proceeding.

2. Petitioners note that the existing procedures are in compliance with the Administrative Procedures Act but suggest that an oral proceeding is necessary and that the Commission's factual determinations "can only be tested in the crucible of the hearing process." The procedures proposed are said not to be time consuming and could be completed on an expedited basis. A number of major and minor criticisms of the *Report in Docket 20988*, FCC 79-242, — FCC 2d — (1979) and the *Report in Docket 21284*, FCC 79-241, — FCC 2d — (1972) are advanced along with a twenty page critique prepared for the National Association of Broadcasters by Franklin Fisher of Appendix A to the Report in Docket 21284.

3. Finally, it is urged that the use of oral proceedings in a number of other contexts as a means of validating contested issues of fact weighs in favor of such a proceeding here. Among the cited precedents for the procedure suggested are: 1) the use of oral presentations by the Congress in connection with the Communications Act "re-write" effort, 2) the use of oral proceedings by the Commission in its rule makings dealing with subscription television, cable television and pay cable television² 3) the taking of oral evidence in the earlier inquiry into network practices,³ 4) the Commission's 1966 rules requiring individual market hearings on issues of cable television signal carriage,⁴ 5) *Carroll* doctrine hearings in the broadcast field,⁵ and the Toxic Substances Control Act⁶ and the

¹ Separate statements in support of the request were filed by American Broadcasting Companies, Inc., Association of Maximum Service Telecasters, and a group of smaller market UHF television station licensees.

² *Notice of Proposed Rule Making and Notice of Inquiry in Docket 18397*, 15 FCC 2d 417 (1968); *Second Further Notice of Proposed Rule Making in Docket 11279*, FCC 67-891, released July 31, 1967; *Further Notice of Proposed Rule Making in Docket 19554*, 48 FCC 2d 453 (1974).

³ *Order for Investigatory Proceeding in Docket 12782*, FCC 59-166, released February 26, 1959.

⁴ *Report and Order in Docket Nos. 14895, et al.* 2 FCC 2d 725 (1966).

⁵ *Carroll Broadcasting Co. v. FCC*, 258 F.2d 440 (D.C.Cir. 1958).

⁶ P.L. 94-469, 15 U.S.C. section 2605.

Magnuson-Moss Act⁷ (both of which mandate informal hearing procedures in certain types of rulemaking proceedings).

4. Comments in opposition were filed by the National Cable Television Association which characterizes the petition as an attempt to delay regulatory change to the detriment of television consumers. This process could take many months, it is said, and is not needed because the current procedures provide an ample opportunity for all parties to be heard. It is also suggested that petitioners are attempting to shift the burden of proof in this proceeding. Finally, it is noted that in the process of adopting the cable television rules the Commission refused a request by cable interests for a hearing to examine the studies of Dr. Fisher and others.⁸

5. In addition, an opposition pleading was filed by United Video, Inc. which states that the existing rules were adopted without any real economic basis or study, that existing restraints involve First Amendment rights that require immediate resolution, that complex economic issues involving predictions of the course of future events will always create disputes between economists, and that the procedures proposed would so increase the complexity of the proceeding as to make any rational decision impossible.

6. Petitioners have replied, reiterating the reasons for their request and urging that the precedent cited by NCTA (n. 7) is inopposite because the rules adopted provided for hearings and because the request which the Commission then denied was not timely filed.

7. Comments and reply comments responsive to our *Notice of Proposed Rule Making* in this proceeding have not yet been filed so that it is impossible to ascertain at this point the nature and extent of the factual disputes existing with respect to the rule changes proposed. When all of the initial written filings are received we will be in a far better position to know what factual issues remain and whether they are the types of issues best addressed through the procedures proposed or whether more traditional oral argument, additional written submission or any other procedures are best suited for their resolution.

7. It appears to us that, almost without exception, this is the practice followed in the precedents cited. Petitioners, in describing procedures adopted by the

Environmental Protection Agency to implement a statute that makes specific provision for an oral hearing, themselves note that written comment or more traditional oral arguments are to precede a decision on whether disputed facts remain that require a trial type hearing.⁹ There appears to be a strong consensus among those who have given detailed consideration to the use of such trial type hearings in informal rulemaking proceedings that they should be used sparingly and with as narrow and specific a scope as is possible.¹⁰ For these reasons it appears that the "Joint Motion for Revision of Procedures" is premature at this time. It will accordingly be dismissed without prejudice to its refiling at a later date.

8. We are also in receipt of a separate request from the National Association of Broadcasters asking that the comment and reply dates in this proceeding be extended from July 17, 1979 and August 16, 1979 to September 17, 1979 and October 17, 1979 even if the request for an evidentiary hearing is not granted.¹¹ The NAB urges that this extension is warranted in view of:

(1) the critical importance of this proceeding to the competitive relationship between broadcast television and cable television and the service each provides the public; (2) the substantiality and complexity of the Commission's reports; (3) the inadequacy of the present record; (4) the Commission's expressly and squarely placing the burden on broadcast interests to demonstrate the need for maintaining the rules; (5) the unusually—and surprisingly— heavy workload during the summer months when industry and station counsel, as well as commissioners, plan vacations; (6) the complexity and time consuming nature of conducting the necessary research; (7) the virtually irreversible nature of the Commission's proposed action; and (8) the

⁹ It should also be noted that even where a decision has been made to proceed with a trial type hearing, in complex proceedings an exchange of written testimony by the parties is frequently required.

¹⁰ See, for example, Recommendation No. 76-3 of the Administrative Conference of the United States, 1 CFR 305.76-3: *Delay in the Regulatory Process*, Senate Document No. 95-72 prepared for Committee on Governmental Affairs, United States Senate (July 1977); *American Telephone & Telegraph*, 45 FCC 2d 88 (1974) in which the Commission indicated its reasons why even in a ratemaking proceeding the holding of a "paper" rather than an oral hearing would be desirable; and *Bell Telephone Company of Pennsylvania v. FCC*, 503 F. 2d 1250, 1266-1267 (3rd Cir. 1974): "When, as here a new policy is based upon the general characteristics of an industry, rational decision is not furthered by requiring the agency to lose itself in an excursion into detail that too often obscures fundamental issues rather than clarifies them."

¹¹ A separate statement by the Association of Independent Television Stations, Inc. was filed in support of this request. The National Cable Television Association filed in opposition to the extension request.

dangers of hasty as opposed to thorough and reasoned consideration of significant and complex issues.

More specifically, it is said that more time is needed because outside consultants have been hired to assist in the preparation of comments, because certain documents, including the Broadcast Bureau study referred to in paragraphs 137 through 139 of the *Report* in Docket 21284 have apparently been unavailable, because of an unusually heavy workload facing NAB counsel as a consequence of the "mark-up" of the Communications Act re-write, the reply comments in BC Docket No. 78-253 (inquiry into the future of low power television), the filing of claims for cable copyright fee payments, and the recently filed Justice Department suit against the NAB television code, and the fact that the decision to be reached in this proceeding is important, complex, irreversible and one in which the burden of proof has been placed on the broadcast interests.

9. In view of the various considerations raised in the National Association of Broadcasters petition a sixty day extension of time to file comments in this proceeding does appear warranted. This is an important and complex proceeding and we are anxious that all parties have a full opportunity to prepare responsive comments. This additional time should, we believe, provide adequate time for the preparation of comments responsive to the Broadcast Bureau study referenced in the time extension request.¹²

Accordingly, it is ordered. That the "Joint Motion for Revision of Procedures" filed June 22, 1979 is dismissed, without prejudice to it being refiled at a later date.

It is further ordered. That the dates for filing comments and reply comments are extended to September 17, 1979 and October 17, 1979 respectively.

Federal Communications Commission.

William J. Tricarico,
Secretary.

[FR Doc. 79-23157 Filed 7-26-79; 8:45 am]

BILLING CODE 6712-01-M

¹²This study, which the NAB refers to as apparently unavailable, has now been placed in the Docket of this proceeding. It was unavailable, however, only in the sense that no request for it was made. The Freedom of Information Act request which the NAB implies was necessary to obtain release of the study was for a Broadcast Bureau memorandum reviewing the research and information gathered in the cable economic inquiry. This longer memorandum has now been placed in the Docket as well and will also be available for comment under the revised filing schedule.

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Lewis and Clark National Forest Plan; Intent To Prepare Environmental Impact Statement

In the matter of Lewis and Clark National Forest Cascade, Chouteau, Fergus, Glacier, Golden Valley, Judith Basin, Lewis and Clark, Meagher, Park, Pondera, Sweetgrass, Teton, and Wheatland Counties, Montana.

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare and Environmental Statement for land and resource management, hereafter referred to as a Forest Plan, for the Lewis and Clark National Forest.

A series of public meetings will be held in 11 Central Montana towns during July and August to identify public issues and concerns to be addressed by the Forest Plan.

Tom Coston, Regional Forester, is the responsible official for the Forest Plan. A draft environmental statement is expected to be issued in the fall of 1980, and the final statement in the spring of 1981. All documents related to the Forest Plan will be kept at the Lewis and Clark Supervisor's office, Post Office Building, First Avenue North and Third Street North, Great Falls, Montana 59403.

Comments on the Notice of Intent or the Forest Plan should be sent to John Skinner, Land Management Planner, Lewis and Clark National Forest, Box 871, Great Falls, Montana 59403.

Robert W. Larse,
Acting Regional Forester.
July 18, 1979.

[FR Doc. 79-23121 Filed 7-26-79; 8:45 am]

BILLING CODE 3410-11-M

Uinta National Forest Grazing Advisory Board; Meeting

The Uinta National Forest Grazing Advisory Board will meet at 9:00 a.m. on Thursday, August 23, 1979, at the Rodeway Inn at 1292 South University Avenue, Provo, Utah.

The purpose of this meeting is to review allotment management plans and current management practices on selected allotments.

Other business will include: 1. Review of range improvement needs on selected areas. 2. Make recommendations on the utilization of range betterment funds. 3. Recommendations concerning the development of allotment management plans.

The meeting will be open to the public. Persons who wish to attend should notify Ward F. Savage, Uinta National Forest Supervisor's Office, P.O. Box 1428, Provo, Utah 84601; phone 801-377-5780. Written statements may be filed with the board before or after the meeting.

Dated: July 17, 1979.

Don T. Nebeker,
Forest Supervisor.

[FR Doc. 79-23122 Filed 7-26-79; 8:45 a.m.]

BILLING CODE 3410-11-M

Rapid Wild and Scenic River; Classification, Interim Management Plan and Boundaries

Pursuant to the authority delegated to the Chief, Forest Service, by the Secretary of Agriculture in 7 CFR 2.60, the classification, boundaries, and interim management plan for the Rapid Wild and Scenic River are established as hereinafter set forth.

Pub. L. 94-199, December 31, 1975, amended Pub. L. 90-542, October 2, 1968, "The Wild and Scenic Rivers Act," hereinafter referred to as "The Act," designating the Rapid River as a part of the National Wild and Scenic Rivers System.

The portion of the Rapid River designated as a component of the National Wild and Scenic Rivers System extends from the headwaters of the main stem to the National Forest boundary and along the west fork of the Rapid River from the wilderness boundary downstream to the confluence with the main stem. Rapid River is designated as a wild river and totals

some 26.77 miles. The river is to be administered by the Forest Service of the U.S. Department of Agriculture. The Act further states, "that the Secretary shall establish a corridor along the segments of the Rapid River and may not undertake or permit to be undertaken any activities on adjacent public lands which would impair the water quality of the Rapid River."

Addition of the Rapid River as a wild river segment of the National Wild and Scenic Rivers System establishes some basic management objectives and directives. The Act charges that:

Each component of the National Wild and Scenic Rivers System shall be administered in such a manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration, primary emphasis shall be given to protecting the esthetic, scenic, historic, archaeological, and scientific features.

Pub. L. 94-199, including the Rapid River in the National Wild and Scenic Rivers System, requires the Comprehensive Management Plan for the entire Hells Canyon National Recreation Area to be developed by December 31, 1980. This law also requires that detailed boundary descriptions be published in the Federal Register. The Wild and Scenic Rivers Act of 1968 requires a development plan to be prepared in accordance with the classification. This document is designed to meet these requirements. The Comprehensive Management Plan for the National Recreation Area will contain detailed management and development objectives for the Rapid River. Forest planning for the Nezperce and Payette National Forests will specify policies and actions to be undertaken on adjacent public lands to protect the water quality of the Rapid River.

Information concerning the Rapid River may be obtained by writing the Forest Supervisor, Nezperce National Forest, Grangeville, Idaho; or Payette National Forest, McCall, Idaho.

River Boundaries

Several factors determined the location of the river boundaries. The Act limits the area within the boundaries to not more than an average of 320 acres per mile. For the length of 26.77 miles to

be included within the boundary, a maximum area of 8,566.4 acres is possible.

Of primary importance is the nature and condition of the land area seen from the river or riverbank. Protection of this primary viewed area is one of the principal management objectives. Land immediately adjacent to the river suitable for future dispersed recreation sites has been included in the corridor. Adjacent private lands upon which activities undertaken could impair Rapid River water quality were included in the described boundary.

Legal subdivisions were used in defining the Rapid River boundaries because the land had already been surveyed, and this method would be most readily identifiable on the ground. Use of this system allowed inclusion of the primary seen area within the boundary. On the basis of the above considerations, the river boundaries contain a total of 8,381.69 acres, an average of 313.1 acres per river mile.

Refer below for the legal description of the boundary and availability of a map showing these boundaries.

River Classification and Description

Wild

Class Definition. A wild river area is free of impoundments and generally inaccessible by trail, with watershed or shorelines essentially primitive and water unpolluted. It represents a vestige of primitive America.

Description. The entire segment is wild from the headwaters of the main stem to the National Forest boundary and that portion of the west fork from the wilderness boundary downstream to the confluence with the main stem. The area of the main stem and the west fork upstream from their confluence is generally heavily forested with steep slopes and sharp river gradient. Downstream from the confluence ponderosa pine and bunch-grass vegetation predominates. The Rapid River is generally classified as a small, high quality watershed. The upper portions of the main stem are in an alpine setting. None of the Rapid River is considered suitable for canoeing, rafting, or other boating uses. The Rapid River is accessible by one road. This route begins at U.S. Highway 95 south of Riggins, Idaho, and travels approximately 3 miles to the Rapid River Fish Hatchery at the National Forest boundary. The river is less than 50 feet wide at the National Forest boundary.

Landownership Patterns

Approximately 510 acres of private land are located within the described boundaries. Six parcels are involved; one parcel of 160 acres is located on the main fork above the confluence with the west fork; three parcels (130, 80, and 80 acres) on the west fork; and two parcels (40 and 20 acres) are located adjacent to the National Forest boundary and the fish hatchery.

These properties were established through both homestead entries and mining claim patents. Only two parcels are used presently. The Idaho Power Company operates the fish hatchery on one, and a cattle ranch is located on the other just west of the hatchery (NWNE, Sec. 12, T.23N. R.1W).

Within the management unit (watershed) there is approximately 1,300 acres of non-Federal lands. This includes the 510 acres within the described boundaries. Approximately 640 acres of the non-Federal land outside the described boundary is owned by the State of Idaho.

Current River Uses

None of the river is suitable for floating, canoes, kayaks, or rubber rafts. Motorized boat use is also impractical because of the shallow water and rocks. Hiking is a growing use in the river zone. A developed Forest Service trail parallels the river from the National Forest boundary to the headwaters of the main stem and also into the Hells Canyon Wilderness up the west fork. Hikers using the area come for fishing, hunting, and other forest recreation. Portions of the Rapid River are being used for domestic livestock grazing purposes under permit from the Forest Service.

Interim Management Objectives—Entire River

The Act states that:

"Each component of the National Wild and Scenic River System shall be administered in such a manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration, primary emphasis shall be given to protecting its esthetic, scenic, historic, archaeological, and scientific features. Management plans for any such component may establish varying degrees of intensity for its protection and development based on the special attributes of the area."

The Rapid River located within the Hells Canyon National Recreation Area will be managed during the interim period to:

- Maintain and protect the free-flowing nature of the river;
- Preserve the water quality of the Rapid River segment because of the importance of the water to the successful operation of the Rapid River fish hatchery;
- Preserve the river and its immediate environment in the natural, wild, and primitive condition essentially unaltered by the effects of man;
- Provide water-oriented recreation opportunities in a primitive setting; and
- Protect water quality through management of adjacent public land management activities.

Agencies in the State of Idaho: The organization responsibilities vary with the agency affected. In addition, the Rapid River Fish Hatchery, located at the National Forest boundary, is considered by the State of Idaho Game and Fish Organization as the most important fish hatchery within the State. This hatchery was built by the Idaho Power Company as compensation for the fisheries loss involved with the construction of the Hells Canyon Dam complex.

River Map

Rapid River Map—On file with:

Forest Supervisor, Nezperce National Forest, Forest Service, USDA, 319 E. Main Street, Grangeville, Idaho 83530.
Forest Supervisor, Payette National Forest, Forest Service, USDA, Forest Service Bldg., Box 1026, McCall, Idaho 83638.
Regional Forester, Forest Service, USDA, Federal Building, Missoula, Montana 59807.
Regional Forester, Forest Service, USDA, 324—25th Street, Ogden, Utah 84401.

Therefore, the boundaries for the Rapid Wild and Scenic River are established as described.

Dated: July 18, 1979.

J. B. Hilmon,

Associate Deputy Chief.

Rapid River Boundary Descriptions

The official boundary for this river is that exterior line which encompasses the following described area:

Idaho; Payette and Nezperce National Forests; Boise Meridian

Beginning at the intersection of the National Forest boundary and the mean high water line of the northern bank of Rapid River; thence southwesterly approximately 1,140 feet along the mean high water line on the north side of the Rapid River. To the intersection of the mean high water line with the water intake diversion structure for the Rapid River Hatchery; thence north

approximately 675 feet ascending the canyon slope to the intersection with the section line between Sections 1 and 12, T. 23 N., R. 1 W.; thence west approximately 200 feet along the section line to the intersection with the east $\frac{1}{4}$ corner; thence south to the intersection with the NE $\frac{1}{4}$ corner of Section 12; thence east to the intersection with the north $\frac{1}{4}$ corner on the east boundary of Section 12, T. 23 N., R. 1 W; thence north descending along the section line approximately 1,080 feet to the intersection of the section line with the mean high water line of the north bank of the Rapid River—the point of beginning.

The remaining portion of the area intended to be included in the Wild River corridor is described by legal subdivision.

T. 21 N., R. 1 W.,
Sec. 4, lots 2, 3, 4, 5, N $\frac{1}{2}$ lot 6,
N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 5, S $\frac{1}{2}$ lot 7, lot 8, S $\frac{1}{2}$ NE $\frac{1}{4}$,
S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 8, W $\frac{1}{2}$;
Sec. 17, W $\frac{1}{2}$;
Sec. 18, SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 19, E $\frac{1}{2}$ E $\frac{1}{2}$;
Sec. 20, W $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 29, W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 30, E $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
Sec. 31, E $\frac{1}{2}$ lot 1, lots 2 and 3, NE $\frac{1}{4}$,
E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$,
SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$;
T. 22 N., R. 1 W.,
Sec. 2, lots 2, 5, 6, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$,
E $\frac{1}{2}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 6, lots 3 and 4;
Sec. 10, E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 11, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$,
SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 15, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$,
NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 22, W $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 27, NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 28, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$,
S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 33, NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$,
N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$;
T. 22 N., R. 2 W.,
Sec. 1, lots 1, 2, 3, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$,
N $\frac{1}{2}$ SW $\frac{1}{4}$;
T. 23 N., R. 1 W.,
Sec. 12, NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$,
SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$,
E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 13, W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$,
S $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$;
Sec. 22, E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$,
S $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 23, E $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$,
S $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$,
S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$,
S $\frac{1}{2}$;
Sec. 24, W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$,
N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 26, W $\frac{1}{2}$ E $\frac{1}{2}$, NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 27, NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$,
E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$,
NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 28, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$,
E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$,
SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$;

Sec. 29, S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$,
E $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$,
S $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$,
N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 31, lots 3, 4, E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$,
SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$,
N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 32, NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$,
SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$,
N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 35, W $\frac{1}{2}$ E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, W $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$,
T. 23 N., R. 2 W.,
Unsurveyed, but probably will be when surveyed: Sec. 36, S $\frac{1}{2}$ SE $\frac{1}{4}$.

The areas described, including both public and nonpublic lands, contain approximately 8,382 acres.

Total length of Rapid River (including west fork) is 26.77 miles. Acres per mile = 313.1.

[FR Doc. 79-23280 Filed 7-26-79; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Draft Environmental Impact Statement and Public Information Meetings

Notice is hereby given that the Rural Electrification Administration (REA), if lead agency, intends to prepare an environmental impact statement in order to fulfill its requirements under the National Environmental Policy Act of 1969 in connection with a possible loan guarantee commitment to Alabama Electric Cooperative, Inc., P.O. Box 550, Andalusia, Alabama, for the construction of certain generation and related transmission facilities. The borrower tentatively proposes that the generating facilities be located in the State of Alabama and is investigating possible sites in the counties of Dallas, Wilcox and Choctaw (2 possible sites).

The sites are being investigated for an initial 400 MW of coal-fired generation with possible capability for expansion to ultimately support 1,600 MW of generating capacity. Associated with the generating station will be bulk transmission and ancillary facilities.

In discussion among Federal agencies who may have responsibilities with respect to the proposed project including REA, EPA, and the Fish & Wildlife Service, as well as appropriate State agencies, the Rural Electrification Administration has been tentatively identified as lead agency and the other agencies as cooperating agencies in the preparation of a joint Federal environmental impact statement.

Alternatives to be considered by REA and the borrower are described in REA Bulletin 20-21:320-21 and may include (a) no project, (b) conservation measures, (c) purchase power from other utilities, (d) shared generating units with

other utilities, (e) alternative sites for the generating plant and transmission lines, (f) alternative fuels, and (g) alternative methods of generation.

Alabama Electric has tentatively identified as preferred locations four sites:

1. Safford Site—Located in Dallas County, approximately 18 miles southwest of the City of Selma.
2. Coy Site—Located in Wilcox County, approximately 10 miles west of Camden.
3. Oakchia Site—Located in Choctaw County, approximately 5 miles southeast of Whitfield community.
4. Choctaw Site—Located in Choctaw County, approximately 2.5 miles south of Jechin Corners.

A representative of the Rural Electrification Administration will act as chairperson for said meetings and other involved Federal and State agencies will be invited to send representatives. The schedule for the meetings is:

August 27, 1979, 7 p.m., Wilcox County Court House, Camden, Alabama.

August 28, 1979, 7 p.m., Choctaw County Court House, Butler, Alabama.

The Rural Electrification Administration encourages the public to attend these meetings and provide their input. Any person, group, or governmental entity which desires to make its comments, questions, and/or recommendations in writing may do so either at the meeting or by submitting them to Mr. Joe Zoller, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. A record will be made of each meeting and comments made will be responded to in the environmental impact statement.

Any questions prior to the meetings concerning the nature of the project or the meetings should be directed to Alabama Electric at the address given above or by calling (205) 222-2571.

The Rural Electrification Administration's financing assistance to Alabama Electric will be subject to, and release of funds thereunder will be contingent upon, REA's arriving at satisfactory conclusions with respect to environmental effects, and final action will be taken only after compliance with environmental impact statement procedures required by the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 20th day of July, 1979.

Tom Burgum,

Acting Deputy Administrator, Rural Electrification Administration.

[FR Doc. 79-23097 Filed 7-26-79; 8:45 am]

BILLING CODE 3410-15-M

Office of Transportation

Rural Transportation Advisory Task Force Meeting

AGENCY: Office of Transportation, U.S. Department of Agriculture.

ACTION: Notice of Public Meeting of the Rural Transportation Advice Task Force.

DATES: August 14, 1979, 10:00 a.m.; August 15, 1979, 9:00 a.m.

ADDRESS: August 14 & 15, 1979, Room 218-A, Administration Building, Washington, D.C.

SUMMARY: At the completion of its work on January 1, 1980, the Task Force will report on methods for enhancing the economical and efficient movement of agricultural commodities (including forest products) and agricultural inputs and recommend approaches for establishing a national agricultural transportation policy and for identifying impediments to a railroad transportation system adequate for the needs of agriculture. The Task Force formed three subcommittees on policy and essential transportation needs of agriculture; railroad problems of agriculture; and highway, waterway, and air transportation problems of agriculture. At its last meeting, the Task Force approved for publication and distribution its interim report including the identification of critical agricultural transportation issues.

The Task Force is currently holding its 12 regional Public Hearings.

The purpose of this meeting is to review public comment received during hearings and formulate plans for the remainder of the year and to discuss and decide on the content of the Final Report.

FOR FURTHER INFORMATION CONTACT: Dr. Robert J. Tosterud, Office of Transportation, U.S. Department of Agriculture, Washington, D.C. 20250, Phone: (202) 447-7690.

Dated: July 19, 1979.

Ron Schrader,

Director, Office of Transportation.

[FR Doc. 79-23183 Filed 7-26-79; 8:45 am]

BILLING CODE 3410-02-M

Science and Education Administration

Joint Council on Food and Agricultural Sciences Executive Committee Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92-463, 86 Stat. 770-776), the Science and Education Administration announces the following meeting:

Name: Executive Committee of the Joint Council on Food and Agricultural Sciences.
Date: August 13, 1979.

Time and place: 8:30 a.m.-4:00 p.m., Room 336-A, Administration Building, U.S. Department of Agriculture, Washington, D.C.

Type of meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: To review the progress in implementing the organizational structure for planning and coordination adopted by the Joint Council, assess role and responsibilities of some council study groups, to discuss plans and developments in the preparation of the Joint Council's annual report for 1979.

Contact person: Dr. J. C. Torio, Executive Secretary, Joint Council on Food and Agricultural Sciences, Science and Education Administration, U.S. Department of Agriculture, Room 351-A, Administration Building, Washington, D.C. 20250, telephone (202) 447-6651.

Done at Washington, D.C., this 23rd day of July 1979.

James Nielson,

Executive Director, Joint Council on Food and Agricultural Sciences.

[FR Doc. 79-23182 Filed 7-26-79; 8:45 am]

BILLING CODE 3410-03-M

CIVIL AERONAUTICS BOARD

Application for an All-Cargo Air Service Certificate

July 20, 1979.

In accordance with Part 291 (14 CFR 291) of the Board's Economic Regulations (effective November 9, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 35989, from Alaska International Air, Inc., of Fairbanks, Alaska, for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of § 291.12(c) of Part 291, interested persons may file an answer in opposition to this application by August 17, 1979. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C.

20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-23211 Filed 7-26-79; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended July 20, 1979 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

Subpart Q Applications

Date filed	Docket No.	Description
July 17, 1979	36147	Allegheny Airlines, Inc., Washington National Airport, Hangar No. 11, Washington, D.C. 20001. Application of Allegheny Airlines, Inc. requests the Board pursuant to Section 401 of the Act and Part 201 of the Board's Economic Regulations for an amendment of its certificate of public convenience and necessity for Route 97 so as to authorize it to engage in scheduled nonstop air transportation of persons, property, and mail between the terminal point Salt Lake City and the terminal points Houston, Texas, and Burbank, California. Answers and Conforming Applications are due on August 15, 1979.
July 17, 1979	36148	Allegheny Airlines, Inc., Washington National Airport, Hangar No. 11, Washington, D.C. 20001. Application of Allegheny Airlines, Inc. requests the Board pursuant to Section 401 of the Act and Part 201 of the Board's Economic Regulations for an amendment of its certificate of public convenience and necessity for Route 97 so as to authorize it to engage in scheduled nonstop air transportation of persons, property, and mail between the terminal point Denver, Colorado, and the terminal points Los Angeles, San Francisco, and San Jose, California. Answers and Conforming Applications are due on August 15, 1979.
July 17, 1979	36157	Eastern Air Lines, Inc., Miami International Airport, Miami, Florida 33148. Application of Eastern Air Lines, Inc. requests the Board pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations for the issuance of a certificate of public convenience and necessity authorizing it to engage in scheduled foreign air transportation of persons, property, and mail over the following route: "Between the terminal point Miami, Florida, the intermediate points Rio de Janeiro and San Paulo, Brazil, and the terminal point Buenos Aires, Argentina." Answers and Conforming Applications are due on August 14, 1979.
July 18, 1979	36158	Western Air Lines, Inc., 6060 Avon Drive, Los Angeles, California 90045. Application of Western Air Lines, Inc. requests the Board pursuant to Section 401 of the Act for an amendment of its certificate of public convenience and necessity for Route 19 so as to authorize it to engage in nonstop air transportation as follows: Between the terminal point Miami, Florida, and the alternate terminal points Columbus, Ohio, and Kansas City, Missouri. Answers due on August 1, 1979.
July 18, 1979	36163	Continental Air Lines, Inc., Los Angeles International Airport, Los Angeles, California 90009. Application of Continental Air Lines, Inc. requests the Board pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, for amendment of its certificate of public convenience and necessity for Route 29 to authorize it to engage in nonstop air transportation between Kansas City, Missouri and Miami, Florida. Continental requests that this be accomplished by eliminating the existing three-stop restriction on its Kansas City-Miami authority as set forth in the Table of Restrictions on Segment 1 of its Route 29. Answers due on August 1, 1979.
July 18, 1979	36167	Allegheny Airlines, Inc., Washington National Airport, Hangar No. 11, Washington, D.C. 20001. Application of Allegheny Airlines, Inc. requests the Board pursuant to Section 401 of the Act, Part 201 of the Board's Economic Regulations and Subpart Q of the Board's Economic Regulations for an amendment of its certificate of public convenience and necessity for Route 97 so as to authorize it to engage in scheduled nonstop air transportation of persons, property, and mail between the alternate terminal points Columbus, Ohio, and Kansas City, Missouri, and the terminal point Miami, Florida. Answers due on August 2, 1979.
July 18, 1979	36168	United Air Lines, Inc., O'Hare International Airport, P.O. Box 66100, Chicago, Illinois 60666. Application of United Air Lines, Inc. requests the Board pursuant to Section 401 of the Act, Part 201 of the Board's Economic Regulations, and Part 302 of the Board's Rules of Practice for a certificate of public convenience and necessity so as to authorize it to perform nonstop air transportation between Kansas City, Missouri and Miami, Fl. Lauderdale, West Palm Beach, Orlando, Sarasota-Bradenton, Fl. Myers, Tampa-St. Petersburg-Clearwater, Florida. Answers due on August 1, 1979.
July 18, 1979	36169	Trans World Airlines, Inc., 605 Third Avenue, New York, New York 10018. Application of Trans World Airlines, Inc. requests the Board for amendment of its certificate of public convenience and necessity for Route 2 by adding a new segment which would authorize service between the terminal point Pittsburgh, Pennsylvania, and the alternate terminals, Albany, New York, Atlantic City, New Jersey and Rochester, New York. Answers and Conforming Applications are due on August 15, 1979.
July 18, 1979	36177	Western Air Lines, Inc., 6060 Avon Drive, Los Angeles, California 90045. Application of Western Air Lines, Inc. requests the Board pursuant to Section 401 of the Act for an amendment of its certificate of public convenience and necessity for Route 152 so as to authorize it to engage in foreign air transportation as follows: Between the terminal point Los Angeles, California; the intermediate points Guatemala City, Guatemala; Panama City, Panama; Bogota, Colombia; Caracas, Venezuela; Lima, Peru; Rio de Janeiro and Sao Paulo, Brazil, and Santiago, Chile; and the terminal point Buenos Aires, Argentina. Answers due on August 2, 1979.
July 19, 1979	36185	American Airlines, Inc., 633 Third Avenue, New York, New York 10017. Application of American Airlines, Inc. requests the Board pursuant to Section 401 of the Act and Subpart Q of the Board's Economic Regulations for the issuance of a certificate of public convenience and necessity authorizing it to engage in scheduled foreign air transportation of persons, property, and mail over the following route: Between the coterminal points Los Angeles and San Francisco, California, Chicago, Illinois, Dallas/Ft. Worth and Houston, Texas, New York, New York, Newark, New Jersey, Baltimore, Maryland, Washington, D.C., Miami, Florida, New Orleans, Louisiana and San Juan, Puerto Rico, intermediate points in British Honduras, Honduras, Nicaragua, Guatemala, El Salvador, Costa Rica, Panama, Colombia, Venezuela, Ecuador, Peru, Bolivia, Paraguay, Uruguay, Brazil, Chile and Argentina, and the terminal point Buenos Aires, Argentina. Answers due on August 2, 1979.

Subpart Q Applications—Continued

Date Filed	Docket No.	Description
July 20, 1979	36188	Trans World Airlines, Inc., 605 Third Avenue, New York, New York 10016. Application of Trans World Airlines, Inc. requests the Board for amendment of its certificate of public convenience and necessity for Route 2 by adding a new segment which would authorize service between the terminal point Pittsburgh, Pennsylvania, and the terminal point, Houston, Texas.
July 18, 1979	36181	Answers and Conforming Applications due on August 17, 1979. Ozark Air Lines, Inc., Lambert-St. Louis International Airport, St. Louis, Missouri 63145. Application of Ozark Air Lines, Inc. requests the Board pursuant to Section 401 of the Act for amendment of its certificate of public convenience and necessity for Route 107 so as to authorize it to engage in nonstop scheduled air transportation of persons, property, and mail between the alternate terminal points of Columbus, Ohio and Kansas City, Missouri, on the one hand, and the terminal point of Miami, Florida, on the other hand. Answers due on August 1, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-23212 Filed 7-26-79; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Houston Hearing

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1957, 71 Stat. 634, as amended, that a public hearing of the U.S. Commission on Civil Rights will commence on September 11, 1979, in Krost Hall, Bates College of Law, University of Houston, 4800 Calhoun Street, Houston, Texas. An executive session, if appropriate, may be convened at any time before or during the hearing.

The purpose of the hearing is to collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the

Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice, particularly concerning police practices; to appraise the laws and policies of the Federal Government with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice, particularly concerning police practices; and to disseminate information with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice, particularly concerning police practices.

Dated at Washington, D.C. July 24, 1979.

Arthur S. Flemming,
Chairman.

[FR Doc. 79-23208 Filed 7-26-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Management-Labor Textile Advisory Committee; Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Management-Labor Textile Advisory Committee will be held on August 23, 1979, at 1:30 p.m. in Room 6802, Department of Commerce, 14th & Constitution Avenue, N.W., Washington, D.C. 20230.

The Committee was established by the Secretary of Commerce on October 18, 1961 to advise U.S. Government officials on problems and conditions in the textile and apparel industry and furnish information on world trade in textiles and apparel.

The agenda for the meeting will be as follows:

1. Review of import trends.
2. Implementation of textile agreements.
3. Report on conditions in the domestic market.
4. Other business.

A limited number of seats will be available to the public on a first-come basis. The public may file written statements with the Committee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the ITA Freedom of Information Officer, Industry and Trade Administration, Records Inspection Facility, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202/377-5078.

Dated: July 18, 1979.

Arthur Garel,
Director, Office of Textiles.

[FR Doc. 79-23165 Filed 7-26-79; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Advisory Committee for International Legal Metrology; Open Meeting

The Advisory Committee for International Legal Metrology will meet

from 9:00 a.m. to 5:00 p.m. on Tuesday, August 21, 1979. The meeting will be held in Lecture Room A, Administration Building, National Bureau of Standards, Gaithersburg, Md.

The Committee was established in March 1974 (39 FR 6136), and last renewed in March 1978 (43 FR 13420), to advise the Department, through the Director, National Bureau of Standards (NBS), on technical and policy matters relating to NBS's assigned general responsibilities for the development of U.S. positions on technical issues arising in the International Organization of Legal Metrology (OIML). The Committee consists of approximately 40 members selected to ensure balanced representation among government, professional metrologists, national standards bodies, industry and trade associations, and consumers.

The agenda for the Committee meeting will include the following discussion items:

1. Possible amendment to the OIML Convention;
2. Relations with the International Institutions in liaison with OIML;
3. Discussion of draft International Recommendations and Documents to be presented to the OIML International Conference and International Committee;
4. OIML Mark of Conformity; and,
5. Structure and working methods of the OIML Secretariats.

The meeting will be open to public observation; and a period will be set aside for oral comments or questions by the public which do not exceed ten minutes each. More extensive questions or comments should be submitted in writing before August 14. Other public statements regarding committee affairs may be submitted at any time before or after the meeting. Approximately 20 seats will be available for the public on a first-come first-served basis.

Copies of the minutes will be available on request 30 days after the meeting.

Inquiries may be addressed to the Committee Control Officer, Mr. David E. Edgerly, Office of Domestic and International Measurement Standards, National Bureau of Standards, Washington, D.C. 20234, telephone: 301-921-3307.

Dated: July 24, 1979.

Ernest Ambler,
Director, National Bureau of Standards.

[FR Doc. 79-23158 Filed 7-26-79; 8:45 am]

BILLING CODE 3510-13-M

Advanced Data Communications Control Procedures

Correction

In FR Doc. 79-20679 appearing on page 39237 in the issue of Thursday, July 5, 1979, make the following corrections:

(1) On page 39237, second paragraph of the document, next to the last line, "... officers ..." should have read "... offerers ...".

(2) On page 39238, first full paragraph of the first column, fourth line, "... form ..." should have read "... from ...".

(3) In the third column, under *Cross Index*, delete the parenthesis after "1979", and in the last line of the following paragraph, "... the standard ..." should have read "this standard ...".

BILLING CODE 1506-01-M

Office of Minority Business Enterprise

Financial Assistance Application Announcement

The Office of Minority Business Enterprise (OMBE) announces that Los Angeles, California, Project No. 09-60-502990-00 for \$450,000, which was advertised on July 17, 1979, has been cancelled.

Dated: July 20, 1979.

Allan A. Stephenson,
Acting Director.

[FR Doc. 79-23235 Filed 7-26-79; 8:45 am]

BILLING CODE 3510-21-M

Office of the Secretary

National Laboratory Accreditation Criteria Committee for Freshly Mixed Field Concrete; Open Meeting

The National Laboratory Accreditation Criteria Committee for Freshly Mixed Field Concrete has formed a Subcommittee. The Chairman of the Subcommittee is James Bryson, Chief of the Office of Testing Laboratory Evaluation Technology of the National Bureau of Standards. The six Full Committee members on the Subcommittee are: John C. Dixon, Richard L. Gaynor, K. Glen Kope, Howard Newlon, James S. Pierce, and Vincent R. Rice.

The Full Committee is preparing a report of its recommendations of general and specific criteria for accrediting testing laboratories that test freshly mixed field concrete for submission to the Department by August 3, 1979. Based on that report, the Subcommittee will perform the following functions:

A. Advise the Secretary relative to the interpretation of the criteria with particular emphasis on their application to each test method in the Department's laboratory accreditation program for freshly mixed field concrete.

B. Advise the Secretary on the interpretation of the criteria with particular emphasis on their application to the operating procedures being developed by the Department to implement the program.

The Subcommittee will hold its first meeting on August 14, 1979, at Room B111, Building 225, National Bureau of Standards, Gaithersburg, MD. The Subcommittee will meet from 9:00 a.m. to 5:00 p.m.

Tentative agenda items include:

1. Discussion of proficiency testing requirements.
2. Discussion of the supplemental information to the criteria.

The meeting will be open to public observation. The public may submit written statements or inquiries to the Chairman before or after the meeting. A limited number of seats will be available to the public and to the press on a first-come, first-served basis.

Copies of the minutes and material distributed will be made available for reproduction, following certification by the Subcommittee Chairman, in accordance with the Federal Advisory Committee Act, at Room 3876, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

Additional information may be obtained from Gerald A. Berman of the Office of Testing Laboratory Evaluation Technology, Room B06, Building 225, National Bureau of Standards, U.S. Department of Commerce, Washington, D.C. 20234, telephone: 301-921-2427.

Dated: July 24, 1979.

Jordan J. Baruch,
Assistant Secretary for Science and Technology.

[FR Doc. 79-23288 Filed 7-26-79; 8:45 am]

BILLING CODE 3510-17-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1979; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1979 a commodity to be produced by and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: August 29, 1979

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION:

This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity and services to Procurement List 1979, November 15, 1978 (43 FR 53151):

Class 5510

Stakes, Wood, 3/4" x 1 1/2" x 24". Requirements for Bureau of Land Management for additional locations in Oregon State only: Medford, Oregon; Coos Bay, Oregon; Eugene, Oregon; and Salem, Oregon.

SIC 7349

Janitorial Service, Federal Building and Courthouse, Eugene, Oregon.

SIC 0782

Grounds Maintenance for the following locations:

U.S. Courthouse, 620 SW Main Street, Portland, Oregon.
Federal Building, BPA, 1002 NE Holladay, Portland, Oregon.
Federal Building, 1220 SW Third, Portland, Oregon.
Pioneer Courthouse, 520 SW Morrison, Portland, Oregon.

Federal Building, 500 W 12th, Vancouver, Washington.

C. W. Fletcher,
Executive Director.

[FR Doc. 79-23286 Filed 7-26-79; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1979; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1979 a commodity to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: July 27, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On April 27, 1979 the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (44 FR 24903) of proposed addition to Procurement List 1979, November 15, 1978 (43 FR 53151).

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodity is hereby added to Procurement List 1979:

Class 7210

Pillowcase, 7210-00-119-7357.

C. W. Fletcher,
Executive Director.

[FR Doc. 79-23287 Filed 7-26-79; 8:45 am]

BILLING CODE 6820-33-M

CONSUMER PRODUCT SAFETY COMMISSION

Television Receivers; Termination of Proceeding To Develop a Proposed Standard

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of termination of proceeding.

SUMMARY: The Commission has concluded that continuation of a study to determine whether fire can be contained within the confines of a television (TV) set is not necessary at this time because improvements in fire

resistant materials have made it extremely difficult to sustain TV cabinet fires in laboratory situations. Since an apparent decline in TV fire incidents also continues, the Commission has decided to terminate its notice of proceeding to develop a proposed standard concerning any fire hazards that may be associated with TV receivers. The Commission had already terminated a notice of proceeding involving any shock, implosion and mechanical hazards associated with TVs.

EFFECTIVE DATE: The effective date of this termination is July 27, 1979.

FOR FURTHER INFORMATION CONTACT: Carl W. Blechschmidt, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6557.

Background

On November 2, 1977 (42 FR 57335), the Commission partially terminated a notice of proceeding to develop a consumer product safety standard addressed to fire, shock, implosion and mechanical hazards associated with television (TV) receivers, that had been commenced by a notice in the Federal Register on February 28, 1975 (40 FR 8592). The notice of proceeding stated the Commission's preliminary determination that the four hazards mentioned above presented unreasonable risks of injury to the public, and invited offers to develop standards to eliminate or reduce these risks. The offeror selected by the Commission to develop a standard, Underwriters Laboratories, submitted its recommended standard on July 6, 1976. For the purpose of obtaining views of experts in the TV field and other interested persons on the offeror's recommended standard, the period of time in which the Commission was required by section 7(f)(2) of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2056(f)(2)) to either propose a standard for public comment or terminate the notice of proceeding, was extended to October 31, 1977 (41 FR 51055, Nov. 19, 1976).

During this period the Commission reviewed the opinions of experts and others on the offeror-recommended standard, as well as staff reports on TV safety-related incident data collected from TV manufacturers. The Commission was also advised by its staff of improvements in the voluntary industry standard. All this information showed that significant features of the recommended standard were being incorporated into the voluntary

standard, and that the voluntary standard, generally adhered to by TV manufacturers, was being progressively upgraded. Information available at that time also showed a substantial decline in TV safety-related incidents. As a result of this favorable information, the Commission concluded that a consumer product safety standard did not appear to be necessary to address any risks of injury from shock, implosion and mechanical hazards associated with TVs. In the matter of TV fire hazards, the Commission expressed an interest in determining the feasibility of designing a receiver that could contain a possible TV fire within the confines of the TV enclosure.

Accordingly, on November 2, 1977 (42 FR 57335) the Commission terminated the TV notice of proceeding as to shock, implosion and mechanical hazards only. As to fire hazards associated with TVs, the Commission directed the staff to prepare a feasibility study on a system performance requirement for containment of a TV fire. Therefore, the notice of proceeding as to fire hazards associated with TVs has continued in effect. For this purpose, the Commission extended until April 30, 1979, the period to either publish a proposed standard addressed to fire hazards associated with TVs or terminate its notice of proceeding. (This period was further extended (44 FR 20242, April 4, 1979) to July 30, 1979, in order to complete reports on the fire testing program.)

In addition to the feasibility study on fire containment, the Commission also directed the staff to obtain fire-related TV incident data from TV manufacturers in order to determine whether such incidents continued their apparent decline. The staff was also directed to continue monitoring the voluntary standard development process, particularly as it related to fulfilling commitments for further improvement.

Feasibility Study

The study to determine the feasibility of containing fire within a TV enclosure was to be conducted in two phases. First, TV sets of various types and sizes would be subjected to fire tests to determine the burning characteristics of representative TV constructions currently available on the market. The second phase of the study would be to define various levels of fire containment in order to be able to develop performance fire tests that could assure fire containment if the Commission were to determine that such performance tests were needed. (The first phase of

this feasibility study has been completed.)

The National Bureau of Standards (NBS) and the Factory Mutual Research Corporation (FMRC), a private testing laboratory under contract to the Commission, shared the first phase of the study. NBS was to study the ignition of TV receiver components by simulating electrical failures in the circuitry. NBS also provided support to the Commission technical staff by helping to direct and evaluate the TV fire work of FMRC. Upon obtaining a sustained flaming ignition source, FMRC was to study fire growth and propagation in various locations on the TV chassis.

For the NBS tests, four typical TV sets were purchased; they represented four different brand names, both color and black and white, in a range of sizes and cabinets. Electrical failure (short circuits) were introduced into various systems and components of the TVs in an effort to induce fires, but no flaming ignition was achieved.

The FMRC's principal task was to study TV fires experimentally to find out how fire spreads through the TV set, by studying the fire behavior of 10 representative new TVs and two used ones. Efforts were made to ignite areas and components of the currently available sets. In some of the TVs, individual components were found that would ignite and be consumed by fire. Some items such as speaker cones and plastic knobs would sustain ignition. In all of these cases, however, the components burned out without igniting any other materials in the TV. Of the two used TV sets tested, which may have been 6 to 10 years old, one resisted ignition and the other was completely consumed by fire in about five minutes.

FMRC also attempted but could not find information on the permanency of the fire-resistant properties of plastics. They performed experiments intended to simulate long-term exposure to moisture condensation and high temperatures and found no detectable degradation of fire resistance. However, neither did they assume that such short term stress tests provide valid information about long-term retention of fire-resistant characteristics.

Copies of the NBS and FMRC test reports are available for review at the Office of the Secretary of the Commission.

TV Fire Incident Data

During this phase of the feasibility study on fire containment, the Commission staff was also receiving from TV manufacturers new information

on fire incidents associated with TVs. The purpose of obtaining this information was to determine whether the apparent decline in such incidents continued during this period. The information received was merged with comparable data on fire incidents that had been earlier collected and analyzed. Thus, the Commission staff report on these data (available for review in the Office of the Secretary) presents information on fire incidents reported by TV manufacturers for the years 1972 through 1975 and most of 1976. (Publicly available data do not identify manufacturers or models.) The most recent data, for incidents that occurred in 1976 and 1977, confirm from the earlier years. They indicate that color sets remain at higher risk than black and white TVs. In general, portable and table models tend to be more hazardous than consoles. Cabinet materials also appear to affect risk, with plastic cabinets a more likely risk than metal or wood, and TVs made of plastic in combination with other materials, at intermediate risk.

Manufacturers' data continue to indicate a decline in fire incidents in late model TVs. The downward trend is observed for both black and white and for color sets. Further, the ratio of actual fires to incidents involving only smoke or overheating continues to decline in late model TVs. Of interest here in that almost 90% of the plastic TV cabinets produced in 1977 were built to meet a stringent flammability test.

The Commission also accumulated data from Commission investigation of TV fires identified from newspaper reports and consumer complaints. The data from newspaper reports indicate that the distribution of these fires by estimated year of set manufacture appeared to be similar to data received from manufacturers—that is, there were fewer fires in late model TVs. Other information, from the U.S. Fire Administration and the National Fire Protection Association shows rough estimates of 11,000 annual residential fires and 160 deaths that appear to be associated with TVs.

Voluntary Standard

The voluntary industry standard for TVs is UL 1410; substantially all TV manufacturers adhere to this standard. As described above, UL (Underwriters Laboratories, Inc.) is also the offeror that developed a recommended standard for Commission consideration as a possible proposed mandatory standard. Over the last several years, UL has completed extensive revisions for the purpose of improving the fire

resistance of materials used in TVs. As a result of these revisions, more than 95% of the requirements that were contained in the recommended standard are now incorporated in the voluntary standard. By a series of intermediate steps, the flammability requirements for plastic materials in TV cabinets have grown more stringent. Thus, as the Commission learned from data submitted by manufacturers in the last quarter of 1978, by 1977, 72% of black and white sets and 99% of color TV sets had been built to pass this more stringent flammability test. The 1975–1977 fire incidents reported by manufacturers for TV sets produced during 1975–1977, indicate that the relative risk of fires in TVs made with plastic according to the older flammability requirements is four times higher than the risk from plastic TV cabinets manufactured in accordance with the more stringent flammability requirements. UL continues to upgrade the voluntary standard and is now in the process of documenting the electrical and mechanical properties of the polymeric materials used in TV receivers.

Conclusion

Termination of Proceeding

The information reported to the Commission by its staff, summarized above, indicates that fire incidents associated with TVs have continued to decline over the period since November 2, 1977, the date on which the Commission directed the staff to closely monitor TV fire incidents. Further, it appears to the Commission that this decline may be positively related to improve fire resistance of plastics used in TV receivers. Such improvements may be a result of stringent flammability test requirements contained in the voluntary standard, UL 1410. In addition, the use by manufacturers of flame-resistant components and power-limiting circuitry that act to limit overheating may have contributed to the difficulty experienced by Commission contractors in attempting to experimentally sustain ignition and propagate flame spread in laboratory tests of TV components. Since the flammability characteristics of these materials have improved so markedly, the Commission determines that the study of the feasibility of containing a potential fire within the confines of a TV enclosure should not be pursued at this time.

In addition, the Commission carefully considered the fire safety improvements in the voluntary standard UL 1410, to

which most TV manufacturers conform, as well as the steady decline in TV fire incidents. As a result the Commission concludes that a mandatory standard addressed to any fire hazards that may be associated with TVs is not necessary at this time.

Accordingly, pursuant to section 7(f)(1) of the Consumer Product Safety Act (15 U.S.C. 2056(f)(1)), the Commission terminates the proceeding to develop a standard addressed to any such fire hazards. The Commission, by notice published on November 2, 1977 (42 FR 57335) terminated the notice of proceeding to develop a standard addressed to shock, implosion and mechanical hazards associated with TVs. Therefore, this notice on fire hazards terminates entirely the notice of proceeding to develop a standard concerning TVs that had been published on February 28, 1975 (40 FR 8592).

Further Monitoring of TV Fire Safety

The Commission is encouraged by the continuing decline in TV fire incidents. In order to keep informed in the future on this matter, the Commission has directed the staff to continue TV fire safety involvement by collecting information based on newspaper reports, consumer complaints and data from the U.S. Fire Safety Administration, in addition to the staff's continuing monitoring of the voluntary standard effort. Moreover, the Commission will continue to investigate problems with individual TV models and to seek appropriate remedies, such as public notice, repair, or refund, under section 15 of the Consumer Product Safety Act (15 U.S.C. 2064), whenever it believes a substantial product hazard is presented.

Dated: July 24, 1979.

Sadye E. Dunn,
Secretary, Consumer Product Safety
Commission.

[FR Doc. 79-23196 Filed 7-26-79; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF THE DEFENSE

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed Burney Creek Small Flood Control Project in Shasta County, Calif.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. *Action.*—The Chief of Engineers has approved the preparation of a Detailed Project Report for a small flood control project on Burney Creek at the community of Burney, Shasta County, California. Studies for the potential project are currently underway. The Burney Creek watershed is located in northeastern Shasta County, 54 miles east of Redding, and contains a drainage area of approximately 190 square miles. Historical streamflow records show that major floods have occurred in the watershed. The channel capacity of Burney Creek decreases as it reaches Burney allowing floodwaters to spread out and inundate the lowlands. During high flows, floodwaters leave the main channel and spread through the adjacent business, residential, and agricultural areas of the flood plain. Prolonged periods of inundation result in sediment deposition and streambank erosion in the urban and rural reaches of the flood plain. No specific plan of improvement has yet been formulated.

2. *Alternatives.*—Alternatives under study include: No action; nonstructural measures such as floodproofing existing and projected developments, permanent and/or temporary evacuation, flood forecasting and warning, and flood plain regulation; channel improvement; levee construction; bypass channelization; and other possible alternatives.

3. *Scoping of DEIS.*—An informal workshop and scoping meeting is scheduled for 27 August 1979 at 7:30 p.m. in Burney, California at Veteran Memorial Hall. Representatives of the Corps of Engineers will be available to discuss the Burney Creek flood problem and alternative solutions. All interested parties are invited and encouraged to attend or to be represented at this workshop to discuss and identify those significant environmental issues which should be presented in detail in the environmental impact statement and those nonsignificant issues to be presented in less detail. Following release of the DEIS and draft Detailed Project Report, a public meeting will be held (tentatively scheduled for May 1980) to provide interested parties with the opportunity to present testimony and comments regarding the selected alternative for flood control. All issues addressed at the workshop and scoping meeting will be evaluated in the DEIS. Studies which will help in identifying significant environmental effects include: flood plain surveying and mapping; drainage basin hydrology; socioeconomic conditions; natural resources and fish and wildlife; water quality; and cultural resources.

Additional studies could be initiated if specific problems arise.

4. *Estimated Date of DEIS.*—A draft environmental impact statement and a draft of the Detailed Project Report are expected to be circulated for public review in April 1980.

ADDRESS: Questions about the proposed action and DEIS can be answered by Mr. John Saia, Planning Engineer, Sacramento District, Corps of Engineers, 650 Capitol Mall, Sacramento, California 95814, telephone (916) 440-2464 (FTS 448-2464).

Dated: July 12, 1979.

James G. Johnson,
Lieutenant Colonel, CE, Acting District
Engineer.

[FR Doc. 79-23222 Filed 7-26-79; 8:45 am]

BILLING CODE 3710-GH-M

DEPARTMENT OF DEFENSE

Intent To Prepare a Draft Supplemental Environmental Impact Statement/Environmental Impact Report for the Proposed Deepening of the Main Channels, Los Angeles Harbor, Los Angeles County, Calif.

AGENCY: U.S. Army Corps of Engineers, DOD; Port of Los Angeles.

ACTION: Notice of intent to prepare a draft supplemental EIS/EIR.

SUMMARY: 1. The proposed action consists of deepening the entrance and inner channels and basins of Los Angeles Harbor to a depth of 45 feet below mean lower low water (MLLW). Approximately 14.7 million cubic yards of material removed from the channels will be disposed of in a 190-acre diked area adjoining the seaward side of Terminal Island.

2. During the original plan formulation for the project, culminating in an Interim Review Report (July 72) and a Final EIS (Oct 74), both structural and nonstructural alternatives were considered. Nonstructural alternatives would be essentially "no action" plans, specifically, cargoes could be lightered from ships anchored in deepwater or the projected cargo tonnages could be diverted to other ports and brought overland to the Los Angeles-Long Beach area and hinterland. Structural alternatives considered for the dredging improvement consisted of alternative channel depths (from 36 to 45 feet) and also, deepening of only certain portions of the channels and basins.

With the selection of the recommended dredging improvement, further refinement of alternatives consisted of the comparison of various

plans of spoil disposal. Three general methods of disposal were considered: disposal in shallow water to create new land; at sea in deepwater; and on land. These methods were considered either singly or in combination to develop an array of eight structural alternatives—each consisting of the selected dredging improvement plus a particular disposal plan. One of these alternatives was chosen as the recommended plan.

The plan presented in the draft supplemental EIS/EIR is essentially the same recommended plan. The configuration of the landfill has been altered slightly in response to public input.

During the preparation of this supplemental EIS/EIR, no alternatives to the recommended plan were considered.

3. The scoping process for the proposed action is complete. The draft supplemental EIS/EIR is expected to be made available to the public on or about August 1, 1979.

As part of the federal coordination process for the supplemental EIS/EIR state, federal and local agencies and groups were asked for input. A public meeting was held on December 12, 1977.

As a part of the state coordination effort, a scoping procedure was required. Written inquiries were sent to state and local agencies on March 17, 1978 requesting input.

Public input was also obtained during the preparation of the draft and final EIS on this project.

A number of significant issues were raised during the scoping and coordination efforts, including:

a. Loss of valuable bottom habitat, as a result of the dredged material disposal (landfill).

b. Possible adverse effects of the landfill on the Least Tern—an endangered species.

c. Potential adverse effect of the landfill on recreational boating and the continued use of the Reeves Field area for recreational boating.

A compensation plan has been formulated and agreed to by the Corps, Port of Los Angeles, and U.S. Fish and Wildlife Service, which minimizes the adverse effects of the project on the Least Tern and other fish and wildlife resources in the harbor. A copy of the section 7 consultation report and the Fish and Wildlife Coordination Act Report will be appended to the draft supplemental EIS/EIR.

ADDRESS: Questions about the proposed action and Draft supplemental EIS/EIR can be answered by: Mr. Dan Muslin, 300 N. Los Angeles Street, P.O. Box 2711,

Los Angeles, California 90053, (213) 688-5403.

Dated: July 3, 1979.

Gwynn A. Teague,
Col, CE, District Engineer.

[FR Doc. 79-23233 Filed 7-26-79; 8:45 am]

BILLING CODE 3710-KF-M

Department of the Air Force

Air Force Academy Board of Visitors; Meeting

July 16, 1979.

The Air Force Academy Board of Visitors is scheduled to meet at the Air Force Academy, Colorado Springs, Colorado, during the period August 27-28, 1979. This meeting is pursuant to the Board's statutory charge (10 USC 9355) to meet at the Academy and to inquire into matters of morale, discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy which the Board decides to consider.

The tentative agenda calls for portions of the meeting to be open for public attendance on August 27 from 8:15 AM to 11:00 AM in the Superintendent's Conference Room, Harmon Hall. Among the items on the tentative agenda during the open portions of the meeting are briefings to the Board on the following subjects: the Airmanship Program, Evaluation of Cadets' Aptitude for Commissioned Service, Curriculum Revisions, and a Seminar on Academic Methodology and Military Studies. In addition to these open portions of the meeting, a press conference which will be open to the public has been scheduled for 10:00 AM on August 28 in Arnold Hall.

Portions of this meeting are tentatively scheduled to be closed to the public as matters to be discussed are analogous to matters listed in subsections (2) and (6) section 552(c), Title 5, United States Code. These closed portions include panel discussions with groups of cadets, faculty members, and military training officers, involving personal information and opinions, the disclosure of which would be a clearly unwarranted invasion of personal privacy. Also included are the executive deliberations of the Board involving discussions of such personal information.

If additional information is desired, contact Headquarters, U.S. Air Force

(MPPA), Washington, D.C. 20330, at (202) 697-7118.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79-23234 Filed 7-26-79; 8:45 am]

BILLING CODE 3910-01-M

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee will meet on August 13-17 and 20-24, 1979, at the Naval Ocean Systems Center, 271 Catalina Blvd., San Diego, California. Sessions of the meeting will commence at 8:00 a.m. and terminate at 5:00 p.m. on all days. All sessions of the meeting will be closed to the public.

The entire agenda for the meeting will consist of discussions of electronic warfare, advanced radar technology, signal processing, optical and electro-optical technology, ballistic missile defense research and development and other related intelligence. These matters constitute classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and non-classified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Captain J. B. Morris, U.S. Navy, Office of Naval Research (Code 102B1), 800 North Quincy Street, Arlington, VA 22217, telephone number (202) 696-4713.

Dated: July 16, 1979.

P. B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 79-23232 Filed 7-26-79; 8:45 am]

BILLING CODE 3810-71-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Domestic Crude Oil Allocation Program; Entitlement Notice for May 1979

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: May 1979 Entitlement Notice.

SUMMARY: Under the Department of Energy's (DOE) domestic crude oil allocation (entitlements) program, this is the monthly entitlement notice which sets forth the entitlement purchase or sale requirements of domestic refiners for May 1979.

DATES: Payments for entitlements required to be purchased under this notice must be made by July 31, 1979. The monthly transaction report specified in § 211.66(i) shall be filed with the DOE by August 10, 1979.

FOR FURTHER INFORMATION CONTACT:

Douglas McIver (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street, N.W., Room 61281, Washington, D.C. 20461, (202) 254-8660.

Kristina Clark (Office of General Counsel), Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Room 6A-127, Washington, D.C. 20585, (202) 252-6754.

SUPPLEMENTAL INFORMATION: In accordance with the provisions of 10 CFR § 211.67 relating to the domestic crude oil allocation program of the Department of Energy (DOE), administered by the Economic Regulatory Administration (ERA), the monthly notice specified in § 211.67(i) is hereby published.

Based on reports for May 1979 submitted to the DOE by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports and imported naphtha utilized as a petrochemical feedstock in Puerto Rico; application of the entitlement adjustment for residual fuel oil production shipped in foreign flag tankers for sale in the East Coast market provided in § 211.67(d)(4); application of the entitlement adjustments for California lower tier and upper tier crude oil provided in § 211.67(a)(4); June 1979 deliveries of crude oil for storage in the Strategic Petroleum Reserve; and application of the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for May 1979 is calculated to be .207877.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's

adjusted crude oil receipts for the month of May 1979, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper tier crude oil is equal to .387580 of a barrel of deemed old oil.

The issuance of entitlements for the month May 1979 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner or other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR § 211.67(i)(4), the price at which entitlements shall be sold and purchased for the month of May 1979 is hereby fixed at \$11.74, which is the exact differential as reported for the month of May between the weighted average per barrel costs to refiners of old oil and of imported and exempt domestic crude oil, less the sum of 21 cents.

In accordance with 10 CFR § 211.67(b), each refiner that has been issued fewer entitlements for the month of May 1979 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of April 1979 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of May 1979 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements. In addition, certain refiners are required to purchase or sell entitlements to effect corrections for reporting errors for the months September 1975 through May 1979 pursuant to 10 CFR § 211.67(j)(1).

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by ERA pursuant to § 211.67(h).

The listing contained in the Appendix identifies in a separate column labeled "Exceptions and Appeals" additional entitlements issued to refiners pursuant to relief granted by the Office of Hearings and Appeals (prior to March 30, 1978, the Office of Administrative Review of the Economic Regulatory Administration). Also set forth in this

column are adjustments for relief granted by the Office of Hearings and Appeals for 1975 and 1976, which adjustments are reflected in monthly installments. The number of installments is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, see *Beacon Oil Company, et al.*, 4 FEA par. 87.024 (November 5, 1976).

The listing contained in the Appendix continues the "Consolidated Sales" entry initiated in the October 1977 entitlement notice. The "Consolidated Sales" entry is equal to the May 1979 entitlement purchase requirement of Arizona Fuels. The purpose of providing for the "Consolidated Sales" entry is to ensure that Arizona Fuels is not relieved of its May 1979 entitlement purchase requirement and that no one firm will be unable to sell its entitlements by reason of a default by Arizona Fuels. For a full discussion of the issues involved, see *Entitlement Notice for October 1977* (42 FR 64401, December 23, 1977).

For purposes of § 211.67(d) (6) and (7), which provide for entitlement issuances to refiners or other firms for sales of imported crude oil to the United States

Government for storage in the Strategic Petroleum Reserve, the number of barrels sold to the Government totaled 1,950,515 barrels.

For the month of May 1979, imports of residual fuel oil eligible for entitlements issuances totaled 24,177,501 barrels.

In accordance with § 211.67(a)(4), the number of barrels of California lower tier and upper tier crude oil as reported by refiners to the DOE, and the weighted average gravity thereof are as follows:

	Volumes	Weighted average gravity
California Lower Tier Crude Oil	8,667,525	18 degrees
California Upper Tier Crude Oil	7,996,267	20 degrees

The total number of entitlements required to be purchased and sold under this notice is 22,079,159.

Based on reports submitted to the DOE by refiners as to their adjusted crude oil receipts for May 1979, the pricing composition and weighted average costs thereof are as follows:

	Volumes	Weighted average cost	Percent of total volumes*
Lower Tier	81,074,217	\$6.35	16.8
Upper Tier	91,366,264	13.55	18.9
Exempt Domestic:			
Alaskan	40,921,704	15.53	8.5
Stripper	45,250,441	17.83	9.4
Naval Petroleum Reserve	3,807,506	15.92	.8
Tertiary	28,588	12.85	.006
Total Domestic	262,448,720	12.41	54.4
Total Imported	220,115,691	18.96	45.6
Total Reported Crude Oil Receipts	482,564,411	15.40	100.0
Total Uncontrolled (Exempt Domestic and Imported)	310,123,930	18.31	64.3
Total Reported Crude Oil Runs to Stills	475,319,251		

*Numbers may not add due to rounding.

Payment for entitlements required to be purchased under 10 CFR § 211.67(b) for May 1979 must be made by July 31, 1979.

On or prior to August 10, 1979, each firm which is required to purchase or sell entitlements for the month of May 1979 shall file with the DOE the monthly transaction report specified in 10 CFR § 211.66(i) certifying its purchases and sales of entitlements for the month of May. The monthly transaction report forms for the month May have been mailed to reporting firms. Firms that have been unable to locate other firms for required entitlement transactions by July 31, 1979 are requested to contact the ERA at (202) 254-3336 to expedite

consummation of these transactions. For firms that have failed to consummate required entitlement transactions on or prior to July 31, 1979, the ERA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR § 211.67(k).

This notice is issued pursuant to Subpart C, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with the Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before August 27, 1979.

Issued in Washington, D.C. on July 23, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

APPENDIX.—Entitlements for Domestic Crude Oil

(May 1979)

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position				
		Total issued	Exceptions and appeals	Entitlements		Required to buy
				Product	California	
Consolid-Sales	-\$17,394	0	0	0	0	17,394
A-Johnson	0	166,605	0	24,644	0	166,605
Allied	72,470	83,187	0	0	0	10,717
Amer-Petrolina	1,414,551	906,933	0	0	0	507,618
Amerada-Hess	2,049,847	3,318,638	0	33,781	0	1,268,791
Amoco	10,849,972	6,799,467	0	0	0	4,050,505
Anchor	33,908	99,119	0	0	0	0
Arco	3,261,404	4,810,809	0	0	11,257	65,211
Arizona	96,862	79,468	0	0	7,348	1,549,405
Asamera	114,274	175,830	0	0	17,394	0
Ashland	1,240,446	2,138,938	0	24,724	0	81,556
Basin	24,564	152,745	0	0	6,640	88,958
Bayou	37,655	59,575	0	0	0	128,181
Beacon	148,717	143,266	-14,511	0	9,696	21,920
Belcher	0	126,745	0	126,745	0	0
Bi-Petro	0	237,995	0	0	0	237,995
Bruin	41,041	129,999	0	0	0	88,958
Calcasieu	58,910	130,034	0	0	0	71,124
Calumet	11,132	11,671	0	0	0	539
Canal	80,917	78,050	0	0	2,867	0
Carbon	85,714	114,055	0	0	0	48,341
Caribou	78,828	86,585	0	0	11,851	7,759
Castle	0	50,306	0	50,306	0	50,306
Champion	1,638,552	1,472,402	0	0	201,311	166,150
Charter	571,818	637,293	63,375	72,849	0	65,475
Chevron	6,744,338	6,442,055	*100,700	19,098	214,428	502,283
Cibro	0	175,384	0	13,874	0	175,384
Citico	2,362,652	1,714,877	0	0	0	617,775
Claiborne	82,752	98,079	0	0	0	34,673
Clark	389,189	680,103	0	0	0	290,920
Coastal	197,779	1,968,968	0	105,025	0	1,771,189
Colonial	0	84,526	0	64,526	0	64,526
Conoco	2,782,667	2,406,150	0	25,464	94,506	376,517
Consumers-Power	0	60,134	0	60,134	0	60,134
Coral	0	354,471	0	0	0	354,471
Coreo	0	1,206,866	*326,933	222,679	0	1,206,866
Cra-Farmland	363,810	559,576	0	0	0	195,766
Cross	59,552	108,838	0	0	0	49,286
Crown	269,860	688,117	0	0	0	398,257
Crystal-Oil	123,850	145,508	0	0	0	21,858
Crystal-Ref	0	27,197	0	0	0	27,197
Delta	159,517	327,118	0	0	0	167,601
Demmenno	12,720	110,773	0	0	4,648	98,053
Detroit-Ed	0	42,696	0	42,696	0	42,696
DFSC	0	363	0	363	0	363
Diamond	632,347	356,983	0	0	0	275,364
Dorchester	8,759	223,065	0	0	0	214,306
Dow	57,718	137,314	0	0	0	79,596
E-Seaboard	0	91,103	0	91,103	0	91,103
Eco	61,953	98,978	0	0	16,404	37,025
Eddy	51,097	46,911	0	0	0	4,186
Energy-Coop	0	557,893	6,830	0	0	557,893

APPENDIX.—Entitlements for Domestic Crude Oil—Continued

(May 1979)

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position				
		Total issued	Exceptions and appeals	Entitlements		Required to buy
				Product	California	
Enterprise	0	4,748	0	4,748	0	4,748
Ergon	32,942	99,863	0	0	0	66,921
Enckson	913	131,539	0	0	0	130,626
Evangelina	51,798	41,763	0	0	0	10,015
Exxon	9,618,926	8,588,334	*151,175	361,955	0	1,090,592
Ex-Serve	38,950	56,331	0	0	0	17,381
Farmers	228,138	331,442	0	0	0	103,304
Fletcher	14,865	291,003	0	0	2,236	278,148
Flint	7,918	9,601	0	0	0	1,683
Friendswood	83,462	73,457	0	0	0	10,005
Funding	62,340	62,445	0	0	0	105
Gary	200,636	135,370	0	0	0	65,266
Getty	1,092,153	1,233,170	0	0	0	141,017
Giant	40,490	69,064	0	0	0	26,574
Glacier-park	91,324	50,587	0	0	0	40,737
Gladeux	54,195	90,320	0	0	0	36,125
Golden-Eagle	0	162,656	0	0	0	162,656
Goldking	199,480	171,083	0	0	0	26,397
Good-Hope	66,239	266,067	0	0	0	219,826
Guam	0	278,355	0	0	0	278,355
Gulf	8,025,768	5,951,551	3,896	40,165	27,675	2,074,215
Gulf-STS	57,168	135,210	0	0	0	78,042
Hin	0	481,905	0	0	0	481,905
Howell	351,871	297,702	0	0	0	54,169
Hudson-Oil	33,458	136,723	0	0	0	103,265
Hunt	224,769	290,021	0	0	0	65,252
Husky	663,085	663,085	349,440	0	0	0
Independent-Ref	4,017	138,895	0	0	0	134,878
Indiana-Farm	51,170	184,111	0	0	0	132,941
Indust-Fuel	37,701	66,635	0	0	0	28,934
Inter-Process	-213,425	252,252	0	0	0	465,677
Ivings	0	19,883	0	19,883	0	19,883
Kenco	39,952	57,320	0	0	0	17,368
Kentucky	18,307	17,983	0	0	0	324
Kern	194,918	333,286	91,915	0	28,680	138,368
Kerr-McGee	1,036,391	839,966	0	0	0	196,425
Koch	275,405	830,279	0	0	0	554,874
Laguna	444,972	297,106	0	0	0	147,866
Lakeside	35,818	33,332	0	0	0	2,486
Laketon	65,519	56,512	17,171	0	0	9,007
Little-Amer	1,458,265	543,856	56,917	0	0	914,409
Louisiana-Land	433,723	322,236	0	0	0	111,487
Macmillan	111,505	171,630	0	0	16,590	90,125
Marathon	4,468,849	3,252,194	0	0	0	1,216,655
Manion	5,312	179,286	0	0	0	173,974
Metropolitan	0	75,175	0	75,175	0	75,175
Mid-Amer	1,348	35,454	0	0	0	34,106
Mobil	6,536,941	5,053,241	0	20,834	329,604	1,483,700
Mobile-Bay	0	168,545	0	0	0	168,545
Mohawk	419,143	347,789	63,355	0	40,801	71,354
Monoco	0	9,934	0	9,934	0	9,934
Monsanto	273,241	308,361	0	0	0	35,120
Morrison	21,807	13,321	0	0	0	8,486
Mountaineer	10,656	8,461	0	0	0	2,194
Mt-Ary	126,508	160,528	0	0	0	34,020
Murphy	908,278	738,267	0	0	0	170,009
N-Amer-Petro	93,906	220,296	0	0	15,317	126,391
Natl-Coop	317,064	409,912	0	0	0	92,828
Navajo	358,295	267,013	0	0	0	91,282
Nevada	30,887	36,569	0	0	-9	5,672
New-Edgington	821,105	433,365	53,426	0	139,157	167,740
New-Engl-Petro	0	218,181	0	218,161	0	218,161

APPENDIX.—Entitlements for Domestic Crude Oil—Continued

[May 1979]

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position					Required to buy	Required to sell
		Total issued	Exceptions and appeals	Entitlements				
				Product	California			
New-Engl-Power	0	64,563	0	64,563	0	0	0	64,563
Newhall	219,845	215,791	0	0	33,035	4,054	0	0
Northeast-Petro	0	33,818	0	33,818	0	0	0	33,818
Northland	17,864	17,864	8,720	0	0	0	0	0
Northville	0	54,568	0	54,568	0	0	0	54,568
OKC	141,178	226,989	0	0	0	0	0	85,813
Okl-Ref	87,892	143,372	0	0	0	0	0	55,480
Cynard	42,749	60,638	0	0	14,555	0	0	17,889
Peerless	0	86,005	0	0	0	0	0	86,005
Pemex	180	315,879	0	0	0	0	0	315,699
Pennzoil	493,799	391,062	0	0	0	102,737	0	0
Pester	88,591	182,593	0	0	0	0	0	84,002
Petro-Heat-Pa	0	7,134	0	7,134	0	0	0	7,134
Phillips	2,477,495	1,612,335	0	0	-124	865,160	0	0
Phillips-PR	0	229,876	0	229,876	0	0	0	229,876
Pioneer	77,478	75,237	0	0	0	2,241	0	0
Placid	501,371	286,769	0	0	0	214,602	0	0
Plateau	227,471	189,694	0	0	0	37,777	0	0
Port	12,448	17,822	0	0	0	0	0	5,374
Powerline	193,337	315,470	0	0	40,380	0	0	122,133
Pr-de	204,597	277,698	0	0	0	0	0	73,101
Quad	46,481	143,292	0	0	14,812	0	0	96,811
Quaker-St	64,521	226,865	0	0	0	0	0	162,344
Quitman	24,441	86,518	0	0	0	0	0	52,077
Rancho-Ref	8,628	15,811	0	0	0	0	0	9,183
Raymal	8,858	25,988	0	0	0	0	0	17,132
Richards	215	77,424	0	0	0	0	0	77,209
Road-Oil	0	5,398	0	0	0	0	0	5,398
Rock-Island	274,163	316,518	0	0	0	0	0	42,355
Saber-Tex	24,714	208,710	0	0	0	0	0	183,996
Sabre-Cal	42,195	106,958	0	0	7,573	0	0	64,763
Sage-Creek	2,748	2,858	0	0	0	0	0	110
San Joaquin	196,745	253,689	0	0	59,634	0	0	56,944
Scallops	0	221,719	0	221,719	0	0	0	221,719
Scanoil	0	102,905	0	102,905	0	0	0	102,905
Schutze	17,347	18,643	0	0	0	0	0	1,296
Sector	58,933	41,244	0	0	0	17,689	0	0
Seminole	10,434	142,428	0	0	0	0	0	131,994
Sentry	5,743	195,209	46,712	0	5,396	0	0	189,466
Shell	9,417,842	6,074,428	0	0	328,629	3,343,414	0	0
Shepherd	27,277	78,032	0	0	0	0	0	51,755
Sijmor	11,634	223,956	0	0	0	0	0	212,322
Sliver-Eagle	104	446	0	0	0	0	0	342
Slapco	92,526	113,533	0	0	0	0	0	21,007
So-Hampton	57,700	126,493	0	0	0	0	0	68,793
Schio	1,445,787	2,608,913	0	0	0	0	0	1,163,126
Somersel	26,512	40,970	0	0	0	0	0	14,458
Sound	49,547	100,985	0	0	13,857	0	0	51,438
Southern-Union	203,603	288,443	0	0	0	0	0	84,840
Southland	498,627	271,928	60,323	0	0	226,699	0	0
Southwestern	6,467	8,841	0	0	0	0	0	2,374
Sprague	0	49,179	0	49,179	0	0	0	49,179
Stewart	0	10,394	0	10,394	0	0	0	10,394
Sunland	4,298	142,081	0	0	179	0	0	137,783
Sunoco	3,843,126	3,244,539	8,841	4,860	0	598,587	0	0
Swann	0	17,473	0	17,473	0	0	0	17,473
T&S	13,323	87,678	0	0	0	0	0	74,355
Tarricone	0	10,394	0	10,394	0	0	0	10,394
Tenneco	1,281,267	603,021	0	0	10,588	678,246	0	0
Tesoro	244,668	455,331	0	21,058	0	0	0	210,663
Texaco	7,099,923	6,970,099	146,859	364,885	173,519	129,824	0	0
Texas-American	84,413	128,578	10	0	0	0	0	44,165

APPENDIX.—Entitlements for Domestic Crude Oil—Continued

[May 1979]

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position						
		Total issued	Exceptions and appeals	Entitlements		Required to buy	Required to sell	
				Product	California			
Texas-Asph.....	37,498	23,961	0	0	0	13,517	0	
Texas-City.....	673,221	856,166	0	0	0	17,055	0	
Thagard.....	193,345	190,317	5,295	0	41,219	3,028	0	
Thriftway.....	55,166	59,286	0	0	0	0	4,120	
Thunderbird.....	42,437	71,800	0	0	0	0	29,363	
Tipperary.....	25,865	53,427	0	0	0	0	27,562	
Tonkawa.....	68,028	85,143	0	0	0	0	17,115	
Tosco.....	1,759,498	1,422,098	0	0	325,810	337,401	0	
Total-Petroleum.....	222,409	454,020	0	0	0	0	231,811	
UCC-Canbe.....	0	187,218	0	167,218	0	0	167,219	
UNI-Ref.....	0	142,168	0	0	0	0	142,166	
Union-Oil.....	4,172,343	3,016,937	0	0	191,194	1,155,406	0	
Untd-Ref.....	153,742	305,373	0	0	0	0	151,631	
US-Oil.....	21,738	170,308	0	0	3,927	0	148,570	
USA-Petrochem.....	38,618	197,813	0	0	5,998	0	159,195	
Val-Verde.....	1,737	966	0	0	0	771	0	
Vickers.....	203,825	454,467	0	0	0	0	250,642	
Vicksburg.....	23,692	65,364	0	0	0	0	41,672	
Waller.....	0	9,354	0	9,354	0	0	9,354	
Warnor.....	54,818	46,085	12,504	0	0	8,831	0	
West-Coast.....	201,040	161,120	0	0	57,743	39,920	0	
Western.....	82,625	106,086	0	0	0	0	23,461	
Winston.....	121,971	168,816	0	0	0	0	44,845	
Wireback.....	0	809	0	0	0	0	809	
Wilco.....	69,164	190,726	0	0	12,172	0	121,562	
Wyatt.....	0	24,215	0	24,215	0	0	24,215	
Wyoming.....	55,935	140,777	0	0	0	0	84,842	
Yetter.....	0	524	0	0	0	0	524	
Young.....	71,457	66,860	22,722	0	0	4,597	0	
Total.....	113,972,622	113,972,622	1,485,196	3,142,680	2,517,236	22,079,159	22,079,159	

* See discussion in Notice.

* Includes entitlements issued for sales of imported crude oil to the United States Government for storage in the Strategic Petroleum Reserve.

* Authorization to sell these entitlements to subject to conditions set forth in a DOE Decision and Order issued to Commonwealth Oil and Refining Company on March 20, 1978.

* This is consistent with the court's order prohibiting any further entitlement purchase requirements by this firm pursuant to the terms of the court's judgment in *Husky Oil Co. v. DOE, et al.*, Civ. Action No. C77-190-B (D. Wyo., filed March 14, 1978), remanded — F.2d — (No. 10-18 TECA, August 10, 1978).* This does not include the purchase obligation stayed by court order in *Texas Asphalt & Refinery Co. v. FEA Civ. Action No. 4-75-268* (N.D. Tex., filed October 31, 1975).

* Entitlements issued pursuant to the regulation issued July 24, 1979 (44 FR 31162, May 31, 1979) which provides entitlements benefits for imports of middle distillates for the months May 1979 through August 1979.

[FR Doc. 79-23278 Filed 7-24-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory
Commission

[Project No. 2330]

Niagara Mohawk Power Corp.;
Application for Amendment of License

Issued: July 24, 1979.

Take notice that on March 16, 1979, Niagara Mohawk Power Corporation filed an application for amendment of its license for its Raquette River Project, FERC Project No. 2330, located on the Raquette River in St. Lawrence County, New York. The applicant requests authorization to build a new intake structure for its Raquette River Project's Norfolk Development, and to replace a highway bridge. Correspondence with the applicant should be directed to John H. Terry, Senior Vice President, General Counsel and Secretary, Niagara Mohawk Power Corp., 300 Erie Boulevard West, Syracuse, New York 13202.

The Norfolk Development intake structures are integrally attached to an existing highway bridge. Both the intake and bridge structures are in need of major repair.

Under the proposed amendment, the Licensee would demolish the present dual purpose flume intake structure and highway bridge. A new flume intake structure would be built 50 feet downstream from the existing intake structure's current location, and a safe, modern highway bridge would be built in the existing bridge's current location. St. Lawrence County would become the owner of the new bridge and would be permanently responsible for its operation and maintenance. The Licensee would retain ownership of the land and streambed under the bridge and would be responsible for the maintenance of the two new bridge abutments.

The Licensee estimates that the

construction under the proposed amendment would cost \$1,545,000.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before August 27, 1979. The Commission's address is: 825 N. Capitol Street, NE, Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23283 Filed 7-26-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP78-123 et al.]

Northwest Alaskan Natural Gas Transportation Co.; Availability of Draft Environmental Impact Statement for Proposed Sales Gas Conditioning Facility at Prudhoe Bay, Alaska

July 24, 1979.

Notice is hereby given in the above docket that on July 27, 1979, as required by § 2.82(b) of the Commission's Rules of Practice and Procedure, a draft environmental impact statement (DEIS), prepared by the staff of the Federal Energy Regulatory Commission, was made available. The staff of the Environmental Protection Agency (EPA) should be particularly acknowledged for its assistance in the preparation of the DEIS.

The DEIS deals with the construction and operation of facilities to process, condition, and compress natural gas to meet Northwest Alaskan Pipeline Company's (Northwest Alaskan) proposed pipeline specifications. Natural gas would be collected from the oil and gas fields at Prudhoe Bay and transported through a proposed 48-inch diameter, 1,260-psig pipeline network to the lower 48 states. The proposed conditioning facility would consist of four parallel natural gas liquids (NGL's) and carbon dioxide removal extraction trains, each train capable of delivering about 665 million cubic feet of conditioned gas per day to the proposed Northwestern Alaskan pipeline system. The facility would also include one single-train fractionating unit, a deethanizer, a depropanizer, and a debutanizer used to separate the NGL's entrained in the feed gas stream. Support facilities at Prudhoe Bay would include a temporary construction camp and a permanent operations center to house staff and craft personnel.

This DEIS has been circulated to Federal, state, and local agencies and all parties to the proceedings. The DEIS has been placed in the public files of the Commission and is available for public inspection, both in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE, Washington, D.C. 20426, and at its regional office located at 555 Battery Street, San Francisco, California 94111.

Copies of the DEIS are available in limited quantities from the Commission's Office of Public Information. Copies are also available for public inspection in EPA's Regional Office Library, 11th Floor, 1200 Sixth Avenue, Seattle, Washington 98101 and at EPA's Alaska Operations Office, Room E535, 701 C Street, Anchorage, Alaska 99513.

Any person who wishes to do so may file comments on the DEIS within 45 days after publication. All comments must be filed on or before September 14, 1979. Comments mailed from Alaska will be given an extra 15 days for receipt to allow for any postal delays to and from Alaska.

Any person who wishes to present evidence on environmental matters in this proceeding must file with the Commission a petition to intervene pursuant to section 1.8 of the Commission's Rules of Practice and Procedure (18 CFR 1.8). All petitions to intervene must be filed on or before September 14, 1979.

The staff will also hold local public hearings or meetings to hear comment on the DEIS in Anchorage, Fairbanks, and Barrow, Alaska, between September 4-6, 1979. The exact times and place of these sessions are:

(1) September 4, 1979 (Tuesday), Two sessions (1 p.m. and 7 p.m.), New Federal Office Building, 701 "C" Street—Room C114, Anchorage, Alaska 99513.

(2) September 5, 1979 (Wednesday), Two sessions (2 p.m. and 7 p.m.), Fairbanks North Star Borough Bldg., Fairbanks, Alaska 99706.

(3) September 6, 1979 (Thursday), One session (1 p.m.), North Slope Borough Assembly Chambers, Barrow, Alaska 99723.

Lois D. Casbell,
Acting Secretary.

[FR Doc. 79-23284 Filed 7-26-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-338]

Consumers Power Co.; Order Accepting Proposed Agreement, Accepting in Part and Suspending in Part Proposed Rates and Consolidating Procedures

July 6, 1979.

On April 30, 1979, the Consumers Power Company (Consumers) tendered for filing a Facilities Agreement between Consumers and Northern Indiana Public Service Company (NIPSCO), dated December 1, 1977, and an Operating Agreement among Consumers, Detroit Edison Company (Detroit) and NIPSCO, dated May 1, 1979.

Notice of the filing was issued on May 3, 1979, with protests or petitions to

intervene due on or before May 25, 1979. No responses were received.

The Facilities Agreement provides for the construction of 138 kV transmission facilities by Consumers and NIPSCO to establish and additional interconnection of their systems.¹ The Facilities Agreement provides that NIPSCO will pay Consumers the annual carrying charges on the capital cost of transmission line and terminal facilities constructed by Consumers and the operating and maintenance expenses associated therewith. The Agreement further provides for annual review to determine whether benefits are accruing to Consumers as well as to NIPSCO, and to redetermine the sharing of annual charges accordingly.

The Commission finds the proposed Facilities Agreement to be just and reasonable and therefore will accept the Agreement as filed.

The Operating Agreement among Consumers, Detroit and NIPSCO establishes rates, charges, terms and conditions of service governing the interchange of power and energy among the parties. The interchange is proposed to be implemented by the use of certain 138 kV transmission facilities interconnecting the systems of Consumers and NIPSCO (Barton Lake-Batavia Interconnection Point), and any additional interconnection points that may be constructed. The Operating Agreement contains rate schedules for emergency, economy and conservation energy, and for short-term power and energy.² Consumers requests waiver of the Commission's notice requirements to allow the Operating Agreement to become effective as of May 1, 1979, the date the Barton-Lake Batavia Interconnection Point was to have commenced service.

The proposed charges under the Operating Agreement for Emergency and Economy Energy are standard industry rates and are on file for these parties under other interconnection agreements.³ The proposed demand charge of \$0.70/kW/wk for short term power has recently been accepted for filing by the Commission for service by Consumers and Detroit to other utilities in Docket No. ER79-108.⁴ Similarly, in Docket No. ER79-165, the proposed

¹ Proposed to be included in the construction is 13 miles of transmission line to be built by Consumers and 1 mile to be built by NIPSCO as well as associated terminal equipment.

² See Attachment A for designations.

³ Consumers' and Detroit's interconnection agreement with Indiana and Michigan Electric Company contains these rates for Emergency and Economy Energy. NIPSCO's interconnection agreement with Public Service Company of Indiana contains the same rates for these two services.

⁴ By letter of the Commission dated April 12, 1979.

short term demand charge was accepted for filing for service by NIPSCO to other utilities.⁵ Accordingly, the Commission will accept for filing the proposed rates for Emergency and Economy Energy and Short Term Power and Energy submitted by Consumers. We note that agreements providing for third party wheeling of economy and emergency energy appear to be desirable and we encourage such filings.

The proposed Fuel Conservation Energy Rates are similar to that filed in Docket No. ER79-250 for service among Consumers, Detroit and Indiana and Michigan Electric Company (I & ME). The rates filed by I & ME in Docket No. ER79-250 were accepted for filing and suspended and were consolidated with the proceeding in Indiana & Michigan Electric Company, *et al.*, Docket No. ER78-229 *et al.*⁶ This ongoing proceeding is concerned with fuel conservation energy rates to be used in interchange transactions at times when parties have to conserve energy.⁷ This proceeding seeks to effectuate a framework of comprehensive interchange arrangements under which crisis-related transactions should take place. The Commission finds that it is appropriate to accept for filing the proposed Fuel Conservation Energy Rate Schedule submitted in the instant filing by Consumers, suspend its effectiveness for one day and consolidate it with the proceedings in Docket No. ER78-229, *et al.* In suspending the rate, we emphasize that our concern is with the rate level, not with the filing of fuel conservation rates, a practice which we also wish to encourage. Further, we note that the filed rate is the effective rate for fuel conservation energy transactions subject only to refund upon the Commission's ultimate determination of its justness and reasonableness, and that it must be used under appropriate circumstances.

The Commission orders

(A) The Facilities Agreement between Consumers Power Company and Northern Indiana Public Service Company is accepted for filing.

⁵ By letter of the Commission dated March 16, 1979.

⁶ Order Consolidating Proceedings and Providing for Prehearing Conference, Indiana & Michigan Electric Company *et al.*, Docket No. ER78-229 *et al.*, issued May 14, 1979.

⁷ On June 5, 1979, the Commission convened a prehearing conference in Docket No. ER78-229 *et al.* to resolve issues concerning conservation rate schedules involving I & ME, the Pennsylvania-New Jersey-Maryland Interconnection, Appalachian Power Company, Ohio Power Company, New England Power Pool and Dayton Power and Light Company. On June 15, 1979, the Staff Presiding Officer issued a Status Report which concluded that further settlement negotiations would be futile.

(B) The rates proposed for Emergency and Economy Energy and Short Term Power and Energy are hereby accepted for filing. Waiver of the Commission's notice requirements is hereby granted such that these rates may go into effect as of May 1, 1979.

(C) The proposed Fuel Conservation Energy Rates are hereby accepted for filing and suspended for one day, to become effective as of May 2, 1979, subject to refund.

(D) The proposed Fuel Conservation Energy Rate Schedule is hereby consolidated with the proceedings in Docket No. ER 78-229 *et al.* and is subject to the outcome of that proceeding.

(E) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission,
Kenneth F. Plumb,
Secretary.

Attachment A—Designations

Filed: May 10, 1979.
Effective: May 1, 1979.

Designations	Description
Consumer Power Co.	
(1) Rate Schedule FERC No. 44	Facilities agreement.
(2) Rate Schedule FERC No. 45	Operating agreement.
(3) Supplement No. 1 to Rate Schedule No. 45	Emergency energy.
(4) Supplement No. 2 to Rate Schedule No. 45	Short term power and energy.
(5) Supplement No. 3 to Rate Schedule No. 45	Economy energy.
(6) Supplement No. 4 to Rate Schedule No. 45	Fuel Conservation energy.
The Detroit Edison Co.	
(7) Rate Schedule FERC No. 26	Certificate of concurrence.
(concur in (2)-(6) above).	
Northern Indiana Public Service Co.	
(8) Rate Schedule FERC No. 11	Certificate of concurrence.
(concur in (2)-(6) above).	
¹ Effective: May 2, 1979, subject to refund.	
[FR Doc. 79-23167 Filed 7-26-79; 8:45 am]	
BILLING CODE 6450-01-M	

[Docket No. CP74-192]

Florida Gas Transmission Co.; Order Providing for Limited Further Hearing

July 18, 1979.

This proceeding involves an application filed on January 24, 1974, by Florida Gas Transmission Company (FGT) to abandon certain of its pipeline facilities and transfer them to its affiliate, Transgulf Pipeline Company. The transferred pipeline would be used to transport light petroleum products from the Gulf Coast area to Florida. After extensive hearings involving many parties, the Administrative Law Judge issued an initial decision on January 18,

1977. The initial decision granted FGT's abandonment application on the basis that depletion of gas supplies made continuation of service through the particular facilities that FGT proposed to abandon unnecessary and unwarranted.

On April 10, 1979, Interstate Oil Transport Company filed a petition to reopen the record in order to receive information on the fair market value of the facilities to be transferred and on recent developments purported to affect FGT's gas supply. The Florida Public Service Commission, Port Everglades Authority, Port Everglades Towing, Inc., Hvide Shipping, Inc., and the Commission's trial staff, supported reopening. The Florida Public Service Commission later withdrew its petition. FGT filed a response strongly opposing reopening the record and Interstate filed a reply.

As noted, the initial decision would grant FGT's application on the basis of depletion of gas supplies. The Commission considered the decision and exceptions thereto at its meeting on May 16, 1979. The Commission was inclined to the view that the Administrative Law Judge reached the proper conclusion on the record before him with respect to the issues of gas supply and the need for gas transmission facilities. However, the Commission was concerned that developments since close of the record might have rendered the record inadequate as a basis for such a conclusion as of mid-1979. Reflecting this concern, a draft final order submitted to the Commission by its advisory staff for the Commission's consideration proposed to grant the request abandonment based not on depletion of gas supplies but rather on the basis of the other § 7(b) test of the Natural Gas Act which provides for abandonment if "... the present or future public convenience or necessity permit such abandonment."

The Commission did not reach a decision on the requested abandonment at its May 16, 1979 meeting. Instead, it ordered a limited further hearing, and directed the advisory staff to perfect its proposed draft order and place it in the public file. In the process of refining and recalculating some of the figures used in the proposed draft order the advisory staff reached the conclusion that major revisions should be made to the figures in the draft order. As a result of the revisions, the advisory staff at this time would urge the Commission to deny the requested abandonment.

The draft order considered by the Commission on May 16, 1979, (with

minor conforming and perfecting changes) is attached as Appendix A. A memorandum discussing the methodology and figures that the advisory staff would now urge the Commission to use in evaluating the fair market value, and discussing the advisory staff's current views is attached as Appendix B. Both documents are being placed in the public file and will be served on all participants in this proceeding.

As discussed, the Commission is concerned that developments since the close of the record might have rendered it inadequate as a basis for a decision at this time. FGT's likely future gas supplies are crucial to a decision about abandonment whichever Section 7(b) test the Commission uses. A finding based either on depletion of supplies or on the more general present or future public convenience or necessity test must be based, at least in part, on a view of future supplies.

The Commission is reluctant to direct the reopening of the record with the attendant delay and regulatory expense unless such a step is absolutely necessary. Therefore, the Commission has decided to provide for a limited hearing in this proceeding before a single Commissioner. Upon completion of this limited hearing, the designated Commissioner will report to the full Commission and recommend to the Commission either a decision on the present record or further proceedings.

The purposes of the limited hearing are: (a) to receive views and arguments on the sufficiency of the current record with respect to a decision about abandonment of the pipeline facilities at issue and (b) to receive views and comment on the validity and methodology and figures used by the Commission's advisory staff to calculate fair market value. Specifically, the parties are invited to address the following questions:

(1) Can the Commission still rely on the existing record as the basis for the finding that "the available supply of natural gas is depleted to the extent the continuance of service is unwarranted . . .". If not, what changed circumstances preclude reliance on the record before the Commission?

(2) Would the Commission be justified in granting abandonment based on the public convenience or necessity standard as proposed in the attached draft order? If so, does the draft order properly identify the elements of cost to the gas consumers and the loss in value to the gas pipeline customers as a result of abandonment? Are there factors that should be considered but are not

included in the computations contained in the draft order? Do the draft computations use items of cost or losses in value which should not be used in such calculations?

(3) Does the draft order contain (a) a proper computation of the fair market value of the pipeline as a petroleum products carrier?; (b) a proper computation of the transfer price?; and (c) provide appropriate accounting and ratemaking treatment of the various aspects of the abandonment and sale? Are the computations properly grounded on record evidence or based on other data of which the Commission may appropriately take notice? If not, what data or computations should be used?

The Commission emphasizes that the purpose of this limited hearing is to permit the parties and the Commission's trial staff to provide it with comments, views and arguments about some major issues that the Commission is analyzing in connection with its deliberations on the proposed abandonment. The parties and the Commission's trial staff are specifically asked not to comment on conditions that have not changed since the close of the record or to re-argue matters about which the record provides sufficient information for a decision.

All participants in the hearings in this proceeding are eligible to participate in the further limited hearing. Those who wish to do so should notify the Office of the Secretary of the Commission and request a reservation of time. A participant may divide the allotted time between opening statement and rebuttal as it wishes.

Again, the Commission emphasizes that it would prefer to avoid the delay and expense dependent upon reopening of the record unless this is required to reach a sound decision. Therefore, the parties and the Commission's trial staff are encouraged to make specific references to the existing record or to documents of which the Commission can appropriately take official notice to support their positions and contentions. Those who believe that new evidence is indispensable and that the record should be reopened to receive such evidence should attach to their prefiled comments specific offers of proof. No new evidence will be received at the limited hearing. However, the presiding Commissioner will consider such offers of proof in making his recommendation to the Commission with respect to whether the Commission can appropriately base a decision on the record as it will stand after the limited hearing.

The Commission designates Commissioner George R. Hall to preside

over the limited hearing. Commissioner Hall is empowered to permit members of the Commission's advisory staff to question the parties or the Commission's trial staff should he choose to do so. Cross-examination will not be permitted.

The Commission orders: (A) There will be a limited further hearing in this proceeding to allow the parties and the Commission's trial staff to provide comments, views and arguments with respect to the questions set forth in the text of this order, the draft order proposed to the Commission by its advisory staff (attached), and the memorandum from the advisory staff, dated July 17, 1979, also attached to this order.

(B) This further proceeding will be presided over by Commissioner George R. Hall. Commissioner Hall may designate members of the Commission's advisory staff to question parties and the Commission's trial staff.

(C) The draft order in this proceeding proposed to the Commission by its advisory staff will be placed in the public file and a copy will be served on each party.

(D) The memorandum of July 17, 1979 from the advisory staff to the Commission will be placed in the public file and a copy will be served on each party.

(E) The hearing will be August 20, 1979. Commissioner Hall may set further procedural dates as necessary.

(F) Copies of any written comments should be filed with the Commission and served on the other parties by August 10, 1979. As discussed in the body of this order, comments may include offers of proof.

By the Commission.
Kenneth F. Plumb,
Secretary.

Appendix A—Abandonment, Pipelines (Construction), Accounting (Sale of Pipeline), Environmental Impact, Fair Market Value, Anti-Trust

United States of America, Federal Energy Regulatory Commission

Before Commissioners:
Florida Gas Transmission Company;
Docket No. CP74-192.

Opinion No. —

Opinion and Order Granting Authorization To Abandon a Natural Gas Pipeline for Conversion to a Petroleum Products Pipeline

This proceeding involves an application filed on January 24, 1974, by Florida Gas Transmission Company (FGT) to abandon part of its pipeline

facilities and transfer them to its affiliate, Transgulf Pipeline Company, to be used to transport light petroleum products from the Gulf Coast areas to Florida. The proceeding is now before the Commission¹ on exceptions² to the initial decision of Administrative Law Judge William Jensen issued January 18, 1977, in which he granted FGT's application.

On April 10, 1979, Interstate filed a petition to reopen the record to determine the fair market value of the facilities to be transferred and to reflect recent developments relating to FGT's gas supply. The Florida Public Service Commission, Port Everglades and Hvide Shipping, Incorporated, as well as the Commission staff, supported reopening, but the Florida Commission later withdrew its petition. FGT has filed a response strongly opposing reopening the record, to which Interstate has, in turn, filed a reply.

Factual Background

FGT, a wholly owned subsidiary of Florida Gas Company (FGC), owns and operates a pipeline system which parallels the coastline of the Gulf of Mexico from near McAllen, Texas, into Florida where it continues to a terminus near Miami. The system was originally certificated at the end of 1956³ and has been looped and expanded on several

¹This proceeding was commenced before the Federal Power Commission (FPC). By the joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC. The term "Commission", when used in the context of action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

²Exceptions were filed by FGT; Cities MCG; Ingram Corporation and Ingram Ocean Systems, Inc. (Ingram); Interstate Oil Transport Company (Interstate); Southern Gas Company, Gainesville Gas Company and West Florida Natural Gas Company (Southern); National Marine Engineers Beneficial Association (NMEBA); Port Everglades Authority and Port Everglades Towing, Inc. (Port Everglades); and Commission staff. Briefs opposing exceptions were filed by FGT, Interstate, Port Everglades, Cities MCG, and staff.

On September 12, 1977, the FPC issued an interlocutory order deferring a final decision on the abandonment application pending settlement conferences relating to an unfilled amendment to a warranty contract with Amoco Production Company. However, on August 21, 1978, the Commission rejected the settlement and directed the Office of Enforcement to institute an investigation of the transactions with Amoco.

³Also called Cities Municipal Generating Group—Comprising Ft. Pierce Utility Authority, Gainesville-Alachua County Regional Electric Water and Sewer Utilities, the Sebring Utilities Commission, and the Cities of Homestead, Kissimmee, Lakeland, Starke and Tallahassee, Florida.

⁴Houston, Texas, Gas & Oil Corp. and Coastal Transmission Corp., 16 FPC 118, 119 (1956), on rehearing 17 FPC 303 (1957); affirmed *sub nom. Florida Economic Advisory Council v. F.P.C.*, 251 F.2d 643 (CA-5, 1957), cert. denied, 356 U.S. 959 (1958).

occasions so that its overall average daily capacity is in the range of 725,000 Mcf per day. As presently authorized and operated, the system consists of a 12 to 24 inch pipeline from Texas to Florida, known as the "24-inch system." In addition, FGT has a nearly completed loop, constructed principally with 30-inch pipelines beginning near the middle of the pipeline in Louisiana and extending to Miami known as the "30-inch system."

FGT sells gas to direct and resale customers in Florida. It also transports gas for boiler fuel use under transportation rate schedules T-1 for Florida Power Corporation, and T-2 and T-3 for Florida Power & Light Co. (FPL). The T-1 and T-2 rate schedules will terminate in the middle of 1979 when the 20-year contracts between the electric utilities and the gas suppliers expire and will leave available 140,000 Mcf per day of pipeline capacity. FGT also contends, as discussed below, that it is experiencing declining deliverability of its connected natural gas reserves, so that the present FGT system is being underutilized and will have greater excess capacity in the future.

FGT requests authorization to install the necessary facilities to complete the 30-inch system and then to retire the 24-inch system from Compressor Station 8 near Baton Rouge, Louisiana, eastward to Fort Lauderdale, Florida, and transfer it to Transgulf for transportation of petroleum products (LPP). The remaining 30-inch gas transmission system will have a capacity of 625,000 Mcf per day compared to the present 725,000 Mcf per day.

The Judge found the remaining undepreciated cost of the facilities to be retired and transferred would be approximately \$21,600,000 as of June 30, 1979, and the estimated cost of the new facilities on the 30-inch system, including mainline loops, one new compressor station and the relocation of certain compressor horsepower, would be \$30,000,000.⁴ The undepreciated cost of the facilities to be retired using a 5 1/2 percent rate of depreciation⁵ would be approximately \$10,800,000 in 1981 when FGT indicates the transfer will be made. The Judge estimates the cost of the new facilities would be \$35,000,000 in that year. It would cost approximately \$103 million to equip the 24-inch line to transport liquid products, an increase over earlier estimates.⁶

⁴See Initial Decision, p. 46.

⁵See *Florida Gas Transmission Co.* Docket No. RP76-24, Order of January 11, 1977, (See statement D, page 5 of 7).

⁶Tr. 669; See Ex. 42.

The Issues and the Commission's Opinion

The basic issue in these proceedings is whether FGT has justified its proposal to abandon its 24-inch gas pipeline system so that it may be transferred to Transgulf and converted to petroleum products transportation. Our authority is set forth in section 7(b) of the Natural Gas Act which provides that no natural gas company shall abandon facilities subject to the jurisdiction of the Commission without the permission and approval of the Commission. The Commission must make a finding "that the available supply of natural gas is depleted to the extent that continuance of service is unwarranted, or that the present or future public convenience or necessity permit such abandonment." There are thus, in the disjunctive, alternative findings possible. This is recognized by the court in *Michigan Consolidated Gas Co. v. F.P.C. et al.*, 283 F.2d 204 (CA-6, 1960), *certiorari denied*, 364 U.S. 913 (1960) which noted the necessity for Commission approval "either" that the supply of gas is depleted "or" that the public convenience and necessity permit abandonment. The court added that:

"An applicant for abandonment under § 7(b) of the Act has the burden of making the factual showing which will assure the Commission, charged with protecting the public interest, that that interest will in no way be disserved."

As developed below, the present record indicates that FGT's throughput of gas would be a little less than 625,000 Mcf per day after the middle of 1979 through 1983 and would then decline substantially. However, the record and subsequent trends, as well as the possible impact of the Natural Gas Policy Act of 1978 (NGPA)⁷ raise a real question as to whether there may not be greater gas supplies available than were contemplated by FGT. This means that under Section 7(b) the first alternative as to gas depletion may not be satisfied, but the threat of a gas shortage supports the second alternative that the public convenience and necessity permit abandonment, especially since we intend to prevent any disadvantage to the customers in distributing the proceeds of the sale and are requiring that FGT stand ready to install additional facilities to increase the capacity of its 30-inch system without adding to its rate base, except to the extent discussed below.

We conclude that transfer of an underutilized facility will result in savings to FGT's customers, but they

⁷92 Stat. 3351; see Section 103.

will suffer certain detriments, such as loss of flexibility in operations, loss of capacity for linepack and cheap expansibility, for which some compensation will be made.

We recognize that the products pipeline will have substantial impact upon maritime transportation and maritime employment, but believe that the Florida market is better protected by having an alternative method of moving petroleum products to that state.

We determine that the price at which the 24-inch line should be transferred from FGT to Transgulf should be based on the needs of FGT's ratepayers as indicated by the record. These include the amount necessary to bring the retained 30-inch system to a capacity of 625,000 Mcf per day (estimated here to be \$35 million as of 1981), the amount necessary to increase the capacity back to the present level of 725,000 Mcf per day (estimated at \$27.87 million), resulting deferred income taxes (estimated at \$17 million), and an amount to offset the detriments to FGT's ratepayers and to represent a return to them of the appreciation on the assets in which they have an interest. We estimate this should be about \$7 million, making a transfer price of \$86.87 million.

In confirmation of this price we have computed a fair market value for the 24-inch line in the amount of \$82,379,000 and have satisfied ourselves that its use as a products pipeline will be economically feasible. To reach a fair market value we have discounted projected revenues from transporting petroleum products, but have accelerated the increase in throughput volumes so that the maximum would occur after five years of operation rather than twenty. As a result of these computations we arrive at a fair market value in the amount of \$82,379,000 which is close to the transfer price of \$86,870,000 which we find, subject to corrections as of the date of transfer, should be paid by Transgulf to FGT.

Having arrived at a transfer price of \$86,870,000 it became necessary to dispose of this amount. As noted above, we find that \$17,000,000 represents taxes. The next \$10.8 million, representing the book value of the 24-inch line as of June 30, 1981, is to be credited to FGT's reserve for depreciation and the \$10.8 million removed from the rate base. Next, \$35 million necessary to provide a capacity of 625,000 Mcf per day for the 30-inch system is to be credited to the reserve for depreciation to offset the same increase in the plant accounts, so that there is no increase in rate base. The remaining amount, \$24.07 million, will be

credited to the reserve for depreciation, thus reducing FGT's rate base. This will reflect the ratepayer's interest in the line sold and will compensate them for detriments suffered from the transaction—loss of cheap expansibility, flexibility of operation and linepack for meeting peak loads—estimated to amount to \$7 million.

FGT is required to be ready to expand its system up to the 725,000 Mcf per day capacity level. We find that FGT should be free to add such additional costs to its rate base up to book cost of the 24-inch line (\$10.8 million). However, the Commission on the basis of the equities would consider whether additional investment up to the 725,000 Mcf per day level should be given rate base treatment.

The opinion states that we do not agree that FGT is using its monopoly power to unlawfully subsidize Transgulf in entering a different energy market. We note particularly that we rejected transfer at a price equal to the book value of the 24-inch line and adopted an amount which made the transactions of benefit to the ratepayers and high enough to approximate a fair market value.

With respect to the environmental considerations and the Final Environmental Impact Statement (FEIS) we are of the opinion that the possible alternatives suggested by the intervenors are not real possibilities. We think also that there was no need to discuss in the FEIS the impact on the human communities in Florida since there has been so little gas delivered to the cities for power plant use.

Gas Supply

(1) Initial Decision and Exceptions.—Noting that FGT's proposed conversion would reduce its daily delivery capacity from 725,000 Mcf to 625,000 Mcf, the Administrative Law Judge found that, even under its most optimistic gas supply projections FGT would never be able to supply in excess of 625,000 Mcf/d. In reaching this result he made several auxiliary findings:

(a) He discounted Cities MGG's claim that, since FGT's pipeline traverses a highly prolific producing area, it has unique physical access to additional gas supply. He did so by finding almost no uncommitted reserves in this area, as well as substantial competition in this area from other interstate pipelines (FGT accounted for 1.02% of production and 1.62% of reserve acquisition) and an inability to compete with intrastate purchasers for onshore reserves, notwithstanding the recent increase by the Commission of the national rate. He

also rebutted other reasons advanced by Cities MGG for optimism over FGT's gas supply: a large Southern Natural Gas Company interstate purchase in FGT's supply area had to be withdrawn because of contract cancellations by the producers; FGT's production rate variations, that might have required investigation, resulted merely from the start of water injection; and recoverable reserves of 300 Bcf in FGT's Jay Field had already been counted by FGT.

Cities MGG excepts to these findings. It maintains that FGT has failed to prove its gas supply sufficiently depleted to justify this abandonment. As a preliminary matter, it argues that, by presenting national average reserve projections instead of actual projections, FGT failed to meet its burden of proof. It turns to the substantial onshore and offshore reserve acquisition and development effort of FGT's affiliate, Florida Gas Exploration Company (FGEX), and argues that the extent of FGEX's calls on gas found in these properties is good evidence against abandonment. Cities MGG then summarizes FGT's testimony concerning FGEX's gas reserve situation as completely inadequate to permit the finding of depleted gas supply warranting abandonment. It moreover recapitulates certain conflicting evidence of FGT's optimism over gas supply to demonstrate that FGT's gas supply projections were too conservative. It also urges that the Commission draw negative inference from FGT's refusal to answer Cities MGG's gas supply discovery requests on the basis of confidentiality.

FGT opposes these exceptions. It seeks to discredit Cities MGG's citation of contradictory FGT gas supply evidence as minimal and too speculative to consider. It also opposes the suggestion that it improperly denied access to its gas supply data by pointing out that it had given wide access to its files.

(b) The Administrative Law Judge moreover found relevant the mid-1979 expiration of the Florida Power-Sun Oil and FPL-Pure Oil contracts, underlying FGT's T-1 and T-2 transportation service, respectively. This would reduce FGT's daily delivery obligation by 140,000 Mcf. In light of producer disinterest in contract renewal and then Commission policy against the use of gas for boiler fuel, he dismissed the possibility of continued FGT T-1 and T-2 service after mid-1979 either to Florida Power and FPL or to higher priority requirements. Staff asked the Commission to look behind the T-1 and T-2 transportation contracts. FGT

opposes this exception, asserting that staff has stated nothing of substance.

(c) The Administrative Law Judge moreover found the instant abandonment-certification proceeding to be an inappropriate forum for resolving the FGT-Amoco warranty contract issue⁷ as Staff had proposed. He read Section 7(b) as requiring a finding as to the state of the pipeline's gas supply but not as to responsibility for the state of its gas supply. We agree. The Amoco matter is subject to a separate investigation in Docket No. IN78-2.

(d) Although the Administrative Law Judge recognized that FGEX sells the gas from its onshore interests to intrastate purchasers offering more than can FGT, he found that interstate pipelines have no legal obligation to explore for new gas supplies and that would not militate against his gas supplies finding.

While staff does not disagree that FGEX has no obligation to sell onshore gas to FGT, it states on brief that FGT did not use best efforts to acquire new gas reserves when it directed all of its exploration funds to FGEX.

FGT opposes this exception as factually in error since it does not funnel all gas acquisition efforts into FGEX, and FGEX's offshore operations have intentionally improved its gas supply. As for FGEX's intrastate sales of onshore production, FGT contends that it decided that it could not legally prevent this, but to best protect its customers it had nonetheless insisted that these intrastate sales be short-term.

(e) The Administrative Law Judge rejected Interstate's request on brief that the Commission's, then, Bureau of Natural Gas conduct an independent investigation into FGT's gas supply

⁷ In 1965, FGT entered into a 20 year warranty contract with the predecessor of Amoco for 584.4 Bcf, including 80,000 Mcf average day deliveries, 102,000 Mcf maximum day deliveries, and 64,000 Mcf minimum day deliveries. Nevertheless by 1974, Amoco was only supplying on the average 47,000 Mcf/d, and by December 1975, this was down to 15,000 Mcf/d. Behind this reduction in deliveries to FGT are the following events: In 1967, the predecessor of Amoco was cancelling its 1965 gas contract with FGT which underlies FGT's T-3 transportation service certificate application. In certifying T-3 service and related facilities the Commission (*Florida Gas Transmission Company*, Opinion No. 516, 37 FPC 424, 446 (1967)) directed FGT to first certify that this underlying gas supply contract was still in effect. In order to have Amoco's predecessor reinstate this contract with FGT, FGT had to unilaterally agree to accept deliveries under its own warranty contract in excess of its 64,000 Mcf/d minimum delivery obligation as "banked", that is to be considered in the future toward satisfying Amoco's 80,000 Mcf average day delivery obligation. This unilateral document was never filed with the Commission, and Amoco deliveries in excess of 64,000 Mcf/d and up to 135,000 Mcf/d forced FGT to sell 78 Bcf to Transco to avoid a prepayment obligation to Amoco. See Commission order of August 21, 1978, in this docket rejecting settlement and instituting investigation.

situation. He expressed confidence in the state of the record *vis-a-vis* gas supply.

Interstate continued to pursue its request for an independent gas supply analysis by the Bureau of Natural Gas, reasoning that the initial decision relied exclusively upon FGT's evidence, which is allegedly biased. FGT opposes this exception, arguing that the initial decision gas supply finding was based upon more than adequate evidence, including several gas supply studies.

(2) Petition to Reopen.—As noted, Interstate has filed a petition to reopen the record based on recent events. In addition to referring to NGPA, Interstate notes that the President of the United States has called on utilities and other users of oil to switch to natural gas. Interstate also quotes an optimistic statement in FGT's Annual Report to shareholders and statements in the company's SEC Form 10-K of April 2, 1979, that FGT has obtained the right to purchase 337 billion cubic feet of additional natural gas from the Louisiana Resources Company. Initial deliveries could begin in mid-1979 at a rate of 50,000 MMBtu per day and increase to a rate of 100,000 MMBtu per day by early 1981. Interstate also points to statements by Florida Power and Light Company and Florida Power Corporation in 10-ks concerning their plans to seek additional gas supplies.

(3) Commission Gas Supply Finding.—Notwithstanding the vigorous challenges mounted by Cities MGG, staff and Interstate, the record, as of the time it was compiled, contains sufficient evidence to meet FGT's burden of proof, on depletion of gas supply. As it stands, it permits the conclusion that by the estimated conversion date of mid-1979, FGT's gas supply will be such that it will not be delivering in excess of 625,000 Mcf/d. Limiting deliverability to system purchased gas supply and transportation volumes, Exhibit 13-A shows that, from a high in 1976 of 643,800 Mcf/d (315,500 Mcf/d system gas supply and 328,300 Mcf/d transportation service),⁸ its throughput will decline to 454,700 Mcf/d by mid-1979 (258,600 Mcf/d system gas supply and 196,100 Mcf/d transportation service, which assumes termination of its T-1 and T-2 transportation service).⁹ In Exhibit 15 similar figures are compared with a mid-1979 throughput of 559,000 Mcf/d which assumes continuation of T-1 and T-2 service until depletion of their underlying reserves. In Exhibits 49 and 50 FGT represents its daily average gas supply: this time specifically including future

purchases, future onshore exploration, existing onshore reserves, advance payment purchases and existing offshore leases in addition to presently projected gas supply. Exhibits 49 and 50 indicate that, including all of the above supply additions, FGT's daily throughput would hover just under the 625,000 Mcf/d critical level from mid-1979 through 1983, after which point it will start a substantial and continual decline.

Exhibit 154 leads to the same conclusion. Therein the FPC Natural Gas Survey cases II and III for future reserve additions in FGT's supply area were subjected to the assumption that FGT will obtain either 1.02% or 1.62% of such future reserve additions, and extrapolations therefrom (schedule 13 of Exhibit 154) indicate that, even under the best case scenario, FGT will never again reach the 625,000 Mcf/d threshold.

In terms of total remaining recoverable reserves, FGT in Exhibit 16 lists every reservoir in which it has dedicated reserves for total reserves as of January 1, 1974, of 1.025 Tcf. Exhibit 48 contains a DeGolyer and MacNaughton report dated May 13, 1974, in which FGT's dedicated proved reserves, also as of January 1, 1974, were computed to be 1.125 Tcf, with another 1.26 Tcf of reserves underlying the T-1, T-2, and T-3 transportation services.¹⁰ Exhibit 29-A indicates that such reserves are diminishing since FGT has been delivering much more gas than it has been purchasing new reserves: From 1970 through 1974 FGT sold 750.3 Bcf while adding only 451.5 Bcf of new reserves, of which 300 Bcf were added to 1970 alone, and the rate of additions steadily declined to 3.6 Bcf in 1974. Exhibit 156 demonstrates this same phenomenon on a national and Gulf Coast area basis.

Exhibit 51, and internal FGT gas supply memoranda dated April 11, 1969, paint a discouraging picture of FGT's chances for attaching new significant onshore and offshore reserves throughout the Gulf Coast area. This helps to substantiate FGT's lack of success in adding new reserves as indicated above in Exhibit 29-A, even when, as indicated by Exhibits 93 and 114, FGT's gas supply area (Alabama, Florida, Mississippi, South Louisiana and Texas Gulf Coast) encompasses over half of all lower states gas

¹⁰ If this higher 1.26 Tcf figure were accepted in lieu of FGT's 1.025 Tcf estimate, FGT's deliverability figures, *supra*, might have to be increased somewhat, but the effect would be minor.

⁸ 234,980 MMcf/year.

⁹ 137,305 MMcf/year.

production and should include substantial reserve additions.¹¹

The record also indicates that there is substantial gas exploration and development throughout FGT's gas supply area. FGEX is a partner with Shell Oil Company in developing the Mobile South No. 2 offshore Louisiana area (Exhibit 95). In addition, exploration and development activity in Alabama has increased the prospects of significant Jurassic gas production (Exhibit 97), but such evidence of future possibilities would not by itself offset the record's indication that FGT's gas supply is depleted below the 625,000 Mcf per day level. In any case the loss of a throughput of 140,000 Mcf per day in the middle of 1979 would, on the basis of the record, leave unused any capacity in the line above 625,000 to Mcf per day. The record shows clearly, however, that FGT has obtained substantial reserve additions through FGEX from offshore Federal domain leases, as shown in Exhibit 94. Such evidence introduced by Cities MGC as Exhibit 177, attributes substantial volumes flowing therefrom to FGT. While the Judge did not think that FGT's share of the new gas in its supply area would significantly increase because of the tendency of intrastate prices to be higher than interstate prices, a question remains as to what gas supplies will be derived from FGEX's onshore working interests.

The Amoco warranty issue, referred to above does not appreciably affect the result. In preparing Exhibit 14 to show its total purchased gas for the future, FGT included 64,000 Mcf/d of Amoco warranty gas through 1979, then increasing that to 70,000 Mcf/d through 1987, the termination of the warranty contract so as to recover the remainder of the 584.4 Bcf warranted reserves (Tr. 1300). More recent information from FGT's Form 15 for 1978 indicates that Amoco is now delivering 82,000 Mcf/d.

We agree with FGT in its response to Interstate's motion to reopen that in a long drawn-out proceeding, there must come a time for closing the record. However, the basis of FGT's application here has been that it did not have sufficient gas to make use of its facilities. Interstate has pointed to certain events which may have changed the conditions on which we are asked to act. A general and updated view of FGT's gas supply, including possibilities, as well as firm supplies, is set forth in the table attached as Appendix A. As

¹¹ Exhibit 115, which projects FGT reserve additions in this Gulf Coast area, is not persuasive to the contrary for, as the initial decision noted, there is no basis for the assumption that FGT will gain either 2.5% or 5% of all reserve additions in this area.

the attached notes state, the sources of the amounts are the 1978 Form 15, the transportation contracts, the SEC Form 10-k and an account of negotiations with Mexico's Petroleos Mexicanos (Pemex). As the table shows, if all of these possibilities are included, the average daily volumes transported would range up to 821,000 Mcf per day in 1981. However, this includes the extension of the T-1 and T-2 contracts beyond the middle of this year (140,000 Mcf/d) and the inclusion of a Pemex supply in 1981-83 (67,000 Mcf/d). FGT has filed a revised application to abandon the transportation service under Rate Schedules T-1 and T-2 and the Pemex negotiations have not yet been fruitful. With the exclusion of these sources throughput would amount to 647,000 Mcf/d in 1979 (before the actual pipeline conversion could be made) but would fall to 614,000 Mcf/d in 1980 and 1981, and would drop further to 579,000 Mcf/d in 1982 and to 555,000 Mcf/d in 1983. It would appear that even if Pemex were included for 1981 the volumes transported would fall below 625,000 Mcf/d within the following two or three years.

However, as the record shows, it is difficult or impossible to chart the course of gas exploration in the Gulf coast area within the next few years. Also Florida Power and FPL have expressed a desire for further gas supplies. There is clearly an increasing need for additional gas supplies in Florida particularly because of the smaller supplies and higher prices for oil. Further, the figures for daily throughput above are average figures; a pipeline may need the capacity to move more than average volume.

Also, the provisions of the Natural Gas Policy Act of 1978 (NGPA) for pricing new onshore gas¹² could redound to FGT's benefit in the future, although to an unquantifiable degree. One of the purposes of NGPA was to eliminate the dual pricing structure and to enable interstate pipelines to compete for new gas supplies. FGT should be able to contract for a greater portion of these supplies. It is true that FGT's witness Sullivan attempted on the record to take into account the deregulation of gas when he estimated that future purchases would amount to no more than 50 billion cubic feet a year or 137,000 Mcf per day,¹³ and this was included in Exhibits 49 and 50 discussed above. However, this statement antedated NGPA, and could not have been very precise.

¹² 92 Stat. 3351; See Section 103.

¹³ Tr. 962-963.

As a result of the possibilities raised by the record and subsequent trends, as well as NGPA, there is a substantial question raised as to whether FGT may not be able to acquire gas supplies that will exceed the 625,000 Mcf per day capacity of the 30-inch system that it is retaining. An obvious solution, as requested by Interstate, would be to reopen the record and remand the proceedings to permit FGT and the other parties to update their evidence on gas supply. We are reluctant to do this since the record and much of the evidence indicates that FGT's gas supply after the next two or three years may well be less than 625,000 Mcf per day. We shall therefore require, as discussed below, that FGT as a condition of our approving its abandonment stand ready to install appropriate facilities on its 30-inch system, so that the capacity will be increased up to the present capacity of 725,000 Mcf per day in the event FGT is able to obtain additional gas supplies. In this way, even though the gas depletion ground of Section 7(b) is not fully satisfied, the conversion can be permitted as a matter of public convenience and necessity.

Public Interest Considerations

(1) Initial Decision and Exceptions

Having found that the post-conversion FGT capacity of 625,000 Mcf/d would be adequate for FGT's available gas supply, the Administrative Law Judge then found that conversion is in the public interest since the FGT ratepayers would pay reduced rates from the removal of idle capacity from FGT's rate base and the redemption of their equity in the 24-inch loop. He did recognize potential adverse impacts from conversion upon these ratepayers: loss of the storage or linepack capability of the 24-inch loop; loss of the flexibility inherent in a looped system for emergency rerouting; and loss of the cheap expansibility in this 24-inch loop. Nevertheless, he found that the ratepayers could be adequately protected against these losses by conditions attached to the abandonment and construction certificates.

Staff excepts to these findings, noting the loss of the operational benefits discussed by the judge.¹⁴ FGT asserts that the record demonstrates that its 30-inch line is adequate with respect to linepack and flexibility. It also reasons that the initial decision finding of excess

¹⁴ While the initial decision was silent on the issue of excess compression, staff urges that FGT be directed to remove from rate base the excess 92,000 horsepower on its system (142,000 h.p. installed less 52,000 h.p. required).

capacity moots staff's asserted loss of cheap expansibility.

(2) Commission Public Interest Finding

As the record shows, the conversion of the 24-inch line will result in economic benefit to FGT's ratepayers because it will make use of an underutilized facility. If the transaction were executed in the middle of 1979, FGT's rate base would be reduced by \$21.6 million representing the depreciated original cost of the 24-inch line. Using 9.83 percent rate of return this would result in a saving in return and taxes of something in the order of \$4.1 million in the first year. Depreciation saved at 5.5 percent would also amount to about \$4.1 million per year, and operating expenses of \$600,000¹⁵ per year would be shifted to the Transgulf line. In addition, as discussed and provided below, the \$30 million necessary to restore FGT's 30-inch line to a capacity of \$625,000 would be borne by proceeds of the transfer. Also we are requiring that FGT, if necessary, shall install facilities to increase the capacity of the line to 725,000 Mcf per day.

Furthermore, as discussed below, the products pipeline will provide an alternative way of bringing petroleum products to Florida not subject to the peculiar hazards of maritime transportation.

The record, however, makes clear that the FGT ratepayers will lose valuable operational benefits, for the twenty-four and thirty-inch system possesses significant flexibility, useful during emergency outage conditions, which will be lost by abandonment. This flexibility results from interconnections between the twenty-four and thirty-inch lines at almost every valve and lateral takeoff, which occur every fifteen to twenty miles (Tr. 356). Since most laterals are connected to both the twenty-four and thirty-inch lines, FGT can make gas deliveries off either line (Tr. 357).

The second operational benefit is the short-term storage function of linepack, which is especially valuable when FGT faces a cold spell (Tr. 405). The existing twenty-four and thirty-inch system has maximum linepack of 170,000 Mcf, with safely used linepack of 150,000 Mcf (Tr. 404). Linepack would drop to 100,000 Mcf for the remaining thirty-inch system (Tr. 406), thus a net loss of 50,000 Mcf of linepack. This is not an insubstantial loss. FGT asserts that the remaining thirty-inch line would be sufficiently reliable (Tr. 449).

The third operational benefit is cheap expansibility, which is indicated by the

¹⁵ Tr. 1561.

fat that, by retaining the 24-inch line as is and performing the \$30 million of post-abandonment construction contemplated by FGT for the remaining thirty-inch line, the current 725,000 Mcf/d capacity could be increased to 1,025,000 Mcf/d (Tr. 317). While it is true that 300,000 Mcf/d of added capacity for \$30 million (mid-1979 cost) is indeed cheap expansibility, there is little in the record or in more recent gas supply information to show a need for any such expanded capacity.

While the Administrative Law Judge recognized the values of the existing system even with the FGT's depleted gas supply, he did not give them sufficient weight.¹⁶ As developed below we are providing that, after taxes, the proceeds of the sale be used largely for the benefit of FGT's ratepayers. With such substantial benefits we are of the opinion that the detriments experienced by the ratepayers will be offset. Without such a modification we should not be able to find that the abandonment was permitted by the public convenience and necessity.

Impact of Conversion Upon Maritime Transportation

(1) Initial Decision and Exceptions

While the Administrative Law Judge conceded that conversion of FGT's 24-inch pipeline to petroleum products transportation would have substantial and long-term economic and employment impact upon the competing maritime interests, he nonetheless favored conversion because of offsetting benefits. This result is based upon several related findings:

(a) He delineated the present and future LPP market in Florida, along with the percentage transported by the maritime firms and the percentage to be transported by Transgulf. Specifically, by mid-1979 454,000 barrels per day will be transported into Florida, 430,000 barrels of which by U.S. ships from Gulf Coast refineries and the remainder by truck and rail. If conversion were authorized and completed at that time, Transgulf would transport 200,000 barrels per day (start-up capacity) or 44%, while the maritime firms would transport 231,540 barrels per day or 51%. He found that by 1992 LLP transportation of 600,000 barrels per day would be shared, 348,000 barrels for Transgulf or 58% and 222,000 barrels for the maritime firms or 37%.¹⁷ From this he

¹⁶ Loss of flexibility and linepack alone are considered in this public interest balance. The added compressor fuel requirements due to conversion (Tr. 397) are of course germane in this regard but will be discussed infra.

¹⁷ See, Tr. 188,837; Ex. 31.

concludes that the economic impact upon the maritime firms would be long-term, for they would not recover the market share first lost to Transgulf at commencement of pipeline transport of LPP.

(b) He considered the economic and employment impact upon specific maritime interests. He concluded that Florida ports and the LPP shipping companies could lose around 1,000 employees, plus unquantified unemployment in the Gulf Coast ports from which the LPP is shipped and that such unemployment would not be transitory. In addition he found that the shipping companies, including Interstate, Ingram, and Port Everglades Towing, as well as Port Everglades Authority, would "suffer substantial losses of revenues", although he did not quantify such losses.

(c) However, he detailed several public interest factors more than counterbalancing these adverse effects. He relied upon the same rationale first employed by the Commission in certifying the initial FGT pipeline,¹⁸ which is that the single source of energy supply for Florida, being importation by sea, renders Florida's economy vulnerable. He found the prior defense, industrial and general welfare considerations still germane today. Specifically, he cited the decline in gas deliveries and the proximity of Cuba to Florida as requiring conversion of the pipeline to LPP transportation to improve energy reliability. In this regard he noted that the Governor of Florida and the Florida Energy Committee support FGT's application for the same reason of improved energy reliability. Furthermore, he contested the contrary argument that, by reducing the LPP carrying fleet size, conversion of this pipeline would be in conflict with U.S. military policy to maintain a strong merchant marine to assist the Navy in times of war or other emergency. He did so by finding that this Congressional policy was not intended to require Federal Agencies to disregard the public interest in order not to impact upon the merchant marine and that, in time of war or emergency, use of this fleet for national defense would leave Florida without its needed energy supply but for the LPP pipeline.

Staff excepts to the findings of public interest outweighing the negative impact of conversion. It first of all asserts that the LPP to be transferred will not supplant curtailed FGT gas deliveries since the LPP will be 60% gasoline and

¹⁸ *Houston Texas Gas and Oil Corporation and Coastal Transmission Corporation. Supra*, 16 FPC at 125-126.

40% diesel oil, heating oil, and jet fuel (Tr. 5104) while the electric generators being curtailed look to No. 6 fuel oil. (Ex. 105, p. 1). Staff then seeks to refute the findings that maritime transport of LPP, unlike pipeline transport, is subject to weather and labor strikes causing disruption. It concludes by arguing that there is no record support for the defense reason for conversion.

Interstate and Port Everglades except to the legal standard applied in the initial decision when balancing conversion with the conceded negative impact upon the maritime interests. They assert that the Commission must consider the economic injury to competing maritime transporters of the LPP which the converted pipeline would transport. In *Florida Economic Advisory Council v. F.P.C.*¹⁹ The Court considered the interests of competing organizations dealing with petroleum products but upheld the commission in granting a certificate for the FGT pipeline.

Port Everglades, whose brief is adopted by Ingram and reiterated in large part by NMEBA, excepts to the public interest balancing performed in the initial decision. It challenges the finding that the public would not be harmed in terms of national defense and argues that the defense significance of the merchant marine is far greater than found in the initial decision, so as to completely outweigh any conceivable benefits from conversion. In support it recites the legislative history of federal statutes intended to develop, in the face of formidable foreign competition, a strong merchant fleet available to assist the Navy during wartime or other national emergency.²⁰ It argues that the Commission must take this clear Federal policy into account.²¹

Port Everglades disparages the other purported public benefits from conversion besides national defense. It notes that the Administrative Law Judge himself conceded that financial benefit to the FGT rate-payers is inadequate justification, and it challenges the Administrative Law Judge's considering maritime transportation as only one

¹⁹ 251 F.2d 643 (CA DC 1957), cert. denied, 356 U.S. 959 (1958).

²⁰ Shipping Act of 1916, 46 U.S.C. § 801 et seq.; Merchant Marine Act of 1920, 46 U.S.C. § 861 et seq.; Merchant Marine Act of 1938, 46 U.S.C. § 1101 et seq.; Merchant Marine Act of 1970, P.L. 91-369 (October 21, 1970); and Federal Ship Financing Act of 1972, P.L. 92-507 (October 19, 1972).

While Everglades recognizes that the maritime interests, transporting LPP between points exclusively within the U.S., are protected from foreign competition by the Jones Act, 46 U.S.C. § 883, it argues that they are nonetheless part of the same merchant marine Congress intends to protect for defense reasons.

²¹ *Municipal Intervenor Group v. F.P.C.*, 473 F.2d 84, 89-90. (CA DC-1972).

source of supply to Florida. Instead, it argues that, with many ships, barges, operators, and ports involved, the maritime transportation of LPP to Florida is not subject to significant disruption from strike, weather or national emergency, as the record allegedly demonstrates.

(2) Commission Finding

In analyzing whether this abandonment is in the public convenience and necessity, we must consider properly raised showings of injury to the maritime interests which would compete with Transgulf for LPP transportation.²² As noted above, the Judge concluded that the maritime interests would suffer losses of revenues, that a number of workers will face unemployment, and that this impact will not be transitory but will endure for a substantial period of time. In our opinion there is an undoubted impact upon the maritime interests but this is affected, at least in part, by the growth of transportation of petroleum products and other commodities in Florida.

The record shows that the advent of pipeline transportation of petroleum products will reduce the present maritime transportation of approximately 430,000 barrels a day to a little more than half, and this reduction will persist even as the demand for the products grows, because the products pipeline capacity will also grow.²³ For the purpose the rate of growth of light petroleum product consumption in Florida was assumed to be 2 percent, compounded, although past growth had been about 7 percent compared to a national growth of 4 percent.²⁴ FGT's witness felt it was necessary to adjust the rate of growth downward from 7 percent to reflect reduced migration to Florida and higher oil prices. The 2 percent would compare with a national rate of ¼ percent. The reference of Interstate in its brief to a national gasoline demand growth of only 1.0 percent to 1.5 percent per year through 1980 therefore, is not material. Evidence presented by Port Everglades shows that, while the pipeline will cause an immediate downward trend in commodity movements at Port Everglades, there will actually be an increase in movements of about 30 percent between 1973 and 1980 and an increase of about 100 percent by 1990.²⁵ Also employment in the Port Everglades area between 1970 and 1980 is expected

²² *City of Pittsburgh v. F.P.C.*, 237 F.2d 741, 747 (CA DC-1956).

²³ Tr. 108, 837, 1250-1251.

²⁴ Tr. 107.

²⁵ Ex. 78, 79.

to increase about 43 percent and by 1990 about 78 percent.²⁶ The record thus indicates that the damage to the maritime industry will be limited. Also FGT's witness states that the pipeline will largely be replacing older tankers, which would otherwise have to be replaced.²⁷

We agree with the Judge that we are not bound by the statements in the Merchant Marine Legislation and Congressional reports referred to above with respect to the importance of the Merchant Marine in time of war. These statements clearly support the subsidies granted by Congress but do not preclude the use of pipelines. Further, there may be contentions as to whether the water transport of petroleum products is subject to a greater or less risk than a pipeline with respect to storms, strikes and other disasters; but it is only common sense to believe that the Florida market is better protected by having an alternative method of moving petroleum products to the consumers in the state.

Transfer Price and Project Feasibility

In applying the standard of the public convenience and necessity to the transfer of FGT's 24-inch line the result is greatly affected by the valuation put on the line, for it is this valuation that will inure to the benefit of FGT's ratepayers, depending on its disposition. A higher valuation will benefit FGT's customers; a lower valuation will increase the feasibility of the products pipeline. A net investment (depreciated original cost) valuation, as discussed below, is not sufficient, in our opinion, to make the transaction justifiable in the public convenience and necessity; and the undepreciated original cost, used by the Judge, while not unreasonable in result, does not seem well founded.

The criterion, which is controlling, in our opinion, is whether the pipeline conversion transaction will leave the FGT ratepayers in no worse position than if the transaction had never taken place and does justice to them in giving them the benefit of the present value of the line. The record shows the interests of the ratepayers in the present system that should be protected. Our result will be compared with a study of the economic feasibility of the line as a petroleum products carrier. This will also indicate the fair market value of the line and the benefits that might be received by the ratepayers. In this way the public convenience and necessity of the conversion transaction can be determined.

²⁶ Ex. 74.

²⁷ Tr. 109.

A. Methods of Determining the Transfer Price

(1) Initial Decision and Exceptions

Having found that the conversion proposal should be granted, the Administrative Law Judge held that the sale price of the 24-inch pipeline should be based upon its undepreciated original cost of \$75.3 million not the depreciated original cost advanced by FGT, FGC and Transgulf. This conclusion evolved from the following findings:

Using a valuation of depreciated original cost as of June 30, 1979, he found that there would result an \$8.4 million increase in rate base since the current 4.5%²⁸ FGT depreciation rate would reduce the depreciated original cost to \$21.6 million and 8% annual inflation would increase the necessary construction costs to \$30 million.²⁹ Further he found that the remaining FGT 30-inch gas pipeline would need over 2,000,000 Mcf per year for increased compression so as to provide a capacity of 625,000 Mcf/d. He concluded therefrom that the use of the depreciated original cost is "patently unacceptable", even when FGT adds on brief that Transgulf will compensate FGT for any construction costs in excess of the sale price and that FGT will not include the cost of this additional compressor fuel in its cost of service.

On the contrary FGT asserts that book value (depreciated original cost) is the sole legal standard of valuation used by the Commission in pipeline conversion cases.³⁰ FGT also cites for support Commission decisions in which jurisdictional utilities were not permitted to include in rate base purchased utility property above book value.³¹ Staff distinguishes FGT's case

²⁸ In Docket No. RP76-24 FGT was permitted to increase its depreciation rate on transmission facilities to 5.5 percent.

²⁹ As observed earlier, on June 30, 1981, the undepreciated original cost (book value) would be \$10.8 million and the necessary additional construction \$35 million. We shall base our conclusions largely on 1981, because FGT said in its response to the motion to reopen that its pipeline most likely will remain unchanged until that year.

³⁰ *El Paso Natural Gas Company*, 52 FPC 402 and 52 FPC 1039 (1974); *Cumberland and Allegheny Gas Company*, 43 FPC 275 (1970); *Lone Star Gas Company*, *United Gas Pipe Line Company*, 36 FPC 497, 503 (1966); *Tennessee Gas Transmission Company*, 32 FPC 1291 (1964); and *Texas Eastern Transmission Company*, 14 FPC 38; 16 FPC 27; and 17 FPC 843. In its brief opposing exception FGT adds to this list *Gulf Energy and Development Corporation*, Docket No. RP74-88, initial decision issued March 4, 1977, aff'd—FPC—July 25, 1978.

³¹ *Cities Service Gas Company v. Florida Gas Transmission*, 155 F.2d 694, 701, (CAIO-1946), cert. denied, 329 U.S. 773 (1946); *Colorado Interstate Gas Company v. F.P.C.*, 142 F.2d 943, 946 (CAIO-1945), aff'd, 324 U.S. 581, 607 (1945); *United Gas Pipe Line Company*, 25 FPC 27, 84 (1961); *Montana Power and Light Co.*, 3 FPC, 329, 335 (1942).

citations, which it reads to establish a Commission case-by-case analysis of the valuation of acquired assets based upon benefit to the ratepayer, not a legal mandate for depreciated original cost. Interstate likewise challenges FGT's contention that the transfer price must be, as a matter of law, depreciated original cost.

FGT then recites certain evidence, including FGT and staff studies of discounted cash flows, as allegedly supporting an independent fair market valuation in line with its book value position.

Port Everglades, Cities MGC, Interstate and staff oppose this FGT exception. Staff notes that it made no fair market value study and that the exhibit cited by FGT was merely a DCF study concerning financial feasibility of the conversion project. Staff and Cities MGC also contest FGT's allegation that it presented fair market value studies arguing that the FGT witnesses cited were neither qualified to make such a study nor did they in fact do so. Interstate views FGT's DCF "Case C" Study as merely a post-hoc rationalization for the depreciated original cost valuation, not a fair market value study.³²

(b) While not accepting the fair market value determination based upon current reproduction costs less accrued depreciation, the Administrative Law Judge nonetheless calculated fair market value on this basis for corroborative purposes, specifically to show that the result reached is very close to that of the undepreciated original cost method. He used a reproduction cost of \$171 million, but, since this figure includes significant inflation over the original cost of \$75.3 million, he applied the same inflation factor to the accrued depreciation of \$43.5 million to reach inflated accrued depreciation of \$98.8 million. The resulting reproduction cost less inflated accrued depreciation was calculated to be \$72.2 million, which is close to the original undepreciated cost of \$75.3 million.

Southern, Gainesville and West Florida except to the failure in the initial decision to employ an independent valuation, saying that FGT failed to meet its burden of proof. Interstate, Cities MGC, and staff concur in this. If this were done, they assert, the fair market value would be much more than

³² On March 21, 1977, staff moved that the Commission not consider pages 37-42 of FGT's brief opposing exceptions for the reason that these pages allegedly do not respond to briefs on exceptions. FGT responded in opposition to this motion on April 5, 1977. We deny staff's motions because the challenged portion of FGT's brief complies with Section 1.31 of Rules of Practice and Procedure.

\$75.3 million in light of the recognized good quality of the 24-inch line, the fact that, already being in the ground, its use will avoid easement-related delay and expense, and the lower operating costs of an LPP pipeline over maritime transport. In the alternative they, along with Interstate, assert that, if independent appraisal is rejected, the fair market value should be \$171 million, undepreciated reproduction cost.³³ They challenge the Administrative Law Judge's reduction of the \$171 million reproduction cost by the inflated depreciation of \$98.8 million, or by the book depreciation of \$43.5 million, since there would be no physical depreciation of the line. They assert that fair market value is the highest price a willing buyer would pay a willing seller for the property, assuming arms length bargaining, not replacement cost reduced by actual or inflated depreciation. They also assert that the record indicates the project would be economically feasible for Transgulf at the transfer price of \$171 million. Staff again is in accord. Finally, as a last resort Southern, Gainesville and West Florida urge a fair market value of \$109.8 million, which consists of FGT's own 1973 valuation of \$80 million, as noted in the initial decision, plus four years of inflation (using the Consumer Price Index).

Cities MGC asserts that, if no independent appraisal is conducted, the present record can only support a transfer price of \$235 million. FGT opposes this exception as completely meritless since this \$235 million figure found in Exhibit 42 represented the entire cost of constructing an LPP line.

Port Everglades, echoed by Interstate, excepts to the initial decision for not considering, according to the *City of Pittsburgh* mandate,³⁴ the competitive impact upon the maritime interests inherent in the transfer price, noting the assumption of the Administrative Law Judge that the \$75.3 million transfer price should permit Transgulf to capture from the maritime interest all the LPP transport for which it has capacity. It seeks reopening of the record to determine a transfer price in light of the competitive balance. In the alternative, it concurs with other intervenors that \$171 million, as the undepreciated replacement cost, is proper.

(c) The Administrative Law Judge found support for setting the sale price at \$75.3 million in several documents germane to the formulation of FGT's

³³ Staff advances the figure of \$180 million, which represents the previously discussed \$171 million reproduction cost less \$10.9 million for river and canal crossing and testing.

³⁴ *Supra* 237 F.2d at 754.

conversion proposal, setting the value of the 24-inch gas pipeline at \$80 million. He pointed to evidence of the ICC's position that, in setting the value of the converted products pipeline for ICC rate base purposes, it would employ the original construction cost of FGT's 24-inch pipeline, even if the FPC were to set a different transfer price. He found that use of the depreciated original cost would give Transgulf a windfall from its ICC established products transportation rate using undepreciated original cost. He notes the evidence indicating that, due to the good quality, effective maintenance, and cathodic protection of FGT's 24-inch line, it is as valuable today as when installed.

FGT excepts to the reliance in the initial decision upon these several factors corroborating the undepreciated original cost valuation. As to the early FGT memoranda (Ex. 191) mentioning an \$80 million valuation of the 24 inch line, FGT contends that reliance thereon is legally impermissible, first of all because they were too preliminary, outdated and filled with caveats to be credible evidence and secondly because they are inadmissible under the attorney-client and work product privileges. It notes that it did assert these privileges, and that the Administrative Law Judge allegedly erred in refusing to honor the privileges. Cities MGC contests the claim of privilege as to Exhibit 191 because FGT asked that it be admitted into evidence. Concerning other allegedly privileged documents, Exhibits 176, 178 and 179, Cities MGC contends that FGT waived the privilege by seeking certification of the conversion when the hearing order required full cost evidence and by voluntarily relying upon the opinion of counsel as to transfer price.

FGT also assigns error to the finding that ICC rate policy supports undepreciated original cost valuation, arguing that the ICC considers undepreciated original cost as one of many factors, not the only one.³⁵

Interstate, on the other hand, challenges the reliance placed upon the 1973 internal FGC memoranda to establish current fair market value because they are out of date, as well as too preliminary and incomplete. It, of course, views the \$80 million figure contained as too low.

Staff also excepts to reliance upon the ICC valuation policy, although for the reason that undepreciated original cost is too low, not too high as is FGT's concern. Interstate concurs with staff

and explains ICC rate regulation in order to disprove the initial decision finding that the ICC would only permit Transgulf to recover the original cost of the 24-inch line. Specifically, it contends that, while the FPC develops rate base upon actual cost less accumulated depreciation, the ICC pursuant to Section 19a of the Interstate Commerce Act, 49 U.S.C. § 19a, develops rate base upon fair value, which includes reproduction cost and is sensitive to inflation. It cites ICC precedent expressly rejecting an original cost rate base for acquired assets.³⁶

(d) As a tangential matter, the Administrative Law Judge dealt with increases in compressor fuel for the postconversion gas pipeline of 5.815 Mcf/d (2,122,475 Mcf per year).³⁷ Agreeing with FGT customers that in this time of curtailment FGT ratepayers should not suffer the loss of this substantial volume of gas resulting from conversion, he conditioned the abandonment upon FGT assigning the full loss of gas from this increased compression fuel requirement to the FGC subsidiary, Florida Hydrocarbons Company, which presently purchases gas from FGT in Florida as feedstock. FGT assigns factual error to the specific amount of additional compressor fuel requirements in that it will vary with the gas throughput, as well as legal error in that this condition goes beyond Commission authority and is contrary to Opinion No. 774,³⁸ granting extraordinary relief to Florida Hydrocarbons. It notes, however, that it will reduce its cost of service by the added cost of this compression fuel increase so as to protect its ratepayers.

As discussed earlier, we are making determinations in this abandonment proceeding under the standard of public convenience and necessity. The transfer price is an important part of this because of its impact on FGT and its ratepayers, as well as on the feasibility of the products pipeline, Transgulf and the FGC enterprise as a whole. We do not concur with the Administrative Law Judge's ultimate use of undepreciated original cost, but we agree with his rejection of FGT's insistence upon depreciated original cost (book value).

In our opinion the book value precedents are distinguishable. They do not address the issue before us where the question of valuation is contested

and the line to be transferred is not completely lacking in usefulness to FGT. It is true that the Commission has had a consistent policy of using original cost, less depreciation, in setting rate base valuation.³⁹ In addition when a jurisdictional utility acquires utility property from another entity, original cost when the property was first put into utility service is all that is permitted in rate base, the excess purchase price above original cost going into the plant acquisition account, to be written off below the line.⁴⁰ However, in *Texas Eastern Transmission Corporation*, — FPC — Docket No. CP75-306, issued November 21, 1975, cited by the staff, the Commission held with respect to abandonment of a line to transport petroleum products, "This Commission has the authority to require a transfer at a price other than net undepreciated original cost" and could order that the excess over net undepreciated value and the transfer value be treated "as, in effect, a reduction in expense to Texas Eastern's gas customers."⁴¹

Here a valuable asset would be abandoned. Under the specific circumstances of this case, a strongly contested intracorporate transfer, between FGT and Transgulf, we cannot accept FGT's assurance that depreciated original cost is the fair market valuation.⁴² This is especially true since abandonment of the 24-inch line would cause a concomitant loss of 400,000 MMBtu/d of capacity;⁴³ it is only when the \$35 million of additional construction is certificated that the interrelated Section 7(b) and 7(c) applications leave the FGT system capable of serving its customers.

Also we have already found that the FGT ratepayers would lose system flexibility and linepack due to this abandonment, so that valuation is important to protect their interests. Valuation is also crucial to the impact of conversion upon the maritime interests, as well as to the related antitrust inquiry. It is clear from our discussion in these other sections that adoption of FGT's book value position would surely

³⁵ e.g., *Panhandle Eastern Pipe Line Company v. F.P.C.*, 143 F.2d 488 (CA8-1944), *aff'd*, 324 U.S. 635, 649 (1945).

³⁶ *United Gas Pipe Line Company*, 25 FPC 26 (1961); See Account 114 gas plant acquisition adjustments.

³⁷ In *Cities Service Gas Co.* — FERC — Docket No. CP76-500, issued September 1, 1978, an oil pipeline was transferred for use as a gas pipeline. The Commission allowed the pipeline to be included in rate base at the purchase price of \$185 million, although its depreciated book value was only \$3 million.

³⁸ Tr. 315.

³⁹ It is hard to imagine FGT transferring its 24 inch line to a non-affiliated purchaser at book value.

render the whole project not in the public interest.

Why should the Commission sanction the loss of system flexibility and linepack, as well as the loss of 400,000 MMBtu/d of gross capacity when only 100,000 Mcf/d capacity reduction is justified by the gas supply depletion, if all of the benefits of this abandonment in excess of book value are to remain with FGT and subsidiaries? Under the specific facts of the case as delineated above, Commission valuation of the 24-inch line for transfer at the depreciated original cost would render nugatory our expansive Section 7(b) mandate to protect the public interest.⁴⁴ This would be true even with FGT's proposal in its brief on exceptions to pay the amount the cost of new construction exceeds the depreciated original cost of the 24-inch system and the additional cost of incremental compressor fuel, for these changes would leave FGT's customers where they are under the present system except that they would have lost system flexibility and linepack. Analysis of the record, therefore leads to the conclusion that FGT's \$10.8 million book value is not the price for the transfer that is in accord with the public convenience and necessity.

In addition to rejecting FGT's depreciated original cost proposal, we also reverse the initial decision in its use of the undepreciated original cost valuation of \$75.3 million. In our opinion the Administrative Law Judge's reduction of the \$171 million reproduction cost by inflated accrued depreciation of \$98.8 million (actual accrued depreciation was \$43.5) to reach a figure of \$72 million is coincidental and nothing more. In addition, reliance upon FGT memoranda mentioning an \$80 million valuation (*i.e.*, Exhibit 176) should not be great because of their superficial nature.⁴⁵ Moreover, the Administrative Law Judge's extrapolation from Exhibit 174 of ICC purchased asset valuation policy will not be considered. This area of regulatory law and policy under the Interstate Commerce Act is too complex to rely upon a single set of correspondence between FGT and an ICC official. Moreover our decision under Section 7(b) need not necessarily mirror ICC valuation methodology since its function has been transferred to this Commission.⁴⁶

Having declined to follow both the book value and the undepreciated

⁴⁴ See, *United Gas Pipe Line Co. v. F.P.C.*, 385 U.S. 83, 89-90 (1966).

⁴⁵ Regardless of any attorney-client privilege, as contended by FGT.

⁴⁶ Department of Energy Organization Act, 91 Stat. 565, Section 306.

original cost methods of valuation, we must consider reproduction cost and fair market value. For reproduction cost, the figure appearing both in the record (Exhibit 42) and in briefs is \$171,000,000. While reproduction cost imposes a fair market value ceiling, competitive market conditions could render reproduction cost in excess of a level which would permit economic feasibility.

If the 24-inch pipeline is transferred at a fair market value, this should do justice to FGT's ratepayers and should give Transgulf a fair chance, no more no less, to compete in the transportation of petroleum products. However, there is no evidence in the record of what the 24-inch line would bring in a free market, nor could there be any very reliable evidence of this sort, because each pipeline is distinctive and any sales price would depend on the circumstances and what can be done with the line. Therefore the value of the line in essence will depend on the economic feasibility of its use as a petroleum products pipeline. This means that a purchaser would look at the stream of revenues he hopes to receive. When the present (discounted) value of this stream of revenues is compared with the investment the purchaser is required to make, the economic feasibility of the line and its fair market value may be determined. However, this type of study, although founded on the record, will require estimates and projections with respect to the throughput of petroleum products and revenues, as well as assumptions with respect to financing, all as discussed below, but the result is that the determination of fair market value on such a basis and on this record, while useful, should not be the principal foundation of our decision. The situation was different in the *El Paso*,⁴⁷ case, where the pipeline proposed to transfer a gas pipeline to Sohio for the transportation of oil, because there was to be a fixed rental whose present value could be computed accurately, by discounting.

In our opinion, we must look first to the FGT ratepayers and determine the transfer price that will leave them whole as a result of the transaction. The record shows that FGT will be required to invest substantial amounts in the 30-inch system which it is retaining to bring its capacity up to 625,000 Mcf per day. This would amount to \$30 million as of June 30, 1979, and \$35 million on June 30, 1981, escalating at 8 percent to reflect

inflation.⁴⁸ Further, it is necessary in view of the possibilities for an increased gas supply to provide for an expansion of facilities that would restore the capacity of FGT's system to its present level of 725,000 Mcf per day. The Judge found that the cost of this expansion would be \$23.9 million as of June 30, 1979, and this would be \$27.87 million as of June 30, 1981, at the 8 percent escalation rate used by him.

We have already discussed the detriments that FGT's customers will suffer as a result of the transaction, loss of cheap expansibility, linepack and flexibility of operation. Some allowance should be provided to offset these detriments. On the basis of storage cost the value of the loss of 50,000 Mcf of linepack shown by the record⁴⁹ can be estimated. The difference of cost between a possible expansion from a capacity of 725,000 Mcf per day to 825,000 Mcf per day on the existing system and on the proposed 30-inch line pipeline system, respectively provides a basis for estimating the value of cheap expansibility. The value of flexibility of operation, by which FGT can shift the gas flow from one pipeline to another, would be difficult to quantify; we agree with FGT's assertion that the remaining 30-inch line would be sufficiently reliable. On these bases we estimate that the compensation to the ratepayers for the detriments would total approximately \$7 million.

The three factors together make a total of \$69.87, to which an allowance for tax must be added. The tax would, of course, apply to the total of this amount plus the tax.⁵⁰ As stated in *El Paso*, no taxable gain will be realized upon the transfer between intra-corporate affiliates, which file a consolidated tax return. However, there we determined a tax component representing intra-

⁴⁷ See Initial Decision, p. 48.

⁴⁸ Tr. 404-406.

⁴⁹ The record is completely silent as to the figure for the remaining tax basis of the existing pipeline, with the exception of a statement by Witness Sullivan Tr. 1092 that he believed the tax base and the depreciated cost were the same. It would be a most unusual circumstance where the amount for book and tax depreciation basis were the same; normally, the tax depreciation base is well below book. Nevertheless, in order that some order of magnitude figure may be determined, we have estimated the present value of deferred tax on the gain using an amount of \$8 million for the tax base. The resulting taxable gain figures have then been spread over the 20-year period in the manner identified in *El Paso's* Application for Rehearing in Docket No. CP75-362 and adopted by the Commission in Opinion 4-A, and a tax equal to 50.86 percent of the yearly gain was calculated. This tax rate represents the Federal income tax rate of 48% plus State of Florida corporate income tax rate of 4.86%. The resultant yearly tax liabilities have then been discounted at 9.83 percent, which is the over-all rate of return allowed Florida Gas in its last rate proceeding.

⁵⁰ *El Paso Natural Gas Company*, — FERC —, Opinion No. 4, Docket No. CP75-362, Issued November 10, 1977, rehearing denied — FERC —, May 26, 1978, clarified — FERC —, April 4, 1979.

³⁵ *Ajax Pipe Line Corporation*, 50 ICC Valuation Reports 1 (1949); *Gulf Central Pipeline Company*, Valuation Docket No. 1435, Decided April 20, 1976.

³⁶ *Uniform System of Accounts for Pipeline Companies*, 337 I.C.C. 518 (1970); *Williams Brothers Pipe Line Company*, ICC Docket No. 35533, *aff'd*, 351 I.C.C. 102 (1975).

³⁷ Tr. 397, 3301.

³⁸ *Florida Hydrocarbons Company and Florida Gas Transmission Company*, Opinion No. 774, Docket No. RP74-50-5, issued August 18, 1976.

corporate bookkeeping by which the buyer's higher tax depreciation basis (purchase price of the pipeline) and concomitant income taxes are offset by a deferred tax on the seller. Since this situation will exist over some years, as in *El Paso*, we shall use only the present value of the additional tax on FGT.

The result of these calculations is that the present value of the tax on gain is approximately \$17 million. This amount, or its equivalent as of the time of the transfer, should be held in a reserve account to meet future liability. The total transfer price thus would be \$86.87 million. This figure may now be correlated with data in the record on economic feasibility and the computation we discuss below of a fair market value.

B. Fair Market Value and Economic Feasibility

In determining whether the public convenience and necessity permit abandonment we are properly concerned that the transfer price for the 24-inch pipeline represents something near the fair market value. Since FGT's ratepayers will have largely paid for the line at the time of the transfer, they should get the benefit of such a price. As discussed, it is our opinion that data in the record permits us to arrive at an estimate of fair market value by discounting the expected revenues of products transportation. Also we are concerned that the products pipeline be economically feasible. We think the public convenience and necessity goes this far. To serve the interests of a products pipeline the line must be economically feasible. Furthermore, if the line is not economically feasible it could injure the financial stability of the consolidated company of which FGT is a part. Economic feasibility is indicated by the fair market value study, which employs a rate of return of 10.7 percent postulated for Transgulf in FGT's evidence, as well as by other material in the record.

The Administrative Law Judge notes testimony, discussed below, that even a new products line would be economically feasible. He also examined the "Case C Study",⁵¹ which FGT had prepared in connection with this proceeding. This is a study which discounts the revenues expected from the transport of the petroleum products and compares them with the investment in the project, including the transfer price. The Judge noted from this that Transgulf desired a 10.7% return on investment and felt that an initial tariff rate of 33.6 cents per barrel, plus 2.07%

annual escalation, was needed to compete with the maritime shippers and could only be realized if the sale price was \$32.2 million, the undepreciated original cost at the time of the study. The Administrative Law Judge rejected this position, finding substantial evidence supporting project feasibility at the sale price of \$75.3 million determined by him. He noted that a staff study⁵² showed that using 7.5% annual escalation in prices with a \$75 million sale price, Transgulf could still earn 10.7% return at a 36.7 cents initial rate.

The Administrative Law Judge was not persuaded by the FGT argument that, even if Transgulf is competitive with the independent maritime shippers, it could not compete when LPP producers shipped their own production to Florida. Instead he found that FGC had already factored this cost of service disparity between independent and producer shippers into its feasibility calculations, and that the LPP producers would favor overland pipeline transport over marine transport even if the latter were less costly.

Interstate, Port Everglades, staff, and Southern, Gainesville and West Florida, which support valuation based upon reproduction cost (\$171 million), contend that this transfer price would allow for an economically feasible LPP project. Interstate contested FGT evidence that a newly constructed LPP pipeline would not be competitive because no such project had been attempted in Florida. Interstate points out that in 1972 and 1973 Colonial Pipeline Company, among others, considered such a brand new LPP pipeline project but was dissuaded by FGC's announced LPP conversion project. While these parties generally challenge the propriety of the Commission setting the transfer price low enough to guarantee the successful operation of the LPP project, they view feasibility analysis as germane to their fair market value standard.

As indicated above, there are opinions in the record that a new pipeline would be economically feasible. FGT's witness testified that pipelines are a particularly dependable mode of transportation, and, even if the line were brand new, the cost would be low in comparison with other modes of transportation⁵³ and that a new pipeline would be in the same ballpark, cost wise, with water transportation.⁵⁴ Another FGT witness made the general statement that the economic cost per

unit of movement is essentially the same for a pipeline as it is for a waterway.⁵⁵

On the other hand, Mr. Selby Sullivan, then President and Chief Executive Officer of FGT, was of the opinion that a new pipeline could not compete with water transportation and the company had not considered building such a pipeline.⁵⁶ We are inclined to weigh more heavily the specific impact of Mr. Sullivan's statements rather than the more general statements made by the other FGT witness. In this connection the Intervenor's point out that the Colonial Pipeline Company had considered building a product line to Florida, but Colonial dropped its project, although the record is not very clear as to the reason.

While the record does not provide a fair market value study as corroborated by the testimony of the company's witness,⁵⁷ FGT's "Case C" study (Ex. No. 63), which assumed undepreciated cost as the value of the facilities to be transferred and found the return that would be earned on investment contains all the necessary parameters for the estimation of fair market value. These include: (1) the investment outlays necessary to convert the existing pipeline to a products carrier and to increase throughput up to its maximum capability, (2) the annual revenues derived from the application of the projected tariff rates to projected volumes carried, (3) other yearly cost items including operating and maintenance expenses, administrative and general expenses, and ad valorem taxes, (4) tax depreciation assumed at a 22-year life with double-declining balance, (5) the projected finance with 60 percent debt at 10 percent cost and (6) an over-all discount rate of 10.7 percent which yields 11.75 percent to equity, which the company believes is a go-project. This discount rate of 10.7 percent is exclusive of any investment tax credit considerations which would substantially increase the over-all rate of return.⁵⁸

In our opinion Exhibit No. 63 itself is defective for our purpose because it assumes an extremely long build-up period before the maximum economic daily capability of the transferred 24-inch line is attained. The record shows that the maximum daily throughput will be between 350,000 and 400,000 barrels per day depending on the spacing of the

⁵¹ Tr. 2102-03.

⁵² Tr. 810-811, 1147.

⁵³ Tr. 1842.

⁵⁴ Exhibit 63 shows that the over-all return of 10.7 percent would increase to 12.25 percent if consideration of a 10 percent credit for the initial years' investment only were allowed.

pumping stations.⁵⁹ Exhibit No. 63, on the other hand, estimated an initial daily throughput of approximately 150,000 barrels, increasing to 288,560 barrels in the tenth year, 334,520 barrels in the fifteenth and finally reaching its economic limit of 387,800 barrels in the twentieth year. We think it implausible that this line would not be used more intensively. This would be even more true if additional supplies became available. In this connection we take notice that Colonial Pipeline, which transports liquid products, has looped its line from Port Arthur, Texas, to Baton Rouge, Louisiana.⁶⁰

Accordingly, we revised FGT's Case C computations. FGT's witness Hull had postulated an initial flow of 254,500 barrels per day, but his maximum flow after ten years was only 322,000 barrels per day. We see no reason why, if the products pipeline is necessary, it could not carry gas at full capacity of 387,800 barrels per day within a reasonable time after it is put in service, assumed here to be in 1981.

A large investment is required here, some \$10.8 million for the 24-inch line as of June 30, 1981, plus some \$103 million to equip the line to transport liquid products.⁶¹ It is not realistic to expect that the build-up will take twenty years. Therefore for the purpose of determining fair market value we shall assume that the maximum throughput of 387,800 barrels per day will be reached after a period of five years when it would supply something like 73 percent of the market.⁶² The result is a fair market value of \$82,379,000 assuming a constant 60-40 debt-equity financial structure or \$68,550,000 assuming a debt declining over a 20-year period.⁶³

In our fair market value calculus we have adopted a 60-40 capital structure in line with the structure presented in Exhibit No. 63. This ratio has been

⁵⁹ Tr. 835.

⁶⁰ See Tr. 828.

⁶¹ Tr. 869, 1241.

⁶² See Appendix B hereto. This is based on a market growth of 2 percent (Ex. 39), but it may be 3 percent in accordance with witness Sullivan's testimony (Tr. 839).

⁶³ We are aware that one of the constraints built into Exhibit No. 63 was the estimated effect of ICC regulation (which now will be FERC regulation). It is our opinion that, because of the effects of inflation, such constraints will not effect the result substantially.

⁶⁴ *El Paso Natural Gas Co.*, Opinion No. 4-A, *supra*.

⁶⁵ An optimum capital structure, it may be remembered both minimizes the financial costs of the enterprise to its consumers and maximizes the equity return to its manager-owners.

⁶⁶ Tr. 869-870.

⁶⁷ *Accounting Treatment to Account for Gains and Losses on the Disposition of Utility Property That Had Been Classified in Utility Service*, Order No. 473, 49 FPC 390 (1973).

maintained throughout the 20-year investment period under consideration. It will be recalled that in the *El Paso* decision⁶⁴ in a similar computation the initial capital structure employed was altered during the first 20 years of the investment period by a pattern which diminished the debt at an accelerated pace to 0 in 20 years while continuing the equity investment well above 0 past the twentieth year. This pattern was adopted in acquiescence to a contention advanced by *El Paso* alleging the particular financial circumstances of that case, most notably, the 20-year limitation on the guaranteed leasing arrangement. It does not appear to us that those particular circumstances are the general circumstances of pipeline financing. Gas pipelines under this Commission's regulation have traditionally initiated and maintained a capital structure which they considered in the neighborhood of an optimum for their particular types of investment; they have done this in the face of mortgage bond provisions which automatically retired the issue within a 20-year period, and therefore must have engaged in some refinancing of the enterprise which partially offset the bond retirement practices, often of course because they were continually expanding their pipeline investment. This experience of the pipelines convinces us that it has been and continues to be possible and practicable for a pipeline enterprise to maintain an optimum initial capital structure whatever the retirement provisions of the initial bond issue; and we consequently have adopted a fixed financial structure in our fair market value computations. There is naturally no certainty on our part that the 60-40 ratio suggested by Exhibit No. 63 is necessarily an optimum;⁶⁵ and in fact company witness Sullivan testified⁶⁶ that the company would be most likely to employ a 70-30 structure at the time the project should be financed. On this basis, therefore, we find a fair market value of \$82,379,000.

As indicated above, this figure is based on a number of assumptions and projections. Obviously as we shifted the

⁶⁸ *El Paso Natural Gas Co.*, Opinion No. 4-A, *supra*.

⁶⁹ An optimum capital structure, it may be remembered both minimizes the financial costs of the enterprise to its consumers and maximizes the equity return to its manager-owners.

⁷⁰ Tr. 869-870.

⁷¹ *Accounting Treatment to Account for Gains and Losses on the Disposition of Utility Property That Had Been Classified in Utility Service*, Order No. 473, 49 FPC 390 (1973).

⁷² *Democratic Central Committee of D.C. v. Washington Metropolitan Area Transit Commission*, 485 F.2d 786, (CA DC—1973), cert. denied, 415 U.S. 935 (1974).

timing of the pattern of throughput, assumptions were required about cost behavior with changes in volumes transported. Through lack of record we have estimated increases in operating expenses on a linear basis with volumes transported. In fact, fuel costs would grow exponentially but this may be offset by labor costs, which would not grow as fast as volume. We have advanced the investment necessary to attain the throughput volumes. This would tend to overestimate investment necessary for the increased throughput.

Also, the tariffs estimated in Exhibit No. 63 were set to compete with water transport tariffs. Evidence in the record indicates that the water rates have risen considerably since the preparation of that exhibit. Further, the record also shows that water rates are highly sensitive to inflation because of the high proportion of labor and fuel costs vis-a-vis total costs. For pipeline carriers on the other hand, whose costs include a high proportion of fixed costs, the impact of inflation would be far less severe. Therefore, the spread between water carrier tariffs and pipeline tariffs should get larger with time and in favor of pipeline transport.

We conclude that the transfer price of \$86,870,000 which we have reached after consideration of the needs of FGT's ratepayers in the public convenience and necessity is not very different from a fair market value reached by an entirely different method. The transfer price is not so low that it will not give the ratepayers the advantage of the increased value of the line and will not represent a subsidy of the products pipeline by the FGC system. On the basis of our fair market value computation and statements in the record as to the ability of the products pipeline to compete we find that the prescribed transfer price, as adjusted to the exact time of the transfer, will permit the line to be economically feasible. Since we are basing this decision on the need to leave FGT's customers whole as required by the public convenience and necessity, even though we do make use of the limited record to reach a confirmatory determination of the fair market value, there is no need to reopen the record for further evidence on fair market value.

Sale Proceeds Disbursement

(1) Initial Decision and Exception

Using his sale price for the 24-inch line of \$75.3 million, the Administrative Law Judge provided for the allocation of such proceeds between FGT's ratepayers and investors.

⁵¹ Ex. 63.

⁵² Ex. 145.

⁵³ Tr. 150, 1622.

⁵⁴ Tr. 1650-51.

(a) He rejected the position advanced by FGT that it is Commission policy⁶⁷ that ratepayers are not entitled to the profit from the sale of utility property. He found a more recent Commission decision in *Texas Eastern, supra*, supporting the concept that ratepayers can be permitted to share in such profits.

(b) As for the method of allocating gain on utility assets between the ratepayer and investor, he relied upon judicial precedent⁶⁸ that it must be a fair and just balancing of investor and ratepayer interests in which benefits (profits) are tied to the assumption of financial burden and risk of capital loss. In establishing an allocation factor he found that depreciation creates a ratepayer equity interest in utility assets warranting some allocation of gains thereto. Turning to the utility investors, he qualified the general precept that they are protected from the risk of loss by stating that the current natural gas shortage could result in the loss of some investment. In particular he foresaw the potential for loss of capital when FGT's T-1 and T-2 transportation services end in 1979.

FGT excepts to the allocation of the accumulated depreciation (profit) between stockholder and ratepayer. It claims that this violates gas utility regulation, including Order No. 473.

(c) From his analysis of relative risks and burdens, the Administrative Law Judge resolved that gain allocation should be on the basis of depreciation accrual, that is, the ratepayer would receive benefit in proportion to the degree the asset has been depreciated. In this case he found that the \$53.7 million of depreciation to be accrued by June 30, 1979, the assumed transfer date, out of the original cost of \$75.3 million results in allocating 71 1/4% of the profit to the ratepayers and 28 3/4% to the investors. FGT believes, on the other hand, that all depreciation should go to the stockholders.

Southern, staff and Interstate except variously to this 71 1/4% / 28 3/4% allocation of profit, urging instead 100% allocation to the ratepayers. They contend that the rate payers have assumed all financial risks of FGT's utility assets, such risk being evident from two recently Commission approved

FGT depreciation rate increases.⁶⁹ They note also FGT's assurance of a fair rate of return and even a higher return in order to attract capital;⁷⁰ automatic recovery of higher gas costs through FGT's purchase gas adjustment tariff (PGA);⁷¹ and the burdens of curtailment falling upon the gas consumers.

(d) Before performing the actual allocation of gains, the Administrative Law Judge found it necessary to deduct from the apparent capital gain two cost items. The first item relates to the \$30 million as of June 30, 1979, FGT must spend to render its remaining 30-inch system functional at 625,000 Mcf/d capacity. The issue which he addressed is whether because of this \$30 million capital expenditure FGT's rate base should be increased and concomitantly the gain included in the \$75.3 million sale price reduced by either \$21.6 million (the mid-1979 rate base amount for the 24-inch line) or the full \$30 million, thus a dispute over \$8.4 million. He chose the \$30 million figure and therefore benefitted the FGT investors.

Staff argues that FGT has filed to meet its burden of proof to justify assigning this cost to its investors, noting that this very issue was raised by the Commission in the hearing order in this proceeding. Since this \$30 million is needed solely because of the conversion which will not benefit the FGT ratepayers, it sees no reason to add it to rate base at the ratepayers' expense. Interstate makes a similar argument.

(e) The second item relates to the \$23.9 million which would be needed as of June 30, 1979, to increase FGT capacity back to 725,000 Mcf/d, which would theoretically be required if FGT's gas supply significantly improved. Noting that with conversion the FGT ratepayers give up the benefits from the 24-inch loop of line-pack (storage), flexibility, and cheap expansibility, he found it equitable to assign the FGT ratepayers this entire \$23.9 million sum. After outlining the conventional means of accomplishing the above, which would entail Transgulf remitting to FGT the \$23.9 million, and FGT reducing its rate base by this amount and then making a return of capital of that amount to the parent FGC, the Administrative Law Judge would approve an installment method of making the payment through a demand instrument from Transgulf.

Interstate and Southern except to this demand instrument-escrow accounting for the \$23.9 million and, in effect, argue for an immediate rate base reduction. Staff on the other hand supports with minor modification the Judge's treatment of the \$23.9 million.

(f) The Administrative Law Judge concluded that the remainder of the \$75.3 million, \$21.4 million, is profit. Applying the previously determined profit allocation ratio of 71.25/28.75, he assigned \$15.2 million, less taxes, to FGT ratepayers, which would be accounted for by reducing FGT rate base by that amount and returning it to FGC, and \$6.2 million, less taxes, to FGT investors, which would be accounted for as profit, not return of capital.

Our starting figure, the transfer price of \$86.87 million, is larger than that of the Administrative Law Judge, and we differ from him in several other respects. After deduction of the tax allowance of about \$17 million discussed above, there remains approximately \$69.87 million. This must be applied in the first place to the undepreciated investment in the 24-inch line, which would be \$10.8 million as of June 30, 1981, if this were the date of transfer. This amount from proceeds of the sale, like the payment for depreciation by the ratepayers, should go to reduce FGT's investment, and so permit the removal of the 24-inch line from FGT's plant accounts. This means that the \$10.8 million must be credited to the reserve for depreciation and the entire original cost of the line, \$75.3 million, removed from the plant accounts, since the ratepayers will have paid for depreciation down to the \$10.8 million level. The rate base would, accordingly, be reduced by \$10.8 million, as should happen when unneeded facilities are sold.

To make the remaining 30-inch line usable, as noted, it is necessary to spend \$30 million in additional facilities as of June 30, 1979, or \$35 million as of June 30, 1981, the assumed date of transfer. The Administrative Law Judge would, in effect, make the ratepayers responsible for this as an addition to the rate base existing with respect to the segment of the system to be retained. We do not follow this reasoning. In accordance with the arguments of the Intervenor, this addition never would have been necessary except for FGC's plan to establish a products pipeline; therefore the burden should not fall on FGT's customers, but, since the cost arose because of the transaction, the cost can be met from the proceeds of the transaction. Consequently, when the plant accounts are increased by \$35 million, the reserve for depreciation

should be credited in an equal amount. In effect, this item will make no change in rate base.

Considering the tax allowance of about \$17 million, the amount necessary to write off the book value of the 24-inch line amounting to \$10.8 million, and the cost of new facilities amounting to \$35 million, there remains \$24.07 million which is the net asset appreciation on the transaction, but should include an allowance, estimated to be \$7 million to compensate the ratepayers for loss of flexibility, linepack and cheap expansibility.

As noted, the Judge would divide the "profit" after taxes and amounts necessary to restore the system to its present capacity between the ratepayers and the investor (FGC) in the ratio of 71 1/4 to 28 3/4 representing the ratio of depreciated property to undepreciated property in the 24-inch line. In *Democratic Central Committee, supra*, the Court said the consumers were entitled to capital gains on operating utility assets when they have discharged the burden of preserving the financial integrity of the stake which investors have in such assets.⁷² The Court noted that the transit farepayers had long been saddled with the burdens incidental to the properties in issue while they remained in operating status. Here the ratepayers have paid a return and depreciation on the 24-inch line; rates have been determined by the Commission to afford FGT and its investors a fair return; and the risks of increased costs have fallen on the ratepayers. We therefore, differ with the Judge and provide that the ratepayers receive the benefit of the \$24.07 million using the illustrative figures above.

There is some question as to how this benefit should be provided. Southern Gas recommended that the gain, less applicable income taxes, should be added to FGT's depreciation reserve, thereby entitling the ratepayers to a reduction in rates. Staff witness recommended that the gain be recorded in Account 253, with other deferred credits to be amortized over the remaining life of the existing FGT facilities.⁷³ In our opinion, particularly in view of the comparatively limited amount involved, we require that FGT's reserve for depreciation be credited, and the rate base correspondingly reduced.⁷⁴

As observed above, the Administrative Law Judge provided that Transgulf should pay, under an

installment provision, an amount of \$23.9 million to restore the FGT system to the present capacity of 725,000 Mcf per day. Earlier we have discussed FGT's prospect's in delivering gas. We find it in the public convenience and necessity for FGT to sell facilities that would reduce its capacity to 625,000 Mcf per day under present conditions, but find there is a real possibility that under present conditions additional supplies of gas could become available which would increase the volume of gas available for transport so that FGT might again need its present capacity of 725,000 Mcf per day. Therefore we are of the opinion that FGT's customers should be protected against this possibility. FGT as a condition of our approval of this transaction should stand ready to finance and construct facilities sufficient to increase the capacity of the line to 725,000 Mcf per day.

Since the necessity of an expansion above 625,000 Mcf per day is the result of the pipeline conversion project, we hold FGT primarily responsible for cost of the expansion, to the extent that it exceeds the book value of the 24-inch line at the time of the transfer. Without Commission permission such additional cost should be borne by FGT and not added to the rate base. When the cost of such expansion is debited to the plant accounts, there should be a credit to the reserve for depreciation to the extent it exceeds the book value of the 24-inch line unless the Commission waives this requirement, and permits inclusion of the additional investment in rate base.

The Commission would give consideration to granting rate base treatment for the costs of expansion above 625,000 Mcf per day that exceed the book value of the 24-inch line (here estimated to be \$10.8 million) in any certificate proceeding where authority to construct such facilities was sought. It will be, in essence, a question of equities. The ratepayers already have the benefit of a capacity of 725,000 Mcf per day at reasonably low costs. To the extent they have not yet paid amounts sufficient to fully depreciate the 24-inch line they should equitably pay depreciation and return on an expansion. After that point they may be paying inflated costs on new facilities without benefit. Where there is new technology involved, or a safer pipeline, the equities might weigh in favor of rate base treatment. Where the increased cost is merely the result of inflation, the equities might cause the Commission to deny rate base treatment. In any case it will be the responsibility of FGT to procure additional gas supplies to meet the needs of the Florida market and to

expand its system up to the 725,000 Mcf per day level, if it decides to enter into the pipeline abandonment and conversion project.

It has been stated that the proposed system in 1977 would require some 2 million more Mcf of additional compression fuel than the present system.⁷⁵ This requirement would be reduced substantially when the T-1 and T-2 services terminate.⁷⁶ The record, however, leaves the amount of additional compressor fuel needed and its costs indefinite.⁷⁷ Since this, in any case, will be an additional cost, FGT or FGC should bear the cost of such additional compressor fuel necessary to bring the capacity of the system up to 625,000 Mcf per day, and up to 725,000 Mcf per day, if necessary, and this should be taken into account in the rate filing we require.

Antitrust Issues

The Administrative Law Judge has rejected several allegations that this conversion proposal does violence to Federal antitrust law and policy.

(a) He commenced by reaffirming his March 4, 1976, denial on the record of Cities MGC's January 9, 1978, discovery motion *vis-a-vis* antitrust violations. He had denied this motion as untimely, dilatory, and meritless, but he had nonetheless admitted into evidence the documents (Exh. 191) underlying this motion. Now having reviewed this evidence, he found that, even drawing the most damaging inferences possible therefrom concerning initial anticompetitive intent, FGC's decision to proceed with this project on its own, no longer considering joint participation from LPP producers, cleanses any prior antitrust taint. In this regard he also mentioned the facts that under this proposal Transgulf is integrated with neither production nor distribution of LPP and that this conversion would enhance LPP transportation competition by introducing a second mode of transportation.

Cities MGC excepts to these findings. In particular it contends that the conversion transaction violates the Public Utility Holding Company Act, 15 U.S.C. 79. Specifically it argues that, in attempting to diversify to LPP transportation, FGC has ignored its public utility obligation to serve FGT's customers.⁷⁸ FGT opposes these

⁶⁷ Tr. 397-3307.

⁶⁸ Tr. 3361.

⁶⁹ Tr. 3306-3308, 3362 *et seq.*

⁷⁰ By letter of April 5, 1977, to the Secretary of the Commission, Cities MGC gave notice that since briefing in this case the Securities and Exchange Commission has determined that FGT is not a holding company under the Public Utility Holding Company Act of 1935.

⁶⁷ Accounting Treatment to Account for Gains and Losses on the Disposition of Utility Property That Had Been Classified in Utility Service, Order No. 473, 49 FPC 390 (1973).

⁶⁸ Democratic Central Committee of D.C. v. Washington Metropolitan Area Transit Commission, 485 F.2d 786, (CA DC-1973), cert. denied, 415 U.S. 935 (1974).

⁶⁹ Florida Gas Transmission Company, Docket No. RP75-53, issued July 10, 1975, (3 1/2% to 4 1/2%); and Florida Gas Transmission Company, Docket No. RP76-24, issued January 13, 1977 (4 1/2% to 5 1/2%).

⁷⁰ Florida Gas Transmission Company, Opinion No. 732, Docket No. RP74-19, issued May 20, 1975.

⁷¹ Florida Gas Transmission Company Docket Nos. RP72-136, PGA77-2, issued December 8, 1976.

⁷² 465 F.2d at 821.

⁷³ Tr. 4220.

⁷⁴ We used the rate base reduction method in *El Paso Natural Gas Co.*, — FERC — Opinion No. 4, *supra*.

exceptions, denying that it is a public utility holding company.

(b) He discarded Interstate's antitrust complaint that Transgulf would be unfairly subsidized by FGT's ratepayers, noting his finding that Transgulf must pay the undepreciated original cost, and that FGT deliveries to Florida Hydrocarbon will be reduced to provide the additional compressor fuel for the modified remaining FGT system.

Interstate excepts to these findings. It contends that, with its subsidy (undervalued transfer price) Transgulf will have such a competitive advantage as to eliminate maritime transport competition in the LPP market. Specifically, it argues that the Administrative Law Judge erred in his factual finding that the maritime interests could retain a significant though minority portion of the market. It notes from the record that Transgulf could increase without looping the line's capacity to 400,000 barrels per day or 80% of the market and with looping 100% of the market. Interstate also asserts that the Administrative Law Judge exaggerated the growth of the LPP market by assuming a 2% annual rate. It concludes that the only way to prevent this impermissible elimination of maritime competition is to prevent the unfair subsidy to Transgulf, which means a higher transfer price.

Interstate also contends that the initial decision would permit FGC to employ the natural and Commission-sanctioned monopoly position of its subsidiary, FGT, in the Florida natural gas market to unlawfully subsidize Transgulf in entering a different energy market. It delineates three forms of illegal subsidy: permitting the sale at only \$75.3 million, the resulting total project cost of \$119 million being only 50% of the \$235 million cost of building a new products pipeline; forcing the \$30 million cost of completing FGT's remaining 30-inch gas line upon the FGT ratepayers instead of Transgulf; and deferring Transgulf's payment of \$23.9 million of the sale proceeds through the demand instrument device. It moreover cites evidence that FGC, through Transgulf, intends to utilize these subsidies gleaned from FGT's monopoly position in a predatory manner to reduce competition from the maritime interest by undercutting their rates even though FGC presented evidence that LPP refiners have indicated that they would pay a premium for pipeline over maritime transport. Interstate concludes that such use of legal monopoly power (FGT) to dominate a different and previously competitive market (Transgulf) violates Section 1 of the

Sherman Act 15 U.S.C. § 1,⁷⁹ in FGC's subsidization of Transgulf being a combination and conspiracy in restraint of trade,⁸⁰ Section 2 of Sherman Act in being an attempt to monopolize, and Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45(a). It asks that these unfair advantages be removed so that fair competition between Transgulf and the maritime interests can be assured.

FGT attempts to turn the tables by contending that the maritime interests presently enjoy a monopoly position which only Transgulf's entry can eliminate and that their current opposition itself violates the antitrust laws. Moreover, FGT seeks to rebut the charge of subsidization by reiterating the propriety of a book value transfer price.

(c) Finally, the Administrative Law Judge found no *per se* antitrust violation in the fact that grant of this proposal would give FGC subsidiaries complete monopoly over interstate natural gas transportation (FGT) and at least 50 percent of the interstate LPP transportation (Transgulf). Accordingly, he rejected Port Everglades' contention that this proposal must be conditioned upon the sale of the 24-inch line to an unaffiliated company, relying in part upon FPC regulation over FGT, ICC regulation over Transgulf, and Department of Justice scrutiny of FGC.

While Port Everglades concedes that there might be no *per se* antitrust violation, it argues that nonetheless the conversion as presently structured in the initial decision would violate the antitrust laws. Noting that the Commission must assess the anticompetitive/antitrust consequences of its actions in approving this abandonment,⁸¹ Port Everglades asserts that the initial decision erred by failing to weigh these consequences. Concerning the Administrative Law Judge's rejection of its recommended certificate condition that the 24-inch line be sold to an unaffiliated company, Port Everglades, as well as Interstate and Cities MGG, contend that his reason for such refusal, adequate protection from the ICC, was expressly rejected by the Court in *Northern Natural* and *City of Pittsburg*, *supra*.

We agree with the intervenors that we should consider the antitrust aspects of

⁷⁹ *Otter Tail Power Company v. U.S.*, 410 U.S. 367, 377 (1973); *U.S. v. Griffith*, 334 U.S. 100, 107 (1948).

⁸⁰ Under *Perma Life Mufflers, Inc. International Parts Corp.*, 392 U.S. 134 (1968) a parent and subsidiary can violate Section 1 of Sherman.

⁸¹ *California v. F.P.C.*, 369 U.S. 482, 485 (1962); *Northern Natural Gas Company v. F.P.C.*, 399 F.2d 953, 961 (CA9-1968); and *City of Pittsburg v. F.P.C.*, 237 F.2d 741, 755 (CA9-1956).

FGT's application, before granting the abandonment of the 24-inch line. We do not agree that the issues they raise should cause us to deny FGT's application. By the conversion of a gas pipeline to a products pipeline there is added a new competitor for the transportation of petroleum products. In fact, as FGT argues, it is a violation of the antitrust laws to exclude a competitor citing *American Tobacco Co. v. U.S.*, 328 U.S. 781, 809 (1946).

We do not agree with intervenors that FGT is using its monopoly power to unlawfully subsidize Transgulf in entering a different energy market. The Administrative Law Judge ruled against FGT's proposed transfer price of depreciated original cost amounting to \$21.6 million in 1979. We have determined to use an amount of approximately \$86,870,000 for the value of the facilities transferred. This will result in a total project cost of \$189.9 million rather than the \$119 million postulated by Interstate.⁸² The transfer price of \$86.9 million, according to the evidence discussed above, will not be so high as to make the project unfeasible but will not be far from the dividing line where it would become unable to compete.

Also, contrary to Interstate's assumption, we are requiring that the transfer price meet the \$35 million cost of enabling the 30-inch line to be capable of transporting the needed 625,000 Mcf per day. In addition, FGT may be required to bear a part of the cost of any needed expansion to 725,000 Mcf per day. Further, FGT is required to meet the additional cost of gas needed for compression. Under these circumstances FGT, or FGC, has not been permitted to make use of its monopoly position in natural gas transportation to subsidize competition in the products business.

Environmental Impact

As a final matter, the Administrative Law Judge concurred with staff's environmental conclusion that this conversion proposal "would not cause any significant long-term degradation of the human environment" and found that staff's Final Environmental Impact Statement (FEIS-EX 198) complies with Section 102(2)(c) of the National Environmental Policy Act (NEPA).⁸³ In reaching this result he found:

⁸² FGT's witness Sullivan said that in order to equip the 24-inch system to transport liquid products, Transgulf would have to spend approximately \$103 million (Tr. 869, 1241). With this the total cost of the products line would amount to \$173.4 million.

⁸³ 42 U.S.C. § 4332(2)(c).

(a) The staff had engaged qualified people to prepare the FEIS and prepared a more than adequate environmental assessment of the proposed conversion.

(b) Assorted governmental and environmental entities had made generally favorable comments on the draft environmental impact statement (DEIS).

(c) He moreover denied the May, 1976, motion of Cities MGG to reject the FEIS. He found unpersuasive its challenge that the FEIS is faulty for not considering alternate uses of the 24-inch line, such as for crude oil or coal slurry transportation, as well as their propounded FEIS standard, which he viewed as so unreasonable as to halt the administrative process.

Cities MGG asserts that the initial decision ignored most of its environmental objections to the FEIS. To begin with, it contends that staff failed to consider its comments on the DEIS. It also attacks the FEIS for not considering the source and stability of the oil supply from which the LPP to be transported is derived. Cities MGG moreover criticizes the FEIS for not considering reasonable alternatives to this LPP conversion project, such as refinery construction in Florida and conversion of the 24-inch line to transport coal slurry⁸⁴ or coal gas. In addition, Cities MGG assigns error to the response in the FEIS to its pressed concern as to the economic, social and environmental effects of this conversion upon human communities, specifically those deprived of gas by the conversion. Interstate also raises this latter criticism of the FEIS.

FGT contends that these exceptions have no record support, that they have failed to meet their burden of proof and persuasion⁸⁵ and that they violate the NEPA rule of reasonableness. Staff likewise opposes these exceptions both procedurally, since Cities MGG did not meet its burden of proof as set forth in Section 2.82(d) of the Commission's Rules of Practice and Procedure, and substantively.

⁸⁴ On April 26, 1977, Cities MGG filed a motion to lodge with the Commission two documents relative to President Carter's April 20, 1977, energy policy message to Congress, specifically to his intention to greatly increase the industrial consumption of coal. On May 6, 1977, staff answered in opposition to this motion to lodge documents. Staff finds the motion defective as lacking specificity. Staff also argues that such documents are neither competent evidence nor really germane. In light of the fact that we take administrative notice of the President's legislative program concerning energy policy and official Congressional consideration of that program, *infra* pp. , we find the motion to lodge moot.

⁸⁵ *Environmental Defense Fund v. Corps of Engineers*, 492 F.2d 1123 (CA5-1974); and *Sierra Club v. Calloway*, 499 F.2d 982 (CA5-1974).

(d) Finally, the Administrative Law Judge finds that the environmental attack of the maritime interests, which primarily concerned the relative LPP spill frequency and size between pipeline and ship transport, does not weaken the staff's conclusion that the proposed project would not cause significant long-term degradation of the human environment.

Port Everglades does not contest the initial decision treatment of LPP spill frequency and size and relative energy intensity, but it does maintain that the FEIS failed to adequately disclose the environmental consequences and likelihood of ground water contamination from rupture of the LPP pipeline. It asks for a limited remand for an environmental hearing on this one issue.

FGT alleges that in fact the ground water contamination issue was fully considered and found to be highly speculative. Staff agrees, reiterating that Port Everglades failed to meet its burden of proving ground water contamination to be a problem after the FEIS identified the problem. Interstate also contests the nationwide, instead of localized perspective, taken by staff in the FEIS for comparing pipeline and maritime transportation of LPP in terms of energy efficiency and LPP spills.

As noted above, Cities MGG challenges the FEIS for not considering alternate uses of the 24-inch line as for crude oil or coal slurry transportation. However, they did not develop these as possible alternatives; in effect they merely suggested them. There is nothing in the record that would indicate the possibility of transporting coal to Florida or establishing refineries there to receive crude oil.⁸⁶ The burden of proof is on Cities MGG to establish such contentions,⁸⁷ and it has not done so. There is no need for an FEIS to consider an alternative whose effect cannot be reasonably ascertained and whose implementation is deemed remote and speculative.⁸⁸ With respect to the contention of Cities MGG that we should consider the source of the oil to produce the products transported, we think that this carries the requirements of NEPA too far; there is a reasonable limit, and NEPA does not intend to

impose an impossible standard on the agency.⁸⁹

With respect to Cities MGG's contention as to impact on human communities in Florida, the evidence discussed above, on gas supply shows that FGT may not be delivering much more than 625,000 Mcf per day, the capacity of its 30-inch line which it is retaining, but the record shows that the gas available for the Cities MGG has been so little that by the winter of 1974-75 there were periods when they received no gas.⁹⁰ With no discernible impact on the gas supplies to Cities MGG there was no need to discuss the matter in the FEIS.

The matter of ground water contamination is thoroughly covered in the FEIS which explains the nature and effect of a spill and how it might be controlled by pumping or ditching. The FEIS also suggests mitigating increases by which a constant check on ground water contamination should be initiated. Under these conditions, as well the good record of the 24-inch pipeline during its use as a gas pipeline, we are of the opinion that the risk is not substantial enough to require denial of the application or reopening of the record.⁹¹ As argued by the staff, Port Everglades has not met its burden of showing that the FEIS is deficient or showing a significant adverse environmental effect. *Environmental Defense Fund v. Corps of Engineers*, *supra*, 492 F.2d at 1137.

I. Conclusion

The available supply of natural gas for FGT's system may be, but cannot be surely, found to be depleted to the extent that continuance of natural gas service by its 24-inch line and appurtenant facilities is unwarranted under present circumstances but, in any case, the public convenience and necessity permit the abandonment of this line and its sale to Transgulf. The construction and operation of additional pipeline and facilities to be added to FGT's 30-inch pipeline system are required by the present and future public convenience and necessity. Permission should be issued for the proposed abandonment and a certificate should be issued for the construction and operation of the additional facilities, all as conditioned herein.

⁸⁶ *Environmental Defense Fund v. Corps of Engineers*, 492 F.2d 1123, 1131 (CA5-1974).

⁸⁷ Tr. 3520; Ex. 135.

⁸⁸ The FEIS (p. 191) shows that the water pollution ratio of spilled petroleum product is .000044 for pipelines and .000001-.00015 for waterway barges. The record is not determinative on what rate of spill would be applicable to the maritime transportation of petroleum products here involved, or for the converted 24-inch line, nor does the record show that a spill on land would be worse than one at sea.

The Commission orders: (A) FGT is authorized to abandon its 24-inch line and appurtenant facilities in accordance with its application and the conditions of this opinion and order by the sale and transfer of the facilities to Transgulf. Such transfer shall be made within 2 years at the issuance of this opinion and order. FGT will remove at the time of the transfer any excess compression horsepower from its rate base.

(B) FGT is granted a certificate of public convenience and necessity authorizing the construction and operation of natural gas facilities to provide its present 30-inch system with a capacity of 625,000 Mcf per day in accordance with its application and the conditions of this opinion and order.

(C) The amounts relating to the transfer, are estimated as of June 30, 1981, and shall be recomputed as of the actual date of transfer in accordance with this opinion and order. The transfer price shall be \$96,870,000 and shall be disposed of as follows: \$10,800,000 representing the undepreciated investment in the 24-inch line shall be credited to the reserve for depreciation and the original cost of the line in the amount of \$75,300,000 removed from the plant accounts. The amount of \$35,000,000 representing expenditures on additional facilities for FGT's 30-inch line shall increase the plant accounts and the reserve for depreciation shall be credited in an equal amount. After reduction by a tax on gains estimated to amount to \$17,000,000, the balance of the transfer price (net asset appreciation) shall be credited to FGT's reserve for depreciation.

(D) FGT shall bear the cost of additional compressor fuel required to bring the capacity of its 30-inch system up to 625,000 Mcf per day and, if necessary, up to 725,000 Mcf per day.

(E) Within 30 days of the transfer of the facilities FGT shall file appropriate accounting entries, recomputing the amounts set forth in (C) above as of the date of the transfer, subject to the approval of the Commission.

(F) Within 30 days of the transfer of the facilities FGT shall file revised rate schedules, subject to the approval of the Commission, to reflect the reductions in its rate base as provided in (C) above.

(G) The conditions of the Administrative Law Judge with respect to mitigating measures relating to the reconstruction and operation of both the 30-inch line retained and the 24-inch transferred are here adopted. FGT shall make the submissions required by the Judge within 30 days of the issuance of this opinion and order.

(H) As a condition of the abandonment authorization issued herein, FGT shall stand ready to expand its 30-inch system to a capacity of 725,000 Mcf per day when there is sufficient gas available and shall bear any part of the cost without including it in rate base to the extent that the cost exceeds the book value of the 24-inch line at the time of the transfer, unless permission of the Commission is obtained for recovery of such costs through rates.

(I) The Initial Decision issued by the Administrative Law Judge dated January 18, 1977, to the extent not inconsistent herewith is adopted as the decision of the Commission.

(J) Exceptions not granted herein are denied.

(K) The motion for oral argument is denied.

(L) Interstate's motion to reopen the record is denied.

By the Commission.

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APPENDIX A

FLORIDA GAS TRANSMISSION COMPANY
Available and Potential Transportation Supply
(Average Annual Daily Volumes MMcf/d)

Year	(1) Producer Contracts	(2) Amoco Warranty	(3) Southern Purchase	(4) New Dedication	(5) Transportation	Sub-Total	(6) Louisiana Resources	(7) PEEX	(8) Total	Total With Extended T1 & T2 1/
1979	251	82	50	25	189	597	50		647	787
1980	195	82	50	48	189	564	50		614	754
1981	150	82	50	43	189	514	100	67	681	821
1982	119	82	50	39	189	479	100	67	646	786
1983	98	82	50	36	189	455	100	67	622	762

1/ Sun Gas Company 140 MMcf/d

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The first three columns are taken from the 1978 Form 15. Column 1 is gas available from gas purchase contracts with producers; Column 2 is the DCQ in the Amoco Warranty Contract; and Column 3 is the DCQ in the pipeline purchase contract with Southern Natural Gas Company.

Column 4 is a daily deliverability estimate made by staff based on a statement made by Florida Gas on page 46 of the 1978 Form 15.

This number includes 131 Bcf attributable to offshore fields and 21 Bcf attributable to onshore fields where respondent or its affiliates, as a result of participation by the respondent's exploration affiliate, has an option to purchase at a competitive price.

The deliverability estimates, are made on the assumption that half of these reserves will be certificated and attached in 1979 and the other half in 1980.

Column 5 is the remaining T-3 transportation volumes for Florida Power and Light and Florida Power Company after expiration of T1 and T2 contracts with Sun Gas Company in June 1979.

Column 6 is based on a statement made by Florida Gas Company in their SEC Form 10-K filing of April 2, 1979.

In March 1979, Transmission obtained the right to purchase approximately 337 billion cubic feet of additional natural gas from Louisiana Resources Company, an intrastate pipeline. The purchase of this gas is subject to approval by the Louisiana Conservation Commission. Initial deliveries from this source could begin in mid-1979 at a rate of about 50,000 MMBTU per day and increase to a rate of 100,000 MMBTU per day by early 1981. Transmission has the right to renew this contract beginning in March 1981 for four consecutive two-year periods, each two-year extension being subject to FERC approval.

It is assumed that these are arrangements made under the Commission's final regulations in Docket No. RM79-20 (March 1, 1979) which implements Section 311(b) of the Natural Gas Policy Act of 1978.

Column 7 is a potential gas purchase from PEMEX, the Mexico state owned oil company, and is based on an article in the Oil and Gas Journal of August 8, 1977. This article stated that the Southern Natural Gas Company and Florida Gas Transmission share of the 2 billion cfd to be exported was 10% or 200 MMcf. It also stated that Southern was to get about two-thirds and Florida Gas about one-third. These original negotiations were terminated because of price problems but recent publications indicate that they have resumed again.

Column 8 is a total of the daily availability of all of these sources if the

Louisiana Resources and PEMEX daily quantities are obtained.

Column 9 would be the daily volume if the Sun Gas Company contracts (T1 and T2) were extended or if a new arrangement were made under Docket No. RM79-34 for a transportation certificate for natural gas displacement of fuel oil.

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Comparison of Projected Market Demand for Light Petroleum Products in the State of Florida and Five Throughput Scenarios which affect the estimated FHV

Year	Exhibit No. 39	Projected Demand at Assumed % Growth Rate	Company Exhibit No. 61	Throughput testified to by Witness Hall (Tr. 1782)	(Barrels per day)			
					First Revised Pattern Maximum Throughput Achieved 14th Year	Second Revised Pattern Maximum Throughput Achieved 10th Year	Third Revised Pattern Maximum Throughput Achieved 5th Year	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	
1960 (Act.)	181,000	181,000	148,200	254,000	254,500	254,500	254,500	254,500
1972 (Act.)	400,000	400,000	151,164	264,600	264,600	266,589	282,495	282,495
1977	440,000	464,000	221,410	275,267	275,267	279,237	313,569	313,569
78		477,920	230,267	286,278	286,278	292,697	348,054	348,054
80		507,025	239,500	297,700	297,700	306,392	387,800	387,800
81		522,236	249,057	302,409	306,631	320,950	"	"
82			259,019	307,192	315,830	336,194	"	"
83			269,380	312,051	325,305	352,177	"	"
84			280,183	316,986	335,064	368,898	"	"
85	520,000	587,400	288,600	322,000	345,116	387,800	"	"
86			298,312	"	355,469	"	"	"
87			306,133	"	366,133	"	"	"
88			315,317	"	377,117	"	"	"
89			324,776	"	387,800	"	"	"
90			334,520	"	"	"	"	"
91			343,933	"	"	"	"	"
92	600,000	722,444	354,892	"	"	"	"	"
93			365,539	"	"	"	"	"
94			376,505	"	"	"	"	"
95			387,800	"	"	"	"	"
96				"	"	"	"	"

BILLING CODE 8450-01-C

Sources and Derivations

Column 1: Figures obtained from Ex. =39.

Column 2: Figures obtained by allowing the actual consumption in 1972 to grow by an annual compound growth rate of 3% pursuant to Witness Sullivan's testimony at Tr. 839.

Column 3: Figures calculated from annual deliveries shown in company Exhibit No. 63.

Column 4: Figures for first, fifth, and tenth through twentieth years obtained from Witness Hull's testimony at Tr. 1787. Figures for intervening years interpolated and reflect a 4% growth rate for the second through fourth year. The years 6 through 9 reflect an annual growth rate of 1.5817%.

Column 5: Figures for first 5 years identical to those in Column 4. Figures for the sixth through 14th year reflect an annual growth rate of 3%, per year with the fourteenth year constrained to pipeline maximum throughput.

Column 6: Figure for first year maintained at 254,500 barrels per day. Figures for succeeding years reflect an annual growth rate of 4% until maximum throughput obtained in tenth year.

Column 7: Figure for first year maintained at 254,500 barrels per day level and then allowed to grow at 11 percent per year to fill the pipeline in fifth year. The figure for the fifth year rounded upward from 383,804 barrels to 387,800.

Appendix B

July 17, 1979.

Advisory Staff Memorandum

Subject: Florida Gas Transmission Company Docket No. CP74-192.

When the Commission at its May 17th meeting voted to hold oral argument on Florida Gas' proposal to transfer its 24-inch pipeline to its affiliate, Transgulf Pipeline Company, for the transportation of petroleum products, the order on which it deliberated provided for a transfer price of approximately \$86.87 million. This price, which purportedly met the alternative criterion for abandonment under Section 7(b) of the Natural Gas Act, was designed to protect Florida Gas ratepayers from any disadvantages resulting from the abandonment and transfer of its pipeline including the hazard of having to defray the cost of restoring the capacity lost from the abandonment (100,000 Mcf per day) assuming the availability of gas supplies.¹ Since the estimated transfer

¹ The composition of the \$86.87 million together with specific loss to the gas ratepayers they were designed to offset was as follows:

price of \$86.87 million was only slightly higher than the estimated fair market value of \$82.4 million for the pipeline. the advisory staff concluded that the petroleum products operation would still be feasible. At the same time, the gas ratepayers would be fully protected from an adverse impact. Accordingly, the advisory staff recommended conditional abandonment.

A subsequent review of the record as to the investment required for the restoration of the pipeline capacity indicated that the entire amount of the estimated investment (\$27.87 million) was for compressor equipment which would, of course, require compressor fuel to transport the additional volumes of gas to the Florida market. Since the cost of the compressor fuel would be an additional burden directly attributable to the abandonment, the cost of the fuel should be considered in determining the feasibility of the transfer. The record indicates that 16,950 Mcf/day (Tr. 2040) or 6,186,750 Mcf annually would be required to utilize the additional compressor facilities (100 percent capacity factor). Applying projected new gas prices under Section 102 of the NGPA over the 20-year period, 1981 through 2000, to these annual gas volumes and discounting these annual costs to 1981 at a 9.83 percent discount rate resulted in a present value of \$263.7 million (higher discount rates would, of course, reduce this value).

While there might be additional compressor station labor and maintenance expenses related to these additional compressor units they were perceived as relatively minor and no attempt was made to quantify these costs. Thus, whereas on May 15 the transfer price estimated by the advisory staff as necessary to protect the ratepayers was on the order of \$86.87 million, a more realistic estimate of the total cost to Florida Gas and Transgulf would require inclusion of the projected cost of compressor fuel.

The advisory staff recognizes that there is a trade-off between the costs of starting a new loop of the remaining 30-inch line to restore the 100,000 Mcf of

(1) \$35 million, the capital investment required to make the remaining pipeline functional at a capacity level of 625,000 Mcf per day.

(2) \$27.87 million, the capital investment required to increase the 625,000 Mcf capacity to the level before transfer of 725,000 Mcf assuming gas supplies are available.

(3) \$7 million, to offset the loss of cheap expansibility, line pack, and flexibility of operation as a result of the loss of the existing 24-inch pipeline.

(4) \$17 million, the amount estimated to be required to pay the deferred taxes on the gain resulting from the sale of the pipeline to an affiliate at an estimated fair market value of \$82.4 million.

lost capacity as opposed to the installation of compressor equipment and attendant fuel costs. However, the record did not provide sufficient evidence for the staff to calculate the amount of new investment necessary together with the attendant capital and operating costs to make this calculation giving full consideration to the volume of line pack available at the current 725,000 Mcf capacity level. While it seems likely that looping would result in a somewhat lower cost, it is not clear that this lower cost would render the pipeline operation feasible. Further, while the estimated cost of the compressor fuel of \$263.7 million may be high, a reduction of this figure by \$100 million would still appear to jeopardize the feasibility of the transfer.

Accordingly, as of the present time it is the advisory staff's conclusion that Florida Gas' certificate application for abandonment should be denied. However, this recommendation by the advisory staff is subject to the outcome of the oral argument on the issue of current gas supply and staff's estimation of its two transfer prices: (1) the estimated fair market value of \$82.4 million of the pipeline, under the assumption of declining gas supplies, and (2) the price estimated necessary to offset any burdens on Florida Gas' ratepayers of \$350.6 million including the costs of restoring lost capacity because of the availability of gas supplies.

Attachments 1 and 2, respectively, provide these calculations.

Attachments

BILLING CODE 6450-01-M

Attachment 1
Table 1

Florida Gas Transmission Co., Docket No. CP74-192

Demonstration that the Estimated Revenues in Column (2) will Provide Recovery of \$218,142,000 of True Investment plus Return at 10.9 Percent Upon this True Investment plus \$3,189,000 of Working Capital Under Assumption of: (a) Debt-Equity Structure of 60/40%, (b) Debt Costs at 10%, and (c) Equity Costs at 11.75%.

	Investment Outlays (1)	Estimated Revenues (2)	Operating & Maintenance Plus Adm. & Gen'l Exp. (3)	Ad Valorem Taxes (4)	Income Tax Liability Federal and State (5)	Net Cash Flow (6)	Return on Investment (7)	Capital Charges		Debt Capital		Equity Capital		Total Capital	
								Recovery of (8)	Retired During Year (9)	Remaining at End of Year (10)	Recovered During Year (11)	Remaining at End of Year (12)	Remaining at End of Year (13)		
0	\$183,708	\$	\$	\$	\$	\$	\$	\$	\$	\$110,225	\$	\$73,483	\$	\$183,708	\$
1	11,547	16,118	2,558	1,648	(3,245)	15,157	19,657	(4,500)	(2,700)	119,853	(1,800)	79,902	199,755		
2	10,439	36,148	5,954	3,542	102	26,550	21,374	5,176	3,106	123,011	2,070	82,007	205,018		
3	15,637	40,567	7,418	3,808	1,407	27,574	21,937	5,997	3,598	128,795	2,399	85,863	214,658		
4		45,923	8,655	4,094	3,061	30,114	22,968	7,145	4,287	124,507	2,858	83,005	207,512		
5		52,221	10,122	4,401	5,825	31,874	22,704	9,670	5,802	118,705	3,868	79,137	197,842		
6		53,232	10,806	4,731	6,704	30,991	21,169	9,822	5,893	112,812	3,929	75,208	188,020		
7		54,314	11,493	5,085	7,562	30,173	20,118	10,055	6,033	106,779	4,027	71,186	177,965		
8		55,381	12,620	5,467	8,136	29,158	19,042	10,115	6,069	100,712	4,046	67,140	167,850		
9		56,514	13,115	5,877	9,011	28,511	17,960	10,551	6,331	94,379	4,220	62,920	157,298		
10		57,654	14,028	6,318	9,562	28,747	16,831	10,916	6,550	87,830	4,366	58,554	146,383		
11		58,793	14,955	6,791	10,031	27,015	15,663	11,352	6,811	81,018	4,541	54,013	135,030		
12		59,990	15,937	7,301	10,474	26,278	14,448	11,830	7,098	73,920	4,722	49,281	123,200		
13		61,177	17,116	7,848	10,783	25,429	13,182	12,247	7,348	66,572	4,899	44,382	110,933		
14		62,395	18,311	8,437	10,935	24,712	11,872	12,840	7,704	58,868	5,136	39,246	98,113		
15		63,592	19,627	9,070	10,986	23,909	10,498	13,411	8,047	50,821	5,364	33,882	84,702		
16		64,953	20,911	9,523	11,228	23,291	9,063	14,228	8,537	42,229	5,691	28,191	70,474		
17		66,248	22,234	9,999	11,406	22,609	7,541	15,068	9,041	33,243	6,027	22,164	55,406		
18		67,509	23,810	10,499	11,451	21,749	5,928	15,820	9,492	23,751	6,328	15,836	39,585		
19		68,868	23,969	11,024	12,277	21,598	4,236	17,362	10,417	13,334	6,945	8,891	22,224		
20		70,286	24,131	11,576	13,164	21,413	2,378	19,035	11,421	1,913	7,614	1,277	3,188		
Total	\$221,331	1,111,883	\$297,772	\$137,038	\$160,861	\$516,211	\$298,069	\$218,142	\$130,885		\$87,255				

Attachment 1
Table 2Derivation of Federal and State Income Tax Liabilities
on Revenues Scheduled in Table 1

	Estimated Revenues (1)	Cash Operating Expenses (2)	Interest Expenses (3)	FMV (4)	Tax Depreciation Other Investments (5)	Taxable Income (6)	Federal and State Income Taxes (7)
0							
1	\$ 16,118	\$ 4,206	\$ 11,022	\$2,808	\$4,461	\$ (6,379)	\$ (3,245)
2	36,148	9,496	11,985	5,425	9,041	200	102
3	40,567	11,226	12,301	5,055	9,218	2,767	1,407
4	45,923	12,749	12,879	4,711	9,566	6,018	3,061
5	52,221	14,523	12,451	4,389	9,406	11,452	5,825
6	53,232	15,537	11,871	4,090	8,553	13,182	6,704
7	54,314	16,578	11,281	3,811	7,774	14,869	7,562
8	55,381	18,087	10,678	3,551	7,067	15,998	8,136
9	56,514	18,992	10,071	3,309	6,425	17,717	9,011
10	57,654	20,346	9,438	3,230	5,840	18,800	9,582
11	58,793	21,746	8,783	"	5,310	19,723	10,031
12	59,990	23,238	8,102	"	4,826	20,594	10,474
13	61,177	24,964	7,392	"	4,388	21,202	10,783
14	62,395	26,748	6,657	"	4,260	21,499	10,935
15	63,592	28,697	5,887	"	4,177	21,601	10,986
16	64,953	30,434	5,082	"	4,130	22,076	11,228
17	66,248	32,233	4,228	"	"	22,426	11,406
18	67,509	34,309	3,324	"	"	22,515	11,451
19	68,868	34,993	2,375	"	"	24,139	12,277
20	70,286	35,709	1,333	"	"	25,884	13,164
Total	\$1,111,883	\$434,811	\$167,141			\$316,283	\$160,861

BILLING CODE 6450-01-C

Table 3—Sources and Derivations of
Data in Tables 1 and 2

Table 1

Column (1): Figure in year zero reflects estimated Fair Market Value of 24-inch pipeline of \$82,379,000 plus other investments totaling \$98,140,000 plus working capital of \$3,189,000. Other investment figure obtained from Exhibit 63 and is the sum of the investment for the year 1977 of \$80,693,000 plus yearly investments through 1983. Figure for years 1, 2, and 3 obtained from Exhibit No. 63 and equal the sum of the years 1985 and 1986 for year 1, 1986 through 1988 for year 2, and 1989 through 1991 for year 3.

Column (2): Yearly revenue figures is the sum of figures obtained by multiplying the annual volumes in Columns (3), (4) and (5) of Table 4 by the average yearly rates of Columns (2), (3) and (4) of Table 5, respectively.

Column (3): Yearly figures obtained from Table 6.

Column (4): Figure in first year calculated on the basis of Investment outlays in year zero multiplied by 1.7937 percent with one-half of this amount recorded in the first year. Figures for the second through the fifteenth year reflect an annual increase of 7.5 percent. Figures for the years 16 through 20 reflect a growth rate of 5 percent per year.

Column (5): Figures obtained from Table 2, Column (7).

Column (6): Figures derived by subtracting the algebraic sum of the annual figures in Columns (3), (4) and (5) from those in Column (2).

Column (7): Annual figures derived by multiplying the figures in Column (13) for the previous year by 10.7 percent.

Column (8): Annual figures derived by subtracting the figures in column (7) from those in Column (6).

Column (9): Annual figures derived by multiplying the figures in Column (8) by 60 percent.

Column (10): Annual figures derived by multiplying investment figures in Column (1) by 60 percent less the volumes of debt retired during each year.

Column (11): Figures derived by multiplying the figures in Column (8) by 40 percent.

Column (12): Annual figures derived by multiplying investment figures in Column (1) by 40 percent less the volume of equity retired during each year.

Column (13): Sum of figures in Columns (10) and (12).

Table 2

Column (1): Yearly figures obtained from Table 1, Column (2).

Column (2): Yearly figures equals the sum of the figures of Columns (3) and (4) of Table 1.

Column (3): Yearly interest figure obtained by multiplying the volume of Debt Capital shown in Table 1, Column (10) at end of previous year by 10 percent.

Column (4): Annual figures reflect 150 percent declining balance, 23-year life, switch over to straight line at end of eighth year, and half-year convention.

Column (5): Annual figures reflect 200 percent declining balance, 23-year life, switch over to straight line at end of twelfth year, and half-year convention.

Column (6): Obtain by subtracting the sum of the figures in Columns (2) through (5) from those in Column (1).

Column (7): Obtain by multiplying the figures in Column (6) by 50.86 percent to reflect a 46 percent Federal and a 4.86 percent state tax rate.

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Table 4

Estimated Volumes Transported over 20-year Period and
Employed in Calculating Estimated Revenues

(Barrels)

Year	Average Daily Throughput	Annual Throughput	Broker Jct. to JV	Fungible and Segregated
(1)	(2)	(3)	(4)	(5)
1	254,500	46,446,250	11,845,652	14,555,326
2	282,495	103,110,675	26,297,347	32,312,823
3	313,569	114,452,685	29,190,013	35,867,182
4	348,054	127,039,710	32,400,208	39,811,704
5	387,800	141,547,011	36,100,147	44,357,999
6	"	"	"	"
7	"	"	"	"
8	"	"	"	"
9	"	"	"	"
10	"	"	"	"
11	"	"	"	"
12	"	"	"	"
13	"	"	"	"
14	"	"	"	"
15	"	"	"	"
16	"	"	"	"
17	"	"	"	"
18	"	"	"	"
19	"	"	"	"
20	"	"	"	"

Sources and Derivations: Column (2): Figure for year 1 equal to volume testified to by Witness Hull at Tr. 1787. Figures for succeeding years increased by 11 percent annually with figure for fifth year rounded up to 387,800. Column (3): Figures in Column (2) multiplied by 365. Column (4): Figures in Column (3) multiplied by 25.504 percent to reflect the proportion of total volumes transported in main line also transported over Jacksonville lateral. Column (5): Figures in Column (3) multiplied by 31.338 percent to estimate transportation volumes subject to terminaling charges.

Table 5

Rates Employed in Calculating
Estimated Revenues over 20-year Period

(¢/Barrel)

Year	Transportation Rates		Fungible and Segregated
	Main Line	Broker Jct to JV	
(1)	(2)	(3)	(4)
1	28.27¢	10.1¢	12.3¢
2	28.57	10.2	12.4
3	29.02	10.2	12.2
4	29.61	10.4	12.4
5	30.21	10.6	12.7
6	30.81	10.8	12.9
7	31.43	11.0	13.2
8	32.07	11.2	13.4
9	32.70	11.5	13.7
10	33.36	11.7	14.0
11	34.02	11.9	14.3
12	34.72	12.1	14.6
13	35.42	12.4	14.8
14	36.11	12.7	15.1
15	36.81	12.9	15.4
16	37.57	13.2	15.8
17	38.34	13.4	16.1
18	39.06	13.7	16.4
19	39.85	14.0	16.7
20	40.65	14.3	17.1

Sources and Derivations: Column (2): Yearly figure is average of rates received at Baton Rouge, Crossroads and Lucedale derived from Exhibit No. 63. Column (3): Yearly figures obtained from Exhibit No. 63. Column (4): Yearly figures obtained from Exhibit No. 63 and is average of charges at Crestview, Tallahassee and Orlando Terminals.

Table 6

Estimation of Operating and Maintenance
and Administrative and General Expenses

Year	Unit Operating and Maintenance Expenses ¢/bbl. (1)	Operating and Maintenance Expenses (000) (2)	Administrative and General Expenses (000) (3)	Total (000) (4)
1	3.620¢	\$ 1,682	\$ 876	\$ 2,558
2	3.755	3,872	2,082	5,954
3	4.552	5,210	2,208	7,418
4	4.967	6,310	2,345	8,655
5	5.426	7,680	2,442	10,122
6	5.836	8,261	2,545	10,806
7	6.241	8,834	2,659	11,493
8	6.943	9,828	2,792	12,620
9	7.205	10,198	2,917	13,115
10	7.753	10,976	3,052	14,028
11	8.316	11,771	3,184	14,955
12	8.904	12,603	3,334	15,937
13	9.628	13,628	3,488	17,116
14	10.369	14,677	3,658	18,335
15	11.163	15,801	3,826	19,627
16	11.953	16,919	3,992	20,911
17	12.782	18,092	4,167	22,259
18	13.748	19,460	4,350	23,810
19	13.724	19,426	4,543	23,969
20	13.696	19,386	4,745	24,131

Sources and Derivations: Column (1): Annual figures obtained from Exhibit No. 63 by dividing the annual operating and maintenance expenses by the volumes of products transported. Column (2): Annual figures derived by multiplying figures in Column (1) by those in Column (3) of Table 3. Column (3): Annual figures obtained from Exhibit from Exhibit No. 63. Column (4): Annual figures equals the sum of Columns (2) and (3).

Table 7

Calculation of Present Value of Tax on Taxable Gain,
Reflecting Fair Market Value of \$82,379,000
(000)

Year	Percentage of Taxable Gain (1)	Taxable Gain (2)	Federal and State Tax on Gain at 50.86% (3)	Present Value at 9.83% (4)
1	3.4%	\$ 2,529	\$ 1,286	\$ 1,171
2	6.6	4,909	2,497	2,070
3	6.1	4,537	2,308	1,742
4	5.7	4,240	2,156	1,482
5	5.3	3,942	2,005	1,255
6	5.0	3,719	1,891	1,077
7	4.6	3,421	1,740	903
8	4.3	3,198	1,626	768
9	4.1	3,050	1,551	667
10	4.1	3,050	1,551	607
11	4.0	2,975	1,513	539
12	4.1	3,050	1,551	504
13	4.1	3,050	1,551	458
14	4.0	2,975	1,513	407
15	4.1	3,050	1,551	380
16	4.1	3,050	1,551	346
17	4.0	2,975	1,513	307
18	4.1	3,050	1,551	287
19	4.1	3,050	1,551	261
20	14.2	10,562	5,372	824
Total	100.0	\$ 74,381	\$ 37,832	\$ 16,055

Sources and Derivations: Column (1): Percentage of yearly tax depreciation to total tax depreciation on FMV, from Table 2, Column (4). Column (2): Taxable Gain on FMV of \$82,379,000, assuming remaining tax basis of \$8,000,000 and the gain allocated to each year in proportion to percentage of Column (1). Column (3): Column (2) figures multiplied by 50.86 percent. Column (4): Figures in Column (3) discounted at 9.83 percent.

Florida Gas Transmission Co., Docket No. CP74-192
 Estimation of Present Value of Cost of
 Compressor Station Fuel Associated with
 Increasing Pipeline Capacity from 625,000 Mcf to
 725,000 Mcf/day from Area C by
 Installation of Compressor Equipment

Year	Projected Gas Price	Estimated Annual Volumes of Fuel (Mcf)	Estimated Cost (000)	Present Value at Discount Rate of 9.83% (000)
	(1)	(2)	(3)	(4)
81	\$ 2.96	6,186,750	\$ 18,313	\$ 16,674
82	3.32	"	20,540	17,028
83	3.72	"	23,015	17,372
84	4.16	"	25,737	17,688
85	4.38	"	27,098	16,956
86	4.59	"	28,397	16,179
87	4.82	"	29,820	15,469
88	5.06	"	31,305	14,786
89	5.32	"	32,914	14,154
90	5.57	"	34,460	13,493
91	5.86	"	36,254	12,925
92	6.15	"	38,048	12,350
93	6.46	"	39,966	11,812
94	6.78	"	41,946	11,288
95	7.13	"	44,112	10,808
96	7.34	"	45,411	10,130
97	7.55	"	46,710	9,487
98	7.79	"	48,195	8,913
99	8.01	"	49,556	8,344
2000	8.26	"	51,102	7,834
Total		123,735,000	\$ 712,899	\$ 263,691

Florida Gas Transmission Co., Docket No. CP74-192
 Projection of New Gas Price for Purposes of
 Estimating Present Value of Compressor Station Fuel

Year	New Gas Price	
	Base Rate	Adjustments to Reflect Btu and Taxes
79	\$ 2.22	\$
80	2.48	2.65
81	2.77	2.96
82	3.10	3.32
83	3.48	3.72
84	3.89	4.16
85	4.09	4.38
86	4.29	4.59
87	4.50	4.82
88	4.73	5.06
89	4.97	5.32
90	5.21	5.57
91	5.48	5.86
92	5.75	6.15
93	6.04	6.46
94	6.34	6.78
95	6.66	7.13
96	6.86	7.34
97	7.06	7.55
98	7.28	7.79
99	7.49	8.01
2000	7.72	8.26

BILLING CODE 6450-01-C

Sources and Derivations: Sheet 1 of 3

Column (1) annual figures obtained from Appendix B, Sheet 2 of 3.

Column (2) annual figures equal the daily volume of compressor fuel of 16,950 Mcf/day, obtained from Tr. 2040, times 365 days.

Column (3) annual figures are the product of multiplying the figures in Column (2) by those in Column (3).

Column (4) annual figures of Column (3) by the appropriate annual discount factor.

Sources and Derivations: Sheet 2 of 3

Column (1) 1979 figure obtained from Commission Publication of Maximum Lawful Prices under NGPA during July 1979 under Section 102, Press Release No. FE-611, dated April 27, 1979, figures for years 1980 through 1984 reflect an assumed 8 percent increase for inflation plus the growth rate permitted under NGPA. Figures for years 1985 through 1994 increased by an assumed inflation rate of 5 percent. Figures for the years 1996 through 2000 increased to reflect an assumed inflation rate of 3 percent.

Column (2)—The yearly figures in Column (1) multiplied by 1.07 percent to reflect an assumed average heat content of 1020 Btu's per cubic foot and average wellhead taxes of 5 percent.

[FR Doc. 79-23169 Filed 7-26-79; 8:45 am]

BILLING CODE 6450-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

July 19, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional Agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New York Department of Environmental Conservation, Bureau of Mineral Resources

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 79-12124
2. 31-013-10095
3. 108
4. Meridian Exploration Corp
5. Colvin 1-329
6. Lambertton

7. Chautauqua, NY
8. 20.2 million cubic feet
9. July 9, 1979
10. National Fuel Gas Dist Corp

Ohio Department of Natural Resources, Division of Oil and Gas

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 79-12014
2. 34-111-21816-0014
3. 108
4. Charles E Christman
5. Bright #2
- 6.
7. Monroe, OH
8. .2 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission
1. 79-12015
2. 34-105-21722-0014
3. 108
4. BJVC Energy Management Corp
5. Jack Shiflet #1
- 6.
7. Meigs, OH
8. 5.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12016
2. 34-105-00470-0014
3. 108
4. Blue Creek Gas Company
5. Elise Kividen #1
- 6.
7. Meigs, OH
8. 2.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp

1. 79-12014
2. 34-111-21816-0014
3. 108
4. Charles E Christman
5. Bright #2
- 6.
7. Monroe, OH
8. .2 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission
1. 79-12015
2. 34-105-21722-0014
3. 108
4. BJVC Energy Management Corp
5. Jack Shiflet #1
- 6.
7. Meigs, OH
8. 5.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12016
2. 34-105-00470-0014
3. 108
4. Blue Creek Gas Company
5. Elise Kividen #1
- 6.
7. Meigs, OH
8. 2.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp

1. 79-12016
2. 34-105-00470-0014
3. 108
4. Blue Creek Gas Company
5. Elise Kividen #1
- 6.
7. Meigs, OH
8. 2.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12017
2. 34-105-20127-0014
3. 108
4. Blue Creek Gas Company
5. Charlie Circle #2 (Powell #2)
- 6.
7. Meigs, OH
8. 3.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12018
2. 34-105-00517-0014
3. 108
4. Blue Creek Gas Company
5. Charlie Circle #1
- 6.
7. Meigs, OH
8. 7.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12019
2. 34-105-00475-0014
3. 108
4. Blue Creek Gas Company
5. Proffitt #1
- 6.
7. Meigs, OH

1. 79-12017
2. 34-105-20127-0014
3. 108
4. Blue Creek Gas Company
5. Charlie Circle #2 (Powell #2)
- 6.
7. Meigs, OH
8. 3.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12018
2. 34-105-00517-0014
3. 108
4. Blue Creek Gas Company
5. Charlie Circle #1
- 6.
7. Meigs, OH
8. 7.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12019
2. 34-105-00475-0014
3. 108
4. Blue Creek Gas Company
5. Proffitt #1
- 6.
7. Meigs, OH

8. 5.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12020
2. 34-105-21424-0014
3. 108
4. Blue Creek Gas Company
5. Wayne Hoback #1
- 6.
7. Meigs, OH
8. 3.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12021
2. 34-105-00570-0014
3. 108
4. Blue Creek Gas Company
5. Philson 1 (Powell)
- 6.
7. Meigs, OH
8. 2.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12022
2. 34-105-00590-0014
3. 108
4. Blue Creek Gas Company
5. Philson 2 (Powell)
- 6.
7. Meigs, OH
8. 2.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12023
2. 34-105-00591-0014
3. 108
4. Blue Creek Gas Company
5. Philson 2 (Powell)
- 6.
7. Meigs, OH
8. 2.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12024
2. 34-031-22032-0014
3. 108
4. The Clinton Oil Co
5. Paul E. Chaney #1
- 6.
7. Coshocoton, OH
8. 15.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Co
1. 79-12025
2. 34-119-23123-0014
3. 108
4. The Clinton Oil Co
5. H Kenneth McDonald #2
- 6.
7. Muskingum, OH
8. 20.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Co
1. 79-12026
2. 34-075-22004-0014
3. 108
4. A Producing Company
5. John Mathie Well #1
- 6.
7. Holmes, OH
8. 4.8 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp

1. 79-12020
2. 34-105-21424-0014
3. 108
4. Blue Creek Gas Company
5. Wayne Hoback #1
- 6.
7. Meigs, OH
8. 3.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12021
2. 34-105-00570-0014
3. 108
4. Blue Creek Gas Company
5. Philson 1 (Powell)
- 6.
7. Meigs, OH
8. 2.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12022
2. 34-105-00590-0014
3. 108
4. Blue Creek Gas Company
5. Philson 2 (Powell)
- 6.
7. Meigs, OH
8. 2.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12023
2. 34-105-00591-0014
3. 108
4. Blue Creek Gas Company
5. Philson 2 (Powell)
- 6.
7. Meigs, OH
8. 2.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12024
2. 34-031-22032-0014
3. 108
4. The Clinton Oil Co
5. Paul E. Chaney #1
- 6.
7. Coshocoton, OH
8. 15.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Co
1. 79-12025
2. 34-119-23123-0014
3. 108
4. The Clinton Oil Co
5. H Kenneth McDonald #2
- 6.
7. Muskingum, OH
8. 20.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Co
1. 79-12026
2. 34-075-22004-0014
3. 108
4. A Producing Company
5. John Mathie Well #1
- 6.
7. Holmes, OH
8. 4.8 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp

1. 79-12027
2. 34-157-21509-0014
3. 108
4. Zenith Exploration Company
5. Long-Mills Unit #1
- 6.
7. Tuscarawas, OH
8. 13.5 million cubic feet
9. July 10, 1979
10. East Ohio Gas Co
1. 79-12028
2. 34-127-23545-0014
3. 108
4. American Exploration Co
5. Edgar Danison #1
- 6.
7. Perry, OH
8. 2.0 million cubic feet
9. July 10, 1979
10. National Gas & Oil Corp
1. 79-12029
2. 34-119-22797-0014
3. 108
4. M W Conrad & Associates
5. T Everett Leedom #2 34-119-2-2797**
- 6.
7. Muskingum, OH
8. 3.0 million cubic feet
9. July 10, 1979
10. The East Ohio Gas Company
1. 79-12030
2. 34-105-00564-0014
3. 108
4. Blue Creek Gas Company
5. Haumiller #2
- 6.
7. Meigs, OH
8. 7.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12031
2. 34-151-22895-0014
3. 103
4. New Frontier Exploration Inc
5. J H Taylor #2-A
- 6.
7. Stark, OH
8. 17.0 million cubic feet
9. July 10, 1979
10. East Ohio Gas Company
1. 79-12032
2. 34-019-20912-0014
3. 108
4. MB Operating Co Inc
5. MWCD-MB #2
- 6.
7. Carroll, OH
8. 5.5 million cubic feet
9. July 10, 1979
10. East Ohio Gas Co, Republic Steel Corp, Columbia Gas Co
1. 79-12033
2. 34-019-20911-0014
3. 108
4. MB Operating Co Inc
5. MWCD-MB #3
- 6.
7. Carroll, OH
8. 5.5 million cubic feet
9. July 10, 1979
10. East Ohio Gas Co, Republic Steel Corp, Columbia Gas Co
1. 79-12034
2. 34-019-20787-0014

3. 108
4. MB Operating Co Inc
5. MWCD-MB #4
- 6.
7. Carroll, OH
8. 5.5 million cubic feet
9. July 10, 1979
10. East Ohio Gas Co, Republic Steel Corp, Columbia Gas Co
1. 79-12035
2. 34-019-20881-0014
3. 108
4. MB Operating Co Inc
5. Roy Rice #1
- 6.
7. Carroll, OH
8. 5.5 million cubic feet
9. July 10, 1979
10. East Ohio Gas Co, Republic Steel Corp, Columbia Gas Co
1. 79-12036
2. 34-019-21002-0014
3. 108
4. MB Operating Co Inc
5. Roy Rice #2
- 6.
7. Carroll, OH
8. 5.5 million cubic feet
9. July 10, 1979
10. East Ohio Gas Co, Republic Steel Corp, Columbia Gas Co
1. 79-12037
2. 34-019-21005-0014
3. 108
4. MB Operating Co Inc
5. Roy Rice #3
- 6.
7. Carroll, OH
8. 5.5 million cubic feet
9. July 10, 1979
10. East Ohio Gas Co, Republic Steel Corp, Columbia Gas Co
1. 79-12038
2. 34-019-20969-0014
3. 108
4. MB Operating Co Inc
5. M & D Harkless Unit #1
- 6.
7. Carroll, OH
8. 5.5 million cubic feet
9. July 10, 1979
10. East Ohio Gas Co, Republic Steel Corp, Columbia Gas Co
1. 79-12039
2. 34-019-21007-0014
3. 108
4. MB Operating Co Inc
5. M & D Harkless Unit #2
- 6.
7. Carroll, OH
8. 5.5 million cubic feet
9. July 10, 1979
10. East Ohio Gas Co, Republic Steel Corp, Columbia Gas Co
1. 79-12040
2. 34-019-20312-0014
3. 108
4. MB Operating Co Inc
5. James-Oesch #1
- 6.
7. Carroll, OH
8. 5.5 million cubic feet
9. July 10, 1979

10. East Ohio Gas Co, Republic Steel Corp, Columbia Gas Co
1. 79-12041
2. 34-019-20322-0014
3. 108
4. MB Operating Co Inc
5. James-Oesch #2
- 6.
7. Carroll, OH
8. 5.5 million cubic feet
9. July 10, 1979
10. East Ohio Gas Co, Republic Steel Corp, Columbia Gas Co
1. 79-12042
2. 34-019-20323-0014
3. 108
4. MB Operating Co Inc
5. James-Oesch #3
- 6.
7. Carroll, OH
8. 5.5 million cubic feet
9. July 10, 1979
10. East Ohio Gas Co, Republic Steel Corp, Columbia Gas Co
1. 79-12043
2. 34-019-21055-0014
3. 108
4. MB Operating Co Inc
5. W & B Flanagan #1
- 6.
7. Carroll, OH
8. 5.5 million cubic feet
9. July 10, 1979
10. East Ohio Gas Co, Republic Steel Corp, Columbia Gas Co
1. 79-12044
2. 34-121-21658-0014
3. 108
4. Dewey H Tilton—Joseph Cosgriff
5. Dewey Tilton #2
- 6.
7. Noble, OH
8. 5.4 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12045
2. 34-121-21797-0014
3. 108
4. Dewey H Tilton—Joseph Cosgriff
5. Dewey Tilton #3
- 6.
7. Noble, OH
8. 9.7 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12046
2. 34-121-21265-0014
3. 108
4. Dewey H Tilton—Joseph Cosgriff
5. Dewey Tilton #1
- 6.
7. Noble, OH
8. 5.4 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12047
2. 34-212-21739-0014
3. 108
4. Dewey H Tilton—Joseph Cosgriff
5. Joseph Cosgriff #1
- 6.
7. Noble, OH
8. 8.5 million cubic feet
9. July 10, 1979

10. Columbia Gas Transmission Corp
1. 79-12048
2. 34-043-20027-0014
3. 108
4. Erie Oil & Gas Co
5. Sun-Hunter-Unit Well #1
6.
7. Erie, OH
8. 14.5 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12049
2. 34-043-20038-0014
3. 108
4. Erie Oil & Gas Co (partnership)
5. Hunter #1-38
6.
7. Erie, OH
8. 21.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12050
2. 34-043-20039-0014
3. 108
4. Erie Oil & Gas Co (partnership)
5. Cleveland Quarries #1-39
6.
7. Erie, OH
8. 14.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12051
2. 34-043-20036-0014
3. 108
4. Erie Oil & Gas Co
5. Herman-Wendt #1
6.
7. Erie, OH
8. .4 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12052
2. 34-043-20064-0014
3. 108
4. Erie Oil & Gas Co
5. Cleveland Quarries #2
6.
7. Erie, OH
8. 20.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12054
2. 34-043-20073-0014
3. 108
4. Erie Oil & Gas Co
5. Quarries-Hunter-Niemeth 1A
6.
7. Erie, OH
8. 1.3 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12055
2. 34-043-20069-0014
3. 108
4. Erie Oil & Gas Co
5. Deer Lick #2-69
6.
7. Erie, OH
8. 7.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12056
2. 34-151-22550-0014

3. 108
4. Pominex Inc
5. #1 Honaker
6.
7. Stark, OH
8. 2.1 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp.
Columbia Gas of Ohio
1. 79-12057
2. 34-121-21751-0014
3. 108
4. St Joe Petroleum (US) Corporation
5. Clark Rayner #1
6. Undesignated
7. Nobel, OH
8. 12.0 million cubic feet
9. July 10, 1979
10. Republic Steel Corporation
1. 79-12058
2. 34-121-21954-0014
3. 108
4. St Joe Petroleum (US) Corporation
5. L Hohman #1
6. Undesignated
7. Nobel, OH
8. 9.0 million cubic feet
9. July 10, 1979
10. Republic Steel Corporation
1. 79-12059
2. 34-121-21776-0014
3. 108
4. St Joe Petroleum (US) Corporation
5. J Noon #1
6. Undesignated
7. Nobel, OH
8. 8.0 million cubic feet
9. July 10, 1979
10. Republic Steel Corporation
1. 79-12060
2. 34-157-21939-0014-
3. 108
4. The Mutual Oil & Gas Company
5. John C. Downing #1
6.
7. Tuscarawas, OH
8. 13.0 million cubic feet
9. July 10, 1979
10. The East Ohio Gas Company
1. 79-12061
2. 34-157-22484-0014-
3. 108
4. The Mutual Oil & Gas Company
5. David Neal Beans Etal #2
6.
7. Tuscarawas, OH
8. 13.0 million cubic feet
9. July 10, 1979
10. Ford Motor Company
1. 79-12062
2. 34-157-21780-0014-
3. 108
4. The Mutual Oil & Gas Company
5. Gloria Braver #1
6.
7. Tuscarawas, OH
8. 5.0 million cubic feet
9. July 10, 1979
10. The East Ohio Gas Company
1. 79-12063
2. 34-157-21264-0014-
3. 108
4. The Mutual Oil & Gas Company
5. Dale Brannon #2

6.
7. Tuscarawas, OH
8. 13.0 million cubic feet
9. July 10, 1979
10. The East Ohio Gas Company
1. 79-12064
2. 34-157-22101-0014-
3. 108
4. The Mutual Oil & Gas Company
5. John C. Downing #2
6.
7. Tuscarawas, OH
8. 13.0 million cubic feet
9. July 10, 1979
10. The East Ohio Gas Company
1. 79-12065
2. 34-157-21105-0014-
3. 108
4. The Mutual Oil & Gas Company
5. Day-Community #1
6.
7. Tuscarawas, OH
8. 11.0 million cubic feet
9. July 10, 1979
10. The East Ohio Gas Company
1. 79-12066
2. 34-157-21823-0014-
3. 108
4. The Mutual Oil & Gas Company
5. Joseph F. Day #1
6.
7. Tuscarawas, OH
8. 3.0 million cubic feet
9. July 10, 1979
10. The East Ohio Gas Company
1. 79-12067
2. 34-157-21533-0014-
3. 108
4. The Mutual Oil & Gas Company
5. M. W. Everhard (Cole) etal #1
6.
7. Tuscarawas, OH
8. 10.0 million cubic feet
9. July 10, 1979
10. The East Ohio Gas Company
1. 79-12068
2. 34-157-21522-0014-
3. 108
4. The Mutual Oil & Gas Company
5. M. W. Everhard (Cole) etal #2
6.
7. Tuscarawas, OH
8. 10.0 million cubic feet
9. July 10, 1979
10. The East Ohio Gas Company
1. 79-12069
2. 34-157-21686-0014-
3. 108
4. The Mutual Oil & Gas Company
5. Eddy et al #1
6.
7. Tuscarawas, OH
8. 9.0 million cubic feet
9. July 10, 1979
10. The East Ohio Gas Company
1. 79-12070
2. 34-157-21607-0014-
3. 108
4. The Mutual Oil & Gas Company
5. Craig-Montan #1
6.
7. Tuscarawas, OH
8. 9.0 million cubic feet
9. July 10, 1979

10. The East Ohio Gas Company
1. 79-12071
2. 34-157-21012-0014-
3. 108
4. The Mutual Oil & Gas Company
5. William Carlisle #1
6.
7. Tuscarawas, OH
8. 7.0 million cubic feet
9. July 10, 1979
10. The East Ohio Gas Company
1. 79-12072
2. 34-157-21615-0014-
3. 108
4. The Mutual Oil & Gas Company
5. W. H. Brug #2
6.
7. Tuscarawas, OH
8. 6.0 million cubic feet
9. July 10, 1979
10. The East Ohio Gas Company
1. 79-12073
2. 34-157-22106-0014-
3. 108
4. The Mutual Oil & Gas Company
5. Brown-Herron Unit #1
6.
7. Tuscarawas, OH
8. 4.0 million cubic feet
9. July 10, 1979
10. The East Ohio Gas Company
1. 79-12074
2. 34-157-21707-0014-
3. 108
4. The Mutual Oil & Gas Company
5. Bud Craig #2
6.
7. Tuscarawas, OH
8. 10.0 million cubic feet
9. July 10, 1979
10. The East Ohio Gas Company
1. 79-12075
2. 34-157-21905-0014-
3. 108
4. The Mutual Oil & Gas Company
5. C. C. & D. B. Cunningham #1
6.
7.
8. 4.0 million cubic feet
9. July 10, 1979
10. The East Ohio Gas Company
1. 79-12076
2. 34-157-21828-0014-
3. 108
4. The Mutual Oil & Gas Company
5. W. C. Crum #2
6.
7. Tuscarawas, OH
8. 12.0 million cubic feet
9. July 10, 1979
10. The East Ohio Gas Company
1. 79-12077
2. 34-157-21827-0014-
3. 108
4. The Mutual Oil & Gas Company
5. W. C. Crum #1
6.
7. Tuscarawas, OH
8. 6.0 million cubic feet
9. July 10, 1979
10. The East Ohio Gas Company
1. 79-12078
2. 34-157-21504-0014-

3. 108
4. The Mutual Oil & Gas Company
5. J. DeMuth #3
6.
7. Tuscarawas, OH
8. 10.0 million cubic feet
9. July 10, 1979
10. The East Ohio Gas Company
1. 79-12079
2. 34-157-21184-0014-
3. 108
4. The Mutual Oil & Gas Company
5. Eddy & Myers #1
6.
7. Tuscarawas, OH
8. 10.0 million cubic feet
9. July 10, 1979
10. The East Ohio Gas Company
1. 79-12080
2. 34-157-21135-0014-
3. 108
4. The Mutual Oil & Gas Company
5. J. DeMuth #2
6.
7. Tuscarawas, OH
8. 13.0 million cubic feet
9. July 10, 1979
10. The East Ohio Gas Company
1. 79-12081
2. 34-157-21044-0014-
3. 108
4. The Mutual Oil & Gas Company
5. R. Briggs #1
6.
7. Tuscarawas, OH
8. .0 million cubic feet
9. July 10, 1979
10. The East Ohio Gas Company
1. 79-12082
2. 34-157-21221-0014-
3. 108
4. The Mutual Oil & Gas Company
5. Dale Brannon #1
6.
7. Tuscarawas, OH
8. 10.0 million cubic feet
9. July 10, 1979
10. The East Ohio Gas Company
1. 79-12084
2. 34-157-21904-0014-
3. 108
4. The Mutual Oil & Gas Company
5. J. R. Demuth #5
6.
7. Tuscarawas, OH
8. 5.0 million cubic feet
9. July 10, 1979
10. The East Ohio Gas Company
1. 79-12085
2. 34-157-22452-0014-
3. 108
4. The Mutual Oil & Gas Company
5. Anthony F. Glass #2-A
6.
7. Tuscarawas, OH
8. 10.0 million cubic feet
9. July 10, 1979
10. American Energy Services, Inc.
1. 79-12086
2. 34-157-22455-014-
3. 108
4. The Mutual Oil & Gas Company
5. Anthony F. Glass #3-A
6.

7. Tuscarawas, OH
8. 11.0 million cubic feet
9. July 10, 1979
10. American Energy Services, Inc.
1. 79-12087
2. 34-157-22778-0014-
3. 108
4. The Mutual Oil & Gas Company
5. Anthony F. Glass #4-A
6.
7. Tuscarawas, OH
8. 8.0 million cubic feet
9. July 10, 1979
10. American Energy Services, Inc.
1. 79-12088
2. 34-157-22499-0014-
3. 108
4. The Mutual Oil & Gas Company
5. Kochman-Stocker Unit #1
6.
7. Tuscarawas, OH
8. 17.0 million cubic feet
9. July 10, 1979
10. Ford Motor Company
1. 79-12089
2. 34-157-22432-0014-
3. 108
4. The Mutual Oil & Gas Company
5. George N. Feightling et ux #1
6.
7. Tuscarawas, OH
8. 6.0 million cubic feet
9. July 10, 1979
10. Ford Motor Company
1. 79-12090
2. 34-157-22471-0014-
3. 108
4. The Mutual Oil & Gas Company
5. George Ray Leggett #3
6.
7. Tuscarawas, OH
8. 18.0 million cubic feet
9. July 10, 1979
10. Ford Motor Company
1. 79-12091
2. 34-157-22500-0014
3. 108
4. The Mutual Oil & Gas Company
5. W Miller #1-A
6.
7. Tuscarawas, OH
8. 18.0 million cubic feet
9. July 10, 1979
10. Ford Motor Company
1. 79-12092
2. 34-157-22410-0014
3. 108
4. The Mutual Oil & Gas Company
5. George Ray Leggett et al #2
6.
7. Tuscarawas, OH
8. 6.0 million cubic feet
9. July 10, 1979
10. Ford Motor Company
1. 79-12093
2. 34-103-21959-0014
3. 103
4. William N Tipka
5. John Ross #1
6.
7. Medina, OH
8. 8.0 million cubic feet
9. July 10, 1979
10.

1. 79-12094
2. 34-157-23213-0014
3. 103
4. William N Tipka
5. Ben Cookson #1
- 6.
7. Tuscarawas, OH
8. 30.0 million cubic feet
9. July 10, 1979
- 10.
1. 79-12095
2. 34-157-22839-0014
3. 103
4. William N Tipka
5. W & L Beitzel #1
- 6.
7. Tuscarawas, OH
8. 12.0 million cubic feet
9. July 10, 1979
10. East Ohio Gas Co
1. 79-12096
2. 34-099-21132-0014
3. 103
4. Appalachian Exploration Inc
5. Vickery-Carli Lumber Unit #1
- 6.
7. Mahoning, OH
8. 25.0 million cubic feet
9. July 10, 1979
10. American Energy Services Inc
1. 79-12097
2. 34-035-20907-0014
3. 103
4. Appalachian Exploration Inc
5. North Royalton Board of Ed #1
- 6.
7. Cuyahoga, OH
8. 10.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12098
2. 34-099-21043-0014
3. 103
4. Appalachian Exploration Inc
5. Hendershott Unit #1
- 6.
7. Mahoning, OH
8. 25.0 million cubic feet
9. July 10, 1979
10. American Energy Services Inc East Ohio Gas Co
1. 79-12099
2. 34-169-22078-0014
3. 103
4. Ponderosa Oil Company
5. Calvin R Lehman Well #1
- 6.
7. Wayne, OH
8. 23.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Trans Corp
1. 79-12100
2. 34-169-22079-0014
3. 103
4. Ponderosa Oil Company
5. Samuel Steiner Well #1
- 6.
7. Wayne, OH
8. 27.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Trans Corp
1. 79-12101
2. 34-169-22077-0014
3. 103
4. Ponderosa Oil Company
5. Cletus Gerber Well #1
- 6.
7. Wayne, OH
8. 28.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Trans Corp
1. 79-12102
2. 34-089-23551-0014
3. 103
4. Jonsu Corp
5. Dorsey #1
- 6.
7. Licking, OH
8. 10.0 million cubic feet
9. July 10, 1979
- 10.
1. 79-12103
2. 34-031-23320-0014
3. 103
4. Kensington Ltd Partnership
5. Paul T Weekly #2
- 6.
7. Coshocton, OH
8. 10.0 million cubic feet
9. July 10, 1979
- 10.
1. 79-12104
2. 34-075-22125-0014
3. 103
4. Kensington Ltd Partnership
5. Noah J B Miller #1
- 6.
7. Holmes, OH
8. 28.0 million cubic feet
9. July 10, 1979
- 10.
1. 79-12105
2. 34-083-22236-0014
3. 103
4. Apex Natural Gas Company Inc
5. Kenneth Swendal No. 3
- 6.
7. Knox, OH
8. 4.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12106
2. 34-075-22163-0014
3. 103
4. Discovery Oil Ltd
5. Smith Flying S Ranch #5
- 6.
7. Holmes, OH
8. 60.0 million cubic feet
9. July 10, 1979
10. American Energy Services Inc
1. 79-12107
2. 34-075-22112-0014
3. 103
4. Discovery Oil Ltd
5. Smith Flying S Ranch #4
- 6.
7. Holmes, OH
8. 36.0 million cubic feet
9. July 10, 1979
10. American Energy Services Inc
1. 79-12108
2. 34-075-22114-0014
3. 103
4. Discovery Oil Ltd
5. Smith Flying S Ranch #3
- 6.
7. Holmes, OH

8. 65.0 million cubic feet
9. July 10, 1979
10. American Energy Services Inc
1. 79-12109
2. 34-075-22117-0014
3. 103
4. Discovery Oil Ltd
5. Smith Flying S Ranch #1
- 6.
7. Holmes, OH
8. 60.0 million cubic feet
9. July 10, 1979
10. American Energy Services Inc
1. 79-12110
2. 34-083-22582-0014
3. 103
4. Buckeye Crude Exploration Inc
5. Stachler #2
6. Danville Oil & Gas Field
7. Knox, OH
8. 3.7 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12111
2. 34-075-22130-0014
3. 103
4. Morgan Pennington Inc
5. Donley No. 1
- 6.
7. Holmes, OH
8. 3.7 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12112
2. 34-099-20894-0014
3. 103
4. The Mutual Oil & Gas Company
5. J & R Martig #1
- 6.
7. Mahoning, OH
8. 8.0 million cubic feet
9. July 10, 1979
10. Vescorp Industries Inc
1. 79-12113
2. 34-169-22135-0014
3. 103
4. Sheldon L Turrill
5. Katona #1
- 6.
7. Wayne, OH
8. 100.0 million cubic feet
9. July 10, 1979
10. East Ohio Gas Company
1. 79-12114
2. 34-075-22123-0014
3. 103
4. William F Hill
5. J A McDowell #4
- 6.
7. Holmes, OH
8. 3.0 million cubic feet
9. July 10, 1979
- 10.
1. 79-12115
2. 34-121-22091-0014
3. 103
4. Tiger Oil Inc
5. Johnson Etals #1
- 6.
7. Noble, OH
8. 2.0 million cubic feet
9. July 10, 1979
10. East Ohio Gas Co

1. 79-12116
2. 34-121-22121-0014
3. 103
4. Tiger Oil Inc
5. Davis-Ball #2
- 6.
7. Noble, OH
8. 3.7 million cubic feet
9. July 10, 1979
10. East Ohio Gas Co
1. 79-12117
2. 34-169-22116-0014
3. 103
4. Ponderosa Oil Company
5. Dan Amstutz Well #1
- 6.
7. Wayne, OH
8. 21.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Trans Corp
1. 79-12118
2. 34-169-22076-0014
3. 103
4. Ponderosa Oil Company
5. Neuenschwander-Steiner Unit Well #1
- 6.
7. Wayne, OH
8. 21.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Trans Corp
1. 79-12119
2. 34-007-20987-0014
3. 103
4. Petroleum Energy Production Corp
5. Cutter #2
- 6.
7. Ashtabula, OH
8. 30.0 million cubic feet
9. July 10, 1979
- 10.
1. 79-12120
2. 34-007-20988-0014
3. 103
4. Petroleum Energy Producing Corp
5. Forbes #1
- 6.
7. Ashtabula, OH
8. 30.0 million cubic feet
9. July 10, 1979
- 10.
1. 79-12121
2. 34-007-20978-0014
3. 103
4. Petroleum Energy Producing Corp
5. Brown Unit #1
- 6.
7. Ashtabula, OH
8. 30.0 million cubic feet
9. July 10, 1979
- 10.
1. 79-12122
2. 34-007-20965-0014
3. 103
4. Petroleum Energy Producing Corp
5. Cutter #1
- 6.
7. Ashtabula, OH
8. 30.0 million cubic feet
9. July 10, 1979
- 10.
1. 79-12123
2. 34-119-23474-0014
3. 108
4. American Exploration Co

5. George Kreager #1
- 6.
7. Muskingum, OH
8. 8.0 million cubic feet
9. July 10, 1979
10. Newzane Gas Company
1. 79-12053
2. 34-043-20066-0014
3. 108
4. Erie Oil & Gas Co
5. Hunter #2
- 6.
7. Erie, OH
8. 11.0 million cubic feet
9. July 10, 1979
10. Columbia Gas Transmission Corp
1. 79-12083
2. 34-157-21820-0014
3. 108
4. The Mutual Oil & Gas Co
5. Eddy et al #2
- 6.
7. Tuscarawas, OH
8. 9.0 million cubic feet
9. July 10, 1979
10. The East Ohio Gas Co

West Virginia Department of Mines, Oil and Gas Division

1. Control number (F.E.R.C./ State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-12000
2. 47-013-01632
3. 108
4. Allegheny Land & Mineral Co
5. A-14
6. Washington District
7. Calhoun, WV
8. 1.1 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-12001
2. 47-085-03040
3. 108
4. Allegheny Land & Mineral Co
5. A-41
6. Murphy Appalachian Basin
7. Ritchie, WV
8. 4.5 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-12002
2. 47-097-01071
3. 108
4. Allegheny Land & Mineral Co
5. A-342
6. Washington District
7. Upshur, WV
8. 3.2 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-12003
2. 47-007-00555
3. 108
4. Allegheny Land & Mineral Co
5. A-228

6. Salt Lick District
7. Braxton, WV
8. 4.4 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-12004
2. 47-013-01755
3. 108
4. Allegheny Land & Mineral Co
5. A-53
6. Sherman Appalachian Basin
7. Calhoun, WV
8. 2.4 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-12005
2. 47-013-01864
3. 108
4. Allegheny Land & Mineral Co
5. A-112
6. Washington District
7. Calhoun, WV
8. 1.3 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-12006
2. 47-085-30230
3. 108
4. Allegheny Land & Mineral Co
5. A-298
6. Murphy District
7. Ritchie, WV
8. 4.2 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-12007
2. 47-061-00276
3. 108
4. Allegheny Land & Mineral Co
5. A-280
6. Giant District
7. Monongalia County, WV
8. 1.8 million cubic feet
9. July 9, 1979
10. Carnegie Natural Gas Company
1. 79-12008
2. 47-041-00543
3. 108
4. Allegheny Land & Mineral Co
5. A-100
6. Court House Dist
7. Lewis, WV
8. 3.9 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-12009
2. 47-013-01837
3. 108
4. Allegheny Land & Mineral Co
5. A-12
6. Lee District
7. Calhoun, WV
8. 4.4 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-12010
2. 47-017-00864
3. 108
4. Allegheny Land & Mineral Co
5. A-197
6. McClellan District
7. Doddridge, WV
8. 1.9 million cubic feet
9. July 9, 1979

10. Consolidated Gas Supply Corp
1. 79-12011
2. 47-021-01563
3. 108
4. Allegheny Land & Mineral Co
5. A-235
6. Glenville District
7. Gilmer, WV
8. 1.1 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-12013
2. 47-041-00655
3. 108
4. Allegheny Land & Mineral Co
5. A-125
6. Freemans Creek District
7. Lewis, WV
8. 2.9 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp
1. 79-12012
2. 47-021-01135
3. 108
4. Allegheny Land & Mineral Co
5. A-52
6. Center Appalachian Basin
7. Gilmer, WV
8. 6.3 million cubic feet
9. July 9, 1979
10. Consolidated Gas Supply Corp

Wyoming Oil and Gas Conservation Commission

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-12125
2. 49-035-03564
3. 108
4. Belco Petroleum Corporation
5. B 27-13 03564
6. Big Piney Shallow
7. Sublette, WY
8. 5.0 million cubic feet
9. July 10, 1979
10. Northwest Pipeline Corporation
1. 79-12128
2. 49-035-02475
3. 108
4. Belco Petroleum Corporation
5. B 16-15 02475
6. Big Piney Shallow
7. Sublette, WY
8. .0 million cubic feet
9. July 10, 1979
10. Northwest Pipeline Corporation
1. 79-12127
2. 49-035-06103
3. 108
4. Belco Petroleum Corporation
5. BUDD 1-10 06103
6. Big Piney Shallow
7. Sublette, WY
8. 11.0 million cubic feet
9. July 10, 1979
10. Northwest Pipeline Corporation

1. 79-12128
2. 49-035-09983
3. 108
4. Belco Petroleum Corporation
5. C 81-36 09983
6. Big Piney
7. Sublette, WY
8. 4.0 million cubic feet
9. July 10, 1979
10. Northwest Pipeline Corporation
1. 79-12129
2. 49-035-04980
3. 108
4. Belco Petroleum Corporation
5. B 39-11 04980
6. Big Piney Shallow
7. Sublette, WY
8. 17.0 million cubic feet
9. July 10, 1979
10. Northwest Pipeline Corporation
1. 79-12130
2. 49-035-05290
3. 108
4. Belco Petroleum Corporation
5. B 46-24 05290
6. Big Piney Shallow
7. Sublette, WY
8. 3.0 million cubic feet
9. July 10, 1979
10. Northwest Pipeline Corporation
1. 79-12131
2. 49-035-03772
3. 108
4. Belco Petroleum Corporation
5. B 29-12 03772
6. Big Piney Shallow
7. Sublette, WY
8. 8.0 million cubic feet
9. July 10, 1979
10. Northwest Pipeline Corporation
1. 79-12132
2. 49-035-05748
3. 108
4. Belco Petroleum Corporation
5. BNC 78-20 05748
6. Big Piney
7. Sublette, WY
8. 3.0 million cubic feet
9. July 10, 1979
10. Northwest Pipeline Corporation
1. 79-12133
2. 49-035-03524
3. 108
4. Belco Petroleum Corporation
5. C 19-14 03524
6. Big Piney
7. Sublette, WY
8. 2.0 million cubic feet
9. July 10, 1979
10. Northwest Pipeline Corporation
1. 79-12134
2. 49-035-07128
3. 108
4. Belco Petroleum Corporation
5. Noble 2-11 07128
6. Big Piney Shallow
7. Sublette, WY
8. 8.0 million cubic feet
9. July 10, 1979
10. Northwest Pipeline Corporation
1. 79-12135
2. 49-035-06809
3. 108
4. Belco Petroleum Corporation

5. CBU 14-28 06809
6. Big Piney
7. Sublette, WY
8. 12.0 million cubic feet
9. July 10, 1979
10. Northwest Pipeline Corporation
1. 79-12136
2. 49-035-05394
3. 108
4. Belco Petroleum Corporation
5. Gulf State 1-16 05394
6. Big Piney—Labarge
7. Sublette, WY
8. 9.0 million cubic feet
9. July 10, 1979
10. Northwest Pipeline Corporation
1. 79-12137A
2. 49-035-07753
3. 108
4. Belco Petroleum Corporation
5. SCU 1-16 07753
6. Long Island Unit
7. Sublette, WY
8. 4.0 million cubic feet
9. July 10, 1979
10. Northwest Pipeline Corporation
1. 79-12137B
2. 49-035-12686
3. 108
4. Belco Petroleum Corporation
5. SCU 8-16 12686
6. Long Island Unit
7. Sublette, WY
8. 11.0 million cubic feet
9. July 10, 1979
10. Northwest Pipeline Corporation
1. 79-12138
2. 49-007-20308
3. 102
4. Rainbow Resources, Inc.
5. State 22-9
6. Smith Ranch
7. Carbon, WY
8. 365.0 million cubic feet
9. July 10, 1979
10. Northwest Pipeline Corporation
1. 79-12139
2. 49-007-20308
3. 102
4. Rainbow Resources, Inc.
5. State 22-9
6. Smith Ranch
7. Carbon, WY
8. 365.0 million cubic feet
9. July 10, 1979
10. Northwest Pipeline Corporation
1. 79-12140
2. 49-007-20280
3. 102
4. Rainbow Resources, Inc.
5. State 1-9
6. Smith Ranch
7. Carbon, WY
8. 365.0 million cubic feet
9. July 10, 1979
10. Northwest Pipeline Corporation
1. 79-12141
2. 49-037-05418
3. 108
4. Texaco, Inc.
5. Table Rock Unit No. 8
6. Table Rock
7. Sweetwater, WY
8. 6.0 million cubic feet

9. July 10, 1979
10. Colorado Interstate Gas Company
1. 79-12142
2. 49-005-24288
3. 103
4. Cities Service Co.
5. Keeline B No. 1
6. HA Creek
7. Campbell, WY
8. 70.0 million cubic feet
9. July 10, 1979
10. Panhandle Eastern Pipe Line, Co.
1. 79-12143
2. 49-005-25073
3. 103
4. Union Oil Company of Calif.
5. Jayson Unit 4-10
6. Hilight
7. Campbell, WY
8. 75.0 million cubic feet
9. July 10, 1979
10. McCulloch Gas Processing Corp., Phillips Petroleum Corp.
1. 79-12144
2. 49-009-21471
3. 103
4. Exeter Exploration Co.
5. Lebar 11-12
6. Well Draw
7. Converse, WY
8. 36.0 million cubic feet
9. July 10, 1979
10. Phillips Petroleum Company, McCulloch Gas Processing Corp.
1. 79-12145
2. 49-005-25121
3. 103
4. Inexco Oil Company
5. State Tinkler No. 3
6. Hilight Field—Extension
7. Campbell, WY
8. 31.0 million cubic feet
9. July 10, 1979
10. McCulloch Oil Corporation

U.S. Geological Survey, Albuquerque, N. Mex.

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-09410B
2. 30-045-22628-0000-0
3. 108 denied
4. Jerome P. McHugh
5. Bengal C No. 5
6. Undesignated fruitland
7. San Juan, NM
8. 10.0 million cubic feet
9. June 18, 1979
10. El Paso Natural Gas Company

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is

treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this notice in the **Federal Register**.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23173 Filed 7-26-79; 8:45 am]
BILLING CODE 6450-01-M

[Project No. 2743 Terror Lake]**Kodiak Electric Association, Inc.;
Application for Major License
(Unconstructed)**

July 18, 1979.

Take notice that on January 23, 1979, an application was filed by the Kodiak Electric Association, Inc. (Correspondence to: David S. Nease, Jr., Manager, Kodiak Electric Association, Inc., Post Office Box 787, Kodiak, Alaska 99615) for major license for the Terror Lake Project affecting U.S. lands under the jurisdiction of the U.S. Fish and Wildlife Service and the Bureau of Land Management of the Department of Interior and the U.S. Coast Guard of the Department of Transportation. The proposed project would be located on the Terror River, Shotgun Creek, Falls Creek, Rolling Rock Creek, and the Mount Glotoff Glacier drainage basin, in Kodiak Island Borough.

The unconstructed Terror Lake Project would have an installed capacity of 20,000 kW and would consist of the following principal project works: (1) A rock-fill dam, 156 feet high and 2,040 feet long at its crest, located at the outlet of the existing Terror Lake and having an adjacement side channel spillway; (2) Terror Lake Reservoir, with a surface area of 850 acres and usable storage of 78,000 acre-feet at normal maximum reservoir elevation 1383 feet (U.S.C.G.S. datum); (3) a diversion dam at the outlet of the lake below Mount Glotoff Glacier diverting water into the Terror River above the reservoir; (4) a tunnel, 26,311 feet long and 10 feet in diameter, between the Terror Lake Reservoir and an outlet portal above the Kizhuyak River; (5) diversion dams on Shotgun Creek, Falls Creek, and Rolling Rock Creek; (6) shafts and tunnels connecting

the Falls Creek and Rolling Rock Creek diversions with the Terror Lake Reservoir tunnel; (7) a steel penstock, 3400 feet long and varying in diameter from 96 inches to 56 inches, between the outlet portal and the powerhouse; (8) a surface powerhouse at elevation 107 feet in the Kizhuyak Valley containing two generating units of 10,000 kW each with provisions for a third; (9) a substation adjacent to the powerhouse; (10) port facilities near the outlet of the Kizhuyak River; (11) access roads throughout the project area; (12) a 17.3-mile-long, 69-kV transmission line extending from the powerhouse substation to the Kodiak system at a substation within the U.S. Coast Guard Reservation.

Recreational Development

A definitive recreation plan has not been formulated to date. However, an interest has been expressed for the possible development for a camping area at the mouth of the Kizhuyak River and for several miles of hiking trails along the river.

Use of Project Energy

Project energy would be distributed throughout Applicant's present and expanding system to meet its load requirements.

Protest or Petition To Intervene

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR §1.8 or §1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before September 17, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23170 Filed 7-26-79; 8:46 am]
BILLING CODE 6450-01-M

[Docket No. GP79-46; JD No. 79-7438]

State of Mississippi; Preliminary Finding

July 13, 1979.

On May 29, 1979, the Oil and Gas Board for the State of Mississippi submitted to the Commission a notice of determination that the Gwinville GU 103-A Well No. 1 met all the requirements of a stripper well under section 108 of the Natural Gas Policy Act of 1978 (NGPA) and Commission regulations implementing that section. The Commission published notice of the determination on June 25, 1979.

Section 108(b) of the NGPA provides that in order to qualify as a stripper well, a well must, among other things, produce at its maximum efficient rate of flow (MER) during the 90-day production period upon which the application is based. Section 271.804(d) of the Commission's regulations stipulates the methods by which a jurisdictional agency may find that a well produced at its MER during the 90-day production period. These methods are: (1) determination of MER in accordance with recognized conservation practices established by the jurisdictional agency; (2) determination of MER based on a presumption that a well produced at its MER if during the 12-month period ending concurrently with the 90-day production period the well produced at a rate not exceeding an average of 60 Mcf per production day; or (3) determination of MER based on flow tests or other substantial evidence which measures the capability of the well to produce natural gas. If none of these methods is appropriate or available, a jurisdictional agency may defer making a determination and designate a 12-month period during which the applicant may secure relevant data pursuant to method (2).

The material submitted in support of this determination does not include an MER finding pursuant to methods (1) or (3) above. It does contain records for a 12-month period ending concurrently with the 90-day production period, pursuant to method (2). However, these records indicate that the well did not produce at all during the first 10 months of the 12-month period.

Section 271.804(d)(2) stipulates that an MER presumption may be established "if during the 12-month period ending concurrently with the 90-day production period . . . such well produced nonassociated natural gas at a rate

which did not exceed an average of 60 Mcf per production day." (emphasis added) While the Commission recognizes that over the course of a 12-month period a well may occasionally be shut down for several days or weeks as part of normal production procedures, we do not believe that a well which is not producing at all during the 9-month period preceding the 90-day production period can be presumed to have produced at its MER during the 90-day production period. An MER presumption cannot reasonably be made unless the jurisdictional agency is able to review a record which sets forth the production pattern and rate of production over a 12-month period during which the well was actually in production.

On the basis of the record submitted with this determination, the Commission hereby makes a preliminary finding, pursuant to 18 C.F.R. § 275.202(a)(1)(i), that the determination submitted by the State of Mississippi Oil and Gas Board that the Gwinville GU 103-A, Well No. 1 qualifies as a section 108 stripper well, is not supported by substantial evidence in the record on which the determination was made.

By direction of the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23171 Filed 7-26-79; 8:45 am]

BILLING CODE 4540-01-M

[Docket No. RP72-156 (PGA79-1a)]

Texas Gas Transmission Corp.; Order on Rehearing Accepting Compliance Filing Subject to Certain Conditions and Ordering Refunds

July 18, 1979.

Background

On December 15, 1978, Texas Gas Transmission Corporation (Texas Gas) filed its Third Substitute Twenty-Fourth Revised Sheet No. 7 to its FPC Gas Tariff, Third Revised Volume No. 1, containing rate increases reflecting the increased cost of purchased gas, increased demand charge credits and increases in the base rates pursuant to tracking adjustments authorized by the Stipulation and Agreement in Docket No. RP77-39 approved by Commission Order issued November 17, 1978.

Petitions to intervene in this proceeding were filed by the City of Louisville, Kentucky, the Louisville Gas and Electric Company, W. R. Grace and Company, the Jackson Utility Division of the City of Jackson, Tennessee and the

Memphis Gas, Light and Water Division of the City of Memphis, Tennessee who questioned the magnitude of the rate increase sought by Texas Gas and further questioned whether the categorizations, classifications, inflation factors and other factors supporting the claimed prices are proper.

The protest and petition to intervene filed by Memphis Gas, Light and Water Division of the City of Memphis, Tennessee (MLGW) on January 10, 1979, asked that the Commission suspend the proposed rate increase for one day and initiate an investigation to determine the propriety of the proposed rate increase under the Natural Gas Act and the Natural Gas Policy Act (NGPA). MGLW also asked that the Commission provide for refunds, with interest, of any overcollections by Texas Gas resulting from any rate increase found to be improper.

By letter order dated January 31, 1979, Texas Gas' tariff sheet was accepted for filing effective February 1, 1979 subject to the elimination of costs from producer suppliers which those suppliers are not authorized to charge on February 1, 1979 pursuant to the Natural Gas Policy Act of 1978 (NPGA) and subject to modification to reflect the proper rate from HIOS, as determined in Docket No. CP75-104.

On February 2, 1979, MLGW and the Tennessee Congressional Delegation filed a joint application for rehearing of the January 31, 1979 letter order. The application alleged, among other things, that Texas Gas had supplied insufficient justification for its filing and that suspension and investigation of the filing was therefore warranted. By an order issued March 2, 1979, the Commission granted that joint application for rehearing for the limited purpose of further consideration.

On February 16, 1979, pursuant to the January 31, 1979 letter order, Texas Gas tendered for filing Fourth Substitute Revised Sheet No. 7 to its FERC Gas Tariff, Third Revised Volume No. 1, to be effective February 1, 1979.

By letter dated March 1, 1979, the Commission acknowledged Texas Gas' February 16, 1979 filing and directed that additional information be provided in support of that filing.

On March 6, 1979, MLGW filed a protest and request for investigation as to Texas Gas's February 16, 1979 compliance filing.

On April 12, 1979, Texas Gas filed certain data, in compliance with the Commission's March 1, 1979 letter order.

On April 27, 1979, MLGW filed a Supplement to Protest and Motion for Order Vacating Or Clarifying Prior Order and Directing Refunds. MLGW states, among other things, that data filed by Texas Gas shows that certain gas supply transactions for which Texas Gas sought to increase its rates were based upon contracts containing area rate clauses which Texas Gas relied upon as authorization for its producer suppliers to collect the ceiling prices established by the NGPA. MLGW said that "contravened the Commission's policy that area rate clauses did not authorize collection of NGPA ceiling prices." MLGW notes that the Commission in its "Final Regulations Amending and Clarifying Regulations Under the Natural Gas Policy Act", Docket No. RM79-22, March 13, 1979, Order No. 23, reversed and amended its January 24, 1979 policy statement and interim regulations in Docket No. RM79-22, and MLGW moved that the Commission order Texas Gas to refund, with interest, that portion of its rate increase that was based upon area rate clauses that formed the contractual authority for Texas Gas' rate increases for the period February 1, 1979 through March 12, 1979 during which MLGW states such rate increases contravened Commission policy.

On May 14, 1979, Texas Gas filed an Answer to the MLGW Supplement to Protest. Texas Gas argued that Order 23 does not operate prospectively only, as assumed by MLGW. Texas Gas argued that Order 23 clarifies the Commission's position and should be construed as entitling a producer with the requisite contractual authorization to collect NGPA prices not from the date Order 23 was issued but beginning December 1, 1978—the effective date of the NGPA.

Discussion

Our review of Texas Gas' compliance filing, the data filed therewith and the remainder of the record in this proceeding, indicates that Texas Gas' February 16, 1979, revised PGA filing should be accepted to become effective as of February 1, 1979, subject to the conditions set forth below.

Texas Gas' compliance filing fails to comply with the Commission's January 31, 1979, letter order because it reflects increased costs associated with the inclusion of 32 gas wells (of a total of 59) producing Section 102 gas for which the date of the interim collection filing was after the proposed February 1, 1979 effective date of the subject filing. The Commission's January 31, 1979, letter order permits only inclusion of costs which Texas Gas' suppliers were

authorized to charge as of February 1, 1979. Accordingly, the Commission shall require Texas Gas to make a revised filing to reflect elimination of the costs discussed above which Texas Gas' suppliers were not authorized to collect as of February 1, 1979.

Texas Gas' compliance filing fails to comply with the Commission's letter order because it fails to track the proper transportation rate, pursuant to a settlement agreement, of HIOS as determined in Docket No. CP75-104. The rate tracked by Texas Gas consists of a demand rate for transportation of \$4.55 per Mcf of natural gas transported and an add-on demand rate of \$0.43 per Mcf applicable to HIOS' separation facilities. The demand rate applicable to the separation facilities is applicable only to the transportation of liquids and liquefiables, and not to the transportation of natural gas. It is a non-jurisdictional service of no demonstrable benefit to Texas Gas' customers. Accordingly, the Commission shall require elimination of this add-on demand rate from Texas Gas' proposed PGA rates.

Texas Gas' filing reflects repricing of gas received by Texas Gas from a producer-affiliate; Texas Gas Exploration Corporation, to a basis equal to that which would be received by independent producers for similar vintages under the Natural Gas Policy Act of 1978 (NGPA). While Section 270.203 of the Interim Regulations under the NGPA provides, in the circumstances presented here, that the sale by the pipeline (Texas Gas) is not a "first sale" as defined by Section 2(21) of the NGPA, the Commission has not yet determined the appropriate treatment of the gas cost component of Texas Gas' rates to the extent it is attributable to this pipeline affiliate production. Accordingly, the Commission shall accept the subject tariff sheet for filing, and permit the revised PGA filing to become effective as of February 1, 1979, subject to the condition that the costs related to the pipeline affiliate purchases shall be collected subject to refund and subject to the final outcome of the pipeline affiliate production pricing issue in the Commission's final NGPA Regulation (on rehearing) governing this issue.

Texas Gas' filing reflects Section 104 NGPA prices under area rate clauses in the applicable contracts between the respective producers and Texas Gas. The Commission's acceptance of this PGA filing shall not constitute a final determination that any or all of the area rate clauses permit NGPA prices. That determination shall be made in

accordance with the procedures prescribed in Order No. 23, issued March 13, 1979, as amended by order issued April 30, 1979, in Docket No. RM79-22 and by Order No. 23-B issued June 21, 1979. Should the Commission ultimately determine that a producer was not entitled to an NGPA price under the area rate clause, the refunds which would be made by the producer to Texas Gas would be flowed through to Texas Gas' customers in accordance with the procedures prescribed in Texas Gas' PGA Clause. The procedures prescribed in Docket No. RM79-22 are adequate to resolve the contractual issues and no further proceedings in this docket are necessary.

Except as noted above, the Commission finds that Texas Gas' February 16, 1979 filing is in compliance with the Commission's January 31, 1979, letter order, the Natural Gas Act, the Natural Gas Policy Act, and the regulations thereunder. Accordingly, the Commission shall accept Texas Gas' filing subject to the conditions set forth below. To the extent not granted in this order, the joint application for rehearing filed on February 2, 1979, is denied.

The Commission orders: (A) Texas Gas' compliance filing is accepted to become effective as of February 1, 1979, subject to Texas Gas filing, within 20 days of the date of this order, a revised filing reflecting (1) elimination of increased costs from suppliers to the extent that they include costs for which the date of the interim collection filing was after February 1, 1979; and (2) the HIOS add-on demand rate of \$0.43 that reflects costs of separation facilities associated with the transportation of liquids and liquefiables.

(B) The increased costs of purchased gas received from Texas Gas' producer-affiliate, Texas Gas Exploration Corporation, shall be collected subject to refund and subject to the Commission's final NGPA rule on rehearing governing the pipeline affiliate production pricing issue.

(C) To the extent not granted above, the MLGW and Congressional Delegation joint rehearing and other requests for relief are denied.

(D) Within 30 days of the date of this order, Texas Gas shall make refunds, with interest as prescribed in Section 154.67(c) of the Regulations, of any amounts collected since February 1, 1979, in excess of those amounts permitted by the terms and conditions of this order.

By the Commission.
Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23172 Filed 7-26-79; 8:45 am]
BILLING CODE 6450-01-M

Office of Energy Research

Energy Research Advisory Board; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Energy Research Advisory Board.
Date, time, and place: August 13, 1979, 10:00 a.m. to 4:30 p.m.

August 14, 15, and 16, 1979, 9:00 a.m. to 4:30 p.m., Mahan Conference Center, Naval War College, Newport, Rhode Island.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, Room 8G031, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone: 202-252-5187.

Public participation: The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should call the Advisory Committee Management Office at the above number at least 5 days prior to the meeting and reasonable provision will be made to include their presentation on the agenda.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Executive summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Purpose of committee: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative agenda:

Monday, August 13, 1979, Introduction, approval of minutes of spring Meeting, Review of following completed projects: Strategic Petroleum Reserve Study Group, Weapons Lab Study Group, CRI Study Group, Public Comment (10 minute rule). Tuesday, August 14, 1979, Review of projects in progress: Construction/Development Projects Study Group, Planned Activities: Solar Photovoltaic Energy Advisory Committee, Geothermal Advisory

Committee, Public Comment (10 minute rule).

Wednesday, August 15, 1979, Discussion of other activities: Biomass, CO₂, Coal gasification, SO_x, ERAB Role in DOE budget process, Tech base review, Discussion of Modus operandi of Board, Public Comment (10 minute rule).

Thursday, August 16, 1979, Discussion of modus operandi of Board, continued. Discussion of scope and nature of Board activities, Public Comment (10 minute rule). Issued at Washington, D.C. on July 25, 1979.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 23436 Filed 7-26-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1275-8; OPP-180338]

California Department of Food and Agriculture; Issuance of Specific Exemption To Use Carbaryl To Control Filbertworm on Pomegranates

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has granted a specific exemption to the California Department of Food and Agriculture (hereafter referred to as the "Applicant") to use 28,000 pounds of carbaryl on 3,500 acres of pomegranates in California to control filbertworms. The specific exemption expires on December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-2691. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: The filbertworm is a common pest in filberts and walnuts. This pest, however, is relatively new in pomegranates and has caused losses only in the past two to three years. Little is known of the life cycle of this pest in pomegranates. Currently only methomyl is registered for insecticidal use on pomegranates. It is registered for use against the omnivorous leafroller. According to the Applicant, its use on pomegranates has shown no effectiveness against the filbertworm.

Limited field work has been carried out for carbaryl on pomegranates. The Applicant reports that data indicate that it would be effective against the filbertworm. Carbaryl is currently registered for control of the filbertworm on walnuts and filberts; data indicate that it is effective in controlling the filbertworm on these crops.

The proposed 3,500 acres of pomegranates represent 99 percent of U.S. pomegranate production. The Applicant estimates a possible loss of \$1.5 million from the filbertworm, if an effective program against it is not carried out.

The Applicant proposes to make a maximum of two applications of Sevin Sprayable using ground or air equipment. A 30-day preharvest interval will be observed.

EPA has determined that the proposed use of carbaryl should not result in residues in or on pomegranates in excess of 1.0 part per million (ppm). This level has been judged adequate to protect the public health. EPA has also determined that the proposed use should not present an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of filbertworms has occurred or is likely to occur; (b) there is no pesticide presently registered and available for use to control the filbertworm in California; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the filbertworm is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until December 31, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Sevin Sprayable (carbaryl), manufactured by Union Carbide, EPA Reg. No. 1016-43, may be applied;

2. Application rate will be four pounds of carbaryl per acre in 200-400 gallons of water by ground equipment and 50-100 gallons of water by air;

3. No more than two applications may be made per season. A thirty-day pre-harvest interval is imposed;

4. Applications will be by or under the supervision of State-certified applicators;

5. A maximum of 3,500 acres of pomegranates may be treated in California;

6. All applicable precautions on the EPA-registered label regarding human and wildlife safety must be observed;

7. Pomegranates treated according to the above provisions should not have residues of carbaryl in excess of 1.0 ppm. Pomegranates with residues of carbaryl which do not exceed this level may enter into interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been notified of this action;

8. The EPA shall be immediately informed of any adverse effects to man or the environment resulting from this program; and

9. The Applicant is responsible for insuring that all the provisions of this specific exemption are followed and must submit a report detailing the use of carbaryl and the results of the program by March 31, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: July 20, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-23286 Filed 7-26-79; 8:45 am]

BILLING CODE 5560-01-M

[FRL 1283-3; OPP-00101]

Pesticide Programs: Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel; Open Meeting

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a two-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel from 9:00 a.m. to 5:00 p.m. daily on Wednesday and Thursday, August 15 and 16, 1979. The meeting will be held in Salons E and F, Crystal City Marriott Hotel, 1999 Jefferson Davis Highway, Arlington, Va., and will be open to the public.

FOR FURTHER INFORMATION CONTACT: Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS-766), EPA, Room 803, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va. 20460, Telephone: 703/557-7560.

SUPPLEMENTARY INFORMATION: In accordance with section 25(d) of the

amended FIFRA, the Scientific Advisory Panel will comment on the impact of regulatory actions under sections 6(b) and 25(a) on health and the environment prior to implementation. The agenda for this meeting will include the following topics:

1. Review of the Agency's proposed regulatory action to conclude the Rebuttable Presumption against Registration (RPAR) of 2,4,5-T and silvex. EPA is proposing to hold hearings under the provisions of FIFRA Section 6(b)(2) for those uses of 2,4,5-T and silvex which were not included in the recent suspension orders;

2. Conclusion of unfinished business from the meeting held on July 19-20, 1979 (if any); and

3. In addition, the Agency may present status reports on other ongoing programs of the Office of Pesticide Programs.

Copies of draft documents may be obtained by contacting Ms. Marcia Williams, Director, Special Pesticide Review Division (TS-791), Room: 724, Crystal Mall, Building No. 2, at the address given above. Telephone: 703/557-7438.

Any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., at the address or phone listed above to be sure that the meeting is still scheduled and to confirm that the Panel will review all of the agenda items. Interested persons are permitted to file written statements before or after the meeting, and may, upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. Written or oral statements will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit the required number of copies of a summary no later than August 1, 1979.

Individuals who wish to file written statements are advised to contact the Executive Secretary in a timely manner to be instructed on the format and the number of copies to submit to ensure appropriate consideration by the Panel.

The tentative date for the next Scientific Advisory Panel meeting is September 20-21, 1979.

(Section 25(d) of FIFRA, amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136) and Sec. 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770).)

Dated: July 23, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-23287 Filed 7-26-79; 8:45 am]

BILLING CODE 5560-01-M

[FRL 1283-2]

Availability of Environmental Impact Statements Filed During Week of July 16 Through July 20, 1979

AGENCY: Office of Environmental Review Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of July 16 to 20, 1979.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from July 27, and will end on September 10, 1979. The 30-day wait period for final EIS's will be computed from the date of receipt by EPA and commenting parties.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Kathi Weaver Wilson, Office of Environmental Review A-104, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-0780.

SUMMARY OF NOTICE: Appendix I sets forth a list of EIS's filed with EPA during the week of July 16 to 20, 1979 the Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and

County(ies) of the proposed action and a brief summary of the proposed Federal action and Federal agency EIS number if available. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and the County(ies) of the EIS, the date EPA announced availability of the EIS in the Federal Register and the extended date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agencies.

Appendix V sets forth a list of reports or additional supplemental information on previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: July 24, 1979.

William N. Hedeman, Jr.,
Director, Office of Environmental Review.

Appendix I.—EIS's Filed With EPA During the Week of July 16 to 20, 1979

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 412A, Washington, D.C. 20250, (202) 447-3965.

Rural Electrification Administration

Draft

Holcomb-Red Willow 345kV Transmission Facilities, Finney County, Kans., July 20: Proposed is the awarding of guaranteed loan funds for the construction of the Holcomb-Red Willow 280MW coal-fired generating plant located near Holcomb in Finney County, Kansas. The project includes a 150 mile 345kV transmission facility, 3.5 miles of rail spur, a pulverized coal boiler, and other features. Water required for condenser cooling and other plant processes will be obtained from a series of wells to be located on the plant site. (USDA-REA-EIS-ADM-79-9.) (EIS Order No. 90753.)

Final

Ojo-Taos 345kV transmission and related facilities, Taos and Rio Arriba Counties N. Mex., July 17: The proposed action concerns the use of REA insured loan funds to finance the construction of the Ojo-Taos 345kV

transmission line and related terminal facilities located in Taos and Rio Arriba Counties, New Mexico. The 38 mile transmission line will be built between the Taos substation of Plains Electric Generation and Transmission Cooperative, Inc., and the Ojo substation of the Public Service Company of New Mexico. Both substations will be modified to accommodate the terminal facilities for the transmission line. (USDA-REA-EIS-ADM-78-13-F). Comments made by: DOI, USDA, COE, EPA, DOT, FERC, State and local agencies groups. (EIS Order No. 90729.)

Soil Conservation Service

Draft

Calapooya Creek Watershed, multipurpose program, Douglas County, Oreg., July 17: Proposed is a multipurpose project for the Calapooya Creek Watershed located in Douglas County, Oregon. The purposes of the project are watershed protection, irrigation, municipal and industrial water supply, flood prevention, and water-based recreation. Planned works of improvement include conservation land treatment, one multiple purpose dam, water-based recreational development and associated on farm irrigation and drainage measures. Eight alternatives are considered. (USDA-SCS-EIS-WS(ADM)-79-1-(D)OR). (EIS Order No. 90731.)

Final

Trinity River Watershed, project completion, several counties in Texas, July 16: Proposed is the completion of the Trinity River Watershed project which involves several counties in Texas. The remaining work to be completed includes: (1) Applying conservation land treatment on 299,000 acres and critical area treatment on 27,000 acres of agricultural lands; (2) installing 134 floodwater retarding structures; (3) multi-purpose structures with basic recreational development areas; (4) 10 Rippap structures; and (5) 12.49 miles of channel work. (USDA-SCS-EIS-WS-ADM-79-1-(F)-TX.) Comments made by: COE, DOI, EPA, USDA, HEW, State and local agencies businesses. (EIS order No. 90726.)

Forest Service

Draft

Bull River—Clark Fork Planning Unit, Kootenai National Forest, Bonner County, Idaho and Lincoln and Sanders Counties, Montana, July 16: Proposed is a land management plan for the Bull River—Clark Fork Planning Unit of the Kootenai National Forest within the county of Bonner, Idaho, and the counties of Lincoln and Sanders, Montana. The unit encompasses 260,000 acres of land. In addition to no action four alternatives are considered which emphasize: (1) Amenity values and wildlife habitat, (2) commodity production, (3) primitive and dispersed recreation, and (4) all potential (USDA-FS-DES-ADM-01-14-79-11). (EIS Order No. 90724.)

DEPARTMENT OF DEFENSE,

Contact: Col. Charles E. Sell, Chief of the Environmental Office, Headquarters DAEN-

ZCE, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310, (202) 694-4269.

Army

Draft

Fort Story, ongoing mission, Virginia, July 20: Proposed is the continuation of the ongoing mission of Fort Story located on Cape Henry within the city of Virginia Beach, Virginia. Fort Story is a permanent post and serves as the only U.S. Army facility located suitably for varied amphibious operations, and is a subinstallation of Fort Eustis, Virginia. The alternatives considered: (1) Change of mission, (2) excess Fort Story, and (3) continuation of the ongoing mission. (EIS Order No. 90743.)

Fort Lewis and Yakima Firing Center, Several counties in Washington, July 20: Proposed is the continuation and improvement of day-to-day operations at Fort Lewis in Pierce and Thurston Counties, Washington, and at its major subinstallation, Yakima Firing Center in Yakima and Kittitas Counties, Washington. Also examined is the implementation of a master plan for Fort Lewis which would upgrade facilities at both installations to improve the ability to accomplish assigned missions. The alternatives for both locations include: (1) Continuance of present operations, (2) discontinuance and relocation of operations, and (3) a reduction of operations. (EIS Order No. 90744.)

Final

U.S. Army Nuclear, Biological and Chemical School, Calhoun and Madison Counties, Ala., and Harford County, Md., July 20: Proposed is the establishment of an Army Nuclear, Biological, and Chemical School on one of three alternative sites: Fort McClellan, Calhoun County, Alabama; Redstone Arsenal, Madison County, Alabama; or Aberdeen Proving Ground (APG), Harford County, Maryland. The fourth alternative addresses the maintenance of the current, limited training programs at Redstone Arsenal and APG. Comments made by: DOI, EPA, HUD, HEW, State and local agencies. (EIS Order No. 90747.)

DEPARTMENT OF DEFENSE Contact: Mr. Ed Johnson, Head, Environmental Impact Statement/R.D.T. & E. Branch, Office of the Chief of Naval Operations, Department of the Navy, Washington, D.C. 20350, (202) 697-3689.

NAVY

Draft

Berthing/repair pier No. 13, Naval Station, San Diego, San Diego County, Calif., July 20: Proposed is the construction of berthing/repair pier No. 13 to be located at the naval station in the city and county of San Diego, Calif. The pier will be of reinforced concrete and will be 120 feet wide by 1,458 feet long, extending out from the quaywall to just short of the combined U.S. pier head and station boundary line. The alternatives considered: (1) No action, (2) land disposal of dredged spoil, (3) other dredged material water disposal sites, and (4) other pier sites in the

San Diego area. It has been determined that no other suitable pier or disposal sites exist in the area. (EIS Order No. 90742.)

Naval Air Station Clear Zone, Brunswick, Cumberland County, Maine, July 20: Proposed is the acquisition of fee title or such other interests as may be necessary to remove and prevent human habitation and development of the clear zone at the northern ends of runways 1L-19R and 1L-19L at the Naval Air Station, Brunswick, Cumberland County, Maine. The alternatives considered include: (1) No action, (2) displace thresholds of both runways and add new surface to the departure end of runway 19L, (3) restrictive easement only, and (4) achievement of land use restrictions through planning and zoning. (EIS Order No. 90741.)

Corps of Engineers

Contact: Dr. C. Grant Ash, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20314, (202) 693-6795.

Draft

Pine Mountain Lake construction, Ozark National Forest, Crawford County, Ark., July 18: Proposed is the construction of Pine Mountain Lake on Lee Creek within the Ozark National Forest, Crawford County, Ark. The lake will be constructed for purposes of flood control, water supply and recreation. The dam will be a rock filled embankment dam with a multiple-level intake structure and an ungated emergency spillway. The alternatives include: (1) Three structural alternatives, (2) five nonstructural alternatives, (3) ten water supply alternatives, and (4) two recreation alternatives. Lee Creek is a tributary of the Arkansas River (Little Rock District). (EIS Order No. 90732.)

Susupe-Chalan Kanoa Flood Control, Saipan Island, U.S. Territory, July 16: Proposed are flood control measures for the Lake Susupe/Chalan-Kanoa area on the island of Saipan within the commonwealth of the Northern Mariana Islands. Four structural alternatives are considered which all include the construction of an earthen levee and an outlet channel. They differ in the location of the earthen levee and/or size of the outfall channel. A fifth alternative addresses the filling of all low-lying areas west of Lake Susupe and the Chalan-Kanoa Marsh. (Honolulu District.) (EIS Order No. 90723.)

Draft

Crown Bay Channel navigation improvement, Virgin Islands, July 16: Proposed are navigation improvements for the St. Thomas Harbor of the Virgin Islands. The improvements would provide a channel and turning basin from the harbor to Crown Bay with depths of 38 feet in the channel and 36 feet in the basin. Three structural alternatives are considered. The first two would provide for the construction and maintenance of a channel and turning basin with two-way traffic through either the west or east Gregorie Channels. The third alternative would provide for the construction and maintenance of a channel

and turning basin with one-way traffic through both the east and west Gregorie Channels. (Jacksonville District.) (EIS Order No. 90494.)

Aquatic plant management program, King and Okanogan Counties, Wash., July 18: Proposed is a program for the management of the aquatic plant eurasian watermilfoil in the Counties of King and Okanogan, Washington. The initial program would include the treatment of approximately 91 acres of Lakes Washington, Sammamish, and Union and spot treatment in Osoyoos Lake and the Okanogan River. The primary control methods would be mechanical harvesting and 2,4-D application. Other treatment methods which may be used are barrier structures; aquascreeens; the chemicals endothall, casoron, and diquat; suction dredges; hand pulling; and rotovators. (Seattle District.) (EIS Order No. 90734.)

Final

Grove Isle (Fair Isle) marina, Miami, permit, Dade County, Fla., July 18: Proposed is the issuance of a permit for the construction of a fixed-pier marina and appurtenant facilities with docking capacity of about 98 boats on Grove Isle (formerly Fair Isle), Dade County, Florida. Construction will consist of three concrete fixed piers extending a maximum of 250 feet into Biscayne Bay, and another extending 150 feet into the bay. About 44 finger piers would be constructed as slips for the five piers. (Jacksonville District.) Comments made by: DOC, DOI, EPA, DOT, State and local agencies, groups, individuals and businesses. (EIS Order No. 90737.)

Final

Portland Harbor maintenance dredging, Maine, July 20: Proposed is the maintenance dredging of the Federal navigation channel in Portland Harbor, Maine. The channel is authorized to be maintained at a depth of 35 feet and at widths varying from 1400 feet to 300 feet. To reestablish these dimensions, approximately 850,000 cubic yards of sediments must be removed from the channel. Alternatives considered are no dredging; clamshell and hydraulic dredge; and alternative disposal sites—on-shore and off-shore (New England Division). Comments made by: EPA, DOI, DOC, HUD, NOAA, State agencies. (EIS Order No. 90745.)

Bellingham Harbor navigation project, Whatcom County, Wash., July 20: Proposed is an ongoing program of maintenance dredging within the Bellingham Harbor, Whatcom County, Wash., including project waterways, dredged materials (320,000 C.Y.) will be disposed of in a Washington Department of Natural Resources designated open water disposal area, the currently authorized Bellingham Harbor navigation project will involve dredging of three project waterways to maintain their authorized project depths, included under the present authorization are Squalicum Creek Waterway, 18¹/₂ Street Waterway, Whatcom Creek, and the entrance channel to Squalicum Small Boat Basin. (Seattle District.) Comments made by: HUD, EPA, USDA, DOE, COE, DOI, AHP,

State and local agencies, groups, individuals and businesses. (EIS Order No. 90746.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377-4335.

National Oceanic and Atmospheric Administration

Draft

North Pacific Fur Seals, conservation convention, Pacific Ocean, July 20: Proposed is an interim convention for the conservation of the North Pacific fur seals. The convention now in effect will expire in October of 1980. The alternatives considered: (1) Termination of the convention, with treaties managing the seals internationally; (2) renegotiation of the convention to incorporate the concept of optimum sustainable population; and (3) extension of the convention to continue the present international management program predicated on maximum sustainable productivity, ecosystem consideration, and human controlled harvest practices. (EIS Order No. 90750.)

ENVIRONMENTAL PROTECTION AGENCY

Contact Mr. Kenneth Bigos, Region IX, Environmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105, (415) 556-8030.

Final

Point Source Metro Phoenix, 208 plan, Maricopa County, Ariz., July 20: Proposed is a 208 water quality plan for the management of point source water pollution in the metropolitan Phoenix area, Maricopa County, Ariz. The selected plan would include: (1) upgrading and expanding existing wastewater treatment facilities, (2) constructing new facilities, (3) increasing reuse of effluent, and (4) providing an areawide management system to analyze and solve wastewater problems, four alternatives were considered. Comments made by: AHP, FERC, DOI, USDA, DOT, State and local agencies, individuals and businesses. (EIS Order No. 90751.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6306.

Draft

Bloomington planned unit development, Tampa, Hillsborough County, Fla., July 20: Proposed is the issuance of HUD Home Mortgage Insurance for the Bloomington Planned Unit Development located in Tampa, Hillsborough County, Fla. When completed, the subdivision, which encompasses approximately 1,958 acres, is expected to consist of approximately 6,727 dwelling units (HUD-RO4-EIS-78-01). (EIS Order No. 90754.)

Draft

Rice Lake trails and Lake Wood developments, Hennepin County, Minn., July 16: Proposed is the issuance of HUD Home Mortgage Insurance for the Rice Lake Trails and Lake Wood Developments located in Maple Grove, Hennepin County, Minnesota. Phases of development will include the construction of approximately 1,746 housing units of which 802 will be single family, while the remainder are to be double family and townhouses. Land area within the development is being reserved for open space and recreational use. (HUD-RO5-EIS-79-03-(D)). (EIS Order No. 90725.)

Final

Hover Acres planned development, Longmont, Boulder County, Colo., July 16: Proposed is the issuance of HUD home mortgage insurance for Hover Acres planned development located within the city of Longmont, Boulder County, Colo. The development will include the construction of 487 dwelling units and a 100-150 bed nursing facility within Hover Village (the retirement community) and 398 single-family and duplex units within Hover Acres subdivision. (HUD-RO5-EIS-79-XII-F). Comments made by: COE, DOC, DOE, HEW, DOI, State and local agencies. (EIS Order No. 90727.)

Toa Alta Heights development, Toa Alta, Puerto Rico, July 20: Proposed is the issuance of HUD home mortgage insurance for development of two sections of the Toa Alta Heights development, Toa Alta, Puerto Rico. The two sections involved, when completed, will provide 1,729 dwelling units and will involve 198.61 acres of land. Development will include both single and multi-family units, and community facilities. Comments made by: DOT, COE, HUD, GSA, DOI, HEW, EPA, USDA, State agencies. (EIS Order No. 90749.)

Plankinton House, north wing addition, Milwaukee, Milwaukee County, Wis., July 18: Proposed is the clearance of all improvements on urban renewal parcel 5-1 including the demolition of the Plankinton House and north wing addition (the last remaining activity) located in Milwaukee County, Wisconsin. The alternatives considered are: (1) No federal action, (2) project as proposed, and (3) with modification. Alternative 3 includes: (1) documentation of Plankinton House prior to demolition, or (2) removal and transfer of portions of the house, or (3) demolition of the north wing only (HUD-RO5-EIS-79-04(F)). Comments made by: GSA, VA, COE, DOI, EPA, State and local agencies. (EIS Order No. 90735.)

Section 104(H)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Draft

Gallery II of Market Street East (CDBG), Philadelphia County, Pa., July 16: Proposed is the awarding of CDBG funding for the development of the Gallery II of Market Street east within the city and county of Philadelphia, Pennsylvania. The Gallery II is a commercial development project providing 880,000 sq. ft. of office space, some 400,000 sq. ft. of leasable retail area, and a 950 car garage. The project is a continuation of the already completed Gallery I and is to be built partially over the Center City Commuter Connection now under construction. (EIS Order No. 90721.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426-4357.

Federal Aviation Administration

Draft

Kansas City International Airport, Platte County, Mo., July 16: Proposed is the ultimate acquisition of approximately 4,500 acres in Kansas City, Platte County, Missouri for the future development of the Kansas City International Airport. Principal development items include the construction of two runways, Associated taxiways, aprons, and terminal facilities. The alternatives considered are: (1) The use of other airports, (2) other modes of transportation, (3) no build, and (4) alternative airfield and terminal area locations and configurations. (EIS Order #90722.)

Federal Highway Administration

Draft

Route 234 Bypass Construction, Manassas, Prince William County, Va., July 18: Proposed is the construction of a bypass facility around the city of Manassas in Prince William County, Virginia for existing route 234. The corridor extends from the intersection of Route 619 at Independent Hill on the south to the intersection of U.S. 15 at Woolsey. The project length would vary from 14.76 miles to 21.77 miles, depending upon which alternative is selected. All bypass alternatives are on the west side of the city of Manassas.

(FHWA-EIS-79-03-D) (EIS Order No. 90733.)

Final

Going Street Noise Mitigation Project, Portland, Multnomah County, Ore., July 17: Proposed is a noise mitigation project for the going street area in Portland, Multnomah County, Oregon. The purpose of the project is to reduce the sound, levels which impact existing land uses in the going street study area. Going street extends east to west from I-5 to Swan Island Industrial Park. The alternatives considered are: (1) No build; and (2) build alternatives consisting of a noise barrier, soundproofing, and nonstructural strategy. Comments made by: DOE, DOI, EPA, State and local agencies. (EIS Order No. 90730.)

Swan Island Transportation Access, Multnomah County, Ore., July 18: The purpose of the proposed action is to improve access to the Swan Island industrial area and relieve future traffic related problems on North Going Street located in Portland, Multnomah County, Oregon. The alternatives consist of roadway improvements, and construction of ingress and egress ramps to connect Greeley Avenue with I-5 in the vicinity of the Freemont Bridge Interchange. This action would provide for the diversion of traffic to and from I-5 south, from north Going Street to Greeley Avenue.

(FHWA-OR-EIS-78-01-F) Comments made by: DOI, DOE, State and local Agencies, groups, individuals and businesses. (EIS Order No. 90736.)

Bucklin Hill Area Transportation Study, Kitsap County, Wash., July 18: The proposed project is intended to improve or supplement the existing Bucklin Hill Road located in Kitsap County, Washington. Several alternatives were considered to relieve the current and projected traffic congestion problems on Bucklin Hill Road and in the city center of Silverdale. Alternative alignments within two corridors were studied in detail with mass transportation proposals overlaid on each proposal. The new or improved facility will connect WA-303, Brownsville Highway on the east and the WA-3 north-south corridor on the west. (FHWA-WA-EIS-78-03-F) Comments made by: DOE, USDA, DOI, EPA, State and local agencies, groups, individuals and businesses. (EIS Order No. 90738.)

Federal Railroad Administration

Draft

C&NW Coal Line Project, several counties, Wyo., July 20: Proposed are a group of related railroad projects for the transport of coal from the area of existing and proposed coal mine development in converse and Campbell Counties, Wyoming to points of consumption in the North Central States, the South Central States, Texas, and Florida. The projects include the acquisition by C&NW of one-half interest in a 106-mile long rail line presently under construction, rehabilitation of portions of an existing rail line, construction of a connection to an existing branch line of the Union Pacific Railroad, and development of facilities necessary to support rail operations. (EIS Order No. 90752.)

Urban Mass Transportation Administration

Draft

Honolulu Area Fixed Guideway Rapid Transit System, Honolulu County, Hawaii, July 20: Proposed is the awarding of Capitol grant funding for the implementation of a guideway rapid transit system within the city and county of Honolulu, Island of Oahu, Hawaii. Supplemented by an island-wide local and express feeder bus system, the project would provide improved transit service. The development of the proposed system consists of alternative fixed guideway segment lengths of 7 to 14 miles served by 10 to 16 stations. Five alternative lengths and two vehicle technologies are considered. (EIS Order No. 90748.)

VETERANS ADMINISTRATION

Contact: Mr. Willard Sittler, Director, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, Washington, D.C. 20420, (202) 389-2526.

Final

National cemetery, southeastern U.S., site proposal, Clayton County, GA., Russell County, Ala., Richland County, S.C., July 18: Proposed is the construction of a national cemetery on one of three sites under consideration to serve the southeastern area of the U.S. The first site will consist of approximately 297 acres and is located at Fort Gillem, Clayton County, Georgia. The second site is located at Fort Mitchell, Russell County, Alabama, on an approximate 450 acre tract. The third site will be located on an

approximate 321 acre tract at Fort Jackson, Richland, County, South Carolina. The selected site will also include service and administrative facilities. Comments made by: EPA, USDA, DOI, HEW, USA, State and local agencies, groups, individuals, and businesses. (EIS Order No. 90739.)

National cemetery, Great Lakes area, site proposal, Kalamazoo County, Mich., Huron County, Ohio, July 18: Proposed is the construction of a national cemetery at one of two sites under consideration to serve the Great Lakes area of the U.S. The first (and preferred) alternative site consists of approximately 740 acres and is located at Fort Custer, Kalamazoo County, Michigan. The second site consists of approximately 830 acres and is located in Plum Brook, Huron County, Ohio. The development will include space for approximately 80,000 to 110,000

grave sites through the year 2000, along with administration and service facilities. Comments made by: EPA, GSA, NASA, DOI, State and local agencies, businesses. (EIS Order No. 90740.)

VA Administration Medical Center, Camden, Camden County, N.J., July 17: Proposed is the construction of a veterans medical center in Camden City and County, New Jersey. Construction of the medical center is intended to better serve the veterans in the southern New Jersey region and to relieve the demand of an overburdened facility in Philadelphia. The center will contain a maximum, possibly, of 480 beds, and approximately 312,225 net square feet of floor area. Three alternatives are considered. Comments made by: EPA, DOT, DOI, AHP, VA, HUD, GSA, State and local agencies. (EIS Order No. 90728.)

EIS's Filed During the Week of July 16 to 20, 1979

(Statement Title Index—by State and County)

State	County	Status	Statement title	Accession No.	Date filed	Orig agency No.
Alabama	Russell	Final	National Cemetery, Southeastern U.S., Site Proposal.	90739	7-18-79	VA
	Calhoun	Final	U.S. Army Nuclear, Biological and Chemical School	90747	7-20-79	USA
	Madison	Final	U.S. Army Nuclear, Biological and Chemical School	90747	7-20-79	USA
Arizona	Maricopa	Final	Point Source Metro Phoenix, 208 Plan	90751	7-20-79	EPA
Arkansas	Crawford	Draft	Pine Mountain Lake Construction, Ozark National Forest.	90732	7-18-79	COE
California	San Diego	Draft	Berthing/Repair Pier No. 13, Naval Station, San Diego.	90742	7-20-79	USN
Colorado	Boulder	Final	Hover Acres Planned Development, Longmont.	90727	7-16-79	HUD
Florida	Dade	Final	Grove Isle (Fair Isle) Marina, Miami, Permit	90737	7-18-79	COE
	Hillsborough	Draft	Bloomington Planned Unit Development, Tampa	90754	7-20-79	HUD
Georgia		Final	National Cemetery, Southeastern U.S. Site Proposal.	90739	7-18-79	VA
Hawaii	Honolulu	Draft	Honolulu Area Fixed Guideway Rapid Transit System.	90748	7-20-79	DOT
Idaho	Bonner	Draft	Bull River—Clark Fork Planning Unit, Kootenai National Forest.	90724	7-16-79	USDA
Kansas	Finney	Draft	Holcomb-Red Willow 345 KV Transmission Facilities.	90753	7-20-79	USDA
Maine	Cumberland	Final	Portland Harbor Maintenance Dredging.	90745	7-20-79	COE
Maryland	Harford	Draft	Naval Air Station Clear Zone, Brunswick.	90741	7-20-79	USN
Michigan	Kalamazoo	Final	U.S. Army Nuclear, Biological and Chemical School	90747	7-20-79	USA
		Final	National Cemetery, Great Lakes Area, Site Proposal.	90740	7-18-79	VA
Minnesota	Hennepin	Draft	Rice Lake Trails and Lake Wood Developments	90725	7-16-79	
Missouri	Platte	Draft	Kansas City International Airport	90722	7-16-79	DOT
Montana	Lincoln	Draft	Bull Run—Clark Ford Planning Unit, Kootenai National Forest.	90724	7-16-79	USDA
	Sanders					
New Jersey	Camden	Final	VA Administration Medical Center, Camden	90728	7-17-79	VA
New Mexico	Rio Arriba	Final	OJO-Taos 345 KV Transmission and Related Facilities.	90729	7-17-79	USDA
	Taos	Final	OJO-Taos 345 KV Transmission and Related Facilities.	90729	7-17-79	USDA
Ohio	Huron	Final	National Cemetery, Great Lakes Area, Site Proposal.	90740	7-18-79	VA
Oregon	Douglas	Draft	Calapooya Creek Watershed, Multipurpose Program.	90731	7-17-79	USDA
	Multnomah	Final	Going Street Noise Mitigation Project, Portland	90730	7-17-79	DOT
		Final	Swan Island Transportation Access.	90736	7-18-79	DOT
Pacific Ocean		Draft	North Pacific Fur Seals, Conservation Convention.	90750	7-20-79	DOC
Pennsylvania	Philadelphia	Draft	Gallery II of Market Street East (CDBG)	90721	7-16-79	HUD
Puerto Rico		Final	Toa Alta Heights Development, Toa Alta	90749	7-20-79	HUD
Several	Several	Draft	C&NW Coal Line Project—Texas, Wyoming, Florida—Northern Central States and Southern Central States.	90752	7-20-79	DOT
South Carolina	Richland	Final	National Cemetery, Southeastern United States, Site Proposal.	90739	7-18-79	VA
Texas	Sevier	Final	Trinity River Watershed, Project Completion.	90726	7-16-79	USDA
U.S. Territory		Draft	Susupe-Chalan Kanoa Flood Control Saipan Island—Commonwealth of the Northern Mariana Islands.	90723	7-16-79	COE
Virgin Islands		Draft	Crown Bay Channel Navigation Improvement.	90494	7-16-79	COE
Virginia		Draft	Fort Story, Ongoing Mission	90743	7-20-79	USA
	Prince William	Draft	Route 234 Bypass Construction, Manassas	90733	7-18-79	DOT
Washington	Several	Draft	Fort Lewis and Yakima Firing Center	90744	7-20-79	USA
	King	Draft	Aquatic Plant Management Program	90734	7-18-79	COE
	Kitsap	Final	Bucklin Hill Area Transportation Study	90738	7-18-79	DOT
	Okanogan	Draft	Aquatic Plant Management Program	90734	7-18-79	COE
Wisconsin	Whatcom	Final	Bellingham Harbor Navigation Project	90745	7-20-79	COE
	Milwaukee	Final	Plankinton House, North Wing Addition, Milwaukee	90735	7-18-79	HUD

Appendix II.—Extension/Waiver of Review Periods on EIS's Filed With EPA

Federal agency contact	Title of EIS	Filing status accession No	Date notice of availability published in "Federal Register"	Waiver extension	Date review terminates
DEPARTMENT OF COMMERCE Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377-4335.	East and West Flower Gardens, Manne Sanctuary.	Draft 90363	4/13/79	Extension	7/06/79
In addition to the extension on the Draft EIS, the DOC/NOA has extended the review period of the proposed rulemaking published March 13, 1979 (44 FR 22081) on 15 CFR Part 934. The review period for both the Draft EIS and proposed rulemaking is scheduled to close on August 10, 1979.					
DEPARTMENT OF HUD Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6306.	Charleston Center, Redevelopment.	Final 90649	7/6/79	Extension	8/20/79
NUCLEAR REGULATORY COMMISSION Mr. John B. Martin, Director, Division of Waste Management, Nuclear Regulatory Commission, Washington, D.C. 20555.	Uranium Milling, Generic Statement, Programmatic.	Draft 90412	4/27/79	Extension	7/26/79

Appendix III.—EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency

Federal agency contact	Title of EIS	Filing status/accession No	Date notice of availability published in "Federal Register"	Date of withdrawal
None.				

Appendix IV.—Notice of Official Retraction

Federal agency contact	Title of EIS	Status/number	Date notice published in "Federal Register"	Reason for retraction
DEPARTMENT OF TRANSPORTATION Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357.	I-93 and U.S. 1 Interchange, Boston and Cambridge.	Final 90604	6/29/79	Distribution of the final EIS has not been completed.

Appendix V.—Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA

Federal agency contact	Title of report	Date made available to EPA	Accession No.
None.			

Appendix VI.—Official Correction

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice published in "Federal Register"	Correction
DEPARTMENT OF DEFENSE, ARMY Col. Charles E. Sell, Chief of the Environmental Office, Headquarters DAEN-ZCE, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E678, Pentagon, Washington, D.C. 20310, (202) 694-4269.	Fort Richardson, Land Withdrawal	Draft 90700	7/20/79	This draft EIS was incorrectly published as a final.
	Fort Bliss, Ongoing Mission	Draft 90701	7/20/79	This draft EIS was incorrectly published as a final.

[PR Doc. 79-23221 Filed 7-26-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

Radio Technical Commission for Marine Services; Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act, the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 70

"Minimum Performance Standards (MPS)—Marine Loran-C Receiving Equipment"

Notice of 18th Meeting

Monday, August 13, 1979; 9:30 a.m.; Tuesday, August 14, 1979; 9:30 a.m. Conference Room (Second floor), U.S. Coast Guard Marine Inspection Office, Battery Park at South Ferry, New York, New York.

Agenda

1. Call to Order
2. Old Business
3. Consideration of terms of Reference
4. New Business
5. Administrative Matters

Edward Bregstone, Test Specifications, Working Group Chairman, U.S. Coast Guard Headquarters, Washington, D.C. Phone: (202) 426-1201.
Captain Alfred E. Fiore, Chairman, U.S. Merchant Marine Academy, Kings Point, New York Phone (516) 482-8200.

Executive Committee Meeting

Notice of August Meeting

Thursday, August 16, 1979; 9:30 a.m. Conference Room 7200, Nassif (D.O.T.) Building, 400 Seventh St., SW., Washington, D.C.

Agenda

1. Administrative Matters

2. Acceptance of FY-79 Second Quarter Financial Statement
3. Review of auditor selection procedures
4. Discussion on organizational developments

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632-6490).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[PR Doc. 79-23120 Filed 7-26-79; 8:45 am]

BILLING CODE 6712-01-M

[Canadian List No. 387]

Notification List: List of New Stations, Proposed Changes in Existing Stations, Deletions, and Corrections in Assignments of Canadian Standard Broadcast Stations Modifying the Assignments of Canadian Broadcast Stations Contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941

July 10, 1979.

Call letters	Location	Power kW	Antenna	Schedule	Class	Antenna height (feet)	Ground system		Proposed date of commencement of operation
							Number of radials	Length (feet)	
CKWL	Williams Lake, British Columbia N. 52°05'29" W. 122°10'27" (P.O. DA-2)	1	DA-N ND-D-185.	570 kHz U	III				7-10-80
VOWR	St. John's Newfoundland N. 47°34'19" W. 52°45'14" (now in operation with increased power)	5D/2.5N	ND-180	800kHz U	II	200	120	492	
CHRD	Drummondville, Quebec N. 45°47'47" W. 72°29'04" (P.O. 10kW) (P.N. Reduced O= 18mV/m) (Reduced Q= 10mV/m)	50D/35N	DA-2	1480kHz U	III				7-10-80

Richard J. Shiben,

Chief, Broadcast Bureau, Federal Communications Commission.

[PR Doc. 79-23277 Filed 7-26-79; 8:45 am]

BILLING CODE 6712-01-M

[Canadian List No. 386]

Notification List: List of New Stations, Proposed Changes in Existing Stations, Deletions, and Corrections in Assignments of Canadian Standard Broadcast Stations Modifying the Assignments of Canadian Broadcast Stations Contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941

June 30, 1979.

Call letters	Location	Power kW	Antenna	Schedule	Class	Antenna height (feet)	Ground system		Proposed date of commencement of operation
							Number of radials	Length (feet)	
CFYQ	Gander, Newfoundland N. 48°58'30" W. 54°36'47" (P.O. 1350 kHz, 1 kW, ND-185, III, 135 120 283) (This proposal conflicts with proposals for new stations at Spaniards Bay/Harbour Grace and St. John's, Newfoundland on 850 kHz. Only one of the three will be authorized).	5D/1N	ND-180	850 kHz U	II	196	120	283	6-30-80

June 30, 1979.

Call letters	Location	Power kW	Antenna	Schedule	Class	Antenna height (feet)	Ground system		Proposed date of commencement of operation
							Number of radials	Length (feet)	
CFPA	Thunder Bay, Ontario N. 48°24'37" W. 89°14'50" (Correction of geographical co-ordinates)	1D/0.25N	ND-210	1230 kHz U	IV	306	120	500	
CFNI	Port Hardy, British Columbia N. 50°42'35" W. 127°26'10" (Assignment of call letters)	1D/0.25N	ND-182	1240 kHz U	IV	135	120	318	10-18-79
CIRB	Lac Etchemin, Quebec N. 46°23'04" W. 70°27'07" (Now in operation)	1D/0.25N	ND-185	1240 kHz U	IV	160	120	317	
CJTN	Trenton, Ontario N. 44°02'41" W. 77°34'47" (Now in operation)	1	DA-2	1270 kHz U	III				
CJSO	Sorel, Quebec N. 45°59'58" W. 73°10'09" (Correction of geographical co-ordinates)	10D/5N	DA-2	1320 kHz U	III				
CFYQ	Gander, Newfoundland N. 48°58'30" W. 54°36'47" (Vide 850 kHz)	1	ND-185	1350 kHz U	III	135	120	283	

Richard J. Shiben,
Chief, Broadcast Bureau, Federal Communications Commission.
[FR Doc. 79-23278 Filed 7-26-79; 8:45 am]

BILLING CODE 6712-01-M

[Canadian List No. 385]

Notification List: List of New Stations, Proposed Changes in Existing Stations, Deletions, and Corrections in Assignments of Canadian Standard Broadcast Stations Modifying the Assignments of Canadian Broadcast Stations Contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941

May 30, 1979.

Call letters	Location	Power kW	Antenna	Schedule	Class	Antenna height (feet)	Ground system		Proposed date of commencement of operation
							Number of radials	Length (feet)	
CBGA-1	New Carlisle, Quebec N. 47°49'26" W. 65°06'02" (Change of directional antenna system and radiation patterns)	10	DA-2	540 kHz U	II				11-24-79
CKCL	Truro, Nova Scotia N. 45°22'28" W. 63°20'51" (PO kw, change of directional antenna radiation pattern)	10D/1N	DA-1	600 kHz U	III				5-30-80
CKST	St. Albert, Alberta N. 53°26'00" W. 113°37'00" (under construction, minor modification of directional antenna system and radiation pattern)	10	DA-1	1070 kHz U	II				8-5-79
CKGY	Red Deer, Alberta N. 52°08'56" W. 113°51'30" (in operation with change of day-time radiation pattern)	10D/5N	DA-2	1170 kHz U	II				
CJSA	Ste. Agathe des Monts, Quebec N. 46°04'34" W. 74°19'20" (correction of geographical co-ordinates from N 46°04'25" W. 74°19'05")	1D/0.25N	ND-184	1230 kHz U	IV	160	120	300 Ave	
CJCD	Yellowknife, North West Territories N. 62°28'00" W. 114°18'10" (Assignment of call letters)	1	ND-182	1240 kHz U	IV	150	120	317 Ave	12-27-79
CJNS	Meadow Lake, Saskatchewan N. 54°05'30" W. 108°27'08" (in operation)	1D/0.25N	ND-182	1240 kHz U	IV	150	120	317 Ave	

May 30, 1979.

Call letters	Location	Power kW	Antenna	Schedule	Class	Antenna height (feet)	Ground system		Proposed date of commencement of operation
							Number of radials	Length (feet)	
CJVL	Ste. Marie de Beauce, Quebec N. 46°24'00" W. 70°58'12" (in operation)	10D/5N	DA-2	1360 kHz U	III				
CJXX	Grande Prairie, Alberta N. 55°08'11" W. 118°45'13" (Assignment of call letters)	10	DA-1	1430 kHz U	III				5-30-80

Richard J. Shiben,
Chief, Broadcast Bureau, Federal Communications Commission.
[FR Doc. 79-23278 Filed 7-26-79; 8:45 am]

BILLING CODE 6712-01-M

[Report No. A-1]

TV Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: July 12, 1979.

Erratum

The television applications listed below were inadvertently included on the Acceptance for Filing Notice, Report No. A-1, released July 3, 1979:

BPCT-790130KO, NEW; Boulder, Colorado, Family Television, Inc., Channel 14, ERP: Vis. 1750kw; HAAT: 617 ft.
BPCT-790130KP, NEW; Broomfield, Colorado, Rocky Mountain 14, Inc., Channel 14, ERP: Vis. 1000kw; HAAT: 1050 ft.
BPGT-790130KR, NEW; Boulder, Colorado, C.S. TV, Inc., Channel 14, ERP: Vis. 2820kw; HAAT: 1564 ft.
BPGT-790130KS, NEW; Boulder, Colorado, Boulder Telecasting Corporation, Channel 14, ERP: Vis. 100kw; HAAT: 77 ft.

Accordingly, the applications are removed from the notice. The January 30, 1979, cut-off-date for BPCT-790130KO (formerly BPCT-5227) is reinstated.

Federal Communications Commission.
William J. Tricarico,
Secretary.

FR Doc 79-23281 Filed 7-26-79; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Federal Financial Institutions Examination Council Act of 1978, 12 U.S.C. 3305]

Commercial Banks; Proposed Statement of Policy Concerning Minimum Standards for Documentation, Accounting and Auditing of Foreign Exchange and Money Market Operations of Commercial Banks

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Proposed policy statement.

SUMMARY: This proposed statement of standards for the documentation, accounting and auditing of foreign exchange and money market activities of commercial banks was prepared by the Task Force on Supervision of the Federal Financial Institutions Examination Council. It is intended to reinforce existing procedures and practices widely utilized by commercial banks in monitoring and controlling their foreign exchange and money market activities and in providing timely and accurate reports to their own Boards of Directors, senior management, government supervisors, and other interested parties.

EFFECTIVE DATE: Written comments must be received on or before September 25, 1979.

ADDRESSES: Comments should be addressed to Mr. Paul M. Homan, Chairman, Task Force on Supervision, Federal Financial Institutions

Examination Council, Washington, D.C. 20219.

FOR FURTHER INFORMATION CONTACT: Mr. Hugh W. Conway, Review Examiner, Federal Deposit Insurance Corporation, Room 5100, 550 17th Street NW., Washington, D.C. 20429. (202) 389-4349.

SUPPLEMENTARY INFORMATION: To provide bank management with timely and accurate details of their banks' foreign exchange and money market activities and to provide government supervisors and other interested parties with reasonably uniform minimum data the following standards are proposed. It must be recognized that the standards contained herein represent the current judgment of the Federal Financial Institutions Examination Council as to the minimum requirements for banks' foreign exchange and money market operations and should not be perceived as all encompassing in terms of those policies and procedures which are expected to be found in the more active participants in these markets. Most commercial banks have adequate systems and procedures to monitor and control their foreign exchange activities. Many banks have systems that exceed the requirements of this statement of standards. Nevertheless, it is believed that these standards will prove useful both to bank management and the bank supervisory agencies in promoting the safety and soundness of individual banks as well as the banking system as a whole.

The standards represent a consensus on certain minimum elements that

should be included in a bank's system for documenting, controlling, and monitoring its foreign exchange activities. The standards will serve as a basis by which management, auditors, and supervisory authorities can measure and evaluate the individual bank's system for controlling and monitoring its foreign exchange activities.

DRAFTING INFORMATION: The principal drafter of this document was Hugh W. Conway, Review Examiner, FDIC.

Proposed Policy Statement

Standards for the Documentation of Trading and Money Market Policy

Each bank engaged in foreign exchange trading should have written memoranda that provide a thorough overview of the goals and policies established by senior management. The memoranda should describe the scope of trading activity authorized and types of services offered. It should also describe the trading limits, controls, and other instructions delegated to trading personnel at each office of the bank.

At a minimum, the bank's policy should include limits with respect to:

- (1) Net positions by currency.
- (2) Maturity distribution of foreign currency assets, liabilities, and contracts.
- (3) Outstanding contracts with individual customers and banks.
- (4) Daily settlements with individual customers and banks.
- (5) Total outstanding contracts, spot and forward.

The bank's trading policy should provide for reporting procedures which insure staff adherence to policy directives and keep senior management informed of the size and scope of trading at all the bank's offices. Banks vary in the detail of reporting required from their trading offices; however, each bank's head office should maintain current and complete records that indicate exceptions to limits, controls, and instructions delegated to individual trading offices.

When a system of reporting by exception is used, the limits delegated to each trading office should closely reflect the actual or anticipated range of trading at each office. The range and volume of trading by trading offices should be reviewed periodically, and those limits that do not reflect present or anticipated outstandings should be reduced. The limits should not be deliberately set too high so as never to be exceeded.

While recognizing the existence of delivery risk, some banks do not believe that it is necessary to establish limits

and formal reporting procedures in order to satisfactorily monitor this exposure. These banks choose to weigh delivery risk in their determination of individual customer limits for outstanding contracts. At a minimum, each bank should have documentary evidence that a customer's delivery exposure is being reviewed by responsible account and trading officials. Every bank should have the capability to readily report delivery exposure with customers and banks.

The bank should have a written policy for trading with customers affiliated with the bank or with members of the Board of Directors. The terms and conditions of foreign exchange contracts should not vary materially from similar transactions with nonrelated companies. The policy should include any arrangements for holding positions or executing contracts for the account of other offices, banks, or outside parties.

Standards for Preparation and Maintenance of Accounting Instructions and the Establishment of Internal Controls

Each trading office should have a complete and current set of memoranda available explaining the information generated from the accounting system. The general and subsidiary ledger accounts affected by the trading and funding activities and any daily, weekly, and monthly procedures used to revalue trading and funding positions should be described.

The memoranda should describe the accounting and internal controls incorporated in the system to ensure the reporting of current and complete data on trading and funding activities, to prevent misappropriation of funds, and to preclude concealment of unauthorized transactions.

The accounting and internal controls should include at a minimum:

- (1) A strict segregation of duties for trading, operational (recordkeeping) and custodial (paying and receiving) personnel.
- (2) A procedure for determining the order, date, and time trading personnel entered into individual contracts. A time stamping of dealer slips would be satisfactory. (See item 6, ii)
- (3) The identification of "financial swap" contracts.
- (4) The preparation of outgoing confirmations that include the following information:
 - (i) Date of transaction, date of preparation if different from transaction date, and date of value or maturity date;

(ii) Amounts of the currencies traded, accepted, or placed and the applicable rate;

(iii) Liquidation instruction, if available, and reference number.

(5) A holdover register to record trades made but not posted to the bank's ledgers at end of day, the identification of such contracts as "holdover" items, and their inclusion in the trader's day-end position reports to management.

(6) Sequentially numbered contract forms that are:

- (i) Kept under control;
- (ii) Prepared in the same order as the dealing slips;
- (iii) Identified as to date of preparation if different from transaction date.

(7) A procedure under which contract confirmations are sent and received by the operations staff only (not the trading staff) and the maintenance of a confirmation exception log:

(i) That records every exception between an incoming confirmation and the bank's own records, regardless of disposition;

(ii) That is reviewed at least weekly by an operations officer.

(8) A daily reconciliation of the dealer's position sheets with the bank trading and funding positions as recorded in general ledger.

(9) Information on all overdraft charges, brokerage bills, and authorizations for payments within the last 12 months and retention of all foreign exchange telex tapes for the past 12 months.

Minimum Standards for the Audit of Foreign Exchange and Money Market Activities

The following minimum procedural and reporting standards are applicable to audits of foreign exchange and money market departments by bank internal auditors.

The internal auditors responsible for the audit of foreign exchange and money market activities should report to the Board of Directors or a committee thereof. Correspondence between the Board and the auditors should indicate that the directors are being properly informed of trading and funding activities.

Audit reports and supporting workpapers should be readily available for review by examination personnel. Copies of all audit reports for subsidiary and branch foreign exchange departments should be available either at the head office or at an office readily accessible to examination personnel.

The internal auditor's report and workpapers should include:

(1) A review and critique of the bank's accounting memoranda. This review should indicate exceptions to the prescribed procedures and whether staffing is adequate for the needs of the trading operations. The audit workpapers should include the description of the accounting process prepared by the auditor, including organization charts, flow charts, and internal control questionnaires.

(2) A review and assessment of the internal controls incorporated into the accounting system and the effectiveness of these internal controls. Every audit should include an appraisal of internal controls. The review should include a listing of all the internal controls incorporated into the accounting system and the testing undertaken to evaluate the effectiveness of these controls.

Auditors will be expected to report where any of the minimum internal controls listed above are not incorporated in the accounting system or are not operating effectively.

(3) The extent of the auditors' substantive tests of amounts included in reports to senior management and regulatory agencies and in financial statements.

(4) The auditor's review of compliance by trading staff with the bank's policies and directives.

The audit reports of public accounting firms engaged to audit a bank's foreign exchange activities, any management letters, as well as the scope of audit should be readily available to examination personnel. These documents should include a review and critique of the bank's formal accounting instructions for foreign exchange operations, exceptions to prescribed procedures, and the adequacy of prescribed procedures and staffing.

Approved June 7, 1979, by order of the Council.

Federal Financial Institutions Examination Council

Lewis G. Odom, Jr.,

Acting Executive Secretary.

I, Lewis G. Odom, Jr., Executive Secretary (Acting) of the Federal Financial Institutions Examination Council, do hereby certify that the attached document is a true and correct copy of a proposed policy statement considered by the said Council at a meeting duly called and held on the 7th day of June, 1979, at which all members were present. The said Council did on that date agree to publish for comment the attached proposed policy statement.

In Witness Whereof, I have hereunto subscribed my name in the City of

Washington and District of Columbia, this 23rd day of July, 1979.

Lewis G. Odom, Jr.,

Executive Secretary (Acting), Federal Financial Institutions Examination Council.

[FR Doc. 79-23190 Filed 7-26-79; 8:43 am]

BILLING CODE 4810-33-M

FEDERAL MARITIME COMMISSION

[Docket No. 79-74]

Japan/Korea-Atlantic and Gulf Freight Conference (Agreement No. 3103-67—Extension of Intermodal Authority); Order of Investigation and Hearing

On March 22, 1978, the member lines of the Japan/Korea-Atlantic and Gulf Freight Conference (JKAG or Proponents)¹ filed an amendment (Agreement No. 3103-67) to their basic conference agreement for approval under section 15 of the Shipping Act, 1916 (46 U.S.C. 814). The amendment would allow Proponents jointly to set intermodal transportation rates for an unlimited period.² Seatrain International, S.A. (Seatrain), a nonconference carrier in the JKAG trade, filed a protest and request for hearing.

Seatrain argued that Proponents had not justified their amendment under the standards approved in *Federal Maritime Commission v. Aktiebolaget Svenska Amerika Linien*, 390 U.S. 238 (1968). Upon consideration of Proponents' justification statement and Seatrain's protest, the Commission conditionally disapproved Agreement No. 3103-67 on November 29, 1978. The Commission concluded that Agreement No. 3103-67 had not been justified and would be disapproved unless Proponents unequivocally requested a further hearing. Further hearing was requested.³

¹ The Proponents are the following common carriers by water in the trade between Japan and Korea and the United States Atlantic and Gulf Coasts: Barber Blue Sea Line; Japan Lines, Ltd.; Kawasaki Kisen Kaisha, Ltd.; Korea Shipping Corporation; Lykes Bros. Steamship Co., Inc.; Mitsui O.S.K. Lines, Ltd.; A.P. Moller-Maersk Line (Joint Service); Nippon Yusen Kaisha; Orient Overseas Container Line, Inc.; Sea-Land Service, Inc.; United States Lines, Inc.; Yamashita-Shinnihon Steamship Co., Ltd.; and Zim Container Service, F.E.

² The term "intermodal authority" as used in Article 1 of Proponents' basic conference agreement refers to joint action for the purpose of setting uniform tariff rates and practices for the transportation of port-to-point, point-to-point, and point-to-port cargo in the trades covered by the agreement. A previous grant of JKAG intermodal authority (Agreement No. 3103-64) expired November 24, 1978.

³ On February 1, 1979, Proponents filed a hearing request which responded to the Commission's requirement that the facts, evidence and points of law to be presented at hearing be itemized, by merely stating:

Although the Commission's November 29, 1978 Order stressed the fact that the rates in JKAG's November 15, 1977 intermodal tariff had been too high to attract shipments, this expression of concern about the viability of Proponents' intermodal service should not restrict the scope of the present inquiry. As the Court of Appeals for the District of Columbia observed in an earlier proceeding involving Proponents' intermodal authority:

"... [I]t would seem unreasonable [for the Commission to find] that an anticompetitive agreement may be justified by its implementation." *Seatrain International, S.A. v. Federal Maritime Commission*, 584 F.2d 546, 549, (D.C. Cir. 1978).

The level of Proponents' intermodal rates is only one facet of the broader question presented by the Amendment. That question is: "will JKAG offer a commercially beneficial service from the Far East to U.S. interior points or will the requested rate authority be employed to prevent the development of effective intermodal services in the trade." The principal purpose of the hearing, therefore, is to determine, under applicable standards, whether the benefits to be derived from granting JKAG intermodal authority would outweigh the anticompetitive implications of such authority.⁴

A failure to implement intermodal service is but one anticompetitive aspect of Agreement No. 3103-67. Its unlimited duration, unlimited geographic scope, broad restrictions on the right of individual members to take independent action,⁵ and interplay with intermodal services offered by the Trans-Pacific Freight Conference of Japan/Korea are among the specific features of Agreement No. 3103-67 that should be examined at hearing. Because the "facts previously asserted" by Proponents are

In addition to facts previously demonstrated in the approval process, proponents would show that under a newly-adopted rate-reduction pricing plan, the Conference would be in a position to offer the shipping public a needed and viable intermodal alternative via U.S. Atlantic Coast ports, and that cargo would commence to move under the Conference's intermodal tariff upon the Commission's restoration of the authority.

⁴ See *Seatrain International, S.A. v. Federal Maritime Commission*, — F.2d —, (D.C. Cir. No. 77-154) (Supplemental Opinion on Remand) (Filed April 2, 1979) and *Svenska, supra*, concerning the justification of agreements which are violative of the antitrust laws.

⁵ Article 1(b) of Proponents' conference agreement requires that a member line wishing to file an independent intermodal tariff give the conference 120 days notice prior to filing such a tariff. This restriction may restrain the conference members to an undesirable, and unnecessary degree. See *Amendment to the American West African Freight Conference Agreement, No. 7880-36*, 18 S.R.R. 339, 341 (1978); "Order on Remand" in Agreement No. 3103-64, served November 24, 1978.

still contested by the parties, the parties will be given an opportunity to establish such of those facts as may support their relative positions.⁶

Therefore, it is ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916 the proceeding commenced by the Commission's November 29, 1978 Order of Conditional Disapproval is designated an Investigation and Hearing; and

It is further ordered, That this proceeding will not be limited to the viability of Proponents' proposed rates, but will broadly examine whether approval of Agreement No. 3103-67 would create unjust discrimination or unfairness between carriers, shippers, or ports, or conditions detrimental to the commerce of the United States, or be contrary to the public interest, or in violation of the Shipping Act, 1916; and

It is further ordered, That Agreement No. 3103-67, all materials submitted by Proponents in support thereof, all materials submitted by Seatrain International, S.A., in opposition to Agreement No. 3103-67, and the Commission's November 29, 1978 Order of Conditional Disapproval, be made part of the record in this proceeding; and

It is further ordered, That the Japan/Korea-Atlantic and Gulf Freight Conference and its member lines be designated Proponents in this proceeding; and

It is further ordered, That Seatrain International, S.A. be designated a Protestant in this proceeding; and

It is further ordered, That any person other than Respondents and the Commission's Bureau of Hearing Counsel, having an interest and desiring to participate in this proceeding, may do so by filing a timely petition for leave to intervene pursuant to section 502.72 of the Commission's rules; and

It is further ordered, That this proceeding shall be limited to the submission of affidavits of fact and memoranda of law and replies thereto pursuant to the following schedule:

By the close of business August 31, 1979 affidavits of fact and memoranda of law shall be filed by Proponents by the close of business September 24, 1979 reply affidavits and memoranda shall be filed by Protestant and the Commission's Bureau of Hearing Counsel.

⁶ Seatrain took issue with Proponents' presentation of the facts in this case. Proponents replied by filing the supplemental affidavit of conference chairman Robert D. Grey and Seatrain filed a response to this supplemental affidavit. These filings, together with all other matters filed with the Commission concerning Agreements 3103-53, 3103-62 or 3103-67 will be made part of the record for the purposes of the further hearing requested by Proponents.

By the close of business October 1, 1979 all parties must file any requests for evidentiary hearing and/or discovery which requests must be accompanied by a statement setting forth in detail the facts to be proven or developed, their relevance to the issue in this proceeding, and why such proof cannot be submitted through further affidavit.

Oral argument will be scheduled at a later date if requested and/or deemed necessary by the Commission; and

It is further ordered, That a notice of this Order be published in the Federal Register and that a copy thereof be served upon Proponents and Seatrain as listed in the attached Appendix; and

It is further ordered, That all documents submitted by any party in this proceeding be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in an original and 15 copies and otherwise conform to the Commission's Rules of Practice and Procedure, 46 C.F.R. Part 502.

By the Commission.

Francis C. Hurney,

Secretary

Appendix

Robert D. Grey, Chairman, Japan/Korea-Atlantic and Gulf Freight Conference, Sumitomo Seimei Yaesu Bldg., 3, Yaesu 4-Chome, Chuo-Ku, Tokyo, Japan.

Charles F. Warren, Esq., George A. Quadrino, Esq., Law Offices of Warren & Associates, P.C., Attorneys for the parties to agreement No. 3103-67, 1100 Connecticut Avenue NW., Washington, D.C. 20036.

Barber Blue Sea Line, 17 Battery Place, New York, New York 10004.

Japan Line, Ltd., Japan Line (New York) Ltd., General Agents, One World Trade Center, Suite 2211, New York, New York 10048.

Kawasaki Kisen Kaisha, Ltd., c/o K Line-Kerr Corporation, 90 Washington Street, New York, New York 10006.

Korea Shipping Corporation, 71 Broadway, New York, New York 10006.

Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Mitsui O.S.K. Lines, Ltd., One World Trade Center, Suite 2211, New York, New York 10048.

A. P. Moller-Maersk Line, c/o Moller Steamship Company, Inc., One World Trade Center, Suite 3527, New York, New York 10048.

Nippon Yusen Kaisha, One World Trade Center, Suite 5031, New York, New York 10048.

Orient Overseas Container Line, Inc., c/o Eckert Overseas Agency, Inc., 68 Pine Street, New York, New York 10005.

Sea-Land Service, Inc., P.O. Box 900, Edison, New Jersey 08817.

United States Lines, Inc., One Broadway, New York, New York 10004.

Yamashita-Shinnihon Steamship Co., Ltd., c/o TTT Ship Agencies, Inc., General

Agents, 71 Broadway, New York, New York 10006.

Zim Container Service, c/o Zim Israel Navigation Co., Ltd., One World Trade Center, Suite 2969N, New York, New York 10048.

Neal M. Mayer, Esq., Coles & Goertner, Attorney for Seatrain International, S.A., 1000 Connecticut Avenue NW., Washington, D.C. 20036.

Seatrain International, S.A., Port Seatrain, Weehawken, New Jersey 07087.

[FR Doc. 79-23205 Filed 7-26-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL TRADE COMMISSION

Transmittal Rules; Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: Smith & Nephew Associated Companies Limited is granted early termination of the 30-day period provided by law and the premerger notification rules with respect to its proposed acquisition of certain voting securities of Anchor Continental, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to requests for early termination submitted by both parties to the transaction. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: July 18, 1979.

FOR FURTHER INFORMATION CONTACT: Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580 (202-523-3404).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the Federal Register.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 79-23209 Filed 7-26-79; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

Alcohol Abuse Prevention Review Committee; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory body scheduled to assemble during the month of July 1979:

Alcohol Abuse Prevention Review Committee

July 31-August 1, Holiday Inn, 9777 Georgia Avenue, Silver Spring, Md. 20910.

Open—July 31, 9:00 a.m. to 11:30 a.m.

Closed—Otherwise.

Contact: Robert E. Davis, Room 14C-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857—301-443-2550.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism relating to prevention activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00 a.m. to 11:30 a.m., July 31, the meeting will be open for discussion of administrative reports, announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

This is the first meeting of the Alcohol Abuse Prevention Review Committee (chartered March 1, 1979). Announcement of the meeting was delayed pending final approval on membership. Approval had been given on members before the appointment of a new Director, NIAAA on April 15; however, another review was requested. This final approval was granted on July 5 by the Director and concurrence by the Administrator, ADAMHA on July 17.

Substantive program information may be obtained from the contact person listed above. The NIAAA Information Officer who will furnish upon request summaries of the meeting and rosters of Committee members is Mr. Harry Bell,

Associate Director, Office of Public Affairs, National Institute on Alcohol Abuse and Alcoholism, Room 11A-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3306.

Dated: July 24, 1979.

Michele W. Harvey,

Deputy Associate Administrator for Extramural Programs, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-23200 Filed 7-26-79; 8:45 am]

BILLING CODE 4110-88-M

Food and Drug Administration

[Docket No. 76N-0271; DESI 11683]

Antineoplastic Agents Containing Cyclophosphamide or Thiotepa; Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice sets forth the conditions for marketing antineoplastic agents containing cyclophosphamide or thiotepa for the indications for which they are regarded as effective. It also discusses several indications regarded as effective when the drugs were reviewed some years ago, that are no longer considered appropriate or require rewording. It offers an opportunity for a hearing concerning the indications reclassified to lacking substantial evidence of effectiveness or considered inappropriate. Abbreviated new drug applications are now suitable for these drugs, which are used in treating neoplastic diseases.

DATES: Hearing requests due on or before August 27, 1979; supplements to approved NDA's due on or before September 25, 1979.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 11683, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): Division of Oncology and Radiopharmaceutical Drug Products (HFD-150), Rm. 17B-34, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HDF-530), Bureau of Drugs.

Requests for Hearing (identify with Docket number at the end of this notice): Hearing Clerk (HFA-305), Rm. 4-65).

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Documents Center (HFI-35), Rm. 4-62.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

John H. Hazard, Jr., Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 11683) published in the Federal Register of May 13, 1970 (35 FR 7460), the Food and Drug Administration announced its conclusions that certain drug products containing cyclophosphamide or thiotepa are effective for use in certain neoplastic diseases. The drugs were evaluated as possibly effective or lacking substantial evidence of effectiveness for their other labeled indications. The notice offered an opportunity for a hearing concerning the indication for thiotepa concluded at that time to lack substantial evidence of effectiveness. The manufacturers have deleted from the labeling of their products the possibly effective indications and the indication that lacked substantial evidence of effectiveness. No person has submitted any data in support of the possibly effective indications, and they are now reclassified to lacking substantial evidence of effectiveness. This notice offers an opportunity for a hearing concerning the possibly effective indications and certain other indications formerly considered to be effective, as described below. It sets forth the conditions for marketing the drug products for the indications for which they are regarded as effective.

The notice that follows does not pertain to the indication stated in the May 13, 1970 notice to lack substantial evidence of effectiveness. No person requested a hearing concerning it, and it is no longer allowable in labeling. Any such product labeled for that indication is subject to regulatory action.

1. NDA 11-683; Thiotepa Parenteral (dry powder) containing 15 milligrams thiotepa per vial; Lederle Laboratories,

Division of American Cyanamid Co., P.O. Box 500, Pearl River, NY 10965.

2. NDA 12-141: Cytoxan Tablets containing 50 milligrams cyclophosphamide per tablet; Mead Johnson Laboratories, Division Mead Johnson & Co., 2404 Pennsylvania St., Evansville, IN 47721.

3. NDA 12-142: Cytoxan for Injection containing 100 milligrams, 200 milligrams, or 500 milligrams cyclophosphamide per vial; Mead Johnson Laboratories.

Changes have occurred in therapy and in medical practice in treating neoplastic diseases since 1970, when FDA published its initial notice on the effectiveness of the cyclophosphamide and thiotepa products. This fact, coupled with the need for labeling that presents the most useful, yet adequately supported, information to physicians, necessitates certain changes in the labeling of products containing these drugs. In its meeting on March 4 and 5, 1976, FDA's Oncologic Drugs Advisory Committee reviewed the labeling then in effect for numerous antineoplastic drugs. For cyclophosphamide the Committee recommended revised wording or deletion of certain indications. As a result, the indications section for that drug is revised in this notice. The modifiers "frequently" and "infrequently," used in describing disease response, are deleted. Further, the indication "malignant neoplasms of the lung" is deleted. The Committee stated that more specificity is needed for this indication. There are several histologic types of neoplasms of the lung, some of which are essentially unresponsive to the drug. Unqualified, the indication could be misleading. Should an NDA holder wish to include the appropriate pulmonary neoplasms, data supporting those specific uses will be required. Changes incorporating contemporary terminology also appear in the indications stated in this notice, and on the basis of more recent information, the indications "Burkitt's lymphoma" and "retinoblastoma" have been added.

For products containing thiotepa, the Committee recommended the deletion of the indication "malignant lymphomas" except for a reference to previous use of the drug in these conditions. Since the 1970 publication, the manner of treating this disease has changed. Untreated lymphomas, which might previously have responded to palliative treatment with thiotepa, now are treated with other, more potent alkylating agents. Because cross-resistance develops between alkylating agents, this product generally would be ineffective as a

palliative agent. The Committee also recommended against the use of thiotepa for "bronchogenic carcinoma" because present data do not support its use for this condition and greater knowledge and experience have shown that it is basically untreatable except by surgery. Published literature supplied by the NDA holder substantiated adding the indication, "Treatment of superficial papillary carcinoma of the urinary bladder."

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the products specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical to a product named above. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. Effectiveness classification. The Food and Drug Administration has reviewed all available evidence and concludes that the drugs are effective for the indications listed in the labeling conditions below. The drugs now lack substantial evidence of effectiveness for (1) the indications evaluated as possibly effective in the May 13, 1970 notice, and (2) those indications which were considered to be effective and included in the labeling section of the May 13, 1970 notice, but, as discussed above, are no longer appropriate and cause the labeling to be false and misleading if included in the uses recommended to physicians.

B. Conditions for approval and marketing. The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. **Form of drug.** Cyclophosphamide preparations are in tablet form suitable for oral administration or in dry form as the crystalline hydrate suitable for reconstitution for parenteral

administration. Thiotepa preparations are in powder form suitable for preparation of an aqueous solution for parenteral administration.

2. **Labeling conditions.** a. The label bears the statement "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and its labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

Cyclophosphamide

Cyclophosphamide, though effective alone in susceptible malignancies, is more frequently used concurrently or sequentially with other antineoplastic drugs. The following malignancies are often susceptible to cyclophosphamide treatment:

1. Malignant lymphomas (Stages III and IV of the Ann Arbor staging system): Hodgkin's disease; lymphocytic lymphoma (nodular or diffuse); mixed-cell type lymphoma; histiocytic lymphoma; Burkitt's lymphoma.
2. Multiple myeloma.
3. Leukemias: chronic lymphocytic leukemia; chronic granulocytic leukemia (it is ineffective in acute blastic crisis); acute myelogenous and monocytic leukemia; acute lymphoblastic (stem-cell) leukemia in children (cyclophosphamide given during remission is effective in prolonging its duration).
4. Mycosis fungoides (advanced disease).
5. Neuroblastoma (disseminated disease).
6. Adenocarcinoma of the ovary.
7. Retinoblastoma.
8. Carcinoma of the breast.

Thiotepa

Thiotepa has been tried with varying results in the palliation of a wide variety of neoplastic diseases. Palliation has occurred at some time in many types of cancer. However, the most consistent results have been seen in the following tumors:

1. Adenocarcinoma of the breast.
2. Adenocarcinoma of the ovary.
3. For controlling intracavity effusions secondary to diffuse or localized neoplastic disease of various serosal cavities.
4. For the treatment of superficial papillary carcinoma of the urinary bladder.

While now largely superseded by other treatments, thiotepa has been effective against other lymphomas, such as lymphosarcoma and Hodgkin's disease.

3. **Marketing status.** a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before September 25, 1979, the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii)

a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such products. Pursuant to 21 CFR 320.21, the application must include either evidence demonstrating the in vivo bioavailability of the drug or information to permit waiver of the requirement. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. Notice of opportunity for hearing. On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drugs for the indications lacking substantial evidence of effectiveness referred to in paragraph A(1) of this notice. Similarly, the Director is unaware of adequate and well-controlled clinical investigations which constitute substantial evidence that these drugs are now effective for the indications referred to in paragraph A(2) of this notice.

Notice is given to the holders of the new drug applications, and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug applications and all amendments and supplements thereto providing for the indications referred to in paragraph A(1) and (2) of this notice. The order would be issued on the ground that new information before him with respect to the drug products, evaluated together with the evidence available to him at the time of approval of the applications, shows there is a lack of substantial evidence that the drug products will have all the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. For the indications referred to in paragraph A(2) of this notice, the order would be issued on the additional

ground that because of new information, evaluated together with the evidence before him when the applications were approved, the labeling of the drugs, based on a fair evaluation of all material facts, is false and misleading. An order withdrawing approval will not issue with respect to any applications supplemented to delete the claims lacking substantial evidence of effectiveness and causing the labeling to be false and misleading.

In addition to the grounds for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962, or for any other reason.

Under section 505 of the act (21 U.S.C. 355) and the regulations issued thereunder (21 CFR Parts 310, 314), the applicants and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug applications providing for the claims involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

An applicant or any person subject to this notice pursuant to 21 CFR 310.6 who decides to seek a hearing shall file (1) on or before August 27, 1979, a written notice of appearance and request for hearing, and (2) on or before September 27, 1979, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice under 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes and election by the person not to make use of the opportunity for a hearing concerning the action proposed with respect to the drug product and a waiver of any contentions concerning the legal status of the drug product. Any such drug product labeled for the indications lacking substantial evidence of effectiveness or causing the labeling to be false and misleading, referred to in paragraph A of this notice, may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing must be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: July 19, 1979.

J. Richard Crout,
Director, Bureau of Drugs.

[FR Doc. 79-23134 Filed 7-26-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 76N-0325; DESI 3265]

Certain Anticholinergic Drugs; Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing; Correction**AGENCY:** Food and Drug Administration.
ACTION: Correction.

SUMMARY: This document corrects a notice (DESI 3265) that appeared at page 15468 in the Federal Register of Tuesday, March 22, 1977 (FR Doc. 77-8287).

EFFECTIVE DATE: July 27, 1979.

FOR FURTHER INFORMATION CONTACT: Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, (301-443-3650).

SUPPLEMENTARY INFORMATION: The following corrections are made:

1. On page 15469, center column, item 6 in the list of products, which reads "That part of NDA 8-492 pertaining to Antrenyl Bromide Tablets, Pediatric Drops, and Syrup," is changed to read, "That part of NDA 8-492 pertaining to Antrenyl Bromide Tablets and Syrup." Oxyphenonium bromide is the active ingredient in these products.

This correction is made because Antrenyl Pediatric Drops was never approved in NDA 8-492, was not reviewed by the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, and should not have been included in DESI notices. Antrenyl Pediatric Drops has been listed in the *FDA Interim Index to Evaluations Published in the Federal Register for NAS-NRC Review Prescription Drugs*, but will be deleted from the Index at the next printing.

On November 26, 1971, Ciba Pharmaceuticals was requested to furnish adequate information for the safe use of oxyphenonium bromide in children or include the statement in the labeling, that the product is not for use in children. Ciba chose to put that statement in the labeling. Antrenyl Pediatric Drops is no longer marketed.

The Food and Drug Administration is unaware of any other person manufacturing oxyphenonium bromide in a pediatric dosage form, and finds it unnecessary to make a further determination on the use of this drug in children. Such drugs are regarded as new drugs (21 U.S.C. 321(p)), and an

approved new drug application is a requirement for marketing such a drug product. Any person who intends to market oxyphenonium bromide in a pediatric dosage form in the future should submit a full new drug application in accordance with 21 CFR 314.1(c).

2. On page 15470, first column, paragraph B.1. *Form of drug*, is corrected by deleting the period at the end of the sentence and adding the following: "; or in sterile powder form suitable for parenteral administration after reconstitution, if listed above."

Dated: July 19, 1979.

J. Richard Crout,
Director, Bureau of Drugs.

[FR Doc. 79-23133 Filed 7-26-79; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting**AGENCY:** Food and Drug Administration.**ACTION:** Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by William C. Hill, District Director, San Francisco, CA.

DATE: The meeting will be held from 2 p.m. to 4 p.m., on Tuesday, September 25, 1979.

ADDRESS: The meeting will be held at P.J.K.K. Building, Rm. 6122, Ala Moana Blvd., Honolulu, HI.

FOR FURTHER INFORMATION CONTACT: Camilla Gray McGowan, Consumer Affairs Officer, Food and Drug Administration, Department of Health, Education, and Welfare, 50 United Nations Plaza, San Francisco, CA 94102, 415-556-2062.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's San Francisco District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: July 23, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-23135 Filed 7-26-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 78N-0124]

Depo-Provera; Hearing on Proposal to Refuse Approval of Supplemental New Drug Application**AGENCY:** Food and Drug Administration.**ACTION:** Notice.

SUMMARY: The agency announces that a hearing before a Public Board of Inquiry will be held on the proposal to refuse approval of a supplemental new drug application (NDA) of The Upjohn Co. submitted for the general marketing of Depo-Provera (medroxyprogesterone acetate) Sterile Aqueous Suspension as a contraceptive agent in humans.

DATE: The date, time, and location of the hearing will be announced later; written notices of participation must be received by August 27, 1979.

ADDRESS: All material should be submitted to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Tenny P. Neprud, Jr., Regulations Policy Staff (HFC-10), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: A supplemental new drug application (NDA 12-541/S-004) dated February 27, 1967, was submitted by The Upjohn Co., Kalamazoo, MI 49001 (Upjohn), under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)) for Depo-Provera (medroxyprogesterone acetate) Sterile Aqueous Suspension for intramuscular injection as a contraceptive agent in humans. This supplement was submitted to allow general marketing of this drug for contraceptive purposes. In the Federal Register of October 10, 1973 (38 FR 27940), FDA issued a proposal to amend § 130.45 (21 CFR 130.45) (recodified as § 310.501 in the Federal Register of March 29, 1974 (39 FR 11680)), to provide patient labeling for the injectable contraceptive medroxyprogesterone acetate. In the Federal Register of September 12, 1974 (39 FR 32907), FDA issued a final order providing for patient labeling for this product. The order was published in anticipation of the agency's

approval of the pending Depo-Provera supplemental NDA.

In the Federal Register of October 30, 1974 (39 FR 38226), FDA stayed the provisions of the regulation until further notice. The stay was based on a question about the incidence of cancer of the cervix among those women who participated in the medroxyprogesterone acetate studies sponsored by Upjohn. That question was reviewed and was amendable to resolution. By letter dated March 7, 1978, FDA advised Upjohn that the supplemental NDA was not approvable for other reasons under section 505(d) (2) and (4) of the act. By letter dated March 21, 1978, Upjohn responded stating it believed the letter from FDA to be a notice under 21 CFR 314.111(a) that FDA intended to issue a notice of opportunity for a hearing. Upjohn declined to exercise any of the alternative procedures under 21 CFR 314.111(b) and requested that FDA issue a notice of opportunity for a hearing.

In the Federal Register of June 30, 1978 (43 FR 28555), the Director of the Bureau of Drugs issued a notice of opportunity for hearing on the proposal to refuse approval of the supplemental NDA for Depo-Provera (medroxyprogesterone acetate) Sterile Aqueous Suspension as a contraceptive agent for use in humans. The proposed denial was based upon the grounds that (1) the reports of investigations do not show that Depo-Provera is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling as an injectable contraceptive, and that (2) upon the basis of the information submitted as part of the application, and upon the basis of other information about the drug, FDA has insufficient information to determine whether Depo-Provera is safe for general marketing in the United States under such conditions.

Upjohn (on July 24, 1978) and the American College of Obstetricians and Gynecologists (by letter dated July 14, 1978) requested a formal evidentiary public hearing. However, by letter dated August 25, 1978, Upjohn waived its right to a formal evidentiary public hearing and requested the Commissioner of Food and Drugs to establish a Public Board of Inquiry under 21 CFR Part 13 to resolve the issues raised by the Bureau of Drugs about the safety of Depo-Provera for contraceptive use by humans. The Commissioner accepted this request by order dated October 24, 1978, conditional on a decision that Upjohn had justified its request for a formal hearing. FDA now concludes that Upjohn's request for a formal hearing has been justified, and that a Public Board of Inquiry should be established.

In November 1978, Upjohn notified the Bureau of Drugs of findings in a new Depo-Provera rhesus monkey study and requested time, until May 1, 1979, to analyze and review these data. Upjohn also requested that a notice of hearing not be published meanwhile. By letter dated April 25, 1979, Upjohn notified FDA that it had completed its review and wished to proceed with the hearing. Later, Upjohn agree that the new data could be considered at the hearing without the publication of an additional notice of opportunity for hearing.

Because the American College of Obstetricians and Gynecologists is not the new drug applicant, it does not have a statutory right to a formal evidentiary hearing. Therefore, FDA denies its hearing request.

FDA, therefore, orders that a hearing before a Public Board of Inquiry be held to determine whether the supplemental NDA for Depo-Provera (NDA 12-541/S-004) contains reports of investigations adequate to show that the drug is safe for use under the conditions prescribed, recommended, or suggested in the labeling as required by section 505(d) (1), (2), and (4) of the Act, and whether that information, combined with other information about the drug, provides a sufficient basis from which FDA can determine that Depo-Provera is safe for general marketing in the United States under such conditions.

The following specific issues will be considered:

1. Whether, in comparison with other drugs approved for contraception, the benefits of Depo-Provera in the United States outweigh its risks under conditions of general marketing.

2. Whether data from beagle dog and monkey studies submitted by Upjohn indicate a potential risk of breast or endometrial cancer in humans from Depo-Provera.

3. Whether the human data submitted by Upjohn can, as Upjohn claims, successfully refute the risk of human cancer suggested by the animal data.

4. Whether approved use of Depo-Provera for contraception under general marketing conditions is likely to increase use of the drug as a contraceptive under conditions not stipulated in approved labeling or is likely to increase its use for unrelated indications for which safety and effectiveness have not been established (for example, for hygienic purposes in mental retardees).

5. Whether, in the event of contraceptive failure, use of Depo-Provera may increase the risk of teratogenic effects to a greater extent

than would other systemic contraceptives.

6. Whether, in view of Depo-Provera's adverse side effects or pharmacologic effect, estrogen therapy is likely to be prescribed in addition to Depo-Provera in a significant number of patients.

7. Whether there are conditions of labeling and distribution controls which would permit marketing of Depo-Provera as a safe and effective drug on a limited basis. (There may be certain patients in the United States for whom benefits of Depo-Provera for contraception outweigh potential risks. This population, if it exists, may be very small and may not warrant general marketing of Depo-Provera for contraception.)

Parties to the hearing will be the FDA Bureau of Drugs and the Upjohn Co. In its hearing request, the American College of Obstetricians and Gynecologists did not establish that its interests were adversely affected by the proposed refusal sufficiently to qualify for party status. The American College of Obstetricians and Gynecologists also did not submit reports of the investigations it relied upon to prove safety; therefore, it is not entitled to party status. By filing a written notice of participation in the hearing (21 CFR 12.45), however, the American College of Obstetricians and Gynecologists and others will have an opportunity to present their views on the issues on which the hearing is granted.

The time, date, and place of the hearing will be announced in a later Federal Register notice. The hearing will be open to the public, and any interested persons may participate. Written notices of participation must be filed with the Hearing Clerk not later than August 27, 1979. The notice, identified with the Hearing Clerk docket number found in brackets in the heading of this document, is to be filed in the form set forth in § 12.45 (21 CFR 12.45) of the regulations. To facilitate identification, the envelope containing the notice of participation should be clearly labeled "Depo-Provera Public Board of Inquiry."

The administrative record of the proceeding consists of:

1. Upjohn's supplemental new drug application.

2. Submissions in support of Upjohn's requests.

3. The Bureau of Drugs' submissions under 21 CFR 13.25(a).

4. Federal Register notices relating to Depo-Provera.

The administrative record of the proceeding is on public display in the office of the Hearing Clerk, except for the supplemental NDA for Depo-Provera

and for any part of the Bureau's submission under 21 CFR 13.25(a) that consists of the NDA for Depo-Provera. The NDA and the supplemental NDA for Depo-Provera are voluminous; the bulk of the material they contain will not be available for public inspection even when they are placed on file in the Hearing Clerk's office (see 21 CFR 10.20(j)(2)(ii)). Accordingly, the Commissioner is exercising the authority under 21 CFR 10.19 to waive 21 CFR 13.25(a) to permit the filing of material from the NDA and supplemental NDA for Depo-Provera at a later time rather than before the publication of the notice of hearing.

By September 25, 1979 participants other than the Bureau of Drugs must submit to the Hearing Clerk all data and information specified in § 13.25, except for the names of witnesses required by § 13.25(a)(2), and any objections with respect to the completeness of the administrative record filed by the Bureau. The failure to comply with this requirement in the case of a participant constitutes a waiver of the right to participate further in the hearing, and in the case of a party constitutes a waiver of the right to a hearing. Additional copies of material already submitted, or to be submitted, need not be included with any later submission by participants, e.g., the NDA and supplemental NDA for Depo-Provera, to be submitted by the Bureau. Each participant must serve a copy of its submission on each other participant, except as provided in §§ 13.10(b)(2) and 13.45. To facilitate such service, the Hearing Clerk will compile a list of all persons who have filed a timely notice of participation, with their mailing address, and send a copy of the list to all such persons.

By August 27, 1979, the parties named above shall submit a list of nominees for the Board under § 13.10 (21 CFR 13.10) to the Hearing Clerk. The parties shall serve copies of these nominations on each other. The parties may comment on each other's nominees within 10 days of receiving them. In accordance with § 13.10(b)(3), the lists of nominees and comments on the nominees are to be held in confidence by the Hearing Clerk.

The requirement in § 13.25(a)(2) that the Bureau of Drugs must submit, before publication of this notice, a list of persons to present views at the hearing on the Bureau's behalf is waived. The Bureau's list must be submitted at the same time as the submission of the lists by other parties and participants, and will be due at a date to be set later.

The time, date, and place of the first session of the Board will be announced

in a subsequent notice published in the Federal Register.

The findings and conclusions of the Board, based on the public hearing, will have the legal status of, and be handled as, an initial decision issued in accordance with § 12.120 (21 CFR 12.120).

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053 as amended (21 U.S.C. 355)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), *It is ordered*, That a public hearing before a Public Board of Inquiry be held on the issues set forth in this notice.

Dated: July 20, 1979.

Sherwin Gardner,

Acting Commissioner of Food and Drugs.

[FR Doc. 79-23136 Filed 7-26-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79F-0218]

Filing of Petition for Food Additive Permitted in Feed and Drinking Water of Animals; Ammoniated Cottonseed Meal

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The National Cottonseed Products Association, Inc., has filed a petition proposing that the regulations be amended to provide for the safe use of ammoniated cottonseed meal derived from the inactivation of aflatoxin in cottonseed meal by treatment with anhydrous ammonia. The additive is used in feed of ruminants as a source of protein and nonprotein nitrogen, and in the feed of laying hens as a source of protein.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary Medicine (HFB-147), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP-2172) has been filed by the National Cottonseed Products Association, Inc., P.O. Box 12023, Memphis, TN 38112, proposing that § 573.140 *Ammoniated cottonseed meal* (21 CFR 573.140) be amended to provide for the safe use of ammoniated cottonseed meal derived from inactivation of aflatoxin in cottonseed meal by treatment with anhydrous

ammonia for use in the feed of ruminants and laying hens.

The environmental impact analysis report and other relevant material are being reviewed to determine whether the proposed use of the additive will have a significant environmental impact. In accordance with the provisions of § 25.25(b) (21 CFR 25.25(b)) of the environmental impact regulations, an environmental impact consideration of the final action on this petition will be addressed in a future publication.

Dated: July 20, 1979.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 79-23131 Filed 7-26-79; 8:45 am]

BILLING CODE 4110-03-M

Rast Inhibition and Isoelectric Focussing Workshop; Public Meeting

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that a public meeting will be held to discuss two assay methods which determine the relative allergen content of an allergenic extract. Suggested procedures for the two methods will be presented.

DATE: The meeting will be held from 9 a.m. to 4 p.m. on September 10, 1979.

ADDRESS: The meeting will be held at the Bureau of Biologics, Bldg. 29, Rm. 115, 8800 Rockville Pike, Bethesda, MD 20205.

FOR FURTHER INFORMATION CONTACT: Steven F. Falter, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.

SUPPLEMENTARY INFORMATION: The radioallergosorbent test (RAST) and isoelectric focussing are two assay methods being developed by the agency's Bureau of Biologics and other organizations to determine the relative allergen content (potency) of allergenic extracts. The Bureau of Biologics will hold a public meeting to discuss the implementation of a program using these two methods to determine potency, stability, and lot-to-lot consistency in the manufacture of allergenic extracts. Implementation of the program will eventually enable manufacturers to include a potency and expiration date on the labeling that is directly correlated with the allergenic activity of the final allergenic product. Personnel from the Bureau of Biologics, as well as other invited speakers, will discuss the principles of the tests, detailed

procedures for the tests, and the relevance of these methods to the allergen content and clinical value of allergenic extracts.

The workshop will be held from 9 a.m. to 4 p.m., September 10, 1979 at the Bureau of Biologics, Rm. 115, Bldg. 29, 8800 Rockville Pike, Bethesda, MD 20205. Persons planning to attend are requested to contact Steven F. Falter, Bureau of Biologics (address above), by August 27, 1979.

Dated: July 23, 1979.

William F. Randolph,

Acting Associate Commissioner, Regulatory Affairs.

[FR Doc. 79-23132 Filed 7-26-79; 8:45 am]

BILLING CODE 4110-03-M

National Institutes of Health

Report on Bioassay of Lead Dimethyldithiocarbamate for Possible Carcinogenicity; Availability

Lead dimethyldithiocarbamate (CAS 19019-66-3) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of technical-grade lead dimethyldithiocarbamate for possible carcinogenicity was conducted by administering the test chemical in feed to F344 (Fischer) rats and B6C3F1 mice. Applications of the chemical include use as a rubber vulcanization accelerator.

It is concluded that under the conditions of this bioassay, lead dimethyldithiocarbamate was not carcinogenic for F344 rats for B6C3F1 mice of either sex.

Single copies of the report, Bioassay of Lead Dimethyldithiocarbamate for Possible Carcinogenicity (T.R. 151), are available from the Office of Cancer Communications, National Institutes of Health, Bethesda, Maryland 20205.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: July 18, 1979.

Donald S. Fredrickson,

Director, National Institutes of Health.

[FR Doc. 79-22738 Filed 7-26-79; 8:45 am]

BILLING CODE 4110-08-M

Report on Bioassay of Aldicarb for Possible Carcinogenicity; Availability

Aldicarb (CAS 116-06-3) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis

Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of aldicarb for possible carcinogenicity was conducted by administering the test chemical in feed to F344 rats and B6C3F1 mice. Applications of the chemical include use as an agricultural pesticide.

It is concluded that under the conditions of this bioassay, technical-grade aldicarb was not carcinogenic for F344 rats or B6C3F1 mice of either sex.

Single copies of the report, Bioassay of Aldicarb for Possible Carcinogenicity (T.R. 136), are available from the Office of Cancer Communications, National Institutes of Health, Bethesda, Maryland 20205.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: July 18, 1979.

Donald S. Fredrickson,

Director, National Institutes of Health.

[FR Doc. 79-22737 Filed 7-26-79; 8:45 am]

BILLING CODE 4110-08-M

Office of Education

Community Education Advisory Council; Meeting

AGENCY: Office of Education, HEW, Community Education Advisory Council.

ACTION: This notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Community Education Advisory Council. It also describes the functions of the Council. Notice of these meetings is required under section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92-634. This document is intended to notify the general public of their opportunity to attend.

DATES: Meeting: August 13 and 14, 1979.

ADDRESS: Stouffer's Riverfront Towers, St. Louis, Missouri.

FOR FURTHER INFORMATION CONTACT: Margaret Beavan, Office of Education, Department of Health, Education, and Welfare, 7th and D Streets, S.W., Regional Office Building Three, Room 5622, Washington, D.C. 20202. Telephone: (202) 245-0691.

SUPPLEMENTARY INFORMATION: The Community Education Advisory Council is authorized under Public Law 93-380. The Council is established to advise the Commissioner of Education on policy matters relating to the interest of community schools.

All sessions of this meeting are open to the public. The meeting will begin each day at 9:00 a.m. and end at 4:30 p.m., and will be held at the Stouffer's Riverfront Towers in St. Louis, Missouri.

This meeting is scheduled during the sixty-day comment period on the proposed regulations for the Community Schools and Comprehensive Community Education Act of 1978. A major portion of the meeting will focus on the proposed regulations. A portion of time will be scheduled for public comment on the regulations. The Council also will review drafts of a mission and strategy statement that are to be constructed during a planning committee meeting scheduled for August 2 and 3, 1979, and complete the planning for the School-Community-Home Initiative/National Forum scheduled for September.

The proposed agenda includes:

- (1) Synthesizing comments from regional hearings on proposed regulations for the Community Schools and Comprehensive Community Education Act of 1978.
- (2) Hearings on proposed regulations for the above mentioned legislation.
- (3) Making recommendations on draft regulations.
- (4) Completing the planning for School-Community-Home Initiative/National Forum.
- (5) Completing the mission/strategy paper.
- (6) Addressing other administrative matters and related business.

Records shall be kept of all Council proceedings and shall be available for public inspection in Regional Office Building Three, Room 5622, 7th and D Streets, S.W., Washington, D.C. 20202.

Signed at Washington, D.C. on July 24, 1979.

Julie England,

Director, Community Education Program.

[FR Doc. 79-23192 Filed 7-26-79; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-721; FDAA-590-DR]

Iowa; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State

of Iowa (FDAA-590-DR), dated July 1, 1979.

DATED: July 9, 1979.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202) 634-7825.

NOTICE: The Notice of major disaster for the State of Iowa dated July 1, 1979, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 1, 1979.

For Public Assistance in addition to Individual Assistance:

The City of Algona in Kossuth County.
The City of Manson in Calhoun County.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

William H. Wilcox,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 79-23238 Filed 7-26-79; 8:45 am]

BILLING CODE 4210-22-M

[Docket No. NFD-722 (FDAA-588-DR)]

Kansas; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Kansas (FDAA-588-DR), dated June 15, 1979.

DATED: June 25, 1979.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634-7825).

NOTICE: This Notice of major disaster for the State of Kansas dated June 15, 1979, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 15, 1979.

For Public Assistance in addition to Individual Assistance: Butler County.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

William H. Wilcox,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 79-23237 Filed 7-26-79; 8:45 am]

BILLING CODE 4210-22-M

Office of Assistant Secretary for Community Planning and Development

[Docket No. N-79-937]

Small Cities Discretionary Grants Under the Community Development Block Grant Program; Dates for Submission of Preapplications

Correction

In FR Doc. 79-22442 appearing on page 42787 in the issue for Friday, July 20, 1979, in the middle column, in the table entitled *Final Date for Submission*, make the following corrections:

(1) Under Region I, in the entry for Connecticut, the second date given should be corrected to read "Jan. 7, 1980".

(2) Under Region IV, in the entry for North Carolina, Tennessee, the second date given should be corrected to read "Jan. 7, 1980".

(3) Under Region V, in the entry for Indiana, Wisconsin, the second date given should be corrected to read "Jan. 7, 1980".

(4) Under Region V, in the entry for Michigan, the second date given should be corrected to read "Jan. 7, 1980".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 37668, 37693, 37694, 37695, 37696, 37716, 37718, 37747, 37869, and 37870]

New Mexico; Applications

July 19, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for ten 4 1/2-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 30 N., R. 8 W.,
Sec. 21, NE 1/4 SE 1/4;
Sec. 29, SE 1/4 NW 1/4;
Sec. 34, NE 1/4 SW 1/4 and NW 1/4 SE 1/4.
T. 29 N., R. 8 W.,
Sec. 25, N 1/2 NE 1/4 and NW 1/4 NW 1/4;
Sec. 31, N 1/2 NE 1/4;
Sec. 34, NE 1/4 SE 1/4;
Sec. 35, NW 1/4 SW 1/4.

T. 30 N., R. 9 W.,
Sec. 24, lot 2.
T. 31 N., R. 10 W.,
Sec. 33, lots 5, 12 and 13.
T. 32 N., R. 10 W.,
Sec. 35, lot 9.

These pipelines will convey natural gas across 1.847 miles of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and is so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Raul E. Martinez,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-23123 Filed 7-26-79; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 25136(b)]

Western Slope Gas Co.; Right-of-Way Application for Pipeline

Effective date: July 17, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Western Slope Gas Company, P.O. Box 840, Denver, Colorado 80201, has applied for a right-of-way for 4 1/2" o.d. buried natural gas pipeline approximately 1.2 miles long, to hook up the Fuelco 20-1 natural gas well in the West Douglas Field across the following Public Lands:

Sixth Principal Meridian, Rio Blanco County, Colorado

T. 2 S., R. 101 W.,
Sec. 20: SW 1/4;
Sec. 29: W 1/2;
Sec. 30: E 1/2 NE 1/4.

The above-named gathering system will enable the applicant to collect natural gas in an area through which the pipeline will pass and to convey it to the applicant's customers.

The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party

asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Western Slope Gas Company. Any comment, claim or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

Andrew W. Heard, Jr.,

Leader, Craig Team Branch of Adjudication.

[FR Doc. 79-23231 Filed 7-26-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 37734, 37735, 37736, 37737, 37738, and 37739]

New Mexico; Applications

July 20, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Company has applied for four 4-inch and two 2-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 31 N., R. 12 W.,
Sec. 7, NE 1/4 SE 1/4;
Sec. 18, NE 1/4 NW 1/4;
Sec. 19, lots 8, 12;
Sec. 30, lots 7, 8 and 9.
T. 31 N., R. 13 W.,
Sec. 13, W 1/2 NE 1/4, SE 1/4 NE 1/4, NE 1/4 NW 1/4 and NE 1/4 SE 1/4;
Sec. 24, E 1/2 SE 1/4;
Sec. 25, SE 1/4 NE 1/4 and NE 1/4 SE 1/4.

These pipelines will convey natural gas across 2.05 miles of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-23229 Filed 7-26-79; 8:45 am]

BILLING CODE 4310-84-M

Termination of Segregation of Lands

July 20, 1979.

Notice of an application Serial No. I-12817, for an airport lease was published as Federal Register Document No. 77-335 on page 1078 of the issue for January 5, 1977. The applicant agency has cancelled its application insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in 43 CFR 2911, such lands will be at 10:00 a.m. August 1, 1979 relieved of the segregative effect of the above-mentioned application.

The lands involved in this notice of termination are:

Boise Meridian, Idaho

T. 2 N., R. 3 W.,
Sec. 28, NE 1/4, N 1/2 SE 1/4.

Vincent S. Strobel,

Chief, Branch of L&M Operations.

[FR Doc. 79-23230 Filed 7-26-79; 8:45 am]

BILLING CODE 4310-84-M

[W-68483]

Wyoming; Application

July 19, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northern Gas Products Company filed an application for a right-of-way to construct a 13.12 acre dew point control/liquids extraction plant site and related facilities consisting of a 4 inch LPG products pipeline and a 13.8 KV powerline line for the purpose of extracting and processing liquid gas and will affect the following described public lands:

Sixth Principal Meridian, Wyoming

T. 15 N., R. 119 W.,
Sec. 6, lot 5, S 1/2 NE 1/4 and SE 1/4 NW 1/4.
T. 15 N., R. 120 W.,
Sec. 12, NW 1/4 NW 1/4.

The proposed 4 inch LPG products pipeline will extend from a point located in the NW 1/4 NW 1/4 of Section 12, T. 15 N., R. 120 W., to a point of connection with the proposed gas extraction plant site located in the S 1/2 NE 1/4 of Section 6, T. 15 N., R. 119 W. The proposed 13.8 KV powerline will provide power to the proposed liquid gas extraction plant site and will be located entirely within the SE 1/4 NE 1/4 of Section 6, T. 15 N., R. 119 W. All of the proposed facilities are for the purpose of providing for the safe and efficient operation of existing production and separation facilities owned and operated by the unit operator of the Painter Reservoir Field and will be located entirely within Uinta County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-23227 Filed 7-26-79; 8:45 am]

BILLING CODE 4310-84-M

[W-68617]

Wyoming; Application

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Panhandle Eastern Pipe Line Company of Brighton, Colorado filed an application for a right-of-way to construct a pipeline gathering system consisting of 4", 6" and 10" pipelines and related facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 22 N., R. 103 W.,
Sec. 2, lot 1, S 1/2 NE 1/4, SW 1/4, N 1/2 SE 1/4, SE 1/4 SE 1/4;
Sec. 8, S 1/2 SE 1/4;
Sec. 10, N 1/2 NE 1/4, E 1/2 NW 1/4, SW 1/4 NW 1/4, NW 1/4 SW 1/4;
Sec. 12, NW 1/4 NW 1/4;
Sec. 16, N 1/2 NW 1/4;
Sec. 18, S 1/2 NE 1/4, SE 1/4 SW 1/4, N 1/2 SE 1/4, SW 1/4 SE 1/4.
T. 22 N., R. 104 W.,
Sec. 24, N 1/2 NE 1/4, SW 1/4 NE 1/4, W 1/2 SE 1/4.

The proposed pipelines will transport natural gas from the Anadarko Pine Canyon Well Numbers 2, 3, 4, 5, 6, 7 and 8 to points of connection with Mountain Fuel Supply Company's pipeline or Stauffer Chemical Company's gathering line all within T. 22 N., Rs. 103 and 104 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box

1869, Highway 187 N., Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-23226 Filed 7-26-79; 8:45 am]
BILLING CODE 4310-84-M

[W-68619]

Wyoming; Application

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 6% inch O.D. "sour" gas pipeline, an electric control cable, a one inch fuel gas line, a 4' by 6' metering building and electric cable junction boxes for the purpose of transporting "sour" natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming
T. 18 N., R. 98 W.,
Sec 28, S½NW¼, NE¼SW¼.

The proposed pipeline will connect the Higgins Unit #11W Well with existing pipeline facilities all located in the W½ of section 28, T. 18 N., R. 98 W., Sweetwater County, Wyoming. The related facilities are to be utilized in the operation and maintenance of the gas pipeline.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 N., P.O. Box 1869, Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-23224 Filed 7-26-79; 8:45 am]
BILLING CODE 4310-04-M

[W-68621]

Wyoming; Application

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 6% inch O.D. pipeline, a 4'

by 6' meter house and related metering and dehydration facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming
T. 18 N., R. 98 W.,
Sec 10, NW¼SW¼, S½SW¼, SW¼SE¼.

The proposed pipeline will transport natural gas from the Federal #13-10 Well in the SW¼ of section 10, to existing pipeline facilities in the SE¼ of section 10. The proposed 4' by 6' meter house and related metering and dehydration facilities are to be located entirely within the proposed 50 foot right-of-way in the SW¼ of section 10, all within T. 18 N., R. 98 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 N., P.O. Box 1869, Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-23225 Filed 7-26-79; 8:45 am]
BILLING CODE 4310-84-M

Bureau of Reclamation

[INT DES 79-43]

Polecat Bench Area, Wyoming; Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement describing the environmental impacts of the Polecat Bench Area, Wyoming. The statement covers impacts of converting 19,260 acres of rangeland to 85 new irrigated farms in Park County, Wyoming. Water will be supplied from Buffalo Bill Reservoir. Project facilities include canals, laterals, drains, and a regulating reservoir.

Written comments may be submitted to the Regional Director on or before September 10, 1979.

Copies are available for inspection at the following locations:

Office of Environmental Affairs, Department of the Interior, Bureau of Reclamation,

Room 7622, Washington, DC 20240, Telephone (202) 343-4991.
Division of Engineering Support, Technical Services Branch, Denver Federal Center, E&R Center, Denver, CO 80025, Telephone (202) 343-3007.

Office of the Regional Director, Bureau of Reclamation, P.O. Box 2553, 316 North 28th Street, Billings, MT 59103, Telephone (406) 245-6711.

Office of Polecat Bench Field Representative, P.O. Box 1193, Powell, WY 82435.

Single copies of the draft environmental statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. Please refer to the statement number above.

Dated: July 24, 1979.

Larry E. Meierotto,
Assistant Secretary of the Interior.

[FR Doc. 79-23201 Filed 7-26-79; 8:45 am]
BILLING CODE 4310-09-M

[INT DES 79-44]

Modification of Buffalo Bill Dam, Shoshone Project, Wyo.; Availability of Draft Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement describing the environmental impacts of the Modification of Buffalo Bill Dam, Shoshone Project, Wyoming. The statement covers impacts of raising the dam, reservoir enlargement, spillway modification, municipal and industrial water use, dust abatement dikes, visitor center, and the new Shoshone Powerplant.

Written comments may be submitted to the Regional Director (address below) within 45 days of this notice.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, Telephone (202) 343-4991.

Division of Management Support, General Services Branch, E&R Center, Denver Federal Center, Denver, Colorado 80225, Telephone (303) 343-3007.

Office of the Regional Director, Bureau of Reclamation, P.O. Box 2553, Billings, Montana 59103, Telephone (406) 245-6711.

Single copies of the draft environmental statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. Please refer to the statement number above.

Dated: July 24, 1979.

Larry E. Meierotto,
Assistant Secretary of the Interior.

[FR Doc. 79-23202 Filed 7-26-79; 8:45 am]
BILLING CODE 4310-09-M

Office of the Secretary

National Petroleum Reserve—Alaska; Public Meetings

Fairbanks, Alaska—August 15, 1979. Travelers Inn, 813 Noble Street, Fairbanks, 9:00 a.m.; Barrow, Alaska—August 16, 1979, Barrow Assembly Room, 1:00 p.m.

The Department of the Interior is completing its study on the development of petroleum resources contained within the National Petroleum Reserve in Alaska. To make sure that the recommendations submitted to the Congress are based on sound information and take into account public views, the Interior Department will hold two public meetings to discuss its findings and will provide a period for public review of the report.

Background

The National Petroleum Reserve is a 37,000-square mile tract in the western portion of the Arctic Slope between the Arctic Ocean and the Brooks Range. The Reserve was originally established in 1923 by President Harding as Naval Petroleum Reserve No. 4; in June 1977, the Naval Petroleum Reserves Production Act renamed the Reserve and transferred its administration from the Navy Department to the Department of the Interior. Since then, the Interior Department has been carrying out a Congressionally-directed Government exploration program. While there have been no commercial discoveries made to date, the Reserve still appears to be a potentially productive area.

Study of Petroleum Development and Land Use

In view of the Reserve's potential, Congress directed the President to determine the best procedures for developing, producing, transporting, and distributing its petroleum resources. The President's recommendations are to be forwarded to the Congress by January 1980. Those recommendations will be based on the Interior Department's study of alternative procedures and their economic and environmental consequences.

The President will also recommend at that time the best uses for the lands contained within the Reserve, based on a land use study already submitted to the Congress. The study, conducted in

consultation with the State of Alaska and the Arctic Slope Natives, takes into account the Natives who live or depend on the lands; the scenic, historical, recreational, fish and wildlife, and wilderness values; and the Reserve's mineral potential, as well as other values.

Public Participation

Public participation continues to be an important objective of the Interior Department in carrying out its responsibilities under the Petroleum Reserves Production Act. Public meetings will be held, therefore, to provide those concerned with the future of the National Petroleum Reserve in Alaska an opportunity to discuss the study findings with Interior Department officials. After a briefing on the report, officials will respond to questions and comments from participants.

Those wishing to review the report and submit written comments will have until September 17 to do so. Copies of the report will be available in advance of the meeting and may be obtained by calling 202/343-4367 or by writing to the Office of the Assistant Secretary—Energy and Minerals, U.S. Department of the Interior, Washington, D.C. 20240 (Attention: Ms. Bernice Steinhardt).

To be most helpful, comments should be as specific and as carefully documented as possible. Views on the future development and use of the Reserve should focus on the following questions in particular:

- How should Reserve lands be used and how should they be designated; i.e., multiple use, refuge, conservation area, etc?
- Should the Reserve be opened for private oil and gas leasing? If so, what areas should be opened for leasing and under what conditions?
- What is the petroleum resource potential of the Reserve and its value to the Nation?
- When and at what rate and sequence should potential oil and gas be developed?
- Should oil discovered in the Reserve be produced for current consumption or for storage in the strategic Petroleum Reserve, or should it be shut in for future use?
- What type of leasing system should be employed for oil and gas resources?
- How will Alaska be affected by development of the Reserve? What revenues should the State receive as part of development and what system should be recommended to transfer such revenues?

• What transportation modes and corridors should be used to move Reserve oil and gas to market?

Dated: July 24, 1979.

Charles P. Eddy,
Deputy Assistant Secretary—Energy and Minerals, Department of the Interior.

[FR Doc. 79-23236 Filed 7-26-79; 8:45 am]
BILLING CODE 4310-10-M

Office of Surface Mining Reclamation and Enforcement

Receipt of Permanent Program Submission From the State of Texas

AGENCY: Office of Surface Mining Reclamation and Enforcement ("OSM"). U.S. Department of the Interior.

ACTION: Notice of receipt of program submission from the State of Texas and procedures for public participation in review for determination of completeness of submission.

SUMMARY: On July 20, 1979, the State of Texas submitted to OSM its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 ("SMCRA"). OSM is seeking public comments on the completeness of the State program.

DATES: A public review meeting to discuss completeness of the submission will be held on September 5, 1979, from 9 a.m. to 2 p.m. or until all discussion has been completed. Written comments must be received on or before 5 p.m., September 5, 1979.

ADDRESSES: The public review meeting will be held in Austin Marriott Hotel, 6121 1-35N, Austin, Texas 78752. Copies of the full text of the proposed Texas program are available for review during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand, Kansas City, MO 64106;
Texas Railroad Commission, Surface Mining and Reclamation Division, 1124 S. Inter-Regional Highway, Austin, Texas 78704;
Texas Railroad Commission, Surface Mining and Reclamation Division, Field Office, Woodgate Office Park, Suite 125, 1121 East S.W. Loop 323, Tyler, Texas 75703; and
Texas Railroad Commission, Surface Mining and Reclamation Division, Field Office, Shank Office Building, 1419 3rd Street, Floresville, Texas 78114.

Written comments should be sent to: Mr. Raymond L. Lowrie, Regional Director, Office of Surface Mining, Scarritt Building, 818 Grand, Kansas City, MO 64106.

Written comments will be available for public review at the OSM Region IV

Office above, on Monday through Friday, 8 a.m.-4 p.m., excluding holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Rieke, Assistant Regional Director, Office of Surface Mining, Scarritt Building, 818 Grand, Kansas City, MO 64106, telephone (816) 374-3920.

SUPPLEMENTARY INFORMATION: On July 20, 1979, OSM received a proposed permanent regulatory program from the State of Texas. The purpose of this submission is to demonstrate both the State's intent and its capability to assume responsibility for administering and enforcing the provisions of SMCRA and OSM's permanent regulatory program (30 CFR Chapter 7), as published in the *Federal Register* on March 13, 1979 (44 FR 15311-15463).

This notice describes the nature of Texas' proposed program and sets forth information concerning public participation in the Regional Director's determination of whether or not the submission is complete. The public participation requirements for the consideration of a permanent State program are found in 30 CFR Sections 732.11 and 732.12 (44 FR 15326-15327). Additional information may be found under corresponding sections of the preamble to OSM's permanent program regulations (44 FR 14959-14960).

The receipt of the Texas submission is the first step in a process which will result in the establishment of a comprehensive program for the regulation of surface coal mining and reclamation operations and coal exploration in Texas.

By submitting a proposed program, Texas has indicated that it wishes to be primarily responsible for this permanent program. If the submission, as hereafter modified, is approved by the Secretary of the Interior, the State of Texas will have primary jurisdiction for the regulation of coal mining and reclamation and coal exploration on non-Federal lands in Texas. If the program is disapproved, a Federal program will be implemented and OSM will have primary jurisdiction for the regulation of those activities.

Before OSM and the Secretary formally begin consideration of the substance of the program, the Regional Director must determine that the submission is complete. If the Regional Director determines the submission to be complete, consideration of the adequacy of the program will begin and the public will be informed of the decision and granted the opportunity to submit comments on the adequacy of

the submission. If the submission is determined to be incomplete, the State will be given the opportunity to submit additional material. If the State fails to provide the mission elements, or the submission is otherwise determined to be inadequate, the program will be initially disapproved. After initial disapproval the State may revise the program. If the resubmitted program is also found to be incomplete after opportunity for supplementing it has passed or is otherwise deficient, the State program will be given a final disapproval, and a Federal program will be implemented.

At this time, OSM is primarily concerned with whether the proposed program constitutes a complete submission. The decision on completeness will be made by Raymond L. Lowrie, Regional Director, OSM Region IV. To assist in obtaining information on the completeness of the Texas submission, the Regional Director is requesting written comments from the public and will hold a public review meeting on the issue of completeness.

The public review meeting on completeness will be conducted by the Regional Director and will be informal. This will provide members of the public, State and OSM opportunity to openly exchange thoughts concerning program completeness outside the more rigid structure of formal public hearing proceedings. Specific format procedures will be at the discretion of the Regional Director.

Written comments may supplement or be submitted in lieu of oral presentation at the public review meeting. All written comments must be mailed or handcarried to the Regional Director's Office above or may be handcarried to the public review meeting at the address above and submitted as exhibits to the proceeding. The comment period will close at the conclusion of the public review meeting or at 5:00 p.m. on September 5, 1979, whichever is later. Comments received after that time will not be considered in the Regional Director's completeness determination. Representatives of the Regional Director's Office will be available to meet between July 30, 1979, and August 31, 1979, at the request of members of the public to receive their advice and recommendations concerning the completeness of the proposed program.

Persons wishing to meet with representatives of the Regional Director's Office during this time period may place such request with Mr. Kerry Cartier, Public Information Officer, Telephone (816) 374-3490, at the Regional Director's Office above.

Meetings may be scheduled between 9 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding holidays at the Regional Director's Office.

No Environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed Texas program. Under Section 702(d) of SMCRA (30 U.S.C. Section 1292(d)), approval of State programs does not constitute a major action within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

The following constitutes a summary of the contents of the Texas submission:

The Texas Railroad Commission, Surface Mining and Reclamation Division, has been designated by the Governor of Texas to implement and enforce the Texas Surface Coal Mining and Reclamation Act in accordance with the Surface Mining and Reclamation Act of 1977 (P.L. 95-87). The Railroad Commission has developed State regulations to carry out the State mandate.

Contents of the State Program Submission include:

- (a) State Laws and Regulations.
- (b) Other Related State Laws and Regulations.
- (c) Letter of Legal Authority: State/Federal Law and Regulation Comparison.
- (d) Regulatory Authority Designation.
- (e) Structural Organization—Staffing Functions.
- (f) Supporting Agreements Between Agencies.
- (g)(1) Exploration and Mining Permits.
- (2) Permit Application Fees.
- (3) Bonding—Insurance.
- (4) Inspection and Monitoring.
- (5) Enforcement of Administrative, Civil and Criminal Sanctions.
- (6) Administering and Enforcing Permanent Program Standards.
- (7) Assessing and Collecting Civil Penalties.
- (8) Public Notices and Hearings.
- (9) Coordination with Other Agencies. RE: Permits.
- (10) Consultation with Other Agencies. RE: Environmental, Historic, Cultural, and Archaeological Resources.
- (11) Lands Unsuitable for Surface Mining.
- (12) Restrictions on Financial Interests.
- (13) Training, Examining and Certifying Blasters.
- (14) Public Participation.
- (15) Administrative and Judicial Review.
- (16) The Small Operator Assistance Program (S.O.A.P.).
- (h) Statistical Information.
- (i) Summary of Staff with Titles, Functions, Job Experience and Training.
- (j) Description of Staffing Adequacy.
- (k) Projected Use of Other Professional and Technical Personnel.
- (l) Budget Information.
- (m) Physical Resources.

- (n) Anthracite Mining—N/A.
(o) Other Programs of the Regulatory Authority.

- (p) Additional Information Requested by the Director of the Office of Surface Mining Reclamation and Enforcement—NONE.

Dated: July 24, 1979.

Raymond Lowrie,
Regional Director.

[FR Doc. 79-23193 Filed 7-26-79; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF LABOR

Employment and Training Administration

Reallocation of Funds; Decision To Reallocate Comprehensive Employment and Training Act Funds

AGENCY: Employment and Training Administration, Labor.

ACTION: Final Notice of Voluntary Reallocation of Funds.

SUMMARY: Pursuant to 20 CFR 676.47, the Secretary hereby announces the voluntary reallocation of Comprehensive Employment and Training Act (CETA) Titles II-D and VI funds by Washoe County, Nevada. All of the funds (\$325,000 under Title II-D and \$375,000 under Title VI) are being reallocated to the Nevada balance-of-State CETA program.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Anderson, Administrator, Office of Comprehensive Employment Development, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213, Telephone: (202) 376-6254.

SUPPLEMENTARY INFORMATION: The Washoe County, Nevada CETA program advised the Department of Labor that it had excess funds available under Titles II-D and VI of its Fiscal Year 1979 CETA grant and that it would be unable to effectively utilize these funds prior to the end of the fiscal year. It further advised that it was agreeable to a voluntary reallocation of these funds.

The Department of Labor San Francisco Office has determined that the prime sponsor has made every possible effort to recruit eligible individuals in order to operate programs effectively utilizing these funds. However, due to a significant drop in unemployment in the prime sponsor's area, it was unable to identify a sufficient number of eligible individuals. The Government was given 30 days notice and has agreed to the reallocation. The Washoe County Board of Commissioners and the Prime Sponsor Advisory Council both held public hearings on the reallocation of

these funds and no adverse comments were received.

Robert Anderson,

Administrator, Office of Comprehensive Employment Development.

[FR Doc. 79-23241 Filed 7-26-79; 8:45 am]

BILLING CODE: 4510-30-M

Reallocation of Funds; Decision To Reallocate Comprehensive Employment and Training Act Funds

SUBJECT: Reallocation of Funds.

AGENCY: Employment and Training Administration.

ACTION: Voluntary Reallocation of Funds Under Title II-D of the Comprehensive Employment and Training Act (CETA).

SUMMARY: The balance-of-State, Nebraska, CETA program has notified the Department of Labor that it cannot effectively utilize \$800,000 in CETA Title II-D funds prior to the end of the current fiscal year. It has, therefore, agreed to a voluntary reallocation of these funds.

FOR FURTHER INFORMATION CONTACT: Robert Anderson, Administrator, Office of Comprehensive Employment Development, 601 D Street, NW., Room 5010, Washington, D.C. 20213, Telephone: 202-376-6254.

SUPPLEMENTARY INFORMATION: The balance-of-State, Nebraska, CETA program advised the Department of Labor that it had excess funds available under Title II-D of its Fiscal Year 1979 CETA grant and that it would be unable to effectively utilize these funds prior to the end of the fiscal year. It further advised that it was agreeable to a voluntary reallocation of these funds.

The Department of Labor's Kansas City Office has determined that the balance-of-State CETA program has made every effort to utilize these available funds. However, due to declining unemployment rates, the prime sponsor has been unable to recruit a sufficient number of individuals which meet the revised eligibility requirements. The Governor and the general public were provided with 30 days notice to provide comments to the Regional Office regarding the reallocation of these funds.

Robert Anderson,

Administrator, Office of Comprehensive Employment Development.

[FR Doc. 79-23242 Filed 7-26-79; 8:45 am]

BILLING CODE 4510-30-M

Reallocation of Funds; Decision To Reallocate Comprehensive Employment and Training Act Funds

SUBJECT: Reallocation of Funds.

AGENCY: Employment and Training Administration.

ACTION: Reallocation of Funds Under Title II-D of the Comprehensive Employment and Training Act (CETA).

SUMMARY: Pursuant to 20 CFR 676.47, the Department of Labor announces the reallocation of \$913,618 in CETA Title II-D funds from the Lafayette Parish, Louisiana, CETA prime sponsor.

FOR FURTHER INFORMATION CONTACT: Robert Anderson, Administrator, Office of Comprehensive Employment Development, 601 D Street, N.W., Room 5010, Washington, D.C. 20213, Telephone: 202-376-6254.

SUPPLEMENTARY INFORMATION: The Department of Labor determined that the Lafayette Parish CETA program was underutilizing available funds. After providing the prime sponsor with an opportunity to increase its performance, and after determining that the excess funds could not effectively be utilized, the Department decided to reallocate the funds in question. The Governor and the public were provided 30 days in which to provide comments on the proposed reallocation of funds.

Robert Anderson,

Administrator, Office of Comprehensive Employment Development.

[FR Doc. 79-23243 Filed 7-26-79; 8:45 am]

BILLING CODE 4510-30-M

Reallocation of Funds; Notice of Decision To Reallocate Comprehensive Employment and Training Act Funds

SUBJECT: Reallocation of Funds.

AGENCY: Employment and Training Administration, Labor.

ACTION: Voluntary Reallocation of Funds Under Title II-D of the Comprehensive Employment and Training Act (CETA).

SUMMARY: Montgomery County, Pennsylvania, has notified the Department of Labor that it cannot effectively utilize \$1,839,604 in CETA Title II-D funds prior to the end of the current fiscal year. It has, therefore, agreed to a voluntary reallocation of these funds.

FOR FURTHER INFORMATION CONTACT: Robert Anderson, Administrator, Office of Comprehensive Employment Development, 601 D Street, N.W., Room

5010, Washington, D.C. 20213.
Telephone: 202-376-6254.

SUPPLEMENTARY INFORMATION: The Montgomery County, Pennsylvania, program advised the Department of Labor that it had excess funds available under Title II-D of its Fiscal Year 1979 CETA grant and that it would be unable to effectively utilize these funds prior to the end of the fiscal year. It further advised that it was agreeable to a voluntary reallocation of these funds.

The Department of Labor's Philadelphia Office has determined that the prime sponsor has made every effort to utilize the available funds. However, the sponsor has been unable to recruit a sufficient number of individuals which meet the revised eligibility requirements. The Governor has been given 30 days notice and public notices of the proposed reallocation were published in local newspapers and the public was provided 30 days to provide comments to the Regional Office.

Robert Anderson,

Administrator, Office of Comprehensive Employment Development.

[FR Doc. 79-23244 Filed 7-26-79; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Federal Advisory Council on Occupational Safety and Health; Meeting

Notice is hereby given that the Federal Advisory Council on Occupational Safety and Health, established under Section 4(a) of Executive Order 11807 of September 28, 1974 (39 FR 35559), Occupational Safety and Health Programs for Federal Employees, will meet on August 14 starting 10:00 a.m. in Room S4215 ABC, New Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. The meeting will be open to the public.

The agenda provides for:

- I. Announcements—Clinton M. Wright.
- II. Standing Committee on Occupational Noise—Robert L. Crum.
- III. Standing Committee on Federal Safety and Health Conferences—John E. Albertson.
- IV. Standing Committee on Field Councils—Leven Gray.
- V. Report of Task Group on Federal Medical Records—Annie W. Asensio.
- VI. Standing Committee on Federal Accident Reporting System—George E. Joyce.

The Council welcomes written data, views or comments concerning safety and health programs for Federal employees, including comments on the agenda items. All such submissions

received by close of business August 10, 1979, will be provided to the members of the meeting.

The Council will consider oral presentation relating to agenda items. Persons wishing to orally address the Council at the meeting should submit a written request to be heard by close of business August 10, 1979. The request must include the name and address the of person wishing to appear, the capacity in which appearance will be made, a short summary of the intended presentation and an estimate of the amount of time needed.

All communications regarding this Advisory Council should be addressed to Ms. Annie Asensio, Executive Director, FACOSH, Department of Labor, OSHA, First Floor South, 2100 M Street, N.W., Washington, D.C. 20210, telephone (202) 653-5512.

Signed at Washington, D.C. this 24th day of July, 1979.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 79-23240 Filed 7-26-79; 8:45 am]

BILLING CODE 4510-26-M

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 79-39]

Employee Benefit Plans; Exemption From the Prohibitions Relating to a Transaction Involving the Everybody's, Inc., Employee Profit Sharing Plan and Trust

AGENCY: Department of Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This exemption permits Everybody's Inc. (Everybody's) to borrow \$40,000 from the Everybody's, Inc. Employee Profit Sharing Plan and Trust (the Trust).

FOR FURTHER INFORMATION CONTACT: Robert N. Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, 202-523-8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 29, 1978 notice was published in the Federal Register (43 FR 61061) of the pendency before the Department of Labor (the Department) and the Internal Revenue Service (the Service) (collectively, the Agencies) of a proposal to grant an exemption from the restrictions of sections 406(a)(1)(B) through (D) and 406(b)(1) and 406(b)(2) of the Employee Retirement Income

Security Act of 1974 (the Act) and from the taxes imposed by sections 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of sections 4975(c)(1)(B) through (E) of the Code for a transaction described in an application filed by Everybody's. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Agencies in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Service. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Service within the time period specified in the notice.

The notice of pendency was issued by the Agencies. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this exemption is granted solely by the Department.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transactions provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act, nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Trust and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Trust.

The restrictions of sections 406(a)(1)(B) through (D) and 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by sections 4975(a) and (b) of the Code, by reason of sections 4975(c)(1)(B) through (E) of the Code shall not apply to the loan of \$40,000 from the Trust to Everybody's. The availability of this exemption is subject to the express conditions that the material facts and representations contained in the applications are true and complete and that the application accurately described all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C. this 20th day of July, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-23181 Filed 7-26-79; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1310]

Proposed Exemption for Certain Transactions Involving the Boldtco Profit Sharing and Retirement Trust

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption

SUMMARY: This document contains a notice of pendency before the

Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt both a contribution of certain real property to the Boldtco Profit Sharing and Retirement Trust (the Plan) by the Oscar J. Boldt Construction Company (the Employer), and a lease of the property by the Plan to the Employer. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Employer, and other persons who would be parties to the transactions.

DATES: Written comments and requests for a public hearing must be received by the Department on or before August 31, 1979.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1310. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Stephen Elkins of the Department, telephone (202) 523-8196. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an applicant for exemption from the restrictions of sections 406(a), 406(b)(1) and (b)(2), and 407(a) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the trustees of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit-sharing retirement plan, to which the amount of annual contributions is discretionary on the part of the Employer. The maximum deductible contribution which could be made to the Plan for the Employer's taxable year ending February 28, 1979 is approximately \$345,000.00. Due to the Employer's business, the maximum cash contribution which could be made to the Plan for that year is \$250,000.00.

In order to take full advantage of the maximum allowable contribution, the application requests that a parcel of real property having a fair market value of approximately \$380,000.00 be contributed to the Plan in lieu of cash. The difference between the maximum deduction for contributions for the year ending February 28, 1979, and the amount actually contributed for that year will be carried forward by the Employer and taken as a deduction for the year ending February 29, 1980.

2. The real property which would be contributed to the Plan is located at 217 South Badger Avenue in Appleton, Wisconsin. Improvements to the property include a commercial building, construction on which was completed in 1965, which has approximately 23,800 square feet of floor space. The building provides offices and shop facilities for the Employer.

An appraisal prepared by Joseph H. Doerfler for Fox Valley Appraisals, Inc. in October 1978, as amended in April 1979, places the market value of the property at \$380,000.00.

There is no mortgage or other obligation outstanding against the property. The building has been depreciated on the straight-line method, with the result that the adjusted basis of the Employer in the property is \$139,565.00, as of the year ending February 28, 1979. Title to the property would be conveyed by warranty deed.

The Employer anticipates realizing and recognizing gain incident to transfer of the property to the Plan.

3. After transfer to the Plan, the property would be leased back to the Employer. Terms of the lease would provide for monthly rentals of \$3,940.00 during an initial period of five years. The Employer would have two subsequent options to renew the lease, the first occurring at the end of the

initial five-year period. During the first extended term the rent would be increased to \$4,940.00 per month, for a period of five years. During the second extended term the rent would be increased to \$5,940.00 per month, for a period of five years.

The Employer as lessee would pay all taxes, utilities, maintenance and repair expenses, and would maintain insurance coverage for the property.

4. Valley Trust Company (VTC) of Appleton, Wisconsin would be appointed Independent Investment Manager of the property. In its capacity as fiduciary, among other powers, VTC would have authority to sell or exchange real property under its control, and to enter into lease agreements on such terms as it deemed appropriate and in the interests of Plan participants and beneficiaries.

VTC acknowledges that it would be a fiduciary of the Plan, but only with respect to the real property for which it would be named investment manager.

VTC represents that in its judgment the terms of the proposed lease of the property to the Employer are reasonable and fair, the proposed rentals under the lease would be at or above the prevailing market rentals for similar property, and that the overall arrangement with respect to the property would be to the benefit of the Plan and the participants and beneficiaries of the Plan.

5. Oscar J. Boldt, president of the Employer, personally would guarantee that the rental obligations of the Employer under the lease agreement would be paid to the Plan in the event of default by the Employer on such obligations. Boldt also would agree personally to indemnify the Plan against any loss which might be sustained if the Plan were to sell the property, but were unable to realize an amount at least equal to the appraised value of the property at the time of its transfer to the Plan.

6. In summary, the applicants represent that the proposed exemption would be in the interests of the Plan and of the participants and beneficiaries of the Plan inasmuch as the contribution of the property in kind would allow receipt by the Plan of an asset with a value greater than the amount of cash which otherwise would be contributed; and that the property would provide an annual rate of return equal to approximately ten percent of its appraised value. Moreover, the applicants represent that the proposed exemption would be protective of the rights of participants and beneficiaries of the Plan inasmuch as an independent

investment manager would assume fiduciary responsibilities with respect to the property.

Notice to Interested Persons

Within ten days of publication of the proposed exemption in the Federal Register, all participants and beneficiaries of the Plan will receive by personal delivery a copy of the Notice of Pendency and a statement to the effect that interested persons have the right to comment on the proposed exemption, and the right to request that a hearing be held.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which require, among other things that a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the proposed exemption to the address above, within the time period set forth. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75-1. If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2), and 407(a) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) and (E) of the Code shall not apply to contribution of the real property at 217 South Badger Avenue in Appleton, Wisconsin to the Plan, and to lease of that property to the Employer, if such contribution and lease are according to the terms set forth in the application for exemption.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 19th day of July, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-23180 Filed 7-26-79, 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-690]

Proposed Class Exemption for Certain Transactions Involving Purchases of Securities Where Issuer May Use Proceeds To Reduce or Retire Indebtedness to Parties in Interest

AGENCY: Department of Labor, Pension and Welfare Benefit Programs Office

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of the pendency before the Department of Labor (the Department) of a proposed class exemption from the prohibited transactions restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed class exemption would provide conditional relief prospectively and retroactively to January 1, 1975, for transactions involving purchases of securities by an employee benefit plan which may be prohibited under the Act and Code because the proceeds from the sale of the securities may be used by the issuer to reduce or retire indebtedness to persons who are parties in interest with respect to such employee benefit plan. The proposed exemption, if granted, would affect participants and beneficiaries of employee benefit plans, their employers, banks or other persons which are parties in interest, and other persons engaging in or affected by the described transactions.

DATES: Written comments and requests for a public hearing must be delivered or mailed by September 24, 1979.

ADDRESS: Send comments and requests for a hearing (preferably at least six copies) to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Attention: Application D-690. The application for exemption and the comments received will be available for public inspection in the Public Documents Room, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: William J. Flanagan, Esq., Plan Benefits Security Division, Office of the Solicitor of Labor at (202)523-7931. This is not a toll free number.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of Labor of a proposed class exemption from the restrictions of section 406(a)(1)(A)-(D) and section 406(b)(1) and (2) of ERISA and from the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the American Bankers Association (the applicant), pursuant to section 408(a) of the Act and section 4975(c)(2) of the Internal Revenue Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28,

1975). This application was filed with both the Department and the Internal Revenue Service. However, under Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) effective December 31, 1978, the authority of the Secretary of the Treasury to issue rulings and exemptions under section 4975 of the Code, with certain exceptions not here relevant, has been transferred to the Secretary of Labor.

Summary of Facts and Representations

The application contains representations with regard to the pending class exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

According to the applicant, it is customary for corporations to issue intermediate to long-term debt or equity securities and to use the proceeds from the issue, in part, to reduce or retire existing indebtedness in the form of short-term bank lines of credit, term and revolving bank loans, commercial paper, letters of credit and other forms of extension of credit from banks to the corporations. The applicant represents that fiduciaries of employee benefit plans may find these debt or equity securities to be desirable investments for employee benefit plans and that it is often in the interest of plans to purchase these securities in the initial public offering because the public offering price for the securities usually will be more favorable to the plan than the net cost to the plan of an equivalent amount of the same securities in the secondary market following the initial public offering.

The applicant states that purchases by banks on behalf of employee benefit plans of these securities may be deemed to involve prohibited transactions if the proceeds from the sale of the securities are used by the issuer, directly or indirectly, to reduce or retire existing indebtedness to persons who are parties in interest with respect to a plan. For example, if a fiduciary causes an employee benefit plan to purchase in the initial public offering securities of a corporation which uses the proceeds of the offering to repay in whole or in part indebtedness owed to a party in interest with respect to the plan, the purchase may be deemed to involve transactions in violation of the prohibitions of section 406(a)(1) and subject to the taxes imposed by section 4975(a) and (b) of the Code. Moreover, if the fiduciary in this example is the creditor of the corporate-issuer, the purchase may also be deemed to involve transactions in

violation of section 406(b)(1) and (2) of the Act and section 4975(c)(1)(E) of the Code.

It is the applicant's opinion that if no exemption from the prohibited transaction provisions is granted, desirable investment opportunities may be foreclosed for employee benefit plans, particularly those managed or serviced by banks which have commercial banking relationships with major corporations, and that as a result capital markets may be disrupted. The applicant represents that the highest quality issuers of corporate debt securities may borrow from many banks and that as many as 100 or more banks can be involved in a line of credit or commercial bank loan to certain of these issuers.

The applicant represents that the prospectus distributed in connection with a public offering of securities customarily will state merely that the proceeds of the sale will be used by the issuer to reduce or retire short-term bank credit without identifying the creditors who will be repaid. Accordingly, where the decision to purchase securities on behalf of a plan is made by a fiduciary other than the creditor of the issuer, an inadvertent prohibited transaction may occur. The applicant further represents that even where the fiduciary is the creditor of the issuer, the person charged with making investment decisions for the plan may not "know" that the fiduciary will benefit from the particular investment. More specifically, where the fiduciary is a bank, the bank's employee(s) responsible for investing plan assets may not know that a prior loan of the bank will be reduced with the proceeds from an issuance of securities, in part because of the efforts of the bank to comply with regulations adopted by federal banking agencies which require that the commercial and trust functions of banks be kept separate to a certain extent.¹

Scope of the Proposed Exemption

The proposed exemption would, if granted, exempt a purchase by a fiduciary of securities in an initial public offering which would be prohibited because the proceeds from the sale might be used by the issuer to retire or reduce indebtedness owed to a party in interest, including, in some instances,

¹ See regulations adopted by the Comptroller of the Currency 12 CFR § 9.7(d) (43 FR 6759, February 18, 1978) and the Policy Statement, Board of Governors of the Federal Reserve System (43 FR 2755, March 27, 1978) which set forth guidelines to prevent the misuse of material inside information by bank trust departments in connection with the purchase or sale of securities.

the fiduciary itself, if certain conditions are met. The relief proposed is limited to transactions involving purchases of securities in the initial public offering because, generally, a purchase by a plan of securities in the secondary market would not result in any direct or indirect benefit to a creditor of the issuer. Relief is proposed for both the acquisition of securities by a plan and the indirect receipt by certain parties in interest of the proceeds of the issue. However, no relief is proposed to cover the situation where the fiduciary will benefit from the purchase of the securities by the plan unless the fiduciary is a bank and certain other conditions are met.

It should also be noted that no relief was requested and no exemption is proposed from the prohibitions of section 406(a)(2) and 407(a) of the Act. Accordingly, the proposed exemption does not cover transactions involving the purchase or acquisition on behalf of a plan of securities of an employer with respect to the plan or of an affiliate of the employer. Additionally, it should be remembered that, even if the exemption proposed herein is granted, the purchase with plan assets of securities in an underwriting would involve a prohibited transaction if a party in interest of the plan is a member of the underwriting syndicate. Interested persons should consider, however, relief afforded by parts II and III of Prohibited Transaction Exemption 75-1 (40 FR 50845, 50846-9, October 31, 1975).

The proposed exemption is divided into two sections. Section I of the proposal sets forth the transactions covered by the exemption and enumerates certain conditions and limitations applicable to each kind of transaction. Section II of the proposal sets forth general conditions applicable to transactions described in Section I.

Section I—Transactions. Part A of this section provides retroactive relief for transactions engaged in by fiduciaries prior to 30 days after the date on which the final exemption is published. Relief would be provided from sections 406(a)(1)(A)–(D) for the purchase or acquisition of securities in a public offering by a fiduciary on behalf of an employee benefit plan where the proceeds may be used by the issuer to retire or reduce indebtedness owed to a party in interest other than the fiduciary, provided that the price paid by the plan for the securities did not exceed adequate consideration.² The term

² No specific retroactive exemption is proposed for transactions occurring since January 1, 1975 involving purchases of securities by a plan where the proceeds were used by the issuer to benefit the fiduciary. Any such transactions which occurred prior to the date the exemption is effective will be

public offering is defined in the exemption proposal to mean the offering of an issue registered under the Securities Act of 1933 and certain other kinds of enumerated offerings which are exempt from registration under the Securities Act of 1933.

Part B of Section I of the proposed exemption provides prospective relief from the prohibitions of section 406(a)(1)(A)–(D) of the Act for purchases by a fiduciary on behalf of an employee benefit plan of securities in a public offering where the proceeds from the sale may be used by the issuer to retire or reduce indebtedness owed to a party in interest other than the fiduciary. Transactions covered by this part of the exemption must also meet the conditions described in Section II(A). This portion of the exemption would be effective 30 days after the date on which the final exemption is published.

Part C would provide relief for similar transactions by a bank-fiduciary in circumstances where the issuer will use the proceeds to reduce or retire indebtedness owed to the bank fiduciary.³ Part C would exempt from the restrictions of sections 406(a)(1)(A)–(D) and 406(b) (1) and (2) the purchase of registered securities by a bank fiduciary on behalf of an employee benefit plan when the proceeds from the sale will be used by the issuer to reduce or retire indebtedness owed to the bank-fiduciary. Transactions covered by this exemption must also meet the conditions described in Section II(A). However, this proposed exemption contains additional conditions and limitations applicable to transactions where the fiduciary of the plan "knows" that the proceeds of this issue will be used in whole or in part to benefit the fiduciary. These additional conditions are modeled on those included in that part of Prohibited Transaction Exemption 75-1 (40 FR at 50847) applicable to securities purchased in an underwritten offering when a member of the underwriting syndicate is a party in interest of the plan. They are designed to assure that the plan is protected

exempt under the proposed class exemption only if the transactions meet the requirements set forth in Section I(C) of the exemption proposal. Transactions which occurred prior to the effective date of this exemption which did not meet the requirements set forth in Section I(C) will be considered by the Department for an individual exemption upon submission of an application for exemption in accordance with the procedures set forth in ERISA Proc. 75-1 (40 FR 18471, April 28, 1975).

³ However, as noted above, the exemption proposed in Section I(C) would be effective January 1, 1975 in order to provide relief for those transactions occurring prior to the date of this exemption proposal which met the conditions and limitations of Section I(C).

under circumstances when the fiduciary knows that its direct interests may be involved in the transaction.⁴

The Department understands that fiduciaries which are not banks may also have commercial lending relationships with the issuers of securities from which prohibited transactions such as those covered in this exemption proposal could arise. No exemption is proposed here for these transactions, the record before the Department at this time being insufficient to support such an exemption.

For the purposes of this exemption a fiduciary bank will be deemed to know that the proceeds of an issue of securities will be used to benefit such fiduciary if the officers or employees of the fiduciary bank who are authorized to be involved in carrying out the fiduciary's investment responsibilities, obligations or duties (or who in fact are involved in carrying out those responsibilities, obligations or duties): (1) Receive actual knowledge of such fact, (2) possess information reasonably sufficient to cause them to believe that the proceeds will be used to benefit the fiduciary, or (3) such knowledge or information is received by employees or agents of the fiduciary which in those normal courses of business should have been communicated by those employees or agents to the officers or employees of the fiduciary bank who are authorized to carry out, or who in fact carry out, the fiduciary responsibilities, obligations, or duties of the bank regarding the purchase.⁵

⁴ It should be noted that, in addition to conditions similar to those developed in PTE 75-1, a limitation would be imposed on the aggregate amount of securities which the fiduciary-bank may purchase on behalf of employee benefit plans. The total amount of securities in any single offering purchased by the fiduciary-bank on behalf of the plan together with the total amount of such securities purchased by the fiduciary-bank acting as a fiduciary on behalf of all other employee benefit plans subject to Title I of ERISA would not, under the terms of the proposal, be permitted to exceed 10 percent of the amount of the offering.

⁵ The Department invites comments as to the need for special relief for banks which serve as custodians or directed trustees of employee benefit plans with responsibility to carry out proper investment instructions of a named fiduciary. No special relief is proposed here for transactions involving the purchase of securities, the proceeds of which will benefit the fiduciary bank, in circumstances where the bank fiduciary is a directed trustee. The Department assumes that the more restrictive conditions contained in Part I(C) of the exemption generally will not apply to these transactions because the person who handles these transactions for the bank is unlikely to have the kind of knowledge which would cause those conditions to apply. Moreover, in those circumstances where the services provided by the bank to the plan do not include fiduciary services, the purchase by a plan fiduciary of securities, the proceeds of which benefit the bank, would be

Footnotes continued on next page

The exemption proposed in Part D of Section I would provide an exemption from the restrictions of sections 406(a)(1)(A)–(D) and 406(b) (1) and (2) of the Act for the receipt by any party in interest of any of the proceeds from the issuance of securities when the proceeds are used by the issuer to retire or reduce indebtedness owed to the party in interest. The relief proposed for the receipt of proceeds is not limited to transactions involving banks and would exempt the receipt of such proceeds by any party in interest (including a fiduciary) with respect to the plan. The effective date of Part D of the exemption proposal would be January 1, 1975.

Section II—General Conditions. The general conditions set forth in Section II(A) of the exemption proposal are applicable to transactions involving prospective purchases or acquisitions of securities by a fiduciary as described in parts B and C of Section I.

In order for the transactions to qualify for the exemptions proposed in Section I (B) or (C), the price paid by the fiduciary for the securities must not exceed the offering price described in an effective registration statement under the Securities Act of 1933 (or other offering circular required by applicable federal law in the case of exempt securities described in Section II(B)(2) of the proposed exemption) covering these securities. Moreover, the plan fiduciary must maintain on behalf of the plan, for a period of six years from the date of the transaction, records necessary to enable described persons to determine whether the conditions of the exemption have been met. These records must be unconditionally available at their customary location during normal business hours for examination by representatives of the Department or the Service, plan fiduciaries, contributing employers and plan participants and beneficiaries. However, a prohibited transaction will not be deemed to have occurred if the records are lost or destroyed prior to the end of the six-year period due to circumstances beyond the control of the fiduciary or plan.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2)

Footnotes continued from last page treated as a party in interest transaction subject to Parts A and B of the proposed exemption. (See, for example, the concurrence by the Department in the views expressed in IRS Letter Ruling Ref. No. 7907091, November 17, 1978 reprinted in 228 BNA Pension Reporter at J-4).

of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility of the Act which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act, and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan(s) and of participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan(s); and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the proposed exemption to the address and within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the application referred to and summarized above, the Department has under consideration the grant of the following class exemption pursuant to the authority conferred under section 408(a) of the Act and in accordance with

the procedure set forth in ERISA Procedure 75-1 (44 FR 18471, April 28, 1975).

Section I. Transactions. A. Effective January 1, 1975 the restrictions of sections 406(a)(1) (A)–(D) of the Act and the taxes imposed by reason of section 4975(c)(1) (A)–(D) of the Code shall not apply to the purchase or other acquisition prior to [30 days after the date of publication of the grant of exemption] of securities in a public offering (defined in Section II(B)) by a fiduciary on behalf of an employee benefit plan solely because the proceeds from the sale were or were to be used by the issuer of the securities to retire or reduce indebtedness owed to a party in interest with respect to the plan other than the fiduciary, *provided that* the price paid by the plan for the securities does not exceed adequate consideration.

B. Subject to the conditions described in section II(A), effective [30 days after publication of the grant of the exemption], the restrictions of sections 406(a)(1) (A)–(D) of the Act and the taxes imposed by reason of section 4975(c)(1) (A)–(D) of the Code shall not apply to the purchase or other acquisition of securities in a public offering (defined in Section II(B)) by a fiduciary on behalf of an employee benefit plan solely because the proceeds from the sale may be used by the issuer of the securities to retire or reduce indebtedness owed to a party in interest of the plan other than the fiduciary.

C. Subject to the conditions described in section II(A), effective January 1, 1975, the restrictions of sections 406(a)(1) (A)–(D) and 406(b) (1) and (2) of the Act and the taxes imposed by reason of section 4975(c)(1) (A)–(E) of the Code shall not apply to the purchase or other acquisition of securities in a public offering (defined in Section II(B)) by a fiduciary bank on behalf of an employee benefit plan solely because the proceeds from the sale may be used by the issuer of the securities to retire or reduce indebtedness owed to the fiduciary-bank, *provided that*, if such fiduciary of the plan knows (as defined in paragraph 7) that the proceeds of this issue will be used in whole or in part to benefit such fiduciary, the transaction shall have complied with the conditions set forth in paragraphs 1 through 6 below.

1. Such securities are purchased prior to the end of the first full business day after the final terms of the securities have been fixed and announced to the public, except that—

a. If such securities are offered for subscription upon exercise of rights, they may be purchased on or before the

fourth day preceding the day on which the rights offering terminates; or

b. If such securities are debt securities, they may be purchased on a day subsequent to the end of such first full business day, if the effective interest rates on comparable debt securities offered to the public subsequent to such first full business day and prior to the purchase are less than the effective interest rate of the debt securities being purchased:

2. Such securities

a. Are offered by the issuer pursuant to an underwriting agreement under which the members of the underwriting syndicate are committed to purchase all of the securities being offered.

b. Are purchased by others pursuant to a rights offering, or

c. Are offered pursuant to an overallotment option.

3. The issuer of such securities has been in continuous operation for not less than three years, including the operations of any predecessors, unless such securities are non-convertible debt securities rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization;

4. The amount of securities purchased or otherwise acquired on behalf of the plan by the fiduciary bank does not exceed three percent of the total amount of the securities being offered.

5. The consideration to be paid by any plan in purchasing or otherwise acquiring such securities does not exceed three percent of the fair market value of the total assets of the plan as of the last day of the most recent fiscal quarter of the plan prior to such transaction, provided that if such consideration exceeds \$1 million, it does not exceed one percent of such fair market value of the total assets of the plan.

6. The total amount of securities in any single offering purchased by the fiduciary bank on behalf of the plan together with the total amount of such securities purchased by such fiduciary acting as a fiduciary on behalf of any other employee benefit plan subject to Title I of ERISA does not exceed 10% of the amount of the offering.

7. As used in this Section I(C), a fiduciary bank will be deemed to know that the proceeds of an issuance of securities will be used in whole or in part to benefit such fiduciary, if

a. Such knowledge is actually communicated to,

b. Information reasonably sufficient to cause belief that the proceeds will be used to benefit the fiduciary is possessed by, or

c. Such knowledge or information is received by employees or agents of such fiduciary which knowledge or information, in the normal course of business, should have been communicated by such employees or agents to,

the fiduciary bank's officers or employees who are authorized to be involved in carrying out the fiduciary's investment responsibilities, obligations, or duties, or who in fact are involved in carrying out such responsibilities, obligations, or duties, regarding the purchase or other acquisition.

D. Effective January 1, 1975, the restrictions of sections 406(a)(1)(A)-(D) and 406(b) (1) and (2) of the Act and the taxes imposed by reason of section 4975(c)(1)(A)-(E) of the Code shall not apply to the receipt by a party in interest of any of the proceeds resulting from the issuance of securities in a public offering (defined in Section II(B)) when such proceeds are used by the issuer of the securities to retire or reduce indebtedness owed to the party in interest.

Section II. *General Conditions.* A. The following conditions apply to the transactions described in Section I(B) and (C) above:

1. The price paid by the plan fiduciary for the securities shall not be in excess of the offering price described in an effective registration statement under the Securities Act of 1933 covering such securities, or in the case of securities described in Section II(B)(2), in the offering circular required under applicable federal law.

2. (a) The fiduciary, on behalf of the plan, maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in Section II(A)(2)(b) below to determine whether the conditions of this exemption have been met, except that a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the fiduciary or plan, the records are lost or destroyed prior to the end of the six-year period.

(b) Notwithstanding any provisions of subsections (A)(2) and (b) of section 504 of the Act, the records referred to in Section II(A)(2)(a) above are unconditionally available at their customary location for examination during normal business hours by:

(i) Any duly authorized employee or representative of the Department of Labor or the Internal Revenue Service,

(ii) Any fiduciary of a plan who has authority to manage and control the assets of the plan, or to allocate to

another fiduciary the authority to manage and control the assets of the plan, or any duly authorized employee or representative of such fiduciary,

(iii) Any contributing employer to the plan or representative of that employer,

(iv) Any participant or beneficiary of the plan or any duly authorized employee or representative of such participant or beneficiary.

B. For the purposes of the exemptions contained in Section I, the term "public offering" means

1. The offering of securities registered under the Securities Act of 1933 (Securities Act), or

2. The offering of securities exempt from registration under the Securities Act of 1933 which are

(a) Issued by a bank,

(b) Issued by a common or contract carrier if such issuance is subject to the provisions of Section 20(a) of the Interstate Commerce Act, as amended,

(c) Exempt from the registration requirements of the Securities Act pursuant to a federal statute other than the Securities Act, or

(d) The subject of a distribution and of a class which is required to be registered under Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 781), and the issuer of which has been subject to the reporting requirements of Section 13 of that Act (15 U.S.C. 78m) for a period of at least 90 days immediately preceding the sale of securities and has filed all reports required to be filed thereunder with the Securities and Exchange Commission during the preceding 12 months.

Signed at Washington, D.C., this 20th day of July, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

(FR Doc. 79-22993 Filed 7-23-79; 8:55 am)

BILLING CODE 4510-29-M

[Application No. D-784]

Proposed Class Exemption for Certain Transactions Involving Bank Collective Investment Funds

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed class exemption from certain of the prohibited transaction restrictions contained in the Employee Retirement Income Security Act of 1974 (hereinafter the Act or ERISA) and from certain taxes imposed by the Internal

Revenue Code of 1954 (hereinafter the Code). The proposed exemption would allow collective investment funds that are maintained by banks and in which employee benefit plans participate to engage in certain transactions provided specified conditions are met. It would also permit an employee benefit plan to hold employer securities or employer real property under certain circumstances. The proposed exemption, if granted, would affect participants and beneficiaries of employee benefit plans, employers of employees covered under such plans, collective investment funds maintained by banks and other persons engaging in the described transactions.

EFFECTIVE DATE: It is proposed to make this exemption effective as of January 1, 1975.

DATES: All interested persons are invited to submit written comments concerning the proposed exemption. Written comments on the proposed exemption and requests for a public hearing must be received by the Department on or before September 24, 1979.

ADDRESSES: Written comments and requests for a public hearing (preferably six copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Exemption For Bank Collective Investments Funds. All such communications, and applications for exemption relating to this proposed exemption, will be available for public inspection at the Public Document Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Barry Barbash, Esq., Office of the Solicitor, U.S. Department of Labor, (202) 523-8298. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed class exemption from the restrictions of section 406 and 407(a) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) of the Code. The proposed exemption was requested in an application filed by the American Bankers Association¹ (hereinafter the

¹ Exemption Application No. D-784. The application was originally filed on May 9, 1977 and was supplemented and modified by submissions dated October 18, 1977, October 30, 1978 and June 19, 1979. The application, as amended, contains facts and representations, summarized below, with regard to the proposed exemption. Interested

Applicant) pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722.²

The Applicant requests relief to cover transactions entered into by banks that maintain collective investment funds in which employee benefit plans participate.³ The Applicant represents that these funds are of two types. One type of collective investment fund is maintained by a bank exclusively for the investment and reinvestment of moneys contributed to the fund by the bank in its various capacities as trustee, executor, administrator or guardian.⁴ A second type of collective investment fund consists solely of assets of employee benefit plans that are qualified trusts within the meaning of section 401(a) of the Code and that are exempt from taxation under section 501(a) of the Code.⁵

Both types of collective investment funds, when operated by national banks, are subject to the requirements of section 9.18 of Regulation 9 of the Comptroller of the Currency of the United States.⁶ Collective investment funds that are not maintained by

persons are referred to the amended application on file with the Department for the Applicant's complete representations.

² The application was filed with both the Department and the Internal Revenue Service. However, this notice of pendency is being issued solely by the Department, under section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) which transferred, as of December 31, 1978, (44 FR 10665, January 3, 1979), the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor.

³ The Applicant does not request and the Department has not proposed an administrative exemption applicable to a bank fiduciary's investment of plan assets it manages in a fund it also manages or sponsors. The Department notes that section 408(b)(8) of the Act states, in part, that certain prohibited transaction provisions of the Act shall not apply to any transaction between a plan and a common or collective trust fund or pooled investment fund maintained by a party in interest which is a bank or trust company supervised by a state or federal agency, so long as certain conditions are met. The Department has not indicated by proposed regulation or otherwise the extent to which the exemption afforded by section 408(b)(8) applies to the prohibitions contained in sections 406(a) and 406(b).

⁴ This type of fund, sometimes referred to as a "common trust fund", is exempt from taxation under section 584 of the Code.

⁵ These funds are sometimes termed "pooled employee benefit funds" or "qualified pooled funds".

⁶ 12 CFR § 9.18 (1977). The two types of collective investment funds are subject to different treatment under section 9.18. For example, section 9.18(b)(5)(iii), which bars banks maintaining common trust funds from referring to the performance of funds other than those administered by the bank in any publication, is not applicable to banks in respect of their maintaining pooled employee benefit funds.

national banks are subject to relevant provisions of state laws.⁷ In general, both types of collective investment funds are exempt from registration and regulation under the federal securities laws.⁸

Section 406(a)(1) of ERISA and section 4975(c)(1) (A), (B), (C) and (D) of the Code provide generally that a fiduciary with respect to a plan shall not cause the plan to engage in certain direct or indirect transactions with a party in interest⁹ with respect to the plan. In addition, under sections 406(a)(2) and 407(a) of ERISA, a fiduciary with respect to a plan may not allow the plan to acquire or hold employer securities and employer real property except under specified conditions.¹⁰ Section 406(b) of ERISA and section 4975(c)(1) (E) and (F) of the Code prohibit a fiduciary with respect to a plan from engaging in certain types of self-dealing or conflicts of interest. The term "fiduciary" is defined in section 3(21) of ERISA to include a person who exercises any discretionary authority or discretionary control respecting management of the plan or exercises any authority or control respecting management or disposition of its assets.

To the extent the assets of a collective investment fund in which a plan has an interest are plan assets, the banks maintaining such funds would be fiduciaries under ERISA and numerous transactions commonly engaged in by such funds would be prohibited under ERISA and the Code. Although it is the Applicant's view that the assets of collective investment funds are not plan assets for purposes of the fiduciary responsibility and prohibited transaction provisions of the Act and the Code, the Department has rejected this view. Accordingly, the Applicant requests a class exemption from sections 406 and 407(a) of ERISA and section 4975(c)(1) of the Code.

⁷ Although the Comptroller's authority extends only to national banks, state banks are required to comply with the Comptroller's regulations to maintain the tax-exempt status of their trusts under section 584 of the Code. See section 584(a)(2) of the Code.

⁸ See Section 3(a)(2) of the Securities Act of 1933 section 3(a)(12) of the Securities Exchange Act of 1934, and sections 3(c)(3) and 3(c)(11) of the Investment Company Act of 1940.

⁹ For purposes of this document, the term "party in interest" includes persons who are "disqualified persons" within the meaning of section 4975(e)(2) of the Code.

¹⁰ The term, "employer security" is defined in section 407(d)(1) of ERISA to mean a security issued by an employer of employees covered by the plan, or by an affiliate of such employer. The term, "employer real property" is defined in section 407(d)(2) of ERISA to mean real property (and related personal property) that is leased to an employer of employees covered by the plan, or to an affiliate of such employer.

The Applicant describes a number of transactions that might be prohibited under the Act or the Code. The Applicant indicates that collective investment funds may purchase securities issued by employers whose employees are covered by plans participating in those collective investment funds. Collective investment funds may also own real estate that is leased directly or indirectly to tenants who are parties in interest with respect to plans participating in those funds. In addition, parties in interest with respect to participating plans may provide materials, supplies or services in connection with real property held by a collective investment fund. The Applicant also suggests that a plan's beneficial interest in employer securities and employer real property held in a collective investment fund, if aggregated with employer securities and employer real property held directly by the plan, could result in prohibited transactions under sections 406(a)(2) and 407(a) of the Act.

Applying the prohibited transaction provisions of ERISA and the Code to transactions such as those described above could, according to the Applicant, result in a reduction in the use of collective investment funds by employee benefit plans. The Applicant argues that this result would be detrimental to employee benefit plans, which may gain a number of advantages by investing their assets through a collective investment fund. The Applicant suggests that among those advantages for a plan are a greater degree of investment diversification, access to a greater variety of investments, increased liquidity, and lower brokerage commissions.

Pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedure set forth in ERISA Procedure 75-1, the Department is proposing to grant a class exemption permitting collective investment funds maintained by banks to engage in certain transactions that otherwise might be prohibited under sections 406 and 407(a) of the Act and section 4975(c)(1) of the Code. The exemption the Department is proposing is in many respects similar to one the Department and the Internal Revenue Service have previously granted covering insurance company pooled separate accounts.¹¹

The availability of the proposed exemption is conditioned upon compliance with a number of general requirements. Transactions must be at

¹¹ Prohibited Transaction Exemption 78-19, 43 FR 59915, December 22, 1978.

least as favorable to the collective investment fund as arm's length transactions between unrelated parties. The proposal would also require the bank maintaining a collective investment fund to keep, and make available to specified persons upon request, records sufficient to enable such persons to determine whether the conditions of the exemption have been met. Other provisions of the proposed class exemption are discussed in detail below.

1. Proposed Exemption for Investments by Bank Collective Investment Funds

Under the proposed exemption, a collective investment fund maintained by a bank would be able to enter into any future transaction with a person who is a party in interest with respect to a plan participating in the fund, other than the bank maintaining the collective investment fund, an affiliate of such bank, or any other collective investment fund maintained by the bank, so long as the participation in the fund of the plan with respect to which the party is a party in interest does not exceed 5 percent of the fund's total assets. Relief for any such party in interest transaction that takes place prior to 60 days after publication in the *Federal Register* of notice of a grant of the exemption, would be available under the proposal, if the plan's participation in the fund does not exceed 10 percent of the fund's total assets. These percentage limitations are identical to those used in similar provisions contained in the previously issued insurance company pooled separate account class exemption.

The Applicant suggests that relief for transactions between parties in interest with respect to a participating plan and a collective investment fund entered into in the future should be conditioned on the plan's interest in the fund not exceeding 10 percent of the fund's total assets, and that no percentage limitation should be imposed on such transactions entered into in the past. In support of its suggestion that the limitation for future transactions should be 10 percent, the Applicant argues that a 5 percent limitation would require a significant number of adjustments to be made in existing collective investment fund arrangements. In addition, the Applicant maintains that a 5 percent limitation is unwarranted because participating plans and parties in interest with respect to those plans have no legal or equitable authority over the management of a bank collective investment fund. Finally, the Applicant argues that federal and state regulation

of bank collective investment funds provides an additional safeguard making a 10 percent limitation reasonable.

The Department is not persuaded by the arguments the Applicant has made to date in favor of a 10 percent limitation on plan participation for future transactions. With respect to the argument that a 10 percent limitation would require adjustments to existing arrangements, the Department believes that the proposed 10 percent limitation for transactions that have been entered into in the past would prevent undue burdens upon banks maintaining collective investment funds. The Department also believes that a lack of formal authority over the management of a collective investment fund does not ensure that conflicts of interest would not arise in situations in which a plan's interest represented a large portion of the fund's total assets. In such situations, individuals who have no legal authority over the fund's management, but who determine whether the plan should continue to participate in the fund, might be in a position to exert influence over the managers of the fund. In addition, state and federal banking regulations have different objectives from those of ERISA, and as a result might not adequately deal with conflicts of interest that might arise in situations in which a plan's interest in a collective investment fund exceeds 5 percent of the fund's total assets. Therefore, the Department is proposing to adopt the 5 percent limitation it found protective of the interests of plan participants and beneficiaries when it granted the exemption for insurance company pooled separate accounts.¹²

On the basis of the information submitted, the Department has determined not to propose two additional exemptions requested by the Applicant that would be available if the percentage limitation on a plan's participation in a collective investment fund is not met. Under the first of these requested exemptions, relief would be available where the amount of a collective investment fund's assets involved in a particular transaction is not greater than 2 percent of the fund's total assets. Under the second request exemption, relief would be available where an employee benefit plan's

¹² As noted in the text above, the Department is proposing a 10 percent limitation for past transactions between collective investment funds and parties in interest with respect to participating plans in order to avoid unduly burdening interested persons. The Department is not proposing the requested exemption containing no percentage limitation for past transactions.

interest in a collective investment fund does not exceed 10 percent of the plan's assets. In view of the conflicts of interest that can exist when the participation of a particular plan represents a large portion of a collective investment fund, the Department is not convinced that the two additional exemptions requested by the Applicant would be protective of the interests of plan participants and beneficiaries. For the same reason, the Department is not proposing another provision requested by the Applicant that would permit any transaction between a collective investment fund and persons who are parties in interest with respect to participating plans solely by reason of a relationship described in section 3(14) (F), (H) or (I) of the Act,¹³ so long as the plan's participation in the fund does not exceed 20 percent of the fund's total assets. However, as discussed below, the proposed exemption includes other, more limited, relief that would be available to, among others, individuals who are parties in interest by virtue of a relationship described in section 3(14) (F), (H) or (I) of the Act.

2. Special Provisions Relating to Multiple Employer Plans

The proposed exemption sets out alternative conditions for certain transactions involving collective investment funds and employers who contribute to multiple employer plans.¹⁴ Under the proposed exemption, relief would be available for such transactions entered into in the future if the assets of the multiple employer plan¹⁵ invested in the collective investment fund do not exceed 10 percent of the total assets in the collective investment fund, and if the employer is not a "substantial employer" within the meaning of section 4001(a)(2) of the Act.¹⁶ The 10 percent

¹³ Section 3(14) (F), (H) and (I) describes persons who are parties in interest by reason of certain less direct relationships to the plan than the relationships to the plan of persons who are parties in interest by reason of section 3(14) (A), (B), (C), (D), (E) and (G).

¹⁴ The insurance company pooled separate account class exemption contains similar relief for certain transactions involving such employers and insurance company pooled separate accounts.

¹⁵ The term, "multiple employer plan" is defined in the proposed exemption as a plan: (1) to which more than one employer is required to contribute; (2) that is maintained pursuant to one or more collective-bargaining agreements between an employee organization and more than one employer; and, (3) that satisfies such other requirements as the Secretary of Labor may by regulation prescribe under section 3(37) of the Act and section 414(f) of the Code. No additional requirements are currently in effect.

¹⁶ The term, "substantial employer" is defined in section 4001(a)(2) of the Act to mean an employer whose contributions during specified periods equal or exceed 10 percent of the total contributions made to the plan.

limitation on the plan's participation in the fund would not apply to transactions entered into prior to 60 days after the grant of the exemption, nor would it apply where the employer's contributions to the plan amount to less than 5 percent of the plan's total contributions.

3. Special Provisions Relating to Short-Term Investment Funds

The Applicant requests special relief covering collective investment funds that are maintained for the purpose of providing a medium for the short-term investment of assets of participating plans. Specifically, the Applicant requests that such funds be permitted to enter into transactions with parties in interest with respect to participating plans without regard to the size of the plan's investment in the fund.

Short-term collective investment funds, the Applicant states, invest generally in short-term debt securities of large, publicly held companies. Plans sponsored by these companies are likely to have the largest interest in such funds. Special relief for short-term collective investment funds is warranted, the Applicant argues, for a number of reasons. Short-term investment funds are used by trustees to reduce the portion of employee benefit plan assets that are held uninvested pending permanent investment or distribution. The use of a collective investment fund for short-term investments enables participating plans to gain higher rates on short-term investments than might otherwise be possible. In addition, the Applicant suggests that, since the decision to invest in specific short-term securities by a collective investment fund must often be made quickly, a bank fiduciary might lack sufficient time to determine whether such a transaction would involve parties in interest of any employee benefit plans participating in the fund. Furthermore, according to the Applicant, the decision to enter into short-term collective investment funds is often incidental to the long-term investment decisions of a plan.

The Applicant suggests that exemptive relief for short-term collective investment funds would be in accord with the standards set forth in section 408(a) of the Act. Specifically, the Applicant argues that, because a decision to invest in specific short-term securities often must be made quickly and because a plan's participation in a fund investing primarily in such securities generally is incidental to a plan's long-term investment decisions, a short-term collective investment fund

likely would not be administered in a manner intended to circumvent the prohibitions of ERISA.

In light of these arguments and considerations, the Department is proposing a provision giving exemptive relief to a short-term collective investment fund without regard to the percentage of the fund's total assets represented by any particular plan's investment in the fund. This provision would be available to collective investment funds that invest substantially all their assets in certain specified evidences of indebtedness that have a stated maturity date of one year or less, or that have a maturity date of one year or less from the date of purchase. A bank maintaining such fund would have to comply with the general conditions of the proposed exemption (relating to the adequacy of the terms of transactions entered into under the exemption, and the maintenance and availability of records). In addition, no exemption is being proposed permitting the fund to enter into a transaction with the bank maintaining the fund or an affiliate of such bank.

4. Other Special Provisions

The proposed exemption would provide limited relief for certain transactions entered into in circumstances not complying with the proposal's general limitations relating to the percentage of the plan's interest in the collective investment fund. These transactions include the collective investment fund's acquiring, selling and holding employer securities and real property, entering into certain leases of property with parties in interest other than the bank maintaining the fund, and engaging in certain transactions with service providers other than such bank. In addition, the proposed exemptions would permit the bank maintaining the collective investment fund to perform certain real estate management services for the fund. Each of these special provisions, which were requested by the Applicants and which are similar to provisions contained in the insurance company pooled separate account exemption,¹⁷ would be conditioned on specific requirements being met.

Besides providing special relief for the transactions described above, the

¹⁷ Although the Applicant did not specifically request an exemption covering the furnishing of certain goods or the leasing of certain real property by a collective investment fund to a party in interest, the Applicant did request a broad provision, discussed above, that would have exempted a number of party in interest transactions including those relating to the furnishing of goods and the leasing of real property. As explained earlier, this broader exemption is not being proposed by the Department.

proposed exemption includes a provision stating in effect that qualifying employer securities or qualifying employer real property¹⁸ held by a collective investment fund in which an employee benefit plan has an interest need not be considered when determining whether the plan's holdings of such securities or real property exceed the limits of section 407(a) of the Act. The availability of this provision is conditioned on the plan's interest in the fund not exceeding the percentage limitations contained in the exemption and described above.

The Applicant seeks special exemptive relief for all transactions between parties in interest with respect to participating plans and collective investment funds that have been in existence for less than one year, or that are in the process of terminating. The Applicant suggests that such relief is warranted because newly established or terminating collective investment funds might have only a small number of participating plans, and as a result might be unable to take advantage of an exemption conditioned on a participating plan's interest not exceeding a specified percentage of a collective investment fund's total assets.

The Department is not persuaded by the information submitted by the Applicant that special relief is necessary for newly established or terminating collective investment funds. If a collective investment fund has only a small number of participating plans, then presumably the number of parties in interest with whom the fund will be prevented from dealing under the Act and the Code will also be relatively small. Thus, the fund's investment opportunities will not be unduly restricted, nor will the fund's managers have undue difficulty in determining whether a particular transaction is a prohibited transaction under the Act and the Code.¹⁹

¹⁸ "Qualifying" employer real property" is real property that meets the tests of section 407(d)(4) of the Act. The term "qualifying employer security" is defined in section 407(d)(5) of the Act to mean an employer security that is stock or a marketplace obligation (as defined in 407(e) of the Act).

¹⁹ The proposed exemption contains a provision stating in effect that a transaction entered into in compliance with the limitations on a plan's interest in a collective investment fund set out in the exemption will continue to be exempt if the plan's proportionate interest in the fund later exceeds those limitations as a result of other plans withdrawing from the fund. It should be noted, however, that under this provision a transaction entered into by a collective investment fund with a person who is not a party in interest with respect to a plan participating in the fund, but who later becomes such a party in interest while the transaction is continuing, would not remain exempt from the prohibitions of the Act and the Code unless the conditions of the class exemption were met at the time such person becomes a party in interest.

The Department notes that the language of the exemption being proposed herein differs in certain respects from the language of the insurance company pooled separate account class exemption. These differences in language are not intended to reflect substantive differences between the two exemptions, except as noted in this document.

General Information: The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that a plan operate for the exclusive benefit of participants and beneficiaries.

(2) This exemption is supplemental to, and not in derogation of, any other provision of the Act and the Code, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The class exemption is applicable to a particular transaction only if the transaction satisfies the conditions specified in the class exemption.

Proposed Exemption

Based on the application referred to and summarized above, the Department has under consideration the granting of the following class exemption pursuant to the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedure set forth in ERISA Procedure 75-1.

Section I Exemption for Certain Transactions Involving Bank Collective Investment Funds

(a) Effective January 1, 1975, the restrictions of section 406(a), 406(b)(2) and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of

the Code by reason of section 4975(c)(1) (A), (B), (C) or (D) of the Code, shall not apply to the transactions described below if the applicable conditions set forth in Section III are met.

(1) *Transactions Between Parties in Interest and Bank Collective Investment Funds: General.* Any transaction between a party in interest with respect to a plan and a collective investment fund that is maintained by a bank and in which the plan has an interest, or any acquisition or holding by the collective investment fund of employer securities or employer real property, if the party in interest is not the bank that maintains the collective investment fund, any other collective investment fund maintained by the bank or any affiliate of the bank and if, at the time of the transaction, acquisition or holding either

(A) The interest of the plan, together with the interests of any other plans maintained by the same employer or employee organization in the collective investment fund does not exceed—

(i) 10 percent of the total of all assets in the collective investment fund, if the transaction occurs prior to [date, 60 days after publication in the Federal Register of the grant of this exemption]; or

(ii) 5 percent of the total of all assets in the collective investment fund if the transaction occurs on or after [date, 60 days after the publication in the Federal Register of the grant of this exemption], or

(B) The collective investment fund is a specialized fund that has a policy of investing, and invests, substantially all of its assets in obligations including but not necessarily limited to—

(i) Corporate or governmental obligations or related repurchase agreements;

(ii) Certificates of deposit;

(iii) Bankers' acceptances; or

(iv) Variable amount notes of borrowers of prime credit having a stated maturity date of one year or less or having a maturity date of one year or less from the date of purchase by such specialized fund.

(2) *Special Transactions Not Meeting the Criteria of Section 1(a)(1)(A) Above Between Employers of Employees Covered by a Multiple Employer Plan and Collective Investment Funds.*

Any transaction between an employer (or an affiliate of an employer) of employees covered by a multiple employer plan and a collective investment fund in which the plan has an interest, or any acquisition or holding by the collective investment fund of employer securities or employer real

property, if at the time of the transaction, acquisition or holding—

(A) In the case of a transaction occurring prior to September 25, 1979, the employer is not a substantial employer with respect to the plan (within the meaning of section 4001(a)(2) of the Act); or

(B) In the case of a transaction occurring on or after September 25, 1979:

(i) The interest of the multiple employer plan in the collective investment fund does not exceed 10 percent of the total assets in the collective investment fund, and the employer is not a substantial employer with respect to the plan (within the meaning of section 4001(a)(2) of the Act); or

(ii) The assets of the multiple employer plan in the collective investment fund exceed 10 percent of the total assets in the collective investment fund, but the employer is not a substantial employer and would not be a substantial employer with respect to the plan within the meaning of section 4001(a)(2) of the Act if "5 percent" were substituted for "10 percent" in that definition.

(3) *Acquisition, Sales or Holdings of Employer Securities and Employer Real Property.*

(A) Except as provided in subsection (B) of this section (3), any acquisition, sale or holding of employer securities and any acquisition, sale, or holding of employer real property by a collective investment fund in which a plan has an interest and which does not meet the requirements of paragraphs (a)(1) and (a)(2) of this section, if no commission is paid to the bank or to the employer or any affiliate of the bank or the employer in connection with the acquisition or sale of employer securities or the acquisition, sale or lease of employer real property, and

(i) In the case of employer real property—

(aa) Each parcel of employer real property and the improvements thereon held by the collective investment fund are suitable (or adaptable without excessive cost) for use by different tenants, and

(bb) The property of the collective investment fund that is leased or held for lease to others, in the aggregate, is dispersed geographically.

(ii) In the case of employer securities—

(aa) The bank in whose collective investment fund the security is held is not an affiliate of the issuer of the security.

(bb) If the security is an obligation of the issuer, either

1 The collective investment fund owns the obligation at the time the plan acquires an interest in the collective investment fund, and interests in the collective investment fund are offered and redeemed in accordance with valuation procedures of the collective investment fund applied on a uniform or consistent basis, or

2 Immediately after acquisition of the obligation: (a) not more than 25 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by such plan, and (b) in the case of an obligation that is a restricted security within the meaning of Rule 144 under the Securities Act of 1933, at least 50 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by persons independent of the issuer.

(B) In the case of a plan that is not an eligible individual account plan (as defined in section 407(d)(3) of the Act), the exemption provided in subsection (A) of this paragraph (3) shall be available only if, immediately after the acquisition of the securities or real property, the aggregate fair market value of employer securities and employer real property owned by the plan does not exceed 10 percent of the fair market value of the assets of the plan.

(C) For the purposes of the exemption contained in subsection (A) of this section (3), the term "employer securities" shall include securities issued by, and the term employer real property shall include real property leased to, a person who is a party in interest with respect to a plan (participating in the collective investment fund) by reason of a relationship to the employer described in section 3(14) (E), (G), (H) or (I) of the Act.

(b) Effective January 1, 1975, the restrictions of section 406(a)(1) (A), (B), (C) and (D), and section 406(b) (1) and (2) of the Act, and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A), (B), (C), (D) or (E) of the Code, shall not apply to the transactions described below, if the conditions of Section III are met.

(1) *Transactions With Persons Who Are Parties in Interest With Respect to the Plan Solely by Virtue of Being Certain Service Providers or Certain Affiliates of Service Providers.* Any transaction between a collective investment fund and a person who is a party in interest with respect to a plan that has an interest in the collective investment fund, if—

(A) The person is a party in interest (including a fiduciary) solely by reason

of providing services to the plan, or solely by reason of a relationship to a service provider described in section 3(14) (F), (G), (H) or (I) of the Act, or both, and the person exercised no discretionary authority, control, responsibility or influence with respect to the investment of plan assets in the collective investment fund and has no discretionary authority, control, responsibility, or influence with respect to the investment of plan assets in the collective investment fund and has no discretionary authority, control, responsibility, or influence with respect to the management or disposition of the plan assets held in the collective investment fund, and

(B) The person is not an affiliate of the bank maintaining the collective investment fund.

(2) *Certain Leases and Goods.* The furnishing of goods to a collective investment fund by a party in interest with respect to a plan participating in the collective investment fund, or the leasing of real property owned by the collective investment fund to such party in interest and the incidental furnishing of goods to such party in interest by the collective investment fund, if—

(A) In the case of goods, they are furnished to or by the collective investment fund in connection with real property owned by the collective investment fund;

(B) The party in interest is not the bank maintaining the collective investment fund, any affiliate of such bank or any other collective investment fund maintained by such bank; and

(C) The amount involved in the furnishing of goods or leasing of real property in any calendar year (including the amount under any other lease or arrangement for the furnishing of goods in connection with the real property investments of the collective investment fund with the same party in interest, or any affiliate thereof) does not exceed the greater of \$25,000 or .025 percent of the fair market value of the assets of the collective investment fund on the most recent valuation date of the fund prior to the transaction.

(3) *Management of Real Property.* Any services provided to a collective investment fund in which a plan has an interest by the bank maintaining that fund or by an affiliate of that bank in connection with the management of the real property owned by the collective investment fund, if the compensation paid to the bank or its affiliate for the services does not exceed the cost of the services to the bank or its affiliate.

Section II Excess Holdings Exemption For Employee Benefit Plans

(a) Effective January 1, 1975, the restrictions of section 406(a), 406(b)(2) and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A), (B), (C), or (D) of the Code shall not apply to any acquisition or holding of qualifying employer securities or qualifying employer real property (other than through a collective investment fund) if—

(1) The acquisition or holding contravenes the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407(a) of the Act solely by reason of being aggregated with employer securities or employer real property held by a collective investment fund in which the plan has an interest;

(2) The requirements of either paragraph (a)(1) or paragraph (a)(2) of Section I of this exemption are met; and

(3) The applicable conditions set forth in Section III of this exemption are met.

Section III General Conditions

(a) At the time the transaction is entered into, and at the time of any subsequent renewal thereof that requires the consent of the bank, the terms of the transaction are not less favorable to the collective investment fund than the terms generally available in arm's-length transactions between unrelated parties.

(b) The bank maintains for a period of six years from the date of the transaction, the records necessary to enable the persons described in paragraph (c) of this section to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the bank's control, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c)(1) Except as provided in subsection 2 of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) of this section are unconditionally available at their customary location for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department of Labor or the Internal Revenue Service,

(B) Any fiduciary of a plan who has authority to acquire or dispose of the interests of the plan in the collective investment fund, or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any plan that has an interest in the collective investment fund or any duly authorized employee or representative of that employer,

(D) Any participant or beneficiary of any plan that has an interest in the collective investment fund, or any duly authorized employee or representative of such participant or beneficiary.

Section IV Definitions and General Rules

For purposes of this exemption,

(a) An "affiliate" of a person includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative of, or partner in any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(b) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(c) The term "party in interest" includes a "disqualified person" as defined in section 4975(e)(2) of the Code.

(d) The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or sister.

(e) The term "collective investment fund" means a common or collective trust fund or pooled investment fund maintained by a bank or trust company.

(f) The term "multiple employer plan" means an employee plan that satisfies at least the requirements of section 3(37)(A) (i), (ii) and (v) of the Act and section 414(f)(1) (A), (B) and (E) of the Code.

(g) The term "obligation" means a bond, debenture, note, certificate, stock or other evidences of indebtedness.

(h) The time as of which any transaction, acquisition or holding occurs is the date upon which the transaction is entered into or the acquisition is made and the holding commences. If any transaction is entered into, or an

acquisition is made, on or after January 1, 1975, or a renewal that requires the consent of the bank occurs on or after January 1, 1975, and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively or at the time the acquisition is made, the requirements will continue to be satisfied thereafter with respect to the transaction or acquisition and the exemption shall apply thereafter to the continued holding of the securities or property so acquired. This exemption also applies to any transaction or acquisition entered into, or holding commencing prior to January 1, 1975, if either the requirements of this exemption would have been satisfied on the date the transaction was entered into or acquisition was made (or on which the holding commenced), or the requirements would have been satisfied on January 1, 1975 if the transaction had been entered into, acquisition was made, or if the holding had commenced, on January 1, 1975. Notwithstanding the foregoing, this exemption shall cease to apply to a holding exempt by virtue of section I(a)(1) above at such time as the interest of the plan in the collective investment fund exceeds the percentage interest limitation of section I(a)(1), unless no portion of such excess results from an increase in the assets allocated to the collective investment fund by the plan. For this purpose, assets allocated do not include the reinvestment of fund earnings. Nothing in this paragraph shall be construed as exempting a transaction entered into by a collective investment fund with a person who is not a party in interest with respect to a plan participating in the fund, but who later becomes such a party in interest while the transaction is continuing, unless the conditions of the exemption are met at the time such person becomes a party in interest.

(i) Each plan participating in a collective investment fund shall be considered to own a proportionate undivided interest in each asset of the collective investment fund.

Signed at Washington, D.C. this 20th day of July 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-23992 Filed 7-23-79; 8:55]

BILLING CODE 4510-29-M

Office of the Secretary

Availability of Reports

The Department of Labor has filed with the Library of Congress a report entitled "The 1978 Annual Report of Closed Meetings of the Labor Policy and Labor Sector Advisory Committees for Multilateral Trade Negotiations." Reports were also filed on the following Labor Sector Advisory Committees:

Electrical and Electronic Equipment and Supplies and Non-electrical Machinery;

Food and Agricultural Products and Chemical, Plastic and Rubber Products;

Services;

Textile, Apparel and Leather Products and Miscellaneous Manufacturing Industries;

Lumber, Wood and Paper Products, and Stone, Clay and Glass Products; Transportation Equipment and Primary and Fabricated Metal Products.

The reports were filed in accordance with the Federal Advisory Committee Act, Public Law 92-463, and are available for public inspection and use at the Library of Congress, Serial Division, Thomas Jefferson Building, Room 1032, Washington, D.C. Copies of the reports are also available for public inspection and use at the Department of Labor, Office of Foreign Economic Policy, Room S5323, Washington, D.C.

Dated: July 20, 1979.

Howard D. Samuel,

Deputy Under Secretary, International Affairs.

[FR Doc. 79-23239 Filed 7-26-79; 8:45 am]

BILLING CODE 4510-23-M

[TA-W-5480]

A. Gross & Co., Newark, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 29, 1979, in response to a worker petition received on May 22, 1979 which was filed by the Oil, Chemical, and Atomic Workers International Union on

behalf of workers and former workers producing fatty acids at A. Gross and Company, Newark, New Jersey. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of stearic and oleic acids were negligible in 1977, 1978 and during the first quarter of 1979.

None of the surveyed customers of A. Gross and Company purchased imported stearic or oleic acid.

Conclusion

After careful review, I determine that all workers of A. Gross and Company, Newark, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of July 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-23245 Filed 7-26-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5468]

Brockton Dress Manufacturing Co., Inc., Brockton, Mass.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for work adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 29, 1979, in response to a worker petition received on May 22, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers formerly producing ladies' dresses and sportswear at the Brockton Dress Manufacturing Company, Inc., Brockton, Massachusetts. The investigation revealed that the workers primarily produced ladies' dresses and suits. In the following determination, without regard to whether any of the

other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's and misses' dresses and suits fell sharply in the first quarter of 1979 compared to the first quarter of 1978.

All of the garments produced at Brockton Dress were sold through its parent firm which does not import any women's dresses or suits or employ any foreign contractors. A survey of some of the customers of that firm revealed that the customers have not purchased significant quantities of imported women's dresses and suits. The preponderance of their purchases of these products have been from domestic sources.

Conclusion

After careful review, I determine that all workers of the Brockton Dress Manufacturing Company, Inc., Brockton, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-23247 Filed 7-26-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of

a significant number or proportion of the workers of such firm or subdivision. Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 6, 1979. Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 6, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Signed at Washington, D.C. this 20th day of July 1979. Marvin M. Fooks, Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner Union/workers or former workers of—	Location	Date received	Date of petition	Petition No	Articles produced
Aileen, Inc., New Market Plant (workers)	New Market, Virginia	7/12/79	7/2/79	TA-W-5,759	Women's and children's sportswear.
Amstar Corp., American Sugar Div. (workers)	Arabi, Louisiana	7/12/79	7/3/79	TA-W-5,760	Refined sugar.
Analytical & Customers Services (workers)	Colorado Springs, Colorado	7/12/79	7/2/79	TA-W-5,761	Analyze sugar.
Finney Company, O.B.A. Finney Manufacturing Co. (workers)	Clinton, Kentucky	7/12/79	7/3/79	TA-W-5,762	Outdoor T.V. antennas.
General Instrument, Chicago Miniature Lamp Works (workers)	Neptune, New Jersey	3/19/79	3/14/79	TA-W-5,763	Lampholders for miniatures.
Helena Sportswear (ILGWU)	West Helena, Arkansas	7/15/79	7/12/79	TA-W-5,764	Women's shirts, jackets and vests also men's coats and vests.
Holly Sugar Corp. Printing Department (workers)	Colorado Springs, Colorado	7/19/79	7/13/79	TA-W-5,765	Print forms for company use.
Logan Oak Industries, Inc. (company)	Wilkinson, West Virginia	7/15/79	7/11/79	TA-W-5,766	Hauls coal.
Patrios Handbag, Inc. (workers)	New York, New York	7/11/79	7/6/79	TA-W-5,767	Contractors of women's handbags.
Pioneer Products, Inc., Blum & Browning Operation (UAW)	East Haddam, Connecticut	7/15/79	7/12/79	TA-W-5,768	Finish gun barrels also package kits.
South Georgia Pecan Company (Retail, Wholesale Department Store Union)	Waycross, Georgia	7/17/79	7/14/79	TA-W-5,769	Process pecans.

[FR Doc. 79-23246 Filed 7-26-79; 8:45 am] BILLING CODE 4510-28-M

[TA-W-4468]

Corn Products, a Unit of CPC North America, Inc., Corpus Christi, Tex.; Revised Determination on Reconsideration

On May 25, 1979, (44 FR 32316), the Department of Labor granted administrative reconsideration of the negative determination which it had made on April 12, 1979, (44 FR 23599) pursuant to Section 223 of the Trade Act of 1974 for all workers at the Corpus Christi, Texas, plant of the Corn Products Unit of CPC North America, Inc., regarding eligibility to apply for worker adjustment assistance. The review revealed that dextrose is primarily competitive with sugar in applications where granulated sugar or dry sweeteners are called for and that high fructose corn syrup is primarily competitive with other sweeteners in applications requiring liquid sweetening agents. Approximately 75 percent of sugar consumed domestically is applied in granulated or dry form. Consequently, the shift away from dextrose to other

corn sweeteners, particularly high fructose corn syrup, is considerably less than was previously concluded and is not the dominant cause of the separations of the workers from the Corpus Christi plant. Additional evidence reveals a steady decline of company-wide dextrose production from 1976 to 1978 and an overall decline in company-wide corn sweetener production during the same period although a slight increase in company-wide corn sweetener production occurred in 1978 compared to 1977. The Corpus Christi plant was the company's newest dextrose production facility and began producing dextrose more than two decades ago. Apparently, supplying dextrose from that facility under recent and expected pricing conditions was less profitable than producing and supplying dextrose from older company plants. Consequently, dextrose production at Corpus Christi was suspended indefinitely by the company. The price of dextrose is substantially determined by the price of sugar. Dextrose to be competitive is priced lower than sugar because it is less

sweet. Sugar prices are determined by government support prices and market factors. The support price determines the lowest price producers may receive and market conditions determine whether prices will exceed the floor price. Data on industry profitability and the significant decline in recent years of the number of cane sugar mills and beet sugar factories clearly indicate that current support prices are not adequate to justify continued operation of some industry production facilities or to permit currently operating facilities to yield reasonable rates of return. In recent periods, the world price has been less than half the support price. Consequently, domestic prices to domestic producers have hovered around the support price. The Department of Labor has in previous decisions certified many groups of workers separated from beet and cane sugar facilities as eligible to apply for worker adjustment assistance. U.S. imports of dextrose increased from 235 thousand pounds in 1976 to 398 thousand pounds in 1977 and from 315 thousand pounds in the first nine months of 1977 to 646 thousand pounds in the same period of 1978. U.S. imports

of sugar increased from 4.7 million short tons in 1978 to 6.1 million tons in 1977 and then decreased to 4.7 million tons in 1978. In 1978 the ratio of imports to production, while below the unusually high ratio of 1977, was well above the ratio of 1975 and 1976.

Conclusion

Based on additional evidence, a review of the entire record and in accordance with the provisions of the Act, I make the following revised determination: "All workers at the Corpus Christi, Texas, plant of the Corn Products Unit of CPC North America, Inc., engaged in the production of dextrose who became totally or partially separated from employment on or after November 14, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act 1974."

Signed at Washington, D.C. this 19th day of July 1979. Howard D. Samuel, Deputy Under Secretary, International Affairs. [FR Doc. 79-23248 Filed 7-26-79; 8:45 am] BILLING CODE 4510-28-M

[TA-W-5478]

Cornish Dress Manufacturing Co., Inc., Cornish, Maine; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance. In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. The investigation was initiated on May 29, 1979 in response to a worker petition received on May 22, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers formerly producing ladies' dresses and sportswear at the Cornish Dress Manufacturing Company, Incorporated, Cornish, Maine. The investigation revealed that the workers primarily produced ladies' dresses and

suits. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met: That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production. U.S. imports of women's and misses' dresses and suits fell sharply in the first quarter of 1979 compared to the first quarter of 1978. All of the garments produced at Cornish Dress were sold through its parent firm which does not import any women's dresses or suits or employ any foreign contractors. A survey of some of the customers of that firm revealed that the customers have not purchased significant quantities of imported women's dresses and suits. The preponderance of their purchases of these products have been from domestic sources.

Conclusion

After careful review, I determine that all workers of the Cornish Dress Manufacturing Company, Incorporated, Cornish, Maine are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Signed at Washington, D.C. this 20th day of July 1979. James F. Taylor, Director, Office of Management, Administration and Planning. [FR Doc. 79-23249 Filed 7-26-79; 8:45 am] BILLING CODE 4510-28-M

[TA-W-5249 et al]

Energy Development Corp., Wharnccliffe, West Va.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance In the matter of [TA-W-5249], Energy Development Corp. Wharnccliffe, West Virginia, [TA-W-5323], Riverton Coal Company Powellton, West Virginia, [TA-W-5497], Appalachian Resources Company Charleston, West Virginia, [TA-W-5497A], Standard Sign and Signal Company Pikesville, Kentucky, [TA-W-5497B], Raccoon-Elkhorn Coal Company Pikeville, Kentucky. In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding

certification of eligibility to apply for worker adjustment assistance. In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. The investigation was initiated on the dates listed in the Appendix in response to worker petitions received on the dates listed in the Appendix which were filed on behalf of workers and former workers engaged in the mining, processing and sales of coal at the companies listed in the Appendix. It is concluded that all of the requirements have been met. Imports of metallurgical coal are negligible. However, in accordance with Section 222 of the Trade Act of 1974 and 29 CFR 90.2, a domestic article may be "directly competitive" with an imported article at a later state of processing. Coke is metallurgical coal at a later stage of processing. U.S. imports of coke increased absolutely and relative to U.S. production in 1978 compared to 1977. Imports of coke increased absolutely in the first three months of 1979 compared to the same period of 1978. The parent company of the petitioning firms, Ruhr-American Coal Company, is a wholly owned subsidiary of Ruhr-Kohle Ag., a West German firm which imports metallurgical coal and coke into the United States. Company imports of coke increased from 1977 to 1978 and company imports during the first six months of 1979 exceeded the total amount of imports for all of 1977. Conclusion After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with coal produced at the companies listed in the Appendix contributed importantly to the decline in sales or production and to the total or partial separation of workers of the petitioning firms. In accordance with the provisions of the Act, I make the following certification: All workers of the companies listed in the Appendix who became totally or partially separated from employment on or after the dates listed in the Appendix are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Signed at Washington, D.C. this 19th day of July 1979. James F. Taylor, Director, Office of Management, Administration and Planning.

Appendix

TA-W-5	Company	Date investigation initiated	Date petition received	Impact date
5249	Energy Development Corp., Whamcliffe, WV	04-18-79	04-10-79	04-05-78
5323	Riverton Coal Co., Powelton, WV	04-30-79	04-23-79	04-16-78
5497	Appalachian Resources Corp., Charleston, WV	06-04-79	05-29-79	10-01-78
5497A	Standard Sign and Signal Company, Pikeville, KY	06-04-79	05-29-79	05-24-78
5497B	Raccoon-Elkhorn, Pikeville, KY	06-04-79	05-29-79	09-01-78

[FR Doc. 79-23250 Filed 7-26-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5442]

General Gelatin Co., Winchester, Mass.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 22, 1979 in response to a worker petition received on May 18, 1979 which was filed on behalf of workers and former workers producing gelatin at General Gelatin Company, Winchester, Massachusetts. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of gelatin decreased from 21.5 million pounds in 1977 to 17.7 million pounds in 1978. In the first quarter of 1979, gelatin imports decreased to 3.0 million pounds compared with 5.2 million pounds in the first quarter of 1978. The ratio of imports to domestic production decreased from 37.5 percent in 1977 to 31.5 percent in 1978. In the first quarter of 1979, the ratio of imports to domestic production decreased to 20.3 percent from 34.9 percent in the first quarter of 1978.

A Department survey of customers of General Gelatin revealed that very few customers purchased imported gelatin in 1977, 1978 or the first quarter of 1979. Only one of the surveyed customers

increased purchases of imported gelatin and decreased purchases from General Gelatin.

Conclusion

After careful review, I determine that all workers of General Gelatin Company, Winchester, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-23251 Filed 7-26-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5707]

Georgia Pacific Corp., Coos Bay, Ore.; Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance; Correction

In Federal Register Doc. FR 79-21650 appearing on page 40973 in the Federal Register of July 13, 1979, the following location in the appendix under petitioner Georgia Pacific Corporation, Coos Bay Division, TA-W-5707 is corrected to read as follows: "Coos Bay, Oregon."

Signed at Washington, D.C. this 18th day of July 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-23252 Filed 7-26-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5425]

H & M Division, Melville Knitwear Co., Inc., Port Jervis, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 18, 1979 in response to a worker petition received on May 14, 1979 which was filed on behalf of workers and former workers producing men's golf sweaters at H and M Knitting Co., Inc., Port Jervis, New York. The investigation revealed that the plant also has produced women's sweaters and that H and M is a division of Melville Knitwear Co., Inc., Lynbrook, New York. It is concluded that all of the requirements have been met.

U.S. imports of men's and boy's sweaters, knit cardigans and pullovers, increased both absolutely and relative to domestic production during 1978 compared to 1977. Imports increased absolutely during the first quarter of 1979 compared to the first quarter of 1978. U.S. imports of women's, misses' and children's sweaters decreased absolutely and increased relative to domestic production during 1978 compared to 1977.

Purchases of imported sweaters by the major manufacturer for which H and M produced increased relative to purchases from H and M in the first half of 1979 compared to the first half of 1978.

Conclusion

After careful review, I determine that all workers of the H and M Division of Melville Knitwear Co., Inc., Port Jervis, New York who became totally or partially separated from employment on or after May 10, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-23253 Filed 7-26-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5487]

H. E. McLeane & Sons, Inc., St. Louis, Mo.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding

certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 31, 1979 in response to a worker petition received on May 24, 1979 which was filed on behalf of workers and former workers producing materials, colors, and adhesives for men, women and children's shoes at H. E. McLeane & Sons, Incorporated, St. Louis, Missouri. The investigation revealed that the plant produces primarily finishing agents for shoes. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The petitioners allege in their petition that imports of finished shoes have adversely affected sales at H. E. McLeane & Sons.

Imports of finished footwear cannot be considered to be like or directly competitive with imports of finishing agents and adhesives. Imports of finishing agents and adhesives must be considered in determining import injury to workers producing finishing agents.

U.S. imports of finishing agents and adhesives for shoes have been a negligible portion of U.S. production of those products in 1976, 1977 and 1978.

Conclusion

After careful review, I determine that all workers of H. E. McLeane & Sons, Incorporated, St. Louis, Missouri are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-23254 Filed 7-26-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5670]

Hallett Dock Co., Duluth, Minn.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 28, 1979 in response to a worker petition received on June 25, 1979 which was filed by the International Longshoremen's Association on behalf of workers and former workers of Hallett Dock Company, Duluth, Minnesota, engaged in operating a dock facility for coal. The investigation revealed that the correct company name is Hallett Dock Company, and that materials other than coal are handled.

Hallett Dock Company is engaged in providing the service of handling bulk materials of all sorts, including coal, transferring the materials to and from vessel, rail or truck.

Thus, workers of Hallett Dock Company do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Hallett Dock Company by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Hallett Dock Company and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in bulk handling at Hallett Dock Company are employed by that firm. All personnel actions and payroll transactions are controlled by Hallett Dock Company. All employee benefits are provided and maintained by Hallett Dock Company. Workers are not, at any time, under employment or supervision by customers of Hallett Dock Company. Thus, Hallett Dock

Company, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Hallett Dock Company, Duluth, Minnesota are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-23255 Filed 7-26-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5443]

Ilene Sportswear Co., Inc., Elizabeth, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 22, 1979 in response to a worker petition received on May 11, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers formerly producing ladies' sportswear at Ilene Sportswear Company, Incorporated, Elizabeth, New Jersey. The investigation revealed that the workers produced ladies' suits and blouses. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Ilene Sportswear Company, Incorporated produced ladies' suits and blouses on contract for one manufacturer during 1976 and 1977. That manufacturer ceased contract work with Ilene in November of 1977. Following a seven-month shutdown, Ilene Sportswear began producing ladies'

suits and blouses on contract for another manufacturer in July 1978. That work continued until Ilene closed on March 24, 1979. The manufacturer, which does not utilize foreign sources, terminated its contract work with Ilene Sportswear in order to increase its in-house production of ladies' suits and blouses.

Conclusion

After careful review, I determine that all workers of Ilene Sportswear Company, Incorporated, Elizabeth, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of July 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-23256 Filed 7-26-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5569]

Manila Mining Co., Madison, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 14, 1979 in response to a worker petition received on June 11, 1979 which was filed on behalf of workers and former workers producing coal at Manila Mining Company, Madison, West Virginia. In the following determination, without regard to whether any of the criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. Imports of steam coal have been negligible. The Manila Mining Company produces only non-metallurgical steam coal. On June 1, 1979 the company shut down mining operations. The shut down is planned to be temporary, as the

company builds a washing plant at the facility.

Conclusion

After careful review, I determine that all workers of Manila Mining Company, Madison, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-23257 Filed 7-26-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5427]

Marvelo Dress Co., Philadelphia, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 18, 1979 in response to a worker petition received on May 14, 1979 which was filed by the Philadelphia Dress Joint Board of the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' blouses and dresses at Marvelo Dress Company, Philadelphia, Pennsylvania. The investigation revealed that the plant produces maternity clothes consisting of blouses, dresses, shirts, T-shirts and turtle-neck shirts. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey was conducted by the Department of Labor of the customers of Marvelo Dress Company. The survey revealed that customers accounting for a significant proportion of Marvelo's sales did not import maternity blouses, dresses, or shirts in 1977, 1978 or 1979.

Conclusion

After careful review, I determine that all workers of Marvelo Dress Company, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of July 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-23258 Filed 7-26-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5438]

Matz Tanning Co., Peabody, Mass.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 21, 1979 in response to a worker petition received on May 18, 1979 which was filed on behalf of workers and former workers producing suede splits at Matz Tanning Company, Peabody, Massachusetts. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Most of the surveyed customers of Matz Tanning Company did not decrease purchases from Matz Tanning and increase purchases of imported suede leather.

Conclusion

After careful review, I determine that all workers of Matz Tanning Company, Peabody, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-23259 Filed 7-26-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5688]

Piney Creek Coal Co., Beckley, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 2, 1979 in response to a worker petition received on June 22, 1979 which was filed by the United Mine Workers of America, District 29, on behalf of workers formerly mining low-volatile metallurgical coal at Mine No. 1 of the Piney Creek Coal Company, Beckley, West Virginia. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that all of the metallurgical coal mined by Piney Creek Coal Company was exported. Thus, increased imports of metallurgical coal or coke did not adversely affect production or employment at Piney Creek Coal Company.

Conclusion

After careful review, I determine that all workers of Mine No. 1 of the Piney Creek Coal Company, Beckley, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-23260 Filed 7-26-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5460]

Roseburg Shingle & Stud, Inc., Roseburg, Ore.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for work adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 24, 1979, in response to a worker petition received on May 18, 1979 which was filed by the Shingle Weavers Union on behalf of workers and former workers producing lumber and shingles at Roseburg Shingle and Stud, Incorporated, Roseburg, Oregon. It is concluded that all of the requirements have been met.

U.S. imports of cedar lumber increased from 538 million board feet in 1977 to 657 million board feet in 1978.

The ratio of imported cedar lumber to domestic production increased from 55.0 percent in 1977 to 74.7 percent in 1978.

U.S. imports of red cedar shingles and shakes increased from 2904 thousand squares in 1977 to 3310 thousand squares in 1978 and from 688 thousand squares in the first quarter of 1978 to 756 thousand squares in the first quarter of 1979.

The ratio of imported red cedar shingles and shakes to domestic production increased from 71.4 percent in 1977 to 83.1 percent in 1978.

A survey of major customers of Roseburg Shingle and Stud, Incorporated revealed that customers decreased their purchases of both shingles and lumber from Roseburg and increased purchases of imported shingles and lumber in 1978 when compared with 1977 and in the first five months of 1979 when compared with the same period in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude

that increases of imports of articles like or directly competitive with lumber and shingles produced at Roseburg Shingle and Stud, Incorporated, Roseburg, Oregon contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Roseburg Shingle & Stud, Inc., Roseburg, Oregon who became totally or partially separated from employment on or after August 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-23261 Filed 7-26-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5447]

Sarama Lighting, West Hazelton, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 22, 1979, in response to a worker petition received on May 18, 1979, which was filed by the United Steelworkers of America on behalf of workers and former workers producing light fixtures at Sarama Lighting, West Hazelton, Pennsylvania. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Customers representing a major proportion of sales by Sarama Lighting were surveyed. Surveyed customers did not purchase imported light fixtures.

Conclusion

After careful review, I determine that all workers of Sarama Lighting, West Hazelton, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-23262 Filed 7-26-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5299]

Seal Tanning Co., Manchester, N.H.; Affirmative Determination Regarding Application for Reconsideration

On July 9, 1979, the Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO, requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance. This determination was published in the *Federal Register* on June 29, 1979, (44 FR 38020).

The petitioning union considers the Department's customer survey of the Seal Tanning Company an inadequate one and transmitted a list of customers who may be importing finished leather.

Conclusion

After review of the application, I conclude that this claim of the petitioning union is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 23rd day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-23263 Filed 7-26-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5439]

Seatrains Shipbuilding Corp., Brooklyn, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification

of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 21, 1979, in response to a worker petition received on May 8, 1979 which was filed by the Industrial Workers of North America on behalf of workers and former workers producing ships and barges at Seatrain Shipbuilding Corporation, Brooklyn, New York. It is concluded that all of the requirements have been met.

U.S. imports of floating docks and parts thereof increased absolutely from 1976 to 1977, from 1977 to 1978 and in the first quarter of 1979 compared to the first quarter of 1978.

The number of merchant vessels intended for U.S. registry that were being built in foreign shipyards increased from 1976 to 1977 and from 1977 to 1978.

A major phenomenon which has adversely affected the domestic shipbuilding industry is the "flag of convenience" which has encouraged American ship owners to build and register ships overseas. Shipping companies incur several advantages by flying flags of convenience including tax savings, low wage foreign crews, ease of registry and transfer, and escape from stringent environmental and health and safety requirements. By 1975, 27 percent of the world's ships in terms of gross tonnage were registered under flags of convenience. In 1975, American interests were second only to Greek as flag of convenience beneficiaries. The percentage of U.S. commercial ocean borne foreign trade carried under U.S. flag fell steadily from 6.5 percent in 1974 to 4.1 percent in 1978.

In November 1976, Seatrain Shipbuilding Corporation lost a major bid to build a floating dry dock to a foreign firm. If Seatrain had won the bid, it would have provided at least two years of work to the Brooklyn Navy Yard facility and would have raised employment levels during that period.

In 1978 and 1979, Seatrain Lines, Inc., the parent firm to Seatrain Shipbuilding Corporation, increased its purchases of foreign built ships compared with the preceding year. These ships are for registry under flags of convenience and are intended for use in trade between U.S. ports and foreign ports. The lower costs of the foreign built, foreign flag vessels compared with U.S. built, U.S. flag vessels caused Seatrain Lines to purchase offshore. The cessation of new construction at the Brooklyn Navy Yard facility of Seatrain Shipbuilding Corporation in May 1979 occurred

because the shipyard was unable to compete with foreign yards.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ships and floating dry docks produced at Seatrain Shipbuilding Corporation, Brooklyn, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Seatrain Shipbuilding Corporation, Brooklyn, New York who became totally or partially separated from employment on or after December 15, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-23264 Filed 7-26-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4189]

Sharon Fabrics, New York, N.Y.; Affirmation of Negative Determination

On May 29, 1979, the Department, in connection with pending litigation, reopened an investigation on behalf of workers and former workers selling finished fabric for men's shirts at Sharon Fabrics, New York, New York. The Department of Labor's Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance in the case of former workers of Sharon Fabrics, New York, New York, was published in the *Federal Register* on January 9, 1979, (44 FR 2039).

The Department's original denial of certification of the workers selling men's shirts was based on the finding that the "contributed importantly" test was not met. In reaching its determination, the Department took into account responses it received in a survey of Sharon's customers and the fact that the ratio of imports of fabric to domestic production is less than 2 percent.

In reopening the investigation, the Department conducted a second survey of Sharon Fabrics' customers of men's shirts. The survey—which yielded a higher response rate than the first—showed that workers at Sharon Fabrics did not meet the "contributed importantly" test. Only one of the customers surveyed reported decreasing

its purchases of men's shirting from Sharon in the January–September 1978 period compared to the same period in 1977 while increasing its imports. The majority of Sharon's customers responding to the survey purchased no imported fabric for men's shirts. Also, it should be noted that while U.S. imports of finished fabric increased somewhat in the first six months of 1978 compared to the same period in 1977, the ratio of imports to domestic production has remained below 2 percent for the past several years.

While it is possible that increased imports of men's shirts have impacted domestic shirt manufacturers and indirectly had an adverse effect on sales of domestic fabric of men's shirts, it should be noted that men's shirting fabric is not likely or directly competitive with the completed article—men's shirts. The courts have concluded that imported finished articles are not like or directly competitive with domestic component parts thereof, *United Shoe Workers of America, AFL-CIO v. Bedell*, 506 F. 2d 174 (1974).

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify a reversal of the Department of Labor's prior decision. The negative determination is, therefore, affirmed.

Signed at Washington, D.C., this 20th day of July 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-23265 Filed 7-26-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5429, 5430]

Singer Co., Controls Division, Milwaukee, Wis., and Wauwatosa, Wis.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 18, 1979 in response to a worker petition received on May 10, 1979 which was filed on behalf of workers and former workers producing heating and air conditioning valves at the Milwaukee, Wisconsin (TA-W-5429) and Wauwatosa, Wisconsin (TA-W-5430) plants of the Singer Company, Controls Division. It is concluded that all of the requirements have been met.

All workers at the Milwaukee and Wauwatosa plants of Singer Company, Controls Division, were engaged in employment related to the production of heating and air conditioning valves for both automotive and non-automotive use and were therefore not identifiable by product line. Singer's domestic sales and production of automotive air conditioning valves ceased in March 1979 while sales and production of non-automotive valves have increased. Employment declines at the Milwaukee and Wauwatosa plants are solely attributable to the cessation of production of automotive air conditioning valves.

U.S. imports of automatic valves increased in value from 67 million dollars in 1977 to 94 million dollars in 1978 and from 22.6 million dollars in the first three months of 1978 to 27.5 million dollars in the first three months of 1979.

The ratio of the value of imported automatic valves to the value of domestic production increased from 4.8 percent in 1977 to 6.2 percent in 1978 and from 6.0 percent in the first three months of 1978 to 6.7 percent in the first three months of 1979.

Singer Company, Controls Division, has a foreign production facility which manufactures automotive air conditioning valves identical to those made at Milwaukee and Wauwatosa, Wisconsin. Company imports of these valves increased from zero in July 1978 to 100 percent of total company sales in April, 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with heating and air conditioning valves produced at the Milwaukee, Wisconsin and Wauwatosa, Wisconsin plants of the Singer Company, Controls Division contributed importantly to the decline in sales or production and to the total or partial separation of workers of those plants. In accordance with the provisions of the Act, I make the following certification:

All workers of Singer Company, Controls Division, Milwaukee, Wisconsin and Wauwatosa, Wisconsin, who became totally

or partially separated from employment on or after September 1, 1978 and before July 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Workers separated on or after July 1, 1979 are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 17th day of July 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-23266 Filed 7-26-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5482]

U.S. Gypsum Co., Mineral Fiber Division, South Plainfield, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 29, 1979 in response to a worker petition received on May 22, 1979 which was filed by three workers on behalf of workers and former workers producing mineral wool insulation at the South Plainfield, New Jersey plant of the U.S. Gypsum Company, Mineral Fiber Division. The investigation revealed that the South Plainfield plant produced slagwool insulation. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of all mineral based insulation increased in 1977 as compared to 1976 and in 1978 as compared to 1977. Rockwool and slagwool insulation represented 31 percent and 12 percent of these imports respectively in 1977 and 1978.

Sales by the U.S. Gypsum Company or rockwool and slagwool insulation increased in 1977 as compared to 1976, and increased again in 1978 as compared to 1977.

The U.S. Gypsum Company closed its Mineral Fiber Division's plant in South Plainfield, New Jersey on December 15, 1978. Regional sales and resulting production formerly covered by the South Plainfield plant is to be absorbed by another Mineral Fiber Division plant.

Conclusion

After careful review, I determine that all workers of the South Plainfield, New Jersey plant of the U.S. Gypsum Company, Mineral Fiber Division are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of July 1979.

James F. Taylor,
*Director, Office of Management,
Administration and Planning.*

[FR Doc. 79-23267 Filed 7-26-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5494]

Universal Sportswear, Elizabeth, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 31, 1979, in response to a worker petition received on May 23, 1979 which was filed by the Alagamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's outer coats and jackets at Universal Sportswear of Elizabeth, New Jersey. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey of the major manufacturer of Universal Sportswear indicated that the manufacturer experienced increased domestic sales and production of men's outer coats and jackets in 1978 and the first four months of 1979. During that

period, the manufacturer increased its reliance principally on domestic contractors.

Production at Universal Sportswear increased in 1978 compared with 1977 and increased in the January-April period of 1979 compared with the same periods of 1976 to 1978.

Conclusion

After careful review, I determine that all workers of Universal Sportswear of Elizabeth, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of July 1979.

James F. Taylor,
*Director, Office of Management,
Administration and Planning.*

[FR Doc. 79-23268 Filed 7-26-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5496]

WEW Coal Co., Inc., Fayetteville, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 31, 1979 in response to a worker petition received on May 25, 1979 which was filed on behalf of workers and former workers mining metallurgical coal at WEW Coal Company, Incorporated, Fayetteville, West Virginia. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that virtually all of the metallurgical coal mined by WEW Coal Company, Incorporated was ultimately exported. Consequently, increased imports of metallurgical coal or coke did not

adversely affect production or employment at WEW Coal Company.

Conclusion

After careful review, I determine that all workers of WEW Coal Company, Incorporated, Fayetteville, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of July 1979.

James F. Taylor,
*Director, Office of Management,
Administration and Planning.*

[FR Doc. 79-23269 Filed 7-26-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5450, 5450A, and 5450B]

Zwicker Knitting Mills, Appleton, Wis., Waupaca, Wis., and Shawano, Wis.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 22, 1979 in response to a worker petition received on May 14, 1979 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing knitted accessories (scarfs, hats, gloves, etc.) at Zwicker Knitting Mills, Appleton, Wisconsin. The investigation revealed that Zwicker also produces knitted accessories at a plant in Waupaca, Wisconsin. In addition, Zwicker produces men's and women's knit and woven tops and children's knit and woven shirts, skirts and pants at a plant located in Shawano, Wisconsin. The investigation was expanded to include the Waupaca and Shawano plants. It is concluded that all of the requirements have been met.

U.S. imports of men's, boys', women's and juniors' (excluding infants) knit headwear increased absolutely each year from 1976 through 1978 compared to each preceding year and increased relative to domestic shipments in 1978 compared to 1977.

U.S. imports of mufflers, scarves and shawls increased absolutely in 1978 compared to 1977.

U.S. imports of dress gloves and mittens increased absolutely and relative to domestic production in each year from 1976 through 1978 compared to each preceding year and increased absolutely in the first quarter of 1979 compared to the same period of 1978.

U.S. imports of all hosiery except pantyhose increased absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of men's and boys' knit sport and dress shirts, excluding T-shirts, increased absolutely in each year from 1976 through 1978 compared to each preceding year and increased relative to domestic production in 1978 compared to 1977.

U.S. imports of men's and boys' woven sport shirts increased absolutely and relative to domestic production in 1978 compared to 1977 and increased absolutely in the first quarter of 1979 compared to the same period of 1978.

U.S. imports of women's, misses', and children's blouses and shirts (knit and woven) increased absolutely in 1978 compared to 1977. Data on domestic production for 1978 is not yet available.

U.S. imports of women's, misses', and children's skirts (knit and woven) increased absolutely in 1978 compared to 1977. Data on domestic production for 1978 is not yet available. U.S. imports of women's, misses', and children's knit shirts increased absolutely in the first quarter of 1979 compared to the same period of 1978.

U.S. imports of women's, misses', and children's slacks and shorts (knit and woven) increased absolutely in 1978 compared to 1977. Data on domestic production for 1978 is not yet available.

The investigation revealed that the four plants of Zwicker Knitting Mills form an integrated production process.

The Appleton plant produces knit fabric, used in the production of knitted headwear at the Milwaukee plant (known as Eagle Knitting Mills). The Waupaca plant is also involved in the production of knit headwear, as well as other accessories.

In a Notice of Determination issued on May 29, 1979 (TA-W-5089) the workers producing knitted headwear at the Milwaukee plant of Zwicker Knitting Mills (Eagle Knitting Mills) were certified as eligible to apply for trade adjustment assistance. A Departmental survey revealed that customers representing a significant portion of Zwicker's total headwear sales decreased purchases from Zwicker and increased purchases of imported headwear in the first quarter of 1979 compared to the first quarter of 1978 and in 1978 compared to 1977.

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Literature Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel to the National Council on the Arts will be held August 17 and 18, 1979, from 9:00 a.m. to 5:30 p.m., and August 19, 1979, from 9:00 a.m. to 3:00 p.m., in room 1422, 2401 E Street, NW., Washington, D.C.

A portion of this meeting will be open to the public on August 19, 1979, from 1:00 p.m. to 3:00 p.m. The topic of discussion will be Program guidelines.

The remaining sessions of this meeting on August 17 and 18, 1979, from 9:00 a.m. to 5:30 p.m., and August 19, 1979, from 9:00 a.m. to 1:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register March 17, 1977, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

Dated: July 18, 1979.

John H. Clark,
*Director, Office of Council and Panel
Operations, National Endowment for the Arts.*
[FR Doc. 79-23124 Filed 7-26-79; 8:45 am]
BILLING CODE 7537-01-M

Visual Arts Advisory Panel (Photography Fellowships); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel to the National Council on the Arts will be held, August 22, 23, and 24, 1979, from 9:00 a.m. to 6:00 p.m., in room 1115, Columbia Plaza Office Building, 2401 E St., NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the

Since 1973, Zwicker has increasingly shifted glove and mitten production from the Appleton and Waupaca plants to offshore facilities. Imports of knitted gloves and mittens by Zwicker Knitting Mills increased in quantity and value in the January-May 1979 period compared to the same period of 1978 and increased in value in 1978 compared to 1977.

The investigation further revealed that the Shawano plant produced men's and women's knit and woven tops and children's knit and woven shirts, skirts and pants. A Departmental survey was conducted with customers of Zwicker Knitting Mills who purchase this knitted and woven apparel line. The survey revealed that customers, representing a significant portion of Zwicker's apparel sales, decreased purchases from Zwicker and increased their purchases of imported men's and women's tops and children's shirts, skirts and pants during the January-May 1979 period compared to the same period of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with knitted accessories and apparel produced at the Appleton, Wisconsin plant; the Waupaca, Wisconsin plant; and the Shawano, Wisconsin plant of Zwicker Knitting Mills contributed importantly to the decline in sales or production and to the total or partial separation of workers of those plants and of the Appleton, Wisconsin distribution center of Zwicker Knitting Mills. In accordance with the provisions of the Act, I make the following certification:

All workers of the Appleton, Wisconsin plant; the Appleton, Wisconsin distribution center; the Waupaca, Wisconsin plant; and the Shawano, Wisconsin plant of Zwicker Knitting Mills who became totally or partially separated from employment on or after the following dates are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974:

Location and Impact Date

Appleton, Wisconsin Plant and Distribution Center, August 26, 1978.

Waupaca, Wisconsin Plant, August 26, 1978.

Shawano, Wisconsin Plant, October 1, 1978.

Signed at Washington, D.C. this 20th day of July 1979.

James F. Taylor,
*Director, Office of Management,
Administration and Planning.*

[FR Doc. 79-23270 Filed 7-26-79; 8:45 am]

BILLING CODE 4510-28-M

Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the *Federal Register* of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts, July 18, 1979.

[FR Doc. 79-23125 Filed 7-26-79; 8:45 am]
BILLING CODE 7535-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Earth Sciences; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting.

Name: Advisory Committee for Earth Sciences.

Date and Time: August 16-17, 1979; 9:00 a.m. to 5:00 p.m. each day.

Place: The University of California, San Diego.

Type of Meeting: Closed.

Contact person: Dr. Robin Brett, Division Director, Earth Sciences, Room 602, National Science Foundation, Washington, D.C. 20550, Telephone (202) 632-4274.

Purpose of committee: To provide advice and recommendations concerning support for research in Earth Sciences.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: July 24, 1979.

Joyce F. Laplante,

Acting Committee Management Coordinator.

[FR Doc. 79-23275 Filed 7-26-79; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Minority Programs in Science Education; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Minority Programs in Science Education (Subgroup only).

Date and Time: August 13, 1979—9:00 a.m. to 3:00 p.m.

Place: Room 651, National Science Foundation, 5225 Wisconsin Avenue, N.W., Washington, D.C., telephone: (202) 282-7947.

Type of Meeting: Open.

Contact person: Dr. Alphonse Buccino, Office of Program Integration, Directorate for Science Education, National Science Foundation, Washington, D.C. 20550.

Summary minutes: May be obtained from the Contact Person, Dr. Alphonse Buccino, at the above stated address.

Purpose of committee: To provide advice regarding NSF's minority programs in science education.

Agenda: Oversight and evaluation of Resource Centers in Science and Engineering.

Dated: July 24, 1979.

Joyce F. Laplante,

Acting Committee Management Coordinator

[FR Doc. 79-23271 Filed 7-26-79; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee on Science and Society; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Oversight of the Advisory Committee on Science and Society.

Date, Time and Place: August 16 and 17, 1979 (9:00 a.m. to 5:00 p.m., Room 651, 5225 Wisconsin Avenue, N.W., Washington, D.C. 20550).

Contact person: Marian Scheiner, Administrative Assistant, Office of Science and Society, National Science Foundation, Room W-651, Washington, D.C. 20550, telephone 202-282-7770.

Type of Meeting: Closed.

Purpose of subcommittee: To identify problems and priorities and to increase the effectiveness of the Office of Science and Society (OSS) and its constituent programs.

Agenda: August 16 and 17, 1979, 9:00 a.m. to 5:00 p.m. To analyze and evaluate preliminary proposals and grant results as part of the selection process for awards for all three OSS programs.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: July 24, 1979.

Joyce F. Laplante,

Acting Committee Management Coordinator.

[FR Doc. 79-23272 Filed 7-26-79; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Privacy Act of 1974; Notices of Systems of Records; Amendments of Routine Uses

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notification of proposed routine use.

SUMMARY: The NRC is proposing to establish a new routine use which would provide that a record from the NRC systems of records may be disclosed as a routine use to an NRC contractor on a "need to know" basis for a purpose within the scope of the pertinent NRC contract.

COMMENT DATE: Comments are due on or before August 30, 1979.

ADDRESS: Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: J. M. Felton, Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-492-7211.

SUPPLEMENTARY INFORMATION: The NRC is proposing to establish a new routine use which would provide that a record from the NRC systems of records may be disclosed as a routine use to an NRC contractor on a "need to know" basis for a purpose within the scope of the pertinent NRC contract. Under this

proposed routine use, an NRC Contractor, for example, the NRC Contractor making special inquiry into the Three Mile Island accident, could obtain access to records within an NRC system of records if such access was necessary to carry out the terms of the contract. Access to the records would be granted to an NRC contractor by a systems manager only after satisfactory justification has been provided to the system manager.

The NRC is proposing also to amend the Routine Use section of certain systems of records to make reference to the proposed new routine use set out in the Prefatory Statement of General Routine Uses.

Pursuant to the Atomic Energy Act of 1954, as amended, The Energy Reorganization Act of 1974, as amended, and section 552a of Title 5 of the United States Code, notice is hereby given that adoption of the following amendments to the Commission's Notices of Systems of Records is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch by August 30, 1979. 1. The NRC Systems of Records are amended by adding the following General Routine Use to the Prefatory Statement of General Routine Uses:

Prefatory Statement of General Routine Uses

The following routine uses apply to each system of records notice set forth below which specifically references this Prefatory Statement.

6. A record from this system of records may be disclosed, as a routine use, to an NRC contractor on a "need to know" basis for a purpose within the scope of the pertinent NRC contract. Such access will be granted to an NRC contractor by a systems manager only after satisfactory justification has been provided to the system manager.

2. The Routine Use sections of NRC-2, NRC-18, NRC-19, and NRC-30 are amended by deleting "number 5 of the Prefatory Statement" and substituting therefor "numbers 5 of the Prefatory Statement."

3. The Routine Use section of NRC-36 and NRC-36 and NRC-38 are revised to read as follows:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For the routine use specified in paragraph number 6 of the prefatory Statement.

Dated at Washington, DC this 25th day of July 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-23478 Filed 7-26-79; 10:45]

BILLING CODE 7590-01-M

Privacy Act of 1974; Proposed New System of Records; Special Inquiry File—NRC-33

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notification of proposed new system of records.

SUMMARY: The NRC is proposing to establish a new system of records subject to the Privacy Act. The purpose of the system is to provide access by individual name or other identifier to records of the special inquiry. This would include Commission correspondence, memoranda, audit reports and data; interviews, questionnaires, legal papers, exhibits, investigative reports and data, and other materials relating to or developed as a result of the inquiry, study, or investigation of an accident or incident.

COMMENT DATE: Comments are due on or before August 30, 1979.

ADDRESS: Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: J.M. Felton, Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: 301-492-7211.

SUPPLEMENTARY INFORMATION: The NRC is proposing to establish a new system of records subject to the Privacy Act. The purpose of the system is to provide access by individual name or other identifier to records of the special inquiry. This would include Commission correspondence, memoranda, audit reports and data, interviews, questionnaires, legal papers, exhibits, investigative reports and data, and other materials relating to or developed as a result of the inquiry, study, or investigation of an accident or incident.

A new system report was filed with the Speaker of the House, the President of the Senate, and the Office of

Management and Budget on July 25, 1979. All interested persons who desire to submit written comments or suggestions for consideration in connection with this notice of systems of records should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by August 30, 1979. Copies of comments received will be available for inspection and copying at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

Dated at Washington, DC this 25th day of July 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

NRC-33

SYSTEM NAME:

Special Inquiry File—NRC

SYSTEM LOCATION:

a. Primary system—Special Inquiry Group, U.S. Nuclear Regulatory Commission, 6935 Arlington Road, Bethesda, MD

b. Duplicate system—a duplicate system exists, in whole or in part, at the TERA Advanced Services Corporation, 7101 Wisconsin Avenue, Suite 1400, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals possessing information regarding or having knowledge of matters of potential or actual concern to the Commission in connection with the investigation of an accident or incident at a nuclear power plant or other nuclear facility or in incident involving nuclear materials.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of an alphabetical index file bearing individual names. The index provides access to associated records which are arranged by subject matter, title, or identifying number(s) and/or letter(s). The system incorporates the records of all Commission correspondence, memoranda, audit reports and data, interviews, questionnaires, legal papers, exhibits, investigative reports and data, and other materials relating to or developed as a result of the inquiry, study, or investigation of an accident or incident.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. Sections 161(c), (i), and (o) of the Atomic Energy Act of 1954, as amended, (o).

b. Section 201(f), Energy Reorganization Act of 1974, 42 U.S.C. 5841(f).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. A record in this system of records relating to an item which has been referred to the Commission or Special Inquiry Group for investigation by an agency, group, organization, or individual may be disclosed as a routine use to notify the referring agency, group, organization, or individual of the status of the matter or of any decision or determination that has been made.

b. A record in this system of records may be disclosed as a routine use to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States.

c. A record in this system of records relating to the integrity and efficiency of the Commission's operations and management may be disseminated outside the Commission as part of the Commission's responsibility to inform the Congress and the public about Commission operations.

d. A record in this system of records may be disclosed for any of the routine uses specified in paragraph numbers 1, 2, 4, 5, and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Maintained on microfiche, disks, tapes, and paper in file folders. Classified documents are maintained in locked safes; proprietary and sensitive safeguards documents are maintained in secured facilities.

RETRIEVABILITY:

Accessed by name (author or recipient), corporate source, title of document, subject matter, or other identifying document or control number.

SAFEGUARDS:

These records are located in lockable metal filing cabinets or safes in a secured facility and are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Retained and destroyed in accordance with approved records disposal

schedules for the various types of records involved.

SYSTEM MANAGER(S) AND ADDRESS:

Records Manager, Special Inquiry Group, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

NOTIFICATION PROCEDURE:

Director, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure". Information classified pursuant to Executive Order 12065 will not be disclosed. Information received in confidence will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure".

RECORD SOURCE CATEGORIES:

The information in this system of records is obtained from sources including, but not limited to, U.S. Nuclear Regulatory Commission officers and employees, Federal, state, local, and foreign agencies, NRC licensees, nuclear reactor vendors and architectural engineering firms, other organizations or persons knowledgeable about the incident or activity under investigation, and relevant NRC records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a (k)(1), (k)(2) and (k)(5) the Commission has exempted portions of this system of records from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f). The exemption rule is contained in Section 9.95 of the NRC regulations (10 CFR 9.95).

[FR Doc. 79-23477 Filed 7-26-79; 10:44 am]

BILLING CODE 7590-01-M

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS**Possible Reallocation of Wood and Plastic Spring Clothespin Shortfall**

AGENCY: Office of the Special Representative for Trade Negotiations.

ACTION: Notice of Possible Reallocation of Wood and Plastic Spring Clothespin Shortfall.

SUMMARY: Written comments are solicited from interested parties on the possible reallocation of the quota shortfall in TSUS item 925.13 to TSUS items 925.11 and 925.12 which were over subscribed at the opening of the first

two quarters of the quota year beginning February 23, 1979.

DATES: Comments should be received within ten days of the publication of this notice in the Federal Register.

ADDRESSES: Comments should be sent to the Secretary, Trade Policy Staff Committee, Room 728, 1800 G Street, NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: March Schweitzer, Office of the Special Representative for Trade Negotiations, Washington, D.C. 20506 (202-395-7203).

SUPPLEMENTARY INFORMATION: On February 23, 1979, the President proclaimed import relief for the domestic wood and plastic spring clothespin industry for a period of three years in the form of a global, price-bracketed quota. Headnote 6 of Subpart A, part 2 of the Appendix to the Tariff Schedules of the United States (TSUS) gives the Special Representative for Trade Negotiations authority to reallocate quota shortfalls at such time as he determines that the full quota quantity for item 925.11, 925.12 or 925.13, respectively, will not be used. At the beginning of the first two quarters of the present quota year, clothespins entering under TSUS 925.11 and 925.12 were over-subscribed at entry. No imports entered under TSUS 925.13 during the first quarter. By July 11, 1979, halfway through the second quarter, imports entering under TSUS item 925.13 totalled 70,695 gross.

On the basis of this rate of entry, it is projected that a potential shortfall of 150,000 gross units will result in TSUS 925.13 by the end of the quota year which may be subject to reallocation.

William B. Kelly, Jr.,
Chairman, Trade Policy Staff Committee.

[FR Doc. 79-23160 Filed 7-26-79; 8:45 am]

BILLING CODE 3190-01-M

Trade Policy Staff Committee, Subcommittee on the Generalized System of Preferences

Summary: The purpose of this notice is to announce public hearings to receive public views on the general operation of and possible improvements in the Generalized System of Preferences (GSP) program. The information received will be considered in the preparation of the report of the President to the Congress on the first five years of the program's operation referred to in Section 505(b) of the Trade Act of 1974.

1. Requests to Present Oral Testimony: All requests to present oral testimony, and accompanying written

briefs, must be received by the Chairman of the GSP Subcommittee, Room 711, 1800 G Street NW.,

Washington, D.C. 20506, not later than the close of business, Wednesday, September 5, 1979. Requests to present oral testimony must conform to the regulations codified at 15 CFR Chapter XX, Part 2003, which are described below.

Pursuant to the regulations referred to in the preceding sentence, a request to present oral testimony will be granted only if a written brief is submitted before the deadline for submitting such briefs (in this instance, September 5, 1979).

In addition, requests to present oral testimony should include the following information:

(a) The name, address, telephone number, and official position (if applicable) of the party submitting the request, and the person or persons who will present the oral testimony (if different from the party submitting the request);

(b) The subject or subjects to be dealt with in the proposed testimony; and

(c) The amount of time requested for the presentation of oral testimony, which should be limited to 10 minutes.

Each person scheduled to appear before the Committee will be notified of the date of his presentation. If such time is inconvenient to the person requesting an appearance, the Secretary of the Committee will consider rescheduling that person. The Chairman of the Committee reserves the right to restrict the time allotted for oral presentation, and to deny requests upon determining that the proposed testimony is not relevant to the subject matter of the hearings.

2. Notice of Public Hearings: The Committee will hold public hearings beginning at 9:30 a.m. on Tuesday, September 18, 1979 in Room 2008, New Executive Office Building (entrance on 17th Street between Pennsylvania Avenue and H Street NW.). The hearings will continue on that and all subsequent days (through Friday, September 21, 1979) at the same location until all witnesses wishing to appear have been heard.

3. Submission of Written Briefs: The Committee welcomes the submission of written briefs whether or not persons wish to make an oral presentation.

Briefs must conform to the TPSC regulations codified at 15 CFR Chapter XX, Part 2003. Briefs must be submitted in 20 copies in English. In addition, each brief should designate clearly on the first page the name and address of the

party submitting the brief and the subject matter of the brief.

Every written brief must present, in nonconfidential form, a statement of the party's position and supporting arguments sufficient to inform any other party of the arguments that must be met in order to oppose the position taken in the brief.

4. Suggestions on the Preparation of Written Briefs and Oral Testimony: While there are no formal requirements governing the format or content of the material submitted, other than those mentioned in paragraphs 1 and 3 of this notice, the Committee suggests that parties preparing testimony or briefs include the following points:

(a) An introductory summary statement indicating the interest of the party on whose behalf the brief or testimony is submitted, and the position to be taken in the brief or testimony;

(b) Any data or arguments relevant to support the position of the party submitting the brief or testimony.

While the Committee welcomes the full presentation of oral testimony, it is preferable that such testimony not duplicate material submitted in writing, since both will be reviewed. Instead, oral presentations should emphasize the main points of the briefs submitted, expand upon their contents when necessary, or cover any developments occurring since the briefs were submitted. Persons presenting oral testimony should be prepared to answer questions.

5. Rebuttal Briefs: In order to assure parties the opportunity to contest the information provided by other parties, the Committee will accept rebuttal briefs filed by any party within one week after the close of the hearings. Rebuttal briefs must conform in form and number to the regulations of the Committee and the provisions of this notice applicable to written briefs. Rebuttal briefs should be limited to demonstrating errors of fact or analysis not pointed out in the briefs or testimony and should be as concise as possible.

6. Information Exempt from Public Inspection: Parties are referred to 15 CFR Chapter XX, 2003.6 and 2006.10 for regulations concerning information labelled as business confidential and exempt from public inspection.

Oral testimony should contain no confidential information. Any business confidential information submitted with written briefs should be clearly identified as confidential, should be easily separable, and should be accompanied by a nonconfidential summary of the confidential material. If

the Chairman of the Committee determines that confidential treatment cannot be accorded to material for which such treatment is requested, that material will be returned to the addressee.

7. Public Inspection of Written Materials: Subject to the regulations of the Committee and except for business confidential information, all written materials filed with the Committee in connection with these hearings will be open to public inspection, by appointment, at the office of the GSP Subcommittee, Room 711, 1800 G Street, NW., Washington, D.C. 20506.

8. Transcripts of the Hearings: All oral testimony before the Committee will be recorded and transcribed. Persons giving testimony before the Committee may correct errors of form or expression in that testimony, but may not change substance. All corrections must be approved by the Chairman of the Committee. The cost of making such corrections will be charged to the person requesting the corrections.

Transcripts of the hearings will be available for inspection or purchase.

9. Attendance at the Hearings: The hearings will be open to the public. Heavy or disruptive equipment, such as television equipment, will not be admitted to the hearings except by the express permission of the Chairman of the Committee.

10. Communications: All communications with regard to these hearings should be addressed to Secretary, GSP Subcommittee, Office of the Special Representative for Trade Negotiations, 1800 G Street, NW., Room 711, Washington, D.C. 20506. The telephone number of the GSP Subcommittee is (202) 395-6971.

William B. Kelly, Jr.,
Chairman, Trade Policy Staff Committee.

[FR Doc. 79-23161 Filed 7-26-79; 8:45 am]

BILLING CODE 3190-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1654]

Florida; Declaration of Disaster Loan Area

Palm Beach County and adjacent counties within the State of Florida constitute a disaster area as a result of damage caused by excessive rains and flooding which occurred on April 24-25, 1979. Applications will be processed under the provisions of Public Law 94-305. Interest rate is 7% percent. Eligible persons, firms and organizations may file applications for loans for physical

damage until the close of business August 30, 1979, and for economic injury until the close of business on April 2, 1980, at: Small Business Administration, District Office, 400 West Bay Street, Jacksonville, Florida or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: July 2, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-23141 Filed 7-26-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1655]

Iowa; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration I find that Calhoun, Dallas, Hamilton, Humboldt, Kossuth, Wright and adjacent counties within the State of Iowa constitute a disaster area because of damage resulting from high winds and tornadoes, beginning on or about June 28, 1979. Interest rate is 7% percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on August 31, 1979 and for economic injury until close of business on April 2, 1980, at: Small Business Administration, District Office, 210 Walnut St., Des Moines, Iowa 50309, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: July 6, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-23140 Filed 7-26-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1616]; Amdt. #10]

Mississippi; Declaration of Disaster Loan Area

The above numbered Declaration (See 44 FR 24179), Amendment #1 (see 44 FR 26232, Amendment #2 (see 44 FR 27782), Amendment #3 (see 44 FR 29189), Amendment #4 (see 44 FR 31339), Amendment #5 (see 44 FR 33997), Amendment #6 (see 44 FR 40465), Amendment #7 (see 44 FR 40465), Amendment #8 (see 44 FR 40465), and Amendment #9 (see 44 FR 40465), are amended by extending the filing date for applications for loans for physical damage until the close of business on August 15, 1979, and for economic injury

until the close of business on March 17, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: July 16, 1979.

William H. Mauk, Jr.,
Acting Administrator.

[FR Doc. 79-23142 Filed 7-26-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1658]

Texas; Declaration of Disaster Loan Area

Bell County and adjacent counties within the State of Texas constitute a disaster area as a result of natural disaster as indicated:

County	Natural Disaster	Date
Bell	Excessive rain.	3/1/79-6/11/79

Eligible persons, firms and organizations may file applications for loan for physical damage until the close of business on January 16, 1980, and for economic injury until the close of business on April 17, 1980 at: Small Business Administration, District Office, 1100 Commerce Street, Dallas, Texas 75242, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: July 16, 1979.

William H. Mauk, Jr.,
Acting Administrator.

[FR Doc. 79-23144 Filed 7-26-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1656] Wisconsin; Declaration of Disaster Loan Area

Wood County and adjacent counties within the State of Wisconsin constitute a disaster area as a result of damage caused by melting of heavy snow, heavy rains and flooding which occurred on March 15, 1979, through June 22, 1979. Applications will be processed under the provisions of Public Law 94-305. Interest rate is 7% percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business September 10, 1979, and for economic injury until the close of business April 10, 1980, at: Small Business Administration, District Office, 212 East Washington Ave., 2nd Floor, Madison, Wisconsin 53703, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 10, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-23143 Filed 7-26-79; 8:45 am]

BILLING CODE 8025-01-M

TENNESSEE VALLEY AUTHORITY

Proposed Development of a Waste Heat Park at the Watts Bar Nuclear Plant Site on Chickamauga Reservoir (Tennessee River) Near Spring City, Tenn.; Intent To Prepare an Environmental Impact Statement and Invitation for Public Comment on the Scope of the Document

AGENCY: Tennessee Valley Authority.

ACTION: Intent to prepare an Environmental Impact Statement and invitation for public comment on the scope of the document.

SUMMARY: The Tennessee Valley Authority (TVA) intends to prepare an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act of 1969 (NEPA) on the proposed development of a waste heat park at the Watts Bar Nuclear Plant site. The tract of land involved is located on the Chickamauga Reservoir (Tennessee River Mile 517.6R) near Spring City, Tennessee. A 50-year easement would be sold under provisions of Public Law No. 87-852 (40 U.S.C. §§ 319-319c (1976) for use of the area in conjunction with the development of the waste heat park.

ADDRESS: Comments should be sent to Dr. Harry G. Moore, Jr., Acting Director of the Environmental Quality Staff, Office of Natural Resources, 268 401 Building, Chattanooga, Tennessee 37401, by August 27, 1979.

FOR FURTHER INFORMATION CONTACT:

Dr. Harry G. Moore, Jr., Acting Director of the Environmental Quality Staff, Office of Natural Resources, 268 401 Building, Chattanooga, Tennessee, 37401, or call TVA's Citizen Action Office toll free: 1-800-362-9250 (in Tennessee) or 1-800-251-9242 (in Alabama, Georgia, Kentucky, Mississippi, North Carolina, Virginia, Missouri, and Arkansas).

SUPPLEMENTARY INFORMATION: The proposed action is the development of a waste heat park and the associated granting of necessary approvals and landrights on the Watts Bar site.

From 50 to 65 percent of the raw fuel energy input for conventional steam electric generating plants is discharged to the environment as high-volume, low-grade waste heat. Realizing the potential

for waste heat as an energy source, TVA has been actively involved in developing waste heat utilization technologies. Efforts have been focused on advancing a balance of multiple waste heat uses, including agricultural, aquacultural, industrial, and residential application as well as developing power plant interface systems to handle large-scale, multiple-use facilities known as waste heat parks.

TVA is proposing to use a 400-acre site adjacent to the Watts Bar Nuclear Plant to demonstrate commercial waste heat concepts. A 100,000-gallon-per-minute distribution system would be developed for various commercial uses such as greenhouse heating and cooling, soil heating, biological recycling, aquaculture, and other industrial uses. A more complete discussion of this proposal is contained in TVA's "Watts Bar Waste Heat Park Feasibility Analysis" (January 1979) which is available upon request by writing to Dr. Harry G. Moore, Jr., at the address given above.

The first step in the preparation of the EIS will be the determination of the scope of the document. Several public meetings about the project have been held. From its own preliminary evaluations and information gained at these public meetings, TVA has formulated tentative views on the scope of the document. TVA has identified the following potentially significant issues which will be evaluated in the EIS: (1) impacts to floodplains and wetlands; (2) potential impacts to terrestrial and aquatic biota from facility construction and operation; (3) potential socioeconomic, cultural, and aesthetic impacts from facility construction and operation; (4) potential discharge of pollutants to the air and water from facility construction and operations; (5) alternative sites for locating a waste heat facility; and (6) alternative actions which would effectively demonstrate the waste heat park concept.

TVA invites interested persons and agencies to comment on the above scope of the EIS and requests the comments and questions be sent to Dr. Harry G. Moore, Jr., Acting Director of the Environmental Quality Staff, Office of Natural Resources, 268 401 Building, Chattanooga, Tennessee 37401, telephone number (615) 755-3161, by August 27, 1979.

After the scoping process and the initial environmental analyses are completed, TVA will prepare a draft EIS. The draft EIS will be made available for public comment and TVA will hold a public meeting to receive comments on the draft EIS. TVA will

consider all comments made on the draft in preparing the final EIS. The TVA Board of Directors will use the EIS in determining whether or not the proposed project should proceed and whether an easement should be granted.

Dated: July 20, 1979.

W. F. Willis,
General Manager.

[FR Doc. 79-23223 Filed 7-26-79; 8:45 am]

BILLING CODE 8120-01-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 114]

Assignment of Hearings

July 23, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 51146 (Sub-640F), Schneider Transport, Inc., now assigned for hearing July 23, 1979 at Chicago, IL is canceled transferred to modified procedure.

MC 58923 (Sub-51F), Georgia Highway Express, Inc., transferred to modified procedure.

MC 113158 (Sub-32F), Todd Transport Company, Inc., transferred to modified procedure.

MC 128270 (Sub-33F), Rediehs Interstate, Inc., assigned for hearing on June 25, 1979 is dismissed.

MC 116254 (Sub-224F), Chem-Haulers, Inc., now assigned for hearing on September 11, 1979 (1 day) at Nashville, TN, and will be held in Room A-961, Federal Courthouse, 801 Broadway.

MC 4810 (Sub-5F), Rocky Mountain Trucking Company, MC 23618 (Sub-39F), McAlister Trucking Co., d.b.a. Matco, MC 25518 (Sub-20F), John Bunning Transfer Co., Inc., MC 43867 (Sub-43F), A. L. McAlister Trucking Company, MC 95350 (Sub-8F), R. W. Jones Trucking Co., MC 105006 (Sub-7F and 9F), L. L. Smith Trucking, MC 105984 (Sub-21F), John B. Barbour Trucking Company, MC 110817 (Sub-25F), E. L. Farmer & Company, MC 113531 (Sub-2F), B & M Service, Inc., MC 113822 (Sub-6F and 8F), Dalgarno Transportation, Inc., MC 114761 (Sub-13), Getter Trucking Incorporated, MC 119774 (Sub-96F), Eagle Trucking Company, MC 135705 (Sub-11F), Melrose Trucking Co., Inc.,

MC 143446 (Sub-1F and 3F), Gary L. McCallister & Monte A. McCallister, d.b.a. McCallister Brothers, MC 143993 (Sub-4F), Black Hills Trucking, Inc., MC 144961 (Sub-1F), Reed Transportation, MC 145568F), Pollard Transportation, Inc., MC 4405 (Sub-585F), Dealers Transit, Inc., MC 125433 (Sub-170F), F-B Truck Line Company, now assigned for continued hearing on September 11, 1979 (2 weeks), at Salt Lake City, UT, in a hearing room to be later designated.

MC 113855 (Sub-464F), International Transport, Inc., now assigned for Prehearing Conference on August 9, 1979 at the Office of the Interstate Commerce Commission, Washington, DC.

MC 110988 (Sub-375F), Schneider Tank Lines, Inc., now assigned for continued hearing on September 18, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 2908 (Sub-23F), now being assigned for continued hearing on October 3, 1979 (3 days) at the Holiday Inn-South, U.S. 45 South and I-20, Meridian, MS and continued to October 8, 1979 (5 days) at the Sheraton Inn of New Orleans/Gretna, 100 West Bank Expressway, Gretna, LA.

AB-7 (Sub-78F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, Abandonment near Fairfield and Agawam, in Teton County, MT, now assigned for hearing on August 13, 1979 at Chouteau, MT, is postponed to August 14, 1979 (4 days), at Chouteau, MT, in a hearing room to be later designated.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-23175 Filed 7-26-79; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311 (Sub-No. 1B)]

Expedited Procedures for Recovery of Fuel Costs

Decided: July 23, 1979.

On July 13, 1979, the Nation's railroads filed a request for special permission to publish an additional one percent surcharge on their freight rates and charges to offset increases in fuel costs incurred from June 1, 1979 to July 9, 1979. The railroads previously had a 1.2 percent fuel-based rate increase become effective on June 5, 1979. In addition, the carriers were granted special permission to file an additional 1.4 percent surcharge, which became effective July 7, 1979. The present proposal will cancel the previous tariff supplement and carry forward the 1.4 percent surcharge, thereby providing for a total surcharge of 2.4 percent. The railroads ask that this increase be permitted to become effective on one day's notice.

In the present proposal, the railroads ask for relief in two areas. The carriers ask that July 9, 1979 price levels be used

instead of "average" monthly figures as presently required in the normal X-311 procedures. The railroads also request that the increase be permitted to become effective on one day's notice, instead of the 10 working day's notice normally required.

With regard to waiving the requirement that average monthly cost figures be used, similar relief was afforded in the request for the 1.4 percent surcharge, which was based on price levels as of June 1, 1979, rather than average May, 1979 figures. See Ex Parte No. 311 (Sub-No. 1A), decision served June 29, 1979. It appears that prices are still rising at a very rapid rate, so that normal X-311 procedures do not provide adequate relief. Accordingly, we will allow the railroads to publish a one percent surcharge based on fuel prices as of July 9, 1979.

As stated in the decision in Ex Parte No. 311 (Sub-No. 1A), we recognize that the 10-day notice requirement may impose some burden on the carriers. However, we note that the present increase will generate approximately \$265 million on an annualized basis. Because of the sums involved, and because, this is, in effect, a nationwide rail increase, we must allow some time for possible protests and Commission evaluation. Therefore, we will authorize the carriers to publish this increase on five working days' notice, with protests due two days before the effective date.

The railroads also request future procedural relief. The carriers contend that, because of the increasing severity of the fuel emergency, modification of Special Permission No. 79-2620 is required to provide a more expeditious system of relief. The railroads generally complain that under the present system, rate surcharges granted often lag 30 to 45 days behind rising fuel costs. The carriers request a surcharge system similar to that presently used by the motor carrier industry.

We agree that certain modifications of Special Permission No. 79-2620 are required for the railroads. We will amend the Special Permission to provide that in future surcharge requests, until further ordered, the railroads may measure fuel price levels from one fixed date to another, instead of having to utilize average monthly figures, which contributes to the regulatory lag problem.

However, we find that the request to publish on one day's notice must be denied. As stated above, because of the amount of revenue generated by these increases, and because railroad filings in this matter are, in effect, nationwide increases, the shipping public and the

Commission must be given some time to respond and to evaluate the proposals. However, we find that some relief should be afforded, and we will amend the Special Permission to provide that all future surcharges may be filed on five working days' notice, with protests due no later than two days before the effective date. We will continue to seek methods of improving our procedures and eliminating regulatory lag.

Amendment to Special Permission No. 79-2620

It is ordered: The Nations' railroads are authorized to depart from the terms of this Special Permission to publish, by means of tariff supplement, an increase in freight rates and charges of one percent by means of a percentage surcharge, using fuel price data on July 9, 1979, instead of average price increases during the month of June, 1979. The new supplement must cancel the present surcharge supplement and carry forward the 1.4 percent surcharge contained therein, thereby providing for a total surcharge of 2.4 percent. This increase is to be published on five working days' notice with protests due no later than two days before the effective date.

Special Permission No. 79-2620 is amended by adding the following new paragraphs:

1a. As of July 23, 1979, the Nation's railroads, in all future surcharge requests, are authorized under the terms of this Special Permission, to file on not less than five working days' notice, unless otherwise ordered.

7a. In accordance with paragraph 1a, the railroads, when filing jointly, shall submit data measuring fuel price levels from one fixed base date to another fixed current date in the manner of their filing of July 13, 1979. In future filings, the current date shall become the base date.

14a. In accordance with paragraph 1a, protests are due no later than two days before the effective date of the tariff.

In all other respects, the requested relief is denied.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian. Vice Chairman Brown not participating. Commissioner Clapp absent and not participating.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-25174 Filed 7-26-79; 8:45 am]
BILLING CODE 7035-01-M

[Notice No. 118]

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the *Federal Register* publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the *Federal Register*. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 287 (Sub-10TA), filed June 7, 1979. Applicant: PLYMOUTH & BROCKTON STREET RAILWAY CO., 31 Milk Street, Boston, MA 02109. Representative: Jeremy Kahn, Suite 733, Investment Building, Washington, DC 20005. Passengers and their baggage, and express and newspapers, in the same vehicle with passengers. Between Boston, Mass. and Hyannis, Mass., serving all intermediate points between Sagamore and Hyannis. From Boston over the South East Expressway to Mass. Highway 128, then over Mass. Highway 128 to Mass. Highway 3, then

over Mass. Highway 3 to U.S. Highway 6, then over U.S. Highway 6 to Mass. Highway 132 (also from junction Mass. Highway 3 and U.S. Highway 6A, then over U.S. Highway 6A to junction Mass. Highway 132) then over Mass. Highway 132 to Hyannis, and return over the same route. Between Boston, Mass. and Hyannis, Mass., serving all intermediate points. From Boston over Mass. Highway 138 to Stoughton, then over Mass. Highway 27 to Brockton, then over Mass. Highway 28 to Bridgewater, then over Mass. Highway 18 to Mass. Highway 28 (near Middleboro), then over Mass. Highway 28 to junction U.S. Highway 6, then over U.S. Highway 6 to Mass. Highway 132 (also from junction U.S. Highway 6 and 6A over U.S. Highway 6A to junction Mass. Highway 132), then over Mass. Highway 132 to Hyannis, and return over the same route. Between Boston, Mass. and Woods Hole, Mass., serving all intermediate points. From Boston over Mass. Highway 138 to Stoughton, then over Mass. Highway 27 to Brockton, then over Mass. Highway 28 to junction Mass. Highways 18 and 28 near Middleboro, then over Mass. Highway 28 to Wareham (then over town streets through Wareham Center, Mass., return by other town streets to junction Mass. Highway 28) then over Mass. Highway 29 to Falmouth, then over unnumbered roads to Woods Hole, and return by the same route. For 180 days. An underlying ETA seeks 90 days authority. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 4426 (Sub-1TA), filed June 19, 1979. Applicant: M & T TRANSPORT, INC., 7397 Richmond Road, P.O. Box 292, East Syracuse, NY 13057.

Representative: Herbert M. Canter, Esq., 305 Montgomery Street, Syracuse, NY 13202. *Telephone and telegraph cable on reels*, from Baltimore, MD to Syracuse, NY and *empty cable reels* in the reverse direction. Restricted to transportation on flatbed vehicles equipped with fully articulating cranes for loading and unloading. An underlying ETA seeks 90 days authority. Supporting Shipper(s): New York Telephone Company, Room 906A, 158 State Street, Albany, NY 12201. Send protests to: Richard Cattadoris, DS, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.

MC 6516 (Sub-3TA), filed June 14, 1979. Applicant: TRIBORO TRUCKING, INC., 200 Raymond Boulevard, Newark, NJ 07105. Representative: Robert B.

Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Ink oil from Philadelphia, PA to East Rutherford, NJ for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sun Chemical Corporation, 222 South Marginal Road, Fort Lee, NJ 07024. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 13267 (Sub-3TA), filed June 1, 1979. Applicant: MOUNTAINSIDE TRANSPORT, INC., 4828 Hollins Ferry Road, Baltimore, MD 21227. Representative: A. David Millner and Michael R. Werner, P.O. Box 1409, Fairfield, NJ 07006. *Contract carrier*, irregular routes: *Bakery products and coffee*, from Baltimore, MD to Charlottesville, Louisa, Staunton and Waynesboro, VA, under a continuing contract with The Great Atlantic & Pacific Tea Company, Inc., for 90 days. An underlying ETA seeks 90 days. Supporting shipper(s): Carl L. Haderer, The Great Atlantic & Pacific Tea Company, Inc., 2 Paragon DR, Montvale, NJ 07645. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 21866 (Sub-122TA), filed May 23, 1979. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Avenue, Boyertown, PA 19512. Representative: Alan Kahn, Esquire, 1920 Two Penn Center Plaza, Phila., PA 19102. *Paper and paper products* from the facilities of Wyomissing Corporation at or near Reading, PA, to Peachtree City, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wyomissing Corporation, P.O. Box 742, Reading, PA 19603. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 26396 (Sub-253TA), filed June 7, 1979. Applicant: POPELKA TRUCKING CO. d.b.a. THE WAGGONERS, P.O. Box 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. (1) *Agricultural chemicals* (except in bulk); (2) *Products, supplies and raw materials used in the manufacture, distribution and sale of agricultural chemicals* (except in bulk); and (3) *Seed*, in mixed loads with commodities named in Items (1) and (2) above, between points in AZ, AR, FL, GA, CA, LA, MS, NC, NJ, NY, OK, PA, SC, TN, TX, VA, IA, and KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Helena Chemical Company, Suite 3200 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Send protests to:

Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 26396 (Sub-254TA), filed June 13, 1979. Applicant: POPELKA TRUCKING CO. d.b.a. THE WAGGONERS, P.O. Box 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Lumber* from Dillon, Darby and Columbia Falls, MT to points in AL, MS, LA, GA, TN and KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stoltze Land and Lumber, P.O. Box 490, Columbia Falls, MT 59912. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 26396 (Sub-255TA), filed June 20, 1979. Applicant: POPELKA TRUCKING CO. d.b.a. THE WAGGONERS, P.O. Box 31357, Billings, MT 59107. Representative: Barbara S. George (same address as applicant). *Grain elevator parts and accessories* from West Point, NE to points in ND, SD, MT, WY, UT, ID, WA, OR, NV, CO, and to the International Boundary line between the U.S. and Canada located at ports of entry in MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sweet Manufacturing, Box 33, West Point, NE 68788. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 26396 (Sub-256TA), filed June 21, 1979. Applicant: POPELKA TRUCKING CO. d.b.a. THE WAGGONERS, P.O. Box 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Petroleum and petroleum products, vehicle body sealer and sound deadener* (except in bulk), from Buffalo and Tonawanda, NY; Emlenton, Farmers Valley, New Kensington and North Warren, PA; Congo and St. Marys, WV to points in IL, IN, MI and WI, for 180 days. Supporting shipper(s): Quaker State Oil Refining Corp., P.O. Box 989, Oil City, PA 16301. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 26396 (Sub-257TA), filed June 22, 1979. Applicant: POPELKA TRUCKING CO. d.b.a. THE WAGGONERS, P.O. Box 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Wrought iron pipe* from Oil City, PA to points in WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jones & Laughlin Steel Corporation, 363 Seneca St., Oil City, PA

16301. Send protests to: Paul J. LaBane, DS, ICC, 2602 First Avenue Nprth, Billings, MT 59101.

MC 30237 (Sub-39TA), filed June 8, 1979. Applicant: YEATES TRANSFER COMPANY, P.O. Box 866, Altavista, VA 24517. Representative: Eston H. Alt, Exec., Vice President (address same as above). *Furniture, and materials and supplies* used in the manufacture thereof (except commodities in bulk) between Leeds, AL, on the one hand, and on the other, points in the states of KY, MD, NC, SC, TA, VA, WV and the DC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United Chair, A U.S. Industries Company, 114 Churchill Ave., N.W. P.O. Box 96, Leeds AL 35094. Send protests to: Charles F. Myers, DS, ICC, Room 10-502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 38536 (Sub-4TA), filed June 6, 1979. Applicant: COAST CARTAGE COMPANY, 2100 Alhambra Avenue, Los Angeles, CA 90033. Representative: M. C. Thometz ("same address as applicant"). *General commodities, moving on bills of lading of freight forwarders (except commodities in bulk in tank vehicles and Class A and B explosives)*, between points in the counties of Adams, Arapahoe, Boulder, Denver, Douglas, Elbert, El Paso, Jefferson, Larimer, Morgan, Pueblo, and Weld in the state of Colorado, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Coast Carloading Co., Inc., 1041 Richmond Street, Los Angeles, CA 90033. BDP Company, 855 Anaheim Puente Road, City of Industry, CA 91749. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 41116 (Sub-59TA), filed June 4, 1979. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Austin L. Hatchell, 801 Vaughn Bldg., Austin, TX 78701. Applicant is seeking authority to operate as a contract carrier over irregular routes transporting *newsprint, groundwood and wrapping paper* from the plantsite of St. Regis Paper Co., Southland Division, at Sheldon and Hearty, TX to points in AR, KS, LA, MO, MS, and OK, for 180 days. Restricted to the account of St. Regis Paper Co., Southland Division under a continuing contract or contracts. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): St. Regis Paper Co., Southland Division, 1111 Fannin St., Houston, TX 77002. Send protests to: Robert J. Kirspeil, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 42487 (Sub-923TA), filed June 8, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: H. P. Strong, P.O. Box 3062, Portland, OR 97208. Common carrier; regular routes: *General Commodities*, except those of unusual value, household goods as defined by the Commission, Classes A and B explosives, commodities in bulk and those requiring special equipment, serve the facilities of Borg Textiles Corp. at Delavan, WI, as an off-route point in connection with carrier's presently authorized regular route operations, for 180 days. Supporting Shipper(s): Borg Textile Corp., P.O. Box 697, Rossville, GA 30741. Send protests to: D/S N. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

Note.—Applicant intends to tack this authority with its present regular and irregular route authority at Rockford, IL, pursuant to authority held in Sub 578. Applicant also intends to tack this authority with such regular and irregular route authority as it may obtain in the future. Applicant proposes to interline traffic with its present connecting carriers at authorized interline points throughout the U.S. as provided in tariffs on file with the Commission.

MC 44447 (Sub-32TA), filed May 23, 1979. Applicant: SUBURBAN MOTOR FREIGHT, INC., 1100 King Ave., Columbus, OH 43212. Representative: Taylor C. Burneson, 1631 Northwest Professional Plaza, Columbus, OH 43220. *Expanded plastic products*, from the facilities of Dow Chemical U.S.A. at or near Hanging Rock, OH to points and places in IN, KY, WV, MI (south of U.S. Hwy 10 and south and west of Mich. Hwy 25), and PA (on and west of Interstate Hwy 79), for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Dow Chemical U.S.A. Eastern Div., 14955 Sprague Rd., P.O. Box 36000, Strongsville, OH 44136. Send protests to: D/S, I.C.C., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 45736 (Sub-58TA), filed June 13, 1979. Applicant: GUIGNARD FREIGHT LINES, INC., P.O. Box 26067, Charlotte, NC 28213. Representative: Edward G. Villalon, 1032 Penn. Bldg., Penn. Ave. & 13th St., NW, Washington, DC 20004. *Paper and paper products and materials, supplies and equipment used in the manufacture thereof* between the facilities of Union Camp Corp. at or near Savannah, GA on the one hand, and on the other, points in FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Union Camp Corp., 1600 Valley Rd., Wayne, NJ 07470. Send protests to: District Supervisor

Terrell Price, 800 Briar Creek Rd., Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 51146 (Sub-697TA), filed May 23, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. *Games and toys* from points in AL, AR, GA, IL, IN, IA, KY, MI, MO, NH, OH, SC & TN to Menomonee Falls, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): A.M.S. Wholesale, Inc., N90 W14507 Commerce Dr., Menomonee Falls, WI 53051. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 51146 (Sub-698 TA), filed June 7, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. (1) *Printer matter and stationery*; and (2) *novelties moving in mixed loads* with the commodities named in (1) above from Liberty, MO to Thompsonville, CT, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Hallmark Cards, US. Hwy. 33 & I-35, Liberty, MO 64068. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 51146 (Sub-699 TA), filed June 8, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. *Metal containers, metal container ends, beverage ends, and materials and supplies used in the manufacture and distribution of metal containers* from Faribault, MN to points in GA, SC & VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Crown Cork & Seal, Inc., 4th St. & Park, Faribault, MN 55021. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 51146 (Sub-700TA), filed June 11, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. *Metal containers* from Perry, GA to St. Paul, MN and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Continental Can Co., 5745 E. River Rd., Chicago IL 60631. Send protests to: Gail

Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 51146 (Sub-701TA), filed June 14, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. *Containers and container ends* from Oak Creek, WI to Detroit, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Can Corp., 8101 W. Higgins Rd., Chicago, IL 60631. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 51146 (Sub-702TA), filed June 14, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. *Tool cabinets, tool chests, tool boxes, medical cabinets, work benches, and shelves and materials, equipment and supplies used in the manufacture and distribution of the above-described commodities* between Sedalia, MO; Waterloo, IA; and Pocahontas, AR on the one hand, and, on the other, points in and east of MN, IA, MO, AR & LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Waterloo Industries, P.O. Box 209, Waterloo, IA 50704. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 51146 (Sub-703TA), filed June 14, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. *Toys* from points in NJ, NY, MA, CT, PA, MD & VA to Gary, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Riss Sales, Inc., 2201 W. 37th Ave., Gary, IN 46408. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 51146 (Sub-704TA), filed June 15, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. *Games and toys* from Los Angeles, San Bernardino, Riverside, Orange and Ventura Counties, CA and King County, WA to Mequon, WI, for 180 days. Supporting shipper(s): M. W. Kasch Co., 5401 W. Donges Bay Rd., Mequon, WI 53092. Send protests to: Gail Daugherty,

TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 51146 (Sub-705TA), filed June 20, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. *Bakery products* from facilities of Nabisco, INC., at or near Pittsburgh, PA to the facilities of Nabisco, Inc. in AL, CT, GA, IL, IN, IA, KY, ME, MA, MI, MN, MO, NJ, NC, OH, RI, SC, TN, TX, VT, VA, WV and WI, for 180 days. Supporting shipper(s): Nabisco, Inc., E. Hanover, NJ 07936. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 55896 (Sub-117TA), filed June 11, 1979. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Representative: George E. Batty, 20225 Goddard Road, Taylor, MI 48180. *Automobile parts, and materials, and equipment and supplies* used in the manufacture of automobiles FROM Herrin, IL to IN, OH and the Lower Peninsula of MI. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fisher Body Division, GMC, 30001 Van Dyke, Warren, MI 48090. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 59457 (Sub-47TA), filed May 29, 1979. Applicant: SORENSON TRANSPORTATION COMPANY, INC., Old Amity Road, Bethany, Connecticut 06525. Representative: Thomas W. Murrett, 342 North Main Street, West Hartford, Connecticut 06117. Common carrier: irregular routes, *Ice cream, ice products, dairy products, desserts, frozen/refrigerated, materials and supplies used in the production thereof*, between Fort Wayne, IN; Pittsburgh, PA; Canton, OH; Baltimore, MD; Syracuse, NY; Milford, DE; on the one hand, and, on the other, points in the states of ME, NH, VT, MA, RI, CT, NY, PA, NJ, DE, and MD, limited to transportation to or from the facilities of Borden, Inc. For 180 days. Supporting shipper(s): Borden, Inc., 180 East Broad Street, Columbus, OH 43215. Send protests to: J. D. Perry, Jr., District Supervisor, I.C.C., 135 High Street, Hartford, CT 06101.

MC 78687 (Sub-67TA), filed June 15, 1979. Applicant: LOTT MOTOR LINES, INC., West Cayuga Street, P.O. Box 751, Moravia, NY 13118. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. *Wood fiberboard* from the facilities of Weyerhaeuser Co. at or near Doswell, VA to points in CT, ME, MA, NH, NY,

NJ, PA, RI and VT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Weyerhaeuser Company, P.O. Box 787, Plymouth, NC 27962. Send protests to: Richard Cattadoris, DS, ICC, 910 Federal Bldg., 111 W. Hurron St., Buffalo, NY 14202.

MC 79687 (Sub-32 TA), filed May 24, 1979. Applicant: WARREN C. SAUERS CO., INC., 200 Rochester Road, Zelenople, PA 16063. Representative: Henry M. Wick, 2310 Grant Building, Pittsburgh, PA 15219. *Glass containers and materials, equipment and supplies used in the manufacture and distribution of glass containers*, between Marion, IN, on the one hand, and, on the other, pts in CT, DE, ME, MD, MA, NJ, NY, and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): National Can Corporation, 8101 West Higgins Road, Chicago, IL 60631. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 79687 (Sub-33TA), filed May 29, 1979. Applicant: WARREN C. SAUERS COMPANY, INC., 200 Rochester Road, Zelenople, PA 16063. Representative: Henry M. Wick, Jr., Wick, Vuono & Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219. *Glassware, glass containers, caps, covers, stoppers and taps for glass containers*, from facilities of Libbey Glass Division of Owens-Illinois, Inc. at or near Toledo, OH to pts. in CT, DE, MD, MA, NJ, NY and PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Libbey Glass Div., Owens-Illinois Inc., P.O. Box 919, Toledo, OH 43693. Send protests to: I.C.C., Fed. Res. Bank Bldg., 105 N. 7th St., Rm. 620, Phila., PA 19106.

MC 86247 (Sub-18TA), filed June 11, 1979. Applicant: I.C.L. INTERNATIONAL CARRIERS LIMITED, 1333 College Avenue, Windsor, Ontario, Canada N9C 3Y9. Representative: Joseph P. Allen, 7701 W. Jefferson, Detroit, MI 48209. *Iron and steel* between the international boundary of the United States and Canada at Detroit and Port Huron, MI and points in the lower peninsula of MI; restricted to foreign traffic originating at, or destined to points in Canada. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dominion Foundries & Steel Co. Ltd., Burlington Street, Hamilton, Ontario, Canada; Atlas Steel Company, Center Street, Welland, Ontario; Lake Ontario Steel Company, Limited, Hopkins Street, South, Whitby, Ontario, Canada L1N 5T1. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 95876 (Sub-281TA), filed June 11, 1979. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 55402. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. *Steel pipe* from points on the U.S.-Canada border at or near International Falls and Pigeon River, MN to Birmingham, AL, Denver, CO, Shreveport, LA and Tulsa and Enid, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gensco, Inc., P.O. Box 67, Uvalde, TX 78801. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 95876 (Sub-282TA), filed June 21, 1979. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. *Pipe and pipe fittings, couplings, connections, and accessories (except iron or steel commodities which because of size or weight require the use of special equipment)* from the facilities of ARMCO, INC., at Springfield, IL, to points in the states of IA, NE, ND, and SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): ARMCO, INC., 703 Curtis Street, Middletown, OH 45053. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 95876 (Sub-283TA), filed June 22, 1979. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Representative: William L. Libby (same as applicant). *Wallboard, fiberboard, pulpboard, and strawboard*, from the facilities of Boise Cascade, Inc., at or near Cicero, IL, to points in IN, MI, OH, and PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Boise Cascade Corporation, P.O. Box 2885, Portland, OR 97208. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 99427 (Sub-43TA), filed June 1, 1979. Applicant: Arizona Tank Lines, Inc., 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check (same as applicant). *Sulfuric acid, in bulk, in tank vehicles, having prior rail movement*, from Valencia County, NM to points in NM for 180 days. Supporting shipper(s): Chemical Marketing Services, 4th National Bank Bldg., Suite 2501, Tulsa, OK 74119. Send protests to:

Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 99896 (Sub-4TA), filed May 29, 1979. Applicant: THE KINNISON TRUCKING CO., 1475 W. River Rd., Dayton, OH 45418. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. (1) *Aluminum castings*, from Bedford, IN to pts. in Montgomery Co., OH, (2) *scrap aluminum*, from pts. in Montgomery Co., OH to Bedford, IN, and (3) *rubber packing devices*, from Morristown, IN to Dayton, OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Delco Air Conditioning Div. & Delco Moraine Div. General Motors Corp., 1420 Wisconsin Blvd., Dayton, OH 45401. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 102616 (Sub-998TA), filed May 23, 1979. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Rd., Akron, OH 44313. Representative: David F. McAllister (same address as applicant). *Petroleum products*, in bulk, in tank vehicles from Dayton, OH to points in KY on and West of U.S. Rt. 31W, for 180 days. Supporting shipper(s): Sun Petroleum Products Co., Div. of Sun Oil Co. of Pennsylvania, P.O. Box 920, Toledo, OH 43693. Send protests to: D/S I.C.C., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 102616 (Sub-999TA), filed May 29, 1979. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Rd., Akron, OH 44313. Representative: David F. McAllister (same address as applicant). *Liquid fertilizer*, in bulk, in tank vehicles, from Burlington and Muscatine, IA to points in IL, for 180 days. An underlying ETA seeks 30 days authority. Supporting shipper(s): Allied Chemical Corporation, P.O. Box 2120, Houston, TX 77001. Send protests to: D/S I.C.C., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 102616 (Sub-1000TA), filed June 1, 1979. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Rd., Akron, OH 44313. Representative: David F. McAllister (same address as applicant). *Sulphuric acid*, in bulk, in tank vehicles, from Oregon, OH to Midland, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dow Corning Corp., 3901 S. Saginaw Rd., Midland, MI 48640. Send protests to: D/S I.C.C., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 102806 (Sub-23TA), filed June 12, 1979. Applicant: PETROLEUM TRANSPORTATION, INCORPORATED, P.O. Box 399, Gastonia, NC 28052.

Representative: Danny K. Summitt, 701 East Davis St., Gastonia, NC 28052. *Petroleum and petroleum products, in bulk, in tank vehicles* from Thrift, NC to points in Dillon and Marlboro Counties. SC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Harris Ice and Fuel, 226 Gill St., Laurinburg, NC 28352. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd-Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 105566 (Sub-195TA), filed May 25, 1979. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: Thomas F. Kilroy, Suite 406, Executive Bldg., 6901 Old Keene Mill Rd., Springfield, VA 22150. *Plastic articles and plastic bags* from Tustin, CA to all points in IL, IN, KS, KY, MO, NE, OH and PA, for 180 days. Supporting shipper(s): North American Plastics of California, 2745 Dow Ave., Tustin, CA 92680. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 105566 (Sub-196TA), filed June 5, 1979. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: Thomas F. Kilroy, Suite 406, 6901 Old Keene Mill Rd., Springfield, VA 22150. *Glassware*, in cartons, from Mt. Pleasant, PA to points in AZ, CA and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): L. E. Smith Glass Co., 1900 Liberty St., Mt. Pleasant, PA 15666. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 105566 (Sub-197TA), filed June 5, 1979. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: Thomas F. Kilroy, Suite 406, 6901 Old Keene Mill Rd., Springfield, VA 22150. *Printed matter* from Jessup, MD and Scranton and Reading, PA to all points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, WA and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ingram Book Company, 347 Redwood Dr., Nashville, TN. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 105566 (Sub-198TA), filed June 7, 1979. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: Thomas F. Kilroy, Suite 406, 6901 Old Keene Mill Rd., Springfield, VA 22150. (1) *Glassware, ceramic ware, and electrical appliances* and parts and accessories for these commodities from

Charleroi and Greencastle, PA and Paden City, WV to all points in AZ, CA, CO, ID, MT, NV, NM, OK, OR, TX, UT, WA and WY; (2) *glass television bulb parts* from Bluffton, IN to all points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Corning Glass Works, P.O. Box 158, Corning, NY 14830. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 105566 (Sub-199TA), filed June 8, 1979. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: Thomas F. Kilroy, Suite 406, 6901 Old Keene Mill Rd., Springfield, VA 22150. *Chemicals*, except in bulk, and personal safety devices from Bound Brook, NJ, Marietta, OH, and Willow Island, WV to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, for 180 days. An underlying ETA seeks 180 days authority. Supporting shipper(s): American Cyanamid Company, Bound Brook, NJ 08805. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 107496 (Sub-1216TA), filed June 1, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check (same as above). *Fuel oil, in bulk, in tank vehicles*, from Pana, IL to Cedar Rapids, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bi-Petrol Refining Company, P.O. Box 249, Pana, IL 62257. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 108207 (Sub-511TA), filed June 13, 1979. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith, P.O. Box 225888, Dallas, TX 75265. *Foodstuffs and meats, meat products, meat by-products, and articles distributed by meat packinghouses as described in Sections A and C of Appendix 1 to the report in Descriptions in Motor Carrier Certificates, 611 M.C.C. 209 and 766 (except hides and commodities in bulk)*, from St. Louis, MO and points in its commercial zone to points in KY and IN, for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper(s): Rueckert Meat Co., Inc., 300 S. 21st St., St. Louis, MO 63103. Send protests to: Opal M. Jones, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 108207 (Sub-512TA), filed June 14, 1979. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75222. Representative: M. W. Smith

(same as applicant). *Frozen foodstuffs (except commodities in bulk)* between Indianapolis, IN and points in its commercial zone on the one hand, and, on the other, points in AL, AZ, AR, CA, IL, IA, KS, KY, LA, MI, MN, MS, MO, NE, NM, OH, OK, TN, TX, and WI, restricted to Distribution Warehouse, Inc., Indianapolis, IN for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper(s): Monument Distribution Warehouse, Inc., 3320 S. Arlington Ave., Indianapolis, IN 46203. Send protests to: Opal M. Jones, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 109376 (Sub-15TA), filed June 5, 1979. Applicant: SKINNER TRANSFER CORP., P.O. Box 284, Reedsburg, WI 53959. Representative: Richard Westley, 4506 Regent St., Suite 100, Madison, WI 53702. (1) *Pallets and pallet parts* from facilities of Lyndon Wood Products Corp. and wood chips and lumber from facilities of S & Y Tree Farm, Inc., at or near Lyndon Station, WI to points in MN, IA, IN & IL (2) *Materials, equipment and supplies used in the production and distribution of pallets and pallet parts* from points in IL to facilities of Lyndon Wood Products Corp., Lyndon Station, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lyndon Wood Products Corp. and S & Y Tree Farm, Inc., Box 322, Lyndon Station, WI 53944. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 112266 (Sub-13TA), filed May 24, 1979. Applicant: CRAYCRAFT TRUCKING, INC., U.S. Route 30, Rt. #2, Upper Sandusky, OH 42251. Representative: James M. Burtch, 100 E. Broad St., Suite 1800, Columbus, OH 43215. *Clay products* from the facilities of Galena Brick Co. located at or near Galena, OH to pts. in MI for 180 days. Supporting shipper(s): Mark R. Kraus Inc., 14284 Meyers Rd., Detroit, MI 48227. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 112617 (Sub-437TA), filed June 8, 1979. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Representative: Charles R. Dunford (same as above). *Transmission Fluid*, in bulk, in tank vehicles, from Atlanta, Ga. to Louisville, KY. Supporting shipper(s): Robert J. Doyle, Dynamic Energy, Inc., 100 E. Liberty—Suite 603, Louisville, Ky. 40202. Send protests to: Mrs. Linda H. Sypher, D/S, ICC, 426 Post Office Bldg., Louisville, Ky. 40202.

MC 112617 (Sub-438TA), filed June 11, 1979. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Representative: Charles R. Dunford (same as above). *Chemicals*, in bulk, in tank vehicles, from Lake Charles, LA, to points in and east of LA, AR, MO, IA, & MN. Supporting shipper(s): C. R. Watson, Continental Oil Co., P.O. Box 2197, Houston, TX 77001. Send protests to: Mrs. Linda H. Sypher, D/S, ICC, 426 Post Office Bldg., Louisville, Ky. 40202.

MC 112617 (Sub-439TA), filed June 11, 1979. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Representative: Charles R. Dunford (same as above). *Olefin Solvent*, in bulk, in tank vehicles, from Karns City, PA, Catlettsburg, KY, Bayonne, NJ, Baytown, TX and Beaumont, TX to Parsons, WV. Supporting shipper(s): Richard A. Parks, The Kingsford Co., P.O. Box 1033, Louisville, Ky. 40201. Send protests to: Mrs. Linda H. Sypher, D/S ICC, 426 Post Office Bldg., Louisville, Ky. 40202.

MC 113106 (Sub-75TA), filed 5/14/79. Applicant: THE BLUE DIAMOND COMPANY, 4401 E. Fairmount Ave., Baltimore, Md 21224. Representative: Chester A. Zyblut, 1030—15th St., N.W., Washington, DC 20005. *Glass containers* from Marienville, Knox, Parker, Clarion and Elk City, PA to Relay, MD, for 90 days. An underlying ETA seeks 90 days. Supporting shipper(s): J. R. Summerville, TM, Glass Container Corporation, Knox, PA 16232. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 113406 (Sub-12TA), filed June 5, 1979. Applicant: DOT LINES, INC., 1000 Findlay Rd., Lima, OH 45802. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. (1) *Such commodities as are manufactured, distributed or sold by food and drug manufacturers or distributors, and (2) equipment, materials and supplies used in the manufacture of the items specified above (except commodities in bulk)*, (a) from Bath Township, Allen County, OH to points in MO (b) from points in MO to points in OH. Restricted in (a) and (b) above to traffic originating at or destined to facilities of The Procter & Gamble Distributing Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Procter & Gamble Co., P.O. Box 599, Cincinnati, OH 45201. Send protests to: D/S, ICC, 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 113666 (Sub-172TA), filed June 4, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road,

Freeport, PA 16220. Representative: R. Scott Mahood (same as applicant). *Prefabricated or pre-cut houses and buildings, component parts thereof, and materials, supplies, accessories, fixtures, and appliances necessary to the construction, erection and completion thereof*, from Brewer, ME; Bolton and Leverett, MA to pts. in PA on and west of U.S. Highway Route #15, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Keyes-Durham, Inc., 187 Washington Avenue, Vandergrift, PA 15690. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 113666 (Sub-173TA), filed June 4, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Rd., Freeport, PA 16229. Representative: R. Scott Mahood (same as applicant). *Iron and steel articles* between Midland, PA, on the one hand, and, on the other, pts. in the states of IL, IN, MO, NY, NJ, DE, CT, MA, VA and WI for 180 days. Supporting shipper(s): Colt Industries, Crucible, Inc., Alloy & Stainless Steel Div., P.O. Box 226, Midland, PA 15059. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 113666 (Sub-174TA), filed May 29, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: R. Scott Mahood (same as applicant). (1) *Agricultural implements and parts thereof*; (2) *Lawn and garden equipment and parts thereof* (1) from LaPorte, IN to pts. in the states of MA, NY, OH, and PA; (2) from Milwaukee, WI to pts. in the States of MA, MO, NY, OH and PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allis-Chalmers Corporation P.O. Box 512, Milwaukee, WI 53201. Send protests to: ICC Fed. Res. Bank Bldg., 105 N. 7th St., Rm. 620, Phila., PA 19106.

MC 113666 (Sub-175TA), filed June 4, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Rd., Freeport, PA 16229. Representative: R. Scott Mahood (same as applicant). *Steel* from Pittsburgh, Arnold and New Kensington, PA to Cincinnati and Norwood, OH for 180 days. Supporting shipper(s): Siemens-Allis, Inc., 4620 Forest Ave., Norwood, OH 45212. Send protests to: ICC Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 114866 (Sub-74TA), filed June 12, 1979. Applicant: PUROLATOR SECURITY, INC., 255 Old New Brunswick Road, Piscataway, NJ 08854. Representative: Carl T. Kessler, 255 Old New Brunswick Road, Piscataway, NJ 08854. Contract carrier, irregular routes

for 180 days. Coin, currency, negotiable instruments, and other valuables between Pittsburgh, PA and points in Belmont, Jefferson and Monroe counties in OH and Brook, Hancock, Marshall, Ohio, Tyler and Wetzel counties in WV. An underlying ETA seeks 90 days authority. Supporting shipper(s): Federal Reserve Bank of Cleveland, P.O. Box 6387, Cleveland, OH 44101. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 115826 (Sub-484TA), filed June 11, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Meats, meat products and articles distributed by meat packinghouses (except commodities in bulk)*, from Fort Morgan, CO and its commercial zone to points in IA, MN, WI, IL, IN, MI, OH, and KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Morgan Colorado Beef Co., P.O. Box 487, Fort Morgan, CO 80701. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80701.

MC 115826 (Sub-485TA), filed June 18, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Foodstuffs*, from points in CA to Hutchinson, KS and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dillon Stores, 2700 East 4th St., Hutchinson, KS 67501. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-486TA), filed June 18, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Frozen foods*, from points in ID, WA and CA to Des Moines, IA and its commercial zone, for 180 days. Supporting shipper(s): Village Supply Inc., 5153 NE 17th Street, Des Moines, IA 50313. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-487TA), filed June 18, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Dairy products*, from Newman Grove, NE and its commercial zone to points in the United States (except AK and HI), for 180 days. Supporting shipper(s): Newman Grove Creamery Co., Newman Grove, NE 68758. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-488TA), filed June 19, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Floor tile*, from facilities of Armstrong Cork Co. near Kankakee, IL to South Gate, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armstrong Cork Company, P.O. Box 3001, Lancaster, PA 17604. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 116947 (Sub-73TA), filed May 23, 1979. Applicant: SCOTT TRANSFER CO., INC., 920 Ashby Street, SW, Atlanta, GA 30310. Representative: William Addams, Ste. 212, 5299 Roswell Road, NE, Atlanta, GA 30342. *Contract carrier: Irregular routes: Glues, adhesives, caulks, specialty chemicals, in containers packaged in cartons, 5-gallon pails and 55-gallon drums, empty plastic containers, 1 gallon or less, in reshipper and bulk packs, material and supplies (except commodities in bulk) used in the manufacture of glues, adhesives, caulks and chemicals* between the facilities of Franklin Chemical Industries at or near Columbus, OH and points in the US except AK and HI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Franklin Chemical Industries, Inc., 2020 Bruck Street, Columbus, OH 43207. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 118457 (Sub-33TA), filed June 11, 1979. Applicant: ROBBINS DISTRIBUTING COMPANY, INC., 11104 W. Becher St., West Allis, WI 53227. Representative: David Purcell, 111 E. Wisconsin Ave., Milwaukee, WI 53202. *Frozen meats* from the ports of New Haven, CT; Elizabeth and Newark, NJ; New York, NY and Philadelphia, PA to North Chicago, IL and the facilities of Kenosha Beef International and Birchwood Meat & Provision Co. at or near Kenosha, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kenosha Beef Int'l and Birchwood Meat & Provision Co., P.O. Box 639, Kenosha, WI 53141. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 119777 (Sub-381TA), filed June 7, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer 'L', Madisonville, KY 42431. Representative: Carl U. Hurst, Atty. (same as above). *Corrugated Steel Pipe*, from the facilities of Pacific Corrugated Pipe Co. at Fontana, CA, to points in AZ, NV and

UT. Supporting shipper(s): Wayne Moore, Pacific Corrugated Pipe Co., 13680 Slover Ave., Fontana, CA 92335. Send protests to: Mrs. Linda H. Sypher, D/S ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 119777 (Sub-382TA), filed June 11, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer 'L', Madisonville, KY 42431. Representative: Carl U. Hurst, Atty. (same as above). *Crude silicone carbide briquettes*, from points in Obion County, TN, to points in AL, AR, IL, IN, IO, KS, KY, LA, MN, MS, MO, OH, OK, TX, and WI. Supporting shipper(s): M. J. Garrigan, The Carborundum Co., P.O. Box 337, Niagara Falls, NY 14302. Send protests to: Mrs. Linda H. Sypher, D/S ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 121066 (Sub-11TA), filed May 31, 1979. Applicant: NEBRASKA TRANSPORT CO., INC., P.O. Box 621, Scottsbluff, NE 69361. Representative: Lavern R. Holdeman, Peterson, Bowman, Swanson, & Johannis, P.O. Box 81849, Lincoln, NE 68501. *Sugar, in bags and containers*, from the facilities of Holly Sugar Corporation at or near Torrington, WY to Sioux City, IA and points in NE, also interline of shipments with other carriers for movement to other points authorized over Omaha, NE only, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Holly Sugar Corporation, P.O. Box 1052, Colorado Spring, CO 80901. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 121807 (Sub-1TA), filed June 5, 1979. Applicant: BLUE RIBBON EXPRESS & MESSENGER SERVICE, 1401 Stierlin Rd., Mt. View, CA 94043. Representative: G.A. Caldwell, 576 Palo Alto Ave., Mt. View, CA 94041. *General commodities except classes A & B* expositives, household goods, items of extraordinary value and commodities in bulk, between San Francisco International Airport and San Jose Municipal Airport on the one hand, and Santa Cruz, CA on the other hand, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Intel Corporation, 3065 Bowers Ave., Santa Clara, CA, G. M. Miller & Co., Int'l, 1314 Rollins Rd., Burlingame, CA 94010. Send protests to: D/S N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 123476 (Sub-44TA), filed June 15, 1979. Applicant: CURTIS TRANSPORT, INC., 23 Grandview Ind. Ct., Arnold, MO 63010. Representative: David G. Dimit, (address same as applicant). *Iron and/or steel articles* from the Chicago, IL

commercial zone to the facilities of Dow Chemical Company at Midland and Bay City, MI. Supporting shipper(s): Dow Chemical U.S.A., 47 Building, Midland, MI 48640. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 123987 (Sub-21TA), filed June 6, 1979. Applicant: JEWETT SCOTT TRUCK LINE, INC., Box 267, Mangum, OK 73554. Representative: Jewett Scott Jr. (same address as applicant). *Particleboard*, from Albuquerque, NM to AL, AR, AZ, CA, CO, GA, KS, IA, IL, LA, MO, MS, NE, NV, OH, OK, TX, UT, and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ponderosa Products, Inc., P.O. Box 25506, Albuquerque, NM 87125. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office & Courthouse Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 123987 (Sub-22TA), filed June 12, 1979. Applicant: JEWETT SCOTT TRUCK LINE, INC., Box 267, Mangum, OK 73554. Representative: Jewett Scott Jr. (same address as applicant). *Plywood porticleboard, fiberboard, siding and urethane sheathing*, from the facilities of Temple-Eastex, at Diboll and Pineland, TX, to points in AZ, CA, CO, KS, OK, NE, NV, NM, ND, SD, UT, and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Temple-Eastex, Inc., P.O. Drawer N, Diboll, TX 75941. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 124236 (Sub-96TA), filed June 14, 1979. Applicant: CHEMICAL EXPRESS CARRIERS, INC., 4645 North Central Expressway, Dallas, TX 75205. Representative: Joe A. Morgan (same as applicant). *Bulk processed clay* from Riverside, TX to West Lake Charles, LA for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper(s): The Milwhite Co., Inc., 5801 Lyons Ave., Houston, TX 77020. Send protests to: Paul M. Jones, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 124846 (Sub-5TA), filed June 6, 1979. Applicant: KALLMEYER BROS. ENTERPRISES, INC., P.O. Box 223, Hermann, MO 65041. Representative: Thomas P. Rose, P.O. Box 205, Jefferson City, MO 65102. *Malt beverages*, in containers from Evansville, IN to Hermann, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Calvin's Distributing Co., Highway 100 West, Hermann, MO 65041. Send protests to: P.

E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 126427 (Sub-15TA), filed June 6, 1979. Applicant: PALMER TRANSPORTATION, INC., Cross & Main Streets, Chester, New York 10918. Representative: John L. Alfano, Esq., 550 Mamaroneck Avenue, Harrison, NY 10528. *Liquid sugar*, in bulk, in tank vehicles, from Charlestown, MA to points in NY for 180 days. An underlying ETA was granted for 90 days. Supporting shipper(s): Revere Sugar Corporation, 280 Richards Street, Brooklyn, NY 11231. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 126667 (Sub-4TA), filed June 7, 1979. Applicant: BRUSH HILL TRANSPORTATION COMPANY, 31 Milk Street, Boston, MA 02109. Representative: Jeremy Kahn, Suite 733, Investment Building, 1511 K St., NW., Washington, DC 20005. *Passengers and Their Baggage, and Express and Newspapers, in the Same Vehicle With Passengers* between Boston, Mass. and New Bedford, Mass., serving all intermediate points between Bridgewater and New Bedford. From Boston over Mass. Highway 138 to Stoughton, then over Mass. Highway 27 to Brockton, then over Mass. Highway 28 to Bridgewater, then over Mass. Highway 18 to junction Mass. Highway 140, then over Mass. Highway 140 to New Bedford and return over the same route. Between Boston, Mass. and New Bedford, Mass., serving no intermediate points. From Boston over South East Expressway to junction Mass. Highway 128, then over Mass. Highway 128 to junction with Mass. Highway 24, then over Mass. Highway 24 to junction with Mass. Highway 140, then over Mass. Highway 140 to New Bedford, and return over the same route. Between Boston, Mass. and New Bedford, Mass., serving all intermediate points between Bridgewater and New Bedford. From Boston over Mass. Highway 128, to Mass. Highway 24, then over Mass. Highway 24 to Mass. Highway 136, then over Mass. Highway 106 to Mass. Highway 28, then over Mass. Highway 28 to West Bridgewater, then to New Bedford as specified above, and return over the same route. Between Bridgewater, Mass. and Taunton, Mass., serving all intermediate points. From Bridgewater over Mass. Highway 104 to U.S. Highway 44, then over U.S. Highway 44 to Taunton, and return over the same route. For 180 days. An underlying ETA seeks 90 days authority. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce

Commission, 150 Causeway Street, Boston, MA 02114.

MC 128007 (Sub-139TA), filed May 25, 1979. Applicant: HOFER, INC., P.O. Box 583, Pittsburg, KS 66762. Representative: Larry E. Gregg, 641 Harrison, Topeka, KS 66603. *Iron and Steel Articles*, from the facilities of Bull Moose Tube Co. in or near Gerald, MO to points in IA, KS, LA, NE, OK & TX; 180 days, common, irregular. Supporting shipper(s): Bull Moose Tube Company, P.O. Box 214, Gerald, MO 63037. Send protests to: M. E. Taylor, I.C.C., 101 Litwin Bldg., Wichita, KS 67202.

MC 128016 (Sub-8TA), filed June 13, 1979. Applicant: BRUCE G. BESH, 4101 Center St., Cedar Falls, IA 50613. Representative: James M. Christenson, 4444 IDS Center, 80 S. Eighth St., Minneapolis, MN 55402. Contract authority—*New and used railroad ties*, from points in IA to points in MN, WI, IL, MO, KS, NE, and SD for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United Brokerage Corporation, Marshalltown, IA 50158. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 128246 (Sub-47TA), filed June 14, 1979. Applicant: SOUTHWEST TRUCK SERVICE, P.O. Box A. D., Watsonville, CA 95076. Representative: W. F. King, Suite 400, Overlook Bldg., 6121 Lincoln Rd., Alexandria, VA 22312. Contract carrier: irregular routes: *Frozen Vegetables*, from the facilities of Twin City Foods, Inc., at or near Lewiston, Idaho to the facilities of Safeway Stores, Inc., at or near Little Rock, AR; Kansas City, KS/MO; Omaha, NE; Oklahoma City and Tulsa, OK; Dallas, El Paso and Houston, TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Safeway Stores, Inc., 5725 E. 14th St., Oakland, CA 94660. Send protests to: D/S N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 128246 (Sub-48TA), filed June 14, 1979. Applicant: SOUTHWEST TRUCK SERVICE, P.O. Box A. D., Watsonville, CA 95076. Representative: W. F. King, Suite 400, Overlook Bldg., 6121 Lincoln Rd., Alexandria, VA 22312. Contract carrier: irregular routes: *Such commodities as are dealt in by wholesale, retail and chain grocery and food business houses, and in connection therewith, equipment, materials and supplies used in the conduct of such business (except in bulk)*, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Safeway Stores, Inc., 5725 E. 14th St., Oakland, CA 94660. Send protests to: D/

S N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 128527 (Sub-135TA), filed May 22, 1979. Applicant: MAY TRUCKING COMPANY, P.O. Box 400, Payette, ID 83661. Representative: Timothy R. Stivers, Registered Practitioner, P.O. Box 162, Boise, ID 83701. *Fiberglass ceiling panels and materials and supplies used in the installation thereof*, from the facilities used by Owens Corning Fiberglass at or near St. Helens, OR., to points in ID and MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Owens Corning Fiberglass, Fiberglass Towers, Toledo, OH 43659. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 128746 (Sub-53TA), filed June 6, 1979. Applicant: D'AGATA NATIONAL TRUCKING CO., 3240 South 61st St., Phila., PA 19153. Representative: Edward J. Kiley, Suite 501, 1730 M St., NW., Washington, DC 20036. *Glass containers*, between the facilities of Midland Glass Co., Inc. at Cliffwood, NJ, on the one hand, and on the other, East Hartford, Meriden, New Haven and New London, CT, New Cast and Wilmington, DE, Baltimore and Catonsville, MD, Braintree, Lowell, Lynn, Millis, New Bedford, Northam, Sagamore, Somerville, Waltham, Worcester, MA, Albany, Hamlin, Middletown, Newburgh, Rochester, Saratoga Springs, Scotia, Syracuse and Williamson, NY, Reading, Scranton, and Wilkes-Barre, PA and Providence, RI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Midland Glass Co., Inc., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 129537 (Sub-36), filed May 29, 1979. Applicant: REEVES TRANSPORTATION COMPANY, Route 5, Dews Pond Road, Calhoun, GA 30701. Representative: Thomas C. Bogt (same as applicant). *Flour and cornmeal (except in bulk)* from the facilities of Shawnee Milling Co. at or near Shawnee, OK to points in AL, FL, TN, GA, LA, SC, NC, MS and KY for 180 days. Supporting shipper(s): Shawnee Milling Co., P.O. Box 1567, Shawnee, OK 74801. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW., Rm. 300, Atlanta, GA 30309.

MC 133566 (Sub-140TA), filed June 6, 1979. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Representative: Thomas J. Beener, Suite 4959, One World Trade Center, New York, NY 10048. *Meats, meat products,*

meat by-products and articles distributed by meat packinghouses (except hides and commodities in bulk) from the facilities utilized by Briggs and Company, a subsidiary of Wilson Foods Corporation, at Landover, MD to points in IA, KS, MN, MO, NE, and WI for 180 days. Restricted to the transportation of traffic originating at the above named origins and destined to the named destinations. Supporting shipper(s): Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio Street, Rm. 429, Indianapolis, IN 46204.

MC 134286 (Sub-117TA), filed June 7, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same as above). *Cleaning, washing, buffing, or polishing compounds, textile softeners, lubricants hypochlorite solutions, deodorants, or disinfectants, paints, stains or varnishes (except in bulk) in vehicles equipped with mechanical refrigeration* (1) From the facilities of Economics Laboratory, Inc. at Joliet, IL to points in IA, NE, MN, MO, OK, CO, OH and MI and (2) between the facilities of Economics Laboratory, Inc. at Joliet, IL; Avenel, NJ; and Woodbridge, NJ for 180 days. Restricted to traffic originating at the named origin and destined to the named destinations. An underlying ETA seeks 90 days authority. Supporting shipper(s): Economics Laboratory, Inc., Osborn Building, St. Paul, MN 55102. William H. McCollum, Transportation Manager. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 134387 (Sub-67TA), filed June 6, 1979. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Street, South Gate, CA 90280. Representative: Patricia M. Schnegg, Knapp, Grossman & Marsh, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017. *Glass containers*, from the U.S./Canadian border at or near Blaine, WA to all points in CA, for 180 days. Supporting shipper(s): Domglas, Inc., 2070 Hadwen Road, Mississauga, Ont., Canada L5K 2C9. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 134387 (Sub-68TA), filed June 1, 1979. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Avenue, South Gate, CA 90280. Representative: Patricia M. Schnegg, Schnegg, Knapp, Grossman & Marsh, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017. *Major household appliances and related supplies*, from points in Davis County, Utah, to all points in Arizona, for 180

days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): General Electric, 1051 So. Freeport Industrial Parkway, Clearfield, UT 84051. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 135797 (Sub-221TA), filed May 22, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same as applicant). *Citrus juices and beverages* in containers from the facilities of Tropicana Products, Inc., in Manatee County, FL to points in AL, AR, KS, LA, MS, MO, NE, ND, OK, SD, TN and TX, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Tropicana Products, P.O. Box 338, Bradenton, FL 33506. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135797 (Sub-222TA), filed May 22, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same as applicant). *Such commodities as are dealt in or used by retail stores (except foodstuffs and commodities in bulk)*, from points in CA, IL, IN, MA, MO, NJ, NY, OH, PA, TN and TX to the facilities of Modern Merchandising, Inc., located in CO, IL, MN, MT, ND, OR, SD, WA and WY, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Modern Merchandising, Inc., P. O. Box 900, Hopkins, MN 55343. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135797 (Sub-223TA), filed May 22, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same as applicant). *General commodities* from the facilities of Visual Graphics Corporation at Tamarac, FL to Chicago, IL; Clifton, NJ; Los Angeles, CA; and Dallas, TX, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Visual Graphics Corporation, 5701 N.W. 94th Avenue, Tamarac, FL 33321. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135797 (Sub-224TA), filed May 23, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same as applicant). *Foodstuffs* from Lindsay, CA and Salem, OR to Denver, CO; Lake Wales, FL; Atlanta, GA; Chicago, IL; St. Paul, MN; Kansas City, MO; Fostoria, OH;

Mechanicsburg, PA and Arlington, TX, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Lindsay Olive Growers, 850 West Turlare Road, Lindsay, CA 93247. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135797 (Sub-225TA), filed May 23, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same as applicant). *Animal feed* from the facilities of Carnation Company, located at Jefferson, WI to points in FL, IL, IN, KS, PA and TN, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Carnation Company, 5045 Wilshire Boulevard, Los Angeles, CA 90038. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135797 (Sub-226TA), filed June 8, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same as applicant). *Pet food* from Hamilton and Holland, MI to points in AZ, CA, CO, CT, DE, ID, IL, IN, IA, KS, ME, MD, MA, MN, MS, MT, NE, NV, NH, NJ, NM, ND, OH, OK, OR, RI, SD, UT, VT, WA, WI, WY and DC, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Dog Life, P.O. Box 218, Hamilton, MI 49419. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135797 (Sub-227TA), filed June 14, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same as applicant). *Paper and paper products, cellulose products and textile softeners*, from the facilities of Procter & Gamble Paper Products Company at or near Neely's Landing, MO; Greenbay, WI; and Cheboygan, MI to points in and east of ND, SD, NE, KS, OK, TX and points in CA and CO, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Procter & Gamble Paper Products Co., P.O. Box 599, Cincinnati, OH 45201. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135936 (Sub-23TA), filed June 12, 1979. Applicant: C & K TRANSPORT, INC., Box 205, Webster City, IA 50595. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Meat, meat products, meat by-products and articles* distributed by

meat packinghouses as described in Section A & C, Appendix I, Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from the facilities of Dubuque Packing Co. at Le Mars, IA to points in MN, NE and SD for 180 days. Supporting shipper(s): Dubuque Packing Co., Box 340, Le Mars, IA 51031. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 136786 (Sub-160TA), filed June 13, 1979. Applicant: ROBOCO TRANSPORTATION, INC., 4333 Park Ave., Des Moines, IA 50321. Representative: Stanley C. Olsen, Jr., 4601 Excelsior Blvd., Minneapolis, MN 55416. *Frozen foodstuffs* between Indianapolis, IN, on the one hand, and on the other, points in CA, CT, DE, GA, MD, MA, NJ, NY, NC, OR, PA, RI, SC, VA, WA, WV, and DC for 180 days. Restricted to shipments originating at or destined to the facilities of Monument Distribution Warehouse, Inc., Indianapolis, IN. Supporting shipper(s): Monument Distribution Warehouse, Inc., 3320 S. Arlington Ave., Indianapolis, IN 45203. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 136786 (Sub-161TA), filed June 4, 1979. Applicant: ROBOCO TRANSPORTATION, INC., 4333 Park Ave., Des Moines, IA 50321. Representative: Stanley C. Olsen, Jr., 4601 Excelsior Blvd., Minneapolis, MN 55416. *Such merchandise as is dealt in by wholesale, retail and chain grocery houses and department stores*, from the facilities of Boyle Midway, Inc., a division of American Home Products at or near Bedford Park, IL to Bentonville, AR, Springfield, MO, Oklahoma City and Tulsa, OK for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Boyle Midway, Inc., 5151 West 73rd St., Chicago, IL 60638. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 138026 (Sub-20TA), filed June 19, 1979. Applicant: LOGISTICS EXPRESS, INC., d.b.a., LOGEX, Etiwanda and Slover Avenues, Fontana, CA 92335. Representative: Patricia M. Schnegg, Knapp, Grossman & Marsh, 707 Wilshire Blvd., #1800, Los Angeles, CA 90017. *Sulfur-hexafluoride*, from Hometown, PA to Long Beach, CA, for 180 days. Supporting shipper(s): Air Products and Chemicals, Inc., 2021 E. Rosecrans Avenue, El Segundo, CA. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 138126 (Sub-38TA), filed June 15, 1979. Applicant: WILLIAMS REFRIGERATED EXPRESS, INC., Old Denton Road, Federalsburg, MD 21632. Representative: Chester A. Zyblut, 1030 15th St. NW., Washington, DC 20005. *Foodstuffs (except commodities in bulk)* from the facilities of Campbell Soup Company, at or near Napoleon, OH to points in VA, MD, DC, PA and NJ, for 180 days. Supporting shipper(s): Harry Sanford, Campbell Soup Company, East Maumee Avenue, Napoleon, OH 43545. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 138157 (Sub-156TA), filed May 30, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn (same address as applicant). *Merchandise sold in and distributed by retail drug stores (except commodities in bulk)* between Smyrna, GA; Bedford Park, IL; Grand Prairie, TX; Los Angeles and City of Industry, CA; Portland, OR; and Denver, CO, on the one hand, and, on the other, points in GA, IL, MI, MO, NM, NJ, NY, NC, OH, PA, & TX, for 180 days. Supporting shipper(s): Foremost-McKesson, Inc., One Post St., San Francisco, CA 94104. Send protests to: Glenda Kuss, TA, ICC Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 138157 (Sub-157TA), filed June 8, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn (same address as applicant). *Plastic liquid, plastic film and sheeting, chemicals, cleaning and scouring compounds, defoaming compounds, laminating machinery or parts, ink, solvents, pallets, and empty containers, and materials, equipment and supplies used in the manufacturing, sale and distribution of the above commodities,* between the facilities of Thiokol/Dynachem Corp., in Orange County, CA, on the one hand, and, on the other, Elmhurst, IL; Indianapolis and Terre Haute, IN; Woburn and South Hadley Falls, MA; Detroit, MI; Moss Point, MS; Kearny, NJ; Farmingdale, NY; Matthews and Charlotte, NC, and Herndon, VA, for 180 days. Restriction: Restricted against the transportation of commodities in bulk. Supporting shipper(s): Thiokol/Dynachem Corporation, P.O. Box 12047, Santa Ana, CA 92711. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court

House, 801 Broadway, Nashville, TN 37203.

MC 138157 (Sub-158TA), filed June 14, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn (same address as applicant). *Adhesives, adhesive cement, fabricated and shaped metal articles, building materials, polyurethane and plastic articles (except commodities in bulk) and materials, equipment and supplies used in the manufacture, distribution, production and installation of the commodities named above (except commodities in bulk and commodities which, because of size or weight, require the use of special equipment),* between the facilities of Kinkead Industries, Inc., at or near Pittsburg, KS, on the one hand, and, on the other, points in the United States, for 180 days. Supporting shipper(s): Kinkead Industries, Inc., 2801 Finley Rd., Downers Grove, IL 60515. Send protests to: Glenda Kuss, TA, ICC Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 139207 (Sub-9TA), filed May 25, 1979. Applicant: MCNABB-WADSWORTH TRUCKING CO., 305 South Wilcox Drive, Kingsport, TN 37665. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 13th & Penn. Ave. NW., Washington, DC 20004. (1) *Foodstuffs (except commodities in bulk)* from the Tennessee facilities of Moody Dunbar, Inc. at or near Limestone, TN to points in the U.S. (except Alaska and Hawaii) and (2) *Materials, equipment and supplies used in the manufacture of foodstuffs (except commodities in bulk)* from points in the U.S. (except Alaska and Hawaii) to the facilities of Moody Dunbar at or near Limestone, TN, for 180 days. Supporting shipper(s): Moody Dunbar, Inc., P.O. Box 68, Limestone, TN 37681. Send protests to: Glenda Kuss, TA, ICC Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 139906 (Sub-54TA), filed May 22, 1979. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, 2156 West 2200 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. *Carbon black,* in bags from Borger, TX to Cadillac, Grand Rapids, Morneci, Sandusky and White Cloud, MI, for 180 days. Supporting shipper(s): J. M. Huber Corp., Thornall St., Edison, NJ 08817. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 139906 (Sub-55TA), filed May 23, 1979. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, 2156 West 2200 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. *Wearing apparel* from the facilities of K-Mart Apparel Corp. at Carson, CA to Dallas and Houston, TX, Indianapolis, IN, and Grand Rapids and Detroit, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): K-Mart Apparel Corp., 7373 West Side Avenue, North Bergen, NJ 07047. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 140587 (Sub-14TA), filed May 23, 1979. Applicant: CECIL CLAXTON, Route 3, Box 7, Wrightsville, CA 31096. Representative: Ronald K. Kolins, 333 N. Fairfax St., Alexandria, VA 22314. *Packaged petroleum products* from Congo and St. Marys, WV to points in GA, FL and AL for 180 days. Supporting shipper(s): Quaker State Oil Refining Corp., P.O. Box 989, Oil City, PA 16301. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW., Rm. 300, Atlanta, GA 30309.

MC 140717 (Sub-23TA), filed May 23, 1979. Applicant: JULIAN MARTIN, INC., Highway 25 West, P.O. Box 3348, Batesville, AR 72501. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. *Shampoo* from Elizabethton, TN to Walnut, CA; Newman, GA; Northlake, IL; Fort Wayne, IN; Lawrence, KS; Holbrook, MA; Plymouth, MI; Omaha, NE; Sparks, NV; Edison, NJ; Rome, NY; Cleveland, OH; Harrisburg, PA; Dallas, TX and Milwaukee, WI, for 180 days as a contract carrier over irregular routes. Supporting shipper(s): Iodent Company, Iodent Industrial Way, Elizabethton, TN 37643. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 141747 (Sub-7TA), filed June 4, 1979. Applicant: DONALD ENGLE AND JAMES ENGLE, d.b.a. ENGLE BROTHERS FARMS, Rural Route 1, Rector, Arkansas 72461. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Animal, fish and poultry feed and ingredients; insecticides, fungicides; animal medicines and health products (in bulk, in tank or hopper type vehicles),* between Memphis, TN and points in AR, IL, MO, OK, TN and TX, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send

protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 141747 (Sub-8TA), filed June 4, 1979. Applicant: DONALD ENGLE AND JAMES ENGLE, d.b.a. ENGLE BROTHERS FARMS, Rural Route 1, Rector, AR 72461. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Dry urea, in bulk, in tank vehicles,* from the facilities of W. R. Grace Company, at or near Memphis, TN, to points in AL and GA, for 180 days as a common carrier over irregular routes. Supporting shipper(s): W. R. Grace Company, P.O. Box 277, Memphis, TN 38101. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 142096 (Sub-10TA), filed June 8, 1979. Applicant: MILLER BROS. TRUCKING CO., INC., 4100 W. Mitchell St., Milwaukee, WI 53215. Representative: James Spiegel, 6425 Odana Rd., Madison, WI 53719. *Empty metal containers* from Glendale, WI to points in the Chicago, IL Commercial Zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Continental Can Co., USA, 10050 Regency Circle, Omaha, NE 68114. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 142236 (Sub-3TA), filed May 24, 1979. Applicant: ATKINSON WRECKER & SUPPLY CORP., 619 West 700 South, Salt Lake City, UT 84104. Representative: Thomas M. Lavin, 620 East Pico Street, Sandy, UT 84070. Contract carrier: Irregular routes: *Waste paper products* for recycling purposes from the plantsite of Spafford Paper in Salt Lake County, UT to points in Los Angeles County and Contra Costa County, CA, for 180 days. An underlying ETA requests 90 days authority. Supporting shipper(s): Spafford Waste Paper Co., P.O. Box 2376, Salt Lake City, UT 84110. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 14287 (Sub-7TA), filed May 30, 1979. Applicant: TOM YOUNKIN, INC., 821 Sandusky St., Ashland, OH 44805. Representative: William A. Nearhood, Atty., 124 Church St., Ashland, OH 44805. Contract, irregular, *Chassis mounted and stationary liquid pumping plants and system and component parts, includings, basis, tanks, pumps, piping and controls,* between Asland, OH and points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MS,

MO, NE, NH, NJ, NY, NC, OK, PA, RI, SC, TN, TX, VT, VA, WV and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): F. E. Myers Co., Div. of McNeil Corp., 400 Orange St., Ashland, OH 44805. Send protests to: D/S, I.C.C., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 142686 (Sub-15TA), filed June 6, 1979. Applicant: MID-WESTERN TRANSPORT, INC., 10506 South Shoemaker Ave., Santa Fe Springs, CA 90670. Representative: Joseph Fazio (same address as applicant). Contract: Irregular: *Construction caulking material,* from Elkhart, IN, to Huntington Beach, CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Geocel Limited, Inc., 15902 Manufacture Lane, Huntington Beach, CA 92649. Send protests to: Irene Carlos, T/A, I.C.C., P.O. Box 1551, Los Angeles, CA 90053.

MC 142686 (Sub-16TA), filed June 6, 1979. Applicant: MID-WESTERN TRANSPORT, INC., 10506 South Shoemaker Ave., Santa Fe Springs, CA 90670. Representative: Joseph Fazio (same address as applicant). *Containerers, having a prior or subsequent move in maritime commerce,* between points in Los Angeles and Orange Counties of California, on the one hand and on the other, points on the International Boundary between the United States and Canada, for 180 days. Supporting shipper(s): Dyna-Chem Corporation, 2631 Michelle Dr., Tustin, CA 92680. Send Protests to: Irene Carlos, T/A, I.C.C., P.O. Box 1551, Los Angeles, CA 90053.

MC 142686 (Sub-17TA), filed June 6, 1979. Applicant: MID-WESTERN TRANSPORT, INC., 10506 South Shoemaker Ave., Santa Fe Springs, CA 90670. Representative: Joseph Fazio ("same address as applicant"). Contract: irregular: *Electric storage batteries, wet or dry, cases and covers, including lead, other materials and supplies used in the manufacture thereof,* between Bradley and Kankakee, IL, on the one hand, and, in the other, La Mirada, CA, for 180 days. Supporting shipper(s): Gould, Inc., La Mirada, CA. Send Protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

By the Commission, Agathal Mergenovich, Secretary.

[PR Doc. 79-23178 Filed 7-26-79; 8:45 am]
BILLING CODE 7035-01-M

[Notice No. 119]

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC, and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 142716 (Sub-4TA), filed June 21, 1979. Applicant: C & L TRUCKING, INC., 1609 27th St., N.W., Cedar Rapids, IA 52405. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. *Fuel oil, in bulk, in tank vehicles,* from Pana, IL to Cedar Rapids, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bi-Petro Refining Co., Inc., P.O. Box 249, Pana, IL

62557. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 143436 (Sub-30TA), filed May 18, 1979. Applicant: CONTROLLED TEMPERATURE TRANSIT, INC., 9049 Stonegate Road, Indianapolis, IN 46227. Representative: Stephen M. Gentry, 1500 Main Street, Speedway, IN 46224. (1) *Such merchandise as is dealt in by wholesale and retail grocery houses, retail chain deaprtment stores, medical supply houses and drug stores from the facilities of Colgate-Palmolive Company at or near Jeffersonville, IN to points in KY, MI, OH and TN; and, (2) Materials and supplies used in the manufacture, assembly, packaging and distribution of those commodities named in (1) above from points in KY, MI, OH, and TN to the facilities of Colgate-Palmolive Company at or near Jeffersonville, IN for 180 days. Supporting shipper: Colgate-Palmolive Company, P.O. Box 1445, Louisville, KY 40201. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.*

MC 143477 (Sub-2TA), filed June 6, 1979. Applicant: ARCADIAN MOTOR CARRIERS, 1831 Simpson St., Kingsburg, CA 93631. Representative: J. F. Hauenstein, 1100 Sierra St., Kingsburg, CA 93631. Contract carrier: irregular routes. *Foodstuffs* (except in bulk), from the facilities utilized by the Procter & Gamble Distributing Co., at or near Lexington, KY to points in AZ, CA, OR, UT, and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): The Procter & Gamble Distributing Co., P.O. Box 599, Cincinnati, OH 45201. Send protests to: D/S Neil C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 144557 (Sub-12 TA), filed June 11, 1979. Applicant: HUDSON TRANSPORTATION, INC., P.O. Drawer 847, Troy, AL 36081. Representative: James T. Crawley (P.O. Box same as applicant). *Foodstuff and articles sold through grocery stores, including fruits, canned or preserved in juice or syrup or liquid, pudding, sauces, vegetables, matches, shortening NOI, vegetable oil shortening, and vegetable oil*, from the facilities of Hunt Wesson Foods, Inc., New Orleans Distribution Center, Jefferson Parish, LA to Geneva County, AL, for 180 days. Supporting shipper(s): Hunt-Wesson Foods, Inc., P.O. Box 61770, New Orleans, LA 70161. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 143846 (Sub-9TA), filed June 14, 1979. Applicant: P. POSA, INC., 50 Van

Kueren Avenue, Jersey City, NJ 07306. Representative: Arthur J. Piken, Esq., One Lefrak City Plaza, Flushing, NY 11368. Contract carrier—irregular routes for 180 days. Department store merchandise (1) from New York, NY and its commercial zone to Bethlehem, PA, Wilmington, DE, Knoxville & Memphis, TX, and Landover, MD, and points in their respective commercial zones. (2) From Memphis, TX, and points in its commercial zone to Baltimore, MD and Chicago, IL, and points in their respective commercial zones. An underlying ETA seeks 90 days authority. Supporting shipper(s): Montgomery Ward Co., Montgomery Ward Plaza, Chicago, IL 60671. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 144606 (Sub-6TA), filed June 15, 1979. Applicant: DUNCAN SALES & LEASING CO., INC., 714 E. Baseline Rd., Buckeye, AZ 85326. Representative: Andrew V. Baylor, 337 E. Elm St., Phoenix, AZ 85012. I. (a) *Non-alcoholic beverages*, from Albuquerque, NM, to El Paso, TX, Las Vegas, NV, Phoenix and Tucson, AZ. (b) *expanded plastic bottles*, to El Paso, TX and Phoenix, AZ. II. *expanded plastic bottles*, from City of Industry and La Mirada, CA to Albuquerque, NM, El Paso, TX, Las Vegas, NV, Kingman and Tucson, AZ. III. *non-alcoholic beverages and barbeque sauce* from Long Beach, CA to Albuquerque, NM, El Paso, TX, Las Vegas, NV and Tucson, AZ. IV. (a) *non-alcoholic beverages and barbeque sauce*, from Phoenix, AZ to Albuquerque, NM, El Paso, TX and Las Vegas, NV. (b) *expanded plastic bottles* from Phoenix, AZ to Las Vegas, NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Premier Beverages, Inc., 209 W. Gibson Lane, Phoenix, AZ. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 144926 (Sub-6TA), filed June 18, 1979. Applicant: E. W. WYLIE CORPORATION, P.O. Box 1188, Fargo, ND 58107. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. Contract carrier: irregular routes: *Lumber, lumber mill products, wood products, composition board, and millwork*. (A) From points in WA on, east and south of a line beginning at the U.S.-Canada International Boundary Line at or near Danville, then south on WA Hwy 21 to junction U.S. Hwy 2 at or near Wilbur, then west on U.S. Hwy 2 to junction U.S. Hwy 97, then on U.S. Hwy 97 to the WA-OR state line, from Burns, OR, and points in OR on and east of U.S.

Hwy 395 and on and north of U.S. Hwy 20; from points in ID on and west of U.S. Hwy 93; and from points in MT on and west of a line beginning at the International Boundary Line, then south on U.S. Hwy 89 to junction U.S. Hwy 287, then south on U.S. Hwy 287 to junction U.S. Hwy 91 at or near Wolf Creek, then south on U.S. Hwy 91 to the MT-ID state line; to points in IA, MN, NE, ND and SD; and (B) From points in MT (except those described in (A) above) to points in MN, ND, and those in SD on and east of SD Hwy 37, for 180 days. An underlying ETA seeks authority for 90 days. Supporting shipper(s): Georgia-Pacific Corporation, 900 S.W. Fifth Ave., Portland, OR 97204. Send protests to: H. E. Farsdale, DS, ICC, Bureau of Operations, Room 268 Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 145348 (Sub-1TA), filed May 17, 1979. Applicant: SAMUEL ODUS COFFEY, d.b.a. COFFEY TRUCKING, Route 1, P.O. Box 339A, Deale, MD 20751. Representative: Harry J. Jordan, 1000—16th St., N.W., Washington, D.C. 20036. *Lumber*, from points in Calvert, Charles, and St. Marys Counties, MD to points in NJ, NY, NC, OH, PA and VA, for 180 days with no transportation for compensation on return except as otherwise authorized. An underlying ETA seeks authority for 90 days. Supporting shipper(s): There are 6 statements in support attached to this application which may be examined at the I.C.C. in Washington, D.C. or copies of which may be examined in the field office named below. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 145437 (Sub-3TA), filed June 13, 1979. Applicant: JWI TRUCKING, INC., 8100 N. Teutonia Ave., Milwaukee, WI 53209. Representative: Michael Wyngaard, 150 E. Gilman St., Milwaukee, WI 53209. Contract carrier: irregular routes; (1) *Wearing apparel* from Kenosha, WI to points in CA and (2) *Materials, equipment and supplies used or useful in the manufacture, sale or distribution of wearing apparel* from Charlotte, Maiden and Jefferson, SC to Kenosha, WI, restricted to service to be performed under a continuing contract(s) with Jockey International, Inc., for 180 days. An underlying seeks authority for 90 days. Supporting shipper(s): Jockey International, Inc., 2300 60th St., Kenosha, WI 53140. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 145437 (Sub-4TA), filed June 14, 1979. Applicant: JWI TRUCKING, INC.,

8100 N. Teutonia Ave., Milwaukee, WI 53209. Representative: Michael Wyngaard, 150 E. Gilman St., Madison, WI 53703. Contract carrier; irregular routes; *Wearing apparel and materials, equipment and supplies used or useful in the manufacture, sale or distribution of wearing apparel*, between Milwaukee, WI on the one hand, and on the other, points in the U.S. (excluding AK & HI), restricted to a service performed under a continuing contract(s) with the Junior House, Inc. and further restricted against the transportation of commodities in bulk, in tank vehicles, for 180 days. An underlying ETA seeks authority for 90 days. Supporting shipper(s): Junior House, Inc., 710 S. Third St., Milwaukee, WI 53204. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 145466 (Sub-3TA), filed June 14, 1979. Applicant: BERYL WILLITS, an individual, 1145 33rd Ave., Greeley, CO 80631. Representative: Richard S. Mandelson, Jones, Meiklejohn, Kehl and Lyons, 1660 Lincoln St., 1600 Lincoln Center Bldg., Denver, CO 80264. *Bedding material and supplies* from Lake Havasu City, AZ to Greeley, CO for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper: NCF Distributing, 2015 Second Ave., Unit M, Greeley, CO 80631. Send protests to: D/S Roger L. Buchanan, ICC, 492 U.S. Customs House, 721 19th St., Denver, CO 80202.

MC 145566 (Sub-10TA), filed June 12, 1979. Applicant: TERRY W. KULTGEN & NORMAN W. KULTGEN, d.b.a. B & K ENTERPRISES, 7950 S. 27th St., Oak Creek, WI 53154. Representative: Terry W. Kultgen, 5605 Brookhaven Dr., Racine, WI 53406. *Articles which because of size or weight require special handling and/or special equipment* from facilities of Oven Systems, Inc. at New Berlin, WI to points in AL, DE, GA, KS, LA, MI, MS, NC, OK, SC & TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Oven Systems, Inc., 16675 W. Ryerson Rd., New Berlin, WI. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 145997 (Sub-5TA), filed May 21, 1979. Applicant: J.E.M. EQUIPMENT, INC., P.O. Drawer 398, Alma, AR 72921. Representative: Thomas B. Staley, 1550 Tower Building, Little Rock, AR 72201. *Packaged lubricating oil and grease* from Buffalo, NY; Congo & St. Marys, WV; North Warren, Emlenton & Farmers Valley, PA, to all points in LA, TX, CA, AR, TN, AL, AZ, NM, FL, MO, KS, UT,

and CO, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Quaker State Oil Refining Corporation, P.O. Box 989, Oil City, PA 16301. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 146247 (Sub-3TA), filed May 29, 1979. Applicant: DELTA MOTOR EXPRESS, INC., 1309 Fifth St. NE., Washington, DC 20002. Representative: Neal A. Jackson, 1155 15th St., NW., Washington, DC 20005. *Bananas and agricultural commodities otherwise exempt from regulation under 49 U.S.C. § 10526(a)(6) when transported in mixed shipments with bananas*, from the Norfolk, VA, Commercial Zone to pts. in AL, CT, DE, DC, FL, GA, IL, IN, KY, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Best Banana Co., P.O. Box 407, Flushing, NY 11352. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 146416 (Sub-11TA), filed June 11, 1979. Applicant: HERITAGE TRANSPORTATION COMPANY, 155 N. Eucla Avenue, San Dimas, CA 91773. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. *Such merchandise, materials, equipment and supplies as are used, manufactured or dealt in by manufacturers and distributors of paper and film products, photographic materials, reproduction and duplicating products and supplies*, (1) From So. Hadley, MA; Holyoke, MA; and points in their commercial zones, to Chicago, IL; Oklahoma City, OK; Tulsa, OK; and points in their commercial zones, and to points in CA; and (2) Between So. Hadley, MA; Holyoke, MA; Woburn, MA, and points in their commercial zones, on the one hand, and, on the other, Tustin, CA, and points in its commercial zone, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): James River Graphics, Inc., 28 Gaylord Street, So. Hadley, MA 01075. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 146416 (Sub-12TA), filed June 11, 1979. Applicant: HERITAGE TRANSPORTATION COMPANY, 155 N. Eucla Avenue, San Dimas, CA 91773. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. *Toilet preparations*, from East Hills, NY to Los Angeles and San Francisco, CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Helena

Rubinstein, Inc., Northern Boulevard, Greenvale, NY 11548. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 146466 (Sub-5TA), filed May 30, 1979. Applicant: SUMMIT TRUCK LINES, LTD., R.R. No. 3, Pella, IA 50219. Representative: Robert R. Rydell, 1020 Savings and Loan Bldg., Des Moines, IA 50309. *Foundry sand*, in bags, from Hammond, IN to Waterloo, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Master Jobbers, Inc., 240 112th St., Hammond, IN 46320. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 146466 (Sub-6TA), filed June 1, 1979. Applicant: SUMMIT TRUCK LINES, LTD., R.R. No. 3, Pella, IA 50219. Representative: Robert R. Rydell, 1020 Savings and Loan Bldg., Des Moines, IA 50309. *Meats, meat products, neat by-products, articles distributed by meat packinghouses, and such commodities as are used by meat packers in the conduct of their business, as defined in Appendix I, Sections A, C, and D to the Commission's report in Descriptions in Motor Carriers Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk)*, between the facilities of Lauridsen Foods, Inc., located at or near Britt, IA and the facilities of Armour & Company, located at or near Mason City, IA on the one hand; and points in the Chicago, IL Commercial Zone; Ft. Worth, TX Commercial Zone; and points in OR, WA and CA, on the other for 180 days. Restricted to the transportation of shipments originating at the above named origin and destined to the indicated destinations. Supporting shipper(s): Armour and Co., Greyhound Tower, Phoenix, AZ 85077. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 146466 (Sub-7TA), filed June 5, 1979. Applicant: SUMMIT TRUCK LINES, LTD., R.R. No. 3, Pella, IA 50219. Representative: Robert R. Rydell, 1020 Savings and Loan Bldg., Des Moines, IA 50309. *Meats, meat products, meat by-products, and articles distributed by meat packing houses, as described in Sections A and C of Appendix I to the Commissions report in Descriptions in Motor Carriers Certificates, 61 M.C.C. 209 and 766 (except hides, and commodities in bulk)*, from the facilities of Tama Meat Packing Corp., Tama, IA to points in CA, TN and to Chicago, IL Commercial Zone for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tama Meat Packing Corporation, P.O. Box 209,

Tama, IA 52339. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 146616 (Sub-1TA), filed June 8, 1979. Applicant: B & H MOTOR FREIGHT, INC., 3314 East 51st Street, Suite B, Tulsa, OK 74135. Representative: Fred Rahal, Jr., 525 South Main, 15th Floor, Tulsa, OK 74103. *Contract Carrier: Irregular Route: Metal articles, (1) from the facilities of Kyle Forge Co. at Claremore, OK, to points in Kansas City, MO, Chicago, IL, and Pottstown, PA; and (2) from Chicago, IL, to the facilities of Kyle Forge Co., at Claremore, OK, under a continuing contract(s) with Kyle Forge Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kyle Forge Co., 1400 Industrial Boulevard, Claremore, OK 74017. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.*

MC 146866 (Sub-3TA), filed June 20, 1979. Applicant: ROLLAND RILEY d.b.a. R. L. RILEY TRUCKING, 1331 North Union, Fremont, NE 68025. Representative: Rolland Riley (same address as above). *Motor bikes, go-carts, parts and accessories used in the manufacture thereof, between Fremont, NE and points in the United States, restricted to articles originating at or destined for Bird Manufacturing Co., for 180 days. Supporting shipper(s): Bird Engineering, P.O. Box J, RR No. 1, Fremont, NE 68025. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.*

MC 146996 (Sub-1TA), filed May 17, 1979. Applicant: YORKLYN TRANSIT, INC., P.O. Box 27, Yorklyn, DE 19737. Representative: H. James Conaway, 1401 Market Tower, Wilmington, DE 19899. *Contract carrier, irregular routes: Plastic articles, between Wilmington, DE, on the one hand, and, on the other points in NJ, MD, DE, DC, points in PA in and east of Somerset, Cambria, Indiana, Jefferson, Elk and McKean Counties, PA; points in NY in and south of Steuben, Schuyler, Thomkins, Courtland, Chenango, Delaware, Greene and Columbia Counties, NY, and points in Nassau and Suffolk Counties, NY; and points in VA in and east of Mecklenburg, Charlotte, Campbell, Amherst, Rockbridge and Bath Counties, VA under a continuing contract with Amoco Chemicals Corporation, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Amoco Chemicals Corporation, 200 E. Randolph Dr., Chicago, IL 60601. Send protests to:*

I.C.C., Fed. Res. Bank Bldg., Rm. 620, 101 N. 7th St., Philadelphia, PA 19106.

MC 147066 (Sub-1TA), filed May 23, 1979. Applicant: BLACKHAWK ENTERPRISES, 3149 Depot Road, Hayward, CA 94545. Representative: William D. Taylor, PH (415) 986-1414, Handler, Baker & Greene, 100 Pine Street, Suite 2550, San Francisco, CA 94111. *Freight, all kinds, moving on freight forwarder bills of lading issued by Inter State Express, Inc., Brooklyn, New York, from facilities of Inter State Express, Inc., at or near Brooklyn, NY to the cities of Reno, NV; Dallas & Houston, TX; Los Angeles & San Francisco, CA; Denver, CO; Portland, OR; Phoenix, AZ; Seattle, WA; Oklahoma City, OK; Chicago, IL; St. Louis, MO; Billings, MT; Kansas City, KS; Minneapolis, MN; and/or Omaha, NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Inter State Express, Inc., 120 Apollo Street, Brooklyn, New York 11222. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.*

MC 147096 (Sub-1TA), filed May 21, 1979. Applicant: MADISON BROTHERS DELIVERY SERVICE, INC., 101 Indiana Ave., Toledo, OH 43602. Representative: Floyd Madison, 18110 Weaver St., Detroit, MI 48228. (1) *Rough castings from Flat Rock and South Haven, MI to Cleveland, OH; and from Flat Rock, MI to Lima, OH with empty containers in reverse; and (2) auto parts from Alma, MI to Cleveland, OH with containers in reverse, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ford Motor Co., One Parklane Blvd., Suite 200, Dearborn, MI 48126. Send protests to: D/S, I.C.C., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.*

MC 147116 (Sub-1TA), filed June 15, 1979. Applicant: WOODCHUCK TRUCKING COMPANY, 6359 S.W. Capitol Highway, Portland, Oregon 97201. Representative: William A. Brown, 3839 Pacific Avenue No. 165, Forest Grove, OR 97116. *Woodchips from Stimson Lumber Company mill at Scoggins Valley, Oregon to Longview, Washington, for 180 days. Supporting shipper(s): Stimson Lumber Company, P.O. Box 68, Forest Grove, Oregon 97116 (503-648-4194). Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S.W. Yamhill Street, Portland, OR 97204.*

MC 147216 (Sub-1TA), filed June 20, 1979. Applicant: CARL KLEMM, INC., 1126 Terry Lane, P.O. Box W197, DePere, WI 54115. Representative: James Spiegel, 6425 Odana Rd., Madison, WI

53719. *Liquid fertilizer, in bulk, in tank vehicles, from Amboy, Fulton and Pekin, IL to points in IA & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Agrico Chemical Co., P.O. Box 3166, Tulsa, OK 74101. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.*

MC 147247 (Sub-1TA), filed Applicant: AAA TRUCKING & DISTRIBUTION COMPANY, INC., 12605 East Freeway, Suite 106, Houston, TX 77015. Representative: D. Paul Stafford, Winkle and Wells, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. *Chemicals in oceangoing containers from Beaumont, TX to Houston, TX. Restricted to traffic having a subsequent movement by water in interstate or foreign commerce. Supporting shipper(s): Sea-Land Service, Inc., Equipment Control MGC, 8402 Clinton Dr., Galena Park, TX 77547. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave., No. 8610, Houston, TX 77002.*

MC 147256 (Sub-1TA), filed June 8, 1979. Applicant: Pease & Buckley, Inc., Leeds Jct. Rd., Leeds, ME 04263. Representative: Richard A. Pease (same address as applicant). *Contract: Irregular: Concrete pipe and concrete products from Leeds, ME to points in NH, MA, RI, CT and VT. Supporting shipper(s): Doran-Maine, Inc., Rt. 106, North Leeds, ME 04263. Send protests to: DONALD G. WEILER, District Supervisor, ICC, 76 Pearl St., Rm. 303, Portland, ME 04101.*

MC 147266 (Sub-1TA), filed June 12, 1979. Applicant: GARY L. REISH, P.O. Box 158, Osceola, IA 50213. Representative: Reynoldson, Van Werden, Kimes, Reynoldson & Lloyd, P.O. Box 199, Osceola, IA 50213. *Meat scraps from Osceola, IA to Omaha, NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jimmy Dean Meat Company, P.O. Box 467, Osceola, IA 50213. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.*

MC 147276 (Sub-1TA), filed May 23, 1979. Applicant: Bulburg, Inc., 755 West Big Beaver Road, Suite 2016, Troy, MI 48064. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Wine from Elizabeth and Hawthorne, NJ and Chicago, IL to points in the Lower Peninsula of MI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Wine & Liquor Co., Inc., 12017 Mack Ave, Detroit, MI 48215. Send*

protests to: C. R. Flemming, D/s, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 147346 (Sub-1TA), filed June 13, 1979. Applicant: JAMES TRANSPORT, INC., 118 Bradley, Hereford, TX 79045. Representative: Mert Starnes, P.O. Box 2207, Austin, TX 78768. *Contract Carrier, irregular routes, transports Dry animal and poultry feeds, and farm implements, equipment and supplies used in the raising of livestock in mixed loads with dry animal and poultry feeds, from Comanche TX, to points in OK, NM, KS, AR, LA and CO; materials, equipment, and supplies used in the manufacture and distribution of dry animal and poultry feeds (except liquid commodities in bulk, in tank vehicles), from points in OK, NM, KS, AR, LA, and CO, to Comanche, TX, for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper(s): Moorman Mfg. Company, Comanche Division, Comanche, TX 76442. Send protests to: Martha A. Powell, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.*

MC 147347 (Sub-1TA), filed June 1, 1979. Applicant: MICHAEL'S CARTAGE, INC., Route #3, Cumberland, MD 21502. Representative: Charles E. Creager, 1329 Pennsylvania Ave., Hagerstown, MD 21740. (1) *Glass in containers, from Cumberland, MD, and its commercial zone, to Baltimore, MD, and its commercial zone; and empty containers from Baltimore, MD, and its commercial zone to Cumberland, MD, and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222. Send protests to: J. A. Niggemeyer, DS, 416 Old P.O. Bldg., Wheeling, WV 26003.*

MC 147356 (Sub-1TA), filed June 6, 1979. Applicant: Doug Brown, d.b.a. Brown Construction Company, P.O. Box 26, Artemus, KY. 40903. Representative: Wm. P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. *Coal, in bulk, in dump vehicles, from points in Bell, Clay, Harlan, Knox, Laurel, and Whitley Counties, KY, and Anderson, Campbell, Claiborne, Grainger, Scott and Union Counties, TN, to points in NC, SC, Butler and Hamilton Counties, OH, and Lawrence County, AL. Supporting shipper(s): Champion International Corporation, Knightsbridge Drive, Hamilton, OH 45012. Send protests to: Mrs. Linda H. Sypher, D/S ICC, 428 Post Office Bldg., Louisville, Ky. 40202.*

MC 147357 (Sub-1TA), filed June 8, 1979. Applicant: KENNETH D. STEWART, d.b.a. STEWART'S

CONTRACT SERVICE, Box 161, RD #2, Kanona, NY 14856. Representative: ROY D. PINSKY, ESQ., Suite 1020, State Tower Bldg., Syracuse, NY 13202. *Empty malt beverage cans, from the facilities of American Can Co. at Fairport, NY to facilities of Jos. Schlitz Brewing Co. at Memphis, TN. Returned used pallets, from facilities of Jos. Schlitz Brewing Co. at Memphis, TN to plantsite of American Can Co. at Fairport, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Jos. Schlitz Brewing Co., 235 West Galena Street, Milwaukee, WI 53201. Send protests to: Richard Cattadoris, DS, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo NY 14202.*

MC 147496 (Sub-1TA), filed June 14, 1979. Applicant: FINGER LAKES TRUCK BROKERAGE OF CANANDAIGUA, INC., P.O. Box 166, Route 21, Canandaigua, NY 14424. Representative: S. Michael Richards/Raymond A. Richards, 44 North Avenue, P.O. Box 225, Webster, NY 14580. *Contract Carrier—Irregular Routes. (1) Foodstuffs (except frozen and except in bulk, from Buffalo and Fredonia, NY to all points in the United States east of the Mississippi River, and (2) Materials, supplies, and equipment used in the manufacture, sale and distribution of foodstuffs (except frozen and except in bulk), from all points in the United States east of the Mississippi River to Buffalo and Fredonia, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): GIOIA MACARONI CO., 1700 Elmwood Avenue, Buffalo, NY 14207. Send protests to: Richard H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.*

MC 147497 (Sub-1TA), filed June 15, 1979. Applicant: LEONARD G. DAVIGNON, d.b.a. L. DAVIGNON & SONS TRUCKING, Morgan Road (Box 78), Salisbury, VT 05769. Representative: John R. Barrera, 11 South Pleasant Street, Middlebury, VT 05753. *Contract carrier, irregular routes: Cheese and cheese products and equipment, materials and supplies used in the manufacture of cheese and cheese products, between Hinesburg, VT on the one hand, and, on the other points in MA, CT, RI, NY, PA, NJ, OH, IN, IL, MD, DE, DC, WV, SC, GA, FL, MI and VA, under a continuing contract with International Cheese Company, Inc. An underlying ETA seeks 90 days authority. Supporting shipper(s): International Cheese Company, Inc., Hinesburg, VT 05461. Send protests to: ICC, PO Box 548, Montpelier, VT 05602.*

MC 147406 (Sub-1TA), filed June 18, 1979. Applicant: ACE TRUCK LINE, INC., 841 South Rifle Way, Aurora, CO 80012. Representative: Edward C. Hastings, 666 Sherman Street, Denver, CO 80203. *Contract—irregular—Meat; dry, chilled and frozen food stuffs, and restaurant equipment and supplies, from Chicago, IL to Denver, CO under continuing contract with Nobel, Inc., Denver, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nobel, Inc., 1101 W. 48th Avenue, Denver, CO 80217. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.*

By the Commission.
Agatha L. Mergenovich,
Secretary.

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[Volume No. 109]

Permanent Authority Decisions

Decided: July 10, 1979.

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the *Federal Register*. Protests (such as were allowed to filings prior to March 1, 1979) will be rejected. A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not

included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. section 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. section 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. section 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1. Members Carleton, Joyce and Jones. Agatha L. Mergenovich, Secretary.

MC 11207 (Sub-474F), filed March 7, 1979. Applicant: DEATON, INC., 317 Avenue W., P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *steel pipe, pipe fittings, beams, piling, rails, railway track accessories, bridge and highway railings, pile drivers, pile extractors, and parts thereof*, and (2) *materials, equipment, and supplies* used in the manufacture, installation, dismantling, or distribution of the commodities in (1) above (except commodities in bulk) between the

facilities of L. B. Foster Company at Parkersburg and Washington, WV, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, and TX. (Hearing site: Atlanta, GA or Washington, D.C.)

MC 41406 (Sub-131F), filed March 8, 1979. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, IN 46323. Representative: Wade H. Bourdon (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from Burns Harbor, IN, Lackawanna, NY, Sparrows Point, MD, and Bethlehem, Johnstown, and Steelton, PA, to those points in the United States in and east of MN, IA, NE, KS, OK, and TX; (2) *iron and steel reinforcing bars and accessories* for iron and steel reinforcing bars, from Bedford Park IL, to points in IN, IA, MN, MO, and WI; and (3) *materials, equipment, and supplies* used in the manufacture and distribution of iron and steel articles, in the reverse direction in (1) and (2) above. (Hearing site: Washington, D.C., or Chicago, IL.)

MC 41406 (Sub-132F), filed March 9, 1979. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, IN 46323. Representative: Wade H. Bourdon (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of iron and steel articles, between points in Porter and Lake Counties, IN, and Cook and Du Page Counties, IL, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Chicago, IL.)

MC 59367 (Sub-139F), filed March 12, 1979. Applicant: DECKER TRUCK LINE, INC., P.O. Box 915, Fort Dodge, IA 50501. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, (except foodstuffs, hides and commodities in bulk) as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and (2) *foodstuffs*, (except commodities in bulk), (1) from Omaha and Schuyler, NE, and the facilities of Geo. A. Hormel &

Company, at or near (a) Algona and Fort Dodge, IA, and (b) Fremont, NE, to points in AZ, CA, and TX, and (2) from the facilities of Geo. A. Hormel & Company, at Ottumwa, IA, to points in IL, WI, and those in IN in the Chicago, IL, commercial zone, restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: St. Paul, MN.)

MC 66886 (Sub-74F), filed March 1, 1979. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut St., Kansas City, MO 64108. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Ave., Kansas City, MO 64105. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *trailers* (except those designed to be drawn by passenger vehicles), *fabricated steel products, agricultural implements, and buildings*, and (2) *parts and accessories* for the commodities in (1) above, from the facilities of The Binkley Company, in Montgomery and Warren Counties, MO, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: St. Louis, MO, or Washington, DC.)

MC 67646 (Sub-80F), filed March 12, 1979. Applicant: HALL'S MOTOR TRANSIT COMPANY, a Corporation, 6060 Carlisle Pike, Mechanicsburg, PA 17055. Representative: John E. Fullerton, 407 N. Front St., Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of containers (except commodities in bulk, in tank vehicles), between those points in the United States in and east of MN, IA, MO, AR, and LA, restricted to the transportation of traffic originating at or destined to the facilities of Brockway Glass Company, Inc. (Hearing site: Harrisburg, PA, or Washington, DC.)

MC 69116 (Sub-228F), filed March 14, 1979. Applicant: SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Highway, Bensenville, IL 60106. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk) from the facilities of Oconomowoc Canning Company at or near Oconomowoc, Sun Prairie, Waunakee,

DeForest, Poynette, Cobb, and Merrill, WI, to those points in the United States in and east of ND, SD, WY, CO, OK, and TX (except CO). (Hearing site: Chicago, IL.)

MC 69116 (Sub-229F), filed March 14, 1979. Applicant: SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Highway, Bensenville, IL 60106. Representative: Joel H. Steiner, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Carnegie, PA, to points in AL, FL, GA, NC, SC, TN, and VA. (Hearing site: Chicago, IL.)

MC 102616 (Sub-985F), filed March 14, 1979. Applicant: COASTAL TANK LINES, INC., 250 North Cleveland-Massillon Road, Akron, OH 44313. Representative: David F. McAllister (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lubricating oil*, in bulk, in tank vehicles, from Port Huron, MI, and Olive Branch, MS, to points in AL, IN, and NY. (Hearing site: Chicago, IL, or Washington, DC.)

MC 102616 (Sub-986F), filed March 15, 1979. Applicant: COASTAL TANK LINES, INC., 250 North Cleveland-Massillon Road, Akron, OH 44313. Representative: David F. McAllister (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in bulk, in tank vehicles, from Doe Run, KY, to Moss Point, MS. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 105656 (Sub-12F), filed March 15, 1979. Applicant: TOM PASQUALE d.b.a. PASQUALE TRUCKING, P.O. Box 295, Logansport, IN 46947. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles* distributed by meat-packing houses as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation at Logansport, IN, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and DC, restricted to the transportation of traffic originating at the named origin

and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 107496 (Sub-1200F), filed March 9, 1979. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *flour*, in bulk, from Kansas City, MO to points in the United States (except AK and HI). (Hearing site: Des Moines, IA or Kansas City, MO.)

MC 107496 (Sub-1202F), filed March 14, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fly ash*, in bulk, from Council Bluffs, IA, to points in KS, NE, MN, MO, and SD. (Hearing site: Des Moines, IA, or St. Paul, MN.)

MC 108207 (Sub-503F), filed March 8, 1979. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), and (2) *foodstuffs* (except those in (1) above) between these points in CO on and east of the Continental Divide, and points in CA, AZ, NM, TX, LA, MS, AR, OK, KS, MO, TN, KY, OH, IN, MI, IL, WI, MN, NE, IA, and Mobile County, AL. (Hearing site: Chicago, IL, Dallas, TX, Los Angeles, CA and Denver, CO.)

MC 113666 (Sub-159F), filed March 12, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: D. R. Smetanick (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salt and salt products*, (a) from Fairport and Rittman, OH, to points in CT, IN, KY, ME, MD, MA, MI, NH, NJ, NY, NC, PA, RI, SC, VA and WV, and (b) from Silver Springs, NY, to points in CT, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, VA and WV. (Hearing site: Pittsburgh, PA or Washington, DC.)

MC 114896 (Sub-72F), filed March 14, 1979. Applicant: PUROLATOR SECURITY, INC., 255 Old New Brunswick Road, Piscataway, NJ 08854. Representative: Carl T. Kessler (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coin*, between Phoenix, AZ, Denver, CO, Las Vegas, Reno, Stateline, and Lake Tahoe, NV, and Philadelphia, PA, under continuing contract(s) with General Services Administration, Transportation and Public Utilities Service, of Washington, DC. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 115826 (Sub-424F), filed March 12, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic products*, (2) *such commodities* as are dealt in by manufacturers and converters of paper and paper products, and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, (except commodities in bulk), from the facilities of Continental Bondware, at or near Chicago and Shelbyville, IL, to points in ID, MT, and UT, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Denver, CO.)

Note.—Dual operations may be involved.

MC 115826 (Sub-435F), filed March 1, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *boards, blocks, and panels*, (a) from the facilities of Hexcel Corporation, at or near La Mirada, CA, to Nogales, AZ, and (b) from Casa Grande, AZ, to points in WA, restricted in (a) and (b) to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Denver, CO.)

Note.—Dual operations may be involved.

MC 115826 (Sub-436F), filed March 12, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over

irregular routes, transporting *confectionery and bakery goods*, in vehicles equipped with mechanical refrigeration, from (1) points in IL and WI to points in TX, CA, and CO, and (2) points in CA to points in AZ. (Hearing site: Denver, CO.)

MC 116077 (Sub-408F), filed March 12, 1979. Applicant: DSI TRANSPORTS, INC., 4550 Post Oak Place Drive, P.O. Box 1505, Houston, TX 77001. Representative: Pat H. Robertson, 500 West Sixteenth Street, P.O. Box 1945, Austin, TX 78767. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *clay*, in bulk, in tank vehicles, from Houston, TX, to points in the United States (except AK and HI). (Hearing site: Dallas or Houston, TX.)

MC 117686 (Sub-245F), filed March 15, 1979. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Blvd., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by food business houses, from points in AZ and CA, to Bismarck and Fargo, ND, Mitchell, SD, Hopkins, MN, Des Moines, IA, Green Bay and Milwaukee, WI, Champaign, IL, and Fort Wayne, IN. (Hearing site: Minneapolis, MN, or Chicago, IL.)

Note.—Dual operations may be involved.

MC 119226 (Sub-113F), filed March 15, 1979. Applicant: LIQUID TRANSPORT CORP., 3901 Madison Avenue, Indianapolis, IN 46227. Representative: Robert W. Loser, 1009 Chamber of Commerce Building, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid weed killing compounds*, in bulk, in tank vehicles, from Lafayette, IN, to points in AR, LA, and SD. (Hearing site: Indianapolis, IN, or Washington, DC.)

MC 121496 (Sub-18F), filed March 13, 1979. Applicant: CANGO CORPORATION, Suite 2900, 1100 Milam Bldg., Houston, TX 77002. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, D.C. 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals*, in bulk, in tank vehicles, from Plaquemine, LA, to points in the United States (except AK and HI). (Hearing site: Houston, TX.)

MC 123407 (Sub-552F), filed March 12, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Rt. 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (a) *lubricants* and (b) *petroleum products* (except lubricants), from Toledo, OH, to points in MN and WI. Restricted in (a) and (b) above against the transportation of commodities in bulk. (Hearing sites: Minneapolis, MN and Chicago, IL.)

MC 123407 (Sub-554F), filed March 12, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Rt. 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *fabricated metal products*, from Gridley, IL, Jackson, GA, and Idabel, OK, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Cleveland, OH, or Chicago, IL.)

MC 124306 (Sub-56F), filed March 14, 1979. Applicant: KENAN TRANSPORT COMPANY, INC., P.O. Box 2729, Chapel Hill, NC 27514. Representative: Richard A. Mehley, 1000 16th Street, N.W., Washington, D.C. 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *terephthalic acid*, in bulk, from Decatur, AL, to those points in the United States in and east of TX, OK, KS, NE, SD, and ND, and (2) *liquid chemicals*, in bulk, from Decatur, AL, and points in Berkeley County, SC, to those points in the United States in and east of TX, OK, KS, NE, SD, and ND. (Hearing site: Charlotte or Raleigh, NC.)

MC 124887 (Sub-71F), filed March 15, 1979. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, lumber products, and particleboard*, from points in LA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Jacksonville or Tallahassee, FL.)

MC 124887 (Sub-72F), filed March 15, 1979. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha,

FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *construction materials*, between points in AL, FL, GA, LA, MS, NC, SC, TN, and VA, restricted to the transportation of traffic originating at or destined to the facilities of Carolina Builders, Inc. (Hearing site: Jacksonville or Tallahassee, FL.)

MC 126736 (Sub-115), filed March 12, 1979. Applicant: FLORIDA ROCK & TANK LINES, INC., 155 East 21st St., Jacksonville, FL 32206. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fertilizer and fertilizer materials*, between points in AL, FL, and GA. (Hearing site: Jacksonville, FL.)

MC 127047 (Sub-35F), filed March 14, 1979. Applicant: ED RACETTE & SON, INC., 6021 North Broadway, Wichita, KS 67219. Representative: William B. Barker, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *grain handling equipment*, between Wichita, KS, on the one hand, and, on the other, Portland, OR, and points in CO, MO, NE, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of H & L Equipment, Inc., at or near Wichita, KS. (Hearing site: Wichita, KS, or Kansas City, MO.)

MC 128917 (Sub-4F), filed March 12, 1979. Applicant: HANDY TRUCK LINE, INC., P.O. Box 148, Heyburn, ID 83336. Representative: Kenneth G. Bergquist, P.O. Box 1775, Boise, ID 84701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *boxes and sheets*, knocked-down, from the facilities of Boise Cascade Corporation, at or near Burley, ID, to points in UT and WY. (Hearing site: Boise, ID.)

MC 128746 (Sub-48F), filed March 14, 1979. Applicant: D'AGATA NATIONAL TRUCKING CO., a corporation, 3240 South 61st Street, Philadelphia, PA 19153. Representative: Edward J. Kiley, 1730 M Street, NW., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass containers*, between the facilities of Midland Glass Co., Inc., at or near Cliffwood, NJ, on the one hand, and, on the other, points in CT, DE, MD, MA, NY, PA, and RI. (Hearing

site: Philadelphia, PA, or Washington, DC.)

MC 129387 (Sub-92F), filed March 5, 1979. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, SD 57350. Representative: Charles E. Dye (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Oscar Mayer & Co., Inc. at Perry and Des Moines, IA, to Madison and Jefferson, WI, and points in Cook, Will, DuPage, Kane, and Lake Counties, IL, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Madison, WI, or Chicago, IL.)

MC 134467 (Sub-43F), filed March 15, 1979. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, AR 72764. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from the facilities of Globe Products Company, Inc., at or near Clifton, NJ, to points in AR, OK, TX, LA, CA, CO, and NV. (Hearing site: Little Rock, AR, or New York, NY.)

MC 133937 (Sub-30F), filed March 15, 1979. Applicant: CAROLINA CARTAGE COMPANY, INC., 1638 East Vesta Avenue, College Park, GA 30337. Representative: Henry P. Willimon, P.O. Box 1075, Greenville, SC 29602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by catalog and retail department stores, between points in Bergen, Essex, Hudson, Union, Passaic, Morris, Somerset, and Middlesex Counties, NJ, and New York, NY (except those points in NJ in the New York, NY Commercial zone). (Hearing site: Atlanta, GA.)

MC 138076 (Sub-14F), filed March 15, 1979. Applicant: HEAVY HAULING, INC., 1100 West Grand, Salina, KS 67401. Representative: Clyde N. Christey, Kansas Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. To operate as a *common carrier*,

by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, (A) from the facilities of Armoc Steel at (a) Kansas City, MO, (b) Norfolk, NE, (c) Houston, TX, (d) Chicago, IL, (e) St. Louis, MO, (f) Pueblo, CO, (g) Sterling, IL, and (h) Oklahoma City, OK, to points in Saline County, KS, and (B) from points in Saline County, KS, to points in NE, OK, and CO, (2) *prefabricated steel articles*, from points in Saline County, KS, to points in the United States (except AK and HI), and (3) *prestressed concrete articles*, from points in Saline County, KS, to points in MO, CO, NE, OK, IA, and TX. (Hearing site: Kansas City, Mo.)

MC 138157 (Sub-126F), filed March 14, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, P.O. Box 9596, Chattanooga, TN 37412. Representative: Patrick E. Quinn (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sliding and folding door hardware*, between the City of Industry, CA, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 138157 (Sub-127F), filed March 14, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, P.O. Box 9596, Chattanooga, TN 37412. Representative: Patrick E. Quinn (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cleaning and building maintenance supplies and materials*, (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), between the facilities of Purex Corporation at or near (a) Philadelphia, PA, (b) London, OH, (c) Lawrence, MA, (d) Omaha, NE, (e) Houston, TX, (f) Rockdale, IL, and (g) Carson, CA, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Purex Corporation. (Hearing site: Philadelphia, PA.)

Note.—Dual operations may be involved.

MC 138157 (Sub-130F), filed March 9, 1979. Applicant: SOUTHWEST

EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, P.O. Box 9596, Chattanooga, TN 37412. Representative: Patrick E. Quinn (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *carpet strips, molding, staples, tools, nails, adhesives, sealants, solvents, stains, and wood preservatives*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, from Calexico, CA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 138157 (Sub-133F), filed March 14, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, P.O. Box 9596, Chattanooga, TN 37412. Representative: Patrick E. Quinn (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *agricultural pesticides and materials, equipment and supplies* used in the manufacture and distribution of the agricultural pesticides (except commodities in bulk), from the facilities of AMVAC Chemical Corp. at Los Angeles, CA, to those points in the United States in and east of ND, SD, NE, KS, OK and TX. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 138286 (Sub-4F), filed March 14, 1979. Applicant: JOHN F. SCOTT COMPANY, P.O. Box 8, 404 Washington Avenue, Dravosburg, PA 15034. Representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, PA 17108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from the facilities of United States Steel Corporation at or near (a) Ambridge, Braddock, Clairton, Dravosburg, Duquesne, Homestead, Johnstown, McKeesport, McKees Rocks, Munhall, Pittsburgh, Rankin, Vandergrift, West Homestead, and West Mifflin, PA, to points in DE, MD, NJ, OH and WV, and (b) Fairless, PA, to points in DE, MD, NJ, NY, OH and WV, and (2) *materials, equipment and supplies* used in the manufacture of iron and steel, and iron and steel articles, in the reverse direction from (1)(a) and (b) respectively. (Hearing site: Pittsburgh, PA or Washington, DC.)

MC 139906 (Sub-41F), filed March 13, 1979. Applicant: INTERSTATE CONTRACT CARRIER CORP., 2156 West 2000 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *physical fitness, gymnasium, and athletic training room equipment and supplies, refrigeration compounds and cooler boxes*, (except commodities in bulk, and those which because of size or weight require special handling or equipment), from facilities of Divajex at or near Tustin, CA, to those points in the United States east of ND, SD, WY, CO, and NM. (Hearing site: Lincoln, NE, or Salt Lake City, UT.)

Note.—Dual operations may be involved.

MC 139906 (Sub-42F), filed March 13, 1979. Applicant: INTERSTATE CONTRACT CARRIER CORP., 2156 West 2200 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *automotive floor mats, tape recorders, radios, antennas, speakers, and amplifiers*, and (2) *displays, parts, and accessories* for the commodities named in (1) above, (except commodities in bulk, and those which because of size or weight require special handling), from the facilities of Kraco Enterprises, Inc., at Compton, CA, to those points in the United States east of ND, SD, NE, CO, and NM. (Hearing site: Lincoln, NE, or Salt Lake City, UT.)

Note.—Dual operations may be involved.

MC 139906 (Sub-43F), filed March 14, 1979. Applicant: INTERSTATE CONTRACT CARRIER CORP., 2156 West 2200 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in packages, (except commodities because of size or weight require special handling or equipment), from the facilities of Stauffer Chemical at (a) Morrisville, PA, and (b) Skaneateles, NY, to points in AL, AZ, AR, CA, FL, GA, KS, LA, MI, MO, NE, NV, NM, NC, OK, SC, TX, IL, IN, and MS. (Hearing site: Lincoln, NE, or Salt Lake City, UT.)

Note.—Dual operations may be involved.

MC 140717 (Sub-19F), filed March 13, 1979. Applicant: JULIAN MARTIN, INC.,

Highway 25, S. P.O. Box 3348, Batesville, AR 72501. Representative: Theodore Polydoroff, 1307 Dolley Madison Blvd., Suite 301, McLean, VA 22101. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Royal Packing Company at St. Louis, MO, to points in AL, AR, FL, GA, KY, LA, MS, NC, SC, TN, VA and WV, under continuing contract(s) with Royal Packing Co., of National City, IL. (Hearing site: St. Louis, MO or Washington, DC.)

Note.—Dual operations may be involved.

MC 141197 (Sub-34F), filed March 5, 1979. Applicant: FLEMING-BABCOCK, INC., 4106 Mattox Road, Riverside, MO 64151. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *animal and poultry feed and animal and poultry feed ingredients*, in bulk, from the facilities of Ralston Purina Company, at Kansas City, MO, to points in AR, KS, and OK. (Hearing site: Kansas City, MO.)

MC 141317 (Sub-3F), filed March 8, 1979. Applicant: HAAG TRANSPORT, INC., P.O. Box 125, Shelburn, IN 47879. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic containers*, and (2) *salt, pepper, and sodium hydrosulfide*, in plastic containers, from Shelburn, IN, to points in IL, KY, MI, OH, and TN; and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, in the reverse direction, under continuing contract(s) in (1), (2), and (3) with Ken Hagen Manufacturing Company, of Shelburn, IN. (Hearing site: Indianapolis, IN, or Washington, DC.)

MC 142447 (Sub-11F), filed March 12, 1979. Applicant: LOUISIANA-PACIFIC TRUCKING COMPANY, a corporation, P.O. Drawer AB, New Waverly, TX 77358. Representative: Harold R. Ainsworth, 2307 American Bank Bldg., New Orleans, LA 70130. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting

particleboard, from the facilities of Louisiana-Pacific Corporation at or near Clayton, AL, to points in FL, GA, LA, TN and TX. (Hearing site: Houston, TX.)

MC 144557 (Sub-8F), filed March 13, 1979. Applicant: HUDSON TRANSPORTATION, INC., P.O. Box 847, Troy, AL 36081. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers of canned goods (except frozen foods, and except commodities in bulk), between New Richmond, Eden, Oakfield, and Gillett, WI, on the one hand, and, on the other, those points in the United States in and east of TX, OK, KS, MO, IA and MN. (Hearing site: Milwaukee, WI.)

MC 144928 (Sub-5F), filed February 12, 1979. Applicant: E. W. WYLIE CORPORATION, P.O. Box 1188, Fargo, ND 58107. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sugar beet pulp and sugar beet pulp pellets*, from the facilities of Southern Minnesota Beet Sugar Cooperative at or near Renville, MN, to Superior, WI, under continuing contract(s) with Southern Minnesota Beet Sugar Cooperative, of Minneapolis, MN. (Hearing site: Fargo, ND, or Minneapolis, MN.)

MC 145407 (Sub-2F), filed March 13, 1979. Applicant: R. B. GARRARD and W. L. GARRARD, d.b.a. G & G TRUCKING, Route 4, Box 488, Florence, MS 39073. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22828, Jackson, MS 39205. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *farm supplies*, between points in AL, AR, LA, MS, MO, TN and TX, under continuing contract(s) with MFC Services (AAL), of Madison, MS. (Hearing site: Jackson, MS or Washington, DC.)

MC 145317 (Sub-7F), filed March 12, 1979. Applicant: QUALITY SERVICE TANK LINES, INC., 9022 Perrin Beitel, P.O. Box 17405, San Antonio, TX 78217. Representative: Charles E. Munson, 500 West Sixteenth Street, P.O. Box 1945, Austin, TX 78767. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fly ash* in bulk, in tank vehicles, from points in

Bexar County, TX, to points in AL, AR, LA, KS, MO, MS, NM, OK, and TN. (Hearing site: San Antonio or Dallas, TX.)

MC 145947 (Sub-3F), filed March 15, 1979. Applicant: SHELTON D. SMITH, d.b.a. PROTOCOL TRUCKING CO., P.O. Box 40961, Garland, TX 75041. Representative: William D. White, Jr., 4200 Republic National Bank Tower, Dallas, TX 75201. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *drilling muds* (except in bulk, in tank vehicles), from the facilities of Fritz Chemical Company at Mesquite, TX, to points in LA, under continuing contract(s) with Halliburton Services, of Duncan, OK. (Hearing site: Dallas, TX, or New Orleans, LA.)

MC 146367 (Sub-1F), filed March 1, 1979. Applicant: COAL CORNERS, INC., Aberdeen, KY 42261. Representative: Rudy Yessin, 314 Wilkinson St., Frankfort, KY 40601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coal*, between points in AL, IL, IN, KY, and TN. (Hearing site: Louisville, KY, or Nashville, TN.)

MC 146627 (Sub-1F), filed March 5, 1979. Applicant: E. A. WILSON CO., a corporation, 700 Broadway, Lowell, MA 01854. Representative: Norman Weiss, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement*, in bulk, from Allston, East Cambridge, Everett, Framingham, and Wilmington, MA, and Hooksett and Nashua, NH, to points in CT, MA, ME, NH, RI, VT, and NY. Conditions: (1) Applicant shall conduct separately its for-hire carriage from its other business operations; (2) shall maintain separate accounts and records for each operation; and (3) shall not transport property as both a private and for-hire carrier at the same time and in the same vehicle. (Hearing site: Boston, MA.)

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[Volume No. 110]

Permanent Authority Decisions

Decided: July 10, 1979.

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things,

that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the *Federal Register*. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected*. A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace, the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant, if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. section 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. section 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operation shall conform to the provisions of 49 U.S.C. section 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the

decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Boyle, Eaton and Liberman (Board Member Liberman not participating).
Agatha L. Mergenovich,
Secretary.

MC 13087 (Sub-2F), filed March 9, 1979. Applicant: STOCKBERGER TRANSFER & STORAGE, INC., 524 Second Street SW., Mason City, IA 50401. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, meat by-products, and articles distributed by meat packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (1) between the facilities of Lauridsen Foods, Inc., at or near Britt, IA, on the one hand, and, on the other, points in IL, IN, KS, MI, MN, MO, NE, ND, SD and WI, and (2) from points named in (1) above to the facilities of Armour and Company at Mason City, IA, restricted in parts (1) and (2) above to the transportation of traffic originating at and destined to the above named points. (Hearing site: St. Paul, MN or Des Moines, IA.)

MC 26396 (Sub-235F), filed March 20, 1979. Applicant: POPELKA TRUCKING CO., a Corporation, d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Decatur, IL, to Millis, WY. (Hearing site: Billings, MT.)

MC 30657 (Sub-29F), filed March 19, 1979. Applicant: DIXIE HAULING COMPANY, a Corporation, 540 Englewood Avenue, S.E., Atlanta, GA 30315. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over

irregular routes, transporting *iron and steel articles*, from the facilities of Armco, Inc., at (1) Conyers, GA, to points in AR, KY, LA, VA, and WV, and (2) (a) Middletown, OH, and (b) Ashland, KY, to the facilities of Armco, Inc., at Conyers, GA, under continuing contract(s) with Armco, Inc. of Middletown, OH. (Hearing site: Atlanta, GA.)

MC 30787 (Sub-7F), filed March 14, 1979. Applicant: NIAGARA SCENIC BUS LINES, INC., 6 Maelou Drive, Manburg, NY 14303. Representative: S. Harrison Kahn, Suite 733, Investment Bldg., 1511 K Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage* in the same vehicle with passengers, in round-trip charter operations, beginning and ending at points in Niagara and Erie Counties, NY and extending to points in the United States, (including AK, but excluding HI). (Hearing site: Buffalo, NY.)

MC 41406 (Sub-126F), filed March 19, 1979. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, IN 46323. Representative: Wade H. Bourdon (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, between Peru and Kokomo, IN, Louisville and Eminence, KY, and Columbus, OH, on the one hand, and, on the other, points in AL, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NY, ND, SD, OH, OK, PA, VA, WV, and WI. (Hearing site: Louisville, KY, or Indianapolis, IN.)

MC 41406 (Sub-127F), filed March 19, 1979. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, IN 46323. Representative: Wade H. Bourdon (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum and aluminum ingots*, from Maple Heights, OH, to points in AL, CT, GA, IL, IN, IA, KY, MI, MN, MO, NC, NJ, NY, PA, SC, TN, and WI. (Hearing site: Cleveland, OH, or Chicago, IL.)

MC 41406 (Sub-128F), filed March 19, 1979. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, IN 46323. Representative: Wade H. Bourdon (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)

automobile parts, from Columbia City, IN, Colorado Springs, CO, Toledo, OH, and Grand Rapids MI, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of automobile parts, in the reverse direction. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 41406 (Sub-129F), filed March 19, 1979. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, IN 46323. Representative: Wade H. Bourdon (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from the facilities of Northwestern Steel and Wire Company, at or near Sterling, IL, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of iron and steel articles, in the reverse direction. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 41406 (Sub-130F), filed March 19, 1979. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, IN 46323. Representative: Wade H. Bourdon (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *steel pipe, pipe fittings, beams, piling, rails, railway track accessories, bridge and highway railings, pile drivers, and pile extractors*, (2) *parts* for the commodities in (1) above, and (3) *materials, equipment, and supplies* used in the manufacture, installation, dismantling, and distribution of the commodities in (1) and (2) above, (except commodities in bulk), between the facilities of L.B. Foster Company, at Parkersburg and Washington, WV, on the one hand, and, on the other, those points in the United States in, east, and north of ND, SD, NE, KS, MO, KY, and VA. (Hearing site: Charleston, WV, or Chicago, IL.)

MC 61396 (Sub-369F), filed March 19, 1979. Applicant: HERMAN BROS., INC., 2565 St. Marys Avenue, P.O. Box 189, Omaha, NE 68101. Representative: Duane L. Stromer (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fly ash*, from the facilities of Iowa Power and Light Company at or near Council Bluffs, IA, to points in CO, KS, MN, MO, NE, SD, and WY. (Hearing site: Omaha, NE, or Minneapolis, MN.)

Note.—Dual operations may be involved.

MC 69116 (Sub-226F), filed March 19, 1979. Applicant: SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Highway, Bensenville, IL 60106. Representative: Edward G. Bazelon, 39 S. LaSalle St., Suite 600, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of MTD Products, Inc., at or near Brownsville, TN, as off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Chicago, IL.) Condition: The certificate issued in this proceeding, in so far as it authorizes the transportation of classes A & B explosives, will be limited in point of time to a period expiring 5 years from the date of issuance.

MC 69116 (Sub-227F), filed March 19, 1979. Applicant: SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Highway, Bensenville, IL 60106. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, and (2) *materials, equipment, and supplies* used in the manufacture of iron and steel articles, between Gadsden, AL, on the one hand, and, on the other, those points in the United States in and east of MN, IA, NE, KS, OK, and, TX. (Hearing site: Chicago, IL.)

MC 79687 (Sub-24F), filed March 19, 1979. Applicant: WARREN C. SAUERS COMPANY, INC., 200 Rochester Road, Zelienople, PA 16036. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *glass containers*, from the facilities of Brockway Glass Company at Columbus and Zanesville, OH, to St. Louis, MO, and (2) *wooden pallets*, in the reverse direction. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 79687 (Sub-25F), filed March 19, 1979. Applicant: WARREN C. SAUERS COMPANY, INC., 200 Rochester Rd., Zelienople, PA 16063. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over

irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of containers (except commodities in bulk, in tank vehicles), between those points in the United States in and east of MN, IA, MO, AR, and LA, restricted to the transportation of traffic originating at or destined to the facilities of Brockway Glass Company, Inc. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 100666 (Sub-447F), filed March 19, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615, East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *plastic pipe, vinyl plastic siding, and extruded plastic products*, and (b) *fittings and accessories* for the commodities named in (1)(a) above, from the facilities of Vinylplex, Inc., at or near Pasadena, TX, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above, between the facilities of Vinylplex, Inc., at or near Pasadena, TX, and Pittsburg, KS. (Hearing site: Kansas City, MO.)

MC 100666 (Sub-448F), filed March 19, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615, East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plumbing supplies and plumbing accessories*, from the facilities of Powers-Fiat Corporation at or near (a) Monroe, OH, and (b) Plainview, NY, to points in the United States (except AK, CT, DE, HI, MD, ME, MA, NH, NJ, NY, RI, and VT). (Hearing site: New York, NY.)

MC 102567 (Sub-221F), filed March 19, 1979. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, LA 71111. Representative: Joe C. Day, 13403 Northwest Fwy., Suite 130, Houston, TX 77040. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid hydrobromic acid*, in bulk, in tank vehicles, from El Dorado, AR, to Viterbo (Jefferson County), TX, and Gulfport, MS. (Hearing site: Houston or Dallas, TX.)

MC 108117 (Sub-9F), filed March 19, 1979. Applicant: WILLIAM H.

PATTERSON, JR., d.b.a. PATTERSON TRUCKING, 46 Waln Ave., Yardville, NJ 08620. Representative: Denis James Lawler, 37 South 20th St., Philadelphia, PA 19103. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sulphates*, from Bethlehem, PA, to Yardville, NJ, under continuing contract(s) with Agway, Inc., Fertilizer Division, of Syracuse, NY. (Hearing site: Philadelphia, PA.)

MC 112696 (Sub-60F), filed March 19, 1979. Applicant: HARTMANS, INCORPORATED, P.O. Box 989, Harrisonburg, VA 22801. Representative: Lawrence E. Lindeman, Suite 1032 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foodstuffs*, from Seabrook, NJ, to points in PA, OH, MI, IN, IL, KS, MO, and VA. (Hearing site: Washington, DC.)

MC 112796 (Sub-11F), filed March 8, 1979. Applicant: ELMER G. BRAKE, INC., 220 Wholesale Street, Clarksburg, WV 26301. Representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *flat glass*, between Clarksburg and Jerry Run, WV, on the one hand, and, on the other, points in AL, AR, CT, LA, MA, MS, NJ, NY, RI, and TN. (Hearing site: Charleston, WV.)

Note.—Dual operations may be involved.

MC 113106 (Sub-71F), filed March 15, 1979. Applicant: THE BLUE DIAMOND COMPANY, a Corporation, 4401 East Fairmount Avenue, Baltimore, MD 21224. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, (1) from the facilities of Sonoco Products Company at Downingtown, PA, to Wharton, NJ, and Elmira, NY, and (2) from the facilities of Inland Container Corporation at Hazelton, PA, to Wharton, NJ. (Hearing site: Washington, DC.)

MC 114457 (Sub-489F), filed March 17, 1979. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)

insulating materials (except in bulk), from Commerce City, CO, Mount Pleasant, MI, Orrville, OH, and Dallas, TX, to points in the United States (except AK and HI), and (2) *equipment, materials, and supplies* used in the manufacture and distribution of *insulating materials* (except commodities in bulk), in the reverse direction. (Hearing site: Minneapolis or St. Paul, MN.)

MC 114457 (Sub-490F), filed March 17, 1979. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in or used by (a) grocery and food business houses, and (b) agricultural feed business houses (except commodities in bulk), between points in the United States (except AK and HI), restricted in (1) and (2) above, to the transportation of traffic originating at or destined to the facilities of Ralston Purina Company. (Hearing site: St. Louis, MO, or Minneapolis, MN.)

MC 114457 (Sub-491F), filed March 19, 1979. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Ave., St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper articles* (except commodities in bulk) and (2) *materials, equipment, and supplies* used in the manufacture or distribution of the commodities in (1) above (except commodities in bulk and those requiring special equipment), between the facilities of Fort Howard Paper Company, at or near Green Bay, WI, on the one hand, and, on the other, points in the United States (except AK, HI, WA, OR, ID, CA, NV, UT, AZ, NM, and WI). (Hearing site: Washington, DC.)

MC 115826 (Sub-437F), filed March 19, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *drugs, toilet preparations, and health and beauty care products*, (2) *materials, equipment, and supplies*, used in the manufacture of health and beauty care products, and (3) *cleaning compounds, plastic articles, dietetic foods, infant foods, and dessert preparations*, from La

Mirada, CA, to Portland, OR, Seattle and Spokane, WA, and Salt Lake City, UT. (Hearing site: Denver, CO.)

Note.—Dual operations may be involved.

MC 117686 (Sub-244F), filed March 19, 1979. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper articles*, and (2) *materials, equipment, and supplies* used in the manufacture or distribution of *paper and paper articles* (except commodities in bulk), between points in AR, CO, IA, KS, MN, MO, NE, ND, OK, SD, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Champion International Corporation. (Hearing site: Cincinnati, OH, or Chicago, IL.)

Note.—Dual operations may be involved.

MC 117686 (Sub-249F), filed March 2, 1979. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: Robert A. Wichser (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *trousers* from LeMars, Sheldon, Sioux City, Spencer, and Storm Lake, IA, to Amarillo, TX. (Hearing site: Omaha, NE, or Atlanta, GA.)

Note.—Dual operations may be involved.

MC 117686 (Sub-251F), filed March 19, 1979. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by retail stores (except foodstuffs and commodities in bulk), from Los Angeles, CA, to the facilities of Northern Cargo Association, at (a) Brookings, SD and (b) Minneapolis, MN, restricted to the transportation of traffic destined to the named destination facilities. (Hearing site: Minneapolis, MN, or Chicago, IL.)

MC 119226 (Sub-114F), filed March 19, 1979. Applicant: LIQUID TRANSPORT CORP., 3901 Madison Avenue, Indianapolis, IN 46227. Representative: Robert W. Loser II, 1009 Chamber of Commerce Building, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *soybean flour*, in bulk, in

hopper-type vehicles, from Louisville, KY, to Clinton and Indianapolis, IN. (Hearing site: Indianapolis, IN, or Washington, D.C.)

Note.—Dual operations may be involved.

MC 119656 (Sub-55F), filed March 1, 1979. Applicant: NORTH EXPRESS, INC., 219 Main St., Winamac, IN 46996. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *steel pipe, pipe fittings, beams, piling, rails, railway track accessories, bridge and highway railing, pile drivers, and pile extractors*, (2) *parts* for the commodities in (1) above, and (3) *materials, equipment, and supplies* used in the manufacture, installation, dismantling, and distribution of the commodities in (1) and (2) above, (except commodities in bulk), between the facilities of L. B. Foster Company, at Parkersburg and Washington, WV, on the one hand, and, on the other, points in DE, IA, IL, IN, KS, KY, MD, MI, MN, MO, ND, NE, NJ, NY, OH, PA, SD, VA, WI, and DC. (Hearing site: Atlanta, GA, or Indianapolis, IN)

MC 119656 (Sub-549), filed March 21, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Rt. 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *construction materials, and materials and supplies* used in the manufacture or distribution of *construction materials*, (except commodities in bulk), between the facilities of The Celotex Corporation, at or near Russellville, AL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Washington, DC, or Chicago, IL.)

MC 123407 (Sub-550F), filed March 21, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Rt. 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *rough gray and ductile castings, and parts and supplies* for rough gray and ductile castings, (except commodities in bulk), from the facilities of Bay Engineered Castings, Inc. at DePere, WI, to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 123407 (Sub-551F), filed March 19, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Rt. 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from the facilities of Georgetown Steel Company at Georgetown, SC, to those points in the United States in and east of ND, SD, NE, KS, OK, and TK, and (2) *materials and supplies* used in the manufacture of iron and steel articles, in the reverse direction. (Hearing site: Columbia, SC, or Atlanta, GA.)

MC 123407 (Sub-553F), filed March 19, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Rt. 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, lumber products, wood products, and millwork*, from the facilities of Plus Wood, Inc., at Oshkosh, WI, to points in AR, CO, IA, KS, KY, LA, MS, MO, NE, OH, OK, PA, TX, AL, GA, IN, IL, MN, ND, SD, MT, and WY, and points in the lower peninsula of MI. (Hearing site: Chicago, IL.)

MC 123407 (Sub-556F), filed March 5, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Rt. 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *building materials*, from Chicago Heights, IL, to points in AL, FL, GA, LA, MS, MO, NC, SC, and TN. (Hearing site: Dallas, TX, or Chicago, IL.)

MC 123407 (Sub-557F), filed March 5, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Rt. 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foam board, foam board panels, insulation materials, insulated panels, and insulated building systems*, from points in Greenville County, SC, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Washington, DC, or Atlanta, GA.)

MC 123407 (Sub-558F), filed March 5, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Rt. 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as

applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *building materials*, from Ennis, TX, to points in AR. (Hearing site: Dallas, TX, or Chicago, IL.)

MC 125777 (Sub-237F), filed March 19, 1979. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Ave., Gary, IN 46403. Representative: Allan C. Zuckerman, 39 South LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *granulated slag*, between the facilities of Mineral Aggregates Co., Inc., at Tampa, FL, on the one hand, and, on the other, points in AL, GA, KY, LA, MS, NC, SC, TN, VA, and WV. (Hearing site: Chicago, IL.)

MC 128007 (Sub-135F), filed March 16, 1979. Applicant: HOFER, INC., 20th and Bypass, P.O. Box 583, Pittsburg, KS 66762. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *premixed mineral feed and feed ingredients*, from points in Vance County, NC, to points in AL, AR, FL, GA, IL, IN, KY, MI, MN, MS, NJ, OH, PA, SC, TN, TX, VA, WV, and WI, and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above, from points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, and WY, to points in Vance County, NC. (Hearing site: New Orleans, LA, or Tampa, FL.)

MC 134286 (Sub-99F), filed March 21, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and bottled apple juice and sweet cider*, from the facilities of Speas Company at or near Fremont, MI, to Anaheim and San Francisco, CA, Yakima, WA, Kansas City, MO, Rogers, AR, Minneapolis, MN, Denver, CO, Oklahoma City, OK, and Paris and Dallas, TX. (Hearing site: Sioux City, IA, or Omaha, NE.)

MC 134387 (Sub-64F), filed March 16, 1979. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Ave., South Gate, CA 90280. Representative: Warren N. Grossman, Suite 1800, 707 Wilshire Blvd., Los Angeles, CA 90017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign

commerce, over irregular routes, transporting (1) *containers, container closures, container components, culllets, and glassware*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), between points in AZ, CA, CO, ID, KS, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY. (Hearing site: Los Angeles, CA.)

MC 135007 (Sub-74F), filed March 8, 1979. Applicant: AMERICAN TRANSPORT, INC., 7850 F Street, Omaha, NE 68127. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *tallow*, from the facilities of Spencer Foods, Inc., at or near Schuyler, NE, to points in IL and IN, under continuing contract(s) with Spencer Foods, Inc., of Schuyler, NE. (Hearing site: Omaha, NE.)

Note.—Dual operations may be involved.

MC 135007 (Sub-75F), filed March 8, 1979. Applicant: AMERICAN TRANSPORT, INC., 7850 F Street, Omaha, NE 68127. Representative: Arthur J. Cerra, P.O. Box 19251, 2100 TenMain Center, Kansas City, MO 64141. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles* distributed by meat-packing houses as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near (a) Emporia and Wichita, KS, and (b) Dakota City, NE, to points in TN, NC, SC, MS, AL, GA, KY, and FL, under continuing contract (s) with Iowa Beef Processors, Inc., of Dakota City, NE. (Hearing site: Omaha, NE.)

Note.—Dual operations may be involved.

MC 135797 (Sub-195F), filed March 19, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products* (except commodities in bulk) and (2) *materials, equipment, and supplies* used in the manufacture and distribution of paper and paper

products, (except commodities in bulk, and those which because of size or weight require the use of special equipment), between the facilities of Fort Howard Paper Company, at or near Green Bay, WI, on the one hand, and, on the other, points in AL, AR, CA, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, TN, TX, UT, VT, VA, WA, WV, and DC. (Hearing site: Washington, DC.)

MC 138157 (Sub-128F), filed March 19, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, P.O. Box 9596, Chattanooga, TN 37412. Representative: Patrick E. Quinn (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Los Angeles, CA, on the one hand, and, on the other, points in AL, MS, FL, GA, TN, KY, NC, SC, LA, and VA, restricted to the transportation of traffic originating at or destined to the facilities of Streamline Shippers Association. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 138157 (Sub-129F), filed March 5, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, P.O. Box 9596, Chattanooga, TN 37412. Representative: Patrick E. Quinn (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses (except frozen commodities and commodities in bulk), from the facilities of the Clorox Company at Houston, TX, to points in AR, LA, and OK. (Hearing site: Houston, TX.)

Note.—Dual operations may be involved.

MC 138237 (Sub-9F), filed March 19, 1979. Applicant: METRO HAULING INC., 20848—77th Ave. South Kent, WA 98031. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, between points in ID, MT, OR, and WA. (Hearing site: Seattle, WA.)

MC 139587 (Sub-18F), filed March 14, 1979. Applicant: BROWN REFRIGERATED EXPRESS, INC., P.O. Box 603, Fort Scott, KS 66701. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *rubber and plastic articles*, from Irving, TX, to points in AL, AZ, CA, CO, FL, GA, IN, IA, KS, LA, MI, MN, MS, MO, NE, NC, OH, OK, OR, SC, WA, and WI. (Hearing site: Dallas, TX.)

Note.—Dual operations may be involved.

MC 139906 (Sub-39F), filed March 16, 1979. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, 2156 West 2200 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities of Seaway Express, at or near Los Angeles, Long Beach, San Francisco, and Oakland, CA, to those points in the United States in and east of MN, IA, NE, KS, OK, and TX, restricted to the transportation of traffic having a prior movement by water. (Hearing site: Lincoln, NE, or Salt Lake City, UT.)

Note.—Dual operations may be involved.

MC 139906 (Sub-44F), filed March 21, 1979. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, 2156 West 2200 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sulfur*, in bags, from the facilities of Stauffer Chemical Company, Inc. at Freeport, TX, to points in AL, AR, AZ, CO, CT, FL, GA, IA, IL, IN, KS, KY, LA, MA, MI, MN, MO, MS, NC, NE, NM, WY, OH, OK, SC, TN, VA, and WI. (Hearing site: Lincoln, NE, or Salt Lake City, UT.)

Note.—Dual operations may be involved.

MC 139966 (Sub-1F), filed March 21, 1979. Applicant: FAIRPORT TRUCKING COMPANY, a Corporation, Box 217, Williams St., Grand River, OH 44045. Representative: Richard H. Brandon, P.O. Box 97, 220 W. Bridge St., Dublin,

OH 43017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cement*, in bulk, from those points in PA on, north, and west of a line beginning at the PA-WV State line and extending along Interstate Hwy 70 to junction US Hwy 219, and then along US Hwy 219 to the PA-NY State line, to those points in OH on and north of US Hwy 30; and (2) *limestone dust*, in bulk, from Grand River and Cleveland, OH, to points in PA. (Hearing site: Columbus, OH, or Washington, DC.)

MC 141396 (Sub-4F), filed March 14, 1979. Applicant: DELP, INC., Highway 71 South, P.O. Box 369, Springdale, AR 72764. Representative: Stanley W. Ludwig, 529 S. Holcomb Street, P.O. Box 285, Springdale, AR 72764. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *green coffee*, from New Orleans, LA, and Laredo and Houston, TX, to Minneapolis, MN. (Hearing site: Little Rock, AR or Dallas, TX.)

MC 141776 (Sub-39F), filed March 16, 1979. Applicant: FOODTRAIN, INC., Spring and South Center Streets, Ringtown, PA 17967. Representative: Pauline E. Myers, Suite 407 Walker Building, 734 15th Street, N.W., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pressure-sensitive tapes*, from New Brunswick, NJ, to Coldwater and Detroit, MI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: New York, NY, or Washington, DC.)

MC 142487 (Sub-5F), filed March 12, 1979. Applicant: JOHN H. KOBY TRUCKING, INC., 3926 Shelby Road, Lynnwood, WA 98036. Representative: James T. Johnson, 1610 IBM Building, Seattle, WA 98101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sailboat spars and sailboat masts*, from points in Orange County, CA, to points in WA. (Hearing site: Seattle, WA.)

MC 142897 (Sub-14F), filed March 2, 1979. Applicant: KENNEDY FREIGHT LINES, INC., 7401 Fremont Pike, Perrysburg, OH 43551. Representative: Paul F. Beery, 275 E. State Street, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bakery products*, and (2) *equipment, materials, and supplies* used in the manufacture of

bakery products, between Columbus, OH, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. Under continuing contract(s) with the Kroger Co., of Cincinnati, OH. (Hearing site: Columbus, OH.)

Note.—Dual operations may be involved.

MC 143127 (Sub-27F), filed March 19, 1979. Applicant: K. J. TRANSPORTATION, INC., 1000 Jefferson Road, Rochester, NY 14623. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *dry animal feed*, in cans, from the facilities of Carnation Company at Jefferson, WI, to Mechanicsburg, PA, and (2) *unfrozen foodstuffs* (except in bulk), from the facilities of Carnation Company at Kokomo, IN, to Mechanicsburg, PA. (Hearing site: Los Angeles, CA, or Buffalo, NY.)

Note.—Dual operations may be involved.

MC 143127 (Sub-28F), filed March 14, 1979. Applicant: K. J. TRANSPORTATION, INC., 1000 Jefferson Road, Rochester, NY 14623. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs* from the facilities of Heinz USA at or near Iowa City and Muscatine, IA, to points in NJ, NY, OH and PA, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Pittsburgh, PA or Buffalo, NY.)

Note.—Dual operations may be involved.

MC 143696 (Sub-7F), filed March 16, 1979. Applicant: AMERICAN INDUSTRIAL TRANSPORTATION, INC., P.O. Box 1416, Henderson, TX 75652. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *concrete roofing tile*, and (2) *equipment, materials, and supplies* used in the manufacture, distribution, and installation of concrete roofing tile, between points in Dallas and Austin Counties, TX, on the one hand, and, on the other, points in the United States (except AK, TX, and HI), under continuing contract(s) with Mono Crete

Ltd., of Ducanville, TX. (Hearing site: Dallas, TX.)

MC 146056 (Sub-2F), filed March 14, 1979. Applicant: PURITY TRANSPORTATION COMPANY, a Corporation, 1171 No. Water St., Decatur, IL 62523. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bakery products*, from Bloomington, IL, to Kirksville, MO, under continuing contract(s) with Purity Baking Company of Decatur, IL. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 146176 (Sub-3F), filed March 19, 1979. Applicant: J & L TRANSPORT, INC., Route 1—Box 306, Almond, WI 54909. Representative: Wayne W. Wilson, 150 E. Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, from the facilities of Appleton Papers, Inc., at or near Appleton and Combined Locks, WI, to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY. (Hearing site: Madison or Appleton, WI.)

MC 146617 (Sub-1F), filed March 16, 1979. Applicant: THE NICOLAZAKES TRUCKING COMPANY, a corporation, P.O. Box 668, Route 2, Cambridge, OH 43725. Representative: James M. Burtch, 100 E. Broad St., Suite 1800, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Coal, slag, limestone, sand, and gravel*, and (2) *mining machinery, mining equipment, and mining supplies*, between points in Belmont, Jefferson, and Guernsey Counties, OH, on the one hand, and, on the other, points in Hancock, Marshall, Brooke, and Ohio Counties, WV, restricted to the transportation of traffic originating at the facilities of (a) Short Creek Coal Company, (b) Rayle Coal Company, and (c) Marietta Coal Company. (Hearing site: Columbus, OH.)

MC 146786 (Sub-1F), filed March 16, 1979. Applicant: R. B. STUCKY & N. M. STUCKY, a partnership, d.b.a. S&S DAIRIES, Route 2, Moundridge, KS 67107. Representative: Clyde N. Christey, Kansas Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *dry pet food*, from the facilities of Goertzen Processing, Inc., near Inman, KS, to points in CO, TX,

NM, OK, NE, IA, and WY; and (2) *materials, equipment, and supplies used in the manufacture or distribution of dry pet foods*, in the reverse direction, under continuing contract(s) in (1) and (2) above, with Goertzen Processing, Inc., of Inman KS. (Hearing Site: Kansas City, MO.)

Note.—Dual operations may be involved.

MC 146786 (Sub-2TF), filed March 19, 1979. Applicant: R. B. STUCKY & N. M. STUCKY, a partnership, d.b.a. S&S DAIRIES, Route 2, Moundridge, KS 67107. Representative: Clyde N. Christey, Kansas Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *liquid sweeteners*, in bulk, (a) from Muncie, KS, and Keokuk, IA, to Denver, CO, (b) from Keokuk, IA, and Johnstown and Wheatridge, CO, to Hutchinson, KS, and (c) between Denver, CO, and Hutchinson, KS; (2) *liquid ice cream mixes* from Denver, CO, to Hutchinson, KS; and (3) *plastic jugs*, from Hutchinson, KS, to points in MO, NE, CO, and OK, under continuing contract(s), in (1), (2) and (3) above, with Jackson Ice Cream Co., Inc., of Hutchinson, KS. (Hearing site: Kansas City, MO.)

Note.—Dual operations may be involved.

MC 146937 (Sub-1F), filed March 19, 1979. Applicant: ALL STAR AIR FREIGHT, INC., 7001 W. 20th Ave., Hialeah, FL 33014. Representative: John P. Bond, 2766 Douglas Rd., Miami, FL 33133. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cloth fabrics, garment hangers, and wearing apparel*, between points in Dade County, FL, on the one hand, and, on the other, Leaksville, MS, under continuing contract(s) with Niki-Lu Ind., Inc., of Miami Lakes, FL. (Hearing site: Miami, FL.)

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BILLING CODE 7035-01-M

[Notice No. 115]

Assignment of Hearings

July 24, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices

of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 108633 (Sub-16F), Barnes Freight Line, Inc., now being assigned for continued Prehearing Conference on November 7, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 44735 (Sub-40F), Kissick Truck Lines, Inc., now assigned for hearing on August 9, 1979 at Dallas, TX, is postponed indefinitely.
MC 134182 (Sub-35F), Allied Transportation Service, Inc., now assigned for hearing on September 10, 1979 (2 days), at Philadelphia, PA, and will be held at the New U.S. Courthouse, 601 Market Street.
MC 124423 (Sub-7F), Jet Messenger Service, Inc., now assigned for hearing on September 12, 1979 (3 days), at Philadelphia, PA, and will be held at the New U.S. Courthouse, 601 Market Street.
MC-C-10314, Frank M. Herbert, Inc., Edgemere Terminals, Inc., Pioneer Transport, Inc., and L. G. Truck Leasing, Inc.—Investigation and Revocation of Certificate, now being assigned for hearing on October 30, 1979 (2 days), at Boston, MA, in a hearing room to be designated later.
MC-C-145864 F. Paragon Transportation Co., Inc., now being assigned for hearing on November 1, 1979 (2 days), at Boston, MA, in a hearing room to be designated later.
MC 2066 (Sub-5F), R. M. Sullivan Transportation, Inc., now being assigned for hearing on November 5, 1979 (1 week), at Hartford, CT, in a hearing room to be designated later.
MC 118831 (Sub-No. 173F), Central Transport, Incorporated, transferred to Modified Procedure.
MC 121658 (Sub-11), Steve D. Thompson, transferred to Modified Procedure.
MC 110988 (Sub-375F), Schneider Tank Lines, Inc., now assigned for continued hearing on September 18, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 112989 (Sub-78F), West Coast Truck Lines, Inc., now assigned for hearing on September 11, 1979 (6 days), at Salt Lake City, UT, and will be held at the Hilton Hotel, 150 West Fifth South.
MC 115904 (Sub-130F), Grover Trucking Co., now assigned for hearing on September 19, 1979 (3 days), at Salt Lake City, UT, and will be held in Room 479, U.S. Post Office & Federal Court House, 350 South Main St.
MC 107515 (Sub-1209F), Refrigerated Transport Co., Inc., now assigned for hearing on September 12, 1979 (3 days), at Nashville, TN, and will be held in Room A-961, Federal Court House, 801 Broadway.
MC 111545 (Sub-264), Home Transportation Company, Inc., now assigned for hearing on September 17, 1979 (1 week), at Nashville, TN, and will be held in Room A-961, Federal Court House, 801 Broadway.
MC 111729 (Sub-744F), Purolator Courier Corp., now assigned for hearing on September 18, 1979 at Memphis, TN, and

will be held in Room No. 936, Federal Building, 167 North Main Street.
MC F-13763F, Crown Transport, Inc.—Purchase (Portion)—Masterson Transfer Co., Inc., MC-4484 (Sub-5F), Crown Transport, Inc., now assigned for hearing on July 23, 1979 at Washington, DC, is postponed to September 24, 1979 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 44735 (Sub-40F), Kissick Truck Lines, Inc., now assigned for hearing on August 9, 1979 (2 days), at Dallas, TX, is postponed indefinitely.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-23285 Filed 7-26-79; 8:45 am]
BILLING CODE 7035-01-M

[No. MC-35334 (Sub-No. 79)]

Cooper-Jarrett, Inc.; Extension

AGENCY: Interstate Commerce Commission.

ACTION: Republication of "extension" application.

SUMMARY: This notice informs the public of a pending application for the extension of motor carrier operating rights and invites comments pursuant to a Commission decision in docket No. MC-F-12598, (published August 20, 1975).

COMMENTS DUE: Written protests may be submitted to the Commission (at the address below) within 30 days of the date of this publication. Cooper-Jarrett Inc. (C-J) may file verified statements in support of the extension application within 60 days of the date of this publication. Protestants (if any) may file verified statements in opposition to the application within 90 days of the publication date. C-J's rebuttal (if any) is due 110 days from the publication date.

ADDRESSES: All written comments should: (1) Bear the docket number MC-35334 (Sub-No. 79), (2) refer to this Federal Register notice, and (3) be sent to the following address: Interstate Commerce Commission, Office of Proceedings, Section of Operating Rights, Washington, D.C. 20423.

EFFECTIVE DATE: The extension application will not become effective until after Commission consideration of the application and any comments filed pursuant to this Federal Register notice.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, 202-275-7245.

SUPPLEMENTARY INFORMATION: In Docket No. MC-35334 (Sub-No. 79), Cooper-Jarrett Inc.—Extension, Cooper-Jarrett Inc. (C-J) filed an application to

extend its motor common carrier operating-rights as follows:

Regular routes

General Commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment).

Between Memphis, TN, on the one hand, and, on the other, Cincinnati, OH, serving Cincinnati, OH, for the purpose of joinder only, and serving no intermediate points.

(1) From Memphis, TN, over Interstate Hwy 40 to Nashville, TN, then over Interstate Hwy 65 to Louisville, KY then over Interstate Hwy 71 to its junction with Interstate Hwy 75, and then over Interstate Hwy 75 to Cincinnati, OH, and return over the same route; and

(2) From Memphis, TN, over US Hwy 51 to its junction with US Hwy 45 located at or near Mayfield, KY, then over US Hwy 45 to Paducah, KY, then over US Hwy 62 to junction with Interstate Hwy 65 located at or near Elizabethtown, KY, then over Interstate Hwy 65 to Louisville, KY, then over Interstate Hwy 71 to junction with Interstate Hwy 75, then over Interstate Hwy 75 to Cincinnati, OH, and return over same route.

In an initial decision served August 2, 1978, in a related proceeding (No. MC-F-12598, *Cooper-Jarrett Inc.—Purchase—Tri-City Express Inc.*), an Administrative Law Judge dismissed C-J's extension application as moot. However, the Commission (Division 2) reversed the Judge's action on this point in a later decision in No. MC-F-12598 (served April 2, 1979) and ordered that C-J's extension application be considered on its merits. See Division 2's decision at pp. 3 and 5.

Further, the Division ordered that C-J's extension application be set for modified procedure and that notice of the extension application be republished in the Federal Register. Accordingly, notice of C-J's extension application is now being republished.

Any person interested in or prejudiced by C-J's extension application in No. MC-35334 (Sub-No. 79) may file with the Commission an original and 6 copies of the types of pleadings described in the next paragraph. These persons (protestants) must also file a copy of their pleadings upon applicant C-J and its representative at the following addresses:

Applicant: Cooper-Jarrett Inc., 23 South Essex Ave., Orange, NJ 07051.

Applicant's Representative: Irving Klein, 371 Seventh Ave. (Southgate Tower), New York, NY 10001.

Protestants (if any) may submit protests to C-J's extension application within 30 days of the date of this publication. C-J may file with the Commission an original and 6 copies of any verified statements in support of its extension application within 60 days of this publication date (with appropriate service of a copy on protestants). Protestants may file verified statements in opposition to the application within 90 days of this publication date. C-J's rebuttal (if any) will be due 110 days from this publication date. All pleadings shall conform with the requirements of the Commission's Rules of Practice (49 CFR Part 1100).

Commission action on C-J's extension application in No. MC-35334 (Sub-No. 79) will follow consideration of the application and any pleadings filed pursuant to this notice.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-23189 Filed 7-26-79; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. 65]

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 79-16906 appearing on page 31375 in the issue of Thursday, May 31, 1979 make the following correction.

On page 31377, in the center column, in the third paragraph, the twelfth line should have read: "Bend, MN, to points in IA, NE, ND, SD,".

BILLING CODE 1505-01-M

[Volume No. 98]

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 79-21420, appearing at page 40581, in the issue of Wednesday, July 11, 1979, on page 40588, the first column, the first full paragraph, designated as "MC 139193 (Sub-105F)",

the eighth line down, correct the first word to read "Contract."
BILLING CODE 1505-01-M

[Permanent Authority Decisions Volume No. 62]

Permanent Authority Applications; Decision-Notice

Correction

In FR Doc. 79-876, appearing at page 2453, in the issue of Thursday, January 11, 1979, on page 2460, in the middle column, the sixth line down, correct the sentence to read as follows: "IN, to Davenport and Muscatine, IA"

BILLING CODE 1505-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 146

Friday, July 27, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: Tuesday, July 31, 1979, 10 a.m.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Domestic Exchange-Traded Commodity Option Pilot Program.

CONTACT PERSON FOR MORE

INFORMATION: Jane Stucky, 254-6314.

[S-1491-79 Filed 7-25-79; 10:47 am]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: Tuesday, July 31, 1979, 11:30 a.m.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE

INFORMATION: Jane Stucky, 254-6314.

[S-1492-79 Filed 7-25-79; 10:47 am]

BILLING CODE 6351-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2 p.m. on Monday, July 30, 1979.

PLACE: Board Room, 6th Floor, FDIC Building, 550-17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Request by the Board of Governors of the Federal Reserve System for a report on the competitive factors involved in the proposed merger of Naumkeag Trust Company, Salem, Massachusetts, and The Merchants National Bank of Newburyport, Newburyport, Massachusetts.

Memorandum and resolution proposing the final adoption of amendments to Part 329 of the Corporation's rules and regulations entitled "Interest on Deposits," respecting withdrawal penalties, interest rates, and nondeposit obligations.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Hoyle L. Robinson, Executive Secretary, (202) 389-4425.

[S-1499-79 Filed 7-25-79; 3:40 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2:30 p.m. on Monday, July 30, 1979.

PLACE: Board Room, 6th Floor, FDIC Building, 550-17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Applications for Federal deposit insurance:

Adair State Bank, a proposed new bank to be located on State Highway 28,

approximately one block west of its intersection with U.S. Highway 69, Adair, Oklahoma, for Federal deposit insurance.

Bear Creek Valley Bank, a proposed new bank to be located at the corner of Cheryl Lane and South Pacific Highway (Route 99), Phoenix, Oregon, for Federal deposit insurance.

Application for consent to change a main office location:

Bank of Winter Park, Winter Park, Colorado, for consent to relocate its main office from 78967 U.S. Highway 40 to 78515 U.S. Highway 40, both locations within Winter Park, Colorado.

Application for consent to merge:

Community Bank & Trust Company, Tulsa, Oklahoma, an insured State nonmember bank, for consent to merge with Community Banksite, Inc., Tulsa, Oklahoma, a noninsured, nonbanking corporation, under the charter and title of Community Bank & Trust Company.

Application for consent to merge and establish a branch:

The Pennsylvania Bank and Trust Company, Warren, Pennsylvania, an insured State nonmember bank, for consent to merge with the Farmers National Bank of Conneautville, Conneautville, Pennsylvania, under the charter and title of The Pennsylvania Bank and Trust Company, and for consent to establish the sole office of The Farmers National Bank of Conneautville as a branch of the resultant bank.

Application for consent to purchase assets and assume liabilities:

Bank of America National Trust and Savings Association, San Francisco, California, for consent to acquire the assets of and assume the liabilities of the Rosario Office of Banco Aleman Transatlantico, Buenos Aires, Argentina, a noninsured banking organization.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,970-1—Franklin National Bank, New York, New York.

Case No. 43,979-L—The Drovers' National Bank of Chicago, Chicago, Illinois.

Case No. 43,985-L—The Drovers' National Bank of Chicago, Chicago, Illinois.

Case No. 43,986-SR—Sharpstown State Bank, Houston, Texas.

Case No. 43,992-L—International City Bank and Trust Company, New Orleans, Louisiana.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-

insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii))

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

CONTACT PERSON FOR MORE

INFORMATION: Mr. Hoyle L. Robinson, Executive Secretary, (202) 389-4425.

[S-1500-79 Filed 7-25-79; 3:40 pm]

BILLING CODE 6714-01-M

5

FEDERAL MARITIME COMMISSION.

TIME AND DATE: August 1, 1979, 10 a.m.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public.

The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Report of the Secretary on Notation Items disposed of during June, 1979.
2. Report of the Secretary on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during June, 1979.
3. Report of the Secretary on Applications for Admission to Practice approved during June, 1979, pursuant to delegated authority.
4. Assignment of Informal Dockets by the Secretary during June, 1979.
5. Agreement No. 10066: Equal access agreement between Flota Mercante Grancolombiana S. A. and Delta Steamship Lines, Inc.—Report on implementation.
6. Inclusion of insurance provisions in rate base.

Portions Closed to the Public

1. Section 21 Order—Independent Ocean Freight Forwarders—Payment Received for the Securing or Booking of Cargo in Excess of the Compensation Provided for in the Effective Common Carrier Tariff on File with the Federal Maritime Commission—Petition for reconsideration and refusal to respond.

CONTACT PERSON FOR MORE

INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

[S-1494-79 Filed 7-25-79; 10:47 am]

BILLING CODE 6730-01-M

6

July 25, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 2 p.m., July 31, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

The Commission will consider and act upon the following:

1. *Secretary of Labor and UMWA v. Monterey Coal Company*. Docket No. HOPE 78-469, etc.
2. *Secretary of Labor v. Old Ben Coal Company*. Docket No. VINC 79-119-P.

It was determined by a unanimous vote of Commissioners that Commission business required that a meeting be held on this item and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFO: Jean Ellen, 202-653-5632.

[S-1505-79 Filed 7-25-79; 3:40 pm]

BILLING CODE 6820-12-M

7

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 2:30 p.m., Wednesday, August 1, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed new temporary report of loans and borrowings from large foreign-related banking institutions (FR 2049).
2. Proposed extensions, with revisions, of Commercial Paper Reports (FR 2957a, b, and d).
3. Proposed report to the Congress on a survey of the use of standby letters of credit.
4. Report to the Comptroller of the Currency regarding the competitive factors involved in the proposed merger of Lebanon County Trust Company, Lebanon, Pennsylvania, with National Central Bank, Lancaster, Pennsylvania.

Discussion Agenda

1. Proposed amendment to Regulation E (Electronic Fund Transfers) regarding notice of loss or theft of an access device. (Proposed earlier for public comment; docket no. R-0224).

2. Proposed regulations implementing a section of the Right to Financial Privacy Act to provide for cost reimbursement to financial institutions that provide financial records to Federal agencies.

3. Any agenda items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for \$5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: July 25, 1979.

Griffith L. Garwood,
Deputy Secretary of the Board.

[S-1501-79 Filed 7-25-79; 3:40 pm]

BILLING CODE 6210-01-M

8

FOREIGN CLAIMS SETTLEMENT COMMISSION.

[F.C.S.C. Meeting Notice No. 7-79]

Announcement in Regard to Commission Meetings and Hearings.

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Consideration of decisions involving claims of American Citizens against the German Democratic Republic:

Wednesday, August 1, 1979, at 10:30 a.m.

Wed., Aug. 8, 1979, at 10:30 a.m.

Wed., Aug. 15, 1979, at 10:30 a.m.

Wed., Aug. 22, 1979, at 10:30 a.m.

Wed., Aug. 29, 1979, at 10:30 a.m.

Oral hearings on objections to decisions issued under the German Democratic Republic Claims Program:

Wed., Aug. 1, 1979, at 2:00 p.m.; G-0075—

Anneliese and Waldemar Kunstmann.

Wed., Aug. 1, 1979, at 2:00 p.m.; G1401—Edith Seewann.

Wed., Aug. 1, 1979, at 2:00 p.m.; G-1012—Mr. and Mrs. Spiros Georges.

Thurs., Aug. 2, 1979 at 2:00 p.m.: G-2495—Marie Dickerson.
Thurs., Aug. 2, 1979 at 2:00 p.m.: G-3178—Anna Aukstulis.
Thurs., Aug. 2, 1979 at 2:00 p.m.: G-1940—Bogumilla Wdzienczna.
Tues., Aug. 21, 1979 at 2:00 p.m.: G-1804—Gerda Freitag.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Executive Director, Foreign Claims Settlement Commission, 1111 20th Street, N.W., Washington, D.C. 20579. Telephone: (202) 653-6155.

Dated at Washington, D.C. on July 23, 1979.

Francis T. Masterson,
Executive Director.

[S-1493-79 Filed 7-25-79; 10:47 am]
BILLING CODE 6770-01-M

9

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of July 23, 1979.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

MATTERS TO BE CONSIDERED:

Tuesday, July 24, 3:30 p.m. (Additional Item)

2. Briefing by Staff on Technical Issues on Restart of TMI-1 (Continued from a.m.—Approximately 1 hour—Public meeting).
3. Affirmation of Clearance for W. Clements (Approximately 5 minutes—Public meeting).

Wednesday, July 25, 11 a.m. (Additional Item)

2. Briefing by Staff on Technical Issues on Restart of TMI-1 (Continued from July 24—Approximately 1 hour—Public meeting).

CONTACT PERSON FOR MORE

INFORMATION: Walter Magee, (202) 634-1410.

Dated: July 24, 1979.

Walter Magee,
Office of the Secretary.

[S-1503-01 Filed 7-25-79; 3:40 am]
BILLING CODE 7590-01-M

10

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: July 30, 1979.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Monday, July 30, 2 p.m.

1. Budget Presentation—Office of Nuclear

Reactor Regulation (Approximately 3 hours—(Public meeting).

2. Affirmation Session (Approximately 10 minutes—(Public meeting). S-3 Order (Tentative.)

CONTACT PERSON FOR MORE

INFORMATION: Walter Magee, (202) 634-1410.

Dated: July 23, 1979.

Roger M. Tweed,
Office of the Secretary.

[S-1504-79 Filed 7-25-79; 3:40 p.m.]
BILLING CODE 7590-01-M

11

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 1:30 p.m. on August 2, 1979.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Internal personnel rules and practices.

CONTACT PERSON FOR MORE

INFORMATION: Mrs. Patricia Bausell, (202) 634-4015.

Dated: July 25, 1979.

[S-1502-79 Filed 7-25-79; 3:40 pm]
BILLING CODE 7600-01-M

12

PAROLE COMMISSION.

National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND DATE: Wednesday, July 25, 1979, at 10 a.m.

PLACE: Room 828, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at beginning of the meeting.

CHANGES IN THE MEETING: On July 24, 1979, the Commission determined that the date and time for the above meeting be changed to Thursday, July 26, 1979, at 10 a.m.; and that the above change be announced at the earliest practicable time.

CONTACT PERSON FOR MORE

INFORMATION: A. Ronald Peterson, Analyst, (202) 724-3094.

[S-1498-79 Filed 7-25-79; 10:58 am]
BILLING CODE 4410-01-M

13

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the

Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of July 30, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, July 31, 1979, at 10 a.m. An open meeting will be held on Thursday, August 2, 1979, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.42 (a)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, Pollack and Karmel determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, July 31, 1979, at 10 a.m., will be:

Formal orders of investigation.
Settlement of administrative proceedings of an enforcement nature.

Access to investigative files by Federal, State, or Self-Regulatory Authorities.
Litigation matter.

Institution of administrative proceedings of an enforcement nature.

Institution and settlement of administrative proceedings of an enforcement nature.
Subpoena enforcement action.
Freedom of Information Act appeal.
Settlement of injunctive action.
Personnel security matters.

The subject matter of the open meeting scheduled for Thursday, August 2, 1979, at 10 a.m., will be:

1. Consideration of whether to publish for public comment: (1) Proposed Rule 2a-6 under the Investment Company Act of 1940 (the "Act") which would deem a transaction not resulting in a change of actual control of management of an investment adviser or principal underwriter of an investment company to not be an assignment of an investment advisory or principal underwriting contract, respectively; and (2) Proposed Rule 15a-4 under the Act to provide an exemption, provided that certain conditions are met, so that a person may act as an investment adviser for an investment company for a limited period of time following a termination of an investment advisory contract. For further information, please contact Mark B. Goldfus at (202) 755-0230.

2. Consideration of the application of Marcus Plotkin, Murray Yolles and Robert W. Siegel, of the law firm of Plotkin, Yolles, Siegel and Turner, P.C., Southfield, Michigan, for reinstatement to appear and practice before the Commission pursuant to Rule 2(e) of the Commission's Rules of Practice. For further information, please contact Donald C. Langevoort at (202) 755-1268.

3. Consideration of whether to: (1) Adopt proposed rule 12h-4 under the Securities Exchange Act of 1934 (the "Act"), which would suspend an issuer's duty to file certain reports as to a class of securities pursuant to Section 15(d) of the Act for the balance of the issuer's fiscal year if the registration of such class is terminated under Section 12 of the Act; (2) Amend, conditionally, related Rule 12h-4 to immediately terminate an issuer's duty to file certain reports as to a class of securities pursuant to Section 12 of the Act upon the filing of a certification under Section 12(g)(4); and (3) Amend, conditionally, necessary parts of Form 12g-4/15d-6. For further information, please contact William H. Carter at (202) 376-8090.

4. Consideration of whether to affirm a determination submitted by the Securities Investor Protection Corporation pursuant to Section 3(a)(2)(B) of the Securities Investor Protection Act of 1970 regarding the exclusion of Bona S.A., a registered broker-dealer located in Costa Rica, from membership in SIPC. For further information, please contact Linda Kurjan at (202) 376-8127.

5. Consideration of an application by Loeb Rhodes, Hornblower & Co. for a limited exemption from the confirmation delivery requirements of Securities Exchange Act Rule 10b-10 and a release announcing the adoption of an amendment to the Commission's Rules or Organization delegating authority to the Director of the Division of Market Regulation to grant exemptions from Rule 10b-10. For further information, please contact Susan P. Davis at (202) 755-7610.

6. Consideration of a release inviting comment on: (1) A proposed amendment to securities Exchange Act Rule 15b9-2, which requires SECO broker-dealers to pay annual assessments; and (2) Proposed SECO assessments for fiscal year 1979. For further information, please contact Janet R. Zimmer at (202) 755-7718.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: John Ketels at (202) 755-1129.

July 24, 1979.

[S-1496-79 Filed 7-25-79; 10:47 am]
BILLING CODE 8010-01-M

14

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: [To be published].

STATUS: Closed meeting; open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATES PREVIOUSLY ANNOUNCED: Wednesday July 18, 1979.

CHANGES IN THE MEETING: Additional items.

The following additional item will be considered at a closed meeting scheduled for Tuesday, July 24, 1979, at 10 a.m.:

Regulatory matter bearing enforcement implications.

The following additional item will be considered at a closed meeting scheduled for Thursday, July 26, 1979, at 9 a.m.:

Regulatory matter bearing enforcement implications.

The following additional item will be considered at an open meeting scheduled for Thursday, July 26, 1979, at 10 a.m.

Consideration of proposed rule changes submitted by the New York Stock Exchange, Inc. and the American Stock Exchange, Inc. to extend the effectiveness of their respective rules governing market makers in equity securities. For further information, please contact Michael J. Kulczak at (202) 755-7526 or William S. Muller at (202) 755-1374.

Chairman Williams and Commissioners Loomis, Evans, Pollack and Karmel determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: George Yearsich at (202) 755-1100.

July 23, 1979.

[S-1495-79 Filed 7-25-79; 10:47 am]
BILLING CODE 8010-01-M

15

TENNESSEE VALLEY AUTHORITY.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 43146 (July 23, 1979).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Thursday, July 26, 1979.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

CHANGES IN MATTERS FOR ACTION:

The following item is added to the previously announced agenda:

- H—Unclassified.
4. Policy on Allowance for Funds Used During Construction.

CONTACT PERSON FOR MORE

INFORMATION: James L. Bentley, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257. Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202-245-0101.

SUPPLEMENTARY INFORMATION:

TVA Board Action

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires the subject matter of this meeting to be changed to include the additional item shown above and that no earlier announcement of this change was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below.

Dated: July 25, 1979.

S. David Freeman.
Richard M. Freeman.

[S-1497-79 Filed 7-25-79; 10:47 am]
BILLING CODE 8120-01-M

16

COUNCIL ON ENVIRONMENTAL QUALITY.

TIME AND DATE: August 2, 1979, 11:30 a.m.

PLACE: Conference Room, 722 Jackson Place, N.W., Washington, D.C. 20006.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Old business
2. Briefing on status of agencies' NEPA procedures
3. Briefing on release of *Our Nation's Wetlands*
4. Briefing on status of the Toxic Substances Strategy Committee Report

CONTACT PERSON FOR MORE

INFORMATION: Foster Knight 395-4616.

[S-1506-79 Filed 7-25-79; 9:09 am]
BILLING CODE 3125-01-M

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Register Federal

Friday
July 27, 1979

Part II

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and
Federally Assisted Construction; General
Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to

be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedes Decisions to General Wage Determination Decisions

Modifications and supersedes decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedes Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedes Decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate

information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Alabama..... AL79-1061..... April 13, 1979.
Massachusetts..... MA79-2006..... February 23, 1979.
Utah..... UT78-5128..... October 6, 1978.

Supersedes Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedes Decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama..... AL78-1093(AL79-1114)..... November 24, 1978.
Montana..... MT77-5057(MT79-5106)..... June 3, 1977.
Ohio..... AP-684(OH79-2066)..... May 25, 1973

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. this 20th day of July 1979.

Dorothy P. Come,
Assistant Administrator, Wage and Hour Division

BILLING CODE 4510-27-M

MODIFICATIONS P. 2

DECISION NO. MA79-2006 - MOD #1
(44 FR 10944 - February 23, 1979)
Berkshire, Franklin, Hampden &
Hampshire Counties, Massachusetts

CHANGE:
BUILDING & RESIDENTIAL
CONSTRUCTION

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$ 8.95	.70	1.00		.10
9.20	.70	1.00		.10
9.45	.70	1.00		.10
9.70	.70	1.00		.10
9.95	.70	1.00		.10

CLASSIFICATIONS

CLASS I
Carpenter Tenders, Cement Finisher Tenders, Laborers, Wrecking Laborers

CLASS II
Asphalt Pavers, Fence and Guard Rail Erectors, Laser Beam Op., Mason Tender, Pipelayer, Pneumatic Drill Op., Pneumatic Tool Op., Wagon Drill Op.

CLASS III
Pre-Cast Floor and Roof Plank Erectors

CLASS IV
Air Track Op., Block Pavers, Rammers, Curb Setters

CLASS V
Blasters, Powdermen

MODIFICATIONS P. 1

DECISION #AL79-1061 - Mod. #1
(44 FR 22303 - April 13, 1979)
Mobile County, Alabama

CHANGE:

Elevator constructors
Plumbers, steamfitters
Sheet metal workers

FOOTNOTES:
c. Employer contributes 8% basic hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% basic hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
10.69	.895	.69	b+c	.03
11.65	.60	1.10	d	.03
11.15	.70	.71		.07

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MODIFICATIONS P. 3

DECISION NO. MA79-2006 - (Cont'd)

CHANGE:
HEAVY & HIGHWAY
CONSTRUCTION

LABORERS:

CLASS I
CLASS II
CLASS III
CLASS IV

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Postings	Vacation	
\$ 8.95	.70	1.00		.10
9.20	.70	1.00		.10
9.70	.70	1.00		.10
9.95	.70	1.00		.10

CLASSIFICATIONS

CLASS I
Carpenter Tenders, Cement Finisher Tenders, Laborers, Wrecking Laborers

CLASS II
Asphalt Pavers, Fence and Guard Rail Erectors, Laser Beam Op., Mason Tender, Pipelayer, Pneumatic Drill Op., Pneumatic Tool Op., Wagon Drill Op.

CLASS III
Air Track Op., Block Pavers, Rammers, Curb Setters

CLASS IV
Blasters, Powdermen

MODIFICATIONS P. 4

DECISION NO. MA79-2006 - (Cont'd)

BUILDING CONSTRUCTION

POWER EQUIPMENT OPERATORS:

Class I
Class II
Class III
Class IV
Class V
Class VI
Class VII

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Postings	Vacation	
\$10.58	.95	1.00	a	.07
10.38	.95	1.00	a	.07
10.18	.95	1.00	a	.07
9.81	.95	1.00	a	.07
8.89	.95	1.00	a	.07
8.39	.95	1.00	a	.07
7.57	.95	1.00	a	.07

CLASSIFICATIONS

CLASS I: Shovels, Cranes, Hydraulic Cranes 10 ton capacity or over, Draglines, Derricks, Elevators with Chicago Boom, Backhoes, Gradalls, Elevating Graders, Piledriving Rigs, Concrete Road Pavers, 3 Drum Hoisting and Trenching Machines, Belt Type Loaders, Front End Loader 5 1/2 yds. or over, Dual Drum Paver, Automatic Grader (i.e. C.M.I.) Combination Back Hoe-Loader 3/4 yd. Hoe or over

CLASS II: Rotary Drill (with mounted compressor), Compressor House (3 to 6 compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Graders, Front End Loaders 4 yds to 5 1/2 yds., Two Drum Hoist, High Fork Lifts with capacity of 15 feet and over, Scrapers 21 yds. and over (struck load), Sonic Hammer Console

CLASS III: Combination Backhoe - Loader - up to 3/4 Hoe, Bulldozers, Push Cats, Scraper - up to 21 yds. (struck load) - Self-Propelled or Tractor Drawn, Tireman, Front End Loaders - up to 4 yds., Asphalt Paver, Asphalt Roller - 10 ton or over, Well Drillers, Mechanics, Welders, Pumpcrete Machines, Concrete Pumps and similar type pumps, Engineer or Fireman on High Pressure Boiler (on job), Self-Loading Batch Plant, Well Point, Electric Pumps used in Well Point Systems, Pumps 12 inches and over (total discharge), Compressor (one or two) 900 cu. ft. and over, Powered Graso-Truck, Automatic Elevators (manually or remote controls) Grout Pumps, Boom truck, Hydraulic Cranes under 10 ton

CLASS IV: Asphalt Roller - under 10 ton

MODIFICATIONS P. 5

DECISION NO. MA79-2006 - (Cont'd)

CLASS V: Single Drum Hoist, Self-Propelled Roller, Self-Propelled Compactors Power Pavement Breakers, Concrete Pavement Finishing Machines, Two Bag Mixers with Skip, McCarthy and similar Drills, Batch Plants (not self-loading) Bulk Cement Plants, Self-Propelled Material Spreaders, A-Frame Trucks, Fork Lifts up to 15 feet

CLASS VI: Compressors (one or two) 315 cu. ft. to 900 cu. ft., Pumps 4 inches to 12 inches (total discharge), Tractor (without blade or bucket) Drawing Rollers Rubber, Tire Roller, Compactors or other machines used for pulverizing, Grading or Seeding

CLASS VII: Compressors (up to 315 cu. ft.), Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines, Conveyors, Oilier:

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Holidays: A through F, Veterans' Day and Columbus Day

MODIFICATIONS P. 6

DECISION NO. MA79-2006 - (Cont'd)

HEAVY & HIGHWAY CONSTRUCTION

POWER EQUIPMENT OPERATORS:

CLASS I
CLASS II
CLASS III
CLASS IV
CLASS V
CLASS VI
CLASS VII
CLASS VIII

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Postings	Vacation	
\$10.58	.95	1.00	a	.07
10.38	.95	1.00	a	.07
10.18	.95	1.00	a	.07
9.81	.95	1.00	a	.07
8.89	.95	1.00	a	.07
8.39	.95	1.00	a	.07
7.57	.95	1.00	a	.07
11.08	.95	1.00	a	.07

CLASSIFICATIONS

GROUP I Shovels, Crawler and Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Belt-Type Loaders, Gradalls, Pile Drivers, Concrete Pavers, on site Processing Plant (engineer in charge), Dragline, Cram Shell, Cableways, Shaft Hoists, Mucking Machines, Front End Loader 5 1/2 yards and over, Tower Cranes, Self-Propelled Hydraulic Cranes 10 tons and over, Dual Paver, Automatic Graders Excavator (C.M.I. or equal), Scrapers Towing Pan or Wagon, Tandem Dozers or Push Cats (2 units in tandem), Welder using Semi Automatic Welding Machine, Shotcrete Machine, Tunnel Boring Machine

GROUP II Rotary Drill (with mounted compressor), Compressor House 3 to 6 compressors, Rock and Earth Boring Machines (excluding McCarthy and similar drills), Grader, Front End Loaders 4 yards to 5 1/2 yards, Scraper 21 yards and over (struck load), Forklifts 7 ft. lift and over or 3 ton capacity and over, Sonic Hammer Console

GROUP III Bulldozer, Push Cats, Scrapers up to 21 yards (struck load) Self-Propelled or Tractor Drawn, Self-Powered Asphalt Paver, Front End Loaders up to 4 yards, Mechanics, Welders, Well Driller, Pumpcrete Machine, Engineer or Fireman on High Pressure Boiler (on job), Self-Loading Batch Plant (on job), Well Point Operators, Electric Pumps used in Well Point System, Tiremen, Pumps 16 inches or over total discharge, Compressors (1 or 2) cu. ft. and over Powered Graso-Truck, Asphalt Roller 10 ton and over, Tunnel Locomotives and Dinkys, Grout Pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Boom Truck Self-Propelled Hydraulic Cranes up to 10 ton

GROUP IV Asphalt Roller up to 10 ton

DECISION NO. MA79-206 - (Cont'd) MODIFICATIONS P. 8

DECISION NO. MA79-206 - (Cont'd) MODIFICATIONS P. 8

GROUP V Hoists, Conveyors, Self-Powered Rollers and Compactors, Power Pavement Breakers, Self-Propelled Material Spreader, Self-Powered Concrete Finishing Machine, Two Bag Mixer with skip, McCarty and smaller Drills, Batch Plant (not self-loading), Bulk Cement Plant

GROUP VI Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps "1" to "16" total discharge, Tractor without blade drawing sheeps foot Roller, Rubber Tired Roller or other type of compactors including machines for pulverizing and aerating soil

GROUP VII Compressor (up to 315 cu. ft.), Small Mixers with skip, Oilier, Pumps up to 4", Grease Truck, Power Heaters, Welding Machine, A-Frame Trucks, Forklifts up to 7 ft. lift and up to 3 ton capacity Hydro Broom, Parts Man (in repair shop), Power Safety Boat

GROUP VIII Operator of Cranes with 200 foot of boom or more

FOOTNOTES:

a. Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veteran's Day; Thanksgiving Day and Christmas Day

RECOGNITIONS:
a. Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veteran's Day; Thanksgiving Day and Christmas Day

RECOGNITIONS:

a. Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veteran's Day; Thanksgiving Day and Christmas Day

Painters:
Brush & Tapers
Spray - Epoxy thinned
other than with water
Spray - Materials thinned
with water &/or mineral
spirits other than
epoxies
Plumbers
Roofers:
Composition, Damp & Water
Proofing
Slate, Tile & Precast
Concrete
Steamfitters

MODIFICATIONS P. 10

Decision #UT73-5128 - Mod. #6 Cont'd.

Basic	Basic	Fringe Benefits Payments

LABORERS	Rates	Heavy & Highway Construction		Rates	H & W
		AREA 1	AREA 2		
Group 1	8.02	9.52	.50		
Group 2	8.15	9.65	.50		
Group 3	8.27	9.77	.50		
Group 4	8.52	10.02	.50		
Group 5	9.02	10.52	.50		
Tunnel and Shaft Work					
Group 1	8.17	9.67	.50		
Group 2	8.27	9.77	.50		
Group 3	8.47	9.97	.50		
Group 4	9.02	10.42	.50		

LABORERS
Heavy and Highway Construction

Group 1: General Laborers

Group 2: Asphalt raker; Sandblast pot tender; Gunite nozzleman; Concrete pump head hoseman; Signalmen and dumpten on concrete construction

Group 1: General Laborers

Group 2: Asphalt raker; Sandblast pot tender; Gunite nozzleman; Concrete pump head hoseman; Signalman and dumpman on concrete construction

Group 2: Asphalt raker; Sandblast pot tender; Gunite nozzleman; Concrete pump head hoseman; Signalman and dumper on concrete construction

Group 4: Air tank and similar drills

Group 5: Powderman

Group 1: Underground laborers
Group 2: Brakeman; Chucktender; Dumpman; Powderman; Tender; Puddler; Nipper; Taper; Vibrator; Screedmen

Group 4: Shifter

POWER EQUIPMENT OPERATORS:
Steel Erection

Group 1
Group 2
Group 3
Group 4
Group 4-A
Group 5
Group 6
Group 6-A
Group 7

Bill of Materials

**POWER EQUIPMENT OPERATORS:
Heavy & Highway Construction**

Group 1
Group 2
Group 3
Group 4
Group 5
Group 6
Group 7
Group 7-A
Group 8
Group 8-A
Group 9
Group 10
Group 11
Group 11-A
Group 11-B
Group 12

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TRUCK DRIVERS	Basic Hourly Rates	AREA 1	AREA 2	Fringe Benefits Payments			Education and/or Appr. Tr.
				H & W	Pensions	Vacation	
DUMP TRUCKS - Water level capacity (bottom, end and side) (Including Dumpster Trucks, Euclid type Trucks, Turnwagons, Turnrockers and Dumpcrete)							
Less than 8 yds.	10.25		\$ 11.75	.98			.10
8 yds. and less than 14 yds.	10.40		11.90	.98	1.14	\$1.00	.10
14 yds. and less than 35 yds.	10.55		12.05	.98	1.14	1.00	.10
35 yds. and less than 55 yds.	10.75		12.25	.98	1.14	1.00	.10
55 yds. and less than 75 yds.	10.95		12.45	.98	1.14	1.00	.10
75 yds. and less than 95 yds.	11.15		12.65	.98	1.14	1.00	.10
95 yds. and less than 105 yds.	11.35		12.85	.98	1.14	1.00	.10
105 yds. & less than 130 yds.	11.47		12.97	.98	1.14	1.00	.10
130 cu. yds. and over to be paid one-half cent (\$.005) per cu. yds. capacity per hour in addition to rate for 105 yards and less than 130 yards							
FLAT RACK TRUCKS, Bulk Cement Trucks, Transport Trucks, Seal-Trailer (carrying capacity):							
Pickup	10.075		11.575	.98	1.14	1.00	.10
Less than 10 tons	10.15		11.65	.98	1.14	1.00	.10
10 tons and less than 15 tons	10.30		11.80	.98	1.14	1.00	.10
15 tons and less than 20 tons	10.40		11.90	.98	1.14	1.00	.10
20 tons and over	10.55		12.05	.98	1.14	1.00	.10
TRANSIT MIX TRUCKS:							
Less than 8 cu. yds. capacity	10.475		11.975	.98	1.14	1.00	.10
Over 8 to 14 cu. yds.	10.575		12.075	.98	1.14	1.00	.10
CONCRETE PUMPING TRUCKS	10.475		11.975	.98	1.14	1.00	.10

TRUCK DRIVERS CONT'D	Basic Hourly Rates	AREA 1	AREA 2	Fringe Benefits Payments			Education and/or Appr. Tr.
				H & W	Pensions	Vacation	
WATER, FUEL & OIL TANK TRUCKS:							
Less than 1200 gallons	10.125		11.625	.98	1.14	\$1.00	.10
1200 gallons to less than 2500 gallons	10.25		11.75	.98	1.14	1.00	.10
2500 gallons to less than 4000 gallons	10.40		11.90	.98	1.14	1.00	.10
4000 gallons to less than 6000 gallons	10.70		12.20	.98	1.14	1.00	.10
6000 gallons to less than 10,000 gallons	10.95		12.45	.98	1.14	1.00	.10
10,000 gallons to less than 15,000 gallons	11.20		12.70	.98	1.14	1.00	.10
15,000 gallons to less than 20,000 gallons	11.45		12.95	.98	1.14	1.00	.10
20,000 gallons to less than 25,000 gallons	11.70		13.20	.98	1.14	1.00	.10
25,000 gallons and over	11.95		13.45	.98	1.14	1.00	.10
OILER SPREADER OPERATOR (on single man operation where Boot Man is not required)	10.95		12.45	.98	1.14	1.00	.10
CONSTRUCTION JOB SERVICEMEN:							
Fork Lift; Straddle Truck	10.45		11.95	.98	1.14	1.00	.10
Chauffeur	10.025		11.525	.98	1.14	1.00	.10
Sweeper or Vacuum Truck	10.40		11.90	.98	1.14	1.00	.10
Warehousemen (counter clerk)	10.45		11.95	.98	1.14	1.00	.10
Washers	10.225		11.725	.98	1.14	1.00	.10
Tireman and Greaser	10.65		12.15	.98	1.14	1.00	.10
Gas Station Attendants	10.075		11.575	.98	1.14	1.00	.10
Teamster Mechanic and Welder	11.26		12.76	.98	1.14	1.00	.10
Teamster Driving two Horses	11.025		12.525	.98	1.14	1.00	.10
Teamster Driving three or more horses	11.125		12.625	.98	1.14	1.00	.10

SUPERSEDEAS DECISION

STATE: Alabama
DECISION NO. AL79-1114
Superseades Decision No. AL78-1093 dated November 24, 1978
In 43, FR-55127
Description of Work: Building Construction Projects (does not include residential construction consisting of single family homes and apartments up to and including 4 stories).

AL79-1114

COUNTY: Etowah
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
ASBESTOS WORKERS	11.21	.45	.70			
A/C and HEATING MECHANIC	10.45	.69	.60		.09	
BRICKLAYERS	10.80		.55		.05	
CARPENTERS:						
Carpenters	8.70	.55	.40			
Millwrights	8.95	.55	.40			
CEMENT MASONS	9.90	.25	.25			
ELECTRICIANS	12.05	.55	38% .40		.05	
GLAZIERS	7.73				% of 1%	
IRONWORKERS:						
Structural and Ornamental	10.75	.60	.815		.06	
Reinforcing	10.75	.60	.815		.06	
Sheeters	10.75	.60	.815		.06	
INSULATORS	8.35					
LABORERS:						
Laborers	5.40	.20	.15			
Mortar mixers	5.50	.20	.15			
LATHERS	8.50					
PAINTERS, brush	7.79					
PLUMBERS AND PIPEFITTERS	11.95	.50	.55	a	.07	
ROOFERS	8.90		.20		.10	
SHEET METAL WORKERS	10.70	.69	.82		.09	
SPRINKLER FITTERS	10.80	.75	1.00			
TRUCK DRIVERS:						
Up to but not Inc. 1½ tons	7.05	.40				
1½ up to but not Inc. 3 tons						
3 up to but not Inc. 5 tons	7.25	.40				
5 tons and over Inc.	7.50	.40				
special equipment						
Heavy-Duty-off the road trucks	7.65	.40				
Welders - Rate for Craft.	7.75	.40				
FOOTNOTE:						
a. Four Paid Holidays:						
July 4; Labor Day;						
Thanksgiving Day;						
Christmas Day						

FOOTNOTE:
a. Four Paid Holidays:
July 4; Labor Day;
Thanksgiving Day;
Christmas Day

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
GROUP A Asphalt plant; boom tractor; bulldozer; cableways; core drillers; compressors (2 or more); crane derrick dragline; dinky locomotive; dredges; forklift; front end loader; gradall; heavy duty mechanic; hoist (1 drum or more); mixers; push tractors; scrapers; shovels; trenching machine (and all similar equipment); winch trucks; motor graders; concrete pumps; piledriver; rotary drill	10.04	.40	.30		.10
GROUP B Air compressor (over 125); Asphalt spreader; blade graders (pull type); boat operator; conveyors (2 or more up to 4); crawler tractor; distributors; (bituminous surface); farm tractors; finishing machine; pumps over 4 inches; rollers; welding machine (4 or more)	9.51	.40	.30		.10
GROUP C Air compressor (125 & under); oilers-firmen; conveyor-(1) tended by oiler; pumps (under 4 inches); welding machines (3 or under)	8.44	.40	.30		.10

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SUPERSEDAS DECISION

STATE: Montana

COUNTIES: Cascade, Deer Lodge, Gallatin, Glacier, Hill, Missoula, Silver Bow and Valley

DECISION NUMBER: MT79-5106
Supercedes Decision No. MT79-5057 dated June 3, 1977, in 42 FR 28769
DESCRIPTION OF WORK: Residential Projects (consisting of single family homes and apartments up to and including 4 stories)

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
10.74	.40	.30		.10
10.03	.40	.30		.10
8.57	.40	.30		.10

GROUP D
ON STEEL ERECTION: crane; dragline derrick; hoist; piledriver; winch truck; forklift; tower cranes; climbing cranes; cherry pickers; mechanics; lomo-tives; tug boat

GROUP E
Tractors; welding machine gas or diesel driven; (4 or more); air compressors over 125 (2 or less); power generating units (gas or diesel)

GROUP F
Gas or diesel driven welding machine (3 or less); air compressor 125 and under (2 or less); oiler; fireman; small boat

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
13.75	.44	\$ 1.20		.02
12.30	.85	1.00		.05
11.15	.70	.55		.05
10.65	.60	.55		.05
11.70	.55	.55		.05
11.35	.55	.55		.05
11.50	.55	.55		.05
9.85	.70	.75		.02
10.10	.70	.75		.02
10.35	.70	.75		.02
9.92	.70	.75		.02
9.73	.70	.75		.02
10.03	.70	.75		.02
9.98	.70	.75		.02
9.52	.75	.70		.02
9.53	.70	.75		.02
9.40	.70	1.00	.75	.02
9.30	.70	.75		.02
9.80	.70	.75		.02
9.14	.70	.75		.02
9.90	1.00	.50		
8.95	.75	.35		
10.50				
11.60	.60	34+.75		1/28
11.85	.60	34+.75		1/28
11.65	.60	34+.50		1/28
11.60	.60	34+.75		1/28
11.00		34+.75		1/28

ASBESTOS WORKERS
BOILERMAKERS
BRICKLAYERS
Cascade and Glacier Counties
Deer Lodge County
Missoula County
Gallatin County
Hill and Valley Counties
Silver Bow County
CARPENTERS
Cascade and Glacier Counties
Carpenters
Piledriverman; Saw Filers;
Sawmen
Millwrights
Deer Lodge County;
Carpenters
Missoula County;
Carpenters
Millwrights; Piledrivermen
Power Saw; Saw Filer
Gallatin County
Hill County
Silver Bow County
Valley County;
Carpenters
Millwrights
Piledrivermen
CEMENT MASONS
Cascade, Hill and Valley Cos.
Deer Lodge and Silver Bow Cos.
Missoula County
ELECTRICIANS
Cascade and Glacier Counties:
Electricians
Cable Splicers
Deer Lodge and Silver Bow Cos.
Hill County;
Contracts over \$150,000
Contracts under \$150,000

AL79-1114

POWER EQUIPMENT OPERATORS

DECISION NO. MT79-5106

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
12.25	.60	34+.50		1/28
12.85	.60	34+.50		1/28
11.20	.45	34		1/28
10.15	.60	34+.75		1/28
10.84	.745	.56	.025	.025
700JR	.745	.56		
500JR				
12.60	.93	1.45		.10
11.26	.70	1.25		.05
10.65	.60	.55		.05
11.70	.55	.55		.05
11.35	.55	.55		.05
11.15	.70	.55		.05
9.77	.56	.40		.10
10.27	.56	.40		.10
10.27	.56	.40		.10
12.02	.56	.40		.10
9.27	.56	.40		.10
9.23	.42	.35		.04
8.16	.44	.40		
8.95	1.00	.50		
10.50	.75	.35		
12.60	.75	1.10		.14
12.93	.65	.70		.10
12.75	.70	.85		.10

ELECTRICIANS: (Cont'd)
Missoula County:
Electricians
Cable Splicers
Gallatin County
Valley County:
Electricians
ELEVATOR CONSTRUCTORS
ELEVATOR CONSTRUCTORS' HELPERS
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)
IRONWORKERS:
Structural; Ornamental and Reinforcing;
Glacier and Missoula Counties
Remaining Counties
MARBLE MASONS:
Missoula County
Gallatin County
Hill and Valley Counties
Cascade and Glacier Counties
PAINTERS:
Cascade, Glacier and Valley Cos.;
Brush
Paperhanger
Brush on Steel
Spraying; Sandblasting
Gallatin County:
Brush
Silver Bow County:
Brush
Missoula County
PLASTERERS:
Deer Lodge and Silver Bow Cos.
Missoula County
PLUMBERS:
Cascade, Glacier, Hill and Valley Counties
Missoula County
Remaining Counties

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
9.90	.60	.60	.75	.02
8.85	.65	.10		
9.44	.55			
9.25				
11.43	.66	.25		.08
12.27	.44	.44		.03
12.12	.89	.25		.11
10.805	.68	34+.725		.23
11.70	.75	1.05		.08
10.65	.60	.55		.05
11.15	.70	.55		.05
11.70		.55		
8.60	.60	.50		.03
8.70	.60	.50		.03
8.85	.60	.50		.03
9.00	.60	.50		.03
9.10	.60	.50		.03
9.35	.60	.50		.03

ROOFERS:
Cascade, Glacier, Hill and Valley Counties
Deer Lodge and Silver Bow Cos.
Missoula County
Gallatin County
SHEET METAL WORKERS:
Cascade, Glacier and Hill Cos.
Deer Lodge and Silver Bow Cos.
Missoula County
Gallatin and Valley Counties
SPRINKLER FITTERS
TERRAZZO AND TILE SETTERS:
Missoula County
Cascade and Glacier Counties
Gallatin County
FOOTNOTE:
a. Employer contributes 8% of basic hourly rate for 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A-Through F.
PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.
LABORERS
Hill and Valley Counties:
Group 1
Group 2
Group 3
Group 4
Group 5
Group 6

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LABORERS (Cont'd)

Missoula County

- Group 1
- Group 2
- Group 3

Cascade and Glacier Counties

- Group 1
- Group 2
- Group 3
- Group 4
- Group 5
- Group 6
- Group 7

Gallatin County

- Group 1
- Group 2
- Group 3
- Group 4
- Group 5
- Group 6
- Group 7
- Group 8

Deer Lodge and Silver Bow Cos.

- Group 1
- Group 2
- Group 3
- Group 4
- Group 5
- Group 6
- Group 7
- Group 8
- Group 9

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$ 8.565	.60	.50		.05
8.815	.60	.50		.05
8.965	.60	.50		.05
8.85	.60	.50		.05
8.60	.60	.50		.05
8.76	.60	.50		.05
9.10	.60	.50		.05
8.70	.60	.50		.05
8.82	.60	.50		.05
8.89	.60	.50		.05
8.38	.60	.50		.05
8.13	.60	.50		.05
8.29	.60	.50		.05
8.63	.60	.50		.05
8.23	.60	.50		.05
8.35	.60	.50		.05
8.42	.60	.50		.05
8.73	.60	.50		.05
8.21	.60	.50		.05
8.96	.60	.50		.05
8.12	.60	.50		.05
8.46	.60	.50		.05
8.06	.60	.50		.05
8.18	.60	.50		.05
8.26	.60	.50		.05
8.56	.60	.50		.05
8.08	.60	.50		.05

LABORERS
Hill and Valley Counties

Group 1: General and Building Laborers' and Scale Men; Form Stripper and Carpenter Tenders; Car and Truck Loaders; Concrete Laborers (wet or dry breaking of concrete requiring sledge hammer); Dumpmen (spotter and flagman); Small Power Tools, Chippers, Clay Spaders, Pogo Stick, etc.; Fence Erectors and Installers, Installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers

Group 2: Dumpmen (grade)

Group 3: Power Driven Concrete Buggies or Power Driven Wheelbarrows; Pipe Layers (non-metallic); Sandblaster, Concrete Nozzleman, Place Operator, Jackhammer, Pavement Breaker, Vibrator (24 inches and over); Barco Tamper, Vibrator Turtle; Small Concrete Mixers, Concrete Saw; Nozzleman (air and water); Sandblaster, Tailhouseman, Pot Tender, Tar Pot Tender, Gunite Nozzleman; Caisson Workers (free air); Tunnels and Shafts (free air); Bull Gang; Pot Tender; Chuck Tender; Muckers and Nippers, Primerhouseman

Group 4: Brick Tenders (handling bricks and blocks only)

Group 5: Rod Carriers and Plaster Tenders (men carrying mortar either by Rod Peil or barrow); High Scaler; Wagon Driller, cat or truck mounted air operated drills; Asphalt Bakers and Tampers, Gunite, Form Setter (slab steel forms); Stake Setter, Stake Jumper, Rodder and Spreader, Gradenan; Concrete Nozzleman; Miners

Group 6: Powdermen; Laser Tools and Equipment

Missoula County

Group 1: Laborers

Group 2: All Power Tools, Creosote Workers; Jackhammer; Marble and Tile Setters' Tenders; Pipelayers; Pipewrappers; Pot Tenders; Small Concrete Mixers; Vibrators

Group 3: Cement Masons' and Plasterers' Tenders; Mason Tenders; Pumpcrete, Gunite and Plasterer Pump

LABORERS (Cont'd)

Cascade and Glacier Counties

Group 1: General and Building Laborers' and Scale Men; Concrete Laborers (wet or dry breaking of concrete requiring sledge hammer); Dumpmen (spotter) and Flagman; Fence Erectors and Installers, including installation and erection of fences, guardrails, median rails, reference posts, guide posts and right-of-way markers; Vibrators, under 14" in diameter; Small air tools such as Chippers, Clay Spaders, etc.; Stake Setters; Stake Jumper, Rodder and Spreader, Form Stripper; Caisson Workers (free air); Vibrator, 14" to 24" in diameter

Group 2: Concrete or Asphalt Saws; Creosote Material Handler; Curb Machine Form Setter (slab steel forms); Diamond Drills up through 3 inches in diameter; Jackhammer, Pavement Breaker, Wagon Driller, Cat or Truck mounted air operator drills, and other air tools; Diesel Tamper, Wacker, Jay, Turtle, Pogo Sticks, etc.; Mechanical Tampers; Nozzleman, air and water, Gunite and Placo Machine (grout); Pipe Layer (all types); Power Saw (bucking and falling); Power Driven Wheelbarrow; Chuck Tenders, Muckers and Nippers, Primerhouseman

Group 3: Sand Blaster

Group 4: Vibrators, 24" to 4" in diameter; Brick Tenders; Dumpmen (Grade); Small Concrete Mixers

Group 5: Diamond Drills up through 6 inches in diameter; Rod Carriers and Plaster Tenders (1 mixerman per crew); Asphalt Raker and Tamper; High Scaler; Powderman Tenders; Concrete Nozzleman; Miners; Barco Tamper; Air-trac

Group 6: Diamond Drill, over 6 inches in diameter; Self-propelled Drills, with the exception of size differential, such as Mustang Drills or Twin Stack Drills; Core Drill Operator; Laser Equipment and Tolls, excluding Transit; Powderman

Group 7: Concrete Vibrator, 4" and over

LABORERS (Cont'd)

Gallatin County

Group 1: Asphalt Raker; Drills, air-tract, self-propelled; Car or Truck mounted air operated drills; Drills, air-tract, self-propelled Mustang type and similar; Grade Setter; High Scaler; High Pressure Machine Nozzleman; Power Saw (falling); Sandblaster

Group 2: Axeman; Carpenter Tender; Car and Truck Loader; Scissorman; Caisson Workers (free air); Chuck Tender and Nipper (above ground); Cosmocone applying and removing; Dumpman (spotter); Fence Erector and Installer (includes the installation and erection of fences, guard rails, median rails, reference post, right-of-way markers and guide post); Form Stripper; Form Setter; General Laborer; Crusher and Batch Plant Laborers; Heater Tender - not covered by joint board decision - such as the Radiant type of butane fire, without blowers or fans; Landscape Laborer; Riprap Tenders; Sandblaster Tail Hoseman; Pot Tender; Scaleman; Sod Cutter, hand operator; Stake Jumper for equipment; Tool Checker, toolhouseman

Group 3: Burning Bar; Curb Machine; Dumpman (Gradenan); Pipelayer (all types); Laser Equipment; Powderman Tenders; Spike Driver, single or dual or hand; Switchmen

Group 4: Cement Mason Tender and Rod Carriers; Powderman

Group 5: Cement Handlers; Concrete or Asphalt Saws, hand faller; Nozzleman- air water; Mixer Operator, gunite and placo machine; Pipe Wrapper; Post Hole Digger (power auger); Ripraper

Group 6: Choker Setter; Jackhammer; Pavement Breaker; Wagon Driller; Concrete Vibrator; Mechanical Tamper; Vibrating Roller, hand steered and other power tools; Power Saw (bucking); Power Driven Wheelbarrow; Rigger; Tar Pot Operator; Grout; Concrete Pump and Nozzleman

Group 7: Concrete Vibrator (3" and over), drill, air tract with dual waste

Group 8: Core Drill Operator; Welder, air arc, cutting torch

LABORERS (Cont'd)
Deer Lodge and Silver Bow Counties

Group 1: Asphalt Baker; Concrete Laborer (wet or dry); Bucket Men and Signalmen; Drills, air-tract, self-propelled; Cat or truck mounted air-operated drills; Drills, Air-tract, self-propelled Mustang type and similar; Grade Setter; High Scaler; High Pressure Machine Nozzleman; Power Saw (falling); Sandblaster

Group 2: Axeman; Carpenter Tender; Calson Worker (free air); Chuck Tender and Ripper (above ground); Comolene applying and removing; Dumpman (spotter); Fence Erector and Installer (includes the installation and erection of fences, guard rails, median rails, reference post, right-of-way markers and guide post); Flagman; Form Stripper; Form Setter; General Laborer; Grusher and Batch Plant Beater Tender - not covered by joint board decision such as the radiant type of butane fire, without blowers or fans; Landscape laborer; Riprap Tenders; Sandblaster Tail Hoseman; Pot Tender; Scaleman; Sod Cutter, hand operated (general laborers); Stake Jumper for equipment; Toll Checker, Tollhouseman

Group 3: Burning Bar; Curb Machine; Dumpman (grademan); Pipelayer (all types); Laser Equipment; Powderman Tender; Spike Driver, single or dual hand; Switchmen

Group 4: Cement Mason Tender and Rod Carriers; Powderman

Group 5: Cement Handlers; Concrete or asphalt Saws; Hand faller; Nozzleman, air, water, Gunite and Placo Machine; Pipe Wrapper; Post Hole Digger (power auger); Ripraper

Group 6: Choker Setter; Jackhammer; Pavement Breaker; Wagon Driver; Concrete Vibrator; Mechanical Tamper; Vibrating Roller, hand steered and other power tools; Power Saw (bucking); Power Driven Wheelbarrow; Rigger; Grout, concrete pumps and nozzleman

Group 7: Concrete Vibrator (3" and over); Drills, air-tract with dual mast

Group 8: Core Drill Operator, Welder, Air Arc, cutting torch

Group 9: Tar Pot Operator

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or App. Tr.
		H & W	Pensions	Vacation	
A-Frame Truck Crane, Winch Truck and similar	\$ 10.60	.55	.55	.45	.07
Air Compressor, single	10.29	.55	.55	.45	.07
Air Compressor, two or more	10.46	.55	.55	.45	.07
Air Doctor	10.76	.55	.55	.45	.07
Asphalt Paving Machine	10.76	.55	.55	.45	.07
Automatic Paving Machine Screed and other similar types	10.89	.55	.55	.45	.07
Automatic Finegrade, Gurrice	10.46	.55	.55	.45	.07
Bit Finish Machine	10.76	.55	.55	.45	.07
Bit Grinder	10.76	.55	.55	.45	.07
Bituminous Mixer Paving, Travel Plant	10.76	.55	.55	.45	.07
Boring Machine (small), Jeep, Pickup or Farm Tractor mounted	10.35	.55	.55	.45	.07
Boring Machine (large)	10.76	.55	.55	.45	.07
Broom, self-propelled	10.43	.55	.55	.45	.07
Cableway Highline	11.27	.55	.55	.45	.07
Cement Silo	10.55	.55	.55	.45	.07
Central Mixing Plants, Concrete dam and stationary	11.01	.55	.55	.45	.07
Chain Bucket Loader	10.46	.55	.55	.45	.07
Chip or Gravel Spreader, self-propelled	10.48	.55	.55	.45	.07
Concrete Batch Plant, one and two Mixers	10.76	.55	.55	.45	.07
Concrete Batch Plant, three and four mixers	10.96	.55	.55	.45	.07
Concrete Batch Plant, five mixers and over	11.16	.55	.55	.45	.07
Concrete Batch Plant Oiler, up to and including two mixers	10.28	.55	.55	.45	.07
Concrete Batch Plant Oiler, three mixers and over	10.59	.55	.55	.45	.07
Concrete Bucket Dispatcher	10.76	.55	.55	.45	.07
Concrete Curing Machine	10.76	.55	.55	.45	.07
Concrete Finishing Machine Paving	10.76	.55	.55	.45	.07

POWER EQUIPMENT OPERATORS (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or App. Tr.
		H & W	Pensions	Vacation	
Concrete Float-Spreader	\$ 10.76	.55	.55	.45	.07
Concrete Mixer, three bags and under	10.35	.55	.55	.45	.07
Concrete Mixer, four bags and over	10.52	.55	.55	.45	.07
Concrete Power Saw, self-propelled	10.76	.55	.55	.45	.07
Concrete Travel Batcher	10.76	.55	.55	.45	.07
Concrete Conveyor under 40 feet	10.34	.55	.55	.45	.07
Concrete Conveyor over 40 feet	11.09	.55	.55	.45	.07
Concrete Pump	11.09	.55	.55	.45	.07
Conveyor Loader Operator, up to and including 42' belt	10.34	.55	.55	.45	.07
Conveyor Loader Operator, over 42' belt	10.46	.55	.55	.45	.07
Crane, to and including 80' boom	10.92	.55	.55	.45	.07
Crane, 81' to 130' boom	11.07	.55	.55	.45	.07
Crane, 131' to 150' boom	11.12	.55	.55	.45	.07
Crane, 151' boom and over	11.17	.55	.55	.45	.07
Crane Oiler	10.33	.55	.55	.45	.07
Crane, with jibs an additional \$.15 per hour	10.76	.55	.55	.45	.07
Crusher	10.76	.55	.55	.45	.07
Crusher Oiler	10.25	.55	.55	.45	.07
Crusher Conveyor, when required	10.22	.55	.55	.45	.07
Distributor	10.76	.55	.55	.45	.07
EW 10, 15 or 20 Tractor pulling Roller	10.48	.55	.55	.45	.07
Electric Overhead Cranes	10.94	.55	.55	.45	.07
Elevating Grader	10.76	.55	.55	.45	.07
Farm Type Tractor, up to and including 50 HP engine	10.22	.55	.55	.45	.07
Farm Type Tractor, over 50 HP engine	10.30	.55	.55	.45	.07
Field Equipment Serviceman	10.68	.55	.55	.45	.07
Fireman	10.35	.55	.55	.45	.07
Forklift, on construction job site	10.57	.55	.55	.45	.07
Form Grader	10.53	.55	.55	.45	.07

POWER EQUIPMENT OPERATORS (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or App. Tr.
		H & W	Pensions	Vacation	
Gradall	\$ 10.76	.55	.55	.45	.07
Grade Setter	10.22	.55	.55	.45	.07
Heavy Duty Drill, all types	10.76	.55	.55	.45	.07
Heavy Duty Driller Helper	10.35	.55	.55	.45	.07
Herman-Nelson Beaters and similar type	10.30	.55	.55	.45	.07
Hoist, two or more drums	10.76	.55	.55	.45	.07
Helicopter Hoist	11.26	.55	.55	.45	.07
Hot Plant	10.76	.55	.55	.45	.07
Hot Plant Fireman, when in operation	10.76	.55	.55	.45	.07
Hot Plant Oiler, 100 ton per hour or over	10.25	.55	.55	.45	.07
Hydra Lift and similar types	10.66	.55	.55	.45	.07
Industrial Locomotive all classes	10.76	.55	.55	.45	.07
Mechanic and/or Welder on job	10.86	.55	.55	.45	.07
Mechanic, Shop (Dec. 1 to April 1)	10.25	.55	.55	.45	.07
Mechanic	10.46	.55	.55	.45	.07
Mixermobile	10.84	.55	.55	.45	.07
Motor Patrol	10.89	.55	.55	.45	.07
Mountain Logger or similar type	10.76	.55	.55	.45	.07
Mucking Machine	10.76	.55	.55	.45	.07
Oiler-Driver, Rubber Tired Cranes and Cranes	10.33	.55	.55	.45	.07
Oiler, Hoist House, Dams and Cranes	10.25	.55	.55	.45	.07
Pavement Breaker, Emaco and similar	10.66	.55	.55	.45	.07
Paving and Mixing Machine	10.76	.55	.55	.45	.07
Power Auger, Large Truck or Tractor mounted and Punch drum	10.89	.55	.55	.45	.07
Power Mixer, single or double	10.76	.55	.55	.45	.07
Power Saw, multiple cut, self-propelled	10.76	.55	.55	.45	.07

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DECISION NO. MT79-5106

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Pumpcrete or Grout Machine	\$ 10.76	.55	.55	.45	.07
Pumpman	10.29	.55	.55	.45	.07
Push Tractor	10.76	.55	.55	.45	.07
Quad Cat	11.06	.55	.55	.45	.07
Quad Loader and similar type	11.34	.55	.55	.45	.07
Radiator Repairman	10.57	.55	.55	.45	.07
Raygo Gaint	10.57	.55	.55	.45	.07
Refrigeration Plant	10.76	.55	.55	.45	.07
Retort	10.35	.55	.55	.45	.07
Roller, on blade or hot mix oil paving	10.76	.55	.55	.45	.07
Roller, on other blade or hot mix paving	10.46	.55	.55	.45	.07
Roller, 25 ton or over	10.76	.55	.55	.45	.07
Road and similar type carriers, on construction site	10.76	.55	.55	.45	.07
Rubber-tired Dozer	10.76	.55	.55	.45	.07
Rubber-tired Front End Loader, 1 yard and under	10.47	.55	.55	.45	.07
Rubber-tired Front End Loader, 1 yard to and including 3 yards	10.76	.55	.55	.45	.07
Rubber-tired Front End Loader, over 3 yards to and including 5 yards	10.88	.55	.55	.45	.07
Rubber-tired Front End Loader, over 5 yards to and including 10 yards	10.98	.55	.55	.45	.07
Rubber-tired Front End Loader, over 10 yards to and including 15 yards	11.08	.55	.55	.45	.07
Rubber-tired Front End Loader, over 15 yards	11.18	.55	.55	.45	.07
Scraper, Dm 15, 20, 21 and similar type if power unit is not used	10.76	.55	.55	.45	.07
Scraper, single or twin engine pulling Belly Dump Trailer	11.14	.55	.55	.45	.07
Scraper, single engine	10.89	.55	.55	.45	.07
Scraper, twin engine	10.99	.55	.55	.45	.07
Scraper, tandem engine or 3 engined	11.25	.55	.55	.45	.07

DECISION NO. MT79-5106

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Self-Propelled Sheepfoot and similar type	\$ 10.76	.55	.55	.45	.07
Shovels, including all attachments, under 1 cu. yd.	10.76	.55	.55	.45	.07
Shovels, including all attachments, 1 cu. yd. to and including 3 cu. yds.	10.94	.55	.55	.45	.07
Shovels, including all attachments, over 3 cu. yds. to and including 5 cu. yds.	11.21	.55	.55	.45	.07
Shovels, including all attachments, over 5 cu. yds.	11.34	.55	.55	.45	.07
Shovel Oiler, 3 yards and under	10.25	.55	.55	.45	.07
Shovel Oiler, over 3 cu. yds.	10.66	.55	.55	.45	.07
Slip Form Paver	10.89	.55	.55	.45	.07
Stiff Leg Derrick and Guy Derrick	11.21	.55	.55	.45	.07
Track-type Front End Loaders, up to and including 5 cu. yds.	10.76	.55	.55	.45	.07
Track-type Front End Loaders, over 5 cu. yds. to and including 10 cu. yds.	10.99	.55	.55	.45	.07
Track-type Front End Loaders, over 10 cu. yds. to and including 15 cu. yds.	11.09	.55	.55	.45	.07
Track-type Front End Loaders, over 15 cu. yds.	11.19	.55	.55	.45	.07
Track-type Tractor w/no attachments	10.76	.55	.55	.45	.07
Track-type Tractor, on Euclid Loaders	10.94	.55	.55	.45	.07
Trenching Machine	10.76	.55	.55	.45	.07
Turnhead Conveyor, or Head Tower on Batch Plant	10.76	.55	.55	.45	.07
Wagner Roller and similar type	10.76	.55	.55	.45	.07
Whirley Crane	11.29	.55	.55	.45	.07
Whirley Crane Oiler	10.66	.55	.55	.45	.07
Water Pull when used for compaction	10.76	.55	.55	.45	.07
Washing and Screening Plant	10.76	.55	.55	.45	.07
Washing and Screening Plant Oiler	10.25	.55	.55	.45	.07
Yo-Yo Cat, both ends	10.96	.55	.55	.45	.07

DECISION NO. MT79-5106

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
COMBINATION TRUCK; Concrete Mixer and Transit Mixer; 7e and including 4 cu. yds.	\$ 9.61	.65	.70		
Over 4 cu. yds. to and including 6 cu. yds.	9.69	.65	.70		
Over 6 cu. yds. to and including 8 cu. yds.	9.77	.65	.70		
Over 8 cu. yds. to and including 10 cu. yds.	9.85	.65	.70		
Over 10 cu. yds. - additional \$.08 per hour each additional 2 cu. yds. increment					
DISTRIBUTOR DRIVER					
Over 10 cu. yds. - additional \$.08 per hour each additional 2 cu. yds. increment	9.59	.65	.70		
DRY BATCH TURCKS:					
3 Batch or under	9.36	.65	.70		
Over 3 Batch to and including 5 Batch	9.49	.65	.70		
Over 5 Batch to and including 10 Batch	9.65	.65	.70		
Over 10 Batch to and including 15 Batch	9.81	.65	.70		
Over 15 Batch - additional \$.15 per hour each additional 5 Batch increment					
PICKUP DRIVER, HAULING MATERIALS	9.46	.65	.70		
DUMPMAN, GRAVEL SPREADER BOX OPERATOR; Pilot Car Driver, Teamsters	9.36	.65	.70		
WAREHOUSEMEN, Partemen, Cardex Men, Warehouse Expediter	9.56	.65	.70		

DECISION NO. MT79-5106

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
DUMP TRUCKS AND SIMILAR EQUIPMENT, DM 20, DM 21, or EUCLID TRACTORS, Pulling P.R. 21 or similar Dump Wagons:					
Water Level Capacity, including Sideboards:	\$ 9.36	.65	.70		
Over 7 cu. yds. to and including 10 cu. yds.	9.49	.65	.70		
Over 10 cu. yds. to and including 15 cu. yds.	9.65	.65	.70		
Over 15 cu. yds. to and including 20 cu. yds.	9.79	.65	.70		
Over 20 cu. yds. to and including 25 cu. yds.	9.85	.65	.70		
Over 25 cu. yds. to and including 30 cu. yds.	9.91	.65	.70		
Over 30 cu. yds. to and including 35 cu. yds.	9.97	.65	.70		
Over 35 cu. yds. to and including 40 cu. yds.	10.03	.65	.70		
Over 40 cu. yds. to and including 45 cu. yds.	10.09	.65	.70		
Over 45 cu. yds. - additional \$.10 per hour each additional 5 cu. yds. increment					
DUMPSTERS	9.49	.65	.70		
SERVICEMEN	10.20	.65	.70		
POWER TRUCK DRIVER (bulk unloader type)	9.54	.65	.70		
FLAT TRUCKS:					
To and including 3 tons	9.51	.65	.70		
Over 3 tons Factory rating	9.71	.65	.70		
SERVICE TRUCK DRIVERS; FUEL TRUCK DRIVERS; TIREMEN	9.95	.65	.70		
LOWBOYS, FOUR-WHEEL TRAILER, FLOAT SEMI-TRAILER	9.61	.65	.70		

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DECISION NO. MT79-5106

TRUCK DRIVERS (Cont'd)

LUMBER CARRIERS, LIFT TRUCKS
and FORK LIFTS

POWER BROOM

WATER TANK DRIVERS, PETROLEUM
PRODUCTS DRIVERS:

Over 2,500 gallons and under
including 4,500 gallons
Over 4,500 gallons to and
including 6,000 gallons
Over 6,000 gallons to and
including 8,000 gallons
Over 8,000 gallons to and
including 10,000 gallons

Over 10,000 gallons - additional
\$.10 per hour each additional
2,000 gallons increment

TRUCK WITH POWER EQUIPMENT IF
UNDER TEAMSTERS JURISDICTION,
SUCH AS:

Winch, A-frame, Swedish Crane,
Hydra-lift, Groutcrete and
combination mulching, seeding
and fertilizing

TRUCK MECHANIC

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$ 9.61	.65	.70		
9.45	.65	.70		
9.36	.65	.70		
9.65	.65	.70		
9.85	.65	.70		
9.91	.65	.70		
9.99	.65	.70		
9.61	.65	.70		
10.35	.65	.70		

[FR Doc. 79-28904 Filed 7-20-79; 8:45 am]

BILLING CODE 4510-27-C

SUPERSEDES DECISION

STATE: OHIO

DECISION NUMBER: OH79-2066

COUNTY: CLARK

DATE: Date of Publication
Supersedes Decision No. AP-684 dated May 25, 1973 in 38 FR 14049
DESCRIPTION OF WORK: Residential construction consisting of
single family homes and apartments up to and including 4 stories.

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$ 5.54				
8.00				
6.33				
5.50				
6.47				
6.12				
6.07				
5.52				
5.50				
4.06				
6.00				
8.02				
5.50				
5.65				
5.88				
5.96				
6.41				
6.93				
6.57				
4.00				

AIR CONDITIONING MECHANICS

BRICKLAYERS

CARPENTERS

CEMENT MASONS

DRYWALL FINISHERS

DRYWALL HANGERS

ELECTRICIANS

IRONWORKERS, ORNAMENTAL

INSULATORS

LABORERS

PAINTERS

PLUMBERS

ROOFERS

SHEET METAL WORKERS

SOFT FLOOR LAYERS

TILE SETTERS

POWER EQUIPMENT OPERATORS:

Backhoes

Bulldozers

Front End Loaders

TRUCK DRIVERS

Friday
July 27, 1979

Part III

Department of the
Interior

Fish and Wildlife Service

Endangered and Threatened Wildlife and
Plants

Reproposal of Critical Habitat for Three
Southeastern Fishes

federal register

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

(50 CFR Part 17)

Endangered and Threatened Wildlife and Plants; Reproposal of Critical Habitat for Three Southeastern Fishes

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reproposal of Critical Habitat for three southeastern fishes.

SUMMARY: The Service repropose the Critical Habitat for the spring pygmy sunfish (*Elassoma* sp.), pygmy sculpin (*Cottus pygmaeus*) and the Barrens topminnow (*Fundulus* sp.). Endangered status and Critical Habitat were originally proposed for the spring pygmy sunfish and pygmy sculpin on November 29, 1977 (42 FR 60765-68), and for the Barrens topminnow on December 30, 1977 (42 FR 65209-12). The Critical Habitat portions of these proposals were withdrawn by the Service on March 6, 1979 (44 FR 12382-84) because of the procedural and substantive changes made by the Endangered Species Act Amendments of 1978. This proposed rule conforms to these requirements.

DATE: Comments on this proposed rule must be submitted by September 28, 1979. Public meetings will be held as follows:

Oxford, Alabama—Tuesday, August 28, 1979, 1-5 p.m. (Pygmy sculpin).

Athens, Alabama—Wednesday, August 29, 1979, 1-5 p.m. (Spring-pygmy sunfish).

Manchester, Tennessee—Thursday, August 30, 1979, 1-5 p.m. (Barrens topminnow).

ADDRESSES: Interested persons or organizations are requested to submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to this rulemaking are available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia 22201.

Public meeting locations:
Oxford, Alabama—Holiday Inn, Oxford Room.

Athens, Alabama—Welcome Inn, Highway 31 South.

Manchester, Tennessee—Duck River Electric Corp. Building, the Conference Room, 113 E. Fort Street.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and

Wildlife Service, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:**Background**

The spring pygmy sunfish and pygmy sculpin were proposed as Endangered with Critical Habitat on November 29, 1977, and the Barrens topminnow was proposed as Endangered with Critical Habitat on December 30, 1977. Before final action could be taken on the proposals, however, Congress passed the Endangered Species Act Amendments of 1978, which substantially modified the procedures the Service must follow when designating Critical Habitat. The present rulemaking will bring the Critical Habitat proposals into conformity with the Amendments.

Summary of Factors Affecting the Species

Pygmy Sculpin. The highly specialized pygmy sculpin's known habitat is Coldwater Spring in Alabama, its immediate run, and approximately 150 years of Coldwater Creek below the spring. The spring is located west of Anniston, Calhoun County, Alabama. Coldwater Spring is used as a water supply for the city of Anniston, which presently has a pumping capacity of 22.5 million gallons per day. The spring's average flow is 32 million gallons per day with a range from 20 to 34 million gallons per day.

The threats to the pygmy sculpin include aquatic vegetation control in the spring and increased pumping. The young and adult sculpins have been observed in large numbers in the submerged aquatic vegetation. Elimination of the vegetation by chemical or biological methods would adversely affect the sculpin. Increased water demands in the future could force total utilization of the Coldwater Spring flow.

In the past, the pygmy sculpin in Coldwater Creek was adversely affected by the toxic waste from the U.S. Army's Anniston Ordnance Depot. In 1976 a treatment program was initiated to comply with Environmental Protection Agency water quality standards to detoxify chemical waste flowing into Dry and Coldwater Creeks from the Ordnance Depot. It is too early to determine the success of this abatement program and its impact on the pygmy sculpin.

Spring Pygmy Sunfish: The spring pygmy sunfish is presently known only from Beaverdam (Moss) Spring, Limestone County, Alabama. It was thought to be extinct until rediscovered

in Beaverdam Spring in 1973 by Dr. David Etnier. Its habitat is dense, submerged aquatic vegetation in water six inches to two feet in depth.

The threats to the spring pygmy sunfish are pollution and siltation of Beaverdam Spring. Cultivation adjacent to the spring is contributing heavy silt loads, especially during periods of high runoff. In recent years pollution from insecticides has caused heavy fish kills in the area near Beaverdam Spring. Habitat alteration due to siltation and pollution apparently has led to the extirpation of the spring pygmy sunfish in two other springs.

Barrens Topminnow: The undescribed Barrens topminnow is believed to be most closely related to the extinct whiteline topminnow (*Fundulus albolineatus*) known only from Big Spring and its immediate run in Huntsville, Alabama. The Barrens topminnow inhabits springs and spring-fed creeks in the headwaters of the Duck River and west fork of Hickory Creek, and headwaters of the Collins River in Coffee County, Tennessee.

The Barrens topminnow's limited habitat is threatened by various local alterations of springs and streams. Several localities where the Barrens topminnow was taken in the late 1930's no longer support populations due to the destruction of habitat caused by channel alterations and drainage. There are presently three known localities for this species, all in Coffee County, Tennessee.

All three of the above species are highly specialized and are found only in small numbers; they also have extremely limited ranges and are highly susceptible to changes in their habitat.

Critical Habitat

The Act defines "critical habitat" as (i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

The Service believes that certain springs and streams within the geographical area occupied by the species under consideration should be designated as Critical Habitat. Each of

these species has an extremely limited range and is highly susceptible to changes in its habitat. Since even minor physical or chemical changes in the waters occupied by these species may result in their extinction, designation of critical habitat is essential for their conservation. The physical and biological features of these habitats are such as to require special management considerations and protection.

Section 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as critical habitat. The Service has prepared a draft impact analysis and believes at this time that economic and other impacts of this action are insignificant in the foreseeable future. The Service is notifying Federal agencies that may have jurisdiction over the lands and waters under consideration of this proposed action. These Federal agencies and other interested persons or organizations are requested to submit information on economic or other impacts of this proposed action (see below).

The Service will prepare a final impact analysis prior to the time of final rulemaking, and will use this document as the basis for its decision as to whether or not to exclude any area from Critical Habitat for any of the three species.

Effect of This Proposal if Published as a Final Rule

Section 7(a) of the Act provides:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act. Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded or carried out by such agency (Hereinafter in this section referred to as 'agency action') does not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of the section 7 of the Endangered Species Act Amendments of 1978.

Provisions for Interagency Cooperation are codified at 50 CFR Part 402. If published as a final rule this proposal would require Federal agencies not only to insure that activities they

authorize, fund, or carry out, do not jeopardize the continued existence of the three species, but also to insure that their actions do not result in the destruction or adverse modification of these Critical Habitats which have been determined by the Secretary to be critical.

Section 4(f)(c) of the Act requires, to the maximum extent practicable, that any proposal to determine Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Director, may adversely modify such habitat if undertaken, or may be impacted by such designation. Such activities are identified below for each species.

Pygmy sculpin

1. Any action which would result in the destruction or significant reduction of aquatic vegetation within the Critical Habitat could adversely modify Critical Habitat since the pygmy sculpin requires aquatic vegetation for cover and for production of food organisms. Any action which would significantly pollute the waters of the Critical Habitat could also have this effect.

2. Removal of water from Coldwater Spring so that water no longer flows over the low dam at the south end of the spring pool could adversely modify Critical Habitat since this action would result in crowding and possible stranding of sculpins in water too shallow for their survival.

Spring Pygmy Sunfish

1. Any alteration of the spring and spring run which would eliminate or significantly reduce the aquatic and riparian vegetation could adversely modify Critical Habitat since aquatic vegetation serves as snelter for the

spring pygmy sunfish and is important as a primary producer in the food chain of that species and riparian vegetation is important in stabilizing the spring and stream bank and reducing siltation from adjacent areas. The loss of riparian vegetation appears to have contributed to the loss of the Pryor Spring population of the spring pygmy sunfish.

2. Physical alteration, such as channelization and dredging of Beaverdam Spring could adversely modify Critical Habitat since temperature and chemical changes and the siltation associated with physical alterations would likely modify the habitat in such a manner as to exceed the tolerance of the species.

3. Toxic chemicals such as pesticides and herbicides if applied directly to the spring or in the area near the spring could in sufficient quantities adversely modify Critical Habitat.

Barrens Topminnow

1. Physical alteration of the stream habitat, such as channelization, dredging, or the construction of impoundments, could adversely modify Critical Habitat since the evidence suggests that local populations of this species in Coffee County Tennessee appear to have been extirpated due to physical alteration of their habitat.

2. The pumping or diversion of water in headwater springs which significantly lowers the water level could adversely modify Critical Habitat.

Public Meetings

The Service hereby announces that a series of public meetings will be held on this proposed rule. The public is invited to attend these meetings and to present opinions and information on the proposal. Specific information relating to each public meeting is set out below:

Place	Date	Time	Subject
1. Holiday Inn, Oxford Room, Oxford, Ala. 36203.	Tues., Aug. 28, 1979.	1 to 5 p.m.	Pygmy sculpin.
2. Welcome Inn, Highway 31 South, Athens, Ala. 35611.	Wed., Aug. 29, 1979.	1 to 5 p.m.	Spring-pygmy sunfish.
3. Duck River Electric Corp. Building, The Conference Room, 113 East Fort Street, Manchester, Tenn. 37355.	Thurs., Aug. 30, 1979.	1 to 5 p.m.	Barrens topminnow.

Public Comments Solicited

The Director intends that the rules finally adopted be as accurate and effective as possible in the conservation of the pygmy sculpin, spring pygmy sunfish and the Barrens topminnow.

Therefore, any comments or suggestions from the public, concerned governmental agencies, the scientific community, industry, private interests or any other interested party concerning any aspect of this proposed rule are

solicited. The Service particularly requests comments on the following:

- 1) Biological and other relevant data concerning any threat (or lack thereof) to these species;
- 2) Additional information concerning the range and distribution of the species;
- 3) Current or planned activities in the subject area;
- 4) The probable impacts of such activities if the areas are designated as critical habitat; and
- 5) The foreseeable economic and other impacts of the critical habitat designation.

National Environmental Policy Act

A draft environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. The assessment will be the basis for a decision as to whether that this determination is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this rule is Dr. James D. Williams, Office of Endangered Species, U.S. Fish & Wildlife Service, Washington, D.C. 20240.

Note.—The Department of the Interior has determined that this is not a significant rule and does not require preparation of a regulatory analysis under Executive Act 12044 and 43 CFR Part 14.

Regulations Promulgation

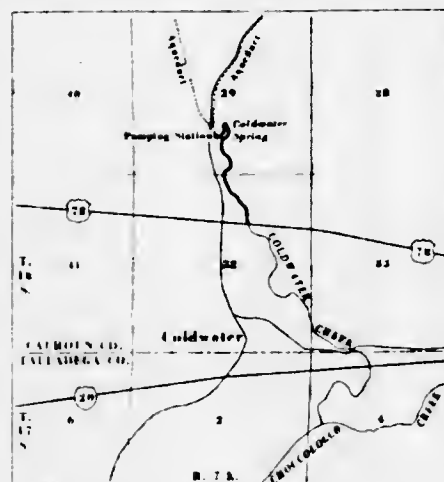
Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. It is proposed that § 17.95(e), Fishes, be amended by adding Critical Habitat of the pygmy sculpin after that of the snail darter as follows:

Pygmy Sculpin

(*Cottus pygmaeus*)

Alabama, Calhoun County, Coldwater Spring and run in the south ½ of Section 29 (Township 16 South, Range 7 East). Coldwater Creek from the junction of Coldwater Spring run downstream to U.S. Highway 78 crossing in the north ½ of Section 32 (Township 16 South, Range 7 East).



Barrens Topminnow

(*Fundulus* sp.)

Tennessee, Coffee County, Little Duck River and tributaries upstream from U.S. Highway 41 crossing at Manchester. West Fork Hickory Creek and tributaries upstream from the Coffee-Warren County Line, Coffee County, Tennessee.

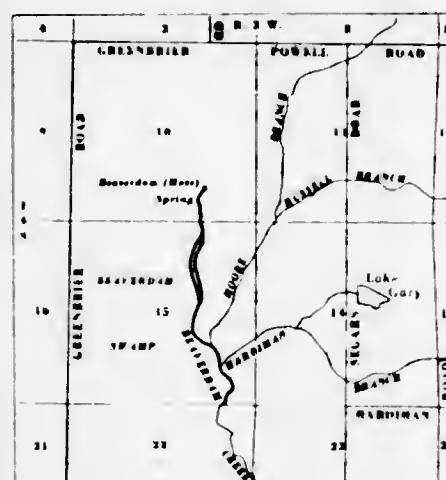


2. § 17.95(e), Fishes, is further proposed to be amended by adding Critical Habitat of the spring pygmy sunfish after that of the Alabama cavefish as follows:

Spring Pygmy Sunfish

(*Elassoma* sp.)

Alabama, Limestone County, Beaverdam (Moss) Spring and run from its origin in the southeast ¼ of Section 10 (Township 4 South, Range 3 West) downstream through Section 15 (Township 4 South, Range 3 West) the boundary line between Section 15 and 22.



3. § 17.95(e), Fishes, is proposed to be further amended by adding Critical Habitat of the Barrens topminnow after that of the spotfin chub as follows:

Dated: July 19, 1979.

Lynn A. Greenwalt,
Director, Fish and Wildlife Service.

[FR Doc. 79-23096 Filed 7-26-79; 8:45 am]
BILLING CODE 4310-55-M

Friday
July 27, 1979

Part IV

Department of Agriculture

Food and Nutrition Service

Special Supplemental Food Program for
Women, Infants and Children

proposed federal regulation

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 246

Special Supplemental Food Program for Women, Infants and Children

AGENCY: Food and Nutrition Service, U.S.D.A.

ACTION: Final rule.

SUMMARY: These final regulations set forth the requirement for the operation of the Special Supplemental Food Program for Women, Infants and Children (WIC). The major requirements include: standards for Program administration; requirements for nutrition education; sanctions for failure to comply with regulatory requirements; an income eligibility limit for participants; and an outreach requirement. These requirements are intended to improve guidance to State and local agencies and service to participants by increasing the efficiency with which the Program is administered. The regulations implement the requirements of Pub. L. 95-627 and reinforce the Program goals of serving as an adjunct to good health care and of providing low income individuals with nutrition education and supplemental foods to promote improved health.

EFFECTIVE DATE: The regulations must be implemented by December 30, 1979 with the following exceptions. The staffing standard, and recordkeeping requirements to specifically document the amount of funds expended for nutrition education, are effective October 1, 1979. The State Plan requirements must be met in the Fiscal Year 1980 State Plan, except that the procedure manual shall be submitted to FNS for approval by November 15, 1979. FNS shall provide written approval or denial of a completed procedure manual by December 15, 1979. The sanction process will not be effectuated until October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Jennifer R. Nelson, Director, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-8206.

SUPPLEMENTAL INFORMATION: On January 9, 1979, a notice of proposed rulemaking (44 FR 2114) was published in the Federal Register to revise the WIC Program regulations. The proposal was based on Sec. 3 of Pub. L. 95-627 which amends Sec. 17 of the Child Nutrition Act of 1966, as well as on public

participation in policy development through public hearings, special advisory panel meetings, regional, State and local meetings, and recommendations of the National Advisory Council on Maternal, Infant and Fetal Nutrition. A thorough understanding of the rationale for the final regulations may require reference to the preamble of the January 9, 1979, proposal.

In response to the proposed rulemaking, the Department received 672 comment letters from interested groups, Congressional offices, State agencies, local agencies, government offices, participants and the general public. The Department carefully analyzed these 672 letters which contained thousands of comments supporting, opposing, or suggesting changes in sections of the regulations. Many comments incorporated several subjects making it difficult to extract all singular topics for categorization. Therefore all numbers of comments relating to specific areas are approximations. The substantive comments received and the actions taken by the Department are discussed below.

General Purpose and Scope § 246.1

No comments were received on this section and the proposal has been published as final regulations.

Definitions § 246.2

The major change from the proposed to the final definitions is the incorporation of the requirements concerning "competent professional authority," "food costs," and "nutritional risk" into the main body of the regulations. The following definitions were also addressed by commenters who requested either clarifications or revisions:

"A-90" and "A-95" have been defined to clarify which circulars apply to the Program. "A-90" concerns requirements for the acquisition of computer systems. "A-95" refers to the Governor's review of the State Plan. "A-102" has been expanded to clarify that the OMB Circular establishes uniform standards for the administration of grants to federally recognized Indian Tribal Governments, as well as to State and local governments.

"Competent professional authority" has been revised to state only the functions of determining nutritional risk and prescribing supplemental foods. All references to professional qualifications for the position have been included in § 246.7, because some commenters were confused by the qualifications

mentioned in the definitions section of the proposal.

"Days" has been defined to clarify that the term as used in these regulations means calendar days unless a particular usage specifies "working" days. Several commenters asked for clarification of the term because they were not certain about the length of some of the processing standards.

"Food costs" has been reduced in this section to a reference to § 246.12. Program costs, where the food costs are elaborated upon.

"Local agency" remains as proposed except that it has been clarified that service agencies means "human" service agencies. The definition still refers to § 246.5 which indicates that health services may be provided directly by the local agency or through contract with a health agency or a private physician. A few commenters were confused and thought that local agencies were prohibited from subcontracting for health care.

"Nutritional risk" has been completely revised in this section and now includes the language from Pub. L. 95-627. The detailed nutritional risk criteria are now enumerated in § 246.7. Certification, where the criteria are more appropriately included for the convenience of the certification staff.

"Participation" was reworded and is now defined as the number of persons who have received supplemental foods or food instruments in the reporting period. The proposal referred to the "issuance" of food instruments and commenters indicated that food instruments can be printed, but never received by participants.

Administration § 246.3

State staffing standards. Over 340 comments were received on State staffing standards. About 20 commenters were supportive of the Department's proposed staffing standards without substantial modification. Forty commenters supported the idea of staffing standards, but wanted to change the way staffing levels were determined. Although some commenters wanted standards to be based on participation, many others wanted standards to be based on the size of the State, the number of local agencies, projected rather than past participation, and the number of clinics.

About 20 commenters felt that the staffing standards proposed were too high, too costly and too detailed. Approximately 20 commenters felt that State agencies should have more flexibility to set the actual staff levels. Nearly a dozen commenters felt that

FNS should not set actual numbers in the regulations. Pub. L. 95-627 requires, however, that the Department set standards in the regulations that will ensure sufficient State agency staff. Further, it would be difficult to impose fiscal sanctions on States if no actual numbers were set, and State agencies would not know when they had met the minimum levels to avoid sanctions.

About five commenters opposed any staffing patterns, especially since not all staff duties or positions were defined. About ten commenters said that there are not enough administrative funds to cover staffing and about ten other commenters feared that enforcing a State level staff requirement would jeopardize local agency funding. The Department assures through the administrative grant that State agencies will have adequate funds for program operations, including enough funds for State staff.

The Department evaluated all of these comments and agreed that for some States, especially Indian Tribal State agencies, the standards might be too difficult to meet. Further, as pointed out by about half a dozen other commenters, the staffing levels in the proposed regulations do not consider "economy of scale" where larger State agencies require less additional staff to provide technical assistance to more local agencies, because the work product is shared by all the local agencies. As a result of these comments the final regulations reduce the minimum number of program specialists required above 1,500 participants to one full-time or equivalent for each 10,000 extra participants. The Department is thereby reducing the minimum staffing level nearly one-half from the proposed regulations. This reduction is intended to reduce costs and give States flexibility in hiring. Further, the final regulations state that no more than 8 program specialists are required at the State level, although a State may choose to hire more staff.

About six commenters wanted the term "program specialist" defined. The Department is reluctant to define program specialist because program duties of such nonclerical staff vary widely from State agency to State agency or within an agency. Program specialists may be used for technical assistance, monitoring vendors, reviewing local agencies, training, nutritional services, fiscal management, or other duties as assigned. The Department wants to give State agencies as much flexibility in this area as possible, and therefore has not specifically defined the term or

prescribed the functions of program specialists.

Under the proposed regulations, one full-time or equivalent administrator was not required until participation exceeded 1,500. No requirement for smaller State agencies was set, because the proposed regulations required a full-time State WIC Nutrition Coordinator when participation exceeded 500 and the Nutrition Coordinator's duties could include management and review functions. However, the Department intends to assure that in smaller States, a minimum of a half-time or equivalent administrator is employed by the State agency when participation exceeds 500 monthly. If participation is less than 500 monthly, the Department's regulations allow States to set the appropriate staffing level. Even in the smaller State agencies, the requirement for a half-time or equivalent administrator can be met since the Department now guarantees all State agencies a minimum administrative grant of \$30,000. As a corollary to that change and in response to comments, the number of participants which establish the need for a full-time or equivalent Nutrition Coordinator has been changed to 1,500 as explained further in this section of the preamble.

The Department is continuing to base staffing levels on past participation. Some commenters suggested using State size or number of local agencies. However, the number of local agencies in a State does not indicate whether the local agencies are all large or small, nor does it consider the number of clinics under the local agency. Participant caseload is an overall indicator of these factors. Therefore, the Department believes past participation is a better measure of the need for staff than the number of local agencies or the size of a State.

The Department decided not to use projected participation as a base. The staffing standards in these regulations should be regarded as minimums. The Department expects State agencies to plan staffing levels for the next fiscal year and States must use available, known data—past participation—to determine staffing minimums. State agencies must be aware of their projected participation as part of their overall planning and should make allowances for required staff. The minimum levels for staff, however, should be determined from past participation. The Department can only hold State agencies accountable for meeting a staffing level based on past participation. It would not be possible to require State agencies to meet a staffing level based on a projected caseload

since the estimate may never be accurate.

WIC Nutrition Coordinator

About 170 comments were received on the staffing standards for the State WIC Nutrition Coordinator. Approximately 15 commenters opposed the standard of one full-time nutrition coordinator for a monthly caseload of over 500 and wanted instead a full-time or equivalent so that the duties could be divided among staff. A few commenters also thought that a full-time nutritionist for over 500 monthly participation was a higher standard than for a full-time or equivalent program administrator, and therefore was unacceptable. The Department agrees with the comments that a full-time nutritionist is not necessary when participation is over 500 and changed the regulations so that a full-time or equivalent nutrition coordinator would be required if the monthly caseload exceeds 1,500 participants and a minimum of a half-time or equivalent nutrition coordinator when participation exceeds 500.

Approximately 30 commenters opposed the education and experience requirements proposed in the regulations because they were too restrictive and would result in capable people with Bachelor degrees being denied positions. Nearly 20 commenters said that small or rural States could not find or attract people with the type of credentials proposed in the regulations. However, six commenters commended the proposed requirements and felt that the State WIC Nutrition Coordinator should have extensive experience and a graduate degree.

The Department agrees that the nutrition coordinator's education and experience criteria should be less rigid, while assuring that highly qualified persons will be selected. Therefore, the following changes have been made in accordance with the commenters' recommendations.

Approximately 10 commenters suggested that the State WIC Nutrition Coordinator would be qualified if a registered dietitian or eligible for registration with the American Dietetic Association. The Department's proposed regulations inadvertently omitted dietitian. The final regulations correct this omission.

Approximately one dozen commenters wanted the education requirements to be lower case letters so that slightly different names of areas of education would not be precluded. Some colleges offer their degrees in fields of education not necessarily listed in the proposed regulations, but which are

equivalent to the proposed regulations' list. Therefore, the final regulations use lower case letters to describe the areas of education and state that equivalent degrees are acceptable.

Approximately one dozen commenters suggested that the areas of "human nutrition" and/or "nutrition science" be added to the list of areas of education for the State WIC Nutrition Coordinator. The Department agrees that adding these areas would contribute to State flexibility in hiring personnel while assuring that qualified candidates are selected.

About 5 commenters suggested that the Department of Health, Education, and Welfare standards for Senior Public Health Nutritionist be used for the State WIC Nutrition Coordinator qualifications. A Senior Public Health Nutritionist must have a degree in nutrition and at least two years experience in the field of nutrition. Since persons with these qualifications fulfill the basic goals to assure competent staff, the Department has added them to the list of potential candidates for State WIC Nutrition Coordinator.

Finally, the Department accepted with modification the suggestion from about 30 commenters that capable people with Bachelor degrees could qualify for the State WIC Nutrition Coordinator. The Department believes that to assure that such persons have the necessary skills, more background experience should be required. Therefore, a person with the appropriate Bachelor's degree could be eligible provided the person also has at least 3 years of responsibility as a nutritionist with experience in education, social service, maternal and child health, public health, or clinical dietetics. Since graduate study is important, one year of comparable graduate study may be substituted for one year of experience.

An exception to the qualifications for State WIC Nutrition Coordinator may be granted by FNS at the request of the State agency.

State Plan of Program Operation and Administration § 246.4

Approximately 60 comments were received concerning implementation of the new State Plan requirements. The commenters felt that there was not sufficient time for States to complete or perform all or some of the new requirements this year. One-sixth of these commenters suggested that implementation of the section be waived until the next fiscal year. Of primary concern was the provision that public hearings on the State Plan be held by May 31 of each year. The majority of

commenters felt that this was an unrealistic requirement for preparation of the 1980 State Plan and asked that this provision be waived until development of the 1981 State Plan. A few commenters asked that the submission of a procedure manual be waived until a few months following State Plan submission or until next year. The Department realizes that implementation of the new requirements may be hard for some States; however, Pub. L. 95-627 mandates that the State Plan contain the majority of these new requirements and mandates that public hearings on the State Plan be held in order to enable the public to participate in the development of the State Plan. The Department believes that all of the requirements are necessary and should be implemented quickly in order to improve the effectiveness of the State Plan as a Program management tool. Obtaining public input is an essential component in the development of the State Plan to assure responsiveness to our target population. Therefore, the Department has decided not to waive implementation of the State Plan requirements or implementation of the public hearing until the next fiscal year. It should be noted that the purpose of the public hearing is to allow public participation during the developmental stage of the State Plan. Thus, it is not necessary for States to prepare a final State Plan prior to the hearings.

While several commenters supported the State Plan proposal, a greater number of commenters believed the State Plan proposal to be either too specific or too detailed, or a burden for which additional staff would be necessary. The majority of the new requirements are mandated by Pub. L. 95-627 and the Department believes the provisions to be an essential part of good Program management and does not believe them to be excessive. Nevertheless, some changes in this section have been made in an attempt to reduce any unnecessary administrative burden.

A number of comments were received suggesting minor changes in the proposal in order to improve the clarity of the regulations. As a result of these comments, several paragraphs in this section have been reordered or reworded.

Preapplication Package.—A number of commenters supported the inclusion of a preapplication package in the State Plan; however, an equal number of commenters opposed the submission of such a package as some States already provide potential local agencies with guidance during the application process.

While the Department realizes such systems may already be established in a few States, there is a need for local agencies to receive the information in the form of a preapplication package in order to ensure that each local agency submits sufficient information to the State agency for an accurate eligibility determination. Any additional guidance States might provide to potential WIC sponsors is encouraged. The expansion of the Program and the integration of a variety of health-related agencies is of concern to the Department. Therefore, it is essential that material explaining WIC sponsorship be readily available to potential agencies.

Approximately 15 commenters opposed the inclusion of sample proposals for Program operations in either an urban or rural setting as part of the preapplication package. Generally, the commenters felt that such examples would not be of benefit as every agency operates under unique circumstances. Instead, it was suggested that the package contain instructions for completing the application form. Upon review, the Department has decided to delete the requirement for sample proposals and has required instead comprehensive instructions for completing the application form as well as a listing of materials and resources available to aid the potential local agency in the application process.

Forms.—While a Statewide certification form was required by the proposal, it was not mentioned as one of the forms to be submitted in the State Plan. A copy of this form is now required. If the State agency utilizes its own verification of certification form, a copy of the State verification of certification form must be submitted. This provision has also been added to the State Plan. Since a local agency application form is required in the preapplication package, it has been deleted from the list of forms to be submitted separately in the State Plan.

Affirmative Action Plan.—Approximately 40 commenters opposed the listing of specific ranking criteria for the Affirmative Action Plan and opposed the guidance language concerning such ranking in the proposal. A majority of these commenters preferred the language in the regulations issued under Pub. L. 94-105. Several commenters felt such guidance might have been of benefit at the beginning of the Program, but felt the guidance was no longer necessary as all States had already established and been working with ranking systems for some time. In contrast, approximately five commenters recommended that the

Department set a standard for more uniform ranking methods.

The Department has attempted to list all criteria and guidance relevant to determining rankings of areas and special population groups according to need and believes the specifications will lead to more uniform and appropriate usage of statistics in the development of Affirmative Action Plans. The Department believes it is crucial for States to develop accurate rankings in order to ensure that funds go to the most needy areas or members of populations, particularly during a period when increased funds are available for Program expansion. Thus, this portion of the proposal has been retained. However, some changes have been made in the list of ranking criteria and it has been clarified that not all criteria listed need be used by the State agency when ranking areas or populations.

Approximately 25 commenters stated that the criteria listed for use in the Affirmative Action Plan were either too limited and/or recommended the inclusion of other criteria. The Department has decided to include fetal mortality rate and perinatal mortality rate as indicators of need in the Affirmative Action Plan.

Approximately 20 commenters expressed concern over the appropriateness or reliability of certain ranking criteria listed in the proposal. Most of these commenters objected to the use of Apgar scores as they believed the score to be a measure of the success of delivery rather than a measure of nutritional need. The Commenters also felt that data for the Apgar score was subjective and not always available. Therefore, the Department has decided to delete this criterion. Other commenters objected to the use of incidence of prenatal care as they felt it was not sufficiently defined. This incidence refers to such criteria as the ratio of obstetricians to population. The Department and some State agencies believe measures of this sort to be indicators of need, and thus the Department has decided to retain this provision as well as the incidence of pediatric care to allow those State agencies which have access to this data the option of using it. However, the criteria will read as the prevalence of insufficient prenatal or pediatric care.

About 10 commenters were confused as to whether the specified criteria were statistics that were required to be utilized when formulating an Affirmative Action Plan or whether the criteria constituted a list of possible criteria to be used. The Department has clarified that State agencies are not

required to use all of these criteria; but they must use both a health and an economic indicator and may not use health criteria other than those which are listed in the regulations. The State agency must use the percentage of population below poverty levels. The specific income indicator used must be between 100% and 200% of a poverty level. State agencies may use a combination of poverty levels that are in the specified range and may use other economic indicators in conjunction with poverty levels. The State agency may use a combination of the specified health indicators.

Approximately 15 commenters opposed having to submit the actual data used in the Affirmative Action Plan. Most of these commenters maintained that the data should be kept on file at the State agency for review by FNS and the public as inclusion of such data in the State Plan would be burdensome and would require a great deal of unnecessary paperwork. The Department has decided to require that only the sources and dates of the data used be submitted with the State Plan. The actual data must be kept on file at the State agency for review by the public.

About 10 commenters objected to having to identify potential local agencies in the neediest one-third of all areas unserved or partially served and to encourage these agencies to implement or expand Program services in the State. The commenters believed such encouragement would be a useless requirement and would create false expectations that could not be fulfilled. The Department understands that this provision may create some problems; however, Pub. L. 95-627 mandates that this procedure be required in the State Plan. In order to minimize the length of start-up time, the Department believes States should be ready to initiate and expand services. The Department views the State Plan as a planning document; and, thus, the provision for identification of the neediest areas is retained. The requirement for an estimate of the number of potentially eligible persons in each area has been placed in the Affirmative Action Plan portion of the State Plan in order to clarify the provision.

Dual Participation.—Section 246.7 requires that when a WIC Program local agency serves the same area as a Commodity Supplemental Food Program (CSFP) or an Indian State agency, the State agency and the CSFP or Indian State agency must agree to a plan for the detection and prevention of dual participation. The State Plan section of

the regulations has been changed to require that a copy of this agreement be submitted in the State Plan. This will give FNS the opportunity to review the intended procedures prior to implementation.

Procedure Manual.—Approximately 10 commenters supported the inclusion of a procedure manual in the State Plan; however, almost 20 commenters opposed submission of the procedure manual with the State Plan as they felt time was needed to modify the manual once the State Plan had been approved. Recommendations included submission within either 45 or 60 days of State Plan approval. Pub. L. 95-627 requires that the manual be a part of the State Plan. The provision that the manual be submitted as a part of the State Plan must therefore be retained. Nevertheless, the Department does feel that additional time may be necessary to prepare a procedure manual this year. Thus, the manual need not be submitted until November 15 for the fiscal year 1980 State Plan. The Department has also decided to require that the procedure manual be disseminated to local agencies and clinics within 60 days of State Plan approval so that they may receive assistance from the manual as soon as possible.

An even greater number of commenters than those who opposed the manual submission date felt the procedure manual should not include an explanation of services during migrant season. They felt such a discussion did not belong in the manual, but in the State Plan itself. Since assurances of services for migrants in the State is an overall State management responsibility, the Department has agreed with the commenters and has deleted this requirement from the manual. The requirement has been placed under the description of plans to provide Program benefits to eligible migrant farmworkers and Indians.

Coordination with Special Counseling Services. Several commenters supported coordinating Program operations with special counseling services and with other Programs; however, an equal number of commenters expressed confusion over the term coordination. Many commenters felt this portion of the State Plan was a duplication of the network described under outreach. The Department would like to clarify the difference between these requirements. Coordination of Program operations refers to efforts made between programs and services with similar goals that will enhance the flow of services to participants. For example, this might include scheduling clinic appointments

for participant convenience to attend services other than WIC. The outreach network involves informing potentially eligible persons of the benefits and availability of the Program. The Department has also added to the list of services the Early and Periodic Screening, Diagnosis and Treatment Program.

Outreach. The outreach portion of the State Plan has been revised to avoid duplication, clarify this part, and ease some of the requirements contained in the proposal. Approximately 10 commenters supported all or parts of the outreach requirements; however, over five times as many commenters opposed all or parts of the outreach portion of the State Plan. In general, the opposing commenters felt the required outreach was either unnecessary or not feasible. Many commenters felt the provisions called for could only be accomplished if additional funds and staff were available. Most commenters preferred less specific requirements or requirements geared toward high-risk individuals, maintenance of caseload, or follow up of participants. Of primary concern was the fact that outreach would be useless if funds were not available to serve additional persons and would create false expectations for individuals in situations where they could not receive benefits.

A few commenters recommended that media announcements occur more than once a year and a few commenters suggested requiring bilingual announcements where appropriate. After reviewing these comments and the general comments on outreach, the Department has decided to retain the requirement for publicizing the availability of Program Benefits on an annual basis. However, the Department has also decided that in cases where maximum caseload has been reached, media outreach shall be aimed at high-risk individuals and the maintenance of caseloads. Additionally, the Department has decided to require bilingual announcements in areas where a substantial number of persons speak a language other than English so that these persons may be informed of the Program as well.

Approximately 10 commenters supported establishment of a referral network while a greater number of commenters opposed such a system. The proposed regulations required that Food Stamp offices furnish WIC local agencies with Food Stamp materials. It is now required that WIC local agencies request Food Stamp materials and make such material available to WIC participants where appropriate.

Approximately 45 commenters stated that they specifically opposed training for outreach and referral sources. Approximately half of these commenters felt the State agency should ensure such training and the local agencies should be responsible for the actual training. Since State and/or local agencies routinely have WIC training sessions for their staffs, the Department has decided to delete the requirement for training referral sources and encourage State and local agencies to invite the agencies, offices, and organizations in the network to attend the regularly planned WIC workshops or training sessions.

Nutrition Education. A few commenters felt responsibility for the nutrition education portion of the State Plan needed to be shared with the local agencies. The Department certainly intended for States to work with local agencies and has added a specific provision that the nutrition education portion of the State Plan shall reflect local agency input.

Public Hearings. Approximately 40 commenters supported the requirement for a public hearing as it would allow for the sharing of Program development responsibility. About 10 commenters felt that more than one public hearing should be required in different areas of the State to allow the public to participate to the maximum extent possible. The Department has clarified the fact that more than one public hearing may be held.

A few commenters objected to having to hold a separate hearing for WIC as a system already exists for holding hearings on State health plans pursuant to the National Health Planning and Resources Development Act of 1976 (Pub. L. 93-641). The commenters felt a separate hearing would be a duplication of effort. The Department encourages WIC hearings to be held through this system as long as a separate time is reserved for discussion of the WIC State Plan.

The requirement that letters of invitation be sent at least 30 days before the hearing has been changed to 15 days as the Department believes that 15 days is an adequate time period. In addition, the notice in the media must also occur at least 15 days before the hearing.

Selection of Local Agencies § 246.5

Preapplication package. Approximately 10 commenters supported the concept of requiring State agencies to provide a preapplication package to potential local agencies, although as noted in the State Plan section some changes were

recommended in the content of the package. The Department believes a preapplication package will assure all potential local agencies equal access to information that must be submitted to the State agencies to determine eligibility.

Application of local agencies. About 10 commenters opposed the requirement that subdivisions of the State agency should submit written applications to the State agency if they wish to operate as a local agency in the WIC Program. Even though a local agency is a subdivision of a State agency, a State may not have sufficient information on file to determine the capabilities of each agency for performing all Program operations and to determine the accessibility and acceptability of each agency to the potential participants to be served. This requirement is being retained to assure that efficient and effective service is provided to all participants at each local agency.

Written documentation of the facilities and capabilities of the local agency is also necessary to ensure that the State agency's selection process allows equitable evaluation of all applications, whether from State affiliated or other potential sponsors.

The comments received reveal the word "deny" concerning applications is not clear. For clarification, applications which are not acceptable will be disapproved. Applications which are submitted when there are no funds available shall be returned to the potential sponsor. When funds become available the agencies to which applications were previously returned shall be advised to reapply. Therefore, the word "deny" is not used in the final regulations.

Program initiation and expansion. The regulations state that Program expansion must be performed in accordance with the Affirmative Action Plan. However, the State agency may, with justification, expand local agencies in areas less in need. Possible justifications include reasons such as the areas most in need are serving all those potentially eligible, the lack of local agencies capable of handling additional expansion in the neediest areas, or the fact that the local agency in the less needy area is serving participants with a higher priority than the local agency in the more needy area.

Agreements With Local Agencies § 246.6

Signed Written Agreement. The proposed and final regulations state that local agencies which are subdivisions of the State agency shall enter into a signed written agreement with the State

agency. Approximately 10 commenters opposed to this requirement felt these agencies would be entering into an agreement with themselves. However, the Department feels these agreements are necessary to clearly delineate the responsibilities of the State and local agencies and to provide a written record against which the performance of the local agency may be measured. Further, as defined in § 246.2, there is a clear distinction, for purposes of the Program, between a local agency and a State agency. "Local agency" is the unit providing health services; "State agency" is the State-level administrative unit. Prior to publication of proposed rules, a number of questions were raised concerning local agencies which are subdivisions of State agencies. It was felt that agreements in this case were also necessary to ensure that the Program responsibilities of the local agency were clearly specified. Therefore, the requirement of an agreement between the State and local agencies, even when the local agency is a subdivision of the State, remains in the regulations.

Paragraphs (d) and (e) of this section have been slightly rewritten for the sake of conformity of requirements for contracting between health and service agencies and private physicians.

A few comments were received requesting clarification of when the "cost of certification borne by the physician may be reimbursed." The regulations have been revised to clarify that certification must be done by a competent professional authority on the staff of the health or human service agency. However, physicians under contract for provision of health services may perform tests necessary for certification and refer the resultant data to the health or human service agencies. In such instances, the agreement between the local agency and the physician should specify the costs for which the physician will be reimbursed. These would vary depending on the certification criteria used by State agencies.

Certification § 246.7

Requirements. Approximately 20 comments were received addressing the deletion of the residency requirement. The proposed rules deleted the residency requirement because of the confusion that some agencies had about setting specific geographic boundaries and the resultant inequities among clients at a health facility. Persons who may normally receive health services at a clinic close to their residence, could not receive WIC services at that same

clinic because boundaries had been prescribed for WIC service areas that were different from the clinic's service area. Almost 15 commenters opposed the deletion of the residency requirement because the expected increase in potential eligibles if no service areas are prescribed would be more than the clinic staff could accommodate in some areas. The Department has, therefore, decided to let the residency requirement remain as an optional criteria for eligibility. The State agency may, if it chooses, set boundaries for WIC service areas. However, the State agency is encouraged to establish WIC service areas that correspond to health service areas.

Income Eligibility. The Department received many comments objecting to the proposed requirement that States would have to serve all persons up to 195% of the Secretary's income poverty guidelines. These comments generally pointed out that many local agencies did not have the capacity to expand their health facilities to accommodate this additional caseload and that services to the clientele with lower incomes would have to be reduced accordingly. The Department, in consultation with the Office of General Counsel, is reviewing possible alternatives to the proposal. Rather than delay the publication of these regulations, the income determination section of § 246.7 is reserved. Therefore, §§ 246.7(b)(2)(i) and 246.7(a)(2) of the regulations published on August 26, 1977 (42 FR 43205), which set forth the requirements on income eligibility, will remain in effect until new regulations on income determination are published.

Nutritional risk. The Department is aware that blood tests at every certification may be excessive, requiring too much staff time and inconveniencing the person receiving the test. Therefore, the proposed requirement provided the State or local agencies the discretion to reduce the blood work to only once a year for children determined to be in normal ranges at the previous certification or to require it at every certification.

Approximately 122 comments were received regarding the proposal permitting blood work only once a year on children with normal ranges at their last certification. The majority of commenters, 70, opposed reducing the requirement for any reason. Fifty-two commenters supported the proposed requirement on the grounds that there is insufficient staff at some local agencies to carry out blood work at each certification. The Department maintains

that blood tests should be a simple process requiring very little staff work compared to other medical tests or services provided to participants. However, the Department believes that State and local agencies are in the best position to determine the frequency of bloodwork and that local agency facilities and staff available should be a factor in deciding whether blood work should be required more than once a year. Thus, the Department has reworded the requirement to clarify that the State or local agency may require blood work on all children at each certification. For children within normal ranges at the last certification, however, blood work need only be performed once a year.

The Department believes that definitions which involve policy statements should be included within the section they affect. Therefore, the definition of nutritional risk has been transferred to § 246.7.

The definition of nutritional risk generated a great number of comments. There was some confusion over the use of examples for the various categories. Many commenters interpreted the examples to be all inclusive. The Department did not intend to list those examples to the exclusion of other medical and nutritional conditions. Pub. L. 95-627 list four broad divisions under which a person could be certified for the WIC Program. The proposal attempted to list medical and nutritional conditions which the competent professional authority may consider as examples of each category. However, because the majority of commenters interpreted these examples to be the only conditions which would meet the nutritional risk definitions for the WIC program, the Department has deleted them. Instead, general categories of disorders have been substituted under which all of the examples in proposed regulations plus other conditions could be listed. For instance, in the proposed regulations the Department listed pregnancy over 35 years as an allowable condition which predisposes women to an inadequate nutritional pattern or nutritionally related medical condition. In the final regulations these examples have been deleted. The Department nevertheless considers them allowable conditions for nutritional risk criteria. The Department emphasizes that the general categories of disorders that are listed in the regulations are general categories and the State agency can include in the State developed list specific conditions which meet the Department's definition of nutritional risk.

The proposal contained a reference to alcoholism and drug addiction in the definition of nutritional risk. Ten commenters suggested that this phrase be reworded to alcohol and drug abuse. The commenters believed this would be a more preventive measure because alcoholism and drug addiction are the extreme conditions. Pub. L. 95-627 specifically mentions alcoholism and drug addiction. Because alcohol and drug abuse include the more serious conditions of alcoholism and drug addiction, the Department has deleted the phrase alcoholism and drug addiction and substituted alcohol and drug abuse.

Sixteen commenters opposed using the category "dietary deficiencies that impair or endanger health." They believed that this phrase did not adequately describe the notion of an inadequate dietary pattern as determined from the evaluation of a dietary recall. It is the Department's belief that retaining the wording in the proposal does not change the intent, and furthermore conforms to the language of Pub. L. 95-627.

Pregnancy within two years of the onset of menses as an example of a predisposing condition for pregnant women was opposed by approximately 200 commenters. The commenters who opposed this definition believed that it excluded many high risk pregnant teenagers from the category. While this was not the intent of the proposal, the majority of commenters interpreted it as such. Alternative recommendations included teenage pregnancy and pregnancy under 16, 17, 18, 19 or 20 years of age. The Department has substituted, "adolescent pregnancy" for the original wording, believing this more aptly describes the Department's intent. The State agency may establish a specific age designation for adolescent pregnancy.

The provision which allowed breastfeeding mothers to obtain benefits if her infant is determined to be at nutritional risk caused some confusion. Some commenters interpreted this to mean that a breastfeeding woman would receive benefits based only on the infant's need. This was not the intent of the Department. The final regulations clarify that a breastfeeding woman may be certified on the basis of her own nutritional risk condition or on her infant's.

The priority system was designed to ensure that persons at greatest nutritional risk are first to receive Program benefits when local agencies reach maximum caseload levels. Many comments were received regarding the

proposed priority system. However, no single issue was addressed. The Department believes that the priority system as set forth in the proposal meets the criteria of a priority system, that is, a system of ensuring that those in greatest need receive benefits first.

Regression in nutritional risk. Three commenters requested that the Department specify how the local agency must determine regression in nutritional risk. However, to maintain the flexibility allowed to State agencies, the Department has decided not to change that section, but to continue to let the competent professional authority who is familiar with the status of each participant determine which participant will be in danger of regression if removed from the Program.

Processing standards. Approximately 10 commenters expressed confusion about when the processing standards are applicable. To help clarify the issue, the paragraph explaining the requirement for waiting lists has been placed first in the regulations and now includes a 20 day time limit for local agencies to notify individuals of their placement on a waiting list.

Approximately a dozen commenters asked for clarification of when the processing standards begin. Over 65 commenters recommended that the standards begin when the individual makes a personal appearance at the certification office. Major opposition to the proposed time limits, which began upon receipt of telephone inquiries or letters, was due to the additional administrative burden of keeping track of telephone and mail inquiries. Commenters also indicated that because making appointments over the telephone frequently results in applicants not keeping their appointments, valuable processing time would be wasted and it would make it difficult if not impossible for agencies to meet the processing standards. The final regulations have been revised in response to these comments and because the Department agrees that some local agencies do not have adequate staff or time to keep accurate track of the receipt of phone calls or letters. The final regulations require local agencies to begin processing a request for benefits the day an individual visits a local agency during clinic office hours to make application for benefits. Therefore, if a person calls or writes to inquire about receiving benefits, the local agency should inform the person that she should come to the clinic as soon as possible to start the application process. The Department recommends that local agencies establish processing time limits

based on phone calls and letters if they have the capability to do so.

Approximately 30 commenters suggested that the personal appearance, which starts the processing standard, must be made during WIC clinic hours. Nevertheless, the processing standards start with any personal visit to a clinic during office hours, rather than with only those visits made during WIC clinic hours. The Department does not wish to encourage the practice of setting very few WIC clinic hours and hence turning away potential applicants and making them return at a later date to start the processing standard. Consequently, the first visit starts the processing standards and will encourage certification staff to schedule a certification interview for the near future. The Department encourages the integration of WIC clinic hours as much as possible with clinic hours spent on other functions, to enable WIC participants to accomplish all goals, such as WIC certification, immunizations, and nutrition education with one visit to the clinic.

Over 35 commenters complained about the proposal which required local agencies to use a certification form to record each person's name, address and date when the initial inquiry about Program benefits is made. The Department agrees that this basic information could be recorded in a log, or a form, or by any other method as long as the information is kept accurately so it can be used to ascertain if the processing standards are being met.

Over 100 commenters expressed concern about the inability of local agencies to meet the proposed 10 to 20 day time limits for processing applications. The vast majority of commenters suggested longer time limits, particularly to replace the proposed expedited standard of 10 days for high risk or transient applicants. The Department cannot extend the 20-day limit which applies to most participants, because Pub. L. 95-627 imposes a statutory requirement of 20 days with a shorter period for categories of persons in special nutritional risk conditions. If a local agency wishes to mail the notification of eligibility and the food instrument, such mailing must be made on or before the 20th day.

The 10-day expedited processing standard is retained in the final regulations. The Department believes that local agencies must make every effort to expedite service to needy individuals, and therefore is hopeful that whenever administratively possible, applicants in need of immediate service will receive assistance in even less than

the maximum 10-day processing limit. In no event should local agencies take more than 10 days to process the applications of needy individuals.

Approximately 30 commenters opposed the proposal which required local agencies using retail purchase systems to issue a food instrument to the participant at the same time the notification of certification is issued. Most commenters felt that the time constraints were too tight and wanted to retain the policy that allowed 10 additional days for the issuance of food instruments. In addition, those local agencies which have food instruments mailed to participants from another office asserted that it would not be administratively feasible to mail the food instruments and notification of eligibility together. Nevertheless, the Department retained the requirement that local agencies using retail purchase systems must issue the food instrument together with the notification of eligibility and within the processing standards discussed above. In some local agencies this will require special expedited procedures such as manual issuance of vouchers. Although these processing standards may present an administrative hardship upon some local agencies, the Department is firmly committed to adherence to the processing standards to ensure efficient service to applicants without adequate funds to buy the nutritious foods they need for proper growth and development.

Certification periods. Approximately seventy commenters supported the 30-day leeway for the 6-month certification period. However, about five commenters expressed concern that agencies may abuse the flexibility and have 7-month certification periods for many of their participants. Another commenter felt that the extra 30 days could lead to poor caseload management. The Department recognizes the possibility of these problems occurring. The section was therefore rewritten to clarify that the plus or minus 30 days specified in the proposed regulations were meant to provide for flexibility in certification scheduling for certain participants. All certifications should not be scheduled for 5-month or for 7-month intervals.

About 10 comments were received that favored the application of the plus-or-minus 30-day flexibility for postpartum women. The Department feels that it is necessary that the postpartum woman come in to be certified within 6 weeks postpartum, both for her benefit and the infant's benefit. Therefore, certification is still required at a maximum of 6 weeks

postpartum. This certification period allows flexibility since there is leeway up to the 6 weeks.

Certification forms. One commenter requested that social security numbers be added to the information that is required on the certification form. The Department cannot impose such a requirement because the Privacy Act, which applies to Federal, State and local government agencies, precludes mandatory use of Social Security Numbers unless authorized by law. There is no such authorization in WIC legislation.

About 20 commenters wanted the Department to clarify whether the date the individual contacted the agency for benefits or the actual certification date should be recorded on the form. Therefore, the Department has made a minor change to state that the date of the initial visit to apply for certification be noted on the certification form as well as the initial date of actual certification.

Participant rights. Approximately 25 commenters suggested that the sentences concerning participant rights be read at the time of initial certification only, to avoid unnecessary time and work. The Department does not believe the provision that the sentences be read at the time of each certification period is burdensome to local agencies. Furthermore, it is essential that individuals clearly understand their rights as participants. Therefore the requirement has been retained. Two commenters stated that the obligations of the participant as well as the rights should be included in this portion of the certification section. Since the Department is not delineating participant obligations the title of this part has been changed from participant rights and obligations to participant rights.

Notification requirements. About 5 commenters recommended that notification of the right to a fair hearing be part of the initial certification procedure only rather than part of each certification procedure. The Department does not view this provision as burdensome and has decided to retain the provision in order to ensure that applicants understand their right to a fair hearing. Two commenters suggested that participants be advised not only of the health services available, but of the types available, where they are located and how they may be useful to the participant. Since the Department believes this information will be of value to the participant, the requirement has been added. Furthermore, the Department has decided to specify that

applicants shall also be informed of the illegality of dual participation as a part of the certification procedure.

Transfer of certification. Approximately 10 commenters asked that the designation of who is to issue verification of certification cards to participants be changed from the State agency to the local agency. While the local agency may actually issue the card, it is the State's responsibility to ensure issuance. Therefore, the Department has changed the requirement to provide that the State agency shall ensure issuance of verification of certification. Furthermore, to avoid confusion and limit the possibility of fraud, a requirement has been added that the verification of certification form must be the same throughout the jurisdiction of the State agency. The State agency may use the form provided by FNS or design its own form, as long as the form meets the regulatory requirements. However, no two local agencies under the jurisdiction of the State agency may use different forms.

Commenters also questioned who was intended by the Department to fulfill the requirement that a local agency official sign each transfer of certification. The Department believes that the State and local agencies are in the best position to determine the local agency official who should be assigned the responsibility for issuing transfers of certification. The task could be assigned to the person who certifies applicants or to another agency official, at the discretion of the State or local agency.

Close to 20 commenters supported placing transferring participants, including migrants above all others on the waiting list. However, almost 4 times as many commenters opposed this requirement and recommended that transferring participants be placed ahead of others in their priority category. Approximately 20 commenters felt only migrants should be placed ahead of all others on the waiting list. Pub. L. 95-627 mandates the Secretary to establish procedures under which migrants may, to the maximum extent feasible, continue to participate in the Program. After carefully reviewing the proposed regulatory requirement and the law, the Department has decided to retain this provision as proposed in order to ensure as much as possible the continuity of benefits to migrants and other transferring participants. The Department is not only concerned about migrants, but about all transferring participants and believes that once an individual has been placed on the Program, all efforts should be made to

continue to provide Program benefits to the participant for the remainder of the certification period. It should be noted that if the transferring participants did not relocate, they would not be terminated from the Program during the middle of a certification period. Furthermore, the Department is not requiring local agencies at maximum caseload to replace their participants with transferring participants, but is only requiring that the transfers be placed at the head of the agency's waiting list. Where waiting lists exist, the Department believes transferring participants should be served as soon as possible.

All States were given the option to request additional funds to serve migrants. Thus, the State agency has the ability to grant additional funds to areas serving migrants at certain times of the year.

Dual participation. Approximately 5 commenters recommended that dual participation include participation at more than one site in local agencies with multiple certification and distribution sites. The Department has clarified that dual participation does include participation at more than one clinic site of the same local agency.

Approximately 50 commenters opposed the requirement for the monthly exchange of a list of participants in order to detect dual participation. In general, the commenters felt that such an exchange would be costly, time consuming, and impractical. The majority of the commenters recommended that the local agencies be allowed to implement a procedure established by the State agency and included in the approved State Plan. Approximately 20 commenters requested that the requirement for a monthly list be replaced by monitoring at either the State or local level via a computerized system. This system was seen as easier, less costly, less time consuming, and more likely to protect the confidentiality of local agency records. A few commenters recommended that lists be exchanged on either a quarterly or semi-annual basis in order to reduce the administrative burden imposed on local agencies.

The Department believes State agencies should be allowed to formulate a plan for the detection and prevention of dual participation most appropriate to the circumstances of that State. Therefore, the Department has decided to delete the requirement for an exchange of lists and is allowing the State agency to develop its own plan in regard to dual participation. The State

agency shall be responsible for detecting and preventing dual participation within each local agency and between local agencies. Furthermore, before the Program and either the CSFP or an Indian State agency may operate in the same area, the State agency must enter into a written agreement with the CSFP or Indian State agency for a plan to detect and prevent dual participation.

Over 50 commenters were opposed to the proposal which limited program disqualification to adults and to a 3-month maximum time period. Commenters felt that Program abuse would not be deterred by such a short penalty which affects so few participants. Approximately 75 percent of the participants are infants or children. Therefore, only 25 percent are women who under the proposal would be subject to disqualification. Consequently, if parents or guardians fraudulantly obtained Program benefits for their dependents, in most cases the proposal provided no penalty other than pursuit of the individual in a court of law. Most State and local agencies are reluctant or do not have the staff time available to enlist the assistance of the courts to penalize Program abusers.

In addition, many areas have reached maximum caseload capacity and have eligible individuals waiting to participate in the Program. If Program abusers and their dependents are not disqualified, they will continue to receive benefits while eligible women, infants and children who have not committed fraud are kept on waiting lists. The Department feels it is inequitable to allow those who have abused the Program to continue to receive benefits while eligible individuals are denied those benefits.

More importantly, the Department believes Program integrity is essential to the continued growth and development of the WIC Program. The proposed lack of any penalty for most Program abusers could create negative publicity about the Program and result in an inordinately large amount of attention being focused on the few participants who commit fraud. Consequently, the final regulations have been revised to permit the disqualification of participants, regardless of age, for a period not to exceed three months for each time they commit dual participation or another form of fraud. However, disqualification shall be waived for those participants the competent professional authority determines will suffer a serious health risk if disqualified.

Approximately 10 commenters supported the requirement that local agencies check the identification of each

participant at certification and when issuing food or food instruments. Approximately 20 commenters opposed the requirement for a variety of reasons: Many participants do not have identification, particularly infants and children; Many local agencies already have established methods to ensure that participants receive the proper instruments; Most clinics recognize their participants on sight; and The proposed requirements make participants uncomfortable. While the Department understands that in some instances other methods may suffice, the Department believes it is necessary to verify participant identification in order to ensure that benefits are received by the participants. Thus, the provision has been retained. The Department has also specified that for child participants who may not possess identification an immunization record is acceptable.

Competent Professional Authority. The Department received a wide variety of comments concerning the proposed requirements for a competent professional authority. Although none of the approximately 80 comments received opposed the list of areas of specialization, most requested adding additional degrees or areas of specialization.

The Department has retained the areas of specialization delineated in the proposal, but has expanded the areas of specialization listed under the general category of nutritionist, realizing there are a wide variety of backgrounds which would qualify one as a nutritionist. Thirteen commenters suggested adding Licensed Practical or Vocational nurses to the list of allowable certifiers. Adding midwives was suggested by five commenters. Because the qualifications for licensing for these professions and others such as Community Health Aides, vary greatly from State to State, and because some States may not recognize a midwife as a medically trained person, these were not specifically added to the list of allowable certifiers. However, under the provision that allows State or locally trained health officials to act as competent professional authorities, the State agency may decide to include persons with such training as a competent professional authority.

The term paraprofessional generated a great deal of comments. Ten commenters believed there was a need to clarify the term or to provide more specific guidance on what constitutes sufficient or appropriate training. The majority of commenters who wrote regarding the use of paraprofessionals preferred that the State agency have

broad discretion in the establishment of training experience required to be a paraprofessional certifier. The Department agrees that the State agencies should have the flexibility to determine to some extent who is qualified to determine nutritional risk. This flexibility is important in areas of the country where local agencies do not have access to highly skilled medical or health personnel. However, what constitutes a medical paraprofessional is not standardized from State to State. The Department believes that the provision permitting a State or local health official to act as a certifier adequately covers those persons a State agency may define as a paraprofessional. Therefore, the term paraprofessional has been deleted in order to avoid undue confusion. The provision permitting persons enrolled in a formal course of training leading to one of the professional qualifications cited in this section, has also been deleted to avoid confusion and to allow State and local health officials discretion in defining qualifications for paraprofessional certifiers.

Supplemental Foods § 246.8

Approximately 15 comments and recommendations were received on the reserved section on Supplemental Foods. Those comments will be considered when the proposed Supplemental Food regulations are written in the near future. Section 246.8 of the regulations published on August 26, 1977 (42 FR 43205), which sets forth the requirements on supplemental foods, will remain in effect until new regulations on supplemental foods are proposed and then published as final rulemaking.

Nutrition Education § 246.9

General. As recommended by a few commenters, the Department has emphasized the provision in the proposed regulations that nutrition education be provided at no cost by specifying that it be provided at no cost to the participant. The Department believes this wording more clearly states the mandate of Pub. L. 95-627.

State nutrition education plan. Eight commenters requested that the Department require the State agency to incorporate local agency recommendations into its development of the nutrition education portion of the State Plan. The Department believes that before the State can plan a viable nutrition education component, the needs of and resources available to the local agency should be considered. Therefore the Department has

strengthened the provision requiring the State agencies to take into consideration local agency recommendations and special needs in the development of the nutrition education portion of the State Plan.

Monitoring. More than a dozen commenters opposed the provision requiring the State agency program operations staff, as well as the State WIC nutritionists, to monitor the nutrition education operations at the local agencies. The commenters believed that only the nutritionists have the expertise to evaluate the local agencies' nutrition education activities. The Department believes that the team approach would provide additional input from different perspectives at the State level and result in a more integrated monitoring process. Furthermore, the Program specialists can be nutritionists as well as persons from other disciplines. However, the provision has been deleted as this is more appropriately a decision for the State administrators.

Training for outreach and referral workers. The Department received nearly 30 comments opposing the requirement for the State agency to conduct annually a training session for all outreach workers and referral sources. The commenters cited insufficient funds and a lack of staff time to carry out the requirement successfully. One commenter from a large urban area noted that it would be impossible to train the thousands of referral sources in the area. Some commenters interpreted the rule to refer to nutrition education training while others believed it to refer to general program training. The intent of the requirement was to provide general Program outreach to referral sources. The Department agrees with those commenters who stated that it was inappropriate to include this outreach requirement in this section. Therefore, this requirement has been deleted from this section although the Department remains committed to the outreach requirements as stated in other sections.

Approximately 15 commenters recommended that the regulations include a provision requiring the State agency to set standards for staffing patterns and qualifications of the nutrition staff at the local level. The Department believes that the State agency has always had the option and the responsibility for setting local agency standards. The proposal did not alter that State agency prerogative; thus, a provision requiring the State agency to set local agency staffing standards has not been included.

Local agency nutrition education plan. Approximately 10 commenters requested that the Department modify the proposed requirement for submitting an annual local agency nutrition education plan, so that only changes in the plan need be submitted annually or as needed as an amendment. It is the Department's belief that an annual evaluation of the local agency's nutrition education plans would allow the local agency to determine the degree to which it met its stated goals and objectives. Rather than continue utilizing goals and objectives which proved to be unsuitable for the local agency, the plan should be reassessed and reformulated annually into more appropriate goals. As a result, the local agency's nutrition education plans could be kept current in light of new research and trends. Therefore, the requirement remains.

Local agency in-service training. The proposal contained a requirement that the local agency nutrition education plan contain a description of plans for a nutrition education in-service training program for professionals and paraprofessionals involved in providing nutrition education as well as for local agency staff persons involved in Program operations other than nutrition. Almost a dozen commenters believed that in-service training of non-nutrition education personnel would not be an effective use of staff time. Furthermore, training of local agency professional and paraprofessional staffs involved in nutrition education is a State agency responsibility. While the Department has no objection to local nutritionists providing nutrition education training to Program staff not involved in nutrition education, and in fact encourages such training, the proposed requirement has been deleted from the final rules.

Participant contacts. The proposed rules regarding the number of contacts for and content of nutrition education reflected the Department's desire to develop a quality nutrition education component of the WIC Program. It was the Department's belief that by acting on recommendations made by the WIC Nutrition Education Advisory Panel and others, the setting of a specific number of nutrition education contacts and content would result in a stronger nutrition education component in the WIC Program. However, the overwhelming majority of commenters were strongly opposed to these proposed rules. The reasons given most frequently for opposing the proposal were the sophistication of the required content in relation to the participant's background and the lack of flexibility to provide for individual participant needs

and local agency abilities. A number of the commenters suggested that the Department revise the rules entirely, requiring only that no less than two contacts be given, and that the content be based on the participant's need as determined by the nutritionist at the local agency.

The Department is acutely aware of the differing resources and capabilities of local agencies to provide nutrition education. However, the effective nutrition education component requires a well-defined foundation. The Department did not intend to infringe on the local agency nutritionist's ability to individualize nutrition education lessons. The level of sophistication in the teaching method and the content should be varied according to the participant's understanding. However, in view of the concern expressed, the section has been simplified. In particular, the references to specific nutrients were deleted and it was clarified that not all the topics listed must be discussed at each contact. What remains is a framework which is flexible enough to provide for individual participant needs, while at the same time creates minimum standards which must be met in providing quality nutrition information.

The Department received a number of comments opposing the provision allowing participants to receive the supplemental foods although they do not attend or participate in nutrition education activities. The commenters believed that such a provision was contradictory to the goals of the WIC Program and would severely undermine the Program. The Department believes that the burden for providing nutrition education with delivery of the supplemental foods should be on the State and local program administrators, not on the participants. Therefore, the final rules specify that the participant should not be denied the supplemental foods for failure to attend or participate in nutrition education activities. For purposes of planning future nutrition education lessons for the participant and for purposes of monitoring local agencies, refusal or inability of participants to attend nutrition education sessions shall be documented in the certification files. It is important to realize that a participant's self-determination could be a factor in the issue of mandatory nutrition education, particularly when the person involved may be in the late stages of pregnancy or be a mother with one or more small children. Thorough integration of nutrition education into the WIC Program can be done in a variety of

ways; local agencies are encouraged to make every reasonable effort to reach participants through convenient scheduling of individual contracts and group sessions.

Food Delivery Systems § 246.10

Two commenters requested a national, uniform procedure for redeeming food instruments by migrant farmworkers. The Department is deeply concerned with the needs of migrant farmworkers, and many provisions of the final regulations are intended to meet the special needs of this group. However, a national, uniform food instrument and related requirements would be extremely difficult to administer and would also seriously disrupt the operation of State and local agency accountability systems. The Department has provided for continuity in benefits to migrants by requiring State agencies to accept a transfer of certification from participants of other State and local agencies. Therefore, no national, uniform procedure for the redemption of food instruments is included in the regulations. The Department will continue to work with the State and local agencies to improve services to migrant farmworkers.

There is a potential problem with the wording of the proposed regulations concerning State agencies which contract with private firms to manage various aspects of the food delivery system. The State agency could enter into a contract specifying the firm's responsibilities, but, upon review of the proposed delivery system, FNS may find certain aspects which would not be in compliance with Program regulations. The State agency would then be forced to cancel or alter its contract with the private firm, which may be difficult or expensive to do. Therefore, the final regulations require that all contracts entered into by the State or local agency for the management or operation of the food delivery system shall be in conformance with the requirements of A-102, Attachment O.

Reimbursement for food instruments. Alternative wording was suggested for the requirement that food vendors be reimbursed for valid food instruments within 60 days of submission. This wording, which makes no substantive change but is clearer than the proposal, has been adopted. One commenter also suggested that vendors be given a 3 percent surcharge if payment is delayed. The Department does not believe that Program funds should be used for this purpose, and cannot require that other State or local funds be provided. However, the Department will take all

reasonable actions, including the imposition of sanctions on State agencies, to ensure prompt payment to the food vendors. Another commenter asked that USDA apply the requirement only to "properly completed" food instruments. The suggested wording was not included in the regulations because there are a number of reasons why a food instrument may not be valid, and the Department did not want to imply that being improperly filled out was the only acceptable reason for late reimbursement.

Food vendor agreement. About 50 comments either opposed the requirement of a written agreement with the food vendor or suggested alternative means of meeting the requirement, including a statement on the food instrument or reading the provisions to the food vendor. The Department strongly believes that a written agreement must be entered into with each food vendor, both to inform the vendors of their responsibilities under the Program and to have a written record of the food vendors' acknowledgement of their responsibilities to use as evidence in case of failure to comply with WIC Program requirements. Without such a written record it would be extremely difficult to prosecute a vendor for fraud or other abuses. Moreover, since this requirement has been in effect for more than one year and much effort has been made by States to comply, the Department feels it inappropriate to make any modification at this time. Therefore, the requirement of a written agreement with each food vendor remains in the regulations.

A few commenters opposed the requirement that copies of the written agreements with the food vendor be kept at the State level; the Department agrees that it is not necessary to have a copy of all agreements with food vendors at the State agency. Therefore, the requirement has been changed to allow the copy of the agreement to be kept by either the State or local agency.

Two commenters asked that the agreement include a requirement that food vendors attend training sessions. The Department appreciates the support for the requirement of training sessions for food vendors, and the State agency certainly has the option to include that provision in the agreement. However, the Department does not feel that this clause is appropriate for all written agreements, since the agreement is intended to deal with the basic responsibilities of the food vendor under the Program, not the means by which the

vendor is informed of these responsibilities.

About five commenters claimed that it will be impossible to enforce the section of the agreement concerning nondiscrimination. The Department does not agree. If a food vendor is discriminating against certain WIC participants on the basis of race, color, or national origin, the State agency should terminate the vendor's participation in the Program.

One commenter asked that "guardian or proxy" be inserted after "accept food instruments from participants," which appears in the written agreement. The Department agrees that a representative of the participant may obtain the foods from the vendor, and the regulations have been written to reflect this policy.

Food vendor information. Over 30 commenters objected to the requirement that nutrition education materials be given to food vendors. The Department believes that nutrition education materials would be useful in helping the food vendors understand the purpose of the Program and to encourage them to ensure that participants are given only the authorized supplemental foods. However, due to the opposition to this requirement on the part of State and local agencies, and the fact that in some cases nutrition education materials may not be appropriate, this requirement is deleted from the regulations. State agencies are, however, encouraged to provide nutrition education materials if they feel that they would be of benefit to the food vendors.

In response to public comments, the requirement that the brand names of authorized supplemental foods be listed on the voucher has been deleted. However, the Department continues to believe that the State and local agencies should take every reasonable step to ensure that the participant and the vendor know which foods are authorized under the Program. Therefore, a requirement has been added that the "pertinent information" which must be provided to the food vendor include a list of acceptable brand name food products.

Food vendor reviews. About ten commenters opposed the requirement that the State or local agency make on-site reviews of participating food vendors. Over 20 commenters supported this requirement. The Department believes that on-site reviews are indispensable to ensure that the food vendors are providing the proper foods to WIC participants. There was some confusion concerning how many food vendors should be reviewed each year. One commenter suggested that the

Department require that each year the State or local agencies perform an on-site review of 10 percent of the food vendors under the jurisdiction of the State agency. This suggestion seems an equitable requirement in that it will avoid imposing too great an administrative burden on the State agency while at the same time will ensure that a significant number of food vendors are reviewed each year. Therefore, this requirement is included in the regulations. Criteria has also been added on how to select vendors for review. Vendors should be selected on the basis of geographic diversity, high Program sales, past Program abuse, high prices for supplemental foods, or other criteria at the State agency's discretion. Selection according to those criteria will ensure that reviews are targeted where they will be most useful.

Food vendor training sessions. About ten commenters opposed the requirement of training sessions for vendors, mostly due to cost. About twice as many commenters supported this requirement. The Department believes that training sessions for food vendors are a very useful means of informing the food vendors of their responsibilities under the WIC Program. They are also necessary to provide a forum for answering food vendors' questions and making sure that they understand the purpose of the Program. Therefore, although the Department does not believe the written agreement must include a provision concerning the training sessions, the requirement for conducting training sessions remains in the regulations.

Program abuse. A large number of comments were received on the sections concerning participant and vendor abuse. Over 20 commenters supported the section. Two commenters asked that the State agency be allowed to design its own system for controlling vendor and participant abuse. The Department believes that the State agency is already given sufficient flexibility in designing and implementing its system for preventing abuse of the Program. Additional language has thus not been added to the final regulations.

There was some disagreement among commenters concerning the penalties that should be imposed on vendors who abuse the Program. Fifteen commenters asked that instead of requiring suspension of vendors, the regulations require that "appropriate action be taken." The Department strongly believes that vendors who abuse the Program by claiming excessive reimbursement or providing unauthorized foods to participants

should be suspended from the Program. Not to do so would encourage other vendors to abuse the Program with impunity.

A greater number of commenters asked that the Department require that disqualification from other FNS programs be grounds for suspension of the vendor's participation in the Program. The proposal had stated that disqualification from another FNS program merely be grounds for review of the vendor's participation. This wording was chosen to allow greater flexibility for the State agency and to provide vendors with the benefit of a fair review of the circumstances which may exist in regard to the Program. Therefore, the wording remains unchanged in the regulations.

The maximum period of suspension from the Program has been reduced to 1 year rather than 3 years as proposed. The Department determined the 1 year suspension to be a more reasonable sanction.

A few commenters asked that the Department allow a warning period before the imposition of sanctions for a vendor's abuse of the Program. The Department has no objection to the State agency providing a warning. The State agency has the flexibility to determine what level of noncompliance constitutes abuses of the Program. However, as this flexibility is provided in the current language, no change has been made in this section.

Thirty-five commenters opposed the prohibition against suspending children from the Program due to Program abuse by the parents. Another 15 asked that the State be given more discretion in determining when to suspend. The reasons given were that sanctions were needed against parents who abuse the Program; it will make enforcement of WIC Program requirements difficult; and the requirement may result in less children receiving food by encouraging parents to sell vouchers or obtain unauthorized items in lieu of supplemental foods. Only four commenters supported the prohibition against suspending children. The Department does not believe that children should be punished for the acts of their parents. However, the Department is concerned about any possible encouragement to participant abuse of the Program. If a parent is obtaining foods for a fraudulent purpose and is not providing the supplemental foods to the child, it makes little sense to keep the child on the Program. Therefore, it appears that the decision as to whether to suspend a child's participation should be made on an

individual basis, depending on what is in the best interest of the child involved. As a result, this section has been reworded to allow the State agency more discretion in determining whether to suspend a participant for Program abuse. Participants may be suspended for a period not to exceed three months at the discretion of the State agency.

Institutions. A large number of commenters requested changes in the requirement that foods not be issued for use by residents of institutions.

This provision was never intended to exclude children who spend part of the day in a day care center from participating in the Program. Rather, it was intended to exclude persons who live in institutions which already provide them with food. The reason for the requirement is to preserve the individual nature of the Program and to prevent WIC foods from being used in institutional feeding with no connection made between health care or nutrition education. However, due to the misunderstanding that has emerged on this issue, the examples of day care centers have been deleted. The State or local agency still may not provide foods to the day care centers; but children who spend part of the day in a day care center may continue to participate in the WIC Program as before. In addition, individuals residing in facilities such as rooming houses or group homes where meals are not served, would not be considered institutional residents.

About 50 comments were received objecting to this requirement in more general terms on the grounds that some institutions do not provide sufficient food. The purpose of the Program is to provide supplemental food and nutrition education to individuals. Providing foods for distribution by institutions would be contrary to this purpose, especially as many institutions are receiving cash and commodities through other FNS programs. It was pointed out that some institutions do have kitchen facilities for use by residents. However, in most cases the bulk of the food received by residents is provided by the institution.

Participant signature. It was suggested that the requirement that participants sign upon the receipt of food instruments or supplemental foods should be changed to allow the representative of the participant to pick up the foods. FNS policy is that a representative may pick up food or food instruments for the participant and sign the food instrument for the participant. The regulations have been rewritten to reflect this policy.

Mailing of food instruments. A number of comments were received concerning the mailing of food instruments. Over 15 commenters opposed the mailing of food instruments because it may encourage fraud and discourages the provision of nutrition education. Twice as many commenters supported the mailing of food instruments in various circumstances, including poor transportation, hardships, if a migrant farmworker is about to move, and on the request of the participant. Because the Department believes Program services should be closely integrated with other health services, mailing is only permitted in limited circumstances. As requested by commenters, mailing due to a participant's transportation difficulties or other hardships is allowed in the final regulations, as in the proposal. Some commenters suggested mailing food instruments to participants who are relocating in a new area. The final regulations do not permit such mailings because there may be no authorized food vendors to accept the food instruments mailed from another area. Mailing on the request of a participant is too broad a criterion, although a participant's request for mailing should be carefully considered in light of the criteria given in the regulations. The requirements regarding mail delivery of food instruments remain as proposed.

Information on food instruments. The information required to be given on the food instrument was the occasion for much comment. About 10 commenters asked that participants be given a maximum of 30 days to use the food instrument to obtain supplemental foods. The proposal provided that the participant be given a minimum of 30 days. This requirement was included to ensure that participants are given sufficient time to redeem the food instrument and to avoid unnecessarily inconveniencing participants. The Department had received a number of complaints from various parts of the country concerning food delivery systems where participants were forced to go to the store quite frequently, with no particular benefit derived either for the participant or the local agency. The Department believes that participants should be allowed the maximum possible time to redeem the food instrument. Therefore, the requirement that the participant be given a minimum of 30 days remains in the regulations. One commenter asked that for first issuance the participant be allowed until the end of the month or cycle for which the food instrument is valid. This is the

intent of the provision, and the wording has been changed to clarify this point.

Almost 20 commenters asked that the food vendor expiration date be 30 days from the last date for which the participant may use the food instrument. The proposal gave the food vendor a maximum of 60 days in which to redeem the food instrument. The State agency may limit the food vendor to less than 60 days if the State agency ensures that the shorter time period will impose no undue burden on the vendor. Therefore, the State agency may in some circumstances give the vendor only 30 days. However, as there are circumstances where a 30-day requirement would create problems for the food vendor, the provision allowing the State agency to set a maximum of 60 days remains in the regulations.

A few commenters opposed the requirement that the maximum purchase value be higher than the anticipated cost of the supplemental foods because they felt it was an invitation to fraud. This should not be a problem if the food vendor is instructed as to the meaning of the maximum purchase value and the State or local agency's financial management system has the effective check on possible overpricing. Additionally, the maximum purchase value must be higher than the cost of the foods to ensure that the participant does not have to pay part of the cost. Therefore, the requirement remains as proposed.

The largest number of comments, over 150, opposing any single issue of the regulations were received on the requirement for brand names to be listed on the food instrument. The reasons given for opposing the requirement were that the variety of authorized foods is too great so there is not enough room on the food instrument; it would constitute promotion of a commercial product which is against certain State laws; because foods differ between areas within a State, a Statewide uniform food instrument could not be provided; and it would require changing the food instrument very rapidly to keep up with changes in the brand names. Only very few commenters supported the brand names requirement. The Department believed that brand names should be placed on the voucher to ensure that the participant and food vendor clearly understand which foods are allowable under the Program. However, the Department did not expect that the requirement would prove so burdensome to State and local agencies. Therefore, the requirement that brand names be printed on the food instrument

is deleted. States are encouraged to print the brand names if possible. If States do not print the brand names on the food instruments, they should ensure that all vendors and participants are aware of exactly which foods are authorized by providing them with brand name lists.

Late food instruments. About five commenters opposed allowing the vendor to redeem expired food instruments; an equal number supported this provision. One commenter was unclear whether the \$200 limit applied to a limit for each submission or a limit on each vendor. Formerly, the State agency had to request FNS approval for redemption of any late food instruments. The proposed provision is designed to save administrative time for both FNS and the State agency. The limit of \$200 refers to a single submission of expired food instruments. The State agency should not continue to reimburse repeated late submissions of food instruments from the same food vendor.

Number of food vendors. Over 20 commenters opposed the requirement of more than three food vendors in each clinic service area, while a larger number supported the requirement. Those opposed to the requirement suggested that the number of vendors should depend on the size of the area or the caseload and claimed that there may be insufficient vendors available. It would be difficult to set equitable requirements for the number of food vendors on the basis of size of area or population. Since the clinic service area is usually determined on the basis of size or population, the Department believes that the requirement of four vendors per clinic service area reasonably reflects these concerns. However, it was pointed out that the requirement could cause problems if there only four vendors in the area and one vendor refused to participate or could not successfully carry out Program responsibilities. Therefore, the wording of the requirement has been slightly changed to require four food vendors per clinic service area unless the State agency determines that it is impossible due to a lack of retail outlets which meet Program requirements, vendor refusal to participate, or lack of outlets with prices commensurate with the area's other retail outlets.

Direct distribution. Two commenters asked that the State agency be given a shrinkage allowance to compensate for the loss of stored food due to infestation or damage. The Department does not believe that WIC Program funds should be provided to pay for foods lost or damaged. Such an allowance might

encourage State agencies to neglect strict control and maintenance of storage facilities. Therefore, this suggestion was not included in the regulations.

Financial Management Systems § 246.11

Identification of obligated funds. One commenter asked that the requirement for "accurate" identification of obligated funds be deleted. The commenter claimed that accurate identification was impossible, since the actual price of the food is not known until redemption by the vendor. This requirement does not mean that the actual redeemed value of the food instrument must be known exactly at the time of issuance. However, the State agency should have a reasonable estimate of the amount of obligations. The estimate can be based on the prevailing retail price of the foods issued.

Reconciliations. About 10 commenters opposed the requirement of a one to one reconciliation of all food instruments. They felt that the reconciliation was not necessary to discover fraud and was too costly. However, the Department strongly believes that one to one reconciliation of the value of food instruments issued with the value redeemed is essential for the accurate control and accounting for WIC Program funds. Without a one to one reconciliation the State agency will never know how much funds it has expended and will not be able to spend all of its available funds to serve participants. Further, this requirement has been in effect over 1 year and States have made considerable efforts to comply. Therefore, the requirement of a one to one reconciliation remains in the regulations. Some comments were also received asking that home delivery systems be excluded from the requirement of a one to one reconciliation. Under a home delivery system, the local agency must know the value of obligations and the subsequent expenditures. The same information as to identification of obligations and expenditures on a one to one basis is still required.

Identification of unredeemed food instruments. One commenter asked that the requirement of identifying unredeemed, unexpired food instruments be deleted. The accountability of all food instruments issued is extremely important under a sound financial management system. All unexpired, unredeemed food instruments must be reflected on records and reports. This will permit prompt cancellation of all food instruments that expire and remain unredeemed and

further ensure complete accountability of all food instruments issued. Therefore, the requirement will remain as proposed.

Program Costs § 246.12

Some wording has been added to this section to clarify the State agency's responsibilities regarding direct and indirect costs. This provision adds no new requirements to the regulations.

Nutrition education "set-aside." A large number of comments were received concerning the requirement that a State agency expend an amount equal to at least one-sixth of the State agency's administrative expenditures on nutrition education. Nearly 30 commenters requested that the Department accept estimates as documentation of the level of nutrition education expenditures. All expenditures claimed must be based on records of actual expenditures. Each nutrition education expenditure which is used to show compliance with this requirement must be supported with the same documentation that would be used to support any other item of cost. It is true that, since nutrition education is not a line item expenditure, in some cases the actual amount of a documented line item expenditure which was devoted to nutrition education may be hard to determine. In these cases, the amount of the expenditure devoted to nutrition education should be determined in a reasonable and accurate manner. Where it is impossible to determine the exact amount of a cost category which was spent on nutrition education, an estimate may be used as long as it is supported by appropriate evidence.

Commenters asked whether the State agency had to document the full costs of nutrition education or only sufficient expenditures to prove that the State had expended an amount equal to at least one-sixth of its administrative expenditures on nutrition education. The State agency must document that it has spent an amount equal to at least one-sixth of its administrative expenditures on nutrition education. The State agency is not required to maintain records supporting the expenditure of nutrition education funds above the one-sixth requirement, other than the records necessary for claiming other categories of administrative costs. This policy should help reduce the administrative burden on State agencies which spend a large percentage of their administrative allowance on nutrition education.

About ten commenters stated that one-sixth of the State agency's administrative expenses was not sufficient for nutrition education. The

requirement of one-sixth is a minimum requirement, and the State agency is free to devote more than one-sixth of its administrative expenditures to nutrition education.

Almost 30 comments were received asking that dietary assessments be allowed as a nutrition education cost. The intent of the increased emphasis on nutrition education in the law is to encourage improvements and formalization of the nutrition education component of the Program.

The Department believes that only those expenditures which are clearly devoted to nutrition education should be included in the "set-aside." Dietary assessments which are performed to determine an applicant's eligibility for the WIC Program may not be claimed as a nutrition education expenditure. Dietary assessments performed on persons solely as a means of providing nutrition education may be claimed as a nutrition education expenditure. This distinction is not intended to preclude nutrition education oriented discussions during the dietary assessment in the certification process; however, in these cases, the dietary assessment should be claimed as a certification expense. The nutritionist may estimate the time spent with the participant above and beyond that necessary for certification, and claim that time as a nutrition education expenditure.

Approximately ten commenters objected to the provision that in-kind services used for nutrition education may replace WIC Program administrative funds in the one-sixth set-aside requirement. Public Law 95-627 allows in-kind services to be included, providing documentation is submitted and approval is obtained. Therefore, the provision remains.

A number of comments were received concerning the various items listed as expenditures which may be included in the nutrition education set-aside. The list was designed to include the most common costs which could be reasonably justified as contributing to nutrition education.

There was some confusion as to whether fringe benefits and travel time were allowable nutrition education costs. The intent of the provision that "salaries and other costs for time spent on nutrition education" is to include fringe benefits and travel. A few commenters pointed out that the cost of producing nutrition education materials was allowable, but the cost of purchasing materials from other sources was not. This was an oversight, and in the final regulations the cost of purchasing nutrition education materials

is included. Approximately ten comments were received objecting to the inclusion of each of the categories of evaluation, training, planning, and monitoring in the nutrition education set-aside. They wanted more time spent on nutrition education counseling. However, without training, planning, monitoring and evaluation the quality of nutrition education would suffer, and it would be impossible to gauge what progress had been made and where nutrition education resources should be directed. The Department considers these functions essential to a successful nutrition education program. Since the law requires that all funds spent on "nutrition education activities" be included in the set-aside, these items remain in the regulations as allowable nutrition education expenditures.

The Department also received about five comments objecting to considering in the set-aside the cost of mailing of nutrition education materials to participants. The purpose of a mandated funding set-aside for nutrition education is to improve and expand nutrition education activities. The Department believes that in cases of unusual circumstances, nutrition education materials could be mailed to an individual participant and considered an allowable cost. Therefore, the provision to include the mailing of nutrition education materials to participants as an allowable nutrition education expenditure will be retained. Certainly the mailing of materials should not be the routine method of a local agency for providing nutrition education.

Medical equipment. About ten commenters supported allowing the purchase of medical equipment with WIC Program funds, while about half of that number opposed it. Public Law 95-627 includes the cost of spectrophotometers, centrifuges, scales and measuring boards as allowable administrative costs. The costs of these kinds of equipment vary widely, depending upon the use for which the equipment is designed. Since only certain models of this equipment are necessary for the WIC Program, it is necessary that the Department set cost limits for purchasing this equipment. This is especially important because the cost of elaborate spectrophotometers or centrifuges may be thousands of dollars above the cost of equipment necessary for certification. Therefore, FNS will publish guidance on what equipment may be purchased and above what cost level these purchases must receive prior approval by FNS. Until these guidelines are determined each piece of medical equipment purchased with WIC Program

funds must receive prior approval by FNS.

Fair hearings. A couple of commenters asked whether the cost of fair hearings, including the cost of an independent medical assessment, was an allowable WIC Program cost. The right to a fair hearing is essential if the participant is to be assured of fair and unbiased treatment. The cost of a fair hearing is certainly an allowable Program expenditure. Since a disagreement over whether an applicant is in nutritional need may be difficult to resolve, the cost of an independent medical assessment of the applicant's nutritional risk is also allowable, as long as the assessment is necessary to resolve issues related to the fair hearing.

Transportation of participants. In the past WIC administrative funds could not be used for transportation expenses incurred by participants since funding was limited in many of the clinics. However, a prime concern of the Department is for improved service to participants in rural areas. For this reason the Department has decided to change its previous policy by allowing the States the prerogative of using administrative funds to provide participant transportation when essential to assure Program access. Consequently, the final regulations include transportation of participants as an allowable cost at the discretion of the State agency when such service is considered essential.

FNS—approved costs. The proposal stated that only those costs allowable under FMC 74-4 were allowable costs. However, under FMC 74-4 there are certain costs which are allowable only with the prior approval of FNS. In the interest of clarity the regulations provide a list of expenditures which require prior FNS approval. The requirements of OMB circular A-90 are also included. The costs of information systems, including automated data processing equipment, are allowable under certain conditions. The information system must be adequately planned, costs must be justified, duplication with existing systems must be avoided and the system must be coordinated with other State or local operations as much as possible.

Program Income § 246.13

The five comments received concerning this area supported the section as written. However, as part of an effort to simplify regulations, the department has reduced the contents. Specifics concerning proceeds received from sources such as the sale of property or royalties are now covered

under a general category of "Other Program Income" to be handled in accordance with provisions of A-102, Attachment E. There have also been minor revisions in wording in the remaining parts of the section.

Distribution of Funds § 246.14

An estimated 112 comments were received on this section. There were several requests that the regulations include guidance on how FNS intends to spend funds appropriated for special projects. In this regard, a separate notice will be published shortly providing guidelines for the type of evaluations and pilot projects the Department feels will be especially beneficial to the Program, as well as a timeframe and guidance for submission of applications for such funds.

Approximately 43 commenters expressed some opposition to the requirement concerning the formula for distribution of administrative funds to local agencies. It was felt that few significant determinants of cost levels could be included in a mathematical formula, that line item budgets were more efficient and that it should be a State decision. It was suggested that "formula" be changed to "method" or "procedure" to allow greater flexibility to the State agency and avoid the necessity of using a strict mathematical formula. Since the law does not require a mathematical formula, the Department concurs that the use of this word is restrictive and misleading. Therefore, the regulatory language has been revised and now reads that for the allocation of administrative funds the State agency shall develop an administrative funding procedure in cooperation with a representative sample of local agencies.

The requirements for a representative sample of local agencies and the criteria for the formula also evoked a number of comments. Several commenters supported the sample prescribed in the regulations. Others suggested that the Department not specify which local agencies must be included. However, the Department believes that it is important that the State agency receive a comprehensive and well-balanced view of the local agencies' needs. Therefore, the final regulations retain the requirements for a specific group of local agencies to be included in the representative sample. It was suggested that a "potential local agency" be deleted since they may never participate in the WIC Program. The requirement of "a potential local agency" has been deleted. Concerning the criteria for the method, it was suggested that the

number of participants served by the local agencies should be an important consideration. The Department agrees and this factor is now included in the regulatory requirement.

The Department has made a significant change in this Section by adding two new parts as follows: (d) *Recovery of funds.* Funds may be recovered from a State agency at any time that FNS determines, based on State agency reports of expenditures and operations, that the State agency is not expending funds at a rate commensurate with the amount of funds distributed or provided for expenditures under the Program; and (e) *Reallocation of funds.* Any funds recovered under paragraph (d) above shall be reallocated by FNS as deemed appropriate.

This information was formerly proposed in § 246.15 "Redistribution of Funds." The Department determined, however, that § 246.15 was actually a composite of information that either pertained to other sections of the regulations or was a reiteration of their content. Therefore, in addition to the above parts being transferred to § 246.14, other portions of § 246.15 have been combined with the section on Claims and Penalties, or with the provisions on sanctions under the Management evaluation and reviews section. Therefore, § 246.15, as proposed, has now been deleted.

Records and reports § 246.15

Nine comments were received on this section, half of which were basically in accord with the requirements as stated.

One commenter suggested that reports be available on request within a reasonable time to anyone requesting them. This is presently allowed if such information does not divulge the names of participants or their medical case records and, therefore, need not be reiterated under Program regulations.

Another suggestion was to require reports on the racial and ethnic breakdown of local agency staff members. The Department requires FNS to develop special regulations addressing civil rights for each FNS program. Such regulations concerning all aspects of the WIC Program are being developed.

One commenter endorsed quarterly reporting rather than monthly; however, Pub. L. 95-627 specifically states that State agencies must submit monthly financial reports and participation data to FNS. Previously a Court Order mandating the recovery and reallocation of unspent funds dictated that a monthly reporting system be maintained. Since the reallocation process is presently a

necessary component of funding apportionment, the monthly submission of Program performance data has been of tremendous benefit to Program administration and planning. The requirement for monthly reporting will be retained.

This section has been redesignated as § 246.15.

Closeout Procedures § 246.16

Fiscal year closeouts. Of the twenty-one comments received on this section, one-fourth were basically supportive. Other commenters, however, felt the requirements were unrealistic, such as the time frame for submission of the final fiscal year closeout reports, and suggested it be increased from 120 days to 150 days. Consequently, the time frame has been increased to 150 days.

It was further suggested the FNS should be responsible for reimbursing State agencies for expenses or unpaid obligations later than one year after the close of the fiscal year in which they were incurred. The Department believes that any extension would be excessive. When the State agency has a sound financial management system which provides accurate, current and complete accounting for all property, assets, and all Program funds received and expended, there should be no need for reimbursement of any cost later than one year after the close of the fiscal year, unless the reimbursement is due to an audit settlement.

Grant closeout procedures. Several commenters addressed Program termination. They did not favor termination of any local WIC Program, especially if there was no other sponsor available since participants would be adversely affected. The Department does not encourage any action that would be detrimental to participants; however, there must be some recourse if an agency seriously neglects its responsibility in complying with Program requirements. Any agency entering into an agreement to administer the Program will hopefully recognize the necessity for full compliance and the need will not arise to enforce the termination provision. If the situation did demand such recourse, all effort will be expended to immediately secure another sponsor to maintain continuity of benefits for participants.

This section has been redesignated as § 246.16.

Procurement and Property Management Standards § 246.17

The three comments received supported the section as written. A few minor word changes or additions have

been made, but the section basically remains as proposed. It has, however, been redesignated as § 246.17.

Claims and Penalties § 246.18

Claims. Only seven commenters addressed this section concerning loss of Program funds, supplemental foods, or food instruments, as a result of thefts, embezzlements, or unexplained causes. One commenter felt the phrase "or unexplained causes" should be deleted on the basis of being confusing or intimidating to the State agency. The Department, however, feels that upon execution of the Federal-State agreement the State agency becomes the protector or safekeeper of all Program funds or food provided to it, and must assume the accordant responsibility. Therefore the loss, even if it cannot be attributed to theft or embezzlement, is still the responsibility of the State agency, and the statement as written is retained.

Withholding Funds. It was further suggested that the section should reference action that will be taken if an agency fails to make prompt payment of any claims. The Department concurs and has included language which states that if the State agency fails to pay any such demand for funds promptly, FNS shall reduce the State agency's Letter of Credit by the sum due. An appropriate formal letter shall be sent to the Chief State Health Officer or equivalent stating that this action will be taken within 30 days, and identifying the amount of funds which will be withheld. The final regulations also clarify that the State agency is responsible for providing the funds to maintain Program operations at the level reached prior to the Letter of Credit reduction.

In addition to minor changes to incorporate phraseology formerly contained in § 246.15 "Distribution of Funds" now deleted, this section is redesignated as § 246.18.

Management Evaluations and Reviews § 246.19

General. One commenter suggested that language be added to state that FNS will provide assistance to State agencies in establishing a management evaluation system. Although the Department cannot administer a State agency operation, technical assistance to establish operations is available. As an indication of the Department's concern, the suggestion to specify the availability of assistance has been adopted.

As a result of the sanction procedure, a few commenters wanted FNS to adopt a fair hearing procedure for State

agencies aggrieved by FNS actions. Any aggrieved State agency that wishes may ask for a review of an FNS decision, therefore the regulations remain as proposed.

Responsibilities of FNS. A few commenters did not want FNS to conduct annual reviews, and suggested that FNS Regional Offices set the schedules. Workloads and need for management evaluations vary among the State agencies. Therefore, in order to provide for some flexibility in scheduling, annual reviews are encouraged by the regulations, but not required. FNS must, however, conduct a review at least once every two years.

Approximately six commenters wanted clarification of the timeframes for corrective action plans. A few commenters wanted a full year to effect corrective action. The Department amended the regulations to make the sequence of actions more clear, but did not specify the exact time limit for the corrective action plan. The time limit within the corrective action plan itself should be determined between FNS and the State agency, since some deficiencies will take more time to correct than others. The regulations do specify that State agencies will have adequate time to comply with the corrective action plan. FNS emphasis is on achieving compliance, not on applying a sanction.

This section also contains language previously proposed in § 245.15. The specific provision allows FNS to withhold up to 100 percent of a State agency's administrative funds if FNS determines the State agency has failed without good cause to administer the Program in accordance with the statute, this part or the State Plan. This provision is based upon language in Pub. L. 95-627. FNS would invoke this authority only upon finding continuing, substantial noncompliance or negligence on the part of the State agency.

Over 40 comments were received concerning the performance standards proposed in the regulations. About 10 commenters were opposed to the sanctions as punitive or unrealistic. Approximately 6 commenters thought the standards were inconsistent. An alternative suggested was to allow computer or statistical monitoring as opposed to on-site monitoring. Two commenters wanted the performance standards to be clearer while about five commenters wanted more lenient standards. Two commenters supported the standards and wanted more strict standards in some cases, e.g. vacant positions should be vacant no more than

30 days, rather than 9 months as in the proposed regulations.

In evaluating the comments, the Department concluded that the performance standards in the proposed regulations needed clarification. Therefore, some modification in the language was made.

Two performance standards were clarified in the final regulations in response to comments. First, it is intended that 10% of vendors across a State agency must be reviewed annually. However, sanctions need not be imposed unless less than 8% of vendors are reviewed annually. State agencies should select a geographically balanced sample. Second, it is intended that 100% of food instruments be reconciled, meaning that the instruments are accounted for as cashed, stolen, void, or uncashed. The sanction process, however, would not be implemented until the State agency failed to account for more than 5% of the food instruments, since the penalties are for substantial noncompliance, not occasional errors. Therefore, the regulations specify that the sanctions process will begin if more than 5% of food instruments are not reconciled.

Audits § 246.20

Approximately 23 comments were received. Eight commenters supported the section as written. The other commenters made the following suggestions:

Corrective Action. Concerning action to correct deficiencies based on audit findings, it was proposed by several commenters that the State agency be required to design corrective action plans, and that USDA should review the State's action to determine whether the plans were implemented and whether the completion of the plans solved the problems. It was further suggested that sanctions should be levied against any agency that fails to implement and complete necessary corrective action. Although in the proposed language it was the Department's intent that the State agency would develop necessary plans to remedy problems indicated in audit findings, it was not specifically stated. Therefore, the section has now been revised and the wording clarifies that the State agency must develop such corrective action plans with specific timeframes. FNS will determine whether Program deficiencies have been adequately corrected and the State agency will be required to pay any claim due.

State-sponsored Audits. To preclude the misconception, as evidenced by one commenter's remarks, that the

regulations permitted only certified public accountants to conduct audits and that public accountants were excluded, the regulatory language has been revised. It now specifically includes State-licensed public accountants as parties authorized to perform audits.

Two commenters expressed the opinion that reducing audit requirements works as a detriment to the Program. However, the portion of the section concerning scope and frequency of State-sponsored audits had to be revised to reflect a recent amendment to A-102, as the previous regulatory language would have been in conflict with this new amendment. This part has been expanded at the suggestion of another commenter. It now states that a State agency may perform a separate audit of the WIC Program at any time at its discretion.

It was also suggested that a portion of the section be rewritten to state that each State agency shall make all State or local agency sponsored audit reports of Program operations under its jurisdiction available to anyone for review upon request. Any audit of the WIC Program conducted by the State agency would be available to the Department and the local agency auditee upon request, and to others at the State's discretion. Audits of the Program conducted by the Department would be available for review by the State agency and the local agency auditee upon request, with requests from the general public subject to approval by the USDA Office of the Inspector General. Therefore, the language as proposed will be retained.

This section has been redesignated as § 246.20.

Investigations § 246.21

Six comments were directed to this section. Three of these supported the section as written. The others were concerned with investigations of allegations. It was felt the section should be rewritten to hold FNS accountable for investigating all allegations of any State or local program irregularities or violations made by Program participants, and for responding to such requests with a mandated turnaround time.

Although the Department is concerned and will certainly review allegations of Program abuse, the Department believes it should have flexibility in determining the severity of any allegation made against a State or local agency and whether the request warrants an investigation. The Department also feels that investigations of violations by

participants should be at the discretion of the State agency. Therefore, no change will be made in the proposed language.

This section is redesignated as § 246.21.

Nondiscrimination § 246.22

Requirements. In compliance with the requirements of Title VI of the Civil Rights Act, the final regulations prohibit discrimination on the basis of race, color or national origin. The proposed prohibitions against discrimination on the basis of age, creed, sex, handicap and political beliefs, are being developed. The Department does not condone discrimination on any basis, but chose not to delay the final regulations while awaiting the necessary clearances on the Nondiscrimination Section of the regulations.

Non-English materials.

Approximately thirty commenters expressed concern over the proposed nondiscrimination provisions. Most of the comments addressing this section were criticisms of the proposed requirement for State agencies to develop certification forms in languages other than English. Commenters pointed out that participants do not complete the forms or retain them, and that the staff members completing the forms read English. Comments also indicated that the certification form often is also the computer data entry document and the keypunch operators usually read only English. Many commenters felt that bilingual staff members are preferable to translated forms. In response to all of these points, the final regulations have been revised to specify that State agencies affected by the requirement for non-English materials must ensure that required Program information other than certification forms is provided in the appropriate languages orally and in writing. However, the State agency must ensure that all rights and responsibilities listed on the certification form are read to the applicant in the appropriate language. The Department encourages State agencies to translate certification forms in all instances where data processing problems or other difficulties do not prevent the use of translated forms.

In response to comments, the final regulations also specify that interpreters may be used in lieu of bilingual staff members. The use of interpreters would enable local agencies to use volunteers when necessary, such as when there is an influx of migrants for a short time each year which does not warrant the hiring of year-round bilingual staff.

However, the local agency must ensure that such volunteers are reliable and available when needed.

Complaints. Several commenters suggested that State agencies with a State system for processing complaints be allowed to use that system in lieu of the Department's system. That recommendation will be considered in the near future when the forthcoming, more detailed nondiscrimination regulations are published.

Fair Hearings § 246.23

Availability of hearings.

Approximately a dozen commenters expressed concern over the omission of reference to local agency fair hearings and of participant appeals based on local agency adverse actions. These omissions were inadvertent and have been added to the final regulations. A new paragraph has been added to explain that the State agency may choose to allow fair hearings at the local level or may prefer to provide only State level hearings. A local agency hearing decision is binding on all parties, but may be appealed to the State level by an appellant who believes the local decision to be incorrect. However, when the local hearing official upholds the local agency action, any continued benefits ordered discontinued by the hearing official should be terminated and should not be reinstated unless and until the State level decision reverses the local decision.

Approximately ten commenters expressed opposition to providing fair hearings for reductions in benefits because they felt food package tailoring should not be subject to appeal. The Department shares the commenters' concern that allowing appeals of reductions in benefits may well encourage appeals and result in the issuance of maximum food packages to all applicants rather than individually tailored packages as intended by these regulations. Thus, although the Department urges full and complete discussion with participants about the amounts and types of food prescribed, the final regulations do not provide for appeals of reductions in benefits.

Notification of appeal rights. Seven commenters, mostly local agencies, suggested that a poster displaying hearing rights be mandatory in all certification offices. The Department recommends that such posters be displayed by all agencies. However, such posters are not required by the regulations because there are other requirements designed to achieve adequate notification, and designing and printing the posters would be an

additional expense to State agencies. The regulations require a notification of appeal rights at the time of application and also at the time of denial or termination from the Program. The Department feels that these notification requirements will suffice. There is a requirement for a poster explaining where to file complaints of discrimination. However, those posters are provided by the Department and are used for other programs in addition to the WIC Program.

Time limit for hearing request. The proposed requirement allowing a minimum of 90 days to appeal a decision drew much opposition. Over fifteen commenters recommended that the time limit be shortened because the issues being appealed, particularly medical conditions, grow increasingly difficult or impossible to reconstruct as time passes. A few commenters recommended a time limit of less than 30 days, most recommended a 30 day limit, and several recommended a 60 day limit. Two commenters opposed the 90 day limit as too short and recommended a 180 day limit.

In response to comments, the minimum time limit for requesting an appeal has been reduced in the final regulations to 60 days from the date the agency provides notification of the adverse actions. It is assumed that upon being notified of an adverse action, most needy individuals will appeal the action immediately and any others who intend to appeal will do so within the next 60 days.

Although several commenters complained that 45 days is not a sufficient period of time to process an appeal, the requirement is retained in the final regulations. The Department believes that appellants, particularly those not eligible for continued benefits, warrant rapid attention to determine if they have been erroneously denied or terminated and are in need of and eligible for benefits.

Continuation of benefits. The proposed provision of continuation of benefits to participants terminated due to categorical ineligibility drew more opposition than any other requirement in the fair hearing section. Approximately fifteen commenters felt that those determined to be categorically ineligible should not even be provided a fair hearing and approximately twenty-five commenters felt that benefits should not be continued if a fair hearing is provided. The Department believes and the final regulations indicate that all individuals aggrieved about a denial or termination from the Program for any reason should

have the opportunity to request a fair hearing and explain why they feel the agency action is incorrect. It may be established that the agency made an error, for example, the birthdate of a child could have been recorded incorrectly and the child may be eligible although the case record indicates that the child is five years old and categorically ineligible.

Benefits shall continue to be provided to participants until a hearing decision is reached only for those individuals who are to be terminated during a certification period and who appeal within 15 days after notification of termination. An appeal after the 15 day time limit will not result in continued benefits. Applicants who are denied benefits at the initial certification or at a subsequent certification may appeal the denial but shall not receive benefits pending the hearing decision.

Hearing official. Several commenters asked who would pay for an independent medical assessment if requested by the hearing official. § 246.12, Program Costs, now addresses fair hearings and explains that both the hearings and the cost of the independent medical assessments are considered allowable costs.

Hearing decisions. Several commenters expressed confusion over the action to be taken after the hearing decision is rendered. The paragraph has been reworded to state that decisions favorable to the appellant result in benefits beginning or being reinstated if they had not been previously continued. If benefits were continued, the participant would continue to receive them until the normal expiration of the certification period. Decisions unfavorable to the appellant require the agency to terminate any continued benefits as soon as possible.

Judicial reviews. A few commenters requested clarification of appeals available after a State agency decision. State agencies are free to develop their own methods of reviewing or rehearing State decisions and should include those methods in their rules of procedures which are given to appellants. A new paragraph has been added to the final regulations to require State agencies to explain the right to pursue judicial review of a decision to individuals who have lost a fair hearing and are interested in further appeal.

Administrative Appeals § 246.24

Requirement. Approximately thirty commenters addressed administrative appeals. The majority of comments received on this section were in opposition to the proposed availability

of an appeal for "any adverse action" taken against a local agency or food vendor. Commenters felt the wording was vague, overly broad and in need of revision. In response to those comments the final language has been changed to allow appeals of adverse actions which "affect participation."

One commenter asked if the appealing local agency or vendor receives a postponement of the adverse action while awaiting a requested appeal. The final regulations clarify that the State agency must postpone the adverse action until the hearing decision is reached.

In response to comments and questions received, the Department added two new paragraphs to this section. One paragraph explains that requesting a hearing does not relieve the appellant from any responsibilities entered into under a written agreement with the State or local agency. The other new paragraph explains that when an appellant who has lost a hearing asks about further appeals the State must explain any available State reviews or rehearings and must also explain that the appellant may pursue judicial review of the decision.

Miscellaneous Provisions § 246.25

Less than five commenters addressed this section of the proposal. The following two changes were made in response to comments received. In response to a comment from another Federal agency, the paragraph on medical information now specifies that medical data obtained through the Program may be collected in a form which does not identify individuals, to evaluate the effect of food intervention upon "low-income" individuals determined to be at nutritional risk. In response to a comment, the paragraph on public information now specifies that State manuals shall be available for "public" review and copying at each State and local agency "during normal business hours."

Part 246 is revised to read as follows:

PART 246—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

Sec.	
246.1	General purpose and scope.
246.2	Definitions.
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Sec.	
246.10	Food delivery system.
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246.24	Administrative appeal of state agency decisions.
246.25	Miscellaneous provisions.

Authority: Child Nutrition Amendments of 1978, Public Law 95-627, 92 Stat. 3603 et seq.

§ 246.1 General purpose and scope.

(a) *Purpose.* This part specifies the policies and prescribes the regulations for the Special Supplemental Food Program for Women, Infants and Children (WIC Program), carried out by the U.S. Department of Agriculture (USDA) under Section 17 of the Child Nutrition Act of 1966, as amended. Section 17 states in part that the Congress finds that substantial numbers of pregnant, postpartum and breastfeeding women, infants and young children from families with inadequate income are at special risk with respect to their physical and mental health by reason of inadequate nutrition or health care, or both. The purpose of the Program is to provide supplemental foods and nutrition education through local agencies to eligible persons. The Program shall serve as an adjunct to good health care, during critical times of growth and development, in order to prevent the occurrence of health problems and improve the health status of these persons.

(b) *Scope.* Section 17 authorizes payment of cash grants to State agencies which administer the program through local agencies. As set forth in this part, supplemental foods and nutrition education are provided to pregnant, postpartum and breastfeeding women, infants and children from families with inadequate income and determined by a competent professional authority to be at nutritional risk.

§ 246.2 Definitions.

For the purpose of this part and all contracts, guidelines, instructions, forms and other documents related hereto, the term:

"Affirmative Action Plan" means that portion of the State Agency Plan of Program Operation and Administration which describes how the Program will

be initiated and expanded within the State's jurisdiction in accordance with § 246.4(a)(6) and § 246.5(d) of the regulations.

"A-90" means Office of Management and Budget Circular A-90 which provides guidance for the coordinated development and operation of information systems.

"A-95" means Office of Management and Budget Circular A-95, which sets forth procedures for evaluation, review and coordination of Federal and federally assisted programs and projects.

"A-102" means Office of Management and Budget Circular A-102, which establishes uniform standards for the administration of grants to State and local governments and federally recognized Indian Tribal Governments.

"A-110" means Office of Management and Budget Circular A-110, which sets forth uniform administrative requirements for grants and agreements with institutions of higher education, hospitals and other nonprofit organizations.

"Breastfeeding women" means women up to one year postpartum who are breastfeeding their infants.

"Categorical ineligibility" means persons who do not meet the definition of pregnant women, breastfeeding women, postpartum women, or infants or children.

"Certification" means the use of criteria and procedures to assess and document each applicant's eligibility for the Program.

"Children" means persons who have had their first birthday but have not yet attained their fifth birthday.

"Clinic" means a facility where participants are certified.

"Competent professional authority" means those individuals who determine nutritional risk and prescribe supplemental foods. The professional qualifications required of competent professional authorities are set forth in § 246.7(m).

"Days" means calendar days except for those time standards which specify working days.

"Department" means the U.S. Department of Agriculture.

"Dual participation" means simultaneous participation in the Program in more than one local agency, or participation in the Program and in the Commodity Supplemental Food Program (7 CFR Part 247) during the same period of time.

"Family" means a group of related or nonrelated individuals who are not residents of an institution but who are living together as one economic unit.

"Fiscal year" means the period of 12 calendar months beginning October 1 of any calendar year and ending September 30 of the following calendar year.

"FMC 74-4" means Federal Management Circular 74-4 which sets forth principles and standards for determining costs applicable to grants and contracts to State and local governments and federally recognized Indian tribes.

"FNS" means the Food and Nutrition Service of the U.S. Department of Agriculture.

"Food costs" means the cost of supplemental foods, determined in accordance with § 246.12(b)(1).

"Food delivery system" means the method used by State and local agencies to provide supplemental foods to participants.

"Food instrument" means a voucher, check, coupon or other document which is used by a participant to obtain supplemental foods.

"Health services" means ongoing, routine pediatric and obstetric care such as infant and child care, and prenatal and postpartum examinations.

"IHS" means the Indian Health Service of the U.S. Department of Health, Education, and Welfare.

"Income poverty guidelines" [Reserved].

"Infants" means persons under one year of age.

"Local agency" means (1) a public health or human service agency or a private, nonprofit health or human service agency which provides health services, either directly or through contract in accordance with § 246.5 of the regulations; (2) An IHS service unit; (3) An Indian tribe, band, or group recognized by the Department of the Interior which operates a health clinic or is provided health services by an IHS service unit; or (4) An intertribal council or group that is an authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior, which operates a health clinic or is provided health services by an IHS service unit.

"Members of populations" means persons with a common special need that do not necessarily reside in a specific geographic area, such as off-reservation Indians or migrant families.

"Nonprofit agency" means a private agency which is exempt from income tax under the Internal Revenue Code of 1954, as amended.

"Nutrition education" means individual or group educational sessions and the provision of information and educational materials designed to

improve health status, achieve positive change in dietary habits, and emphasize relationships between nutrition and health, all in keeping with the individual's personal, cultural, and socioeconomic preferences.

"Nutritional risk" means: (1) Detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements; (2) Other documented nutritionally related medical conditions; (3) Dietary deficiencies that impair or endanger health; or (4) Conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions.

"Operational and administrative costs" means those direct and indirect costs, exclusive of food costs, which State and local agencies determine to be necessary to support Program operations. Such costs include, but are not limited to, the cost of Program administration, monitoring, auditing, nutrition education, startup, outreach, certification and developing and printing food instruments.

"Participants" means pregnant women, breastfeeding women, postpartum women, infants and children who are receiving supplemental foods or food instruments under the Program.

"Participation" means the number of persons who have received supplemental foods or food instruments in the reporting period.

"Plan of Program Operation and Administration (State Plan)" means the document that describes the manner in which the State agency intends to implement and operate all aspects of Program administration within its jurisdiction in accordance with § 246.4.

"Postpartum women" means women up to six months after termination of pregnancy.

"Pregnant women" means women determined to have one or more embryos or fetuses in utero.

"Program" means the Special Supplemental Food Program for Women, Infants and Children (WIC) authorized by Section 17 of the Child Nutrition Act of 1966, as amended.

"SFPD" means the Supplemental Food Programs Division of the Food and Nutrition Service of the U.S. Department of Agriculture.

"Secretary" means the Secretary of Agriculture.

"State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and the Trust Territory of the Pacific Islands.

"State agency" means the health department or comparable agency of each State; an Indian tribe, band or group recognized by the Department of the Interior; an intertribal council or group which is an authorized representative of Indian tribes, bands or groups recognized by the Department of the Interior and which has an ongoing relationship with such tribes, bands or groups for other purposes and has contracted with them to administer the Program; or the appropriate area office of the IHS.

"Supplemental foods" [Reserved].

§ 246.3 Administration.

(a) *Delegation to FNS.* Within the Department, FNS shall act on behalf of the Department in the administration of the Program. Within FNS, SFPD and the Regional Offices are responsible for Program administration. FNS will provide assistance to State and local agencies and evaluate all levels of Program operations to assure that the goals of the Program are achieved in the most effective and efficient manner possible.

(b) *Delegation to State agency.* The State agency is responsible for the effective and efficient administration of Program operations within its jurisdiction and shall administer the Program in accordance with the requirements of this part, A-90, A-95, A-110, A-102, FMC 74-4, and FNS guidelines and instructions. The State agency shall provide guidance to local agencies on all aspects of Program operations.

(c) *Agreement and State Plan.* Each State agency desiring to administer the Program shall annually submit a State Plan and enter into a written agreement with the Department for the administration of the Program in the jurisdiction of the State agency in accordance with the provisions of this part.

(d) *State staffing standards.* Each State agency shall assure that sufficient staff is available to administer an efficient and effective Program including, but not limited to, the functions of nutrition education, certification, monitoring, fiscal reporting, food delivery, and training. Each State agency as a minimum shall, based on the June participation of the previous fiscal year, employ the following staff:

(1) A State agency shall employ a full-time or equivalent administrator when the monthly participation level exceeds 1,500 participants, or a minimum of a half-time or equivalent administrator

when the monthly participation exceeds 500.

(2) A State agency shall employ at least one full-time or equivalent program specialist for each additional 10,000 participants, but need not employ more than eight program specialists unless the State agency deems it necessary. Program specialists should be utilized for fiscal management, providing technical assistance, monitoring vendors, reviewing local agencies, training, and nutritional services, or other duties as assigned by the State agency.

(3) For nutrition related services, the State agency shall employ one full-time or equivalent nutritionist when the participation is above 1,500, or a minimum of a half-time or equivalent nutritionist when the monthly participation exceeds 500. The nutritionist shall be named State WIC Nutrition Coordinator and shall meet State personnel standards and the qualifications in (i), (ii), (iii), (iv), or (v) below and the qualifications in (vi) below. Upon request, an exception to these qualifications may be granted by FNS.

(i) Hold a Master's degree with emphasis in food and nutrition, community nutrition, public health nutrition, nutrition education, human nutrition, nutrition science or equivalent and have at least two years responsible experience as a nutritionist in education, social service, maternal and child health, public health, nutrition, or dietetics; or

(ii) Be registered or eligible for registration with the American Dietetic Association and have at least two years experience; or

(iii) Have at least a Bachelor of Science or Bachelor of Arts degree, from an accredited 4 year institution, with emphasis in food and nutrition, community nutrition, public health nutrition, nutrition education, human nutrition, nutrition science or equivalent and have at least 3 years of responsible experience as a nutritionist in education, social service, maternal and child health, public health nutrition, or dietetics; or

(iv) Be qualified as a Senior Public Health Nutritionist under the Department of Health, Education, and Welfare guidelines; or

(v) Meet the Indian Health Service standards for a Public Health Nutritionist; and

(vi) Have special skills in at least one of the following areas: Program development skills, education background and skills and development of educational and training resource

materials, community action experience, counseling skills or experience in participant advocacy.

(4) The State agency shall enforce hiring practices which comply with the nondiscrimination criteria set forth in § 246.22(a) the hiring of minority staff is encouraged.

(e) *Delegation to local agency.* The local agency shall provide Program benefits to participants in the most effective and efficient manner, and shall comply with this part A-90, A-102, A-110, FMC 74-4 and State agency and FNS guidelines and instructions.

§ 246.4 State agency plan of program operations and administration.

(a) *Requirements.* By August 15 of each year the State agency shall submit to FNS for approval a State Plan for the following fiscal year. FNS shall provide written approval or denial of a completed State Plan or amendment within 30 days of receipt. Within 15 days after FNS receives an incomplete Plan, FNS shall notify the State agency that additional information is needed to complete the Plan. Any disapproval shall be accompanied by a Statement of the reasons for the disapproval. Approval of the Plan by FNS is a prerequisite to the payment of funds to the State agency for Program operations. The Plan and all amendments shall be signed by the Chief Health Officer of the State agency or equivalent. Portions of the State Plan which do not change from year to year need not be resubmitted. However, the State agency shall provide the title of the section(s) that remains unchanged as well as the year of the last plan in which the section was submitted. The State Plan shall provide the following:

(1) The names and addresses of the local agencies which are currently operating or are expected to operate the Program during the fiscal year, the area or population served by each local agency, a characterization of the type of each local agency in accordance with § 246.5(e) and the number of clinics of each local agency.

(2) An estimate of Statewide participation for the next fiscal year by category of women, infants and children.

(3) A map identifying the areas and populations which will be served by each local agency or Indian State agency.

(4) a copy of the preapplication package for local agencies which includes eligibility criteria for local agencies, a local agency application, comprehensive instructions for completing the application form, and a

listing of materials and resources available to aid the potential local agency in the application process.

(5) A copy of the forms to be used for:

(i) The agreement between the State agency and local agencies;

(ii) Certification; and

(iii) Verification of certification if a state form is used.

(6) A current Affirmative Action Plan which includes the following information:

(i) A list of all areas and a description of special populations within the jurisdiction of the State agency ranked according to need. Areas and special populations of highest relative need shall be those that are determined, through a method developed by the State agency, to contain eligible populations at greatest nutritional risk.

(ii) A comprehensive description of the method used by the State agency to determine rankings of areas and special population groups according to need. This description shall include discussion and justification of criteria used in the ranking method, discussion and justification of the relative importance assigned to ranking criteria, and the sources and dates of the data used in the ranking procedure. Actual data used shall remain on file at the State agency for review by the public. While not all the following specified ranking criteria need be used by the State agency, at a minimum one health and one economic indicator shall be used. Health indicators used by the State agency shall be limited to infant mortality rates, neonatal mortality rates, fetal mortality rates, perinatal mortality rates, the incidence of low birth weights, adolescent pregnancies, and the prevalence of insufficient prenatal or pediatric care. A combination of these health indicators may be used. The State agency may utilize more than one percentage of population below a poverty level or levels and other economic indicators, but at least one percent of population used shall be between 100% and 200% of a poverty level.

(iii) The statistics used as data for the Affirmative Action Plan shall be statistically reliable. Statistics with high variability from year to year should be used with caution or statistics more indicative of normal levels should be derived. The greater the probability that observed differences in a specific statistic are due to random fluctuations, the less should be the importance placed on the statistic in establishing rankings. Members of populations shall be given consideration in the Affirmative Action Plan. The Affirmative Action Plan shall

not be approved by FNS unless Indian and migrant farmworker populations that exist within the jurisdiction of the State agency are given consideration.

(iv) A description of all actions the State agency shall take to identify potential local agencies in the neediest one-third of all areas unserved or partially served and encourage such agencies to implement or expand Program operations within the following year.

(v) The State agency shall specify an estimate of the number of potentially eligible persons in each area, which areas in the Affirmative Action Plan are currently operating the Program and their current participation, which participant priority categories in § 246.7 are being reached in these areas, and which areas in the Affirmative Action Plan are currently operating a Commodity Supplemental Food Program and their current participation.

(7) Plans for the detection and prevention of dual participation within the jurisdiction of the State agency. In States where the Program and the CSFP operate in the same area, or when an Indian State agency operates a Program in the same area, a copy of the written agreement between the State agencies for the detection and prevention of dual participation shall be submitted.

(8) A copy of the procedure manual developed by the State agency for guidance to local agencies in the implementation and operation of the Program. This manual shall include, as a minimum, all aspects of: certification, recordkeeping, nutrition education and food delivery. The manual shall be disseminated to local agencies and clinics within 60 days of approval of the State Plan.

(9) Plans to provide Program benefits to eligible migrant farmworkers and Indians, including procedures, such as expansion of services during migrant season, to be instituted by the State agency to ensure that eligible migrant farmworkers may, to the maximum extent feasible, continue to receive Program benefits when they enter the State agency's jurisdiction subsequent to original certification in another Program jurisdiction.

(10) Plans to coordinate Program operations with special counseling services and with other programs. Coordination shall include, but not be limited to, services for family planning, alcohol and drug abuse counseling, child abuse counseling, immunization, prenatal care, and well child care. Coordination with other programs shall include the Early and Periodic Screening, Diagnosis and Treatment

Program (Title XIX of the Social Security Act), the Food Stamp Program and the Expanded Food and Nutrition Education Programs (Pub. L. 95-113).

(11) Plans for Program outreach conducted in cooperation with local agencies shall as a minimum contain:

(i) A description of the actions State and local agencies shall take to publicize the availability of Program benefits, including participant eligibility criteria and the location of local agencies operating the Program. Such information shall be publicly announced in news releases to all relevant media sources at least on an annual basis. In cases where maximum caseload has been reached, media outreach shall be aimed at high risk individuals and the maintenance of caseloads. Such announcements shall also be in appropriate foreign languages in areas where a substantial number of persons speak a language other than English.

(ii) A description of the actions State and local agencies shall take to establish and expand outreach systems through which persons who are potentially eligible for the Program are directed to the appropriate local agency. State and local agencies shall also contact, and attempt to incorporate into their outreach network, the following agencies, offices, and organizations that serve low income pregnant, breastfeeding and postpartum women, infants, or children residing in WIC service areas: health and medical organizations, hospitals and clinics, welfare and unemployment offices, social service agencies, farmworkers organizations, Indian Tribal organizations, religious and community organizations in low income areas including community action agencies, and other agencies, offices and organizations that deal with significant numbers of potentially eligible persons.

(iii) A description of the actions State and local agencies shall take to refer individuals to the Food Stamp Program and the Aid to Families with Dependent Children Program. WIC applicants who appear eligible for benefits from these programs shall be informed of these programs and shall be provided with the addresses and telephone numbers of the Food Stamp and AFDC offices. WIC local agencies shall also request Food Stamp informational materials from the Food Stamp offices and shall make such material available to WIC applicants where appropriate.

(iv) A description of the actions State and local agencies shall take to provide agencies, organizations and offices in the outreach network with materials describing the Program and containing

the locations and telephone numbers of local agencies. State and local agencies are encouraged to invite representatives from these agencies, offices and organizations to attend WIC workshops or training sessions.

(12) A description of the methods used to certify participants which shall include a list of the specific nutritional risk criteria by priority level which cites conditions and indices to be used to determine a person's nutritional risk.

(13) Plans for the provision of nutrition education for the fiscal year, including the procedures which shall be used to meet the special nutrition education needs of migrant farmworkers and Indians. The nutrition education portion of the State Plan shall reflect local agency input and shall include:

(i) The State nutrition education goals for the fiscal year;

(ii) The action plan for achieving the goals including a summary of the resources and technical assistance available to local agencies for purposes of developing nutrition education sessions;

(iii) The plans for training persons responsible for providing nutrition education to participants and a description of the training materials to be used;

(iv) The methods to be used to evaluate the benefits of nutrition education for participants including a means for obtaining the views of participants concerning the effectiveness of the nutrition education they have received;

(v) A summary of the results of the nutrition education evaluation conducted in the prior fiscal year.

(14) A description in detail of the food delivery system which will enable participants to receive Program benefits including:

(i) A description of all food delivery systems to be used by local agencies under the State agency's jurisdiction;

(ii) A description of how the State agency assures that the number of food vendors serving an area is adequate to enable participants to receive Program benefits.

(iii) The standard form for the written agreement between the food vendor and the State or local agency;

(iv) A description of the guidance provided to food vendors concerning the authorized supplemental foods and WIC Program requirements;

(v) A description of the State agency's system for monitoring food vendors;

(vi) A description of the State agency's system designed to prevent and detect food vendor and participant abuses of the Program;

(vii) Where food instruments are used, a facsimile of the food instrument, the system for control and reconciliation of food instruments, and the criteria used to approve the mailing of food instruments; and

(viii) The procedures used to pay food vendors.

(15) A description of the financial management system which is consistent with Attachment G of A-102, including:

(i) A detailed breakdown of the proposed expenditures among the cost categories of operational and administrative costs, nutrition education costs, and food costs;

(ii) A detailed description of procedures to ensure that annual nutrition education expenditures are at least equal to one-sixth of the State agency's total administrative expenditures. If using funds other than Program administrative funds, the State agency shall list the sources and values of other nutrition education resources;

(iii) A description of the method used to allocate administrative funds among local agencies, the procedures used to develop the allocation standards in cooperation with local agencies, and procedures for distributing operational and administrative funds, including start-up funds, to local agencies.

(16) Plans for State agency monitoring including the number of on-site reviews of local agencies and clinics performed in the last full four quarters prior to July 1, and the number planned for the coming fiscal year. The monitoring procedures shall describe followup procedures the State agency will use to correct any problem areas which are identified.

(17) A description of the State agency audit procedures, including:

(i) A description of the scope and frequency of audits of the State agency and local agencies and a delineation of the procedures used that assure audit examinations at reasonable frequency. State agency guidelines for selecting a sample of grant programs for audits should be included.

(ii) A description of the State agency audit organization in sufficient detail to demonstrate the independence of the audit organization if such an organization is used to audit the Program.

(iii) The names of the local agencies in which the WIC Program was included in the audit in the last four full quarters, the number of total local agency audits planned, and the number of WIC local agencies to be audited in the coming Fiscal Year.

(18) A description of the resources and staff available to perform State

agency responsibilities and to assist local agencies in Program operations, such as any necessary supervision, reviews, training and guidance.

(19) A description of the procedures used to comply with the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964 including racial and ethnic participation data collection, public notification procedures and the annual civil rights compliance review process to comply with 7 CFR Part 15.

(20) A copy of the State agency's fair hearing procedures for participants and the administrative appeal procedures for local agencies and food vendors.

(21) A description of the steps taken to comply with the State Plan public hearing requirements and a summary of the public hearings.

(b) *Public Hearings.* Not later than May 31 of each year the State agency shall conduct one or more public hearings to enable the general public to participate in the development of the State Plan. In the case of Indian State agencies, the public hearings shall be held no later than one month prior to submission of the State Plan to an areawide Federal Planning office or to FNS.

(1) The hearings shall be accessible to the public, and there shall be sufficient space in the hearing room to accommodate the number of persons expected to attend; and

(2) The State agency shall publish a notice in the media, at least 15 days before the hearing, throughout the State which provides the time, place and subject of the hearing and invites interested members of the public to participate.

(3) The State agency shall send letters of invitation at least 15 days before the hearing to all local agencies, to those parties cited in § 246.4(a)(10), and to those agencies referring potential participants.

(c) *Submission of Plan to Governor.* Annually, by June 30 and a minimum of 30 days after the last public hearing, all State agencies except Indian State agencies shall submit the State Plan and the summary of the public hearing(s) to the Governor or delegated authority, for comment as required by Circular A-95 (38 FR 37874), issued by the Office of Management and Budget on September 13, 1973. A period of 45 days from the date the Governor receives the State Plan shall be allowed for comments prior to submission to FNS. The comments shall be submitted with the State Plan. If the Governor makes no comment, a statement to that effect shall be attached to the State Plan.

Amendments to the State Plan need not be submitted to the Governor unless they include a significant change. Indian State agencies may consult areawide Federal planning offices in the development of their State Plan.

(d) *Amendments.* At any time after approval, the State agency may amend the State Plan to reflect changes. The State agency shall submit the amendments to FNS for approval. All amendments shall be signed by the Chief State Health Officer or equivalent.

(e) *Retention of copy.* A copy of the approved State Plan shall be kept on file at the State agency for public inspection.

§ 246.5 Selection of local agencies.

(a) *General.* This section sets forth the procedures the State agency shall perform in the selection of local agencies and the expansion of Programs already in operation. In making decisions to initiate, continue, and discontinue local agencies the State agency shall give consideration to the need for Program benefits as delineated in the Affirmative Action Plan.

(b) *Preapplication package.* The State agency shall provide a preapplication package (as described in § 246.4(a)(4)) to any interested agency within 15 days of a request for information concerning Program operations.

(c) *Application of local agencies.* The State agency shall require each agency, including subdivisions of the State agency, which desires approval as a local agency to submit a written local agency application. Within 15 days after receipt of an incomplete application, the State agency shall provide written notification to the applicant agency of the additional information needed. Within 30 days after receipt of a complete application, the State agency shall notify the applicant agency in writing of the approval or disapproval of its application. When an application is disapproved, the State agency shall advise the applicant agency of the reasons for disapproval and of the right to appeal as set forth in § 246.24 of this part. When an agency submits an application and there are no funds to serve the area, the applicant agency shall be notified within 30 days of receipt of the application that there are currently no funds available for Program initiation or expansion. The State agency shall return the application and maintain a record of the name and address of the applicant agency. The potential agency whose application was returned shall be notified by the State agency when funds become available.

(d) *Program initiation and expansion.* The State agency shall meet the

following requirements concerning Program initiation and expansion:

(1) The State agency shall take all reasonable actions to identify potential local agencies in the neediest one-third of all areas unserved or partially served and contingent upon available funds, encourage such agencies to implement or expand Program operation within the following year.

(2) The State agency shall fund local agencies serving those areas or special populations most in need first, in accordance with their order of priority as listed in the Affirmative Action Plan described in § 246.4. The selection criteria cited in paragraph (e)(1) of this section shall be applied to each area or population before eliminating that area from consideration and serving the next area or population. The State agency shall consider the participant priority categories being served by existing local agencies in determining when it is appropriate to move into additional areas in the Affirmative Action Plan or expand existing operations in an area. Additionally, the State agency shall consider the total number of people potentially eligible in each area compared to the number being served. Expansion of existing operations shall be in accordance with the Affirmative Action Plan and may be based on the percentage of need being met in each participant category. The use of these factors, as well as the socioeconomic and medical factors upon which the Affirmative Action Plan is based, will enable expansion in areas most in need of WIC funds and services.

(3) The State agency shall provide a written justification to FNS for not funding the highest priority area or population such as inability to administer the Program, lack of interest expressed for operating the Program, or, for those areas or special populations which are under consideration for expansion of an existing operation, a determination by the State agency that there is a greater need for funding an area or population not operating the Program. The participant priority system in § 246.7 shall be utilized in making this determination.

(4) The State agency may fund new local agencies without FNS approval as long as the requirements of this part are met. The State agency may fund more than one local agency to serve the same area or population, as long as more than one local agency is necessary to serve the full extent of need in that area or population.

(e) *Local agency priority system.* The State agency shall comply with the

following requirements in the selection of new local agencies:

(1) The State agency shall select local agencies in accordance with the following priority system which is based on the availability of health and administrative services:

(i) First consideration shall be given to a public or private nonprofit health agency which will provide health and administrative services.

(ii) Second consideration shall be given to a public or private nonprofit health or human service agency which must enter into a written agreement with another such agency for either health or administrative services.

(iii) Third consideration shall be given to a public or private nonprofit health agency which must enter into a written agreement with private physicians, licensed by the State, in order to provide health services to a specific category of participants (women, infants or children).

(iv) Fourth consideration shall be given to a public or private nonprofit human service agency which must enter into a written agreement with private physicians, licensed by the State, to provide health services.

(2) The State agency shall publish a notice in the media of the area next in line according to the Affirmative Action Plan, unless the State agency has received an application from a public or nonprofit private health agency in that area which can provide adequate health and administrative services. The notice shall include a brief explanation of the Program, a description of the local agency priority system cited in this paragraph, a description of the preapplication package that is available, and a request that potential local agencies notify the State agency of their interest. In addition, the State agency shall contact all potential local agencies in the area to ensure that they are aware of the opportunity to apply for participation under the Program. If no agency submits an application within 30 days, the State agency may then proceed with the selection of a local agency in the area next in line according to the Affirmative Action Plan. If sufficient funds are available, a State agency shall give notice and consider applications in more than one area at the same time, but shall fund new local agencies in conformance with the sequential ranking of the Affirmative Action Plan.

§ 246.6 Agreements with local agencies.

(a) *Signed written agreement.* The State agency shall enter into a signed written agreement with each local

agency, including subdivisions of the State agency, which sets forth the local agency's responsibilities for Program operations as prescribed in this part. Copies of the agreement shall be kept on file at both the State and local agencies for purposes of review and audit in accordance with § 246.19 and § 246.20.

(b) *Provisions of agreements.* The agreement between the State agency and each local agency shall ensure that the local agency:

(1) Complies with all the fiscal and operational requirements prescribed by the State agency pursuant to this part and FNS guidelines and instructions;

(2) Has the competent professional authority on the staff of the local agency and the capabilities necessary to perform the certification procedures;

(3) Makes available appropriate health services to participants up to the income level specified for the Program and informs applicants of the health services which are available;

(4) Provides nutrition education services to participants, in compliance with § 246.9 and FNS guidelines and instructions;

(5) Implements a food delivery system prescribed by the State agency pursuant to § 246.10 and approved by FNS;

(6) Provides on a timely basis to the State agency all required information regarding fiscal and program administration in accordance with this part;

(7) Maintains complete, accurate, documented and current accounting of all Program funds received and expended; and

(8) Maintains on file and has available for review, audit, and evaluation all criteria used for certification, including information on the area served, income standards used, and specific criteria used to determine nutritional risk.

(c) *Indian agencies.* Each Indian State agency shall assure that all local agencies under its jurisdiction serve primarily Indian populations.

(d) *Health and human service agencies.* When a health and human service agency comprise the local agency, both agencies shall together meet all the requirements of this part and shall enter into a written agreement which outlines all Program responsibilities of each agency. The agreement shall be approved by the State agency during the application process, and shall be on file at both the State and local agency. No Program funds shall be used to reimburse the health agency for the health services provided. However, costs of certification borne by the health agency may be reimbursed.

(e) *Health or human service agencies and private physicians.* When a health or human service agency and private physicians comprise the local agency, all parties shall together meet all of the requirements of this part and shall enter into a written agreement which outlines the inter-related Program responsibilities between the physician and the local agency. The agreement shall be approved by the State agency during the application process and shall be on file at both agencies. The local agency shall advise the State agency on its application of the names and addresses of the private physicians participating and obtain State agency approval of the written agreement. A competent professional authority on the staff of the health or human service agency shall be responsible for the certification of participants. No Program funds shall be used to reimburse the private physicians for the health services provided. However, costs of certification data provided by the physician may be reimbursed.

§ 246.7 Certification.

(a) *Requirements.* To be certified as eligible for the Program, infants, children and pregnant, postpartum and breastfeeding women shall:

(1) Meet the nutritional risk criteria specified in paragraph (d) of this section;

(2) Meet the residency requirement if one is established by the State agency. The State agency may determine a service area for any local agency, and may require that an applicant reside within the service area. However, the State agency may not use length of residency as an eligibility requirement; and

(3) 7 CFR Part 246.7 (b)(2)(i) of the regulations published on August 26, 1977, (42 FR 43205) remains in effect until new regulations on income are published.

(b) *State agency responsibilities.* To enable local agencies to accurately determine the eligibility of persons for supplemental foods, the State agency shall provide local agencies with the following:

(1) Guidance regarding certification procedures in accordance with this section; and

(2) 7 CFR Part 246.7 (a)(2) of the regulations published on August 26, 1977 (42 FR 43205) remains in effect until new regulations on income are published.

(3) A list of specific criteria for Statewide use in determining nutritional risk as defined in this part which is in accordance with the priorities listed in paragraph (d)(3) of this section.

(4) A standard certification form, meeting the requirements of paragraph (h) of this section, for Statewide use.

(c) *Income determinations.* (Reserved).

(d) *Nutritional risk.* To be certified as eligible for the Program, applicants who meet the Program's income eligibility standards must be determined to be at nutritional risk.

(1) A competent professional on the staff of the local agency shall determine if a person is at nutritional risk through a medical and/or nutritional assessment. This determination may be based on referral data submitted by a competent professional authority not on the staff of the local agency. At a minimum, the person's height or length and weight shall be measured, and a hematological test for anemia such as a hemoglobin, or hematocrit test, or free erythrocyte protoporphyrin test shall be performed. However, such hematological tests are not required for infants under six months of age. Based on the State agency or local agency's discretion, the blood test is not required for children who were determined to be within the normal range at their last certification. However, the blood test shall be performed on such children at least once a year. A breastfeeding woman may be determined to be at nutritional risk if the infant she is breastfeeding has been determined to be at nutritional risk or the breastfeeding woman can be certified based on her own medical and/or nutritional assessment.

(2) The following are examples of nutritional risk conditions which may be used as a basis for certification. These examples include, but are not limited to:

(i) For pregnant women;

(A) Detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements such as anemia or abnormal pattern of weight gain;

(B) Other documented nutritionally related medical conditions such as toxemia, clinical signs of nutritional deficiencies, or metabolic disorders;

(C) Dietary deficiencies that impair or endanger health; and

(D) Conditions which predispose persons to inadequate nutritional patterns or nutritionally related medical conditions such as chronic infections, alcohol, tobacco, and drug abuse; lead poisoning history of high risk pregnancy; adolescent pregnancy; current multiple pregnancy; history of low birth weight infants and previous stillbirth or neonatal loss or premature infant; conception before 16 months postpartum; or mental retardation.

(ii) For breastfeeding women;

(A) Detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements such as anemia, underweight or obesity;

(B) Other documented nutritionally related medical conditions such as clinical signs of nutritional deficiencies or metabolic disorders;

(C) Dietary deficiencies that impair or endanger health;

(D) Conditions which predispose persons to inadequate nutritional patterns or nutritionally related medical conditions, such as alcohol and drug abuse, or chronic infections; or mental retardation.

(E) Breastfeeding an infant who meets the nutritional risk criteria in paragraph (iv) below.

(iii) For postpartum women;

(A) Detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements such as anemia, under weight or obesity;

(B) Other documented nutritionally related medical conditions, such as clinical signs of nutritional deficiencies or metabolic disorders;

(C) Dietary deficiencies that impair or endanger health; and

(D) Conditions which predispose persons to inadequate nutritional patterns or nutritionally related medical conditions, such as alcohol and drug abuse or chronic infections.

(iv) For infants;

(A) Detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements such as anemia or abnormal pattern of growth including obesity or stunting or a birth weight of 2,500 grams or less;

(B) Other documented nutritionally related medical conditions, such as clinical signs of nutritional deficiencies, or failure to thrive or metabolic disorders;

(C) Dietary deficiencies that impair or endanger health;

(D) Conditions which predispose persons to inadequate nutritional patterns or nutritionally related medical conditions, such as congenital malformations which affect nutritional status or chronic infections, or infant of an alcoholic, mentally retarded or drug addicted mother.

(E) Status as an infant (up to six months of age) of a mother who either was a participant during pregnancy or who was in nutritional risk during pregnancy because of detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements or other

documented nutritionally related medical conditions.

(v) For children;

(A) Detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements such as anemia or abnormal pattern or growth including underweight, obesity or stunting;

(B) Other documented nutritionally related medical conditions such as clinical signs of nutritional deficiencies or metabolic disorders;

(C) Dietary deficiencies that impair or endanger health; and

(D) Conditions which predispose persons to inadequate nutritional patterns or nutritionally related medical conditions such as congenital malformations which affect nutritional status, or chronic infections.

(3) *Priority System for Nutritional Risk Criteria.* The following priorities shall be applied by the competent professional authority when vacancies occur after a local agency has reached its maximum participation level, in order to assure that those persons at greatest nutritional risk receive Program benefits. State agencies may set income priority levels within these six priority levels:

(i) *Priority I.* Pregnant women, breastfeeding women and infants at nutritional risk as demonstrated by hematological or anthropometric measurements, or other documented nutritionally related medical conditions which demonstrate the person's need for supplemental foods.

(ii) *Priority II.* Except those infants who qualify for Priority I, infants (up to 6 months of age) of WIC participants who participated during pregnancy, and infants (up to 6 months of age) born of women who were not WIC participants during pregnancy but whose medical records document that they were at nutritional risk during pregnancy due to nutritional conditions detectable by biochemical or anthropometric measurements or other documented nutritionally related medical conditions which demonstrated the person's need for supplemental foods.

(iii) *Priority III.* Children at nutritional risk as demonstrated by hematological or anthropometric measurements or other documented medical conditions which demonstrate the child's need for supplemental foods.

(iv) *Priority IV.* Pregnant women, breastfeeding women, and infants at nutritional risk because of an inadequate dietary pattern.

(v) *Priority V.* Children at nutritional risk because of an inadequate dietary pattern.

(vi) *Priority VI.* Postpartum women at nutritional risk.

(e) *Regression in nutritional status.* Participants may remain in the Program as long as they meet the Program eligibility standards and there is a possibility of regression in nutritional status without the supplemental foods. However, the competent professional authority determining nutritional risk may remove a participant from the Program at a certification visit if that person, in the competent professional's judgment, is no longer at nutritional risk, or if there are potential participants waiting who, according to the priority system, are at greater nutritional risk.

(f) *Processing standards.* (1) When there are no funds available to provide Program benefits, the local agency shall maintain waiting lists of individuals who visit the local agency to express interest in receiving Program benefits. To enable the local agency to contact the individuals when caseload space becomes available, these waiting lists shall include the name of the applicant, the date placed on a waiting list, an address or phone number of the applicant and the applicant's status, i.e., pregnant, breastfeeding, age. Individuals shall be notified of their placement on a waiting list within 20 days after they visit the local agency during clinic office hours to request Program benefits.

(2) When there are funds available to provide Program benefits the local agency shall accept applications, arrive at eligibility determinations, notify the applicants of the decisions made and, if the applicants are eligible, issue food or food instruments. All of these actions shall be accomplished within the processing standards set forth below. The processing standards shall begin when the individual visits the local agency during clinic office hours to make an oral or written request for Program benefits. To ensure that accurate records are kept of the date of that request for benefits, the local agency shall at the time of the visit record the applicant's name, address and the date. The remainder of the information necessary to determine eligibility shall be obtained at the time of certification. The local agency shall act on applications within the following timeframes:

(i) Pregnant women eligible at Priority I participants, infants under six months of age and members of migrant farmworker households who soon plan to leave the jurisdiction of the local agency shall be notified of their eligibility or ineligibility within 10 days of the date of the first request for Program benefits.

(ii) All other applicants shall be notified of their eligibility or ineligibility within 20 days of the date of the first request for Program benefits.

(iii) Each local agency using a retail purchase system shall issue a food instrument or instruments to the participant at the same time as the notification of certification. Such food instrument or instruments shall provide benefits for the current month or the remaining portion thereof and shall be redeemable immediately upon receipt by the participant. Local agencies may mail the initial food instrument or instruments with the notification of certification to those participants who meet the criteria for the receipt of food instruments through the mail.

(iv) Each local agency with a direct distribution or home delivery system shall issue the supplemental foods to the participants within 10 days of issuing the notification of certification.

(g) *Certification periods.* (1) Program benefits shall be based upon certifications conducted in accordance with the following timeframes:

(i) Pregnant women shall be certified for the duration of their pregnancy and for up to 6 weeks postpartum.

(ii) Postpartum women shall be certified for up to 6 months postpartum.

(iii) Breastfeeding women shall be certified at intervals of approximately six months ending with the breastfeeding infant's first birthday.

(iv) Infants shall be certified at intervals of approximately six months.

(v) Children shall be certified at intervals of approximately six months and ending with the end of the month in which a child reaches the fifth birthday.

(2) In cases where there is difficulty in appointment scheduling for (g)(1)(iii), (iv) and (v) above, a time variation of plus or minus 30 days to the certification intervals is permissible. If the nutritional risk determination is based on data taken before the time of entrance to the Program, the certification intervals, for participants other than pregnant women, shall be based on the date when the data was taken rather than on the date of admittance to the Program. Program benefits may be continued until the end of the month in which categorical ineligibility begins.

(h) *Certification forms.* All certification data for each person certified shall be recorded on a form (or forms) which are provided by the State agency. The information on the form shall include the following:

(1) The person's name and address.

(2) Date of initial visit to apply for participation.

(3) The criteria used to determine the person's income eligibility for the Program.

(4) The date of certification and the date nutritional risk data was taken if different from the date of certification.

(5) The person's height or length, weight, and hematological test results.

(6) The person's specific nutritional risk which established eligibility for the supplemental foods. Documentation should include health history when appropriate to the participant's nutritional risk condition, with the participant's consent.

(7) The signature and title of the competent professional authority making the nutritional risk determination, and, if different, the signature and title of the administrative personnel responsible for determining income eligibility under the Program.

(8) After the person has been advised of the rights and obligations set forth in paragraph (i) of this section, the person or parent or caretaker shall read or be read the following statement and shall undersign on the form:

"I have been advised of my rights and obligations under the Program. I certify that the information I have provided for my eligibility determination is correct, to the best of my knowledge. This certification form is being made in connection with the receipt of Federal assistance. Program officials may verify information on this form. I understand that deliberate misrepresentation may subject me to civil or criminal prosecution under State and Federal law."

(i) *Participant rights.* The following sentences shall be read by, or read to, the person or the parent or caretaker at the time of each certification. Where a significant proportion of the area served by a local agency is composed of non-English, or limited English speaking persons who speak the same language, the sentences shall be stated to such persons in a language they understand:

(1) *Standards for participation in the Program are the same for everyone regardless of race, color, or national origin.*

(2) *You may appeal any decision made by the local agency regarding your eligibility for the Program.*

(3) *The local agency will make health services and nutrition education available to you and you are encouraged to participate in these services.*

(j) *Notification requirements.* The following responsibilities shall be performed by the State or local agency:

(1) Each Program applicant shall be informed during the certification

procedure of the right to a fair hearing and of the illegality of simultaneous participation in the Commodity Supplemental Food Program and the WIC Program or simultaneous participation in more than one WIC Program.

(2) A person found ineligible for the Program during a certification visit shall be advised in writing of the ineligibility, of the reasons for the ineligibility and of the right to a fair hearing. The reasons for ineligibility shall be properly documented and shall be retained on file at the local agency.

(3) A person found ineligible for the Program at any time during the certification period shall be advised in writing 15 days before termination of eligibility, of the reasons for ineligibility, and of the right to a fair hearing.

(4) Each participant shall be notified at least 15 days before the expiration of each certification period that eligibility for the Program is about to expire.

(5) Each participant shall receive an explanation of how the food delivery system in the local agency operates.

(6) Each participant shall be advised of the types of health services available, where they are located, how they may be obtained and why they may be useful.

(k) *Transfer of certification.* Each State agency shall ensure issuance of a verification of certification form to every participant who is a member of a family in which there is migrant farmworker or any other participant who is likely to be relocating during the certification period. The State agency shall require the local agencies under its jurisdiction to accept verification of certification from participants, including migrant farmworker participants, who have been participating in the Program in another local agency within or outside of the jurisdiction of the State agency. The verification of certification is valid until the certification period expires, and shall be accepted as proof of eligibility for Program benefits. However, if the receiving local agency has waiting lists for participation, the transferring participant shall be placed on the list ahead of all waiting applicants regardless of the priority of their nutritional risk criteria. The verification of certification shall include the name of the participant, the date the certification was performed, the nutritional risk criteria of the participant, the date the certification period expires, the signature and printed or typed name of the local agency official in the originating jurisdiction, the name and address of the certifying local agency and an identification number or some

other means of accountability. The verification of certification form shall be uniform throughout the jurisdiction of the State agency.

(l) *Dual participation.* The State agency, shall be responsible for the following:

(1) In conjunction with the local agency, the prevention and detection of dual participation within each local agency and between local agencies.

(2) In areas where a local agency serves the same area as an Indian State agency or a Commodity Supplemental Food Program, the State agency and the CSFP or Indian State agency shall agree to a plan for the detection and prevention of dual participation. The agreement must be made prior to operation within the same area and must be in writing.

(3) Participants found committing dual participation shall be terminated from one of the Programs immediately. Where intentional fraud is involved, the participant may be disqualified from participation in both Programs as specified in § 246.10(d)(7)(ii).

(4) At certification, and when issuing food or food instruments, the local agency shall check the identification of each participant. For a child participant, an immunization record, birth certificate, or other records that local agency personnel consider adequate establishment of identity, shall be acceptable.

(m) *Competent professional authority.* The competent professional authority on the staff of the local agency shall be responsible for determining nutritional risk and for prescribing supplemental foods. The following persons are the only persons authorized to serve as a competent professional authority: Physicians, nutritionists (B.S., B.A., or M.S. in Nutritional Sciences, Community Nutrition, Clinical Nutrition, Dietetics, Public Health Nutrition or Home Economics with emphasis in Nutrition), dietitians, registered nurses, physician's assistants (certified by the National Committee on Certification of Physician's Assistants or certified by the State medical certifying authority); or State or local medically trained health officials.

§ 246.8 Supplemental foods [Reserved].

§ 246.9 Nutrition education.

(a) *General.* (1) Nutrition education shall be considered a benefit of the Program, and shall be provided at no cost to the participant. Nutrition education shall be designed to be easily understood by individual participants, and it shall bear a practical relationship

to their nutritional needs, household situations, and cultural preferences including information on how to select food for themselves and their families. Nutrition education shall be thoroughly integrated into participant health care plans and the delivery of supplemental foods and other Program operations.

(2) The State agency shall ensure that nutrition education is provided to all participants. The nutrition education may be provided through the local agencies directly, or through arrangements made with other agencies. At the time of certification, the participant shall be encouraged to participate in nutrition education activities and the positive, long-term benefits of nutrition education shall be stressed. However, individual participants shall not be denied supplemental foods for failure to attend or participate in nutrition education activities.

(b) *Goals.* Nutrition education shall be designed to achieve two broad goals:

(1) Emphasize the relationship between proper nutrition and good health, with special emphasis on the nutritional needs of pregnant, postpartum, and breastfeeding women, infants and children under five years of age;

(2) Assist the individual who is at nutritional risk in achieving a positive change in food habits, resulting in improved nutritional status and in the prevention of nutrition-related problems through optimal use of the supplemental foods and other nutritious foods. This is to be taught in the context of the ethnic, cultural and geographic preferences of the participants and with consideration for educational and environmental limitations experienced by the participants.

(c) *State agency responsibilities.* The following are the State agency responsibilities for nutrition education:

(1) Development and coordination of the nutrition education portion of Program operations, after consideration of local agency plans and needs, and the availability of nutrition education services from other sources;

(2) Provision of in-service training and technical assistance for professional and para-professional staffs at local agencies involved in providing nutrition education to participants;

(3) Identification or development of resource and education materials for use at the local agencies including materials in languages other than English in areas where a substantial number of persons speak a non-English language;

(4) Implementation of procedures to assure that nutrition education is offered

to all adult participants and to parents or guardians of infant or child participants as well as child participants whenever possible;

(5) Design and performance of annual evaluations of nutrition education action plans including the assessment of participant views concerning the effectiveness of the nutrition education received;

(6) Monitoring of local agency activities to assure compliance with provisions set forth in paragraphs (d) and (e) of this section.

(d) *Local agency responsibilities.* Local agencies shall be responsible for:

(1) Provision of nutrition education to all adult participants, to parents or caretakers of infant and child participants, and whenever possible, to child participants. Individuals or group educational sessions and provision of educational materials designed for Program participants may be utilized to provide nutrition education to pregnant, postpartum, and breastfeeding women and to parents or caretakers of infants and children participating in local agency services other than the Program;

(2) Development of an annual local agency nutrition education plan consistent with the nutrition education portion of the State Plan and in accordance with this part and FNS guidelines. The local agency nutrition education plan shall be submitted to the State agency by a date specified by the State agency and shall include:

(i) A nutrition education needs assessment in terms of staff, resources, and facilities available at the local agency and any specific subject matter concerns of the Program participants in the local agency's service area;

(ii) A budget for the local agency's nutrition education activities with an indication of anticipated expenditures and sources of available funds;

(iii) A system for, where possible, integrating the services of community resources such as the Expanded Food and Nutrition Education Program with the nutrition education services provided to participants; and

(iv) A list of local agency goals and action plans related to improved nutrition education processes and procedures.

(e) *Participant contacts.* (1) During each certification period, all adult participants and the parents or caretakers of infant and child participants shall be provided, through individual or group sessions, at least one basic nutrition education contact and, depending on need as established by the local agency, either a secondary or high risk contact. The type of nutrition

education shall be documented in each participant's certification file. Refusal or inability to attend or participate in nutrition education shall also be documented in each participant's certification file for purposes of future nutrition education efforts and for monitoring purposes. For purposes of this requirement, basic, secondary and high-risk contacts are defined as follows:

(i) Basic contact means an explanation of one or more of the following topics plus additional topics at the State agency's discretion: The participant's nutritional risk condition and ways to achieve an adequate diet; the importance of the supplemental foods being consumed by the participant for whom they are prescribed rather than by the whole family; the Program as a supplemental rather than a total food program; the nutritional value of the supplemental food; and the importance of health care. For pregnant women, the basic contact must include encouragement to breastfeed her infant. For parents or caretakers of infant or child participants, the basic contact should include guidance in meeting infants' and children's dietary needs in ways appropriate to the infant's or child's development.

(ii) Secondary contact means an explanation of one or more of the following topics plus additional topics at the State agency's discretion: the participant's particular nutritional needs according to the category of eligibility; for example, the needs of pregnant women, breastfeeding women, postpartum women, infants or children; the relationship of diet to health; the benefits of consuming a variety of foods including those not provided by the Program; and nutrients of special interest or need to the participant.

(iii) High-risk contact means in addition to an explanation of the topics under the secondary contact, the development of an individual nutrition care plan.

(2) Participants selected to receive the basic and secondary contacts shall be provided an individual care plan, if requested by the participant.

(3) Contacts shall be designed to meet different cultural and language needs of Program participants.

§ 246.10 Food delivery system.

(a) *General.* This section sets forth design and operational requirements for State and local agency food delivery systems.

(b) *Uniform food delivery systems.* The State agency may operate up to three types of food delivery systems:

retail purchase, home delivery or direct distribution. These food delivery systems shall be uniform within the jurisdiction of the State agency. When used, food instruments shall be uniform within each type of system.

(c) *Free of charge.* Participants shall receive the Program's supplemental foods free of charge.

(d) *State agency responsibilities.* Each State agency is responsible for the fiscal management of, and accountability for, food delivery systems under its jurisdiction and shall comply with the following requirements:

(1) The State agency shall design all food delivery systems to be used by local agencies under its jurisdiction. FNS may, for a stated cause and by written notice, require revision of a proposed or operating food delivery system and shall allow a reasonable time for the State agency to effect such a revision. The State agency shall ensure that these food delivery systems are accessible for low-income individuals. All contacts entered into by the State or local agency for the management or operation of the food delivery system shall be in conformance with the requirements of A-102, Attachment O.

(2) The State agency shall ensure that food vendors are promptly paid for food costs. Payments for valid food instruments shall be made within 60 days after receipt of the food instruments. Actual payment to food vendors may be made by local agencies.

(3) The State agency shall ensure that all food vendors participating in the Program enter into written agreements with the State or local agency. Copies of these agreements shall be on file at the State or local agency. The agreements shall require the food vendors to:

(i) Ensure that they will provide only the supplemental foods specified in this part when providing foods under the Program;

(ii) Provide supplemental foods at the current price or at less than the current price charged to customers other than participants;

(iii) When food instruments are used, submit those food instruments for payment within the allowed time limit and accept food instruments from a participant or representative only within the allowed time limit; and

(iv) Comply with the nondiscrimination requirements of Department regulations (7 CFR Part 15).

(4) The State agency shall ensure that food vendors are transmitted pertinent information and are provided guidance concerning the authorized supplemental foods, including a list of acceptable brand name products, and all other

applicable FNS guidelines and instructions.

(5) The State agency shall ensure that each year on-site reviews are conducted by State or local agency personnel of at least 10 percent of those food vendors accepting food instruments. Vendor reviews shall be evenly distributed throughout the jurisdiction of the State agency. Food vendors shall be selected for review on the basis of factors such as high volume of Program sales, past Program abuse, unusually high prices of supplemental foods, or other written criteria as the State agency deems appropriate to accomplish Program objectives.

(6) The State agency shall ensure that training sessions are conducted by State or local agency personnel for participating food vendors.

(7) The State agency shall implement a system of management review to limit food vendor and participant abuses of the Program. The system shall include the following:

(i) The State agency shall ensure that food vendors are suspended from participation under the Program for a reasonable period of time, not to exceed one year, upon a determination that they have committed any of the following

abuses of the Program: Providing cash or unauthorized foods, or other items to participants in lieu of authorized supplemental foods; charging the State or local agency for foods not received by the participant; and charging the Program more for supplemental foods than other customers are charged for the same food item. Other abuses by food vendors may be dealt with at the discretion of the State agency. The State agency shall provide adequate procedures for appeal from a suspension from participation under the Program as specified in § 246.24. In addition, prior to suspending vendors, State agencies shall consider whether a suspension would create undue hardships for participants.

A food vendor's disqualification from participation in any other FNS Program shall be grounds for a review of that vendor's operation of the WIC Program. Food vendors may be subject to the penalties outlined in § 246.18 in the case of deliberate fraud.

(ii) The State agency shall establish procedures designed to control participant abuse of the Program. Participant abuse includes, but is not limited to, knowing and deliberate misrepresentation of circumstances to obtain benefits, sale of supplemental foods or food instruments to, or exchange with, other individuals or entities, and receipt from food vendors of cash or credit toward purchase of

unauthorized food or other items of value in lieu of authorized supplemental food. The State agency shall establish sanctions for participant abuse. Such sanctions may, at the State agency's discretion, include suspension from the Program. Warnings may be given prior to the imposition of sanctions. Before a participant is suspended from the Program for alleged abuse, that participant shall be given full opportunity to appeal a suspension as set forth in § 246.23. At the State agency's discretion, participants may be suspended for a period not to exceed three months. However, the suspension shall be waived if the competent professional authority determines that a serious health risk may result from Program disqualification.

(iii) The State agency shall refer food vendors and participants who abuse the Program to the Federal, State or local authorities for prosecution under applicable statutes.

(8) The State agency shall ensure that the food delivery system is compatible with the delivery of health and nutrition education services to the participants.

(9) The State agency shall control the receipt and issuance of supplemental foods and food instruments.

(10) The State agency shall reconcile the records of receipt, issuance and redemption of supplemental foods or food instruments in accordance with § 246.11 and identify and document expired or any unredeemed food instruments along with their value.

(11) The State agency shall ensure that supplemental foods are not issued for use in institutions, such as homes for unmarried mothers.

(12) The State agency shall ensure that each participant or representative signs a receipt for supplemental foods or food instruments. This requirement shall not pertain to systems which mail food instruments.

(13) The State agency shall ensure that no conflict of interest exists between any local agency and the food vendor or vendors within the local agency's jurisdiction.

(e) *Retail purchase systems.* Retail purchase food delivery systems are systems in which participants obtain supplemental foods by submitting a food instrument to local retail outlets. All retail purchase food delivery systems shall meet the following requirements:

(1) The State agency shall use uniform food instruments within its jurisdiction. The State agency is responsible for the design and printing of the uniform food instruments, and their serialization.

(2) To ensure that nutrition education and health services are frequently

available to participants, FNS recommends that, whenever feasible, participants personally obtain their food instruments from the local agency.

However, the State agency shall develop guidelines for the mailing of food instruments to participants. Food instruments may be mailed to participants on a local agency-wide basis only if approved by the State agency. In making its determination regarding the mailing of food instruments by a local agency, the State agency shall consider participant hardships, such as seasonal inclement weather, which may be encountered by the target population of the local agency if food instruments are not mailed. The State agency shall approve a local agency's request for the mailing of food instruments if accountability is ensured and if either a reasonable level of health and nutrition education services can be provided, or if the State agency determines that persons in need of the Program in rural areas will be unable to participate in the Program if food instruments are not mailed to them.

Mailing food instruments on an individual basis shall be permitted only if:

(i) Individual participants encounter difficulties in personally obtaining food instruments for such reasons as illness, imminent childbirth, inclement weather conditions, distance to travel, high cost of travel, or inability to get to the local agency during business hours;

(ii) The reasons for mailing the food instruments are documented by the State or local agency in the participant's certification file; and

(iii) The mailing of food instruments to the participant is discontinued if the participant's initial hardship is resolved.

(3) Each food instrument shall clearly bear on the face the following information:

(i) The first date from which the food instrument may be used by the participant to obtain supplemental foods.

(ii) The last date by which the participant may use the food instrument to obtain supplemental foods. This date shall be a minimum of 30 days from the date specified in paragraph (i) above or for the participant's first month of issuance it may be the end of the month or cycle for which the food instrument is valid.

(iii) An expiration date by which the food vendor is required to submit the food instrument for payment. This date shall be no more than 90 days from the date specified in paragraph (i) above. If the date is less than 60 days from the date specified in paragraph (ii) above,

the State agency shall ensure that the food vendor is able to submit food instruments for redemption within the required time limit without undue burden.

(iv) A unique and sequential serial number.

(v) A maximum purchase value which is higher than the price of the food for which it will be used; but low enough to be a reasonable protection against potential losses as a result of theft, counterfeiting or other fraudulent activities.

(4) The State agency shall assure that food vendors are not reimbursed an amount in excess of the actual purchase price of the supplemental foods.

(5) With justification and documentation, State agencies may reimburse food vendors for food instruments submitted after the expiration date if the total value of the food instruments submitted at one time is \$200.00 or less. If the total value of the food instruments submitted at one time exceeds \$200.00, reimbursement may not be made without the approval of the FNS Regional Office.

(6) The State agency shall ensure that no more than a three months supply of food instruments are issued to any participant at one time and that nutrition education and health services are frequently made available to the participant, and that nutrition education services are made available in accordance with § 246.9(e).

(7) The State agency shall ensure that the State or local agency enter into written agreements with as many food vendors as necessary to assure convenience to participants in obtaining supplemental foods. At a minimum, State agencies shall enter into written agreements with at least four food vendors in each clinic service area, unless the State agency determines it is impossible to enter into written agreements with four food vendors in the clinic service area because of a lack of retail outlets which meet Program requirements, vendor refusal to participate, or lack of outlets with prices commensurate with the area's other retail outlets.

(f) *Home food delivery systems.* Home food delivery systems are systems in which food is delivered to the participant's home. Systems for home delivery of food shall provide for:

(1) Uniform food instruments, where applicable, which comply with the appropriate requirements set forth in paragraph (e) above;

(2) Procurement of supplemental foods in accordance with § 246.17, which may entail measures such as the purchase of

food in bulk lots by the State agency and the use of discounts that are available to States; and

(3) The accountable delivery of supplemental foods to participants.

(g) *Direct distribution systems.* Direct distribution food delivery systems are systems in which participants pick up food from storage facilities operated by the State or local agency. Systems for direct distribution of food shall provide for:

(1) Uniform food instruments, where applicable, which comply with the appropriate requirements set forth under paragraph (e) of this section;

(2) Adequate storage and insurance coverage that minimizes the dangers of loss due to theft, infestation, fire, spoilage, or other causes;

(3) Adequate inventory control of food received, in stock, and issued;

(4) Procurement of supplemental foods in accordance with § 246.17, which may entail measures such as purchase of food in bulk lots by the State agency and the use of discounts that are available to States;

(5) The availability of Program benefits to participants and potential participants who live at great distances from storage facilities; and

(6) The accountable delivery of supplemental foods to participants.

§ 246.11 Financial management systems.

(a) *Disclosure of expenditures.* The State agency shall maintain a financial management system which provides accurate, current and complete disclosure of the financial status of the Program. This shall include an accounting for all property and other assets and all Program funds received and expended each fiscal year.

(b) *Reports.* The State agency shall maintain its financial accounts in a manner sufficient to permit the preparation of the reports required in § 246.15.

(c) *Record of expenditures.* The State agency shall maintain records which identify adequately the source and use of funds expended for Program activities. These records shall contain, but are not limited to, information pertaining to authorization, receipt of funds, obligations, unobligated balances, assets, liabilities, outlays, and income.

(d) *Payment of costs.* The State agency shall implement procedures which ensure prompt and accurate payment of allowable costs, and ensure the allowability and allocability of costs in accordance with the cost principles and standard provisions of this part, FMC 74-4 and FNS guidelines and instructions.

(e) *Identification of obligated funds.* The State agency shall implement procedures which accurately identify obligated Program funds at the time obligations are made.

(f) *Resolutions of audit findings.* The State agency shall implement procedures which ensure timely and appropriate resolution of claims and other matters resulting from audit findings and recommendations.

(g) *Use of minority owned banks.* The State agency shall observe the national goal of expanding the opportunities for minority business enterprises in accordance with A-102, attachment A, by encouraging the use of minority owned banks.

(h) *Reconciliation of food instruments.* The State agency shall, where applicable, implement procedures to reconcile the number of food instruments issued with food instruments redeemed, and the value of individual food instruments issued with the value of individual food instruments redeemed.

(i) *Identification of unredeemed food instruments.* The State agency shall, where applicable, implement procedures to identify unredeemed, expired and unexpired, food instruments and their issuance value, and to make the appropriate adjustments to records and reports on obligations and expenditures.

(j) *Transfer of cash.* The State agency shall have controls to minimize the time elapsing between receipt of Federal funds from the U.S. Department of Treasury and the disbursements of these funds for Program costs. In the Letter of Credit system, the State agency shall make drawdowns from the U.S. Department of Treasury's Regional Disbursing Office as close as possible to the actual date that disbursement of funds is made. Advances made by the State agency to local agencies shall also conform to these same standards.

(k) *Local agency financial management.* The State agency shall ensure that all local agencies develop and implement a financial management system consistent with the requirements prescribed by the State agency pursuant to the requirements of this section.

§ 246.12 Program costs.

(a) *General.* The two kinds of allowable costs under the Program are as follows:

(1) Food costs.

(2) Operational and administrative costs. In general, costs necessary to the fulfillment of Program objectives are to be considered allowable costs. The two types of operational and administrative costs are:

(i) Direct costs. Those direct costs which are allowable under FMC 74-4.

(ii) Indirect costs. Those indirect costs which are allowable under FMC 74-4. When computing indirect costs, food costs may not be used in the base to which the indirect cost rate is applied. A claim for indirect costs shall be supported by an approved allocation plan for the determination of allowable indirect costs.

(b) *Specific Allowable Costs.*

(1) Food costs. Food costs are the acquisition cost of the supplemental foods provided to State or local agencies or to participants, whichever receives the foods first. Food costs shall not exceed the food vendor's customary sale price. For example, in retail purchase systems food costs may not exceed the shelf price of the food provided.

(2) The cost of nutrition education provided which meets the requirements of § 246.9. During each fiscal year an amount equal to at least one-sixth of the funds expended by each State agency for administrative costs shall be used for nutrition education. However, the State agency may request in its State Plan to spend less than one-sixth of its administrative expenditures on nutrition education. Such a request will be approved by FNS when the State agency can document that a total of funds from other sources and Program funds will be expended at an amount equal to one-sixth of administrative funds. Nutrition education costs are limited to activities which are distinct and separate efforts to help participants understand the importance of nutrition to health. The cost of dietary assessments for the purpose of certification and the cost of prescribing and issuing supplemental foods shall not be applied to the one-sixth minimum amount required to be spent on nutrition education. Costs to be applied to the one-sixth minimum amount required to be spent on nutrition education may include, but need not be limited to, the following items:

(i) Salary and other costs for time spent on nutrition education consultations whether with an individual or group.

(ii) Procuring and producing nutrition education materials including handouts, flip charts, filmstrips, projectors, food models or other teaching helps and mailing nutrition education materials to participants.

(iii) Training nutrition educators, including costs related to conducting training sessions and purchasing and producing training materials.

(iv) Conducting evaluations of nutrition education, including contractor involvement and time spent in the

design of data collection forms and compilation and analysis of data.

(v) Salary and other costs incurred in developing the nutrition education portion of the State Plan and local agency nutrition education plans.

(vi) Monitoring nutrition education.

(3) The cost of certification procedures including:

(1) Laboratory fees incurred for tests conducted to determine the eligibility of persons to participate in the Program;

(ii) Expendable medical supplies necessary to determine the eligibility of persons to participate in the Program;

(iii) Centrifuges, measuring boards, skin fold calipers, spectrophotometers, hematofluorometers, and scales used for determining the eligibility of persons, provided that expenditure limits will be set by FNS for each piece of equipment and expenditures which exceed the limits shall receive prior approval by the FNS Regional Office.

(iv) Salary and other costs for time spent on certification.

(4) The cost of outreach services.

(5) The cost of administering the food delivery system, including the cost of transporting food.

(6) The cost of translators for materials and interpreters.

(7) The cost of fair hearings, including the cost of an independent medical assessment of the appellant, if necessary.

(8) The cost of transportation of rural participants to clinics when prior approval for using Program funds to provide transportation has been granted by the State agency and documentation that such service is considered essential to assure Program access has been filed at the State agency. Direct reimbursement to participants for transportation cost is not an allowable cost.

(9) The cost of monitoring and reviewing Program operations.

(c) *Restrictions on Allowable Costs.* The following costs are allowable only with the prior approval of FNS:

(1) Computerized information systems which are required by a State or local agency to improve management of the food delivery system, including purchases of automatic data processing equipment and systems whether by outright purchase, rental-purchase agreement or other method of acquisition. Approval shall be granted by FNS if the proposed system meets the requirements of this part, A-90, A-102, and 74-4.

(2) Capital expenditures over \$2,500.00 (with the exception of the equipment specified in paragraph (b)(3)(iii) above) such as the cost of facilities, equipment,

other capital assets and any repairs that materially increase the value or useful life of capital assets.

(3) Management studies performed by agencies or departments other than the State or local agency or those performed by outside consultants under contract with the State or local agency.

§ 246.13 Program income.

(a) *Interest.* Interest earned on Program funds at the State or local levels shall be used in accordance with the provisions of A-102, Attachment E.

(b) *Other Program Income.* Other Program income shall be used in accordance with the provisions of A-102, Attachment E.

§ 246.14 Distribution of funds.

(a) *General.* This section prescribes the procedures for the distribution of available funds by FNS to participating State agencies and by State agencies to local agencies. All Program funds shall be used only for Program purposes. As a prerequisite to the receipt of funds, the State agency shall have executed an agreement with the Department and shall have received approval of its State Plan of Program Operation and Administration.

(b) *Distribution of Funds to State Agencies.* Funds made available to the Department for the Program in any fiscal year shall be distributed by FNS on the basis of funding formulas which allocate funds to all State agencies for food costs and operational and administrative costs. However, up to one-half of one percent of the sums appropriated for each fiscal year, not to exceed \$3,000,000, shall be used by the Department for the purpose of evaluating Program performance, evaluating health benefits, and the administration of pilot projects, including projects designed to meet the special needs of migrants, Indians, and rural populations. Each State agency's funds shall be provided by means of a Letter of Credit unless other funding arrangements are made with FNS. Funds shall be used by State agencies to cover those allowable and documented Program costs, as defined in § 246.12, which are incurred by the State agency and participating local agencies within its jurisdiction.

(c) *Distribution of Funds to Local Agencies.* All funds made available by FNS to each State agency, except those funds necessary for allowable costs for State agency administration and food costs paid directly by the State agency, shall be provided to local agencies. The State agency shall distribute the funds based on claims submitted at least

monthly by the local agency. Where the State agency advances funds to local agencies, the State agency shall ensure that each local agency has funds to cover immediate disbursement needs and the State agency shall make necessary increases or decreases in the funding level once the local agency has submitted its monthly claim. To accomplish the allocation of funds to local agencies, beginning October 1, 1979, the State agency shall:

(1) Distribute funds to cover expected food cost expenditures.

(2) Allocate funds to cover expected local agency administrative costs in a manner which takes into consideration each local agency's needs. For the allocation of administrative funds, the State agency shall:

(i) Develop an administrative funding procedure, in cooperation with a representative sample of local agencies which takes into account the varying needs of the local agencies. This sample shall include a rural agency, an urban agency, a small agency, a large agency, and where applicable a migrant and Indian agency. The State agency shall consider the views of the representative sample of local agencies, but the final decision as to the funding procedure shall remain with the State agency. This procedure shall be based on factors such as: the type and ratio of staff needed to serve the estimated number of participants; the number of participants served by the local agency; the variation of salaries of personnel among local agencies; the types of equipment needed to be purchased for certification; expenses the local agency may incur for providing bilingual services and material where the participant population contains a significant proportion of non-English speaking persons; the cost of special services needed to reach particular members of populations such as migrants and Indians; costs related to serving areas with a high or low density of population, or a population that resides in a rural area; and financial and in-kind resources, other than Program funds, which are available to the local agency.

(ii) Forward in advance to local agencies those administrative funds necessary for the successful commencement of Program operations during the first three months of operation or until the local agency reaches its projected caseload level, whichever comes first. The requirements of § 246.11(j) shall be followed.

(d) *Recovery of funds.* Funds may be recovered from a State agency at any time FNS determines, based on State agency reports of expenditures and

operations, that the State agency is not expending funds at a rate commensurate with the amount of funds distributed or provided for expenditures under the Program.

(e) *Reallocation of funds.* Any funds recovered under paragraph (d) above shall be reallocated by FNS as deemed appropriate.

§ 246.15 Records and reports.

(a) *Recordkeeping requirements.* Each State and local agency shall maintain full and complete records concerning Program operations. Such records shall comply with the following requirements:

(1) Records shall include, but not be limited to, information pertaining to financial operations, food delivery systems, food instrument issuance and redemption, equipment purchases and inventory, certification, nutrition education, civil rights and fair hearing procedures.

(2) All records shall be retained for a minimum of 3 years following the date of submission of the final expenditure report for the period to which the reports pertain. However, FNS may, by written notice, require longer retention of any records necessary for resolution of an audit or of any litigation. If FNS deems any of the Program records to be of historical interest, it may require the State or local agency to forward such records to FNS whenever either agency is disposing of them. All records, except medical case records of individual participants (unless they are the only source of certification data), shall be available during normal business hours for representatives of the Department and of the General Accounting Office of the United States to inspect, audit, and copy. Any reports resulting from such examinations shall not divulge names of individuals.

(b) *Financial reports.* All financial data shall be submitted on a monthly basis.

(c) *Program reports.* All Program performance data shall be submitted on a monthly basis.

(d) *Civil Rights.* Each local agency participating under the Program shall submit a report of racial and ethnic participation data, at a frequency prescribed by FNS.

(e) *Audit acceptability of reports.* To be acceptable for audit purposes, all financial and Program performance reports shall be traceable to source documentation.

(f) *Certification of reports.* Financial and Program reports shall be certified as to their completeness and accuracy by the person given that responsibility by the State agency.

(g) *Use of reports.* FNS shall use State agency reports to measure progress in achieving objectives set forth in the State Plan. If it is determined, through review of State agency reports, Program or financial analysis, or an audit, that a State agency is not meeting the objectives set forth in its State Plan, FNS may request additional information including, but not limited to, reasons for the failure to achieve its objectives.

§ 246.16 Closeout procedures.

(a) *General.* State agencies shall submit preliminary and final closeout reports for each fiscal year. All obligations shall be liquidated before closure of a fiscal year grant. Obligations shall be reported for the fiscal year in which they occur.

(b) *Fiscal year closeout reports.* State agencies:

(1) Shall submit to FNS, within 30 days after the end of the fiscal year, preliminary financial reports which show cumulative actual expenditure and obligations for the fiscal year, or part thereof, for which Program funds were made available.

(2) Shall submit to FNS, within 150 days after the end of the fiscal year, final fiscal year closeout reports; and

(3) May submit revised closeout reports at any time. However, FNS is not responsible for reimbursing State agencies for unreported expenditures or unpaid obligations later than one year after the close of the fiscal year in which they were incurred.

(c) *Grant closeout procedures.* When grants to State agencies are terminated, the following procedures shall be performed in accordance with A-102 and A-110:

(1) *Termination for cause.* FNS may terminate a State agency's participation under the Program, in whole or in part, whenever FNS determines that the State agency failed to comply with the conditions prescribed in this part, and in FNS guidelines and instructions. FNS shall promptly notify the State agency in writing of the termination, together with the effective date. A State agency shall terminate a local agency's participation under the Program by written notice whenever it is determined by FNS or the State agency that the local agency has failed to comply with the requirements of the Program. When a State agency's participation under the Program is terminated for cause, any payments made to the State agency, or any recoveries by FNS from the State agency, shall be in conformance with the legal rights and liabilities of the parties.

(2) *Termination for convenience.* FNS or the State agency may terminate the State agency's participation under the Program, in whole or in part, when both parties agree that continuation under the Program would not produce beneficial results commensurate with the further expenditure of funds. The State agency or the local agency may terminate the local agency's participation under the Program, in whole or in part, under the same conditions. The two parties shall agree upon the termination conditions, including the effective date thereof and, in the case of partial termination, the portion to be terminated. The State agency shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. FNS shall allow full credit to the State agency for the Federal share of the noncancellable obligations properly incurred by the State agency prior to termination.

§ 246.17 Procurement and property management standards.

(a) *Requirements.* State and local agencies shall comply with the requirements of A-90, A-102, Attachment O, or A-110, Attachment O, and FMC 74-4 concerning the procurement and allowability of food in bulk lots, supplies, equipment and other services with Program funds. These requirements are adopted by FNS to ensure that such materials and services are obtained for the Program in an effective manner and in compliance with the provisions of applicable law and executive orders.

(b) *Contractual responsibilities.* The standards contained in A-90, A-102, A-110, and FMC 74-4, do not relieve the State or local agency of the responsibilities arising under its contracts. The State agency is the responsible authority, without recourse to FNS, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in connection with the Program. This includes, but is not limited to, disputes, claims, protests of award, source evaluation, or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State or Federal authority as may have proper jurisdiction.

(c) *State regulations.* The State or local agency may use its own procurement regulations which reflect applicable State and local regulations, provided that procurements made with Program funds adhere to the standards

set forth in A-90, A-102, A-110, and FMC 74-4.

(d) *Property acquired with Program funds.* State and local agencies shall observe the standards prescribed in A-102, Attachment N, in their utilization and disposition of property acquired in whole or in part with Program funds.

§ 246.18 Claims and penalties.

(a) *Claims.* If FNS determines through a review of the State agency's reports, program or financial analysis, monitoring, audit, or otherwise, that any Program funds provided to a State agency for supplemental foods or administrative purposes were, through State agency or local agency negligence or fraud, misused or otherwise diverted from Program purposes, a claim shall be made by FNS against the State agency. The State agency shall pay promptly to FNS a sum equal to the amount of the administrative funds or the value of supplemental foods or food instruments so misused or diverted. If FNS determines that any part of the Program funds received by a State agency, or supplemental foods, either purchased or donated commodities, or food instruments, were lost as a result of thefts, embezzlements, or unexplained causes, the State agency shall, on demand by FNS, pay to FNS a sum equal to the amount of the money or the value of the supplemental foods or food instruments so lost. The State agency shall have full opportunity to submit evidence, explanation or information concerning alleged instances of noncompliance or diversion before a final determination is made in such cases.

(b) *Withholding funds.* If the State agency fails to pay any such demand for funds promptly, FNS shall reduce the State agency's Letter of Credit by the sum due. A formal letter shall be sent to the Chief State Health Officer stating that such action will be taken within 30 days, and identifying the amount of funds which will be withheld. From a source other than the Program, the State agency shall provide the funds necessary to maintain Program operations at the level of operation reached prior to the Letter of Credit reduction.

(c) *Penalties.* Whoever embezzles, willfully misapplies, steals or obtains by fraud any funds, assets or property provided under Section 17 of the Child Nutrition Act of 1966, as amended, whether received directly or indirectly from USDA, or whoever receives, conceals or retains such funds, assets or property for his or her own interest, knowing such funds, assets or property

have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets or property are of the value of \$100 or more, be fined not more than \$10,000 or imprisoned not more than five years, or both, or if such funds, assets or property are of a value of less than \$100, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

§ 246.19 Management evaluation and reviews.

(a) *General.* FNS and each State agency shall establish a management evaluation system in order to assess the accomplishment of Program objectives as provided under these regulations, FNS guidelines and instructions, the State Plan, and the written agreement with the Department. FNS will provide assistance to States in discharging this responsibility, establish standards and procedures to determine how well the objectives of this part are being accomplished, and implement sanction procedures as warranted by State Program performance.

(b) *Responsibilities of FNS.* FNS shall establish evaluation procedures to determine whether State agencies carry out the purposes and provisions of this part, the State Plan, and FNS guidelines and instructions. As a part of the evaluation procedures, FNS shall review audits performed by the State agency to ensure that the Program at both the State and local levels has frequently been included in audit examinations.

(1) FNS evaluations shall include an evaluation of each State agency including on-site reviews of selected local agencies at least every two years. These evaluations will measure the State agency's progress toward meeting the objectives outlined in its State Plan and compliance with these regulations.

(2) If, as a result of this evaluation, it is disclosed that the State agency is failing to administer the Program in a manner consistent with this part, or the State Plan, or FNS guidelines and instructions, FNS shall withhold State agency administrative funds.

(3) To effect this requirement, a graduated scale of sanctions varying from 5 to 20 percent of the State agency's total administrative funds shall be withheld for failure to meet the performance standards listed in paragraph (b)(5) below. FNS will determine the percentage based on the number of violations and the degree of severity.

(4) However, FNS retains the right to withhold an amount up to 100% of the State agency's administrative funds when FNS determines that a State

agency has failed without good cause to administer the Program in accordance with this part, the State Plan or FNS guidelines and instructions.

(i) FNS shall advise the State agency of the Program deficiencies which are not in compliance with the performance standards listed in paragraph (b)(5) below, in an early warning letter to the Chief State Health Officer or equivalent. The early warning letter should also advise the State agency of other deficiencies noted by FNS. The early warning letter shall transmit the corrective action plan which has been jointly developed by FNS and the State agency. The corrective action plan shall include specific time limits which shall be adequate for the State agency to correct the deficiencies. The State agency shall be informed that if the State agency fails to comply with the corrective action plan, a formal warning letter will be issued. The early warning letter shall also detail technical assistance which is available to the State agency to correct any deficiencies.

(ii) FNS shall perform a follow-up review at the end of the corrective action plan period to determine if the noted deficiencies have been corrected. If the State agency failed to comply with the time limits established in the corrective action plan, FNS may issue a formal warning by certified mail to the Chief State Health Officer or equivalent. The formal warning shall state that sanctions will be applied within 30 days of the receipt of the letter if compliance with the corrective action plan is not achieved. The formal warning shall identify the amount of funds which will be withheld, the reason for the sanction and the exact steps the State agency must take to prevent the application of the sanction.

(iii) If at the end of the formal warning period, the deficiencies have not been corrected, FNS shall withhold administrative funds by a reduction of the State agency Letter of Credit (LOC) and inform the Chief State Health Officer or equivalent.

(iv) If compliance is achieved before the end of the fiscal year the administrative funds withheld shall be restored in the State agency's LOC. If compliance is not achieved, the funds will revert to FNS. However, if the formal warning period ends in the fourth quarter of a fiscal year, FNS may choose not to withhold funds until the next fiscal year. FNS determination to withhold funds in the next fiscal year shall depend upon the State agency's positive progress toward compliance with the corrective action plan.

(5) The sanction process, as set forth in paragraph (b)(3) above, shall be immediately implemented if FNS determines that any of the following deficiencies exist. Any determination that a deficiency exists shall be based on a review by FNS of a statistically valid sample of relevant Program records. The sanction process shall be implemented if:

(i) More than 10 percent of the sampled valid vendor claims submitted in a three month period are delayed for payment past the 60 days specified in § 246.10.

(ii) More than 5 percent of the sampled food instruments issued in a three month period are not accounted for at the end of 150 days from issuance by one to one reconciliation.

(iii) Less than 8 percent of the vendors are reviewed annually. Vendor reviews shall be evenly distributed across the State.

(iv) In a 12 month period, more than 10 percent of the monthly and annual reports required in § 246.15 are submitted later than the due date specified by FNS.

(v) More than 5 percent of participant certification actions to approve or deny applications during a fiscal year are improperly performed or records are improperly documented at the time of a review.

(vi) Any of the staff positions specified in § 246.3 are vacant for more than nine consecutive months.

(c) *Responsibilities of State agencies.* The State agency is responsible for meeting the following requirements:

(1) The State agency shall establish evaluation and review procedures and document the results of such procedures. The procedures shall include, but not be limited to:

(i) Annual monitoring of all local agencies to evaluate certification, management, nutrition education, civil rights compliance, accountability, and financial management systems, including on-site reviews of a minimum of 20 percent or a minimum of one of the clinics in each local agency. More frequent reviews may be performed as the State agency deems necessary. The State agency shall provide a continuing evaluation of each local agency through on-site reviews, reviews of local agency reports and reviews of claims of the retail outlet and home delivery vendors annually.

(ii) In accordance with § 246.10(d)(5), the State agency shall ensure that each year on-site reviews are conducted by State or local agency personnel of at least 10 percent of those food vendors accepting food instruments.

(iii) Instituting the necessary followup procedures to correct identified problem areas.

(2) On its own initiative or when required by FNS, the State agency shall provide special reports on Program activities, and take positive action to correct deficiencies in Program operations.

(3) The State agency shall require that local agencies establish Program review procedures to be used in reviewing their operations and those of subsidiaries or contractors.

§ 246.20 Audits.

(a) *Federal access to information.* The Secretary, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records (except medical case records of individuals unless that is the only source of certification data) of the State and local agencies and their contractors, for the purpose of making surveys, audits, examinations, excerpts, and transcripts.

(b) *State agency response.* The State agency may take exception to particular audit findings and recommendations. The State agency shall submit a response or statement to FNS as to the action taken or a proposed corrective action plan regarding the findings. A proposed corrective action plan developed and submitted by the State agency shall include specific timeframes for its implementation and for completion of correction of deficiencies and problems leading to the deficiencies.

(c) *Corrective action.* FNS shall determine whether Program deficiencies have been adequately corrected. If additional corrective action is necessary, FNS shall schedule a followup review, allowing a reasonable time for such corrective action to be taken.

(d) *State-sponsored audits.* (1) Each State agency shall provide for an independent audit of the financial operations of the State agency and local agencies. Audits may be conducted by State and local government audit staffs, State-licensed public accountants licensed on or before December 31, 1970, or by certified public accountants and audit firms under contract with the State or local agencies. Audits shall conform to "The Standards of Audit of Governmental Organizations, Programs, Activities and Functions," issued by the Comptroller General of the United States (1972, for sale by the Superintendent of Documents, U.S. Government Printing Office,

Washington, D.C. 20402.) An audit shall be used to determine whether:

(i) Financial operations are properly conducted;

(ii) The financial reports are fairly presented; and

(iii) The agency has complied with applicable laws, regulations, and administrative requirements pertaining to financial management.

(2) The State agency shall conduct or cause to be conducted, audits in accordance with the provisions of A-102, Attachment G. This circular states that audits of the State agency and the local agencies under the State agency's jurisdiction must be performed in a representative sample of grant program audit examinations, but need not be completed during each audit cycle which occurs, at a minimum, every 2 years. However, audits of the Program shall be performed at intervals frequent enough to ensure consistency with good Program management. If in the course of Program reviews of State agency operations FNS finds that the efficiency and effectiveness of the State agency's financial management system is in question, FNS may request the State agency to include the Program in the sample for the next audit examination. The State agency may perform a separate audit of the WIC Program at any time at its discretion.

(3) Each State agency shall make all State or local agency sponsored audit reports of Program operations under its jurisdiction available for the Department's review upon request. The cost of these audits shall be considered a part of operational and administrative costs and may be funded from the State or local agency operational and administrative funds, as appropriate.

§ 246.21 Investigations.

(a) *Authority.* The Department may make an investigation of any allegation of noncompliance with this part and FNS guidelines and instructions. The investigation may include, where appropriate, a review of pertinent practices and policies of any State or local agency, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the State or local agency has failed to comply with the requirements of this part.

(b) *Confidentiality.* No State or local agency, participant, or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege under this part because that person has made a complaint, formal

allegation, or testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of every complainant shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conducting of any investigation, hearing, or judicial proceeding.

§ 246.22 Nondiscrimination.

(a) *Requirement.* The State agency shall comply with the requirements of Title VI of the Civil Rights Act of 1964, and the Department's regulations concerning nondiscrimination issued thereunder (7 CFR Part 15), including requirements of racial and ethnic participation data collection, public notification of the nondiscrimination policy, and annual reviews to assure compliance with such policy, to the end that no person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the Program.

(b) *Non-English materials.* Where a significant proportion of the population of the area served by a local agency is composed of non-English or limited English speaking persons who speak the same language, the State agency shall take action to ensure that required Program information, except certification forms, is provided to such persons in the appropriate language orally and in writing. The State agency shall ensure that there are bilingual staff members or interpreters available to serve these persons. The State agency shall also ensure that all rights and responsibilities listed on the certification form are read to these applicants in the appropriate language.

(c) *Complaints.* Complaints of discrimination filed by applicants or participants shall be referred to the Director, Supplemental Food Programs Division, Food and Nutrition Service, U.S.D.A., Washington, D.C., 20250.

§ 246.23 Fair hearing procedures for participants.

(a) *Availability of hearings.* The State agency shall provide a hearing procedure through which any individual may appeal a State or local agency action which results in the individual's denial of participation, suspension or termination from the Program.

(b) *Hearing system.* The State agency shall provide for either a hearing at the State level or for a hearing at the local level which permits the individual to appeal a local decision to the State agency. The State agency may adopt

local level hearings in some areas, such as those with large caseloads, and maintain only State level hearings in other areas.

(c) *Notification of appeal rights.* At the time of application and at the time of denial of participation or termination from the Program, each individual shall be informed in writing of the right to a fair hearing, of the method by which a hearing may be requested, and that any positions or arguments on behalf of the individual may be presented personally or by a representative such as a relative, friend, legal counsel or other spokesperson. Such notification is not required at the expiration of a certification period.

(d) *Request for hearing.* A request for a hearing is defined as any clear expression by the individual, the individual's parent, guardian or other representative, that an opportunity to present its case to a higher authority is desired. The State or local agency shall not limit or interfere with the individual's freedom to request a hearing.

(e) *Time limit for request.* The State or local agency shall provide individuals a reasonable period of time to request fair hearings. Such time limit shall not be less than 60 days from the date the agency mails or gives the applicant or participant the notice of adverse action to deny or terminate benefits, as required in § 246.7(j)(3).

(f) *Denial or dismissal of request.* The State and local agencies shall not deny or dismiss a request for a hearing unless:

(1) The request is not received within the time limit set by the State agency in accordance with paragraph (e) of this section.

(2) The request is withdrawn in writing by the appellant or a representative.

(3) The appellant or representative fails, without good cause, to appear at the scheduled hearing.

(g) *Continuation of benefits.* Participants who appeal the termination of benefits within the 15 days advance adverse notice period provided by § 246.7(j)(3) shall continue to receive Program benefits until the hearing official reaches a decision. Applicants who are denied benefits at initial certification or at subsequent certifications may appeal the denial but shall not receive benefits while awaiting the hearing.

(h) *Rules of procedure.* The State and local agencies shall process each request for a hearing under uniform rules of procedure. The uniform rules of procedure shall be available for public inspection and copying. At a minimum,

the uniform rules of procedure shall include: The time limits for requesting and conducting a hearing; All advance notice requirements; The rules of conduct at the hearing; and The rights and responsibilities of the appellant. The procedures shall not be unduly complex or legalistic.

(i) *Hearing official.* Hearings shall be conducted by an impartial official who does not have any personal stake or involvement in the decision and who was not directly involved in the initial determination of the action being contested. The hearing official shall:

(1) Administer oaths or affirmations if required by the State;

(2) Ensure that all relevant issues are considered;

(3) Request, receive and make part of the hearing record all evidence determined necessary to decide the issues being raised;

(4) Regulate the conduct and course of the hearing consistent with due process to ensure an orderly hearing;

(5) Order, where relevant and necessary, an independent medical assessment or professional evaluation from a source mutually satisfactory to the appellant and the State agency;

(6) Render a hearing decision based exclusively on the hearing record which will resolve the dispute.

(j) *Conduct of the hearing.* The hearing shall be accessible to the appellant and shall be held within three weeks from the date the State agency received the request for a hearing. The State or local agency shall provide the appellant with a minimum of 10 days advance written notice of the time and place of the hearing and shall enclose an explanation of the hearing procedure with the notice. The State or local agency shall also provide the appellant or representative an opportunity to:

(1) Examine, prior to and during the hearing, the documents and records presented to support the decision under appeal;

(2) Be assisted or represented by an attorney or other persons;

(3) Bring witnesses;

(4) Advance arguments without undue interference;

(5) Question or refute any testimony or evidence, including an opportunity to confront and cross-examine adverse witnesses; and

(6) Submit evidence to establish all pertinent facts and circumstances in the case.

(k) *Hearing decisions.* (1) Decisions of the hearing official shall comply with Federal law, regulations or policy and shall be factually based on the hearing record. The verbatim transcript or

recording of testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceeding shall constitute the exclusive record for a final decision by the hearing official. This record shall be retained in accordance with § 246.15. This record shall also be available, for copying and inspection, to the appellant or representative at any reasonable time.

(2) A decision by the hearing official shall be binding on the local agency and shall summarize the facts of the case, specify the reasons for the decision, and identify the supporting evidence and the pertinent regulations or policy. The decision shall become a part of the record.

(3) Within 45 days of the receipt of the request for the hearing, the appellant or representative shall be notified in writing of the decision and the reasons for the decision in accordance with paragraph (2) above. If the decision is in the favor of the appellant and benefits were denied or discontinued, benefits shall begin within this 45 day time period. If the decision is in favor of the agency, as soon as administratively feasible any continued benefits shall be terminated as decided by the hearing official. If the appellant wishes to appeal a local hearing decision to the State agency, the appeal request shall be made within 15 days of the mailing date of the hearing decision notice.

(4) All State and local agency hearing records and decisions shall be available for public inspection and copying, provided the names and addresses of participants and other members of the public are kept confidential.

(1) *Judicial review.* If a State level decision upholds the agency action and the appellant expresses an interest in pursuing a higher review of the decision, the State agency shall explain any available State level review of the decision and any State level rehearing process. If neither are available or have been exhausted, the State agency shall explain the right to pursue judicial review of the decision.

§ 246.24 Administrative appeal of State agency decisions.

(a) *Requirement.* The State agency shall provide a hearing procedure whereby a food vendor or local agency adversely affected by a State or local agency action may appeal the action. The right of appeal shall be granted when a local agency's or a food vendor's application to participate is denied, when participation is terminated, when a contract is not renewed by the State

agency or when any other adverse action which affects participation is taken. The adverse action shall be postponed until a hearing decision is reached.

(b) *Procedure.* The State agency hearing procedure shall at a minimum provide the local agency or vendor:

(1) Adequate advance notice of the time and place of the hearing to provide all parties involved sufficient time to prepare for the hearing;

(2) The opportunity to present its case;

(3) The opportunity to confront and cross-examine adverse witnesses;

(4) The opportunity to be represented by counsel, if desired;

(5) The opportunity to review the case record prior to the hearing;

(6) An impartial decision maker, whose decision as to the validity of the State or local agency's action shall rest solely on the evidence presented at the hearing and the statutory and regulatory provisions governing the Program. The basis for the decision shall be stated in writing, although it need not amount to a full opinion or contain formal findings of fact and conclusions of law; and

(7) Written notification of the decision concerning the appeal, within 60 days from the date of the request for a hearing.

(c) *Continuing responsibilities.* Appealing an action does not relieve the local agency or food vendor from the responsibility of continued compliance with the terms of any written agreement or contract with the State or local agency.

(d) *Judicial review.* If a State level decision is rendered against the local agency or food vendor and they express an interest in pursuing a higher review of the decision, the State agency shall explain any available State level review of the decision and any available State level rehearing process. If neither are available or have been exhausted, the State agency shall explain the right to pursue judicial review of the decision;

§ 246.25 Miscellaneous provisions.

(a) *No aid reduction.* The value of benefits or assistance available under the Program shall not be considered as income or resources of participants or their families for any purpose under Federal, State or local laws, including, but not limited to, laws relating to taxation, welfare and public assistance programs.

(b) *Statistical information.* FNS reserves the right to use information obtained under the Program in a summary, statistical or other form which does not identify particular individuals.

(c) *Medical information.* FNS may require the State or local agencies to supply medical data and other information collected under the Program in a form that does not identify particular individuals, to enable the Secretary or the State agencies to evaluate the effect of food intervention upon low-income individuals determined to be at nutritional risk.

(d) *Confidentiality.* Each State agency shall restrict the use or disclosure of information obtained from Program applicants or participants to persons directly connected with the administration or enforcement of the Program.

(e) *Public information.* The State agency procedure manual shall be available for public review and copying at each State and local agency during normal business hours. Any person who wishes information, assistance, records or other public material shall request such information from the State agency, or from the FNS Regional Office serving the appropriate State as listed below:

(1) Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont: U.S. Department of Agriculture, FNS, New England Region, 33 North Avenue, Burlington, Massachusetts 01803.

(2) Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, West Virginia: U.S. Department of Agriculture, FNS, Mid-Atlantic Region, One Vahlsing Center, Robbinsville, New Jersey 08691.

(3) Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee: U.S. Department of Agriculture, FNS, Southeast Region, 1100 Spring Street, N.W., Atlanta, Georgia 30309.

(4) Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin: U.S. Department of Agriculture, FNS, Midwest Region, 536 South Clark Street, Chicago, Illinois 60605.

(5) Arkansas, Louisiana, New Mexico, Oklahoma, Texas: U.S. Department of Agriculture, FNS, Southwest Region, 1100 Commerce Street, Room 5-C-30, Dallas, Texas 75242.

(6) Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming: U.S. Department of Agriculture, FNS, Mountain Plains Region, 2420 West 26th Avenue, Room 430-D, Denver, Colorado 80211.

(7) Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory of the Pacific Islands, the Northern Mariana Islands, Washington: U.S. Department of

Agriculture, FNS, Western Region, 550 Kearny Street, Room 400, San Francisco, California 94108.

Note.—The reporting and/or recordkeeping requirements contained herein have been reviewed by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 and are subject to their clearance.

(Catalog of Federal Domestic Assistance, Program No. 10.557, National Archives Reference Service.)

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations" and has been classified "significant." An Approved Final Impact Statement is available from Jennifer R. Nelson, Director.

Signed in Washington, D.C. on July 23, 1979.

Carol Tucker Foreman,

Assistant Secretary.

[FR Doc. 79-23117 Filed 7-26-79; 6:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
DOT/UMTA			DOT/UMTA	
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday

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*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today**INTERIOR DEPARTMENT**

Fish and Wildlife Service—

37125 6-25-79 / Final endangered status for 25 foreign species of mammals and birds

37130 6-25-79 / Reclassification of American Alligator in La.

Rules Going Into Effect July 29, 1979**DEFENSE DEPARTMENT**

Corps of Engineers, Department of the Army—

38292 6-29-79 / Environmental quality: policy and procedures for implementing NEPA

PERSONNEL MANAGEMENT OFFICE

37888 6-29-79 / Retirement; Federal Employees Group Life Insurance; Federal Employees Health Benefits Program; Retired Federal Employees Health Benefits Program; Reconsideration procedures

List of Public Laws**Last Listing July 26, 1979**

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

H.R. 4289 / Pub. L. 96-38 "Supplemental Appropriations Act, 1979" (July 25, 1979; 93 Stat. 97). Price \$2.00.

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[A Cumulative checklist of CFR issuances for 1978 appears in the first issue of the Federal Register each month under Title 1. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected)]

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7-30-79
Vol. 44 No. 147
Pages 44461-44810

Test Register Federal Register

Monday
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Highlights

- 44780 Community Development Block Grants** HUD proposes to revise its policies and procedures for the use of reallocated funds; comments by 9-28-79 (Part VI of this issue)
- 44471 Guaranteed Rural Housing Loan Program** USDA/FmHA issues notice of suspension; effective 7-17-79
- 44706 Housing** HUD/FHC issues correction on fair market rents for new construction and substantial rehabilitation (Part III of this issue)
- 44624 Loan Repayment Program** HEW/PHS issues notice of phase-out
- 44553 Income Tax** Treasury/IRS proposes rules relating to the treatment of certain transfers of appreciated property to political organizations
- 44544 Credit Unions** NCUA provides rules for Corporate Central Federal Credit Unions where operations differ from natural person credit unions
- 44798 Impoundment Control** OMB defers \$6.2 million in budget authority for the Bureau of Prisons of the Justice Department (Part IX of this issue)
- 44552 Securities** SEC withdraws proposal to Forms S-5 and S-6, required for variable annuity prospectuses

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- 44638 Series V-1981** Treasury/Sec'y announces interest rates of 9% percent per annum
- 44549 Air Carriers** CAB proposes rules to enhance rate and fare changes, particularly deductions; comments by 8-29-79
- 44806 Aircraft Loan Guarantee** DOT/FAA aligns program with recent deregulation which raised total guaranteed amount from 30 million to 100 million, effective 7-30-79 (Part XI of this issue)
- 44620 Unleaded Gasoline** EPA clarifies what constitutes a *bona fide* emergency
- 44629 Prisons** Justice/Office of the Attorney General classifies and lists various Bureau of Prisons institutions; effective 4-15-79
- 44740 Labor Practices** FLRA, the General Counsel of the FLRA and the Federal Service Impasses Panel presents interim rules governing the processing of cases; comments by 10-31-79 (Part V of this issue)
- 44552 Improving Government Regulations** State/AID solicits public comment on semiannual agenda
- 44501 Conventional Pollutants** EPA establishes grease and oil; effective 7-30-79
- 44485 Environmental Quality** NASA sets forth procedures for implementing provisions of the National Environmental Policy Act
- 44718, 44802 Environmental Quality** USDA/Sec'y Issues policies and procedures for compliance with the National Environmental Policy Act (Parts IV and X of this issue) (2 documents)
- 44643 Sunshine Act Meetings**

Separate Parts of This Issue

- 44702 Part II, Interior/BLM**
- 44706 Part III, HUD/FHC**
- 44718 Part IV, USDA/FS**
- 44740 Part V, FLRA, the General Counsel of the FLRA and the Federal Service Impasses Panel**
- 44780 Part VI, HUD**
- 44786 Part VII, State**
- 44790 Part VIII, FEMA**
- 44798 Part IX, OMB**
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Rules and Regulations

Federal Register

Vol. 44, No. 147

Monday, July 30, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

7 CFR Part 650

Compliance With NEPA; Related Environmental Concerns

AGENCY: U.S. Department of Agriculture, Soil Conservation Service (SCS).

ACTION: Final rule.

SUMMARY: This rule prescribes the policy and general guidelines for SCS implementation of Executive Order 11988, Floodplain Management, dated May 24, 1977, in Federal assistance programs administered by SCS. It describes the policy and general constraints placed on SCS personnel relating to flood-plain management in assistance programs administered by SCS. This rule is in accordance with the U.S. Department of Agriculture Secretary's Memorandum No. 1827, Revised, Supplement No. 1, Implementation of Executive Orders 11988, Floodplain Management, and 11990, Protection of Wetlands.

EFFECTIVE DATE: July 30, 1979.

FOR FURTHER INFORMATION CONTACT: Gary A. Margheim, Acting Director, Environmental Services Division, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, DC 20013, telephone 202-447-3839.

SUPPLEMENTARY INFORMATION: On June 2, 1978, SCS published in the Federal Register (43 FR 24223) its proposed policy and general guidelines for implementation of Executive Order 11988, Floodplain Management, Title 7, Chapter VI, Part 650, Subpart B, Related Environmental Concerns, § 650.25, Floodplain Management.

Written comments were received from four Federal agencies and three

environmental organizations. The comments were given full consideration in developing the final rules. The full text of all comments on the proposed rules is available for public inspection in Room 8105, South Agriculture Building, U.S. Department of Agriculture, 14th and Independence Avenue, SW., Washington, D.C.

SCS has prepared these rules in consultation with the Water Resources Council (WRC), the Department of Housing and Urban Development's Federal Insurance Administration (FIA), and the Council on Environmental Quality (CEQ), in accordance with Section 2(d) of Executive Order 11988.

Most suggestions for clarification and editing were accepted. The more substantive comments and their consideration are summarized as follows:

Comment 1: Several agencies expressed concern that the proposed SCS rules do not take advantage of SCS's unique experience in flood-plain management. They had hoped that SCS's rules might be a point of reference or model for agencies with less experience in this area. In addition, the commenting agencies indicated that the proposed rules do not adequately and specifically tailor the Order to SCS's Federal assistance programs, nor do they clarify how the Order applies to the full range of SCS-assisted actions. Concern was expressed that the proposed rules do not adequately address the Order's requirements for actions involving Federal technical assistance programs.

Response: Because of the unique nature of SCS's programs, we do not believe that our rules would serve as an appropriate model for use by other agencies; but because of the unique nature of SCS assistance, we do believe that other agencies might benefit from our experience in encouraging flood-plain management.

SCS has had a long and unique experience in flood-plain management in a wide array of Federal assistance programs. In 1970, SCS initiated a program in cooperation with the responsible State agency to carry out requested technical flood hazard studies for local governments. SCS provides followup assistance to help the local government incorporate the technical findings into their flood-plain

regulations. SCS also carries out flood insurance studies for FIA on a reimbursable basis. Providing flood hazard data and interpretations for flood-plain management in flood-prone areas are continuing parts of environmental evaluation in SCS's project programs.

The unique nature of SCS's assistance is that the programs are entirely voluntary and involve primarily nonfederal land. SCS has no authority to regulate land use. It cannot require a land user to use his or her land in a particular manner or refrain from converting it to other uses, including development, or to restore or preserve natural values served by the flood plain. SCS exercises leadership in achieving sound flood-plain management by advising, counseling, and encouraging land users to voluntarily install needed conservation practices and use their land, including flood plains, wisely. SCS has been successful in carrying out its assistance programs for more than 40 years.

SCS believes that the proposed rules adequately tailor the requirements of the Order to its various programs by generally describing how the Order will be implemented in SCS's nonproject programs and how environmental evaluation in project programs integrates flood-plain management considerations into SCS's National Environmental Policy Act (NEPA) process. These rules have been added to SCS's NEPA rules by adopting a new section under Part 650, Subpart B, "Related Environmental Concerns." The more specific details of SCS's procedures for integrating flood-plain management into the NEPA process are being incorporated in SCS handbooks, manuals, and other internal memoranda. These rules are designed to apply to the full range of actions in the programs administered by this agency.

Because all programs administered by SCS are Federal assistance programs, the rules are specifically designed to address the Order's requirements for these types of programs that involve local sponsoring organizations or applicants (land users). Every type of direct or indirect action by SCS requires interaction with local, State, or Federal agencies and interdisciplinary planning. This planning assistance is provided only as requested. The environmental

evaluation is an inseparable part of the planning process (§ 650.3(a) of this Part). The environmental evaluation may be quite short if an SCS technician helps an individual land user solve a land or water resource problem. On the other hand, the environmental evaluation may be extensive, complex, and time consuming when an interdisciplinary planning staff helps a local sponsoring organization develop a coordinated watershed plan. The scope of the environmental evaluation and its documentation is in proportion to the scope of the task. Where flood plains will be affected by SCS-assisted actions, flood-plain management is considered in the evaluation, as are other significant environmental resources and values.

Comment 2: Three agencies expressed concern that SCS's proposed rules rely too heavily on SCS's existing NEPA process. They state that the Order imposes five specific and unique substantive procedural differences between NEPA and the Order.

(1) *Agency procedures.* They state that the Order requires specification of substantive procedures to avoid adverse effects and to support flood-plain development, but most agency procedures generally focus only on the preparation of environmental impact statements;

(2) *Mitigation.* They state the NEPA process requires avoidance and reduction of environmental damage in general terms, but the Order establishes specific standards to achieve such goals;

(3) *Alternatives.* They state that NEPA requires the development of alternatives that are environmentally sound. The Order requires the identification specifically to avoid incompatible development and to restore and preserve the natural and beneficial values served by flood plains;

(4) *Scope.* They state that the NEPA scope is very broad but that EIS's are required only for major Federal actions. However, the Order applies to all actions having adverse effects on or that directly or indirectly support development of the flood plain;

(5) *Public notice.* They state that NEPA's final EIS is a predecision document. The Order's public notice is a post decision document.

Response: We do not agree that there are procedural differences in implementing NEPA and the Order. SCS will use the NEPA process (i.e. environmental evaluation and an EIS where needed) for integrating flood-plain management into all stages of agency planning and decisionmaking. There is no reason why the requirements and responsibilities that

need to be specified in flood-plain procedures cannot be explicitly linked to and carried out through the NEPA process. SCS rules, procedures, handbooks, manuals, and other internal memoranda are being modified to address NEPA and flood-plain management in all programs and do not focus only on EIS's.

Comment 3: The concern was expressed that SCS's proposed rules do not provide an explicit decisionmaking process on which to base the development of more detailed handbooks and internal documents for carrying out SCS-assisted actions.

Response: We agree with this comment. The final rules have been modified to provide a more explicit policy statement on the decisionmaking process. This policy is the basis for the development of SCS handbooks, manuals, and internal memoranda. Although the recommended decisionmaking process is not duplicated in SCS's flood-plain management rule, decisionmaking with SCS assistance begins at the earliest contact with a land user and continues throughout the planning process.

It should be emphasized that the eight-step decisionmaking process in the WRC Guidelines, the six NEPA policy statements, and the six steps in the WRC's Principles and Standards are all encompassed in SCS guidelines for decisionmaking but are not specifically repeated in this rule, because the procedures as written encompass all the concerns in a single uniform approach for the agency.

Comment 4: Several comments questioned SCS's proposed rule as it relates to Federal land under SCS control.

Response: Because SCS owns or controls only some 30 relatively small properties and the vast majority of SCS assistance is provided to users of nonfederal land, SCS flood-plain management rules concerning such Federal lands are brief. The properties owned or controlled by SCS are not used by the public.

Comment 5: Several comments questioned the exclusion of certain nonproject SCS assistance from the public notice requirement (Section 2(a)(2)(ii) of the Order).

Response: Section 650.25(a)(1) has been reworded to emphasize the nature of the technical and financial assistance programs SCS administers. Because SCS receives an extremely large number of requests from land users for nonproject assistance and because of the policy restrictions on SCS personnel where flood-plain management is concerned,

the SCS Administrator has determined that public notice before every such action is not feasible. SCS assistance to land users in nonproject actions is normally through cooperative agreements with local conservation districts. Conservation districts have long-range plans and goals that are periodically updated in consultation with the public. Therefore, flood-plain management is an integral part of the conservation program for the district and provides for public participation in actions involving agricultural land use and development in flood plains.

It has been determined by Victor H. Barry, Jr., Deputy Administrator for Programs, SCS, that the following rules will bring Soil Conservation Service-assisted programs into full compliance with Executive Order 11988, Floodplain Management. Therefore, an impact analysis in accordance with Executive Order (EO) 12044 and U.S. Department of Agriculture Secretary's Memorandum 1955, is not necessary. Subsequent program decisions affected by these rules will be subject to EO 12044 and Secretary's Memorandum 1955.

(7 CFR 2.62; Executive Order 11988.)

Dated: July 18, 1979.

R. M. Davis,

Administrator, Soil Conservation Service.

A new Section 650.25 is added to Subpart B, "Related Environmental Concerns" as follows:

§ 650.25 Flood-plain management.

Through proper planning, flood plains can be managed to reduce the threat to human life, health, and property in ways that are environmentally sensitive. Most flood plains are valuable for maintaining agricultural and forest products for food and fiber, fish and wildlife habitat, temporary floodwater storage, park and recreation areas, and for maintaining and improving environmental values. SCS technical and financial assistance is provided to land users primarily on nonfederal land through local conservation districts and other State and local agencies. Through its programs, SCS encourages sound flood-plain management decisions by land users.

(a) *Policy.* (1) *General.* SCS provides leadership and takes action, where practicable, to conserve, preserve, and restore existing natural and beneficial values in base (100-year) flood plains as part of technical and financial assistance in the programs it administers. In addition, 500-year flood plains are taken into account where there are "critical actions" such as schools, hospitals, nursing homes,

utilities, and facilities producing or storing volatile, toxic, or water-reactive materials.

(2) *Technical assistance.* SCS provides leadership, through consultation and advice to conservation districts and land users, in the wise use, conservation, and preservation of all land, including flood plains. Handbooks, manuals, and internal memoranda set forth specific planning criteria for addressing flood-plain management in SCS-assisted programs. The general procedures and guidelines in this part comply with Executive Order (E.O.) 11988, Floodplain Management, dated May 24, 1977, and are consistent with the Water Resources Council's Unified National Program for Floodplain Management.

(3) *Compatible land uses.* The SCS Administrator has determined that providing technical and financial assistance for the following land uses is compatible with E.O. 11988:

(i) Agricultural flood plains that have been used for producing food, feed, forage, fiber, or oilseed for at least 3 of the 5 years before the request for assistance; and

(ii) Agricultural production in accordance with official State or designated area water-quality plans.

(4) *Nonproject technical and financial assistance programs.* The SCS Administrator has determined that SCS may not provide technical and financial assistance to land users if the results of such assisted actions are likely to have significant adverse effects on existing natural and beneficial values in the base flood plain and if SCS determines that there are practicable alternatives outside the base flood plain. SCS will make a case-by-case decision on whether to limit assistance whenever a land user proposes converting existing agricultural land to a significantly more intensive agricultural use that could have significant adverse effects on the natural and beneficial values or increase flood risk in the base flood plain. SCS will carefully evaluate the potential extent of the adverse effects and any increased flood risk.

(5) *Project technical and financial assistance programs.* In planning and installing land and water resource conservation projects, SCS will avoid to the extent possible the long and short-term adverse effects of the occupancy and modification of base flood plains. In addition, SCS also will avoid direct or indirect support of development in the base flood plain wherever there is a practicable alternative. As such, the environmental evaluation required for each project action (§ 650.5 of this part)

will include alternatives to avoid adverse effects and incompatible development in base flood plains. Public participation in planning is described in § 650.6 of this part and will comply with Section 2(a)(4) of E.O. 11988. Flood-plain management requires the integration of these concerns into SCS's National Environmental Policy Act (NEPA) process for project assistance programs as described in Section 650 of this part.

(6) *Real property and facilities under SCS ownership or control.* SCS owns or controls about 30 properties that are used primarily for the evaluation and development of plant materials for erosion control and fish and wildlife habitat plantings (7 CFR 613, Plant Materials Centers, 16 U.S.C. 590 a-e, f, and 7 U.S.C. 1010-1011). If SCS real properties or facilities are located in the base flood plain, SCS will require an environmental evaluation when new structures and facilities or major modifications are proposed. If it is determined that the only practicable alternative for siting the proposed action may adversely affect the base flood plain, SCS will design or modify its action to minimize potential harm to or within the flood plain and will prepare and circulate a notice explaining why the action is proposed to be located in the base flood plain. Department of Housing and Urban Development (HUD) flood insurance maps, other available maps, information, or an onsite analysis will be used to determine whether the proposed SCS action is in the base flood plain. Public participation in the action will be the same as described in § 650.6 of this part.

(b) *Responsibility.* SCS provides technical and financial assistance to land users primarily through conservation districts, special purpose districts, and other State or local subdivisions of State government. Acceptance of this assistance is voluntary on the part of the land user. SCS does not have authority to make land use decisions on nonfederal land. SCS provides the land user with technical flood hazard data and information on flood-plain natural values. SCS informs the land user how alternative land use decisions may affect the aquatic and terrestrial ecosystems, human safety, property, and public welfare. Alternatives to flood-plain occupancy, modification, and development are discussed onsite with the land user by SCS.

(1) *SCS National Office.* (§ 600.2 of this part). The SCS Administrator, state conservationist, and district conservationist are the responsible Federal officials in SCS for

implementing the policies expressed in these rules. Any deviation from these rules must be approved by the Administrator. The Deputy Administrator for Programs has authority to oversee the application of policy in SCS programs. Oversight assistance to state conservationists for flood-plain management will be provided by the SCS technical service centers (§ 600.3 of this part).

(2) *SCS state offices.* (§ 600.4 of this part). Each state conservationist is the responsible Federal official in all SCS-assisted programs administered within the State. He or she is also responsible for administering the plant materials centers within the State. The state conservationist will assign a staff person who has basic knowledge of landforms, soils, water, and related plant and animal ecosystems to provide technical oversight to ensure that assistance to land users and project sponsors on the wise use, conservation, and preservation of flood plains is compatible with national policy. For SCS-assisted project actions, the staff person assigned by the state conservationist will consult with the local jurisdictions, sponsoring local organizations, and land users, on the basis of an environmental evaluation, to determine what constitutes significant adverse effects or incompatible development in the base flood plain. The state conservationist is to prepare and circulate a written notice for SCS-assisted actions for which the only practicable alternative requires siting in a base flood plain and may result in adverse effects or incompatible development. The SCS NEPA process will be used to integrate flood-plain management into project planning and consultations on land use decisions by land users and project sponsors.

(3) *SCS field offices.* The district conservationist (§ 600.6 of this part) is delegated the responsibility for providing technical assistance and approving financial assistance to land users in nonproject actions, where applicable, and for deciding what constitutes an adverse effect or incompatible development of a base flood plain. This assistance will be based on official SCS policy, rules, guidelines, and procedures in SCS handbooks, manuals, memoranda, etc. For SCS-assisted nonproject actions, the district conservationist, on the basis of the environmental evaluation, will advise recipients of technical and financial assistance about what constitutes a significant adverse effect or incompatible development in the base flood plain.

(c) *Coordination and implementation.* All planning by SCS staffs is interdisciplinary and encompasses the six NEPA policy statements, the WRC Principles and Standards, and an equivalent of the eight-step decisionmaking process in the WRC's February 1978 Floodplain Management Guidelines. SCS internal handbooks, manuals, and memoranda provide detailed information and guidance for SCS planning and environmental evaluation.

(1) *Steps for nonproject technical and financial assistance programs.* (i) SCS assistance programs are voluntary and are carried out through local conservation districts (State entities) primarily on nonfederal, privately owned lands.

(ii) After the land user decides the type, extent, and location of the intended action for which assistance is sought, the district conservationist will determine if the intended action is in the base flood plain by using HUD flood insurance maps, and other available maps and information or by making an onsite determination of the approximate level of the 100-year flood if maps or other usable information are lacking.

(iii) If the district conservationist determines that the land user's proposed location is outside the base flood plain, and would not cause potential harm within the base flood plain, SCS will continue to provide assistance, as needed.

(iv) If the district conservationist determines that the land user's proposed action is within the base flood plain and would likely result in adverse effects, incompatible development, or an increased flood hazard, it is the responsibility of the district conservationist to determine and point out to the land user alternative methods of achieving the objective, as well as alternative locations outside the base flood plain. If the alternative locations are determined to be impractical, the district conservationist will decide whether to continue providing assistance. If the decision is to terminate assistance for the proposed action, the land user and the local conservation district, if one exists, will be notified in writing about the decision.

(v) If the district conservationist decides to continue providing technical and financial assistance for a proposed action in the base flood plain, which is the only practicable alternative, SCS may require that the proposed action be designed or modified so as to minimize potential harm to or within the flood plain. The district conservationist will prepare and circulate locally a written

notice explaining why the action is proposed to be located in the base flood plain.

(2) *Steps for project assistance programs.* (i) SCS project assistance to local sponsoring organizations (conservation districts and other legal entities of State government) and land users is carried out primarily on nonfederal land in response to requests for assistance. SCS helps the local sponsoring organizations prepare a plan for implementing the needed resource measures.

(ii) SCS uses an interdisciplinary environmental evaluation (§ 650.6 of this part) as a basis for providing recommendations and alternatives to project sponsors. Flood-plain management is an integral part of every SCS environmental evaluation. SCS delineates the base flood plain by using detailed HUD flood insurance maps and other available data, as appropriate, and provides recommendations to sponsors on alternatives to avoid adverse effects and incompatible development in base flood plains. SCS will develop, as needed, detailed 100-year and 500-year flood-plain maps where there are none.

(iii) SCS's NEPA process (Part 650 of this chapter) is used to integrate the spirit and intent of E.O. 11988 Sections 2(a) and 2(c) into agency planning and recommendations for land and water use decisions by local sponsoring organizations and land users.

(iv) SCS will terminate assistance to a local sponsoring organization in project programs if it becomes apparent that decisions by land users and local jurisdictions concerning flood-plain management would likely result in adverse effects or incompatible development and the environmental evaluation reveals that there are practicable alternatives to the proposed project that would not cause adverse effects on the base flood plain.

(v) In carrying out the planning and installation of land and water resource conservation projects, SCS will avoid, to the extent possible, the long-term and short-term adverse effects associated with the occupancy and modification of base flood plains. In addition, SCS will also avoid direct or indirect support of development in the base flood plain wherever there is a practicable alternative. Where appropriate, SCS will require design modifications to minimize harm to or within the base flood plain. SCS will provide appropriate public notice and public participation in the continuing planning process in accordance with SCS NEPA process.

(vi) SCS may require the local government to adopt and enforce

appropriate flood plain regulations as a condition to receiving project financial assistance.

(3) *Actions on property and facilities under SCS ownership or control.* For real property and facilities owned by or under the control of SCS, the following actions will be taken:

(i) Locate new structures, facilities, etc., outside the base flood plain if there is a practicable alternate site.

(ii) Require public participation in decisions to construct structures, facilities, etc., in flood plains that might result in adverse effects and incompatible development in such areas if no practicable alternatives exist.

(iii) New construction or rehabilitation will be in accordance with the standards and criteria of the National Flood Insurance Program and will include floodproofing and other flood protection measures as appropriate.

[FR Doc. 79-22919 Filed 7-27-79; 8:45 am]

BILLING CODE 3410-16-M

7 CFR Part 650

Support Activities; Compliance With NEPA

AGENCY: U.S. Department of Agriculture, Soil Conservation Service (SCS).

ACTION: Final rule.

SUMMARY: These rules codify SCS policy for compliance with Executive Order 11990, Protection of Wetlands, in SCS-assisted programs. They describe the policy and general constraints on SCS personnel relating to the protection of wetlands in assistance programs administered by SCS. These rules are in accordance with the U.S. Department of Agriculture Secretary's Memorandum No. 1827, Revised, Supplement No. 1, Implementation of Executive Orders 11988, Floodplain Management, and 11990, Protection of Wetlands.

EFFECTIVE DATE: July 30, 1979.

FOR FURTHER INFORMATION CONTACT: Gary Margheim, Acting Director, Environmental Services Division, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, DC 20013, telephone 202-447-3839.

SUPPLEMENTARY INFORMATION: On May 24, 1977, the President issued a comprehensive environmental message that included Executive Order (E.O.) 11990.

On June 30, 1978, SCS published in the *Federal Register* the proposed rules and general guidelines for implementation of E.O. 11990, Protection of Wetlands, Title 7, Chapter VI, Part 650, Subpart B.

Related Environmental Concerns, § 650.26, Protection of Wetlands.

Written comments were received from two Federal agencies, four State agencies or institutions, two private organizations, and one representative to a State legislature. The comments were given full consideration in developing the final rules. The full text of all comments received on the proposed rules is available for public inspection in Room 6105, South Agriculture Building, U.S. Department of Agriculture, 14th and Independence Avenue, SW, Washington, D.C.

The following is a summary of substantive comments received and their consideration:

Comment 1: Several comments suggested editorial changes to § 650.26(a), Scope. Others suggested removing this section, changing it to a preamble, or making it a more accurate assessment or wetland values. One person expressed the view that the section overly favored wetland protection, but another suggested that it strongly endorsed wetland drainage. One comment also suggested that definitions be added to the proposed rules.

Response: SCS agrees that § 650.26(a) "Scope," is a discussion of wetlands and their values. It is intended to present a range of values and concerns about wetlands that are affected by SCS-assisted programs. The title of § 650.26(a) has been changed to "Background."

The intent of this section is not to make judgments but only to identify factors to be considered in decisionmaking. Editorial changes have been made for clarity throughout the rules. New construction and wetlands are defined in E.O. 11990. The words "substantially irrevocable" in § 650.26(b) Applicability, have been deleted and replaced with "wetlands previously converted to other uses." In § 650.21(c)(2)(v) the phrase "that are not irrevocably committed to other uses" was deleted. In § 650.26(c)(2)(ii) the phrase "in nonproject type areas" was changed to "nonproject assistance (assistance to individuals)".

Comment 2: One comment was received to the effect that the wetland management policies in the proposed rules were inconsistent with the requirements for protection of wetlands in the Executive Order.

Response: SCS believes that management of wetlands is consistent with Executive Order 11990. Wetlands management is designed to minimize the destruction, loss, or degradation of wetlands and assist in preservation and

enhancement of their natural and beneficial values as stated in the Executive Order.

Comment 3: Several comments suggested that SCS is severely limiting its technical assistance because of the proposed rules and expressed a desire for them to be more flexible. They objected to limitations of Federal assistance in Minnesota, South Dakota, and North Dakota. The comments suggested that these States are being discriminated against in application of Federal assistance and stated that Federal assistance without limitations is available in other States and, therefore, should be available in Minnesota, North Dakota, and South Dakota.

Response: SCS does not believe the Executive Order permits such flexibility. It directs SCS to take positive action to promote protection of wetlands. Pub. L. 87-732 constrains Federal assistance with drainage in the States of North Dakota, South Dakota, and Minnesota. SCS rules must conform to the mandates of this law. The proposed rules treat assistance in these States, as in other States, with the exception of the constraints mandated by The Soil Conservation and Domestic Allotment Act, Pub. L. 87-732, 18, U.S.C. 590, p. 1, October 2, 1962.

Comment 4: One comment requested that SCS prepare a regulatory analysis so that people could consider effects of the proposed rules and alternative approaches early in the decisionmaking process.

Response: In accordance with the criteria established by USDA for compliance with E.O. 12044, it has been determined that a regulatory impact analysis is not necessary for these rules. This was stated in the Supplementary Information section of the proposed rules published in the *Federal Register* on June 30, 1978.

Comment 5: Another comment questioned whether the procedures for consideration of alternatives provided by § 650.26(c)(1) were sufficiently broad or rigorous to implement Executive Order 11990(2)(a)(2).

Response: Section 650.26(c)(1) incorporates the planning criteria set forth by Section 5 of E.O. 11990 into the comprehensive environmental assessment procedures used by SCS pursuant to 7 CFR Part 650. SCS believes that this incorporation will ensure implementation of the Executive Order's policies through a unified planning process.

Comment 6: Another comment challenged the statement in § 650.26(c)(2)(ii) that assistance should not be provided for altering wetlands to

enable them to be used for agriculture or other uses, because it implied that activities such as drainage might be approved if conversion to other uses were not the objective. It was requested that the phrase be deleted so that it would not be misconstrued.

Response: This section has been reworded for clarity. If wetlands are not to be drained or otherwise modified, they will continue to function as wetlands. The purpose of the phrase is to indicate that technical assistance to land users is given for the purpose of managing wetlands.

Comment 7: Three comments objected to SCS providing technical assistance that would alter wetlands types 1 and 2. Those comments indicated that SCS had violated the Order by establishing certain exceptions to the Order.

Response: For clarity, a reference to the SCS environmental evaluation has been added to § 650.26(c)(2)(i) to emphasize that assistance will be provided only in accordance with the Executive Order. Executive Order 11990 (Section 2(a)) requires that each agency, to the extent permitted by law, shall avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds (1) that there is no practicable alternative to such construction and (2) that the proposed action includes all practicable measures to minimize harm to wetlands that may result from such use. In making this finding, the head of the agency may take into account economic, environmental, and other pertinent factors. Section 5 of the Executive Order specifies the factors to be considered. The SCS environmental evaluation provides for consideration of these factors. Wetlands types 1 and 2, as defined in "Wetlands of the United States," USDI, Fish and Wildlife Service Circular-39, 1956, have a high economic and social potential for farmland as well as high value to wildlife. SCS took this into consideration in preparing § 650.26(c)(2)(iii).

Comment 8: Two comments suggested that the exceptions in § 650.26(c)(3) constitute a blanket exception in violation of the Executive Order.

Response: SCS does not agree. This section delineates the limited area for consideration of exceptions, which is in connection with water quality control and water conservation. The criteria for such exceptions are taken from the Executive Order. SCS believes that its environmental evaluation process referred to in § 650.26(c)(1) includes the specific criteria needed to guide the granting of exceptions. The purpose of

§ 650.26(c)(3) is to alert the public that some wetlands may be lost by installing salinity control and water conservation measures and that exceptions to the procedures may be granted as specified in the Executive Order.

Comment 9: A comment was made on § 650.26(c)(4) to the effect that the proposed rule was in error in citing 7 CFR 650.6 as the source of review procedures; the correct section was cited as 7 CFR 650.7, "Public involvement and coordination." The comment went on to say that the section was in many ways inadequate with respect to provision for public involvement.

Response: The citation in the comment is incorrect because the August 8, 1978, revision of CFR Part 650, Subpart A, entitled Compliance With NEPA, is section 7 CFR 650.6, "Public Involvement During Environmental Assessment."

SCS's Guide for Environmental Assessment, program handbooks and manuals, and internal memoranda clearly direct SCS planners to involve the public in its project planning and decisionmaking. SCS believes that these guidelines, together with the previously cited codified rules, 7 CFR 650.6 provide adequate compliance with Section 2(b) of the Order.

Comment 10: Two comments requested that mitigation, as mentioned in § 650.26(c)(2)(iv), not be considered a reasonable substitute for unavoidable wetland alteration and that decisions should be coordinated with the U.S. Fish and Wildlife Service and the State in which the action is to occur.

Response: Section 650.26(c)(2)(iii) refers to unavoidable losses caused by construction primarily for purposes other than the drainage of wetlands. In granting the exceptions in (c)(2), the state conservationist will contact the State fish and wildlife agency as well as the U.S. Fish and Wildlife Service. The SCS environmental evaluation process provides for this.

Comment 11: One comment expressed the view that present policies ignore the effect of wetlands types 1, 2, and 3 on adjacent agricultural lands. The comment said that, in one county in a particular State, about 10 percent of the agricultural land had become partially nonproductive because of the high lime content of the soil around and between wetlands. The comment suggested that the only practical solution is "elimination of the cause—remove wetlands."

Response: This high-lime content is a natural soil condition often associated with wetland areas having a source of

calcium carbonate. The drainage of adjacent wetland areas would not reduce the lime content. Even if it would, the Executive Order directs agencies to protect wetlands, and these rules are written to provide that protection.

Comment 12: One comment requested that an environmental impact statement (EIS) as required by the National Environmental Policy Act be prepared before any decision is made on the proposed rules and procedures to implement E.O. 11990.

Response: SCS believes that the procedures set forth in the proposed rules are not a major Federal action. They are elements of a decisionmaking process that incorporates specific environmental concerns into overall interdisciplinary planning. Therefore, it has been determined that an EIS is not necessary.

Comment 13: One comment objected to exclusion from these rules of all projects where SCS commitments were made before May 5, 1975 (§ 650.26(b)(2)).

Response: SCS agrees with this comment. The rules have been modified to include applicable dates as specified in the Executive Order.

It has been determined by Victor H. Barry, Jr., Deputy Administrator for Programs, SCS, that the following rules will bring Soil Conservation Service-assisted programs into full compliance with Executive Order 11990, Protection of Wetlands. Therefore, an impact analysis in accordance with Executive Order (E.O.) 12044 and U.S. Department of Agriculture Secretary's Memorandum 1955, is not necessary. Subsequent program decisions affected by these rules will be subject to E.O. 12044 and Secretary's Memorandum 1955.

(7 CFR 2.62; Executive Order 11990.)

Dated: July 18, 1979.

R. M. Davis,

Administrator, Soil Conservation Service.

A new § 650.26 is added to Subpart B, Related Environmental Concerns, as follows:

§ 650.26 Protection of wetlands.

(a) *Background.* (1) Because of the fragile nature of wetlands, human activity can and often does inflict lasting change on them, sometimes seriously altering their natural functions. Millions of acres of the Nation's original wetlands have been impaired or converted to other uses. Extraordinary care and effort are required to protect the remaining aquatic ecosystems.

(2) Wetlands moderate extremes in waterflow and have value as natural flood-control mechanisms. They aid in

water purification by trapping, filtering, and storing sediment and other pollutants and by recycling nutrients. Many serve as ground-water recharge areas. All function as nursery areas for numerous aquatic animal species and are critical habitat for a wide variety of plant and animal species. Wetlands produce economically important crops of fur, fish, wildlife, timber, wild rice, wild hay, wild cranberries, and other products. Many wetlands produce revenues through fees for hunting, fishing, and trapping privileges.

(3) The plants that grow in tidal marshes and estuaries produce the nutrients required to sustain high yields of aquatic life. Tidal and wind currents redistribute the nutrients and sediments throughout the aquatic areas, thereby helping to maintain the habitat for all creatures using these areas. Tidal marshes and estuaries are a primary base for many commercial and sport fisheries. Many saltwater finfish and shellfish spend some phase of their lives in such areas.

(4) Wetlands support adjacent or downstream aquatic ecosystems. Bordering marshes, for example, provide the spawning areas required by northern pike to maintain their populations in associated streams, rivers, lakes, and reservoirs.

(5) Various kinds and degrees of management may be required to ensure desired stages of productivity of existing wetlands. Management involves manipulation of plant species and densities through measures such as water depth control, burning, grazing, and mowing. Offsite measures often are essential to control wind and water erosion, to minimize sedimentation, to maintain optimum salinity, and to divert pollutants.

(6) Many wetlands have a potential for conversion to cropland for the production of food and fiber. It is important to balance the Nation's need for productive farmlands with long-term needs for protection of environmental resources for the enjoyment and well-being of future generations. The resource inventory, interpretation, and planning assistance provided by SCS are of value in achieving this balance.

(b) *Applicability.* This policy applies to SCS technical and financial assistance that will result in new construction in wetlands types 1 through 20 as described in Circular 39 of the U.S. Department of the Interior, Fish and Wildlife Service, published in 1956 and republished in 1971. These rules do not apply to lands artificially diked and flooded to produce commercial crops of domestic rice, wild rice, or cranberries.

or to wetlands previously converted to other uses. These rules do not apply to projects or actions now under construction or to projects for which all the funds have been appropriated through fiscal year 1979 or to projects or programs for which a draft or final environmental impact statement was filed before October 1, 1977.

(c) *Policy.* (1) *Environmental evaluation.* SCS uses an environmental evaluation (§ 650.4 of this part), which is initiated in the early stages of planning, to identify the effects of proposed actions that may occur in wetlands. The environmental evaluation identifies and evaluates practicable alternatives to avoid action that may destroy or degrade wetlands. The environmental evaluation also identifies actions that may preserve and enhance natural and beneficial values of wetlands. In compliance with Section 5 of E.O. 11990, the following factors are considered in the environmental evaluation:

(i) Public health, safety, and welfare, including water supply, quality, recharge, and discharge; pollution; flood and storm hazards; and sedimentation and erosion.

(ii) Maintenance of natural systems, including conservation and long-term productivity of existing flora and fauna, species and habitat diversity and stability, hydrologic utility, fish, wildlife, timber, and food and fiber resources.

(iii) Other uses of wetlands in the public interest, including recreation and scientific and cultural uses.

(2) *Compliance with sections 1(a) and 2(a) of E.O. 11990.* It is the general policy of SCS to aid in protecting, maintaining, managing, and restoring wetlands to ensure the continued realization of their beneficial values. Within this general policy and on the basis of an environmental evaluation, the following specific policies apply:

(i) *All SCS-assisted activities.* (A) SCS may provide technical and financial assistance to alter wetlands types 1 and 2, including conversion to cropland, pastureland, or other uses, only under the following very limited circumstances. The decision to provide technical assistance must be based on an environmental evaluation that indicates that the land has been cultivated to produce food, feed, fiber, and/or oilseed for at least 3 or the 5 years before the request for assistance and that there is no practicable alternative. Assistance in Minnesota, South Dakota, and North Dakota is to be given in accordance with item (ii)(C). SCS will encourage the preservation of wetlands types 1 and 2 that are adjacent to wetlands types 3 through 20 and are

needed to maintain a balanced aquatic or semiaquatic ecosystem. If a land user decides to alter types 1 and 2 or to convert them to other uses, SCS will encourage the application of conservation land treatment measures needed to reduce erosion and sedimentation and protect environmental values. SCS also will encourage decisions to preserve key areas and, where possible, to include enhancement measures on such areas.

(B) SCS will assist in restoring damaged wetlands and in establishing wetland habitat where appropriate.

(C) SCS will encourage land users and project sponsors to consider and use the programs of other Federal, State, and local agencies and private organizations that may help to preserve wetlands.

(ii) *Nonproject assistance (assistance to individuals).* (A) SCS will not provide technical and financial assistance for draining or otherwise altering wetlands types 3 through 20 to convert them to other uses.

(B) If wetlands types 3 through 20 would be drained or otherwise altered because of structural measures designed for other purposes, landowners will be advised of alternative ways to avoid or mitigate the incidental loss of these wetlands. Assistance will be provided only if one of the alternatives is selected for installation.

(C) In addition, in the States of Minnesota, North Dakota, and South Dakota, SCS will limit technical and financial assistance for draining or otherwise altering wetlands types 1 and 2 in order to convert them to other uses in accordance with provisions of Section 16 A of Pub. L. 87-732 as follows:

Soil Conservation and Domestic Allotment Act; Pub. L. 87-732, 16 U.S.C. 590 P-1, October 2, 1962

Sec. 16A. The Secretary of Agriculture shall not enter into an agreement in the States of North Dakota, South Dakota, and Minnesota to provide financial or technical assistance for wetland drainage on a farm under authority of this Act if the Secretary of the Interior has made a finding that wildlife preservation of such land in its undrained status will materially contribute to wildlife preservation and such finding, identifying specifically the farm and the land on that farm with respect to which the finding was made, has been filed with the Secretary of Agriculture within 90 days after the filing of the application for drainage assistance: Provided, That the limitation against furnishing such financial and technical assistance shall terminate (1) at such time as the Secretary of the Interior notifies the Secretary of Agriculture that such limitations should not be applicable, (2) one year after the date on which the adverse finding of the Secretary of the Interior was filed unless during that time an offer has been made by the Secretary of the Interior or a

State Government agency to lease or to purchase the wetland area from the owner thereof as a waterfowl resource, or (3) five years after the date on which such adverse finding was filed if such an offer to lease or to purchase such wetland area has not been accepted by the owner thereof: Provided further, That upon any change in the ownership of the land with respect to which such adverse finding was filed, the eligibility of such land for such financial or technical assistance shall be redetermined in accordance with the provisions of this section.

(iii) *Project assistance (watersheds and RC&D).* SCS will not provide assistance in project actions, such as watershed projects or Resource Conservation and Development (RC&D) areas, that include features designed for the purpose of draining or otherwise altering wetlands types 3 through 20 to convert them to other uses. If these projects include features for other purposes that unavoidably result in losses to types 3 through 20 wetlands, the loss is to be mitigated by establishing wetland habitat values in the same vicinity that are equivalent, insofar as possible, to the wetland habitat values lost. Provisions are to be made for managing these established wetlands in a way to ensure that the habitat values provided are equal to those lost, insofar as possible. Sponsors, conservation organizations, State fish and wildlife agencies, or others can assume these management responsibilities.

(3) *Exceptions.* (i) For project activities, the SCS Administrator may grant exceptions on a case-by-case basis if necessary to meet identified irrigation water management, water quality, and water conservation objectives.

(ii) For nonproject activities, state conservationists may grant exceptions on a farm-by-farm basis if irrigation water management, water quality, and water conservation objectives conflict with wetland protection. SCS will evaluate economic, environmental, and other pertinent factors in such proposed actions.

(4) *Early public review.* SCS will provide an opportunity for early public review of any plans or proposals for new construction in wetlands, as described in § 650.9(d) of this part.

[FR Doc. 79-22918 Filed 7-27-79; 8:45 am]

BILLING CODE 3410-16-M

Agricultural Marketing Service**7 CFR Part 917****(Pear Regulation 9)****Fresh Pears, Plums, and Peaches Grown in California; Grade, Size, and Container Requirements**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade, size, and container requirements for shipments of fresh California Bartlett, Max-Red Bartlett, and Red Bartlett varieties of pears. The regulation takes into consideration the marketing situation facing the California pear industry and is needed to provide for orderly marketing in the interest of producers and consumers.

EFFECTIVE DATES: August 1, 1979, through July 31, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* On July 9, 1979, notice was published in the *Federal Register* (44 FR 40071) inviting written comments on proposed grade, size, and container requirements applicable to California Bartlett, Max-Red Bartlett, and Red Bartlett varieties of pears during the 1979 season. No such material was submitted.

This regulation is issued under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Pear Commodity Committee, and upon other available information.

The regulation is based upon an appraisal of the current and prospective market conditions for California pears. The committee estimates that 3,570 cars of pears will be available for fresh shipment during the 1979 season compared to actual shipment of 2,516 cars last season.

Under the regulation, shipments of Bartlett, Max-Red Bartlett, and Red Bartlett varieties of pears must grade at least U.S. Combination with not less than 80 percent, by count, of the pears grading U.S. No. 1 and be of a size not smaller than the size known commercially as size 165. Containers must be marked with the name of the variety. Pears when packed in closed containers must conform to the requirements of standard pack, except

such pears may be fairly tightly packed. Pears when packed in other than closed containers must not vary more than 3/4 inch in their transverse diameter for counts 120 or less, and 1/4 inch for counts 135 to 165, inclusive. Volume fill cartons (pears not packed in rows and not wrap packed) must be well filled with pears uniform in size, packed fairly tight, include a top pad in each carton, and the top of the carton must be securely fastened to the bottom.

The grade and size requirement are designed to ensure the shipment of ample supplies of pears of the better grades and more desirable sizes in the interest of producers and consumers. Orderly marketing conditions would be maintained by preventing the demoralizing effect on the market caused by the shipment of lower quality and smaller-size pears when more than ample supplies of the more desirable grades and sizes are available to serve consumers' needs. The container requirements are designed to prevent deceptive packaging practices and to promote buyer confidence.

After consideration of all relevant matter presented, including the proposals in the notice and other available information, it is hereby found that the following regulation is in accordance with this marketing agreement and order and will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the *Federal Register* (5 U.S.C. 553) in that (1) shipments of pears are currently in progress and this regulation should be applicable to all shipments made during the season in order to effectuate the declared policy of the act; (2) the regulation is the same as that specified in the notice to which no exceptions were filed; (3) the regulatory provisions are the same as those currently in effect; and (4) compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044. A determination has been made that this action should not be classified "significant". An impact statement has been prepared and is available from Malvin E. McGaha, 202-447-5975.

§ 917.451 Pear Regulation 9.

(a) During the period August 1, 1979, through July 31, 1980, no handler shall ship:

(1) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears which do not grade at least U.S. Combination with not less than 80 percent, by count, of the pears grading at least U.S. No. 1;

(2) Any box or container of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears unless such pears are of a size not smaller than the size known commercially as size 165;

(3) Any box or container of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears unless such box or container is stamped or otherwise marked, in plain sight and in plain letters, on one outside end with the name of the variety;

(4) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears, when packed in closed containers, unless such box or container conforms to the requirements of standard pack; except, that such pears may be fairly tightly packed;

(5) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears, when packed in other than a closed container, unless such pears do not vary more than 3/4 inch in their transverse diameter for counts 120 or less, and 1/4 inch for counts 135 to 165, inclusive: *Provided*, That 10 percent of the containers in any lot may fail to meet the requirements of this paragraph; and

(6) Any box or container of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears in volume fill cartons (not packed in rows and not wrap packed) unless (i) such cartons are well filled with pears fairly uniform in size; (ii) such pears are packed fairly tight; (iii) there is an approved top pad in each carton that will cover the fruit with no more than 1/4 inch between the pad and any side or end of the carton; and (iv) the top of the carton shall be securely fastened to the bottom: *Provided*, That 10 percent of the cartons in any lot may fail to meet the requirements of this paragraph.

(b) *Definitions.* (1) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

(2) "Size known commercially as size 165" means a size of pear that will pack a standard pear box, packed in accordance with the specifications of standard pack, with 165 pears and that one-half of the count size designated, representative of the size of the pears in the box or container, shall weigh at least 22 pounds.

(3) "Standard pear box" means the container so designated in § 1380.19 of

the regulations of the California Department of Food and Agriculture.

(4) "U.S. No. 1", "U.S. Combination", and "standard pack" shall have the same meaning as when used in the U.S. Standards for Pears (summer and fall) 7 CFR 2851.1260-2851 1280.

(5) "Approved top pad" shall mean a pad of wood-type excelsior construction, fairly uniform in thickness, weighing at least 160 pounds per 1,000 square feet (e.g., an 11 inch by 17 inch pad will weigh at least 21 pounds per 100 pads) or an equivalent made of material other than wood excelsior approved by the committee.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: July 25, 1979, to become effective August 1, 1979.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-23435 Filed 7-27-79; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 927**(Pear Regulation 18)****Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau Varieties of Pears Grown in Oregon, Washington, and California**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets certain quality requirements for fresh shipment of Beurre D'Anjou variety of winter pears shipped from the designated areas of Oregon and Washington, during the period August 1 through September 30, 1979. This action is necessary to assure that pears shipped will be of suitable quality in the interest of consumers and producers.

EFFECTIVE DATE: August 1 through September 30, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 927, as amended (7 CFR Part 910), regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in Oregon, Washington, and California. The action is based upon the recommendations and information

submitted by the Control Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action reflects the Department's appraisal of the crop and the need for regulation based on current and prospective market conditions. The committee estimates that about 6.3 million boxes of Beurre D'Anjou pears will be produced this year as compared with 6.7 million in 1978. The quality regulation, hereinafter provided, is designed to prevent the handling of any Beurre D'Anjou pears of lower quality than specified so as to provide satisfactory quality fruit in the interest of producers and consumers consistent with the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the *Federal Register* (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, the emergency nature of this regulation warrants publication without opportunity for further public comment, in accord with emergency procedures in Executive Order 12044. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An impact analysis is available from Malvin E. McGaha, 202-447-5975.

§ 927.318 Pear Regulation 18.

During the period August 1 through September 30, 1979, no handler shall ship any Beurre D'Anjou variety of pears from the Medford, Hood River-White Salmon-Underwood, Wenatchee, and Yakima Districts unless such pears have an appropriate certification by the Federal-State Inspection Service, issued prior to shipment, showing that the core temperature of such pears has been lowered to 35 degrees Fahrenheit or less, and any such pears for domestic shipment shall have an average pressure test of 14 pounds or less.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: July 25, 1979.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-23435 Filed 7-27-79; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 928**(Papaya Regulation 9, Amendment 5)****Papayas Grown in Hawaii; Limitation of Handling**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment continues relaxed quality requirements for shipments of Hawaiian papayas during the period August 1 through December 31, 1979. Papayas for export and intrastate shipments must grade at least Hawaii No. 1, except that allowable tolerances for defects may total 10 percent. Such action recognizes the current and prospective marketing situation for Hawaiian papayas and is consistent with the composition of the crop.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This amendment is issued under the marketing agreement and Order No. 928 (7 CFR Part 928), regulating the handling of papayas grown in Hawaii. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendation and information submitted by the Papaya Administrative Committee, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee reports heavy rains and flooding in the production area has reduced available supplies and increased quality problems which has caused loss of trees and fruit. Production estimates for 1979 have been revised by the committee to 40.0 million pounds, as compared to 45.0 million pounds estimated in March, and 57.0 million pounds estimated at the start of the 1979 season. Therefore, the committee has recommended that the quality requirements currently in effect through July 31, 1979, be continued for the period August 1-December 31, 1979. Intrastate and export shipments of papayas are

required to grade at least Hawaii No. 1 with 10 percent tolerance for defects (including not more than 5% for serious damage, 1% for immature fruit, and 1% for decay). The amendment would increase supplies available to meet strong demand and would permit growers to market a larger proportion of the remaining crop. The weight requirement of 11 ounces for export shipments and 13 ounces for intrastate shipments would remain unchanged.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this amendment until August 29, 1979 (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of papayas grown in Hawaii.

Further, the emergency nature of this amendment warrants publication without opportunity for further public comment, in accord with emergency procedures in Executive Order 12044. The amendment has not been classified significant under USDA criteria for implementing the Executive Order. An impact analysis is available from Malvin E. McGaha, 202-447-5975.

In § 928.309 (Papaya Regulation 9; 44 FR 30, 3669, 6706, 12606, 22433) paragraphs (b) and (c) are amended to read as follows:

§ 928.309 Papaya Regulation 9.

(b) Notwithstanding the provisions of paragraph (a)(2) of this section, any handler may during the period August 1 through December 31, 1979, handle papayas to any export destination which meet the requirements of the Hawaii No. 1 grade, except that allowable tolerances for defects may total 10 percent: *Provided*, That not more than 5 percent shall be for serious damage, not more than 1 percent for immature fruit, and not more than 1 percent for decay: *Provided further*, That such papayas shall individually weigh not less than 11 ounces each.

(c) Notwithstanding the provisions of paragraph (a)(1) of this section, any handler may during the period August 1 through December 31, 1979, handle papayas to any destination within the production area which meet the requirements of Hawaii No. 1 grade, except that allowable tolerances for defects may total 10 percent: *Provided*,

That not more than 5 percent shall be for serious damage, of which not more than 1 percent shall be for immature fruit, and not more than 1 percent shall be for decay: *Provided further*, That such papayas shall individually weigh not less than 13 ounces each.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: July 24, 1979, to become effective August 1, 1979.

William J. Doyle,
Acting Deputy Director, Fruit and Vegetable
Division, Agricultural Marketing Service.

[FR Doc. 79-23336 Filed 7-27-79; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 958

(Handling Regulation (958.324))

Onions Grown in Certain Designated Counties in Idaho and Malheur County, Oreg.

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh market shipments of onions grown in certain designated counties in Idaho and Malheur County, Oregon, to be inspected and meet minimum quality and size requirements. The regulation should promote orderly marketing of such onions and keep less desirable qualities and sizes from being shipped to consumers.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Peter G. Chapogas (202) 447-5432.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 130 and Order No. 958, both as amended (7 CFR Part 958), regulate the handling of onions grown in certain designated counties in Idaho and Malheur County, Oregon. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Idaho-Eastern Oregon Onion Committee, established under the order, is responsible for its local administration.

Notice of rulemaking was published in the June 29, 1979, Federal Register (44 FR 37952). The notice afforded interested persons through July 16, 1979, to file written data, views or arguments pertaining to that proposal. None was filed.

This regulation is based upon unanimous recommendations made by the committee at its public meeting in Ontario, Oregon, on June 19, 1979. The recommendations of the committee

reflect its appraisal of the composition of the 1979 crop of Idaho-Eastern Oregon onions and the marketing prospects for this season and are consistent with the marketing policy it adopted. Harvesting of onions is expected to begin about August 1.

The grade, size, pack, maturity and inspection requirements specified herein are necessary to prevent onions of low quality or less desirable sizes from being distributed in fresh market channels. They also provide consumers with good quality onions consistent with the overall quality of the crop, and maximize returns to producers for the preferred quality and sizes.

Exceptions are specified to certain of these requirements to recognize special situations in which such requirements are inappropriate or unreasonable. Shipments are allowed to certain special purpose outlets without regard to the grade, size, maturity, pack and inspection requirements, provided that safeguards are met to prevent such onions from reaching unauthorized outlets.

Special purpose shipments are allowed for planting, livestock feed, charity, dehydration, extraction and pickling since such shipments normally do not enter the commercial fresh market channels and no useful purpose is served by regulating such shipments. Onions for canning and freezing are exempt under the legislative authority for this part.

Findings. After consideration of all relevant matters, including the proposal in the notice, it is found that the handling regulation will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of this regulation until August 29, 1979, (5 U.S.C. 553) and that (1) shipments of onions grown in the production area will begin on or about the effective date specified herein, (2) to maximize benefits to producers, this regulation should apply to as many shipments as possible during the marketing season, (3) notice of the regulation was published in the Federal Register of June 29, 1979, and information regarding its provisions, which are similar to those in effect during the previous season, has been made available to producers and handlers in the production area, and (4) compliance with this regulation will not require any special preparation by handlers which cannot be completed by the effective date.

7 CFR Part 958 is amended by adding a new § 958.324 as follows:

§ 958.324 Handling regulation.

During the period August 1, 1979, through April 30, 1980, no person may handle any lot of onions, except braided red onions, unless such onions are at least "moderately cured," as defined in paragraph (f) of this section, and meet the requirements of paragraphs (a) and (b) of this section, or unless such onions are handled in accordance with paragraphs (c) and (d), or (e) of this section.

(a) *Grade and size requirements.* (1) *White varieties.* Shall be either:

- (i) U.S. No. 2, 1 inch minimum to 2 inches maximum diameter; or
- (ii) U.S. No. 2, if not more than 30 percent of the lot is comprised of onions of U.S. No. 1 quality, and at least 1½ inches minimum diameter; or
- (iii) U.S. No. 1, at least 1½ inches minimum diameter.

However, none of these three categories of onions may be commingled in the same bag or other container.

(2) *Red varieties.* U.S. No. 2 or better grade, at least 1½ inches minimum diameter.

(3) *All other varieties.* Shall be either:

- (i) U.S. No. 2 grade, at least 3 inches minimum diameter, if not more than 30 percent of the lot is comprised of onions of U.S. No. 1 quality; or
- (ii) U.S. No. 1, 1½ inches minimum to 2¼ inches maximum diameter; or
- (iii) U.S. No. 1, at least 2¼ inches minimum diameter.

However, none of these three categories of onions may be commingled in the same bag or other container.

(b) *Inspection.* No handler may handle any onions regulated hereunder unless such onions are inspected by the Federal-State Inspection Service and are covered by a valid applicable inspection certificate, except when relieved of such requirement pursuant to paragraphs (c) or (e) of this section.

(c) *Special purpose shipments.* The minimum grade, size, maturity and inspection requirements of this section shall not be applicable to shipments of onions for any of the following purposes:

- (1) planting; (2) livestock feed; (3) charity; (4) dehydration; (5) canning; (6) freezing; (7) extraction; and (8) pickling.

(d) *Safeguards.* Each handler making shipments of onions for dehydration, canning, freezing, extraction or pickling pursuant to paragraph (c) of this section shall:

(1) First apply to the committee for and obtain a Certificate of Privilege to make such shipments;

(2) Prepare, on forms furnished by the committee, a report in quadruplicate on each individual shipment to such outlets

authorized in paragraph (c) of this section;

(3) Bill or consign each shipment directly to the applicable processor; and

(4) Forward one copy of such report to the committee office and two copies to the processor for signing and returning one copy to the committee office. Failure of the handler or processor to report such shipments by promptly signing and returning the applicable report to the committee office may be cause for cancellation of such handler's Certificate of Privilege and/or the processor's eligibility to receive further shipments pursuant to such Certificate of Privilege. Upon cancellation of any such Certificate of Privilege the handler may appeal to the committee for reconsideration.

(e) *Minimum quantity exemption.* Each handler may ship up to, but not to exceed, one ton of onions each day without regard to the inspection and assessment requirements of this part, if such onions meet minimum grade, size and maturity requirements of this section. This exception shall not apply to any portion of a shipment that exceeds one ton of onions.

(f) *Definitions.* The terms "U.S. No. 1" and "U.S. No. 2" have the same meaning as defined in the United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Types), as amended (7 CFR 2851.2830-2851.2854), or the United States Standards for Grades of Bermuda-Granex-Grano Type Onions (7 CFR 2851.3195-2851.3209), whichever is applicable to the particular variety, or variations thereof specified in this section. The term "braided red onions" means onions of red varieties with tops braided (interlaced). The term "moderately cured" means the onions are mature and are more nearly well cured than fairly well cured. Other terms used in this section have the same meaning as when used in Marketing Agreement No. 130 and this part.

(g) *Applicability to imports.* Pursuant to § 8e of the act and § 980.117 "Import regulations: onions" (43 FR 5499); onions imported during the effective period of this section shall meet the grade, size, quality and maturity requirements specified in the introductory paragraph and paragraph (a) of this section.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

Note.—This final rule has been reviewed under the USDA criteria implementing Executive Order 12044. A determination has been made that this action should not be classified "significant." An Impact Statement has been prepared and is available from Peter G. Chapogas (202) 447-5432.

Dated: July 24, 1979 to become effective August 1, 1979.

William J. Doyle,
Acting Deputy Director, Fruit and Vegetable
Division, Agricultural Marketing Service.

[FR Doc. 79-23335 Filed 7-27-79; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1980

Guaranteed Rural Housing Loan Program

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice of Suspension.

SUMMARY: The Farmers Home Administration suspends for the remainder of fiscal year 1979 the Administrative 45 day limit provided in paragraphs A and B of the "Administrative" section of § 1980.332, Subpart D, Part 1980, Subchapter H, Chapter XVIII, Title 7 of the Code of Federal Regulations. The 45 day limitation is to control guarantee authority at the end of a fiscal year. Since there is adequate funding authority available this fiscal year, guaranteed rural housing loans may be obligated by the Farmers Home Administration and Conditional Commitments for Guarantee may be issued during the remainder of fiscal year 1979 until September 20, 1979, without waiting for the Acknowledgement of Obligated Funds to be received from the Finance Office.

EFFECTIVE DATE: July 17, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Reed J. Petersen, 202-447-4295.

Dated: July 17, 1979.

Gordon Cavanaugh,
Administrator, Farmers Home
Administration.

[FR Doc. 79-23316 Filed 7-27-79; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF ENERGY

10 CFR Part 205

Administrative Procedures and Sanctions; 1979 Interpretations of the General Counsel

AGENCY: Department of Energy.

ACTION: Notice of Interpretations.

SUMMARY: Attached are the interpretations issued by the Office of General Counsel of the Department of Energy under 10 CFR Part 205, Subpart F, during the period June 1, 1979, through June 30, 1979.

Appendix B identifies those requests for interpretation which have been dismissed during the same period.

FOR FURTHER INFORMATION CONTACT: Diane Stubbs, Office of General Counsel, Department of Energy, 12th & Pennsylvania Avenue, NW., Room 1121, Washington, D.C. 20461. (202) 633-9070.

SUPPLEMENTARY INFORMATION: Interpretations issued pursuant to 10 CFR Part 205, Subpart F, are published in the Federal Register in accordance with the editorial and classification criteria set forth in 42 FR 7923 (February 8, 1977), as modified in 42 FR 46270 (September 15, 1977).

These interpretations depend for their authority on the accuracy of the factual statement used as a basis for the interpretation (10 CFR 205.84(a)(2)) and

may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom interpretations are addressed and other persons upon whom interpretations are served are entitled to rely on them (§ 205.85(c)). An interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). The interpretations published below are not subject to appeal.

Issued in Washington, D.C., July 24, 1979.
Everard A. Marseglia, Jr.,
Assistant General Counsel for Interpretations and Rulings, Office of General Counsel.

APPENDIX A.—Interpretations

No.	To	Date	Category	File No.
1979-10	Time Oil Co.	May 18 (reissued June 25).	Allocation	A-331
1979-12	Charles P. Brocato	June 19	Price	A-412
1979-13	Solar Turbines International	June 19	Allocation	A-396
1979-14	Crystal Oil Co.	June 19	Price	A-122

Interpretation 1979-10

To: Time Oil Company.
Regulation Interpreted: 10 CFR 210.62.
Code: GCW-AI—Allocation
Entitlement; Normal Business Practices.

Facts

Time Oil Company (Time) has purchased motor gasoline since 1969 from Chevron U.S.A. (Chevron), a wholly-owned subsidiary of Standard Oil of California (Socal). Time is a wholesale purchaser-reseller as defined in 10 CFR 211.51, and, therefore, its relationship with Chevron for the purchase of motor gasoline is subject to the provisions of 10 CFR Parts 210 and 211.

In 1971, Time and Socal entered into two agreements whereby Time purchased motor gasoline in Washington and Oregon from Chevron and Socal purchased aviation fuel in Hawaii from Time. The practice under these agreements was for Chevron to deliver regular and premium grade motor gasoline in whatever quantities Time chose to purchase.¹ From 1971 until 1974, Chevron delivered motor gasoline in the quantities and grades requested by Time, in accordance with the agreements. In 1972 under the agreements, Chevron delivered more

than — gallons of motor gasoline to Time, — percent of which was regular grade and — percent of which was premium grade. Chevron did not deliver any unleaded motor gasoline as none was requested by Time. However, in 1974, instead of selling Time the amount of each grade of motor gasoline it requested at that time, Chevron began to require Time to take the same percentage of each grade of motor gasoline as Time had received during 1972, except that Time was allowed to take part of the percentage of premium motor gasoline as unleaded motor gasoline.

In its present submission, Time contends that the arrangement whereby it received as much of each grade of motor gasoline as it requested from Chevron is a normal business practice within the meaning of 10 CFR 210.62(a). Specifically, Time seeks assurance that the normal business practices rule requires that Chevron allow Time to purchase grades of motor gasoline in proportions and amounts consistent with the needs of Time and its customers.

¹ The June 1, 1971, contract provided that "the regular grade gasoline shall be delivered by Standard at times, in method of delivery and in quantities as shall be reasonable giving consideration to Standard's delivery problems."

Issue

Does the normal business practices rule as set forth in 10 CFR 210.62(a) require Chevron to deliver the various grades of motor gasoline in whatever proportions Time may currently request?

Interpretation

For the reasons set forth below, the Department of Energy (DOE) has determined that the normal business practices rule as set forth in 10 CFR 210.62(a) does not require Chevron to deliver motor gasoline to Time in whatever proportion of grades Time may currently request.

The Mandatory Petroleum Allocation Regulations do not specifically allocate motor gasoline by grade except as provided in 10 CFR 211.108 with respect to unleaded motor gasoline. Those regulations, set forth at 10 CFR Part 211 and adopted on January 14, 1974, 39 FR 1924 (January 15, 1974), were intended to apply to the allocation of "crude oil, residual fuel oil and refined petroleum products produced in or imported into the United States." 10 CFR 211.1. Subpart F of these regulations provided for the mandatory allocation of "all motor gasoline produced in or imported into the United States." 10 CFR 211.101(a). However, motor gasoline is defined in 10 CFR 211.51 without reference to grade. Except for a provision relating to unleaded motor gasoline, the DOE allocation regulations do not distinguish between grades of motor gasoline. See § 211.108. On the contrary, § 211.108(a) provides in relevant part:

All the provisions of this subpart shall apply to all substances meeting the definition of motor gasoline, including unleaded gasoline, premium and regular gasoline without regard to the different characteristics of those substances except as provided in this section with respect to unleaded gasoline * * *.

Thus, with the exception of unleaded motor gasoline, the allocation regulations do not mandate expressly that a supplier deliver a particular grade of motor gasoline to a purchaser.

The General Allocation and Price Regulations, set forth in 10 CFR Part 210 and adopted on January 14, 1974, 39 FR 1924 (January 15, 1974), are applicable to the Mandatory Petroleum Allocation and Price Regulations and require a supplier to maintain normal business practices that were in effect during the base period for sales of an allocated product. 10 CFR 210.62. Section 210.62 regulates normal business practices in recognition of the varying roles that such practices play in the flow of

product. Section 210.62(a) provides in relevant part:

Suppliers will deal with purchasers of an allocated product according to normal business practices in effect during the base period specified in Part 211 for that allocated product, and no supplier may modify any normal business practice so as to result in the circumvention of any provision of this chapter * * *.

The applicable "base period" for motor gasoline as set forth in 10 CFR 211.102 is "the month of 1972 corresponding to the current month."²

Those rules and regulations were adopted to implement the statutory mandate of Section 4(a) of the Emergency Petroleum Allocation Act of 1973 (EPAA), as amended, Pub. L. No. 93-159 (November 27, 1973).³ Section 2(b) of the EPAA states its purpose as follows:

The purpose of this Act is to grant to the President of the United States and direct him to exercise specific temporary authority to deal with shortages of crude oil, residual fuel oil, and refined petroleum products or dislocations in their national distribution system. The authority granted under this Act shall be exercised for the purpose of minimizing the adverse impacts of such shortages or dislocations on the American people and the domestic economy. [Emphasis added.]

The language of the EPAA clearly indicates as a major congressional concern the prevention of dislocations in the national distribution of refined petroleum products. The DOE Mandatory Petroleum Allocation Regulations implemented this congressional mandate by freezing the supplier/purchaser relationships for

² The base period for motor gasoline, as set forth in 10 CFR 211.102, was recently updated by an Interim Final Rule, 44 FR 26712 (May 4, 1979). Effective May 1, 1979, through September 30, 1979, § 211.102 is amended to read in pertinent part: "Base period" means the month of the period November 1977 through October 1978 corresponding to the current month." Section 211.102 was previously amended by Activation Order No. 1, 44 FR 11202 (February 28, 1979), which activated certain provisions of the Standby Petroleum Product Allocation Regulations, Special Rule No. 1 to 10 CFR Part 211, for the period March 1, 1979, through May 1, 1979. Activation Order No. 1 established the base period for motor gasoline as the month of the 12-month period from July 1, 1977, through June 30, 1978, corresponding to the current month.

Since the DOE regulations have not permitted any change in the normal business practices which were in effect during the original base period for motor gasoline, the normal business practices in effect during the updated base period should be the same as those in effect during calendar year 1972. Therefore, for purposes of this interpretation, the term "base period" shall refer to the month of the calendar year 1972 corresponding to the current month.

³ 15 U.S.C. § 751 *et seq.* (1978).

motor gasoline that were in effect during calendar year 1972. Section 210.62, which was intended as a general mechanism to ensure compliance with the price and allocation regulations, prohibits any deviation by a supplier from normal base period business practices which would result in a circumvention of any provision of those regulations. The normal business practices rule was not intended, however, to expand or restrict the basic rights and obligations conferred under the allocation or price regulations themselves.

Section 210.62(a) does not incorporate private contractual arrangements during the base period into and establish them as requirements of the Mandatory Petroleum Allocation and Price Regulations. This section prohibits sellers from altering normal business practices, such as credit arrangements, that would have the effect of circumventing the allocation and price regulations, by making it more expensive or more difficult for the purchaser of the product to obtain it than if the business practices actually established during the base period were continued. See, e.g., *Pasco Petroleum Co.*, Interpretation 1978-38, 43 FR 29544 (July 10, 1978); *Oil Transit Corporation*, Interpretation 1977-35, 42 FR 54269 (October 5, 1977); and *Sterling Stations Inc.*, Interpretation 1977-19, 42 FR 39962 (August 8, 1977). Chevron's practice in this case, of continuing to supply the proportion of grades of motor gasoline actually sold to Time during the base period, does not make motor gasoline more expensive or more difficult for Time to obtain and therefore is proper so long as Chevron is not discriminating among purchasers⁴ and so long as the provisions of § 211.108 are satisfied.⁵

Accordingly, based upon the facts presented for our consideration, and in view of the preceding discussion, we have concluded that the refusal of Chevron to supply motor gasoline to Time, in whatever proportions of grades

⁴ Section 210.62(b) specifically prohibits discrimination among purchasers and provides in pertinent part:

No supplier shall engage in any form of discrimination among purchasers of any allocated product. For purposes of this paragraph, "discrimination" means extending any preference or sales treatment which has the effect of frustrating or impairing the objectives, purposes and intent of this chapter or of the Act. * * *.

⁵ Unleaded motor gasoline is specifically allocated under § 211.108. The fact that Time may be entitled to receive a particular volume of unleaded motor gasoline from Chevron under this provision would not affect the proportion of the grade of the other motor gasoline that Time purchases. The amount of unleaded motor gasoline Time receives from Chevron would be subtracted from Time's total allocation.

Time may currently elect to specify, does not constitute a violation of 10 CFR 210.62(a).

Issued in Washington, D.C., on May 18, 1979.

Everard A. Marseglia, Jr.,
Assistant General Counsel for Interpretations and Rulings.

Interpretation 1979-12

To: Charles P. Brocato.
Regulation Interpreted: 10 CFR 212.128.
Code: GCW-PI—Recordkeeping
Requirements.

Facts

Charles P. Brocato (Brocato) is the operator of the Mary Willeen Schmidt Lease, Well No. 1, Midway Field, San Patricio County, Texas, and is therefore a crude oil producer subject to the price regulations set forth in 10 CFR Part 212. Subpart D. In June 1978, Brocato leased the production rights to this property¹ and now seeks to certify the crude oil produced and sold from this property as stripper well property crude oil pursuant to the provisions of 10 CFR 212.131(a). According to his submission, Brocato does not have access to original records of production for this property for the period of time before he obtained the production rights. Brocato has represented, however, that the records of the Oil and Gas Division of the Texas Railroad Commission (Railroad Commission) indicate that this property qualifies as a stripper well property based upon the volume of crude oil produced during calendar year 1973. Brocato has requested an interpretation that a certified copy of the Railroad Commission's records is sufficient to satisfy the recordkeeping requirements set forth in 10 CFR 212.128(a).

Issue

Where Brocato does not have access to original production records, may he fulfill the recordkeeping requirements for a stripper well property as set forth in 10 CFR 212.128(a) by maintaining a certified copy of the Railroad Commission's records on file at his principal place of business?

Interpretation

For the reasons set forth below, the Department of Energy (DOE) has

¹ Brocato has not sought our determination that the lease described in this interpretation constitutes a "property" as that term is defined in the Mandatory Petroleum Price Regulations. Accordingly, for purposes of this interpretation, we assume that Brocato has correctly defined the property. Moreover, we assume that the production records on file with the Texas Railroad Commission, upon which Brocato intends to rely, relate to production of crude oil from the same "property" that is the subject of this request.

determined that where, through no fault of Brocato, original production records are unavailable, certified copies of *bona fide* records of the Railroad Commission will fulfill the recordkeeping requirements for a stripper well property as set forth in 10 CFR 212.128(a), if such copies are maintained on file at the producer's principal place of business and insofar as such records contain all the information required in § 212.128(a).

"Stripper well property" is defined in 10 CFR 212.54(c) as "a 'property' whose average daily production of crude oil (excluding condensate recovered in non-associated production) per well did not exceed 10 barrels per day during any preceding consecutive 12-month period beginning after December 31, 1972." Section 212.54(c) further provides in pertinent part:

"Average daily production" means the qualified maximum total production of crude oil (excluding condensate recovered in non-associated production) produced from a property, divided by a number equal to the number of days in the 12-month qualifying period times the number of wells that produced crude oil (excluding condensate recovered in non-associated production) from that property in that 12-month qualifying period. To qualify as maximum total production, each well on the property must have been maintained at the maximum feasible rate of production throughout the 12-month qualifying period and in accordance with recognized conservation practices, and not significantly curtailed by reason of mechanical failure or other disruption in production.

In order to facilitate enforcement and compliance with the first sale price regulations by crude oil producers, § 212.128(a) imposes certain recordkeeping requirements on producers with respect to all properties in general and with respect to stripper well properties in particular. Section 212.128(a) provides:

Each producer of crude oil shall, with respect to each property, prepare and maintain at its principal place of business, (1) a reasonable description of the property concerned, (2) a statement of the property's base production control level and how determined, and (3) documentation of the highest posted prices used to determine any sales of upper and lower tier crude oil from the property, specifying the reference field and posting and the basis for its selection. Each producer of crude oil shall, with respect to any stripper well property, prepare and maintain at its principal place of business, records on a well-by-well basis, of production,

including records to indicate each time that production was significantly curtailed by reason of mechanical failure, or other disruption in production, for the period during which the property qualified as a stripper well lease. [Emphasis added.]

Section 212.128(a) requires that records containing the above information be prepared by the producer and maintained at its principal place of business. We believe that this dual requirement was intended to insure that the best evidence of production be available to a producer to establish qualification of the property for the exemption. However, in this case, the original records are unavailable, through no fault of Brocato. Under these circumstances, considerations of administrative fairness suggest that Brocato be permitted to fulfill the recordkeeping requirement with other than the original records,² so long as the records Brocato maintains contain all the necessary information set forth in § 212.128. In the event that original records become available, however, they will supersede any other records and will be recognized by DOE to the extent that they conflict with the records Brocato chooses to maintain.

Issued in Washington, D.C. on June 19, 1979.

Everard A. Marseglia, Jr.,
Assistant General Counsel for Interpretations
and Rulings.

Interpretation 1979-13

To: Solar Turbines International.
Regulation Interpreted: 10 CFR 211.51.
Code: GCW-AI—Allocation Levels;
Definition of Energy Production.

Facts

Solar Turbines International (Solar Turbines) is engaged principally in the business of designing, developing, and manufacturing gas turbine engines and power systems which are used primarily for production and transmission of crude oil and natural gas. Solar Turbines currently produces five separate engine models which are "incorporated into pump drive, compressor, generator

² While Brocato has not indicated precisely what information is contained in the Railroad Commission records, we believe that so long as the information required by § 212.128 is contained in *bona fide* records of the Railroad Commission, a certified copy of those records will suffice. It is important to note, however, that the meaning of the term "stripper well property" for purposes of the DOE Mandatory Petroleum Price Regulations is not the same as the definition of "stripper well" used by the Railroad Commission. Therefore, records of the Railroad Commission that indicate only generally that a property may be certified as "stripper" but that do not contain all the necessary information are not sufficient to satisfy the requirements of § 212.128(a).

packages, and aircraft auxiliary power units." Although these turbine engines and power systems are utilized primarily by the oil and gas industry, they are also used by the armed forces for shipboard, standby, and aircraft uses, and by government, public utilities, and industry to provide emergency and standby electric power for communication, telecommunication, and sanitary services.¹

With respect to the oil and gas industry, the equipment manufactured by Solar Turbines serves a variety of purposes associated with the production and transmission of crude oil and natural gas. Solar Turbines' units pump gas and crude oil through pipelines and are used to inject various liquids or gases at high pressure into oil fields to increase production. In addition, some of the units manufactured by the firm will become components of electric generator sets for use on remote offshore platforms. Solar Turbines predicts that approximately — percent of its expected total unit production of — horsepower during the 1978-85 period will be used by the oil and gas industry.

In conjunction with the manufacture of these units, it is necessary that Solar Turbines continuously test all the equipment under simulated conditions. These tests therefore require significant volumes of propane, kerojet, middle distillate fuels and natural gas.² In addition, Solar Turbines states that it needs motor gasoline to transport parts and equipment among its several plants and that that use should be treated as "energy production" inasmuch as these activities are an integral component of the development and production of its units.

Issue

Is the use of fuels by Solar Turbines to manufacture turbines and power systems for oil and gas production, including the use of fuels to test the units and transport parts among the firm's several plants, properly characterized as "energy production" for purposes of the Mandatory Petroleum Allocation Regulations?

¹ This interpretation will address only those uses which qualify as "energy production" (as defined in 10 CFR 211.51) and exclude from consideration those activities conducted by Solar Turbines which might qualify under some other category of priority use in the petroleum allocation regulations.

² Solar Turbines should note that natural gas is not regulated by the Mandatory Petroleum Allocation Regulations. In addition, kerojet fuel is no longer subject to the allocation controls of 10 CFR Part 211. See § 211.1(b). The allocation of middle distillates is governed by Special Rule No. 7, 44 FR 18640 (March 29, 1979), and Special Rule No. 9, 44 FR 31626 (June 1, 1979).

Interpretation

For the reasons set forth below, the Department of Energy (DOE) has determined that the production by Solar Turbines of those units used for oil and gas production in the manner described above, including the fuel required by the firm for testing these units and for transporting parts and equipment (related to the production of these units) among its various plants, is properly characterized as energy production, as that term is defined in § 211.51.

The determination that a particular activity falls within the definition of energy production under the DOE allocation regulations has a direct impact on the quantity of allocated products that will be available to a firm during periods in which the products are in short supply. With respect to propane and motor gasoline, the Mandatory Petroleum Allocation Regulations provide that energy production uses are entitled to "[o]ne hundred (100) percent of current requirements (as reduced by the application of an allocation fraction)." 10 CFR §§ 211.83(c)(1)(ii) and 211.103(c)(1)(ii). Other uses of these products may receive lower allocation levels. Thus, during periods of short supply, it is essential that firms properly characterize their uses of these products in order to insure that those activities which Congress intended to protect receive priority allocation levels.

The term "energy production" originated with the adoption of the Mandatory Petroleum Allocation Regulations on January 14, 1974, by the Federal Energy Office, a predecessor of the DOE. 39 FR 1924 (January 15, 1974). Although there have been several modifications of the definition since its initial adoption, the language relevant to this discussion has remained unaltered since January 14, 1974. The definition of "energy production" appears in § 211.51 and provides:

"Energy production" means the exploration, drilling, mining, refining, processing, production and distribution of coal, natural gas, geothermal energy, petroleum or petroleum products, shale oil, nuclear fuels and electrical energy. It also includes the construction of facilities and equipment used in energy production, such as pipelines, mining equipment and similar capital goods. Excluded from this definition are synthetic natural gas manufacturing, electrical generation whose power source is petroleum based, gasoline blending and manufacturing and refinery fuel use. [Emphasis added.]

The definition indicates that the "exploration, drilling, mining, refining,

processing, production and distribution of coal, natural gas, geothermal energy, petroleum or petroleum products, shale oil, nuclear fuels and electrical energy" are activities which constitute energy production. In addition, however, the language emphasized above states that the "construction of * * * equipment used in energy production, such as pipelines, mining equipment and similar capital goods" is also included within the definition. This provision recognizes the function that such essential and specifically designed equipment, such as pipelines, performs in the maintenance of energy production activities. Consequently, the units manufactured by Solar Turbines for use in actual energy production activities are eligible for treatment as energy production. Furthermore, the testing of these turbines and power systems is such an integral component of their development and production that it would be inappropriate to disassociate it from energy production. Accordingly, the use of these fuels in this respect is to be treated as energy production and is therefore eligible for the priority status designated by the applicable allocation regulations.

The issue regarding the treatment accorded the use of motor gasoline by Solar Turbines for transporting parts among its several plants has been previously addressed by this office. In an interpretation issued to the Florida Power & Light Company, the DOE determined that motor gasoline consumed in activities relating to the generation of electricity from nuclear fuels, which included the operation of service vehicles at the firm's various plants, is eligible for priority treatment as a use for energy production under the allocation regulations. *Florida Power & Light Company*, Interpretation 1979-9, issued May 17, 1979. Moreover, unless Solar Turbines is permitted to treat this use of motor gasoline as energy production, the firm might be unable to obtain sufficient quantities of fuel to continue the routine operations attendant to the development and manufacture of the equipment vital to the oil and gas industry.

Based on the considerations discussed above, we have concluded that the various fuels used by Solar Turbines for testing the equipment which is properly characterized as energy production is necessarily and directly related to the production of such units. Both activities are therefore accorded the same priority status with respect to the applicable allocation regulations. Moreover, the motor gasoline used in Solar Turbines' plant vehicles in activities associated

with the manufacture of the units utilized by the oil and gas industry is also a use for energy production entitled to a priority allocation status pursuant to § 211.103(c) (1) (ii).

Issued in Washington, D.C., on June 19, 1979.

Everard A. Marseglia, Jr.,
Assistant General Counsel for Interpretations
and Rulings.

Interpretation 1979-14

To: Crystal Oil Company.
Regulation Interpreted: 10 CFR 212.162.
Code: GCW-PI—Part 212, Subpart K;
Def. Net-back and First Sale.

Facts

Crystal Oil Company ("Crystal") owns and operates crude oil refineries and natural gas processing plants. At one of these gas plants, located at Kings Bayou, Louisiana, Crystal extracts liquefiable hydrocarbons from "wet gas" supplied by the Phillips Petroleum Company ("Phillips"), the Kerr-McGee Corporation ("Kerr-McGee"), and the Shell Oil Company ("Shell"), pursuant to contractual agreements with Crystal. The Cities Services Company ("Cities Services"), at its Lake Charles plant, fractionates the natural gas liquids ("NGL's") extracted at the Kings Bayou plant, thereby producing natural gas liquid products ("NGLP's"), also pursuant to contractual agreements with Crystal. Cities Services is entitled to receive a limited amount of these products as compensation for its services.

Crystal, Phillips, Shell, Kerr-McGee, and Cities Services each refines crude oil and extracts NGL's from natural gas. Each firm is a "refiner" as that term is defined in 10 CFR 212.31 and a "gas plant owner" and a "gas plant operator" as those terms are defined in § 212.162 of the Mandatory Petroleum Price Regulations. As a result, they must calculate the maximum lawful prices of the covered products that they own and sell to other firms. Under the DOE regulations, maximum lawful selling prices are computed by adding the firm's May 15, 1973, selling prices and allowable increased costs since May 1973. Both May 15, 1973, selling prices and increased costs attributable to gas plant operations are calculated pursuant to 10 CFR Part 212, Subpart K. 10 CFR 212.161(b)(2)(i). Firms that operate both gas plants and crude oil refineries are required to insert their increased costs into the refiner cost allocation formulae of 10 CFR Part 212, Subpart E, to determine their maximum lawful selling prices. *Ibid.*

In its request for interpretation, Crystal asserts that under these agreements, described in detail below, it merely processes natural gas for a fee and thus is not the seller of any NGLP's sold pursuant to these agreements to Phillips. Under this view, whatever transfers of NGLP's Crystal makes under these agreements to Phillips would not be sales subject to the Mandatory Petroleum Price Regulations, particularly 10 CFR Part 212, Subpart K, and Crystal would have no responsibility to determine and observe maximum lawful prices in any such transfers. Phillips asserts that Crystal is the seller of NGLP's transferred to it by Crystal under these agreements and has a responsibility to determine and observe maximum lawful prices in these transfers, although Phillips would have such a responsibility for its sales of NGLP's taken at the outlet of the Lake Charles' plant as the firm's in-kind share under its agreement with Crystal.

Under the agreement that is currently in effect between Phillips as producer and Crystal,¹ Crystal takes title to the liquefiable portion of Phillips' "wet" gas stream and the gas consumed in the processing plant at the inlet to its Kings Bayou plant, but Phillips retains title to the residue gas. Phillips Agreement, Article IV. In consideration for these liquefiable hydrocarbons and gas consumed or extracted in the plant, Crystal pays Phillips (1) — percent of the proceeds from the sale of the natural gas liquid products derived from Phillips' gas stream or (2) — percent of those products in-kind. *Id.*, Articles VII and VIII (as amended). Under option one, Crystal has title to all of the products refined from Phillips' gas stream prior to their sale. Under option two, Crystal has title to — percent of all products and Phillips takes title to — percent of all products prior to their sale.² The agreement requires Crystal to sell to Phillips, at Phillips' option, all of the NGLP's which Crystal owns that are fractionated from the NGL's extracted at the Kings Bayou Plant, including those Crystal owns as a result of processing agreements with other producers, such as Kerr-McGee and Shell. The NGLP's which other producers take in-kind

¹ This agreement is entitled "Agreement for Extraction of Liquefiable Hydrocarbons" and was entered into on February 19, 1970, between Phillips and Oilchem Corporation, which on August 12, 1971, assigned all of its "rights, titles, interests, options, elections and benefits" under the agreement to Crystal, which in turn agreed to assume all of Oilchem's obligations under the agreement. This agreement, as amended, is referred to herein as the "Phillips Agreement."

² Under earlier contractual agreements, Phillips and Crystal received different percentages of the NGLP's.

pursuant to processing agreements with Crystal are excepted. *Id.*, Article IX. The agreement gives Crystal the right to offer to sell on an annual basis all the NGLP's it owns that are fractionated from the NGL's extracted at the Kings Bayou plant.³ If Crystal desires to make sales to third parties that have submitted bids to purchase these NGLP's, Phillips has the option of matching the highest lawful bid received by Crystal and purchasing the NGLP's by paying that amount. Otherwise Phillips may refuse to meet the bid and Crystal may then sell to the third party bidder all of the NGLP's which Crystal owns that are fractionated from the NGL's extracted at the Kings Bayou plant.

Under their extraction agreements with Crystal, which are substantially similar to that between Crystal and Phillips,⁴ Shell and Kerr-McGee as producers have the option to receive a specified percentage of the proceeds from the sale by Crystal of products derived from their natural gas streams or the same percentage of those products in-kind.⁵ Unlike Phillips, Shell does not have the right of first refusal to the NGLP's Crystal owns as a result of these processing agreements, since such NGLP's are subject to Phillips' right of first refusal, described above. Kerr-McGee, however, does have the right under certain conditions to purchase the NGLP's Crystal owns as a result of the Kerr-McGee Agreement.⁶ Pursuant to their processing agreements with Crystal, Shell, Phillips and Cities Service have chosen to take products in-kind, rather than to take the proceeds from Crystal's sales. Kerr-McGee has elected to receive a percentage of the sale

³ These NGLP's include the — percent of the NGLP's refined from Phillips' gas that belong to Crystal pursuant to the Phillips Agreement.

⁴ The agreement between Kerr-McGee and Oilchem (Kerr-McGee Agreement) is entitled "Agreement for Extracting Liquefiable Hydrocarbons from the Hog Bayou Field Raw Gas" and was entered into on December 15, 1970. Oilchem's rights and duties under this agreement, as amended, were subsequently assigned to Crystal. The agreement between Shell and Crystal (Shell Agreement) is entitled "Agreement for Extraction of Liquefiable Hydrocarbons from the Kings Bayou Field Gas" and was entered into in July 1972.

⁵ Under the Agreements that are currently in effect Shell may receive — percent of either the proceeds from Crystal's sale of the NGLP's or may take — percent of these products in-kind. Shell Agreement, Article VIII. The similar figure presently applicable to Kerr-McGee is — percent. Kerr-McGee Agreement, Article VII.

⁶ By letter to Oilchem Corporation, Crystal's predecessor, dated January 14, 1971, Phillips waived its rights to purchase any NGLP's attributable to Kerr-McGee's gas and owned by Crystal during any period Kerr-McGee asserts its option to purchase the NGLP's Crystal owns that are derived from Kerr-McGee's gas.

proceeds from the NGLP's refined from its gas.

During a portion of 1973 and extending into 1974, Phillips declined to meet the highest bona fide bids received by Crystal for plant products not taken in-kind by Phillips, Shell, and Cities Service. Consequently, Crystal Petroleum, a subsidiary of Crystal Oil, purchased Crystal's plant products in that year at the prices it offered.⁷ Since March 1974, Phillips has exercised its option to purchase all plant products owned by Crystal, *i.e.* all products refined at the Kings Bayou and Lake Charles plants except those taken in-kind by Phillips, Shell, and Cities Service pursuant to these processing agreements.

Issue

Is Crystal the seller of the NGLP's transferred pursuant to these contractual agreements between Crystal, Phillips, Shell, Kerr-McGee, and Cities Service pertaining to the Kings Bayou and Lake Charles plants, and do the Mandatory Petroleum Price Regulations require that Crystal determine maximum lawful prices for any such sales?

Interpretation

For the reasons set forth below, the DOE has determined that Crystal is the seller of all NGLP's that Crystal owns and that are processed from the gas streams of Phillips, Shell and Kerr-McGee at the Kings Bayou and Lake Charles plants pursuant to these contractual agreements and is thus responsible for determining the maximum lawful prices in all "first sales" of these NGLP's, *i.e.* in all transfers of NGLP's between firms at the outlet of the Lake Charles plant, except transfers of products taken in-kind under these agreements by Phillips, Shell and Cities Services.

I. Application of Price Regulations

The application of the price regulations to the transfers at the inlet of the Kings Bayou plant is determined by reference to the classification of the parties under the regulations and the manner in which the liquid hydrocarbons are transferred. The regulatory status of these firms as "refiners" subject to Part 212, Subparts E and K has been set forth in the factual section above, and is not disputed by any of the parties.

⁷ These sales were not "first sales" under Subpart K, since they were merely intra-firm transfers. See generally, *Atlantic Richfield Co.*, Interpretation 1978-81, 43 FR 57583 (December 8, 1978); and *Northern Natural Gas Co.*, Interpretation 1978-83, 44 FR 3023 (January 15, 1979).

A. Inlet Transfers

Under the Phillips, Shell, and Kerr-McGee agreements with Crystal, only title to the liquids that are extracted and to the plant fuel that will be consumed in the extraction process is transferred to Crystal at the inlet of the plant. Title to the "residue gas" remains with Phillips, Shell and Kerr-McGee. *E.g.*, Phillips Agreement, Article IV. Since the liquid content is extracted from the natural gas stream and the liquids are sold to the purchaser at a price that reflects their value as NGL's rather than their value as a component of the natural gas stream, these are transfers of "natural gas liquids" as that covered product is defined in § 212.162. *El Paso Natural Gas Co.*, Interpretation 1978-32, 43 FR 29534 (July 10, 1978).

Part 212, Subpart K, applies to sales of NGL's by producers of natural gas and refiners such as Phillips, Shell, Kerr-McGee, Cities Services, and Crystal. 10 CFR 212.161(a). For purposes of Subpart K, a transfer of NGL's for value to an unaffiliated entity is deemed to be either a "first sale" or a "net-back sale." 39 FR 44407, 44408 (December 24, 1974). Section 212.162, in pertinent part, defines these two general regulatory concepts:

"Net-back sale" means, with respect to natural gas liquids, any transfer, for value to a class of purchaser for which a percentage of the revenues from the first sale of natural gas liquids or natural gas liquid products is received.

"First sale" means, with respect to natural gas liquids or natural gas liquid products, the first transfer for value to a class of purchaser for which a fixed price per unit of volume is determined.

The general price rule of Subpart K, which limits "first sale" prices, was designed to be the functional equivalent of the "maximum allowable price" (formerly "base price" plus "allowable costs") rules of Subpart E, formerly applicable to natural gas processors prior to the issuance of Subpart K. Subpart E limited a gas processor's prices for NGL's and NGLP's to appropriate May 15, 1973 prices in transactions to classes of purchaser plus allowable increased costs. The "net-back sale" price rule for natural gas processors was created as a regulatory exception, because a price for NGL's is not normally determined until the NGLP's are fractionated and sold separately. 39 FR at 44408. That exception was created as a more easily administered method of treating the complex contractual arrangements associated with the extraction and

fractionation of NGL's from natural gas than was formerly provided by Subpart E. Since the inlet transfers at issue here are made pursuant to contractual arrangements for the extraction and fractionation of NGL's, these transfers may be within the scope of the "net-back sale" exception.

Kerr-McGee has the option to receive as consideration for the liquids either a specified percentage of the products in-kind or a fixed percentage from the proceeds of sales of the fractionated products. It has elected to receive a percentage of the revenues from the first sale of the NGLP's. This transfer of liquids to Crystal therefore fulfills the definition of "net-back sale." § 212.162.

The "net-back sale" price rule contained in § 212.163(b) therefore governs the prices charged by Kerr-McGee to Crystal for the liquids. See generally, *El Paso, supra*. As the owner and seller of the liquids in this transfer, Kerr-McGee would normally determine the maximum allowable prices that it is permitted to charge under the DOE regulations. However, Subpart K does not require that a gas processor calculate a maximum lawful selling price for a particular product unless the product is transferred in a "first sale." As we noted above, the transfers of NGL's from Kerr-McGee to Crystal are not "first sales." Therefore, neither Kerr-McGee nor Crystal is required to determine maximum lawful selling prices for any of these volumes of NGL's transferred from Kerr-McGee to Crystal at the inlet side of the Kings Bayou plant.

Like Kerr-McGee, Phillips and Shell have an option to take as their compensation for the NGL's transferred to Crystal either a percentage of the fractionated products or a fixed percentage of the proceeds from sales of those products. Phillips and Shell have elected to take their products in-kind, rather than to take a percentage of the proceeds. Although such a situation is not expressly included in the language of the "net-back sales" definition, examination of the purpose of this definition makes it plain that the inlet transfers of NGL's from Phillips and Shell to Crystal should be classified as "net-back sales." When Subpart K was adopted, the Federal Energy Administration ("FEA"), a predecessor of the Department of Energy ("DOE"), recognized that price rules for NGL's and NGLP's were complicated by the fact that typically a fixed price sale did not occur until the NGLP's were sold separately. *Ibid.* 39 FR 32718, 32719 (September 10, 1974). A pertinent motivation for adopting the "first sale"

and the "net-back sale" concepts is set forth in the preamble to Subpart K, which states:

The FEA has determined that it would be administratively impracticable to seek to regulate, in effect, the various terms of the many contractual arrangements under which "net-backs" are determined. Accordingly, FEA regulations will not address the manner in which the net-back revenues are allocated between parties, except to provide specifically that the manner in which net-back revenues are allocated shall not constitute a basis upon which a first sale price may be increased. 39 FR 44407, § II (December 24, 1974).

Thus, the regulations were designed to limit "net-back" arrangements between producers, royalty owners, and gas processors only insofar as necessary to insure, that net-back payments for NGL's do not serve as a means of escalating maximum lawful prices of NGLP's.

This purpose is achieved simply and effectively by classifying the Phillips and Shell inlet transfers of NGL's to Crystal as "net-back sales" pursuant to § 212.162. Phillips and Shell are therefore not required to calculate maximum lawful prices for the NGL's they transfer to Crystal. Nevertheless, the amount of any net-back payments from Crystal to Phillips and Shell would be limited, primarily by § 212.163(b) and 212.169. See generally, *El Paso, supra*. Moreover, any increased "net-back" payments from Crystal to Phillips and Shell for these NGL's could not, under § 212.166(d), serve as the basis for increasing the first sale prices of the NGLP's derived from Phillips' and Shell's natural gas streams. The classification of the inlet transfers from Phillips and Shell to Crystal as "net-back sales" permits the parties the greatest flexibility in negotiating terms and conditions without authorizing price increases which are not cost justified.

Furthermore, the classification of these inlet transfers from Phillips and Shell to Crystal as "first sales" or "net-back sales" depending solely upon whether Phillips or Shell received products in-kind could create substantial, unnecessary pricing problems. Under such a theory of classification, if one of the producers elected to take the NGLP's in-kind, the inlet transfers of NGL's would be "first sales" for which the producer would have to determine maximum lawful prices. In contrast, if the producer elected to receive a percentage of the proceeds from a sale of the NGLP's then the inlet transfers of NGL's would be "net-back sales;" the producer would

not have to calculate maximum lawful prices for those "net-back sales," but the net-back payments would be limited by the price regulations. Thus, under an interpretation which classified the producer's inlet transfers on the basis of how the producer subsequently exercised its option to take in-kind, all parties to such transfers would find it difficult to comply prospectively with the price regulations. That result could substantially increase the administrative burden of complying with the DOE regulations without serving any purpose that is not already accomplished by the classification of Phillips and Shell's inlet transfers of NGL's to Crystal as "net-back sales."

B. Outlet Transfers

The products derived from Kerr-McGee's gas stream are sold at a fixed price per unit, with the proceeds divided on a percentage basis pursuant to the contract between Crystal and Kerr-McGee. Because these sales to Phillips are the first inter-firm transfers for value of the fractionated products at a fixed price, they are "first sales" of NGLP's as defined in § 212.162. The price rule in § 212.163(a) governs these outlet transfers, or "first sales," of the NGLP's derived from Kerr-McGee's gas. As the owner and seller of the NGLP's derived from Kerr-McGee's gas streams, Crystal must determine their maximum lawful prices, because Crystal, as the gas plant owner and operator, sells the NGLP's in "first sales" derived from this gas stream. Neither Phillips nor Kerr-McGee can be considered the owner and seller of these NGLP's with a responsibility for determining their maximum lawful prices under the regulations. Phillips has been the purchaser, not the seller, of these products and therefore cannot be responsible for establishing the seller's (Crystal's) maximum lawful price. As discussed previously, the net-back payments which Kerr-McGee receives from Crystal are compensation for the NGL transfers at the inlet of the extraction facilities. Kerr-McGee is not responsible for determining maximum lawful prices for hydrocarbons which it sold in a "net-back sale" and never received again.

While Shell and Kerr-McGee have executed contracts with Crystal which structure the options for transfers in the same manner, they have exercised their options in different ways. Consequently, the application of the price regulations to the transfers of NGLP's derived from Shell's gas stream must be considered separately. Shell has the same option as Kerr-McGee to receive a percentage of the sale proceeds, but Shell has elected

to receive a percentage of the NGLP's derived from its gas as its consideration for the liquids transferred to Crystal. Effectively, Shell and Crystal take their shares of the NGLP's in-kind and dispose of them according to their individual business decisions. Therefore, the sales of NGLP's derived from Shell's gas stream should not be considered *in toto*, but with reference to the in-kind shares taken by Shell and Crystal which are sold separately.

As discussed previously, the transfers of NGL's from Shell to Crystal are "net-back sales." The transfers of NGLP's from Crystal to Shell which are made in lieu of receipt of a specified percentage of the revenues from a sale of these products are Shell's compensation for the "net-back sales." Because a fixed price per unit is not established in these transfers for value at the outlet of the Lake Charles plant there is no "first sale" and no first seller.⁹ Because Shell has the sole financial interest in the NGLP's that represent its in-kind share, Shell, not Crystal, is subject to § 212.163(a) if Shell sells its in-kind share of the NGLP's to an unaffiliated entity at a fixed price per unit.⁹

Similarly, Crystal is responsible for calculating maximum lawful prices in sales of the NGLP's which it owns and which represent its in-kind share of the products derived from Shell's gas stream. Crystal maintains that it is not governed by § 212.163(a) when these NGLP's, not taken in-kind by Shell, are sold. Nevertheless, it is Crystal that

⁹ When Shell takes its in-kind share of NGLP's from Crystal, there is no "first sale" of these products because no price is fixed for them per unit. 10 CFR 212.162. Normally, the taker of products in-kind then will sell the products at a fixed price per unit. The taker may sell such products in one sale or may divide the in-kind share and make several "first sales." If the taker of product in-kind consumes the products itself, there will never be a "first sale" under Subpart K. When a firm takes NGLP's in-kind as compensation for "net-back" transfers of NGL's, the taker must compute maximum lawful prices for the NGLP's according to § 212.163(a) if the products are then sold by the taker in arm's-length transfers to unaffiliated entities at a fixed price per unit. Furthermore, the compensation received in such "net-back" transfers will not constitute a basis upon which "first sale" prices may be increased. 10 CFR 212.163(b). It should be noted that taking an in-kind share also does not fulfill the requirements of a "net-back" sale. Rather, these transfers are subject to Subpart K, but are not classified as "first sales" or "net-back sales." 10 CFR 212.161(a); *CF Sun Gas Company*, Interpretation 1978-37, 43 FR 29543 (July 10, 1978).

¹⁰ Cities Service takes an in-kind share of the NGLP's fractionated at the Lake Charles plant pursuant to its contractual arrangement with Crystal. The taking of this in-kind share by Cities Service is not a first sale and represents Cities Service's fee for fractionating products. Because Cities Service is the owner of and has the sole financial interest in its in-kind share, Cities Service is responsible for determining maximum lawful prices in "first sales" of its in-kind share.

bears the sole financial benefits and burdens of price fluctuations associated with the sale of its in-kind share of NGLP's derived from Shell's gas stream. The price regulations are designed to regulate the interest that Crystal alone possesses, and therefore Crystal is responsible for determining maximum lawful prices for these products.

Both Shell and Phillips elect to receive an in-kind share of the NGLP's as compensation for the "net-back sales" of NGL's. Phillips also acquires the remaining NGLP's derived from its gas stream according to the bidding procedures set forth in its contract with Crystal. Although all NGLP's derived from Phillips' gas stream are transferred to Phillips at the outlet of the Lake Charles plant, all of those volumes are not accounted for in an identical manner. Some of the NGLP's taken by Phillips represent its in-kind share (— percent) of NGLP's derived from Phillips' gas stream. For the reasons set forth in the preceding discussion relating to NGLP's derived from Shell's gas stream, Phillips, as a "refiner," is the owner of the NGLP's representing its in-kind share and must determine maximum lawful prices for any sales of the products at a fixed price per unit to unaffiliated entities. The remaining NGLP's (— percent) derived from Phillips' gas stream which represent Crystal's compensation for processing services are transferred in "first sales" from Crystal as owner and seller to Phillips as purchaser, because a price per unit is fixed by the bidding procedures specified in the contract between Crystal and Phillips. § 212.162. Since Crystal is the owner and seller of these NGLP's and the sole recipient of the proceeds from their sale, Crystal must determine maximum lawful prices.

Accordingly, Crystal is the "refiner" which generally must compute maximum lawful prices in "first sales" at the outlet of the Lake Charles fractionation plant. Crystal is not the seller with respect to all products which have been transferred to Shell as Shell's in-kind share of the products processed from its gas stream (*i.e.*, — percent of the NGLP's derived from Shell's gas stream). Furthermore, Crystal is not the "refiner" and seller with respect to the — percent of the products derived from Phillips' gas which represents Phillips' in-kind share.

II. Crystal's Arguments

In its Request for Interpretation, Crystal maintains that it is not the seller of any of the NGLP's that it and Cities Services process at the Kings Bayou and Lake Charles plants pursuant to the

agreements between Crystal and Phillips, Shell, Kerr-McGee, and Cities Services because under these agreements Crystal receives only a processing fee in cash as a gas processor. Request, pp. 13-17. Although Crystal concedes that it is "in form" the owner and seller of some of these NGLP's (Request, pp. 9, 19-22), under Crystal's view, the appropriate "refiner," *i.e.*, Phillips or Shell, is "in substance" the seller of all NGLP's derived from its gas stream at these plants pursuant to these agreements, because Phillips and Shell entered into processing agreements whereby they retained ownership in some of the products. Crystal contends that Phillips' and Shell's ownership interests in a specified percentage of the products processed by Crystal constitute processing agreements for the purposes of the allocation and price regulations. 10 CFR 211.62. In support of this contention, Crystal refers to the definition of "refiner," set forth at 10 CFR 212.31, which includes "the owner of covered products which contracts to have those covered products refined and then sells the refined covered products to resellers, retailers, reseller-retailers or ultimate consumers." Crystal argues furthermore that the parties to these agreements have treated Crystal as providing a processing service for a fee, and not as the seller of any NGLP's pursuant to them. Request, pp. 17-18. This argument is strongly disputed by Phillips and Kerr-McGee in their comments.

Contrary to Crystal's assertions, the definition of "refiner" contained in § 212.31 is not interpreted with reference to the definition of "processing agreement" in § 211.62. The definition of "processing agreement" is an important element in the crude oil allocation ("entitlements" and "buy-sell") programs, but is wholly absent from and not applicable to the refiner price regulations. As part of the crude oil allocation program, those terms operate to reflect more accurately the bases for equalizing refinery use and the cost of crude oil. The issues presented here concern the proper costing and pricing of NGL's and NGLP's and, therefore, the price regulations in Subpart K apply to these transfers. § 212.161(a). Subpart K provides no mechanism analogous to § 211.62 which recognizes processing agreements in the manner suggested by Crystal.

Crystal's assertions must be considered in light of the definition of "refiner" set forth in § 212.31 rather than with reference to the allocation regulations. The refiner with respect to

the NGLP's in question in this case is the firm that owns the NGLP's and sells them for a fixed price per unit to an unaffiliated entity. See §§ 212.162 and 212.163. Crystal maintains that while it is the owner and operator of the Kings Bayou gas plant, for purposes of the price regulations it is not the owner and seller of any NGLP's sold under the processing agreements because the Phillips Agreement effectively precludes Crystal's control over the disposition of any of those products. According to Crystal, its compensation is simply a fee for services rendered, which does not imply any ownership rights under the regulations in the plant products. Crystal attempts to rationalize its possession of title to the NGLP's sold under these agreements as simply representing its possession of the risk of loss for the NGLP's, arguing that "in substance" it does not own and sell NGLP's pursuant to these agreements. Request, pp. 9, 20-22.

Crystal relies on an Interpretation of the refiner price regulations that was issued to the Wanda Petroleum Company in support of its contention that it is not the seller under the regulations of any NGLP's processed at the Kings Bayou and Lake Charles plants.¹⁰ *Wanda Petroleum Co.*, Interpretation 1976-2, 42 FR 7925 (February 8, 1977). Wanda was

¹⁰ Crystal also cites in support of its position an appeal of an exception decision, *Marvin E. Boyer Oil Co.*, 4 FEA ¶90.506 (July 23, 1978), *aff'd*, 3 FEA ¶83.068 (January 30, 1976). Apparently, Crystal refers to this decision to support the proposition that a "first sale" of NGL's or NGLP's is made at the time of the first transfer for value. However, the definition of a "first sale" of crude oil is different from that of a "first sale" of NGL's or NGLP's. Compare § 212.72 with § 212.162. A "first sale" under Subpart K is the first transfer for value at a fixed price per unit to an unaffiliated entity. Thus, as discussed previously, the transfers of NGL's by the producers to Crystal at the inlet side of the Kings Bayou plant are not "first sales" as defined in § 212.162. In the *Boyer* case, the firm argued that there were no "first sales" of crude oil when it purchased crude oil from stripper well leases, but rather "first sales" of crude oil were made when the firm sold the crude oil after transporting it. The decision concluded that "first sales" of crude oil were made when the crude oil was acquired from the leases, because those transfers were the first transfers for value. Instead of this decision supporting Crystal's contention, it suggests that Crystal is the seller under the price regulations of the NGLP's representing Crystal's in-kind shares. Boyer maintained that it primarily transported the crude oil to a pipeline and merely facilitated the sale of crude oil from purchasers to the pipeline. Therefore, according to the firm, it should not be classified as a "reseller." The FEA regarded that contention as without merit, stating that the firm took title to the crude oil and had the financial responsibility for any loss. 4 FEA at 80.519. This decision supports the view that even if the transfer of covered products is considered as simply compensation for services rendered, Crystal must calculate maximum lawful prices in sales of the NGLP's to which it has title and for which it bears the financial risk of price fluctuations.

considering leasing a gas plant to unrelated business concerns for a specified term at a fixed dollar sum, with Wanda continuing to operate the plant. The FEA concluded that Wanda, by virtue of these proposed arrangements, would not be deemed a "refiner".

[I]t is FEA's interpretation that since the lessee, under the proposal, would be the owner of a natural gas liquid stream (the "raw mix") and would contract with Wanda to operate the plant in which that stream would be refined, and since the lessee would then sell the refined natural gas liquid products (propane, butane, and natural gasoline) to resellers, retailers, reseller-retailers, and ultimate consumers, the lessee would properly be considered a "refiner" for purposes of § 212.31 of the FEA price rules by virtue of these activities.

Since Wanda would transfer unencumbered title in the "raw mix" to the lessee under the proposal and *since Wanda would not retain any interest in this mix or the products derived therefrom*, although it might in a subsequent and unrelated arms-length transaction purchase processed products for purposes of resale, Wanda would properly be considered either a "reseller," "reseller-retailer," or "retailer" for purposes of § 212.31 of the FEA price rules, notwithstanding the fact that it operated a plant which refined the "raw material" on the lessee's behalf, on a fee basis.

Id. at 7926 (emphasis added). Because Wanda received a fixed dollar sum, Wanda retained no interest in the "raw mix" or the products. In this case, however, the processing "fee" that Crystal claims it receives under these contractual agreements is not independent of product prices, but is measured solely by product prices. Furthermore, when Phillips and Shell elect to take products in-kind, Crystal is the sole recipient of the proceeds from the "first sale" of the products not taken in-kind. Since Crystal has a financial interest in the proceeds from the sales of NGLP's at the Kings Bayou and Lake Charles plant, Crystal is not merely performing a service at a price not regulated by the DOE, but is the seller of the NGLP's not taken in-kind by Phillips, Shell and Cities Services.

Crystal further argues that it does not own those products under a "right-of-control" test, and, therefore, it is not the seller of these NGLP's under the price regulations and need not determine maximum lawful prices when the NGLP's are sold. Request, pp. 14-17. The firm argues that its contractual arrangements prevent it from controlling

any of the products derived from these gas streams. According to Crystal, the contracts operate so that Crystal receives only a processing fee in cash, although Crystal would prefer to take the products in-kind. To support the firm's position, Crystal refers to a number of decisions construing various statutes and the Mandatory Petroleum Allocation Regulations. *E.G., Crystal Oil Company*, 3 FEA ¶ 80,514 (December 1, 1975). Crystal also argues that Louisiana law supports its requested interpretation. Request, pp. 18-20.

These arguments and decisions are irrelevant to the question of the character of ownership that is required for a sale under the price regulations and do not alter the conclusion that Crystal is the owner and seller of the NGLP's transferred for a fixed price per unit at the outlet of the Lake Charles plant to Phillips or other firms except sales of in-kind shares by Phillips, Shell, and Cities Services. The assertion that Crystal does not possess the full bundle of ownership rights for these NGLP's even if true, does not mean that under the price regulations Crystal is not the owner and seller of these NGLP's with the responsibility to determine their maximum lawful prices, especially when Crystal is the sole recipient of the sale proceeds. Crystal solicits bids to

determine the market value of the NGLP's and Crystal fully bears the financial risk of market price fluctuations, *i.e.*, the price a willing buyer will pay for the NGLP's. Crystal gains or loses if maximum lawful prices are improperly calculated and, therefore, it is Crystal that must make and bear the responsibility for such determinations under the regulations.

Moreover, at the outlet of the Lake Charles plant, Phillips is the purchaser of the NGLP's (other than its in-kind share) at a fixed price per unit, not the seller of the products. Phillips need not purchase (and at times in the past has chosen not to purchase) the percent of NGLP's processed from its gas stream which it had an option to purchase from Crystal. If Phillips elects not to purchase these products, then under Crystal's "right of control" theory maximum lawful prices of the products for sale could not be determined until a satisfactory purchaser (and seller) had been procured—which is neither a plausible nor an intended result of the Subpart K price rules.

Issued in Washington, D.C., on June 19, 1979.

Everard A. Marseglia, Jr.,
Assistant General Counsel for Interpretations
and Rulings.

APPENDIX B.—Cases Dismissed

File No.	Requestor	Category	Date dismissed
A-372	Arnold Wilson	Price	June 15.
A-358	National Distillers and Chemical Corp.	Price	June 15.

[FR Doc. 79-23421 Filed 7-27-79; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79-CE-13-AD; Amendment 39-3520]

Beech Models 65, L-23F, U-8F, 65-80, 65-A80, 65-A80-8800 and 65-90 Airplanes; Airworthiness Directive

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Beech Models 65, L-23F, U-8F, 65-80, 65-A80, 65-A80-8800 and 65-90 airplanes. The AD requires a one-time dye penetrant inspection of the outboard wing to center section lower forward attachment fittings for fatigue cracks. This action is necessary to detect and correct fatigue cracks which may exist and can impair the ability of the wing attachment fittings to carry design loads.

EFFECTIVE DATE: August 6, 1979.

COMPLIANCE SCHEDULE: As prescribed in the body of the AD.

ADDRESSES: Class I Beechcraft Service Instructions No. 0394-018 and 0393-018 Revision 1, applicable to this AD, may

be obtained from local Beechcraft Aviation and Aero Centers or Beech Aircraft Corporation, Commercial Service Department, 9709 East Central, Wichita, Kansas 67201. Copies of these service instructions are contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106 and Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: William L. (Bud) Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 374-3446.

SUPPLEMENTARY INFORMATION: Airworthiness Directives 70-25-01 (Amendment 39-1120 as amended by 39-1331) and 70-25-04 (Amendment 39-1121 as amended by Amendment 39-1332) currently include requirements for repetitive visual and dye penetrant inspections of the outboard wing to center section lower forward attachment fittings for fatigue cracks on certain airplanes that are affected by this AD.

Subsequent to the issuance of the two previously noted AD's, the right outboard lower forward wing to center section fitting (Beech Part Number 50-110057-1) failed, in-flight, on a Beech Model 65-90 airplane. The airplane was used primarily in low altitude (Below 2500 feet altitude) operations and the failure occurred at approximately 5,425 hours time-in-service. Inspection of the fitting shows that failure resulted from a corrosion fatigue crack. This occurrence indicates that AD's 70-25-01 and 70-25-04 need to be reassessed to determine that they are sufficient to assure the continued structural integrity of right and left lower forward inboard and outboard wing to center section attachment fittings. Cracks in these fittings can result in in-flight separation of the wing if the cracks are not detected prior to reaching critical lengths and new components installed. Accordingly, since the condition described herein is likely to exist or develop on other airplanes of the same type design, the FAA is issuing an AD applicable to Beech Model 65, L-23F, U-8F, 65-80, 65-A80, 65-A80-8800 and 65-90 airplanes which have Part Number 50-110057 and 50-110057-1 outboard wing attachment fittings installed. It requires (1) a one-time special inspection of the right and left lower forward inboard and outboard wing to center section attach fittings for cracks in accordance with instructions in Class I Beechcraft Service Instructions No. 0393-018 Revision I and

0394-018, and (2) the submittal of a report showing results of the special one-time inspection and certain information pertaining to the type of operations in which the airplane is being utilized.

Since a situation exists that requires the expeditious adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Beech

Applies to Models 65 (Military Models L-23F or U-8F) (Serial Numbers L-1 through L-6, LC-1 through LC-180 and LF-7 through LF-76), 65-80 (Serial Numbers LD-1 through LD-33, LD-35 through LD-45 and LD-47 through LD-150), 65-A80 and 65-A80-8800 (Serial Numbers LD-34, LD-48 and LD-151 through LD-244) and 65-90 (Serial Numbers LJ-1 through LJ-87) airplanes certificated in all categories.

Compliance

Required as indicated unless already accomplished. To detect fatigue cracks that may exist in certain critical components of the wing structure, accomplish the following:

A) On or before September 7, 1979, except in no event is this one-time inspection required sooner than 30 days after the last inspection in accordance with AD 70-25-01 or 70-25-04, whichever is applicable, inspect right and left lower forward inboard and outboard wing to center section attach fittings (2 on left side and 2 on right side of the airplane) for cracks using dye penetrant procedures in accordance with the wing attachment fittings inspection instructions in Class I Beechcraft Service Instructions No. 0393-018 Revision I (Models 65, L-23F, U-8F, 65-80, 65-A80 and 65-A80-8800) or No. 0394-018 (Model 65-90), whichever is applicable.

Note.—While inspecting the fittings with the wing attachment bolt removed, special attention should be directed towards inspection of the entire counterbore area in the recess of each fitting.

B) Accomplish the dye penetrant inspections required by Paragraph "A" of this AD (1) using only those materials specified in Table I of this AD and, (2) in accordance with application and developing instructions provided by the manufacturer of the material except that the penetrant must remain on the surface for a minimum of 30 minutes before excess penetrant is removed and developer is applied.

Table I

Manufacturer	Penetrant	Remover	Developer
Ardox, Ltd.	Ardox 906	Ardox 9PR 551	Ardox 9D6
Magnaflux Corp.	SKL-HF SKL-SF Formula B Spot Chek.	SKC-S Spot Chk.	SKD-S Spot Chk.
Mel-L-Chek Co.	VP-31	E-59	D-70
Sherwin, Inc.	Dubi-Chek DP-40	Dubi-Chek DP-60	Dubi-Chek D-100
Testing Systems, Inc.	Flaw Finder DD60B	Flaw Finder SD60B	Flaw Finder AD70B
Tokushu Teryo Co.	PT (Visible)	RT	OT
Turco Products	Dy-Chek #2	Dy-Chek #3	Dy-Chek NAD
Uresco, Inc.	P-300A	K-410E	D-495

C) Within 48 hours after completion of the inspection required by Paragraph "A" of this AD, complete the reporting form included with this AD as Figure 1 and mail it to the address shown thereon. (Reporting approved by the Office of Management and Budget under OMB No. 04-R0174.)

Reporting Form

Airplane Model Number _____
Airplane Serial Number _____
Date of inspection required by this AD _____
Results of inspection, *i.e.*, findings _____
Airframe total hours time-in-service _____
Total hours time-in-service on fittings inspected: _____
Left outboard _____
Right outboard _____
Left inboard _____
Right inboard _____
Airplane usage: (Check those for which airplane has been used, if known)
1. General service _____

2. Executive Transport _____
3. Air Taxi service _____
4. Tours of gusty areas _____
5. Calibration or patrolling of items on ground or water _____
6. Weather studies _____
Show approximate percentages (%) of airframe total hours time-in-service, if known, for the following:

1. % of flight time accumulated below 10,000 feet MSL _____
2. % of flight time accumulated above 10,000 feet MSL _____
3. Approximate indicated airspeed: Above 10,000 feet MSL _____ Below 10,000 feet MSL _____
4. Approximate number of flight hours per landing _____
Name and telephone number of person who can supply more information about usage of the airplane _____, phone number _____

Figure 1

Federal Aviation Administration, Wichita Engineering and Manufacturing District Office, Attention: Airframe Unit, Room 238, Terminal Building, Mid-Continent Airport, Wichita, Kansas 67209.

D) If fatigue cracks are found during the inspection required by Paragraph "A" of this AD, prior to further flight, replace specified wing and center section components with new production parts in accordance with instructions in Beechcraft Service Instructions No. 0393-018 Revision I (Models 65, L-23F, U-8F, 65-80, 65-A80 and 65-A80-8800) or 0394-018 (Models 65-90) whichever is applicable. If stress corrosion cracks are found during the inspection required by Paragraph "A" of this AD, prior to further flight, replace right and left lower forward outboard wing to center section attach fittings (2 right side and 2 left side) with new fittings in accordance with the above noted Beechcraft Service Instructions.

E) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD can be accomplished.

F) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This Amendment becomes effective August 6, 1979.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and Sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89).)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri on July 19, 1979.

C. R. Melugin, Jr.,
Director, Central Region.

[FR Doc. 79-23314 Filed 7-27-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 69-SO-129, Amdt. 39-3521]

Piper Aircraft Corp., Models PA-28-140, PA-28-150/-160/-180, PA-28-235, PA-32-260, PA-32-300; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) applicable to Piper Aircraft Corporation Models PA-28-140, PA-28-150/-160/-180, PA-28-235, PA-32-260, and PA-32-300 aircraft, by increasing the serial number effectivity of the original AD, and by providing an alternative means of compliance which will terminate the repetitive inspections required by the original AD. This amendment is needed because the FAA has determined that aircraft in addition to those originally listed in the AD may be affected by the same problem. The amendment also allows replacement of the suspect part with a new design part, which eliminates the repetitive inspection requirement imposed by the original AD.

DATES: Effective July 30, 1979. Compliance schedule—As prescribed in body of AD.

ADDRESSES: The applicable Piper Service Letter may be obtained from Piper Aircraft Corporation, Lock Haven Division, Lock Haven, Pennsylvania 17745, telephone (717) 748-6711.

A copy of the Piper Service Letter is contained in the Rules Docket Room 275, Engineering and Manufacturing Branch, Federal Aviation Administration, 3400 Whipple Street, East Point, Georgia.

FOR FURTHER INFORMATION CONTACT: Steve Flanagan, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7407.

SUPPLEMENTARY INFORMATION: This amendment further amends amendment 39-865, AD 69-22-02, as amended by amendment 39-1288, which currently requires a 100 hour repetitive inspection of molded plastic control wheels on certain PA-28 and PA-32 series aircraft. After issuing amendment 39-1288, the FAA has determined that the inspection requirements of the AD should be extended to additional aircraft in the PA-28-140 model series. Also, the manufacturer has developed a replacement metal control wheel, which is subject to more rigorous quality control inspection procedures, and when installed, justifies termination of the repetitive inspection requirements of AD 69-22-02. Therefore, the FAA is further amending amendment 39-865, as amended, by increasing the serial number effectivity of AD 69-22-02, and by allowing replacement of the plastic control wheels with metal control wheels to serve as an alternate means of compliance with AD 69-22-02, which would eliminate the repetitive

inspections currently required by the AD.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making the amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by further amending Amendment 39-865, AD 69-22-02 (as amended by Amendment 39-1288), as follows:

a. By revising the serial number effectivity to read as follows:

The following are affected serial numbers: PA-28-140, 28-20001 through 28-7725290 inclusive; PA-28-150/-160/-180, 28-1 through 28-4377 inclusive; PA-28-235, 28-10001 through 28-11039 inclusive; PA-32-260, 32-1 through 32-1110 inclusive; and PA-32-300, 32-40001 through 32-40565 inclusive.

b. By revising paragraph (e) to read as follows:

(e) The repetitive inspection requirements of this AD may be terminated by replacing the plastic control wheel(s) with metal ramshorn type control wheel Piper part number 78729-02V (.750" o.d. shaft) or 79276-00V (1.125" o.d. shaft) as applicable. Replacement of one control wheel (i.e., left or right) does not terminate the requirement for continuing repetitive inspections of the other control wheel, if that other control wheel is the molded plastic type.

c. By adding a new paragraph (f) to read as follows:

(f) Piper Service Letter No. 527D, dated June 21, 1978, or later approved revisions, pertains to this same subject.

d. By adding a new paragraph (g) to read as follows:

(g) Make appropriate logbook entry indicating compliance with the provisions of this AD.

Amendment 39-865 became effective November 4, 1969. Amendment 39-1288 became effective September 15, 1971. This amendment becomes effective July 30, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.89).)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in East Point, Georgia, on July 19, 1979.

Lonnie D. Parrish,
Acting Director, Southern Region.

[FR Doc. 79-23316 Filed 7-27-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 19378; Amdt. 39-3522]

Airworthiness Directives; Short Brothers Ltd. Model SD3-30 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts an Airworthiness Directive (AD) that requires an inspection of the area between wing drag link attachment longerons and spar frames to ensure adequacy of packing and shimming material and inspection of attachment fittings for deformation and as necessary, repacking and reshimming, and replacement of attachment fittings on certain Short Brothers Ltd. Model SD3-30 airplanes. This AD is needed to prevent fatigue of the associated structure which could occur if the condition is present in service beyond 10,000 flights, which could result in failure of the wing structure.

DATES: Effective—August 13, 1979. Compliance—As prescribed in body of AD.

The applicable service bulletin may be obtained from: Manager-Spares Support, Production Support Department, Short Brothers Ltd., P.O. Box 241—Airport Road, Belfast BT3 9DZ, Northern Ireland.

A copy of the service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue, SW, Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone 513.38.30, or C. Christie, Chief, Technical Standards Branch, AFS-110, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, D.C. 20591, Telephone: (202) 426-8374.

SUPPLEMENTARY INFORMATION: The FAA has determined that structural failure of the wing could occur on early production Short Brothers Ltd. Model SD3-30 airplanes if left in service beyond 10,000 flights.

A condition exists where insufficient packing or shimming material was fitted between wing drag link attachment longerons and spar frames. The condition was discovered and reported by the manufacturer. It may have resulted in deformation of the flange of the attachment fittings. Since this condition is likely to exist on other airplanes of the same type design, an airworthiness directive is being issued which requires a one-time inspection and as necessary, repacking and reshimming, and replacement of attachment fittings on certain Short Brothers Ltd. Model SD3-30 airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Short Brothers Ltd.

Applies to Model SD3-30 airplanes, Serial Numbers SH.3001 through SH.3013, certificated in all categories.

Compliance is required prior to the accumulation of 10,000 flights, or within the next 100 flights after the effective date of this AD, whichever occurs later, unless already accomplished.

To prevent fatigue of the affected components and possible structural failure of the wing, accomplish the following:

(a) Inspect to determine the adequacy of packing and shimming material between wing drag link attachment longerons and spar frames on the left and right sides of the airplane, and inspect the flange of Cleats SD3 11-0479/A and SD3 11-0480/A and Brackets SD3 11-1119, SD3 11-1121, and SD3 11-1123 for deformation due to the tightening of the bolts with inadequate packing or shimming under the flange, all in accordance with Section 2, "Accomplishment Instructions" of Short Brothers, Ltd. Service Bulletin SD3-53-29, dated June 21, 1978 (hereinafter referred to as the Service Bulletin) or an FAA-approved equivalent.

Note.—As used in the Service Bulletin the term "packing" means thick shimming. In British usage, shim stock is measured in thousandths and packing stock is measured in sixteenths.

(b) If, during the inspection required by paragraph (a) of this AD, inadequate packing or shimming material is found, repack and reshim, as necessary, in accordance with Section 2 of the Service Bulletin or an FAA-approved equivalent.

(c) If, during the inspection required by paragraph (a) of this AD, it is found that the

flange of a part specified in paragraph (a) of this AD is deformed due to the tightening of the bolts with inadequate packing under the flange, replace the part with a new part of the same part number and ensure that the packing and shimming material between wing drag link attachment longerons and spar frames is adequate, all in accordance with Section 2 of the Service Bulletin or an FAA-approved equivalent.

(d) For purposes of this AD, an FAA-approved equivalent must be approved by the Chief, Aircraft Certification Staff, AEU-100, FAA, Europe, Africa, and Middle East Region, c/o American Embassy, Brussels, Belgium, Telephone 513.38.30.

(e) For purposes of this AD, a flight consists of one take-off and one landing.

This Amendment becomes effective August 13, 1979. (Sec. 313(a), 601, and 603, Federal Aviation Act of 1958), as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.89).

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 CFR 11034; February 26, 1979). Issued in Washington, D.C., on July 20, 1979.

James M. Vines,

Acting Director, Flight Standards Service.

[FR Doc. 79-23127 Filed 7-27-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-GL-4-AD; Amdt. 39-3519]

Airworthiness Directives; Indiana Mills and Manufacturing, Inc.; IMM 111040-1, IMM 111040-2, IMM 111040-3, IMM 111040-4 and IMM 111040-8

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice adopts an airworthiness directive (AD) that requires the removal from service within the next 120 days of the following safety belt assemblies manufactured by Indiana Mills and Manufacturing, Inc. and marked as meeting the standards of FAA TSO-C22f:

IMM 111040-1 Shoulder and Lap Belt Assembly (only Lap Belt Assembly TSO approved).

IMM 111040-2 Front Passenger Harness Assembly (only Lap Belt Assembly TSO approved).

IMM 111040-3 Rear Passenger Harness Assembly (only Lap Belt Assembly TSO approved).

IMM 111040-4 Shoulder and Lap Belt Assembly (only Lap Belt Assembly TSO approved).

IMM 111040-8 Lap Belt Assembly.

The AD is needed since it was determined that the criteria of TSO-C22f and previously accepted deviation criteria for push-button release mechanisms are not met by these safety belt assemblies. The high release forces required to release the latch mechanism under certain conditions are considered unsatisfactory.

DATES: Effective August 2, 1979.

Compliance required within the next 120 days after the effective date of this AD, unless already accomplished.

FOR FURTHER INFORMATION CONTACT: Terry Fahr, Engineering and Manufacturing Branch, Flight Standards Division, AGL-212, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-4500, extension 424.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive requiring that certain models of Indiana Mills and Manufacturing, Inc. safety belt assemblies be removed from service was published in the *Federal Register*. The proposal was prompted by reports of higher than acceptable push-button release loads for these safety belt assemblies.

Interested persons have been afforded an opportunity to participate in the making of the amendment. The only commenter recommended that the AD should not be issued since (1) service history for these belts has not shown a problem with release forces and (2) the criteria used to evaluate this type of safety belt release mechanism is unrealistic.

The fact that service history has not shown a problem to this date with the release mechanism is in itself not sufficient grounds to conclude that the high push-button release force is not a potential hazard to expeditious emergency exit. The service exposure so far may not have included the situation envisioned by the push-button release criteria.

The push-button release force criteria has been specifically reviewed by the FAA since this problem arose. The present criteria has been accepted as a deviation to TSO-C22 for qualifying push-button release mechanisms. Since further acceptable deviation criteria based on sufficient data to be representative of the potential user environment has not been put forth, the present criteria is the only standard for push-button safety belt release mechanisms available. Alternate criteria

have not been ruled out, however, and will be evaluated when and if presented.

The FAA has determined that the above identified Indiana Mills and Manufacturing, Inc. safety belt assemblies do not meet the requirements of TSO-C22f or present acceptable deviation criteria for push-button release mechanisms. This latter criteria requires that the release force under a 250 pound load be no greater than 8 pounds on the push-button and under no conditions should the release force be less than 2.5 pounds on the push-button. Since this condition exists in the other safety belts of the noted models, this AD requires that these safety belts be removed from service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Indiana Mills and Manufacturing, Inc.

Applies to Model IMM 111040 -1, -2, -3, -4 and -8 safety belt assemblies marked as meeting the standards of FAA TSO-C22f. These safety belts are installed in, but not limited to, Gulfstream American Corp. (formerly Grumman American Aviation Corp.) AA-1B, AA-1C, AA-5, AA-5A, AA-5B model airplanes.

These safety belts can no longer be considered to meet the standards prescribed by FAA TSO-C22f and the approved special criteria for push-button release mechanisms which requires the push-button release force to be between 2.5 and 8 pounds when using the loading conditions specified in FAA TSO-C22f (§ 4.3.2.2 of NAS 802).

Within 120 days from the effective date of the AD, these safety belts shall not be used in type certificated aircraft.

Note.—Information regarding replacement safety belts for Gulfstream American airplanes can be obtained from: Gulfstream Light Aircraft Customer Service, P.O. Box 2206, Savannah, Georgia 31410, Telephone (912) 964-3000, Telex 54-6470.

This amendment becomes effective August 2, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A

copy of it may be obtained by writing to Terry Fahr, Engineering and Manufacturing Branch, Flight Standards Division, AGL-212, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-4500, extension 424.

Issued in Des Plaines, Illinois on July 19, 1979.

Wayne J. Barlow,

Acting Director, Great Lakes Region.

[FR Doc. 79-23129 Filed 7-27-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-WE-14-AD; Amdt. 39-3518]

Varga Aircraft Corp., Model 2150A Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new Airworthiness Directive (AD) which was previously made effective as to known U.S. operators of Varga Aircraft Corporation Model 2150A airplanes by priority mail dated June 27, 1979. This AD was issued because failures of the elevator horn flange assembly will result in loss of elevator control and possible flutter. This AD requires, before further flight and before each subsequent flight, a close visual check for cracks in the horn flange, and also requires replacement with a modified horn assembly within ten (10) hours additional time in service.

DATES: Effective August 2, 1979, except with respect to certain persons specified in the body of the AD.

Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: Varga Aircraft Corporation, 12250 East Queen Creek Road, Chandler, Arizona 85224.

Also, a copy of the service information may be reviewed at, or a copy obtained from: Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591, or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Wallace M. Frei, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: An emergency Airworthiness Directive (AD) was adopted on June 26, 1979 and made effective immediately upon receipt of the airmail letter dated June 27, 1979 to all known U.S. operators of Varga Aircraft Corporation Model 2150A airplane because of failures of the elevator horn flange assembly. This condition has caused the loss of elevator control. The AD required a visual check before further flight and replacement of horn assembly if cracks are found, and within 10 hours additional time in service from date of notification to replace horn assembly with a modified assembly.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the AD effective immediately as to all known operators of Varga Aircraft Corporation Model 2150A airplane. These conditions still exist and the AD is hereby published in the Federal Register as an amendment to Part 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

Varga Aircraft Corp.

Applies to Varga Aircraft Corporation Model 2150A airplanes certificated in all categories.

Compliance required as indicated.

To prevent failure of the elevator horn flange assembly, which will result in loss of elevator control capability and possible flutter, accomplish the following:

(a) Before further flight after the effective date of this AD, accomplish the following procedures and checks:

(1) Raise elevator for access to elevator horn.

(2) Remove paint from the elevator horn and flange in the area of the flange radius.

Note 1.—To prevent possible damage to this structure, use a recommended paint remover.

(3) Conduct a close visual check of this flange radius for cracks, and

(4) If any cracks are found, before further flight, accomplish replacement of complete elevator horn/balance arm assembly in accordance with (c) below.

(b) Before each subsequent flight, until (c) below is accomplished, conduct the procedures of close visual checks provided in (a)(1), (a)(2), and (a)(3) above.

If any cracks are found, before further flight, accomplish replacement of complete

elevator horn/balance arm assembly in accordance with (c) below.

The checks required by this AD may be performed by the pilot.

Note 2.—For the requirements regarding the listing of compliance and method of compliance with this AD in the airplane's permanent maintenance record, see FAR 91.173

(c) Within ten (10) hours additional time in service, after the effective date of this AD, unless already accomplished, remove the complete elevator horn/balance arm assembly, P/N VAC 6000J-26, and replace with a modified arm assembly, P/N VAC 6000K-26, in accordance with Varga Service Bulletin No. SB2150A-6, dated June 22, 1979.

(d) Equivalent modifications may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective August 2, 1979 as to all persons except those persons to whom it was made immediately effective by the airmail letter dated June 27, 1979, which contained this amendment.

[Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89]

Issued in Los Angeles, California on July 18, 1979.

Benjamin Demps, Jr.,

Acting Director, FAA Western Region.

[FR Doc. 79-23315 Filed 7-27-79; 8:45 am]

BILLING CODE 4910-13-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Parts 1204, 1216

Policy on Environmental Quality and Control; Procedures for Implementing the National Environmental Policy Act (NEPA)

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This rule sets forth procedures for implementing the provisions of the National Environmental Policy Act (NEPA) in accordance with the latest regulations of the Council on Environmental Quality (CEQ), 43 FR 55978 (1978) (to be codified in 40 CFR 1500 et seq.).

EFFECTIVE DATE: July 30, 1979.

ADDRESS: Mr. Nathaniel B. Cohen, Director, Management Support Office (External Relations), Code LB-4, National Aeronautics and Space Administration, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Nathaniel B. Cohen, 202-755-8383.

SUPPLEMENTARY INFORMATION: On May 9, 1979, NASA published proposed procedures (44 FR 27161-27168) for implementing the provisions of the National Environmental Policy Act (NEPA), 43 FR 55978 (1978) (to be codified in 40 CFR 1500 et seq.). Interested persons were given until June 8, 1979, to submit comments or suggestions. No such comments or suggestions were received.

Six changes were made, however, to improve clarity of certain sections of the proposed regulations and to correct minor errors. In §§ 1216.303(c), 1216.305(b)(3), and 1216.305(d)(3), the sentences have been rewritten to remove unintended ambiguity. In § 1216.305(d)(6), the word "funding" has been added. In § 1216.312(b), consultation with EPA has been substituted for consultation with CEQ on changing time periods in accordance with § 1506.10(d) of the CEQ Regulations. Finally, in § 1216.321(d)(1), the requirement for an EIS if there are significant environmental effects on the global commons has been added.

The proposed regulation is hereby adopted with the above changes and is set forth below.

Robert A. Frosch,
Administrator.

PART 1216—ENVIRONMENTAL QUALITY

1. In 14 CFR Chapter V, Subpart 1204.11 is redesignated as Subparts 1216.1 and 1216.3 and revised to read as follows:

Subpart 1216.1—Policy on Environmental Quality and Control

Sec.
1216.100 Scope.
1216.101 Applicability.
1216.102 Policy.
1216.103 Responsibilities of NASA officials.

Subpart 1216.3—Procedures for Implementing the National Environmental Policy Act (NEPA)

1216.300 Scope.
1216.301 Applicability.
1216.302 Definition of key terms.
1216.303 Responsibilities of NASA officials.

Agency Procedures

1216.304 Major decision points.
1216.305 Criteria for actions requiring environmental assessments.
1216.306 Preparation of environmental assessments.
1216.307 Scoping.
1216.308 Preparation of draft statements.
1216.309 Public involvement.
1216.310 Preparation of final statements.
1216.311 Record of the decision.
1216.312 Timing.

Sec.

1216.313 Implementing and monitoring the decision.
1216.314 Tiering.
1216.315 Processing legislative environmental impact statements.
1216.316 Cooperating with other agencies and individuals.
1216.317 Classified information.
1216.318 Deviations.

Other Requirements

1216.319 Environmental resources document.
1216.320 Environmental review and consultation requirements.
1216.321 Environmental effects abroad of major Federal actions.

Authority. The National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2451 et seq.); the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 et seq.); the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.); Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609); Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977); the Council on Environmental Quality NEPA Regulations (43 FR 55978); and Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, January 4, 1979 (44 FR 1957).

Subpart 1216.1—Policy on Environmental Quality and Control

§ 1216.100 Scope.

This Subpart sets forth NASA policy on environmental quality and control and the responsibilities of NASA officials in carrying out these policies.

§ 1216.101 Applicability.

This Subpart is applicable to NASA Headquarters and field installations.

§ 1216.102 Policy.

NASA policy is to:

(a) Use all practicable means, consistent with NASA's statutory authority, available resources, and the national policy, to protect and enhance the quality of the environment;

(b) Provide for proper attention to and ensure that environmental amenities and values are given appropriate consideration in all NASA actions, including those performed under contract, grant, lease, or permit;

(c) Recognize the worldwide and long-range character of environmental concerns and, when consistent with the foreign policy of the United States and its own responsibilities, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of the world environment;

(d) Use systematic and timely approaches which will ensure the

integrated use of the natural and social sciences and environmental design arts in planning and decisionmaking for actions which may have an impact on the human environment;

(e) Pursue research and development, within the scope of NASA's authority or in response to authorized agencies, for application of technologies useful in the protection and enhancement of environmental quality;

(f) Initiate and utilize ecological and other environmental information in the planning and development of resource-oriented projects; and

(g) Invite cooperation, where appropriate, from Federal, State, local, and regional authorities and the public in NASA planning and decisionmaking processes.

§ 1216.103 Responsibilities of NASA officials.

(a) The Associate Administrator for External Relations or designee shall:

(1) Coordinate the formulation and revision of NASA policies and positions on matters pertaining to environmental protection and enhancement;

(2) Represent NASA in working with other governmental agencies and interagency organizations to formulate, revise, and achieve uniform understanding and application of governmentwide policies relating to the environment;

(3) Develop and ensure the implementation of agencywide standards, procedures, and working relationships for protection and enhancement of environmental quality and compliance with applicable laws and regulations;

(4) Develop, as an integral part of NASA's basic decision processes, procedures to ensure that environmental factors are properly considered in all proposals and decisions;

(5) Establish and maintain working relationships with the Council on Environmental Quality, Environmental Protection Agency, and other national, state, and local governmental agencies concerned with environmental matters;

(6) Acquire information for and ensure the preparation of appropriate NASA reports on environmental matters.

(b) Officials-in-Charge of Headquarters Offices and NASA Field Installation Directors are responsible for:

(1) Identifying matters under their cognizance which may affect protection and enhancement of environmental quality and for employing the proper procedures to ensure that necessary actions are taken to meet the

requirements of applicable laws and regulations;

(2) Coordinating environmental quality-related activities under their cognizance with the Associate Administrator for External Relations; and

(3) Supporting and assisting the Associate Administrator for External Relations on request.

(c) Officials-in-Charge of Headquarters Offices are additionally responsible for:

(1) Giving high priority, in the pursuit of program objectives, to the identification, analysis, and proposal of research and development which, if conducted by NASA or other agencies, may contribute to the achievement of beneficial environmental objectives; and

(2) In coordination with the Associate Administrator for External Relations, making available to other parties, both governmental and nongovernmental, advice and information useful in protecting and enhancing the quality of the environment.

(d) NASA Field Installation Directors are additionally responsible for:

(1) Implementing the NASA policies, standards and procedures for the protection and enhancement of environmental quality and supplementing them as appropriate in local circumstances;

(2) Specifically assigning responsibilities for environmental activities under the installation's cognizance to appropriate subordinates, while providing for the coordination of all such activities; and

(3) Establishing and maintaining working relationships with national, state, regional and governmental agencies responsible for environmental regulations in localities in which the field installations conduct their activities.

Subpart 1216.3—Procedures for Implementing the National Environmental Policy Act (NEPA)

§ 1216.300 Scope.

This Subpart sets forth NASA procedures implementing the provisions of Section 102(2) of the National Environmental Policy Act (NEPA). The NASA procedures of this Subpart supplement the regulations of the Council on Environmental Quality (43 FR 55978) which establish uniform procedures for implementing those provisions of NEPA.

§ 1216.301 Applicability.

(a) This Subpart is applicable to NASA Headquarters and field installations.

(b) The procedures established by this Subpart apply to all NASA actions which may have an impact on the quality of the environment. These actions may fall within any of the three NASA budget categories: Research and Development (R&D), Construction of Facilities (CofF), and Research and Program Management (R&PM), or, if not involving budget authority or other Congressional approval, may be separate from the categories.

§ 1216.302 Definition of key terms.

The definitions contained within Part 1508, *Terminology and Index*, CEQ Regulations, 43 FR 55978, apply to Subpart 1216.3. Additional definitions, necessary for the purpose of this Subpart, are as follows:

(a) *Budget Line Items*. The individual items in the annual NASA authorization legislation which are used here to classify the range of NASA actions. The three main budget line items are:

(1) *Research and Development (R&D)*. Those activities directed towards attaining the objectives of a specific mission, project, or program. All NASA's aeronautics and space program elements are categorized within the R&D program categories. R&D funds are expended chiefly for contracted research and development and for research grants. Some R&D funds are also expended in support of in-house research (e.g., equipment purchases and other research support, but not civil service salaries).

(2) *Research and Program Management (R&PM)*. Those activities directed towards the general support of the NASA institution charged with the conduct of the aeronautics and space program. R&PM funds are expended for the NASA civil service work force (both for performing in-house R&D and for planning, managing, and supporting contractor and grantee R&D), and for other general supporting functions.

(3) *Construction of Facilities (C of F)*. Those activities directed towards construction of new facilities; repair, rehabilitation, and modification of existing facilities; acquisition of related facility equipment; design of facilities projects; and advance planning related to future facilities needs.

(b) *Construction of Facilities Project*. The consolidation of applicable specific individual types of facility work, including related collateral equipment, which is required to fully reflect all of the needs, generally relating to one

facility, which have been or may be generated by the same set of events or circumstances which are required to be accomplished at one time in order to provide for the planned initial operational use of the facility or a discrete portion thereof. Facility projects are subject to the NASA decision processes of § 1216.304.

(c) *Environmental Analysis*. The analysis of the environmental effects of proposed actions, including alternative proposals. The analyses are carried out from the very earliest of planning studies for the action in question, and are the materials from which the more formal environmental assessments, environmental impact statements, and public record of decisions are made.

(d) *Institutional Action*. An action to establish, change, or terminate an aspect of the NASA institution, defined as the total NASA resource (plant, employees, skills).

(e) *R&D Project*. A discrete research and development activity, with a scheduled beginning and ending, which normally involves one of the following primary purposes:

(1) The design, development, and demonstration of major advanced technology hardware items;

(2) The design, construction, and operation of a new launch vehicle (and associated ground support) during its research and development phase; and

(3) The construction and operation of one or more aeronautics or space vehicles (and necessary ground support) in order to accomplish a scientific or technical objective. R&D projects are each subelements in the NASA R&D budget line item. R&D projects are subject to the decision processes of § 1216.304.

§ 1216.303 Responsibilities of NASA officials.

(a) The Associate Administrator for External Relations or designee, who is responsible for developing the procedures of this Subpart and for ensuring that environmental factors are properly considered in all NASA planning and decisionmaking, shall:

(1) Monitor these processes to ensure that the agency procedures are achieving their purposes;

(2) Advise line management and inform NASA employees of technical and management requirements of environmental analysis, of appropriate expertise available in and out of NASA, and—with the assistance of the NASA General Counsel—of relevant legal developments; and

(3) Consolidate and transmit to the appropriate parties NASA comments on

environmental impact statements and other environmental reports prepared by other agencies.

(b) Officials-in-Charge of Headquarters Offices (hereafter termed "Headquarters officials") are responsible for implementing the procedures established by these regulations for the consideration and documentation of the environmental aspects of the decision processes in their respective areas of responsibility.

(c) The Director, Office of Legislative Affairs, is responsible for ensuring that legislative environmental impact statements accompany NASA legislative proposals or recommendations or reports on proposals for legislation submitted to Congress. The Associate Administrator for External Relations, the Comptroller, and General Counsel will provide guidance as required.

Agency Procedures

§ 1216.304 Major decision points.

The possible environmental effects of a proposed action must be considered, along with technical, economic, and other factors, in the earliest planning. At that stage, the responsible Headquarters official shall begin the necessary steps to comply with all the requirements of Section 102(2) of the National Environmental Policy Act of 1969. Major NASA activities, particularly R&D and facility projects, generally have four distinct phases: The conceptual study phase; the detailed planning/definition phase; the development/construction phase; and the operation phase. (Other NASA activities have fewer, less well-defined phases, but can still be characterized by phases representing general or feasibility study, detailed planning or definition, and implementation.) Environmental documentation shall be linked to major decision points as follows:

(a) Completion of an environmental assessment and the determination as to whether an environmental impact statement is required must be made prior to the decision to proceed from the conceptual study phase to the detailed planning/definition phase of the proposed action. For example, this determination must be concurrent with:

(1) Proposal of an R&D project for detailed planning and project definition;

(2) Proposal of a major Construction of Facilities project for detailed planning and project definition;

(3) Proposal of an institutional action (other than a facility project) for detailed planning and definition; and

(4) Proposal of a plan to define changes in an approved project.

(b) The final environmental impact statement (EIS) should be completed and circulated prior to the decision to proceed from the detailed planning/definition phase to the development/construction (or implementation) phase of the proposed action. For example, the EIS should be completed by, and incorporated with:

(1) Proposal of an R&D project for development/construction;

(2) Proposal of a major Construction of Facilities project for development/construction;

(3) Proposal to undertake a significant institutional action (other than a facility project); and

(4) Proposal to implement a program change.

§ 1216.305 Criteria for actions requiring environmental assessments.

(a) Whether a proposed NASA action within the meaning of the CEQ Regulations (43 FR 55978) requires the preparation of an environmental assessment, an environmental impact statement, both, or neither, will depend upon the scope of the action and the context and intensity of any environmental effects expected to result. A NASA action shall require the preparation of an environmental assessment (§§ 1501.3 and 1508.9 of the CEQ Regulations) provided the action is not one normally requiring an environmental impact statement (paragraph (c)) or it is not categorically excluded from the requirement for an environmental assessment and an environmental impact statement (paragraph (d)).

(b) Specific NASA actions normally requiring an environmental assessment are:

(1) Specific spacecraft development and flight projects in space science.

(2) Specific spacecraft development and flight projects in space and terrestrial applications.

(3) Specific experimental projects in aeronautics and space technology and energy technology applications.

(4) Development and operation of new space transportation systems and advanced development of new space transportation and spacecraft systems.

(5) Reimbursable launches of non-NASA spacecraft or payloads.

(6) Major Construction of Facilities projects.

(7) Actions to alter ongoing operations at a NASA installation which could lead, either directly or indirectly, to natural or physical environmental effects.

(c) NASA actions expected to have a significant effect upon the quality of the human environment shall require an environmental impact statement. For these actions an environmental assessment is not required. Criteria to be used in determining significance are given in § 1508.27 of the CEQ Regulations (43 FR 55978). Specific NASA actions requiring environmental impact statements, all in the R&D budget category, are as follows:

(1) Development and operation of new launch vehicles.

(2) Development and operation of space vehicles likely to release substantial amounts of foreign materials into the earth's atmosphere, or into space.

(3) Development and operation of nuclear systems, including reactors and thermal devices used for propulsion and/or power generation. Excluded are devices with millicurie quantities or less of radioactive materials used as instrument detectors and small radioisotope heaters used for local thermal control, provided they are properly contained and shielded.

(d) NASA actions categorically excluded from the requirements to prepare either an environmental assessment or an EIS (§ 1508.4 of the CEQ Regulations) fit the following criteria: They are each sub-elements of an approved broadbased level-of-effort NASA science and technology program (basic research, applied research, development of technology, ongoing mission operations), facility program, or institutional program; and they are each managed relatively independently of other related sub-elements by means of separate task orders, Research and Technology Operating Plans, etc. Specific NASA actions fitting these criteria and thus categorically excluded from the requirements for environmental assessments and environmental impact statements are:

(1) R&D activities in space science (e.g., Physics and Astronomy Research and Analysis, Planetary Exploration Mission Operations and Data Analysis) other than specific spacecraft development and flight projects.

(2) R&D activities in space and terrestrial applications (e.g., Resource Observations Applied Research and Data Analysis, Technology Utilization) other than specific spacecraft development and flight projects.

(3) R&D activities in aeronautics and space technology and energy technology applications (e.g., Research and Technology Base, Systems Technology Programs) other than experimental projects.

(4) R&D activities in space transportation systems engineering and scientific and technical support operations, routine transportation operations, and advanced studies.

(5) R&D activities in space tracking and data systems.

(6) Facility planning and design (funding).

(7) Minor construction of new facilities including rehabilitation, modification, and repair.

(8) Continuing operations of a NASA installation at a level of effort, or altered operations, provided the alterations induce only social and/or economic effects but no natural or physical environmental effects.

(e) Even though an action may be categorically excluded from the need for a formal environmental assessment or environmental impact statement, it is not excluded from the requirement for an environmental analysis conducted during the earliest planning phases. If that analysis shows that the action deviates from the criteria for exclusion and it is concluded that there may be significant environmental effects, an environmental assessment must be carried out. Based upon that assessment, a determination must then be made whether or not to prepare an environmental impact statement.

§ 1216.306 Preparation of environmental assessments.

(a) For each NASA action meeting the criteria of § 1216.305(b), and for other actions as required, the responsible Headquarters official shall prepare an environmental assessment (§§ 1501.3 and 1508.9 of the CEQ Regulations) and, on the basis of that assessment, determine if an EIS is required.

(b) If the determination is that no environmental impact statement is required, the Headquarters official shall, in coordination with the Associate Administrator for External Relations, prepare a "Finding of No Significant Impact." (See § 1508.13 of the CEQ Regulations.) The "Finding of No Significant Impact" shall be made available to the affected public through direct distribution and publication in the Federal Register.

(c) If the determination is that an environmental impact statement is required, the Headquarters official shall proceed with the "notice of intent to prepare an EIS" (see § 1508.22 of the CEQ Regulations). The Headquarters official shall transmit this notice to the Associate Administrator for External Relations for review and subsequent publication in the Federal Register (see section 1507.3(e) of the CEQ

Regulations). The Headquarters official shall then apply procedures set forth in § 1216.307 to determine the scope of the EIS and proceed to prepare and release the environmental statement in accordance with the CEQ Regulations and the procedures of this Subpart.

(d) Environmental assessments may be prepared for any actions, even those which meet the criteria for environmental impact statements (§ 1216.305(c)) or for categorical exclusion (§ 1216.305(d)), if the responsible Headquarters official believes that the action may be an exception or that an assessment will assist in planning or decisionmaking.

§ 1216.307 Scoping.

The responsible Headquarters official shall conduct an early and open process for determining the scope of issues to be addressed in environmental impact statements and for identifying the significant issues related to a proposed action. The elements of the scoping process are defined in § 1501.7 of the CEQ Regulations and the process must include considerations of the range of actions, alternatives, and impacts discussed in § 1508.25 of the CEQ Regulations. The range of environmental categories to be considered in the scoping process shall include, but not be limited to:

- (a) Air quality;
- (b) Water quality;
- (c) Waste generation, treatment, transportation disposal and storage;
- (d) Noise, sonic boom, and vibration;
- (e) Toxic substances;
- (f) Biotic resources;
- (g) Radioactive materials and non-ionizing radiation;
- (h) Endangered species;
- (i) Historical, archeological, and recreational factors;
- (j) Wetlands and floodplains; and
- (k) Economic, population and employment factors, provided they are interrelated with natural or physical environmental factors.

§ 1216.308 Preparation of draft statements.

(a) The responsible Headquarters official shall prepare the draft environmental impact statement in the manner provided in Part 1502 of the CEQ Regulations and shall submit the draft statement and any attachments to the Associate Administrator for External Relations for NASA review prior to any formal review outside NASA. This submission shall be accompanied by a list of Federal, state, and local officials (Part 1503 of the CEQ Regulations) and a list of other

interested parties (§ 1506.8 of the CEQ Regulations) from whom comments should be requested.

(b) After the NASA review is completed, the Associate Administrator for External Relations shall submit the approved draft statement to the Environmental Protection Agency (EPA), Office of Federal Activities, and shall seek the views of appropriate agencies and individuals in accordance with Part 1503 and § 1506.8 of the CEQ Regulations.

(c) Comments received shall be provided to the originating official for consideration in preparing the final statement. To the extent possible, requirements for review and consultation with other agencies on environmental matters established by statutes other than NEPA, such as the review and consultation requirements of the Endangered Species Act of 1973, as amended, should be met prior to or through this review process (§ 1216.320).

§ 1216.309 Public involvement.

(a) Interested persons can get information on NASA environmental impact statements and other aspects of NASA's NEPA process by contacting the Director, Management Support Office (Code LB), NASA, Washington, DC 20546, 202-755-8383. Pertinent information regarding any aspect of the NEPA process may also be mailed to the above address.

(b) Responsible Headquarters officials and NASA Field Installation Directors shall identify those persons, community organizations, and environmental interest groups who may be interested or affected by the proposed NASA action and who should be involved in the NEPA process. They shall submit a list of such persons and organizations to the Associate Administrator for External Relations at the same time they submit:

- (1) A recommendation regarding a "Finding of No Significant Impact,"
- (2) A "Notice of Intent to Prepare an EIS,"
- (3) A recommendation for public hearings,
- (4) A preliminary draft EIS,
- (5) A preliminary final EIS,
- (6) Other preliminary environmental documents (§ 1216.321(d)).

(c) The Associate Administrator for External Relations may modify such lists referred to in paragraph (b) as appropriate to ensure that NASA shall comply, to the fullest extent practicable, with § 1506.8 of the CEQ Regulations and § 2-4(d) of Executive Order 12114.

(d) The decision whether to hold public hearings shall be made by the

Associate Administrator for External Relations in consultation with the General Counsel.

§ 1216.310 Preparation of final statements.

(a) After conclusion of the review process with other Federal, state, and local agencies and the public, the responsible Headquarters official shall consider all suggestions, revise the statement as appropriate, and forward the proposed final statement to the Associate Administrator for External Relations. The Associate Administrator for External Relations shall submit the approved final statement to the EPA Office of Federal Activities, to all parties who commented, and to other interested parties in accordance with CEQ Regulations.

(b) Each draft and final statement, the supporting documentation, and the record of decision shall be available for public review and copying at the office of the responsible Headquarters official, or at the office of a suitable designee. Copies of draft and final environmental impact statements shall also be available at the NASA Information Center, 600 Independence Avenue, SW, Washington, DC 20546; at information centers at appropriate NASA field installations; and at appropriate state and local clearinghouses.

§ 1216.311 Record of the decision.

At the time of the decision on the proposed action, the originating Headquarters official shall consult with the Associate Administrator for External Relations and prepare a concise public record of the decision. (See § 1505.2 of the CEQ Regulations.)

§ 1216.312 Timing.

(a) Environmental impact statements are drafted when the Headquarters official has determined that the statement shall be prepared. No decision to proceed to the development/construction (or implementation) phase of the proposed action (the major decision point of § 1216.304(b)) shall be made by NASA until the later of the following dates (§ 1506.10 of the CEQ Regulations):

(1) Ninety days after publication of an EPA notice of a NASA draft EIS.

(2) Thirty days after publication of an EPA notice of a NASA final EIS.

(b) When necessary to comply with other specific statutory requirements, NASA shall consult with and obtain from EPA time periods other than those specified by the Council for timing of agency action.

§ 1216.313 Implementing and monitoring the decision.

(a) Section 1505.3 of the CEQ Regulations provides for agency monitoring to assure that mitigation measures and other commitments associated with the decision and its implementation and described in the EIS are carried out and have the intended effects.

(b) The responsible Headquarters official shall, as necessary, conduct the required monitoring and shall provide periodic reports as required by the Associate Administrator for External Relations.

If the monitoring activity indicates that resulting environmental effects differ from those described in the current documents, the Headquarters official shall reassess the environmental impact and consult with the Associate Administrator for External Relations to determine the need for additional mitigation measures and whether to prepare a supplement to the EIS (see § 1502.9 of the CEQ Regulations).

§ 1216.314 Tiering.

Actions which are the subject of an environmental impact statement and which represents projects of broad scope may contain within them component actions of narrower scope, perhaps restricted to individual sites of activity or sequential stages of a mission, and which themselves may require environmental assessments and, where necessary, environmental impact statements. The CEQ Regulations provide that agencies may use "Tiering" (§ 1508.28 of the CEQ Regulations) of environmental impact statements to relate such broad and narrow actions. When employing tiering, Headquarters officials shall, by reference, make maximum use of environmental documentation already available, and avoid repetition.

§ 1216.315 Processing legislative environmental impact statements.

(a) Preparation of a legislative environmental impact statement shall conform to the requirements of § 1508.8 of the CEQ Regulations. The responsible Headquarters official, in coordination with the Associate Administrator for External Relations, shall identify those legislative proposals or reports on legislation that would require preparation of environmental impact statements in accordance with criteria set forth in § 1216.305.

(b) For the purposes of this provision, "legislation" not only excludes requests for appropriations (§ 1508.17 of the CEQ Regulations), but also excludes the

annual authorization bill submitted to the Congress.

§ 1216.316 Cooperating with other agencies and individuals.

(a) The Associate Administrator for External Relations shall ensure that NASA officials have an opportunity to cooperate with other agencies and individuals. He/she shall keep abreast of the activities of Federal, state, and local agencies, particularly activities in which NASA has expertise or jurisdiction by law (see § 1508.15 of the CEQ Regulations). He/she shall inform the responsible Headquarters official of the need for cooperation as necessary.

(b) At the request of the Associate Administrator for External Relations, Headquarters officials shall initiate discussions with another Federal agency concerning those activities which may be the subject of that agency's EIS on which NASA proposes to comment.

(c) At the request of the Associate Administrator for External Relations, the responsible Headquarters official shall, in the interest of eliminating duplication, prepare joint analyses, assessments, and statements with state and local agencies. These joint environmental documents shall conform with the requirements of these procedures and overall NASA policy.

(d) Because of the uniqueness of NASA's aerospace activities, it is unlikely that NASA will have the opportunity to "adopt" environmental statements prepared by other agencies (§ 1506.3 of the CEQ Regulations). However, should the responsible NASA official wish to adopt a Federal draft or final environmental impact statement or portion thereof, he/she shall consult with the Associate Administrator for External Relations to determine whether that statement meets NASA requirements.

(e) From time to time, there may be disagreements between NASA and other Federal agencies regarding which agency has primary responsibility to prepare an environmental impact statement in which both parties are involved. The Headquarters official with primary responsibility for the activity in question shall consult with the associate Administrator for External Relations to resolve such questions in accordance with § 1501.5 of the CEQ Regulations.

(f) Responsibility for the environmental analyses and any necessary environmental assessments and environmental impact statements required by permits, leases, easements, etc., proposed for issuance to non-Federal applicants rests with the Headquarters official responsible for

granting of that permit, lease, easement, etc. The responsible Headquarters official shall consult with the Associate Administrator for External Relations for advice on the type of environmental information needed from the applicant and on the extent of the applicant's participation in the necessary environmental studies and their documentation.

§ 1216.317 Classified information.

Environmental assessments and impact statements which contain classified information to be withheld from public release in the interest of national security or foreign policy shall be organized so that the classified portions are appendices to the environmental document itself. The classified portion shall not be made available to the public.

§ 1216.318 Deviations.

From time to time there will arise good and valid reasons for a deviation from these procedures. These procedures are not intended to be a substitute for sound professional judgment. Accordingly, if and as problems arise which justify a deviation, the proposed deviation and supporting rationale shall be forwarded to the Associate Administrator for External Relations. Unless such documentation is received, it will be assumed that each planning and decisionmaking action is in accordance with these procedures.

§ 1216.319 Environmental resources document.

Each Field Installation Director shall ensure that there exists an environmental resources document which describes the current environment at that field installation, including current information on the effects of NASA operations on the local environment. This document shall include information on the same environmental effects as included in an environmental impact statement (See § 1216.307). This document shall be coordinated with the Associate Administrator for External Relations and shall be published in an appropriate NASA report category for use as a reference document in preparing other environmental documents (e.g., environmental impact statements for proposed actions to be located at the NASA field installation in question). The Director of each NASA field installation shall ensure that existing resource documents are reviewed and updated, if necessary, by December 31, 1980, and at appropriate intervals thereafter.

§ 1216.320 Environmental review and consultation requirements.

(a) Headquarters officials and Field Installation Directors shall, to the maximum extent possible, conduct environmental analyses, assessments, and any impact statement preparation concurrently with environmental reviews required by the laws and regulations listed below:

(1) Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470(f)) requires identification of National Register properties, eligible properties, or properties which may be eligible for the National Register within the area of the potential impact of a NASA proposed action. Evaluation of the impact of the NASA action on such properties shall be discussed in draft environmental impact statements and transmitted to the Advisory Council on Historic Preservation for comments.

(2) Section 7 of the Endangered Species Act (16 U.S.C. 1531 et seq.) requires identification of and consultation on aspects of the NASA action that may affect listed species or their habitat. A written request for consultation, along with the draft statement, shall be conveyed to the Regional Director of the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, as appropriate, for the Region where the action will be carried out.

(3) Executive Order 11988 (Floodplains Management) and Executive Order 11990 (Wetlands), as implemented by 14 CFR Subpart 1216.2—Floodplains and Wetlands Management, prescribe procedures to avoid adverse impacts associated with the occupancy and modification of floodplains and wetlands and require identification and evaluation of actions which are proposed for location in or which may affect a floodplain or wetland. A comparative evaluation of such actions shall be discussed in draft environmental impact statements and transmitted to appropriate A-95 clearing-houses for comments.

(b) Other environmental review and consultation requirements peculiar to NASA, if any, shall be identified as a part of a NASA environmental handbook to be prepared.

§ 1216.321 Environmental effects abroad of major Federal actions.

(a) In accordance with these procedures and E.O. 12114, "Environmental Effects Abroad of Major Federal Actions" (44 FR 1957), dated January 4, 1979, the Headquarters official shall analyze actions under his/her cognizance with due regard for the

environmental effects abroad of such actions. The Headquarters official shall consider whether such actions involve:

(1) Potential environmental effects on the global commons (i.e., oceans and the upper atmosphere);

(2) Potential environmental effects on a foreign nation not participating with or not otherwise involved in the NASA activity;

(3) The export of products or facilities producing products (or emissions/effluents) which in the U.S. are prohibited or strictly regulated because their effects on the environment create a serious public health risk. The Associate Administrator for External Relations will provide additional guidance regarding the types of chemical, physical, and biological agents involved.

(4) A physical project which, in the U.S., would be prohibited or strictly regulated by Federal law to protect the environment against radioactive substances;

(5) Potential environmental effects on natural and ecological resources of global importance and which the President in the future may designate (or which the Secretary of State designates pursuant to international treaty). A list of any such designations will be available from the Office of the Associate Administrator for External Relations.

(b) Prior to decisions (§ 1216.304) on any action falling into the categories specified in paragraph (a), the Headquarters official shall make a determination whether such action may have a significant environmental effect abroad.

(c) If the Headquarters official determines that the action *will not have* a significant environmental effect abroad, he/she shall prepare a memorandum for the record which states the reasoning behind such a determination. A copy of the memorandum shall be forwarded to the Associate Administrator for External Relations. Note that these procedures do not allow for categorical exclusions (E.O. 12114, section 2-5(d)).

(d) If the Headquarters official determines that an action *may have* a significant environmental effect abroad, he/she shall consult with the Associate Administrator for External Relations and the Director, International Affairs Division. The Associate Administrator for External Relations, in coordination with the Director, International Affairs Division, shall (as specified in E.O. 12114) make a determination whether the subject action requires:

(1) An environmental impact statement (an EIS will be required if

there are significant effects on the global commons);

(2) Bilateral or multilateral environmental studies; or

(3) Concise reviews of environmental issues.

(e) When informed of the determination of the Associate Administrator for External Relations, the Headquarters official shall proceed to take the necessary actions in accordance with these implementing procedures.

(f) The Associate Administrator for External Relations shall, in coordination with the Director, International Affairs Division, determine when an affected nation shall be informed regarding the availability of documents referred to in paragraph (d) and coordinate with the Department of State all NASA communications with foreign governments concerning environmental matters as related to E.O. 12114 (44 FR 1957).

PART 1204—ADMINISTRATIVE AUTHORITY AND POLICY

Subpart 1204.11 (§§ 1204.1100–1204.1103) [Reserved]

2. In 14 CFR Chapter V, Subpart 1204.11 is reserved.

[FR Doc. 79-23482 Filed 7-27-79; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 127

[CGD7-79-08]

Security Zone—U. S. Territorial Waters and San Juan Harbor, Puerto Rico

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Coast Guard's Security Zone Regulations establishes an area as a security zone within 100 yards of the Cuban vessel VIET NAM HEROICO while it is in U.S. Territorial Waters of Puerto Rico and San Juan Harbor. This security zone is established to prevent interference with, or sabotage to, the VIET NAM HEROICO.

DATES: This amendment is effective on 8:00 A.M., 29 June 1979 and is terminated on 12:00 A.M., 15 July 1979.

FOR FURTHER INFORMATION CONTACT: Lieutenant J. A. McGOUGH or Lieutenant Commander J. R. TOWNLEY, c/o Commanding Officer, U. S. Coast Guard Marine Safety Office, Post Office

Box 3666, Old San Juan, Puerto Rico, 00904, Tel: 809-725-0857.

SUPPLEMENTARY INFORMATION: This amendment is issued without publication of a notice of proposed rulemaking and is effective in less than 30 days from the date of publication because this security zone involves protection of a visiting communist flag vessel from anticipated danger. Insufficient advance notice of vessel's approved visit precluded public procedures.

DRAFTING INFORMATION: The principal persons involved in the drafting of this rulemaking are LT J. A. McGOUGH and LCDR J. R. TOWNLEY, USCG Marine Safety Office, San Juan, Post Office Box 3666, Old San Juan, Puerto Rico, 00904, Tel: 809-725-0857. In consideration of the above, Part 127 of Title 33 of the Code of Federal Regulations is amended by adding 127.708, to read as follows:

§ 127.708 Puerto Rico, U. S. Territorial Waters of, and San Juan Harbor.

The area within 100 yards of the Cuban vessel VIET NAM HEROICO while it is in U. S. Territorial Waters of Puerto Rico or San Juan Harbor is a security zone.

(40 STAT. 220, as amended (50 U.S.C. 191), Sect. 1; 63 STAT. 503 (14 U.S.C. 91), Sec. 6(b)(1); 80 STAT. 937 (49 U.S.C. 1655(b)); EO 10173, EO 10277, EO 10352, EO 11249; 3 CFR 1949-1953 Comp. 358, 778, 873; 3 CFR 1964-1965 Comp. 349; 33 CFR Part 6; 49 CFR 1.46(b).)

Dated: 29 June 1979.

J. D. Webb,

Commander, U. S. Coast Guard, Captain of the Port, San Juan, PR.

[FR Doc. 79-23486 Filed 7-27-79; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 155

[CGD2-79-04-R]

Safety Zone—Ohio River Mile 319.3 to Mile 320.7

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Coast Guard's Safety Zone Regulations establishes a safety zone on the Ohio River. This safety zone is established for the protection of the facilities in these areas.

EFFECTIVE DATE: This amendment is effective from 0900 EDT, 12 July 1979 to 1300 EDT, 12 July 1979.

FOR FURTHER INFORMATION CONTACT: LCDR STRASSER, USCG, C/o Marine Safety Office, 6th Avenue & 9th Street,

Huntington, WV 25725 TEL: 304-529-5524.

SUPPLEMENTARY INFORMATION: This amendment is issued without publication of a notice of proposed rulemaking and is effective in less than 30 days from the date of publication, because public procedures on this amendment are impractical due to the short amount of time available to establish the safety zone.

DRAFTING INFORMATION: The principal person in drafting of this rule is: CDR F. J. GRADY III, Captain of the Port, Huntington, WV 25725 TEL: 304-529-5524. In consideration of the foregoing, Part 165 of Title 33 of the Code of Federal Regulations is amended by adding 165.206 to read as follows:

§ 165.206 Ohio River Mile 319.3 to Mile 320.7.

Pursuant to the authority contained in section 1224 of title 33 of the U.S. Code and Part 165 of title 33 of the Code of Federal Regulations, the Coast Guard Captain of the Port, Huntington, WV, has established a safety zone consisting of all of the waters of the Ohio River in the following area.

(a) Semet Solvay div. of Allied Chemical Corp., Ashland, KY mile 319.3 to Mile 320.7, left descending bank Ohio River, extending 400 feet outward from the Kentucky shoreline.

(b) No vessel may enter into or proceed within the safety zone described in subsection (a) without the express permission of the Captain of the Port, Huntington, WV, 6th Avenue & 9th Street, Huntington, WV 25725 TEL: 304-529-5524.

86 STAT. 427 (33 U.S.C. 1224), as amended by P.L. 95-474, 92 STAT. 1475; 49 CFR 1.46(n)(4).

Dated: July 11, 1979.

F. J. Grady III,

Commander, U.S. Coast Guard, Captain of the Port, Huntington, WV.

[FR Doc. 79-23476 Filed 7-27-79; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD7-79-07]

Safety Zone—Vicinity of the Southwest Corner of the West Indian Dock, Charlotte Amalie, St. Thomas, U.S. Virgin Islands

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Coast Guard's Safety Zone Regulations establishes the area in the vicinity of the Southwest Corner of the West Indian

Dock, Charlotte Amalie, St. Thomas, U.S. Virgin Islands, as a safety zone. This safety zone is established to remove all vessel traffic from the vicinity of the ANGELINA LAURO during the critical stage of refloating salvage operations. Vessels not engaged in the salvage operation are directed to pass no closer than 400 yards to the salvage operation and to proceed at "NO WAKE" speed while in the harbor area.

DATES: This amendment is effective from 0800 on 29 June 1979 until 0800, 3 July 1979.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander J. R. TOWNLEY or Lieutenant J. A. MCGOUGH, c/o Commanding Officer, U.S. Coast Guard Marine Safety Office, Post Office Box 3666, Old San Juan, Puerto Rico, 00904, Tel: 809-725-0857.

SUPPLEMENTARY INFORMATION: This amendment is issued without publication of a notice of proposed rulemaking and this amendment is effective in less than 30 days from the date of publication, because public procedures on this amendment are impractical due to the nature of the salvage operations which precluded prediction of the date the critical aspect of the operation would occur.

DRAFTING INFORMATION: The principal persons involved in the drafting of the rulemaking are Lieutenant Commander J. R. TOWNLEY, Project Officer, and Lieutenant J. A. MCGOUGH, Marine Safety Office San Juan, Post Office Box 3666, Old San Juan, Puerto Rico, 00904, Tel: 809-725-0857.

In consideration of the above, Part 165 of Title 33 of the Code of Federal Regulations is amended by adding 165.707 to read as follows:

§ 165.707 Vicinity, southwest corner, West Indian dock, Charlotte Amalie, St. Thomas, U.S. Virgin Islands.

The Area enclosed by the following boundary is a safety zone—from the westernmost point of the West Indian Dock, 18°19'59.6" N. latitude, 64°55'31.2" W. longitude, a straight line to the northernmost point of Rupert Rock; thence in an arc moving west to north, of 400 yards radius from the westernmost point of the West Indian Dock and continuing to a point at 18°20'05.8" N. latitude, 64°55'20.6" W. longitude; thence in a straight line parallel to the West Indian Dock to the westernmost point of the West Indian Dock.

(92 STAT. 1475 (33 U.S.C. 1225); 49 CFR 1.46(n)(4).)

Dated: June 27, 1979.

J. D. Webb,
Commander, U.S. Coast Guard, Captain of the Port, San Juan, PR.

[FR Doc. 79-23469 Filed 7-27-79; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Fire Island National Seashore; Seaplane and Amphibious Aircraft Regulations

AGENCY: National Park Service.

ACTION: Final rule.

SUMMARY: On August 8, 1978, the National Park Service published in the Federal Register (43 FR 35070) a proposal to regulate the use of seaplanes and amphibious aircraft. The regulations are needed to control seaplane and amphibious aircraft operations within Fire Island National Seashore. Unregulated use of surface waters by seaplanes and amphibious aircraft has resulted in aircraft accidents, near collisions with small boats, complaints of extremely low overflights and trespassing. It is the objective of these regulations to promote public safety, minimize the conflicts among the various users and to protect the resources of the seashore.

EFFECTIVE DATE: July 30, 1979.

FOR FURTHER INFORMATION CONTACT: Richard W. Marks, Superintendent, Fire Island National Seashore, Telephone: (516) 289-4810.

SUPPLEMENTARY INFORMATION:

Background

These regulations are being promulgated by the National Park Service in response to public concern for safety and protection of property and resources within Fire Island National Seashore. Complaints concerning seaplanes and amphibious aircraft operation have been received from homeowners and recreational boaters. These complaints involve aircraft taxiing, docking, take-offs, landings, extremely low overflights and trespassing.

Since boating has been and will continue to be the predominant means of access to the Seashore, it was deemed impractical to restrict boating at this time. Seaplanes and amphibious aircraft represent a valid means of transportation and a total restriction on their use is an overly severe measure.

This regulation would reduce conflicting uses by requiring aircraft to land and take off at least 1,000 feet from shore and require that all aircraft taxiing be accomplished with due regard for public safety and only perpendicular to the shoreline at legal docking sites.

On August 8, 1978, the National Park Service published in the Federal Register (43 FR 35070) a proposal to regulate the use of seaplanes and amphibious aircraft. The 30 day public review and comment period began on August 8, 1978 and was scheduled to end on September 7, 1978. This public comment period was extended an additional 30 days, until October 8, 1978, because of the public interest generated by the proposed regulations.

During the 60 day public review and comment period, the National Park Service received a total of 23 written comments. Thirteen of the comments supported the regulations as written. An additional nine comments supported the regulations if modified to remove specific reference to certain exempted communities. One comment was received that opposed the regulations.

As originally proposed, the regulations designated six communities where aircraft could legally taxi to and from docking facilities. These six communities were specified by name, latitude and longitude. At a meeting with representatives of the "exempted communities" on Fire Island, several people opposed the listing of a community in conjunction with a reference in the body of the rule to latitude and longitude. However, they were in favor of continued seaplane access. In the interest of providing adequate public notice of permitted or prohibited activities and with a view toward clarity of regulations, the National Park Service has concluded that the exempted communities desiring continued seaplane access should be specifically listed. Therefore, the regulations have been modified to designate specific exempted communities as locations where aircraft may taxi perpendicular to the shore to reach or leave legal docking sites.

The term "exempted community" is derived from the legislation establishing Fire Island National Seashore. This legislation provided for the continued existence of 17 separate and distinct communities within the authorized boundaries of the Seashore. These communities are designated on an official map numbered OGP-000-04 which is available for public inspection at the Office of the Superintendent, 120 Laurel Street, Patchogue, New York 11772.

Interested airmen may obtain the exact locations of the areas defined within the regulations by writing or telephoning the Superintendent. In addition, this rulemaking will be published in the Federal Aviation Administration's "Notice to Airmen" (NOTAM), which updates air regulations for all commercial and noncommercial air traffic users. In view of the fact that the summer travel season has already begun and there have already been several aircraft incidents that have jeopardized public safety, the National Park Service has determined that immediate implementation of these regulations is necessary. Therefore, it is deemed both unnecessary and contrary to the public interest to delay the effective date for 30 days after this publication.

Drafting Information

The following persons participated in the writing of this regulation: Richard W. Marks and William Schenk, Fire Island National Seashore; and Michael Finley, National Park Service, Washington, D.C.

Impact Analysis

The National Park Service has determined that this document is not a significant rule requiring preparation of a regulatory analysis under Executive Order 12044 and Part 14 of Title 43 of the Code of Federal Regulations; nor is it a major Federal Action significantly affecting the quality of the human environment, which would require preparation of an Environmental Impact Statement.

[Section 3 of the Act of August 25, 1916, (39 Stat. 535, as amended, 16 U.S.C. 3); 245 DM 1 (42 FR 12931); and National Park Service Order 77 (38 FR 7478), as amended]

Daniel J. Tobin, Jr.,

Associate Director, Management and Operations.

In consideration of the foregoing, § 7.20 of Title 36 of the Code of Federal Regulations is amended by the addition of a new paragraph (b) as follows:

§ 7.20 Fire Island National Seashore.

(b) Operation of Seaplane and Amphibious Aircraft

(1) Aircraft may be operated on the waters of the Great South Bay and the Atlantic Ocean within the boundaries of Fire Island National Seashore, except as restricted in § 2.2(a) of this chapter and by the provisions of paragraph (b)(2) of this section.

(2) Except as provided in paragraph (b)(3) of this section, the waters of the Great South Bay and the Atlantic Ocean

within the boundaries of Fire Island National Seashore are closed to take-offs, landings, beachings, approaches or other aircraft operations at the following locations:

(i) Within 1000 feet of any shoreline, including islands.

(ii) Within 1000 feet of lands within the boundaries of the incorporated villages of Ocean Beach and Saltaire and the village of Seaview.

(3) Aircraft may taxi on routes perpendicular to the shoreline to and from docking facilities at the following locations:

(i) *Kismet*—Located at approximate longitude 73°12½' and approximate latitude 40°38½'.

(ii) *Dunewood*—Located at approximate longitude 73°11½' and approximate latitude 40°38½'.

(iii) *Fair Harbor*—Located at approximate longitude 73°11' and approximate latitude 40°38½'.

(iv) *Lonelyville*—Located at approximate longitude 73°11' and approximate latitude 40°38½'.

(v) *Atlantique*—Located at approximate longitude 73°10½' and approximate latitude 40°38½'.

(vi) *Robin's Rest*—Located at approximate longitude 73°10' and approximate latitude 40°38½'.

(vii) *Ocean Bay Park*—Located at approximate longitude 73°09' and approximate latitude 40°39'.

(viii) *Point-O-Woods*—Located at approximate longitude 73°08½' and approximate latitude 40°39'.

(ix) *Cherry Grove*—Located at approximate longitude 73°05½' and approximate latitude 40°39½'.

(x) *Fire Island Pines*—Located at approximate longitude 73°04½' and approximate latitude 40°40'.

(ix) *Water Island*—Located at approximate longitude 73°02' and approximate latitude 40°40½'.

(xii) *Davis Park*—Located at approximate longitude 73°00½' and approximate latitude 40°41'.

(4) Aircraft operation in the vicinity of marinas, boats, boat docks, floats, piers, ramps, bird nesting areas, or bathing beaches must be performed with due caution and regard for persons and property and in accordance with any posted signs or uniform waterway markers.

(5) Aircraft are prohibited from landing or taking off from any land surfaces, any estuary, lagoon, marsh, pond, tidal flat, paved surface, or any waters temporarily covering a beach; except with prior authorization of the Superintendent. Permission shall be based on the need for emergency

service, resource protection, resource management or law enforcement.

(6) Aircraft operations shall comply with all Federal, State and county ordinances and rules for operations as may be indicated in available navigation charts or other aids to aviation which are available for the Fire Island area.

[FR Doc. 79-23352 Filed 7-27-79; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1285-5]

Approval of Plan Revision for South Dakota

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: The purpose of this notice is to approve, in part, the State Implementation Plan (SIP) revision for South Dakota which was received by EPA on January 3, 1979. This plan revision was prepared by the State to meet the requirements of Part D (Plan requirements for nonattainment areas) of the Clean Air Act, as amended in 1977. On April 13, 1979 (44 FR 22126), EPA published a notice of proposed rulemaking which described the nature of the SIP revision, discussed certain provisions which in EPA's judgement did not comply with the requirements of the Act, and requested public comment. No public comments were received. On June 18, 1979, EPA received clarification from the State on most of the issues raised in the April 13, 1979, notice. However, the deficiency raised with respect to the new source review process was not resolved. This notice describes the State's response to those issues and approves the Part D SIP revision except with respect to new source review.

EFFECTIVE DATE: July 30, 1979.

ADDRESSES: Copies of the SIP revision, EPA's evaluation report, and the supplemental submission received on June 18, 1979, are available at the following addresses for inspection:

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295.
Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. DeSpain, Chief, Air

Programs Branch, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, telephone: 303-837-3471.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962), and on September 11, 1978 (43 FR 40412), pursuant to the requirements of Section 107 of the Clean Air Act, as amended in 1977, EPA designated areas in each state as nonattainment with respect to the criteria air pollutants. In Pennington County, South Dakota, the Rapid City area was designated nonattainment with respect to total suspended particulates (TSP).

Part D of the Amendments requires each state to revise its SIP to meet specific requirements in the areas designated as nonattainment. These SIP revisions, which were due on January 1, 1979, must demonstrate attainment of the national ambient air quality standards, as expeditiously as practicable, but no later than December 31, 1982. On January 3, 1979, EPA received the revised SIP for the State of South Dakota which addressed the Part D requirements for a nonattainment SIP.

On January 25, 1979 (44 FR 5159), EPA published an advanced notice of availability of the South Dakota SIP revision and invited the public to comment on its approvability. In addition, on April 13, 1979 (44 FR 22126), EPA published a notice of proposed rulemaking which described the nature of the nonattainment SIP and the results of EPA's review with respect to the requirements for an approvable nonattainment SIP provided in a Federal Register notice published on April 4, 1979 (44 FR 20372); and requested public comment. No comments were received.

The April 13, 1979, notice raised several issues which in EPA's judgment, required either clarification by the State or additional revisions to the SIP. On June 18, 1979, EPA received supplementary information from the State which addressed those issues.

The following discussion describes the nature of the SIP revision, the deficiencies found by EPA's review, the State's response to those issues, and EPA's final determination.

The SIP contained an analysis of the Rapid City ambient air quality for 1978, as well as for 1982 after consideration for growth. These analyses, which were performed through the use of an EPA approved air quality model and 1978 ambient air quality data, showed three general air quality problems in 1978 all of which are related to emissions of fugitive dust. These problems are discussed as follows:

(1) Ambient air quality violations have been measured in the central business district in recent years. The analysis showed that they were caused by fugitive dust resulting from the use of unpaved parking lots. Further analysis showed that a paving program implemented in the spring and summer of 1978 corrected this problem.

(2) Ambient air quality violations were predicted in the vicinity of a major construction activity underway in 1978. While this construction activity will be completed prior to 1982, similar future projects would have the potential to cause air quality violations.

(3) Severe ambient air quality violations were predicted and have been measured in the vicinity of several quarrying operations in the western portion of the nonattainment area. The 1982 analysis predicted that if no corrective action were taken, this problem would continue.

As a result of the analyses discussed above, the Pennington County Commission adopted a county ordinance requiring the use of various reasonably available measures for controlling fugitive dust emissions during certain operations. The applicable operations include land clearing, construction, excavating, and processing materials. For enforcement purposes, the ordinance also established an Air Quality Review Board. Although the SIP did not contain an analysis of the air quality benefits of the proposed strategy, an independent analysis by EPA has indicated that implementation of the County ordinance, in conjunction with existing SIP measures for stationary sources will provide for attainment of the national standards for TSP in the Rapid City nonattainment area.

EPA's preliminary review revealed several deficiencies in the SIP revision which needed correction. These deficiencies and the State's response are outlined below.

(1) Annual Reporting—Section 172(b)(4) requires that the State revise its emissions inventory as frequently as necessary to assure that reasonable further progress is obtained. EPA guidance on the development of approvable SIP's issued on February 24, 1978, requires that the SIP contain a provision for annual reporting on the progress of the State in meeting the commitments in the SIP. The South Dakota SIP did not contain any such provision. However, the June 18, 1979, supplemental information contained the appropriate commitments, thus eliminating this deficiency.

(2) Permit Requirements—Section 172(b)(6) requires that permits for construction or modification of any major stationary sources affecting a nonattainment area be issued in accordance with Section 173 of the Act. Compliance with this provision would require an amendment to the permit regulations which would allow for a permit to be issued only after a determination that (a) the source will comply with the lowest achievable emission rate, (b) all other facilities in the State owned by the applicant are in compliance with the SIP, and (c) the source's emissions would not prevent achieving reasonable further progress towards attainment. The State permit regulation does not contain these requirements. The June 18, 1979, supplemental information contains a commitment to make the necessary changes. However, in the interim, the State cannot issue valid new source permits in the Rapid City nonattainment area and the SIP must be disapproved with respect to this provision.

(3) State Boards—Sections 128 and 110(a)(2)(F)(vi) of the Clean Air Act requires that the majority of a body issuing permits or enforcement orders under the Clean Air Act represent the public interest and not derive a significant portion of their incomes from persons subject to such permits or orders. The new Pennington County fugitive dust regulation establishes an Air Quality Review Board which does not comply with those requirements. The make-up of that Board as well as the South Dakota Board of Environmental Protection should be amended. The June 18, 1979, supplemental information from the State contained a commitment that both the State and the County were making efforts to correct this deficiency. Until the composition of the Boards meet the requirements of Section 110 of the Act, this portion of the SIP cannot be approved. However, final action on this and other non-Part D requirements will be taken in a separate notice, and this deficiency will not affect EPA's action on the SIP regarding Part D of the Clean Air Act. Though the improper make-up of the Boards does not result in disapproval of the nonattainment SIP, this may jeopardize the authority of these Boards to issue permits and enforcement orders until the provisions of Section 128 are met.

As a result of the corrective action taken by the State of South Dakota, the

Part D revision to the SIP is approved herein with the single exception discussed above.

For each nonattainment area where a revised plan provides for attainment by the deadlines under section 172(a) of the Act, the new deadlines are added to the chart of attainment dates in 40 CFR Part 52, and the corresponding earlier deadlines for attainment under section 110(a)(2)(A) of the Act are deleted. However, the earlier deadlines under section 110(a)(2)(A) retain legal significance despite deletion of the deadlines from the CFR.

For a compliance schedule designed to provide for attainment by the deadline for attainment under section 110(a)(2)(A), EPA lacks authority to approve an extension or variance beyond that deadline except in rare circumstances. The reason is that no extension or variance may be approved if it will cause the plan to fail to comply with the requirements of section 110(a)(2). An extension beyond the deadline under section 110(a)(2)(A) will ordinarily result in the plan not providing for attainment of the standard by that deadline.¹ Therefore, EPA may not approve a compliance date variance or any other extension of compliance requirement beyond the deadline under section 110(a)(2)(A) merely because a plan revision providing for attainment by the later deadline under section 172(a) has been approved.² Extensions or variances beyond the deadline under section 110(a)(2)(A) are permitted only in exceptional circumstances such as where (1) the extension or variance would not authorize emissions contributing to a violation of an ambient standard or a PSD increment, or (2) new, more stringent emission limits are imposed that are incompatible with the controls required to meet the earlier deadline, and the State has made a case-by-case determination that a limited extension is therefore necessary.³

Reference should be made to the 1978 edition of the CFR to determine the applicable deadlines for attainment under section 110(a)(2)(A) of the Act.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or

whether it may follow other specialized development procedures. EPA labels these other regulations as "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This rulemaking action is issued under the authority of Section 110 of the Clean Air Act, as amended.

Dated: July 13, 1979.

Douglas M. Costle,
Administrator.

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

1. In § 52.2170, paragraph (c)(5) is added as follows:

§ 52.2170 Identification of plan.

(c) * * *

(5) Provisions to meet the requirements of Part D of the Clean Air Act, as amended in 1977 were submitted on January 3, 1979.

2. Section 52.2172 is revised to read as follows:

§ 52.2172 Approval status.

With the exceptions set forth in this subpart, the Administrator approves South Dakota's plan as meeting the requirements of Section 110 of the Clean Air Act, as amended in 1977. Furthermore, the Administrator finds that the plan satisfies all requirements of Part D of the Clean Air Act, as amended in 1977, except as noted below.

3. Section 52.2175 is revised as follows:

§ 52.2175 Review of new sources and modifications.

(a) *Part D Disapproval*—The requirements of Sections 172(b)(6) and 173 of the Clean Air Act are not met, since the plan does not contain specific provisions of the review of major new sources and modifications affecting the Rapid City TSP nonattainment area (40 CFR 81.342).

4. In Section 52.2174 is revised to read as follows:

§ 52.2174 Attainment dates for national standards.

The following table presents the latest dates by which the national standards are to be attained. These dates reflect the information presented in South Dakota's plan.

¹ See *Train v. NRDC*, 421 U.S. 60, 70 (1975).

² This interpretation is confirmed by legislative history. 123 Cong. Rec. H 11858 (daily ed., November 1, 1977).

³ See General Preamble on Proposed Rulemaking, 44 FR 20373-74 (April 4, 1979).

Air quality control region and nonattainment area	Pollutant					
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide
	Primary	Secondary	Primary	Secondary		
Metropolitan Sioux City Interstate	c	a	c	c	c	c
Metropolitan Sioux Falls Interstate	b	a	c	c	c	c
Black Hills-Rapid City Intrastate						
a. Rapid City nonattainment area	d	d	c	c	c	c
b. Remainder of AOQR	c	c	c	c	c	c
South Dakota	c	c	c	c	c	c

a. July 1975
b. Air quality levels presently below primary standards.
c. Air quality levels presently below secondary standards.
d. December 31, 1982.

[FR Doc. 79-23458 Filed 7-27-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1277-3]

Approval and Revision of Delaware State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval of a revision of the Delaware State Implementation Plan (SIP). The revision consists of: (1) Court of Chancery injunction for the Phoenix Steel Corporation's (Phoenix) plant located in Claymont, Delaware; (2) amendments to Delaware Regulations No. V, XIV, and XVII as they apply to emissions from electric arc furnaces; and (3) a newly adopted Regulation No. XXIII entitled "Standards of Performance for Steel Plants: Electric Arc Furnaces." The injunction replaces a one-year variance granted by the State on December 2, 1977, for charging and tapping operations of the electric arc furnaces at the Company's plant in Claymont, Delaware. The injunction requires Phoenix to comply on or before December 5, 1980 with regulations promulgated by Delaware's Department of Natural Resources and Environmental Control ("the Department") which apply to electric arc furnaces. Prior to achieving final compliance, Phoenix Steel Corporation shall not exceed the emission rates identified in the dispersion modeling analysis in support of the revision.

EFFECTIVE DATE: July 30, 1979.

ADDRESSES: Copies of the revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, Attn.: Patricia Sheridan.
State of Delaware, Department of Natural Resources, Division of Environmental

Control—Air Resources, P.O. Box 1401, Lockerman Street and Legislative Avenue, Dover, Delaware 19901, Attn.: Robert R. French.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Waterside Mall, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Bernard E. Turlinski, Regional Energy Coordinator (3AH13), U.S. Environmental Protection Agency, Region III, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, telephone number (215) 597-9944.

SUPPLEMENTARY INFORMATION:

Background

The Secretary of the Department of Natural Resources and Environmental Control applied to the Court of Chancery of the State of Delaware for a permanent injunction against Phoenix Steel Corporation concerning compliance issues related to applicable provisions of Regulation No. V, Section 4 (Particulate Emissions from Industrial Process Operations) and Regulation XIV, Section 2 (Visible Emissions). The Department was issued said injunction by the Court on January 5, 1977. The injunction provided 57 months for compliance. These regulations are part of Delaware's Implementation Plan pursuant to Section 110 of the Clean Air Act, as amended, 42 U.S.C. 7401.

On June 1, 1977, Phoenix Steel Corporation requested a variance from the provisions of Regulation V, Section 4 and Regulation XIV, Section 2 of the Department's Regulations Governing the Control of Air Pollution with respect to particulate and visible emissions during charging and tapping operations of the electric arc furnaces at its plant in Claymont, Delaware. A public hearing on the variance request was held on September 20 and continued on September 26 and 27, 1977. By order of the Secretary, the Department of Natural Resources and Environmental Control granted Phoenix Steel Corporation a one-year variance from the provisions of Regulation XIV, Section 2 and denied

the request for variance from Regulation V, Section 4.

On December 2, 1977, the Secretary submitted the visible emissions variance to the Environmental Protection Agency (EPA) for consideration as a revision of the Delaware SIP. On the same date the Department adopted amendments to Regulations No. V and XIV and a new Regulation No. XXIII "Standards of Performance for Steel Plants: Electric Arc Furnaces" and submitted the amendments and the new regulation to EPA as a proposed revision of the SIP.

In parallel with the activities involving the above variance request, the parties to the original injunction also requested that the Court issue a superseding injunction reducing the time for Compliance from the Order under the prior injunction. The amended injunction now requires compliance with the provisions of Regulation No. XXIII on or before December 5, 1980.

A public hearing was held on July 6, 1978, in accordance with 40 CFR 51.4, to consider the amended injunction as a revision of the Delaware SIP.

The amended injunction was adopted by the Department on September 26, 1978, and submitted to the EPA for approval on October 5, 1978. In the transmittal letter, the Secretary requested that the one-year variance granted by the Department to Phoenix Steel Corporation and submitted as a revision to the SIP on December 2, 1977, be withdrawn in favor of the Court of Chancery amended injunction. The Secretary further requested that the EPA continue consideration of the amendments to Regulations No. V and XIV and the new Regulation No. XXIII.

Description of Revision

In the succeeding paragraphs the key provisions of this revision are summarized.

A. Court of Chancery injunction—the purpose of the injunction is to resolve alleged violations by Phoenix of the provisions of Regulation V, Section 4 and Regulation XIV, Section 2, by requiring that Phoenix select and install air pollution abatement equipment according to the following schedule:

1. On or before April 5, 1978, Phoenix shall select the type of system to be used to control charging and tapping emissions from its electric arc furnaces. (Completed)
2. On or before April 15, 1978, Phoenix shall complete the design and general specifications for the system. (Completed)
3. On or before May 15, 1978, Phoenix shall phase the order for equipment of the system applicable to the first place of the design. (Completed)

4. On or before May 15, 1978, Phoenix shall transmit to the Secretary the date on which Phoenix will place the order for equipment of the system applicable to the second phase of the design. (Completed)

5. On or before November 5, 1980, Phoenix shall complete installation of the balance of the system.

6. On or before December 5, 1980, Phoenix shall operate the system in compliance with the Department's regulations applicable to electric arc furnaces.

The entire injunction is hereby referenced. Any terms or conditions appearing in the injunction and not contained herein does not excuse compliance by Phoenix Steel Corporation.

B. The interim emission levels applicable to Phoenix Steel Corporation prior to achieving final compliance are as follows:

1. Charging and Tapping Operations=3 lbs. of particulate matter per ton of steel produced.
2. Electric Arc Furnaces (baghouse)=0.05 lbs of particulate matter per ton of steel produced.
3. Argon Lancing=0.2 lbs of particulate matter per ton of steel produced.
4. Production Rate=70 tons of steel per hour.
- C. Regulations No. V, & XIV and Regulation No. XVII (Source Monitoring, Record Keeping and Reporting). The revision exempts from compliance with these provisions electric arc furnaces, and their associated dust handling equipment, with a capacity of more than 100 tons.
- D. Regulation No. XXIII—This is a new regulation created expressly for electric arc furnaces with a capacity of over 100 tons. The regulation establishes emission rates for particulate matter, capacity limits during charging and tapping operations, monitoring operations, and describes test methods and procedures.

Public Comments and Decision

The amendments, as described above, were proposed in the **Federal Register** on February 13, 1979 (44 FR 9404 [1979]), as a revision of the Delaware SIP. During the ensuing 60-day public comment period provided, no public comments were received.

The Administrator has determined that the revision as submitted on October 5, 1978 does not interfere with attainment or maintenance of the ambient air quality standards for particulate matter. Therefore, the Administrator approves the

amendments submitted by the Department on October 5, 1978, as a revision of the Delaware State Implementation Plan. In addition, this revision is being made effective immediately since no purpose would be served by delaying its effective date. Concurrently, the Administrator amends 40 CFR 52.420 (Identification of Plan) of Subpart I (Delaware) to incorporate this plan revision into the Delaware SIP.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. §§ 7401-7642)

Dated: July 24, 1979.

Douglas M. Costle,
Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart I—Delaware

1. In § 52.420 subparagraph (c)(ii) is added as set forth below.

§ 52.420 Identification of plan.

- (c) The plan revisions listed below were submitted on the dates specified.

(11) Amendments to Regulations No. V, XIV, XVII, and a newly adopted Regulation No. XXIII (Standards of Performance for Steel Plants: Electric Arc Furnaces); and a Court of Chancery injunction to control charging and tapping emissions for the Phoenix Steel Corporation's plant in Claymont, Delaware submitted on December 2, 1977 and October 5, 1978, respectively, by the Department of Natural Resources and Environmental Control.

[FR Doc. 79-23465 Filed 7-27-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 52

[FKL 1277-7]

Approval and Promulgation of Implementation Plan Approval of Requests for Extensions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is today approving requests by the Idaho State Department of Health and Welfare, the Oregon Department of Environmental Quality and the Washington Department of Ecology for an 18-month extension in the submittal of appropriate plans for the control of total suspended particulate (TSP) matter for certain non-attainment areas.

DATE: July 30, 1979.

ADDRESS: Environmental Protection Agency, Region 10, M/S 629, 1200 Sixth Avenue, Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: Clark L. Gaulding, Chief, Air Programs Branch M/S 629, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, WA 98101, Telephone No. (206) 442-1230 (FTS) 399-1230.

SUPPLEMENTAL INFORMATION: On May 21, 1979, EPA published a Notice of Proposed Rulemaking (44 FR 29499) announcing its intention to approve 18-month extensions requested by the States of Idaho, Oregon and Washington for secondary standards for TSP. Pursuant to Section 110(b) of the Clean Air Act and 40 CFR 51.31, a state may request such an extension provided that attainment of the standard will require emission reductions exceeding those which can be achieved through application of Reasonably Available Control Technology (RACT).

Under the provisions in 40 CFR 51.31, EPA Region 10 has received the following requests for the extension of secondary standards for TSP:

1. The Idaho Department of Health and Welfare (IDHW). By a letter dated February 16, 1979, the IDHW requested an extension for all secondary TSP non-attainment areas in the State of Idaho.
2. The Oregon Department of Environmental Quality (DEQ). By letters dated March 2, 1979 and April 6, 1979, the DEQ requested extensions for the following secondary TSP non-attainment areas in the State of Oregon: Portland, Eugene-Springfield, and Medford-Ashland.
3. The Washington Department of Ecology (DOE). By its letter of April 4, 1979, the DOE requested an extension for all secondary TSP non-attainment areas in Washington.

These extensions will provide the states with adequate time to conduct necessary studies and develop control strategies for the attainment of secondary standards for TSP. In each case the state indicated that RACT was either being implemented to meet the primary TSP standard, or that RACT would be included in the 1979 revisions

to the State Implementation Plan to meet the primary TSP standard.

Only two comments were received in response to the proposed extensions. Both were from private citizen groups in Idaho which were in favor of the proposed rulemaking.

EPA is therefore today approving the states' requests for 18-month extensions.

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

1. Section 52.672 is amended by adding paragraph (d) as follows:

§ 52.672 Extensions.

(d) The Regional Administrator hereby extends to July 1, 1980, the statutory timetable for submission of Idaho's plan for the attainment and maintenance of the secondary standards for total suspended particulate in all non-attainment areas in Idaho.

2. Section 52.1981 is amended by adding paragraph (d) as follows:

§ 52.1981 Extensions.

(d) The Regional Administrator hereby extends to July 1, 1989, the statutory timetable for submission of Oregon's plan for the attainment and maintenance of the secondary standards for total suspended particulate matter in Portland, Springfield-Eugene, and Medford-Ashland non-attainment areas in Oregon.

3. Section 52.2472 Extensions, is amended by adding paragraph (b) as follows:

§ 52.2472 Extensions.

(b) The Regional Administrator hereby extends to July 1, 1980 the statutory timetable for submission of Washington's plan for the attainment and maintenance of the secondary standards for total suspended particulate matter in all non-attainment areas in Washington.

(Section 110(b) Clean Air Act (42 U.S.C. 7410(b).)

Dated: July 23, 1979.

Douglas M. Costle,

Administrator.

[FR Doc. 79-23463 Filed 7-27-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1271-4]

Approval and Promulgation of Implementation Plans; Connecticut Revision

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is approving a revision to the Connecticut State Implementation Plan which grants a variance to Regulation 19-508-19(a)(2)(i) "Control of Sulfur Compound Emissions". The variance was granted to Northeast Utilities on behalf of United Technologies, to purchase, store and burn Arabian light crude oil which would not exceed 2.9% sulfur content by weight, a non-conforming fuel, until April 1, 1981, in order that United Technologies may test a jet engine using this fuel.

EFFECTIVE DATE: July 30, 1979.

FOR FURTHER INFORMATION CONTACT: Sarah Simon, Air Branch, Region I, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-5609.

SUPPLEMENTARY INFORMATION: On April 16, 1979 the Commissioner of the Connecticut Department of Environmental Protection (the Department) submitted a revision to the State Implementation Plan (SIP) for a variance to Regulation 19-508-19(a)(2)(i) "Control of Sulfur Compound Emissions". The variance would allow Northeast Utilities, on behalf of United Technologies, to purchase, store and burn non-conforming fuel until April 1, 1981, in order that United Technologies may test an engine using Arabian light crude oil. The engine was built by United Technologies, and is currently owned and operated by Northeast Utilities at its South Meadow Station, Hartford, Connecticut. The effective state regulation limits sulfur-in-fuel oil content to one-half percent (0.5%) by weight, while the crude oil to be used in testing of the engine may contain up to 2.9% sulfur. An increase of SO₂ only is expected of the pollutants emitted from fuel burning.

An application for a variance to Regulation 19-508-19(a)(2)(i) was submitted to the Department in August 1978. The Department, after public hearing, issued State Order Number 716 on April 3, 1979 granting the variance. The State order terminates on April 1, 1981, limits sulfur content to 2.9%, and also requires the following: reports on fuel analyses and quantities, a daily log of operation and fuel consumption,

testing limits of 2500 hours in a twelve month period and 5000 hours in two years, a maximum firing rate of 1900 gallons/hour, suspension of testing during air pollution advisories, a limit of 20% opacity for emissions, and an emission test for SO₂, NO_x, and particulates. Testing is to be conducted using only Unit 11 of the South Meadow Station.

The Regional Administrator published a notice in the *Federal Register* on May 24, 1979 (44 FR 30122) proposing to approve the revision. Technical support submitted by the Department showed that emissions from this testing program would not result in violation of the National Ambient Quality Standards for SO₂ or of the Prevention of Significant Deterioration (PSD) increment. The results of the modeling performed by United Technologies and the analysis by the Department were described in the proposed rulemaking notice. EPA's review of the modeling results indicates that impacts from the engine testing will be well under the standards and allowable increments. Since this revision expires April 1, 1981, the PSD increment consumption will be restored.

No letters of comment were received during the 30-day public comment period.

After evaluation of the State's submittal, the Administrator has determined that the Connecticut revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision to the Connecticut SIP is approved.

This action is being made effective immediately in order that United Technologies may proceed with its test program within the time period allowed by this variance.

(Sec. 110(a) and 301 of the Clean Air Act, as amended, (42 U.S.C. 7401 and 7601).)

Dated: July 18, 1979.

Douglas M. Costle,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

1. In § 52.370, paragraph (c)(10) is added to read as follows:

Subpart H—Connecticut

§ 52.370 Identification of plan.

(c) * * *

(10) A revision to Regulation 19-508-19(a)(2)(i) submitted by the Commissioner of the Connecticut Department of Environmental Protection on April 16, 1979, granting a variance until April 1, 1981 to Northeast Utilities.

[FR Doc. 79-23466 Filed 7-27-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1277-8]

40 CFR Part 52

California Plan Revision: San Diego County Air Pollution Control District

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, take no action on changes to the San Diego County Air Pollution Control District (APCD) portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: August 29, 1979.

FOR FURTHER INFORMATION CONTACT: Louise Giersch, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105, Attn: Douglas Grano (415) 556-2938.

SUPPLEMENTARY INFORMATION: On September 8, 1978 (43 FR 40040), EPA published a Notice of Proposed Rulemaking for revisions to the San Diego County APCD's rules and regulations submitted on June 22, 1978 and July 13, 1978 by the California Air Resources Board (ARB) for inclusion in the California SIP.

The changes contained in this submittal and being acted upon by this notice include the following: addition of new regulations pertaining to architectural coatings, deletion of the previous architectural coatings coverage, additions to the hearing board fee collection procedures, changes in the procedure for requesting hearings, and the addition of emergency variance provisions.

These rules were revised to correct deficiencies, add clarity and make needed additions. All of the rule revisions were evaluated as to their consistency with the Clean Air Act, 40 CFR Part 51 and EPA policy.

A list of the rules being considered by this action was published as part of the

Notice of Proposed Rulemaking. The Notice provided a 30-day public comment period. Comments were received from the San Diego County APCD concerning Rule 67, *Architectural Coatings*, Rule 97, *Emergency Variance*, and Rule 98, *Breakdown Conditions: Emergency Variance*. These comments are addressed below.

The District explained that new Rule 67 references a previously approved rule to insure uninterrupted coverage of solvent emissions. EPA concurs with the District's analysis and is approving Rule 67 without retaining the previously approved architectural coating coverage of Rule 66 (l), (m), and (n), submitted July 22, 1975.

The District also noted that Rule 97, which contains procedures to grant emergency variances, is necessary to give "temporary relief in a real-time frame." EPA is approving Rule 97 as a procedure for the granting of variances. However, it should be noted that each variance must also satisfy the requirements of section 110 of the Clean Air Act and 40 CFR Part 51 in order to be approved by EPA as a revision to the SIP.

With respect to Rule 98, which concerns upset/breakdown conditions, the District enclosed an amended version of the rule containing a number of improvements. The District indicated that they had adopted this rule and submitted it to the ARB. On May 23, 1979, the ARB submitted Rule 98 to EPA as an SIP revision. Thus, EPA is taking no action on Rule 98, submitted July 13, 1978, since it has been superseded.

Under section 110 of the Clean Air Act as amended and 40 CFR Part 51, the Administrator is required to approve or disapprove regulations submitted as SIP revisions. It is the purpose of this Notice to approve all of the rules listed in the Notice of Proposed Rulemaking and to incorporate them into the California SIP, with the exception of Rule 61.2, *Transfer of Volatile Organic Compounds into Mobile Transport Tanks*, Rule 61.3, *Transfer of Volatile Organic Compounds into Stationary Storage Tanks*, and Rule 98, *Breakdown Conditions: Emergency Variance*.

Rule 61.2 has been superseded by a May 23, 1979 submittal, and thus, action is reserved for a future *Federal Register* notice. Action on Rule 61.3 is also reserved for the future notice since related District rules, such as Rule 61.2, are not yet part of the SIP, and Rule 61.3 cannot be approved independent of them.

Furthermore, EPA is taking no action on Rule 98 since it has been superseded

by the May 23, 1979 submittal, as discussed above.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." EPA has reviewed the regulations being acted upon in this notice and determined that they are specialized regulations not subject to the procedural requirements of Executive Order 12044.

(Secs. 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410 and 7601(a)).)

Dated: July 23, 1979.

Douglas M. Costle,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart F of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(44)(vi) and (c)(45)(iii) as follows:

§ 52.220 Identification of plan.

(c) * * *
(44) * * *
(vi) San Diego County APCD.
(A) New or amended Rules 66, 67.0, and 67.1.
* * * * *
(45) * * *
(iii) San Diego County APCD.
(A) New or amended Rules 42, 78, and 97.

[FR Doc. 79-23467 Filed 7-27-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 65

[FRL 1275-6]

Delayed Compliance Order for Central Soya Company, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA approves a Delayed Compliance Order to Central Soya Company, Inc. (Central Soya). The

Order requires the Company to bring air emissions from its two-coal fired boilers at Marion, Ohio into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Central Soya's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect July 30, 1979.

FOR FURTHER INFORMATION CONTACT: Cynthia Colantoni, United States Environmental Protection Agency, Region V, 230 South Dearborn St., Chicago, Illinois 60604. Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On May 8, 1979 the Regional Administrator of U.S. EPA's Region V Office published in the Federal Register (44 FR 26940) a notice setting out the provisions of a proposed State Delayed Compliance Order for Central Soya. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is approved to Central Soya by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Act, 42 U.S.C. 7413(d)(2). The Order places Central Soya on a schedule to bring its two coal-fired boilers at Marion, Ohio into compliance as expeditiously as practicable with Regulations OAC 3745-17-07 and OAC 3745-17-10, a part of the federally approved Ohio State Implementation Plan. Central Soya is unable to immediately comply with these regulations. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Central Soya to delay compliance with the SIP regulation covered by the Order until April 15, 1980.

Compliance with the Order by Central Soya will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred

before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Central Soya is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective July 30, 1979 because of the need to immediately place Central Soya on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: July 18, 1979.

Douglas M. Costle,
Administrator.

Source	Location	Order No	Date of FR proposal	SIP regulation involved	Final compliance date
Central Soya Co. Inc.	Marion, Ohio	None	May 8, 1979	OAC 3745-17-07; OAC 3745-17-10	April 15, 1980

[FR Doc. 79-23450 Filed 7-27-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 65

[FRL 1274-3]

Delayed Compliance Order for Factory Power Co.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to Factory Power Company. The Order requires the company to bring air emissions from two of its four coal-fired boilers at Cincinnati, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Factory Power Company's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATE: This rule takes effect July 30, 1979.

In consideration of the foregoing, Chapter I of the Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in Section 65.401:

§ 65.401 U.S. EPA approval of State delayed compliance orders issued to major stationary sources.

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

FOR FURTHER INFORMATION CONTACT: Louise Gross, Attorney, United States Environmental Protection Agency, Region V, 230 S. Dearborn Street, Chicago, Illinois 60604. Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On May 8, 1979, the Regional Administrator of U.S. EPA's Region V Office published in the Federal Register (44 FR 26943) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for Factory Power Company. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to Factory Power Company by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(1) of the Act, 42 U.S.C. 7413(d)(1). The Order places Factory Power Company on a schedule to bring two of its four coal-fired boilers at Cincinnati, Ohio, into compliance as expeditiously as practicable with Regulation AP-3-11, a part of the federally approved Ohio

State Implementation Plan. Factory Power Company is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Factory Power Company to delay compliance with the SIP regulation covered by the Order until March 30, 1980.

Compliance with the Order by Factory Power Company will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Factory Power Company is in violation of a requirement contained in the Order, one or more of the actions required by

Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Factory Power Company on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: July 19, 1979.

Douglas M. Costle,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.400:

§ 65.400 Federal delayed compliance orders issued under section 113(d)(1), (3), and (4) of the Act.

Source	Location	Order No	Date of FR proposal	SIP regulation involved	Final compliance date
Factory Power Co.	Cincinnati, Ohio	EPA-5-79-A-42	May 8, 1979	AP-3-11	March 30, 1980

[FR Doc. 79-23461 Filed 7-27-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 401

[FRL 1260-5]

Identification of Conventional Pollutants

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: EPA is issuing a final rule establishing oil and grease as a conventional pollutant. EPA is withdrawing its proposal to designate chemical oxygen demand (COD) and phosphorus as conventional pollutants. Additionally, EPA is establishing two new sections in 40 C.F.R. Part 401 which will contain the list of conventional pollutants and the previously published list of toxic pollutants.

DATE: This rule becomes effective July 30, 1979.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Mackenthun, Director, Criteria and Standards Division (WH-585), Office of Water Planning and Standards, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Telephone 202/755-0100.

SUPPLEMENTARY INFORMATION: Section 304(a)(4) of the Clean Water Act requires that:

The Administrator shall, within 90 days after the date of enactment of the Clean Water Act of 1977 and from time to time thereafter, publish and revise as appropriate information identifying conventional pollutants, including but not limited to, pollutants classified as biological oxygen demanding, suspended solids, fecal coliform, and pH. The thermal component of any discharge shall not be identified as a conventional pollutant under this paragraph.

On July 28, 1978 the Agency published a Federal Register notice designating biochemical oxygen demand (BOD), pH,

fecal coliform bacteria, and total suspended solids (TSS) as conventional pollutants (43 FR 32857). The Agency also proposed three pollutants for addition to the list. Public comments were solicited on the addition of chemical oxygen demand (COD), oil and grease and phosphorus. In this notice the Agency identified two criteria for selection of conventional pollutants. First, conventional pollutants are generally those pollutants which are naturally occurring, biodegradable, oxygen demanding materials, and solids and which have characteristics similar to naturally occurring biodegradable substances. Second, conventional pollutants include those classes of pollutants which traditionally have been the primary focus of wastewater control. Based on these criteria, EPA concluded that conventional pollutants may include suspended solids, oxygen demanding substances and nutrients. The Agency also stated that conventional pollutants may, in some cases, be used as indicators of toxic pollutants.

EPA is today establishing oil and grease as a conventional pollutant and withdrawing its proposal to add COD and phosphorus to the conventional pollutant list. The Agency is confirming the use of the selection criteria and pollutant classes for any future identification of conventional pollutants. Additionally, in order to aid the public in determining the classification of a pollutant, the Agency is establishing two new sections in 40 CFR Part 401. Section 401.16 will contain the list of designated conventional pollutants. Section 401.15 will contain the list of toxic pollutants, designated pursuant to section 307(a)(1) of the Clean Water Act, which was previously published on January 31, 1978 (43 FR 4108).

Background

Under the Clean Water Act, there are now effectively three classes of pollutants for purposes of effluent limitations guidelines. Toxic pollutants are established pursuant to section 307(a)(1) of the Act, and conventional pollutants are designated under the authority of section 304(b)(4). All other pollutants are "non-toxic, non-conventional" pollutants. Both toxic and "non-toxic, non-conventional" pollutants are subject to effluent limitations representing "best available technology economically achievable" (BAT). However, the modifications to BAT limits provided by sections 301(c)

and 301(g) are not available for BAT limitations on toxic pollutants.

Pursuant to section 304(b)(4)(B) of the Clean Water Act, conventional pollutants are now subject to effluent limitations representing "best conventional pollutant control technology" (BCT). As specified by the Act, BCT limitations are subject to a "cost reasonableness" assessment, and on August 23, 1978, EPA proposed a methodology to be employed in determining these limitations (43 FR 37570). This methodology requires the comparison of the costs and level of reduction from an industrial category with those of a publicly owned treatment work (POTW). In some cases, this assessment will result in BCT limitations less stringent than those based upon BAT. In no case, however, shall BCT limitations be less stringent than those representing "best practicable control technology currently achievable" (BPT).

The act and its legislative history state that the economic and water quality modifications provided in sections 301(c) and 301(g) will not be available for BCT limitations. It should be stressed that loss of these modifications by addition of a pollutant to the conventional pollutant list will result in limitation of the Agency's authority to provide a permittee with effluent limitations less stringent than BCT based on a case-by-case evaluation of economic or water quality concerns.

Pollutants from any of the three classes may be used as "indicators" of toxic pollutants. In such cases, limitations will be set at BAT levels and no modifications will be available.

Response to Public Comments

Selection Criteria

Virtually all commenters supported the selection criteria and resulting pollutant classes identified by the Agency.

Oil and Grease

Most commenters supported the additional of oil and grease to the conventional pollutant list. Several commenters expressed concern that the Agency does not distinguish between oils and greases from animal and vegetable origin and those associated with petroleum sources. While recent advances in analytical techniques have provided a method for separating groups of oil and grease with similar characteristics, it is the entire class of oil and grease which has traditionally been of concern in wastewater control. Both groups are treated by similar

equipment and both groups exhibit many of the same environmental effects.

However, several commenters noted that oil and grease from petroleum sources may contain toxic fractions. Where toxic substances are associated with oil and grease, the Agency may require control at BAT levels. This will be done either by identification of oil and grease as an indicator pollutant or by establishing BAT limitations for the specific toxic pollutant. This is the same approach which EPA will follow when toxic fractions are contained in other pollutant parameters such as total suspended solids (TSS).

Chemical Oxygen Demand

The majority of commenters objected to the designation of COD as a conventional pollutant. The main objection raised by these commenters is that COD does not measure biodegradable substances and does not reflect the oxygen demanding characteristics of a waste stream. Additional objections concerned alleged difficulties with the methodology for measuring COD and the necessity of using advanced treatment methods for removing fractions of COD. Those who supported the addition of COD to the conventional pollutant list noted that this pollution parameter was the best measure of waste streams containing certain types of oxidizable materials.

The Agency has concluded that COD should not be designated as a conventional pollutant at this time. Based on its assessment of the Clean Water Act and its legislative history, EPA concluded that conventional pollutants include substances which, among other things, may be biodegradable or oxygen demanding. The Agency believes that this reflects Congress' concern for the traditional problem of degradation of water bodies through depletion of the dissolved oxygen available to the biota. COD is a parameter which measures a range of substances that are oxygen demanding. Although certain fractions of the materials measured by COD do deplete oxygen available to aquatic organisms, other fractions, identifiable as oxygen demanding under certain conditions of temperature and pH, do not as a practical matter deplete oxygen which would otherwise be available to organisms. Therefore, the Agency does not believe that it would be appropriate to identify it as a conventional pollutant at this time. When regulated in permits, COD will be treated as a "non-conventional, non-toxic" pollutant, unless it is designated as a toxics indicator.

Phosphorus

Numerous commenters urged EPA to remove phosphorus from consideration as a conventional pollutant. Some noted that the discharge of phosphorus from industrial point sources was insignificant compared to the amount entering receiving waters from non-point sources. Others noted that phosphorus is responsible for environmental degradation in only a limited number of water bodies. Finally, some commenters argued that phosphorus could not be a conventional pollutant because it was not specifically controlled by secondary treatment at publicly owned treatment works (POTWs). Those who supported the designation of phosphorus as a conventional pollutant pointed out that, as a nutrient, it may directly contribute to eutrophication.

The Agency recognizes the relationship of phosphorus to problems of water quality degradation and believes that nutrients, such as phosphorus, may be proper candidates for inclusion in the list of conventional pollutants. Nonetheless, phosphorus is not being added at this time. The primary reason for this decision is that phosphorus is an environmental problem only in limited geographical areas. Although phosphorus is not commonly treated by POTWs employing secondary treatment, the Agency believes that this factor is not relevant in designating conventional pollutants.

Indicators

Several commenters objected to the Agency's statement that conventional pollutants may in some cases be used as indicators of toxic pollutants. Although the Agency does intend to use conventional pollutants as toxics indicators in some industries, the issue of the use of indicators is not directly relevant to the question of which pollutants may be identified as conventional. All classes of pollutants, conventional, non-conventional and toxic, may contain substances which can be used as indicators and commenters should reserve objections to their use for those regulations in which such an approach is employed.

Dated: July 17, 1979.

Douglas M. Costle,
Administrator.

40 CFR Subchapter N, Part 401 is amended by the addition of the following two sections:

§ 401.15 Toxic pollutants.

The following comprise the list of toxic pollutants designated pursuant to section 307(a)(1) of the Act:

1. Acenaphthene
2. Acrolein
3. Acrylonitrile
4. Aldrin/Dieldrin*
5. Antimony and compounds¹
6. Arsenic and compounds
7. Asbestos
8. Benzene
9. Benidine*
10. Beryllium and compounds
11. Cadmium and compounds
12. Carbon tetrachloride
13. Chlordane (technical mixture and metabolites)
14. Chlorinated benzenes (other than dichlorobenzenes)
15. Chlorinated ethanes (including 1,2-dichloroethane, 1,1,1-trichloroethane, and hexachloroethane)
16. Chloroalkyl ethers (chloromethyl, chloroethyl, and mixed ethers)
17. Chlorinated naphthalene
18. Chlorinated phenols (other than those listed elsewhere; includes trichlorophenols and chlorinated cresols)
19. Chloroform
20. 2-chlorophenol
21. Chromium and compounds
22. Copper and compounds
23. Cyanides
24. DDT and metabolites*
25. Dichlorobenzenes (1,2-, 1,3-, and 1,4-dichlorobenzenes)
26. Dichlorobenzidine
27. Dichloroethylenes (1,1-, and 1,2-dichloroethylene)
28. 2,4-dichlorophenol
29. Dichloropropane and dichloropropene
30. 2,4-dimethylphenol
31. Dinitrotoluene
32. Diphenylhydrazine
33. Endosulfan and metabolites
34. Endrin and metabolites*
35. Ethylbenzene
36. Fluoranthene
37. Haloethers (other than those listed elsewhere; includes chlorophenylphenyl ethers, bromophenylphenyl ether, bis(dichloroisopropyl) ether, bis(chloroethoxy) methane and polychlorinated diphenyl ethers)
38. Halomethanes (other than those listed elsewhere; includes methylene chloride, methylchloride, methylbromide, bromoform, dichlorobromomethane, trichlorofluoromethane, dichlorodifluoromethane)
39. Heptachlor and metabolites
40. Hexachlorobutadiene
41. Hexachlorocyclohexane
42. Hexachlorocyclopentadiene
43. Isophorone
44. Lead and compounds
45. Mercury and compounds
46. Naphthalene
47. Nickel and compounds
48. Nitrobenzene
49. Nitrophenols (including 2,4-dinitrophenol, dinitrocresol)
50. Nitrosamines
51. Pentachlorophenol
52. Phenol

*Effluent standard promulgated (40 CFR Part 129).
¹The term "compounds" shall include organic and inorganic compounds.

53. Phthalate esters
54. Polychlorinated biphenyls (PCBs)*
55. Polynuclear aromatic hydrocarbons (including benzantracenes, benzopyrenes, benzoofluoranthene, chrysenes, dibenzanthracenes, and indenopyrenes)
56. Selenium and compounds
57. Silver and compounds
58. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)
59. Tetrachloroethylene
60. Thallium and compounds
61. Toluene
62. Toxaphene*
63. Trichloroethylene
64. Vinyl chloride
65. Zinc and compounds

§ 401.16 Conventional pollutants.

The following comprise the list of conventional pollutants designated pursuant to section 304(a)(4) of the Act:

1. Biological oxygen demand (BOD)
2. Total suspended solids (nonfilterable) (TSS)
3. pH
4. Fecal coliform
5. Oil and grease

[FR Doc. 79-23484 Filed 7-27-79; 8:45 am]
BILLING CODE 6560-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5673

[I-12551]

Idaho; Withdrawal for Administrative Site

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: This order withdraws 19.09 acres of public land for the development of an office and warehouse complex for the Bureau of Land Management's Burley, Idaho, District Office.

EFFECTIVE DATE: July 30, 1979.

FOR FURTHER INFORMATION CONTACT: Louis B. Bellesi—(202) 343-8731. By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2751, 43 U.S.C. 1714), it is hereby ordered as follows:

1. Subject to valid existing rights, the following described land is hereby withdrawn from settlement, sale, location, or entry, under the general land laws, including the mining laws, 30 U.S.C., Ch.2, and reserved for the development of an office and warehouse complex for the Bureau of Land

Management's Burley, Idaho, District Office:

Boise Meridian

Burley District Office Administrative Site

A parcel of land lying in the east half of the southwest quarter (E½SW¼) of section 32, T. 10 S., R. 23 E., the said parcel being more particularly described as follows:

Beginning at a point 1500.4 feet north and 33.0 feet west of the quarter section corner common to section 32, Township 10 South, Range 23 East and Section 5, Township 11 South, Range 23 East, Boise Meridian; said point being on the west right-of-way line of State Highway No. 27; thence N. 0°22'03" E. along the highway right-of-way a distance of 515.12 feet; thence N. 89°27'57" W. a distance 1184.19 feet to the centerline of the U.S.R.S. "H" Canal; thence S. 35°17'24" W. along the canal centerline a distance of 80.64 feet; thence S. 21°20'41" W. along the canal centerline a distance of 89.13 feet; thence S. 11°08'55" W. along the canal centerline a distance of 221.23 feet to the west quarter section boundary of said section 23; thence S. 0°18'27" E. along the quarter section boundary 501.81 feet; thence S. 89°26'03" E. a distance of 496.15 feet; thence N. 0°36'56" E. a distance of 355.45 feet; thence S. 89°21'29" E. a distance of 800 feet to the point of beginning.

The area described aggregates 19.09 acres, more or less, in Cassia County.

2. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetable resources other than under the mining laws.

3. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

Guy R. Martin,
Assistant Secretary of the Interior.
July 23, 1979.

[FR Doc. 79-23311 Filed 7-27-79; 8:45 am]
BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FI-5070]

Final Flood Elevation Determinations for the Borough of Westville, Gloucester County, N.J.; Cancellation

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Cancellation of final rule.

SUMMARY: The Office of Federal Insurance and Hazard Mitigation has erroneously published at 44 FR 6934 on February 5, 1979, the final flood elevation determination for the Borough

of Westville, New Jersey. This notice will serve as a cancellation of that publication. A new notice of final flood elevation determination will be published in the near future.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, (In Alaska and Hawaii Call Toll Free Line (800) 424-9080), Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1968 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19387; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: July 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.
(FR Doc. 79-23331 Filed 7-27-79; 8:45 am)
BILLING CODE 4210-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order 1388]

Kent, Barry, Eaton Connecting Railway Co., Inc. Authorized to Operate Over Tracks Formerly Operated by Consolidated Rail Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1388

SUMMARY: Service Order No. 1388 authorizes the Kent, Barry, Eaton Connecting Railway Company, Incorporated to operate over tracks formerly operated by Consolidated Rail Corporation between Vermontville, Michigan, and Grand Rapids, Michigan.

EFFECTIVE DATE: 11:59 p.m., July 24, 1979, until further order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275-7840.

Decided: July 23, 1979.

The State of Michigan has designated Kent, Barry, Eaton Connecting Railway Company, Incorporated (KBE) to operate over the line between Vermontville, Michigan, and Grand Rapids, Michigan, which was formerly operated by Consolidated Rail Corporation (CR). KBE is willing to operate this line of railroad in order to provide essential rail service to shippers on this line.

An application seeking authority to operate as the designated operator of this line has been filed by KBE. If

service over this line is not restored, numerous shippers on this line will not have needed rail service.

It is the opinion of the Commission that an emergency exists requiring the immediate resumption of operations over this line in the interest of the public; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, § 1033.1388 Kent, Barry, Eaton Connecting Railway Company, Incorporated authorized to operate over tracks formerly operated by Consolidated Rail Corporation.

(a) The Kent, Barry, Eaton Connecting Railway Company, Incorporated (KBE) is authorized to operate over tracks formerly operated by Consolidated Rail Corporation (CR) between Vermontville, Michigan, former CR milepost 46.4, and Grand Rapids, Michigan, former CR milepost 88.1, a distance of approximately 41.7 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by KBE over tracks previously operated by CR is deemed to be due to CR being replaced as the designated operator, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via CR until tariffs naming rates and routes specifically applicable via KBE become effective.

(d) In transporting traffic over these lines KBE and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(e) Nothing herein shall be considered as a prejudgment of the application of KBE seeking authority to operate over these tracks.

(f) *Effective date.* This order shall become effective at 11:59 p.m., July 24, 1979.

(g) *Expiration.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Trukington and John R. Michael.

Agatha L. Mergenovich,
Secretary.

(FR Doc. 79-23400 Filed 7-27-79; 8:45 am)
BILLING CODE 7035-01-M

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

[7 CFR Part 401 and 423]

Proposed Flax Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule prescribes procedures for insuring flax crops effective with the 1980 crop year. This rule combines provisions from previous regulations for insuring flax in a shorter, clearer, and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions must be submitted not later than September 28, 1979 to be assured of consideration.

ADDRESS: Written comments on this proposed rule should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), it is proposed that there be established a new Part 423 of Chapter IV in Title 7 of the Code of Federal Regulations to be known as 7 CFR Part 423, Flax Crop Insurance.

This part prescribes procedures for insuring flax crops effective with the 1980 crop year.

All previous regulations applicable to insuring flax crops as found in 7 CFR 401.101-401.111, and 401.128, will not be

applicable to 1980 and succeeding flax crops but will remain in effect for Federal Crop Insurance Corporation (FCIC) flax insurance policies issued for the crop years prior to 1980.

It has been determined that combining all previous regulations for insuring flax crops into one shortened, simplified, and clearer regulation would be more effective administratively.

In addition, proposed 7 CFR Part 423 provides (1) for a Premium Adjustment Table which replaces the current premium discount provisions and includes a maximum 50 percent premium reduction for good insurance experience, as well as premium increases for unfavorable experience, on an individual contract basis, (2) that the production guarantee will now be shown on a harvested basis with a reduction of the lesser of 1.5 bushels or 20 percent of the guarantee for any unharvested acreage, (3) that any premium not paid by the termination date will be increased by a 9 percent service fee with a 9 percent simple interest charge applying to any unpaid balances at the end of each subsequent 12-month period thereafter, (4) that the time period for submitting a notice of loss be extended from 15 days to 30 days, (5) that the 60-day time period for filing a claim be eliminated, (6) that three coverage level options be offered in each county, (7) that the Actuarial Table shall provide the level which will be applicable to a contract unless a different level is selected by the insured and the conversion level will be the one closest to the present percent level offered in each county, and (8) for an increase in the limitation from \$5,000 to \$20,000 in those cases involving good faith reliance on misrepresentation, as found in 7 CFR Part 420.5 of these proposed regulations, wherein the Manager of the Corporation is authorized to take action to grant relief.

The proposed Flax Crop Insurance regulations provide a December 31 cancellation date for most flax producing counties. Flax producing counties in Texas have a June 30 cancellation date effective 1980.

These regulations, and any amendments thereto, must be placed on file in the Corporation's office for the county in which the insurance is available not later than 15 days prior to the earlier of the two cancellation dates,

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December 31, 1979, in order to afford farmers an opportunity to examine them before the earlier cancellation date of December 31, 1979, before they become effective for the 1980 crop year.

All written submissions made pursuant to this notice will be available for public inspection at the office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to delete and reserve 7 CFR 401.128, but these provisions shall remain in effect for FCIC flax insurance policies issued for crop years prior to 1980. The Corporation also proposes to issue a new Part 423 in Chapter IV of Title 7 of the Code of Federal Regulations effective with the 1980 and subsequent crops of flax, which shall remain in effect until amended or superseded, to read as follows:

Part 401—Federal Crop Insurance

§ 401.128 [Reserved]

- Section 401.128 is deleted and reserved.
- Part 423 is added as follows.

PART 423—FLAX CROP INSURANCE

Subpart—Regulations for the 1980 and Succeeding Crop Years

- Sec.
- 423.1 Availability of Flax Insurance.
 - 423.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
 - 423.3 Public notice of indemnities paid.
 - 423.4 Creditors.
 - 423.5 Good faith reliance on misrepresentation.
 - 423.6 The contract.
 - 423.7 The application and policy.
- Authority: Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516)

Subpart—Regulations for the 1980 and Succeeding Crop Years

§ 423.1 Availability of Flax Insurance.

Insurance shall be offered under the provisions of this subpart on flax in counties within limits prescribed by and in accordance with the provisions of the

Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this chapter the names of the counties in which flax insurance will be offered.

§ 423.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for flax which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 423.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 423.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 423.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the flax insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than \$20,000,

finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 423.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the flax crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table. Any changes made in the contract shall not affect the continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 423.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the flax crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the

county and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however*, That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1969 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a flax contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and Flax Insurance Policy for the 1980 and succeeding crop years, and the Appendix to the Flax Insurance Policy are as follows:

U.S. Department of Agriculture, Federal Crop Insurance Corporation

Application for 19— and Succeeding Crop Years—Flax—Crop Insurance Contract

(Contract Number) _____

(Identification Number) _____

(Name and Address) (Zip Code) _____

(County) (State) _____

Type of Entity _____
Applicant is Over 18 Yes—No—

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the flax seeded on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the coverage level and price at which indemnities shall be computed. **THE PREMIUM RATES AND PRODUCTION GUARANTEES SHALL BE THOSE SHOWN ON THE APPLICABLE COUNTY ACTUARIAL TABLE FILED IN THE OFFICE FOR THE COUNTY FOR EACH CROP YEAR.**

Level Election—Price Election—

Example: For the 19— Crop Year Only (100 percent Share)

Location/ Farm No.	Guarantee Per Acre*	Premium Per Acre**	Practice

*Your guarantee will be based on the unit (acres X per acre guarantee)

**Your premium is subject to adjustment in accordance with section 5(c) of the policy.

B. WHEN NOTICE OF ACCEPTANCE OF THIS APPLICATION IS MAILED TO THE APPLICANT BY THE CORPORATION, the contract shall be in effect for the crop year specified above, unless the time for submitting applications has passed at the time this application is filed, AND SHALL CONTINUE FOR EACH SUCCEEDING CROP YEAR UNTIL CANCELED OR TERMINATED as provided in the contract. This accepted application, the following flax insurance policy, the attached appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and applicable dates, shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

(b) The acreage insured for each crop year shall be that acreage seeded to flax on insurable acreage as shown on the actuarial table, and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided*, That insurance shall not attach or be considered to have attached, as determined by the Corporation, to any acreage (1) seeded with any other crop except perennial grasses or legumes other than vetch, (2) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (3) not reported for insurance as provided in section 3 if such acreage is irrigated and an irrigated practice is not provided for such acreage on the actuarial table, (4) which is destroyed and after such destruction it was practical to reseed to flax and such acreage was not reseeded, (5) initially seeded after the date on file in the office for the county which has been established by the Corporation as being too late to initially seed and expect a normal crop to be produced, (6) of volunteer flax, or (7) seeded to a type or variety of flax not established as adapted to the area or shown as noninsurable on the actuarial table.

(Code No./Witness to Signature) _____

(Signature of Applicant) _____

(DATE) _____, 19—

Address of Office for County: _____

Phone _____

Location of Farm Headquarters: _____

Phone _____

Flax Crop Insurance Policy

Terms and Conditions

Subject to the provisions in the attached appendix:

1. Causes of Loss. (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, insects, plant disease, wildlife, earthquake or fire occurring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production, as determined by the Corporation, due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants or employees, (2) failure to follow recognized good farming practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by the actuarial table.

2. Crop and Acreage Insured. (a) The crop insured shall be flaxseed (herein called "flax") which is seeded for harvest as seed and which is grown on insured acreage and for which the actuarial table shows a guarantee and premium rate per acre.

(b) The acreage insured for each crop year shall be that acreage seeded to flax on insurable acreage as shown on the actuarial table, and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided*, That insurance shall not attach or be considered to have attached, as determined by the Corporation, to any acreage (1) seeded with any other crop except perennial grasses or legumes other than vetch, (2) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (3) not reported for insurance as provided in section 3 if such acreage is irrigated and an irrigated practice is not provided for such acreage on the actuarial table, (4) which is destroyed and after such destruction it was practical to reseed to flax and such acreage was not reseeded, (5) initially seeded after the date on file in the office for the county which has been established by the Corporation as being too late to initially seed and expect a normal crop to be produced, (6) of volunteer flax, or (7) seeded to a type or variety of flax not established as adapted to the area or shown as noninsurable on the actuarial table.

(c) Insurance may attach only by written agreement with the Corporation on acreage which is seeded for the development or production of hybrid seed or for experimental purposes.

3. Responsibility of Insured to Report Acreage and Share. The insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing (a) all acreage of flax seeded in the county (including a designation of any acreage to which insurance does not attach) in which the insured has a share and (b) the insured's share therein at the time of seeding. Such report shall be submitted each year not later than the acreage reporting date on file in the office for the county.

4. Production Guarantees, Coverage Levels, and Prices for Computing Indemnities. (a) For each crop year of the contract, the production guarantees, coverage levels, and prices at which indemnities shall be computed shall be those shown on the actuarial table.

(b) The production guarantee per acre shall be reduced by the lesser of 15 bushels or 20 percent for any unharvested acreage.

5. Annual Premium. (a) The annual premium is earned and payable at the time of seeding and shall be determined by multiplying the insured acreage times the applicable premium per acre, times the insured's share at the time of seeding, times the applicable premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

BILLING CODE 3410-08-M

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE																
Loss Ratio 1/ Through Previous Crop Year	Numbers of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Percentage Adjustment Factor For Current Crop Year																
.00 - .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 - .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 - .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 - .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 - 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE																
Loss Ratio 1/ Through Previous Crop Year	Number of Loss Years Through Previous Year 2/															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Percentage Adjustment Factor For Current Crop Year																
1.10 - 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 - 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 - 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 - 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 - 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 - 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 - 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 - 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 - 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 - Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

2/ Only the most recent 15 crop years will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year).

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(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided*, When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; *however*, if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. Insurance Period. Insurance on insured acreage shall attach at the time the flax is seeded and shall cease upon the earliest of (a) final adjustment of loss, (b) combining, threshing, or removal of the flax from the field, (c) October 31 of the calendar year in which flax is normally harvested, or (d) destruction of the insured flax crop.

7. Notice of damage or loss. (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the flax on any unit is damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late or impractical to reseed to flax. Notice shall also be given when such acreage has been put to another use.

(c) In addition to the notices required in subsection (b) of this section, if an indemnity is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than 30 DAYS after the earliest of (1) the date harvest is completed on the unit, (2) October 31 of the crop year, or (3) the date the entire flax crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(d) Any insured acreage which is not to be harvested and upon which an indemnity is to be claimed shall be left intact until inspected by the Corporation.

(e) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. Claim for Indemnity. (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of flax on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation. (b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of flax on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production of flax to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in step (3) by the insured share: *Provided*, That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production.

(1) If, due to insurable causes, any flax does not grade No. 2 or better in accordance with the Official U.S. Grain Standards, the production shall be adjusted by (i) dividing the value per bushel of the damaged flax (as determined by the Corporation) by the price per bushel of U.S. No. 2 flax and (ii) multiplying the result by the number of bushels of such flax. The applicable price for U.S. No. 2 flax shall be the local market price on the earlier of: the day the loss is adjusted or the day the damaged flax was sold.

(2) Appraised production to be counted shall include: (i) the greater of the appraised production or 50 percent of the applicable guarantee for any acreage which, with the consent of the Corporation, is seeded before flax harvest becomes general in the current crop year to any other crop insurable on such acreage (excluding any crop(s) maturing for harvest in the following calendar year), (ii) any appraisals by the Corporation for potential production on harvested acreage and for uninsured causes and poor farming practices, (iii) not less than the applicable guarantee for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause, and (iv) only the appraisal in excess of the lesser of 15 bushels or 20 percent of the production guarantee for all other unharvested acreage.

(d) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as

production in determining the amount of loss under the contract. *However*, if consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is not put to another use before harvest of flax becomes general in the county, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. Misrepresentation and fraud. The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. Transfer of Insured Share. If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

11. Records and Access to Farm. The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all flax produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. Life of Contract: Cancellation and Termination. (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year. *Provided*, That the date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

States	Cancellation date	Termination date for indebtedness
Texas	June 30	Sept. 15
All other States	Dec. 31	Mar. 31

(d) In the absence of a notice from the insured to cancel, and subject to the

provisions of subsections (a), (b), and (c) of this section, and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

Appendix (additional terms and conditions)

1. Meaning of Terms. For the purposes of flax crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding flax insurance in the county.

(b) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(c) "Crop year" means the period within which the flax crop is normally grown and shall be designated by the calendar year in which the flax crop is normally harvested.

(d) "Harvest" means the severance of mature flax from the land for combining or threshing.

(e) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(f) "Insured" means the person who submitted the applications accepted by the Corporation.

(g) "office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(h) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(i) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured flax crop at the time of seeding as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided*, That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) October 31 of the crop year, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(j) "Tenant" means a person who rents land from another person for a share of the flax crop or proceeds therefrom.

(k) "Unit" means all insurable acreage of flax in the county on the date of seeding for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the flax crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable

guidelines on file in the office for the county or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. Acreage Insured. (a) The Corporation reserves the right to limit the insured acreage of flax to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the seeding of flax.

(b) If the insured does not submit an acreage report on or before the acreage reporting date on file in the office for the county, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero." If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. Irrigated Acreage. (a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of seeding.

(b) Where irrigated acreage is insurable, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of seeding, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

4. Annual Premium. (a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; *however*, any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

5. Claim for and Payment of Indemnity. (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been

commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured flax acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided*, That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However*, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the flax is seeded for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. Subrogation. The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. Termination of the Contract. (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; *however*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

8. Coverage Level and Price Election. (a) If the insured has not elected on the application a coverage level and price at which indemnities shall be computed from among those shown on the actuarial table, the coverage level and price election which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level and price election for any crop year on or

before the closing date for submitting applications for that crop year.

9. Assignment of Indemnity. Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. Contract Changes. The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

This proposal has been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C., 20250.

Note.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. A-40.

Approved by the Board of Directors on July 24, 1979.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 79-23310 Filed 7-27-79; 8:45 am]

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[7 CFR Parts 401 and 424]

Proposed Rice Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule prescribes procedures for insuring rice crops effective with the 1980 crop year. This rule combines provisions from previous regulations for insuring rice in a shorter, clearer, and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions must be submitted not later than September 28, 1979, to be assured of consideration.

ADDRESS: Written comments on this proposed rule should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), it is proposed that there be established a new Part 424 of Chapter IV in Title 7 of the Code of Federal Regulations to be known as 7 CFR Part 424, Rice Crop Insurance.

This part prescribes procedures for insuring rice crops effective with the 1980 crop year.

All previous regulations applicable to insuring rice crops as found in 7 CFR 401.101-401.111, and 401.132, will not be applicable to 1980 and succeeding rice crops but will remain in effect for Federal Crop Insurance Corporation (FCIC) rice insurance policies issued for the crop years prior to 1980.

It has been determined that combining all previous regulations for insuring rice crops into one shortened, simplified, and clearer regulation would be more effective administratively.

In addition, proposed 7 CFR Part 424 provides (1) for a Premium Adjustment Table which replaces the current premium discount provisions and includes a maximum 50 percent premium reduction for good insuring experience, as well as premium increases for unfavorable experience, on an individual contract basis, (2) for the consolidation of termination for indebtedness dates to March 31 in all counties, (3) that any premium not paid by the termination date will be increased by a 9 percent service fee with a 9 percent simple interest charge applying to any unpaid balances at the end of each subsequent 12-month period thereafter, (4) that the time period for submitting a notice of loss be extended from 15 days to 30 days, (5) that the 60-day time period for filing a claim be eliminated, (6) that three coverage level options be offered in each county, (7) that the Actuarial Table shall provide the level which will be applicable to a contract unless a different level is selected by the insured and the conversion level will be the one closest

to the present percent level offered in each county, (8) for an increase, in the limitation from \$5,000 to \$20,000 in those cases involving good faith reliance on misrepresentation, as found in 7 CFR Part 424.5 of these proposed regulations, wherein the Manager of the Corporation is authorized to take action to grant relief, and (9) that the production guarantee will now be shown on a harvested basis with a reduction of the lesser of 5 cwt. or 20 percent of the guarantee for any unharvested acreage.

The proposed Rice Crop Insurance regulations provide a December 31 cancellation date for all rice producing counties. These regulations, and any amendments thereto, must be placed on file in the Corporation's office for the county in which the insurance is available not later than 15 days prior to the cancellation date, to afford farmers an opportunity to examine them before the cancellation date of December 31, 1979, before they become effective for the 1980 crop year.

All written submissions made pursuant to this notice will be available for public inspection at the office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to delete and reserve 7 CFR 401.132, but these provisions shall remain in effect for FCIC rice insurance policies issued for crop years prior to 1980. The Corporation also proposes to issue a new Part 424 in Chapter IV of Title 7 of the Code of Federal Regulations effective with the 1980 and subsequent crops of rice, which shall remain in effect until amended or superseded, to read as follows:

PART 401—FEDERAL CROP INSURANCE

§ 401.132 [Reserved]

1. Section 401.132 is deleted and reserved.

2. Part 423 is added as follows:

PART 424—RICE CROP INSURANCE

Subpart—Regulations for the 1980 and Succeeding Crop Years

- Sec.
- 424.1 Availability of Rice Insurance.
- 424.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
- 424.3 Public notice of indemnities paid.
- 424.4 Creditors.

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE																
Loss Ratio ^{1/} Through Previous Crop Year	Numbers of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Percentage Adjustment Factor For Current Crop Year																
.00 - .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 - .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 - .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 - .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 - 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE																
Loss Ratio ^{1/} Through Previous Crop Year	Number of Loss Years Through Previous Year ^{2/}															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Percentage Adjustment Factor For Current Crop Year																
1.10 - 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 - 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 - 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 - 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 - 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 - 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 - 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 - 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 - 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 - Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

^{1/} Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

^{2/} Only the most recent 15 crop years will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year).

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(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided*, When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; *however*, if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. Insurance Period. Insurance on insured acreage shall attach at the time the rice is seeded and shall cease upon the earliest of (a) final adjustment of a loss, (b) combining, threshing, or removal of the rice from the field, (c) October 31 of the calendar year in which rice is normally harvested, or (d) total destruction of the insured rice crop.

7. Notice of Damage or Loss. (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the rice on any unit is damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late or impractical to reseed to rice. Notice shall also be given when such acreage has been put to another use.

(c) In addition to the notices required in subsection (b) of this section, if an indemnity is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than 30 days after the earliest of (1) the date harvest is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire rice crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(d) Any insured acreage which is not to be harvested and upon which an indemnity is to be claimed shall be left intact until inspected by the Corporation.

(e) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. Claim for Indemnity. (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of rice on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of rice on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production of rice to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in step (3) by the insured share: *Provided*, That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production.

(1) Mature production which grades No. 3 or better shall be reduced .12 percent for each .1 percentage point of moisture in excess of 14.0 percent; and if, due to insurable causes, the rough rice does not grade U.S. No. 3 or better (determined in accordance with Official Grain Standards of the United States) with a milling yield per cwt. of 55 pounds of heads for the short and medium grain varieties and 48 pounds of heads for long grain varieties (whole kernels) and 68 pounds total milling yield (heads, second heads, screenings and brewers), the number of pounds of such rice to be counted shall be adjusted by (i) dividing the value per pound of the damaged rice (as determined by the Corporation) by the market price per pound at the nearest mill center for the same variety of rough rice grading U.S. No. 3 with the milling yields as stated above, and (ii) multiplying the result thus obtained by the number of pounds of production of such damaged rice. The applicable price for No. 3 rice shall be the nearest mill center price on the earlier of: the day the loss is adjusted or the day the damaged rice was sold.

(2) Any production from volunteer rice growing with the seeded rice crop shall be counted as rice on a weight basis.

(3) Appraised production to be counted shall include: (i) any appraisals by the Corporation for potential production on harvested acreage and for uninsured causes and for poor farming practices, (ii) not less

than the applicable guarantee for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause, and (iii) only the appraisal in excess of the lesser of 5 cwt. or 20 percent of the production guarantee for all other unharvested acreage.

(d) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract. *However*, if consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is harvested, or (2) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. Misrepresentation and Fraud. The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. Transfer of Insured Share. If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

11. Records and Access to Farm. The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all rice produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. Life of Contract: Cancellation and Termination. (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided*, That date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claims or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

Counties	Cancellation date	Termination date for indebtedness
All counties	Dec. 31	Mar. 31

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section, and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

Appendix (additional terms and conditions)

1. Meaning of Terms. For the purposes of rice crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding rice insurance in the county.

(b) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(c) "Crop year" means the period within which the rice crop is normally grown and shall be designated by the calendar year in which the rice crop is normally harvested.

(d) "Harvest" means the severance of mature rice from the land for combining or threshing.

(e) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(f) "Insured" means the person who submitted the application accepted by the Corporation.

(g) "Mill center" means any location in which two or more mills are engaged in milling rough rice.

(h) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(i) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(j) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured rice crop at the time of seeding as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share be deemed to be insured; *Provided*, That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(k) "Tenant" means a person who rents land from another person for a share of the rice crop or proceeds therefrom.

(l) "Unit" means all insurable acreage of rice in the county on the date of seeding for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the rice crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in the office for the county or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. Acreage Insured. (a) The Corporation reserves the right to limit the insured acreage of rice to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the seeding of rice.

(b) If the insured does not submit an acreage report on or before the acreage reporting date on file in the office for the county, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report to indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. Annual Premium. (a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; *however*, any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

4. Claim for and Payment of Indemnity. (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured rice acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c); *Provided*, That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However*, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the rice is seeded for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

5. Subrogation. The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

6. Termination of the Contract. (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; *however*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

7. Coverage Level and Price Election. (a) If the insured has not elected on the application a coverage level and price election at which indemnities shall be computed from among those shown on the actuarial table, the coverage level and price election which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level and price election for any crop year on or before the closing date for submitting applications for that crop year.

8. Assignment of Indemnity. Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right

to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

9. Contract Changes. The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date, preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

This proposal has been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Note.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. A-40.

Approved by the Board of Directors on July 24, 1979.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

[FR Doc. 79-23309 Filed 7-27-79; 8:45 am]
BILLING CODE 3410-08-M

Agricultural Marketing Service

[7 CFR Part 1064]

[Docket No. AO-23-A52]

Milk in the Greater Kansas City Marketing Area; Recommended Decision and Opportunity to File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends changes in the present order provisions based on industry proposals considered at a public hearing held October 30, 1978. The recommended amendments would permit the Director of the Dairy

Division to change temporarily the pooling standards for supply plants. Also, supply plant operators would be permitted to divert producer milk directly from farms to nonpool plants for manufacturing. The proposed changes are necessary to reflect current marketing conditions and to insure orderly marketing in the regulated area.

DATE: Comments are due on or before August 20, 1979.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7183.

SUPPLEMENTAL INFORMATION: Prior document in this proceeding: Notice of Hearing—Issued September 29, 1978, published October 6, 1978 (43 FR 46305).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Greater Kansas City marketing area. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C., 20250, on or before August 20, 1979. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing conducted at Kansas City, Missouri, on October 30, 1978. Notice of such hearing was issued September 29, 1978 (43 FR 46305).

The material issues on the record of the hearing relate to:

1. Pooling standards for a supply plant.
2. Diversion of producer milk.

At the hearing, no testimony was presented concerning a hearing notice proposal (Proposal No. 4) to amend § 1064.45(d), *Market Administrator's reports and announcements concerning classification*. Accordingly, no further consideration is given to the proposal in this proceeding.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Pooling standards for a supply plant.* No change should be made on the basis of this record in the supply plant shipping requirements. Instead, the Director of the Dairy Division (Agricultural Marketing Service, U.S. Department of Agriculture) should be authorized to temporarily increase or decrease the supply plant shipping percentages by up to 20 percentage points if it is determined that additional shipments are needed or that excessive shipments are expected to be made.

The order currently provides pool status to a supply plant from which transfers to pool distributing plants and/or Class I milk disposed of on routes in the marketing area amount to not less than 50 percent of its monthly receipts of Grade A milk from dairy farmers. A plant which is pooled as a supply plant in each of the months of September through January acquires automatic pooling status in the subsequent months of February through August unless nonpool plant status is requested.

The order also provides that a supply plant operated by a cooperative association may qualify as a pool plant on the basis of the cooperative's total milk movements to pool distributing plants either by transfer from a supply plant or directly from member producers' farms. This provision is not at issue in the proceeding. However, for the purpose of this discussion, such a pool supply plant shall be referred to as a "cooperative balancing plant".

Several proposals concerning supply plant performance standards were considered at the hearing. Mid-America Dairymen, Inc. (Mid-Am), a cooperative association of producers supplying a major portion of the fluid milk market, proposed that a supply plant no longer be provided automatic pooling status during the February–August period but instead be required to ship milk to distributing plants each month to qualify for pooling. As proposed, a supply plant that met the present 50 percent shipping requirement during each of the months of September through January could continue to be a pool plant during the

subsequent February through August period by shipping a minimum of 30 percent of its receipts in each of the latter months. Under the proposal, if the shipping requirement of 50 percent was not met during each of the months of September through January, then the plant would have to meet the 50 percent shipping requirements each month to qualify for pooling that month. Additionally, Mid-Am proposed that the market administrator be authorized to increase or decrease these shipping requirements on a temporary basis by up to 20 percentage points if he finds such revision is necessary to obtain needed milk shipments or to prevent uneconomic shipments.

Fairmont Foods Co., a proprietary handler operating two distributing plants in the market, also proposed that supply plants be required to ship every month of the year. Specifically, it proposed that shipping requirements be equal to about 80 to 90 percent of the projected market's Class I utilization for the month and that such shipping requirements be announced by the market administrator on the 5th day of each month. Fairmont also proposed that qualifying shipments by a supply plant should include milk delivered directly from farms to distributing plants by the supply plant operator.

At the hearing, Associated Milk Producers, Inc. (AMPI) also supported the adoption of year-round shipping requirements provided that such performance requirements were minimal during the months of heavy production. Specifically, under its proposal, a pool supply plant would have to ship at least 50 percent of its receipts from producers to distributing plants during the months of September through November and 25 percent during all other months. However, as a condition to its year-round shipping proposal, AMPI further proposed (1) that a supply plant which has maintained pool status for three consecutive months be granted pool plant status for the first subsequent month in which it fails to qualify as a pool plant on the basis of shipments; and (2) that a supply plant be allowed to include as qualifying shipments milk delivered directly from producers' farms to pool distributing plants.

In support of its proposal, Mid-Am contended that there is need for year-round shipping requirements because distributing plants have become more dependent during each month of the year on supply plant milk to fulfill their total plant requirements. The spokesman for Mid-Am testified that this greater dependence on supply plant milk has resulted from changes in

bottling schedules of distributing plants and a demand by such plants for skim milk. In his opinion, year-round shipping requirements would assure distributing plants of a continuing, adequate milk supply from supply plants when needed.

Mid-Am indicated that its proposal for year-round shipping requirements was prompted by the growing trend, particularly in other markets, in the number of manufacturing plants that have qualified as pool supply plants under an order.¹ This trend, according to the spokesman for Mid-Am, stems from the gradual conversion from Grade B to Grade A production, which he claimed was happening in the procurement area for the Kansas City market. The witness indicated that this prompts manufacturing plants to qualify as pool supply plants in order that they may use pool proceeds from the fluid market to pay a competitive price to their dairy farmers and thus insure a supply of milk at their plants. Although admitting that this has not been a problem under the Kansas City order, the witness for Mid-Am maintained that the present automatic pooling provision provides an opportunity for a manufacturing plant operator to pool a supply of milk without assuming any responsibility to supply the fluid market on a continuing basis throughout the year. He held that this consideration suggests the need to incorporate year-round shipping requirements.

A spokesman for Fairmont also testified in support of the elimination of the automatic pooling provision, claiming that the present pooling standards do not encourage adequate milk shipments. He expressed the belief that all pool supply plants should be required to supply a proportionate "fair share" of the market's fluid needs each month of the year. The Fairmont witness complained that relatively low shipping standards contribute significantly to a supply organization's ability to collect unreasonably high over-order premiums and/or service charges from handlers.

In further support of its position, the witness for Fairmont testified that in the late summer of 1978 his firm was notified by Mid-Am, which was Fairmont's regular supplier, that beginning in September 1978 Mid-Am would hold back some of its pooled milk from Order 64 distributing plants so that it would have a sufficient volume of milk at its manufacturing operations to maintain a profitable operating level. The witness indicated that after trying

¹ At the time of the hearing there was only one manufacturing plant qualified as a pool supply plant under the order (exclusive of cooperative balancing plants.)

to secure alternative supplemental supplies of milk, the distributing plant operators, through negotiations with Mid-Am, were able to obtain adequate supplies. However, according to the witness, this was accomplished by paying a higher price (an additional 12 cents per hundredweight) on all milk purchased from Mid-Am. In this regard, a spokesman for Mid-Am testified that in September 1978 about 1,000,000 pounds of milk were moved to distributing plants from other markets to accommodate the requests of the distributors for milk.

While obviously disturbed about the 12-cents per hundredweight additional charge for all milk purchased from Mid-Am, the spokesman for Fairmont acknowledged an understanding of Mid-Am's position in this regard—in particular, the need to overcome losses in its manufacturing operation because of inadequate volumes so as to be competitive with other cooperatives and proprietary handlers who are competing for producers. However, it was his belief that distributing plant operators should not have to pay this additional charge to obtain adequate supplies while at the same time other suppliers are engaged principally in manufacturing operation. In his opinion, requiring a supply plant to ship on a year-round basis, as he proposed, would make additional milk available to his and other distributing plants and thus eliminate the need to import milk from other markets.

Although supporting year-round shipping requirements for supply plants, the spokesman for AMPI indicated that he was unaware of any problem that distributing plant operators were experiencing in obtaining adequate supplies during the months (February–August) when qualified pool supply plants are not required to make shipments. It was his contention that supply plants associated with the market are making adequate milk supplies available to distributing plants when the milk is needed. In his view, however, requiring some minimal level of shipments during each month of the year would assure the pooling of only those supply plant operations whose major interest is supplying the fluid requirements of distributing plants. He contended that the automatic pooling feature tends to encourage manufacturing plants to associate with the market in order to maintain a supply of milk for manufacturing purposes without regard to supplying the fluid market.

While the three proponents of year-round shipping standards differed as to the levels at which a supply plant

should perform to acquire pool status, they were in agreement that the automatic pooling feature should be eliminated. This change, they argued, was necessary to reduce the incentive for supply plants primarily engaged in manufacturing to obtain pool plant status by shipping only during the fall months, as is presently required by the order. Moreover, they maintained that year-round shipping requirements would assure a more equitable sharing among all supply plant handlers of the responsibility of supplying the Class I needs of the market. They contended that year-round shipping requirements would provide additional assurance to pool distributing plants that fluid milk supplies would be available from supply plants when needed.

Only three of the six pool supply plants on the market at the time of the hearing would be directly affected by the proposed changes. One of the three is a pool plant located at Jessup, Iowa, that is operated by AMPI. The plant's primary activity is supplying skim milk to pool distributing plants. Another of the three pool supply plants, the Bit O'Gold Cheese Company, is located at Wamego, Kansas. The third is the National Farmers Organization plant at Jefferson City, Missouri. The three remaining pool supply plants on the market are operated by Mid-Am and are located at Ottawa, Kansas, Sabetha, Kansas, and at Chillicothe, Missouri. These three plants, however, are pooled under the cooperative balancing plant provisions of the order which are not at issue in this proceeding.

The purpose of pooling standards for supply plants is to distinguish between those plants substantially engaged in serving the fluid needs of the regulated market and those plants that do not serve the market to a degree that warrants their sharing, through pooling, in the market's Class I returns. The standards also must assure that supply plants associated with the market will make milk available to distributing plants at the times and in the quantities needed. However, supply plants regularly serving the market should not be required to ship substantial quantities of milk when the milk is not needed.

As noted previously, the order now permits a supply plant that has met the minimum shipping requirements during the months of September through January to qualify as a pool plant during the other months without having to meet any specified shipments to distributing plants. This automatic pooling feature has been an integral part of the order's pooling provision for supply plants for

many years. It recognizes that the demand for supply plant milk is usually less in the months of seasonably high production than in other months. Requiring no shipments during the heavy production months from those supply plants with an established association with the market avoids unnecessary, as well as uneconomical, shipments to pool distributing plants for the sole purpose of maintaining pool status for the supply plants. Moreover, the automatic pooling feature permits those producers who have established their association with the fluid market through deliveries to a pool supply plant to share in the market's Class I sales when supply plant milk may not be needed by distributing plants.

The adoption of year-round shipping requirements should be based on an indication that distributing plants are experiencing difficulty in obtaining adequate milk supplies for fluid uses from pool supply plants. There is no basis on this record from which it might be concluded that this is the case. This is so even at a time when operators of distributing plants have become increasingly dependent on supply plant milk because of changes in their bottling patterns and their desire, in some cases, to be supplied with milk of a standardized butterfat test.

The fact that Mid-Am started in September 1978 to retain milk for its manufacturing operations which was formerly available to distributing plants, in itself, provides no basis for adopting year-round shipping requirements. There was no demonstration that this action of Mid-Am caused an actual or potential shortage of milk at distributing plants. Moreover, the record provides no evidence that any of the market's 10 distributing plants have had or expect to have any difficulty in obtaining adequate supplies of milk to meet their fluid requirements. In fact, except for Fairmont, none of the other 8 distributing plant operators testified at the hearing.

What appears to be evident in this regard is that any supply problem arising from Mid-Am's decision was not related to the order's supply plant shipping requirements but was due to a business decision of Mid-Am to retain producer milk in its plants for manufacturing that normally went directly from farms to distributors. Historically, Mid-Am has been the principal supplier for this market, supplying about 75 percent of the market's fluid milk needs. A large proportion of such supply is moved directly from member producers' farms to pool distributing plants. The

remainder is supplied the fluid market from its three plants that are pooled under the cooperative balancing plant provisions of the order. To qualify these supply plants as pool plants, at least 50 percent of the cooperative's members' milk must be received at pool distributing plants during the current month, or during the immediately preceding 12-month period, either by transfer or directly from member producers' farms. Such cooperative balancing plant performance standard is applicable to each month of the year and no automatic pooling is allowed as is the case with the supply plant pooling provisions here at issue.

Now, in an apparent effort to retain a certain volume of its member milk for its manufacturing plants, Mid-Am has expressed its intent to make available to distributing plants milk supplies from nearby markets to meet the total fluid demands of the Kansas City market. It was Mid-Am's position that the reduction in the availability of its local producer milk should be offset by forcing other suppliers on the market to supply greater quantities of milk to distributing plants.

This argument, however, does not provide any foundation for adopting year-round shipping requirements. By implication, the cooperative's position in this regard suggests that the supply plants currently pooled under the order are meeting only the minimum shipping requirements during the qualifying period and then failing to make needed shipments to distributing plants during the period in which shipments are not required by the order. The record provides no evidence that this is the case. Instead, it appears that supply plants are making milk supplies available to distributing plants when the milk is needed.

One of the goals of the proponents for eliminating the automatic pooling feature for supply plants was to prevent the possible pooling of milk not previously associated with the market and not reasonably needed to supply the fluid requirements of the market. The record does not indicate that this is a problem in the market now or that there is any impending attachment of substantial milk supplies to the market that might be a disruptive factor for producers.

The record in this proceeding does not provide a compelling basis for concluding that year-round shipping requirement provisions for supply plants are essential to assure adequate supplies of milk at distributing plants for fluid use in this market. Accordingly, such provisions are denied.

The order should be amended to provide, however, for a temporary upward or downward adjustment of the shipping percentages for supply plants if the Director of the Dairy Division determines that additional supplies are needed at distributing plants or that fewer shipments to such plants are needed. The adjustment should be limited to 20 percentage points.

Under such an arrangement, the Director would investigate the need for revision, either on his own initiative or at the request of interested persons. If the investigation showed that a revision might be appropriate, the Director would issue a notice stating that a temporary revision of the shipping requirements is being considered and inviting views of interested persons with respect to the proposed revision. After evaluating such views, the Director should then decide whether a temporary revision is warranted.

The evidence developed regarding the supply plant pooling issue suggests the possibility that significant changes affecting the market's supply-demand situation could develop for a short time which warrants an immediate adjustment (up or down) in the shipping percentages. Under the current order provisions, a change in the shipping requirement for supply plants can be accomplished only through a time-consuming amendment proceeding or by suspension. Such changes that could be accomplished through suspension, however, are limited, because of procedural requirements, to relaxing rather than increasing the shipping requirements. Inclusion of a provision to adjust temporarily supply plant shipping percentages will enhance the ability of the order to deal with short-run emergency situations on a timely basis.

Any such temporary revision of shipping percentages is intended only to meet an emergency situation and, therefore, should be of short duration. Also, the implementation of this provision is not intended to assure distributing plant operators of a supply of milk for their total plant operations. Some plant operators manufacture "soft" products (Class II items) in conjunction with their fluid milk operations and their need for milk extends to these items also. This provision is intended to encourage the movement of milk supplies to distributing plants for Class I use only on those occasions when the relationship of supplies to sales changes in such a way as to warrant a temporary increase in shipping percentages. Similarly, action might be needed to reduce the shipping percentages

temporarily to prevent uneconomic shipments solely for pooling. The adoption of provisions for a temporary adjustment of the shipping percentages will add a degree of flexibility to the supply plant pooling provisions that is not now available in the case of emergency situations.

AMPI opposed the adoption of this provision to provide for temporary changes in shipping percentages. The spokesman for the cooperative was concerned that it would have little practical effect on making additional supplies available to distributing plants because of the relatively small quantities of supply plant milk pooled. He also stressed that the procedures that would have to be followed in implementing a temporary adjustment would be lengthy and would place an undue burden of responsibility on the Director of the Dairy Division. He believed such a temporary revision could interfere with the normal supply arrangements that a distributing plant operator enters into with a supplier. He concluded that any need to adjust shipping standards to meet an emergency supply situation could be accomplished equally or more efficiently through an emergency amendment proceeding.

These are valid concerns. However, a provision similar to the one proposed herein has been in the Chicago Regional order since 1969. Experience with this provision indicates that it can be used effectively during an emergency, either to increase or decrease supply plant shipping requirements. The extent to which the provision would make additional supplies available to distributing plants would depend, of course, on the proportion of the market's supply associated with supply plants and the already existing level of shipments by such plants at the time.

There is no basis to conclude that a provision for a temporary change in the shipping percentage would interfere with the normal supply arrangements that a distributing plant operator enters into with a supplier. As noted, a temporary change in the shipping percentage would be invoked only after it was determined that an emergency situation of short duration existed affecting the supply-demand relationship of milk for fluid purposes in the market. We cannot see that this provision would cause a distributing plant operator not to arrange in advance for a regular supply of milk through normal channels, as the spokesman for AMPI contended.

We agree that the hearing process is the preferable method of dealing with

the need to adjust shipping requirements. This is the method that is followed in considering any amendment to a Federal milk order. It provides a satisfactory means of obtaining public participation in considering what the provisions of a milk order should be. Nevertheless, some flexibility in adjusting supply plant shipping percentages is desirable to deal with possible emergency situations that cannot be resolved on a timely basis through the hearing process or by suspension procedures.

Finally, we cannot agree that the provision for adjusting shipping percentages on a temporary basis would place an undue burden of responsibility on the Director of the Dairy Division. Temporary adjustments would not be made without a careful review of the marketing conditions involved. Additionally, industry views would be sought and carefully reviewed. These procedures should provide a reasonable basis for determining whether or not there is a need to temporarily revise shipping percentages.

For these reasons, the points raised by AMPI in opposition to the provision for a temporary revision of the supply plant shipping percentages are not compelling and provide no basis to conclude that such a provision should not be adopted.

The provision adopted herein for temporary changes in the pooling standards provides that any such upward adjustment for the months of February through August should apply only to supply plants that have qualified for automatic pooling on the basis of shipments in the preceding September-January period. A supply plant that becomes associated with the market in the February-August period and was not a pool supply plant in each of the preceding months of September-January should have to meet only the regular 50 percent shipping requirement now provided in the order if it is to qualify for pool status. Also, if a plant which would not otherwise qualify for pooling would become a pool plant as a result of a temporary reduction in the shipping percentage by the Director during the September-January period, the operator of such plant should be permitted to retain nonpool status for such plant. This may be accomplished if the operator of such plant files a written request for nonpool status with the market administrator at the time the report is filed for such plant pursuant to § 1064.30.

As part of its proposal to revise pooling standards for supply plants, Mid-Am proposed that only the net amount of milk shipped during the

month to a pool distributing plant from a supply plant be counted as qualifying shipments for pooling the supply plant. The purpose of the proposal, as stated by the proponent, is to remove the incentive for manufacturing plants to gain entry to the market pool by means of having a distributing plant receive the necessary qualifying shipments of milk and then shipping the milk back to the manufacturing plant. As proposed, only that quantity of the supply plant's shipments not offset by return shipments would count toward meeting the minimum shipping requirement for the supply plant.

This proposal should not be adopted. The spokesman for the cooperative did not present any specific testimony on this issue other than merely offering the proposal. Moreover, the record provides no evidence of marketing problems that would warrant the implementation of a safeguard against such exploitation of the pool.

At the hearing, AMPI proposed that a supply plant operated by a cooperative association be allowed to move milk directly from member producers' farms to pool distributing plants and have such deliveries count as though they were shipments from the supply plant for purposes of meeting the supply plant shipping requirements. A similar proposal was made at the hearing by Fairmont, differing only to the extent that such deliveries would count as qualifying shipments for both proprietary and cooperative operated supply plants.

Current order provisions provide that only that milk which is physically received at a supply plant and then moved to a pool distributing plant count toward meeting the supply plant shipping requirements.

Both proponents indicated that their proposals were designed to facilitate the efficient handling of milk of producers who are associated with a supply plant. Fairmont's representative testified that if producers associated with a supply plant are located closer to a distributing plant that is purchasing milk from such supply plant, the milk should be permitted to move directly from such producers' farms to the distributing plant. The witness indicated that this would eliminate the costs involved in first receiving such milk at the supply plant and then reloading and shipping the milk to distributing plants.

AMPI's spokesman testified that his association, through its North Central Region, operates a pool supply plant at Jesup, Iowa, which is located about 300 miles from the Kansas City metropolitan area. The witness stated that producers

associated with this plant are all located in the general vicinity of the plant. In addition, he said that AMPI's Southern Region supplies some pool distributing plants directly from producer members' farms located nearer fluid outlets than the Jesup plant. AMPI's witness stated that presently the association qualifies its Jesup plant primarily on the basis of supplying distributing plants in the Kansas city area with bulk skim milk. He testified that the intent of the proposal was to have the milk being moved from farms directly to distributing plants by the Southern Region count toward the qualification of the Jesup plant as a pool plant under the order.

It is true, as proponents point out, that there are situations where moving milk directly from producers' farms to distributing plants is an efficient way to handle producer milk associated with a supply plant. Under such circumstances, it would be appropriate to allow the supply plant operator to divert some of his producer milk to distributing plants and receive a credit towards meeting the shipping requirements for a pool supply plant. This type of situation, however, was not demonstrated on the record.

The efficient handling of milk that AMPI desired to achieve through its proposal was not related to milk that normally is physically associated with its Jesup supply plant. Instead, the cooperative's proposal was designed to assure continued pool status for its supply plant primarily on the basis of milk moved directly from members' farms to distributing plants by AMPI's Southern Region rather than milk located in the proximity of the Jesup plant. In this case, there is little similarity to the usual operation of a supply plant where milk of producers associated with such plant is physically received at the plant for assembly into larger units for transshipment to pool distributing plants. In fact, the basis upon which AMPI desires to pool its Jesup plant is similar to a cooperative that qualifies one or more of its balancing plants on the basis of the cooperative's total milk movements to distributing plants either by transfer or directly from member producers' farms. Since the order already provides for this type of pooling arrangement for a cooperative association, there is no further need to extend it to the pooling of a supply plant as proposed by AMPI.

Moreover, the actual operational experience of the Jesup plant that was testified to by AMPI's spokesman suggests the possibility that none of the producer supply of the plant is so situated that it could move to

distributing plants directly from farms. Additionally, and as noted previously, the Jesup plant obtains pool status under the order primarily on the basis of skim milk transfers from the plant to pool distributing plants. Obviously, direct shipments cannot be used to replace such transfers when producer milk first must be separated at the plant to obtain skim milk. Under these existing marketing situations, AMPI's proposal to allow a supply plant to count deliveries from farms to distributing plants as qualifying shipments for pooling would have no practical application to its Jesup operation.

As noted, there are two other supply plants that are qualified as pool plants under the order. The record, however, does not provide any information regarding these plants' marketing and procurement practices insofar as determining whether proponents' desired pooling standards is appropriate for these plants.

Accordingly, the record provides no evidence of marketing problems that would warrant allowing a supply plant to meet its qualifying shipments to distributing plants either by transfers from the supply plant or deliveries directly from producers' farms.

The order now provides that route disposition in the marketing area from a supply plant may count as a qualifying shipment for pooling purposes. In conjunction with its proposal to change the pooling standards for a supply plant, Mid-Am proposed that route disposition in the marketing area no longer count as a qualifying shipment. It claimed that this provision was unnecessary since none of the pool supply plants associated with the market have any route disposition.

No useful purpose is served by continuing to include route disposition in the marketing area as a qualifying shipment for supply plants. Such plants customarily do not engage in the distribution of packaged fluid milk products on routes, and the provision is no longer needed to accommodate any particular plant operation in the market. This change would have no impact on any of the supply plants now pooled under the order.

No action is taken on AMPI's proposal that a supply plant which fails to qualify as a pool plant in any one month nevertheless be permitted to remain pooled for such month if it was a pool supply plant in each of the three immediately preceding months. This suggested change was necessary, according to AMPI's spokesman, only in the event that year-round shipping requirements are adopted. Since it is

concluded herein that year-round shipping requirements for supply plants are not needed, this removes the basis for any further consideration of proponent's proposal for the implementation of such a "depooling" safeguard.

At the hearing, Fairmont proposed that a "unit system" of pooling supply plants be provided. This should not be adopted. The spokesman for the handler did not present any specific testimony on this matter other than merely offering the proposal. There was no other testimony regarding this issue.

2. *Diversions of producer milk.* The rules concerning the diversion of producer milk from pool plants should be revised to permit a pool supply plant to divert producer milk to nonpool plants.

AMPI proposed that diversions be permitted from any pool plant and not just from pool distributing plants. The spokesman for AMPI testified that the purpose of the proposal is to enable the cooperative to move their members' milk not needed for fluid use directly from farms to manufacturing plants and thus remove the need to receive such milk first at its supply plant for further movement to nonpool plants solely for the purpose of maintaining producer milk status for such milk under the order.

AMPI operates a pool supply plant at Jesup, Iowa. Its spokesman indicated that although it supplies pool distributing plants on a regular basis, these plants, however, do not require delivery of milk each day. He indicated that since the present order does not permit a supply plant to divert milk, it is necessary that such reserve milk supplies be physically received at the Jesup plant and reloaded for transfer to an Arlington, Iowa, nonpool plant for manufacturing. Only through this procedure, according to the witness, can all of the milk associated with the Jesup plant maintain producer milk status under the present order. The spokesman pointed out that this entails a substantial amount of uneconomic hauling and handling of the plant's reserve milk supplies. In AMPI's view, its proposal would provide a more economical method for supplying milk to pool plants and in disposing of reserve milk supplies.

The proposal was supported by Fairmont and Mid-Am. The Mid-Am witness testified that it also could effectuate savings in its marketing operation if such a proposal were adopted.

The order should promote the most efficient handling of milk. To this end,

the operator of a pool supply plant should be permitted to divert producer milk to a nonpool plant and still have such milk pooled and priced under the order. Without allowing for this (which is the situation under the present order), the operator of a pool supply plant wishing to retain his regular producers on his plant's payroll for the entire month would have to physically receive the milk at his plant, then pump it back into a truck for transshipment to the nonpool plant. In such case, the milk involved would be considered producer milk under the order with the transferring handler (the operator of the pool supply plant) accounting to the pool for the milk and paying the producers as well.

Obviously, this practice is uneconomic, resulting in unnecessary and costly handling of milk not needed for the fluid market. In addition, the extra handling and pumping of the milk may damage its quality. Permitting a pool supply plant to divert to nonpool plants will promote efficient handling and disposition of reserve milk supplies.

As provided herein, milk diverted from a supply plant would be included in the plant's receipts for purposes of determining whether or not the plant meets the pooling standards. This conforming change recognizes that the milk of producers diverted from a supply plant is part of the supply of such plant. Moreover, without this change, the current 50 percent minimum shipping requirement for a pool supply plant could be effectively reduced depending on the extent of such plant's total diversions.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The following findings and determinations supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed.

except where they conflict with those set forth below.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act:

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions of it would be the same as those contained in the order that is proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Greater Kansas City marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out.

1. In § 1064.7, paragraph (d)(6) is revised by revoking the phrase "direct marketing area route disposition, except filled milk, and", and paragraph (b) is revised to read as follows:

§ 1064.7 Pool plant.

(b) A supply plant from which during the month 50 percent or more of the Grade A milk received at such plant from dairy farmers and handlers described in § 1064.9(c) (including milk diverted from such plant pursuant to § 1064.13(c) but excluding milk diverted to such plant pursuant to § 1064.13(c)) is shipped from such plant as fluid milk products, except filled milk, to and received at pool distributing plants, subject to the following conditions:

(1) A supply plant which is a pool plant under this paragraph during each

month of September through January shall be pooled for the following months of February through August if the required percentage pursuant to this paragraph is not met, unless the plant operator files a written request with the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following such request and thereafter until the plant qualifies as a pool plant on the basis of shipments.

(2) The shipping percentage specified in this paragraph may be increased or decreased temporarily for any of the months of September through January up to 20 percentage points by the Director of the Dairy Division if the Director finds such revision is necessary to obtain needed shipments or to prevent uneconomic shipments. For any of the months of February through August, a minimum shipping percentage of up to 20 percent may be established by the Director for all pool supply plants that are qualified as a pool plant pursuant to paragraph (b)(1) of this section. Before making such a finding the Director shall investigate the need for revision, either at the Director's initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall issue a notice stating that revision is being considered and inviting data, views, and arguments. If a plant which would not otherwise qualify as a pool plant during the month qualifies as a pool plant because of a reduction in shipping requirements pursuant to this subparagraph, such plant shall be a nonpool plant for such month if the operator of the plant files a written request for nonpool plant status with the market administrator at the time the report is filed for such plant pursuant to § 1064.30.

2. In § 1064.13, paragraph (c) is revised to read as follows:

§ 1064.13 Producer milk.

(c) Diverted, subject to the following conditions, from a pool distributing plant to a pool supply plant or from a pool plant to a nonpool plant that is not a producer-handler plant. "Diverted milk" is milk normally received at a pool plant but which is moved directly from a dairy farm to a nonpool plant as specified in this paragraph or from a pool distributing plant to a pool supply plant for the account of a handler operating the pool distributing plant or a handler described in § 1064.9(b). Such milk shall be deemed to have been received by the diverting handler at the

location of the pool plant from which diverted except that milk diverted to a plant located more than 125 miles by the shortest highway distance as determined by the market administrator from the nearest of the City Halls of Kansas City, Missouri, or Topeka, Kansas, shall be deemed to have been received at the location of the plant to which diverted in applying §§ 1064.52 and § 1064.75:

(1) A handler described in § 1064.9(b) may divert for its account the milk of any member producer whose milk is received at a pool plant for at least 1 day's delivery during the month, without limit during the other days of the month. The total quantity of milk so diverted may not exceed the larger of the following amounts:

(i) The total quantity of its member producer milk received at all pool plants during the current month, or

(ii) The average daily quantity of its member producer milk received at pool plants during the previous month, multiplied by the number of days in the current month.

(2) A handler operating a pool plant may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph (c)(1) of this section, whose milk is received at the handler's pool plant for at least 1 day's delivery during the month, without limit during the other days of the month. However, the total quantity of milk so diverted may not exceed the larger of the following amounts:

(i) The total quantity of milk received at such plant during the current month from producers who are not members of a cooperative association that has diverted milk pursuant to paragraph (c)(1) of this section; or

(ii) The average daily quantity of milk received at such plant during the previous month from producers who are not members of a cooperative association that has diverted milk in the current month pursuant to paragraph (c)(1) of this section, multiplied by the number of days in the current month.

(3) Diversions in excess of the applicable percentages pursuant to paragraph (c)(1) and (2) of this section shall first be assigned to diversions to nonpool plants and any excess quantity assigned to nonpool plants shall not be producer milk and shall not be deemed to have been received by the diverting handler. The diverting handler shall specify the dairy farmers whose milk shall not be included as producer milk pursuant to this subparagraph. Excess diversions to a pool supply plant shall

be producer milk at the supply plant in applying §§ 1064.7, 1064.52 and 1064.75.

(This recommended decision constitutes the Department's Draft Impact Analysis Statement for this proceeding.)

Signed at Washington, D.C., on: July 24, 1979

Irving W. Thomas,
Acting Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-23350 Filed 7-27-79; 8:45 am]

BILLING CODE 3410-02-M

[7 CFR Part 1065]

Docket No. AO-86-A39]

Milk In the Nebraska-Western Iowa Marketing Area; Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and To Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends certain changes in the order provisions pertaining to location adjustments for pricing producer milk and pool plant qualification standards for supply plants. It also recommends adoption of a charge for late payments by handlers to the market administrator. The decision is based on industry proposals considered at a public hearing held October 24-27, 1978. The recommended changes are necessary to reflect current marketing conditions and to assure orderly marketing in the area.

DATE: Comments are due August 20, 1979.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7183.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued September 29, 1978; published October 4, 1978 (43 FR 45881).

Extension of time for filing briefs: Issued January 15, 1979; published January 19, 1979 (44 FR 3989).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this

recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Nebraska-Western Iowa marketing area. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., 20250, by August 20, 1979. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing held at Omaha, Nebraska, on October 24-27, 1978. Notice of such hearing was issued September 29, 1978 (43 FR 45881).

The material issues on the record of the hearing relate to:

- 1) Pooling standards for supply plants.
- 2) Diversion of producer milk.
- 3) Class I price zones and location adjustments.
- 4) Payments to producers and cooperative associations.
- 5) Charges on overdue accounts.
- 6) Market administrator's reports and announcements concerning classification.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Pooling standards for supply plants.* Several modifications should be made in the pooling standards for supply plants.

First, the period during which a supply plant must ship milk to a pool distributing plant to be eligible for automatic pooling status in a later period should be changed from September through December to September through March. Correspondingly, the months of automatic pooling should be changed from January through August to April through August.

Second, producer milk that is delivered by the operator of a supply plant directly from producers' farms to pool distributing plants should count as qualifying shipments from the supply plant for purposes of determining the

supply plant's pooling status. However, the quantity of direct deliveries that may count as qualifying shipments should be limited to 50 percent of the total shipments required for pooling.

Third, the Director of the Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, should be given authority to increase or decrease supply plant shipping requirements by 20 percentage points if additional shipments are needed or to prevent uneconomic shipments to distributing plants.

Presently, a supply plant must transfer 40 percent of its receipts of milk to pool distributing plants during the month to qualify as a pool plant. However, if the supply plant qualifies as a pool plant during each of the months of September through December, it automatically qualifies as a pool plant during the following months of January through August without having to meet any minimum shipping requirement.

The order also provides that a supply plant operated by a cooperative association may qualify as a pool plant on the basis of the cooperative's total milk movements to distributing plants either by transfer or directly from member producers' farms. Under this provision, a plant operated by a cooperative qualifies as a pool plant if at least 51 percent of the cooperative's milk pooled each month is delivered to pool distributing plants of other handlers. For the purpose of this discussion, such a plant shall be referred to as a "cooperative balancing plant."

Several proposals dealing with supply plant performance standards were considered at the hearing. Mid-America Dairymen, Inc. (Mid-Am), proposed that shipping requirements be increased to 50 percent of Grade A receipts during each of the months of September through December and 30 percent during each of the months of January through August. It also proposed that the market administrator be given the authority to increase or decrease these shipping requirements by 20 percentage points if he finds such revision is necessary to obtain needed milk shipments or to prevent uneconomic shipments.

A proposal by Wells Dairy, Inc., would increase the supply plant shipping requirements to 60 percent each month, except that if a supply plant qualified as a pool plant during each of the months of August through December, it would have to ship only 40 percent of its receipts during the following months of January through July.

A proposal by Roberts Dairy Company would have increased

shipping requirements for supply plants to 50 percent each month of the year. At the hearing, however, proponent withdrew its proposal and said it would instead support either Mid-Am's proposal or the proposal of Wells Dairy. The proposal of Roberts Dairy was not supported by any other interested party.

Fairmont Foods Company also proposed that supply plants be required to ship every month of the year. Fairmont proposed that shipping requirements be equal to about 90 percent of the projected Class I utilization for the month and that such shipping requirement be announced on the 5th day of the month. In further elaboration of its proposal, a spokesman for Fairmont indicated that supply plant operators should be allowed to include deliveries directly from producers' farms to pool distributing plants as part of their qualifying shipments.

Associated Milk Producers, Inc., also proposed a modification of the present supply plant pooling standards. AMPI proposed that the present 40 percent shipping requirement be maintained but that a cooperative association that operates a supply plant be allowed to include as qualifying shipments from the plant milk that is delivered directly from producers' farms to pool distributing plants.

A proposal by Kraft, Inc., provides for two options under which a supply plant could qualify for pool plant status. The first option would modify the present supply plant provision by allowing supply plant operators to include, as qualifying shipments, milk delivered directly from producers' farms to pool distributing plants.

The second option proposed by Kraft would provide for what may be called a "reserve supply plant" provision. Under this provision, which would be restricted to supply plants in the marketing area or within 100 miles of the nearest edge of the marketing area, a handler would notify the market administrator of his estimated receipts for the month, and the market administrator would call on the handler to ship milk when and where it was needed that month. The market administrator would have to give the handler 24 hours' notice for such shipments and could not require the handler to ship more than 90 percent of the milk received by the handler on any given day. For the entire month, a handler could not be required to ship a percentage of its supply that is higher than the Class I utilization for the same month of the preceding year.

Basically, two views emerged at the hearing regarding pooling standards for

supply plants. One view held that higher supply plant shipping standards are needed to offset a shortage of milk at distributing plants caused by Mid-Am's recent decision to hold back pooled milk for its manufacturing operations. This view formed the basis for the several proposals that would require significantly higher shipping requirements for supply plants.

A second view presented at the hearing was that there is no shortage of milk for the fluid market; that any so-called shortage was a contrived shortage; that higher shipments were not needed; and that more milk could be made available to pool distributing plants if the order would permit supply plant operators to ship milk to distributing plants directly from producers' farms.

A representative for Mid-Am, which is the market's major supplier of raw milk, testified that his organization has been shipping an ever-increasing percentage of its milk to pool distributing plants, thereby resulting in a decreasing volume of milk available for processing at its manufacturing plants. He claimed that at the same time other suppliers (i.e., supply plant operators) have been holding back milk for manufacturing purposes. This, he said, has resulted in an increasing difference in manufacturing plant efficiencies between those organizations shipping a large percentage of their milk to pool distributing plants and those shipping lower percentages. The end result, according to this witness, has been that Mid-Am has been at a competitive disadvantage in terms of pay prices to producers as its manufacturing plants have become less and less efficient because of the reduced volume of milk being processed.

The witness indicate further that Mid-Am concluded that it could no longer continue to supply the fluid needs of the market at levels which were considerably above those required by the order.¹ Mid-Am then advised handlers of its decision to reduce fluid sales in order to improve the efficiency of its manufacturing plants.

After trying to secure alternative supplies of milk, these handlers asked Mid-Am to develop an import program to secure the necessary supplies of milk. According to the witness, Mid-Am then arranged to import milk from plants in the Upper Midwest and Chicago Regional order markets. Mid-Am charged handlers 12 cents per

¹ During the first 9 months of 1978, Mid-Am shipped from 68 to 89 percent of its milk supply on this market to pool distributing plants. The order requires at least 51 percent each month under the pooling provisions being used by Mid-Am.

hundredweight on all milk (pooled milk as well as imported milk) purchased from Mid-Am.

Mid-Am's witness pointed out that in September 1978, when Mid-Am imported 4.5 million pounds of milk from plants regulated under other orders, the Class I utilization in the Nebraska-Western Iowa market was only 51 percent. This witness stressed that the need to import this milk would not have been necessary if the order had required realistic shipments from supply plants. He said that presently a supply plant could qualify for pooling by shipping only 13 percent of its annual receipts to pool distributing plants.² While noting that this figure is below the percent shipped by all supply plants during the period from 1977 through September 1978, he emphasized it is well below the 78 percent shipped by Mid-Am during this period.

The witness summarized Mid-Am's position by stating that Mid-Am did not intend to ship milk at the levels it has in the past to the detriment of the economic position of its members when other suppliers on the market are not shipping comparable amounts. He therefore maintained that the order should be amended to force other parties in the market to ship more milk in order to fill this void.

Several distributing plant operators or their representatives testified about the "shortage" of milk in the market. While disturbed about the higher price charged by Mid-Am, almost all witnesses acknowledged an understanding of Mid-Am's position—in particular, the need to stay competitive in terms of producer pay prices with other cooperatives and proprietary handlers who were competing for producers. On questioning, these witnesses conceded that there was not an actual shortage of milk in the market, but that instead a profitable manufacturing milk market was making it very difficult to attract supplies of milk for their total plant needs at a price which the distributing plant operators considered reasonable.

The distributing plant operators claimed that the order was failing in its alleged objective of making adequate supplies of milk available to distributing plants for their total Class I and Class II needs at competitive prices. In support of this claim, they emphasized that the 12-cent per hundredweight additional import charge for all milk purchased from Mid-Am distorted their milk costs and impeded their ability to compete

² This apparently is derived by multiplying the 40 percent supply plant shipping requirement by the 4 qualifying months of September-December and then dividing the product by 12.

with handlers in surrounding nearby Federal order markets. It was their belief that they should not have to pay "exorbitant" over-order prices to obtain adequate supplies while at the same time many of the pool supply plants are engaged principally in cheese production.³ It was their contention that the order should "force" milk out of these supply plants by requiring them to ship a higher percentage of their milk supply to distributing plants.

A representative of Fairmont Foods testified that his company had no objection to allowing all Grade A producers in the area to share in the marketwide pool. However, he said, such producers and the plants to which they ship should have an obligation to contribute their fair share toward supplying the Class I and Class II needs of the market. In this connection, he indicated that, as the number of supply organizations and supply plants with extensive manufacturing capabilities increases, shipping requirements must be higher to assure that all such operations are furnishing their fair share of milk for the Class I and Class II needs of the market.

AMPI opposed the proposals to increase the supply plant shipping percentages. The spokesman for the cooperative indicated that higher shipping requirements would not make more milk available to distributing plants, as proponents claimed, but could in fact cause milk supplies to be removed from the market. The witness stressed that higher shipping requirements could result in increased costs to AMPI in qualifying its pool supply plant with such higher costs being borne by producers and consumers. He maintained that the order's present 40 percent shipping requirement is proper and provides the necessary transition in supply plant pooling standards between the lower Class I utilization markets to the north and the higher utilization markets to the south of the Nebraska-Western Iowa market. The cooperative's spokesman stated further that he believed that the supply problem of distributing plants was not related to the order's pool plant shipping requirements but was due, instead, to a business decision of Mid-Am to retain pooled milk in its plant for manufacturing.

Kraft, which operates a pool supply plant in the market, also opposed the proposals to increase the supply plant shipping requirements on the basis that a need for an increase in shipping requirements is not supported by market

³ Most of the supply plants referred to throughout this decision are manufacturing plants specializing in cheese production.

requirements. The spokesman for the handler stated that pooling standards must reflect the Class I needs of the market. He stated that its proposal to pool a supply plant as a reserve supply plant provided the most practical and efficient method of meeting the objectives of the order's supply plant provisions by providing for supply plant shipments to the market when such shipments are needed and by avoiding the costly inefficiencies inherent in requiring shipments in excess of the market's needs.

He also testified that Kraft is willing to ship its pro rata share of milk supplies to distributing plants, but that Kraft has not been able to consistently do so for several reasons. He said that distributing plant operators do not want to replace direct-ship milk with supply plant milk; that distributors do not receive milk 7 days a week; and that bad weather has often made it difficult to ship the milk, especially since the milk first has to be received at its supply plant and then transshipped to a distributing plant. He indicated that allowing shipments directly from producers' farms to pool distributing plants to count as qualifying shipments for supply plants would make it easier for Kraft to associate more of its milk supply with pool distributing plants.

Five other proprietary supply (cheese) plant operators also testified with respect to changing the pooling standards for supply plants. While opposed to any increase in the shipping requirements, these handlers testified in support of allowing deliveries directly from producers' farms to count as qualifying shipments for their supply plants. They stated that this change would allow them to deliver milk more efficiently. They cited several examples where their farm pick-up trucks go right by a distributing plant on the way to their supply plants. The milk then has to be unloaded at their plants and then reloaded and shipped back to the distributing plant.

One supply plant operator described how he would be able to make more milk available to distributing plants if the milk could move directly from producers' farms. He said that the cost of having to haul milk first to this plant and then to a distributing plant often makes it uneconomical to make such sales. In addition, he said at times it has been impossible to find over-the-road tankers to haul milk from his plant to a distributing plant.

It is obvious from the testimony presented that there are rather sharp differences of opinion regarding what proportion of a supply plant's receipts

should be shipped to pool distributing plant to qualify the supply plant as a pool plant. Essentially, however, the minimum shipping requirements of the order should assure that those supply plants that are sharing in the Class I proceeds of the fluid market will make needed milk supplies available to distributing plants for fluid use. It is within this context that supply plant shipping requirements must be considered.

The adoption of substantially higher shipping requirements on a year-round basis, as provided under several proposals, should be based on an indication that distributing plants are experiencing difficulty in obtaining an adequate supply of milk for Class I use. Data introduced into the record show that deliveries of milk to pool distributing plants by all suppliers have consistently been in excess of the fluid needs of such plants. For example, during the 14-month period of August 1977-September 1978, the ratio of total receipts at distributing plants from producers and pool supply plants to total Class I producer milk averaged 125, ranging from a low of 117 in December 1977 to a high of 129 in October 1977 and July 1978. In fact, this ratio was 122 in September 1978, the first month in which Mid-Am held back local supplies for its manufacturing operations. These data indicate that distributing plants are obtaining from all suppliers regularly associated with the market an adequate supply to meet their fluid needs.

The record does not support proponents' claim that an increase in shipping requirements would make available to distributing plants significant quantities of additional milk supplies. An exhibit introduced into the record shows that the 8 supply plants on the market, in fact, have been shipping milk each month during a recent 12-month period at levels substantially above the order's present minimum shipping requirements. In this regard, Table 1 shows the percentage of the producer milk at each of these plants that was shipped to distributing plants during three periods: September-December 1977; January-March 1978; and April-August 1978.

Table 1.—Percentage of Producer Milk Received at Pool Supply Plants That Was Transferred to Pool Distributing Plants in the Nebraska-Western Iowa Market During Selected Time Periods¹

	Sep.-Dec. 1977	Jan.-Mar 1978	Apr.-Aug 1978
Handler:			
A.....	79	79	77
B.....	68	64	50
C.....	69	57	44

Table 1.—Percentage of Producer Milk Received at Pool Supply Plants That Was Transferred to Pool Distributing Plants in the Nebraska-Western Iowa Market During Selected Time Periods¹—Continued

	Sep.-Dec. 1977	Jan.-Mar 1978	Apr.-Aug 1978
D.....	43	12	11
E.....	53	34	35
F.....	44	33	25
G.....	81	7	6
H.....	52	48	43

¹For each time period, the percentage for each handler is the simple average of the handler's monthly percentages for that period.

From this table, it can be seen that Mid-Am's proposed shipping requirements of 50 percent during the months of September-December and 30 percent during January-August would not have had much practical effect in making more milk available to distributing plants because most of the supply plants on the market already were shipping well above those levels. Likewise, Fairmont's proposal for higher shipping requirements would have had little effect in this regard during the seasonal low-production months when the greatest need for supply plant milk occurs. Those plants that were below these levels are fairly small plants so that any additional milk made available by an increase in shipments from these plants would have been relatively insignificant. While we recognize that the proposal by Wells Dairy would have required a somewhat higher level of shipments, we do not agree that such an increase can be justified.

Data introduced into the record established that suppliers have consistently delivered more than the Class I needs of pool distributing plants. A substantial quantity of this extra milk is used in Class II products. In 1978, for example, 11.3 percent of milk in its market was used for Class II use.⁴ Presumably, such use occurred largely at pool distributing plants in conjunction with the fluid operations of those plants. It is not the intent of the order to require supply plants to ship milk to distributing plants for Class II use. The order provisions are not structured to encourage such movements since this normally is an uneconomic marketing arrangement for producers.

There is no demonstration on the record that a shipping percentage higher than the present 40 percent is necessary to assure that supply plants will make adequate quantities of milk available to distributing plants for fluid use. Instead, it is apparent that distributing plants are

⁴Official notice is taken of "Federal Milk Order Market Statistics" for October, November, and December 1978 published by the Agricultural Marketing Service, USDA.

able to acquire from supply plants whatever milk supplies are needed and when needed for fluid uses. In this connection, it is significant to note that several supply plant operators stated on the record that between the time Mid-Am announced its decision to reduce local supplies to distributing plants and the hearing none of the distributing plant operators had contacted them for supplemental milk supplies.

Although the supply plant shipping requirements should not be increased above the present 40 percent level, several changes should be made in the pooling standards to encourage greater efficiency in supply plant operations and to assure that distributing plants can continue to obtain adequate supplies for fluid uses from supply plants.

As indicated previously, several of the proposals under consideration would provide for year-round shipping requirements for supply plants. Proponents argued that such requirements should be adopted because distributing plants need milk every month of the year and not just during the months when milk production drops off. They also expressed the view that all supply plants in the market should share on a pro rata basis in supplying the needs of the market each month of the year.

The risk in requiring year-round shipments is that at times supply plants may be forced to make uneconomic shipments merely to qualify for pooling. During the months of heavier milk production, practically all of the fluid needs of the market can be met by direct shipments from producers' farms. For this reason, it is preferable in this

market to allow market forces to dictate how much milk is needed from supply plants during the months of highest milk production.

One proposal under consideration, Kraft's, would provide complete flexibility in this regard by requiring no regular shipments from supply plants. Instead, the market administrator would call on supply plants to ship whenever he deemed such shipments were necessary. The problem with this approach is that the market administrator could become overly involved with directing month-to-month and even day-to-day shipments. In addition, he would be in the controversial position of having to determine when additional shipments from supply plants are actually warranted.

There is no doubt that in this market regular shipments are needed from supply plants, as is evident by the fact that supply plants are now shipping well above the minimum levels required by the order. In view of this, it is desirable to maintain at least a minimum level of shipments during those months when the market is most in need of such shipments.

Table 2 indicates that the average Class I utilization of this market during the past 5 years is highest during the months of September through March. During the months of January, February, and March, months when no shipments are now required, the Class I utilization is as high as, or higher than, the utilization during the months of September through December, when shipments must now be made.

TABLE 2.—Class I Utilization in the Nebraska-Western Iowa Market, 1974-78¹

	1974	1975	1976	1977	1978	Average
January.....	61	55	57	50	56	56
February.....	59	54	53	49	57	54
March.....	55	53	54	50	56	54
April.....	53	54	50	48	50	51
May.....	47	48	44	44	48	46
June.....	42	44	42	44	44	43
July.....	44	46	43	44	44	44
August.....	47	50	44	49	47	47
September.....	53	59	50	56	51	54
October.....	58	61	53	57	50	56
November.....	58	57	55	60	49	56
December.....	53	56	51	58	50	54
Average.....	52	53	49	50	50	50

¹Official notice is taken of the 1975 and 1976 annual summaries of "Federal Milk Order Market Statistics" published by the Agricultural Marketing Service, USDA.

These data lead to the conclusion that the order should be amended to include January, February, and March, along with September, October, November,

and December, as the months during which minimum shipments are required from supply plants. A supply plant that meets the shipping requirement during

these months would not have to meet the shipping requirement during the succeeding months of April through August. This is not to say that no shipments are needed from supply plants during these months; but at the risk of requiring unnecessary shipments, it is preferable to let market forces determine who ships to whom during these months when production is the highest relative to the Class I needs of the market.

The order also should be amended to provide for a temporary upward or downward adjustment of the shipping percentages for supply plants if the Director of the Dairy Division determines that additional supplies are needed at distributing plants or to prevent uneconomic shipments of milk to such plants. The adjustment should be limited to 20 percentage points.

Under such an arrangement, the Director would investigate the need for revision, either at his (her) own initiative or at the request of interested persons. If the investigation showed that a revision might be appropriate, the Director would issue a notice stating that a temporary revision of the shipping requirements is being considered and inviting views of interested persons with respect to the proposed revision. After evaluating such views, the Director would then decide whether a temporary revision was warranted.

The evidence developed regarding the supply plant pooling issue suggests the possibility that an emergency situation affecting the market's supply-demand situation could develop for a short time which warrants an immediate adjustment (up or down) in the shipping percentages. Presently, any needed change in the shipping requirement for supply plants can be accomplished only through a time-consuming amendment proceeding or by suspension. Such changes that could be accomplished through suspension, however, are limited because of procedural requirements to relaxing rather than increasing shipping requirements. Inclusion of a provision to adjust temporarily supply plant shipping percentages will enhance the ability of the order to deal with short-run emergency situations on a timely basis.

AMPI opposed the adoption of this type of provision. The spokesman for the cooperative contended that there has been very limited experience in other markets in using the "call" pooling feature and that its impact basically remains untested. He also stressed that the procedures that would have to be followed in implementing the temporary

adjustment would be lengthy. He concluded that any need to adjust shipping standards to cope with emergency situations could be accomplished equally well through an emergency amendment proceeding.

A provision virtually identical to the one proposed herein has been in the Chicago Regional order since 1969. The record of this hearing provides no indication that this type of provision has not operated satisfactorily in that market. Moreover, through this type of provision the pooling standards can be changed on very short notice. By contrast, the amendment proceeding has become, if anything, more cumbersome as various new hearing procedures have been implemented. For this reason, we believe that inclusion of the proposed temporary revision of the supply plant shipping percentage would be of benefit to the market in an emergency situation and, therefore, should be adopted.

To the extent possible, the order should encourage milk to move to distributing plants in the most efficient way possible. One means of providing greater efficiency in milk handling practices in this market is to allow handlers to count as a qualifying shipment from their supply plants milk that they deliver directly from producers' farms to distributing plants. The attached proposed order provides for this by allowing a supply plant to qualify as a pool plant on the basis of direct deliveries from producers' farms as well as transfers from the plant.

Current order provisions provide that only transfers to pool distributing plants count towards meeting the supply plant shipping requirement. Testimony indicates that because of this requirement milk pooled through supply plants is being received at such plants, reloaded into tank trucks, and then delivered to pool distributing plants when some of the milk could be delivered more efficiently directly to distributing plants initially. Also, a further deterrent under the current order provisions to moving the milk directly from farms to distributing plants is the requirement that the distributing plant operator be the accountable handler for the milk rather than the supply plant operator. In this case, the producers would receive payment through the distributing plant rather than the supply plant. Allowing direct deliveries to count as qualifying shipments would remove the need to supply milk through a supply plant for purposes of pooling the supply plant or maintaining the producers on the supply plant operator's payroll.

The amount of direct-ship milk that can be used to qualify a supply plant as a pool plant should be limited to 50 percent of the plant's total required shipments for pooling. Also, a supply plant operator's deliveries of producer milk directly to distributing plants from producers' farms should be limited to those producers who are located within 150 miles of the supply plant (as based on the post office address of the producer). Although these limitations were not proposed at the hearing, the current milk handling arrangements in this market do not indicate a need for modifying the pooling standards to the extent proposed.

A supply plant customarily demonstrates its association with the fluid market by shipping milk to distributing plants for fluid use. Normally, the supply plant obtains such milk from producers who are located within a reasonable hauling distance from the supply plant. As indicated at the hearing, some of the producers associated with a supply plant are located between the supply plant and the distributing plant to which the supply plant is shipping milk. Presumably, other producers delivering milk to the supply plant are located more distant from the distributing plant than the supply plant. While the procurement patterns may vary somewhat among the supply plants in the market, it is reasonable to presume that the limited change in the pooling standards would adequately accommodate most supply plants that desire to move part of their milk supply directly from farms to distributing plants.

Permitting a supply plant to qualify for pooling solely on the basis of direct deliveries not only would go beyond what is needed in the market but also could result in the development of milk handling arrangements not typical of supply plant operations that could be disruptive to the fluid market. If a pool supply plant did not have to ship milk received at the plant, a manufacturing plant located quite some distance from the market could attach itself to the market merely through the delivery of milk to pool distributing plants from producers located near the market center who had no real association with the manufacturing plant. This could result in the attachment of new milk supplies to the market solely for manufacturing with little intent on the part of the plant operator of making such milk available for fluid use. Also, without some limitation regarding the producers whose milk may be diverted, a supply plant operator could seek out

producers anywhere in the milkshed without regard to whether they are located within a reasonable hauling distance of the supply plant. This could be disruptive to the normal procurement arrangements of other handlers. The order changes adopted herein are intended to accommodate the supply plant operations as they now exist in the Nebraska-Western Iowa market. They should not encourage new milk handling arrangements that could result in disorderly conditions for the market.

Additionally, limiting the amount of direct deliveries that can count as a qualifying shipment for a supply plant provides a distinction from an operational standpoint between a pool supply plant and a cooperative balancing plant. The order now provides that milk delivered directly from farms to distributing plants can count as a qualifying shipment, without limitation, in the case of a balancing plant operated by a cooperative association (§ 1065.7(c)). Under this type of pooling arrangement, the cooperative must deliver 51 percent of its member producer milk to distributing plants each month of the year to qualify such plant. Also, no automatic pooling status is provided during the heavy production months, as is the case for pool supply plants.

Under this pooling arrangement, a situation could arise where a supply plant operator, although having met the overall shipping requirement, failed for some reason to transfer a sufficient quantity of milk from the supply plant itself to meet this facet of the shipping standard. In administering the order in this case, a portion of the supply plant operator's diversions to distributing plants should not be considered as part of the supply plant's total receipts if this would result in the plant meeting the shipping standard. The milk disassociated from the supply plant would be whatever amount is necessary to make the remaining diversions to distributing plants equal (or be less than) the quantity of transfers to such plants. The disassociated milk should then be treated as producer milk of the distributing plant operator, who would be required to account to the pool for such milk and pay the producers involved. Under this situation, it would be necessary for the supply plant operator to designate the dairy farmers who are to be disassociated from the supply plant. If he fails to do so, then the plant should not qualify as a pool plant.

The disassociation of some of a supply plant's diverted milk would result in the pooling of the supply plant only in those cases where a large

proportion of the plant's total supply had been moved to distributing plants. As one reduces the total deliveries, a point would be reached where mathematically the pooling standard could not be met. In this case, the supply plant would be a nonpool plant and all of the milk claimed by the plant operator as having been diverted to a distributing plant would be treated as producer milk of the distributing plant operator.

AMPI proposed at the hearing that the cooperative balancing plant pooling provision (§ 1065.7(c)) be eliminated in view of the fact that there would be little practical difference in terms of the pooling standards between a supply plant and a cooperative balancing plant if the unlimited direct delivery feature for supply plants were adopted. Counsel for Mid-Am objected to the proposal on the basis that it was not part of AMPI's original proposal as published in the hearing notice and thus was outside the proper scope of the hearing. The Administrative Law Judge presiding at the hearing did not rule on the objection but instead concluded that whether or not AMPI's proposed modification is "legally sustainable" was a matter for consideration by the Secretary. In view of the order changes adopted herein relative to pooling standards for supply plants, the legal issue raised in the objection is moot. Accordingly, there is no need to pursue the legal issue raised by the objection.

2. Diversion of producer milk. (a) *Diversions to nonpool plants.* Rules concerning the diversion of producer milk from pool plants to nonpool plants should be modified. During the months of September through March, a cooperative association should be allowed to divert to nonpool plants (except producer-handler plants) a quantity of milk not in excess of 40 percent of the quantity of producer milk that the association causes to be delivered to or diverted from pool plants during the month. During the months of April-August the cooperative should be allowed to divert 50 percent of such receipts. The operator of a pool plant (other than a cooperative association) should be allowed to divert to nonpool plants (except producer-handlers' plants) any milk that is not under the control of a cooperative association that is likewise diverting milk to nonpool plants during the month. The quantity of milk that the operator of a proprietary plant may divert should not exceed 40 percent during the months of September-March and 50 percent during the months of April-August of the milk received at or diverted from such pool plant that is

eligible to be diverted by the plant operator.

The order also should provide that at least one day's production of a producer must be physically received at a pool plant during each month in order for the milk of such producer to be eligible for diversion to a nonpool plant as producer milk.

Presently, diversions to nonpool plants are limited to 30 percent of producer milk received at pool plants during the months of January, February, March, September, October, and November, and 40 percent of such receipts during other months of the year. To be eligible for diversion, at least 2 days' production of a producer must be received at a pool plant during each month.

AMPI proposed that diversion eligibility for a producer be reduced to 1 day's production received at a pool plant and that diversion limits be increased to 40 percent during each of the months of September-December and 50 percent during each of the months of January-August. A spokesman for AMPI testified that the present diversion limits cause unnecessary, uneconomic, and costly milk movements, including unnecessary pumping and handling of the milk. The unnecessary hauling wastes thousands of gallons of fuel every month, he said, while the extra pumping damages the quality of the milk.

The witness indicated that AMPI regularly hauls producer milk from farms in Minnesota and South Dakota to its supply plant at Sibley, Iowa, solely for the purpose of meeting the present diversion limitations. He estimated that this unnecessary hauling of milk costs AMPI approximately \$10,000 per month. Also, he said, because of the difficulty in estimating beforehand the exact quantity of milk that may be diverted, AMPI has over-diverted several times in the last couple of years, causing milk regularly associated with the pool to be excluded.

A spokesman for Mid-Am testified in opposition to AMPI's proposal. This witness argued that the present diversion limits are adequate because data introduced into the record showed that the amount of milk being diverted by all handlers in the market was well within the existing limits. He stated that liberalization of the diversion provisions would make less milk available to the fluid market at a time when market conditions call for greater shipments.

Although most handlers are able to operate within the diversion limits presently in the order, it is apparent from the testimony, already described

that at least one—AMPI—is not able to do so. It should be noted in this connection that Mid-Am qualifies its large manufacturing plant at Norfolk as a pool plant. In addition, 4 of the 6 proprietary supply plants on the market also have manufacturing facilities. Accordingly, milk not needed by these handlers for fluid use is manufactured right at these pool plants instead of having to be diverted to nonpool plants. AMPI, however, has only one plant pooled under the order which is the supply plant at Sibley. The plant has no manufacturing facilities. Thus, reserved supplies associated with this plant are diverted by AMPI to nonpool plants for manufacturing. This is why AMPI has some difficulty staying within the diversion limits while other handlers in the market do not.

The present diversion limits are unduly tight and discriminate between handlers that operate pool manufacturing plants and those that do not. For example, during the month of October, a handler operating a pool supply plant which also manufactures cheese could ship 40 percent of its milk to a pool distributing plant to qualify for pooling and manufacture the remaining 60 percent of its milk into cheese. A cooperative that operates a pool supply plant without manufacturing facilities could also manufacture 60 percent of the milk pooled through that plant by sending it to one of its nonpool manufacturing plants. However, in this example, only 30 percent of the total receipts could be diverted directly to the manufacturing plant; the remaining 30 percent would have to be received first at the supply plant and then transferred to the manufacturing plant, possibly resulting in unnecessary hauling and handling of the milk. In the case of a cooperative that does not operate a pool supply plant but which does have a nonpool manufacturing plant, 70 percent of the cooperative's milk would have to be shipped to pool plants; the cooperative could divert the remaining 30 percent to its nonpool manufacturing plant. AMPI falls within these latter 2 categories, pooling part of its milk through its Sibley supply plant and pooling the remainder as a handler on bulk tank milk.

Theoretically, the diversion allowance for plant operators should be set at the reciprocal of the shipping requirements for a supply plant or a cooperative balancing plant. Under the present shipping standards, this would justify diversion limits of 50 to 60 percent. In view of the fact that AMPI did not propose that diversion limits be increased to this extent, the limits

should be held to 40 percent during the months of September through March and 50 percent during the months of April through August.

Recognizing the need for coordination between supply plant shipping requirements and diversion limitations, AMPI proposed that the present months of more limited diversions be changed from September–November and January–March to September–December to coincide with the shipping requirement months for supply plants. As noted earlier, the shipping requirement months for supply plants would be extended to September–March. For this reason, January–March should remain as months in which lower diversion limits apply and, as suggested by AMPI, December also should be included with these months.

The change in diversion limits would have no effect on the amount of milk that a supply plant operator—either a proprietary handler or a cooperative association—would have to make available to distributing plants. The amount of milk that a supply plant operator must make available to pool distributing plants is governed by supply plant shipping requirements. The change in diversion limits, however, will allow more milk that is not needed at a pool supply plant to be diverted to a nonpool manufacturing plant instead of first having to be received at the pool supply plant and then transferred to the nonpool plant. In this way, the change in diversion limits will permit greater efficiency in handling the market's reserve milk supplies.

It is not necessary to require 2 days' production of a producer to be received at a pool plant in order for milk of the producer to be eligible for diversion to a nonpool plant. One day's production received at a pool plant is sufficient to demonstrate that a producer has some association with the fluid market.

An AMPI spokesman testified that the present 2-day requirement has occasionally caused problems when one day's production of a large producer has been picked up in the same bulk tank truck that was also picking up 2 days' production of smaller producers. The spokesman indicated that the cooperative, having assumed that all producers whose milk was on the truck had met the 2-day production requirement, would not discover the error until after the end of the month, when it was too late to correct the problem.

Requiring that only one day's production be received at a pool plant during the month should eliminate this problem.

As proposed by Mid-Am, the order should allow the Director of the Dairy Division to increase or decrease the diversion limits by 20-percentage points. However, the provision should depart slightly from Mid-Am's proposal by allowing the Director to revise diversion limits independently of any change to supply plant shipping requirements. This will provide greater flexibility in accommodating situations in which an adjustment may be needed in shipping requirements but not necessarily in diversion limits or vice-versa.

Temporary adjustment of diversion limits may be needed for the same reasons as a temporary increase or decrease in supply plant shipping requirements, i.e., the market may need more milk for fluid use or there may be an excessive amount of milk being delivered for fluid use. A decrease or increase in diversion limits will help to accommodate these situations, particularly with regard to milk being pooled by a cooperative acting as a handler on bulk tank milk.

A cooperative acting as a handler on bulk tank milk, unlike a supply plant, does not have any particular standard to meet as far as delivering a certain percent of its milk to pool distributing plants. However, the amount of milk such a cooperative may divert is directly dependent upon the pounds of milk the cooperative delivers to pool plants.

In view of this, to require a cooperative bulk tank handler to deliver more milk to pool distributing plants it is necessary to reduce the amount of milk the cooperative may divert to nonpool plants. On the other hand, if the market is oversupplied with milk for fluid use, it would be necessary to increase diversion limits so the cooperative could divert more of its milk to nonpool plants for manufacturing use.

In computing diversion limits, the base on which the diversion percentage is computed should be equal to the amount of producer milk delivered to pool plants plus the amount diverted to nonpool plants. Presently, diversion limits are based only on the amount of producer milk delivered to pool plants.

This change will provide for the computation of diversion limits on the same basis as shipping requirements for supply plants. This will insure greater uniformity in market performance between supply plant operators and cooperative bulk tank handlers.

When a handler diverts milk in excess of the limits prescribed in the order, the quantity that is over-diverted cannot qualify as producer milk and be priced under the order. Presently, the diverting handler is required to designate the

dairy farmers whose milk is over-diverted. If the handler fails to do so, the order disqualifies all milk diverted by the handler during the month.

This procedure should be modified slightly. In the case of over-diverted milk, the diverting handler should continue to have the prerogative of designating the dairy farmers whose milk is over-diverted. If the handler fails to designate the over-diverted milk, the market administrator would disqualify all of the milk diverted by the handler on the last day of the month, then all the milk diverted on the second-to-last day, and so on in daily allotments until all of the over-diverted milk is accounted for. For example, if a handler over-diverted 10,000 pounds of milk for the month, but diverted 45,000 pounds on the last day of the month, the entire 45,000 pounds would be disqualified.

The procedure, which was proposed by Kraft, Inc., and supported by AMPI in its brief, will provide a less severe penalty for a handler who inadvertently over-diverts. In the event a handler does not identify which producers' milk is over-diverted, the new procedure will allow the market administrator to make this determination in a fair and orderly manner.

(b) *Diversion between pool plants.* Kraft, Inc., proposed that the order be amended to provide for diversions between pool plants. This proposal was a corollary change to its proposal to allow supply plants to qualify for pool status on the basis of deliveries by the supply plant operator to distributing plants directly from producers' farms.

The order should be amended to provide for diversions between pool plants. This will provide the technical means under the order for milk to be delivered by supply plant operators directly from producers' farms to pool distributing plants and still count as shipments from the supply plant. Also, it will allow the operator of any pool plant to divert milk supplies to another pool plant and retain the producer milk status and payroll responsibility for such milk. Without this provision, a handler wishing to retain his regular producers on his payroll for the entire month would have to physically receive the milk of such producers into his plant (so that it will be considered "producer milk" there), then pump it back into the truck, and deliver it to the other pool plant. Such milk would then be considered a transfer from one plant to another with the transferor-handler accounting to the pool for the milk and paying those producers as well.

This practice is obviously uneconomic, resulting in unnecessary

and costly movements of milk. In addition, the unnecessary pumping of milk is damaging to its quality. Permitting diversions of milk between pool plants will promote the efficient handling of milk.

In the case of diversions between pool plants, the question arises as to whether such diversions should be considered as a receipt at the divertor plant, the diveree plant, or both for the purpose of determining whether such plants have met the pooling requirements of the order. As adopted herein, such diversions would be treated in the same manner as transfers between pool plants.

The order now includes milk that is transferred from one distributing plant to another in the receipts of the transferor plant. The transfer is excluded from the receipts of the transferee plant. Diversions between pool distributing plants should be treated in the same way.

Milk that is transferred from a pool supply plant to a pool distributing plant is presently included in the receipts of both the supply plant and the distributing plant. Accordingly, diversions from a pool supply plant to a pool distributing plant should be considered in the receipts of both plants.

Fluid milk products that are transferred from a pool distributing plant to a pool supply plant are included in the receipts of the distributing plant but excluded from the receipts of the supply plant. Diversions from a pool distributing plant to a pool supply plant should also be treated this way.

For accounting purposes, milk diverted between pool plants will continue to be the "producer milk" of the diverting handler.

3. *Class I price zones and location adjustments.* The Class I pricing structure under the order should be revised to provide for two pricing zones in place of the three zones now in the order and to modify the application of location adjustments. Map No. 1 illustrates the revised pricing zones. As shown, Zone 1 should have a Class I differential of \$1.60, and Zone 2 should have a Class I differential of \$1.75.

Location adjustments outside of these two zones should apply only at plants in Nebraska, South Dakota, North Dakota, Minnesota, Wisconsin, and Iowa. In these areas, a minus location adjustment should apply. The location adjustment should be computed at the rate of 1.5 cents per hundredweight per 10 miles and should be based on the distance from Omaha or Norfolk, Nebraska, whichever is closer. A comparison of location adjustments at selected plant

locations outside of Zones 1 and 2 is shown on Table 3.

Table 3.—Present and Proposed Plant Location Adjustments at Selected Plant Locations

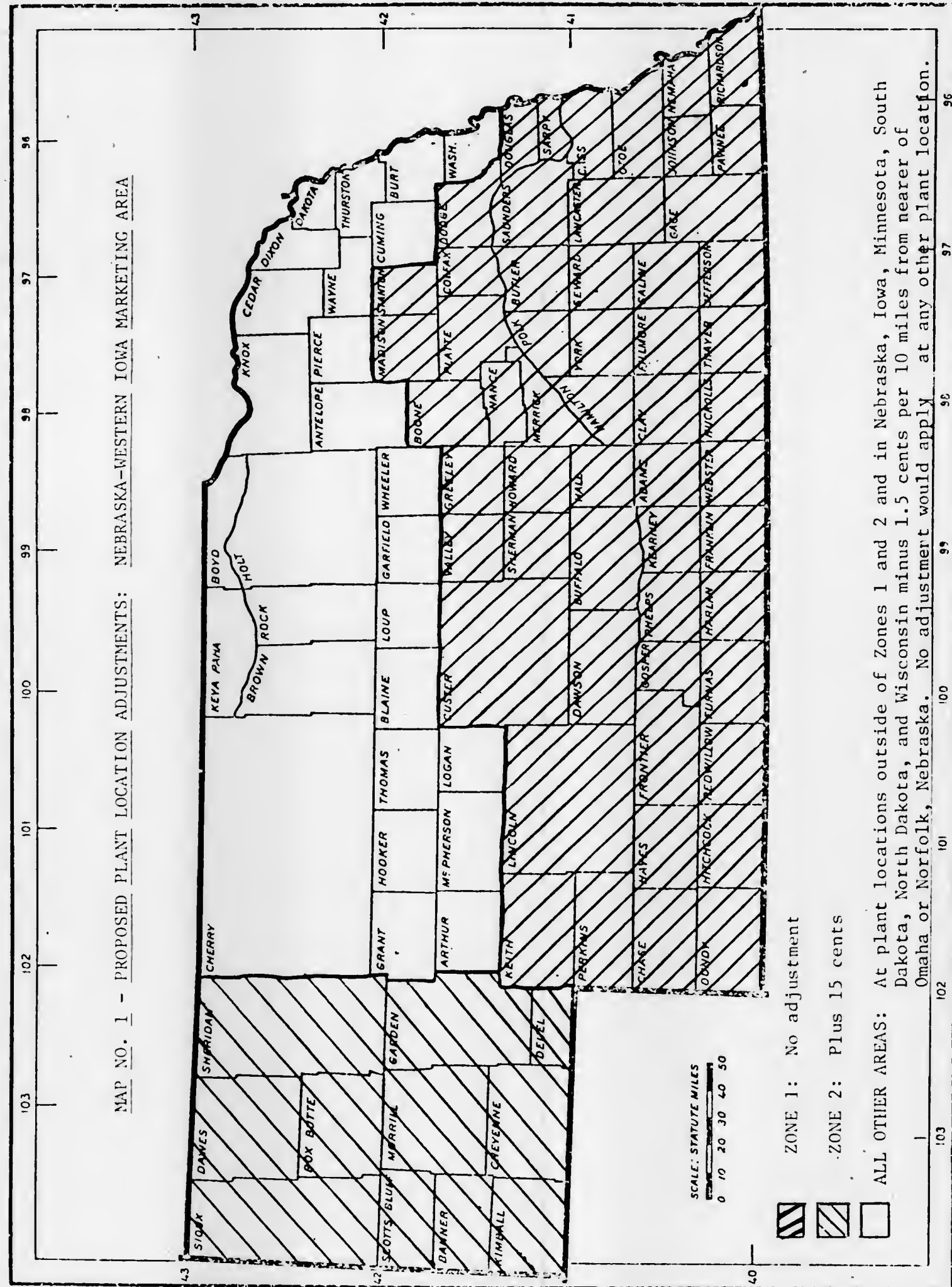
Location	Present Location Adjustment (cents per cwt)	Proposed Location Adjustment (cents per cwt)
O'Neill, Neb.	None	-12
Orchard, Neb.	None	-9
Hartington, Neb.	None	-7
LeMars, Iowa	-10	-16.5
Sibley, Iowa	-10	-24
Atwood, Kan.	+12	None
Clarkfield, Minn.	-22	-39
Freeman, S.D.	None	-15
Kambalton, Iowa	-10	10.5
Lake Benton, Minn.	-16	-31.5
Lake Preston, S.D.	-12	-29.5
Laurel, Neb.	None	-6
Lytton, Iowa	-10	-18
New Ulm, Minn.	-23.5	-44
Plainview, Neb.	None	-6
Sanborn, Iowa	-10	-22.5
West Point, Neb.	None	-7.5
Whittemore, Iowa	-16	-33

Currently, the marketing area is divided into three pricing zones. These zones are shown on Map No. 2. The Class I price at plants located in Zone 1 is \$1.60 over the basic formula price. The Zone 2 Class I price is 10 cents below the Zone 1 price, while the Zone 3 Class I price is 15 cents higher than the Zone 1 price. Uniform prices in each of these zones bear the same relationship, i.e., the Zone 2 price is 10 cents below the Zone 1 price, and the Zone 3 price is 15 cents above the Zone 1 price.

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NEBRASKA

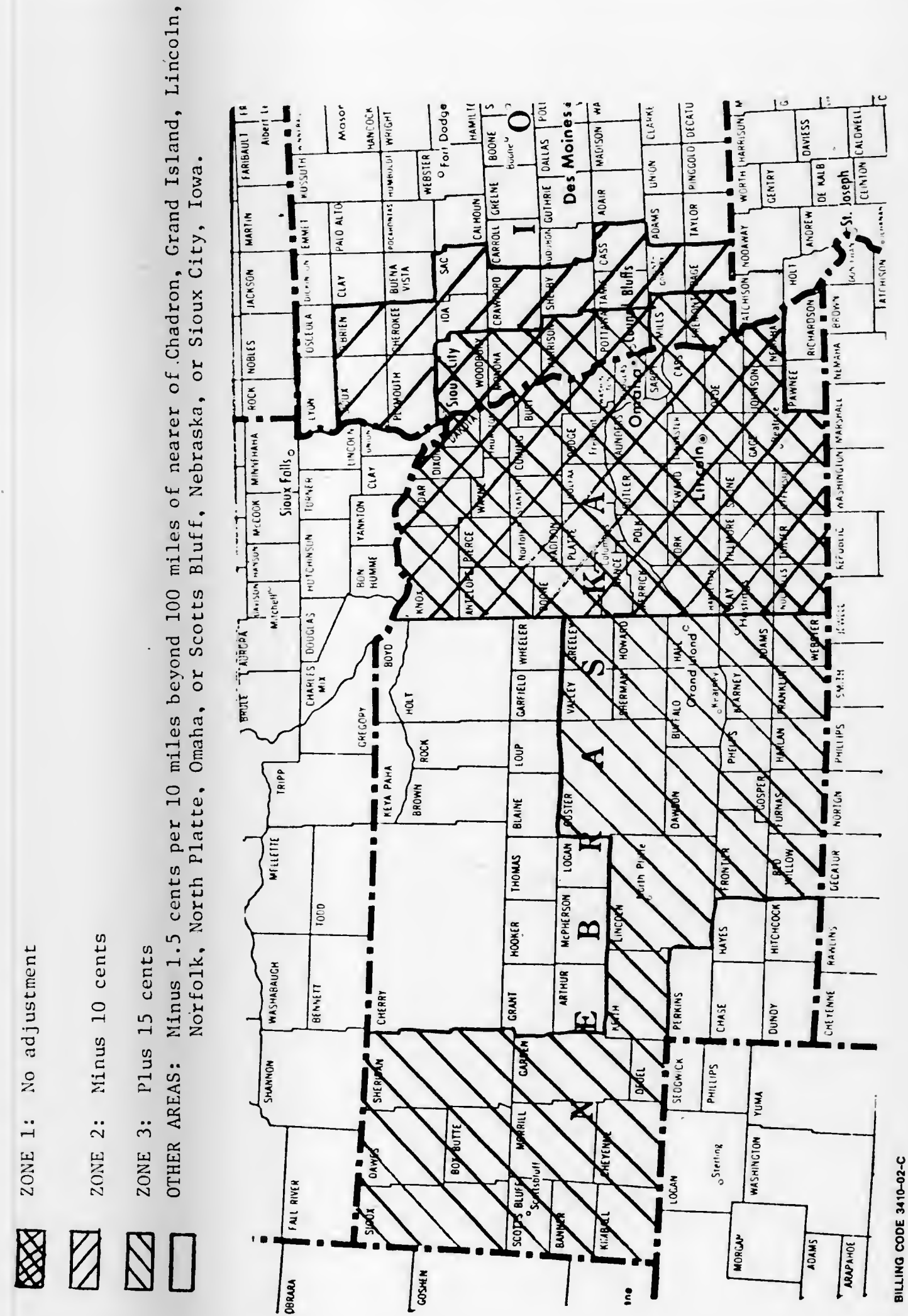
MAP NO. 1 - PROPOSED PLANT LOCATION ADJUSTMENTS: NEBRASKA-WESTERN IOWA MARKETING AREA



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MAP NO. 2 - PRESENT LOCATION ADJUSTMENTS: NEBRASKA-WESTERN IOWA MARKETING AREA



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The order also provides that at a plant located outside of the marketing area and within 100 miles of the nearest specified basing point, the applicable Class I and uniform prices at such plant are the prices applicable in the nearest pricing zone. At plants located outside of the marketing area and more than 100 miles from the nearest specified basing point, the Class I and uniform prices are reduced at the rate of 1.5 cents per hundredweight for each 10 miles of fraction thereof that such plant is located more than 100 miles from the nearest basing point.

Proposals to revise the pricing structure were made by two proprietary handlers and two cooperative associations.

Roberts Dairy, which operates distributing plants at Omaha and Grand Island, Nebraska, submitted a proposal that would have combined Zones 1 and 2 into single zone for pricing purposes. At the hearing, however, it abandoned this proposal. The proposal was not supported by any other party.

Wells Dairy, Inc., of LeMars, Iowa, (presently located in Zone 2) submitted a proposal that would reduce the Class I differential in Zone 2 from \$1.50 to \$1.40. A representative of Wells Dairy testified that the present \$1.50 Class I differential puts it at a disadvantage relative to its competitors under the Eastern South Dakota, Upper Midwest, and Iowa Federal orders. (The Class I differential under the Eastern South Dakota order is \$1.40; the Class I differential applicable to competing handlers under the Upper Midwest order would be either \$1.06 or \$1.12, depending upon their location; and the Class I differential to competing handlers under the Iowa order is \$1.40 or slightly less, again depending upon the respective plant's location.)

The Wells Dairy representative testified that the other markets in which it claims to be at a price disadvantage represent about 65 percent of its total sales territory. He stated that the current order price plus the over-order charges imposed by cooperative associations supplying his plant result in Wells Dairy having a 33-cent price disadvantage relative to its competitors under other orders.

Mid-America Dairyman, Inc., proposed that Zones 1 and 3 be revised so as to shift 20 Zone 3 counties in central Nebraska into Zone 1. A Mid-Am spokesman testified that conditions have changed significantly since these pricing zones were established in 1967. He said that Zone 3 was primarily established to attract an adequate supply of milk for plants located in central and western Nebraska. Also, he

noted that attention was given to alignment prices with the Eastern Colorado order based on the historical premise that as milk moved westward the prices should increase at a rate that approximated the cost of transporting milk.

The spokesman testified that supplies in Zone 3 are now more than adequate. He said that only 46 percent of the milk received at Zone 3 plants during the first 9 months of 1978 was actually used in Class I and that this did not include milk of Mid-Am that was pooled on the Eastern Colorado order but which formerly had been associated with Zone 3 plants. He noted that inclusion of the later milk supplies in the order 65 pool would have dropped the Zone 3 Class I utilization to about 1/3 of the Grade A supplies potentially available. From these figures, he concluded a higher price is no longer needed in this area to obtain an adequate supply of milk for distributing plants in that zone.

A second argument made by Mid-Am was that the plus 15-cent differential, which is applicable to the uniform price paid to producers as well as to the Class I price, is, in effect, subsidizing producers in Zone 3 at the expense of producers in Zone 1. This is because the pounds of Class I milk on which handlers pay the 15-cent higher Class I price is only about half of the producer milk in Zone 3 on which producers receive the 15-cent higher uniform price. Mid-Am estimated that this subsidization reduced the Zone 1 uniform price by one cent per hundred weight during 1977.

A spokesman for Fairmont Foods testified that his company supports a reduction of the Class I price at North Platte, Nebraska (now included in Zone 3). This witness indicated that the majority of the milk produced in the Zone 3 counties proposed to be included in Zone 1 now moves into Zone 1. He said that Fairmont now distributes over half of the milk from its North Platte plant in Zone 1 in competition with Zone 1 handlers. In 1976, he noted, most of the distribution from this plant was west and north of North Platte, mainly in the northwest corner of Colorado, the eastern edge of Wyoming, and the northwest part of Nebraska. The witness also testified that a reduction in price at North Platte would not jeopardize the milk supply for Fairmont's plant.

A spokesman for Roberts Dairy, which operates pool distributing plants at Grand Island and Omaha and a nonpool plant at Lincoln, Nebraska, also testified in support of Mid-Am's proposal to transfer 20 Zone 3 counties

into Zone 1. The witness stated that this change would put his entire operation in a better competitive position relative to competing handlers. He testified that while some distribution from the Grand Island Zone 3 plant goes to areas in Zone 3, such as McCook, North Platte, and Ogallala, Nebraska, and also into northwest Kansas, most of the distribution from this plant is in competition with Zone 1 handlers, particularly in the Norfolk and Columbus-Seward areas.

The witness also indicated that because Roberts Dairy has pool plants in both Zones 1 and 3, his company is forced to pay more than other handlers, for milk used in Class II and Class III because of the way receipts are allocated under the order to the handler's utilization at the two plants. He claimed that equalizing the price at both the Grand Island and Omaha locations would eliminate this problem.

The witness contended that the proposed lower price at Grand Island would have no impact on the supply of milk at that plant. It was his belief that even at the reduced price the Order 65 distributing plants at Grand Island and North Platte would remain the best market for supply plants and cooperatives operating in this part of the marketing area.

A spokesman for AMPI testified in support of the proposed transfer of Zone 3 counties also. While noting that AMPI had no producers or customers in Zone 3, he said that his organization supported the proposal because it did not feel the rest of the market should be subsidizing Zone 3 producers.

Opposition to restructuring the pricing in Zone 3 came from several supply plant operators, namely, Dodge Dairy Products, Inc., Dodge, Nebraska (Zone 1); Ravenna Cheese Co., Ravenna, Nebraska (Zone 3); Oxford Cheese Co., Oxford, Nebraska (Zone 3); Neu Cheese Co., Hartington, Nebraska (Zone 1); and Orchard Dairy Products, Inc., Orchard, Nebraska (Zone 1).

These handlers took the position that redefining Zone 3 as proposed would substantially reduce the price to dairy farmers delivering milk to Zone 3 plants. They contended that such a reduction would jeopardize the milk supplies of distributing plants located in Grand Island and North Platte (and, presumably, the Zone 3 plants of Oxford Cheese and Ravenna Cheese) because producers delivering to those plants would find a more attractive outlet in the Eastern Colorado market.

Three individual producers who ship milk to Zone 3 plants also testified against any reduction in price at such

plants. They testified that if this price were reduced, they would probably look for higher-priced markets in Kansas or Colorado.

A final pricing proposal was made by Land O'Lakes, Inc. (LOL). This cooperative, which has no producers on the Nebraska-Western Iowa market, proposed a change in the application of location adjustments to plants located outside of the marketing area. Presently, such location adjustments are not applied within 100 miles of a basing point. Only beyond 100 miles do they begin at the rate of 1.5 cents per 10 miles from the nearest basing point. Under LOL's proposal, location adjustments would apply within this 100 mile area. The effect of the proposal, therefore, would be to reduce Class I and uniform prices at plant locations outside the marketing area.

A spokesman for LOL testified that the purpose of its proposal is to resolve a price misalignment problem between the Nebraska-Western Iowa and Eastern South Dakota orders in the general procurement area of eastern South Dakota. LOL claims that this misalignment has caused it to lose producers on the Eastern South Dakota market because such producers were able to obtain greater returns by having their milk pooled under the Nebraska-Western Iowa order.

Mid-Am supported the LOL proposal to remove the 100-mile buffer zone applicable to location adjustments. The cooperative stated, however, that it would prefer that the amendment be limited to the states of South Dakota and Minnesota. The cooperative's spokesman indicated that the pricing structure of the order should encourage milk to move to the primary market. He noted, however, that under the present order provisions there is little incentive for milk to move from southern South Dakota, where Mid-Am competes with AMPI and LOL for milk supplies, to Omaha.

Several examples were cited in support of this argument. The Mid-Am witness testified that a nonpool plant at Freeman, South Dakota, which is roughly 200 miles from Omaha, now carries the Zone 1 price. Producer milk under Order 65 is diverted to this plant. Another nonpool plant is located at Lake Preston, South Dakota, which is about 260 miles from Omaha. This plant also receives diverted milk pooled under Order 65. The price at this plant is only 12 cents below the Zone 1 price.

Also cited by the spokesman for Mid-Am was the Order 65 price for diverted milk at nonpool plants at Clarkfield, Minnesota, and Lake Benton,

Minnesota. Although the Lake Benton plant is roughly 265 miles from Omaha, the price at Lake Benton is only 16 cents less than at Omaha. The price at Clarkfield, which is about 275 miles from Omaha, is 22 cents below the Omaha price.

Mid-Am contends that the present order provisions encourage milk to be kept at these distant plants for manufacturing purposes rather than to be moved to the population centers to meet the fluid needs of the market.

AMPI testified in opposition to the proposal of Well's Dairy to reduce the price in Zone 2 and LOL's proposal to modify location adjustments. An AMPI spokesman testified that there was no basis to reduce the Zone 2 price. He noted that the proposal had been considered at an earlier hearing and turned down. It was his position that there had been no changes in the market since that prior decision which would warrant adoption of the proposal at this time.

With respect to the LOL proposal, this witness testified that he did not believe there was a misalignment of prices in eastern South Dakota between the Nebraska-western Iowa order and the Eastern South Dakota order. He contended that there has been little or no shift of producers from Order 76 to Order 65; that any attempt to align the uniform prices of the respective orders would be futile; and that adoption of the proposal would misalign prices in eastern South Dakota, southwestern Minnesota, and along the eastern edge of the Order 65 marketing area.

It is evident from the testimony presented at the hearing that the current problem of location pricing is essentially one of insuring adequate milk supplies at the principal population centers where a high proportion of the market supply is processed for distribution as fluid milk products. A secondary consideration developed on the record concerned the problem of aligning the present price structure with nearby Federal order markets.

The location pricing provisions (zone prices and location adjustments at distant plants) assist in encouraging the movement of milk from supply areas to the principal population centers where processed for fluid uses. They reflect the lesser value of milk when received at an outlying plant location or when diverted to an outlying location. Additionally, the location pricing provisions assist in maintaining a proper price alignment with nearby markets, which is essential to the attraction of raw milk supplies to various locations where needed.

The pricing structure for a market should encourage milk to move from where it is produced to where it is processed and packaged for fluid use. The latter areas are principally metropolitan areas with population concentrations. Thus, a primary consideration in developing an appropriate pricing structure for a market is one of identifying the major population centers of the market.

Of the 1.8 million population (1970 census) in the Nebraska-Western Iowa marketing area, by far the largest metropolitan area is Omaha-Council Bluffs with a 1970 population of 480,000.⁵ The next largest area is Lincoln with a 1970 population of 168,000. The only other metropolitan area is Sioux City with a 1970 population of 116,000.

The 3 pool distributing plants in the Omaha-Council Bluffs area and the 2 distributing plants in the Lincoln area process a relatively large proportion of the Class I milk priced under the order. (There are no distributing plants in the Sioux City area.) They are not only the major distributors in these areas but also have substantial distribution in other parts of the marketing area. Producer supplies of milk are moved to plants in these major population centers in the market from various locations throughout the marketing area and beyond.

The order's present pricing structure does not adequately encourage the movement of milk from supply areas to plants in these population centers. This has been particularly true in the situation where the prices applicable to milk delivered to the Omaha-Lincoln area are the same or only slightly higher than the order prices applicable at outlying plant locations in northeastern Nebraska, northwestern Iowa, eastern South Dakota, and southwestern Minnesota.

Much of the milk supply in this market originates from these northern areas. In December 1977, 14 percent of the producer milk on the market came from 15 counties in southwestern Minnesota; 19 percent of the producer milk came from western Iowa (with 6 northwestern Iowa counties alone accounting for 12 percent of the milk on the market); and 12 percent of the market's milk came from eastern South Dakota. In total, these 3 areas account for 45 percent of the milk on the market. In all of this territory, there are only 2 pool plants on this market—a pool distributing plant

⁵ Official notice is taken of the 1970 Census of Population for Nebraska, Iowa and South Dakota, Bureau of the Census, U.S. Department of Commerce.

located at Le Mars, Iowa, and a pool supply plant located at Sibley, Iowa.

In northeastern Nebraska, there is an 11-county area in which 15 percent of the market's milk is produced. In these 11 counties, there are only 2 pool plants, both of which are cheese plants that are qualified as pool supply plants. The Class I and uniform prices in this area are the same as those in Omaha and Lincoln.

Several examples will highlight the pricing problems that now exist under the present pricing provisions.

A pool supply plant outside the marketing area is located at Sibley, Iowa. Sibley is about 175 miles from Omaha. The order now provides a transportation allowance of 1.5 cents per 10 miles to transport 100 pounds of bulk milk. At this rate, the price difference between Sibley—which is in a heavy production area—and Omaha—the largest city in the market—should be 27 cents ($\$0.15 \times 18 = .27$). However, the price at Sibley is now only 10 cents below the Omaha price. (Omaha has a Class I differential of \$1.60 compared to \$1.50 at Sibley.)

One of the recipients of AMPI's Sibley milk is Wells Dairy at Le Mars, Iowa. The distance between Le Mars and Sibley is about 52 miles. At 1.5 cents per 10 miles, the allowance for hauling milk from Sibley to Le Mars would be 9 cents per hundredweight. Under the order, however, there is no difference in the prices at these two locations.

Kraft, Inc., operates a pool supply plant at O'Neill, Nebraska. Milk from this plant is shipped to a pool distributing plant at Lincoln, Nebraska. The distance from O'Neill to Lincoln is roughly 200 miles, yet there is no difference in prices between O'Neill, which is in a sparsely populated rural area, and Lincoln, the second largest city in the State.

Similar comparisons can be made with respect to the pool supply plants at Orchard, Nebraska, and Hartington, Nebraska. There is presently no price adjustment to cover the cost of transporting milk from these supply plants to distributing plants to the south. Consequently, these costs must either be absorbed by the supply plant operator or, more likely, passed on to the distributing plant operator buying the milk.

Not only does the present pricing structure discourage the movement of milk to the population centers through supply plants, it also provides little or no incentive to move it to distributing plants on a direct-ship basis. Since producers generally bear the cost of transporting milk from their farms to the

processing plant, they seek to find outlets which will provide the highest price and the least transportation cost. If a cheese plant happens to be the closest plant, and a producer can get the same price there that he can by shipping milk a farther distance to a distributing plant, he naturally will ship his milk to the cheese plant.

The current pricing provisions contribute to the problems described by distributing plant operators of getting a sufficient supply of milk. By revamping Zone 1 as proposed herein and changing the application of location adjustments to outlying plants, the Zone 1 uniform price will be much more attractive relative to supply areas to the northeast. It will better insure the availability of milk at plants in the market's population centers.

The only pool distributing plant outside the State of Nebraska is Wells Dairy, Inc., at Le Mars, Iowa. Le Mars had a 1970 population of only 8,000 but is about 25 miles from Sioux City with a population of 86,000. Wells Dairy is about 100 miles from its closest Order 65 regulated competitors, Gillette Dairy at Norfolk and Muller Dairy at Howells, Nebraska. Wells Dairy also competes with several other Zone 1 handlers in Omaha and Lincoln. The distance from Le Mars to Omaha is about 125 miles, and from Le Mars to Lincoln it is about 180 miles.

As adopted herein, the Class I differential at Le Mars would be reduced from \$1.50 to \$1.435. Several Zone 1 handlers expressed opposition to any decrease in price at Le Mars, claiming that it would have an adverse effect on their ability to compete throughout much of eastern Nebraska where their sales overlap with those of Wells Dairy. They urged that the present 10-cent difference in Class I prices that now exists for milk received at Le Mars and at Zone 1 plants be retained.

Based on a hauling cost of at least 1.5 cents per 10 miles, the 125-mile distance from Le Mars to Omaha would suggest a hauling cost of about 20 cents per hundredweight. Thus, it is not reasonable to expect that the adopted 16.5 cent lower price at Le Mars would be disruptive to Zone 1 handlers in competing with Wells Dairy for fluid milk sales in the Omaha-Lincoln area.

Contrary to AMPI's position, there have been significant changes in the market since the prior hearing that support the changes adopted herein. At the time of the last hearing, October 1976, there were no proposals to change location adjustments at plant locations outside the marketing area. As a result, there would have been serious

problems—as pointed out by AMPI—in changing the Zone 2 price without also changing the price in the areas bordering the marketing area. In addition, in October 1976, there was a pool distributing plant located in Sioux City, which has since been closed, that was located about 25 miles from the Wells Dairy distributing plant in Le Mars. It would have been disruptive at that time to lower the Le Mars price without also adjusting the price at Sioux City.

The location adjustments adopted will not cause any misalignment in the Eastern South Dakota—southwestern Minnesota area, as claimed by AMPI. The proposed location adjustments provide for better alignment with the Eastern South Dakota order and Upper Midwest order than do the existing location adjustments. As revised, the Order 65 Class I price differential at Sioux Falls, South Dakota, would be \$1.39 compared to \$1.40 at that location under the Eastern South Dakota order. The Order 65 Class I differential at New Ulm, Minnesota, where AMPI operates a nonpool manufacturing plant, would be \$1.16, compared to \$1.12 under the Upper Midwest order.

AMPI is correct that the proposal of Land O'Lakes would have caused some price misalignment under the existing price zones. However, with the elimination of 11 northeastern Nebraska counties (Antelope, Burt, Cedar, Cuming, Dakota, Dixon, Knox, Pierce, Thurston, Washington, and Wayne) and 6 Iowa counties (Freemont, Harrison, Monona, Mills, Pottawattamie, and Woodbury) from the present Zone 1 and the complete elimination of the present Zone 2, as provided herein, the adopted location adjustments zoned from Norfolk and Omaha, Nebraska, will provide a smooth transition in pricing from Zone 1 to areas outside of Zone 1.

It is impossible to tell from the information on the record whether or not producers from Order 76 have shifted to Order 65, as contended by Land O'Lakes. In any event, whether they have or have not is not critical to the issue at hand. What is significant is that the Order 65 Class I price and uniform price adjusted to the South Dakota locations are too high relative to the prices in Zone 1 of the Nebraska-Western Iowa order. The AMPI witness admitted as much when he stated that "there really is inadequate incentive for any milk to move to the market in this Federal order."

AMPI contends in its brief that "whenever a system of zone pricing is adopted in an order, such as the Order 65 system of zone prices, there can

never be an incentive to move milk." Mid-Am's support of the proposal, AMPI argues, is "simply an argument to redistribute pool proceeds by reducing the price paid to AMPI producers and increase the prices received by Mid-America producers at its intra-market manufacturing plants."

With the present broad pricing zones and insufficient location adjustments, it is true that there is little or no incentive to move milk from production areas to distributing plants. However, by modifying the pricing structure, as adopted herein, a solution can be reached whereby significantly greater pricing incentives to move milk can be incorporated in the order, while at the same time the benefits of flat pricing for competing handlers in the heart of the marketing area can be maintained.

The basing points for determining location adjustments should be limited to Norfolk and Omaha. These points, located in Zone 1, represent significant population concentrations and distributing plant locations.

There is no reason to maintain Chadron, Grand Island, Lincoln, North Platte, Scottsbluff, and Sioux City as basing points. As provided herein, Grand Island and North Platte would be included in pricing Zone 1, while Lincoln is already in Zone 1. Milk moving into Zone 1 comes from north and east of the zone. Since Norfolk and Omaha are at the northern and eastern perimeters of the zone, it is not necessary to maintain the other basing points except for the purpose of having minus location adjustments to the south and west of the marketing area. However, milk does not move to the market from those areas—and is not likely to—because higher prices in neighboring Federal order markets to the south and west tend to attract the milk to those markets. In view of the fact that no milk moves into the market from the southern and western areas, no purpose would be served in maintaining minus location adjustments there.

There are no plants at either Chadron or Scottsbluff, which are in northwestern Nebraska. In fact, in that part of the present Zone 3 that would be retained in the plus 15-cent price zone, there is only one small distributing plant, which is at Kimball, Nebraska, 45 miles south of Scottsbluff. There is no indication on the record that removal of Scottsbluff and Chadron as basing points would have any effect on this handler's operations.

As discussed previously and as shown on Map No. 1, Zone 1 would be enlarged by including 20 central Nebraska counties now in Zone 3 and 7

additional Nebraska counties not now included in any pricing zone. The 20 counties now included in Zone 3, all of which are in the marketing area, are Keith, Lincoln, Frontier, Red Willow, Custer, Dawson, Gosper, Furnas, Phelps, Harlan, Valley, Greeley, Sherman, Howard, Buffalo, Hall, Kearney, Adams, Franklin, and Webster. The 7 counties now outside any pricing zone, and which also are outside the marketing area, are Perkins, Chase, Dundey, Hayes, Hitchcock, Pawnee, and Richardson. There are no plants receiving producer milk in any of these 7 counties, which are added to Zone 1 to facilitate the designation of the appropriate price in those areas.

Two of the 3 pool distributing plants that would be affected by this price change are located adjacent to the present Zone 1.⁶ One of the plants is located at Grand Island in Hall County and the other is at Hastings in Adams County. The third distributing plant is located at North Platte about 140 miles west of Grand Island.

While it is necessary to use the pricing mechanism to insure adequate supplies of milk, it is not in the public interest to provide any higher prices than are necessary for this purpose. Based on the evidence in the record—notably that given by the major cooperative in the market and 2 of the 3 distributing plant operators that would be affected—there appears to be no basis for maintaining a Class I differential of \$1.75 in central Nebraska.

Opposition to the proposal was largely speculative in that it was based on what might happen if the price were lowered. There was no convincing evidence to support such speculation, nor was there any substantive testimony as to how the market would be adversely affected by the loss of present Zone 3 supply plants now on the market should such plants shift to another market because of more attractive prices. It is true that a lower price in central Nebraska would widen the difference between the Eastern Colorado uniform price and the Nebraska-Western Iowa uniform price. However, the difference would not appear to be wide enough to make it worthwhile for supply plants to shift regulation to the Eastern Colorado market. In any event, there is no indication that milk supplies for distributing plants in this market would be jeopardized under the pricing changes adopted herein.

⁶At the time of the hearing there were 4 pool distributing plants in this 20 county area. Official notice is taken of the commercial fact that the Beatrice Foods Company discontinued operations at its Grand Island plant in February 1979.

To accommodate the revised pricing structure adopted herein, certain non-substantive conforming changes have been made in the order language. Pricing zones are no longer defined in the marketing area definition but instead are set forth in the provisions relating to plant location adjustments for handlers. Also, certain "dead" language has been removed from the sections concerning class prices and announcement of class prices.

4. Payments to producers and cooperative associations. The order should be amended to allow handlers, in making partial payments to producers, to make proper deductions from such payments if authorized in writing by the producer.

Presently, the order allows handlers to make authorized deductions from producer payments only when making the final payment on the 15th day of the month. As adopted herein, the order also would allow such handler to make authorized deductions when making the partial payment on or before the 27th day of the month.

Kraft, Inc., proposed this change in the order, citing difficulties caused by the present provisions. A Kraft spokesman testified that there are now occasions when the balance owed to a producer at the time of final payment is less than the authorized deductions for that month. He said that deductions from producers' milk checks are made as an accommodation to producers who have executed assignments in favor of creditors and is a common practice within the dairy industry. He also stated that, when such deductions may only be made from the final payment, there is a wide disparity in the net amount of the final payment as compared to the partial payment. Producers, he said, have expressed dissatisfaction with this procedure, preferring instead to receive approximately equal semi-monthly payments.

The order should allow authorized deductions to be made at the time of partial payment as well as at the time of final payment. This will help insure that producers' obligations can be met through deductions from their checks. It will also aid producers in financial planning by providing equal or nearly equal payments twice a month.

5. Charges on overdue accounts. The order should provide a charge on all handler obligations to the market administrator that are overdue. Such charge should be 1 percent per month and should apply on the first day that a payment is overdue and on the same day of each succeeding month until the obligation is paid. Payments subject to

the charge would be those due the market administrator for the producer-settlement fund, order administration, marketing services, and audit adjustments.

The institution of a late-payment charge was proposed by Mid-Am. As set forth in the hearing notice, the cooperative proposed that such charge apply to any overdue account due the market administrator by a handler. The late-payment charge, as proposed, would be three-fourths of 1 percent and would apply beginning the day following the date on which payment of an obligation is due.

At the hearing, Mid-Am proposed three changes to its original proposal: First, the application of the late-payment charge would be expanded to apply also to overdue handler obligations to producers and cooperative associations; second, the rate of the late-payment charge would be changed to the prime rate plus two percentage points; and third, the charge would apply on a daily basis rather than on a monthly basis, beginning the first day after an obligation was due.

Mid-Am held that adoption of its proposal, as revised, would provide handlers with the necessary incentive for making prompt payments of both their order obligations to the market administrator and to producers and cooperative associations. Proponent cited the collection problems being experienced by the market administrator and indicated that producers have an interest in timely payments. In this connection, the Mid-Am spokesman pointed out that in the last year and a half there were at least 4 occasions when the payment due Mid-Am from the market administrator out of the producer-settlement fund was either late or reduced because handlers were delinquent in making their payments to the producer-settlement fund. In addition, he indicated that those handlers making late payments have a competitive advantage in their business operations relative to handlers making timely payments.

In support of the proposed late-payment charge, Mid-Am contended that the charge should be at least as much as the cost of obtaining a loan from commercial sources since delinquent handlers are in effect borrowing money from producers. The cooperative's spokesmen indicated that a charge based on the prime rate plus 2 percentage points is in line with current interest rates on commercial loans. In urging that the charge be apportioned on a daily basis, the witness contended that assessing a charge for only the

number of days that payment is actually late, rather than on a monthly basis, would encourage more timely payments.

A spokesman for Fairmont Foods Company supported the adoption of a charge on handler obligations that are late to the market administrator. He proposed that such charge be one percent per month and that it be applied on the first day that a delinquency occurs. The principal reason cited by Fairmont in supporting a late-payment charge was that it would prevent handlers who are delinquent in their payments to the market administrator from having a competitive advantage relative to those handlers making timely payments.

A number of handlers who did not testify at the hearing on this issue submitted briefs in opposition to Mid-Am's proposal to assess a late-payment charge on handler obligations to producers and cooperative associations. Generally, they held that inadequate notice was given to interested parties to fully explore at the hearing the various ramifications of applying a late-payment charge on such transactions. Moreover, it was their position that this modification would improperly involve the government in the affairs of private parties.

The record evidence indicates that handlers in this market have been chronically late in paying their various order obligations to the market administrator. Data submitted into evidence by the market administrator's office demonstrated the severity of the problem. For example, during the 21-month period of January 1977–September 1978, the market administrator issued 301 buildings to handlers. These covered monthly obligations of handlers to the producer-settlement, administrative expense, and marketing service funds, which were due by the 13th, 14th, and 15th day, respectively, of the month. For this 21-month period, none of the payments due either the producer-settlement or administrative expense funds were received by the market administrator on time. Only 1.3 percent of the payments had been received by the 15th day of the following month.

This record of payment delinquency likely can be attributed in part to the relatively short time between the mailing of the billings to handlers and the due date when such payments are due the market administrator. For example, in the case of payments to the producer-settlement fund, the market administrator's office completes such billings at the latest by the 12th of the month, and on the following day these

payments are due from the handler. Nevertheless, even by the 20th day of the month, which should have been sufficient time to complete the billing and payment cycle through the mail, only 166 payments, or 55 percent of the payments due, were received by the market administrator. As late as the 30th day of the month, 6 percent of the payments had still not been made.

It is essential to the effective operation of the order that handlers make their payments to the market administrator on time. Under the marketwide pooling arrangement, it is necessary that handlers with class I utilization higher than the market average pay part of their total use value of milk to the producer-settlement fund. Through this means, money is made available to handlers with lower than average Class I utilization so that all handlers in the market, irrespective of the way they use the milk, can pay their producers the uniform price. The success of this arrangement depends on the solvency of the producer-settlement fund.

Also, the prompt payment of amounts due the administrative expense and market service funds is essential to the performance by the market administrator of the various administrative functions prescribed by the order. Delinquent payments to these funds could impair the ability of the market administrator to carry out his duties in a timely and efficient manner.

Payment delinquency also results in an inequity among handlers. Handlers who pay late are, in effect, borrowing money from producers. In the absence of any late-payment charge that approximates the cost of borrowing money from commercial sources, handlers who are delinquent in their payments have a financial advantage relative to those handlers making timely payments.

Because of the late-payment problem that exists in the market, it is appropriate to adopt a late-payment charge of 1 percent per month of the unpaid balance on overdue handler obligations to the market administrator and to apply this charge the first day the obligation is overdue. Whether a penalty of 1 percent will be a sufficient inducement to handlers to make their payments to the market administrator on time can be determined only through experience. However, if such penalty is to have an impact, it must be an amount that approximates what a delinquent handler is charged by commercial banks for money borrowed for short-term purposes. If the penalty is established at a somewhat lesser rate, handlers who

may have payment problems would be encouraged to delay their payments, knowing that the penalty charge is cheaper than borrowing money commercially at a higher loan rate. At the time of the hearing, the spokesman for Mid-Am indicated that the interest charge on short-term loans in the market was slightly over 12 percent per annum or 1 percent per month. In view of this, a monthly penalty of 1 percent should provide reasonable assurance that producer funds do not represent a cheaper source of money.

A penalty charge of this amount should apply irrespective of whether the obligation is paid 1 day late or 10 days late. If the late-payment charge were treated as interest and computed on a daily basis, as suggested by Mid-Am, the order would merely represent a banking service for handlers who desire to use producer funds as an alternative source of money at the going interest rate. This is not the intended purpose of the late-payment charge. Rather, it is to be a penalty that will induce handlers to pay their obligations to the market administrator on time.

Under the provisions adopted herein, overdue handler obligations that are payable to the market administrator would be increased by 1 percent on the day after the due date. Any remaining unpaid portion of the original obligation would be further increased by 1 percent on the same date of each succeeding month until the obligation is paid. The late-payment charge would apply not only to the original obligation but also to any unpaid penalty charges previously assessed.

As proposed at the hearing, the order should apply a penalty charge on overdue obligations of a handler operating a partially regulated distributing plant. Under certain conditions, such a handler may be required to make payments to the producer-settlement and administrative expense funds. In the absence of any penalty, a partially regulated handler could have an advantage on his order obligations relative to fully regulated handlers who are subject to the additional charge when they fail to make timely payments. Also, as pointed out earlier, prompt payments to the administrative expense fund are essential to the market administrator's performance of his duties.

A late-payment charge should not apply on handler obligations to producers and cooperatives, as Mid-Am proposed at the hearing. Under the present payment practices, it would be difficult to know with certainty when payment has been made. This, of course,

presents a problem of knowing when a late-payment charge should apply. The record does not provide an adequate basis for overcoming this problem, such as through the use of different payment or reporting procedures. Thus, such a charge should not be adopted without further exploration of this issue at another hearing.

Counsel for Kraft, through an objection raised at the hearing, argued that Mid-Am's proposal to apply a late-payment charge on handler obligations to producers and cooperatives should not be considered in this proceeding because proper notice was not provided to the public since the original late-payment proposal of Mid-Am that was included in the hearing notice applied only to handler obligations due the market administrator. The administrative law judge did not rule on the objection, but indicated that the objection should be resolved at the decisionmaking level in connection with the entire late-payment issue. Since it is concluded that there should be no late-payment charges on handler obligations to producers and cooperatives, there is no need to consider Kraft's objection.

As noted previously, part of the lateness in payments to the market administrator can be attributed in part to the relatively short time between the mailing of the market administrator's billings to handlers and the date by which such billings are to be paid. Presently, the uniform price is announced on the 12th day of the month (the latest date that billings are completed by the market administrator's office), and payments of such billings to the producer-settlement fund are due on the next day. It is obvious that this time interval is insufficient to allow for the transmission of the billings and payments through the mail. Similarly, it is unrealistic to expect the market administrator to make payment from the producer-settlement fund on the 14th day of the month, as now required by the order, if the necessary payments to the producer-settlement fund have not been received. Finally, if the market administrator is unable to make payments out of the producer-settlement fund by the 14th day of the month, those handlers receiving such payments cannot be expected to pay cooperative associations by the 14th day of the month or producers by the 15th day of the month, as the order requires.

A proposal that would have allowed more time for the submission of billings and payments through the mails was included in the notice of hearing. At the hearing, the proponent, Mid-Am, abandoned the proposal. In its brief,

however, the cooperative indicated that it would be proper to consider its proposed change in payment dates in order to make the various payment dates under the order more practical and realistic in terms of achieving timely payments. A witness for Fairmont Foods Company indicated support for the proposal but did not elaborate. No other parties either supported or opposed the proposal.

It would not be reasonable to impose a late-payment charge on handler obligations to the market administrator without providing handlers an opportunity to comply with the order in making the required payments. It is within this context that the changes in dates adopted herein are made.

The various payment dates in the order must be coordinated. The first payment due, the payment to the producer-settlement fund, must be coordinated with the announcement of the uniform price. It is only after this price is available that the obligations to and from the producer-settlement fund can be determined and payments made to producers and cooperatives.

The order provides for announcement of the uniform price by the 12th day of the month. Payments to the producer-settlement fund, therefore, should be made by the 15th of the month; payments to handlers from the producer-settlement fund should be made by the 16th day of the month; and payments to producers should be made by the 18th day of the month and to cooperative associations 1 day earlier. These payment dates give handlers a reasonable amount of time to comply with the order in making the required payments.

In conjunction with other changes adopted herein, the dates by which handlers are required to pay administrative and marketing service assessments to the market administrator also should be changed. Such payments are now due on the 14th day of the month for administrative assessments and 1 day later for marketing service assessments. No purpose is served by requiring payments to the producer-settlement, administrative expense, and marketing service funds on different dates. Accordingly, payments to the administrative expense and marketing service funds should be due on the same date that payments to the producer-settlement fund are due.

6. Market administrator's reports and announcements concerning classification. A proposal by Mid-America Dairymen, Inc., to require the market administrator to report to a cooperative association the

classification of milk received by a handler from the cooperative's supply plant should be denied.

The testimony on the record did not clearly indicate the intent and need for this change in the order. Moreover, Mid-Am proposed in its brief that no action be taken on the proposal. There was no other support for the proposal.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The following findings and determinations supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they conflict with those set forth below.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the market area. The minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions of such agreement would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Nebraska-Western Iowa marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. Section 1065.2 is revised to read as follows:

§ 1065.2 Nebraska-Western Iowa marketing area.

The "Nebraska-Western Iowa marketing area" (hereinafter referred to as the "marketing area") means all the territory within the boundaries of the counties and townships listed below, including such territory as is now occupied and as may be occupied in the future by Government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments. Where such establishment is partly within and partly without the designated boundaries, the marketing area shall include the entire area encompassed by such establishment.

(a) *Nebraska Counties:* Adams, Antelope, Banner, Boone, Box Butte, Buffalo, Burt, Butler, Cass, Cedar, Cheyenne, Clay, Colfax, Cuming, Custer, Dakota, Dawes, Dawson, Deuel, Dixon, Dodge, Douglas, Fillmore, Franklin, Frontier, Furnas, Gage, Garden, Gosper, Greeley, Hall, Hamilton, Harlan, Howard, Jefferson, Johnson, Kearney, Keith, Kimball, Knox, Lancaster, Lincoln, Madison, Merrick, Morrill, Nance, Nemaha, Nuckolls, Otoe, Phelps, Pierce, Platte, Polk, Red Willow, Saline, Sarpy, Saunders, Scotts Bluff, Seward, Sheridan, Sherman, Sioux, Stanton, Tayer, Thurston, Valley, Washington, Wayne, Webster, and York.

(b) *Iowa Counties:* Cass, Cherokee, Crawford, Fremont, Harrison, Ida, Mills, Monona, Montgomery, O'Brien, Page, Plymouth, Pottawattamie, Sac, Shelby, Sioux, and Woodbury.

(c) *South Dakota Counties:* That portion of Union County comprising Jefferson Township, North Sioux City, and the unorganized territory adjacent thereto, as defined and mapped in the United States 1960 Census of Population.

2. In § 1065.7, the word "January" in paragraph (d)(3) is changed to "April,"

and paragraphs (a) and (b) are revised as follows:

§ 1065.7 Pool plant.

(a) A distributing plant from which there is:

(1) Route disposition (except filled milk) in the marketing area during the month equal to not less than 15 percent of the Grade A milk received at such plant from dairy farmers, supply plants (exclusive of transfers and diversions from plants qualifying as pool plants pursuant to this paragraph), and handlers described in § 1065.9(c); and

(2) Total route disposition (except filled milk) during the month or the immediately preceding month equal to not less than 35 percent of the Grade A milk received at the plant during such month from the sources specified in paragraph (a)(1) of this section.

(b) A supply plant from which during the month the volume of fluid milk products, except filled milk, transferred and diverted to pool distributing plants is 40 percent or more of the total Grade A milk received at the plant from dairy farmers (including producer milk diverted from the plant pursuant to § 1065.13) and handlers described in § 1065.9(c), subject to the following additional conditions:

(1) Not more than one-half of the shipping percentage specified in this paragraph may be met through the diversion of milk from the supply plant to pool distributing plants;

(2) The volume of fluid milk products included as qualifying shipments pursuant to this paragraph shall be reduced by the volume of any fluid milk products transferred or diverted from any pool distributing plant to the supply plant or to any other plant operated by the operator of the supply plant;

(3) The shipping requirements of this paragraph may be increased or decreased by 20 percentage points by the Director of the Dairy Division if that person finds such revision is necessary to obtain needed shipments or to prevent uneconomic shipments. Before making such a finding, the Director shall investigate the need for revision either at his (her) own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall issue a notice stating that the revision is being considered and invite data, views, and arguments; and

(4) A supply plant that qualifies as a pool plant in each of the months of September through March shall be a pool plant for the following months of April through August unless written

application is filed with the market administrator by the plant operator requesting the plant be designated a nonpool plant. In such case, nonpool status will be effective the first month following such notice and thereafter until the plant again qualifies as a pool plant on the basis of transfers and diversions. Any plant that qualifies as a pool plant pursuant to this paragraph will be subject to any shipping requirement announced pursuant to paragraph (b)(3) of this section.

3. In § 1065.9, paragraph (c) is revised to read as follows:

§ 1065.9 Handler.

(c) A cooperative association with respect to milk of its member producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association. The milk shall be deemed to have been received from producers by the cooperative association at the location of the plant to which it is delivered. Milk delivered pursuant to this paragraph shall not include milk of its member producers diverted to pool plants by the association as a handler pursuant to paragraph (a) of this section;

4. Section 1065.13 is revised to read as follows:

§ 1065.13 Producer milk.

"Producer milk" of each handler means all skim milk and butterfat contained in milk from producers that is:

(a) Received at a pool plant directly from a producer or a handler described in § 1065.9(c), excluding such milk that is diverted from another pool plant;

(b) Received by a handler described in § 1065.9(c) from producers in excess of the quantity delivered to pool plants;

(c) Diverted from a pool plant for the account of the handler operating such plant to another pool plant. Milk delivered pursuant to this paragraph by a supply plant operator shall be limited to those producers who are located within 150 miles of the supply plant (as based on the post office address of the producer). Such milk shall be priced at the plant to which diverted; or

(d) Diverted from a pool plant to a nonpool plant (other than a producer-handler plant) for the account of the handler operating such pool plant or for the account of a handler described in § 1065.9(b), subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion unless during the

month at least one day's production of milk of such dairy farmer is physically received as producer milk at a pool plant;

(2) The total quantity of milk diverted by a cooperative association during the month may not exceed 40 percent in the months of September through March, and 50 percent in other months, of the producer milk that the cooperative association causes to be delivered to or diverted from pool plants during the month;

(3) The operator of a pool plant (other than a cooperative association) may divert for his account any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (d)(2) of this section. The total quantity so diverted during the month may not exceed 40 percent in the months of September through March, and 50 percent in other months, of the milk received at or diverted from such pool plant during the month that is eligible to be diverted by the plant operator.

(4) The diversion limits of this paragraph may be increased or decreased by 20 percentage points by the Director of the Dairy Division if that person finds such revision is necessary to obtain needed shipments or to prevent uneconomic shipments. Before making such a finding, the Director shall investigate the need for revision either at his (her) own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall issue a notice stating that the revision is being considered and invite data, views, and arguments;

(5) Any milk diverted in excess of the limits prescribed in paragraph (d) (2), (3), and (4) of this section shall not be producer milk. The diverting handler may designate the dairy farmers whose diverted milk will not be producer milk. Otherwise, the total milk diverted on the last day of the month, then the second-to-last day, and so on in daily allotments will be excluded until all of the over-diverted milk is accounted for; and

(6) Diverted milk shall be priced at the location of the plant to which diverted.

5. In § 1065.41, paragraph (b)(2) is revised to read as follows:

§ 1065.41 Shrinkage.

(b) . . .

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1065.9(c) and in milk diverted to such plant from another pool plant, except

that, in either case, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage shall be 2 percent;

6. In § 1065.42, paragraph (a) is revised to read as follows:

§ 1065.42 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertor-plant after the computations pursuant to § 1065.44(a)(12) and the corresponding step of § 1065.44(b);

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1065.44(a)(7) or the corresponding step of § 1065.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or divertor-handler received during the month other source milk to be allocated pursuant to § 1065.44(a) (11) or (12) or the corresponding step of § 1065.44(b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent that would be the case if the other source milk had been received at the transferee-plant or divertor-plant.

§ 1065.44 [Amended]

7. In § 1065.44(a)(8)(ii)(o), the introductory text of (a)(11), and (a)(12)(i)(b), the words "and diversions" are added following the word "transfers" in the parenthetical expression and in § 1065.44(a)(13) the reference to "§ 1065.42(a)(1)" is changed to "§ 1065.42(a)."

8. In § 1065.50, paragraph (a) is revised as follows:

§ 1065.50 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.60.

9. Section 1065.52 is revised to read as follows:

§ 1065.52 Plant location adjustments for handlers.

(a) The following zones are defined for the purpose of determining location adjustments:

(1) Zone I shall include the Nebraska counties of Adams, Boone, Buffalo, Butler, Cass, Chase, Clay, Colfax, Custer, Dawson, Dodge, Douglas, Dundy, Fillmore, Franklin, Frontier, Furnas, Gage, Gosper, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Howard, Jefferson, Johnson, Kearney, Keith, Lancaster, Lincoln, Madison, Merrick, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Perkins, Phelps, Platte, Polk, Red Willow, Richardson, Saline, Sarpy, Saunders, Seward, Sherman, Stanton, Thayer, Valley, Webster, and York.

(2) Zone 2 shall include the Nebraska counties of Banner, Box Butte, Cheyenne, Dawes, Deuel, Garden, Kimball, Morrill, Scotts Bluff, Sheridan, and Sioux.

(b) For producer milk received at a pool plant (or diverted to a nonpool plant) and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (d) of this section, the Class I price specified in § 1065.50(a) shall be adjusted for the location of the plant receiving the milk as follows:

- (1) In Zone 1, no adjustment;
- (2) In Zone 2, plus 15 cents;
- (3) At a plant located outside of Zones 1 and 2 and in the States of Nebraska, Iowa, Minnesota, North Dakota, South Dakota, or Wisconsin, the price shall be reduced by 1.5 cents per 10 miles or fraction thereof (by shortest hard-surfaced highway and/or all weather road distance as measured by the market administrator) that such plant is located from the nearer of the city halls in Norfolk or Omaha, Nebraska; and
- (4) At any other location, no adjustment.

(c) The Class I price applicable to other source milk shall be adjusted by the amounts set forth in paragraph (b) of this section, except that the adjusted Class I price shall not be less than the Class III price.

(d) Transfers between pool plants shall be assigned Class I disposition at the transferee-plant, in excess of the sum of receipts at such plant from producers and handlers described in

§ 1065.9(c), and diversion from other pool plants and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least adjustment would apply.

10. Section 1065.53 is revised to read as follows:

§ 1065.53 Announcement of class prices.

The market administrator shall announce publicly on or before the 5th day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1065.71 [Amended]

11. In § 1065.71(a), the number "13th" is changed to "15th".

§ 1065.72 [Amended]

12. In § 1065.72, the number "14th" is changed to "16th".

13. Section 1065.73 is revised to read as follows:

§ 1065.73 Payments to producers and to cooperative associations.

(a) Each handler shall pay for milk received from producers for whom payment is not made pursuant to paragraph (b) or (c) of this section as follows:

(1) On or before the 27th day of the month, the handler shall pay each producer who had not discontinued shipping milk to such handler for milk delivered during the first 15 days of the month. The amount to be paid for each hundredweight of milk delivered shall be not less than the uniform price for the preceding month, less proper deductions authorized in writing by such producer;

(2) On or before the 18th day after the end of the month, the handler shall pay to each producer for each hundredweight of milk delivered the uniform price pursuant to § 1065.61, as adjusted pursuant to §§ 1065.74 and 1065.75, less the following amounts:

- (i) The payments pursuant to paragraph (a)(1) of this section;
- (ii) Deductions for marketing services pursuant to § 1065.86; and
- (iii) Any proper deductions authorized in writing by the producer. However, if by the date specified above the handler has not received full payment for such month pursuant to § 1065.72, he may reduce his total payment to all producers uniformly by not more than the amount of reduction in payment from the market administrator; the handler shall complete such payments not later than the date for making such payments pursuant to this paragraph

next following receipt of the balance from the market administrator.

(b) Each handler shall pay a cooperative association as follows for milk received from producers if the cooperative association has filed a written request for payment with the handler and if the market administrator has determined that such cooperative association is authorized to collect payment:

(1) On or before the 26th day of the month, an amount not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a)(1) of this section, less any deductions authorized in writing by such cooperative association; and

(2) On or before the 17th day after the end of each month an amount not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a)(2) of this section, less proper deductions authorized in writing by such cooperative association.

(c) Each handler shall pay a cooperative association for receipts of milk for which such cooperative association is the handler pursuant to § 1065.9(c) as follows:

(1) On or before the 26th day of the month, the handler shall pay for milk received during the first 15 days of the month. The amount to be paid for each hundredweight of milk delivered shall be not less than the uniform price for the preceding month; and

(2) On or before the 17th day after the end of each month, the handler shall pay for each hundredweight of milk delivered the uniform price, as adjusted by the butterfat differential specified in § 1065.74, applicable at the location of the receiving handler's plant, less the amount paid pursuant to paragraph (c)(1) of this section.

(d) Each handler shall pay a cooperative association for fluid milk products received from a pool plant operated by the cooperative association as follows:

(1) On or before the 26th day of the month, the handler shall pay for each hundredweight of fluid milk products received not less than the Class III price for the preceding month, adjusted by the butterfat differential pursuant to § 1065.74 for the preceding month; and

(2) On or before the 17th day after the end of the month, the handler shall pay for each hundredweight of fluid milk products received according to the classification of such fluid milk products pursuant to § 1065.42 at not less than the applicable class prices specified in § 1065.50, adjusted for the location of the transferee plant and by the butterfat

next following receipt of the balance from the market administrator.

(b) Each handler shall pay a cooperative association as follows for milk received from producers if the cooperative association has filed a written request for payment with the handler and if the market administrator has determined that such cooperative association is authorized to collect payment:

(1) On or before the 26th day of the month, an amount not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a)(1) of this section, less any deductions authorized in writing by such cooperative association; and

(2) On or before the 17th day after the end of each month an amount not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a)(2) of this section, less proper deductions authorized in writing by such cooperative association.

(c) Each handler shall pay a cooperative association for receipts of milk for which such cooperative association is the handler pursuant to § 1065.9(c) as follows:

(1) On or before the 26th day of the month, the handler shall pay for milk received during the first 15 days of the month. The amount to be paid for each hundredweight of milk delivered shall be not less than the uniform price for the preceding month; and

(2) On or before the 17th day after the end of each month, the handler shall pay for each hundredweight of milk delivered the uniform price, as adjusted by the butterfat differential specified in § 1065.74, applicable at the location of the receiving handler's plant, less the amount paid pursuant to paragraph (c)(1) of this section.

(d) Each handler shall pay a cooperative association for fluid milk products received from a pool plant operated by the cooperative association as follows:

(1) On or before the 26th day of the month, the handler shall pay for each hundredweight of fluid milk products received not less than the Class III price for the preceding month, adjusted by the butterfat differential pursuant to § 1065.74 for the preceding month; and

(2) On or before the 17th day after the end of the month, the handler shall pay for each hundredweight of fluid milk products received according to the classification of such fluid milk products pursuant to § 1065.42 at not less than the applicable class prices specified in § 1065.50, adjusted for the location of the transferee plant and by the butterfat

differential specified in § 1065.74, less payment made pursuant to paragraph (d)(1) of this section;

(e) In making payments to producers pursuant to paragraphs (a) and (b) of this section, each handler shall furnish each producer or cooperative association with a supporting statement, in such form that it may be retained by the producer, which shall show:

(1) The month and the identify of the handler and of the producer;

(2) The pounds per shipment, the total pounds, and the average butterfat test of milk delivered by the producer;

(3) The minimum rate at which payment to the producer is required under the provisions of §§ 1065.61, 1065.74, and 1065.75;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed pursuant to § 1065.86 together with a description of the respective deductions; and

(6) The net amount of payment to the producer.

(g) Nothing in this section shall abrogate the right of a cooperative association to make payments to its member producers in accordance with the payment plan of such cooperative association.

14. Section 1065.75 is revised to read as follows:

§ 1065.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price pursuant to § 1065.61 for producer milk received at a pool plant or diverted to a nonpool plant shall be adjusted according to the location of the plant of actual receipt at the rates set forth in § 1065.52.

(b) For purposes of computations pursuant to §§ 1065.71 and 1065.72, the uniform price shall be adjusted at the rates set forth in § 1065.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

15. A new § 1065.78 is added as follows:

§ 1065.78 Charges on overdue accounts.

Any obligation of a handler pursuant to §§ 1065.71, 1065.76, 1065.77(a), 1065.85, and 1065.86, for which remittance has not been made (or, if mailed, postmarked) by the date specified for such payment, shall be increased one percent, and any remaining amount due shall be increased at the same rate on the

corresponding day of each month thereafter until paid. The amounts payable pursuant to this section shall include unpaid charges previously made pursuant to this section. For the purpose of this section, any obligation that was determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

§ 1065.85 [Amended]

16. In the preamble of § 1065.85, the number "14th" is changed to "15th".

Note.—This recommended decision constitutes the Department's Draft Impact Analysis Statement for this proceeding.

Signed at Washington, D.C., on: July 24, 1979.

Irving W. Thomas,
Acting Deputy Administrator, Marketing
Program Operations.

[FR Doc. 79-23351 Filed 7-27-79; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation**[7 CFR Part 1464]****Tobacco Loan Program; Proposed 1979 Crop Grade Loan Rates—Fire-Cured (Type 21) Tobacco**

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed Rule.

SUMMARY: This proposal would establish the loan rates to be applied to the various grades of 1979-crop fire-cured (type 21) tobacco so as to provide the level of price support required by the Agricultural Act of 1949, as amended. It would also eliminate price support eligibility for N2 tobacco. Eligible fire-cured (type 21) tobacco could be delivered for price support at the specified rates.

DATES: Written comments must be received by August 29, 1979 in order to be sure of consideration.

ADDRESS: Send comments to Director, Price Support and Loan Division, ASCS, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: R. L. Tarczy, (202) 447-6733.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of Section 106 of the Agricultural Act of 1949 as amended ("the Act"), the 1979 crop of fire-cured (type 21) tobacco is required to be supported at the level of 90.4 cents per pound. It is expected that price support will be provided through

loans to a producers' cooperative marketing association which would receive eligible tobacco from producers and make price support advances to the producers through auction warehouses. The tobacco received would serve as collateral for the loan. Price support advances would be based on the loan rates for each grade. The proposed loan rates would average the required level of support when weighted by the anticipated grade percentages as authorized by Section 403 of the Act. Price support advances to producers would be the amounts determined by multiplying the pounds of each grade received by the applicable loan rate for that grade less 1 cent per pound, which the producers' association is authorized to deduct and apply against its overhead costs.

It is also proposed to not make available price support on tobacco graded N2 which is tobacco of lower quality. This proposal is being made in an attempt to discourage its marketing.

Proposed Rule

Accordingly it is proposed that 7 CFR Part 1464 be amended by revising § 1464.17 to read as follows effective for the 1979 crop of fire-cured tobacco, type 21.

§ 1464.17 1979 Crop Fire-Cured Tobacco, Type 21, Grade Loan Schedule.¹

Loan Rate					
[Dollars per hundred pounds, farm sales weight]					
Grade	Length 47	Length 46	Length 45	Length 44	Length 43
A1F	136	136	136	.....	.....
A2F	133	134	134	.....	.....
A1D	136	136	136	.....	.....
A2D	133	134	134	.....	.....
B1F	133	134	134	.....	.....
B2F	126	126	127	122	.....
B3F	114	115	116	115	87
E4F	100	101	108	106	82
E5F	84	86	88	84	73
B1D	132	132	132	.....	.....
B2D	126	126	127	122	.....
B3D	114	115	116	114	84
B4D	94	95	96	94	81
B5D	85	85	86	85	73
B3M	95	95	97	96	81
B4M	87	88	91	90	80
B5M	81	81	81	81	70
B3G	92	94	97	95	77
B4G	87	88	91	88	76
B5G	75	77	79	76	66
C1L	139	139	137	.....	.....
C2L	135	135	135	130	.....
C3L	117	117	117	110	.....
C4L	96	98	101	97	.....
C5L	83	83	85	83	.....
C1F	139	139	138	.....	.....
C2F	136	136	136	120	.....
C3F	119	119	119	115	.....
C4F	100	102	108	105	.....
C5F	84	85	87	84	.....

¹Only the original producer is eligible to receive advances. Tobacco graded "W" (doubtful keeping order), "No-C" (no grade), "U" (unsound) or scrap will not be accepted. The Association is authorized to deduct \$1 per hundred pounds to apply against overhead cost.

Loan Rate—Continued

(Dollars per hundred pounds, farm sales weight)

Grade	Length 47	Length 46	Length 45	Length 44	Length 43
C20.....	86	86	86	84	84
C30.....	81	81	81	78	78
C40.....	74	75	76	75	75
C50.....	66	67	67	66	66
C3M.....	94	95	96	92	92
C4M.....	86	87	91	90	90
C5M.....	71	72	76	71	71
C3G.....	77	78	79	75	75
C4G.....	73	74	75	71	71
C5G.....	67	68	70	68	68

Grade	Loan rate
X1L.....	104
X1L.....	103
X3L.....	101
X4L.....	85
X5L.....	79
X1F.....	104
X2F.....	103
X3F.....	100
X4F.....	86
X5F.....	80
X10.....	98
X20.....	96
X30.....	92
X40.....	80
X50.....	74
X3M.....	85
X3M 45.....	77
X4M.....	73
X4M 45.....	71
X5M.....	61
X5M 45.....	60
X3G.....	85
X3G 45.....	84
X4G.....	76
X4G 45.....	73
X5G.....	65
X5G 45.....	61
N1L.....	52
N10.....	49
N1G.....	52
N2.....	18

N2 is not eligible for price support.

All written submissions will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday in Room 3741—South Building, USDA, 14th and Independence Avenue, SW, Washington, D.C. 20013.

This amendment is being published under emergency procedures as authorized by Executive Order 12044 and Secretary's Memorandum No. 1955 without a full 60-day comment period. It has been determined by Jerome F. Sitter, Director, Price Support and Loan Division, ASCS that an emergency exists which warrants less than a full 60-day comment period on the proposal because the grade loan rates for the 1979-80 marketing year and the status of N2 tobacco for fire-cured (type 21) tobacco should be announced prior to harvest time in late August. Accordingly, comments must be received by August 29, 1979, in order to be assured of consideration.

Note.—This proposal has been reviewed under the USDA criteria established to

implement Executive Order 12044, "Improving Government Regulations". A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from Jerome F. Sitter, Director, Price Support and Loan Division, Room 3741—South Building, P.O. Box 2415, Washington, D.C. 20013.

Signed at Washington, D.C. on July 25, 1979.

Bob Bergland,
Secretary of Agriculture.

[FR Doc. 79-23434 Filed 7-27-79; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

[7 CFR Part 1099]

[Docket No. AO-183-A36]

Milk in the Paducah, Ky., Marketing Area; Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and To Order

Correction

In FR Doc. 79-22980 appearing at page 43477 in the issue of Wednesday, July 25, 1979, make the following changes in the third column on this page 43477:

1. Under the paragraph "Date" change "August 16, 1979" to read "August 6, 1979".

2. Under the paragraph "Preliminary Statement", in the second paragraph, delete "the 10th day after publication of this decision in the Federal Register." and insert "August 6, 1979."

BILLING CODE 1505-01

Agricultural Marketing Service

[9 CFR Part 201]

AGENCY: Packers and Stockyards-AMS.

ACTION: Proposed Amendment.

SUMMARY: The control of rates and charges at posted stockyards by the Department was reduced substantially in October of 1978 with the issuance of statement of general policy 203.17. It now is the policy of the agency to accept for filing any schedule of rates and charges proposed by a stockyard operator or market agency unless a valid complaint is filed or other compelling reasons would require a review of the proposed increased rates. Section 201.25 presently requires the submission of information as to the reasons for the proposed increase with specific and detailed data to support the proposed increase. This proposed

amendment will remove that requirement of supplying specific and detailed data in support of each proposed rate increase. The Administrator may request detailed supporting data when required for proper enforcement of the Packers and Stockyards Act.

DATES: Comments must be received on or before September 28, 1979.

ADDRESS: Send comments to Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250. All comments received may be reviewed in the Hearing Clerk's office, Room 1077—South Agriculture Building, 14th and Independence Avenue, S.W., Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Jack W. Brinckmeyer, Livestock Marketing Division, Agricultural Marketing Service, USDA, Washington, D.C. 20250, 202-447-4366.

SUPPLEMENTARY INFORMATION: Accordingly, it is proposed to amend § 201.25 [9 CFR 201.25] to read as follows:

§ 201.25 Information required with proposed increases in existing charges.

Each stockyard owner and market agency proposing an increase in existing charges shall forward to the Administrator at least ten (10) days before the effective date thereof the supplement, amendment, or tariff containing the proposed increase. The proposed increase will be accepted for filing effective no earlier than ten (10) days after receipt by the agency. However, if a valid complaint is filed or for other compelling reasons, the Administrator may require the furnishing of specific and detailed data on which the proposed increase is based.

Done this 23rd day of July 1979.

Chas. B. Jennings,
Deputy Administrator, Packers and Stockyards.

[FR Doc. 79-23406 Filed 7-27-79; 8:45 am]

BILLING CODE 3410-02-M

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 704]

Corporate Central Federal Credit Union

AGENCY: National Credit Union Administration.

ACTION: Proposed Rule.

SUMMARY: This Part contains those regulations governing the operations of

and requirements for Corporate Central Federal Credit Unions where such operations and requirements differ from those of natural person credit unions. Existing regulations for corporate central Federal credit unions define the terms "Corporate Central Federal Credit Union" and "Risk Assets" (for purposes of reserve requirements) and establish a special reserve account for corporate central Federal credit unions.

The Administration's experience with corporate central credit unions has revealed a need for greater flexibility in their capital structure and more specific guidance in the areas of management and audits of books and records. The changes in this proposed rule are intended to satisfy those needs.

The management section, added by this change, provides for representation of member credit unions on the board of directors and on the credit committee of the corporate central Federal credit union by allowing appointed representatives of member credit unions to serve on their behalf. This change would also require that the annual audit be performed by a qualified independent auditor. In addition, corporate central Federal credit unions would be permitted to offer to member credit unions, daily balance share accounts not subject to the rate restrictions of Section 701.35(g) (12 CFR 701.35(g) of this Chapter.

DATE: Comments must be received by August 29, 1979.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Mike Fischer, Chief Accountant, Office of Examination and Insurance, telephone (202) 254-8760.

SUPPLEMENTARY INFORMATION: The first Corporate Central Federal Credit Union was chartered in September 1969. Since that time, 18 additional corporate centrals have been chartered by this Administration to serve the needs of credit unions serving primarily natural persons. The Administration's experience with these corporate centrals has revealed a need for greater flexibility in their capital structure and more specific guidance in the areas of management and audits of books and records.

In addition, the establishment of the Central Liquidity Facility (Facility) by Title XVIII of Public Law 95-630 has expanded the role of corporate central credit unions in that corporate centrals can, upon approval, act as agents of the

Facility. On May 4, 1979, the Administration published a proposed rule (44 FR 26115) regarding membership in and lending of the Facility. The proposed requirements of this Part in the areas of management policies, budgetary process and annual audits parallel the requirements of proposed Part 725 (12 CFR 725) in these same areas.

Analysis of Proposed Changes

1. The Administration proposes to permit representatives of member credit unions to serve on the board of directors and on the credit committee of the corporate central credit unions. Currently only natural person members are permitted to serve. The existing requirement denies representation to that group of members which has the predominant financial interest in the corporate central Federal credit union and which has the greatest financial risk in the event that the corporate central is mismanaged. New Sections 704.3 (a) and (b) allow a member credit union to be elected to the board or credit committee of a corporate central Federal credit union and upon election permit that member credit union to appoint a representative from its membership to serve in its behalf on the board or on the credit committee of the corporate central Federal credit union.

2. Recent examinations of corporate central Federal credit unions have disclosed a need for greater management control and direction of corporate central operations. Further, if corporate centrals are to function as liquidity sources for their member credit unions, it is essential that the corporate centrals institute policies, controls and budgetary processes necessary for projecting and managing liquidity needs. For these reasons § 704.3(c) and (d) are added to require boards of directors of corporate central Federal credit unions to establish and periodically review written management policies and establish a comprehensive budgetary process.

3. All Federal credit unions are required by § 701.12 of this Chapter (12 CFR 701.12) to have an annual audit. The supervisory committee, which is appointed by the board of directors, is charged with the responsibility of insuring that such annual audit is performed. Annual audits are performed in some instances by the supervisory committee members while in other cases the supervisory committee will retain outside auditors to perform the annual audits. In many cases, the members of the supervisory committee are not trained auditors. The Administration

has determined that, because of the complexity of the corporate central Federal credit union's operations and its critical role in the liquidity management of the entire credit union system, audits of corporate central Federal credit unions must be performed by qualified, technically competent, independent third parties. For the above reasons a new § 704.4 has been added which requires that the annual audit of a corporate central Federal credit union be performed by a duly licensed independent auditor.

4. Corporate central Federal credit unions have not had the flexibility in their capital structure to meet the needs of their members in the area of short-term, highly liquid, competitive yield instruments. If the corporate central Federal credit union is to fulfill its role in the liquidity management of the credit union system it is essential that this void be filled. To provide corporate central Federal credit unions with the necessary flexibility in their capital structure, a new § 704.5 has been added which permits corporate central Federal credit unions to offer to their credit union members Daily Balance Share Accounts. These accounts are excluded from the rate restrictions of § 701.35(g) of this Chapter (12 CFR 701.35(g)).

Accordingly, NCUA proposes to revise Part 704 to read as set forth below.

Lawrence Connell,
Chairman.

PART 704—CORPORATE CENTRAL FEDERAL CREDIT UNIONS

Sec.
704.0 Scope.
704.1 Definitions.
704.2 Corporate Central Reserve.
704.3 Management.
704.4 Annual audit.
704.5 Daily balance share account.

Authority: Sec. 111, 94 Stat. 1015 (12 U.S.C. 1761); Sec. 116, 84 Stat. 1017 (12 U.S.C. 1762); Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).

§ 704.0 Scope.

(a) This Part contains those regulations governing the operations of and requirements for Corporate Central Federal Credit Unions where such operations and requirements differ from those of natural person Federal credit unions.

(b) Part 702 of this Chapter sets forth the reserving requirements for Federal credit unions. As concerns corporate central Federal credit unions, this Part modifies the existing regular reserve structure by eliminating from outstanding loans and risk assets, when

computing the amount that must be maintained in the regular reserve, loans to member credit unions (loans to other credit unions are presently excepted from risk assets by § 700.1(j)(4)), and by creating a corporate central reserve.

(c) The regulation sets out procedures for representation on the board of directors and credit committee of corporate central Federal credit unions and for the establishment of written management policies. In addition, annual audit requirements are described and a daily balance share account for member credit unions is established which is not subject to the rate restrictions specified in § 701.35(g).

§ 704.1 Definitions.

(a) "Corporate central Federal credit union" means a Federal credit union operated for the primary purpose of serving corporate accounts. A Federal credit union will be deemed to be a corporate central Federal credit union when its total dollar amount of outstanding corporate loans plus corporate shareholdings is equal to, or in excess of, 75 per centum of its total outstanding loans plus shareholdings.

(b) "Natural person Federal credit union" means any Federal credit union which is not a corporate central Federal credit union.

(c) "Risk assets" of a corporate central Federal credit union shall be as defined in § 700.1 of this Chapter, except, however, loans made under authority of Sections 107(5) and 107(7) of the Act by a corporate central Federal credit union to credit unions shall not be considered risk assets.

(d) "Management policies" means policies relating to the general conduct of a credit union's operations including but not limited to policies related to membership, lending, investing, borrowing, safeguarding of assets, hiring, training, and supervision of employees.

§ 704.2 Corporate central reserve.

(a) In addition to the Regular Reserve required by § 702.2 of this Chapter, a corporate central Federal credit union shall establish and maintain a Corporate Central Reserve as described in this Section.

(b) Immediately before the payment of each dividend, the treasurer shall determine the gross earnings of the corporate central Federal credit union. From this amount there shall be transferred to a reserve to be known as the Corporate Central Reserve, as of the end of each dividend period, 2 per centum of gross earnings until the Corporate Central Reserve shall equal

1½ per centum of the corporate central Federal credit union's total assets.

(c) Whenever the Corporate Central Reserve falls below 1½ per centum of total assets it shall be replenished by regular transfers of 2 per centum of gross earnings or by contributions in such amounts as may be needed to maintain the Corporate Central Reserve at 1½ per centum of total assets, whichever is less.

(d) Charges may be made against the Corporate Central Reserve to the same extent and in the same manner as those permitted to be made against the Regular Reserve pursuant to Section 702.2 of this Chapter. No other charges shall be made against the Corporate Central Reserve except as may be authorized in writing by the NCUA Board or its designee.

§ 704.3 Management.

(a) The business affairs of the corporate central Federal credit union shall be managed by:

(1) A board of not less than five directors elected by and from the members. In the event that a member so elected is a member credit union, the board of directors of that credit union shall select and appoint a representative from its membership to serve on the board of the corporate central Federal credit union.

(2) A credit committee of not less than three members elected by and from the members. In the event that a member so elected is a member credit union, the board of directors of that credit union shall select and appoint a representative from its membership to serve on the credit committee of the corporate central Federal credit union.

(3) A supervisory committee of not less than three members nor more than five members, one of whom may be a director other than the treasurer, to be appointed by the board. Representatives of member credit unions may be appointed to supervisory committee.

(b) At their first meeting after their election, the directors shall elect from their number, a president, one or more vice presidents, a secretary, and a treasurer, who shall be the executive officers of the corporation.

(c) Management Policies: (1) The board of directors shall adopt and approve written policies that shall be reviewed at least annually.

(2) In establishing the management policies the board shall adopt such policies that will foster efficient operations in conformance with sound business practice both in the corporate central Federal credit union and among its members.

(d) The board of directors shall institute a budgetary process which addresses the areas of income and expenses, cash flow, and the sources and uses of funds and shall assess actual performance against such budgets at least quarterly.

§ 704.4 Annual audit.

(a) The supervisory committee shall cause an annual audit to be made by an independent, duly licensed, auditor and shall submit the audit report to the Board of Directors. A summary of the audit report shall be submitted to the membership at the next annual meeting.

(b) A copy of the audit report shall be submitted to the appropriate regional office of the National Credit Union Administration within 14 days after receipt by the board of directors.

§ 704.5 Daily balance share account.

Notwithstanding the requirements of § 701.35 of this Chapter, a corporate central Federal credit union may make available to its member credit unions a daily balance share account subject to the following terms and conditions:

(a) The dividend period for such accounts shall be daily.

(b) The board of directors, after determining through projections that adequate earnings are available, may declare dividends no more frequently than daily and no less frequently than monthly.

(c) The dividend rate on such accounts shall not be subject to the rate restrictions of § 701.35(g) of this Chapter.

(d) The board of directors may establish such additional terms and conditions concerning the issuance and maintenance of such accounts in conformance with the requirements of this Section and § 701.35.

[FR Doc. 79-23203 Filed 7-27-79; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 1, 71, 91, 105]

Informal Airspace Meeting

AGENCY: Federal Aviation Administration/DOT.

ACTION: Notice of Informal Airspace Meeting.

SUMMARY: Notice is hereby given that a public informal airspace meeting will be held to give interested person the opportunity to comment on the proposed Bradley Terminal Control Area (TCA).

DATES: Notice is hereby given that a public informal airspace meeting will be held by the FAA at the National Guard Auditorium, Route 75, Bradley International Airport, Windsor Locks, Connecticut, on Wednesday, September 26, 1979, at 7:00 p.m.

SUPPLEMENTARY INFORMATION: This proposal is addressed in full in Federal Aviation Administration (FAA) Notice 78-19, issued on December 27, 1978, and published in the Federal Register (44 FR 1322) on January 4, 1979. Any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058.

The public is invited to attend this informal airspace meeting to present facts pertinent to the safe and efficient use of navigable airspace as it relates to the proposal.

Comments may be submitted in writing at this meeting or within five days thereafter, addressed to the following: Operations, Procedures and Airspace Branch, ANE-530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803.

For further information, contact Mr. Donald Hepler, Chief, Bradley International Airport Traffic Control Tower (ATCT), FAA, Windsor Locks, Connecticut 06096. Telephone (203) 623-4232, Office Hours 8:00 a.m. to 4:30 p.m. Donald L. Turner, Chief, Operations, Procedures and Airspace Branch.

[FR Doc. 79-23334 Filed 7-27-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 39]

[Docket No. 79-WE-17-AD]

Airworthiness Directives; McDonnell Douglas DC-10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD) that would require increased redundancy of the stall warning system on DC-10 series airplanes. The proposed AD is necessary since any of a number of single failures can result in the loss of stall warning capability of a single system.

DATES: Comments must be received on or before September 15, 1979.

ADDRESSES: Send comments on the proposal to: Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

FOR FURTHER INFORMATION CONTACT: Jerry J. Presba, Executive Secretary Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009; (213) 536-6351.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Interested persons are also invited to comment on the economic, environmental and energy impact that might result because of adoption of the proposed rule. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

FAA review of service experience indicates that a potentially hazardous situation may result from failure of the stall warning system in certain regimes of flight, particularly when combined with certain other possible system failures. Since any of a number of single failures can result in loss of stall warning capability of a single system, the FAA believes that a requirement for increased redundancy of the DC-10 stall warning system is necessary in the interests of safety.

Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed AD would require increased redundancy of the stall warning system on DC-10 series airplanes.

Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal

Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

McDonnell Douglas: Applies to Model DC-10, -10F, -30, -30F, -40 series airplanes certificated in all categories.

Compliance is required as indicated. To reduce the probability of complete failure of the stall warning function, accomplish the following:

(a) Within 1,500 hours time in service after the effective date of this AD:

1. Install two (2) auto throttle/speed control computers, each of which receives information from both right and left angle of attack sensors and the positions of both outboard wing slat groups, in addition to other previously required inputs, in accordance with design data approved by the Chief, Aircraft Engineering Division, FAA Western Region.

2. Install a stick shaker at the First Officer's position, in addition to that previously required at the Captain's position, with both stick shakers actuated by either auto throttle/speed control computer in accordance with approved type design data.

(b) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of modifications required by this AD.

(c) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

The Federal Aviation Administration had determined that this document is not significant in accordance with the criteria required by Executive Order 12044 and set forth in Department of Transportation Guidelines.

Issued in Los Angeles, California on July 17, 1979.

Leon C. Daugherty,
Director, FAA Western Region.

[FR Doc. 79-23128 Filed 7-27-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-CE-20]

Transition Area—Ava, Mo.; Proposed Designation

AGENCY: Federal Aviation Administration (FAA). DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to designate a 700-foot transition area at Ava, Missouri, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Bill Martin Memorial Airport, Ava, Missouri, utilizing the Dogwood, Missouri VOR as a navigational aid.

DATES: Comments must be received on or before September 4, 1979.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106. Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106. Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:
Comments Invited

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before September 4, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816)

374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by designating a 700-foot transition area at Ava, Missouri. To enhance airport usage, a new instrument approach procedure to the Bill Martin Memorial Airport, Ava, Missouri, is being established utilizing the Dogwood, Missouri VOR as a navigational aid. The establishment of a new instrument approach procedure based on this navigational aid entails designation of transition area at Ava, Missouri, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Accordingly, Federal Aviation Administration proposes to amend Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1979 (44 FR 442) by adding the following new transition area:

Ava, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Bill Martin Memorial Airport (latitude 36°58'19" N., longitude 92°40'52" W.), and within 2 miles each side of the 107° radial of the Dogwood, Missouri VORTAC, extending from the VORTAC to the 5-mile radius areas and within 2.5 miles each side of the 133° bearing from the airport extending from the 5-mile radius area to 6 miles Southeast. (Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65).)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so

minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on July 19, 1979.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 79-23337 Filed 7-27-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-CE-22]

Transition Area—Tekamah, Nebr.; Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to designate a 700-foot transition area at Tekamah, Nebraska, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Tekamah, Nebraska Airport, utilizing a VOR being installed on the airport by the City as a navigational aid.

DATES: Comments must be received on or before September 4, 1979.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106. Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Benny J. Kirk, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106. Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601

East 12th Street, Kansas City, Missouri 64106. All communications received on or before September 4, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by designating a 700-foot transition area at Tekamah, Nebraska. To enhance airport usage, a new instrument approach procedure to the Tekamah, Nebraska Airport is being established utilizing a VOR being installed on the airport as a navigational aid. The establishment of a new instrument approach procedure based on this navigational aid entails designation of a transition area at Tekamah, Nebraska at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Accordingly, Federal Aviation Administration proposes to amend Subpart G, 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1979, (44 FR 442) by adding the following new transition area:

Tekamah, Nebr.

That airspace extending upward from 700 feet above the surface within a 5 mile radius of the Tekamah Airport (latitude 41° 45' 50" N, longitude 96° 10' 38" W) and within 3 miles each side of the 135°T bearing from the Tekamah VOR (latitude 41° 45' 35" N, longitude 96° 10' 42" W) extending from the 5 mile radius area to 8½ miles southeast of the VOR.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65)).

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on July 19, 1979.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 79-23338 Filed 7-27-79; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

[14 CFR Parts 221, and 399]

[EDR-386/PSDR-62, Docket No. 36202, Dated: July 24, 1979]

Change in Statutory Notice Requirements for Tariff Filings and in Rules and Policies for Considering Requests To File Tariffs on Less Than Statutory Notice

AGENCY: Civil Aeronautics Board.

ACTION: Proposed rules.

SUMMARY: The Board is proposing to relax its requirements for advance notice of proposed tariff changes to permit carriers to more quickly implement rate and fare changes, particularly rate and fare reductions. The changes, which are intended to remove unnecessary regulatory obstacles to a more competitive and dynamic pricing system, will reduce to 25 days the statutory notice period for tariff filings which match price reductions offered by other carriers, and will considerably expand the tariff filings that we will allow on less than statutory notice. We believe these changes will offer significant benefits to the public by allowing carriers' pricing options to more closely approximate those available to unregulated companies.¹

¹ Trans World Airlines, Inc., in Docket 34695, requested that the Board clarify its policies relating to advance notice requirements for tariff filings and

DATES: Comments due by: August 29, 1979.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 36202, Docket Section, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Norman D. Schwartz, Chief, Legal Analysis Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5056.

SUPPLEMENTARY INFORMATION: Recent amendments to the Federal Aviation Act, specifically the Cargo Deregulation Act of 1977 (Pub. L. 95-163) and the Airline Deregulation Act of 1978 (Pub. L. 95-504), have substantially lessened the degree of regulation of the air transportation industry, and have placed much greater emphasis on competition and the needs of the marketplace to determine the type, quality and quantity of air transportation services provided. Indeed, the Airline Deregulation Act provides for the total elimination of domestic route regulation after 1981 and domestic passenger fare regulation after 1982.

We believe these statutory changes and the additional competition that now exists in the industry necessitate a comprehensive review of our rules and policies for granting special tariff permission requests to file tariff changes on short notice. Additionally, section 403(c)(1) of the Federal Aviation Act was recently amended by the Airline Deregulation Act to specifically provide that the Board may establish an alternative statutory notice requirement of not less than 25 days to allow an air carrier to match the fares and charges specified in other air carriers' proposed tariffs. While the Congress left to the Board the discretion to establish or not establish the alternative notice, we view the inclusion of the provision as an indication that the Congress wanted us to at least review the desirability of establishing a shorter statutory filing period for competitive matching filings.

for allowing tariff filings on less than statutory notice. In light of our action here to comprehensively review such policies, we are dismissing Trans World Airlines' application in Docket 34695.

Up to now, the statutory notice requirement has been the same for matching filings as for other filings. Also, while the Board has long had the authority to waive the statutory notice requirements and permit the filing of tariffs on as little as one day's notice, our policies in this area have required that most substantive filings be made on statutory notice. We believe these policies should be reviewed, in light of the more competitive conditions now existing in the industry, with a view toward reducing the advance notice requirements and allowing the carriers greater flexibility to change their tariffs on short notice, particularly to offer reduced fares and rates to the travelling and shipping public.

The imposition of any advance notice requirement is in itself, of course, a restriction imposed by regulation. Absent such a requirement, air carriers could implement rate changes of their choosing, without any advance notice, as unregulated companies can do.² However, the Board continues to exercise significant jurisdiction over airline rates and fares, and we must for now, require significant advance notice on at least some filings to fully exercise that jurisdiction. Nevertheless, our jurisdiction over domestic fares and rates has already been lessened, and in light of the generally more competitive conditions that now exist in both domestic and international markets, we believe our policy regarding special tariff permission requests should be liberalized to permit carriers more latitude to change their tariffs on short notice. Such a policy change will permit the carriers' pricing actions to more closely approximate what they will be able to do in the unregulated environment toward which the industry is moving and will tend to restrict the advance notice requirement to those tariff filings for which it serves a real purpose.

The Airline Deregulation Act established zones of reasonableness for domestic and overseas passenger fares within which, with limited exceptions, the Board can no longer find fares to be unjust and unreasonable. Furthermore, our power to suspend rates within these zones has been removed. This eliminates the major rationale for requiring advance notice of the effective date of tariff changes, i.e., to give the Board and the public an opportunity to review the filing and to prevent the fares from going into effect pending a

²For domestic freight shipments, the carriers already have this capability since they are exempt from the Board's tariff filing requirements for such shipments.

determination of lawfulness. As a matter of policy, given these relatively well-defined zones, we see no necessity to require that tariff filings proposing fare increases or reductions within the zones be made on statutory notice. While short notice reduces the tariff filing requirement, it in no way reduces the effectiveness of section 403 as an aid to the Board in fulfilling its obligation under the Act to determine the lawfulness of rates in appropriate circumstances. As a matter of fact, permitting short notice filings may well tend to reduce the incidence of a highly undesirable and anti-competitive practice which results from long notice periods, i.e., price signalling. Of course, we do not intend to require short notice filings, and we recognize that, just as price signalling exists generally in the marketplace, it will continue in some degree with regard to airline prices. However, to the extent carriers avail themselves of the opportunity, the pro-competitive policies of section 102 will be furthered and public benefits will result. Thus, we believe we should generally grant short notice for such tariffs. Further, with respect to tariffs proposing fare reductions, we see no necessity to require statutory notice for filings which are clearly acceptable under the Board's current fare suspension policies, whether or not the fares are within the zones. When a carrier decides to offer lower fares that do not present significant questions of lawfulness, we do not believe the public interest is served by our arbitrarily requiring that the fares be deferred for the 30 or 60 days statutory notice period, as the case may be. Thus, we tentatively conclude that we should grant short notice requests to offer new or innovative low fares that are clearly acceptable under the Board's current policies, whether or not the proposed fares are within the defined zones. We recognize that granting short notice where controversy may exist as to the acceptability of the tariff may raise questions of adequate notice to potential complainants in certain cases. We in general, would not expect short notice requests for fares within the zone which fall into this category. We do, however, solicit comments on the advisability of including a requirement for telegraphic notice to competing carriers of short notice requests outside the zone of reasonableness.

Tariffs that present serious questions of lawfulness will continue to be required to be filed on full statutory notice to allow complaints, answers and full review by the Board. Also, we will undoubtedly receive special tariff

permission requests to file tariffs, in which the fares proposed may present possible questions as to their lawfulness and on which we will want to receive public comment, but which may not require the full statutory period for review by the Board. In such circumstances, we anticipate employing a procedure in which we will ask the carrier to file its tariff on statutory notice to allow for formal complaints, and to request special tariff permission to advance the effective date of the tariff.³ If, upon review of the complaints, or in the absence of complaints, the Board determines that the fares should be permitted, we will permit the carrier to advance the effective date.⁴ If the issues are not sufficiently clear after the initial review, we will let the statutory period continue to run and issue an order, as we do today, either permitting the fares or suspending them.

We believe significant public benefits can accrue through our permitting carriers to file fare reductions on short notice, since it will considerably reduce the time required to make low fares available to travelers and should encourage more competitive pricing. We are somewhat more concerned about allowing increases on short notice, since fare increases may not offer the same competitive spur or the same type of immediate, readily apparent public benefit. However, we are seeking to minimize the advance notice requirements to the extent feasible; and, where the statute establishes zones within which increases are presumed to be lawful, it seems only fair to permit carriers to enjoy the same latitude on upward fare adjustments within the zone that we propose to allow them on downward fare adjustments. Also, the ability to react quickly to cost increases may lessen carriers' incentives to consider service cuts. Nevertheless, we will appreciate specific comment regarding our tentative proposal to permit certain fare increases on short notice.

In light of our proposed more liberal policies for granting special tariff permission applications to offer reduced fares, we do not believe we should continue our present policy of not granting special tariff permission applications to match reduced fares that have been filed on statutory notice. Such a policy may be desirable if almost all fare reductions are filed on statutory

³We will require that such special tariff permission applications be served upon all certificated and foreign route carriers serving the market(s) involved.

⁴When this procedure is employed, we will endeavor to act on the special tariff permission requests within 15 days after the tariff is filed.

notice, since it serves to give an advantage to the initiator who is required to give advance notice of his plans; however, if our basic policies are to be generally receptive to the filing of low fares on short notice, there is little rationale for maintaining a policy that specifically precludes short notice for a low fare proposal that just happens to match one filed earlier on statutory notice. Thus, under our proposed policies, we will consider such requests in the same way as any other request to introduce reduced fares on short notice. In a similar vein, we also tentatively conclude that we should implement the alternate statutory notice provision the Congress recently provided for in the Act by reducing to 25 days the statutory filing period for matching tariffs. Thus, where carriers choose to file lower fares on statutory notice, other carriers will be able to match the fares for the same effective date using the alternative statutory notice procedure.⁵ In this interim period prior to total deregulation of rate filings, the reduction to 25 days for matching tariffs will afford the carriers an opportunity to, in some measure, simulate the free market. It will give a matching carrier five days in which to match the competitors price to be effective the same day. After the fifth day, 30 days notice will be required. While this does not give complete market freedom, it will more closely simulate free market conditions than does the strict 30 days filings requirement. However, if the initiating carrier wants greater assurance of a competitive edge in offering reduced fares, it will have the option of seeking to initiate its proposal on short notice.

We believe these proposed changes will strike a better balance between our need for advance notice and the need to encourage competitiveness in the air transportation system. We expect these changes to result in policies and procedures that will permit us to properly discharge our statutory responsibilities in connection with tariff filings that present real questions of lawfulness, without unnecessarily restricting carriers' rate flexibility in connection with tariff filings that do not present such questions. We believe the public will benefit from our permitting the carriers to exercise, to the extent possible, the kinds of competitive pricing options that are available to unregulated companies. Further,

⁵The alternative statutory notice will apply only to filings that match competition as defined in § 221.165(d)(iv) of our Economic Regulations. In other words, "matching" filings must be those that decrease fares or increase the value of service; filings that increase fares or decrease the value of service are specifically excluded.

particularly in the case of domestic transportation, such policies should help smooth the transition to the already legislated termination of economic regulation.

We are aware of complaints by travel agents that frequent changes in fares on short notice can be disruptive to their operations and, eventually, their customers. In general, we believe that it is the carrier's responsibility to ensure that notice of new fares is adequately disseminated to its agents, the length of regulatory notice notwithstanding. We welcome any comments as to the effect of our proposed policies on the travel agent industry.

Accordingly, we tentatively find and conclude that we should adopt the following:

Proposed Rules

The Board proposes to amend Part 221 of its Economic Regulations (14 CFR Part 221) and Part 399 of the Policy Statements (14 CFR Part 399) as set forth below.

PART 221—CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Amend §§ 221.160 and 221.190 as follows:

1. Amend paragraph (a) of § 221.160 to read as follows:

§ 221.160 Required notice.

(a) *Statutory notice required.* Unless otherwise authorized by the Board, or otherwise provided in a bilateral agreement between the United States and the Government of a foreign country, all tariffs, supplements, and loose-leaf tariff pages and all fares, rates, charges, ratings, routings, rules, amendments and other tariff provisions therein (including initial rates, fares, charges, and tariff provisions) as required by this part shall be filed with the Board at least the following number of days before the date they are to become effective regardless of whether or not any changes are affected thereby:

(1) For tariffs stating a domestic passenger fare within the range of fares created by section 1002(d)(4) of the Act (49 U.S.C.A. 1482(d)(4)), at least 30 days;

(2) For all other tariffs, at least 60 days, except that matching tariffs which meet competition as described in § 221.165(d)(iv)(a) and (b) shall be filed with the Board at least 25 days before they are to become effective.

2. Add §§ 221.190(b)(5) and 221.190(b)(6) to 221.190 to read as follows:

§ 221.190 Grounds for approving or denying special tariff permission applications.

(b) * * *

(5) *Filing of fares, rates and charges within well defined zones.* The establishment of clearly defined zones within which fares, rates or charges are presumed to be lawful, will constitute grounds for approving application for special tariff permissions to file fares, rates or charges within such zones on less than statutory notice. (see § 399.35)

(6) *Innovative fares, rates and charges.* The desire of carriers to offer lower fares, rates or charges to the travelling or shipping public constitutes grounds for approving applications for special tariff permission to file such fares, rates or charges on less than statutory notice, provided the proposed fares, rates or charges do not raise significant questions of lawfulness. (See § 399.35)

(c) [Reserved]

3. Delete and reserve paragraph 221.190(c) of § 221.190.

PART 399—STATEMENTS OF GENERAL POLICY

Add § 399.35 to read as follows:

§ 399.35 *Policies applicable to special tariff permission applications to offer lower fares and rates, or to increase or reduce fares and rates within well defined zones.*

It is the policy of the Board to approve carriers' requests to offer lower fares and rates to passengers and shippers on less than statutory notice, so long as the proposed fares and rates do not raise significant questions of lawfulness. Where proposed lower fares or rates appear to raise such questions (i.e., where, within jurisdictional limits, such fares or rates could reasonably be expected to be found unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or predatory, under current statutory or Board guidelines), the Board will require that they be filed on statutory notice. Where lower fares or rates are filed on statutory notice, the Board will use its best efforts to act upon (i.e., approve or deny) special tariff permission applications to advance the effective date of the proposed fares or rates within fifteen days after the tariff filing. *Provided*, The proponent carrier requests special tariff permission to advance the fares or rates at the same time the statutory filing is made, and provided such carrier gives immediate telegraphic notice of its special tariff permission request to all certificated

and foreign route air carriers providing service in the markets involved. With respect to fare and rate increases, it is the policy of the Board to approve carrier requests to implement higher fares or rates on less than statutory notice, absent unusual or emergency circumstances, only where the resulting fares or rates are within the statutory zones of reasonableness.

(Secs. 204, 403, 418 and 1002 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, 771 and 788, as amended (49 U.S.C. 1324, 1373, 1386, 1482; and 5 U.S.C. 553))

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-23376 Filed 7-27-79; 8:45 am]

BILLING CODE 6320-01-M

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 239]

[Release Nos. 33-6093, IC-10789; File No. S7-564]

Prospectuses for Variable Annuities; Withdrawal of Proposed Amendments to Forms S-5 and S-6

AGENCY: Securities and Exchange Commission.

ACTION: Withdrawal of proposed amendments to forms.

SUMMARY: The Commission today withdrew proposed amendments to Forms S-5 and S-6 which would have required variable annuity prospectuses to contain certain illustrations based on hypothetical investment returns. The Commission has concluded that such illustrations should not be required at this time.

EFFECTIVE DATE: July 20, 1979.

FOR FURTHER INFORMATION CONTACT: Laura A. Boughan, Esq., Division of Investment Management, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549, (202) 755-0237.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced that it was withdrawing proposed amendments to Registration Forms S-5 and S-6 [17 CFR 239.15, 239.16] under the Securities Act of 1933 [15 U.S.C. 77a et seq.]. The amendments proposed on May 9, 1975 (Securities Act of 1933 and Investment Company Act of 1940 [15 U.S.C. 80a-1 et seq.] Release Nos. 5586 and 8784, respectively [40 FR 23770]), would have mandated the inclusion in all variable annuity prospectuses of standardized

illustrations based on hypothetical investment results. The illustrations were patterned after those permitted by an earlier amendment to the Commission's Statement of Policy, designated Paragraph (s) (Securities Act of 1933 and Investment Company Act of 1940 Release Nos. 5582 and 8772 respectively, April 30, 1975 [40 FR 21711]). Paragraph (s) prescribed the standard form of the illustrations and had been adopted just prior to the proposal to make such illustrations mandatory.

The Commission has recently taken two actions which have now caused it to reconsider the appropriateness and form of any type of mandatory illustrations in variable annuity prospectuses. First, on August 28, 1978, the Commission rescinded Form S-5 and adopted Form N-1, an integrated registration statement for open-end management investment companies (Securities Act of 1933 and Investment Company Act of 1940 Release Nos. 5964 and 10378, respectively [43 FR 39548]). Although Form N-1 is available for use by insurance companies offering variable annuities, it does not provide for mandatory hypothetical illustrations.

Second, on March 8, 1979, the Commission withdrew its Statement of Policy after reexamining the regulation of investment company sales literature (Securities Act of 1933 and Investment Company Act of 1940 Release Nos. 6034 and 10621, respectively [44 FR 21007]). The Commission concluded that substantial changes in the regulation of investment company sales literature were in order and took certain steps to implement those changes.

In light of the rescission of Form S-5 and the withdrawal of the Statement of Policy, the Commission has concluded that illustrations in the form originally prescribed should not be mandatory at the present time. Further, these actions substantially alter the impact of the proposed amendments. Therefore, the Commission has determined to withdraw the proposed amendments to Forms S-5 and S-6 requiring such illustrations in variable annuity prospectuses.

By the Commission.

George A. Fitzsimmons

Secretary.

July 20, 1979.

[FR Doc. 79-23309 Filed 7-27-79; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

Agency for International Development

[22 CFR Parts 202, 205, 208, 209, 211 and 214]

Improvement of Government Regulations; Semiannual Agenda of Regulations

AGENCY: Agency for International Development.

ACTION: Publication of semiannual agenda of regulations (Improving Government Regulations) for public comment.

SUMMARY: As required by Section 2(a) of Executive Order 12044, Improving Government Regulations, and as provided in Section 6 of the Agency for International Development's final report for implementation of the Order (44 FR 1957204), April 3, 1979, the first semiannual agenda of regulations is set forth below.

FOR FURTHER INFORMATION CONTACT: Joseph R. Ellis, Division Chief, Room 1066, Office of Management Planning, Agency for International Development, Washington, D.C. 20523, telephone (202) 632-4030.

Semiannual Agenda of Regulations

This Agenda of Regulations under review by the Agency for International Development contains the complete annual schedule of regulations to be reviewed in A.I.D. in 1979 as provided in section 6 of 44 FR 19574. The following Agenda has been approved by the Acting Administrator of A.I.D.:

1. The Regulations governing A.I.D. participation in overseas shipments of supplies by voluntary nonprofit relief agencies (22 CFR Part 202) have been revised. The revised Regulations incorporate amendments contained in Section 123 of the International Development and Food Assistance Act of 1978 on Private Voluntary Organizations' (PVO) shipments eligible for reimbursement by A.I.D. of ocean freight costs. A notice will be published in the *Federal Register* for public comment. Inquiry regarding the regulations on PVO shipments eligible for reimbursement may be directed to:

Robert S. McClusky, Chief, Public Liaison Division, Office of Private and Voluntary Cooperation, Bureau for Private and Development Cooperation, Agency for International Development, Washington, D.C. 20523, Telephone (703) 235-1844.

2. The Regulations governing A.I.D. payments to participants in nonmilitary economic and development training

programs (22 CFR Part 205) are under review. The point of contact in A.I.D. is:

Elizabeth Borcik, Office of International Training, Bureau for Development Support, Agency for International Development, Washington, D.C. 20523, Telephone (703) 235-2352.

3. The Regulations governing A.I.D. exclusion of suppliers of commodities and of commodity-related services from eligibility for A.I.D. financing (22 CFR Part 208) are under review. The point of contact in A.I.D. is:

Daniel Cohen, Chief, Surveillance and Evaluation Division, Office of Commodity Management, Bureau for Program and Management Services, Agency for International Development, Washington, D.C. 20523, Telephone (703) 235-8979.

4. The review of Regulations governing nondiscrimination in Federally-assisted programs of A.I.D. (22 CFR Part 209) are being revised. Inquiry regarding these Regulations may be directed to:

Kenneth E. Fries, Office of the General Counsel, Agency for International Development, Washington, D.C. 20523, Telephone (202) 632-8218.

5. The Regulations governing A.I.D. transfer of food commodities for use in disaster relief and economic development (22 CFR Part 211) have been revised. Proposed revised Regulations were published at 44 FR 1123-1134 for public comment. Final revised Regulations were published at 44 FR 34034-34045 and became effective on June 13, 1979. Inquiries regarding these Regulations may be directed to:

Jessie Vogler, Office of Food for Peace, Bureau for Private and Development Cooperation, Agency for International Development, Washington, D.C. 20523, Telephone (703) 235-9214.

6. The Regulations governing A.I.D. advisory committees (22 CFR Part 214) are under review. The contact point in A.I.D. is:

Gwendolyn Joe, Division Chief, Office of Management Planning, Bureau for Program and Management Services, Room 1066, Agency for International Development, Washington, D.C. 20523, Telephone (202) 632-4030.

In accordance with the procedural steps outlined in Section 2(c) of Executive Order 12044, A.I.D. has given the public full opportunity to comment on the revision of the Regulation governing A.I.D. transfer of food commodities for use in disaster relief and economic development (22 CFR Part 211) and will give the public full opportunity to comment on proposed revisions of the other Regulations listed

above. The Agency plans to publish its next fiscal year semiannual agenda schedule in October 1979.

Dated: July 19, 1979.

Robert H. Nooter,

Acting Administrator, Agency for International Development.

[FR Doc. 79-23306 Filed 7-27-79; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-1386]

Consolidated Returns; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the tax imposed with respect to certain accumulated earnings in the case of an affiliated group of corporations which makes a consolidated income tax return. **DATES:** The public hearing will be held on September 19, 1979, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by September 5, 1979.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-1386), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 1502 of the Internal Revenue Code of 1954. The proposed regulations appeared in the *Federal Register* for Monday, May 14, 1979, at page 28001 (44 FR 28001).

The rules of § 601.601, (a) (3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the

time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by September 5, 1979. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the *Federal Register* for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

Robert A. Bley,

Director, Legislation and Regulations Division.

[FR Doc. 79-23393 Filed 7-27-79; 8:45 am]

BILLING CODE 4830-01-M

[26 CFR Parts 1 and 25]

[LR-24-75]

Transfer of Appreciated Property to Political Organizations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the treatment of certain transfers of appreciated property to political organizations. Changes to the applicable tax law were made by the Act of January 3, 1975. The regulations would provide the public with the guidance needed to comply with the statutory changes.

DATES: Written comments and requests for a public hearing must be delivered or mailed by September 28, 1979. The amendments are proposed to be effective with respect to transfers of appreciated property to political organizations made after May 7, 1974.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, 1111 Constitution

Avenue, N.W., Washington, D.C. 20024 (Attention: CC:LR:T (LR-24-75)).

FOR FURTHER INFORMATION CONTACT: Susan K. Thompson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20024 (Attention: CC:LR:T) (202-566-3294).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 84 of the Internal Revenue Code of 1954, and to the Gift Tax Regulations (26 CFR Part 25) under section 2501 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to sections 13 and 14 of the Act of January 3, 1975 (89 Stat. 2120) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

New Rules

This notice of proposed rulemaking contains new rules applicable to transfers of appreciated property to political organizations after May 7, 1974. These transfers are governed by section 84, added to the Code in 1975.

In general, section 84 treats certain transfers of appreciated property to political organizations as sales for purposes of the income tax. The term "political organization" is defined in section 527(e)(1). The term "transfer" is defined under the new rules as any assignment, conveyance or delivery of property other than a bona fide sale for an adequate and full consideration in money or money's worth.

The transferor is taxed on the difference between the fair market value and the adjusted basis of the property. In determining the amount of gain recognized by the transferor, the income tax rules relating to a sale of property apply. Because of the recognition of gain by the transferor at the time the property is contributed, the political organization is not permitted to "tack" the holding period of the donor to its holding period for purposes of determining its own holding period. Rather, under the new rules, the holding period of the political organization begins on the day after it acquires the property.

The proposed rules conform the regulations to the exemption from gift tax of money or other property transferred to a political organization. At the same time, the proposed rules

emphasize that the gift tax continues to apply to transfers to organizations other than political organizations.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations is Susan K. Thompson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Parts 1 and 25 are as follows:

Paragraph 1. The following new section is inserted immediately following § 1.83-8:

§ 1.84-1 Transfer of appreciated property to political organizations.

(a) *Transfer defined.* A transfer after May 7, 1974, of property to a political organization (as defined in section 527(e)(1), and including a newsletter fund to the extent provided under section 527(g)) is treated as a sale of the property to the political organization if the fair market value of the property exceeds its adjusted basis. The transferor is treated as having realized an amount equal to the fair market value of the property on the date of the transfer. For purposes of this section, a transfer is any assignment, conveyance, or delivery of property other than a bona fide sale for an adequate and full consideration in money or money's worth, whether the transfer is in trust or otherwise, whether the transfer is direct or indirect and whether the property is real or personal, tangible or intangible. Thus, for example, a sale at less than fair market value (other than an ordinary trade discount), or a receipt of property by a political organization under an agency agreement entitling the

organization to sell the property and retain all or a portion of the proceeds of the sale, is a transfer within the meaning of this section. The term "transfer" also includes an illegal contribution of property.

(b) *Amount realized.* A transferor to whom this section applies realizes an amount equal to the fair market value of the property on the date of the transfer. For purposes of this section, the definition of fair market value set forth in § 1.170A-1(c) (2) and (3) is incorporated by reference.

(c) *Amount recognized.* A transferor to whom this section applies is treated as having sold the property to the political organization on the date of the transfer. Therefore, the rules of chapter 1 of subtitle A (relating to income tax) apply to the gain realized under this section as if this gain were an amount realized upon the sale of the property. These rules include those of section 55 and section 56 (relating to minimum tax for tax preference), section 306 (relating to disposition of certain stock), section 1201 (relating to the alternative tax on certain capital gains), section 1245 (relating to gain from dispositions of certain depreciable property), and section 1250 (relating to gain from dispositions of certain depreciable realty).

(d) *Holding period.* The holding period of property transferred to a political organization to which this section applies begins on the day after the date of acquisition of the property by the political organization.

Par. 2. Section 25.2501 is deleted.

§ 25.2501 [Deleted]

Par. 3. Section 25.2501-1 is amended by adding at the end of paragraph (a) a new subparagraph (5) to read as follows:

§ 25.2501-1 Imposition of tax.

(a) *In general.* * * *

(5) The general rule of this paragraph (a) shall not apply to a transfer after May 7, 1974, of money or other property to a political organization for the use of that organization. However, this exception to the general rule applies solely to a transfer to a political organization as defined in section 527(e)(1) and including a newsletter fund to the extent provided under section 527(g). The general rule governs a transfer of property to an organization

other than a political organization as so defined.

Jerome Kurtz.,

Commissioner of Internal Revenue.

[FR Doc. 79-23392 Filed 7-27-79; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR 223]

Sale and Disposal of Timber; Public Hearing

AGENCY: Forest Service, USDA.

ACTION: Notice of Public Hearing on Proposed Rulemaking.

SUMMARY: As part of the proposed rulemaking procedure announced in the Federal Register on June 4, 1979, (44 FR 32005), public hearings will be held in Portland, Oregon, and Seattle, Washington, on August 15 and 16, 1979. The deadline for comments set forth in the June 4 Notice is extended.

DATES: Public Hearings—

Portland, Oregon—August 15, 1979

Seattle, Washington—August 16, 1979

Written comments must be received by September 10, 1979.

ADDRESSES: Public Hearings—Commencing at 9:00 a.m.

Bonneville Power Administration Auditorium, 1002 NE Holladay, Portland, Oregon

New Federal Office Building, Room 390 2nd and Marion Streets, Seattle, Washington

Send written comments to: R. Max Peterson, Chief, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: George M. Leonard, Timber Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013 (202) 447-4051.

SUPPLEMENTARY INFORMATION: As noted in the June 4 Federal Register Notice, revision of 36 CFR 223.10 is contemplated. This regulation implements limitations on the sale of National Forest timber in the West for export or for use as a substitute for timber from private lands which is exported by the Purchaser. Specific issues under consideration relate to the definitions of export and substitution. Under the current regulation, Purchasers of National Forest timber may sell timber to another company, even though the second company was not able to buy the sale directly because it would constitute substitution as defined in the

Regulation. It has been suggested that the Regulation be revised to foreclose this practice. During the hearings in Portland and Seattle and through written comments, advice is sought as to the impact of making this change in the Regulation. What would be the effect on the volume of private timber exported? How would it affect log markets in the affected areas? What would be the impact on utilization? To the extent possible information is sought on the impacts of such a change (1) on direct domestic employment by initial and secondary Purchasers, (2) on the creation of new jobs by new or expanded Purchasers, (3) on revenues to the Government, (4) on the efficiency with which timber cut from lands of various ownerships is used, and (5) on the costs incurred by National Forest timber Purchasers in complying with the law. Comments are invited on the nature and scope of revisions which should be made.

Dated: July 25, 1979.

M. Rupert Cutler,

Assistant Secretary.

[FR Doc. 79-23427 Filed 7-27-79; 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1284-1]

Availability of Implementation Plan Revision for the Allegheny County Nonattainment Area in the Commonwealth of Pennsylvania

AGENCY: Environmental Protection Agency.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: EPA announces today that the Allegheny County Total Suspended Particulates (TSP) portion of the Pennsylvania State Implementation Plan due for submittal under the Clean Air Act Amendments of 1977 has been received. The public is invited to submit written comments. A Notice of Proposed Rulemaking describing the revision will be published in the Federal Register at a future date. The period for the submittal of written comments will extend until the publication of the Notice of Proposed Rulemaking and for an additional period of time as will be announced in the Notice of Proposed Rulemaking.

ADDRESSES: On June 18, 1979, the Allegheny County TSP portion of the

Pennsylvania State Implementation Plan was submitted by the County. Interested persons are invited to inspect the revised SIP submittal at one of the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106. ATTN: Ms. Patricia Sheridan.

Bureau of Air Pollution Control, Allegheny County Health Department, 301 39th Street, Pittsburgh, PA 15201.

Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Comments should be addressed to Mr. Howard Heim, Chief, Air Programs Branch (3AH10), Air & Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, PA 19106. ATTN: AH300bPA.

FOR FURTHER INFORMATION CONTACT: Mr. Hank Sokolowski (3AH12), U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106; (215) 597-8991.

SUPPLEMENTARY INFORMATION: Part D of Title I of the Clean Air Act, as amended, required each State to revise its State Implementation Plan (SIP) to meet specific requirements in the areas designated as nonattainment. These SIP revisions were due on January 1, 1979, and must demonstrate attainment of the national ambient air quality standards as expeditiously as practicable, but no later than December 31, 1982, or in limited instances for carbon monoxide and oxidants no later than December 31, 1987. On March 3, 1978 (43 FR 8962 [1978]) and September 12, 1978 (43 FR 40412 [1978]), the Administrator designated areas in Pennsylvania, including Allegheny County, as nonattainment for particulate matter. Allegheny County has responded by preparing an implementation plan revision (for the county) as required by the Clean Air Act. The public is invited to inspect this revision and to submit written comments on it. A description of the revision will be published in the Federal Register at a future date as part of a Notice of Proposed Rulemaking.

(42 U.S.C. 7401-7642).

Dated: July 18, 1979.

Jack J. Schramm,
Regional Administrator.

[FR Doc. 79-23448 Filed 7-27-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

(FRL 1280-7)

Proposed Revision to the New York State Implementation Plan**AGENCY:** Environmental Protection Agency.**ACTION:** Proposed Rulemaking.

SUMMARY: The purpose of this notice is to announce receipt of five revisions to the New York State Implementation Plan (SIP), to discuss the results of the Environmental Protection Agency's (EPA's) review of these revisions, and to invite public comment on EPA's proposed determinations regarding the adequacy of these revisions. The 1977 Amendments to the Clean Air Act require that the SIP applicable to an area not in attainment of a national ambient air quality standard be revised by January 1, 1979 to provide for attainment of such standard. The five revisions received from New York State are intended to meet this requirement. They pertain to the following pollutants and generally to the following areas:

(1) The Rochester Area

—carbon monoxide
—ozone

(2) The Southern Tier (Binghamton, Elmira-Corning and Jamestown)

—total suspended particulates
—ozone

(3) The Syracuse Area

—total suspended particulates
—carbon monoxide
—ozone

(4) The Capital District and Town of Catskill

—total suspended particulates
—carbon monoxide
—ozone

(5) The Utica-Rome Area

—ozone

DATES: Comments must be submitted on or before September 28, 1979.**ADDRESS:** Copies of the SIP revision are available for inspection at the following locations.Environmental Protection Agency, Region II,
Room 908, 26 Federal Plaza, New York,
New York 10007.Environmental Protection Agency, Public
Information Reference Unit, 401 M Street,
SW., Washington, D.C. 20460.New York State Department of
Environmental Conservation, 50 Wolf
Road, Albany, New York 12233.New York State Department of
Environmental Conservation, 202
Mamaroneck Avenue, White Plains, New
York 10601.New York State Department of
Environmental Conservation, 317
Washington Street, Watertown, New York
13601.New York State Department of
Environmental Conservation, 7481 Henry
Clay Blvd., Liverpool, New York 13088.New York State Department of
Environmental Conservation, 44 Hawley
Street, Binghamton, New York 13901.New York State Department of
Environmental Conservation, Route 20 (½
mile east of the Village of East Avon)
Avon, New York 14414.New York State Department of
Environmental Conservation, 584 Delaware
Avenue, Buffalo, New York 14202.Written comments should be sent to:
Eckardt C. Beck, Regional
Administrator, Environmental Protection
Agency—Region II, 26 Federal Plaza,
New York, New York 10007.**FOR FURTHER INFORMATION CONTACT:**
William S. Baker, Chief, Air Programs
Branch, Environmental Protection
Agency—Region II, 26 Federal Plaza,
New York, New York 10007 (212) 264-
2517.**SUPPLEMENTAL INFORMATION:****Background**

Pursuant to the requirements of Section 107(d) of the 1977 Amendments to the Clean Air Act, on January 25, 1979 the Environmental Protection Agency (EPA) published in the *Federal Register* at 44 FR 5119 a designation of the attainment status with respect to each national ambient air quality standard for every area within New York State. These designations represented revisions, corrections and elaborations to designations originally published in the March 3, 1978 issue of the *Federal Register* at 43 FR 8962. The reader is referred to the January 25, 1979 *Federal Register* for a detailed description of the geographic areas covered by this proposed action.

Part D of the Clean Air Act requires that, for each area designated as not meeting a national ambient air quality standard, a State Implementation Plan (SIP) revision must be developed by the state and submitted to EPA by January 1, 1979. The SIP revision must provide for attainment of the contravened standard by December 31, 1982 or, for certain pollutants, no later than December 31, 1987. The required contents of such SIP revisions are described in Part D and, more generally, in Section 110(a) of the Clean Air Act. These requirements are further discussed and elaborated upon in the April 4, 1979 issue of the *Federal Register* at 44 FR 20372. The reader is referred to this *Federal Register* notice

for a complete discussion of SIP revision requirements; these are not repeated in great detail in this notice. A supplement to the April 4 notice was published on July 2, 1979 involving, among other things, conditional approval.

EPA proposes to conditionally approve the plan where there are minor deficiencies and the State provides assurances that it will submit corrections by specified deadlines. This notice solicits comment on what items should be conditionally approved, and on the deadlines where specified in this notice. A conditional approval will mean that the restrictions on new major source construction will not apply unless the State fails to submit the necessary SIP revisions by the scheduled dates, or unless the revisions are not approved by EPA.

On March 26, 1979 the governor of the State of New York formally adopted SIP revisions intended to meet these Clean Air Act requirements for certain areas of the State designated as not meeting a national ambient air quality standard. The title of the SIP revision documents covered by this *Federal Register* action, the dates on which these documents were submitted to EPA and the areas, pollutants and, where applicable, standards which each document covers are:

- New York State Air Quality Implementation Plan—Syracuse Area*—submitted March 19, 1979—covering total suspended particulates (primary and secondary standard nonattainment), carbon monoxide and ozone.
- New York State Air Quality Implementation Plan—Southern Tier (Binghamton, Elmira-Corning, Jamestown)*—submitted April 5, 1979—covering total suspended particulates (secondary standard nonattainment) and ozone.
- New York State Air Quality Implementation Plan—Rochester Area*—submitted April 5, 1979—covering carbon monoxide and ozone.
- New York State Air Quality Implementation Plan—Capital District and Town of Catskill*—submitted March 19, 1979—covering total suspended particulates (secondary standard nonattainment), carbon monoxide and ozone.
- New York State Air Quality Implementation Plan—Utica-Rome Area*—submitted March 19, 1979—covering ozone.

In addition, on May 23, May 31, June 12 and June 18, 1979 the State submitted to EPA additional information for inclusion in these SIP revision documents.

As regards the attainment of national ambient air quality standards, the SIP revision documents submitted by the State may be summarized as follows:

Ozone/Carbon Monoxide

• All SIP revisions demonstrate attainment of standards by 1982 as a result of expected reductions due to normal replacement of old automobiles with new ones (i.e., "vehicle turnover").

Total Suspended Particulates

• *Syracuse*—Attainment of primary standards by 1982 and the secondary standard in certain nonattainment areas is demonstrated as a result of expected reductions due to vehicle turnover, continuing enforcement of existing State rules and regulations, and a decline in "background" concentrations. An 18-month extension for submission of a plan addressing secondary standard nonattainment problems in the Syracuse Central Business District and the Village of Solway is requested by the State.

• *Southern Tier*—Attainment of secondary standards by 1982 is demonstrated as a result of expected reductions due to vehicle turnover and continuing enforcement of existing State rules and regulations.

• *Capital District and the Town of Catskill*—Attainment of secondary standards by 1982 is demonstrated as a result of expected reductions due to ongoing abatement actions with respect to a grain loading operation and a cement dust dump, general upgrading of a steam generating station, vehicle turnover, and continuing enforcement of existing State rules and regulations.

The remainder of this notice describes the content of the SIP revisions with respect to each of the major criterion used by EPA to evaluate approvability. The deficiencies in these revisions found by EPA and the corrective actions which should be undertaken by the State in order to make the revisions fully approvable are also discussed.

Part D Requirements

(1) *SIP provisions shall be adopted by the state after reasonable notice and public hearing.* The revisions were adopted by the Governor of the State of New York on March 26, 1979 after public hearings were held at the following locations on the following dates. Each public hearing was held after at least 30 days of notice.

State implementation plan	Public hearing	
	Place	Date (1979)
Rochester	Rochester	Feb. 1
Syracuse	Syracuse	Feb. 8

State implementation plan	Public hearing	
	Place	Date (1979)
Capital District and Town of Catskill	Albany	Feb. 6
Utica-Rome	Utica	Feb. 7
Southern Tier	Elmira	Feb. 6
.....	Jamestown	Feb. 7
.....	Binghamton	Feb. 8

The State has provided documentation to identify that the necessary notices, public hearings and adoptions were carried out in such a manner as to be found acceptable to EPA.

(2) *The SIP revisions shall demonstrate that both primary and secondary national ambient air quality standards (NAAQS) will be attained within the nonattainment areas as expeditiously as practicable, but for primary NAAQS no later than the following final deadlines:*

- December 31, 1982, except that
- For ozone or carbon monoxide, December 31, 1987, if the state demonstrates that attainment by December 31, 1982 is impossible despite implementation of all reasonably available measures.

Ozone/Carbon Monoxide

The State indicates that national ambient air quality standards for ozone and carbon monoxide are or will be attained in each of the five areas by December 31, 1982. The plans demonstrate ozone attainment in the urbanized portions of the areas. Demonstrating attainment for an urbanized area is consistent with EPA policy and provides adequate technical assurance of attainment for the whole, larger area designated nonattainment, including rural areas which, due to low nitrogen dioxide levels, are not conducive to ozone formation (44 FR 20376, April 4, 1979).

It must be noted, however, that the confidence which EPA places on the State's attainment demonstrations is lowered because of questionable baseline data. Air quality data used in these demonstrations is, as recognized in the plans, not representative of worst conditions: for ozone, monitors are located in or near urban areas where ozone levels are locally depressed; for carbon monoxide, monitors are not located in potential "hot-spot" areas. Problems with the emissions data used in the State's attainment demonstrations are described under item (5) in this section under the heading, "Ozone/Carbon Monoxide."

Because of these problems, the State has committed itself to carrying out several additional programs identified in

the plans so as to provide follow-up studies of reasonable available transportation control measures for possible future implementation, to refine analytic methods, and to improve its emission inventories and its monitoring network. On the basis of these commitments, EPA proposes to approve the plans as meeting this requirement.

It should be further noted that, on January 26, 1979 (as published at 44 FR 8202, on February 8, 1979), EPA revised the ozone ambient air quality standard from 0.08 ppm to 0.12 ppm. As described in the April 4, 1979 *Federal Register* at 44 FR 20378, the relaxation of this standard allows some areas to be redesignated to "attainment." The State submitted, on May 2, 1979, such a request which may impact the ozone plan revision requirements discussed in this notice as regards the following counties: Allegheny, Broome, Cattaraugus, Chautauque, Chemung, Chenango, Cortland, Delaware, Fulton, Herkimer, Jefferson, Lewis Madison, Montgomery, Oneida, Oswego, Otsego, Saratoga, Schoharie, Schuyler, Steuben, Sullivan, Tioga and Tompkins. This issue will be addressed in a separate *Federal Register* notice.

Total Suspended Particulates

• *Syracuse*—In its plan the State indicated that the area in the City of Syracuse currently designated as not meeting the primary standard (44 FR 5126, January 25, 1979) will be in attainment of this standard by 1982. This conclusion is based on a diffusion model of the air quality situation in the Syracuse area and on measured downward air quality trends.

EPA's review of the State's air quality model uncovered certain questionable technical assumptions with respect to "adjustments" made to measured air quality data to account for nontraditional sources of particulate matter (e.g., construction and roadway dust). Nevertheless, air quality data trends for the years 1976 through 1978 do show substantial improvements in the measured values on which the nonattainment designation was based. The model shows that further improvements at these locations can be expected from emission reductions to result from ongoing abatement activities at specific emission sources identified in the plan. On the basis of this information, EPA is reasonable assured that the plan will provide for the attainment of primary standards by 1982.

The State does not provide the required plan for attainment of secondary standards in the Syracuse

Central Business District and in the Village of Solway. Rather, an 18-month extension is being requested by the State for the preparation of the secondary standard attainment plan revision for the two areas. This request is based on a demonstration that "reasonably available control technology" would not provide adequate emission reductions to meet the standard. EPA finds this extension request approvable.

With regard to the remaining designated secondary standard nonattainment areas within the City of Syracuse and the Village of East Syracuse, the State indicates based on its model that secondary standards will be attained by 1995, at the latest. EPA agrees that the secondary standard will be attained in these areas within a reasonable period of time and proposes to accept the State's demonstration.

• *Capital District and the Town of Catskill*—The State demonstrates that the two areas designated as not meeting the secondary standard (44 FR 5126, January 25, 1979) will be in attainment by 1982. The State's demonstration with respect to attainment of the 24-hour secondary standard is based on diffusion modeling analyses and is found acceptable by EPA.

• *Southern Tier*—The State demonstrated on the basis of diffusion modeling that the secondary standards for total suspended particulates will be attained in Jamestown by 1982. EPA considers the State's demonstration acceptable.

(3) *The SIP revision shall require reasonable further progress in the period before attainment, including regular, consistent reductions sufficient to assure attainment by the required date.* The State has presented tables and, in most cases, graphs depicting the change in emissions which will occur over time as the plan is implemented. EPA considers the plans to be acceptable in meeting this requirement.

(4) *The SIP revision shall provide for implementation of all reasonably available control measures as expeditiously as practicable insofar as is necessary to assure reasonable further progress and attainment by the required date. This requirement includes reasonably available transportation control measures.*

Ozone—Stationary Source Control Measures

For stationary sources, the 1979 ozone plan submissions for major urban areas must include, as a minimum, legally enforceable regulations to reflect the application of reasonably available

volatile organic compound control technology (RACT) to those stationary sources for which EPA has published a Control Techniques Guideline (CTG) document by January 1978, and provide for the adoption and submittal of additional legally enforceable RACT regulations on an annual basis beginning in January 1980, for those CTGs that have been published by January of the preceding year (44 FR 20376, April 4, 1979). For rural nonattainment areas (and for urban nonattainment areas demonstrating attainment by December 31, 1982), the regulations must provide, at a minimum, legally enforceable procedures for the present and future control of large volatile organic compound sources (i.e., those with 100 ton/year or more potential emissions).

To meet this requirement, the State has submitted to EPA proposed revisions to Title 6 of the New York Code of Rules and Regulations (6 NYCRR) affecting the following Parts:

Part 200—General Provisions;
Part 211—General Prohibitions;
Part 212—Process and Exhaust and/or Ventilation Systems;
Part 223—Petroleum Refineries;
Part 226—Solvent Metal Cleaning Processes;
Part 228—Surface Coating Processes; and
Part 229—Gasoline Storage and Transfer.

It should be noted that these regulatory revisions have not been legally adopted by the State as yet. Also, the comments contained in this notice refer to the approvability of the State's proposed regulations only for the five upstate areas, as previously noted, despite the fact that several of the regulations are applicable Statewide. The approvability of these regulations for the metropolitan New York City and Niagara Frontier areas will be addressed in future notices. As discussed more fully under item (10) of this section, EPA has been requested by the State to propose action on these regulations in their current status. Provided that the finally adopted regulations do not substantively differ from the proposed regulations submitted at this time, EPA will not repropose action or solicit further public comment prior to final rulemaking.

Also, since no clear commitment is provided for adoption of future RACT regulations to apply to source categories for which CTGs were not published by January 1978, EPA proposed to condition its approval of the plans as follows:

• The State must submit, by January 1, 1980, adopted and legally enforceable RACT regulations for each of the following categories unless it demonstrates by certification that for a

given VOC source category there are no such sources in the State:

—vegetable oil processing
—petroleum refinery leaks
—gasoline tank trucks
—perchloroethylene dry cleaning
—pharmaceutical manufacture
—miscellaneous metal parts and products
—graphic arts
—pneumatic rubber tire manufacture
—flatwood paneling
—floating roof tanks

• The State must submit, by January 1, 1981, adopted and legally enforceable RACT regulations for each of the categories addressed by CTG documents which are issued between February 1979 and January 1980, unless it demonstrates by certification that for a given VOC source category there are no such sources in the State.

The remainder of the discussion under this item will deal with each of the submitted regulations for the control of volatile organic compounds (VOC's) from the source categories for which CTG documents had been published by January 1978. The Control Techniques Guidelines (CTG's) provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information in the CTG's, EPA believes that the submitted regulations represent RACT, except as noted below. On the points noted below, the State regulations are not supported by the information in the CTG's, and the State must provide an adequate demonstration that its regulations represent RACT, or amend the regulations to be consistent with the information in the CTG's.

• Part 200—General Provisions

Part 200 contains definitions of the terms used in the State's rules and general provisions which are applicable to all rules. This Part defines "attainment areas" and "nonattainment areas" which determine the geographic applicability of various Parts in the State's Code.

• Part 211—General Prohibitions

Part 211 contains a general prohibition against polluting the air and regulates visible emissions. It also contains a new section (Section 211.4) which prohibits the use of VOC's to liquify asphalt used for paving purposes except under certain circumstances.

The State has included an exemption for cutback asphalt used in the manufacture of asphalt emulsions with low VOC content (less than 15% by weight). In describing RACT for this source category, EPA did not deem this

exemption necessary. However, the State determined otherwise because of certain application problems for emulsions with no VOC content and the inability of some asphalt manufacturers to produce solvent-free emulsions. However, this is a general exemption not restricted to specific applications justified by the State. Therefore, EPA is proposing to conditionally approve this regulatory provision provided the State commits to minimizing the solvent content in all future emulsified asphalt usage. On or before September 1, 1979, the State shall submit to EPA an enforceable procedure for carrying out this objective.

• Part 212—Process and Exhaust and/or Ventilation Systems

Part 212 contains general limits applicable to process sources for which there are no specific regulations. When revisions to existing regulations or new rules are promulgated, it is therefore necessary for the State to amend this Part by exempting those processes covered by the revised or new rule. Such a step was taken with regard to the sources addressed by the regulations discussed under this item.

• Part 223—Petroleum Refineries

In its revision of Part 223 the State has combined into a single rule various emission standards applicable to petroleum refinery air pollution sources. Many of these standards existed previously in other Parts of the State's Code.

Of importance to the SIP revisions discussed in this notice is the further fact that the proposed regulation address the control of VOC's from refinery vacuum producing systems, wastewater separators, and process unit turnarounds. This Part requires all non-condensable vapors from any vacuum producing system to be piped to a firebox or incinerator, or compressed and added to refinery fuel gas. It would require all forebays and separator sections which recover 200 gallons per day or more of VOC's to be covered. It would also require all processing units to be depressurized to 5 psig and the VOC's vented to a recovery system, fuel gas system, or flared when the unit is being shut-down, inspected, repaired, or started-up.

This Part allows the regulated sources until June 1, 1982, or such later date as determined by an Order of the Commissioner of the Department of Environmental Conservation (upon submission of appropriate justification) to achieve compliance with its VOC emission limitation provisions. The length of time allowed for compliance is

considered by EPA to be generous for these types of sources. However, since the State has demonstrated attainment of the ozone standard by December 31, 1982 with emission reductions from both stationary and mobile strategies and has addressed reasonable further progress requirements, EPA proposes to find this Part acceptable.

• Part 226—Solvent Metal Cleaning Processes

Part 226 is a new rule with Statewide applicability directed at controlling the emissions of VOC's from solvent metal cleaning (degreasing) operations. The rule contains three main sections: "General Requirements," "Equipment Specifications," and "Operating Requirements."

Section 226.2, General Requirements, requires solvents to be stored in covered containers and disposed of properly, equipment to be maintained properly, operating procedures to be posted, equipment covers to be closed when not in use, and records of solvent consumption to be kept. Section 226.3, Equipment Specification, lists the equipment required for each of three types of degreasers: cold cleaning, open top vapor, and conveyORIZED degreasers. In the CTG document for Solvent Metal Cleaning, two levels of control for each type of degreaser were identified. The State has selected control requirements composed of those contained in the first (less stringent) level plus elements of those contained in the second (more stringent) level. Section 226.4, Operating Requirements, addresses the correct operation of degreasing units to minimize emissions.

The requirements for controlling solvent metal cleaning operations meet the recommended control levels contained within the guidance. However, this rule contains provisions which exempt methyl chloroform and methylene chloride from control. These exemptions were included by the State because these two compounds do not have an effect on atmospheric ozone formation. Therefore, the State believes that they should not be regulated under a rule that is concerned with reducing ambient ozone levels. However, under 6 NYCRR Part 212, Process and Exhaust and/or Ventilation Systems, methyl chloroform and methylene chloride emissions from metal cleaning processes can be controlled if it is determined by the State that these two compounds have "toxic properties" (Section 212.8(k)).

EPA does not agree with this limited interpretation of regulatory objective. While it is true that these volatile

organic compounds do not appreciably affect ambient ozone levels, they are potentially harmful. Both methyl chloroform and methylene chloride have identified as mutagenic in bacterial and mammalian cell test systems, a circumstance which raises the possibility of human mutagenicity and carcinogenicity.

Furthermore, methyl chloroform is considered one of the slower reacting VOC's which eventually migrates to the stratosphere where it is suspected of contributing to the depletion of the ozone layer. Since stratospheric ozone is the principal absorber of ultraviolet light, the depletion could lead to an increase of ultraviolet light penetration resulting in a worldwide increase in skin cancer.

With the possible exemption of these compounds, some sources, particularly existing degreasers, may be encouraged to utilize methyl chloroform in place of other more photochemically reactive degreasing solvents. Such substitution has already resulted in the use of methyl chloroform in amounts far exceeding that of other solvents. Endorsing the use of methyl chloroform by exempting it in Part 226 can only further aggravate the problem by possibly increasing the emissions produced by existing primary degreasers and other sources.

EPA is concerned that the State has chosen this course of action without full consideration of the total environmental and health implications. While EPA does not propose to disapprove the State's SIP revisions if the State chooses to maintain these exemptions, EPA is concerned that this policy should not be interpreted as encouraging the increased use of these compounds nor compliance by substitution. EPA does not endorse such approaches. Furthermore, State officials and sources are advised that there is a strong possibility of future regulatory action to control these compounds. Sources which choose to comply with Part 226 by substitution may well be required to install control systems as a consequence of these future regulatory actions or as a requirement of Part 212.

• Part 228—Surface Coating Processes

Part 228 is a new rule applicable in areas of the State designated as "nonattainment" for ozone and is directed at controlling the emissions of VOC's from surface coating processes. Industries involved in the following activities are required to comply with this Part: large appliance coating lines, magnet wire insulation coating lines, metal furniture coating lines, metal can coating lines, fabric coating lines, vinyl

coating lines, paper coating lines, automobile assembly coating lines, and coil coating lines. This rule specifies a maximum permitted emission rate (pounds of organic solvent, minus water, per gallon of coating at application) for each source category and allows the source owner to choose the most economical method of control to meet the emission limitation specified. The various control methods available to sources are: reformulation of coatings—use of "low-solvent" coatings (water-borne, high-solids, and powder coatings), "add-on" technology to recover or destroy VOC's in exhaust gases, and modification of processes to reduce the quantity of VOC emissions. EPA proposes to find this Part acceptable.

•Part 229—Gasoline Storage and Transfer

Part 229 is a new rule applicable in areas of the State designated as "nonattainment" for ozone and is directed at controlling the emissions of VOC's from: the storage of gasoline in fixed roof tanks, the transfer of gasoline at gasoline bulk plants, and the transfer of gasoline at loading terminals. Since the State has demonstrated attainment of the ozone standard by December 31, 1982, controls are only required for sources with potential emissions of 100 tons per year or greater. Fixed roof tanks with capacities of 40,000 gallons or greater located at a source with potential VOC emissions of 100 tons per year or greater are required to be retrofitted with an internal floating roof or equivalent vapor controls. Gasoline bulk plants have two levels of control depending on whether or not they service a gasoline service station equipped with vapor controls. All bulk plants are required to have submerged filling of gasoline transport vehicles. Those servicing vapor control equipped service stations (service stations in the areas of New York State covered by this Federal Register proposal are not required to be so equipped) must install vapor collection, vapor balance type systems to control the gasoline vapors generated during transfer operations. Gasoline loading terminals are required to have vapor collection and vapor control systems in all cases.

Proposed Part 229 only partially addresses the control requirements for VOC emissions from fixed roof storage tanks. The CTG document addressing this source category did not limit itself only to the control of gasoline storage as does the State's proposed regulation; rather, it defined RACT for fixed roof tanks storing "petroleum liquids,"

described as those with a true vapor pressure of greater than 10.5 kilo Pascals.

The State believes that the storage of gasoline accounts for the preponderance of the VOC emission potential from this source category. If the State had demonstrated that its control of gasoline storage will eliminate 95 percent or more of the emissions that could have been eliminated if all petroleum liquids were subject to such control, according to EPA policy, the State's proposed regulation could be found fully acceptable. However, because of its limited scope without justification, EPA is proposing conditional acceptance of Part 229. On or before January 1, 1980 the State must either hold public hearings to revise Part 229 to cover all petroleum liquid storage in fixed roof tanks or provide an adequate justification for not doing so. If the State elects to revise Part 229, such revised regulation must be adopted and submitted to EPA by April 1, 1980.

•Compliance Schedules

Each of the State's proposed regulations contains a date by which an affected source must submit a schedule for achieving compliance with provisions of the regulation and a date for final compliance. Title 40 of the Code of Federal Regulations, § 51.1(q) defines acceptable "increments of progress" toward compliance which are more extensive than the two milestones included in the State's regulations. However, the State has provided written assurance to EPA that the increments of progress contained in 40 CFR 51.1(q) will be established with each source owner unless, because of the shortness of the compliance schedule, such interim milestones are not appropriate. EPA proposes to find this assurance acceptable.

Ozone/Carbon Monoxide—Transportation Control Measures

EPA finds that plans are conditionally acceptable with regard to meeting the requirement for adoption of reasonably available transportation control measures. Although attainment of the ozone and carbon monoxide standards by December 31, 1982 is demonstrated in the plans without implementation of reasonably available transportation control measures, as discussed under item (2) of this section under the heading, "Ozone/Carbon Monoxide," the State's demonstrations are based on questionable data. Therefore, certain improvements to the transportation planning elements of the State's plans

should be made for contingency purposes.

If the State's demonstration of the attainment of the ozone standard by 1982 is faulty or if new locations greatly exceeding the carbon monoxide standard are found through the planned studies discussed previously, then a revision of the current plans may be required. In order to be prepared to meet this contingency, basic data must be available, preliminary analyses of control options must have been completed and certain planning procedures must be in place.

The SIP revisions contain acceptable plans for the future examination of reasonably available transportation control measures. However, these plans should be refined to include all steps necessary for a systematic, full evaluation of these measures. Furthermore, these plans should be implemented through the on-going urban transportation planning process through new procedures designed to continue and give priority to such work. Such procedures have not been adequately identified by the State.

In this regard, the entire output of the transportation planning process must be assessed periodically for its "consistency" and "conformity" with the applicable SIP. (These assessments are required by 109(j) of Title 23 of the United States Code and Section 176(c) of the Clean Air Act.) Such assessments are important to assure that the transportation planning process gives priority to air quality concerns and that these concerns are fully integrated into the process. Criteria and procedures for making consistency and conformity assessments were to be included in the SIP revisions (43 FR 21673, May 19, 1978); they are not in the New York State plans. Approval of the SIP revisions, therefore, is conditioned on the development and submittal by July 1, 1980 of these required criteria.

Total Suspended Particulates

•Southern Tier Area

EPA finds that the plan for the Southern Tier Area is acceptable. Attainment of secondary standards by 1982 is demonstrated as a result of expected reductions due to vehicle turnover and continued enforcement of existing State rules and regulations, which in this context can be considered application of reasonably available control measures.

•Capital District and the Town of Catskill

EPA finds that the plan for Capital District and the Town of Catskill is

acceptable insofar as secondary standard attainment by 1982 is demonstrated through the imposition of controls on two air pollution sources, Cargill Inc. and Alpha Portland Cement Co.

•Syracuse—The plan to attain primary particulate matter standards and the secondary standard in certain nonattainment areas is acceptable to EPA with respect to its use of reasonably available control measures. An 18-month extension has been requested by the State to submit a secondary standard attainment plan for the remaining designated areas, the Syracuse Central Business District and the Village of Solway. As discussed under item (2) of this section under the heading, "Total Suspended Particulates," a demonstration has been made that "reasonably available control technology" would not provide adequate emission reductions to meet the standard.

(5) *The SIP revisions shall include an accurate, current inventory of emissions that have an impact on the nonattainment area, and provide for annual updates to indicate emissions growth and progress in reducing emissions from existing sources.*

The emissions inventory data contained in the State's plan revision documents generally was not broken down in sufficient detail to depict the impact of implementing the various control strategies. Such a breakdown is necessary in order to fully evaluate a plan's approvability. However, as discussed elsewhere in this section, the State has committed itself to inventory improvements. Consequently, EPA proposes to accept the State's current data submittal on the condition that by July 1, 1981 the State submit to EPA additional emissions inventory data for the baseline year and projected attainment year in a format equivalent to that presented in the EPA document, *Workshop on Requirements for Nonattainment Area Plans*, April 1978.

Ozone/Carbon Monoxide

The inventories submitted by the State are considered acceptable insofar as they represent the best presently available information. It should be noted, however, that the data presented is not accurate with regard to mobile source emissions because the most current emission factors were not used to generate it. Also, the stationary source volatile organic compound emissions inventory is not sufficiently comprehensive for plan development purposes. Consequently, EPA accepts these inventories with the provision that

future improvements, as identified in the plans, will be completed by July 1, 1981. The mid-1981 date for the submission of improved inventories is necessary to assure that, if future plan revisions are required from the State (this contingency is discussed in this section under item (4) under the heading, "Ozone/Carbon Monoxide—Transportation Control Measures"), an accurate data base will be available.

A current, comprehensive volatile organic compound emissions inventory is also necessary for air pollution control activities aside from those associated with meeting the national ambient air quality standard for ozone. This results from the fact that a majority of the air pollutants suspected as having carcinogenic or other toxic properties are volatile organic compounds. In view of the emerging concerns regarding these pollutants, the State is encouraged to develop its inventory data on an organic species or, where necessary, a specific compound basis.

Total Suspended Particulates

EPA finds the particulate matter inventories contained in the plans acceptable. The State has provided a listing of point sources and potential emission growth has been identified through the year 1995 or 2000 for point sources approximately 7 tons per year and greater. Area source emissions are summarized by major category and area source emission growth is also identified through the year 1995 or 2000.

Annual Reporting

The State has agreed to provide annual reports to EPA on progress made in adopting control measures, growth of new and modified major sources of air pollution, changes in emissions as required to track reasonable further progress, progress in updating emission inventories and the results of ongoing air quality studies related to the plans. EPA finds that the State's commitment with regard to Annual Reporting acceptable.

Data Base Consistency

EPA's review of the techniques and assumptions used by the State in projecting future emissions indicates that they are consistent with those used in other planning programs (e.g., water pollution abatement, housing and transportation). However, two assumptions in these projections are worthy of note:

—A significant increase in "vehicle-miles-traveled" is generally anticipated by the State. The validity of this assumption will have to be

periodically evaluated in light of gasoline supply trends and the effectiveness of fuel conservation measures contained in any State energy plan.

—A general decline in economic activity is projected by the State. If State and federal efforts to encourage economic development are successful, this assumption will also require reassessment.

(6) *The SIP revision shall expressly quantify the emissions growth allowance, if any, that will be allowed to result from new major sources or major modifications of existing sources, which may not be so large as to jeopardize reasonable further progress toward attainment by the required date. The SIP revision shall require preconstruction review permits for new major sources and major modifications of existing sources, to be issued in accordance with Section 173 of the Act.*

In order to assure that emission increases from new stationary sources or modifications of existing stationary sources will not exceed the projected "growth allowance" incorporated in the reasonable further progress demonstration, the State has submitted procedures providing for "offsetting" of emissions from major sources or modifications and for tracking of all minor and area source emission changes. The emission "offsets" will be required in accordance with a currently proposed State regulation, 6 NYCRR Part 231, Major Facilities.

This regulation requires new major sources and major modifications located in or significantly impacting a nonattainment area to offset new emissions by providing reductions at existing sources beyond those available from control strategies in the SIP. A major source is defined as one having allowable emissions of 50 tons per year, 1000 pounds per day, or 100 pounds per hour of particulate matter, sulfur dioxide, nitrogen dioxide, carbon monoxide, or volatile organic compounds. A major modification is defined as a change to an existing source causing allowable emissions to increase by these amounts for the specified pollutants.

Additionally, these sources are required by Section 173 of the Clean Air Act to meet the "lowest achievable emissions rate" (LAER). Currently, the language of the proposed regulation (Section 231.4(b)) is unclear about requiring LAER control technology on sources locating in an area where standards are violated, regardless of whether the sources have a significant

impact (as defined in the regulation) on air quality. The State, however, has written to indicate that this requirement is, in fact, applicable to such sources and will be explicitly documented by policy guidance issued immediately and later clarified by regulatory revision. EPA approval of this regulation is, therefore, conditioned on policy guidance being issued by the State by August 1, 1979, public hearings on a clarifying revision to Part 231 being held by January 1, 1980 and the State adopting this revision by April 1, 1980.

Also, in accordance with the requirements of Section 173, the proposed regulation requires that all other major sources, owned or operated by the same agent and located in the State, must be in compliance or meeting the requirements of an approved compliance schedule.

The State procedures providing for the "offsetting" of emissions from major sources and major modifications and the tracking of all minor and area source emission changes will be implemented differently depending on the pollutant affected. For total suspended particulates and sulfur dioxide, the State will "offset" all major source emission growth; minor and area source emission growth will be tracked against the annual emissions accommodated for in the reasonable further progress demonstrations discussed under item (3) of this section. If minor and area source growth exceeds these annual emission allowances, the State will require new major sources and major modifications to obtain emission reductions not already relied upon in the plan so as to provide for reasonable further progress toward attainment of standards.

For volatile organic compounds, as is discussed under item (5) in this section, the State's emissions inventory is not sufficiently comprehensive to permit a complete assessment of the precise annual emission allowance that can be accommodated for this class of pollutants. Until this deficiency is rectified, the State will require major volatile organic compound sources to "offset" all emissions growth which occurs, including that due to minor and area sources.

On the condition indicated, EPA proposes to find the State's SIP revisions acceptable with respect to the requirement discussed under this item. However, it should be noted that Part 231 has not been legally adopted by the State as yet. As discussed more fully under item (10) of this section, EPA has been requested by the State to propose action on this regulation in its current status. Provided that the finally adopted

Part 231 is not substantively different from the proposed regulation submitted, EPA will not repropose action or solicit further public comment prior to final rulemaking.

(7) *The SIP revisions shall provide identification and commitment of the necessary resources to carry out the Part D provisions of the plan.*

These requirements were adequately addressed by the State. In its SIP revisions New York State has presented the necessary identification of an commitment to the financial and manpower resources needed to carry out the plans and their associated future studies.

(8) *The SIP revisions shall provide evidence of public, local government, and State legislative involvement and consultation in accordance with Section 174 of the Act.*

In accordance with Section 174 of the Clean Air Act the following organizations have been designated by the Governor of New York State as the "lead planning organizations" to prepare the plan revisions discussed in this notice:

- Herkimer-Oneida Counties Governmental Policy and Liaison Committee.
- Executive Committee for Transportation for Chenung County.
- Capital District Transportation Committee.
- Syracuse Metropolitan Transportation Study Policy Committee.
- Genesee Transportation Council Policy Committee.
- Binghamton Metropolitan Transportation Study Policy Committee.

Public Participation and Consultation

In general, the State identifies that the lead planning agencies designated under Section 174 of the Clean Air Act are carrying out public participation programs with the use of newspaper, radio, television, and newsletter coverage. Each plan indicates that all or most of these methods were used during the plan preparation phase. However, each plan is lacking in evidence that the process is actually involving the public and that there is an active dialogue, including appropriate feedback with the specific publics affected by an issue.

While EPA finds that the plans are acceptable in identifying a public participation process, approval is conditioned upon the State establishing procedures to initiate and document actual public involvement and feedback to the interested publics within the framework that the State has identified in the plans. These procedures shall be identified by the State by August 1, 1979 and shall be carried out in the ongoing program.

Intergovernmental Involvement and Consultation

In general, the State identifies that the lead planning agencies are carrying out the measures necessary to satisfy this requirement. Principally, this is evidenced by the membership of local governmental officials on various policy, technical and advisory committees. EPA has found that the plans, with the exception of the Southern Tier Plan, are acceptable in satisfying the intergovernmental involvement and consultation requirements.

EPA has found that the intergovernmental consultation element in the Southern Tier Plan is not satisfactory in that the Jamestown area local government is not adequately represented. Intergovernmental consultation in that area is not apparent from the plan and this matter should be clarified and participation in the SIP development process verified by August 1, 1979 in order for this requirement be acceptable.

(9) *The SIP revisions shall provide an identification and brief analysis of the air quality, health, welfare, economic, energy, and social effects of the plan provisions chosen and the alternatives considered and a summary of the public comments on the analysis.*

EPA finds that this element is satisfactory in that the State has addressed the above criteria with regard to the air quality, social and economic acceptability for proposed transportation measures. With regard to stationary sources, no new plan provisions have been presented that would be subject to the criteria of this element.

(10) *The SIP revisions shall provide written evidence that the State and other governmental bodies have adopted the necessary requirements in legally enforceable form, and are committed to implement and enforce the appropriate elements of the SIP.*

As discussed under item (4) of this section under the heading, "Ozone-Stationary Source Control Measures," and item (6), the State has submitted proposed regulations and has requested that EPA review and seek comments on them in their present status. Since these regulations have not been adopted as of yet, they presently are not legally enforceable.

Under State administrative procedures, these proposed regulatory revisions have been subject to public hearings and approved by the New York State Department of Environmental Conservation; a 21-day notice to legislative leaders must now be

provided followed by filing with the Secretary of New York State. The proposed regulations become effective 30 days after this filing. As a result of these adoption procedures, the proposed regulations submitted by the State should, according to State estimates, be effective on or about August 10, 1979.

In requesting EPA review of proposed regulations, the State indicated that it does not expect them to change as a result of the steps remaining prior to final adoption. If the finally adopted regulations are not substantively different from those submitted in proposed form, EPA will not repropose action on them or provide for further public comment prior to final rulemaking. Consequently, EPA urges interested members of the public to review the proposed regulations in light of Clean Air Act requirements and to submit comments during the comment period established by this notice. EPA currently is proposing to find this element of the State's SIP revisions acceptable on the condition that substantively unchanged regulations are made effective and submitted to EPA by September 1, 1979.

EPA otherwise finds this element to be generally acceptable in that the plans have been officially adopted by the Governor and include commitments by responsible agencies to implement the activities for which they are responsible. In the case of local government responsibility, resolutions are included in the plans.

Unfulfilled Requirements

The following summary identifies plan improvement actions which EPA has found to be necessary for full, unconditioned approval of the five New York State plan revisions. These proposed conditions of approval are discussed in the section of this Federal Register notice entitled, "Part D Requirements." The appropriate item number in this section is referenced after each proposed condition.

(1) On or before January 1, 1980 the State must submit to EPA adopted and legally enforceable regulations requiring reasonably available volatile organic compound control technology on air pollution sources in each of following categories:

- vegetable oil processing
- petroleum refinery leaks
- gasoline tank trucks
- perchloroethylene dry cleaning
- pharmaceutical manufacture
- miscellaneous metal parts and products
- graphic arts
- pneumatic rubber tire manufacture
- flatwood paneling
- floating roof tanks

On or before January 1, 1981 the State must submit to EPA adopted and legally enforceable regulations requiring reasonably available volatile organic compound control technology on air pollution sources in categories addressed by Control Technology Guideline documents issued by EPA between February 1979 and January 1980. If, for a given source category, there are no such sources in the State, in lieu of meeting these requirements, the State may so certify this fact to EPA (item (4), "Ozone-Stationary Source Control Measures").

(2) On or before September 1, 1979, the State shall submit to EPA an enforceable procedure for minimizing the solvent content in all future emulsified asphalt usage (item (4), "Ozone-Stationary Source Control Measures").

(3) On or before January 1, 1980 the State must either hold public hearings to revise 6 NYCRR part 229, Gasoline Storage and Transfer, to regulate all petroleum liquid storage in fixed roof tanks or must provide EPA with an acceptable justification for not regulating the storage of petroleum liquids other than gasoline. If the State elects to revise Part 229, such revised regulation must be adopted and submitted to EPA on or before April 1, 1980 (item (4), "Ozone-Stationary Source Control Measures").

(4) On or before July 1, 1980 the State must submit to EPA criteria and procedures for making assessments of the consistency and conformity of the outputs of the transportation planning process with the SIP (item (4), "Ozone/Carbon Monoxide-Transportation Control Measures").

(5) On or before July 1, 1981 the State must submit to EPA additional emissions inventory data for the baseline year and projected attainment year indicated in each SIP revision document. Such data shall be in a format equivalent to that presented in the EPA document, *Workshop on Requirements for Nonattainment Area Plans*, April 1978 and shall be generated, in part, as a result of the emissions inventory improvement programs identified in the plans (item (5)).

(6) On or before August 1, 1979 the State must submit to EPA policy guidance issued to its appropriate offices indicating that Section 231.4(b) of 6 NYCRR should be interpreted to indicate that LAER control technology must be required on major new sources or existing sources undergoing major modification locating in an area where

standards are violated, regardless of whether the sources have a significant impact (as defined in the regulation) on air quality. On or before January 1, 1980 the State must hold public hearings to clarify Part 231 by revision to reflect this interpretation. Revised Part 231 must be adopted and submitted to EPA on or before April 1, 1980 (item 6)).

(7) On or before August 1, 1979 the State must establish procedures to initiate and document actual public involvement and feedback to the interested publics during its ongoing public participation program. Such documentation must be submitted to EPA (item (8), "Public Participation and Consultation").

(8) On or before August 1, 1979 documentation must be provided to EPA which indicates that the local government officials in Jamestown, New York have been consulted and participated in the SIP development process (item (8), "Intergovernmental Involvement and Consultation").

(8) On or before September 1, 1979 the State must certify to EPA that the following Parts of 6 NYCRR have been adopted as revised and are legally enforceable: Parts 200, 211, 212, 223, 226, 228, 229 and 231. EPA acceptance of this certification will be based on a determination that the regulations have not been substantively changed from those proposed regulations submitted as part of the plan revisions. Correction of regulatory deficiencies discussed in this action shall not be considered "substantive changes." Copies of the adopted regulations must be submitted along with the State's certification (item (10)).

Public Comment

Interested persons are invited to comment on any element of the subject revisions and on whether or not the proposed New York State Implementation Plan revisions meet Clean Air Act requirements. Comments received by (60 days following publication) will be considered in EPA's final decision. All comments received will be available for inspection at the Region II office of EPA at 26 Federal Plaza, Room 908, New York, New York 10007.

This notice of proposed rulemaking is issued under the authority of Sections 110, 172 and 301 of the Clean Air Act, as amended.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA has

reviewed this package and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: June 22, 1979.

Eckardt C. Beck,

Regional Administrator, Environmental Protection Agency.

[FR Doc. 79-23456 Filed 7-27-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1282-7]

Proposed Revision of the Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: Revisions to the Virginia State Implementation Plan (SIP) for the attainment of ozone and carbon monoxide standards have been submitted to the Environmental Protection Agency (EPA) by the Governor. The intended effect of the revisions is to meet the requirements of Part D of the Clean Air Act, as amended, "Plan Requirements For Nonattainment Areas". This Notice provides a description of the proposed SIP revisions, summarizes the Part D requirements, compares the revisions to these requirements, identifies major issues in the proposed revisions, and suggests corrective actions.

On April 4, 1979 (44 FR 20372 [1979]) EPA published a Notice entitled "General Preamble for Proposed Rulemaking on Approval of the State Implementation Plan Revisions for Nonattainment Areas". The general preamble supplements this proposal, by identifying the major considerations that will guide EPA's evaluation of the submittal. The EPA invites public comments on these revisions, the identified issues, the suggested corrections, and whether the revision should be approved or disapproved, especially with respect to the requirements of Part D of the Clean Air Act.

DATE: Comments must be submitted on or before August 29, 1979. On April 19, 1979 the Regional Administrator, EPA Region III, published a Notice of Availability (44 FR 23263[1979]) of the revised Virginia State Implementation Plan (SIP) for public inspection. The Regional Administrator believes that the additional 30 days now being afforded the public to comment will be sufficient. However, in the event the Regional Administrator receives a request for

additional time to submit comments, he will consider granting an extension of the present comment period for up to an additional 30 days.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th and Walnut Sts., Philadelphia, Pennsylvania 19106, Attn: Eileen M. Glen.

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M St., Southwest (Waterside Mall), Washington, D.C. 20460. Virginia State Air Pollution Control Board, Ninth Street Office Buildings, Room 1106, Richmond, Virginia 23219, Attn: John M. Daniel, Jr.

All comments on the proposed revisions submitted within 30 days of publication of this Notice will be considered and should be directed to: Mr. Howard R. Heim Jr., Chief, Air Programs Branch (3AH10), Air & Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, Curtis Building, 6th and Walnut Sts., Philadelphia, Pennsylvania 19106, Attn: AH300VA.

FOR FURTHER INFORMATION CONTACT: Miss Eileen M. Glen (3AH11), U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, telephone: 215/597-8187.

SUPPLEMENTARY INFORMATION:

Background

New provisions of the Clean Air Act, enacted in August 1977, Public Law No. 95-95, require States to revise their SIPs for all areas that do not attain the National Ambient Air Quality Standards (NAAQS). The amendments required each State to submit to the Administrator, a list of the NAAQS attainment status for all areas within the State. The Administrator promulgated these lists on March 3, 1978 (43 FR 8962 [1978]) and on September 12, 1978 (43 FR 40502 [1978]). Various portions of Virginia were designated as nonattainment for ozone and carbon monoxide. As a consequence, the Commonwealth of Virginia was required to develop, adopt, and submit to EPA revisions to its SIP for those nonattainment areas by January 1, 1979. The revisions must conform to requirements of Part D of the Clean Air Act and provide for attainment of the NAAQS as expeditiously as practicable. In accordance with these requirements, Maurice B. Rowe, Secretary of Commerce and Resources, acting on

behalf of Governor John N. Dalton submitted a revised SIP on January 12, 1979.

On April 19, 1979 (44 FR 23264 [1979]), EPA published a Notice of Availability of the Commonwealth of Virginia SIP revision and invited the public to inspect the plan. As yet, no public comments have been received. EPA has reviewed the SIP revision with respect to the requirements and criteria described or referenced in the Federal Register Notice published on April 4, 1979 (44 FR 20372 [1979]). This Notice to which interested persons may refer is entitled "General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas", and is incorporated herein by reference. A summary of the criteria for approving SIP's for nonattainment areas follows.

Criteria for Approval

The following list summarizes the basic requirements for nonattainment area plans.

1. Evidence that the proposed SIP revisions were adopted by the State after reasonable notice and public hearing.
2. A provision for expeditious attainment of the standards.
3. A determination of the level of control needed to attain the standards by 1982 and the criteria necessary for approval of any extension beyond that date.
4. An accurate inventory of existing emissions.
5. Provisions for reasonable further progress (RFP) as defined in Section 171 of the Clean Air Act.
6. An identification of emissions growth.
7. A permit program for major new or modified sources, consistent with Section 173 of the Clean Air Act.
8. Use of Reasonably Available Control Technology (RACT) control measures as expeditiously as practicable.
9. Inspection and Maintenance (I/M) if necessary, as expeditiously as practicable.
10. Necessary transportation control measures, as expeditiously as practicable.
11. Enforceability of the regulations.
12. An identification of and commitment to the resources necessary to carry out the plan.
13. State commitments to comply with schedules.
14. Evidence of public, local government, and State involvement and consultation, and the analysis of effects.

Ozone and Carbon Monoxide

Description of Proposed SIP Revisions

The Commonwealth of Virginia officially submitted the revised SIP to the Regional Administrator, EPA Region III, on January 12, 1979. Plans were submitted for each designated nonattainment area. However, Virginia further sub-divided the nonattainment Hampton Roads Air Quality Control Region (AQCR) into two submittals, one for the Peninsula and another for the Southeastern Virginia area.

The SIP contains provisions for controlling volatile organic compound (VOC) emissions from stationary and mobile sources. For oxidant nonattainment areas, EPA requires the adoption of reasonably available control technology (RACT) for eleven (11) VOC source categories. The Virginia SIP regulates sources in all 11 categories: solvent metal cleaning; tank-truck gasoline loading terminals; cutback asphalt; bulk gasoline plants; gasoline service stations—Stage I controls; storage of petroleum liquids in fixed-roof tanks; surface coating of large appliances; surface coating for insulation of magnet wire; surface coating of cans, coils, paper, fabrics, automobiles, and light-duty trucks; petroleum refinery sources; and, surface coating of metal furniture.

The submittal included a discussion of the necessary transportation controls and the commitments made by State and local officials. For a summary and review of the transportation portion of the Virginia SIP, please refer to the TRANSPORTATION CONTROL MEASURES (TCM) section which follows later in this Notice.

EPA has evaluated the Commonwealth of Virginia's SIP and has communicated the results of this analysis to the Commonwealth in meetings with the Virginia State Air Pollution Control Board (VSAPCB). An official transmittal, dated April 11, 1979, outlining EPA's comments on the SIP, was delivered to the Executive Director of the VSAPCB. The following discussion which applies to both ozone and carbon monoxide, unless specifically stated otherwise, will summarize the various elements of the Virginia SIP and will briefly present what has been submitted by the Commonwealth. On the basis of EPA's review to date, this Notice will indicate those items needing corrections or clarification; thus, unless otherwise stated, the remainder of the proposed plan is considered acceptable.

1. Adoption after Reasonable Notice and Hearing—The Commonwealth of

Virginia has adequately satisfied the requirements of this section. The Commonwealth published a public notice and held public hearings concerning the provisions of the SIP on October 10, 1978 and on December 18, 1978 in accordance with the requirements of the Clean Air Act. Subsequent to these hearings, the regulations were formally adopted.

2. Attainment Dates—Based on the January 12, 1979 SIP submittal, the Commonwealth does not anticipate achieving the ozone standard by the end of 1982 for any of the designated nonattainment areas. An extension of the deadline for achieving this standard, until the end of 1987, has been requested. EPA may approve such a request provided the Commonwealth demonstrates attainment by 1982 is impossible, despite the implementation of RACT for the VOC stationary source categories and the implementation of transportation control measures, including a motor vehicle I/M program. Several requirements for RACT and the commitments for I/M are deficient in the Virginia SIP. The Commonwealth is presently developing a new SIP demonstration based on the revised .12 ppm ozone standard. This new demonstration may contain revised attainment dates for some nonattainment areas.

3. Control strategy and demonstration of attainment—The Commonwealth submittal was developed on the basis of the former .08 ppm oxidant standard. Virginia is presently developing a revised control strategy and demonstration based on the .12 ppm ozone standard.

In the following sections of this Notice there are several references to the terms "design value" and "rollback." To avoid confusion or misunderstanding, these terms are defined below:

Design Value—the level of existing air quality used as a basis for determining the amount of change of pollutant emissions necessary to attain a desired air quality level.

Rollback—a proportional model used to calculate the degree of improvement in ambient air quality needed for attainment of a national ambient air quality standard.

For the purpose of consistency, there is a need for uniform design values for ozone in both the Virginia portion of the National Capital Interstate AQCR and in the Peninsula and Southeastern Virginia urbanized areas of the Hampton Roads Intrastate AQCR. In Northern Virginia, EPA requested that the Commonwealth select an ozone design value compatible with the design

value adopted by the District of Columbia and State of Maryland in their portions of the National Capital Interstate AQCR.

EPA believes the proximity of Newport News to Norfolk necessitates a reassessment of the justification of two different design values for the Peninsula and Southeastern Virginia areas and requested Virginia to justify the use of different design values. Virginia provided an acceptable justification for these design values in a May 23, 1979 letter to EPA.

4. Emission Inventory—Virginia has submitted a 1977 emission inventory. The accuracy of the inventory cannot be evaluated since source-specific operating data, actual calculations, and methods of estimation used in developing the inventory were not submitted. This does not satisfy the requirements of Section 172(b)(4) of the Clean Air Act, as amended.

5. Reasonable Further Progress—The Commonwealth's RFP presentation is adequate for its VOC demonstration but is inadequate for the TCM portion of the proposed SIP revision.

6. Margin for Growth—Virginia has adequately incorporated growth factors and projections in the SIP. However, a tracking system for emission growth rates was not submitted. Virginia is presently developing such a tracking system which should be submitted to EPA prior to final rulemaking.

7. Preconstruction Review—Section 172(b)(6) of the Clean Air Act requires a preconstruction review permit program for major new or modified sources conforming to the requirements of Section 173. This requirement is satisfied in the Commonwealth's submittal.

8. RACT as expeditiously as practicable—Several sections of the Commonwealth's air pollution control regulations for stationary sources of hydrocarbon emissions are not supported by the information in the Control Techniques Guidelines (CTG) documents issued by EPA. The CTG's provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information in the CTG's, EPA believes that the submitted regulations represent RACT, except as noted below. On the points noted below, the State regulations are not supported by the information in the CTG's, and the State must provide an adequate demonstration that its regulations represent RACT, or amend the regulations to be consistent with the information in the CTG's.

(a) The emission limitations on surface coating operations for the Ford assembly plant in Norfolk, Virginia (Section 4.55(e) of the regulations) are not considered RACT. These requirements are less stringent than the commitments made by automobile manufacturers in other areas of the nation.

(b) The emission limit for end seal surface coating of cans (Section 4.55(f)(4)(i)), is less stringent than RACT.

(c) The gasoline bulk loading—bulk plant regulations (Section 4.56(e)), require bulk plants with a throughput equal to or greater than 4,000 gallons per day to install a vapor control system that will remove or destroy no less than fifty (50) percent by weight of VOC. This emission limit does not represent RACT.

(d) Section 4.56(d)(3)(ii) provides an exemption from Stage I controls for service stations with a throughput of less than 20,000 gallons per month. RACT requirements do not allow any exemptions without specific justification.

(e) Section 4.54(a)(4)(i) provides a general exemption for sources of VOC emissions less than 7.3 tons per year, 40 pounds per day, or 8 pounds per hour. The Commonwealth has provided no justification for this exemption. Furthermore, this exemption allows a large portion of the sources in the solvent metal cleaning industry to go uncontrolled. There are a large number of small metal cleaning operations and these sources should be regulated to meet RACT.

(f) There are several deficiencies in the asphalt paving regulations in § 4.57(b). First, an exemption to this regulation on a seasonal basis is preferable to a temperature cutoff in order to enforce this regulation more easily. Also, the inclusion of an allowable solvent content in emulsified asphalt does not satisfy the requirements of RACT. EPA guidance states that if such an emulsion is used in place of cutback asphalt, and the emulsion contains less solvent than the replaced cutback, Virginia may allow this emulsion only as an interim measure until a switch can be made to an emulsion containing five percent or less solvent. Finally, the use of cutback asphalt as a tack coat does not conform to the requirements of RACT.

(g) Virginia's SIP includes a provision which exempts methyl chloroform (1,1,1 trichloroethane) and methylene chloride from the definition of "Nonmethane." These volatile organic compounds (VOC), while not appreciably affecting ambient ozone levels, are potentially harmful. Both methyl chloroform and

methylene chloride have been identified as mutagenic in bacterial and mammalian cell test systems, a circumstance which raises the possibility of human mutagenicity and/or carcinogenicity.

Furthermore, methyl chloroform is considered one of the slower reacting VOCs which eventually migrates to the stratosphere where it is suspected of contributing to the depletion of the ozone layer. Since stratospheric ozone is the principal absorber of ultraviolet light (UV), the depletion could lead to an increase of UV penetration resulting in a worldwide increase in skin cancer.

With the exemption of these compounds, some sources, particularly existing degreasers, will be encouraged to utilize methyl chloroform in amounts far exceeding that of other solvents. Endorsing the use of methyl chloroform by exempting it in the SIP can only further aggravate the problem by increasing the emissions produced by existing primary degreasers and other sources.

The Agency is concerned that the State has chosen this course of action without full consideration of the total environmental and health implications. The Agency does not intend to disapprove the State SIP submittal if, after due consideration, the State chooses to maintain these exemptions. However, we are concerned that this policy not be interpreted as encouraging the increased use of these compounds or compliance by substitution. The Agency does not endorse such approaches. Furthermore, State officials and sources should be advised that there is a strong possibility of future regulatory action to control these compounds. Sources which choose to comply by substitution may well be required to install control systems when future regulatory actions are taken.

9. I/M, if necessary, as expeditiously as practicable—I/M programs may be required in three regions in Virginia: The Virginia portion of the National Capital Interstate AQCR, the State Capital Intrastate AQCR, and the Hampton Roads Intrastate AQCR. Although legislation to implement an I/M program is under active consideration by Virginia as a result of a Joint Resolution of the General Assembly, the Commonwealth has not yet adopted such legislation or submitted a schedule for its enactment. As noted above, Virginia's updated control strategy and demonstration designed to meet the .12 ppm ozone standard may have an impact on the I/M requirement. See discussion on I/M in both the TRANSPORTATION CONTROL MEASURES and

INSPECTION/MAINTENANCE sections, below.

10. Transportation controls, if necessary, as expeditiously as practicable—A discussion of this subject is presented in the TRANSPORTATION CONTROL MEASURES section, below.

11. Enforceability—Several sections of the regulations are deficient from an enforceability viewpoint.

(a) Virginia's "bubble concept" is outlined in Section 4.55 (b). As presently written, in order to determine the compliance status of a facility under this regulation, every process line included in the plant "bubble" would have to be subjected to a stack test. EPA believes this regulation is not specific nor clear enough to be adequately enforceable.

(b) In the proposed SIP revision, Section 4.52 of the Virginia regulations governing hydrocarbon emissions is repealed upon approval of Sections 4.54, 4.55, 4.56, and 4.57 governing volatile organic compound emissions. It is contrary to EPA policy to approve as a SIP revision, the deletion of existing regulations while a source is moving toward compliance with new regulations or, if it chooses, challenging new regulations. This is necessary because existing regulations are to remain in effect and enforceable so as to prevent a source from operating without controls or under less stringent controls.

(c) Section 4.54(e), covering incinerator and afterburner operation for compliance with Sections 4.54 through 4.57, states their operation will not be required during the months of October through April for energy conservation reasons. This is acceptable.

(d) Test methods are not specified in Sections 4.54, 4.55, 4.56, and 4.57 to determine if the control methods are achieving the required emission limitations. The use of efficiency standards for these source categories is not enforceable without prescribing test methods.

(e) EPA recommends outlining compliance schedules, by industrial or process category, in the regulations instead of issuing compliance schedules on a case-by-case basis. Under Section 120 of the Act, sources not in compliance with SIP requirements or subject to a schedule for compliance included in the SIP may be subject to non-compliance penalties.

(f) The definition of "vapor tight" is expressed only in terms of vacuum pressure. It should also be expressed in terms of positive pressure.

(g) In Section 2.30(g)(1)(vi), a definition of "minor significance" is needed.

(h) In Section 2.03(a)(1), oral consent agreements are not adequately enforceable; therefore, this section is not approvable.

(i) In Section 2.33(f)(3), all new sources subject to New Source Performance Standards (NSPS) must be tested; this section should be changed to reflect this requirement.

(j) Section 2.33(c)(1)(ii), concerning required information for new sources needs clarification.

(k) The definition of "consent order" should contain provisions, specifically increments of progress, as required under Section 113(d) of the Clean Air Act and should be in the form of a Delayed Compliance Order (DCO).

(l) The definition of "Nonattainment area" should be in accordance with Section 171 of the Clean Air Act.

(m) The use of the phrase "will be considered acceptable compliance by the Board" in the regulation needs additional clarification. This clause should be revised to clearly state that a source must meet the emission limits specified in the regulations.

12. State commitments and resources to implement and enforce adopted measures—The Commonwealth of Virginia commits itself to assign resources as required or needed to carry out the requirements of the SIP. Although this commitment is contingent upon the constraints set by the Governor and the General Assembly, as well as upon the level of Federal funding received, EPA believes it to be sufficient.

13. State commitments to comply with schedules—EPA has published and will be issuing additional Control Technique Guideline documents (CTG's) for the control of stationary source categories of volatile organic compounds. Virginia has provided a commitment to submit regulations for all appropriate stationary source categories of VOC after EPA issues such guidance documents. This commitment is sufficient.

14. Evidence of public, local government and State involvement and consultation, and the analysis of effects—During the process of the development of the Virginia submittal, legislative involvement was evidenced in hearings held by the State Air Pollution Study Commission established by the General Assembly. Appropriate involvement was also evidenced in the process of consultation with local elected officials leading to the designations of planning agencies required under Section 174 of the Clean

Air Act, and in activities under that section of the Act. In response to a request from the Section 174 agencies, the Regional Administrator met with local elected officials to discuss the requirements of the transportation components of the SIP.

Involvement of local elected officials was supplemented in several cities through the administration of a Ford Foundation Grant for this purpose by the Virginia Polytechnic Institute and the State University in cooperation with VSAPCB.

Opportunities for public involvement included: (1) seminars on the requirements of the Clean Air Act held by the Virginia Conservation Council and the Virginia Division of Industrial Development; (2) public workshops or public forums held by the Section 174 agencies during plan development; and (3) citizens' advisory committees to the Section 174 agencies. The public also had access to hearings held by the State Air Pollution Study Commission and meetings and public hearings held on the SIP by the VSAPCB.

An identification and analysis of air quality, health, welfare, economic, energy, and social effects is included in Chapter 12 of the Virginia submittal. No public comments were made on this portion of the plan during the public hearings. For future submittals, a more complete and detailed analysis of these effects should be included.

Summary of Major Issues

Three of the above listed SIP elements contain major deficiencies: First, RACT requirements are not being met for six regulations: auto and truck surface coating, can coating, gasoline bulk plants, Stage I gasoline service stations, solvent metal cleaning, and asphalt paving. Second, the general enforceability of the VOC regulations is deficient. As stated above, the regulations should be clarified or revised to enhance their enforceability. If regulations are not enforceable, credit for reduction in emissions achieved through implementation of those regulations cannot be taken. We emphasize that Section 4.55(b) Virginia's "bubble concept" regulation, should be revised. Third, Virginia's commitment to implement the required I/M program is deficient. See the Transportation Control Measures section below, for the requirements of an acceptable commitment to an I/M program.

By letter dated April 11, 1979, these deficiencies have been communicated to the Commonwealth of Virginia with EPA's recommendation that they be rectified. The VSAPCB staff has

indicated that it will correct the majority of the deficiencies per EPA's recommendations.

Transportation Control Measures

Area Profiles

As a result of the ozone and carbon monoxide nonattainment designations discussed in the Background section of this Notice, the Governor of Virginia, on March 28, 1978, designated those agencies under Section 174 of the Clean Air Act responsible for the development and implementation of transportation control measures (TCM). Under the guidance of the Virginia State Air Pollution Control Board, which is responsible for the overall SIP, as well as for planning, coordination, and general enforcement activities, the designated local agencies developed their portions of the Transportation Control Plan as discussed in the following sections.

Richmond Area

In response to the ozone nonattainment designation for the City of Richmond, and Chesterfield and Henrico Counties, a process of consultation among the affected governments resulted in the Governor of Virginia designating the Richmond Area Transportation Policy Committee as the agency under Section 174 of the Clean Air Act to develop the transportation portion of the Virginia Implementation Plan. Based on a work program negotiated with the State, the Richmond Section 174 agency produced a plan entitled "January 1, 1979 Transportation Control Plan Submitted through the State Implementation Plan to the Environmental Protection Agency for the Richmond, Virginia Area" (December 1978); which after notice and public hearing, was incorporated into Chapter 10 of the Virginia SIP submittal for the State Capital nonattainment area for ozone.

Using a 1977 emissions inventory provided by the State Air Pollution Control Board, a design value of .225 ppm, and rollback, the volatile organic compound (VOC) emission reductions necessary to attain the .08 ppm ozone standard by 1982 is 64%. The Richmond plan estimates that despite the implementation of all current transportation projects programmed for completion by 1982, the Federal Motor Vehicle Control Program, and stationary source RACT measures, there will only be a 36.5% reduction of emissions instead of the required 64%. Therefore, the Commonwealth has requested a five (5) year extension of the 1982 attainment

deadline. Approval of such an extension will necessitate a schedule for the implementation of an inspection and maintenance program for motor vehicles; for the implementation of currently planned transportation control measures; and for the analysis, selection, and adoption of additional appropriate transportation control measures. The Richmond Area plan was developed using the .08 ppm ozone standard and is subject to revisions using the .12 ppm statistical ozone standard. This reassessment at .12 ppm may alter the determination of the amount of emission reductions needed for attainment of the standard.

The plan commits the Richmond Section 174 agency to the assessment of transportation measures identified in Section 108 of the Clean Air Act and expresses the intention of local governing bodies to pursue decisions for the "representative implementation" of recommended transportation control measures. A program for the tasks to be performed by the Section 174 agency during the alternatives analysis (of transportation measures) is in the Fiscal Year 1980 Unified Planning Work Program and is currently being reviewed by EPA and the Department of Transportation.

Southeastern Virginia

In response to the ozone nonattainment designation for the cities of Suffolk, Portsmouth, Chesapeake, Norfolk, and Virginia Beach, a process of consultation among the affected governments resulted in the Governor's designation of the Southeastern Virginia Planning District Commission as the Section 174 agency to develop the pertinent transportation component of the Virginia SIP. In his designation letter, the Governor specified that this agency would coordinate the preparation of the plan with the Southeastern Virginia Transportation Policy Committee. Based on a work program negotiated with the State, the Southeastern Virginia Planning District Commission produced a plan entitled "Southeastern Virginia Transportation Control Plan" (November 1978) which, after notice and public hearing, was incorporated into Chapter 10 of the Virginia SIP submittal for the Southeastern Virginia nonattainment areas.

Using a 1977 emissions inventory provided by the State Air Pollution Control Board, a design value of .18 ppm, and rollback, the amount of VOC reductions necessary to attain the .08 ppm ozone standard by 1982 is 56%. The plan estimates that despite the

implementation of all transportation control measures programmed for completion by 1982, the Federal Motor Vehicle Control Program, and stationary source RACT measures, there will be only a 17.9% reduction of emissions instead of the required 56%. Therefore, the Commonwealth has requested a five (5) year extension of the 1982 attainment deadline. Approval of such an extension will necessitate a schedule for the implementation of an inspection and maintenance program for motor vehicles; for the implementation of currently planned transportation control measures; and for the analysis, selection, and adoption of additional appropriate transportation control measures. The Southeastern Virginia Area plan was developed using the .08 ppm ozone standard and is subject to revision using the .12 ppm statistical ozone standard. This reassessment at .12 ppm may alter the determination of the amount of emission reductions needed for attainment of the standard.

The plan commits the Southeastern Virginia Section 174 agency to the reassessment and local application of transportation control measures necessary for attainment, including the reasonably available measures specified in Section 108(f) of the Clean Air Act. A program for the tasks to be performed by that agency is currently being reviewed by EPA and the Department of Transportation as part of the area's Unified Planning Work Program for FY 1980. All projects included in the SIP must result in emission reductions. Projects cannot be approved as part of the SIP without such a demonstration.

The Peninsula Area

In response to the nonattainment designation for ozone in the cities of Hampton and Newport News, a process of consultation among the affected governments resulted in the Governor's designation of the Peninsula Area Transportation Policy Committee as the Section 174 agency responsible for the development of the pertinent transportation component of the Virginia SIP. Based on a work program negotiated with Virginia, that agency produced a plan entitled "Transportation Control Measures Portion of the State Implementation Plan" (November 1978) which, after notice and public hearing, was incorporated into Chapter 10 of the Virginia SIP submittal for the Peninsula nonattainment area for ozone.

Using a 1977 emissions inventory provided by the State Air Pollution Control Board, a design value of .14 ppm, and rollback, the amount of VOC

reductions necessary to attain the .08 ppm ozone standard by 1982 is 43%. The Peninsula plan estimates that, despite the implementation of all current transportation projects programmed for completion by 1982, the Federal Motor Vehicle Control Program, and stationary source RACT measures, there will only be a 30% reduction of emissions instead of the required 43%. Therefore, the Commonwealth has requested a five (5) year extension of the 1982 attainment deadline. Approval of such an extension will necessitate a schedule for the implementation of an inspection and maintenance program for motor vehicles; for the implementation of currently planned transportation control measures; and for the analysis, selection, and adoption of additional appropriate transportation control measures. The Peninsula Area plan was based on the .08 ppm ozone standard and is subject to revision using the .12 ppm statistical ozone standard. This reassessment at .12 ppm may alter the determination of the amount of emission reduction needed for attainment of the standard.

The plan commits the Peninsula Section 174 agency to the implementation of a ride-sharing program to further expand the already active ride-sharing concept in the Peninsula area. The plan identified nine (9) transportation projects to which the FY 1979 Transportation Improvement Program is also committed; these also have an air quality impact. These projects include five (5) highway widening and construction projects, three (3) intersection improvements, and a system for synchronized traffic flow.

The plan also commits the Peninsula Section 174 agency to study and adopt additional measures necessary for attainment including those specified in Section 108(f) of the Clean Air Act as well as measures to improve land use management. A program for this work is currently being reviewed by EPA and the Department of Transportation in the area's Unified Planning Work Program for FY 1980.

Northern Virginia

1. In response to the ozone nonattainment designation for the counties and cities in the Northern Virginia portion of the National Capital Interstate AQCR and a nonattainment designation for carbon monoxide in the City of Alexandria, Arlington County, and Fairfax County; a process of consultation among the affected local governments resulted in the Governor's designation of the Board of Directors of the Metropolitan Washington Council of

Governments (COG) as the Section 174 agency to develop the transportation component of the Virginia SIP for Northern Virginia. COG was also designated as the Section 174 agency by the Mayor of the District of Columbia and the then Acting Governor of Maryland. Based on a work program negotiated with the State, the Council of Governments produced a document entitled "Washington Metropolitan Air Quality Plan for Control of Photochemical Oxidants and Carbon Monoxide" which after notice and public hearing was incorporated (including appendices A through G) in Chapter 10 of the Virginia SIP submittal for the Northern Virginia nonattainment area.

Using a 1977 emissions inventory provided by the State Air Pollution Control Board and a design value of .18 ppm, the State calculated that the amount of reduction in volatile organic compound emissions necessary to attain the .08 ppm ozone standard in Northern Virginia was 57%. EPA has requested Virginia recalculate the design value using an ozone design value compatible with the value used both by the District of Columbia and the State of Maryland in their portions of the National Capital Interstate AQCR. Using the .18 ppm design value, the Commonwealth determined that it would fall short of the emissions reduction required by 1982. COG, using a .225 ppm design value, calculated that there will only be a 17% reduction of emissions by 1982. The required emission reductions with either design value, therefore are predicted to be insufficient despite implementation of transportation control measures programmed for completion by 1982, the Federal Motor Vehicle Control Program, and stationary source RACT measures. Therefore, the Commonwealth has requested a five (5) year extension of the 1982 attainment deadline. Approval of such an extension will necessitate a schedule for implementation of an inspection and maintenance program for motor vehicles; for the implementation of currently planned transportation control measures; and for the analysis, selection, and adoption of additional appropriate transportation control measures.

2. For the carbon monoxide nonattainment areas consisting of Arlington County, the City of Alexandria, and portions of Fairfax County, the Commonwealth has indicated that, by using a region-wide analysis of carbon monoxide emissions, the nonattainment areas will be in attainment by 1982. However, EPA has requested that the Commonwealth

reassess this analysis using a localized analysis for carbon monoxide "hot spots." The analysis which had been provided did not include "hot spot" sites together with appropriate transportation control measures at those sites, nor did it agree with the conclusions of the carbon monoxide "hot spot" analysis performed by the Metropolitan Washington Council of Governments.

EPA requested Virginia to clarify the rationale for determining the carbon monoxide design value and to perform an analysis of all "hot spot" sites that conclusively demonstrates the attainment/nonattainment status by 1982. EPA also requested that Virginia construct a line of reasonable further progress showing annual incremental reductions for carbon monoxide and submit it with the "hot spot" analysis. The VSAPCB has not yet submitted this analysis.

3. In preparing its plan, the Metropolitan Washington Council of Governments recommended 28 transportation measures as appropriate for consideration in the 1979 SIP submittal. These measures were selected from an initial list of 70 measures identified as having potential for reducing transportation-related emissions. COG has proposed an analysis of alternatives which will review all 70 of the measures to be considered for possible inclusion into the State Implementation Plan.

COG presented the 28 measures to the local governing bodies for endorsement and commitment actions. Fairfax City was the only jurisdiction that did not respond. The following measures have received endorsement and a degree of commitment for implementation by one or more of the jurisdictions as shown below:

(1) Continue Construction of Metrorail (Completion of presently committed 60 miles):

Arlington County
City of Alexandria
City of Falls Church

(2) Eliminate All-Day On-Street Non-Resident Parking Where Appropriate:

Arlington County
City of Alexandria
City of Falls Church

(3) Build/Designate Exclusive Lanes for High Occupancy Vehicles (Buses, etc.):

City of Alexandria

(4) Reserve Convenient Parking Spaces for Carpools/Vanpools:

Arlington County

(5) Build Additional Bicycle Lanes and Bikeways:

Arlington County
City of Alexandria
Fairfax County
City of Falls Church

(6) Provide and Improve Regional and Local Ride-Share Activities:

City of Falls Church

(7) Install Additional Bicycle Storage Facilities:

City of Falls Church

(8) Encourage Specialized Bus Service:

Loudoun County

(9) Include Metrobus Information With Carpool/Vanpool Information and Vice Versa:

City of Falls Church

(10) Provide Additional Pedestrian Facilities and Eliminate Barriers:

Arlington County
City of Alexandria
City of Falls Church

(11) Provide Free or Discounted Transit Rides in Off-Peak Hours:

Fairfax County

(12) Improve Signalization in the Region:

Arlington County
City of Alexandria

The extent of these commitments and other actions are detailed in Appendix E of the COG plan. Transportation projects are also identified in Chapter 10 of the Virginia SIP for Northern Virginia. More clarification and justification for the process of selecting or rejecting transportation control measures should be provided. EPA will concur in the rejection of any measure when evidence is provided justifying such action.

COG has prepared an application to develop a work program for continuing transportation and air quality planning activities which was funded by the Urban Mass Transportation Administration on March 30, 1979. This work program is expected to be completed in September 1979.

4. EPA requests a better definition of the division of planning responsibilities between the Metropolitan Washington Council of Governments and the Commonwealth of Virginia in order to eliminate the duplication of effort found in the 1979 plans, specifically in regard to emission inventories and control strategy demonstrations for carbon monoxide and ozone in the Northern Virginia area.

Inspection/Maintenance

In the Governor's designation letter for Section 174 agencies dated March 27, 1978, he delegated the responsibility to develop I/M legislation to the State Air Pollution Study Commission created by Joint Resolution #37 of the 1978 General Assembly of Virginia. The Commission conducted numerous meetings and public hearings in the State concerning the development of an I/M program.

The Virginia Legislature does not make appropriations for capital items during the off-budget years of the biennium budget. The Commonwealth has stated that this prevented the adoption of necessary I/M programs. The biennium budget for the Commonwealth of Virginia is approved only during the General Assembly's long session, held in even numbered years. The Governor petitioned EPA on November 8, 1978 citing this fact and the fact that the upcoming 1979 short session would be in an off-budget (odd) year where major revenue intensive measures, such as would be required to implement any type of I/M program, cannot be considered. The Governor thus requested a one year extension (until June 30, 1980) so that the legal authority for I/M can be obtained during the 1980 General Assembly Session.

EPA declined the Executive Branch's request for an extension on January 3, 1979, stating that consideration of such a request was premature and that any such request must come from the co-equal Legislature. An extension request could be evaluated only after due consideration by the Legislature, a finding of insufficient opportunity to enact the necessary I/M legislation, and a confirmation of the Legislature's commitment to consider I/M legislation during the next session.

When Virginia submitted its SIP revision, it included a tentative schedule in Chapter 9 of the four major urbanized nonattainment plans for the implementation of I/M for both the contractor and private-garage approaches. This schedule, however, is based on anticipated 1980 legislative authority for the program. On March 9, 1979, the Governor submitted a letter to EPA requesting reconsideration of a one year legislative extension, and enclosed as an attachment Senate Joint Resolution #118 which continues the Air Pollution Study Commission until December 1, 1979, when it is to provide its report and recommended legislation to the Governor and to the General Assembly. EPA has not yet approved the request for an extension of the July 1, 1979 legislative deadline and

continues to request confirmation from the Commonwealth regarding the legislative commitment to an I/M program.

In addition to adequate I/M legislation being submitted, in order for eventual full approval of the SIP to be granted, it is also necessary for Virginia to submit a schedule for implementation of the program, and to provide a clear commitment to implement and enforce the I/M program and to reduce emissions 25.0 percent by 1987. This information will be required as part of the I/M legislation SIP submittal in 1980, if an extension of the July 1, 1979 legislative deadline is granted.

General Evaluation of Transportation Control Measures

In the foregoing sections, profiles were presented of the transportation components of the plan for the four designated areas. Also covered were EPA's comments concerning the vehicle Inspection/Maintenance program as it would apply to those areas. Presented in this section are those additional major comments resulting from a general evaluation of the transportation control measures.

1. In reviewing the transportation control components of the Commonwealth's submittal, EPA solicited comments from the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Transportation (DOT). HUD's comments to EPA were germane, only to Northern Virginia and basically supported the proposed transportation control measures since they complement the objectives of the President's National Urban Policy.

With the exception of the Northern Virginia area, the U.S. DOT noted a serious discrepancy in the emissions inventory provided for the transportation control plans. The VSAPCB submittal of January 12, 1979 contains an updated emissions inventory different from the emissions inventory in the transportation control plans. EPA requests the VSAPCB clarify this issue so that EPA can conduct its final review. Another major comment made by U.S. DOT was its concern about the relative burden to reduce emissions borne by transportation sources as compared to stationary sources.

2. On April 11, 1979, EPA met with the staff of the Virginia State Air Pollution Control Board to review Virginia's submittal. General comments on the transportation portion of the plan, including the control strategy demonstrated, adoption of control measures, and commitments, were

presented to the State at that time. Comments concerning the review of the transportation components were also discussed at a meeting with the Peninsula and Southeastern Virginia Section 174 agencies staff on April 25, 1979 and with the staff of the Richmond Agency on April 30, 1979. EPA's previous meetings and comments on drafts prepared by the Metropolitan Washington Council of Governments resolved EPA's concerns regarding the plan it had prepared. EPA's comments on the Northern Virginia plan prepared by the VSAPCB were therefore directed to that agency.

3. EPA also communicated its concern to the VSAPCB regarding the absence of commitments from local officials in the Peninsula and Southeastern Virginia areas to meet the requirements of Section 172(b)(10). This item was the focal point of subsequent meetings with those Section 174 agencies. EPA was most concerned with the status of commitments to implement transportation measures. The Virginia Department of Highways and Transportation (VDH&T) related the fact that in Virginia the process for transportation commitments emanates from local governments. Projects programmed in the Transportation Improvement Program carry with them a local commitment for their implementation. Thus, local governments have a substantial voice in deciding projects to be included in the programming process. Further, Virginia has a history of adhering to the priorities articulated in the programming process. This results in a high percentage of the locally proposed transportation projects being constructed. However, EPA requests further clarification from the Commonwealth on the commitments to implement the identified TCM's and is requesting public comment on the adequacy of these commitments.

Commitments to use available funds and grants to meet basic transportation needs have been described to various degrees in the transportation components of the Virginia submittal. Most notably, endorsements and commitments have come from some transit operating agencies including the Washington Metropolitan Area Transit Authority, the Peninsula Transportation District Commission, and the Tidewater Transportation District Commission.

The Richmond area plan describes the local commitment in terms of current efforts for improving public transportation services. EPA considers these commitments adequate at this time. However, EPA will be issuing additional requirements on basic

transportation needs in the future which may require a reassessment of their adequacy.

4. EPA requested a clear description of the transportation planning and programming process. VDH&T provided EPA with a copy of the Virginia State Action Plan for EPA review and this now appears to be acceptable.

EPA also considers the procedures for determining consistency between the transportation plans and programs that are presently incorporated in the SIP to be adequate. However, criteria for determining conformity must eventually be developed in accordance with forthcoming U.S. DOT and EPA guidance on this subject.

5. EPA requested a verification that the growth projections used by the Section 174 agencies was consistent with growth projections used by State and federal agencies. The VSAPCB related in a letter dated April 23, 1979 that the Commonwealth is bound to the projections produced by the State Department of Planning and Budget in accordance with Commonwealth statutes and an Executive Order by the Governor. The latest current series is dated June 1977. (The next projection is scheduled for June 1979). In Northern Virginia, the VSAPCB has based its plan on the Commonwealth's projections. The Metropolitan Washington Council of Governments used cooperative forecasts developed by COG and member local governments. While these projections vary, those used by the Commonwealth in the proposed SIP, are acceptable.

6. All four urbanized areas requiring transportation measures have included descriptions for alternatives analysis in their FY 1980 Unified Planning Work programs which are currently under review by EPA and the U.S. Department of Transportation. The analyses of alternatives are to be included in the submittal due in July 1982. Through an amendment to its FY 1979 work program, COG has been a recipient of a Section 175 grant for the purpose of developing an acceptable description for alternative analysis as well as for the purpose of beginning initial tasks necessary for such analysis. Upon receipt of an acceptable work program from the four Virginia areas involved, EPA and U.S. DOT will initiate an offer of Section 175 grants to the appropriate agencies.

The estimated identification of resources necessary for commencing the process of alternatives analysis has been submitted by the Section 174 agencies in their FY 1980 Unified

Planning Work Program. These are currently under review.

EPA noted that Chapter 12 of the Virginia plan contains only a cursory analysis of energy, economic, environmental, and social impacts of the plan. An analytical method needs to be developed so that a more extensive assessment can be made during the analysis of alternatives. This analysis is necessary for the submittal due in July 1982.

EPA requested that programs to monitor and determine the effects of committed transportation measures and more extensive public participation and education be developed by the Section 174 agencies as elements in their work programs for alternatives analysis.

7. EPA requested and received documentation on how the emission reductions were calculated for the transportation components. The Southeastern and Peninsula areas provided citations at the April 25 meeting; Richmond provided supplemental information to EPA on May 9, 1979. This supplemental information is acceptable.

8. Provisions for reporting progress through the planning and implementation period will be preformed by the Commonwealth and the Section 174 agencies will be submitting quarterly progress reports per the requirements of their Section 175 grant.

9. The Commonwealth should review the current transportation projects for those that have a positive air quality benefit. Only measures found to have both long- and short-term benefits should be submitted as part of the SIP. The measures in the plan must include schedules, including interim milestones and commitments by responsible agencies to implement needed measures.

Summary of Major Issues

Presented in the following paragraphs is a synopsis of major deficiencies of the transportation components of the Virginia submittal.

1. The VOC emissions inventory in the final State submittal differs from the emissions inventories provided for the transportation components.

2. The estimation of emission reduction necessary to attain the VOC and Carbon Monoxide NAAQS has been expressed in the profiles of each nonattainment area. These may change due to a reassessment using the new ozone standard, clarification of the VOC emission inventory used by the VSAPCB, and the redetermination of ozone design values for the Northern Virginia, Peninsula, Southeastern

Virginia, and Richmond areas. The outcome of the reassessment of carbon monoxide "hot spot" analysis in Northern Virginia will determine the prospects for attainment in 1982. This reassessment and submittal must include an RFP line showing annual incremental reductions for carbon monoxide.

3. A schedule for the development of the I/M legislative package must be provided by a legislative authority before EPA can rule on the Governor's request for an extension of the July 1, 1979 legislative deadline. EPA has asked Virginia to provide the schedule of activities leading to an I/M program as set out in Chapter 9 of the Virginia SIP.

Conclusion

The measures proposed today, if formally approved by EPA, will be in addition to, and not in lieu of, existing SIP regulations. The present emission control regulations of any source will remain applicable and enforceable to prevent a source from operating without controls or under less stringent controls, while it is moving toward compliance with the new regulations (or, if it chooses, challenging the new regulations). Failure of a source to meet applicable pre-existing regulations will result in appropriate enforcement action, including assessment of non-compliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability of enforceability of the new regulations, because of a court order or for any other reason, the pre-existing regulations will be applicable and enforceable.

The only exceptions to this rule are cases where there are conflicts between the requirements of the new regulations and the requirements of the existing regulations such that it would be impossible for sources to comply with the new regulations. In these situations, the Commonwealth may exempt sources from compliance with the pre-existing regulations. Any exemption granted would be reviewed and acted on by EPA either as part of these proposed regulations or as future SIP revisions.

The public is invited to submit, to the address stated above, comments on whether the proposed amendments to the Commonwealth of Virginia air pollution regulations should be approved as a revision of the Commonwealth's SIP. The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination of whether the amendments meet the requirements of Part D and Section 110(a)(2) of the Clean

Air Act and 40 CFR Part 51. Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

A supplement to an April 4, 1979 Notice of Proposed Rulemaking (44 FR 20372 [1979]) was published on July 2, 1979 (44 FR 38583 [1979]) involving, among other things, conditional approval. EPA proposes to conditionally approve the plan where there are minor deficiencies and the State provides assurances that it will submit corrections on a specified schedule. This notice solicits comments on what items should be conditionally approved. A conditional approval will mean that the restrictions on new major source construction will not apply unless, (1) the State fails to submit, by dates to be scheduled, SIP revisions necessary to remedy the deficiencies or (2) the revisions are not approved by EPA.

Deficiencies in the Commonwealth's plan that are not corrected may be cause for disapproval of the proposed revisions to the SIP. However, EPA is aware that the Commonwealth is preparing revisions to the current SIP proposal that may rectify plan deficiencies.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. §§ 7401-7642)

Dated: July 16, 1979.

Jack J. Schramm,
Regional Administrator.

(FR Doc. 79-23457 Filed 7-27-79; 8:45 am)

BILLING CODE 6560-01-M

[40 CFR Part 65]

[FRL 1285-8]

Proposed Disapproval of an Administrative Order Issued by the Pennsylvania Department of Environmental Resources to the Bethlehem Steel Corp.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to disapprove an Administrative Order (the "Order") issued by the Pennsylvania Department of Environmental Resources ("DER") to the Bethlehem Steel Corporation. The

Order was submitted by DER for approval by EPA as an order issued under Section 113(d)(4) of the Clean Air Act (the "Act"). The Order requires the Company to install control equipment on its Bethlehem Plant blast furnaces in Bethlehem, Pennsylvania by July 31, 1980. Because the Order has been issued to a major stationary source and permits a delay in compliance with provisions of the Pennsylvania State Implementation Plan ("SIP"), it must be approved by EPA before it becomes effective as a Delayed Compliance Order under the provisions of Section 113(d) of the Act. If approved by EPA, the Order will constitute part of the SIP. Furthermore, a source in compliance with an approved order issued under Section 113(d)(4) may not be sued by the Federal government under Section 113 of the Act or by a citizen under Section 304 of the Act for violations of the SIP regulations covered by the order during the period the order is in effect. The purpose of this notice is to invite public comment on EPA's proposed disapproval of the Order as a Delayed Compliance Order.

Pursuant to 40 C.F.R. Part 65, 43 FR 44522 et. seq. (September 28, 1978), EPA will make available to any interested party information concerning the basis for the proposed disapproval of the order. Such information includes the Order and attachments (a proposal for a "Blast Furnace Ambient Air Quality Sampling Study," a copy of the public notice of the State order, and Bethlehem Steel Corporation's "Justification for Determination of Facility as a New Means of Emission Limitation for Blast Furnace Cast House Emissions") and EPA's Rationale Document in support of its proposed disapproval of the Order.

DATE: Written comments must be received on or before August 29, 1979.

ADDRESSEES: Comments should be submitted to Director, Enforcement Division, EPA, Region III, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106. The Order, supporting material, EPA Rationale Document and public comments received in response to this notice may be inspected and copied (for appropriate charge) at the above address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Watman, at the above address or telephone (215) 597-0913.

SUPPLEMENTARY INFORMATION: Bethlehem Steel Corporation operates an integrated steel mill at Bethlehem, Pennsylvania. The Order under consideration requires reduction of emissions from the four blast furnaces (designated B, C, D and E) at the facility,

which are subject to the emission limitations in §§ 123.1, 123.41 and 123.13 of 25 Pennsylvania Code, Chapter 123, "Standards for Contaminants."

The above-referenced regulations limit the emission of visible and fugitive particulate matter and are part of the Federally approved Pennsylvania State Implementation Plan. The Order requires installation of hoods over the iron notch and trough of blast furnaces B, C, D and E by July 31, 1980, and is based on a control program presently being implemented by Bethlehem.

Because the Order has been issued to a major stationary source of particulate emissions and permits a delay in compliance with the applicable regulations, it must be approved by EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the clean Air Act. EPA may approve the Order only if it satisfies all of the requirements of Section 113(d).

EPA proposes disapproval of the Order as an order under Section 113(d)(4) of the Act because the following requirements have not been satisfied: (i) the provisions of Section 113(d)(1)(C) requiring interim requirements for source operation during the pendency of the order; (ii) the provisions of Section 113(d)(1)(D), requiring final compliance; (iii) the provisions of Section 113(d)(4)(A), requiring the use of a "new means" of emission limitation; and (iv) the provisions of Section 113(d)(4)(C), requiring achievement of an equivalent continuous emission reduction at lower cost or a greater continuous emission reduction at the same cost.

If the Order were to be approved by EPA as a Section 113(d)(4) order, compliance by the source with the terms of the Order would preclude Federal enforcement action under Section 113 of the Act against the source for violations of the SIP requirements covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute part of the Pennsylvania SIP.

All interested persons are invited to submit written comments on the Order. Written comments received by the date specified above will be considered in EPA's final determination regarding the Order. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the Order in 40 CFR part 65.

(42 U.S.C. 7413, 7601)

Dated: July 5, 1979.

Jack J. Schramm,
Regional Administrator, Region III.

(FR Doc. 79-23462 Filed 7-27-79; 8:45 am)

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 79-180; RM-3133 and RM-3159]

FM Broadcast Stations in Athens and New Boston, Ohio, and Greenup and Vanceburg, Ky.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making and Order to Show Cause.

SUMMARY: First FM channel assignments are proposed for New Boston, Ohio, and Greenup, Kentucky. These are considered together because of the need to coordinate site selection to avoid short-spacings between the channels for those communities. Station WXTR(FM) at Athens, Ohio, is ordered to show cause why it should not shift channels to make the proposed assignments possible. Action taken herein is in response to petitions filed by New Boston Broadcasting Corp. and Greenup Broadcasting, Inc.

DATES: Comments must be filed on or before September 18, 1979, reply comments on or before October 8, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Louis C. Stephens, Broadcast Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Athens and New Boston, Ohio, and Greenup and Vanceburg, Kentucky); proposed rule making and order to show cause.

Adopted: July 20, 1979.

Released: July 28, 1979.

1. We invite comments on the following proposed changes for the cities listed below to the FM Table of Assignments, Section 73.202(b) of the Rules:

City	Channel No.	
	Present	Proposed
Athens, Ohio.....	252A, 288A	240A, 252A
Greenup, Kentucky.....		288A
New Boston, Ohio.....		265A
Vanceburg, Kentucky.....	265A	261A

2. Petitioner, New Boston Broadcasting Corporation, licensee of W101, a daytime-only AM station in New Boston, Ohio, seeks the assignment of FM Channel 285A to provide New Boston with its first local full-time radio service.¹ New Boston, population 3,325,² is surrounded on all sides by Portsmouth, Ohio.

3. Three broadcast licensees oppose the New Boston petition. Two of them, WPAY, Inc. and T/R, Inc., each the licensee of a daytime-only AM station and an FM station at Portsmouth, and the third, Ohio Valley Broadcasting Company ("Ohio Valley"), licensee of daytime-only AM radio station WKKS at Vanceburg, argue that Portsmouth's four radio stations and petitioner's daytime-only station at New Boston adequately serve the Portsmouth-New Boston communities and nearby areas. They allege, as a result, that the need for the proposed FM channel assignment to New Boston has not been demonstrated. Ohio Valley also states that it is contemplating applying for an FM station at Vanceburg on Channel 285A. If the assignment proposed here were made, it asserts that the transmitter for a Vanceburg station on the proposed substituted Channel 261A would have to be located across the Ohio River "more than 80 miles of traveling time away" in order to avoid short-spacing to Station WKDS at Winchester, Kentucky. Petitioner responds that the opposition overlooked reports that the city is in the process of reestablishing ferry service across the Ohio River at Vanceburg.

4. We believe that petitioner has made a sufficient showing to warrant consideration of its proposal.³ Although New Boston is a rather small community compared to Portsmouth, it may well have separate needs which warrant assigning a Class A FM channel. We are issuing this Notice to consider that possibility and invite comments to establish that separate need. With respect to the transmitter access problem contemplated by Ohio Valley, we note that recent developments appear to make the transmitter site feasible. A status report as to ferry service would be useful, as would a showing that despite terrain obstacles, principal community coverage of

¹This assignment would be short-spaced, but this problem could be avoided by substituting Channel 261A for unused Channel 285A at Vanceburg, Kentucky.

²Unless otherwise indicated, all population figures are taken from the 1970 U.S. Census.

³Preclusion would not occur in any community with at least 1,000 population which lacks an FM station.

Vanceburg could be obtained on Channel 261A from an available transmitter site.

5. Greenup Broadcasting, Inc., seeks the assignment of Channel 288A at Greenup, Kentucky, population 1,284. Greenup, which has no locally assigned AM or FM station, is the seat of Greenup County, 1975 population 33,800. The proposed assignment would be short-spaced to Channel 288A at Athens, Ohio, but this could be avoided by substituting Channel 240A for Channel 288A there. WATH, Inc., licensee of FM Station WXTQ, operating on Channel 288A at Athens, opposes the assignment. It alleges that his substitution would disrupt its operation and asserts that Greenup presently receives adequate service from stations located in other communities.

6. The objections advanced by WATH, Inc. do not provide adequate justification for refusing to consider the proposed channel changes at Greenup, Kentucky, and Athens, Ohio. First, in the event Station WXTQ is modified to specify the substitute channel in accordance with this proposal, the reasonable costs for this step will be borne by the permittee for the Greenup channel. And, with respect to the second objection, we note that service from outside communities is not the equivalent of that from a locally assigned station.

7. Channel 288A at Greenup would be short-spaced by 1.9 kilometers (1.2 miles) to co-channel Station WPRT-FM at Prestonburg, Kentucky, to the south and by 3.2 kilometers (2 miles) to the proposed Channel 285A at New Boston to the north. These short spacings, combined with the location of Greenup on the Ohio River, would require the Greenup transmitter to be located approximately 3.2 kilometers (2 miles) northwest of its community and the New Boston transmitter to be located at least 8 kilometers (5 miles) north of its community. In order for us to proceed with the proposal, we need a showing that suitable transmitter sites are available from which the required coverage could be provided to each of the communities of license.

8. Accordingly, we propose to amend § 73.202(b), the Table of FM Assignments, as set out in paragraph 1.

9. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

10. Interested parties may file comments on or before September 18, 1979, and reply comments on or before October 8, 1979.

11. Further, it is ordered, that pursuant to section 316(a) of the Communications Act of 1934, as amended, WATH, Inc. show cause why, if Channel 240A is substituted for Channel 288A at Athens, Ohio, the license of WXTQ should not be modified to specify operation on Channel 240A in lieu of Channel 288A, if the Commission determines that the public interest would be served by adopting the proposed assignments.

12. Pursuant to § 1.87 of the Commission's Rules and Regulations, the licensee of Station WXTQ may, not later than October 8, 1979, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, WATH, Inc., may, not later than October 8, 1979, file a written statement showing with particularity why its license should not be modified or not so modified as proposed in the *Order to Show Cause*. In this case, the Commission may call on WATH, Inc. to furnish additional information, designate the matter for hearing, or issue without further proceeding, an Order modifying the license as provided in the *Order to Show Cause*. If the right to request a hearing is waived and no written statement is filed by the date referred to above, WATH, Inc. is deemed to consent to the modification as proposed in the *Order to Show Cause* and a final Order will be issued by the Commission if the channel changes referred to in paragraph 1 above are found to be in the public interest.

13. For further information concerning this proceeding, contact Louis C. Stephens, Broadcast Bureau, (202) 632-6302. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.
Richard J. Shiben,
Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and

307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of

service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 79-23391 Filed 7-27-79; 8:45 am]

BILLING CODE 6712-01-M

[47 CFR Part 73]

[BC Docket No. 78-368; RM-3155]

FM Broadcast Stations in Rio Grande City and Roma-Los Saenz, Tex.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Further Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the deletion of an FM channel from Rio Grande City, Texas, and its assignment to Roma-Los Saenz, Texas. Petitioner, Tele View, states the proposed assignment could provide Roma-Los Saenz with its first full-time local aural broadcast service.

DATES: Comments must be filed on or before September 18, 1979, and reply comments must be filed on or before October 8, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Rio Grande City and Roma-Los Saenz, Texas); Further notice of proposed rule making.

Adopted: July 18, 1979.

Released: July 25, 1979.

1. On November 7, 1978, the Commission adopted a *Notice of Proposed Rule Making*, 43 FR 54111, proposing the assignment of FM Channel 285A to Roma-Los Saenz, Texas. Tele View ("petitioner") requested the deletion of Channel 249A from Rio Grande City, Texas, and its assignment to Roma-Los Saenz.

However, the Commission proposed Channel 285A, which was available for assignment, in order to avoid the deletion of the Rio Grande City channel. The Channel 285A assignment to Roma-Los Saenz was proposed contingent upon approval of the Mexican Government. Since then we have been advised by the Mexican authorities that the assignment of Channel 285A to Roma-Los Saenz would conflict with their proposed use of the same channel to San Rafael de las Tortillas.

2. Roma-Los Saenz (pop. 2,154) in Starr County (pop. 17,707),¹ is located on the Rio Grande River, approximately 129 kilometers (80 miles) south of Laredo, Texas. It has no local aural broadcast service. Rio Grande City has a population of 5,676. Channel 249A is the only FM channel assignment in Rio Grande City. It is unoccupied and unapplied for.

3. Petitioner claims that the population of Roma-Los Saenz is growing rapidly due to the legal immigration of Mexican nationals into the community. It states that the economic activities in the community are retail sales, public employment, especially in the school system, and agriculture and farm labor. It asserts that there are no AM, FM or television stations in Starr County. Petitioner states that it will apply for the channel, if assigned.

4. Channel 249A is the only channel which can be assigned to Roma-Los Saenz. Since no interest has been shown for its use at Rio Grande City, we are proposing its deletion from that community and its assignment to Roma-Los Saenz where a demand has been expressed for an FM assignment. Channel 249A could be used to bring a first local aural broadcast service to Roma-Los Saenz.

5. Accordingly, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the cities listed below, as follows:

City	Channel No.	
	Present	Proposed
Rio Grande City, Texas	249A	
Roma-Los Saenz, Texas		249A

16. Since Roma-Los Saenz is located within 320 kilometers (199 miles) of the United States-Mexico border, the proposed assignment of Channel 249A to that community is subject to concurrence by the Mexican Government.

¹ Population figures are taken from the 1970 U.S. Census.

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before September 16, 1979, and reply comments on or before October 6, 1979.

9. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Richard J. Shiben,
Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties, must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 79-23390 Filed 7-27-79; 8:45 am]

BILLING CODE 6712-01-M

[47 CFR Part 73]

[BC Docket No. 79-181; RM-3190]

FM Broadcast Station in Tahoe City, Calif.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The Commission invites comments on a proposal to assign FM Channel 243 to Tahoe City, California. The Commission rejected the objection by the licensee of Station KEZC, an FM station assigned to Truckee, California, and agreed to consider the assignment proposed by the Messrs. Fox, Laufer and Loe.

DATES: Comments must be filed on or before September 21, 1979, and reply comments on or before October 11, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C., 20554.

FOR FURTHER INFORMATION CONTACT: Louis C. Stephens, Broadcast Bureau (202)632-6302.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Tahoe City, California); notice of proposed rule making.

Adopted: July 23, 1979.

Released: July 26, 1979.

1. Robert L. Fox, Ira E. Laufer and David A. Loe ("FLL"), request the assignment of Class B FM Channel 243 to the unincorporated community of Tahoe City, California. An opposition was filed by Lake Tahoe FM, Inc., ("KEZC"), licensee of Class A FM Station KEZC, assigned to Truckee, California, some 19 kilometers (12 miles) from Tahoe City.

2. Tahoe City is described as being one of the communities located adjacent to Lake Tahoe, a 33.6 kilometer (21 mile) long mountain lake on the California-Nevada border near Reno. It has a small year-round population: 1,394, according to the 1970 U.S. Census. In the summer, tourists swell the North Shore population to an estimated 75,000.

3. Neither Tahoe City nor any of the other North Shore communities bordering on Lake Tahoe has a locally-assigned AM or FM station, and FLL believes one is needed to provide a local outlet not only for Tahoe City, but also for other "North Shore" communities. FLL also indicates interest in serving the "South Shore" as well, which includes the community of South Lake Tahoe, whose population (12,921 in 1970) is much larger than Tahoe City's 1,394.

4. KEZC questions whether Tahoe City is a distinct community meeting Commission requirements for a channel assignment. KEZC indicates that the petitioner has the burden of showing that the proposed location is such a community. According to KEZC, this petitioner has failed to do so. We cannot

agree. The fact that Tahoe City is unincorporated and had only 1,394 permanent residents at the 1970 Census does not mean it does not warrant an assignment. Petitioner's showing is sufficient to establish that Tahoe City is a community. It is the location of many county offices, has schools, courts and businesses.

5. KEZC also contends that Tahoe City does not qualify for a Class B channel because it is not large enough and because the station would not provide any persons in its service area with a first or second aural broadcast service. KEZC urges that the availability of a Class A channel should be determined before consideration is given to assigning a Class B channel to Tahoe City. KEZC charges that FLL, in seeking a Class B channel, is intending to serve the more populous South Lake Tahoe area (which already has 2 locally assigned unlimited-time AM stations and 2 FM stations) rather than Tahoe City and other nearer North Shore communities.

6. We do not find in these arguments good cause for refusing to consider FLL's request, especially since a Class B assignment is necessary in order to serve the entire Lake area. Likewise, we are unpersuaded by KEZC's argument that we would be violating our policy against intermixture by assigning a Class B channel. This would be the community's first channel, so no intermixture would result.

7. The proposed channel assignment meets all co-channel and adjacent channel spacing requirements, and does not require changing any existing assignment. Lovelock, Nevada (pop. 1517), county seat of Pershing County, is the only community of over 1000 population without FM or AM assignments that would sustain preclusions as a result of the proposed assignment. Petitioner should ascertain and state whether there is another FM channel which could be assigned to Lovelock.

8. We invite comments on the proposal to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, by adding the following:

City	Channel No.	
	Present	Proposed
Tahoe City, California		243B

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in

the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

10. Interested parties may file comments on or before September 21, 1979, and reply comments on or before October 11, 1979.

11. For further information concerning this proceeding, contact Louis C. Stephens, Broadcast Bureau, (202) 632-6302. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Richard J. Shibben,

Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(8) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered

if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 79-23360 Filed 7-27-79; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

[50 CFR Part 280]

Pacific Tuna Fisheries; Proposed Rule Making and Public Hearing Notice

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Proposed Regulations.

SUMMARY: This proposed regulation would continue the 1978 regulations in effect for 1979, under the provisions of a yellowfin tuna conservation resolution

adopted by member countries of the Inter-American Tropical Tuna Commission on July 13, 1979. The only changes being proposed are that the dates be changed to conform to the present year. However, comments are invited on all regulations.

DATES: Comments are invited until August 3, 1979. A public hearing will be held at 300 South Ferry Street, Room 205, Terminal Island, California, on July 25, 1979.

FOR FURTHER INFORMATION CONTACT: J. Gary Smith, National Marine Fisheries Service, 300 South Ferry Street, Room 201, Terminal Island, California 90731. Telephone 213-548-2518.

ADDRESS: Send comments to the person and address listed below.

SUPPLEMENTARY INFORMATION: The United States voted for the 1979 Resolution of the Inter-American Tropical Tuna Commission, which establishes a conservation regime for yellowfin tuna for the 1979 fishing season. The 1979 Resolution is identical to the 1978 Resolution except for the dates. Therefore, it is proposed to amend the 1978 regulations merely by changing the dates to reflect the appropriate years.

Before final adoption of the proposed changes in the regulations, consideration will be given to data and written comments pertaining to these regulations which are submitted to the person and address mentioned above on or before August 3, 1979.

All interested persons have already been notified of the hearing which will be held at 300 South Ferry Street, room 205, Terminal Island, California at 10:30 am, July 25, 1979. Persons intending to testify are requested to submit in writing their names and the names of the organizations represented, if any, to Mr. Smith at the address above.

(16 U.S.C. 951-961)

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

PART 280 [Amended]

It is proposed to amend 50 CFR 280 as follows:

Strike "1977" and "1978" and substitute "1978" and "1979" as appropriate wherever those dates appear in sec. 280.6 and 280.10(c).

[FR Doc. 79-23356 Filed 7-27-79; 8:45 am]

BILLING CODE 3510-22-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Shawnee National Forest, Saline, Pope, Gallatin, and Hardin Counties, Ill.; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture will prepare an environmental impact statement on the Shawnee Hills National Recreation Area proposal.

Public Law 94-518, dated October 17, 1976, directs the Secretary of Agriculture to submit a report to Congress which shall include his recommendation as to the desirability and feasibility of establishing a national recreation area within the Shawnee Hills in Saline, Pope, Gallatin, and Hardin Counties, Illinois. The study of the Shawnee Hills National Recreation Area proposal began on December 8, 1977. At this time, members of the public and Forest Service personnel met and formulated several broadly different land management alternatives for the project area. Subsequent to December 8, 1977, an effort was made over a 9 month period to involve the public in formulating additional land management alternatives. Included in this public involvement were numerous newspaper articles, television and radio interviews, and four public workshops held in Harrisburg and Golconda, Illinois. In addition, a survey was conducted within the project area in which 576 heads of households had an opportunity to voice an opinion on the issue.

Public involvement resulted in the formulation of 10 alternative land management possibilities for the project area as well as identification of principal concerns of residents. These concerns are:

1. Maintaining present rural life style
2. Displacement of present population
3. Economic stability
4. Land acquisition or control
5. Mineral development
6. Development along Ohio River
7. Trespass, litter, vandalism, crime
8. Signing, visitor information
9. Misuse of ORV's
10. Outside exploitation of area

R. Max Peterson, Forest Service Chief, is the responsible official for this environmental impact statement. The Forest Service is being assisted in preparation of the statement by an environmental consultant.

The draft environmental impact statement will be available in February 1980, and the final environmental impact statement is scheduled for completion in December 1980.

Comments on this Notice of Intent or on the Shawnee Hills, National Recreation Area proposal should be sent to David F. Jolly, Forest Supervisor, 317 E. Poplar Street, Harrisburg, IL 62946.

Dated: July 17, 1979.

J. B. Hilmon,
Acting Chief.

[FR Doc. 79-23426 Filed 7-27-79; 8:45 am]

BILLING CODE 3410-11-M

Federal Grain Inspection Service

Official Agency Designation; Aberdeen Grain Inspection, Inc., Aberdeen, S. Dak., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Aberdeen Grain Inspection, Inc., Aberdeen, South Dakota, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by September 13, 1979.

This agency has been performing official inspection services within the proposed geographic area at least since November 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public

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affect. Therefore, the comment period shall be limited to 45 days.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act, the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate no later than triennially.

Note.—Section 7(f)(2) of the Act generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

Aberdeen Grain Inspection, Inc. (the "Agency"), 15 S. Dakota Street, P.O. Box 842, Aberdeen, South Dakota 57401, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection services, not including official weighing.

The FGIS has conducted the required investigation of the Agency which included an onsite review of its inspection point (hereinafter "specified service point") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. A document designating the Agency as an official agency was signed on November 14, 1978.

Said designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services. The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by U.S. Route 12 east to State Route 22; State Route 22

north to the Chicago Milwaukee St. Paul and Pacific Railroad line; the Chicago Milwaukee St. Paul and Pacific Railroad line east to State Route 21; State Route 21 east to State Route 49; State Route 49 south to the North Dakota-South Dakota State line east to U.S. Route 83; U.S. Route 83 north to State Route 13; State Route 13 east and north to the McIntosh County line; the northern McIntosh County line east to Dickey County; the northern Dickey County line east to U.S. Route 281; U.S. Route 281 south to the North Dakota-South Dakota State line; the North Dakota-South Dakota State line east;

Bounded: on the East by the eastern South Dakota State line south to State Route 44;

Bounded: on the South by State Route 44 west to the Missouri River; the Missouri River south-southeast to the South Dakota State line; the southern South Dakota State line; and

Bounded: on the West by the western South Dakota State line; the western North Dakota State line north to U.S. Route 12.

In addition, the following locations which are outside of the foregoing contiguous geographic area and are to be serviced by the Agency shall be considered as part of the Agency's geographic area: Farmers Elevator, Guelph, North Dakota, in Dickey County; Farmers Equity Exchange and Sun Grain, New England, North Dakota, in Hettinger County; and Regent Grain Company and Regent Equity, Regent, North Dakota in Hettinger County.

An exception to this geographic area is the following location situated inside the Agency's area which has been an will continue to be serviced by Sioux City Inspection & Weighing Agency, Inc., Sioux City, Iowa: Farmers Elevator Company and Krause Mill, Inc.—Cedars Mill & Elevator, Inc., Platte, South Dakota, in Charles County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service point within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain the address of the specified service point and a map of the proposed geographic area for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection

Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8255.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials should be received by the Director not later than September 13, 1979 (45 days after publication). All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)).

Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C. on: July 23, 1979.

D. R. Galliat,

Acting Administrator.

[FR Doc. 79-23392 Filed 7-27-79; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Designation; A. E. Herron, Pittsford, N.Y., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the A. E. Herron, Pittsford, New York, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by September 13, 1979.

This agency has been performing official inspection services within the proposed geographic area at least since August 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act, the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate no later than triennially.

Note.—Section 7(f)(2) of the Act generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

A. E. Herron (the "Agency"), 34 East Park Road, Pittsford, New York 14534, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection services, not including official weighing.

The FGIS has conducted the required investigation of the Agency which included an onsite review of its inspection point (hereinafter "specified service point") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. A document designating the Agency as an official agency was signed on August 31, 1978.

Said designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services. The geographic area assigned on an interim basis pending final determination in this matter is:

The area within the Pittsford Township, New York.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service point within the geographic area, the Agency will provide official inspection services not requiring a licensed

inspector to all other areas within its geographic area.

Interested persons may obtain the address of the specified service point and a map of the proposed geographic area for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views of comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials should be received by the Director not later than September 13, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made. (Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C. on: July 23, 1979.

D. R. Galliat,

Acting Administrator.

[FR Doc. 79-23323 Filed 7-27-79; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Designation; Agricultural Seed Laboratories, Phoenix, Ariz., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Agricultural Seed Laboratories, Phoenix, Arizona, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by September 13, 1979.

This agency has been performing official inspection services within the proposed geographic area at least since November 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act, the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate no later than triennially.

Note.—Section 7(f)(2) of the Act generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

Agricultural Seed Laboratories (the "Agency"), 212 S. 25th Avenue, P.O. Box 6363, Phoenix, Arizona 85005, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection services, not including official weighing.

The FGIS has conducted the required investigation of the Agency which included an onsite review of its inspection point (hereinafter "specified service point") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. A document designating the Agency as an official agency was signed on November 20, 1978.

Said designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services. The geographic area assigned on an interim basis pending final determination in this matter is the following counties:

Maricopa County, Pinal County, and Yuma County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service point within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain the address of the specified service point and a map of the proposed geographic area for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials should be received by the Director not later than September 13, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made. (Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C. on: July 23, 1979.

D. R. Galliat,

Acting Administrator.

[FR Doc. 79-23327 Filed 7-27-79; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Designation, Chattanooga Grain Inspection Department, Chattanooga, Tenn., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and request for Comments.

SUMMARY: This notice announces the designation of the Chattanooga Grain Inspection Department, Chattanooga, Tennessee, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by September 13, 1979.

This agency has been performing official inspection services within the proposed geographic area at least since October 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act, the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate no later than triennially.

Note.—Section 7(f)(2) of the Act generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

Chattanooga Grain Inspection Department (the "Agency"), P.O. Box 5113, Chattanooga, Tennessee 37406, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection services, not including official weighing.

The FGIS has conducted the required investigation of the Agency which included an onsite review of its inspection point (hereinafter "specified service point") and the Agency was deemed eligible for designation to perform official inspection services

(other than appeal inspection), not including official weighing. A document designating the Agency as an official agency was signed on October 15, 1978.

Said designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services. The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the Kentucky-Tennessee State line from Robertson County east to Virginia; the Virginia-Tennessee State line east to North Carolina;

Bounded: on the East by the North Carolina-Tennessee State line southwest to Georgia;

Bounded: on the South by the Georgia-Tennessee State line west to Alabama; the Alabama-Tennessee State line west to Interstate 65; and

Bounded: on the West by Interstate 65 north to Davidson County; the southern Davidson County line east then north to Robertson County; the eastern Robertson County line north to the State line.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service point within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain the address of the specified service point and a map of the proposed geographic area for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials should be received by the Director not later than September 13, 1979 (45 days after publication). All materials submitted

pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made. (Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C. on: July 23, 1979.

D. R. Galliat,

Acting Administrator.

[FR Doc. 79-23325 Filed 7-27-79; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Designation; R. A. Gray, Owensboro, Ky., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of R. A. Gray, Owensboro, Kentucky, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by September 13, 1979.

This agency has been performing official inspection services within the proposed geographic area at least since October 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act, the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at

locations where the Administrator determines there is a need for such services. Such a designation shall terminate no later than triennially.

Note.—Section 7(f)(2) of the Act generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

R. A. Gray (the "Agency"), 903 Triplett Street, P.O. Box 91, Owensboro, Kentucky 42301, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection services, not including official weighing.

The FGIS has conducted the required investigation of the Agency which included an onsite review of its inspection point (hereinafter "specified service point") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. A document designating the Agency as an official agency was signed on October 20, 1978.

Said designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services. The geographic area assigned on an interim basis pending final determination in this matter is:

In Indiana, the following counties: Perry and Spencer Counties;

In Kentucky, the area shall be:

Bounded: on the North by the Ohio River from Henderson County east to Breckinridge County;

Bounded: on the East by the eastern Hancock County line south to Ohio County; the eastern Ohio County line south-southwest to Muhlenberg County;

Bounded: on the South by the Muhlenberg County line west to the Western Kentucky Parkway; the Western Kentucky Parkway west to State Route 109; and

Bounded: on the West by State Route 109 north to State Route 814; State Route 814 north to U.S. Route Alternate 41; U.S. Route Alternate 41 north to Henderson County; the southern Henderson County line east-northeast to the Ohio River.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service point within the geographic area, the Agency will provide official inspection services not requiring a licensed

inspector to all other areas within its geographic area.

Interested persons may obtain the address of the specified service point and a map of the proposed geographic area for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials should be received by the Director not later than September 13, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C. on July 23, 1979.

D. R. Gallart,

Acting Administrator.

(FR Doc. 79-23326 Filed 7-27-79; 8:45 am)

BILLING CODE 3410-02-M

Official Agency Designation; Farwell Grain Inspection Co., Inc., Farwell, Tex., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Farwell Grain Inspection Co., Inc., Farwell, Texas, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by September 13, 1979.

This agency has been performing official inspection services within the

proposed geographic area at least since September 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act, the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate no later than triennially.

Note.—Section 7(f)(2) of the Act generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

Farwell Grain Inspection Co., Inc. (the "Agency"), 112 9th Street, P.O. Box 488, Farwell, Texas 79325, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection services, not including official weighing.

The FGIS has conducted the required investigation of the Agency which included an onsite review of its inspection point (hereinafter "specified service point") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. A document designating the Agency as an official agency was signed on September 25, 1978.

Said designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services. The geographic area assigned on an interim basis pending final determination in this matter is:

The following counties in Texas: Bailey County; Deaf Smith County west of State Route 214; Lamb County south

of U.S. Route 70 and west of Farm to Market 303; and Parmer County.

The following counties in New Mexico: Chaves County; Curry County; DeBaca County; Eddy County; Lea County; Quay County; Roosevelt County; and Union County.

An exception to this geographic area is the following location situated inside the Agency's area which has been and will continue to be serviced by Lubbock Grain Inspection and Weighing, Inc., Lubbock, Texas: Sudan Elevator, Sudan, Texas.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service point within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain the address of the specified service point and a map of the proposed geographic area for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials should be received by the Director not later than September 13, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C. on July 23, 1979.

D. R. Gallart,

Acting Administrator.

(FR Doc. 79-23326 Filed 7-27-79; 8:45 am)

BILLING CODE 3410-02-M

Official Agency Designation, Grand Forks Grain Inspection Department, Grand Forks, N. Dak., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Grand Forks Grain Inspection Department, Grand Forks, North Dakota, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by September 13, 1979.

This agency has been performing official inspection services within the proposed geographic area at least since October 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public effect. Therefore, the comment period shall be limited to 45 days.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250 (202) 447-8262.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act, the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate no later than triennially.

Note.—Section 7(f)(2) of the Act generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

Grand Forks Grain Inspection Department (the "Agency"), 1823 State Mill Road, P.O. Box 639, Grand Forks, North Dakota 58201, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection services, not including official weighing.

The FGIS has conducted the required investigation of the Agency which included an onsite review of its inspection point (hereinafter "specified service point") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. A document designating the Agency as an official agency was signed on October 15, 1978.

Said designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services. The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the North Dakota State line;

Bounded: on the East by the North Dakota State line south to State Route 200;

Bounded: on the South by State Route 200 west-northwest to the western Traill County line; the western Traill County line; the southern Grand Forks and Nelson County lines west; the southern Eddy County line west to U.S. Route 281; U.S. Route 281 north to State Route 15; State Route 15 west to U.S. Route 52 northwest to State Route 3; and

Bounded: on the West by State Route 3 north to State Route 60; State Route 60 west-northwest to State Route 5; State Route 5 west to State Route 14; State Route 14 north.

Exceptions to this geographic area are the following locations situated inside the Agency's area which have been and will continue to be serviced by: Grain Inspection, Inc., Jamestown, North Dakota;

Farmers Coop Elevator, Fessenden, North Dakota, in Wells County; and Farmers Union Elevator and Manfred Grain, Manfred, North Dakota, in Wells County.

Minot Grain Inspection, Inc., Minot, North Dakota;

Farmers Elevator Company, Bottineau, North Dakota, in Bottineau County; Farmers Feed & Grain and Farmers Union, Harvey, North Dakota, in Wells County; and Farmers Union, Rugby, North Dakota, in Pierce County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and

where the agency or one or more of its licensed inspectors is located.

In addition to the specified service point within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain the address of the specified service point and a map of the proposed geographic area for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250 (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials should be received by the Director not later than September 13, 1979 (45 days after publication). All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C. on July 23, 1979
D. R. Gallart,
Acting Administrator.

[FR Doc. 79-23319 Filed 7-27-79; 8:45 am]
BILLING CODE 3410-02-M

Official Agency Designation; North Dakota Grain Inspection Service, Inc., Fargo, N. Dak., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments

SUMMARY: This notice announces the designation of the North Dakota Grain Inspection Service, Inc., Fargo, North Dakota, as an official agency to perform

official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by September 13, 1979.

This agency has been performing official inspection services within the proposed geographic area at least since October 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public effect. Therefore, the comment period shall be limited to 45 days.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act, the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate no later than triennially.

Note.—Section 7(f)(2) of the Act generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

North Dakota Grain Inspection Service, Inc. (the "Agency"), 1601 7th Avenue North, Fargo, North Dakota 58102, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection services, not including official weighing.

The FGIS has conducted the required investigation of the Agency which included an onsite review of its inspection point (hereinafter "specified service point") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. A document designating the Agency as an official Agency was signed on October 25, 1978.

Said designation also included an interim assignment of geographic area within which the official Agency will

provide official inspection services. The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the northern Steele County line from State Route 32 east; the eastern Steele County line south to State Route 200; State Route 200 east-southeast to the State line;

Bounded: on the East by the eastern North Dakota State line south;

Bounded: on the South by the southern North Dakota State line west to State Route 1; and

Bounded: on the West by State Route 1 north to Interstate 94; Interstate 94 east to the Soo Railroad line; the Soo Railroad line northwest to State Route 1; State Route 1 north to State Route 200; State Route 200 east to State Route 45; State Route 45 north to State Route 32; State Route 32 north.

An exception to this geographic area is the following location situated inside the Agency's area which has been and will continue to be serviced by Grain Inspection, Inc., Jamestown, North Dakota: Norway Spur and Oakes Grain, Oakes, North Dakota in Dickey County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service point within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain the address of the specified service point and a map of the proposed geographic area for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials should be received by the Director not later than September 13, 1979. All materials submitted pursuant to this notice will be

made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note).)

Done in Washington, D.C. on July 23, 1979.

D. R. Gallart,
Acting Administrator.

[FR Doc. 79-23320 Filed 7-27-79; 8:45 am]
BILLING CODE 3410-02-M

Official Agency Designation; Hastings Grain Inspection, Inc., Hastings, Nebr., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Hastings Grain Inspection, Inc., Hastings, Nebraska, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by September 13, 1979.

This agency has been performing official inspection services within the proposed geographic area at least since October 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public effect. Therefore, the comment period shall be limited to 45 days.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act, the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at

locations where the Administrator determines there is a need for such services. Such a designation shall terminate no later than triennially.

NOTE.—Section 7(f)(2) of the Act generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

Hastings Grain Inspection, Inc. (the "Agency"), 306 East Park Street, Hastings, Nebraska 68901, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection services, not including official weighing.

The FGIS has conducted the required investigation of the Agency which included onsite reviews of its inspection points (hereinafter "specified service points") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. A document designating the Agency as an official agency was signed on October 25, 1978.

Said designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services. The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the northern Nebraska State line from the western Sioux County line east to the eastern Knox County line;

Bounded: on the East by the eastern and southern Knox County lines; the eastern Antelope County line; the northern Madison County line east to U.S. Route 81; U.S. Route 81 south to the southern Madison County line; the eastern Boone, Nance, and Merrick County lines; the Platte River southwest; the eastern Hamilton County line; the northern and eastern Fillmore County lines; the southern Fillmore County line west to U.S. Route 81; U.S. Route 81 south to the southern Thayer County line;

Bounded: on the South by the southern Nebraska State line from U.S. Route 81 west to the western Dundy County line; and

Bounded: on the West by the western Dundy, Chase, Perkins, and Keith County lines; the southern and western Garden County lines; the southern Morrill County line west to U.S. Route 385; U.S. Route 385 north to the southern Box Butte County line; the southern and western Sioux County lines north to the northern Nebraska State line.

In addition, the following locations which are outside of the foregoing contiguous geographic area and are to be serviced by the Agency shall be considered as part of the Agency's geographic area: Farmers Cooperative Grain Company and Wayner Mills, Inc., Columbus, Nebraska, in Platte County; and Farmers Coop and Dayton Dorn Grain Company, Big Springs, Nebraska, in Deuel County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service points within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the proposed geographical area and a list of specified service points for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials should be received by the Director not later than September 13, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)).

Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note).)

Done in Washington, D.C. on: July 23, 1979.

D. R. Gallart,
Acting Administrator.

[FR Doc. 79-23321 Filed 7-27-79; 8:45 am]
BILLING CODE 3410-02-M

CIVIL AERONAUTICS BOARD

[Docket No. 36112; Order 79-7-163]

Transportes Aereos Portugueses; Order of Suspension and Investigation Regarding Transatlantic Normal Economy Fare Increases

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of July 1979.

By tariff revisions filed June 20, 1979, Transportes Aereos Portugueses (TAP), has proposed a seven percent increase in normal economy fares from points in Portugal and the Azores, on the one hand, to points in the United States, on the other, to compensate for increased fuel costs.¹ The increases apply to both peak- and basic-season levels.

We will suspend TAP's proposed increase for the same reasons we have suspended increases in normal economy fares in other markets where restrictive aviation agreements prevent effective competition at the normal fare level.² We have repeatedly expressed our concern about the generally high level of transatlantic normal fares, and although competitive pricing now exists in a number of U.S.-Europe markets, the restrictive bilateral agreement between the United States and Portugal remains in force. Fares must still be approved by both governments, and in other respects (most notably restricted opportunities for new carrier entry) the Portuguese agreement contains none of the liberalizations of recently negotiated bilaterals such as those with Belgium, Germany and the Netherlands. We will therefore follow the same policy here as we have in most other transatlantic markets, where we recently approved increases in first-class and promotional fares but suspended increases in normal economy fares.

Accordingly, under the Federal Aviation Act of 1958, as amended, particularly sections 102, 204(a), 403, 801 and 1002(j) thereof,

1. We shall institute an investigation to determine whether the fares and provisions set forth in the attached Appendix,³ and rules and regulations or practices affecting such fares and provisions, are or will be discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful, and if we find them to be unlawful, to act appropriately to prevent the use of such fares, provisions or rules, regulations, or practices;

¹ Eastbound fares would remain at present levels.

² See, for example, Orders 79-5-218, May 17, 1979; 78-10-143, October 20, 1978; and 78-10-61, October 5, 1978.

³ Appendix filed as part of the original document.

2. Pending hearing and decision by the Board, we hereby suspend the tariff provisions specified in the attached Appendix and defer their use from August 19, 1979, to and including August 18, 1980, unless otherwise ordered by the Board, and shall permit no changes to be made therein during the period of suspension except by order or special permission of the Board;

3. We shall submit this order to the President⁴ and it shall become effective on August 19, 1979; and

4. We shall file copies of this order in the aforesaid tariffs and serve them upon Transportes Aereos Portugueses.

We shall publish this order in the Federal Register.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-23374 Filed 7-27-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 33187]

UAL, Inc., and United Air Lines, Inc.; Proposed Approval

I hereby give notice pursuant to statutory requirements of section 408(b)(2) of the Federal Aviation Act of 1958, as amended, that I intend to issue the attached order under delegated authority. Interested persons have until August 24, 1979, to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., July 25, 1979.

Barbara A. Clark,

Director, Bureau of Domestic Aviation.

[Docket No. 33187]

UAL, Inc., and United Air Lines, Inc.*Order of Approval*

Issued under delegated authority.

Application of UAL, Inc. and United Air Lines, Inc., for disclaimer of jurisdiction or approval under section 408, Docket 33187.

By application filed August 11, 1978, UAL, Inc. (UAL) and United Air Lines, Inc. (United) request a disclaimer of jurisdiction, or approval under section 408 of the Act, of their control of United Air Lines B.V. (B.V.).

B.V. is a wholly owned subsidiary of United (a wholly owned subsidiary of UAL) formed in 1976 for the purpose of rendering air travel-related services and information¹ in Europe and other foreign locations to and on behalf of United. United is now considering offering B.V.'s services to other U.S. air carriers in certain foreign locations.

¹ We submitted this order to the President on July 13, 1979.

² All members concurred.

³ These services include airline schedules, rates, charter activities, reservation service assistance, individual and group travel in the U.S., travel agent liaison, and advertising and market research relating to air travel and tourism.

In support of their request for a disclaimer of jurisdiction, the applicants assert that B.V.'s principal business will remain the promotion of United's air transport services; that the services provided to other carriers² will be incidental to those provided to United; and that since the time spent by B.V. in providing services to other carriers will be minimal compared with that spent in performing services for United, section 408(c) will continue to render the requirements of section 408(a) and 409 inapplicable to United's direct and UAL's indirect control of B.V.

In support of their request for approval, the applicants assert that B.V. will provide representation services to U.S. regional and commuter air carriers that do not want to incur the costs associated with promoting their services through their own personnel in foreign locations. According to the applicants, a representation arrangement with B.V. will provide such carriers with an economically advantageous alternative, while permitting United to use the representation fees realized to offset part of B.V.'s operational costs. Furthermore, the applicants contend that B.V.'s activities will entail nothing more than the performance of certain types of air travel-related services which United could itself perform had it not established B.V. as a subsidiary, and that the continued control of B.V. by United and UAL will not be adverse to the public interest, jeopardize any other air carrier, affect control of United, result in creation of a monopoly or otherwise restrain competition.

No one had filed comments on the application.

We conclude that since B.V.'s corporate activities consist primarily of rendering air travel-related services and information to the public, the company is a person substantially engaged in the business of aeronautics, and that its control by United and UAL is subject to section 408(a)(8).

However, we further conclude that this transaction does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation. Neither that Attorney General, nor the Secretary of Transportation, nor any other person disclosing a substantial interest in this matter requests a hearing, and we conclude that the public interest does not require a hearing.

In view of B.V.'s proposed extension of its services in behalf of other air carriers, we cannot accept the applicants' contention, absent any further showing, that B.V. should be deemed a ground facility reasonably incidental to the performance of the air services of its parent air carrier, United, within the meaning of section 408, and, therefore, should be exempt from the Board's

² These services, categorized as representation services, provided under contract to other carriers in certain foreign locations by B.V. will consist of B.V.'s acting as a liaison between the air carriers and local travel agents and travel organizations to promote traffic; distributing the carriers' timetables, tariffs and other materials to prospective passengers and shippers; displaying the carriers' posters, circulars, and other publicity materials at B.V.'s offices; and carrying out publicity campaigns or other sales techniques to promote the carriers' services. B.V. will not act as a sales agent for the carriers, i.e., it will not write tickets for the carriers' services.

jurisdiction and the requirements of section 408.³

B.V.'s present and proposed activities are designed to complement and augment the marketing of United's and other U.S. carriers' air transport services. In these circumstances we do not find that the affiliate relationship resulting from UAL's and United's control of B.V. is inconsistent with the public interest or that the requirements of section 408(b)(1) will be otherwise unfulfilled.

Under the Airline Deregulation Act of 1978, Board approval of a control relationship under section 408 of the Act no longer automatically confers antitrust immunity. Rather, the Board may grant immunity under section 414 only if it is required in the public interest. The applicants have not requested immunity, and our approval here will confer no antitrust immunity.

Under authority delegated by the Board in its Regulations, 14 CFR 385, we find that (1) it is in the public interest to approve the control of B.V. by United and UAL under section 408(b)(2) without a hearing;⁴ (2) our action here is not a major federal action significantly affecting Environmental Policy Act of 1969,⁵ and (3) all other requests in the application should be denied.

Accordingly,

1. We approve, under section 408(b)(2), the control of United Air Lines B.V. by United Air Lines, Inc. and UAL, Inc.; and

2. Except to the extent granted, we deny the relief requested in Docket 33187.

Persons entitled to petition the Board for review of this order under the Board's Regulations, 14 CFR 385.50, may file their petitions within 10 days after the date of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon the expiration of the above period unless within such period a petition for review is filed, or the Board gives notice that it will review this order on its own motion.

Barbara A. Clark,

Director, Bureau of Domestic Aviation.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-23375 Filed 7-27-79; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

District of Columbia Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations

³ See Order 75-1-23, January 7, 1975, in which the Board approved the acquisition of BIC Guardian Services, Inc. by Braniff Airways, Inc. and Braniff International Corp.

⁴ Notice of intent to disapprove the application without hearing has been published in the Federal Register, and a copy of such notice has been furnished to the Attorney General and the Secretary of Transportation, not later than the day following such publication, both in accordance with the requirements of section 408(b)(2) of the Act.

⁵ From examination of the application it appears that approval will not cause any of the results set forth § 312.9 of the Board's Regulations.

of the U.S. Commission on Civil Rights, that a planning meeting of the district of Columbia Advisory Committee (SAC) of the Commission will convene at 12:00 a.m. and will end at 2:30 p.m. on August 17, 1979, at the Mid-Atlantic Regional Office, 2120 L Street, N.W., Room 510, Washington, D.C. 20037.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., room 510, Washington, D.C. 20037.

The purpose of this meeting is for the Advisory Committee to review the text of the report draft tentatively entitled, Washington DC—A Case Study in Displacement and Relocation. Recommendations for revision or deletion of parts of the report will be discussed. A general discussion of program areas for the charter period will occur.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington D.C., July 25, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-23429 Filed 7-27-79; 8:45 am]

BILLING CODE 6335-01-M

Illinois Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 3:00 p.m., on September 24, 1979, at the Midwestern Regional Office, 230 South Dearborn Street, Room 3280, Chicago, Illinois 60604.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to hear subcommittee reports from Housing and Employment Subcommittees, for approval and adoption.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 25, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-23428 Filed 7-27-79; 8:45 am]

BILLING CODE 6335-01-M

Maine Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and will end at 10:00 p.m., on September 6, 1979, at the Maine Teachers Association, Augusta Civic Center, Augusta, Maine.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is to develop program for the Maine SAC for FY-80.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 24, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-23431 Filed 7-27-79; 8:45 am]

BILLING CODE 6335-01-M

Maryland Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maryland Advisory Committee (SAC) of the Commission will convene at 6:30 p.m. and will end at 10:00 p.m. on August 15, 1979, at the Baltimore-Washington International Airport Terminal, Conference Room #1, Baltimore, Maryland.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office, 2120 L Street N.W., Room 510, Washington, D.C. 20037.

The purpose of this meeting is for the Advisory Committee to accept reports from its subcommittee on Administration of Justice. An outline of the subcommittee preliminary data collection on police disciplinary procedures will be discussed. Further discussion of programs for immediate consideration will continue.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 25, 1979.
John I. Binkley,
Advisory Committee Management Officer.
 (FR Doc. 79-23430 Filed 7-27-79; 8:45 am)
 BILLING CODE 6336-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Estimates of the Voting Age Population for 1978; Correction

In FR Doc. 79-21370, appearing on page 40659, in the issue of Thursday, July 12, 1979, in the first column, the population 18 and over for Nebraska Congressional District 2 now reading "270" should have read "370"; the population 18 and over for New Hampshire Congressional District 2 now reading "86" should have read "303".

Dated: July 24, 1979.
Daniel B. Levine,
Acting Director, Bureau of the Census.
 (FR Doc. 79-23340 Filed 7-27-79; 8:45 am)
 BILLING CODE 3510-07-M

Mediation of a Serious Disagreement Between the State of California and Department of the Interior Under the Coastal Zone Management Act; Public Hearing Scheduled

Notice is hereby given that the California Coastal Commission (the Commission) has notified the Secretary of Commerce by letter dated June 15, 1979 (Exhibit A), of the existence of a serious disagreement between the State of California and the Department of the Interior concerning the applicability of the consistency provisions of Section 307(c)(1) of the Coastal Zone Management Act, as amended (16 U.S.C. Section 1450(c)(1)) to the Secretary of the Interior's Notice of Sale (which includes tract selection and lease stipulations) for OCS Lease Sale #48 of the California coast. The Commission has requested that the Secretary of Commerce mediate this serious disagreement pursuant to the Secretarial Mediation provisions of the Department of Commerce's consistency regulations, 15 C.F.R., Part 930, Subpart G.

On May 25, 1979, the Department of the Interior issued a negative determination pursuant to 15 C.F.R., Part 930.35(d) that none of the pre-lease activities leading to OCS Lease Sale #48 directly affect the California coastal zone and thereby no consistency determination is necessary for these activities. The Commission asserts that these pre-lease activities directly affect

the coastal zone and therefore require a consistency determination.

The Secretary of Commerce received a letter dated July 3, 1979, from Secretary Andrus of the Department of the Interior (Exhibit B), agreeing to participate in Secretarial Mediation, noting California's serious disagreement with the Department of the Interior regarding Interior's May 25, 1979, negative determination.

The mediation effort will attempt to gain agreement on whether or not the Department of the Interior's pre-lease activities regarding OCS Lease Sale #48, which include determination of tracts to be offered and choice of lease stipulations, directly affect the coastal zone and therefore require a consistency determination pursuant to Section 307(c)(1) of the Coastal Zone Management Act.

In accordance with the Secretarial Mediation provisions of the Department of Commerce's consistency regulations, (15 C.F.R., 930.113) the Secretary of Commerce has appointed a hearing officer who has scheduled a hearing on September 7, 1979, beginning at 10:00 a.m. at the U.S. Customs House, 2nd Floor, Conference Room, 300 South Ferry Street, Terminal Island, Los Angeles, California. The objective of the hearing is to secure, in a timely fashion, information related to the disagreement.

Interested parties are invited to offer information at the hearing. They should notify the Office of the General Counsel of the U.S. Department of Commerce in writing, (Room 5886, Washington, D.C. 20230) or by phone (202/377-3135) by August 31, 1979 of their desire to be heard.

A copy of public data and information relating to the serious disagreement is available for public inspection at each of the following locations:

U.S. Department of the Interior, Room 4150, Main Interior Building, C and 18th Street NW., Washington, D.C. 20240.
 California Coastal Commission, 631 Howard Street, 4th Floor, San Francisco, California 94105.

C. L. Haslam
General Counsel.
 California Coastal Commission,
 San Francisco, Calif., June 15, 1979.
 Juanita Kreps,
Secretary of Commerce, Washington, D.C.

Dear Secretary Kreps: The California Coastal Commission hereby notifies you of the existence of a serious disagreement between the State of California and the Department of Interior concerning the applicability of the consistency provisions of Section 307(c)(1) of the Coastal Zone Management Act to the Secretary of Interior's Notice of Sales (which includes tract

selection and lease stipulations) for OCS Lease Sale #48 off the California Coast.

I request that you seek to mediate this serious disagreement pursuant to the Secretarial Mediation provisions of the Department of Commerce's Federal consistency regulations, 15 C.F.R. Part 930, Subpart G.

Some history concerning California's involvement in seeking application of the Federal activities consistency requirements to Outer Continental Shelf lease sales will serve to put this disagreement into perspective.

On December 5, 1978 I wrote to the President requesting that the issue of lease sale consistency with approved State coastal zone management programs be resolved prior to Lease Sale #48 scheduled for June, 1979. (Attachment 1) California's position was that the leasing of tracts must be consistent with the California Coastal Management Program. In response to that letter, the White House instructed the Departments of Commerce and Interior to attempt to resolve the issue of whether lease sales were subject to the Federal activity consistency provisions of the Coastal Zone Management Act. Unable to resolve the dispute concerning interpretation of the CZMA and the OCS Lands Act Amendments of 1978, on March 23, 1979 both Departments jointly requested an opinion from the Department of Justice's Office of Legal Counsel regarding statutory interpretation of Section 307(c)(1) of the CZMA. (Attachment 2) The joint letter noted that: "DOI will make no consistency determination in advance of Lease Sale No. 48 unless the Department of Justice determines that it is required by Section 307(c)(1) of the CZMA."

On April 20, 1979 the Department of Justice's Office of Legal Counsel agreed with your (and our) position. They issued an opinion that the Department of Interior's OCS pre-leasing activities which directly affect the coastal zone are subject to the consistency requirements of Section 307(c)(1) of the CZMA. (Attachment 3) This opinion was transmitted to State Coastal Zone Program managers by OCZM by memorandum dated May 7, 1979. (Attachment 4)

In light of the Department of Justice's resolution of the issue of consistency of pre-lease sale activities in favor of the position long espoused by the State of California, I wrote to the Secretary of Interior on May 17, 1979 (Attachment 5) to express our expectation "that the Secretary's Notice of Sale on Lease Sale #48, with its tract selections and stipulations, will contain a determination that the decision is consistent with the California Coastal Management Program, as approved by the Secretary of Commerce." We further stated that, because the Department of Interior appeared to be cooperative in responding to California's coastal resource protection concerns, we anticipated that the consistency determination could be made in a straightforward manner and offered our assistance in drafting such a determination.

Following conversations with the Department of Interior which indicated that they were prepared to find that the Notice of

Sale for Lease Sale #48 did not directly affect the coastal zone and therefore did not require a consistency determination, I wrote to the Deputy Assistant Secretary on May 24, 1979 (Attachment 6) to express California's strong disagreement with that position. Again we noted, however, that since the Notice of Sale would apparently contain tract deletions and stipulations which were consistent with the Governor's and Coastal Commission's recommendations, we did not anticipate any difficulty in concurring with the Department's consistency certification. We also made clear to the Department of Interior that, if they determined that a consistency certification was not required for the Notice of Sale, we intended to seek your mediation services to resolve this dispute.

On May 25, 1979 the Acting Assistant Secretary for Policy, Budget and Administration of the Department of Interior issued a "negative determination" under 15 CFR 930.35 (d)(1) That none of the pre-lease activities leading up to OCS Lease Sale #48 directly affect the California coastal zone and therefore do not require a consistency determination. (Attachment 7) We were, to say the least, extremely disappointed by this decision.

It is with this decision of the Department of Interior that the State of California has a serious disagreement. The Department of Interior's position is conclusory without any facts in support of its decision. It merely restates legal arguments which have already proven unsuccessful before the Department of Justice. It utilizes a definition which the Office of Coastal Zone Management is dropping from its forthcoming regulations to conform to the DCJ opinion, and it adds a contrived concept of "intervening cause" which appears nowhere in either the statute or implementing regulations. In short, we believe that the Department of Interior's position is a transparent attempt to circumvent the Department of Justice legal memorandum on this subject.

In reaching its negative determination position, Interior contends that none of the pre-lease activities listed in its letter will result in effects "unless one or more intervening events, such as exploratory drilling, development or production of oil and gas cause effects on the coastal zone." This position is clearly contrary to the position taken by the Department of Justice which noted that:

It is well possible that some of the pre-leasing activities of the Secretary of the Interior will give rise to consistency problems which cannot be reviewed at all under the paragraph (B) OCS exploration, development and production plan procedure, or for which such review comes too late.

The State of California is in agreement with the Department of Justice opinion and believes that certain pre-leasing activities, most notably the tract selection and lease stipulation activities contained in the Notice of Sale, give rise to consistency problems which cannot be addressed at the stage of consistency review of OCS exploration, or development and production plans. The Secretary's Notice of Sale is the final and critical step in the lengthy and complex

process of pre-leasing activities. If such a step is not found to directly affect the coastal zone, then the Department of Justice legal opinion and Section 307(c)(1) of the CZMA would be rendered a nullity.

The simple common sense of California's position is that the final decision to lease certain tracts (and to impose conditions and stipulations thereon) which constitute thousands of acres on the continental shelf near the California coast and between our offshore islands and the mainland is essentially approval of a massive subdivision which places the OCS tracts on an almost inevitable path toward development if hydrocarbons are found in commercial quantities during the exploration phase. The actual leasing of those OCS tracts creates new rights for private leaseholders; if petroleum resources are found, there will be inexorable pressure to exercise those rights.

As I stated in my May 24, 1979 letter to the Department of Interior:

Any activity of such a magnitude, committing thousands of acres of California's continental shelf to possible petroleum development with its attendant onshore facilities, pipelines across State submerged lands, and risks of oil spills, can have nothing less than major direct impacts on land and water uses of California's coastal zone.

Our disagreement with the Department of Interior does not at this point concern the substantive issue of whether the Notice of Sale for Lease Sale #48 is consistent with the California Coastal Management Program. Because the Department of Interior has, with some exceptions been generally responsive to the recommendations of the Governor and the Coastal Commission, we do not intend to seek an injunction to halt the lease sale until a consistency determination is submitted. However, we believe the issue of whether selection of nearshore tracts and the stipulations which will set a framework for further activities on those tracts directly affect the coastal zone and therefore require a consistency determination requires resolution through secretarial mediation.

In conclusion, the State of California seeks your assistance in mediating a resolution to this very serious disagreement which can have enormous precedent for the consistency of all federal activities, not just OCS pre-lease activities of the Department of Interior. We have urged the Department of Interior to participate in this mediation process in order to resolve this serious disagreement, and request that you add your influence in persuading them to participate. If the Department of Interior agrees to mediation, we intend to present information at the public hearing which will establish that the Notice of Sale is a pre-leasing activity which directly affects the coastal zone.

We look forward to working with you and your staff in the resolution of this matter.

Sincerely,
 Michael L. Fischer,
Executive Director.

Exhibit B
 U.S. Department of the Interior,
 Office of the Secretary,
 Washington, D.C., July 3, 1979.

Hon. Juanita M. Kreps,
Secretary of Commerce, Washington, D.C.

Dear Secretary Kreps: In a letter dated June 18, 1979, Mr. Michael L. Fischer, Executive Director of the California Coastal Commission notified me that the State of California has a serious disagreement with this Department regarding our May 25, 1979, determination that no pre-leasing activities in preparation for OCS Sale #48 directly affect the California coastal zone. That determination is attached.

In his letter, Mr. Fischer also requested our participation in a mediation process to be established by you for the purpose of resolving this disagreement. In accordance with your Department's regulations governing Secretarial mediation (15 CFR 930.112), the Department of the Interior hereby agrees to participate in such a mediation process.

Will you please have your staff contact Deputy Assistant Secretary Heather Ross (343-4123) to make any necessary arrangements. Thank you.

Sincerely,
 Cecil D. Andrus,
Secretary.

U.S. Department of the Interior,
 Office of the Secretary,
 Washington, D.C., May 25, 1979.

Mr. Michael L. Fischer,
Executive Director, California Coastal Commission, San Francisco, Calif.

Dear Mr. Fischer: Thank you for your recent letter to Secretary Andrus concerning the coastal zone consistency requirements and OCS Lease Sale #48. We appreciate the cooperation of the State of California in preparing for this sale of oil and gas leases, and in expediting compliance with the consistency procedures established in regulations promulgated by the National Oceanic and Atmospheric Administration (15 CFR 930).

Because of the timing of the Justice Department opinion concerning consistency of pre-lease activities, it is impossible for the California Coastal Commission to exercise its option to request a review pursuant to 930.35(b). It is also impossible for the Department of the Interior to respond to such a request in a manner that would meet the timing requirements established for the determinations under 930.34(b) or 930.35(d) unless we were to postpone the sale.

In our recent telephone conversation, you agreed to accept notification of a determination under 930.34(b) or 930.35(d) if provided on or before May 30, 1979. This is an alternative notification schedule to which we can jointly agree pursuant to the provisions of those subsections. We will therefore honor the request for a review pursuant to 930.35(b) which is implied by your letter. We do this even though it was not made within the 45-day period required by that subsection. Interior's determination is set forth below.

The Department of the Interior has reviewed the Justice Department opinion and NOAA's proposed revision to 15 CFR 930. In keeping with the Justice Department opinion, we have decided to use the plain meaning of the term "directly affecting" in Sec. 307(c)(1)

of the Coastal Zone Management Act, as amended. NOAA has previously defined activities "affecting" the coastal zone as those which cause any of the following three types of effects:

1. Changes in land or water use in the coastal zone;
2. Limitations in the range of uses of coastal zone resources;
3. Changes in the quality of coastal zone resources.

An activity affecting the coastal zone is an activity "directly" affecting the coastal zone if any of the foregoing effects results from the activity without an intervening cause.

We have also identified activities conducted by the Interior Department preceding the issuance of OCS oil and gas leases. These include:

1. Call for Nominations and Comments—A request for information indicating the interest in, and objections to the leasing of a defined area of the Outer Continental Shelf.

2. Tentative Tract Selection—The decision on tracts selected from the area subject to the Call for Nominations and Comment which will be subject to further study and analysis in an Environmental Statement, in accordance with the provisions of the National Environmental Policy Act, for specified proposed lease sale.

3. Environmental Statements—Issuing and holding public hearings on the draft and final Environmental Statements are included in this activity.

4. Consultation with Governors—The required consultations with the Governors of affected States including review of a proposed Notice of Sale of leases.

5. Final Decision—The Secretary's final decision on the location of tracts to be offered, the size and timing of the lease sale and the terms, conditions and stipulations of leases as incorporated in the Final Notice of Sale published at least 30 days prior to the sale of leases.

We have reviewed each of these activities to determine whether any have effects on the California coastal zone that would be "direct" in the plain meaning of that term given above. (We conclude that none of these pre-lease activities leading up to OCS Lease Sale No. 48 "directly affect" the California coastal zone. None of these activities will result in any of the three kinds of effects listed above unless one or more intervening events, such as exploratory drilling, development or production of oil and gas, cause effects on the coastal zone. Any such intervening event would, of course, be subject to consistency concurrence by the Coastal Commission pursuant to Sec. 307(c)(3) of the Coastal Zone Management Act, as amended. This letter is thus notification of a negative determination pursuant to 15 CFR 930.35(d)(1)—that is, that no consistency determination is necessary for these activities.)

Thank you for working with us on the matter. We look forward to continuing cooperation with your agency in the conduct of our respective programs.

Sincerely,
Heather L. Ross,
Acting Assistant Secretary—Policy, Budget and Administration.

[FR Doc. 79-23304 Filed 7-27-79; 8:45 am]
BILLING CODE 3510-06-M

Industry and Trade Administration

Hardware Subcommittee of the Computer Systems Technical Advisory Committee; Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, August 14, 1979, at 1:00 p.m. in Room 15022, the Federal Building, 450 Golden Gate Avenue, San Francisco, California.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Hardware Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975, with the approval of the Director, Office of Export Administration, pursuant to the charter of the Committee. And, on October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls. The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to (1) maintenance of the processor performance tables and further

investigation of total systems performance; and (2) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

The subcommittee will meet only in executive session to discuss matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed during the meeting should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the subcommittee during the meeting have been properly classified under Executive Order 11652 or 12065. All subcommittee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the Federal Register on September 14, 1978 (43 FR 41073).

For further information, contact Ms. Margaret A. Cornejo, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-2583.

Dated: July 25, 1979.
Kent Knowles,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.
[FR Doc. 79-23474 Filed 7-27-79; 8:45 am]
BILLING CODE 3510-25-M

Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, August 14, 1979, at 9:00 a.m. in Room 15022, the Federal Building, 450 Golden Gate Avenue, San Francisco, California.

[The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee was established on February 4, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this Subcommittee, pursuant to the charter of the Committee. And, on October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

The Subcommittee meeting agenda has four parts:

- (1) Opening remarks by the Subcommittee Chairman.
- (2) Presentation of papers or comments by the public.
- (3) Review of Subcommittee recommendations.

(4) Discussion and preparation of Subcommittee position paper on the qualified general/product distribution license.

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

Copies of the minutes of the meeting will be available by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: July 25, 1979.
Kent Knowles,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.
[FR Doc. 79-23475 Filed 7-27-79; 8:45 am]
BILLING CODE 3510-25-M

Memory and Media Subcommittee of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Memory and Media Subcommittee of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held on Tuesday, August 14, 1979, at 1:30 p.m. in Room 15461, the Federal Building, 450 Golden Gate Avenue, San Francisco, California.

The Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Memory and Media Subcommittee of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee was established on December 21, 1978, with the approval of the Assistant Secretary for Industry and

Trade, pursuant to the Charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer peripherals, components and related test equipment, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Memory and Media Subcommittee was formed to study random and sequential access computer related peripheral memory devices and to provide the Committee with information to include in reports to the Department related to the Committee's charter.

The Subcommittee meeting agenda had four parts:

- General Session**
1. Opening remarks by the Chairman.
 2. Presentation of papers or comments by the public.
 3. Subcommittee reports on:
 - a. Media
 - b. Memory
 - (1) Disc products,
 - (2) Tape equipment product,
 - (3) Core memory,
 - (4) Bubble/CCD/Semiconductor memory.
 - c. Government Activity.

Executive Session

4. Discussion of matters properly classified under Executive Order 11652 and 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be presented at any time before or after the meeting.

With respect to agenda item (4), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public

participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c) (1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Subcommittee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the Federal Register on September 14, 1978 (43 FR 41071).

Copies of the minutes of the General Session will be available by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, phone 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: July 25, 1979.

Kent Knowles,
Director, Office of Export Administration,
Bureau of Trade Regulation, U.S. Department
of Commerce.

[FR Doc. 79-23478 Filed 7-27-79; 8:45 am]
BILLING CODE 3510-25-M

Decision on Application for Duty Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666 11th Street, N.W. (Room 735) Washington, D.C.

Docket Number: 79-00260. Applicant: Electric Power Research Institute, Inc., P.O. Box 10412, Palo Alto, California 94303. Article: Air Pollution Control Device for Coal-Fired Utility Boiler. Manufacturer: Kawasaki Heavy Industries Ltd., Japan. Intended use of Article: The article is intended to be installed in an operating pulverized coal

fired power plant for use in the study of the effect of the ammonia based catalytic reduction technology in reducing NO_x emissions from such a coal fired plant.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The National Bureau of Standards advises in its memorandum dated July 18, 1979 that the foreign article provides a unique catalyst geometry and composition. NBS further advises that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,
Director, Statutory Import Programs Staff.
[FR Doc. 79-23293 Filed 7-27-79; 8:45 am]
BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Evaluation of a Possible Marine Sanctuary Site Offshore St. Thomas, U.S. Virgin Island; Availability of an Issue Paper and the Conduct of a Public Workshop

AGENCY: Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: Pursuant of Title III of the Marine Protection, Research and Sanctuaries Act of 1972, 16 U.S.C. 1431-1434, OCZM is evaluating the possibility of designation of a Marine Sanctuary in the waters southeast of St. Thomas, U.S. Virgin Islands. As part of this evaluation, an Issue Paper has been prepared jointly with the Department of Conservation and Cultural Affairs, Government of the Virgin Islands. The Issue Paper describes the marine resources of the potential sites, the present uses, and alternative regulations

which might be imposed to preserve and restore the values of the site.

The Issue Paper is being distributed to inform interested agencies and persons of the evaluation of the site and to gather comment and further information on the area. In order to facilitate such comment and to answer questions concerning the Issue Paper and the Marine Sanctuary Program, OCZM will conduct a public workshop on August 8, 1979, at 7:00 p.m. at the Sheraton Hotel and Marina, St. Thomas, U.S. Virgin Islands. Comments on the Issue Paper are due by August 15, 1979.

Written and oral comments and information received in response to the Issue Paper and information gathered at the workshop will provide guidance in OCZM's decision whether to proceed to prepare a Draft Environmental Impact Statement on a specific proposal for a Marine Sanctuary at this site.

DATES: Public Workshop will be held August 8, 1979. Comments on the Issue Paper are due August 15, 1979.

FOR FURTHER INFORMATION CONTACT: Joann Chandler, Director, or Ed Lindelof, Project Manager, Sanctuary Programs Office, Office of Coastal Zone Management, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, (202) 834-4236.

SUPPLEMENTAL INFORMATION: Copies of the Issue Paper may be obtained by writing to Ed Lindelof, Project Manager, Sanctuary Programs Office, OCZM, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

Dated: July 25, 1979.
S. A. Lawrence,
Assistant Administrator for Administration.
[FR Doc. 79-23473 Filed 7-27-79; 8:45 am]
BILLING CODE 3510-12-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of Army

Intent To Prepare a Draft Environmental Impact Statement Supplement (DEISS) for the proposed construction and operation of Elk Creek Lake in the Rogue River Basin, Oregon

AGENCY: U.S. Army Corps of Engineers (DoD).

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement Supplement (DEISS).

SUMMARY: 1. Proposed is the construction and operation of Elk Creek Lake, a component of the Rogue River Basin Project. The primary authorized

purpose of this facility is the alleviation of flooding along the Rogue River. Additional project purposes include fish and wildlife enhancement, municipal and industrial water supply, irrigation, recreation, area redevelopment, and water quality control.

2. The proposed work includes construction of an earth and rock fill dam 238 feet high on Elk Creek, about 1.7 miles upstream from its confluence with the Rogue River. The dam, which would provide 101,000 acre-feet of storage at full pool, is designed to provide flood control by regulating the release of runoff from about 98 percent (132 square miles) of the Elk Creek watershed.

3. Alternative flood control measures being considered include construction of a single-purpose flood control dam; floodplain management through zoning, purchase of development rights, and purchase of floodplain lands; construction of a system of levees to protect developed areas; management of lands within the watershed to reduce runoff; and no action.

4. The issues to be addressed in the DEISS include the impacts of the alternatives on fish and wildlife, water quality, the economic and social environment, and the cultural resources of the affected area.

These issues which were identified through public review of a previous DEISS which was filed with EPA in June 1975; preparation of a Final Environmental Impact Statement Supplement was delayed due to the need to collect additional data. Because of the length of time which has elapsed, the DEISS is being rewritten to incorporate the results of recent water quality, fishery, and cultural resources studies and to respond to the concerns raised in the review of the previous DEISS.

5. The new DEISS will be available for agency and public review in October 1979.

6. Comments and questions about the proposed action and DEISS can be addressed to: District Engineer, U.S. Army Corps of Engineers, Portland District, ATTN: NPPEN-PL-3, P.O. Box 2946, Portland, OR 97208.

Dated: July 20, 1979
Robert P. Flanagan,
Chief, Engineering Division.
[FR Doc. 79-23294 Filed 7-27-79; 8:45 am]
BILLING CODE 3710-AR-M

Intent To Prepare a Draft Environmental Impact Statement for Development of Natural Gas Reserves Underlying the Eastern and Central Basins of Lake Erie

AGENCY: U.S. Army Corps of Engineers (DOD), U.S. Environmental Protection Agency.

ACTION: Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. Description of the Proposed action. a. Federal permits for gas drilling will be required under Section 10 of the River and Harbor Act of 1899 (30 Stat. 1151; 33 U.S.C. 403) and Sections 402 and 404 of the Clean Water Act (91 Stat. 1600, 33 U.S.C. 1344). In anticipation of future regulatory involvement both the Corps of Engineers and the U.S. Environmental Protection Agency have engaged in a joint study to determine if the development of natural gas reserves can be accomplished in an environmentally acceptable manner. The consulting Contractor for this project is the Division of Environmental Impact Studies at Argonne National Laboratory, Argonne, IL.

b. The study, initiated in April 1977, consists of three distinct phases including an evaluation of the social, economic, and environmental issues related to gas exploration; collection and interpretation of biological, chemical, and physical field data; and the development of an Environmental Impact Statement. Investigations performed during the first phase of this study have been completed and are summarized in the document entitled "An Examination of Issues Related to U.S. Lake Erie Natural Gas Development." Interested individuals can obtain a copy of this report by contacting either of the project officials identified below. The second phase is currently underway.

2. Reasonable Alternatives: Options, presently under consideration include evaluation of the no action and indefinite delay alternatives in relation to expected gas production increases caused by rising prices and the Natural Gas Policy Act; the effect of higher prices and improved drilling technology on decisions to bring unconventional or high cost sources of gas into production; foreign imports of natural gas; extension of the existing natural gas supply; and reduction in the demand for natural gas including energy conservation.

3. Scoping: Individuals representing the U.S. Department of Energy, U.S. Department of Transportation, U.S. Fish and Wildlife Service, U.S. Department of

Commerce, Great Lakes Basin Commission, Pennsylvania Department of Environmental Resources, New York State Department of Environmental Conservation, Ohio Department of Natural Resources, and the Lake Erie Basin Committee of the League of Women Voters have participated in scoping meetings which were held on August 15, 1977, October 3, 1977, August 21, 1978, and December 14, 1978. Significant issues identified during the scoping process focused on water quality, aquatic ecology, energy availability and need, cultural resources, recreation, navigation, economics, and land use changes in the coastal zone. Public hearings will be scheduled for Toledo, OH, Cleveland, OH, Erie, PA, and Buffalo, NY prior to the release of the Draft Environmental Impact Statement. A separate public notice will be issued to agency officials and interested individuals when the exact dates and locations have been finalized.

4. Future Scoping Meetings: Additional scoping meetings are not planned at this time.

5. Availability: The Draft Environmental Impact Statement is scheduled to be released to the public for review and comment during the month of November 1979.

6. Questions on the proposed project and the Draft Environmental Impact Statement can be answered by the following individuals: Mr. Paul G. Leuchner, NCBCO-S, U.S. Army Engineer District, Buffalo, 1776 Niagara St., Buffalo, NY 14207, Tel. No. (716) 876-5454; Mr. Howard Zar, GLNPO, U.S. Environmental Protection Agency, 536 S. Clark Street, Chicago, IL 60605, Tel. No. (312) 353-3503.

Dated: July 20, 1979.
Thomas R. Braun,
Lt Col, Corps of Engineers Acting District Engineer.

[FR Doc. 79-23295 Filed 7-27-79; 8:45 am]
BILLING CODE 3710-GP-M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meetings

In accordance with Section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act of 42 U.S.C. 6201 et seq., notice is hereby provided of the following meetings:

1. A meeting of the Industry Working Party (IWP) to the International Energy Agency (IEA) to be held on August 7, 1979, at the offices of the IEA, 2 rue

Andre Pascal, Paris, France, beginning at 3:00 p.m. The agenda is as follows:

1. Status of SOM and IWP activities and arrangements for future meetings.
2. Registration of Oil Market Transactions.

II. A meeting of the Industry Working Party (IWP) to the International Energy Agency (IEA) will be held on August 8, 1979, at the offices of the IEA, 2 rue Andre Pascal, Paris, France, beginning at 11:00 a.m. The Agenda for the meeting is under control of the SOM. It is expected that the IWP representatives will be asked to discuss the following subject:

1. Registration of Oil Market Transactions.

As provided in Section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public.

Issued in Washington, D.C., July 25, 1979.
Robert C. Goodwin, Jr.,

Assistant General Counsel, International Trade and Emergency Preparedness.

[FR Doc. 79-23420 Filed 7-27-79; 8:46 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Action taken on Consent Orders; Agreements

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Agreements.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the ERA and the firms listed below during the month June 1979. The Consent Orders represent agreements between the DOE and the firms which involve a reduction of the selling prices for gasoline to be in compliance with the Federal Energy pricing regulations. These Consent Orders are concerned exclusively with the consenting firm's current compliance with the Mandatory Petroleum Allocation and Price Regulations and do not address the possible non-compliance with these regulations prior to the date of the audit. These Consent Orders require consenting firms to come into compliance with legal requirements by reducing selling prices to established lawful level for each grade of gasoline sold, to properly post maximum lawful selling prices, and to properly maintain required records. All consenting firms are retailers of gasoline as defined in 10 CFR Section 212.31 of the Federal Energy guidelines.

For further information regarding these Consent Orders, please contact James C. Easterday, District Manager of Enforcement, 1655 Peachtree Street NE, Atlanta, Georgia 30309, telephone number 404-881-2661.

BILLING CODE 6450-01-M

Firm Name and Address	Reduction in ASP to Achieve MLSP	Product	Period Covered	Beneficiaries of Price Reductions
Northwoods Exxon N. Charleston, SC	.0190	Motor Gas	Current	Consumers/End Users
Bayfront Shell Charleston, SC	.0040	"	"	"
Bobby's Ashley Plaza Amoco Charleston, SC	.0050	"	"	"
Red Bank Texaco Charleston, SC	.0070	"	"	"
Smith's Ten Mile Shell N. Charleston, SC	.0030	"	"	"
Dorchester Exxon Charleston, SC	.0166	"	"	"
Remount Exxon N. Charleston, SC	.0196	"	"	"
Pop Floyd & Sons Texaco N. Charleston, SC	.0162	"	"	"
Cal Cherry Texaco Montgomery, AL	.0220	"	"	"
Campbells Gulf Montgomery, AL	.0300	"	"	"
Birdneck Texaco Virginia Beach, VA	.0240	"	"	"
Richland Mall Exxon Columbia, SC	.0135	"	"	"
Forest Lake Gulf Columbia, SC	.0202	"	"	"
Decker Blvd. Service Columbia, SC	.0160	"	"	"
Free's Service Columbia, SC	.0020	"	"	"
Edenwood Exxon W. Columbia, SC	.0035	"	"	"
Fort View Exxon Columbia, SC	.0126	"	"	"

Firm Name and Address	Reduction in ASP to Achieve MLSP	Product	Period Covered	Beneficiaries of Price Reductions
Miller Shealy's Exxon Columbia, SC	.0210	"	"	"
Peasant Gulf Montgomery, AL	.0040	"	"	"
Mont's Texaco Columbia, SC	.1420	"	"	"
Turner's Chevron W. Columbia, SC	.0350	"	"	"
East Gulf Montgomery, AL	.0360	"	"	"
Executive Park Atlanta, GA	.0437	"	"	"
Oteen Exxon Asheville, NC	.0122	"	"	"
Smoky Park Exxon Asheville, NC	.0965	"	"	"
Holiday Gulf Asheville, NC	.0447	"	"	"
West Asheville Exxon #2 Asheville, NC	.0120	"	"	"
English Village Exxon Jackson, MS	.0190	"	"	"
University Chevron Jackson, MS	.1120	"	"	"
Jackson Square Gulf Jackson, MS	.0140	"	"	"
Pearson Road Exxon Pearl, MS	.0250	"	"	"
Interstate Gulf Jackson, MS (C.O. rescinded 6/5/79)	.0100	"	"	"

BILLING CODE 6450-01-C

Issued in Washington, D.C., on the 23rd of July 1979.

Robert D. Gerring,
Acting Director, Enforcement Program
Operations.

[FR Doc. 79-23423 Filed 7-27-79; 8:45 am]

BILLING CODE 6450-01-M

Action Taken on Consent Orders; Settlements

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Settlements.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the month of June 1979. The Consent Orders represent resolutions of outstanding compliance investigations or proceedings by the DOE and the firms which involve a sum of less than \$500,000 in the aggregate, excluding any penalties and interest. For Consent Orders involving sums of \$500,000 or more, Notice will be separately published in the Federal Register. These Consent Orders are concerned exclusively with payment of the refunded amounts to injured parties for alleged overcharges made by the specified companies during the time periods indicated below, through direct refunds or rollbacks of prices.

For further information regarding these Consent Orders, please contact James C. Easterday, District Manager of Enforcement, Southeast District, Economic Regulatory Administration, 1655 Peachtree Street, NE, Atlanta, Georgia 30309, telephone number (404) 881-2681.

Firm name and address: E. M. Bailey Distr. Co., Inc., Paducah, KY.

Settlement amount: \$77,321.61.

Product: Gasoline Middle Distillates.

Period covered: November 1, 1973—March 31, 1974.

Recipients of settlements: Joe Douglas, H. S. Wimberly, Wilbert Vault, Harper Truck, Black & Son, Proform, Anderson Speedway, J & S Oil, Shepherd Service, Meeks Oil, Mo-Go, Princeton, Dodson Oil, B & E Service, Cope & Woods, McQuady, Cagle, Bradford, DairyMerry, Holloman Oil, Lake City, Lyon County Oil, Taylor Service, West Broadway, South 6th Speedway, Marion Super Service, W. Sims, Bolte Speedway, Bill Lewis, Save Speedway, Calvert City Spdwy., Cooks Speedway, Reidland Speedway, Clinton Speedway, Lovelaceville Spdwy., Dodson Truck, Sportsman One Stop, Rex Cain, Joe Henson, Reed Crushed Stone, Brooks Bus Line, Old Hickory Clay, M. Livingston, Metzger Packing, Sunshine Dairy, Concrete

Inc., Charles Todd, Quality Constr., Paschall Truck, Federal Materials, Calloway County Road, Graves County Road, Lewis Service Sta., Reed Crushed Stone, Airco Alloy, Old Hickory Clay, Mid-South Constr., Liquid Transp., Paschall Truck, Jimar Paving, Jim Smith Constr., Deena Inc., Vanderbilt, Calloway County Rd. Dept., Portec.

For unidentified customers, a check in the amount of \$6,193.20 was submitted to the U.S. Department of Energy for handling pursuant to 10 CFR Section 205, Subpart V—Special Procedures for Distribution of Refunds.

ERA agreed that the total overcharges be reduced by \$40,193.36 for bad debts.

Firm name and address: Transit Oil Co., Inc., Louisville, KY.

Settlement amount: \$153,249.71.

Product: Gasoline Middle Distillates.

Period covered: November 1, 1973—April 30, 1974.

Recipients of settlements: Braun's Service Sta., Braun's Fuel Oil, Altscheler, Dance Oil Co., Frank Faenza, Five Star Oil, Rogers, Isaacs, Kocolene, L & N, Lausman, Mills, Miller, Murphy, Oil Transit, Price, Pyles, Remote, Pal Oil Co., Somerset, Smith, Sutton, Wilson, Wilco, Sharrer, Heads, Rigley Donnell, Haskins & Coomer, G.E.S., James Darcey, Gay Merritt, Miller Dept. Store, Harold Douglas, Irl Greenwell.

For unidentified customers rollback in the amount of \$101,832.10 plus interest is to be effected.

ERA agreed that the total overcharges be reduced by \$7,051.99 for bad debts.

Firm name and address: Manassas Ice & Fuel Co., Inc., Manassas, VA.

Settlement amount: \$118,406.02.

Product: Gasoline Middle Distillates.

Period covered: November 1, 1973—June 30, 1974.

Recipients of settlements: Prince William Co. School Board, Stafford High Sch., IBM.

For unidentified customers compromise rollback in the amount of \$93,213.52 is to be effected. Rollback in the amount of \$86,012.29 has been verified leaving a balance of \$7,201.23 to be verified.

Firm name and address: C. D. Hollingsworth & Associates, Natchez, MS.

Settlement amount: \$147,111.31.

Product: Crude Oil.

Period covered: January 1, 1974—January 31, 1977.

Recipients of settlements: Miller Oil Purchasing, Ashland Oil.

Firm name and address: Petroleum

Marketers, Inc., Richmond, VA.

Settlement amount: \$452,198.37.

Product: Middle Distillates.

Period covered: November 1, 1973—February 28, 1975.

For unidentified customers refund/rollback in the amount of \$452,198.37 is to be verified.

Firm name and address: Central Oil Co., Inc., Tampa, FL.

Settlement amount: \$48,166.52.

Product: Residuals.

Period covered: November 1, 1973—March 31, 1974.

For unidentified customers refund in the amount of \$48,166.52 plus interest is to be effected.

Issued in Washington, D.C., on the 23rd day of July, 1979.

Robert D. Gerring,

Acting Director, Enforcement Program
Operations.

[FR Doc. 79-23424 Filed 7-27-79; 8:45 am]

BILLING CODE 6450-01-M

Jordan Gas Co., et al.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to Jordan Gas Company, Jordan Gas Service, Inc., and Southern Butane Company, Inc., P.O. Box 127, Centre, Alabama 35960. This Proposed Remedial Order charges Jordan Gas Company, Jordan Gas Service, Inc., and Southern Butane Company, Inc. with pricing violations in the amount of \$130,285.24, connected with the sale of propane during the time period November 1, 1973, through March 31, 1974, in the States of Alabama and Georgia.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James C. Easterday, District Manager of Enforcement, 1655 Peachtree Street, N.E., Atlanta, Georgia 30309, Phone: (404) 881-2661. On or before August 14, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Washington, D.C., on the 23rd day of July 1979.

Robert D. Gerring,

Acting Director, Enforcement Program
Operations.

[FR Doc. 79-23422 Filed 7-27-79; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Revised Proposed Wholesale Power Rates and Opportunities for Public Review and Comment

Correction

In Federal Register Doc. 79-22239 appearing at page 41743 in the issue for July 17, 1979, make the following corrections:

(1) On page 41744, in the middle column, under the heading **SUPPLEMENTARY INFORMATION**, in the first sentence, the Agency abbreviation

"EPA" should be corrected to read the subagency abbreviation "BPA".

(2) On page 41746, in the first column, in the first paragraph, in the 6th through the 9th lines, delete the repeating phrase "for a system at any time that the power factor for all classes of power delivered to a purchaser at such point of delivery or".

(3) On page 41747, in the first column, under the heading, *C. Schedule IF-2—Wholesale Power Rate for Industrial Firm Power*, below the paragraph with the designation, Section 4.

Determination of Billing Demand and Billing Energy, the table with the heading, Annual Availability A, should be moved over to the second column so that it precedes and is part of the table with the heading, Formula for availability credit factor F, and appears in the paragraph with the designation, Section 5. *Adjustments*.

(4) On page 41753, in the first column, in the paragraph with the designation, 9.1 *Average Power Factor*, in the first sentence, the formula should be corrected to read, "Average Power Factor = Kilowatthours ÷ (Kilowatthours)² + (Reactive Kilovoltamperhours)²"

BILLING CODE 1505-01-M

Federal Energy Regulatory Commission

Advisory Committee on Revision of Rules of Practice and Procedure; Subcommittee on Review of Filing Requirements and Substantive Regulatory Requirements; Meeting

July 25, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given that the Subcommittee on Review of Filing Requirements and Substantive Regulatory Requirements of the Advisory Committee on Revision of Rules of Practice and Procedure will continue its meeting of Tuesday, July 24, on Tuesday, July 31, 1979, 9:00 a.m. until 12:00 p.m., at the Federal Energy Regulatory Commission, North Building, 941 North Capitol St., N.E., Room 3200, Washington, D.C.

The purpose of the meeting of July 24, 1979 was to present and discuss the work which has been undertaken by individual members of the Subcommittee. The Subcommittee was unable to complete this task at its July 24 meeting. Accordingly, it recessed the meeting until 9:00 a.m., Tuesday, July 31, 1979. A public announcement of the continuation was made at the July 24 meeting.

Some of the matters being considered by the Subcommittee are also the subject of rulemaking proposals Commission Staff intends to present to the Commission in the immediate future. The Subcommittee was unable to complete its work on these matters at the July 24, 1979 meeting and therefore good cause exists to continue this meeting to Tuesday, July 31 in order to provide the Subcommittee an opportunity to complete its work before Staff makes its proposals to the Commission.

The meeting is open to the public. A transcript of the meeting will be available for public review and copying at FERC's Division of Public Information, Room 1000, 825 North Capitol St., N.E., between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday except Federal Holidays. In addition, any person may purchase a copy of the transcript from the reporter.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23360 Filed 7-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ID-1868]

Charles L. Fritz; Application

July 23, 1979.

Take notice that on January 9, 1979, Charles L. Fritz filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Position, Corporation, and Classification

Vice President, Philadelphia Electric Company, Public Utility
Director, Philadelphia Electric Power Company, Public Utility
Director, Susquehanna Power Company, Public Utility
Director, Susquehanna Electric Company, Public Utility

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23361 Filed 7-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ES79-53]

Commonwealth Edison Co.; Application

July 23, 1979.

Take notice that on July 18, 1979, Commonwealth Edison Company (Applicant) of Chicago, Illinois, filed an application seeking authority pursuant to Section 204 of the Federal Power Act to extend to December 31, 1980, the latest issue date and extend to December 31, 1981, the final maturity date, of up to \$500 million of short-term promissory notes. Applicant is incorporated under the laws of the State of Illinois, with its principal business office at Chicago, Illinois, and is principally engaged in the electric utility business in a service area of approximately 11,525 square miles in northern Illinois, including the City of Chicago.

The proceeds from the issuance of any notes will be added to working capital primarily for ultimate application toward the cost of gross additions to utility properties and to reimburse the Applicant's treasury for construction expenditures.

Any person desiring to be heard or to make protest with reference to the application should, on or before August 17, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rule of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23362 Filed 7-27-79; 8:45 am]
BILLING CODE 6450-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

July 23, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-12347
2. 30-025-25891
3. 103
4. Martindale Petroleum Corporation
5. Little V #1
6. Drinkard
7. Lea NM
8. 38.0 Million Cubic Feet
9. July 12, 1979
10. Getty Oil Company

1. 79-12348
2. 30-045-00000
3. 103
4. C & E Operators Inc
5. Flaherty Com #1
6. Blanco Pictured Cliffs
7. San Juan NM
8. 90.0 Million Cubic Feet
9. July 12, 1979
10. Southern Union Gathering

1. 79-12349
2. 30-045-00000
3. 103
4. C & E Operators Inc
5. Martinez—Carr Com #1
6. Blanco Pictured Cliffs
7. San Juan NM
8. .0 Million Cubic Feet
9. July 12, 1979
10. El Paso Natural Gas Company

1. 79-12350
2. 30-015-00000
3. 103
4. Maddox Energy Corporation
5. Pardue Farms 28
6. Wildcat Atuka
7. Eddy NM
8. 5400.0 Million Cubic Feet
9. July 12, 1979
10. El Paso Natural Gas Company

1. 79-12351
2. 30-041-00000
3. 103
4. El Ran Inc
5. Byron #3
6. Chaveroo
7. Roosevelt NM
8. 3600.0 Million Cubic Feet

9. July 12, 1979
10. Cities Service Company
1. 79-12352
2. 30-041-00000
3. 103
4. El Ran Inc
5. Byron #2
6. Chaveroo
7. Roosevelt NM
8. 3600.0 Million Cubic Feet
9. July 12, 1979
10. Cities Service Company

1. 79-12353
2. 30-041-00000
3. 103
4. El Ran Inc
5. Byron #1Y
6. Chaveroo
7. Roosevelt NM
8. 3600.0 Million Cubic Feet
9. July 12, 1979
10. Cities Service Company

1. 79-12354
2. 30-025-25970
3. 103
4. Martindale Petroleum Corporation
5. Mattern #1
6. Drinkard
7. Lea NM
8. 16.3 Million Cubic Feet
9. July 12, 1979
10. Getty Oil Company

1. 79-12355
2. 30-025-26145
3. 103
4. Martindale Petroleum Corporation
5. Little V #2
6. Drinkard
7. Lea NM
8. 35.1 Million Cubic Feet
9. July 12, 1979
10. Getty Oil Company

1. 79-12356
2. 30-005-00000
3. 103
4. Holly Energy Inc
5. #2 Lula
6. Buffalo Valley Penn
7. Chaves NM
8. 55.4 Million Cubic Feet
9. July 12, 1979
10. El Paso Natural Gas Company

1. 79-12357
2. 30-005-00000
3. 103
4. Stevens Oil Company
5. State Ch Com #3
6. Twin Lakes San Andres
7. Chaves NM
8. 7.0 Million Cubic Feet
9. July 12, 1979
10. Transwestern Pipeline Co

1. 79-12358
2. 30-015-00000
3. 102
4. Harvey E Yates Company
5. Loco Hills Welch #1
6.
7. Eddy NM
8. 190.0 Million Cubic Feet
9. July 12, 1979

10.
1. 79-12359

2. 30-025-00000
3. 108
4. Getty Oil Company
5. Mexico W Well No 1
6. West Monument
7. Lea NM
8. 6.0 Million Cubic Feet
9. July 12, 1979
10. Phillips Petroleum Company

1. 79-12360
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Mexico W No 2
6. Eumont
7. Lea NM
8. 18.0 Million Cubic Feet
9. July 12, 1979
10. Phillips Petroleum Company

1. 79-12361
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Mexico D No 1
6. Cooper Jal-Jalmat
7. Lea NM
8. 2.0 Million Cubic Feet
9. July 12, 1979
10. El Paso Natural Gas Company

1. 79-12362
2. 30-015-22000
3. 102
4. Harvey E Yates Company
5. South Empire Deep Unit #13
6. Und South Empire Morrow
7. Eddy NM
8. 900.0 Million Cubic Feet
9. July 12, 1979
10. El Paso Natural Gas Company

1. 79-12363
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Baker A No 6
6. Langlie Mattix
7. Lea NM
8. 10.0 Million Cubic Feet
9. July 12, 1979
10. Northern Natural Gas Co; El Paso Natural Gas Co

1. 79-12364
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Baker A No 4
6. Langlie-Mattix
7. Lea NM
8. 3.0 Million Cubic Feet
9. July 12, 1979
10. El Paso Natural Gas Co

1. 79-12365
2. 30-025-00000
3. 108
4. Getty Oil Company
5. E.F. King No 1
6. Langlie-Mattix
7. Lea NM
8. 20.0 Million Cubic Feet
9. July 12, 1979
10. El Paso Natural Gas Company

1. 79-12366
2. 30-025-00000
3. 108
4. Getty Oil Company

5. Skelly G State Well No 1
6. Eumont
7. Lea NM
8. 15.0 Million Cubic Feet
9. July 12, 1979
10. Phillips Petroleum Company
1. 79-12367
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Eugene Coats No 4
6. Langlie Mattix
7. Lea NM
8. 12.0 Million Cubic Feet
9. July 12, 1979
10. El Paso Natural Gas Company
1. 79-12368
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Eugene Coats No 6
6. Jalmat
7. Lea NM
8. 2.0 Million Cubic Feet
9. July 12, 1979
10. El Paso Natural Gas Company
1. 79-12369
2. 30-025-00000
3. 108
4. Getty Oil Company
5. State A No 3
6. Eunice Monument
7. Lea NM
8. 10.0 Million Cubic Feet
9. July 12, 1979
10. Phillips Petroleum Company
1. 79-12370
2. 30-025-00000
3. 108
4. Getty Oil Company
5. State J No 4
6. Monument (Eumont-Queen)
7. Lea NM
8. 10.0 Million Cubic Feet
9. July 12, 1979
10. Warren Petroleum Corporation
1. 79-12371
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Eugene Coats No 1
6. Jalmat
7. Lea NM
8. 1.0 Million Cubic Feet
9. July 12, 1979
10. El Paso Natural Gas Company
1. 79-12372
2. 30-025-00000
3. 108
4. Getty Oil Company
5. L Van Etten No. 3
6. Eunice Monument
7. Lea NM
8. 6.0 million cubic feet
9. July 12, 1979
10. Warren Petroleum Corporation
1. 79-12373
2. 30-025-00000
3. 108
4. Getty Oil Company
5. J M Matkins #2
6. Langlie Mattix
7. Lea NM
8. 10.0 million cubic feet

9. July 12, 1979
10. Phillips Petroleum Company
1. 79-12374
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Myers Langlie Mattix Well #116
6. Langlie Mattix
7. Lea NM
8. 10.0 million cubic feet
9. July 12, 1979
10. El Paso Natural Gas Company
1. 79-12375
2. 30-039-20086
3. 108
4. El Paso Natural Gas Company
5. San Juan 27-5 Unit #110
6. Basin-Dakota Gas
7. Rio Arriba
8. 25.8 million cubic feet
9. July 12, 1979
10. El Paso Natural Gas Company Northwest
Pipeline Corp
1. 79-12376
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Myers Langlie Mattix Unit #90
6. Langlie Mattix
7. Lea NM
8. 2.0 million cubic feet
9. July 12, 1979
10. El Paso Natural Gas Company
1. 79-12377
2. 30-025-00000
3. 108
4. Reserve Oil Inc
5. Martin 1-B
6. Jalmat (Yates)
7. Lea NM
8. 3.1 million cubic feet
9. July 12, 1979
10. El Paso Natural Gas Co
1. 79-12378
2. 30-025-00000
3. 108
4. Reserve Oil Inc
5. Martin 2-A
6. Jalmat (Yates)
7. Lea NM
8. 11.3 million cubic feet
9. July 12, 1979
10. El Paso Natural Gas Co
1. 79-12379
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Myers Langlie Mattix Unit #88
6. Langlie Mattix
7. Lea NM
8. 8.0 million cubic feet
9. July 12, 1979
10. El Paso Natural Gas Company
1. 79-12380
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Mexico W No. 5
6. Eumont
7. Lea NM
8. 3.0 million cubic feet
9. July 12, 1979
10. Phillips Petroleum Company

1. 79-12381
2. 30-025-25844
3. 103
4. Amoco Production Company
5. State /D/ No. 5
6. Langlie Mattix—Queen
7. Lea NM
8. 54.0 million cubic feet
9. July 12, 1979
10. El Paso Natural Gas Co
1. 79-12382
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Lovington San Andres Unit Well #17
6. Lovington San Andres
7. Lea NM
8. 3.0 million cubic feet
9. July 12, 1979
10. Phillips Petroleum Company
1. 79-12383
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Myers Langlie Mattix Unit #219
6. Langlie Mattix
7. Lea NM
8. 8.0 million cubic feet
9. July 12, 1979
10. El Paso Natural Gas Company
1. 79-12384
2. 30-025-00000
3. 108
4. Getty Oil Company
5. J C Johnson No. 1
6. Langlie Mattix
7. Lea NM
8. .0 million cubic feet
9. July 12, 1979
10. Northern Natural Gas Co, El Paso Natural
Gas Co
1. 79-12385
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Myers Langlie Mattix Unit #221
6. Langlie Mattix
7. Lea NM
8. 3.0 million cubic feet
9. July 12, 1979
10. El Paso Natural Gas Company
1. 79-12386
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Myers Langlie Mattix Unit #56
6. Langlie Mattix
7. Lea NM
8. 8.0 million cubic feet
9. July 12, 1979
10. El Paso Natural Gas Company
1. 79-12387
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Myers Langlie Mattix Unit #31
6. Langlie Mattix
7. Lea NM
8. 3.0 million cubic feet
9. July 12, 1979
10. El Paso Natural Gas Company
1. 79-12388
2. 30-025-00000
3. 108

4. Getty Oil Company
5. Myers Langlie Mattix Unit #11
6. Langlie Mattix
7. Lea NM
8. 2.0 million cubic feet
9. July 12, 1979
10. El Paso Natural Gas Company
1. 79-12389
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Myers Langlie Mattix Well #78
6. Langlie Mattix
7. Lea NM
8. 2.0 million cubic feet
9. July 12, 1979
10. El Paso Natural Gas Company
1. 79-12390
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Myers Langlie Mattix #190
6. Langlie Mattix
7. Lea NM
8. 2.0 million cubic feet
9. July 12, 1979
10. El Paso Natural Gas Company
1. 79-12391
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Myers Langlie Mattix Unit #51
6. Langlie Mattix
7. Lea NM
8. 2.0 million cubic feet
9. July 12, 1979
10. El Paso Natural Gas Company
1. 79-12392
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Myers Langlie Mattix #80
6. Langlie Mattix
7. Lea NM
8. 2.0 million cubic feet
9. July 12, 1979
10. El Paso Natural Gas Company
1. 79-12393
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Myers Langlie Mattix Unit Well #54
6. Langlie Mattix
7. Lea NM
8. 1.0 million cubic feet
9. July 12, 1979
10. El Paso Natural Gas Company
1. 79-12394
2. 30-025-00000
3. 108
4. Getty Oil Company
5. J. C. Johnson No. 5
6. Langlie Mattix
7. Lea NM
8. .0 million cubic feet
9. July 12, 1979
10. Northern Natural Gas Co., El Paso Natural
Gas Co.
1. 79-12395
2. 30-025-22805
3. 108
4. Getty Oil Company
5. J. C. Johnson No. 6
6. Langlie Mattix

7. Lea NM
8. .0 million cubic feet
9. July 12, 1979
10. Northern Natural Gas Co., El Paso Natural
Gas Co.
1. 79-12396
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Mexico W #4
6. Eumont
7. Lea NM
8. 12.0 million cubic feet
9. July 12, 1979
10. Phillips Petroleum Company
1. 79-12397
2. 30-025-00000
3. 108
4. Getty Oil Company
5. L Van Etten No. 2
6. Eunice Monument
7. Lea NM
8. .0 million cubic feet
9. July 12, 1979
10. Warren Petroleum Corporation
1. 79-12398
2. 30-025-00000
3. 108
4. Getty Oil Company
5. L Van Etten Well No. 5
6. Eunice Monument
7. Lea NM
8. .0 million cubic feet
9. July 12, 1979
10. Warren Petroleum Corporation
1. 79-12399
2. 30-025-00000
3. 108
4. Getty Oil Company
5. J. V. Baker Well No. 10
6. Drinkard
7. Lea NM
8. 10.0 million cubic feet
9. July 12, 1979
10. Northern Natural Gas Co., El Paso Natural
Gas Co.
1. 79-12400
2. 30-025-00000
3. 108
4. Getty Oil Company
5. J. V. Baker Well No. 9
6. Drinkard
7. Lea NM
8. 10.0 million cubic feet
9. July 12, 1979
10. Northern Natural Gas Co., El Paso Natural
Gas Co.
1. 79-12401
2. 30-025-00000
3. 108
4. Getty Oil Company
5. L Van Etten No. 7
6. Eunice Monument
7. Lea NM
8. .0 million cubic feet
9. July 12, 1979
10. Warren Petroleum Corporation
1. 79-12402
2. 30-025-00000
3. 108
4. Getty Oil Company
5. East Eumont Unit No 67
6. Eumont
7. Lea, NM

8. 10.0 million cubic feet
9. July 12, 1979
10. Warren Petroleum Corporation
1. 79-12403
2. 30-025-00000
3. 108
4. Getty Oil Company
5. East Eumont Unit No 17
6. Eumont
7. Lea, NM
8. 4.0 million cubic feet
9. July 12, 1979
10. Warren Petroleum Corporation
1. 79-12404
2. 30-025-00000
3. 108
4. Getty Oil Company
5. East Eumont Unit Well No 29
6. Eumont
7. Lea, NM
8. 2.0 million cubic feet
9. July 12, 1979
10. Warren Petroleum Corporation
1. 79-12405
2. 30-025-00000
3. 108
4. Getty Oil Company
5. King D No 1
6. Langlie Mattix
7. Lea, NM
8. 10.0 million cubic feet
9. July 12, 1979
10. El Paso Natural Gas Company
1. 79-12406
2. 30-025-00000
3. 108
4. Getty Oil Company
5. King C Well No 5
6. Langlie Mattix
7. Lea, NM
8. 1.0 million cubic feet
9. July 12, 1979
10. Northern Natural Gas Co, El Paso Natural
Gas Co
1. 79-12407
2. 30-025-00000
3. 108
4. Getty Oil Company
5. King C No 4
6. Langlie Mattix
7. Lea, NM
8. 1.0 million cubic feet
9. July 12, 1979
10. Northern Natural Gas Co, El Paso Natural
Gas Co
1. 79-12408
2. 30-025-00000
3. 108
4. Getty Oil Company
5. J V Baker No 11
6. Drinkard
7. Lea, NM
8. 7.0 million cubic feet
9. July 12, 1979
10. Northern Natural Gas Co, El Paso Natural
Gas Co
**Ohio Department of Natural Resources,
Division of Oil and Gas**
1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name

6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-12409
2. 34-119-23601-0014
3. 108
4. American Exploration
5. Weiser #1
6.
7. Muskingum, OH
8. 15.0 million cubic feet
9. July 12, 1979
10. New Zane Gas Co
1. 79-12410
2. 34-151-21079-0014
3. 108
4. K-Vill Oil & Gas
5. L Wise #1
6.
7. Stark, OH
8. 9.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company
1. 79-12411
2. 34-151-21120-0014
3. 108
4. K-Vill Oil & Gas
5. Hoover #3
6.
7. Stark, OH
8. 7.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company
1. 79-12412
2. 34-151-21100-0014
3. 108
4. K-Vill Oil & Gas
5. Hoover #2
6.
7. Stark, OH
8. 16.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company
1. 79-12413
2. 34-075-21631-0014
3. 108
4. John C. Mason
5. Roman D Mast #1
6.
7. Holmes, OH
8. 6.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79-12414
2. 34-075-21696-0014
3. 108
4. John C. Mason
5. Ruth Steimel #1
6.
7. Holmes, OH
8. 2.0 million cubic feet
9. July 12, 1979
10.
1. 79-12415
2. 34-075-21401-0014
3. 108
4. John C. Mason
5. Merle D Evans #1
6.
7. Holmes, OH
8. 15.0 million cubic feet
9. July 12, 1979

10. Columbia Gas Trans Corp
1. 79-12416
2. 34-075-21810-0014
3. 108
4. John C. Mason
5. John T. Craven #1
6.
7. Holmes, OH
8. 10.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp
1. 79-12417
2. 34-075-21756-0014
3. 108
4. John C. Mason
5. Ruth Steimel #3
6.
7. Holmes, OH
8. 2.0 million cubic feet
9. July 12, 1979
10.
1. 79-12418
2. 34-031-22419-0014
3. 108
4. John C. Mason
5. Roy E. Brillhart Heirs No. 1
6.
7. Coshocton, OH
8. 15.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp.
1. 79-12419
2. 34-031-21898-0014
3. 108
4. John C. Mason
5. Dean Holt No. 2
6.
7. Coshocton, OH
8. 2.5 million cubic feet
9. July 12, 1979
10. Ohio Cumberland Gas Co.
1. 79-12420
2. 34-031-20057-0014
3. 108
4. John C. Mason
5. Clarence & May Holt 6A
6.
7. Coshocton, OH
8. 1.5 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp.
1. 79-12421
2. 34-031-21740-0014
3. 108
4. John C. Mason
5. Phil & Jean Holt 1A
6.
7. Coshocton, OH
8. 1.5 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp.
1. 79-12422
2. 34-031-21838-0014
3. 108
4. John C. Mason
5. Phil & Jean Holt 2A
6.
7. Coshocton, OH
8. 1.5 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp.
1. 79-12423
2. 34-169-21538-0014

3. 108
4. John C. Mason
5. Louis C. Gruver No. 1
6.
7. Wayne, OH
8. 2.5 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp.
1. 79-12424
2. 34-169-21722-0014
3. 108
4. John C. Mason
5. Dan E. Yoder No. 1
6.
7. Wayne, OH
8. 10.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp.
1. 79-12425
2. 34-075-21874-0014
3. 108
4. John C. Mason
5. Ralph Straits No. 1
6.
7. Holmes, OH
8. 7.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp.
1. 79-12428
2. 34-075-21478-0014
3. 108
4. John C. Mason
5. Eli N. Nisley & Anna Holmes No. 1
6.
7. Holmes, OH
8. 10.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp.
1. 79-12427
2. 34-083-21972-0014
3. 108
4. John C. Mason
5. Lucien Viers No. 1
6.
7. Knox, OH
8. 2.0 million cubic feet
9. July 12, 1979
10. Ohio Cumberland Gas Co.
1. 79-12429
2. 34-075-21893-0014
3. 108
4. John C. Mason
5. Virgil E. Shreiner No. 5
6.
7. Holmes, OH
8. 5.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp.
1. 79-12430
2. 34-169-21730-0014
3. 108
4. John C. Mason
5. Susie Yoder No. 1
6.
7. Wayne, OH
8. 5.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp.
1. 79-12431
2. 34-075-21405-0014
3. 108
4. John C. Mason
5. Enos Miller Unit No. 1
6.

7. Holmes, OH
8. 6.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp.
1. 79-12432
2. 34-075-21571-0014
3. 108
4. John C. Mason
5. Andrew M. Miller No. 1
6.
7. Holmes, OH
8. 3.7 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp.
1. 79-12433
2. 34-075-21666-0014
3. 108
4. John C. Mason
5. Eli D. Mast Unit No. 1
6.
7. Holmes, OH
8. 15.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp.
1. 79-12434
2. 34-169-21806-0014
3. 108
4. John C. Mason
5. Atlee D. Miller No. 1
6.
7. Wayne, OH
8. 6.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp.
1. 79-12435
2. 34-031-21712-0014
3. 108
4. John C. Mason
5. Clarence & May Holt No. 4-A
6.
7. Coshocton, OH
8. 1.5 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp.
1. 79-12436
2. 34-075-21759-0014
3. 108
4. John C. Mason
5. Levi D. Kline No. 1
6.
7. Holmes, OH
8. 5.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp.
1. 79-12437
2. 34-075-21427-0014
3. 108
4. John C. Mason
5. David E. Hochstetler No. 1
6.
7. Holmes, OH
8. 14.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp.
1. 79-12438
2. 34-075-21800-0014
3. 108
4. John C. Mason
5. Levi D. Kline No. 2
6.
7. Holmes, OH
8. 5.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp.

1. 79-12439
2. 34-075-21294-0014
3. 108
4. John C. Mason
5. Lawrence Leppla No. 1
6.
7. Holmes, OH
8. 6.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp.
1. 79-12440
2. 34-075-21412-0014
3. 108
4. John C. Mason
5. Ben H. Norris No. 1
6.
7. Holmes, OH
8. 2.5 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp.
1. 79-12441
2. 34-075-21849-0014
3. 108
4. John C. Mason
5. G. R. Hipp 1A
6.
7. Holmes, OH
8. 20.0 million cubic feet
9. July 12, 1979
10. Cincinnati Gas & Electric Co.
1. 79-12442
2. 34-031-21616-0014
3. 108
4. John C. Mason
5. Clarence & May Holt 1A
6.
7. Coshocton, OH
8. 1.5 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp.
1. 79-12443
2. 34-031-21627-0014
3. 108
4. John C. Mason
5. Clarence & May Holt 2A
6.
7. Coshocton, OH
8. 1.5 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp.
1. 79-12444
2. 34-075-21695-0014
3. 108
4. John C. Mason
5. Ralph W. Herman No. 1
6.
7. Holmes, OH
8. 5.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp.
1. 79-12445
2. 34-075-21821-0014
3. 108
4. John C. Mason
5. Norman R. Seaman No. 1
6.
7. Holmes, OH
8. 5.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp.
1. 79-12446
2. 34-075-21729-0014
3. 108
4. John C. Mason

5. Levi J. Schlabach No. 1
6.
7. Holmes, OH
8. 1.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp.
1. 79-12447
2. 34-075-21822-0014
3. 108
4. John C. Mason
5. Seaman Corp. No. 1
6.
7. Holmes, OH
8. 10.0 million cubic feet
9. July 12, 1979
10. Norman R. Seaman
1. 79-12448
2. 34-115-20857-0014
3. 108
4. Cameron Brothers
5. McInturf No. 4
6.
7. Morgan, OH
8. .5 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans Corp.
1. 79-12449
2. 34-105-21569-0014
3. 108
4. Cameron Brothers
5. Harold Sauer #3
6.
7. Meigs, OH
8. 5.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans. Corp.
1. 79-12450
2. 34-105-21545-0014
3. 108
4. Cameron Brothers
5. Harold Sauer #1
6.
7. Meigs, OH
8. .0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans. Corp.
1. 79-12451
2. 34-105-21544-0014
3. 108
4. Cameron Brothers
5. Harold Sauer #2
6.
7. Meigs, OH
8. .0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans. Corp.
1. 79-12452
2. 34-105-21705-0014
3. 108
4. Cameron Brothers
5. Harold Ramsburg #1
6. NTR
7. Meigs, OH
8. 9.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans. Corp.
1. 79-12453
2. 34-053-20293-0014
3. 108
4. Cameron Brothers
5. Walter Rife #1
6.
7. Gallia, OH
8. 9.0 million cubic feet

9. July 12, 1979
10. Columbia Gas Trans. Corp.
1. 79-12454
2. 34-099-20669-0014
3. 108
4. Dick Hart
5. E Dailey #1
6.
7. Mahaning, OH
8. 18.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Co.
1. 79-12455
2. 34-019-20765-0014
3. 108
4. MB Operating Co Inc
5. D & R Seaburn #1
6.
7. Carroll, OH
8. 5.5 million cubic feet
9. July 12, 1979
10. East Ohio Gas Co., Columbia Gas Co., Republic Steel Corp.
1. 79-12456
2. 34-019-21046-0014
3. 108
4. MB Operating Co Inc
5. D Michael Smith Unit #1
6.
7. Carroll, OH
8. 5.5 million cubic feet
9. July 12, 1979
10. East Ohio Gas Co., Columbia Gas Co., Republic Steel Corp.
1. 79-12457
2. 34-019-20879-0014
3. 108
4. MB Operating Co Inc
5. D & M Watkins #1
6.
7. Carroll, OH
8. 5.5 million cubic feet
9. July 12, 1979
10. East Ohio Gas Co., Columbia Gas Co., Republic Steel Corp.
1. 79-12458
2. 34-019-20439-0014
3. 108
4. MB Operating Co Inc
5. J P Williams #1
6.
7. Carroll, OH
8. 5.5 million cubic feet
9. July 12, 1979
10. East Ohio Gas Co., Columbia Gas Co., Republic Steel Corp.
1. 79-12459
2. 34-019-20798-0014
3. 108
4. MB Operating Co., Inc.
5. M & C Karlo #1
6.
7. Carroll, OH
8. 5.5 million cubic feet
9. July 12, 1979
10. East Ohio Gas Co., Columbia Gas Co., Republic Steel Corp.
1. 79-12460
2. 34-019-20318-0014
3. 108
4. MB Operating Co., Inc.
5. Lindentree #3
6.
7. Carroll, OH
8. 5.5 million cubic feet
9. July 12, 1979
10. East Ohio Gas Co., Columbia Gas Co., Republic Steel Corp.
1. 79-12461
2. 34-073-21462-0014
3. 108
4. Poston Operating Co., Inc.
5. Byers-Bowers #1
6.
7. Hooking, OH
8. 7.8 million cubic feet
9. July 12, 1979
10. Columbia Gas of Ohio
1. 79-12462
2. 34-073-21482-0014
3. 108
4. Poston Operating Co., Inc.
5. Byers-Bowers #3
6.
7. Hocking, OH
8. 7.8 million cubic feet
9. July 12, 1979
10. Columbia Gas of Ohio
1. 79-12463
2. 34-019-20965-0014
3. 108
4. MB Operating Co., Inc.
5. Aston-Bullock #1
6.
7. Carroll, OH
8. 5.5 million cubic feet
9. July 12, 1979
10. East Ohio Gas Co., Columbia Gas Co., Republic Steel Corp.
1. 79-12464
2. 34-019-21047-0014
3. 108
4. MB Operating Co., Inc.
5. C & L Clark Unit #1
6.
7. Carroll, OH
8. 5.5 million cubic feet
9. July 12, 1979
10. East Ohio Gas Co., Columbia Gas Co., Republic Steel Corp.
1. 79-12465
2. 34-019-21070-0014
3. 108
4. MB Operating Co., Inc.
5. C & L Clark Unit #2
6.
7. Carroll, OH
8. 5.5 million cubic feet
9. July 12, 1979
10. East Ohio Gas Co., Columbia Gas Co., Republic Steel Corp.
1. 79-12466
2. 34-093-20897-0014
3. 108
4. Erie Oil & Gas Co
5. Boy Scout #1
6.
7. Lorain, OH
8. 3.6 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp.
1. 79-12467
2. 34-157-22412-0014
3. 108
4. Cappetro Inc
5. F&L Putt No 14 Cappetro No 0401
6.
7. Tuscarawas, OH

8. 1.6 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company
1. 79-12468
2. 34-157-22338-0014
3. 108
4. Cappetro Inc
5. Je Troyer No 2 Cappetro No 0202
6.
7. Tuscarawas, OH
8. 1.6 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company
1. 79-12469
2. 34-157-22337-0014
3. 108
4. Cappetro Inc
5. Je Troyer No 1 Cappetro No 0201
6.
7. Tuscarawas, OH
8. 1.6 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company
1. 79-12470
2. 34-157-22389-0014
3. 108
4. Cappetro Inc
5. L Dietz No 1 Cappetro No 0301
6.
7. Tuscarawas, OH
8. 6.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Company
1. 79-12471
2. 34-169-20462-0014
3. 108
4. The Oxford Oil Co
5. Roy Maibach #2
6.
7. Wayne, OH
8. 1.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans. Corp.
1. 79-12472
2. 34-169-20499-0014
3. 108
4. The Oxford Oil Co
5. Roy Maibach #3
6.
7. Wayne, OH
8. 1.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans. Corp.
1. 79-12473
2. 34-075-21321-0014
3. 108
4. The Oxford Oil Co
5. Bernard Manchester #1
6.
7. Holmes, OH
8. 1.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans. Corp.
1. 79-12474
2. 34-129-22221-0014
3. 108
4. The Oxford Oil Co
5. A R Merry #1
6.
7. Muskingum, OH
8. 5.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans. Corp.

1. 79-12475
2. 34-129-22936-0014
3. 108
4. The Oxford Oil Co
5. Harold McVicker #1
6.
7. Muskingum, OH
8. 8.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans. Corp.
1. 79-12476
2. 34-075-21323-0014
3. 108
4. The Oxford Oil Co
5. John Manchester #1
6.
7. Holmes, OH
8. 1.5 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans. Corp.
1. 79-12477
2. 34-075-21509-0014
3. 108
4. The Oxford Oil Co.
5. Sam Mast No. 1
6.
7. Holmes, OH
8. 6.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans. Corp.
1. 79-12478
2. 34-075-21925-0014
3. 108
4. The Oxford Oil Co.
5. J. L. Mathias No. 1
6.
7. Holmes, OH
8. 1.5 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans. Corp.
1. 79-12479
2. 34-119-21935-0014
3. 108
4. The Oxford Oil Co.
5. Joseph Miles No. 1
6.
7. Muskingum, OH
8. 2.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans. Corp.
1. 79-12480
2. 34-075-21546-0014
3. 108
4. The Oxford Oil Co.
5. Levi Miller No. 1
6.
7. Holmes, OH
8. 9.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans. Corp.
1. 79-12481
2. 34-115-20849-0014
3. 108
4. Cameron Brothers
5. McInturf No. 1
6.
7. Morgan, OH
8. .5 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans. Corp.
1. 79-12482
2. 34-115-20852-0014
3. 108
4. Cameron Brothers
5. McInturf No. 2
6.
7. Morgan, OH
8. .5 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans. Corp.
1. 79-12483
2. 34-115-20853-0014
3. 108
4. Cameron Brothers
5. McInturf No. 3
6.
7. Morgan, OH
8. .5 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans. Corp.
1. 79-12484
2. 34-099-20671-0014
3. 108
4. Dick Hart
5. J. Williams No. 1
6.
7. Mahoning, OH
8. 14.0 million cubic feet
9. July 12, 1979
10. East Ohio Gas Co.
1. 79-12485
2. 34-121-21755-0014
3. 108
4. St. Joe Petroleum (US) Corporation
5. E. Rayner No. 1
6. Undesignated
7. Noble, OH
8. 15.0 million cubic feet
9. July 12, 1979
10. Republic Steel Corporation
1. 79-12486
2. 34-059-21721-0014
3. 108
4. St. Joe Petroleum (US) Corporation
5. H. Harding No. 1
6. Undesignated
7. Guernsey, OH
8. 5.0 million cubic feet
9. July 12, 1979
10. Republic Steel Corporation
1. 79-12487
2. 34-121-21899-0014
3. 108
4. St. Joe Petroleum (US) Corporation
5. R. Dudley No. 1
6. Undesignated
7. Noble, OH
8. 11.0 million cubic feet
9. July 12, 1979
10. Republic Steel Corporation
1. 79-12488
2. 34-121-21893-0014
3. 108
4. St. Joe Petroleum (US) Corporation
5. Van Scyoc No. 1
6. Undesignated
7. Noble, OH
8. 11.0 million cubic feet
9. July 12, 1979
10. Republic Steel Corporation
1. 79-12489
2. 34-121-21702-0014
3. 108
4. St. Joe Petroleum (US) Corporation
5. Johnson Yeagle No. 1
6. Undesignated
7. Noble, OH
8. 10.0 million cubic feet
9. July 12, 1979
10. Republic Steel Corporation
1. 79-12490
2. 34-121-21769-0014
3. 108
4. St. Joe Petroleum (US) Corporation
5. S. Schockling No. 1
6. Undesignated
7. Noble, OH
8. 8.0 million cubic feet
9. July 12, 1979
10. Republic Steel Corporation
1. 79-12428
2. 34-169-21756-0014
3. 108
4. John C. Mason
5. Sam Steiner No. 1
6.
7. Wayne, OH
8. 10.0 million cubic feet
9. July 12, 1979
10. Columbia Gas Trans. Corp.
Utah Division of Oil, Gas and Mining
1. Control Number (FERC/State)
2. API well number
3. Section of NCPAa
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-12343
2. 43-019-30351
3. 103
4. Frank B Adams
5. Chris P Joulas No 1
6. North Cisco Springs Field
7. Grand, UT
8. 120.0 million cubic feet
9. July 12, 1979
10. Northwest Pipeline Corp
1. 79-12344
2. 43-019-30260
3. 108
4. Gililand & Fix
5. Paulson 23-2
6. Cisco
7. Grand, UT
8. 26.0 million cubic feet
9. July 12, 1979
10. Cisco Gathering System
1. 79-12345
2. 43-019-16263
3. 108
4. Gililand & Fix
5. Whyte-State No. 2
6. Cisco
7. Grand, UT
8. 11.0 million cubic feet
9. July 12, 1979
10.
1. 79-12346
2. 43-019-30410
3. 108
4. Legg Resources Ltd
5. Joyce State No. 1
6. Cisco
7. Grand, UT
8. 36.5 million cubic feet
9. July 12, 1979
10. Northwest Pipeline

West Virginia Department of Mines, Oil and Gas Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-12332
2. 47-097-21482
3. 108
4. Union Drilling Inc
5. Cecile West Hymes 1300
6. Washington District
7. Upshur, WV
8. 8.8 million cubic feet
9. July 12, 1979
10. Equitable Gas Co
1. 79-12333
2. 47-097-21384
3. 108
4. Union Drilling Inc
5. Ella V Knepp 1253
6. Meade District
7. Upshur, WV
8. 11.3 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12334
2. 47-001-20563
3. 108
4. Union Drilling Inc
5. Rosaltha Lan Heirs No 2 1254
6. Pleasant District
7. Barbour, WV
8. 7.9 million cubic feet
9. July 12, 1979
10. Consolidated Gas Supply Corp
1. 79-12335
2. 47-001-20494
3. 108
4. Union Drilling Inc
5. Herman J Poling Jr 1209
6. Pleasant District
7. Barbour, WV
8. 8.4 million cubic feet
9. July 12, 1979
10. Consolidated Gas Supply Corp

1. 79-12336
2. 47-097-21390
3. 108
4. Union Drilling Inc
5. Basil Hinkle 1257
6. Buckhannon District
7. Upshur, WV
8. 5.1 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12337
2. 47-097-21436
3. 108
4. Union Drilling Inc
5. Marjorie L Miles No 2 1278
6. Washington District
7. Upshur, WV
8. 8.7 million cubic feet
9. July 12, 1979
10. Equitable Gas Co
1. 79-12338

2. 47-097-21164
3. 108
4. Union Drilling Inc
5. Doy Helmick 1198
6. Washington District
7. Upshur, WV
8. 1.8 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp
1. 79-12339
2. 47-097-21135
3. 108
4. Union Drilling Inc
5. Mae Carter 1190
6. Meade District
7. Upshur, WV
8. 6.4 million cubic feet
9. July 12, 1979
10. Columbia Gas Transmission Corp

1. 79-12340
2. 47-041-21551
3. 108
4. Union Drilling Inc
5. C W Reeder 1153
6. Courthouse District
7. Lewis, WV
8. 3.6 million cubic feet
9. July 12, 1979
10. Equitable Gas Co
1. 79-12341
2. 47-097-21435
3. 108
4. Union Drilling Inc
5. Marjorie L Miles 1276
6. Washington District
7. Upshur, WV
8. 9.7 million cubic feet
9. July 12, 1979
10. Equitable Gas Co
1. 79-12342
2. 47-097-21461
3. 108
4. Union Drilling Inc
5. Ira Hoover 1285
6. Meade District
7. Upshur, WV
8. 3.4 million cubic feet
9. July 12, 1979
10. Equitable Gas Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this notice in the **Federal Register**.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23373 Filed 7-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ID-1871]**Edwin Lupberger; Application**

July 23, 1979.

Take notice that Edwin Lupberger on July 5, 1979 filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Position, Corporation, and Classification
Assistant Treasurer and Assistant Secretary, Arkansas Power & Light Company, Electric Utility
Assistant Treasurer and Assistant Secretary, Arkansas-Missouri Power Company, Electric Utility
Assistant Treasurer and Assistant Secretary, Louisiana Power & Light Company, Electric Utility
Assistant Treasurer and Assistant Secretary, Mississippi Power & Light Company, Electric Utility
Assistant Treasurer and Assistant Secretary, New Orleans Public Service, Inc., Electric Utility

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23363 Filed 7-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ID-1867]**Joseph F. Paquette, Jr.; Application**

July 23, 1979.

Take notice that on June 29, 1979, Joseph F. Paquette, Jr. filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Position, Corporation, and Classification

Vice President, Philadelphia Electric Company, Public Utility
Director, Philadelphia Electric Power Company, Public Utility
Director, Susquehanna Power Company, Public Utility
Director, Susquehanna Electric Company, Public Utility

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23364 Filed 7-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ID-1870]**Lucy S. Binder; Application**

July 23, 1979.

Take notice that on June 29, 1979, Lucy S. Binder filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Position, Corporation, and Classification
Secretary, Philadelphia Electric Company, Public Utility
Secretary, Philadelphia Electric Power Company, Public Utility
Secretary, Susquehanna Power Company, Public Utility
Secretary, Susquehanna Electric Company, Public Utility

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23365 Filed 7-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ES79-54]**Missouri Edison Co.; Application**

July 23, 1979.

Take notice that on July 16, 1979, Missouri Edison Company (Applicant) filed an application with the Commission, pursuant to Section 204 of the Federal Power Act, seeking an order authorizing the issuance of up to \$10 million of short-term unsecured promissory notes, with final maturities not later than December 31, 1980. The Applicant is a Missouri Corporation, with its principal business office at Louisiana, Missouri and is engaged in the electric utility business in Missouri.

The proceeds will be used to finance, in part, Applicant's construction program, which calls for expenditures of approximately \$11,037,000 for 1979 and 1980.

Any person desiring to be heard or to make and protest with reference to the application should on or before August 17, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23366 Filed 7-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket Nos. CP78-123, et al.; and CP79-57]**El Paso Natural Gas Co. and Northwest Alaskan Pipeline Co., et al.; Amendment**

July 20, 1979.

Take notice that on July 6, 1979, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP79-57 an amendment to its pending application filed in said docket pursuant to Section 7(c) of the Natural Gas Act deleting its request for certificate authorization to construct and operate certain facility additions to its interstate pipeline

system and reaffirming its request for a certificate of public convenience and necessity authorizing the transportation of natural gas for Pacific Interstate Transmission Company (Pacific) pursuant to the gas transportation agreement, dated August 18, 1978, as recently amended on June 11, 1979, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

El Paso's application in this proceeding requested certificate authorization (1) to construct and operate certain additional facilities on its interstate pipeline transmission system and (2) to transport and deliver up to 240,000 Mcf of gas per day for Pacific from a point of receipt at the existing interconnection between the systems of El Paso and Northwest Pipeline Corporation (Northwest) near Ignacio, Colorado, to an existing point of delivery on the Arizona-California boundary near Topock, Arizona. The proposed transportation service was to be performed pursuant to the transportation agreement of August 18, 1978.

The amendment states that El Paso and Pacific have executed an amendatory agreement, dated June 11, 1979, amending the transportation agreement to provide for the transportation of a specified contract quantity, for building of facility additions and modifications and for the rates to be paid for services provided by El Paso. Pursuant to the transportation agreement, as amended, El Paso would transport such quantities of natural gas as Pacific shall cause Northwest to tender to El Paso each day, up to Pacific's contract quantity of 230,000 Mcf per day at the existing interconnection of El Paso's and Northwest's systems at Ignacio. El Paso would deliver 95 percent of the transportation quantities received from Northwest for Pacific's account at an existing delivery point to Southern California Gas Company (SoCal) near Topock.

El Paso indicates that its obligation to transport gas under the transportation agreement, as amended, is subject to available capacity in its interstate pipeline transmission system after moving its own flowing gas supplies, including its storage supplies. El Paso would periodically evaluate its capacity to transport natural gas for the account of Pacific and other shippers in light of its anticipated flowing gas supplies. The transportation agreement, as amended, provides that Pacific has the option (1) to authorize El Paso to seek all necessary regulatory authorizations to construct and operate facility additions and/or

modifications to transport natural gas for Pacific, or (2) to instruct El Paso not to make such additions and/or modifications for Pacific. In the latter event, El Paso's obligation to transport natural gas under the transportation agreement, as amended, through any of El Paso's facilities, other than incremental ones previously constructed for transportation for Pacific under the transportation agreement, as amended, is on a best efforts basis.

In the event El Paso is authorized by Pacific to seek necessary regulatory authorizations to construct and operate facility additions required in the San Juan Triangle and/or on the San Juan Mainline system, Pacific agrees to pay El Paso an amount equal to the product of 95 percent of the contract quantity times the rate in effect and reflected from time to time as the San Juan Triangle Facilities Demand Charge, as set forth on Sheet No. 1-D.2 of El Paso's FERC Gas Tariff, Third Revised Volume No. 2, or superseding tariff, plus an amount equal to the higher of: (i) the rate in effect and reflected from time to time as the Mainline Transmission Charge-California, as set forth in said Sheet No. 1-D.2, or superseding tariff, for each Mcf transported; or (ii) the product of 95 percent of the contract quantity, times the rate in effect and reflected from time to time as the San Juan Mainline Facilities Demand Charge, as set forth in said Sheet No. 1-D.2, or superseding tariff. Absent Pacific authorizing El Paso to seek all necessary authorizations to construct and operate the facility additions required in the San Juan Triangle and/or on the San Juan Mainline system, Pacific has agreed to pay El Paso, as compensation for the use of El Paso's mainline transmission system in the transportation and delivery of gas from the Ignacio point to the Topock point, for each Mcf of transportation gas delivered by El Paso at the Arizona-California boundary, the rate in effect and reflected from time to time as the Mainline Transmission Charge-California, as set forth in said Sheet No. 1-D.2, to superseding tariff.

El Paso determined that the available capacity in its San Juan Triangle facilities is inadequate to transport both its own flowing gas supplies and the quantities of gas scheduled to be tendered to El Paso for the account of certain shippers, including Pacific. Subsequent to such capacity evaluation, El Paso filed for certificate authorization in Docket No. CP79-337 to construct and operate certain pipeline, compression and meter facility additions on its

existing San Juan Triangle facilities and on its San Juan Mainline system in Colorado, New Mexico and Arizona. Said application accommodates the facility requirements to transport gas for both Pacific and certain other shippers and thereby eliminates the need to request authorization to build facilities for each shipper separately.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before August 14, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons having heretofore filed need not do so again.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23367 Filed 7-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket Nos. CP78-389; CP78-259]

Rocky Mountain Natural Gas Co., Inc., and RMNG Gathering Co.; Petition To Amend

July 19, 1979.

Take notice that on June 25, 1979, Rocky Mountain Natural Gas Company, Inc. (Rocky Mountain) and RMNG Gathering Co. (RMNG), 1600 Sherman Street, Denver, Colorado 80203 (Petitioners), filed in Docket Nos. CP78-389 and Docket No. CP78-259 a petition to amend the order of October 4, 1978, issued in the instant dockets pursuant to Section 7(c) of the Natural Gas Act so as to authorize RMNG and Rocky Mountain to exchange an increased volume of gas from additional acreage in the Great Divide Area of Moffat County, Colorado, all as more fully set forth in the application on file with the Commission and open to public inspection.

Pursuant to the order of October 4, 1978, RMNG and Rocky Mountain were granted authorization to exchange up to 5,000 Mcf of natural gas per day with

Northwest Pipeline Corporation (Northwest) pursuant to the terms of a gas transportation and exchange agreement dated January 27, 1978, as amended June 6, 1978, between Rocky Mountain and RMNG. Petitioners state that Northwest is presently delivering certain volumes of natural gas, which it is gathering in the Great Divide Area, to Rocky Mountain for transportation and exchange at a point of interconnection with Rocky Mountain's Big Hole pipeline in Moffat County for subsequent utilization in Rocky Mountain's intrastate utility system. RMNG then redelivers thermally equivalent volumes of gas to Northwest at the Bar X exchange meter station, an existing point of interconnection between RMNG's South Canyon Gathering System and Northwest's mainline, it is stated.

Petitioners request authorization to exchange up to 10,000 Mcf of natural gas per day from additional acreage in the Great Divide Area with Northwest pursuant to the terms of two additional amendments dated November 20, 1978, and March 12, 1979; to the gas transportation and exchange agreement dated January 27, 1978, as amended. Petitioners indicate that such additional gas is anticipated to be purchased and/or gathered by Northwest in the Great Divide Area.

The increased volumes of gas proposed to be exchanged herein would enable Northwest expeditiously to make available to its mainline system the volumes of natural gas currently available to Northwest and anticipated to be available to Northwest in the future in the area covered by the amended transportation and exchange agreement, it is said.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a

petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23368 Filed 7-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ID-1869]

Shields L. Daltroff; Application

July 23, 1979.

Take notice that on June 29, 1979, Shields L. Daltroff filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Position, Corporation, and Classification

Vice President, Philadelphia Electric Company, Public Utility
Director, Philadelphia Electric Power Company, Public Utility
Director, Susquehanna Power Company, Public Utility
Director, Susquehanna Electric Company, Public Utility

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23369 Filed 7-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-377]

Tennessee Gas Pipeline Co.; Application

July 16, 1979.

Take notice that on June 21, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP79-377 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural

gas for Southern Natural Gas Company (Southern), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to transport, to the extent its operating conditions permit, up to 2,000 Mcf of natural gas per day for Southern pursuant to the terms of a transportation agreement dated June 15, 1979, between Applicant and Southern whereby Applicant would receive the gas from Southern at the outlet of Shell Oil Company's East Bay Central Facilities in the South Pass Block 24 Field, Plaquemines Parish, Louisiana, and would transport such volumes to the tailgate of the Yscloskey Processing Plant, St. Bernard Parish, Louisiana, where the gas would be exchanged for delivery to Southern at an existing point of delivery at the Patterson Gasoline Plant in St. Mary Parish or at the upstream side of Southern's meter located at the tailgate of such plant.

The application states that the gas which Applicant proposes to transport would be purchased by Southern from Shell Oil Company, SONAT Exploration Company and The Offshore Company from reserves produced from Mississippi Canyon area, Blocks 150, 151, 194, and 195, offshore Louisiana (Mississippi Canyon block 194 Field) and that initial production of these reserves would consist of low pressure casinghead gas which would be delivered onshore through the producers' two-phase pipeline and made available for sale to Southern at the outlet of the East Bay Central Facilities.

Applicant would charge Southern for the proposed transportation service a monthly volume charge equal to 3.36 cents per Mcf, with provision for a minimum bill based on the transportation quantity. Applicant states that Southern would provide it with 1.2 percent of the volumes of gas that Applicant receives for transportation to compensate for Applicant's fuel and use requirements.

Southern has advised Applicant that it would require its assistance in transporting this gas until the earlier of the date on which Southern is capable of taking delivery of Mississippi Canyon Block 194 Field gas through new offshore facilities to be constructed in the vicinity of the field or Southern's producers' cease the sale of gas to Southern at the point of receipt by Applicant. Applicant states that the proposed transportation service would be beneficial to Southern in that it would provide it with immediately

available gas supplies for its system supply.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 7, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10), and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23370 Filed 7-27-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-391]

Transcontinental Gas Pipe Line Corp.; Application

July 19, 1979.

Take notice that on July 2, 1979, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP79-391 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas from the state of Georgia

to the states of North and South Carolina, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco seeks authorization to transport up to 9,000 dekatherms equivalent of natural gas per day for United Cities Gas Company (UCGC). UCGC's Georgia Division (Georgia) is a Rate Schedule CD-1 customer of Transco, taking deliveries at the Gainesville Meter Station in Oconee County, Georgia. UCGC's North Carolina and South Carolina Division (Carolina) is a Rate Schedule CD-2 customer of Transco, taking deliveries at the Gaffney Meter Station in Cherokee County, South Carolina and the Mill Spring Meter Station in Polk County, North Carolina.

UCGC has advised Transco that due to varying load demands on its Georgia and Carolina systems, it would be desirable to make Georgia gas available to Carolina on occasions, and similarly to make Carolina gas available to Georgia on other occasions. In order to accomplish this, UCGC has requested Transco to transport quantities of gas between the two divisions under Transco's Rate Schedule T. Under such rate schedule, UCGC would pay Transco an initial charge of 10.0 cents per dekatherms equivalent of gas for all quantities transported downstream from Georgia to Carolina, and Transco will retain 1.2 percent of the transportation quantities for compressor fuel and line loss make-up. For all quantities transported upstream from Carolina to Georgia UCGC would pay Transco an initial charge of 5.0 cents per dekatherm.¹

Any person desiring to be heard or to make any protest with reference to said application should on or before August 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will

¹All quantities transported from Georgia to Carolina will have been purchased by Georgia, and all quantities transported from Carolina to Georgia will have been purchased by Carolina.

not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-23371 Filed 7-27-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP76-118]

U-T Offshore System; Informal Settlement Conference

July 23, 1979.

Take notice that an informal settlement conference will be held in the captioned docket on August 8, 1979 in Room 8402, 825 North Capitol Street, N.E., Washington, D.C., 20426 at 10:00 a.m.

Customers and other interested persons will be permitted to attend the above-mentioned informal conference but if such persons have not previously been permitted to intervene attendance at the conference will not be deemed to authorize intervention as a party in the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-23372 Filed 7-27-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1284-8; OPP-180330]

California Department of Food and Agriculture; Crisis Exemption To Use Fenvalerate and Permethrin To Control *Heliothis* Species on Corn

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notice of temporary crisis exemption.

SUMMARY: EPA gives notice that the California Department of Food and Agriculture (hereafter referred to as "California") availed itself of a crisis exemption to use permethrin and fenvalerate to control *Heliothis* species on 9,000 acres of corn in Imperial and Riverside Counties, California.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-2691. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: California reported that about 9,000 acres of corn are grown in Imperial and Riverside Counties and all of them are susceptible to attack by *Heliothis* spp. This corn is valued at \$3,800,000, and according to California, a loss of fifty percent might occur without a control program. California claimed that no currently registered pesticide gives adequate control of this pest.

California's program used the products Amush and Pydrin at a rate of 0.1-0.2 pound active ingredient in not less than 30 gallons of water when applied by ground, or 5 gallons of water by aircraft, per acre. A maximum of 16,000 pounds of permethrin or fenvalerate were to be applied in a maximum of ten applications made at 3- to 7-day intervals. Applications were to be made by or under the supervision of a State-certified applicator. A two-day pre-harvest interval was to be observed. Treated fields were not to be rotated to any crop except cotton or corn within 60 days. If Pydrin was used, the fields were not to be rotated to any root crop within twelve months. Label precautions were to be observed to prevent hazards to fish, aquatic invertebrates, bees, and contamination of water. Since treatment was expected to be required for more than fifteen days, California submitted a

request for a specific exemption for continuation of this program.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: July 23, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-23451 Filed 7-27-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1285-1; OPP-180336]

California Department of Health Services; Issuance of Specific Exemption To Use DDT To Suppress Flea Vectors of Plague

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has granted a specific exemption to the California Department of Health Services (hereafter referred to as the "Applicant") to use no more than fifty pounds of DDT for the suppression of flea populations in areas in the foothills and mountains of California, where flea populations vectoring plague on wild rodents may endanger the public health. The specific exemption expires on December 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-2691. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: On June 11, 1979, the Applicant's Vector Biology and Control Section informed EPA that the State had availed itself of a crisis exemption to use 92 pounds of 10 percent DDT to control plague vector fleas in Los Angeles County on June 8 and 9, 1979. A human case of plague had occurred in a residential area and there was insufficient time to wait for a specific exemption, according to the Applicant. Since the Applicant anticipated that the need for the use of DDT would continue for longer than fifteen days, the Applicant requested a specific exemption to continue the program.

The Applicant reported that there had been an earlier case of plague in a

recreational area in Riverside County. The Applicant also reported that the plague surveillance program indicates that the potential exists for a plague outbreak in northern California in 1979.

According to the Applicant, carbaryl, the only pesticide registered for plague vector control, has a record of doubtful efficacy in some California situations. Evidence indicates carbaryl dust to be reasonably efficacious in controlling fleas of the ground squirrel (*Spermophilus beecheyi*) but to be undependable in controlling fleas of chipmunks and other rodents of similar habits. The Applicant also stated that DDT is available and is of demonstrated efficacy against fleas of wild rodents.

The program conducted under this exemption will be essentially the same as the 1978 treatment. The material (DDT dust) will be applied by hand-operated dusters directly into rodent burrows, or applied through the use of bait dust stations at a maximum rate of 0.06 pound of actual DDT per acre. The areas treated will have to meet the following criteria: (1) without flea control, the public health would be endangered, and (2) the situation would be such as to give rise to a reasonable doubt about the anticipated efficacy of carbaryl. All applications will be made under the supervision of personnel of the Applicant's Vector Biology and Control Section.

This application was endorsed by Dr. Allen M. Barnes, Chief, Plague Branch, Center for Disease Control (CDC), Fort Collins, Colorado, U.S. Department of Health, Education, and Welfare. According to Dr. Barnes, the plague potential for 1979 is unknown and unpredictable at this time. Dr. Barnes stated that the issuance of this exemption was advisable so that the Applicant might be prepared for an epizootic outbreak of the plague bacillus among wild rodents.

The Fish and Wildlife Service, U.S. Department of the Interior, supports this use of DDT with certain reservations regarding application in the presence of endangered species. These reservations have been incorporated into the conditions of the specific exemption.

The final cancellation order for DDT (published in the Federal Register on July 7, 1972, p. 13369) specifically exempted " * * * uses of DDT by public health officials in disease control programs * * * "

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of fleas vectoring plague is likely to occur in California; (b) there are no alternative means of control available, taking into

account the efficacy and hazard; (c) significant health problems may result if the fleas vectoring plague are not controlled; and (d) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until December 30, 1979 to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The total amount of DDT used may not exceed fifty pounds actual insecticide;

2. The DDT will be applied directly to wild rodent burrows with hand-powered dusting equipment or applied through the use of bait dust stations;

3. Areas in the foothills and mountains of California to be treated are limited to those meeting the two criteria specified above in this notice;

4. Personnel of the Applicant's Vector Biology and Control Section will supervise all pesticide applications;

5. Dr. Allen M. Barnes, Chief, Plague Branch, CDC (Fort Collins), will be kept advised of all flea population suppression activities;

6. Areas treated with DDT should be surveyed to ensure that no endangered species that could be adversely affected are present;

7. No applications will be made in areas where the American Peregrine falcon is feeding or nesting;

8. Liaison will be established with the California Fish and Game Department prior to applying DDT in any area;

9. The EPA shall be immediately informed of any adverse effects to man or the environment resulting from this program; and

10. The Applicant's Vector Biology and Control Section will be responsible for assuring that all provisions of this specific exemption are followed and must submit a report detailing the use of DDT and the results of the program by February 15, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: July 23, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-23452 Filed 7-27-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1284-6; OPP-180325]

Crisis Exemption To Use Captafol To Control Anthracnose on Strawberry Plants**AGENCY:** Environmental Protection Agency (EPA), Office of Pesticide Programs.**ACTION:** Notice of temporary crisis exemption.

SUMMARY: EPA gives notice that the North Carolina Department of Agriculture (hereafter referred to as "North Carolina") has availed itself of a crisis exemption to use Difolatan (captafol) to control anthracnose on approximately 500 acres of strawberries grown for plants in North Carolina. Since treatment was expected to exceed fifteen days, North Carolina submitted a request for a specific exemption for continuation of this use of captafol.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460. Telephone: 202/426-2691. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION:

According to North Carolina, that State produces more strawberry plants than any other state east of California. Plants grown in North Carolina are shipped to many other states and foreign countries for fruit production.

Anthracnose has been a destructive disease during the past three years for strawberry plant producers in the southeastern part of North Carolina when high temperatures and rainfall favor disease development. Anthracnose (*Colletotrichum fragariae*) attacks the mature crown, runners, and runner plants. The fungus enters the crown at the soil line and causes reddish-brown discolored areas in the white tissues in the center of the crown. Infected mature plants wilt and die. The fungus is carried over from year to year in crowns that become infected in late summer. The fungus produces masses of spores on diseased plant tissues and these spores are spread to nearby plants by splashing water or winds.

Despite the use of repeated applications of benomyl, which is registered for control of anthracnose, North Carolina claims that emergency conditions exist in strawberry plant producing areas and are expected to

exist through September. There are no alternative control methods. North Carolina estimates a possible loss of more than \$2.5 million to North Carolina farmers without an effective fungicide program to control anthracnose.

North Carolina has been using Difolatan 4F (EPA Reg. No. 239-2211) at a rate of two pounds active ingredient per acre every seven days during periods of weather conditions favorable for pathogen dissemination. Producers of certified strawberry plants have applied the fungicide in sufficient water to obtain thorough coverage of all plant parts, using ground equipment.

Difolatan is registered for use on many fruit and vegetable crops. North Carolina claims that this use of captafol on a limited number of acres for non-bearing plant production will eliminate the need for numerous applications of the fungicide on a much larger number of acres of strawberries being grown for fruit. North Carolina has submitted a request for a specific exemption for continuation of this use of captafol.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 [92 Stat. 819; 7 U.S.C. 136].)

Dated: July 23, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-23443 Filed 7-27-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1284-7; OPP-180326]

Delaware, Maryland, and Virginia; Issuance of Specific Exemptions To Use Blazer on Soybeans To Control Morning-glory Species**AGENCY:** Environmental Protection Agency (EPA), Office of Pesticide Programs.**ACTION:** Issuance of specific exemptions.

SUMMARY: EPA has granted specific exemptions to the Delaware and Maryland Departments of Agriculture and the Virginia Department of Agriculture and Consumer Services (hereafter referred to as the "Applicants") to use Blazer on 50,000 acres of soybeans in each State for the control of morning-glory species. The specific exemptions expire on July 31, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street,

S.W., Room: E-124, Washington, D.C. 20460. Telephone: 202/426-2691. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: Morning-glory species are annual plants which have the ability to germinate throughout the season. They not only compete with the soybeans for light, nutrients, and water, but also create a hindrance at harvest time. The long vines slow down and can stop harvesting by clogging the harvesting equipment. Additional losses can be incurred from docking due to morning-glory seeds in harvested soybeans.

The Applicants had earlier applied for specific exemptions which were denied because a determination that an emergency condition existed could not be made. In their subsequent requests for the proposed use, the Applicants referred to the extremely heavy rainfall which occurred during May and early June. In wet years the weeds become a very serious problem, according to the Applicants. The Applicants estimate possible losses in the three States at \$3.5 million without an effective morning-glory control program.

There are currently twenty-two or more registered compounds for use in soybeans to control morning-glory species. The Applicants stated that the available registered chemicals either do not control morning-glory under their States' conditions, or can no longer be used on planted soybeans due to agriculture practices and the present stage of soybean development. The Applicants claim that: (1) dinitramine is too phytotoxic to soybeans and they do not recommend it for sandy loam soils; (2) Dinoseb gives poor control after 4-5 days and can injure soybeans; (3) Linuron does not provide satisfactory control at low rates, and is too phytotoxic at high rates; (4) Metribuzin is too phytotoxic; (5) Bentazon only provides partial control of small morning-glories (cotyledonary stage); and (6) Glyphosate is non-selective and can only be used as a spot treatment. Forty percent of the soybean fields have been solid seeded (seven-inch rows) or no-till planted and neither registered post-directed pesticides nor cultivation can be used on these soybean fields.

The Applicants proposed to make a single application of Blazer (sodium 5-(2-chloro-4-(trifluoromethyl)phenoxy)-2-nitrobenzoate) at a rate of 0.25 to 0.5

pound active ingredient (a.i.) per acre. Application is to be by ground or air equipment. Data indicate that this rate would be efficacious.

A temporary tolerance for residues of sodium 5-(2-chloro-4-(trifluoromethyl)phenoxy)-2-nitrobenzoate in or on soybeans at 0.1 part per million (ppm) has been established. This temporary tolerance expires on January 1, 1980. EPA has determined that residues of the a.i. in Blazer in or on soybeans as a result of the proposed plan will not exceed 0.1 ppm; and residues of the a.i. in Blazer in milk; eggs; liver and kidney of cattle, goats, horses and sheep; and meat, fat, and meat by-products of poultry will not exceed 0.01 ppm. These residue levels have been judged adequate to protect the public health. EPA has also determined that the proposed use of Blazer should not pose an unreasonable hazard to the environment.

After reviewing the applications and other available information, EPA determined that (a) pest outbreaks of morning-glory species have occurred; (b) there is no effective pesticide presently registered and available for use to control the morning-glory in Delaware, Maryland, and Virginia; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the morning-glory is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicants have been granted specific exemptions to use the pesticide noted above until July 31, 1979, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. The products Blazer 2S and Blazer 2L, manufactured by Rohm and Haas Company may be applied;

2. Blazer 2L and 2S may be applied at a rate of 0.25 to 0.5 pound a.i. per acre. Only one application per season may be made. A maximum of 50,000 acres of soybeans may be treated in each State;

3. Blazer may be applied by ground equipment in a minimum of 20 gallons of water, or by aircraft in a minimum of 10 gallons of water;

4. Blazer may be applied only to soybean fields which were planted before June 11, 1979, and only when a major infestation of morning-glory exists, as determined by State Agriculture personnel, which will cause significant economic losses;

5. A pre-harvest interval of fifty days is imposed;

6. The fields may not be rotated to any other food crop within six months of last application of Blazer;

7. The spray program will be under the direction of the:

a. Division of Production and Promotion in Delaware;

b. Division of Plant Industries in Maryland, and

c. Pesticide, Plant and Hazardous Substances Section in Virginia;

8. All applicable directions and precautions on the Blazer 2S and 2L labels must be followed;

9. Soybeans treated according to the above provisions should not have residues of sodium 5-(2-chloro-4-(trifluoromethyl)phenoxy)-2-nitrobenzoate in excess of 0.1 ppm. Milk; eggs; liver and kidney of cattle, goats, horses and sheep; and meat, fat, and meat by-products of poultry should not have residues in excess of 0.01 ppm. Soybeans with residues of sodium 5-(2-chloro-4-(trifluoromethyl)phenoxy)-2-nitrobenzoate not exceeding 0.1 ppm may enter into interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been informed of this action;

10. The EPA will be immediately informed of any adverse effects from use of Blazer in connection with this exemption;

11. The Applicants are each responsible for assuring that all provisions of the specific exemption for that State are met and each must submit a report summarizing the results of the program in that State by December 31, 1979; and

12. In order to help prevent future emergencies, farmers should be encouraged to use 30-inch row spacing when planting soybeans.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 [92 Stat. 819; 7 U.S.C. 136].)

Dated: July 23, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-23450 Filed 7-27-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1283.4; OPP-50436]

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with

respect to the use of pesticides for experimental purposes.

No. 876-EUP-36. Velaicol Chemical Corporation, Chicago, IL 60611. This experimental use permit allows the use of 0.40 pound of the rodenticide diphacinone on sugarcane fields to evaluate control of cotton rats, Norway rats, rice rats, roof rats, Polynesian rats, and house mice. A total of 800 acres is involved; the program is authorized only in the States of Florida and Hawaii. The experimental use permit is effective from May 15, 1979 to August 1, 1981. (PM-18, William Miller, Room: E-343, Telephone: 202/426-0458)

No. 1471-EUP-58. Elanco Product Company, Indianapolis, IN 46206. This experimental use permit allows the use of 13,650 pounds of the herbicide oryzalin on wheat to evaluate control of weeds. A total of 13,650 acres is involved; the program is authorized only in the States of Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Maryland, Mississippi, Missouri, New Jersey, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. The experimental use permit is effective from July 9, 1979 to July 9, 1980. A temporary tolerance for residues of the active ingredient in or on wheat has been established. (PM-25, Robert Taylor, Room: E-301, Telephone: 202/755-2100)

No. 2724-EUP-16. Zoecon Industries, Dallas, TX 75234. This experimental use permit allows the use of 8.15 pounds of the insecticide N-(Mercaptomethyl) phthalimide S-(0,0-dimethyl phosphorodithioate) on beef cattle to evaluate control of the Gulf Coast tick, Spinose ear tick, and hornfly. A total of 1,400 animals is involved; the program is authorized only in the State of Texas. The experimental use permit is effective from June 26, 1979 to June 26, 1980. Permanent tolerances for residues of the active ingredient in or on the fat, meat, and meat byproducts of beef cattle have been established (40 CFR 180.261). (PM-15, Jay Ellenberger, Room: E-329, Telephone: 202/426-9490)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 [92 Stat. 819; 7 U.S.C. 136].)

Dated: July 20, 1979.
 Douglas D. Campt,
 Director, Registration Division.
 [FR Doc. 79-23449 Filed 7-27-79; 8:45 am]
 BILLING CODE 6560-01-M

[FRL 1284-5; OPP-180324]

**North Dakota and South Dakota
 Departments of Agriculture; Issuance
 of Specific Exemptions to Use 2,4-D to
 Control Broadleaf Weeds in Millet**

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemptions.

SUMMARY: EPA has granted specific exemptions to the North and South Dakota Departments of Agriculture (hereafter referred to as "North Dakota," and "South Dakota," or the "Applicants") to use 2,4-D amine to control broadleaf weeds in 75,000 acres of millet in North Dakota and 35,000 acres of millet in South Dakota. The specific exemptions expire on September 1, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E-124, Washington, D.C. 20460, Telephone: 202/426-2691. It is suggested that interested persons telephone before visiting the EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: Millets are minor crops grown for grain and forage. Of at least five different groups of millets grown in the United States, foxtails and proso are the primary ones grown in North Dakota, proso in South Dakota. According to the Applicants, approximately 99 percent of the millet is harvested for grain and the major commercial use for the grains is in birdseed mixtures. Proso millet can also be foraged or cut and dried for hay. Foxtail millet hay and ground grain can be fed to livestock. Broadleaf weeds, such as redroot pigweeds, Kochia, and wild mustard, are of primary concern to millet growers. There are currently no EPA-registered pesticides for control of broadleaf weeds in millets. North Dakota has estimated a loss valued at \$700,000 and South Dakota \$1,000,000 if broadleaf weeds are not controlled.

The Applicants proposed to make a single application of 0.25 to 0.50 pound dimethylamine salt of 2,4-D per acre on a maximum of 75,000 acres of millet in North Dakota and 35,000 acres in South

Dakota. State-certified private and commercial applicators using air and ground equipment will make the applications.

2,4-D is a widely used broadleaf weed herbicide and tolerances have been established on foods that make up approximately 80 percent of the total average human diet. EPA has determined that millet grain and straw residue levels of 2,4-D not in excess of 0.1 part per million (ppm) and 10 ppm, respectively, are adequate to protect the public health and that this use should not exceed these levels. EPA has also considered the potential for residues from nitrosamine contamination of the chemical and has calculated that such residues would be less than 1 part per billion, which level should not pose undue hazard to the environment. This determination was based on the following reasons: (1) millet is not normally a human food item; (2) the residues are extremely small; (3) the residues are very likely not stable; and (4) the chance of any exposure is very small. The proposed use of 2,4-D is not expected to result in dietary exposure to residues of the chemical which would be in excess of those levels currently considered adequate to protect the public health for the following reasons: (1) millet is not normally a human food item; (2) established tolerances for meat, milk, and poultry will not be exceeded; and (3) 2,4-D tolerances are established for the major feed commodities at levels significantly higher than the 10 ppm level expected to occur in millet straw.

After reviewing the applications and other available information, EPA has determined that (a) pest outbreaks of broadleaf weeds in millet are likely to occur; (b) there is no pesticide presently registered and available for use to control these weeds in North and South Dakota; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if these weeds are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicants have been granted specific exemptions to use the pesticide noted above until September 1, 1979, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. An EPA-registered dimethylamine salt of 2,4-D which is appropriately labeled for the intended means of application (ground or air) is authorized;
2. 2,4-D will be applied at a maximum rate of one-half pound active ingredient

per acre. A maximum of one application may be made;

3. A maximum of 75,000 acres may be treated in North Dakota, 35,000 acres in South Dakota;

4. A maximum of 37,500 pounds active ingredient may be applied in North Dakota, 17,500 pounds in South Dakota;

5. Applications may be made by air and ground equipment;

6. All applications will be made by State-certified commercial applicators or by growers;

7. No application will be made within four weeks of heading time;

8. All applications shall be made only in situations where the weed problem is serious and substantial crop losses are imminent;

9. EPA has determined that residues resulting from this use will not exceed 0.1 ppm in or on millet grain and 10 ppm in or on straw. Residues not in excess of these levels will not pose a threat to the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

10. All applicable directions, restrictions, and precautions on the product label must be followed;

11. Precautions must be taken to minimize or avoid spray drift to non-target areas;

12. The EPA will be immediately informed of any adverse effects resulting from the use of this pesticide in connection with this exemption; and

13. North and South Dakota shall each be responsible for assuring that all of the provisions of its specific exemption are met, and each must submit a report summarizing the results of this program by December 31, 1979.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: July 23, 1979.

Edwin L. Johnson,
 Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-23442 Filed 7-27-79; 8:45 am]
 BILLING CODE 6560-01-M

[FRL 1283-6; PF-142]

**Pesticide Programs; Notice of Filing of
 Pesticide Petition**

Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804, has submitted a petition (PP 9F2222) to the Environmental Protection Agency (EPA) which proposes that 40 CFR 180.205 be amended by establishing a tolerance for the residues of the herbicide paraquat (1,1'-dimethyl-4,4-bipyridinium-ion)

derived from application of either the dichloride or the bis-(methyl)sulfate salt calculated in both instances as the cation in or on the raw agricultural commodity wheat straw at 5.0 parts per million (ppm). The proposed analytical method for determining residues is by freeing of the paraquat cation with ammonium chloride, reduction by sodium dithionite, and determination by spectrophotometry. Notice of this submission is given pursuant to the provisions of section 408(d) (1) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition. Comments may be submitted, and inquiries directed, to Product Manager (PM) 25, Room E-359, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/755-2196. Written comments should bear a notation indicating the petition number "PP 9F2222". Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Dated: July 20, 1979.

Douglas D. Campt,
 Director, Registration Division.
 [FR Doc. 79-23445 Filed 7-27-79; 8:45 am]
 BILLING CODE 6560-01-M

[FRL 1283-7; PF-141]

**Pesticide Programs; Notice of Filing of
 Pesticide/Feed Additive Petitions**

Pursuant to sections 408(d)(1) and 409(b)(5) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency (EPA) gives notice that the following petitions have been submitted to the Agency for consideration.

PP 9F2221. Dow Chemical USA, PO Box 1706, Midland, MI 48640. Proposes that 40 CFR 180.342 be amended by establishing tolerances for the combined residues of the insecticide chlorpyrifos [O,O-diethyl O-(3,5,6-trichloro-2-pyridyl)phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodities cucumbers and pumpkins at 0.05 part per million, seed and pod vegetables at 0.05 ppm, apples at 1.0 ppm, and bean and pea forage at 1.0 ppm. The proposed analytical method for determining residues is by gas chromatography using flame photometric detection.

FAP 9H5227. Dow Chemical USA. Proposes that 21 CFR 561.98 be amended by

permitting residues of the above insecticide in or on the animal feed commodity apple pomace at 2.0 ppm.

Interested persons are invited to submit written comments on these petitions. Comments may be submitted, and inquiries directed, to Product Manager (PM) 12, Room E-335, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, DC 20460, telephone number 202/426-2635. Written comments should bear a notation indicating the petition number to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Dated: July 20, 1979.

Douglas D. Campt,
 Director, Registration Division.
 [FR Doc. 79-23446 Filed 7-27-79; 8:45 am]
 BILLING CODE 6560-01-M

[FRL 1283-8; PF-143]

**Pesticide Programs; Notice of Filing of
 Food/Feed Additive Petitions**

Monsanto Co., 800 Lindbergh Blvd., St. Louis, MO 63166, has submitted a petition (FAP 9H5196) to the Environmental Protection Agency (EPA) which proposes that 21 CFR 193.235 and 561.253 be amended by permitting the combined residues of the herbicide glyphosate [N-(phosphonomethyl)glycine] and its metabolite aminomethylphosphonic acid resulting from the application of the sodium salt of glyphosate in the growing of sugarcane with a tolerance limitation of 20 parts per million (ppm) in sugarcane molasses. Notice of this submission is given pursuant to the provisions of section 409(b)(5) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition. Comments may be submitted, and inquiries directed, to Product Manager (PM) 25, Room E-359, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/755-2196. Written comments should bear a notation indicating the petition number "FAP 9H5196". Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in

the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Dated: July 20, 1979.

Douglas D. Campt,
 Director Registration Division.
 [FR Doc. 79-23447 Filed 7-27-79; 8:45 am]
 BILLING CODE 6560-01-M

[FRL 1284-4; OTS-50004]

**Transfer of TSCA Premanufacture
 Notification Information to Contractor;
 Notice of Data Transfer**

AGENCY: Environmental Protection Agency (EPA), Office of Toxic Substances.

ACTION: Notice of Data Transfer.

SUMMARY: EPA will transfer chemical substance identities submitted by manufacturers and importers under Section 5 of the Toxic Substances Control Act (TSCA) to its contractor, Tracor-Jitco of Rockville, Maryland. The data transferred will contain only the identity of chemical substances which may or may not have been claimed confidential. Tracor-Jitco will perform literature searches on these chemical substances and furnish the results of these literature searches to EPA.

DATE: The transfer of the identity of chemical substances claimed confidential will occur no sooner than August 9, 1979 and will continue in controlled stages.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Director, Industry Assistance Office, Office of Toxic Substances (TS-799), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. The toll-free telephone number is 800-424-9065. In Washington, D.C., please call 554-1404.

SUPPLEMENTARY INFORMATION: Under Section 5 of TSCA, manufacturers and importers of chemical substances have reported and will continue to report information concerning new chemical substances which are not included in the Master Inventory File of Chemical Substances and which they intend to manufacture or import. To assist the Administrator in carrying out his statutory responsibilities of regulating chemical substances under Section 5, it is necessary to perform bibliographic searches on the open scientific literature for information on the chemical substances reported. Tracor-Jitco, Inc., Rockville, MD, has been selected to perform the literature searches (Contract #68-01-5114) because EPA does not have the in-house resources to do the work.

The data furnished to the contractor to perform the required literature searches will consist only of a list of chemical substances, as well as their Chemical Abstracts Service (CAS) Registry Numbers, where available.

Pursuant to 40 CFR 2.306(j), it has been determined that it is necessary for Tracor-Jitco to be furnished the information to satisfactorily perform its contract.

The data transmitted to the contractor will not identify the manufacturer or importer of the chemical substance and will not disclose whether the substance is intended to be manufactured or imported. In addition to the chemical substances reported under Section 5 of TSCA, EPA has requested and will continue to request Tracor-Jitco to perform literature searches on other chemical substances whose identities have not been claimed confidential and submitted under any other provisions of TSCA.

Although the transfer of chemical substances claimed confidential without the identity of the manufacturer or importer or the intended use of the substances may not constitute the transfer of confidential business information, EPA decided to treat this information as confidential business information and publish this notice to inform all submitters of information that a transfer will occur.

Tracor-Jitco is legally required under the terms of its contract not to reveal the fact that EPA has requested a particular literature search to anyone outside its organization and to take appropriate measures to safeguard the information collected during literature searches to prevent its unauthorized disclosure. The contractor is prohibited under the terms of its contract to disclose any information collected under this contract to any third party in any form without written authorization from EPA.

Pursuant to the EPA/TSCA Confidential Business Information Security Manual, Tracor-Jitco has been authorized to have access to this information. A security plan for Tracor-Jitco has been approved and EPA's Security and Inspection Division has conducted the required inspection of the Tracor-Jitco facilities and has found them to be in compliance with the requirements of the TSCA Confidential Business Information Security Manual. Tracor-Jitco is required to treat all EPA task orders which identify chemical substances claimed confidential in accordance with EPA's TSCA Confidential Business Information Security Manual.

(Section 5 of TSCA (Pub. L. 94-469, 90 Stat. 2003, 15 U.S.C. 2601 et seq.).)

Dated: July 23, 1979.

Steven D. Jellinek,
Assistant Administrator for Toxic
Substances.

[FR Doc. 79-23441 Filed 7-27-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1284-3]

Water Quality Standards; Main Stem of the Ohio River; Corrections

AGENCY: Environmental Protection Agency.

ACTION: Correction Notice and Extension of Public Comment Period.

SUMMARY: In FR Doc. 79-19410, Thursday, June 21, 1979, at 44 FR 36252, EPA published a notice on Water Quality Standards; Main Stem of the Ohio River. In that document, several errors or incomplete statements appeared which need correction. The corrections are listed below.

Corrections

The table and accompanying footnotes on page 36253, Traditional Water Quality Constituents, contain incomplete or inaccurate statements regarding ORSANCO recommendations on dissolved oxygen, temperature, and fecal coliform bacteria. The complete ORSANCO recommendations for these parameters are as follows.

Dissolved Oxygen: Concentration shall average at least 5.0 mg/l per calendar day and shall not be less than 4.0 mg/l at any time or any place outside the mixing zone.

Temperature: Maximum rise above natural temperature shall not exceed 5 deg. F; in addition the allowable maximum temperature during a month shall not exceed:

Month and Temperature Deg. F	
January.....	50
February.....	50
March.....	60
April.....	70
May.....	80
June.....	87
July.....	89
August.....	89
September.....	87
October.....	78
November.....	70
December.....	57

Water temperature shall not exceed the maximum limits in the above table during more than one percent of the hours in the 12-month period ending with any month; at no time shall the water temperature at such locations exceed the maximum limits in the table by more than 3 deg. F.

Fecal coliform for primary recreation: Content (either MPN or MF count) shall not exceed 200/100 ml as a monthly geometric mean based on not less than five samples per month; nor exceed 400 per 100 ml in more than ten percent of all samples taken during month; these limits are applicable to waters designated for recreational use during the recreation season.

ORSANCO's recommendations also include the following statements on toxic substances, including pesticides, and polychlorinated biphenyls (PCB's). "Toxic Substances: Not to exceed one-tenth the 96-hour median tolerance limit; other limiting concentrations may be used when justified on the basis of available evidence and approved by the appropriate regulatory agency."

"Polychlorinated biphenyls (PCB)

Total PCB shall not exceed 0.001 microgram per liter; however, when the level is less than the practical laboratory quantification level (currently 0.1 microgram per liter) a fish flesh body burden level in excess of 2 micrograms per gram shall be cause for concern and further investigation."

Both EPA and ORSANCO have other recommendations relating to water quality standards which were not cited in the earlier Federal Register notice because they are either not at issue or are not essential to accomplish the purposes of the notice. However, EPA recognizes that ORSANCO's recommendations include, as do all State standards, narrative criteria defining minimum conditions applicable to all waters, known in the program as the "four free froms", plus a mixing zone provision, allowed by general EPA standards policy, and specific criteria for radionuclides.

Public Comment Period Extension

The deadline for submitting comments on the notice published on June 21, 1979, (44 FR 36252) is hereby extended to September 5, 1979.

Sweep T. Davis,

Acting Assistant Administrator for Water and Waste Management.

July 23, 1979.

[FR Doc. 79-23455 Filed 7-27-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1284-2]

Ambient Air Monitoring Reference and Equivalent Method Designation: Monitor Labs, Inc., Model 8850 Fluorescent SO₂ Analyzer

Notice is hereby given that EPA, in accordance with 40 CFR Part 53 (40 FR

7044, February 18, 1975), has designated another equivalent method for the measurement of ambient concentrations of sulfur dioxide. The new equivalent method is an automated method (analyzer) which utilizes a measurement principle based on UV stimulated fluorescence. The method is:

EQSA-0779-039, "Monitor Labs Model 8850 Fluorescent SO₂ Analyzer", operated on a range of either 0-0.5 ppm or 0-1.0 ppm, with an internal time constant setting of 55 seconds, a TFE sample filter installed on the sample inlet line, and with or without any of the following options:
03A—Rack.
03B—Slides.
05A—Valves Zero/Span.
06A—IZS, Internal Zero/Span Source.
06B, C, D—NBS Traceable Permeation Tubes.
08A—Pump.
09A—Rack Mount for Option 08A.
010—Status Output W/Connector.
013—Recorder Output Options.
014—DAS Output Options.

This method is available from Monitor Labs, Incorporated, 10180 Scripps Ranch Blvd., San Diego, California 92131.

A notice of receipt of application for this method appeared in the Federal Register, Volume 44, May 23, 1979, page 29971.

A test analyzer representative of this method has been tested by the applicant, in accordance with the test procedures specified in 40 CFR Part 53. After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with Part 53, that this method should be designated as an equivalent method.

The information submitted by the applicant will be kept on file at the address shown below and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As an equivalent method, this method is acceptable for use by States and other control agencies for purposes of 40 CFR Part 58, Ambient Air Quality Surveillance (44 FR 27571, May 10, 1979). For such use, the method must be used in strict accordance with the operation or instruction manual provided with the method and subject to any limitations (e.g., operating range) specified in the applicable designation (see description of the method above). Vendor modifications of a designated method used for purposes of Part 58 are permitted only with prior approval of EPA, as provided in Part 53. Provisions concerning modification of such

methods by users are specified under Section 2.8 of Appendix C to Part 58 (44 FR 27585).

Part 53 requires that sellers of designated methods comply with certain conditions. These conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser.

(2) The analyzer must not generate any unreasonable hazard to operators or to the environment.

(3) The analyzer must function within the limits of the performance specifications given in Table B-1 of Part 53 for at least 1 year after delivery when maintained and operated in accordance with the operation manual.

(4) Any analyzer offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with Part 53.

(5) If such an analyzer has one or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been designated as reference or equivalent methods.

(6) An applicant who offers analyzers for sale as reference or equivalent methods is required to maintain a list of ultimate purchasers of such analyzers and to notify them within 30 days if a reference or equivalent method designation applicable to the analyzer has been cancelled or if adjustment of the analyzers is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(7) An applicant who modifies an analyzer previously designated as a reference or equivalent method is not permitted to sell the analyzer (as modified) as a reference or equivalent method (although he may choose to sell it without such representation), nor to attach a label or sticker to the analyzer (as modified) under the provisions described above, until he has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified or until he has applied for and received notice of a new reference or equivalent method designation for the analyzer as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated non-compliance with any of these conditions should be reported to: Director, Environmental Monitoring and Support Laboratory, Department E (MD-77), U.S. Environmental Protection

Agency, Research Triangle Park, North Carolina 27711.

Designation of this equivalent method will provide assistance to the States in establishing and operating their air quality surveillance systems under Part 58. Additional information concerning this action may be obtained by writing to the address given above.

Stephen J. Gage,
Assistant Administrator for Research and Development.

[FR Doc. 79-23444 Filed 7-27-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1285-3; OPP-180340]

Department of Defense; Issuance of Specific Exemption To Use Paranitrophenol To Control Fungi Which Deteriorate Leather

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has granted a specific exemption to the U.S. Department of Defense (hereafter referred to as the "Applicant") to use paranitrophenol (PNP) to treat leather military articles in order to prevent the rapid deterioration of these articles by fungi under high humidity. The specific exemption expires on June 16, 1980.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E-124, Washington, D.C. 20460, Telephone: 202/426-2691. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, the military departments have been treating various leather military articles, of which the most important were boots and shoes, for thirty years. However, this particular use of PNP—treating leather during manufacture for the end use protection of the product against fungal decay—has never been registered. The Applicant has formally applied for registration of PNP for the exclusive purpose of treating military leather articles; however, required toxicity studies will not be completed until 1981. The Applicant is also working on getting registrations for alternative compounds. The Applicant was confronted with the problem of not having a registered

product for use on leather while being required for logistical and contractual reasons to plan in advance for large scale procurements.

Without an efficient fungicide, the cost of replacing shoes would increase significantly because of fungal decay, the Applicant claimed. In addition, the issuance of new shoes and other leather equipment would be delayed. Further delays in issuing contracts would thus progressively result in unsatisfied demands which could result in the Applicant's inability to store sufficient stock to serve as protection against a national emergency.

The Applicant will use a maximum of 175,000 pounds of PNP at a dosage rate of 0.18 to 0.7 percent based on the dry weight of the leather to treat four million pairs of footwear valued at \$65,450,000 and miscellaneous leather items valued at \$200,000. PNP will be applied during the tanning, fat liquoring or other operations of the tanners in preparing finished leather. PNP will be applied by personnel of the tanning companies preparing leather for use in end items to be manufactured for the Applicant.

At least thirteen genera of fungi are known to cause leather deterioration; damage from these fungi occurs not only in humid tropical regions but also in temperate or cold regions where the humidity is in excess of 65%. It is known that during the Korean War, leather shoes not treated with PNP lasted only 10 days in the field. While there are registered fungicide products for treating the surfaces of finished leather for mold/mildew prevention, the Applicant has stated that these products are not practical under field use. There appears to be no registered fungicide that (1) is applied during the manufacturing process, and (2) has a claim for preventing mold/mildew on the finished product. Many fungicides are applied to leather during the tanning process, but the intent is to protect the leather during this process and not for end use.

Paranitrophenol has been used by the Applicant for over thirty years. During this period, no adverse effects have so far been reported other than some irritation when treated leather was applied directly to the skin. There appear to be no significant health hazards associated with the use of PNP for this purpose. However, there is a potential human health hazard associated with mold/mildew on leather. One of the fungal genera, *Aspergillus*, is also capable of causing *Aspergillosis*, which is a disease of the lungs in humans.

After reviewing the application and other available information EPA has

determined that (a) an emergency situation has occurred; (b) there is no pesticide presently registered and available for use to control these fungi during manufacture for end use protection; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic or potential health problems may result if the fungi are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until June 16, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The fungicide paranitrophenol (PNP) is authorized;
2. The dosage rate for PNP may be from 0.18 to 0.7 percent based on the dry weight of the leather, to be applied during the tanning, fat liquoring, or other operations performed by tanners in the preparation of finished leather;

3. PNP shall be used by the personnel of tanning companies preparing leather for use in end items to be manufactured for the Applicant;

4. In addition to boots and shoes, the following items may be made from leather treated with PNP: footwear counters, money bags, pocket ammunition magazines, policeman's club carriers, side arm shoulder straps, police security belts, handcuff cases, first aid dressing cases, flagstaff slings, cartridge belt holders, and dispatch cases;

5. None of the items made from PNP-treated leather shall be intended for direct human skin contact;

6. A maximum of 175,000 pounds of PNP may be used;
7. The Applicant is responsible for insuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by December 16, 1980; and

8. The EPA shall be immediately informed of any adverse effects occurring to man or the environment resulting from this specific exemption.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 [92 Stat. 819; 7 U.S.C. 136].)

Dated: July 23, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

(FR Doc. 79-23454 Filed 7-27-79; 8:45 am)
BILLING CODE 6560-01-M

[FRL 1285-2; OPP-180337]

New Hampshire, New Jersey, New York, Oregon, Vermont, and Washington, Issuance of Specific Exemptions To Use Mesurol on Blueberries as a Bird Repellent

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemptions.

SUMMARY: EPA has granted specific exemptions to the New Jersey Department of Environmental Protection; the New York Department of Environmental Conservation; and the New Hampshire, Oregon, Vermont, and Washington Departments of Agriculture (hereafter referred to as "New Jersey," "New York," "New Hampshire," "Oregon," "Vermont," "Washington," or the "Applicants") to use Mesurol as a bird repellent on 700 acres of blueberries in New Jersey, 500 acres in New York, 2,700 acres in New Hampshire, 500 acres in Oregon, 50 acres in Vermont, and 800 acres in Washington. The specific exemptions expire on September 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-2691. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: Starlings, grackles, robins, and blackbirds are the predominant species responsible for significant losses in blueberry production in New Jersey, New York, New Hampshire, Oregon, Vermont, and Washington.

The birds begin feeding on the earliest maturing varieties as the fruit ripens and continue through maturity and harvest. The Applicants state that bird damage in the form of predation is ever-present, and current methods of control (distress baits, chemosterilants, noise devices, alarms, and netting) are not effective, or are not economically feasible.

If Mesurol is not available, New Jersey estimates a loss of approximately

\$945,000; New York, a loss of \$420,000 to \$1,050,000; New Hampshire, a loss of \$160,000; Oregon, a loss of \$500,000; Vermont, a loss of \$75,000; and Washington, a loss of \$168,000 due to bird damage to this year's blueberry crop.

The Applicants requested that EPA allow application of Mesurol 75% Wettable Powder, EPA Reg. No. 3125-288, which contains the active ingredient (a.i.) 3,5-dimethyl-4-(methylthio)phenyl methylcarbamate.

EPA has established permanent tolerances for residues of the active ingredient on fruits with similar physiological characteristics, such as cherries at 25 parts per million (ppm) and peaches at 15 ppm. A temporary tolerance of 30 ppm has been established for residues of the active ingredient on blueberries and the proposed use should not exceed that level. This use is not expected to pose an unreasonable hazard to the environment.

After reviewing the applications and other available information, EPA has determined that (a) pest outbreaks of depredating birds have occurred or are about to occur in blueberry fields; (b) there is no pesticide presently registered and available for use to control depredating birds in New Jersey, New York, New Hampshire, Oregon, Vermont, and Washington; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the depredating birds are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicants have been granted specific exemptions to use the pesticide noted above until September 30, 1979, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. The product Mesurol 75% Wettable Powder, EPA Reg. No. 3125-288, is authorized;

2. A maximum application rate of 2.67 pounds of formulation (2.0 pounds a.i.) per acre per application in not less than five gallons of water is authorized;

3. A maximum of three applications may be made, not to exceed 6.0 pounds of formulation (4.5 pounds a.i.) per acre per season;

4. A maximum of 3,150 pounds a.i. may be applied to 700 acres of blueberries in New Jersey. A maximum of 2,250 pounds a.i. may be applied to 500 acres in New York. A maximum of 11,700 pounds a.i. may be applied to

2,700 acres in New Hampshire. A maximum of 2,250 pounds a.i. may be applied to 500 acres in Oregon. A maximum of 225 pounds a.i. may be applied to 50 acres in Vermont. A maximum of 3,600 pounds a.i. may be applied to 800 acres in Washington;

5. A seven-day interval between applications must be observed;

6. Applications may be made with ground or aerial equipment;

7. Applications shall be made by State-certified private applicators or State-licensed commercial applicators;

8. Blueberries with residue levels not exceeding 30 ppm for the a.i. 3,5-dimethyl-4-(methylthio)phenyl methylcarbamate may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

9. Mesurol is toxic to fish. It must be used with care when applied in areas adjacent to any body of water. It may not be applied when weather conditions favor run-off or drift from treated areas;

10. All applicable precautions, directions, and restrictions on the EPA-accepted label must be adhered to;

11. The EPA must be immediately informed of any adverse effects resulting from this use of Mesurol; and

12. The Applicants are each responsible for ensuring that all of the provisions of that State's specific exemption are followed and must submit a final report summarizing the results of the program by December 31, 1979.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 [92 Stat. 819; 7 U.S.C. 136].)

Dated: July 23, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

(FR Doc. 79-23453 Filed 7-27-79; 8:45 am)
BILLING CODE 6560-01-M

[FRL 1283-5; OPP-50435]

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of

No. 476-EUP-73. Stauffer Chemical Company, Richmond, CA 94804. This experimental use permit allows the use of approximately 1,480 pounds (2,080 pounds originally authorized) of the insecticide N-(Mercaptomethyl) phthalimide S-(O,O-

dimethyl phosphorodithioate) and 10,499 pounds (14,755 pounds originally authorized) of petroleum oil on forest acres to evaluate control of spruce budworm. A total of 750 acres is involved; the program is authorized only in the State of Montana. The experimental use permit is effective from June 8, 1979 to June 8, 1980. (PM-15, Jay Ellenberger, Room: E-329, Telephone: 202/426-9490)

No. 1471-EUP-69. Elanco Product Company, Indianapolis, IN 46206. This experimental use permit allows the use of 19,080 pounds of the herbicide oryzalin on wheat to evaluate control of weeds. A total of 19,080 acres is involved; the program is authorized only in the States of Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Maryland, Mississippi, Missouri, New Jersey, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. The experimental use permit is effective from July 9, 1979 to July 9, 1980. A temporary tolerance for residues of the active ingredient in or on wheat has been established. (PM-25, Robert Taylor, Room: E-301, Telephone: 202/755-7013)

No. 36638-EUP-2. Conrel, Needham Heights, MA 02194. This experimental use permit allows the use of approximately 3.04 pounds of the insecticide cis-7,8, epoxy-methyloctadecane on forest acres to evaluate control of gypsy moth. A total of 40 acres is involved; the program is authorized only in the State of Massachusetts. The experimental use permit is effective from June 7, 1979 to June 5, 1980. (PM-17, Franklin Gee, Room: E-341, Telephone: 202/426-9417)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Statutory authority: Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 [92 Stat. 819; 7 U.S.C. 136]

Dated July 20, 1979.

Douglas D. Campt,
Director, Registration Division.
(FR Doc. 79-23440 Filed 7-28-79; 8:45 am)
BILLING CODE 6560-01-M

(FRL 1285-7)

Unleaded Gasoline Regulations; Clarification of Emergency Exception

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) clarifies what constitutes a *bona fide* emergency for purposes of avoiding liability for introducing leaded gasoline into a vehicle requiring unleaded gasoline.

FOR FURTHER INFORMATION CONTACT: Robert A. Weissman, Attorney, Mobile Source Enforcement Division, at 202-755-2816.

SUPPLEMENTARY INFORMATION: On January 10, 1973, EPA published a rule (40 CFR 80.22(a)) prohibiting a retailer from introducing or causing or allowing the introduction of leaded gasoline into any motor vehicle which is labeled "unleaded gasoline only," or which is equipped with a gasoline tank filler inlet which is designed for the introduction of unleaded gasoline. 39 Fed. Reg. 1254. On December 12, 1974 EPA published a limited exception to the general prohibition of section 80.22(a). 38 Fed. Reg. 43281. The exception provides that in order to avoid liability, the party

deemed in violation will be required demonstrate that the introduction of the leaded gasoline into the vehicle was in response to a *bona fide* emergency and that only as much leaded fuel as was reasonably necessary to alleviate the circumstances of the particular emergency was introduced into the vehicle.

When the emergency provision was promulgated on December 12, 1974, EPA was concerned that not all stations had been able to secure supplies of unleaded gasoline. Circumstances arose where motorists, particularly in remote areas of the country, were unable to find unleaded gasoline. Therefore, the emergency provision was enacted to prevent motorists from being literally stranded away from home when they ran out of gasoline and could not find unleaded gasoline anywhere within the driving range remaining for the vehicle; it was not intended to address an overall gasoline shortage or unleaded gasoline shortage, particularly in urban areas where numerous gasoline retail outlets exist.

In the preamble to the rule establishing the exception, EPA described what type of situation would be considered an emergency. However, in response to numerous questions that have been received, the Agency is reiterating the policy that was established at that time.

The retailer who introduces the leaded fuel must have no unleaded fuel at his station. The gasoline tank of the vehicle must be almost empty and there must be no other station within a

several mile radius that is available to dispense unleaded gasoline. The retailer can introduce only enough leaded fuel to enable the motorist to reach the closest open station with unleaded gasoline, or the motorist's destination, whichever is closer.

As EPA stated in 1974, the exception is to be interpreted extremely narrowly. A general gasoline shortage, or even a shortage of unleaded gasoline, does not constitute a *bona fide* emergency for purposes of this exception. In a situation where one retail outlet is out of unleaded gasoline but there are other stations with unleaded gasoline nearby, no *bona fide* emergency exists. We believe it is reasonable to expect that retailers will assess the unleaded gasoline availability in their immediate area just as they assess the pricing by competitive stations.

Before a retailer may introduce leaded gasoline he must have a reasonable basis for believing an emergency exists. If he does not have a reasonable basis, he will be considered liable for introducing leaded gasoline into the vehicle requiring unleaded fuel. As indicated in 40 CFR 80.23(e)(2), the retailer has the burden of establishing that the conduct was in response to a *bona fide* emergency. As set out at 40 CFR 80.5, the penalty for violation of 40 CFR 80.22(a) is up to \$10,000 per violation.

Marvin B. Durning,
Assistant Administrator for Enforcement.
(FR Doc. 79-23439 Filed 7-27-79; 8:45 am)
BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

Notification List: Mexican Standard Broadcast Stations

List of new stations, proposed changes in existing stations, deletions and corrections in assignments of Mexican standard broadcast stations modifying the assignments of Mexican broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

Mexican List No. 289—March 1, 1979

Call letters	Location	Power (watts)	Antenna radiation mv/m/kw	Schedule	Class	Antenna height (ft)	Ground system		Proposed date of change or commencement of operation
							No. radials	Length (ft)	
(New)	Santiago Pa. Dgo. N. 25°03'36" W. 105°23'48" D 640 kHz	.500	ND-D-175	580kHz	III	352	120	369	Sept. 1, 1979.
XEEMM	Salamanca, Gto. N. 20°33'47" W. 101°21'58" Monterrey, N.L.	1,000	BA-D	D 660kHz	II				Do.
(New)	N. 25°36'57" W. 100°21'03" Fresnillo, Zac.	10,000	DA-D	D 680kHz	II				Do.
XEMA	N. 23°10'58" W. 102°53'48" (PO 1340 kHz)	5,000D/ .250N	ND-U-188	U	II	357	110	357	Do.

Call letters	Location	Power (watts)	Antenna radiation mv/m/kw	Schedule	Class	Antenna height (ft)	Ground system		Proposed date of change or commencement of operation
							No. radials	Length (ft)	
XEDKR	Guadalupe, Jal. N. 20°38'8" W. 103°20'24" (Shares antenna with XEDK, 1250 kHz)	1,000	ND-D-172	700kHz D	II	318	120	245	Immediately.
XELTZ	Loreto, Zac. N. 22°16'16" W. 101°58'56" (PO 1260 kHz)	1,000D/ .250N	ND-U-175	U	II	306	120	253	Sept. 1, 1979.
XEZV	Tlaxpa, Gro. N. 17°32'00" W. 98°32'00"	1,000	ND-D-175	800 kHz D	II	308	120	216	Do.
XEIN	Cintalapa, Chi. N. 18°41'42" W. 93°42'23" (See 1450 kHz)	1,000	ND-D-175	810 kHz D	II	304	90	243	Do.
XENL	Monterrey, N.L. N. 25°40'11" W. 100°18'27" (Shares antenna with XEIZ, 1240 kHz)	5,000D/ 2,000N	ND-D-190	860 kHz U	II	285	120	285	Immediately.
XETZ	Zapopan, Jal. N. 20°37'21" W. 103°39'46" (PO 1/kw/D ND-D-181)	10,000	ND-D-188	880 kHz D	II	297	120	268	Do.
XECA	Calvillo, Agu. N. 21°51'00" W. 102°43'22" Merida, Yuc.	1,000D/ .100N	ND-U-181	950 kHz U	III	230	120	230	Do.
XEMH	N. 20°56'45" W. 89°36'10" (Shares antenna with XEHO, 1240 kHz)	1,000D/ .100N	ND-U-182	970 kHz U	III	246	90	246	Do.
(New)	Rio Bravo, Tam. N. 25°58'00" W. 98°06'45" (Assignment deleted)	.250	ND-D-175	1000 kHz D	II	194	90	236	
XEPV	Monclova, Coah. N. 26°54'14" W. 101°24'45" Caborca, Son.	.250	ND-D-187	1110 kHz D	II	213	120	213	Sept. 1, 1979.
XELUK	N. 30°41'50" W. 112°09'29" (Change to 1470 kHz)	.250	DA-D	1120 kHz D	II				
XERRF	Merida, Yuc. N. 21°00'13" W. 89°35'48" (Shares antenna with XEFC, 1330 kHz)	1,000D/ .350N	ND-U-177	1150 kHz U	III	197	90	194	Immediately.
XEPA	Cd. Juarez, Chih. N. 31°42'48" W. 106°26'45" (Shares antenna with XEP, 1300 kHz)	1,000	ND-D-173	1190 kHz D	II	207	120	135	Do.
(New)	Montemorelos, N.L. N. 25°10'52" W. 99°51'34"	1,000	ND-D-174	1230 kHz D	IV	228	120	120	Sept. 1, 1979.
XEIZ	Monterrey, N.L. N. 25°40'11" W. 100°18'27" (Shares antenna with XENL, 860 kHz)	.500D/ .250N	ND-U-223	1240 kHz U	IV	285	120	285	Immediately.
XEMQ	Merida, Yuc. N. 20°56'45" W. 89°36'10" (Shares antenna with XEMH, 970 kHz)	1,000D/ .250N	ND-U-202	1240 kHz U	IV	246	90	246	Do.
XEDK	Guadalupe, Jal. N. 20°38'28" W. 103°20'24" (Shares antenna with XEDKR, 700 kHz)	5,000D/ 1,000N	ND-U-223	1250 kHz U	III	318	120	245	Do.
XELTZ	Loreto, Zac. N. 22°16'16" W. 101°58'56" (Change to 740 kHz)	.500	ND-D-179	1260 kHz D	III	177	120	164	
XEHO	Durango, Co. N. 24°01'31" W. 104°40'11"	.500	ND-D-175	1270 kHz D	III	155	120	155	Immediately.
XEP	Cd. Juarez, Chih. N. 31°42'48" W. 106°26'45" (Shares antenna with XEYC, 1480 kHz)	1,000D/ .500N	ND-U-177	1300 kHz U	III	207	120	135	Do.
XEC	Tijuana, BCN N. 32°31'15" W. 117°01'16"	.250D/ .250N	ND-U-190	1310 kHz U	III	187			
						120		187	Do.

Call letters	Location	Power (watts)	Antenna radiation mv/m/kw	Schedule	Class	Antenna height (ft)	Ground system		Proposed date of change or commencement of operation
							No. radials	Length (ft)	
XEBV	Villa de Juarez, N.L. N. 25°39'00"W. 100°05'30" (Assignment deleted)	1,000D/ .250N	ND-U-185.....	1310 kHz U	III	184	120	172	
XEBV	Monterrey, N.L.	.500D/ .250N	ND-U-175.....	1310 kHz U	III	188	120	129	Sept. 1, 1979.
XEUP	N. 25°41'04"W. 100°18'58" Tizimin, Yuc. N. 21°06'56"W. 88°09'25"	1,000D/ .250N	ND-U-190.....	1310 kHz U	III	187	120	187	Immediately.
XEBO	Irapuato, Gto. N. 20°37'52"W. 101°21'32"	5,000D/ 1,000N	ND-D-184..... DA-N.....	1330 kHz U	III	185	120	185	Do.
XEFC	Merida, Yuc. N. 21°00'13"W. 89°35'48" (Shares antenna with XEERF, 1150 kHz) (PO 1/kw/U ND-U-188)	3,000D/ 1,000N	ND-U-188.....	1330 kHz U	III	197	90	184	
XERUY	Merida, Yuc. N. 20°52'17"W. 89°37'39"	1,000D/ .250N	ND-U-190.....	1400 kHz U	IV	177	120	177	Do.
XEIN	Cintalapa, Chis. N. 16°41'58"W. 93°43'24" (Assignment deleted)	1,000D/ .200N	ND-D-175 DA-N.	1450 kHz U	IV	246	120	246	
XEYC	Cd Juarez, Chih. N. 31°42'48"W. 106°26'45" (Shares antenna with XEPZ, 1190 kHz)	1,000D/ 1,000N	ND-U-187.....	1460 kHz U	III	207	120	135	Immediately.
XEUK	Caborca, Son. N. 30°43'00"W. 112°20'50" (PO 1120 kHz)	.500	ND-D-190.....	1470 kHz D	III	187	120	187	Sept. 1, 1979.
XEQI	Monterrey, N. L. N. 25°45'24"W. 100°17'54"	10,000	ND-D-190.....	1510 kHz D	II	163	120	163	Immediately.
(New)	Parauco, Ver. N. 22°00'00"W. 98°12'18"	1,000	ND-D-190.....	1510 kHz D	II	163	120	163	Sept. 1, 1979.
XEYK	Motul, Yuc. N. 21°43'10"W. 89°17'30"	.250	ND-D-175.....	1540 kHz D	II	148	120	148	Do.
XEMA	Fresnillo, Zac. N. 23°10'26"W. 102°52'58" (Change to 690 kHz) (Shares antenna with XEQS, 1470 kHz)	1,000D/ .250N	ND-U-193.....	1540 kHz U	IV	197	120	197	
XERUV	Jalapa, Ver. N. 19°31'35" W. 96°54'51" 10,000N114ND-U-175	10,000D/ 10,000N		1550 kHz U	I-B	131	90	131	Sept. 1, 1979.
XERIO	San Juan Del Rio, Nay N. 21° 03' 33" W. 104° 21' 20"	5,000	ND-D-190.....	1560 kHz D	II	155	120	155	Do.

Richard J. Shibben,
Chief, Broadcast Bureau, Federal Communications Commission.
[FR Doc. 79-23388 Filed 7-27-79; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as

amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423 or may inspect the

agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary.

Federal Maritime Commission, Washington, D.C., 20573, on or before August 20, 1979. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T-2966-A-2.

Filing Party: J. L. Haskell, Deputy Port Director, City of Milwaukee Board of Harbor Commissioners, 500 North Harbor Drive, Milwaukee, Wisconsin 53202.

Summary: Agreement No. T-2966-A-2, between the City of Milwaukee (City) and Domtar Industries, Inc. (Domtar), modifies the parties' basic agreement which provides for the five-year lease of 4,004 acres of land on the South Harbor Tract to be used as a storage and distribution terminal. The purpose of the modification is to extend the lease for five years, and increase the monthly rental to \$1,700. The amendment further provides that Domtar will pay the cost of blacktopping an area within the leasehold, subject to City's approval.

Agreement No.: T-2969-2.

Filing Party: Richard L. Landes, Deputy, Harbor Branch Office, City Attorney of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.

Summary: Agreement No. T-2969-2, between the City of Long Beach (City) and Exxon Corporation (Exxon), modifies the parties' basic agreement, which provides for the 36-year exclusive lease to Exxon of certain land and water areas; and exclusive license for construction and operation of certain pipeline; and a tertiary berth assignment for the use of wharf and wharf premises located at Long Beach, California (premises). The premises will continue to be used for the receipt, handling, loading, unloading, transporting and storage of Exxon's petroleum products in connection with its fuel bunkering services. The purpose of this amendment is to increase the amount of reimbursement to Exxon for the relocation of certain pipes, valve boxes and pertinent facilities as a result of additional necessary work not known to be required at the time the first amendment to the lease (Agreement No. T-2969-1) was executed.

Agreement No. T-3828.

Filing Party: Mr. Richard H. Van Derzee, Chairman, Law and Legislation Committee, c/o Niagara Frontier Transportation Authority, 901 Fuhrmann Boulevard, Buffalo, New York 14203.

Summary: Agreement No. T-3828, among the Albany Port District Commission; Niagara Frontier Transportation Authority; Ogdensburg Bridge & Port Authority; Port of Oswego Authority; and the City of Rochester, provides for the creation of a council to be known as the Council of Upstate Ports of New York (CUPNY) to govern the parties' operations at the upstate ports of the State of New York. The agreement provides for the parties to: (1) assess and collect all terminal rates and/or charges for or in connection with traffic handled by them within this agreement's scope, and as prescribed in tariffs filed by CUPNY or its individual members with the Commission; (2) establish, maintain, publish and file tariffs, tariff additions, and supplements; (3) give Council members prior notice of all changes in said rates, charges, classifications, rules, regulations and practices in order to afford them the opportunity for consultation relative to such changes and before publication thereof. Tariff changes will not become effective until after 30 days' notice to the public, unless good cause exists for a change on shorter notice. Admission to the CUPNY is open to any Upstate Port of New York engaged in the business of furnishing wharfage, dockage, or other marine terminal facilities or services upon a majority vote of the members of CUPNY.

Agreement No. T-3835.

Filing Party: Richard L. Landes, Deputy, City Attorney of Long Beach Harbor Branch Office, Harbor Administration Building, Post Office Box 570, Long Beach, California 90801.

Summary: Agreement No. T-3835, between the City of Long Beach (City) and West Coast Warehouse Corporation (West Coast), provides for the lease of three parcels of land and office space to be used for the storage of commodities, offices in connection with West Coast's warehouse and trucking business, and for the repair, maintenance and storage of West Coast's vehicles and warehouse equipment. As monthly rental for the three parcels of land, West Coast shall pay City the sum of \$6,335. The term of the lease is one year.

Agreement No. 9238-9.

Filing Party: Marc J. Fink, Esq., Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 9238-9 amends the Greece/United States Atlantic Rate Agreement for the purposes of (1) increasing, from two to five days, the written notice period required before a party can take independent action as to rates; (2) increasing the financial guarantee required of each party from \$10,000 to \$50,000; and (3) providing that the parties may agree upon and publish uniform credit rules.

Agreement No. 10346-1.

Filing Party: Jorge Luis Wachter, Executive Administrator, Conferencia Interamericana de Fletes—Sección "B", Lavalle 381—8° Piso (1047), Buenos Aires, Argentina.

Summary: Agreement No. 10346-1 amends the Argentina/U.S. Gulf Pooling Agreement which provides for a cargo revenue pooling and sailing agreement in the trade from Argentina to the U.S. gulf. The purpose of the amendment is to: (1) change the name of one

of the parties from The Northern Pan-American Line, A/S to Oivind Lorentzen, Ltd. (NOPAL) in Article 2(a) and on the signature page of the basic agreement, and (2) modify Article 7 c) IX so as to clarify the distribution made under pool payments. Pool payments shall be made in accordance with credit from overcarriage penalty, less undercarriage forfeiture. With reference to the credit derived from the overcarriage penalty, which is forfeited by the undercarrier as per Article 7 c) VIII of the basic agreement, it will be distributed among the overcarriers and the undercarriers whose contribution to the pool fund is not under 85 percent of their share and in proportion to their respective shares.

Agreement No. 10375.

Filing Party: Peter P. Wilson, Senior Counsel, Matson Navigation Company, P.O. Box 3933, San Francisco, California 94119.

Summary: Agreement No. 10375, between Korea Marine Transport Company, Limited (KMTC) and Matson Agencies Division of Matson Navigation Company (Matson) provides that KMTC will appoint Matson as its husbanding agent for all vessels in non-container service owned, chartered, or managed by it in the States of Alaska, California, Hawaii, Oregon, and Washington.

By Order of the Federal Maritime Commission.

Dated: July 25, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79-23404 Filed 7-27-79; 8:45 am]
BILLING CODE 6730-01-M

[Docket No. 79-50]

Inquiry Regarding the United Nations Convention on Code of Conduct for Liner Conferences

AGENCY: Federal Maritime Commission.

ACTION: Enlargement of Time to Comment.

SUMMARY: Notice of Inquiry in subject proceeding was published in the Federal Register of May 16, 1979 (44 FR 28724). Responses are presently due on July 16, 1979. The Washington Representative of CENSA has requested an extension of time until August 31, 1979 within which to respond. The fact that a study group has been assigned to this matter and is nearing completion of a draft report which must be distributed to member associations scattered throughout the world is cited as the reason for the request. We are anxious to obtain the views of CENSA on this matter and therefore are in favor of granting the extension. This delay will not be critical because it is not contemplated that a rule will issue from this proceeding.

DATES: Comments on or before August 31, 1979.

ADDRESS: Comments (original and fifteen copies) to: Secretary, Federal

Maritime Commission, Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Secretary, Federal Maritime Commission, 1100 L Street, N.W., Room 11101, Washington, D.C. 20573.

By the Commission.

Francis C. Hurney,
Secretary.

[FR Doc. 79-23403 Filed 7-27-79; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

Health Professions Loan Repayment Program

AGENCY: Health Resources Administration.

ACTION: Notice of Phase-out of Loan Repayment Program.

SUMMARY: This is to give notice that the Health Resources Administration will no longer accept applications for Agreements for Loan Repayment under section 741(f) of the PHS Act in return for an individual's practicing in a health manpower shortage area. A phase-out period is provided for National Health Service Corps and Indian Health Service members.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Belin, Chief, Student and Institutional Assistance Branch, Division of Manpower Training Support, Bureau of Health Manpower, Room 5-50, Health Resources Administration, 3700 East West Highway, Center Building, Hyattsville, Maryland 20782, (telephone: (301) 436-6310).

SUPPLEMENTARY INFORMATION: This is to give notice that, except as specified below, the Health Resources Administration will no longer accept applications under section 741(f) of the Public Health Service Act to enter an agreement to practice in a shortage area under which a portion of an individual's educational loans are repaid in return for the individual's agreeing to practice as a physician (M.D. or D.O.), dentist, optometrist, podiatrist, veterinarian or pharmacist in a designated health manpower shortage area. This decision is based on the fact that insufficient Federal funds are available for the repayment of educational loans beyond those described below.

Under section 741(f), the Secretary is authorized to enter into agreements with individuals who have received a degree

of doctor of medicine, doctor of osteopathy, doctor of dentistry or an equivalent degree, doctor of veterinary medicine or an equivalent degree, doctor of optometry or an equivalent degree, doctor of podiatry or an equivalent degree, or bachelor of science in pharmacy or an equivalent degree to repay a portion of certain educational loans in return for their practicing in a health manpower shortage area as a member of the National Health Service Corps or otherwise.

There are individuals who have applied for assignment in the National Health Service Corps (NHSC) and Indian Health Service (IHS) of the Public Health Service based on commitments made during their recruitment that agreements for loan repayment were available to them as members of the NHSC and IHS. The Health Resources Administration believes that these commitments must be honored. Therefore, these individuals who, by the date of the publication of this Notice in the Federal Register, have applied for assignment and have been matched with an eligible practice site by the National Health Service Corps or Indian Health Service may apply to enter into an agreement for loan repayment. All applications for loan repayment agreements must be received by April 1, 1980.

Dated: July 18, 1979.

Henry A. Foley,

Administrator, Health Resources Administration.

[FR Doc. 79-23343 Filed 7-27-79; 8:45 am]

BILLING CODE 4110-83-M

Health Services Administration

Primary Health Care Advisory Committee; Establishment

Pursuant to the Federal Advisory Committee Act, Public Law 92-463 (5 U.S.C. Appendix I), the Health Services Administration announces the establishment by the Secretary, HEW, of the Primary Health Care Advisory Committee on July 13, 1979, pursuant to section 340A(c) of the Public Health Service Act, as amended.

Designation: Primary Health Care Advisory Committee.

Purpose: The Committee will review applications for grants and contracts in order to make recommendations to the Secretary with respect to (1) the capabilities of applicants for grants and contracts under subsection (a) of section 340A of the Public Health Service Act, to effectively carry out the projects for which the grants and contracts would be

made; (2) the renewal of grants and contracts under such subsection; and (3) the evaluation to be made under section 106(b) of the Migrant and Community Health Centers Amendments of 1978.

Authority for this Committee is continuous and a charter will be filed every two years in accordance with section 14(b)(2) of Public Law 92-462.

Dated: July 23, 1979.

William H. Aspden, Jr.,

Associate Administrator for Management.

[FR Doc. 79-23305 Filed 7-27-79; 8:45 am]

BILLING CODE 4110-84-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-79-939]

Proposed New System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of proposed new system of records.

SUMMARY: The Department is giving notice of a new system of records it intends to maintain that is subject to the provisions of the Privacy Act of 1974.

EFFECTIVE DATE: This system of records shall become effective without further notice on August 29, 1979, unless comments are received on or before August 29, 1979, which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Mr. Harold Rosenthal, Departmental Privacy Act Officer, Telephone (202) 755-5192.

SUPPLEMENTARY INFORMATION: The new system identified as Section 518 Files consists of manual records of HUD insured owners of one-to-four family dwellings who filed complaints because of major defects found in their homes. The personal data included in this system are: name, address, telephone number, property inspection report, relevant claim information and disposition of claim.

A new system report was filed with the Speaker of the House, the President of the Senate and the Office of Management and Budget on May 29, 1979. The prefatory statement containing General Routine Uses applicable to all of the Department's systems of records was published at 43 FR 55105 (November 24, 1978). Appendix A, which

lists the addresses of HUD's field offices, was published at 43 FR 55121 (November 24, 1978).

The Department's Atlanta Regional Officer moved to Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Ga. 30303.

HUD/H-6

SYSTEM NAME:

Section 518 Files.

SYSTEM LOCATION:

HUD field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

HUD insured owners of one-to-four family dwellings who filed claims because of structural or other major defects found in their homes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, home phone number, property inspection report, disposition of claim information and other information pertinent to the claim.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders.

RETRIEVABILITY:

Name, case number, and claim number.

SAFEGUARDS:

Records are kept in lockable file cabinets with access limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are retained for six years and then disposed.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 18. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 18. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals and Departmental records.

(5 U.S.C. 552a, 88 Stat. 1896; sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)). Issued at Washington, D.C., July 18, 1979.

Vincent J. Hearing,

Deputy Assistant Secretary for Administration.

[FR Doc. 79-23289 Filed 7-27-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

California; Order Providing for Opening of Public Lands; Correction

July 20, 1979.

In FR Doc. 79-21482 appearing on pages 40725 and 40726, in the issue of Thursday, July 12, 1979, make the following corrections:

(1) On page 40725 the first line CA-334 should be corrected to read CA-344.

(2) On page 40726 paragraph three, the first sentence reads At 10 a.m. on August 13, 1979, the land shall be open to operation of the public land laws, generally, subject to valid existing rights, the provisions of existing rights, the provisions of existing withdrawals and the requirements of applicable law. This sentence is corrected to read At 10 a.m. on August 13, 1979, the land shall be open to operation of the public land laws generally, including the mining laws (30 U.S.C. Ch. 2), and the mineral leasing laws, subject to valid existing rights, the provisions of existing

withdrawals and the requirements of applicable law.

Joan B. Russell,
Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 79-23296 Filed 7-27-79; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 27763]

Invitation to Join in Coal Exploration Program

July 20, 1979.

Pursuant to Section 2(b) of the Mineral Leasing Act of February 25, 1920, as amended by Section 4 of the Federal Coal Leasing Amendments Act of 1976, 90 Stat. 1083, 1085, 30 U.S.C. 201(b) and to the regulations adopted as Subpart 3507 of Title 43 of the Code of Federal Regulations (published in the Federal Register, Volume 42 at pages 4457-4460 on January 25, 1977) members of the public are hereby invited to participate with The Pittsburg & Midway Coal Mining Co., Missouri Corporation, in a program for the exploration of coal deposits owned by the United States of America in the following described lands located in Rio Blanco County, Colorado:

T2N, R93W, 6th P.M.

Sec. 4, Lots 4, 10, 12, 28, 29, 30, S½SW¼, Sec. 5, Lots 4, 13, SW¼NW¼, W½SW¼, S½SE¼;

Sec. 6, Lots 1 through 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼ (All);

Sec. 7, E½, E½NW¼;

Sec. 8, All;

Sec. 9, W½;

Sec. 16, NW¼NW¼;

Sec. 17, NE¼NE¼.

T3N, R93W, 6th P.M.

Sec. 28, SW¼;

Sec. 29, S½S½;

Sec. 30, Lots 3, 4, E½NW¼, E½SW¼;

Sec. 31, Lots 1 through 4, E½, E½W½ (All);

Sec. 32, All;

Sec. 33, NW¼NW¼.

T3N, R94W, 6th P.M.

Sec. 25, All.

The above contained 5093.43 acres more or less. Any party electing to participate in this exploration program must send written notice of that election to the Bureau of Land Management and to The Pittsburg & Midway Coal Mining Co. directed to the following persons at the addresses shown:

Leader, Craig Team, Branch of Adjudication, Bureau of Land Management, Room 700, Colorado State Bank Bldg., 1600 Broadway, Denver, Colorado 80202, and Mr. R. Doyle Whitmer, The Pittsburg & Midway Coal Mining Co., 1720 So. Bellaire, Denver, Colorado 80222.

Such written notice must be received by these persons at the addresses shown

above not later than 10 calendar days after the last date of publication of this Notice in this newspaper.

This Notice is required to be published for four consecutive weeks in this newspaper as a newspaper of general circulation in the area including the lands described above.

This exploration program is fully described in and will be conducted pursuant to an exploration plan approved by the Geological Survey, United States Department of the Interior. This exploration plan is available for your review during normal business hours in the following offices:

Bureau of Land Management, P.O. Box 248, 455 Emerson Street, Craig, Colorado 81625, or Bureau of Land Management, Room 700, Colorado State Bank Bldg., 1600 Broadway, Denver, Colorado 80202.

In general, the exploration plan provides for rotary and core drilling of approximately 22 holes in the above-described lands to varying depths with analysis and study of the coal samples obtained from such drilling.

Any party electing to participate in this exploration program must share all of the costs of this program equally with The Pittsburg and Midway Coal Mining Co., and with any other members of the public who also elect to participate in this exploration program. The Pittsburg & Midway Coal Mining Co. will control this exploration program subject to the terms and provisions of the exploration plan described above and the exploration license issued pursuant to that plan. The appropriate shares of costs incurred in the exploration program will be billed to each participant by The Pittsburg & Midway Coal Mining Co. on completion of prospecting each year.

Pursuant to 43 CFR 3507.4, the licensee shall furnish to the Mining Supervisor copies of all data (including but not limited to, geological, geophysical, and core drilling analyses) obtained during exploration. The licensee shall submit such data and, where appropriate, the methods by which the data were gathered, at such time and in such form as required by the Mining Supervisor, the authorized officer, or surface management agency, or as specified in this Subpart, the license, or the plan. The confidentiality of all data so obtained shall be maintained until after the areas involved have been leased or such time as the Mining Supervisor determines that making the data available to the public would not damage the competitive position of the licensee, whichever comes first.

Any party wishing to participate in this exploration program must also meet the qualifications to hold an exploration license as provided in Section 3507 of Title 43 of the Code of Federal Regulations.

This Notice has been reviewed by the appropriate officials of the Bureau of Land Management and has been approved in form and substance for publication in this newspaper to comply fully with the terms and provisions of the federal statutes and regulations requiring such notice.

The foregoing notice is being published in the Federal Register as a consequence of promulgation, effective July 19, 1979, of Part 3400 of 43 Code of Federal Regulations. 43 CFR 3410.2-1(d)(1) requires publication of the notice published in a local newspaper by a coal exploration license applicant in the Federal Register.

The foregoing notice was approved by the undersigned on July 9, 1979 pursuant to regulations then in effect, 43 CFR 3507.3-1(d). It is being published in the Federal Register to meet the new requirements.

Notice of any election to participate in the exploration program must be received by the following persons on or before August 29, 1979 or within the time specified in the publication of the Notice in a newspaper of general circulation in the area where the lands covered by the license application, whichever is later:

Leader, Craig Team, Branch of Adjudication, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, and Mr. R. Doyle Whitmer, The Pittsburg & Midway Coal Mining Co., 1720 So. Bellaire, Denver, Colorado 80222.

See generally 44 Federal Register 42584 at 42614 (No. 140, July 19, 1979).

Andrew W. Heard, Jr.,

Leader, Craig Team, Branch of Adjudication.

[FR Doc. 79-23298 Filed 7-27-79; 8:45 am]
BILLING CODE 4310-84-M

[Colorado 28170]

Mountain Fuel Resources, Inc.; R/W Application for Pipeline

July 20, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 USC 185), Mountain Fuel Resources, Inc., 180 East First South, Salt Lake City, Utah 84139, has applied for a right-of-way for 4½" O. D. buried natural gas pipeline laterals approximately 3.41 miles long, to hook up the Federal Wells

#8-1, 10-1 and 12-2 on the following Public Lands:

Sixth Principal Meridian, Rio Blanco County Colorado

T. 2 S., R. 103 W.

Section 1, S½SW¼;
Section 8, N½NE¼;
Section 9, S½NE¼, N½NW¼;
Section 10, SW¼NW¼, S½;
Section 11, E½SE¼;
Section 12, NW¼.

The above-named gathering system will enable the applicant to collect natural gas in an area through which the pipeline will pass and to convey it to the applicant's customers in Mountain Fuel's transmission main line for use in its market areas. The purposes for this notice are: (1) to inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Mountain Fuel Resources, Inc.

Any comments, claim or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

Andrew W. Heard, Jr.,

Leader, Craig Team Branch of Adjudication.

[FR Doc. 79-23299 Filed 7-27-79; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 25122 q, x]

Northwest Pipeline Corporation; R/W Applications for Pipeline

July 20, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 USC 185), Northwest Pipeline Corporation, P.O. Box 1526, Salt Lake City, Utah 84110, has applied for rights-of-way for the Foundation Creek Gathering Systems approximately .807 miles across the following Public Lands:

Sixth Principal Meridian, Rio Blanco County, Colorado

T. 3 S., R. 101 W.

Section 18 W½NE¼, E½NW¼.

T. 3 S., 102 W.

Section 24 E½SE¼.

The above-named gathering system will enable the applicant to collect natural gas in the area through which the pipeline will pass and to convey it to the applicants' customers.

The purposes for this notice are: (1) to inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Northwest Pipeline Corporation. Any comment, claim or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

Andrew W. Heard, Jr.,

Leader, Craig Team, Branch of Adjudication.

[FR Doc. 79-23300 Filed 7-27-79; 8:45 am]

BILLING CODE 4310-84-M

[W-68622]

Wyoming; Application

July 19, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 4½ inch pipeline, a 4' by 6' meter house and related metering and dehydration facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 18 N., R. 99 W.,

Sec 26, NW¼NE¼, E½NW¼, SW¼NW¼.

The proposed pipeline will transport natural gas from the Golden Federal #1 Well located in the NE¼ of section 26 to a point of connection with an existing pipeline located in the NE¼ of section

27. The 4' by 6' meter house and related metering and dehydration facilities are to be located entirely within the proposed 50 foot right-of-way in the NE¼ of section 26, all within T. 18 N., R. 99 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 N., P.O. Box 1869, Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-23301 Filed 7-27-79; 8:45 am]
BILLING CODE 4310-84-M

[INT DES 79-21]

Proposed Grazing Management Program for the Shoshone Resource Planning Area Idaho; Extension of Public Comment Period and Public Meeting on Draft Environmental Impact Statement (EIS)

On April 26, 1979, the Bureau of Land Management advised interested parties that a draft of the proposed EIS for the management of certain grazing lands in the Shoshone District, Idaho, was available for review. (44 FR 24649) Early in May, these parties were advised that the Bureau of Land Management would conduct public hearings on the draft EIS in Shoshone, Idaho, on May 30, 1979, and in Boise, Idaho, on May 31, 1979.

On May 29, 1979, the Bennett Hills Grazing Association initiated a lawsuit against the United States, seeking a postponement of the public hearings on the draft EIS for 90 days from and after May 30, 1979, and an extension of 90 days from and after June 11, 1979, for submitting written comment. *Bennett Hills Grazing Association v. U.S.*, Civ. No. 79-1110 (D. Idaho). The district court for the district of Idaho promptly granted an *ex parte* temporary restraining order. After hearing, an order granting a preliminary injunction was entered on June 18, 1979. The injunction prohibited BLM from conducting hearings or establishing a final date for the receipt of written comments on the draft EIS for a period of 90 days from and after May 31, 1979, and further directed the Bureau of Land Management to conduct public hearings

on the EIS upon expiration of the 90-day period.

The United States filed an emergency motion to vacate the preliminary injunction with the U.S. Court of Appeals for the Ninth Circuit on July 5, 1979. After argument, the Court of Appeals vacated the preliminary injunction and remanded the matter to the District Court with instructions to dismiss.

The Shoshone EIS is one of 145 grazing EIS's which the Bureau of Land Management is preparing pursuant to the judgment of the U.S. District Court for the District of Columbia in *Natural Resources Defense Council v. Morton*, 388 F. Supp. 829. The court ordered schedule for EIS preparation requires that the final EIS for the Shoshone area be filed with the Environmental Protection Agency by September 30, 1979.

Because of the delay in the preparation of the EIS resulting from the *Bennett Hills Grazing Association* litigation, the Bureau of Land Management will not conduct a public hearing on the Shoshone EIS. Interested parties have had more than 45 days beyond the comment period set by the Bureau of Land Management to prepare written comments on the draft EIS. The proposed grazing management program for the Shoshone area is not unique and covers a small area relative to other areas for which grazing EIS's are being prepared. Further, extensive public involvement has already been achieved through meetings between employees of the Bureau of Land Management and interested parties, to discuss the proposal both before and after circulation of the draft EIS.

The period for submission of written comments on the draft EIS is hereby extended to and including August 8, 1979.

Notice is also given that a public meeting will be held at: Lincoln Elementary School, Shoshone, Idaho, August 7, 1979, at 7 p.m. MDT.

The public meeting will be conducted by an official of the Bureau of Land Management, U.S. Department of the Interior. Individuals wishing to make oral comments will be limited to 10 minutes, with written submission invited. Prior to giving oral comments, individuals or spokesmen are requested to register at the beginning of the meeting.

Dated: July 27, 1979.
Edward Hastey,
Acting Director, Bureau of Land Management,
U.S. Department of the Interior.
[FR Doc. 79-23548 Filed 7-27-79; 8:45 am]
BILLING CODE: 4310-04-M

Office of Surface Mining

[Navajo Tribal Coal Lease No. NOO-C-14-20-2190]

Consolidation Coal Co. ("Compaso Project")—Burnham Mine, San Juan County, N. Mex.; Notice of Availability of Proposed Mining and Reclamation Plan for Public Review

Applicant	Mine name	Location of lands to be affected		
		State	County	Township, range, and section
Consolidation Coal Co.	Burnham	New Mexico	San Juan	T-25N, R-16W: 25, 36. T-24N, R-16W: 1, 2, 3, 10, 11, 12. T-25N, R-15W: 28, 29, 30, 31, 32, 33. T-24N, R-15W: 4, 5, 6, 7, 8.

¹ Office of Surface Mining Reference No.: NM 0005.

The proposed mine is located about 35 miles southwest of Farmington, New Mexico and about 50 miles northeast of Gallup, New Mexico within the Navajo Reservation. The plan undergoing review was submitted to OSM in October of 1978 and concerns mining in only the northern portion of the Navajo lease. The Burnham Mine described in that plan is proposed to involve approximately 6,831 acres from which coal will be extracted over a 38-year period. The mine plan area is approximately 9,000 acres. The plan does not address the remaining area of the 40,287-acre lease. A Final Environmental Impact Statement (FES 77-13) addressing mining of 29,095 acres as proposed in a plan submitted in 1975 was prepared by the Bureau of Indian Affairs and issued on May 11, 1977.

Coal is proposed to be extracted at a rate of about 300,000 tons the first year, increasing to 750,000 tons, 1,000,000 tons, and 4,350,000 tons the second, third, and fourth years, respectively. Production for the fifth through thirty-eighth year is anticipated at 6,400,000 tons per year. Total coal extraction will be 244,000,000 tons during the projected life of the mine. The multiple seam dragline operation would include the extraction of coal from four primary coal zones and designated as yellow, blue, green, and red (listed in stratigraphically

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Availability, for Public Review, of Proposed Coal Mining and Reclamation Plan.

SUMMARY: Pursuant to Part 177 of Title 25, Code of Federal Regulations, notice is hereby given that the Office of Surface Mining has received information considered under the referenced regulations to constitute a mining and reclamation plan. The proposed coal mining operation is described below:

descending order). Coal from the various seams greater than three feet in thickness would be mined. Coal will be exported off-site. The only transportation route discussed in the plan and under evaluation by OSM is truck haul via existing roads.

The mining and reclamation plan and associated materials are available for review in the Region V Office of Surface Mining (Room 207, Post Office Building, 1823 Stout Street, Denver, Colorado, 80202) and in the Bureau of Indian Affairs, Navajo Area Office, Window Rock, Arizona, 86515.

This notice is issued at this time for the convenience of the public. The Office of Surface Mining has not yet determined whether the proposed plan will be in compliance with the applicable regulations. Any additional information obtained or prepared during the course of the review, such as the technical analysis and environmental assessment, will be made available for public review.

DATES: No action with respect to recommending approval of the proposed plan shall be taken by the Regional Director for a period of 30 days after publication in the Federal Register. Recommendations will be based on reviews by the Office of Surface Mining, the Navajo Tribal Council, New Mexico Coal Surface Mining Commission, the

Bureau of Indian Affairs, and the U.S. Geological Survey.

At the time of recommending a final decision regarding the proposed mining and reclamation plan, the Office of Surface Mining will issue a Notice of Availability of Pending Decision.

FOR FURTHER INFORMATION CONTACT: Bob Starr or Mark Humphrey, Office of Surface Mining, Region V, Room 207, 1823 Stout Street, Denver, Colorado, 80202.

Mary Wright,
Deputy Regional Director, Office of Surface Mining, Region V.

[FR Doc. 79-23530 Filed 7-27-79; 8:45 am]
BILLING CODE 4310-05-M

Bureau of Reclamation

[INT DES 79-45]

Animas-La Plata Project, Colorado and New Mexico; Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement on the proposed Animas-La Plata Project, which would develop water for irrigation and municipal and industrial use in southwestern Colorado and northwestern New Mexico and also benefit reservoir fisheries and recreation. Written comments may be submitted to N. W. Plummer, Regional Director, in Salt Lake City (address below) within 45 days of this notice.

Copies are available for inspection at the following locations:

Office of Communications, Room 7220,
Department of the Interior, Washington,
DC 20240, Telephone (202) 343-8247;
Office of Environmental Affairs, Room 7622,
Bureau of Reclamation, Department of the
Interior, Washington, DC 20240, Telephone
(202) 343-4991;
Division of Engineering Support, Technical
Services and Publications Branch, E&R
Center, Denver Federal Center, Denver, CO
80225, Telephone (303) 234-3006;
Office of the Regional Director, Bureau of
Reclamation, Federal Building, 125 South
State Street, Salt Lake City, UT 84147,
Telephone (801) 524-5404;
Durango Projects Office, Bureau of
Reclamation, 835 Second Avenue, P.O. Box
640, Durango, CO 81301, Telephone (303)
247-0247;
Libraries in Durango, Denver, Boulder, Fort
Collins, Greeley, and Cortez, Colorado; and
Santa Fe, Farmington, and Aztec, New
Mexico.

Single copies of the draft statement may be obtained, free on request, to the Commissioner of Reclamation, or the Regional Director, at the above

addresses. Please refer to the statement number above.

Dated: July 25, 1979.

Larry E. Meierotto,
Assistant Secretary of the Interior.

[FR Doc. 79-23380 Filed 7-27-79; 8:45 am]
BILLING CODE 4310-09-M

[INT DES 79-46]

Upalco Unit, Central Utah Project, Utah; Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement on a proposed water resource project that would develop water for irrigation and municipal and industrial uses in northeastern Utah. It would also benefit fisheries, recreation, and flood control. Written comments may be submitted to the Regional Director (address below) within 45 days of this notice.

Copies are available for inspection at the following locations:

Office of Communications, Room 7220,
Department of the Interior, Washington,
DC 20240 Telephone (202) 343-8247;
Office of Assistant to the Commissioner—
Ecology, Room 7620, Bureau of
Reclamation, Department of the Interior,
Washington, DC 20240 Telephone: (202)
343-4991;
Division of Engineering Support, Technical
Services and Publications Branch, E&R
Center, Denver Federal Center, Denver,
Colorado 80225 Telephone (303) 234-3006;
Office of the Regional Director, Bureau of
Reclamation, Federal Building, 125 South
State Street, Salt Lake City, Utah 84147
Telephone (801) 524-5404;
Central Utah Projects Office, Bureau of
Reclamation, 180 North 200 West, P.O. Box
1338, Provo, Utah 84601 Telephone (801)
584-0310.

Single copies of the draft statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. Please refer to the statement number above.

Dated July 25, 1979.

Larry E. Meierotto,
Assistant Secretary of the Interior.

[FR Doc. 79-23381 Filed 7-27-79; 8:45 am]
BILLING CODE 4310-09-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

[Order No. 842-79]

Addition to List of Bureau of Prisons Institutions

AGENCY: Department of Justice.
ACTION: Notice.

SUMMARY: Attorney General Order No. 646-76 (41 FR 14805) classifies and lists the various Bureau of Prisons institutions. Order No. 649-76 (41 FR 19233) further amended the list published by Order No. 646-76. This order adds to the list one Federal Correctional Institution and two new Federal Prison Camps.

EFFECTIVE DATE: This order is effective as of April 15, 1979.

FOR FURTHER INFORMATION CONTACT: Ira B. Kirschbaum, Assistant General Counsel, Bureau of Prisons, U.S. Department of Justice, HOLC Building, 320 First Street NW., Washington, D.C. 20534 (202-724-3062).

By virtue of the authority vested in me by Sections 4003, 4042, 4081, and 4082 of Title 18, United States Code, Order No. 646-76, as amended, is further amended as follows:

Subparagraphs B and C of Section 1 of Order No. 646-76, are amended to designate one additional Federal Correctional Institution and two additional Federal Prison Camps:

"B. The Bureau of Prisons facilities at the following locations are designated as Federal Correctional Institutions:

(23) Bastrop, Texas
C. The Bureau of Prisons facilities at the following locations are designated as Federal Prison Camps:

(5) Big Spring, Texas
(6) Boron, California"

Dated: July 18, 1979.

Griffin B. Bell,
Attorney General.

[FR Doc. 79-23312 Filed 7-27-79; 8:45 am]
BILLING CODE 4410-01-M

[AAG/A Order No. 27-79]

Privacy Act of 1974; Notice of New System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of Justice proposes to establish a new system of records to be maintained by the Criminal Division.

The Index of Prisoners Transferred Under Prisoner Transfer Treaties (Justice/CRM-026) is a new system of records for which no public notice consistent with the provisions of 5 U.S.C. § 552a(e)(4) has been published in the Federal Register.

5 U.S.C. 552a(e)(4) and (11) provide that the public be given a 30-day period in which to comment; the Office of Management and Budget, which has oversight responsibility under the Act, requires a 60-day period in which to review the system before it is implemented. Therefore, the public, the Office of Management and Budget (OMB), and the Congress are invited to submit written comments on this system. Comments should be addressed to the Administrative Counsel, Office of Management and Finance, Room 1118, Department of Justice, 10th Street and Constitution Avenue, N.W., Washington, D.C. 20530. If no comments are received from either the public, OMB, or the Congress by September 28, 1979, the system will be implemented without further notice in the Federal Register. No oral hearings are contemplated.

A report of the proposed system has been provided to the Director, OMB, to the President of the Senate, and to the Speaker of the House of Representatives.

Dated: July 17, 1979.

Kevin D. Rooney,
Assistant Attorney General for
Administration.

JUSTICE/CRM-026

SYSTEM NAME:

Index of Prisoners Transferred Under Prisoner Transfer Treaties.

SYSTEM LOCATION:

U.S. Department of Justice; Criminal Division; 10th and Constitution Ave., N.W., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Prisoners transferred to or from prisons in the United States under prisoner transfer treaties with other countries.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of alphabetical indices bearing individual names of prisoners involved in transfers and the tape recordings and occasional verbatim transcripts of consent verification hearings held pursuant to 18 U.S.C. 4107 and 4108, as well as copies of consent verification forms.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is maintained to implement the provisions of 18 U.S.C. 4107(e) and 4108(e). The records maintained in the system are used in conjunction with litigation relating to the transfer of prisoners under prisoner transfer treaties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

The file is used by personnel of the Office of International Affairs of the Criminal Division to confirm the status of verification consent proceedings and to provide a readily retrievable record in the event of litigation on the issue of consent to the transfer. In addition, a record may be disseminated to the court, to court personnel, and to parties and their counsel in any litigation brought on the issue of proper consent to a prisoner transfer; to a state, local or foreign government, at its request, when the record relates to one of its past or present prisoners who have been the subject of a consent verification hearing; and, to any foreign government that is a party to an applicable treaty in a scheduled report that is required by the treaty.

RELEASE OF INFORMATION TO THE NEWS MEDIA AND THE PUBLIC:

Information permitted to be released to the news media and the public pursuant to 28 CFR § 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in the system, not otherwise required to be released pursuant to 5 U.S.C. § 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS SERVICE:

A record from the system of records may be disclosed to the National Archives and Records Service (NARS) for records management inspections conducted under the authority of 44 U.S.C. §§ 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Verification consent forms and tape recordings are stored in file drawer safes.

RETRIEVABILITY:

A record is retrieved from index cards by the name of the individual and from the file jackets by location and date of the verification consent hearings which appear on the index cards.

SAFEGUARDS:

The records are stored in file drawer safes. Access to them is limited to personnel of the Office of International Affairs, Criminal Division, United States Department of Justice. The office in which the records are contained is securely locked at night and on weekends.

RETENTION AND DISPOSAL:

Currently it is planned to maintain records for 10 years in file safes referred to above and then transfer them to the Federal Records Center for retention.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General, Criminal Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Inquiry concerning this system should be in writing and made to the system manager listed above.

RECORD ACCESS PROCEDURES:

A request for access to a record contained in this system shall be made in writing to the system manager, with the envelope and the letter clearly marked 'Privacy Access Request.' The request shall include the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record, the name of the case or matter involved, if known, and the name of the judicial district involved, if known. The requester shall also provide a return address for transmitting the information.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

RECORD SOURCE CATEGORIES:

Court records and prisoner statements.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 79-23297 Filed 7-27-79; 8:45 am]

BILLING CODE 4410-01-M

METRIC BOARD**Public Forum**

Notice is hereby given that the United States Metric Board will hold a Public Forum on Thursday, August 16, 1979, from 9:00 a.m. to 1:00 p.m. The forum will be held in conjunction with the Metric Board's regular August meeting. Notice of the regular meeting appears in the Sunshine Meeting section of this issue. The Forum will be held at the Jack Tar Hotel, Van Ness and Geary Streets, California Room, San Francisco, California 94101.

The purpose of the Forum will be to allow Board Members to receive comments about voluntary metric conversion from representatives of groups or organizations and from individuals. Those who wish to participate are invited to submit statements or questions in advance to Mr. Bill DeReuter, Office of Public Information, United States Metric Board, The Magazine Building, 1815 North Lynn Street, Suite 600, Arlington, Virginia 22209.

Louis F. Polk,
Chairman, United States Metric Board.

[FR Doc. 79-23354 Filed 7-27-79; 8:45 am]

BILLING CODE 3510-10-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 79-67]

Space and Terrestrial Applications Steering Committee (STASC) Proposal Evaluation Advisory Subcommittee; Meeting

The Geodynamics Panel of the STASC, Proposal Evaluation Advisory Subcommittee, will meet on August 14, 15 and 16, 1979, from 8:30 am to 5:30 pm each day at the Goddard Space Flight Center, Building 26, Room 200, Greenbelt, Maryland 20770. The morning session of the meeting on August 14, 1979, is open to the public. Members of the public will be admitted to the meeting on a first-come, first-served basis up to the room's seating capacity

of 30 persons. Visitors will be requested to sign a visitor's register.

From 8:30 am to 12:00 noon the Panel will discuss and review Research and Technology Operating Plans (RTOP's) submitted to NASA Headquarters by NASA centers to conduct research in the Geodynamics program.

The agenda for this part of the meeting is as follows: 8:30 am, Introductory Remarks; 9:00 am, Presentations on the Solid Earth Dynamics, Gravity and Geoid RTOP's; 10:00 am, Review of the Crustal Deformation and Advanced Study RTOP's; 12:00 noon, Adjourn.

The meeting will be closed to the public from 1:00 pm to 5:30 pm on August 14 and from 8:30 am to 5:30 pm on August 15 and 16, 1979, for evaluation and categorization of the proposals submitted to NASA in response to an Applications Notice for research in the Supporting Research and Technology phase of the Geodynamics program.

Public discussion of the professional qualifications of the proposers and their potential scientific contributions to the Geodynamics programs would invade the privacy of the proposers and the other individuals involved. Since the Subcommittee sessions will be concerned throughout with matters listed in 5 U.S.C. 552b(c), (6), as described above, it has been determined that the sessions should be closed to the public.

For further information, please contact Mr. James P. Murphy, NASA Headquarters, Washington, D.C. (202) 755-3848.

Dated: July 24, 1979.

Frank J. Simokaitis,
Acting Deputy Associate Administrator for External Relations.

[FR Doc. 79-23292 Filed 7-27-79; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION**Committee Management; Establishment**

Pursuant to the Federal Advisory Committee Act (P.L. 92-463), it is hereby determined that the establishment of the Advisory Committee on Special Research Equipment (2-year and 4-year colleges) is necessary, appropriate, and in the public interest in connection with the performance of duties imposed upon

the Director, National Science Foundation (NSF) and other applicable law. This determination follows consultation with the Committee Management Secretariat Staff, General Services Administration, pursuant to Section 9(a) of the Federal Advisory Committee Act and other applicable issuances.

Name of committee: Advisory Committee on Special Research Equipment (2-year and 4-year colleges).

Purpose: To provide advice and recommendations concerning support for research equipment and instruments for colleges and universities without doctorate programs in science and education (or having only very small doctorate programs).

Effective date of establishment and duration: This establishment is effective upon filing the charter with the Director, NSF, and with the standing committees of Congress having legislative jurisdiction of the Foundation. The Committee will continue for two calendar years from the effective date.

Membership: The membership of this Committee shall be fairly balanced in the terms of the points of view represented and the Committee's function. Members shall be representative of a broad spectrum of science and engineering disciplines, of regions of the country, and of types of academic institutions (2-year, 4-year, etc.; public and private, etc.). There will be no discrimination on the basis of sex, religion, or national origin.

Operation: The Committee will operate in accordance with provisions of the Federal Advisory Committee Act (P.L. 92-463), Foundation policy and procedures, OMB Circular No. A-63, Revised, and other directives and instructions issued in implementation of the Act.

Dated: July 25, 1979.

Richard C. Atkinson,
Director.

[FR Doc. 79-23401 Filed 7-27-79; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION**Advisory Committee on Reactor Safeguards Subcommittee on Advanced Reactors; Meeting****Correction**

In FR Doc. 79-22470 appearing on page 43126 in the issue for July 23, 1979,

the heading is not accurate. The heading, as given, incorrectly indicates that the Nuclear Regulatory Commission is part of the Department of Energy, which it is not. The Nuclear Regulatory Commission is an independent regulatory agency and not part of any cabinet-level Executive Department. The heading for this document as it should read appears above.

BILLING CODE 1505-01-M

[Docket No. 50-255 SP]

Consumers Power Co. (Palisades Nuclear Plant); Hearing

July 23, 1979.

On January 29, 1979, the Nuclear Regulatory Commission published in the Federal Register 44 FR 5732, a notice that the Commission had received a request from the Consumers Power Company (Licensee) for an amendment to Provisional Operating License No. DPR-20 to permit the removal and replacement of the steam generators at the Palisades Plant (the facility), located in Covert Township, Van Buren County, Michigan, and the return of the facility to operation using the new steam generators. The notice provided that by February 28, 1979, any person whose interest may be affected by the proceeding could file a petition for leave to intervene in accordance with the Commission's Rules of Practice, 10 CFR Part 2, particularly 10 CFR § 2.714.

A timely petition for leave to intervene and request for a hearing in the proceeding was filed by the Great Lakes Energy Alliance (GLEA). An Atomic Safety and Licensing Board was established to rule upon such petition and to preside over the proceeding in the event that a hearing were ordered. After holding a special prehearing conference pursuant to 10 CFR § 2.751a, the Atomic Safety and Licensing Board issued an order on July 23, 1979, granting the petition and admitting GLEA as a party to the proceeding.

Please take notice that a hearing will be conducted in this proceeding. The Atomic Safety and Licensing Board which has been designated to preside over this proceeding consists of Dr. George C. Anderson, Dr. M. Stanley

Livingston, and Charles Bechhoefer, who will serve as Chairman of the Board.

During the course of the proceeding, the Board will hold one or more prehearing conferences pursuant to 10 CFR § 2.752. The public is invited to attend any prehearing conferences, as well as the evidentiary hearing. During some or all of these sessions, and in accordance with 10 CFR § 715(a), any person, not a party to the proceeding, will be permitted to make a limited appearance statement, either orally or in writing, stating his position on the issues. The number of persons making oral statements and the time allowed for each oral statement may be limited depending upon the total time available at various sessions. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section. Written statements supplementing or in lieu of oral statements may be of any length and will be accepted at any session of the proceeding or may be mailed to the Secretary of the Commission.

For further details, see the Licensee's letter dated January 3, 1979 and the enclosed Steam Generator Repair Report, other material submitted by the Licensee in support of this action, and papers filed concerning the petition for leave to intervene, including the Special Prehearing Conference Order ruling upon the intervention petition, dated July 23, 1979, all of which are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006. As they become available, the following documents may be inspected at the above locations: (1) the Safety Evaluation Report prepared by the Commission's Office of Nuclear Reactor Regulation; and (2) any environmental review documents which may be required by the Commission's regulations in 10 CFR Part 51.

Dated at Bethesda, Maryland, this 23rd day of July 1979.

The Atomic Safety and Licensing Board.

Charles Bechhoefer,
Chairman.

[FR Doc. 79-23344 Filed 7-27-79; 8:45 am]

BILLING CODE 7590-01-M

Duke Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 75, 75, and 72 to Facility Operating Licenses Nos. DPR-38, DPR-47, and DPR-55, respectively, issued to Duke Power Company, which revised the Technical Specifications for operation of the Oconee Nuclear Station, Units Nos. 1, 2, and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications by deleting Technical Specification 4.13, Fuel Surveillance, as its requirements have been met.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission had made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared to connection with the issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated May 1, 1979, (2) Amendments Nos. 75, 75, and 72 to Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W. Washington, D.C. and at the Oconee County Library, 201 South Spring Street, Walhalla, South Carolina. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 12th day of July 1979.

For the Nuclear Regulatory Commission.

Robert W. Reid,
Chief, Operating Reactors Branch No. 4,
Division of Operating Reactors.

[FR Doc. 79-23345 Filed 7-27-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-269, 50-270 and 50-287]

Duke Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 76, 76, and 73 to Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, issued to Duke Power Company, which revised the Technical Specifications for operation of the Oconee Nuclear Station, Units Nos. 1, 2 and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications by deleting obsolete requirements from the surveillance program concerned with the structural integrity of the reactor building, and by substituting an alternate surveillance tendon for one damaged in the Oconee Unit No. 2 reactor building dome.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these amendments.

For further details with respect to this action, see (1) the applications for amendments dated October 1, 1976 and June 12, 1978, (2) Amendments Nos. 76, 76, and 73 to Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

and at the Oconee County Library, 201 South Spring Street, Walhalla, South Carolina. A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 16th day of July 1979.

For the Nuclear Regulatory Commission.

Robert W. Reid,
Chief, Operating Reactors Branch No. 4,
Division of Operating Reactors.

[FR Doc. 79-23347 Filed 7-27-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-334]

Duquesne Light Co. et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 19 to facility Operating License No. DPR-66 issued to Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the licensees), which revised Technical Specifications for operation of the Beaver Valley Power Station, Unit No. 1 (the facility) located in Beaver County, Pennsylvania. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to require actuation of safety injection based on two out of three channels of low pressurizer pressure.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 28, 1979, (2) Amendment No. 19 to License No. DPR-66 and (3) the Commission's related

Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 17th day of July.

For the Nuclear Regulatory Commission.

Charles M. Trammell,
Acting Chief, Operating Reactors Branch No. 1,
Division of Operating Reactors.

[FR Doc. 79-23346 Filed 7-27-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-298]

Nebraska Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 58 to Facility Operating License No. DPR-46, issued to Nebraska Public Power District, which revised the Technical Specifications for operation of the Cooper Nuclear Station, located in Nemaha County, Nebraska. The amendment is effective June 22, 1979.

The amendment modified the Technical Specifications to permit operation of the facility at less than 40% power for a period not to exceed 48 hours between June 22 and June 25, 1979, with the containment deinterred.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the formal application for amendment dated June 21, 1979, (2) Amendment No. 58 to License No. DPR-46, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Auburn Public Library, 118-15th Street, Auburn, Nebraska 68305. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 23rd day of July, 1979.

For the Nuclear Regulatory Commission.

Vernon L. Rooney,
Acting Chief, Operating Reactors Branch No. 3,
Division of Operating Reactors.

[FR Doc. 79-23348 Filed 7-27-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. Stn 50-556 and Stn 50-557]

Public Service Co. of Oklahoma (Black Fox Station, Unit Nos. 1 and 2); Issuance of Amendment to Limited Work Authorization

Pursuant to the provisions of 10 CFR 50.10(e) of the Nuclear Regulatory Commission's (Commission) regulations, the Commission has authorized the Public Service Company of Oklahoma to conduct certain site activities in connection with the Black Fox Station, Unit Nos. 1 and 2, prior to a decision regarding the issuance of construction permits. Notice of the Limited Work Authorization was published in the Federal Register on August 11, 1978 (43 FR 35762).

Since that time, the Director of Nuclear Reactor Regulation has determined that additional activities may be authorized under the Limited Work Authorization. The additional activities are within the scope of those authorized by 10 CFR 50.10(e)(1) and include excavation and backfill for permanent structures, which had not been previously authorized.

Any activities undertaken pursuant to this authorization are entirely at the risk of the Public Service Company of Oklahoma, and the grant of the authorization has no bearing on the issuance of construction permits with respect to the requirements of the Atomic Energy Act of 1954, as amended, and rules, regulations, or orders of the Commission promulgated pursuant thereto.

A copy of (1) the Atomic Safety and Licensing Board's Partial Initial Decision Authorizing Limited Work Authorization and the Order Granting Applicants' Motion for Reconsideration and Clarification; (2) the applicant's Preliminary Safety Analysis Report and amendments thereto; (3) the applicant's Environmental Report and amendments thereto; (4) the staff's Final Environmental Statement dated February 1977; (5) the Commission's letters of authorization dated July 26, 1978, September 6, 1978, and November 30, 1978, and (6) the Commission's letter amending the authorization dated July 24, 1979, are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW, Washington, DC, and at the Tulsa City County Library, 400 Civic Center, Tulsa, Oklahoma.

Dated at Bethesda, Maryland, this 24th day of July 1979.

For the Nuclear Regulatory Commission,
Donald E. Sells,

Acting Branch Chief, Environmental Projects
Branch 2, Division of Site Safety and
Environmental Analysis.

[FR Doc. 79-23349 Filed 7-27-79; 8:45 am]

BILLING CODE 7590-01-M

International Atomic Energy Agency Draft Safety Guide; Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operation, and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA Codes of Practice and Safety Guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft Code of Practice or Safety Guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from Member States. The Senior

Advisory Group then considers the Member State comments, again modifies the draft as necessary to reach agreement and forwards it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG-S6, "Hydrological Dispersion of Radioactive Material in Relation to Nuclear Power Plant Siting," has been developed. The working Group, consisting of Mr. Z. Dlouhy of Czechoslovakia; Mr. Y. Belot of France; and Mr. A. J. Policastro (Argonne National Laboratory) of the United States of America developed the initial draft of this Safety Guide from an IAEA collation during a meeting on January 29-February 9, 1979. The initial Working Group draft was modified by the IAEA Technical Review Committee in meetings on March 19-23, 1979 and May 21-25, 1979. We are soliciting comments on Revision 1 on this Safety Guide dated March 23, 1979. Comments on this draft received by September 5, 1979 will be useful to the U.S. representatives to the Technical Review Committee and Senior Advisory Group in evaluating its adequacy prior to the next IAEA discussion.

Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Rockville, Md., this 20th day of July 1979.

For the Nuclear Regulatory Commission,
Robert B. Minogue,

Director, Office of Standards Development.

[FR Doc. 79-23355 Filed 7-27-79; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the act also considers comments on the forms and

recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if

applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one-half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer of office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer or your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson

Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Donald W. Barrowman—447-6202

New Forms

Forest Service

*Study Plan and Questionnaire for Estimating Recreation Use—Mount Rogers National Recreation Area Other (see SF-83)

Recreation visitors to the Mount Rogers National Recreation Area; 7,575 responses, 505 hours

Charles A. Ellett, 395-5080

Forest Service

National Director of Forest Tree Seed Orchards

FS-3300-2

Single time

Owners of Forest Tree Seed Orchards; 200 responses, 50 hours

Charles A. Ellett, 395-5080

Revisions

Food and Nutrition Service
Quality Control Review Schedule
FNS-245, 247-1, 2, 3, 4, and 248

On occasion

Food stamp participants applicants and State agencies; 14,188 responses, 1,101,026 hours

Charles A. Ellett, 395-5080

Reinstatements

Food and Nutrition Service
Food Stamp Program—Performance Reporting System

Other (see SF-83)

State agencies; 54 responses, 270 hours

Charles A. Ellett, 395-5080

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—252-5214

New Forms

*Survey of Fuel Oil Dealers Retail/Wholesale

B-1156, 1157, 1158, and 1159

Monthly

Retail/wholesale fuel oil dealers; 60,000 responses, 15,000 hours

Jefferson B. Hill, 395-5867

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Peter Gness—245-7488

New Forms

Social Security Administration

*Application for Benefits Under the Federal Republic of Germany-United States International Social Security Agreement

SSA-3957

On occasion

Per. fil. for SS een. under the agree. bet. United States and Germany; 50,000 responses, 16,666 hours

Barbara F. Young, 395-6132

Revisions

Social Security Administration

*Record of SSI Inquiry

SSA-3462

Other (see SF-83)

Per. who inquire about paymt under tit. XVI of the SSA; 152,000 responses, 15,200 hours

Barbara F. Young, 395-6132

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Donald E. Larue—633-3526

Extensions

Immigration and Naturalization Service

*Application To Preserve Residence . . . Naturalization Purposes N-470

On occasion

Permanent residence; 3,000 responses, 750 hours

Richard Sheppard, 395-3211

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Floyd L. Sandlin—376-0436

Revisions

Bureau of Customs

*Temporary Application for Extension of Bond for Importation

Customs 3173

On occasion

Importers/brokers; 50,000 responses, 4,165 hours

Susan B. Geiger, 395-5867

Bureau of Customs

*Lien Notice

Customs 3485

On occasion

Carriers transporting imported goods;

109,800 responses, 10,980 hours

Susan B. Geiger, 395-5867

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—John J. Stanton—245-3064

New Forms

Analysis of Alternative EPA Technical Assistance Strategies

Single time

State and local environmental managers; 500 responses, 300 hours

Edward H. Clarke, 395-5867

COMMUNITY SERVICES ADMINISTRATION

Agency Clearance Officer—Jack Stoehr—254-5300

New Forms

CSA/Grantee Program Management System Manual, Vol. 1—Forms

395, 509, 510, 511, 512, 513, 514, and 515 Annually

40 grantees; 40 responses; 200 hours

Barbara F. Young, 395-6132

UNITED STATES INTERNATIONAL TRADE COMMISSION

Agency Clearance Officer—Charles Ervin—523-0267

New Forms

Questionnaire for importers Casein and Mixtures in Chief Value of Casein

Single time

U.S. importers of casein and casein mixtures; 48 responses, 368 hours

Susan B. Geiger, 395-5867

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—389-2282

New Forms

Blind Rehabilitation Evaluation

Single

Blind veterans in receipt of VA pension or compensation; 2,400 responses, 800 hours

David P. Caywood, 395-6140

David R. Leuthold,

Acting Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79-23419 Filed 7-27-79; 8:45 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-16042; File No. SR-BSPS-79-1]

Self-Regulatory Organizations; Proposed Rule Change by Bradford Securities Processing Services, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 18 (June 4, 1975), notice is hereby given that on July 11, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The proposed rule change is to open a branch office in Detroit, Michigan. This branch office will operate similar to the branch offices approved by the Commission in Rel. No. 34-12915 dated October 12, 1976, Rel. No. 34-13511

dated May 6, 1977, and Rel. No. 13876 dated August 19, 1977.

The basis and purpose of the foregoing proposed rule change are as follows:

The purpose of this rule change is to establish an office in Detroit, Michigan, through which the corporation can better service participants located in Detroit and other participants which have effected transactions with brokers, dealers and others in the Detroit metropolitan area.

Because of the importance of transactions effected by and with brokers, dealers and others with offices in Detroit, it is important that the corporation has a facility in Detroit to render its services. Therefore, the purpose of this rule change is to insure present and potential customers timely clearance of securities transactions.

This facility will help to provide for the prompt and accurate clearance of securities transactions by or with brokers, dealers and others in the Detroit area. It will allow for any participant in the corporation to utilize this facility for the prompt and accurate clearance of its securities transactions.

Verbal comments received from our existing customers and potential customers indicate a need for out services in Detroit.

BSPS is of the opinion that opening this branch office will not impose any burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file

number referenced in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

July 20, 1979.

[FR Doc. 79-23303 Filed 7-27-79; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 30, Rev. 15, Amdt 29]

Program Activities in Field Offices; Delegation of Authority

Delegation of Authority No. 30, Rev. 15, republished in the Federal Register on November 24, 1978 (43 FR 55220), as amended (44 FR 963, 44 FR 5039, 44 FR 19572, and 44 FR 21108), is further amended to delegate authority to request and receive IRS disclosure information on last known address.

Accordingly, Part VIII of Delegation of Authority No. 30, Revision 15, is amended as follows:

Part VIII—Legal Services

Section C—Authority to contact IRS

To request and receive address information from IRS records for purpose of collection and compromise of SBA Federal claims. This information will be used only by Agency employees directly engaged in and solely for their use in preparation for any administrative or judicial proceeding pertaining to the collection or compromise of a Federal claim in accordance with the provisions of Section 3 of the Federal Claims Collection Act of 1966.

- Regional Administrators
- Regional Counsel
- District Directors
- District Counsel

Effective Date: July 30, 1979.

Dated: June 23, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-23317 Filed 7-27-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 79-103]

Headquarters; Change of Address

Notice is given that the Coast Guard is moving its Headquarters from 400 Seventh Street, S.W., Washington, D.C. 20590 to the Coast Guard Headquarters Building at Buzzard's Point. The street address for the new Headquarters Building is 2100 Second Street, S.W., Washington, D.C. 20590. Working hours continue to be from 7:30 a.m. to 4 p.m.

This move is taking place over a period of several months and we are attempting to conduct business as usual during the move. However, there are some inadvertent disruptions (e.g., some phone service has been disrupted for more than two weeks) and some delays have been and will be experienced in handling mail inquiries. We apologize for any inconvenience that the public may experience as a result of this move.

Coast Guard rulemaking documents previously published in the Federal Register have stated that comments would be available for inspection at the Marine Safety Council Office. This office has relocated to room 2418 at the above address. The telephone number remains unchanged. (202-426-1477).

Dated: July 19, 1979.

C. F. DeWolf,

Rear Admiral, U.S. Coast Guard, Chairman,
Marine Safety Council.

[FR Doc. 79-23437 Filed 7-27-79; 8:45 am]

BILLING CODE 4910-14-M

New York Harbor; Temporary Control of Vessel Traffic; Cancellation

Notice is hereby given that the Captain of the Port, New York Order No. 1-79 issued effective 1 April 1979, published on pages 22546 thru 22549 of the Federal Register, Volume 44, No. 74 dated 16 April 1979, was cancelled effective 1200 28 June 1979. The Captain of the Port, New York Order No. 1-79 provided emergency directions for vessel traffic within the Port of New York during the recent tow boat operators strike. This Order was cancelled with the settlement of the tow boat operators strike and the resumption of normal tug boat services within New York Harbor.

(Pub. L. 95-474 (33 U.S.C. 1223); 49 CFR 1.46(n) (49 CFR 10083, 2/16/79); 33 CFR 160.35(b)).

Dated: June 29, 1979.

James L. Fleishell,

Captain, U.S. Coast Guard, Captain of the Port, New York, N.Y.

[FR Doc. 79-23438 Filed 7-27-79; 8:45 am]

BILLING CODE 4910-14-M

Research and Special Programs Administration

Workshop on Radio-Navigation Systems

Notice is hereby given that the United States Department of Transportation and The Institute of Navigation will, in co-sponsorship, conduct a workshop to provide a forum for the nation's civil user community to express its views to the Department of Transportation regarding radio-navigation systems. Consideration will be given to matters such as users' needs and formulation of needs statements, deficiencies, recommendations for courses of action, and general public policy responding to user needs.

The Workshop will be held October 9-11, 1979, at the Ramada Inn, 1900 Ft. Myer Drive, Arlington, Virginia. The Workshop is open to the public, and it is not anticipated that any limitation on attendance will be necessary due to available space. Any member of the public may file a written statement with the Department of Transportation before, during or after the workshop. To the extent that time permits, the workshop chairman may allow public presentation of oral statements at the workshop. Each participant will be responsible for personal expenses such as transportation and lodging. Additionally, there may be a nominal registration fee to cover administrative costs associated with the workshop.

The workshop will be conducted as follows:

October 9, Morning—Plenary Session, opened by General Chairman, Sven Doddington, Consultant of ITT Corporation, New York.

I. Activities since the September 1978 navigation conference, by DOT representative.

II. Introductory statements by the three panel chairmen: Land—Paul Rosenberg, Paul Rosenberg Associates, Pelham, NY. Marine—Max Carpenter, Maritime Institute of Technology and Graduate Studies, Linthicum Heights, MD. Air—Frank White, Air Transport Association, Washington, D.C.

Afternoon—Three panels will meet separately, each under the above panel chairmen. Audience participation is encouraged. The Land Panel will consist of:

A sub-panel on Automatic Vehicle Monitoring, chaired by R. Tutt, University of Tennessee; and, A sub-panel on Site Registration, chaired by Clarence W. Mosher, New York State Department of Motor Vehicles.

October 10, Breakfast—Addressed by Pat Reynolds, Pan American World Airways, New York.

All Day—Panel activities continued.

October 11, Morning—Plenary Session, in which the three panels will present their findings.

There will be no formal paper presentations.

The Final Agenda will be completed no later than 29 August and will be mailed to those who have indicated an interest or upon request. The public is invited to submit issue topics by 31 July 1979 to:

The Institute of Navigation, 815 15th Street, N.W., Suite 832, Washington, D.C. 20005, telephone (202) 783-4121.

For details on registration please contact:

Conference Coordinator/930, Transportation Systems Center, Kendall Square, Cambridge, Ma. 02142, telephone (617) 494-2342.

Dated: July 25, 1979.

Howard Dugoff,

Administrator.

[FR Doc. 79-23394 Filed 7-27-79; 8:45 am]

BILLING CODE 4910-40-M

Federal Aviation Administration

Civil Aircraft N36565; Show Cause Order Relating To Recordation of a Security Agreement

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration has issued an Order to Show Cause relating to the cancellation of an erroneous recordation of a security agreement against Civil Aircraft N36565.

DATES: Objections must be received by the close of business, August 10, 1979.

ADDRESS: Send objections to: FAA Aircraft Registry, U.S. Department of Transportation, Post Office Box 25504, Oklahoma City, Oklahoma 73125.

FOR ADDITIONAL INFORMATION CONTACT: Florine G. Crockett, Chief, Technical Section, Aircraft Registration Branch, FAA Aircraft Registry, P.O. Box 25504, Oklahoma City, Oklahoma 73125, telephone (405) 686-2284.

SUPPLEMENTAL INFORMATION: On February 1, 1979, a security agreement, dated January 23, 1979, between American Aviation Ground Services,

Inc., as mortgagor, and American National Bank & Trust of New Jersey, was recorded in the FAA Aircraft Registry against Civil Aircraft N36565. On the same date, a bill of sale dated January 20, 1979, from American Aviation Ground Services, Inc., to Robert L. VanBuskirk relating to N36565 was recorded in the FAA Aircraft Registry. The security agreement did not meet the eligibility requirements of § 49.17(e), referenced in § 49.33 of the Federal Aviation Regulations (14 CFR Part 49), since American Aviation Ground Services, Inc., was not the owner of the aircraft on January 23, 1979, having executed a bill of sale for the aircraft to Robert L. VanBuskirk on January 20, 1979. It appearing the recordation of the security agreement of January 23, 1979, was in error and is of no legal effect, the Federal Aviation Administration, on July 19, 1979, issued a Show Cause Order to the concerned parties, giving them until August 10, 1979, to submit objections to the cancellation of the recordation of the security agreement dated January 23, 1979, retroactively as of the date of recordation.

Issued in Oklahoma City, Oklahoma, on July 19, 1979.

Calvin H. Davenport,

Acting Director, Aeronautical Center.

[FR Doc. 79-23126 Filed 7-27-79; 8:45 am]

BILLING CODE 4910-13-M

Materials Transportation Bureau Records; Notice of Change of Location

The records of the Materials Transportation Bureau of the Department of Transportation have been moved from room 6500 of the Trans Point Building at 2100 Second Street, S.W., to room 8426 of the Nassif Building located at 400 Seventh Street, S.W. This is a temporary location. After September 22, 1979, the records will be located in room 8104 of the Nassif Building.

The mailing address remains the same: Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

Issued in Washington, D.C. on July 20, 1979.

Alan I. Roberts,

Associate Director for Hazardous Material Regulations, Materials Transportation Bureau.

[FR Doc. 79-23198 Filed 7-27-79; 8:45 am]

BILLING CODE 4910-60-M

Urban Mass Transportation Administration

Intent To Prepare an Environmental Impact Statement

In accordance with the provisions of the National Environmental Policy act (83 Stat. 852), the Council on Environmental Quality's implementing regulations, (40 CFR Parts 1500-1508) and the Urban Mass Transportation Administration's *Policy on Major Urban Mass Transportation Investments* (published in the Federal Register on September 22, 1976), the Urban Mass Transportation Administration hereby gives notice that an analysis of transportation alternatives in the Guadalupe transportation corridor and preparation of related Draft and Final environmental impact statements are to begin following a public meeting on August 29, 1979 at which the scope and conduct of the analysis will be discussed. Members of the public and interested Federal, State and local agencies are invited to comment on the proposed scope of work, the alternatives to be studied and the evaluation criteria which should be used to arrive at a decision. This Scoping Meeting will be held at 7 P.M. in the Santa Clara County Board of Supervisors Chambers, 70 West Hedding Street, San Jose, California 95110.

The Urban Mass Transportation Administration's *Policy on Major Urban Mass Transportation Investments* requires a metropolitan area planning organization to undertake such an analysis of alternatives if the area is contemplating seeking Federal funding for a major investment. The Policy defines a major investment as any new or extended fixed guideway transit facility. To be eligible for Federal funding, the analysis must be conducted, but completion of the analysis does not ensure that Federal funding will be forthcoming. Federal funds are limited, and thus any project proposal resulting from the analysis must vie for these funds against other candidate projects nationally. The subject analysis will be conducted by the Santa Clara County Transportation Agency and the metropolitan Transportation Commission, under the supervision of the Urban Mass Transportation Administration. Consultant support will also be sought.

The Guadalupe Transportation Corridor is defined as a 16-mile north-south corridor running through the center of the City of San Jose. The corridor is bounded roughly by State highway 237 on the north, Old Oakland

Road and US 101 on the east, Bernal Road and the Almaden Valley on the south, and Meridian/Bascom/Winchester/Bowers/Great America Parkway on the west. The study area encompasses over 75 square miles and contains more than 350,000 people and 180,000 jobs today. Substantial residential and industrial growth is occurring in both the northern third and southern third of this corridor. Major activity centers in the Guadalupe Corridor, running from north to south, are Marriott's Great America Theme Park, Orchard Business and Technology Industrial Parks, San Jose Municipal Airport, the Joint City of San Jose/Santa Clara County Civic Center, downtown San Jose, the SP commuter railroad terminal, Oakridge Mall Regional Shopping Center and the IBM/Edenvale Industrial Parks.

Proposed transportation alternatives include expanded express bus, light rail, commuter rail and highway-only solutions, as well as two transit guideway/highway combinations. Nine transportation alternatives in addition to the Null have been tentatively identified. They are as follows:

- 0—Null (Do Nothing).—516 Buses County wide plus Existing SP Commuter RR Service.
- 1—Baseline Bus (TSM).—750 Buses County wide plus Upgraded SP Commuter RR Service.
- 2—Commuter-Railroad.—750 Buses County wide plus Upgraded and Extended SP Commuter RR Service in Guadalupe Corridor.
- 3—Busway.—800 Buses County wide plus Upgraded SP plus new Busway in Guadalupe Corridor.
- 4—Light Rail (Rte 85/87).—750 Buses County wide plus Upgraded SP plus new Light Rail Line in Rte 85/87 R/W in Guadalupe Corridor.
- 5—Light Rail (Rte 82/1st St).—750 Buses county wide plus Upgraded SP plus new Light Rail Line in Monterey Highway (Rte 82)/First St. R/W in Guadalupe Corridor.
- 6—Freeway.—800 Buses County wide plus Upgraded SP plus new 6-lane Freeway in Guadalupe Corridor.
- 7—Expressway.—800 Buses County wide plus Upgraded SP plus new 4-lane Expressway in Guadalupe Corridor.
- 8—Busway + Freeway.—800 Buses County wide plus Upgraded SP plus new 2-lane Busway and 4-lane Freeway in Guadalupe Corridor.
- 9—Light Rail + Expressway.—750 Buses County wide plus Upgraded SP plus new Light Rail Line and 4-lane Expressway in Guadalupe Corridor.

The proposed evaluation criteria will include transportation, environmental, social, economic and financial impact areas as required by current Federal

(NEPA) and State (CEQA) environmental laws and current Federal CEQ, UMTA and FHWA guidelines. Additional impact areas and measures important to local decision-making will also be included.

At the August 29th Scoping Meeting, staff will present the above information in more detail using maps and visual aids, as well as a plan for an active citizen participation program, a work schedule and budget. The public and affected public agencies will be invited to comment, either orally at the meeting or in writing for a period of 30-days following the meeting. Appropriate adjustments to the work scope and alternatives will be made accordingly.

If there are any questions, please contact the UMTA Project Manager, Mr. Alfred Harf, Office of Planning, Urban Mass Transportation Administration, 400 7th Street, S.W., Washington, D.C. 20590, Telephone (202) 426-2360, or the UMTA Regional Office Planning Representative, Mr. Michael Kennedy 2 Embarcadero Center, San Francisco, California 94111, Telephone (415) 556-2884, or the Local Agency Project Director, Mr. David Minister, Santa Clara County Transportation Agency, 1555 Berger Drive (Room 203), San Jose, California 95112, Telephone (408) 299-2362.

Dated: July 23, 1979.

Robert H. McManus,

Associate Administrator for Planning, Management & Demonstration.

[FR Doc. 79-23199 Filed 7-27-79; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Public Debt Series—No. 15-79]

Series V-1981 Notes; Interest Rate

July 25, 1979.

The Secretary announced on July 24, 1979, that the interest rate on the notes designated Series V-1981, described in Department Circular—Public Debt Series—No. 15-79, dated July 18, 1979, will be 9½ percent. Interest on the notes will be payable at the rate of 9½ percent per annum.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental

procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 79-23342 Filed 7-27-79; 8:45 am]

BILLING CODE 4810-01-M

Customs Service

October 1979 Customhouse Broker's Examination

AGENCY: U.S. Customs Service, Treasury Department.

SUMMARY: Pursuant to 111.13(b) of the Customs Regulations, [19 CFR 111.13(b)], the October 1979 examination for a Customhouse broker's license would normally be scheduled to be given at each district office on October 1, 1979, the first Monday in October. Because of the observance of the Jewish Holiday of Yom Kippur, the October 1979 Customhouse Broker Examination has been scheduled for Thursday, October 4, 1979. All Customs districts will be so notified.

EFFECTIVE DATE: July 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Bylle Patterson, Operations Officer, Planning, Resource Utilization and Evaluation Branch, Duty Assessment Division, Office of Operations, United States Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-8651).

Dated: July 23, 1979.

William T. Archey,

Acting Commissioner of Customs.

[FR Doc. 79-23359 Filed 7-27-79; 8:45 am]

BILLING CODE 4810-22-M

[T.D. 79-212]

Bicycle Tires and Tubes From the Republic of Korea; Petition Filed by American Manufacturer, Producer or Wholesaler

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of petition filed by an American manufacturer, producer or wholesaler, pursuant to section 516(a), Tariff Act of 1930.

SUMMARY: This notice is to advise the public that an American manufacturer has filed a petition alleging that the determination of the Secretary of the Treasury that the bounties or grants received by Korea Inoue Kasei were equal to "0.5 percent of the f.o.b. price for export to the United States," was erroneous, and requesting that countervailing duties should be assessed

at the rate of 12.07 percent on bicycle tires and tubes manufactured and exported from the Republic of Korea by Korea Inoue Kasei.

DATE: Comments should be received no later than August 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Theodore Hume, Office of the Chief Counsel, U.S. Customs Service, 1301 Constitution Avenue, NW, Washington, D.C. 20229 (202-566-5476).

SUPPLEMENTARY INFORMATION: Pursuant to section 516(a), Tariff Act of 1930, as amended by the Trade Act of 1974 (19 U.S.C. 1516(a)), and § 175.21(a), Customs Regulations (19 CFR 175.21(a)), notice is hereby given that a petition dated January 30, 1979, was filed on behalf of Carlisle Tire and Rubber Company, an American manufacturer of bicycle tires and tubes. The petitioner alleges that the countervailing duties assessable on bicycle tires and tubes produced by Korea Inoue Kasei are too low and that the proper amount of countervailing duties should be 12.07 percent, not 0.5 percent as was stated in the final countervailing duty determination published January 12, 1979 (44 FR 20841).

Before a decision is made with regard to this petition, consideration will be given to any relevant data, views or arguments submitted in writing. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, NW, Washington, D.C. 20229, in time to be received no later than August 29, 1979.

Written submissions will be made available for public inspection in accordance with § 103.8(b), Customs Regulations (19 CFR 103.8(b)), at the Classification and Value Division, Headquarters, U.S. Customs Service, Washington, D.C., during regular business hours.

This notice is being published pursuant to section 516(a), Tariff Act of 1930, as amended (19 U.S.C. 1516(a)) and § 175.21(a), Customs Regulations (19 CFR 175.21(a)).

William T. Archey,

Acting Commissioner of Customs.

Approved: July 23, 1979.

Robert Munheim,

General Counsel of the Treasury.

[FR Doc. 79-23358 Filed 7-27-79; 8:45 am]

BILLING CODE 4810-22-M

INTERSTATE COMMERCE COMMISSION

[Volume No. 65]

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 79-16906, published, at page 31375, on Thursday, May 31, 1979, on page 31377, the following corrections should be made:

1. In the first column, the fifteenth line "NY, and extending along NY Hwy to" should be corrected to read "NY, and extending along NY Hwy 57 to";
2. In the first column, in the first full paragraph "Note", the fourteenth line reading "(2)(e) seeks to eliminate of Sharon, PA. Part" should be corrected to read "(2)(e) seeks to eliminate the gateway of Sharon, PA. Part".

BILLING CODE 1505-01-M

[Docket No. AB-6 (Sub-No. 48F)]

Burlington Northern, Inc., Abandonment Near Jamestown and Klose in Stutsman County, N. Dak.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided May 24, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB-36 (Sub-No. 2), *Oregon Short Line R. Co.—Abandonment Goshen* 360 I.C.C. 91 (1979), and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment of a line of railroad between milepost 39.67 near Jamestown, ND, and milepost 33.75 near Klose, ND, a distance of 5.92 miles, in Stutsman, ND. The line consists of two parts, one segment of approximately 1.2 miles between Jamestown and the North Dakota State Hospital located at Jamestown, and a second segment of about 4.7 miles between the State Hospital and Klose. A certificate of abandonment will be issued to the Burlington Northern, Inc. based on the above-described finding of abandonment, by August 29, 1979, unless within 30 days from the date of publication, the Commission further finds that:

- (1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment)

to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" Published in the Federal Register on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-23399 Filed 7-27-79; 8:45 am]
BILLING CODE 7035-01-M

[Twenty-Ninth Revised Exemption No. 129]

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

It appearing, That the railroads named herein own numerous forty-foot plain boxcars; that under present conditions there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain

boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC RER 6410-A, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," with inside length 44-ft. 8-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlanta & Saint Andrews Bay Railway Company
Reporting Marks: ASAB
Chicago, West Pullman & Southern Railroad Company
Reporting Marks: CWP
Illinois Terminal Railroad Company
Reporting Marks: ITC
Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC
Port Huron and Detroit Railroad Company
Reporting Marks: PHD
Southern Railway Company
Reporting Marks: CG-NS-SA-SOU

Effective 12:01 a.m., July 15, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., July 12, 1979.
Interstate Commerce Commission.

Joel E. Burns,
Agent.

[FR Doc. 79-23396 Filed 7-27-79; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-No. 39)]

Illinois Central Gulf Railroad Co. Abandonment Near Hermanville and Harrison in Clairborne and Jefferson Counties, Miss.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided September 21, 1978, the decision decided January 11, 1979, and the decision of the Commission, Division 1, acting as an Appellate Division, adopted the Review Board's decision of September 21, 1978, as modified by the decision of January 11, 1979, which is administratively final, stating that, the present and future public convenience and necessity permits the abandonment by the Illinois Central Railroad Company of a portion of its Natchez District extending from milepost 50.5 near Hermanville, MS, to milepost 70.0 at Harrison, MS, in Clairborne and Jefferson Counties, MS, a distance of 19.5 miles, subject to the conditions for the protection of employees discussed in AB-36 (Sub-No.

2), *Oregon Short Line R. Co.-Abandonment Goshen*, 360 I.C.C. 91 (1979), and subject to the condition that, subsequent to abandonment, the Illinois Central Gulf Railroad Company will continue to base its rates on pulpwood and wood chips on mileages existing prior to the abandonment, and subject further to the condition that the Illinois Central Gulf Railroad Company or its contractors shall conduct rail line salvage operations so as to (1) avoid the alligator nesting season, and (2) avoid excess sedimentation and possible damage to downstream water habitat. Salvage operations shall not be conducted without giving reasonable notice to the Mississippi Game and Fish Commission. A certificate of abandonment will be issued to the Illinois Central Gulf Railroad Company based on the above-described finding of abandonment, by August 29, 1979, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the Federal Register on March 31, 1976, at 41

FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-23397 Filed 7-27-79; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-206F and AB-207F]

The Louisiana & Pine Bluff Railway Co. Entire Abandonment Near Dollar Junction and Huttig, in Union County, Ark., and Arkansas & Louisiana Missouri Railway Co.—Abandonment of Trackage Rights Over the Louisiana & Pine Bluff Railway Co. and Missouri Pacific Railroad Co. Near Dollar Junction and Huttig, in Union County, Ark.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided July 6, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to (a) the conditions for the protection of railway employees prescribed by the Commission in AB-36 (Sub-No. 2), *Oregon Short Line R. Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979) and (b) that the prior approval and consummation of the transaction in Finance Docket No. 29043, the present and future public convenience and necessity permits (1) the abandonment by the Louisiana & Pine Bluff Railway Company (L&PB) in AB-206 of its line of railroad between Dollar Junction, AR (at or near Missouri Pacific Railroad Company milepost 523.01) and Huttig, AR (at or near Missouri Pacific Railroad Company milepost 528.51), a distance of approximately 1.83 miles, together with switching and side tracks connected thereto, all in Union County, AR, and (2) discontinuance of service by the Arkansas & Louisiana Missouri Railway Company (A&LM) in AB-207 over this line as well as its operations over the Missouri Pacific line between these two points, via Felsentel, AR. A certificate of public convenience and necessity permitting abandonment and discontinuance of service was issued to the Louisiana & Pine Bluff Railway Company and the Arkansas & Louisiana Missouri Railway Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the Federal Register be made only after such a

decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than August 14, 1979. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-23402 Filed 7-27-79; 8:45 am]
BILLING CODE 7035-01-M

[ICC Order No. P-26]

Passenger Train Operation

July 25, 1979.

To: The Atchison, Topeka and Santa Fe Railway Company.

It appearing, That the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Chicago, Illinois, and Laredo, Texas. The operation of these trains requires the use of the tracks and other facilities of the Missouri-Kansas-Texas Railroad Company (MKT) between Temple, Texas, and Taylor, Texas. These tracks of the MKT are temporarily out of service because of a derailment. An alternate route between these points is available via The Atchison, Topeka and Santa Fe Railway Company between Temple, Texas, and Milano, Texas, thence via the Missouri Pacific Railroad Company between Milano, Texas, and Taylor, Texas.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedures herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered (a) Pursuant to the authority vested in me by order of the Commission served March 6, 1978, and of the authority vested in the Commission by section 402(c) of the Rail

Passenger Service Act of 1970 (45 U.S.C. § 562(c)), The Atchison, Topeka and Santa Fe Railway Company is directed to permit use of its tracks between Temple and Milano, Texas, by trains of the National Railroad Passenger Corporation.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application*. The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(d) *Effective date*. This order shall become effective at 8:00 a.m., CDT, July 13, 1979.

(e) *Expiration date*. The provisions of this order shall expire at 11:59 p.m., CDT, July 14, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

This order shall be served upon the Atchison, Topeka and Santa Fe Railway Company and upon the National Railroad Passenger Corporation (Amtrak), and that it be filed with the Director, Office of the Federal Register.

Interstate Commerce Commission.

Joel E. Burns,
Agent.

[FR Doc. 79-23395 Filed 7-27-79; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-57 (Sub-No. 7)]

Soo Line Railroad Co. Abandonment Between Baraga (Baraga County) and Calumet and Lake Linden (Houghton County), Mich.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided October 13, 1978, and the decision of the Commission, Division 1, served June 11, 1979, as modified, adopted the initial decision of the Administrative Law Judge, which is administratively final, stating that, (1) the public convenience and necessity require the abandonment

of (a) that portion of the Soo Line Railroad's branch line commencing at a point 500 feet north of the Portage Lake bridge in the city of Hancock, MI, and running to the end of that line at Calumet, MI; and (b) that portion of the line commencing at First Street, Dollar Bay, MI, and running to Lake Linden, MI; (2) insofar as the application seeks the Commission's approval of the abandonment of that portion of the branch line commencing at milepost 23 near Baraga and running to the portion of the line described in (1) above, the public convenience and necessity require the continued operation of that segment and this portion of the application is denied; (3) the partial abandonment ordered (1) above is conditional upon the rendering of service by the railroad over the remaining portion of the line, (2) above, on at least a twice weekly basis. Otherwise, the abandonment application is denied in its entirety; (4) this partial abandonment is also conditional upon the continuation of the bridge fee assessed by the State of MI to the railroad at the reduced level described in this decision; and (5) the employee protective conditions set out in AB-36 (Sub-No. 2), *Oregon Short Line R. Co.-Abandonment Goshen*, 360 I.C.C. 91 (1979) shall be imposed here. A certificate of abandonment will be issued to the Soo Line Railroad Company based on the above-described finding of abandonment, by August 29, 1979, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the *Federal Register* on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-23390 Filed 7-27-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 147

Monday, July 30, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL ELECTION COMMISSION.

FEDERAL REGISTER NO. FR-S-1485.

PREVIOUSLY ANNOUNCED DATE AND TIME: Tuesday, July 31, 1979, at 10 a.m.

CHANGE IN MEETING:

This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

Setting of dates for future meetings.
Correction and approval of minutes.
Advisory Opinion 1979-38 V. Bruce Whitehead, Corporate Counsel for Hardee's Food Systems, Inc.
1980 Election and related matters.
Appropriations and budget.
Pending legislation.
Classification actions.
Routine administrative matters.

Portions Closed to the Public

Compliance; Personnel.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Public Information Officer, Telephone: 202-523-4065.

[S-1514-79 Filed 7-26-79; 3:29 p.m.]

BILLING CODE 6715-01-M

2

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., August 2, 1979.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling (202-377-6677).

MATTERS TO BE CONSIDERED:

Application for Bank Membership—Burritt Mutual Savings Bank, New Britain, Connecticut.

Application for Amendment of Resolution No. 79-332.

Application for Amendment of Resolution No. 79-332, dated June 14, 1979 Conditionally Approving the Bank Membership and Insurance of Accounts—Farmers Savings and Loan Association, Dixon, California.

Application for Permission to Organize a Federal Association—Albert M. Lavezzo, et al., Vallejo, California.

Preliminary Application for Conversion to Federal Mutual Charter—Security Savings and Loan Association, Durham, North Carolina.

Certificate of Authority to do Business in District of Columbia—Equitable Savings and Loan Association, Wheaton, Maryland.

Privacy Act of 1974.

Assessments.

Application for Issuance of Preferred Stock—Biscayne Federal Savings and Loan Association, Miami, Florida.

Regulation Regarding Merger of Federal Stock Associations.

Request for Permission to Incur Debt—Financial Corporation of America, Budget Capital Corporation, Los Angeles, California. No. 256, July 26, 1979.

[S-1512-79 Filed 7-26-79; 3:29 pm]

BILLING CODE 6720-01-M

3

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: At the conclusion of the open meeting to be held at 9:30 a.m., August 2, 1979.

PLACE: 1700 G Street, NW., Sixth Floor, Washington, D.C.

STATUS: Closed Meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling (202-377-6677).

MATTERS TO BE CONSIDERED:

Consideration of FHL Bank Officer Salary Guidelines.

Consideration of Internal Review Office's Quarterly Report to the Board.

No. 257, July 26, 1979.

[S-1513-79 Filed 7-26-79; 3:29 pm]

BILLING CODE 6720-01-M

4

METRIC BOARD.

TIME AND DATE: August 16, 1979 at 2:00 p.m.; August 17, 1979 at 8:30 a.m.

PLACE: The meeting on August 16 and 17 will be held in the California Room of the Jack Tar Hotel, Van Ness and Geary Streets, San Francisco, California 94101.

STATUS: Open to the public except from 8:30 a.m. to 10:30 a.m. on August 17

during which time the Board will formulate its 1981 budget. This portion of the meeting is closed under exemption section (c)(9)(B) of U.S.C. 552b.

MATTERS TO BE CONSIDERED:

Thursday, August 16

Approval of agenda.
Review/approval of minutes of June 21-22, 1979 Board meeting.
Reports.
Discussion on report to the Congress on legislative and regulatory changes required to accommodate metric measurement.

Friday, August 17

Approval of 1981 budget.
Discussion and debate on policy interpretation of the Metric Conversion Act (PL 94-168).
Proposed planning guidelines—discussion and consideration for approval.
Introduction of agenda items for October meeting.

SUPPLEMENTARY INFORMATION: Notice of a public forum to be held by the U.S. Metric Board on August 16, 1979, which will provide individuals and groups the opportunity to comment on metric conversion appears elsewhere in this issue.

CONTACT PERSON FOR MORE INFORMATION: Joan Phillips, 703-235-1933.

Louis F. Polk,
Chairman, United States Metric Board

[S-1507 Filed 7-26-79; 10:29 am]

BILLING CODE 3510-10-M

5

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 42405, July 19, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Thursday, July 26, 1979, 9 a.m. [NM-79-24]

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires that the time of this meeting be changed to 9 a.m., Wednesday, August 1, 1979, that the agenda of this meeting be revised to read as set forth below, and that no earlier announcement was possible.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Railroad Accident Report*—Rear-end collision of two Consolidated Rail Corporation freight trains at Muncy, Pennsylvania, on January 31, 1979, and *Recommendations* to the Consolidated Rail Corporation.

2. *Aircraft Accident Report*—Delta Air Lines, Inc., Boeing 727-200, N467DA, and Flying Tiger, Inc., Boeing 747-F, N804FT, O'Hare International Airport, Chicago, Illinois, February 15, 1979.

3. *Railroad Accident Report*—Derailment of Amtrak Train No. 8, the Empire Builder, on Burlington Northern track at Lohman, Montana, on March 28, 1979, and *Recommendations* to the Burlington Northern Company and to Amtrak.

4. *Marine Accident Report*—Collision of M/V STAR LIGHT (Greek) and the USS FRANCIS MARION, Norfolk, Virginia, March 4, 1979, and *Recommendations* to the Commandant, U.S. Coast Guard.

5. *Railroad Accident Report*—Derailment of New York City Transit Authority subway train, New York, New York, December 12, 1978, and *Recommendations* to the Metropolitan Transportation Authority.

6. *Case History*—Motor Vehicle Safety Standard 121: Air Brake Systems.

7. *Special Study*—Noncompliance with Hazardous Materials Regulations.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202-472-6022.

July 25, 1979.

[S-1510-79 Filed 7-26-79; 11:47 am]

BILLING CODE 4910-58-M

6

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 42405, July 19, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Friday, July 27, 1979, 9 a.m. [NM-79-25]

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires that the time of this meeting be changed to 9 a.m., Thursday, August 2, 1979, that the agenda of this meeting be revised to read as set forth below, and that no earlier announcement was possible.

STATUS: The first four items will be open to the public; the remaining three items will be closed to the public under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Letter* to Materials Transportation Bureau re closeout of seven Hazardous

Materials Recommendations.

2. *Letter* to Materials Transportation Bureau re Notice of Proposed Rulemaking, Notice No. 79-9, Dkt. No. HM-126A.

3. *Letter* to Federal Railroad Administration re Notice of Proposed Rulemaking, Dkt. LI-6, locomotive inspections.

4. *Discussion*—Board policy on allowing absent Members to vote on agenda items after Board meetings.

5. *Opinion and Order*—Petition of Welch, Dkt. SM-2280; disposition of Administrator's appeal.

6. *Opinion and Order*—Commandant v. Woods, Dkt. ME-69; disposition of pilot's appeal.

7. *Opinion and Order*—Commandant v. Taylor, Dkt. ME-68; disposition of master's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202-472-6022.

July 25, 1979.

[S-1511-79 Filed 7-26-79; 11:47 am]

BILLING CODE 4910-58-M

7

POSTAL SERVICE: BOARD OF GOVERNORS.

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 9:00 A.M. on Tuesday, August 7, 1979, in the Management Sectional Center, Conference Room 235-235A, 141 Weston Street, Hartford, Connecticut. The meeting is open to the public. The Board expects to discuss the matters stated in the Agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245-4632.

Agenda

1. Minutes of the Previous Meeting.

2. Remarks of the Postmaster General. (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. He might report, for example, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)

3. Quarterly report on Financial Performance.

(Mr. Finch, Senior Assistant Postmaster General, Finance Group, will present the Quarterly Summary of Financial Performance.)

4. Quarterly Report on Service Performance.

(Mr. Conway, Deputy Postmaster General, will present the Quarterly Summary of Service Performance.)

5. Review of Legislative Matters.

(Mr. Hogan, Assistant Postmaster General, Government Relations, will report on current legislative activities, involving the Postal Service.)

6. Report of the Regional Postmaster General.

(Mr. Jellison, Regional Postmaster General, will report on postal conditions in the Northeast Region. Mr. Paul Donovan, Manager, Management Sectional Center at Hartford, will also present a report on postal conditions in the Hartford area.)

7. Briefing on Morgan Station.

(Mr. Jellison will bring the Board up to date on the Morgan Station facility in New York City.)

8. Postal Service Budget Program.

(Mr. Finch will discuss the Postal Service's Budget for FY 1980 with the Board.)

9. Proposed filing with the Postal Rate Commission for Merchandise Return Service.

(Mr. Finch will present for Board review a proposed filing with the Postal Rate Commission to change the Mail Classification Schedule under 39 U.S.C. § 3623 to include a merchandise return service.)

10. Recommended Decision of the Postal Rate Commission re Minimum Height for Carrier Route Presort Mail.

(The Governors will consider the Recommended Decision of July 19, 1979, to provide a temporary exemption from the minimum height standard of the Classification Schedule for certain cards that are presorted to carrier route or box section (Rate Commission Docket No. 79-1).

Louis A. Cox,

Secretary.

[S-1509-79 Filed 7-26-79; 10:29 am]

BILLING CODE 7710-12-M

8

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (To be published)

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Wednesday, July 18, 1979; Tuesday, July 24, 1979.

CHANGES IN MEETING: Additional items; Deletion of item.

The following additional items will be considered at a closed meeting scheduled for Thursday, July 26, 1979, at 9 a.m.:

Other litigation matter.
Settlement of injunction action.

The following item will not be considered at a closed meeting scheduled for Tuesday, July 31, 1979 at 10 a.m.

Settlement of injunctive action.

Chairman Williams and Commissioners Evans, Pollack and Karmel determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling or meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: George Yearsich at (202) 755-1100.
July 25, 1979.

[S-1508-79 Filed 7-26-79; 10:29 am]

BILLING CODE 8010-01-M

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federal register

Monday
July 30, 1979

Part II

**Department of
Interior**

Bureau of Land Management

Range Management and Technical
Services

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 4100]

Range Management and Technical Services; Grazing Administration and Trespass

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed Rulemaking.

SUMMARY: This proposed rulemaking would amend the regulations on grazing administration and trespass to conform to the provisions of the Public Rangelands Improvement Act of 1978 that amend and supplement the requirements of the Federal Land Policy and Management Act of 1976.

DATE: Comments by September 28, 1979.

ADDRESS: Director (650), Bureau of Land Management, 18th and C Streets, NW, Washington, D.C. 20240.

Comments will be available for public inspection in Room 5555 of the above address during regular business hours (7:45 a.m.-4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION, CONTACT: Maxwell T. Lieurance, (202) 343-6011.

SUPPLEMENTARY INFORMATION: The principal author of this proposed rulemaking is David Little of the Division of Range Management, Bureau of Land Management, assisted by Robert Bruce of the Division of Legislation and Regulatory Management, Bureau of Land Management, and Carolyn Osolinik of the Office of the Solicitor, Department of the Interior.

The proposed rulemaking would add the Public Rangelands Improvement Act of 1978 (PL 95-514) as one of the authorities for administering grazing use of the public lands and would add and modify provisions to be consistent with that Act. The Public Rangelands Improvement Act includes conditions under which grazing permits and leases may be issued for a term of less than 10 years and emphasizes the cooperation, consultation, and coordination required during preparation of allotment management plans.

When there is a decrease in available forage, the present regulations require a cancellation of grazing preference. The proposed rulemaking would amend the regulations to permit suspension of preference rather than cancellation where there is a decrease in available forage.

The provisions for closure to livestock would be expanded by this proposed rulemaking to permit emergency adjustments in authorized grazing use as alternatives to complete closure. Such action would require that the authorized officer determine that the soil, vegetation, or other resources on the public land require protection because of drought, fire, or for similar reasons. Because protection of the resource requires immediate adjustments, such decisions would be issued as final decisions without prior issuance of proposed decisions and would be placed in full force and effect on a specified date. A decision which implements an action required by a previous final decision could also be issued as a final decision and be placed in full force and effect on a specified date.

The proposed rulemaking would require that decisions issued following completion of resource inventory, land use planning, and environmental impact statements be put in full force and effect on a specified date. Written approval by the Director would be required to do otherwise. Authority to implement these decisions in full force and effect exists in § 4160.3(c) of the current grazing regulations. This amendment, however, will clarify § 4160.3(c), as it relates to decisions issued after completion of livestock grazing EIS's. The proposed rulemaking would continue to permit discretion by the authorized officer to place other decisions in full force and effect if required for the orderly administration of the range or protection of resource values. This change is made to be consistent with the provisions of Section 402 of the Federal Land Policy and Management Act (43 U.S.C. 1752).

The proposed rulemaking also modifies the wording in the current regulations to make it clear that when an allotment management plan is completed, the terms and conditions of the allotment management plan are incorporated into a permit or lease. The proposal emphasizes the requirement of the Public Rangelands Improvement Act that allotment management plans are to be prepared in careful and considered consultation, cooperation, and coordination with affected permittees or lessees; landowners involved; the district grazing advisory boards; and any State having lands within the area involved.

The current regulations require that the land offered in an exchange-of-use grazing agreement be within the exterior boundaries of the allotment to be used. The proposed amendment would permit an exception where it would otherwise meet a specific objective identified in a land use plan or an allotment

management plan. The proposed rulemaking would also require that lands offered in an exchange-of-use agreement be unfenced and intermingled with public lands and that use under such an agreement be in harmony with management objectives for the allotment.

It is hereby determined that the publication of this document is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a significant regulatory rulemaking and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Under the authority of the Taylor Grazing Act of 1934, as amended (43 U.S.C. 315, 315(a)-315(r)), Section 4 of the Act of August 28, 1937 (43 U.S.C. 1811(d)), and the Federal Land Policy and Management Act of 1976, as amended by the Public Rangelands Improvement Act of 1978, (43 U.S.C. 1701 et. seq.), it is proposed to amend Part 4100, Group 4100, Subchapter D, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

1. Subpart 4100 is amended by changing Section 4100.0-3 by revising paragraph (b) as follows:

§ 4100.0-3 Authority.

(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), as amended by the Public Rangelands Improvement Act of 1978 (PL 95-514), provides for the management, protection, development, and enhancement of the public lands and directs the Secretary to manage these lands under principles of multiple use and sustained yield in accordance with land use plans.

2. Subpart 4110 is amended by changing Section 4110.3-2 by revising paragraphs (b) and (c) as follows:

§ 4110.3-2 Decrease in forage.

(b) When authorized grazing use exceeds the amount of forage available and allocated for livestock grazing within an allotment or where reduced grazing use is necessary to facilitate achieving the objectives in the land use plans, the grazing authorized under grazing permits or leases shall be

reduced to the livestock grazing capacity.

(c) Suspensions or reductions under paragraphs (a) or (b) of this section shall be equitably apportioned by the authorized officer or as agreed to among permittees or lessees and the authorized officer. If consistent with resource management needs, the authorized officer may provide that the reductions under paragraph (b) of this section be scheduled over a period not to exceed 3 years with the full reduction coming in the last year.

3. Subpart 4120 is amended in Sections 4120.2-1, by revising paragraphs (b), (c), and (d) and by adding a new paragraph (e) as follows:

§ 4120.2-1 Mandatory terms and conditions.

(b) If it has been determined that allotment management plans are not necessary, or if allotment management plans have not been implemented where they are needed, the authorized officer shall incorporate terms and conditions under this section in grazing permits or leases.

(c) The authorized officer shall adjust these terms and conditions if the condition of the range requires adjustment of grazing use, and may cancel grazing permits or grazing leases and grazing preferences as conditions warrant. Those adjustments affecting terms and conditions may be put into full force and effect pursuant to § 4160.3 of this title.

(d) All permits and leases shall be subject to cancellation, suspension, or adjustment as required by land use plans, and subject to applicable law.

(e) All permits and leases shall include the provisions that such permits and leases shall be subject to annual review and to adjustment in accordance with applicable law.

3a. Subpart 4120 is amended in § 4120.2-3 by revising the introductory paragraph and paragraphs (a) (c), and (f) to read as follows:

§ 4120.2-3 Allotment management plans.

Grazing Management may be applied on allotments through the preparation and implementation of allotment management plans.

(a) An allotment management plan shall be prepared in careful and considered consultation, cooperation, and coordination with the affected permittee(s) or lessee(s), landowners involved, the district grazing advisory boards where established, any State having lands within the area to be

covered by such allotment management plan, and shall be approved by the authorized officer and implemented (see § 4100.0-5(c) of this title). The allotment management plan shall include terms and conditions under 4120.2-1 of this title, may include terms and conditions under § 4120.2-2 of this title, and shall prescribe a system of grazing designed to meet specific management objectives. The plan shall include the limits of flexibility within which the permittee or lessee may adjust this operation without prior approval of the authorized officer. The plan shall provide for the collection of data that shall be used to evaluate the effectiveness of the system of grazing in achieving the specific objectives.

(c) Allotment management plans may be revised or terminated after review and careful and considered consultation, cooperation, and coordination with the parties involved.

(f) Decisions which specify that the terms and conditions of allotment management plans are incorporated into grazing permits or leases may be protested and appealed under Subpart 4160 of this title.

3b. Section 4120.3 is revised in its entirety including the caption.

§ 4120.3 Emergency adjustments in livestock use and closure to livestock use.

When the authorized officer determines that the soil, vegetation, or other resources on the public lands require protection because of drought, fire, or for other similar reasons, he shall take one of the following actions as he deems appropriate.

(a) The authorized officer may issue decisions temporarily adjusting the authorized livestock grazing use in allotments or portions of allotments affected by the emergency condition. Such decisions shall be issued as final decisions, without prior issuance of a proposed decision, and shall be placed in full force and effect on the date specified by the authorized officer under § 4160.3(d) of this title. Each such decision shall require the owner of livestock affected thereby to adjust grazing use in accordance with the provisions of the decision. The authorized officer may proceed to impound, remove, and dispose of any livestock found in violation of the decision in accordance with § 4150.5 of this title. Each such decision shall state why the use adjustment is being made, shall specify the period of time during which the adjustment will be in effect, and shall describe the resource conditions that must be present before

the regularly authorized grazing use may be resumed.

(b) The authorized officer may temporarily close allotments to grazing by any kind of livestock and for any period of time. The action to be taken by the authorized officer shall be specified in a notice of closure. The notice of closure shall state why the allotments, or portions of allotments, are being closed, shall specify the period of time for which these areas will be closed, and shall describe the resource conditions that must be present before these areas are reopened to grazing. The notice shall be published in a local newspaper and shall be posted at the county courthouse and at a post office near the public land area involved.

Written notification shall be delivered personally or by certified mail to those who are authorized to graze livestock on the allotments affected. The notice of closure shall be issued as a final decision in full force and effect under § 4160.3(d) and shall require all owners of livestock affected thereby to remove such livestock in accordance with provisions of the notice. The authorized officer may proceed to impound, remove, and dispose of any livestock found in violation of the closing notice after the closure date specified in the notice in accordance with § 4150.5.

4. Subpart 4130 is amended by changing sections § 4130.2 by revising paragraph (d)(2)(iv) to read as follows:

§ 4130.2 Grazing permits or leases.

(d) * * *
(2) * * *
(iv) Availability of completed land use plans, except that the absence of a completed land use plan shall not be the sole basis for issuing a grazing permit or lease for a term of less than 10 years unless the authorized officer determines on a case-by-case basis that the information to be contained in such land use plan is necessary to determine whether a shorter term should be established;

4a. Section 4130.4-1 is revised to read:

§ 4130.4-1 Exchange-of-use grazing agreements.

An exchange-of-use grazing agreement may be issued to any applicant who owns or controls lands which are unfenced and intermingled with public lands when use under such an agreement would be in harmony with the management objectives of the allotment. The lands offered for exchange-of-use shall be within the exterior boundaries of the allotment to

be used, except that lands outside such boundaries may be included where it would otherwise meet specific objectives identified in a land use plan or allotment management plan. An exchange-of-use agreement may be issued to authorize use of public lands to the extent of the livestock grazing capacity of the lands offered in exchange-of-use. No fee shall be charged for this grazing use. The exchange-of-use agreement may be issued for a term of not more than 10 years. The expiration date of the exchange-of-use agreement may coincide with the expiration date of any grazing permit or lease issued on the allotment in which the lands offered in exchange-of-use is located. If the land offered in the exchange-of-use agreement is lease, the expiration date of the exchange-of-use agreement shall coincide with the expiration date of this lease not to exceed 10 years. During the term of the exchange-of-use agreement, the Bureau of Land Management shall have management for grazing purposes of such private lands under the provisions of this part and may authorize grazing use as deemed appropriate.

5. Section 4160.3 is amended by revising paragraph (c) and by adding a new paragraph (d) to read as follows:

§ 4160.3 Final decisions

(c) The final decision shall provide for a period of 30 days after receipt for filing of an appeal. An appeal shall suspend the effects of a final decision from which it is taken, and an applicant having a grazing preference who was granted grazing use in the preceding year, may continue to make that use pending final action on an appeal, unless the decision appealed from was made effective by the authorized officer in accordance with the following:

Decisions affecting livestock grazing use which are issued to all affected permittees/lessees upon the completion of the resource inventory, land use planning, and environment impact statements, shall be put in full force and effect on the date specified in the decision and pending decision on appeal except the decision may, on written approval of the Director, provide otherwise. All other decisions may be put in full force and effect on a specified date and pending decision on appeal if found by the authorized officer to be required for the orderly administration of the public rangelands or for the protection of resource values.

(d) The authorized officer may issue a final decision without first issuing a proposed decision if the action is of an emergency nature as provided in Section 4120.3, or if the decision implements a

previous final decision. All such decisions shall be placed in full force and effect on the date specified by the authorized officer.

Dated: July 24, 1979.

Guy R. Martin,

Assistant Secretary of the Interior.

[FR Doc. 79-23291 Filed 7-27-79; 8:45 am]

BILLING CODE 4310-04-M

fedderal regisrter

Monday
July 30, 1979

Part III

**Department of
Housing and Urban
Development**

**Federal Housing Commissioner, Office of
Assistant Secretary for Housing**

**Fair Market Rents for New Construction
and Substantial Rehabilitation; Correction**

DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENTFederal Housing Commissioner, Office
of Assistant Secretary for Housing

24 CFR Part 888

[Docket No. R-79-677]

Low Income Housing; Fair Market
Rents for New Construction and
Substantial Rehabilitation

Correction

In FR Doc. 79-21860, published at page 41092, Friday, July 13, 1979, several pages were illegible. The following pages 41096, 41110, 41114, 41115, 41116, 41119, 41123, 41124, 41129, and 41136 are reprinted.

BILLING CODE 1505-01-M

AREA	OFFICE	BUFFALO, N.Y.	REGION	II - NEW YORK	NUMBER OF BEDROOMS				
					0	1	2	3	4 or more
ALBANY/ GLEN FALLS/ MASSENA/ *	SYRACUSE	DETACHED					429	517	571
		SEMI-DETACHED/ROW				317	376	458	508
		WALKUP			249	309	361	424	479
		ELEVATOR-2-4 Sty 5 + Sty			273	339	426		
ITHACA/ WATERTOWN/ SCHENECTADY/ BINGHAMTON *		DETACHED			294	360	447		
		SEMI-DETACHED/ROW				317	376	458	508
		WALKUP			249	309	361	424	479
		ELEVATOR-2-4 Sty 5 + Sty			273	339	426		
PLATTSBURGH		DETACHED					438	517	571
		SEMI-DETACHED/ROW				370	404	466	526
		WALKUP			292	319	370	432	492
		ELEVATOR-2-4 Sty 5 + Sty			369	396	455		
		DETACHED			382	417	498		
		SEMI-DETACHED/ROW							
		WALKUP							
		ELEVATOR-2-4 Sty 5 + Sty							
		DETACHED							
		SEMI-DETACHED/ROW							
		WALKUP							
		ELEVATOR-2-4 Sty 5 + Sty							

*Market areas are not combined. FMS are identical for these market areas.

AREA	OFFICE	NEWARK, N.J.	REGION	II - NEW YORK	NUMBER OF BEDROOMS				
					0	1	2	3	4 or more
TRENTON		DETACHED			419	456	521	600	738
		SEMI-DETACHED/ROW							659
		WALKUP			384	416	475	546	601
		ELEVATOR-2-4 Sty 5 + Sty			453	488	557	639	697
VINELAND		DETACHED			495	539	621	717	780
		SEMI-DETACHED/ROW							634
		WALKUP			325	363	419	498	557
		ELEVATOR-2-4 Sty 5 + Sty			293	326	376	447	502
		DETACHED			356	392	451	533	591
		SEMI-DETACHED/ROW			398	442	514	611	674
		WALKUP							
		ELEVATOR-2-4 Sty 5 + Sty							
		DETACHED							
		SEMI-DETACHED/ROW							
		WALKUP							
		ELEVATOR-2-4 Sty 5 + Sty							
		DETACHED							
		SEMI-DETACHED/ROW							
		WALKUP							
		ELEVATOR-2-4 Sty 5 + Sty							

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AREA	OFFICE GREENSBORO, N.C.	REGION IV - ATLANTA	MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
					0	1	2	3	4 or more
WINSTON-SALEM	DETACHED	SEMI-DETACHED/ROW	WALKUP	ELEVATOR-2-4 Sty 5 + Sty	254	278	318	359	462
FAYETTEVILLE	DETACHED	SEMI-DETACHED/ROW	WALKUP	ELEVATOR-2-4 Sty 5 + Sty	240	272	317	368	423
WILMINGTON	DETACHED	SEMI-DETACHED/ROW	WALKUP	ELEVATOR-2-4 Sty 5 + Sty	244	271	318	380	443
	DETACHED	SEMI-DETACHED/ROW	WALKUP	ELEVATOR-2-4 Sty 5 + Sty	268	295	340	390	443

AREA	OFFICE GREENSBORO, N.C.	REGION IV - ATLANTA	MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
					0	1	2	3	4 or more
GREENSBORO	DETACHED	SEMI-DETACHED/ROW	WALKUP	ELEVATOR-2-4 Sty 5 + Sty	263	297	339	414	478
ASHEVILLE	DETACHED	SEMI-DETACHED/ROW	WALKUP	ELEVATOR-2-4 Sty 5 + Sty	246	286	326	401	463
CHARLOTTE	DETACHED	SEMI-DETACHED/ROW	WALKUP	ELEVATOR-2-4 Sty 5 + Sty	255	290	332	403	463
DURHAM	DETACHED	SEMI-DETACHED/ROW	WALKUP	ELEVATOR-2-4 Sty 5 + Sty	269	303	350	401	448
GREENVILLE	DETACHED	SEMI-DETACHED/ROW	WALKUP	ELEVATOR-2-4 Sty 5 + Sty	279	321	379	437	497
RALEIGH	DETACHED	SEMI-DETACHED/ROW	WALKUP	ELEVATOR-2-4 Sty 5 + Sty	270	311	353	431	497

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AREA	OFFICE CHICAGO, ILLINOIS	REGION V - CHICAGO	MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
					0	1	2	3	4 or more
LA SALLE	DETACHED	SEMI-DETACHED/ROW	WALKUP	ELEVATOR-2-4 Sty 5 + Sty	274	314	381	439	491
QUINCY	DETACHED	SEMI-DETACHED/ROW	WALKUP	ELEVATOR-2-4 Sty 5 + Sty	251	289	347	402	454
PEORIA	DETACHED	SEMI-DETACHED/ROW	WALKUP	ELEVATOR-2-4 Sty 5 + Sty	333	372	439	496	549
	DETACHED	SEMI-DETACHED/ROW	WALKUP	ELEVATOR-2-4 Sty 5 + Sty	355	393	459	515	591

AREA	OFFICE CHICAGO, ILLINOIS	REGION V - CHICAGO	MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
					0	1	2	3	4 or more
SPRINGFIELD	DETACHED	SEMI-DETACHED/ROW	WALKUP	ELEVATOR-2-4 Sty 5 + Sty	309	338	406	462	515
BELLEVILLE	DETACHED	SEMI-DETACHED/ROW	WALKUP	ELEVATOR-2-4 Sty 5 + Sty	255	294	362	419	474
CARBONDALE	DETACHED	SEMI-DETACHED/ROW	WALKUP	ELEVATOR-2-4 Sty 5 + Sty	271	312	387	441	491
CHAMPAIGN	DETACHED	SEMI-DETACHED/ROW	WALKUP	ELEVATOR-2-4 Sty 5 + Sty	276	314	384	440	491
DANVILLE	DETACHED	SEMI-DETACHED/ROW	WALKUP	ELEVATOR-2-4 Sty 5 + Sty	308	347	417	474	528
EAST ST. LOUIS	DETACHED	SEMI-DETACHED/ROW	WALKUP	ELEVATOR-2-4 Sty 5 + Sty	272	311	375	440	491

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AREA	OFFICE	INDIANAPOLIS, INDIANA	REGION	V- CHICAGO		
MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
LAFAYETTE	DETACHED			450	497	539
	SEMI-DETACHED/ROW		307	359	403	434
	WALKUP	270	303	355	394	433
	ELEVATOR-2-4 Sty 5 + Sty	292 343	326 379	400 449		
SOUTH BEND	DETACHED			494	541	584
	SEMI-DETACHED/ROW		335	406	443	481
	WALKUP	296	329	401	440	480
	ELEVATOR-2-4 Sty 5 + Sty	318 367	352 405	445 495		
TERRE HAUTE	DETACHED			448	496	540
	SEMI-DETACHED/ROW		308	355	399	433
	WALKUP	266	299	351	394	432
	ELEVATOR-2-4 Sty 5 + Sty	288 341	322 376	395 447		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty 5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty 5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty 5 + Sty					

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
BLOOMINGTON	DETACHED			440	476	523
	SEMI-DETACHED/ROW		273	356	389	423
	WALKUP	237	268	346	381	423
	ELEVATOR-2-4 Sty 5 + Sty	258 308	289 345	389 446		
INDIANAPOLIS	DETACHED			456	542	584
	SEMI-DETACHED/ROW		296	362	442	482
	WALKUP	257	290	352	437	472
	ELEVATOR-2-4 Sty 5 + Sty	278 329	312 365	395 455		
EVANSVILLE	DETACHED			449	488	534
	SEMI-DETACHED/ROW		294	377	410	444
	WALKUP	257	283	356	394	440
	ELEVATOR-2-4 Sty 5 + Sty	279 324	305 359	401 455		
FORT WAYNE	DETACHED			458	497	514
	SEMI-DETACHED/ROW		302	368	406	445
	WALKUP	259	293	346	386	414
	ELEVATOR-2-4 Sty 5 + Sty	281 333	314 367	390 453		
GARY	DETACHED			485	531	572
	SEMI-DETACHED/ROW		337	406	453	483
	WALKUP	299	328	391	434	476
	ELEVATOR-2-4 Sty 5 + Sty	320 373	351 412	434 499		
HAWKSTOWN	DETACHED			485	541	586
	SEMI-DETACHED/ROW		340	403	450	489
	WALKUP	296	328	391	434	476
	ELEVATOR-2-4 Sty 5 + Sty	318 365	351 401	434 489		

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AREA	OFFICE	GRAND RAPIDS, MICH.	REGION	V- CHICAGO	NUMBER OF BEDROOMS				
					0	1	2	3	4 or more
GRAND RAPIDS	STRUCTURE TYPE	DETACHED							
		SEMI-DETACHED/ROW		354	404	454	505		
		WALKUP	240	291	354	398	448		
		ELEVATOR-2-4 Sty 5 + Sty	290	343	383				
BATTLE CREEK- KALAMAZOO	STRUCTURE TYPE	DETACHED	304	374	402				
		SEMI-DETACHED/ROW		363	417	469	516		
		WALKUP	245	300	365	407	459		
		ELEVATOR-2-4 Sty 5 + Sty	296	350	391				
BENTON HARBOR	STRUCTURE TYPE	DETACHED	310	382	411				
		SEMI-DETACHED/ROW		363	417	469	516		
		WALKUP	245	300	365	407	459		
		ELEVATOR-2-4 Sty 5 + Sty	296	350	391				
JACKSON/IANSTIN	STRUCTURE TYPE	DETACHED	310	382	411				
		SEMI-DETACHED/ROW		370	421	475	527		
		WALKUP	250	305	369	415	468		
		ELEVATOR-2-4 Sty 5 + Sty	303	353	400				
MUSKEGON	STRUCTURE TYPE	DETACHED	317	390	420				
		SEMI-DETACHED/ROW		363	417	469	516		
		WALKUP	245	300	365	407	459		
		ELEVATOR-2-4 Sty 5 + Sty	296	350	391				
MARQUETTE/ TRAVERSE CITY*	STRUCTURE TYPE	DETACHED	310	382	411				
		SEMI-DETACHED/ROW		378	432	486	541		
		WALKUP	257	311	379	425	479		
		ELEVATOR-2-4 Sty 5 + Sty	310	367	410				

*Market areas are not combined. PWs are identical for these market areas.

AREA	OFFICE	DETROIT, MICH.	REGION	V - CHICAGO	NUMBER OF BEDROOMS				
					0	1	2	3	4 or more
DETROIT/ANN ARBOR/ YPSILANTI *	DETACHED					497	533	561	
	SEMI-DETACHED/ROW				428	459	488	533	
	WALKUP		295	339	409	451	481		
	ELEVATOR-2-4 Sty 5 + Sty		319	379	424				
FLINT/ SAGINAW *	DETACHED		342	413	509		456	491	519
	SEMI-DETACHED/ROW					346	415	462	496
	WALKUP			268	320	375	422	450	
	ELEVATOR-2-4 Sty 5 + Sty		303	361	403				
	DETACHED				325	392	484		
	SEMI-DETACHED/ROW								
	WALKUP								
	ELEVATOR-2-4 Sty 5 + Sty								
	DETACHED								
	SEMI-DETACHED/ROW								
	WALKUP								
	ELEVATOR-2-4 Sty 5 + Sty								
	DETACHED								
	SEMI-DETACHED/ROW								
	WALKUP								
	ELEVATOR-2-4 Sty 5 + Sty								

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AREA	OFFICE MILWAUKEE, WIS.	REGION V - CHICAGO	MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
					0	1	2	3	4 or more
WAUSAU			DETACHED				454	523	552
			SEMI-DETACHED/ROW			331	377	450	486
			WALKUP		253	285	354	418	
			ELEVATOR-2-4 Sty 5 + Sty		266	298	367	431	
			DETACHED		296	345	421		
			SEMI-DETACHED/ROW						
			WALKUP						
			ELEVATOR-2-4 Sty 5 + Sty						
			DETACHED						
			SEMI-DETACHED/ROW						
			WALKUP						
			ELEVATOR-2-4 Sty 5 + Sty						
			DETACHED						
			SEMI-DETACHED/ROW						
			WALKUP						
			ELEVATOR-2-4 Sty 5 + Sty						
			DETACHED						
			SEMI-DETACHED/ROW						
			WALKUP						
			ELEVATOR-2-4 Sty 5 + Sty						

AREA	OFFICE MILWAUKEE, WIS.	REGION V - CHICAGO	MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
					0	1	2	3	4 or more
MADISON			DETACHED				462	540	584
			SEMI-DETACHED/ROW			323	398	470	512
			WALKUP		272	305	364	429	
			ELEVATOR-2-4 Sty 5 + Sty		285	318	377	442	
REEDSVILLE			DETACHED		323	356	439		
			SEMI-DETACHED/ROW				444	510	564
			WALKUP			359	382	451	528
			ELEVATOR-2-4 Sty 5 + Sty		250	275	350	415	
SUPERIOR			DETACHED		263	288	363	428	
			SEMI-DETACHED/ROW		305	338	429		
			WALKUP				469	551	587
			ELEVATOR-2-4 Sty 5 + Sty			325	399	471	523
MILWAUKEE			DETACHED		281	316	377	449	
			SEMI-DETACHED/ROW		294	329	391	462	
			WALKUP		329	359	444		
			ELEVATOR-2-4 Sty 5 + Sty			509	597		638
			DETACHED			360	439	510	563
			SEMI-DETACHED/ROW			334	393	461	474
			WALKUP		301	334	393	461	
			ELEVATOR-2-4 Sty 5 + Sty		315	348	406	474	
EAU CLAIRE			DETACHED		372	393	475		
			SEMI-DETACHED/ROW				438	520	562
			WALKUP			306	387	450	486
			ELEVATOR-2-4 Sty 5 + Sty		262	295	344	409	
GREEN BAY			DETACHED		278	308	358	422	
			SEMI-DETACHED/ROW		309	321	403		
			WALKUP				439	513	548
			ELEVATOR-2-4 Sty 5 + Sty			303	371	440	483

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AREA	OFFICE OKLAHOMA CITY, OKLA.	REGION VI - DALLAS	MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
					0	1	2	3	4 or more
OKLAHOMA CITY			DETACHED				366	442	484
			SEMI-DETACHED/ROW		247	286	351	427	469
			WALKUP		203	239	298	366	394
			ELEVATOR-2-4 Sty 5 + Sty		229	269	334		
ADA			DETACHED		263	309	366		
			SEMI-DETACHED/ROW				386	451	514
			WALKUP		285	308	375	440	503
			ELEVATOR-2-4 Sty 5 + Sty		242	264	329	380	428
ARMORE			DETACHED		270	296	362		
			SEMI-DETACHED/ROW				376	433	487
			WALKUP		269	292	364	422	476
			ELEVATOR-2-4 Sty 5 + Sty		228	248	314	364	403
BARTLESVILLE			DETACHED		256	281	354		
			SEMI-DETACHED/ROW				344	406	448
			WALKUP			285	329	392	433
			ELEVATOR-2-4 Sty 5 + Sty		235	256	298	357	389
ENID			DETACHED		243	262	305		
			SEMI-DETACHED/ROW				424	457	519
			WALKUP		257	329	412	446	508
			ELEVATOR-2-4 Sty 5 + Sty		211	280	355	379	425
GUYMON			DETACHED		237	310	392		
			SEMI-DETACHED/ROW				363	439	493
			WALKUP		228	251	352	427	480
			ELEVATOR-2-4 Sty 5 + Sty		184	205	298	366	403

AREA	OFFICE ALBUQUERQUE, N.M.	REGION VI - DALLAS	MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
					0	1	2	3	4 or more
SANTA FE			DETACHED				339	404	476
			SEMI-DETACHED/ROW			286	318	382	451
			WALKUP		201	260	293	351	396
			ELEVATOR-2-4 Sty 5 + Sty		225	270	342		
SILVER CITY/ TAGE/TIERRA ANARILLA*			DETACHED		241	292	364		
			SEMI-DETACHED/ROW				337	403	476
			WALKUP		290	324	387	459	
			ELEVATOR-2-4 Sty 5 + Sty		212	264	307	363	417
TRUTH OR CONSEQUENCES			DETACHED		235	271	342		
			SEMI-DETACHED/ROW		251	293	364		
			WALKUP				306	379	441
			ELEVATOR-2-4 Sty 5 + Sty		189	235	266	315	364
FARMINGTON			DETACHED		215	251	317		
			SEMI-DETACHED/ROW		231	272	338		
			WALKUP				337	403	476
			ELEVATOR-2-4 Sty 5 + Sty		212	264	307	363	417
			DETACHED		235	271	342		
			SEMI-DETACHED/ROW		251	293	364		
			WALKUP				290	324	387
			ELEVATOR-2-4 Sty 5 + Sty				264	307	363
			DETACHED						
			SEMI-DETACHED/ROW						
			WALKUP						
			ELEVATOR-2-4 Sty 5 + Sty						

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*Market areas are not combined. FRAs are identical for these market areas.

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
WOODWARD	DETACHED			386	471	513
	SEMI-DETACHED/ROW	261	283	375	453	502
	WALKUP	218	238	323	392	426
	ELEVATOR-2-4 Sty 5 + Sty	246	270	362		
MCMALESTER	MOBILE HOMES		179	243	305	330
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty 5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty 5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty 5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty 5 + Sty					

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
LAWTON	DETACHED			442	464	531
	SEMI-DETACHED/ROW	319	357	431	453	520
	WALKUP	278	312	381	394	446
	ELEVATOR-2-4 Sty 5 + Sty	305	343	418		
McMALESTER	DETACHED			320	381	418
	SEMI-DETACHED/ROW		203	313	374	411
	WALKUP	159	178	286	342	368
	ELEVATOR-2-4 Sty 5 + Sty	171	188	298		
MUSKOGEE	DETACHED			299	368	405
	SEMI-DETACHED/ROW		250	288	350	393
	WALKUP	196	223	258	320	349
	ELEVATOR-2-4 Sty 5 + Sty	205	233	269		
SHAWNEE	DETACHED			346	389	429
	SEMI-DETACHED/ROW	227	260	335	378	415
	WALKUP	184	216	283	318	343
	ELEVATOR-2-4 Sty 5 + Sty	212	248	322		
STILLWATER	DETACHED			354	421	474
	SEMI-DETACHED/ROW	250	271	344	411	459
	WALKUP	208	228	293	352	386
	ELEVATOR-2-4 Sty 5 + Sty	236	259	332		
TULSA	DETACHED			380	427	484
	SEMI-DETACHED/ROW		315	366	413	469
	WALKUP	250	290	341	386	433
	ELEVATOR-2-4 Sty 5 + Sty	256	296	347		

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MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
ST. LOUIS	DETACHED					
	SEMI-DETACHED/ROW		337	397	479	564
	WALKUP	244	306	373	452	501
	ELEVATOR-2-4 Sty 5 + Sty	282	352	425		
COLUMBIA	DETACHED					
	SEMI-DETACHED/ROW		285	365	447	501
	WALKUP	230	273	352	430	477
	ELEVATOR-2-4 Sty 5 + Sty	268	318	404		
KIRKSVILLE	DETACHED					
	SEMI-DETACHED/ROW		278	349	441	484
	WALKUP	212	264	331	410	453
	ELEVATOR-2-4 Sty 5 + Sty	250	308	382		
ROLLA	DETACHED					
	SEMI-DETACHED/ROW		255	326	415	475
	WALKUP	191	242	313	385	419
	ELEVATOR-2-4 Sty 5 + Sty	228	285	363		
CAPE GIRARDEAU	DETACHED					
	SEMI-DETACHED/ROW		259	332	425	475
	WALKUP	197	250	320	391	437
	ELEVATOR-2-4 Sty 5 + Sty	234	294	371		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty 5 + Sty					

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
KANSAS CITY, MO.	DETACHED			367	419	458
	SEMI-DETACHED/ROW		292	353	419	448
	WALKUP	244	279	325	385	421
	ELEVATOR-2-4 Sty 5 + Sty	268	307	379		
JOPLIN, MO.	DETACHED			356	431	467
	SEMI-DETACHED/ROW		251	305	396	432
	WALKUP	175	205	286	376	411
	ELEVATOR-2-4 Sty 5 + Sty	251	287	355		
ST. JOSEPH, MO.	DETACHED			349	417	455
	SEMI-DETACHED/ROW		292	356	386	423
	WALKUP	219	288	316	359	392
	ELEVATOR-2-4 Sty 5 + Sty	256	306	379		
SEDALIA, MO.	DETACHED			320	349	413
	SEMI-DETACHED/ROW		259	305	349	413
	WALKUP	187	214	296	368	424
	ELEVATOR-2-4 Sty 5 + Sty	225	286	332		
SPRINGFIELD, MO.	DETACHED			331	395	431
	SEMI-DETACHED/ROW		252	326	395	431
	WALKUP	172	202	261	343	380
	ELEVATOR-2-4 Sty 5 + Sty	230	266	328		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty 5 + Sty					

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MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SACRAMENTO	DETACHED			425	460	500
	SEMI-DETACHED/ROW		375	415	450	485
	WALKUP	270	310	360	445	480
	ELEVATOR-2-4 Sty 5 + Sty	360	405	460		
PLACERVILLE	DETACHED	440	495	575		
	SEMI-DETACHED/ROW		380	425	460	495
	WALKUP	275	315	365	455	490
	ELEVATOR-2-4 Sty 5 + Sty	365	415	470		
REDDING	DETACHED			435	470	510
	SEMI-DETACHED/ROW		385	425	460	495
	WALKUP	235	270	320	368	415
	ELEVATOR-2-4 Sty 5 + Sty	370	415	470		
SO. L. TAHOE	DETACHED			495	540	590
	SEMI-DETACHED/ROW		440	480	530	575
	WALKUP	315	360	420	525	570
	ELEVATOR-2-4 Sty 5 + Sty	420	475	540		
YREKA	DETACHED			425	460	500
	SEMI-DETACHED/ROW			415	450	495
	WALKUP	270	310	360	445	485
	ELEVATOR-2-4 Sty 5 + Sty	360	405	460		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty 5 + Sty					

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
PASA ROBLES	DETACHED			578	615	659
	SEMI-DETACHED/ROW		372	440	541	590
	WALKUP	278	315	368	460	505
	ELEVATOR-2-4 Sty 5 + Sty	294	331	384	476	521
SAN DIEGO/ EL CAJON *	DETACHED	417	463	551		
	SEMI-DETACHED/ROW		393	454	501	545
	WALKUP	297	352	411	475	515
	ELEVATOR-2-4 Sty 5 + Sty	366	422	530		
SANTA ANA	DETACHED	415	511	625		
	SEMI-DETACHED/ROW		369	450	502	543
	WALKUP	295	351	417	461	495
	ELEVATOR-2-4 Sty 5 + Sty	310	367	435		
SAN BERNARDINO	DETACHED	424	491	592		
	SEMI-DETACHED/ROW		348	425	471	535
	WALKUP	262	316	377	409	454
	ELEVATOR-2-4 Sty 5 + Sty	220	336	399		
	DETACHED	387	448	544		
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty 5 + Sty					

*Market areas are not combined. FMSs are identical for these market areas.

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Part IV

Department of Agriculture

Forest Service

National Environmental Policy Act
Process; Final Implementation Procedures

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Service NEPA Process, Final Implementation Procedures

1. Purpose and Background

These final guidelines establish Forest Service policy for implementing the procedural provisions of the National Environmental Policy Act (NEPA) as required by the Council on Environmental Quality's (CEQ) regulations (40 CFR Parts 1500-1508). The guidelines will be published as Forest Service Manual (FSM) Chapter 1950. These procedures become effective July 30, 1979. The provisions apply to the fullest extent practicable to analyses and documents started before July 30, 1979, but they do not require redoing or revising completed work.

This manual chapter provides one policy document for use by Forest Service personnel. It incorporates appropriate CEQ regulations by direct quotation and expands, where necessary, to further define Forest Service procedures. Forest Service procedures conform with proposed Department of Agriculture regulations for the implementation of NEPA.

Forest Service Manual Chapter 1950 follows the sequence of the decision process. It provides the same outline for environmental assessments and environmental impact statements, and focuses upon the total decisionmaking process rather than the environmental documents. To strengthen the integration of NEPA and the decisionmaking process, it provides for filing the record of decision with the final environmental impact statement where the National Forest System is involved and the provision for administrative review is applicable (36 CFR 211.19).

The revised manual incorporates applicable laws, regulations and Executive Orders of the President. The Executive Orders are referenced periodically, and copies are available at the Office of the Chief or the Offices of the Regional Foresters throughout the country. Other referenced material—such as the Inform and Involve Handbook, Secretary of Agriculture's memoranda and other sections of the Forest Service Manual—is either available upon request or may be reviewed in the Office of the Environmental Coordinator. An index is provided at the end of the manual text to assist users.

The Forest Service published the draft procedures in the *Federal Register*, April 23, 1979, and requested comments by May 31, 1979. Response was not voluminous. The comments we did receive aided us in preparing the final procedures. We received eleven letters of comment from outside the Forest Service. The Forest Service staff read and analyzed each comment and considered them in preparing our final procedures. When, after discussion and review, we determined that the comments raised valid concerns, we changed the procedures accordingly. When we decided that reasons supporting the procedures were stronger than those suggesting changes, we left the procedures unchanged. In addition to comments from organizations and individuals, there were several comments from units within the Forest Service. Part 2 of this preamble describes, section by section, the major comments received and the Forest Service response. In addition to changes made in response to comments, numerous editorial and organizational changes were made in the text.

2. Comments and the Forest Service Response

1950.1—Authorities and 1951.7—Estimate Effects. A reviewer commented that these sections contain such single-gender references as "man and nature" and "man's environment," and should be changed to "human race" and "human environment." We did not make these changes because the wording in sections 1950.1 and 1951.7 was used in order to be consistent with NEPA and the Council's regulations. The phrase referred to in 1951.7 is a direct quote from CEQ regulations and could not be changed.

1950.3—Policies. More than one reviewer pointed out that the relationship between environmental analysis and decision process was confusing. They also suggested that our policies could be stated in more direct terms. We agreed with these comments and made appropriate changes in wording.

1950.5—Definitions. One reviewer commented that the definition of "evaluation criteria" was too limiting. We agree and changed the definition as they suggested.

The same reviewer questioned the need for defining the terms "irretrievable" and "irreversible" in this section. We believe that definitions are necessary because of the use of these words in NEPA and the Council's regulations.

Several reviewers were confused by our use of the terms "environmental analysis" and "environmental assessment." We reworded the definitions of the two terms to make it clear that "environmental analysis" is a process and "environmental assessment" is a document.

Another reviewer suggested substituting "several" for "two or more" areas of knowledge in the definition of interdisciplinary approach. No change was made. The existing definition was established in the Wildland Planning Glossary (Pacific Southwest Forest and Range Experiment Station General Technical Report PSW-13/1976).

One reviewer wanted us to define "scoping," and another to define "record of decision." We provided definitions for both terms.

One reviewer suggested we use all appropriate definitions from the Council's regulations. We accepted this suggestion.

1950.7—Elimination of Duplication with State and Local Procedures. One reviewer suggested that simply "initiating contact with appropriate State and local officials to determine if cooperative analysis and documentation is desirable" was not in conformance with CEQ regulations. We agreed and corrected this section as suggested, by adding a quotation from the regulations.

1951.7—Public Participation. One reviewer suggested that notices and publications related to NEPA be prepared in other languages in addition to English and that hearings and meetings be made accessible to the handicapped. We feel that this suggestion is not unique to NEPA and have referred it to the staff group that has responsibilities for public participation in the Forest Service.

A reviewer suggested that the various means of public notification of actions with effects primarily of local concern be made mandatory. In many cases, some form of public notice is desirable. However, because of the wide range of Forest Service actions for which an environmental assessment is prepared, the means of public notification should be left to the discretion of the responsible official.

One reviewer expressed a major concern that FSM 1951.1 indicates that environmental documents other than EIS's would be made available for public review only when requested. Our quotation of 40 CFR 1506(b)(3) makes clear that this is not the intent. The last paragraph of 1951.1 is a provision to require that a person in the named Forest Service office be designated as a point of contact for the public.

1951.2—Identify Issues, Concerns and Opportunities. A reviewer pointed out that the Council's regulations require setting time limits if an applicant for the proposed action requests them. We agree and have incorporated a quotation from the regulations.

1951.31—Evaluation Criteria. Several reviewers commented on this section. One suggested that criteria developed from the listed sources would be limiting and could circumvent the purposes of NEPA. We have decided that including this material in the manual is inappropriate, and that it would be better treated as handbook contents. Accordingly, 1951.31 was deleted and will be reserved for use by Regions, Areas and Stations in FSH 1909.15, The NEPA Process Handbook.

1951.5—Situation Assessment. A major concern of one reviewer was the definition of the "no action" alternative and its use as a baseline for analysis of alternatives. This concern relates to FSM sections 1951.5, 1951.6, 1951.7, and 1952.4(b)(c). We believe that this concern is valid, and appropriate changes were made. Section 1951.5 was changed by deleting the reference to estimating future conditions based on current management direction, and emphasis was added to define assessment of current and future conditions more clearly.

1951.6—Formulate Alternatives. Two reviewers were concerned with the limitation on developing alternatives implied by the phrase "consistent with goals and objectives from legislation or higher order Forest Service plans, programs, and policies." We agree. This sentence was rewritten to make clear that these are guides and do not limit the range of alternatives.

This section was modified to delete the parenthetical definition of the "no action" alternative. The Council's regulations do not define "no action," and we believe that there are two distinct interpretations that should be considered depending on the nature of the proposal to be evaluated. The first situation is land and resource management planning where ongoing and historical programs initiated under existing legislation and regulations will continue even as new plans are initiated. In these cases "no change" from current management direction and associated output is a means of assessing environmental effects. To construct an alternative that was based on no management or use of the National Forest would be academic. The second situation applies to new actions or projects, and particularly those actions that are discretionary on the

part of the Forest Service. "No action," in this case, would mean the proposed activity would not take place, and the resulting environmental effects can be evaluated against the effects of alternatives that would permit the activity.

1951.7—Estimate Effects. A reviewer recommended that section 1951.4 include a reference to "worst-case analysis." The suggestion was adopted by a direct quotation from the Council's regulations that was placed in FSM section 1951.7.

This section was modified to delete the reference to the expected future condition associated with the "no action" alternative.

It was suggested that the estimated mitigation and monitoring costs associated with each alternative should be included. We agree that mitigation could be included and this provision was added. Monitoring takes many diverse forms, such as the management review system on one side, and physical monitoring (such as water quality sampling) on another. The costs would be very difficult to estimate for many actions, so monitoring was not included. It may be appropriate for site-specific projects and for specific monitoring activity, and in those cases would be included.

1951.9—Identification of the Forest Service Preferred Alternative. A reviewer pointed out that the effects on unquantified environmental values discussed in 1951.7 were vague and that more direction was needed. We agree and have added a direct quotation from the Council's regulations.

Two reviewers suggested that a preferred alternative always be identified in a draft environmental impact statement, and one of them recommended that if the provision is retained as written, a supplement to the draft EIS identifying the preferred alternative should be circulated for 60 days public review prior to preparing the final EIS. The other reviewer said that the procedure was not in compliance with NEPA. The procedures conform to the Council's regulations, 1502.14(e) and, therefore, are judged to comply with NEPA. However, we have added an optional provision that circulation of a supplement that identifies a preferred alternative may be desirable at the discretion of the responsible official. There have been very few statements where a preferred alternative was not identified, and we would expect it to be an infrequent occurrence in the future. However, there may be cases where there is no preferred alternative, and a decision

cannot be made without further public involvement and comment. We feel it is not always necessary to recirculate a draft for additional review before preparing a final environmental impact statement, although recirculation may sometimes be needed. The Forest Service policy is to delay implementation for 45 days after the final EIS is transmitted to EPA and circulated to the public, for actions subject to the administrative review process. While comments are not requested, there is ample opportunity for public review and reaction to the decision.

We have deleted the requirement for Chief's approval for circulation of draft EIS's which do not identify a preferred alternative because we feel it is unnecessary and merely causes further delay.

1952.1—Categorical Exclusions. One reviewer wanted to further emphasize the exclusion of one class of actions. We did not make this change as we believe that this emphasis was not needed. We did clarify that the use of herbicides for routine improvement maintenance is not categorically excluded.

1952.21—Environmental Assessment (EA). One reviewer suggested that a finding of no significant impact be made a part of the decision notice. We adopted this suggestion and modified this section accordingly.

1952.22—Environmentally Impact Statement (EIS). In response to a review comment, this section was modified to show more clearly that an EIS shall be prepared for Regional and National Forest land and resource management plans.

1952.22a—Legislative Environmental Impact Statements. A reviewer suggested that legislative EIS's be transmitted to the Congress at the same time the legislative proposal is made. This suggestion was not adopted. We prefer to retain the option as shown in the Council's regulations for the same reasons stated by the Council.

1952.24—Finding of No Significant Impact (FONSI). In response to a suggestion, this section was modified to make the FONSI a part of the decision notice instead of the environmental assessment.

1952.4—Contents. A reviewer pointed out the difficulty of obtaining some reference material, particularly in rural western areas. We recognize that this is a problem. A partial solution to the problem would be for reviewers to request assistance in obtaining copies of reference materials from the informational contact shown on the EIS cover sheet.

In response to a suggestion, the discussion of the affected environment contents was expanded to include other considerations—specifically those not within the control of the FS.

1952.54a—Filing. This section was modified to emphasize that scheduled distribution of EIS's must be done either before the EIS is filed with EPA, or simultaneously with transmittal to EPA.

1952.6—Corrections, Supplements, or Revisions. This section was modified in response to a comment discussed above to suggest that a supplement to a draft EIS may be desirable when the draft is circulated without identification of a preferred alternative. A reviewer pointed out that in this section "revision" and "supplement" were used synonymously which is not consistent with the Council's regulations. We agree and have clarified the meaning of "revision" of draft EIS's.

1953.1—Record of Decision. The requirement that the record of decision explain the timing and public right of administrative review was added.

A reviewer pointed out that there is a need to differentiate between actions that are subject to administrative review and those that are not. Actions involving the National Forest System, other than land and resource management plans as provided for in proposed regulations published in the *Federal Register* (Vol. 44, No. 88, May 4, 1979, pp. 26583-26599), are subject to administrative review. The record of decision for these actions must be attached to the final EIS at the time it is transmitted to EPA and the public. For decisions not subject to administrative review, such as land and resource management under the proposed regulations, the Council's regulations require that a decision not be made until 30 days after the notice of availability of the final EIS is published in the *Federal Register*. Section 1953, Exhibit 1, and other manual references have been modified to reflect this situation. Two new sections, 1953.11 and 1953.12, provide direction.

A reviewer pointed out that the 90-day period between the notice of availability of a draft EIS and the decision was not consistent with the 60-day period shown in Exhibit 1. 1953.1 was changed to agree with Exhibit 1.

1953.2—Decision Notice. This section was changed to include the FONSI as a part of the decision notice.

Exhibit 1

Typographical errors in Decision Condition No. 2 were corrected to show that a final EIS must have been completed before a decision.

Exhibit No. 1 was modified further to show which conditions are required before decision and implementation for actions not subject to administrative review procedures.

3. Conclusion

The Forest Service NEPA procedures will change to meet changing conditions in the future. FSM chapter 1950 will be amended as necessary to reflect these changes. When significant changes are proposed in this manual chapter, we will provide adequate public notice of the proposed changes.

We appreciate the comments and help we have received in developing these procedures. The text of FSM 1950 is printed below.

R. Max Peterson,
Chief.

July 25, 1979.

Title 1900—Planning

Chapter 1950—The Forest Service NEPA Process

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- "The National Environmental Policy Act (NEPA) is our basic national charter for protection of the environment. It establishes policy, sets goals (section 101), and provides means (section 102) for carrying out the policy. Section 102(2)(C) contains 'action-forcing' provisions to make sure that Federal agencies act according to the letter and spirit of the Act
- " . . . it is not better documents, but better decisions that count. NEPA's purpose is not to generate paperwork . . . but to foster excellent action. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore and enhance the environment." (40 CFR 1500.1)¹
- "All policies and programs of the various USDA agencies shall be planned, developed and implemented so as to achieve the policies declared by NEPA in order to assure responsible stewardship of the environment for present and future generations." (7 CFR 3100.21)¹

The Forest Service NEPA process includes measures necessary for compliance with Section 2 and Title I of the National Environmental Policy Act of 1969 (Pub. L. 91-190 NEPA). The process recognizes that environmental analysis is an integral part of Forest Service planning and decisionmaking, and it is used to insure that decisions

¹ See Section 720, FSH 1909.15, the NEPA Process Handbook for the Council's Regulations 40 CFR 1500-1508.28 and U.S. Department of Agriculture Regulations 7 CFR 3100.21.

conform to other applicable laws under which the Forest Service operates.

This chapter constitutes Forest Service procedures for implementing the National Environmental Policy Act, Department of Agriculture and Council on Environmental Quality regulations. It incorporates as quotations those portions of the Council's regulations of primary concern to the Forest Service.

1950.1—Authorities. The Forest Service is authorized and directed by the NEPA to carry out its programs in ways that will create and maintain conditions under which man and nature can exist in productive harmony, and fulfill social and economic needs of present and future generations of Americans.

Several laws require a systematic interdisciplinary approach to planning and decisionmaking. These include the National Environmental Policy Act, the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Forest Management Act. The NEPA also requires detailed statements on proposed major Federal actions significantly affecting the quality of the human environment (Section 102(2)(C)).

1950.2—Objectives. The objectives of the Forest Service NEPA Process with its accompanying documents are to:

1. Integrate the requirements of NEPA with other planning and decisionmaking procedures required by law or by Forest Service practice so that all such procedures run concurrently rather than consecutively.

2. Provide careful and appropriate consideration of physical, biological, social and economic concerns in planning and decisionmaking.

3. Provide for early and continuing participation of other agencies, organizations, and individuals having appropriate responsibilities, expertise, or interest.

4. Determine if there is a need for an environmental impact statement.

5. Assure that planning and decisionmaking is open and available for public review.

6. Emphasize decisionmaking rather than the environmental documents.

7. " . . . make the NEPA process more useful to decisionmakers and the public; to reduce paperwork and the accumulation of extraneous background data; and to emphasize real environmental issues and alternatives. . . ." (40 CFR 1500.2(b)).

8. "Use the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these

actions upon the quality of the human environment." (40 CFR 1500.2(e)).

9. "Use all practicable means, consistent with the requirements of the Act and other essential considerations of national policy, to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment." (40 CFR 1500.2(f)).

10. Identify a preferred alternative when considering alternative policies, plans, programs, or projects.

11. Document the rationale of the decisionmaker.

12. Provide a basis for determining management requirements, mitigation measures, and contract provisions or stipulations.

1950.3—Policies. 1. An environmental analysis shall be made for all policies, plans, programs, and projects affecting resources, other land uses, or the quality of the physical, biological, economic, and social environment.

Environmental analysis is the decision process used to determine the significance of environmental impacts. This, in turn, determines which and when environmental documents are appropriate.

2. Environmental analyses should be documented in either an environmental assessment (EA) or an environmental impact statement (EIS) (See FSM 1952). The length and detail of analyses and the degree of documentation varies according to the type of decisions being made, and is determined by the official responsible for the decision(s). This determination is made through consideration of the importance of the effects of the decision(s) (FSM 1951.7). Documents must present a brief explanation of the purpose and need for the action; the criteria for evaluating alternatives; the alternatives considered; the anticipated effects of implementing the alternatives; and, in most cases, the Forest Service preferred alternative. Environmental assessments or impact statements are not required for those classes of actions identified as "categorical exclusions" (FSM 1952.1).

3. Environmental documents such as EA's, EIS's, Notices of Intent, and Findings of No Significant Impact replace, and should not duplicate, other reports previously used to serve similar purposes. This is intended to reduce paperwork and delay.

4. Analyses must be conducted as early as possible and be used for decisions and recommendations. EA's and EIS's document the analysis, and identify the line officer responsible for the decision.

5. Responsible officials shall " . . . encourage and facilitate public involvement in decisions which affect the quality of the human environment" (40 CFR 1500.2(d)). Agencies, organizations, and individuals having responsibilities, expertise, or expressed interest shall be consulted as appropriate at the beginning of the analysis activity. The A-95 project notification process shall be used, when appropriate, to notify State and local agencies. Consultations must be documented.

6. Analyses will impartially consider reasonable alternatives and the anticipated effects associated with each alternative.

7. Environmental assessments and environmental impact statements " . . . shall be prepared using an interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts (Section 102(2)(a) of the Act). The disciplines of the preparers shall be appropriate to the scope and issues identified in the scoping process." (40 CFR 1502.6).

8. Costs of environmental analyses and documents for *In-Service* originated programs are a part of the regular budgetary process for the plan, program or project. Costs are borne by the *benefitting activity(ies)* unless special provision is made at the Washington Office level. For *Out-Service* originated activities, see FSM 1950.4.

9. Responsible officials "shall not commit resources prejudicing selection of alternatives before making a final decision." (40 CFR 1502.2(f)). This applies both to actions for which an EA or EIS is required.

10. Any plan, program, or project: (a) Located in or that may affect flood plains or wetlands must be responsive to E.O. 11988 and 11990 (see FSM 2527 and 2528), or (b) that may affect significant cultural resources must be responsive to E.O. 11593 (see FSM 2361).

11. The Chief, Regional Foresters, Area and Station Directors and Forest Supervisors shall designate a person in their office to serve as Environmental Coordinator who shall be responsible for providing information on status of EIS's and other elements of the NEPA process.

12. Responsible officials shall conduct environmental analyses "concurrently with and integrated with environmental impact analyses and related surveys and studies required by the Fish and Wildlife Coordination Act (16 U.S.C. Sec. 661 et seq.), the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470 et seq.), the Endangered Species Act

of 1973 (16 U.S.C. sec. 1531 et seq.), and other environmental review laws and executive orders." (40 CFR 1502.25).

13. Information about Forest Service policies, and the NEPA process requirements, shall be provided upon request, to agencies, organizations and individuals so that they are aware of studies and information that may be required before Forest Service action on their application.

14. Responsible officials shall contact Federal, State, and local agencies to determine if cooperative analyses and documentation are desirable.

1950.4—*Responsibilities*. The Chief is responsible for environmental analysis and documentation relating to legislation and national policies, plans, programs, and projects including but not limited to plans, programs, or projects affecting areas involved in pending legislation for wilderness designation or study. The Forest Service Environmental Coordinator shall be responsible for overall review of Forest Service NEPA compliance. Delegations of authority are specified in FSM 1230. Officials delegated responsibility for proposed actions are responsible for environmental analyses and documentation. (Also see FSM 1952.54a). Project proponents by be required to provide data and documentation, subject to the following requirements:

"Information. If an agency requires an applicant to submit environmental information for possible use by the agency in preparing an environmental impact statement, then the agency should assist the applicant by outlining the types of information required. The agency shall independently evaluate the information submitted and shall be responsible for its accuracy. If the agency chooses to use the information submitted by the applicant in the environmental impact statement, either directly or by reference, then the names of the persons responsible for the independent evaluation shall be included in the list of preparers. It is the intent of this subparagraph that acceptable work not be redone, but that it be verified by the agency." (40 CFR 1506.5a).

"Environmental assessments. If an agency permits an applicant to prepare an environmental assessment, the agency, besides fulfilling the requirements of paragraph (a) of this section, shall make its own evaluation of the environmental issues and take responsibility for the scope and content of the environmental assessment." (40 CFR 1506.5b).

"Environmental impact statements * * * any environmental impact statement prepared pursuant to the requirements of NEPA shall be prepared either directly, by a contractor selected by the lead agency or, where appropriate, by a cooperating agency. It is the intent of these regulations that the contractor be chosen solely by the lead

agency, or by the lead agency in cooperation with cooperating agencies, or where appropriate, by a cooperating agency to avoid any conflict of interest. Contractors shall execute a disclosure statement prepared by the lead agency, or where appropriate, the cooperating agency, specifying that they have no financial or other interest in the outcome of the project. If the document is prepared by contract, the responsible Federal official shall furnish guidance and participate in the preparation and shall independently evaluate the statement prior to its approval and take responsibility for its scope and contents. Nothing in this section is intended to prohibit any agency from requesting any person to submit information to it or to prohibit any person from submitting information to any agency." (40 CFR 1506.5c).

When an applicant is permitted to prepare an environmental assessment, or a contractor is employed to prepare an environmental impact statement, their activities shall be limited to those shown as the usual roles of the interdisciplinary team, (see FSM 1951). Applicants or contractors must comply with requirements of FSM 1950.

1950.41—*Lead Agency*. "A lead agency shall supervise the preparation of an environmental impact statement if more than one Federal agency either:

1. Proposes or is involved in the same action; or
2. Is involved in a group of actions directly related to each other because of their functional interdependence or geographical proximity (40 CFR 1501.5a).

"Federal, State, or local agencies, including at least one Federal agency, may act as joint lead agencies to prepare an environmental impact statement" * * * (40 CFR 1501.5b).

"* * * the potential lead agencies shall determine by letter or memorandum which agency shall be the lead agency and which shall be cooperating agencies. The agencies shall resolve the lead agency question so as not to cause delay. If there is disagreement among the agencies, the following factors (which are listed in order of descending importance) shall determine lead agency designation:

1. Magnitude of agency's involvement.
2. Project approval/disapproval authority.
3. Expertise concerning the action's environmental effects.
4. Duration of agency's involvement.
5. Sequence of agency's involvement." (40 CFR 1501.5c)

"Any Federal agency, or any State or local agency or private person substantially affected by the absence of lead agency designation may make a written request to the potential lead agencies that a lead agency is designated." (40 CFR 1501.5d).

"If Federal agencies are unable to agree on which agency will be the lead agency" * * * any of the agencies or persons concerned may file a request with the Council asking it to determine which Federal agency shall be the lead agency.

"A copy of the request shall be transmitted to each potential lead agency. The request shall consist of:

1. A precise description of the nature and extent of the proposed action.
2. A detailed statement of why each potential lead agency should or should not be the lead agency under the criteria specified above * * * (40 CFR 1501.5e)

"A response may be filed by a potential lead agency concerned within 20 days after a request is filed with the Council. The Council shall determine as soon as possible but not later than 20 days after receiving the request and all responses to it which Federal agency shall be the lead agency and which other Federal agencies shall be cooperating agencies." (40 CFR 1501.5f).

A Forest Service request that the Council determine which Federal Agency shall be the lead agency shall be sent to the Forest Service Environmental Coordinator in Washington, D.C., for processing. Where National Forest System lands are involved, the Forest Service should exert a strong role in environmental analysis.

1950.42—*Cooperating Agencies*. "Upon request of the lead agency, any other Federal agency which has jurisdiction by law shall be a cooperating agency. In addition, any other Federal agency which has special expertise with respect to any environmental issue, which should be addressed in the statement may be a cooperating agency upon request of the lead agency. An agency may request the lead agency to designate it a cooperating agency.

"The lead agency shall:

- (1) Request the participation of each cooperating agency in the NEPA process at the earliest possible time.
- (2) Use the environmental analysis and proposals of cooperating agencies with jurisdiction by law or special expertise, to the maximum extent possible consistent with its responsibility as lead agency."
- (3) Meet with a cooperating agency at the latter's request." (40 CFR 1501.6a).

"Each cooperating agency shall:

- (1) Participate in the NEPA process at the earliest possible time.
- (2) Participate in the scoping process.
- (3) Assume on request of the lead agency responsibility for developing information and preparing environmental analyses including portions of the environmental impact statement concerning which the cooperating agency has special expertise.
- (4) Make available staff support at the lead agency's request to enhance the latter's interdisciplinary capability.
- (5) Normally use its own funds. The lead agency shall, to the extent available funds permit, fund those major activities or analyses it requests from cooperating agencies. Potential lead agencies shall include such funding requirements in their budget requests." (40 CFR 1501.6b)

"A cooperating agency may in response to a lead agency's request for assistance in preparing the environmental impact statement * * * reply that other program commitments preclude any involvement or the degree of involvement requested in the action that is the subject of the environmental impact statement. A copy of this reply shall be submitted to the Council." (40 CFR 1501.6c).

When National Forest System lands are involved, and the Forest Service is not the lead agency, the Regional Forester shall request that the Forest Service be a cooperating agency.

If the Forest Service is requested to be a cooperating agency and other program commitments preclude the requested involvement, a reply to this effect shall be prepared by the Regional Forester, Area or Station Director. A copy of the reply must be sent to the Forest Service Environmental Coordinator in Washington, D.C., within 10 working days of the date that the letter is transmitted.

1950.5—*Definitions*. In addition to the definitions in this section, also see FSM 1905—*Definitions*.

Act: "The National Environmental Policy Act, as amended (42 U.S.C. 4321, et seq.) which is also referred to as 'NEPA.'" (40 CFR 1508.2).

Affecting: "Means will or may have an effect on." (40 CFR 1508.3)

Categorical Exclusion: "Means a category of actions which do not individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an environmental assessment nor an environmental impact statement is required." (40 CFR 1508.4)

Cooperating Agency: "Means any Federal agency other than a lead agency which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major Federal action significantly affecting the quality of the human environment. A State or local agency of similar qualifications or, when the effects are on a reservation, an Indian Tribe, may by agreement with the lead agency become a cooperating agency." (40 CFR 1508.5)

Cumulative Impact: "Is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time." (40 CFR 1508.7)

Decision Notice: A concise public record of the responsible official's decision, including the finding of no significant impact, on actions for which an environmental assessment was prepared.

Effects: Include:

"(a) Direct effects, which are caused by the action and occur at the same time and place.

"(b) Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems."

"Effects and impacts as used in * * * (this title) are synonymous. Effects includes ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial." (40 CFR 1508.8)

Environment: "The aggregate of physical, biological, economic, and social factors affecting organisms in an area. (See also human environment)." (40 CFR 1508.14)

Environmental Analysis: An analysis of alternative actions and their predictable short- and long-term environmental effects, which include physical, biological, economic and social factors and their interactions.

Environmental Assessment: * * * concise public document that serves to (1) briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or finding of no significant impact (2) aid an agency's compliance with the (NEPA) Act when no environmental impact statement is necessary * * * (40 CFR 1508.9a)

Environmental Design Arts: Those disciplines such as architecture, civil and environmental engineering, and landscape architecture which directly influence the physical environment as a result of the design of projects of all kinds.

Environmental Documents: A set of concise documents to include, as applicable, the environmental assessment, environmental impact statement, finding of no significant impact, and notice of intent.

Environmental Impact Statement: "Means a detailed written statement as required by Sec. 102(2)(C) of the Act. (40 CFR 1508.11)

Evaluation Criteria: Standards developed for appraising alternatives.

Finding Of No Significant Impact: "Means a document briefly presenting the reasons why an action, not otherwise excluded, will not have a significant effect on the human environment and for which an environmental impact statement therefore will not be prepared. It shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it. If the assessment is included, the finding need not repeat any of the discussion in the assessment but may incorporate it by reference." (40 CFR 1508.13)

Flood Plains: "Lowland and relatively flat areas adjoining inland and coastal water including as a minimum, that area subject to a one percent or greater chance of flooding in any given year. Floodprone wetlands and sinkholes, and sheet flow or shallow flooding areas such as debris cones or alluvial fans

built up by material carried by mountain streams, are special flood plain areas." (E.O. 11988)

Human Environment: "Shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment. (See the definition of 'effects.') This means that economic or social effects are not intended by themselves to require preparation of environmental impact statement. When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, then the environmental impact statement will discuss all of these effects on the human environment." (40 CFR 1508.14).

Implementation: Those activities necessary to respond to the decision.

Interdisciplinary Approach: The utilization of individuals representing two or more areas of knowledge and skills focusing on the same subject. The participants develop solutions through frequent interaction so that each discipline may provide insights to any state of the problems, and disciplines may combine to provide new solutions. This is different from a multidisciplinary team where each specialist is assigned a portion of the problem and their partial solutions are linked together at the end to provide the final solution.

Irreversible: Applies primarily to the use of nonrenewable resources, such as minerals or cultural resources or to those factors which are renewable only over long time spans, such as soil productivity. "Irreversible" also includes loss of future options.

Irretrievable: Applies to losses of production, harvest or use of renewable natural resources. For example, some or all of the timber production form an area is irretrievably lost while an area is used as a winter sports site. If the use is changed, timber production can be resumed. The production lost is "irretrievable," but the action is not irreversible.

Issue: A point, matter, or question to be resolved.

Jurisdiction by Law: "Means agency authority to approve, veto, or finance all or part of the proposal." (40 CFR 1508.15)

Lead Agency: "Means the agency or agencies preparing or having taken primary responsibility for preparing the environmental impact statement." (40 CFR 1508.16)

Legislation: "Includes a bill or legislative proposal to Congress developed by or with the significant cooperation and support of a Federal agency, but does not include requests for appropriations. The test for significant cooperation is whether the proposal is in fact predominantly that of the agency rather than another source. Drafting does not by itself constitute significant cooperation. Proposals for legislation include requests for ratification of treaties. Only the agency which has primary responsibility for the subject matter involved will prepare a legislative environmental impact statement." (40 CFR 1508.17)

Major Federal Action: "Includes actions with effects that may be major and which are potentially subject to Federal control and responsibility. Major reinforces but does not

have a meaning independent of significantly. Actions include the circumstance where the responsible officials fail to act and that failure to act is reviewable by courts or administrative tribunals under the Administrative Procedure Act or other applicable law as agency action.

(a) Actions include new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by federal agencies; new or revised agency rules, regulations, plans policies, or procedures; and legislative proposals. Actions do not include funding assistance solely in the form of general revenue sharing funds, distributed under the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 et seq., with no Federal agency control over the subsequent use of such funds. Actions do not include bringing judicial or administrative civil or criminal enforcement actions.

(b) Federal actions tend to fall within one of the following categories:

(1) Adoption of official policy, such as rules, regulations, and interpretations adopted pursuant to the Administrative Procedure Act, 5 U.S.C. 551 et seq.; treaties and international conventions or agreements; formal documents establishing an agency's policies which will result in or substantially alter agency programs.

(2) Adoption of formal plans, such as official documents prepared or approved by federal agencies which guide or prescribe alternative uses of federal resources, upon which future agency actions will be based.

(3) Adoption of programs, such as a group of concerted actions to implement a specific policy or plan; systematic and connected agency decisions allocating agency resources to implement a specific statutory program or executive directive.

(4) Approval of specific projects, such as construction or management activities located in a defined geographic area. Projects include actions approved by permit or other regulatory decision as well as federal and federally assisted activities." (40 CFR 1508.18)

Matter: Includes for purposes of pre-decision referral:

"(a) With respect to the Environmental Protection Agency, any proposed legislation, project, action or regulation as those terms are used in Section 309(a) of the Clean Air Act (42 U.S.C. 7609).

(b) With respect to all other agencies, any proposed major federal action to which section 102(2)(C) of NEPA applies." (40 CFR 1508.19)

Mitigation: "Includes:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action.

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(e) Compensating for the impact by replacing or providing substitute resources or environments." (40 CFR 1508.20)

NEPA Process: "Means all measures necessary for compliance with the requirements of Section 2 and Title I of NEPA." (40 CFR 1508.21)

Notice of Intent: "Means a notice that an environmental impact statement will be prepared and considered. The notice shall briefly:

(a) Describe the proposed action and possible alternatives.

(b) Describe the proposed scoping process including whether, when and where any scoping meeting will be held.

(c) State the name and address of a person who can answer questions about the proposed action and the environmental impact statement." (40 CFR 1508.22)

Proposal: "Exists at that stage in the development of an action when (the Forest Service) has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated." (40 CFR 1508.23)

Record of Decision: A concise public record of the responsible official's decision on actions for which an environmental impact statement was prepared.

Referring Agency: "Means the Federal agency which has referred any matter to the Council after a determination that the matter is unsatisfactory from the standpoint of public health or welfare or environmental quality." (40 CFR 1508.24)

Responsible Official: The Forest Service line officer who has been delegated the authority to approve or adopt policies, plans, programs, or projects.

Scope: "Consists of the range of actions, alternatives, and impacts to be considered in an environmental impact statement. The scope of an individual statement may depend on its relationships to other statements . . . To determine the scope of environmental impact statements, agencies shall consider 3 types of actions, 3 types of alternatives, and 3 types of impacts. They include:

(a) Actions (other than unconnected single actions) which may be:

(1) Connected actions, which means that they are closely related and therefore should be discussed in the same impact statement. Actions are connected if they:

(i) Automatically trigger other actions which may require environmental impact statements.

(ii) Cannot or will not proceed unless other actions are taken previously or simultaneously.

(iii) Are interdependent parts of a larger action and depend on the larger action for their justification.

(2) Cumulative actions, which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement.

(3) Similar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental

consequencies together, such as common timing or geography. An agency may wish to analyze these actions in the same impact statement. It should do so when the best way to assess adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single impact statement.

(b) Alternatives, which include: (1) No action alternative. (2) Other reasonable courses of actions. (3) Mitigation measures (not in the proposed action).

(c) Impacts, which may be: (1) Direct. (2) Indirect. (3) Cumulative." (40 CFR 1508.25)

Scoping: ". . . and early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action." (40 CFR 1501.7).

Special expertise: "Means statutory responsibility, agency mission, or related program experience." (40 CFR 1508.26)

Significantly: "As used in NEPA requires considerations of both context and intensity:

(a) Context. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the local rather than in the world as a whole. Both short- and long-term effects are relevant.

(b) Intensity. This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:

(1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.

(2) The degree to which the proposed action affects public health or safety.

(3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

(4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.

(5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

(6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

(8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

(9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

(10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment." (40 CFR 1508.27)

Substantive Comment: A comment which provides factual information, professional opinion, or informed judgment which is germane to the decision being considered.

Tiering: "Refers to the coverage of general matters in broader environmental impact statements (such as national program or policy statements) with subsequent narrower statements or environmental analyses (such as regional or basinwide program statements or ultimately site-specific statements) incorporated by reference the general discussions and concentrating solely on the issues specific to the statement subsequently prepared. Tiering is appropriate when the sequence of statements or analyses is:

(a) From a program, plan, or policy environmental impact statement to a program, plan, or policy statement or analysis of lesser scope or to a site-specific or analysis.

(b) From an environmental impact statement on a specific action at an early stage (such as need a site selection) to a supplement (which is preferred) or a subsequent statement or analysis at a later stage (such as environmental mitigation). Tiering in such cases is appropriate when it helps to focus on the issues already decided or not yet ripe.

Wetlands: "Areas that are inundated by surface or ground water with a frequency

sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction." (E.O. 11990)

1950.6—Limitations On Actions After It Has Been Determined That An Environmental Impact Statement Will Be Prepared. After a notice of intent has been established and "until an agency issues a record of decision, no action concerning the proposal shall be taken which would:

(1) Have an adverse environmental impact; or

(2) Limit the choice of reasonable alternatives." (40 CFR 1506.1a).

"If any agency is considering an application from a non-Federal entity, and is aware that the applicant is about to take an action within the agency's jurisdiction that would meet either one of the criteria shown above, then the agency shall promptly notify the applicant that the agency will take appropriate action to insure that the objectives and procedures of NEPA are achieved." (40 CFR 1506.1b).

The requirement applies to applications for use of National Forest System lands where the environmental analysis indicates or the determination by the responsible official requires the preparation of an EIS. On-going plans or programs, initiated and conducted under law, regulation, and Forest Service policy, are properly authorized and may continue during preparation of an EIS that addresses the particular plan or program.

"While work on a required program environmental impact statement is in progress and the action is not covered by an existing program statement, agencies shall not undertake in the interim any major Federal action covered by the program which may significantly affect the quality of the human environment unless such action:

(1) Is justified independently of the program;

(2) Is itself accompanied by an adequate environmental impact statement; and

(3) Will not prejudice the ultimate decision on the program. Interim action prejudices the ultimate decision on the program when it tends to determine subsequent development or limit alternatives." (40 CFR 1506.1c)

"This section does not preclude development by applicants of plans or designs or performance of other work necessary to support an application for Federal, State or local permits or assistance . . ." (40 CFR 1506.1d). "Required," as used in this section means required by law as opposed to a voluntary or discretionary EIS.

1950.7—Elimination Of Duplication With State And Local Procedures.

The Forest Service " . . . shall cooperate with State and local agencies to the fullest

extent possible to reduce duplication between NEPA and comparable State and local requirements . . . such cooperation shall, to the fullest extent possible, include joint environmental impact statements. In such cases, one or more Federal agencies and one or more State and local agencies shall be joint lead agencies. Where State laws or local ordinances have environmental impact statement requirements in addition to, but not in conflict with those in NEPA, the (Forest Service) shall cooperate in fulfilling these requirements as well as those of Federal laws so that one document will comply with all applicable laws . . ." (40 CFR 1506.2).

1951—ENVIRONMENTAL ANALYSIS (See FSM 1950.3). An analysis must be conducted systematically to help insure that required information is considered in a logical manner which leads to identification of a preferred alternative. The analysis may be carried out in separate, but interrelated steps. The analysis steps may be combined or expanded depending on the situation.

A systematic, interdisciplinary approach is required. The disciplines involved in an analysis "shall be appropriate to the scope and the issues identified in the scoping process. (40 CFR 1502.6). In each analysis, use should be made of earlier documented analysis information to avoid duplication of previous effort and to maximize use of available information.

"Whenever a broad environmental impact statement (or environmental assessment) has been prepared (such as a program or policy statement) and a subsequent statement or environmental assessment is then prepared on an action included within the entire program or policy (such as a site-specific action) the subsequent statement or environment assessment need only summarize the issue discussed in the broader statement and incorporate discussions from the broader statement by reference and shall concentrate on the issue specific to the subsequent action. The subsequent document shall state where the earlier document is available . . ." (40 CFR 1502.20).

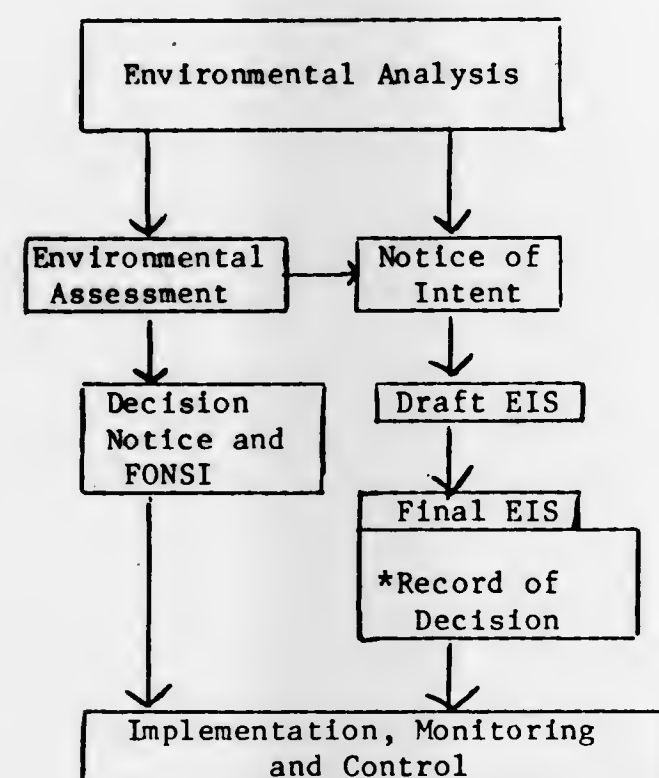
Normally, environmental analyses are completed and documented in an EA or EIS. If the need to complete the analysis and/or documentation is eliminated (i.e., the project application is withdrawn, or for other reasons) the analysis and/or documentation should be terminated and the interested parties informed.

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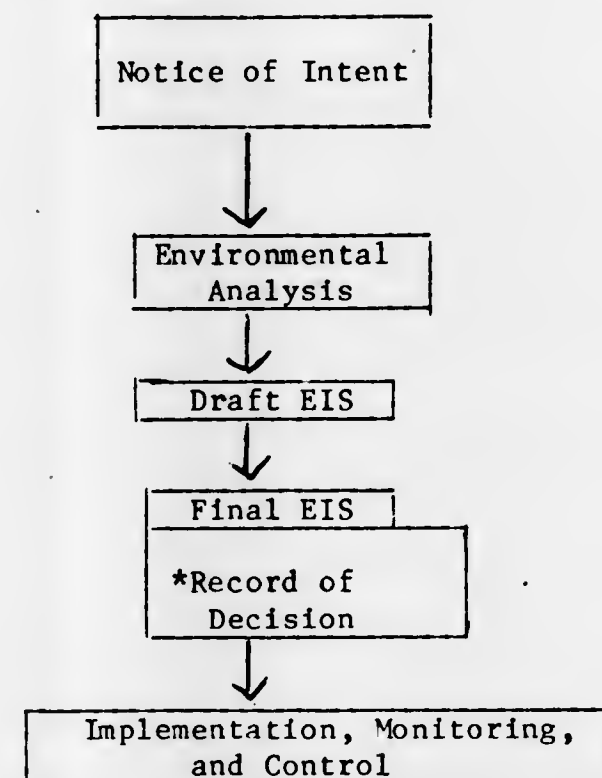
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The usual relationships between the environmental analysis, the environmental documents and implementation are shown in diagrams below:

If the need for an EIS has not been determined:



If the need for an EIS has been determined (FSM 1952.22):



*If the action is not subject to administrative review (36 CFR 211.19), the record of decision should not be signed and dated until at least 30 days after the notice of availability of the final EIS has been published in the Federal Register.

The usual roles of participants in the major steps of the NEPA process are shown in the chart below:

USUAL ROLE OF PARTICIPANTS

The NEPA Process (the decision process)	The Responsible Official	Interdisciplinary Team	Agencies, Organizations, and Individuals
1. Environmental analysis:			
A. Identify issues, concerns, and opportunities.....	Approval.....	Responsible.....	Recommend....
B. Development of criteria.....	Approval.....	Responsible.....	Recommend....
C. Data collection....	Review.....	Responsible.....	Provide information...
D. Analyze the situation....	Review.....	Responsible.....	Provide information...
E. Formulate alternatives.....	Review.....	Responsible.....	Recommend....
F. Estimate effects.....	Review.....	Responsible.....	Provide information...
G. Evaluate alternatives....	Review.....	Responsible.....	Provide information...
H. Identify the FS preferred alternative.....	Responsible.....	Recommend.....	Recommend....
2. Documentation.....	Review.....	Responsible.....	Review.....
3. Decision.....	Responsible.....	Recommend.....	Review.....
4. Implementation, monitoring and control.....	Responsible.....	Assist.....	Assist.....

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1951.1—Public Participation. Public participation is an integral part of the Forest Service NEPA Process. Public participation may be involved in each step of the analysis. See FSM 1626 and Inform and Involve Handbook and Secretary of Agriculture Memo No. 1695, Supp. No. 5. See Section 111 of FSH 1909.15, The NEPA Process Handbook for a list of agencies with legal jurisdiction or expertise.

Responsible officials shall:

1. Make diligent efforts to involve the public in implementing the Forest Service NEPA procedures; and
2. "Provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected."
 - *** In all cases the agency shall mail notice to those who have requested it on an individual action.
 - *** In the case of an action with effects of national concern, notice shall include publication in the Federal Register and notice by mail to national organizations reasonably expected to be interested in the matter and may include listing in the 102 Monitor.
 - *** In the case of an action with effects primarily of local concern the notice may include:
 - (i) Notice to State and areawide clearinghouses pursuant to OMB Circular A-95 (Revised).
 - (ii) Notice to Indian tribes when effects may occur on reservations.
 - (iii) Following the affected State's public notice.
 - (iv) Publication in local newspapers (in papers of general circulation rather than legal papers).
 - (v) Notice through other local media.
 - (vi) Notice to potentially interested community organizations including small business associations.
 - (vii) Publication in newsletters that may be expected to reach potentially interested persons.
 - (viii) Direct mailing to owners and occupants of nearby or affected property.
 - (ix) Posting of notice on-and off-site in the area where the action is to be located." (40 CFR 1506.6b)

3. "Hold or sponsor public hearings or public meetings whenever appropriate or in accordance with statutory requirements applicable to the agency. Criteria shall include whether there is:

- *** Substantial environmental controversy concerning the proposed action or substantial interest in holding the hearing.
- *** A request of a hearing by another agency with jurisdiction over the action supported by reasons why a hearing will be helpful. If a draft environmental impact statement is to be considered at a public hearing, the agency should make the statement available to the public at least 15 days in advance (unless the purpose of the hearing is to provide information for the draft environmental impact statement)." (40 CFR 1506.6c).

4. "Solicit appropriate information from the public." (40 CFR 1506.6d).

5. "Explain * * * where interested persons can get information or status reports on environmental impact statements and other elements of the NEPA process." (40 CFR 1506.6e).

6. "Make environmental impact statements, the comments received and any underlying documents available to the public pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552), without regard to the exclusion for interagency memoranda where such memoranda transmit comments of Federal agencies on the environmental impact of the proposed action. Materials to be made available to the public shall be provided to the public without charge to the extent practicable, or at a fee which is not more than the actual cost of reproducing copies required to be sent to other Federal agencies, including the Council." (40 CFR 1506.6f).

The composite list of environmental impact statements under preparation (FSM 1952.23) identifies the person to contact for further information about environmental impact statements. Information about other environmental analyses and their documentation shall be furnished to the public by designated Environmental Coordinators in the Washington Office, Regional Offices, Forest Supervisor's Offices, Research Stations and S&PF Area Offices when requested. Other personnel may make documents available as appropriate. Where flood plains or wetlands are involved, there must be sufficient public participation to satisfy the requirements for early public review as shown in Section 2.A(4) of E.O. 11988, and Section 2(B) of E.O. 11990. (See FSM 2527 and 2528).

1951.2—Identify Issues, Concerns, and Opportunities. (Scoping).

The environmental analysis begins by identifying the major issues, concerns or opportunities and the need for a decision.

"There shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. This process shall be termed scoping * * * (40 CFR 1501.7).

See section 141 of FSH 1909.15, The NEPA Process Handbook, for a list of environmental factors that might be involved.

When the action is such that an environmental impact statement is required (FSM 1952.22), or is highly probable, the responsible official shall:

- *** Invite the participation of affected Federal, State, and local agencies, any affected Indian tribe, the proponent of the action, and other interested persons (including those who might not be in accord with the action on environmental grounds).

"Determine the scope and the significant issues to be analyzed in depth in the environmental impact statement.

"Identify and eliminate from detailed study the issues which are not significant or which have been covered by prior environmental review, narrowing the discussion of these issues in the statement to a brief presentation of why they will not have a significant effect on the human environment or providing a reference to their coverage elsewhere.

"Allocate assignments for preparation of the environmental impact statement among the lead and cooperating agencies with the lead agency retaining responsibility for the statement.

"Indicate any public environmental assessments and other environmental impact statements which are being or will be prepared that are related to but are not part of the scope of the impact statement under consideration.

"Identify other environmental review and consultation requirements so the lead and cooperating agencies may prepare other required analyses and studies concurrently with, and integrated with, the environmental impact statement.

"Indicate the relationship between the timing of the preparation of environmental analyses and the agency's tentative planning and decisionmaking schedule * * * ." (40 CFR 1501.7).

During the public involvement the responsible official may set time limits on environmental analyses and page limits on environmental documents. The Forest Service "shall set time limits if an applicant for the proposed action requests them. State or local agencies or members of the public may request the * * * (Forest Service) to set time limits." (40 CFR 1501.8). Setting of time limits is mandatory only if requested by applicants. The responsible official may set overall time limits or time limits for each constituent part of the NEPA process.

The scoping process described above is not mandatory for the preparation of a legislative environmental impact statement. (See FSM 1952.22a).

1951.3—Development of Criteria. Criteria or standards must be agreed upon early in the analysis process, as they guide subsequent steps of the process. As used here, standards and criteria do not refer to the policy type of standards, criteria and guidelines discussed in section 14 of RPA, as amended (Sec. 11 of NFMA).

The major issues and concerns to be addressed in detail during the analysis determine the criteria for the subsequent steps in the analysis.

Criteria are frequently needed in regard to the following items:

1. Information collection standards such as: the kind, amount, intensity and accuracy desired.

2. Alternative formulation standards such as: the kinds of alternatives the responsible official considers to be included in the reasonable range of alternatives and monitoring requirements.

3. Analysis standards such as: time periods to be covered by the analysis, techniques to be used and discount rates to be applied.

4. Evaluation standards such as: goals of management, program objectives and tests of feasibility that will be used to compare alternatives.

5. Criteria for identifying the preferred alternative.

6. Documentation standards that will be used in the writing and processing of the EA or EIS.

1951.4—Data Collection. After the issues, concerns and opportunities are identified, appropriate data must be collected. The type and amount of data depends on the situation, the issues, concerns, opportunities and the scope of anticipated effects. Data collection should focus on the present and expected future conditions of those physical, biological, economic and social factors affecting and affected by the decision. Sources of data should be documented. See FSM 1951.7 for worst-case analysis procedures in the event that essential information is not available.

1951.5—Situation Assessment. Situation assessment is a means of translating collected data and information into an understanding of the current and expected future conditions related to the issues and concerns. This may include assessment of supply and demand relationships and other relevant physical, biological, economic and social factors. Assumptions and other methods used in the analysis should be recorded for subsequent use in the EA or EIS.

1951.6—Formulate Alternatives. A reasonable range of alternatives is developed to provide different ways to address major issues, concerns and opportunities. Consistency with goals and objectives from legislation or higher-order FS plans, programs and policies guides, but does not necessarily limit, the range of alternatives. The range of alternatives must be broad enough to respond to major issues, concerns and opportunities. All reasonable alternatives must be considered in the process of developing the reasonable range.

"The phrase 'all reasonable alternatives' is firmly established in the case law interpreting the NEPA. The phrase has not been interpreted to require that an infinite or unreasonable number of alternatives be

analyzed" (Supplementary information for the Council's Regulations, Federal Register, Vol. 43, No. 230, Nov. 29, 1978, p. 55983). Alternatives should be fully and impartially developed.

Care should be taken to insure that the range of alternatives does not prematurely foreclose options which might enhance environmental quality or have fewer detrimental effects. The alternative of taking no action must always be included. Public involvement is important in formulating alternatives. The extent of involvement depends on the issues, concerns, opportunities involved and the kind and magnitude of the decision. Alternatives are often modified and new alternatives developed as the analysis proceeds.

Alternatives should be formulated to include management requirements, mitigation measures and monitoring needed to avoid adverse environmental effects and conform to all other applicable laws relating to Forest Service activities. In the development of mitigation measures, it may be desirable to contact other Federal, State, or local agencies regarding specific environmental values.

If the plan, program or project is located in, or may affect, flood plains or wetlands, alternatives must be responsive to E.O. 11988 and 11990. (See FSM 2527 and 2528).

1951.7—Estimate Effects. The appropriate effects of implementing each alternative must be estimated. Direct, indirect and cumulative effects should all be considered. Effects are expressed in terms of future outputs, expenditures, costs (including costs of mitigation) and changes in the physical, biological, economic and social components of the environment for each alternative. The changes should be those associated with implementation of the alternative, and expressed, when possible, in terms of differences from the present condition. Changes are usually described in terms of their magnitude, duration and significance. See Section 141 of FSH 1909.15, The NEPA Process Handbook, for a list of environmental factors which may change as a result of implementation of the various alternatives. It is not always necessary to deal with all factors and components of the environment. The effects considered in analysis should be only those of significance to the issue, concerns, opportunities and the evaluation criteria.

Unquantified environmental amenities and values must be given appropriate consideration.

"If (1) the information relevant to adverse impacts is essential to a reasoned choice

among alternatives and is not known and the overall costs of obtaining it are exorbitant, or (2) the information relevant to adverse impacts is important to the decision and the means to obtain it are not known * * * the agency shall weigh the need for the action against the risks and severity of possible adverse impacts were the action to proceed in the face of uncertainty. If the agency proceeds, it shall include a worst-case analysis and an indication of probability or improbability of its occurrence (in the EA or EIS)" (40 CFR 1502.22b).

If indicators of economic efficiency are appropriate to the issues or concerns, they are developed in this step. When this is done, the relationship of economic efficiency and any analysis of unquantified environmental impacts, values and amenities should be identified.

Although separate analysis is not necessary, the following effects must be considered for all alternatives:

1. " * * * the relationship between local, short-term uses of man's environment and maintenance and enhancement of long-term productivity * * * "
2. " * * * any adverse environmental effects which cannot be avoided * * * "
3. " * * * any irreversible or irretrievable commitments of resources * * * " (40 CFR 1502.16).
4. Effects upon minority groups, women, and civil rights. (Secretary's memorandum 1662, Supplemental 8 and OMB Circular A-19). (See also FSM 1730).
5. Effects upon prime farmland, range and forest lands.
6. Effects upon wetlands and flood plains.
7. " * * * direct effects and their significance * * * " * * * indirect effects and their significance * * * "
8. "Possible conflicts between the proposed action and the objectives of Federal, Regional, State, and local (and in the case of a reservation, Indian tribe) land use plans, policies and controls for the area concerned * * * "
9. "Energy requirements and conservation potential of various alternatives and mitigation measures.
10. "Natural or depletable resource requirements and conservation potential of various alternatives and mitigation measures.
11. "Urban quality, historic and cultural resources and the design of the built environment, including the re-use and conservation potential of various alternatives and mitigation measures * * * " (40 CFR 1502.16).
12. Effects upon threatened and endangered species.

1951.8—Evaluate Alternatives. Alternatives are evaluated by comparing current and future outputs, costs and physical, biological, economic and social changes for each alternative with evaluation criteria. This evaluation provides a basis for identifying (a) the environmentally preferable alternative, (b) the Forest Service preferred

alternative and (c) the need for an EIS—if not otherwise required.

The evaluation should identify possible conflicts between alternatives "... and the objectives of Federal, regional, State, and local (and in the case of a reservation, Indian tribe) land use plans, policies and controls for the area concerned." (40 CFR 1502.16(c)).

When the need for an EIS has not already been established (FSM 1952.22), the significance of effects should be considered in terms of context and intensity in evaluating the need for an EIS:

"Context * * * means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.

"Intensity * * * refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:

(1) Impacts that may be both beneficial and adverse. A significant effect exists even if the Federal agency believes that on balance the effect will be beneficial.

(2) The degree to which the proposed action affects public health or safety.

(3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical area.

(4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.

(5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

(6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

(8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

(9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

(10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment." (40 CFR 1508.27).

1951.9—Identification Of The Forest Service Preferred Alternative. Based on evaluation of the alternatives, the responsible official identifies a preferred alternative.

The rationale used in identification of the preferred alternative must be documented in the EA or EIS. In some situations, it may not be desirable to identify a preferred alternative until the draft EIS has been circulated. In these situations, the action of identifying the preferred alternative is not taken.

"To assess the adequacy of compliance with Sec. 102(2)(B) of the Act, the statement (or assessment) shall, when a cost-benefit analysis is prepared, discuss the relationship between that analysis and any analyses of unquantified environmental impacts, values, and amenities. For purposes of complying with the Act, the weighing of the merits and drawbacks of the various alternatives need not be displayed in a monetary cost-benefit analysis and should not be when there are important qualitative considerations. In any event, an environmental impact statement (or assessment) should at least indicate those considerations, including factors not related to environmental quality which are likely to be relevant and important to a decision." (40 CFR 1502.23).

1952—Documentation. This section discusses environmental assessments, environmental impact statements, notices of intent and findings of no significant impact. These documents describe the results of the environmental analysis and are most often prepared from interim records developed during the various steps of the analysis. Environmental assessments are prepared to document the environmental analysis for those actions when an EIS is not required. They may be supplemented or revised as necessary.

Environmental impact statements are prepared first in draft form and are filed with the EPA and circulated for public review and comment.

Following the review period, a final environmental impact statement is prepared. Both draft and final environmental impact statements may be supplemented or revised.

"An agency may adopt a Federal draft or final environmental impact statement or portion thereof provided that the statement or portion thereof meets the standards for an adequate statement under these regulations." (40 CFR 1508.3a).

"If the actions covered by the original environmental impact statement and the proposed actions are substantially the same, the agency adopting another agency's statement is not required to recirculate it

except as a final statement. Otherwise the adopting agency shall treat the statement as a draft and recirculate it (except as provided in paragraph (c) of this section)." (40 CFR 1508.3b).

"A cooperating agency may adopt without recirculating the environmental impact statement of a lead agency when, after an independent review of the statement, the cooperating agency concludes that its comments and suggestions have been satisfied." (40 CFR 1506.3c).

"When an agency adopts a statement which is not final within the agency that prepared it, or when the action it assesses is the subject of a referral under 40 CFR part 1504, or when the statement's adequacy is the subject of a judicial action which is not final, the agency shall so specify." (40 CFR 1506.3d).

"Responsible officials shall make sure the proposal which is the subject of an environmental impact statement (or assessment) is properly defined. Proposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement." (40 CFR 1502.4a).

"Environmental impact statements (or assessments) may be prepared, and are sometimes required, for broad Federal actions such as the adoption of new agency programs or regulations. Agencies shall prepare statements on broad actions so that they are relevant to policy and are timed to coincide with meaningful points in agency planning and decisionmaking." (40 CFR 1502.4b).

"When preparing statements or assessments on broad actions, including proposals by more than one agency, agencies may find it useful to evaluate the proposal(s) in one of the following ways:

"(1) Geographically, including actions occurring in the same general location, such as a body of water, region, or metropolitan area.

"(2) Generically, including actions which have relevant similarities, such as common timing, impacts, alternatives, methods of implementation, media, or subject matter.

"(3) By stage of technological development including Federal or federally-assisted research, development or demonstration programs for new technologies which, if applied, could significantly affect the quality of the human environment. Statements shall be prepared on such programs and shall be available before the program has reached a stage of investment or commitment to implementation likely to determine subsequent development or restrict later alternatives." (40 CFR 1502.4c).

"Statements (and assessments) shall be concise, clear, and to the point, and shall be supported by evidence that the agency has made the necessary environmental analyses." (40 CFR 1502.1)

When an environmental analysis deals with the establishment of standards, criteria and guidelines as discussed in section 14 of RPA, as amended (section 11 of NFMA), the documentation step will record the

determinations made and accompanying rationale, regarding the degree of public participation.

1952.1—Categorical Exclusions. The following classes of actions do not require an environmental assessment or an environmental impact statement:

1. Internal organizational changes, personnel actions and other similar internal, operational administrative decisions.

2. Funding or scheduling of projects—budget proposals and allocations at all administrative levels of the Forest Service. (This does not relieve officials of the responsibility to prepare environmental documents when otherwise required for the projects involved in the program).

3. Unanticipated emergency situations that require immediate action to prevent or reduce risks to public health or safety or serious resource losses—including, but not limited to, fire suppression, search and rescue and reduction of flood losses.

4. Routine, generally repetitive, operation and/or maintenance to established standards of transportation, transmission, administrative, fire management or resource improvements unless herbicides are involved.

5. Inventories, studies or research activities that have limited context and no or minimal intensity in terms of changes in the physical, biological, economic or social components of the environment.

Categories not listed herein require documentation of the analysis. The responsible official should recognize, however, that there may be circumstances when the environmental analysis will indicate that an action listed above should be documented.

1952.2—Actions Requiring Documentation.

1952.21—Environmental Assessment (EA). An environmental assessment is prepared to document an environmental analysis for which an EIS is not necessary.

1952.22—Environmental Impact Statement (EIS). An environmental impact statement shall be an integral part of the national program required by the Forest and Rangeland Renewable Resources Planning Act (Pub. L. 93-378). Environmental impact statements shall be prepared for:

1. Legislation recommended by the Forest Service.

2. Regional and National Forest land and resource management plans as required by regulations issued pursuant to redesignated section 6 of the Forest and Rangeland Renewable Resources

Planning Act of 1974 as amended (Pub. L. 88-476).

3. Programs, projects or other discretionary actions adversely affecting the existing wilderness characteristics of areas identified as "further planning" in the RARE II process.

4. Other major Federal actions significantly affecting the quality of the human environment that have not been adversely addressed in another environmental impact statement.

"Major" actions and "significant" effects are difficult to define precisely and uniformly because of the great variation in social, economic, physical and biological conditions.

The responsible official must determine through an environmental analysis when environmental impact statements are appropriate. (See FSM 1950.3(2) and FSM 1951.8.)

1952.22a—Legislative Environmental Impact Statements.

"(a) The NEPA process for proposals for legislation significantly affecting the quality of the human environment shall be integrated with the legislative process of the Congress. A legislative environmental impact statement is the detailed statement required by law to be included in a recommendation or report on a legislative proposal to Congress. A legislative environmental impact statement shall be considered part of the formal transmittal of a legislative proposal to Congress; however, it may be transmitted to Congress up to 30 days later in order to allow time for completion of an accurate statement which can serve as the basis for public and Congressional debate. The statement must be available in time for Congressional hearings and deliberations.

"Preparation of a legislative environmental impact statement shall conform to the requirements of these regulations except as follows:

"(1) There need not be a scoping process.

"(2) The legislative statement shall be prepared in the same manner as a draft statement, but shall be considered the 'detailed statement' required by statute, provided, that when any of the following conditions exist both the draft and final environmental impact statement on the legislative proposal shall be prepared and circulated as provided by 40 CFR 1503.1 and 1506.10:

"(i) A Congressional committee with jurisdiction over the proposal has a rule requiring both draft and final environmental impact statements.

"(ii) The proposal results from a study process required by statute (such as those required by the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.) and the Wilderness Act (16 U.S.C. 1131 et seq.)).

"(iii) Legislative approval is sought for Federal or federally-assisted construction or other projects which the agency recommends be located at specific geographic locations.

"(iv) The agency decides to prepare draft and final statements" (40 CFR 1506.8b).

"Comments on the legislative statement shall be given to the lead agency which shall forward them along with its own responses to the Congressional committees with jurisdiction" (40 CFR 1506.8c).

1952.23—Notice Of Intent (NOI).

When it is determined that an EIS is needed, the responsible official will prepare a notice of intent. The notice shall briefly:

"(a) Describe the proposed action and possible alternatives.

"(b) Describe the agency's proposed scoping process including whether, when, and where any scoping meeting will be held.

"(c) State the name and address of a person within the agency who can answer questions about the proposed action and the environmental impact statement." (40 CFR 1508.22).

"(d) The estimated dates for filing the draft and final environmental impact statements."

Notices of intent are used to develop lists of environmental impact statements under preparation. Environmental Coordinators in the Washington, Regional, Station and Area offices shall maintain composite lists of EIS's under preparation. (See section 210, The NEPA Process Handbook.) These composite lists may be distributed to other agencies, organizations, and individuals.

The responsible official for preparation of the EIS shall notify the appropriate Washington, Regional, Station or Area Environmental Coordinators whenever information shown in the notice of intent changes. Significant changes may require publication of a revised notice of intent. If a notice of intent has been distributed and the project application is withdrawn or for some other reason it is no longer necessary to make the decision, the process can be terminated (at any time prior to the record of decision) by preparation of a notice and distributing it in the same manner as the notice of intent.

The notice of intent documents the decision to prepare an EIS. This decision is based on the responsible official's analysis of the need for an EIS pursuant to FSM 1951.8.

1952.24—Finding of No Significant Impact (FONSI).

"Finding of No Significant Impact means a document by a Federal agency briefly presenting the reasons why an action, not otherwise excluded, will not have a significant effect on the human environment and for which an environmental impact statement therefor will not be prepared. It shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it. If the assessment is included, the finding need not repeat any of the discussion in the assessment, but may incorporate it by

reference." (40 CFR 1508.13). (See Section 213 of FSH 1909.15, The NEPA Process Handbook.)

The FONSI shall be included as an integral part of the decision notice.

Responsible officials " " shall make the finding of no significant impact available for public review (including State and areawide clearinghouses) for 30 days before the agency makes its final determination whether to prepare an environmental impact statement and before the action may begin when:

"(i) The proposed action is, or is closely similar to, one which normally requires the preparation of an environmental impact statement.

"(ii) The nature of the proposed action is one without precedent." (40 CFR 1501.4).

In these two situations, the decision notice, and its integral FONSI, shall be made available for a 30-day public review period prior to implementation of the plan, policy, program or project.

1952.3—Format. Environmental assessments and environmental impact statements should generally conform to the following outline. The outline follows the sequence of steps in the environmental analysis (FSM 1951). Sections of the outline may be combined or rearranged in the interest of clarity and brevity.

EA or EIS Outline

1. Cover Sheet. (optional for EA).
 2. Summary. (optional for EA).
 3. Table of Contents. (optional for EA).
 4. Introduction.
 5. Affected Environment.
 6. Evaluation Criteria.
 7. Alternatives Considered.
 8. Effects of Implementation.
 9. Evaluation of Alternatives.
 10. Identification of the Forest Service Preferred Alternative.
 11. Consultation With Others.
 12. Index. (optional for EA).
 13. Appendix. (optional for EA).
- (a) list of preparers.
(b) list of Federal, State and local agencies to whom the the EIS or EA is being sent.
(c) substantive review comments or summaries (final EIS only).

1952.4—Contents. Writers of environmental assessments or environmental impact statements should be concerned with content, clarity and brevity.

Writers " " shall incorporate material into an environmental impact statement (or environmental assessment) by reference when the effect will be to cut down on bulk without impeding agency and public review of the action. The incorporated material shall be cited in the statement (or assessment) and its content briefly described. No material may be incorporated by reference unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment. Material based on proprietary data which is itself not available

for review and comment shall not be incorporated by reference." (40 CFR 1502.21).

Material incorporated by reference is considered reasonably available when:

(a) It is an environmental impact statement that has been filed with the Council or EPA, or

(b) It is a book or other publication generally available in technical libraries, or

(c) It may be obtained (at the usual cost of furnishing such information) from the person listed on the cover sheet as the source of further information.

In final environmental impact statements, the material listed in items 4 through 10 in FSM 1952.3 shall normally not exceed 150 pages (and preferably shorter) or 300 pages for proposals of unusual scope or complexity.

Responsible officials " " shall insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements (and environmental assessments). They shall identify and methodologies used and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions in the statement (or assessment)." (40 CFR 1502.24).

"The draft statement must fulfill and satisfy to the fullest extent possible the requirements established for final statements." (40 CFR 1502.9).

1. Cover sheet. (optional for EA). See section 231, FSH 1909.15, The NEPA Process Handbook, for a sample cover sheet. The cover sheet shall not exceed one page. It shall include:

- "(a) A list of the responsible agencies including the lead agency and any cooperating agencies.
"(b) The title of the proposed action that is the subject of the statement, together with the State(s) and County(ies) (or other jurisdiction if applicable) where the action is located.
"(c) The name, address, and telephone number of the person at the agency who can supply further information.
"(d) A designation of the statement as a draft, final, or draft or final supplement.
"(e) A one-paragraph abstract of the statement.
"(f) The date by which comments must be received." (40 CFR 1502.11). (Draft EIS only).
"(g) The name of the responsible official."

2. Summary. (Optional for EA). The responsible official will determine the need for an environmental assessment summary. It is desirable for lengthy and detailed environmental assessments.

"Each environmental impact statement contain a summary which adequately and accurately summarizes the statement. The summary shall stress the major conclusions, areas of controversy (including issues raised by agencies and the public), and the issues to be resolved (including the choice among

alternatives). The summary will normally not exceed 15 pages. (40 CFR 1502.12).

If a summary is distributed as a separate document, it must:

(a) State how the complete EIS or EA can be obtained or reviewed.

(b) Have a cover sheet attached.

3. Table of contents. (Optional for EA). Self-explanatory.

4. Introduction. (Purpose of and need for action). The introduction briefly describes the nature of the decision to be made. A map showing the general location of the plan or project should be included. Major issues and concerns identified as a result of "scoping" and other essential background information are presented only if important to understanding the decision.

"The statement (or assessment) shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives the proposed action." (40 CFR 1502.15).

Statements must (and assessments may) " " list all Federal permits, licenses, and other entitlements which must be obtained in implementing the proposal. If it is uncertain whether a Federal permit, license, or other entitlement is necessary, the draft environmental impact statement shall and (assessment may) so indicate " ".

5. Affected environment. This section is based on the situation analysis and " " shall succinctly describe the environment of the area(s) to be affected or created by the alternatives under consideration. The descriptions shall be no longer than is necessary to understand the effects of the alternatives. Data and analyses in a statement shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or simply referenced. Agencies shall avoid useless bulk in statements and shall concentrate effort and attention on important issues. Verbose descriptions of the affected environment are themselves no measure of the adequacy of an environmental impact statement." (40 CFR 1502.15).

This description should include major factors affecting and affected by the decision—not just those which are within the control of the Forest Service.

6. Evaluation criteria. This section describes the evaluation criteria which were used to evaluate alternatives. The sources of these criteria should be shown. (Also see FSM 1951.3)

7. Alternatives considered. This section is usually in two parts: The first briefly describes the process used in formulating the alternatives; and the second describes each alternative—including mitigation measures, management and monitoring requirements, as appropriate.

The alternatives described must include:

(a) " " alternatives which were eliminated from detailed study and a brief discussion of the reasons for their having been eliminated.

(b) " " reasonable alternatives not within the jurisdiction of the lead agency.

(c) " " the alternative of no action " " (40 CFR 1502.14).

The detail of description should be similar for all alternatives.

8. Effects of implementation. This section describes consequences of implementing each alternative in term of outputs, costs and environmental changes. Objectivity is important. Significant differences of opinion about the kind, amount or duration of effects should be discussed. (See FSM 1951.6).

The description should (commensurate with the importance of the issue):

(a) Identify the assumptions used in estimating the effects of implementation.

(b) Make use of appropriate analyses, data and information. Cite sources used instead of including lengthy analyses in EA's or EIS's.

(c) Express expected environmental changes in quantitative or qualitative terms as applicable, and as necessary to indicate relative differences between the alternative in terms of significance, duration and magnitude of the changes.

(d) Indicate the expected outputs, in terms of goods, services and uses that will result from implementing each alternative. Express the outputs in Service-wide standard terminology. See FSH 1309.11, Management Information Handbook. Use RPA program planning time periods.

(e) Indicate estimated Forest Service expenditures for implementing each alternative. Other public and private expenditures may be shown, as appropriate.

(f) Discuss significant changes (effects) in physical, biological, economic and social components of the environment associated with implementation of each alternative. This includes direct, indirect, cumulative and unavoidable effects, long- and short-term relationships and irreversible and irretrievable resource commitments. It is not mandatory to use separate headings for these items.

"The agency shall make every effort to disclose and discuss at appropriate points in the draft statement all major points of view on the environmental impacts of the alternatives including the proposed action." (40 CFR 1502.9a)

If analyses of economic efficiency (benefit/cost, etc.) have been made, show the results of the analyses here.

"When an agency is evaluating significant adverse effects on the human environment

in an environmental impact statement (or assessment) and there are gaps in relevant information or scientific uncertainty, the agency shall always make clear that such information is lacking or that uncertainty exists.

"If the information relevant to adverse impacts is essential to a reasoned choice among alternatives and is not known and the overall costs of obtaining it are not exorbitant, the agency shall include the information in the environmental impact statement (or assessment)." (40 CFR 1502.22).

"If (1) the information relevant to adverse impacts is essential to a reasoned choice among alternatives and is not known and the overall costs of obtaining it are exorbitant or (2) the information relevant to adverse impacts is important to the decision and the means to obtain it are not known (e.g., the means for obtaining it are beyond the state of the art) the agency shall weigh the need for the action against the risk and severity of possible adverse impacts were the action to proceed in the face of uncertainty. If the agency proceeds, it shall include a worst-case analysis and an indication of the probability or improbability of its occurrence." (40 CFR 1502.22b).

9. Evaluation of alternatives. This section discusses how the alternatives compare with each other in terms of the evaluation criteria. This provides the basis for identification of a preferred alternative. (Also see FSM 1951.8.)

"Statements shall discuss any inconsistency of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned)." (40 CFR 1506.2d).

10. Identification of the Forest Service preferred alternative. This section identifies the preferred alternative and the rationale for preference. If the preferred alternative has not been identified, this should be clearly stated. (Also see FSM 1951.8).

"When a cost-benefit analysis is prepared, discuss the relationship between that analysis and any analyses of unquantified environmental impacts, values, and amenities. For purposes of complying with the Act, the weighing of the merits and drawbacks of the various alternatives need not be displayed in a monetary cost-benefit analysis and should not be when there are important qualitative considerations. In any event, an environmental impact statement should at least indicate those considerations, including factors not related to environmental quality, which are likely to be relevant and important to a decision." (40 CFR 1502.23).

Consultation with others. Document the methods used to obtain public participation and list the agencies and groups consulted during scoping and other steps in the analysis. Individuals may be listed when appropriate. This discussion should relate to substantive information received and used and not

be directed solely to responses and rebuttals.

"Final environmental impact statements shall respond to comments. The agency shall discuss at appropriate points in the final statement any responsible opposing view which was not adequately discussed in the draft statement and shall indicate the agency's response to the issues raised." (40 CFR 1502.9).

This section of a final EIS should describe how the substantive information contained in the review comments (that are included in the appendix) was used, or not used, in the preparation of the final EIS.

Final environmental impact statements should identify changes in the draft EIS content as a result of substantive review comments. Possible changes are to modify the proposed action; formulate, analyze and evaluate alternatives not previously considered; supplement, improve, or modify analyses, or make factual corrections. In addition, it may be desirable to explain why some comments did not warrant changes in the draft EIS content.

12. Index (optional in EA). Environmental impact statements must include an index. The purpose of an index is to make the information in the EIS or EA fully available to the reader without delay. See Chapter 500, FSH 1909.15, The NEPA Process Handbook.

13. Appendix. "The appendix shall:

"(a) Consist of material prepared in connection with an Environmental Impact Statement (or assessment) (as distinct from material which is not so prepared and which is incorporated by reference).

"(b) Normally consist of material which substantiates any analysis fundamental to the impact statement (or assessment).

"(c) Normally be analytic and relevant to the decision to be made.

"(d) Be circulated with the environmental impact statement (or assessment) or be readily available on request." (40 CFR 1502.18).

"(e) The EIS appendix shall, and the EA appendix may, "list the names, together with their qualifications (expertise, experience, professional disciplines), of the persons who were primarily responsible for preparing the environmental impact statement or significant background papers, including basic components of the statement. Where possible the persons who are responsible for a particular analysis, including analyses in background papers, shall be identified. Normally the list will not exceed two pages." (40 CFR 1502.17).

Copies of all substantive comments received on a draft EIS should be included in the appendix of the final EIS. If response has been exceptionally voluminous, it may be summarized. Copies, or summaries of all substantive comments should be included in the

appendix, regardless of whether or not the comments are thought to merit individual attention in the text of the EIS.

The appendix shall contain the list of Federal, State and local agencies to whom copies of the statement are sent.

1952.5—Processing.

1952.51—*Environmental Assessments.* Regional Foresters, Area and Station Directors shall develop procedures as necessary for processing environmental assessments.

1952.52—*Finding Of No Significant Impact.* See FSM 1952.24 and Sections 240 and 320 of FSH 1909.15, The NEPA Process Handbook, regarding processing of the finding of no significant impact. In the case of an action with effects of national concern, the finding shall be published in the *Federal Register* and be sent to State and areawide clearinghouses, the Washington Office Environmental Coordinator, national organizations reasonably expected to be interested and to those who have requested it. For actions of local concern, see FSM 1951.1 for circulation requirements.

1952.53—*Notice of Intent.* See FSM 1952.23 and Section 210 of FSH 1909.15, The NEPA Process Handbook. The notice of intent should be published in the *Federal Register* and a newspaper of general circulation in the area affected by the decision. The appropriate State or areawide clearinghouses should be notified. Copies of the notice may also be distributed to agencies, organizations and individuals as the responsible official feels is appropriate. One copy of the notice of intent must be sent to the Washington Office Environmental Coordinator for use in reporting to the Department.

1952.54—*Environmental Impact Statement.* The following steps are to be taken after a draft EIS has been prepared:

1. File the draft EIS with the EPA and circulate it to agencies and the public.
2. Conduct public participation sessions if appropriate.
3. Review, analyze, evaluate and respond to substantive comments on the draft EIS.
4. Prepare a final EIS.
5. For actions subject to administrative review, (36 CFR 211) file the final EIS, record of decision, (FSM 1953.11) and copies of all substantive comments or summaries thereof on the draft EIS with EPA. Circulate the final EIS and record of decision to other agencies and the public.
6. For actions not subject to administrative review, file the final EIS with EPA and wait 30 days after EPA's

notice of availability is published in the *Federal Register* before signing and dating the record of decision (FSM 1953.12). File the record of decision with EPA and circulate it the same as the final EIS.

1952.54a—*Filing.* Regional Foresters, Station Directors and Area Directors are authorized to file statements directly with the EPA for actions within their authority.

"Environmental impact statements shall be filed with EPA no earlier than they are also transmitted to commenting agencies and made available to the public." (40 CFR 1506.9). This means that the scheduled distribution must be completed before the EIS is filed with the EPA.

Regional Foresters and Station Directors may redelegate as appropriate the authority to file Statements directly with the EPA.

Statements involving legislation, regulations, multi-agency actions at the national level, and Service-wide policy will be filed with the EPA by the Chief's Office.

If the Chief is the responsible official, other levels of the Forest Service may assist with the analysis and preparation of documents. However, each step of the analysis process must be coordinated with the Chief or designated acting.

If the final EIS deals with plans, or projects which make allocations to non-wilderness uses in RARE II "further planning areas," the responsible official shall file the final EIS with the EPA and make public distribution the same as for other EIS's. Three copies of the final EIS and record of decision must be sent to the Washington Office (Office of the Environmental Coordinator) on the day that the record of decision is signed for transmittal to Congressional committees.

See Chapter 400 of FSH 1909.15, The NEPA Process Handbook, for instructions regarding filing procedures.

1952.54b—*Circulation.* Responsible officials shall circulate the entire draft and final environmental impact statements. However, if the statement is unusually long, a summary may be circulated instead, except that the entire statement shall be furnished to:

- "Any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved and any appropriate Federal, State or local agency authorized to develop and enforce environmental standards.
- "The applicant, if any.
- "Any person, organization, or agency requesting the entire environmental impact statement.

"In the case of a final environmental impact statement any person, organization, or agency which submitted substantive comments on the draft.

"If the agency circulates the summary and thereafter receives a timely request for the entire statement and for additional time to comment, the time for that requestor only shall be extended by at least 15 days beyond the minimum period." (40 CFR 1502.19).

When the EIS is filed with the EPA, the responsible official shall insure that a reasonable number of copies of the statement is available free of charge.

When a summary of an EIS is circulated as a separate document, it must contain a cover sheet as per FSM 1952.4(1).

Copies of all review comments should be available for public and In-Service review in the office of the responsible official or administrative unit affected by the policy, plan, program or project.

Responsible officials should insure that lists of individuals, groups, organizations and governmental agencies which may be interested in reviewing Forest Service environmental impact statements are maintained. Regions are encouraged to develop specific distribution lists. State and areawide clearinghouses should be used, by mutual agreement, for securing reviews of the draft EIS. The responsible official may also deal directly with appropriate State or local officials or agencies if clearinghouses are unwilling or unable to handle this phase of the process. However, clearinghouses should always receive copies of environmental impact statements.

1952.6—*Corrections, Supplements or Revisions.* Environmental assessments and environmental impact statements may be corrected through use of errata sheets or modified by supplements. Draft environmental impact statements may be revised (See FSM 1952.62). Supplements or revisions are prepared, circulated, filed and reviewed the same as the document being modified.

1952.61—*Environmental Assessments.* Additional information may emerge after an EA has been prepared. If the new information involves minor changes, such as typographical corrections, that would not affect public response or the decision, the corrections should be noted in the file copy of the EA.

If the new information may change the decision, the EA should be supplemented or revised.

1952.62—*Draft Environmental Impact Statement.* Errata sheets should be used when minor corrections are necessary that will not materially change the public response or the decision. Typical

items include terminology and typographical corrections.

Responsible officials shall insure preparation of " * * * supplements to either draft or final environmental impact statements if:

- (i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns, or
- (ii) There are significant new circumstances, or information relevant to environmental concerns and bearing on the proposed action or its impacts * * * (40 CFR 1502.9).

Supplements to the draft EIS are used when new or more accurate information may significantly change the public response or the decision.

A supplement to the draft EIS may be desirable whenever a draft was circulated without identification of a preferred alternative.

A revision to a draft EIS is necessary when, in the judgment of the responsible official, comments on the draft clearly indicate that meaningful analysis was not possible.

When a supplement or revision is circulated the transmittal letter should establish a review period of at least 60 days from the date of transmittal of the supplement or revision.

1952.63—*Final Environmental Impact Statements.* Additional information may emerge after a final EIS has been prepared and circulated. If the new information involves minor changes that would not affect public reaction or the decision, the corrections should be noted in the file copy of the final EIS.

If the responsible official determines that the new information might change the decision and require additional public comment, a supplement to the final EIS should be prepared, filed and circulated in the same manner as the original document. When the supplement is circulated in draft form, the transmittal letter shall establish a review period of at least 60 days from the date of transmittal of the supplement, and notify reviewers that a final supplement and a record of decision will be prepared, filed and circulated.

1952.7—COMMENTING

1952.71—*Forest Service Environmental Impact Statements.*
1952.71a—*Draft Environmental Impact Statements.*

"After preparing a draft environmental impact statement and before preparing a final environmental impact statement, the agency shall:

- "Obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved or which is

authorized to develop and enforce environmental standards.

"Request the comments of:

- (i) Appropriate State and local agencies which are authorized to develop and enforce environmental standards;
- (ii) Indian tribes, when the effects may be on a reservation; and,
- (iii) Any agency which has requested that it receive statements on actions of the kind proposed.

"Request comments from the applicant, if any.

"Request comments from the public, affirmatively soliciting comments from those persons or organizations who may be interested or affected." (40 CFR 1503.1(a)).

A period of at least 60 days from the date of transmittal to the Environmental Protection Agency, and the public will be allowed for comment. The responsible official may extend the comment period. Comments on the draft EIS may be received after the review period is closed and before the final EIS is filed. They should be used, if possible to do so without major difficulty. If it is too late to incorporate them in the final EIS, they should be made available to the responsible official for consideration prior to making the decision.

1952.71b—*Final Environmental Impact Statements.* For decisions subject to the administrative review process, a period of not less than 30 days from the date of publication in the *Federal Register* of EPA's notice of availability of the FEIS, will be allowed before decisions are implemented.

For decisions not subject to the administrative review process, the record of decision will be filed 30 days after EPA has published the notice of availability in the *Federal Register* and implementation may take place immediately. Comments received after the final EIS is filed should be answered on an individual basis.

"(a) An agency preparing a final environmental impact statement shall assess and consider comments both individually and collectively, and shall respond by one or more of the means listed below, stating its response in the final statement. Possible responses are to:

- (1) Modify alternatives including the proposed action.
- (2) Develop and evaluate alternatives not previously given serious consideration by the agency.
- (3) Supplement, improve or modify its analyses.
- (4) Make factual corrections.
- (5) Explain why the comments do not warrant further agency response, citing the sources, authorities or reasons which support the agency's position and, if appropriate, indicate those circumstances which would trigger agency reappraisal or further response.

"(b) All substantive comments received on the draft statement (or summaries thereof where the response has been exceptionally voluminous) should be attached to the final statement whether or not the comment is thought to merit individual discussion by the agency in the text of the statement.

"(c) If changes in response to comments are minor and are confined to the responses described in paragraphs (a) (4) and (5) of this section, agencies may write them on errata sheets and attach them to the statement instead of rewriting the draft statement. In such cases only the comments, the responses, and the changes and not the final statement need to be circulated. The entire document with a new cover sheet shall be filed as the final statement." (40 CFR 1503.4).

1952.72—*Review of Other Agency Environmental Impact Statements.* When requested to do so, the Forest Service must review and comment on environmental impact statements prepared by other agencies because of special expertise. When another agency proposal involves or affects National Forest System lands, or prime timber lands, the Forest Service shall review the environmental impact statement.

Unless otherwise assigned by the Chief, review and comment on legislative or other major policies, regulations or national program proposals will be made by the Washington Office. The Regional Forester or Area Director in whose region or area a proposal is located will review other environmental impact statements and submit comments directly to the appropriate agency. Where appropriate, statements should be sent to Station Directors or other Forest Service officials for comment. When another agency's environmental impact statement involves more than one Region, the responses shall be coordinated with the Washington Office Environmental Coordinator.

When reviewing other agency's statements, responsible officials shall insure " * * * comment within the time period specified for comment." (40 CFR 1503.2). If appropriate, a no-comment response can be made. If the Forest Service is a cooperating agency and " * * * is satisfied that its views are adequately reflected in the environmental impact statement, it should reply that it has no comment." (40 CFR 1503.2).

"Comments on an environmental impact statement or on a proposed action shall be as specific as possible and may address either the adequacy of the statement or the merits of the alternatives discussed or both.

"When a commenting agency criticizes a lead agency's predictive methodology, the commenting agency should describe the alternative methodology which it prefers and why.

"A cooperative agency shall specify in its comments whether it needs additional information to fulfill other applicable environmental reviews or consultation requirements and what information it needs. In particular, it shall specify any additional information it needs to comment adequately on the draft statement's analysis of significant site-specific effects associated with the granting or approving by that cooperating agency of necessary Federal permits, licenses, or entitlements.

"When a cooperating agency with jurisdiction by law objects to or expresses reservations about the proposal on grounds of environmental impacts, the agency expressing the objection or reservation shall specify the mitigation measures it considers necessary to allow the agency to grant or approve applicable permit, license, or related requirements of concurrences." (40 CFR 1503.3).

One copy of Forest Service comments on other agency environmental impact statements should be sent to the Washington Office Environmental Coordinator. If comments are made on final environmental impact statements, one copy should also be sent to EPA.

1952.72a—Referrals. When it has been determined, after review of another agency's environmental impact statement, that the proposal would be environmentally unsatisfactory, the matter will be referred to the Council by the Secretary's Office. Referrals should reflect a careful determination that the proposed action raises significant environmental issues of national importance. However, referrals will only be made to Council after concerted, timely, but unsuccessful attempts to resolve the differences with the proposing agency.

If an agreement cannot be reached, the lead agency shall be advised at the earliest possible time (in a letter signed by the Secretary of Agriculture) of the Department's intent to refer a proposal to the Council. Such advice shall be included in Forest Service comments on the lead agency's draft EIS unless the draft EIS contains insufficient information to permit an assessment of the proposal's environmental acceptability. (Where such needed information is not contained in the draft EIS, the Forest Service shall identify the needed information and request that it be made available by the lead agency at the earliest possible time).

The referral package shall be sent to the Chief's Office and shall consist of: A draft letter to be signed by the Secretary informing the lead agency of the referral, the reasons for it and requesting that the lead agency take no action to implement the proposal until the referral is acted upon by the Council. The letter shall

include a statement supported by evidence as to the specific facts, or controverted facts, leading to the conclusion that the proposal is unsatisfactory from the standpoint of public health or welfare or environmental quality. The statement shall:

1. Identify any material facts in controversy as well as incorporate (by reference if appropriate) agreed upon facts.
2. Identify any existing environmental laws or policies which would be violated by the proposal.
3. Present the reasons the Forest Service believes the proposal is environmentally unsatisfactory.
4. Contain a finding as to whether the issue raised is one of national importance because of the threat to national environmental resources or policies for some other reason.
5. Review the steps taken by the Forest Service to bring our concerns to the attention of the lead agency at the earliest possible time, and
6. Give Forest Service recommendations as to what mitigation, alternatives, further study or other course of action (including abandonment of the proposal) are necessary to remedy the situation.

The referral shall be delivered by the Secretary's Office to the Council not later than 25 days after the final EIS is made available to the EPA, commenting agencies and the public, except where an extension has been granted by the lead agency. The 25-day time period is extremely short; therefore, referral documentation must begin when another agency draft EIS proposes an environmentally unacceptable action. Usually such situations will only occur when National Forest System lands are involved. The Forest Service official responsible for commenting on the statement should notify the originating agency that a referral will be recommended to the Secretary if the condition is not remedied in the final EIS. Upon receipt of the final EIS, if the condition is not remedied, documentation and request for referral should be sent immediately to the Chief for handling.

1953—DECISION

1953.1—Record of Decision. A record of decision is a separate document which records the decision of the responsible official. The record of decision shall:

1. ... state what the decision was.
2. ... identify all alternatives considered by the agency in reaching its decision, specifying the alternative or alternatives which were considered to be

environmentally preferable. An agency may discuss preferences among alternatives based on relevant factors including economic and technical considerations and agency statutory missions. An agency shall identify and discuss all such factors including any essential considerations of national policy which were balanced by the agency in making its decision and state how those considerations entered into its decision.

3. ... state whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not. A monitoring and enforcement program shall be adopted and summarized where applicable for any mitigation." (40 CFR 1502.2)

4. Explain the timing and public right of administrative review when appropriate.

See Exhibit 1 for a listing of conditions that must be met prior to a decision.

The record of decision should be sent to:

1. Individuals, organizations or agencies affected by the decision.
2. Others who have requested such notice in writing.
3. The Washington Office Environmental Coordinator for use in Departmental reporting.

In addition, the public may be notified by publishing the record of decision in a newspaper of general circulation in the area affected by the decision. See section 310 of FSH 1909.15, The NEPA Process Handbook for a sample record of decision. When joint lead agencies are identified in an EIS, the responsible official from each agency shall sign and date the record of decision for those actions within their authority. Separate records of decision may be prepared by each responsible official.

1953.11—Record Of Decision For Actions Subject To Administrative Review. (36 CFR 211.19). The record of decision establishes the date of decision and must be dated on the date that it and the final EIS are transmitted to the EPA and made available to the public. The 45-day period for administrative reviews (appeals) (36 CFR 211.19d) therefore starts with the date on the record of decision. Records of decision must not be predated nor postdated. Records of decision shall not be signed and dated until at least 60 days after the EPA publishes the notice of availability of the draft EIS in the Federal Register, unless the EPA has reduced or extended the standard period for comment.

If a separate summary of the final EIS is distributed, the record of decision should also be attached to each summary before distribution.

The record of decision for actions subject to administrative review should

state that implementation will not take place until at least 45 days from the date that the record is transmitted to the EPA and made available to the public.

1953.12—Record of Decision For Actions Not Subject To Administrative Review (36 CFR 211.19). Land and resource management plans prepared under the National Forest Management Act, section 6 regulations, are excluded from administrative review in proposed regulations issued May 4, 1979, if the selected harvest schedule is not the base timber harvest schedule for the designated forest planning area (36 CFR 219.12).

Forest Service actions that do not involve the National Forest System are also excluded.

The record of decision shall not be signed and dated until 30 days after the notice of availability of the final EIS is published by EPA in the Federal Register.

1953.2—Decision Notice. A decision notice is normally a separate document

which is attached to environmental assessments. It may be an integral part of simple EA's, rather than a separate document. (See section 320 of FSH 1909.15, The NEPA Process Handbook, sample 2).

The responsible official should insure that the public is notified of the decision, as appropriate. (FSM 1951.1 and 1952.52). The decision notice shall be dated on the date that it and the EA are made available to the public. Decision notices must not be predated nor postdated. The 45-day period for administrative review (appeals) (36 CFR 211.19c) starts with the date of the decision, which is the date on the decision notice.

The decision notice should clearly identify (a) the decision, (b) the rationale used, (c) the environmental consideration used in the decisionmaking and (d) the finding of no significant impact.

1953.21—Decision Notice For Unprecedented Actions Or Actions

Exhibit 1

If an EIS is required for	These conditions must be met prior to a decision	These conditions must be met prior to implementation
Plans, programs or projects other than (a) land management plans, (b) decisions affecting the existing wilderness character of RARE II "further planning" areas or (c) areas involved in pending legislation for wilderness designation.	1. 45 days have elapsed since the notice of availability of the draft EIS was published in the FEDERAL REGISTER by EPA. 2. A final EIS that responds to comments on the draft EIS has been prepared.	1. 45 days have elapsed since the record of decision was signed and dated. 2. 30 days have elapsed since the date of publication of the notice of the final EIS in the FEDERAL REGISTER by EPA.
Plans (other than land management plans), programs or projects adversely affecting the existing wilderness character of RARE II "further planning" areas.	1. 45 days have elapsed since the notice of availability of the draft EIS was published in the FEDERAL REGISTER by EPA. 2. A final EIS that responds to comments on the draft EIS has been prepared.	1. 45 days have elapsed since the record of decision was signed and dated. 2. 30 days have elapsed since the date of publication of the notice of the final EIS in the FEDERAL REGISTER by EPA. 3. 90 days while Congress is in session have elapsed since the date of publication of the notice of availability of the final EIS in the FEDERAL REGISTER. 4. An extension of time has not been requested by the appropriate Congressional committee chairman. 5. The Washington Office has notified the responsible official that condition 4 above has been met.
Land management or other plans, programs or projects affecting areas involved in pending legislation for wilderness designation.	1. 45 days have elapsed since the notice of availability of the draft EIS was published in the FEDERAL REGISTER by EPA. 2. A final EIS that responds to comments on the draft EIS has been prepared. 3. Approval has been received from the Chief.	1. 45 days have elapsed since the record of decision was signed and dated. 2. 30 days have elapsed since the date of publication of the notice of availability of the final EIS in the FEDERAL REGISTER by EPA. 3. The W.O. has notified the responsible official that the Department has no objections.
Land management plans ¹	1. 90 days or 3 months, whichever is longer, have elapsed since the notice of availability of the draft EIS was published in the FEDERAL REGISTER. 2. A final EIS that responds to comments on the draft EIS has been prepared. 3. 30 days have elapsed since the notice of availability of the final EIS was published in the FEDERAL REGISTER.	1. A record of decision has been signed and dated. 2. The W.O. has notified the responsible official that the Department has no objections. 3. An extension of time has not been requested by the appropriate Congressional committee chairman. 4. The W.O. has notified the responsible official that condition 3 above has been met.
Actions not concerning the National Forest System (i.e., not subject to administrative review) (36 CFR 211.19).	1. 90 days have elapsed since the notice of availability of the draft EIS was published in the FEDERAL REGISTER. 2. 30 days have elapsed since the notice of availability of the final EIS was published in the FEDERAL REGISTER.	1. A record of decision has been signed and dated.

¹Implementation conditions 2, 3, and 4 apply only to those plans that allocate RARE II "further planning" areas to wilderness or nonwilderness uses.

²This 90-day period and the 30-day period may run concurrently provided a 45-day period for comment is provided.

1954—IMPLEMENTATION, MONITORING, AND CONTROL.

1954.1—Implementation. Conditions listed in Exhibit 1 must be met prior to

implementation of the decision, if an EIS is required. Implementation of actions documented in an environmental

Similar To Those Which Normally Require An EIS. The decision notice shall not be signed and dated until after the finding of no significant impact has been available for public review for a 30-day period (including State and areawide clearinghouses) when:

- (1) The proposed action is, or is closely similar to one which normally requires preparation of an EIS, or
- (2) The nature of the proposed action is without precedent.

In these cases, the decision notice constitutes the final determination that an EIS is not needed. This should be stated in the decision notice.

1953.22—Decision Notice For Actions Involving Flood Plains Or Wetlands. The decision notice shall be signed and dated as specified in FSM 1953.2, and shall state that implementation will not take place until 30 days have elapsed to allow a reasonable period of public review as required by E.O. 11988 and E.O. 11990.

assessment not involving flood plains and wetlands may take place immediately after the decision notice is signed and dated.

Implementation specifically includes responding to any commitments for mitigation or monitoring included in the EA, final EIS, record of decision or decision notice.

1954.2—Monitoring. Actions will be implemented and monitored to insure that (1) environmental safeguards are executed according to plan, (2) necessary adjustments are made to achieve desired environmental effects and (3) anticipated results and projections are reviewed.

Responsible officials "may provide for monitoring to assure that their decisions are carried out and should do so in important cases. Mitigation . . . and other conditions established in the environmental impact statement or during its review and committed as part of the decision shall be implemented by the lead agency or other appropriate consenting agency. The lead agency shall:

(a) Include appropriate conditions in grants, permits, or other approvals.

(b) Condition funding of actions on mitigation.

(c) Upon request, inform cooperating or commenting agencies on progress in carrying out mitigation measures which they have proposed and which were adopted by the agency making the decision.

(d) Upon request, make available to the public the results of relevant monitoring." (40 CFR 1505.3).

1954.3—Control. Management reviewers (FSM 1410) will discuss the results and environmental effects of plans, projects and programs as part of activity, program and general management reviews at all organizational levels. Such a review should compare the actual on-the-ground results with anticipated effects described in the EA or final EIS.

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Monday
July 30, 1979

Part V

Federal Labor Relations Authority; General Counsel of the Federal Labor Relations Authority and Federal Service Impasses Panel

Processing of Cases; Authority and
Assigned Responsibilities of the General
Counsel

FEDERAL LABOR RELATIONS AUTHORITY, GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY, AND FEDERAL SERVICE IMPASSES PANEL

[5 CFR Chapter XIV]

Processing of Cases; Interim Rules

AGENCY: Federal Labor Relations Authority (including the General Counsel of the Federal Labor Relations Authority) and Federal Service Impasses Panel.

ACTION: Interim rules and regulations; request for comments.

SUMMARY: These interim rules and regulations principally govern the processing of cases by the Federal Labor Relations Authority (Authority), the General Counsel of the Federal Labor Relations Authority (General Counsel), and the Federal Service Impasses Panel (Panel) under chapter 71 of title 5 of the United States Code. These interim rules and regulations are required by Title VII of the Civil Service Reform Act of 1978 and will expire no later than January 31, 1980.

DATES: Effective Date: July 30, 1979.

Comment Date: Written comments will be considered if received no later than October 31, 1979.

ADDRESS: Send written comments relating to subchapters A, B and C of the interim rules and regulations to the Federal Labor Relations Authority, 1900 F Street, NW., Washington, DC 20424.

Send written comments relating to subchapter D of the interim rules and regulations to the Federal Service Impasses Panel, 1730 K Street, NW., Suite 209, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT:

Jerome P. Hardiman, Director, Office of Operations, Authority, (202) 254-7362.
S. Jesse Reuben, Associate General Counsel, (202) 523-7262.

Howard W. Solomon, Executive Director, Panel (202) 653-7078.

David L. Feder, Attorney-Advisor/Trial Office of the General Counsel (202) 523-7262.

SUPPLEMENTARY INFORMATION: Effective January 1, 1979, the Authority and the Panel issued the first of two documents (here republished) revising chapter XIV of title 5 of the Code of Federal Regulations in its entirety (44 FR 5). That first document set forth subchapter A of this chapter and, consistent with the requirements of Reorganization Plan No. 2 of 1978, provided the transition rules and regulations: to govern the processing of cases pending on

December 31, 1978, before the Federal Labor Relations Council, the Assistant Secretary of Labor for Labor-Management Relations (and the Vice Chairman of the Civil Service Commission when performing the duties of the Assistant Secretary), and the Panel; to govern the processing of cases filed with the Authority and the Panel during the period of January 1 through January 10, 1979; and to govern the processing of all unfair labor practice cases filed with the Authority on or after January 11, 1979, based on occurrences prior to January 11, 1979.

The present document amends § 2400.2 of the above-mentioned transition rules and regulations to delete those provisions for the processing of all unfair labor practice cases filed with the Authority on or after January 11, 1979, based on occurrences prior to January 11, 1979, consistent with the previously issued Notice of the Authority relating to practices under the Transition Rules and Regulations of the Authority dated March 7, 1979 (44 FR 14634).

The second document previously issued by the Authority and here also republished contained provisions concerning public observation of meetings of the Authority (44 FR 10047).

The present document renames Chapter XIV of title 5 of the Code of Federal Regulations. It further sets forth the balance of the revision of this chapter, namely, subchapters B, C and D of this chapter, and, consistent with the provisions of chapter 71 of title 5 of the United States Code, covers the following matters:

Subchapter B of the interim rules and regulations contains general provisions concerning public access to information from the Authority, the General Counsel, or the Panel; procedures authorizing an individual's access to records maintained about the individual, limiting the access of other persons to those records, and permitting an individual to request the amendment or correction of records about the individual; public observation of meetings of the Authority; prohibitions of ex parte communications to or by any Authority member, Administrative Law Judge, or other Authority employees; and the standards of conduct and responsibilities to be maintained by officers and employees, including special Government employees, of the Authority, the General Counsel, and the Panel.

Subchapter C of the interim rules and regulations contains procedures, basic principles or criteria under which the Authority of the General Counsel, as applicable, will determine the

appropriateness of units; supervise or conduct elections; resolve issues relating to determining the appropriateness of units; supervise or conduct elections; resolve issues relating to national consultation rights; resolve issues relating to determining compelling need for agency rules or regulations; resolve issues relating to the duty to bargain in good faith; resolve issues relating to the granting of consultation rights on Government-wide rules or regulations; conduct hearings and resolve complaints of unfair labor practices; resolve exceptions to arbitrators' awards; and take such other actions as are necessary and appropriate effectively to administer the provisions of chapter 71 of title 5 of the United States Code.

Subchapter D of the interim rules and regulations contains procedures and methods which the Panel will utilize in the resolution of negotiation impasses when voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or any other third-party mediation, fail to resolve the disputes.

The Authority, the General Counsel, and the Panel find that the purposes of the interim rules and regulations here involved, along with the urgent need to avert a serious disruption of the Federal labor-management relations program and to avoid any prejudice to the rights of interested parties, establish good cause for immediately publishing these interim rules and regulations in the Federal Register. The interim rules and regulations will continue to be applied until their expiration on January 31, 1980, or upon the effective date of final rules and regulations prior to January 31, 1980. Interested labor organizations, agencies and other persons may comment in writing and such comments should be submitted no later than October 31, 1979.

Accordingly, chapter XIV of title 5 of the Code of Federal Regulations is revised in its entirety to read as follows:

CHAPTER XIV—FEDERAL LABOR RELATIONS AUTHORITY, GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY AND FEDERAL SERVICE IMPASSES PANEL

Subchapter A—Transition Rules and Regulations

Part
2400 Processing of Cases Pending as of December 31, 1978 and Cases Filed During the Period of January 1 Through January 10, 1979

INTERIM RULES AND REGULATIONS

Subchapter B—General Provisions

Part
2410 [Reserved]
2411 Availability of Official Information
2412 Privacy
2413 Open Meetings
2414 Ex Parte Communications
2415 Employee Responsibility and Conduct

Subchapter C—Federal Labor Relations Authority and General Counsel of the Federal Labor Relations Authority

2420 Purpose and Scope
2421 Meaning of Terms As Used in this Subchapter
2422 Representation Proceedings
2423 Unfair Labor Practice Proceedings
2424 Review of Negotiability Issues
2425 Review of Arbitration Awards
2426 National Consultation Rights and Consultation Rights on Government-wide Rules or Regulations
2427 General Statements of Policy or Guidance
2428 Enforcement of Assistant Secretary Standards of Conduct Decisions and Orders
2429 Miscellaneous and General Requirements

Subchapter D—Federal Service Impasses Panel

2470 General
2471 Procedures of the Panel
Appendix A—Temporary Addresses and Geographic Jurisdictions.
Appendix B—Forms.

SUBCHAPTER A—TRANSITION RULES AND REGULATIONS

PART 2400 PROCESSING OF CASES PENDING AS OF DECEMBER 31, 1978 AND CASES FILED DURING THE PERIOD OF JANUARY 1 THROUGH JANUARY 10, 1979.

Sec.
2400.1 Scope and purpose.
2400.2 Processing of unfair labor practice, representation, grievability/arbitrability and national consultation rights cases.
2400.3 Processing of standards of conduct cases.
2400.4 Processing of negotiability cases.
2400.5 Processing of arbitration cases.
2400.6 Processing of Panel cases.

Authority: Reorganization Plan No. 2 of 1978, 43 FR 36037; 5 U.S.C. 3301, 7301; E.O. 11491, 34 FR 17605, 3 CFR, 1966-1970 Comp., p. 861; as amended by E.O. 11616, 38 FR 17319, 3 CFR, 1971-1975 Comp., p. 605; E.O. 11638, 38 FR 24901, 3 CFR, 1971-1975 Comp., p. 634; E.O. 11838, 40 FR 5743 and 7391, 3 CFR, 1971-1975 Comp., p. 957; E.O. 11901, 41 FR 4807, 3 CFR, 1976 Comp., p. 87; E.O. 12027, 42 FR 61851, 3 CFR, 1977 Comp., p. 159; and E.O. 12107, 44 FR 1055.

§ 2400.1 Scope and purpose.

This subchapter contains transition rules and regulations issued pursuant to Section 307 of Reorganization Plan No. 2 of 1978, and section 4(b) and 5(c) of Executive Order 11491, as amended, to govern the processing of all cases which are pending on December 31, 1978, before the Federal Labor Relations Council (Council), the Assistant Secretary of Labor for Labor-Management Relations (Assistant Secretary), the Vice Chairman of the Civil Service Commission (Vice Chairman) when performing the duties of the Assistant Secretary, and the Federal Service Impasses Panel (Panel); and to govern the processing of all cases filed with the Authority and the Panel during the period January 1 through January 10, 1979.

§ 2400.2 Processing of unfair labor practice, representation, grievability/arbitrability and national consultation rights cases.

All unfair labor practice, representation, grievability/arbitrability and national consultation rights cases pending before the Assistant Secretary and the Vice Chairman on December 31, 1978 (including cases the time limit for which an appeal to the Council has not expired under the Council's rules and regulations), all such cases pending before the Council on December 31, 1978, and all such cases filed with the Authority during the period January 1 through January 10, 1979, shall be processed by the Authority in accordance with the Rules and Regulations of the Office of the Assistant Secretary for Labor-Management Relations, Title 29, Code of Federal Regulations, Part 201 *et seq.* (Revised as of July 1, 1978) and the Rules and Regulations of the Federal Labor Relations Council, Title 5, Code of Federal Regulations, Part 2411 *et seq.* (Revised as of January 1, 1978); *except* that, as appropriate:

(a) The word "Authority" shall be substituted wherever the word "Council" appears in such rules and regulations;

(b) The word "Authority" shall be substituted wherever the words "Assistant Secretary" or "Vice Chairman" appear in the rules and regulations of the Office of the Assistant Secretary, except in Part 204 of such rules;

(c) Wherever the rules and regulations of the Office of the Assistant Secretary require action to be taken by subordinate personnel of the Assistant Secretary, such action shall be taken by

equivalent subordinate personnel of the Authority;

(d) Wherever the rules and regulations of the Council provide for the service of copies of documents on the Assistant Secretary, or provide a right of the Assistant Secretary to intervene in Council proceedings, such provisions shall be deemed inoperative; and

(e) The decision of the Authority when rendered in any case shall be final and not subject to further appeal within the Authority.

§ 2400.3 Processing of standards of conduct cases.

All standards of conduct cases pending before the Assistant Secretary on December 31, 1978 (including cases the time limit for which an appeal to the Council has not expired under the Council's rules and regulations), and all such cases filed with the Assistant Secretary during the period January 1 through January 10, 1979, may be appealed to the Authority under the Rules and Regulations of the Federal Labor Relations Council, Title 5, Code of Federal Regulations, Part 2411 *et seq.* (Revised as of January 1, 1978), except that the word "Authority" shall be substituted, as appropriate, wherever the word "Council" appears in such rules. All standards of conduct cases pending before the Council on December 31, 1978, shall be processed by the Authority in the same manner as Assistant Secretary cases pending before the Council on that date under § 2400.2.

§ 2400.4 Processing of negotiability cases.

All negotiability cases pending before the Council on December 31, 1978, and all negotiability cases filed with the Authority during the period of January 1 through January 10, 1979, shall be processed by the Authority in accordance with the Rules and Regulations of the Federal Labor Relations Council, Title 5, Code of Federal Regulations, Part 2411 *et seq.* (Revised as of January 1, 1978), except that the word "Authority" shall be substituted, as appropriate, wherever the word "Council" appears in such rules.

§ 2400.5 Processing of arbitration cases.

All arbitration cases pending before the Council on December 31, 1978, and all arbitration cases filed with the Authority during the period January 1 through January 10, 1979, shall be processed by the Authority in accordance with the Rules and Regulations of the Federal Labor

Relations Council, Title 5, Code of Federal Regulations, Part 2411 *et seq.* (Revised as of January 1, 1978), except that the word "Authority" shall be substituted, as appropriate, wherever the word "Council" appears in such rules.

§ 2400.6 Processing of Panel cases.

All cases pending before the Panel on December 31, 1978, and all cases filed with the Panel during the period of January 1 through January 10, 1979, shall be processed by the Panel in accordance with the Rules and Regulations of the Federal Service Impasses Panel, Title 5, Code of Federal Regulations, Part 2470 *et seq.* (Revised as of January 1, 1978), except that the word "Authority" shall be substituted, as appropriate, wherever the word "Council" appears in such rules.

Interim Rules and Regulations

SUBCHAPTER B—GENERAL PROVISIONS

PART 2411—AVAILABILITY OF OFFICIAL INFORMATION

Sec.

- 2411.1 Purpose and scope.
- 2411.2 Delegation of authority.
- 2411.3 Information policy.
- 2411.4 Procedure for obtaining information.
- 2411.5 Identification of information requested.
- 2411.6 Time limits for processing requests.
- 2411.7 Appeal from denial of request.
- 2411.8 Extension of time limits.
- 2411.9 Effect of failure to meet time limits.
- 2411.10 Fees.
- 2411.11 Compliance with subpoenas.
- 2411.12 Annual report.

Authority: 5 U.S.C. 552.

§ 2411.1 Purpose and scope.

This part contains the regulations of the Federal Labor Relations Authority, the General Counsel of the Federal Labor Relations Authority and the Federal Service Impasses Panel providing for public access to information from the Authority, the General Counsel or the Panel. These regulations implement the Freedom of Information Act, as amended, 5 U.S.C. 552, and the policy of the Authority, the General Counsel and the Panel to disseminate information on matters of interest to the public and to disclose to members of the public on request such information contained in records insofar as is compatible with the discharge of their responsibilities, consistent with applicable law.

§ 2411.2 Delegation of authority.

(a) *Federal Labor Relations Authority/General Counsel of the Federal Labor Relations Authority.*

Regional Directors of the Federal Labor Relations Authority, the Freedom of Information Officer of the Office of the General Counsel, Washington, D.C., and the Solicitor of the Federal Labor Relations Authority are delegated the exclusive authority to act upon all requests for information, documents and records which are received from any person or organization under § 2411.4(a).

(b) *Federal Service Impasses Panel.* The Executive Director of the Federal Service Impasses Panel is delegated the exclusive authority to act upon all requests for information, documents and records which are received from any person or organization under § 2411.4(b).

§ 2411.3 Information policy.

(a) *Federal Labor Relations Authority/General Counsel of the Federal Labor Relations Authority.* (1) It is the policy of the Federal Labor Relations Authority and the General Counsel of the Federal Labor Relations Authority to make available for public inspection and copying: (i) Final decisions and orders of the Authority and administrative rulings of the General Counsel; (ii) statements of policy and interpretations which have been adopted by the Authority or by the General Counsel and are not published in the *Federal Register*; and (iii) administrative staff manuals and instructions to staff that affect a member of the public (except those establishing internal operating rules, guidelines, and procedures for the investigation, trial, and settlement of cases). Any person may examine and copy items (i) through (iii) at each regional office of the Authority and at the offices of the Authority and the General Counsel, respectively, in Washington, D.C., under conditions prescribed by the Authority and the General Counsel, respectively, and at reasonable times during normal working hours so long as it does not interfere with the efficient operations of the Authority and the General Counsel. To the extent required to prevent a clearly unwarranted invasion of personal privacy, identifying details may be deleted and, in each case, the justification for the deletion shall be fully explained in writing.

(2) It is the policy of the Authority and the General Counsel to make promptly available for public inspection and copying, upon request by any person, other records where the request reasonably describes such records and otherwise conforms with the rules provided herein.

(b) *Federal Service Impasses Panel.* (1) It is the policy of the Federal Service Impasses Panel to make available for

public inspection and copying: (i) Procedural determinations of the Panel; (ii) factfinding and arbitration reports; (iii) final decisions and orders of the Panel; (iv) statements of policy and interpretations which have been adopted by the Panel and are not published in the *Federal Register*; and (v) administrative staff manuals and instructions to staff that affect a member of the public. Any person may examine and copy items (i) through (v) at the Panel's offices in Washington, D.C., under conditions prescribed by the Panel, and at reasonable times during normal working hours so long as it does not interfere with the efficient operations of the Panel. To the extent required to prevent a clearly unwarranted invasion of personal privacy, identifying details may be deleted and, in each case, the justification for the deletion shall be fully explained in writing.

(2) It is the policy of the Panel to make promptly available for public inspection and copying, upon request by any person, other records where the request reasonably describes such records and otherwise conforms with the rules provided herein.

(c) The Authority, the General Counsel and the Panel shall maintain and make available for public inspection and copying the current indexes and supplements thereto which are required by 5 U.S.C. 552(a)(2) and, as appropriate, a record of the final votes of each member of the Authority and of the Panel in every agency proceeding. Any person may examine and copy such document or record of the Authority, the General Counsel or the Panel at the offices of either the Authority, the General Counsel, or the Panel, as appropriate, in Washington, D.C., under conditions prescribed by the Authority, the General Counsel or the Panel at reasonable times during normal working hours so long as it does not interfere with the efficient operations of either the Authority, the General Counsel, or the Panel.

(d) The Authority, the General Counsel or the Panel may decline to disclose any matters exempted from the disclosure requirements in 5 U.S.C. 552(b), particularly those that are:

- (1)(i) Specifically authorized under criteria established by an executive order to be kept secret in the interest of national defense or foreign policy and
- (ii) are in fact properly classified pursuant to such executive order;

(2) Related solely to internal personnel rules and practices of the Authority, the General Counsel or the Panel;

(3) Specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), provided that such statute:

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Interagency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or

(7) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would:

(i) Interfere with an enforcement proceeding;

(ii) Deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Constitute an unwarranted invasion of personal privacy;

(iv) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(v) Disclose investigative techniques and procedures; or

(vi) Endanger the life or physical safety of law enforcement personnel.

(e)(1) The formal documents constituting the record in a case or proceeding are matters of official record and, until destroyed pursuant to applicable statutory authority, are available to the public for inspection and copying at the appropriate regional office of the Authority, or the offices of the Authority, the General Counsel or the Panel in Washington, D.C., as appropriate, under conditions prescribed by the Authority, the General Counsel or the Panel at reasonable times during normal working hours so long as it does not interfere with the efficient operations of either the Authority, the General Counsel or the Panel.

(2) The Authority, the General Counsel or the Panel, as appropriate, shall certify copies of the formal documents upon request made a reasonable time in advance of need and payment of lawfully prescribed costs.

(f) (1) Copies of forms prescribed by the Authority for the filing of charges and petitions may be obtained without charge from any regional office of the Authority.

(2) Copies of forms prescribed by the Panel for the filing of requests may be obtained without charge from the Panel's offices in Washington, D.C.

§ 2411.4 Procedure for obtaining information.

(a) *Federal Labor Relations Authority/General Counsel of the Federal Labor Relations Authority.* Any person who desires to inspect or copy any records, documents or other information of the Authority or the General Counsel, covered by this part, other than those specified in paragraphs (a)(1) and (c) of § 2411.3, shall submit a written request to that effect as follows:

(1) If the request is for records, documents or other information in a regional office of the Authority, it should be made to the appropriate Regional Director;

(2) If the request is for records, documents or other information in the Office of the General Counsel and located in Washington, D.C., it should be made to the Freedom of Information Officer, Office of the General Counsel, Washington, D.C.; and

(3) If the request is for records, documents or other information in the offices of the Authority in Washington, D.C., it should be made to the Solicitor of the Authority, Washington, D.C.

(b) *Federal Service Impasses Panel.* Any person who desires to inspect or copy any records, documents or other information of the Panel covered by this part, other than those specified in paragraphs (b)(1) and (c) of § 2411.3, shall submit a written request to that effect to the Executive Director, Federal Service Impasses Panel, Washington, D.C.

(c) All requests under this part should be clearly and prominently identified as a request for information under the Freedom of Information Act and, if submitted by mail or otherwise submitted in an envelope or other cover, should be clearly identified as such on the envelope or other cover. If a request does not comply with the provisions of this paragraph, it shall not be deemed received by the appropriate Regional Director, the Freedom of Information Officer of the Office of the General Counsel, the Solicitor of the Authority, or the Executive Director of the Panel, as appropriate, until the time it is actually received by such person.

§ 2411.5 Identification of information requested.

(a) Each request under this part should reasonably describe the records being sought in a way that they can be identified and located. A request should include all pertinent details that will help identify the records sought.

(b) If the description is insufficient, the officer processing the request will so notify the person making the request and indicate the additional information needed. Every reasonable effort shall be made to assist in the identification and location of the record sought.

(c) Upon receipt of a request for records, the appropriate Regional Director, the Freedom of Information Officer of the Office of the General Counsel, the Solicitor of the Authority, or the Executive Director of the Panel, as appropriate, shall enter it in a public log. The log shall state the date and time received, the name and address of the person making the request, the nature of the records requested, the action taken on the request, the date of the determination letter sent pursuant to paragraphs (b) and (c) of § 2411.6, the date(s) any records are subsequently furnished, the number of staff-hours and grade levels of persons who spent time responding to the request, and the payment requested and received.

§ 2411.6 Time limits for processing requests.

(a) All time limits established pursuant to this section shall begin as of the time at which a request for records is logged in by the appropriate Regional Director, the Freedom of Information Officer of the Office of the General Counsel, the Solicitor of the Authority, or the Executive Director of the Panel, as appropriate, processing the request pursuant to paragraph (c) of § 2411.5. An oral request for records shall not begin any time requirement. A written request for records sent to other than the appropriate officer will be forwarded to that officer by the receiving officer, but in that event the applicable time limit for response set forth in paragraph (b) of this section shall begin upon the request being logged in as required by paragraph (c) of § 2411.5.

(b) Except as provided in § 2411.8, the appropriate Regional Director, the Freedom of Information Officer of the Office of the General Counsel, the Solicitor of the Authority, or the Executive Director of the Panel, as appropriate, shall, within ten (10) working days following receipt of the request, respond in writing to the requester, determining whether, or the

extent to which, the request shall be complied with.

(1) If all the records requested have been located and a final determination has been made with respect to disclosure of all of the records requested, the response shall so state.

(2) If all of the records have not been located or a final determination has not been made with respect to disclosure of all the records requested, the response shall state the extent to which the records involved shall be disclosed pursuant to the rules established in this part.

(3) If the request is expected to involve an assessed fee in excess of \$25.00, the response shall specify or estimate the fee involved and shall require prepayment of any charges in accordance with the provisions of paragraph (a) of § 2411.10 before the records are made available.

(4) Whenever possible, the response relating to a request for records that involves a fee of less than \$25.00 shall be accompanied by the requested records. Where this is not possible, the records shall be forwarded as soon as possible thereafter, consistent with other obligations of the Authority, the General Counsel or the Panel.

(c) If any request for records is denied in whole or in part, the response required by paragraph (b) of this section shall notify the requester of the denial. Such denial shall specify the reason therefor, set forth the name and title or position of the person responsible for the denial, and notify the person making the request of the right to appeal the denial under the provisions of § 2411.7.

§ 2411.7 Appeal from denial of request.

(a) *Federal Labor Relations Authority/General Counsel of the Federal Labor Relations Authority.* (1) Whenever any request for records is denied, a written appeal may be filed within thirty (30) days after the requester receives notification that the request has been denied or after the requester receives any records being made available, in the event of partial denial. If the denial was made by a Regional Director or by the Freedom of Information Officer of the Office of the General Counsel, the appeal shall be filed with the General Counsel in Washington, D.C. If the denial was made by the Solicitor of the Authority, the appeal shall be filed with the Chairman of the Authority in Washington, D.C.

(2) The Chairman of the Authority or the General Counsel, as appropriate, shall, within twenty (20) working days from the time of receipt of the appeal,

except as provided in § 2411.8, make a determination on the appeal and respond in writing to the requester, determining whether, or the extent to which, the request shall be complied with.

(i) If the determination is to comply with the request and the request is expected to involve an assessed fee in excess of \$25.00, the determination shall specify or estimate the fee involved and shall require prepayment of any charges due in accordance with the provisions of paragraph (a) of § 2411.10 before the records are made available.

(ii) Whenever possible, the determination relating to a request for records that involves a fee of less than \$25.00 shall be accompanied by the requested records. Where this is not possible, the records shall be forwarded as soon as possible thereafter, consistent with other obligations of the Authority or the General Counsel.

(b) *Federal Service Impasses Panel.*

(1) Whenever any request for records is denied by the Executive Director, a written appeal may be filed with the Chairman of the Panel within thirty (30) days after the requester receives notification that the request has been denied or after the requester receives any records being made available, in the event of partial denial.

(2) The Chairman of the Panel, within twenty (20) working days from the time of receipt of the appeal, except as provided in § 2411.8, shall make a determination on the appeal and respond in writing to the requester, determining whether, or the extent to which the request shall be complied with.

(i) If the determination is to comply with the request and the request is expected to involve an assessed fee in excess of \$25.00, the determination shall specify or estimate the fee involved and shall require prepayment of any charges due in accordance with the provisions of paragraph (a) of § 2411.10 before the records are made available.

(ii) Whenever possible, the determination relating to a request for records that involves a fee of less than \$25.00 shall be accompanied by the requested records. Where this is not possible, the records shall be forwarded as soon as possible thereafter, consistent with other obligations of the Panel.

(c) If on appeal the denial of the request for records is upheld in whole or in part by the Chairman of the Authority, the General Counsel, or the Chairman of the Panel, as appropriate, the person making the request shall be notified of the reasons for the

determination, the name and title or position of the person responsible for the denial, and the provisions for judicial review of that determination under 5 U.S.C. 552(a)(4). Even though no appeal is filed from a denial in whole or in part of a request for records by the person making the request, the Chairman of the Authority, the General Counsel or the Chairman of the Panel, as appropriate, may, without regard to the time limit for filing of an appeal, sua sponte initiate consideration of a denial under this appeal procedure by written notification to the person making the request. In such event the time limit for making the determination shall commence with the issuance of such notification.

§ 2411.8 Extension of time limits.

In unusual circumstances as specified in this section, the time limits prescribed with respect to initial determinations or determinations on appeal may be extended by written notice from the officer handling the request (either initial or on appeal) to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in a total extension of more than ten (10) working days. As used in this section, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request:

(a) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(b) The need to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(c) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

§ 2411.9 Effect of failure to meet time limits.

Failure by the Authority, the General Counsel or the Panel either to deny or grant any request under this part within the time limits prescribed by the Freedom of Information Act, as amended, 5 U.S.C. 552, and these regulations shall be deemed to be an exhaustion of the

administrative remedies available to the person making this request.

§ 2411.10 Fees.

Persons requesting records from the Authority, the General Counsel or the Panel shall be subject to a charge of fees for the direct cost of document search and duplication in accordance with the following schedules, procedures and conditions:

(a) The following fees shall be charged for disclosure of any record pursuant to this part:

(1) *Copying of records.* Ten cents per copy of each page.

(2) *Clerical searches.* \$1.25 for each one-quarter hour spent by clerical personnel searching for and producing a requested record, including time spent copying any record.

(3) *Nonclerical searches.* \$2.50 for each one-quarter hour spent by professional or managerial personnel searching for and producing a requested record, including time spent copying any record.

(4) *Forwarding material to destination.* Postage, insurance and special fees will be charged on an actual cost basis.

(b) All charges may be waived or reduced whenever it is in the public interest to do so.

(c) Requests by parties for copies of transcripts of hearings should be made to the official hearing reporter.

(d) No charge shall be made for the time spent in resolving legal or policy issues or in examining records for the purpose of deleting nondisclosable portions thereof.

(e) Payment of fees shall be made by check or money order payable to the U.S. Treasury.

§ 2411.11 Compliance with subpoenas.

No member of the Authority or the Panel, or the General Counsel, or other officer or employee of the Authority, the Panel, or the General Counsel shall produce or present any files, documents, reports, memoranda, or records of the Authority, the Panel or the General Counsel, or testify in behalf of any party to any cause pending in any arbitration or in any court or before the Authority or the Panel, or any other board, commission, or administrative agency of the United States, territory, or the District of Columbia with respect to any information, facts, or other matter to their knowledge in their official capacity or with respect to the contents of any files, documents, reports, memoranda, or records of the Authority, the Panel or the General Counsel, whether in answer to a subpoena, subpoena duces tecum, or

otherwise, without the written consent of the Authority, the Panel or the General Counsel, as appropriate. Whenever any subpoena, the purpose for which is to adduce testimony or require the production of records as described above, shall have been served on any member or other officer or employee of the Authority, the Panel or the General Counsel, such person will, unless otherwise expressly directed by the Authority, the Panel or the General Counsel, as appropriate, and as provided by law, move pursuant to the applicable procedure to have such subpoena invalidated on the ground that the evidence sought is privileged against disclosure by this rule.

§ 2411.12 Annual report.

On or before March 1 of each calendar year, the Executive Director of the Authority shall submit a report of the activities of the Authority, the General Counsel and the Panel with regard to public information requests during the preceding calendar year to the Speaker of the House of Representatives and the President of the Senate for referral to the appropriate committees of the Congress. The report shall include for such calendar year all information required by 5 U.S.C. 552(d) and such other information as indicates the efforts of the Authority, the General Counsel and the Panel to administer fully the provisions of the Freedom of Information Act, as amended.

PART 2412—PRIVACY

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2412.1	Definitions.
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2412.3	Existence of records requests.
2412.4	Individual access requests.
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2412.9	Requests for correction or amendment of records.
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2412.13	Fees.
2412.14	Penalties.
2412.15	Authority: 5 U.S.C. 552a.

§ 2412.1 Purpose and scope.

This part contains the regulations of the Federal Labor Relations Authority, the General Counsel of the Federal Labor Relations Authority and the Federal Service Impasses Panel implementing the Privacy Act of 1974, as

amended, 5 U.S.C. 552a. The regulations apply to all records maintained by the Authority, the General Counsel and the Panel that are contained in a system of records, as defined herein, and that contain information about an individual. The regulations in this part set forth procedures that: (a) authorize an individual's access to records maintained about the individual; (b) limit the access of other persons to those records; and (c) permit an individual to request the amendment or correction of records about the individual.

§ 2412.2 Definitions.

For the purposes of this part—

(a) "Individual" means a citizen of the United States or an alien lawfully admitted for permanent residence.

(b) "Maintain" includes maintain, collect, use or disseminate.

(c) "Record" means any item, collection or grouping of information about an individual that is maintained by the Authority, the General Counsel and the Panel including, but not limited to, the individual's education, financial transactions, medical history and criminal or employment history and that contains the individual's name, or the identifying number, symbol or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

(d) "System of records" means a group of any records under the control of the Authority, the General Counsel and the Panel from which information is retrieved by the name of the individual or by some identifying particular assigned to the individual.

(e) "Routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 2412.3 Annual notice.

The Authority, the General Counsel and the Panel will publish in the Federal Register an annual notice describing the systems of records that the Authority, the General Counsel and the Panel maintain. Those notices shall include: (a) the system name; (b) the system location; (c) the categories of individuals covered by the system; (d) the categories of records in the system; (e) the authority of the Authority, the General Counsel and the Panel to maintain the system; (f) the routine uses of the system; (g) the policies and practices of the Authority, the General Counsel and the Panel for maintenance of the system; (h) the system manager; (i) the procedures for notification, access to and correction of records in the

system; and (j) the sources of information for the system. Notices shall also be published, as required by the Privacy Act of 1974, of significant changes in or additions to the systems of records of the Authority, the General Counsel and the Panel.

§ 2412.4 Existence of records requests.

(a) An individual who desires to know if a system of records maintained by the Authority, the General Counsel and the Panel contains a record pertaining to the individual must submit a written inquiry as follows:

(1) If the system of records is located in a regional office of the Authority, it should be made to the appropriate Regional Director; and

(2) If the system of records is located in the offices of the Authority, the General Counsel or the Panel in Washington, D.C., it should be made to the Deputy Director of Administration of the Authority, Washington, D.C.

(b) The request shall be in writing and should be clearly and prominently identified as a Privacy Act request. If the request is submitted by mail or otherwise submitted in an envelope or other cover, it should bear the legend "Privacy Act Request" on the envelope or other cover. If a request does not comply with the provisions of this paragraph, it shall not be deemed received until the time it is actually received by the appropriate Regional Director or the Deputy Director of Administration of the Authority, as appropriate.

(c) The inquiry must include the name and address of the individual and reasonably describe the system of records in question by the individual. Descriptions of the systems of records maintained by the Authority, the General Counsel and the Panel have been published in the Federal Register.

(d) The appropriate Regional Director or the Deputy Director of Administration of the Authority, as appropriate, will advise the individual in writing within ten (10) working days from receipt of the request whether the system of records named by the individual contains a record pertaining to the individual.

§ 2412.5 Individual access requests.

(a) Any individual who desires to inspect or receive copies of any record pertaining to the individual which is contained in a system of records maintained by the Authority, the General Counsel and the Panel must submit a written request reasonably identifying the records sought to be inspected or copied as follows:

(1) If the system of records is located in a regional office of the Authority, it should be made to the appropriate Regional Director; and

(2) If the system of records is located in the offices of the Authority, the General Counsel or the Panel in Washington, D.C., it should be made to the Deputy Director of Administration of the Authority, Washington, D.C.

(b) The request shall be in writing and should be clearly and prominently identified as a Privacy Act request. If the request is submitted by mail or otherwise submitted in an envelope or other cover, it should bear the legend "Privacy Act Request" on the envelope or other cover. If a request does not comply with the provisions of this paragraph, it shall not be deemed received until the time it is actually received by the appropriate Regional Director or the Deputy Director of Administration of the Authority, as appropriate.

(c) An individual seeking access to a record may, if desired, be accompanied by another person during review of the records. If the requester does desire to be accompanied by another person during the inspection, the requester must sign a statement, to be furnished to the Authority, the General Counsel or the Panel representative, as appropriate, at the time of the inspection, authorizing such other person to accompany the requester.

(d) Satisfactory identification (i.e., employee identification number, current address, and verification of signature) must be provided to the Authority, the General Counsel or the Panel representative, as appropriate, prior to review of the record.

§ 2412.6 Initial decision on access requests.

(a) Within ten (10) working days of the receipt of a request pursuant to § 2412.5, the appropriate Regional Director or the Deputy Director of Administration of the Authority, as appropriate, shall make an initial decision whether the requested records exist and whether they will be made available to the person requesting them. That initial decision shall immediately be communicated, in writing or other appropriate form, to the person who has made the request.

(b) Where the initial decision is to provide access to the requested records, the above writing or other appropriate communication shall:

(1) Briefly describe the records to be made available;

(2) State whether any records maintained, in the system of records in

question, about the individual making the request are not being made available;

(3) State that the requested records will be available during ordinary office hours at the appropriate regional office or offices of the Authority, the General Counsel or the Panel, as appropriate; and

(4) State whether any further verification of the identity of the requesting individual is necessary.

(c) Where the initial decision is not to provide access to requested records, the appropriate Regional Director or the Deputy Director of Administration of the Authority, as appropriate, shall by writing or other appropriate communication explain the reason for that decision. The appropriate Regional Director or the Deputy Director of Administration of the Authority, as appropriate, shall only refuse to provide an individual access where:

(1) There is inadequate verification of identity under § 2412.5(d);

(2) In fact no such records are maintained; or

(3) The requested records have been compiled in a reasonable anticipation of civil or criminal action or proceedings.

§ 2412.7 Special procedures; medical records.

(a) If medical records are requested for inspection which, in the opinion of the appropriate Regional Director or the Deputy Director of Administration of the Authority, as appropriate, may be harmful to the requester if personally inspected by such person, such records will be furnished only to a licensed physician designated to receive such records by the requester. Prior to such disclosure, the requester must furnish a signed written authorization to make such disclosure and the physician must furnish a written request for the physician's receipt of such records to the appropriate Regional Director or the Deputy Director of Administration of the Authority, as appropriate.

(b) If such authorization is not executed within the presence of an Authority, General Counsel or Panel representative, the authorization must be accompanied by a notarized statement verifying the identification of the requester.

§ 2412.8 Limitations on disclosures.

(a) Requests for records about an individual made by persons other than that individual shall also be directed as follows:

(1) If the system of records is located in a regional office of the Authority, it

should be made to the appropriate Regional Director; and

(2) If the system of records is located in the offices of the Authority, the General Counsel or the Panel in Washington, D.C., it should be made to the Deputy Director of Administration of the Authority, Washington, D.C.

(b) Such records shall only be made available to persons other than that individual in the following circumstances:

(1) To any person with the prior written consent of the individual about whom the records are maintained;

(2) To officers and employees of the Authority, the General Counsel and the Panel who need the records in the performance of their official duties;

(3) For a routine use compatible with the purpose for which it was collected;

(4) To any person to whom disclosure is required by the Freedom of Information Act, as amended, 5 U.S.C. 552;

(5) To the Bureau of the Census for uses pursuant to title 13 of the United States Code;

(6) In a form not individually identifiable to a recipient who has provided the Authority, the General Counsel and the Panel with adequate assurance that the record will be used solely as a statistical research or reporting record;

(7) To the National Archives of the United States or other appropriate entity as a record which has historical or other value warranting its preservation;

(8) To another agency or to an instrumentality of any governmental jurisdiction within or under control of the United States for a civil or criminal law enforcement activity that is authorized by law if the head of the agency or instrumentality has made a written request for the record to the Authority, the General Counsel or the Panel;

(9) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual, provided that notification of such a disclosure shall be immediately mailed to the last known address of the individual;

(10) To either House of Congress or to any committee thereof with appropriate jurisdiction;

(11) To the Comptroller General in the performance of the official duties of the General Accounting Office; or

(12) Pursuant to the order of a court of competent jurisdiction.

(c) The request shall be in writing and should be clearly and prominently identified as a Privacy Act request and, if submitted by mail or otherwise

submitted in an envelope or other cover, should bear the legend "Privacy Act Request" on the envelope or other cover. If a request does not comply with the provisions of this paragraph, it shall not be deemed received until the time it is actually received by the appropriate Regional Director or the Deputy Director of Administration of the Authority, as appropriate.

§ 2412.9 Accounting of disclosures.

(a) All Regional Directors of the Authority and the Deputy Director of Administration of the Authority shall maintain a record ("accounting") of every instance in which records about an individual are made available, pursuant to this part, to any person other than:

(1) Officers or employees of the Authority, the General Counsel or the Panel in the performance of their duties; or

(2) Any person pursuant to the Freedom of Information Act, as amended, 5 U.S.C. 552.

(b) The accounting which shall be retained for at least five (5) years or the life of the record, whichever is longer, shall contain the following information:

(1) A brief description of records disclosed;

(2) The date, nature and, where known, the purpose of the disclosure; and

(3) The name and address of the person or agency to whom the disclosure is made.

§ 2412.10 Requests for correction or amendment of records.

(a) After inspection of any records, if the individual disagrees with any information in the record, the individual may request that the records maintained about the individual be corrected or otherwise amended. Such request shall specify the particular portions of the record to be amended or corrected, the desired amendment or correction, and the reasons therefor.

(b) Such request shall be in writing and directed as follows:

(1) If the system of records is located in a regional office of the Authority, it should be made to the appropriate Regional Director; and

(2) If the system of records is located in the offices of the Authority, the General Counsel or the Panel in Washington, D.C., it should be made to the Deputy Director of Administration of the Authority, Washington, D.C.

§ 2412.11 Initial decision on correction or amendment.

(a) Within ten (10) working days from the date of receipt of a request for correction or amendment, the appropriate Regional Director or the Deputy Director of Administration of the Authority, as appropriate, will acknowledge receipt of the request and, under normal circumstances, not later than 30 days from receipt of the request, will give the requesting individual notice, by mail or other appropriate means, of the decision regarding the request.

(b) Such notice of decision shall include:

(1) A statement whether the request has been granted or denied, in whole or in part;

(2) A quotation or description of any amendment or correction made to any records; and

(3) Where a request is denied in whole or in part, an explanation of the reason for that denial and of the requesting individual's right to appeal the decision to the Chairman of the Authority pursuant to § 2412.13.

§ 2412.12 Amendment or correction of previously disclosed records.

Whenever a record is amended or corrected pursuant to § 2412.11 or a written statement filed pursuant to § 2412.13, the appropriate Regional Director or the Deputy Director of Administration of the Authority, as appropriate, shall give notice of that correction, amendment or written statement to all persons to whom the records or copies thereof have been disclosed, as recorded in the accounting kept pursuant to § 2412.9.

§ 2412.13 Agency review of refusal to provide access to, or amendment or correction of, records.

(a) Any individual whose request for access to, or amendment or correction of, records of the Authority, the General Counsel or the Panel has been denied in whole or in part by an initial decision may, within thirty (30) days of the receipt of notice of the initial decision, appeal that decision by filing a written request for review of that decision with the Chairman of the Authority in Washington, D.C.

(b) The appeal shall describe:

(1) the request initially made by the individual for access to, or the amendment or correction of, records;

(2) the initial decision thereupon of the appropriate Regional Director or the Deputy Director of Administration; and

(3) The reasons why that initial decision should be modified by the Chairman of the Authority.

(c) Not later than thirty (30) working days from receipt of a request for review (unless such period is extended by the Chairman of the Authority for good cause shown), the Chairman of the Authority shall make a decision, and give notice thereof to the appealing individual, whether to modify the initial decision of the Regional Director or the Deputy Director of Administration, in any way. If the Chairman of the Authority upholds the Regional Director's or Deputy Director of Administration's initial decision not to provide access to requested records or not to amend or correct the records as requested, the Chairman of the Authority shall notify the appealing individual of the individual's right:

(1) To judicial review of the Chairman of the Authority's decision pursuant to 5 U.S.C. 552a(g)(1)(A); and

(2) To file with the Authority a written statement of disagreement setting forth the reasons why the record should have been amended or corrected as requested. That written statement of disagreement shall be made a part of the record and shall accompany that record in any use or disclosure of the record.

§ 2412.14 Fees.

(a) As provided in this part, the Authority, the General Counsel or the Panel will provide a copy of the records to the individual to whom they pertain. There will be a charge of ten cents per copy of each page.

(b) Any charges may be waived or reduced whenever it is in the public interest to do so.

§ 2412.15 Penalties.

Any person who knowingly and willfully requests or obtains any record concerning an individual from the Authority, the General Counsel or the Panel under false pretenses shall be subject to criminal prosecution under 5 U.S.C. 552a(i)(3) which provides that such person shall be guilty of a misdemeanor and fined not more than \$5,000.

PART 2413—OPEN MEETINGS

Sec.

- 2413.1 Purpose and scope.
- 2413.2 Public observation of meetings.
- 2413.3 Definition of meeting.
- 2413.4 Closing of meetings; reasons therefor.
- 2413.5 Action necessary to close meeting; record of votes.
- 2413.6 Notice of meetings; public announcement and publication.

2413.7 Transcripts, recordings or minutes of closed meeting; public availability; retention.

Authority: 5 U.S.C. 552b.

§ 2413.1 Purpose and scope.

This part contains the regulations of the Federal Labor Relations Authority implementing the Government in the Sunshine Act, 5 U.S.C. 552b.

§ 2413.2 Public observation of meetings.

Every portion of every meeting of the Authority shall be open to public observation, except as provided in § 2413.4, and Authority members shall not jointly conduct or dispose of agency business other than in accordance with the provisions of this part.

§ 2413.3 Definition of meeting.

For purposes of this part, "meeting" shall mean the deliberations of at least two members of the Authority where such deliberations determine or result in the joint conduct or disposition of official agency business, but does not include deliberations to determine whether a meeting should be closed to public observation in accordance with the provisions of this part.

§ 2413.4 Closing of meetings; reasons therefor.

(a) Except where the Authority determines that the public interest requires otherwise, meetings, or portions thereof, shall not be open to public observation where the deliberations concern the issuance of a subpoena, the Authority participation in a civil action or proceeding or an arbitration, or the initiation, conduct or disposition by the Authority of particular cases of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing, or any court proceedings collateral or ancillary thereto.

(b) Meetings, or portions thereof, may also be closed by the Authority, except where it determines that the public interest requires otherwise, when the deliberations concern matters or information falling within the reasons for closing meetings specified in 5 U.S.C. 552b(c)(1) (secret matters concerning national defense or foreign policy); (c)(2) (internal personnel rules and practices); (c)(3) (matters specifically exempted from disclosure by statute); (c)(4) (privileged or confidential trade secrets and commercial or financial information); (c)(5) (matters of alleged criminal conduct or formal censure); (c)(6) (personal information where disclosure would cause a clearly unwarranted invasion of personal

privacy); (c)(7) (certain materials or information from investigatory files compiled for law enforcement purposes); or (c)(9)(B) (disclosure would significantly frustrate implementation of a proposed agency action).

§ 2413.5 Action necessary to close meeting; record of votes.

A meeting shall be closed to public observation under § 2413.4, only when a majority of the members of the Authority who will participate in the meeting vote to take such action.

(a) When the meeting deliberations concern matters specified in § 2413.4(a), the Authority members shall vote at the beginning of the meeting, or portion thereof, on whether to close such meeting, or portion thereof, to public observation and on whether the public interest requires that a meeting which may properly be closed should nevertheless be open to public observation. A record of such vote, reflecting the vote of each member of the Authority, shall be kept and made available to the public at the earliest practicable time.

(b) When the meeting deliberations concern matters specified in § 2413.4(b), the Authority shall vote on whether to close such meeting, or portion thereof, to public observation, and on whether there is a public interest which requires that a meeting which may properly be closed should nevertheless be open to public observation. The vote shall be taken at a time sufficient to permit inclusion of information concerning the open or closed status of the meeting in the public announcement thereof. A single vote may be taken with respect to a series of meetings at which the deliberations will concern the same particular matters where such subsequent meetings are scheduled to be held within thirty (30) days after the initial meeting. A record of such vote, reflecting the vote of each member of the Authority, shall be kept and made available for the public within one (1) day after the vote is taken.

(c) Whenever any person whose interests may be directly affected by deliberations during a meeting, or a portion thereof, requests that the Authority close that meeting, or portion thereof, to public observation for any of the reasons specified in 5 U.S.C. 552b(c)(5) (matters of alleged criminal conduct or formal censure), (c)(6) (personal information where disclosure would cause a clearly unwarranted invasion of personal privacy), or (c)(7) (certain materials or information from investigatory files compiled for law enforcement purposes), the Authority

members participating in the meeting, upon request of any one of its members, shall vote on whether to close such meeting, or a portion thereof, for that reason. A record of such vote, reflecting the vote of each member of the Authority participating in the meeting, shall be kept and made available to the public within one (1) day after the vote is taken.

(d) After public announcement of a meeting as provided in § 2413.6, a meeting, or portion thereof, announced as closed may be opened, or a meeting, or portion thereof, announced as open may be closed only if a majority of the members of the Authority who will participate in the meeting determine by a recorded vote that Authority business so requires and that an earlier announcement of the change was not possible. The change made and the vote of each member on the change shall be announced publicly at the earliest practicable time.

(e) Before a meeting may be closed pursuant to § 2413.4, the Solicitor of the Authority shall certify that in the Solicitor's opinion the meeting may properly be closed to public observation. The certification shall set forth each applicable exemptive provision for such closing. Such certification shall be retained by the agency and made publicly available as soon as practicable.

§ 2413.6 Notice of meetings; public announcement and publication.

(a) A public announcement setting forth the time, place and subject matter of meetings, or portions thereof, closed to public observation pursuant to the provisions of § 2413.4(a), shall be made at the earliest practicable time.

(b) Except for meetings closed to public observation pursuant to the provisions of § 2413.4(a), the agency shall make public announcement of each meeting to be held at least seven (7) days before the scheduled date of the meeting. The announcement shall specify the time, place and subject matter of the meeting, whether it is to be open to public observation or closed, and the name, address, and phone number of an agency official designated to respond to requests for information about the meeting. The seven (7) day period for advance notice may be shortened only upon a determination by a majority of the members of the Authority who will participate in the meeting that agency business requires that such meeting be called at an earlier date, in which event the public announcements shall be made at the earliest practicable time. A record of the

vote to schedule a meeting at an earlier date shall be kept and made available to the public.

(c) With one (1) day after a vote to close a meeting, or any portion thereof, pursuant to the provisions of § 2413.4(b), the agency shall make publicly available a full written explanation of its action closing the meeting, or portion thereof, together with a list of all persons expected to attend the meeting and their affiliation.

(d) If after public announcement required by paragraph (b) of this section has been made, the time and place of the meeting are changed, a public announcement shall be made at the earliest practicable time. The subject matter of the meeting may be changed after the public announcement only if a majority of the members of the Authority who will participate in the meeting determine that agency business so requires and that no earlier announcement of the change was possible. When such a change in subject matter is approved, a public announcement of the change shall be made at the earliest practicable time. A record of the vote to change the subject matter of the meeting shall be kept and made available to the public.

(e) All announcements or changes thereto issued pursuant to the provisions of paragraphs (b) and (d) of this section or pursuant to the provisions of § 2413.5(d) shall be submitted for publication in the Federal Register immediately following their release to the public.

(f) Announcements of meetings made pursuant to the provisions of this section shall be made publicly available by the Executive Director.

§ 2413.7 Transcripts, recordings or minutes of closed meeting; public availability; retention.

(a) For every meeting, or portion thereof, closed under the provisions of § 2413.4, the presiding officer shall prepare a statement setting forth the time and place of the meeting and the persons present, which statement shall be retained by the agency. For each such meeting, or portion thereof, there shall also be maintained a complete transcript or electronic recording of the proceedings, except that for meetings closed pursuant to § 2413.4(a), the Authority may, in lieu of a transcript or electronic recording, maintain a set of minutes fully and accurately summarizing any action taken, the reasons therefor and views thereon, documents considered and the members' vote on each rollcall vote.

(b) The agency shall make promptly available to the public copies of transcripts, recordings or minutes maintained as provided in accordance with paragraph (a) of this section, except to the extent the items therein contain information which the agency determines may be withheld pursuant to the provisions of 5 U.S.C. 552b(c). Copies of transcripts or minutes, or transcriptions of electronic recordings including the identification of speakers, shall to the extent determined to be publicly available, be furnished to any person, subject to the payment of duplication costs in accordance with the schedule of fees set forth in § 2411.10 of this subchapter and the actual cost of transcription.

(c) The agency shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two (2) years after such meeting or until one (1) year after the conclusion of any agency proceeding with respect to which the meeting or portion was held whichever occurs later.

PART 2414—EX PARTE COMMUNICATIONS

Sec.

- 2414.1 Purpose and scope.
 - 2414.2 Unauthorized communications.
 - 2414.3 Definitions.
 - 2414.4 Duration of prohibition.
 - 2414.5 Communications prohibited.
 - 2414.6 Communications not prohibited.
 - 2414.7 Solicitation of prohibited communications.
 - 2414.8 Reporting of prohibited communications; penalties.
 - 2414.9 Penalties and enforcement.
- Authority: 5 U.S.C. 7134.

§ 2414.1 Purpose and scope.

This part contains the regulations of the Federal Labor Relations Authority relating to ex parte communications.

§ 2414.2 Unauthorized communications.

(a) No interested person outside this agency shall, in any agency proceeding subject to 5 U.S.C. 557(a), make or knowingly cause to be made any prohibited ex parte communication to any Authority member, Administrative Law Judge, or other Authority employee who is or may reasonably be expected to be involved in the decisional process of the proceeding.

(b) No Authority member, Administrative Law Judge, or other Authority employee who is or may reasonably be expected to be involved in the decisional process of the proceeding relevant to the merits of the

proceeding shall: (1) Request any prohibited ex parte communications; or (2) make or knowingly cause to be made any prohibited ex parte communications about the proceeding to any interested person outside this agency relevant to the merits of the proceeding.

§ 2414.3 Definitions.

When used in this part:

(a) The term "person outside this agency," to whom the prohibitions apply, shall include any individual outside the Authority, labor organization, agency, or other entity, or an agent thereof, and the General Counsel or his representative when prosecuting an unfair labor practice proceeding before the Authority pursuant to 5 U.S.C. 7118.

(b) The term "ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, subject however, to the provisions of §§ 2414.5 and 2414.6.

§ 2414.4 Duration of prohibition.

Unless otherwise provided by specific order of the Authority entered in the proceeding, the prohibition of § 2414.2 shall be applicable in any agency proceeding subject to 5 U.S.C. 557(a) beginning at the time of which the proceeding is noticed for hearing, unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions shall apply beginning at the time of such person's acquisition of such knowledge.

§ 2414.5 Communications prohibited.

Except as provided in § 2414.6, ex parte communications prohibited by § 2414.2 shall include:

(a) Such communications, when written, if copies thereof are not contemporaneously served by the communicator on all parties to the proceeding in accordance with the provisions of Part 2429 of this chapter; and

(b) Such communications, when oral, unless advance notice thereof is given by the communicator to all parties in the proceeding and adequate opportunity afforded to them to be present.

§ 2414.6 Communications not prohibited.

Ex parte communications prohibited by § 2414.2 shall not include:

(a) Oral or written communications which relate solely to matters which the Hearing Officer, Regional Director, Administrative Law Judge, General Counsel or member of the Authority is

authorized by law or Authority rules to entertain or dispose of on an ex parte basis;

(b) Oral or written requests for information solely with respect to the status of a proceeding;

(c) Oral or written communications which all the parties to the proceeding agree, or which the responsible official formally rules, may be made on an ex parte basis;

(d) Oral or written communications proposing settlement or an agreement for disposition of any or all issues in the proceeding;

(e) Oral or written communications which concern matters of general significance to the field of labor-management relations or administrative practice and which are not specifically related to any agency proceeding subject to 5 U.S.C. 557(a); or

(f) Oral or written communications from the General Counsel to the Authority when the General Counsel is acting on behalf of the Authority under 5 U.S.C. 7123(d).

§ 2414.7 Solicitation of prohibited communications.

No person shall knowingly and willfully solicit the making of an unauthorized ex parte communication by any other person.

§ 2414.8 Reporting of prohibited communications; penalties.

(a) Any Authority member, Administrative Law Judge, or other Authority employee who is or may reasonably be expected to be involved in the decisional process of the proceeding relevant to the merits of the proceeding to whom a prohibited oral ex parte communication is attempted to be made, shall refuse to listen to the communication, inform the communicator of this rule, and advise such person that if the person has anything to say it should be said in writing with copies to all parties. Any such Authority member, Administrative Law Judge, or other Authority employee who is or may reasonably be expected to be involved in the decisional process of the proceeding relevant to the merits of the proceeding who receives, or who makes or knowingly causes to be made, an unauthorized ex parte communication, shall place or cause to be placed on the public record of the proceeding: (1) The communication, if it was written; (2) a memorandum stating the substance of the communication, if it was oral; (3) all written responses to the prohibited communication; and (4) memoranda stating the substance of all oral responses to the prohibited

communication. The Executive Director, if the proceeding is then pending before the Authority, the Administrative Law Judge, if the proceeding is then pending before any such judge, or the Regional Director, if the proceeding is then pending before a Hearing Officer or the Regional Director, shall serve copies of all such materials placed on the public record of the proceeding on all other parties to the proceeding and on the attorneys of record for the parties. Within ten (10) days after the mailing of such copies, any party may file with the Executive Director, Administrative Law Judge, or Regional Director serving the communication, as appropriate, and serve on all other parties, a statement setting forth facts or contentions to rebut those contained in the prohibited communication. All such responses shall be placed in the public record of the proceeding, and provision may be made for any further action, including reopening of the record, which may be required under the circumstances. No action taken pursuant to this provision shall constitute a waiver of the power of the Authority to impose an appropriate penalty under § 2414.9.

§ 2414.9 Penalties and enforcement.

(a) Where the nature and circumstances of a prohibited communication made by or caused to be made by a party to the proceeding are such that the interests of justice and statutory policy may require remedial action, the Authority, Administrative Law Judge, or Regional Director, as appropriate, may issue to the party making the communication a notice to show cause, returnable before the Authority, Administrative Law Judge, or Regional Director, within a stated period not less than seven (7) days from the date thereof, why the Authority, Administrative Law Judge, or Regional Director should not determine that the interests of justice and statutory policy require that the claim or interest in the proceeding of a party who knowingly makes a prohibited communication or knowingly causes a prohibited communication to be made, should be dismissed, denied, disregarded or otherwise adversely affected on account of such violation.

(b) Upon notice and hearing, the Authority may censure, suspend, or revoke the privilege of practice before the agency of any person who knowingly and willfully makes or solicits the making of a prohibited ex parte communication. However, before the Authority institutes formal proceedings under this subsection, it shall first advise the person or persons

concerned in writing that it proposes to take such action and that they may show cause, within a period to be stated in such written advice, but not less than seven (7) days from the date thereof, why it should not take such action.

(c) The Authority may censure, or, to the extent permitted by law, suspend, dismiss, or institute proceedings for the dismissal of, any Authority agent who knowingly and willfully violates the prohibitions and requirements of this rule.

PART 2415—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Sec.

2415.1 Employee responsibilities and conduct.

Authority: E.O. 11222, 30 FR 6469, 3 CFR, 1964-65 Comp., p. 306; 5 CFR 735.101 *et seq.* and § 737.1 *et seq.*; Pub. L. 95-521; 44 FR 19974.

§ 2415.1 Employee responsibilities and conduct.

The Federal Labor Relations Authority, the General Counsel of the Federal Labor Relations Authority and the Federal Service Impasses Panel, respectively, hereby adopt the rules and regulations contained in Parts 735 and 737 of title 5 of the Code of Federal Regulations, prescribing standards of conduct and responsibilities, and governing statements reporting employment and financial interests for officers and employees, including special Government employees, for application, as appropriate, to the officers and employees, including special Government employees, of the Authority, the General Counsel and the Panel.

SUBCHAPTER C—FEDERAL LABOR RELATIONS AUTHORITY AND GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY

PART 2420—PURPOSE AND SCOPE

Sec.

2420.1 Purpose and scope.

Authority: 5 U.S.C. 7134.

§ 2420.1 Purpose and scope.

The regulations contained in this subchapter are designed to implement the provisions of chapter 71 of title 5 of the United States Code. They prescribe the procedures, basic principles or criteria under which the Federal Labor Relations Authority or the General Counsel of the Federal Labor Relations Authority, as applicable, will:

(a) Determine the appropriateness of units for labor organization representation under 5 U.S.C. 7112;

(b) Supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in an appropriate unit and otherwise administer the provisions of 5 U.S.C. 7111 relating to the according of exclusive recognition to labor organizations;

(c) Resolve issues relating to the granting of national consultation rights under 5 U.S.C. 7113;

(d) Resolve issues relating to determining compelling need for agency rules and regulations under 5 U.S.C. 7117(b);

(e) Resolve issues relating to the duty to bargain in good faith under 5 U.S.C. 7117(c);

(f) Resolve issues relating to the granting of consultation rights with respect to conditions of employment under 5 U.S.C. 7117(d);

(g) Conduct hearings and resolve complaints of unfair labor practices under 5 U.S.C. 7118;

(h) Resolve exceptions to arbitrators' awards under 5 U.S.C. 7122; and

(i) Take such other actions as are necessary and appropriate effectively to administer the provisions of chapter 71 of title 5 of the United States Code.

PART 2421—MEANING OF TERMS AS USED IN THIS SUBCHAPTER

Sec.

2421.1 Federal Service Labor-Management Relations program.

2421.2 Terms defined in 5 U.S.C. 7103(a): General Counsel; Assistant Secretary.

2421.3 National consultation rights; consultation rights or Government-wide rules or regulations; exclusive recognition; unfair labor practices.

2421.4 Activity.

2421.5 Primary national subdivision.

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2421.15 Secret ballot.

2421.16 Showing of interest.

2421.17 Regular and substantially equivalent employment.

Authority: 5 U.S.C. 7134.

§ 2421.1 Federal Service Labor-Management Relations program.

The term "Federal Service Labor-Management Relations program" means the labor-management program established under chapter 71 of title 5 of the United States Code.

§ 2421.2 Terms defined in 5 U.S.C. 7103(a): General Counsel; Assistant Secretary.

(a) The terms "person," "employee," "agency," "labor organization," "dues," "Authority," "Panel," "collective bargaining agreement," "grievance," "supervisor," "management official," "collective bargaining," "confidential employee," "conditions of employment," "professional employee," "exclusive representative," "firefighter," and "United States," as used herein shall have the meanings set forth in 5 U.S.C. 7103(a).

(b) The term "General Counsel" means the General Counsel of the Authority.

(c) The term "Assistant Secretary" means the Assistant Secretary of Labor for Labor-Management Relations.

§ 2421.3 National consultation rights; consultation rights on Government-wide rules or regulations; exclusive recognition; unfair labor practices.

(a) "National consultation rights" has the meaning as set forth in 5 U.S.C. 7113;

(b) "Consultation rights on Government-wide rules or regulations" has the meaning as set forth in 5 U.S.C. 7117(d);

(c) "Exclusive recognition" has the meaning as set forth in 5 U.S.C. 7111; and

(d) "Unfair labor practices" has the meaning as set forth in 5 U.S.C. 7116.

§ 2421.4 Activity.

"Activity" means any facility, organizational entity, or geographical subdivision or combination thereof, of any agency.

§ 2421.5 Primary national subdivision.

"Primary national subdivision" of an agency means a first-level organizational segment which has functions national in scope that are implemented in field activities.

§ 2421.6 Regional Director.

"Regional Director" means the Director of a region of the Authority with geographical boundaries as fixed by the Authority.

§ 2421.7 Executive Director.

"Executive Director" means the Executive Director of the Authority.

§ 2421.8 Hearing Officer.

"Hearing Officer" means the individual designated to conduct a hearing involving a question concerning the appropriateness of a unit or such other matters as may be assigned.

§ 2421.9 Administrative Law Judge.

"Administrative Law Judge" means the Chief Administrative Law Judge or any Administrative Law Judge designated by the Chief Administrative Law Judge to conduct a hearing in cases under 5 U.S.C. 7116, and such other matters as may be assigned.

§ 2421.10 Chief Administrative Law Judge.

"Chief Administrative Law Judge" means the Chief Administrative Law Judge of the Authority.

§ 2421.11 Party.

"Party" means (a) any person: (1) Filing a charge, petition, or request; (2) named in a charge, complaint, petition, or request; (3) whose intervention in a proceeding has been permitted or directed by the Authority; (4) who participated as a party (i) in a matter that was decided by an agency head under 5 U.S.C. 7117, or (ii) in a matter where the award of an arbitrator was issued; and (b) the General Counsel, or the General Counsel's designated representative, in appropriate proceedings.

§ 2421.12 Intervenor.

"Intervenor" means a party in a proceeding whose intervention has been permitted or directed by the Authority, its agents or representatives.

§ 2421.13 Certification.

"Certification" means the determination by the Authority, its agents or representatives, of the results of an election, or the results of a petition to consolidate existing exclusively recognized units.

§ 2421.14 Appropriate unit.

"Appropriate unit" means that grouping of employees found to be appropriate for purposes of exclusive recognition under 5 U.S.C. 7111, and for purposes of allotments to representatives under 5 U.S.C. 7115(c), and consistent with the provisions of 5 U.S.C. 7112.

§ 2421.15 Secret ballot.

"Secret ballot" means the expression by ballot, voting machine or otherwise, but in no event by proxy, of a choice with respect to any election or vote taken upon any matter, which is cast in such a manner that the person expressing such choice cannot be identified with the choice expressed, except in that instance in which any determinative challenged ballot is opened.

§ 2421.16 Showing of interest.

"Showing of interest" means evidence of membership in a labor organization; employees' signed and dated authorization cards or petitions authorizing a labor organization to represent them for purposes of exclusive recognition; unaltered allotment of dues forms executed by an employee and the labor organization's authorized official; current dues records; an existing or recently expired agreement; current exclusive recognition or certification; employees' signed and dated petitions or cards indicating that they no longer desire to be represented for the purposes of exclusive recognition by the currently recognized or certified labor organization; employees' signed and dated petitions or cards indicating a desire that an election be held on a proposed consolidation of units; or other evidence approved by the Authority.

§ 2421.17 Regular and substantially equivalent employment.

"Regular and substantially equivalent employment" means employment that entails substantially the same amount of work, rate of pay, hours, working conditions, location of work, kind of work, and seniority rights, if any, of an employee prior to the cessation of employment in an agency because of any unfair labor practice under 5 U.S.C. 7116.

PART 2422—REPRESENTATION PROCEEDINGS

Sec.

- 2422.1 Who may file petitions.
- 2422.2 Contents of petition; procedures for consolidation of existing exclusively recognized units; filing and service of petition; challenges to petition.
- 2422.3 Timeliness of petition.
- 2422.4 Investigation of petition and posting of notice of petition; action by Regional Director.
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- 2422.7 Agreement for consent election.
- 2422.8 Notice of hearing; contents; attachments; procedures.
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- 2422.18 Challenged ballots.

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2422.20 Certification; objections to election; determination on objections and challenged ballots.

2422.21 Runoff elections.

2422.22 Inconclusive elections.

Authority: 5 U.S.C. 7134.

§ 2422.1 Who may file petitions.

(a) A petition for exclusive recognition may be filed by a labor organization requesting an election to determine whether it should be recognized as the exclusive representative of employees of an agency in an appropriate unit or should replace another labor organization as the exclusive representative of employees in an appropriate unit.

(b) A petition for an election to determine if a labor organization should cease to be the exclusive representative because it does not represent a majority of employees in the existing unit may be filed by any employee or employees or an individual acting on behalf of any employee(s).

(c) A petition seeking to clarify a matter relating to representation may be filed by an activity or agency where the activity or agency has a good faith doubt, based on objective considerations, that the currently recognized or certified labor organization represents a majority of the employees in the existing unit or that, because of a substantial change in the character and scope of the unit, it has a good faith doubt that such unit is now appropriate.

(d) A petition for clarification of an existing unit or for amendment of recognition or certification may be filed by an activity or agency or by a labor organization which is currently recognized by the activity or agency as an exclusive representative.

(e) A petition for determination of eligibility for dues allotment (pursuant to 5 U.S.C. 7115(c)) may be filed by a labor organization.

(f) A petition to consolidate existing exclusively recognized units may be filed by a labor organization, or by an activity or agency, or by a labor organization and an activity or agency jointly.

§ 2422.2 Contents of petition; procedures for consolidation of existing exclusively recognized units; filing and service of petition; challenges to petition.

(a) *Petition for exclusive recognition.* A petition by a labor organization for exclusive recognition shall be submitted on a form prescribed by the Authority and shall contain the following:

(1) The name of the activity and the agency involved, their addresses,

telephone numbers, and the persons to contact and their titles, if known;

(2) A description of the unit claimed to be appropriate for purposes of exclusive representation by the petitioner. Such description shall indicate generally the geographic locations and the classifications of employees sought to be included and those sought to be excluded and the approximate number of employees in the unit claimed to be appropriate;

(3) Name, address, and telephone number of the recognized or certified representative, if any, and the date of such recognition or certification and the expiration date of any applicable agreement, if known to the petitioner;

(4) Names, addresses, and telephone numbers of any other interested labor organizations, if known to the petitioner;

(5) Name and affiliation, if any, of the petitioner and its address and telephone number;

(6) A statement that the petitioner has submitted to the activity or the agency and to the Assistant Secretary a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives;

(7) A declaration by such person signing the petition, under the penalties of the Criminal Code (18 U.S.C. 1101), that its contents are true and correct to the best of such person's knowledge and belief;

(8) The signature of the petitioner's representative, including such person's title and telephone number; and

(9) The petition shall be accompanied by a showing of interest of not less than thirty percent (30%) of the employees in the unit claimed to be appropriate and an alphabetical list of names constituting such showing.

(b) *Activity or agency petition seeking clarification of a matter relating to representation; employee petition for an election to determine whether a labor organization should cease to be an exclusive representative.* (1) A petition by an activity or agency shall be submitted on a form prescribed by the Authority and shall contain the information set forth in paragraph (a) of this section, except subparagraphs (6) and (9), and a statement that the activity or agency has a good faith doubt, based on objective considerations, that the currently recognized or certified labor organization represents a majority of the employees in the existing unit, or a statement that because of a substantial change in the character and scope of the unit, the agency or activity has a good faith doubt that such unit is now appropriate. Attached to the petition

shall be a detailed explanation of the reasons supporting the good faith doubt. (2) A petition by any employee or employees or an individual acting on behalf of any employee(s) shall contain the information set forth in paragraph (a) of this section, except subparagraphs (6) and (9), and it shall be accompanied by a showing of interest of not less than thirty percent (30%) of the employees in the unit indicating that the employees no longer desire to be represented for the purposes of exclusive recognition by the currently recognized or certified labor organization and an alphabetical list of names constituting such showing. (c) *Petition for clarification of unit or for amendment of recognition or certification.* A petition for clarification of unit or for amendment of recognition or certification shall be submitted on a form prescribed by the Authority and shall contain the information required by paragraph (a) of this section, except subparagraphs (2), (6) and (9), and shall set forth: (1) A description of the present unit and the date of recognition or certification; (2) The proposed clarification or amendment of the recognition or certification; and (3) A statement of reasons why the proposed clarification or amendment is requested. (d) *Petition for determination of eligibility for dues allotment.* (1) A petition for determination of eligibility for dues allotment in a unit in which there is no exclusive representative shall be submitted on a form prescribed by the Authority and shall contain the information required in subparagraphs (1), (4), (5), (6), (7), and (8) of paragraph (a) of this section, and shall set forth: (i) A description of the unit claimed to be appropriate. Such description shall indicate generally the geographic locations and the classifications of employees sought to be included and those sought to be excluded and the approximate number of employees in the unit claimed to be appropriate; and (ii) The petition shall be accompanied by a showing of membership in the petitioner of not less than ten percent (10%) of the employees in the unit claimed to be appropriate and an alphabetical list of names constituting such showing. (e) *Filing and service of petition and copies.* (1) A petition for exclusive recognition, for an election to determine if a labor organization should cease to be the exclusive representative, for clarification of unit, for amendment of recognition or certification, or for determination of eligibility for dues

allotment, filed pursuant to paragraphs (a), (b), (c), or (d) of this section respectively, shall be filed with the Regional Director for the region in which the unit exists, or, if the claimed unit exists in two or more regions, the petition shall be filed with the Regional Director for the region in which the headquarters of the activity is located. (2) An original and four (4) copies of a petition shall be filed, together with a statement of any other relevant facts and of all correspondence relating to the question concerning representation. (3) Copies of the petition together with any attachments shall be served by the petitioner on all known interested parties, and a written statement of such service shall be filed with the Regional Director: *Provided, however,* That the showing of interest or the showing of membership submitted with a petition filed pursuant to paragraphs (a), (b)(2), (d), or (h) of this section shall not be furnished to any other person. (f) *Adequacy and validity of showing of interest or showing of membership.* (1) The Regional Director shall determine the adequacy of the showing of interest or the showing of membership administratively, and such determination shall not be subject to collateral attack at a unit or representation hearing. If the petition is dismissed or the intervention sought pursuant to § 2422.5 is denied, a request for review of such dismissal or denial may be filed with the Authority in accordance with the procedures set forth in § 2422.6(d).

(2) Any party challenging the validity of any showing of interest or showing of membership of a petitioner, or a cross-petitioner filing pursuant to § 2422.5(b), or of a labor organization seeking to intervene pursuant to § 2422.5, must file its challenge with the Regional Director, with respect to the petitioner or a cross-petitioner, within ten (10) days after the initial date of posting of the notice of petition as provided in § 2422.4(a), and with respect to any labor organization seeking to intervene, within ten (10) days of service of a copy of the request for intervention on the challenging party. The challenge shall be supported with evidence including signed statements of employees and any other written evidence. The Regional Director shall investigate the challenge and thereafter shall take such action as the Regional Director deems appropriate which shall be final and not subject to review by the Authority, unless the petition is dismissed or the intervention is denied on the basis of the challenge. Such request for review shall be filed

with the Authority in accordance with the procedures set forth in § 2422.6(d).

(g) *Challenge to status of a labor organization.* Any party challenging the status of a labor organization under chapter 71 of title 5 of the United States Code must file its challenge with the Regional Director and support the challenge with evidence. With respect to the petitioner or a cross-petitioner filing pursuant to § 2422.5(b), such a challenge must be filed within ten (10) days after the initial date of posting of the notice of petition as provided in § 2422.4(a), and with respect to a labor organization seeking to intervene pursuant to § 2422.5, within ten (10) days after service of a copy of the request for intervention on the challenging party. The Regional Director shall investigate the challenge and thereafter shall take such action as the Regional Director deems appropriate, which shall be subject to review by the Authority. Such request for review shall be filed with the Authority in accordance with the procedures set forth in § 2422.6(d).

(h) *Petition and procedures for consolidation of existing exclusively recognized units.* (1) Action to be taken before filing a petition to consolidate existing exclusively recognized units:

(i) A request in writing must be served by a labor organization or by two or more labor organizations jointly within a single agency, on an activity(ies) or agency, or must be served by an activity(ies) or agency on a labor organization(s), requesting the consolidation of existing exclusively recognized units represented by the labor organization(s); and

(ii) The request shall contain a clear and concise description of the existing exclusively recognized units sought to be consolidated and whether the labor organization(s), activity(ies) or agency involved desire(s) the consolidation with or without an election.

(2) When and where a petition to consolidate existing exclusively recognized units may be filed:

(i) If the labor organization(s), activity(ies) or agency involved rejects in writing or fails to respond to the requested consolidation of units within thirty (30) days after the service of the request, the labor organization(s), activity(ies) or agency involved may file a petition to consolidate existing exclusively recognized units. The petition must be filed with the Regional Director for the region where the headquarters of the activity or agency of the proposed consolidated unit is located: *Provided, however,* That where a petition to consolidate existing exclusively recognized units involves

two or more activities, such petition may be filed with the Regional Director for the region where the headquarters of any of the activities involved is located;

(ii) If there is a bilateral agreement to consolidate existing exclusively recognized units, the labor organization(s), activity(ies) or agency involved, may individually or jointly file a petition for an election in the proposed unit with the appropriate Regional Director as set forth in paragraph (h)(2)(i) of this section; and

(iii) If the labor organization(s), activity(ies) or agency involved bilaterally agree to consolidate existing exclusively recognized units without an election, they may individually or jointly file a petition to consolidate such units without an election with the appropriate Regional Director as set forth in paragraph (h)(2)(i) of this section.

(3) A petition to consolidate existing exclusively recognized units shall contain the information required by paragraph (a) of this section, except subparagraphs (2), (3), (6), and (9) and shall set forth:

(i) A description of the proposed consolidated unit claimed to be appropriate for the purpose of exclusive representation. Such description shall indicate generally the geographic locations and the classifications of employees sought to be included and those sought to be excluded and the approximate number of employees in the consolidated unit claimed to be appropriate for the purpose of exclusive recognition;

(ii) A description of each existing exclusively recognized unit encompassed by the petition, the dates of recognition or certification, the name(s) and address(es) of the exclusively recognized labor organization(s) involved, and the approximate number of employees in each unit;

(iii) A statement that a request to consolidate existing exclusively recognized units has been served on the labor organization(s), activity(ies) or agency involved and the date of the service of such request; and

(iv) A statement as appropriate:

(A) That the labor organization(s), activity(ies) or agency involved agree to consolidate existing exclusively recognized units without an election;

(B) That the labor organization(s), activity(ies) or agency involved desire(s) the Authority to hold an election on the issue of the proposed consolidation;

(C) That the labor organization(s), activity(ies) or agency involved has rejected or has failed to respond to the request to consolidate together with the

date of the service of the written rejection, if any; and

(D) The names(s) of the labor organization(s), activity(ies) or agency involved that should appear on the certification on consolidation of units, if such a certificate is issued.

(4) The following govern petitions filed under this paragraph:

(i) Upon the request of the Regional Director, after the filing of a petition to consolidate existing exclusively recognized units, the activity(ies) or agency involved shall post copies of a notice to all employees in places where notices are normally posted affecting the employees in the exclusively recognized units involved in the proceeding; and

(ii) Such notice shall set forth, as appropriate:

(A) The name(s) of petitioner(s);

(B) The description of the proposed consolidated unit;

(C) A statement that a petition for an election in the proposed unit has been filed, or, in the event there is a bilateral agreement to consolidate without an election, a statement that if, within ten (10) days after the date of posting of such notice, thirty percent (30%) or more of the employees in the proposed consolidated unit have notified the Regional Director in writing that they desire the Authority to hold an election on the issue of the proposed consolidation, such an election will be conducted or supervised by the Regional Director.

(5) The notice shall remain posted for a period of ten (10) days. It shall be posted conspicuously and shall not be covered by other material, altered or defaced.

(6) The Regional Director shall make such investigation as the Regional Director deems necessary and thereafter shall issue and serve on the labor organization(s), activity(ies) or agency involved a report and findings with respect to the petition to consolidate existing exclusively recognized units. The labor organization(s), activity(ies) or agency involved or a labor organization granted intervention pursuant to § 2422.5(f), may obtain a review of such report and findings pursuant to § 2422.6(d). If no request for review is filed, or if one is filed and denied, the Regional Director shall take such action as may be appropriate, which may include issuance of a certification on consolidation of units: *Provided, however,* That where the Regional Director approves a withdrawal request, or determines to supervise or conduct an election, or to issue a notice of hearing, no such report and findings need be issued and such

action shall not be subject to review by the Authority. The Regional Director, if appropriate, may cause a notice of hearing to be issued where substantial factual issues exist warranting a hearing. Hearings shall be conducted by Hearing Officers in accordance with §§ 2422.9 through 2422.15.

(7) Agreement for Unit Consolidation Election:

(i) Where an election is appropriate because the petitioner(s) or thirty percent (30%) of the affected employees desire the Authority to hold an election on the consolidation issue, the labor organization(s), activity(ies) or agency involved must sign an agreement providing for such an election on a form prescribed by the Authority. The agreement shall be filed with the appropriate Regional Director;

(ii) The labor organization(s), activity(ies) or agency involved shall agree on the eligibility period for participation in the election, the date(s), hour(s) and place(s) of the election and other related election procedures. In the event that they cannot agree, the Regional Director, acting on behalf of the Authority, shall decide these matters; and

(iii) If the Regional Director approves the agreement, the election by secret ballot shall be conducted by the activity(ies) or agency, as appropriate, under the supervision of the Regional Director, in accordance with §§ 2422.17(a), (b), (c), and (f), 2422.18, 2422.19, and 2422.20. There shall be no runoff elections.

(8) Upon the issuance of a certification on consolidation of units, the terms and conditions of existing agreement covering those units embodied in the consolidation shall remain in effect except as mutually agreed to by the parties until a new agreement covering the consolidated unit becomes effective.

§ 2422.3 Timeliness of petition.

(a) When there is no certified exclusive representative of the employees, a petition will be considered timely filed provided the petition is not for the same unit or subdivision thereof in which a valid election has been held within the preceding twelve (12) month period.

(b) When there is a certified exclusive representative of the employees, a petition will not be considered timely if filed within twelve (12) months after the certification as the exclusive representative of employees in an appropriate unit, unless a signed and dated agreement covering the claimed unit has been entered into in which case

paragraphs (c) and (d) of this section shall be applicable.

(c) When an agreement covering a claimed unit has been signed and dated by the activity and the incumbent exclusive representative, a petition for exclusive recognition or other election petition will not be considered timely if filed during the period of review by the head of an agency as set forth in 5 U.S.C. 7114(c), absent unusual circumstances.

(d) A petition for exclusive recognition or other election petition will be considered timely when filed as follows:

(1) Not more than one hundred and five (105) days and not less than sixty (60) days prior to the expiration date of an agreement having a term of three (3) years or less from the date it became effective.

(2) Not more than one hundred and five (105) days and not less than sixty (60) days prior to the expiration of the initial three (3) year period of an agreement having a term of more than three (3) years from the date it became effective, and any time after the expiration of the initial three (3) year period of such an agreement; and

(3) Any time when unusual circumstances exist which substantially affect the unit or the majority representation.

(e) When an agreement having a term of three (3) years or less is in effect between the activity and the incumbent exclusive representative, and a petition has been filed challenging the representation status of the incumbent exclusive representative and the petition is subsequently withdrawn or dismissed less than sixty (60) days prior to the expiration date of that agreement, or any time thereafter, the activity and incumbent exclusive representative shall be afforded a ninety (90) day period from the date the withdrawal is approved or the petition is dismissed free from rival claim within which to consummate an agreement: *Provided, however,* That the provisions of this paragraph shall not be applicable when any other petition is pending which has been filed pursuant to paragraph (d)(1) of this section.

(f) When an extension of an agreement having a term of three (3) years or less, has been signed more than sixty (60) days before its expiration date, such extension shall not serve as a basis for the denial of a petition submitted in accordance with the time limitations provided herein.

(g) When an election has been held to consolidate existing exclusively recognized units and no certification on

consolidation of units has been issued, a petition to consolidate will be considered timely filed provided the petition is not for the same unit or subdivision thereof in which a valid consolidation election has been held within the preceding twelve (12) month period.

(h) When there is a certification of consolidation of units, a petition will not be considered timely if filed within twelve (12) months after the certification on consolidation of units has been issued: *Provided, however,* That after an agreement has been signed and dated for a claimed consolidated unit, the provisions of paragraphs (c) and (d) of this section shall apply.

(i) Agreements which go into effect automatically pursuant to 5 U.S.C. 7114(c) and which do not contain the date on which the agreement became effective shall not constitute a bar to an election petition.

(j) A petition filed pursuant to § 2422.2 (a) and (b) seeking an election in any existing exclusively recognized unit covered by a pending petition to consolidate existing exclusively recognized units must be filed timely in accordance with the requirements set forth in this section: *Provided, however,* That such petition will be dismissed if a certification on consolidation of units is issued.

(k) A petitioner who withdraws a petition after the issuance of a notice of hearing or after the approval of an agreement for an election, shall be barred from filing another petition for the same unit or any subdivision thereof for six (6) months, unless a withdrawal request has been received by the Regional Director not later than three (3) days before the date of the hearing.

(l) The time limits set forth in this section shall not apply to a petition for consolidation of units (except as provided in paragraphs (g) and (h) of the section), a petition for clarification of unit or for amendment of recognition or certification, or to a petition for dues allotment.

§ 2422.4 Investigation of petition and posting of notice of petition; action by Regional Director.

(a) Upon the request of the Regional Director, after the filing of a petition, the activity shall post copies of a notice to all employees in places where notices are normally posted affecting the employees in the unit involved in the proceeding.

(b) Such notice shall set forth:

(1) The name of the petitioner;

(2) The description of the unit involved;

(3) If appropriate, the proposed clarification of unit or the proposed amendment of recognition or certification; and

(4) A statement that all interested parties are to advise the Regional Director in writing of their interest and position within ten (10) days after the date of posting of such notice: *Provided, however*, That the notice in a petition for determination of eligibility for dues allotment shall contain the information required in subparagraphs (1), (2), and (4) of this paragraph.

(c) The notice shall remain posted for a period of ten (10) days. The notice shall be posted conspicuously and shall not be covered by other material, altered or defaced.

(d) The activity shall furnish the Regional Director and all known interested parties with the following:

(1) Names, addresses and telephone numbers of all labor organizations known to represent any of the employees in the claimed unit;

(2) A copy of all relevant correspondence;

(3) A copy of existing or recently expired agreement(s) covering any of the employees described in the petition.

(4) A current alphabetized list of employees included in the unit described in the petition, together with their job classifications; and

(5) A current alphabetized list of employees described in the petition as excluded from the unit, together with their job classifications.

(e) The parties are expected to meet as soon as possible after the expiration of the ten (10) day posting period of the notice of petition as provided in paragraph (a) of this section and use their best efforts to secure agreement on an appropriate unit, including, where appropriate, consulting with higher authority within the agency and the labor organizations involved.

(f) The Regional Director shall make such investigation as the Regional Director deems necessary and thereafter shall take action which may consist of the following, as appropriate:

(1) Approve an agreement for consent election in an agreed-upon appropriate unit as provided under § 2422.7;

(2) Approve a withdrawal request;

(3) Dismiss the petition; or

(4) Issue a notice of hearing.

(g) In processing a petition for clarification of unit or for amendment of recognition or certification, or dues allotment, where appropriate, the Regional Director shall prepare and serve a report and findings upon all parties to the proceedings and shall state therein, among other pertinent

matters, the Regional Director's conclusions and the action contemplated. A party may file with the Authority a request for review of such action of the Regional Director in accordance with the procedures set forth in § 2422.6(d). If no request for review is filed, or if one is filed and denied, the Regional Director shall take such action as may be appropriate, which may include issuing a clarification of unit or an amendment of recognition or certification, or determination of eligibility for dues allotment.

(h) A determination by the Regional Director to issue a notice of hearing shall not be subject to review by the Authority.

§ 2422.5 Intervention.

(a) No labor organization will be permitted to intervene in any proceeding involving a petition filed pursuant to § 2422.2 (a) or (b) unless it has submitted to the Regional Director a showing of interest of ten percent (10%) or more of the employees in the unit specified in the petition together with an alphabetical list of names constituting such showing, or has submitted a current or recently expired agreement with the activity covering any of the employees involved, or has submitted evidence that it is the currently recognized or certified exclusive representative of any of the employees involved: *Provided, however*, That an incumbent exclusive representative shall be deemed to be an intervenor in the proceeding unless it serves on the Regional Director a written disclaimer of any representation interest for the employees in the unit sought: *Provided, further*, That any such incumbent exclusive representative that declines to sign an agreement for consent election because of a disagreement on the matters contained in § 2422.7(c) as decided by the Regional Director, or fails to appear at a hearing held pursuant to § 2422.9, shall be denied its status as an intervenor.

(b) A labor organization seeking exclusive recognition in a unit different from the unit initially petitioned for, and which includes any or all of the employees in that unit, must file a petition with the Regional Director in accordance with § 2422.2 (a) and (e) within ten (10) days after the date of posting of the notice of the initial petition as provided under § 2422.4(a), unless good cause is shown for extending the period.

(c) No labor organization may participate to any extent in any representation proceeding unless it has

notified the Regional Director in writing, accompanied by its showing of interest as specified in paragraph (a) of this section, of its desire to intervene within ten (10) days after the initial date of posting of the notice of petition as provided in § 2422.4(a), unless good cause is shown for extending the period. A copy of the request for intervention filed with the Regional Director, excluding the showing of interest, shall be served on all known interested parties, and a written statement of such service should be filed with the Regional Director: *Provided, however*, That an incumbent exclusive representative shall be deemed to be an intervenor in the proceeding in accordance with paragraph (a) of this section.

(d) Any labor organization seeking to intervene in a proceeding involving a petition for determination of eligibility for dues allotment filed pursuant to § 2422.2(d) may intervene solely on the basis it claims to be the exclusive representative of some or all the employees specified in the petition and shall submit to the Regional Director a current or recently expired agreement with the activity covering any of the employees involved, or evidence that it is the currently recognized or certified exclusive representative of any of the employees involved.

(e) Any labor organization seeking to intervene must submit to the Regional Director a statement that it has submitted to the activity or agency and to the Assistant Secretary a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives.

(f) The Regional Director may grant intervention to a labor organization in a proceeding involving a petition for clarification of unit or a petition for amendment of recognition or certification filed pursuant to § 2422.2(c), or a petition for determination of eligibility for dues allotment filed pursuant to § 2422.2(d), or a petition to consolidate existing exclusively recognized units filed pursuant to § 2422.2(h) based on a showing that the proposed clarification, amendment, dues allotment or consolidation affects that labor organization's existing exclusively recognized unit(s) in that it would cover one or more employees who are included in such unit(s).

§ 2422.6 Withdrawal, dismissal or deferral of petitions; consolidation of cases; denial of intervention; review of action by Regional Director.

(a) If the Regional Director determines, after such investigation as the Regional Director deems necessary,

that the petition has not been timely filed, the claimed unit is not appropriate, the petitioner has not made a sufficient showing of interest, the petition is not otherwise actionable, or an intervention is not appropriate, the Regional Director may request the petitioner or intervenor to withdraw the petition or the request for intervention. In the absence of such withdrawal within a reasonable period of time, the Regional Director may dismiss the petition or deny the request for intervention.

(b) If the Regional Director determines, after investigation, that a valid issue has been raised by a challenge under § 2422.2(f) or (g), the Regional Director may take action which may consist of the following, as appropriate:

(1) Request the petitioner or intervenor to withdraw the petition or the request for intervention;

(2) Dismiss the petition and/or deny the request for intervention if a withdrawal request is not submitted within a reasonable period of time;

(3) Defer action on the petition or request for intervention until such time as issues raised by the challenges have been resolved pursuant to this part; or

(4) Consolidate such issues with the representation matter for resolution of all issues.

(c) If the Regional Director dismisses the petition and/or denies the request for intervention, the Regional Director shall serve on the petitioner or the party requesting intervention a written statement of the grounds for the dismissal or the denial, and serve a copy of such statement on the activity, and on the petitioner and any intervenors, as appropriate.

(d) The petitioner or party requesting intervention may obtain a review of such dismissal and/or denial by filing a request for review with the Authority within ten (10) days after service of the notice of such action. Copies of the request for review shall be served on the Regional Director and the other parties, and a statement of service shall be filed with the request for review. Requests for extensions of time shall be in writing and received by the Authority not later than three (3) days before the date the request for review is due. The request for review shall contain a complete statement setting forth facts and reasons upon which the request is based. Any party may file an opposition to a request for review with the Authority within seven (7) days after service of the request for review. Copies of the opposition to the request for review shall be served on the Regional Director and the other parties, and a statement of

service shall be filed with the opposition to the request for review. The Authority may issue a decision or ruling affirming or reversing the Regional Director in whole or in part or making any other disposition of the matter as it deems appropriate.

§ 2422.7 Agreement for consent election.

(a) All parties desiring to participate in an election being conducted pursuant to this section or § 2422.16, including intervenors who have met the requirements of § 2422.5, must sign an agreement providing for such an election on a form prescribed by the Authority. An original and one (1) copy of the agreement shall be filed with the Regional Director.

(b) An agency, activity, or petitioner, and any intervenors who have complied with the requirements set forth in § 2422.5 may agree that a secret ballot election shall be conducted among the employees in the agreed-upon appropriate unit to determine whether the employees desire to be represented for purposes of exclusive recognition by any or none of the labor organizations involved.

(c) The parties shall agree on the eligibility period for participation in the election, the date(s), hour(s), and place(s) of the election, the designations on the ballot and other related election procedures.

(d) In the event that the parties cannot agree on the matters contained in paragraph (c) of this section, the Regional Director, acting on behalf of the Authority, shall decide these matters without prejudice to the right of a party to file objections to the procedural conduct of the election under § 2422.20(b).

(e) If the Regional Director approves the agreement, the election shall be conducted by the activity or agency, as appropriate, under the supervision of the Regional Director, in accordance with § 2422.17.

(f) Any qualified intervenor who refuses to sign an agreement for an election may express his objections to the agreement in writing to the Regional Director. The Regional Director, after careful consideration of such objections, may approve the agreement or take such other action as the Regional Director deems appropriate.

§ 2422.8 Notice of hearing; contents; attachments; procedures.

(a) The Regional Director may cause a notice of hearing to be issued involving the appropriateness of unit(s) or other matters related to the petition.

(b) The notice of hearing shall be served on all interested parties and shall include:

(1) The name of the activity or agency, petitioner, and intervenors, if any;

(2) A statement of the time and place of the hearing, which shall be not less than ten (10) days after service of the notice of hearing, except in extraordinary circumstances;

(3) A statement of the nature of the hearing; and

(4) A statement of the authority and jurisdiction under which the hearing is to be held.

(c) A copy of the petition shall be attached to the notice of hearing.

(d) Hearings on the appropriateness of unit(s) or other matters related to the petition pursuant to paragraph (a) of this section shall be conducted by a Hearing Officer in accordance with §§ 2422.9 through 2422.15.

§ 2422.9 Conduct of hearing.

(a) Hearings shall be conducted by a Hearing Officer and shall be open to the public unless otherwise ordered by the Hearing Officer. At any time another Hearing Officer may be substituted for the Hearing Officer previously presiding. It shall be the duty of the Hearing Officer to inquire fully into all matters in issue and the Hearing Officer shall obtain a full and complete record upon which the Authority can make an appropriate decision. An official reporter shall make the only official transcript of such proceedings. Copies of the official transcript may be examined in the appropriate regional office during normal working hours and copies of the transcript will be provided in accordance with Part 2411 of this chapter.

(b) Hearings under this section are considered investigatory and not adversary. Their purpose is to develop a full and complete factual record. The rules of relevancy and materiality are paramount; there are no burdens of proof and the technical rules of evidence do not apply.

§ 2422.10 Motions.

(a) *General.* (1) A motion shall state briefly the order or relief sought and the grounds for the motion: *Provided, however*, That a motion to intervene will not be entertained by the Hearing Officer. Intervention will be permitted only to those who have met the requirements of § 2422.5.

(2) A motion prior to, and after a hearing and any response thereto, shall be made in writing. A response shall be filed within five (5) days after service of the motion. An original and two (2)

copies of such motion and any response thereto shall be filed and copies shall be served on the parties and the Regional Director. A statement of such service shall be filed with the original.

(3) During a hearing a motion may be made and responded to orally on the record.

(4) The right to make motions, or to make objections to rulings on motions, shall not be deemed waived by participation in the proceeding.

(5) All motions, rulings, and orders shall become part of the record.

(b) *Filing of motions.* (1) Motions and responses thereto prior to a hearing shall be filed with the Regional Director. During the hearing, motions shall be made to the Hearing Officer.

(2) After the transfer of the case to the Authority, except as otherwise provided, motions and responses thereto shall be filed with the Authority: *Provided*, That following the close of a hearing, motions to correct the transcript should be filed with the Hearing Officer within five (5) days after the transcript is received in the regional office.

(c) *Rulings on motions.* (1) Regional Directors may rule on all motions filed with them, or they may refer them to the Hearing Officer. A ruling by a Regional Director granting a motion to dismiss a petition may be reviewed by the Authority upon the filing by the petitioner of a request for review pursuant to § 2422.6(d).

(2) Hearing Officers shall rule, either orally on the record or in writing, on all motions made at the hearing or referred to them, except that a motion to dismiss a petition shall be referred for appropriate action at such time as the record is considered by the Regional Director or the Authority. Rulings by a Hearing Officer reduced to writing shall be served on the parties.

(3) The Authority shall consider the rulings by the Regional Director and the Hearing Officer when the case is transferred to it for decision.

§ 2422.11 Rights of the parties.

(a) A party shall have the right to appear at any hearing in person, by counsel, or by other representative, and to examine and cross-examine witnesses, and to introduce into the record documentary or other relevant evidence. Two (2) copies of documentary evidence shall be submitted and a copy furnished to each of the other parties. Stipulations of fact may be introduced in evidence with respect to any issue.

(b) A party shall be entitled, upon request, to a reasonable period at the close of the hearing for oral argument,

which shall be included in the stenographic report of the hearing. Such oral argument shall not preclude a party from filing a brief under § 2422.14.

§ 2422.12 Duties and powers of the Hearing Officer.

It shall be the duty of Hearing Officers to inquire fully into the facts as they relate to the matters before them. With respect to cases assigned to them between the time they are designated and the transfer of the case to the Authority, Hearing Officers shall have the authority to:

(a) Grant requests for subpoenas pursuant to § 2429.7 of this subchapter;

(b) Rule upon offers of proof and receive relevant evidence and stipulations of fact;

(c) Take or cause depositions or interrogatories to be taken whenever the ends of justice would be served thereby;

(d) Limit lines of questioning or testimony which are immaterial, irrelevant or unduly repetitious;

(e) Regulate the course of the hearing and, if appropriate, exclude from the hearing persons who engage in misconduct;

(f) Strike all related testimony of witnesses refusing to answer any questions ruled to be proper;

(g) Hold conferences for the settlement or simplification of the issues by consent of the parties or upon the Hearing Officer's own motion;

(h) Dispose of procedural requests, motions, or similar matters, which shall be made part of the record of the proceedings, including motions referred to the Hearing Officer by the Regional Director and motions to amend petitions;

(i) Call and examine and cross-examine witnesses and introduce into the record documentary or other evidence;

(j) Request the parties at any time during the hearing to state their respective positions concerning any issue in the case or theory in support thereof;

(k) Continue the hearing from day-to-day, or adjourn it to a later date or to a different place, by announcement thereof at the hearing or by other appropriate notice;

(l) Rule on motions to correct the transcript which are received within five (5) days after the transcript is received in the regional office; and

(m) Take any other action necessary under this section and not prohibited by the regulations in this subchapter.

§ 2422.13 Objections to conduct of hearing.

Any objection to the introduction of evidence may be stated orally or in writing and shall be accompanied by a short statement of the grounds of such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing. Automatic exceptions will be allowed to all adverse rulings.

§ 2422.14 Filing of briefs.

A party desiring to file a brief with the Authority shall file the original and six (6) copies within seven (7) days after the close of the hearing: *Provided, however*, That prior to the close of the hearing and for good cause, the Hearing Officer may allow time not to exceed fourteen (14) additional days for the filing of briefs with the Authority. Copies thereof shall be served on all other parties to the proceeding. Requests for additional time in which to file a brief under authority of this section not addressed to the Hearing Officer during the hearing shall be made to the Regional Director, in writing, and copies thereof shall be served on the other parties and a statement of such service shall be filed with the Regional Director. Requests for extension of time shall be in writing and received not later than three (3) days before the date such briefs are due. No reply brief may be filed in any proceeding except by special permission of the Authority.

§ 2422.15 Transfer of case to the Authority; contents of record.

Upon the close of the hearing the case is transferred automatically to the Authority. The record of the proceeding shall include the petition, notice of hearing, service sheet, motions, rulings, orders, official transcript of the hearing with any corrections thereto, stipulations, objections, depositions, interrogatories, exhibits, documentary evidence, and any briefs or other documents submitted by the parties.

§ 2422.16 Decision.

The Authority will issue a decision determining the appropriate unit, directing an election or dismissing the petition, or making other disposition of the matters before it.

§ 2422.17 Election procedure; request for authorized representation election observers.

This section governs all elections conducted under the supervision of the Regional Director pursuant to § 2422.7 or § 2422.16. The Regional Director may conduct elections in unusual circumstances in accordance with terms

and conditions set forth in the notice of election.

(a) Appropriate notices of election shall be posted by the activity. Such notices shall set forth the details and procedures for the election, the appropriate unit, the eligibility period, the date(s), hour(s) and place(s) of the election and shall contain a sample ballot.

(b) The reproduction of any document purporting to be a copy of the official ballot, other than one completely unaltered in form and content and clearly marked "sample" on its face, which suggests either directly or indirectly to employees that the Authority endorses a particular choice, may constitute grounds for setting aside an election upon objections properly filed.

(c) All elections shall be by secret ballot. An exclusive representative shall be chosen by a majority of the valid ballots cast. The results of an election to consolidate existing exclusively recognized units shall be determined by a majority of the valid ballots cast in the proposed consolidated unit.

(d) Whenever two or more labor organizations are included as choices in an election, any intervening labor organization may request the Regional Director to remove its name from the ballot. The request must be in writing and received not later than seven (7) days before the date of the election. Such request shall be subject to the approval of the Regional Director whose decision shall be final.

(e) In a proceeding involving an election to determine if a labor organization should cease to be the exclusive representative filed by an agency or any employee or employees or an individual acting on behalf of any employee(s) under § 2422.2(b), an organization currently recognized or certified may not have its name removed from the ballot without having served the written request submitted pursuant to paragraph (d) of this section on all parties. Such request shall contain an express disclaimer of any representation interest among the employees in the unit.

(f) Any party may be represented at the polling place(s) by observers of its own selection, subject to such limitations as the Regional Director may prescribe.

(g) A party's request to the Regional Director for named observers shall be in writing and filed with the Regional Director not less than fifteen (15) days prior to an election to be supervised or conducted pursuant to this part. The request shall name and identify the

authorized representation election observers sought, and state the reasons therefor. Copies thereof shall be served on the other parties and a written statement of such service shall be filed with the Regional Director. Within five (5) days after service of a copy of the request, a party may file objections to the request with the Regional Director and state the reasons therefor. Copies thereof shall be served on the other parties and a written statement of such service shall be filed with the Regional Director. The Regional Director shall rule upon the request not later than five (5) days prior to the date of the election. However, for good cause shown by a party, or on the Regional Director's own motion, the Regional Director may vary the time limits prescribed in this paragraph.

§ 2422.18 Challenged ballots.

Any party or the representative of the Authority may challenge, for good cause, the eligibility of any person to participate in the election. The ballots of such challenged persons shall be impounded.

§ 2422.19 Tally of ballots.

Upon the conclusion of the election, the Regional Director shall cause to be furnished to the parties a tally of ballots.

§ 2422.20 Certification; objections to election; determination on objections and challenged ballots.

(a) The Regional Director shall issue to the parties a certification of results of the election or a certification of representative, where appropriate: *Provided, however*, That no objections are filed within the time limit set forth below; the challenged ballots are insufficient in number to affect the results of the election; and no runoff or rerun election is to be held.

(b) Within five (5) days after the tally of ballots has been furnished, a party may file objections to the procedural conduct of the election, or to conduct which may have improperly affected the results of the election, setting forth a clear and concise statement of the reasons therefor. The objecting party shall bear the burden of proof at all stages of the proceeding regarding all matters raised in its objections. An original and two (2) copies of the objections shall be filed with the Regional Director and copies shall be served on the parties. A statement of such service shall be filed with the Regional Director. Such filing must be timely whether or not the challenged ballots are sufficient in number to affect the results of the election. Within ten

(10) days after the filing of the objections, unless an extension of time has been granted by the Regional Director, the objecting party shall file with the Regional Director evidence, including signed statements, documents and other material supporting the objections.

(c) If objections are filed or challenged ballots are sufficient in number to affect the results of the election, the Regional Director shall investigate the objections or challenged ballots, or both.

(d) When the Regional Director determines that no relevant question of fact exists, the Regional Director (1) shall find whether improper conduct occurred of such a nature as to warrant the setting aside of the election and, if so, indicate an intention to set aside the election, or (2) shall rule on determinative challenged ballots, if any, or both. The Regional Director shall issue a report and findings on objections and/or challenged ballots which shall be served upon all parties to the proceeding. Such report and findings shall state therein any additional pertinent matters such as an intent to rerun the election or count ballots at a specified date, time, and place, and if appropriate, that the Regional Director will cause to be issued a revised tally of ballots.

(e) When the Regional Director determines that no relevant question of fact exists, but that a substantial question of interpretation or policy exists, the Regional Director shall notify the parties in the report and findings and transfer the case to the Authority in accordance with § 2429.1(a) or (b) of this subchapter.

(f) Any party aggrieved by the findings of a Regional Director with respect to objections to an election or challenged ballots may obtain a review of such action by the Authority by following the procedure set forth in § 2422.6(d) of this subchapter. *Provided, however*, That a determination by the Regional Director to issue a notice of hearing shall not be subject to review by the Authority.

(g) Where it appears to the Regional Director that the objections or challenged ballots raise any relevant question of fact which may have affected the results of the election, the Regional Director shall cause to be issued a notice of hearing. Hearings shall be conducted and decisions issued by Administrative Law Judges and exceptions and related submissions filed with the Authority in accordance with §§ 2423.13 through 2423.27 of this subchapter excluding § 2423.17 and

§ 2423.18(j), with the following exceptions:

(1) The Administrative Law Judge may not recommend remedial action to be taken or notices to be posted, as provided under § 2423.25(a); and

(2) Reference to "charge, complaint" in § 2423.25(b) shall be read as "report and findings of the Regional Director."

(h) At a hearing conducted pursuant to paragraph (g) of this section the party filing the objections shall have the burden of proving all matters alleged in its objections by a preponderance of the evidence. With respect to challenged ballots, no burden of proof is imposed on any party.

(i) The Authority shall take action which may consist of the following, as appropriate:

(1) Issue a decision adopting, modifying, or rejecting the Administrative Law Judge's decision;

(2) Issue a decision in any case involving a substantial question of interpretation or policy transferred pursuant to paragraph (e) of this section; or

(3) Issue a ruling with respect to a request for review filed pursuant to paragraph (f) of this section affirming or reversing, in whole or in part, the Regional Director's findings, or make such other disposition as may be appropriate.

§ 2422.21 Runoff elections.

(a) The agency or activity may conduct a runoff election under supervision of the Regional Director when an election in which the ballot provided for not less than three (3) choices (i.e., at least two representatives and "neither" or "none") results in no choice receiving a majority of the valid ballots cast, and any objections which had been filed have been disposed of, and any challenged ballots have been disposed of or are not sufficient in number to affect the results of the election, as provided herein. Only one runoff election shall be held pursuant to this section.

(b) Employees who were eligible to vote in the original election and who also are in an eligible category on the date of the runoff election shall be eligible to vote in the runoff election.

(c) The ballot in the runoff election shall provide for a selection between the two choices receiving the largest and second largest number of votes.

§ 2422.22 Inconclusive elections.

(a) An inconclusive election is one in which none of the choices on the ballot has received a majority of the valid ballots cast. If there are no challenged

ballots that would affect the results of the election, the Regional Director may declare the election a nullity and may order another election providing for a selection from among the choices afforded in the previous ballot in the following situations:

(1) The ballot provided for a choice among two or more representatives and "neither" or "none," and the votes are equally divided among the several choices;

(2) The number of ballots cast for one choice in an election is equal to the number cast for another choice but less than the number cast for the third choice; or

(3) The runoff ballot provides for a choice between two representatives and the votes are equally divided.

(b) Only one further election pursuant to this section may be held.

PART 2423—UNFAIR LABOR PRACTICE PROCEEDINGS

Sec.

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§ 2423.1 Applicability of this part.

This part is applicable to any charge of alleged unfair labor practices filed with the Authority on or after January 11, 1979.

§ 2423.2 Informal proceedings.

(a) The purposes and policies of the Federal Service Labor-Management Relations program can best be achieved by the cooperative efforts of all persons covered by the program. To this end, it shall be the policy of the Authority and the General Counsel to encourage all persons alleging unfair labor practices and persons against whom such allegations are made to meet and, in good faith, attempt to resolve such matters prior to the filing of unfair labor practice charges with the authority.

(b) In furtherance of the policy referred to in paragraph (a) of this section, and noting the six (6) month period of limitation set forth in 5 U.S.C. 7118(a)(4), it shall be the policy of the Authority and the General Counsel to encourage the informal resolution of unfair labor practice allegations subsequent to the filing of a charge and prior to the issuance of a complaint by the Regional Director.

§ 2423.3 Who may file charges.

A charge that an activity, agency or labor organization has engaged in any act prohibited under 5 U.S.C. 7116 may be filed by any person.

§ 2423.4 Contents of the charge; supporting evidence and documents.

(a) A charge alleging a violation of 5 U.S.C. 7116 shall be submitted on forms prescribed by the Authority and shall contain the following:

(1) The name, address and telephone number of the person(s) making the charge;

(2) The name, address and telephone number of the activity, agency, or labor organization against whom the charge is made;

(3) A clear and concise statement of the facts constituting the alleged unfair labor practice, a statement of the section(s) and subsection(s) of chapter 71 of title 5 of the United States Code alleged to have been violated, and the date and place of occurrence of the particular acts; and

(4) A statement of any other procedure invoked involving the subject matter of the charge and the results, if any, including whether the subject matter raised in the charge had previously been raised in a grievance procedure or had been referred to the Federal Service Impasses Panel, the Federal Mediation and Conciliation

Service, the Equal Employment Opportunity Commission, the Merit Systems Protection Board or the Special Counsel of the Merit systems Protection Board for consideration or action.

(b) Such charge shall be in writing and signed and shall contain a declaration by the person signing the charge, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of that person's knowledge and belief.

(c) When filing a charge, the charging party shall submit to the Regional Director any supporting evidence and documents.

§ 2423.5 Filing and service of copies.

(a) An original and four (4) copies of the charge together with one copy for each additional charged party named shall be filed with the Regional Director for the region in which the alleged unfair labor practice has occurred or is occurring. A charge alleging that an unfair labor practice has occurred or is occurring in two or more regions may be filed with the Regional Director for any such region.

(b) Upon the filing of a charge, the charging party shall be responsible for the service of a copy of the charge (without the supporting evidence and documents) upon the person(s) against whom the charge is made, and for filing a written statement of such service with the Regional Director. The Regional Director will, as a matter of course, cause a copy of such charge to be served on the person(s) against whom the charge is made, but shall not be deemed to assume responsibility for such service.

§ 2423.6 Investigation of charges.

(a) The Regional Director, on behalf of the General Counsel, shall conduct such investigation of the charge as the Regional Director deems necessary.

(b) During the course of the investigation all parties involved will have an opportunity to present their evidence and views to the Regional Director.

(c) In connection with the investigation of charges, all persons are expected to cooperate fully with the Regional Director.

(d) The Regional Director shall give priority to the following cases:

(1) Whenever a charge is filed alleging the commission of an unfair labor practice within the meaning of 5 U.S.C. 7116(b)(7), the regional office in which such charge is filed or to which it is referred shall give it priority over all other cases in the office except cases of like character.

(2) Whenever a charge is filed alleging the commission of an unfair labor practice within the meaning of 5 U.S.C. 7116(a)(6) or (b)(6), or alleging the commission of an unfair labor practice based on the failure to comply with an arbitration award, the regional office in which such a charge is filed or to which it is referred shall give it priority over all other cases in the office except cases of like character and cases under 5 U.S.C. 7116(b)(7).

(3) Whenever a charge is filed alleging the commission of an unfair labor practice within the meaning of 5 U.S.C. 7116(a)(2) or (b)(2), the regional office in which such a charge is filed or to which it is referred shall give it priority over all other cases in the office, except cases of like character and cases under 5 U.S.C. 7116(b)(7), (a)(6) and (b)(6), and cases based on the failure to comply with an arbitration award.

§ 2423.7 Amendment of charges.

Prior to the issuance of a complaint, the charging party may amend the charge in accordance with the requirements set forth in § 2423.5.

§ 2423.8 Action by the Regional Director.

(a) The Regional Director shall take action which may consist of the following, as appropriate:

(1) Approve a request to withdraw a charge;

(2) Refuse to issue a complaint;

(3) Approve a written settlement agreement in accordance with the provisions of § 2423.10;

(4) Issue a complaint;

(5) Transfer to the Authority for decision, after issuance of a complaint, a stipulation of facts; or

(6) Withdraw a complaint.

(b) Upon a determination to issue a complaint, whenever it is deemed advisable by the Authority to seek appropriate temporary relief (including a restraining order) under 5 U.S.C. 7123(d), the Regional Attorney or other designated agent of the authority to whom the matter has been referred will make application for appropriate temporary relief (including a restraining order) in the district court of the United States within which the unfair labor practice is alleged to have occurred or in which the party sought to be enjoined resides or transacts business. Such temporary relief will not be sought unless the record establishes probable cause that an unfair labor practice is being committed, or if such temporary relief will interfere with the ability of the agency to carry out its essential functions.

(c) Whenever temporary relief has been obtained pursuant to 5 U.S.C. 7123(d) and thereafter the Administrative Law Judge hearing the complaint, upon which the determination to seek such temporary relief was predicated, recommends dismissal of such complaint, in whole or in part, the Regional Attorney or other designated agent of the Authority handling the case for the authority shall inform the district court which granted the temporary relief of the possible change in circumstances arising out of the decision of the Administrative Law Judge.

§ 2423.9 Determination not to issue complaint; review of action by the Regional Director.

(a) If the Regional Director determines that the charge has not been timely filed, that the charge fails to state an unfair labor practice, or for other appropriate reasons, the Regional Director may request the charging party to withdraw the charge, and in the absence of such withdrawal within a reasonable time, decline to issue a complaint.

(b) If the Regional Director determines not to issue a complaint on a charge which is not withdrawn, the Regional Director shall provide the parties with a written statement of the reasons for not issuing a complaint.

(c) The charging party may obtain a review of the Regional Director's decision not to issue a complaint by filing a request for review with the General Counsel within ten (10) days after service of the Regional Director's decision. The request for review shall contain a complete statement setting forth the facts and reasons upon which it is based and a copy shall also be filed with the Regional Director. In addition the charging party shall notify all other parties of the action it has taken, but any failure to give such notice shall not affect the validity of the request for review.

(d) A request for extension of time to file a request for review shall be in writing and received by the General Counsel not later than three (3) days before the date the request for review is due.

(e) The General Counsel may sustain the Regional Director's refusal to issue or re-issue a complaint, stating the grounds of affirmance, or may direct the Regional Director to take further action. The General Counsel's decision shall be served on all the parties. The decision of the General Counsel shall be final.

§ 2423.10 Settlement or adjustment of issues.

(a) At any stage of a proceeding prior to hearing, where time, the nature of the proceeding, and the public interest permit, all interested parties shall have the opportunity to submit to the Regional Director with whom the charge was filed, for consideration, all facts and arguments concerning offers of settlement, or proposals of adjustment.

(b) Prior to the issuance of any complaint or the taking of other formal action, the Regional Director will permit the charging party and the respondent a reasonable period of time in which to enter into a settlement agreement to be approved by the Regional Director. Upon approval by the Regional Director and compliance with the terms of the settlement agreement, no further action shall be taken in the case. If the respondent fails to perform its obligations under the settlement agreement, the Regional Director may determine to institute further proceedings. In the event that the charging party fails or refuses to become a party to a settlement agreement offered by the respondent, if the Regional Director, in the Regional Director's discretion, believes that the offered settlement will effectuate the policies of the Federal Service Labor-Management Relations program, the agreement shall be between the respondent and Regional Director and the latter shall decline to issue a complaint. The charging party may obtain a review of the Regional Director's action by filing a request for review with the general counsel in accordance with § 2423.9(c). The General Counsel shall take action on such review as set forth in § 2423.9(e).

(c) Consistent with the policy reflected in paragraph (a) of this section, even after the issuance of a complaint, the Authority favors the settlement of issues. Such settlements may be either informal or formal. Informal settlement agreements shall be accomplished as provided in paragraph (b) of this section. Formal settlement agreements are subject to the approval of the Authority. In such settlement agreements, the parties shall agree to waive their right to a hearing and agree further that the Authority may issue an order requiring the respondent to take action appropriate to the terms of the settlement. The Authority may require, as a condition of its approval, the respondent's consent to the Authority's application for the entry of a decree by the appropriate federal court enforcing the Authority's order.

(d) If, after issuance of a complaint but before opening of the hearing, the charging party fails or refuses to become a party to a formal settlement agreement offered by the respondent, and the Regional Director, in the Regional Director's discretion, believes that the offered settlement will effectuate the policies of the Federal Service Labor-Management Relations program, the agreement shall be between the respondent and Regional Director. If the formal settlement is accepted by the Regional Director, the charging party will be so informed and provided a brief written statement of the reasons therefor. The formal settlement agreement together with the charging party's objections, if any, and the Regional Director's written statements, shall be submitted to the Authority for approval. The Authority may approve or disapprove the settlement agreement or return the case to the Regional Director for other appropriate action: *Provided, however*, That after the issuance of a complaint if the Regional Director, in the Regional Director's discretion, believes that it will effectuate the policies of the Federal Service Labor-Management Relations program, the Regional Director may withdraw the complaint and approve a settlement agreement pursuant to paragraph (b) of this section.

§ 2423.11 Issuance and contents of the complaint.

(a) After a charge is filed, if it appears to the Regional Director that formal proceedings in respect thereto should be instituted, the Regional Director shall issue and cause to be served on all other parties a formal complaint: *Provided, however*, That a determination by a Regional Director to issue a complaint shall not be subject to review.

(b) The complaint shall include:

- (1) Notice of the charge;
- (2) Notice that a hearing will be held before an Administrative Law Judge;
- (3) Notice of the time and place fixed for the hearing which shall not be earlier than five (5) days after service of the complaint;

(4) A statement of the nature of the hearing;

(5) A clear and concise statement of the facts upon which assertion of jurisdiction by the Authority is predicated;

(6) A reference to the particular sections of chapter 71 of title 5 of the United States Code and the rules and regulations involved; and

(7) A clear and concise description of the acts which are claimed to constitute unfair labor practices, including, where known, the approximate dates and

places of such acts and the names of respondent's agents or other representatives by whom committed.

(c) The Chief Administrative Law Judge may, upon such judge's own motion or upon proper cause shown by any other party, extend the date of the hearing or may change the place at which it is to be held.

(d) A complaint may be amended, upon such terms as may be deemed just, prior to the hearing, by the Regional Director issuing the complaint; at the hearing and until the case has been transferred to the Authority pursuant to § 2423.25, upon motion by the Administrative Law Judge designated to conduct the hearing; and after the case has been transferred to the Authority pursuant to § 2423.25, upon motion by the Authority at any time prior to the issuance of an order based thereon by the Authority.

(e) Any such complaint may be withdrawn before the hearing by the Regional Director.

§ 2423.12 Answer to the complaint; extension of time for filing; amendment.

(a) Except in extraordinary circumstances as determined by the Regional Director, within ten (10) days after the complaint is served upon the respondent, the respondent shall file the original and four (4) copies of the answer thereto, signed by the respondent or its representative, with the Regional Director who issued the complaint. The respondent shall serve a copy of the answer on the Chief Administrative Law Judge and on all other parties.

(b) The answer: (1) Shall specifically admit, deny, or explain each of the allegations of the complaint unless the respondent is without knowledge, in which case the answer shall so state; or (2) Shall state that the respondent admits all of the allegations in the complaint. Failure to file an answer or to plead specifically to or explain any allegation shall constitute an admission of such allegation and shall be so found by the Authority, unless good cause to the contrary is shown.

(c) Upon the Regional Director's own motion or upon proper cause shown by any other party, the Regional Director issuing the complaint may by written order extend the time within which the answer shall be filed.

(d) The answer may be amended by the respondent at any time prior to the hearing. During the hearing or subsequent thereto, the answer may be amended in any case where the complaint has been amended, within such period as may be fixed by the

Administrative Law Judge or the Authority. Whether or not the complaint has been amended, the answer may, in the discretion of the Administrative Law Judge or the Authority, upon motion, be amended upon such terms and within such periods as may be fixed by the Administrative Law Judge or the Authority.

§ 2423.13 Conduct of hearing.

(a) Hearings shall be conducted not earlier than five (5) days after the date on which the complaint is served. The hearing shall be open to the public unless otherwise ordered by the Administrative Law Judge. A substitute Administrative Law Judge may be designated at any time to take the place of the Administrative Law Judge previously designated to conduct the hearing. Such hearing shall, to the extent practicable, be conducted in accordance with the provisions of subchapter II of chapter 5 of title 5 of the United States Code, except that the parties shall not be bound by the rules of evidence, whether statutory, common law, or adopted by a court.

(b) An official reporter shall make the only official transcript of such proceedings. Copies of the official transcript may be examined in the appropriate regional office during normal working hours and copies of the transcript will be provided in accordance with Part 2411 of this chapter.

§ 2423.14 Intervention.

Any person involved and desiring to intervene in any proceeding pursuant to this part shall file a motion in accordance with the procedures set forth in § 2423.21. The motion shall state the grounds upon which such person claims involvement.

§ 2423.15 Rights of parties.

A party shall have the right to appear at any hearing in person, by counsel, or by other representative, and to examine and cross-examine witnesses, and to introduce into the record documentary or other relevant evidence, and to submit rebuttal evidence, except that the participation of any party shall be limited to the extent prescribed by the Administrative Law Judge. Two (2) copies of documentary evidence shall be submitted and a copy furnished to each of the other parties. Stipulations of fact may be introduced in evidence with respect to any issue.

§ 2423.16 Rules of evidence.

The parties shall not be bound by the rules of evidence, whether statutory,

common law, or adopted by court. Any evidence may be received, except that an Administrative Law Judge may exclude any evidence which is immaterial, irrelevant, unduly repetitious or customarily privileged.

§ 2423.17 Burden of proof before the Administrative Law Judge.

The General Counsel shall have the responsibility of presenting the evidence in support of the complaint and shall have the burden of proving the allegations of the complaint by a preponderance of the evidence.

§ 2423.18 Duties and powers of the Administrative Law Judge.

It shall be the duty of the Administrative Law Judge to inquire fully into the facts as they relate to the matter before such judge. Upon assignment of the case and before transfer of the case to the Authority, the Administrative Law Judge shall have the authority to:

- (a) Grant requests for subpoenas pursuant to § 2429.7 of this subchapter;
- (b) Rule upon petitions to revoke subpoenas pursuant to § 2429.7 of this subchapter;
- (c) Administer oaths and affirmations;
- (d) Take or order the taking of a deposition whenever the ends of justice would be served thereby;
- (e) Order responses to written interrogatories;
- (f) Call, examine and cross-examine witnesses and introduce into the record documentary or other evidence;
- (g) Rule upon offers of proof and receive relevant evidence and stipulations of fact with respect to any issue;

(h) Limit lines of questioning or testimony which are immaterial, irrelevant, unduly repetitious, or customarily privileged;

(i) Regulate the course of the hearing and, if appropriate, exclude from the hearing persons who engage in contemptuous conduct and strike all related testimony of witnesses refusing to answer any questions ruled to be proper;

(j) Hold conferences for the settlement or simplification of the issues by consent of the parties or upon the judge's own motion;

(k) Dispose of procedural requests, motions, or similar matters, including motions referred to the Administrative Law Judge by the Regional Director and motions for summary judgment or to amend pleadings; dismiss complaints or portions thereof; order hearings reopened; and, upon motion, order proceedings consolidated or severed

prior to issuance of the Administrative Law Judge's decision;

(l) Request the parties at any time during the hearing to state their respective positions concerning any issue in the case or theory in support thereof;

(m) Continue the hearing from day-to-day or adjourn it to a later date or to a different place, by announcement thereof at the hearing or by other appropriate notice;

(n) Prepare, serve and submit the decision pursuant to § 2423.25;

(o) Take official notice of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice: *Provided, however*, That the parties shall be given adequate notice, at the hearing or by reference in the Administrative Law Judge's decision of the matters so noticed, and shall be given adequate opportunity to show the contrary;

(p) Accept requests for withdrawal based on settlements occurring after the opening of the hearing pursuant to § 2423.10 and transmit such requests to the Authority for approval;

(q) Grant or deny requests made at the hearing to intervene and to present testimony;

(r) Correct or approve proposed corrections of the official transcript when deemed necessary;

(s) Sequester witnesses where appropriate; and

(t) Take any other action deemed necessary under the foregoing and not prohibited by the regulations in this subchapter.

§ 2423.19 Unavailability of Administrative Law Judges.

In the event the Administrative Law Judge designated to conduct the hearing becomes unavailable, the Chief Administrative Law Judge shall designate another Administrative Law Judge for the purpose of further hearing or issuance of a decision on the record as made, or both.

§ 2423.20 Objection to conduct of hearing.

(a) Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence, may be stated orally or in writing accompanied by a short statement of the grounds for such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing. Such objection shall not stay the conduct of the hearing.

(b) Automatic exceptions will be allowed to all adverse rulings. Except by special permission of the Authority,

rulings by the Administrative Law Judge shall not be appealed prior to the transfer of the case to the Authority, but shall be considered by the Authority only upon the filing of exceptions to the Administrative Law Judge's decision in accordance with § 2423.26.

§ 2423.21 Motions.

(a) *Filing of Motions.* (1) Motions made prior to a hearing and any response thereto shall be made in writing and filed with the Regional Director: *Provided, however,* That after the issuance of a complaint by the Regional Director any motion to postpone the hearing should be filed with the Chief Administrative Law Judge at least five (5) days prior to the opening of the scheduled hearing. Motions made after the hearing opens and prior to the transfer of the case to the Authority shall be made in writing to the Administrative Law Judge or orally on the record. After the transfer of the case to the Authority, motions and any response thereto shall be filed in writing with the Authority: *Provided, however,* That a motion to correct the transcript shall be filed with the Administrative Law Judge.

(2) A response to a motion shall be filed within five (5) days after service of the motion, unless otherwise directed.

(3) An original and two (2) copies of the motions and responses shall be filed, and copies shall be served on the parties. A statement of such service shall accompany the original.

(b) *Rulings on motions.* (1) Regional Directors may rule on all motions filed with them before the hearing, or they may refer them to the Administrative Law Judge.

(2) Except by special permission of the Authority, rulings by the Regional Director shall not be appealed prior to the transfer of the case to the Authority, but shall be considered by the Authority when the case is transferred to it for decision.

(3) Administrative Law Judges may rule on motions referred to them prior to the hearing and on motions filed after the beginning of the hearing and before the transfer of the case to the Authority. Such motions may be ruled upon by the Chief Administrative Law Judge in the absence of an Administrative Law Judge.

§ 2423.22 Waiver of objections.

Any objection not made before an Administrative Law Judge shall be deemed waived.

§ 2423.23 Oral argument at the hearing.

Any party shall be entitled, upon request, to a reasonable period prior to the close of the hearing for oral argument, which shall be included in the official transcript of the hearing.

§ 2423.24 Filing of brief.

Any party desiring to submit a brief to the Administrative Law Judge shall file the original and two (2) copies within seven (7) days after the close of the hearing. Copies of any brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the Administrative Law Judge: *Provided, however,* That prior to the close of the hearing and for good cause, the Administrative Law Judge may grant a reasonable extension of time for filing briefs. Requests for additional time in which to file a brief under authority of this section not addressed to the Administrative Law Judge during the hearing shall be made to the Chief Administrative Law Judge, in writing, and copies thereof shall be served on the other parties. A statement of such service shall be furnished. Requests for extension of time shall be received not later than three (3) days before the date such briefs are due. No reply brief may be filed except by special permission of the Administrative Law Judge.

§ 2423.25 Submission of the Administrative Law Judge's decision to the Authority; exceptions.

(a) After the close of the hearing, and the receipt of briefs, if any, the Administrative Law Judge shall prepare the decision expeditiously. The decision shall contain findings of fact, conclusions, and the reasons or basis therefor including credibility determinations, and conclusions as to the disposition of the case including, where appropriate, the remedial action to be taken and notices to be posted.

(b) The Administrative Law Judge shall cause the decision to be served promptly on all parties to the proceeding. Thereafter, the Administrative Law Judge shall transfer the case to the Authority including the judge's decision and the record. The record shall include the charge, complaint, service sheet, motions, rulings, orders, official transcript of the hearing, stipulations, objections, depositions, interrogatories, exhibits, documentary evidence and any briefs or other documents submitted by the parties.

(c) An original and six (6) copies of any exception to the Administrative Law Judge's decision and briefs in

support of exceptions may be filed by any party with the Authority within twenty (20) days after service of the decision: *Provided, however,* That the Authority may for good cause shown extend the time for filing such exceptions. Requests for additional time in which to file exceptions shall be in writing, and copies thereof shall be served on the other parties. Requests for extension of time must be received no later than three (3) days before the date the exceptions are due. Copies of such exceptions and any supporting briefs shall be served on all other parties, and a statement of such service shall be furnished to the Authority.

§ 2423.26 Contents of exceptions to the Administrative Law Judge's decision.

(a) Exceptions to an Administrative Law Judge's decision shall:

(1) Set forth specifically the questions upon which exceptions are taken;

(2) Identify that part of the Administrative Law Judge's decision to which objection is made; and

(3) Designate by precise citation of page the portions of the record relied on, state the grounds for the exceptions, and include the citation of authorities unless set forth in a supporting brief.

(b) Any exception to a ruling, finding or conclusion which is not specifically urged shall be deemed to have been waived. Any exception which fails to comply with the foregoing requirements may be disregarded.

§ 2423.27 Briefs in support of exceptions; oppositions to exceptions; cross-exceptions.

(a) Any brief in support of exceptions shall contain only matters included within the scope of the exceptions and shall contain, in the order indicated, the following:

(1) A concise statement of the case containing all that is material to the consideration of the questions presented;

(2) A specification of the questions involved and to be argued; and

(3) The argument, presenting clearly the points of fact and law relied on in support of the position taken on each question, with specific page reference to the transcript and the legal or other material relied on.

(b) Any party may file an opposition to exceptions and cross-exceptions and a supporting brief with the Authority within seven (7) days after service of any exceptions to an Administrative Law Judge's decision. Copies of the opposition to exceptions and the cross-exceptions and any supporting briefs shall be served on all other parties, and

a statement of service shall be filed with the opposition to exceptions and cross-exceptions and any supporting briefs.

§ 2423.28 Action by the Authority.

(a) After considering the Administrative Law Judge's decision, the record, and any exceptions and related submissions filed, the Authority shall issue its decision affirming or reversing the Administrative Law Judge, in whole, or in part, or making such other disposition of the matter as it deems appropriate: *Provided, however,* That unless exceptions are filed which are timely and in accordance with § 2423.26, the Authority may, at its discretion, adopt without discussion the decision of the Administrative Law Judge, in which event the findings and conclusions of the Administrative Law Judge, as contained in such decision shall, upon appropriate notice to the parties, automatically become the decision of the Authority.

(b) Upon finding a violation, the Authority shall issue an order:

(1) To cease and desist from any such unfair labor practice in which the agency or labor organization is engaged;

(2) Requiring the parties to renegotiate a collective bargaining agreement in accordance with the order of the Authority and requiring that the agreement, as amended, be given retroactive effect;

(3) Requiring reinstatement of an employee with backpay in accordance with 5 U.S.C. 5596; or

(4) Including any combination of the actions described in subparagraphs (1) through (3) of this paragraph or such other action as will carry out the purpose of the Federal Service Labor-Management Relations program.

(c) Upon finding no violation, the Authority shall dismiss the complaint.

§ 2423.29 Compliance with decisions and orders of the Authority.

When remedial action is ordered, the respondent shall report to the appropriate Regional Director within a specified period that the required remedial action has been effected. When the General Counsel finds that the required remedial action has not been effected, the General Counsel shall take such action as may be appropriate, including referral to the Authority for enforcement.

§ 2423.30 Backpay proceedings.

After the entry of an Authority order directing payment of backpay, or the entry of a court decree enforcing such order, if it appears to the Regional Director that a controversy exists

between the Authority and a respondent which cannot be resolved without a formal proceeding, the Regional Director may issue and serve on all parties a backpay specification and/or a notice of hearing. The respondent shall, within fifteen (15) days after the service of a backpay specification, file an answer thereto with the Regional Director issuing such specification. No answer need be filed by the respondent to a notice of hearing issued where the controversy does not involve the amount of backpay. Thereafter, the procedures provided in §§ 2423.13 to 2423.28, inclusive, shall be followed insofar as applicable.

PART 2424—REVIEW OF NEGOTIABILITY ISSUES

Subpart A—Instituting an Appeal

Sec.

2424.1 Conditions governing review.

2424.2 Who may file a petition.

2424.3 Time limits for filing.

2424.4 Content of petition; service.

2424.5 Position of the agency; time limits for filing; service.

2424.6 Response of the exclusive representative; time limits for filing; service.

2424.7 Hearing.

2424.8 Authority decision.

Subpart B—Criteria for Determining Compelling Need for Agency Rules and Regulations

2424.11 Illustrative criteria.

Authority: 5 U.S.C. 7134.

Subpart A—Instituting an Appeal

§ 2424.1 Conditions governing review.

The Authority will consider a negotiability issue under the conditions prescribed by 5 U.S.C. 7117 (b) and (c), namely: If an agency involved in collective bargaining with an exclusive representative alleges that the duty to bargain in good faith does not extend to any matter proposed to be bargained because, as proposed, the matter is inconsistent with law, rule or regulation, the exclusive representative may appeal the allegation to the Authority when—

(a) It disagrees with the agency's allegation that the matter as proposed to be bargained, is inconsistent with any Federal law or any Government-wide rule or regulation; or

(b) It believes, with regard to any agency rule or regulation asserted by the agency as a bar to negotiations on the matter, as proposed, that:

(1) The rule or regulation violates applicable law, or rule or regulation of appropriate authority outside the agency;

(2) The rule or regulation was not issued by the agency or by any primary national subdivision of the agency, or otherwise is not applicable to bar negotiations with the exclusive representative, under 5 U.S.C. 7117(a)(3); or

(3) No compelling need exists for the rule or regulation to bar negotiations on the matter, as proposed, because the rule or regulation does not meet the criteria established in subpart B of this part.

§ 2424.2 Who may file a petition.

A petition for review of a negotiability issue may be filed by an exclusive representative which is a party to the negotiations.

§ 2424.3 Time limits for filing.

The time limit for filing a petition for review is fifteen (15) days after the date the agency's allegation that the duty to bargain in good faith does not extend to the matter proposed to be bargained is served on the exclusive representative. The exclusive representative shall request such allegation in writing and the agency shall make the allegation in writing and serve a copy on the exclusive representative: *Provided, however,* That review of a negotiability issue may be requested by an exclusive representative under this subpart without a prior written allegation by the agency if the agency has not served such allegation upon the exclusive representative within five (5) days after the date of the receipt by any agency bargaining representative at the negotiations of a written request for such allegation.

§ 2424.4 Content of petition; service.

(a) A petition for review shall be dated and shall contain the following:

(1) A statement setting forth the matter proposed to be negotiated as submitted to the agency; and

(2) A copy of all pertinent material, including the agency's allegation in writing that the matter, as proposed, is not within the duty to bargain in good faith, and other relevant documentary material.

(b) A copy of the petition shall be served on the agency head and on the principal agency bargaining representative at the negotiations.

§ 2424.5 Position of the agency; time limits for filing; service.

(a) Within thirty (30) days after the date of the receipt by the head of an agency of a copy of a petition for review of a negotiability issue the agency shall file a statement—

(1) Withdrawing the allegation that the duty to bargain in good faith does not extend to the matter proposed to be negotiated; or

(2) Setting forth in full its position on any matters relevant to the petition which it wishes the Authority to consider in reaching its decision, including a full and detailed statement of its reasons supporting the allegation. The statement shall cite the section of any law, rule or regulation relied upon as a basis for the allegation and shall contain a copy of any internal agency rule or regulation so relied upon.

(b) A copy of the agency's statement of position shall be served on the exclusive representative.

§ 2424.6 Response of the exclusive representative; time limits for filing; service.

(a) Within fifteen (15) days after the date of the receipt by an exclusive representative of a copy of an agency's statement of position the exclusive representative shall file a full and detailed response stating its position and reasons for:

(1) Disagreeing with the agency's allegation that the matter, as proposed to be negotiated, is inconsistent with any Federal law or Government-wide rule or regulations; or

(2) Believing that the agency's rules or regulations violate applicable law, or rule or regulation of appropriate authority outside the agency; that the rules or regulations were not issued by the agency or by any primary national subdivision of the agency, or otherwise are not applicable to bar negotiations under 5 U.S.C. 7117(a)(3); or that no compelling need exists for the rules or regulations to bar negotiations.

(b) The response shall cite the particular section of any law, rule or regulation believed to be violated by the agency's rules or regulations; or shall explain the grounds for contending the agency rules or regulations are not applicable to bar negotiations under 5 U.S.C. 7117(a)(3), or fail to meet the criteria established in subpart B of this part or were not issued at the agency headquarters level or at the level of a primary national subdivision.

(c) A copy of the response of the exclusive representative shall be served on the agency head and on the agency's representative of record in the proceeding before the Authority.

§ 2424.7 Hearing.

A hearing may be held, in the discretion of the Authority, before a determination is made under 5 U.S.C. 7117(b) or (c). If a hearing is held, it shall

be expedited to the extent practicable and shall not include the General Counsel as a party.

§ 2424.8 Authority decision.

Subject to the requirements of this subpart the Authority shall expedite proceedings under this part to the extent practicable and shall issue to the exclusive representative and to the agency a written decision on the allegation and specific reasons therefor at the earliest practicable date.

Subpart B—Criteria for Determining Compelling Need for Agency Rules and Regulations

§ 2424.11 Illustrative criteria.

A compelling need exists for an agency rule or regulation concerning any condition of employment when the rule or regulation meets one or more of the following illustrative criteria:

(a) The rule or regulation is essential, as distinguished from helpful or desirable, to the accomplishment of the mission of the agency or primary national subdivision;

(b) The rule or regulation is essential, as distinguished from helpful or desirable, to the management of the agency or the primary national subdivision;

(c) The rule or regulation is necessary to insure the maintenance of basic merit principles;

(d) The rule or regulation implements a mandate to the agency or primary national subdivision under law or other outside authority, which implementation is essentially nondiscretionary in nature; or

(e) The rule or regulation establishes uniformity for all or a substantial segment of the employees of the agency or primary national subdivision where this is essential to the effectuation of the public interest.

PART 2425—REVIEW OF ARBITRATION AWARDS

Sec.

2425.1 Who may file an exception; time limits for filing; opposition; service.

2425.2 Content of exception.

2425.3 Grounds for review.

2425.4 Authority decision.

Authority: 5 U.S.C. 7134.

§ 2425.1 Who may file an exception; time limits for filing; opposition; service.

(a) Either party to arbitration under the provisions of chapter 71 of title 5 of the United States Code may file an exception to an arbitrator's award rendered pursuant to the arbitration.

(b) The time limit for filing an exception to an arbitration award is

thirty (30) days beginning on the date of the award.

(c) An opposition to the exception may be filed by a party within thirty (30) days after the date of service of the exception.

(d) A copy of the exception and any opposition shall be served on the other party.

§ 2425.2 Content of exception.

An exception must be a dated, self-contained document which sets forth in full:

(a) A statement of the grounds on which review is requested;

(b) Evidence or rulings bearing on the issues before the Authority;

(c) Arguments in support of the stated grounds, together with specific reference to the pertinent documents and citations of authorities; and

(d) A legible copy of the award of the arbitrator and legible copies of other pertinent documents.

§ 2425.3 Grounds for review.

(a) The Authority will review an arbitrator's award to which an exception has been filed to determine if the award is deficient—

(1) because it is contrary to any law, rule or regulation; or

(2) on other grounds similar to those applied by Federal courts in private sector labor-management relations.

(b) The Authority will not consider an exception with respect to an award relating to:

(1) An action based on unacceptable performance covered under 5 U.S.C. 4303;

(2) A removal, suspension for more than fourteen (14) days, reduction in grade, reduction in pay, or furlough of thirty (30) days or less covered under 5 U.S.C. 7512; or

(3) Matters similar to those covered under 5 U.S.C. 4303 and 5 U.S.C. 7512 which arise under other personnel systems.

§ 2425.4 Authority decision.

The Authority shall issue its decision and order taking such action and making such recommendations concerning the award as it considers necessary, consistent with applicable laws, rules, or regulations.

PART 2426—NATIONAL CONSULTATION RIGHTS AND CONSULTATION RIGHTS ON GOVERNMENT-WIDE RULES OR REGULATIONS

Subpart A—National Consultation Rights

Sec.

2426.1 Requesting; granting; criteria.

Sec.

2426.2 Requests; petition and procedures for determination of eligibility for national consultation rights.

2426.3 Obligation to consult.

Subpart B—Consultation Rights on Government-wide Rules or Regulations

2426.11 Requesting; granting; criteria.

2426.12 Requests; petition and procedures for determination of eligibility for consultation rights on Government-wide rules or regulations.

2426.13 Obligation to consult.

Authority: 5 U.S.C. 7134.

Subpart A—National Consultation Rights

§ 2461.1 Requesting; granting; criteria.

(a) An agency shall accord national consultation rights to a labor organization that:

(1) Requests national consultation rights at the agency level; and

(2) Holds exclusive recognition for either:

(i) Ten percent (10%) or more of the total number of civilian personnel employed by the agency and the non-appropriated fund Federal instrumentalities under its jurisdiction, excluding foreign nationals; or

(ii) 3,500 or more employees of the agency.

(b) An agency's primary national subdivision which has authority to formulate conditions of employment shall accord national consultation rights to a labor organization that:

(1) Requests national consultation rights at the primary national subdivision level; and

(2) Holds exclusive recognition for either:

(i) Ten percent (10%) or more of the total number of civilian personnel employed by the primary national subdivision and the non-appropriated fund Federal instrumentalities under its jurisdiction, excluding foreign nationals; or

(ii) 3,500 or more employees of the primary national subdivision.

(c) In determining whether a labor organization meets the requirements as prescribed in paragraphs (a)(2) and (b)(2) of this section, the following will not be counted:

(1) At the agency level, employees represented by the labor organization under national exclusive recognition granted at the agency level.

(2) At the primary national subdivision level, employees represented by the labor organization under national exclusive recognition granted at the agency level or at that primary national subdivision level.

(d) An agency or a primary national subdivision of an agency shall not grant national consultation rights to any labor organization that does not meet the criteria prescribed in paragraphs (a), (b) and (c) of this section.

§ 2426.2 Requests; petition and procedures for determination of eligibility for national consultation rights.

(a) Requests of labor organizations for national consultation rights shall be submitted to the headquarters of the agency or the agency's primary national subdivision, as appropriate.

(b) Issues relating to a labor organization's eligibility for, or continuation of, national consultation rights shall be referred to the Authority for determination as follows:

(1) A petition for determination of the eligibility of a labor organization for national consultation rights under criteria set forth in § 2426.1 may be filed by a labor organization.

(2) A petition for determination of eligibility for national consultation rights shall be submitted on a form prescribed by the Authority and shall set forth the following information:

(i) Name and affiliation, if any, of the petitioner and its address and telephone number;

(ii) A statement that the petitioner has submitted to the agency or the primary national subdivision and to the Assistant Secretary a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives;

(iii) A declaration by the person signing the petition, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of such person's knowledge and belief;

(iv) The signature of the petitioner's representative, including such person's title and telephone number;

(v) The name, address, and telephone number of the agency or primary national subdivision in which the petitioner seeks to obtain or retain national consultation rights, and the persons to contact and their titles, if known;

(vi) A showing that petitioner holds adequate exclusive recognition as required by § 2426.1; and

(vii) A statement as appropriate: (A) That such showing has been made to and rejected by the agency or primary national subdivision, together with a statement of the reasons for rejection, if any, offered by that agency or primary national subdivision; or

(B) That the agency or primary national subdivision has served notice

of its intent to terminate existing national consultation rights, together with a statement of the reasons for termination.

(3) The following regulations govern petitions filed under this section:

(i) A petition for determination of eligibility for national consultation rights shall be filed with the Regional Director for the region wherein the headquarters of the agency or the agency's primary national subdivision is located.

(ii) An original and four (4) copies of a petition shall be filed, together with a statement of any other relevant facts and of all correspondence.

(iii) Copies of the petition together with the attachments referred to in paragraph (b)(3)(ii) of this section shall be served by the petitioner on all known interested parties, and a written statement of such service shall be filed with the Regional Director.

(iv) A petition shall be filed within thirty (30) days after the service of written notice by the agency or primary national subdivision of either its refusal to accord national consultation rights pursuant to a request under § 2426.2 or its intention to terminate existing national consultation rights.

(v) If an agency or primary national subdivision wishes to terminate national consultation rights, notice of its intention to do so shall include a statement of its reasons and shall be served not less than thirty (30) days prior to the intended termination date. A labor organization, after receiving such notice, may file a petition within the time period prescribed herein, and thereby cause to be stayed further action by the agency or primary national subdivision pending disposition of the petition. If no petition has been filed within the provided time period, an agency or primary national subdivision may terminate national consultation rights.

(vi) Within fifteen (15) days after the receipt of a copy of the petition, the agency or primary national subdivision shall file a response thereto with the Regional Director raising any matter which is relevant to the petition.

(vii) The Regional Director shall make such investigation as the Regional Director deems necessary and thereafter shall issue and serve on the parties a report and findings with respect to the eligibility for national consultation rights. A party may obtain a review of such report and findings pursuant to § 2422.6(d) of this subchapter: *Provided, however*, That a determination by the Regional Director to issue a notice of hearing shall not be subject to review by

the Authority. The Regional Director, if appropriate, may cause a notice of hearing to be issued to all interested parties where substantial factual issues exist warranting a hearing. Hearings shall be conducted and decisions issued by Administrative Law Judges and exceptions and related submissions filed with the Authority in accordance with §§ 2423.13 through 2423.27 of this subchapter excluding § 2423.17, with the following exceptions:

(A) The Administrative Law Judge may not make conclusions as to remedial action to be taken or notices to be posted as provided under § 2423.25(a), and

(B) Reference to "charge, complaint" in § 2423.25(b) shall be read as "petition, notice of hearing," respectively. After considering the Administrative Law Judge's decision, the record and any exceptions and related submissions filed by the parties, the Authority shall issue its decision and order as provided under § 2423.28(a) of this subchapter.

§ 2426.3 Obligation to consult.

(a) When a labor organization has been accorded national consultation rights, the agency or the primary national subdivision which has granted those rights shall, through appropriate officials, furnish designated representatives of the labor organization:

(1) Reasonable notice of any proposed substantive change in conditions of employment; and

(2) Reasonable time to present its views or recommendations regarding the change.

(b) If a labor organization presents any views and recommendations regarding any proposed substantive change in conditions of employment to an agency or a primary national subdivision, that agency or primary national subdivision shall:

(1) Consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

(2) Provide the labor organization a written statement of the reasons for taking the final action.

(c) Nothing in this subpart shall be construed to limit the right of any agency or exclusive representative to engage in collective bargaining.

Subpart B—Consultation Rights on Government-wide Rules or Regulations

§ 2426.11 Requesting; granting; criteria.

(a) An agency shall accord consultation rights on Government-wide rules or regulations to a labor organization that:

(1) Requests consultation rights on Government-wide rules or regulations from an agency; and

(2) Holds exclusive recognition for 3,500 or more employees.

(b) An agency shall not grant consultation rights on Government-wide rules or regulations to any labor organization that does not meet the criteria prescribed in paragraph (a) of this section.

§ 2426.12 Request; petition and procedures for determination of eligibility for consultation rights on Government-wide rules or regulations.

(a) Requests of labor organizations for consultation rights on Government-wide rules or regulations shall be submitted to the headquarters of the agency.

(b) Issues relating to a labor organization's eligibility for, or continuation of, consultation rights on Government-wide rules or regulations shall be referred to the Authority for determination as follows:

(1) A petition for determination of the eligibility of a labor organization for consultation rights under criteria set forth in § 2426.11 may be filed by a labor organization.

(2) A petition for determination of eligibility for consultation rights shall be submitted on a form prescribed by the Authority and shall set forth the following information:

(i) Name and affiliation, if any, of the petitioner and its address and telephone number;

(ii) A statement that the petitioner has submitted to the agency and to the Assistant Secretary a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives;

(iii) A declaration by the person signing the petition, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of such person's knowledge and belief;

(iv) The signature of the petitioner's representative, including such person's title and telephone number;

(v) The name, address, and telephone number of the agency in which the petitioner seeks to obtain or retain consultation rights on Government-wide

rules or regulations, and the persons to contact and their titles, if known;

(vi) A showing that petitioner meets the criteria as required by § 2426.11; and

(vii) A statement, as appropriate: (A) That such showing has been made to and rejected by the agency, together with a statement of the reasons for rejection, if any, offered by that agency; or

(B) That the agency has served notice of its intent to terminate existing consultation rights on Government-wide rules or regulations, together with a statement of the reasons for termination.

(3) The following regulations govern petitions filed under this section:

(i) A petition for determination of eligibility for consultation rights on Government-wide rules or regulations shall be filed with the Regional Director for the region wherein the headquarters of the agency is located.

(ii) An original and four (4) copies of a petition shall be filed, together with a statement of any other relevant facts and of all correspondence.

(iii) Copies of the petition together with the attachments referred to in paragraph (b)(3)(ii) of this section shall be served by the petitioner on the agency, and a written statement of such service shall be filed with the Regional Director.

(iv) A petition shall be filed within thirty (30) days after the service of written notice by the agency of either its refusal to accord consultation rights on Government-wide rules or regulations pursuant to a request under § 2426.12 or its intention to terminate such existing consultation rights.

(v) If an agency wishes to terminate consultation rights on Government-wide rules or regulations, notice of its intention to do so shall be served not less than thirty (30) days prior to the intended termination date. A labor organization, after receiving such notice, may file a petition within the time period prescribed herein, and thereby cause to be stayed further action by the agency pending disposition of the petition. If no petition has been filed within the provided time period, an agency may terminate such consultation rights.

(vi) Within fifteen (15) days after the receipt of a copy of the petition, the agency shall file a response thereto with the Regional Director raising any matter which is relevant to the petition.

(vii) The Regional Director shall make such investigation as the Regional Director deems necessary and thereafter shall issue and serve on the parties a report and findings with respect to the eligibility for consultation rights. A party

may obtain a review of such report and findings pursuant to § 2422.6(d) of this subchapter: *Provided, however*, That a determination by the Regional Director to issue a notice of hearing shall not be subject to review by the Authority. The Regional Director, if appropriate, may cause a notice of hearing to be issued where substantial factual issues exist warranting a hearing. Hearings shall be conducted and decisions issued by Administrative Law Judges and exceptions and related submissions filed with the Authority in accordance with §§ 2423.13 through 2423.27 of this subchapter, excluding § 2423.17 with the following exceptions:

(A) The Administrative Law Judge may not make conclusions as to remedial action to be taken or notices to be posted as provided under § 2424.25(a); and

(B) Reference to "charge, complaint" in § 2423.25(b) shall be read as "petition, notice of hearing," respectively. After considering the Administrative Law Judge's decision, the record and any exceptions and related submissions filed by the parties, the Authority shall issue its decision and order as provided under § 2423.28(a) of this subchapter.

§ 2426.13 Obligation to consult.

(a) When a labor organization has been accorded consultation rights on Government-wide rules or regulations, the agency which has granted those rights shall, through appropriate officials, furnish designated representatives of the labor organization:

(1) Reasonable notice of any proposed Government-wide rule or regulation issued by the agency affecting any substantive change in any condition of employment; and

(2) Reasonable time to present its views and recommendations regarding the change.

(b) If a labor organization presents any views or recommendations regarding any proposed substantive change in any condition of employment to an agency, that agency shall:

(1) Consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

(2) Provide the labor organization a written statement of the reasons for taking the final action.

PART 2427—GENERAL STATEMENTS OF POLICY OR GUIDANCE

Sec.

2427.1 Scope.

Sec.

2427.2 Requests for general statements of policy or guidance.

2427.3 Content of request.

2427.4 Submissions from interested parties.

2427.5 Standards governing issuance of general statements of policy and guidance.

Authority, 5 U.S.C. 7134.

§ 2427.1 Scope.

This part sets forth procedures under which requests may be submitted to the Authority seeking the issuance of general statements of policy or guidance under 5 U.S.C. 7105(a)(1).

§ 2427.2 Requests for general statements of policy or guidance.

(a) The head of an agency (or designee), the national president of a labor organization (or designee), or the president of a labor organization not affiliated with a national organization (or designee) may separately or jointly ask the Authority for a general statement of policy or guidance. The head of any lawful association not qualified as a labor organization may also ask the Authority for such a statement provided the request is not in conflict with the provisions of chapter 71 of title 5 of the United States Code or other law.

(b) The Authority will not ordinarily consider a request related to any matter pending before the Authority, General Counsel, Panel or Assistant Secretary.

§ 2427.3 Content of request.

(a) A request for a general statement of policy or guidance shall be in writing and must contain:

(1) A concise statement of the question with respect to which a general statement of policy or guidance is requested together with background information necessary to an understanding of the question;

(2) A statement of the standards under § 2427.5 upon which the request is based;

(3) A full and detailed statement of the position or positions of the requesting party or parties;

(4) Identification of any cases or other proceedings known to bear on the question which are pending under chapter 71 of title 5 of the United States Code; and

(5) Identification of other known interested parties.

(b) A copy of each document also shall be served on all known interested parties, including the General Counsel, the Panel, the Federal Mediation and Conciliation Service, and the Assistant Secretary, where appropriate.

§ 2427.4 Submissions from interested parties.

Prior to issuance of a general statement of policy or guidance the Authority, as it deems appropriate, will afford an opportunity to interested parties to express their views orally or in writing.

§ 2427.5 Standards governing issuance of general statements of policy and guidance.

In deciding whether to issue a general statement of policy or guidance, the Authority shall consider:

(a) Whether the question presented can more appropriately be resolved by other means;

(b) Where other means are available, whether an Authority statement would prevent the proliferation of cases involving the same or similar question;

(c) Whether the resolution of the question presented would have general applicability to the overall program;

(d) Whether the question currently confronts parties in the context of a labor-management relationship;

(e) Whether the question is presented jointly by the parties involved; and

(f) Whether the issuance by the Authority of a general statement of policy or guidance on the question would promote constructive and cooperative labor-management relationships in the Federal service and would otherwise promote the purposes of the Federal Service Labor-Management Relations program.

PART 2428—ENFORCEMENT OF ASSISTANT SECRETARY STANDARDS OF CONDUCT; DECISIONS AND ORDERS

Sec.

2428.1 Scope.

2428.2 Petitions for enforcement.

2428.3 Authority decision.

Authority, 5 U.S.C. 7134.

§ 2428.1 Scope.

This part sets forth procedures under which the Authority, pursuant to 5 U.S.C. 7105(a)(2)(I), will enforce decisions and orders of the Assistant Secretary in standards of conduct matters arising under 5 U.S.C. 7120.

§ 2428.2 Petitions for enforcement.

(a) The Assistant Secretary may petition the Authority to enforce any Assistant Secretary decision and order in a standards of conduct case arising under 5 U.S.C. 7120. The Assistant Secretary shall transfer to the Authority the record in the case, including a copy of the transcript if any, exhibits, briefs, and other documents filed with the Assistant Secretary. A copy of the

petition for enforcement shall be served on the labor organization against which such order applies.

(b) An opposition to Authority enforcement of any such Assistant Secretary decision and order may be filed by the labor organization against which such order applies twenty (20) days from the date of service of the petition, unless the Authority, upon good cause shown by the Assistant Secretary, sets a shorter time for filing such opposition. A copy of the opposition to enforcement shall be served on the Assistant Secretary.

§ 2428.3 Authority decision.

(a) A decision and order of the Assistant Secretary shall be enforced unless it is arbitrary and capricious or based upon manifest disregard of the law.

(b) The Authority shall issue its decision on the case enforcing, enforcing as modified, refusing to enforce, or remanding the decision and order of the Assistant Secretary.

PART 2429—MISCELLANEOUS AND GENERAL REQUIREMENTS

Subpart A—Miscellaneous

Sec.

- 2429.1 Transfer of cases to the Authority.
- 2429.2 Transfer and consolidation of cases.
- 2429.3 Transfer of record.
- 2429.4 Referral of policy questions to the Authority.
- 2429.5 Matters not previously presented; official notice.
- 2429.6 Oral argument.
- 2429.7 Subpenas.
- 2429.8 Stay of arbitration award; requests.
- 2429.9 Amicus curiae.
- 2429.10 Advisory opinions.
- 2429.11 Interlocutory appeals.
- 2429.12 Service of process and papers by the Authority.
- 2429.13 Official time.
- 2429.14 Witness fees.
- 2429.15 General remedial authority.

Subpart B—General Requirements

- 2429.21 Computation of time for filing papers.
- 2429.22 Additional time after service by mail.
- 2429.23 Extension; waiver.
- 2429.24 Place and method of filing; acknowledgment.
- 2429.25 Number of copies.
- 2429.26 Other documents.
- 2429.27 Service; statement of service.
- 2429.28 Petitions for amendment of regulations.

Authority. 5 U.S.C. 7134.

Subpart A—Miscellaneous

§ 2429.1 Transfer of cases to the Authority.

(a) In any case under Parts 2422 and 2423 of this subchapter, after the filing of a petition or issuance of a complaint, in which the Regional Director determines that no material issue of fact exists, the Regional Director may transfer the case to the Authority. The Authority shall decide the case on the basis of the papers alone after having allowed ten (10) days for the filing of briefs and/or requests for review of the Regional Director's action. The Authority may remand the case to the Regional Director if it determines that material questions of fact exist. Orders of transfer and remand shall be served on all parties.

(b) In any case under Parts 2422 and 2423 of this subchapter in which it appears to the Regional Director that the proceedings raise questions which should be decided by the Authority, the Regional Director may, at any time, issue an order transferring the case to the Authority for decision or other appropriate action. Such an order shall be served on the parties.

§ 2429.2 Transfer and consolidation of cases.

In any matter arising pursuant to Parts 2422 and 2423 of this subchapter, whenever it appears necessary in order to effectuate the purposes of the Federal Service Labor-Management Relations program or to avoid unnecessary costs or delay, Regional Directors may consolidate cases within their own region or may transfer such cases to any other region, for the purpose of investigation or consolidation with any proceedings which may have been instituted in, or transferred to, such region.

§ 2429.3 Transfer of record.

In any case under Part 2425 of this subchapter, upon request by the Authority, the parties jointly shall transfer the record in the case, including a copy of the transcript, if any, exhibits, briefs and other documents filed with the arbitrator, to the Authority.

§ 2429.4 Referral of policy questions to the Authority.

Notwithstanding the procedures set forth in this subchapter, the General Counsel, the Assistant Secretary, or the Panel may refer for review and decision or general ruling by the authority any case involving a major policy issue that arises in a proceeding before any of them. Any such referral shall be in writing and a copy of such referral shall

be served on all parties to the proceeding. Before decision or general ruling, the Authority shall obtain the views of the parties and other interested persons, orally or in writing, as it deems necessary and appropriate.

§ 2429.5 Matters not previously presented; official notice.

The Authority will not consider evidence offered by a party, or any issue, which was not presented in the proceedings before the Regional Director, Hearing Officer, Administrative Law Judge, or arbitrator. The Authority may, however, take official notice of such matters as would be proper.

§ 2429.6 Oral argument.

The Authority or the General Counsel, in their discretion, may request or permit oral argument in any matter arising under this subchapter under such circumstances and conditions as they deem appropriate.

§ 2429.7 Subpenas.

(a) Any member of the Authority, the General Counsel, any Administrative Law Judge appointed by the Authority under 5 U.S.C. 3105, and any Regional Director, Hearing Officer, or other employee of the Authority designated by the Authority may issue subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence. However, no subpoena shall be issued under this section which requires the disclosure of intramangement guidance, advice, counsel, or training within an agency or between an agency and the Office of Personnel Management.

(b) Where the parties are in agreement that the appearance of witnesses or the production of documents is necessary, and such witnesses agree to appear, no such subpoena need be sought.

(c) A party's request for a subpoena shall be in writing and filed with the Regional Director, in proceedings arising under Parts 2422 and 2423 of this subchapter, or filed with the Authority, in proceedings arising under Parts 2424 and 2425 of this subchapter, not less than fifteen (15) days prior to the opening of a hearing, or with the appropriate presiding official(s) during the hearing.

(d) All requests shall name and identify the witnesses or documents sought, and state the reasons therefor. The Authority, General Counsel, Administrative Law Judge, Regional Director, Hearing Officer, or any other

employee of the Authority designated by the Authority, as appropriate, shall grant the request upon the determination that the testimony or documents appear to be necessary to the matters under investigation and the request describes with sufficient particularity the documents sought. Service of an approved subpoena is the responsibility of the requesting party, the subpoena shall show on its face the name and address of the party at whose request the subpoena was issued.

(e) Any person served with a subpoena who does not intend to comply, shall, within five (5) days after the date of service of the subpoena upon such person, petition in writing to revoke the subpoena. A copy of any petition to revoke a subpoena shall be served on the party at whose request the subpoena was issued. Such petition to revoke, if made prior to the hearing, and a written statement of service, shall be filed with the Regional Director, who may refer the petition to the Authority, General Counsel, Administrative Law Judge, Hearing Officer, or any other employee of the Authority designated by the Authority, as appropriate, for ruling. A petition to revoke a subpoena filed during the hearing, and a written statement of service, shall be filed with the appropriate presiding official(s). The Regional Director, or the appropriate presiding official(s) will, as a matter of course, cause a copy of the petition to revoke to be served on the party at whose request the subpoena was issued, but shall not be deemed to assume responsibility for such service. The Authority, General Counsel, Administrative Law Judge, Regional Director, Hearing Officer, or any other employee of the Authority designated by the Authority, as appropriate, shall revoke the subpoena if the evidence the production of which is required does not relate to any matter under investigation or in question in the proceedings, or the subpoena does not describe with sufficient particularity the evidence the production of which is required, or if for any other reason sufficient in law the subpoena is invalid. The Authority, General Counsel, Administrative Law Judge, Regional Director, Hearing Officer, or any other employee of the Authority designated by the Authority, as appropriate, shall make a simple statement of procedural or other ground for the ruling on the petition to revoke. The petition to revoke, any answer thereto, and any ruling thereon shall not become part of the official record except upon the request of the party aggrieved by the ruling.

(f) Upon the failure of any person to comply with a subpoena issued, upon the request of any party to the proceeding, the General Counsel shall, on behalf of such party, institute proceedings in the appropriate district court for the enforcement thereof, unless, in the judgment of the General Counsel, the enforcement of such subpoena would be inconsistent with law and the policies of the Federal Service Labor-Management Relations program. The General Counsel shall not be deemed thereby to have assumed responsibility for the effective prosecution of the same before the court thereafter.

§ 2429.8 Stay of arbitration award; requests.

(a) A request for a stay shall be entertained only in conjunction with and as a part of an exception to an arbitrator's award filed under Part 2425. The filing of an exception shall not itself operate as a stay of the award involved in the proceedings.

(b) A timely request for a stay of an arbitrator's award to which an exception has been filed shall operate as a temporary stay of the award. Such temporary stay shall be deemed effective from the date of the award and shall remain in effect until the Authority issues its decision and order on the exception, or otherwise acts with respect to the request for the stay.

(c) A request for a stay of an arbitrator's award will be granted only where it appears, based upon the facts and circumstances presented, that:

- (1) There is a strong likelihood of success on the merits of the appeal; and
- (2) A careful balancing of all the equities, including the public interest, warrants issuance of a stay.

§ 2429.9 Amicus curiae.

Upon petition of an interested person, a copy of which petition shall be served on the parties, and as the Authority deems appropriate, the Authority may grant permission for the presentation of written and/or oral argument at any stage of the proceedings by an amicus curiae and the parties shall be notified of such action by the Authority.

§ 2429.10 Advisory opinions.

The Authority and the General Counsel will not issue advisory opinions.

§ 2429.11 Interlocutory appeals.

The Authority and the General Counsel will not ordinarily consider interlocutory appeals.

§ 2429.12 Service of process and papers by the Authority.

(a) *Methods of service.* Notices of hearings, reports and findings, decisions of Administrative Law Judges, complaints, written rulings on motions, decisions and orders, and all other papers required by this subchapter to be issued by the Authority, the General Counsel, Regional Directors, Hearing Officers and Administrative Law Judges, shall be served personally or by certified mail or by telegraph.

(b) *Upon whom served.* All papers required to be served under paragraph (a) of this section shall be served upon all counsel of record or other designated representative(s) of parties, and upon parties not so represented. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party.

(c) *Proof of service.* Proof of service shall be the verified return by the individual serving the papers setting forth the manner of such service, the return post office receipt, or the return telegraph receipt. When service is by mail, the date of service shall be the day when the matter served is deposited in the United States mail.

§ 2429.13 Official time.

If the participation of any employee in any phase of any proceeding before the Authority, including the investigation of unfair labor practice charges and representation petitions and the participation in hearings and representation elections, is deemed necessary by the Authority, such employee shall be granted official time for such participation including necessary travel time as occurs during the employee's regular work hours and when the employee would otherwise be in a work or paid leave status. In addition, necessary transportation and per diem expenses shall be paid by the employing activity or agency.

§ 2429.14 Witness fees.

(a) Witnesses (whether appearing voluntarily, or under a subpoena) shall be paid the fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States: *Provided*, That any witness who is employed by the Federal Government shall not be entitled to receive witness fees in addition to compensation received pursuant to § 2429.13.

(b) Witness fees and mileage allowances shall be paid by the party at whose instance the witnesses appear, except when the witness receives compensation pursuant to § 2429.13.

§ 2429.15 General remedial authority.

The Authority shall take any actions which are necessary and appropriate to administer effectively the provisions of chapter 71 of title 5 of the United States Code.

Subpart B—General Requirements**§ 2429.21 Computation of time for filing papers.**

In computing any period of time prescribed by or allowed by this subchapter, except in agreement bar situations described in § 2422.3 (c) and (d) of this subchapter, and except as to the filing of exceptions to an arbitrator's award under § 2425.1 of this subchapter, the day of the act, event, or default from or after which the designated period of time begins to run, shall not be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or a Federal legal holiday in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or a Federal legal holiday: *Provided, however*, In agreement bar situations described in § 2422.3 (c) and (d), if the sixtieth (60th) day prior to the expiration date of an agreement falls on Saturday, Sunday or a Federal legal holiday, a petition, to be timely, must be received by the close of business of the last official workday preceding the sixtieth (60th) day. When the period of time prescribed or allowed is seven (7) days or less, intermediate Saturdays, Sundays, and Federal legal holidays shall be excluded from the computations. When this subchapter requires the filing of any paper, such document must be received by the Authority or the officer or agent designated to receive such matter before the close of business of the last day of the time limit, if any, for such filing or extension of time that may have been granted.

§ 2429.22 Additional time after service by mail.

Whenever a party has the right or is required to do some act pursuant to this subchapter within a prescribed period after service of a notice or other paper upon such party, and the notice or paper is served on such party by mail, five (5) days shall be added to the prescribed period: *Provided, however*, That five (5) days shall not be added to the period for filing a petition for review of a negotiability issue as provided in § 2424.3 of this subchapter, or in any instance where an extension of time has been granted.

§ 2429.23 Extension, waiver.

(a) Except as provided in subsection (d) of this section, the Authority or General Counsel, or their designated representatives, as appropriate, may extend any time limit provided in this subchapter for good cause shown, and shall notify the parties of any such extension. Requests for extensions of time shall be filed in writing no later than three (3) days before the established time limit for filing, shall state the position of the other parties on the request for extension, and shall be served on the other parties.

(b) Except as provided in subsection (d) of this section, the Authority or General Counsel, or their designated representatives, as appropriate, may waive any expired time limit in this subchapter in extraordinary circumstances. Request for a waiver of time limits shall state the position of the other parties and shall be served on the other parties.

(c) The time limits established in this subchapter may not be extended or waived in any manner other than that described in this subchapter.

(d) Time limits established in chapter 71 of title 5 of the United States Code, such as those in 5 U.S.C. 7117(c)(2), (3) and (4) and 7122(b), may not be extended or waived under this section.

§ 2429.24 Place and method of filing; acknowledgment.

(a) A document submitted to the Authority pursuant to this subchapter shall be filed with the Authority at the address set forth in the Appendix.

(b) A document submitted to the General Counsel pursuant to this subchapter shall be filed with the General Counsel at the address set forth in the Appendix.

(c) A document submitted to a Regional Director pursuant to this subchapter shall be filed with the appropriate regional office, as set forth in the Appendix.

(d) A document submitted to an Administrative Law Judge pursuant to this subchapter shall be filed with the appropriate Administrative Law Judge, as set forth in the Appendix.

(e) All documents filed pursuant to paragraphs (a), (b), (c) and (d) of this section shall be filed by certified mail or in person.

(f) All matters filed under paragraphs (a), (b), (c) and (d) of this section shall be printed, typed, or otherwise legibly duplicated; carbon copies of typewritten matter will be accepted if they are clearly legible.

(g) Documents in any proceedings under this subchapter, including

correspondence, shall show the title of the proceeding and the case number, if any.

(h) The original of each document required to be filed under this subchapter shall be signed by the party or by an attorney or representative of record for the party, or by an officer of the party, and shall contain the address and telephone number of the person signing it.

(i) A return postal receipt may serve as acknowledgment of receipt by the Authority, General Counsel, Administrative Law Judge, Regional Director, or Hearing Officer, as appropriate. The receiving officer will otherwise acknowledge receipt of documents filed only when the filing party so requests and includes an extra copy of the document or its transmittal letter which the receiving officer will date stamp upon receipt and return. If return is to be made by mail, the filing party shall include a self-addressed, stamped envelop for the purpose.

§ 2429.25 Number of copies.

Unless otherwise provided by the Authority or the General Counsel, or their designated representatives, as appropriate, or under this subchapter, any document or paper filed with the Authority, General Counsel, Administrative Law Judge, regional Director, or Hearing Officer, as appropriate, under this subchapter, together with any enclosure filed therewith, shall be submitted in an original and three (3) copies.

§ 2429.26 Other documents.

(a) The Authority or the General Counsel, or their designated representatives, as appropriate, may in their discretion grant leave to file other documents as they deem appropriate.

(b) A copy of such other documents shall be served on the other parties.

§ 2429.27 Service; statement of service.

(a) Except as provided in § 2423.9(c), any party filing a document as provided in this subchapter is responsible for serving a copy upon all counsel of record or other designated representative(s) of parties, upon parties not so represented, and upon any interested person who has been granted permission by the Authority pursuant to § 2429.9 to present written and/or oral argument as amicus curiae. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party.

(b) Service shall be made by certified mail or in person. A return post office

receipt or other written receipt executed by the party or person served shall be proof of service.

(c) A signed and dated statement of service shall be submitted at the time of filing. The statement of service shall include the names of the parties and persons served, their addresses, the date of service, the nature of the document served, and the manner in which service was made.

(d) The date of service or date served shall be the day when the matter served is deposited in the U.S. mail or is delivered in person.

§ 2429.28 Petitions for amendment of regulations.

Any interested person may petition the Authority or General Counsel in writing for amendments to any portion of these regulations. Such petition shall identify the portion of the regulations involved and provide the specific language of the proposed amendment together with a statement of grounds in support of such petition.

SUBCHAPTER D—FEDERAL SERVICE IMPASSES PANEL**PART 2470—GENERAL****Subpart A—Purpose**

Sec.

2470.1 Purpose.

Subpart B—Definitions

2470.2 Definitions.

Authority: 5 U.S.C. 7119, 7134.

Subpart A—Purpose**§ 2470.1 Purpose.**

The regulations contained in this subchapter are intended to implement the provisions of § 7119 of title 5 of the United States Code. They prescribe procedures and methods which the Federal Service Impasses Panel may utilize in the resolution of negotiation impasses when voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or any other third-party mediation, fail to resolve the disputes.

Subpart B—Definitions**§ 2470.2 Definitions.**

(a) The terms "agency," "labor organization," and "conditions of employment" as used herein shall have the meanings set forth in 5 U.S.C. 7103(a).

(b) The term "Executive Director" means the Executive Director of the Panel.

(c) The terms "designated representative" or "designee" of the

Panel means a Panel member, a staff member, or other individual designated by the Panel to act on its behalf.

(d) The term "hearing" means a factfinding hearing, arbitration hearing, or any other hearing procedure deemed necessary to accomplish the purposes of 5 U.S.C. 7119.

(e) The term "impasse" means that point in the negotiation of conditions of employment at which the parties are unable to reach agreement, notwithstanding their efforts to do so by direct negotiations and by the use of mediation or other voluntary arrangements for settlement.

(f) The term "Panel" means the Federal Service Impasses Panel described in 5 U.S.C. 7119(c) or a quorum thereof.

(g) The term "party" means the agency or the labor organization participating in the negotiation of conditions of employment.

(h) The term "quorum" means three or more members of the Panel.

(i) The term "voluntary arrangements" means any method adopted by the parties for the purpose of assisting them in their resolution of a negotiation dispute which is not inconsistent with the provisions of 5 U.S.C. 7119.

PART 2471—PROCEDURES OF THE PANEL

Sec.

2471.1 Request for Panel consideration; request for Panel approval of binding arbitration.

2471.2 Request form.

2471.3 Content of request.

2471.4 Where to file.

2471.5 Copies and service.

2471.6 Investigation of request; Panel recommendation and assistance; approval of binding arbitration.

2471.7 Preliminary hearing procedures.

2471.8 Conduct of hearing and prehearing conference.

2471.9 Report and recommendations.

2471.10 Duties of each party following receipt of recommendations.

2471.11 Final action by the Panel.

2471.12 Inconsistent labor agreement provisions.

Authority: 5 U.S.C. 7119, 7134.

§ 2471.1 Request for Panel consideration; request for Panel approval of binding arbitration.

If voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or any other third-party mediation, fail to resolve a negotiation impasse:

(a) Either party, or the parties jointly, may request the Panel to consider the matter by filing a request as hereinafter provided; or the Panel may, pursuant to 5 U.S.C. 7119(c)(1), undertake

consideration of the matter upon request of (i) the Federal Mediation and Conciliation Service, or (ii) the Executive Director; or

(b) The parties may jointly request the Panel to approve any procedure, which they have agreed to adopt, for binding arbitration of the negotiation impasse by filing a request as hereinafter provided.

§ 2471.2 Request form.

A form has been prepared for use by the parties in filing a request with the Panel for consideration of an impasse or approval of a binding arbitration procedure. Copies are available from the Office of the Executive Director, Suite 209, 1730 K Street NW., Washington, D.C. 20006.

§ 2471.3 Content of request.

(a) A request from a party or parties to the Panel for consideration of an impasse must be in writing and include the following information:

(1) Identification of the parties and individuals authorized to act on their behalf;

(2) Statement of issues at impasse and the summary positions of the initiating party or parties with respect to those issues; and

(3) The number, length, and dates of negotiation and mediation sessions held, including the nature and extent of all other voluntary arrangements utilized.

(b) A request for approval of a binding arbitration procedure must be in writing, jointly filed by the parties, and include the following information:

(1) Identification of the parties and individuals authorized to act on their behalf;

(2) Statement of issues at impasse;

(3) The number, length, and dates of negotiation and mediation sessions held, including the nature and extent of all other voluntary arrangements utilized;

(4) Statement of the issues to be submitted to the arbitrator;

(5) Statement that the proposals to be submitted to the arbitrator contain no questions concerning the duty to bargain; and

(6) Statement of the arbitration procedures to be used, including the type of arbitration, the method of selecting the arbitrator, and the arrangement for paying for the proceedings.

§ 2471.4 Where to file.

Requests to the Panel provided for in this part, and inquiries or correspondence on the status of impasses or other related matters, should be directed to the Executive Director, Federal Service Impasses

Panel, Suite 209, 1730 K Street NW., Washington, D.C. 20006.

§ 2471.5 Copies and service.

Any party submitting a request for Panel consideration of an impasse or request for approval of a binding arbitration procedure and any party submitting a response to such requests shall file an original and one copy with the Panel, shall serve a copy promptly on the other party to the dispute and on any mediation service which may have been utilized, and shall file a statement of such service with the Executive Director. When the Panel acts on a request from the Federal Mediation and Conciliation Service or acts on a request from the Executive Director, it will notify the parties to the dispute and any mediation service which may have been utilized.

§ 2471.6 Investigation of request; Panel recommendation and assistance; approval of binding arbitration.

(a) Upon receipt of a request for consideration of an impasse, the Panel or its designee will promptly conduct an investigation, consulting when necessary with the parties and with any mediation service utilized. After due consideration, the Panel shall either:

(1) Decline to assert jurisdiction in the event that it finds that no impasse exists or that there is other good cause for not asserting jurisdiction, in whole or in part, and so advise the parties in writing, stating its reasons; or

(2) Recommend to the parties procedures, including but not limited to arbitration, for the resolution of the impasse and/or assist them in resolving the impasse through whatever methods and procedures the Panel considers appropriate which may include, but not be limited to, consultation, factfinding and recommendations.

(b) Upon receipt of a request for approval of a binding arbitration procedure, the Panel or its designee will promptly conduct an investigation, consulting when necessary with the parties and with any mediation service utilized. After due consideration, the Panel shall either approve or disapprove the request, and so advise the parties in writing, stating its reasons.

§ 2471.7 Preliminary hearing procedures.

When the Panel determines that a hearing is necessary under § 2471.6, it will:

(a) Appoint one or more of its designees to conduct such hearing; and

(b) Issue and serve upon each of the parties a notice of hearing and a notice of prehearing conference, if any. The

notice will state (i) the names of the parties to the dispute; (ii) the date, time, place, type, and purpose of the hearing; (iii) the date, time, place, and purpose of the prehearing conference, if any; (iv) the name of the designated representative appointed by the Panel; and (v) the issues to be resolved.

§ 2471.8 Conduct of hearing and prehearing conference.

(a) A designated representative of the Panel, when so appointed to conduct a hearing, shall have the authority on behalf of the Panel to:

(1) Administer oaths, take the testimony or deposition of any person under oath, receive other evidence, and issue subpoenas;

(2) Conduct the hearing in open or in closed session, at the discretion of the designated representative, for good cause shown;

(3) Rule on motions and requests for appearance of witnesses and the production of records;

(4) Designate the date on which posthearing briefs, if any, shall be submitted. (An original and one copy of each brief, accompanied by a statement of service, shall be submitted to the designated representative of the Panel with a copy to the other party.); and

(5) Determine all procedural matters concerning the hearing, including the length of sessions, conduct of persons in attendance, recesses, continuances, and adjournment; and take any other appropriate procedural action which, in the judgment of the designated representative, will promote the purpose and objectives of the hearings.

(b) A prehearing conference may be conducted by the designated representative of the Panel in order to:

(1) Inform the parties of the purpose of the hearing and the procedures under which it will take place;

(2) Explore the possibilities of obtaining stipulations of fact;

(3) Clarify the positions of the parties with respect to the issues to be heard; and

(4) Discuss any other relevant matters which will assist the parties in the resolution of the dispute.

(c) An official reporter shall make the only official transcript of a hearing. Copies of the official transcript may be examined and copied at the Office of the Executive Director in accordance with part 2411 of this chapter.

§ 2471.9 Report and recommendations.

(a) When a report is issued after a hearing conducted pursuant to §§ 2471.7 and 2471.8, it normally shall be in

writing and, when authorized by the Panel, shall contain recommendations.

(b) A report of the designated representative containing recommendations shall be submitted to the parties, with two copies to the Executive Director, within a period normally not to exceed 30 calendar days after receipt of the transcript or briefs, if any.

(c) A report of the designated representative not containing recommendations shall be submitted to the Panel with a copy to each party within a period normally not to exceed 30 calendar days after receipt of the transcript or briefs, if any. The Panel shall then take whatever action it may consider appropriate or necessary to resolve the impasse.

§ 2471.10 Duties of each party following receipt of recommendations.

(a) Within 30 calendar-days after receipt of a report containing recommendations of the Panel or its designated representative, each party shall, after conferring with the other, either:

(1) Accept the recommendations and so notify the Executive Director; or

(2) Reach a settlement of all unresolved issues and submit a written settlement statement to the Executive Director; or

(3) Submit a written statement to the Executive Director setting forth the reasons for not accepting the recommendations and for not reaching a settlement of all unresolved issues.

(b) A reasonable extension of time may be authorized by the Executive Director for good cause shown when requested in writing by either party prior to the expiration of the time limits.

(c) All papers submitted to the Executive Director under this section shall be filed in duplicate, along with a statement of service showing that a copy has been served on the other party to the dispute.

§ 2471.11 Final action by the Panel.

(a) If the parties do not arrive at a settlement as a result of or during actions taken under §§ 2471.6(a)(2), 2471.7, 2471.8, 2471.9, and 2471.10, the Panel may take whatever action is necessary and not inconsistent with 5 U.S.C. chapter 71 to resolve the impasse, including but not limited to, methods and procedures which the Panel considers appropriate, such as directing the parties to accept a factfinder's recommendations, ordering binding arbitration conducted according to whatever procedure the Panel deems

suitable, and rendering a binding decision.

(b) In preparation for taking such final action, the Panel may hold hearings, administer oaths, take the testimony or deposition of any person under oath, and issue subpoenas as provided in 5 U.S.C. 7132, or it may appoint or designate one or more individuals pursuant to 5 U.S.C. 7119(c)(4) to exercise such authority on its behalf.

(c) When the exercise of authority under this section requires the holding of a hearing, the procedure contained in § 2471.8 shall apply.

(d) Notice of any final action of the Panel shall be promptly served upon the parties, and the action shall be binding on such parties during the term of the agreement, unless they agree otherwise.

(e) Within 30 calendar days after receipt of such notice of final action by the Panel, each party shall send to the Executive Director of the Panel evidence of compliance with the decision.

(f) All papers submitted to the Executive Director under this section shall be filed in duplicate, along with a statement of service showing that a copy has been served on the other party to the dispute.

§ 2471.12 Inconsistent labor agreement provisions.

Any provisions of the parties' labor agreements relating to impasse resolution which are inconsistent with the provisions of either 5 U.S.C. 7119 or the procedures of the Panel shall be deemed to be superseded, unless such provisions are permitted under 5 U.S.C. 7135.

Note.—The Federal Labor Relations Authority, the General Counsel of the Federal Labor Relations Authority and the Federal Service Impasses Panel have determined that this document does not require preparation of a Regulatory Analysis Statement as required under section 3 of Executive Order 12044.

Dated: July 25, 1979.

Ronald W. Haughton,
Chairman.

Henry B. Frazier III,
Member.

H. Stephan Gordon,
Acting General Counsel.

Federal Labor Relations Authority.

Howard G. Gamser,
Chairman.

Federal Service Impasses Panel

Appendix A—Authority, General Counsel, Chief Administrative Law Judge, Regional Directors and Panel

Temporary Addresses and Geographic Jurisdictions

(a) The Office address of the Authority is as follows: 1900 E Street, NW., Room 7469, Washington, D.C. 20424. Telephone: Office of Executive Director, FTS—632-3920. Commercial—(202) 632-3920. Office of Operations, FTS—254-7362. Commercial—(202) 254-7362.

(b) The Office address of the General Counsel is as follows: 1900 E Street, NW., Room 7469, Washington, D.C. 20424 or 200 Constitution Avenue, NW., Room N 5657, Washington, D.C. 20216. Telephone FTS—523-7262. Commercial—(202) 523-7262.

(c) The Office address of the Chief Administrative Law Judge is as follows: 1111 20th Street, NW., Suite 705, Washington, D.C. 20036. Telephone: FTS—653-5042. Commercial—(202) 653-5042.

(d) The office address of Regional Directors of the Authority, are as follows:

(1) *Boston Regional Office*, 441 Stuart Street, 8th Floor, Boston, MA 02116. Telephone: FTS—223-0920. Commercial—(617) 223-0920.

(2) *New York Regional Office*, Room 1751, 26 Federal Plaza, New York, NY 10007. Telephone: FTS—264-5640. Commercial—(212) 264-5640.

(3) *Washington Regional Office*, Room 418, Vanguard Building, 1111—20th Street, NW., P.O. Box 19257, Washington, D.C. 20036. Telephone: FTS—254-6581. Commercial—(202) 254-6581.

(4) *Atlanta Regional Office*, Suite 540, 1365 Peachtree Street, NE, Atlanta, GA 30309. Telephone: FTS—257-2324 or 257-2325. Commercial—(404) 881-2324 or 881-2325.

(5) *Chicago Regional Office*, Room 1638, Dirksen Federal Building, 219 South Dearborn Street, Chicago, IL 60604. Telephone: FTS—353-6306. Commercial—(312) 353-6306.

(6) *Dallas Regional Office*, Downtown Post Office Station, Bryan and Ervay Streets, P.O. Box 2640, Dallas, TX 75221. Telephone: FTS—729-4996. Commercial—(214) 767-4996.

(7) *Kansas City Regional Office*, City Center Square, 1100 Main Street, Suite 680, Kansas City, MO 64105. Telephone: FTS—758-2199. Commercial—(816) 374-2199.

(8) *Los Angeles Regional Office*, Room 4041, Federal building, 300 N. Los Angeles Street, Los Angeles, CA 90012. Telephone: FTS—798-3805. Commercial—(213) 688-3805.

(9) *San Francisco Regional Office*, 450 Golden Gate Avenue, Room 11408, P.O. Box 36018, San Francisco, CA 94102. Telephone: FTS—556-8105. Commercial—(415) 556-8105.

(e) The Office address of the Panel is as follows: 1730 K Street, NW., Suite 209, Washington, D.C. 20006. Telephone: FTS—653-7078. Commercial—(202) 653-7078.

(f) The geographic jurisdictions of the Regional Directors of the Authority, are as follows:

State or other locality	Regional office
Alabama.....	Atlanta
Alaska.....	San Francisco
Arizona.....	Los Angeles
Arkansas.....	Dallas
California.....	Los Angeles/San Francisco ¹
Colorado.....	Kansas City
Connecticut.....	Boston
Delaware.....	Washington, D.C.
District of Columbia.....	Washington, D.C.
Florida.....	Atlanta
Georgia.....	Atlanta
Hawaii and all land and water areas west of the continents of North and South America (except coastal islands) to long. 90°E.....	Los Angeles
Idaho.....	San Francisco
Illinois.....	Chicago
Indiana.....	Chicago
Iowa.....	Kansas City
Kansas.....	Kansas City
Kentucky.....	Atlanta
Louisiana.....	Dallas
Maine.....	Boston
Maryland.....	Washington, D.C.
Massachusetts.....	Boston
Michigan.....	Chicago
Minnesota.....	Chicago
Mississippi.....	Atlanta
Missouri.....	Kansas City
Montana.....	Kansas City
Nebraska.....	Kansas City
Nevada.....	San Francisco
New Hampshire.....	Boston
New Jersey.....	New York
New Mexico.....	Dallas
New York.....	Boston/New York ²
North Carolina.....	Atlanta
North Dakota.....	Kansas City
Ohio.....	Chicago
Oklahoma.....	Dallas
Oregon.....	San Francisco
Pennsylvania.....	Washington, D.C.
Puerto Rico.....	New York
Rhode Island.....	Boston
South Carolina.....	Atlanta
South Dakota.....	Kansas City
Tennessee.....	Atlanta
Texas.....	Dallas
Utah.....	Kansas City
Vermont.....	Boston
Virginia.....	Washington, D.C.
Washington.....	San Francisco
West Virginia.....	Washington, D.C.
Wisconsin.....	Chicago
Wyoming.....	Kansas City
Virgin Islands.....	New York
Canal Zone.....	New York
All land and water areas east of the continents of North and South America to long. 90°E, except the Virgin Islands, the Canal Zone, Puerto Rico and coastal islands.....	Washington, D.C.

¹ San Francisco includes the following California counties: Monterey, Kings, Tulare, Inyo, and all counties north thereof. All counties in California south thereof are within the Los Angeles jurisdiction.

² New York includes the following counties: Ulster, Sullivan, Greene, Columbia and all counties south thereof. All counties in New York state north thereof are in the jurisdiction of Boston.

Appendix B—Forms

Forms of the Federal Labor Relations Authority and the Federal Service Impasses Panel should be used where prescribed in the interim rules and regulations. However, where such forms are not available, preexisting forms of the Assistant Secretary of Labor for Labor-Management Relations, in other than Standards of Conduct matters, and of the Panel shall be used by the Authority and the Panel respectively, in the processing of all matters by the Authority and the Panel under chapter XIV of title 5 of Code of Federal Regulations. The word "Authority" shall be substituted wherever the words "Assistant Secretary" appear in such forms; and wherever the forms refer to subordinate personnel of the Assistant Secretary, such reference shall be to equivalent subordinate personnel of the Authority.

[FR Doc. 79-23328 Filed 7-27-79; 8:45 am]

BILLING CODE 6325-19-M

FEDERAL LABOR RELATIONS AUTHORITY**Memorandum Describing the Authority and Assigned Responsibilities of the General Counsel**

ACTION: Federal Labor Relations Authority memorandum describing the authority and assigned responsibilities of the General Counsel of the Federal Labor Relations Authority.

SUMMARY: This memorandum of the Federal Labor Relations Authority describes the statutory authority and sets forth the prescribed duties and authority of the General Counsel of the Federal Labor Relations Authority.

EFFECTIVE DATE: July 30, 1979.

FOR FURTHER INFORMATION CONTACT: Harold D. Kessler, Deputy Executive Director, Authority, (202) 632-3920. S. Jesse Reuben, Associate General Counsel, (202) 523-7262.

SUPPLEMENTARY INFORMATION: The Federal Labor Relations authority and the General Counsel of the Federal Labor Regulations Authority were established by Reorganization Plan No. 2 of 1978, effective January 1, 1979. Since January 11, 1979, the provisions of the Federal Service Labor-Management Relations Statute (92 Stat. 1191) have governed the operations of the Authority and its General Counsel. Pursuant to 5 U.S.C. 552(a)(1), the Authority hereby separately states and currently published in the *Federal Register* the following memorandum of the Authority describing the authority and assigned responsibilities of its General Counsel.

Memorandum

The statutory authority and responsibility of the General Counsel of the Federal Labor Relations Authority are stated in section 7104(f), subsections (1), (2) and (3), of the Federal Service Labor-Management Relations Statute as follows:

(1) The General Counsel of the Authority shall be appointed by the president, by and with the advice and consent of the Senate, for a term of 5 years. The General Counsel may be removed at any time by the President. The General Counsel shall hold no other office or position in the Government of the United States except as provided by law.

(2) The General Counsel may—
(A) investigate alleged unfair labor practices under this chapter.

(B) file and prosecute complaints under this chapter, and

(C) exercise such other powers of the Authority as the Authority may prescribe.

(3) The General Counsel shall have direct authority over, and responsibility for, all employees in the office of the General Counsel, including employees of the General Counsel in the regional offices of the Authority.

This memorandum is intended to describe the statutory authority and set forth the prescribed duties and authority of the General Counsel of the Federal Labor Relations Authority, effective 1979.

I. Case handling.
A. Unfair labor practice cases. The General Counsel has full and final authority and responsibility, on behalf of the Authority, to accept and investigate charges filed, to enter into and approve the informal settlement of charges, to approve withdrawal requests, to dismiss charges, to determine matters concerning the consolidation and severance of cases before complaint issues, to issue complaints and notices of hearing, to appear before Administrative Law Judges in hearings on complaints and prosecute as provided in the Authority's and the General Counsel's rules and regulations, and to initiate and prosecute injunction proceedings as provided for in section 7123(d) of the statute. After issuance of the Administrative Law Judge's decision, the General Counsel may file exceptions and briefs and appear before the Authority in oral argument, subject to the Authority's and the General Counsel's rules and regulations.

B. Compliance actions (injunction proceedings). The General Counsel is authorized and responsible, on behalf of the Authority, to seek and effect compliance with the Authority's orders and make such compliance reports to the Authority as it may from time to time require.

On behalf of the Authority, the General Counsel will, in full accordance with the directions of the Authority, initiate and prosecute injunction proceedings as provided in section 7123(d) of the statute: *Provided however*, that the General Counsel will initiate and conduct injunction proceedings under section 7123(d) of the statute only upon approval of the Authority.

C. Representation cases. The General Counsel is authorized and has responsibility, on behalf of the Authority, to receive and process, in accordance with the decisions of the Authority and with such instructions and rules and regulations as may be issued by the Authority from time to

time, all petitions filed pursuant to sections 7111, 7113, 7115, and 7117(d) of the statute. The General Counsel is also authorized and has responsibility to supervise or conduct elections pursuant to section 7111 of the statute and to enter into consent election agreements in accordance with section 7111(g) of the statute.

The authority and responsibility of the General Counsel in representation cases shall extend, in accordance with the rules and regulations of the Authority and the General Counsel, to all phases of the investigation through the conclusion of the hearing (if a hearing should be necessary to resolve disputed issues), but all matters involving decisional action after such hearings are reserved by the Authority to itself. In the event a direction of election should issue by the Authority, the authority and responsibility of the General Counsel, as herein prescribed, shall attach to the conduct of the ordered election, the initial determination of the validity of challenges and objections to the conduct of the election and other similar matters, except that if appeals shall be taken from the General Counsel's action on the validity of challenges and objections, such appeals will be directed to and decided by the Authority in accordance with its procedural requirements. If challenged ballots would not affect the election results and if no objections are filed within five days after the conduct of the Authority-directed election under the provisions of section 7111 of the statute, the General Counsel is authorized and has responsibility, on behalf of the Authority, to certify to the parties the results of the election in accordance with regulations prescribed by the Authority and the General Counsel.

Appeals from the refusal of the General Counsel to issue a notice of hearing, from the conclusions contained in a report and findings issued by the General Counsel, or from the dismissal by the General Counsel of any petition, will be directed to and decided by the Authority, in accordance with its procedural requirements.

In processing election petitions filed pursuant to section 7111 of the statute and petitions filed pursuant to section 7115(c) of the statute, the General Counsel is authorized to conduct an appropriate investigation as to the authenticity of the prescribed showing of interest and, upon making a determination to proceed, where appropriate, to supervise or conduct a secret ballot election or certify the validity of a petition for determination of eligibility for dues allotment. After an

election, if there are no challenges or objections which require a hearing by the Authority, the General Counsel shall certify the results thereof, with appropriate copies lodged in the Washington, D.C. files of the Authority.

II. *Liaison with other governmental agencies.* The General Counsel is authorized and has responsibility, on behalf of the Authority, to maintain appropriate and adequate liaison and arrangements with the Office of the Assistant Secretary of Labor for Labor-Management Relations with reference to the financial and other reports required to be filed with the Assistant Secretary pursuant to section 7120(c) of the statute and the availability to the Authority and the General Counsel of the contents thereof. The General Counsel is authorized and has responsibility, on behalf of the Authority, to maintain appropriate and adequate liaison with the Federal Mediation and Conciliation Service with respect to functions which may be performed by the Federal Mediation and Conciliation Service.

III. *Personnel.* Under 5 U.S.C. 7105(d), the Authority is authorized to appoint Regional Directors. In order better to ensure the effective exercise of the duties and responsibilities of the General Counsel described above, the General Counsel is delegated authority to recommend the appointment, transfer, demotion or discharge of any Regional Director. However, such actions may be taken only with the approval of the Authority. The General Counsel shall have authority to direct and supervise the Regional Directors. Under 5 U.S.C. 7104(f)(3), the General Counsel shall have direct authority over, and responsibility for all employees in the Office of the General Counsel and all personnel of the General Counsel in the field offices of the Authority. This includes full and final authority subject to applicable laws and rules, regulations and procedures of the Office of Personnel Management and the Authority over the selection, retention, transfer, promotion, demotion, discipline, discharge and in all other respects of such personnel except the appointment, transfer, demotion or discharge of any Regional Director. Further, the establishment, transfer, or elimination of any regional office or non-regional office duty location may be accomplished only with the approval of the Authority. The Authority will provide such administrative support functions, including personnel management, financial management and procurement functions, through the Office of Administration of the Authority as are required by the General

Counsel to carry out the General Counsel's statutory and prescribed functions.

IV. To the extent that the above-described duties, powers and authority rest by statute with the Authority, the foregoing statement constitutes a prescription and assignment of such duties, powers and authority, whether or not so specified.

Dated: July 25, 1979.

Federal Labor Relations Authority.

Ronald W. Haughton,

Chairman.

Henry B. Frazier III,

Member.

[FR Doc. 79-23329 Filed 7-27-79; 8:45 am]

BILLING CODE 6325-01-M

Monday
July 30, 1979

Part VI

Department of Housing and Urban Development

Office of Assistant Secretary for
Community Planning and Development

Community Development Block Grants—
Reallocation

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

[24 CFR Part 570]

[Docket No. R-79-681]

Community Development Block Grants—Reallocation

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Proposed Rule.

SUMMARY: This proposed rule revises the policies and procedures for the use of reallocated Community Development Block Grant funds. The rule also establishes the priorities—meeting financial settlement needs and providing increased housing opportunities for low income and minority households—for the use of reallocated funds.

DATES: Comments must be received on or before: September 28, 1979.

ADDRESS: Comments should be addressed to: Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, 451 7th Street S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Richard Kennedy, Small Cities Division, Office of Community Planning and Development, Washington, D.C. 20410; telephone (202) 755-1871. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: Sections 24 CFR 570.107, "Reallocation of funds", and 570.409, "Reallocated funds", govern the reallocation of funds originally approved under 24 CFR 570. Subparts D (Entitlement Grants), F (Small Cities Program), and H (Categorical Program Settlement Grants) and § 570.401 (Urgent needs funds). The proposed revision to these regulations is necessary: To reflect that "Urgent Needs Fund" is now designated "Financial settlement"; To reflect that Small Cities Program metropolitan funds are now allocated on a statewide basis; To establish the policies and procedures for use of reallocated and recaptured funds; and To establish the priorities for the use of the reallocated funds.

The first two points are in response to changes made by the Housing and Community Development Act of 1977. The latter two points address a requirement currently contained in § 570.107, the general section about reallocation, that the Department will establish priorities each year for the use of reallocated funds. Section 570.409

currently establishes these priorities for the use of reallocated funds: funding financial settlement needs and adding the funds to the Small Cities Program competition. The proposed revision adds a new priority, that of increasing housing opportunities outside areas or jurisdictions containing undue concentrations of low income or minority households.

Since the Department does not necessarily intend to revise its priorities each year and since § 570.409 was designed for that purpose, § 570.409 is being cancelled. All regulations, both general and specific, governing reallocation of funds will therefore be contained in § 570.107.

The following paragraphs highlight the changes being made and explain generally the provisions of the proposed revision.

§ 570.107(a) General

Paragraph (a) establishes the priorities for the use of reallocated funds. Metropolitan entitlement funds will be used primarily to meet financial settlement needs and to increase housing opportunities outside areas or jurisdictions containing undue concentrations of low income or minority households. The language about housing opportunities is the same as that used at 24 CFR 891, Subpart E, "Approval of Areawide Housing Opportunity Plans". Although financial settlement needs are to be met first and funds in amounts less than \$350,000 will be assigned to the Small Cities metropolitan discretionary balance, it is anticipated that the majority of funds will be used to increase housing opportunities.

Nonmetropolitan entitlement funds will also be used first to fund financial settlement needs. If there are none, remaining funds will be assigned to the Small Cities nonmetropolitan discretionary balance.

Funds to be reallocated will only be used in the State in which they originate. Furthermore, for administrative simplicity for both HUD and potential applicants, funds will remain within the jurisdiction of the Area Office where they originate in States served by two Area Offices. These two provisions, however, do not apply to recaptured financial settlement and urgent needs funds.

§ 570.107(b) Financial Settlement Funds

A new provision in these regulations provides that recaptured financial settlement funds, including recaptured urgent needs funds, will be used by

Central Office to meet financial settlement needs anywhere.

§ 570.107(c) Eligible Applicants

Eligible applicants generally remain the same. However, once financial settlement needs are met, metropolitan entitlement cities and urban counties may only apply to use reallocated entitlement funds when the funds exceed \$350,000. Participating units of an urban county may not apply individually.

Metropolitan or nonmetropolitan applicants may apply only for funds which originate in metropolitan or nonmetropolitan areas, respectively. This provision does not apply to recaptured financial settlement and urgent needs funds.

§ 570.107(d) Assignment of Funds To Be Reallocated

Paragraph (d) explains the new procedures in assigning funds to be reallocated to new uses. Entitlement funds to be reallocated will be used as soon as practicable to meet financial settlement needs, if any exist. During each Federal Fiscal Year Quarter, remaining funds to be reallocated will accumulate in funding pools categorized by State, by metropolitan or nonmetropolitan, and by entitlement or Small Cities Program origins of the funds. At the end of each quarter, the Area Manager will reallocate the funds in each funding pool according to the following:

When metropolitan entitlement funds are \$350,000 or more, they will be used to increase housing opportunities, as explained in paragraph (f).

When metropolitan entitlement funds are less than \$350,000 they will be assigned to the appropriate Small Cities discretionary balance to be used according to paragraph (g) or held over to the next quarter. The second option enables the Area Manager to add together metropolitan entitlement funds which become available in different quarters and to use them to increase housing opportunities according to paragraph (f) when, and if, the funds exceed \$350,000. Because funds are to be used as soon as practicable, however, funds may not be held over from the last quarter of a Fiscal Year to the first quarter of the next Fiscal Year.

Nonmetropolitan entitlement funds will be assigned to the appropriate Small Cities discretionary balance and used according to paragraph (g).

Small Cities discretionary funds will remain in the same balance to which they were originally assigned and used according to paragraph (g).

§ 570.107(e) Timing

Because the Act no longer requires that funds be reallocated within the program year, the requirement that funds be reallocated within six months is eliminated. HUD will, however, reallocate funds as soon as practicable.

§ 570.107(f) Reallocation of Metropolitan Entitlement Funds of \$350,000 or More

After financial settlement needs are met, metropolitan entitlement funds of \$350,000 or more to be reallocated will only be used to increase housing opportunities outside areas or jurisdictions containing undue concentrations of low income or minority households.

To the extent they have the needs and capacity to use the funds within a reasonable time, jurisdictions participating in an Areawide Housing Opportunity Plan (AHOP) will be awarded these funds. The procedures already established according to 24 CFR 570.404(e), "Areawide programs, selection process" (published in the Federal Register on August 2, 1978), will be used to select jurisdictions to receive these funds.

If a State's AHOP(s) does not have both the needs and capacity to use all the funds or if the State has no AHOP, the Area Manager will invite applicants and award funds to them. A formal competition need not be held, but more applications will be invited than the amount of funds available can accommodate in order to assure quality applications.

Activities undertaken with grants made to increase housing opportunities must be eligible for funding according to 24 CFR 570 Subpart C, "Eligible Activities", and 24 CFR 570.404(c), "Areawide programs, Eligible activities" (published on August 2, 1978).

§ 570.107(g) Reallocation of Small Cities Discretionary Funds

New options are available for the use of Small Cities discretionary funds to be reallocated, and entitlement funds assigned to the Small Cities balances. The Area Manager will use these funds: (1) to fund an application(s) not funded in the most recent Small Cities competition due to a procedural error by HUD; (2) to fund the best unfunded application(s) from the most recent competition; or (3) to add the funds to the next Small Cities competition. In selecting one of the three alternatives, the Area Manager will use the policy that funds are to be reallocated as soon

as practicable. There is no priority among the three alternatives.

§ 570.107(h) Application Requirements

The requirements placed upon applications for funds to be reallocated follow, as applicable, requirements for financial settlement applications, applications for Areawide Program funds, and Small Cities Program applications.

Interested persons are invited to participate in making the final rule by submitting written comments or views about the proposed revision. To facilitate HUD's consideration and review of the written comments, the reviewer should refer to the docket number below and clearly identify the paragraph(s) to which the comments are addressed. Comments should be filed with the Rules Docket Clerk (address above) before the date specified above in order to be considered for adoption of the final rule. Copies of comments will be available for examination and copying during business hours in the Office of the Rules Docket Clerk.

A Finding of Inapplicability with respect to Environmental Impact has been prepared in accordance with HUD's Procedures for Protection and Enhancement of Environmental Quality. A copy of this Finding is available for inspection and copying in the Office of the Rules Docket Clerk.

1. Accordingly, it is proposed that § 570.107 be revised to read as follows:

§ 570.107 Reallocation.

(a) *General.* This section governs reallocated funds originally approved under 24 CFR 570, Subparts D (Entitlement Grants), F (Small Cities Program), and H (Categorical Program Settlement Grants), and Section 570.401 (Urgent needs funds).

(1) *Purpose of reallocated funds.* Entitlement funds to be reallocated shall be used to meet financial settlement needs. After financial settlement needs are met, metropolitan entitlement funds of \$350,000 or more to be reallocated shall be used for increasing housing opportunities outside areas or jurisdictions containing undue concentrations of low income or minority households. Nonmetropolitan entitlement funds, metropolitan entitlement funds of less than \$350,000, and discretionary grant funds to be reallocated shall be assigned to the Small Cities discretionary balances and used according to § 570.107(g).

(2) *Except for Financial Settlement Funds to be reallocated according to § 570.107(d), funds to be reallocated shall remain in the State in which they*

originate. If the funds originate in a State served by two Area Offices, then use of the funds shall be limited to the jurisdiction of the Area Office from which the funds originate.

(3) Funds to be reallocated are—

(i) Amounts allocated to metropolitan cities, urban counties, or other units of general local government for formula grants or hold-harmless grants in metropolitan areas or nonmetropolitan areas which are not applied for, or which are disapproved by the Secretary as part of the application review or program monitoring process;

(ii) Other amounts allocated to metropolitan areas or nonmetropolitan areas which the Secretary determines, on the basis of applications and other evidence available, are not likely to be fully obligated by the Secretary within a reasonable time after the end of the fiscal year for which the allocation has been made;

(iii) Amounts recovered as a result of an adjustment, reduction or withdrawal under 24 CFR 570.910, "Corrective and remedial actions";

(iv) Amounts available as a result of a Secretarial adjustment of an annual grant under 24 CFR 570.911, "Reduction of Annual Grant";

(v) Amounts recovered under the provisions of 24 CFR 570.913, "Other remedies for noncompliance";

(vi) Amounts returned to HUD as a result of a termination of, withdrawal from, or failure to complete an approved Community Development Program; or

(vii) Amounts remaining after closeout of all approved block grant activities.

(b) *Financial Settlement Funds.* Financial Settlement Funds recaptured under 24 CFR 570 Subpart H, "Categorical Program Settlement Grants", including recaptured urgent needs funds under 24 CFR 570.401, shall be returned to the Central Office for use anywhere for other financial settlement needs only.

(c) *Eligible applicants.* (1) States and units of general local government as defined in 24 CFR 570.3(v), except those participating in an urban county, are eligible to apply for reallocated funds. Only those applicants eligible to apply under 24 CFR 570 Subpart F, "Small Cities Program", however, are eligible to apply for reallocated funds assigned to Small Cities discretionary balances.

(2) Funds to be reallocated which were originally allocated to a metropolitan area shall be used only by metropolitan applicants. Funds which were originally allocated to a nonmetropolitan area shall be used only by nonmetropolitan applicants.

(d) *Assignment of funds to be reallocated.* (1) Metropolitan and nonmetropolitan entitlement funds to be reallocated shall be used first for financial settlement needs in the metropolitan and nonmetropolitan areas, respectively, in the State in which the funds originate. These funds shall be reallocated as soon as practicable. For the purpose of this section, a financial settlement need occurs when there are one or more otherwise approvable financial settlement applications pending which were not approved in the last financial settlement competition because of a lack of funds.

(2) During each Federal fiscal year quarter, funds to be reallocated that are not used to meet financial settlement needs shall accumulate in funding pools separated according to: the State in which the funds originate; whether the funds are from metropolitan or nonmetropolitan allocations; and whether the funds are entitlement or Small Cities discretionary balances funds. At the end of each quarter, the Area Manager shall reallocate the funds in each funding pool, according to the following:

(i) Metropolitan entitlement funds to be reallocated which are \$350,000 or more shall be used for increasing housing opportunities outside areas or jurisdictions containing undue concentrations of low income or minority households, according to § 570.107(f).

(ii) At the discretion of the Area Manager, metropolitan entitlement funds to be reallocated in amounts less than \$350,000 shall be: assigned to the Area Office's metropolitan Small Cities discretionary balance for the State in which the funds originate, and used according to § 570.107(g); or held over to the next quarter to be added to additional metropolitan funds that may become available for reallocation. At the end of the last quarter in the fiscal year, however, these funds shall only be used according to § 570.107(g).

(iii) Nonmetropolitan Entitlement (hold-harmless) funds to be reallocated shall be assigned to the Area Office's nonmetropolitan Small Cities discretionary balance for the State in which the funds originate. These funds shall be used according to § 570.107(g).

(iv) Small cities discretionary funds to be reallocated shall remain in the Small Cities metropolitan or nonmetropolitan discretionary balance to which they were originally assigned. These funds shall be used according to the provisions of § 570.107(g).

(e) *Timing.* Funds to be reallocated shall be used as soon as practicable

after they have been assigned according to § 570.107(d).

(f) *Reallocation of metropolitan entitlement funds in excess of \$350,000.* Funds allocated according to § 570.107(d)(2)(i) shall be used to increase housing opportunities outside areas or jurisdictions containing undue concentrations of low income or minority households. The Area Manager shall reallocate the funds to jurisdictions participating in an approved Areawide Housing Opportunity Plan (AHOP) to the extent that the State's AHOP(s) has the needs and capacity to use the funds within a reasonable time. If the State's AHOP(s) does not have the needs and capacity to use all the funds or if the State has no AHOP, the area Manager shall use his/her discretion to reallocate the funds to invited applicants.

(1) In reallocating the funds to jurisdictions participating in an approved AHOP, the following apply:

(i) An approved AHOP is one which has been approved by the Secretary in accordance with Subpart E, "Approval of Areawide Housing Opportunity Plan", of 24 CFR 891, and is in effect at the time funds are allocated to its participating jurisdictions.

(ii) In selecting jurisdictions to receive these funds, HUD and the Areawide Planning Organization which developed the AHOP shall use the procedures established in accordance with 24 CFR 570.404(e), "Areawide programs, Selection process".

(iii) If the State has more than one approved AHOP, the Area Manager shall determine the division of funds among the AHOPs, considering: the amount of funds available; whether the funds originated in the metropolitan area covered by one of the AHOPs; each AHOP's relative proportion of total goals; and the ability of the jurisdictions participating in each AHOP to use the funds to increase housing opportunities.

(2) In inviting applicants from States where there are no AHOPs or where the AHOPs do not have the needs and capacity to use all the funds, the Area Manager shall consider which metropolitan areas have the greatest concentrations of low income or minority households, where there is the greatest opportunity for success, the applicant's past history, and an applicant's willingness to increase housing opportunities. Although a formal competition need not be held, the Area Manager shall invite applications from more applicants than the amount of funds available can accommodate.

(3) Grants made under the provisions of § 570.107(f) shall only be made for activities which increase housing

opportunities outside areas or jurisdictions containing undue concentrations of low income or minority households. These activities must be eligible for funding in accordance with 24 CFR 570 Subpart C, "Eligible Activities", and be listed as eligible in 24 CFR 570.404 (c), "Areawide programs, Eligible activities". If no fundable applications are received, the Secretary reserves the right to reallocate the funds for other purposes.

(g) *Reallocation of Small Cities Discretionary Funds.* The Area Manager shall use Small Cities discretionary funds to be reallocated (including entitlement funds which have been assigned to the Small Cities discretionary balances under § 570.107(d)(2))—

(1) to fund any application not selected for funding in the most recent Small Cities discretionary competition due to a procedural error made by HUD; or

(2) to fund the most highly ranked unfunded application or applications from the most recent Small Cities discretionary competition; or

(3) to add the funds to the next Small Cities discretionary competition.

(h) *Application requirements for reallocated funds.* Applicants for funds reallocated pursuant to this section shall comply with the following application requirements:

(1) *Financial settlement.* When reallocated funds are to be used to meet financial settlement needs, the application shall meet the requirements set forth in 24 CFR 570 Subpart H, "Categorical Program Settlement Grants".

(2) *Other entitlement funds.* Applications for metropolitan entitlement funds to be reallocated according to § 570.107(f) shall meet the requirements set forth in 24 CFR 570.404(d), "Areawide programs, Application requirements". Requirements for applications for entitlement funds which are added to a Small Cities discretionary balance are described in § 570.107(h)(3).

(3) *Small Cities Discretionary funds.* Applications and preapplications for funds to be reallocated which are added to a Small Cities discretionary balance shall meet the requirements set forth in 24 CFR Subpart F, "Small Cities Program". In many instances, an applicant described in § 570.107(g)(1) or (2) will have met all or some of the application requirements.

§ 570.409 [Reserved]

II. For conformity with § 570.107, § 570.409 is cancelled and reserved for future use.

(Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95-128); sec 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3536(d)).) (Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978.)

Issued at Washington, D.C., June 28, 1979.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 79-23353 Filed 7-27-79; 8:45 am]

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federal register

Monday
July 30, 1979

Part VII

Department of State

Fishery Conservation and Management
Act of 1976; Applications for Permits to
Fish Off the Coast of the United States

DEPARTMENT OF STATE

[Public Notice 677]

Fishery Conservation and Management Act of 1976; Applications for Permits to Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) as amended (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to section 204 of the Act.

The Act also requires that a notice of receipt of all applications for such permits, a summary of the contents of such applications, and the names of the Regional Fishery Management Councils that receive copies of these applications, be published in the **Federal Register**.

Applications have been received from Ireland for fishing during 1979 and are reproduced herewith.

An individual vessel application for fishing during 1979 has been received from Ireland and is summarized herein.

If additional information regarding any applications is desired, it may be obtained from: Permits and Regulations Division (F37), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, (Telephone: (202) 634-7265).

Dated: July 18, 1979.

James A. Storer,

Director, Office of Fisheries Affairs.

[FR Doc. 79-23405 Filed 7-27-79; 8:45 am]

BILLING CODE 4710-09-M

FISHERY CODES AND DESIGNATION OF REGIONAL COUNCILS WHICH REVIEW APPLICATIONS FOR INDIVIDUAL FISHERIES ARE AS FOLLOWS:

<u>CODE</u>	<u>FISHERY</u>	<u>REGIONAL COUNCIL</u>
ARS	Atlantic Billfishes and Sharks	New England Mid-Atlantic South Atlantic Gulf of Mexico Caribbean
BSA	Bering Sea and Aleutian Islands Trawl, Longline and Herring Gillnet	North Pacific
CRB	Crab (Bering Sea)	North Pacific
GOA	Gulf of Alaska	North Pacific
NWA	Northwest Atlantic	New England Mid-Atlantic
SMT	Seamount Groundfish (Pacific Ocean)	Western Pacific
SNA	Snails (Bering Sea)	North Pacific
WOC	Washington, Oregon, California Trawl	Pacific

ACTIVITY CODES SPECIFY CATEGORIES OF FISHING OPERATIONS APPLIED FOR AS FOLLOWS:

<u>ACTIVITY CODE</u>	<u>FISHING OPERATIONS</u>
1	Catching, processing, and other support.
2	Processing and other support only.
3	Other support only.

<u>NATION/VESSEL NAME/VESSEL TYPE</u>	<u>APPLICATION NO.</u>	<u>FISHERY</u>	<u>ACTIVITY</u>
<u>IRELAND</u>			
ERIN FISHER LARGE STERN TRAWLER	EI-79-0001	NWA	1

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Disaster Preparedness Federal Register

Monday
July 30, 1979

Part VIII

**Federal Emergency
Management Agency**

Ratification of Actions, Establishment of
Offices, Continuity of Functions, and
Delegations of Authority

**FEDERAL EMERGENCY
MANAGEMENT AGENCY****Ratification of Actions**

Executive Order 12148 entitled "Federal Emergency Management" effective July 15, 1979, is dated July 20, 1979.

There is published in the *Federal Register*, this date, a "Continuity of Functions" statement together with a series of delegations of authority to FEMA officials which are made effective July 15 and which contain certain reaffirmations and revocations of authority. (See Table of Contents)

Notwithstanding revocations of authority, any action of the Defense Civil Preparedness Agency, Department of Defense, and the director thereof; the Federal Disaster Assistance Administration, Department of Housing and Urban Development, and the Administrator thereof, the Federal Preparedness Agency, General Services Administration, and the Director thereof, the Department of Commerce and the Secretary thereof and the Office of Science and Technology Policy, Executive Office of the President and the Director thereof, with respect to the functions transferred by the Order and prior to July 23, 1979 are hereby ratified and are actions of the Federal Emergency Management Agency.

Dated: July 23, 1979.

Gordon Vickery,

Acting Director.

[FR Doc. 79-23407 Filed 7-27-79; 8:45 am]

BILLING CODE 4210-23-M

**Establishment of Offices, Continuity of
Functions, Ratifications, and
Delegation of Authority**

Reorganization Plan No. 3 of 1978 (43 CFR 41943, established the Federal Emergency Management Agency (FEMA). The Plan was activated by Executive Order 12127 of March 31, 1979 (44 CFR 19347).

The Plan vested certain functions and authorities in the Director, FEMA. These are described in a *Federal Register* Notice of April 6, 1979 (44 CFR 20962), which also contain certain delegations of authority.

However, it was contemplated that additional functions would be assigned to the Director, FEMA, and these functions have now been delegated to the Director by Executive Order 12148, (44 FR 43239), dated July 20, 1979, effective July 15, 1979.

Executive Order 12148 transferred and reassigned functions, including:

(A) All functions vested in the President that have been delegated or assigned to the Defense Civil Preparedness Agency, Department of Defense.

(B) All functions vested in the President that have been delegated or assigned to the Federal Disaster Assistance Administration, Department of Housing and Urban Development, including any of those functions to be redelegated or reassigned to the Department of Commerce with respect to assistance to communities in the development of readiness plans for severe weather-related emergencies.

(C) All functions vested in the President that have been delegated or assigned to the Federal Preparedness Agency, General Services Administration.

(D) All functions vested in the President by the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. § 7701 *et. seq.*), including those functions performed by the Office of Science and Technology Policy.

The April 6 *Federal Register* Notices continued in effect prior regulations and actions of the predecessor agencies until changed. The Notices also made certain changes in nomenclature and contained delegation of authorities to two program offices of FEMA. All of the foregoing remain in full force and in addition there are herewith published orders establishing offices, providing for continuity of functions and for delegation of authority.

The agencies, offices, officers and employees performing transferred functions and exercising transferred responsibilities shall continue to use the nomenclature existing and applicable before the transfer except that:

1. Federal Emergency Management Agency shall be substituted for

(a) "Defense Civil Preparedness Agency, Department of Defense,"

(b) "Federal Disaster Assistance Administration, Department of Housing and Urban Development,"

(c) "Federal Preparedness Agency, General Services Administration,"

(d) and with reference to functions under the Earthquake Hazards Reduction Act, "Office of Science and Technology Policy."

2. Director, Federal Emergency Management Agency, shall be substituted for the titles of the heads of the organizations as listed in 1 above.

Dated: July 23, 1979.

Gordon Vickery,

Acting Director.

[FR Doc. 79-23408 Filed 7-27-79; 8:45 am]

BILLING CODE 4210-23-M

Establishment of Offices

Pursuant to the provisions of Section 106 of Reorganization Plan No. 3 of 1978, there are hereby established within the Federal Emergency Management Agency the following organizational units, in each of which there is further created the position of Director, who shall be appointed by the Director, FEMA:

Office of Operations Support;

Office of Program Analysis and Evaluation.

There is further established the Office of Training and Education, and the position of Assistant Director, FEMA, for Training and Education, who shall be appointed by the Director.

Dated: July 15, 1979.

Gordon Vickery,

Acting Director.

[FR Doc. 79-23409 Filed 7-27-79; 8:45 am]

BILLING CODE 4210-23-M

Continuity of Functions

Reorganization Plan No. 3 of 1978 (43 FR 41943), which establishes the Federal Emergency Management Agency (FEMA), was placed into effect by Executive Order 12127 of March 31, 1979 (44 FR 19367).

Executive Order 12148 of July 20, 1979, entitled "Federal Emergency Management" transfers emergency planning, management, mitigation and assistance functions to the Federal Emergency Management Agency, including:

(1) All functions vested in the President that have been delegated or assigned to the Defense Civil Preparedness Agency, Department of Defense.

(2) All functions vested in the President that have been delegated or assigned to the Federal Disaster Assistance Administration, Department of Housing and Urban Development, including any of those functions redelegated or reassigned to the Department of Commerce with respect to assistance to communities in the development of readiness plans for severe weather-related emergencies.

(3) All functions vested in the President that have been delegated or assigned to the Federal Preparedness

Agency, General Services Administration.

(4) All functions vested in the President by the Earthquake Hazards Reduction Act of 1977 including functions vested in the Office of Science and Technology Policy, Executive Office of the President.

Pursuant to Executive Order 12148, all regulations (including, as used herein, regulations, rules, orders, policies, determinations, directives, authorizations, delegations of authority, permits, privileges, requirements, designations or other actions) of the Defense Civil Preparedness Agency, Department of Defense, and the Director thereof; the Federal Disaster Assistance Administration, Department of Housing and Urban Development, and the Administrator thereof, the Federal Preparedness Agency, General Services Administration, and the Director thereof, the Department of Commerce and the Secretary thereof and the Office of Science and Technology Policy, Executive Office of the President and the Director thereof, with respect to the functions transferred by the order and in effect immediately prior to the transfer shall remain in full force and effect for all other Departments and agencies; offices, officers and employees transferred to FEMA by reason of the order, but as regulations of the Federal Emergency Management Agency, except that:

1. To the extent made inapplicable by Executive Order 12148, such regulations shall be suspended, and

2. The authority to make rules and regulations, issue notices or rulemaking and issue agency-wide directives shall, unless otherwise delegated, be exercised by the Director, FEMA.

3. Such regulations may be specifically revoked or suspended.

The agencies, offices, officers, and employees performing transferred functions and exercising transferred responsibilities and authorities shall continue to use the nomenclature existing and applicable before the transfer, except that

1. "Federal Emergency Management Agency" shall be substituted for "Defense Civil Preparedness Agency", "Federal Disaster Assistance Administration", or "Federal Preparedness Agency" as applicable.

2. "Director, Federal Emergency Management Agency" shall be substituted for the titles of the heads of the organizations listed in 1, above.

Dated: July 15, 1979.

Gordon Vickery,

Acting Director.

[FR Doc. 79-23410 Filed 7-27-79; 8:45 am]

BILLING CODE 4210-23-M

**Regional Directors; Delegation of
Authority**

Section A. Each Regional Director, Federal Emergency Management Agency, established pursuant to Reorganization Plan No. 3 of 1978 and Executive Order 12127, is hereby authorized to exercise the power and authority of the Director, FEMA pursuant to the provisions of sections 1-102, 4-201, 4-202 and 4-203 of E.O. 12148 of July 20, 1979, except:

1. The authority to issue rules and regulations pursuant to the Disaster Relief Act of 1974, hereinafter referred to as "the Act".

2. The authority to make grants to states for the development of disaster preparedness plans pursuant to section 201 of the Act.

3. The authority concerning disaster warnings contained in section 202 of the Act, except to the extent that the Regional Director shall have:

a. The authority to insure that all appropriate Federal agencies are prepared to issue warnings of disasters to State and local officials;

b. The authority to provide general policy guidance and coordination to the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture with respect to their Delegations of Authority from the Secretary of Housing and Urban Development concerning disaster warnings pursuant to section 202 of the Act;

c. The authority contained in section 202(b) of the Act to direct appropriate Federal agencies to provide technical assistance to State and local governments to insure that timely and effective disaster warning is provided;

d. The authority to issue such rules and regulations as may be necessary and appropriate to effectuate this delegation; and

e. The authority contained in Section 202(d) of the Act to approve agreements to be entered into between the Secretary of the Interior, the Secretary of Agriculture, or the Secretary of Commerce (pursuant to their above-mentioned Delegations of Authority for Disaster Warnings) and the officers or agents of any private or commercial communications systems who volunteer the use of their systems on a reimbursable basis for the purpose of

providing warning to governmental authorities and the civilian population endangered by disasters.

4. The authority to make recommendation to the President concerning the determination that an emergency exists pursuant to section 301(a) of the Act.

5. The authority to make recommendations to the President concerning the issuance of a major disaster declaration pursuant to section 301(b) of the Act; and

6. The authority contained in that portion of section 413 of the Act to provide professional counseling services (with the exception of the authority to provide financial assistance to State or local agencies or private mental health organizations to provide professional counseling services or training of disaster workers to victims of major disasters in order to relieve mental health problems caused or aggravated by such major disaster or its aftermath).

7. The authority contained in section 407 of the Act concerning unemployment assistance.

8. The authority to appoint a Federal Coordinating Officer pursuant to section 303 of the Act;

9. The authority to enter into agreements with the American National Red Cross, the Salvation Army, the Mennonite Disaster Service and other relief or disaster assistance organizations pursuant to section 312(b) of the Act;

10. The authority to determine that a State plan of self-insurance is satisfactory pursuant to section 314 of the Act;

11. The authority to sell or otherwise make available temporary housing units directly to States, other governmental entities and voluntary organizations pursuant to section 404(d)(2) of the Act;

12. The authority to approve a community disaster loan pursuant to section 414 of the Act;

13. The authority to provide assistance for the suppression of fires pursuant to section 417 of the Act.

Section B. Each Regional Director is further authorized to exercise the power and authority of the Director, FEMA, with respect to Sections 302(b), 306(a) and 309 of the Disaster Relief Act of 1974.

Section C. The Regional Director is further authorized to exercise the powers and authorities of the Director FEMA to the extent delineated in 32 CFR Part 1800 6(c); which authorities were formerly delegated to the Regional Directors of the Defense Civil Preparedness Agency.

Section D. In exercising any authority delegated to them, the Regional Directors shall coordinate (to the maximum extent practicable) technical matters and routine actions with appropriate program officials on the staffs of the various Administrators, Associate Directors, Assistant Directors, or Office Directors who shall render policy guidance and program direction.

Section E. Accepts service of process on behalf of the agency and its officials. Upon so doing, the Regional Director shall notify the General Counsel as soon as possible.

Section F. *Authority to Redelegate.* Each Regional Director of FEMA is hereby authorized to redelegate the authorities contained herein to employees of FEMA in their respective regions.

Section G. *Delegations Revoked.* This delegation supersedes any other delegation of authority issued prior to the effective date hereof issued to any official of any other agency who is now an employee of FEMA pertaining to any of the subject matter hereof.

Dated: July 15, 1979.

Gordon Vickery,
Acting Director.

[FR Doc. 79-23411 Filed 7-27-79; 8:45 am]
BILLING CODE 4210-23-M

Director, Office of Response and Recovery; Delegation of Authority

Pursuant to Section 106 of Reorganization Plan No. 3 of 1978, there is hereby established within the Federal Emergency Management Agency, the Office of Response and Recovery, and the position of Director, Office of Response and Recovery. The Director, Office of Response and Recovery, shall supervise the operation of the said office and shall be delegated the powers and authorities to act for and on behalf of the Director, FEMA as hereinafter set forth:

Section A. The Director of the Office of Response and Recovery, Federal Emergency Management Agency, is hereby authorized to exercise the power and authority of the Director, FEMA pursuant to sections 1-102, 4-201, 4-202, and 4-203 of E.O. 12148 of July 20, 1979, except:

1. The authority to establish a disaster preparedness program, provide technical assistance to the states in developing disaster preparedness plans and programs, and making grants to states for the development of disaster preparedness plans pursuant to section 201 of the Disaster Relief Act of 1974 (hereinafter, "the Act").

2. The authority concerning disaster warnings contained in section 202 of the Act; except to the extent that the Director of Office of Response and Recovery, shall have:

a. The authority to insure that all appropriate Federal agencies are prepared to issue warnings of disasters to State and local officials;

b. The authority to provide general policy guidance and coordination to the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture with respect to their Delegations of Authority from the Secretary of Housing and Urban Development concerning disaster warnings pursuant to section 202 of the Act;

c. The authority contained in section 202(b) of the Act to direct appropriate Federal agencies to provide technical assistance to State and local governments to insure that timely and effective disaster warning is provided;

d. The authority to issue such rules and regulations and notices thereof as may be necessary and appropriate to effectuate this delegation; and

e. The authority contained in Section 202(d) of the Act to approve agreements to be entered into between the Secretary of the Interior, the Secretary of Commerce (pursuant to their above-mentioned Delegations of Authority for Disaster Warnings) and the officers or agents of any private or commercial communications systems who volunteer the use of their systems on a reimbursable basis for the purpose of providing warning to governmental authorities and the civilian population endangered by disasters.

3. The authority to make recommendations to the President concerning the determination that an emergency exists pursuant to section 301(a) of the Act.

4. The authority to make recommendations to the President concerning the issuance of a major disaster declaration pursuant to section 201(b) of the Act; and

5. The authority contained in that portion of section 413 of the Act to provide professional counseling services (with the exception of the authority to provide financial assistance to State or local agencies or private mental health organizations to provide professional counseling services or training of disaster workers to victims of major disasters in order to relieve mental health problems caused or aggravated by such major disaster or its aftermath).

6. The authority contained in section 407 of the Act concerning unemployment assistance.

Section B. In the event that the Director of FEMA, is unavailable, the authority to make the recommendations referred to in subsection A3 and A4 above, shall be exercised by the Deputy Director of FEMA. If both the Director and the Deputy Director are unavailable, said authority shall be exercised by the Director, Office of Response and Recovery.

Section C. The Director of the Office of Response and Recovery is authorized to exercise the power and authority of the Director of FEMA with respect to Sections 302(b), 306(a) and 309 of the Disaster Relief Act of 1974.

Section D. *Authority to Redelegate.* The Director of the Office of Response and Recovery is authorized to redelegate to employees of FEMA any of the authority delegated herein, except the authority to issue rules and regulations.

Section E. *Delegations Revoked.* This delegation of authority supersedes any other delegation of authority issued prior to the effective date hereof pertaining to the subject matter hereof.

Dated: July 15, 1979.

Gordon Vickery,
Acting Director.

[FR Doc. 79-23412 Filed 7-27-79; 8:45 am]
BILLING CODE 4210-23-M

Director, Office of Plans and Preparedness; Delegation of Authority

Pursuant to the provisions of section 106 of Reorganization plan No. 3 of 1978, there is hereby established within the Federal Emergency Management Agency the Office of Plans and Preparedness, the position of Director, Office of Plans and Preparedness. The Director of Plans and Preparedness shall supervise the operation of the said office and shall be delegated the powers and authorities to act for and on behalf of the Director, FEMA, as hereinafter set forth.

Section A. The Director, Office of Plans and Preparedness, Federal Emergency Management Agency, is hereby authorized to exercise all the power and authority of the Director, FEMA pursuant to sections 1-101, 1-103, 4-101, 4-102, 4-103, 4-104, 4-105, 4-106 and 4-107 of E. O. 12148 of July 20, 1979; except:

1. Those authorities relating to international preparedness functions, which are reserved to the Director, FEMA.

2. Those authorities relating to provision of telecommunications and data processings systems and to the operations of the special facility.

3. Those authorities delegated to the Director in Section 501 of E. O. 10480.

Section B. The Director, Office of Plans and Preparedness is further authorized to exercise all the power and authority of the Director, FEMA pursuant to section 1-102 of E. O. 12148 of July 20, 1979, concerning section 201 of the Disaster Relief Act of 1974; to the extent that this authority is exercised with respect to mitigation, the Director, Office of Plans and Programs will coordinate with the Director, Office of Mitigation and Research.

Section C. The Director, Office of Plans and Preparedness is further authorized to exercise all the power and authority of the Director, FEMA pursuant to section 203 of Reorganization Plan No. 3 of 1978 (43 CFR 41943) as further amplified in sections 1-103(b) and 1-105 of E. O. 12127 of March 31, 1979.

Section D. The Director, Plans and Preparedness is further authorized to exercise the powers and authorities of the Director, FEMA pursuant to section 2-101 of E. O. 12148 of July 20, 1979 relating to establishing Federal policies for, and coordinating all civil defense and civil emergency planning and management functions of Executive agencies; and section 2-103 relating to coordination of preparedness and planning to reduce the consequences of major terrorism incidents.

Section E. The Director, Office of Plans and Preparedness is empowered to exercise the Director, FEMA's authority with respect to classification of documents pursuant to Executive Order 12065 of June 28, 1978. This authority may not be redelegated.

Section F. *Authority of Redelegate.* Except as provided herein, the Director, Office of Plans and Preparedness is hereby authorized to redelegate the authorities contained above to employees of FEMA.

Section G. *Delegation Revoked.* This delegation of authority supercedes any other delegation of authority issued prior to the effective date hereof pertaining to the subject matter hereof.

Dated: July 15, 1979.

Gordon Vickery,
Acting Director.

[FR Doc. 79-23413 Filed 7-27-79; 8:45 am]
BILLING CODE 4210-23-M

Director, Office of Mitigation and Research; Delegation of Authority

Pursuant to the provisions of section 106 of Reorganization Plan No. 3 of 1978, there is hereby established with the Federal Emergency Management Agency the Office of Mitigation and Research and the position of Director, Office of Mitigation and Research. The Director, Office of Mitigation and Research shall supervise the operation of the said office and shall be delegated the powers and authorities to act for and on behalf of the Director, FEMA as hereinafter set forth.

Section A. The Director of the Office of Mitigation and Research, Federal Emergency Management Agency, is authorized to exercise all the power and authority of the Director, FEMA pursuant to section 1-104 and 4-204 of E.O. 12148 of July 20, 1979.

Section B. The Director of the Office of Mitigation and Research is authorized to exercise all the power and authority of the Director, FEMA pursuant to sections 2-103 of E.O. 12148 of July 20, 1979 as those functions relate to the coordination of efforts to promote dam safety, and 2-101 relating to the coordination of mitigation functions of Executive agencies.

Section C. *Authority to Redelegate.* The Director, Office of Mitigation and Research is authorized to redelegate to employees of FEMA any of the authority delegated herein.

Section D. *Delegation's revoked.* This delegation of authority supercedes any other delegation of authority issued prior to the effective date here of pertaining to the subject matter hereof.

Dated: July 15, 1979.

Gordon Vickery,
Acting Director.

[FR Doc. 23414 Filed 7-27-79; 8:45 am]
BILLING CODE 4210-23-M

Director, Office of Finance and Administration; Delegation of Authority

Pursuant to the provisions of section 106 of Reorganization Plan No. 3 of 1978, there is hereby established within the Federal Emergency Management Agency the Office of Finance and Administration, and the position of Director, Office of Finance and Administration shall supervise the operation of the said Office and shall be delegated the powers and authorities to act for and on the behalf of the Director, FEMA as hereinafter set forth.

Section A. The Director of the Office of Finance and Administration of the

Federal Emergency Management Agency is authorized to exercise the following authorities of the Director, FEMA:

1. Serve as chief financial management officer of FEMA; formulate agency policies and principles governing the establishment of budgetary, accounting and financial management systems within the agency, including inventory accounting and pricing goods and services furnished; exercise necessary controls to ensure compliance with agency financial policies, plans and principles; and coordinate the agency's financial programs with the Office of Management and Budget, other Federal agencies, and congressional appropriations committees.

2. Approve requisitions for disbursing funds, reports of current accounts rendered by disbursing officers, and other financial and accounting documents involving FEMA, the General Accounting Office, and the Department of the Treasury.

3. Certify that long-distance telephone calls using commercial facilities are for official business and necessary in the interest of the Government.

4. Certify to the General Accounting Office (GAO) any charge against any officer or agent entrusted with public property, arising from any loss and accruing by his fault, to the Government as to the property so entrusted to him.

5. Make determinations concerning performance of service, the periods of such service, and the amounts of remuneration for social security purposes.

6. Authorize officers and employees to certify vouchers.

7. Approve apportionment and reapportionment requests; reports on appropriation accounts; and reports on status of apportionments, for corporations and enterprises.

8. Approve reports on budget status, obligation basis, and accrual basis, as required by the Antideficiency Act.

9. Waive, deny, or refer to GAO, claims of the United States against FEMA employees for erroneous payment of pay of not more than \$200.

10. Issue primary allowances to Associate Directors, Administrators, Assistant Directors, Office Directors, and Regional Directors.

11. Receive and credit amounts received to the applicable appropriation of FEMA.

12. Request cashier designation and resolution from the Department of the Treasury, and designate persons to serve in FEMA.

13. Maintain official FEMA payroll, retirement, leave and travel records.

14. Make purchases and contracts by advertising for operating equipment and supplies, administrative equipment, office supplies, professional services, transportation of persons and property, and nonpersonal services, and determines that the rejection of all bids is in the public interest.

15. Negotiate purchases and contracts for operating equipment and supplies, professional services, transportation of persons and property, and non-personal services without advertising; and makes and issues determinations related thereto pursuant to section 302(c) (1)-(10), (14) and (15) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. § 252(c) (1)-(10), (14) and (15)).

16. Make purchases and contracts for the procurement of printing and binding services in accordance with the current Government Printing and Binding Regulations of the Joint Committee on Printing and Title 44 of the United States Code.

17. Establish, modify, and maintain a continuing program for the management of records and files within FEMA, including records creation, organization, maintenance, and disposal.

18. Make assignments and reassignments of real and personal property within FEMA.

19. Establish and maintain a system of accountability for property.

20. Issue determinations of excess property and transfer same as required.

Section B. Authority to Redelegate. The Director, Office of Finance and Administration is hereby authorized to redelegate to employees of FEMA any of the authority delegated herein.

Section C. Delegation Revoked. This delegation of authority supersedes any other delegation of authority issued prior to the effective date hereof pertaining to the subject matter hereof.

Gordon Vickery,

Acting Director.

July 15, 1979.

[FR Doc. 79-23415 Filed 7-27-79; 8:45 am]

BILLING CODE 4210-23-M

Director of Personnel; Delegation of Authority

Pursuant to the provisions of Section 106 of Reorganization Plan No. 3 of 1978, there is hereby established within the Federal Emergency Management Agency the Office of Personnel, and the position of Director of Personnel. The Director of Personnel shall supervise the operation of the said Office, and shall be delegated the power and authorities to act for and on the behalf of the Director, FEMA, as hereafter set forth:

Section A. The Director of the Office of Personnel. Federal Emergency Management Agency, is authorized to exercise the following authorities of the Director, FEMA:

1. Establish and classify positions.

2. Appoint to positions employees and applicants for employment. All actions to fill attorney positions at all levels require the approval of the General Counsel. The prior approval of the Director is required for all actions to fill positions at grade GS-13 or above, except reassignments or changes to lower grade entitlement to the position as a result of a reorganization, the application of reduction-in-force or transfer of functions regulations, or a redescription.

3. Procure, by appointment, with or without compensation, the temporary (not in excess of one year) or intermittent services of experts or consultants. All such appointments shall be approved by the Director.

4. Administer the oath to be taken by officers and employees incident to their entrance into FEMA or any other oath required by law in connection with employment.

5. Effect personnel actions to suspend, furlough without pay, reduce in rank or pay, or remove employees; and effects all other types of separation actions by issuing notifications of personnel action.

6. Grant cost-of-living and living quarters allowances and authorizes the payment of post differentials, in accordance with Department of State regulations, to eligible employees stationed in foreign countries. Grant cost-of-living allowances and authorizes the payment of differentials, in accordance with Office of Personnel Management regulations, to eligible employees stationed outside the continental United States in nonforeign areas. (FPM chap. 591 and FPM supp. 990-1, Book II, part 591; 5 CFR 591.101-591.401. For foreign areas see Department of State Standardized Regulations (Government Civilians, Foreign Areas).)

7. Utilize the services of officials, officers, and other personnel in other executive agencies, including personnel of the armed services.

8. Determine the eligibility of employees for advance payments, evacuation payments, and special evacuation allowances; approves waivers of recovery; and grant extensions for the continuation of evacuation payments in accordance with 5 U.S.C. §§ 5521-5527, Executive Order 10982 of December 25, 1961, appropriate Office of Personnel Management regulations and

"Departmental Regulations" prescribed by the Office of Personnel Management (for employees in United States areas), and the Standardized Regulations (Government Civilians, Foreign Areas) issued by the Department of State.

9. Designate Agency officials to represent FEMA at labor relations hearings or other proceedings before or directed by the Federal Service Impasses Panel, Federal Labor Relation Authority, as required by Pub. L. 94-451; Civil Service Reform Act of 1978, and approve labor agreements negotiated by other officials of FEMA, with the concurrence of the General Counsel.

10. Accord national exclusive recognition, national consultation rights, or exclusive recognition for units comprised of FEMA to labor organizations meeting the requirements of Pub. L. 94-451.

11. Withdraw or suspend existing national exclusive recognition, national consultation rights, or exclusive recognition for units comprised of FEMA employees from labor organizations which do not meet the requirements of Pub. L. 94-451.

12. Appoint individuals to serve as grievance examiners for grievances.

13. Issue wage rate schedules for positions, the rates of pay for which are fixed with reference to prevailing local wage rates. (5 U.S.C. § 5341)

14. Review and prepare final agency decision on all FEMA employee appeals of removal, suspension for more than 30 days, furlough without pay, and reduction in rank or compensation from employees in grade GS-14 or below and any wage system grade except appeals from employees in the Office of Personnel and appeals from employees who allege that discrimination because of race, color, religion, sex, age, or national origin was a cause of the original decision.

Section B. Authority to Redelegate. The Director of Personnel is hereby authorized to redelegate the authorities contained herein to employees of FEMA.

Section C. Delegations Revoked. This delegation of authority supersedes any other delegation of authority issued prior to the effective date hereof pertaining to the subject matter hereof.

Dated: July 15, 1979.

Gordon Vickery,

Acting Director.

[FR Doc. 79-23416 Filed 7-27-79; 8:45 am]

BILLING CODE 4210-23-M

Inspector General; Delegation of Authority

Pursuant to the provisions of section 106 of Reorganization Plan No. 3 of 1978, there is hereby established within the Federal Emergency Management Agency the Office of Inspector General, and the position of Inspector General. The Inspector General shall supervise the operation of the said office, and shall be delegated the powers and authorities to act for and on behalf of the Director, FEMA as hereinafter set forth.

Section A. The Inspector General of the Federal Emergency Management Agency is hereby authorized to exercise the following authorities of the Director, FEMA:

1. Audit the accounting, financial, and other operations of FEMA, including grants, contracts, and other expenditures of funds.

2. Audit the books and records of grantees of FEMA and contractors doing business with FEMA, or of subcontractors as appropriate.

3. Enter into contracts for professional services with public accounting firms and Certified Public Accountants for the performance of audits.

4. Authorize officers and employers having investigatory functions, while engaged in the performance of their duties in conducting investigations, to administer oaths.

5. Take possession from FEMA employees of any official FEMA documents, including, but not limited to, books, records, and workpapers necessary to conduct investigations.

6. Establish within FEMA a program for personnel and physical security and administer same.

7. Serve as the FEMA Security Officer and make those determinations required by E.O. 10450 of April 27, 1953, as amended, and by E.O. 12065 of June 28, 1978, as amended, with respect to security requirements for Government employment and the safeguarding of classified material.

Section B. Authority to Redelegate. The Inspector General is authorized to redelegate to employees of the Office of the Inspector General the authorities contained in Section A above.

Section C. Delegations Revoked. This delegation of authority supercedes any other delegation of authority issued

prior to the effective date hereof pertaining to the subject matter hereof.

Gordon Vickery,

Acting Director.

July 15, 1979.

[FR Doc. 79-23417 Filed 7-27-79; 8:45 am]

BILLING CODE 4210-23-M

General Counsel; Delegation of Authority

Pursuant to the provisions of Section 106 of Reorganization Plan No. 3 of 1978, there is hereby established within the Federal Emergency Management Agency the Office of General Counsel, and the position of General Counsel. The General Counsel shall supervise the operation of the said Office, and shall be delegated the power and authorities to act for and on the behalf of the Director, FEMA, as herewith set forth.

Section A. The General Counsel, Federal Emergency Management Agency, is authorized to exercise the following authorities of the Director, FEMA:

1. Accept service of process on behalf of the Agency and its officials.

2. Determine the Agency's legal position with respect to matters in litigation.

3. Refer matters directly to the Attorney General for prosecution or the initiation of litigation.

4. Determine the government's position in connection with any dispute before a Board of Contract Appeals, including the authority to settle or adjust any claim.

5. Consider, compromise and settle tort claims against FEMA, but any award, compromise, or settlement of more than \$25,000 requires the prior written approval of the Attorney General or designee.

6. Except as provided above, compromise, suspend, or terminate collection actions by FEMA on any claim in favor of the government in amounts not exceeding \$20,000 exclusive of interest.

7. Serves as Agency Ethics Counselor.

8. Designate attorneys in the Office of General Counsel to serve as Deputy Ethics Counselors and to provide advice and interpretation of FEMA Standards of Conduct.

Section B. Authority to Redelegate. The General Counsel is authorized to redelegate to employees of the Office of General Counsel, FEMA, any of the authority delegated herein, except the

position of Agency Ethics Counselor in Section A. 7, above.

Section C. Delegation Revoked. This delegation of authority supersedes any other delegation of authority issued prior to the effective date hereof pertaining to the subject matter hereof.

Dated: July 15, 1979.

Gordon Vickery,

Acting Director.

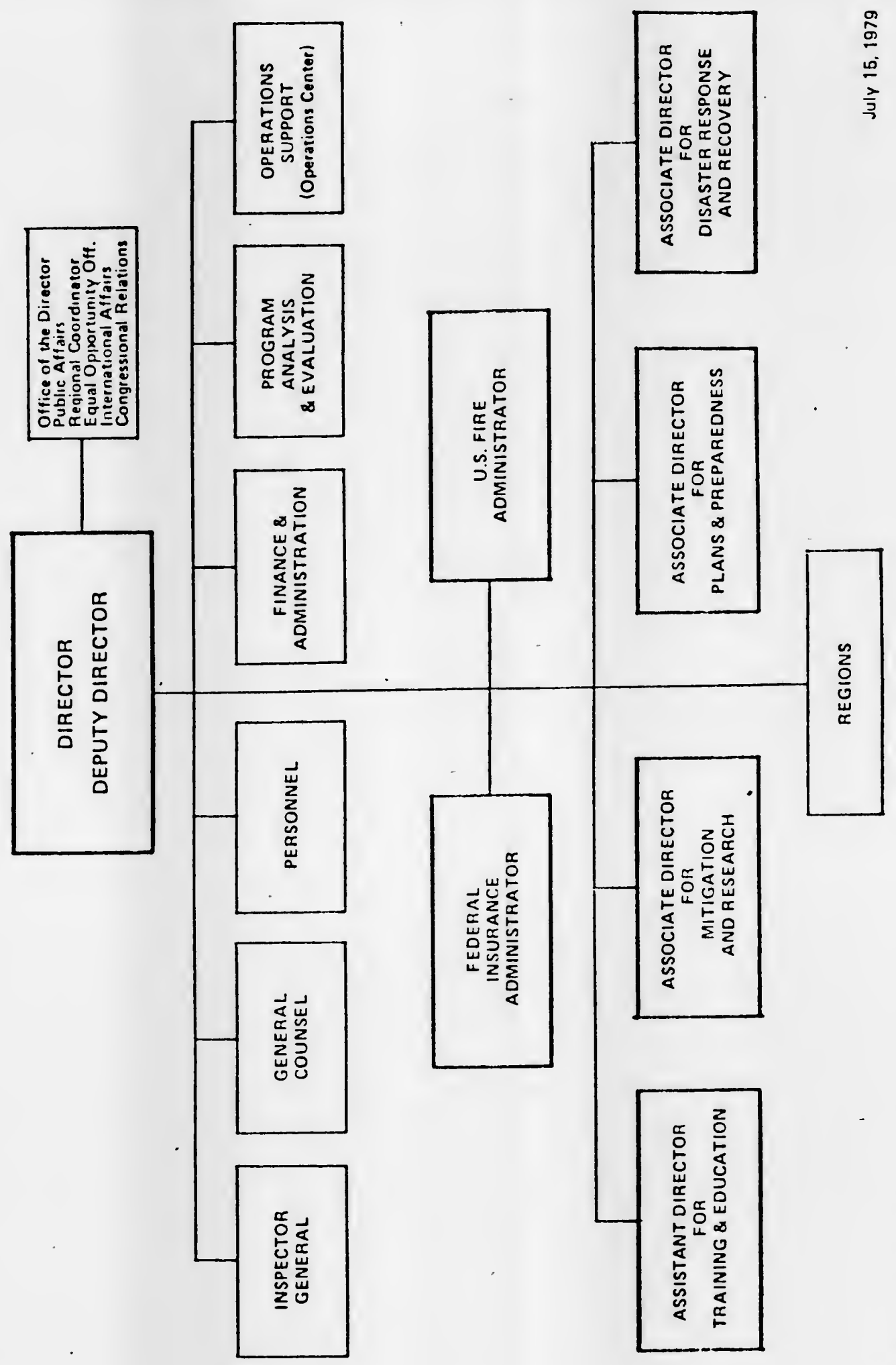
[FR Doc. 79-23418 Filed 7-27-79; 8:45 am]

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FEDERAL EMERGENCY MANAGEMENT AGENCY
HEADQUARTERS ORGANIZATION



BILLING CODE 4210-23-C

July 15, 1979

federal register

Monday
July 30, 1979

Part IX

Office of
Management and
Budget

Budget Deferral

OFFICE OF MANAGEMENT AND
BUDGET

Budget Deferral

TO THE CONGRESS OF THE
UNITED STATES:

In accordance with the Impoundment Control Act of 1974, I herewith report a new deferral of \$6.2 million in budget authority for the Bureau of Prisons in the Department of Justice.

The details of this deferral are contained in the attached report.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE

(in thousands of dollars)

Deferral No.	Item	Budget Authority
	Department of Justice:	
	Federal Prison System	
D79-58	Buildings and facilities.....	6,200

SUMMARY OF SPECIAL MESSAGES
FOR FY 1979

(in thousands of dollars)

	Rescissions	Deferrals
Tenth special message:		
New item.....	---	6,200
Effect of tenth special message.....	---	6,200
Previous special messages.....	908,692	4,373,810
Total amount proposed in special messages.....	908,692	4,380,010 ^{1/}
	(in 11 rescission proposals)	(in 58 deferrals)

^{1/} This amount represents budget authority except for \$15,809,478 in two Treasury Department deferrals of outlays only (D79-40A and D79-25B).

Deferral No: D79-58

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Justice	New budget authority \$ 35,280,000 (P.L. 95-431)
Bureau Federal Prison System	Other budgetary resources 61,405,092
Appropriation title & symbol	Total budgetary resources 96,685,092
Buildings and Facilities ^{1/} 15X1003	Amount to be deferred: Part of year \$ _____ Entire year 6,200,000
OMB identification code: 15-1003-0-1-753	Legal authority (in addition to sec. 1013): <input type="checkbox"/> Antideficiency Act
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Other _____
Type of account or fund: <input type="checkbox"/> Annual <input type="checkbox"/> Multiple-year _____ (expiration date) <input checked="" type="checkbox"/> No-year	Type of budget authority: <input checked="" type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input type="checkbox"/> Other _____

Justification: This appropriation finances planning, acquisition of sites, and construction of new penal and correctional facilities as well as construction, remodeling, and equipping of necessary buildings and facilities at existing penal and correctional institutions. Projects are undertaken to reduce overcrowding, close old and antiquated penitentiaries, and provide a safe and humane environment for staff and inmates. These funds were appropriated in the Departments of State, Justice, and Commerce, the Judiciary and Related Agencies Appropriation Act, 1979 and previous years.

The Justice Department has made the determination that a previously planned Metropolitan Correctional Center (MCC) in Detroit, Michigan, is not needed. This decision is in accord with language contained in House Report No. 96-247, accompanying the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Bill, 1980 (H.R. 4392).

These funds are deferred pending an OMB-initiated review of the Justice Department decision of the need for the Detroit project.

Estimated Effects: The effect of this deferral is to preserve these funds for use until a final decision is made concerning whether or not to construct this project.

Outlay Effect: This deferral will shift an estimated \$1.5 million in outlays from FY 1979 to FY 1980.

^{1/} This account was the subject of a deferral during FY 1978 and is presently the subject of another deferral, D79-17A.

THE WHITE HOUSE,

July 24, 1979.

(PR Doc. 79-23581 Filed 7-27-79; 8:45 am)

BILLING CODE 3110-01-C

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federal register

Monday
July 30, 1979

Part X

**Department of
Agriculture**

National Environmental Policy Act; Final
Policies and Procedures

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 3100

National Environmental Policy Act;
Final Policies and Procedures

AGENCY: United States Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: On May 1, 1979, the Department of Agriculture, Office of the Secretary, published at 44 FR 25606-25608, proposed rules, setting forth proposed policies and procedures for compliance with the National Environmental Policy Act (NEPA), as amended, 42 U.S.C. 4321 *et seq.*; and the Council on Environmental Quality's (CEQ) National Environmental Policy Act Regulations (40 CFR Parts 1500-1508).

USDA did not receive any comments on the proposed rules. Minor modifications for clarity were made in the final rule, based on suggestions from within the Department.

This rule supercedes Secretary of Agriculture Memorandum No. 1695, Supplement No. 4, Revised (October 25, 1974). This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified "significant." An Approved Final Impact Statement is available from the Office of Environmental Quality, USDA, Room 412-A.

EFFECTIVE DATE: July 30, 1979.

FOR FURTHER INFORMATION CONTACT: Barry R. Flamm, Director, Office of Environmental Quality, USDA, Washington, D.C. 20250, Phone (202) 447-3965.

Dated: July 26, 1979.

Jim Williams,
Acting Secretary.

SUPPLEMENTARY INFORMATION: Title 7 of the Code of Federal Regulations is amended by adding new Chapter XXXI, consisting of Part 3100 to read as set forth below:

CHAPTER XXXI—CULTURAL AND
ENVIRONMENTAL QUALITYPART 3100—ENVIRONMENTAL
MATTERS

Subpart A [Reserved]

Subpart B—National Environmental Policy
Act

- Sec.
3100.20 Purpose.
3100.21 Policy.
3100.22 Categorical Exclusions.
3100.23 Lead Agency Disputes.
3100.24 Public Involvement.
3100.25 Interagency and Interdepartmental Cooperation.
3100.26 Extra-Agency Expertise.
3100.27 Supplements.
3100.28 Distributions.
3100.29 Distribution to OEQ.
3100.30 When to Prepare an EIS.
3100.31 Impact Analysis.
3100.32 Tiering.
3100.33 Problems in Responses to Comments.
3100.34 Implementation of Agency Determination.
3100.35 Emergencies.

Authority: National Environmental Policy Act (NEPA), as amended, 42 U.S.C. 4321 *et seq.*; Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977); U.S.C. 301; 40 CFR 1507.3.

Subpart A [Reserved]

Subpart B—National Environmental
Policy Act

§ 3100.20 Purpose.

(a) This subpart supplements the regulations for implementing the procedural provisions of NEPA, which regulations were published by the Council of Environmental Quality (CEQ) in 40 CFR Parts 1500-1508. This subpart incorporates and adopts these regulations.

(b) Words used in the provisions of this subpart shall have the same meaning as they have in the regulations of CEQ at 40 CFR Part 1508.

(c) References are made in these regulations to appropriate sections of 40 CFR 1500-1508. This has been done to direct the attention of USDA agencies to specific provisions for guidance in the development of agency procedures or to provisions of the CEQ regulations which are the basis for the pertinent section.

§ 3100.21 Policy.

(a) All policies and programs of the various USDA agencies shall be planned, developed and implemented so as to achieve the goals declared by NEPA in order to assure responsible stewardship of the environment for present and future generations.

(b) Each USDA agency is responsible for compliance with the provisions of this subpart, the regulations of CEQ and the provisions of NEPA. Compliance will include the preparation and implementation of specific procedures and processes relating to the programs and activities of the individual agency, as necessary. Those agencies whose programs and activities are of such a nature as to not come within the types of actions covered by Section 102(2) of NEPA should consult with Office of Environmental Quality (OEQ) regarding the need for developing specific implementation procedures.

(§§ 1501.2, 1501.3, 1507)

(c) The Director, OEQ, shall review agencies implementing procedures to show consistency with CEQ's NEPA regulations and will coordinate environmental assessment activities for the Office of the Secretary which come under the purview of NEPA. OEQ, in cooperation with Environmental Quality Committee, will develop the necessary processes to be used by the Office of the Secretary in reviewing, implementing and planning its activities, determinations and policies.

(d) Each agency shall develop appropriate procedures and processes in a style which will promote understanding at the field staff level.

§ 3100.22 Categorical exclusions.

(a) In general, every agency recommendation or report on a proposal for legislation or other major agency action which significantly affects the quality of the human environment entails certain NEPA review procedures. However, the following are categories of agency activities which have been determined not to have a significant individual or cumulative adverse effect on the human environment and are excluded from the NEPA review process, unless individual agency procedures prescribe otherwise (§ 1508.4):

(1) Policy development, planning and implementation which relates to routine activities such as personnel,

organizational changes or similar administrative functions;

(2) Activities which deal solely with the funding of programs, such as program budget proposals, disbursement, transfer, or reprogramming of funds;

(3) Inventories, research activities and studies, such as resource inventories and routine data collection when such actions are clearly limited in context and intensity (1508.27);

(4) Educational and informational programs and activities;

(5) Civil and criminal law enforcement activities;

(6) Activities which are advisory and consultative to other agencies, public and private entities such as legal counselling and representation;

(7) Activities related to trade representation, and market development activities overseas.

(b) Agencies will identify in their own procedures the activities which normally would not require an environmental assessment or environmental impact statement. (§ 1508.4)

(c) Any activity which would normally fall within one of the categories listed in paragraph (a) of this section, or in a category identified in agency procedures, but which is determined to have a potential for significant impact on the human environment shall not be eligible for exclusion from the NEPA process. Agencies shall adopt procedures to assure continuous scrutiny of activities to determine continued eligibility for categorical exclusion.

§ 3100.23 Lead agency disputes.

The OEQ will coordinate, upon request, the resolution of lead agency disputes. (§ 1501.5(e))

§ 3100.24 Public involvement.

All NEPA processes developed and followed by USDA agencies shall provide for public involvement. The OEQ will consult with the Office of Policy Analysis and Public Participation to coordinate between agencies in carrying out this section.

(§§ 1501.4(e)(2), 1506.6, 1508.10)

§ 3100.25 Interagency and
interdepartmental cooperation.

(a) The USDA and its agencies shall, to the fullest extent possible, cooperate with other agencies, departments, bureaus, as well as State and local units of government to fulfill their responsibility under NEPA, utilizing memorandum of understanding or other instruments of agreement where possible.

(b) If a USDA agency is unable to cooperate to the extent formally requested by a lead agency, that agency shall reply to the lead agency that other program commitments preclude full involvement. Any such reply shall be referred to the Director, OEQ, within 10 working days of receipt of the request for submission to the lead agency and CEQ (§§ 1501.6(c))

§ 3100.26 Extra-agency expertise.

The OEQ will work with USDA agencies to identify sources of technical and editorial expertise necessary to supply interdisciplinary needs which have been identified in the scoping process and for which expertise is not available within that particular agency.

§ 3100.27 Supplements.

A decision to prepare a supplement to an environmental document will be made by the affected agency. New finding and information relating to the decisionmaking process shall be considered in such a decision. The agency may seek advice from OEQ, and such advice shall also be considered in making the determination to prepare a supplement. (§ 1502.9(c))

§ 3100.28 Distribution.

All USDA agencies shall develop and maintain a distribution list for dissemination of decision documents and notices. Agencies may make distributions in addition to those prescribed in the CEQ regulations. To guide agencies in this regard, Appendix II of 40 CFR Part 1500, published in Federal Register, Vol. 38, No. 147, pages 20557-20562, on August 1, 1973, or other such list as promulgated by CEQ, will serve as reference.

§ 3100.29 Distribution to OEQ.

A monthly summary of significant agency activity in the NEPA process shall be forwarded to the OEQ. A negative report is not required.

§ 3100.30 When to prepare an EIS.

(a) In addition to those agency activities identified in § 3100.22(b), USDA agencies shall identify those classes of their activities which normally require an EIS. (§ 1507.3(b))

(b) Agency activities not covered by paragraph (a) of this section shall require an environmental assessment, to support a finding of no significant impact or an agency decision to prepare EIS. (§§ 1501.3, 1501.4)

§ 3100.31 Impact analysis.

(a) All environmental assessments and impact statements prepared by an

agency regarding legislative proposals or program regulations shall incorporate applicable components of Impact Analysis (see Secretary's Memorandum No. 1955; Executive Order No. 12044; 40 CFR 1506.8).

(b) Incorporation of Impact Analysis procedures into agency NEPA processes is to be coordinated between the OEQ, the Department's Policy Analysis and Public Participation staff and the implementing agency (see Secretary's policy guidance to USDA agencies: Guidelines for Impact Analysis and Environmental Impact Statements, September 25, 1978).

§ 3100.32 Tiering.

Tiering, as set forth in 40 CFR 1502.20, shall be incorporated by agencies in their NEPA procedures. The OEQ will assist agencies regarding specific questions concerning tiering.

§ 3100.33 Problems in response to
comments.

Problems concerning the appropriate response to comments on environmental impact statements shall be resolved, if possible, at the agency staff level. Problems between USDA agencies not resolved by the final EIS shall be submitted to the heads of respective agencies for resolution with mediation, if necessary, by OEQ. OEQ will also be informed of agency problems with agencies outside USDA and will be available to help resolve disputes as necessary. (§§ 1503.2, 1503.3, 1503.4)

§ 3100.34 Implementation of Agency
determination.

Each agency shall develop NEPA implementing procedures and other appropriate internal procedures to provide for mitigation, monitoring or any other actions or conditions necessary to properly carry out the determinations established during their NEPA process. (§ 1505.3)

§ 3100.35 Emergencies.

The procedures developed by each agency shall include those NEPA review actions necessary in relation to agency responses to emergency situations. (§ 1506.11)

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Monday
July 30, 1979

Part XI

**Department of
Transportation**

Federal Aviation Administration

Aircraft Loan Guarantee Program

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 199

(Docket No. 18694)

Aircraft Loan Guarantee Program

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final rule.

SUMMARY: These final rules align the FAA's Aircraft Loan Guarantee Program with recent changes brought about by the Airline Deregulation Act (Pub. L. 95-504), which raised the total amount that can be guaranteed for any eligible participant from 30 million to 100 million dollars; expanded the eligible participants to include charter air carriers, commuter air carriers and intrastate air carriers; extended the term of eligible loans to fifteen years; and required that aircraft purchased under a guaranteed loan comply with the FAA noise standards. The new rules also make related procedural changes and provide additional guidance and information to potential guarantee applicants.

EFFECTIVE DATE: July 30, 1979.

FOR FURTHER INFORMATION CONTACT: Richard A. Smith, Office of the Chief Counsel (AGC-500), Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone (202) 426-3480.

SUPPLEMENTARY INFORMATION:

Regulatory History

The FAA's Aircraft Loan Guarantee Program is authorized under the Act of September 7, 1957, as amended (71 Stat. 629; 49 U.S.C. 1324 Note) referenced hereafter as "the Act." The Act provides that this program is the responsibility of the Secretary of Transportation. Section 1.47(c) of the Department of Transportation Regulations (49 CFR 1.47(c)) delegates the Secretary's authority over the Loan Guarantee Program to the Administrator of the Federal Aviation Administration.

To implement the Loan Guarantee Program the FAA promulgated Part 199 of Title 14 of the Code of Federal Regulations (14 CFR Part 199). This Part established the procedural mechanism by which the program is administered.

Recently, Pub. L. 95-504 made substantial amendments to the Act, the most significant of which are as follows:

1. It expands the categories of eligible participants to include "charter air

carriers," "commuter air carriers," and "intrastate air carriers" (as those terms are defined in the new Act). Formerly only local service, Alaskan, Hawaiian and helicopter air carriers were eligible.

2. It expands the term of loans which may be guaranteed to a maximum of 15 years. The former maximum was 10 years.

3. It increases the maximum amount of a loan or combination of loans which can be guaranteed for a single carrier to \$100 million. The former maximum was \$30 million.

4. It adds the requirement that any new turbojet powered aircraft to be purchased under the Loan Guarantee Program must comply with the FAA's noise standards set forth in 14 CFR Part 36.

5. It provides that any guarantee made for the purchase of any all-cargo nonconvertible aircraft by a charter air carrier must be based on the percentage of service provided by that air carrier to small, medium and nonhub airports during the prior twelve months. The maximum amount of the guarantees will be roughly \$1 million for each percent of service to these airports.

6. It re-enacts the authority to guarantee loans for a period of five years effective October 24, 1978. The previous authority expired on September 7, 1977.

In light of these changes the FAA, on January 25, 1979, published Notice No. 79-3 in the Federal Register. This notice proposed revisions to the regulations governing the Loan Guarantee Program and invited public comments. All the public comments were considered in the adoption of these final rules, and as a result of some of the comments, changes were made in the original proposals. All of these changes are explained below.

A New Program

As was explained in the original Notice, the Secretary's guarantee authority lapsed on September 6, 1977, and was not revived until October 24, 1978, as a part of the Airline Deregulation Act (Pub. L. 95-504). During the debates of this Act, Congress demonstrated a great deal of concern that deregulation might substantially degrade the quality of air service to small communities. In an evident attempt to lessen any such negative effect, Congress expanded the class of eligible carriers to include additional carriers which typically provide the majority of their service to small communities. This expansion, the heightened emphasis on service to small communities, and the fact that the Loan Guarantee Program was revitalized, not

independently, but as a part of the President's deregulation program lead the FAA to conclude that any program under this new authority must give special emphasis to the needs of the smaller communities, and the financial problems implicit in the financing of smaller air carriers.

Consideration of Public Comments

Section 199.5

Some commenters have taken exception to the requirement of § 199.5(c) as proposed, which stated that only aircraft purchased by carriers for their own use in air transportation shall be eligible for a loan guarantee. These objections have taken two forms: that brokers, as a class, should not be excluded from participating as "air carriers" in the Loan Guarantee Program; and, that an eligible carrier, directly engaged in air transportation, should not be precluded from leasing its aircraft to or pooling its aircraft with other carriers during periods of limited use. With respect to the first objection, there is no basis for departing from the position announced in the January 25, 1979, notice. There is no indication that Pub. L. 95-504 was designed to add brokers to the class of eligible carriers. As to the second objection, the FAA acknowledges that, in many circumstances, an eligible carrier—particularly a commuter air carrier—may find it economically necessary to lease or pool its aircraft during periods of reduced use or non-use. Section 199.5(c) does not prohibit such arrangements.

Section 199.7

The few comments received on this section were generally favorable. Several commenters questioned the need for any definition of the term "adjacent Canadian Territory," as that term is utilized in describing carriers who operate "within Alaska, between Alaska and the 48 contiguous states, or between Alaska and adjacent Canadian Territory." One commenter proposed that the term be defined to include points as far from the Alaskan border as 700 or 800 miles. The FAA feels that a definition would provide a uniform standard for administering Section 3 of the Act. The FAA accordingly has determined, on balance, that the intent of the Act can be fully effectuated by defining the term "adjacent Canadian Territory" as including the adjacent political subdivisions of Canada—i.e., the Yukon Territory and British Columbia. In other words, an Alaskan carrier will remain eligible for

assistance under Section 3 of the Act so long as a major portion of its operations remain within Alaska, between Alaska and the forty-eight contiguous states, or between Alaska and the adjacent subdivisions of British Columbia and the Yukon Territory.

Section 199.9

Numerous comments addressed this section of the proposed rule. Some commenters took exception to subsection (a), which states that loans will be considered for a guarantee only when all financing documents are in final form or when the terms and conditions of all legal commitments are otherwise finally established. The main objection is that, in a time of tight money and high interest rates, lenders will be reluctant to go to the expense of finalizing arrangements and documents without a binding commitment for an FAA guarantee. We agree that, in the interest of facilitating otherwise viable financing arrangements, it would be useful for the FAA to give a preliminary indication of whether particular loans are eligible for guarantees. To that end, the proposed § 199.9(a) has been amended to permit the FAA, as a service to potential applicants, to consider and answer such questions before financing arrangements are reduced to final form; but no legally binding guarantee, or commitment to guarantee, will be issued or effective until such time as all documents, including the guarantee agreements, are in final form.

Subsection (c) of this section has been deleted because at the time of this final rule, no loan will fall within it.

Numerous comments were also received concerning § 199.9(d) (now subsection (c)), which provides generally that "[n]o guarantee may be authorized for the refinancing of an aircraft purchase loan." This rule is subject to qualification, in that the refinancing of some deposits on aircraft will be recognized. Many commenters have suggested that, in effect, the ceiling on such deposits should be raised to 100% of the maximum allowable guarantee. For the reasons stated in the NPRM, the FAA finds no basis for adopting such a position.

Commenters have also suggested that the rule with respect to deposits, should be amended to state specifically that, in multi-aircraft purchases, the 30% limitation will apply for each aircraft purchased. The stated concern is that advance deposits made prior to the issuance of the guarantee for the entire package of aircraft could exceed 30% of the price of one of the aircraft. The rule

has been amended to make clear that the 30% limitation applies on each aircraft purchased. Lenders, however, should note that, in the event that a multi-aircraft purchase is reduced in quantity, an FAA guarantee will recognize deposits only to the extent that such deposits do not exceed 30% of the purchase price of the remaining aircraft. The FAA will not guarantee refinancing of deposits to the extent that they exceed this limitation.

Section 199.11

This section basically repeated Section 4 of the Act. A number of carriers and associations commented on § 199.11(a)(7)(ii), which provides that "no guarantee shall be made . . . [u]nless the Administrator finds that the prospective earning power . . . [o]f the applicant commuter air carrier or intrastate air carrier, together with the character and value of the security pledged, furnish . . . reasonable assurances of the applicant's ability and intention to repay the loan . . . , to continue its operations as a commuter air carrier . . . and to the extent found necessary by the Administrator, to continue its operations as a commuter air carrier or intrastate air carrier between the same route or routes being operated by such applicant as the time of the loan guarantee. . . ."

Some commenters suggested that the Administrator make a blanket determination for all commuters that it is not necessary to examine the earning power of a carrier, and the security pledged, to determine whether such provides reasonable assurance that the applicant will continue to operate between the same route or routes. There is merit to the contention that in today's dynamic commuter market it might be unrealistic to tie all commuter carriers strictly to the route or routes serviced by them at the time of a guarantee.

On the other hand, as indicated in the January 25, 1979, NPRM, one major purpose of the new Aircraft Loan Guarantee program is to help offset any deterioration of service to the smaller communities which might result from airline deregulation. To this end, it is clearly useful to examine a commuter carrier's earning power and security pledged in order to determine whether there is reasonable assurance that commuter routes will continue to be serviced. There is, therefore, no basis at this time to support a blanket determination that assurances required in § 199.11(a)(7) are unnecessary.

Section 199.13

This provision states simply that no loan which is contrary to the economic, social, or foreign affair interests of the United States may be guaranteed. A number of commenters have objected that this provision is vague, or overly broad, or that denial of loans on the basis of public policy would be in violation of the Act. However, as noted in the January 25, 1979, NPRM, the authority conferred on FAA to guarantee loans is discretionary. Section 199.13 merely states that, in the reasonable exercise of this discretion, the FAA will give due regard to those policies promulgated by the Congress or the Executive Branch which affect the Loan Guarantee Program at the time of each guarantee. No change in this provision is necessary.

Section 199.15

Numerous comments were received with respect to the question of priorities. The proposed rule stated that, in the event a ceiling were placed on the number or amount of guarantees to be made in any given year, the FAA would give first priority to applications filed by commuter airlines, with second priority being given to other carriers "in the order of their demonstrated service to the smaller communities." In general, comments relating to this section broke into three classes: some stating that no order or priority was appropriate, or at least that no priority should be granted to commuters; some, that the proposal was a legitimate exercise of FAA discretion; and some saying that, notwithstanding the proposed order of priorities, the dollar limitations proposed in the FY 1979 Supplement Appropriation, and the FY 80 Appropriation, were too low.

Section 199.15 was based upon FAA's perception that, if choices had to be made among eligible carriers, it would be reasonable in light of the legislative history of Public Law 95-504 to give first priority to carriers which predominantly service the smaller communities. The FAA recognizes that the need for priorities is in part dependent upon the scope and nature of restrictions which may be legislatively imposed. The FAA also recognizes that, as the full effects of Airline Deregulation become known, priorities may change. Accordingly, a rule more general than that originally proposed is needed.

Recognizing these facts, § 199.15 has been amended to provide simply that, in the administration of the Loan Guarantee Program, the FAA may, from time to time, establish systems of

priorities when such priorities will facilitate the purpose of the Act and Airline Deregulation. Current policy is specifically set forth in appendix "A" to the rule.

Appendix "A" as currently set forth has as its purpose the aim of assuring that commuters and other air carriers who predominately serve the smaller communities will receive a fair share of loan guarantee assistance. In adopting Appendix "A", the FAA is guided by the needs of the air transportation market; by the emerging consensus in the Congress favoring a limitation on guarantees; and by the statutory purpose of the Act and Pub. L. 95-504.

Section 199.17

A few commenters disagreed with this section, which provides that no loan shall be guaranteed if its terms and conditions are substantially less favorable to the purchaser or the guarantor than those which are available in the marketplace for similar transactions at the time of the loan. Many commenters feel that the section is too vague. One commenter suggested that the phrase "similar transactions" must be applied with care because of the many variables involved in aircraft financing.

The FAA recognizes that there are many variables in aircraft financing. However, the basic need for the proposed section remains unaltered: the United States is financially liable in the event of a default on a guaranteed loan; and, prior to making any guarantee, the FAA must make a judgment as to the commercial reasonableness of the underlying documents, taking into account the nature of the carrier and its economic position. Accordingly, no change in the proposed rule is necessary.

Section 199.19

This section provides generally that a lender or lenders must make application for an aircraft loan guarantee by completing certain FAA forms and by forwarding them together with supporting documentation. One commenter suggested that the forms themselves should become a part of this rule, and that they should be revised in certain ways. Draft revisions were forwarded with this comment. These forms are administrative in nature, and are related only to information which the FAA requires to meet its statutory responsibilities in reviewing loans for the Guarantee Program. Loan guarantee application forms were not made a part of the January 25, 1979 NPRM, and were not a part of the rule published for the

pre-1977 program. There is no basis for expanding the scope of this rule by including such forms as a part of it. Comments with respect to the information requested by the FAA will continue to be processed in the same way as other administrative matters.

Section 199.23

This section provides that any lender to whom a guarantee is issued shall pay a guarantee fee at a rate of $\frac{1}{4}$ of one percent per annum on the average daily amount of the guaranteed portion of the unpaid principal outstanding during the interest period defined in the loan agreement. One commenter has suggested that a "sliding scale" of fees be adopted, which varies directly with the magnitude of the loan or loans made to any single carrier. Under this suggestion, the greater the amount of the guaranteed portion of a loan, the greater becomes the rate used in determining a guarantee fee. The commenter points out that such a provision would encourage purchase of smaller, less expensive equipment. After full consideration, the FAA has determined that, on balance, this comment should not be adopted. The purpose of the guarantee fee is to reimburse the United States for the costs incurred in administering this program. Our experience is that these costs vary only roughly in proportion to the size of a guarantee. Administrative costs are generally higher in the early stages of a guarantee agreement when the outstanding principal is the greatest. Accordingly, the fee proposed in this section is stated in terms of a rate to be applied to the outstanding principal of a loan. It should also be pointed out that because the amount of any guarantee fee will vary in direct proportion to outstanding principal, in a very real sense, the fee also varies in proportion to the size of the loan.

Section 199.31

This section provides generally that any guarantee which is issued will be subject to the full faith and credit of the United States. The comments received on this section were generally supportive. One commenter suggested that, even with the rule, the FAA Office of Chief Counsel should not entirely discontinue its practice of issuing legal opinions on such matters. This section, as it stands, does not preclude such opinions from being issued in appropriate cases.

Other Issues

Secondary Market. A number of commenters suggested that the financing of aircraft purchases, particularly for

commuter airlines, could be facilitated if the FAA guarantee were modified to assist in the creation of a secondary market for the guaranteed portion of these loans. One commenter suggested that, in order to be fully acceptable to investors, a secondary market program must exhibit certain key features, including the following:

1. The secondary investor must not bear any risk in connection with its investment, whether resulting from credit problems of the borrower or of the lenders;
2. Payment in the event a holder of secondary paper fails to receive scheduled payment must be prompt, and must include the full interest accrued to the holder;
3. The holder must be protected against failure of the lender to pay any guarantee fees;
4. No servicing or default notice obligations should be imposed upon holders; and
5. The holder should be able to freely negotiate its guaranteed investment to another holder.

In effect, in order to comply with this type of financing requirement, the FAA would have to guarantee the performance of a lending institution, as well as the performance of borrower (i.e., of an air carrier). To do this would be to substantially expand the scope of the loan guarantee program. Such expansion was not contemplated by the notice of January 25, 1979.

The FAA recognizes that, as this new Loan Guarantee Program matures and the air transportation needs of the country evolve under Airline Deregulation, a secondary market program may become appropriate. The FAA also recognizes that concern has been expressed by Congress about the ramifications of such a program:

The Committee understands that several financial institutions have suggested that the FAA allow for the creation of a secondary market in guaranteed aircraft purchase loans by permitting the originating lender to sell or assign all or part of the guaranteed portion of the loan to other investors or lending institutions. Under this suggestion, the secondary market investor or holder of the assigned portion of the guaranteed loan would be fully protected by the guarantee against any credit risks in connection with its investment, whether resulting from credit problems of the borrower or the original lender. Allowing such a secondary market would be a departure from the aircraft loan guarantee program as it has existed in the past. The Committee expects that before taking action to permit the transfer of the guarantee to secondary market holders, the FAA will review the authority for such action with the General Accounting Office, and will consult with the Committee. (H.R. Rep. No.

96-227, 96th Cong., 1st Sess. (1979) at pp. 112-113).

Accordingly, no action is being taken at this time; and no action will be taken in the future without formal rulemaking.

Restriction of Aircraft Purchase. A number of commenters suggested that the FAA guarantee only those loans made for the purchase of smaller aircraft, of the type typically used in commuter operations. For the reasons stated in the discussion of section 199.15, the FAA feels it is not appropriate to adopt a single standard to govern the availability of loan guarantee assistance throughout the life of the program. Accordingly, the "aircraft size" standard will not be adopted. The size of aircraft sought to be purchased may well become relevant, however, in making determinations under Appendix "A".

Adoption of Amendment

Accordingly, Part 199 of the Federal Aviation Regulations (14 CFR Part 199) is amended, effective July 30, 1979 by revising the entire part as follows:

PART 199—AIRCRAFT LOAN GUARANTEE PROGRAM

- Sec.
- 199.1 Applicability.
- 199.3 Definitions.
- 199.5 Carriers eligible for an aircraft loan guarantee.
- 199.7 Alaska and Hawaii.
- 199.9 Loans made within the Act.
- 199.11 Conditions and limitations under which loans will be guaranteed.
- 199.13 National policy considerations.
- 199.15 Priorities among otherwise eligible guarantee recipients.
- 199.17 Terms and conditions of loan.
- 199.19 Applications.
- 199.21 Action taken on applications.
- 199.23 Fees.
- 199.25 Deviation from terms of agreement or guarantee.
- 199.27 Delegation of Administrator's functions.
- 199.29 Notices.
- 199.31 Full faith and credit.

Appendix A—Priorities Among Loan Guarantee Applicants.

Authority: Act of September 7, 1957 (49 U.S.C. 1324 Note; 82 Stat. 1003), as amended, Pub. L. 95-504, secs. 6(a)(3)(A) and 9 of the Department of Transportation Act (49 U.S.C. 1655(a)(3)(A) and 1657) and sec. 1.4(b)(4) of the Regulations of the Office of the Secretary of Transportation (49 CFR 1.4(b)(4)).

§ 199.1 Applicability.

This part applies to applications for aircraft loan guarantees as provided by the Act of September 7, 1957 (40 U.S.C. 1324 Note), and as extended by Pub. L. 90-568 (82 Stat. 1003) and 95-504, and to requests for approval of deviations from

the terms of guarantee and loan agreements concluded after September 7, 1957.

§ 199.3 Definitions.

Act, as used in this part means the Act of September 7, 1957 (49 U.S.C. 1324 Note), as amended.

Carrier, as used in this part, includes air carrier, charter air carrier, commuter air carrier and intra-state air carrier as these terms are defined in the Act of September 7, 1957, as amended.

Short term financing, means any loan the term of which is less than one year.

§ 199.5 Carriers eligible for an aircraft loan guarantee.

(a) Only those carriers set forth in section 3 of the Act are eligible for loan guarantee assistance.

(b) Only those carriers identified in (a) above who are directly engaged in air transportation are eligible for loan guarantee assistance.

(c) Only those aircraft purchased by carriers for their own use in air transportation shall be eligible for a loan guarantee.

§ 199.7 Alaska and Hawaii.

(a) The term *major portion* as used in section 3(1) (b) and (c) of the Act means a portion which is greater than 50%.

(b) The term *operation* as used in section 3(1) (b) and (c) of the Act means a takeoff and the related subsequent landing.

(c) The term *adjacent Canadian territory* as used in section 3(1)(c) of the Act means any point in Canada which is within British Columbia or the Yukon Territory.

§ 199.9 Loans made within the Act.

(a) For purposes of determining which loans are eligible for guarantee under the Act, only those loans for which all financing documents are in final form, or in which the essential terms and conditions of the parties' legal commitments are otherwise finally established, shall be guaranteed.

(b) Loan agreements which are submitted in final form during the life of the Act shall be deemed to fall within the Act, even if loan amounts are to be paid over after expiration of the Act.

(c) No guarantee may be authorized for the refinancing of an aircraft purchase loan. This prohibition will not extend to aircraft purchase loans which liquidate short term financing made for deposits on one or more aircraft so long as such deposits do not exceed 30% of the purchase price of the aircraft actually purchased.

§ 199.11 Conditions and limitations under which loans will be guaranteed.

(a) Subject to subsection (b) of this section, no guarantee shall be made:

(1) Extending to more than the unpaid interest and 90% of the unpaid principal of any loan;

(2) On any loan or combination of loans for more than 90% of the purchase price of the aircraft, including spare parts, to be purchased therewith;

(3) On any loan whose terms permit full repayment more than 15 years after the date thereof;

(4) Wherein the total face amount of such loan, and of any other loans to the same carrier, or corporate predecessor of such carrier, guaranteed and outstanding under the terms of the Act exceeds \$100 million;

(5) Unless the Administrator finds that, without such guarantee, in the amount thereof, the carrier would be unable to obtain necessary funds for the purchase of needed aircraft on reasonable terms as such terms are defined in § 199.17;

(6) Unless the Administrator finds that the aircraft to be purchased with the guaranteed loan is needed to improve the service and efficiency of operation of the carrier.

(7) Unless the Administrator finds that the prospective earning power—

(i) Of the applicant air carrier or charter air carrier, together with the character and value of the security pledged, furnish (A) reasonable assurances of the applicant's ability to repay the loan within the time fixed therefor, and (B) Reasonable protection to the United States; and

(ii) Of the applicant commuter air carrier or intrastate air carrier, together with the character and value of the security pledged, furnish (A) reasonable assurances of the applicant's ability and intention to repay the loan within the time fixed therefor, to continue its operations as a commuter air carrier or intrastate air carrier, and to the extent found necessary by the Administrator to continue its operations as a commuter air carrier or intrastate air carrier between the same route or routes being operated by such applicant at the same time of the loan guarantee, and (B) reasonable protection to the United States; and

(8) On any loan or combination of loans for the purchases of any new turbojet-powered aircraft which does not comply with the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary of Transportation acting through the Administrator (14 CFR Part 36), as such

regulations were in effect on January 1, 1977.

(b) No guarantee may be made by the Administrator under paragraph (a) of this section on any loan for the purchase of any all-cargo nonconvertible aircraft by any charter air carrier in an amount which, together with any other loans guaranteed and outstanding under this Act to such charter air carrier, or corporate predecessor of such charter air carrier, would result in the ratio of the total face amount of such loans to \$100 million exceeding the ratio of the amount of charter air transportation of such charter air carrier provided to medium, small, and nonhub airports during the twelve-month period preceding the date on which the application for such guarantee is made by such charter air carrier to the total amount of charter air transportation of such air carrier during such twelve-month period.

§ 199.13 National policy considerations.

No loan which is contrary to law or to the economic, social or foreign affairs interest or policies of the United States may be guaranteed.

§ 199.15 Priorities among otherwise eligible guarantee recipients.

(a) In the administration of this program the FAA may, from time to time, find it necessary to establish priorities among otherwise eligible guarantee applicants.

(b) FAA policy with respect to priorities will be published as Appendix A to this Part. Changes to Appendix A will be announced, as necessary, by a general notice published in the Federal Register.

§ 199.17 Terms and conditions of loan.

No loan shall be guaranteed if its terms and conditions, including any default provisions, are substantially less favorable to the purchaser or guarantor than those which are available in the marketplace for similar transactions at the time of the loan.

§ 199.19 Applications.

(a) The lender shall make application for an aircraft loan guarantee under this part by filing with the Director, Office of Aviation Policy of the FAA an original and five copies of Form FAA 2950-1 and Form FAA 2950-2 prepared by the lender and air carrier, respectively, together with an original and four copies of any supporting documents. These forms may be obtained from the Federal Aviation Administration, Office of Aviation Policy, AVP-1, 800 Independence Avenue, SW., Washington, D.C. 20591.

(b) Application forms (FAA 2950-1 and 2950-2) shall be completed in accordance with instructions which will be mailed together with the requested applications.

§ 199.21 Action taken on applications.

(a) Upon receipt of a completed application the Administrator may use available services and facilities of other agencies and instrumentalities of the Federal Government in carrying out the provisions of these regulations.

(b) The Administrator may approve or disapprove applications based on whether or not the requirements and standards of these regulations have been met.

(c) Upon approval of an application, the Administrator may execute any necessary guarantee agreement and such amendments to the guarantee agreement as from time to time become necessary.

§ 199.23 Fees.

Any lender to whom a guarantee under this part is issued shall pay to the Administrator a guarantee fee computed at the rate of ¼ of one percent per annum (based on the actual number of days elapsed) on the average daily amount of the guaranteed portion of the unpaid principal outstanding during the interest period defined in the loan agreement.

§ 199.25 Deviation from terms of agreement or guarantee.

No deviation from the terms of any guarantee agreements made after September 7, 1957, or from the terms of any underlying loan agreements approved as a part of a loan guarantee transaction shall be made without prior review of each deviation and approval by the Administrator. An original and four copies of requests for such approval, and an original and two copies of any supporting documents, shall be filed with the Director, Office of Aviation Policy of the FAA.

§ 199.27 Delegation of Administrator's functions.

The function of the Administrator under this part are exercised by the Director of the Office of Aviation Policy of the FAA in consultation with the Chief Counsel of the FAA.

§ 199.29 Notices.

All correspondence required by this part shall be addressed to the Office of Aviation Policy, Attn: AVP-1, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591.

§ 199.31 Full faith and credit.

Any guarantee which is issued pursuant to this part shall be secured by and entitled to the full faith and credit of the United States.

Appendix A—Priorities Among Loan Guarantee Applicants

(1) Scope. This appendix contains priorities for otherwise eligible loan guarantee applicants under the FAA's Aircraft Loan Guarantee Program.

(2) Priorities. In the event that, by reason of law or public policy, a limitation is placed or becomes necessary upon the dollar amount or number of guarantees made under the Act, the FAA will set aside a portion of the available guarantee assistance as determined by the Administrator for the first or exclusive use of commuter air carriers. The nonset-aside portion of available assistance will be allocated to eligible carriers in the order of their demonstrated service to the smaller communities. In determining service to smaller communities, FAA will consider first, the service rendered to those communities designated as eligible for essential air service by the Civil Aeronautics Board under § 419 of the Federal Aviation Act; then to service rendered to non-hub communities as that term is defined in the latest edition of the publication entitled "Airport Activity Statistics of Certificated Route Air Carriers;" and finally, to service rendered to "small hubs," as defined in that publication. In establishing the size of the set aside portion in any fiscal year, the Administrator will take into account the air transportation needs of the United States; the views of the Congress as they may, from time to time, be expressed; and the basic purposes of the Act, and of Pub. L. 95-504.

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, D.C., on July 26, 1979.

Langhorne Bond,
Administrator.

[FR Doc. 79-23624 Filed 7-27-79; 9:49 am]
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Monday, July 30, 1979

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Listing of Public Laws

Last Listing July 27, 1979

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

H.R. 4537 / Pub. L. 96-39 Trade Agreement Act of 1979. (July 26, 1979; 93 Stat. 144) Price \$4.00

Rules Going Into Effect Today

DEFENSE DEPARTMENT

Engineers Corps—

37610 6-28-79 / Puget Sound, Wash., navigation regulations

ENVIRONMENTAL PROTECTION AGENCY

37915 6-29-79 / Ambient Air Monitoring Reference and Equivalent Methods for Lead

55978 1-29-78 / National Environmental Policy Act regulations, implementation of procedural provisions

[Corrected at 44 FR 873, 1-3-79]

FEDERAL COMMUNICATIONS COMMISSION

36974 6-25-79 / Providing separation of handheld pilot radio equipment from ship station equipment

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

38226 6-29-79 / Rules of procedure

[Corrected at 44 FR 41178, 7-16-79]

FEDERAL RESERVE SYSTEM

37600 6-28-79 / Equal credit opportunity; official staff interpretation of Regulation B

37603 6-28-79 / Truth in lending; official staff interpretation of Regulation Z

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Land Management Bureau—

38268 6-29-79 / Outer Continental Shelf Minerals Leasing and Rights-of-Way Granting Program

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37910 6-29-79 / Comprehensive Employment and Training Act; Reference to New Regulations

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38810 7-2-79 / Safe harbor rule for projections

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(Revised as of January 1, 1979)

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[A Cumulative checklist of CFR issuances for 1978 appears in the first issue of the Federal Register each month under Title 1. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected)]

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7-31-79
Vol. 44 No. 148
Pages 44811-45114

federal register

Tuesday
July 31, 1979

Highlights

- 44954 Comprehensive Employment and Training**
Labor/ETA develops guidelines to review prime sponsors' planned performance for (FY) 1980
- 45092, 45096 Indians** Interior/BIA issues rule on tribal reassumption of jurisdiction over child custody proceedings; effective 8-30-79 (Part V of this issue) (2 documents)
- 44876 Banking** FRS issues proposal on reserve requirements and interest rate limitations on deposits for U.S. branches and agencies of foreign banks; comments by 9-21-79
- 44812 Civil Service Reform Act** OPM issues final regulations to implement various sections; effective 7-31-79
- 44811 Career and Career-Conditional Employment**
OPM provides for establishment of probationary period for new appointees to supervisory or managerial positions and authorizes return rights for employees who fail to satisfactorily complete the probationary period; effective by 8-11-79
- 44895 Bulk Mailings** PS proposes to amend regulations governing the preparation of various classes of mail; comments by 8-20-79

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- 44890 Improving Government Regulations** EEOC issues proposed rule on agenda of significant regulatory activity
- 44884 Improving Government Regulations** RRB issues semiannual agenda of significant regulations under development or review
- 44881 Securities** SEC issues request for comments on the petition concerning disclosure of relationships between attorneys and registrants; comments by 11-30-79
- 45110 Housing** HUD/CPD issues proposal on program requirements for administration of Community Development Block Grant Funds; comments by 10-1-79 (Part VI of this issue)
- 44984 Federal Aid Reform** OMB offers interested parties an opportunity to comment on flow charts that show the review and approval process for a sample of programs; comments by 9-1-79
- 45088 Recombinant DNA Research** HEW/NIH give notice of proposed actions under guidelines; comments by 8-30-79 (Part IV of this issue) (2 documents)
- 44857 Federal Employees** MSPB issues request for comments on regulation review of reduction in grade and removal based on unacceptable performance; comments by 8-24-79
- 44830 Equal Credit Opportunity** FRS issues official staff interpretation regarding whether a credit card issuer may require "authorized users" to assume contractual liability for the account; effective 8-30-79
- 45066 Solid Waste Management** EPA rules on guidelines for development and implementation of State plans; effective 8-30-79 (Part III of this issue)
- 44874 Food Safety** USDA/FSQS issues proposal on the use of enzyme treated substances as binders and extenders; comments by 10-1-79
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Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 315

Career and Career-Conditional Employment

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: In accordance with 5 USC 3321, as amended by Public Law 95-454, and section 2-103 of Executive Order 12107, this regulation provides for the establishment of a probationary period for new appointees to supervisory or managerial positions and authorizes return rights for employees who fail to satisfactorily complete the probationary period.

EFFECTIVE DATE: Upon implementation by individual agencies, but no later than August 11, 1979.

FOR FURTHER INFORMATION CONTACT: Raleigh M. Neville, Office of Staffing Policies, Office of Personnel Management, Room 6526, 1900 E Street, N.W., Washington, D.C. 20415. 202-632-6817.

SUPPLEMENTARY INFORMATION:

Background

On January 16, 1979, the Office of Personnel Management published interim regulations to implement a probationary period requirement for new managers and supervisors and invited comments from the public on its proposals. Comments and suggestions were given very careful consideration. As a result, the Office has modified its final regulations as set forth below. The Office will also supplement the regulations with guidance issued through the Federal Personnel Manual System to clarify certain items

addressed during the public comment period, which are outside the scope of the regulations.

Three significant aspects of the regulations were the focus of comment and are discussed below:

Definitions

Several agencies questioned the desirability of a split definition for manager and supervisor under which employees at GS-13 and above would be subject to the definition from title VII of Pub. L. 95-454 (the labor relations definition), while those at GS-12 and below would be subject to the definition of manager and supervisor used for position classification (from OPM's Supervisory Grade Evaluation Guide). The concern was that the title VII labor relations definition might lead to unnecessary disputes over which positions are covered. Extension of the Supervisory Grade Evaluation Guide (SSEG) definition across the board would facilitate effective administration of this provision. For those reasons, OPM's final regulations adopt the Supervisory Grade Evaluation Guide definitions of manager and supervisor for all grade levels.

Grievance Coverage

Several agencies expressed the view that grievance coverage for employees returned to their former positions or equivalent under this subpart should be either optional with the agency or not allowed at all. Under the interim regulations, grievance coverage was mandatory. As a result of these comments, and to make this provision consistent with the policy for the probationary period for initial appointment under subpart H, OPM's final regulations make grievance coverage optional.

Length of the Probationary Period

Some commenters recommended that OPM prescribe the length of the probationary period in light of its Government-wide impact. Because of the many variables among agencies and positions and the desire to give agencies maximum flexibility in this area, OPM's final regulations continue to allow agencies to determine the length of the probationary period.

Union Comments

Union comments concentrated on the rights of employees who fail to complete the probationary period. One suggested obligating the position formerly occupied by the employee until the probationary period is completed. Another recommended that the position to which returned be in the commuting area. OPM has no authority to obligate positions. Moreover, such a requirement would impose unreasonable limitations on an agency's authority to fill positions and would create administrative problems of its own. Similarly, a requirement that the position be in the same commuting area could lead to serious operational problems. The requirements of law, as reflected in the regulations, provide adequate protection for employees by guaranteeing a position at the same grade with no loss in pay.

The same union suggested employees be permitted to appeal actions returning them to nonsupervisory positions to the Merit Systems Protection Board, and that upon return to a bargaining unit, the employees have the right to grieve the agency's action under the negotiated grievance procedures. OPM has no authority to regulate negotiated grievance procedures. Granting these probationers appeal rights to MSPB would defeat the basic program of the probationary period and would be inconsistent with the regulations covering other probationers under 5 CFR subpart H.

Accordingly, the headnote of Subpart H of Part 315 of 5 CFR is amended and a new Subpart I is added as follows:

Subpart H—Probation on Initial Appointment to a Competitive Position

Subpart I—Probation on Initial Appointment to a Supervisory or Managerial Position

Sec.	
315.901	Statutory Requirement.
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315.903	Coverage.
315.904	Basic Requirement.
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315.907	Failure to Complete the Probationary Period.
315.908	Appeals.
315.909	Relationship to Other Actions.
Authority.—5 U.S.C. 3321, EO 12107.	

Subpart I—Probation on Initial Appointment To A Supervisory or Managerial Position**§ 315.901 Statutory Requirement.**

5 USC 3321 provides for "a period of probation . . . before initial appointment as a supervisor or manager becomes final." It also says that a supervisor or manager "who does not satisfactorily complete the probationary period . . . shall be returned to a position of no lower grade and pay than the position from which the individual was transferred, assigned or promoted." This subpart contains OPM regulations implementing those requirements of law.

§ 315.902 Definitions.

In this subpart "supervisory position" and "managerial position" have the meaning given them by chapter 315, subchapter 9 of the Federal Personnel Manual.

§ 315.903 Coverage.

This subpart applies to appointments and positions without time limitation in the competitive civil service. Agencies may, at their option, apply these provisions to time-limited appointments and positions. This subpart does not apply to appointments or positions in the Senior Executive Service.

§ 315.904 Basic Requirement.

(a) An employee is required to serve a probationary period prescribed by the agency upon initial appointment to a supervisory and/or managerial position.

(b) An employee is required to complete a single probationary period in a supervisory position and a single probationary period in a managerial position, regardless of the number of agencies, occupations, or positions in which the employee serves. However, an agency may by regulation provide for exceptions to the probationary period for managers who have satisfactorily completed a probationary period for supervisors when justified on the basis of performance and experience.

(c) Employees who, as of the date this requirement is effective, are serving or have served in Federal civilian supervisory or managerial positions without time limitation, or in time-limited supervisory or managerial positions under an official assignment exceeding 120 days, are exempt from its provisions, except that supervisors who are assigned to managerial positions may, according to agency regulations, be required to serve a probationary period for managers.

§ 315.905 Length of the Probationary Period.

The authority to determine the length of the probationary period is delegated to the head of each agency, provided that it be of reasonable fixed duration, appropriate to the position, and uniformly applied. An agency may establish different probationary periods for different occupations or a single one for all agency employees.

§ 315.906 Crediting Service Toward Completion of the Probationary Period.

(a) An employee who is reassigned, transferred, or promoted to another supervisory or managerial position while serving a probationary period under this subpart is subject to the probationary period prescribed for the new position. Service in the former position counts toward completion of the probationary period in the new position. If the former position was supervisory and the new position managerial, service counts in the manner prescribed by agency regulation.

(b) The conditions under which prior service is otherwise counted toward completion of the probationary period will be published in the Federal Personnel Manual.

§ 315.907 Failure to Complete the Probationary Period.

(a) Satisfactory completion of the prescribed probationary period is a prerequisite to continued service in the position. An employee who, for reasons of supervisory or managerial performance, does not satisfactorily complete the probationary period, is entitled to be assigned to a position in the agency of no lower grade and pay than the employee left to accept the supervisory or managerial position.

(b) The agency must notify the employee in writing that he or she is being assigned in accordance with this section.

§ 315.908 Appeals.

(a) An employee who, in accordance with the provisions of this subpart, is assigned to a nonmanagerial or nonsupervisory position, has no appeal right.

(b) An employee who alleges that an agency action under this subpart was based on partisan political affiliation or marital status, may appeal to the Merit Systems Protection Board.

§ 315.909 Relationship to Other Actions.

(a) If an employee is required to concurrently serve both a probationary period under this subpart and a probationary period under subpart H of this Part, the latter takes precedence

and completion of the probationary period for competitive appointment and fulfills the requirements of this subpart.

(b) An action which demotes an employee to a lower grade than the one the employee left to accept the supervisory or managerial position, and an action against an employee for reasons other than supervisory or managerial performance, is governed by Part 432 or 752 procedures, whichever is applicable. If the employee believes an action under this subpart was based on improper discrimination or other prohibited practices under 5 USC 2302, he or she may appeal to the Merit Systems Protection Board or the Equal Employment Opportunity Commission, as appropriate.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-23569 Filed 7-30-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Parts 315, 316, 410, 550, and 831**Career and Career-Conditional Employment, Temporary and Term Employment, Training, Pay Administration (General), and Retirement**

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: These regulations implement sections of the Civil Service Reform Act relating to: (1) noncompetitive appointment of disabled veterans having compensable service-connected disabilities of 30 percent or more; (2) training employees for placement in other agencies in lieu of separation under conditions which would entitle the employees to severance pay; (3) reduction in retired or retainer pay of retired military personnel serving in Federal civilian positions; and (4) addition of major reorganization and major transfers of functions as conditions permitting the Office to authorize early optional retirement.

EFFECTIVE DATE: July 31, 1979.

FOR FURTHER INFORMATION CONTACT: William Bohling, Recruitment/Agency Services Branch, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, (202) 632-4533.

SUPPLEMENTARY INFORMATION:**Background**

On January 23, 1979, the Office of Personnel Management published interim regulations to implement the above cited sections of the Civil Service

Reform Act (44 FR 4649-50); and on February 16, 1979, the Office published interim regulations amending those regulations relating to reduction in military retired or retainer pay (44 FR 10045). Comments from the public were invited on these interim regulations. Comments were received from six organizations.

As a result of comments and suggestions received during this period, the Office has modified the final regulations as discussed below. The Office will also supplement the regulations with guidance issued through the Federal Personnel Manual System which will address certain other concerns expressed during the public comment period. To provide disabled veterans with the full benefits intended by section 307(b) of the Reform Act, the regulations provide for noncompetitive term appointments of veterans having compensable service-connected disabilities of 30 percent or more. This authority is implicit in the statutory provision for noncompetitive appointments, but was not expressly stated in the interim regulations.

Eligibility of Disabled Veterans for Noncompetitive Appointment

Two Federal agencies asked whether a qualifying rating of 30 percent or greater disability could be issued by either the Department of Defense or the Veterans Administration, whether the higher rating would govern in case of conflict, whether the rating must be current, and whether persons medically discharged or retired or released from active duty based on disability would be covered by the noncompetitive appointment authority. To clarify these issues, the regulations governing temporary and term appointments have been amended to define disabled veterans for this purpose as those who have been retired from active military service with a disability rating of 30 percent or more, or who have a rating of compensable disability of 30 percent or more issued by the Veterans Administration within the past year. Determination of eligibility for noncompetitive appointment may be made either at the time of qualifying temporary or term appointment or at the time of conversion, except that continued eligibility must be verified at the time of conversion if 30 percent disability was not documented at the time of the qualifying appointment, or if the qualifying appointment was made more than 1 year ago.

Reduction in Retired or Retainer Pay

Several comments suggested that the regulation more clearly delineate the responsibilities of civilian agencies and uniformed services finance centers in administering the reduction in retired or retainer pay provisions and that references to military finance centers be changed to uniformed services finance centers. These suggestions have been adopted.

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

Accordingly, 5 CFR is amended as follows: (1) Part 315 is amended by adding a new § 315.703d as set forth below:

§ 315.703d Disabled veterans.

(a) **Eligibility.** (1) Subject to requirements concerning qualifications and probationary period published by the Office in the Federal Personnel Manual, an agency may convert the employment of a disabled veteran who meets the conditions below to career or career-conditional employment from a time-limited appointment of more than 60 days.

(2) To be eligible for conversion under this paragraph, the veteran must:

- (i) Have been retired from active military service with a disability rating of 30 percent or more;
- (ii) Have been rated by the Veterans Administration within the preceding year as having a compensable service-connected disability of 30 percent or more; or
- (iii) Have had such a rating by the Veterans Administration at the time of a qualifying temporary appointment effected within the year immediately preceding the conversion.

(b) **Tenure on conversion.** (1) Except as provided in subparagraph (2) of this paragraph, a person converted under paragraph (a) of this section becomes a career-conditional employee.

(2) A person appointed under paragraph (a) of this section becomes a career employee if excepted from the service requirement for career tenure by § 315.201(c).

(c) **Acquisition of competitive status.** A person converted under paragraph (a) of this section acquires a competitive status automatically on completion of probation.

(5 U.S.C. 3112)

PART 316—TEMPORARY AND TERM EMPLOYMENT

(2) Part 316 is amended by adding a new subparagraph (4) to paragraph (c)

of § 316.302, and by amending subparagraph (4) and adding subparagraph (5) to § 316.402(b), as follows:

§ 316.302 Selection of term employees.

(a) Except as provided in paragraphs (b) and (c) of this section, when making a term appointment an agency shall select an eligible from a register.

(b) The Office may authorize an agency to make term appointments outside a register when there are insufficient eligibles on the appropriate register.

(c) An agency may give a term appointment without regard to the existence of an appropriate register to:

(1) A person with eligibility for reinstatement;

(2) A veteran, as defined in section 2011(2)(A) of title 38, United States Code, who:

(i) Served on active duty in the Armed Forces of the United States between August 5, 1964 and May 7, 1975;

(ii) Completed no more than 14 years of education, unless compensably disabled or discharged because of service-connected disabilities, in which case the 14-year educational requirement does not apply; and

(iii) Is qualified to perform the duties of the position. An appointment under this subparagraph may be made only to a position at GS-7 or below, or equivalent in another pay system, without time limitation after separation from the military service, but not after September 30, 1981. A veteran who is an applicant for a position at GS-3 or equivalent, and below under this subparagraph is deemed qualified to perform the duties of the position on the basis of the veteran's civilian and military service;

(3) A person eligible for career or career-conditional appointment under §§ 315.601, 315.605, or 315.606 of this chapter;

(4) A former term employee of the agency who left prior to the expiration of his or her appointment. Reappointment must be to a position covered by the same term authority under which the individual previously served, and service under such reappointment may not exceed the expiration date of the original term appointment;

(5) A disabled veteran who has been retired from active military service with a disability rating of 30 percent or more, or has been rated by the Veterans Administration within the preceding year as having a compensable service-

connected disability of 30 percent or more.

§ 316.402 Authorities for temporary appointments.

(a) *General rule.* An agency may make and extend a temporary limited appointment only with specific authorization from the Office, except under the conditions published by the Office in the Federal Personnel Manual or as provided in paragraph (b) of this section.

(b) *Noncompetitive temporary limited appointments.* An agency may give a temporary limited appointment without regard to the existence of an appropriate register to:

(1) A person with eligibility for reinstatement;

(2) A person eligible for career or career-conditional appointment under §§ 315.601, 315.605, or 315.606 of this chapter;

(3) A former temporary employee of the agency who was originally appointed from a register, subject to the conditions published in the Federal Personnel Manual;

(4) A veteran or disabled veteran as defined in section 2011(2)(A) of title 38, United States Code, who:

(i) Served on active duty in the Armed Forces of the United States between August 5, 1964 and May 7, 1975;

(ii) Completed no more than 14 years of education, unless compensably disabled or discharged because of service-connected disabilities, in which case the 14-year educational requirement does not apply; and

(iii) Is qualified to perform the duties of the position. An appointment under this subparagraph may be made only to a position at GS-7 or below, or equivalent in another pay system, without time limitation after separation from the military service, but not after September 30, 1981. A veteran who is an applicant for a position at GS-3 or equivalent, and below under this subparagraph is deemed qualified to perform the duties of the position on the basis of the veteran's civilian and military service; or

(5) A disabled veteran who has been retired from active military service with a disability rating of 30 percent or more, or has been rated by the Veterans' Administration within the preceding year as having a compensable service-connected disability of 30 percent or more.

(5 U.S.C. 3312)

PART 410—TRAINING

(3) Part 410 is amended by adding a new paragraph (d) to § 410.301. As revised, § 410.301 reads as follows:

§ 410.301 Scope and general conduct of training programs.

(a) The head of an agency shall determine the policies which are to govern the training of employees of the agency. These policies shall be set forth in writing and include a statement of the broad purposes for which training will be given and of the assignment of responsibilities for seeing that these purposes are achieved.

(b) The head of an agency also shall take such administrative action as is necessary to assure that:

(1) Plans and programs are developed to meet the short- and long-range training needs of the agency;

(2) Priorities are established for the training programs of the agency;

(3) Provision is made for the use of funds and staff hours in accordance with established priorities, for the training programs of the agency;

(4) Employee self-development is fostered through a work environment in which self-development is encouraged, self-study materials are reasonably available, and self-initiated improvement in performance is recognized; and

(5) Information with respect to the general conduct of the training program of the agency is available to enable the Office, the President, and Congress to discharge their respective responsibilities under chapter 41 of title 5, United States Code.

(c) Training programs established by the agencies under chapter 41 of title 5, United States Code, to the maximum extent feasible:

(1) Be based on short- or long-range needs, existing or reasonably foreseeable;

(2) Meet as many of these needs as possible, priority considered;

(3) Use work assignment flexibility to provide experience to promote employee growth for the purpose of increasing the quality and quantity of work produced; and

(4) Be integrated with other personnel management and operating activities.

(d) As provided in subsection (b) of section 4103 of title 5, United States Code, an agency may train any employee of the agency to prepare the employee for placement in another agency when the following conditions are met:

(1) The head of the agency must determine that the employee will

otherwise be separated under conditions which would entitle the employee to severance pay under section 5595 of title 5, United States Code;

(2) Before undertaking any training under this section, the head of the agency shall obtain verification from the Office that there exists a reasonable expectation of placement in another agency;

(3) In selecting an employee for training under this section, the head of the agency shall consider:

(i) The extent to which the current skills, knowledge, and abilities of the employee may be utilized in the new position;

(ii) The employee's capability to learn skills and acquire knowledge and abilities needed in the new position; and

(iii) The benefits to the Government which would result from retaining the employee in the Federal service.

(5 U.S.C. 4103)

PART 550—PAY ADMINISTRATION (GENERAL)

(4) Part 550 is amended by revising §§ 550.601, and 550.602 and 550.603 and adding § 550.604, as follows:

§ 550.601 Scope.

(a) *Applicability.* This subpart and section 5532 of title 5, United States Code, apply in determining the entitlement to retired or retainer pay of a member or former member of a uniformed service when employed in a position.

(b) *Coverage.* This subpart and section 5532 of title 5, United States Code, apply to each department and agency (including each corporation owned or controlled by the Government of the United States and including nonappropriated fund instrumentalities under the jurisdiction of the Armed Forces) in the legislative, judicial, and executive branches of the Government of the United States and to the government of the District of Columbia.

§ 550.602 Definitions.

In this subpart: (a) "Member", "position", and "retired or retainer pay" have the meanings given those terms by section 5531 of title 5, United States Code.

(b) "Uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, and Public Health Service.

(c) "Officer" means commissioned or warrant officer.

§ 550.603 Exceptions to reduction in retired or retainer pay.

(a) Under conditions set forth in the Federal Personnel Manual, an agency may make exception to the restrictions in 5 U.S.C. 5532(b), without regard to the provisions of 5 U.S.C. 5532(c) and (e), when the exception is warranted because of special or emergency employment needs which otherwise cannot be readily met. Such exceptions shall apply while the individual for whom the exception was granted continues to serve in the same position. This subsection applies only to:

(1) Any retired officer of a regular component of the uniformed services who was receiving retired pay on or before January 11, 1979; or

(2) Any individual employed in a position on October 13, 1978, so long as the individual continues to hold any such position (disregarding any break in service of 3 days or less) if the individual, on that date, would have been entitled to retired or retainer pay but for the fact that the individual did not satisfy any applicable age requirement.

(b) For appointments not covered by paragraph (a) of this section, the Office may, during the period until January 11, 1984, authorize exceptions to the restrictions in 5 U.S.C. 5532(a), (b), and (c) only when necessary to meet special or emergency employment needs which result from a severe shortage of well qualified candidates in positions of medical officers which otherwise cannot be readily met. Such exception granted by the Office with respect to any individual shall terminate upon a break in service of 3 days or more.

§ 550.604 Administrative responsibilities.

(a) *Uniformed services pay centers.* Uniformed services pay centers are responsible for determining the amount of military retired or retainer pay to be withheld.

(b) *Employing agencies.* Federal agencies are responsible for notifying the appropriate uniformed service pay center concerning the Federal civilian pay of retired members according to instructions provided in the Federal Personnel Manual.

(5 U.S.C. 5532)

PART 831—RETIREMENT

(5) Part 831 is amended by revising § 831.109, as follows:

§ 831.109 Major reorganization, reduction in force, or transfer of function.

Determinations of major reorganization, major reduction in force,

or major transfer of function for purposes of early optional retirement under section 8336(d)(2) of title 5, United States Code, as amended, will be made by the Office of Personnel Management only after receipt of written request to make the determinations from the agency, or his or her designee.

(5 U.S.C. 8336(d)(2))
Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

(FR Doc. 79-23572 Filed 7-30-79; 8:45 am)
BILLING CODE 6325-01-M

5 CFR Part 359

Removal, Reinstatement, and Guaranteed Placement in the Senior Executive Service; Interim Regulations

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with comments invited for consideration in final rulemaking.

SUMMARY: These interim regulations implement Sec. 404 of Title IV of the Civil Service Reform Act of 1978. They provide for the removal of a career appointee from the Senior Executive Service either during probationary period or for less than fully successful executive performance. They also provide for placement in other personnel systems of certain persons who are removed from the Senior Executive Service.

DATES: Effective Date: July 31, 1979 and until final regulations are issued. Comment Date: Written comments will be considered if received no later than October 1, 1979.

ADDRESS: Send written comments to the Associate Director, Executive Personnel and Management Development, Office of Personnel Management, Room 6R48, 1900 E Street, N.W., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Ann Ugelow, (202) 632-6820.

SUPPLEMENTARY INFORMATION: Pursuant to section 553(d)(3) of title 5, U.S.C., the Director finds that good cause exists for making this amendment effective in less than 30 days, in order to provide continuity of operations and to give immediate and timely effect to the appropriate provisions of the Civil Service Reform Act of 1978.

A new Part 359 is being added to Title 5, Code of Federal Regulations to cover removal (other than an action subject to Part 752), reinstatement, and guaranteed placement in the Senior Executive

Service. The subparts of Part 359 being issued now consist of: (1) The statutory requirements for removal (other than an action subject to Subchapter V of Chapter 75 of title 5, United States Code), reinstatement, and guaranteed placement in the Senior Executive Service, as found in Section 404 of title IV of the Civil Service Reform Act of 1978; and (2) the regulations which implement the removal and placement requirements of Section 404.

Regulations to implement the reinstatement requirements will be issued at a later date.

Accordingly, the Office of Personnel Management is adding interim regulations to Chapter I, 5 CFR Part 359, as set forth below:

PART 359—REMOVAL, REINSTATEMENT, AND GUARANTEED PLACEMENT IN THE SENIOR EXECUTIVE SERVICE

Subpart A—Principal Statutory Requirements

Sec.
359.101 Principal Statutory Requirements.

Subpart B—General Provisions

359.201 Regulatory Requirements.
359.204 Definitions.

Subpart C—(Reserved)

Subpart D—Removal of Career Appointees During Probation

359.401 Removal: Unacceptable Performance or Conduct.
359.402 Removal: Conditions Arising before Appointment.
359.403 Restrictions: Removal during Probation.
359.405 Appeals: Removal during Probation.

Subpart E—Removal of Career Appointees for Less Than Fully Successful Executive Performance

359.501 Removal: Causes: Less Than Fully Successful Executive Performance.
359.502 Removal: Procedures: Less Than Fully Successful Executive Performance.
359.503 Restrictions: Mandatory Removal.
359.505 Appeals: Removal for Less Than Fully Successful Executive Performance.

Subpart F—Removal of Other Than Career Appointees

359.601 Removal: Other Than Career Appointees.

Subpart G—Guaranteed Placement

359.701 Placement Rights: Removal During Probation.
359.702 Placement Rights: Removal for Less Than Fully Successful Executive Performance.

Subpart H—(Reserved)

Subpart I—Reinstatement

359.905 Reinstatement: Restrictions.
Authority: 5 U.S.C. 1302, Pub. L. 95-454.

Subpart A—Principal Statutory Requirements**§ 359.101 Principal statutory requirements.**

This subpart sets forth for the benefit of the user the statutory requirements governing removal (other than an action subject to Subchapter V of Chapter 75 of title 5, United States Code), reinstatement, and guaranteed placement with regard to the Senior Executive Service. (5 U.S.C. 3591–3595)

§ 3591. Definitions

"For the purpose of this subchapter, 'agency', 'Senior Executive Service position', 'senior executive', 'career appointee', 'limited term appointee', 'limited emergency appointee', 'noncareer appointee', and 'general position' have the meanings set forth in section 3132(a) of this title.

§ 3592. Removal from the Senior Executive Service

"(a) Except as provided in subsection (b) of this section, a career appointee may be removed from the Senior Executive Service to a civil service position outside of the Senior Executive Service—

"(1) during the 1-year period of probation under section 3393(d) of this title, or

"(2) at any time for less than fully successful executive performance as determined under subchapter II of chapter 43 of this title,

except that in the case of a removal under paragraph (2) of this subsection the career appointee shall, at least 15 days before the removal, be entitled, upon request, to an informal hearing before an official designated by the Merit Systems Protection Board at which the career appointee may appear and present arguments, but such hearing shall not give the career appointee the right to initiate an action with the Board under section 7701 of this title, nor need the removal action be delayed as a result of the granting of such hearing.

"(b)(1) Except as provided in paragraph (2) of this subsection, a career appointee in an agency may not be involuntarily removed—

"(A) within 120 days after an appointment of the head of the agency; or

"(B) within 120 days after the appointment in the agency of the career appointee's most immediate supervisor who—

"(i) is a noncareer appointee; and

"(ii) has the authority to remove the career appointee.

"(2) Paragraph (1) of this subsection does not apply with respect to—

"(A) any removal under section 4314(b)(3) of this title; or

"(B) any disciplinary action initiated before an appointment referred to in paragraph (1) of this subsection.

"(c) A limited emergency appointee, limited term appointee, or noncareer appointee may be removed from the service at any time.

§ 3593. Reinstatement in the Senior Executive Service

"(a) A former career appointee may be reinstated, without regard to section 3393 (b) and (c) of this title, to any Senior Executive Service position for which the appointee is qualified if—

"(1) the appointee has successfully completed the probationary period established under section 3393(d) of this title; and

"(2) the appointee left the Senior Executive Service for reasons other than misconduct, neglect of duty, malfeasance, or less than fully successful executive performance as determined under subchapter II of chapter 43 of this title.

"(b) A career appointee who is appointed by the President to any civil service position outside the Senior Executive Service and who leaves the position for reasons other than misconduct, neglect of duty, or malfeasance shall be entitled to be placed in the Senior Executive Service if the appointee applies to the Office of Personnel Management within 90 days after separation from the Presidential appointment.

§ 3594. Guaranteed placement in other personnel systems

"(a) A career appointee who was appointed from a civil service position held under a career or career-conditional appointment (or an appointment of equivalent tenure, as determined by the Office of Personnel Management) and who, for reasons other than misconduct, neglect of duty, or malfeasance, is removed from the Senior Executive Service during the probationary period under section 3393(d) of this title, shall be entitled to be placed in a civil service position (other than a Senior Executive Service position) in any agency.

"(b) A career appointee—

"(1) who has completed the probationary period under section 3393(d) of this title; and

"(2) who is removed from the Senior Executive Service for less than fully successful executive performance as determined under subchapter II of chapter 43 of this title;

shall be entitled to be placed in a civil service position (other than a Senior Executive Service position) in any agency.

"(c)(1) For purposes of subsections (a) and (b) of this section—

"(A) the position in which any career appointee is placed under such subsections shall be a continuing position at GS-15 or above of the General Schedule, or an equivalent position, and, in the case of a career appointee referred to in subsection (a) of this section, the career appointee shall be entitled to an appointment of a tenure equivalent to the tenure of the appointment held in the position from which the career appointee was appointed;

"(B) any career appointee placed under subsection (a) or (b) of this section shall be entitled to receive basic pay at the highest of—

"(i) the rate of basic pay in effect for the position in which placed;

"(ii) the rate of basic pay in effect at the time of the placement for the position the

career appointee held in the civil service immediately before being appointed to the Senior Executive Service; or

"(iii) the rate of basic pay in effect for the career appointee immediately before being placed under subsection (a) or (b) of this section; and

"(C) the placement of any career appointee under subsection (a) or (b) of this section may not be made to a position which would cause the separation or reduction in grade of any other employee.

"(2) An employee who is receiving basic pay under paragraph (1)(B)(ii) or (iii) of this subsection is entitled to have the basic pay rate of the employee increased by 50 percent of the amount of each increase in the maximum rate of basic pay for the grade of the position in which the employee is placed under subsection (a) or (b) of this section until the rate is equal to the rate in effect under paragraph (1)(B)(i) of this subsection for the position in which the employee is placed.

§ 3595. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this subchapter."

Subpart B—General Provisions**§ 359.201 Regulatory requirements.**

Subparts B through I contain the regulations of the Office of Personnel Management which implement subchapter V of chapter 35 of title 5, United States Code.

§ 359.204 Definitions.

"Agency," "Senior Executive Service position," "senior executive," "career appointee," "limited term appointee," "limited emergency appointee," "noncareer appointee," and "general position" are defined in 5 U.S.C. 3132(a).

"Probationary period" means the 1-year probation required by 5 U.S.C. 3393(d) upon initial career appointment to the Senior Executive Service.

Subpart C—[Reserved]**Subpart D—Removal of Career Appointees During Probation****§ 359.401 Removal: Unacceptable performance or conduct.**

(a) *Actions covered.* This section covers the removal of a career appointee from the Senior Executive Service during probationary period for unacceptable executive performance or conduct.

(b) *Procedures.* The agency shall notify the career appointee in writing prior to the effective date of the action. The notice shall, as a minimum—

(1) State the inadequacies of the appointee's executive performance or conduct;

(2) State whether the appointee has placement rights under § 359.701 and, if so, identify the position to which the appointee will be assigned; and,

(3) Show the effective date of the action.

§ 359.402 Removal: Conditions arising before appointment.

(a) *Actions covered.* This section covers the removal of a career appointee from the Senior Executive Service during the probationary period based in whole or in part on conditions arising before the appointment.

(b) *Procedures.* The agency shall give the career appointee an advance notice stating the specific reasons for the removal. The appointee shall be given a reasonable time to reply. The agency shall give the appointee a written decision showing the reasons for the action and the effective date. When appropriate, the notice of decision shall state the appointee's placement rights under § 359.701 and identify the position to which the appointee will be assigned. The notice of decision shall be given to the appointee at or before the time the action will be made effective.

§ 359.403 Restriction: Removal during probation.

(a) A removal from the Senior Executive Service under § 359.401 or § 359.402 may not be made effective within 120 days after—

(1) The appointment of a new agency head; or

(2) The appointment in the agency of the career appointee's most immediate supervisor who—

(i) Is a noncareer appointee; and

(ii) Has the authority to remove the career appointee.

(b) This restriction does not apply to a disciplinary action initiated before the appointment of a new agency head or the appointment of the career appointee's most immediate noncareer supervisor.

§ 359.405 Appeals: Removal during probation.

(a) An action taken under § 359.401 or § 359.402 is not appealable to the Merit Systems Protection Board under 5 U.S.C. 7701.

(b) A violation of the restrictions in § 359.403 is a prohibited personnel practice within the meaning of 5 U.S.C. 2302. An allegation of such violation may be submitted by the appointee to the Special Counsel of the Merit Systems Protection Board.

Subpart E—Removal of Career Appointees for Less Than Fully Successful Executive Performance**§ 359.501 Removal: Causes: less than fully successful executive performance.**

(a) *Employees covered.* This section covers:

(1) Any career appointee who has completed the probationary period in the Senior Executive Service; and

(2) Any career appointee who is not required to serve a probationary period in the Senior Executive Service.

(b) *Evaluation of executive performance.* The agency shall appraise the performance of each career appointee in accordance with a performance appraisal system established by the agency under subchapter II of chapter 43 of title 5, United States Code.

(c) *Optional removal from the Senior Executive Service.* The agency may remove a career appointee from the Senior Executive Service after the appointee has been given one unsatisfactory rating under the agency's performance appraisal system.

(d) *Mandatory removal from the Senior Executive Service.* The agency shall remove a career appointee from the Senior Executive Service after:

(1) The appointee has been given two annual summary ratings of unsatisfactory under the agency's performance appraisal system within five consecutive years; or

(2) The appointee has been given two annual summary ratings of less-than-fully-successful under the agency's performance appraisal system within three consecutive years.

§ 359.502 Removal: Procedures: less than fully successful executive performance.

(a) *Notice.* The agency shall notify the career appointee in writing at least 30 calendar days before the effective date of the action. The notice shall advise the appointee of—

(1) The basis for the action;

(2) The appointee's placement rights under § 359.702 and the position to which the appointee will be assigned;

(3) The appointee's right to request an informal hearing from the Merit Systems Protection Board;

(4) The effective date of the removal action; and

(5) When applicable, the appointee's eligibility for immediate retirement under 5 U.S.C. 8336(h).

(b) *Informal hearing.* (1) A career appointee being removed from the Senior Executive Service under this section shall, at least 15 days before the

effective date of the removal, be entitled, upon request, to an informal hearing before an official designated by the Merit Systems Protection Board. The appointee shall submit the request for an informal hearing to the Merit Systems Protection Board. This request may be made at any time after the appointee has received the notice described in paragraph (a) of this section, but no later than 15 days before the effective date of action. The informal hearing shall be conducted in accordance with the regulations and procedures established by the Merit Systems Protection Board.

(2) Neither the granting nor the conduct of this informal hearing shall provide a basis for appeal to the Merit Systems Protection Board under 5 U.S.C. 7701. The removal action need not be delayed as a result of the granting of such informal hearing.

§ 359.503 Restrictions: Mandatory removal.

A removal from the Senior Executive Service under § 359.501(d)(2) may not be made effective within 120 days after—

(a) The appointment of a new agency head; or

(b) The appointment in the agency of the career appointee's most immediate supervisor who—

(1) Is a noncareer appointee; and

(2) Has the authority to remove the career appointee.

§ 359.505 Appeals: Removal for less than fully successful executive performance.

(a) An action taken under § 359.501 is not appealable to the Merit Systems Protection Board under 5 U.S.C. 7701.

(b) A violation of the restrictions in § 359.503 is a prohibited personnel practice within the meaning of 5 U.S.C. 2302. An allegation of such violation may be submitted by the appointee to the Special Counsel of the Merit Systems Protection Board.

Subpart F—Removal of Other Than Career Appointees**§ 359.601 Removal: Other than career appointees.**

(a) *Coverage.* This section covers the removal from the Senior Executive Service of limited emergency appointees, limited term appointees, and noncareer appointees.

(b) *Authority.* The agency may remove an appointee subject to this section at any time.

(c) *Notice.* The agency shall notify the appointee in writing prior to the effective date of the removal.

(d) *Placement rights.* An appointee covered by this section is not entitled to

the placement rights provided for career appointees by 5 U.S.C. 3594.

(e) *Appeals.* Actions taken under this section are not appealable to the Merit Systems Protection Board under 5 U.S.C. 7701.

Subpart G—Guaranteed Placement

§ 359.701 Placement rights: Removal during probation.

(a) *Coverage.* This section covers career appointees—

(1) Who are removed from the Senior Executive Service during probation for reasons other than misconduct, neglect of duty or malfeasance; and

(2) Who at the time of appointment to the Senior Executive Service held a career or career-conditional appointment (or an appointment of equivalent tenure, as determined by the Office).

(b) *Placement.* (1) An appointee covered by this section is entitled to be placed in a civil service position (other than a Senior Executive Service position) in any agency which is—

(i) A continuing position at GS-15 or above, or equivalent;

(ii) Of tenure equivalent to that of the appointment held at the time of appointment to the Senior Executive Service; and

(iii) A position for which the appointee meets the qualifications requirements.

(2) The agency taking the removal action shall be responsible for placing the appointee in an appropriate position within the agency, or for arranging a transfer to an appropriate position in another agency, in which case, the transfer must be mutually acceptable to the appointee and the gaining agency.

(c) *Restriction.* Placement of an appointee under this section shall not cause the separation or reduction in grade of any other employee.

(d) *Pay.* A career appointee placed under this section shall be entitled to receive basic pay at the highest of:

(1) The rate of basic pay in effect for the position in which he or she is being placed;

(2) The rate of basic pay currently in effect for the position which the appointee held in the civil service immediately before being appointed to the Senior Executive Service; or

(3) The rate of basic pay in effect for the appointee immediately before his or her removal from the Senior Executive Service.

§ 359.702 Placement Rights: Removal for less than fully successful executive performance.

(a) *Coverage.* This section covers career appointees—

(1) Who have completed the required probationary period under the Senior Executive Service or who are not required to serve a probationary period; and

(2) Who are removed from the Senior Executive Service for less than fully successful executive performance.

(b) *Placement.* (1) An appointee covered by this section is entitled to be placed in a civil service position (other than a Senior Executive Service position) in any agency which is—

(i) A continuing position at GS-15 or above, or equivalent; and

(ii) A position for which the appointee meets the qualifications requirements.

(2) In addition, an appointee covered by this section who at the time of appointment to the Senior Executive Service held a career or career-conditional appointment (or an appointment of equivalent tenure, as determined by the Office) is entitled to be placed in a position of tenure equivalent to that of the appointment held at the time of appointment to the Senior Executive Service. This requirement does not apply—

(i) If the agency taking the removal action does not have positions of equivalent tenure; and/or

(ii) If the appointee is willing to accept a position having a different tenure.

(3) The agency taking the removal action shall be responsible for placing the appointee in an appropriate position within the agency, or for arranging a transfer to an appropriate position in another agency, in which case, the transfer must be mutually acceptable to the appointee and the gaining agency.

(c) *Restriction.* Placement of an appointee under this section shall not cause the separation or reduction in grade of any other employee.

(d) *Pay.* A career appointee placed under this section shall be entitled to receive basic pay at the highest of:

(1) The rate of basic pay in effect for the position in which he or she is being placed;

(2) The rate of basic pay currently in effect for the position which the appointee held in the civil service immediately before being appointed to the Senior Executive Service; or

(3) The rate of basic pay in effect for the appointee immediately before his or her removal from the Senior Executive Service.

Subpart H—[Reserved]

Subpart I—Reinstatement

§ 359.905 Reinstatement: Restrictions.

An individual whose last appointment to the Senior Executive Service ended in a removal action taken under §§ 359.401, 359.402 or § 359.501 shall not be eligible for noncompetitive reinstatement to a career appointment in the Senior Executive Service. Such individual may be given a career appointment in the Senior Executive Service only if selected in accordance with the merit staffing requirements established by the Office, Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-23570 Filed 7-30-79; 8:46 am]

BILLING CODE 6325-01-48

5 CFR Part 752

Adverse Actions; Interim Regulations

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with comments invited for consideration in final rulemaking.

SUMMARY: These interim regulations implement Section 411 of Title IV of the Civil Service Reform Act of 1978. They apply to the following adverse actions against career appointees in the Senior Executive Service: Suspension for more than 14 days and removal from the civil service taken for such cause as will promote the efficiency of the service. They do not apply to removals from the Senior Executive Service covered under Part 359 of these regulations.

DATES: Effective Date: July 31, 1979 and until final regulations are issued.

Comment Date: Written comments will be considered if received no later than October 1, 1979.

ADDRESS: Send written comments to the Associate Director, Executive Personnel and Management Development, Office of Personnel Management, Room 6R48, 1900 E. Street, NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Ann Ugelow, (202) 632-6820.

SUPPLEMENTARY INFORMATION: Pursuant to section 553(d)(3) of title 5, U.S.C., the Director finds that good cause exists for making this amendment effective in less than 30 days, in order to provide continuity of operations and to give immediate and timely effect to the appropriate provisions of the Civil Service Reform Act of 1978. Two new Subparts of Part 752 are being added to

Title 5, Code of Federal Regulations to cover the following adverse actions against career appointees in the Senior Executive Service: suspension for more than 14 days and removal from the civil service taken for such cause as will promote the efficiency of the service. They do not apply to removal from the Senior Executive Service covered under Part 359 of these regulations.

The two subparts of Part 752 being issued consist of:

(1) Subpart E sets forth the statutory requirements as found in Section 411 of title IV of the Civil Service Reform Act of 1978; and

(2) Subpart F sets forth the regulations which implement the statutory requirements.

Accordingly, the Office of Personnel Management is adding Subparts E and F as interim regulations to Chapter I, 5 CFR Part 752, as set forth below:

PART 752—ADVERSE ACTIONS

Subpart E—Principal Statutory Requirements for Taking Adverse Actions Under the Senior Executive Service

Sec.

752.501 Principal Statutory Requirements.

Subpart F—Regulatory Requirements for Taking Adverse Actions Under The Senior Executive Service

752.601 Coverage.

752.602 Definitions.

752.603 Standard for Action.

752.604 Procedures: Adverse Actions.

752.605 Appeal rights: Adverse Actions.

752.606 Agency Records.

Authority: 5 U.S.C. 1302, Pub. L. 95-494.

Subpart E—Principal Statutory Requirements for Taking Adverse Actions Under the Senior Executive Service

§ 752.501 Principal statutory requirements.

This subpart sets forth for the benefit of the user the statutory requirements of subchapter V of Chapter 75 for suspension for more than 14 days and removal from the civil service. (5 U.S.C. 7541-7543)

"§ 7541. Definitions

"For the purpose of this subchapter—

"(1) 'employee' means a career appointee in the Senior Executive Service who—

"(A) has completed the probationary period prescribed under section 3393(d) of this title; or

"(B) was covered by the provisions of subchapter II of this chapter immediately before appointment to the Senior Executive Service; and

"(2) 'suspension' as the meaning set forth in section 7501(2) of this title.

"§ 7542. Actions covered

"This subchapter applies to a removal from the civil service or suspension for more than 14 days, but does not apply to an action initiated under section 1206 of this title, to a suspension or removal under section 7532 of this title, or to a removal under section 3592 of this title.

"§ 7543. Cause and procedure

"(a) Under regulations prescribed by the Office of Personnel Management, an agency may take an action covered by this subchapter against an employee only for such cause as will promote the efficiency of the service.

"(b) An employee against whom an action covered by this subchapter is proposed is entitled to—

"(1) at least 30 days' advance written notice, unless there is reasonable cause to believe that the employee has committed a crime for which a sentence of imprisonment can be imposed, stating specific reasons for the proposed action;

"(2) a reasonable time, but not less than 7 days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(3) be represented by an attorney or other representative; and

"(4) a written decision and specific reasons therefor at the earliest practicable date.

"(c) An agency may provide, by regulation, for a hearing which may be in lieu of or in addition to the opportunity to answer provided under subsection (b)(2) of this section.

"(d) An employee against whom an action is taken under this section is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title.

"(e) Copies of the notice of proposed action, the answer of the employee when written, and a summary thereof when made orally, the notice of decision and reasons therefor, and any order effecting an action covered by this subchapter, together with any supporting material, shall be maintained by the agency and shall be furnished to the Merit Systems Protection Board upon its request and to the employee affected upon the employee's request."

Subpart F—Regulatory Requirements for Taking Adverse Actions Under the Senior Executive Service

Authority: 5 U.S.C. 7543.

§ 752.601 Coverage.

(a) *Adverse actions covered.* This subpart applies to suspensions for more than 14 days and removals from the civil service as set forth in 5 U.S.C. 7542.

(b) *Exclusions.* This subpart does not apply to actions under 5 U.S.C. 1206, 3592, and 7532.

(c) *Employees covered.* This section covers a career appointee—

(1) Who has completed the probationary period in the Senior Executive Service;

(2) Who is not required to serve a probationary period in the Senior Executive Service; or

(3) Who was covered under 5 U.S.C. 7511 immediately before appointment to the Senior Executive Service.

§ 752.602 Definitions.

In this subpart,

(a) *Career appointee* has the meaning given in 5 U.S.C. 3132(a).

(b) *Day* means calendar day.

(c) *Suspension* has the meaning given in 5 U.S.C. 7501(2).

§ 752.603 Standard for action.

(a) An agency may take adverse action under this subpart only as set forth in 5 U.S.C. 7543(a).

(b) An agency may not take an adverse action against a career appointee on the basis of any reason prohibited by 5 U.S.C. 2302.

§ 752.604 Procedures: Adverse actions.

(a) *Statutory entitlements.* A career appointee against whom action is proposed under this subpart is entitled to the procedures provided in 5 U.S.C. 7543(b).

(b) *Notice of proposed action.* (1) The notice of proposed action shall inform the career appointee of his or her right to review the material which is relied on to support the reasons for action given in the notice.

(2) The agency may not use material which cannot be disclosed to the appointee or to his or her representative or designated physician under § 297.108(c)(1) of Part 297 of this title to support the reasons in the notice.

(c) *Appointee's answer.* (1) The agency shall give the career appointee a reasonable amount of time to review the material relied on to support its proposal and to prepare an answer and to secure affidavits, if he or she is otherwise in an active duty status.

(2) The agency shall designate an official to hear the career appointee's oral answer who has authority either to make or recommend a final decision on the proposed adverse action.

(3) The right to answer orally in person does not include the right to a formal hearing with examination of witnesses unless the agency provides one in its regulations in accordance with § 752.604(g).

(d) *Exceptions.* (1) 5 U.S.C. 7543(b)(1) authorizes an exception to the 30 day advance written notice when the crime provision is invoked. The agency may require the career appointee to furnish any answer to the proposed action, and affidavits and other documentary evidence in support of the answer

within such time as under the circumstances would be reasonable, but not less than seven days. When the circumstances require immediate action, the agency may place the career appointee in a nonduty status with pay for such time, not to exceed ten days, as is necessary to effect the action.

(2) The 30 days' advance written notice is not required for placing a career appointee in a nonduty status with pay during the notice period of a removal or a suspension for more than 14 days when the circumstances are such that retention of the career appointee in an active duty status:

(i) May be injurious to the appointee, his or her fellow workers, or the general public;

(ii) May result in damage to government property; or

(iii) May, because of the nature of the appointee's offense, reflect unfavorably on the public perception of the Federal service. The agency shall include in the notice the reasons for not retaining the appointee in an active duty status during the notice period of a removal or a suspension for more than 14 days. The agency may require the appointee to furnish any answer to the proposed action and affidavits and other documentary evidence in support of the answer within such time as under the circumstances would be reasonable, but not less than seven days. When the circumstances require immediate action, the agency may place the appointee in a nonduty status with pay for such time, not to exceed ten days.

(e) *Representation.* (1) 5 U.S.C. 7543(b)(3) provides that an appointee covered by this part is entitled to be represented by an attorney or other representative.

(2) An agency may disallow as an appointee's representative:

(i) an individual whose activities as a representative would cause a conflict of interest or position;

(ii) an employee of the agency whose release from his or her official position would give rise to unreasonable costs; or

(iii) An employee of the agency whose priority work assignments preclude his or her release.

(f) *Agency decision.* In arriving at its written decision, the agency shall consider only the reasons specified in the notice of proposed action and shall consider any reply of the career appointee or his or her representative made to a designated official. The agency shall deliver the notice of decision to the appointee at or before the time the action will be effective. The

notice of decision shall inform the appointee of his or her appeal rights.

(g) *Hearing.* Under 5 U.S.C. 7543(c), the agency may in its regulations provide a hearing in place of or in addition to the opportunity for written and oral reply.

§ 752.605 Appeal rights: Adverse actions.

Under the provisions of 5 U.S.C. 7543(d), a career appointee against whom an action is taken under this subpart is entitled to appeal to the Merit Systems Protection Board.

§ 752.606 Agency records.

The agency shall maintain copies of the adverse action record items specified in 5 U.S.C. 7543(e) and shall furnish them upon request as required by that subsection.

Office of Personnel Management.

Beverly M. Jones,

Issuance Systems Manager.

[FR Doc. 79-23571 Filed 7-30-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 772

Appeals to the Commission; Cross Reference

Cross Reference: For a document affecting Part 772 of Chapter I, Title 5 of the Code of Federal Regulations, see —, FR Doc. 79-23736 appearing under Merit Systems Protection Board in the Rules and Regulations section of this issue. Refer to the table of contents at the front of this issue to find the correct page number.

BILLING CODE 6325-01-M

5 CFR Parts 1200, 1201, and 1202

Organization and Procedure; Correction

AGENCY: Merit Systems Protection Board.

ACTION: Final Rules; Correction.

SUMMARY: This document corrects the document entitled Organization and Procedure published in the Federal Register on June 29, 1979, in Volume 44 at 38342.

EFFECTIVE DATE: June 30, 1979.

FOR FURTHER INFORMATION CONTACT: Alan Greenwald or Deborah House, (202) 653-7101.

CORRECTION: In SUPPLEMENTARY INFORMATION, immediately after the last sentence in the first column add:

Also superseded by these regulations is Part 772 of Title 5.

By Order of the Board.

Dated: July 25, 1979.

Ruth T. Prokop,
Chairwoman.

[FR Doc. 79-23736 Filed 7-30-79; 8:45 am]

BILLING CODE 6325-20-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 792

[Amdt. 2]

Normal Crop Acreage and Set-Aside Acreage

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Final rule.

SUMMARY: This rule corrects a reference and clarifies certain provisions on normal crop acreage (NCA), set-aside designation and use, and cross-compliance. It also gives authority to the State committee to approve cover or practices for set-aside. These changes are needed to improve the administration of the program.

EFFECTIVE DATE: July 31, 1979.

FOR FURTHER INFORMATION CONTACT: Charles J. Riley, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013 (202) 447-7633.

SUPPLEMENTARY INFORMATION: The regulations at 7 CFR Part 792 are amended to:

1. Provide that the normal crop acreage for even years shall be the acreage planted in 1976 for farms with odd-even rotations.
 2. Provide that special cover and practices may be approved for set-aside acreage by the State committee, with concurrence of the State conservationist, Soil Conservation Service.
 3. Provide that loans, purchases, and payments with respect to sugar are not affected by cross compliance provisions.
 4. Add provisions for the substitution of failed acreage for set-aside.
 5. Make other corrections needed for the 1979 program year.
- Accordingly, 7 CFR Part 792 is amended as follows:

§ 792.1 [Amended]

1. Section 792.1 is amended by revising the first sentence to read as follows: "This part provides the rules for determining the farm normal crop acreage and for designation, care and

use of acreage set aside under the Feed Grain, Upland Cotton and Wheat Programs for crop years 1978-1981, Part 713 of this chapter, as amended; the Rice Program for crop years 1978-1981, Part 730 of this chapter, as amended; and all other programs to which this part is made applicable by individual program regulations."

§ 792.2 [Amended]

2. Section 792.2 is amended by inserting the parenthetical phrase "(1976 for use in even years for farms with odd-even rotations)" between the year "1977" and the word "to" in the first sentence.

3. Section 792.3 is amended by revising paragraphs (a), (b)(3), and (b)(7) to read as follows:

§ 792.3 Designation of set-aside acreage.

(a) *Land eligible for designation.* Subject to the provisions of paragraph (b) of this section, the land eligible for designation as set-aside acreage must be cropland that was:

- (1) Tilled in one or more of the previous 3 years in the production of a crop for other than hay or pasture, or
- (2) Determined by the county committee to have been devoted in all of the previous 3 years to a hay crop (for hay, pasture, green chop, silage, or processing) that was in a normal rotation pattern with a small grain or row crop, or
- (3) Designated as set-aside or voluntary diversion in any one of the previous 3 years for which a set-aside program was in effect and was eligible when designated.

(b) * * *

- (3) Turn rows, drainage ditches, sod waterways constructed before the fall of the previous year, wet low-lying areas, droughty knobs or banks, areas rejected by the county committee because of their small size or shape, or land in an orchard or vineyard (except when qualifying under § 792.4(a)(3)) and strips in skiprow planting patterns.

(7) Land planted for harvest as grain for a State or National wildlife refuge.

4. Section 792.4 is amended by revising the introductory language of paragraph (a) and paragraph (c), by revising paragraphs (a) (1), (2) and (3), and by adding a new paragraph (a)(6) to read as follows:

§ 792.4 Care of set-aside acreage.

(a) *Approved cover and practices.* The set-aside shall be devoted as soon as practical after the beginning of the normal period for planting spring crops to one or more of the following approved

covers or practices, or to other cover or practices approved by the State committee, with concurrence of the State conservationist, Soil Conservation Service (herein called SCS), which will effectively protect the set-aside from wind and water erosion throughout the calendar year.

(1) Annual, biennial, or perennial grasses and legumes, including volunteer stands other than weeds which meet the criteria set forth by the State committee, but excluding soybeans.

(2) Small grains, including volunteer stands other than weeds which meet the criteria set forth by the State committee. Such small grains, including volunteer stands other than weeds, must be clipped (i) before midnight of the disposal date which is established by the State committee or (ii) before reaching the dough stage if no disposal date is established by the State committee.

(3) Trees or shrubs planted for erosion control, shelterbelts, or other purposes or for wildlife habitat during the current year or fall of the preceding year, provided these practices are on designated set-aside acreage otherwise eligible under § 792.3.

(6) Plantings for wildlife food plots or wildlife habitat, in accordance with instructions issued by the Deputy Administrator.

(c) *Land preparation for fall seeded crops.* Crops may be seeded on the set-aside acreage in the fall for harvest the next year. The land can be prepared in the fall and left bare only when approved by the State committee, with concurrence of the State conservationist, SCS.

5. Section 792.5 is amended by revising paragraph (b) and adding a new paragraph (c) to read as follows:

§ 792.5 Use of set-aside acreage.

(b) *Restriction on grazing.* The set-aside acreage shall not be grazed during the six principal growing months as established by the county committee, except when approved under emergency conditions in accordance with instructions issued by the Deputy Administrator.

(c) *Special uses.* The set-aside may be used for hunting, trapping, hiking, and other noncommercial recreation uses or for temporary location of bee hives.

6. Section 792.5-a is added to read as follows:

§ 792.5-a Substitution of failed acreage for set-aside.

The acreage of crops destroyed by a natural disaster or conditions beyond the control of the producer may be substituted for the set-aside under the following conditions:

(a) The operator requests the substitution in writing and agrees that there will be no deficiency or low yield payment or planted acreage credit (under programs authorized by Parts 713 and 730 of this chapter) for the substituted acreage.

(b) The farm was in compliance with the Feed Grain, Upland Cotton, Wheat and Rice Programs (Parts 713 and 730 of this chapter) before the crop was destroyed.

(c) Cover is established on the substituted acreage to the extent required by the county committee to protect the land from wind and water erosion.

7. Section 792.6 is revised to read as follows:

§ 792.6 Cross compliance on the farm.

To qualify on the farm for loans, purchases, and payments (other than for sugar) authorized for crops included in the NCA, producers on a farm that produces one or more crops for which a set-aside requirement is in effect shall:

(a) Set aside the acreage required for each crop, and

(b) Limit the acreage of crops in the NCA to the NCA less the amount of the acreage which is required to be set aside and/or voluntarily diverted.

(Sections 101(h), 103(f), 105A and 107A of the Agricultural Act of 1949, as added by Pub. L. 95-113 (91 Stat. 913 et seq.), Section 1001 of Title X of Pub. L. 95-113 (91 Stat. 950).)

Note.—Farmers are now planting, cultivating, and harvesting their 1979 crops. They need to know the changes being made in this final rule as soon as possible. Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the Federal Register.

Further, this final rule has not been designated as "significant", and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Administrator, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Signed at Washington, D.C. on July 24, 1979.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 79-23514 Filed 7-30-79; 8:45 am]

BILLING CODE 3410-05-M

Commodity Credit Corporation

7 CFR Part 1421

[CCC Grain Price Support Regulations, 1979 Crop Sorghum Supplement]

1979 Crop Sorghum Loan and Purchase Program

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth the (1) Final loan and purchase availability dates, (2) maturity dates, and (3) loan and purchase rates and discounts under which Commodity Credit Corporation (CCC) will extend price support on 1979 crop sorghum. This rule is needed in order to provide a price support program for sorghum. This rule will enable eligible sorghum producers to obtain loans and purchases on their eligible 1979 crop sorghum.

EFFECTIVE DATE: July 31, 1979.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3727 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Merle Strawderman, ASCS, (202) 447-7973.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the Federal Register on August 23, 1978, 43 FR 37458 stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for the 1979 crop of feed grains including sorghum. Such determinations included determining loan and purchase rates and other related program provisions. Thirty-seven recommendations were received concerning the loan and purchase program for sorghum. After considering applicable factors, it has been determined that the loan and purchase rates for 1979 crop sorghum on a national average will be \$3.39 per hundredweight.

Producers who wish to secure loans can do so by contacting their local Agricultural Stabilization and Conservation Service county office or Agricultural Service Center.

Final Rule

The General Regulations Governing Price Support for 1978 and Subsequent Crops, and any amendments thereto and the 1978 and Subsequent Crops Sorghum Loan and Purchase Regulations, and any amendments thereto in this Part 1421 are further supplemented for the 1979 crop of sorghum. Accordingly, the regulations in 7 CFR § 1421.235 through 1421.238 and the title of the subpart are revised to read as provided below effective as to the 1979 crop of sorghum. The material previously appearing in these sections shall remain in full force and effect as to the crops to which it is applicable.

Subpart—1979 Crop Sorghum Loan and Purchase Program

Sec.

1421.235 Purpose.

1421.236 Availability.

1421.237 Maturity of Loans.

1421.238 Warehouse charges.

1421.239 Loan and Purchase Rates and Discounts.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); Secs. 105A, 401, 63 Stat. 1051, as amended (7 U.S.C. 1444c, 1421).

Subpart—1979 Crop Sorghum Loan and Purchase Program

§ 1421.235 Purpose.

This supplement contains additional program provisions which together with the provisions of the General Regulations Governing Price Support for the 1978 and Subsequent Crops, the 1978 and Subsequent Crops Sorghum Loan and Purchase Program regulations, and any amendments thereto, apply to loans on and purchases of the 1979 crop of sorghum.

§ 1421.236 Availability.

(a) *Loans.* Producers desiring to participate in the program through loans must request a loan on their 1979 crop of eligible sorghum on or before May 31, 1980.

(b) *Purchases.* A producer desiring to offer eligible 1979 crop sorghum not under loan for purchase must execute and deliver to the county ASCS office on or before May 31, 1980, a Purchase Agreement (Form CCC-614) indicating the approximate quantity of 1979 crop sorghum the producer will sell to CCC.

§ 1421.237 Maturity of Loans.

Loans mature on demand but not later than the last day of the ninth calendar

month following the month in which the loan is disbursed.

§ 1421.238 Warehouse charges.

If storage is not provided for through loan maturity, the county office shall deduct storage charges at the daily storage rate for the storing warehouse times the number of days from the date the commodity was received or date through which storage has been provided for to the maturity.

§ 1421.239 Loan and Purchase Rates.

(a) *Basic loan and purchase rates (counties).* Basic rates per bushel for loan and settlement purposes for sorghum are established for sorghum grading U.S. No. 2 or better are as follows:

1979-Crop Sorghum Loan and Purchase—Basic County Loan and Purchase Rates for Sorghum No. 2 or Better

County	Rate per Cwt.
ALABAMA	
All Counties	\$3.38
ARIZONA	
Apache	3.37
Cochise	3.59
Cocconino	3.37
Gila	3.37
Graham	3.41
Greenlee	3.37
Maricopa	3.73
Mohave	3.85
Navejo	3.37
Pima	3.65
Pinal	3.72
Santa Cruz	3.62
Yavapai	3.37
Yuma	3.78
Wght. State Avg	3.62
ARKANSAS	
Arkansas	3.44
Ashley	3.40
Baxter	3.32
Benton	3.29
Boone	3.30
Bradley	3.38
Calhoun	3.37
Carroll	3.28
Chicot	3.40
Clark	3.36
Clay	3.48
Cleburne	3.39
Cleveland	3.40
Columbia	3.38
Conway	3.36
Craighead	3.47
Crawford	3.34
Crittenden	3.48
Cross	3.47
Dallas	3.38
Desha	3.42
Drew	3.40
Faulkner	3.38
Franklin	3.33
Fulton	3.37
Garland	3.34
Grant	3.35
Greene	3.46
Hempstead	3.37
Hot Spring	3.35
Howard	3.35
Independence	3.39
Izard	3.35
Jackson	3.44
Jefferson	3.40
Johnson	3.33
Lafayette	3.39
Lawrence	3.44
Lee	3.47

ARKANSAS		COLORADO		KANSAS	
Lincoln.....	3.41	Baca.....	3.34	Butler.....	3.28
Little River.....	3.37	All Other Counties.....	3.29	Chase.....	3.33
Logan.....	3.33	Wght. State Avg.....	3.29	Chautauque.....	3.32
Lonoke.....	3.42	DELAWARE		Cherokee.....	3.36
Madison.....	3.29	All Counties.....	3.43	Cheyenne.....	3.20
Marion.....	3.30	FLORIDA		Clark.....	3.27
Miller.....	3.39	All Counties.....	3.38	Clay.....	3.29
Mississippi.....	3.48	GEORGIA		Cloud.....	3.28
Monroe.....	3.46	All Counties.....	3.43	Coffey.....	3.35
Montgomery.....	3.33	IDAHO		Comanche.....	3.27
Nevada.....	3.36	All Counties.....	3.16	Cowley.....	3.28
Newton.....	3.31	ILLINOIS		Crawford.....	3.37
Ouachita.....	3.37	Alexander.....	3.43	Decatur.....	3.22
Perry.....	3.35	Bond.....	3.35	Dickinson.....	3.27
Phillips.....	3.47	Calhoun.....	3.31	Doniphan.....	3.37
Pike.....	3.47	Clay.....	3.35	Douglas.....	3.39
Poinsett.....	3.34	Clinton.....	3.37	Edwards.....	3.32
Polk.....	3.34	Edwards.....	3.37	Elk.....	3.23
Pope.....	3.44	Franklin.....	3.38	Ellis.....	3.25
Praine.....	3.40	Gallatin.....	3.37	Ellsworth.....	3.24
Pulaski.....	3.43	Hamilton.....	3.39	Finney.....	3.27
Randolph.....	3.47	Hardin.....	3.40	Ford.....	3.40
St. Francis.....	3.35	Jackson.....	3.40	Franklin.....	3.32
Saline.....	3.34	Jefferson.....	3.37	Geary.....	3.23
Scott.....	3.32	Jersey.....	3.31	Gove.....	3.23
Searcy.....	3.34	Johnson.....	3.41	Graham.....	3.23
Sebastian.....	3.35	Lawrence.....	3.33	Grant.....	3.24
Sevier.....	3.39	Madison.....	3.37	Gray.....	3.26
Sharp.....	3.35	Manon.....	3.36	Greeley.....	3.20
Stone.....	3.38	Massac.....	3.42	Greenwood.....	3.33
Union.....	3.37	Monroe.....	3.37	Hamilton.....	3.27
Van Buren.....	3.30	Perry.....	3.38	Harper.....	3.27
Washington.....	3.42	Pope.....	3.41	Harvey.....	3.25
White.....	3.35	Pulaski.....	3.43	Haskell.....	3.25
Woodruff.....	3.44	Randolph.....	3.38	Hodgeman.....	3.39
Yell.....	3.44	Richland.....	3.34	Jackson.....	3.40
Wght. State Avg.....	3.87	Saint Clair.....	3.37	Jefferson.....	3.26
CALIFORNIA		Saline.....	3.39	Jewell.....	3.40
Alameda.....	3.86	Union.....	3.42	Johnson.....	3.40
Amador.....	3.76	Wabash.....	3.34	Kearny.....	3.22
Butte.....	3.86	Washington.....	3.37	Kern.....	3.28
Calaveras.....	3.80	Wayne.....	3.37	Kingman.....	3.25
Colusa.....	3.87	White.....	3.37	Kiowa.....	3.36
Contra Costa.....	3.85	Williamson.....	3.40	Labette.....	3.21
El Dorado.....	3.79	All Other Counties.....	3.25	Lane.....	3.41
Fresno.....	3.77	Wght. State Avg.....	3.36	Leavenworth.....	3.26
Glenn.....	3.51	INDIANA		Linn.....	3.40
Humboldt.....	3.82	All Counties.....	3.30	Linn.....	3.21
Imperial.....	3.58	IOWA		Lyon.....	3.34
Inyo.....	3.83	Adair.....	3.28	McPherson.....	3.27
Kern.....	3.78	Adams.....	3.27	Marion.....	3.28
Kings.....	3.55	Appanoose.....	3.24	Marshall.....	3.33
Lake.....	3.87	Audubon.....	3.28	Meade.....	3.26
Lassen.....	3.82	Calhoun.....	3.21	Miami.....	3.40
Los Angeles.....	3.83	Carroll.....	3.25	Mitchell.....	3.26
Madera.....	3.83	Cass.....	3.29	Montgomery.....	3.36
Marin.....	3.82	Clarke.....	3.25	Morris.....	3.32
Mariposa.....	3.82	Crawford.....	3.26	Morton.....	3.29
Mendocino.....	3.83	Decatur.....	3.26	Nemaha.....	3.35
Merced.....	3.54	Fremont.....	3.29	Neosho.....	3.37
Modoc.....	3.74	Greene.....	3.22	Ness.....	3.22
Monterey.....	3.81	Guthrie.....	3.25	Norton.....	3.23
Napa.....	3.87	Harrison.....	3.28	Osage.....	3.36
Orange.....	3.80	Ida.....	3.23	Osborne.....	3.25
Placer.....	3.62	Lucas.....	3.24	Ottawa.....	3.27
Plumas.....	3.82	Madison.....	3.26	Pawnee.....	3.23
Riverside.....	3.87	Marion.....	3.21	Philips.....	3.24
Sacramento.....	3.80	Mills.....	3.29	Pottawatomie.....	3.35
San Benito.....	3.85	Monona.....	3.27	Pratt.....	3.25
San Bernardino.....	3.87	Monroe.....	3.22	Rawlins.....	3.21
San Diego.....	3.87	Montgomery.....	3.29	Reno.....	3.25
San Francisco.....	3.87	Page.....	3.29	Republic.....	3.28
San Joaquin.....	3.71	Pottawattamie.....	3.29	Rice.....	3.25
San Luis Obispo.....	3.86	Ringgold.....	3.26	Riley.....	3.33
San Mateo.....	3.74	Sac.....	3.23	Rooks.....	3.25
Santa Barbara.....	3.87	Shelby.....	3.27	Rush.....	3.23
Santa Clara.....	3.79	Taylor.....	3.26	Russell.....	3.23
Santa Cruz.....	3.57	Union.....	3.26	Saine.....	3.27
Shasta.....	3.64	Warren.....	3.24	Scott.....	3.21
Sierra.....	3.53	Wayne.....	3.25	Sedgwick.....	3.27
Siskiyou.....	3.86	Woodbury.....	3.25	Seward.....	3.26
Solano.....	3.82	All Other Counties.....	3.17	Shawnee.....	3.36
Sonoma.....	3.87	Wght. State Avg.....	3.25	Sheridan.....	3.23
Stanislaus.....	3.80	KANSAS		Sherman.....	3.20
Sutter.....	3.75	Allen.....	3.37	Smith.....	3.25
Tehama.....	3.77	Anderson.....	3.38	Stafford.....	3.23
Tulare.....	3.82	Atchison.....	3.41	Stanton.....	3.24
Tuolumne.....	3.84	Barber.....	3.27	Stevens.....	3.26
Ventura.....	3.80	Barton.....	3.23	Sumner.....	3.27
Yolo.....	3.79	Bourbon.....	3.38	Thomas.....	3.21
Yuba.....	3.80	Brown.....	3.38	Trego.....	3.23
Wght. State Avg.....	3.80			Wabauunsee.....	3.35
				Wallace.....	3.20
				Washington.....	3.29
				Wichita.....	3.21
				Wilson.....	3.36

KANSAS		MISSOURI		NORTH CAROLINA	
Woodson	3.35	Ozark	3.34	All Counties	3.43
Wyandotte	3.41	Pemiscot	3.50		
Wght. State Avg.	3.30	Perry	3.39	NORTH DAKOTA	
		Pettis	3.31	All Counties	3.15
KENTUCKY		Phelps	3.28		
All Counties	3.38	Pike	3.28	OHIO	
		Platte	3.41	All Counties	3.30
LOUISIANA		Polk	3.28		
All Counties	3.40	Pulaski	3.28	OKLAHOMA	
		Putnam	3.27	Adair	3.42
MARYLAND		Rails	3.24	Alfalfa	3.39
All Counties	3.43	Randolph	3.29	Atoka	3.50
		Ray	3.41	Beaver	3.35
MICHIGAN		Reynolds	3.35	Beckham	3.44
All Counties	3.25	Ripley	3.45	Blaine	3.45
		Saint Charles	3.33	Bryan	3.50
MINNESOTA		Saint Clair	3.33	Caddo	3.49
All Counties	3.20	Saint Francois	3.37	Canadian	3.48
		Sainte Genevieve	3.38	Carter	3.50
MISSISSIPPI		Saline	3.35	Cherokee	3.47
All Counties	3.38	Schuyler	3.21	Choctaw	3.50
		Scotland	3.19	Cimarron	3.35
		Scott	3.41	Cleveland	3.50
Adair	3.24	Shannon	3.35	Coal	3.50
Andrew	3.37	Shelby	3.25	Comanche	3.49
Atchison	3.29	Stoddard	3.43	Cotton	3.49
Audran	3.29	Stone	3.28	Craig	3.40
Barry	3.27	Sullivan	3.27	Creek	3.48
Barton	3.31	Taney	3.30	Custer	3.45
Bates	3.37	Texas	3.30	Delaware	3.42
Benton	3.31	Vernon	3.34	Dewey	3.40
Bollinger	3.40	Warren	3.32	Ellis	3.40
Boone	3.28	Washington	3.36	Garfield	3.39
Buchanan	3.39	Wayne	3.43	Garvin	3.42
Butler	3.46	Webster	3.27	Grady	3.50
Caldwell	3.39	Worth	3.30	Greer	3.39
Callaway	3.27	Wright	3.28	Harmon	3.45
Camden	3.30	Wght. State Avg.	3.36	Harper	3.44
Cape Girardeau	3.41			Haskell	3.35
Carroll	3.38			Hughes	3.49
Carter	3.40			Jackson	3.45
Cass	3.39			Jefferson	3.50
Cedar	3.30			Johnston	3.58
Chertonton	3.34			Kay	3.39
Christian	3.28			Kingfisher	3.45
Clerk	3.19			Kiowa	3.48
Clay	3.41			Latimer	3.49
Clinton	3.40			Le Flore	3.48
Cole	3.27			Lincoln	3.49
Cooper	3.31			Logan	3.46
Crawford	3.30			Love	3.50
Dade	3.27			McClain	3.50
Dallas	3.30			McCurran	3.48
Davess	3.34			McIntosh	3.48
De Kalb	3.34			Major	3.40
Dent	3.33			Marshall	3.51
Douglas	3.33			Mayes	3.42
Dunklin	3.49			Murray	3.50
Franklin	3.33			Muskogee	3.48
Gasconade	3.28			Noble	3.43
Gentry	3.30			Nowata	3.40
Greene	3.27			Okfuskee	3.48
Grundy	3.33			Oklahoma	3.49
Harrison	3.29			Okmulgee	3.48
Henry	3.35			Osage	3.41
Hickory	3.31			Ottawa	3.40
Holt	3.32			Pawnee	3.44
Howard	3.31			Payne	3.46
Howell	3.36			Pittsburg	3.49
Iron	3.39			Pontotoc	3.50
Jackson	3.41			Pottawatomie	3.49
Jasper	3.30			Pushmataha	3.50
Jefferson	3.37			Roger Mills	3.40
Johnson	3.37			Rogers	3.42
Knox	3.23			Seminole	3.49
Laclede	3.30			Sequoyah	3.47
Lafayette	3.39			Stephens	3.50
Lawrence	3.27			Texas	3.35
Lewis	3.21			Tillman	3.45
Lincoln	3.31			Tulsa	3.47
Linn	3.37			Wagoner	3.46
Livingston	3.27			Washington	3.39
MacDonald	3.28			Washita	3.47
Macon	3.28			Woods	3.39
Madison	3.40			Woodward	3.37
Manes	3.28			Wght. State Avg.	3.40
Manon	3.23				
Mercer	3.29			OREGON	
Miler	3.29			All Counties	3.31
Mississippi	3.42				
Monteale	3.27			PENNSYLVANIA	
Monroe	3.28			All Counties	3.43
Montgomery	3.30				
Morgan	3.31			SOUTH CAROLINA	
New Madrid	3.45			All Counties	3.43
Newton	3.27				
Nodaway	3.32				
Oregon	3.39				
Osage	3.28				

SOUTH DAKOTA		TEXAS		TEXAS	
Bon Homme	3.24	Frio	3.53	Nueces	3.74
Clay	3.28	Gaines	3.38	Ochiltree	3.34
Hutchinson	3.23	Galveston	3.74	Oldham	3.38
Lincoln	3.25	Garza	3.40	Orange	3.70
Turner	3.23	Gillespie	3.58	Palo Pinto	3.50
Union	3.26	Glasscock	3.38	Panola	3.54
Yankton	3.26	Goliad	3.69	Parker	3.50
All Other Counties	3.22	Gonzales	3.59	Parmer	3.38
Wght. State Avg.	3.23	Gray	3.39	Pecos	3.34
		Grayson	3.51	Polk	3.67
TENNESSEE		Potter	3.47	Presidio	3.38
Shelby	3.50	Gregg	3.68	Reagan	3.37
All Other Counties	3.38	Guadalupe	3.57	Real	3.55
Wght. State Avg.	3.38	Hale	3.42	Red River	3.48
		Hall	3.50	Reeves	3.36
TEXAS		Hamilton	3.34	Refugio	3.71
Anderson	3.57	Hansford	3.44	Roberts	3.35
Andrews	3.38	Hardeman	3.74	Robertson	3.57
Angelina	3.62	Hardin	3.74	Rockwall	3.50
Aransas	3.70	Harris	3.46	Runnels	3.45
Archer	3.46	Harrison	3.37	Rusk	3.51
Armstrong	3.39	Hartley	3.57	Sabine	3.59
Atascosa	3.82	Haskell	3.57	San Augustine	3.59
Austin	3.67	Hays	3.57	San Jacinto	3.65
Bailey	3.38	Hempshire	3.53	San Patricio	3.74
Bandera	3.56	Henderson	3.71	San Saba	3.49
Bastrop	3.57	Hidalgo	3.51	Schleicher	3.41
Baylor	3.46	Hill	3.50	Scurry	3.47
Bee	3.69	Hockley	3.50	Shackelford	3.55
Bell	3.54	Hood	3.49	Shelby	3.33
Bexar	3.57	Hopkins	3.30	Sherman	3.51
Blanco	3.58	Houston	3.30	Smith	3.50
Borden	3.38	Howard	3.40	Somervell	3.87
Bosque	3.50	Hudspeth	3.50	Starr	3.49
Bowie	3.47	Hunt	3.62	Sterling	3.40
Brazoria	3.70	Hutchinson	3.64	Stonewall	3.46
Brazos	3.61	Irion	3.30	Sutton	3.46
Brewster	3.29	Jack	3.74	Swisher	3.38
Briscoe	3.40	Jackson	3.85	Tarrant	3.50
Brooks	3.68	Jasper	3.71	Taylor	3.48
Brown	3.59	Jefferson	3.50	Terrell	3.36
Burleson	3.57	Jim Hogg	3.46	Terry	3.47
Burnet	3.58	Jim Wells	3.67	Throckmorton	3.48
Caldwell	3.66	Johnson	3.50	Titus	3.44
Callahan	3.46	Jones	3.68	Tom Green	3.57
Cameron	3.74	Karnes	3.44	Trinity	3.63
Camp	3.48	Kaufman	3.57	Tyler	3.64
Carson	3.39	Kendall	3.52	Upshur	3.48
Cass	3.47	Kenedy	3.44	Upton	3.36
Castro	3.38	Kerr	3.50	Uvalde	3.45
Chambers	3.54	Kimble	3.71	Val Verde	3.49
Cherokee	3.44	King	3.46	Van Zandt	3.66
Childress	3.48	Kinney	3.49	Victoria	3.86
Clay	3.38	Kieberg	3.38	Walker	3.68
Cochran	3.44	Knox	3.52	Waller	3.36
Coke	3.47	Lamar	3.67	Washington	3.67
Coleman	3.43	Lamb	3.59	Webb	3.52
Collin	3.64	Lampasas	3.57	Wharton	3.40
Collingsworth	3.57	La Salle	3.70	Wheeler	3.45
Colorado	3.50	Lavaca	3.55	Wichita	3.45
Comal	3.48	Lee	3.67	Wilbarger	3.73
Comanche	3.50	Leon	3.54	Willacy	3.57
Concho	3.48	Liberty	3.35	Williamson	3.62
Cooke	3.51	Limestone	3.38	Wilson	3.35
Coryell	3.44	Lipscomb	3.38	Winkler	3.50
Cottle	3.36	Live Oak	3.48	Wise	3.49
Crane	3.34	Llano	3.54	Wood	3.38
Crockett	3.41	Loving	3.58	Yoakum	3.49
Crosby	3.29	Lubbock	3.61	Young	3.64
Culberson	3.34	McCluskey	3.48	Zapala	3.49
Dallas	3.50	Dawson	3.38	Wght. State Avg.	3.53
Dallas	3.38	Deaf Smith	3.50		
Delta	3.49	Madison	3.52	UTAH	
Denton	3.63	Marion	3.44	All Counties	3.29
DeWitt	3.51	Matagorda	3.44		
Dickens	3.39	Maverick	3.46	VIRGINIA	
Dimmit	3.65	Duval	3.37	All Counties	3.43
Donley	3.49	Menard	3.58		
Duval	3.35	Midland	3.50	WASHINGTON	
Eastland	3.50	Milam	3.41	All Counties	3.31
Ector	3.48	Mills	3.50		
Edwards	3.50	Mitchell	3.71	WISCONSIN	
Ellis	3.29	Montague	3.34	All Counties	3.20
El Paso	3.50	Montgomery	3.48		
Erath	3.59	Moore	3.42	WYOMING	
Falls	3.44	Morris	3.55	All Counties	3.21
Fannin	3.44	Motley	3.54		
Fayette	3.40	Nacogdoches	3.64		
Fisher	3.44	Navarro	3.44		
Floyd	3.70	Newton			
Fort Bend	3.48	Nolan			
Franklin	3.55				
Freestone					

(b) Schedule of Discounts for 1979—
Crop Sorghum
1. Discounts apply per hundredweight:

Test Weight, lbs.	Cents/ cwt.
(i) 52.0-52.0	-1
(ii) 51.9-51.0	-2
2. Total damaged kernels, percent	
(i) 5.1-6.0	-2
(ii) 6.1-7.0	-4
(iii) 7.1-8.0	-6
(iv) 8.1-9.0	-8
(v) 9.1-10.0	-10
(vi) 10.1-11.0	-12
(vii) 11.1-12.0	-14
(viii) 12.1-13.0	-16
(ix) 13.1-14.0	-18
(x) 14.1-15.0	-20
3. Heat damaged kernels, percent	
(i) 0.51-1.00	-2
(ii) 1.01-2.00	-5
(iii) 2.01-3.00	-10
4. Broken kernels, foreign material and other grains, percent	
(i) 8.1-9.0	-2
(ii) 9.1-10.0	-4
(iii) 10.1-11.0	-6
(iv) 11.1-12.0	-8
(v) 12.1-13.0	-10
(vi) 13.1-14.0	-12
(vii) 14.1-15.0	-14

5. Weed control law (Discount where required by law § 1421.24)-15

(c) *Other.* Sorghum with quality factors exceeding limits shown in foregoing schedule or sorghum that (1) contains in excess of 14 percent moisture, (2) is weevily, (3) is musty, on (4) is sour, shall not be eligible for loan. In the event quantities of sorghum exceeding limits shown are delivered in satisfaction of loan obligations, such quantities will be discounted on the basis of the schedule of discounts as provided by the Kansas City commodity Office for settlement purposes. Such discounts will be established not later than the time delivery of sorghum to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts at county ASCS offices approximately one month prior to the loan maturity date.

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. An approved Final Impact Statement has been prepared and is available from Bruce Weber, ASCS, (202) 447-7987.

Signed at Washington, D.C. on July 24, 1979.

Ray Fitzgerald,
Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-33515 Filed 7-30-79; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 1427

1979 Crop Supplement to Cotton Loan Program Regulations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: Commodity Credit Corporation (CCC) is publishing the 1979 crop supplement to the cotton loan program regulations. The supplement contains the base loan rates by warehouse location for upland cotton, loan rates for extra long staple cotton, premiums and discounts for upland cotton, and micronaire differences applicable for all 1979 crop cotton. Price support loans will be available to eligible producers on 1979 crop cotton under such rates.

EFFECTIVE DATE: July 31, 1979.

FOR FURTHER INFORMATION CONTACT: Carolyn E. Cozart, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, Washington, D.C. 20013, (202) 447-7973.

SUPPLEMENTARY INFORMATION: On September 1, 1978, a notice was published in the Federal Register (43 FR 39118) regarding certain determinations CCC was to make with respect to the loan program for the 1979 crops of upland and extra long staple cotton. Twenty comments were received concerning loan rates and loan rate differentials. Three respondents recommended that the loan rate be set at 50.23 cents per pound.

Seventeen respondents recommended other loan rates not within the statutory authority. One respondent recommended that loan rate differentials for grade and staple be reduced. After considering all responses, it is determined that the loan rates, premiums, discounts, and differentials proposed by CCC are fair and equitable and will be applicable to the 1979 crop of cotton. Minor revisions were made in the 1979 location differentials because of changes in transportation costs. The 1979 location differentials maintain a reasonable relationship between production areas and assure fair loan values for cotton as to location.

In accordance with the provisions of Section 103(f) of the Agriculture Act of 1949, as amended by Section 602 of the Food and Agriculture Act of 1977 and Section 102 of the Act of May 15, 1978, it has been determined that 85 percent of the average spot market price for the average of the 5 years (excluding the highest and lowest years) ending July 31, 1978, was 50.23 cents per pound and that 90 percent of the adjusted average price

quoted for C.I.F. Northern Europe for the 15-week period beginning July 1, 1978, was 53.49 cents per pound. The statute provides that the loan level shall be the smaller of these prices but in no event less than 48.00 cents per pound. The base loan rate for 1979 crop upland cotton has been determined to be 50.23 cents per pound.

The cotton loan program regulations issued by CCC, containing loan operating provisions are supplemented as shown below for the 1979 crop of cotton.

Section 1427.101 contains the schedule of base loan rates by warehouse location for upland cotton based on the 50.23-cent rate. Sections 1427.102-1427.103 contain the schedule of premiums and discounts for grade and staple length and micronaire differences for upland cotton which were announced on April 23, 1979, basis Strict Low Middling 1 1/8 inch cotton micronaire 3.5 through 4.9, net weight at average location. Sections 1427.104-1427.105 contain the base loan rates and micronaire differences for eligible qualities of extra loan staple cotton which were also announced on April 23, 1979, and are based on the national average loan rate of 92.95 cents per pound, net weight.

Final Rule

Accordingly, 7 CFR 1427.100 through 1427.105 and the title of the subpart are revised to read as follows, effective as to the 1979 crops of upland and extra long staple cotton. The material previously appearing in these sections remains in full force and effect as to the crop years to which it was applicable.

Subpart—1979 Crop Supplement to Cotton Loan Program Regulations

Sec.

1427.100 Purpose.

1427.101 Schedule of base loan rates for eligible 1979 crop upland cotton by warehouse location.

1427.102 Schedule of premiums and discounts for grade and staple length of eligible 1979 crop upland cotton.

1427.103 Schedule of micronaire differentials for 1979 crop upland cotton.

1427.104 Schedule of loan rates for eligible qualities of 1979 crop extra long staple cotton by warehouse location.

1427.105 Schedule of micronaire differentials for 1979 crop extra long staple cotton.

Authority.—Secs. 4, 5, 82 Stat. 1070 (15 U.S.C. 714 b and c); secs. 101, 103, 401, 60 Stat. 1051, as amended (7 U.S.C. 1441, 1444, 1421); sec. 602, 91 Stat. 984, as amended (7 U.S.C. 1444); and sec. 102, 92 Stat. 240 (7 U.S.C. 1444).

Subpart—1979 Crop Supplement to Cotton Loan Program Regulations

§ 1427.100 Purpose.

This subpart is for the purpose of announcing that loans will be available on upland and extra long staple cotton of the 1979 crop under the terms and conditions stated in the cotton loan program regulations issued by CCC and contained in this part 1427. This subpart also contains schedules to be used in determining loan rates on 1979 crop cotton.

§ 1427.101 Schedule of base loan rates for eligible 1979 crop upland cotton by warehouse location.

(in cents per pound, net weight; basis SLM white 1 1/8 "4134")

Alabama		
City	County	Loan rate
Albertville	Marshall	51.20
Altoona	Pickens	51.00
Atmore	Escambia	51.00
Attalla	Etowah	51.45
Bella Mina	Limestone	51.20
Birmingham	Jefferson	51.20
Centre	Cherokee	51.45
Collinsville	De Kalb	51.20
Cullman	Cullman	51.20
Decatur	Morgan	51.20
Eclectic	Elmore	51.20
Elkton	Limestone	51.20
Eufaula	Greene	51.00
Fayette	Fayette	51.20
Frisco City	Monroe	51.00
Geraldine	De Kalb	51.20
Greensboro	Limestone	51.20
Hamilton	Hale	51.00
Hartselle	Marion	51.00
Huntsville	Morgan	51.20
Huntsboro	Madison	51.20
McCallough	Russell	51.45
Madison	Escambia	51.00
Moundville	Madison	51.20
New Hope	Hale	51.00
Northport	Madison	51.20
Opelika	Tuscaloosa	51.00
Panola	Lee	51.45
Red Bay	Sumter	51.00
Section	Franklin	51.00
Selma	Jackson	51.20
Sweet Water	Dallas	51.20
Talladega	Lamar	51.00
Tallapoosa	Marion	51.00
Tusculum	Talladega	51.45
Union Springs	Elmore	51.20
Wetumpka	Bullock	51.20
	Elmore	51.20
Arizona		
Eloy	Pinal	49.00
Phoenix	Maricopa	48.00
Picacho	Pinal	49.00
Yuma	Yuma	49.00
Arkansas		
Blytheville	Mississippi	50.85
Bradley	Lafayette	50.85
Brinkley	Monroe	50.85
Clarendon	Monroe	50.85
Cotton Plant	Woodruff	50.85
Dell	Mississippi	50.85
Dumas	Desha	50.85
England	Lonoke	50.85
Eudora	Chicot	50.85
Evadale	Mississippi	50.85
Forrest City	St. Francis	50.85
Helena	Phillips	50.85
Hughes	St. Francis	50.85
Jonesboro	Craighead	50.85
Leachville	Mississippi	50.85
McCrory	Woodruff	50.85
McGehee	Desha	50.85
Marion	Lee	50.85
California		
Bakersfield	Kern	49.00
Calico	Kern	49.00
El Centro	Imperial	49.00
Fresno	Fresno	49.00
Hanford	Kings	49.00
Imperial	Imperial	49.00
Kerman	Fresno	49.00
Pinedale	Fresno	49.00
Tulare	Tulare	49.00
Florida		
Jay	Santa Rosa	51.20
Georgia		
Allentown	Wilkinson	51.70
Arabi	Crisp	51.45
Arlington	Calhoun	51.20
Atlanta	Fulton	51.70
Augusta	Richmond	51.95
Bartow	Jefferson	51.70
Blakely	Early	51.20
Byrumville	Dooly	51.45
Cadwell	Laurens	51.70
Cochran	Blackley	51.70
Columbus	Muscogee	51.70
Comer	Madison	51.95
Cordele	Crisp	51.45
Dawson	Terrill	51.45
DeSoto	Sumter	51.45
Dexter	Laurens	51.70
Doerun	Colquitt	51.20
Dublin	Laurens	51.70
Eastman	Dodge	51.70
Edison	Calhoun	51.20
Elko	Houston	51.70
Fitzgerald	Ben Hill	51.45
Funston	Colquitt	51.20
Hawkinsville	Pulaski	51.70
Jeffersonville	Twiggs	51.70
Mc Donough	Henry	51.70
Madison	Morgan	51.70
Marshallville	Macon	51.70
Metter	Candler	51.70
Midville	Burke	51.70
Monroe	Walton	51.70
Munizuma	Macon	51.70
Moutrie	Colquitt	51.20
Norman Park	Colquitt	51.20
Omega	Tift	51.45
Pinehurst	Dooly	51.45
Pitts	Wilcox	51.45
Rebecca	Turner	51.45
Reynolds	Taylor	51.70
Rochelle	Wilcox	51.45
Rome	Floyd	51.70
Rutledge	Morgan	51.70
Sandersville	Washington	51.70
Senola	Coweta	51.70
Shelman	Randolph	51.20
Social Circle	Walton	51.70
Sycamore	Turner	51.45
Trion	Chattooga	51.70
Unadilla	Dooly	51.45
Vienne	Dooly	51.45
Wadley	Jefferson	51.70
Watkinsville	Oconee	51.95
Waynesboro	Burke	51.70
Winder	Barrow	51.95
Wrightsville	Johnson	51.70
Yatesville	Upson	51.70
Louisiana		
Berice	Union	50.85
Cheneyville	Rapides	50.85
Columbia	Caldwell	50.85
Dehi	Richland	50.85
Ferdinand	Concordia	50.85
Lake Providence	East Carroll	50.85
Marshfield	De Soto	50.85
Mer Rouge	Morehouse	50.85
Louisiana		
Monroe	Ouachita	50.85
Natchitoches	Natchitoches	50.85
Newellton	Tensas	50.85
New Orleans	Orleans	50.85
Oak Grove	West Carroll	50.85
Plain Dealing	Boesier	50.85
Rayville	Richland	50.85
Tallulah	Madison	50.85
Winnsboro	Franklin	50.85
Mississippi		
Aberdeen	Monroe	50.80
Batesville	Panola	50.80
Belzoni	Humphreys	50.85
Canton	Madison	50.90
Carthage	Leake	50.90
Clarksdale	Coshoma	50.85
Cleveland	Bolivar	50.85
Como	Panola	50.90
Corinth	Alcorn	50.90
Drew	Sunflower	50.85
Flora	Madison	50.85
Greenville	Washington	50.85
Greenwood	Leflore	50.85
Grenada	Grenada	50.90
Gulfport	Harrison	50.85
Hollandale	Washington	50.85
Holly Springs	Marshall	50.90
Houston	Chickasaw	50.90
Indianola	Sunflower	50.85
Inverness	Sunflower	50.85
Itta Bena	Leflore	50.85
Kosciusko	Attala	50.90
Lealand	Washington	50.85
Marks	Outman	50.85
New Albany	Union	50.90
Paynes	Tallahatchie	50.85
Portofoto	Portofoto	50.85
Quitman	Clarke	50.85
Ripley	Tippah	50.90
Rolling Fork	Sharkey	50.85
Rosedale	Bolivar	50.85
Ruleville	Sunflower	50.85
Shaw	Bolivar	50.85
Shelby	Bolivar	50.85
Shoquatak	Houston	50.90
Sledge	Outman	50.85
Tunica	Tallahatchie	50.85
Tutwiler	Warren	50.85
Vicksburg	Warren	50.85
Yazoo City	Yazoo	50.85
Missouri		
Arbyrd	Dunklin	50.85
Canthersville	Pemiscot	50.85
Gideon	New Madrid	50.85
Hayti	Pemiscot	50.85
Kennett	Dunklin	50.85
Lilbourn	New Madrid	50.85
Malden	Dunklin	50.85
Portageville	New Madrid	50.85
Sikeston	Scott	50.85
New Mexico		
Artesia	Eddy	50.15
Deming	Luna	49.95
Las Cruces	Dona Ana	50.15
Roerwell	Chaves	50.15
Lovington	Lee	50.35
North Carolina		
Charlotte	Mecklenburg	52.05
Cherryville	Gaston	52.05
Conway	Northampton	51.95
Dunn	Hamett	51.95
Edenton	Chowan	51.95
Enfield	Hatteras	51.95
Fayetteville	Cumberland	51.95
Jackson	Northampton	51.95
Laurensburg	Scotland	51.95
Lincolnton	Lincoln	52.05
Lumberton	Robeson	51.95
Morven	Anson	52.05
Nashville	Union	51.95
Parkton	Robeson	51.95
Pembroke	Robeson	51.95
Rastford	Hoke	51.95
Red Springs	Robeson	51.95
Rich Square	Northampton	51.95
Roanoke Rapids	Hatteras	51.95
Salisbury	Rowan	52.05

North Carolina			Texas		
City	County	Loan rate	City	County	Loan rate
Scotland Neck	Halifax	51.95	Heame	Robertson	50.45
Shelby	Cleveland	52.05	Hillsboro	Hill	50.45
Smithfield	Johnston	51.95	Houston	Harris	50.65
Tarboro	Edgecombe	51.95	Hubbard	Hill	50.45
Wagram	Scotland	51.95	Kenedy	Karnes	50.45
Weldon	Halifax	51.95	Lamesa	Dawson	50.35
Wilson	Wilson	51.95	Levelland	Hockley	50.35
Oklahoma			Littlefield	Lamb	50.35
Altus	Jackson	50.45	Lockhart	Caldwell	50.45
Chickasha	Grady	50.45	Lockney	Floyd	50.35
Frederick	Tillman	50.45	Lubbock	Lubbock	50.35
Mt View	Kiowa	50.45	McKinney	Collin	50.65
South Carolina			Memphis	Hall	50.45
Abbeville	Abbeville	52.05	Morton	Cochran	50.35
Allendale	Allendale	51.95	Muleshoe	Bailey	50.35
Anderson	Anderson	52.05	Navasota	Grimes	50.45
Bamberg	Bamberg	51.95	Needville	Fort Bend	50.65
Bennettsville	Marlboro	51.95	O'Donnell	Lynn	50.35
Bishopville	Lee	51.95	Paducah	Cottle	50.45
Calhoun Falls	Abbeville	52.05	Pecos	Reeves	50.35
Cameron	Calhoun	51.95	Plainview	Hale	50.35
Chester	Chester	52.05	Quannah	Hardeman	50.45
Chesterfield	Chesterfield	52.05	Quitque	Briscoe	50.35
Clio	Marlboro	51.95	Ralls	Crosby	50.35
Columbia	Richland	52.05	Raymondville	Willacy	50.35
Dalzell	Sumter	51.95	Roaring Springs	Motley	50.45
Darlington	Darlington	51.95	Rochester	Haskell	50.45
Denmark	Bamberg	51.95	Rule	Haskell	50.45
Dillon	Dillon	51.95	San Angelo	Tom Green	50.45
Edgefield	Edgefield	52.05	Seagraves	Gaines	50.35
Elkoree	Orangeburg	51.95	Seymour	Baylor	50.45
Estill	Hampton	51.95	Slaton	Lubbock	50.35
Gaffney	Cherokee	52.05	Snyder	Scurry	50.45
Greenville	Greenville	52.05	Stamford	Jones	50.45
Hartsville	Darlington	51.95	Stanton	Martin	50.35
Lake City	Florence	51.95	Sudan	Lamb	50.35
Lamar	Darlington	51.95	Sweetwater	Nolan	50.45
Manning	Clarendon	51.95	Tahoka	Lynn	50.35
Marion	Marion	51.95	Taylor	Williamson	50.45
Newberry	Newberry	52.05	Temple	Bell	50.45
Norway	Orangeburg	51.95	Terrell	Kaufman	50.65
Orangeburg	Orangeburg	51.95	Texarkana	Bowie	50.65
Pendleton	Anderson	52.05	Tulia	Swisher	50.35
Pinewood	Sumter	51.95	Turkey	Hall	50.35
Rock Hill	York	52.05	Vernon	Wilbarger	50.45
Spartanburg	Spartanburg	52.05	Waco	McLennan	50.45
St. Matthews	Calhoun	51.95	Waxahachie	Ellis	50.45
Summerton	Clarendon	51.95	BILLING CODE 3410-05-M		
Sumter	Sumter	51.95			
Timmonsville	Florence	51.95			
Wilkiston	Barnwell	51.95			
Tennessee					
Brownsville	Haywood	50.90			
Covington	Tipton	50.90			
Dyersburg	Dyer	50.90			
Henderson	Chester	50.90			
Jackson	Madison	50.90			
Memphis	Marion	50.90			
Milan	Gibson	50.90			
Ripley	Lauderdale	50.90			
Tiptonville	Lake	50.90			
Texas					
Abernathy	Hale	50.35			
Ballinger	Runnels	50.45			
Big Spring	Howard	50.35			
Bovina	Parmer	50.35			
Brownfield	Terry	50.35			
Brownsville	Cameron	50.35			
Bryan	Brazos	50.45			
Cameron	Milam	50.45			
Childress	Childress	50.45			
Cleburne	Johnson	50.45			
Colorado City	Mitchell	50.45			
Cooper	Delta	50.65			
Corpus Christi	Nueces	50.45			
Corsicana	Navarro	50.45			
Crockett	Houston	50.45			
Dimmitt	Castro	50.35			
Enloe	Delta	50.65			
Ennis	Ellis	50.45			
Fabens	El Paso	50.15			
Floydada	Floyd	50.35			
Gainesville	Cooke	50.65			
Galveston	Galveston	50.65			
Greenville	Hunt	50.65			
Hamlin	Jones	50.45			
Harlingen	Cameron	50.35			
Haskell	Haskell	50.45			

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§ 1427.102 Schedule of premiums and discounts for grade and staple length of eligible 1979-crop upland Cotton

(Basis Strict Low Middling 1-1/16 Inches, Net Weight)										
Grade	Code	Staple Length (Inches)								
		13/16	14/16	15/16	1 1/16	1 1/8	1 1/4	1 1/2	1 3/4	2
		(26-29)	(30)	(31)	(32)	(33)	(34)	(35)	(36)	Longer
Points Per Pound										
WHITE										
SM & BETTER	(11 & 21)	-530	-435	-340	-200	+ 50	+210	+235	+270	+380
MID PLUS	(30)	-545	-450	-360	-220	+ 25	+185	+215	+250	+355
MID	(31)	-555	-465	-370	-235	+ 10	+165	+195	+235	+335
SLM PLUS	(40)	-610	-510	-430	-315	- 90	+ 70	+ 95	+125	+225
SLM	(41)	-640	-545	-465	-365	-150	+ 30	+ 70	+155	
LM PLUS	(50)	-720	-640	-565	-465	-315	-190	-170	-135	- 70
LM	(51)	-765	-685	-610	-520	-395	-280	-255	-230	-195
SGO PLUS	(60)	-965	-900	-830	-765	-665	-610	-600	-585	-585
SGO	(61)	-1010	-955	-880	-820	-740	-690	-685	-670	-670
GO PLUS	(70)	-1180	-1125	-1075	-1030	-955	-915	-910	-900	-900
GO	(71)	-1225	-1170	-1120	-1075	-1010	-980	-975	-960	-960
LIGHT SPOTTED										
SM & BETTER	(12 & 22)	-580	-490	-405	-295	- 60	+ 80	+110	+140	+235
MID	(32)	-630	-550	-460	-355	-150	+ 10	+ 15	+ 55	+150
SLM	(42)	-720	-660	-580	-490	-380	-270	-255	-215	-185
LM	(52)	-910	-840	-780	-720	-680	-635	-630	-615	-615
SPOTTED										
SM & BETTER	(13 & 23)	-770	-710	-645	-570	-450	-380	-375	-350	-345
MID	(33)	-845	-790	-730	-650	-575	-515	-510	-495	-495
SLM	(43)	-970	-920	-865	-825	-770	-740	-740	-730	-730
LM	(53)	-1110	-1060	-1015	-990	-945	-935	-930	-925	-925
TINGED 1/										
SM	(24)	-1040	-995	-960	-930	-900	-890	-885	-845	-845
MID	(34)	-1095	-1040	-1010	-980	-950	-940	-940	-895	-895
SLM	(44)	-1170	-1115	-1085	-1060	-1025	-1020	-1020	-980	-980
LM	(54)	-1290	-1235	-1205	-1175	-1145	-1130	-1130	-1105	-1105
LIGHT GRAY										
SM & BETTER	(16 & 26)	-700	-605	-515	-395	-180	- 35	0	+ 45	+140
MID	(36)	-840	-740	-660	-560	-450	-295	-280	-240	-210
SLM	(46)	-1090	-995	-930	-865	-770	-700	-680	-630	-630
GRAY										
SM & BETTER	(17 & 27)	-845	-750	-680	-590	-510	-390	-375	-335	-300
MID	(37)	-1105	-1005	-940	-870	-805	-755	-740	-720	-720
SLM	(47)	-1355	-1260	-1190	-1150	-1100	-1055	-1050	-1030	-1030

GRADE SYMBOLS: SM - Strict Middling; MID - Middling; SLM - Strict Low Middling;
LM - Low Middling; SGO - Strict Good Ordinary; GO - Good Ordinary

1/ Cotton classed as "Yellow Stained" (Middling and better grades) will be eligible for loan, if otherwise eligible, at a discount 200 points greater than the discount applicable to the comparable quality in the color group "Tinged."

BILLING CODE 3410-05-C

§ 1427.103 Schedule of micronaire differentials for 1979-crop upland cotton.

Micronaire reading:	Points per pound	Micronaire reading:	Points per pound
5.3 and above	-135	3.0 through 3.2	-225
5.0 through 5.2	-85	2.7 through 2.9	-400
3.5 through 4.9	0	2.6 and below	-605
3.3 through 3.4	-85		

§ 1427.104 Schedule of loan rates for eligible qualities of 1979-crop extra long staple cotton by warehouse location.

(In cents per pound, net weight—micronaire 3.5 and above *)

Grade:	Staple length (inches)			
	1% cotton stored in approved warehouses in—		1 1/2% and longer cotton stored in approved warehouses in—	
	Arizona and California	New Mexico, Texas, and other States	Arizona and California	New Mexico, Texas, and other States
1	96.50	97.20	97.00	97.70
2	96.05	96.75	96.50	97.20
3	95.60	96.30	96.05	96.75
4	94.45	95.15	94.70	95.40
5	89.40	90.10	89.65	90.35
6	73.10	73.80	73.35	74.05
7	57.85	58.35	57.90	58.60
8	54.00	54.70	54.25	54.95
9	51.85	52.55	52.10	52.80

* A micronaire premium of 60 points (0.60 cent) per pound is included in the loan rate for each eligible quality; thus, the national average loan rate reflected in the above schedule is 93.55 cents per pound. Cotton with micronaire readings below the micronaire range "3.5 and above" will be subject to the discounts in the schedule of micronaire differentials for ELS cotton which follows:

§ 1427.105 Schedule of micronaire differentials for 1979-crop extra long staple cotton.

Micronaire reading and points per pound: 3.5 and above—0; 3.3 through 3.4—-125; 3.0 through 3.2—-245; and 2.7 through 2.9—-465.

NOTE.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. This regulation contains necessary operating provisions needed to implement the national average loan rates for extra long staple and upland cotton, which was determined to be significant, announced on October 31, 1978, for which a final impact statement has been prepared and is available from Charles Cunningham, ASCS, (202) 447-7873.

Signed at Washington, D.C. on July 24, 1979.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

(FR Doc. 79-23459 Filed 7-30-79; 8:45 am)

BILLING CODE 3410-05-M

Rural Electrification Administration**7 CFR Part 1701****Filled Buried Wire Specification; File With Existing Specification****AGENCY:** Rural Electrification Administration.**ACTION:** Final rule.

SUMMARY: REA hereby amends Appendix A—REA Bulletin to include a File With to REA Bulletin 345-70 to announce a change in the attenuation requirements of REA Specification PE-54. This action will enable all manufacturers of filled buried wires presently on the REA "List of Materials" to maintain their current listing.

EFFECTIVE DATE: July 31, 1979.**FOR FURTHER INFORMATION CONTACT:** Mr. Harry M. Hutson, Chief, Outside

Plant Branch, Telephone Operations and Standards Division, Telephone Number: AC(202) 447-3827.

SUPPLEMENTARY INFORMATION:

Addendum No. 2, PE-54, issued March 20, 1979, added attenuation requirements to the specification because of associated problems with the placement of subscriber carrier on filled buried wire. It was the intention of Addendum No. 2 to specify a set of attenuation requirements with reasonable tolerances which could be met by all wire and cable manufacturers without significant design changes in their products. Since this was not accomplished the proposed File With allows for a broadening of the attenuation tolerances until a realistic set of requirements can be developed.

In that the material contained herein is a matter relating to a loan program of

the Rural Electrification Administration, the relevant provisions of the Administrative Procedures Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date are inapplicable. However, in accordance with the spirit of the public policy set forth in 5 U.S.C. 553 interested persons may submit written comments, suggestions, data, or arguments to the contact address given above. Material thus submitted will be evaluated and acted upon in the same manner as if the document were a proposal. Until such time as further changes are made, the File With to REA Bulletin 345-70 shall remain in effect, thus permitting the public business to proceed more expeditiously.

This Final Rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from Mr. Joseph M. Flanigan, Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated: July 24, 1979.

John H. Arnesen,

Assistant Administrator.

(FR Doc. 79-23513 Filed 7-30-79; 8:45 am)

BILLING CODE 3410-15-M

FEDERAL RESERVE SYSTEM**12 CFR Part 202****[Reg B; EC-0014]****Equal Credit Opportunity; Official Staff Interpretation****AGENCY:** Board of Governors of the Federal Reserve System.**ACTION:** Official Staff Interpretation.

SUMMARY: The Board is publishing the following official staff interpretation of Regulation B, regarding whether a credit card issuer may require "authorized users" to assume contractual liability for the account. The agency is taking this action in response to a request for interpretation of this regulation.

EFFECTIVE DATE: On or after August 30, 1979.

FOR FURTHER INFORMATION CONTACT: Robert C. Plows, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3667).

SUPPLEMENTARY INFORMATION: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

(2) An opportunity for public comment on an official staff interpretation may be provided upon request of interested parties and in accordance with 12 CFR Part 202.1(d)(2)(ii). As provided by 12 CFR Part 202.1(d)(3) every request for public comment must be in writing, should clearly identify the number of the official staff interpretation in question, should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 and must be postmarked or received by the Secretary's office before the effective date of the interpretation. The request must also state the reasons why an opportunity for public comment would be appropriate.

(3) Authority: 15 U.S.C. 1691(b).

§ 202.7(d)(1) Credit card issuer may treat "authorized users" as joint applicants, therefore requiring them to assume contractual liability for the account.

July 11, 1979.

You ask in your . . . letter for an official interpretation of Regulation B. Your client, a bank, proposes to require all "authorized users" of credit cards that it issues to sign the credit agreement, thereby assuming contractual liability for the account. You ask whether Regulation 3 prohibits the proposed practice.

As you point out, the signature provisions in § 202.7(d) do not mention "authorized users." In the absence of any specific mention of authorized users, the general signature rule of § 202.7(d)(1) applies, and the issue becomes: may a creditor require that all authorized users become co-obligors and treat them as joint applicants?

The staff continues to adhere to the position taken in previous informal letters that a creditor may condition its acceptance of authorized users upon their becoming co-obligors and, thus, joint applicants too. Since the creditor is not seeking the authorized user's participation in the credit plan, the creditor may restrict that participation to a person who agrees to become a co-obligor and applicant by signing the relevant credit documents. Such a policy, if applied in a non-

discriminatory fashion, would not violate Regulation B.

Obviously, a creditor may permit authorized users without requiring that they also become joint applicants and assume contractual liability for the account. Indeed, a creditor could accept authorized users but not allow joint applicants, or could offer only individual accounts without authorized users. Please also recall that § 202.7(a) provides that "a creditor shall not refuse to grant an individual account to a creditworthy applicant" Therefore, a creditworthy applicant seeking a single credit card for his or her sole use may not be required to provide additional signatures.

As you have requested, this is an official staff interpretation of Regulation B. It will become effective on or before August 30, 1979, unless a request for public comment, made in accordance with the Board's procedures, is received and granted. We will notify you if the effective date of the interpretation is suspended. If you have further questions about this letter, please let me know. If you have other questions in the future, you may also address them to Mr. John Yorke, Assistant Vice President, Consumer Affairs Department, Federal Reserve Bank of Kansas City, 925 Grand Avenue, Kansas City, Missouri 64198.

Sincerely,

Jerald C. Kluckman,

Associate Director.

Board of Governors of the Federal Reserve System, July 20, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

(FR Doc. 79-23533 Filed 7-30-79; 8:45 am)

BILLING CODE 6210-01-M

12 CFR Part 226**Truth in Lending; Technical Amendments to Regulation Z****AGENCY:** Board of Governors of the Federal Reserve System.

ACTION: Technical amendments to Regulation Z to correct references to a section number that has been redesignated: Correction.

SUMMARY: This notice corrects a previous Federal Register document (FR Doc. 79-22262) appearing at page 42165 of the issue for Thursday, July 19, 1979.

FOR FURTHER INFORMATION CONTACT: Anne Geary, Assistant Director, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2761.

SUPPLEMENTARY INFORMATION: The last paragraph in the center column on page 42165 should read as follows:

Therefore, pursuant to the authority granted in 15 U.S.C. 1604 (1976), the Board amends Interpretations § 226.705 and

§ 226.707 to insert "§ 226.7(f)" wherever the citation "§ 226.7(e)" currently appears.

Board of Governors of the Federal Reserve System, July 24, 1979.

Theodore E. Allison,
Secretary of the Board.

(FR Doc. 79-23532 Filed 7-30-79; 8:45 am)

BILLING CODE 6210-01-M

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****15 CFR Part 922****Designation and Management of Marine Sanctuaries**

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Final rule.

SUMMARY: These regulations revise existing regulations which prescribe the procedures for nominating and designating marine sanctuaries, establishing appropriate management systems within designated sanctuaries and enforcing compliance with these management systems. The regulations reflect new approaches and interpretations developed by NOAA during the administration of the program to date.

EFFECTIVE DATE: August 31, 1979.

FOR FURTHER INFORMATION CONTACT: Joann Chandler, Director, Sanctuary Programs Office, Office of Coastal Zone Management, Page Building 1, 3300 Whitehaven Street, N.W., Washington, D.C. 20235; (202) 634-4236.

SUPPLEMENTARY INFORMATION: On February 5, 1979, NOAA published proposed revisions to its General Marine Sanctuaries regulations pursuant to Title III of the Marine Protection, Research and Sanctuaries Act of 1972, Pub. L. 92-532, 16 U.S.C. 1431-1434 (the Act). Written comments were requested by April 6, 1979. Comments were received from three members of the House of Representatives, ten Federal agencies, eleven State reviewers, seven industrial groups, fourteen environmental groups, two Regional Fishery Management Councils and three other commentators. These comments have been considered in preparing these regulations.

Discussion of Major Issues and NOAA Responses

Below is a discussion of the major comments. It is followed by a section-

by-section discussion of the additional comments received.

Breadth of Criteria: A number of reviewers felt that the criteria by which an area would be judged eligible for inclusion on a List of Recommended Areas and ultimately for designation as a sanctuary and/or the criteria by which selection of Active Candidates would be made were unclear. Suggestions included qualifying only those areas which are "most unique, rare or distinctive" or "unique" resources. In particular, criterion (b)(2), "a marine ecosystem of exceptional richness . . ." was thought to open up the possibility of vast areas for inclusion. One reviewer thought the present classification scheme (present § 923.10) was preferable.

NOAA Response: NOAA's experience and public reaction have indicated that the present criteria were not helpful. Response to the new criteria was generally favorable. NOAA has rewritten § 922.21 slightly, including § 922.21(b)(2) to provide additional focus and alleviate the concerns expressed. It should be kept in mind that the criteria of § 922.21(b) are necessarily somewhat broad and that the criteria for the selection of Active Candidates will be the basis for narrowing the number of sites actually designated. In addition the boundary section (922.27) has been incorporated into the criteria section to make clearer the intention to concentrate on discrete areas.

Specification of Boundaries: Several reviewers objected to the possibility, inherent in § 922.27, that the boundary of an area being considered for a marine sanctuary could be changed at any time prior to the designation, even following the EIS process, conceivably without consultation.

NOAA Response: NOAA agrees that the regulations as written raised the concern expressed. The regulations have been reorganized to make clear that any changes in boundaries would receive the same examination and consultation as any other changes made during the review process.

Economic Analysis: A number of commentators objected to the omission of the economic value of resources which would be protected by a marine sanctuary designation as a factor to be considered in selecting Active Candidates. These commentators pointed out that the economic consequences of failing to utilize any resources because of sanctuary designation are to be taken into account under § 922.23(a)(6) and rational decisionmaking should balance both factors.

NOAA Response: NOAA agrees with these comments and has added a new § 922.23(a)(7) to add the economic value of the protected resources as a factor to be considered. At the same time, NOAA recognizes that some of the values to be protected under the Act are not easily quantifiable economically and the inability to assign a clean economic value to the resources of an area should not disqualify it as a sanctuary candidate.

Treatment of Esthetics: Five reviewers felt that the esthetic value of an area was not given the proper emphasis in the consideration of that area for possible designation as a marine sanctuary. Section 922.21 did not list the esthetic value of an area alone as one of the resource values making it eligible for placement on the List of Recommended Areas and thus ultimately for designation as a sanctuary. Section 922.23, however, did list the esthetic value of the area as one of the factors to be considered in selecting an area as an Active Candidate once it has been placed on the List of Recommended Areas. Two commentators felt that esthetics alone should qualify an area for listing and ultimately designation and should therefore be included as a separate criteria under § 922.21. One reviewer felt that the esthetic quality of an area was "too vague" to be considered even in the selection of Active Candidates. Two other commentators essentially agreed with NOAA's position that the esthetic quality of an area should be considered, but should not be the sole basis for a sanctuary. They requested additional clarification that esthetics not be the sole basis.

NOAA Response: NOAA believes that the Act provides discretion in treating an area whose sole value is esthetic and that it is highly unlikely that in practice a situation will ever arise where esthetic value will not be combined with one or more of the criteria listed in § 922.21, e.g., recreational use or distinctive or fragile ecological features which will qualify the area for initial listing, and the esthetic value will be one of the factors in considering the priority of the area for actual designation. Consequently, NOAA has not altered the basic treatment of esthetics.

Designation Modification: A number of reviewers suggested that the provisions of § 922.26(b) requiring the completion of a full designation procedure to modify a designation could prove burdensome and prevent adequate response to emergency situations.

NOAA Response: NOAA agrees that a certain degree of flexibility to deal with emergency situations is necessary but feels that the more appropriate method is to provide for limited emergency regulation in the Designation document to ensure through the amendment procedure including agency consultation and public review and participation, appropriate review prior to modifying the Designation itself. A provision for emergency regulation has been proposed in the Flower Gardens Marine Sanctuary Designation document and a new § 922.26(d) has been added to these regulations expressly recognizing such an emergency provision.

Section-by-Section Analysis

(a) Section 922.1—Policy.—(1) One commentator suggested that the language is too broad and could include species whose management is primarily the responsibility of the Regional Fishery Management Councils under the Fishery Conservation and Management Act of 1976 (FCMA).

NOAA Response: Both commercial and recreationally valuable species of fish and their habitats are among the resources which a sanctuary could be designed to protect, and activities affecting such species could become subject to control in a designated sanctuary. The Designation document described in § 922.26(b) provides the mechanism for ensuring for each sanctuary that only appropriate activities are regulated and that other activities are excluded from regulation. There is no suggestion in § 922.1 that regulation will include fishing activities or interfere with the management responsibility of the councils.

(2) One reviewer suggested that "minimum regulation necessary to protect legitimate environmental interests" be listed as a major goal of the program.

NOAA Response: Section 922.23 states that the existence of adequate regulatory authority to protect the resources is a criterion for the selection of Active Candidates (see comment (g)(5) below). Furthermore, under the statute only "reasonable and necessary" regulations may be imposed in any sanctuary.

(3) One commentator suggested that some mention of the distinction between the marine and estuarine sanctuary programs be made.

NOAA Response: Section 922.1(d) has been rewritten to describe briefly the estuarine program and cross-reference its regulations.

(4) Three commentators requested additional clarification of the extent to

which compatible activities are to be allowed in a sanctuary. One commentator suggested that § 922.1(c) specifically state that "compatible, multiple human use" should be allowed; another suggested that § 922.1(c) specify that activities which "can be made compatible" with the sanctuary be specifically allowed; the third appears to suggest that no human activity be allowed.

NOAA Response: NOAA feels that the formulation of § 922.1(c) clearly provides that compatible activities may take place in a sanctuary and this adequately responds to the concerns of the first two comments. It does not agree with the third commentator that no human activities should be allowed. NOAA's interpretation is supported by the legislative history of the Act.

(5) Two commentators found that § 922.1 (a) and (b) were "somewhat contradictory."

NOAA Response: Section 922.1(b) establishes a "primary emphasis" for the program within the broader purposes described in § 922.1(a). No inconsistency results.

(6) One commentator requested clarification of the distinction between "natural" and "biological" resources. A second commentator suggested that "natural" should read "physical."

NOAA Response: Natural resources includes physical resources. NOAA prefers the somewhat broader term.

(7) One commentator suggested that the purposes should include preservation and restoration for research purposes.

NOAA Response: The significance of an area for research purposes is listed as a criterion for the selection of Active Candidates under § 922.23. NOAA feels this provision sufficiently emphasizes the importance of research, which is not among the values specifically listed in the Act.

(8) Two commentators objected to using cumulative impacts to determine whether or not activities will be allowed in a sanctuary.

NOAA Response: NOAA feels that cumulative impacts can be as significant to the destruction of resources as other impacts and assessing these impacts with respect to certain activities is important. It may be necessary to restrict or ban certain activities to control impacts including cumulative impacts.

(9) One commentator suggested language redrafting § 922.1(a) to clarify the reason for identifying distinctive areas.

NOAA Response: NOAA has redrafted this section as suggested.

(10) One commentator suggested clarification as to who determines whether a use is detrimental.

NOAA Response: The regulations as a whole set forth the procedures for making this determination, which procedures include review of the initial submission, consultations with other Federal agencies, State and local governments and interested parties, and the full EIS procedure.

(11) Two commentators suggested specifying additional programs closely related to marine sanctuaries.

NOAA Response: NOAA has added the programs suggested.

(12) One commentator questioned the phrase, "Congressional design."

NOAA Response: This phrase has been deleted.

(b) Section 922.2—Definitions.—(1) One commentator suggested that terms such as "exceptional richness," "sufficient" and "degradation," be more specifically defined.

NOAA Response: This comment relates essentially to the breadth of the criteria and is analyzed in connection with §§ 922.21 and 922.23.

(2) One commentator questioned whether the definition of "ocean waters" in section 922.2(e) excluded from consideration marine sanctuary sites in estuarine areas lying inland of the baselines from which the territorial sea is measured.

NOAA Response: Exclusion of such areas was unintentional. This definition appears to be unnecessary and has been deleted.

(3) One commentator requested that the area of the Great Lakes eligible for consideration for marine sanctuaries be defined.

NOAA Response: NOAA has included the definition of the Great Lakes contained in the Coastal Zone Management Act.

(4) One commentator objected to the exclusion of the Trust Territories of the Pacific Islands from the definition of "United States" in § 922.2(d).

NOAA Response: This omission was inadvertent and has been corrected.

(c) Section 922.10—Effect of Marine Sanctuary Designation.—One commentator felt that NOAA should specify the manner in which recognized principles of international law would be applied where sanctuaries include areas outside the territorial sea.

NOAA Response: Following consultation with the State Department, NOAA has determined that such application must be made on a case-by-case basis to ensure conformance with the evolving principles involved.

(d) Section 922.20—Submission of Recommendations.—(1) One commentator suggested that the format for submission should include a description of past uses as well as present and prospective uses.

NOAA Response: NOAA has incorporated this suggestion in the format.

(2) One commentator suggested that the regulations should establish a more affirmative role for NOAA rather than an implicitly passive/reactive role.

NOAA Response: Based on past experience, NOAA anticipates that for the most part potential sites will be brought to NOAA's attention initially by interested persons outside the agency. NOAA has actively solicited this help and relies upon the expertise and experience provided. NOAA on its own could propose an appropriate area for inclusion on the list and § 922.20(a) has been rewritten to make this possibility explicit.

(3) One commentator requested that a copy of any submission be forwarded to the State or States most affected upon receipt; a second commentator suggested that notification be given to the affected local and State agencies and other interested parties.

NOAA Response: A major purpose of including an area in the List of Recommended Areas is to notify all interested persons at the appropriate stage that the area has at least some potential for sanctuary status and earlier notification is unnecessarily burdensome. However, a new § 922.25(a) has been added to provide that, in States with coastal management plans approved under Section 306 of the Coastal Zone Management Act of 1972, as amended, the designated Coastal Zone Management agency will be notified upon receipt of a recommendation.

(4) One commentator pointed out that the format of § 923.20 should require an explanation of why a particular area should be designated a sanctuary.

NOAA Response: The range of information called for, particularly under the heading "Management," should allow initial analysis of this issue. It is not reasonable to request more specificity from the public prior to the consultation and review process.

(5) One commentator suggested the elimination of the format requirements of § 922.20(b), allowing the public to submit recommendations essentially in any form, and allowing a 30-day period for NOAA to request additional information.

NOAA Response: NOAA feels that use of the format suggested will provide

more timely receipt of necessary information. Additional information can be requested either from the nominator, from outside sources, or from within NOAA itself, and any failure to submit the information suggested can be corrected.

(8) One commentator pointed out that it might be difficult for a recommender to assess the effects of sanctuary regulations.

NOAA Response: NOAA has inserted the word "recommended" in this section of the format to indicate that such assessment should simply be the recommender's suggestion as to what needs to be regulated.

(e) **Section 922.21—Analysis of Recommendations.**—(1) Three commentators suggested that migration routes and staging areas be added to the life cycle activities described in § 922.21(b)(3).

NOAA Response: NOAA agrees and has incorporated this suggestion.

(2) Two commentators objected to the inclusion of "rare to the waters to which the Act applies" as a criterion.

NOAA Response: NOAA feels that an obligation exists to consider the necessity of protecting resources which are rare in U.S. waters and, therefore, such areas should be listed. NOAA expects that sites of little overall value will be screened out as Active Candidates are selected.

(3) One commentator suggested deleting historical or cultural remains as criteria for eligibility; a second commentator suggested that these resources might be given less weight than those involving biological resources.

NOAA Response: NOAA feels historical and cultural remains such as the wreck of the U.S.S. *Monitor* are the subject of strong public interest and are appropriate resources for protection. The program does place "primary emphasis" on physical and biological resources (See § 922.1(b)).

(4) Two commentators objected to criterion (b)(4), "intensive recreational use growing out of * * * distinctive marine characteristics" as being too restrictive. One commentator felt the criterion conflicted somewhat with the purposes in § 922.1.

NOAA Response: NOAA has rewritten § 922.1 in line with the changes suggested by the commentators and does not feel any conflict exists.

(5) Two commentators felt that the criteria of § 922.21(b) underrated the importance of habitat and ecosystem protection.

NOAA Response: The criteria of § 922.21(b) have been rewritten slightly, in part to emphasize such protection.

(6) Two commentators felt that NOAA should specify the reasons for rejecting any recommended site for its List of Recommended Areas and should provide an appeal mechanism to the recommender.

NOAA Response: NOAA agrees with specifying the reasons for rejection but disagrees that an appeal mechanism is appropriate. Any site may be resubmitted for consideration with additional information. Section 922.21(a) has been rewritten to require that the reasons for rejection be specified and a new § 922.21(e) added to provide explicitly for resubmission.

(7) One commentator felt that alternative boundaries and management schemes should be developed prior to publication on the List of Recommended Areas.

NOAA Response: The commentator is placing too much significance of the inclusion on the List of Recommended Areas. Such analysis is premature and beyond the resources of the program. NOAA will develop this information during the review of sites selected as Active Candidates.

(8) One commentator suggested that the words "commercial fishing" be added after "recreational use" in § 922.21(b)(4) to reflect NOAA's responsibilities under the FCMA.

NOAA Response: NOAA feels that fishery management responsibility has been assigned to the National Marine Fisheries Service (NMFS) and the Regional Fishery Councils and, does not anticipate designating sanctuaries solely for fishery management purposes. Certain sanctuaries will include commercially valuable species in which case NOAA's role will involve coordination with the relevant councils. For example, the purpose of designating a sanctuary may include protection of the habitat of a commercially valuable species and sanctuary regulations may restrict certain fishing techniques to protect other marine resources, e.g. trawling to protect coral reefs.

(f) **Section 922.22—Effect of Placement on the List.**—(1) Five commentators requested clarification as to the effect of the placement of a recommended site on the List of Recommended Areas. Two commentators suggested that the effect of listing an area as an Active Candidate be included in this section.

NOAA Response: The section has been rewritten to emphasize that the List of Recommended Areas is primarily for informational purposes and to

indicate that Active Candidates would normally be mentioned in an Environmental Impact Statement (EIS) prepared by any agency analyzing impacts of a proposed action in the area.

(g) **Section 922.23—Selection of Active Candidates.**—(1) Three commentators objected that the criteria for selection of Active Candidates was too broad. In particular, two objected to the test of "significance" in § 922.23(a).

NOAA Response: The issues raised are essentially the same as those raised in connection with the criteria of § 922.21 and are discussed under major issues above. NOAA feels that these criteria, when read in conjunction with the criteria of § 922.21, as rewritten, are as specific as possible.

(2) Four commentators suggested that time periods be established for the consideration of Active Candidates. One commentator was concerned about the time period prior to selection as an Active Candidate and suggested a 120 day period to ensure periodic review. The other commentators were concerned about the length of time that a candidate could remain upon the Active Candidates List without designation. No specific time limit was suggested.

NOAA Response: NOAA feels that first commentator overestimates the weight to be given to selection of a site for the List of Recommended Areas, and that no time limit should be established within which an area on the recommended list must become an Active Candidate in light of the large number of Recommended Areas anticipated. Section 922.24 does establish time limits for the review of Active Candidates leading up to the decision to prepare a Draft Environmental Impact Statement (DEIS). However no time limits for the completion of the EIS process are established. Since NOAA will proceed as quickly as possible with publication of the DEIS, and since Council on Environmental Quality (CEQ) regulations provide a detailed time sequence for DEIS review, no additional deadlines seem necessary.

(3) One commentator suggested that "the significance of area to the development of any energy facility necessary to the National interest" be added as a factor to be considered in the selection of Active Candidates.

NOAA Response: NOAA feels that this factor is taken into account by subsection (a)(6) requiring consideration of "the economic significance to the Nation of such additional resources and uses."

(4) One commentator suggested that the highest priority be given to areas believed to be important habitats for rare, endangered or threatened species.

NOAA Response: Habitat protection is emphasized already (see comment (e)(5) particularly for rare or endangered species—§ 922.21(b)(1)(a)). The factors taken into account in the selection of Active Candidates: e.g., the severity and imminence of threats, are also valid considerations.

(5) One commentator suggested that the availability of other regulatory authorities should be a separate, principal criterion for selecting Active Candidates to emphasize its significance (See also comment (a)(2).) Another reviewer objected to considering this criterion at all.

NOAA Response: NOAA feels that on balance the emphasis placed on existing regulations by § 922.23(a)(2) is the proper one.

(6) One commentator objected to establishing the value of an area in complementing other areas as a criterion for the selection of Active Candidates.

NOAA Response: NOAA believes that this is a valid consideration and will maximize the importance of the marine sanctuary program in relation to other government programs.

(7) One commentator suggested that priorities be set forth in terms of the significance of ecosystems at global, national and State levels.

NOAA Response: NOAA agrees with the general concept but does not feel that it is useful to specify this particular hierarchy in the regulations. The precise degree of significance could be debated in scientific communities and involving NOAA in these debates does not appear productive.

(8) One reviewer objected to examining cumulative impacts in determining the severity of potential threats to the resources.

NOAA Response: NOAA disagrees. Instances may exist where individual activities could not be said to pose a severe threat to the resources of an area, but the total number of such activities anticipated would pose such a threat.

(9) Two commentators suggested that specific justification for treating an area as significant to research be provided.

NOAA Response: There does not appear to be any need to require special justification for the importance of research.

(10) One reviewer requested further clarification of what constitutes adequate means available to support full review.

NOAA Response: This means simply adequate budget and personnel in the relevant NOAA program offices.

(11) Three commentators objected to the description of consultation set forth in § 922.23(b). Two claimed it appeared to make the consultations discretionary. The third suggested rephrasing to provide a more positive connotation.

NOAA Response: NOAA disagrees that there is any ambiguity as to whether the Assistant Administrator must consult with the named parties. The rephrasing suggested has been adopted.

(12) One commentator has suggested announcing the selection of an Active Candidate in local papers.

NOAA Response: NOAA will issue a press release for local area newspapers which should assure adequate publicity.

(h) **Section 922.24—Review of Active Candidates.**—(1) Three commentators suggested that this section specify that the workshops to discuss Active Candidates be held in the area or areas most significantly affected by the proposed designation.

NOAA Response: NOAA concurs. Section 922.24(a) has been rewritten to so provide.

(2) Two reviewers felt that alternative boundaries, management measures and other fairly detailed information must be provided prior to the holding of public workshops.

NOAA Responses: NOAA appreciates the importance of holding informed public meetings, but feels these commentators tend to confuse the function of the workshop with the function of the public hearing to be held on the Draft Environmental Impact Statement later in the process. In many cases, the public workshop will aid in the formulation of such options, and the attempt to provide them in advance of this first major public consultation may frustrate effective public involvement. NOAA will supply as much information as possible.

(3) One commentator suggested specifically providing that compensation under NOAA's public participation regulations may be available for the workshops.

NOAA Response: NOAA agrees. New § 922.1(f) states that compensation is available in appropriate circumstances and cross references the public participation regulations (15 CFR Part 904).

(4) One commentator suggested that § 922.24 specifically include affected land owners in the workshops.

NOAA Response: NOAA feels that the change is unnecessary since such

individuals are clearly covered by "other interested persons."

(5) One commentator suggested that the hearing provided for in § 922.24(c) is at the wrong stage in the process and should be at the beginning of the site selection process.

NOAA Response: NOAA feels that the commentator is placing undue weight upon the selection of a site for the List of Recommended Areas and that it is more appropriate to hold the hearing when full information is available and the regulatory options are apparent. The time of the hearing is in line with the statutory requirement of § 302(e) of the Act. The public workshops at the early stages of evaluating an Active Candidate will answer the commentator's concern.

(6) One commentator suggested amending § 922.24(b) and § 922.26(a) to reflect that an EIS may not be required.

NOAA Response: NOAA intends to use the EIS process for disseminating information any time it proposes a sanctuary whether or not required under the National Environmental Policy Act (NEPA).

(7) One commentator suggested that if, following a public workshop, NOAA determines not to proceed with the DEIS, an announcement stating the reasons for the determination should be placed in the Federal Register.

NOAA Response: NOAA concurs and has amended § 922.24(b) appropriately.

(8) One commentator suggested appointing State and local citizen advisory councils to further the consultation process.

NOAA Response: NOAA agrees that in many cases such bodies may be helpful but does not feel it appropriate to require this in all cases. In addition the Federal Advisory Committee Act restricts NOAA's ability to appoint such committees.

(i) **Section 922.25—Coordination with States.**—(1) One commentator felt that the proposed regulations are too general in their provision for the necessary coordination procedure, particularly with respect to the preparation of the Designation document and regulations.

NOAA Response: The regulations fully involve the relevant parties in the process of preparation of the Designation and regulations. §§ 922.24(b) and 922.26(a) have been rewritten to clarify this role.

(2) One reviewer objected to the failure of § 922.25(a)(3) to state that sanctuary designations must be consistent with the States' coastal zone management programs.

NOAA Response: NOAA has reworded this section to refer to the

necessity for consistency with a State's approved coastal zone management program.

(j) **Section 922.26—Designation.**—(1) Three commentators complained that the relationship between the Designation and the regulations implementing the Designation was unclear, and particularly that the opportunity for interested persons to participate in the development of the regulations was not clearly established.

NOAA Response: NOAA has rewritten § 922.26(a) as well as § 922.24(b), Review of Active Candidates, to clarify the relationship and emphasize the public's role in the development of the Designation and regulations particularly at the workshops and through the DEIS process prior to designation.

(2) Three commentators addressed the use of the Designation document as set forth in this section. Two commentators favored the device as a method for avoiding overregulation. A third commentator objected that NOAA should not limit its ability to regulate activities in a sanctuary. Other commentators discussed generally the need to avoid overregulation but did not specifically recognize the Designation document as a method to accomplish this end.

NOAA Response: NOAA feels that the Designation document in the form described in the regulations is an important and useful mechanism to focus public and agency attention on the need for regulations and the appropriate limits for each regulation.

(3) Three commentators discussed the veto authority given to the Governor of a State whose waters are included in the sanctuary. One favored and one opposed this authority. The third felt that § 922.26(d) allowed designation, despite a Governor's objection.

NOAA Response: The Governor's authority is statutory. See § 302(b) of the Act. NOAA disagrees that under either the statute or § 922.26(d) it can designate a sanctuary in State waters despite the Governor's objection.

(4) Two commentators suggested specifying a time limit for the Governor's certification.

NOAA Response: Section 302(b) of the Act gives a governor 60 days to certify unacceptability. This limit has been added for clarity.

(5) Two commentators suggested that NOAA utilize some form of "emergency designation." One commentator suggested promulgating some form of regulations imposing, in essence, a moratorium on degrading activities pending designation. A second

commentator favored expediting the placement of a site on the Active Candidates List (i.e. within 30 days of receipt of the recommendation).

NOAA Response: Under the Act, NOAA is empowered to control activities in an area only after its designation as a sanctuary. With respect to expedited processing, NOAA can expedite its procedures for any recommended site so long as the required consultations and evaluations took place.

(6) One commentator thought the Designation should be more specific as to the extent to which activities in a sanctuary may be regulated.

NOAA Response: Certain Designations may provide such specificity, but NOAA disagrees that it is desirable or even possible in all cases.

(7) One commentator suggested it might be useful to describe in a Designation other regulatory programs applicable to the sanctuary area.

NOAA Response: NOAA feels that it is more appropriate to describe such regulatory programs in the EIS.

(8) One commentator suggested that the Designation should be the subject of a separate subpart to stress that selection of an Active Candidate does not necessarily lead to designation.

NOAA Response: NOAA feels that a separate section is adequate to provide clarity, and that the concept is stressed throughout.

(9) One commentator suggested rewriting § 222.26(a) to provide explicitly for the receipt of evidence from appropriate parties including citizens of the affected state.

NOAA Response: NOAA feels such addition is superfluous.

(10) Two commentators objected to NOAA's failure to preempt each and every regulatory authority in the area of a designated sanctuary and recommended retaining the requirement that all other authorizations be certified before they are valid.

NOAA Response: NOAA agrees that its authority could preempt other regulatory authorities in the area, but sees advantages in terms of providing clarity to potential users and, generally, of reduced bureaucracy, in not doing so unless necessary.

(11) One commentator suggested that § 922.26(c) provide explicitly that multiple use be permitted provided it does not cause significant adverse impact.

NOAA Response: This concept is clearly established by § 922.1 and § 922.26 is built on this principle.

(12) One commentator suggested that the concurrence of other affected

Federal agencies should be required prior to the promulgation of any regulations.

NOAA Response: NOAA disagrees. Consultation with other Federal agencies is required by statute. Presidential approval of the designation is the statutory mechanism to insure balancing the interests of all Federal agencies. It takes the place of other mechanisms for resolving conflicts such as the mediation provided in the Coastal Zone Management Act.

(13) One commentator suggested formal notice of a designation be provided in the Federal Register.

NOAA Response: NOAA concurs. See new § 922.28(e).

(k) **Section 922.27—Boundaries**

(1) Seven commentators objected to the provision for altering boundaries and expressed concern about appropriate consultation.

NOAA Response: This section has been consolidated with section 922.21 to address this concern. See also discussion under Major Issues above.

(2) One commentator expressed concern that criteria 922.27(a)(2) was too broad and too open to subjective judgment.

NOAA Response: The determination of what constitutes an adequate buffer zone to protect the resources of a sanctuary is necessarily made on a case-by-case basis. The determination will be made through the full review in the designation process, thus minimizing subjectivity.

(l) **Section 922.30—Penalties**

(1) Two commentators thought this section and § 922.31 should specify the agency responsible for enforcement.

NOAA Response: Different agencies will have enforcement responsibilities. The individual regulation for each sanctuary is the proper place to specify such responsibility. The Coast Guard will be responsible for enforcement in most sanctuaries and a specific reference to this agency's enforcement programs has been included in section 922.1(e).

(2) One commentator felt the regulations should specifically provide for the delegation of enforcement and administration to State agencies for sanctuaries located off their shores. The commentator believed the existing regulations provided explicitly for such delegation.

NOAA Response: The existing regulations do not provide explicitly for delegation. NOAA agrees that delegation may be appropriate in individual sanctuaries and will provide for it in the regulations governing these sanctuaries.

Revised Regulations Effective Immediately

The regulations described above constitute general statements of policy and rules of procedure or practice governing the administration of the marine sanctuary program by NOAA. For the most part, the practices and procedures have evolved under the existing regulations and are being followed currently. Consequently, to delay the effective date for thirty days would simply result in additional confusion, and NOAA hereby finds for good cause, in accordance with 5 U.S.C. 553(d), that such 30 days delay prior to the effective date is unnecessary. The regulations are effective on publication in the Federal Register.

Date: July 23, 1979.

R. L. Carnahan,
Deputy Assistant Administrator for Administration.

In consideration of the foregoing, Part 922 is revised as follows:

PART 922—MARINE SANCTUARIES

Subpart A—General

Sec.

922.1 Policy and objectives.

922.2 Definitions.

922.10 Effect of marine sanctuary designation.

Subpart B—Initial Review of Areas Recommended as Sanctuaries

922.20 Submission of recommendations.

922.21 Analysis of recommendations.

922.22 Effect of placement on the list of recommended areas or active candidates.

Subpart C—Selection of Active Candidates and Designation of Sanctuaries

922.23 Selection of Active Candidates.

922.24 Review of Active Candidates.

922.25 Coordination with States.

922.26 Designations

Subpart D—Enforcement

922.30 Penalties.

922.31 Notice of Violation.

922.32 Enforcement Hearings.

922.34 Final Action.

Authority: Title III, Public Law 95-532, as amended; 86 Stat. 1061 (16 U.S.C. 1431-1434).

Subpart A—General

§ 922.189 Policy and Objectives.

(a) The purpose of the marine sanctuaries program is to identify areas in the ocean from the shore to the edge of the continental shelf and in the Great Lakes that are distinctive for their conservation, recreational, ecological or esthetic values, and to preserve and restore such areas by designating them

as marine sanctuaries and providing appropriate regulation and management.

(b) The primary emphasis of the program will be the protection of natural and biological resources, and in most cases higher priority will be afforded candidate sites containing these resources.

(c) The presence of actual or potential conflicts among existing or potential human uses of a candidate site is not of itself a basis for designating the site as a marine sanctuary. Human activities will be allowed within a designated sanctuary to the extent that such activities are compatible with the purposes for which the sanctuary was established, based on an evaluation of whether the individual or cumulative impacts of such activities may have a significant adverse effect on the resource value of the sanctuary.

(d) The marine sanctuary program will be fully coordinated with the coastal zone management and estuarine sanctuary programs established under the Coastal Zone Management Act of 1972, as amended 16 U.S.C. 1451 *et seq.* (The estuarine sanctuary program, 16 U.S.C. 1461, authorizes grants for the acquisition, development or operation of estuarine areas as natural field laboratories. See regulations at 15 CFR Part 921).

(e) The marine sanctuaries program will be conducted also in close cooperation with other related Federal and State programs, including those of the Regional Fishery Management Councils under the Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801 *et seq.*; the marine mammal protection and endangered species programs of the National Marine Fisheries Service, under the Marine Mammal Protection Act, as amended, 16 U.S.C. 1361 *et seq.* and the Endangered Species Act, as amended, 16 U.S.C. 1531 *et seq.*; leasing programs of the Department of the Interior for the Outer Continental Shelf under the Outer Continental Shelf Lands Act, as amended, 43 U.S.C. 1331 *et seq.*; relevant programs of the Department of Energy; and the regulatory and enforcement programs of the United States Coast Guard.

(f) A basic objective of the marine sanctuaries program is to obtain the maximum public participation throughout all the stages that may lead to the designation of a sanctuary. To further this purpose NOAA may make funds available to compensate eligible persons for the costs of participation in certain proceedings in accordance with NOAA regulations at 15 CFR Part 904.

§ 922.2 Definitions.

(a) "Act" means Title III of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1431-1434.

(b) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration, United States Department of Commerce.

(c) "Assistant Administrator" means the Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration, United States Department of Commerce, or his designee.

(d) "Continental Shelf" means the Continental Shelf, as defined in the Convention on the Continental Shelf, 15 U.S.T. 74 (TIAS 5578), which lies adjacent to any of the several states or any territory or possession of the United States, or the Trust Territory of the Pacific Islands.

(e) The "Great Lakes" means the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes.

(f) "Person" means any private individual, partnership, corporation, or other entity; or any officer, employee, agent, department, agency or instrumentality of the Federal Government, or any State, local or regional unit of government.

§ 922.10 Effect of marine sanctuary designation.

The designation of a marine sanctuary and the regulations implementing it are binding on any person subject to the jurisdiction of the United States. Designation does not in any case constitute any claim of territorial jurisdiction on the part of the United States, and the regulations implementing it apply to foreign citizens only to the extent consistent with recognized principles of international law or authorized by international agreement.

Subpart B—Initial Review of Areas Recommended as Sanctuaries

§ 922.20 Submission of recommendations.

(a) Any person (including NOAA employees in their official capacity or otherwise) may recommend a site to be considered for potential designation as a marine sanctuary. Recommendations should be addressed to: Director, Sanctuary Programs Office, Office of Coastal Zone Management, National Oceanic and Atmospheric

Administration, 3300 Whitehaven St., N.W., Washington, D.C. 20235.

Further information can be obtained by contacting this office.

(b) Recommendations should be submitted in the following format:

Site recommended
General description of area
Approximate coordinates
Area in square miles
Name of person or organization submitting recommendation
Principal Contact
Name, Title
Address
Telephone number
Detailed description of the feature or features which make the site distinctive (See sec. 922.21)
Available data on the resources and site
Summary of existing research and other data to support description
Principal data deficiencies
Description of past, present and prospective uses of site
Impacts of present and prospective uses on site and its distinctive features
Probable effects of marine sanctuary designation and recommended regulations
Present uses of resources
Future uses of resources
Uses of adjacent areas (including those on shore)
Management
Summary of who should manage area and why
Summary of activities which must be regulated to ensure protection of distinctive features

(c) The Assistant Administrator may request such additional information as is necessary to make the determination called for by §§ 922.21 and 922.23.

§ 922.21 Analysis of recommendations.

(a) Within 3 months of receiving a recommendation for any site the Assistant Administrator shall review the site in accordance with the criteria of subsection (b) to determine if it should be placed on the List of Recommended Areas. The Assistant Administrator shall promptly notify the recommender in writing of his determination. In the event the site is rejected, the Assistant Administrator shall include a statement of the reasons for the rejection and indicate that the recommendation may be resubmitted with additional information. Notification of the placement of any site on the List will be published in the *Federal Register*.

(b) To be eligible for placement on the List of Recommended Areas for marine sanctuaries a candidate area shall contain one or more of the following:

(1) Important habitat on which any of the following depend for one or more life

cycle activity, including breeding, feeding, rearing young, staging, resting or migrating:

(i) Rare, endangered or threatened species; or

(ii) Species with limited geographic distribution; or

(iii) Species rare in the waters to which the Act applies; or

(iv) Commercially or recreationally valuable marine species.

(2) A marine ecosystem of exceptional productivity indicated by an abundance and variety of marine species at the various tropic levels in the food web.

(3) An area of exceptional recreational opportunity relating to its distinctive marine characteristics.

(4) Historic or cultural remains of widespread public interest.

(5) Distinctive or fragile ecological or geologic features of exceptional scientific research or educational value.

(c) Sanctuary boundaries should include an area sufficient to provide reasonable assurance that the resource value of the area can be protected against degradation or destruction. The boundary will not include an area greater than that appropriate to protect the resource. The determination of boundaries should consider the following elements, depending on the resource values that justify establishing the sanctuary:

(1) The range and interrelations of key elements of the ecosystem.

(2) The potential for adverse impact from human activities at some distance from where they are conducted, whether as a result of normal operations or foreseeable accidents.

(3) The economic, safety, and other effects of displacing certain human activities to other locations to the extent such displacement is likely to occur.

(4) The feasibility and cost of conducting surveillance and enforcement activities in the area.

(d) Where overlapping or adjacent sites are recommended or where the recommended boundaries of an area appear either excessive or inadequate to protect the identified features, the Assistant Administrator may prepare a combined or revised description for placement on the List of Recommended Areas.

(e) All recommendations submitted prior to the effective date of these regulations will be reviewed in accordance with this section and an initial List of Recommended Areas will be published in the *Federal Register* within 3 months of such date. Thereafter the List will be updated at least semi-annually and a cumulative List published in the *Federal Register*.

§ 922.22 Effect of placement on the List of Recommended Areas or Active Candidates.

(a) The List of Recommended Areas provides a source of information on sites believed to contain some resource value and may be helpful to Federal agencies and others planning or conducting activities that affect these sites. It is anticipated that, normally, once a site is selected as an Active Candidate, such status will be mentioned in an agency's Environmental Impact Statement (EIS) covering such an activity.

(b) Placement of a site on either List does not establish any regulatory controls, which can be established only after designation in accordance with § 922.26. Listing is a prerequisite for designation as a marine sanctuary but many more sites will be listed than designated and listing does not imply that designation will ever occur.

Subpart C—Selection of Active Candidates and Designation of Sanctuaries

§ 922.23 Selection of Active Candidates.

(a) A site on the List of Recommended Areas will be selected as an Active Candidate for designation as a marine sanctuary on the basis of:

(1) The significance of the resources identified during review for listing under § 922.21(b);

(2) The extent to which the means are available to the Assistant Administrator to support full review within the time specified in § 922.24; and

(3) The following additional factors:

(i) The severity and imminence of existing or potential threats to the resources including the cumulative effect of various human activities that individually may be insignificant.

(ii) The ability of existing regulatory mechanisms to protect the values of the sanctuary and the likelihood that sufficient effort will be devoted to accomplishing those objectives without creating a sanctuary.

(iii) The significance of the area to research opportunities on a particular type of ecosystem or on marine biological and physical processes.

(iv) The value of the area in complementing other areas of significance to public or private programs with similar objectives, including approved Coastal Zone Management programs.

(v) The esthetic qualities of the area.

(vi) The type and estimated economic value of the natural resources and human uses within the area which may be foregone as a result of marine sanctuary designation, taking into

account the economic significance to the nation of such resources and uses and the probable impact on them of regulations designed to achieve the purposes of sanctuary designation.

(vii) The economic benefits to be derived from protecting or enhancing the resources within the sanctuary.

(b) Before selecting a site as an Active Candidate, the Assistant Administrator shall consult on a preliminary basis with relevant Federal agencies, state and local officials including port authorities, Regional Fishery Management Councils and other interested persons including the recommender to determine the nature of potential impacts in the area and to gather additional information as necessary to conduct the review process.

(c) Selection of any site as an Active Candidate for designation shall be announced in the *Federal Register* and all Active Candidates shall be placed on a separate list published and updated concurrently with the List of Recommended Areas as provided in § 922.21(e).

(d) Any site for which a Public Workshop as described in § 922.24(a) has been held or for which such a workshop has been scheduled prior to the effective date of these regulations, shall be considered an Active Candidate. These Active Candidates shall be announced in the *Federal Register* as soon as practicable after the effective date of these regulations, and prerequisites to Active Candidate status will be considered satisfied by inclusion in this announcement.

(e) The Assistant Administrator shall make every effort to consult and cooperate with affected States through the entire review and consideration process. In particular the Assistant Administrator shall

§ 922.24 Review of active candidates.

(a) Within six months of selection as an Active Candidate as specified in § 922.23, the Assistant Administrator shall conduct one or more Public Workshops in the area or areas most affected to solicit the views of interested persons to aid in determining whether the site should be further considered for Designation and whether any modifications to the recommendation may be appropriate. This workshop shall be before and in addition to the public hearings required under section 302(e) of the Act.

(b) Based on the views obtained at the Public Workshop and other relevant information, the Assistant Administrator shall determine whether the site should continue to be an Active Candidate and shall announce that decision in the *Federal Register* within 90 days of the last Public Workshop. If the site will not continue to be an Active Candidate, the notice shall specify the reasons. If the site continues to be an Active

Candidate, the Assistant Administrator shall prepare a draft Environmental Impact Statement (DEIS), containing a draft Designation document and regulations implementing the Designation in consultation with relevant Federal, State and local officials. Regional Fishery Management Council members and other interested persons. At or about the same time, the Assistant Administrator will publish the proposed Designation and regulations in the *Federal Register* in accordance with the Administrative Procedure Act.

(c) No less than 30 days after the Environmental Protection Agency (EPA) publishes a Notice of Availability in the *Federal Register*, the Assistant Administrator shall hold at least one public hearing in the area or areas most affected by the proposed designation in accordance with section 302(e) of the Act to consider the draft Designation, proposed regulations and DEIS.

§ 922.25 Coordination with States.

(a) Following the receipt of any recommendation, the Assistant Administrator shall notify the designated Coastal Zone Management Agency of an affected State or States with an approved Coastal Zone Management Program.

(b) The Assistant Administrator shall make every effort to consult and cooperate with affected States through the entire review and consideration process. In particular the Assistant Administrator shall

(1) Consult with the relevant State officials prior to selection of an Active Candidate for consideration, pursuant to § 922.23(b).

(2) Ensure that any State agency designated under sections 305 or 306 of the Coastal Zone Management Act of 1972 and any other appropriate State agency is consulted prior to holding any Public Workshop pursuant to § 922.24(a) or public hearing pursuant to § 922.24(c), and

(3) Ensure that such Public Workshops and Public Hearings include consideration of the relationship of a proposed designation to State waters and the consistency of the proposed designation with an approved State Coastal Zone Management Program.

§ 922.26 Designation.

(a) In response to the comments received, including those at the Public Hearing described in § 922.24(c), the Assistant Administrator shall prepare a final environmental impact statement including the Designation and implementing regulations and file it with EPA. After final consultation with all

appropriate Federal agencies and Regional Fishery Management Councils, the Secretary shall transmit to the President for approval the proposed Designation prior to making the site a Marine Sanctuary.

(b) The Designation shall specify by its terms the geographic coordinates of the Sanctuary area, its distinctive features that require protection, and the types of activities that may be subject to regulation. The terms of the Designation may be modified only by the same procedures through which the original designation was made.

(c) The regulations shall be consistent with and implement the terms of the Designation and shall set forth the limits of human activities within the sanctuary and procedures for the review and certification of permits, licenses or other authorizations pursuant to other authorities. All amendments to these regulations must remain consistent with the Designation.

(d) Where essential to prevent immediate, serious and irreversible damage to the resources of a sanctuary, activities other than those listed in the Designation may be regulated within the limits of the Act on an emergency basis for an interim period not to exceed 120 days, during which an appropriate amendment of the Designation would be sought.

(e) If, within 60 days of the publication of the Designation as provided in paragraph (e), the Governor of a state whose waters are included in the sanctuary certifies that any terms of the Designation are unacceptable, such terms and any regulations implementing them shall not become effective for the part of the sanctuary in state waters until the certification is withdrawn. If the Governor so certifies, the Designation may be withdrawn if, in the opinion of the Assistant Administrator, the sanctuary, as modified, no longer achieves the objectives specified in the Act, the regulations, and the Designation.

(f) The Assistant Administrator shall announce the designation of a Sanctuary and publish the Designation document and implementing regulations in the *Federal Register*.

Subpart D—Enforcement

§ 922.30 Penalties.

Any person subject to the jurisdiction of the United States who violates any regulation issued pursuant to the Act shall be liable for a civil penalty of not more than \$50,000 for each such violation. Each day of a continuing violation shall constitute a separate

violation. No penalty may be assessed under this section until the person charged has been given notice and an opportunity to be heard. Upon failure of the offending party to pay an assessed penalty, the Attorney General, at the request of the Administrator, will commence action in the appropriate District Court of the United States in order to collect the penalty and to seek such other relief as may be appropriate. A vessel used in the violation of a regulation issued pursuant to the Act will be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any District Court of the United States having jurisdiction thereof. Pursuant to section 303(a) of the Act, the District Courts of the United States having jurisdiction to restrain a violation of the regulations issued pursuant to the Act, and to grant such other relief as may be appropriate.

§ 922.31 Notice of violation.

Upon receipt of information that any person has violated any provision of this title, the Administrator shall notify such person in writing of the violation with which charged, and of the right to demand a hearing to be held in accordance with § 922.32. The notice of violation shall inform the person of the procedures for requesting a hearing and may provide that, after a period of 30 days from receipt of the notice, any right to a hearing will be deemed to have been waived.

§ 922.32 Enforcement hearings.

Hearings requested under § 922.31 shall be held not less than 60 days after the request is received. Such hearings shall be on the record before a hearing officer. Parties may be represented by counsel, and shall have the right to submit motions, to present evidence in their own behalf, to cross examine adverse witnesses, to be apprised of all evidence considered by the hearing officer, and, upon payment of appropriate costs, to receive copies of the transcript of the proceedings. The hearing officer shall rule on all evidentiary matters and on all motions, which shall be subject to review pursuant to § 922.33.

§ 922.33 Determinations.

Within 30 days following conclusion of the hearing, the hearing officer shall make findings of facts and recommendations to the Administrator, unless such time limit is extended by the Administrator for good cause. When appropriate, the hearing officer may recommend a penalty, after consideration of the gravity of the violation, prior violations by the person charged, and the demonstrated good faith by such person in attempting to achieve compliance with the provisions

of the title and regulations issued pursuant thereto. A copy of the findings and any recommendation of the hearing officer shall be provided to the person charged at the same time they are forwarded to the Administrator. Within 30 days of the date on which the hearing officer's findings and recommendations are forwarded to the Administrator, any party objecting thereto may file written exceptions with the Administrator.

§ 922.34 Final action.

A final order on a proceeding under this part shall be issued by the Administrator no sooner than 30 days following receipt of the findings and recommendations of the hearing officer. A copy of the final order shall be served by registered mail (return receipt requested) on the person charged or his representative.

[FR Doc. 79-23574 Filed 7-30-79; 8:45 am]

BILLING CODE 3510-22-M

FEDERAL TRADE COMMISSION 16 CFR Part 13

[Docket No. C-2976]

International Inventors Incorporated, East, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other thing, requires an Alexandria, Va. idea promotion firm and its principal officer to cease failing to provide fair and thorough evaluations as to the commercial feasibility of customers' ideas; and misrepresenting that they successfully promote and negotiate with interested manufacturers on clients' behalf; that they secure lucrative contracts for clients through such efforts; and that the Document Disclosure Program of the United States Patent and Trademark Office protects clients' ideas prior to the filing of a formal patent application. The order requires that prescribed disclosures regarding the financial success of previous clients, the lack of legal protection for ideas, and the advisability of consulting with a patent attorney before signing an agreement be included in contracts and promotional material; and prohibits the company from accepting any fees for promotional services, other than a percentage of royalties earned through its endeavors. Additionally, the firm is required to maintain particular records for a specified period, and institute a continuing surveillance program designed to ensure compliance with the terms of the order.

DATES: Complaint and order issued July 5, 1979.¹

FOR FURTHER INFORMATION CONTACT: FTC/PL, Edward D. Steinman, Washington, D.C. 20580. (202) 523-3948.

SUPPLEMENTARY INFORMATION: On Tuesday, March 27, 1979, there was published in the Federal Register, 44 FR 18231, a proposed consent agreement with analysis in the Matter of International Inventors Incorporated, East, a corporation, and James H. Haren, individually and as an officer of said corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows: Subpart-Advertising Falsely or Misleading: § 13.15 Business status, advantages or connections; 13.15-5 Advertising and promotional services; 13.15-20 Business methods and policies; 13.15-30 Connections or arrangements with others; 13.15-80 Government connections; 13.15-100 History; 13.15-195 Nature; 13.15-220 Patent or other rights; 13.15-245 Prospects; 13.15-250 Qualifications and abilities; 13.15-255 Reputation, success or standing; 13.15-265 Service; § 13.42 Connection of others with goods; § 13.60 Earnings and profits; § 13.85 Government approval, action, connection or standards; § 13.90 History of product or offering; § 13.143 Opportunities; § 13.145 Patent or other rights; § 13.160 Promotional sales plans; § 13.190 Results; § 13.205 Scientific or other relevant facts; § 13.250 Success, use or standing; § 13.275 Undertakings in general. Subpart-Contracting For Sale in Any Form Binding On Buyer Prior To End Of Specified Time Period: § 13.527 Contracting for sale in any form binding on buyer prior to end of specified time period. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-40 Furnishing information to media; 13.533-45 Maintain records; 13.533-55 Refunds, rebates and/or credits. Subpart-Misrepresenting Oneself and Goods—Business Status, Advantages or Connections: § 13.1370 Business

¹ Copies of the Complaint and Decision and Order filed with the original document.

methods, policies, and practices; § 13.1395 Connections and arrangements with others; § 13.1425 Government connection; § 13.1435 History; § 13.1490 Nature; § 13.1540 Reputation, success or standing; § 13.1553 Services.—Goods: § 13.1615 Earnings and profits; § 13.1650 History of product; § 13.1675 Law or legal requirements; § 13.1700 Patent rights; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1755 Success, use, or standing; § 13.1760 Terms and conditions; § 13.1760-50 Sales contract; § 13.1765 Undertakings, in general.—Promotional Sales Plans: § 13.1830 Promotional sales plans. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1854 History of products; § 13.1863 Limitations of product; § 13.1870 Nature; § 13.1892 Sales contract, right-to-cancel provision; § 13.1892-2 Commencing contractual obligations prior to end of cooling-off period; § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions; § 13.1905-50 Sales contract. Subpart-Offering Unfair, Improper and Deceptive Inducements To Purchase or Deal: § 13.1935 Earnings and profits; § 13.2015 Opportunities in product or service; § 13.2063 Scientific or other relevant facts; § 13.2090 Undertakings, in general.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45).)

Carol M. Thomas,

Secretary.

[FR Doc. 79-23575 Filed 7-30-79; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE Food and Drug Administration 21 CFR Part 520

[Docket No. 79N-0213]

Oral Dosage Form New Animal Drugs Not Subject to Certification; Oxytetracycline Hydrochloride Capsules

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations for oxytetracycline hydrochloride capsules to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data. These conditions of use were classified as probably effective as a result of a National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group evaluation of the product. In lieu of certain efficacy data, approval may

require submission of bioequivalence or similar data. An earlier Federal Register publication has reflected this product's compliance with the conclusions of the review.

EFFECTIVE DATE: July 31, 1979.

FOR FURTHER INFORMATION CONTACT: Donald A. Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of a drug product containing oxytetracycline and glucosamine was published in the Federal Register of August 6, 1970 (35 FR 12564). In that document, the Academy concluded, and FDA concurred, that the antimicrobial effect of oxytetracycline has been established but the claims for glucosamine should be documented or dropped.

That announcement was issued to inform holders of new animal drug applications (NADA's) of the findings of the Academy and the agency, and to inform all interested persons that such articles could be marketed if they were the subject of approved NADA's and otherwise complied with the requirements of the Federal Food, Drug, and Cosmetic Act.

Pfizer & Co., Inc., 235 East 42d St., New York, NY 10017, responded to the notice by submitting a supplemental NADA (7-879V) deleting glucosamine from the formulation and providing current information covering manufacturing and controls and revising the labeling for the safe and effective use of the product in dogs and cats. The supplemental application was approved by regulation issued in the Federal Register of April 25, 1974 (39 FR 14591). The regulation reflecting this approval (21 CFR 135c.120, recodified 21 CFR 520.1660b) did not specify those conditions of use that were NAS/NRC approved.

This document amends the regulations to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data required for approval by § 514.111(a)(5)(vi) of the new animal drug regulations. In lieu of those data, approval of such products may be obtained if bioequivalency or similar data are submitted as suggested in the guideline for submitting NADA's for generic drugs reviewed by the NAS/NRC. The guideline is available from the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended in § 520.1660b by adding after paragraphs (c)(1), (2), and (3) the footnote reference "(1)" and by adding at the end of the section the footnote to read as follows:

§ 520.1660b Oxytetracycline hydrochloride capsules.

(c) Conditions of use. (1) * * *
(2) * * *
(3) * * *

Effective date. This regulation is effective July 31, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: July 24, 1979.

Marvin A. Narcross,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 79-23504 Filed 7-30-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 520

[Docket No. 79N-0225]

Oral Dosage Form New Animal Drugs Not Subject to Certification; Trifluomeprazine Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations for trifluomeprazine tablets to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data. These conditions of use were classified as probably effective as a result of a National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group evaluation of the product. In lieu of certain efficacy data, approval may require submission of bioequivalence or similar data. An earlier Federal Register publication has reflected this product's compliance with the conclusions of the review.

EFFECTIVE DATE: July 31, 1979.

FOR FURTHER INFORMATION CONTACT: Donald A. Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

¹ These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of this product was published in the Federal Register of November 18, 1969 (34 FR 18394). In that document, the Academy concluded, and the Food and Drug Administration (FDA) concurred, that the product was probably effective as a tranquilizer for veterinary use.

That announcement was issued to inform holders of new animal drug applications (NADA's) of the findings of the Academy and the agency, and to inform all interested persons that such articles could be marketed if they were the subject of approved NADA's and otherwise complied with the requirements of the Federal Food, Drug, and Cosmetic Act.

Norden Laboratories, Lincoln, NE 68501, responded to the notice by submitting a supplemental NADA (12-746V) providing current information covering manufacturing and controls and revising the labeling for the safe and effective use of the product as a tranquilizer for dogs. The supplemental application was approved by a regulation issued in the Federal Register of October 3, 1972 (37 FR 20683). The regulation reflecting this approval (21 CFR 135c.84 recodified 21 CFR 520.2560) did not specify those conditions of use that were NAS/NRC approved.

This document amends the regulations to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data required for approval by § 514.111(a)(5)(vi) of the animal drug regulations. In lieu of those data, approval of such products may be obtained if bioequivalency or similar data are submitted as suggested in the guideline for submitting NADA's for generic drugs reviewed by the NAS/NRC. The guideline is available from the office of the Hearing Clerk (HFA-305), Rm. 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended in § 520.2560 by adding after paragraph (d) (1) and (2) the footnote reference "1" and by adding at the end of the section the footnote to read as follows:

§ 520.2560 Trifluomethopazine tablets.

(d) Conditions of use. (1) * * *
(2) * * *

¹ These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by

Effective date. This regulation is effective July 31, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))).

Dated: July 24, 1979.

Marvin A. Narcross,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 79-23508 Filed 7-30-79; 8:45 am]
BILLING CODE 4110-03-M

21 CFR Part 524

[Docket No. 79N-0212]

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification; Prednisolone Sodium Phosphate-Neomycin Sulfate Ophthalmic Ointment

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: This document amends the animal drug regulations for prednisolone sodium phosphate-neomycin sulfate ophthalmic ointment to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data. These conditions of use were classified as probably effective as a result of a National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Group evaluation of the product. In lieu of certain efficacy data, approval may require submission of bioequivalence or similar data. An earlier Federal Register publication has reflected this product's compliance with the conclusions of the review.

EFFECTIVE DATE: July 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Donald A. Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of this product was published in the Federal Register of July 23, 1970 (35 FR 11826). In that document, the Academy concluded, and FDA concurred, that the product was probably effective for use in superficial ocular inflammations or infections limited to the conjunctiva or the anterior segment of the eye of dogs and cats, such as those associated with allergic reactions or gross irritants.

That announcement was issued to inform holders of new animal drug applications (NADA's) of the findings of

§ 514.111 of this chapter, but may require bioequivalency and safety information.

the Academy and the agency, and to inform all interested persons that such articles could be marketed if they were the subject of approved NADA's and otherwise complied with the requirements of the Federal Food, Drug, and Cosmetic Act.

Merck Sharp & Dohme Research Laboratories, Division of Merck & Co. Inc., Rahway, NJ 07065, responded to the notice by submitting a supplemental NADA (11-437V) providing current information covering manufacturing and controls and revising the labeling for the safe and effective use of the product on dogs and cats. The supplemental application was approved by regulation issued in the Federal Register of January 22, 1973 (38 FR 2173). The regulation reflecting this approval (21 CFR 135a.20, recodified 21 CFR 524.1883) did not specify those conditions of use that were NAS/NRC approved.

This document amends the regulations to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data required for approval by § 514.111(a)(5)(vi) of the animal drug regulations. In lieu of those data, approval of such products may be obtained if bioequivalency or similar data are submitted as suggested in the guideline for submitting NADA's for generic drugs reviewed by the NAS/NRC. The guideline is available from the office of the Hearing Clerk (HFA-305), Rm. 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 524 is amended in § 524.1883 by adding after paragraph (c) (1), (2), (3), and (4) the footnote reference "1" and by adding at the end of the section the footnote to read as follows:

§ 524.1883 Prednisolone sodium phosphate-neomycin sulfate ophthalmic ointment.

(c) Conditions of use. (1) * * *
(2) * * *
(3) * * *
(4) * * *

Effective date. This regulation is effective July 31, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))).

¹ These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

Dated: July 24, 1979.

Marvin A. Narcross,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 79-23508 Filed 7-30-79; 8:45 am]
BILLING CODE 4110-03-M

21 CFR Part 546

[Docket No. 79-0220]

Tetracycline Antibiotic Drugs for Animal Use: Tetracycline Oral Liquid

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulation for tetracycline oral liquid to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data. These conditions of use were classified as probably effective as a result of a National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Group evaluation of the product. In lieu of certain efficacy data, approval may require submission of bioequivalence or similar data. An earlier Federal Register publication has reflected this product's compliance with the conclusions of the review.

EFFECTIVE DATE: July 31, 1979.

FOR FURTHER INFORMATION CONTACT: Donald A. Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of this product was published in the Federal Register of July 8, 1970 (35 FR 10966). In that document the Academy concluded, and FDA concurred, that the product Panmycin Aquadrops was probably effective for the treatment of animal diseases when such diseases are caused by pathogenic microorganisms sensitive to tetracycline hydrochloride.

The announcement was issued to inform holders of new animal drug applications (NADA's) of the findings of the Academy and the agency, and to inform all interested persons that such articles could be marketed if they were the subject of approved NADA's and otherwise complied with the requirements of the Federal Food, Drug, and Cosmetic Act.

The Upjohn Co., Kalamazoo, MI 49001, responded to the notice by submitting a supplemental NADA (65-060V) providing current information covering

manufacturing and controls and revising the labeling for the safe and effective use of the product in treating infections in dogs and cats. The supplemental application was approved by regulation published in the Federal Register of March 15, 1974 (39 FR 9933). The regulation reflecting this approval (21 CFR 135c.125, recodified 21 CFR 546.180e(c)) did not specify those conditions of use that were NAS/NRC approved.

This document amends the regulations to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data required for approval by § 514.111(a)(5)(vi) of the animal drug regulations. In lieu of those data, approval of such products may be obtained if bioequivalency or similar data are submitted as suggested in the guideline for submitting NADA's for generic drugs reviewed by the NAS/NRC. The guideline is available from the office of the Hearing Clerk (HFA-305), Rm. 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 546, § 546.180e, is amended by adding after paragraphs (c)(5)(ii)(a), (b), and (c) the footnote reference "1" and by adding at the end of the section the footnote to read as follows:

§ 546.180e Tetracycline oral liquid.

(c) * * *
(5) * * *
(ii) Dogs and cats—(a) * * *
(b) * * *
(c) * * *

Effective date. This regulation is effective July 31, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))).

Dated: June 24, 1979.

Marvin A. Narcross,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 79-23506 Filed 7-30-79; 8:45 am]
BILLING CODE 4110-03-M

¹ These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified in § 514.111 of this chapter, but may require bioequivalency and safety information.

21 CFR Part 1000

[Docket No. 76N-0055]

Diagnostic X-ray Systems Assembly and Reassembly; Suspension of Regulation

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending 21 CFR 1000.16 by suspending those provisions of the regulation that would have, effective August 1, 1979, prohibited (1) the assembly of uncertified components into any diagnostic X-ray system or (2) the reassembly of uncertified components associated with a change of ownership and location. The agency continues indefinitely the provisions permitting installation of uncertified components into existing systems whose components are all uncertified and the provisions permitting continued reassembly of uncertified equipment. This action is taken because the agency is considering the need to amend the assembly/reassembly regulation but cannot publish an amendment before the August 1, 1979, changes take effect.

EFFECTIVE DATE: July 31, 1979.

FOR FURTHER INFORMATION CONTACT: Robert Phillips, Bureau of Radiological Health (HFV-480), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: Section 1000.16 (21 CFR 1000.16) became effective August 1, 1974, but provided for a 5-year transition period during which reassembly of any system containing components not certified under the performance standard for diagnostic X-ray systems and their major components was permitted, as was the assembly of uncertified components into existing systems so long as no certified component was involved in the system. However, the regulation also provided that, after August 1, 1979, no uncertified components could be assembled into a system or reassembled when the reassembly was associated with a change of ownership and location.

In the Federal Register of April 17, 1979 (44 FR 22755), FDA proposed to revoke the provisions of § 1000.16 that apply to assemblies which take place after August 1, 1979, and to extend indefinitely the transitional provisions, because other contemplated or existing agency programs would better improve

the radiation safety performance of all diagnostic X-ray systems without reducing health care delivery.

The agency is currently reviewing the comments it received on the April 17 proposal. It will, however, be unable to complete its review in time to publish a final rule responsive to the comments before August 1, 1979. FDA is, therefore, continuing until further notice § 1000.16 (a) and (b), and suspending until further notice § 1000.16 (c) and (d).

Therefore, under the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177-1179 (42 U.S.C. 263f)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), 21 CFR Subchapter J is amended in Part 1000 by continuing § 1000.16 (a) and (b) in effect until further notice and by suspending § 1000.16 (c) and (d) until further notice.

Effective date: This amendment is effective July 31, 1979. The amendment would normally require 30 days' notice before becoming effective. However, pursuant to 5 U.S.C. 553(d)(3), FDA finds that good cause exists to make the amendment effective immediately upon publication. If the effectiveness of the amendment were delayed, burdensome requirements would be wastefully imposed on the public for the few days or weeks it will take to promulgate final regulations pursuant to the April 17, 1979, proposal.

(Sec. 358, 82 Stat. 1177-1179 (42 U.S.C. 263f))

Dated: July 26, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-23642 Filed 7-27-79; 11:29 am]

BILLING CODE 4110-03-M

POSTAL SERVICE

39 CFR Part 10

International Express Mail Rates; Rates to Canada

AGENCY: Postal Service.

ACTION: Final International Express Mail Rates.

SUMMARY: Pursuant to its authority under 39 U.S.C. 407 the Postal Service is beginning International Custom Designed Express Mail Service with Canada at rates indicated in the table below.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Patricia M. Gibert (202) 245-5624.

SUPPLEMENTARY INFORMATION: On July 13, 1979, the Postal Service published for comment in the Federal Register

proposed rates of postage for International Express Mail to Canada. 44 FR 40899. The proposal invited interested persons to submit written data, views or arguments concerning these rates. However, no comments were received.

The proposal included rates for both Custom Designed and On Demand International Express Mail Service to Canada. Only the Custom Designed Service rates are being put into effect on August 1, 1979. The rates for On Demand Service will be implemented at a later date and will be announced in the Federal Register.

Accordingly, the Postal Service adopts without change the rates of postage for International Express Mail set out in Table 8-9 for inclusion in Publication 42, International Mail, incorporated by reference, 39 CFR 10.1.

(39 U.S.C. 401, 403, 404(a)(2), 407, 410(a); Universal Postal Convention, Lausanne, 1974, T.I.A.S. No. 8231, Art. 6)

W. Allen Sanders,
Acting Deputy General Counsel.

Table 8-9.—Canada—International express mail custom designed service

Pounds (up to and including)	
1	\$23.63
2	24.28
3	24.93
4	25.58
5	26.23
6	26.88
7	27.53
8	28.18
9	28.83
10	29.48
11	30.13
12	30.78
13	31.43
14	32.08
15	32.73
16	33.38
17	34.03
18	34.68
19	35.33
20	35.98
21	36.63
22	37.28
23	37.93
24	38.58
25	39.23
26	39.88
27	40.53
28	41.18
29	41.83
30	42.48
31	43.13
32	43.78
33	44.43
34	45.08
35	45.73
36	46.38
37	47.03
38	47.68
39	48.33
40	48.98
41	49.63
42	50.28
43	50.93
44	51.58

Notes: (1) Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a Designated Post Office.

(2) Pick-up is available under a Service Agreement for an

added charge of \$5.25 for each pick-up stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incur only one pick-up charge.

(3) If tendered at origin airport mail facility, deduct \$3.00 from these rates.

[FR Doc. 79-23583 Filed 7-26-79; 2:39 pm]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[FRL 1286-5; PP 8E2120/R217]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Ammonia

AGENCY: Office of Pesticide Programs,
Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for the pesticide chemical ammonia used as a preservative on corn used for feed. The request was submitted by the U.S. Department of Agriculture. This rule obviates the requirement for establishing a maximum permissible level for residues of ammonia on corn used for feed.

EFFECTIVE DATE: Effective on July 31, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Henry Jacoby, Product Manager 21, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW., Washington, D.C. (202/755-2562).

SUPPLEMENTARY INFORMATION: On December 5, 1978, the EPA published a notice of proposed rulemaking in the Federal Register (43 FR 56917) in response to a pesticide petition (PP 8E2120) submitted to the Agency by the U.S. Department of Agriculture, Science and Education Administration, Washington, D.C. 20250. This petition proposed that 40 CFR 180.1003 be amended by expanding the present exemption from the requirement of a tolerance for residues of ammonia on the raw agricultural commodities grapefruit, lemons, and oranges to include corn grain. Such residues would result from application of the ammonia in the "trickle ammonia process" on stored corn. Commercial bulk ammonia, commonly used in agriculture as fertilizer, would also be used for the corn preservation without further manufacture or alteration chemically. Application of ammonia to corn would be at a rate of 0.5% (dry basis) with resulting residues expected to be negligible and not of toxicological

concern. No requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

Two comments were received objecting to the petition on the grounds that the treatment of corn with ammonia changes the color of corn from yellow to brown and may possibly affect the taste of dry milled corn products and processing of dry milled corn. In addition to physical and chemical changes in the treated corn, a concern was expressed as to how ammonia-treated corn would be graded under current corn-grading standards.

Having considered the comments submitted in response to the proposed exemption from the requirement of a tolerance, the Agency concludes that the objections expressed are valid but can be resolved if the proposed use is restricted to corn grain used for feed only.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.1003 should be adopted with the restriction that the ammonia-treated corn be used for feed only, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before August 30, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708, (A-110), 401 M St., SW., Washington, D.C. 20460. Such objections should be submitted in triplicate and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on July 31, 1979, 40 CFR 180.1003 is amended by expanding the present exemption from requirement of a tolerance for residues of ammonia to include residues on corn grain used for feed as set forth below.

(Sec. 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Dated: July 25, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide
Programs.

Part 180, Subpart D, Section 180.1003 is amended by adding corn grain to read as follows:

§ 180.1003 Ammonia; exemption from the requirement of a tolerance.

The fungicide ammonia is exempted from the requirement of a tolerance when used after harvest on the raw agricultural commodities grapefruit, lemons, oranges, and corn grain for feed use only.

[FR Doc. 79-23612 Filed 7-30-79; 8:45 am]

BILLING CODE 5550-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

41 CFR Part 3-56

Government Property; Departmental Procurement Actions

AGENCY: Department of Health,
Education, and Welfare.

ACTION: Rescission of amendment.

SUMMARY: This document rescinds a section of a final rule on changes to management approval levels regarding departmental procurement actions that appeared at page 48999 of the Federal Register of October 20, 1978. This Department has determined that this amendment is not necessary as the issuance of the final rule covering Part 3-56—Government Property preceded the issuance of the subject amendment and made that amendment unnecessary.

EFFECTIVE DATE: October 20, 1978.

FOR FURTHER INFORMATION CONTACT: Ed Lanham, 202-245-6347.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-29701 appearing at page 48999 in the Federal Register of October 20, 1978, amendment number 15 concerning the revision of § 3-56.301(a) on page 49001 is hereby rescinded in its entirety.

Dated: July 24, 1979.

E. T. Rhodes,
Deputy Assistant Secretary for Grants and
Procurement.

[FR Doc. 79-23726 Filed 7-30-79; 8:45 am]

BILLING CODE 4110-12-M

Public Health Service

42 CFR Part 100

Limitation on Federal Participation for Capital Expenditures; Payment of Costs of Agency Review

AGENCY: Public Health Service, HEW.

ACTION: Notice of revocation of section and adoption of new method for payment of costs of agency review.

SUMMARY: This notice revokes the present rules for payment by the Secretary of costs of reviews by State designated planning agencies of proposed capital expenditures. The Department is adopting a new method for determining payments to these agencies. This new method will remain effective on an interim basis until October 1, 1979.

DATES: This section is revoked effective August 1, 1979, effective on the date of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Colin C. Rorrie, Jr., Ph. D., Director, Bureau of Health Planning, 3700 East-West Highway, Center Building, Room 6-22, Hyattsville, Md. 20782, 301-436-6850.

SUPPLEMENTARY INFORMATION: Section 1122 of the Social Security Act (42 U.S.C. 1320a-1) provides for a program for reviews by designated planning agencies (DPAs) in participating States of certain capital expenditures proposed by or on behalf of health care facilities to determine whether these proposals conform to applicable health plans, standards, and criteria. Subject to certain procedural requirements, the Department will not provide reimbursement under the Medicare, Medicaid, and Maternal and Child Health programs for expenses related to capital expenditures found by DPAs to be out of conformity with these plans, standards, or criteria.

All States which participate in the program of capital expenditure review under section 1122 now have State Health Planning and Development Agencies (SHPDAs) designated under section 1521 of the Public Health Service Act. Each of these SHPDAs also functions as the DPA for its State under section 1122. The functions of these agencies as DPAs are funded through their health planning and development grants under section 1525 of that Act. Thus, the funding formula in § 100.110 of the section 1122 regulations (42 CFR Part 100), which was adopted before the enactment of section 1525, is not in use.

Some of these SHPDAs will soon come to the end of the period for which

they may, under section 1521(b)(2), continue to be conditionally designated. At that time, some may not be eligible to become fully designated under section 1521(b)(3). The Secretary is aware that some States may, in those circumstances, wish to continue to control unnecessary capital expenditures through participation in the section 1122 program. Thus, the funding formula of § 100.110 might again be used.

For several reasons, the Secretary has decided that a different basis to pay States for their costs of agency reviews, other than the funding formula of § 100.110, should be adopted. The existing formula under § 100.110 has several deficiencies. The formula is complex and the data required for its use are not readily available. Also, payments made under the formula would not be a reflection of current costs because § 100.110 requires the use of agency cost data from fiscal year 1974. In addition, the § 100.110 formula is in part based on the needs of areawide health planning agencies and assumes that those agencies will share in the funds provided to DPAs. That element of the formula is no longer appropriate since health systems agencies (the present areawide health planning agencies) receive their funding to perform project reviews from another source, their health planning grants under section 1516 of the Act.

The Secretary believes that a better way to fund these costs is to pay each State an amount equivalent to the amount its SHPDA had most recently budgeted for project reviews. Because each SHPDA's current project review program, with the exception of Missouri's, consists of either the section 1122 program or a substantially similar certificate of need program, the amount a State budgets for project reviews would be a reasonable estimate of the agency's costs in performing the section 1122 reviews. For these reasons, the Secretary has decided to revoke 42 CFR 100.110 and to adopt this new basis for determining the payment to DPAs for carrying out their section 1122 reviews. This new payment method only applies to DPAs that are not designated as SHPDAs under section 1521. For SHPDAs with designation agreements under section 1521 in effect, the costs of section 1122 reviews will continue to be funded through their section 1525 grants.

Under this new payment method the Secretary will review a State's most recent SHPDA budget to determine the amount budgeted for project reviews by the agency. These amounts will include the direct expenses associated with

agency review and the proportionate share of overhead costs assignable to the project review function. As provided by section 1122, the Secretary will pay this amount to the extent that he determines that these costs are reasonable.

Effective date provisions: For the reasons set forth below, the Secretary has determined that public participation in rulemaking before issuance of these rules or method and a delay in their effective date would be impractical and contrary to the public interest. On July 31, 1979, the period for which some SHPDAs may continue to be conditionally designated, will end. Some of these SHPDAs may not be eligible to become fully designated under Section 1521(b)(3). If this occurs, some of these States may wish to participate in the section 1122 program. To give States this opportunity, the Department needs to have available to States a funding mechanism to pay them for the reasonable costs of performing these reviews. Because this funding must be available by August 1, 1979, this rule must become effective immediately.

The rule adopted in this notice remains effective until October 1, 1979, unless earlier revoked by the Secretary. Congress is currently considering amendments to Title XV of the Act. Because these amendments might extend the period for which a SHPDA may continue to be conditionally designated, the States whose SHPDAs are ineligible to receive full designation might receive funds again under the section 1525 grants, in which case this rule would no longer be necessary. If no such legislative amendment is enacted, the Secretary will have the opportunity before October 1 to evaluate the adequacy of the payment mechanism established in this Notice and to decide whether a better method exists to accomplish this purpose.

The Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, revokes 42 CFR 100.110 and adopts the new method for payment of costs of DPA reviews under section 1122 of the Social Security Act, as stated in this Notice.

Dated: June 22, 1979.

Charles Miller,
Acting Assistant Secretary for Health.

Approved: June 28, 1979.

Hale Champion,
Acting Secretary.

[FR Doc. 79-20286 Filed 7-29-79; 8:45 am]

BILLING CODE 4110-83-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5674

[Wyoming 20952]

Wyoming; Powersite Restoration No. 742; Partial Revocation of Powersite Reserve No. 5

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: This order will partially revoke Powersite Reserve No. 5. It has been determined that these lands will not be developed for power purposes but will be restored to operation of the public land laws with the exception of one 40-acre tract which is patented.

EFFECTIVE DATE: August 29, 1979.

FOR FURTHER INFORMATION CONTACT: Evelyn Tauber—202-343-8731.

By virtue of the authority contained in section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by the Federal Power Commission (now the Federal Energy Regulatory Commission) in DA-166-Wyoming, it is ordered as follows:

1. The Executive Order of July 2, 1910, creating Powersite Reserve No. 5 is hereby revoked so far as it affects the following described lands:

Sixth Principal Meridian

T. 33 N., R. 108 W.,

Sec. 2, lots 1, 2, S½N½, N½SW¼, NW¼SE¼.

The area described contains 361.57 acres in Sublette County, of which 40 acres are privately owned.

The lands are located about 7½ air miles east of Pinedale and 7½ miles north of Boulder, Wyoming. The area is steeply sloping with many large boulders scattered over the landscape, and is crossed by both Fall Creek, and Meadow Creek.

The privately owned land (NW¼SW¼) was patented subject to section 24 of the Federal Power Act of June 10, 1920, as amended, 41 Stat. 1075; 16 U.S.C. 818. As to this land, the effect of this order is to relieve the land of the limitation prescribed by the said section 24.

2. The State of Wyoming declined to exercise its preference right of application for highway rights-of-way or material sites as provided by section 24 of the Federal Power Act of June 10, 1920, supra, when notified of the proposed restoration of the land from powersite withdrawal.

3. At 10 a.m. on August 29, 1979, the public lands shall be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on August 29, 1979, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The public lands in this order have been and continue to be open to applications and offers under the mineral leasing laws, and to location under the United States mining laws subject to the provisions of the Act of August 11, 1955, 69 Stat. 681, 30 U.S.C. 621.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Cheyenne, Wyoming 82001.

Guy R. Martin,

Assistant Secretary of the Interior.

July 23, 1979.

[FR Doc. 79-23576 Filed 7-30-79; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FI-5203]

Final Flood Elevation Determination for the Unincorporated Areas of Douglas County, Ga., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the unincorporated areas of Douglas County, Georgia.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the unincorporated areas of Douglas County, Georgia.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final

elevations for the unincorporated areas of Douglas County, Georgia, are available for review at the Douglas County Planning Department, Douglas County Courthouse, 6754 Broad Street, Douglasville, Georgia.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the unincorporated areas of Douglas County, Georgia.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Chattahoochee River..	Approximately 130 feet upstream of Capps Ferry Road.	730
	West Chapel Hill Road extended.	742
	Just upstream of State Highway 92.	747
	Approximately 400 feet upstream of Fairburn Road.	753
Sweetwater Creek	Approximately 200 feet upstream of Factory Shoals Road.	863
	Approximately 100 feet downstream of Blairs Bridge (New) Road.	877
	Approximately 200 feet downstream of State Highway 6.	884
Sweetwater Creek Tributary 1.	Just downstream of Skyview Drive.	887
	Just downstream of Magnolia Drive.	900
Gordon Creek	Just upstream of Skyview Drive.	882
	Douglas County boundary	887
Pine Creek	Douglas County boundary	888
Anneewakee Creek	Approximately 50 feet upstream of Anneewakee Road.	881
	Just upstream of Bomer Road.	883
	Just downstream of Chapel Hill Road.	897
Little Anneewakee Creek.	Approximately 2,000 feet upstream of confluence with Anneewakee Creek.	898
	Approximately 100 feet upstream of Slater Mill Road extended.	940
Gothards Creek	At confluence of Tributary 2...	929
	Approximately 50 feet downstream of Walton Store Road.	935
	Approximately 30 feet downstream of North Flatrock Road.	939
	Approximately 40 feet upstream of North Flatrock Road.	945
Tributary 2	Approximately 30 feet upstream of Cave Springs Road.	941
Tributary 3	Approximately 200 feet upstream of confluence with Gothards Creek.	939
Tributary 4	Just upstream of Dorris Road.	961
Mud Creek	Just upstream of High Point Road.	945
	Approximately 150 feet upstream of Britain Road.	954
	Approximately 120 feet upstream of Ragan Road.	972
Waterfall Branch	Just downstream of Cedar Mountain Road.	970
Town Branch	Approximately 70 feet upstream of Brewer Road.	979
	Approximately 80 feet downstream of Lake Val-Do-Mar Dam.	1,000
	Just upstream of Lake Val-Do-Mar Dam.	1,026
Mobley Creek	Just upstream of Banks Mill Road.	907
	Approximately 150 feet downstream of Berea Road.	939
	Just upstream of Pool Road..	949
	Approximately 150 feet downstream of Mason Creek Road.	973
Tributary 5	Approximately 30 feet upstream of Pool Mill Road.	918
Tributary 6	Just downstream of Daniel Mill Road.	959
Tributary 7	Approximately 400 feet upstream of Mason Creek Road.	977

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: July 17, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-23332 Filed 7-30-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-4919]

Final Flood Elevation Determination for the City of LeRoy, McLennan County, Tex., Under the National Flood Insurance Program**AGENCY:** Office of Federal Insurance and Hazard Mitigation, FEMA.**ACTION:** Final rule.**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the City of LeRoy, McLennan County, Texas.

These base (100-year) flood elevations are the basis of the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of LeRoy, McLennan County, Texas.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of McLennan County, Texas, are available for review at the City Secretary's Office, P.O. Box 86, LeRoy, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of LeRoy, McLennan County, Texas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rice Creek	Southernmost corporate limits	459
	At private road approximately 600 feet upstream of the southernmost corporate limits	460

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: June 22, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-23333 Filed 7-30-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FEMA 5668]

National Flood Insurance Program; Final Flood Elevation Determinations**AGENCY:** Office of Federal Insurance and Hazard Mitigation, FEMA.**ACTION:** Final rule.**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii, call Toll Free Line (800) 424-9080), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determination of flood elevation for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster

Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	# Depth in feet above ground, *Elevation in feet (NGVD)
Illinois	(v) of Lindenhurst, Lake County (Docket No. FI-5208).	Hastings Creek	Northern corporate limits Western corporate limits	*758 *763
Maps available at The Village Hall (Engineer's Office), Lindenhurst, Illinois.				
Illinois	(v) Of Round Lake Heights, Lake County (Docket No. FI-5210).	Round Lake	Downstream corporate limits at Rollins Road	*770
		Drain Tributary	Upstream corporate limits	*770
Maps available at Clerks Office, Village Hall, 629 Pontiac Court, Round Lake Heights, Illinois.				
Illinois	South Beloit, City, Winnebago County (Docket No. FI-5462).	Rock River	Upstream corporate limits (State line)	*737
			Confluence of Turtle Creek	*737
			Downstream corporate limits	*734
		Turtle Creek	Upstream corporate limits (State line)	*750
			Park Avenue (Upstream)	*749
			Wheeler Avenue (Upstream)	*746
			Blackhawk Boulevard (Upstream)	*744
			Chicago and Northwestern R.R. (Upstream)	*744
			Chicago, Milwaukee, St. Paul and Pacific Railroad (Upstream)	*740
			Confluence with Rock River	*737
Maps available at 519 Blackhawk Boulevard, South Beloit, Illinois.				
Indiana	New Chicago, Town, Lake County (Docket No. FI-4976).	Deep River	Grand Boulevard Michigan Street Bridge	*599 *598
Maps available at the Town Hall, New Chicago, Indiana.				
Kansas	(c) of Baldwin, Douglas County (Docket No. FI-5206).	East Fork Tasy Creek	About 200 feet upstream of corporate limits About 100 feet downstream of High Street About 65 feet upstream of High Street About 80 feet upstream of Elm Street Upstream corporate limits	*1,006 *1,009 *1,014 *1,017 *1,021
		Tributary A	About 80 feet upstream of mouth at East Fork Tasy Creek Tributary Just upstream of Third Street About 40 feet upstream of Freemont Street Just upstream of Second Street About 300 feet upstream of Elm Street Just upstream of Dearborn Street Upstream corporate limits	*1,022 *1,026 *1,028 *1,034 *1,035 *1,040 *1,042
		Tributary B	About 100 feet upstream of mouth at East Fork Tasy Creek Tributary About 400 feet upstream of mouth at East Fork Tasy Creek Tributary 1,130 feet upstream of mouth at East Fork Tasy Creek Tributary	*1,001 *1,009 *1,019
		Tributary C	Mouth at East Fork Tasy Creek Tributary About 340 feet upstream of East Fork Tasy Creek Tributary Just downstream of Third Street Just upstream of Third Street Just downstream of High Street 40 feet upstream of High Street 460 feet upstream of High Street	*1,005 *1,018 *1,026 *1,030 *1,035 *1,035
		East Fork Tasy Creek Tributary	About 120 feet upstream of corporate limits Just upstream of Sixth Street Just downstream of High Street Just upstream of High Street	*995 *999 *1,013 *1,021

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Just upstream of Elm Street.....				
		Just upstream of Fremont Street.....		*1,027
		Just downstream of Dearborn Street.....		*1,024
		Upstream side of Dearborn Street.....		*1,032
		Just upstream of Chapel Street.....		*1,037
		About 300 feet upstream of Chapel Street.....		*1,042
Maps available at City Hall, 801 High Street, Baldwin City, Kansas.				
Maryland	Keedysville, Town Washington County (Docket No. FI-5210).	Little Antietam Creek.....	Chessie System.....	*374
			South Main Street (Upstream Side).....	*372
			Coffman Road.....	*364
Maps available at the Town Hall, Keedysville, Maryland.				
Maryland	Sharpsburg, Town Washington County (Docket No. FI-5211).	Tributary No. 105 to Antietam Creek.....	Downstream Corporate Limits.....	*401
			Antietam Street.....	*406
			10th Alley (Upstream Crossing).....	*408
Maps available at the Town Hall, Sharpsburg, Maryland.				
Minnesota	(c) of Hallock, Kittson County (Docket No. FI-5213).	Two Rivers.....	Downstream corporate limit.....	*811
			Minnesota Highway 175.....	*812
		South Branch Two Rivers.....	Corporate limit—confluence with South Branch Two Rivers.....	*813
			Downstream corporate limit.....	*813
			Upstream corporate limit.....	*815
Maps available at Hallock City Hall, P.O. Box 346, Hallock, Minnesota.				
Minnesota	Roseau, Roseau County (Docket No. FI-5214).	Roseau River.....	Just upstream County Road 115.....	*1,035
			Just downstream of State Highway 89.....	*1,037
			Just upstream of County Highway 28.....	*1,042
			2.5 miles upstream of County Highway 28.....	*1,045
			Downstream City of Roseau corporate limit.....	*1,048
			Upstream City of Roseau corporate limit.....	*1,050
			Just downstream of County Highway 124.....	*1,052
		Hay Creek.....	Confluence with Roseau River.....	*1,042
			3,000 feet downstream of County Highway 28.....	*1,043
		Southfork Roseau River.....	Just upstream of County Road 128.....	*1,093
			0.5 miles downstream of State Highway 89.....	*1,089
			Just upstream of State Highway 89.....	*1,101
			Just downstream County Highway 4.....	*1,104
		Warroad River.....	Mouth at Lake of the Woods.....	*1,084
			4.3 miles upstream of mouth of Lake of the Woods.....	*1,066
		Pine Creek.....	Just upstream of County Road 118.....	*1,041
			1.7 miles upstream of County road 118.....	*1,047
Maps available at Roseau County Court House, Roseau, Minnesota.				
New Jersey	Essex Falls, Borough, Essex County (Docket No. FI-5219).	Pine Brook.....	Downstream Corporate Limits.....	*245
			Runnymede Road.....	*306
			Upstream Corporate Limits.....	*308
Maps available at 255 Roseland Avenue, Essex Falls, New Jersey.				
New Jersey	Runnemede, Borough, Camden County (Docket No. FI-5221).	Atlantic Ocean.....	Inundating Big Timber Creek.....	*10
Maps available at the Office of the Borough Clerk, Runnemede, New Jersey.				
New York	Watervliet, City, Albany County (Docket No. FI-5234).	Hudson River.....	Downstream Corporate Limits.....	*25
			Coupress Bridge.....	*27
			Upstream Corporate Limits.....	*27

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available at the office of the City Clerk, City Hall, Broadway and 15th Street, Watervliet, New York.				
New York	White Plains, City, Westchester County (Docket No. FI-5151).	Bronx River.....	Cornell.....	*179
			Hamilton Avenue.....	*186
			Cemetery Road.....	*189
			Upstream Corporate Limits.....	*196
Maps available at the White Plains Planning Department, Municipal Building Annex, White Plains, New York.				
Ohio	(c) of Ashland, Ashland county (Docket No. FI-5076).	Town Run Creek.....	Downstream corporate limits.....	*994
			Just upstream from Lee Avenue.....	*1,005
			230 feet downstream of Holbrook Avenue.....	*1,017
			Just upstream of Holbrook Avenue.....	*1,025
			Just downstream of East Main Street.....	*1,036
			Just upstream of Arthur Street.....	*1,052
			Just Downstream of Center Street.....	*1,052
			Just upstream of Center Street.....	*1,058
			Just downstream of Clairmont Avenue.....	*1,064
			Just upstream of Clairmont Avenue.....	*1,069
			Just downstream of West Main Street.....	*1,073
			Just upstream of Race Street.....	*1,080
			Just upstream of Lindale Avenue.....	*1,090
			Just upstream of Parkside Drive.....	*1,112
			Just downstream of Brookside Golf Course entrance.....	*1,137
			Just upstream of Brookside Golf Course entrance.....	*1,145
			downstream corporate limit.....	*983
		Lang Creek.....	Just upstream of Cleveland Avenue.....	*986
			Upstream corporate limits.....	*991
		Jamison Creek.....	Downstream corporate limits.....	*1,015
			Just downstream of Center Street.....	*1,050
			1,000 feet upstream from Center Street.....	*1,065
			Upstream corporate limits.....	*1,082
Maps available at Mayor's Office, 206 Claremont Avenue, Ashland, Ohio.				
Ohio	Wickliffe, Lake County (Docket No. FI-5225).	Deer Creek.....	Downstream corporate limits.....	*697
			About 650 feet downstream of Rocketteller Road.....	*724
			Just downstream of Rocketteller Road.....	*734
			Just upstream of Rocketteller Road.....	*744
			About 50 feet upstream of Buena Vista Drive.....	*744
Maps available at City Hall, 28730 Ridge Road, Wickliffe, Ohio.				
Pennsylvania	Colebrook, Township, Clinton County (Docket No. FI-5227).	West Branch Susquehanna River.....	Downstream Corporate Limits.....	*578
			Upstream Corporate Limits.....	*594
		Lick Run.....	At confluence with West Branch Susquehanna River.....	*582
			320 feet downstream from Legislative Route 18011 Bridge to Hazard Road.....	*647
		Whiskey Run.....	At confluence with Lick Run (Upstream Side).....	*584
			Legislative Route 18011 Bridge.....	*594
			Approximately 1,200 feet upstream of Legislative Route 18011.....	*643
Maps available at the residence of Ms. Pauline Simcox, Farrandville, Pennsylvania.				
Pennsylvania	Ridley Park, Borough, Delaware County (Docket No. FI-5229).	Little Crum Creek.....	I-95.....	*13
			Glenloch Road.....	*45
			Upstream Corporate Limits.....	*49
		Stony Creek.....	Chester Pike (U.S. Route 13).....	*26
			Hinckley Avenue.....	*48
			Cresswell Street.....	*66

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)		
Maps available at the Borough Office, Ward and Cresswell Streets, Ridley Park, Pennsylvania.						
Pennsylvania	Watsontown, Borough, Northumberland County (Docket No. FI-4855).	West Branch Susquehanna River	Downstream Corporate Limits	*476		
			Brimmer Street	*477		
		Spring Run	Upstream Corporate Limits	*479		
			Confluence of West Branch Susquehanna River	*479		
			Main Street	*479		
			ConRail Bridge (Downstream Side)	*487		
			ConRail Bridge (Upstream Side)	*487		
			Railroad Culvert (Downstream)	*487		
			Railroad Culvert (Upstream)	*494		
			Liberty Street	*497		
			Upstream Corporate Limits	*499		
Maps available at the Borough Building, Watsontown, Pennsylvania.						
West Virginia	Bath, Town, Morgan County (Docket No. FI-5193).	Warm Springs Run	Confluence of Berkeley Road Run	*592		
			Chessie System Bridge (upstream)	*598		
			Independence Street (upstream)	*608		
			Fairfax Street Bridge (upstream)	*614		
			Thomas Street Upstream	*620		
			Broadway Avenue (upstream)	*626		
			John Street (upstream)	*631		
			Myers Street (downstream)	*636		
			Washington Street (upstream)	*622		
			Green Street (downstream)	*633		
		Yellow Spring Run	Upstream Corporate Limits	*646		
			Confluence with Warm Springs Run	*606		
		Davis Road Run	Upstream Corporate Limits	*606		
			Upstream Corporate Limits	*632		
		Maps are available at 304 Warren Street, Bath, West Virginia.				
		West Virginia	Mason County (Docket No. FI-5195).	Ohio River	Upstream Gallipolis Dam	*565
					Confluence of Kanawha River	*570
U.S. Route 33	*577					
Racine Dam	*584					
Arbuckle Creek	ConRail			*572		
	One mile upstream of ConRail			*578		
	1.5 miles upstream of ConRail			*592		
Kanawha River	1.8 miles upstream of ConRail			*603		
	Confluence with Ohio River			*570		
	5 miles upstream of confluence with Ohio River			*570		
Eighteenmile Creek	15 miles upstream of confluence with Ohio River			*571		
	Chessie System			*562		
	County Route 41			*563		
Crab Creek	County Routes 39 and 6			*565		
	ConRail			*567		
	3 miles upstream of ConRail			*567		
	6 miles upstream of ConRail			*570		
	5.5 miles upstream of ConRail			*578		
6 miles upstream of ConRail	*589					
Maps available at the Mason County Courthouse, Point Pleasant, West Virginia.				*611		

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: July 10, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.
[FR Doc. 79-23530 Filed 7-30-79; 8:45am]
BILLING CODE 4210-23-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1389]

Transkentucky Transportation Railroad, Inc. Authorized to Operate Over Tracks Abandoned by Louisville and Nashville Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1389.

SUMMARY: Service Order No. 1389 authorizes the Transkentucky Transportation Railroad, Inc., to operate over abandoned tracks of the Louisville and Nashville Railroad Company, between Maysville, Kentucky, and Paris, Kentucky.

EFFECTIVE DATE: 12:01 a.m., August 16, 1979, and continuing in effect until further order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275-7840.

SUPPLEMENTARY INFORMATION:

Transkentucky Transportation Railroad, Inc. Authorized to Operate Over Tracks Abandoned by Louisville and Nashville Railroad Company

Decided: July 24, 1979.

The Louisville and Nashville Railroad Company (L&N) has been authorized by the Commission, in Docket AB2 (Sub-No. 14), to abandon its line between Maysville, Kentucky, and Paris, Kentucky, a distance of approximately 49.6 miles. The Transkentucky Transportation Railroad, Inc. (TTI) has made an offer to purchase this line which the L&N will cease operating at the close of business on August 15, 1979. The L&N has consented to use of its line between Maysville, Kentucky and Paris, Kentucky, by the TTI pending completion of its sale.

Operation of this line by TTI will permit a continuation of freight service between Maysville, Kentucky, and Paris,

Kentucky, and will provide a route between the Louisville and Nashville Railroad Company and the Chesapeake and Ohio Railway Company.

It is the opinion of the Commission that an emergency exists; that operation by TTI over these tracks abandoned by L&N is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1389 Transkentucky Transportation Railroad, Inc. Authorized to Operate Over Tracks Abandoned by the Louisville and Nashville Railroad Company.

(a) The Transkentucky Transportation Railroad, Inc. is authorized to operate over tracks abandoned by Louisville and Nashville Railroad Company between Maysville, Kentucky and Paris, Kentucky, a distance of approximately 49.6 miles, pending disposition of an application of TTI seeking permanent authority to operate this line.

(b) Application. The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) Nothing herein shall be considered as a prejudgement of the application of TTI seeking authority to operate over these tracks.

(d) Rates applicable. Since this operation by TTI over tracks previously operated by L&N is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed, to, from, or via these lines which were formerly in effect on such traffic when routed via L&N, until tariffs naming rates and routes specifically applicable via TTI become effective.

(e) In transporting traffic over these lines, TTI and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date. This order shall become effective at 12:01 a.m., August 16, 1979.

(g) Expiration date. The provisions of

this order shall remain in effect until modified or vacated by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-23573 Filed 7-30-79; 8:45 am].
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

Groundfish of the Gulf of Alaska; Apportionment of Reserve Amounts

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Apportionment of Reserve Amounts, Final Regulations.

SUMMARY: These regulations make additional amounts of fish available to foreign fishing in accordance with the provisions of the Groundfish of the Gulf of Alaska Fishery Management Plan (FMP) and the regulations implementing this FMP (see 50 CFR 672.20(c) (43 FR 56238) and 50 CFR 611.92(b)(1)(ii) (43 FR 59322)). These regulations apply to vessels of foreign nations fishing for groundfish in the Gulf of Alaska.

EFFECTIVE DATE: July 24, 1979.

FOR FURTHER INFORMATION CONTACT: Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Telephone: (907) 586-7221.

SUPPLEMENTARY INFORMATION:

I. Background

Because of uncertainties about specifications of U.S. capacity, particularly the extent to which U.S. vessels delivering to foreign processors at sea (joint ventures) would harvest

groundfish, the FMP established a reserve of fish which could be released and added to the total allowable level of foreign fishing (TALFF) if U.S. vessels did not harvest at anticipated levels.

On August 23, 1978, the Council adopted an amendment to the FMP for groundfish which increased the reserve of pollock to 133,800 metric tons and increased reserves of species taken incidental to pollock. The purpose of these reserves was to assure that an adequate supply of fish was available to U.S. vessels wishing to sell U.S.-caught fish to foreign processing vessels at sea. The amendment was approved by the Assistant Administrator for Fisheries on September 22, 1978 (43 FR 46349).

Final regulations published on December 1, 1978 (43 FR 58238), established criteria and timing of any reserve release. The final regulations also established a procedure for public comment on the extent to which vessels of the United States would harvest reserve amounts during the remainder of the fishing year.

These regulations provide that up to 25 percent of the initial reserve amounts will be released and added to TALFF as soon as practicable after January 2, March 2, May 2, and July 2 if it is determined that U.S. fishermen will not catch these amounts during the remainder of the fishing year.

In January, 25 percent of the reserves of each species except sablefish was released. In March, 25 percent of the reserves of sablefish, but no other species, was released. In May, 25 percent of the reserves of each species except sablefish was released.

Accordingly, 50 percent of the initial reserves of all species except sablefish are eligible for the July release; of the

sablefish reserves, 75 percent in all fishing area except Southeast and 100 percent in Southeast are eligible for release.

The July release will be made in two stages, the first with the effective date of this public notice and the second on August 15, 1979, or as soon as practicable thereafter. The first stage will involve the release of some or all reserves in certain fishing areas. The second stage will involve the release of any amounts the Regional Director determines will not be harvested by U.S.

fishermen through the end of the fishing year.

II. Determination of Amount of Reserve Release

In accordance with the requirements of 50 CFR 672.20(c) and 50 CFR 611.92(b)(1)(ii), the Regional Director has determined that:

1. Under the first stage of the July release, the following amounts (metric tons) of reserves of each species in each fishing area in the Gulf of Alaska will be retained for U.S. fishermen:

	Shumagin	Chirikof	Kodiak	Yakutat	Southeast
Pollock	50	7,000	10,000	1,000	0
Pacific cod	1,364	574	600	150	0
Flounder	50	50	50	100	0
Pacific ocean perch	450	450	800	625	0
Rockfish	25	25	75	200	0
Sablefish	185	230	675	110	700
Atka mackerel	50	300	400	10	0
Squid	5	10	10	10	0
Other species	100	100	100	30	0

In making this determination, the Regional Director considered to what extent U.S. vessels would harvest the remaining reserves. The Regional Director has concluded that U.S. vessels would take only those amounts shown in the above table. Hence, it is appropriate that the balances be transferred to the TALFF.

2. The remaining amounts (metric tons) of reserves of all species in the Gulf of Alaska will be released and added to the TALFF as follows:

	Shumagin	Chirikof	Kodiak	Yakutat	Southeast
Pollock	22,550	14,550	6,200	3,950	1,600
Pacific cod	0	0	1,610	484	214
Flounder	1,450	350	1,700	600	300
Pacific ocean perch	0	0	0	625	1,000
Rockfish	25	25	75	600	700
Sablefish	340	220	0	790	0
Atka mackerel	450	100	1,350	90	0
Squid	95	90	90	90	100
Other species	550	400	650	270	150

During the public comment period, no testimony was received that substantiated future expansion of the U.S. fishing fleet or U.S. processing

intent beyond that stated in the FMP. Therefore, except for sablefish, current domestic annual harvests (DAH) are sufficient to provide for U.S. catches

that appear likely to be delivered to U.S. processors and need not be supplemented.

The Regional Director has reviewed U.S. harvesting capacity and U.S. processing capacity and intent and has determined that substantial sablefish reserves will be utilized by U.S. industry. Projections made by the U.S. processing industry indicate the sablefish DAH may be exceeded. Accordingly, sufficient sablefish reserves will be retained to support both joint ventures and U.S. processors.

The other reserves remaining after this release are sufficient to provide for joint ventures. Four permits have been issued to foreign processing vessels for joint ventures; as many as 12 U.S. fishing vessels reportedly plan to commence delivering fish to foreign processing vessels in the near future.

III. Response to Public Comments

Ten comments were received during the comment period, two of which favored releasing certain reserves and eight of which favored retaining certain reserves. They are summarized and responded to below:

Comment: All of the available reserves of sablefish, Pacific cod, other rockfish, and "other species" should be released to TALFF to support foreign longline fishing operations for sablefish and Pacific cod.

Response: No sablefish reserves will be released to TALFF in Kodiak or Southeast as they are intended to be utilized by U.S. fishermen fishing for joint ventures and/or U.S. processors. No Pacific ocean perch will be released in the Shumagin, Chirikof, or Kodiak areas; no Pacific cod will be released in the Shumagin or Chirikof areas. These species are intended for joint ventures. Amounts of other fish being released are those the Regional Director has determined will not be needed by U.S. fishermen.

Comment: The entire amount remaining in the reserves should be released to TALFF.

Response: For reasons stated in the above response, only certain amounts of reserves will be released to TALFF.

Comment: Joint ventures will harvest all the Pacific ocean perch and Pacific cod in the Shumagin and Chirikof areas and some of both species in the Kodiak area. Joint ventures will take substantial amounts of pollock and incidental species throughout the Gulf of Alaska. To support joint ventures, therefore, reserves of Pacific ocean perch and Pacific cod in the Shumagin and Chirikof areas, certain amounts of pollock throughout the Gulf of Alaska, and sufficient amount of incidental species should be retained for joint ventures.

Response: As shown in the above table, amounts of Pacific ocean perch, Pacific cod, pollock, and sufficient incidental species are being retained to support joint ventures. During the second stage of this reserve release, any of these amounts the Regional Director determines will not be taken by the end of the fishing year will be released to TALFF.

IV. Other Matters

An environmental impact statement was prepared for the FMP for the Groundfish of the Gulf of Alaska and is on file with the Environmental Protection Agency (EPA). A negative assessment of environmental impact prepared for the reserve release provisions of the groundfish FMP is also on file with the EPA.

The Regional Director has determined that these regulations should be effective immediately for the following reasons:

A. The regulations implementing the FMP provide adequate advance notice and invite public comment on this action;

B. No regulatory restrictions are imposed on any person as a result of this action;

C. This action relates to the extension of a benefit; and

D. Immediate implementation is required to achieve full utilization of the fishery resources concerned. This action is not significant in relation to criteria prescribed by EO 12044, and a regulatory analysis is not required.

Signed at Washington, D.C. this 24th day of July 1979.

Winfred H. Meibohm,

Executive Director,

National Marine Fisheries Service.

(16 U.S.C. 1801, et seq.)

PART 611—FOREIGN FISHING

(1) 50 CFR 611.20 is amended by revising Table 1 of paragraph (c) as follows: Change all entries under Gulf of Alaska Groundfish to read:

§ 611.20 Total allowable level of foreign fishing.

(c) * * *

TABLE 1

(As amended by July 1979 reserve release)

Fishery	Species	Species code	TALFF (metric tons)
Gulf of Alaska groundfish	Cod, Pacific	702	** 16,612
Do	Flounders, including yellowfin sole	129	** 26,050
Do	Mackerel, Atka	207	** 24,040
Do	Perch, Pacific Ocean (POP)	780	** 21,575
Do	Pollock	701	** 136,550
Do	Rockfishes, other than POP	849	** 5,275
Do	Sablefish	703	** 7,100
Do	Squid	509	** 1,965
Do	Other species	499	** 15,370

(2) 50 CFR 611.92 is amended by revising Table I—Gulf of Alaska Groundfish Fishery for 1978/1979 of paragraph (b) as follows:

§ 611.92 Gulf of Alaska trawl fishery.

(b) * * *
(1) * * *
(i) * * *

TABLE I—Gulf of Alaska Groundfish Fishery: TALFF and Reserve; ¹ by Species and Fishing Area for 1978/1979, in metric tons

(As amended by July 1979 reserve release)

Species		Fishing areas ²					Total
		Shumagin	Chirikof	Kodiak	Yakutat	Southeast	
Pollock	TALFF	52,150	42,800	27,400	10,400	3,800	136,550
	Reserve	50	7,000	10,000	1,000	0	18,050
Pacific Cod ³	TALFF	3,936	1,728	7,800	2,250	800	16,612
	Reserve	1,364	574	600	150	0	2,688
Flounders	TALFF	8,150	2,050	9,350	4,800	1,600	26,050
	Reserve	50	50	50	100	0	250
Pacific Ocean perch (POP)	TALFF	2,150	2,150	4,200	6,875	6,200	21,575
	Reserve	450	450	800	625	0	2,325
Other rockfishes ⁴	TALFF	175	175	325	2,300	2,300	5,275
	Reserve	25	25	75	200	0	325
Sablefish	TALFF	1,815	1,170	1,625	2,490	0	7,100
	Reserve	185	230	675	110	700	1,900
Atka Mackerel	TALFF	4,350	3,300	15,400	890	0	24,040
	Reserve	50	300	400	10	0	760
Squid	TALFF	395	390	390	390	400	1,965
	Reserve	5	10	10	10	0	35
Other Species ⁵	TALFF	4,200	3,400	4,700	1,970	1,100	15,370
	Reserve	100	100	100	30	0	330

¹ The TALFFs specified in this table may be modified during the year if reserves are apportioned to TALFF.

² See Figure 3 of Appendix II to Section 611.9 for description of fishing areas.

³ Of the total Pacific cod TALFF, only 5,662 metric tons may be caught west of 157° W. longitude.

⁴ The category "other rockfishes" includes all rockfishes other than Pacific ocean perch.

PART 672—GROUND FISH OF THE GULF OF ALASKA

(3) 50 CFR 672.20 is amended by revising Table I—Optimum Yield and Reserves of paragraph (a) as follows:

§ 672.20 General limitations.

(a) * * *

Table I.—Optimum Yield and Reserves, in Metric Tons

(As amended by July 1979 reserve release)

Species		Fishing areas					Total
		Shumagin	Chirikof	Kodiak	Yakutat	Southeast	
Pollock	OY	57,000	54,400	40,800	12,500	4,100	168,800
	Reserve	50	7,000	10,000	1,000	0	18,050
Pacific Cod	OY	9,600	4,100	15,300	4,300	1,500	34,800
	Reserve	1,364	574	600	150	0	2,688
Flounder	OY	10,400	2,700	12,000	6,400	2,000	33,500
	Reserve	50	50	50	100	0	250
Pacific Ocean Perch (POP)	OY	2,700	2,700	5,200	7,900	6,500	25,000
	Reserve	450	450	800	625	0	2,325
Other Rockfish	OY	300	200	600	3,400	3,100	7,600
	Reserve	25	25	75	200	0	325
Sablefish	OY	2,100	1,400	2,400	3,400	3,700	13,000
	Reserve	185	230	675	110	700	1,900
Atka Mackerel	OY	4,400	3,600	15,800	1,000	0	24,800
	Reserve	50	300	400	10	0	760
Squid	OY	400	400	400	400	400	2,000
	Reserve	5	10	10	10	0	35
Other Species ⁶	OY	4,400	3,600	5,000	2,100	1,100	16,200
	Reserve	100	100	100	30	0	330

⁶ Includes all stocks of finfish except: (1) those listed above; and (2) salmon, steelhead trout, Pacific halibut, and fish of the genus *Coryphaenoides*.

⁷ The category "other species" includes all species of fish except (A) the other fish listed in the table; and (B) shrimp, scallops, salmon, steelhead trout, Pacific halibut, herring, fish of the genus *Coryphaenoides*, and Continental Shelf fishery resources.

[FR Doc. 79-23357 Filed 7-30-79; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 44, No. 148

Tuesday, July 31, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

MERIT SYSTEMS PROTECTION BOARD

[5 CFR Part 432]

Federal Employees; Reduction in Grade and Removal Based on Unacceptable Performance; Request for Comments on Regulation Review

AGENCY: Merit Systems Protection Board.

ACTION: Request for Comments on Regulation Review.

SUMMARY: The American Federation of Government Employees, representing Thomas W. Wells and others, have petitioned the Merit Systems Protection Board to undertake a review of certain regulations published by the Office of Personnel Management (to be codified at 5 CFR § 432.206) to determine whether as adopted, or as implemented by the Social Security Administration of the Department of Health, Education, and Welfare, they had required or would require the commission of a prohibited personnel practice.

DATE: The Board invites public comments on any aspect of this proceeding. To be considered, comments must be received in the Office of the Secretary at the address below on or before August 24, 1979. Oral arguments: September 20, 1979; 2:30 p.m.

ADDRESS: The petition and other papers relating to this action are available for public inspection between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, (Federal holidays excepted) at the Merit Systems Protection Board, Office of the Secretary, 1717 H Street, NW., Room 220, Washington, D.C. 20419. Hearing location: 717 Madison Place, NW., Room 404, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Donald Cox, Deputy General Counsel on 202-653-7165.

SUPPLEMENTARY INFORMATION: The petitioners in this matter specifically asserted that this regulation on its face, or as implemented, would cause a

violation of 5 U.S.C. § 2302(b)(11). This section prohibits a Federal employee from taking or failing to take any personnel action:

* * * if the taking of or failure to take such action violates any law, rule or regulation implementing, or directly concerning, the merit system principles contained in section 2301 of this title.

The Board granted this petition on July 25.

Oral arguments on the matter are scheduled to take place before the Board on September 20, 1979 at 2:30 p.m. in Room 404, 717 Madison Place, NW., Washington, D.C. The hearings will be open to the public.

By order of the Board.

Ruth T. Prokop,

Chairwoman.

[FR Doc. 79-23508 Filed 7-30-79; 8:45 am]

BILLING CODE 6325-20-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[7 CFR Part 226]

Child Care Food Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Extension of Comment Period.

SUMMARY: This notice extends the period for comments on the proposed Child Care Food Program regulations, published July 3, 1979 (44 FR 39076). Because of the complexity of the proposed regulations and the amount of time required to hold meetings with the interested public in each of the agency's seven regions, Robert M. Greenstein, Administrator of the Food and Nutrition Service, has decided to extend the comment period to 60 days. The proposed rule indicated that the comment period would be limited to 45 days, ending on August 17. The comment period is hereby extended to September 1, 1979, by which date comments must be received to be assured of consideration in final rulemaking.

DATE: The comment period is extended to September 1, 1979.

ADDRESS: Send written comments to Jordan Benderly, Director, Child Care and Summer Programs Division, Food

and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Jordan Benderly (202) 447-6509.

Dated: July 27, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-23770 Filed 7-30-79; 8:45 am]

BILLING CODE 3410-30-M

Federal Crop Insurance Corporation

[7 CFR Parts 401, 426]

Proposed Combined Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The proposed rule prescribes procedures for insuring certain combined crops effective with the 1980 crop year. This rule combines provisions from previous regulations for insuring combined crops in a shorter, clearer, and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions must be submitted not later than October 1, 1979, to be assured of consideration.

ADDRESS: Written comments on this proposed rule should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), it is proposed that there be established a new Part 426 of Chapter IV in Title 7 of the Code of Federal Regulations to be known as 7 CFR Part 426, Combined Crop Insurance.

This part prescribes procedures for insuring combined crops effective with the 1980 crop year.

All previous regulations applicable to insuring combined crops as found in 7 CFR 401.101-401.111, and 401.144, will not be applicable to 1980 and succeeding combined crops but will remain in effect for Federal Crop Insurance Corporation (FCIC) combined crop insurance policies issued for the crop years prior to 1980.

It has been determined that combining all previous regulations for insuring combined crops into one shortened, simplified, and clearer regulation would be more effective administratively.

The Federal Crop Insurance Corporation has determined that there will be no new applications accepted for combined crop insurance under the provisions of the proposed 7 CFR Part 426, starting with the 1980 crop year. The program will be continued for those producers with continuous combined crop insurance policies.

The combined crop insurance program, begun in the 1969 crop year, was, at one time, offered in a majority of counties throughout the country as a means of insuring a variety of crops at a reduced premium rate. Over the years, participation in the program has dwindled to seven counties in North Dakota. Several of these counties presently have low participation in the combined crop program, with the majority of producers preferring individual crop coverage.

The determination to discontinue accepting new applications for combined crop insurance, while affecting only new policyholders, will afford those new policyholders a greater flexibility in insurance coverage by allowing them to select varying levels of coverage on individual crops to reduce premium costs. The same benefits will accrue to the current combined crop policyholder who determines that individual crop coverage would be more beneficial, and any insuring experience the producer earned under the combined crop insurance program will be transferred to an individual crop program if the producer decides not to continue with the combined crop program.

It should be reemphasized that the Federal Crop Insurance Corporation intends to maintain the combined crop insurance program under the provisions of the proposed 7 CFR Part 426 for those producers who wish to continue to insure their crops under their continuous combined crop insurance contract.

The proposed 7 CFR Part 428 provides (1) for a Premium Adjustment Table which replaces the current premium discount provisions and includes a maximum 50 percent reduction for good

insurance experience, as well as premium increases for unfavorable experience, on an individual contract basis, (2) that production guarantees will now be shown on a harvested basis with a reduction for any unharvested acreage, (3) that any premium not paid by the termination date will be increased by a 9 percent service fee with a 9 percent simple interest charge applying to any unpaid balances at the end of each subsequent 12-month period thereafter, (4) that the time period for submitting a notice of loss be extended from 15 days to 30 days, (5) that the 60-day time period for filing a claim be eliminated, (6) that three coverage level options be offered in each county, (7) that the Actuarial Table shall provide the level which will be applicable to a contract unless a different level is selected by the insured and the conversion level will be the one closest to the present percent level offered in each county, and (8) for an increase in the limitation from \$5,000 to \$20,000 in those cases involving good faith reliance on misrepresentation, as found in 7 CFR Part 426.5 of these proposed regulations, wherein the Manager of the Corporation is authorized to take action to grant relief.

The proposed Combined Crop Insurance regulations provide a December 31 cancellation date for all combined crop insurance counties. These regulations, and any amendments thereto, must be placed on file in the Corporation's office for the county in which the insurance is available not later than 15 days prior to the cancellation date, in order to afford farmers an opportunity to examine them before the cancellation date of December 31, 1979, before they become effective for the 1980 crop year.

All written submissions made pursuant to this notice will be available for public inspection in the office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to delete and reserve 7 CFR 401.144, but these provisions shall remain in effect for FCIC combined crop insurance policies issued for crop years prior to 1980. The Corporation also proposes to issue a new Part 426 in Chapter IV of Title 7 of the Code of Federal Regulations effective with the 1980 and subsequent combined crops, which shall remain in effect until

amended or superseded, to read as follows:

PART 426—COMBINED CROP INSURANCE

Subpart—Regulations for the 1980 and Succeeding Crop Years

Sec.

- 426.1 Availability of Combined Crop Insurance.
- 426.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
- 426.3 Public notice of indemnities paid.
- 426.4 Creditors
- 426.5 Good faith reliance on misrepresentation.
- 426.6 The contract.
- 426.7 The application and policy.

Authority: Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).

Subpart—Regulation for the 1980 and Succeeding Crop Years

§ 426.1 Availability of Combined Crop Insurance.

Insurance shall be continued under the provisions of this subpart on combined crops in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this chapter the names of the counties in which combined crop insurance will be offered.

§ 426.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for combined crop which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

§ 426.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 426.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest

to any benefit under the contract except as provided in the policy.

§ 426.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the combined crop insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than \$20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 426.6 The contract.

(a) The contract shall cover the insurable crops as provided in the applicable crop policies. The contract shall consist of the combined crop policy, the applicable crop policies and appendixes, and the provisions of the county actuarial table which specify the crops that are applicable to the combined crop policy. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 426.7 The policy.

(a) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1969 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a combined crop contract issued under such prior regulations, without the filing of a new application.

(b) The provisions of the Combined Crop Insurance Policy for the 1980 and succeeding crop years are as follows.

Combined Crop Insurance Policy

Terms and Conditions

1. As to each insured crop, the provisions for that crop contained in the individual policy and appendix for such crop on file in the office for the county shall apply except as provided otherwise herein. In addition, for the purpose of combined crop insurance, those parts of the individual policies which refer to individual crops shall be considered to mean all crops insured under this policy.

2. (a) In addition to section 2 of the applicable individual crop policies, the following shall apply: "The crops insured are all of the crops for which production guarantees and premium rates are shown on the county actuarial table for combined crop insurance, and which are grown on insured acreage."

(b) Insurance shall not be considered to have attached to any acreage of rye for any crop year when the contract is canceled or terminated for indebtedness for that crop year.

3. In lieu of subsection 8(b) of the Terms and Conditions of the applicable individual crop policies, the following shall apply: "Indemnities shall be determined separately for each unit. The amount of indemnity with respect to any unit shall be determined in the following manner: (a) for each insured crop on the unit, multiply the insured acreage by the product of the applicable commodity production guarantee per acre, times the insured interest, times the applicable price for computing indemnities, (b) for each insured crop on the unit multiply the product of the total production to be counted times the insured interest by the applicable price for computing indemnities, (c) add the dollar amounts obtained for each of the respective insured crops in (a) above, and (d) add the dollar amounts obtained for each of the respective insured crops in (b) above, and subtract this sum from the sum obtained in (c) above." *Provided*, That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

4. In lieu of section 5 of the Terms and Conditions of the applicable individual crop policies, the following shall apply:

(a) The annual premium is earned and payable at the time of seeding or planting and the amount thereof shall be determined for each unit by multiplying the applicable diversification factor(s) times the applicable premium factor(s), times the premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

BILLING CODE 3410-08-M

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE																
Loss Ratio 1/ Through Previous Crop Year	Numbers of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Percentage Adjustment Factor For Current Crop Year																
.00 - .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 - .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 - .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 - .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 - 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE																
Loss Ratio 1/ Through Previous Crop Year	Number of Loss Years Through Previous Year 2/															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Percentage Adjustment Factor For Current Crop Year																
1.10 - 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 - 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 - 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 - 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 - 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 - 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 - 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 - 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 - 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 - Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

2/ Only the most recent 15 crop years will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year).

BILLING CODE 3410-08-C

(d) Any premium adjustment percentage in subsection (c) of this section shall be transferred to the same insured who changes to individual crop contracts.

5. In lieu of subsection 12(c) of the Terms and Conditions of the applicable individual crop policies, the following shall apply: Following are the cancellation and termination dates:

Counties	Cancellation date	Termination date for indebtedness
All counties	Dec. 31	March 31.

6. Section 4 of the applicable crop appendixes will not be applicable to combined crop insurance.

7. For the purpose of combined crop insurance the term:

(a) "Actuarial table," in lieu of section 1(a) of the Appendix to the applicable individual crop policies, means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and show the production guarantees, coverage levels, premium factors, dollar coverage per acre, applicable prices for computing indemnities, the applicable diversification factor table, insurable and uninsurable acreage, and related information regarding combined crop insurance in the county.

(b) "Diversification factor" means a factor applied to reduce the premium when there is a diversity of crops seeded. The factor is provided on the county actuarial table.

(c) "Insurance unit," notwithstanding that portion of the first sentence preceding item (1) of section (k) of the Appendix to the applicable individual crop policies, means all insurable acreage of all insured crops in the county at the time of seeding. Otherwise the provisions of section (k) of the Appendix to the applicable individual crop policies apply to combined crop insurance.

(d) "Premium factor" means the factor provided on the county actuarial table for use in determining the premium.

This proposal has been reviewed under the USDA criteria established to implement Executive Order NO. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C., 20250.

Note.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942, and OMB Circular NO. A-40.

Approved by the Board of Directors on July 24, 1979.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

[FR Doc 79-25387 Filed 7-30-79; 8:45 am]
BILLING CODE 3410-08-M

[7 CFR Parts 401, 428]

Proposed Sunflower Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule prescribes procedures for insuring sunflower crops effective with the 1980 crop year. This rule combines provisions from previous regulations for insuring sunflowers in a shorter, clearer, and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions must be submitted not later than October 1, 1979, to be assured of consideration.

ADDRESS: Written comments on this proposed rule should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), it is proposed that there be established a new Part 428 of Chapter IV in Title 7 of the Code of Federal Regulations to be known as 7 CFR Part 428, Sunflower Crop Insurance.

This part prescribes procedures for insuring sunflower crops effective with the 1980 crop year.

All previous regulations applicable to insuring sunflower crops as found in 7 CFR 401.101-401.111, and 401.152, will not be applicable to 1980 and succeeding sunflower crops but will remain in effect for Federal Crop Insurance Corporation (FCIC) sunflower insurance policies issued for the crop years prior to 1980.

It has been determined that combining all previous regulations for insuring sunflower crops into one shortened,

simplified, and clearer regulation would be more effective administratively.

In addition, proposed 7 CFR Part 428 provides (1) for a Premium Adjustment Table which replaces the current premium discount provisions and includes a maximum 50 percent reduction for good insurance experience, as well as premium increases for unfavorable experience, on an individual contract basis, (2) for a minimum appraisal of 50 percent of the applicable guarantee for acreage released and planted to another insurable crop, (3) that any premium not paid by the termination date will be increased by a 9 percent service fee with a 9 percent simple interest charge applying to any unpaid balances at the end of each subsequent 12-month period thereafter, (4) that the time period for submitting a notice of loss be extended from 15 days to 30 days, (5) that the 60-day time period for filing a claim be eliminated, (6) that three coverage level options be offered in each county, (7) that the Actuarial Table shall provide the level which will be applicable to a contract unless a different level is selected by the insured and the conversion level will be the one closest to the present percent level offered in each county, (8) for an increase in the limitation from \$5,000 to \$20,000 in those cases involving good faith reliance on misrepresentation, as found in 7 CFR Part 428.5 of these proposed regulations, wherein the Manager of the Corporation is authorized to take action to grant relief, (9) that the three year rotation requirement for insurability for acreage planted to sunflowers be reduced to two years, and (10) that the production guarantee will now be shown on a harvested basis with a reduction of the lesser of 100 pounds or 20 percent of the guarantee for any unharvested acreage.

The proposed Sunflower Crop Insurance regulations provide a December 31 cancellation date for all sunflower producing counties. These regulations, and any amendments thereto, must be placed on file in the Corporation's office for the county in which the insurance is available not later than 15 days prior to the cancellation date, in order to afford farmers an opportunity to examine them before the cancellation date of December 31, 1979, before they become effective for the 1980 crop year.

All written submissions made pursuant to this notice will be available for public inspection in the office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to delete and reserve 7 CFR 401.152, but these provisions shall remain in effect for FCIC sunflower insurance policies issued for crop years prior to 1980. The Corporation also proposes to issue a new Part 428 in Chapter IV of Title 7 of the Code of Federal Regulations effective with the 1980 and subsequent crops of sunflowers, which shall remain in effect until amended or superseded, to read as follows:

PART 428—SUNFLOWER SEED CROP INSURANCE**Subpart—Regulations for the 1980 and Succeeding Crop Years****Sec.**

- 428.1 Availability of Sunflower Seed Insurance
428.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed
428.3 Public notice of indemnities paid
428.4 Creditors
428.5 Good faith reliance on misrepresentation
428.6 The contract
428.7 The application and policy

Authority: Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1980 and Succeeding Crop Years**§ 428.1 Availability of Sunflower Seed Insurance.**

Insurance shall be offered under the provisions of this subpart on sunflower seed in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this chapter the names of the counties in which sunflower seed insurance will be offered.

§ 428.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for sunflower seed which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 428.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 428.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 428.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the sunflower seed insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than \$20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 428.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the sunflower seed crop as

provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 428.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the sunflower seed crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, but placing the extended date on file in the office for the county and publishing a notice in the Federal Register upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however*, That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for 1969 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a sunflower contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and Sunflower Seed Insurance Policy for the 1980 and succeeding crop years, and the Appendix to the Sunflower Seed Insurance Policy are as follows:

United States Department of Agriculture**Federal Crop Insurance Corporation**

Application for 19— and Succeeding Crop Years, Sunflower Crop Insurance Contract

(Contract Number)

(Identification Number)

(Name and Address) (Zip Code)

(County) (State)

Type of Entity

Applicant Is Over 18 Yes—No—

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's

share in the sunflowers planted on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the coverage level and price at which indemnities shall be computed. The premium rates and production guarantees shall be those shown on the applicable county actuarial table filed in the office for the county for each crop year. Level Election—Price Election—

Example: for the 19— Crop Year Only (100 Percent Share)

Location/ farm No.	Guarantee per acre*	Premium per acre**	Practice

*Your guarantee will be on a unit basis (acres x per acre guarantee x share).
**Your premium is subject to adjustment in accordance with section 5(c) of the policy.

B. When notice of acceptance of this application is mailed to the applicant by the Corporation, the contract shall be in effect for the crop year specified above, unless the time for submitting applications has passed at the time this application is filed, and shall continue for each succeeding crop year until canceled or terminated as provided in the contract. This accepted application, the following sunflower insurance policy, the attached appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, and insurable and uninsurable acreage shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

(Code No./Witness to Signature)

(Signature of Applicant)

(Date) _____, 19—

Address of Office for County:

Phone _____

Location of Farm Headquarters:

Phone _____

Sunflower Crop Insurance Policy**Terms and Conditions**

Subject to the provisions in the attached appendix:

1. Causes of Loss. (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, insects, plant disease, wildlife, earthquake or fire occurring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production, as determined by the Corporation, due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants

or employees, (2) failure to follow recognized good farming practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by the actuarial table.

2. Crop and Acreage Insured. (a) The crop insured shall be sunflower seed (hereinafter referred to as "sunflowers") which is initially planted for harvest as sunflowers and which is grown on insured acreage and for which the actuarial table shows a guarantee and premium rate per acre.

(b) The acreage insured for each crop year shall be that acreage planted to sunflowers on insurable acreage as shown on the actuarial table, and the insured share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided*, That insurance shall not attach or be considered to have attached, as determined by the Corporation, to any acreage (1) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (2) not reported for insurance as provided in section 3 if such acreage is irrigated and and irrigated practice is not provided for such acreage on the actuarial table, (3) which is destroyed and after such destruction it was practical to replant to sunflowers and such acreage was not replanted, (4) which are not planted in rows far enough apart to permit cultivation with a row cultivator as determined by the Corporation, (5) initially planted after the date on file in the office for the county which has been established by the Corporation as being too late to initially plant and expect a normal crop to be produced, (6) of volunteer sunflowers, (7) planted to a type or variety of sunflowers not established as adapted to the area or shown as noninsurable on the actuarial table, or (8) on which sunflowers, potatoes, dry beans, soybeans, rape, or mustard have been grown the preceding crop year.

(c) Insurance may attach only by written agreement with the Corporation on acreage which is planted for the development or

production of hybrid seed or for experimental purposes.

3. Responsibility of Insured to Report Acreage and Share. The insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing (a) all acreage of sunflowers planted in the county (including a designation of any acreage to which insurance does not attach) in which the insured has a share and (b) the insured's share therein at the time of planting. Such report shall be submitted each year not later than the acreage reporting date on file in the office for the county.

4. Production Guarantees, Coverage Levels, and Prices for Computing Indemnities. (a) For each crop year of the contract, the production guarantees, coverage levels, and prices at which indemnities shall be computed shall be those shown on the actuarial table.

(b) The production guarantees per acre shall be reduced by the lesser of 100 pounds per acre or 20 percent for any unharvested acreage.

5. Annual Premium. (a) The annual premium is earned and payable at the time of planting and the amount thereof shall be determined by multiplying the insured acreage times the applicable premium per acre, times the insured's share at the time of planting, times the applicable premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during the premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

BILLING CODE 3410-08-M

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE																
Loss Ratio 1/ Through Previous Crop Year	Numbers of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Percentage Adjustment Factor For Current Crop Year																
.00 - .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 - .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 - .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 - .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 - 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE																
Loss Ratio 1/ Through Previous Crop Year	Number of Loss Years Through Previous Year 2/															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Percentage Adjustment Factor For Current Crop Year																
1.10 - 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 - 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 - 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 - 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 - 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 - 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 - 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 - 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 - 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 - Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

2/ Only the most recent 15 crop years will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year).

BILLING CODE 3410-08-C

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided*, When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; *however*, if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. Insurance Period. Insurance on insured acreage shall attach at the time the sunflowers are planted and shall cease upon the earliest of (a) final adjustment of a loss, (b) combining, threshing, or removal of the sunflowers from the field, (c) November 30 of the calendar year in which sunflowers are normally harvested, or (d) total destruction of the insured sunflower crop.

7. Notice of Damage or Loss. (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the sunflowers on any unit are damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late or impractical to replant to sunflowers. Notice shall also be given when such acreage has been put to another use.

(c) In addition to the notices required in subsection (b) of this section, if an indemnity is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than 30 days after the earliest of (1) the date harvest is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire sunflower crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide

additional time if it determines there are extenuating circumstances.

(d) Any insured acreage which is not to be harvested and upon which an indemnity is to be claimed shall be left intact until inspected by the Corporation.

(e) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. Claim for Indemnity. (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of sunflowers on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of sunflowers on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production of sunflowers to be counted for the unit, (3) multiplying the remainder by applicable price for computing indemnities, and (4) multiplying the result obtained in step (3) by the insured share: *Provided*, That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production.

(1) Mature production which grades No. 2 or better shall be reduced .12 percent for each .1 percentage point of moisture in excess of 12.0 percent; and if, due to insurable causes, any sunflowers do not grade No. 2 or better, as defined by the North Dakota Grain Inspection Service Incorporated, on the basis of test weight or seed damage, the production shall be adjusted by (i) dividing the value per pound of the damaged sunflowers (as determined by the Corporation) by the price per pound of No. 2 sunflowers and (ii) multiplying the result by the number of pounds of such sunflowers. The applicable price for No. 2 sunflowers shall be the local market price on the earlier of: the day the loss is adjusted or the day the damaged sunflowers were sold.

(2) Any harvested production from volunteer crops growing with the planted sunflower crop on acreage which the Corporation has not given consent to be put to another use shall be counted as sunflowers on a weight basis.

(3) Appraised production to be counted shall include: (i) greater of the appraised production of 50 percent of the applicable guarantee for any acreage which, with the consent of the Corporation, is planted before sunflower harvest becomes general in the current crop year to any other crop insurable on such acreage (excluding any crop(s)

maturing for harvest in the following calendar year), (ii) any appraisals by the Corporation for potential production on harvested acreage and for uninsured causes and poor farming practices, (iii) not less than the applicable guarantee for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause, and (iv) only the appraisal in excess of the lesser of 100 pounds per acre or 20 percent of the production guarantee for all other unharvested acreage.

(d) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract. *However*, if consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is not put to another use before harvest of sunflowers becomes general in the county, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. Misrepresentation and Fraud. The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. Transfer of Insured Share. If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

11. Records and Access to Farm. The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all sunflowers produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. Life of Contract: Cancellation and Termination. (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided*, That the date of payment for

premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

State	Cancellation date	Termination date for indebtedness
All States	Dec. 31	Mar. 31

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b) and (c) of this section, and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

Appendix—Additional Terms and Conditions

1. Meaning of Terms. For the purposes of sunflower crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding sunflower insurance in the county.

(b) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(c) "Crop year" means the period within which the sunflower crop is normally grown and shall be designated by the calendar year in which the sunflower crop is normally harvested.

(d) "Harvest" means the severance of mature sunflowers from the land for combining or threshing.

(e) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(f) "Insured" means the person who submitted the application accepted by the corporation.

(g) "Office for the county" means the Corporation's office serving the county shown on the application for insurance of such office as may be designated by the Corporation.

(h) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(i) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured sunflower crop at the time of planting as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured. *Provided*, That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest

on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(j) "Tenant" means a person who rents land from another person for a share of the sunflower crop or proceeds therefrom.

(k) "Unit" means all insurable acreage of sunflowers in the county on the date of planting for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the sunflower crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in the office for the county or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. Acreage Insured. (a) The Corporation reserves the right to limit the insured acreage of sunflowers to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the planting of sunflowers.

(b) If the insured does not submit an acreage report on or before the acreage reporting date on file in the office for the county, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. Irrigated Acreage. (a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of planting.

(b) Where irrigated acreage is insurable, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, as determined by the Corporation, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

4. Annual Premium. (a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3)

the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; however, any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

5. Claim for and Payment of Indemnity. (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured sunflower acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c); *Provided*, That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However*, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the sunflowers are planted for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. Subrogation. The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. Termination of the Contract. (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; however, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership

unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

8. Coverage Level and Price Election. (a) If the insured has not elected on the application a coverage level and price at which indemnities shall be computed from among those shown on the actuarial table, the coverage level and price election which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level and price election for any crop year on or before the closing date for submitting applications for that crop year.

9. Assignment of Indemnity. Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. Contract Changes. The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

This proposal has been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C., 20250.

Note.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. A-40.

Approved by the Board of Directors on July 24, 1979.

Peter F. Cole, Secretary,
Federal Crop Insurance Corporation.

[FR Doc. 79-23494 Filed 7-30-79; 8:45 am]

BILLING CODE 3410-06-M

Agricultural Marketing Service

[7 CFR Part 920]

[Docket No. AO-381]

Apples Grown in States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont; Decision and Referendum Order on Proposed Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision proposes a marketing agreement and order regulating the handling of apples grown in a production area comprised of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. Apple producers will be given the opportunity to vote in a referendum to determine if they favor the proposed marketing order.

The proposed order would establish a committee of growers and handlers for local administration. It would provide for establishment of maturity requirements for apples produced in the designated area based on committee recommendations. Also, it would authorize the committee to engage in production and marketing research, and promotional activities designed to promote distribution and consumption of apples. Consumers should benefit from an improved product and growers by an expanded market.

DATE: The representative period for purposes of the referendum herein ordered is July 1, 1978, through June 30, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250. Phone: (202) 447-5975.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing—Issued October 26, 1978; published October 31, 1978. (43 F.R. 50691)

Notice of Recommended Decision—Issued May 11, 1979; published May 17, 1979. (44 F.R. 28806)

PRELIMINARY STATEMENT: The proposed marketing agreement and order were formulated on the record of a public hearing held at West Springfield, Massachusetts, December 4-5, 1978, and at Brentwood (Epping), New Hampshire, December 7, 1978. Notice of the hearing was published in the October 31, 1978, issue of the *Federal Register*. The notice set forth a proposed order submitted by the New England Apple Marketing

Order Study Committee on behalf of apple producers and handlers in the proposed production area.

On the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, on May 11, 1979, filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision which contained notice of the opportunity to file by June 18, 1979, written exceptions thereto. Comments favoring the proposed marketing order were submitted by Mr. Robert Lievens, Woodmont Orchards, Londonderry, New Hampshire; Mr. Donald B. Ricker, Ricker Hill Orchards, Turner, Maine; Mr. David E. Rowe, Mapleview Orchards, Newport, Maine; and Mr. Rockwood N. Berry, Executive Vice President of the New York and New England Apple Institute, Westfield, Massachusetts.

RULINGS ON EXCEPTIONS: Exceptions to the recommended decision were filed by Langrock Sperry Parker & Stahl, attorneys at law, on behalf of Shoreham Cooperative Apple Producers Association, Shoreham, Vermont. One exception stated that Vermont producers were improperly denied a hearing within Vermont on the proposed order. Ample opportunity was given all interested persons to participate in the hearing which was held in two sessions—one at West Springfield, Massachusetts, on December 4-5, 1978, the other at Brentwood (Epping), New Hampshire, on December 7, 1978. A substantial effort was made to bring the hearing to the attention of growers, handlers, and others. The hearing was held following publication in the *Federal Register* on October 31, 1978, of a notice announcing the hearing. That notice contained the proposed order and was issued in accordance with the Department's Rules of Practice Governing Proceedings to Formulate Marketing Agreements and Marketing Orders (7 CFR Part 900). A copy of this notice was mailed to all known growers in the production area, including Vermont growers; a press release announcing the hearings was issued on October 30, 1978, and was made available to the news media in the production area; and a copy of the notice was mailed November 13, 1978, to the Governor of Vermont. Other exceptions challenged the exercise of Federal jurisdiction in this instance, disputed the need for a regulatory program to effectuate the declared purposes of the act, and claimed that Vermont is improperly included in the proposed production area.

Each of these exceptions has been considered carefully and fully in conjunction with the record evidence and the recommended decision pertaining thereto in arriving at the findings and conclusions as set forth in this decision. It is determined that the findings and conclusions and the regulatory provisions as set forth in the recommended decision are appropriate and are hereby affirmed. To the extent that the findings and conclusions and the regulatory provisions of this decision are at variance with such exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

The material issues, findings and conclusions, rulings and general findings of the recommended decision published May 17, 1979, in Volume 44 of the Federal Register (44 FR 28806) are hereby incorporated by reference herein and made a part hereof, subject to the following corrections.

On page 28807, second column, second paragraph under *Findings and conclusions* (1), lines 20 & 21, change ". . . production area in which are handled . . ." to ". . . production area, which are handled in . . ."

On page 28811, first column, last paragraph, line 15, delete "to"

On page 28811, second column, first full paragraph, lines 10 & 11, change ". . . submitted. In conformance with the procedure . . ." to ". . . submitted in conformance with the procedure . . ."

On page 28814, second column, last paragraph, line 8, insert "raisins" following "almonds."

On page 28816, third column, last paragraph, line 4, change "not" to "now"

On page 28818, third column, paragraph (b)(1), line 15, change ". . . or each . . ." to ". . . for each . . ."

On page 28819, first column, § .26, line 13, change "vacany" to "vacancy"

On page 28819, first column, § .27, line 8, change "until" to "until"

On page 28819, third column, § .32, line 1, change "committee" to "committee"

On page 28820, first column, paragraph (b) of § .41, line 23, change "assessment" to "assessments"

On page 28821, first column, § .32, paragraph (a)(3), line 2, change "so" to "to"

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Apples Grown in States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont," and *Marketing Order Regulating the Handling of*

Apples Grown in States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, that this entire decision, except the annexed marketing agreement, be published in the Federal Register. The regulatory provisions of the marketing agreement are identical with those contained in the order which is published with this decision.

Referendum order. It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 *et seq.*) to determine whether the issuance of the annexed order regulating the handling of apples grown in States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont is approved or favored by producers, as defined under the terms of the order, who during the representative period were engaged in the production area in the production of the regulated commodity for market.

The representative period for the conduct of such referendum is hereby determined to be July 1, 1978, to June 30, 1979.

The agents of the Secretary to conduct such referendum are hereby designated to be William J. Doyle and Ronald L. Cioffi, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250.

A Final Impact Analysis is available from Malvin E. McGaha, Chief, Fruit Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, Phone (202) 447-5975.

Copies of this Decision are being mailed to known interested persons. Others may obtain copies from Mr. McGaha.

Signed at Washington, D.C., on: July 26, 1979.

P. R. "Bobby" Smith,

Assistant Secretary for Marketing and Transportation Services.

Marketing Order '1 Regulating the Handling of Apples Grown in States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

Findings

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed marketing agreement and a proposed order, regulating the handling of apples grown in States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

Upon the basis of the record it is found that:

(1) The order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order regulates the handling of apples grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, a proposed marketing agreement and order upon which a hearing has been held;

(3) The order is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The order prescribes, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of apples grown in the production area; and

(5) All handling of apples grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of apples shall be in conformity to and in compliance with the following terms and conditions:

The provisions of the proposed order contained in the recommended decision issued by the Deputy Administrator on May 11, 1979, and published in the Federal Register on May 17, 1979 (44 FR 28806), shall be and are the terms and provisions of this order, and are set forth in full herein.

Marketing Order '1 Regulating the Handling of Apples Grown in States

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

PART 920—APPLES GROWN IN THE STATES OF CONNECTICUT, MAINE, MASSACHUSETTS, NEW HAMPSHIRE, RHODE ISLAND, AND VERMONT

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Authority: Secs. 920.0 to 920.72, inclusive, issued under Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).

Recommended Decision published May 17, 1979 (44 FR 28806)

Definitions

§ 920.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated.

§ 920.2 Act.

"Act" means Public Act No. 10, 73rd Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601-674).

§ 920.3 Person.

"Person" means an individual, partnership, corporation, association, or any other business unit.

§ 920.4 Production area.

"Production area" means the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

§ 920.5 Apples.

"Apples" means all of the varieties grown in the production area classified botanically as *Malus sylvestris*.

§ 920.6 Varieties.

"Varieties" means and includes all classifications or subdivisions of apples.

§ 920.7 Fiscal period.

"Fiscal period" is synonymous with fiscal year and means the 12-month period beginning on July 1 of one year and ending on the last day of June of the following year or such other period as the committee, with the approval of the Secretary, may prescribe.

§ 920.8 Committee.

"Committee" means the New England Apple Administrative Committee established pursuant to § 920.20.

§ 920.9 Grower.

"Grower" is synonymous with "producer" and means any person who produces apples for market, and who has a proprietary interest therein.

§ 920.10 Handler.

"Handler" is synonymous with "shipper" and means any person who sells or handles or causes apples to be handled, or sold.

§ 920.11 Handle.

"Handle" and "ship" are synonymous and mean to sell, consign, deliver, or transport apples, or cause apples to be sold, consigned, delivered, or transported within the production area or between the production area and any point outside thereof: *Provided*, That such terms shall not include: (a) a contract or common carrier transporting apples owned by another person, or (b) the transportation of apples from the location where grown, to a packinghouse, or storage facility within the production area or to such other points as the committee may prescribe with approval of the Secretary for the purpose of storing, or having the apples prepared for market subject to such rules and regulations as the committee may prescribe with the approval of the Secretary.

§ 920.12 District.

"District" means the applicable one of the following described subdivisions of the production area:

- (a) "District 1" shall include the State of Maine;
- (b) "District 2" shall include the State of New Hampshire;
- (c) "District 3" shall include the State of Vermont;
- (d) "District 4" shall include the State of Massachusetts;
- (e) "District 5" shall include the States of Connecticut and Rhode Island.

§ 920.13 Container.

"Container" means any box, bag, crate, basket, carton, package, bulk carton, or bin, or any other type of receptacle used in packaging or handling of apples.

§ 920.14 First sale unit.

"First sale unit" means approximately 40 pounds of apples in any container or containers or in bulk.

Administrative Body

§ 920.20 Establishment and membership.

There is hereby established a New England Apple Administrative Committee consisting of fifteen (15) members, each of whom shall have an alternate who shall have the same qualifications as the member for whom he or she is an alternate. Ten (10) of the members and their respective alternates shall be growers or officers or employees of growers, henceforth referred to as "grower members" of the committee. Each of the five (5) districts shall each be represented by two (2) grower members and their respective alternates: *Provided*, That each shall be a producer of apples in his or her

respective district; and *Provided further*, That at least one grower member or alternate representing "District 5" shall be from the State of Rhode Island. Four (4) members and their respective alternates shall be handlers or officers or employees of handlers, henceforth referred to as "handler members" of the committee. Handler members and alternates shall be selected from the production area at large: *Provided*, That not more than two members may be from one district. The committee shall be increased by one public member and respective alternate nominated by the committee and selected by the Secretary. The committee, with the approval of the Secretary, shall prescribe qualifications, term of office, and the procedure for nominating the public member and alternate.

§ 920.21 Term of office.

(a) The term of office of each member and alternate member of the committee shall be for three fiscal periods beginning July 1 and ending the third succeeding June 30: *Provided*, That the initial term of office of one grower member and alternate member of the committee from each district shall be for three years beginning on or about July 1 and ending on the third succeeding June 30. The initial term of office of one grower member and alternate member from each district shall be for two years beginning on or about July 1 and ending on the second succeeding June 30. The initial term of office of two handler members and alternate members shall be for three years beginning on or about July 1 and ending on the third succeeding June 30. The initial term of office of the other two handler members and alternate members shall be for two years beginning on or about July 1 and ending on the second succeeding June 30. (Determination of length of term of initial members shall be by lot.) No member may serve more than two successive terms. The committee, with the approval of the Secretary, may change the term of office of members and alternate members.

(b) Members and alternate members shall serve in such capacities for the portion of the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified.

§ 920.22 Nomination.

(a) *Initial members*. Nominations for each of the initial members of the committee, together with nominations for the initial alternate members for each position, may be submitted to the Secretary by individual growers and

handlers. Such nominations may be made by means of a meeting of all handlers, and a meeting of growers in each district. Such nominations, if made, shall be filed with the Secretary no later than the effective date of this part. In the event nominations for the initial members are not filed pursuant to, and within the time specified in this section, the Secretary may select such initial members and alternate members without regard to nominations, but selection shall be on the basis of the representation provided for in § 920.20.

(b) *Successor members*. (1) The committee shall hold or cause to be held, not later than May 15, in the year in which nominations are to be made, a meeting of growers in each district and a meeting of handlers for the purpose of designating nominees for successor members and alternate members of the committee, which shall be publicized and open to all growers and handlers. At each meeting, a chairman and a secretary shall be selected by persons eligible to participate therein. The chairman shall announce at the meeting the number of votes cast for each person nominated for member or alternate member and shall submit promptly to the committee a complete report concerning such meeting. The committee shall, in turn, promptly submit a copy of each such report to the Secretary. (2) Only growers, including duly authorized officers or employees of growers, who are present at such nomination meetings may participate in the nominations for grower members and their alternates. Each grower shall be entitled to cast only one vote for each nominee to be elected in the district in which the grower produces apples. No grower shall participate in the election of nominees in more than one district in any one fiscal year. If a person is both a grower and a handler of apples, such person may vote either as a grower or as a handler, but not as both. (3) Only handlers, including duly authorized officers or employees of handlers, who are present at such nomination meetings may participate in the nomination and election of nominees for handler members and their alternates. Each handler shall be entitled to cast only one vote, which vote shall be weighted by the volume of apples handled by such handler during the preceding fiscal year. If a person is both a grower and a handler of apples, such person may vote either as a grower or as a handler but not as both.

§ 920.23 Selection.

From the nominations made pursuant to § 920.22, or from other qualified

persons, the Secretary shall select the 10 grower members of the committee, the four handler members of the committee, and an alternate for each such member.

§ 920.24 Failure to nominate.

If nominations are not made within the time and in the manner prescribed in § 920.22, the Secretary may, without regard to nominations, select the members and alternate members of the committee on the basis of the representation provided for in § 920.20.

§ 920.25 Acceptance.

Any person selected by the Secretary as a member or as an alternate member of the committee shall qualify by filing a written acceptance with the Secretary promptly after being notified of such selection.

§ 920.26 Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate of the committee to qualify, or in the event of the death, removal, resignation, or disqualification of any member or alternate member of the committee, a successor for the unexpired term of such member or alternate member of the committee shall be nominated and selected in the manner specified in § 920.22 and § 920.23. If the names of nominees to fill any such vacancy are not made available to the Secretary within a reasonable time after such vacancy occurs the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of representation provided for in § 920.20.

§ 920.27 Alternate members.

An alternate member of the committee, during the absence or at the request of the member shall act in the place and stead of such member and perform such other duties as assigned. In the event of the death, removal, resignation, or disqualification of a member, the alternate shall act until a successor for such member is selected and has qualified.

§ 920.30 Powers.

The committee shall have the following powers:

- (a) To administer the provisions of this part in accordance with its terms;
- (b) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this part;
- (c) To make and adopt rules and regulations to effectuate the terms and provisions of this part; and
- (d) To recommend to the Secretary amendments to this part.

§ 920.31 Duties.

The committee shall have, among others, the following duties:

- (a) To select a chairman and such other officers as may be necessary, and to define the duties of such officers; and to select subcommittees, and define the duties of each;
- (b) To appoint such employees, agents, and representatives as it may deem necessary, and to determine the compensation and to define the duties and procedures of each;
- (c) To submit to the Secretary at the beginning of each fiscal year a budget for such fiscal year, including a report in explanation of the items appearing therein and a recommendation as to the rate of assessment for such fiscal year.
- (d) To keep minutes, books, and records which will reflect all of the acts and transactions of the committee and which shall be subject to examination by the Secretary;
- (e) To prepare a statement of the financial operations of the committee and to make copies of each such statement available to growers and handlers for examination at the office of the committee;
- (f) To require adequate fidelity bonds for all persons handling funds;
- (g) To cause its books to be audited by a competent public accountant at least once each fiscal year, and at such other times as the Secretary may request;
- (h) To act as intermediary between the Secretary and any grower or handler;
- (i) To provide an adequate system for estimating the total season crop of apples and to make such determinations, as it may deem necessary, or as may be prescribed by the Secretary, in connection with the administration of this part;
- (j) To investigate the growing, handling, and marketing conditions with respect to apples, and to assemble data in connection therewith;
- (k) To engage in such research relating to improved packaging and/or to the determination of maturity, grade and condition standards for apples as may be approved by the Secretary;
- (l) To contract with appropriate parties for the purpose of conducting production and marketing research programs, including paid advertising, promotion, and publicity for apples;
- (m) To submit such available information, including verified reports, as the Secretary may request;
- (n) To notify producers and handlers of meetings of the committee; and
- (o) To give the Secretary the same notice of meetings of the committee as is given to its members.

§ 920.32 Procedure.

(a) Eight members of the committee, six of whom shall be grower members including alternates acting for members, shall constitute a quorum; and any action of the committee shall require at least eight concurring votes.

(b) The committee may vote by telegraph, telephone, or other means of communication, and any vote so cast shall be confirmed promptly in writing: *Provided*, That, if an assembled meeting is held, all votes shall be cast in person.

§ 920.33 Expenses and compensation.

The members of the committee and alternates when acting as members, or when requested by the committee to attend a committee meeting or to perform another committee function shall serve without compensation; but shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part.

§ 920.34 Annual report.

The committee shall, as soon as practicable after the end of the fiscal year, prepare and mail an annual report to the Secretary and make a copy available to each handler and grower who requests a copy of the report. This annual report shall contain at least: (a) a review of the operations during the fiscal year; (b) a summary of marketing research and development, promotion and advertising activities, if any; and (c) any recommendations for changes in the program.

Expenses and Assessments

§ 920.40 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this part during each fiscal year.

§ 920.41 Assessments.

(a) Each person who first handles apples shall, with respect to the apples so handled by such person, pay to the committee upon demand such person's pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the committee during each fiscal year. Each such person's share of such expenses shall be equal to the ratio between the total quantity of apples handled by such handler as the first handler thereof during the applicable fiscal year and the total quantity of apples so handled by all persons during the same fiscal year.

The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) The Secretary shall fix the rate of assessment not to exceed 5 cents per first sale unit or equivalent in containers or in bulk to be paid by each such person. At any time during or after the fiscal year, the Secretary may, subject to the limitations of this paragraph, increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred. A rate of assessment higher than 5 cents per first sale unit may be established but first must be approved by at least two-thirds of the growers voting or two-thirds of the volume of apples voted in a referendum. Such assessment shall be applied to all apples handled during the applicable first year. In order to provide funds for the administration of the provisions of this part during the fiscal year before sufficient operating income is available from assessments, the committee may accept the payment of assessments in advance and may also borrow money for such purpose.

(c) The committee shall impose a late payment charge on any handler who fails to pay his assessment within the time prescribed by the committee. In the event the handler thereafter fails to pay the amount outstanding, including the late payment charge, within the prescribed time, the committee shall impose an additional charge in the form of interest on such outstanding amount. The rate of such charges shall be prescribed by the committee, with the approval of the Secretary.

§ 920.42 Accounting.

(a) If, at the end of a fiscal year the assessments collected are in excess of expenses incurred, such excess shall be accounted for as follows:

(1) Except as provided in paragraphs (a)(2) and (3) of this section, each person entitled to a proportionate refund of any excess assessment shall be credited with such refund against the operation of the following fiscal year unless such person demands payment thereof, in which event it shall be paid to such person: *Provided*, That any sum paid by a person in excess of such person's pro rata share of the expenses during any fiscal year may be applied by the committee at the end of such fiscal year to any outstanding obligations of such person.

(2) The committee, with the approval of the Secretary, may establish and maintain during one or more fiscal years, an operating monetary reserve in an amount, not to exceed approximately 1 fiscal year's operational expenses. Upon approval by the Secretary, funds in such reserve shall be available for use by the committee for all expenses pursuant to § 920.40.

(3) Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practical, such funds will be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in such member's possession to such member's successor in office and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor full title to all of the property, funds, and claims vested in such member pursuant to this part.

Research and Market Development

§ 920.45 Production research, marketing research, and market development.

(a) The committee, with the approval of the Secretary, may establish or provide for the establishment of production research and marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of apples. Such projects may provide for any form of marketing promotion, including paid advertising. The expenses of such projects shall be paid by funds collected pursuant to § 920.41.

(b) The committee, with the approval of the Secretary, may contract with any person or persons to carry out advertising, promotion, and publicity programs. No advertising, promotion or publicity programs shall be conducted with reference to any particular private brand or trade name and no such program shall disparage the quality, value, sale or use of any other

agricultural commodity. The expenses of such programs shall be paid by funds collected pursuant to § 920.41.

Maturity Regulations.

§ 920.50 Marketing policy.

(a) Each season prior to making any recommendations pursuant to § 920.41 and § 920.51, the committee shall submit to the Secretary a report setting forth its marketing policy for the season. Such marketing policy report shall contain information relative to:

(1) The estimated total production of apples within the production area;

(2) The estimated utilization of the crop, showing the quantity and percentages of the crop expected to be marketed through fresh fruit channels; the quantity and percent of the crop expected to be utilized in processed products; and storage information;

(3) Available supplies of competitive apples from outside the production area, and other competitive fruit;

(4) Other factors having a bearing on the marketing of apples;

(5) The type of maturity regulations expected to be recommended during the season; and

(6) The type of research and market development projects expected to be recommended during the season and the effect on utilization.

(b) In the event that it becomes advisable to substantially modify such marketing policy the committee shall submit to the Secretary a revised marketing policy setting forth the information as required in this section. The committee shall transmit a copy of each marketing policy report or revision thereof to the Secretary. Copies of all such reports shall be maintained in the office of the committee where they shall be available for examination by growers and handlers. The committee shall announce the contents of each marketing policy report, including each revised marketing policy report.

§ 920.51 Recommendations for regulations.

(a) Whenever the committee deems it advisable to regulate the handling of any variety or varieties of apples in the manner provided in § 920.52, it shall so recommend to the Secretary.

(b) All meetings of the committee held for the purpose of formulating recommendations for regulations shall be open to growers and handlers. The committee shall give notice of each such meeting to growers and handlers by mailing a notice to each grower and handler who has filed a mailing address with the committee had requested such notice.

§ 920.52 Issuance of regulations.

(a) The Secretary shall regulate, in the manner specified in this section, the handling of apples whenever the Secretary finds, from the recommendations and information submitted by the committee, or from other available information, that such regulations will tend to effectuate the declared policy of the act. Such regulations may (1) specify a date or dates prior to which apples of any variety or varieties produced in any district or specified portion thereof may not be handled, or (2) specify external or internal maturity characteristics which the variety or varieties so produced must possess prior to being handled, or (3) specify such other requirements applicable to such variety or varieties as have been found to constitute a reliable maturity index. The committee may establish, with the approval of the Secretary, a procedure to permit handling of properly matured apples prior to any date established by regulation.

(b) The committee shall be informed immediately of any regulation issued by the Secretary and the committee shall promptly give notice thereof to growers and handlers.

§ 920.53 Modification, suspension, or termination of regulations.

(a) In the event the committee at any time finds that by reason of changed conditions, any regulations issued pursuant to § 920.52 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds from the recommendations and information submitted by the committee or from other available information that a regulation should be modified, suspended, or terminated with respect to any or all shipments of apples in order to effectuate the declared policy of the act, the Secretary shall modify, suspend, or terminate such regulation. If the Secretary finds that a regulation obstructs or does not tend to effectuate the declared policy of the act, the Secretary shall suspend or terminate such regulation. On the same basis and in like manner the Secretary may terminate any such modification or suspension.

§ 920.54 Exemptions.

(a) The committee may, with the approval of the Secretary, relieve from any or all requirements established under this part, the handling of apples for such specified purposes (including shipments to facilitate the conduct of marketing research and development

projects established pursuant to § 920.45), or in such minimum quantities, types of shipments, methods of handling, as may be prescribed.

(b) Except as otherwise provided the provisions of § 920.41 shall not apply to the first 250 first sale units of apples handled in any fiscal period by the person who produced them or such other higher quantity recommended by the committee and approved by the Secretary or to the handling of apples by any person: (1) for processing and juice; (2) in gift packages; (3) for distribution by relief agencies.

(c) The committee shall, with the approval of the Secretary, prescribe such rules, regulations, and safeguards as it may deem necessary to prevent apples handled under provisions of this section from entering into channels of trade for other than the specific purposes authorized by this section. Such rules, regulations, and safeguards may include requirements that handlers shall file applications and receive approval from the committee for authorization to handle apples pursuant to this section, and that such applications be accompanied by a certification by the intended purchaser or receiver that the apples will not be used for any purpose not authorized by this section.

Reports

§ 920.60 Reports.

(a) Each grower shall furnish to the committee, at such times and for such periods as the committee may designate, reports covering the production, utilization, and disposition of his or her crop, to the extent necessary for the committee to perform its functions.

(b) Each handler shall furnish to the committee, at such times and for such periods as the committee may designate, certified reports covering, to the extent necessary for the committee to perform its functions, all shipments of apples.

(c) Each grower and handler shall maintain for at least two succeeding fiscal years, such records of the production, utilization and disposition of apples or of apples received and disposed of by such grower and handler, as applicable, as may be necessary to verify the reports submitted to the committee pursuant to this section.

(d) All reports and records submitted by growers and handlers pursuant to the provisions of this section shall be received by, and at all times be in custody of, one or more designated employees of the committee. No such employee shall disclose to any person, other than the Secretary upon request

therefor, data or information obtained or extracted from such reports and records which might affect the trade position, financial condition, or business operation of the particular grower or handler from whom received: *Provided*, That such data and information may be combined, and made available to any person in the form of general reports in which the identities of the individual furnishing the information is not disclosed and may be revealed to any extent necessary to effect compliance with the provisions of this part and the regulations issued thereunder.

Miscellaneous Provisions

§ 920.61 Compliance.

Except as provided in this part, no person shall handle apples except in conformity with the provisions of this part and the regulations issued thereunder.

§ 920.62 Right of the Secretary.

The members of the committee (including successors and alternates), and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

§ 920.63 Effective time.

The provisions of this part, and of any amendment thereto, shall become effective at such time as the Secretary may declare above his signature and shall continue in force until terminated in one of the ways specified in § 920.64.

§ 920.64 Termination.

(a) The Secretary may at any time terminate the provisions of this part by giving at least 1 day's notice by means of a press release or in any other manner in which the Secretary may determine.

(b) The Secretary shall terminate or suspend the operation of any or all of the provisions of this part whenever the Secretary finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this part whenever the Secretary finds by referendum or otherwise that such termination is favored by a majority of the growers

voting in such referendum. *Provided*, That such majority has, during a representative period determined by the Secretary, produced more than 50 percent of the volume of apples which were produced within the production area for fresh market. Such termination shall become effective on the first day of July subsequent to the announcement thereof by the Secretary.

(d) The Secretary shall, as soon as practicable after the close of the fifth fiscal year following the effective date of this part, conduct a referendum, to ascertain whether continuance of this part is favored by the growers. The Secretary shall terminate the provisions of this part if the Secretary finds by such referendum, as provided in paragraph (c) of the section, that termination is favored by growers.

(e) Upon petition and recommendation of 25 percent of the growers of record, the Secretary shall by referendum determine whether termination of this part is favored by growers, but such action shall be effected only if the petition is submitted for validation by the committee on or before December 15 of the current fiscal year. To determine by such referendum whether termination is favored by producers, the required percentages set forth in the act with respect to producer approval of the issuance of a marketing order shall be used.

(f) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 920.65 Proceedings after termination.

(a) Upon the termination of the provisions of this part, the committee shall, for the purpose of liquidating the affairs of the committee, continue as trustee of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such persons as the Secretary may direct; and (3) upon the request of the Secretary; execute such assignments or other instruments necessary or appropriate to vest in such person, full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant thereto.

(c) Any person to whom funds, property, or claims have been

transferred or delivered, pursuant to this section, shall be subject to the same obligation imposed upon the committee and upon the trustees.

§ 920.6 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provisions of this part or any regulation issued under this part, or (b) release or extinguish any violation of this part or of any regulation issued under this part, or (c) impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§ 920.67 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this part shall cease upon its termination, except with respect to acts done under and during the existence of this part.

§ 920.68 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States, or name any agency or division in the United States Department of Agriculture, to act as the Secretary's agent or representative in connection with any of the provisions of this part.

§ 920.69 Derogation.

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the Act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 920.70 Personal liability.

No member or alternate member of the committee and no employee or agent of the committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee, or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

§ 920.71 Separability.

If any provision of this part is declared invalid or the applicability

thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ 920.72 Amendments.

Amendments to this part may be proposed from time to time, by the committee or by the Secretary.

[FR Doc. 79-23005 Filed 7-30-79; 8:45 am]

BILLING CODE 3410-02-M

Food Safety and Quality Service

(9 CFR Parts 318, 319, and 381)

Use of Enzyme Treatment Substances As Binders and Extenders

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would expand the approved list of binders and extenders for use in certain meat and poultry products. The proposal would amend the Federal meat and poultry products inspection regulations to permit the use of enzyme treated calcium reduced dried skim milk and enzyme treated sodium caseinate as binders or extenders in meat food products and poultry products. Both of these enzyme treated dairy products would be combined with calcium lactate and added to certain products in an amount sufficient to create a calcium/protein ratio which would be comparable to that which is found in skim milk. These proposed ingredients are similar to presently approved binders and extenders in terms of nutritional character and would be subject to the same limitations presently applied to dried skim milk, calcium reduced dried skim milk, and sodium caseinate.

DATE: Comments must be received on or before October 1, 1979.

ADDRESSES: Written comments to: Executive Secretariat, Attn: Annie Johnson, Food Safety and Quality Service, U.S. Department of Agriculture, Room 3807, South Agriculture Building, Washington, D.C. 20250. Oral comments on poultry regulations to: Mr. Irwin Fried, (202) 447-6042. See also "Comments" under Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Mr. Irwin Fried, Acting Director, Meat and Poultry Standards and Labeling Division, Compliance Program, Food Safety and Quality Service, U.S.

Department of Agriculture, Washington, D.C. 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION:

Comments

Interested persons are invited to submit comments concerning this proposal. Written comments must be sent in duplicate to the Executive Secretariat and should bear a reference to the date and page number of this issue of the *Federal Register*. Any person desiring opportunity for oral presentation of views concerning the proposed amendments to the poultry products inspection regulations must make such request to Mr. Fried so that arrangements may be made for such views to be presented. A transcript shall be made of all views orally presented. All comments submitted pursuant to this proposal will be made available for public inspection in the office of the Executive Secretariat during regular hours of business.

Background

The Food Safety and Quality Service (FSQS) has been requested to propose regulations permitting the use of enzyme (rennet) treated calcium reduced dried skim milk and enzyme (rennet) treated sodium caseinate, both of which are to be mixed with calcium lactate, as a binder or extender in comminuted meat food products and poultry products. The calcium lactate is to be added at a sufficient rate to create a calcium/protein ratio which would be comparable to that which is found in skim milk.

The request to propose the use of these substances as binders or extenders states that there are distinct technological advantages associated with the use of these ingredients. The request states that the soft gel formation that is created improves texture, inhibits emulsion breakdown, retains moisture more uniformly, and increases product stability.

Approval of substances for use in the preparation of products

The proposal would expand the list of approved binders and extenders for use in certain meat and poultry products by authorizing the use of enzyme (rennet) treated calcium reduced dried skim milk and enzyme (rennet) treated sodium caseinate with calcium lactate. The proposal would permit calcium reduced dried skim milk and sodium caseinate to be treated only with the enzyme rennet.

The preparation procedure of the binders consists of treating the calcium reduced dried skim milk or the sodium caseinate solution with rennet, the

enzyme commonly used in the production of cheese. This enzyme alters the casein molecule so that it is capable of forming a gel when mixed with enough calcium to create the normal calcium to casein ratio of skim milk. This is accomplished by the addition of calcium lactate at the time of the addition of the dried enzyme treated dairy ingredient to the meat or poultry mixture. During the cooking of the meat or poultry products, a casein gel is formed by the dairy ingredient and calcium lactate. This gel acts as a binder-extender in the cooked product.

Both calcium lactate and rennet are substances generally recognized as safe (GRAS) (21 CFR 182.1207, 18.1685) by the Federal Food and Drug Administration when used in accordance with good manufacturing practices. The use of the products as proposed herein would be consistent with the GRAS status of calcium lactate and rennet. The enzyme (rennet) treatment of calcium reduced dried skim milk and sodium caseinate should not alter the nutritional characteristics of these products which are now being widely used and are accepted as safe.

The mixture of enzyme (rennet) treated products and calcium lactate would be very similar to dried skim milk nutritionally in terms of protein and calcium content, and would perform the same function in products in which it is to be used.

The amount of calcium lactate that would be combined with calcium reduced dried skim milk would be required at a rate of 10 percent of the binder. This would be the proportion that would be necessary to restore the ratio of calcium to casein found in milk. The amount of calcium lactate that would be combined with sodium caseinate would be required at a rate of 25 percent of the binder. This would be the proportion that would be necessary to restore the ratio of calcium to casein found in milk. This ratio would be required at a rate of 25 percent because sodium caseinate contains a higher percentage of casein than calcium reduced dried skim milk and, therefore, more calcium would be necessary to restore the natural balance of the product.

Restrictions on the use of these substances in the preparation of products

This proposal would not extend the uses of binders-extendors in products.

The use of these binders and extenders would be subject to the same limitations presently applied to dried skim milk, calcium reduced dried skim milk, and sodium caseinate.

The amount of enzyme treated calcium reduced dried skim milk and enzyme treated sodium caseinate to be used to bind and extend products, other

than sausages, would be limited to an amount sufficient for the purpose as presently provided in §§ 318.7 and 381.147 of the regulations (9 CFR 318.7 and 381.147).

In conformity with this proposal, the Administrator also proposes to amend the standards for sausage products to permit only the use of enzyme (rennet) treated calcium reduced dried skim milk. Enzyme treated sodium caseinate is not being proposed for use in these specific sausage products since, unlike enzyme treated calcium reduced dried skim milk, its presence in such products cannot currently be quantified and measured. The amount of enzyme (rennet) treated calcium reduced dried skim milk which would be permitted for use in standard sausage would be limited to 3½ percent of the total finished product as presently permitted for binders and extenders for use in these products in § 319.140 of the Federal meat inspection regulations (9 CFR 319.140).

Accordingly, it is proposed to amend the Federal meat inspection regulations as follows:

§ 318.7 [Amended]

1. In § 318.7(c)(4) (9 CFR 318.7(c)(4)), the portion of the chart dealing with the "Class of substance" identified as "Binders" would be amended by adding the following substances to the appropriate columns in alphabetical order as follows:

Class of substance	Substance	Purpose	Product	Amount
Binders.....	Enzyme (rennet) treated calcium reduced dried skim milk and calcium lactate.	To bind and extend product.....	Sausages, as provided for in Part 318 of this subchapter.	3½ percent total finished product. (Calcium lactate required at rate of 10 percent of binder.)
	Enzyme (rennet) treated sodium caseinate and calcium lactate.	.....do.....	Imitation sausages; nonspecific loaves; soups; stews. Imitation sausages; nonspecific loaves; soups; stews.	Sufficient for purpose. (Calcium lactate required at rate of 10 percent of binder.) Sufficient for purpose. (Calcium lactate required at rate of 25 percent of binder.)

§ 319.140 [Amended]

2. The second sentence of § 319.140 (9 CFR 319.140) would be amended by deleting "calcium reduced skim milk or dried milk" and by adding the following in lieu thereof: "calcium reduced dried skim milk, enzyme (rennet) treated calcium reduced dried skim milk and calcium lactate, or dried milk."

§ 319.180 [Amended]

3. Section 319.180(e) (9 CFR 319.180(e)) would be amended by inserting the following after the words "calcium

reduced dried skim milk": "enzyme (rennet) treated calcium reduced dried skim milk and calcium lactate."

§ 319.181 [Amended]

4. The second sentence of § 319.181 (9 CFR 319.181) would be amended by deleting "calcium reduced skim milk, or dried milk" and by adding the following in lieu thereof: "calcium reduced dried skim milk, enzyme (rennet) treated calcium reduced dried skim milk and calcium lactate, or dried milk."

§ 319.281 [Amended]

5. Section 319.281(a)(2) (9 CFR 319.281(a)(2)) would be amended by inserting the following after the words "calcium reduced dried skim milk,": "enzyme (rennet) treated calcium reduced dried skim milk and calcium lactate,".

(Sec. 7, 21, 34 Stat. 1262, as amended, 21 U.S.C. 607, 621; 42 FR 35625, 35626, 35631.)

Accordingly, it is proposed to amend the Federal poultry products inspection regulations as follows:

§ 381.147 [Amended]

In § 381.147(f)(3) of the poultry products inspection regulations (9 CFR 381.147(f)(3)), the portion of the chart

dealing with the "Class of substance" identified as "Binders and extenders" would be amended by adding the

following substances to the appropriate columns in alphabetical order as follows:

Class of substance	Substance	Purpose	Product	Amount
Binders and extenders	Enzyme (rennet) treated calcium reduced dried skim milk and calcium lactate.	To bind and extend product.	Various	Sufficient for purpose. (Calcium lactate required at rate of 10 percent of binder.)
	Enzyme (rennet) treated sodium caseinate and calcium lactate.	do	do	Sufficient for purpose. (Calcium lactate required at rate of 25 percent of binder.)

(Sec. 8, 14, 71 Stat. 444, 21 U.S.C. 457, 463; 42 FR 35625, 35626, 35631.)

Note.—This proposal has been reviewed under the USDA criteria to implement Executive Order 12044, "Improving Government Regulations," and has not been designated "significant." An approved draft Impact Analysis Statement is available from Mr. Irwin Fried, Acting Director, Meat and Poultry Standards and Labeling Division, Compliance Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Done at Washington, D.C., on: July 25, 1979.

Donald L. Houston,
Administrator, Food Safety and Quality Service.

[FR Doc. 79-23432 Filed 7-30-79; 8:45 am]
BILLING CODE 3410-04-M

FEDERAL RESERVE SYSTEM**[12 CFR Parts 204 and 217]**

[Docket No. R-0238]

Reserve Requirements and Interest Rate Limitations on Deposits for U.S. Branches and Agencies of Foreign Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rulemaking.

SUMMARY: The International Banking Act of 1978 imposes Federal Reserve requirements and deposit rate limitations on Federal branches and agencies and authorizes the Board to impose such requirements on State-licensed United States branches and agencies of foreign banks whose foreign parents have worldwide assets of \$1 billion or more. The Act also grants such branches and agencies access to Federal Reserve discount, clearing, and settlement facilities to the same extent as member banks, subject to regulations promulgated by the Board. In order to

implement the provisions of the International Banking Act, the Board proposes to amend Regulation D (Reserves of Member Banks) and Regulation Q (Interest on Deposits) to make branches and agencies subject to the reserve requirements and interest rate ceilings currently applicable to member banks.

DATE: Comments must be received by September 21, 1979.

ADDRESS: Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All material submitted should include the Docket Number R-0238.

FOR FURTHER INFORMATION, CONTACT: C. Keefe Hurley, Jr., Senior Attorney (202/452-3269) or Anthony F. Cole, Senior Attorney (202/452-3711), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Section 7(a) of the International Banking Act of 1978 (IBA) (92 Stat. 607) requires the Board to impose reserve requirements and deposit interest rate limitations on Federally-licensed United States branches and agencies of foreign banks ("branches and agencies") whose foreign parents have worldwide assets of \$1 billion or more. The IBA also authorizes the Board, after consultation and in cooperation with the State bank supervisory authorities, to apply any reserve requirements and deposit interest rate limitations made applicable to Federal branches and agencies to any State-licensed branch or agency whose foreign parent has worldwide assets of \$1 billion or more. In this regard, the Board staff undertook extensive consultations with each of the State bank supervisory authorities that have responsibility for State-licensed branches or agencies of foreign banks and on March 16, 1979, as required by

the IBA, the Board submitted a report to Congress concerning the steps taken to consult with the State bank supervisory authorities. A copy of this report is available from the Board's Office of Public Affairs (202/452-3215).

Under the IBA, the purposes of reserve requirements and interest rate limitations on branches and agencies are to facilitate the implementation of monetary policy and to promote competitive equity among depository institutions. The Board's proposals to implement the provisions of the IBA will facilitate the conduct of monetary policy and will promote vigorous and fair competition between branches and agencies and member banks by treating branches and agencies like member banks to the fullest extent possible. Accordingly, the Board of Governors proposes to amend its regulations concerning reserves of member banks (Regulation D; 12 CFR Part 204) and interest on deposits (Regulation Q; 12 CFR Part 217) to subject deposits, including credit balances, of United States branches and agencies of foreign banks to the reserve requirements and interest rate ceilings currently applicable to member banks. Several provisions of Regulation D, however, would be modified to reflect operational and structural differences between member banks and branches and agencies.

Regulation Q

Regulation Q (12 CFR Part 217) prescribes rules governing the payment and advertisement of interest on deposits, including limitations on the rates of interest which may be paid by member banks on time and savings deposits. Regulation Q also includes provisions that prohibit the payment of interest on deposits that are payable on demand or that have a maturity of less than 30 days, specify the terms and

conditions under which member banks may pay savings and time deposits before maturity, and prescribe rules governing the advertisement of interest paid on deposits. The Board proposes to apply all the provisions of Regulation Q to branches and agencies.

Regulation D

Regulation D (12 CFR Part 204) presents the Board's regulatory structure for implementation of reserve requirements on, and maintenance of reserves by member banks. The regulation specifies the liabilities that are regarded as deposits subject to reserves. The procedures for computing and maintaining required reserves including penalties for deficiencies also are presented.

Under Regulation D, a member bank is required to maintain reserve balances in an amount sufficient to satisfy its reserve requirements as specified in the Regulation. Reserve balances consist of U.S. currency and coin as defined in § 204.1 of the Regulation and the balances maintained with the Federal Reserve. Required reserves are computed on the basis of the member bank's daily net deposit balances during a seven day period ending each Wednesday (the "computation period"). Required reserve balances must be maintained at a Federal Reserve Bank during a corresponding weekly period (the "maintenance period") which begins the second Thursday following the end of the computation period. However, in determining whether a sufficient reserve balance has been maintained, the average daily U.S. currency and coin held during the computation period is added to the average daily balance maintained by the member bank in its reserve account with the Federal Reserve during the maintenance week. Current Federal reserve requirements are listed in the table that follows.

Federal Reserve Requirements

Type of deposit and deposit interval in millions of dollars	Requirements (per cent) in effect July 18, 1979
Net demand	
0-2.....	7
Over 2-10.....	9½
Over 10-100.....	11½
Over 100-400.....	12½
Over 400.....	16½
Savings	
Time*—By initial maturity.....	3
30-179 days.....	3
-0-5.....	6
-over 5.....	2½
180 days to 4 years.....	1
4 years or more.....	0
Eurodollar borrowings.....	0

*A supplementary reserve requirement of 2 per cent applies to time deposits of \$100,000 or more.

The Board proposes to apply all the provisions of Regulation D to branches and agencies. The Board recognizes, however, that branches and agencies differ from member banks in some respects. Consequently, comment is requested on whether there are any significant differences between branches and agencies and member banks in the way in which deposits and credit balances are maintained and utilized. Public comment also is requested by September 21, 1979, on the following proposed actions:

Credit balances

The Board proposes to apply Regulation Q interest rate provisions and Regulation D reserve requirements to deposits of branches and agencies and credit balances of agencies in a manner similar to their application to member banks. Under most State laws, agencies cannot accept deposits. However, agencies can maintain credit balances for their customers in connection with the exercise of their other lawful banking powers. Credit balances issued by agencies are like deposits in that they are liabilities of the foreign agency to its customers. If an account such as a credit balance were maintained at a member bank, it would give rise to a reservable deposit. In view of the parallels between credit balances and reservable deposit liabilities, the Board believes that credit balances of agencies should be regarded as deposits subject to interest rate ceilings and reserve requirements.

Under the proposal, for the purpose of reserve requirements and interest rate limitations, credit balances would be defined as "deposits" so that the maturity of such balances would determine the reserve ratios and interest rate ceilings applicable to such balances just as it now does for deposits at member banks. Credit balances with a minimum maturity of 30 days or more would be subject to time deposit reserve ratios, while those with a shorter maturity would be treated as demand deposits. Under this approach, the prohibition of payment of interest on demand deposits would be applied to that portion of a credit balance available on demand. Credit balances with a maturity of 30 days or more would be subject to applicable time deposit interest rate ceilings under Regulation Q.

To aid the Board in its consideration of the treatment of credit balances as deposits, public comment is requested on customary practices with regard to credit balances. Specific comment is requested on:

- (1) The extent to which checks or drafts are, or may be, drawn by customers on credit balances (a) for payment of liabilities owed by customers to third parties and (b) for transfers to customers' commercial bank accounts;
- (2) The extent to which credit balances are currently treated as available on demand or as subject to a notice or maturity requirement; and
- (3) The extent to which agencies are permitted to pay interest on credit balances under State law and whether, in fact, interest is paid on such balances and at what rates.

Public comment also requested on the following:

- (1) Whether credit balances should be viewed as demand deposits, time deposits, or a special category of deposit for purposes of Regulations D and Q; and
- (2) The effect of prohibiting the payment of interest on credit balances (or those portions of credit balances) with maturities of less than 30 days.

Officers' checks

Section 204.1(g) of Regulation D (12 CFR 204.1(g)) defines officers' checks as a component of gross demand deposits; thus, officers' or certified checks issued by member banks are reservable at the demand deposit ratio. Branches and agencies of foreign banks issue significant amounts of officers' checks. Since there does not appear to be any difference in the nature or function of an officer's check issued by a domestic bank and one issued by a branch or agency of a foreign bank, the Board proposes to treat such checks identically for these institutions. Thus, officers' checks issued by branches and agencies, including those drawn as agent for the foreign parent or any other affiliate or entity, would be treated as demand deposits for reserve requirements purposes. Such classification is appropriate since branches and agencies would enjoy a competitive advantage over member banks if officers' checks were not reservable on the same terms.

Branches and agencies would be required to conform their accounting practices with respect to officers' checks to those required of member banks under Regulation D. Such action would necessitate the modification by branches and agencies of certain operating and accounting practices involving officers' checks that are inconsistent with member bank treatment of such checks. The first practice requiring modification involves officers' checks drawn as agent for the foreign parent, affiliate, or other entity. Such checks often are not reflected as a

liability of the branch or agency. Instead, a nondeposit liability account reflecting the branch's obligation is written down to offset the reduction on the branch's books in balances due from domestic correspondent banks that occurs when the checks are presented for payment. Under such accounting practice, such transactions would generate no liabilities subject to reserve requirements even though there is no practical distinction between such a transaction and a transfer of demand deposits using officers' checks, which does generate reservable liabilities.

Prior to 1969, a number of member banks engaged in a similar practice. The Board, however, amended Regulation D to require member banks to include in gross demand deposits checks "drawn by or on behalf of a foreign branch of a member bank" (12 CFR 204.1(g)). Application of Regulation D to branches and agencies of foreign banks would require them to include in gross demand deposits checks drawn by or on behalf of the foreign parent of affiliate.

A second practice of branches and agencies that is not comparable to that of member banks involves the accounting by some branches and agencies for officers' checks by writing down a customer account and a due from correspondent bank account simultaneously when the officer's check is issued. When a member bank, however, issues an officer's check, the customer's liability account is written down and offset by an increase in officers' checks outstanding. Therefore, the officer's check is included in reservable liabilities until the check clears. Application of Regulation D to branches and agencies would require them to adopt the same procedure for accounting for such officers' checks.

Eurodollar borrowings

Since 1969, deposits in the form of borrowings by domestic offices of member banks from foreign banks, foreign governments, international organizations, and the bank's own foreign branches have been subject to reserve requirements under § 204.5(c) of Regulation D (12 CFR 204.5(c)). The applicable reserve ratio has been as high as 20 per cent, but has been set at zero since August 24, 1978. Should the applicable reserve ratio increase in the future, United States branches and agencies of foreign banks could have a cost of funds advantage relative to member banks. To provide comparable treatment with member banks, the Board proposes to subject Eurodollar borrowings of branches and agencies from both related and unaffiliated

foreign banking institutions to the same reserve ratio that applies to similar borrowings by member banks under Regulation D.

Much of the funding for branches and agencies is provided by advances from their foreign parents. Since branches and agencies are part of their foreign parents' corporate entities, they have no separate capital account in the domestic banking sense. However, a portion of advances or borrowings from the parent organization serve purposes similar to that of the equity capital of domestic banks; such capital of domestic banks is not subject to reserve requirements. Consequently, the Board proposes to exempt from reserve requirements that portion of advances from the foreign bank parent (including other foreign offices) that equals 8 per cent of certain assets of a branch or agency. The assets proposed would be total branch and agency assets less cash, due from unrelated banks, and due from related institutions. This capital-equivalency allowance should contribute both to competitive equity and to the safety and soundness of foreign banking offices in the United States. The Board requests public comment on the appropriateness of this proposal and on other asset concepts that might be used.

All funding obtained by a member bank by borrowing from a foreign banking institution, whether related or not, is subject to the Eurodollar reserve requirement (§ 204.5(c) and (d) of Regulation D; 12 CFR 204.5(c), (d)). Net borrowings from the parent by the branch or agency, except to the extent of the 8 per cent allowance described above, would be reservable at the Eurodollar rate even where the funds borrowed represent the proceeds of commercial paper issued in the United States by the parent. Funds raised in the United States by a branch or agency directly, however, would be subject to domestic reserve requirements unless in a form specifically exempted by Regulation D, such as interbank borrowings and repurchase agreements on United States government or agency securities.

As an alternative, when a parent is issuing commercial paper at the same time it is lending funds to its U.S. branches or agencies, it could be presumed that the proceeds of the sale are being used to supply funds to the branches or agencies. Under this approach, the commercial paper issued by the parent would be treated as a deposit subject to domestic reserve requirements to the extent of advances to the branches or agencies by the

parent, less the 8 per cent capital equivalency allowance.

To aid the Board in its consideration of the treatment of commercial paper, public comment is requested on these alternatives.

Asset Sales

A domestic bank can fund its operations from deposits or borrowings in the money markets or from affiliates; alternatively, in order to obtain funds, it can transfer a portion of its assets to a foreign branch or affiliate. In each case, the domestic bank obtains additional funds to lend in its domestic business. Funds obtained by a member bank from the sale of domestic assets, such as loans, to a foreign banking affiliate are subject to Eurodollar reserve requirements (§ 204.5(d) of Regulation D; 12 CFR 204.5(d)). Sales of assets to nonbank affiliates are subject to domestic reserve requirements (§§ 204.1 and 204.5 of Regulation D; 12 CFR Part 204.1, 204.5). The Board proposes to subject the proceeds of the sale of any domestic asset by branches and agencies to their foreign parent or affiliated banking institutions to the Eurodollar reserve requirements. However, domestic assets that for Federal supervisory purposes are required to be sold will not be subject to Eurodollar reserve requirements.

Reserve maintenance and accounting

Under section 5(b) of the IBA, a foreign bank that operates or has applied for branches and agencies in more than one State on July 27, 1978, is permitted to retain those offices. In contrast, member banks generally are not permitted to operate branches interstate. Interstate operations by "families" of branches and agencies raise three reserve requirement issues: (1) the definition of "family" for purposes of reserve requirement calculations; (2) the extent to which the net deposits of a foreign bank family should be consolidated or aggregated for purposes of calculating the family's reserve requirement; and (3) the number of reserve accounts that a family should be permitted to maintain.

Definition of "family." In order to provide parallel treatment between branches and agencies and member banks under the system of graduated reserve requirements, the Board intends to impose reserve requirements on families of branches and agencies. For purposes of reserve requirements only, the Board proposes to define "family" to include only United States branches and agencies of a single foreign parent bank and of its foreign banking subsidiaries.

(The same definition may not be used for other purposes.) Under this definition, the United States branches and agencies of a single foreign bank would constitute a separate family. For example, if a foreign company owned two banks each having branches and agencies in the United States, the branches and agencies would form two separate families, one related to each of the foreign banks. This treatment parallels the current treatment of banks owned by domestic multi-bank holding companies. Subsidiary banks chartered in the United States would always be excluded from the family. However, a foreign bank's foreign subsidiaries operating branches or agencies in the United States would be considered part of the same family as the branches and agencies of the owning foreign bank. If a foreign bank established an Edge Corporation, as permitted for the first time by the IBA, the Edge Corporation would not be consolidated with the agencies and branches of the foreign parent bank. This treatment parallels the treatment of Edge Corporations owned by domestic banks. At present, Edge Corporations owned by domestic banks are not consolidated with each other or with their parent for reserve calculation purposes.

Aggregation. In order to assure competitive equity with member banks under the system of graduated reserve requirements, the Board proposes to require that deposits at all branches and agencies in the same family be aggregated nationally for purposes of calculating reserve requirements. Under this approach, one of the offices of a branch and agency family would be designated the "Administrative Office" for its sister organizations. This office would be responsible for nationally consolidating the family's Report of Deposits, would maintain with its Reserve Bank the marginal reserves for the family resulting from graduated reserve requirements, and would bear the responsibility for penalties that may be imposed for reserve deficiencies in that reserve account.

The Congressional policy expressed in the IBA of establishing competitive equality between domestic and foreign banks in like circumstances supports the concept of aggregation or consolidation for reserve calculation purposes of deposits of all units of a foreign bank family operating in the United States. Since required reserve ratios increase with deposit size, the marginal reserve requirement on the aggregated deposits of a family of branches and agencies generally will exceed the marginal reserve requirement of any single office.

Hence, the cost of funds usually will be higher to a bank that must meet a reserve requirement on its aggregated net deposits at all branches than on the net deposits at each branch separately. Domestic money-center banks, with which branches and agencies primarily compete, must aggregate all of their domestic branch deposits for reserve calculation purposes. Thus, the cost of funds will be more nearly equal between domestic banks and branches and agencies if the latter aggregate their deposits for reserve calculation purposes.

Under national aggregation, branches and agencies would be permitted to deduct balances due from domestic banks, as well as from other nonaffiliated branches and agencies, and cash items in the process of collection in calculating net demand deposits subject to reserve requirements. For this purpose, demand deposits of member banks due from United States branches of foreign banks would be treated identically to demand deposits due from domestic banks. Similarly, credit balances held by member banks or other branches and agencies at United States agencies of foreign banks would be eligible for the due from deduction to the extent that those balances are treated as demand deposits for reserve purposes (as discussed previously, credit balances with a minimum maturity of less than 30 days would be treated as demand deposits). Intra-family balances would not be included in calculating reserve requirements since such balances net to zero for the family as a whole. This procedure parallels the current handling of inter-branch borrowing and lending by branches of domestic banks.

Number of reserve accounts. The Board proposes to permit families of branches and agencies to maintain one reserve account (and to make use of Reserve Bank services) with each Reserve Bank or branch in whose zone the family operates. Each Reserve Bank would administer the reserve accounts of the branches and agencies operating in its district under the same rules that apply to member banks. Thus, at the local level, the Federal Reserve will require a separate Report of Deposits that consolidates the deposits of the branches and agencies for each State in which branches and agencies of the family operate. At the option of the foreign bank family, the reserves required against deposits of any branch or agency could be held in the account of the Administrative Office of the foreign bank family. However, no Reserve Bank services would be

available locally to a branch or agency not having an account at its local Reserve Bank office. Penalties for deficiencies in the reserve accounts used by each branch or agency would be assessed by each Reserve Bank, although the Administrative Office would be responsible for penalties for deficiencies in the reserve account it is required to maintain.

Access to Federal Reserve services

Under the IBA, Congress intended foreign banks maintaining Federal reserves to have access to Federal Reserve Bank services on a comparable basis and to the same extent as those services are available to member banks. Accordingly, the Board proposes to make Federal Reserve services, including check collection, currency and coin, securities safekeeping and wire transfer services, available to branches and agencies as soon as the proposed regulations become effective. In order to obtain such services locally, a branch or agency would be required to have an account with its local Reserve Bank office. During the phase-in period described below, branches and agencies may be required to maintain a level of clearing balances consistent with the level of services being provided.

Access to discount window

The Board proposes to permit any branch or agency maintaining a reserve balance with a local Reserve Bank to be eligible for advances or discounts from that Reserve Bank. The appropriateness of borrowing by any branch or agency would be based on the needs of the family members located in the district where the reserve account is maintained and would be subject to guidelines to be adopted by the Board. The Board intends to monitor activities of foreign bank families on a consolidated basis to identify certain systematic borrowing patterns that could be regarded as excessive use of the discount window.

Implementation of reserve requirements

The Board recognizes that substantial revisions in the accounting procedures of branches and agencies may be necessitated by the proposals. Accordingly, comment specifically is requested on the amount of lead time that would be required to make these necessary changes in an orderly manner. Under the Board's proposals, branches and agencies would be required to report data necessary for the administration of reserve requirements. In this connection, it is anticipated that such reporting would include data for the categories listed in the following

table and that data for these categories would be maintained on a daily basis and filed with the local Federal Reserve Bank once each week. The proposed data and filing requirements would be similar to those required for member banks.

Present Board policy permits nonmember banks that become member banks to assume their reserve requirements gradually by authorizing the Reserve Banks to waive penalties for deficiencies in "transitional reserve requirements" on a graduated basis over a two-year period. The Board proposes to phase-in the reserve requirements provided for in these proposals over the two-year period now allowed to nonmember banks joining the System.

Reporting Categories for Reserve Requirement Purposes¹

1. Demand deposits due to banks.
2. Demand deposits due to the U.S. Government.
3. Other Demand deposits (including officers' checks).
4. Demand deposits due from banks.
5. Cash items in process of collection.
6. Savings deposits.
7. Time deposits with original maturities of 30 to 179 days.
8. Time deposits with original maturities of 180 days but less than 4 years.
9. Time deposits with original maturities of 4 years or more.
10. U.S. currency and coin held in vaults.
11. Time deposits of \$100,000 or more.
12. Borrowings from non-related foreign banks, foreign national governments, and international institutions.
13. Gross claims on the foreign parent bank and related affiliates located outside the States of the United States and the District of Columbia.
14. Gross liabilities to the foreign parent bank and related affiliates located outside the States of the United States and the District of Columbia.
15. Assets sold by the branch or agency to the foreign parent bank and other banking affiliates located outside the States of the United States and the District of Columbia.
16. Assets sold by the branch or agency to other nonbanking affiliates.
17. Funds received from the sale of ineligible bankers acceptances that have remaining maturities of less than 30 days.
18. Funds received from the sale of ineligible bankers acceptances that have remaining maturities of 30 days or more but less than 180 days.
19. Funds received from the sale of ineligible bankers acceptances that have remaining maturities of 180 days or more but less than 4 years.
20. Funds received from the sale of ineligible bankers acceptances that have remaining maturities of 4 years or more.
21. Total assets other than cash and due from unrelated banks and due from related

¹ "Deposits" includes credit balances of similar maturity at agencies.

institutions, as defined for the Report of Condition.

In order to achieve national treatment in the implementation of reserve requirements and discount borrowing privileges for U.S. branches and agencies of foreign banks, the Board proposes generally to treat individual members of a foreign bank family comparably to domestic member banks. However, the Board recognizes that the foreign bank family is part of a single managerial entity. Where competitive balance may be affected by coordinated interstate operations of the foreign bank family, the Board's proposals take into account the fact that individual branches and agencies are members of a family. Thus, for example, the Board proposes to aggregate deposits nationally for reserve computation purposes although family members in each Federal Reserve zone would be entitled to an account at the local Federal Reserve office. A further example is the Board's proposal that the appropriateness of discount window borrowing be based upon local needs of family members, with overall monitoring of borrowing by the family being coordinated at the national level.

The Board would like to receive comments from the public on this general approach to dealing with the new institutional structure posed by interstate operations of branches and agencies. Should the Federal Reserve maintain a relationship through a single office with the family as if it were a single bank, not taking account of the fact that the family may have offices located throughout the country? Alternatively, should the Board treat each office of the family as an independent bank? Should some general approach other than that proposed by the Board be followed to take into account the interstate banking operations of foreign banks?

All comments and information on the above proposals should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received by September 21, 1979. All material submitted should include the Docket Number R-0238. Such material will be made available for inspection and copying upon request except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR Part 261.6(a)).

Pursuant to authority under the International Banking Act of 1978 (12 U.S.C. 3101 *et seq.*) and section 19 of the Federal Reserve Act (12 U.S.C. 371a, 371b, 461 *et seq.*), the Board proposes to

amend Regulation D (12 CFR Part 204) and Regulation Q (12 CFR Part 217) as follows:

§ 204.0 Scope of part.

(a) This regulation is issued under authority of provisions of § 19 of the Federal Reserve Act (12 U.S.C. 461 *et seq.*) and of the International Banking Act of 1978 (12 U.S.C. 3101 *et seq.*).

(b) This Part relates to the computation and maintenance of reserves that member banks are required to maintain against deposits. United States branches and agencies of foreign banks with worldwide assets of \$1 billion or more are required to comply with the provisions of this Part in the same manner as if the branches and agencies were member banks. Several provisions, however, have been modified to reflect operational and structural differences between member banks and branches and agencies.

(c) The provisions of this Part do not apply to any deposit that is payable only at an office located outside the States of the United States and the District of Columbia.

§ 204.1 Definitions.

(b) "Time deposits" do not include time deposits of a United States branch or agency deposited to the credit of another United States branch or agency of the same "family," as provided in § 204.3(e).

(g) *Gross demand deposits.* "Gross demand deposits" also includes officers' checks issued by a United States branch or agency of a foreign bank, including checks drawn as agent for its foreign parent bank, affiliates, or others. "Gross demand deposits" do not include demand deposits of a United States branch or agency deposited to the credit of another United States branch or agency of the same "family," as provided in § 204.3(e).

(k) *Credit balances.* For purposes of this Part, the term "deposits" also includes the credit balances of a United States agency of a foreign bank.

§ 204.2 Computation of reserves.

(b) *Deductions allowed in computing reserves.* In determining the reserve balances required under the terms of this Part, member banks may deduct from the amount of their gross demand deposits the amounts of balances subject to immediate withdrawal due from other banks, including amounts due from unrelated United States

branches and agencies of foreign banks, and cash items in process of collection as defined in § 204.1(h). Balances "due from other banks" do not include balances due from Federal Reserve Banks or balances (payable in dollars or otherwise) due from other banking offices located outside the States of the United States and the District of Columbia.¹⁰

§ 204.3 Deficiencies in reserves.

(e) *United States branches and agencies of foreign banks.* An Administrative Office shall be designated by the United States branches and agencies that constitute a "family." A "family" shall consist of all the United States branches and agencies of a single foreign parent bank, including United States branches and agencies of a foreign subsidiary of the foreign parent bank. The Administrative Office shall be responsible for preparing and filing a consolidated Report of Deposits for the family, for maintaining with the Federal Reserve Bank of its District any additional reserves that may be required as a result of aggregating the deposits of the United States branches and agencies of the family, and for penalties that may be assessed for deficiencies in that required reserve balance.

§ 204.5 Reserve requirements.

(a) *Reserve percentage.* In determining the net demand deposits of United States branches and agencies of foreign banks against which reserve balances are required to be maintained, the net demand deposits of all United States branches and agencies constituting a family as provided in § 204.3(e) shall be aggregated.

(d) *Foreign branch transactions with parent bank.* During each reserve maintenance week, United States branches or agencies constituting a family as provided in § 204.3(e) shall maintain a reserve against their deposits equal to a daily average balance of 0 percent of the daily average total of—

- (i) Net balances due to their foreign parent bank (including branches and agencies located outside the States of the United States and the District of Columbia), after deducting an amount equal to 8 percent of the United States branches' and agencies' total assets (not including cash or other assets due from their foreign parent bank or related institutions or unrelated banks), and
- (ii) Assets (including participations) held by the foreign parent bank

(including branches and agencies located outside the States of the United States and the District of Columbia) and other banking affiliates which were acquired from its related United States branches and agencies (other than assets representing credit extended to persons not resident of the United States or assets required to be sold by the federal supervisory authority of the branch or agency), during the computation week ending 15 days before the beginning of the maintenance period. Reserves that may be required against assets sold to nonbanking affiliates under § 204.1(f) of this section shall be maintained in accordance with § 204.5(a) of this section.

§ 217.0 Scope of part.

(d) Under authority of the provisions of the International Banking Act of 1978 (12 U.S.C. 3101 *et seq.*), the provisions of this Part apply to federal and state branches and agencies of foreign banks with total worldwide consolidated assets of \$1 billion or more.

§ 217.1 Definitions.

(h) *Credit balances.* For purposes of this Part, the term "deposits" also includes any liability on credit balances of a United States agency of a foreign bank.

By order of the Board of Governors, July 18, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-23531 Filed 7-30-79; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release Nos. 34-16045; File No. 4-210]

Request for Comments on Petition Concerning Disclosure of Relationships Between Attorneys and Registrants

AGENCY: Securities and Exchange Commission.

ACTION: Request for written comments.

SUMMARY: The Securities and Exchange Commission is requesting written comments on disclosure rules which the Institute for Public Representation petitioned the Commission to adopt. The petitioner's proposals would require disclosure of certain information

concerning the relationships between registered issuers and their counsel, as well as disclosure about resignations or dismissals of an issuer's legal counsel. In publishing these rule proposals for comment, the Commission takes no position with respect to the proposals. The Commission is also specifically requesting comments concerning its legal authority to adopt these proposals. **DATE:** Comments should be received by the Commission on or before November 30, 1979.

ADDRESSES: All communications concerning this matter should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549. Such communications should refer to File No. 4-210, and will be available for public inspection at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Richard B. Nesson, G. Michael Stakias or Gregory H. Mathews, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549 (202-755-1750).

SUPPLEMENTARY INFORMATION: On May 25, 1978, the Commission received a rulemaking petition and supporting memorandum from the Institute for Public Representation, a public interest law firm affiliated with the Georgetown University Law Center.¹ The petition sought an amendment to Rule 2(e) of the Commission's Rules of Practice² which would define the responsibilities of attorneys who, during the course of their representation, receive information clearly establishing that clients or others have committed violations of the federal securities laws. On November 22, 1978, the Institute submitted a supplemental petition clarifying the initial petition and further petitioning the Commission to promulgate rules requiring disclosure of certain aspects of the relationship between counsel and Commission registrants.³

With respect to the initial petition, the Commission's Secretary has today transmitted a letter to the Institute setting forth the bases upon which the Commission has determined to deny the

¹ The petition was submitted pursuant to the Administrative Procedure Act, 5 U.S.C. 553(e), and to Rule 4(a) of the Commission's Rules of Practice, 17 CFR 201.4(a).

² Rule 2(e) [17 CFR 201.2(e)] sets forth the bases upon which the Commission may deny, temporarily or permanently, certain professionals the privilege of appearing or practicing before it.

³ These petitions are available for public inspection at the Commission's Public Reference Room. Request File No. 4-210.

petitioner's request. "The Commission has, however, determined to publish the Institute's disclosure proposals. In so doing, and unlike a normal rulemaking proceeding, the Commission takes no position, tentative or otherwise, with respect to the proposals."

I. Disclosure Rules Proposed by the Institute

The supplemental Petition requests that the Commission promulgate the following three rule proposals:

1. Every corporation required to file reports with the Securities and Exchange Commission ("reporting corporation") shall include in its Form 10-K and in its annual report to shareholders a certificate stating that:

(A) Its board of directors has instructed each attorney employed or retained by the corporation to report promptly to the board, either directly or through the audit committee or some other committee of the board with a similar ratio of independent directors, any corporate activities discovered by the attorney through reasonable diligence during the course of representation which, in the attorney's opinion, violate or probably violate any law administered or enforced by the SEC or any other law, where such violations or probable violations:

(i) Could result in material financial liability for the corporation;

(ii) Call into question the quality and integrity of management in connection with corporate activity; or

(iii) Are part of a pattern or practice of recurring activity;

(B) All attorneys have indicated their compliance with the board's instructions either by reporting such violations or probable violations, or by reporting, at least annually, that no such violations or probable violations have come to their attention;

(C) The full board of directors has considered each attorney's report and has taken all actions determined to be appropriate;

(D) Information regarding such violations or probable violations has been conveyed to the independent auditors if, in the opinion of

¹ A copy of that letter is Appendix A to this release.

² In a separate statement of views, Commissioner Karmel indicates the standards that she believes the Commission should apply in determining whether to publish a petition for rulemaking for public comment. She concludes that the subject petition does not meet those standards. The Commission, however, believes that publishing the petition for comment will focus public consideration and discussion on an important aspect of corporate governance—a subject to which the Commission has devoted a considerable amount of attention over the past several years. And, whatever the Commission's final determination as to the proper disposition of the petition may be, the publication of these rules may increase awareness by attorneys of their responsibilities and may encourage corporate boards of directors to continue to review carefully the proper role of attorneys. As to the specific objections which Commissioner Karmel raises, the Commission believes that those points can be more fruitfully analyzed after, rather than before, it has the benefit of the public's comments.

the board, the violations or probable violations are material.

2. Every reporting corporation shall file with the Commission copies of written agreements delineating the relationship between the corporation and its outside attorneys. Such agreements may cover any aspect of the relationship which, in the opinion of the corporation might be of concern to stockholders and other investors, and, in any case, shall include:

(A) The frequency and nature of counsel's contacts with the corporation's board of directors, general counsel, independent auditor, and chief executive officer; and

(B) Obligations of counsel with regard to corporate conduct which counsel considers illegal or probably illegal.

3. When a reporting corporation's general counsel or any attorney retained in connection with matters pertaining to the laws administered or enforced by the Commission resigns or is dismissed, the corporation shall file with the Commission Form 8-K, describing the circumstances of the resignation or dismissal. Prior to submission of the Form 8-K to the Commission the corporation shall provide the resigning or dismissed attorney with an opportunity to comment on the accuracy and completeness of the description. The attorney's comments shall become part of the corporation's submission to the Commission.

II. Request for Written Comments

The Commission invites all interested members of the public, including issuers, attorneys, investors and members of the academic community and the organized bar to submit comments with respect to the need for, or desirability of, adopting the disclosure rules which the Institute has proposed. Where commentators believe that the rules would be desirable, any recommended alterations in the language proposed by the Institute should also be brought to the Commission's attention. The Commission also specifically requests commentators to address the issue of the Commission's legal authority to adopt these proposals.

The Commission is mindful of the cost³ to registrants and others of compliance with its rules and recognizes its responsibilities to weigh with care the costs and benefits which result from its rules. Accordingly, the Commission specifically invites comments on the costs to registrants and others of compliance with the Institute's proposed rules.

Section 23(a) of the Securities Exchange Act requires the Commission to consider the impact which any proposed rules would have on competition. While the Commission is not aware of any competitive impact likely to result from the proposals described in this release, commentators are invited to address that issue.

Written statements must be received on or before November 30, 1979 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549. Such communications should refer to File No. 4-210 and will be available for public inspection.

By the Commission (Chairman Williams, Commissioners Loomis, Evans and Pollack).

Separate Statement of Views by Commissioner Karmel:

The right to petition the government is so important that it is protected by the First Amendment to the Constitution. This right is implemented by the Administrative Procedure Act,⁴ which requires a reasonable consideration by the Commission of a petition for rule-making. The Commission is not required, however, to allow the facilities of the government to be utilized by a private organization⁵ by invoking the notice and comment procedures associated with Commission initiated rule-making.

I do not believe the Commission should publish and request comment on any rule proposal unless the Commission determines that (1) the rule is plausibly within the Commission's statutory authority; (2) the rule probably would be an appropriate implementation of the securities laws; and (3) publication of the rule is timely in terms of the Commission's overall regulatory agenda. I do not understand the majority of the Commission to have made such findings. Indeed, the release states that the Commission takes no position, tentative or otherwise, with respect to the proposals of the Institute for Public Representation (the "Institute") which are being published, and that only after it has the benefit of public comment can the Commission more fruitfully address the above issues. Under such reasoning, it seems to me that virtually every rule making petition received would have to be published for comment.

I believe that Congress has not given the Commission any substantive authority to regulate attorneys or the practice of law in the manner contemplated by the proposals of the Institute of either May 25, 1978 or November 22, 1978.⁶ In my opinion, the proposed rule would improperly impinge upon and interfere with the right to counsel, or would regulate matters which are governed by state law and not the federal securities laws. Since the Institute's proposed rules are so clearly beyond the Commission's authority to adopt, I feel no useful or proper purpose is served by putting them out for comment.

³ 5 U.S.C. § 553(e).

⁴ Because an organization styles itself as a "public interest" group does not make it a representative of the public entitled to publicize its views at government expense.

⁵ See my dissent in the Matter of Keating, Muething and Klekamp, Securities Exchange Act Release No. 15062 (July 2, 1979).

I do not believe that the Commission has set forth an adequate basis for determining to deny the Institute's May 25, 1978 petition and to publish for comment the Institute's November 22, 1978 petition. I do not agree with the view expressed in Appendix A to this Release that the issues raised in the Institute's May 25, 1978 petition should be addressed in *ad hoc* adjudication.⁷

If I were persuaded that the Institute's proposed rules were within the Commission's authority, and were a useful or appropriate regulatory mechanism, I would urge that these proposals be considered in the context of the work of the Commission's Task Force on Corporate Accountability in the Division of Corporation Finance. In connection with our pending tender offer rule proposals, for example, we considered rulemaking petitions and incorporated suggested rules which we considered meritorious in our own proposals.⁸

In my view, however, there are more significant and urgent matters than the Institute's proposals. Some of these other matters were the subject of extensive testimony before the Commission in the Public Hearings on Shareholder Communications, Shareholder Participation in the Corporate Electoral Process and Corporate Governance Generally.⁹ The staff and public commentators should devote their attention to items of highest priority to the Commission and not be distracted by proposals formulated by private persons who do not have the responsibility for developing a comprehensive and integrated regulatory program.

George A. Fitzsimmons,
Secretary.

July 25, 1979.

Appendix A

Securities and Exchange Commission,
Washington, D.C., July 25, 1979.

Re Petitions, dated May 25, 1978, and November 22, 1978, requesting that the Commission engage in rulemaking.

Mr. Charles R. Halpern,
Director, Institute for Public Representation,
Georgetown University Law Center,
Washington, D.C.

Dear Mr. Halpern: This letter is to formally advise the Institute of the Commission's disposition of the captioned petitions. On June 5, 1979, the Commission heard oral argument on these petitions, and, on July 5, 1979, it met in open session to act upon them. At the July 5 meeting, the Commission voted unanimously to deny the May petition and

⁷ I note that I dissented from the legal positions taken by the Commission in *Securities and Exchange Commission v. National Student Marketing Corp.*, 457 F. Supp. 682 (D.D.C. 1978) and *Securities and Exchange Commission v. Haswell*, No. 78-1048 (10th Cir.).

Further, I have recused myself from participation in the Matter of William R. Carter and Charles J. Johnson, Jr., Administrative Proceeding File No. 3-5464.

⁸ Securities Exchange Act Release No. 15546 (February 5, 1979).

⁹ See Securities Exchange Act Release No. 13462 (April 28, 1979).

over Commissioner Karmel's dissent, to publish the November petition for public comment. Securities Exchange Act Release No. 16045, implementing the latter decision, is enclosed. As to the May petition, this letter shall constitute the statement required by 5 U.S.C. 555(e).¹

The Institute's May petition requests that the Commission engage in rulemaking to consider certain proposed amendments to Rule 2(e) of the Commission's Rules of Practice, 17 CFR 201.2(e). Those amendments would impose a duty upon attorneys, under certain circumstances, to report fraud perpetrated by their clients during the course of their representation with respect to any law administered or enforced by the Commission, or any such fraud perpetrated by any other person. Such a proposal raises many complex issues concerning the scope and nature of attorneys' professional responsibilities. And, while the Commission recognizes the importance of these issues to the effective administration of the federal securities laws, it has concluded not to publish the May petition for public comment at the present time.

First, the Commission believes it preferable to continue to elucidate the contours of attorney responsibilities under the securities laws in particular law enforcement actions, or in disciplinary proceedings under Rule 2(e). Since the Commission considers this to be an evolving area in which guiding principles should emerge from the facts and circumstances of particular cases,² it is concerned that a generic rulemaking proceeding dealing directly with counsel's responsibilities would be premature at this time and believes that it should, accordingly, await further developments.³

The Commission is currently involved in a number of court actions and administrative proceedings which raise issues involving the responsibilities of attorneys. In several of these pending actions and proceedings, the matters *sub judice* may require the courts and the Commission to make determinations impinging on questions raised implicitly in the May petition.⁴ Accordingly, parallel consideration of these issues in the context of a rulemaking proceeding of the type proposed

¹ Although Commissioner Karmel concurs in the Commission's decision to deny the May petition, her reasons for doing so are set forth in her separate statement appended to Release No. 16045.

² See *Finds of Facts, Ltd. v. Arthur Andersen & Co.*, 567 F. 2d 225, 227 (2d Cir. 1977), quoting *United States v. Standard Oil Co.*, 136 F. Supp. 345, 367 (S.D.N.Y. 1955); *Brennan's Inc. v. Brennan's Restaurants, Inc.*, 590 F. 2d 168 (5th Cir. 1979).

³ The Commission is, of course, free, in its discretion, to pursue either a case-by-case or rulemaking approach as it deems best under the circumstances. *Securities and Exchange Commission v. Chenery Corp.*, 332 U.S. 194, 202-03 (1946); *Natural Resources Defense Council v. Securities Exchange Commission*, No. 77-1761 (D.C. Cir. April 20, 1979), slip. op. at 60.

⁴ See, e.g., *Securities and Exchange Commission v. National Student Marketing Corp.*, 457 F. Supp. 682 (D.D.C. 1978), cross appeals pending, Nos. 79-1051, 1052, and 1053 (D.C. Cir.); *Securities and Exchange Commission v. Haswell*, No. 78-1048 (10th Cir.); *In the Matter of William R. Carter and Charles J. Johnson, Jr.*, Administrative Proceeding File No. 3-5464.

in the May petition would not be productive at this time.⁵

Moreover, as the Institute has pointed out, the American Bar Association's Committee on the Evaluation of professional Standards is currently drafting proposed revisions to the Code of Professional Responsibility. That effort may affect at least some of the considerations discussed by the Institute in its May petition, and the Commission does not believe that it should either duplicate the ABA's work to the extent that it bears directly on practice under the federal securities laws, or proceed without the benefit of the ABA's conclusions.

Finally, as Securities Exchange Act Release No. 16045 sets forth, the Commission has determined to publish the November petition, in full, for public notice and comment. To the extent that the goals of the Institute in submitting its two petitions were to enhance professional responsibility and to further, in a constructive way, dialogue on that topic, the publication of the November petition should substantially fulfill those purposes; the Commission does not, however, believe that the additional step of soliciting comment on the May petition would add in a meaningful way to the achievement of those goals. Moreover, the Commission believes that the May petition bears a much more attenuated relationship to the disclosure philosophy of the securities laws, and that it is, therefore, less consistent with the Commission's traditional approach to rulemaking in the area of corporate governance, the on-going review of which is still before the Commission. Accordingly, the Commission has concluded that both limited Commission resources and public and professional attention will better be utilized by focusing them solely on the Institute's November petition.⁶

The Commission wishes to convey its appreciation for the Institute's concern and efforts in this important area.

For the Commission,

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-23580 Filed 7-30-79; 8:45 am]

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⁵ Although it is likely that, at any given point in time, there will be some matters pending which could conflict with a rule proceeding of the type proposed by the Institute in its May petition, the pendency, at this time, of several such matters of major importance which are likely to be decided in the near future suggests that this may be a particularly inappropriate time to publish the May proposals for comment. Decisions in these pending matters may provide significant guidance as to the scope of attorneys' responsibilities under the federal securities laws.

⁶ Were the Commission to initiate a rulemaking proceeding with respect to the May petition, it would, of course, at some point have to consider the extent of its authority to adopt the proposed amendments contained in that petition. See Securities Exchange Act Release No. 16045. In light, however, of the reasoning set forth in this denial letter, the Commission has not found it necessary at this time to reach that issue.

RAILROAD RETIREMENT BOARD**[20 CFR Ch. II]****Semiannual Agenda of Significant Regulations****AGENCY:** Railroad Retirement Board.**ACTION:** Semiannual agenda of significant regulations under development or review.**SUMMARY:** In accordance with Executive Order 12044, the Railroad Retirement Board hereby publishes its semiannual agenda of significant regulations under development or review.**FOR FURTHER INFORMATION CONTACT:** E. E. Koch, Chief Executive Officer, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, 312-751-4930.**SUPPLEMENTARY INFORMATION:** At the present time there are no significant regulations or rules under development or scheduled for development by the Railroad Retirement Board. However, as the Board stated in its report under Executive Order 12044 and in the agenda published in the *Federal Register* on January 31, 1979, a review and revision of existing regulations has been commenced by this agency. The parts of the present regulations under the Railroad Retirement Act which are currently being reviewed and revised are as follows:

- Part 208—Eligibility for an annuity.
- Part 220—Definition and creditability of service.
- Part 222—Definition and creditability of compensation.
- Part 225—Computation of annuity.
- Part 232—Spouse's annuities.
- Part 237—Insurance annuities and lump sums for survivors.
- Part 238—Residual lump-sum payments.
- Part 250—Reports and information to be filed by employers.

In addition, the Board has commenced review and revision of the regulations issued under the Railroad Unemployment Insurance Act. These regulations are currently codified as subchapter C of chapter II of title 20 of the Code of Federal Regulations.

Information concerning the status of the review and revision of the above-listed parts of the Board's regulations may be obtained by contacting Mr. Dale G. Zimmerman, General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611, telephone number 312-751-4935 (FTS 387-4935).

Dated: July 9, 1979.

By Authority of the Board.

R. F. Butler,

Secretary of the Board.

[FR Doc. 79-22435 Filed 7-30-79; 8:45 am]

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**Food and Drug Administration****[21 CFR Part 207]****[Docket No. 79N-0118]****Model Regulation Editorial Revisions****AGENCY:** Food and Drug Administration.**ACTION:** Proposed rule.**SUMMARY:** The Food and Drug Administration (FDA) proposes to revise editorially the regulations for registering producers of drugs and for listing of drugs in commercial distribution. The revisions would clarify the regulations to make them more concise and readable.**DATE:** Comments by October 1, 1979.**ADDRESS:** Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-85, 5600 Fishers Lane, Rockville, MD 20857.**FOR FURTHER INFORMATION CONTACT:** Tenney P. Neprud, Jr., Regulations Policy Staff (HFC-10), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.**SUPPLEMENTARY INFORMATION:** The Food and Drug Administration (FDA), in the *Federal Register* of April 13, 1979 (44 FR 22110), announced that it was making available for public comment a draft document setting forth editorial revisions to Part 207—Registration of Producers of Drugs and Listing of Drugs in Commercial Distribution (21 CFR Part 207). Interested persons were invited to submit comments on the draft document by May 29, 1979.

The FDA intends to revise Part 207 as a result of applying the principles of Operation Common Sense—a comprehensive program initiated by the Department of Health, Education, and Welfare (HEW) to make regulations more understandable and to expedite HEW's regulations development process. Operation Common Sense was described in a notice published in the *Federal Register* of November 18, 1977 (42 FR 59555). Its goals include rewriting regulations so that they are clear and understandable, revising regulations on

the basis of experience since their issuance, and minimizing compliance burdens imposed by regulations. Similarly, Executive Order 12044, "Improving Government Regulations," which appeared in the *Federal Register* of March 24, 1978 (43 FR 12661), requires periodic review of regulations to determine whether language should be simplified or clarified, and whether the approach and requirements of a particular regulation continue to be warranted.

Operation Common Sense includes a requirement that each HEW agency issue a "model" regulation. In the case of FDA, its jurisdiction is so diverse that there are a number of kinds of regulations and, therefore, it is not reasonable to expect that one "model" regulation can be fashioned so as to apply to all categories of regulation. Thus, it is expected that preparation of "model" regulations will be undertaken in a number of categories of regulations.

Part 207 was chosen for priority review because of the statutory nature of the requirements of registration and drug listing, because of its operational impact on drug manufacturers, and because of its paperwork and reporting requirements. For these reasons, it is imperative that the regulation be easily understood and implemented as efficiently as possible.

No comments on the draft document were received. Accordingly, the agency proposes to adopt the revision of Part 207 set forth in the draft document along with several additional revisions made on the basis of the agency's further review of the draft document. These revisions simply incorporate editorial changes intended to make Part 207 more concise and readable. They do not include major substantive changes. For instance, cross-references to sections in other parts of Chapter I of Title 21 as currently written include the description "of this chapter," as in "§ 809.10 of this chapter." Because all cross-references in Part 207 are to other FDA regulations in Chapter I, "of this chapter" has been deleted from the proposed revisions. These cross-references should be understood to mean regulations in Chapter I of Title 21, unless otherwise specified. FDA intends to develop a section of general applicability to Chapter I concerning this editorial policy.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 506, 507, 510, 512, 701(a), and 704, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055, 1057 as amended (21 U.S.C. 321, 352, 355, 356, 357, 360, 360b, 371(a), 374)); Pub. L. 410, sec. 351, 58

Stat. 702 as amended (42 U.S.C. 262); and the Drug Listing Act of 1972 (Pub. L. 92-387, 86 Stat. 559-562 (21 U.S.C. 360 note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 207 be revised as follows:

PART 207—REGISTRATION OF PRODUCERS OF DRUGS AND LISTING OF DRUGS IN COMMERCIAL DISTRIBUTION**Subpart A—General**

Sec.

207.3 Definition.

207.7 Establishment registration and product listing for human blood and blood products.

Subpart B—Exemptions

207.10 Exemptions for domestic establishments.

Subpart C—Procedures for Domestic Drug Establishments

207.20 Who must register and submit a drug list.

207.21 Times for registration and drug listing.

207.22 How and where to register and list drugs.

207.25 Information required in registration and drug listing.

207.26 Amendments to registration.

207.30 Updating drug listing information.

207.31 Additional drug listing information.

207.35 Notification of registrant; drug establishment registration number and drug listing number.

207.37 Inspection of registrations and drug listings.

207.39 Misbranding by reference to registration or to registration number.

Subpart D—Procedure for Foreign Establishments

207.40 Drug listing requirements for foreign drug establishments.

Authority.—Secs. 201, 502, 505, 506, 507, 510, 512, 701(a), 704, Pub. L. 717, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055, 1057 as amended (21 U.S.C. 321, 352, 355, 356, 357, 360, 360b, 371(a), 374); sec. 351, Pub. L. 410, 58 Stat. 702 as amended (42 U.S.C. 262); the Drug Listing Act of 1972, Pub. L. 92-387, 86 Stat. 559-562 (21 U.S.C. 360 note).

Subpart A—General**§ 207.3 Definitions.**

(a) The following definitions apply to this part:

(1) "Act" means the Federal Food, Drug, and Cosmetic Act approved June 25, 1938 (52 Stat. 1040 et seq., as amended (21 U.S.C. 301-392)).

(2) "Advertising" and "labeling" include the promotional material described in § 202.1(l) (1) and (2) respectively.

(3) "Any material change" includes but is not limited to any change in the name of the drug, in the quantity or identity of the active ingredient(s) or in the quantity or identity of the inactive ingredient(s) where quantitative listing of all ingredients is required by § 207.31(a)(2), any significant change in the labeling of a prescription drug, and any significant change in the label or package insert of an over-the-counter drug. Changes that are not significant include changes in arrangement or printing or changes of an editorial nature.

(4) "Bulk drug substance" means any substance that is represented for use in a drug and that, when used in the manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug, but the term does not include intermediates used in the synthesis of such substances.

(5) "Commercial distribution" means any distribution of a human drug except for investigational use under § 312.1, and any distribution of an animal drug or an animal feed bearing or containing an animal drug for noninvestigational uses, but the term does not include internal or interplant transfer of a bulk drug substance between registered domestic establishments within the same parent, subsidiary, and/or affiliate company.

(6) "Drug product salvaging" means the act of segregating drug products that may have been subjected to improper storage conditions, such as extremes in temperature, humidity, smoke, fumes, pressure, age, or radiation, for the purpose of returning some or all of the products to the marketplace.

(7) "Establishment" means a place of business under one management at one general physical location. The term includes, among others, independent laboratories that engage in control activities for a registered drug establishment (e.g., "consulting" laboratories), manufacturers of medicated feeds and of vitamin products that are drugs in accordance with section 201(g) of the act, human blood donor centers, and animal facilities used for the production or control testing of licensed biologicals, and establishments engaged in drug product salvaging.

(8) "Manufacture, preparation, propagation, compounding, or processing of a drug or drugs" means the making by chemical, physical, biological, or other procedures of any articles that meet the definition of drugs as defined in section 201(g) of the act, and the term includes manipulation, sampling, testing, or control procedures

applied to the final product or to any part of the process. The term also includes repackaging or otherwise changing the container, wrapper, or labeling of any drug package to further the distribution of the drug from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer.

(9) "Representative sampling of advertisements" means typical advertising material (excluding labeling as determined in § 202.1(l) (1) and (2) which gives a balanced picture of the promotional claims used for the drug, e.g., if more than one medical journal advertisement is used but the promotional content is essentially identical, only one need be submitted.

(10) "Representative sampling of any other labeling" means typical labeling material (excluding labels and package inserts) which gives a balanced picture of the promotional claims used for the drug, e.g., if more than one brochure is used but the promotional content is essentially identical, only one need be submitted.

(b) The definitions and interpretations in sections 201 and 510 of the act apply when such terms are used in this part.

§ 207.7 Establishment registration and product listing for human blood and blood products.

(a) Owners and operators of all human blood and blood product establishments are required to register and list their products on Form FD-2830 as prescribed in Part 607.

(b) Owners and operators of all human blood and blood product establishments, who also manufacture or process other drug products at the same establishment, shall register with both the Bureau of Biologics and the Bureau of Drugs. Human blood and blood products shall be listed with the Bureau of Biologics, Food and Drug Administration, in accordance with Part 607, and other drug products shall be listed with the Bureau of Drugs, Food and Drug Administration, in accordance with this part.

Subpart B—Exemptions**§ 207.10 Exemptions for domestic establishments.**

The following classes of persons are exempt from registration and drug listing in accordance with this part under section 510(g) (1), (2), and (3) of the act, or because the Food and Drug Administration has found, under section 510(g)(4), that their registration is not necessary for the protection of the public health.

(a) Pharmacies that operate under applicable local laws regulating dispensing of prescription drugs and that do not manufacture, prepare, propagate, compound, or process drugs for sale other than in the regular course of the practice of the profession of pharmacy including dispensing and selling drugs at retail. The supplying of prescription drugs by these pharmacies to a practitioner licensed to administer these drugs for his or her use in the course of his or her professional practice or to other pharmacies to meet temporary inventory shortages are not acts that require the pharmacies to register.

(b) Hospitals, clinics, and public health agencies that maintain establishments in conformance with any applicable local laws regulating the practices of pharmacy and medicine and that regularly engage in dispensing prescription drugs, other than human blood or blood products, upon prescription of practitioners licensed by law to administer these drugs to patients under their professional care.

(c) Practitioners who are licensed by law to prescribe or administer drugs and who manufacture, prepare, propagate, compound, or process drugs solely for use in their professional practice.

(d) Persons who manufacture, prepare, propagate, compound, or process drugs not for sale but solely for use in research, teaching, or chemical analysis.

(e) Manufacturers of harmless inactive ingredients, which are excipients, colorings, flavorings, emulsifiers, lubricants, preservatives, or solvents, that become components of drugs and who otherwise would not be required to register under this part.

(f) Persons who use drugs to prepare feed for their own animals, except persons required under the act and its regulations to hold an approved new animal drug application (or supplement) or a Form FD-1800 in order to possess and use the drug.

(g) Any manufacturer of a virus, serum, toxin, or analogous product intended for treatment of domestic animals, who holds an unsuspended and unrevoked license issued by the Secretary of Agriculture under the animal virus-serum-toxin law of March 4, 1913 (37 Stat. 832 (21 U.S.C. 151 et seq.)), provided that this exemption from registration applies only to the manufacture of that animal virus, serum, toxin, or analogous product.

(h) Carriers, because of their receipt, carriage, holding, or delivery of drugs in the usual course of business as carriers.

(i) Persons who are engaged solely in manufacturing, preparing, propagating,

compounding, or processing a general purpose laboratory reagent (as described in § 809.10(d)) intended for use in in vitro diagnostic procedures in the diagnosis of disease or in the determination of the state of health, to cure, mitigate, treat or prevent disease or its sequelae. This paragraph does not exempt these persons from registration and listing for medical devices required under Part 807.

Subpart C—Procedures for Domestic Drug Establishments

§ 207.20 Who must register and submit a drug list.

(a) Owners or operators of all drug establishments not exempt under section 510(g) of the act or Subpart B of this part that engage in manufacturing, preparing, propagating, compounding, or processing a drug or drugs are required to register and to submit a list of every drug in commercial distribution (whether or not the output of the establishment or any particular drug so listed enters interstate commerce); however, drug listing is not required for manufacturing, preparing, propagating, or processing an animal feed (including a feed concentrate, a feed supplement, and a complete animal feed) bearing or containing an animal drug, nor is drug listing required for establishments engaged in drug product salvaging. Listing information may be submitted by the parent, subsidiary, and/or affiliate company for all establishments when operations are conducted at more than one establishment and all the establishments are jointly operated and controlled.

(b) Owners or operators of establishments not otherwise required to register under section 510 of the act that distribute under their own label or trade name a drug manufactured, prepared, propagated, compounded, or processed by a registered establishment may elect to submit listing information directly to the Food and Drug Administration. A distributor who submits drug listing information shall include the registration number of the drug establishment that manufactured, prepared, propagated, compounded, or processed each drug listed. All distributors who submit drug listing information to the Food and Drug Administration assume full responsibility for compliance with all of the requirements of this part. Each distributor at the time of submitting or updating drug listing information as required under § 207.30 shall certify to the registered establishment that the submission has been made by providing

a signed copy of Form FD-2656 (Registration of Drug Establishment) to the registered establishment that manufactures, prepares, propagates, compounds, or processes the drug. The original of Form FD-2656 showing this certification shall be submitted to the Food and Drug Administration. The certification shall be accompanied by a list showing the National Drug Code number assigned to each drug product by the distributor. If a distributor does not elect to submit drug listing information directly to the Food and Drug Administration and to obtain a Labeler Code, the registered establishment shall submit the drug listing information. The submissions and requests for Labeler Codes shall be made on Form FD-2658 (Registered Establishments' Report of Private Label Distributors).

(c) Preparatory to manufacturing, preparing, propagating, compounding, or processing a drug, owners or operators of establishments are required to register before the agency will approve their new drug applications, new animal drug applications, Forms FD-1800 (Medicated Feed Application), antibiotic Forms 5 and 6, or establishment license applications in order to manufacture biological products.

(d) No registration fee is required. Registration and listing do not constitute an admission or agreement or determination that a product is a drug within the meaning of section 201(g) of the act.

§ 207.21 Times for registration and drug listing.

(a) The owner or operator of an establishment entering into the manufacture, preparation, propagation, compounding, or processing of a drug or drugs (as these operations are defined in § 207.3) shall register the establishment within 5 days after the beginning of the operation and shall submit a list of every drug in commercial distribution at that time. If the owner or operator of the establishment (defined in § 207.3) has not previously entered into such an operation, registration shall follow within 5 days after the submission of a new drug application, new animal drug application, Form FD-1800, antibiotic Form 5 or 6, or an establishment license application in order to manufacture biological products. Owners or operators of all establishments so engaged shall register annually within 30 days after receiving registration forms from the Food and Drug Administration. Registration forms will be mailed to registered establishments by the Food and Drug Administration in

each calendar year, according to a schedule based on the first letter of the name of the establishment's parent company as stated on the firm's registration form or, if no parent company name is given on that form, by the first letter of the establishment's name. The schedule is as follows:

First letter of company name and date FDA will mail forms

A or B, January; C, D, or E, February; F, G, or H, March; I, J, K, L, or M, April; N, O, P, Q, or R, May; S or T, June; U, V, W, X, Y, or Z, July.

(b) Owners and operators of all establishments so registered shall update their drug listing information every June and December.

§ 207.22 How and where to register and list drugs.

(a) An establishment shall register the first time on Form FD-2656 (Registration of Drug Establishment) obtainable on request from the Bureau of Drugs, Drug Listing Branch (HFD-315), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or from Food and Drug Administration district offices. Subsequent annual registration shall be made in Form FD-2656 (Registration of Drug Establishment), which will be furnished by the Food and Drug Administration according to the schedule listed § 207.21(a) to establishments whose drug registration for that year was validated in accordance with § 207.35. The completed form shall be mailed to the above address within 30 days after receipt from the Food and Drug Administration.

(b) The first list of drugs and later June and December updates shall be on Form FD-2657 (Drug Product Listing), obtainable upon request as described in paragraph (a) of this section. In lieu of Form FD-2657 (Drug Product Listing), tapes for computer inputs may be submitted if they contain the information specified in Form FD-2657. All formats proposed for this use will require review and approval by the Food and Drug Administration.

§ 207.25 Information required in registration and drug listing.

(a) Form FD-2656 (Registration of Drug Establishment) provides for furnishing or confirming information required by the act. This information includes the name and full address of the drug establishment; all trade names used by the establishment; the kind of ownership or operation (that is, individually owned partnership or corporation); and the name of the owner or operator of the establishment. The

term "name of the owner or operator" includes in the case of a partnership the name of each partner, and in the case of a corporation the name and title of each corporate officer and director and the name of the State of incorporation. The required information shall be given separately for each establishment.

(b) Form FD-2657 (Drug Product Listing) Provides that information required by the act be furnished as follows:

(1) A list of drugs, including bulk drug substances and drug premixes for use in the manufacture of animal feeds as well as finished dosage forms, by established name as defined in section 502(e) of the act and by proprietary name, that are being manufactured, prepared, propagated, compounded, or processed for commercial distribution and that have not been included in any list previously submitted to the Food and Drug Administration on Form FD-2657 (Drug Product Listing) or in conjunction with the Food and Drug Administration voluntary inventory on Form FD-2422 (Survey Report of Marketed Drugs), or Form FD-2250 (National Drug Code Directory Input).

(2) For each drug listed that is regarded by the registrant as subject to section 505, 506, 507, or 512 of the act, the new drug application number, new animal drug application number, or Form 5 or Form 6 number, and a copy of all current labeling, except that only one representative container or carton label need be submitted where differences exist only in the quantity of contents statement.

(3) For each drug listed that is regarded by the registrant as subject to section 351 of the Public Health Service Act, the license number of the manufacturer.

(4) For each human drug listed that is subject to section 503(b)(1) of the act and regarded by the registrant as not subject to section 505, 506, or 507 of the act or 351 of the Public Health Service Act, and that is not manufactured by a registered blood bank, a copy of all current labeling (except that only one representative container or carton label need be submitted where differences exist only in the quantity of contents statement) and a representative sampling of advertisements.

(5) For each human over-the-counter drug or each animal drug listed that is regarded by the registrant as not subject to section 505, 506, 507, or 512 of the act, or 351 of the Public Health Service Act, a copy of the label (except that only one representative container or carton label need be submitted where differences exist only in the quantity of contents

statement), package insert, and a representative sampling of any other labeling.

(6) For each prescription or over-the-counter drug so listed that is regarded by the registrant as not subject to section 505, 506, 507, or 512 of the act, or 351 of the Public Health Service Act, and that is not manufactured by a registered blood bank, quantitative listing of the active ingredient(s). Unless the quantitative listing is expressed as a percentage in the official compendium, the quantity of ingredient shall be stated in terms of the amount, not the percent, of that ingredient in each dosage unit, or if the drug is not in unit dosage form, the amount of the ingredient in a specific unit of weight or measure of the drug, except that for drug premixes for use in the manufacture of animal feeds, a nonantibiotic ingredient may be expressed in terms of percent. If a drug premix has been assigned a Product Code as provided for in § 207.35(b)(2)(iii), the quantitative listing of ingredients may be limited to each variation of level of active drug ingredient.

(7) For each drug listed, the registration number of every drug establishment within the parent company at which it is manufactured, prepared, propagated, compounded, or processed.

(8) For each drug listed, the National Drug Code (NDC) number. If no NDC Labeler Code number has been assigned, the Product Code and Package Code will be included and a Labeler Code will be assigned as described in § 207.35(b)(2)(i).

§ 207.26 Amendments to registration.

Changes in individual ownership, corporate or partnership structure, location, or drug-handling activity, shall be submitted on Form FD-2656 (Registration of Drug Establishment) as an amendment to registration within 5 days of these changes. Changes in the names of officers and directors of the corporations do not require this amendment but must be shown at the annual registration.

§ 207.30 Updating drug listing information.

(a) After submitting the initial drug listing information, every person who is required to list drugs under § 207.20 shall submit on Form FD-2657 (Drug Product Listing) during each subsequent June and December, or at the discretion of the registrant when the change occurs, the following information:

(1) A list of each drug introduced by the registrant for commercial distribution which has not been

included in any list previously submitted. All of the information required by § 207.25(b) shall be provided for each such drug.

(2) A list of each drug formerly listed in accordance with § 207.25(b) for which commercial distribution has been discontinued, including for each drug so listed the National Drug Code (NDC) number, the identity by established name and proprietary name, and date of discontinuance. It is requested but not required that the reason for discontinuance of distribution be included with this information.

(3) A list of each drug for which a notice of discontinuance was submitted under paragraph (a)(2) of this section and for which commercial distribution has been resumed, including for each drug so listed the NDC number, the identity by established name as defined in section 502(e) of the act and by any proprietary name, the date of resumption, and any other information required by § 207.25(b) not previously submitted.

(4) Any material change in any information previously submitted.

(b) When no changes have occurred since the previously submitted list, no report is required.

§ 207.31 Additional drug listing information.

(a) In addition to the information routinely required by §§ 207.25 and 207.30, the Food and Drug Administration may require submission of the following information by letter or by Federal Register notice:

(1) For a particular drug so listed that is subject to section 503(b)(1) of the act and regarded by the registrant as not subject to sections 505, 506, or 507 of the act, upon request made by the Food and Drug Administration for good cause, a copy of all advertisements.

(2) For a particular drug product so listed that is regarded by the registrant as not subject to section 505, 506, 507, or 512 of the act, upon a finding by the Food and Drug Administration that it is necessary to carry out the purposes of the act, a quantitative listing of all ingredients.

(3) For a particular drug product, upon request by the Food and Drug Administration, a brief statement of the basis upon which the registrant has determined that the drug product is not subject to section 505, 506, 507, or 512 of the act.

(4) For each registrant, upon a finding by the Food and Drug Administration that it is necessary to carry out the purposes of the act, a list of each listed

drug product containing a particular ingredient.

(b) It is requested but not required that information concerning the quantity of drug distributed be submitted with the annual registration.

(c) It is requested but not required that a qualitative listing of the inactive ingredients be submitted for all listed drugs in the format prescribed in Form FD-2657 (Drug Product Listing).

(d) It is requested but not required that a quantitative listing of the active ingredients be submitted for all drugs listed which are subject to section 505, 506, 507, or 512 of the act or section 351 of the Public Health Service Act.

§ 207.35 Notification of registrant; drug establishment registration number and drug listing number.

(a) The Food and Drug Administration will provide to the registrant a validated copy of Form FD-2656 (Registration of Drug Establishment) as evidence of registration. This validated copy will be sent to the mailing address shown on the form. The Food and Drug Administration will assign a permanent registration number to each drug establishment registered in accordance with these regulations.

(b) A drug listing number will be assigned, using the National Drug Code (NDC) numbering system, to each drug or class of drugs listed as follows:

(1) If a drug is already listed in the National Drug Code System or in the National Health Related Items Code System, the number will be the same as that assigned under those codes. A lead zero will be added by the Food and Drug Administration to the first three characters of the code, which identifies the manufacturer or distributor, to expand the "Labeler Code" segment to four characters. The National Drug Code, Product Code, and Package Code configurations used to describe these drugs, or any new drugs added to the product line, will remain the same, i.e., a four-character Product Code and a two-character Package Code. Alphanumeric characters may be retained where they are already used in the Product Code and Package Code segments of the National Drug Code; however, these alphanumeric characters may be converted to all numeric digits. The manufacturer or distributor shall inform the Food and Drug Administration of the changes.

(2) If a registered establishment or distributor has not previously participated in the National Drug Code System or in the National Health Related Items Code System, the National Drug Code numbering system

will be used in assigning a number, as follows (only numerics will be used):

(i) The first 5 numeric characters of the 10-character code identify the manufacturer or distributor and are known as the Labeler Code. The Food and Drug Administration will expand the Labeler Code from five to six numeric characters when the available five-character code combinations are exhausted. These code numbers are assigned by the Food and Drug Administration and provided to the registrant along with the validated copy of Form FD-2656 (Registration of Drug Establishment). Any registered firm that does not have an assigned "Labeler Code" will be assigned one when registration and listing information are submitted.

(ii) The last 5 numeric characters of the 10-character code identify the drug and the trade package size and type. The segment that identifies the drug formulation is known as the Product Code and the segment that identifies the trade package size and type is known as the Package Code. The Product Code and the Package Code will be assigned by the manufacturer or distributor before drug listing and will be included in Form FD-2657 (Drug Product Listing). Either of two methods may be used by the manufacturer or distributor in assigning the Product and Package Codes: a 3-2 Product-Package Code configuration (e.g., 542-12) or a 4-1 Product-Package Code configuration (e.g., 5421-2). A manufacturer or distributor with a given Labeler Code may use only one such Product-Package Code configuration and this same configuration shall be used in assigning the Product-Package Codes for all drugs included in the drug listing. The manufacturer or distributor shall report to the Food and Drug Administration the Product-Package Code configuration used in assigning these codes.

(iii) If the drug formulation is a custom premix intended for use in the manufacture of an animal feed, a separate Product Code is required only for each variation of level of active drug ingredient.

(3) The NDC number is requested but not required to appear on all drug labels and in all drug labeling, including the label of any prescription drug container furnished to a consumer. If the NDC number is shown on a drug label, it shall be placed as follows:

(i) The NDC number shall appear prominently in the top third of the principal display panel of the label on the immediate container and of any outside container or wrapper. Instead of placing the NDC number in the top third

of the label, the NDC number may appear as part of and contiguous to any bar-code symbol for any drug product if the symbol appears prominently on the immediate container and on any outside container or wrapper and in a conspicuous location, but in no event on the natural bottom of a container or wrapper, provided that the bar-code symbol is compatible with the NDC, i.e., the symbol provides a format capable of encoding the numeric characters of an NDC number. The term "principal display panel," as used in this paragraph, means that part of a label most likely to be displayed, presented, shown, or examined under customary conditions of display to the consumer (for over-the-counter drug products) or to the dispenser (for prescription drug products).

(ii) The NDC number shall be preceded by either the prefix "NDC" or "N" when it is used on a label or in labeling. The prefix used for a drug product shall be used consistently on the label of the immediate container, outside container, or wrapper, if any, and on other labeling for that drug product.

(iii) The Product-Package Code configuration shall be indicated and the segments of the number shall be separated by a dash, e.g., NDC 15643-542-12 or N 15643-542-12.

(iv) All 10 characters shall appear and the leading zeros in any segment of the NDC number shall be shown, except that leading zeros may be omitted from any segment of the NDC number when the NDC number is used for product identification by direct imprinting on dosage forms or in the case of containers too small or otherwise unable to accommodate a label with sufficient space to bear both required and optional labeling information.

(v) The placing of the assigned NDC number on a label or in labeling does not require the submission of a supplemental new drug application, supplemental new animal drug application, or supplemental antibiotic Form 5 or 6.

(4)(i) If any change occurs to those product characteristics that clearly distinguish one drug product version from another, the registrant shall assign a new NDC number to the new product version and submit that information to the Food and Drug Administration. Such a change includes, but is not limited to, a change in: active ingredient(s); strength or concentration of active ingredient(s); dosage form; route of administration, if it also includes a change in product formulation; and product name. If, by notice in the

Federal Register, the Food and Drug Administration requires a change in drug product characteristics and determines the change will require that a new product code be assigned to the reformulated product, the Food and Drug Administration will announce its determination in the Federal Register publication that requires the change, setting forth its reasoning and justification for its determination. If a change only in packaging is involved, the trade package code may be revised without assigning a new product code segment, but the Food and Drug Administration shall be informed about the new trade package code and characteristics.

(ii) When a drug product has been discontinued, its product code may be reassigned to another drug product 5 years after the expiration date of the discontinued product, or, if there is no expiration date, 5 years after the last shipment of the discontinued product into commercial distribution. Reuse of product codes may occur, under the specified conditions, regardless of the NDC, Product Code, and Package Code configuration used.

(c) Although registration and drug listing are required to engage in the drug activities described in § 207.20, validation of registration and the assignment of a drug listing number do not, in themselves, establish that the holder of the registration is legally qualified to deal in such drugs.

§ 207.37 Inspection of registrations and drug listings.

(a) A copy of the Form FD-2656 (Registration of Drug Establishment) filed by the registrant will be available for inspection in accordance with section 510(f) of the act, at the Bureau of Drugs, Registration Section (HFD-315), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857. In addition, there will be available for inspection at each of the Food and Drug Administration district offices the same information for firms within the geographical area of that district office. Upon request and receipt of a self-addressed stamped envelope, verification of registration number or location of a registered establishment will be provided.

(1) The following types of information submitted under the drug listing requirements will be available for public disclosure when compiled:

(i) A list of all drug products.
(ii) A list of all drug products arranged by labeled indications or pharmacological category.

(iii) A list of all drug products arranged by manufacturer.

(iv) A list of a drug product's active ingredients.

(v) A list of drug products newly marketed or for which marketing is resumed.

(vi) A list of drug products discontinued.

(vii) All labeling.

(viii) All advertising.

(ix) All information that has already become a matter of public knowledge.

(x) A list of drug products containing a particular active ingredient.

(2) The following types of information submitted in accordance with the drug listing requirement will not be available for public disclosure (except that any of the information will be available for public disclosure if it has already become a matter of public knowledge or if the Food and Drug Administration finds that confidentiality would be inconsistent with protection of the public health):

(i) Any information submitted as the basis upon which it has been determined that a particular drug product is not subject to section 505, 506, 507, or 512 of the act.

(ii) A list of a drug product's inactive ingredients.

(iii) A list of drugs containing a particular inactive ingredient.

(b) Requests for information about registrations and drug listings should be directed to Bureau of Drugs, Registration Section (HFD-315), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857.

§ 207.39 Misbranding by reference to registration or to registration number.

Registration of a drug establishment or drug wholesaler, or assignment of a registration number, or assignment of a NDC number does not in any way denote approval of the firm or its products. Any representation that creates an impression of official approval because of registration or possession of registration number or NDC number is misleading and constitutes misbranding.

Subpart D—Procedure for Foreign Drug Establishment

§ 207.40 Drug listing requirements for foreign drug establishments.

(a) Every foreign drug establishment whose drugs are imported or offered for import into the United States shall comply with the drug listing requirements in Subpart C of this part.

unless exempt under Subpart B of this part, whether or not it is also registered.

(b) No drug, unless it is listed as required in Subpart C of this part, may be imported from a foreign drug establishment into the United States except a drug imported or offered for import under the investigational use provisions of § 312.1. The drug listing information shall be in the English language.

(c) Foreign drug establishments shall submit as part of the drug listing, the name and address of the establishment and the name of the individual responsible for submitting drug listing information. Any changes in this information shall be reported to the Food and Drug Administration at the intervals specified for updating drug listing information in § 207.30(a).

Interested persons may, on or before October 1, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: July 24, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-23507 Filed 7-30-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 808]

[Docket No. 76P-0344]

Oral Hearing on Proposed Regulation on California Application for Exemption From Preemption of Medical Device Requirements

AGENCY: Food and Drug Administration.

ACTION: Notice of Hearing.

SUMMARY: A public hearing will be held on the proposed rule on California's

application for exemption from preemption for its medical device requirements. In preparing a final regulation, the agency will consider the administrative record of the hearing, along with all comments and other information received.

DATES: Written notices of appearance should be filed by August 30, 1979. The hearing will be held on October 3, 1979, and, if necessary, on October 4, 1979.

ADDRESSES: Written notices of appearance should be sent to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. The hearing will be held from 9 a.m. to 5 p.m. in Rm. W-1098, EDD Building, 800 Capitol Mall, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Bureau of Medical Devices (HFK-70), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7114.

SUPPLEMENTARY INFORMATION: In the Federal Register of April 3, 1979 (44 FR 19438), the Food and Drug Administration (FDA) repropose a regulation responding to an application by the State of California for exemption from Federal preemption for certain State medical device requirements.

In the same issue of the Federal Register, FDA published a notice of opportunity for interested persons to request an oral hearing on the proposed rule. The notice explained that interested persons could request an oral hearing on or before May 14, 1979. FDA has received several requests for an oral hearing.

Accordingly, FDA announces that an oral hearing regarding the California application for exemption from preemption of its medical device laws and regulations will be held on October 3, 1979 and, if necessary to accommodate all those who request to make a presentation, October 4, 1979, from 9 a.m. to 5 p.m., Rm. W-1098, EDD Building, 800 Capitol Mall, Sacramento, CA 95814. The oral hearing will be chaired by David M. Link, Director, Bureau of Medical Devices, Food and Drug Administration.

After reviewing the comments and the notices of appearance, FDA will schedule each appearance and notify each person of the time allotted for each appearance. The procedures to govern the hearing are those applicable to a public hearing before the Commissioner of Food and Drugs under Part 15 (21 CFR Part 15).

Interested persons who wish to participate may, on or before August 30, 1979, submit a notice of appearance with the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. All notices submitted should be identified with the Hearing Clerk docket number found in brackets in the heading of this notice and should contain the name, address, telephone number, any business affiliation of the person desiring to make a presentation, a brief summary of the presentation, and the approximate time requested for the presentation.

Groups having similar interests are requested to consolidate their comments and present them through a single representative. FDA may require joint presentations by persons with common interests. FDA will allocate the time available for the hearing among the persons who properly file a notice of appearance.

The administrative record of the proposed regulation will be open for 30 days after the hearing to allow comment on matters raised at the hearing.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 521, 90 Stat. 574 (21 U.S.C. 360k)) and under authority delegated to the Commissioner (21 CFR 5.1).

Dated: July 25, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-23507 Filed 7-30-79; 8:45 am]

BILLING CODE 4110-03-M

EQUAL EMPLOYMENT COMMISSISON

[29 CFR Ch. XVI]

Improving Government Regulations; Agenda of Significant Regulatory Activity

AGENCY: Equal Employment Opportunity Commission.

ACTION: Semiannual Agenda.

SUMMARY: This agenda contains a report on the status of the six regulatory actions the Commission announced in its previous agenda as well as an announcement of the significant regulatory actions that EEOC plans to take during the six-month period July 1979-January 1980. The agenda was developed under the guidelines in Executive Order 12044, Improving Government Regulations (43 FR 12661, March 24, 1978). The Commission's purpose in publishing the agenda is to allow interested persons an opportunity to participate in all stages of its

rulemaking process. The items mentioned in this agenda will be coordinated as appropriate under Executive Order 12067 (43 FR 28967, July 5, 1978).

FOR FURTHER INFORMATION CONTACT:

Frederick D. Dorsey, Director, Office of Policy Implementation, 202-634-7060.

Francesca E. Farmer, Director, Office of Inter-agency Coordination, 202-653-6490.

Signed at Washington, D.C. this 25th day of July 1979.

For The Commission.

Eleanor Holmes Norton,
Chair.

Semiannual Agenda of Regulations

A. Status of Regulatory Actions Previously Listed

1. *Guidelines for the coordination and consultation required by Executive Order (EO) 12067.* A draft set of procedures were circulated to the affected Federal agencies on December 8, 1978. The comments by the Federal agencies were reconciled by the Commission and a revised draft was recirculated on June 7, 1979 with a due date of June 29, 1979. These procedures will become the first Order issued under EEOC's 12067 authority. It has been determined by EEOC that these procedures and subsequent issuances, which rely on EO 12067 for authority, will be published as a system of "Orders under EO 12067". The orders will appear in the Federal Register for public comment before final issuance. In addition to issuing the guidance for coordination and consultation, the first Order will also describe the process EEOC will follow in issuing subsequent "Orders under EO 12067." Among subsequent Orders will be one giving guidance on processing of EEO complaints received by Title VI and other grantmaking agencies and the one giving guidance on consistent definitions. The Order on coordination and consultation will be published for public comment within the next 60 days.

2. *Government-wide guidelines and/or regulations for processing of EEO complaints received by Title VI or other grantmaking agencies and programs.* EEOC and Department of Justice (DOJ) staff have met several times to discuss the substance of a regulation and a draft regulation has been prepared. After preliminary approval by EEOC and DOJ, the draft will be circulated to Title VI agencies and other grantmaking agencies and programs for comment. It will then be published for public comment. A final regulation is anticipated by the end of the year, it will be jointly issued by EEOC and DOJ and

will be the second "Order under EO 12067".

3. *Guidelines on Discrimination because of Sex.* These guidelines were published in final form in the Federal Register on April 20, 1979.

4. *Recordkeeping Regulations.* The Commission is continuing its re-evaluation of the possible need for a regulatory analysis.

5. *Guidelines on Discrimination because of Religion.* The present Guidelines have been reviewed, changes drafted and informal consultation conducted with affected Federal agencies as required by Executive Order 12067. The few proposed Guidelines are presently awaiting approval by the Commission for publication in the Federal Register for notice and comment.

6. *Procedures for EEO in the Federal Government.* The Commission is still reviewing existing regulations. The following two regulations have been developed, however, and may be published as interim regulations shortly.

a. Amending 29 CFR Part 1613 to provide for the award of attorneys fees at the administrative level in Federal EEO.

(1) *Need for the Regulation:* To provide full relief for discrimination at the administrative level and to prevent circumvention of the administrative process.

(2) *Legal basis:* Section 717 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-16; Reorganization Plan No. 1 of 1978; Executive Order 12106.

(3) *Regulatory Analysis:* The regulation is not expected to have an economic effect great enough to require a regulatory analysis.

(4) *Contact Persons:* Constance L. Dupre, Associate General Counsel, Legal Counsel Division, 202-634-6595, and John Rayburn, Director, Technical Guidance Division, 202-634-6855.

b. Amending 29 CFR 1613.234 and 1613.235, to revise the Federal EEO appellate procedure.

(1) *Need for the Regulation:* The new method used by the EEOC to review the decisions in Federal EEO complaints obviates the need for a right to request reopening of cases.

(2) *Legal Basis:* Section 717 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-16; Reorganization Plan No. 1 of 1978; Executive Order 12106.

(3) *Regulatory Analysis:* The regulation is not expected to have an economic impact great enough to require a regulatory analysis.

(4) *Contact Person:* Nestor Cruz, Director, Office of Review and Appeals, 202-653-7435.

c. Delegations to Merit Systems Protection Board.

(1) *Need for the Regulation:* The Merit Systems Protection Board cannot process those cases pending before it, which were filed before the effective date of the Civil Service Reform Act, without these delegations. The regulation also permits EEOC to treat pre-Civil Service Reform Act cases in a manner consistent with that Act.

(2) *Legal Basis:* Section 3(b) of Reorganization Plan No. 1, Section 705 (g)(1) of title VII, and general principles of delegation law.

(3) *Regulatory Analysis:* It is not anticipated that the regulations will have a great enough impact to require a regulatory analysis.

(4) *Contact Person:* Constance L. Dupre, Associate General Counsel, Legal Counsel Division, 202-634-6595.

B. New Regulations

1. EEOC Regulations to enforce section 504 of the Rehabilitation Act, 29 U.S.C. 794.

a. *Need for the Regulation:* section 504 and Executive order 11914 require each agency to promulgate such regulations as are necessary to enforce this section.

b. *Legal Basis:* Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 704.

c. *Regulatory Analysis:* The economic impact of these regulations has not been finally determined. It appears unlikely, however, that the impact will be great enough to require a regulatory analysis.

d. *Contact Person:* Constance L. Dupre, Associate General Counsel, Legal Counsel Division, 202-634-6595.

2. Regulations for processing Title VI complaints received by EEOC.

a. *Need for the regulation:* Title VI mandates that a procedure be established by each federal agency to process complaints of discrimination in programs and activities receiving federal financial assistance.

b. *Legal Basis:* Title VI of the civil Rights Act of 1964, as amended, 42 U.S.C. 2000d et seq.

c. *Regulatory Analysis:* It is not anticipated that the regulations will have an economic impact great enough to require a regulatory analysis.

d. *Contact Person:* Constance L. Dupre, Associate General Counsel, Legal Counsel Division, 202-634-6595.

3. Guidelines on Discrimination Because of Exposure to Hazardous Substances.

a. *Need for the Regulation:* Recently several situation have come to the

attention of EEOC and other Federal agencies' concerning the exclusion by employers of certain persons protected by Title VII from jobs in which there is exposure to certain toxic substances. The Guidelines will provide employers with guidance in their efforts to develop nondiscriminatory health and safety policies which comport with Title VII.

b. *Legal Basis:* Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e *et seq.*

c. *Regulatory Analysis:* The Commission's review has not progressed far enough to determine whether a regulatory analysis will be required.

d. *Contact Persons:* John Suhre, Supervisory-Attorney, Office of Policy Implementation, 202-634-7060 and Francesta Farmer, Director, Office of Inter-agency Coordination, 202-653-5490.

4. Consistent definitions for use in Federal EEO programs: Order No. 3 under Executive Order 12067.

a. *Need for Regulations:* Section 1-301 (a) of EO 12067 places the responsibility for defining the nature of employment discrimination with the EEOC. The need for consistent Federal definitions of key concepts such as affirmative action, systemic discrimination, adverse impact, disparate treatment, availability, and relevant labor market is acute due to the passage in recent years of employment discrimination prohibitions in several major program laws. These laws have increased the number of agencies responsible for enforcing employment discrimination prohibitions. Timely guidance and consistent definitions by EEOC will facilitate the development of Federal EEO issuances by the agencies.

b. *Legal Basis:* Reorganization Plan No. 1 of 1978; Section 1-301 (a) of Executive Order 12067.

c. *Regulatory Analysis:* It is not anticipated that a regulatory analysis will be required.

d. *Contact Person:* Francesta E. Farmer, Director, Office of Interagency Coordination, 202-653-5490.

5. Government-wide System of notification to Federal agencies of EEO issuances under development.

a. *Need for Regulation:* Sections 1-201 and 1-301 (a) of EO 12067 assigns to EEOC the responsibility for providing leadership and coordination to Federal agencies in the development of standards, guidelines and policies dealing with employment discrimination. Under current practice, most affected agencies have no notice of proposed rulemaking or issuances under consideration in time for them to contribute to the early development of the issuances. Duplication,

inconsistency and potential conflict can be avoided if EEOC and affected agencies have more timely information about rules or issuances under development.

b. *Legal Basis:* Reorganization Plan No. 1 of 1978; Sections 1-201 and 1-301 (a) of Executive Order 12067.

c. *Regulatory Analysis:* It is not anticipated that a regulatory analysis will be required.

d. *Contact Person:* Francesta E. Farmer, Director, Office of Interagency Coordination, 202-653-5490.

C. Changes to Existing Regulations

1. Although the EEOC has adopted the recordkeeping and administrative regulations of the Department of Labor for the Equal Pay Act, 29 U.S.C. 201 *et seq.*, it has not adopted 29 CFR Part 800, the Interpretative Regulations. The Commission will review these regulations and issue its own interpretations.

a. *Need for the Regulation:* Provide guidance in accordance with the most recent court decisions and consistent with the Commission's interpretations of these decisions and the Act.

b. *Legal Basis:* Reorganization Plan No. 1 of 1978; Equal Pay Act, 29 U.S.C. 201 *et seq.*

c. *Regulatory Analysis:* The economic impact of these changes is being analyzed.

d. *Contact Persons:* Constance L. Dupre, Associate General Counsel, Legal Counsel Division, 202-634-6595, and Frank McGowan, Field Manager, Office of Field Services, 202-634-6863.

2. The Commission has adopted the procedure utilized for complaints under the Age Discrimination in Employment Act (ADEA) of 1967, 29 U.S.C. 621 *et seq.*, and the ADEA recordkeeping regulations. The commission will, however, revise the Department of Labor's interpretations of the ADEA.

a. *Need for Regulations:* This will permit the Commission to publish regulations that conform with the latest amendments to the ADEA and that comply with the Commission's interpretation of the Act.

b. *Legal Basis:* Reorganization Plan No. 1 of 1978; Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 *et seq.*

c. *Regulatory Analysis:* The regulation is not expected to have an economic impact great enough to require a regulatory analysis.

d. *Contact Persons:* Constance L. Dupre, Associate General Counsel, Legal Counsel Division, 202-634-6595, and Frank McGowan, Field Manager, Office of Field Services, 202-634-6863.

3. Amending 29 CFR 1601.21 (b), (d) and 1601.28, which deal with EEOC notices of right-to-sue and reconsideration of determinations.

a. *Need for the Regulation:* The regulations need to be amended in order to protect the Charging Party's opportunity to file a Title VII action in U.S. District Court after a determination is reconsidered. The Commission is discussing this matter with the Department Justice because the development of the regulation may necessitate conforming changes in the Department's practices.

b. *Legal Basis:* Section 713 (a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-12 (a).

c. *Regulatory Analysis:* The regulation is not expected to have an economic impact great enough to require a regulatory analysis.

d. *Contact Persons:* Constance L. Dupre, Associate General Counsel, Legal Counsel Division, 202-634-6595, and Ronnie Blumenthal, Attorney-Adviser, Office of Field Services, 202-634-6850.

4. Amending 29 CFR 1611.1 *et seq.*, the Commission's Privacy Act Regulations.

a. *Need for the Regulation:* The regulations must be amended to reflect EEOC's authority over Federal EEO records. This authority was previously vested in the Civil Service Commission. Additionally, the Commission is considering exempting Federal EEO records from access under the Privacy Act.

b. *Legal Basis:* Reorganization Plan No. 1 of 1978; Privacy Act of 1974, U.S.C. 552a.

c. *Regulatory Analysis:* The regulation is not expected to have an economic impact great enough to require a regulatory analysis.

d. *Contact Person:* Constance L. Dupre, Associate General Counsel, Legal Counsel Division, 202-634-6595

5. Guidelines on Religious Discrimination.

a. *Need for the Regulation:* After the United States Supreme Court rendered its decision in *Trans World Airlines Inc. vs. Hardison*, 432 U.S. 63 (1977), there was concern about the duty of employers and labor organizations to provide reasonable accommodation for the religious practices of employees or prospective employees. The proposed changes to the Commission's existing *Guidelines on Discrimination Because of Religion* will clarify this duty.

b. *Legal Basis:* Section 701 (j) and 713 (a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e. (j), 2000e-12(a).

c. *Regulatory Analysis:* The regulation is not expected to have an economic impact great enough to require a regulatory analysis.

d. *Contact Person:* Merle Morrow, Supervisory-Attorney, Office of Policy Implementation, 202-634-7060.

D. Regulations Scheduled for Review

1. Age Discrimination in Employment Act Recordkeeping Regulations.

a. *Purpose of Review:* To determine what changes, if any, are required to make to these regulations consistent with the recordkeeping regulations under Title VII of the Civil Rights Act of 1964, as amended.

b. *Contact Person:* Constance L. Dupre, Associate General Counsel, Legal Counsel Division, 202-634-6595.

2. Procedures for EEO in the Federal Government.

a. *Purpose of Review:* Due to Reorganization Plan No. 1 of 1978, effective January 1, 1979, certain functions relating to EEO in the Federal Government were transferred to EEOC. The Commission believes it appropriate to continue its review of existing regulations concerning the Federal EEO program in order to determine what further changes, if any, are needed.

b. *Contact Person:* Constance L. Dupre, Associate General Counsel, Legal Counsel Division, 202-634-6595, Alfredo Mathew, Director, Office of Government Employment, 202-634-6915, Nestor Cruz, Director, Office of Review and Appeals, 202-653-7435, and John Rayburn, Director, Technical Guidance Division, 202-634-6855.

[FR Doc. 79-23512 Filed 7-30-79; 8:45 am]

BILLING CODE 6570-06-M

POSTAL SERVICE

[39 CFR Part 10]

International Express Mail Rates; Rates to Bermuda

AGENCY: Postal Service.

ACTION: Proposed International Express Mail Service Rates to Bermuda.

SUMMARY: Pursuant to its authority under 39 U.S.C. 407, the Postal Service proposes to begin International Express Mail Service with Bermuda at rates indicated in the tables below.

An International Express Mail agreement with Bermuda has recently been concluded. It is anticipated that the proposed rates would become effective September 1, 1979.

DATE: Comments must be received on or before August 22, 1979.

ADDRESS: Written comments should be directed to the General Manager, Expedited Mail Services Division, Customer Services Department, U.S. Postal Service, Washington, D.C. 20260. Copies of all written comments will be available for public inspection and photocopying between 9 AM and 4 PM, Monday through Friday, in Room 5986, 475 L'Enfant Plaza, West, SW, Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT: Patricia M. Gibert, (202) 245-5624.

SUPPLEMENTARY INFORMATION: Although 39 U.S.C. 407 does not require advance notice and opportunity for submission of comments and the Postal Service is exempted by 39 U.S.C. 410(a) from the advance notice requirement of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553), the Postal Service invites interested persons to submit written data, views or arguments concerning the proposed rates of postage for International Express Mail set out in the following table (designated 8-10 for inclusion in Publication 42, International Mail, incorporated by reference, 39 CFR 10.1).

[39 U.S.C. 401, 403, 404(2), 407, 410(a), Universal Postal Convention, Lausanne, 1974 T.I.A.S. No. 8321, Art. 6.]

W. Allen Sanders,
Acting Deputy General Counsel.

BILLING CODE 7710-12-M

TABLE 8-10
BERMUDA
INTERNATIONAL EXPRESS MAIL
CUSTOM DESIGNED SERVICE

POUNDS (up to & including)	ZONE TO INT'L EXCHANGE OFFICE						
	3	4	5	6	7	8	9
1	26.48	26.51	26.55	26.59	26.63	26.68	26.73
2	27.18	27.24	27.32	27.40	27.48	27.58	27.63
3	27.88	27.97	28.09	28.21	28.33	28.48	28.63
4	28.58	28.70	28.86	29.02	29.18	29.38	29.53
5	29.28	29.43	29.63	29.83	30.03	30.28	30.53
6	29.98	30.16	30.40	30.64	30.88	31.18	31.48
7	30.68	30.89	31.17	31.45	31.73	32.08	32.43
8	31.38	31.62	31.94	32.26	32.58	32.98	33.38
9	32.08	32.35	32.71	33.07	33.43	33.88	34.33
10	32.78	33.08	33.48	33.88	34.28	34.78	35.28
11	33.48	33.81	34.25	34.69	35.13	35.68	36.23
12	34.18	34.54	35.02	35.50	35.98	36.58	37.18
13	34.88	35.27	35.79	36.31	36.83	37.48	38.13
14	35.58	36.00	36.56	37.12	37.68	38.38	39.08
15	36.28	36.73	37.33	37.93	38.53	39.28	40.03
16	36.98	37.46	38.10	38.74	39.38	40.18	40.98
17	37.68	38.19	38.87	39.55	40.23	41.08	41.93
18	38.38	38.92	39.64	40.36	41.08	41.98	42.88
19	39.08	39.65	40.41	41.17	41.93	42.83	43.83
20	39.78	40.38	41.18	41.98	42.78	43.78	44.78
21	40.48	41.11	41.95	42.79	43.63	44.68	45.73
22	41.18	41.84	42.72	43.60	44.48	45.53	46.68
23	41.88	42.57	43.49	44.41	45.33	46.48	47.63
24	42.58	43.30	44.26	45.22	46.18	47.33	48.58
25	43.28	44.03	45.03	46.03	47.03	48.28	49.53
26	43.98	44.76	45.80	46.84	47.88	49.18	50.48
27	44.68	45.49	46.57	47.65	48.73	50.08	51.43
28	45.38	46.22	47.34	48.46	49.58	50.98	52.38
29	46.08	46.95	48.11	49.27	50.43	51.88	53.33
30	46.78	47.68	48.88	50.08	51.28	52.78	54.28
31	47.48	48.41	49.65	50.89	52.13	53.68	55.23
32	48.18	49.14	50.42	51.70	52.98	54.58	56.18
33	48.88	49.87	51.19	52.57	53.83	55.48	57.13

- NOTES: 1) Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a Designated Post Office.
- 2) Pick-up is available under a Service Agreement for an added charge of \$5.25 for each pick-up stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pick-up charge.
- 3) If tendered at origin airport mail facility, deduct \$3.00 from these rates.

[FR Doc. 79-23483 Filed 7-30-79; 8:45 am]
BILLING CODE 7710-12-C

[39 CFR Part 111]

Preparation of Bulk Mailings

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposal would amend regulations governing the preparation of second-class, controlled circulation, third-class, fourth-class bound printed matter, special rate fourth-class bulk mailings and library rate mailings. In general, the proposal revises the destinations to which packages and sacks of mail must be presorted, offers a number of optional sortations, and changes the minimum quantities of mail for which a bulk mailer must prepare sacks. The eligibility requirements for the lower second-class per piece rates have been altered as a result of these general bulk mail preparation revisions. In addition, a number of minor changes have been made to related mail preparation regulations.

DATE: Comments must be received on or before August 20, 1979.

ADDRESS: Written comments should be directed to the Director, Office of Mail Classification, Rates & Classification Department, U.S. Postal Service, Washington, D.C. 20260. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 1610, U.S. Postal Service Headquarters, 475 L'Enfant Plaza West, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ernest Collins, 202/245-4749.

SUPPLEMENTAL INFORMATION: From time to time it is necessary for the Postal Service to revise the preparation requirements for the various categories and classes of bulk mail in order to bring them into line with changes and refinements in the processing procedures and methods of handling such mail employed by the Postal Service and mailers. This proposal presents a general revision of the regulations governing the preparation of second-class, controlled circulation, third-class, fourth-class bound printed matter, special rate fourth-class bulk mailings, and library rate mailings. The proposed regulations reflect a variety of mail processing changes, such as the widespread practice among mailers of sorting principally to five- and three-digit ZIP Code destinations, the adjustment of postal processing to the use of specific five-digit ZIP Codes within a multi-ZIP Coded city instead of

the lowest ZIP Code for such a city, and the desirability of parcels sorted according to the destination bulk mail centers (BMCs) instead of three-digit ZIP Code or sectional center facility (SCF) destinations. These changes are designed to better align mailer preparation requirements with current postal processing procedures in order to provide more efficient postal processing of bulk mailings.

Central to this proposed revision is the recognition of the "package" (or parcel if appropriate) as the basic unit of mail processing. Six or more copies of a second-class publication or ten or more pieces of third-class matter will generally constitute a "package." The Postal Service is shifting away from the use of one-third of a sack as a standard unit for mail preparation because, under current bulk mail processing methods, we believe it will be more efficient and advantageous to postal operations to have additional through put on presorted packages of bulk mail than to receive larger quantities of mail per sack.

The use of one-third of a sack as a standard unit for mail preparation was developed during the time when most mail was transported by rail. In order to minimize the charges for sack handling assessed by the railroads, the Post Office Department required the use of sacks which were at least one-third full. Because of changes in the modes of transportation used by the Postal Service, the need for a one-third of a sack standard is no longer as paramount as in the past.

The mail preparation changes reflected in these proposed regulations are designed to encourage the sortation of sacks as close to the final destination of the enclosed mail as possible. The finer presortation of sacks which will result will reduce the sortation of individual packages of mail at SCFs and State Distribution Centers (SDCs).

As a result of the treatment of the package of mail (or parcel) as the basic unit of mail processing, the eligibility requirements for the lower second-class per piece rates have been altered. In addition, a number of minor changes have been made to related mail preparation regulations in keeping with the comprehensive scope of this proposal.

Currently mailers are required to sort most bulk mailings to five-digit ZIP Codes, multi-ZIP Coded cities, SCF delivery areas, States, and mixed states. In general, the proposed rule would require mailers to sort most bulk mailings to five-digit ZIP Codes, three-digit ZIP Code prefixes, States and

mixed states. Mailers would have the option to sort to carrier routes, multi-ZIP Coded cities, SCF and SDC delivery areas as well when they feel the resultant service advantages warrant such additional preparation. Furthermore, bulk mailings of machinable parcels would be required to be sorted to five-digit ZIP Codes and destination BMC delivery areas.

The following list contains the minimum quantities of mail which would require sacking:

Class or subclass	Minimum quantity
Second-Class and Controlled Circulation	4 packages
Third-Class	12 packages
Special Rate Fourth-Class:	
Level A	8 pieces, 20 pounds or 1,000 cubic inches
Level B	4 pieces, 20 pounds or 1,000 cubic inches
Bound Printed Matter & Library Rate	10 pieces, 20 pounds or 1,000 cubic inches

For second-class mail, the Postal Service proposes to amend the preparation requirements in sections 464.1 through 464.6 of the Domestic Mail Manual to set forth the new second-class packaging and sacking requirements. Those provisions require packages of six or more copies and sacks of four or more packages to be made up to five-digit ZIP Code, three-digit ZIP Code, State, and mixed states destinations. Existing regulations concerning preparation of second-class bulk mailings to multi-ZIP Coded cities require five-digit ZIP Code preparation only for specified cities. The present regulations, while recommending that mailings to other multi-ZIP Coded cities be prepared in this manner, permit mailings to those cities to be presorted to the lowest ZIP Code for the city. The proposed change would standardize multi-ZIP Coded city preparation procedures by requiring five-digit ZIP Code preparation of packages and sacks whenever there is sufficient volume to do so. This proposed change would standardize multi-ZIP Coded city preparation procedures and enable the Postal Service to process and deliver these mailings in a more timely and efficient manner.

In recent years, the mail processing operations of the Postal Service have changed significantly. Much of the mail permitted to be prepared to the lowest ZIP Code for a city is now being sorted according to five digit ZIP Codes. All of the bulk mail centers and many city post offices have adopted these sorting methods. Accordingly, preparation of bulk mail to the lowest ZIP Code for a city is no longer appropriate and is

resulting in that mail being misdirected and delayed. This proposed change, by eliminating the lowest ZIP Code for a city sort and requiring that all second-class bulk mailings be sorted to five-digit ZIP Codes whenever possible, will bring the preparation of this mail into line with the current processing operations of the Postal Service and enable the Postal Service to avoid the cost, inefficiency and delay presently incurred when mail sorted to the lowest ZIP Code for a city must be rerouted and manually sorted. This proposal will also eliminate the misconception of some mailers that the list of multi-ZIP Coded cities is a list of cities exempt from the five-digit ZIP Code preparation requirement.

It is not expected that the proposal to require five-digit ZIP Code preparation to all multi-ZIP Coded cities will significantly alter preparation procedures for most bulk mailers. Many of them already presort to five-digit ZIP Codes for all multi-ZIP Coded cities, as recommended in the present regulations. Mailers will continue to have the option of also sorting to multi-ZIP Coded cities as well when they feel the resultant service advantages warrant such additional preparation. The number of cities to which the optional city sort may be made has also been increased by 113.

In conjunction with the above revisions, the proposal would also establish a required three-digit ZIP Code prefix sortation and make the present SCF sortation optional upon completion of the three-digit ZIP Code sort. This change reflects the current preference of many mailers to sort to the three-digit ZIP Code prefix. The sort is much simpler than combining the various five-digit ZIP Codes of some multi-ZIP Coded cities or the three-digit ZIP Code prefixes of SCFs which are not always numerically sequential. Furthermore, optional carrier route and State Distribution Center sortations have been added to provide greater flexibility for mailers who desire a finer sortation.

Present section 464.6 would be revised to reflect the packaging and sacking requirements in proposed sections 464.1 and 464.2. As a result, to qualify for the second-class level B or E piece rate, a piece of second-class mail must be in a five-digit ZIP Code package inside a five-digit ZIP Code sack or in a multi-ZIP Coded city or unique three-digit ZIP Code city package and in a respectively prepared sack. Similar preparation of carrier route pieces would be required for the second class level C piece rate.

Present section 464.31 would be revised to eliminate most the exceptions to the requirement that the address on

each piece of second-class mail must include the ZIP Code. These exceptions, which apply to second-class, controlled circulation, and bulk third-class mailings are for pieces sorted to carrier routes or five-digit ZIP Codes. The exception or pieces bearing the exceptional address format will be continued. Often, packages containing pieces addressed to the same five-digit ZIP Code are placed in multi-ZIP Code city or SCF sacks. When this occurs, a postal employee at the facility where the sack is unloaded may not be able to easily determine the proper destination of the package. If no piece in the package bears a ZIP Code, the postal employee may place the package with other non-ZIP Coded mail. This would result in the use of additional time to determine the mail's destination which would likely delay delivery of the pieces.

The use of ZIP Codes provides both mailers and postal employees with an effective means to verify presort. When ZIP Codes are not used, verification must be accomplished by reviewing the cities shown in the address. This is more time consuming and much less effective as many cities are assigned more than one five-digit ZIP Code. The Postal Service believes this revision of preparation requirements is an ideal time to delete these exceptions to the required use of the ZIP Code. We do not believe that this proposed change would involve extensive modification of most mailers' records because most address records used by mailers include ZIP Codes. In most instances, mailers would only need to transfer this information to their address labels.

Packaging and sacking requirements similar to those discussed above are also proposed for controlled circulation and third-class mail in proposed changes to sections 564 and 663. Proposed section 663.132h would add a new regulation providing that Management Section Center managers may authorize third-class bulk mailers to prepare "loose pack sacks," i.e., the placement of unbundled, unbound mail in a receptacle such as a mail sack. This practice is currently permitted by the Postal Service; the proposed regulation is designed to formalize and inform all mailers of the practice.

Proposed section 663.22 would specify the preparation requirements for machinable third-class parcels. It would require machinable parcels to be prepared in sacks to five-digit ZIP Code destinations and destination BMC delivery areas. The BMC separations for machinable parcels reflect the fact that BMCs, rather than multi-ZIP Coded cities or SCFs, sort machinable parcels

to five-digit ZIP Codes. These parcel preparation requirements are now offered to mailers as an option. Their mandatory application will reduce the number of separations a parcel mailer must make and will better conform to current postal processing procedures.

This proposed rule would also modify the preparation requirements for bound printed matter, special rate, and library rate fourth-class mail. The sacking requirements and machinable parcel preparation requirements in proposed sections 763.2, 763.3 and 763.6 for bound printed matter would be revised to be consistent with the requirements discussed above for second-class, controlled circulation and third-class bulk mailings. Proposed sections 724.2 and 764 would permit mailers of machinable parcels to claim the level B rates for 4 pieces, 20 pounds, or 1,000 cubic inches sorted to destination BMCs rather than three-digit ZIP Code prefixes. As currently required, mailers would make five-digit separations if these minimum quantities were met or exceeded.

Finally, the sacking requirements for library rate mail would also be revised to be consistent with those for bound printed matter and other bulk mail. Proposed section 765 would eliminate the present distinction between mailings of at least 5,000 pieces and mailings of at least 1,000 pieces. All mailings of at least 1,000 pieces would be required to be prepared in five-digit ZIP Code sacks where appropriate. The other requirements are the same as proposed for bound printed matter and differ depending upon the machinability of the mail. The Postal Service does not anticipate that this change will have much effect on library rate mailers.

When the Postal Service publishes proposed regulations in the *Federal Register* for comment, it generally allows a comment period of 30 days or more. In this case, however, it seems unnecessary to provide the full 30 day period, since the substance of the proposals published here were widely circulated to affected mailers by the Joint Industry/Postal Service Task Force on Alternative Delivery Services. This Task Force approved these proposals and recommended their speedy adoption. Moreover, these proposals would generally relieve existing presort restrictions. Accordingly, the Postal Service believes there are good reasons to shorten the comment period to 20 days in this case.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed

rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions of the Domestic Mail Manual:

(39 U.S.C. 401).

W. Allen Sanders,

Acting Deputy General Counsel.

Part 462 Preparation

In 462.3, revise 462.31 to read as follows:

462.31 Addressing

.31 Each piece including the top copy of a firm package (see 464.111) must bear the name and address of the subscriber. The address must include the ZIP Code. Exception: the ZIP Code may be omitted from pieces bearing a simplified address in accordance with 122.41.

Part 464 Presort Requirements

In 464, revise 464.11 to read as follows: Renumber 464.13 as 464.12, 464.18 as 464.13, 464.19 as 464.14; delete existing 464.12, 464.14, 464.15, 464.16, 464.17; revise 464.2 to read as follows; revise 464.32d to read as follows; revise 464.426 to read as follows; revise 464.6 to read as follows:

464 Presort Requirements (See Exhibit 464)

464.1 Packaging Requirements

.11 Sortation

.111 Firm Packages. When there are two or more copies for the same address they must be made up into one package if only one piece rate is paid for the group. Affix blue label F (see 464.14). When there is more than one package sent to one address, mailers are allowed to include a package identification notice such as 1 of 4, 2 of 4, etc., on the package wrapper, provided such endorsement does not interfere with the clarity of the address.

.112 Optional Carrier Packages. When there are six or more copies for the same carrier route, rural route, lockbox section or general delivery unit, they may, at the mailer's option, be made up into a carrier package in packages of six or more. Such packages may qualify for the level C per piece rate. See 464.6. Whenever a carrier route package is not placed in a sack labeled to show that it only contains packages for the same carrier route, a facing slip, marked as shown below, must be affixed to the front of the package.

Line 1: 5-Digit ZIP Code of Address
Line 2: Contents and Carrier Route.
Rural Route, Lockbox Section, or General Delivery Unit

Line 3: Post Office of Entry
Sample Carrier Route Facing Slip:

SAN FRANCISCO CA 94133
NEWS RURAL ROUTE 12
PORTLAND OR 972

.113 5-Digit Packages. When there are six or more copies for the same 5-digit ZIP Code destination, they must be made up into 5-digit packages. Mailers are encouraged, but are not required, to affix red label D. Copies may qualify for the Level B or Level E per piece rate. See 464.6.

.114 Optional City Packages. When, after making up 5-digit packages, there are six or more copies remaining for one of the following multi-ZIP Coded offices, the mailer is encouraged to prepare a "city" package. A yellow label C must be affixed to city packages. Such packages may qualify for the level B or level E per piece rate. See 464.6.

Alabama: Gadsden	35601-03
Alaska: Anchorage	99501-10
Arkansas: North Little Rock	72114-19
California:	
Beverly Hills	90210-15
Canoga Park	91303-07
Concord	94518-24
Daly City	94014-17
Downey	90240-42
El Monte	91733-34
Fremont	94530-40
Fullerton	92631-38
Gardena	90247-49
Garden Grove	92640-45
Hayward	94541-46
La Puente	91744-49
Modesto	95350-56
Orange	92665-69
Pomona	91766-69
Redwood City	94061-65
San Fernando	91340-49
San Leandro	94577-79
Santa Clara	95050-54
Santa Rosa	95401-06
Stockton	95201-12
Sunnyvale	94086-88
Whittier	90601-12
Colorado: Pueblo	81001-19
Connecticut: Waterbury	06701-24
Florida:	
Clearwater	33515-20
Daytona Beach	32014-23
Fort Myers	33901-06
Hialeah	33010-16
Hollywood	33019-29
Lakeland	33801-03
Panama City	32501-22
Pompano Beach	33060-68
Sarasota	33577-83
Tallahassee	32301-13
West Palm Beach	33401-11
Georgia:	
Albany	31701-07
Decatur	30030-38
Illinois:	
Arlington Heights	60004-06
Aurora	60504-07
Decatur	62521-26
East St. Louis	62201-06
Joliet	60431-36
Melrose Park	60160-65
Indiana:	
Anderson	46011-17
Hammond	46320-27
Lafayette	47901-07
Muncie	47302-06
Terre Haute	47801-12
Kentucky:	
Covington	41011-19
Newport	41071-76
Louisiana:	
Metairie	70001-11
Shreveport	71011-10, 18-66
Maryland:	
Hyattsville	20780-88
Rockville	20850-57
Massachusetts:	

Fall River	02720-26
Lowell	01850-54
Lynn	01901-10
New Bedford	02740-48
Michigan:	
Ann Arbor	48103-09
Battle Creek	49014-17
Birmingham	48008-12
Dearborn	48120-26
Jackson	48201-04
Kalamazoo	49001-06
Livonia	48150-57
Muskegon	49440-45
Pontiac	48053-59
Royal Oak	48067-73
Saginaw	48601-07
Saint Clair Shores	48080-83
Warren	48089-93
Mississippi: Biloxi	39530-34
Missouri: Independence	63031-34
New Jersey:	
Clifton	07011-15
East Orange	01017-19
Hackensack	07601-11
Montclair	07042-44
Orange	07050-52
Plainfield	07060-63
Rahway	07065-67
Ridgewood	07450-52
Rutherford	07070-75
New York:	
Floral Park	11001-05
Hempstead	11550-54
Long Island City	11101-11
Mount Vernon	10550-59
Troy	12180-83
North Carolina:	
Fayetteville	28301-06
High Point	27260-64
Ohio:	
Hamilton	45011-26
Lima	00000
Warren	44481-86
Oregon:	
Eugene	97401-05
Salem	97301-14
Pennsylvania:	
Bethlehem	18015-18
Johnstown	15901-09
Media	19063-65
Norristown	19401-09
Pittston	18640-44
Rhode Island: Pawtucket	02860-65
South Carolina:	
Charleston	29401-12
Greenville	29601-15
Spartanburg	29301-04
Texas: Wichita Falls	76301-11
Virginia:	
Falls Church	22040-46
Hampton	23660-70
Lynchburg	24501-15
Newport News	23601-30
Roanoke	24001-50
Virginia Beach	23450-63

.115 3-Digit Packages. When there are six or more copies for a 3-digit ZIP Code prefix, after the required 5-digit packages and optional city packages have been made, they must be made up into 3-digit packages. A green label 3 must be affixed to each package. Copies in packages of six or more addressed to multi-ZIP Coded cities having a unique 3-digit ZIP Code may qualify for the level B or E per piece rate. See 464.6. These cities are listed in Publication 65, *National ZIP Code and Post Office Director*.

.116 Optional SCF Packages. When there are six or more copies for post offices in the same Sectional Center Facility delivery area remaining after the required 5-digit and 3-digit packages have been made, the mailer is encouraged to prepare an SCF package. A green label 3 must be affixed to each

package. A list of all SCF's, the first three digits of all ZIP Codes served by these facilities, and the lowest 3-digit ZIP Codes that are to be used on SCF sack labels is shown in the "Sectional Center Facilities" table contained in Publication 65, *National ZIP Code and Post Office Directory*.

.117 *Optional SDC Packages*. When there are six or more copies for post offices in the same State Distribution Center (SDC) service area remaining after the 5-digit, optional city, 3-digit and optional SCF packages have been made, the mail is encouraged to prepare a State Distribution Center service area package. In those instances where this State Distribution Center service area makeup is finer than the mandatory state makeup, a facing slip must be used on SDC packages. Individual copies in SDC packages must be wrapped.

.118 *State Packages*. When there are six or more copies for a State remaining after the 5-digit, optional city, 3-digit, optional SCF and optional SDC packages have been made, they must be made up into state packages. An orange label S must be affixed to the packages. Individual copies in state packages must be wrapped.

.119 *Mixed State Packages*. Copies remaining after packages have been made, as outlined above, must be made up into mixed state packages. A mixed state white facing slip must be attached to the packages. Individual copies in mixed state packages must be wrapped.

464.2 Sacking Requirements

.21 *General*. Except where bundling or palletizing is authorized (see 464.3 and 464.4), packages must be sorted and sacked to destinations as outlined below. No more than 70 pounds of mail may be placed in any sack.

.22 Sortation

.221 *Carrier Sacks*. Mailers who wish to qualify for the level C piece rate (see 464.6), must prepare carrier route sacks. Carrier route sacks must be labeled in the following manner:

Line 1: City and State and 5-Digit Destination
Line 2: Contents (ORD P or NEWS), Carrier Route and Route Number
Line 3: Office of Mailing
Sample Carrier Sack Label:
SAN FRANCISCO CA 94133
NEWS-CARRIER ROUTE 18
PORTLAND OR 972

.222 *Five-digit Sacks*. When, after preparing optional carrier sacks, there are four or more packages addressed to the same 5-digit ZIP Code destination, packages must be made up into 5-digit sacks. Sacks containing fewer packages

may be prepared. The sack must be labeled in the following manner:

Line 1: City and State and 5-Digit Destination
Line 2: Contents (ORD P or NEWS)
Line 3: Office of Mailing
Sample 5-Digit Sack Label:
PHILADELPHIA PA 19118
ORD P
BOSTON MA 021

.223 *Optional City Sacks*. After preparing 5-digit sacks, mailers are encouraged to make up packages addressed to the multi-ZIP Code cities listed in 464.114 into city sacks. The sack label must be labeled in the following manner:

Line 1: City, State, and Lowest ZIP Code
Line 2: Contents
Line 3: Office of Mailing
Sample City Sack Label:
AURORA IL 60504
NEWS
BOSTON MA 021

.224 *Three Digit Sacks*. When, after preparing optional carrier, 5-digit and optional city sacks, there are four or more packages for the same 3-digit ZIP Code destination, the packages must be made up into 3-digit sacks. Sacks containing fewer than four packages may be prepared. The sack must be labeled in the following manner:

Line 1: City, State, and 5-digit Prefix
Line 2: Contents
Line 3: Office of Mailing
Sample 3-digit Sack Label:
PHILADELPHIA PA 191
ORD P
BOSTON MA 021

.225 *Optional SCF Sacks*. After preparing 3-digit sacks, the mailer is encouraged to make up packages addressed to post offices in the same Sectional Center Facility service area into SCF sacks. The sacks must be labeled in the following manner:

Line 1: Name and State of SCF, Lowest 3-digit ZIP Code for that SCF
Line 2: Contents
Line 3: Office of Mailing
Sample SCF Sack Label:
SCF Philadelphia PA 190
ORD P
BOSTON MA 021

Note.—A list of all SCF's, the first three digits of all ZIP Codes served by these facilities, and the principal 3-digit ZIP Code prefixes that are to be used on SCF sack labels is contained in Publication 65, *National ZIP Code and Post Office Directory*.

.226 *SDC Sacks*. After preparing optional carrier, 5-digit, optional city, 3-digit and optional SCF sacks, the mailer is encouraged to make up packages addressed to the same State Distribution

Center service area into SDC sacks. These sacks must be labeled in the following manner:

Line 1: Name of SDC for Destination Area
Line 2: Contents and State
Line 3: Office of Mailing
Sample Sack Label:
DIS PITTSBURGH PA 150
ORD P PA
SAN FRANCISCO CA 941

.227 *State Sacks*. When, after making up optional carrier, 5-digit, optional city, 3-digit, optional SCF, and optional SDC sacks, there are four or more packages addressed to the same State, the packages must be made up into state sacks. The sacks must be labeled in the following manner:

Line 1: Name of SDC for State of Destination
Line 2: Contents and State
Line 3: Office of Mailing
Sample State Sack Label:
DIS KANSAS CITY MO 640
ORD P MO
SAN FRANCISCO CA 941

.228 *Mixed States Sacks*. Packages remaining after state sacks have been prepared must be made up into mixed states sacks. The sacks must be labeled in the following manner:

Line 1: Mixed States Distribution Location
Line 2: Contents
Line 3: Office of Mailing
Sample Mixed States Sack Label:
DIS CHICAGO IL 606
ORD P MIXED STATES
CHICAGO IL 606

464.32d. *Labeling*. All bundles must be appropriately labeled on top to show destination and contents as required with sacks. Similarly, each separation within a bundle must be identified by labels in accordance with 464.14.

464.42b

Pallets must be made up to the destinations required in 464.2 when the mail load to a destination is either 650 pounds or three feet high. Pallets may also be prepared for the optional destinations described in 464.2. Pallets must not contain more than 2,000 pounds of mail or mail addressed to more than one zone.

464.6 Preparing Out-Of-County Rated Pieces (Levels B, C, and E).

There are several different piece rates provided for regular and science of agriculture publications which reflect the level of presort. Presort levels A, B and C are provided for mailings of 5,000 or more copies of Regular and Science of Agriculture publications being sent to destinations outside the county of

publication. Presort levels D and E are provided for mailings of less than 5,000 pieces of Regular and Science of Agriculture publications being sent to destinations outside the county of publication. Mailers using out-of-county per piece rates (regular rate and science of agriculture publications, see 411) must adhere to the following:

a. To qualify for the Level B or Level E piece rate, a piece must be: (1) In a 5-digit package of six or more pieces and the package must be inside a 5-digit sack, or (2) in a city package (see 464.114) or 3-digit package of six or more pieces addressed to a city having a unique 3-digit ZIP Code. The package must be inside a city sack or a 3-digit sack for a city with a unique 3-digit ZIP Code.

b. To qualify for the level C piece rate, a piece must be in a carrier route package of six or more pieces and the package must be inside a carrier route sack.

c. Pieces presented in bundles instead of sacks (see 464.3) may receive presort rates providing they meet all other requirements for the presort rates.

d. Mailers must be prepared to document or otherwise confirm the number of pieces mailed and paid for at levels B, C, and E piece rates. Note: This may be done in any of the following ways:

(1) By separating sacks paid at the various piece rates when they are presented for mailing, or

(2) By attaching to the mailing statement a list of the number of copies (and pieces) to each 5-digit ZIP Code, to each city having a unique 3-digit ZIP Code, to each city listed in 464.114, and to each carrier route for which level B, C, or E piece rates are being paid, or

(3) By maintaining records for each mailing which will confirm the number of pieces in qualifying 3-digit city, 5-digit, and carrier route sacks. The records must document the number of copies (and pieces) to each qualifying 3-digit city, 5-digit, and carrier route destination for which sacks are made up. A printout must be presented prior to the first mailing made under this arrangement. These records must be retained for at least two months.

e. The mailer must provide a copy of the record for a particular mailing, or portions of it, within 30 days of a request by the postmaster of the office of entry. Postmasters will advise the Region's Revenue Protection Program Manager of all publications being mailed under this arrangement. Acceptance units will maintain a list of publications authorized to mail under this arrangement.

f. More than one second-class publication may be combined to meet the volume per sack or bundle requirement for the Levels B, C, and E piece rates. To qualify for Levels B and C piece rates, at least 5,000 copies of each issue in the combined mailing must be mailed to destinations outside the county of publication. Listings and records provided by publishers in accordance with 464.6d must also document the number of combined pieces and copies of each publication mailed to each unique 3-digit city, 5-digit ZIP Code destination, and carrier route. The total number of consolidated mailing pieces for each level of presort is to be reported on the Form 3541 for one publication or on a separate Form 3541.

A notation such as "per piece charge for consolidated copies of (title), (title), etc." must be included on the Form 3541 on which the piece rates are computed. The Forms 3541 used to compute pound-rate postage for the individual publications must include a notation as to the number of copies included in the consolidated mailing pieces, and where the piece rate computations can be found (i.e., (number) copies sent in consolidated bundles and reported on the Form 3541 for (title)).

PART 562 Preparation

In 562 revise 562.31 to read as follows:

562.31 Addressing

.31 Each piece including the top copy of a firm package (see 564.12) must bear the name and address of the subscriber. The address must include the ZIP Code. Exception: the ZIP Code may be omitted from pieces bearing a simplified address in accordance with 122.41.

Part 564 Presort Requirements

In 564, revise 564.1, 564.2, 564.32d and 564.42b to read as follows; renumber 564.13 as 564.12, 564.18 as 564.13 and 564.19 as 564.14:

564 Presort Requirements (See Exhibit 564)

564.1 Packaging Requirements

.11 Sortation

.111 *Firm Packages*. When there are two or more copies for the same address they must be made up into one package if only one piece rate is paid for the group. Affix blue label F (see 464.19). When there is more than one package sent to one address, mailers are allowed to include a package identification notice such as 1 of 4, 2 of 4, etc., on the package wrapper, provided such endorsement does not interfere with the clarity of the address.

.112 *Optional Carrier Packages*. When there are six or more copies for the same carrier route, rural route, lockbox section or general delivery unit, they may, at the mailer's option, be made up into carrier packages of six or more copies. When a carrier route package is not placed in a sack labeled to show that it only contains packages for the same carrier route, a facing slip, marked as shown below, must be affixed to the front of the package.

Line 1: 5-Digit ZIP Code of Address
Line 2: Contents and Carrier Route, Rural Route, Lockbox Section, or General Delivery Unit
Line 3: Post Office of Entry
Sample Carrier Route Facing Slip:
SAN FRANCISCO CA 94133
ORD P RURAL ROUTE 12
PORTLAND OR 972

.113 *5-Digit Packages*. When there are six or more copies for the same 5-digit ZIP Code destination, they must be made up into 5-digit packages. Mailers are encouraged to, but are not required to affix red label D.

.114 *Optional City Packages*. When, after making up 5-digit packages, there are six or more copies remaining for one of the following multi-ZIP Coded offices, the mailer is encouraged to prepare a "city" package. A yellow label C must be affixed to city packages.

.115 *Three-Digit Packages*. When there are six or more copies for a 3-digit ZIP Code prefix, after the required 5-digit packages and optional city packages have been made, they must be made up into 3-digit packages. A green label 3 must be affixed to the package.

.116 *Optional SCF Packages*. When there are six or more copies for post offices in the same sectional center facility delivery area remaining after the required 5-digit and 3-digit packages have been made, the mailer is encouraged to prepare a Sectional Center Facility package. A green label 3 must be affixed to the packages. A list of all SCF's, the first three digits of all ZIP Codes served by these facilities, and the lowest 3-digit ZIP Codes that are to be used on SCF sack labels is shown in the "Sectional Center Facilities" table contained in Publication 65, *National ZIP Code and Post Office Directory*.

.117 *Optional SDC Packages*. When there are six or more copies for post offices in the same State Distribution Center (SDC) Service Area remaining after the 5-digit, city, 3-digit or SCF packages have been made, the mailer is encouraged to prepare a State Distribution Center Service Area Package. In those instances where this State Distribution Center Service Area makeup is finer than the mandatory

state makeup, use a facing slip on those packages. Individual copies in these packages must be wrapped.

.118 *State Packages.* When there are six or more copies for a state remaining after the 5-digit, city, 3-digit, SCF or State Distribution Center Service Area packages have been made, they must be made up into state packages. An orange label S must be affixed to the packages. Individual copies in these packages must be wrapped.

.119 *Mixed State Packages.* Copies remaining after packages have been made, as outlined above, must be made up into mixed state packages. A mixed state white facing slip must be attached to the packages. Individual copies in mixed state packages must be wrapped.

564.2 Sacking Requirements

.21 *General.* Except where bundling or palletizing in lieu of sacks is authorized, packages must be sorted and sacked to destinations as outlined below. No more than 70 pounds of mail may be placed in any sack.

.22 Sortation

.221 *Carrier Sacks.* Mailers are encouraged to prepare carrier route sacks. Carrier route sacks must be labeled in the following manner:

Line 1: City and State and 5-Digit Destination

Line 2: Contents (ORD P or News), Carrier Route and No.

Line 3: Office of Mailing
Sample Carrier Sack Label:
SAN FRANCISCO CA 94133
CARRIER ROUTE 18
PORTLAND OR 972

.222 *Five-Digit Sacks.* When, after preparing carrier sacks, there are four or more packages addressed to the same 5-digit destination, packages must be made up into 5-digit sacks. Sacks containing fewer packages may be prepared. The sack must be labeled in the following manner:

Line 1: City and State and 5-Digit Destination

Line 2: Contents (ORD P or News)

Line 3: Office of Mailing
Sample 5-Digit Sack Label:
PHILADELPHIA PA 19118
ORD P
BOSTON MA 021

.223 *Optional City Sacks.* After preparing 5-digit sacks, mailers are encouraged to make up packages addressed to the cities listed in 464.114 into city sacks. The sack must be labeled in the following manner:

Line 1: City, State, and Lowest ZIP Code

Line 2: Contents
Line 3: Office of Mailing
Sample City Sack Label:

AURORA IL 60504

ORD P

BOSTON MA 021

.224 *Three-Digit Sacks.* When, after preparing 5-digit and optional city sacks, there are four or more packages for the same 3-digit ZIP Code destination, the packages must be made up into 3-digit sacks. Sacks containing fewer than four packages may be prepared. The sack must be labeled in the following manner:

Line 1: City, State and 3-digit Prefix

Line 2: Contents

Line 3: Office of Mailing
Sample 3-Digit Sack Label:
PHILADELPHIA PA 191

ORD P

BOSTON MA 021

.225 *Optional SCF Sacks.* After preparing 3-digit sacks, the mailer is encouraged to make up packages addressed to post offices in the same Sectional Center Facility delivery area into Sectional Center Facility sacks. The sacks must be labeled in the following manner:

Line 1: Name and State of SCF, lowest 3-digit ZIP Code for that SCF

Line 2: Contents

Line 3: Office of Mailing
Sample SCF Sack Label:
SCF PHILADELPHIA PA 190
ORD P

BOSTON MA 021

.226 *Optional SDC Sacks.* After preparing 5-digit, city, 3-digit or SCF sacks, the mailer is encouraged to make up packages addressed to the same State Distribution Center Service Area into State Distribution Center Service Area sacks. These sacks must be labeled in the following manner:

Line 1: Name of State Distribution Center for Destination Area

Line 2: Contents and State

Line 3: Office of Mailing
Sample Sack Label:
DIS PITTSBURGH PA 150
ORD P PA
SAN FRANCISCO CA 940

.227 *State Sacks.* When, after making up 3-digit, 5-digit, city, SCF or State Distribution Center Service Area Sacks, there are four or more packages addressed to the same state, the packages must be made up into state sacks. The sacks must be labeled in the following manner:

Line 1: Name of State Distribution Center for State of Destination

Line 2: Contents and State

Line 3: Office of Mailing
Sample State Sack Label:
DIS KANSAS CITY MO 640
ORD P MO
SAN FRANCISCO CA 940

.228 *Mixed States Sacks.* Packages remaining after state sacks have been

prepared must be made up into mixed states sacks. The sacks must be labeled in the following manner:

Line 1: Mixed States Distribution Location

Line 2: Contents

Line 3: Office of Mailing
Sample Mixed States Sack Label:
DIS CHICAGO IL 606
ORD P MIXED STATES
CHICAGO, IL 606

564.42b Pallets must be made up to the destinations required in 564.2 when the mail load to a destination is either 650 pounds or three feet high. Pallets may also be prepared for the optional destinations described in 564.2. Pallets must not contain more than 2,000 pounds of mail.

PART 661 Addressing

In 661, revise 661.2 to read as follows: 661.2 Each piece including the top copy of a firm package (see 663.121a) must bear the name and address of the subscriber. The address must include the ZIP Code. Exception: the ZIP Code may be omitted from pieces bearing a simplified address in accordance with 122.41.

PART 663 Preparation of Bulk Rate Mailings (Third-Class)

In 663, revise 663.1, 663.2, and 663.42 to read as follows: renumber 663.117 as 663.122 and 663.118 as 663.123:

663.1 Standard Preparation Requirements

.11 *General.* All bulk Third-Class mailings other than machinable parcels, as defined in 128, must be prepared in accordance with the following standard preparation requirements.

.12 Packaging Requirements

.121 Sortation

a. *Firm Packages.* When all mail in a package is for an individual firm, affix blue label F.

b. *Five-digit Packages.* When there are ten or more pieces for the same 5-digit ZIP Code destination, they must be made up into 5-digit packages. The mailer may package less than 10 pieces in the same manner. Mailers are encouraged to, but are not required to, affix red label D.

c. *Optional City Packages.* When, after making up 5-digit packages, there are pieces for one of the multi-ZIP Coded offices listed in 464.114, the mailer is encouraged to prepare a "city" package. A yellow label C must be affixed to such packages.

d. *Three-digit Packages.* When there are ten or more pieces for a 3-digit ZIP Code prefix, after the required 5-digit packages and optional city packages

have been made, they must be made up into 3-digit packages. The mailer package less than 10 pieces in the same manner. A green label 3 must be affixed to the package.

e. *Optional SCF Packages.* When there are pieces for post offices in the same Sectional Center Facility delivery area remaining after the required 5-digit and 3-digit packages and the optional city packages have been made, the mailer is encouraged to prepare an SCF package. A green label 3 must be affixed to the packages. A list of all Sectional Center Facilities, the first three digits of all ZIP Codes served by these facilities, and the lowest 3-digit ZIP Codes that are to be used on Sectional Center Facility sack labels is shown in the "Sectional Center Facilities" table contained in Publication 65, *National ZIP Code and Post Office Directory*.

f. *Optional SDC Packages.* When there are pieces for post offices in the same State Distribution Center Service Area remaining after the 5-digit, city, 3-digit or SCF packages have been made, the mailer is encouraged to prepare a State Distribution Center Service Area Package. In those instances where this State Distribution Center Area makeup is finer than the mandatory state makeup, use a facing slip on these packages.

g. *State Packages.* When there are ten or more copies for a state remaining after the 5-digit, city, 3-digit SCF or State Distribution Center Service Area packages have been made, they must be made up into state packages. The mailer may package less than 10 pieces in the same manner. An orange label S must be affixed to the package.

h. *Mixed State Packages.* Pieces remaining after packages have been made as outlined above must be made up into mixed state packages. A mixed state white facing slip must be attached to the packages.

.13 Sacking Requirements

.131 *General.* Except where bundling or palletizing is authorized, packages must be sorted and sacked to destinations as outlined below. No more than 70 pounds of mail may be placed in any sack.

.132 Sortation

a. *Five-Digit Sacks.* When there are twelve or more packages addressed to the same 5-digit destination, packages must be made up into 5-digit sacks. Sacks containing fewer packages may be prepared. The sack must be labeled in the following manner:

Line 1: City and State and 5-Digit Destination

Line 2: Contents
Line 3: Office of Mailing

Sample 5-Digit Sack Label:
PHILADELPHIA PA 19118
3C FLATS

BOSTON MA 021

b. *Optional City Sacks.* When, after preparing 5-digit sacks, there are packages addressed to the cities listed in section 464.114, the packages may, at the mailer's option, be made up into sacks. The sack must be labeled in the following manner:

Line 1: City, State and Lowest ZIP Code

Line 2: Contents

Line 3: Office of Mailing
Sample City Sack Label:
AURORA IL 60504

3C LTRS

BOSTON MA 021

c. *Three-Digit Sacks.* When, after preparing 5-digit and optional city sacks, there are twelve or more packages for the same 3-digit ZIP Code destination, the packages must be made up into 3-digit sacks. Sacks containing fewer than twelve packages may be prepared. The sack must be labeled in the following manner:

Line 1: City, State and 3-Digit Sack Label

Line 2: Contents

Line 3: Office of Mailing
Sample 3-Digit Sack Label:
PHILADELPHIA PA 191
3C FLATS

BOSTON MA 021

d. *Optional SCF Sacks.* When after preparing 5-digit, optional city, and 3-digit sacks, there are packages addressed to post offices in the same Sectional Facility delivery area, the packages may be made up into Sectional Center Facility sacks at the mailer's option. The sacks must be labeled in the following manner:

Line 1: Name and State of SCF, Lowest 3-Digit ZIP Code for that SCF

Line 2: Contents

Line 3: Office of Mailing
Sample SCF Sack Label:
SCF PHILADELPHIA PA 190
3C FLATS

BOSTON MA 021

e. *SDC Sacks.* After preparing 5-digit, city, 3-digit or SCF sacks, the mailer is encouraged to make up packages addressed to the same State Distribution Center Service Area into State Distribution Center Service Area sacks. These sacks must be labeled in the following manner:

Line 1: Name of State Distribution Center for Destination Area

Line 2: Contents and State

Line 3: Office of Mailing
Sample Sack Label:
DIS PITTSBURGH PA 150
ORD P PA

SAN FRANCISCO CA 941

f. *State Sacks.* When after making up 5-digit, optional city, 3-digit and optional SCF and SDC sacks, there are twelve or more packages addressed to the same state, the packages must be made up into state sacks. Sacks containing fewer than twelve packages may be prepared. The sacks must be labeled in the following manner:

Line 1: Name of State Distribution Center for State of Destination

Line 2: Contents and State

Line 3: Office of Mailing
Sample Sack Label:
DIS KANSAS CITY MO 640
3C LTRS

SAN FRANCISCO CA 941

g. *Mixed State Sacks.* Packages remaining after state sacks have been prepared must be made up into mixed state sacks. The sacks must be labeled in the following manner:

Line 1: Mixed States Distribution Location

Line 2: Contents

Line 3: Office of Mailing
Sample Mixed States Sack Label:
DIS CHICAGO ILL 606
3C LTRS MX STATES
CHICAGO IL 606

h. *Loose Pack Sack.* The term "loose pack sack" refers to the placement of unbundled, unbound mail pieces in a receptacle such as a mail sack. Management Sectional Center (MSC) managers may authorize mailers to "loose pack" pieces in full No. 3 sacks without bundling when all material in a sack would normally be "worked" at the point where the sack is opened, e.g., if a 3-digit sack contains no more than nine pieces for any one 5-digit destination. Pieces must be placed to maintain orientation of the pieces while in transit. Mailers desiring to loose pack pieces must request authorization through the post office of mailing.

663.2 Machinable Parcel Preparation Requirements

.21a. *General.* Machinable parcels as defined in 128 must be prepared in accordance with the following preparation requirements.

.22b. Sacking Requirements

.221 *Five-Digit Sacks.* When there are 20 pounds or 1,000 cubic inches of material addressed to the same 5-digit ZIP Code area, they must be placed in 5-digit sacks. These sacks must be labeled in the following manner:

Line 1: City, State and 5-Digit Destination

Line 2: Contents

Line 3: Mailer, Office of Mailing
Sample 5-Digit Sack Label:
PHILADELPHIA PA 19118

3C MACH P JC COMPANY BOSTON MA 021

.222 Destination Bulk Mail Center (BMC) Sacks. After the required 5-digit ZIP Code area sacks have been prepared, the remaining pieces must be placed in sacks labeled to destination BMC delivery areas, when there are 20 pounds or 1,000 cubic inches of material to a BMC delivery area. These sacks must be labeled in the following manner:

Line 1: Destination BMC
Line 2: Contents
Line 3: Mailer, Office of Mailing
Sample BMC Sack Label:
BMC CHICAGO IL 608
3C MACH P
RD MAILINGS ATLANTA GA 303

.223 Origin BMC Sacks. After the required 5-digit ZIP Code area and destination BMC sacks have been prepared, the remaining pieces must be placed in sacks labeled to the origin BMC in the following manner:

Line 1: Origin BMC
Line 2: Contents
Line 3: Mailer, Office of Mailing
Sample Origin BMC Sack Label:
BMC KANSAS CITY MO 643
3C MACH P
WRIGHT CO TOPEKA KS 666

663.42 Palletizing Requirements

663.421 Standard Preparation Requirements

a. General

All palletized bulk third-class mailings other than machinable parcels as defined in 128, must be prepared in accordance with the following standard preparation requirements.

b. Packages

Mailers must presort pieces and prepare packages as prescribed in 663.1. The Regional Postmaster General may waive packaging requirements for 5-digit pallets when mailers effectively demonstrate they will prepare pallets to remain intact to the destinations.

c. Pallets

Pallets must be made up to the destinations in 663.2 when the mail load to a destination is either 650 pounds or three feet high. Pallets may also be prepared for the optional destinations described in 663.2. Pallets must not contain more than 2,000 pounds of mail.

.422 Machinable Parcel Preparation Requirements Pallets must be made up to the destinations described in 663.2 when the mail load to a destination is either 650 pounds or three feet high. Pallets must not contain more than 2,000 pounds of mail.

PART 724 What May Be Mailed At Special Fourth-Class Rates

In 724, revise 724.22 to read as follows:

.22 Qualification for Presort Rates

.221 General Requirements

a. A mailing will receive only one level of presort rate. A mailer may, however, divide a mailing into two or more mailings with separate mailing statements to use both levels of presort rates.

b. The size and content of each piece need not be identical.

c. No more than 70 pounds may be placed in any sack.

.222 Level A Presort Rate

a. To qualify as a presorted piece subject to the special fourth-class presort level A rate, a piece must be one of a mailing of at least 500 pieces of identical weight receiving identical service, properly prepared and presented in sacks destined for 5-digit ZIP Code locations. Each sack must contain at least 8 pieces or 20 pounds, or 1,000 cubic inches of mail.

b. Mailing of at least 500 identical weight outsides, as described in 128, may qualify for presort level A if they are made up to preserve the 5-digit ZIP Code presort as prescribed by the postmaster of the office of mailing. The postmaster may require notification up to 24 hours before the mailing is presented. The mailer must comply with the postmaster's instructions on how to separate and present mailings of outsides. The postmaster will coordinate such mailings and obtain procedures for separation of parcels through the regional logistics office.

.223 Level B Presort Rate

a. To qualify as a presorted piece subject to the special fourth-class presort level B rate, a piece must be one of a mailing of at least 2,000 identical weight sackable pieces receiving identical service, properly prepared and presorted to 5-digit and BMC destinations if they are machinable, or to 5-digit and 3-digit destinations if they are not machinable.

b. Four or more pieces to the same 5-digit destination must be made up into 5-digit sack.

c. Parcels remaining after performing the 5-digit sort must be sorted to 3-digit ZIP Code destinations if the parcels are non-machinable, as defined in 128, or to destination BMC's if they are machinable. BMC and 3-digit sacks must contain at least four pieces, or 20 pounds, or 1,000 cubic inches of mail to qualify for the level B rate.

d. Pieces which are not made up to 5- or 3-digit ZIP Codes, or to BMC

destinations are not considered presorted and do not qualify for level A or B rates. They must be presented for mailing under a separate mailing statement if mailed under a permit imprint.

PART 763 Preparation of Bound Printed Matter

In 763, revise 763.2, 763.3 and 763.62 to read as follows:

763.2 STANDARD PREPARATION REQUIREMENTS

.21 General. All bulk rate bound printed matter other than machinable parcels, as defined in 128, must be prepared in accordance with the following standard preparation requirements. Except where bundling or palletizing in lieu of sacking is authorized, pieces must be sorted and sacked to destinations as outlined below. No more than 1 zone or 70 pounds of mail may be placed in any sack.

.22 Sortation.

.221 Five-Digit Sacks. When there are 10 pieces, 20 pounds or 1,000 cubic inches of material addressed to the same 5-digit destination, those pieces must be made up into 5-digit sacks. Sacks containing smaller quantities may be prepared. The sack must be labeled in the following manner:

Line 1: City and State and 5-Digit Destination
Line 2: Contents
Line 3: Office of Mailing
Sample 5-Digit Sack Label:
PHILADELPHIA PA 19118
4C FLATS
BOSTON MA 021

.222 Optional City Sacks. When after preparing 5-digit sacks, there are 10 pieces, 20 pounds or 1,000 cubic inches of material addressed to the cities listed in section 464.114, the mailer is encouraged to make up the pieces into city sacks. Sacks containing smaller quantities may be prepared. The sack must be labeled in the following manner:

Line 1: City, State and Lowest ZIP Code
Line 2: Contents
Line 3: Office of Mailing
Sample City Sack Label:
AURORA IL 60504
4C IRREG
BOSTON MA 021

.223 Three-Digit Sacks. When, after preparing 5-digit and optional city sacks, there are 10 pieces, 20 pounds or 1,000 cubic inches of material for the same 3-digit ZIP Code destination, the pieces must be made up into 3-digit sacks. Sacks containing smaller quantities may

be prepared. The sack must be labeled in the following manner:

Line 1: City, State and 3-digit Prefix
Line 2: Contents
Line 3: Office of Mailing
Sample 3-digit Sack Label:
PHILADELPHIA PA 191
4C IRREG
BOSTON MA 021

.224 Optional SCF Sacks. When after preparing 3-digit sacks, there are 10 pieces, 20 pounds or 1,000 cubic inches of material addressed to post offices in the same Sectional Center Facility delivery area, the mailer is encouraged to make up pieces into SCF sacks. A list of all Sectional Center Facilities, the first three digits of all ZIP Codes served by these facilities, and the lowest 3-digit ZIP Codes that are to be used on SCF sack labels, is shown in the "Sectional Center Facilities" table contained in Publication 65, *National ZIP Code and Post Office Directory*. The sacks must be labeled in the following manner:

Line 1: Name and State of SCF, Lowest 3-Digit ZIP Code for that SCF
Line 2: Contents
Line 3: Office of Mailing
Sample SCF Sack Label:
SCF PHILADELPHIA PA 190
4C FLATS
BOSTON MA 021

.225 Optional SDC Sacks. After preparing 5-digit, city, 3-digit, or SCF sacks, the mailer is encouraged to make up packages addressed to the same State Distribution Center Service Area into State Distribution Center Service Area sacks. These sacks must be labeled in the following manner:

Line 1: Name of State Distribution Center for Destination Area
Line 2: Contents and State
Line 3: Office of Mailing
Sample Sack Label:
DIS PITTSBURGH PA 150
3C LTRS
SAN FRANCISCO CA 941

.226 State Sacks. When after making up 5-digit, city 3-digit, SCF, and SDC sacks, there are 10 pieces, 20 pounds or 1,000 cubic inches of material addressed to the same state, those pieces must be made up into state sacks. The sacks must be labeled in the following manner:

Line 1: Name of State Distribution Center for State of Destination
Line 2: Contents and State
Line 3: Office of Mailing
Sample of Sack Label:
DIS KANSAS CITY MO 640
4C IRREG
SAN FRANCISCO CA 941

.227 Mixed State Sacks. Pieces remaining after state sacks have been prepared must be made up into mixed

state sacks. The sacks must be labeled in the following manner:

Line 1: Mixed States Distribution Location
Line 2: Contents
Line 3: Office of Mailing
Sample Mixed States Sack Label:
DIS CHICAGO IL 606
4C IRREG
CHICAGO IL 606

763.3 Machinable Parcel Preparation Requirements

.31 General. Machinable parcels, as defined in 128, must be prepared in accordance with the following sacking requirements. No more than 1 zone of 70 pounds of mail may be placed in any sack.

.32 Sortation

.321 Five-Digit Sacks. When there are 10 pieces, 20 pounds, or 1,000 cubic inches of material addressed to the same 5-digit ZIP Code area, they must be placed in 5-digit sacks. These sacks must be labeled in the following manner:

Line 1: City, State and 5-Digit Destination
Line 2: Contents
Line 3: Mailer, Office of Mailing
Sample 5-Digit Sack Label:
PHILADELPHIA PA 19118
4C MACH
JC COMPANY BOSTON MA 021

.322 Destination Bulk Mail Center (BMC) Sacks. After the required 5-digit ZIP Code area sacks have been prepared, the remaining pieces must be placed in sacks labeled to destination BMC areas, when there are 10 pieces, 20 pounds, or 1,000 cubic inches of material to a BMC area. These sacks must be labeled in the following manner:

Line 1: Destination BMC
Line 2: Contents
Line 3: Mailer, Office of Mailing
Sample BMC Sack Label:
BMC CHICAGO IL 608
4C MACH
RD MAILINGS ATLANTA GA 303

.323 Origin BMC Sacks. After the required 5-digit ZIP Code area and destination BMC sacks have been prepared, the remaining pieces must be placed in sacks labeled to the origin BMC in the following manner:

Line 1: Origin BMC
Line 2: Contents
Line 3: Mailer, Office of Mailing
Sample Origin BMC Sack Label:
BMC KANSAS CITY MO 643
4C MACH
WRIGHT CO TOPEKA KS 666

763.62 Palletizing Requirements

.621 Standard Preparation Requirements

General. All palletized bulk rate bound printed matter, other than machinable parcels as defined in 128, must be prepared in accordance with the following preparation requirements:

a. Bundles—Bundles must be made up to the required destinations in 763.2 when there are 10 pieces or 20 pounds for a destination. Mailers are encouraged to prepare bundles for the optional destinations described in 763.2. The Regional Postmaster General may waive bundling requirements for 5-digit pallets when mailers effectively demonstrate they will prepare pallets to remain intact to the destination.

b. Pallets—Pallets must be made up to the destinations in 763.2 when the mail load to a destination is either 650 pounds or three feet high. Pallets may also be prepared for the optional destinations in 763.2. Pallets must not contain more than one zone and 2,000 pounds of mail.

.622 Machinable Parcel Preparation Requirements

Pallets must be made up to the destinations in 763.2 when the mail load to a destination is either 650 pounds or three feet high. Pallets must not contain more than one zone and 2,000 pounds of mail.

PART 764 Preparation of Special Fourth-Class Presort Rate Mail

In 764, revise 764.22, 764.23 and 764.3 to read as follows:

.22 Level A Presort Rate Mailings

a. Regular parcels, 5-digit destination

Line 1: City, State, 5-Digit ZIP Code
Line 2: Class, Contents
Line 3: Mailer, Mailer Location
Sample:
CLEVELAND OH 44101
4C MACH
JC COMPANY BOSTON MA 021

b. Irregular parcels, 5-digit destination

Line 1: City, State, 5-Digit ZIP Code
Line 2: Class, Contents
Line 3: Mailer, Mailer Location
Sample:
CLEVELAND OH 44101
4C IRREG
JC COMPANY BOSTON MA 021

.23 Level B Presort Rate Mailings

a. Machinable parcels, 5-digit destination

Line 1: City, State, 5-Digit ZIP Code
Line 2: Class, Contents
Line 3: Mailer, Mailer Location
Sample:
CLEVELAND OH 44101
4C MACH
JC COMPANY BOSTON MA 021

b. Machinable parcels, 3-digit destination

Line 1: BMC, State, BMC Code
Line 2: Class, Contents, 3-Digit ZIP
Code Prefix of Contents

Line 3: Mailer, Mailer Location
Sample:
BMC PITTSBURGH PA 152
4C MACH
J COMPANY BOSTON MA 021

c. Irregular parcels, 5-digit destination

Line 1: City, State, 5-Digit ZIP Code
Line 2: Class, Contents
Line 3: Mailer, Mailer Location

Sample:
CLEVELAND OH 44101
4C IRREG
J COMPANY BOSTON MA 021

d. Irregular parcels, 3-digit destination

Line 1: City, State, 3-Digit ZIP Code
Prefix

Line 2: Class, Contents
Line 3: Mailer, Mailer Location
Sample:
CLEVELAND OH 441
4C IRREG
J COMPANY BOSTON MA 021

Or

CLEVELAND OH 440
4C IRREG
J COMPANY BOSTON MA 021

764.3 Container or Pallet Labelling

.31 General. Containers and pallets must be labeled by mailers in accordance with the criteria in 128 as illustrated in the samples shown in 764.32 through 764.34.

.32 Level A Presort Rate Mailings*a. Machinable parcels, 5-digit destination*

Line 1: City, State, 5-Digit ZIP Code
Line 2: Class, Contents
Line 3: Mailer, Mailer Location
Sample:
CLEVELAND OH 44101
4C MACH
J COMPANY BOSTON MA 021

b. Irregular parcels, 5-digit destination

Line 1: City, State, 5-Digit ZIP Code
Line 2: Class, Contents
Line 3: Mailer, Mailer Location
Sample:
CLEVELAND OH 44101
4C IRREG
J COMPANY BOSTON MA 021

c. Outside parcels, 5-digit destination

Line 1: City, State, 5-Digit ZIP Code
Line 2: Class Contents
Line 3: Mailer, Mailer Location
Sample:
CLEVELAND OH 44101
4C OUTS
J COMPANY BOSTON MA 021

.33 Level B Presort Rate Mailings Mailed*a. Machinable parcels, 5-digit destination*

Line 1: City, State, 5-Digit ZIP Code
Line 2: Class, Contents
Line 3: Mailer, Mailer Location
Sample:
CLEVELAND OH 44101
4C MACH
J COMPANY BOSTON MA 021

b. Machinable parcels, 3-digit destination

Line 1: BMC, State, BMC Code
Line 2: Class, Contents, 3 Digit-ZIP
Code Prefix of Contents
Line 3: Mailer, Mailer Location

Sample:
BMC PITTSBURGH PA 152
4C MACH
J COMPANY BOSTON MA 021

c. Irregular parcels, 5-digit destination

Line 1: City, State, 5-Digit ZIP Code
Prefix
Line 2: Class, Contents
Line 3: Mailer, Mailer Location

Sample:
CLEVELAND OH 44101
4C IRREG
J COMPANY BOSTON MA 021

d. Irregular parcels, 3-digit destination

Line 1: City, State, 3-Digit ZIP code
Prefix
Line 2: Class, Contents
Line 3: Mailer, Mailer Location
Sample:
CLEVELAND OH 441
4C IRREG
J COMPANY BOSTON MA 021

Or

SCF CLEVELAND OH 440
4C IRREG
J COMPANY BOSTON MA 021

e. Outside parcels, 5-digit destination

Line 1: City, State, 5-Digit ZIP Code
Line 2: Class, Contents
Line 3: Mailer, Mailer Location
Sample:
CLEVELAND OH 44101
4C OUTS
J COMPANY BOSTON MA 021

f. Outside parcels, 3-digit destination
Line 1: City, State, 3-Digit ZIP Code
Prefix
Line 2: Class, Contents
Line 3: Mailer, Mailer Location

Sample:
CLEVELAND OH 441
4C OUTS
J COMPANY BOSTON MA 021

Or

SCF CLEVELAND OH 440
4C OUTS
J COMPANY BOSTON MA 021

Part 765 Preparation of Library Rate Materials

Revise 765 to read as follows:

When 1,000 or more pieces of identical weight are mailed at the library rates (see 711.4) during a single day, they must be presorted and placed in sacks under the instructions contained in 764.23.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposals are adopted.

(FR Doc. 79-23606 Filed 7-30-79; 8:45 am)
BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY**[40 CFR Part 52]**

[FRL 1281-2]

Approval and Promulgation of Implementation Plans; Arkansas Plan for Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes approval/disapproval of various revisions to the Arkansas State Implementation Plan (SIP). The revisions were submitted by the Governor to fulfill the requirements of the Clean Air Act, as amended in August 1977 (the Act), for attainment of National Ambient Air Quality Standards. The revisions being acted on today are those relating to the plan requirements for nonattainment areas (Part D of the Act) and address control requirements for volatile organic compounds (VOCs). In reviewing the State submittal, EPA assessed the ability of the plan to meet the requirements of Part D.

While the plan meets the Part D requirements in many respects, there are several deficiencies that the State needs to address before full SIP approval can be granted by the Administrator of EPA.

DATES: Interested persons are invited to submit comments on this proposed action on or before October 1, 1979.

ADDRESSES: Written comments should be submitted to the address below: Environmental Protection Agency, Region 6, Air and Hazardous Materials Division, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270, ATTN: Jerry Stubberfield.

Copies of the State's submittal are available for inspection during normal business hours at the address above and at the following locations:

Environmental Protection Agency, Public Information Reference Unit, Room 2922, EPA Library, 401 M Street, S.W., Washington, D.C. 20460.
Arkansas Department of Pollution, Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72209.

FOR FURTHER INFORMATION CONTACT:

Jerry Stubberfield, Chief, Implementation Plan Section, Environmental Protection Agency, Region 6, Air and Hazardous Materials Division, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2742.

SUPPLEMENTARY INFORMATION:

Provisions of the 1977 Clean Air Act Amendments (the Act) require states to revise their State Implementation Plans (SIPs) for all areas that have been designated as not attaining the National Ambient Air Quality Standards (NAAQS). The Act requires that states submit the necessary plan revisions to the EPA by January 1, 1979. The requirements for an approvable SIP are described in a general preamble published in the April 4, 1979, Federal Register (44 FR 20372), and will not be restated in this notice. A supplement to the April 4 notice was published on July 2, 1979 (44 FR 38583) involving among other things, conditional approval.

EPA proposes to conditionally approve the plan where there are minor deficiencies and the State provides assurances that it will submit corrections by a specified deadline. This notice solicits comment on what items should be conditionally approved, and it solicits comments on the deadlines where specified in this notice. A conditional approval will mean that the restrictions on new major source construction will not apply unless the State fails to submit the necessary SIP revisions by the scheduled dates, or unless the revisions are not approved by EPA.

The Governor of Arkansas, after adequate notice and public hearing, submitted revisions to Arkansas' SIP on April 4, 1979. The overall plan was developed by the Arkansas Air Pollution Control Division. The revisions include provisions for attainment of the NAAQS for ozone, in the designated nonattainment areas. These provisions address Part D (Plan Requirements for Nonattainment Areas) of the Act. In addition, the State submittal included provisions relating to other parts of the Act. The action being taken today by EPA is only with respect to Part D requirements. Those SIP provisions relating to requirements of the Act other than Part D will be addressed in a later

Federal Register. An evaluation report,¹ which reviews the SIP in detail, is available for inspection by interested parties during normal business hours at the above stated addresses.

PART D—SIP REQUIREMENTS*Ozone*

In the March 3, 1978 Federal Register, at 43 Fed. Reg. 8969, the EPA identified Pulaski County, Arkansas as a nonattainment area for photochemical oxidants (ozone) in accordance with Section 107 of the Act. The geographic area of nonattainment is Pulaski County which includes the Little Rock metropolitan area. The ozone design value for Little Rock is 0.16 parts per million (ppm). The State elected to use the modified rollback model to determine the amount of VOC reductions required to show attainment of the NAAQS.

Present transport (T_p) and future transport (T_f) values of 0.12 ppm. and 0.08 ppm were used with an additivity factor of 0.5 to calculate the reductions. The reduction necessary for Pulaski County to demonstrate attainment of the ozone standard is 20 percent. Use by the State of the modified rollback model, present and future transport values, and the additivity value are consistent with EPA guidance.

The emission inventory data provided in the SIP was developed by an EPA contractor² and is considered adequate to meet the requirements of the Act. Base year (1977) emission inventory summaries and 1982 emission projections are provided, by VOC source category, for Pulaski County. The 1982 emissions projections provide a growth rate for area and mobile sources. The plan points out however, that for point sources (i.e., sources having potential emissions of VOC greater than 100 tons per year) a growth rate of 1.0 is assumed. The no growth projection in major VOC sources is claimed based upon the fact that permit data for the past 10 years indicates virtually no growth for VOC sources. By the present contribution of point source emissions (6 percent) relative to the total VOC emissions, this assumption does not appear to be unreasonable.

In addition to requiring a current emissions inventory, the Act and subsequent EPA guidance also requires that the State provide for annual reporting of emission reductions so as to evidence reasonable further progress (RFP). The Arkansas agency has

¹EPA Review of Arkansas State Implementation Plan Revision, June 1979.

²TRW Environmental Engineering Division, Vienna, Virginia.

committed to provide EPA with such information in their regular reporting schedule. Their present reporting schedule with respect to providing information on emission inventory data is semi-annual. This will be sufficient to meet the annual reporting requirement.

The control strategy submitted by the State of Arkansas is based on emission reductions achieved through the application of reasonably available control technology (RACT) to existing major stationary sources consistent with Control Technique Guidelines (CTGs) and the Federal Motor Vehicle Control Program (FMVCP). The State has committed to adopt additional VOC control measures consistent with CTGs published after January 1, 1978, for applicable major sources and has also committed to adopt regulations for source categories not included on EPA's CTG lists, but for which the Arkansas Air Pollution Control Commission determines that RACT exist.

In applying controls to stationary sources of VOC and accounting for mobile source reductions, the State's control strategy demonstrates an overall 26.5 percent reduction in VOC emissions. This overall reduction is comprised of a 4.7 percent reduction from the application of RACT to stationary sources and a 21.9 percent reduction credited to the FMVCP.

According to the State's demonstration the reduction from the FMVCP will be 21.9 percent. EPA's MOBILE 1 computer model was used to calculate vehicle emissions for 1977 and 1982 with input data used in the model being supplied by the Arkansas State Highway and Transportation Department.

The reductions claimed in the State's control strategy are considered by EPA to be adequate to demonstrate attainment. In addition to demonstrating attainment the Plan graphically sets forth a reasonable further progress line which indicates the rate at which total emissions will be reduced from 1977 to 1982. This linear reduction rate depicted in the plan is to be achieved through the application of RACT regulations and the FMVCP. Reductions claimed through these programs, included with the State commitment to adopt regulations for future CTG categories and to adopt additional regulations for non-CTG categories, should be more than sufficient to meet the requirement of RFP.

The Arkansas "Regulations for the Control of Volatile Organic Compounds" specify both emission limits and permitting requirements. The permitting

requirements will be discussed elsewhere in this notice.

The Arkansas emission limitations for VOC sources apply to gasoline storage and marketing, petroleum liquid storage and cutback asphalt. The State has demonstrated that through the application of these regulations an additional 4.7 percent reduction in hydrocarbon emissions can be obtained. These reductions are in excess of the reductions needed, therefore, EPA proposes to approve these regulations. EPA points out, however, that the definition for VOC compounds (i.e., compounds having a vapor pressure greater than 78 millimeters of Hg) is inconsistent with the EPA's definition. In order to be approvable, the State would have to modify their definition of VOC compounds should they adopt and submit additional hydrocarbon regulations.

The control requirements specified in the Arkansas regulations address only a portion of the source categories for which CTG documents have been specified. The Arkansas regulations do not specify requirements for surface coating operations for auto and light trucks, cans, paper, fabric, metal furniture, large appliances, magnet wire and coils. Nor were requirements specified for petroleum refineries and degreasing.

In order to meet the requirements of Section 172(b)(2) the State must adopt and submit regulations consistent with the CTG's for the above described source categories applicable to sources which have a potential to emit 100 tons or more per year of VOC. The exception to this requirement is a certification by the State that no major sources applicable to a specific RACT regulation exist within the nonattainment area.

It appears, based upon a review of source categories shown in the emission inventory summary, that the majority of non-regulated sources described above do not exist in Pulaski County. However, in order for this portion of the plan to be approvable the State must make such a certification. Therefore, EPA is proposing approval of this portion of the plan provided that the agency certifies, within 30 days after publication of this notice, that those specific categories of sources of VOC to which CTG's apply do not exist in Pulaski County.

The Arkansas Regulations include exemptions for methyl chloroform and methylene chloride. These organic compounds, while not appreciably affecting ambient ozone levels, are potentially harmful. Both methyl chloroform and methylene chloride have

been identified as mutagenic in bacterial and mammalian cell test systems a circumstance which raises the possibility of human mutagenicity or carcinogenicity. The EPA is concerned that the State has chosen this course of action without full consideration of the total environmental and health implication. However, the SIP will not be disapproved if, after due consideration, the State chooses to maintain these exemptions. This policy should not be interpreted as encouraging the increased use of these compounds. Furthermore, State officials and sources should be advised that there is a strong possibility of future regulatory action to control these compounds. Sources which choose to comply by substitution may be required to install control systems as a consequence of the regulatory action.

The Arkansas VOC regulations specify an overall compliance schedule for all existing sources subject to the VOC emission control requirements. The general compliance schedule requires that the affected sources submit a compliance schedule by October 1, 1979. The schedule of compliance must be approved by the Arkansas Commission of Pollution Control and Ecology by February 1, 1980, and must require that the necessary controls be installed and placed into operation prior to June 1, 1981.

The compliance schedule does not establish a final compliance date. It could be interpreted that since some of the emission control requirements are specified in terms of equipment requirements (e.g., submerged fill pipe, bottom filling, floating roof) that installation and operation are equivalent to final compliance in all cases. However, because one of the regulations is a mass emission limitation, the compliance schedules must specify a final compliance date to be approvable. The Agency is encouraged to establish the final compliance date as June 1, 1981, to demonstrate attainment as expeditiously as practicable.

EPA is proposing approval of this portion of the plan provided that a final compliance date is established in Section 4.5(a) of the Arkansas regulations and submitted to EPA within 120 days after publication of this notice and further provided that the final compliance date is adequate to demonstrate attainment as expeditiously as practicable.

Section 4.6 specifies requirements for demonstrating compliance with the VOC emission limitations. This Section, to be approvable, must specify a sampling

method for determining VOC emission rates.

In EPA's review of the regulations and specific to Sections 4.2(b), 4.4(a), 4.4(b) and 4.5(a)(2), EPA points out that any exemption or extension granted with respect to these sections must be submitted to EPA as revisions to the plan. Such exemptions approved by EPA will become part of the SIP. Any source operating under such an exemption or extension which has not been approved by EPA shall be subject to enforcement action under Section 113 of the Act.

Transportation Control Measures

The strategy outlined in the SIP for control of ozone in Pulaski County satisfactorily demonstrates that the NAAQS can be attained not later than December 31, 1982 in accordance with provisions of Section 172(a)(1) of the Act. Emission reductions necessary to attain the ozone standard of 0.12 ppm will be achieved primarily through the FMVCP. VOC emissions from highway vehicles in Pulaski County are projected to decrease by more than 38 percent (6,464 tons) by 1982 as a result of the FMVCP. Reductions expected from the FMVCP were estimated using the Mobile 1 model and are comparable with projections made for other urban areas. The projected emissions from highway vehicles in 1982 includes a projected increase in vehicle miles traveled (VMT) of 17 percent. VMT projections were obtained from the Arkansas State Highway and Transportation Department. Emissions projections for 1982 in Pulaski County are documented in EPA report "Summary Report on Motor Vehicle Emissions Inspection and Maintenance Program for Pulaski County, Arkansas, February, 1979".

Since an extension of the attainment deadline beyond December 1982 is not required it is not mandatory for the ozone control strategy to include provisions for the development of a vehicle emissions inspection and maintenance program or a transportation control plan (TCP). However, the State has acknowledged the potential for additional reductions due to transportation controls and has included a commitment in the SIP to perform a feasibility study of available transportation control measures.

Authority to Implement SIP

The State has evidenced, through the establishment, adoption and submittal of regulations and compliance schedules, their commitment to implement and enforce the plan. In addition, the State has acknowledged

the potential for additional reductions due to transportation controls, and has included a commitment in SIP to perform a feasibility study of available transportation control measures.

The development of the transportation control strategies for Pulaski County is the responsibility of Metroplan. Metroplan is the Metropolitan Planning Organization for transportation planning in the urbanized area of Pulaski County and was designated by the Governor of Arkansas in a letter of October 31, 1978, as the lead planning agency in accordance with provisions of Section 174 of the Act. The designation of Metroplan satisfies the requirement of Sections 121 and 174 which emphasizes that organizations of elected officials representing local governments must play a major role in the development of transportation control strategies.

As evidence of intergovernmental coordination a Memorandum of Agreement has been signed between Metroplan, the Arkansas Department of Pollution Control and Ecology and the Arkansas Highway Department. The agreement outlines the division of responsibilities between the participating agencies in the development of the Transportation Control Plans for Pulaski County.

The Arkansas Plan also includes a proposed plan submitted by Metroplan, for development of a Transportation Control Plan (TCP). The plan prepared by Metroplan describes in detail the work program for TCP development. The plan also provides a program work schedule, an estimated budget and further details the responsibilities and duties of all agencies involved in carrying out the integrated transportation/air quality planning program. The work plan provided by Metroplan represents a well organized comprehensive program for the development and implementation of transportation control strategies in Pulaski County.

Effects of Plan

The nonattainment plan requirements also specify that the State must identify and analyze the effects that the plan's provisions will have on air quality, health, welfare and economics, as well as the social impacts. The plan is also to provide a summary of public comments regarding these issues.

The Arkansas plan discusses each of these issues and in EPA's opinion satisfies the requirements of the Act.

The plan also includes a section entitled "Public Participation". This section discusses meetings held with the public and elected officials and

comments received at public meetings regarding the plan's requirements. The material contained in this section appears to meet the requirement that the agency summarize the public's comments.

Permit Requirements—Sections 172(b)(6) and 173

As previously stated, the SIP claims there will be essentially no growth for stationary sources of VOC. This will most probably continue to be the case as evidenced in the plan, however, the State has included permit provisions which address the requirements of Section 173 of the Act. These requirements specify that a new VOC source will not be issued a permit for construction or modification unless (1) the emissions from the proposed source, in combination with all other existing and proposed emissions are within the emissions growth allowance defined by the RFP curve, (2) LAER is used, and (3) the owner or operator of the new source has demonstrated that all major stationary sources in the State owned or operated by such person are in compliance or on a schedule of compliance. The State has, in its permit requirements set forth the same stipulations as described in Section 173 of the Act and with the exception of LAER are consistent in their requirements. The inconsistency with respect to LAER is due to the State's definition. The definition of LAER in Section 171(3) of the Act requires the most stringent emission limit defined by any SIP or the most stringent emission limit achieved in practice, whichever is more stringent. The State definition for LAER allows an interpretation of LAER which could be different than that required under the Act. EPA is proposing approval of the Arkansas permit regulation provided that the State modify and submit to EPA a definition for LAER consistent with the definition contained in Section 171(3) of the Act within 120 days after publication of this notice.

Resources—Section 172(b)(7)

In order to assure that the requirements and stipulations of the plan have a reasonable assurance of being carried out, the Act requires the identification and commitment of the necessary resources.

The Arkansas plan states that the agency is presently authorized to increase its staff to a level that should be adequate to operate the additional permit requirements of the plan. The plan also states that requests for

additional funds will be made for fiscal years 1980 and 1981.

The Arkansas agency has, in EPA's opinion, not been funded at a sufficient level to adequately carry out the requirements of the plan. While the statements made in the nonattainment plan, specific to resources, are encouraging they do not specifically indicate that the necessary manpower or resources will be available.

This notice is issued under the authority of Sections 110 and 171 to 178 of the Clean Air Act, as amended (42 U.S.C. 7410, 7501 to 7508).

Dated: June 8, 1979.

Myron O. Knudson,
Acting Regional Administrator.
[FR Doc. 79-22985 Filed 7-30-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1286-4]

Implementation Plan Revisions for Nonattainment Areas in the State of California; Receipt/Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Receipt and Availability.

SUMMARY: The purpose of this notice is to announce receipt of revisions to the California State Implementation Plan (SIP) and to invite public comment. A Nonattainment Area Plan for San Diego has been received from the California Air Resources Board. These revisions were submitted to EPA in accordance with the requirements of Part D of the Clean Air Act, as amended in 1977, "Plan Requirements for Nonattainment Areas," and are available for public inspection at the addresses below. A notice of proposed rulemaking discussing these revisions will be published in the Federal Register at a later date. The period for submittal of public comments will end not less than 60 days from this date and not less than 30 days from the published date of EPA's notice of proposed rulemaking.

ADDRESSES: Copies of the SIP revisions are available for inspection during normal business hours at the following locations:

Library, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.
Public Information Reference Unit, Environmental Protection Agency, 401 "M" Street, S.W., Room 2922, Washington, D.C. 20460.
California Air Resources Board, 1102 "Q" Street, Sacramento, CA 95814.

San Diego Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123.

INQUIRIES AND COMMENTS SHOULD BE ADDRESSED TO: Douglas Grano, Chief, Regulatory Section, Air Technical Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105. (415) 556-2938.

SUPPLEMENTARY INFORMATION: New provisions of the Clean Air Act, enacted in August, 1977, Public Law No. 95-95, require states to revise their SIP's for all areas that do not attain the National Ambient Air Quality Standards (NAAQS). The amendments required each state to submit to the Administrator a list of the NAAQS attainment status for all areas within the state. The Administrator promulgated these lists, with certain modifications, on March 3, 1978 (43 FR 8962), March 19, 1979 (44 FR 16388) and April 10, 1979 (44 FR 21261). State and local governments were required by January 1, 1979 to develop, adopt, and submit to EPA revisions to their SIP's which provide for attainment of the NAAQS as expeditiously as practicable. The San Diego County Air Pollution Control District has been designated nonattainment for carbon monoxide, photochemical oxidants (ozone), nitrogen dioxide, and total suspended particulates.

The Governor's designee submitted to EPA the nonattainment area plan for San Diego on July 5, 1979.

EPA is reviewing these revisions for conformance with the requirements of Part D of the Clean Air Act, as amended. Following review of the revisions, a notice of proposed rulemaking will be published in the Federal Register that will provide a description of the proposed SIP revisions, summarize the Part D requirements, identify the major issues in the proposed revisions, and suggest corrections. An additional 30 days will be provided for public comments at that time.

The intent of this notice is to notify the public that these revisions have been formally submitted to EPA for approval, that they are available for public inspection, and that interested persons are encouraged to submit written comments.

(Sections 110, 129, 171 to 178, and 301(a) of the Clean Air Act, as amended (42 U.S.C. §§ 7410, 7429, 7501 to 7508, and 7601(a)).)

Dated: July 17, 1979.

Carl C. Kohmert Jr.,
Regional Administrator.

[FR Doc. 79-23808 Filed 7-30-79; 8:45 am]

BILLING CODE 6560-01

[40 CFR Part 52]

[FRL 1281-4]

Approval and Promulgation of Implementation Plans; Louisiana Plan for Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes approval/disapproval actions for revisions to the Louisiana State Implementation Plan (SIP). The revisions were submitted by the Governor to fulfill the requirements of the Clean Air Act, as amended in August 1977 (the Act). The purpose of the revisions is to provide for attainment of the National Ambient Air Quality Standard for ozone in designated nonattainment areas. This is to be accomplished through the reduction of emissions of volatile organic compounds. The revisions being acted on today are those relating to SIP requirements for nonattainment areas, as specified in Part D of the Act. While portions of the SIP meet Part D requirements, corrective action for several deficiencies must be taken by the State before full approval of the SIP can be granted by the Administrator of EPA.

DATES: Interested persons are invited to submit comments on this proposed action on or before October 1, 1979.

Addresses: Written comments should be submitted to the address below. Environmental Protection Agency, Region 6, Air and Hazardous Materials Division, Air Program Branch, Attention: Jerry Stubberfield, 1201 Elm Street, Dallas, Texas 75270.

Copies of the State's submittal are available for inspection during normal business hours at the address above and at the following locations:

Environmental Protection Agency, Public Information Reference Unit, Room 2922, EPA Library, 401 M Street, SW., Washington, DC 20460.

Louisiana Air Control Commission, 325 Loyola Avenue, New Orleans, Louisiana 70160.

East Baton Rouge Health Unit, 353 North 12th Street, Room 83, Baton Rouge, Louisiana 70802.

Office of Health Services Building, 1505 North 19th Street, Monroe, Louisiana 71201.
State Office Building, 1525 Fairfield, 5th Floor, Shreveport, Louisiana 71101.

FOR FURTHER INFORMATION CONTACT:

Jerry Stubberfield, Chief, Implementation Plan Section, Air Program Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, 1201 Elm

Street, Dallas, Texas 75270, (214) 767-2742.

SUPPLEMENTAL INFORMATION: Provisions of the 1977 Act require States to revise their SIPs for all areas that have been designated as not attaining the National Ambient Air Quality Standards (NAAQS). The Act requires that States submit necessary SIP revisions to the EPA by January 1, 1979. The requirements for an approvable SIP are described in a general preamble published in the April 4, 1979, Federal Register (44 FR 20372), and will not be restated in this notice. A supplement to the April 4 notice was published on July 2, 1979 (44 FR 38583) involving, among other things, conditional approval.

EPA proposes to conditionally approve the plan where there are minor deficiencies and the State provides assurances that it will submit corrections by a specified deadline. This notice solicits comment on what items should be conditionally approved, and it solicits comment on the deadlines where specified in this notice. A conditional approval will mean that the restrictions on new major source construction will not apply unless the State fails to submit the necessary SIP revisions by the scheduled dates, or unless the revisions are not approved by EPA.

The Governor of Louisiana submitted revisions to the State's SIP on April 30, 1979. These revisions address Part D (Plan Requirements for Nonattainment Areas) of the Act with regard to attainment of the NAAQS for ozone in the designated nonattainment areas. The Governor's submittal also includes provisions relating to other requirements of the Act. However, the action being taken today is with respect to Part D requirements only. Those SIP provisions relating to non-Part D requirements will be addressed in a later Federal Register. An evaluation report,¹ which reviews the SIP revisions in detail, is available for inspection during normal business hours at the EPA Regional Office in Dallas and at the EPA Public Information Reference Unit in Washington (see addresses above).

The Louisiana SIP was developed by the Louisiana Air Control Commission (LACC). The Louisiana Department of Transportation and Development (LDOTD) and the metropolitan planning organizations for Shreveport, Baton Rouge and New Orleans have responsibilities concerning transportation control measures. However, the SIP indicates that these measures are not needed for attainment

¹ EPA Review of Louisiana State Implementation Plan Revision, June 1978.

purposes, and, therefore, will be used only for growth allowance.

Part D—Requirements

Air Quality Problem.

Eighteen parishes in Louisiana were originally designated nonattainment for ozone on March 3, 1978 (43 FR 8998), in accordance with Section 107 of the Act. On September 11, 1978 (43 FR 40425), Bossier Parish was added, bringing the total ozone nonattainment parishes to 19. Seven of these parishes are classified as urban, and they constitute the geographical boundaries of the three urbanized areas of Shreveport, Baton Rouge and New Orleans. The remaining parishes are classified as rural. In urban areas, the SIP must contain a control strategy, using an EPA approved reduction model, which demonstrates attainment of the ozone standard, and applies reasonably available control technology (RACT) to major stationary sources of volatile organic compounds (VOC), if the strategy demonstrates attainment by the end of 1982. In rural areas, the demonstration of attainment is not required, but RACT must be applied to major stationary sources of VOC. An adequate demonstration of attainment of NAAQS in the urban parishes and an assurance of reasonable further progress are considered sufficient for attainment and reasonable further progress in rural parishes. The rationale for this approach is discussed in the *Criteria for Proposing Approval of Revision to Plans of Nonattainment Areas* published in the Federal Register on May 19, 1978 (43 FR 21675).

The parishes, size, and population for each urbanized area are shown in the table below. The ozone design values for Shreveport, Baton Rouge, and New Orleans are 0.14 parts per million (ppm), 0.19 ppm, and 0.17 ppm respectively. The State elected to use a modified rollback model to determine the amount of VOC reduction required to show attainment of the NAAQS. Present transport (T_p) and future transport (T_f) values of 0.10 ppm and 0.06 ppm were used with an additivity factor of 0.5 to calculate the reductions. These reductions were determined to be 36 percent, 25 percent, and zero for Baton Rouge, New Orleans, and Shreveport respectively. Use by the State of the modified rollback model, present and future transport values, and the additivity value are consistent with EPA guidance.

Urbanized area	Size (Sq. miles)	Population ¹
Shreveport	1,750	300,000
Caddo Parish		
Bossier Parish		
Baton Rouge	662	350,000
East Baton Rouge Parish		
West Baton Rouge Parish		
New Orleans	1,080	1,000,000
Orleans Parish		
Jefferson Parish		
St. Bernard Parish		

¹ 1970 census.

Emission Inventories

Base year (1977) emission inventory summaries, by VOC source category, are provided in the SIP for all 19 nonattainment parishes. Projected emission summaries are provided for each urban nonattainment parish, along with current and projected emissions for specific point sources. The emission inventory data provided in the SIP are considered adequate to meet the requirements of the Act. Louisiana Regulation 17.12 requires that updated emission inventory questionnaires be submitted on a semiannual basis whenever annual emission rates of individual source points change by more than 10 percent. This reporting requirement is considered to be sufficiently frequent to allow the LACC to determine if reasonable further progress is being made and to address the need for additional emission reductions that may be required to assure attainment of the NAAQS by the specified date. Emission data, including any increases or decreases that occur, must be reported to EPA annually.

In the point source emission summaries for Shreveport and New Orleans, VOC from new or modified sources completing construction between 1977 and 1982 are included. These new emissions amount to 3,650 tons per year in Shreveport and 1,117 tons per year in New Orleans. These emissions were taken into account by the LACC in the control strategy development. No new emissions are shown for Baton Rouge. The LACC indicates in the SIP that the amount of emissions between the level actually achieved and that required to demonstrate attainment will be used as a growth allowance.

The SIP includes an exemption for methyl chloroform and methylene chloride. These organic compounds, while not appreciably affecting ambient ozone levels, are potentially harmful. Both methyl chloroform and methylene chloride have been identified as mutagenic in bacterial and mammalian cell test systems; a circumstance which raises the possibility of human

mutagenicity or carcinogenicity. The EPA is concerned that the State has chosen this course of action without full consideration of the total environmental and health implications. However, the SIP will not be disapproved if, after due consideration, the State chooses to maintain these exemptions. This policy should not be interpreted as encouraging the increased use of these compounds. Furthermore, State officials and sources should be advised that there is a strong possibility of future regulatory action to control these compounds. Sources which choose to comply by substitution may be required to install control systems as a consequence of later regulatory action.

Control Strategy for Shreveport

For the Shreveport urbanized area, 1977 VOC emissions are shown in the SIP to be just over 30,000 tons per year. Of this total, motor vehicle emissions represent 62 percent while point source emissions represent only 8 percent. These contributions indicate a strong dependence of the control strategy on motor vehicle emission reductions for the Shreveport area.

Using the modified rollback model (see earlier discussion), no emission reductions are required to demonstrate attainment in the Shreveport urbanized area. However, based on the State's regulations and application of the Federal Motor Vehicle Control Program (FMVCP), emissions are reduced by an estimated 19 percent by 1982, which allows a margin for growth.

For SIPs that demonstrate attainment of the ozone NAAQS by 1982 by means other than photochemical dispersion modeling, RACT must apply to all major sources covered by each Control Techniques Guideline (CTG), and in urbanized areas to enough additional sources to provide for reasonable further progress and attainment as expeditiously as practicable. The Louisiana regulations apply to all major CTG sources in the Shreveport area except refinery vacuum producing systems and process unit turnarounds. Since modified rollback was used instead of the more exacting photochemical dispersion modeling, EPA policy requires enforceable regulations for all major CTG sources. Therefore, EPA is proposing to conditionally approve the control strategy for Shreveport based on submittal by the State of RACT regulations for refinery vacuum producing systems and process unit turnarounds. The time required for submittal is provided below in the discussion for Baton Rouge.

Control Strategy for Baton Rouge

The 1977 VOC emissions for the Baton Rouge urbanized area are shown in the SIP to be 79,477.4 tons per year. Emissions from motor vehicles represent 26 percent of the 1977 total VOC, and those from point sources represent 59 percent. These contributions are indications of the industrialization of the Baton Rouge area.

Based on an ozone design value of 0.19 ppm, and using the modified rollback model, an emission reduction of 36 percent (28,611.9 tons VOC) is required to demonstrate attainment. In the State's summary of expected reductions, 28,623.6 tons of VOC are shown as being reduced by 1982. Based on the State's calculated value, 11.7 tons of VOC will be available for growth allowance. In the State's control strategy summary, emissions for the "other solvent use" category were included. The State's emission inventory shows this amount to be 1,299.4 tons per year. This amount was included in the 1977 inventory, and in the projected inventory for 1982. The State failed to account for any growth for the "other solvent use" category. If it is conservatively assumed that the population for the Baton Rouge area increases by only 1,000 per year for the period between 1977 and 1982, an additional 20 tons of VOC would be included in the 1982 area source inventory. As a result, the overall emission reduction would be 28,603.6 tons, which is below the amount calculated by the State as being needed to demonstrate attainment.

As pointed out in the discussion for Shreveport, the Louisiana regulations do not include controls for refinery vacuum producing systems and process unit turnarounds. In addition, the State's regulation for refinery wastewater treatment exempts water separation facilities which receive effluent water containing less than 200 gallons of VOC per day. EPA guidelines do not include such an exemption. The CTCs provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumption norm" for RACT. Based on the information in the CTCs, EPA believes the submitted regulations represent RACT, except as noted. On points noted, the State regulations are not supported by the information in the CTCs, and the State must provide an adequate demonstration that its regulations represent RACT.

The Louisiana control strategy consists of current and projected emission inventory summaries, and new

and revised regulations are included in the SIP. However, it is not possible to verify expected emission reductions since detailed calculations are not a part of the SIP, nor were they provided to EPA previously. This verification is especially important in those cases where the adequacy of the demonstration of attainment is questionable.

Because of the shortfall of the 1982 attainment demonstration, EPA has serious doubts concerning the adequacy of the Baton Rouge control strategy. However, EPA is proposing to conditionally approve the control strategy for the Baton Rouge urbanized area based on the State taking the actions listed below.

1. Adoption and submittal of regulations representing RACT for refinery vacuum producing systems and process unit turnarounds within 120 days of this notice.

2. Submittal of a demonstration that wastewater separators exempted in Section 22.6 are minor sources (or other justification) within 30 days of this notice. Otherwise, revise Section 22.6 to eliminate the exemption and submit the revision within 120 days of this notice.

3. Submittal of the detailed calculations used to estimate emission reductions from the stationary VOC source categories in the Baton Rouge urbanized area within 30 days of this notice.

Control Strategy for New Orleans

The 1977 VOC emission inventory for the New Orleans urbanized area is 87,135.1 tons. Emissions from motor vehicles and point sources are more balanced than in Shreveport and Baton Rouge. Contributions from these two source categories are 34 percent and 43 percent respectively.

Based on an ozone design value of 0.17 ppm, and using the modified rollback model, a reduction of 25 percent (21,783.8 tons) is required to demonstrate attainment. The emission reduction which the State expects to achieve by 1982 is shown as 28,680.4 tons. This reduction would provide approximately 7,000 tons of VOC for growth allowance.

There are no RACT regulations which apply to refinery vacuum producing systems or process unit turnarounds. In addition, calculations for verifying the estimated emission reductions are needed. Therefore, EPA is proposing to conditionally approve the control strategy for the New Orleans urbanized area based on the State submitting RACT for the omitted CTC sources and detailed calculations used to estimate

VOC emission reductions from stationary source categories. The times for completing these actions are provided in the discussion for Baton Rouge.

Other Part D Requirements

1. **Public Involvement—Sections 172(b)(1) and (b)(9):** The Governor's submittal letter states that the SIP was adopted after adequate notice and public hearing. However, certification by the State that the hearing was held and evidence of the public notice were not included in the SIP. EPA is proposing approval of the SIP based on the State submitting hearing information within 30 days of this notice.

The Governor designated the LACC as the lead agency responsible for SIP actions. The LDOTD was designated as the lead agency responsible for coordination of development of transportation control strategies. The Governor indicated that designation of specific metropolitan planning organizations would be coordinated by the LDOTD, and that participation by these organizations in developing and implementing transportation controls would be accomplished to the extent that they have the capability and desire to participate. Written agreements between the LACC, LDOTD, and planning organizations for Shreveport, Baton Rouge, and New Orleans are included in the SIP. These signed agreements outline the responsibilities of each organization with respect to SIP activities.

An analysis of the economic, energy, health, and social impacts of the attainment provisions is included in the SIP. However, a summary of public comments on this analysis is not included. EPA expects to receive this additional information prior to final action on the SIP.

2. **Resources—Section 172(b)(7):** The designation of the LACC by the Governor as the lead agency responsible for the SIP and any revisions thereof is considered by EPA to be a State commitment to carry out the provisions of the SIP. While it has been the EPA's position for several years that the manpower and financial resources made available to the LACC for air pollution control activities have been extremely low, considering the large number of major stationary sources in Louisiana, recent legislative activities in Louisiana indicate that an improvement in the State's air program resources is likely. House bill 433 passed the Louisiana House on May 31, 1979. This bill provides for a reorganization of the air

¹ Sections of the Clean Air Act.

control program, and relocates the program under the Department of Natural Resources. While the State agency expects the financial and manpower resources to at least double, the increase may still not be enough to adequately carry out the entire program.

3. **Permit Requirements—Sections 172(b)(6) and 173:** The SIP contains a discussion on the State's intended approach for handling VOC emissions from new sources. The following are cited in the SIP as alternatives:

a. Require the lowest achievable emission rate (LAER), through new source permits, for source processes.

b. Implement the offset policy on a case-by-case basis to maintain emissions within the 1982 attainment level.

c. Allocate a portion of the growth allowance on a case-by-case basis for the particular nonattainment area.

The State has authority to require LAER as evidenced in the past by the application of the Interpretative Ruling through Commission Orders. As a result of past actions with regard to new source review, the authority possessed by the LACC, and the statement of intent for managing new sources, the SIP is considered adequate for meeting the requirements of Section 173 regarding reasonable further progress.

Louisiana Regulation 6.0 specifies the requirements for new source review. While the LACC has authority to require LAER through Commission Orders, this regulation contains no specific requirement that new or modified sources comply with LAER. Therefore, the State's permit program is deficient with respect to Section 173(2). There are no provisions in Regulation 6.0 which require owners or operators of new or modified sources to demonstrate that existing sources in Louisiana owned or operated by them are in compliance with applicable regulations of the SIP, or are on a compliance schedule. Therefore, the State's permit program is deficient with respect to Section 173(3).

The EPA is proposing to conditionally approve the Louisiana SIP with respect to new source review based on the State completing the actions below.

d. Revise Regulation 6.0 to include a requirement that new or modified source comply with LAER.

e. Revise Regulation 6.0 to require owners or operators of proposed new or modified sources to demonstrate that all major stationary sources in the State owned or operated by them are in compliance with applicable portions of the SIP, or are on a schedule of compliance.

These actions are to be completed and submitted to EPA no later than November 28, 1979.

4. **Implementation and Enforcement—Section 172(b)(10):** New and revised VOC regulations were adopted by the LACC and submitted with the SIP. Compliance schedules are to be submitted at a later date. The SIP also includes written agreements between the LACC, the LDOTD, and the metropolitan planning organizations for Shreveport, Baton Rouge, and New Orleans. The legally enforceable regulations and signed agreements are considered by EPA as sufficient written evidence to satisfy the requirements of Section 172(b)(10) of the Act.

Hydrocarbon Control Regulations

A new Section 17.16 is being added to the State's regulations, which addresses the "bubble concept" of controlling emissions. The language of Section 17.16 is general in nature, and as written, is vague with respect to requirements that must be met by sources wishing to employ the bubble concept. EPA is proposing to approve Section 17.16. However, the State will be required to submit proposed control plans to EPA for a determination of consistency with EPA guidance.

Section 22.12.4 exempts degreasing sources which emit a combined weight of VOC less than 100 pounds in any consecutive 24-hour period from control requirements. Such an exemption is inconsistent with EPA guidance for solvent metal cleaning. However, EPA is proposing to approve Section 22.12.4 based on submittal of information by the State which satisfactorily demonstrates that the exempted sources affect less than 5 percent of the emissions from the solvent metal cleaning (degreasing) category. This information is to be submitted within 30 days of publication of this notice.

Louisiana's regulations for solvent metal cleaning employ control system A. This is acceptable if the State does not seek an extension of the attainment date, and if there are no sources in the nonattainment areas which emit 100 tons per year or more of VOC. The first condition is satisfied since Louisiana is not seeking an attainment date extension. With respect to the second condition, the baseline emission inventory does not show any solvent metal cleaning sources which emit 100 tons or more of VOC. However, the State will be required to certify that there are no such sources located in the nonattainment areas. This certification is to be submitted by the State on or before August 30, 1979.

On December 9, 1977, the Governor submitted revisions to the Louisiana SIP. Part of the revision package included a new Regulation 22.0 which combined the requirements of existing Regulations 22.0, Control of Volatile Organic Compounds from New Sources, and A22.0, Control of Volatile Organic Compounds from Existing Sources. On March 2, 1979 (44 Fed. Reg. 11798) EPA proposed, *inter alia*, approval of Sections 22.3 and 22.10, and disapproval of Sections 22.8 (b) and (c). Prior to final action on Regulation 22.0 EPA, the Governor withdrew Sections 22.3, 22.8 and 22.10. Section 22.3 specifies control requirements for VOC storage tanks, which is a CTG source category. Section 22.8 concerns the control of waste gas streams and Section 22.10 concerns exemptions for certain VOC.

The Governor's submittal of April 30, 1979, includes revisions to those sections of Regulation 22.0 which had been previously withdrawn. This means that revisions were submitted for regulations that are no longer officially before EPA. Therefore, EPA cannot act on the material dealing with Sections 22.3, 22.8 and 22.10 as it was submitted on April 30, 1979.

On May 22, 1979 after notice and hearing, the LACC adopted new versions of Sections 22.3, 22.8 and 22.10. EPA has been advised that the new sections address the problems identified by EPA in the previously proposed disapproval of March 2, 1979. The new sections will be submitted by the Governor to EPA. Therefore, EPA is proposing approval of the Louisiana SIP based on adequate provisions for these sections being submitted in their entirety. Submittal is to be made no later than August 30, 1979.

Any exemptions granted under Sections 22.9.1 or 22.9.3(e) of Regulation 22.0 will be considered revisions to the SIP. Consequently, such exemptions must be submitted to and approved by EPA before they will become part of the approved SIP. Any source operating under an exemption which has not been approved by EPA will be subject to enforcement action under Section 113 of the Act.

The State has not committed to adopt additional VOC control measures consistent with CTCs published by EPA after January 1, 1978, but rather has only committed to "review and consider" such measures for incorporation into the SIP. However, EPA is proposing to conditionally approve the SIP based on the State taking the actions listed below.

1. Submittal of adopted RACT regulations by January 1980 for the following source categories:

- a. Vegetable oil processing.
- b. Petroleum refinery leaks.
- c. Gasoline tank trucks.
- d. Perchloroethylene dry cleaning.
- e. Pharmaceutical manufacture.
- f. Miscellaneous metal parts and products.
- g. Graphic arts.
- h. Pneumatic rubber tire manufacture.
- i. Flatwood paneling.
- j. Floating roof tanks.

2. Submittal of adopted RACT regulations by January 1981 which control VOC emissions from additional source categories for which EPA issues a new CTG by January 1980.

3. Demonstration by certification that there are no sources in the State for a given VOC source category that is not regulated.

This notice is issued under the authority of Sections 110 and 171 to 178 of the Clean Air Act, as amended, 42 U.S.C. §§ 7410 and 7501 to 7508.

Dated: June 12, 1979.

Myron O. Knudson,

Acting Regional Administrator.

[FR Doc. 79-22966 Filed 7-30-79; 8:45 am]

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[40 CFR Part 52]

[FRL 1281-3]

Approval and Promulgation of Implementation Plans; Oklahoma Plan for Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes approval/disapproval of various revisions to the Oklahoma State Implementation Plan (SIP). The revisions were submitted by the Governor to fulfill the requirements of the Clean Air Act, as amended in August 1977 (the Act), for attainment and maintenance of National Ambient Air Quality Standards. The revisions being acted on today are those relating to the plan requirements for nonattainment areas (Part D of the Act) and include control requirements for hydrocarbons, carbon monoxide, and particulate matter. In reviewing the State submittal EPA assessed the ability of the plan to meet the requirements of Part D.

While the plan basically meets the Part C requirements there are several deficiencies in the plan that the State needs to address before full SIP approval can be granted by the Administrator.

DATE: Interested persons are invited to submit comments on this proposed action on or before October 1, 1979.

ADDRESSES: Written comments should be submitted to the address below: Environmental Protection Agency, Region 6, Air and Hazardous Materials Division, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270.

Copies of the State's submittal are available for inspection during normal business hours at the address above and at the following locations:

Environmental Protection Agency, Public Information Reference Unit, Room 2922, EPA Library, 401 M Street, S.W., Washington, D.C. 20460.

Oklahoma State Department of Health, Air Quality Service, Northeast 10th Street and Stonewall, Oklahoma City, Oklahoma 73105.

FOR FURTHER INFORMATION CONTACT: Jerry Stubberfield, Chief, Implementation Plan Section, Environmental Protection Agency, Region 6, Air and Hazardous Materials Division, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2742.

SUPPLEMENTARY INFORMATION:

Provisions of the 1977 Clean Air Act Amendments (the Act) require States to revise their SIPs for all areas that have been designated as not attaining the National Ambient Air Quality Standards (NAAQS). The Act requires that States submit the necessary plan revisions to the EPA by January 1, 1979. The requirements for an approvable SIP are described in a general preamble published in the April 4, 1979, Federal Register (44 FR 20372), and will not be restated in this notice. A supplement to the April 4 notice was published on July 2, 1979 (44 FR 38583) involving among other things conditional approval.

EPA proposes to conditionally approve the plan where there are minor deficiencies and the State provides assurances that it will submit corrections by a specified deadline. This notice solicits comments on what items should be conditionally approved, and it solicits comments on the deadlines where specified in this notice. A conditional approval will mean that the restrictions on new major source construction will not apply unless the State fails to submit the necessary SIP revisions by the scheduled dates, or unless the revisions are not approved by EPA.

The Governor of Oklahoma, after adequate notice and public hearing, submitted revisions to Oklahoma's SIP on April 2, 1979. The revisions include provisions for attainment and maintenance of the NAAQS for ozone, carbon monoxide, and particulate matter, in the designated nonattainment

areas. These provisions address Part D (Plan Requirements for Nonattainment Areas) of the Act. In addition, the State submittal included provisions relating to other parts of the Act. The action being taken today by EPA is only with respect to Part D requirements. An evaluation report,¹ which reviews the SIP in detail, is available for inspection by interested parties during normal business hours at the EPA Region 6 office and at the other above stated addresses. The overall plan was developed by the Air Quality Service (AQS).

PART D—SIP REQUIREMENTS

Ozone.

A. Air Quality Problem. In the March 3, 1978 Federal Register, at 43 FR 9037 the EPA identified three counties in the State of Oklahoma which were not attaining the NAAQS for photochemical oxidants, Tulsa, Oklahoma and Cleveland Counties. Subsequent to these designations, EPA promulgated revisions to that standard (at 44 FR 8218, February 8, 1979) as follows: (1) the designated pollutant was changed from photochemical oxidants to ozone, (2) the level of the standard was changed from 0.08 parts per million (ppm) to 0.12 ppm, and (3) the method of determining a violation of the standard was changed. The State reevaluated the air quality data for these nonattainment areas in light of the revised standard and determined that concentrations in Cleveland County no longer exceeded the new standard. Therefore, the ozone plan does not address Cleveland County. However, the State must submit a formal request for redesignation, before the State can be relieved of the requirement to submit a SIP for this area.

For Tulsa and Oklahoma Counties, which are identified as urban areas, according to EPA guidelines, design values were developed in accordance with methods described in the January 1979 EPA document, "Guideline for Interpretation of Ozone Air Quality Standards," considering ozone data collected during the calendar years 1975, 1976, and 1977. The State used the linear rollback technique to determine the percent emission reduction needed to demonstrate attainment of the ozone standard. Although the promulgation of the new standard required the consideration of background and transported ozone in the development of the control strategy, EPA guidance specifies that linear rollback may be used if the net impact on control

¹ EPA Review of Oklahoma State Implementation Plan Revision, June 1979.

requirements is relatively insignificant. Since the linear rollback technique results in at least as stringent reduction requirements, as the method which accounts for present and future levels of transported ozone, the use of this method is considered to be acceptable.

The following table indicates the design values, and the required percentages of reduction resulting from the linear rollback method.

Table 1.—Emission reduction requirements

Nonattainment county	Design value (ppm)	Percent reduction required
Oklahoma.....	0.13	8
Tulsa.....	0.17	29

B. Emission Inventories. Base year (1977) emission inventory summaries, by volatile organic compound (VOC) source category, are provided in the SIP for both nonattainment counties. The emission inventory summaries for area sources of VOC were developed by an EPA contractor² and modified by the State to reflect recent updates. The projected 1982 inventories include the effect of projected growth of new and existing sources. According to the State, growth rates used are considered to be consistent with those of other area planning agencies.

C. Control Strategy. The control strategy submitted by the State of Oklahoma is based on emission reductions achieved through the application of reasonably available control technology (RACT) to existing major stationary sources consistent with Control Technique Guidelines (CTGs) published prior to January 1, 1978, and the Federal Motor Vehicle Control Program (FMVCP).

The State has not committed to adopt additional VOC control measures consistent with CTGs published after January 1, 1978. However, the EPA proposes to approve the SIP on the following conditions:

1. The State submits adopted RACT regulations for the following source categories by January 1980:

- a. Vegetable oil processing.
- b. Petroleum refinery leaks.
- c. Gasoline tank truck.
- d. Perchloroethylene dry cleaning.
- e. Pharmaceutical manufacture.
- f. Miscellaneous metal parts and products.
- g. Graphic arts.
- h. Pneumatic rubber tire manufacture.
- i. Flatwood paneling.
- j. Floating roof tanks.

² "Inspection/Maintenance and Emission Inventories of Area Sources in Oklahoma, Vol. I and II." EPA 906/9-79-004b, February 1979.

2. The State adopts by January 1981 regulations which control emissions from additional source categories for which EPA issues a new CTG by January 1980.

3. The State demonstrates by certification that there are no sources in the State for a given VOC source category that is not regulated.

D. Regulations and Reductions. Oklahoma Air Pollution Control Regulation No. 15 entitled, "Control of Emissions of Organic Materials" has been revised to include legally enforceable regulations which address the application of RACT for the following source categories covered in the CTGs: petroleum liquid storage in fixed roof tanks; degreasing; bulk gasoline terminals; petroleum refinery vacuum systems, wastewater separators, and process unit turnaround; and cutback asphalt. The State has not submitted legally enforceable regulations for the remaining source categories identified in the CTGs. However, the EPA proposes to approve the SIP on the condition that the State submit legally enforceable regulations covering the remaining source categories within 150 days of the publication of this notice, or certification that there are no major sources in the nonattainment areas for these remaining source categories within 30 days of the publication of this notice.

EPA has reviewed the revisions to Regulation No. 15 and found several deficiencies in the State's approach to the control of VOCs from stationary sources. The CTGs provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information in the CTGs, EPA believes that the submitted regulations represent RACT, except as noted below. On the points noted below, the State regulations are not supported by the information in the CTGs, and the State must provide and adequate demonstration that its regulations represent RACT.

1. The definition of VOC in Subsection 15.12.C. is less restrictive than EPA's definition, which could result in no control of some compounds.

2. Subsection 15.12.D exempts methylene chloride (1, 1, 1 trichloroethane) and methylene chloride. These VOCs while not appreciably affecting ambient ozone levels, are potentially harmful. Both methyl chloroform and methylene chloride have been identified as mutagenic in bacterial and mammalian cell test systems, a circumstance which

raises the possibility of human mutagenicity and/or carcinogenicity.

With the exemption of these compounds, some sources, particularly existing degreasers, will be encouraged to utilize methyl chloroform in place of other more photochemically reactive degreasing solvents. Such substitution has already resulted in the use of methyl chloroform in amounts far exceeding that of other solvents. Endorsing the use of methyl chloroform by exempting it in the SIP can only further aggravate the problem by increasing the emissions produced by existing primary degreasers and other sources.

The EPA is concerned that the State has chosen this course of action without full consideration of the total environmental and health implications. The EPA does not intend to disapprove the State SIP submittal if, after due consideration, the State chooses to maintain these exemptions. However, we are concerned that this policy not be interpreted as encouraging the increased use of these compounds nor compliance by substitution. The EPA does not endorse such approaches. Furthermore, state officials and sources should be advised that there is a strong possibility of future regulatory action to control these compounds. Sources which choose to comply by substitution may well be required to install control systems as a consequence of these future regulatory actions.

3. Subsection 15.30 specifies emission limitations for various types of coatings. Based on the surface coating CTG documents, emission limitations consistent with RACT should be specified for the various types of coating lines (i.e., cans, coils, paper, etc.) not each type of coating. Regulations consistent with RACT for the various coating operations must be developed, unless the State can certify that there are no major coating sources in the nonattainment counties.

4. Subsection 15.50 should be revised to reflect that the additional controls discussed in the subsequent subsections must apply to those areas designated as nonattainment by the EPA, not the Commissioner.

5. Subsection 15.522 exempts stationary storage containers with average daily throughputs less than 30,000 gallons from the control requirements specified in this subsection. Since RACT requirements define a bulk terminal as any facility with daily throughputs greater than 20,000 gallons, the effect of this subsection is to exempt terminals consisting of containers with throughputs less than 30,000 gallons per

day. Also, not many tanks less than 40,000 gallons will have a daily throughput of more than 30,000 gallons. EPA is assuming that for any loading facility with an aggregate throughput greater than 20,000 gallons per day, Section 15.523 (which has no applicability cutoff) overrides Section 15.522. For example, a 60,000 gallon per day terminal consisting of three 25,000 gallon containers, each with a 20,000 gallon per day throughput, would be exempt from Section 15.522 but must meet the control requirements of Section 15.523. If the State interprets these two sections differently, 15.522 must be changed to conform to RACT. Alternatively, if the State provides certification that no bulk terminal within the nonattainment areas will be exempted, the exemption contained in this section is acceptable.

6. Subsection 15.53 pertains to the control of VOC emissions from wastewater separators. It provides an exemption for those separators receiving less than 100 gallons of VOC/day. The State must provide an evaluation of how this exemption affects the reductions achieved for this source category.

7. Subsection 15.55 must be revised to require that vapors from hot wells and accumulators be vented to a fire-box or incinerator. The words "if necessary" should be removed or the conditions under which the vapors would not be incinerated should be defined.

8. Subsection 15.563 must be revised to reflect that conveyORIZED degreasers should be subject to the more stringent controls of Control System B, as defined in the CTG concerning degreasing, if such facilities are located at a single source and would collectively have the potential to emit more than 100 tons per year, unless the State provides certification that there are no such sources in the nonattainment areas or other justification.

EPA intends to propose approval of Regulation No. 15 on the following conditions: (1) the regulation is revised in accordance with the requirements discussed above within 150 days from the publication of this notice, and (2) that the State submit the required evaluations or certifications within 30 days from the publication of this notice.

According to the State, additional reductions will be achieved through the FMVCP. EPA's Mobile 1 computer program was used to calculate vehicle emissions for 1977 and 1982. Input data, used in the model, were obtained from the Oklahoma Department of Transportation.

Based on the application of the control measures discussed above, the

State has predicted that the following percentages of reduction will be achieved by the end of 1982, in the nonattainment counties: 33.6 percent for Tulsa County and 15.2 percent for Oklahoma County. Comparison of these figures with the required percentages of reduction shown in Table 1 indicates that the predicted reductions will be sufficient to demonstrate attainment of the ozone standard by December 31, 1982 in Tulsa and Oklahoma Counties.

E. *Reasonable Further Progress.* In order to verify that the predicted emission reductions will be accomplished at a reasonable and efficient rate, the State developed RFP schedules, which indicate the actual rate at which reductions will be achieved in the two nonattainment counties. These schedules, which are presented in graphical format, demonstrate that predicted reductions will be achieved at a rate consistent with or below the RFP rate, thereby providing a growth allowance which is quantified graphically for both counties. Therefore, the EPA considers the submittal of these RFP schedules to satisfy the requirement of assuring RFP in the period prior to attainment, and providing sufficient reductions to ensure attainment by the specified date.

In addition, the State has committed to submit annual reports which will report on the progress in meeting the RFP schedules. These reports will contain updated emission inventories including growth of mobile sources, minor new stationary sources, major new or modified stationary sources, and reductions in VOC emissions from existing sources.

Carbon Monoxide

A. *Air Quality Problem.* In the March 3, 1978 Federal Register, a portion of Tulsa County was designated as nonattainment for carbon monoxide (CO). (An exact description of the geographic area is included in the SIP and discussed in the evaluation report.)

Violations of only the eight-hour standard have been recorded for this portion of Tulsa County during the period from 1975 to 1977, with the highest second-high value being 12.7 mg/m³. The State used this concentration as the design value in the linear rollback equation in order to determine the percent emission reduction needed to demonstrate attainment of the CO standard. This calculation results in a required percent reduction of 21.3 percent.

B. *Emission Inventories.* An emission inventory for CO emissions was developed by the State for all of Tulsa

County, using 1977 as the base year. The projected 1982 inventory includes the effect of projected growth of new and existing sources, including mobile sources. According to the State, growth rates used are considered to be consistent with those of other area planning agencies.

C. *Control Strategy.* The control strategy submitted by the State of Oklahoma is based on emission reductions achieved through the application of controls on existing major stationary sources of CO and the FMVCP.

D. *Regulations and Reductions.* Oklahoma Air Pollution Control Regulation No. 17 entitled "Control of Emission of Carbon Monoxide," has been revised to require controls for the following existing major sources: foundry cupolas, blast furnaces, basic oxygen furnaces, catalytic cracking units, and other petroleum or natural gas processes, except stationary engines. Since EPA has not issued definitive guidance concerning RACT for sources of CO emissions, the State has determined that complete secondary combustion of the generated waste gas shall constitute RACT and that removal of 93 percent or more of the CO generated is equivalent to complete secondary combustion. All sources subject to this regulation must be in compliance no later than December 31, 1982.

EPA will accept this regulation as RACT for the stationary sources to which it applies. However, EPA has identified several minor problems with the regulation as discussed below.

1. Subsection 17.2.a. defines the area of applicability of the regulation. Specifically, it applies to those sources "... located in, or significantly impacting on a nonattainment area for carbon monoxide. . .". A significant impact should be defined so as to determine what sources are covered by this regulation.

2. This subsection also refers to nonattainment areas "... as designated by the Commissioner. . .". It should be noted that all designations must be submitted to EPA for promulgation.

According to the State, additional reductions will be achieved through the FMVCP. Vehicle emissions for 1977 and 1982 were calculated as described in the discussion on the ozone control strategy.

On the basis of the application of the control measures discussed above, the State has predicted that a 28.1 percent reduction in CO emissions will be achieved by the end of 1982. Since a 21.3 percent reduction in emissions is required, the predicted reduction will be

more than sufficient to demonstrate attainment of the CO standard by December 31, 1982.

E. *Reasonable Further Progress.* An RFP schedule was developed for Tulsa County, in order to indicate the actual rate at which CO emission reductions will be achieved. This schedule, which is presented in graphical format, demonstrates that predicted reductions will be achieved at a rate consistent with or below the RFP rate, thereby providing a growth allowance which is quantified graphically. Therefore, the EPA considers the submittal of this RFP schedule to satisfy the requirements of assuring RFP in the period prior to attainment and providing sufficient reductions to ensure attainment by the specified date.

The State has also committed to track RFP, through annual reporting as detailed in the discussion on the ozone control strategy.

Particulate Matter

A. *Air Quality Problem.* In the March 3, 1978 Federal Register, with a subsequent revision on September 11, 1978 (43 FR 40431), portions of Tulsa, Oklahoma and Mayes Counties were designated as nonattainment for particulate matter (TSP). (An exact description of the geographic areas is included in the SIP and discussed in the evaluation report.)

The State chose the more restrictive standard, the annual geometric mean (ACM) on which to base the control strategies. Design values were developed from TSP monitor data recorded during the last quarter of 1976 and the first three quarters of 1977. The State did not remove particulate samples from the data base measured during two major dust storms which occurred during this period, prior to the calculation of the AGMs. Therefore, the design values are higher than they need be. However, since these higher design values resulted in more stringent emission reduction requirements, the EPA considers the State's demonstrations of attainment for these areas to be conservative.

Through dispersion and filter analyses, the State determined that emissions from major sources did not significantly affect the nonattainment areas. Therefore, the linear rollback method was used to determine the percentages of reduction required to demonstrate attainment of the TSP standard. Using the design values developed by the State, in the linear rollback equation, results in the following required percentages of reduction. For all areas, the State

assumed a background concentration of 30 µg/m³.

Table 2.—Emission reduction requirements

Nonattainment area	Design value (µg/m ³)	Percent required reduction
Portion of Tulsa Co.	*82 (78)	*13.5 (6.0)
Portion of Oklahoma Co.	93 (89)	28.6 (23.7)
Portion of Mayes Co.	84 (80)	16.7 (10.0)

* The design values and required reductions in parentheses represent EPA recommended values, resulting from removal of dust storms.

B. *Emission Inventories.* Emission inventories for TSP emissions were developed for Tulsa and Oklahoma Counties, and that portion of Mayes County designated as nonattainment, using 1977 as the base year. Included in the inventories were emissions from fugitive sources and area sources which were developed in part by an EPA contractor. * The projected 1982 inventories include the effects of projected growth of new and existing sources. According to the State, growth rates used are considered to be consistent with those of other planning agencies.

C. *Control Strategy.* The control strategy submitted by the State is based on emission reductions which will be achieved through the implementation of revisions to Regulation No. 9, "Control of Fugitive Dust." Basically, the regulation was revised to more clearly delineate the specific measures that the State will require in order to minimize fugitive dust emissions. Specific control techniques such as the use of water or chemicals in demolition and construction operations, the application of water or chemicals on stockpiles, the covering or wetting of open-bodied trucks, and the use of vegetative ground cover are required.

D. *Regulations.* The effectiveness of the TSP control strategy presented in the Oklahoma SIP hinges on the ability of the revisions to Regulation No. 9 to achieve the anticipated reductions. While EPA does not dispute the fact that the control techniques specified in this regulation would constitute RACT for TSP, the Agency does question the specificity and enforceability of Regulation No. 9 in achieving the reductions predicted by the State. For example, Subsection 9.3 specifies that "... the Commissioner shall require specific reasonable precautions. . . ." but the actual degree of control or extent of activity that is "reasonable" is not specified. Since the degree of control is not specified in the regulation, it is impossible to confirm the 65 percent reduction that the control strategy claims to be achieved through

Regulation No. 9 for all fugitive dust sources in all the TSP nonattainment areas. Therefore, the EPA is proposing approval of the TSP control strategy and Regulation No. 9 on the following conditions:

1. That the State submit a demonstration for each nonattainment area, using appropriate modeling techniques that indicates that a 65 percent reduction in fugitive dust emissions as specified in regulation No. 9 will result in air quality concentrations below or at the level of the TSP standards; and revisions to this regulation to reflect the manner in which these reductions are to be achieved; or

2. A detailed emission inventory of all fugitive dust sources in each nonattainment area, and the corresponding emission reductions achievable through the implementation of Regulation No. 9 for all sources, and the revisions to this regulation needed to make these reductions legally enforceable, and

3. The information specified above and revisions to Regulation No. 9 are submitted to the EPA within 150 days of the publication of this notice.

E. *Reasonable Further Progress.* RFP schedules were developed for Tulsa and Oklahoma Counties, and that portion of Mayes County designated as nonattainment, in order to indicate the actual rate at which TSP emission reductions will be achieved. These schedules also quantify graphically, a growth allowance for these areas. EPA considers the approval of these schedules to be contingent on the submittal of the additional information discussed above.

The State has committed to track RFP, through annual reporting, as detailed in the discussion on the ozone control strategy.

New Source Review—Section 172(b)(6)

The State of Oklahoma has revised Regulation No. 14, "Air Resources Management," so as to incorporate the requirements of Section 173 of the Act into its permit system. The State has also incorporated a Prevention of Significant Deterioration (PSD) permitting program into the provisions of this regulation. EPA has reviewed the revisions to Regulation No. 14 only for its consistency with Part D requirements of the Act. The issue of the State's PSD program will be addressed in a separate Federal Register notice. Based on its review, the EPA has noted the following deficiencies.

1. Subsection 14.313 must apply to major modifications as well as major sources.

2. Subsection 14.313(b) should be modified so as to ensure that all applicable emission limitations and standards under the Federal Clean Air Act are met in addition to those under the Oklahoma Clean Air Act.

3. RFP schedules developed by the State, indicate that the growth allowance is the amount by which emission reductions exceed reductions required to demonstrate attainment by the prescribed date, assuming no growth in stationary sources. Therefore, Subsection 14.313.c.(i) must be revised to reflect that emissions from all other new sources (minor as well as major) must be accounted for when determining the amount of the growth allowance that would be used by a proposed new or modified source.

EPA intends to propose approval of this portion of Regulation No. 14, as it pertains to nonattainment areas, on the condition that revisions are submitted within 150 days of publication of this notice.

Other Part D Requirements

The State has provided estimates of the manpower and funding resources needed to adequately support and carry out the requirements of the Act and a commitment is made to continue funding of the air program within the constraints of available resources and general priorities as envisioned by the State leadership.

The State has provided evidence of local government involvement and consultation as required under Section 174. These activities resulted in the Oklahoma Department of Health, entering into agreements with the Association of Central Oklahoma Governments (ACOG) and the Indian Nations Council of Government (INCOG) for development of the transportation control strategies for Oklahoma and Tulsa Counties, respectively. These Memorandums of Agreement are signed by the Oklahoma State Commissioner of Health who is empowered to enter into agreements with local governments or their designees to carry out provisions of the Oklahoma Public Health Code.

The State has included a brief analysis of the air quality, health, welfare, economic, energy, and social effects of the plan provisions chosen for each pollutant. Transcripts of the comments received at the public hearing are available for public inspection.

The State has submitted evidence that the State has adopted the necessary requirements in legally enforceable form.

The EPA considers the submittal of schedules, adopted regulations and memorandums of agreement, included in these revisions, to constitute a commitment by the State and other governmental bodies to implement and enforce the provisions of this plan.

This notice is issued under the authority of section 110 and 171 of the Clean Air Act, as amended, 42 U.S.C. §§ 7410 and 7501 to 7508.

Dated: June 11, 1979.

Myron O. Knudson,
Acting Regional Administrator.

[FR Doc. 79-22968 Filed 7-30-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR 17]

Endangered and Threatened Wildlife and Plants; Review of the Status of *Jatropha Costaricensis*

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Review of status of one Costa Rican woody plant.

SUMMARY: Upon petition from a Costa Rican botanist, the Service is reviewing the status of one tree species from Costa Rica to determine if it should be listed as an Endangered or Threatened species. The botanist submitted substantial data with his petition to indicate that the plant may be threatened by various factors. These data are summarized in the following notice. The Service welcomes additional data on its status.

DATES: Information regarding the status of this species should be submitted on or before October 29, 1979.

ADDRESSES: Comments and data submitted in connection with this review should be sent to the Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Office of Endangered Species (703/235-1975).

SUPPLEMENTARY INFORMATION: Background

The Service has received a petition from Sr. Luis J. Poveda of the Museo Nacional, San José, Costa Rica, indicating that *Jatropha costaricensis* is in danger of extinction.

Data concerning the status of this species, submitted in support of the petition, are as follows: The shrub to small tree occurs in dry open woodlands

near Playas del Coco, Guanacaste, Costa Rica. This is a drought-deciduous vegetation formation of limited extent. The species is considered a phytogeographically significant relict, which is restricted to an area of only a few acres. Its habitat is being destroyed by nearby housing, the trampling of cattle, and the cutting of trees.

A copy of the petition is available for examination during normal business hours at the Office of Endangered Species, 1000 N. Glebe Road, Arlington, Virginia, Suite 500.

The Service has determined that the petition presents substantial evidence warranting a review of the status of this species and hereby announces that it is reviewing the status of *Jatropha costaricensis* to determine whether or not it should be listed as an Endangered or Threatened species. Because it is a foreign species, there is no determination of Critical Habitat. This review is being conducted in compliance with Section 4 (c)(2) of the Endangered Species Act of 1973, as amended, which requires that, in the case of petitions, a review must be made and published prior to the initiation of any subsequent procedures for listing such species as Endangered or Threatened.

With this notice of review, the Service is inviting and requesting anyone who may have information on the species under consideration concerning its status, distribution, population trends, threats, or other pertinent data, to contact the Director. The Service will analyze all data that it now has, as well as any data that are obtained as a result of this review, and will take appropriate action concerning listing for the species.

This notice of review was prepared by Dr. Bruce MacBryde, Office of Endangered Species (703/235-1975).
Dated: July 24, 1979.

Robert S. Cook,
Acting Director, Fish and Wildlife Service.

[FR Doc. 79-23578 Filed 7-30-79; 8:45 am]

BILLING CODE 4310-55-M

MARINE MAMMAL COMMISSION

[50 CFR Part 530]

Procedures Supplementing the National Environmental Policy Act Regulations

AGENCY: Marine Mammal Commission.

ACTION: Notice of Proposed Procedures.

SUMMARY. This Notice proposes to adopt a new Part 530 of 50 CFR, consisting of the procedures set forth below, to supplement the National Environmental Policy Act (NEPA)

regulations promulgated by the Council on Environmental Quality and thereby implement the provisions of the NEPA as they apply to the functions and responsibilities of the Marine Mammal Commission.

DATES: Written comments may be submitted on or before July 31, 1979.

ADDRESS: All comments should be addressed to: Executive Director, Marine Mammal Commission, Room 307, 1625 I Street, NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Robert Eisenbud, General Counsel, Marine Mammal Commission, Room 307, 1625 I Street, NW., Washington, D.C. 20006, telephone (202) 653-6237.

SUPPLEMENTARY INFORMATION: The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) establishes national policies and goals for the protection of the environment. Section 102(2) of NEPA contains certain procedural requirements directed toward the attainment of such goals. In particular, all Federal agencies are required to give appropriate consideration to the environmental effects of their proposed actions in their decisionmaking and to prepare detailed environmental statements on recommendations or reports on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.

Executive Order 11991 of May 24, 1977 directed the Council on Environmental Quality (CEQ) to issue regulations to implement the procedural provisions of NEPA. Accordingly, CEQ issued final NEPA regulations (40 CFR Part 1500-1508) on November 29, 1978 which are binding on all Federal agencies as of July 30, 1979. These regulations provide that each Federal agency shall, as necessary, adopt implementing procedures to supplement the regulations.

It is proposed to amend Chapter V, Marine Mammal Commission, of 50 CFR as follows:

PART 530—COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

Sec.

530.1 Purpose.

530.2 Ensuring That Environmental Documents Are Actually Considered in Agency Decision-Making

530.3 Typical Classes of Action

530.4 Environmental Information

§ 530.1 Purpose.

The purpose of this Part is to establish procedures which supplement the

National Environmental Policy Act (NEPA) regulations and provide for the implementation of those provisions identified in § 1507.3(b) of the regulations which are applicable to the activities of the Commission in light of its statutory functions and responsibilities.

§ 530.2 Ensuring that environmental documents are actually considered in agency decision-making.

Section 1505.1 of the NEPA regulations contains requirements to ensure adequate consideration of environmental documents in agency decision-making. To implement these requirements, Commission officials shall:

(a) Consider all relevant environmental documents in evaluating proposals for agency actions;

(b) Ensure that all relevant environmental documents, comments, and responses accompany the proposal through existing agency review processes;

(c) Consider only those alternatives encompassed by the range of alternatives discussed in the relevant environmental documents when evaluating any proposal for action by the Commission which is likely to significantly affect the quality of the human environment; and

(d) Where an environmental impact statement (EIS) has been prepared, consider the specific alternatives analyzed in the EIS when evaluating the proposal which is the subject of the EIS. All Commission officials directly involved in developing, evaluating, and/or reaching decisions on proposed actions shall consider relevant environmental documents and comply with the applicable provisions of the NEPA process.

§ 530.3 Typical classes of action.

Section 1507.3(b)(2), in conjunction with § 1508.4, requires agencies to identify typical classes of action that warrant similar treatment under NEPA with respect to the preparation of EIS's or environmental assessments. As a general matter, the Commission's activities do not include actions for which EIS's or environmental assessments are required. Its activities involve:

(a) Consultation with and recommendations to other Federal agencies for actions relating to marine mammal protection and conservation for which an EIS or environmental assessment is either not required by the NEPA regulations or for which an EIS or

environmental assessment is prepared by another Federal agency; and

(b) Research contracts relating to policy issues, biological-ecological data needed to make sound management decisions, and better methods for collecting and analyzing data. These activities are not, by themselves, major Federal actions significantly affecting the quality of the human environment and the Commission's activities are therefore categorically excluded from the requirement to prepare an EIS or environmental assessment except for proposals for legislation which are initiated by the Commission, for which the Commission shall develop environmental assessments or EIS's, as appropriate, in accordance with the NEPA regulations. The Commission shall independently determine whether an EIS or an environmental assessment is required where:

(i) A proposal for agency action is not covered by one of the typical classes of action above; or

(ii) For actions which are covered, the presence of extraordinary circumstances indicates that some other level of environmental review may be appropriate.

§ 530.4 Environmental information.

Interested persons may contact the Office of the General Counsel for information regarding the Commission's compliance with NEPA.

Dated: July 24, 1979.

John R. Twiss, Jr.,
Executive Director.

[FR Doc. 79-23577 Filed 7-30-79; 8:45 am]

BILLING CODE 6820-31-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration Plains Electric Generation & Transmission Cooperative, Inc.; Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Final Environmental Impact Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with an anticipated loan guarantee for Plains Electric Generation and Transmission Cooperative, Inc., 2401 Aztec Road, N.E., Albuquerque, New Mexico 87107.

The anticipated financing assistance would provide Plains with the financing required for the construction of a 38 mile 345 kV transmission line between Plains' Taos substation, located in Taos County, New Mexico, and the Ojo substation of the Public Service Company of New Mexico, located in Rio Arriba County, New Mexico. The project also includes the construction of terminal facilities to permit initial operation of this line at 115 kV. This proposed project will provide additional transmission capacity to meet the projected future growth in peak electric demand of three of Plains' member distribution cooperatives located in the northern portion of Plains' service area.

Additional information may be secured by request submitted to Mr. Joe S. Zoller, Assistant Administrator, Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

The Final Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, S.W., Washington, D.C., Room 2868 or at Plains Electric Generation and Transmission Cooperative, Inc., 2401

Aztec Road, N.E., Albuquerque, New Mexico 87107.

Final REA action may be taken with respect to this matter after thirty (30) days.

Any loan which may be made pursuant to this application will be subject to, and release of funds thereunder will be contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects and final action will be taken only after compliance with Environmental Statement procedures required by the National Environmental Policy Act of 1969, and by other environmentally related statutes, regulations, Executive Orders, and Secretary's Memoranda.

Dated at Washington, D.C., this 12th day of July, 1979.

Robert W. Feragen,
Administrator, Rural Electrification
Administration.

[FR Doc. 79-23510 Filed 7-30-79; 8:45 am]

BILLING CODE 3410-15-M

Sunflower Electric Cooperative, Inc.; Draft Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Draft Environmental Impact Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with the proposed use of REA guaranteed loan funds by Sunflower Electric Cooperative, Inc., Hays National Bank Building, Hays, Kansas 67601 to finance the construction of proposed generation and transmission facilities in the State of Kansas. The facilities covered by this statement include the construction of a 280 MW coal-fired steam-electric generating plant near Holcomb, Kansas, and approximately 150 miles of 345 kV transmission line from Holcomb, Kansas, north to the Kansas-Nebraska state line in Decatur County, Kansas, and related substation facilities near Colby and Scott City, Kansas.

Additional information may be secured on request submitted to Mr. Joe S. Zoller, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Comments are particularly invited from State and local agencies, which are authorized to develop and enforce environmental standards, and from

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Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the REA Draft Environmental Impact Statement have been sent to various Federal, State and local agencies, as outlined in the Council on Environmental Quality Guidelines. The Draft Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, S.W., Washington, D.C., Rooms 1268, or at Sunflower's address indicated above.

Comments concerning the environmental impact of the construction proposed should be addressed to Mr. Zoller at the address given above. Comments must be received within sixty (60) days of the date of this notice to be considered in connection with the proposed action.

Final REA action, with respect to this matter (including any release of funds), will be taken only after REA has reached satisfactory conclusions, with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969, have been met.

Dated at Washington, D.C., this 20th day of July, 1979

Tom Burgum,
Acting Deputy Administrator, Rural
Electrification Administration.

[FR Doc. 79-23508 Filed 7-30-79; 8:45 am]

BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

[Order 79-7-166]

International Air Transport Association

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 24th day of July, 1979.

Order

Agreements adopted by the International Air Transport Association regarding conditions of carriage—cargo: Agreements CAB 2698, R-41; CAB 2699, R-49; CAB 2700, R-43; CAB 3119; CAB 7648, R-107; CAB 24475, R-4 and R-5, Docket 25280; CAB 25186, R-12, Docket 27573; CAB 25954, R-1, R-2, and R-3,

Docket 27573; CAB 26701, R-9; CAB 27886, R-3.

On May 15, 1979, the International Air Transport Association (IATA) filed Agreement CAB 27886, R-3 amending Resolution 600b, restating the conditions of carriage to appear on the back of air waybills. By Order 78-8-10, August 3, 1978, we approved (some conditionally) and disapproved provisions in IATA Resolutions 600b and 600j restating the conditions of carriage to appear on the back and front of air waybills. Additionally, we withdrew our 1949 approval of an earlier IATA resolution on the same subject matter.¹

Agreement CAB 27886, R-3 deals with all, but one, of the provisions found objectionable in Order 78-8-10 and corrects the deficiencies. It fails to address Article (1)6 which provides that in determining a carrier's monetary liability for loss, damage or delay of part of a shipment, the weight to be taken into account shall be only the weight of the package or packages concerned. We conditioned our approval of this provision to provide that the chargeable weight shall be taken into account. As we stated in Order 78-8-10, chargeable weight, as distinguished from the actual weight of the shipment, is the weight used to assess transportation charges. Thus, in the case of light but bulky commodities, the carriers base their charges on an assumed higher weight to compensate for the space occupied. We concluded that the shipper who pays transportation charges based on an assumed higher weight should be covered by such higher weight, rather than the lesser actual weight. We noted that domestic cargo carriers base their liability on the chargeable weight.

We are not given any reasons for IATA's failure to deal with Article (1)6.² On the other hand, Article (1)6 is the only item still remaining unresolved in a proceeding which has been before us for a long time. Therefore, we shall prescribe substitute language for Article (1)6, adapted from the former domestic cargo rules tariff, which reads in pertinent part:

The weight used to determine the declared value of a shipment [or part thereof] shall be

¹ See Order 78-11-146, November 30, 1978, granting a stay until June 5, 1979, of ordering paragraphs (1) and (6) of Order 78-8-10, dealing with the withdrawal of the 1949 approval. And see Order 79-6-47, granting a stay *pendente lite* to afford time to act on the instant amendments.

² Order 78-8-10 approved Article (1)6 "subject to the condition that the chargeable weight of the part or parts of the shipment lost, damaged or delayed shall be taken into account." We will withdraw our conditional approval.

the same as that which is used to determine the transportation charge for such shipment.³

Order 78-8-10, issued prior to the effective date of the Airline Deregulation Act of 1978, bestowed automatic antitrust immunity under section 414 of the Act as it then read. Under the ADA, our approval of an agreement no longer automatically confers antitrust immunity. Rather, we may grant such relief under section 414 only if it is required in the public interest. Under the circumstances presented here, we find it would be in the public interest to grant antitrust immunity covering Resolutions 600b and 600j. These resolutions are a product of the IATA machinery approved and immunized in Order E-9305, June 15, 1955. In Docket 32851 we are reviewing that machinery to determine whether or not it should continue under our approval and immunization. Pending our decision in that docket, we will continue to consider IATA resolutions on a case-by-case basis, and the relief granted here is subject to the outcome or final action in Docket 32851.

Finally, there is the question of the stay of paragraphs (1) and (6) of Order 78-8-10. The conditions of carriage appearing on the back and front of air waybills now in use are based on the IATA resolution approved by us in 1949, and the carriers therefore have had antitrust immunity. Paragraphs (1) and (6) of Order 78-8-10 withdrew our approval of the earlier resolutions, thereby terminating the antitrust immunity. The problem now is the timing of the extension of the antitrust immunity to give the carriers an opportunity to use up their existing stock of waybills, and prepare, print and distribute new waybills. We find that a period of six months should be ample. The carriers have been on notice that this proceeding is drawing to a close, and presumably have not ordered extensive stocks of the old waybills. Moreover, the conditions of carriage now in use are based on our approval in 1949, and the effectiveness of the new conditions of carriage should not be delayed unduly. We shall, therefore, vacate the stay *pendente lite* granted by Order 79-6-47 and in lieu grant a stay of six months from the date of service of this order.

Accordingly, 1. We approve Resolution 600b, as approved by Order 78-8-10, and as amended by Agreement CAB 27886, R-3; ⁴

³ Airline Tariff Publishing Company, Agent, Official Air Freight Rules Tariff, No. CR2, CAB No. 331, First Revised Page 73.

⁴ Except as provided in paragraph (3) below.

2. We exempt IATA, its member air carriers, and any other person affected by this order from the operations of the antitrust laws, with regard to the subject matter of this order, as provided in section 414 of the Act;

3. We withdraw our conditional approval of Article (1)6 in Order 78-8-10, and order that Article (1)6 dealing with the weight to be taken into account in determining a carrier's monetary liability for loss, damage or delay shall be stated in the following language:

In case of loss, damage or delay the weight used to determine the value of a shipment, or part thereof, shall be the same as that which is used (or a pro rata share in the case of a part shipment loss, damage or delay) to determine the transportation charge for such shipment.

4. We vacate the stay granted by Order 79-6-47, and in lieu, we grant a stay of paragraphs (1) and (6) of Order 78-8-10 for a period of six months from the date of service of this order, until January 26, 1980.

We shall publish this order in the Federal Register.

By the Civil Aeronautics Board.

All members concurred.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-23585 Filed 7-30-79; 8:46 am]

BILLING CODE 6320-01-M

[Order 79-7-172]

Hughes Airwest, et al.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-7-172.

SUMMARY: The Board is proposing to grant nonstop authority between Baltimore-Washington International (BWI), Dulles International and Washington National Airports, on the one hand, and between and among Salt Lake City, Las Vegas and Phoenix, on the other, to Hughes Airwest, USAir, Ozark, Western and any other fit, willing and able applicant whose fitness can be established by officially noticeable data. However, since the Board had recently awarded authority in the Salt Lake City-Baltimore/Washington market to Ozark and Western and to Allegheny in the Salt Lake City-Washington market in another proceeding, it dismissed their applications for those markets in this proceeding.

The Board rejected an argument that it should decline to award authority at National Airport because all present slots have already been allocated, and the facilities are seriously overcrowded.

It reasoned that these current conditions were not valid reasons for restricting the applicants' operating authority. The choice of which airports to serve, the Board said, should not be limited by certificate restrictions. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than August 31, 1979, a statement of objection, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than August 18, 1979.

ADDRESSES: Objections or Additional Data should be filed in Docket 38210, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Mark Atwood, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C., 20428 (202) 873-5333.

SUPPLEMENTARY INFORMATION: Objections should be served upon the following persons: Hughes Airwest, USAir, Ozark, and Western.

The complete text of Order 79-7-172 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-7-172 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: July 25, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-23584 Filed 7-30-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; Deletions and Amendments to Systems of Records

AGENCY: Department of the Army.

ACTION: Notice of deletions and amendments to systems of records.

SUMMARY: The Army proposes to delete 3 and amend 5 systems of records subject to the Privacy Act of 1974. Specific changes to the systems being amended are set forth below, followed by the systems published in their entirety as amended.

DATE: The systems shall be amended as proposed without further notice on August 30, 1979, unless comments are received on or before August 30, 1979 which would result in a contrary determination and require republication for further comments.

ADDRESS: Any comments, including written data, views or arguments concerning the action proposed should be addressed to the System Manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Mr. Cyrus H. Fraker, The Adjutant General Center (DAAG-AMR-R), Department of the Army, 1000 Independence Avenue, SW, Washington, DC 20314; telephone 202/693-0973.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices, as prescribed by the Privacy Act, have been published in the Federal Register as follows:

FR Doc. 77-28225 (42 FR 50396) September 28, 1977.

FR Doc. 78-23953 (43 FR 38070) August 25, 1978.

FR Doc. 78-22562 (43 FR 40272) September 11, 1978.

FR Doc. 78-26732 (43 FR 42026) September 19, 1978.

FR Doc. 78-25819 (43 FR 42374) September 20, 1978.

FR Doc. 78-26699 (43 FR 43059) September 22, 1978.

FR Doc. 78-26996 (43 FR 43539) September 26, 1978.

FR Doc. 78-29130 (43 FR 47604) October 16, 1978.

FR Doc. 78-29211 (43 FR 48894) October 19, 1978.

FR Doc. 78-29982 (43 FR 49557) October 24, 1978.

FR Doc. 78-31795 (43 FR 52512) November 13, 1978.

FR Doc. 78-34586 (43 FR 58111) December 12, 1978.

FR Doc. 78-35523 (43 FR 59869) December 22, 1978.

FR Doc. 79-5788 (44 FR 11105) February 27, 1979.

FR Doc. 79-6621 (44 FR 12231) March 6, 1979.

FR Doc. 79-8787 (44 FR 17767) March 23, 1979.

FR Doc. 79-11350 (44 FR 22140) April 13, 1979.

FR Doc. 79-13252 (44 FR 24904) April 27, 1979.

FR Doc. 79-15909 (44 FR 29700) May 22, 1979.

FR Doc. 79-19958 (44 FR 37654) June 28, 1979.

FR Doc. 79-21771 (44 FR 41277) July 16, 1979.

FR Doc. 79-22112 (44 FR 41905) July 18, 1979.

Proposed amendments are not within the purview of the provisions of 5 USC 552(o) of the act which require the

submission of a new or altered system report.

H. E. Lofdahl,
Director, Correspondence and Directives,
Washington Headquarters Services,
Department of Defense.
July 28, 1979.

Deletions

A0412.10aDAIO

System name:

412.10 Public Inquiry Files (42 FR 50477) September 28, 1977.

Reason:

Records are now covered by amended System Notice A0401.07aOSA Media Contact Files published below.

A0412.11aDAIO

System name:

412.11 Army-Community Relations Files (42 FR 50478) September 28, 1977.

Reason:

This is not a system of records subject to the Privacy Act (Title 5 U.S.C., Section 552a). The information is not retrieved by the name of an individual or any other personal identifier.

A0412.11bDAIO

System name:

412.11 Roster of Civilian Community Leaders (42 FR 50478) September 28, 1977.

Reason:

Records are now covered by amended System Notice A0412.14aOSA Biography Files published below.

Amendments

A0401.07aDAIO

System name:

401.07 Media Contact Files (42 FR 50462) September 28, 1977.

Changes:

System identification:

Change "A0401.07aDAIO" to "A0401.07aOSA".

Delete all references to "Office of the Chief of Information", "information officers", or "information office(s)" and substitute: "Office of the Chief of Public Affairs", "public affairs officers", or "public affairs office(s)", respectively.

System location:

Decentralized Segments: Add: "public affairs offices of major Army commands and their subordinate units; and Office, Chief of Engineers Public Affairs Office,

and all Corps of Engineers field operating public affairs offices."

A0401.07bDAIO

System name:

401.07 Medal of Honor Recipient Files (Vietnam Era) (42 FR 50483) September 28, 1977.

Changes:

System identification:

Change "A0401.07bDAIO" to "A0401.07bOSA".

Delete all references to "Office of the Chief of Information" or "information offices" and substitute: "Office of the Chief of Public Affairs" or "public affairs offices", respectively.

A0412.05aDAIO

System name:

412.05 Press Interest Reference Files (42 FR 50476) September 28, 1977.

Changes:

System identification:

Change "A0412.05aDAIO" to "A0412.05aOSA".

Delete all references to "Office of the Chief of Information", "information officers", or "information offices" and substitute: "Office of the Chief of Public Affairs", "public affairs officers", or "public affairs offices", respectively.

System location:

Decentralized Segments: Add: "Office, Chief of Engineers Public Affairs Office, and all Corps of Engineers field operating public affairs offices."

A0412.14aDAIO

System name:

412.14 Biography Files (42 FR 50478) September 28, 1977.

Changes:

System identification:

Change "A0412.14aDAIO" to "A0412.14aOSA".

System location:

Delete entry and substitute: "Primary System: Public Information Division, Office of the Chief of Public Affairs, Headquarters, Department of the Army (SAPA-PI), Washington, DC 20310.

Decentralized Segments: New York Branch, Office of the Chief of Public Affairs, United States (US) Army, 663 Fifth Ave., New York, NY 10022; Los Angeles Branch, Office of the Chief of Public Affairs, US Army, 11000 Wilshire Blvd, Suite 10104, Los Angeles, CA 90024; public affairs offices of major

Army commands and subordinate units; and Office, Chief of Engineers Public Affairs Office, and Corps of Engineers field operating public affairs offices."

Record access procedures:

Delete the third paragraph.

A0412.18aDAIO

System name:

412.18 Correspondence (Civilian Aides to the Secretary of the Army) (42 FR 50479) September 28, 1979.

Changes:

System identification:

Change "A0412.18aDAIO" to "A0412.18aOSA".

Delete all references to "Office of the Chief of Public Information" and "information offices" and substitute: "Office of the Chief of Public Affairs" or "public affairs offices", respectively.

System manager(s) and address:

Delete entry and substitute: "Office, Secretary of the Army, The Pentagon, Washington, DC 20310."

A0401.07aOSA

SYSTEM NAME:

401.07 Media Contact Files

SYSTEM LOCATION:

Primary System: Public Information Division, Office of the Chief of Public Affairs, Headquarters, Department of the Army (SAPA-PI), Washington, DC 20310.

Decentralized Segments: New York Branch, Office of the Chief of Public Affairs, United States (US) Army, 663 Fifth Ave, New York, NY 10022; Los Angeles Branch, Office of the Chief of Public Affairs, US Army, 11000 Wilshire Blvd, Suite 10104, Los Angeles, CA 90024; public affairs offices of major Army commands and their subordinate units; and Office, Chief of Engineers Public Affairs Office, and all Corps of Engineers field operating public affairs offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Journalists, authors, editors, columnists, researchers, representatives of the news media, congressmen and other public figures who demonstrate a consistent interest in Army-related subjects.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain name, business address, telephone number, and news media affiliation. May also contain clippings, book reviews, interview reports, query

sheets, memoranda and/or correspondence relating to past actions, and biographical outlines.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10 U.S.C., Section 3012.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To contact journalists and writers to provide information or leads relevant to their interests; to advise members of the Army staff who are considering requests to grant interviews of the interests, experience, and affiliation of journalists; to orient new members of the public affairs office staff to the writing styles, interests, and categories of individuals within this file system; and to brief public affairs officers in the Department of Defense, other military services, and subordinate commands about the interests, experience, and categories of individuals within this file system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Card index or looseleaf paper directories; paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by last name of individual.

SAFEGUARDS:

Buildings employ security guards. Records are maintained in security containers and are accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Records are maintained as long as those individuals mentioned are involved with Army public affairs officers. Records are routinely destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Chief of Public Affairs, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Information may be obtained from: Headquarters, Department of the Army (SAPA-PI), Room 2E-641, The Pentagon, Washington, DC 20310, Telephone: Area Code 202/695-5136.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Headquarters, Department of the Army (SAPA-PI), Room 2E-641, The Pentagon, Washington, DC 20310.

Written requests should include a notarized statement of identity.

Personal visits may be made to any of the three Army Public Affairs Offices (Washington, New York, or Los Angeles) where the requester is recognized and/or can provide acceptable identification.

CONTESTING RECORD PROCEDURES:

The Army's rules for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Rosters of Pentagon correspondents prepared by the Office of the Assistant Secretary of Defense (Public Affairs); published directories of media contacts; query sheets and interview reports prepared by public affairs officers; clippings from published sources; and memoranda and correspondence between Army personnel and individuals contained within the file, or between Army personnel concerning individuals contained within the file system.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0401.07bOSA

SYSTEM NAME:

401.07 Medal of Honor Recipient Files (Vietnam Era)

SYSTEM LOCATION:

Primary System: Public Information Division, Office of the Chief of Public Affairs, Headquarters, Department of the Army (HQDA) (SAPA-PI), Washington, DC 20310.

Decentralized Segments: New York Branch, Office of the Chief of Public Affairs, United States (US) Army, 663 Fifth Ave., New York, NY 10022; and Los Angeles Branch, Office of the Chief of Public Affairs, US Army, 11000 Wilshire Blvd., Suite 10104, Los Angeles, CA 90024.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty, discharged, retired, and deceased Army members who received the Medal of Honor during the period of the Vietnam War.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain photograph, statement of service, award citation, and copy of the ceremonial program at the time of the award.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10 U.S.C., Section 3012.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To respond to queries from the press and the public relating to the individuals within the file, and from the Office of the Assistant Secretary of Defense (Public Affairs), other military services, other Army staff agencies and subordinate commands for information about Medal of Honor recipients.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by last name of individual.

SAFEGUARDS:

Buildings employ security guards. Files are maintained in security containers and are accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Files are maintained as long as individual is likely to be a recurring subject of press interest. Eventually, files will be donated to the Congressional Medal of Honor Society, 38 Fallon Circle, Braintree, MA 02184.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Chief of Public Affairs, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Information may be obtained from: Headquarters, Department of the Army (SAPA-PI), Room 2E-641, The Pentagon, Washington, DC 20310, Telephone: Area Code 202/695-5136.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Headquarters, Department of the Army (SAPA-PI), Room 2E-641, The Pentagon, Washington, DC 20310.

Written requests should include a notarized statement of identity.

Personal visits may be made to any of the three Army Public Affairs Offices (Washington, New York, or Los Angeles). Presentation of acceptable identification is required.

CONTESTING RECORD PROCEDURES:

The Army's rules for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Statements of service, awards, citations, and photographs from the US Army Military Personnel Center or the National Personnel Records Center; ceremonial programs for the presentation prepared by the US Army Office of the Director of the Army Staff, Protocol Office, HQDA.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0412.05aOSA

SYSTEM NAME:

412.05 Press Interest Reference Files

SYSTEM LOCATION:

Primary System: Public Information Division, Office of the Chief of Public Affairs, Headquarters, Department of the Army (HQDA) (SAPA-PI), Washington, DC 20310.

Decentralized Segments: New York Branch, Office of the Chief of Public Affairs, United States (US) Army, 663 Fifth Ave., New York, NY 10022; Los Angeles Branch, Office of the Chief of Public Affairs, US Army, 11000 Wilshire Blvd., Suite 10104, Los Angeles, CA 90024; public affairs offices of major and subordinate commands to HQDA; Headquarters, First, Fifth, and Sixth Armies; major active installations, worldwide; and Office, Chief of Engineers Public Affairs Office, and all Corps of Engineers field operating public affairs offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active, retired, and discharged Army members and civilian employees who are, have been, or are likely to again become the subject of press interest.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain miscellaneous documents depending on the reason for the individual coming to the attention of the press. Most common items are query sheets, fact sheets, statements of service, serious incident reports, copies or extracts from investigative reports news clippings, memoranda, and correspondence relating to the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10 U.S.C., Section 3012.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To respond to queries from the press relating to individuals concerned and from the Office of the Assistant

Secretary of Defense (Public Affairs) and other agencies or commands in the Army for information about the individuals, particularly with respect to the press interest displayed.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by last name of individual.

SAFEGUARDS:

Buildings employ security guards. Records are maintained in security containers and are accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Records are maintained as long as individual seems likely to be a recurring subject of press interest. Records are routinely destroyed thereafter.

SYSTEM MANAGER(S) AND ADDRESS:

The Office of the Chief of Public Affairs, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Information may be obtained from: Headquarters, Department of the Army (SAPA-PI), Room 2E-641, The Pentagon, Washington, D.C. 20310, Telephone: Area Code 202/695-5136.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Headquarters, Department of the Army (SAPA-PI), Room 2E-641, The Pentagon, Washington, D.C. 20310.

Written requests should include a notarized statement of identity.

Personal visits may be made to any of the three Army Public Affairs Offices (Washington, New York, or Los Angeles). Presentation of acceptable identification is required.

CONTESTING RECORD PROCEDURES:

The Army's rules for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Query sheets and fact sheets filed by staff public affairs officers; statements of service from the U.S. Army Military Personnel Center or National Personnel Records Center; serious incident reports through information channels from originating commands; clippings from published media; copies or extracts of

investigative reports from investigating agencies to include U.S. Army Inspector General, U.S. Army Criminal Investigation Command, and U.S. Army Assistant Chief of Staff for Intelligence; and memoranda and correspondence from miscellaneous sources relating to the individual case.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0412.14aOSA

SYSTEM NAME:

412.14 Biography Files.

SYSTEM LOCATION:

Primary System: Public Information Division, Office of the Chief of Public Affairs, Headquarters, Department of the Army (SAPA-PI), Washington, D.C. 20310.

Decentralized Segments:

New York Branch, Office of the Chief of Public Affairs, United States (U.S.) Army, 663 Fifth Ave., New York, N.Y. 10022; Los Angeles Branch, Office of the Chief of Public Affairs, U.S. Army, 11000 Wilshire Blvd., Suite 10104, Los Angeles, CA 90024; public affairs offices of major Army commands and subordinate units; and Office, Chief of Engineers Public Affairs Office, and all Corps of Engineers field operating public affairs offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Leading Department of the Army (DA) military and civilian personnel and other important personalities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain biographical material to include biographies, photographs, newspaper clippings, and related documents. Name, grade, social security number (SSN), and summary of service and outstanding achievements may also be shown.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10 U.S.C., Section 3012.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To respond to queries from the press relating to individuals concerned and from other Army agencies or commands for information about the individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by last name of individual.

SAFEGUARDS:

File areas are locked when not occupied by supervisory personnel. Only authorized personnel are allowed access to files.

RETENTION AND DISPOSAL:

Records are maintained for 2 years following retirement, transfer, separation or death of the individual concerned.

SYSTEM MANAGER(S) AND ADDRESS:

Commander/supervisor of organization maintaining biographical data.

NOTIFICATION PROCEDURE:

Information may be obtained from commander/supervisor of organization to which the individual is assigned or employed. Individual must provide full name.

RECORD ACCESS PROCEDURES:

Requests should be addressed to appropriate commander or supervisor. Official mailing addresses are in the Department of Defense Directory in the appendix to the Department of the Army system notices.

Written requests should include full name of individual and SSN.

For personal visits, individual must be able to provide acceptable identification such as driver's license, military or civilian identification card.

CONTESTING RECORD PROCEDURES:

The Army's rules for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Clippings from published media, published biographical data from DA and other agencies and commands.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0412.18aOSA

SYSTEM NAME:

412.18 Correspondence (Civilian Aides to the Secretary of the Army)

SYSTEM LOCATION:

Office, Staff Coordinator for Civilian Aides to the Secretary of the Army Program, Office of the Chief of Public Affairs, Office of the Secretary of the Army (OSA); public affairs offices of major and subordinate commands to Headquarters, Department of the Army, and Headquarters, First, Fifth, and Sixth Armies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian Aides actively affiliated with the Civilian Aides Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain correspondence between the Secretary of the Army and Civilian Aides currently active with the Civilian Aides Program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5 U.S.C., Section 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Staff Coordinator, Civilian Aides Program, Office of the Chief of Public Affairs: To maintain a record of correspondence.

OSA: Recipient of correspondence.

Department of the Army Staff agencies: To coordinate requests, provide information, and accomplish tasks.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by last name of Civilian Aide.

SAFEGUARDS:

Buildings employ security guards. Records are maintained in security containers and are accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Retained during tenure of individual Civilian Aide and destroyed thereafter.

SYSTEM MANAGER(S) AND ADDRESS:

Office, Secretary of the Army, The Pentagon, Washington, D.C. 20310.

NOTIFICATION PROCEDURE:

Information may be obtained from: Office, Secretary of the Army (SASA-CA) Room 2E-673, The Pentagon, Washington, D.C. 20310, Telephone: Area Code 202/697-8948.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Office, Secretary of the Army (SASA-CA), Room 2E-673, The Pentagon, Washington, D.C. 20310.

Written requests for information should contain the full name of the individual, current address, and telephone number.

For personal visits, the individual should provide acceptable identification such as driver's license or employee identification card.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Activities of a personal nature provided by the individual in connection with his duties as a Civilian Aide to the Secretary of the Army; and correspondence originated by SYSMANAGER in reply or providing information.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 79-23622 Filed 7-30-79; 8:45 am]
BILLING CODE 3710-08-M

Engineers Corps**Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Local Protection Project (Levee) on the Scioto River at North Chillicothe, Ohio**

July 1979.

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed plan for the North Chillicothe area consists of a levee generally located on the left descending bank of the Scioto River which will provide flood protection against the Standard Project Flood for the residents of that community. The main features of the plan will include a levee with gate closures, pumping facilities to handle interior drainage, recreation facilities consisting of hiking, biking, and nature trails, a boat ramp and overlook development oriented toward day-use type recreation.

2. Other reasonable alternatives considered include a plan that best serves the objectives of National Economic Development while making a

major contribution to social well-being; a plan which best meets the objectives of Environmental Quality and a plan which involves non-structural measures.

3. The descriptions which follow outline the scoping process being used for the North Chillicothe study.

a. The public involvement program began in May 1971 with an initial public meeting in Chillicothe, Ohio. Following this initial meeting, local and Congressional interests requested a public meeting which was held in April 1975 to discuss Chillicothe flood problems. The meeting resulted in the expression of a need for flood protection in the north section of Chillicothe, Ohio. Since this meeting, the U.S. Army Corps of Engineers has conducted a number of meetings, interviews, discussions, and correspondence with local and Congressional interests. A final public meeting is scheduled to be held in Chillicothe, Ohio, during December 1979.

b. The DEIS will contain an analysis of the following resource factors: archeological and historical resources, aesthetic resources, recreational resources, aquatic and riparian resources, socio-economic resources and agricultural resources. These resources will be significant for comparisons of impacts of the proposed plan and the reasonable alternative plans.

c. During the study process, the United States Fish and Wildlife Service, the United States Soil Conservation Service, the Ohio Department of Natural Resources and local governmental units have contributed to the study process. As a part of the public involvement and study management process, other affected Federal, State and local agencies and interested private organizations and individuals have been invited to provide suggestions and comments.

4. The draft survey report and DEIS are being finalized and no additional scoping meetings are scheduled prior to distribution of the report and DEIS. However, additional workshops will be conducted during this period if study findings indicate a significant need.

5. It is estimated that the draft survey report and DEIS will be made available to the public in November 1979.

Questions about the proposed action and DEIS can be answered by: Galen E. Gill, Study Manager, Plan Formulation Branch, Huntington District, U.S. Army Corps of Engineers, Huntington, West Virginia 25721.

Dated: July 23, 1979.

James H. Higman,
Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-23556 Filed 7-30-79; 8:45 am]

BILLING CODE 3710-M

DEPARTMENT OF ENERGY**Economic Regulatory Administration****Marbob Energy Corp.; Action Taken on Consent Order**

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

EFFECTIVE DATE: June 27, 1979.

COMMENTS BY: August 30, 1979.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District of Enforcement, Department of Energy, Economic Regulatory Administration, 2826 W. Mockingbird Lane, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager, Southwest District of Enforcement, Department of Energy, Economic Regulatory Administration, 2826 W. Mockingbird Lane, P.O. Box 35228, Dallas, Texas, phone (214) 767-7751.

SUPPLEMENTARY INFORMATION: On June 27, 1979, the Office of Enforcement of the ERA executed a Consent Order with Marbob Energy Corporation of Artesia, New Mexico. Under 10 CFR 205.199(b), a Consent Order which involves a sum of less than \$500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

Because the DOE and Marbob Energy Corporation wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with Marbob Energy Corporation effective as of the date of its execution by the DOE and Marbob Energy Corporation.

I. The Consent Order

Marbob Energy Corporation with its home office located in Artesia, New Mexico, is a firm engaged in the production and sale of crude oil, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement, ERA, and Marbob Energy Corporation entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the audit was September 1, 1973 through May 31, 1977, and it included all sales of crude oil to Navajo Refining Company.

2. Marbob Energy Corporation improperly applied the provisions of 10 CFR Part 212, Subpart D when determining the prices to be charged for its crude oil, as a consequence, the above firm was overcharged on some of its purchases.

3. Marbob Energy Corporation agrees to refund to the DOE \$34,000.00 plus interest within 36 months of the effective date of the Consent Order.

4. The provisions of 10 CFR 205.199], including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Marbob Energy Corporation agrees to refund in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I. 1. above, the sum of \$34,000.00 within 36 months of the effective date of the Consent Order. The Refund shall be delivered to the Assistant Administrator for Enforcement ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amount in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.87. In fact, the adverse effects of the

overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199(a).

III. Submission of Written Comments

A. Potential Claimants: Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily to the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of the potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. Other Comments: The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager, Southwest District of Enforcement, Department of Energy, Economic Regulatory Administration, 2826 West Mockingbird Lane, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling (214) 767-7751.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Marbob Energy Corporation Consent Order." We will consider all comments we receive by 4:30 p.m., local time, thirty days after publication. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas, on the 23rd day of July, 1979.

Wayne I. Tucker,
District Manager, Southwest District of Enforcement.

[FR Doc. 79-23603 Filed 7-30-79; 8:45 am]

BILLING CODE 6450-01-M

Newmont Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective Date: July 19, 1979.

COMMENTS BY: August 30, 1979.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235—(214) 767-7751.

SUPPLEMENTARY INFORMATION: On July 19, 1979, the Office of Enforcement of the ERA executed a Consent Order with Newmont Oil Company of Houston, Texas. Under 10 CFR 205.199(b), a Consent Order which involves a sum of less than \$500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Newmont Oil Company, with its office located in Houston, is a firm engaged in crude oil production, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of crude oil sales, the Office of Enforcement, ERA, and Newmont Oil Company, entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the audit was September 1973, through December 1977, and it included all sales of crude oil which were made during that period.

2. Newmont Oil Company improperly applied the provisions of 6 CFR Part 150, Subpart L, and 10 CFR Part 212, Subpart D, when determining the prices to be charged for crude oil; and as a consequence, charged prices in excess

of the maximum lawful sales prices resulting in overcharges to its customers.

3. In order to expedite resolution of the disputes involved, the DOE and Newmont Oil Company have agreed to a settlement in the amount of \$60,000.00. The negotiated settlement was determined to be in the public interest as well as the best interests of the DOE and Newmont Oil Company.

4. Because the sales of crude oil were made to refiners and the ultimate consumers are not readily identifiable, the refund will be made through the DOE in accordance with CFR Part 205, Subpart V as provided below.

5. The provisions of 10 CFR 205.199, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Newmont Oil Company agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of \$60,000.00 on or before September 17, 1979. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199(a).

III. Submission of Written Comments

A. Potential Claimants: Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. Other Comments: The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order. You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling (214) 767-7751.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Newmont Oil Company Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on August 30, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 24th day of July, 1979.

Wayne I. Tucker,
District Manager for Enforcement, Southwest District Economic Regulatory Administration.

[FR Doc. 79-23604 Filed 7-30-79; 8:45 am]
BILLING CODE 6450-01-M

[ERA Docket No. 79-CERT-054]**Orange & Rockland Utilities, Inc.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil**

Orange and Rockland Utilities, Inc. (Orange and Rockland) filed an application for certification of an eligible use of natural gas to displace fuel oil at its Lovett Plant and/or Bowline Point generating facilities in Rockland County, New York, with the Administrator of the Economic Regulatory Administration pursuant to

10 CFR Part 595 on June 27, 1979. Notice of that application was published in the *Federal Register* (44 FR 40550, July 11, 1979) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The Administrator has carefully reviewed Orange and Rockland's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Interim-Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas for Fuel Oil Displacement (44 FR 20398, April 5, 1979). The Administrator has determined that Orange and Rockland's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. A copy of the transmittal letter and the actual certification are appended to this notice.

Issued in Washington, D.C., July 25, 1979.

Barton R. House,
Acting Deputy Administrator, Economic Regulatory Administration.

Appendix I

Department of Energy,
Washington, D.C.

Mr. Kenneth F. Plumb,
Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C.

Re ERA Certification of Eligible Use, ERA Docket No. 79-CERT-054, Orange & Rockland Utilities, Inc.

Dear Mr. Plumb: Pursuant to the provisions of 10 CFR Part 595, I am hereby transmitting the enclosed certification of an eligible use of natural gas to displace fuel oil to the Commission. This certification is required by the Commission as a precondition to interstate transportation of fuel oil displacement gas in accordance with the authorizing procedures in 18 CFR Part 284, Subpart F (FERC Order No. 30, 44 FR 30323, May 25, 1979). As noted in the certificate, it is effective for one year from the date of issuance, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. A copy of the enclosed certification is also being published in the *Federal Register* and provided to the applicant.

Should the Commission have any further questions, please contact Mr. Finn K. Neilson, Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street, NW., Room 4126, Washington, D.C. 20461, telephone (202) 254-8202. All correspondence and inquiries regarding this certification should reference ERA Docket No. 79-CERT-054.

Sincerely,

Barton R. House,
Acting Deputy Administrator, Economic Regulatory Administration.

Enclosure.

Certification by the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by the Orange and Rockland Utilities, Inc.

ERA Docket No. 79-CERT-054

Application for Certification. Pursuant to 10 CFR Part 595, Orange and Rockland Utilities, Inc. (Orange and Rockland), filed an application for certification of an eligible use of up to 50,000 Mcf of natural gas per day at its Lovett Plant and/or Bowline Point generating facilities in Rockland County, New York, with the Administrator of the Economic Regulatory Administration (ERA) on June 27, 1979. The application states that the eligible seller of the gas is the East Tennessee Natural Gas Company (East Tennessee) and that the gas will be transported by the Tennessee Gas Pipeline Company. The application and supplemental information indicate, among other things, that the natural gas will be used to displace approximately 600,000 barrels of No. 6 fuel oil (.37% sulfur) from July 1, 1979–October 31, 1979, and that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Certification. Based upon a review of the information contained in the application, as well as other information available to ERA, the Administrator hereby certifies, pursuant to 10 CFR Part 595, that the use of up to 50,000 Mcf of natural gas per day at Orange and Rockland's Lovett Plant and/or Bowline Point generating facilities purchased from East Tennessee is an eligible use of gas within the meaning of 10 CFR Part 595.

Effective Date. This certification is effective upon the date of issuance, and expires one year from that date, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. It is effective during this period of time for the use of up to the same certified volume of natural gas at the same facilities purchased from the same eligible seller.

Issued in Washington, D.C. on July 25, 1979.

Barton R. House,
Acting Deputy Administrator, Economic Regulatory Administration.

[FR Doc. 79-23600 Filed 7-30-79; 8:45 am]
BILLING CODE 6450-01-M

Gas Utility Rate Design Conferences

Notice is hereby given that public conferences to discuss the gas utility rate design study required by the Public Utility Regulatory Policies Act of 1978 will be held August 9 and 10, 1979, at the Department of Energy, 12th and Pennsylvania Avenue, NW., Washington, D.C. Room 3000A.

Representatives of the natural gas industry, residential consumers, small commercial users, industrial and large commercial users have been invited to attend these conferences. These invited participants have been asked for oral comments. Questions or comments will be heard from the audience as time permits.

The conferences, schedules for which are shown below, will be informal and open to the public. Seating will be made available on a first-come first-served basis.

Schedule

Natural Gas Industry, August 9, 9:00 a.m.–12:00 noon.
Industrial and large commercial users, August 9, 1:30 p.m.–4:30 p.m.
Consumers/small commercial, August 10, 9:30 a.m.–12:00 noon.

Transcripts of the conferences will be made available for public review and duplication at the Freedom of Information public reading room, Room GA-152 Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday except Federal holidays.

The Chairman for the conferences is Stephen S. Skjei, Department of Energy, Economic Regulatory Administration, Office of Utility Systems, Washington, D.C.

Dated: July 27, 1979.

Jerry L. Pfeffer,
Administrator, for Utility Systems, Economic Regulatory Administration.

[FR Doc. 79-23745 Filed 7-30-79; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RP79-76]

Cities Service Gas Co.; Order Accepting for Filing and Suspending Rate Increase Subject to Conditions and Granting Interventions

July 20, 1979.

On June 22, 1979, Cities Service Gas Company (Cities) filed revised tariff sheets¹ under section 4(e) of the Natural Gas Act designed to increase jurisdictional annual revenues by \$33,217,740. The increased rates are predicated on a test period based on actual costs for the twelve months ending February 28, 1979, as adjusted for known changes in costs which are expected to be incurred by the end of

¹ Fifth Revised Sheet No. 6 and First Revised Sheet Nos. 7, 8, 9, 10, 11, 12, and 43 to Original Volume No. 1. First Revised Sheet No. 91 to Original Volume No. 2 of Cities' FERC Gas Tariff.

the test period on November 30, 1979. Cities proposes a July 23, 1979, effective date.

In the proposed rates, Cities has reflected increases in plant, operating costs, and taxes. The company requests an overall return of 12.56 percent which includes an allowance of 14.5 percent on common equity. Cities has used the *United* method of rate design, but has classified and allocated its costs according to the *Seaboard*² method. In addition to the rate increase request, Cities has filed tariff sheets eliminating its presently effective base-excess rate design and replacing it with a summer-winter design applicable to service under Rate Schedules F, C, I and LVS.

Public notice of the filing was issued on June 28, 1979, providing for protests or petitions to intervene to be filed on or before July 13, 1979. Petitions to intervene were filed by parties listed in Appendix A. All have demonstrated an interest in the proceeding which justifies their participation. Accordingly, intervention to all parties listed shall be granted.

Based upon a review of Cities' filing, the Commission finds that the proposed change in rates sought in this filing has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept Cities' proposed rate increase for filing, suspend its effectiveness for five months until December 23, 1979, at which time it may become effective subject to refund and the conditions stated below. The Commission shall also set the matter for hearing.

In Opinion No. 24,³ the Commission directed Cities to classify and allocate costs according to the *United* method and specifically rejected the *Seaboard* method employed by the company in this filing. In Docket No. RP79-4, Cities most recent rate increase filing,⁴ the Company reflected the *Seaboard* method and the Commission summarily disposed of the issue on its merits in the suspension order. Cities was directed to file revised tariff sheets under the *United* method of cost allocation and classification.

Cities in its current filing states that it has no curtailment on an annual or peak

day. However, even if this fact is true, it is not, standing alone, a change in material fact or circumstances warranting a change in cost allocation and classification from that adopted in Opinion No. 24. A review of the filing shows that Cities will depend upon large storage withdrawals to meet peak day demand. Cities' annual sales figures show a 19 percent decrease from those claimed in Docket No. RP74-4. In other words, the factors which prompted the Commission to apply the *United* formula in Opinion No. 24 continue to prevail in this filing. No useful purpose would be served by relitigating this issue in this docket.⁵ It is appropriate, therefore, to summarily dispose of this issue on the merits without proceeding to an evidentiary hearing. Cities is directed to file revised tariff sheets reflecting the *United* method of cost classification and cost allocation.

As it is Commission policy to permit inclusion in rate base of only the costs of facilities which are used and useful to the ratepayers, Cities cannot include the costs of its scheduled plant additions if they are not in service by the time the proposed rates go into effect. However, we shall grant waiver of § 154.63(e)(2)(ii) of the Commission's regulations and accept for filing the present tariff sheets reflecting the cost of these facilities, conditioned upon Cities filing revised tariff sheets to eliminate costs associated with any facilities not in service on or before November 30, 1979. Cities is also directed to file revised tariff sheets to reflect the actual balance of advance payments as of November 30, 1979, provided that the inclusion of a higher advance payments balance shall not be permitted to increase the level of the original suspended rates. Waiver of § 154.63(e)(2)(ii) is granted upon the condition that Cities shall not be permitted to make offsetting adjustments other than those pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders.

The proposed rates and the underlying cost of service for the test period reflect a weighted average cost of purchased gas of 83.53 cents per Mcf and a GRI Funding unit of 3.5 mills per Mcf. The cost of purchased gas has been computed consistent with the requirements of Order No. 16. Cities states that it will file revised tariff sheets to reflect subsequent changes in purchased gas costs authorized by the

Commission and to reflect the GRI surcharge in effect as of the date the proposed rates become effective.

The Commission Orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 7, 8 and 15 thereof, and the Commission's regulations, a public hearing shall be held concerning the lawfulness of the rates proposed by Cities.

(B) Pending hearing and decision, and subject to the conditions of Ordering Paragraph (C), Cities' proposed Fifth Revised Sheet No. 6 and First Revised Sheet Nos. 7, 8, 9, 10, 11, 12 and 43 to Original Volume No. 1 and First Revised Sheet No. 91 to Original Volume No. 2 of Cities' FERC Gas Tariff are accepted for filing, and suspended for five months until December 23, 1979, at which time they may become effective subject, to refund, in the manner prescribed by the Natural Gas Act, subject to the conditions set forth below.

(C) Waiver of § 154.63 (e)(2)(ii) is granted upon the condition that Cities file revised tariff sheets to reflect: (1) the elimination of those costs associated with facilities not in service on or before November 30, 1979; (2) the current cost of purchased gas reflected in Cities' most recent PGA filing prior to the effective date of the proposed rates; (3) the actual balance of advance payments in Account 166 as of November 30, 1979, provided that the inclusion of a higher actual balance of advance payments shall not be permitted to increase the overall level of the original suspended rates; and (4) the effective GRI Funding Unit on the effective date of the increased rates. This waiver is granted upon the further condition that Cities shall not be permitted to make offsetting adjustments to those suspended rates except for those adjustments made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those adjustments required by other Commission orders.

(D) The revised tariff sheets discussed in Ordering Paragraph (C) above shall reflect the *United* method of cost classification, allocation and rate design.

(E) Staff shall serve top sheets on or before October 22, 1979.

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)) shall convene a settlement conference in this proceeding to be held within 10 days after the service of Staff's top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426. The

Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule on all motions (except motions to sever, consolidate or dismiss) as provided for in the rules of practice and procedure.

(G) The petitioners to intervene listed in Appendix A to this order shall be permitted to intervene in this proceeding subject to the Commission's rules and regulations; *Provided, however,* That the participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene; *And provided, further,* That the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order entered in this proceeding.

By the Commission.

Kenneth F. Plumb,
Secretary.

Appendix A

1. Union Gas System, Inc.
2. Midwest Gas Users Association.
3. The Gas Service Company.
4. General Motors Corporation.
5. City Group Gas Defense Association.
6. Colorado Interstate Gas Company.

[FR Doc. 79-23552 Filed 7-30-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket CP79-370]

Citizens' Alliance v. National Fuel Gas Co., et al.; Granting Extension of Time

July 23, 1979.

On July 11, 1979, a motion for extension of time to answer the complaint in this proceeding was filed by the National Fuel entities and individuals named as defendants. Consolidated Gas Supply Corporation and Tennessee Gas Pipeline Company also filed motions for extensions on July 18, 1979 and July 19, 1979, respectively. The motions state that additional time is necessary to review the allegations in the complaint.

Upon consideration, notice is hereby given that the time for filing answers to the complaint is extended to and including August 27, 1979.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23553 Filed 7-30-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP 79-48]

Geological Survey, New Mexico; Preliminary Finding

July 23, 1979.

United States Geological Survey (New Mexico), § 108 NGPA Determinations, San Jacinto No. 4 Well, JD No. 79-7926, Red Mac No. 2 Well, JD No. 79-8234, Nickson No. 15 Well, JD No. 79-8210.

On June 8 and June 12, 1979, the U.S. Geological Survey at Albuquerque, New Mexico submitted to the Commission notices of determination that the above-listed wells met all the requirements of stripper wells under section 108 of the Natural Gas Policy Act of 1978 (NGPA) and Commission regulations implementing that section.

Section 108(b)(1) of the NGPA provides that in order to qualify as a stripper well, a well must, among other things, produce nonassociated natural gas at a rate which does not exceed an average of 60 Mcf per production day during such period. Section 108(b)(3) defines "production day" as (1) any day during which natural gas is produced; and (2) any day during which natural gas is not produced if production during such day is prohibited by a requirement of State law or a conservation practice recognized or approved by the State agency.

The records submitted with the determinations for the above-listed wells indicate that these wells produced no natural gas during the 90-day production periods upon which the applications were based. There were no findings that these wells were shut in due to State law or practice. Accordingly, the 90-day production periods upon which these applications were based contained no production days. Since section 108(b) requires that a well produce natural gas at a rate not exceeding an average of 60 Mcf per production day, a well's rate of production cannot be calculated where the 90-day production period contains no production days.

On the basis of the records submitted with these determinations, the Commission hereby makes a preliminary finding, pursuant to 18 CFR § 275.202(a)(1)(i), that the determinations submitted by the U.S. Geological Survey (New Mexico) that the above-listed wells qualify as section 108 stripper wells, are not supported by substantial evidence in the records on which the determinations were made.

By direction of the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23554 Filed 7-30-79; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Task Group of the Committee on Unconventional Gas Sources; Meeting

Notice is hereby given that a task group of the Committee on Unconventional Gas Sources will meet in August 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Unconventional Gas Sources will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The task group scheduling a meeting is the Geopressured Brines Task Group. The time, location and agenda of the meeting follows:

The fifth meeting of the Geopressured Brines Task Group will be held on Thursday, August 16, 1979, starting at 9:00 a.m., in the 9th Floor Conference Room of Union Oil Company of California, 900 Executive Plaza west, 4635 Southwest Freeway, Houston, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Review of the Geopressured Brines Task Group's draft report.
3. Discussion of any other matters pertinent to the overall assignment of the Geopressured Brines Task Group.

The meeting is open to the public. The Chairman of the task group is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the task group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lucio A. D'Andrea, Office of Resource Applications, 202/633-9482, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading

² Atlantic Seaboard Corporation 11 F.P.C. 43 (1952).

³ Cities Service Gas Company, Opinion No. 24, issued August 29, 1978 in Docket No. RP74-4 (mimeo at 7-15) *Reh. den.* Opinion No. 24-A, issued October 31, 1978, *appeal pend.* Case No. 78-2009, 10th Cir.

⁴ The filing was subsequently withdrawn. See suspension order issued November 22, 1978; *reh. den.*, January 22, 1979; order permitting withdrawal issued June 12, 1979.

⁵ *Panhandle Eastern Pipeline Company v. FPC*, 236 F. 2d 606 (3rd Cir. 1956); See also: *Citizens of Allegan County, Inc. v. FPC*, 414 F. 2d 1125 (D.C. Cir. 1969).

Room, Room GA 152, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on July 24, 1979.

R. Dobie Langenkamp,

Deputy Assistant Secretary Oil, Natural Gas and Shale Resources, Resource Applications.

July 24, 1979.

[FR Doc. 79-23601 Filed 7-30-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-49]

U.S. Geological Survey (New Mexico), § 108 NGPA Determination, Arapahoe Drilling Co. and John E. Schalk, Five Wells; Preliminary Finding

Issued: July 23, 1979.

On June 8, 1979, the Commission received from the U.S. Geological Survey at New Mexico, notices of determination which state that five wells¹ meet all the requirements of the stripper well provisions in section 108 of the Natural Gas Policy Act of 1978 (NGPA), Pub. L. No. 95-621.

According to section 108 of the NGPA, a natural gas well may qualify for stripper well status if it produced non-associated natural gas during the preceding 90-day production period at a rate which did not exceed an average of 60 Mcf per production day. Section 271.804(c) of the interim regulations requires an application for determination for stripper well status be based on a 90-day production period ending within 120 days prior to the date on which the application is filed.

The records show that the 90-day production periods upon which the five applications are based do not end within 120 days prior to the date on which the applications were filed. Accordingly, it appears that the record does not contain substantial evidence to support the subject determinations of eligibility under section 108 of the NGPA.

In view of the above, the Commission hereby makes a preliminary finding (pursuant to § 275.202(a)(1)(i)) that the determinations submitted by the U.S. Geological Survey at Albuquerque, N.M. are not supported by substantial evidence in the record on which the determinations were made.

¹ Arapahoe Drilling Co. submitted four applications for determinations of eligibility for the following wells: Schalk 49-4 (JD79-7720), Schalk 49-3 (JD79-7721), Schalk 49-2 (JD79-7722), Schalk 49-1 (JD79-7723). John E. Schalk submitted an application for determination of eligibility for Schalk 29-4 #1 (JD79-7724).

By direction of the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-23555 Filed 7-30-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

(FRL 1286-6; OPP-50437)

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 43143-EUP-1. Maine Cooperative Extension Service, Presque Isle, Maine 04769. This experimental use permit allows the use of 1,458 pounds of the insecticide petroleum oil on potatoes to evaluate control of various pests. A total of 30 acres is involved; the program is authorized only in the State of Maine. The experimental use permit is effective from June 29, 1979 to June 29, 1980. An exemption from the requirement for a tolerance for residues of the active ingredient in or on growing crops has been established (40 CFR 180.1001(b)(3)). (PM-12, Frank Sanders, Room: E-229, Telephone: 202/426-9425)

No. 27586-EUP-24. Expanded Southern Pine Beetle Research and Application Program, Pineville, Louisiana 71360. This experimental use permit allows the use of 120 pounds of the insecticide 0,0-dimethyl 0-(4-nitro-m-tolyl) phosphorothioate on Southern pine trees to evaluate control of Southern pine beetle. A total of 212 trees is involved; the program is authorized only in the States of Georgia, Mississippi, and North Carolina. The experimental use permit is effective from May 15, 1979 to May 15, 1980. (PM-16, William Miller, Room: E-343, Telephone: 202/426-9458)

No. 707-EUP-91. Rohm and Haas Company, Philadelphia, Pennsylvania 19105. This experimental use permit allows the use of 772 pounds of the herbicide oxyfluorfen on cotton to evaluate control of various weeds. A total of 1,025 acres is involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, California, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and in Florida and Tennessee for redistribution only. The experimental use permit is effective from July 11, 1979 to July 11, 1981. This experimental use permit is being issued with the limitation that all treated crops will be destroyed or used for research purposes only. (PM-25, Robert Taylor, Room: E-359, Telephone: 202/755-7013)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division

(TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Statutory authority: Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: July 25, 1979.

Douglas D. Camp,

Director, Registration Division.

[FR Doc. 79-23611 Filed 7-30-79; 8:45 am]

BILLING CODE 6560-01-M

(FRL 1286-2; OTS-51000)

Toxic Substances Control; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA, or the Agency).

ACTION: Receipt of Premanufacture Notice.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person intending to manufacture or import a new chemical substance for a commercial purpose in the United States to submit a premanufacture notice (PMN) to EPA at least 90 days before he commences such manufacture or import. Section 5(d)(2) of TSCA requires EPA to publish a summary of each notice in the Federal Register.

DATE: Interested parties wishing to file written comments on a specific chemical substance should submit those comments no later than 30 days before the termination date of the applicable review period.

ADDRESS: Written comments should bear the PMN number of the particular chemical substance, and should be submitted to the Document Control Officer (TS-793), Office of Toxic Substances, EPA, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Principe, Premanufacturing Review Division (TS-794), Office of Toxic Substances, EPA, Washington, D.C. 20460, telephone: 202/426-2601.

SUPPLEMENTARY INFORMATION: Under § 5 of TSCA, any person who intends to manufacture or import a new chemical substance for commercial purposes in

the United States must submit a notice to EPA at least 90 days before he begins such manufacture or import. A new chemical substance is any chemical substance that is not on the Inventory of existing chemical substances compiled by EPA under § 8(b) of TSCA. The Agency announced the availability of the TSCA Initial Inventory in the Federal Register of May 15, 1979 (44 FR 28559), and identified June 1, 1979, as the official publication date. The § 5 requirements became effective on July 1, 1979 (30 days after first publication of the Inventory).

A premanufacture notice (PMN) must include the information listed in § 5(d)(1) of TSCA. Under § 5(d)(2), EPA must publish in the Federal Register information on the identity and uses of the substance, as well as a description of test data submitted under § 5(b) of TSCA. In addition to this minimum statutory requirement, the § 5(d)(2) notice includes a description of any other test data submitted with the notice.

Publication of the § 5(d)(2) notice is subject to § 14 of TSCA concerning disclosure of confidential data. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity of the chemical substance, EPA will publish a generic name if one is provided. If no generic name is provided, EPA will develop one and publish an amended notice after providing due notice to the submitter. The EPA will immediately review confidentiality claims for chemical identity and for health and safety studies. If portions of this information are determined to be non-confidential, EPA, after complying with applicable procedures, will place the information in the public file and will publish an amended notice of the information that should have been in the original Federal Register notice.

For purposes of this notice, the submitter has claimed as confidential information: (a) chemical identity; (b) the company's name; (c) uses for the chemical; and (d) all of the test data submitted with the notice.

Once EPA receives a PMN, the Agency normally has 90 days within which to review it (§ 5(a)(1)). The § 5(d)(2) Federal Register notice indicates the termination date of the review period for each PMN. Under § 5(c) of TSCA EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that such an extension is

necessary, the Agency will publish a notice in the Federal Register.

Once the review period expires, the submitter may begin manufacture of the substance unless EPA restrictions are imposed. When manufacture begins, the submitter must report to EPA and the substance will be added to the Inventory. After the substance is added to the Inventory, any person may manufacture it without providing EPA notice under § 5(a)(1)(A) of TSCA.

EPA has proposed premanufacture notification requirements and Review Procedures (44 FR 2242, January 10, 1979). These requirements are not yet in effect. Interested parties should consult the Agency's interim policy for premanufacture notices for guidance concerning requirements prior to the effective date of premanufacture rules and forms (see the Federal Register of May 15, 1979, 44 FR 28564), specifically the subheading entitled "Notice in the Federal Register" on p. 28567 of that issue.

(Section 5 of the Toxic Substances Control Act (90 Stat. 2012; 15 U.S.C. 2604).)

John P. DeKany,

Deputy Assistant Administrator for Chemical Control.

PMN No. 5AHQ-0779-0004

Close of Review Period:

October 17, 1979.

New Chemical Substance:

Amine salts of dicarboxylic acids. This a generic name. The company claims the specific chemical identity to be confidential.

Uses:

The company claims the uses for the amine salts of dicarboxylic acids to be confidential.

Data Submitted:

The company claims as confidential the data describing the physical and chemical properties of the new chemical substance. No other health and safety data were submitted.

[FR Doc. 79-23610 Filed 7-30-79; 8:45 am]

BILLING CODE 6560-01-M

(FRL 1286-3)

Water Quality Criteria Subcommittee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the Water Quality Criteria Subcommittee of the Science Advisory Board will be held on August 27 and 28, 1979, beginning at 9:00 a.m., in Conference Room 2117,

Waterside Mall, 401 M Street, SW., Washington, D.C.

This is the second meeting of the Water Quality Criteria Subcommittee. The Agenda includes consideration of the Subcommittee's report on the methodologies used in the development of water quality criteria to protect aquatic life and human health for the 27 specified pollutants listed in the Federal Register, Part V, pages 15928-15981, March 15, 1979, and on selected criteria documents.

The meeting is open to the Public. Because of limited seating capacity of the meeting room, all members of the public desiring to attend must preregister no later than August 20, 1979, and receive a confirmed reservation from Dr. J. Frances Allen, Staff Officer, Water Quality Criteria Subcommittee, or Ms. Anita Najera, (202) 472-9444.

Dated: July 28, 1979.

Richard M. Dowd,

Staff Director, Science Advisory Board.

[FR Doc. 79-23609 Filed 7-30-79; 8:45 am]

BILLING CODE 6560-01-M

[FIFRA Docket No. 485; FRL 1287-3]

Intent To Suspend Registrations of Dibromochloropropane (DBCP); Hearing and Prehearing Conference

Notice is hereby given pursuant to § 164.121(d) of the rules of practice (40 CFR 164.121(d)) issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136 *et seq.*), that a hearing involving the suspension of all uses of all registrations of pesticide products containing dibromochloropropane (DBCP), will begin on August 2, 1979, at 9:30 a.m., in Room 2409 Waterside Mall, 401 M Street, S.W., Washington, D.C. Immediately after convening, the hearing will be temporarily recessed to permit the holding of a prehearing conference as provided in the Notice of Intent To Suspend dated July 18, 1979 (44 FR 43335 (July 24, 1979)). The purpose of the prehearing conference will be to consider the matters set out in 40 CFR 164.50.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the docket of this proceeding on file with the Hearing Clerk, Environmental Protection Agency, (Mail Code A-110), Room 3708 Waterside

Mall, 401 M Street, S.W., Washington, D.C. 20460.

Gerald Harwood,
Administrative Law Judge.
July 27, 1979.

[FR Doc. 79-23758 Filed 7-30-79; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

ENFIA Quarterly Meeting Scheduled

In *Memorandum Opinion and Order*, FCC 79-222, released April 16, 1979 the Commission accepted, to the extent indicated therein, the Interim Settlement Agreement filed by certain telecommunications common carriers for the provision of ENFIA (Exchange Network Facilities for Interstate Access). Paragraph 17 of that agreement provided for quarterly meetings under the aegis of the Commission, to monitor and oversee the implementation of the Agreement.

The first of these quarterly meetings will be held on August 7, 1979, at 9:30 am, at 2000 L Street, N.W., 7th Floor, Washington, D.C. This meeting is open to the public. Among the subjects requested to be discussed by the parties are:

- (1) A review of implementation and administrative matters.
- (2) The format and timing of OCC revenue reporting to the FCC (see BSOC 8-2.3.6(a)).
- (3) The format and timing of OCC minutes of ENFIA use reported to the FCC (see BSOC 8.4(b)(2)).
- (4) ENFIA tariff changes.
 - A. To accommodate special conditioning for data usage VGCOCF.
 - B. To permit consistency with BSOC 8.
- (5) Status report by the FCC Staff on the FX/CCSA question.
- (6) The format and timing of Bell's report on annual SPF adjustments.
- (7) Status of settlements with Independents.
- (8) Facilities forecasts by OCCs.
- (9) NNX access codes.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 79-23582 Filed 7-30-79; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Adams Investment Co.; Acquisition of Bank

Adams Investment Company, Fergus Falls, Minnesota, has applied for the Board's approval under Section 3(a)(3) of the Bank Holding Company Act (12

U.S.C. 1842(a)(3)) to acquire an additional 5.7 per cent of the voting shares of The First National Bank of Fergus Falls, Fergus, Minnesota. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 24, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 25, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-23523 Filed 7-30-79; 8:45 am]
BILLING CODE 6210-01-M

Alexandria Securities and Investment Co.; Formation of Bank Holding Company

Alexandria Securities and Investment Company, Alexandria, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent of the voting shares of Community State Bank, Alexandria, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 24, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 25, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-23525 Filed 7-30-79; 8:45 am]
BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than August 24, 1979.

A. *Federal Reserve Bank of New York*, 33 Liberty Street, New York, New York 10045:

Manufacturers Hanover Corporation, New York, New York (mortgage banking and insurance activities; Arizona): to engage in arranging, making or acquiring for its own account or for the account of others, loans and other extensions of credit such as would be made or acquired by a mortgage company; servicing any such loans and other

extensions of credit for any person; and acting as agent, through its subsidiary, CMC Insurance Agency, Inc., for the sale of credit life and credit accident and health insurance relating to such loans and other extensions of credit. These activities would be conducted from an office in Phoenix, Arizona, serving Maricopa County, Arizona.

B. *Federal Reserve Bank of Richmond*, 701 East Byrd Street, Richmond, Virginia 23261:

Virginia National Bankshares, Inc., Norfolk, Virginia (financing and insurance activities; Virginia): to engage, through its subsidiary, Atlantic Equity Corporation, in operating a finance company including making direct consumer installment loans, purchasing consumer installment sales finance contracts, extending direct loans to dealers for the financing of inventory (floor planning) and working capital purposes; making, acquiring, and servicing, for its own account or for the account of others, loans secured principally by second mortgages on real property and acting as agent for the sale of credit life and credit accident and health insurance directly related to its extensions of credit. These activities would be conducted from offices in Richmond, Portsmouth, and Suffolk area.

Addendum to notice dated July 9, 1979 (44 FR 40140), of Virginia National Bankshares, Inc., Norfolk, Virginia, to expand the activities of its subsidiary, VNB Insurance Agency, Inc., Virginia National Bankshares, Inc., also proposes to engage, through its subsidiary, Atlantic Equity Corporation, in acting as agent for the sale of credit-related property and casualty insurance, directly related to its extensions of credit.

C. *Federal Reserve Bank of Boston*, 30 Pearl Street, Boston, Massachusetts 02106:

1. First National Boston Corporation, Boston, Massachusetts (factoring, commercial financing, and personal property leasing activities; Idaho, Montana, Oregon, Washington, and Wyoming) through a subsidiary of First National Boston Corporation's subsidiary, FSC Corp., FNB Financial Company, to engage *de novo* in the following activities: factoring, commercial financing, and personal property leasing. These activities would be performed by FNB Financial Company at an office located at 111 S.W. Columbia Street, Portland, Oregon, serving Idaho, Montana, Oregon, Washington, and Wyoming.

2. First National Boston Corporation, Boston, Massachusetts (trust related

services; Arizona): to engage, through its subsidiary, Old Company Trust Company of Arizona, in providing corporate, pension and personal trust related services to corporations, partnerships and individuals. These activities would be conducted from offices in Phoenix and Tucson, Arizona, serving the State of Arizona.

D. *Other Federal Reserve Banks*: None.

Board of Governors of the Federal Reserve System, August 24, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-23527 Filed 7-30-79; 8:45 am]
BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and except as noted, received by the appropriate Federal Reserve Bank not later than August 20, 1979.

A. *Federal Reserve Bank of Chicago*, 230 South LaSalle Street, Chicago, Illinois 60690:

Walter E. Heller International Corporation, Chicago, Illinois (commercial finance; Minnesota, Iowa, North Dakota and South Dakota): to engage, through its subsidiary, Walter E. Heller & Company, in secured lending, and the servicing of such financial arrangements. These activities would be conducted from an office in Minneapolis, Minnesota, serving Minnesota, Iowa, North Dakota, and South Dakota.

B. *Federal Reserve Bank of Richmond*, 701 East Byrd Street, Richmond, Virginia 23261:

Virginia National Bankshares, Inc., Norfolk, Virginia (mortgage banking and insurance activities; Virginia): to engage, through its subsidiary, VNB Real Estate Loan Corporation, in mortgage banking, including originating, and servicing for its own account or for the account of others, conventional insured and/or guaranteed residential, apartment, commercial and industrial loans; and to act as agent for the sale of credit life insurance and credit accident and health insurance which are directly related to extensions of credit by VNB Real Estate Loan Corporation. Such activities will be conducted at an office in Raleigh, North Carolina (with the administrative office in Richmond, Virginia), serving the Raleigh area. Comments for this application must be received no later than August 17, 1979.

C. *Other Federal Reserve Banks*: None.

Board of Governors of the Federal Reserve System, July 20, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-23528 Filed 7-30-79; 8:45 am]
BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether

consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than August 17, 1979.

A. Federal Reserve Bank of San Francisco, 400 Sansome Street, San Francisco, California 94120:

U.S. Bancorp, Portland, Oregon (financing activities: Arizona, Arkansas, Colorado, Kansas, Louisiana, Mississippi, Missouri, Nebraska, Nevada, New Mexico, Oklahoma, Texas and Utah); to engage, through its subsidiary, U.S. Bancorp Financial, Inc. in making, acquiring and servicing of loans and other extensions of credit, either secured or unsecured, for its own account or the account of others, including, but not limited to commercial, rediscount, installment sales contracts and other forms of receivables, and leasing of personal property and equipment. These activities would be conducted from an office in Dallas, Texas, serving the thirteen States listed above.

B. Federal Reserve Bank of Cleveland, 1455 East Sixth Street, Cleveland, Ohio 44101:

Pittsburgh National Corporation, Pittsburgh, Pennsylvania (mortgage banking activities; California): to engage, through its subsidiary The Kissel Company, in making, acquiring, and servicing, for its own account and the accounts of others, loans and other extensions of credit such as would be made by a mortgage company. These activities would be conducted from an office in Escondido, California, serving San Diego County, California.

C. Other Federal Reserve Banks: None.

Board of Governors of the Federal Reserve System, July 20, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-23529 Filed 7-30-79; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies: Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than August 21, 1979.

A. Federal Reserve Bank of San Francisco, 400 Sansome Street, San Francisco, California 94120:

Security Pacific Corporation, Los Angeles, California (mortgage closing document preparation activities; Georgia): to engage, through its subsidiary, Document Preparation, Inc., in preparing for use by others, including Security Pacific Mortgage Corporation closing documents to be used in connection with the closing of mortgage

loans made by Security Pacific Mortgage Corporation and other mortgage lenders. These activities would be conducted from an office in Atlanta, Georgia, serving the State of Georgia.

B. Other Federal Reserve Banks: None.

Board of Governors of the Federal Reserve System, July 24, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-23530 Filed 7-30-79; 8:45 am]

BILLING CODE 6210-01-M

C.S.B. Financial, Inc.; Formation of Bank Holding Company

C.S.B. Financial, Inc., Chetek, Wisconsin, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 82.62 per cent of the voting shares of Chetek State Bank, Chetek, Wisconsin. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than August 23, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 24, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-23534 Filed 7-30-79; 8:45 am]

BILLING CODE 6210-01-M

Dakota Western Bankshares, Inc.; Formation of Bank Holding Company

Dakota Western Bankshares, Inc., Bowman, North Dakota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent of more of the voting shares of Dakota Western Bank, Bowman, North Dakota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Dakota Western Bankshares, Inc., Bowman, North Dakota, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Dakota Western Agricultural Credit Company, Inc., Bowman, North Dakota.

Applicant states that the proposed subsidiary would engage in the activity of an agricultural credit company. These activities would be performed from offices of Applicant's subsidiary in Bowman, North Dakota, and the geographic area to be served is the Bowman area. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 20, 1979.

Board of Governors of the Federal Reserve System, July 20, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-23535 Filed 7-30-79; 8:45 am]

BILLING CODE 6210-01-M

First Bank Corp.; Acquisition of Bank

First Bank Corporation, Midland, Michigan, has applied for the Board's approval under § 3(a)(3) of the Bank

Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 80 per cent or more of the voting shares of Shepherd State Bank, Shepherd, Michigan. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 23, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 23, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-23537 Filed 7-30-79; 8:45 am]

BILLING CODE 6210-01-M

First Banc Group of Ohio, Inc.; Acquisition of Bank

First Banc Group of Ohio, Inc., Columbus, Ohio, has applied for the Board's approval under Section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares (less directors' qualifying shares) of Hardin National Bank, Kenton, Ohio. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than August 20, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 20, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-23536 Filed 7-30-79; 8:45 am]

BILLING CODE 6210-01-M

Leon County Bancshares, Inc.; Formation of Bank Holding Company

Leon County Bancshares, Inc., Buffalo, Texas, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Citizens State Bank, Buffalo, Texas. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 24, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 25, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-23538 Filed 7-30-79; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies: Liberty National Corp.; Proposed De Novo Nonbank Activities; Correction

This notice corrects a previous Federal Register document (FR Doc. 79-22248) appearing at page 42338 of the issue for Thursday, July 19, 1979. The date in the second line of the right column should read "July 10, 1979."

Board of Governors of the Federal Reserve System, July 24, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-23526 Filed 7-30-79; 8:45 am]

BILLING CODE 6210-01-M

Lombard Bancorp, Inc.; Formation of Bank Holding Company

Lombard Bancorp, Inc., Lombard, Illinois, has applied for the Board's approval under section 3(a)(1) of the

Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 90 percent or more of the voting shares of State Bank of Lombard, Lombard, Illinois. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 15, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 17, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-23530 Filed 7-30-79; 8:45 am]
BILLING CODE 6210-01-M

Maddock Bank Holding Co.; Formation of Bank Holding Company

Maddock Bank Holding Company, Maddock, North Dakota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 81.3 per cent of the voting shares of Farmers State Bank, Maddock, North Dakota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 23, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 23, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-23540 Filed 7-30-79; 8:45 am]
BILLING CODE 6210-01-M

National Detroit Corp.; Acquisition of Bank

National Detroit Corporation, Detroit, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 per cent or more of the voting shares of Farmers and Merchants National Bank in Benton Harbor, Benton Harbor, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the Offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 24, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 25, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-23524 Filed 7-30-79; 8:45 am]
BILLING CODE 6210-01-M

Pierce City Bancshares, Inc.; Formation of Bank Holding Company

Pierce City Bancshares, Inc., Pierce City, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First National Bank of Pierce City, Pierce City, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 23, 1979.

Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 23, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-23541 Filed 7-30-79; 8:45 am]
BILLING CODE 6210-01-M

Thayer Agency, Inc.; Formation of Bank Holding Company

Thayer Agency, Inc., Hebron, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent less directors' qualifying shares of the voting shares of Thayer County Bank, Hebron, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1312(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 23, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 23, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-23542 Filed 7-30-79; 8:45 am]
BILLING CODE 6210-01-M

Valley Mills Financial Corp.; Formation of Bank Holding Company

Valley Mills Financial Corporation, Valley Mills, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares (less directors' qualifying shares) of First National Bank in Valley Mills, Valley Mills, Texas. The factors that are considered in acting on the application

are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 20, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 20, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-23543 Filed 7-30-79; 8:45 am]
BILLING CODE 6210-01-M

United Virginia Bankshares Inc.; Acquisition of Bank

United Virginia Bankshares Incorporated, Richmond, Virginia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of United Virginia Bank/ Commonwealth, Richmond, Virginia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 10, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 20, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-23544 Filed 7-30-79; 8:45 am]
BILLING CODE 6210-01-M

WRB Bancshares, Inc.; Formation of Bank Holding Company

WRB Bancshares, Inc., Oklahoma City, Oklahoma, has applied for the

Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of Will Rogers Bank and Trust Company, Oklahoma City, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than August 23, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 25, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-23545 Filed 7-30-79; 8:45 am]
BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on July 24, 1979. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before August 20, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General

Accounting Office, Room 5106, 441 G Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Civil Aeronautics Board

The CAB requests clearance of specific notice, reporting and recordkeeping requirements contained in Part 212, sections 7, 9, 11, 13, 22(b), 24, 25, 45, 46, 47, and 60, of the Board's Economic Regulations, "Charter Trips by Foreign Carriers". Adherence to these requirements is mandatory under the Federal Aviation Act of 1958, as amended. CAB estimates that there will be 109 respondents with an average reporting burden of 166 hours per respondent to comply with all sections.

The CAB requests clearance of the specific notice, reporting and recordkeeping requirements contained in Part 214, sections 3, 8, 9, 12(b), 17, 18, 35, 38, 37, and 50, of the Board's Economic Regulations, "Terms, Conditions, and Limitations of Foreign Air Carrier Permits Authorizing Charter Transportation Only". Adherence of these requirements is mandatory under the Federal Aviation Act of 1958, as amended. CAB estimates that there will be 48 respondents with an average reporting burden of 96 hours per respondent to comply with all sections.

Norman F. Heyl,
Regulatory Reports Review Officer.

[FR Doc. 79-23598 Filed 7-30-79; 8:45 am]
BILLING CODE 1610-01-M

GENERAL SERVICES ADMINISTRATION

[Intervention Notice 94; Case No. 78-92-EL-AIR]

Dayton Power & Light Co., the Public Utility Commission of Ohio; Proposed Intervention in Electric Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Public Utility Commission of Ohio concerning the application of the Dayton Power and Light Company for an increase in electric rates. GSA represents the interest of the executive agencies of the U.S. Government as users of utility services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets NW., Washington, D.C. (mailing address: General Services Administration (LT),

Washington, D.C. 20405), telephone 202-566-0750, on or before August 30, 1979, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act (40 U.S.C. 481(a)(4)).)

Dated: July 19, 1979.

Walter V. Kallaur,
Acting Deputy Administrator of General Services.

[FR Doc. 79-23484 Filed 7-30-79; 8:45 am]

BILLING CODE 6820-AM-M

[GSA Bulletin FPR 24 Federal Procurement Supplement 1]

Interagency Procurement Policy Committee

1. *Purpose.* This supplement replaces attachment A with a list of current members and their alternates to the Interagency Procurement Policy Committee (IPPC).

2. *Expiration date.* This bulletin contains information of a continuing nature and will remain in effect until canceled.

3. *Filing instructions.* Remove attachment A (pages 1 through 10) and insert updated attachment A (pages 1 through 10).

Dated: July 12, 1979.

Dale R. Babions,
Assistant Administrator for Acquisition Policy.

[GSA Bulletin FPR 24 Attachment A]

Agencies and Representatives Comprising the Interagency Procurement Policy Committee
July 12, 1979.

Member and Alternate: Address and Telephone No.

General Services Administration:

Philip G. Read, Chairman, Director, Federal Procurement, Regulations Directorate, Office of Acquisition Policy, 557-8947, Room 1107, Crystal Square 5, Washington, DC 20406.

Agency for International Development:

Joseph C. Watkins, Chief, Support Division, Office of Contract Management, 235-9125, Room 701, Pomponio Plaza Building, Washington, DC 20523.

Department of Agriculture:

Dean T. Smith, Chief Procurement Division, Office of Operations & Finance, 447-3037, Room 1575, South Building, Washington, DC 20250.

Lacy Arnold (Alternate), Supervisory Procurement Analyst, Policy Branch, Procurement Division, Office of Operations & Finance, 447-7527, Room 1575, South Building, Washington, DC 20250.

Central Intelligence Agency:

Aubrey T. Chason, Chief, Procurement, Management Staff, 281-8167, Room 2G31, Page Building, Washington, DC 20505. (No Alternate.)

Department of Commerce:

David Larkin, Chief, Procurement, Policy Division, 377-3891, Room 6411, 14th & Constitution Ave. NW, Washington, DC 20230.

Dale Helms (Alternate), Procurement Analyst, 377-3891, Room 6411, 14th & Constitution Ave. NW, Washington, DC 20230.

Department of Defense:

Thomas Cassidy, Acting Chairman, ASPR Comm. OUSD (R&E) (NARS), 697-6710, Room 3D 1060, The Pentagon, Washington, DC 20301.

Department of Energy:

Berton J. Roth, Director, Office of Policy, Procurement & Contracts, Management Directorate, 378-9227, Room 302, 400 1st Street NW, Washington, DC 20585.

Robert VanNess (Alternate), Director, Policy & Procedures Division, Office of Policy Procurement & Contracts, Management Directorate, 378-1730, Room 312, 400 1st Street NW, Washington, DC 20585.

Environmental Protection Agency:

William E. Mathis, Director, Procurement & Contracts Management Division, 755-0822, Room 2003, Waterside Mall (PM 214), Washington, DC 20460.

Robert L. Wright (Alternate), Deputy Director, Procurement & Contracts, Management Division, 755-0822, Room 2003, Waterside Mall (PM 214), Washington, DC 20460.

Federal Acquisition Institute:

William N. Hunter, Director, 274-8286, Room 7W06, 5001 Eisenhower Avenue, Alexandria, VA 22333.

Federal Communications Commission:

Kenneth A. Gordon, Chief, Procurement Division, 632-8407, Room A-104, 1229 20th Street NW, Washington, DC 20554.

Margie Sharp (Alternate), Contracting Officer, 632-8407, Room A-104, 1229 20th Street NW, Washington, DC 20554.

Federal Emergency Management Agency:

Duane Murray, Acting Director, Division of Acquisition Management, 235-2460, Room 520-E, 1815 North Lynn Street, Rosslyn, VA 22209.

General Accounting Office:

Seymore Efros, Associate General Counsel, 275-6071, Room 7041, 441 G Street NW, Washington, DC 20548.

John G. Brosnan (Alternate), Senior Attorney, 275-5478, Room 7075, 441 G Street NW, Washington, DC 20548.

Department of Health, Education, and Welfare:

Murray N. Weinstein, Director, Division of Procurement Policy & Regulations Development, Office of Grants & Procurement, 245-8791, Room 539H, Hubert H. Humphrey Bldg., Washington, D.C. 20201.

Frederick C. Lewis (Alternate), Chief, Procurement Policy Branch, Division of Procurement Policy & Regulations Development, Office of Grants & Procurement, 245-8347, Room 539H, South Portal Building, Washington, D.C. 20201.

Department of Housing and Urban Development:

Thomas Whittlein, Director, Office of Procurement and Contracts, 724-0040, 451 7th Street SW, Room B-133 (711 Bldg.), Washington, D.C. 20410.

Craig Durkin (Alternate) Acting Director, Policy & Evaluation Division, 724-0038, 451 7th Street SW, Room B-133 (711 Bldg.), Washington, D.C. 20410.

Department of the Interior:

Robert Saldivar, Chief, Procurement and Grants Division, Office of Administrative and Management Policy, 343-5914, Room 5524, 18th & C Streets NW., Washington, D.C. 20240.

William S. Opdyke (Alternate), Procurement Analyst, Procurement and Grants Division, Office of Administrative & Management Policy, 343-5914, Room 5524, 18th & C Streets NW., Washington, D.C. 20240.

International Communication Agency:

James T. McIlwee, Chief, Contract and Procurement Division, 653-5570, Room 613, 1717 H Street NW., Washington, D.C. 20547.

Daniel Drullard (Alternate), Chief, Policy & Procedures Branch, Contract & Procurement Division, 653-5570, Room 613, 1717 H Street NW., Washington, D.C. 20547.

Department of Justice:

William H. O'Donoghue, Assistant Director, Procurement Mgt. Group Administrative Programs, Management Staff, Office of Management & Finance, 633-2075, Room 6320, 10th & Constitution Ave. NW., Washington, D.C. 20530.

Paul Flester (Alternate), Chief, Procurement Policy Section, Procurement Management Group, Office of Management & Finance, 633-1910, Room 6318, 10th & Constitution Ave. NW., Washington, D.C. 20530.

Department of Justice, (Law Enforcement Assistance Administration):

Hana Taffet, Esq., Policy Development & Training Division, Office of Comptroller (LEAA), 724-5863, Room 900, 633 Indiana Ave. NW., Washington, D.C. 20531.

Department of Labor:

Theodore Goldberg, Assistant Director, Grants & Procurement Policy, 523-9174, Room S 1325, 200 Constitution Ave. NW., Washington, D.C. 20210.

Richard Strom (Alternate), Senior Procurement Analyst, 523-9714, Room S1325, 200 Constitution Ave. NW., Washington, D.C. 20210.

Library of Congress:

Floyd D. Hedrick, Chief, Procurement and Supply Division, Office of the Associate Librarian for Management, 301-287-8605, 1701 Brightseat Road, Landover, MD 20785.

John G. Kormos (Alternate), Contracting Officer, 301-287-8703, 1701 Brightseat Road, Landover, MD. 20785.

National Aeronautics and Space

Administration:

Admiral L. E. Hopkins, Deputy Director of Procurement, 755-2252, Room 101, 600 Independence Ave. SW., Washington, D.C. 20546.

George W. Coleman (Alternate), Director, Procurement Policy, Division, 755-8529, Room 100, 600 Independence Ave. SW., Washington, D.C. 20546.

National Science Foundation:

William B. Cole, Jr., Head, Policy Office, Division of Grants & Contracts, 632-4148, Room 201, 1800 G Street NW., Washington, D.C. 20550.

Donald W. Frenzen (Alternate), Associate General Counsel, 632-4397, Room 501, 1800 G Street NW., Washington, D.C. 20550.

Nuclear Regulatory Commission:

Edward Halman, Director, Division of Contracts, 427-4460, Room 200, Willste Building, Washington, D.C. 20555.

Harris Coleman (Alternate), Chief, Contract Policy Staff, Division of Contracts, 427-4383, Room 314 Willste Building, Washington, D.C. 20555.

Office of Management and Budget:

LeRoy J. Haugh, Associate Administrator for Regulations and Procedures, Office of Federal Procurement Policy, 395-6166, Room 9013, New Executive Office Bldg., Washington, D.C. 20503.

Donald J. Vogler (Alternate), Deputy Assistant Administrator for Regulations, 395-3300, Room 9013, New Executive Office Bldg., Washington, D.C. 20503.

Panama Canal Company—Canal Zone:

Thomas M. Constant, Secretary, Assistant to the Governor, 724-0104, Room 312, Pennsylvania Building, Washington, D.C. 20004.

Raymond P. Laberty, Acting Director, Supply & Community Service Bureau, 724-0104, Room 312, Pennsylvania Building, Washington, D.C. 20004.

Pension Benefit Guaranty Corporation:

B. Robert Perlstein, Chief, Procurement Branch, 254-4767, Room 4320, 2020 K Street NW., Washington, D.C. 20006.

Charles W. Sneider (Alternate), Administrative Officer, 254-4776, Room 4320, 2020 K Street NW., Washington, D.C. 20006.

United States Postal Service:

Eugene A. Keller, Assistant for Procurement, Policy—Procurement Supply Department, 245-4818, Room 1512, 475 L'Enfant Plaza West, Washington, D.C. 20260.

Ronald E. Barnes (Alternate), Procurement & Supply Programs Officer, 245-4818, Room 1502, 475 L'Enfant Plaza West, Washington, DC 20260.

Small Business Administration:

R. P. McDermott, Director, Office of Procurement and Technical Assistance, 663-6588, Room 622, Imperial Bldg., 1441 L Street NW., Washington, D.C. 20416.

Ralph P. Turner (Alternate), SBA Liaison Representative, 695-2435, OUSDRE (M&RS)

Room 1E528, The Pentagon, Washington, D.C. 20301.

Smithsonian Institution:

Harry P. Barton, Director, Office of Supply Services, 381-5924, Room 3120, North Building, 955 L'Enfant Plaza SW., Washington, D.C. 20024.

Robert P. Perkins (Alternate), Deputy Director, Office of Supply Services 381-5924, Room 3120, North Building, 955 L'Enfant Plaza SW., Washington, D.C. 20024.

Department of State:

Harry M. Hite, Special Assistant to the Chief of Supply & Transportation Division, 235-9529, Room 532, State Annex 6, Washington, D.C. 20520.

Department of Transportation:

Barnett M. Ancelet, Director of Installations & Logistics, 428-4237, Room 9100, Nassif Building, 400 7th Street SW., Washington, D.C. 20590.

Roger Martino (Alternate), Chief, Procurement Management Division, 428-4237, Room 9100 Nassif Building, 400 7th Street SW., Washington, D.C. 20590.

Department of the Treasury:

Thomas P. O'Malley, Assistant Director, Office of Administrative Programs, Procurement and Personal Property Management, 376-0650, Room 900 1331 G Street SW., Washington, D.C. 20220.

Charles J. Schaefer (Alternate), Procurement Analyst, 376-0650, Room 900, 1331 G Street NW., Washington, D.C. 20220.

U.S. Arms Control and Disarmament Agency:

Evalyn W. Dexter, Contracting Officer, 235-8248, 8/SA-8, New State Department Bldg., Washington, D.C. 20451.

Walter L. Baumann (Alternate), Assistant General Counsel, 632-3530, Room 5534, New State Department Bldg., Washington, D.C. 20451.

Veterans Administration:

A. G. Vetter, Procurement Policy Specialist, 389-3882, Room 775-I, 810 Vermont Ave., NW., Washington, D.C. 20420.

Joseph M. Cumiskey (Alternate), Chief, Procurement Division, 389-3054, Room 765, 810 Vermont Ave., NW., Washington, D.C. 20420.

[FR Doc. 79-23487 Filed 7-30-79; 8:45 am]

BILLING CODE 6820-61-M

[Intervention Notice 93; Docket No. 1330]

Public Service Co. of Colorado, Public Utilities Commission of the State of Colorado; Proposed Intervention in Gas, Electric, and Steam Revenue Proceeding

The General Services Administration seeks to intervene in a proceeding before the Public Utilities Commission of the State of Colorado concerning the application of the public Service Company of Colorado for increases in its gas, electric and steam revenues. GSA represents the interest of the

executive agencies of the U.S. Government as users of gas, electric and steam services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets, NW., Washington, D.C. (mailing address: General Services Administration (LT), Washington, D.C. 20405), telephone 202-566-0750, on or before August 30, 1979, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act, (40 U.S.C. 481(a)(4)))

Dated: July 19, 1979.

Walter V. Kallaur,
Acting Deputy Administrator of General Services.

[FR Doc. 79-23479 Filed 7-30-79; 8:45 am]

BILLING CODE 6820-AM-M

[Intervention Notice 96; Case No. ER-479]

Public Service Co. of New Mexico, the Federal Regulatory Commission; Proposed Intervention in Electric Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Federal Energy Regulatory Commission concerning the application of the Public Service Company of New Mexico for an increase in electric rates. GSA represents the interests of the executive agencies of the U.S. Government as users of utility services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to Spence W. Perry, Assistant General Counsel, regulatory Law Division, General Services Administration, 18th & F Streets, NW., Washington, DC (mailing address: General Services Administration (LT), Washington, DC 20405), telephone 202-566-0750, on or before August 30, 1979, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act, (40 U.S.C. 481(a)(4)))

Dated: July 20, 1979
 Walter V. Kallaur,
 Acting Deputy Administrator of General
 Services.
 [FR Doc. 79-23486 Filed 7-30-79; 8:45 am]
 BILLING CODE 6620-AM-M

[Intervention Notice 95; Case No. 722]

**Washington Gas Light Co., District of
 Columbia Public Service Commission;
 Proposed Intervention in Utility Rate
 Increase Proceeding**

The General Services Administration seeks to intervene in a proceeding before the District of Columbia Public Service Commission concerning the application of the Washington Gas Light Company for an increase in its interim rates. GSA represents the interest of the executive agencies of the U.S. Government as users of utility services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets, NW., Washington, DC (mailing address: General Services Administration (LT), Washington, DC 20405), telephone 202-566-0750, on or before August 30, 1979, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act, (40 U.S.C. 481(a)(4)))

Dated: July 20, 1979.
 Walter V. Kallaur,
 Acting Deputy Administrator of General
 Services.

[FR Doc. 79-23485 Filed 7-30-79; 8:45 am]
 BILLING CODE 6620-AM-M

**DEPARTMENT OF HEALTH,
 EDUCATION, AND WELFARE**

Food and Drug Administration

[Docket No. 75N-0232]

**Bulk Flavor Labeling; Extension of
 Effective Date for Compliance**

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: This notice extends until July 1, 1981, the effective date of the requirement for ingredient declaration in § 101.22(g)(2) (21 CFR 101.22(g)(2)) for those flavor ingredients that are listed as generally recognized as safe (GRAS) in a reliable industry association list

and included by the Food and Drug Administration (FDA) in its review of GRAS food ingredients. The extension is needed to allow FDA more time to review the safety of flavor ingredients.
DATE: Compliance by July 1, 1981.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: Section 101.22(g)(2) (21 CFR 101.22(g)(2)) requires that a mixture of flavors shipped to a food manufacturer or processor (but not to a consumer) for use in the manufacture of a fabricated food must be labeled so as to declare the identity of each ingredient or bear the statement that "all flavor ingredients contained in [the] product are approved for use in a regulation of the Food and Drug Administration." Non-flavor ingredients and flavors not approved by a regulation must be listed separately.

The history of § 101.22(g)(2) (formerly 32 CFR 1.12(g)(2) prior to recodification in the Federal Register of March 15, 1977 (42 FR 14302)) was summarized in a notice published in the Federal Register of February 3, 1976 (41 FR 4954). The effective date of this labeling regulation was extended to July 1, 1979 for all flavors that are listed as being GRAS in a reliable industry association list. The extension allowed FDA time to review the safety of the flavor ingredients. FDA has recognized as reliable industry GRAS lists the Flavor Extract Manufacturers' Association (FEMA) GRAS Lists Nos. 3 through 11, which have been published in *Food Technology* and were acknowledged by FDA in the Federal Register on February 3, 1976 (41 FR 4954), October 18, 1977 (42 FR 55643), and May 28, 1978 (43 FR 22764).

In the February 3, 1976 notice, FDA acknowledged that its safety evaluation of flavor ingredients could not be completed by July 1, 1979. The agency advised that further extension of the deadline for compliance with § 101.22(g)(2) and of reliance on reliable published industry association lists would be announced when appropriate. FDA now estimates that this safety review will require at least another 2 years to complete.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), *It is ordered*, That the

effective date of July 1, 1979 for compliance with paragraph (g)(2) of § 101.22 Foods; labeling of spices, flavorings, colorings and chemical preservatives, as published in the Federal Register of February 3, 1976 (41 FR 4954), be extended to July 1, 1981: *Provided*, That the label of the product bears a statement certifying that the ingredients are listed as generally recognized as safe in a reliable published industry association list, and FDA has included the ingredients in its safety review of flavor substances.

A list of the flavor substances included in the FDA safety review, and therefore covered by this extension, is available for review at the office of the Hearing Clerk, Rm. 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. The list may be reviewed between 9 a.m. and 4 p.m., Monday through Friday. The list includes the name of the substance and, where appropriate, one or more of the following: the FEMA SLR monograph number, the FEMA GRAS list number, and/or a citation of a regulation in Title 21 of the Code of Federal Regulations.

Dated: July 23, 1979.
 William F. Randolph,
 Acting Associate Commissioner for
 Regulatory Affairs.

[FR Doc. 79-23500 Filed 7-30-79; 8:45 am]
 BILLING CODE 4110-03-M

**Cadmium, Lead, and Other Metals;
 Memorandum of Understanding With
 the U.S. Environmental Protection
 Agency, the U.S. Department of
 Agriculture, and the Food and Drug
 Administration**

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding (MOU) with the U.S. Environmental Protection Agency and the U.S. Department of Agriculture. The purpose of the memorandum is to provide for a study of background concentrations of cadmium, lead, and other selected metals in soils and crops in major production areas.

DATE: The agreement became effective February 1, 1979.

FOR FURTHER INFORMATION CONTACT: Gary Dykstra, Regulatory Operations Section (HFC-22), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3470.

SUPPLEMENTARY INFORMATION: Pursuant to the notice published in the Federal Register of October 3, 1974 (39 FR 35897) stating that future memoranda of understanding and agreements between FDA and others would be published in the Federal Register, the Commissioner of Food and Drugs is issuing the following memorandum of understanding:

Memorandum of Understanding Among the Soil Conservation Service and the Science and Education Administration (Agricultural Research) of the U.S. Department of Agriculture, the U.S. Environmental Protection Agency, and the Food and Drug Administration, U.S. Department of Health, Education, and Welfare

I. Purpose

The purpose of this cooperative agreement is to provide for a study of background concentrations of cadmium, lead, and other selected metals in soils and crops in major production areas. This is an agreement among the United States Environmental Protection Agency (EPA), the Soil Conservation Service (SCS), and the Science and Education Administration-Agricultural Research (SEA-AR) of the United States Department of Agriculture (USDA), and the United States Food and Drug Administration (FDA).

II. Background

This study is needed for the following reasons: 1. The FDA requires detailed information on the normal background levels of these elements, some of which are toxic, in crops in the human and animal food chain as a basis for developing limitations and tolerances, and for assessing the nutritional and toxicological significance of human and animal intake of these elements.

2. The EPA has the mission of regulating the use of wastes, including sewage sludge, containing heavy metals and other elements on land and crops. Detailed knowledge of background levels in soils and the crops are needed as a basis for these regulations.

3. The USDA requires information on the distribution of elements and metals in soils of different types in the United States and the likelihood of uptake of such elements into crops grown on these soils. This is needed to provide advice and information to farmers on agricultural practices.

III. Substance of Agreement

A. Scope of Work. In the cooperative project, the USDA, SCS will collect over a 4-year period approximately 6,000 samples of crops in major crop producing regions and 18,000 associated soil samples. Specially trained soil scientists will collect the samples. The crop samples will be collected from major production areas and at the harvest stage of the crop, together with the associated soil pedons, in accordance with the standards of the Soil Manual and National Soil Handbook. Crop samples will be shipped to the Cin-DO laboratory of FDA in Cincinnati, Ohio. FDA will process and analyze the samples, avoiding contamination,

for cadmium, lead and other selected elements. Analyses will be performed by inductively coupled plasma optical emission spectroscopy (ICP-OES), anodic stripping voltammetry (ASV) and atomic absorption (AA), as needed. Minimum reporting levels of Cd, Pb, Se, and Zn in the crop samples will be 0.005, 0.01, 0.01, and 0.1 microgram per gram of dry weight respectively.

All data obtained by FDA, including solid contents of each sample, will be provided to USDA in mutually agreed upon form, suitable for computer processing (which may be on magnetic tapes).

Soil samples will be shipped to the SCS National Soil Survey Laboratory in Lincoln, Nebraska, for analysis. Concentrations of cadmium, lead, and other elements will be determined by anodic stripping voltammetry, atomic absorption and other applicable methods. Minimum reporting levels for cadmium and lead in soil will be 0.05 and 0.10 micrograms per gram. Selenium will be determined on selected soil samples at a minimum reporting level of 0.10 micrograms per gram.

Soil and plant data will be entered into a computer data base by USDA and statistically analyzed to determine the significance of the data, the relationship between soil element content and other soil properties and concentrations of cadmium, lead, and other elements in specific crops. The data and relationship among crop concentrations, soil parameters, and crop production practices will be scientifically analyzed, evaluated, and interpreted by professional staff members of SCS, SEA-AR, FDA, and EPA.

B. Responsibilities of Each Party.

1. Mutual. a. Investigations under this agreement will be jointly planned and conducted, and data which are compiled shall be prepared, analyzed, shared, and mutually interchanged by the parties. The progress of the study shall be reviewed quarterly and necessary adjustments made at that time. Representatives of SCS, SEA-AR, EPA, and FDA shall meet at least semiannually to discuss the project's progress.

b. Any equipment purchased by USDA under this agreement is to be the property of the USDA after the study is complete. FDA will pay for the equipment it needs from its own funds and retain title to the equipment.

c. The results of the investigations herein outlined, if published, shall be authored by the USDA, FDA and EPA. In the event of disagreement among USDA, FDA, and EPA, any party may publish results on its own responsibility, giving proper acknowledgement of cooperation. For inservice use, the USDA may further publish procedural documents.

d. Details of the following items are provided in the Appendix which is made part of the agreement. However, plans cannot be fully finalized at this time (such as crop selection priorities, elements analyzed, detection limits, etc.) and these details will be resolved by mutual agreement. The resulting protocols should be written by the responsible agencies (sampling and shipping, USDA; sample preparation and analysis,

FDA; data storage, USDA) and forwarded, during an early phase of the work, to the other parties to the agreement.

(i) List of crops, arranged in order of priorities.
 (ii) Location of sites and number of samples of each crop.
 (iii) List of elements and detection limits.
 (iv) Sampling schedules and procedures.
 (v) Analyses—quality control procedures.
 2. SCS. SCS will provide the required personnel, equipment, and facilities to perform the sampling of plants and soils and the analysis of soils. SCS will provide senior scientists knowledgeable in minor elements in crops and soils to help with planning, execution, and evaluation of the project, and qualified field soil scientists to collect the samples.

3. SEA-AR. SEA-AR will provide senior scientists knowledgeable in the area of micro elements in crops and soils to support planning of the project and evaluation of results.

4. FDA. FDA will provide the required personnel, equipment and facilities to perform the analyses of the crops. It will provide the data in mutually acceptable form to USDA and EPA, and summary reports on analytical methodology used.

C. Reports. 1. *Quarterly Progress Reports.* Six copies each are provided by USDA and by FDA to the other parties of this agreement.

2. *Status Reports.* Due (5 copies) after the completion of the collection and the analysis of each crop.

3. *Draft Final Report.* A final report is to be written by USDA personnel and submitted to EPA and FDA Project Officers (5 copies) for review 90 days prior to end of project.

4. *Final Report.* Original camera-ready copy plus five additional copies. The final report will be prepared in accordance with the format and instructions contained in the EPA "Handbook for Preparing Research and Development Reports."

5. *Notice of Research Project.* Within 20 days of the effective date of this agreement the USDA/SCS shall submit an executed copy of EPA Form 5760.1, Notice of Research Project, to the Technical Information Staff.

IV. Project Officers and Project Director

Project director:
 Dr. R. B. Daniels, Soil Survey Investigations Division, Soil Conservation Service, U.S. Department of Agriculture, Rm. 5386, S. Agriculture Bldg., Washington, D.C. 20013, (202-447-4991).

Project officers:

G. Kenneth Dotson, Wastewater Research Division, Municipal Environmental Research Laboratory, 26 West St. Clair St., Cincinnati, Ohio 45268, (513-684-7861).

Dr. George E. Parris, Division of Chemical Technology (HFF-424), Food and Drug Administration, Bureau of Foods, 200 C St. SW., Washington, D.C. 20204, (202-245-1380).

Dr. Jesse A. Lunin, National Program Staff, Environmental Quality, Science Education Administration-Agriculture Research, Bldg. 005-BARC-WEST, Beltsville, MD 20705, (301-334-3278).

V. Funds

EPA will reimburse USDA/SCS and SEA-AR through SCS for actual costs incurred in the performance of the work described in Section III in an amount not to exceed \$100,000 per year, except not to exceed \$90,000 in FY 1979. FY 1979 funds must be obligated before September 30, 1980. USDA/SCS will request reimbursement by itemized SF 1081 submitted quarterly to EPA Accounting Operations Office, Cincinnati, Ohio 45268. Requests will cite the number of this agreement together with the following accounting information:
Appropriation—689/00107.
Account Number—982183COBA.
Document Control Number—K00031.
Object Class—2570.

Appropriation—689/00107.
Account Number—980781DOAL.
Document Control Number—XM0025.
Object Class—2570.

FDA has allocated \$130,000 for FY 1979 and plans to allocate \$100,000 for FY 1980-82 for a total of \$430,000 to this project. These funds will be used within FDA to support Cin-DO participation in this effort.

VI. Authority

This agreement is entered into under the authority of Section 104 of the Federal Water Pollution Control Act Amendments dated October 1972 (EPA) and of the Economy Act approved June 30, 1952, as amended 31USC686.

VII. Period of Agreement

This agreement, when accepted by all parties, will have an effective period of performance from February 1, 1979, through September 30, 1980, and may be terminated by any of the parties upon sixty (60) day advance written notice to the others. Upon termination, payment will be made only for work completed to date of termination.

The agreement may be modified by amendment duly executed by authorized officials of the EPA, FDA, and the USDA, provided such modification does not extend the agreement beyond the close of the fiscal year in which the work is completed. It is anticipated that a period of 48 months will be required to complete the work.

It is the intent of the parties to fulfill their obligations under this agreement. Commitments cannot be made beyond the period for which funds have been appropriated by Congress. In the event funds from which the USDA/SCS and SEA-AR, and the FDA may fulfill their obligations are not appropriated, the agreement will automatically terminate. Reimbursement will then be for work completed that is otherwise eligible for reimbursement prior to the effective date of termination.

VIII

A. U.S. Environmental Protection Agency, s/L. W. Lefke, for Francis T. Mayo, Director, Municipal Environmental Research Laboratory, Cincinnati, Ohio 45268, date: June 19, 1979.

B. Soil Conservation Service, USDA, s/R. M. Davis, Administrator, Soil Conservation Service, date: June 8, 1979.

C. Science and Education Administration (Agricultural Research), USDA, s/T. B. Kinney for T. W. Edminster, Deputy Director, Science & Education Administration—Agricultural Research, date: June 11, 1979.

D. U.S. Food and Drug Administration, s/Joseph P. Hile, Associate Commissioner for Regulatory Affairs, date: June 13, 1979.

Effective date. This Memorandum of Understanding became effective February 1, 1979.

Dated: July 25, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-23495 Filed 7-30-79; 8:45 am]
BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Alan L. Hoeting, Director, Detroit District Office, Detroit, MI.

DATE: The meeting will be held at 9:30 a.m., Tuesday, September 11, 1979.

ADDRESS: The meeting will be held at the George Potter Larrick Bldg., Conference Room, 1560 E. Jefferson, Detroit, MI 48207.

FOR FURTHER INFORMATION CONTACT: Diane M. Place, Consumer Affairs Officer, Food and Drug Administration, 1560 E. Jefferson, Detroit, MI 48207, 313-226-6260.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Detroit District Office, and to contribute to the agency's policymaking decisions on vital issues. The agenda includes food labeling survey, patient package inserts and the over-the-counter drug review.

Dated: July 25, 1979

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-23496 Filed 7-30-79; 8:45 am]
BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting

to be chaired by Henry P. Roberts, Director, Minneapolis District Office, Minneapolis, MN.

DATE: The meeting will be held at 2:30 p.m., Wednesday August 8, 1979.

ADDRESS: The meeting will be held at Federal Courts Bldg., Rm. B-44, 110 S. 4th., Minneapolis, MN 55401.

FOR FURTHER INFORMATION CONTACT: Blanche L. Erkel, Consumer Affairs Officer, Food and Drug Administration, 240 Hennepin Ave., Minneapolis, MN 55401, 612-725-2121.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Minneapolis District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: July 25, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-23502 Filed 7-30-79; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 79F-0255]

Kelco Division of Merck & Co., Inc.,
Filing of Food Additive Petition

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: Kelco Division of Merck & Co., Inc., has filed a petition proposing that the food additive regulations be amended to provide for use of Xanthan Gum as a stabilizer, emulsifier, thickener, suspending agent, or bodying agent in feed and drinking water of animals.

FOR FURTHER INFORMATION CONTACT: William D. Price, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3442.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP-2174) has been filed by Kelco Division of Merck & Co., Inc., 8355 Aero Drive, San Diego, CA 92123, proposing that Part 573—Food Additives Permitted in Feed and Drinking Water of Animals, be amended to provide for the use of Xanthan Gum, polysaccharide gum derived from *Xanthomonas campestris* by a fermentation process,

as a stabilizer, emulsifier, thickener, suspending agent, or bodying agent in feed and drinking water of animals.

The environmental impact analysis report and other relevant material are being reviewed to determine whether the proposed use of the additive will have a significant environmental impact. In accordance with the provisions of § 25.25(b) (21 CFR 25.25(b)) of the environmental impact regulations, any environmental impact consideration of the final action on this petition will be addressed in a future publication.

Dated: July 24, 1979.

Marvin A. Narcross,
Acting Director, Bureau of Veterinary
Medicine.

[FR Doc. 79-23499 Filed 7-30-79; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 76N-0411]

Naprosyn Tablets; Rescission of
Proposal To Withdraw Approval of
New Drug Application

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice announces that Naprosyn Tablets have been evaluated as safe and effective for use in relief of the signs and symptoms of rheumatoid arthritis. Previously FDA had proposed to withdraw approval of the drug on the ground that a portion of the new drug application pertaining to a study on safety contained untrue statements of material fact; however, a new study submitted by the sponsor has established the safety of the drug.

FOR FURTHER INFORMATION CONTACT: Carol A. Kimbrough, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of October 15, 1976 (41 FR 45605), the Director of the Bureau of Drugs announced an opportunity for hearing on a proposal to withdraw approval of the new drug application (NDA 17-581) for Naprosyn Tablets held by Syntex Corporation, 3401 Hillview Ave., Palo Alto, CA 94304 on the ground that it contained untrue statements of material fact. Naprosyn (naproxen) is a nonsteroidal anti-inflammatory agent indicated for use in the management of rheumatoid arthritis. Because the drug is intended for long-term administration to humans when appropriate, one test

required by FDA as essential to the determination of its safety is a long-term animal toxicity study designed to show the effects of chronic exposure to the drug over a substantial portion, or all, of the life span of the animal. To comply with this requirement, Syntex had submitted, as part of its NDA, a report of a chronic oral toxicity study in rats carried out by Industrial Bio-Test Laboratories (IBT) under Syntex sponsorship (the "IBT rat study"). This was the only animal toxicity study adequate for evaluation of long-term safety when the NDA was approved. Two other animal studies also submitted were inadequate for this purpose because they were not carried out over the major portion of the life span of the animals and did not involve a sufficient number of animals. Therefore, when investigation revealed that the performance and the reports of the IBT rat study were so seriously flawed as to make them incapable of serving as the basis for an evaluation of long-term safety, the Bureau instituted procedures to withdraw approval of the drug.

On November 8, 1976, Syntex requested a hearing. Concomitantly, it began a new study, an 800-rat 2-year toxicity/carcinogenicity study (the "Syntex rat study") on Naprosyn.

The Syntex rat study has now been completed and evaluated as establishing the safety of Naprosyn for use as labeled. In addition, a field investigation conducted by the Bureau verifies that the Syntex rat study is scientifically valid and was conducted in accord with the standards expressed in the good laboratory practice regulations.

Accordingly, the notice of opportunity for hearing is rescinded and this proceeding terminated.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053 as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: July 25, 1979.

Jerome A. Halperin,
Acting Director, Bureau of Drugs.

[FR Doc. 79-23501 Filed 7-30-79; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 77N-0145 (Sub 2)]

Orphengesic Tablets (Orphenadrine Citrate With Aspirin, Phenacetin, and Caffeine); Denial of Hearing; Refusal To Approve Abbreviated New Drug Application; Declaration of "New Drug" Status

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs denies a hearing on the refusal to approve an abbreviated new drug application (ANDA 85-682) for Orphengesic Tablets (orphenadrine citrate 25 milligrams in combination with aspirin 225 milligrams, phenacetin 160 milligrams and caffeine 30 milligrams) submitted by Inwood Laboratories. He also announces that the opportunity for a hearing on the "new drug" status of Orphengesic has been waived. The Commissioner refuses approval of Inwood's application on the grounds that (a) it does not contain reports of investigations or adequate tests, by all methods reasonably applicable, to show whether or not Orphengesic is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof, (b) upon the basis of the information submitted as part of the application, FDA has insufficient information to determine whether Orphengesic is safe for use under such conditions, and (c) evaluated on the basis of the information submitted as part of the application and other public information before FDA with respect to Orphengesic, there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under such conditions. In addition, the Commissioner declares Orphengesic to be a "new drug" as defined in the Federal Food, Drug, and Cosmetic Act.

EFFECTIVE DATE: August 30, 1979.

FOR FURTHER INFORMATION CONTACT: Ronald L. Wilson, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In the Federal Register of April 29, 1977 (42 FR 21847), the Director of the Bureau of Drugs (the Director) issued a notice of opportunity for hearing on a proposal to refuse approval of the abbreviated new drug application (ANDA 85-682) filed by Inwood Laboratories (Inwood), 300 Prospect St., Inwood, NY 11696, for the drug product Orphengesic Tablets (Orphengesic) and to declare Orphengesic to be a "new drug" within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (the act), 21 U.S.C. 321(p). That notice also referred to ANDA 85-445 (X-Otag Plus Tablets), which has been dealt with previously (see 43 FR 4682; Feb. 3, 1978). This notice thus pertains only to ANDA

85-882 for Orphengesic. The notice does not concern the full new drug application, NDA 18-145, also submitted by Inwood for Orphengesic. That application is still being evaluated.

In response to the notice of opportunity for hearing, Inwood requested a hearing on May 24, 1977. On June 28, 1977, Inwood filed a "Submission of Information, Analyses and Views in Response to Notice of Opportunity for Hearing on Orphengesic Tablets." Thereafter, on August 5, 1977, Inwood provided a supplemental submission. Inwood contended that the supplemental submission should be accepted, though untimely, because it reflected information obtained from a delayed FDA response to a request for documents under the Freedom of Information Act. The agency has carefully reviewed these submissions and concludes that there exists no genuine and substantial issue of material fact which would justify a hearing with respect to either the refusal to approve ANDA 85-682 or the "new drug" status of Orphengesic.

FDA regulations, 21 CFR 314.200(g), clearly state: "A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing with respect to the particular drug product(s) specified in the request for hearing." In the notice of opportunity for hearing on Orphengesic, the Director stated that failure by Inwood to show the existence of a genuine and substantial issue of fact would result in the entry of summary judgment against Inwood by the agency. The two submissions by Inwood contain no data and little information. Rather, the submissions are made up of arguments and unsupported allegations. For this reason, the agency has found that summary judgment is appropriate with respect to each of the issues raised in the notice of opportunity for hearing.

I. The Drug

Orphengesic Tablets contain the following active ingredients: orphenadrine citrate (25 mg), aspirin (225 mg), phenacetin (160 mg), and caffeine (30 mg).

II. Recommended Uses

The indications in the labeling for Orphengesic, as stated in the proposed package insert, are as follows: "Orphenadrine citrate is indicated as an adjunct to rest, physical therapy, and other measures for the relief of discomfort associated with acute painful musculoskeletal conditions. The mode of

action of the drug has not been clearly identified, but may be related to its sedative properties. Orphenadrine citrate does not directly relax tense skeletal muscles in man." Orphengesic is a prescription drug. The recommended dosage for adults is one to two tablets, three to four times daily.

III. Medical Documentation To Support Claims of Safety and Effectiveness

Because this application was submitted as an ANDA, no safety and effectiveness data were included in it, 21 CFR 314.1(f). Because use of an ANDA for Orphengesic is inappropriate, see Legal Arguments below, the lack of safety and effectiveness data requires refusal of approval of this application (section 505(d) of the act (21 U.S.C. 355(d))). The lack of such data in the request for hearing requires denial of that request, 21 CFR 314.200.

IV. Legal Arguments

The issues to be discussed in this section fall into two categories. The first has to do with the appropriateness of an ANDA for Orphengesic. The agency concludes that the theory on which Inwood bases its claim of eligibility for approval of an ANDA is incorrect. The agency further concludes that, when the correct standards are applied, no showing has been made that there is any genuine factual issue with respect to the eligibility of Orphengesic for approval of an ANDA.

The second portion of this section deals with the declaration that Orphengesic is a "new drug." As will be discussed in more detail below, Inwood's theory with respect to the propriety of consideration of an ANDA is, in effect, that such applications are authorized when the drug in question is no longer a "new drug." Thus, although Inwood has waived its opportunity for a hearing on the question of Orphengesic's "new drug" status, its arguments will, for purposes of completeness, be considered in the ruling on that issue.

A. Propriety of an ANDA for Orphengesic

1. *The correct standard.* Inwood's request for a hearing demonstrates a misunderstanding about the circumstances in which submission of an ANDA for a drug is appropriate. An ANDA, whose contents are described in 21 CFR 314.1(f), may be utilized only "if the drug is intended for human use and is one for which an abbreviated new drug application has been found by the Food and Drug Administration to be sufficient, * * *." 21 CFR 314.1(a)(1). Because FDA has made no finding that

an ANDA may be submitted for Orphengesic, the submission of an ANDA for Orphengesic is not appropriate.

An example of a finding by the FDA that submission of an ANDA is appropriate appears in DESI (Drug Efficacy Study Implementation) Notice 6566 (39 FR 9487; March 11, 1974), which covers Norflex Tablets. In that notice FDA found that ANDA's could be submitted for products that, like Norflex Tablets, contain 100 mg of orphenadrine citrate. The only theory on which that finding could be extended to include Orphengesic is that, pursuant to 21 CFR 310.6(b), Orphengesic is "identical, related, or similar" to Norflex, and, based upon that similarity, appropriately qualified experts would conclude that the Norflex finding applies to Orphengesic.

As explained in the April 29 notice of opportunity for hearing at 42 FR 21851, however, under 21 CFR 300.50(a) each component of a fixed combination drug such as Orphengesic must be found to make a contribution to the claimed effect of the combination. Thus, the finding that orphenadrine citrate alone is effective would not be sufficient to support a determination that the combination of orphenadrine citrate and aspirin, phenacetin, and caffeine (APC) is effective. To quote from that notice at 42 FR 21851:

The Food and Drug Administration has at no time since DESI Notice 6566 was published in 1974 concluded that it provides that orphenadrine citrate in combination with an analgesic is effective for the same indication as the single entity.

The April 29 notice stated that FDA was not aware that qualified experts have reached such a conclusion. In its request for a hearing, Inwood provided no evidence that experts would reach such a conclusion. The Commissioner therefore concludes that FDA has made no finding that Orphengesic is eligible for the submission of an ANDA.

2. *Contention That Orphengesic Is Eligible for ANDA Status Despite Lack of Finding of Eligibility.* As stated in the April 29 notice of opportunity for hearing, an ANDA is a form of new drug application that is deemed to include, by reference, safety and effectiveness data that have already been reviewed and found adequate. The agency has not provided for and could not, within the limits of its statutory authority, provide for, the approval of new drug applications that did not include, either physically or by reference, the safety and effectiveness data required by section 505 of the act.

Inwood's hearing request suggests that Inwood believes that an ANDA is something different from a new drug application. Inwood seems to argue that FDA, by authorizing use of an ANDA, is, in effect, declaring that the drug involved is "generally recognized as safe and effective" within the meaning of section 201(p) of the act, as long as certain manufacturing and bioavailability data have been submitted. Such a declaration would, if the requirements of section 201(p)(2) of the act (21 U.S.C. 321(p)(2)) had been met, make the drug in question not a "new drug" as defined by the statute.

The agency rejects this theory. Although FDA's position on what an ANDA represents was stated clearly in the notice of opportunity for hearing, the agency recognizes that one statement—made by FDA in the past, and quoted in that notice—may have contributed to the confusion evidenced by Inwood's submission, i.e., that "an ANDA is appropriate only for those drugs which from a generic standpoint are generally recognized as safe and effective when they are properly labeled and manufactured" (42 FR 21851; April 29, 1977). This statement did not, however, as is clear from the context in which it is quoted, represent an agency position that approval of an ANDA was a declaration that the drug involved was "generally recognized as safe and effective." To the extent that the statement may be construed as supporting such a position, it is explicitly disavowed.

Should there be any further question on this point, it would be resolved by reference to the DESI notice upon which approval of an ANDA would be based. In such notices (see, e.g., DESI 6566, discussed above), drugs are often declared to be new drugs even though the drugs are found to have evidence of effectiveness sufficient to justify approval of a new drug application, thus allowing use of an ANDA for those drugs. (See, e.g., *Weinberger v. Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609, 631, (1973): "The Act is designed so that drugs on the market, unless exempt, will have mustered the requisite scientifically reliable evidence of effectiveness long before they are in a position to drop out of active regulation by ceasing to be a 'new drug'.") It would be anomalous for the agency, by approving an ANDA, to declare a drug not to be a new drug upon the basis of a Federal Register announcement that the drug is a new drug.

In support of its position on the circumstances in which an ANDA is authorized, Inwood relies on a letter to

Eric P. Stoer, Esq., former Commissioner Schmidt, dated April 2, 1974. In that letter, Commissioner Schmidt declared that a combination of propoxyphene HCl and acetaminophen was eligible for ANDA status. FDA recognizes that this letter, because it is framed in terms of "general recognition," seems to support Inwood's interpretation of the standards for issuance of an ANDA. As noted previously, however, this interpretation is incorrect and is disavowed.

The Stoer letter contains the following language:

I would caution, however, that this conclusion [that an ANDA is appropriate] is not to be understood as a general precedent applicable to other combinations. Each of these circumstances must be analyzed on the specific facts involved.

The decision in the Stoer letter was based on unique considerations regarding the safety of the active ingredients, the variety of combinations previously approved on the basis of clinical trials, the literature documenting the effectiveness of each of these combinations, and the widespread experience with these combinations. It is by no means certain that, were the decision on this question to be made today, the result would be the same. In any case, the FDA is not prepared to extend the Stoer letter beyond its own particular facts.

It should be noted that, even were Inwood's theory accepted, no ANDA would be appropriate for Orphengesic unless Orphengesic were "generally recognized" by experts as safe and effective, i.e., unless Orphengesic were not a "new drug." As the following discussion shows, Inwood has not justified a hearing on the issue of whether Orphengesic is a "new drug." Thus, even under Inwood's own theory, no hearing on the denial of the Orphengesic ANDA is appropriate.

B. New Drug Issue

In the April 29 notice of opportunity for hearing, Inwood was given an opportunity for a hearing on the proposed order declaring "that * * * Orphengesic [is a] new [drug] as defined in section 201(p) of the act and information relating to the safety and effectiveness of * * * Orphengesic must be contained in a new drug application in order to be approved under section 505 of the act." 42 FR 21852. Inwood did not request a hearing on this issue; it limited its request to the issues related to the denial of the ANDA for Orphengesic. However, Inwood, in its submission of information, "specifically reserves the right to assert 'old drug' status for the product in the event there

are direct or collateral judicial proceedings in this matter" (Submission at 6 n. 2). However, Inwood cannot prevent FDA from declaring Orphengesic to be a new drug simply by stating that Inwood is reserving its rights. Inwood has been granted an opportunity to justify a hearing on this issue, and it has forgone that opportunity. Its right to any hearing has thus been waived, 21 CFR 314.200(e).

However, because Inwood has misunderstood the standard for issuance of an ANDA, much of its submission deals with the question of whether Orphengesic is in fact "generally recognized" as safe and effective. The arguments that Inwood made in the context of its request for approval of an ANDA are thus relevant to the new drug issue and have, for purposes of completeness, been considered by FDA. FDA concludes that Inwood has not presented any issue of material fact with respect to the new drug question.

1. *The Standards.* The term "new drug" is defined by section 201(p)(1) of the act (21 U.S.C. 321(p)(1)) as:

Any drug * * * the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling thereof * * *.

(This definition is further qualified by section 201(p)(2) of the act.) Although the act defines "new drug," it does not contain a definition of "generally recognized * * * as safe and effective."

In 1973, the Supreme Court, in *Weinberger v. Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609 (1973), interpreted the term "general recognition" as it pertains to the effectiveness of a drug as follows:

The thrust of § 201(p) is both qualitative and quantitative. The Act, however, nowhere defines what constitutes "general recognition" among experts. * * * We agree with FDA, however, that the statutory scheme and overriding purpose of the 1962 amendments compel the conclusion that the hurdle of "general recognition" of effectiveness requires at least "substantial evidence" of effectiveness for approval of an ANDA. In the absence of any evidence of adequate and well-controlled investigation supporting the efficacy of [a drug], *a fortiori* [that drug] would be a "new drug" subject to the provisions of the Act. 412 U.S. at 629-30.

We accordingly have concluded that a drug can be "generally recognized" by experts as effective for intended use within the meaning of the Act only when that expert consensus is founded upon "Substantial evidence" as defined in section 505(d), 412 U.S. at 632.

The term "substantial evidence" is defined in the last sentence of section 505(d) of the act, as:

... evidence consisting of adequate and well-controlled investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, on the basis of which it could fairly and responsibly be concluded by such experts that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof.

Although the issues in *Hynson* and its companion cases dealt with the effectiveness of the drugs involved, the Court's holding is equally applicable where safety is an issue. Thus, to be considered not a new drug, a drug must have accumulated the quantum of safety data that would be required for approval of an NDA were one submitted. The conclusion that adequate safety data are necessary for non-new drug status is supported by the Court's holding in *Weinberger v. Bentex Pharmaceuticals, Inc.*, 412 U.S. 645 (1973), that "the reach of scientific inquiry under both section 505(d) and section 201(p) is precisely the same." 412 U.S. at 652. (Section 505(d) of the act details the safety, as well as the effectiveness, requirements for NDA approval.) See also 21 CFR 314.200(e)(1).

In *Bentex*, based on its discussion of the term "general recognition" in *Hynson*, the court concluded:

Whether a particular drug is a "new drug" depends in part on the expert knowledge and experience of scientists based on controlled clinical experimentation and backed by substantial support in scientific literature.

412 U.S. at 652 (emphasis added). The requirement that a drug have adequate safety and effectiveness data, and also that the data be published in the scientific literature, is designed to assure that the community of qualified experts is aware of the data concerning the drug. Thus, general recognition of a drug would not exist merely because the required investigations had been performed, but not published in the scientific literature. The practical effect of the statutory system, as the Supreme Court observed in *Hynson, supra*, is that drugs will have accumulated sufficient scientific evidence to justify approval of an NDA "long before they are in a position to drop out of active regulation by ceasing to be a 'new drug'" (412 U.S. at 631).

Under the Supreme Court's interpretation of the act, therefore, general recognition of the safety and effectiveness of Orphengesic depends upon two criteria: (1) adequate investigations conducted by qualified

experts establishing the safety and effectiveness of the drug and published in the scientific literature, and (2) expert consensus, based upon that evidence, that the drug is safe and effective.

With respect to the first criterion, the safety of Orphengesic must be established by adequate tests by all methods reasonably applicable (see 21 U.S.C. 355(d); 21 CFR 314.111(a)(1)). In addition, the effectiveness of Orphengesic must be established by "substantial evidence," i.e., adequate and well-controlled investigations, including clinical investigations involving human beings as test subjects. The requirements for an adequate and well-controlled clinical investigation are set forth in 21 CFR 314.111(a)(5) (see discussion below). The results of both types of testing must be available to the community of experts in the evaluation of drug safety and effectiveness by means of publication in the scientific literature.

To satisfy the second criterion, a showing must be made of recognition, among the qualified experts, which is "general." At a minimum, "general recognition" requires recognition "extensively, though not universally; most frequently, but not without exception." (*United States v. 7 Cartons, More or Less*, 293 F. Supp. 660, 662-63 (S.D. Ill. 1968) *aff'd*, 424 F.2d 1364 (7th Cir. 1970)).

2. *Data Necessary for Approval of a New Drug Application.* a. *Clinical Investigations.* In its hearing request, Inwood asserted that "submission of data is neither necessary nor appropriate in this proceeding" (Submission at 13). In a supplemental submission, however, Inwood referred to a number of references from the publicly available data in the new drug application for a drug product called Norgesic (NDA 13-416). Norgesic's active ingredients, recommended dosage, and indications are identical to those of Orphengesic. The NDA for Norgesic, however, was approved after 1962. With a rare exception not applicable here, FDA's policy does not provide for the approval of ANDA's for drugs identical to drugs subject to NDA's approval after 1962.

The studies in Inwood's supplemental submission were neither submitted nor evaluated by Inwood in the manner required by 21 CFR 314.200(d) and (e). FDA regulations state explicitly: "The failure to submit such scientific evidence or a submission that is not in the format or does not contain the analyses required by paragraph (d) of this section shall constitute a waiver of any (contention that a drug is not a new

drug)." 21 CFR 314.200(e)(1). Thus, even if Inwood's submission were regarded as a request for a hearing on the new drug issue, Inwood has failed to comply with clearly articulated regulations and therefore has waived its right to a hearing on that issue.

The NDA for Norgesic contains several studies of APC and orphenadrine citrate. One of those studies—the Birkeland study, which is discussed below—is an adequate and well-controlled clinical investigation showing that the combination is effective. However, Inwood did not cite the Birkeland study in its supplemental submission, and none of the studies that are referred to in that submission constitutes an adequate and well-controlled investigation showing Orphengesic to be an effective combination drug. Because Orphengesic is a combination, each component must be shown in well controlled studies meeting the criteria set forth in 21 CFR 314.111, to make a contribution to the drug's effectiveness or safety, i.e., the combination must be shown to be either more effective or more safe than its components separately, 21 CFR 300.50(a). (For this purpose, APC is considered a single component.) In addition, it must be demonstrated that there is a significant patient population that requires the therapy for which the drug is prescribed, 21 CFR 300.50(a). The following paragraphs discuss the failure of each of the referenced studies to support a conclusion that Orphengesic is effective in accordance with the agency's criteria for adequate and well-controlled clinical investigations in 21 CFR 314.111:

Ginzel Report. This study, Ginzel, F. H., "The Blockade of Reticular and Spinal Facilitation of Motor Function by Orphenadrine," *Journal of Pharmacology and Experimental Therapeutics*, 154(1):128-41, 1966, is a pre-clinical study of orphenadrine in anesthetized, spinal and decerebrate cats. The study deals neither with human beings nor with the drug in question. It cannot be considered an adequate and well-controlled clinical investigation showing the effectiveness of Orphengesic.

Wagner Report. This report, Wagner, C. R., "A New Nonaddictive Analgesic in Oral Surgery," *Journal of the California Dental Association*, 43:15-16, 1967, summarizes data from an unselected group of patients seen in a dental practice. Each patient received one or two tablets of the Norgesic combination after having been subjected to a dental procedure (usually one or more extractions) under general, local,

or no anesthesia. Satisfactory relief of pain was reported in 74 of 88 patients who received general anesthesia, 8 of 13 who received local anesthesia, and 7 of 8 who received no anesthesia.

According to the investigator, this was not a controlled double-blind study. It did not compare the effectiveness and safety of Orphengesic with the effectiveness and safety of each of its components. Because no control group was utilized, the study was not an adequate and well-controlled clinical investigation, 21 CFR 314.111(a)(5)(ii)(a)(4). In the absence of a control group, other criteria of a well-controlled study cannot be met, such as unbiased assignment to treatment groups and minimization of investigator bias, 21 CFR 314.111(a)(5)(ii)(a)(2)(ii) and (3).

Lamphier Report. This report, Lamphier, T. A., "An Effective Analgesic in Orthopedic Patients," *Medical Digest*, 12:93-95, 1966, is a study in which 100 ambulatory office patients complaining of severe and incapacitating pain due to industrial injuries were treated with one tablet of Norgesic administered four times daily. The duration of therapy varied from 21 to 91 days. The report states that 83 percent of the patients had excellent symptomatic relief. No explanation is given of how the extent of relief was determined, i.e., whether that conclusion was based on the subjective evaluation of the patient or the subjective or other evaluation of the investigator. Again, there was no comparison of Orphengesic with its components, so that the study cannot supply the information required by 21 CFR 300.50. The study had no control group and is, for that reason, not an adequate and well-controlled clinical investigation, 21 CFR 314.111(a)(5)(ii)(a)(2)(4).

Seagraves Study. This study, Seagraves, J. E., et al., "Management of Pain in Acute and Chronic Orthopedic Conditions," *Illinois Medical Journal*, 531-533 (November, 1965), was a retrospective report on pain management in 75 orthopedic patients with conditions ranging from strains to inflammatory disorders. Patient were 15 to 85 years of age. The Norgesic combination was the sole medication given at a rate of one tablet four times a day in 72 of the patients and two tablets four times a day in 3 patients. The treatment period varied from 1 day to more than 1 year. The results were classified as satisfactory for 73 percent of the patients and unsatisfactory for the remainder. The report does not purport to be a clinical trial and does not constitute an adequate and well-

controlled clinical investigation comparing Orphengesic with its components, 21 CFR 300.50. The study did not have a control group, as required by 21 CFR 314.111(a)(5)(ii)(a)(2)(4). Furthermore, the report is inadequate in that the subjects were affected with a variety of problems (e.g., fractures, inflammatory disorders, musculoskeletal disorders) that would be expected to respond differently to different types of medication, see 21 CFR 314.111(a)(5)(ii)(a)(2)(i).

Batterman Study. This study, Batterman, R. C., "Methodology of Analgesic Evaluation: Experience with Orphenadrine Citrate Compound," *Current Therapy Research*, 7:639-647, 1965, is a report of two clinical studies that compared Norgesic against its components, i.e., APC and orphenadrine citrate, and against a placebo. The two studies utilized different techniques. In each, analysis of the results obtained did not show that the Norgesic compound was more effective than its components.

In the first study, 38 patients with chronic pain and disability from arthritic disorders were entered into a crossover study in which each patient was to receive the four regimens in random order. Only 23 patients, however, were given all four regimens. Four patients received three preparations; eight patients received two preparations; three patients received only one. Statistical analysis showed that pain relief was not significantly greater in any one group than in any other, even utilizing a P value at less than 0.1 as a test of statistical significance. (P = 0.05 is a common standard for statistical significance.) The incidence of side effects was greatest with the combination. Thus the study not only failed to show a contribution of each of the components, as required by 21 CFR 300.50, but it also failed to show that the combination itself was more effective than a placebo.

In the second study, 78 patients were administered one or more of the four regimens. The stated primary purpose of this study was to administer only one drug to each of the patients over a longer period of time (2 to 4 weeks) than that used in the first test. However, in some cases, when the individual investigator concluded "that the optimum results of any trial were achieved" (page 640), the first drug was discontinued and another drug was supplied to the same patient (i.e., a "cross-over" technique was utilized). The four preparations in the study were color-coded; the subject and the investigator therefore knew that there

was a difference between products. This is a primitive method of blinding and is susceptible to breakdown if, for any reason, it becomes necessary to know which drug any patient is receiving, e.g., if the patient has an adverse effect. This study is thus inadequate under 21 CFR 314.111(a)(5)(ii)(a)(3) because the difference in appearance of the medications administered compromised, at least to a certain extent, the blinding, so that the subject, or the investigator, could have been biased by the appearance of a drug product.

More important, the study failed to show a contribution of each component to effectiveness. The investigator reported that: "With long-term administration, the over-all effect of orphenadrine citrate compound [Norgesic] was the same as APC" (p. 643). In fact, the reported results show that the Norgesic combination did slightly less well than APC alone. See discussion of 21 CFR 300.50 above. Again, the combination was responsible for the largest number of reported adverse effects.

Despite the failure of either test to show improvements with the combination that were significantly greater than improvements seen with the components, the investigator states that "the clinical impression gained by patients [sic] acceptance and comparative statements which cannot be given numbers, favors the combination." This sort of observation cannot be considered "controlled." 21 CFR 314.111(a)(5)(ii)(a)(4) clearly requires a quantitative comparison of treatments. The "clinical impressions" of the investigators, without any supporting data (in fact with controlled data tending to contradict the impression), do not provide evidence for a conclusion that the combination drug is effective.

No other studies are cited in support of the effectiveness of this combination in any written submission by Inwood. However, in a November 30, 1977 meeting, counsel for Inwood informed an attorney in the office of the Chief Counsel of the FDA that Inwood wished also to rely upon two studies, relating to Norgesic, that had been referred to in the opinion in *United States v. An Article of Drug . . . X-Otag Plus*, 441 F. Supp. 105 (D. Col. 1977), appeal docketed, No. 77-1946 (10th Cir. Dec. 29, 1977). This action cannot be considered a submission of information to the agency in response to a request for a hearing, and these studies are not properly before the agency for consideration in this proceeding. See discussion of 21 CFR 314.200(e)(1)

above. However, to provide the most complete record possible, these studies will be considered:

Birkeland Study. This study, Birkeland, I. W., and D. K. Clawson, "Drug Combinations with Orphenadrine for Pain Relief Associated with Muscle Spasm," *Journal of Clinical Pharmacology and Therapeutics*, 9(5):639-648, 1968, is regarded by FDA as acceptable as an adequate and well-controlled clinical investigation to show the Norgesic combination's effectiveness.

Cass Study. This study, Cass, L. J., and W. S. Frederik, "An Evaluation of Orphenadrine Citrate in Combination With APC as an Analgesic," *Current Therapeutic Research*, 8(6):400-408, 1964, is not acceptable as a clinical evaluation of this drug. FDA disqualified Dr. Cass as a clinical investigator because of proof that his testing included falsified data. Evidence in the files of FDA shows that, in fact, this particular study involved falsification of data. The study, for that reason, must be totally disregarded. (Even if the study were considered valid, deficiencies in its design would prevent it from being regarded as an adequate and well-controlled investigation.)

Therefore, Inwood has submitted no adequate and well-controlled clinical investigations, available to experts through publication in the scientific literature, that show that Orphengenic is effective for its indicated uses. The agency is aware of only one study, that of Birkeland and Clawson, discussed above, that might appropriately be used to show the effectiveness of this drug. That study, as noted previously, is not properly before the agency in this proceeding.

b. **Safety data.** No safety data were either submitted or referred to by Inwood in its submission in support of its hearing request. Statements that a similar drug has been used for many years without incident are not acceptable to show the drug's safety.

3. **Consensus of expert opinion.** Inwood has submitted no evidence of any expert consensus with respect to the safety and effectiveness of Orphengenic. In fact, Inwood apparently takes the position that it is not required to do so. Inwood states: "Nor should the fact that Inwood does not cite any scientific publication or statement of expert opinion in support of the general recognition of the safety and efficacy of its product [derogate from general recognition]" (Submission at 9). Inwood instead relies on the fact that a drug product with identical active ingredients (i.e., Norgesic) has been marketed for 13

years with FDA approval. A drug is not, however, necessarily generally recognized by experts as safe and effective merely because it is approved by FDA. See discussion of Relevance of Norgesic Experience, below. There may well be many in the medical community who would question the safety and effectiveness of the approved product.

The burden is on Inwood to make some showing that there is a factual issue on the question of whether there is general recognition of the safety and effectiveness of its product among appropriately qualified experts. As the Director stated in the April 29 notice of opportunity for hearing, "[a]ssertions that X-Otag Plus or Orphengenic are not 'new drugs,' without any supporting evidence, do not create a presumption against new drug status" (42 FR 21850). Rather the opposite is true: Once a proposed declaration that a drug is a new drug is issued, the burden is, and must be, upon the party disputing this assertion to present evidence that there is a factual issue warranting a hearing. See *United States v. Allan Drug Corp.*, 357 F.2d 713 (10th Cir.), cert. denied, 385 U.S. 899 (1966).

4. **Significance of Past Use of Ingredients of Orphengenic.** Inwood, in its supplementary submission (at 4), suggests that there is no need for adequate and well-controlled investigations to show the general recognition of effectiveness of orphengenic if "the product consists entirely of active ingredients which have been long used and recognized as safe and effective." Although the agency rejects this proposition, it is apparent in any case that the ingredients of which Orphengenic is composed are themselves new drugs. Thus, under FDA regulations, any combination containing those ingredients would itself be a new drug, 21 CFR 310.3 (h)(1).

As the notice of opportunity for hearing stated, orphenadrine citrate in the form of a drug called Norflex Tablets (100 mg) has been found to be a new drug by the FDA (see DESI notice 6566, 39 FR 9487; March 11, 1974). Orphenadrine citrate has in fact been treated as a new drug by FDA since 1959, when it was first introduced. To quote the notice of opportunity for hearing at 42 FR 21849:

No significant volume of published literature or other indicators of scientific opinion have come close to the attention of FDA to suggest that, among qualified experts, orphenadrine citrate is now generally recognized as safe and effective for the indications set forth in the DESI notice 6566 [pertaining to Norflex] or for any other indications.

Although the Director has not proposed to make a final determination whether orphenadrine citrate alone is still a new drug, the lack of evidence that it has ceased to be a new drug means that, pursuant to 21 CFR 310.3(h)(1), there is a lack of any issue of fact concerning the new drug status of Orphengenic.

Similarly, APC, itself a combination drug, has not been found by the agency to be generally recognized as safe and effective or not to be a new drug. In fact, phenacetin, one of the ingredients in APC, has been found not to be "generally recognized" by experts as safe for over-the-counter use as an analgesic by the FDA Advisory Review Panel on Over-the-Counter Internal Analgesic and Antirheumatic Products (see 42 FR 35346; July 8, 1977). Similarly, APC, as a combination containing phenacetin, was found by that panel not to be "generally recognized" as safe for over-the-counter use. (See 42 FR 35371).

Even were the active ingredients of Orphengenic classified as non-new drugs, the use of the drugs in combination could make them new drugs, 21 CFR 310.3(h)(2). This necessarily follows from the combination policy set forth in 21 CFR 300.50. This policy is based on the fact that, because of drug interaction, the combination of two safe and effective drugs may be less safe or less effective than the component drugs administered separately. The policy also reflects a recognition that, because all drugs present some risk, the use of two drugs which provide no more benefit than one alone cannot be justified. Thus, a combination drug must be more safe or more effective than each of its components alone. Also, because the availability of combinations may encourage use of combinations where single ingredient drugs would be more appropriate, combinations are proper only where there is a significant patient population requiring the concurrent therapy for which the drug is offered.

5. **Relevance of Norgesic Experience.** As noted previously, the active ingredients in Orphengenic are identical to those in a drug product called Norgesic. Norgesic is the subject of a new drug application approved by the FDA in 1964. This fact does not provide a basis for a conclusion that Orphengenic is not a "new drug." As the notice of opportunity for hearing stated at 42 FR 21850:

It is settled in the case law interpreting sections 505 and 201(p) of the act that the agency's finding that a drug is safe and effective under section 505 is not the same as, and is quite distinct from, general recognition

of safety and effectiveness. See, e.g., *Durovic v. Richardson*, 479 F.2d 242 (7th Cir. 1973), cert. den. 414 U.S. 944 (1973); *Bentex Pharmaceuticals, Inc. v. Richardson*, 483 F.2d 363 (4th Cir. 1972), rev'd on other grounds sub nom. *Weinberger v. Bentex Pharmaceuticals, Inc.*, 412 U.S. 645 (1973); *United States v. An Article of Drug . . . Furestrol*, 415 F.2d 390 (5th Cir. 1969); *AMP, Inc. v. Gardner*, 389 F.2d 825 (2d cir. 1968), cert. den. sub nom. *AMP, Inc. v. 393 U.S. 825* (1968); *Weinberger v. Hynson, Westcott & Dunning*, 412 U.S. 609, 631 (1973).

The standards for approval of a new drug application are, and should be, much less stringent than the standards for finding a drug to be exempt from any regulation at all, i.e., to be not a new drug. Congress clearly contemplated that FDA, after careful review of the data submitted, would approve drugs in situations in which general recognition could not be found. See, e.g., S. Rep. 1744, 87th Cong., 2d Sess. at 16 (1962), appearing in 1962 U.S. Code, Cong. & Admin. News at 2892:

When a drug has been adequately tested by qualified experts and has been found to have the effect claimed for it, this claim should be permitted even though there may be preponderant evidence to the contrary based upon equally reliable studies. There may also be a situation in which a new drug has been studied in a limited number of hospitals and clinics and its effectiveness established only to the satisfaction of a few investigators qualified to use it. There may be many physicians who would deny the effectiveness simply on the basis of disbelief growing out of their past experience with other drugs or with the diseases involved.

Thus, even were all of the safety and effectiveness data in the Norgesic new drug application publicly available, neither Norgesic nor Orphengenic would have been shown, by the approval of the Norgesic NDA, to be non-new drugs. Inwood, of course, does not have access to those safety and effectiveness data in the Norgesic new drug application that are not publicly available, 21 CFR 314.14. For a discussion of the reasons why FDA regards such information as nondisclosable, see generally the public information regulations published at 39 FR 44802 (December 24, 1974).

V. Findings

The agency finds that an ANDA is not appropriate for Orphengenic Tablets. The agency further finds that ANDA 85-682, because it is a new drug application that lacks required safety and effectiveness data, may not be approved, 21 U.S.C. 355(d).

The agency finds that Inwood has, by failing to request a hearing, waived its right to a hearing on the proposal to declare Orphengenic Tablets to be a

"new drug" within the meaning of 21 U.S.C. 321(p); 21 CFR 314.200(e). Even assuming, *arguendo*, that Inwood's request for a hearing on the proposed refusal to approve ANDA 85-682 is a constructive request for a hearing on the new drug issue, Inwood has waived its right to a hearing by failing to submit data and analysis in accordance with 21 CFR 314.200 (c)(1)(ii), (d), and (e). In any case, that information referred to by Inwood fails to show a genuine and substantial issue of fact that warrants a hearing on that issue.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 505, 701, 52 Stat. 1041-1042 as amended, 1052-1053 as amended by 76 Stat. 781-785, 1055-1056 as amended (21 U.S.C. 321(p), 355, 371)) and under authority delegated to the Commissioner (21 CFR 5.1), the request for a hearing is denied; approval of ANDA 85-682 is refused; and Orphengenic Tablets is declared to be a "new drug" within the meaning of 21 U.S.C. 321(p).

Dated: July 23, 1979.

Sherwin Gardner,

Acting Commissioner of Food and Drugs.

[FR Doc. 79-23408 Filed 7-30-79; 8:45 am]

BILLING CODE 4110-03-M

Peripheral and Central Nervous System Drugs Advisory Committee; Meeting; Correction

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The location and the agenda for the Peripheral and Central Nervous System Drugs Advisory Committee meeting announced by notice in the *Federal Register* of July 17, 1979 (44 FR 41549) has been changed. The meeting will be held in Conference Rooms G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD. The meeting dates remain August 27 and 28, 1979. The open public hearing beginning at 9 a.m. will continue as long as required until all testimony is heard. The open committee session will follow the hearing.

FOR FURTHER INFORMATION CONTACT: Robert C. Nelson, Bureau of Drugs (HFD-120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3800.

Dated: July 25, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-23487 Filed 7-30-79; 8:45 am]

BILLING CODE 4110-03-M

National Institutes of Health

Biometry and Epidemiology Contract Review Committee Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Biometry and Epidemiology Contract Review Committee, National Cancer Institute, August 20, 1979, Building 31, Conference Room 8, Bethesda, Maryland 20205. The meeting will be open to the public on August 20, from 8:30 a.m. to 9:00 a.m., to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on August 20, from 9:00 a.m. to adjournment, for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Wilna A. Woods, Executive Secretary, National Cancer Institute, Westwood Building, Room 821, National Institutes of Health, Bethesda, Maryland 20205 (301/496-7153) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.393, National Institutes of Health)

Dated: July 25, 1979.

Suzanne L. Freneau,

Committee Management Officer, NIH.

[FR Doc. 79-23551 Filed 7-30-79; 8:45 am]

BILLING CODE 4110-08-M

Office of the Secretary

Office of the Inspector General; Delegation of Authority To Issue Subpoenas

Notice is hereby given of delegation by the Inspector General to the Deputy Inspector General, the Assistant Inspector General for Investigations, and the Director of the Division of Special Assignments of the authority vested in the Inspector General by

section 205(a)(3) of Pub. L. 94-505 (42 U.S.C. 3525). Section 205(a)(3) authorizes the Inspector General to subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary to carry out any investigation or other proceeding authorized or directed under Title II of Pub. L. 94-505.

The Inspector General has not limited his authority to issue subpoenas by this delegation nor has he authorized the redelegation of this authority.

The delegation is effective immediately.
Dated: July 20, 1979.

Frederick M. Bohan,
Assistant Secretary for Management and Budget.

[FR Doc. 79-23520 Filed 7-30-79; 8:45 am]
BILLING CODE 4110-12-M

Meeting of the Secretary's Advisory Committee on the Rights and Responsibilities of Women

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which is established to provide advice to the Secretary of Health, Education, and Welfare on the impact of the policies, programs, and activities of the Department on the status of women will meet on Thursday, August 23, 1979, from 10:00 a.m. to 5:00 p.m., and on Friday, August 24, 1979, from 10:00 a.m. to 3:00 p.m. in Room 723-A, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. The agenda will include issues of concern to the task forces on Health, Family Policy, Title IX, Social Security and Equal Employment.

Further information on the Committee may be obtained from: Ruth Segal, telephone 202-245-8454. These meetings are open to the public.

Date: July 24, 1979.

Jerry Bennett,
Executive Officer, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 79-23521 Filed 7-30-79; 8:45 am]
BILLING CODE 4110-12-M

Office of Assistant Secretary for Health

President's Council on Physical Fitness and Sports; Cancellation and Rescheduling of Meeting

The meeting that was published in 44 FR, Page 41965, July 18, 1979 to be held on August 2, 1979 from 10:00 a.m.-4:00 p.m. in the New Executive Office

Building, 17th & Pennsylvania Avenue, NW., Washington, D.C. is cancelled.

The President's Council on Physical Fitness and Sports (PCPFS) will now hold its quarterly meeting on September 8, 1979 from 10:00 a.m. to 4:00 p.m. in the New Executive Office Building, 17th & Pennsylvania Avenue, NW., Washington, D.C.

The purpose of the meeting is to report on ongoing projects and to discuss future directions of the PCPFS.

A list of Council members and the Executive Order dated September 25, 1970, amended October 25, 1976, establishing their responsibilities, may be obtained from:

C. Carson Conrad, Executive Director,
President's Council on Physical Fitness and Sports, Washington, D.C. 20201, Telephone: 202/755-7947.

The meeting will be open to the public.

Dated: July 24, 1979.

C. Carson Conrad,
Executive Director, President's Council on Physical Fitness and Sports.

[FR Doc. 79-23522 Filed 7-30-79; 8:45 am]
BILLING CODE 4110-85-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

July 23, 1979.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 54.8(a) notice is hereby given that the Traditional Kickapoo Tribe, c/o Walt Broemer, Texas Indian Commission, 1011 Alston, Livingston, Texas 77351, has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian Tribe. The petition was received by the Bureau of Indian Affairs on July 12, 1979. The petition was forwarded and signed by Aurelio Garcia, Tribal Chairman.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 54.8(d) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will

be made available on the same basis as other information in the Bureau of Indian Affairs' files.

The petition may be examined by appointment in the Division of Tribal Government Services, bureau of Indian Affairs, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20242.

Rick Lavis,
Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 79-23557 Filed 7-30-79; 8:45 am]
BILLING CODE 4310-02-M

Bureau of Land Management

[Colorado 0119902-a]

Western Slope Gas Co.; Pipeline Application

July 23, 1979

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Western Slope Gas Company, P.O. Box 840, Denver, Colorado 80201, has applied for rights-of-way for three 4-inch o.d. natural gas distribution pipelines totaling approximately 0.74 linear mile across the following public lands:

Sixth Principal Meridian, Colorado

T. 1 S., R. 101 W.,

Sec. 18, in Rio Blanco County.

The primary purpose for construction of the proposed pipelines is to enable the applicant to convey natural gas from three Chancellor Fork Unit wells in the North Douglas Natural Gas Field to the Rangely and Grand Junction, Colorado, market areas by way of the West Douglas to Rangely and the West Douglas to Grand Junction Natural Gas Transmission Lines.

The purposes of this notice are: to inform the public that the Bureau of Land Management will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved and, if so, under what terms and conditions; to allow interested parties to comment on the application; and to allow any persons asserting a claim to the lands or having bona fide objections to the proposed natural gas pipeline rights-of-way to file their objections in this office. Any person asserting a claim to the lands or having bona fide objections must include evidence that a copy thereof has been served on the applicant. Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office,

Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

Andrew W. Heard, Jr.,
Leader, Craig Team, Branch of Adjudication.
[FR Doc. 79-23486 Filed 7-30-79; 8:45 am]
BILLING CODE 4310-84-M

[NM 37669]

New Mexico; Application

July 23, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4½-inch natural gas pipeline rights-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 9 S., R. 30 E.,

Sec. 20, SW¼SE¼;

Sec. 29, E½E½ and NW¼NE¼.

This pipeline will convey natural gas across 1.142 miles of public land in Chaves County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Fred E. Padilla,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-23558 Filed 7-30-79; 8:45 am]
BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Seaworld of Florida; Receipt of Application

Applicant: Sea World of Florida, 7007 Sea World Dr., Orlando, Florida 32809.

The applicant requests a permit to buy ¼ Nene (*Branta sandvicensis*) in interstate commerce for propagation.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and

Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4514. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: July 25, 1979.

Donald G. Donahoo,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-23595 Filed 7-30-79; 8:45 am]
BILLING CODE 4310-55-M

Endangered Species Permit; Zoological Society of Philadelphia et al.; Receipt of Application

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species:

Applicant: Zoological Society of Philadelphia, 34th & Girard Ave., Philadelphia, Pennsylvania 19104; PRT 2-4374.

The applicant requests a permit to purchase in interstate commerce two black and white ruffed lemurs (*Lemur variegatus*) from the Duke University Primate Center, Durham, North Carolina for enhancement of propagation.

Applicant: Endangered Species Coordinator, U.S. Fish and Wildlife Service, P.O. Box 50167, Honolulu, Hawaii 96850; PRT 2-4394.

The applicant requests a permit to band, mark, census, observe, and film Laysan teal (*Anas laysanensis*) on Laysan Island for scientific research and enhancement of survival.

Applicant: Jackson Zoological Park, 2918 W. Capitol St., Jackson, Mississippi 39209; PRT 2-4398.

The applicant requests a permit to import in the course of a commercial activity two Bactrian camels (*Camelus bactrianus*) from the Bowmanville Zoo, Ontario, Canada, for enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia or by writing to the Director, U.S. Fish and Wildlife Service, WFO, Washington, D.C. 20240.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address.

Dated: July 25, 1979.

Donald G. Donahoo,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-23594 Filed 7-30-79; 8:45 am]
BILLING CODE 4310-55-M

Issuance of Permit for Marine Mammals and Endangered Species

On May 14, 1979, a Notice was published in the Federal Register (44 FR 28115), that an application had been filed with the Fish and Wildlife Service by the California Department of Fish and Game, 1416 Ninth St., Sacramento, California 95814, for an amendment to permit PRT 2-319. This permit would authorize the use of certain drugs for restraining captured sea otters (*Enhydra lutris*), tag pups 12 pounds or larger, use of a small monel ear tag, use tangle nets at night and conduct a simulated transplant experiment to study the effects of translocation on sea otters. No additional taking of sea otters was requested.

Notice is hereby given that on July 11, 1979, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Fish and Wildlife Service issued an amendment to permit PRT 2-319, to authorize the activities described above, subject to certain conditions set forth therein.

The amendment is available for public inspection during normal business hours at the Fish and Wildlife Service's office in Room 601, 1000 N. Glebe Road, Arlington, Virginia.

Dated: July 25, 1979.

Donald G. Donahoo,
Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 79-23596 Filed 7-30-79; 8:45 am]
BILLING CODE 4310-55-M

National Fish and Wildlife Laboratory; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a permit to take manatees as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 18), and the Endangered Species Act of 1973 (16 U.S.C. 1531-1539) and the Regulations Governing the Taking of Endangered Species (50 CFR 17).

1. Applicant:
 - a. Name: Director, National Fish and Wildlife Laboratory.
 - b. Address: National Museum of Natural History, Washington D.C. 20560.
2. Type of Permit: Scientific research.
3. Name and Number of Animals: Manatee (*Trichechus manatus*). 6
4. Type of Activity: Attach radio transmitters to peduncle of each manatee.

5. Location of Activity: Primarily in Citrus and Levy Counties, Florida, Crystal and Hamassassa Rivers.

6. Period of Activity: Two years beginning 8/1/79 or as soon possible.

The purpose of this application is to learn more about the habits of manatees with the aid of radio transmitters attached to the peduncle of each manatee by means of webbed belts. The transmitters have a lifespan of about six months and will need to be replaced as they quit operating. Attachment will need to be made on unrestrained manatees by divers swimming alongside.

Concurrent with the publication of this notice in the Federal Register the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

The application has been assigned file number PRT 2-4405. Written data or views, or requests for copies of the complete application or for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the United States Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia 22203.

Dated: July 25, 1979.

Donald G. Donahoo,
Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 79-23867 Filed 7-30-79; 8:45 am]

BILLING CODE 4310-55-M

Threatened Species Permit; Napoleon A. Jesus, et al.; Receipt of Permit Renewal Requests

The permit holders listed below wish to renew their Captive Self-Sustaining Population permits authorizing the purchase and sale in interstate commerce, for the purpose of propagation, the indicated species listed in 50 CFR 17.11 as T(C/P). Humane shipment and care in transit is assured.

These permit files and supporting documents are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, USFWS, WFO, Washington, D.C. 20240. Interested persons may comment on these applications on or before August 30, 1979 by submitting written data, views, or arguments to the Director at the above address.

Applicant: Napoleon A. Jesus, 43 Tihonet Rd., Wareham, Massachusetts 02571; PRT 2-937. Species: all T(C/P) pheasants.

Applicant: San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112; PRT 2-513. Species: all T(C/P) mammals.

Please refer to the individual applicant and the appropriately assigned PRT 2-number when submitting comments.

Dated: July 25, 1979.

Donald G. Donahoo,
Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 79-23868 Filed 7-30-79; 8:45 am]

BILLING CODE 4310-55-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before July 20, 1979. Pursuant to section 60.13 of 36 CFR Part 60, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments or a request for additional

time to prepare comments should be submitted on or before August 10, 1979.

Charles A. Herrington,
Acting Keeper of the National Register.

CONNECTICUT

New London County

Groton, Eastern Point Historic District, irregular pattern along Eastern Point Rd.

HAWAII

Kauai County

Puhi, Grove Farm Company Locomotives, off HI 50.

Mauai County

Kalae, Meyer, R. W., Sugar Mill, HI 47.

ILLINOIS

Cook County

Chicago, Villa Historic District, roughly bounded by Avondale, W. Addison, N. 40th, and N. Hamlin Aves.

INDIANA

Marion County

Indianapolis, Johnson-Denny House, 4456 N. Park Ave.

Tippecanoe County

Lafayette, Perrin Historic District, roughly bounded by Murdock Park, Sheridan Rd., Columbia, Main and Union Sts.

KENTUCKY

Fayette County

Athens, Athens Historic District, Athens-Boonesboro Pike.
Lexington, Price, Pugh, House, 2245 Liberty Rd.
Lexington, Price, Williamson, House, 2497 Liberty Rd.

Jefferson County

Anchorage vicinity, Dorsey-O'Bannon-Hebel House, E of Anchorage at 13204 Factory Lane.
Louisville, Meek-Miller House, 3123 N. Western Pkwy.

MARYLAND

Harford County

Aberdeen vicinity, Winsted, N of Aberdeen at 3844 W. Chapel Rd.

MONTANA

Custer County

Miles City vicinity, Waterworks Building and Pumping Plant Park, W of Miles City on Pumping Plant Rd.

NEVADA

Douglas County

Glenbrook, Lake Shore House, Glenbrook Rd.

NEW HAMPSHIRE

Rockingham County

Portsmouth, New Hampshire Bank Building, 22-26 Market Sq.

NEW YORK

Genesee County

LeRoy, Keeney House, 13 W. Main St.

NORTH DAKOTA

Cass County

Fargo, Grand Lodge of North Dakota, Ancient Order of United Workmen, 112-114 N. Roberts St.

OHIO

Champaign County

Urbana, Urbana College Historic Buildings, College Way.

Cuyahoga County

Bratenahl, Pickands, Jay M., House, 9619 Lake Shore Blvd.
Brookpark vicinity, Donalds, Samuel, House, 6511 Ruple Rd.
Cleveland, Wheatley, Phillis, Association, 4450 Cedar Ave.
Lakewood, Nicholson, James, House, 13335 Detroit Ave.

Erie County

Vermilion, Francis, Joseph, Iron Surf Boat, 480 Main St.

Franklin County

Columbus, Higgins, H. A., Building (Flatiron building) 129 E. Naghten St.

Geauga County

Burton, Domestic Arts Hall and Flower Hall, Geauga County Fairgrounds.

Greene County

Xenia, East Second Street District, 184-271 E. 2nd St.

Jefferson County

Steubenville, Ohio Valley Clay Company, Washington and Water Sts.

Lake County

Wickliffe, Coulby, Harry, Mansion, 28730 Ridge Rd.

Logan County

Bellefontaine, Lawrence, William, House, 325 N. Main St.

Montgomery County

Dayton, Pretzinger, Rudolph, House, 908 S. Main St.

Muskingum County

Frazeyburg vicinity, Baughman Memorial Park, W of Frazeyburg on OH 586.
Zanesville, Tannehill, Capt. James Boggs, House, 367 Taylor St.
Zanesville vicinity, Tanner, William C., House, NW of Zanesville.

Perry County

Thornville vicinity, Whitmer, Solomon, House, N of Thornville at 13917 Zion Township Rd., NW.

Scioto County

Portsmouth, St. Mary's Roman Catholic Church, 5th and Market Sts.

Wood County

Rossford, Indian Hills Site.

PENNSYLVANIA

Philadelphia County

Philadelphia, Walnut-Chancellor Historic District, roughly bounded by 20th, 21st, Walnut and Locust Sts.

TEXAS

Bowie County

Texarkana, Hotel McCartney, State Line Ave.

Fayette County

Schulenburg, Schulenburg Cotton Compress, James and Main Sts.

Floyd County

Floydada vicinity, Floydada Country Club site, 7 mi. S of Floydada off U.S. 62.

Nueces County

Port Aransas, Tarpon Inn, 200 E. Cotter St.

WASHINGTON

Pacific County

Ocean Park, Wreckage, The, 256th Pl.
[FR Doc. 79-23186 Filed 7-30-79; 8:45 am]
BILLING CODE 4310-03-M

Office of the Secretary

Outer Continental Shelf Advisory Board Policy Committee; Notice and Agenda for Meeting

This notice is issued in accordance with the provision of the Federal Advisory Committee Act, Pub. L. 92-643, 5 U.S.C. App. I and the Office of Management and Budget's Circular No. A-63, Revised.

The policy Committee of the Outer Continental Shelf Advisory Board will meet during the period 8:30 a.m. to 4:30 p.m., August 29, 1979, and 9:00 a.m. to 12:00, August 30, 1979, at the Holiday Inn-Downtown, 88 Spring Street, Portland, Maine.

The meeting will cover the following principal subjects:

August 29, 1979

- (1) Status of OCSLAA Implementation.
- (a) Proposed 5-Year OCS Leasing Program.
- (b) Regulations Update.
- (c) OCS Participation Grants.
- (d) Fishermen's Contingency Fund.
- (e) Environmental Studies Program.
- (f) Coast Guard Activities.
- (2) Federal Consistency: Status and Issues.
- (3) OCS Lease. Sales Update.
- (a) Sale 48 (California).
- (b) Sale 42 (Georges Bank).
- (4) New England OCS Studies.

August 30, 1979.

- (1) Superfund Legislation.
- (2) Deep Water Technology.

The meeting is open to the public. Interested persons may make oral or written presentations to the Committee. Such requests should be made no later than August 20 to: Alan D. Powers, Office of OCS Program Coordination, Department of the Interior—Room 5150, Washington, D.C. 20240 (202/343-9311).

Requests to make oral statements should be accompanied by a summary of the statement to be made.

Minutes of the meeting will be available for public inspection and copying eight weeks after the meeting at the Office of OCS Program Coordination, Room 5150, Department of the Interior, 18th & C Streets, N.W., Washington, D.C.

Dated July 26, 1979.

Alan D. Powers,
Director, Office of OCS, Program Coordination.

[FR Doc. 79-23491 Filed 7-30-79; 8:45 am]

BILLING CODE 4310-01-M

Outer Continental Shelf Advisory Board Policy Committee, Gulf Region; Notice and Agenda for Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. No. 92-643, 5 U.S.C. App. I and the Office of Management and Budget's Circular No. A-63, Revised.

The Gulf Regional Policy Committee will meet on August 17, 1979, from 9:00 a.m. to 2:00 p.m. in Suite 841, 500 Camp Street, Hale Boggs Federal Building, New Orleans, Louisiana.

The meeting will cover the following principal subjects:

- (1) 5-Year OCS Leasing Program
- (2) Status of OCSLAA Regulations
- (3) Status of New OCS Advisory Board Committees
- (4) Regional Oil Spill Response Plan
- (5) Gulf of Mexico Environmental Studies Program
- (6) Status of Recent Sale Activities

The meeting is open to the public. Interested persons may make oral or written presentations to the Board. Such requests should be made by August 13, 1979, to the Chairman: Thomas Joiner, State Geological Survey, P.O. Drawer O, University, Alabama 35486, (205/349-2852).

Minutes of the meeting will be available for public inspection and copying 8 weeks after the meeting at the Office of OCS Program Coordination, Room 5150, Department of the Interior, 18th & C Streets, N.W., Washington, D.C.

Dated July 26, 1979.
 Alan D. Powers,
 Director, Office of OCS Program
 Coordination.
 (FR Doc. 79-33482 Filed 7-30-79; 8:45 am)
 BILLING CODE 4310-10-M

DEPARTMENT OF LABOR

Employment and Training Administration

(Field Memorandum 284-79)

Guidelines for Review of Planned Performance in Comprehensive Employment and Training Services

AGENCY: Employment and Training
Administration, Labor.

ACTION: Notice.

SUMMARY: In order to provide a common framework of national and regional experience against which to compare performance goals and to identify potential problems with program design and delivery, the Department of Labor has developed guidelines to review prime sponsors' planned performance for Fiscal Year 1980 under Title II, Parts B and C, of the Comprehensive Employment and Training Act (CETA).

The entire text of Field Memorandum 284-79, which was issued on May 15, 1979, is published here to inform all interested parties of the Department's review procedures.

FOR FURTHER INFORMATION CONTACT:
 Robert N. Colombo, Patrick Henry
 Building, 601 D Street, N.W., Room 5006,
 Washington, D.C. 20213, telephone: (202)
 376-6560.

CETA
 TDCR
 May 15, 1979
 Field Memorandum No.
 All Regional Administrators
 Don A. Balcer
 Acting Administrator
 Field Operations

CETA Title II-B/C Review Guidelines for Fiscal Year 1980

1. **Purpose.** To transmit guidelines for the review of the CETA Title II-B/C Annual Plan Subpart for Fiscal Year 1980.

2. **References.** FM 209-77; FM 390-78.

3. **Background.** Grant review guidelines were implemented for the first time to review FY '77 CETA title I grant applications. There was some criticism of this initial effort, mainly concerning the technical adequacy of the indicators themselves and the fact that participation in the development of the indicators was limited. In response

to this, a work group, consisting of one prime sponsor representative from each Region and one representative from each Regional Office, was created to identify the best indicators to measure performance and to define methods of computation, given the constraints of the existing data system. The group produced a final document (FM 209-77) setting forth 13 performance indicators, grouped into four clusters and related interpretive factors. The cluster approach was used since CETA represents a multiplicity of goals and objectives for which no single performance indicator can adequately measure the effectiveness of a local program.

A subgroup consisting of three prime sponsor representatives, three Regional Office representatives, and two National Office representatives analyzed Fiscal Year 1976 data and developed a mechanism to assist in the review of Fiscal Year 1978 Annual Plans. The resulting grant review guidelines included three of the original four clusters. The earnings cluster was incorporated into the interpretive factors section of the grant review guidelines because there is no formal mechanism in the planning process that considers planned earnings outcomes. For review of Fiscal Year 1980 Title II-B/C plans, the three clusters previously utilized in reviews have been reduced by one cluster. In addition, an indicator was dropped from one cluster.

Review guidelines were not developed for PSE programs in previous years because of data problems and the difficulty of applying outcome oriented indicators to these programs. With reauthorization and changed program emphasis, review guidelines would now be more appropriate in the review of PSE programs. Guidelines for review of Title II-D and Title VI Annual Plan Subparts are now under study. If such guidelines are issued, they will not be used for reviewing plans for October 1 approval. Prime sponsors will be provided sufficient time to make any requisite adjustments in their plans.

4. **Changes for 1980.** In preparation for review of Fiscal Year 1980 Annual Plans, a small group of Regional Office personnel met to consider review guidelines appropriate for Fiscal Year 1980. The following changes resulted from the meetings:

a. Elimination of the indicator "entered employment as a percent of total positive terminations" from the termination cluster, since this is an internal program measure which complicates review of the termination cluster unnecessarily.

b. Elimination of the fund utilization cluster from the review. The administrative cost rate in this cluster was dropped, since prime sponsors now pool costs in the Administrative Subpart of their Annual Plan. Also, the carryout rate was dropped and a revised indicator will be issued for future reviews.

c. The designation nondirect placement used for indicators in the termination and cost clusters has been changed to indirect placement to conform to the new PPS and PSS for Fiscal Year 1980. Comparable data for the previous year will be designated as nondirect placement to include indirect placement and obtained employment.

d. Transfers to other titles and subparts were eliminated from total terminations for the termination cluster indicators "entered employment as a percent of total terminations" and "indirect placement as a percent of total terminations."

e. Provision of more complete labor market and program activity data which prime sponsors may find useful for planning. These are included in the Appendix.

5. **Responsibilities.** It will be the responsibility of the Federal Representative to fill out the worksheets and determine when an explanation will be required from a prime sponsor. The prime sponsor will have the responsibility to provide explanations when required.

It was the specific intent of the work group that explanations should be based on clusters rather than individual indicators. That is, if only one or two indicators within a cluster fall into the area requiring explanation by a small amount, no explanation may be required, especially if the other indicators are well inside the two-thirds requiring no explanation. Only good judgment by the Federal Representative in determining which clusters need explanation can maintain flexibility and prevent needless red tape and delays.

Throughout this memorandum the Federal Representative is designated as the reviewer of the prime sponsor's Annual Plan. However, some Regions may prefer to use committees or other processes in the review. This is the prerogative of the Regional Administrator (RA), and although the term Federal Representative will be designated, it is not intended to limit the Regional Administrators in their choice of review staff.

6. **Objectives and Mechanism of Review Guidelines.** The primary objective of such a tool is to provide a common framework against which

prime sponsors and Regional Offices can compare Fiscal Year 1980 Annual Plans and performance goals to actual national and regional experience.

Data for each indicator are displayed by reference points of lowest and highest performance and low and high thirds on both a national and regional level. Planned performance in relationship to the regional low or high third will be emphasized in the plan review. Each indicator cluster will include a list of factors the presence or absence of which may affect performance. Such a list is not intended to be all inclusive nor is it intended to substitute for the knowledge of a Federal Representative and prime sponsor staff about the appropriateness of a plan. The data are intended to provide a good starting point from which to identify potential problems with program design and delivery before they are reflected in poor performance. The review guidelines are not to be considered as performance standards. Performance standards for the reauthorized CETA, as provided in the legislation, are being studied for application to reviews of future Annual Plans. The reference points of regional and national experience serve only as convenient benchmarks against which prime sponsors' plans can be reviewed and analyzed, and to identify where further explanation would help the RA to understand local goals and where additional technical assistance may be needed.

Some users may wish to understand the distribution of performance more precisely than thirds are able to show. For these users, optional scattergrams plotting each prime sponsor, by Region, have been provided in Attachment II, for the termination cluster indicators only. Attachment III-B will provide a comparable distribution by Region for the cost indicators, but in a different format. To aid in comparison, the scattergrams have been divided into the same thirds as shown on the guideline worksheets.

7. **Indicators.** The indicators to be used as the basis for the review of Fiscal Year 1980 Title II-B/C Annual Plan Subparts are those developed by the Performance Indicators Work Group and issued in FM 209-77, as subsequently revised. Several indicators have been excluded from previous reviews. These are in the earnings cluster for which no information is generally available in the planning documents, the expenditure rate in the fund utilization cluster, because it is the complement of the carryout rate, now excluded in these review guidelines. In

addition to the carryout rate, other indicators excluded for this review are the entered employment as a percent of total positive terminations and the administrative cost rate.

The following indicators are included:

a. Termination Cluster

(1) POSITIVE TERMINATION RATE:

$$\frac{\text{Total Positive Terminations}}{\text{Total Terminations}} \times 100$$

(2) ENTERED EMPLOYMENT RATE, AS PERCENT OF TOTAL TERMINATIONS (less transfers to other titles or subparts):

$$\frac{\text{Entered Employment}}{\text{Total Terminations-Transfers to Other Titles or Subparts}} \times 100$$

(3) INDIRECT PLACEMENT RATE, AS A PERCENT OF TOTAL TERMINATIONS (less transfers to other titles or subparts):

$$\frac{\text{Indirect Placements}}{\text{Total Terminations-Transfers to Other Titles or Subparts}} \times 100$$

(4) INDIRECT PLACEMENT RATE, AS A PERCENT OF ENTERED EMPLOYMENT:

$$\frac{\text{Indirect Placements}}{\text{Entered Employment}} \times 100$$

b. **Cost Cluster.** where Total Accrued Expenditures refer to prime sponsor CETA funds, excluding administrative expenditures.

(1) COST PER POSITIVE TERMINATION:

$$\frac{\text{Total Accrued Expenditures (excluding administrative expenditures)}}{\text{Positive Terminations}} \times 100$$

(2) COST PER ENTERED EMPLOYMENT:

$$\frac{\text{Total Accrued Expenditures (excluding administrative expenditures)}}{\text{Entered Employment}} \times 100$$

(3) COST PER INDIRECT PLACEMENT:

$$\frac{\text{Total Accrued Expenditures (excluding administrative expenditures)}}{\text{Indirect Placements}} \times 100$$

8. Description of Data.

a. **Data Base.** Data covering Fiscal Year 1978 for 444 prime sponsors were used to compute the 7 indicators and to determine national and regional thirds against which the prime sponsor's planned performance will be compared. The data were obtained from the CETA Program Status Summary (PSS), Financial Status Report (FSR) and obligations contained in the Grant Signature Sheet and modifications. Data from these documents are received in the National Office through the Regional Automated System (RAS). The RAS

data were, in turn, processed by Statistical Package for the Social Sciences (SPSS) which provided most of the computations. The data were taken from RAS as of mid-March 1979. The data are not perfect; about 1 percent of it was not useful. Attachment III-B, provides the raw data, reported by prime sponsors, from which the indicators are calculated.

b. **Computation of Thirds.** The performance of each prime sponsor was computed for each of the 7 indicators. The results, expressed as a percentage or dollar cost, were then arrayed in ascending order from the lowest computed value to the highest. This array was divided into three equal parts, each part containing the performance of 33 1/3 percent of all prime sponsors.

c. **Interpretive Factors.** Data for interpretive factors preprinted on the Interpretive Factor Worksheet (see Attachment I) include selected client characteristics, pre-CETA and post-CETA median wages, percent of cumulative enrollment by activity, percent of accrued expenditures by activity, the local unemployment rate and length of stay in months for the total program and selected activities. Data, except for the local unemployment rate, were obtained from the PSS for enrollment, the FSR for accrued expenditures and the Quarterly Summary of Participant Characteristics (QSPC) for characteristics and wage data. The unemployment rate for Fiscal Year 1977 is also provided for prime sponsors in the interpretive factor worksheet and in Attachment III-C to note trends. Prime sponsor Fiscal Year 1980 plan data will be compared against the national and regional totals from the RAS for mid-March 1979. For comparison, the Federal Representative should fill in the appropriate data in the interpretive factor worksheet for the prime sponsor under review to explain program performance. Two columns are provided for prime sponsors. In the first column the Federal Representative will include planned Fiscal Year 1980 data, where available. If planning data for characteristics and wages can be extracted from the narrative or the significant segments portion of the PPS, it should be included. In the second prime sponsor column, the Federal Representative should copy Fiscal Year 1978 performance data. Instructions for completing "sponsor" columns are in Attachment I.

(9) **Application of Review Guidelines.** There are separate worksheets for each of the indicator clusters and worksheets for the interpretive factors to be utilized in the review. See Attachment I for an

explanation of the four reference points (the high, the low, and the first and second thirds) and instructions for the use of the worksheets.

In reviewing prime sponsor planning goals, the following procedures should apply:

a. *Computation of Planning Goals.* The Federal Representative should first compute the Fiscal Year 1980 performance goals for each of the indicators in the three performance clusters by substituting cumulative planning data through the fourth quarter from the PPS and BIS of the Fiscal Year 1980 Annual Plan for the data elements of the formulas in the worksheets. The computed values should be placed in the "Planned for Fiscal Year 1980" column of the worksheets.

b. *Comparison to Regional Thirds.* Planned performance in relation to the regional thirds will be emphasized in the review process for each indicator in the performance clusters to determine if local planning goals require an explanation. The national reference points provide additional reference points. Use of regional comparative data as the reference points against which prime sponsor plans are to be compared takes into account programmatic, labor market, and other factors unique to a particular Region, thereby ensuring equitable treatment for as many prime sponsors as possible.

c. *Planned Performance Requiring Explanation.* In general, planned performance that is (1) not less than the prior year's performance, and (2) in the acceptable two-thirds need not be explained. Prior or previous year's performance shall mean Fiscal Year 1978. Planned performance falling above the Region's lowest third for the "termination cluster" and below the Region's highest third for the "cost cluster" will not normally need explanation. Higher positive outcome rates and lower costs for positive outcomes generally indicate desirable performance and should not require explanation unless there are programmatic or other reasons for doing so.

RA's may, in addition, request an explanation of planned performance in the two-thirds which normally requires no explanation when the reviewer believes the planning goals are unrealistic or serious programmatic problems are evident. This may include planned performance which differs substantially from previous performance without a significant change occurring in program operations, or planned performance which may not be achievable because of serious

administrative, managerial or fiscal problems. The RA may determine appropriate situations and the amount of detail required for any explanation.

Explanations must be as complete as possible. They should take into account the absence or presence of labor market, programmatic and other locally relevant situations which may influence performance. These factors will be discussed in item 10 of this FM. To the extent that an explanation relates to a local problem (such as a management problem) under the control of the prime sponsor, it should include a brief discussion of the steps being taken to correct the problem. (Note that an indicator in the low or high third may result from program mix or labor market conditions and may not reflect a "problem.")

d. *Incremental Improvement.* In evaluating plans for Fiscal Year 1980, an additional key element to be considered is each sponsor's previous performance. The concept of incremental improvement is critical to reviewing a sponsor's plan. To determine the extent of improvement over previous performance, Federal Representatives should compute (or copy from the lists provided) the sponsor's actual achievement for each of the indicators, using the Fiscal Year 1978 data. The results should be placed in the column headed "Actual Fiscal Year 1978" of the Performance Indicator Worksheets. If planned performance continues to be in the third requiring explanation, but reasonable improvement over previous performance is planned, such improvement may serve as adequate explanation. The knowledge and judgment of the reviewer must play a large role in these situations, particularly where the prime sponsor has a history of achieving below plan. A prime sponsor, even though planning to perform in the two-thirds of all clusters requiring no explanation, should not plan lower performance than it achieved the prior year without explaining why unless there has been a drastic change in local conditions or new legal requirements drastically alter program or participants to be served. Although all sponsors may be expected to improve their performance, reviewers must use judgment; improvement—like growth—has limits.

e. *Use of Current Data.* The structure of the grant review guidelines has made no formal provision for using current, mid-year data, because mid-year data are not always comparable to end-of-year data. However, if questions arise concerning the need to explain, or the adequacy of the explanation provide

the most recent data available should be taken into account. Current data should be especially helpful in helping to decide questions concerning incremental improvement.

10. *Interpretive Descriptions and Interpretive Factors.* Each performance cluster worksheet (see Attachment I to this FM) contains a preprinted list of programmatic and environmental factors which may be of assistance in explaining, or raising questions about prime sponsor planned performance. The list, located in the lower left side of each worksheet, is not intended to be all inclusive. The Federal Representative may be aware of other factors unique to the Region or prime sponsor area that could explain planned performance. Among the influential factors (whether or not listed) are those dealing with the prime sponsor's program mix, enrollee characteristics, enrollee pre-CETA and post-CETA wages, the local unemployment rate and length of stay in the program.

These factors are all quantifiable and are designated as *interpretive factors*. They are contained on a separate worksheet in Attachment I for convenience of comparing these factors and using them in combination to explain planned performance. Since these factors, except for enrollee wages, the local unemployment rate and length of stay, can be broken down by their proportion of the prime sponsor's total program, each factor can be compared with other elements of the sponsor's program and regional experience data.

The interpretive factors worksheet will contain regional and national experience data for Fiscal Year 1978 which has been preprinted on the worksheets. Prime sponsor data to be compared within the program and with regional totals will be filled in by the Federal Representative in the blank columns (see Attachment I, section II, for additional instructions).

Page 6 of Attachment I contains a short description of the use of each of the interpretive factor groups. The description is limited but should help the Federal Representative to understand how the various interpretive factors may be used. The following examples provide the Federal Representative with a fuller range of implications that these factors may have on planned performance:

a. *Participant Characteristics.* The Federal Representative should pay particular attention to the types of participants to be enrolled in the program and the possible correlations to the percent of expenditures, cumulative enrollments by program activity,

planned performance goals, and program objectives. Prime sponsors may develop and operate programs designed to increase the employability of particular groups of enrollees, with placement in unsubsidized employment not being a program objective. A prime sponsor proposing to serve a significant number of youth and full-time students may be expected to allocate a sizeable portion of funds for work experience activities and have a sizeable percentage of enrollments in work experience activities, accompanied by a relatively low planned "entered employment rate," a relatively high planned "cost per entered employment," and a relatively high planned "positive termination rate." The Federal Representative should then compare planned performance goals for the affected indicators against regional comparative data for the interpretive factors. This comparison should help to assess planned performance.

Prime sponsors operating programs or activities stressing service to other "hard-to-place" groups, e.g., minorities, persons with limited English-speaking ability, older workers and handicapped, may reasonably be expected to propose relatively low positive termination rates through frequent turnover, low entered employment rates, high costs per positive termination and high costs per entered employment.

b. *Program Mix.* Prime sponsors may plan to allocate a sizeable portion of funds to classroom training and OJT. These are placement-related activities and planned performance should reflect this, unless the classroom training includes much remedial education. Planned goals for other indicators may be similarly affected by such a distribution of funds. The Federal Representative should review regional data for the affected indicators and the interpretive factors for possible explanation of the sponsor's planned performance.

The interpretive factors and other environmental and programmatic influences must be used with care. Although there may be an established correlation (See Page 6 of Attachment I.) among some of these with the planning goals, there are many non-measurable factors which can completely outweigh the correlations, many of which are weak. Initial multiple regression equations show that the 10 best factors were "able to explain" an average of about 40 percent of the variation between prime sponsors for the performance indicators. This means that the majority (about 60 percent) of the variation in prime sponsor performance

is not predictable by the data available. It will be incumbent on the Federal Representative, who is knowledgeable concerning the environmental and programmatic aspects of the prime sponsor, to make judgments as to the factors and the strength of the factors considered to be operating to determine if they are adequate to explain planned performance.

11. Training.

a. *Federal Staff.* In order to insure a uniform understanding of how to apply the guidelines in your Region, it is recommended that regional staff be trained as early as possible. Regional Offices may request training from the National Office. Arrangements will be made for national staff to assist in training in the Regions.

12. *Action Required.* RAs should distribute this FM as soon as possible to regional staff, prime sponsors and any other person requiring this information. They should also inform prime sponsors and others that these guidelines will be published in the *Federal Register*.

13. *Inquiries.* Questions should be directed to Robert Colombo on 8-376-6560, Henry Rosenbloom on 8-376-6580 or Nan Beckley on 8-376-6575.

14. Attachments.

I. Worksheets and Instructions (RAs only)

II. Performance Indicator Scattergrams for Termination Cluster
III. Prime sponsor lists by Region, of performance indicators based on Fiscal Year 1978 performance (RAs are authorized to substitute RAS data where it is more current or convenient.) Also included are selected labor market area data. (RAs only)

Note.—For presentation in the *Federal Register*, only Attachments I and II of this field memorandum will be reproduced. However, performance data for the termination cluster indicators contained in Attachment III, which will not be reproduced, are also contained in the scattergrams of Attachment II, although prime sponsors are not identified.

Attachment I to FM No. 284-79

Worksheets

I. *Performance Cluster Worksheets.* Separate worksheets have been developed for each of the indicator clusters which include a list of interpretive environmental and programmatic factors to be used in plan reviews. The following will describe the format of the cluster worksheets and general procedure for review.

A. The upper part of each worksheet lists the component parts of the cluster, the computation formula, and a space for entering planned outcomes for the

prime sponsor being reviewed. Next to the planned result insert the prime sponsor's actual performance during the prior year (Fiscal Year 1978). Comparative data, to be used as reference points in either percents or dollars, are preprinted. The comparative data will be displayed for both *national* and for *individual regions*. Four reference points are included:

1. Lowest performance in the region/Nation (low)
2. First third in the region/Nation (33 percent)
3. Second third in the region/Nation (67 percent)
4. Highest performance in the region/Nation (high)

The low third refers to the point where 33 1/3 percent of the prime sponsors fall below in performance.

The high third refers to the point in performance which 33 1/3 percent of the sponsors fall above.

The middle third includes scores between the 33 1/3 percent value and the 66 2/3 percent value.

B. The bottom left hand side of the worksheets contains a list of interpretive descriptions. These environmental and programmatic factors may influence performance and may be used as a basis for explaining deviations of planning goals. The list is not all-inclusive; Federal Representatives should be aware of other factors unique to the Region or sponsor. In any event, it will be incumbent upon the Federal Representative (working with the prime sponsors) to document the absence or presence of influential factors. Important factors that can be helpful in explaining planned performance are those dealing with program mix, enrollee characteristics, pre-CETA and post-CETA wages, the local unemployment rate and length of stay data. These *interpretive factors* are listed on separate worksheets of the review guideline package. These worksheets will be discussed in section II of this Attachment.

C. The bottom right hand side of the worksheets provides space for explanation of planned performance. Explanation is required as described in 9.c. of this FM.

II. *Interpretive Factors.* Additional worksheet, assisting Federal Representatives in displaying performance in terms of various *interpretive factors*, is contained in the worksheet package. These factors should be used in conjunction with the influential factors listed on the indicator cluster worksheets as a basis to explain prime sponsor performance. The

interpretive factors include categories of program mix, selected enrollee characteristics, pre-CETA and post-CETA wages, local unemployment rates and length of stay data. Page 6 of this Attachment contains a short description on the use of each section of the interpretive factors.

The worksheet contains four columns of data. In the first column, the Federal Representative should insert the planned data for the grant year being reviewed, as available. In the second column, the Federal Representative should insert the prime sponsor's performance for the previous year. In the final two columns corresponding regional and national data have been preprinted. The prime sponsor data should be filled in as follows:

A. Prime Sponsor Planning Data

1. *Program Mix—Percent of Expenditures by Program Activity (excluding funds contributed to the administrative cost pool).* Obtain data from section F. of the BIS of the Fiscal Year 1980 Annual Plan. Cumulative fourth quarter expenditure data for each applicable activity for F.2.a., b., d., e. and f. should be divided by cumulative fourth quarter total expenditures by program, F.2. The result should be multiplied by 100 and placed in the "sponsor" column beside the appropriate activity.

2. *Program Mix—Percent of Cumulative Enrollment by Program Activity.* First determine combined cumulative fourth quarter enrollment in each program activity listed in section III of the PPS from A. through E. then divide the fourth quarter cumulative enrollment for each of the program activities (or combined activities in the case of total classroom training or total work experience) by the combined cumulative enrollment, multiply by 100 to give the percent and record in the appropriate space. Example: Percent enrollment in total classroom training which includes occupational skills and other classroom training—

$$\frac{\text{PPS (4th Q)(a): III.A. + III.B.}}{\text{PPS (4th Q)(a): III.A. + III.B. + III.C. + III.D. + III.E.}} \times 100$$

3. *Enrollee Characteristics.* Planned

enrollment by age, sex, and race is available on the Title II-B/C PPS. Enrollment for the other characteristics may not be routinely planned, so it is not necessary to insert planning data where none exists. However, if the prime sponsor plans for target groups of the population that exactly correspond to any of the listed categories, the planning data should be inserted. Leave blank all categories for which there is no data; it will be assumed that last year's performance will be repeated. Considerable judgment must be exercised by Federal Representatives in interpreting the impact of these factors and their changes over time.

4. *Median Wages, Unemployment Rates.* As with planned enrollee characteristics, this data should be included only if there is documentation in the grant narrative that exactly corresponds. In the great majority of cases, these spaces should be left blank.

5. *Length of Stay.* See the following section B., paragraph 6. for discussion and computation of length of stay. Formula 1 in the discussion will be used to compute average length of stay for the total program. To compute planned length of stay for the total program, current enrollment and terminations for the fourth quarter should be obtained from section I. of the PPS. Data should be substituted in the formula, using elapsed time as 12 months, and computed. To compute length of stay for activities, use Formula 2. For the Fiscal Year 1980 review, total class room training and total work experience will be computed for comparison with Fiscal Year 1978 regional and national averages. As an example, to obtain planned length of stay for total classroom training, fourth quarter current enrollment in section III.b. should be added for A. classroom training (occupational skills) and B. classroom training (other). This should be divided by the total cumulative enrollment for the fourth quarter A. and B. found in column a. minus total current enrollment for A. and B. found in column b. The result should be multiplied by 12. The following will indicate the computation using data elements that are substituted in the formula:

$$\text{LOS (Total Classroom Training)} =$$

$$\frac{\text{PPS (4th Q)(b): III.A. + III.B.}}{\text{PPS (4th Q)(a): III.A. + III.B. - PPS (4th Q)(b): III.A. + III.B.}} \times 12$$

B. Prime Sponsor Previous Performance

Performance data as of fourth quarter Fiscal Year 1978 should be inserted as appropriate. Federal Representatives may use two sources for the data: the prime sponsor's Quarterly Reports, or the RAS reports which were generated from the original Quarterly Reports.

1. *Program Mix—Percentage of Expenditures by Program Activity.* Use column B of the FSR for fourth quarter Fiscal Year 1978 to determine percentages. For example, percent of expenditures for classroom training.

$$\frac{\text{FSR 7.B.1}}{\text{FSR 7.B.7}} \times 100$$

2. *Program Mix—Percentage of Cumulative Enrollment by Program Activity.* Use section II of PSS for Fiscal Year 1978. First determine fourth quarter enrollment by adding the cumulative (total) fourth quarter enrollment in each program activity listed in section II of the PSS except classroom training, vocational education (vocational education enrollment is excluded because the data are too variable to be a useful indicator, and was often reported under classroom training prime sponsor). Then divide the fourth quarter cumulative enrollment for each of the program activities by the combined cumulative enrollment. Multiply by 100 to give the percent and record in the appropriate space. Example: Percent of enrollment in classroom training =

$$\frac{\text{PSS II.A. (4th Q)(a)}}{\text{PSS II (4th Q)(a): II.A. + II.C. + II.D. + II.E.}} \times 100$$

3. *Enrollee Characteristics.* Compute percentages from the Fiscal Year 1978 fourth quarter QSPC or RAS printouts. Use data for total participants (column B of the QSPC).

4. *Median Wages.* Median wages have been estimated using standard methods for grouped data. (See a *Forms Preparation Handbook*, May 1974.) Originally, all wage categories were included, but it was discovered that for some prime sponsors a majority of their placements had no previous wage. This caused the pre-CETA median wage to

be zero and the resultant increase in median wage was unrealistically high. The problem was resolved by excluding those without previous wages from the computation. However, eliminating those without previous wages skews actual performance in the other direction. Recognizing the merits of both positions, and that more complete data should be helpful in explaining performance, both computations have been made. Wherever the pre-CETA median wage would be zero, the percentage of participants with no previous wage is printed. The "official" pre-CETA median wage excludes those with no previous earnings and is the preferred interpretive factor to explain performance related to wage increases. However, the other pre-CETA median wage may be included in explanations where it adds meaning. The "official" figure is contained on the prime sponsor lists under the column headed "Pre-CETA, w/o O's." It is followed by the figure including zero pre-CETA wages. Post-CETA median wages are not affected by either choice.

5. *Unemployment Rates.* Unemployment rate data are averages for 1977 and 1978. The regional and national unemployment rates shown on the Interpretive Factors Worksheets were aggregated from the prime sponsor data. The displayed rates should be compared with unemployment rates of recent periods noting trends that may assist in explaining differences.

6. *Length of Stay.* Average length of stay data by prime sponsor for the total program and selected activities should be obtained from Attachment III-A, Columns 11, 12 and 13. In some cases, length of stay data were extreme and were rejected. This will be indicated by a legend at the end of the attachment. The following will indicate how the length of stay was computed and will include further details on this subject: Assuming a steady-state program for each prime sponsor, it is possible to compute a length of stay for the total program, each program activity, and each participant characteristic. The general formula is:

$$\text{Formula 1 LOS} = \frac{\text{current enrollment}}{\text{cumulative terminations}} \times \text{elapsed time}$$

Since months are a convenient unit to measure length of stay, and data are for the end of the year, elapsed time was chosen as 12 months. The general formula was used to compute total length of stay. A variation was used to compute length of stay by program activity:

$$\text{Formula 2 LOS (P.A.)} = \frac{\text{current enrollment}}{\text{cumulative enrollment - current enrollment}} \times 12 \text{ months}$$

Although no computations have been made for participant characteristics, a third variation can compute length of stay for each participant group:

$$\text{Formula 3 LOS (Char.)} = \frac{\text{cumulative enrollment - terminations}}{\text{terminations}} \times 12 \text{ months}$$

Prime sponsors may find an analysis of length of stay by participant group very informative, since it focuses more attention on current activity, which is usually a better measure of the resources being devoted to any participant group than cumulative enrollment.

Prime sponsors wishing to pursue length of stay analysis further will find that the measure can be improved by averaging current enrollment over time.

Use of Interpretive Factors—General Observations

1. *Program Mix.* The size of a youth work experience program explains more of the variation in placement rates and "costs per" than any other single set of factors. Youth work experience programs generally lower placement rates, raise positive termination rates, raise costs per placement, and lower costs per positive termination. A large youth work experience program is characterized by large percentages of full-time students, youth age 19 and under and a high proportion of cumulative enrollment in the work experience program activity. A relatively low cost per enrollment in work experience (cumulative) also suggests an in-school type program.

High proportions of classroom training and OJT expenditures and enrollments often lead to higher indirect placement rates and costs. Significant direct placement activity may be indicated by relatively high expenditures for services to participants. Direct placements will also generally lower "costs per" and

raise the positive termination and entered employment rates.

2. *Participant Characteristics.* All participant characteristics listed among the interpretive factors have, on the average, lower entered employment rates than their counterparts. Prime sponsors who serve relatively large proportions of these difficult-to-place groups can be expected to have lower rates and higher costs per.

3. *Median Wages.* Higher post-CETA wages and increased wages from pre- to post-CETA may provide evidence for an emphasis on higher quality, longer term (more expensive) training in higher skilled jobs. Large increases which result from low pre-CETA wages may also indicate a high proportion of participants without prior work experience, or with limited or old work experience.

4. *Unemployment Rates.* Local unemployment rates are negatively correlated with all of the placement rates and are positively correlated with the costs per placement. That is, prime sponsors with higher than average unemployment rates can expect proportionately more costly programs with lower placement rates.

5. *Length of Stay.* Higher lengths of stay may provide evidence for an emphasis on higher quality, longer term (more expensive) training in higher skilled jobs. This will tend to raise the "costs per." On the other hand, this may reflect the nontermination of participants who should have been terminated earlier.

Displaying Worksheets in the Federal Register

For purposes of publication in the Federal Register, the complete set of worksheets for Region I, only, will be displayed. For the other Regions (II through X), only the regional numerical data will be provided. These data can be substituted for regional data in Region I worksheets for the appropriate performance indicator clusters and interpretive factors to obtain the worksheets for any other Region. National data are the same for all Regions and are contained in the worksheets for Region I.

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REGION I

WORKSHEETS

GRANT REVIEW GUIDELINES WITH KEY PERFORMANCE INDICATORS

PRIME SPONSOR _____

FEDERAL REPRESENTATIVE _____

DATE REVIEWED _____

PRIME SPONSOR _____

Federal Representative _____

TERMINATION CLUSTER	Formula (planned performance)	Planned for FY 80	Actual FY 78	COMPARATIVE DATA, All Quarters, FY 1978					
				Region I, percent		National, percent		High	
Total Positive as a	PPS I.B. 1 + I.B. 2 + I.B. 3			Low	33%	Low	33%	High	67%
% of Total Terminations	PPS I.B. 1	x 100		45.3	67.0	74.0	84.2	31.8	68.6
Entered Employment as a	PPS I.B. 1	x 100							76.4
% of Total Terminations	PPS I.B. - I.B. 2			24.8	44.8	55.1	73.1	10.2	42.9
Less Transfers to Other Subparts									55.6
Indirect Placements as a	PPS I.B. 1.b. (1) + I.B. 1.b. (2)	x 100							83.4
% of Total Terminations	PPS I.B. - I.B. 2			24.6	42.4	52.4	73.1	8.3	34.8
Less Transfers to other Subparts									47.3
Indirect Placements as a	PPS I.B. 1.b. (1) + I.B. 1.b. (2)	x 100		68.1	89.3	100.0	100.0	10.8	83.3
% of Entered Employment	PPS I.B. 1								98.9
									100.0

EXPLAIN OR JUSTIFY IF PLANNED PERFORMANCE FOR THE CLUSTER IS BELOW PREVIOUS PERFORMANCE OR THE LOWEST REGIONAL THIRD.

Lower total positive termination rates (or high non-positive rates) may be due to:

- High enrollment of hard-to-place groups;
- High local unemployment rates;
- Inadequacies in program operation (e.g., assessment, counseling, job development, subcontractor management, or internal management) or in program design (e.g., long "holding" periods before placement, poor coordination between components, classifying applicants as participants prior to actual enrollment in program activities, etc.)

Lower entered employment rates: Any of the above plus local emphasis on program activities whose goal is not placement--work experience for youth, remedial education, etc.

Lower indirect placement rates: Any of the above plus inclusion of significant direct placement activities.

Continue explanations on additional sheets if needed. When explaining low termination rates, refer to Interpretive Factors Worksheets to compare local factors with Regional (and national) averages.

PRIME SPONSOR _____

Federal Representative _____

COST CLUSTER	Formula	Planned for FY '80	Actual FY '78	COMPARATIVE DATA, 4th Quarter, FY '78					
				Region I Dollars			National, Dollars		
				Low	33%	High	Low	33%	High
Cost per Positive Termination	BIS F.2. PPS I.B.1+I.B.2+I.B.3			820	1950	4140	480	1610	2360
Cost per Entered Employment	BIS F.2. PPS I.B.1			1030	2870	4300	680	2580	4110
Cost per Indirect Placement	BIS F.2. PPS I.B.1.b.(1)+I.B.1.b.(2)			1300	3310	4640	930	3140	4670

EXPLAIN OR JUSTIFY IF PLANNED PERFORMANCE FOR THE CLUSTER IS ABOVE PREVIOUS PERFORMANCE OR THE HIGHEST REGIONAL THIRD.

Higher Costs per Positive Termination may be due to any of the factors leading to lowered positive termination rates (see termination cluster worksheet) plus:

- High local cost structures for standard items (e.g., wage rates, rental costs, etc.);
- Use of more costly resources (e.g., proprietary schools, computers, special equipment, etc.);
- Emphasis on supportive services (transportation, day care, etc.), classroom training, employability development, etc.;
- Higher than minimum rates for participant stipends or wages;
- Stress on longer term training for higher skill jobs;

Higher Costs per Entered Employment may be due to any of the factors contributing to higher positive termination costs indicated above plus those leading to lowered Entered Employment Rates (see termination cluster worksheet).

Higher Costs per Indirect Placement may be due to any of the factors contributing to higher positive termination costs indicated above plus the inclusion of direct job placement activities.

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Continue Explanations of additional sheets if needed. When explaining high "costs per", refer to Interpretive Factors Work-sheets to compare local factors with Regional (& national) averages.

(Less admin. costs, rounded to nearest \$10)

EXPLANATION/
JUSTIFICATION:

Explanation
Third

PRIME SPONSOR _____

FEDERAL REPRESENTATIVE _____

INTERPRETIVE FACTORS

A. Program Mix	Prime Sponsor Data ^{1/}		FY 1978 Averages	
	Planned FY 1980	Actual FY 1978	Region I	National
1. Percent of Expenditures				
Classroom Training			39.0	39.9
On-the-Job Training			12.7	13.0
Public Service Employment			3.0	4.9
Work Experience			34.4	30.9
Services to Participants			10.0	10.6
Other Activities			0.9	.7
	100%	100%	100%	100%
2. Percent of Cumulative Enrollments				
Classroom Training ^{2/}			39.9	42.7
(Occup. Skills)	()	-	-	-
(Other)	()	-	-	-
On-the-Job Training			15.5	16.9
Public Service Employment	-	-	3.4	2.9
Work Experience			41.2	37.5
(In-school)	()	-	-	-
(Other)	()	-	-	-
	100%	100%	100%	100%
B. Enrollee Characteristics				
1. Females			49.4	52.2
2. Youth: 18/19 and under (1978/1980)			26.0	26.6
19/20-21 (1978/1980)			20.2	21.5
3. Education: 8 yrs. and under (1978)	-	-	11.9	8.9
9-11 yrs. (1978)	-	-	38.7	36.7
School dropout (1980)	*	-	-	-
Student (H.S. or less) (1980)	*	-	-	-
4. Income: AFDC	*	-	22.7	16.2
Other Welfare/Receiving SSI (1978/1980)	*	-	13.9	9.6
Total Receiving Pub. Assist. (1980)	*	-	-	-
Economically Disadvan.	*	-	89.7	78.7

(continued on next page)

INTERPRETIVE FACTORS (continued)

	Prime Sponsor Data ^{1/}		FY 1978 Averages	
	Planned FY 1980	Actual FY 1978	Region I	National
B. Enrollee Characteristics (continued)				
5. Ethnic: Blacks/Blacks (not (Hispanic) (1978/1980)			17.7	28.0
Spanish American/Hispanic (1978/1980)			9.5	10.1
6. Handicapped	*		7.0	6.1
7. Full-time student/In-School (1978/1980)	*		15.5	19.4
8. Offender	*		9.3	7.5
C. Median Wage				
1. Post-CETA	\$ *	\$	\$ 3.35	\$ 3.41
2. Pre-CETA (Excluding 'No Previous Wage')	\$ *	\$	\$ 2.82	\$ 2.88
3. Increase (Decrease)	\$ *	\$	\$.53	\$.53
4. Pre-CETA (Including 'No Previous Wage')	\$ *	\$	\$ 2.49	\$ 2.56
5. Increase (Decrease)	\$ *	\$	\$.86	\$.85
D. Unemployment Rate (1977)^{3/}				
Unemployment Rate (1978)	*		9.1	7.8
	*		5.9	6.3
E. Length-of-Stay (Months)				
1. Classroom Training, Prime Sponsor			3.7	5.0
2. Work Experience			3.1	3.5
3. On-the-Job Training			5.1	4.2
4. Total			4.4	4.3

* Optional data, insert as available

^{1/} To be filled in by Federal Representative.^{2/} Includes prime sponsor classroom training for Fiscal Year 1978 and total of occupational skills and other classroom training for 1980.^{3/} Fiscal Year 1977 unemployment rates are provided in spaces for 1978 regional and national averages. Fiscal Year 1977 unemployment rates for sponsors should be obtained from Attachment III-C and placed in actual space for Fiscal Year 1978.

REGION II - PERFORMANCE INDICATOR CLUSTERS AND INTERPRETIVE FACTORS DISPLAYING REGIONAL DATA

PERFORMANCE INDICATOR CLUSTERS

TERMINATION CLUSTER	COMPARATIVE DATA			Explana- tion Thld
	Region II, Percent Low 33% 67% High	Low	High	
Total Positive as a % of Total Terminations	50.7	68.7	77.2	80.2
Entered Employment as a % of Total Terminations	19.1	44.9	56.4	60.3
Less Transfers to Other Subparts				
Indirect Placements as a % of Total Terminations	19.1	38.3	51.0	73.6
Less Transfers to other Subparts				
Indirect Placements as a % of Entered Employment	53.7	83.9	100.0	100.0

COST CLUSTER	COMPARATIVE DATA			Explana- tion Thld
	Region II, Dollars Low 33% 67% High	Low	High	
Cost per Positive Termination	1320	1980	2690	4260
Cost per Entered Employment	1650	3050	4240	9290
Cost per Indirect Placement	2010	3780	4740	11,500

INTERPRETIVE FACTORS

A. Program Mix

1. Percent of Expenditures

Classroom Training
On-the-Job Training
Public Service Employment
Work Experience
Services to Participants
Other Activities

2. Percent of Cumulative Enrollments

Classroom Training
(Occup. Skills)
(other)
On-the-Job Training
Public Service Employment
Work Experience
(in-school)
(other)

B. Enrollee Characteristics

1. Females
2. Youth: 18/19 and under (1978/1980)
3. Education: 8 yrs. and under (1978)
9-11 year (1978)
School dropout (1980)
Student (U.S. or less)
(1980)

4. Income: AFDC
Other Welfare/
Receiving SSI (1978/1980)
Tot. Receiving Pub. Ass.
(1980)
Economically Disad.
Blacks/Blacks (not Hispanics)
(1978/1980)
Spanish Am./Hispanic
(1978/1980)
Handicapped
Fulltime student/In-school
(1978/1980)
Offender

51.4

21.8

22.9

9.1

13.9

-

-

13.4

11.6

76.0

26.4

44.1

4.4

12.4

6.6

1. Post CETA

2. Pre-CETA (excluding 'No Previous Wage')

3. Increase (Decrease)

4. Pre-CETA (Including 'No Previous Wage')

5. Increase (Decrease)

Unemployment Rate (1977)

Unemployment Rate (1978)

Length-of Stay (months)

1. Classroom Training, Prime Sponsor

2. Work Experience

3. On-the-Job Training

4. Total

REGION III - PERFORMANCE INDICATOR CLUSTERS AND INTERPRETIVE FACTORS DISPLAYING REGIONAL DATA

PERFORMANCE INDICATOR CLUSTERS

	COMPARATIVE DATA		
	Region III, percent		
	Low	31% 67%	High
TERMINATION CLUSTER			
Total Positive as a % of Total Terminations	31.8	60.3	74.4 92.3
Entered Employment as a % of Total Terminations	16.0	33.9	50.5 77.5
Less Transfers to Other Subparts			
Indirect Placements as a % of Total Terminations	15.7	31.6	45.0 67.9
Less Transfers to other Subparts			
Indirect Placements as a % of Entered Employment	20.3	74.4	100.0 100.0
		Pplana-	
		Lion	
		third	

INTERPRETIVE FACTORS

B. Enrollee Characteristics

- | A. Program Mix | | C. Median Wage | |
|--|------|--|--------|
| 1. Females | 49.8 | 1. Post CETA | \$3.45 |
| 2. Youth: | 28.3 | 2. Pre-CETA (excluding 'No Previous Wage') | \$2.87 |
| 19/20-21 (1978/1980) | 21.7 | 3. Increase (Decrease) | \$-.58 |
| | | 4. Pre-CETA (Including 'No Previous Wage') | \$2.57 |
| | | 5. Increase (Decrease) | \$-.80 |
| 3. Education: 8 yrs. and under (1978) | 8.3 | D. Unemployment Rate (1977) | 7.3 |
| 9-11 year (1978) | 15.0 | Unemployment Rate (1978) | 6.6 |
| School dropout (1980) | -- | E. Length of Stay (months) | |
| Student (H.S. or less) | -- | 1. Classroom Training, Prime Sponsor | 5.4 |
| (1980) | -- | 2. Work Experience | 3.2 |
| | | 3. On-the-Job Training | 5.4 |
| | | 4. Total | 4.2 |
| 4. Income: AFDC | 15.4 | | |
| Other Welfare/ | 10.8 | | |
| Receiving SSI (1978/1980) | -- | | |
| Tot. Receiving Pub. Ass. (1980) | -- | | |
| economically disadvantaged | 69.2 | | |
| 5. Ethnic: Blacks/Blacks (not Hispanics) (1978/1980) | 30.9 | | |
| Spanish Am./Hispanic (1978/1980) | 2.9 | | |
| Handicapped | 5.2 | | |
| 7. Fulltime student/In-school (1978/1980) | 18.6 | | |
| 8. Offender | 5.8 | | |
-
- | 1. Percent of Expenditures | | 2. Percent of Cumulative Enrollments | |
|----------------------------|------|--------------------------------------|------|
| Classroom Training | 39.7 | Classroom Training 2/ | 45.7 |
| On-the-Job Training | 11.8 | (Occup. Skills) | -- |
| Public Service Employment | 9.7 | (other) | -- |
| Work Experience | 31.3 | On-the-Job Training | 15.7 |
| Services to Participants | 7.2 | Public Service Employment | 4.0 |
| Other Activities | 0.3 | Work Experience | 35.0 |
| | 100% | (in-school) | -- |
| | | (other) | -- |
| | | | 100% |

REGION IV - PERFORMANCE INDICATOR CLUSTERS AND INTERPRETIVE FACTORS DISPLAYING REGIONAL DATA

PERFORMANCE INDICATOR CLUSTERS

TERMINATION CLUSTER	COMPARATIVE DATA		
	Low	33%	High
Total Positive as a % of Total Terminations	39.6	66.0	90.2
Entered Employment as a % of Total Terminations	10.6	33.2	83.4
Less Transfers to Other Subparts			
Indirect Placements as a % of Total Terminations	10.6	10.3	37.8
Less Transfers to other Subparts			
Indirect Placements as a % of Entered Employment	39.0	92.1	100.0
	Explanation		

INTERPRETIVE FACTORS

A. Enrollee Characteristics

- | | | | | | | |
|-----------|--|------|--|--|--|--------|
| A. | Program Mix | | | | | |
| 1. | Percent of Expenditures | | | | | |
| | Classroom Training | 40.7 | | | | \$3.06 |
| | On-the-job Training | 9.0 | | | | \$2.70 |
| | Public Service Employment | 9.2 | | | | \$.36 |
| | Work Experience | 30.8 | | | | \$2.47 |
| | Services to Participants | 9.9 | | | | \$.59 |
| | Other Activities | 0.4 | | | | |
| | | 100% | | | | |
| 2. | Percent of Cumulative Enrollments | | | | | |
| | Classroom Training 2/
(Occup. Skills) | 43.1 | | | | 7.2 |
| | (other) | - | | | | 5.7 |
| | On-the-job Training | 12.6 | | | | 6.0 |
| | Public Service Employment | 5.4 | | | | 4.3 |
| | Work Experience | 38.0 | | | | 3.5 |
| | (in-school) | - | | | | 4.9 |
| | (other) | 100% | | | | |
| B. | Demographic Data | | | | | |
| | Age | | | | | |
| | 18-19 yrs. and under (1978/1980) | 56.6 | | | | |
| | 20-24 | 31.2 | | | | |
| | 25-29 | 20.4 | | | | |
| C. | Median Wage | | | | | |
| | 1. Post CETA | 10.5 | | | | |
| | 2. Pre-CETA (excluding 'No Previous Wage') | 19.9 | | | | |
| | 3. Increase (Decrease) | - | | | | |
| | 4. Pre-CETA (including 'No Previous Wage') | - | | | | |
| | 5. Increase (Decrease) | - | | | | |
| D. | Unemployment Rate (1977^{3/}) | 15.2 | | | | |
| | Unemployment Rate (1978) | 8.2 | | | | |
| E. | Length-of Stay (months) | | | | | |
| | 1. Classroom Training, Prime Sponsor | 80.7 | | | | |
| | 2. Work Experience | 50.8 | | | | |
| | 3. On-the-Job Training | - | | | | |
| | 4. Total | 1.2 | | | | |
| F. | Ethnicity | | | | | |
| | Economically Disadv. | | | | | |
| | Blacks/Blacks (not Hispanics) (1978/1980) | 4.7 | | | | |
| | Spanish Am./Hispanic (1978/1980) | 25.7 | | | | |
| | Handicapped | - | | | | |
| | Fulltime student/in-school (1978/1980) | - | | | | |
| | Offender | - | | | | |

REGION VII - PERFORMANCE INDICATOR CLUSTERS AND INTERPRETIVE FACTORS DISPLAYING REGIONAL DATA

PERFORMANCE INDICATOR CLUSTERS

TERMINATION CLUSTER	COMPARATIVE DATA Region VII, percent		
	Low	33 rd	High
Total Positive as a % of Total Terminations	46.0	69.9	77.2
Entered Employment as a % of Total Terminations	32.2	53.3	63.1
Less Transfers to Other Subparts			
Indirect Placements as a % of Total Terminations	23.4	47.3	55.1
Less Transfers to other Subparts			
Indirect Placements as a % of Entered Employment	51.7	89.9	99.6
Explanation Third			

COST CLUSTER	COMPARATIVE DATA Region VII, dollars		
	Low	33 rd	High
Cost per Positive Termination	770	1610	2280
Cost per Entered Employment	880	2120	2920
Cost per Indirect Placement	930	2750	3550
Explanation Third			

INTERPRETIVE FACTORS

B. Enrollee Characteristics

- A. Program Mix
- Percent of Expenditures
 - Classroom Training 46.9
 - On-the-job Training 15.1
 - Public Service Employment 5.0
 - Work Experience 14.3
 - Services to Participants 13.3
 - Other Activities 3.0
 - 100%
 - Percent of Cumulative Enrollments
 - Classroom Training 2/ (Occup. Skills) 45.2
 - (other)
 - On-the-job Training 21.3
 - Public Service Employment 3.9
 - Work Experience 29.5
 - (in-school)
 - (other)
 - 100%
1. Females 51.5
2. Youth: 18/19 and under (1978/1980) 21.9
- 19/20-21 (1978/1980) 23.8
- C. Median Wage
- Education: 8 yrs. and under (1978) 6.7
 - 9-11 Year (1978) 14.9
 - School dropout (1980)
 - Student (H.S. or less) (1980)
 - Income: AFDC 18.0
 - Other Welfare/Receiving SSI (1978/1980) 7.5
 - Tot. Receiving Pub. Ass. (1980)
 - Economically Disad.
 - Ethnic: Blacks/Blacks (not Hispanics) (1978/1980) 75.0
 - Spanish Am./Hispanic (1978/1980) 23.8
 - Handicapped 2.8
 - Fulltime student/in-school (1978/1980) 6.9
 - Offender 16.4
 - 9.0
1. Post CETA 3.56
2. Pre-CETA (excluding 'No Previous Wage') 2.95
3. Increase (Decrease) 2.61
4. Pre-CETA (including 'No Previous Wage') 2.80
5. Increase (Decrease) 2.96
- D. Unemployment Rate (1977) 5.3
- Unemployment Rate (1978) 4.4
- E. Length-of Stay (months)
- Classroom Training, Prime Sponsor 5.0
 - Work Experience 1.7
 - On-the-job Training 3.9
 - Total 3.8

REGION VIII - PERFORMANCE INDICATOR CLUSTERS AND INTERPRETIVE FACTORS DISPLAYING REGIONAL DATA

PERFORMANCE INDICATOR CLUSTERS

TERMINATION CLUSTER	COMPARATIVE DATA Region VIII, percent		
	Low	33 rd	High
Total Positive as a % of Total Terminations	66.9	77.5	83.8
Entered Employment as a % of Total Terminations	38.7	57.2	64.0
Less Transfers to Other Subparts			
Indirect Placements as a % of Total Terminations	31.8	48.8	54.3
Less Transfers to other Subparts			
Indirect Placements as a % of Entered Employment	47.2	68.3	95.4
Explanation Third			

COST CLUSTER	COMPARATIVE DATA Region VIII, dollars		
	Low	33 rd	High
Cost per Positive Termination	520	940	1270
Cost per Entered Employment	730	1480	2140
Cost per Indirect Placement	1320	1850	2790
Explanation Third			

INTERPRETIVE FACTORS

B. Enrollee Characteristics

- A. Program Mix
- Percent of Expenditures
 - Classroom Training 35.8
 - On-the-job Training 21.2
 - Public Service Employment 4.5
 - Work Experience 21.2
 - Services to Participants 16.9
 - Other Activities 0.4
 - 100%
 - Percent of Cumulative Enrollments
 - Classroom Training 2/ (Occup. Skills) 43.0
 - (other)
 - On-the-job Training 24.0
 - Public Service Employment 3.1
 - Work Experience 29.7
 - (in-school)
 - (other)
 - 100%
1. Females 52.4
2. Youth: 18/19 and under (1978/1980) 24.3
- 19/20-21 (1978/1980) 19.7
- C. Median Wage
- Education: 8 yrs. and under (1978) 8.7
 - 9-11 Year (1978) 32.9
 - School dropout (1980)
 - Student (H.S. or less) (1980)
 - Income: AFDC 12.0
 - Other Welfare/Receiving SSI (1978/1980) 8.3
 - Tot. Receiving Pub. Ass. (1980)
 - Economically Disad.
 - Ethnic: Blacks/Blacks (not Hispanics) (1978/1980) 83.9
 - Spanish Am./Hispanic (1978/1980) 5.7
 - Handicapped 21.0
 - Fulltime student/in-school (1978/1980) 12.9
 - Offender 15.9
 - 8.5
1. Post CETA 3.61
2. Pre-CETA (excluding 'No Previous Wage') 2.82
3. Increase (Decrease) 2.79
4. Pre-CETA (including 'No Previous Wage') 2.41
5. Increase (Decrease) 1.20
- D. Unemployment Rate (1977) 5.4
- Unemployment Rate (1978) 5.2
- E. Length-of Stay (months)
- Classroom Training, Prime Sponsor 3.1
 - Work Experience 2.0
 - On-the-job Training 5.3
 - Total 3.6

ATTACHMENT II TO FM NO. 284-79

SCATTERGRAMS OF KEY PERFORMANCE INDICATORS^{1/}

Scattergrams prepared by the SPSS computer program have been included so that users can graphically see the variation in the indicators. Regions are plotted on the vertical axis with one line for each Region. The value for the performance indicator is shown on the horizontal axis. The national distribution is plotted on two lines at the bottom of the graph, repeating the regional plots above it. Each asterisk (*) indicates a single occurrence. Multiple occurrences are shown by a one-digit number from 2 to 8. Nine or more occurrences are shown by a "9".

How to Read Scattergrams. Scattergrams can be used in several different ways. The easiest is simple inspection to see how the data are distributed, and what are the lows, the highs, and the median. To aid in visual understanding, the data have been divided into low, middle, and high thirds. Such a division also makes it easier to see differences between Regions.

Some users will want to know the exact value of a particular occurrence or plotted point. To determine the value of any particular occurrence for an indicator, place a ruler vertically so that it intersects the point (a digit or "*") and read the value from the scale at the top or bottom of the page. The top and bottom scales are the same, although different reference values are printed. Use whichever reference value is most

convenient. The Region to which the point belongs can be read from either side scale. Once the value has been determined, it is then possible to search the lists of prime sponsors to see which one is represented by the particular plotted point.

This process can be reversed. To find which point on the scattergram represents a given prime sponsor, first find the value of the desired indicator for that prime sponsor from the prime sponsor lists (Attachment III-A).^{2/} Then locate that value on the top and bottom scales of the scattergram for the desired indicator. A ruler placed through the value located on the top and bottom scales should intersect the prime sponsor's plotted point for his Region.

The data from which the scattergrams were plotted were derived from the Regional Automated System (RAS) during mid-March 1979. Since then, it is possible that some missing data have been added and some incorrect data have been updated.

^{1/} For this review, scattergrams for the cost indicators are not included. For an array of the indicators from the lowest to the highest prime sponsor costs by Region, comparable with the scattergrams, see Attachment III-B for the specific indicator. (See following footnote concerning Attachment III.)

^{2/} Attachment III of this field memorandum, containing a listing of performance by prime sponsor, is not being provided for the Federal Register. Therefore, it will not be possible to identify the performance of specific prime sponsors by using the scattergrams.

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Signed at Washington, D.C. this 22nd day of June 1979.
Charles B. Knapp,
Deputy Assistant Secretary for Employment and Training.
 [FR Doc. 79-21886 Filed 7-30-79; 8:45 am]
BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-79-17-M]

Rio Algom Corp.; Petition for Modification of Application of Mandatory Safety Standard

Rio Algom Corporation, P.O. Box 610, Moab, Utah, 84532, has filed a petition to modify the application of 30 CFR 57.21-78 (gassy mines—permissible equipment) to its Lisbon Mine, located in La Sal County, Utah. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petitioner's hard-rock uranium mine is classified as a gassy mine.

2. The standard states in part that only permissible (schedule 31) equipment may be used beyond the last open crosscut in gassy mines.

3. The petitioner states that it has been unable to obtain suitable, reliable, mobile diesel-powered equipment that is schedule 31 qualified for use in its mine.

4. Schedule 31 qualified front-end loaders obtained by the petitioner have proven unreliable and inadequately available for production work due to maintenance and breakdown problems.

5. As an alternative to the use of schedule 31 equipment, the petitioner proposes to use suitable schedule 24 qualified mobile diesel-powered equipment beyond the last open crosscut under the following conditions:

a. Air ventilation from intake air at a factor of 83.3 CFM of air for every square foot of face area will be maintained in each heading at all times, with a minimum of volume 5,000 CFM.

b. Ventilation will be restored after any disruption before schedule 24 equipment is allowed to enter the area where the disruption has occurred.

c. The petitioner will conduct inspections of line brattice fans, vent tubing and other ventilating equipment twice each working shift, making repairs as necessary and taking methane readings. The results of the methane inspections will be entered by the petitioner in its ventilation and gas log.

d. The petitioner will conduct methane inspections at least four times each working shift. A combustible gas monitor will be installed in headings

where methane inspections indicate concentrations of methane gas exceeding 25 percent.

e. Records and logs of ventilation and gas inspections will be available for inspection by miners, MSHA personnel and other interested persons.

f. The petitioner will drill pilot and cover holes ahead of the face in any new development headings to search for the presence of gas. If there is any indication of combustible gas flowing from a cover or pilot hole, no schedule 24 diesel-powered equipment will be allowed to operate beyond the last open crosscut unless combustible gas levels in the heading fall below 25 percent.

8. The petitioner states that this alternative will achieve no less protection for its miners than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before August 30, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 17, 1979.

Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-23586 Filed 7-30-79; 8:45 am]
BILLING CODE 4510-43-M

Office of the Secretary

[TA-W-5,775 et al.]

Airco, Inc., Union, N.J., et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or

subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 10, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 10, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 26th day of July 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Airco, Inc., (I.A.M.A.W.), Belx (workers)	Union, N.J.	7/25/79	7/13/79	TA-W-5,775	Cutting and welding torches, regulators, and electrical welding equipment.
Brewster Finishing Co. (workers)	Paterson, N.J.	7/25/79	7/16/79	TA-W-5,776	Screen printing on cloth.
M. P. Goodkin Co. (company)	Paterson, N.J.	7/25/79	7/16/79	TA-W-5,777	Dye and roller printing cloth.
Loudspeaker Component Corp. (workers)	Irvington, N.J.	7/24/79	7/10/79	TA-W-5,778	Industrial cameras.
	Lancaster, Wis.	7/24/79	7/19/79	TA-W-5,779	Gaskets and speaker cones for radios, TV's and stereos.
Magnavox Consumer Electronics Co. (International Woodworkers of America)	Johnson City, Tenn.	7/24/79	6/27/79	TA-W-5,780	Cabinets for televisions and stereos.
Robison-Anlon Textile Co. (ACTU)	Fairview, N.J.	7/24/79	7/16/79	TA-W-5,781	Yarn and lace dyeing, also yarn and thread processing.
SKF Industries, Ball Bearing Division (USWA)	Altoona, Pa.	7/24/79	7/20/79	TA-W-5,782	Ball bearings.

[FR Doc. 79-23587 Filed 7-30-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5503]

Genesco, Inc., Men's Apparel Sector, Ainsbrooke Division, Florence, Ala.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on June 4, 1979, in response to a worker petition received on May 29, 1979, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing knitted fabrics at the Florence, Alabama plant of the Ainsbrooke Division of Genesco, Incorporated. The investigation revealed that the plant primarily produced knitted fabric used by Ainsbrooke in the manufacture of men's underwear and knit tops and also produced some finished men's underwear and knit tops (polo shirts). In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Department survey of Ainsbrooke's customers indicated that most respondents purchased no imported men's underwear in 1978 or the first three months of 1979. Customers which decreased purchases of underwear from

Ainsbrooke in 1978 compared to 1977 and/or the first three months of 1979 compared to 1978 did not increase purchases of imported underwear in comparable time periods.

The same survey indicated that customers which decreased purchases of knit tops from Ainsbrooke and increased purchases of imported knit shirts represented an insignificant proportion of Ainsbrooke's decline in total sales.

Conclusion

After careful review, I determine that all workers of the Florence, Alabama plant of the Ainsbrooke Division of the Men's Apparel Sector of Genesco, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th Day of July 1979.

Harry J. Gilman,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-23588 Filed 7-30-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5556]

Golo Footwear Corp., Dunmore, Pa.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on June 12, 1979 in response to a worker petition received on June 4, 1979 which was filed on behalf of workers and former workers producing women's shoes and boots at Golo Footwear Corporation, Dunmore, Pennsylvania. The investigation revealed that the plant produces primarily women's dress and casual shoes and boots, except athletic. It is concluded that all of the requirements have been met.

U.S. imports of women's dress and casual shoes and boots, except athletic increased in 1978 compared to 1977 and in the first quarter of 1979 compared to the first quarter of 1978.

Company sales and production of domestically-produced women's shoes and boots in the last quarter of 1978 compared to the last quarter of 1977, and in the first quarter of 1979 compared to the first quarter of 1978.

Company sales of imported women's shoes and boots increased in the first quarter of 1979 compared to the first quarter of 1978.

Plant employment declined in 1978 compared to 1977 and in the first quarter of 1979 compared to the first quarter of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's shoes and boots produced at Golo Footwear Corporation, Dunmore, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Golo Footwear Corporation, Dunmore, Pennsylvania who became totally or partially separated from employment on or

after October 22, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of July 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-23589 Filed 7-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5735, 5736, and 5737]

Henry I. Siegel Co. Inc., Bruceton, Tenn., Tiptonville, Tenn., and Verona, Miss.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on July 11, 1979 in response to a worker petition received on June 29, 1979 which was filed on behalf of workers and former workers producing men's coats at the Bruceton, Tennessee plant, men's and women's vests and coats at the Tiptonville, Tennessee plant, and men's and women's coats at the Verona, Mississippi plant of Henry I. Siegel Company, Incorporated. The investigation revealed that the Tiptonville plant primarily produces vests. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' tailored dress coats and sportcoats increased absolutely in terms of quantity in 1978 compared with 1977.

U.S. imports of men's and boys' tailored suits increased absolutely in terms of quantity during the first quarter of 1979 compared with the first quarter of 1978.

U.S. imports of men's and boys' tailored suit vests increased absolutely in terms of quantity in the first quarter of 1979 compared with the first quarter of 1978.

U.S. imports of women's, misses', and children's suits, which includes vests, increased absolutely in terms of quantity in 1978 compared with 1977.

U.S. imports of women's, misses', and children's coats and jackets increased

absolutely in terms of quantity in 1978 compared with 1977.

The Department conducted a survey of customers purchasing suits (which includes vests) and sport coats from the Henry I. Siegel Company. Some survey respondents indicated they increased purchases of imported suits and sports coats and decreased purchases from the Henry I. Siegel Company during the period 1976 through 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with coats produced at the Bruceton, Tennessee and Verona, Mississippi plants and with vests produced at the Tiptonville, Tennessee plant contributed importantly to the decline in sales or production and to the total or partial separation of workers of those plants. In accordance with the provisions of the Act, I make the following certification:

All workers of the Bruceton, Tennessee (Lexington Avenue) plant's sport coat department and the Verona, Mississippi plant of Henry I. Siegel Company, Incorporated who became totally or partially separated from employment on or after August 15, 1978; and all workers of the Tiptonville, Tennessee plant of Henry I. Siegel Company, Incorporated Tennessee who became totally or partially separated from employment on or after July 15, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of July 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-23590 Filed 7-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5604]

K & M Division, Jonathan Logan, Inc., North Bergen, N.J.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on June 18, 1979 in response to a worker petition received on June 12, 1979 which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing ladies' dresses and sportswear at the K & M Division of Jonathan Logan, Incorporated, North Bergen, New Jersey. The investigation revealed that the plant primarily produces samples of ladies' dresses and pantsuits.

Petitioning group of workers was certified as eligible to apply for

adjustment assistance in a revised determination issued on July 17, 1979 (TA-W-4699). Since workers of the K & M Division of Jonathan Logan newly separated, totally or partially, from employment on or after December 27, 1977 (impact date) and before July 17, 1981 (expiration date of the revised certification) are covered by an existing determination, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 23rd day of July 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-23582 Filed 7-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5,770 et al.]

J. B. Lion Corp., Bridgeport, Conn., et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or portion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request

a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 10, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to

the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 10, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
J. B. Lion Corp. (International Goods, Plastics Novelty Workers Union).	Bridgeport, Conn.	7/24/79	7/17/79	TA-W-5, 770	Ladies' handbags.
Magnavox Consumer Electronic Co. (workers)	Morristown, Tenn.	7/23/79	7/14/79	TA-W-5, 771	Color TV modules, components, including UHR and VHR tuners.
Nanu Mills (workers)	Philadelphia, Pa.	7/9/79	7/2/79	TA-W-5, 772	Knitted yard goods
Paktron, Inc. (workers)	Lynchburg, Va.	7/12/79	6/25/79	TA-W-5, 773	Capacitors.
Reliable Coal Corp. (U.M.W.A.)	Kingwood, W. Va.	7/9/79	7/5/79	TA-W-5, 774	Mining of coal

[FR Doc. 79-23581 Filed 7-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5083]

Wyoming Valley Garment Co., Inc., Wilkes-Barre, Pa.; Revised Determination on Reconsideration

On July 16, 1979 (44 FR 43362), the Department of Labor granted administrative reconsideration of the negative determination which it had made on May 18, 1979 (44 FR 30481), pursuant to Section 223 of the Trade Act of 1974 for all workers at the Wilkes-Barre, Pennsylvania, plant of the Wyoming Valley Garment Co., Inc., regarding eligibility to apply for worker adjustment assistance.

In its reconsideration, the Department reviewed the investigative file on the subject firm and its major manufacturer. The review revealed that one manufacturer, which supplied Wyoming Valley Garment with virtually all of its orders in 1977 and a major share in 1978, reduced its purchases of men's trousers substantially from Wyoming Valley Garment and experienced a decline in its total sales of men's trousers in 1978. The secondary survey conducted by the Department of this manufacturer's retail customers revealed that several customers increased their import purchases of men's trousers.

Wyoming Valley Garment's sales decreased in 1978 compared to 1977. The average number of workers and the average number of hours worked both declined in 1978 compared to 1977.

U.S. Imports of men's trousers increased from 73.2 million units in 1976 to 76.4 million units in 1977. U.S. imports of men's trousers increased absolutely 90.8 million units in 1978. The ratio of imports to domestic production decreased from 40.9 percent in 1976 to 38.0 percent in 1977.

Conclusion

Based on additional evidence, a review of the entire record and in accordance with the provisions of the Act, I made the following revised determination:

All workers of the Wilkes-Barre, Pennsylvania, plant of the Wyoming Valley Garment Co., Inc., who became totally or partially separated from employment on or after March 19, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of July 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-23593 Filed 7-30-79; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Opera-Musical Theater Advisory Panel; Meeting; Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Opera-Musical Theater Advisory Panel to the National Council on the Arts will be held August 18, 1979, from 3:00 p.m. to 5:00 p.m., August 19, 1979, from 9:30 a.m. to 6:30 p.m., August 20 and 21, 1979, from 8:30 a.m. to 6:00 p.m., and August 22, 1979, from 8:30 a.m. to 5:00 p.m., in the Trustees' Room, fourth floor, War Memorial Opera House, San Francisco, California.

A portion of this meeting will be open to the public on August 18, 1979, from 3:00 p.m. to 5:00 p.m., and August 19, 1979, from 10:30 a.m. to 11:30 a.m. The

200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 25th day of July 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

August 18th open session will include an "Ask the Opera-Musical Theater Program Workshop".

The remaining sessions of this meeting on August 19, 1979, from 9:30 a.m. to 10:30 a.m., and from 11:30 a.m. to 6:00 p.m., August 20, 1979, from 8:30 a.m. to 6:00 p.m., and August 22, from 8:30 a.m. to 5:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 79-23489 Filed 7-30-79; 8:45 am]

BILLING CODE 7537-01-M

Folk Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Folk Arts Advisory Panel to the National Council

on the Arts will be held August 24 and 25, 1979, from 9:00 a.m. to 5:30 p.m., in room 1422, Columbia Plaza, 2401 E Street, NW., Washington, D.C.

A portion of this meeting will be open to the public on August 25, 1979, from 9:00 a.m. to 5:30 p.m. The topic of discussion will be Policy.

The remaining sessions of this meeting of August 24, 1979, from 9:00 a.m. to 5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the *Federal Register* March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts, July 23, 1979.

[FR Doc. 79-23490 Filed 7-30-79; 8:45 am]
BILLING CODE 7537-01-M

National Council on the Humanities Advisory Committee; Meeting

July 26, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the National Council on the Humanities will be conducted at Washington, D.C. on August 15-17, 1979.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Shoreham Building, 806 15th Street NW., Washington, D.C. Because the sessions of the proposed meeting on August 16, 1979 and the afternoon session on August 17, 1979 will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted

invasion of privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views to avoid interference with operation of the committee.

The session on August 15, 1979 will consist of committee meetings to discuss program guidelines and will be open to the public. The committees will convene at 2 p.m. in the rooms listed below:
Education Programs—Room 807
Fellowship Programs—Room 314
Planning & Special Programs—Room 1025
Public Programs & State Programs—1st Floor Conference Room
Research Programs—Room 1130

The morning session on August 17, 1979 will convene at 8:30 a.m. in the 1st Floor Conference Room and will be open to the public. The agenda for the morning session will be as follows:

Minutes of the Previous Meeting

Reports

- A. Introductory Remarks
- B. Program Review and Introduction of New Staff
- C. Remarks
- D. Chairman's Grants & Grants Departing from Council Recommendation
- E. Application Report
- F. Gifts and Matching Report
- G. FY 1979 Program Funds
- H. FY 1980 Appropriation Request
- I. FY 1981 Budget Request
- J. Reauthorization
- K. Dates of Future Council Meetings
- L. Jefferson Lecture Eligibility
- M. Cost-Sharing Study

The sessions on August 16, 1979 and the afternoon session on August 17, 1979 will be devoted to the discussion of specific grant applications and will be closed to the public. On August 16, 1979 there will be a meeting in Room 1001 from 8 to 9:30 a.m.; there will be committee meetings in the rooms listed below from 9:30 a.m. to 4:30 p.m. to discuss applications in the following programs:

Education Programs—Room 807
Fellowship Programs—Room 314
Planning & Special Programs—Room 1025
Public Programs & State Programs—1st Floor Conference Room
Research Programs—Room 1130

The afternoon session on August 17, 1979 will be closed to the public.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 79-23547 Filed 7-30-79; 8:45 am]

BILLING CODE 7536-01-M

OFFICE OF MANAGEMENT AND BUDGET

Federal Aid Reform; Opportunity to Comment on Federal Flow Charts

This notice offers interested parties an opportunity to comment on flow charts that show the review and approval process for a sample of Federal aid programs. If the sample flow charts appear to be useful, additional ones will be developed.

A White House Status Report, *Federal Aid Simplification*, dated September 1978, disclosed that grant recipients are often unable to determine the status of grant applications, or to understand the review and approval processes of many Federal aid programs. The report further stated that agency staffs are often unable to describe the review process themselves, or to assist applicants in tracking a grant application. The report recommended that each agency produce a one-page "road map" or flow chart for each federally assisted program, for inclusion as part of the grant application.

The flow charts presented here show the review and approval process for a sample of programs of the Department of Health, Education, and Welfare. Comments are solicited as to whether it would be useful for all Federal agencies to prepare similar "road maps" or flow charts for other programs shown in the *Catalog of Federal Domestic Assistance*. Views are also solicited on the layout of each flow chart, the clarity, and the amount of detail presented. Comments on the proper method of disseminating this information are also sought.

Comments should be submitted in duplicate to the Financial Management Branch, Budget Review Division, Office of Management and Budget, Washington, D.C. 20503. Contact person: John J. Lordan (202) 395-6823. All comments should be received on or before September 1, 1979.

Velma N., Baldwin,

Assistant to the Director For Administration.

BILLING CODE 3110-01-M

13,950 EDUCATIONAL RESEARCH AND DEVELOPMENT

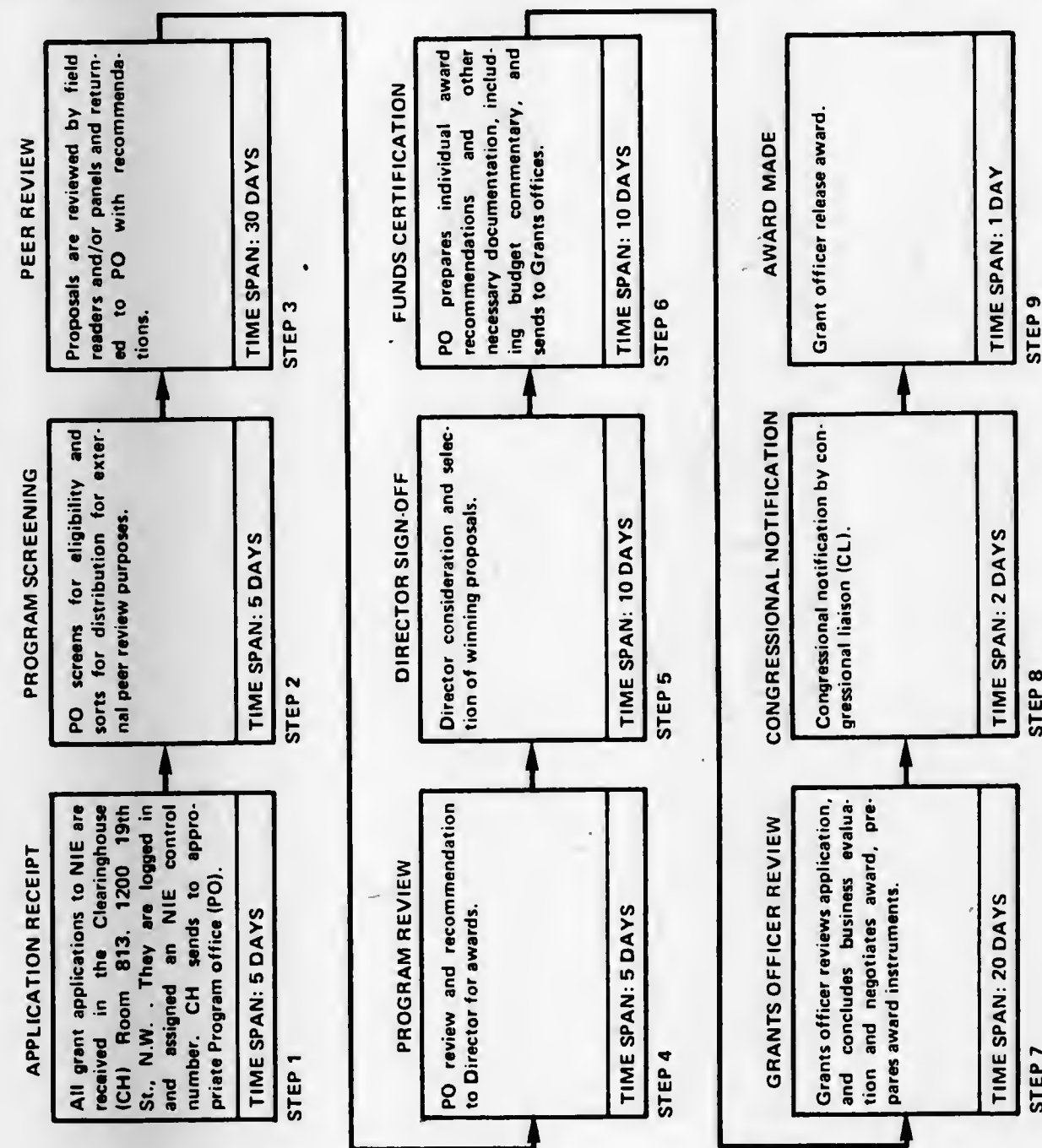
FEDERAL AGENCY: NATIONAL INSTITUTE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

AUTHORIZATION: Section 405 of the General Education Provisions Act as amended by the Education Amendments of 1976, Public Law 94-482; 20 U.S.C. 1221c.

OBJECTIVES: To improve education in the United States, so that every person is provided an equal opportunity to receive an education of high quality, regardless of race, color, religion, sex, age, national origin or social class through concentrating the resources of the Institute on priority research and development need relating to: helping solve or alleviate the problems of, and achieve the objectives of American education; advancing the practice of education as an art, science, and profession; strengthening the scientific and technological foundations of education; and building an effective educational research and development system. The Congress has identified the following priority research and development needs on which the Institute's contracts and grants are mostly focused: 1) improvement in student achievement in the basic educational skills, including reading and mathematics; 2) overcoming problems of finance, productivity, and management in educational institutions; 3) improving the ability of schools to meet their responsibilities to provide equal educational opportunities for students of limited English-speaking ability, women, and students who are socially, economically or educationally disadvantaged; 4) preparation of youth and adults for entering and progressing in careers; 5) improved dissemination of the results of, and knowledge gained from educational research and development, including assistance to educational agencies and institutions in the application of such results and knowledge.

TYPES OF ASSISTANCE: Project Grants, Research Contracts.

PROGRAMS OF EDUCATION RESEARCH AND DEVELOPMENT



13.612 NATIVE AMERICAN PROGRAMS

FEDERAL AGENCY: OFFICE OF HUMAN DEVELOPMENT SERVICES, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

AUTHORIZATION: 42 U.S.C. 2991 et seq.; Title VIII, Community Services Act of 1974, Public Law 93-644, as amended by Public Law 95-568.

OBJECTIVE: To promote the goal of economic and social self-sufficiency for American Indians, Native Hawaiians, and Alaskan Natives.

TYPES OF ASSISTANCE: Project Grants (Contracts).

13.626 REHABILITATION SERVICES AND FACILITIES—SPECIAL PROJECTS

(Rehabilitation Services Projects)

FEDERAL AGENCY: OFFICE OF HUMAN DEVELOPMENT SERVICES, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

AUTHORIZATION: Rehabilitation Act of 1973, Public Law 93-112, Sections 112, 120, 301(b)(6), 302(b) (c), 304(b) (2), 304(b)(3), 304(c)(3), 304(c) 305, Public Law 94-230 (1976); 29 U.S.C. 701.

OBJECTIVE: To provide funds to State vocational rehabilitation agencies and public or nonprofit organizations for projects and demonstrations which hold promise of expanding and otherwise improving services for the mentally and physically handicapped over and above those provided by the Basic Support Program administered by states.

TYPES OF ASSISTANCE: Project Grants (Contracts).

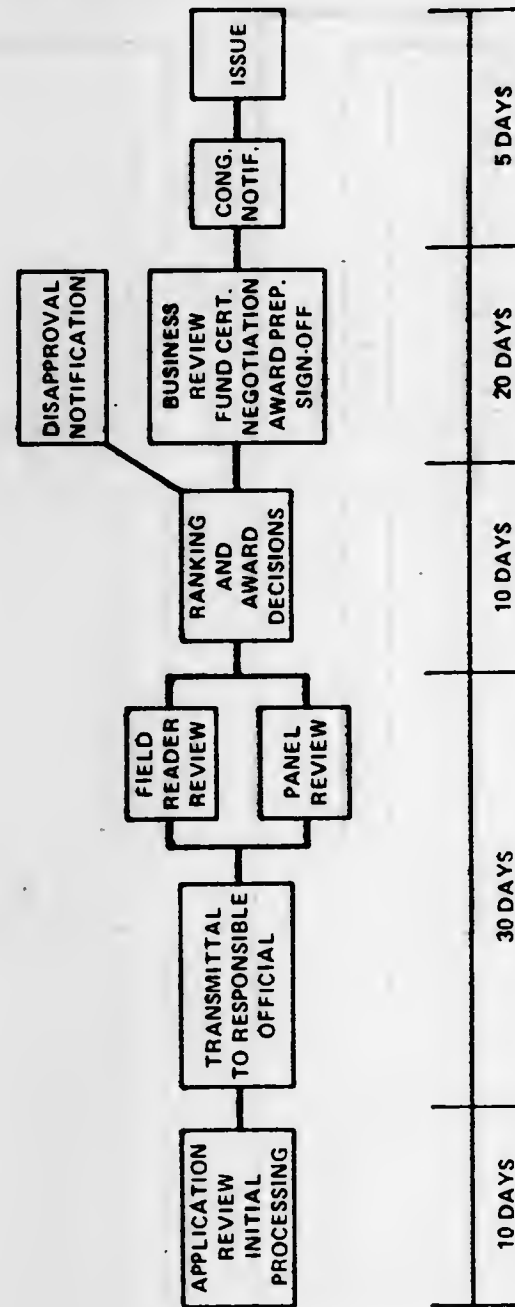
13.623 ADMINISTRATION FOR CHILDREN, YOUTH AND FAMILIES—RUNAWAY YOUTH

FEDERAL AGENCY: OFFICE OF HUMAN DEVELOPMENT SERVICES, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

AUTHORIZATION: The Juvenile Justice and Delinquency Prevention Act, Title III, Public Law 93-415; 42 U.S.C. 5701, as amended.

OBJECTIVE: To develop local facilities to address the immediate needs of runaway youth.

TYPES OF ASSISTANCE: Project Grants.



Length of time is average and varies depending upon the number of applications to be reviewed, availability of reviewers and need for negotiations with applicants.

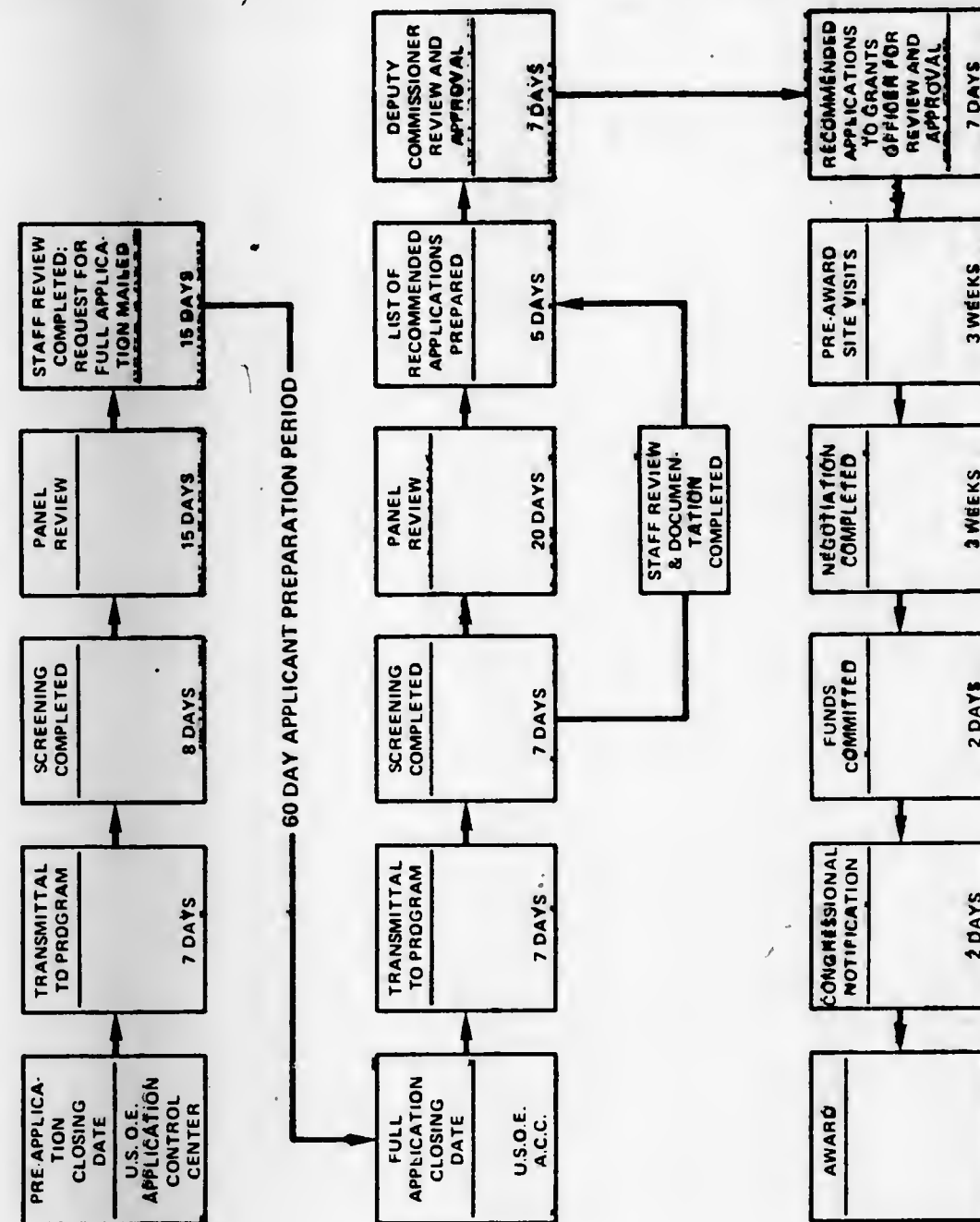
13.522 ENVIRONMENTAL EDUCATION

FEDERAL AGENCY: OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

AUTHORIZATION: Environmental Education Act, Public Law 91-516, as amended by Public Law 93-278 (20 U.S.C. 1531-1536 reauthorized by Public Law 95-561, Section 301; 20 U.S.C. 3011-3018.

OBJECTIVES: To improve public understanding of environmental issues as they relate to the quality of life.

TYPES OF ASSISTANCE: Project Grants.



13.478 SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS—MAINTENANCE AND OPERATION

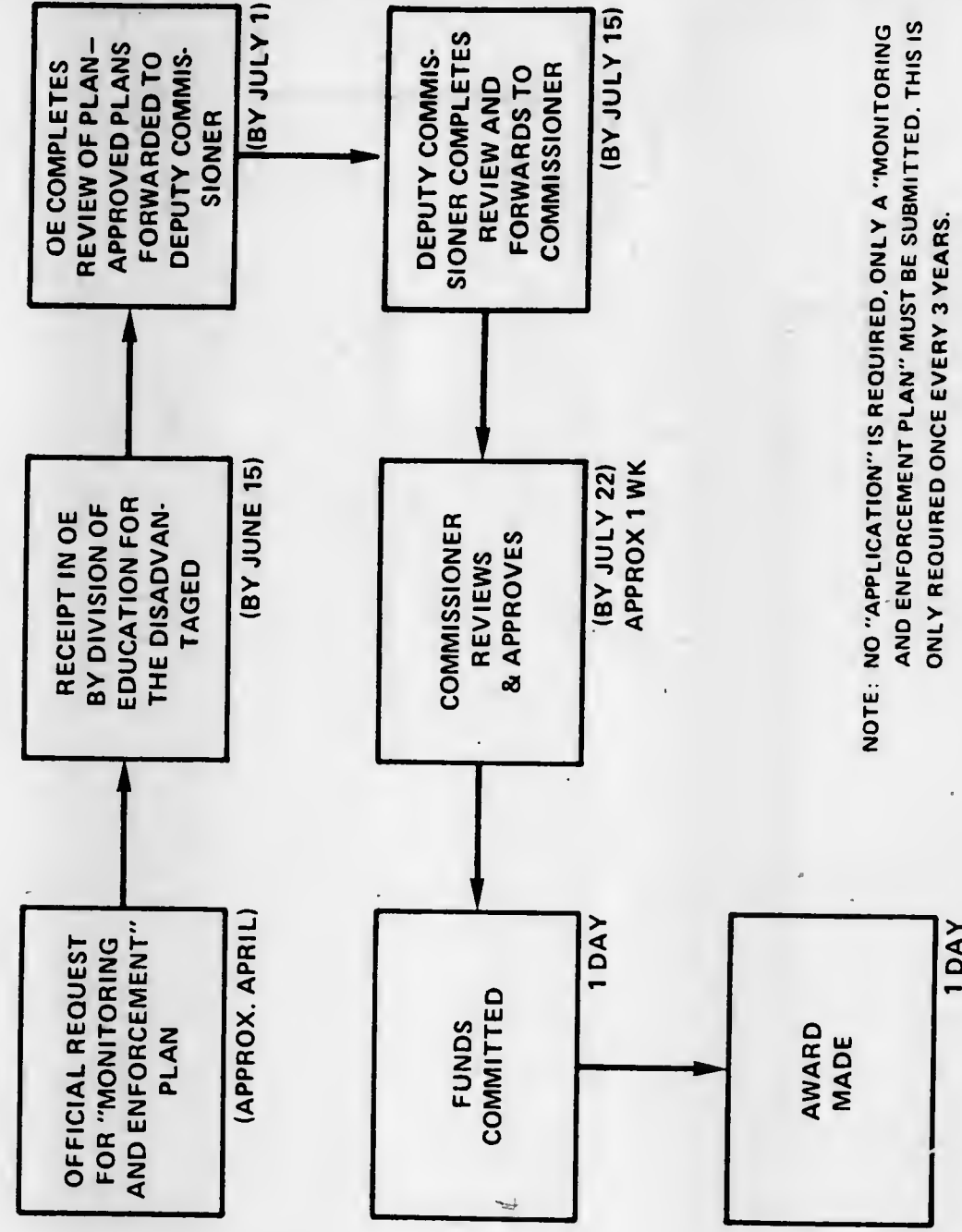
(Impact Aid)

FEDERAL AGENCY: OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE.

AUTHORIZATION: Federally Impacted Areas, Title I and IV, of Public Law 81-874, as amended by Public Law 93-380; 20 U.S.C. 236-241-1, 242-245.

OBJECTIVES: To provide financial assistance to local educational agencies upon which financial burdens are placed; due to Federal activity where tax base of a district is reduced through the Federal acquisition of real property; sudden and substantial increase in school attendance as the result of Federal activities; education for children residing on Federal property; or children whose parents are employed on Federal property or in the Uniformed Service, To provide major disaster assistance by replacing, repairing damaged or destroyed supplies, equipment or facilities. To provide assistance for the education of children residing with a parent who at any time during the 3-year period preceding the fiscal year of application, was a refugee meeting requirements of the Migration and Refugee Assistance Act of 1962 provided payment was not made under Section 2(b)(4) of that Act.

TYPE OF ASSISTANCE: Formula Grants.



NOTE: NO "APPLICATION" IS REQUIRED, ONLY A "MONITORING AND ENFORCEMENT PLAN" MUST BE SUBMITTED. THIS IS ONLY REQUIRED ONCE EVERY 3 YEARS.

13.499 VOCATIONAL EDUCATION—SPECIAL NEEDS

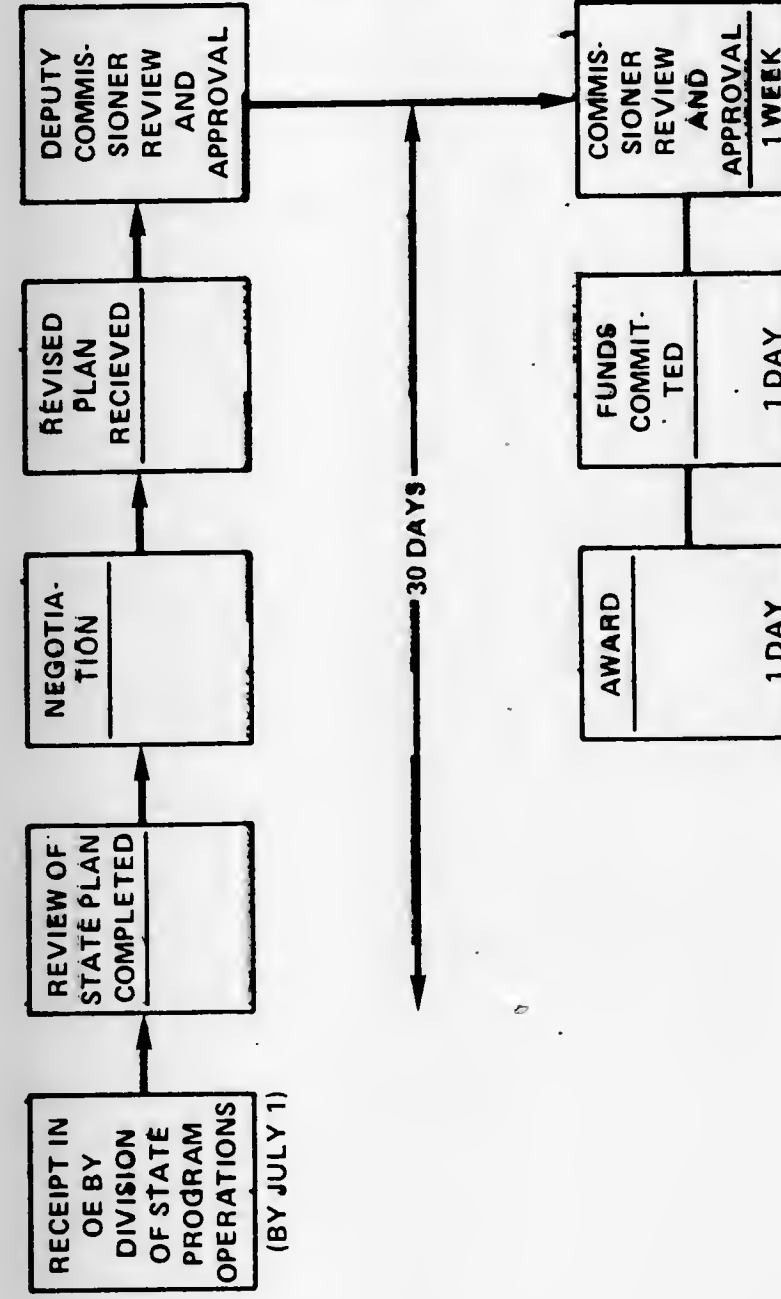
(Special Program for Disadvantaged)

FEDERAL AGENCY: OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION AND WELFARE.

AUTHORIZATION: Vocational Education Act of 1963, as amended by Title II of the Education Amendments of 1976, Public Law 94-482; 20 U.S.C. 2370; 90 Stat. 2195.

OBJECTIVES: To provide vocational education special programs for persons who have academic, or economic handicaps and who require special services and assistance in order to enable them to succeed in vocational education programs.

TYPE OF ASSISTANCE: Formula Grants.



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13.444 HANDICAPPED EARLY CHILDHOOD ASSISTANCE

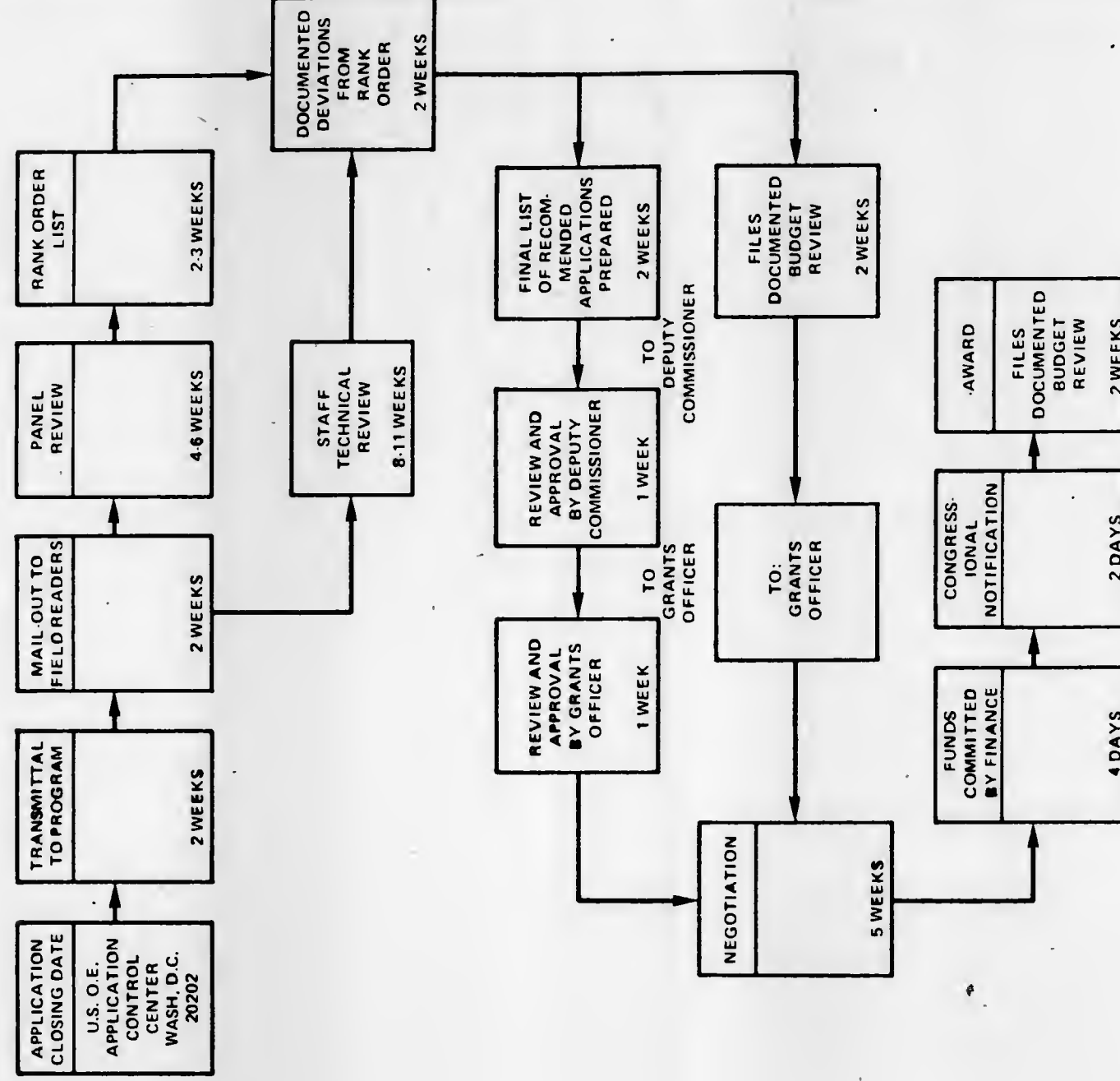
(Early Education Program)

FEDERAL AGENCY: OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

AUTHORIZATION: Education of the Handicapped Act, Public Law 91-230, Title VI, Part C, 20 U.S.C. 1423, as amended by Public Law 95-49.

OBJECTIVES: To support experimental demonstration, outreach and State implementation of preschool and early childhood projects for handicapped children.

TYPES OF ASSISTANCE: Project Grants



13.217 FAMILY PLANNING PROJECTS

FEDERAL AGENCY: HEALTH SERVICES ADMINISTRATION, PUBLIC HEALTH SERVICES, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

AUTHORIZATION: Public Health Service Act as amended, Public Law 95-83, Title X, Section 1001, 42 U.S.C. 300.

OBJECTIVES: To provide educational, comprehensive medical and social services necessary to enable individuals to freely determine the number and spacing of their children, to promote the health of mothers and children and to help reduce maternal and infant mortality.

TYPES OF ASSISTANCE: Project Grants

13.224 COMMUNITY HEALTH CENTERS

(Public Health Service Act, Section 330)

FEDERAL AGENCY: HEALTH SERVICES ADMINISTRATION, PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

AUTHORIZATION: Section 330, Public Health Service Act; Public Law 95-626, as amended by Title I, Public Law 95-83, as amended by Title V, Public Law 94-63; 42 U.S.C. 254C; (Previously, Public Health Service Act, Title III, Section 314(e); as amended by Section 3 of the Comprehensive Health Planning and PHS Amendments of 1966; Public Law 89-749; Section 2 of the Partnership for Health Amendments of 1967; Public Law 90-174; and Title II of the 1970 Amendments to PHS Act; Public Law 91-515).

OBJECTIVES: To support the development and operation of community health centers which provide primary health services, supplemental health services and environmental health services to medically underserved populations. In 1979, priorities will be focused on capacity building in medically underserved areas and maintenance of existing centers, expansion of population and service coverage in existing centers, monitoring and assessment of project performance, development and implementation of mechanisms for improving quality of care, and maximizing third party reimbursement levels, through improved project administration and management.

TYPES OF ASSISTANCE: Project Grants

13.246 MIGRANT HEALTH GRANTS

FEDERAL AGENCY: HEALTH SERVICES ADMINISTRATION, PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

AUTHORIZATION: Public Health Service Act, Title III, Section 329, Public Law 95-626, 42 U.S.C. 247d

OBJECTIVES: To support the development and operation of migrant health centers and projects which provide primary ambulatory and in-patient health services, supplemental health services and environmental health services which are accessible to people as they move and work, to migrant agricultural farm workers, seasonal farm workers and their families

TYPES OF ASSISTANCE: Project Grants (Contracts)

Days Prior to
Beginning Date
of Budget Period

120	Simultaneous submission of application to PHS awarding component, Health Systems Agency, and A-95 Clearinghouses.
110-60	Receipt of application by awarding component, logging in, establishment of grant file, review by grants management office for completeness and arithmetical accuracy, duplication of application for reviewers, business evaluation of applicant's financial management capability, requesting and receiving from applicant any missing information, pre-evaluation site visits to applicant as may be necessary.
67	Receipt of comments from HSA and A-95 Clearinghouses. A-95 comments may have been received at Day 90 if Notice of Intent procedure was used.
67-30	Programmatic review, objective review of application. (Objective review may not take place until the expiration of the 67-day comment period or the receipt of HSA and A-95 comments, whichever comes first). Negotiation with applicant, if necessary, regarding issues raised during objective review.
20-10	If RHA decision is to approve award of grant, preparation of approval list and NGA, certification by Obligation Control Point of availability of funds, signature by RHA on approval list (as appropriate under individual regional office review procedures), notification of pending award to Congressional Liaison Office.
10	Issuance of NGA to grantee.
5	Notification of award action to A-95 clearinghouses, SCIRAs, HSAs.
0	Begin date of grant budget period.

13.210 COMPREHENSIVE PUBLIC HEALTH SERVICES-FORMULA GRANTS

(314d) Formula Grants to State Health and Mental Health Authorities

FEDERAL AGENCY: HEALTH SERVICES ADMINISTRATION, PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
 AUTHORIZATION: Public Health Service Act, Title III, Section 314(d), as amended; 42 U.S.C. 246.

OBJECTIVES: To assist State health authorities in meeting the cost of providing comprehensive public health services.

TYPES OF ASSISTANCE: Formula Grants (Health Incentive Grants)

Milestones

July 1-15	PHS regional office representatives meet with appropriate state agency staff for the purpose of physically locating, identifying and reviewing specific documents incorporated by reference into state plan. After acceptance of state plan documents by PHS, state agency prepares a State Plan Certification.
July 15	State agency submits State Plan Certification to the Governor for his review and approval (45 days allowed), and to the Statewide Health Coordinating Council (SHCC) (60 days allowed).
September 1	Submission of State Plan Certification to PHS regional office.
September 15	Receipt of comments by SHCC.
September 5-15	Regional office advises state agency of any change in amount of allotment.
September 20	State agency submits budget to regional office.
September 25	Preparation of Notice of Grant Award (NGA), approval list, and notification to Congressional Liaison Office.
October 1	Issuance of NGA (contingent upon availability of funds).

13.633 SPECIAL PROGRAMS FOR THE

AGING—STATE AGENCY ACTIVITIES AND AREA PLANNING AND SOCIAL SERVICE PROGRAMS

(Aging Programs—Title III State Agency Activities and Area Planning and Social Service Programs)

FEDERAL AGENCY: OFFICE OF HUMAN DEVELOPMENT SERVICES, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

AUTHORIZATION: Older Americans Act of 1965, Public Law 89-73, as amended by Public Laws 90-42, 91-69, 92-258, 93-29, 93-351, and 94-135, Title III; Section 301, 87 Stat. 36-45, 42 U.S.C. 3021-3025.

OBJECTIVES: To provide assistance to State and area organizations for support of programs for older persons via statewide planning, area planning and social services.

TYPES OF ASSISTANCE: Formula Grants.

The following is the procedure taken by Regional Offices when receiving State Plans from their states:
 (Due in Regional Office August 13, 1979)

- Log in for date and time
- Check for standard format with appropriate copies
- Team review to conduct analysis of overall Plan content to assure compliance, assurances, waivers, etc.
- Recommendation for approval with or without conditions by the Regional Program Director
- Forward to Central Office

When the State Plans are received in Central Office, the following steps are taken by the Office of Program Operations and the Office of Program Development before being forwarded to the Commissioner:
 (Due in C.O. 9/1/79)

- Log in for date and time
- Check on completeness of material submitted
- Check on overall Plan content
- Check for compliance, assurances, waivers, etc.
- If in compliance, State Plans are then forwarded to the Commissioner for his review and approval
- After approval by the Commissioner, State Plans are returned to the Office of Program Operations for mailing by approval letter to the respective states before October 1, 1979

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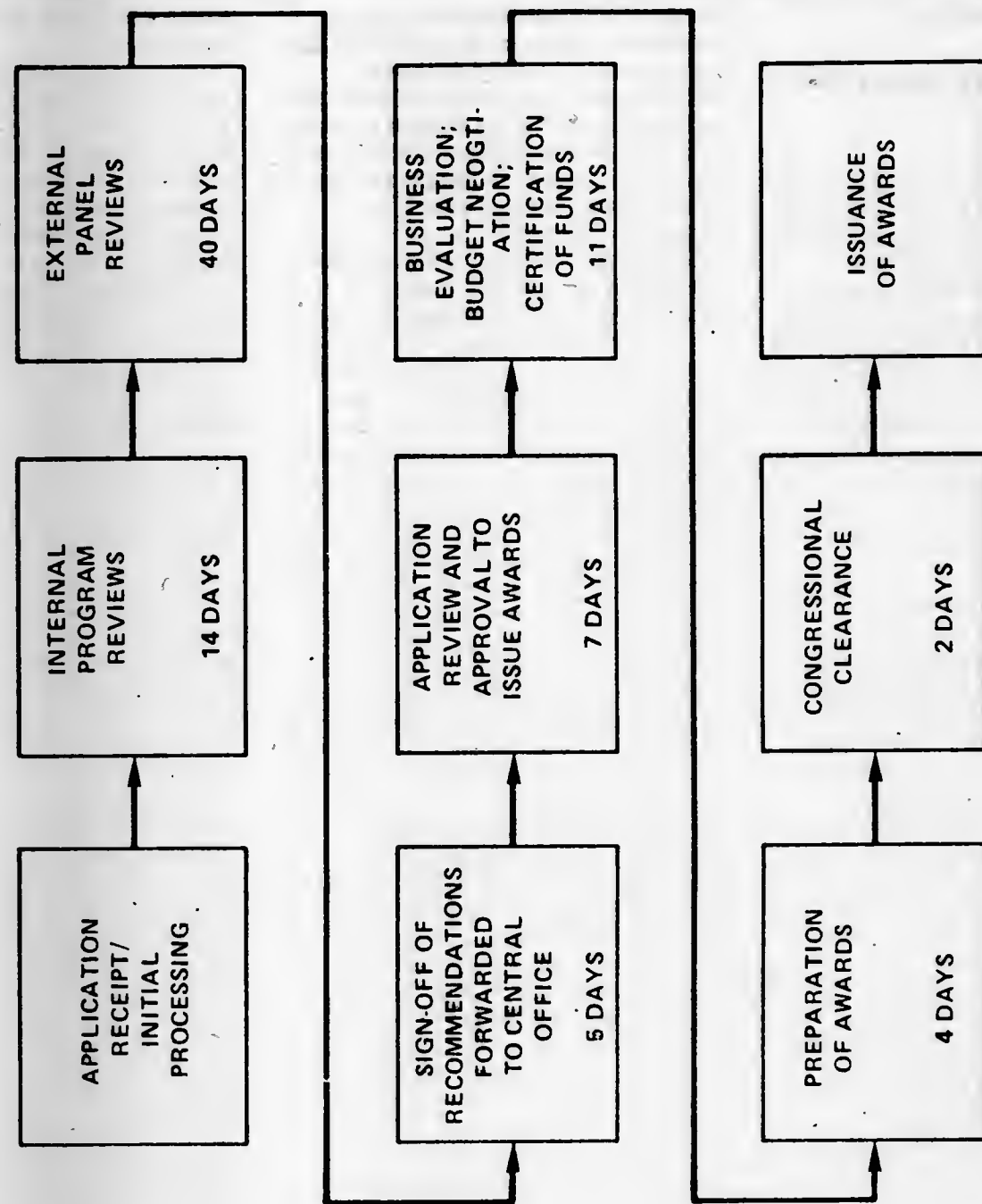
13.775 STATE MEDICAID FRAUD CONTROL UNIT
FEDERAL AGENCY: OFFICE OF THE INSPECTOR GENERAL
AUTHORIZATION: Social Security Act, Title XIX, Section 1903 and Section 17 of Public Law 95-142.
OBJECTIVE: To control fraud in the States' Medicaid program.
TYPES OF ASSISTANCE: Formula Grants.
USES AND USE RESTRICTIONS: Provides 90 percent matching funds for investigation and prosecution of fraud in statewide Medicaid programs. The unit must be separate and distinct from the State Medicaid agency. Authority for this program expires October 1, 1980.

	Time Involved
Application submitted by State/received by OIG	-
Reviewed by OIG/Division of State Fraud Control	2 weeks
Changes in application required by statutes or regulations as well as questionable budget items are negotiated with State	4 weeks
On-site review	1 week
Approval of Grant application by OIG	1 day
Congressional notification	3 days
Award letter submitted to HEW obligation control point	2 days
Award letter to State	-

13.814 REFUGEE ASSISTANCE—INDOCHINESE REFUGEES

(Refugee Assistance—Indochinese Refugees)
FEDERAL AGENCY: SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
AUTHORIZATION: The Indochina Migration and Refugee Assistance Act of 1975; Public Law 94-23; 22 U.S.C. 2661, as amended by Public Laws 94-313, 95-145, and 95-549; 42 U.S.C. 601, 91 Stat 1223.
OBJECTIVES: To help refugees from Cambodia, Vietnam, and Laos resettle throughout the country, by funding, through State and local public assistance agencies, maintenance and medical assistance and social services for needy refugees; and to provide grants for special employment training and related projects.
TYPES OF ASSISTANCE: Direct Payments with Unrestricted Use

INDOCHINESE REFUGEE PROGRAM and Approval Process



OFFICE OF PERSONNEL MANAGEMENT**Privacy Act of 1974; Proposed New Routine Use****Correction**

In FR Doc. 79-22886 appearing at page 43375 in the issue for Tuesday, July 24, 1979, the routine use being added at that time was incorrectly designated paragraph "x". A previous paragraph "x" had been published at 42 FR 29768, Tuesday, May 22, 1979. The routine use added at 44 FR 43375 should have been an undesignated paragraph immediately following the previously designated paragraph "x". The routine uses section should read as follows:

CSC/GOVT-3**SYSTEM NAME:**

General Personnel Record-SCS.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be:

- a. Used in the selection process by the agency maintaining the record in connection with appointments, transfers, promotions, or qualifications determinations. To the extent relevant and necessary, it will be furnished upon request to other agencies for the same purpose.
- b. Disclosed to other Government agencies maintaining relevant enforcement or other information if necessary to obtain from these agencies information pertinent to decisions regarding hiring or retention.
- c. Disclosed to prospective employers or other organizations, at the request of the individual.
- d. Disclosed to officials of foreign governments for clearance before employee is assigned to that country.
- e. Disclosed to educational institutions for training purposes.
- f. Disclosed to the Department of Labor; Veterans Administration; Social Security Administration; Department of Defense; Federal agencies who may have special civilian employee retirement programs; national, State, county, municipal, or other publicly recognized charitable or social security administration agency to adjudicate a claim for benefits under the Bureau of Retirement, Insurance, and Occupational Health's or the recipient's benefit program(s), or to conduct an analytical study of benefits being paid under such program.
- g. Disclosed to health insurance carriers contracting with the Commission to provide a health benefits plan under the Federal Employees' Health Benefits Program, to identify enrollment in a plan, to verify eligibility for payment of a claim for health benefits, or to carry out the coordination of benefits, provisions of such contracts.

h. Disclosed to Federal Employees' Group Life Insurance Program in support of an individual's claim for life insurance benefits.

i. Disclosed to labor organizations in response to requests for names of employees and identifying information.

j. If information indicates a possible violation of law, it may be disclosed to law enforcement agencies.

k. Disclosed to district courts to render a decision when an agency has refused to release to current or former Federal employees a record under the Freedom of Information Act.

l. Disclosed to district courts for use in rendering a decision when an agency has refused to release a record to the individual under the Freedom of Information Act (FOIA).

m. Used to provide statistical reports to Congress, agencies, and the public on characteristics of the Federal workforce.

n. Used in the production of summary descriptive statistics and analytical studies. The records may be used to respond to general requests for statistical information (without personal identifier) under FOIA; or to locate individuals for personnel research or other personnel research functions.

o. Disclosed to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

p. Disclosed to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation or order where there is an indication of a violation or potential violation of civil or criminal law or regulation.

q. Disclosed to an agency upon request for determination of an individual's entitlement to benefits in connection with Federal Housing Administrative programs.

r. To provide information to a congressional office from the record of an individual in response to an inquiry from a congressional office made at the request of that individual.

s. Used to provide an official of another Federal agency any information he or she needs to know in the performance of his or her official duties related to reconciling or reconstructing data files, compiling descriptive statistics, and making analytical studies in support of the personnel functions for

which the records were collected and are maintained.

t. Disclosed to officials of labor organizations recognized under Executive Orders 11636 and 11491, as amended, when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

u. Used to select employees for incentive awards and other honors and to publicize those granted. This may include disclosure to other public and private organizations, including news media, which grant or publicize employee awards or honors.

v. Disclosed to another Federal agency or to a court when the Government is party to a suit before the court.

w. To disclose specific Civil Service employment information required under law by the Department of Defense on individuals identified as members of the Ready Reserve, to assure continuous mobilization readiness of Ready Reserve units and members.

x. To disclose to a requesting agency the home address and other relevant information concerning those individuals who, it is reasonably believed, might have contracted an illness, been exposed to, or suffered from a health hazard while employed in the Federal workforce.

To disclose the name, date of birth, Social Security Number, salary, work schedule, and duty station location of Federal employees as of March 31, 1979, to the Department of Health, Education, and Welfare in connection with that agency's Aid to Families with Dependent Children (AFDC) matching program. Pursuant to Pub. L. 94-505, the Department of Health, Education, and Welfare is conducting a matching program to reduce fraud and unauthorized payments in Federal programs, and to collect debts owed to the Federal government. This routine use will be operative for a limited period of six months from its effective date.

BILLING CODE 6325-01-M

POSTAL RATE COMMISSION

[Docket No. MC78-3]

Electronic Mail Classification Proposal, 1978; Inquiry Regarding Issues of Privacy and Mail Security

Issued: July 26, 1979.

The Commission believes that a significant issue in the decision in this

docket is the question of what measures may be taken to insure the privacy of electronic mail. The issue appears to us to be principally one of law and policy, given the existing laws and regulations on the subject: 39 U.S.C. 3023(d) provides for the creation of classes of letter mail sealed against inspection, various criminal statutes protect the mails against tampering,¹ and the Federal Communications Commission administers certain regulations requiring telegraph carriers to preserve copies of all messages sent.² We therefore believe it is appropriate for the parties to address these questions by legal and policy memoranda.

A Postal Service witness has stated that E-COM is intended to be a subclass of first-class mail. See Tr. 8/1950-54. Presumably, this view implies that E-COM messages would be accorded the same security against postal inspection or other intrusion as ordinary first-class letters. It may also be true, as a matter of policy, that, to the extent E-COM or some other form of electronic mail service tends to replace ordinary first-class letter service, the expectations of mail recipients that letters addressed to them will remain closed against inspection—as ordinary first-class letters are today—should be honored.

We therefore invite the legal and policy comments of all interested parties on the matters just referred to, as well as on the following general questions:

1. In the E-COM proposal as advanced by the Service, is the access which postal employees may have to the text of E-COM messages during processing in the SPOs inconsistent with the degree of privacy accorded first-class letters? Should special safeguards be adopted? Will the access situation change following the Service's proposed preliminary phase of E-COM?

2. What requirements in respect of sealing against inspection should apply to E-COM messages while they are in the hands of the telecommunications carrier?

a. If it were held that E-COM messages are first-class letters *ab initio*—that is, from the time the sender places them in the hands of the telecommunications carrier—is it desirable and feasible to make them subject to all the legal protections accorded to first class letter mail?

b. If E-COM messages are deemed first-class letters *ab initio*, is it possible, or desirable, to distinguish between the effect of laws and regulations protecting

the privacy of such messages and the effect of the Private Express Statutes [18 U.S.C. 1694 *et seq.*; 39 U.S.C. 601 *et seq.*]? That is, can a message, as a matter of law, be considered a first-class letter for purposes of one set of statutes but not for the other?

c. If it were held that E-COM messages become "letters" only when reduced to hard copy at the SPO, what measures could and should be taken to assure similar privacy against inspection at earlier stages of their transmission?

3. The questions posed above deal with privacy of E-COM messages during their transmission from sender to recipient. A separate question is raised by the potential existence of banks of E-COM message data generated by the journaling and archiving (whether voluntary or under FCC requirements) of messages by the telecommunications carrier.

a. Do privacy interests require that journaling and archiving procedures not be applied to E-COM messages? That they be modified or provided with safeguards against access?

b. What interests are served by journaling and archiving? Can the two processes be separated, and, if so, would journaling alone be sufficient to serve the purposes underlying the practice?

c. What are the precise regulatory requirements administered by the FCC with respect to journaling and archiving, and to what types of telecommunications transmissions do they apply?

While we invite all parties to comment on these questions—as well as any other issues which they believe are germane to the general subject of message privacy and to the other issues in this case—we are mindful of the fact that the treatment of messages in the hands of telecommunications carriers is a matter peculiarly within the expertise of the FCC. We therefore particularly invite the FCC's comments on the matters addressed in question 3 above.

Because of broad general interest in questions of privacy, we are giving this Notice a wider circulation through publication in the Federal Register. The attention of interested persons not parties to this case is called to § 19b of our rules of practice (39 CFR 3001.19b), permitting the filing of non-record comments.

The Commission orders:

(A) All parties are invited to file legal and policy memoranda on the subjects addressed by this Notice of Inquiry on or before August 17, 1979.

(B) Reply memoranda shall be filed on or before August 24, 1979.

(C) The Secretary shall publish this Notice promptly in the Federal Register.

By the Commission.

David F. Harris,

Secretary.

[FR Doc. 79-23607 Filed 7-30-79; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

(Release No. 21159; 70-6334)

American Electric Power Co., Inc.; Proposed Issuance and Sale of Common Stock Pursuant to Underwritten Rights Offering

July 25, 1979.

Notice is hereby given that American Electric Power Company, Inc. ("AEP"), 2 Broadway, New York, New York 10004, a registered holding company, has filed with this Commission a declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6, 7, and 12(c) of the Act and Rules 42 and 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

AEP purposes to offer to the holders of its common stock outstanding as of the close of business on September 6, 1979, or such later date as the post-effective amendment to its registration statement under the Securities Act of 1933 may become effective (the "Record Date"), the following:

(i) The right to subscribe ("Rights") for shares of AEP's authorized but unissued common stock on the basis of one share for each fifteen shares held on the Record Date.

(ii) To each shareholder owning a number of shares not evenly divisible by fifteen, the right to subscribe for such fractional interest as, when added to his terminal fraction, will enable him, subject to allotment if necessary, to purchase (the "Step-up Privilege") one additional full share of AEP's authorized but unissued common stock. The total number of authorized but unissued shares representing the fractional interests to be offered to shareholders is 8,000,000, less the number of shares required under (i) above. If additional shares are required to meet the Step-up Privilege, they are to be made available from shares not subscribed for pursuant to the exercise of Rights. (Such 8,000,000

authorized but unissued shares, together with any outstanding shares of AEP common stock (not exceeding 800,000 shares) as may be acquired by AEP pursuant to stabilizing activities described further below, hereinafter referred to as the "Additional Common Stock".

(iii) The privilege to subscribe (the "Over-Subscription Privilege") for any number of shares of the Additional Common Stock not subscribed for through the exercise of Rights or the Step-up Privilege, subject to allotment among those who exercise the Over-Subscription Privilege, proportionately, on the basis not of the number of shares they request but of the number of shares they purchase pursuant to exercise of Rights and Step-up Privilege.

The subscription price will be determined by AEP's Board of Directors, or by a Committee of such Board duly authorized by it, late in the day of the anticipated Record Date, and is expected to be not more than 100%, and not less than 90%, of the reported closing price of AEP common stock on the New York Stock Exchange on such date.

Each record holder of AEP common stock will receive, as soon after the Record Date as is practicable, a transferable subscription warrant ("Warrant") representing the number of Rights to which he is entitled. Each Warrant may be transferred, divided or combined with other Warrants, but may not be subdivided in such a manner as to entitle the holder to subscribe to a greater number of shares than permitted by the original Warrant. AEP expects that subscription Rights will be traded on the New York Stock Exchange and that they may be bought and sold through banks or brokers. AEP also proposes to afford to holders of Warrants the opportunity to buy or sell Rights through AEP's subscription agent, such agent to charge two cents per Right for its services.

The subscription offer will expire at the close of business on the Warrant expiration date, presently planned to be September 28, 1979 (assuming a Record Date of September 6, 1979).

AEP does not intend to mail Warrants to stockholders whose registered addresses are outside the United States, Canada and Mexico. To the extent that AEP does not receive instructions from such stockholders to either exercise or otherwise dispose of their Warrants, AEP may sell the Rights evidenced by such Warrants, as well as the Rights evidenced by Warrants which are returned to the subscription agent after the initial mailing as nondeliverable for

any reason. AEP will, if such Rights are sold, within 30 days following the fifth anniversary of such sale, pay any of the net proceeds then remaining unclaimed (as the same may have been reduced by the deduction of fees for the administration of such funds) pursuant to any applicable provisions of the Abandoned Property Law of New York.

In connection with the subscription rights offering, AEP anticipates that it may effect stabilizing transactions in order to maintain the market price of its common stock and/or the Rights at levels above those which might otherwise prevail in an open market. AEP states that it will acquire no more than 800,000 shares of its common stock pursuant to these stabilizing activities.

AEP further proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, such of the shares of the Additional Common Stock as are not purchased pursuant to the subscription offer. The subscription price, which will also be the price to be paid by the successful bidder or bidders, will be set by AEP shortly before the time written proposals are to be submitted. The aggregate amount to be paid by AEP to the successful bidder or bidders for their commitments and obligations under the purchase contract will be determined by competitive bidding. The purchase contract will obligate the purchasers to make a public offering of the shares promptly after the Warrant expiration date.

The proceeds from the sale of the shares of Additional Common Stock are to be used to repay AEP's short-term indebtedness and to make additional investments in AEP's operating subsidiaries. At June 30, 1979, AEP had outstanding \$110,430,000 of short-term debt.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than August 17, 1979, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that to be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A

copy of such request should be served personally or by mail upon the declarant at the above stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-23565 Filed 7-30-79; 8:45 am]

BILLING CODE 8010-01-M

(Release No. 21155; 70-5899)

Columbia Gas System, Inc.; Proposal To Issue Common Stock Pursuant to a Tax Reduction Employee Stock Ownership Plan

July 23, 1979.

Notice is hereby given that The Columbia Gas System, Inc. ("Columbia"), 20 Montchanin Road, Wilmington, Delaware 19807, a registered holding company, has filed a post-effective amendment to a declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended declaration for a complete statement of the proposed transaction.

By orders dated October 4, 1978 and August 10, 1978 (HCAR Nos. 19704 and 20666) in this matter the Commission authorized Columbia to issue up to 125,000 shares of its common stock pursuant to its Tax Reduction Employee Stock Ownership Plan ("TRESOP") during the years 1976 and 1977 with respect to the tax years 1975 and 1976 and up to 400,000 shares during the years 1978 through 1981 with respect to the tax years 1977 through 1980. Section 301 of the Tax Reduction Act of 1975

created the special one percent investment tax credit which funds the TRESOP. That tax credit was extended through the 1980 tax year by the Tax Reform Act of 1976 and has now been extended through the 1983 tax year by the Revenue Act of 1978. Columbia proposes to continue to contribute to the TRESOP amounts equal to the special one percent investment tax credit in the form of its authorized but unissued common stock.

Accordingly, Columbia seeks authorization to issue its authorized but unissued common stock pursuant to its TRESOP with respect to the tax years 1978 through 1983. Of the 400,000 shares originally authorized, 91,657 were issued for the 1977 tax year, 308,343 remain for the 1978 through 1980 tax years. Based on qualified property additions by the System in 1978 and on present estimates for 1979 through 1983, it is estimated that the additional one-percent investment tax credit could amount to approximately \$13,000,000 in total for the tax years 1978 through 1983. At an assumed average trading price of \$28 per share, it is presently estimated that 464,000 shares of stock would be issued under the non-contributory portion of the TRESOP for the six years involved. Columbia therefore requests that the existing authorization for the issuance of 308,343 shares with respect to the tax years 1978 through 1980 be superseded by authorization for the issuance of up to 500,000 shares with respect to the tax years 1978 through 1983.

In addition to the foregoing, the Tax Reform Act of 1976 permits Columbia to claim an additional 1/2 of 1% investment tax credit to the extent it is matched by voluntary contributions by the participants. Columbia has decided to amend the TRESOP to add the contributory 1/2 of 1% feature effective with the 1978 tax year. Under the contributory portion of the plan, it is estimated that the additional 1/2 of 1% investment tax credit will equal \$6,500,000. That amount will be matched by equal employee contributions. Based on an assumed price of \$28 per share, 464,000 shares would be issued. Columbia proposes to issue to the TRESOP (1) up to 250,000 shares of authorized but unissued common stock of Columbia in consideration of the additional 1/2 of 1% investment tax credit and (2) up to 250,000 shares of authorized but unissued common stock in consideration of equal contributions by employees.

Columbia presently has 50,000,000 shares of common stock authorized and 32,580,228 shares outstanding, of which 149,614 shares were issued as

contributions to the TRESOP in 1976, 1977 and 1978 with respect to the 1975, 1976, and 1977 tax years. The number of new shares which will be issued under both the contributory and non-contributory portions of the plan will be determined by dividing the amount of the additional investment tax credit or matching employee contribution by the average of the closing prices of Columbia's common stock on the New York Stock Exchange Composite Tape for the 20 consecutive trading days immediately preceding the date of issue. In no case will the new shares be issued for less than the \$10 par value of Columbia's common stock. Dividends on the shares held in the TRESOP will continue to be paid currently to the beneficial owners. The Trustee of the TRESOP will not be permitted to vote the shares it holds, unless it shall have received voting instructions from participating employees.

The fees, commissions and expenses to be incurred in connection with the proposed transaction are estimated at \$31,300, including legal fees of \$2,000 and accounting fees of \$8,500. It is further stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested persons may, not later than August 16, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-23567 Filed 7-30-79; 8:45 am]

BILLING CODE 8010-01-M

(Release No. 34-16044; File No. SR-MSE-79-15)

Midwest Stock Exchange, Inc., Self-Regulatory Organization; Proposed Rule Change

July 24, 1979.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-26, 16 (June 4, 1975), notice is hereby given that on June 25, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Midwest Stock Exchange, Inc.

Statement of the Terms of Substance of the Proposed Rule Change

The Midwest Option Trade Match Fee will increase from \$.01 per contract side to \$.02 per contract side. This increase will be effective at the opening of Exchange business on July 2, 1979.

Midwest Stock Exchange, Inc.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

Inasmuch as the MSE utilizes the Chicago Board Options Exchange's (CBOE) trade comparison system, the Midwest has been the indirect recipient of the benefits gained from extensive modifications by the CBOE of that system which now provide a maximum of comparisons. The increased comparisons ease the work load of member firms and decrease problems associated with out-trades. The increase in fees for trade match service from \$.01 to \$.02 per contract side will help to offset increasing costs incurred in the development and operations of the system. Under its agreements with the CBOE, the Midwest is obligated to turn over this increase in fees to the CBOE. Further, this increase is identical to an increase the CBOE imposed for this service effective July 2, 1979 and the Midwest is required pursuant to its agreement with the CBOE to increase its fees proportionately.

The proposed rule change is consistent with Section 6 of the Act and, in particular, Section 6(b)(4) which

requires that the Rules of the exchange provide for the equitable allocation of reasonable dues, fees, and other changes among its members and issuers and other persons using its facilities.

The Midwest Stock Exchange, Incorporated has neither solicited nor received any comments.

The Midwest Stock Exchange, Incorporated believes that no burdens have been placed on competition.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 21, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

July 24, 1979.

[FR Doc. 79-23586 Filed 7-30-79; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 21157; 70-6251]

Southwestern Electric Power Co.; Proposed Lease Arrangements for the Acquisition of Coal Rail Cars

Notice is hereby given that Southwestern Electric Power Company ("SWEPCO"), an electric utility subsidiary of Central and South West Corporation, P.O. Box 21106, Shreveport, Louisiana 71156, a registered holding company, has filed with this Commission a post-effective amendment

to its application previously filed and amended pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a) and 10 of the Act as applicable to the proposed transaction. All interested persons are referred to the application, as amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transaction.

By order dated January 31, 1979 (HCAR No. 20906), SWEPCO was authorized to enter into lease arrangements concerning its acquisition of 242 coal hopper rail cars. Said 242 rail cars were part of 805 such cars that SWEPCO proposed to acquire, and jurisdiction was reserved in said order with respect to the terms of SWEPCO's proposed acquisition of the remaining 363 rail cars.

The rail cars are one hundred ton, sixty foot, open-top coal hopper rail cars for use in unit train service between Gillette, Wyoming and SWEPCO's Welsh Unit No. 1, Welsh Unit No. 2 and Flint Creek power plants. SWEPCO acquired 605 equivalent rail cars pursuant to the authorizations given in orders of August 9, 1976 (HCAR No. 19643), and October 12, 1977 (HCAR No. 20207). Each unit train consists of 110 coal cars and SWEPCO maintains a 10% or 11 car reserve for maintenance and repairs. The proposed acquisition of 605 cars will provide one additional unit train for Welsh Unit No. 1, one additional unit train for Flint Creek and three unit trains for Welsh Unit No. 2, which is presently being constructed and is scheduled for commercial operation in 1980. The 605 cars will cost approximately \$25,000,000, with the final cost dependent upon cost escalations under the contract with the manufacturer, delivery charges and the amounts of any sales or use taxes.

It is stated that additional unit trains for Welsh Unit No. 1 and Flint Creek are necessary because the turnaround times experienced by SWEPCO are in excess of the times originally estimated, such tardiness being attributed to congestion on the railroad's line from the mine site near Gillette, Wyoming to the Welsh plant in Cason, Texas and the Flint Creek plant in Siloam Springs, Arkansas, distances of about 1,500 and 1,100 miles, respectively. The estimated turnaround time to the Welsh plant was 155 hours; that actually experienced, 210 hours. The estimated turnaround time to the Flint Creek plant was 114 hours; that actually experienced, 183 hours. To compensate for the added times SWEPCO had been using two unit trains consisting of carrier-owned rail cars

supplied by Burlington, Northern, Inc., one of which is no longer available to SWEPCO. SWEPCO believes it advisable to acquire sufficient additional cars (242) so that it does not need to rely on carrier-owned cars for these two unit trains.

It is further stated that 363 cars (three unit trains) are presently estimated to be sufficient to transport the coal requirements for Welsh Unit No. 2, the coal for which is to be provided under a contract between SWEPCO and Amax Coal Company covering coal requirements for Welsh Unit No. 1, Welsh Unit No. 2 and Flint Creek for the first 25 years of the operation of such facilities.

SWEPCO intends that all of the rail cars will be used exclusively by it, since the unit trains will operate continuously there will be no spare car capacity. In the event the turnaround time now experienced by SWEPCO is reduced, SWEPCO will either acquire fewer coal cars than the number presently anticipated to be required to service Welsh Unit No. 3 or will refrain from replacing cars which have become worn out or irreparably damaged in operation, or both.

By post-effective amendment SWEPCO requests authorization to enter into a proposed railroad equipment lease ("Lease") for its acquisition of the remaining 363 rail cars. The Lease is with Cason Car Corporation ("Lessor") and is for 363 rail cars for an interim term beginning on the date of delivery of the rail cars and ending on January 1, 1980, followed by a primary term of 20 years ending on January 1, 2000. The rental for the interim term will be a payment on January 1, 1980, equal to the purchase price of the rail cars, as defined in the Lease, times the daily equivalent of 9 3/4% per annum for each day of the interim term. Rental payments thereafter will be required semiannually, commencing July 1, 1980, in accordance with the following schedule:

Rental payment dates	No. of payments	Percent of purchase price
July 1, 1980-Jan. 1, 1985	10	4.875
July 1, 1985-July 1, 1990	29	6.250
Jan. 1, 2000	1	16.250

The rental payments are calculated to be an amount sufficient to pay interest only at 9 3/4% per annum on the purchase price for the first five years of the primary term, to amortize 90% of the purchase price at 9 3/4% per annum during the sixth through 20th year of the primary term, with a final payment of

the then remaining unamortized portion of the purchase price.

The Lease is a net lease under which SWEPCO agrees to pay all taxes and charges on the rail cars or assessed against the Lessor (other than income taxes assessed against the Lessor on its fees) and covenants to keep the rail cars insured or self-insured, free of non-permitted liens and encumbrances, in good maintenance and repair and in compliance with laws and governmental regulations. In the event of a casualty occurrence (which would include a rail car's becoming worn out, lost, stolen, destroyed, condemned or otherwise permanently unfit for use), SWEPCO is required to either: (1) terminate the Lease with respect to such rail car and pay the Lessor a sum equal to the Casualty Value of such rail car; (2) substitute replacement equipment having a value and a useful life at least equal to the Casualty Value and remaining useful life of the rail car being replaced; or (3) provide sufficient funds to the Lessor to enable it to acquire replacement equipment meeting the requirements of clause (2) above. The Casualty Value of a rail car represents the then unamortized portion of its purchase price as of a given rental payment date.

The rail cars are being manufactured by Thrall Car Manufacturing Company ("Thrall") and will be sold by it to the Lessor under a conditional sales agreement ("CSA"). Thrall will assign its right, title and interest in the CSA and the rail cars to Mercantile-Safe Deposit and Trust Company, as agent ("Agent") pursuant to an agreement and assignment ("Assignment"), which will hold security title to the rail cars on behalf of Home Beneficial Life Insurance Company, The Lafayette Life Insurance Company, the State of North Carolina, Republic National Life Insurance Company, Royal Globe Insurance Company, The State Life Insurance Company and United Farm Bureau Family Life Insurance Company (collectively, the "Investors"), who will provide 100% of the purchase price of the rail cars. The Investors will be repaid in installments under the CSA equal to the rental payments required to be made by SWEPCO under the Lease. The Investors, the Agent and SWEPCO will enter into a finance agreement describing the proposed transaction, and the Lessor will assign to the Agent, as additional security, the rentals to be received under the Lease (SWEPCO will acknowledge notice of and consent to such assignment).

SWEPCO will have the right to terminate the Lease as of any rental

payment date occurring on or after January 1, 1990, in the event it determines the rail cars are no longer economical for use in its operations by paying the Casualty Value of the rail cars at such date to the Lessor. Upon payment of the last rental installment SWEPCO will receive title to the rail cars and will have no further obligations under the Lease. SWEPCO will also have the right to terminate the Lease as of any rental payment date by depositing with the Agent an amount sufficient to prepay the unamortized principal amount of the CSA indebtedness plus a premium equal to 9 3/4% of such amount during the first year of the primary term and declining by equal annual amounts to no premium in the final year of the primary term, provided that no such redemption can be made prior to January 1, 1990, from the proceeds of borrowings by SWEPCO having a lesser interest cost or a shorter remaining weighted average life than the interest cost or remaining weighted average life of the CSA indebtedness. SWEPCO can also terminate the lease as of any rental payment date by entering into and delivering to the Agent an assumption agreement under which the Lessor would assign its interests as vendee under the CSA to SWEPCO and SWEPCO would directly assume liability for repayment of the CSA indebtedness.

It is stated that SWEPCO intends to include the full amount of the rental payments under the Lease in determining its fuel costs for use in the fuel adjustment clause of its rates, subject to approval by applicable regulatory authorities.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than August 21, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application, as amended by said post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or

by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended by said post-effective amendment or as it may be further amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such Rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-23586 Filed 7-30-79; 8:45 am]
BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 06106/5217]

MESBIC of San Antonio, Inc.; Notice of Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by MESBIC of San Antonio, Inc. (applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102(1979).

The officers and directors are as follows:

Juan J. Patlan, 140 Placid, San Antonio, Texas 78228; Director, President
Emilio Nicolas, 111 Paseo Encinal, San Antonio, Texas 78212; Director
Joseph L. Suarez, 535 Clemens Drive, Florissant, Missouri 63033; Director, Secretary/Treasurer
O. J. Valdez, 5903 Forest Ledge, San Antonio, Texas 78240; Director
George Ozuna, 5118 Vance Jackson Rd., San Antonio, Texas 78230; Director
A. John Yoggerst, 900 Tuxedo, San Antonio, Texas 78209; Vice Pres., General Mgr.

The applicant will maintain its principal place of business at 2300 West Commerce Street, San Antonio, Texas 78207. It will begin operations with \$251,000 of private capital derived from the sale of 5,020 shares of common stock to the Mexican American Unity Council.

It is anticipated that the private capital will be increased to \$751,000 shortly after licensing.

The applicant will conduct its operations primarily in San Antonio, Texas.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in San Antonio, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 23, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-23511 Filed 7-30-79; 8:45 am]
BILLING CODE 8025-01-M

Proposed SBA Procedures Implementing National Environmental Policy Act

AGENCY: Small Business Administration.

ACTION: Request for Public Comment.

SUMMARY: The Small Business Administration is publishing this notice to obtain public comment on its proposed procedures to implement the

National Environmental Policy Act, pursuant to Regulations issued by the Council on Environmental Quality (43 FR 55978; November 29, 1978). The procedures include provisions on necessary assessments by SBA of programs and actions as to significant environmental effect; possible preparation by SBA of environmental impact statements; and consideration in appropriate cases of alternatives to mitigate adverse environmental effects. Certain types of SBA actions are indicated as not ordinarily considered to significantly affect the quality of the environment.

DATE: Comments on or before August 20, 1979.

ADDRESS: Send comments to Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Evelyn Cherry, Chief, Special Projects Division, Small Business Administration, 1441 L St., N.W., Washington, D.C. 20416 (202) 653-6696.

SUPPLEMENTARY INFORMATION: The CEQ Regulations require each Federal Agency to adopt and publish procedures to implement such Regulations in accord with the National Environmental Policy Act and Executive Order 11991 (May 24, 1977).

Dated: July 25, 1979.

A. Vernon Weaver,
Administrator.

National Environmental Policy Act

Introduction

1. *Purpose.* To set forth Agency procedures in accordance with the National Environmental Policy Act.

2. *Personnel Concerned.* Technical personnel in F&I, MA, PA, MSB/COD and Administration.

3. *Distribution.* Standard.

4. *Originator.* Office of Financing.

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National Environmental Policy Act

Paragraph

1. General.
2. Authority.
3. General Responsibilities.
4. Central Office Responsibilities.
5. Field Office Responsibilities.
6. Applicability to SBA Actions.
7. Categorical Exclusions.

Appendix

1. Environmental Review Requirements.

Compliance With the National Environmental Policy Act

1. *General.* These procedures apply the National Environmental Policy Act (NEPA) to SBA programs and activities. They include the designation of officials who would act as focal points within the decisionmaking process, consideration and identification by SBA of the environmental effects and possible alternatives to mitigate adverse environmental impacts, and preparation and circulation of draft and final environmental impact statements to interested persons and agencies. Certain types of SBA actions are indicated as not ordinarily considered to significantly affect the quality of the environment. In all cases, however, where a proposed SBA action could potentially have a significant effect on the environment, and environmental assessment will be made and an environmental impact statement prepared when appropriate.

2. *Authority.* The National Environmental Policy Act (NEPA) of 1969 (Pub. L. 91-190) and the regulations issued by the Council of Environmental Quality on November 28, 1978 (43 FR 55978, 56007) require each Federal Agency to describe and promulgate procedures which will carry out the requirements of NEPA.

NEPA authorizes and directs that, to the fullest extent possible, the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies for the protection of the environment set forth in NEPA; and that procedures be developed to insure that environmental values are given appropriate consideration in decisionmaking along with economic and technical considerations. It also requires that Federal agencies include in recommendations or reports on proposals for legislation, and other Federal actions having individually or cumulatively a significant effect on the quality of the human environment, a statement on environmental considerations. Executive Order 11514, as amended by Executive Order 11991, further specifies that Federal agencies develop their policies, plans and programs so as to help meet national environmental goals, and comply with CEQ NEPA regulations, except as inconsistent with statutory requirements.

3. *General responsibilities.* The responsible SBA official (either in the Central Office or in a field office) will when necessary:

- a. Assess the potential environmental impact of recommendations or favorable

reports on proposals for (1) legislation significantly affecting the quality of the human environment ("legislative actions") and (2) all other SBA actions which individually or cumulatively significantly affect the quality of the human environment ("administrative actions") as early as possible and in all cases prior to agency decision.

b. Consult with other appropriate Federal, State and local agencies and with the public in making environmental assessments.

c. Identify the issues involved in specific environmental assessments or impact statements.

d. Undertake or provide for initial environmental assessments, when required, with initial technical, economic and other studies.

e. Prepare and circulate, where required, a draft environmental impact statement in time to accompany the proposal through the SBA review process for the action in question.

f. Consider the comments of other Federal agencies and the public.

g. Prepare and circulate final environmental impact statements where required, taking into account the comments received.

4. *Central office responsibilities.* a. The Administrator shall designate an SBA official to develop guidelines and information to enable applicants for SBA financial assistance to provide environmental impact information early in the application process, and to be responsible for review of SBA NEPA compliance. This official shall also provide technical assistance to other SBA offices on such compliance. Particular attention will be given to consultation with Council for Environmental Quality (CEQ), the Environmental Protection Agency, and State and local environmental agencies. This official will be involved in the decision process for proposed major SBA program changes and for review of other Central Office actions having environmental effects.

b. The official should be consulted as early in the development of the action as possible. This consultative role of the SBA official may also be necessary in Inter-Agency activities. For example, if the SBA is involved in the development phase of a construction project, the SBA should participate in the evaluation of environmental impact. If however, SBA's involvement begins only after environmental assessments are completed and accepted, then SBA will not require any additional environmental evaluation. The objective of the review will be to evaluate whether the environmental impact of the

proposed action would be likely to be significant. If such impact is considered likely to be significant the evaluation would recommend the preparation of an environmental assessment, or if appropriate, an environmental impact statement. Such evaluations (and any resulting environmental assessments or environmental impact statements) shall accompany the proposal through existing agency review processes. The Associate Deputy Administrator for Programs or his designee shall determine whether an environmental assessment or environmental impact statement is necessary on such Central Office actions. If an environmental assessment is determined to be necessary, the procedures of subparagraphs 5b and d below shall be followed to the extent applicable.

5. *Field office responsibilities.* a. The processing loan officer (L/O) will make the initial evaluation. If the loan is for a project which is categorically excluded by these procedures, then this should be so stated in the loan officer's report. If the project for which SBA financial assistance is sought is likely to have significant environmental impact, the L/O should refer the file to the district director for evaluation. Note that these reviews should be part of the initial screening process so that if an environmental assessment is deemed appropriate, it can be prepared during the early phase of processing.

b. If the district director finds that the financial assistance application is for a project that is not categorically excluded by these procedures, an environmental assessment shall be prepared on the proposal before any SBA approval actions are taken. Applicants for assistance from SBA may be requested to provide analyses and information for use in preparing environmental assessments. SBA will provide guidelines to enable applicants for SBA financial assistance to submit any required environmental impact information early in the application process, to avoid delays in processing applications. However, evaluation of the environmental issues and completion of an assessment will be the responsibility of SBA. To the extent practicable, information on environmental effects should be obtained from environmental agencies and from the public if an environmental assessment is made.

c. Upon the receipt of an application for a surety bond guaranty, the reviewing officer shall make the determination whether the project involved is categorically excluded under these procedures. It should be noted that those projects which will improve the

quality of the environment should be given the same evaluation as those which may affect the environment in a negative fashion.

d. Environmental assessments, when required should identify reasonable alternative actions that will avoid or minimize adverse impacts and should include concise evaluations of both the long and short-range implications of the proposed actions. The environmental factors shall be considered along with the net economic, technical and other benefits of proposed actions, consistent with other essential considerations of national policy, to restore environmental quality as well as to avoid or minimize undesirable consequences. The assessments shall include a determination as to whether an Environmental Impact Statement (EIS) is required. If a significant environmental impact is found to exist then an EIS will be prepared. If however, the assessment finds that the SBA action will not have a significant impact, a finding of "no significant impact" will be made and documented.

Further, an environmental assessment must also show that the proposed action is in compliance with other applicable environmental review requirements. Such requirements include Floodplain Management (E.O. 11990), Protection of Wetlands (E.O. 11988), National Historic Preservation Act of 1966 as amended, and others as are so designated. (See appendix)

6. *Applicability to SBA Actions.* All SBA actions which individually or cumulatively have significant effect on the quality of the human environment are to be reviewed for possible environmental impacts. The types of actions subject to review under this part include:

- a. Recommendations or favorable reports relating to legislation;
- b. New and continuing projects and program activities directly undertaken by SBA or supported in whole or in part through Federal contracts, guarantees, loans, or other forms of funding assistance;
- c. Making, modification, or establishment of regulations, rules, procedures, and policy; and
- d. In those cases where other Federal Agencies or State or local governments have already required and have accepted an environmental assessment or impact statement, the SBA will not require any further environmental evaluation. If requested, however, in connection with SBA assistance, the SBA will participate in the preparation of these evaluations.

An environmental assessment on an SBA form (to be published at a later date) will be made when it appears that the proposed SBA action is not categorically excluded by these procedures and could potentially have significant environmental effects.

7. *Categorical exclusions.* The following categories of SBA actions are not ordinarily considered to be Federal actions which significantly affect the quality of the environment. Therefore, generally, the SBA will not be preparing an environmental assessment or an EIS in these cases. It should be noted that the district director at the field level and the designated SBA official at the Central Office level can make the determination that a significant environmental impact exists when a case appears sufficiently likely to warrant an assessment. These determinations should be based on the official's evaluation of the specific circumstances in each situation and must be documented as to the factors causing such determination.

a. *Agency administrative action such as personnel actions.* Should these actions constitute the movement of large groups of people or the construction of building space, an assessment may have to be prepared.

b. *Legislative reports.* In those cases where legislation is being enacted on SBA programs and could potentially have a significant environmental effect, an assessment may have to be prepared if the SBA report recommends legislation.

c. *Promulgation of rules, regulations, procedures, or interpretations.* In those cases where the new or changed rules, regulations, procedures or interpretations deal with construction projects or land purchases of a value greater than \$300,000, then an assessment may have to be prepared.

d. *Procurement assistance actions.* No environmental assessments are necessary in the Agency's activities to assure that small business receives its share of existing procurements. Only in those cases where the SBA has a direct role in the awarding of a contract may an assessment be required. Such procurements must involve construction or purchase of land in excess of \$300,000, or the purchase of dangerous materials in excess of \$150,000.

e. *Management and technical assistance actions.* In those cases where management or technical assistance is being provided in support of a construction project in the developmental stage (either funded through the SBA or another government Agency) the SBA may be required to

participate in support of a lead agency in the preparation of an environmental assessment.

f. *Small Business Investment Company program actions.* In those cases where the SBA is approving an SBIC action of financing construction of facilities or purchase of land, then the SBA may be required to prepare an environmental assessment.

g. *Physical disaster loans and guarantees.* In those cases where the SBA may be providing funds in excess of \$300,000 to businesses or individuals to restore their property to its original state and restoration work may potentially have significant environmental effects, the district director may require the preparation of an environmental assessment.

h. *Business loans and guarantees (including EOL loans, HAL, energy, and disaster loans for economic injury).* In those cases where loan proceeds for:

(1) Construction and/or purchase of land exceeds \$300,000 or

(2) the loan is in response to a government regulation which pertains to the environmental impact of the business operation.

an environmental assessment may be required.

i. *Surety Bond guarantees.* Since the SBA becomes involved with the guaranteeing of a small business' ability to satisfy an existing contract, no environmental assessments are necessary. In those cases where the SBA does become involved in the development of a construction project under the Surety Bond Guaranty Program, then the SBA will support an environmental evaluation.

j. *Pollution control financing guaranty program actions.* In those cases where an individual business is being financed in excess of \$500,000, an environmental assessment may be required.

k. *Local and community development loan and guarantee actions.* In those cases where the loan is being utilized for construction in excess of \$300,000, then an environmental assessment may be required.

l. *Portfolio management and review actions.* No assessments will be required.

m. *Advocacy program actions.* No assessments will be required.

n. *Property sales or lease assistance actions.* However, in cases of construction exceeding \$300,000 an environmental assessment may be required.

Appendix 1—National Historic Preservation Act of 1966

As amended, 16 U.S.C. §§ 470 et seq.

Administering Agency: Advisory Council on Historic Preservation; Heritage Conservation and Recreation Service, Department of the Interior.

Environmental Review Requirement: Section 106, 16 U.S.C. § 470 f.

Regulations: Procedures for the protection of Historic and Cultural properties, 36 CFR Part 800 (Advisory Council Procedures); 36 CFR Part 60—National Register of Historic Places.

36 CFR Part 61—Criteria for Comprehensive Statewide Historic Surveys and Plans.

36 CFR Part 63—Determination of Eligibility for Inclusion in the National Register.

Executive Order No. 11593, May 13, 1971.

36 FR 8921, Protection and Enhancement of the Cultural Environment.

Program: The National Historic Preservation Act of 1966 establishes a comprehensive program to protect cultural resources from the adverse effects of Federal activities. The Act creates a National Register of Historic Places to which places of historic, architectural or archaeological significance can be named. Properties listed in or eligible for listing in the National Register are subject to special protections of the Act. The Act also creates an Advisory Council on Historic Preservation and establishes grant and technical assistance programs to benefit the preservation of cultural properties.

Environmental Review: Section 106 of the Act requires that:

The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking shall, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any district site, building, structure, or object that is included in or eligible for inclusion in the National Register. The head of any such Federal agency shall afford the Advisory Council on Historic Preservation established under Sections 470i to 470n of this title, a reasonable opportunity to comment with regard to such undertaking.

The Advisory Council on Historic Preservation has promulgated a regulation to implement Section 106 (36 CFR Part 800). The Advisory Council procedures require Federal agencies to identify cultural properties which may be affected by their programs or projects, to determine whether such properties are included in or eligible for inclusion in the National Register and to determine whether the project's effect on such properties will be adverse. These determinations are to be made in consultation with the State Historic Preservation Officer (SHPO) of the state where the properties are located.

If a federal agency determines that its project will have an adverse impact on a National Register property, the comments of

the Advisory Council must be obtained before the project can proceed. The Advisory Council must be consulted, given additional information and afforded an opportunity to conduct an on-site inspection and a public hearing. A Memorandum of Agreement between the Advisory Council, the SHPO and the federal agency on means to eliminate or mitigate the effects of the project on the cultural property may be adopted at this time. If not, the review and comments of the full Board of the Advisory Council must be completed before any further action may be taken on the Federal project.

Energy Conservation Standards for New Buildings Act

42 U.S.C. §§ 6831-6840

Administering Agency: Department of Energy

Environmental Review Requirement: 42 U.S.C. § 6834

Regulations: None to date.

Program: This act establishes a program to decrease energy consumption and eliminate energy waste by 1) requiring energy conservation features to be incorporated into all new commercial and residential buildings receiving federal financial assistance, 2) providing for the development and implementation of energy conservation related performance standards for new residential and commercial buildings and 3) encouraging states and local governments to adopt and enforce such performance standards through their building codes and other mechanisms.

Environmental Review: Section 6834 requires that following the effective date of final performance standards for new commercial and residential buildings pursuant to the Act, no federal financial assistance for the construction of any such building shall be approved until the building has been determined to meet such performance standards. To obtain this determination, buildings subject to the performance standards must undergo an "approval process" administered either by a local government agency, a state agency or the Department of Energy.

Environmental Review Requirements

Executive Orders 11988 and 11990

In conjunction with his environmental message to Congress announced on May 23, 1977, President Carter issued two executive orders which establish additional environmental review requirements for federal agencies. E.O. 11988 is entitled Floodplain Management and E.O. 11990, Protection of Wetlands.

E.O. 11988 states as its basic objective that: Each agency shall provide leadership and shall take such action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains, in carrying out its responsibilities. . . .

Section 2 of the order provides further that "each agency has a responsibility to evaluate the potential effects of any actions it may take in a floodplain. . . . The required

evaluation must be included in any environmental impact statement prepared under NEPA. In addition, alternative to siting a federal structure or activity in a floodplain must be considered. If floodplain siting is determined to be "the only practicable alternative consistent with the law and with the policy set forth in this Order," the agency is then required to take actions to minimize "harm to or within the floodplain" that may be caused by the activity. In addition, the agency is required to circulate a notice through the OMA A-95 process setting forth:

(i) the reasons why the action is proposed to be located in the floodplain;

(ii) a statement indicating whether the action conforms to applicable state or local floodplain protection standards and

(iii) a list of the alternatives considered. The Order also requires federal agencies to provide opportunities for public review of "any plans or proposals for actions in floodplains, in accordance with section 2(b) of Executive Order No. 11514". Each agency is directed to develop procedures to implement the Order and specifically to assure compliance with the Order for projects for which an EIS is not prepared. This latter point may be important in cases where NEPA compliance is not an issue.

Section 3 and 4 of the Order impose additional requirements on agencies administering federal real property and on agencies which "guarantee, approve, regulate, or insure any financial transactions . . ." Finally, section 6 defines a number of terms including "floodplain". E.O. 11990 commands that "each agency shall provide leadership and shall take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands in carrying out the agency's responsibilities. . . . In carrying out this responsibility, each agency, "to the extent permitted by law" shall avoid undertaking any activity which results in construction in wetlands unless the head of the agency determines:

(1) that there is no practicable alternatives to such construction, and

(2) that the proposed activity includes all practicable measures to minimize harm to wetlands which may result from such use.

Unlike the floodplains under E.O. 11990 does not apply to the "issuance by Federal agencies of permits, licenses, or allocations, to private parties for activities involving wetlands on non-federal property." [emphasis supplied] The Order also does not apply to "projects presently under construction, or to projects for which all of the funds have been appropriated through fiscal year 1977, or to projects and programs for which a draft or final environmental impact statement will be filed prior to October 1, 1977." These exclusions clearly give the executive order a prospective effect.

The Order requires that each federal agency shall provide opportunity "for early public review of any plans or proposals for new construction in wetlands" pursuant to Section 2(b) of E.O. 11514. Section 4 governs the disposal of federally-owned wetlands. Section 5 establishes standards for

conducting the review of federal activities required by Section 1 of the Order. Section 7 gives definitions of several terms including "wetlands."

Both E.O. 11988 and E.O. 11990 add additional requirements to the environmental review of wetland and floodplain impacts conducted by federal agencies under NEPA and other statutory authorities. The exact details of these requirements will be worked out as federal agencies develop procedures to implement the new orders. These orders also impose substantive requirements on federal activities. The clear intent of the executive orders is that floodplain and wetland sitings are to be avoided if at all possible. As of now the full impact of the orders remains to be seen. Both are so recent that they remain untested in court. The orders are certain to be controversial, however, and issues surrounding their implication may take some time to resolve.

Flood Disaster Protection Act of 1973

42 U.S.C. § 4001-4127

Administering Agency: Department of Housing and Urban Development.

Environmental Review Requirement: 42 U.S.C. §§ 4022, 4023, 4101, 4102, 4013.

Regulations: 24 CFR Parts 1909, 1910, 1915. *Program:* The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance after March 2, 1974 as a condition for receiving any federally related assistance for acquisition or building purposes as to insurable structures within areas identified as flood, mudslide, or flood-related erosion hazard areas. The Act also requires that after July 1, 1975 or one year after a community is notified as having a flood, mudslide or flood-related erosion hazard, no federal financial assistance, including mortgage loans from federally-regulated lenders, shall be given within such an area unless the community participates in the program set up by the Act. The Flood Disaster Protection Act is a follow-up to the National Flood Insurance Act of 1968. The 1968 Act provided previously unavailable flood insurance protection to property owners in flood-prone areas. Later this insurance was extended to mudslide and flood-related erosion areas. To qualify for such insurance communities must meet minimum requirements for adequate flood plain management as provided in 24 CFR 1910. Other requirements for the insurance are (1) that a risk study be made of the applying community and (2) that flood elevation and other statistical data relating to potential flood damage be developed and recorded.

Environmental Review: § 4022—After 1971 no new flood insurance coverage shall be extended to any community which does not have adequate land use control measures.

24 CFR Part 1090.22—Such measures must be listed in any application for eligibility. § 4023—No new insurance shall be granted for any property found by state or local authorities to be in violation of state or local laws which are intended to discourage land development and occupancy in flood prone areas.

§ 4101—The Secretary (HUD) will consult with the Secretaries of the Army, Interior,

Agriculture and Commerce, as well as the TVA in identifying and establishing flood risk zones.

§ 4102—The Secretary (HUD) is authorized to carry out studies as to the adequacy of state and local measures in flood-prone areas as to land management and use, flood control, flood zoning, and flood damage prevention.

[FR Doc. 79-23681 Filed 7-30-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/205]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Meeting

The working group on ship design and equipment of the Subcommittee on Safety of Life at Sea (SOLAS), a subcommittee of the Shipping Coordinating Committee, will conduct an open meeting at 9:30 a.m. on Tuesday, August 14, 1979 in Room 8334, of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590.

The purpose of this meeting will be to review the intersessional meeting of Machinery and Electrical Working Group and prepare for the Twenty-First Session of the Ship Design and Equipment Subcommittee of the Intergovernmental Maritime Consultative Organization (IMCO) which is scheduled for September 24-28, 1979 in London. The agenda includes discussion of the following for Twenty-First Session:

- revision of IMCO Resolution A.325;
- special purpose ships/offshore supply vessels;
- noise level on board ships;
- maneuverability of ships; and
- diving systems

Request for further information should be directed to Captain R. L. Brown, United States Coast Guard, 400 Seventh Street, S.W., Washington, D.C. 20590, telephone (202) 426-2167.

The Chairman will entertain comments from the public as time permits.

John Lloyd III,

Acting Director, Office of Maritime Affairs.

July 18, 1979.

[FR Doc. 79-23560 Filed 7-30-79; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/206]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Meeting

The working group on lifesaving appliances of the Subcommittee on Safety of Life at Sea (SOLAS), a subcommittee of the Shipping Coordinating Committee, will conduct an open meeting at 10:00 a.m. on August 21 and 22, 1979, in Room 3303, of the Department of Transportation (Trans Point Building), 2100 Second Street, S.W., Washington, D.C. 20590.

The purpose of the meeting will be to:

- discuss the draft text for revision of Chapter III, SOLAS 1974 and consider U.S. response to the proposal;
- discuss Chapter III revision of liferaft carriage and construction regulations
- discuss Chapter III revision of liferaft signal requirements;
- discuss LSA section of Code of Nuclear Merchant Ship and develop U.S. response to proposal;
- discuss liferaft servicing and prepare U.S. response;
- discuss future IMCO LSA Work Program.

Request for further information should be directed to Mr. N. W. Lemley, United States Coast Guard (G-MMT-3/TP22), 2100 Second Street, S.W., Trans Point Building, Washington, D.C. 20590, telephone (202) 426-1444.

The Chairman will entertain comments from the public as time permits.

John Lloyd III,

Acting Director, Office of Maritime Affairs.

[FR Doc. 79-23561 Filed 7-30-79; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

Industrial National Bank of East Chicago, Ind.; Order of Temporary Exemption

The Industrial National Bank of East Chicago, Indiana is hereby exempted from section 12(g) of the 1934 Securities Exchange Act until June 30, 1979 upon my finding that such action is not inconsistent with the public interest or the protection of investors.

Dated: July 19, 1979.

Lewis G. Odom, Jr.,

Acting Comptroller of the Currency.

[FR Doc. 79-23498 Filed 7-30-79; 8:45 am]

BILLING CODE 4810-33-M

Office of the Secretary

U.S. Model Estate and Gift Tax Convention; Notice of Availability and Request for Comments

The Treasury Department today released a revised model estate and gift tax convention. The model represents the Treasury's basic treaty negotiating position. The new model, which replaces the model published by the Treasury Department on March 16, 1977, applies to the Federal taxes on transfers of estates and gifts and on generation-skipping transfers. Most of the revisions reflect the changes in Federal law made by the Tax Reform Act of 1976.

The general principle underlying the model is to grant to the country of domicile the right to tax the estate or transfers of a decedent or transferor on a worldwide basis with a credit for tax paid to the other State with respect to certain types of property located therein. Specifically, transfers of real property and certain business assets are taxable in the Contracting state where situated. The model also allows the country of citizenship the right to tax the estate or transfers of a decedent or transferor, with a credit for tax paid to the other State on a domiciliary or situs basis. The model also provides rules for resolving the issue of domicile.

The Treasury Department welcomes comments on the model. Requests for copies for comments should be sent in writing to: H. David Rosenbloom, International Tax Counsel, U.S. Treasury Department, Washington, D.C. 20220.

Dated: July 23, 1979.

Donald C. Lubick,

Assistant Secretary. (Tax Policy).

[FR Doc. 79-23564 Filed 7-30-79; 8:45 am]

BILLING CODE 4810-25-M

[Department Circular, Public Debt Series—No. 16-79]

Treasury Notes of August 15, 1982; Series M-1982

Washington, July 26, 1979.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately \$2,750,000,000

of United States securities, designated Treasury Notes of August 15, 1982, Series M-1982 (CUSIP No. 912827 JV 5). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents of foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated August 15, 1979, and will bear interest from that date, payable on a semiannual basis on February 15, 1980, and each subsequent 6 months on August 15 and February 15, until the principal becomes payable. They will mature August 15, 1982, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached; and securities registered as to principal and interest, will be issued in denominations of \$5,000, \$10,000, \$100,000, and \$1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in

effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, July 31, 1979. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, July 30, 1979.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is \$5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed \$1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be

accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a $\frac{1}{8}$ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That rate of interest will be paid on all of the securities. Based on such interest rate the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers

it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made or completed on or before Wednesday, August 15, 1979, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Friday, August 10, 1979, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Thursday, August 9, 1979, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to

"The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the

Departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 79-23645 Filed 7-27-79; 12:21 pm]

BILLING CODE 4810-40-M

[Department Circular, Public Debt Series—No. 17-79]

9 Percent Treasury Notes of February 15, 1987; Series B-1987

Washington, July 26, 1979.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately \$2,500,000,000 of United States securities, designated 9% Treasury Notes of February 15, 1987, Series B-1987 (CUSIP No. 912827 JK 9). The securities will be sold at auction, with bidding on the basis of price. Payment will be required at the bid price of each accepted tender in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities offered will be identical to the 9% Treasury Notes of February 15, 1987, Series B-1987 (CUSIP No. 912827 JK 9) issued under Department of the Treasury Circular, Public Debt Series—No. 2-79, dated February 1, 1979, except that interest will accrue from August 15, 1979, and payment for the securities will be calculated on the basis of the auction price determined in accordance with this circular. With this exception, the securities are as described in the following excerpt from the above circular:

"2.1. The securities will be dated February 15, 1979, and will bear interest 'from that date, payable on a semiannual basis on August 15, 1979, and each subsequent 6 months on February 15 and August 15, until the principal becomes payable. They will mature February 15, 1987, and will not

¹ On February 8, 1979, the Secretary of the Treasury announced that the interest rate on the notes would be 9 percent per annum.

be subject to call for redemption prior to maturity.

"2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

"2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

"2.4. Bearer securities with interest coupons attached, and securities registered as to the principal and interest, will be issued in denominations of \$1,000, \$5,000, \$10,000, \$100,000, and \$1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

"2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date."

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Wednesday, August 1, 1979. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, July 31, 1979.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is \$1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the price offered, expressed on the basis of 100 with two decimals, e.g., 100.00. Common fractions may not be used. Only tenders at a price more than the original issue discount limit of 98.25 will be accepted. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified price. No bidder may submit more than one noncompetitive tender, and the amount may not exceed \$1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as

dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Other are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and price range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the highest prices, through successively lower prices to the extent required to attain the amount offered. Tenders at the lowest accepted price will be prorated if necessary. Successful competitive bidders will be required to pay the price that they bid. Those submitting noncompetitive tenders will pay the weighted average price in two decimals of accepted competitive tenders. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the price. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or

reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made or completed on or before Wednesday, August 15, 1979, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Friday, August 10, 1979, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Thursday, August 9, 1979, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or

assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4 If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and made delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the

Departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

(FR Doc. 79-23646 Filed 7-27-79; 12:21 pm)

BILLING CODE 4810-40-M

(Department Circular, Public Debt Series—No. 18-79)

9½ Percent Treasury Bonds of 2004-2009

Washington, July 26, 1979.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately \$2,000,000,000 of United States securities, designated 9½% Treasury Bonds of 2004-2009 (CUSIP No. 912810 CG 1). The securities will be sold at auction with bidding on the basis of price. Payment will be required at the bid price of each accepted tender in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities offered will be identical to the 9½% Treasury Bonds of 2004-2009 (CUSIP No. 912810 CG 1) issued under Department of the Treasury Circular, Public Debt Series—No. 10-79, dated April 26, 1979, except that interest will accrue from August 15, 1979, and payment for the securities will be calculated on the basis of the auction price determined in accordance with this circular, plus accrued interest from May 15, 1979. With this exception, the securities are as described in the following excerpt from the above circular:

"2.1. The securities will be dated May 15, 1979, and will bear interest from that date, payable on a semiannual basis on November 15, 1979, and each subsequent 6 months on May 15 and November 15, until the principal becomes payable. They will mature on May 15, 2009, but may be redeemed at the option of the United States on and

¹ On May 2, 1979, the Secretary of the Treasury announced that the interest rate on the bonds would be 9½ percent per annum.

after May 15, 2004, in whole or in part, at par and accrued interest on any interest payment date or dates, on 4 months' notice of call given in such manner as the Secretary of the Treasury shall prescribe. In case of partial call, the securities to be redeemed will be determined by such method as may be prescribed by the Secretary of the Treasury. Interest on the securities called for redemption shall cease on the date of redemption specified in the notice of call.

"2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

"2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

"2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of \$1,000, \$5,000, \$10,000, \$100,000, and \$1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

"2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date."

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Thursday, August 2, 1979. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, August 1, 1979.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is \$1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the price offered, expressed on the basis of 100 with two decimals, e.g., 100.00. Common fractions may not be used. Only tenders at a price more than the original issue discount limit of 92.75 will

be accepted. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified price. No bidder may submit more than one noncompetitive tender, and the amount may not exceed \$1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and price range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the highest prices, through successively lower prices to the extent required to attain the amount offered. Tenders at the lowest accepted price will be prorated if necessary. Successful competitive bidders will be required to pay the price that they bid. Those submitting noncompetitive tenders will pay the weighted average price in two decimals of accepted competitive tenders. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the price. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made or completed on or before Wednesday, August 15, 1979, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted, and must include accrued interest from May 15 to August 15, 1979 in the amount of \$22.81250 per \$1,000 of securities allotted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Friday, August 10, 1979, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Thursday, August 9, 1979, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim

certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 79-23647 Filed 7-27-79; 12:21 pm]

BILLING CODE 4810-40-M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on August 27, 1979, at 9:00 a.m., the Hartford, Connecticut, Regional Office Station Committee on Educational Allowances shall at Room 144, Veterans Administration Regional Office, 450 Main Street, Hartford, Connecticut, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in the Bridgeport Flight Service, Inc., Sikorsky Memorial Airport, Stratford, Connecticut 06497 should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: July 23, 1979.

Roger W. Brickley,

Director, VA Regional Office, 450 Main Street, Hartford, CT 06103.

[FR Doc. 79-23562 Filed 7-30-79; 8:45 am]

BILLING CODE 8320-01-M

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on Friday, August 24, 1979 at 10:00 am, the Denver Regional Office Station Committee on Educational Allowances shall, in the Adjudication hearing room, Room B1221

of the Denver Veterans Administration Regional Office, Building 20, Denver Federal Center, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in the Real Estate Training Center of Colorado, 7350 West 44th Avenue, Wheat Ridge, Colorado, 80033, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of the law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

N. B. Alverson,

Director, VA Regional Office, Denver Federal Center, Denver, Colorado 80225.

[FR Doc. 79-23563 Filed 7-30-79; 8:45 am]

BILLING CODE 8320-01-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 29010F]

Canadian Pacific Limited and Canellus Incorporated—Control—Hutchinson and Northern Railway Company

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption in Finance Docket No. 29010F.

SUMMARY: Canadian Pacific Limited (CPL), through Canellus Incorporated (CI) and certain other non-carrier subsidiaries, proposes to acquire all of the outstanding capital stock, and thus control, of the Hutchinson and Northern Railway Company (HN). Pursuant to 49 U.S.C. § 10505, the Commission is exempting the transaction from 49 U.S.C. §§ 11343-11347, thereby eliminating the requirement for prior Commission approval.

DATE: This decision shall be effective on August 31, 1979.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, 202-275-7245.

SUPPLEMENTAL INFORMATION:

On April 6, 1979, CPL and CI filed a petition under 49 U.S.C. § 10505 to exempt their acquisition of indirect control of HN from the requirements of 49 U.S.C. §§ 11343-11347. We published notice of the petition in the Federal Register on May 11, 1979, 44 Fed. Reg. 27783 (1979), requesting comments on the proposal. No comments have been received. The notice of proposed exemption described the petitioners, their affiliates, and the transaction, and we need only briefly summarize the facts here.

CPL operates an extensive railway system in Canada, connects with a number of United States railroads, and owns interests in several United States rail carriers subject to our jurisdiction. CPL also owns a majority interest in Canadian Pacific Investments Limited (CPI), a non-carrier through which CPL conducts all non-transportation related operations. CPI owns 100 percent of the outstanding capital stock of Canellus International N.V. (NV), which in turn owns 100 percent of the outstanding capital stock of CI. CI owns 100 percent of the outstanding capital stock of Processed Minerals Incorporated (PMI), a corporation recently organized to acquire, own, and operate certain assets to be purchased from Interpace Corporation (Interpace). Those assets include 100 percent of the outstanding capital stock of HN, a class III United States rail carrier.

Interpace is engaged in a number of lines of business, including the mining and processing of salt at Hutchinson, KS, and wollastonite at Willsboro, NY. Under the proposed transaction, CI would purchase for cash all of the Interpace assets used in the operation of those businesses, including all of the outstanding capital stock of HN. Upon consummation, all of the described assets would be conveyed to PMI in accordance with an agreement among CI, PMI, and Interpace.

Because CPL controls other United States rail carriers subject to our jurisdiction, its control of HN through CPL, NV, CI, and PMI would require our approval under 49 U.S.C. §§ 11343-11347. A request for our approval entails submission of an application complying with the Railroad Acquisition, Control, Merger, Consolidation, Coordination Project, Trackage Rights and Lease Procedures, 49 C.F.R. Part 1111 (1978), revised in part at 44 Fed. Reg. 2177 (1979) (consolidation procedures). In their petition, CPL and CI maintained that acquisition of indirect control of HN would be completely incidental to the purchase of the Interpace sand and wollastonite businesses, and that the transaction would have no impact on shippers, employees, other carriers, or the public, nor on the operations, administration, liabilities, or obligations of HN.

Discussion and Conclusions

As pertinent here, 49 U.S.C. § 10505 provides that we shall exempt a rail carrier transaction because of its limited scope when we find that application of a provision of subtitle IV of title 49, United States Code, (1) is not necessary to carry out the national transportation

policy, (2) would place an unreasonable burden on a person, class of persons, or interstate and foreign commerce, and (3) would serve little or no useful public purpose. We may act under 49 U.S.C. § 10505 only after an opportunity for a proceeding. The notice and request for comments on the petition for exemption provided that opportunity. We must now determine whether the proposed exemption meets the statutory requirements.

Scope of the transaction. The threshold inquiry is whether the transaction is limited in scope. CPL operates a 16,000 mile rail system in Canada; owns controlling interests in the Soo Line Railroad Company (a class I railroad), Canadian Pacific Lines in Maine (a class II railroad), and Aroostook Valley Railroad Company and Canadian Pacific Lines in Vermont (class III railroads); and operates Canadian Pacific Detroit Terminal (a class III switching and terminal facility). HN is a class III rail carrier owning 5.14 miles of track near Hutchinson, KS, and operating two switching locomotives. HN's tracks do not connect with and are geographically distant from the railroad facilities controlled by CPL.

HN does not generate a substantial volume of traffic. In 1977 the railroad handled 676 cars in switching operations and 3,029 cars in terminal operations. About 98 percent of its traffic derives from the Hutchinson, KS, salt business also being acquired from Interpace. Other traffic originates with a mobile home manufacturer and a grain elevator located along HN's track. The proposal thus would not afford a real opportunity for traffic diversion, and switching and terminal operations would continue in the same manner as presently conducted.

HN has no employees, all of its operations being conducted by Interpace personnel. None of HN's operating personnel is subject to any national railway labor agreement, but all participate in certain pension benefits under Interpace pension plans. Under the proposed agreement among CI, PMI, and Interpace, those employees would receive pension benefits at least equal to those now provided by Interpace.

The record demonstrates that the proposal would be without operational limit, competitive effect, or employee impact. We conclude that acquisition of control of HN by PMI, and indirect control by CI and CPL, would constitute a transaction of limited scope.

National transportation policy. To insure the development, coordination, and preservation of a transportation system that meets the transportation

needs of the United States, Congress has declared that it is the policy of the United States Government to provide for the impartial regulation of the modes of transportation subject to subtitle IV of title 49, United States Code. 49 U.S.C. § 10101. In regulating those modes, the transportation policy is to (1) recognize and preserve the inherent advantage of each mode; (2) promote safe, adequate, economic, and efficient transportation; (3) encourage sound economic conditions in transportation, including conditions among carriers; (4) encourage reasonable rates without unreasonable discrimination or unfair or destructive competitive practices; (5) cooperate with each State and its officials on transportation matters; and (6) encourage fair wages and working conditions in the transportation industry. *Id.*

We believe that advance scrutiny of PMI's control of HN, and in turn CI's and CPL's indirect control, is not necessary to carry out the national transportation policy. The proposed transaction should have no effect on any of the policy considerations since the only change involves indirect control of a minor rail carrier by a corporation which controls other rail carriers.

Burden. Our consolidation procedures require the filing of a complete application so that we might reach a decision within the time constraints imposed by 49 U.S.C. § 11345. Compilation of the necessary material is a time-consuming task, however, since much information must be presented in great detail to be useful. Where, as here, the public has voiced no opposition to the proposal, and the transaction is of limited scope and minimal transportation importance, the development of a massive record on which to base a decision would place a grave strain on scarce resources. We believe that requiring CPL, CI, PMI, HN and affiliates to prosecute an application under 49 U.S.C. §§ 11343-11347 would place an unreasonable burden on them and on interstate and foreign commerce.

Public purpose. Our function under 49 U.S.C. §§ 11343-11347 is to determine whether a proposed transaction is consistent with the public interest. In the absence of opposition, we rely principally upon the applicants' filings. Having found that the instant proposal is of limited scope, and that our regulation of it would be both unnecessary and unreasonably burdensome, we conclude that our review of the matter would serve little or no useful public purpose.

Waiver. As an alternative to exemption under 49 U.S.C. § 10505, CPL and CI sought waiver of certain provisions of our consolidation procedures. By notice dated April 27, 1979, we held the request for waiver in abeyance pending a decision on the petition for exemption. Our determination regarding exemption obviates a decision respecting waiver, and we shall dismiss the request.

We find: The acquisition of control of Hutchinson and Northern Railway Company by Processed Minerals Incorporated through the purchase by the latter of all of the outstanding capital stock of the former, and, in turn, the indirect control of Hutchinson and Northern Railway Company by Canellus Incorporated, Canellus International N.V., Canadian Pacific Investments Limited, and Canadian Pacific Limited, is a transaction of limited scope, and application of the requirements of 49 U.S.C. §§ 11343-11347, (1) is not necessary to carry out the transportation policy of 49 U.S.C. § 10101, (2) would be an unreasonable burden on the applicants and interstate and foreign commerce, and (3) would serve little or no useful public purpose.

This decision will not significantly affect the quality of the human environment or the level of energy consumption.

It is ordered: The acquisition of control of Hutchinson and Northern Railway Company by Processed Minerals Incorporated through the purchase by the latter of all of the outstanding capital stock of the former, and, in turn, the indirect control of Hutchinson and Northern Railway by Canellus Incorporated, Canellus International N.V., Canadian Pacific Investments Limited, and Canadian Pacific Limited, is exempted under 49 U.S.C. § 10505 from the requirements of 49 U.S.C. §§ 11343-11347.

If the parties consummate the transaction, Processed Minerals Incorporated and Canellus Incorporated shall confirm in writing to the Commission, immediately after consummation, the date on which consummation has actually taken place.

The exemption authorized by this decision shall remain in effect for three months following the effective date. Consummation pursuant to this exemption must take place during that time.

The request for waiver of consolidation procedures is dismissed. Notice of the exemption shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and

by filing with the Director, Office of the Federal Register.

This decision shall be effective on July 31, 1979.

Dated: July 24, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian. Vice Chairman Brown not participating. Commissioner Clapp absent and not participating.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-23516 Filed 7-30-79; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 118]

Permanent Authority Application; Decision-Notice

Decided: July 10, 1979.

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the Federal Register. Protests (such as were allowed to filings prior to March 1, 1979) will be rejected. A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, form and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application noticed, has solicited traffic or business identical to any part of that sought by applicant within the affected

marketplace the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon application if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality

of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.
Agatha L. Mergenovich,
Secretary.

MC 732 (Sub-15F), filed April 16, 1979. Applicant: ALBINA TRANSFER CO., INC., 705 N. Cook, Portland, OR 97227. Representative: Lawrence V. Smart, 419 N.W. 23rd Ave., Portland, OR 97210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *calcium carbide*, from Portland, OR, to points in CA, NV, and WA. (Hearing site: Portland, OR.)

MC 1103 (Sub-17F), filed April 19, 1979. Applicant: JOSEPH KOFMAN, FRED A. KAINES, AND BENJAMIN KOFMAN, A Partnership, d.b.a. KOFMAN'S, 130 Dunlop Street, Bellefonte, PA 16823. Representative: John E. Fullerton, 407 N. Front Street, Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over

irregular routes, transporting (1) *metal articles, and materials, equipment, and supplies* used in the manufacture of metal articles, from the facilities of Cerro Metal Products, (a) at or near Bellefonte, PA, to points in DE, MD, WV, and VA, and (b) at or near Weyers Cave, VA, to points in CT, DE, IL, IN, MA, MD, MI, NJ, NY, OH, PA, RI, WV, and DC; and (2) *scrap metals, waste materials, and materials, equipment, and supplies* used in the manufacture of metal articles, in the reverse direction of (a) and (b) above, respectively. (Hearing site: Washington, DC.)

MC 9812 (Sub-13F), filed April 13, 1979. Applicant: C. F. KOLB TRUCKING CO., INC., R.R. 1, Box 294, Mt. Vernon, IN 47620. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except commodities in bulk, in tank vehicles), between the Henderson County Riverport Authority Facility, in Henderson County, KY, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. Condition: The certificate issued in this proceeding, in so far as it authorizes the transportation of explosives, will be limited in point of time to a period expiring 5 years from the date of issuance of the certificate. (Hearing site: Louisville, KY, or Evansville, IN.)

MC 13123 (Sub-98F), filed April 17, 1979. Applicant: WILSON FREIGHT COMPANY, A Corporation, 11353 Reed Hartman Highway, Cincinnati, OH 45241. Representative: Milton H. Bortz (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of General Cable Corporation, at or near Pownal, VT, as an off-route point in connection with carrier's otherwise authorized regular-route authority. (Hearing site: Cincinnati, OH, or Washington, DC.)

MC 47583 (Sub-91F), filed April 2, 1979. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. To operate as *common carrier*, by motor vehicle, in interstate commerce, over irregular routes, transporting, *materials,*

equipment, and supplies used in the manufacture and distribution of *fiberglass insulation and insulating products*, (except commodities in bulk, and those which because of size or weight require the use of special equipment), from points in the United States (except AK, HI, and TX), to the facilities of Johns Manville Sales Corp., at or near Cleburne, TX. (Hearing site: Kansas City, MO.)

MC 47583 (Sub-93F), filed April 19, 1979. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *feed and feed ingredients, and materials, equipment, and supplies* used in the manufacture and distribution of feed and feed ingredients, (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near (a) Los Angeles, CA, and (b) Ogden, UT, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Kal Kan Foods, Inc. (Hearing site: Kansas City, MO.)

MC 47583 (Sub-94F), filed April 19, 1979. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. To operate as a *common carrier*, by motor carrier, in interstate or foreign commerce, over irregular routes, transporting *feed and feed ingredients, and materials, equipment, and supplies* used in the manufacture and distribution of feed and feed ingredients, (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near (a) Hutchinson, KS, (b) Terre Haute, IN, and (c) Columbus, OH, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Kal Kan Foods, Inc. (Hearing site: Kansas City, MO.)

MC 61592 (Sub-447F), filed April 12, 1979. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: E. A. DeVine, P.O. Box 737, Moline, IL 61265. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *glass products, and materials, equipment, and supplies* used

in the manufacture or distribution of *glass products*, (except commodities in bulk), between Columbus, OH, on the one hand, and, on the other, points in the United States (except AK, HI, and OH); (2)(a) *glass beads, glass spheres, and thermal plastic marking materials*, and (b) *such commodities as are used in the installation of the commodities named in (2)(a)*, (except commodities in bulk), from the facilities of Cataphote Division of Ferro Corporation, at or near Jackson, MS, to points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and WI; and (3) *materials, equipment, and supplies* used in the manufacture or distribution of the *commodities named in (2)*, (except commodities in bulk), in the reverse direction. (Hearing site: Louisville, KY.)

MC 61592 (Sub-451F), filed April 6, 1979. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: E. A. DeVine, P.O. Box 737, Moline, IL 61265. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *expanded plastic products with facing on one or more sides*, (except commodities in bulk), between Hamilton, OH, on the one hand, and, on the other, those points in the United States on and east of U.S. Hwy 85. (Hearing site: Louisville, KY.)

MC 68123 (Sub-5F), filed April 16, 1979. Applicant: MARIE R. CAVALLERI, d.b.a. M & J TRUCKING COMPANY, 220 Eilot St., Fairfield, CT 06430. Representative: James M. Burns, Johnson's Bookstore Bldg., 1383 Main St., Suite 413, Springfield, MA 01103. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *zinc and zinc alloys*, from the facilities of St. Joe Zinc Company, at Josephstown, PA, to points in CT, MA, NY, and RI. (Hearing site: Hartford, CT, or Springfield, MA.)

MC 80443 (Sub-19F), filed April 16, 1979. Applicant: OVERNITE EXPRESS, INC., 2550 Long Lake Rd., Roseville, MN 55113. Representative: Samuel Rubenstein, 301 N. Fifth St., Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *anti-freeze compounds and de-icing compounds*, (except commodities in bulk), *anti-freeze pressure tanks, de-icing pressure tanks, and vaporizers*, from the facilities of Tanner Systems, Inc., at or near Sauk Rapids, MN, to points in the United States (except AK and HI). (Hearing site: Minneapolis or St. Paul, MN.)

MC 105813 (Sub-254F), filed April 13, 1979. Applicant: BELFORD TRUCKING CO., INC., 1759 S.W. 12th St., P.O. Box 2009, Ocala, FL 32670. Representative: Arnold L. Burke, 180 N. LaSalle St., Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chocolate products*, in bulk, in tank vehicles, from the facilities of M&M/Mars, a division of Mars, Inc., at or near (a) Chicago, IL, and (b) Elizabethtown, PA, to the facilities of M&M/Mars, a division of Mars, Inc., at or near Cleveland, TN. (Hearing site: Chicago, IL.)

MC 105813 (Sub-255F), filed April 13, 1979. Applicant: BELFORD TRUCKING CO., INC., 1759 S.W. 12th St., P.O. Box 2009, Ocala, FL 32670. Representative: Arnold L. Burke, 180 N. LaSalle St., Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *meats, meat products, meat byproducts, dairy products, and articles distributed by meat-packing houses*, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except commodities in bulk), and (2) *foodstuffs* (except those named in (1) above), when moving in mixed loads with the commodities named in (1) above, in vehicles equipped with mechanical refrigeration, from Milan, IL, to points in AL, FL, GA, NC, SC, and TN (except Memphis). (Hearing site: Chicago, IL.)

MC 107012 (Sub-356F), filed April 11, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *furniture and fixtures*, uncartoned, (1) from points in AL, FL, GA, NC, SC, and VA, to points in CT, DE, MD, MA, NH, NJ, NY, PA, RI, VT, and DC, and (2) from points in CT, MD, MA, NH, NJ, NY, PA, RI, and VT, to points in AL, FL, GA, NC, SC, and VA. (Hearing site: Miami, FL, or New York, NY.)

MC 107403 (Sub-1189F), filed April 4, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum, petroleum products, and chemicals*, in

bulk, between the facilities of Ashland Oil, Inc., in (a) Boyd County, KY, (b) Lawrence County, OH, and (c) Wayne County, WV, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Washington, DC.)

MC 111812 (Sub-623F), filed April 17, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Lamoyne Brandsma (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salad dressings*, (except in bulk), from the facilities of Western Dressing, Inc., at or near Grundy Center, IA, to points in CA. (Hearing site: Des Moines, IA, or Washington, DC.)

MC 111812 (Sub-624F), filed April 16, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Lamoyne Brandsma (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic articles and cardboard corrugated trays*, from Lonsdale, MN, to points in CA, OR, and WA, restricted to the transportation of traffic originating at the named origin. (Hearing site: San Diego, CA.)

MC 111812 (Sub-626F), filed April 16, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Lamoyne Brandsma (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities as are dealt in by manufacturers of floors, floor coverings, walls, and wall coverings*, (except commodities in bulk), from Kalamazoo, MI, and Dayton, OH, and points in Los Angeles County, CA, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies used in the manufacture or distribution of the commodities named in (1)*, (except commodities in bulk), in the reverse direction, restricted, in (1) and (2), to the transportation of traffic originating at or destined to the facilities of Roberts Consolidated Industries. (Hearing site: Los Angeles, CA.)

MC 111812 (Sub-628F), filed April 17, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Lamoyne Brandsma (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *games and toys*, (2)

plastic articles, and (3) *hobby and craft supplies*, from points in NY and PA, to Des Moines, IA, restricted to the transportation of traffic originating at or destined to the facilities of Parker Brothers. (Hearing site: Boston, MA.)

MC 114273 (Sub-587F), filed April 19, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Wilton, IA, to points in MD, PA, and NY. (Hearing site: Chicago, IL or Washington, DC.)

MC 114273 (Sub-588F), filed April 19, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *construction machinery and parts for construction machinery*, (except commodities the transportation of which because of size or weight requires the use of special equipment), (a) from Bowling Green and Lexington, KY, to Chicago, IL and (2) from Cedar Rapids, IA, to Bowling Green and Lexington, KY; (2) (a) *synthetic strapping, film or sheeting* (except cellulose), *seals, buckles, hooks, and staples*, (b) *tools and stands* for the commodities in (2)(a) above, and (c) *plastic articles*, from Downingtown, PA, to points in IL, MO, WI, MN, NE, CO, MI, and IA; and (3) *edible cellulose flour* (except in bulk, in tank vehicles), from Newark, DE, to points in IN, IA, IL, KY, MN, MO, MI, OH, and WI, restricted in (1), (2), and (3) above to the transportation of traffic originating at or destined to the facilities of FMC Corporation. (Hearing site: Chicago, IL, or Washington, DC.)

MC 115162 (Sub-475F), filed April 12, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *poleline hardware, transmission equipment, and transformers*, and (2) *parts for the commodities in (1) above*, (a) from Centralia and Washington, MO, to points in NC, SC, GA, FL, AL, MS, LA, those points in TX on and east of Interstate Hwy 35, AR, TN, those points in VA on and east of Interstate Hwy 95, and (b) from Houston, TX, to points in LA, AR, MO, IA, MN, WI, IL, TN, KY, MS, AL, FL, SC, NC, GA, OH, MI, VA,

WV, PA, NY, VT, NH, MA, CT, RI, ME, NJ, DE, MD, and IN, and (3) *crane and derrick parts*, from Houston, TX, to points in LA, AR, MO, IA, MN, WI, IL, TN, KY, MS, AL, FL, SC, NC, GA, OH, MI, VA, WV, PA, NY, VT, NH, MA, CT, RI, ME, NJ, DE, MD, and IN. (Hearing site: Houston, TX or St. Louis, MO.)

MC 115162 (Sub-76F), filed April 13, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *livestock equipment* from Lester Prairie, MN, , Duncan, OK, and Pittsburg and Dodge City, KS, to the facilities of B & W Feed Service at or near Lawrence, MS. (Hearing site: Memphis, TN or Washington, DC.)

MC 115162 (Sub-77F), filed April 12, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except commodities in bulk, in tank vehicles), between the Henderson County Riverport Authority Facility, in Henderson County, KY, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. Condition: The certificate issued in this proceeding, in so far as it authorizes the transportation of explosives, will be limited in point of time to a period expiring 5 years from the date of issuance of the certificate. (Hearing site: Louisville, KY, or Evansville, IN.)

MC 115322 (Sub-70F), filed April 16, 1979. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, FL 32809. Representative: L. W. Fincher, P.O. Box 426, Tampa, FL 33601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, (except commodities in bulk), in vehicles not requiring mechanical refrigeration, from the facilities of Ragu' Foods, Rochester, NY, to points in VA, and those points in MD and PA on and east of U.S. Hwy 15. (Hearing site: New York, NY.)

MC 115762 (Sub-15F), filed April 17, 1979. Applicant: KENTUCKY WESTERN TRUCK LINES, INC., P.O. Box 623, Hopkinsville, KY 42240. Representative: William L. Willis, 708 McClure Building, Frankfort, KY 40601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over

irregular routes, transporting *coiled steel*, from the facilities of (1) J. & L. Steel, at or near Hennepin, IL, and (2) Inland Steel Company, at or near East Chicago, IN, to the facilities of the York Division of Borg Warner, at or near Madisonville, KY. (Hearing site: Hopkinsville, KY, or Evansville, IN.)

MC 116063 (Sub-158F), filed April 16, 1979. Applicant: WESTERN-COMMERCIAL TRANSPORT, INC., P.O. Box 270, Fort Worth, TX 76101. Representative: W. H. Cole (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *articles distributed by meat-packing houses*, as described in Section C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and *meat byproducts*, in bulk, in tank vehicles, from the facilities of MBPXL Corporation, at or near Dodge City, KS, to points in AR, CO, IL, IN, IA, LA, MS, MO, NE, NM, OK, TN, and TX, restricted to the transportation of traffic originating at the named origin. (Hearing site: Wichita, KS, or Fort Worth, TX.)

MC 116273 (Sub-227F), filed April 4, 1979. Applicant: D & I TRANSPORT, INC., 3800 S. Laramie Ave., Cicero, IL 60650. Representative: William R. Lavery (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals*, in bulk, in tank vehicles, from Toledo, OH, to points in MI. (Hearing site: Chicago, IL.)

MC 116513 (Sub-3F), filed April 12, 1979. Applicant: RICHARD N. GRAHAM, 311 Burlington Rd., Pittsburgh, PA 15221. Representative: Jerome Solomon, 3131 U.S. Steel Bldg., Pittsburgh, PA 15219. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *counter weights for elevators, tractors, and earth moving equipment*, (2) *pile driving circles*, and (3) *steel plates*, from the facilities of Tygart Industries, Inc., at Chicago, IL, to points in CT, DE, IN, IA, KY, MD, MA, MI, MN, MO, NJ, NY, NC, OH, PA, SC, TN, VA, WV, WI, and DC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations, under continuing contract with Tygart Industries, Inc., of McKeesport, PA. (Hearing site: Pittsburgh, PA.)

MC 117883 (Sub-244F), filed April 16, 1979. Applicant: SUBLER TRANSFER, INC., One Vista Drive, Versailles, OH 45380. Representative: Neil E. Hannan, P.O. Box 62, Versailles, OH 45380. To

operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities as are manufactured, dealt in or distributed by sporting goods stores*, between the facilities of Frabill Manufacturing Company, a Division of Huffy Corporation, at or near Milwaukee, WI, on the one hand, and, on the other, points in NE, KS, and those in the United States in, east, and north of MN, IA, MO, KY, and VA, (2)(a) *bicycles and tricycles*, (b) *parts for bicycles and tricycles*, and (c) *materials, equipment and supplies used in the manufacture and distribution of the commodities in 2 (a) and (b) above*, between the facilities of Huffy Corporation, at or near Celina, OH, on the one hand, and, on the other, points in NE, KS, and those in the United States in, east, and north of MN, IA, MO, KY, and VA, and (3)(a) *automotive parts, accessories and service equipment*, and (b) *materials, equipment and supplies used by automotive service and supply dealers*, between the facilities of Huffy Corporation, at or near Delphos, OH, on the one hand, and, on the other, points in NE, KS, and those in the United States in, east, and north of MN, IA, MO, KY, and VA restricted to (1), (2) and (3) above to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Dayton, OH, or Washington, DC.)

MC 117993 (Sub-16F), filed April 2, 1979. Applicant: FRUITBELT TRUCKING INC., 12 Smith Street, St. Catharines, Ontario, Canada L2P 3H9. Representative: Robert D. Gunderman, Esq., Suite 710, Statler Building, Buffalo, NY 14202. To operate as a *common carrier*, by motor vehicle, in or foreign commerce only, over irregular routes, transporting *alcoholic beverages*, (except in bulk, in tank vehicles), from ports of entry on the international boundary line between the United States and Canada, located in NY and MI, to points in the United States (excluding AK and HI), restricted to the transportation of traffic originating at the facilities of (a) Gilbey Canada Limited, Toronto, Ontario, Canada, and (b) Hiram Walker & Sons Ltd., Walkerville and Toronto, Ontario, Canada. (Hearing site: Buffalo, NY.)

MC 118142 (Sub-225F), filed April 8, 1979. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes,

transporting *automotive, industrial, and tractor tires and tubes*, from Huntsville, AL, and Buffalo, NY, to Wichita, KS. (Hearing site: Wichita, KS, or Kansas City, MO.)

MC 118263 (Sub-82F), filed April 9, 1979. Applicant: COLDWAY CARRIERS, INC., P.O. Box 2038, Clarksville, IN 47130. Representative: William P. Whitney, Jr., 708 McClure Bldg., Frankfort, KY 40601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foods and food ingredients* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, between the facilities of Morton Frozen Foods, at or near Crozet, VA, on the one hand, and, on the other, points in CT, IL, IN, KY, ME, MA, MI, NH, NJ, NY, OH, PA, RI, VT, and WV, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Charlottesville or Richmond, VA.)

MC 119493 (Sub-282F), filed April 13, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, Mo 64801. Representative: Thomas D. Boone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *furniture parts*, and (2) *materials and supplies used in the manufacture and distribution of the commodities in (1) above* (except in bulk), between points in AL, AR, CT, DE, FL, GA, IL, IA, IN, KS, KY, LA, MO, MA, MI, MN, MD, MS, NJ, NC, NY, NE, OH, OK, PA, RI, SC, TN, TX, VA, WV, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Leggett & Platt, Inc. (Hearing site: Kansas City or Springfield, MO.)

MC 119493 (Sub-283F), filed April 16, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, Mo 64801. Representative: Thomas D. Boone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Armco, Inc., at or near (a) Ashland, KY, and (b) Middletown, OH, to points in AR, KS, MO, IA, MN, NE, OK, TX, CO, MS, and LA. (Hearing site: Cincinnati, OH, or St. Louis, MO.)

MC 123872 (Sub-103F), filed April 9, 1979. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Allen E. Bowman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over

irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk, in tank vehicles), from the facilities of The Rath Packing Company, at (a) Indianapolis, IN, and (b) Waterloo, IA, to points in VA, WV, GA, and those in TN on and east of Interstate Hwy 65. (Hearing site: Waterloo, IA, or Washington, D.C.)

Note.—Dual operations may be involved.

MC 124692 (Sub-276F), filed April 9, 1979. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *roofing and roofing materials*, from the facilities of GAF Corporation, at Denver, CO, to points in CA. (Hearing site: Denver, CO.)

MC 125433 (Sub-239F), filed April 9, 1979. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *tractors*, (2) *industrial, construction, and excavating equipment*, (3) *material-handling equipment*, and (4) *parts and attachments for the commodities in (1), (2), and (3) above*, from the facilities of J. I. Case Company, at or near Bettendorf and Burlington, IA, to points in AR, CA, ID, LA, MS, MT, NV, OK, OR, TX, UT, and WA. (Hearing site: Washington, DC.)

MC 125433 (Sub-246F), filed April 16, 1979. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *gas fired and electric water heaters, and heating boilers*, from Newark, CA, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the facilities of A. O. Smith Corporation. (Hearing site: San Francisco, CA.)

MC 125433 (Sub-247F), filed April 17, 1979. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South

Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fabricated structural iron and steel articles* (except commodities in bulk), from Grand View, MO, and Stafford, KS, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the facilities of Mid-States Metal-Lines, Inc. (Hearing site: Denver, CO, or Salt Lake City, UT.)

MC 125433 (Sub-248F), filed April 17, 1979. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 S. Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *concrete paving machinery, and parts and accessories for concrete paving machinery*, (except commodities in bulk), between Cedar Falls, IA, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at the facilities of Curbmaster of America, Inc. (Hearing site: Chicago, IL, or Washington, DC.)

MC 127042 (Sub-257F), filed April 9, 1979. Applicant: HAGEN, INC., P.O. Box 98—Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tassar (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities, as are dealt in by grocery and food business houses and drug and discount stores*, and (2) *materials, equipment, and supplies used in the manufacture and distribution of the commodities in (1) above*, between the facilities of S. C. Johnson & Sons, Inc., at Waxdale and Racine, WI, on the one hand, and, on the other, points in CO, IN, IA, KS, MN, MO, NE, ND, and SD. (Hearing site: Milwaukee, WI.)

MC 127042 (Sub-258F), filed April 9, 1979. Applicant: HAGEN, INC., P.O. Box 98—Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tassar (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass bottles*, from Joliet, IL, to Cedar Rapids and Iowa City, IA. (Hearing site: Chicago, IL.)

MC 127042 (Sub-260F), filed April 9, 1979. Applicant: HAGEN, INC., P.O. Box 98—Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tassar (same

address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities, as are dealt in by grocery and food business houses* (except frozen commodities and commodities in bulk), from the facilities of The Clorox Company, at Kansas City, MO, to points in CO. (Hearing site: Kansas City, MO.)

MC 127042 (Sub-261F), filed April 12, 1979. Applicant: HAGEN, INC., P.O. Box 98—Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tassar (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from Davenport, IA, to Cherokee, Des Moines, and Laurens, IA. (Hearing site: Madison, WI.)

MC 127303 (Sub-57F), filed April 19, 1979. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW, Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass containers and closures for containers*, from the facilities of Ball Corporation, at or near Mundelein, North Chicago, and Chicago, IL, to points in IA, MN, WI, and MO. (Hearing site: Chicago, IL.)

MC 127902 (Sub-10F), filed April 16, 1979. Applicant: DIETZ MOTOR LINES, INC., P.O. Box 1427, Hickory, NC 28601. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW, Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sugar*, in containers, from Matthews, LA, to points in AL, AR, GA, MS, NC, SC, and TN. (Hearing site: Washington, DC, or Hickory, NC.)

MC 129923 (Sub-17F), filed April 9, 1979. Applicant: SHIPPER'S TRANSPORTS, INC., 5005 Commerce Street, West Memphis, AR 72301. Representative: Edward G. Grogan, Suite 2020, First Tennessee Building, Memphis, TN 38103. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned foodstuffs*, from Milton, DE, to points in

TX. (Hearing site: Washington, DC, or Baltimore, MD.)

MC 133302 (Sub-5F), filed April 9, 1979. Applicant: WICHITA SOUTHEAST KANSAS TRANSIT, INC., P.O. Box G, Parsons, KS 67357. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Ave., Kansas City, MO 64125. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Joplin, MO, and Fort Scott, KS, from Joplin over MO Hwy 171 to junction KS Hwy 57, then over KS Hwy 57 to junction U.S. Hwy 69, then over U.S. Hwy 69 to Fort Scott, and return over the same route; (2) between Carthage, MO, and junction KS Hwy 96 and U.S. Hwy 69, from Carthage over MO Hwy 96 to junction KS Hwy 96, then over KS Hwy 96 to junction U.S. Hwy 69, and return over the same route; (3) between Springfield and Carthage, MO, from Springfield over Interstate Hwy 44 to junction MO Hwy 96, then over MO Hwy 96 to Carthage, and return over the same route; (4) between Springfield, MO, and Riverton, KS, from Springfield over Interstate Hwy 44 to Joplin, MO, then over Interstate Hwy 44 to junction U.S. Hwy 166, then over U.S. Hwy 166 to junction KS Hwy 26, then over KS Hwy 26 to Riverton, and return over the same route; and (5) between South Coffeyville, OK, and Coffeyville, KS, over U.S. Hwy 169, serving in connection with (1) through (5) above all intermediate points. (Hearing site: Wichita, KS, or Pittsburg, KS.)

MC 135052 (Sub-17F), filed April 17, 1979. Applicant: ASHCRAFT TRUCKING, INC., 875 Webster St., Shelbyville, IN 46176. Representative: Warren C. Moberly, 320 N. Meridian St., Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastics*, from Edinburg, IN, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MO, MS, NE, NH, NJ, NC, NY, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI; and (2) *materials and supplies used in the manufacture or distribution of plastic articles*, (except in bulk, in tank or dump vehicles), in the reverse direction. (Hearing site: Indianapolis, IN, or Louisville, KY.)

MC 136212 (Sub-28F), filed April 17, 1979. Applicant: JENSEN TRUCKING

COMPANY, INC., P.O. Box 349, Gothenburg, NE 69138. Representative: Scott T. Robetson, 521 S. 14th St., P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *feed, feed ingredients, and feed supplements*, from Lubbock, TX, to points in AL, SD, AR, CO, GA, IA, IL, KS, MS, MO, NE, NM, OK, and TN. (Hearing site: Omaha, NE, or Lubbock, TX.)

MC 138882 (Sub-238F), filed April 13, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except commodities in bulk, in tank vehicles), between the Henderson County Riverport Authority Facility, in Henderson County, KY, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. Condition: The certificate issued in this proceeding, in so far as it authorizes the transportation of explosives, will be limited in point of time to a period expiring 5 years from the date of issuance of the certificate. (Hearing site: Louisville, KY, or Evansville, IN.)

MC 140273 (Sub-17F), filed April 16, 1979. Applicant: BUESING BROS. TRUCKING, INC., 2285 Daniels St., Long Lake, MN 55356. Representative: Robert S. Lee, 1000 First National Bank, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Coal tar emulsions, roof coatings and cements, and driveway and tennis court sealers*, (except commodities in bulk), from the facilities of Central-Allied Enterprises, Inc., at Hopkins, MN, to points in IA, WI, ND, and SD; and (2) *materials, equipment, and supplies used in the manufacture or distribution of commodities named in (1)*, (except commodities in bulk), from Compton, IL, to the facilities of Central-Allied Enterprises, Inc., at Hopkins, MN. (Hearing site: Minneapolis or St. Paul, MN.)

MC 140553 (Sub-9F), filed April 9, 1979. Applicant: ROGERS TRUCK LINE, INC., 801 Erie Street, Logansport, IN 46047. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and*

meat byproducts, and articles distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Logansport, IN, to Plainfield, IL, and points in Cook County, IL, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 140553 (Sub-10F), filed April 9, 1979. Applicant: ROGERS TRUCK LINE, INC., 801 Erie Street, Logansport, IN 46947. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and articles distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Logansport, IN, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and DC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 140952 (Sub-2F), filed April 16, 1979. Applicant: REFRIGERATED EXPRESS, INC., 720 12th St., Huntington, WV 25701. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities as are dealt in by grocery and food business houses*, from Huntington, WV, to points in VA and WV. (Hearing site: Charleston, WV.)

MC 141032 (Sub-2F), filed April 10, 1979. Applicant: ALCO BUS CORPORATION, 715 S. Pearl St., Janesville, WI 53545. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *newspapers, and parcels weighing no more than 150 pounds each*, when moving in the same vehicle with passengers and their baggage, between Madison, WI, and O'Hare International Airport, at or near Chicago, IL, from Madison over U.S. Hwy 12 to junction

Interstate Hwy 90, then over Interstate Hwy 90 to junction WI Hwy 28, then over WI Hwy 26 to junction Interstate Hwy 90, then over Interstate Hwy 90 to junction WI Hwy 15, then over WI Hwy 15 to junction U.S. Hwy 51, then over U.S. Hwy 51 to junction IL Hwy 75, then over IL Hwy 75 to junction Interstate Hwy 90, then over Interstate Hwy 90 to O'Hare International Airport, and return over the same route, serving the intermediate points of Janesville and Beloit, WI, and South Beloit, IL. (Hearing site: Milwaukee, WI, or Chicago, IL.)

Note.—Applicant presently holds authority in MC-141032 (Sub-No. 1F) to transport passengers and their baggage over the routes described above.

MC 141402 (Sub-34F), filed April 12, 1979. Applicant: LINCOLN FREIGHT LINES, INC., P.O. Box 427, Lapel, IN 46051. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities as are dealt in or used by manufacturers of paper and paper articles*, (except commodities in bulk and waste paper), and (2) *waste paper*, between points in IL, IN, KY, MI, MO, and OH, restricted, in (1) only, to the transportation of traffic originating at or destined to the facilities of Alton Box Board Company, at (a) Chicago, Galesburg, Beardstown, Godfrey, Highland, and Alton and Federal, IL, (b) Lafayette, Aurora, and Evansville, IN, (c) Columbus, OH, (d) St. Louis and Pacific, MO, and (e) Lexington, Bowling Green, and Louisville, KY, under continuing contract with Alton Box Board Company, of Alton, IL. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 141443 (Sub-16F), filed April 16, 1979. Applicant: JOHN LONG TRUCKING, INC., 1030 East Denton, Sapulpa, OK 74066. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities as are dealt in by grocery and food business houses*, (except frozen commodities and commodities in bulk), from the facilities of The Clorox Company (a) at Kansas City, MO, to points in CO and OK, (b) at Houston, TX, to points in OK, (c) at Oakland, CA, to points in ID, OR, UT, and WA, and (d) at Sparks, NV, to the facilities of The Clorox Company, at (1) Kansas City, MO, and (2) Houston, TX.

(Hearing site: San Francisco, CA, or Tulsa, OK.)

Note.—Dual operations may be involved.

MC 142432 (Sub-2F), filed April 9, 1979. Applicant: NORMAN R. JACKSON d.b.a. N. R. JACKSON, R.D. #1, Box 258A, Oxford, PA 19363. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *hard surface floor coverings and materials and supplies* used in the installation and maintenance of hard surface floor coverings, from the facilities of Armstrong Cork Company, in Lancaster, PA, and the Township of East Hempfield (Lancaster County), PA, to points in CA and TX, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC, or Harrisburg, PA.)

Note.—Dual operations may be involved.

MC 142463 (Sub-5F), filed April 5, 1979. Applicant: SPECIALIZED HAULING, INC., 1500 Omaha Street, P.O. Box 567, Sioux City, IA 51102. Representative: Stewart A. Huff, 314 Security Bank Bldg., Sioux City, IA 51101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *hides, chromes, splits, and tannery products, supplies, and by-products*, (except commodities in bulk, in tank vehicles), (1) from Sioux City, IA, to points in CA, IL, KY, ME, MD, MA, MI, MN, MO, NH, NJ, NY, NC, OH, PA, TN, VA, WV, and WI, and (2) from points in MN, NE, ND, and SD, to Sioux City, IA. (Hearing site: Sioux City, IA.)

Note.—Dual operations may be involved.

MC 142792 (Sub-4F), filed April 8, 1979. Applicant: DENNIS I. OLSON, d.b.a. TWO WAY TRUCKING, #4 Ginger Cove Road, Valley, NE 68064. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and articles distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Omaha, NE, to points in CT, DE, ME, MD, MA, MH, NJ, NY, PA, RI, VT, VA, and DC, restricted to the transportation of traffic originating at the named origin and

destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 143223 (Sub-3F), filed April 6, 1979. Applicant: CARL CRAWFORD, d.b.a. CRAWFORD'S MOBILE HOMES, North Road, Houlton, ME 04730. Representative: Virginia E. Davis, P.O. Box 986, Augusta, ME 04330. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *trailers designed to be drawn by passenger automobiles*, (except travel trailers and camping trailers), in initial movements, in truckaway service, and (2) *prefabricated buildings*, complete or in sections, from Oxford, ME, to points in NH, VT, MA, RI, CT, and NY, under continuing contract(s) with Oxford Homes, of Oxford, ME. (Hearing site: Portland, ME, or Boston, MA.)

MC 144622 (Sub-63F), filed April 17, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72206. Representative: Phillip C. Glenn (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from points in WA, OR, and ID, to points in GA, IL, NY, MA, TX, NC, OH, KY, IA, TN, FL, PA, MD, KS, MO, WI, MI, VA, WV, and IN. (Hearing site: Washington, DC, or Portland, OR.)

MC 144622 (Sub-64F), filed April 17, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Theodore Polydoroff, 1307 Dolley Madison Blvd., Suite 301, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *electrical lighting fixtures and equipment*, and (2) *parts and accessories* for the commodities in (1) above, from the facilities of Gibson-Metalux Corporation, at or near Americus, GA, to points in the United States (except AK and HI). (Hearing site: Atlanta, GA or Washington, DC.)

MC 144682 (Sub-9F), filed April 13, 1979. Applicant: R. R. STANLEY, P.O. Box 95, Mesquite, TX 75149. Representative: D. Paul Stafford, Suite 1125, Exchange Park, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *prepared foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of The Pillsbury Company, at Denison, TX, to points in AZ, CA, CO.

ID, MT, NE, NV, NM, OR, UT, SD, and WA. (Hearing site: Dallas, TX.)

MC 144682 (Sub-10F), filed April 13, 1979. Applicant: R. R. STANLEY, P.O. Box 95, Mesquite, TX 75149. Representative: E. Larry Wells, Suite 1125, Exchange Park, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *clay glaze tile*, from Dallas and Laredo, TX, to points in the United States (except AK and HI). (Hearing site: Dallas, TX)

MC 144772 (Sub-4F), filed April 9, 1979. Applicant: PINE PRAIRIE TRUCKING, INC., P.O. Box 305, Hamburg, AR 71646. Representative: James M. Duckett, 927 Pyramid Life Bldg., Little Rock, AR 72201. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *soybean meal*, in bulk, from Memphis, TN, to points in AR, LA, and MS, under continuing contract(s) with Ralston Purina Company, of St. Louis, MO. (Hearing site: Little Rock, AR.)

MC 145102 (Sub-20F), filed April 16, 1979. Applicant: FREY MILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Mark C. Ellison, 1200 Gas Light Tower, 235 Peachtree St. NE., Atlanta, GA 30303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of (1) Armour & Co., at Mason City, IA, and (2) Lauridsen Foods, Inc., at or near Britt, IA, to points in CA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Chicago, IL, or St. Paul, MN.)

Note.—Dual operations may be involved.

MC 145442 (Sub-1F), filed April 16, 1979. Applicant: COSSAIR MARINE, INC., 4634 Glenwood Ave., La Crescenta, CA 91214. Representative: David P. Christianson, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *boats, and equipment and accessories for boats*, between points in Los Angeles County, CA, on the one hand, and, on the other, points in OR,

WA, MN, WI, IL, IN, MI, OH, NY, RI, PA, ME, VT, NH, MA, CT, FL, NJ, DE, VA, NC, SC, GA, AL, MS, LA, TX, and MD. (Hearing site: Los Angeles, CA.)

MC 145543 (Sub-1F), filed April 12, 1979. Applicant: SAMUEL J. INMAN, d.b.a. GOLDEN STATE COURIERS, 1387 Lowrie Ave., South San Francisco, CA 94080. Representative: Lee H. Harter, 2822 Van Ness Ave., San Francisco, CA 94109. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between South San Francisco, CA, on the one hand, and, on the other, points in Marin, Sonoma, Napa, Solano, Contra Costa, San Joaquin, Stanislaus, Merced, Madera, Fresno, San Benito, Monterey, Santa Clara, Santa Cruz, Alameda, San Francisco, and San Mateo Counties, CA, restricted to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: San Francisco, CA.)

MC 145863 (Sub-2F), filed April 12, 1979. Applicant: LOUIS D. WEILAND AND RONALD K. TOWNS, a Partnership, d.b.a. T & W TRUCKING COMPANY, 1815 Twelfth Ave. North, Escanaba, MI 49829. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs*, from Cornell, MI, to Chicago, IL, under continuing contract with Superior Frozen Carrots and Vegetables, of Cornell, MI; (2) *foodstuffs, paper products, and materials, equipment, and supplies used in the manufacture or distribution of foodstuffs*, from Chicago, IL, Minneapolis, MN, and points in WI, to Calumet, Escanaba, Marquette, Norway, and Sault Ste. Marie, MI, under continuing contract with Jilbert Dairy Inc., of Marquette, MI; and (3) *novelty ice cream products and water ices*, in vehicles equipped with mechanical refrigeration, from Ocala, FL, Sikeston, MO, and Green Bay and Richland Center, WI, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC, under continuing contract with Gold Bond Ice Cream, Inc., of Green Bay, WI. (Hearing site: Escanaba, MI, or Milwaukee, WI.)

MC 146022 (Sub-2F), filed April 12, 1979. Applicant: D & D NEWSPAPER

DISTRIBUTORS, INC., 600 So. Park, P.O. Box 3, Effingham, IL 62401. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *printed matter*, from Effingham, IL, to points in CT, FL, IA, IN, KS, KY, NC, NE, and WI, under continuing contract(s) with Petty Company, Inc., of Effingham, IL. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 146293 (Sub-13F), filed April 13, 1979. Applicant: REGAL TRUCKING CO., INC., 95 Lawrenceville Industrial, Park Circle, NE., Lawrenceville, GA 30245. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *polystyrene shapes and forms*, from points in WA, CA, TX, GA, and IN, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies used in the manufacture or distribution of the commodities named in (1)*, in the reverse direction. (Hearing site: Atlanta, GA.)

MC 146293 (Sub-14F), filed April 13, 1979. Applicant: REGAL TRUCKING CO., INC., 95 Lawrenceville Industrial, Park Circle, NE., Lawrenceville, GA 30245. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities as are dealt in by grocery and food business houses* (except frozen foods and commodities in bulk), from points in Adams County, PA, and Berkeley County, WV, to points in AL, FL, GA, LA, MS, NC, OK, SC, TN, and TX. (Hearing site: Atlanta, GA.)

MC 146943F, filed April 5, 1979. Applicant: SHAWNEE TRUCK LINES, INC., 3488 DeLong Rd., Lima, OH 45806. Representative: James W. Muldoon, 50 W. Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Lima, OH, on the one hand, and, on the other, points in OH, restricted to the transportation of traffic having a prior or subsequent movement by rail. (Hearing

site: Columbus, OH, or Washington, DC.)

MC 147123F, filed April 13, 1979. Applicant: LEROY SMITH, Route 1, North Salem, IN 46165. Representative: (same as above). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber and wood chips*, between points in IL, IN, IA, KY, MI, MO, OH, TN, and WI, under continuing contract with Pingleton Lumber Company, Inc., of Greencastle, IN. (Hearing site: Indianapolis or Ft. Wayne, IN.)

MC 147132F, filed April 17, 1979. Applicant: SCHARDER TRUCKING, INC., box 37A1, Star Route, Lock Haven, PA 17745. Representative: Walter K. Swartzkopf, Jr., 407 N. Front St., Harrisburg, PA 17101. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber*, between points in TN, NC, VA, WV, MD, PA, NY, VT, and NJ, under continuing contract(s) with Williams and Saylor Lumber Mills, of Lock Haven, PA, Reese Lumber Co., Inc., of Williamsport, PA, and J. H. Monteath Company, of Bronx County, NY. (Hearing site: Washington, DC, or Harrisburg, PA.)

Freight Forwarder

FF 442 (Sub-1F), filed March 19, 1979. Applicant: C-LINE FORWARDING, INC., 340 Jefferson Boulevard, Warwick, RI 02888. Representative: Ronald N. Cobert, Suite 501, 1730 M Street NW., Washington, DC 20036. To operate as a *freight forwarder*, in interstate commerce, in the transportation of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Bristol, Essex, Middlesex, Norfolk, Plymouth, Suffolk, and Worcester Counties, MA, and points in RI, on the one hand, and, on the other, points in FL. (Hearing site: Boston, MA.)

Freight Forwarder

FF 502 (Sub-1F), filed March 5, 1979. Applicant: ANDREWS FORWARDERS, INC., Seventh and Park Avenue, Norfolk, NE 68701. Representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. To operate as a *freight forwarder*, in interstate commerce, in the transportation of (a) *used household goods and unaccompanied baggage* and (b) *used automobiles*, between points in the

United States, including AK and HI, restricted in (b) above to the transportation of export and import traffic. Condition: Issuance of a certificate in this proceeding is subject to the coincidental cancellation, as requested by applicant, of the outstanding permit in FF-502 issued July 20, 1978. (Hearing site: Omaha, NE.)

NOTE.—The purpose of this application is to add AK to applicant's present authority in FF-502.

[FR Doc. 79-23518 Filed 7-30-79; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 119]

Permanent Authority Applications, Decision-Notice

Decided: July 10, 1979.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the *Federal Register*. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a)

[formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicant must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members, Carleton, Jones, and Joyce.

Agatha L. Mergenovich,
Secretary.

MC 112123 (Sub-15F), filed December 7, 1978, and previously published in the *Federal Register* on February 8, 1979. Applicant: BEST-WAY TRANSPORTATION, a corporation, 5150 North 16th Street, Phoenix, AZ 85016. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Green Valley, AZ, and Nogales, AZ, over U.S. Hwy 89 and Interstate Hwy 19, serving all intermediate points, and the off-route points of the Twin Buttes Mine Sites, Pima Mine Site, and Esperanza Mine Site, in Pima County, AZ. (Hearing site: Los Angeles, CA, or Phoenix, AZ.)

Note.—The purpose of this republication is to show that applicant intends to tack this authority with carrier's existing authorities.

MC 146002 (Sub-2F), filed February 26, 1979, and published in the FR issue of May 8, 1979, as MC 146003 Sub 2F, and republished as corrected this issue. Applicant: BROOKRIDGE LEASING, INC., 7211 Brookpart Road, Parma, OH 44129. Representative: E. H. Van Deusen, 220 West Bridge Street, Dublin, OH 43107. The scope of this application remains as previously published. The

purpose of this republication is to correctly identify the application as MC 146002 Sub 2F.

[FR Doc. 79-23519 Filed 7-30-79; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-112989 (Sub-No. 60) F]

West Coast Truck Lines, Inc., Extension—Turner, or (Eugene, OR); Decision

Decided: July 2, 1979.

By prior decision of February 7, 1979, served March 20, 1979, the application in this proceeding was granted substantially as set forth in the appendix. However, a request by applicant to include Texas as a destination State (Texas was included in the original application but omitted from the original *Federal Register* publication) was not considered.

We have now considered this unopposed application with that request in mind and have determined that a need for service to points in Texas have been demonstrated. We will, however, require republication inasmuch as it is possible that other parties who have relied on the notice of the application as published, may have an interest in and would be prejudiced by a lack of proper notice of the authority granted. Thus, a notice of the authority actually granted, as described in the appendix, will be published in the *Federal Register*, and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period, any proper party in interest may file an appropriate petition for leave to intervene in the proceeding, setting forth in detail the precise manner in which it has been prejudiced.

We find:

The present and future public convenience and necessity require operation by applicant, performing the service described in the appendix. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. An appropriate certificate should be granted, subject to republication in the *Federal Register*. This decision is not a major Federal action significantly affecting the quality of the human environment.

It is ordered:

The application is granted to the extent set forth in the appendix.

The prior decision of February 7, 1979, to the extent inconsistent with the

matters discussed in this decision, is vacated.

Operations will begin only following the service of a *certificate* which will be issued if applicant complies with the following requirements set forth in the Code of Federal Regulations: insurance (49 CFR 1043), designation of process agent (49 CFR 1044), and tariffs (49 CFR 1310), and compliance with the republication condition set forth in the appendix.

Compliance with these requirements must be made within 90 days after the date of service of this decision or the grant of authority shall be void.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman. (Board Member Eaton not participating).

Agatha L. Mergenovich,
Secretary.

Appendix

Authority to conduct the following operations will be issued in an appropriate document. This decision does not constitute authority to operate. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic pipe, fittings, and accessories* for plastic pipe, from Turner, OR, to points in Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, Washington, and Wyoming. Condition: Issuance of the certificate authorized in this proceeding shall be withheld for a period of 30 days from the date of publication in the *Federal Register* of a notice of the authority actually granted.

[FR Doc. 79-23517 Filed 7-30-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 148

Tuesday, July 31, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, August 1, 1979.

PLACE: Room 856, 1919 M Street N.W., Washington, D.C.

STATUS: Closed Commission Meeting following the Open Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Reprogramming of Budgeted Funds and Redistribution of Field Personnel to Enhance Service to the Public.

Hearing—1—Petition for leave to dismiss with prejudice the application filed by Tidewater Sounds, Inc. in the Suffolk, Virginia, FM broadcast proceeding (Docket Nos. 20269-20270).

Hearing—2—Petition for acceptance of an engineering amendment, contingent upon return of the application to processing, in the Edna, Texas, AM licensing proceeding. (Docket No. 20075).

Hearing—3—Petition for special relief requesting a "distress sale" of stations WDAS and WDAS-FM in the Philadelphia, Pennsylvania, renewal proceeding (BC Docket Nos. 79-30 and 79-31).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

If additional information is required concerning this meeting it may be obtained from FCC Office of Public Affairs, telephone no. (202) 632-7260.

Issued: July 26, 1979.

[S-1521-79 Filed 7-27-79; 3:24 pm]

BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, August 1, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Appeal from Presiding Officer's Interlocutory Ruling in the Selma, Alabama, WSLA-TV broadcast proceeding (BC Docket No. 78-238).

General—1—Title: Application for review of a ruling by the Chief, Broadcast Bureau, denying an FOIA request by Studio Broadcasting System for inspection of annual financial reports of station KQTV, St. Joseph, Missouri. Summary: Studio Broadcasting System seeks release of Forms 324 for KQTV for 1970-78, contending that station's financial condition has been placed in issue in context of proceeding in which Amaturo Group, Inc. (owner of KQTV) seeks to operate station in Topeka, Kansas and to convert KQTV to satellite station. Amaturo Group, Inc. contends that KQTV's financial condition has not been placed in issue and that it has merely addressed future demographic composition of St. Joseph.

General—2—Title: Application for Review of a ruling by the Chief, Common Carrier Bureau, which denied in part an FOIA request by the Puerto Rico Telephone Authority and Puerto Rico Telephone Company (PRTA). (FOIA No. 9-64). Summary: The Chief of the Common Carrier Bureau partially denied a request for agency records under the Freedom of Information Act. The Bureau concluded that some of the records requested should not be disclosed because they were exempt from the public disclosure requirements of the Act. The requestor of the information, the Puerto Rico Telephone Authority and Puerto Rico Telephone Company (PRTA), appeals the Bureau's ruling contending that the records withheld by the Bureau should be publicly disclosed.

General—3—Application for Review of a ruling by the Chief, Broadcast Bureau, which denied in part an FOIA request by the NAACP Legal Defense Fund (LDF). (FOIA Control No. 9-65). Summary: The Chief of the Broadcast Bureau partially denied a request for agency records under the Freedom of Information Act. The Bureau concluded that some of the records requested should not be disclosed because they were exempt from the public disclosure requirements of the Act. The requestor of the information, the NAACP Legal Defense Fund, appeals the Bureau's ruling contending that the records withheld by the Bureau are required to be publicly disclosed.

General—4—Title: Inquiry into High Seas Public Coast Station Operations, Services and Industry. Summary: This Notice of Inquiry solicits comments from licensees, users, other government agencies, the general public and all other interested parties on the problems of the maritime telecommunications industry with special emphasis on public coast stations' present and future services, operations and role in the industry.

General—5—Title: First Report and Order in Docket 20718 to adopt regulations for an induction cooking range. Summary: FCC considers staff recommendation to adopt regulations for induction cooking range as an initial step in finalizing the proceeding in Docket 20718. Recommendation includes a requirement for mandatory certification without recertification, for a radiated interference limit and a conducted interference limit.

General—6—Title: Petition for waiver of §§ 15.4(m) and 15.7 filed by Texas Instrument Inc. on February 26, 1979. Summary: FCC considers petition filed by TI to waive §§ 15.4 and 15.7 to permit immediate marketing of a personal computer and a stand alone modulator while a rule change to this effect is waiting final action by the Commission. Rule change is proposed in RM-3328.

General—7—Title: Notice of Proposed Rule Making to amend Part 15 of the Rules in response to petition filed by Bell & Howell (RM 3188). Summary: The Commission considers a staff recommendation for proposed new rules to be included in Part 15 which will provide for the sale and operation of a wireless inflight entertainment system. The wireless inflight entertainment system is a low power communications device operating in the 72-73 MHz radio frequency band used to provide audio entertainment throughout the passenger cabin of a commercial aircraft without the use of wires.

General—8—Title: Second Notice of Inquiry to Consider Phase II of the Fee Refund Program (Fees of \$20 and Less.) Docket No. 78-318. Summary: The Commission will consider proposing preliminary refund amounts and procedures for obtaining those refunds in Phase II of its Refund Program. Phase II deals with fees of \$20 and less which were paid to the Commission from 1970 through 1976. Approximately \$30 million. The Commission will only be seeking comments from the public at this time on proposed refunds and procedures. Further Commission action in late 1979 will be necessary before refunds in Phase II can begin to be made.

General—9—Fiscal Year 1981 Budget Estimates to OMB—Commission-Wide

Priorities.—As part of our Fiscal Year 1981 Estimates to OMB, we are required to rank, in priority order, all of the decision packages which comprise the Commission's budget request. This item describes the different priority levels (minimum, fixed, current, and improved) and provides a recommended list of Commission-wide priorities.

General—10—Title: Amendment of Parts 2, 21, 87, and 90 of the Commission's Rules to Allocate Spectrum for, and to Adopt Other Rules and Policies Pertaining to, the Use of Radio in Digital Termination Systems for a new Common Carrier Digital Communication Service. Summary: On November 18, 1978, Xerox filed a petition for the re-allocation of the 130 MHz between 10.55 and 10.68 GHz, and for the adoption of other rules and policies to permit establishment of new common carrier nationwide networks providing for the high-speed, end-to-end two-way transmission of digitally encoded information. The service that Xerox proposes would provide for such information transfer as document distribution, computer data transfer, and teleconferencing. The merits of the petition and the other issues raised by it are considered.

Private Radio—1—Title: Orders dismissing rulemaking petitions, RM-2015 and RM-2215, proposing to amend Amateur Radio Service Rule Section 97.101 on emergency communications procedures, and Radio Control (RC) Service Rules, Part 95, to assign an exclusive frequency for an in-vehicle warning system. Summary: Rule Section 97.101 already provides for the emergency procedures proposed by the petitioner. Therefore, the issue before the Commission is whether to dismiss these rulemaking petitions.

Private Radio—2—Title: Notice of Proposed Rule Making to provide 50 channels in the 600 MHz band for slow growth public safety and utilities radio systems. (RM-3380). Summary: the FCC is proposing to amend Part 90 of its Rules to provide 50 radio channels in the 800 MHz private land mobile radio spectrum specifically for certain qualified applicants in the Police, Fire, Local Government, Telephone Maintenance, and Power Radio Services. These applicants are those with large, long-term planning, multi-year implemented radio systems. The NPRM proposes eligibility requirements for such applicants, outlines the frequency assignment plan for the 50 channels, and proposes certain system implementation reporting requirements.

Private Radio—3—Title: Rule Making petitions 3315, 3325, and 3330 concerning medical paging operations in the Special Emergency Radio Service. Summary: This action proposes to reallocate four 450 MHz band radio box frequencies, which are very lightly utilized, from the Local Government Radio Service to the Special Emergency Radio Service where there is urgent need for additional frequencies for medical paging operations. The action would also extend the January 1, 1980, deadline for

conversion of paging operations in Special Emergency Radio systems to paging-only frequencies.

Common Carrier—1—Title: Request for Stay of rules and policies set forth in the Memorandum Opinion and Second Report and Order relating to the adoption of rules for the regulation of cable television pole attachments (CC Docket No. 78-144). Summary: The Commission recently amended procedural rules and established substantive guidelines relative to the determination of just and reasonable pole attachment rates, such as additional costs, operating expenses and actual capital costs of the utility, usable space, and guidelines for terms and conditions. CTE filed a request for stay of these rules and policies pending Commission action on petitions for reconsideration filed by it and other parties. The Commission considers whether CTE is likely to prevail on the merits and whether it will suffer irreparable injury if the stay is not granted.

Common Carrier—2—Title: Revision of the Uniform System of Accounts (USOA) for Telephone Carriers, CC Docket 78-196: First Supplemental Notice of Proposed Rulemaking. The Supplemental Notice of Proposed Rule Making gives the interested parties opportunity to comment on matters which they did not address in response to the Original Notice concerning the Revision of the Uniform System of Accounts for Telephone Carriers, CC Docket 78-196. It also provides opportunity for extension and clarification of prior comments and lists particular items for comment, including the Functional Accounting System (FAS) advocated by the Bell System.

Common Carrier—3—Title: Order concerning the construction and operation of a seventh transatlantic submarine cable system (TAT-7) between the United States and the United Kingdom. Summary: The FCC is considering the application to construct and operate the TAT-7 Cable, filed by the American Telephone & Telegraph Company, FTC Communications, Inc., ITT World Communications Inc., RCA Global Communications, Inc., TRT Telecommunications Corp. and Western Union International on May 17, 1979 and amended June 5, 1979. The application was filed pursuant to the Commission's determination in Docket No. 18875 that the introduction of a TAT-7 Cable in 1983 would be in the public interest if it facilitated the implementation of a comprehensive cable/satellite facility use plan for the North Atlantic region.

Common Carrier—4—Title: Application of Graphnet Systems, Inc., to Participate in the Hinterland Delivery of International Public Message Services (PMS). Summary: In *Domestic Public Message Services*, 71 FCC 2d 471 (Released March 28, 1979), the Commission authorized Graphnet to participate in the hinterland delivery of international communications messages. RCA Alascom seeks clarification of and TRT Telecommunications seeks reconsideration of the Commission order. The issues before the Commission are:

- (1) Whether the March 28, 1979 order encompasses the services provided by RCA Alascom.
 - (2) Whether the International Formula, which presently applies to merged domestic telegraph carriers (Western Union), for dividing unrouted outbound PMS traffic between the International Record Carriers should be imposed on Graphnet.
 - (3) Whether certain contract clauses between Graphnet and RCA Globcom, Western Union International, and ITT Worldcom each constitute a reciprocal trading arrangement contrary to the public interest.
- Common Carrier—5—Title:** Memorandum Opinion and Order concerning Policy to be Followed in Future Licensing of Facilities for Overseas Communications. (Docket No. 18875) Subject: The FCC is further considering the comprehensive facilities plan negotiated among the U.S. carriers and the European and Canadian telecommunication entities for the construction and use of North Atlantic facilities through year-end 1985.
- Common Carrier—6—Title:** United Video, Inc., revision to Tariff F.C.C. No. 6, service to cable television customers in Oklahoma. Transmittal No. 164. Summary: United Video, Inc., distributes via terrestrial microwave facilities television and FM signals to cable television systems in Oklahoma. It proposes a 3 percent surcharge to its existing rates. Petitions for suspension have been filed by two customers of United Video, Inc., Cablevision of Oklahoma, Inc. and Okmulgee Video, Inc. Among the issues to be considered are whether serious inconsistencies in cost support data exist between United Video's present transmittal and earlier filings, whether its rate increase has been adequately justified, and whether its surcharge should be suspended because its existing tariff contains population sensitive rates. The Commission proposes to allow United Video's surcharge to become effective.
- Common Carrier—7—Title:** Request for Declaratory Ruling and Investigation by GRAPHNET SYSTEMS, INCORPORATED concerning a Proposed Offering of Electronic Computer Originated Mail (ECOM). Summary: The Commission is asked to address the policy and legal issues relevant to the Commission's jurisdiction with respect to the United States Postal Service's Proposed Offering of ECOM.
- Cable Television—1—Title:** Docket 19128: Rulemaking proceeding in which the Commission proposed to require cable television systems to maintain logs of program originations. Summary: In 1969 the Commission adopted rules requiring cable television systems with 3,500 or more subscribers to originate programming. It was proposed that cable system operators be required to make a log of all cablecast programming distributed as a means of assisting the Commission to fulfill its regulatory responsibilities in this area. Due to changing regulatory requirements the proposal was not adopted and remains pending at this time. The issue now to be

decided is what action the Commission should take in terms of requiring the retention of logs of cablecast programs.

Cable Television—2—Title: RM-3115: Petition for rulemaking by Television Muscle Shoals, Inc. Summary: Petition filed by the licensee of station WOWL-TV in Florence, Alabama asked that Florence be added to the Huntsville-Decatur television market for purposes of the cable television rules. This change would expand in one direction the area in which the station is permitted and even required to be carried on cable television systems which the station feels would equalize competition among broadcasters in the market, be of benefit to cable subscribers and of benefit to station WOWL-TV. In addition, the change is said to be consistent with the manner in which audience rating services define the market.

Cable Television—3—Title: Docket 20553: A rulemaking proceeding relating to the carriage of "specialty" stations by cable television systems. Summary: This proceeding relates to the carriage of "specialty" stations by cable television systems. In an earlier decision the Commission exempted from the cable television signal carriage limits, stations carrying significant amounts of foreign language, religious or automated programming. The proceeding was left open for the purpose of possible inclusion within the "specialty" definition of stations carrying ethnic programming or subscription television programming. The Commission has since, in Dockets 20988 and 21284, proposed to delete all of the signal carriage limits raising the question as to what, if any, further action needs to be taken in this "specialty" station proceeding.

Cable Television—4—Title: RM-2822: Petition for rulemaking filed by the Citizens for Cable Awareness in Pennsylvania and the Legislative Committee of the Philadelphia Community Cable Coalition. Summary: Petition requests that the Commission release information on the number of cable television systems in operation and the type and number of complaints received relating to cable television operations in a manner similar to that now done for the broadcasting industry.

Cable Television—5—Title: Memorandum Opinion and Order in CT Docket 78-206, regarding three requests to reconsider a previous decision. Summary: In 1978 the Commission decided that the system of prior review and certification of cable television systems should be eliminated and replaced by a process of registration. (Section 76.12 of Rules). The Commission has received three requests to reconsider that decision. They urge (a) that we reinstate the certificate of compliance process, (b) that copies of registration statements be sent to affected television stations, and/or (c) that registration statements list all the signals currently being carried.

Cable Television—6—In Arlington Telecommunications Corp. (Arlington

County, Va.), FCC 78-781, 69 FCC 2d 1923 (1978) [ARTEC II], the FCC changed the standard by which cable TV operators must prove they are entitled to waivers of the Commission's signal carriage limitations. The National Association of Broadcasters and four other parties have jointly requested that the FCC postpone the implementation of the new standard adopted in ARTEC II until the U.S. Court of Appeals decides several cases appealing the FCC's decision. The FCC must also determine whether to grant a waiver of the Rules of the Arlington County cable system to permit it to carry the signals of three Baltimore network-affiliated stations.

Cable Television—7—"Response to Commission Request for Information," filed by Station KIRO-TV (CBS Channel 7), Seattle, Washington, concerning various cable systems in Seattle, Washington.—The issue raised herein is: Should KIRO receive network program nonduplication on cable systems in its area against imported Canadian signals which prerelease some American network programming? In the two most recent opinions, the Commission, reacting to an earlier order issued by the United States Court of Appeals, held that the problem of Canadian prerelease presented as serious a threat to the local, American broadcaster as simultaneous duplication. However, additional information was sought from the parties concerning economic impact. This item deals with the new submissions.

Assignment and Transfer—1—Title: Request of William H. Rudolph for tax certificate in connection with sale of the Macomb Daily Journal, Macomb, Illinois. Summary: William H. Rudolph, the sole stockholder of the licensee of Stations WKAI-AM-FM, Macomb, Illinois, was prior to January 3, 1979, the President and majority stockholder of the Macomb Daily Journal, Incorporated, publisher of the only daily newspaper in Macomb. The Commission has been requested to issue a tax certificate, pursuant to Section 1071 of the Internal Revenue Code, for the sale of a daily newspaper.

Assignment and Transfer—2—Title: (1) Applications for consent to the assignment of license and/or the transfer of control to Viacom Broadcasting, Inc. (VBI) of certain stations licensed to Sponderling Broadcasting Co. (SBC). (2) Applications for the assignment of license and the transfer of control of stations WOPA and WBMX (FM), Oak Park, Illinois, from SBC to Sponderling Radio Corporation. (3) Applications (BAL-790608G1) for the voluntary assignment of license of station WOL, Washington, D.C., from SBC to WOL, Inc. Summary: SBC has proposed to merge into Viacom International, Inc. with Viacom acquiring all of SBC's broadcast facilities except WOPA and WBMX (FM), Oak Park, Illinois, and WOL, Washington, D.C.

Assignment and Transfer—3—Title: Request for an exception to the Top Fifty Market Policy in connection with an application for the transfer of control of the licensee of WDCA-TV, Washington, D.C., to Taft

Broadcasting Company; Petition to deny filed by Washington Association for Television and Children (WATCH). Summary: Taft presently controls the licenses of one UHF and five VHF television stations in the nation's top fifty markets. It is requesting an exception to the Top Fifty Market Policy to enable it to acquire its seventh television station and its second independent UHF station.

Assignment and Transfer—4—Title: (a) Request for issuance of a tax certificate in connection with the sale of Station KJLH (FM), Compton, California, from John Lamar Hill to Taxi Productions, Inc. (b) Request for issuance of a tax certificate in connection with the sale of Station KFOX (FM), Redondo Beach, California, from Jack Barry to KFOX Radio, Inc. Summary: Station KJLH (FM), and KFOX (FM), have been sold to corporations which are owned and controlled by minorities. Each seller has requested that the Commission issue a tax certificate for the sale of its station in accordance with the Commission's *Statement of Policy on Minority Ownership of Broadcasting Facilities*, 68 FCC 2d 979 (1978) which sets forth the Commission's policy of fostering minority ownership.

Renewal—1—Title: Memorandum Opinion and Order Further Considering the Commission's Grant of the 1974 License Renewal Application of Station KCCW, San Antonio, Texas (File No. BR-1776). Summary: On November 2, 1976, the United States Court of Appeals for the District of Columbia Circuit remanded the Commission's Memorandum Opinion and Order, 58 FCC 2d 333 (1975), granting the above-referenced broadcast renewal application and denying the petition to deny filed by the Bilingual Bicultural Coalition on Mass Media, Inc. The Court, without reaching the merits of the case, mandated further consideration of our Order in light of its decision in *Bilingual Bicultural Coalition on Mass Media, Inc. v. F.C.C.*, No. 75-1855, D.C. Cir., May 4, 1978 (*en banc*) ("Bilingual III"). The primary issue in this proceeding is whether further Commission action now is warranted.

Renewal—2—Title: Newhouse Broadcasting Corp. and KSD/KSD-TV, Inc. for renewal of licenses for stations KTVI (TV), KSD (AM) and KSD-TV, all located in St. Louis, Missouri. Summary: St. Louis Broadcasting Coalition's petitions for reconsideration of Commission Order in: *Newhouse Broadcasting Corp.*, 81 FCC 2d 528 (1976); *KSD/KSD-TV, Inc.*, 61 FCC 2d 504 (1976); and *Newhouse Broadcasting Corp., et al.*, 62 FCC 2d 280 (1976). The proposed Order considers allegations regarding: cross-ownership of print and broadcast media; specific abuses of that cross-ownership; and various procedural matters.

Renewal—3—Title: McClatchy Newspapers, for renewal of license for Station KOVR(TV), Stockton, California. Summary: The proposed Order considers San Joaquin Communications Corporation petition to deny (i) licensee's employment practices are discriminatory, (ii) licensee has an undue concentration on media control in

Sacramento and Stockton, California, (iii) licensee failed to exercise good faith in giving all substantive reasons in filing an application to assign KOVR; and (iv) licensee has engaged in *ex parte* communication with four commissioners.

Renewal—4—Title: Service Broadcasting Corp. applications for renewal of licenses for Stations KKDA, Grand Prairie, Texas and KKDA-FM, Dallas, Texas. Summary: The proposed Order considers allegations that the licensee failed to ascertain and program for the needs of the black community; distorted news; presented objectionable programming; aired unethical contests; improperly promoted local concerts and records; presented entertainment logged as news and public affairs; and discriminated in employment.

Renewal—5—Title: In re Applications of KCOP Television, Inc. for Renewal of License of Station KCOP-TV, Los Angeles, California (BRCT-102) and Metromedia, Inc. for Renewal of License of Station KTTV-TV, Los Angeles, California (File No. BRCT-64). Summary: The D.C. Court of Appeals remanded the records in these two cases to the Commission for further consideration in light of its *en banc* decision in *Bilingual Bicultural Coalition on Mass Media v. F.C.C.*, No. 75-1855, May 4, 1978. Petitioners allegations of employment discrimination against women are reconsidered with particular emphasis on statistical analysis and the "zone of reasonableness."

Renewal—6—Title: In re application of CHANNEL 20, INCORPORATED, For Renewal of License of Station WDCA-TV, Washington, D.C., File No. BRCT-624. Summary: The Washington Association for Children and Television (WATCH) filed a petition to deny the license renewal application of Channel 20, Inc., for station WDCA-TV, Washington, D.C., on the grounds that Channel 20 has failed to broadcast sufficient amounts of educational children's programming and age specific children's programming as required by the guidelines for children's television established in *Action for Children's Television*, (Children's Report), 50 FCC 2d 1 (1974), petition for reconsideration denied, 55 FCC 2d 691 (1975), *aff'd sub nom. Action for Children's Television v. F.C.C.* WATCH also asserted that Channel 20 has failed to conduct an adequate ascertainment of the problems, needs and interests of the children in its service area. In Memorandum Opinion and Order FCC 79-83, released February 16, 1979, the Commission granted Channel 20's license renewal application and denied WATCH'S petition to deny. Now before the Commission is WATCH's petition for reconsideration of that Order. Channel 20's opposition to that petition, and related pleadings. WATCH again raises the same issues involving the adequacy of Channel 20's educational and age-specific children's programming, as well as the station's ascertainment of the problems of children.

Aural—1—Title: Modification of License to Change Main Studio Location. Summary: Jackson County Broadcasting, Inc., licensee

of AM Station WKOV, Wellston, Ohio, is seeking authority to relocate its main studio to Jackson, Ohio. Because WKOV proposes to relocate its main studio outside its community of license, at a site other than its transmitter site, the WKOV application is grantable only upon the waiver of the Commission's Main Studio Rule. The issue to be considered is whether WKOV has shown special circumstances to justify waiver of the Main Studio Rule.

Aural—2—Title: Two competing applications for construction permits for new FM stations at Sparks, Nevada, filed by Edward H. "Pepper" Schultz and Beck Enterprises, Inc., and petitions to deny. Summary: Memorandum Opinion and Order considers whether applications should be designated for hearing in a consolidated proceeding.

Television—1—Title: Requests for waivers of Section 73.653(b) of Rules to allow separate operation of TV aural and visual transmitters, filed by The Outlet Company (WDBO-TV, Orlando, FL; WJAR-TV, Providence, RI; WCMH-TV, Columbus, OH). Summary: Licensee requests 3 waivers of rule to allow separate operation of the aural and visual transmitters for its 3 TV stations. The issue before the Commission is whether to grant the waivers.

Television—2—Title: Applications of KOTV, Inc. (KOTV-TV) and Scripps-Howard Broadcasting (KTEW-TV), both Tulsa, Oklahoma, to change transmitter sites and to make equipment changes. Summary: KOTV and KTEW, both Tulsa, Oklahoma, request CPs to move their transmitters to the same site. Applications are opposed by UHF stations in Joplin, MO; Fort Smith, AR; and Fayetteville, AR. Questions raised as to UHF impact, loss areas, unserved areas, and other questions.

Broadcast—1—Title: Response to GAO Report on FCC regulatory policies affecting commercial radio and television. Memorandum and letter of transmittal from the Commission to the Committees on Government Operations of the House and Senate, Appropriations Committees of the House and Senate, to GAO and to OMB, responding to GAO report on FCC regulatory policies affecting commercial radio and television.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: July 26, 1979.

[S-1522-79 Filed 7-27-79; 3:24 p.m.]
BILLING CODE 8712-01-M

3

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: August 1, 1979, 10 a.m.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, Telephone (202) 275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Office of Public Information.

Power Agenda—332nd Meeting, August 1, 1979, Regular Meeting (10 a.m.)

- CAP-1. Project No. 2729, Power Authority of the State of New York.
- CAP-2. Project No. 2777, Idaho Power Co.
- CAP-3. Project No. 2778, Idaho Power Co.
- CAP-4. Docket No. ER79-438, Public Service Co. of Indiana
- CAP-5. Docket No. E-7734, Mid-Continent Area Power Pool Agreement
- CAP-6. Docket No. ER78-517, Connecticut Light and Power Co.
- CAP-7. Docket No. ER79-166, Kansas City Power and Light Co.

Miscellaneous Agenda—332nd Meeting, August 1, 1979, Regular Meeting

- CAM-1. 404 Referral—Proposed amendments to include additional petroleum substitutes in the entitlements program.
- CAM-2. Kansas Power and Light Co.
- CAM-3. Potomac Edison Co.
- CAM-4. Monongahela Power Co.
- CAM-5. Delmarva Power and Light Co. of Maryland.
- CAM-6. Docket No. RM79- , Final Part 284 regulations under the Natural Gas Policy Act of 1978.

Gas Agenda—332nd Meeting, August 1, 1979, Regular Meeting

- CAG-1. Docket No. RP-79-22, Consolidated Gas Supply Corp.
- CAG-2. Docket No. RP79-7, Southern Natural Gas Co.
- CAG-3. Docket No. RP79-11, Texas Gas Pipe Line Corp.
- CAG-4. Docket No. RI79-28, Kaiser-Francis Special Account C.
- CAG-5. Docket No. RI79-38, Triton Oil and Gas Corp.
- CAG-6. Docket No. CI72-145, Gulf Oil Corp.
- CAG-7. Docket No. CI79-414, Mesa Petroleum Co., Docket No. CI78-902, MRT Exploration Co., Docket No. CS78-111, Petroleum, Inc., Docket No. CI72-276, The Superior Oil Co., Docket No. CI72-352, Ashland Exploration, Inc., Docket No. CI72-462, Trans-Ocean Oil, Inc., Docket No. CI72-542, Hassie Hunt, Inc., Docket No. CI72-543, Hunt Petroleum Corp.
- CAG-8. Docket Nos. CI74-392, et al., Exxon Corp., et al.

CAG-9. Docket Nos. CI72-440, et al., Amoco Production Co., et al.

CAG-10. Docket Nos. CI70-727, et al., Ocean Production Co. (Operator), et al.

CAG-11. Docket Nos. CS71-281 and CS76-44, Elf Aquitaine, Inc., et al.

CAG-12. Docket Nos. G-5010, et al., Shell Oil Co., et al.

CAG-13. Transcontinental Gas Pipe Line Corp.

CAG-14. Docket No. CP79-114, Cities Service Gas Co. and El Paso Natural Gas Co., Docket No. CP79-115, Northwest Pipeline Corp. and Mountain Fuel Supply Co.

CAG-15. Docket No. CP79-116, United Gas Pipe Line Co., Docket No. CP79-196, Trunkline Gas Co.

CAG-16. Docket No. CP79-281, Transcontinental Gas Pipe Line Corp.

CAG-17. Docket No. CP79-207, Equitable Gas Co.

CAG-18. Docket No. CP79-303, Panhandle Eastern Pipe Line Co.

CAG-19. Docket No. G-10395, Texas Gas Transmission Corp.

CAG-20. Docket No. CP78-321, Texas Gas Transmission Corp. and Tennessee Gas Pipeline Co., a division of Tenneco Inc.

Power Agenda—332nd Meeting, August 1, 1979, Regular Meeting

I. Licensed Project Matters

P-1. E-9530, Pyramid Lake Paiute Tribe of Indians, complainant v. Sierra Pacific Power Company, respondent, Truckee-Carson Irrigation District and Washoe County Water Conservation District, additional respondents.

P-2. Project No. 516 and E-7791, South Carolina Electric and Gas Co.

II. Electric Rate Matters

ER-1. Docket No. ER79-339, Arkansas Power & Light Co.

ER-2. Docket No. ER79-435, Union Electric Co.

ER-4. Docket No. ER79-429, Black Hills Power & Light Co.

ER-5. Docket No. E-9578 (Phase I), Texas Power & Light Co.

ER-6. Docket No. E-9565, town of Massena, New York v. Niagara Mohawk Power Corporation and Power Authority of the State of New York.

ER-7. Docket Nos. ER79-216 and ER79-217, Boston Edison Co.

ER-8. Docket No. ER77-89, Central Illinois Public Service Co.

Miscellaneous Agenda—332nd Meeting, August 1, 1979, Regular Meeting

M-1. Docket No. RM79-6, Procedures governing the collection and reporting of information associated with the cost of providing electric service.

M-2. Docket No. RM79- , Flood plain management and protection of wetlands.

M-3. Docket No. RM79- , Regulations implementing National Environmental Policy Act.

M-4. Reserved.

M-5. Reserved.

M-6. Docket No. RM79- , Final rule amending regulations on new natural gas and certain

natural gas produced from the outer continental shelf.

M-7. Docket No. RM79- , Final regulations under sections 105 and 106(b) of the NGPA.

M-8. Docket No. RM79- , Regulations relative to section 109 of the NGPA.

M-9. Docket No. RM79- , Fees applicable to natural gas pipeline construction.

M-10. Docket No. RM79-22, Amendment and clarification of the Commission's interim regulations implementing the Natural Gas Policy Act of 1978 and regulations under the Natural Gas Act.

M-11. Docket No. RM79- , Regulation implementing section 502c of the Natural Gas Policy Act for interpretation.

M-12. Docket No. RM79-34, Transportation certificates for natural gas for the displacement of fuel oil.

M-13. Notices of determinations.

M-14. Notices of determinations.

M-15. Notice of determinations.

M-16. Docket No. CP79-4, Kansas Power & Light Co., MESA Petroleum Corp.

Gas Agenda—332nd Meeting, August 1, 1979, Regular Meeting

I. Pipeline Rate Matters

RP-1. Docket Nos. RP78-136 and RP77-26, Transcontinental Gas Pipe Line Corp.

RP-2. Docket No. RP71-107 (Phase II), Northern Natural Gas Co.

RP-3. Docket Nos. RP72-122 (PGA 78-3), RP78-51 and RP79-1, Colorado Interstate Gas Co.

RP-4. Docket No. OR79-1, Williams Pipe Line Co.

II. Producer Matters

CI-1. Docket No. CI77-298, Tenneco, Inc. and Amoco Production Co., et al.

CI-2. Docket No. CI77-701, City of Perryton, Docket No. CI77-799, Falcon Petroleum.

III. Pipeline Certificate Matters

CP-1. Docket No. CP78-399, Southwest Gas Corporation v. Northwest Pipeline Corporation.

CP-2. Docket Nos. CP78-123, et al., Alaskan Northern Transportation Co.—pipeline design and capacity.

CP-3. Docket No. TC79-79, Cities Service Gas Co.

Kenneth F. Plumb, Secretary.

[S-1515-79 Filed 7-27-79; 9:51 a.m.]
BILLING CODE 6450-01-M

4

FEDERAL RESERVE SYSTEM: Board of Governors

TIME AND DATE: 11 a.m., Friday, August 3, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 462-3204.

Dated: July 26, 1979.

Griffith L. Garwood, Deputy Secretary of the Board.

[S-1519-79 Filed 7-27-79; 3:24 p.m.]
BILLING CODE 6210-01-M

5

[USITC SE-79-30A]

INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Filed with FR July 20, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Tuesday, July 31, 1979.

CHANGES IN THE MEETING: In deliberations held Thursday, July 26, 1979, the United States International Trade Commission, in conformity with 19 CFR 201.37, voted that Commission business requires that the meeting previously scheduled to be held on Tuesday, July 31, 1979, be cancelled.

Commissioners Parker, Moore, and Stern determined by unanimous consent that Commission business requires the cancellation of the meeting for Tuesday, July 31, 1979, and affirmed that no earlier announcement of the change was possible, and directed the issuance of this notice at the earliest practicable time. Commissioners Alberger and Bedell were not present for the vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-1516-79 Filed 7-27-79; 9:51 a.m.]
BILLING CODE 7020-02-M

6

[USITC SE-79-31]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, August 9, 1979.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: 1. Investigation 332-87 (Conditions of Competition in the Western U.S. Steel Market)—Consideration of the report.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-1517-79 Filed 7-27-79; 9:51 a.m.]
BILLING CODE 7020-02-M

7

MERIT SYSTEMS PROTECTION BOARD.

TIME AND DATE OF MEETING: 9:30 a.m. Wednesday, Thursday, and Friday, August 8-10, 1979.

PLACE: Room 404, 717 Madison Place, N.W., Washington, D.C.

SUBJECT: Hearing in case of: *In re Frazier, et al.*

CONTACT PERSON FOR MORE

INFORMATION: Charles J. Stanislav, Jr., Acting Director, Office of the Secretary (202-653-7130)

Merit Systems Protection Board.

Ruth T. Prokop,

Chair.

[S-1518-79 Filed 7-27-79; 10:08 am]

BILLING CODE 6325-20-M

8

NATIONAL SCIENCE BOARD.

DATE AND TIME: August 16, 1979, 1:00 p.m., Open Session. August 17, 1979, 9:00 a.m., Closed Session.

PLACE: National Science Foundation, Rm 540, 1800 G. Street, N.W., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED AT THE OPEN SESSION:

1. Program Review—Chemical and Process Engineering.

2. Minutes—Open Session—207th Meeting.

3. Chairman's Report.

4. Director's Report:

a. Report on Grant and Contract Activity—6/20-8/15, 1979.

b. Organizational and Staff Changes.

c. Congressional and Legislative Matters.

d. NSF Budget for Fiscal Year 1980.

5. Board Committees—Reports on

Meetings:

a. Executive Committee.

b. Planning and Policy Committee.

c. Programs Committee.

d. Committee on Budget.

e. Committee on Minorities and Women in Science.

f. Committee on Role of NSF in Basic Research.

g. Ad Hoc Committee on Big and Little Science.

h. Ad Hoc Committee on Deep Sea and Margin Drilling Programs.

i. Ad Hoc Committee on NSF Nominees.

j. Ad Hoc Committee on NSF Act review.

6. NSF Advisory Groups.

7. Board Representation at Future Site

Visits of Materials Research Laboratories.

8. Grants, Contracts, and Programs.

9. Review of NSF Act of 1950, as Amended.

10. Discussion of Reports and Future

Action on June Discussion Group Reports and

Recommendations.

11. Other Business.

12. Next Meetings: National Science Board, 209th Meeting, September 20-21, 1979.

MATTERS TO BE CONSIDERED AT THE CLOSED SESSION:

A. Minutes—Closed Session—207th Meeting.

B. Nominations: NSB, NSF Assistant Directors, and Alan T. Waterman Award Committee.

C. NSB Annual Reports.

D. NSF Budgets for Fiscal Year 1981 and Subsequent Years.

E. Grants, Contracts, and Programs.

CONTACT PERSON FOR MORE

INFORMATION: Miss Vernice Anderson, Executive Secretary, (202) 632-5840.

[S-1520-79 Filed 7-27-79; 3:24 pm]

BILLING CODE 7555-01-M

9

NUCLEAR REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 43401.

TIME AND DATE: July 27 and 30, 1979 (Changes).

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open (Changes).

MATTERS TO BE CONSIDERED:

Friday, July 27; 9:30 a.m.

1. Affirmation Session (approximate 10 minutes, public meeting):

a. Order in S-3 (tentative).

b. ALAB-542 (Atlantic Research) (tentative).

c. Anderson FOIA Appeal (as scheduled).

d. Upgrade Rule (postponed).

e. Revision of 10 CFR 2.802, PRM (as scheduled).

f. Order in Restart of TMI-1 (postponed).

2. Discussion of Technical Issues in Restart of TMI-1 (approximately 2 hours, public meeting, continued from 7/25).

Monday, July 30; 2:00 p.m.

Budget Presentation (approximately 3 hours, public meeting)—NMSS (postponed from 7/27).

CONTACT PERSON FOR MORE

INFORMATION: Walter Magee (202) 634-1410.

Roger M. Tweed,

Office of the Secretary.

July 26, 1979.

[S-1523-79 Filed 7-27-79; 3:24 p.m.]

BILLING CODE 7590-01-M

10

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: July 31; August 1, 2, and 3, 1979.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Tuesday, July 31; 9:30 a.m.

1. Budget Presentation (approx 3 hours, public meeting)—NRR (postponed from 7/30).

Tuesday, July 31; 2:00 p.m.

1. Budget Presentations (approx 3 hours, public meeting)—Research.

Wednesday, August 1; 9:30 a.m.

1. Budget Presentations (approx 3 hours, public meeting)—ADM, EDO office, COM offices.

Wednesday, August 1; 2:00 p.m.

1. Budget Markup Session (approx 3 hours, closed—exemption 9).

Thursday, August 2; 9:30 a.m.

1. Briefing on Results of IE Investigation of TMI Incident (approx 1½ hours, public meeting).

2. Budget Markup Session (approx 1½ hours, closed—exemption 9).

Friday, August 3; 9:30 a.m.

1. Budget Markup Session (approx 3 hours, closed—exemption 9).

Friday, August 3; 2:00 p.m.

1. Budget Markup Session (approx 3 hours, closed—exemption 9).

CONTACT PERSON FOR MORE

INFORMATION: Walter Magee (202) 634-1410.

Walter Magee,

Office of the Secretary.

July 24, 1979.

[S-1524-79 Filed 7-27-79; 3:24 pm]

BILLING CODE 7590-01-M

federal register

Tuesday
July 31, 1979

Part II

Department of
Health, Education,
and Welfare

Office of Human Development Services

Grants for State and Community
Programs on Aging

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development Services

[45 CFR Parts 1320, 1321, 1324, 1326]

Grants for State and Community Programs on Aging

AGENCY: Office of Human Development Services, (OHDS), HEW.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Administration on Aging (AoA) in the Office of Human Development Services, proposes new and revised regulations. The basis for these are the Comprehensive Older Americans Act Amendments of 1978 (Act). The amendments consolidate under one title, Title III, the older Americans programs for three activities: social services, nutrition services, and multipurpose senior centers. These were authorized before under three separate titles (III, V, and VII.) In these proposed rules, AoA is also revising and clarifying the current policies and regulations that will have continued applicability. Proposed rules are also included for new programs such as the long-term care ombudsman program authorized by the 1978 amendments.

DATES: Consideration will be given to comments received by October 1, 1979.

ADDRESSES: Address comments in writing to Commissioner on Aging, Administration on Aging, HEW North Building, 330 Independence Avenue, SW., Washington, D.C. 20201. Agencies and organizations are requested to submit comments in duplicate. Beginning two weeks from today, the public may review the comments submitted in response to this notice in room 4748, HEW North Building, 330 Independence Avenue, SW., Washington, D.C. 20201 between the hours of 9 a.m. and 4 p.m. Monday through Friday except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Luhmann, (202) 245-6809.

SUPPLEMENTARY INFORMATION:

Background

1. *History of Program.* The Older Americans Act was first enacted in 1965. On October 18, 1978 the President signed the Comprehensive Older Americans Act Amendments of 1978, Pub. L. 95-478. The Amendments were effective on October 1, 1978. The Act was amended seven times, in the period between 1965 and 1978.

As first enacted, the Act authorized funding under Title III to support in each State a State agency on aging. Title III also provided funds for each State agency to initiate local community projects to provide social services to older persons. Activities under the Act began on a modest scale. In fiscal year 1966, the total appropriation under the Act was \$7.5 million.

In 1972, a new Title VII was enacted which authorized funds for local community projects to provide nutrition services to the elderly. The projects were designed to provide older persons aged 60 and older with at least one hot nutritious meal five or more days a week. Emphasis in the projects was placed on serving older persons with the greatest economic need, and on reducing the isolation of old age.

A second major change occurred in 1973. The amendments revised the Title III State grant program in order to provide for a better organization at State and local levels and to authorize the targeting of limited resources to priority services.

The State agency was directed to divide the entire State into planning and service areas, determine for which areas an area plan would be developed, and designate an area agency on aging to develop and administer the plan in each area. The 1973 amendments also added a new Title V to the Act which authorized the Commissioner to make grants directly to local community agencies to pay part of the cost of the acquisition, renovation, alteration or initial staffing of facilities for use as multipurpose senior centers.

The 1975 amendments specified four priority services to be provided under State plans: transportation, home services, legal services, and residential repair and renovations.

2. *1978 Amendments.* The 1978 amendments represent another evolutionary step in the process of establishing in each planning and service area a basic capacity to respond to the needs of older persons. They consolidated under an amended Title III the social services, nutrition, and multipurpose senior center programs authorized before under Titles III, VII, and V.

The House committee report on the subject of consolidation states that:

The committee believes that by combining the [Title III, V, and VII] service programs under one title rather than retaining them under separate titles and administrative structures as provided for in current law it will eliminate duplicative and overlapping functions such as outreach, advocacy, needs assessment tasks, planning, staff training,

and various administrative tasks. It is also the committee's hope that consolidation will increase the visibility, political strength, and significance of area agencies on aging in the community, as well as provide for more effective coordination of community resources for the elderly.¹

The Senate committee report on the 1978 amendments provides additional insight into the Congressional intent on consolidation. The report states that:

Throughout its work on this bill, the committee has taken the view that major revision of the Older Americans Act was necessary at this time. No major revisions have been made in the programs under the Act since 1973. At that time, an entire new network of area agencies was installed. New responsibilities and different roles were also established for the State agencies on aging and the Administration on Aging. The major goals of that legislation have now been achieved. We have accomplished the initial phase of agenda setting and administrative development necessary to move forward on the second phase of problem solving.²

In another comment on the subject of consolidation, the Senate report indicated that in many instances throughout the country nutrition sites and multipurpose senior centers have served effectively as focal points within the community for the delivery of a full range of social services. The report noted that the 1978 amendments contain renewed emphasis on this concept of a single focal point for service delivery within each community and expect that each area agency, in carrying out its plan, will assure that nutrition services and social services are fully integrated.³

3. *Transition period.* In addition to consolidating programs under a new Title III, the 1978 amendments changed in a number of other ways the direction of programs and activities under the Act. In recognition of the major changes which are required at each operational level, the amendments provide a transition period of up to two years if necessary for State and area agencies to be in full compliance with the new requirements of the Act. Under section 307(d)(2) of the Act, the Commissioner for Fiscal Years 1979 and 1980 may grant a State agency a waiver of any new requirement that he determines the State agency cannot meet because of consolidation or because meeting the requirement would reduce or jeopardize the quality of services under the Act. The Commissioner may grant a waiver only if the State agency shows that it is taking steps to meet the requirement.

¹96th Cong., 2d. Sess. House. Rept. No. 95-1100, p. 8.

²95th Cong., 2d. Sess. Senate. Rept. No. 95-855, p. 4.

³Senate. Rept., *supra*, p. 8.

The State agency has similar authority to grant waivers to area agencies.

The Commissioner has received and granted a number of waiver requests for FY 1979. States may submit additional waiver requests for FY 1980.

4. *Title VI.* The 1978 amendments also enacted a new Title VI: Grants for Indian Tribes, which authorizes a new program of direct grants from the Commissioner to Indian tribal organizations. Funds have not yet been appropriated for Title VI. The new Title VI replaces a previous provision of the Act. Section 303(b)(3) introduced in 1975, required States to assure that older Indians received equitable service under Title III, and authorized the Commissioner to reallocate funds directly to Indian tribes that he determined were not being equitably served. While proposed regulations for the Title III and Title VI programs are being issued separately, (the proposed Title VI regulations will be issued shortly as Part 1328) the two programs are closely related.

An eligible Indian tribal organization may apply for direct Federal funding under Title VI but it is not required to do so. It may continue to seek funding under Title III. Title III provides that Indian tribal organizations may be designated as area agencies and provides that Indian reservations may be designated as planning and service areas. Title III even includes a right of appeal to the Commissioner for an Indian tribal organization if its reservation is denied planning and service area status by the State agency. Any Indian tribal organization designated as an area agency on aging receives older Americans Act Title III funds from the Administration on Aging through the State agency on aging. In effect tribal organizations funded under Title VI would function as area agencies on aging with a direct grant relationship with the Federal government. If an Indian tribal organization receives a direct grant under Title VI, the allotment of the State in which the Older Indians served under the grant is reduced, based on the number of older Indians who are both counted for purposes of the State's allotment under Title III and served under Title VI.

Grants may not be made under Title VI until at least \$5 million is appropriated for the program. Since no funds have yet been appropriated for Title VI, State and area agencies continue to be fully responsible for serving older Indians, many of whom are in great social or economic need and therefore should be given priority consideration under Title III.

5. *Initial Public Involvement.* We began a process of broad public input and open discussion shortly after the enactment of the amendments. This process was designed to involve many groups and organizations in the implementation of the many significant changes made by the amendments. The process began with a Working Conference held in Arlington, Virginia, November 8-11, 1978. More than 200 participants representing Congressional Committees, national aging organizations, service providers, education and research societies, States, Area Agencies, and State and Area Agency Advisory Committee members spent three days examining the amendments. Small group workshops were asked to examine the opportunity the amendments provide to improve and expand benefits to older people, to identify issues to be clarified in implementing regulations; and to recommend specific language for definitions. Recommendations from the workshops were compiled and used in the development of these proposed regulations.

Our initial drafting uncovered questions and options which we thought needed further exchange and exploration with the field of aging. The Commissioner on Aging convened six small group meetings during January 1979, to review the preliminary thinking of AoA on the issues and to give various interested groups an opportunity to raise and further clarify their recommendations. The Commissioner met with staff members from the House and Senate special and authorizing committees, with representatives from the National Association of Counties, the National Governors Association, the Council of State Government, the National Conferences of State Legislatures, the National League of Cities, the U.S. Conference of Mayors, and the International City Management Association. A similar session was held with the Executive Directors of the National Aging Organizations including, the National Council of Senior Citizens, the National Council on Aging, the American Association of Retired Persons/National Retired Teachers Association, the Association Nacional Pro Personas Mayores, the National Indian Council on Aging, the Gerontological Society, and the Gray Panthers. A meeting was also held with representatives from the major provider organizations such as the Title VII Directors, the National Association of Meal Programs, the Alliance of Information and Referral Services, the Ad Hoc Coalition of Legal Service

Providers, National Institute of Senior Centers, NVOILA, Council for Home Health Agencies and Community Health Services, National Council of Homemakers and Home Health Aides, FRAC, The Dietetic Association and the National Association of Social Workers. On February 15, 1979, the Commissioner met with 25 representatives from State and Area Agency Advisory Committee and grass roots advocacy organizations to discuss both the regulations and the role older people must play in implementing Older Americans Act programs. We held two major conference telephone calls involving all 50 State agencies to give each State an opportunity to ask questions and receive clarification on our implementation of the amendments. Through this process, the Administration on Aging has tried to insure on-going dialogue with those most interested and affected by the regulations.

These proposed regulations contain all program regulations for implementation of Title III of the Act. General Departmental regulations also applicable to activities under Title III are not repeated, but are referenced in Section 1321.5. Current regulations for the social services, nutrition services, and multipurpose senior center programs are found at 45 CFR Parts 1321, 1324, and 1326. These proposed regulations would revise and simplify the content of current regulations and eliminate those provisions that are inconsistent with the new amendments, or are unnecessary, or no longer reflect AoA policy.

1. *Organization.* These proposed regulations are organized into ten subparts. Subpart A describes the basis and purpose of the regulations and contains definitions applicable to the part.

Designation of a sole State agency on aging is the first step required to receive grants under Title III. Subpart B sets forth general requirements for State agency designation and administration. The next steps are the development and submission by the designated State agency to the Commissioner of a State plan that meets all statutory and regulatory requirements, and the approval of the plan by the Commission. Subpart C specifies State plan requirements and the procedure for plan approval.

In addition to development and submission of the State plan, the State agency must perform a variety of functions in administering the Title III program in the State. Subpart D specifies these State agency advocacy and service delivery requirements,

including requirements for the long-term care ombudsmen program, State advisory council on aging, State agency hearing procedures, intrastate funding formula, and designation of planning and service areas.

State agencies are required to designate area agencies and approve area plans in planning and service areas in which the State agency decides to spend Title III funds. Services under the Title III program are provided under these approved area plans. Subpart E specifies general requirements for area agency designation and administration. Subpart F specifies area plan requirements, including the development and implementation of a comprehensive and coordinated service delivery system under the plan and procedures for approval and disapproval of an area plan. Subpart G specifies area agency responsibilities, including designation of community focal points, establishment of the area agency advisory council, and coordination with other programs serving older persons.

Once an area plan is approved, services may be funded under it. Subpart H specifies service delivery requirements for all Title III services. The regulations would impose a series of general requirements for all services, including restrictions on profit-making contracts and direct service provision by State and area agencies, and requirements on all service providers for licensure, training, outreach, coordination, preference for those in greatest economic or social need, contributions, maintenance of non-Federal support for services, and advisory roles for older participants. We are proposing specific service delivery requirements for those five services for which the Act contains specific requirements: multipurpose senior centers, nutrition services, legal services, information and referral, and transportation.

The two final subparts of the regulations contain proposed fiscal requirements and State agency hearing procedures. Subpart I contains proposed fiscal requirements, including requirements for initial allotments, allowable uses of allotments, reallocating allotted funds, mandatory minimum expenditure requirements, and Federal program review and audits. The Federal program review and audit sections would put in regulations our present review practices. Subpart J contains proposed procedures for notice and hearing for State agencies on issues of State plan disapproval, finding that a State agency does not meet the requirements of this part, or substantial

noncompliance in the provisions or administration of an approved State plan.

The organization of the proposed regulations differs in some respects from that of the Act and existing regulations. We are proposing to group the requirements in what we think is a more logical order. We are proposing to group together all State agency requirements, including those agency requirements that appear in section 307(a) of the Act as State plan requirements. We would incorporate each of these State agency requirements by reference in the section of the regulations, § 1321.25, which specifies the content of State plans. We are proposing to group separately all area agency requirements, all service delivery requirements that apply to both State and area plans, and all fiscal requirements. For example, section 307 of the Act requires a State plan to provide that the State agency will evaluate the need for services (307(a)(3)(A)), spend in rural areas 105% of the amount spent in fiscal 1978 (307(a)(3)(B)), and afford an opportunity for a hearing to all area agencies and providers (307(a)(5)). We have placed the evaluation and hearing requirements under State agency responsibilities, §§ 1321.45(a)(8), and 1321.51, and the rural expenditure requirement under Subpart I, § 1321.193.

The area plan requirements under section 306 include area agency and fiscal requirements. For example, section 306(a)(6) imposes nine functions on an area agency. We have placed those requirements in Subpart G, area agency responsibilities, under §§ 1321.91 and 1321.93, and incorporated them by reference in the section specifying content of an area plan; section 1321.77. Section 306(a)(2) imposes a 50 percent priority services expenditure requirement on area plans—these regulations would place that requirement in Subpart I, § 1321.195.

We have also included as State or area agency responsibilities, with references in the plan sections, certain additional State and area plan requirements that we think must logically be performed by the agencies. Examples are the requirement of section 306(a)(3) that the area plan designate community focal points, and the requirement of section 307(a)(11) that the State plan provide that hiring preference in State and area agencies will be given to older persons.

These regulations would use a similar structure for the service delivery requirements. Many of the statutory requirements for nutrition, legal services, and senior centers are drafted

as State plan requirements, in the future tense. We would draft them as present requirements on each provider of the service, and incorporate the requirements by reference in the State and area plan content sections.

We particularly invite comment on whether our proposed organization and structure of the requirements makes the regulations easier to use, and clarifies the effect of the requirements.

Major Issues

1. *Organization of the sole State agency on aging.* A major issue raised in these proposed regulations is the organization of the sole State agency on aging. Section 305(a)(1) of the Act requires a State to designate a sole State agency on aging to develop and administer the State plan, to coordinate all State activities related to the purposes of the Act, and to serve as the effective and visible advocate for the elderly in the State. The legislative history, particularly the conference report on the 1975 amendments,⁴ makes clear that the purpose of the sole State agency requirement is to ensure that there be a strong and easily-identifiable State agency on aging, and that limited funds under this Act be used in a way that maximizes their effectiveness in meeting the needs of older persons. Our present regulations at 45 CFR 1321.13 and 1321.34 allow a State to designate either a multipurpose or an independent single purpose agency as the sole State agency, but require a multipurpose agency to designate a single organizational unit whose principal responsibilities are in the field of aging to administer Older Americans Act programs.

We are proposing to remove this requirement because some State agencies, many of which also administer other Federal programs providing services to older persons, have commented that a State agency could better carry out its responsibilities to coordinate all State activities related to aging, and to maximize the effectiveness of service delivery to older persons, if it was given more flexibility in organizing the administration of Older Americans Act programs within the agency. We agree that it is important to allow State agencies the flexibility to administer their programs in a way that will increase effective service delivery to older persons. (The legislative history of the 1978 amendments indicates that Congress was deeply concerned about the fragmentation of existing services to older persons, and mandated the

⁴94th Cong. 1st. Sess. House. Rept. No. 94-670, p. 36.

consolidation of nutrition, social, and multipurpose senior center services under this Act as a first step in reducing this fragmentation.)⁵

Since our present single organizational unit requirement is not required by the Act, we are proposing to remove it, and to allow a multipurpose State agency the option of assigning responsibilities under the Title III program to a designated unit, including one whose only responsibilities are in the field of aging. State agencies on aging that chose not to administer the Title III program through a single aging unit would, of course, still be required to administer their programs in a way that met fully their statutory advocacy and service delivery responsibilities to older persons. We are also proposing to eliminate the present single organizational unit requirement in section 1321.64 for area agencies.

2. *State agency procedures.* These proposed regulations would require State agencies to develop and use written procedures in carrying out all of their functions under this part. The proposed regulations specify a notice and comment process for development of these procedures that is designed to ensure that interested persons have an adequate opportunity to participate in that development. Section 305(a)(2)(B) specifically requires that a State agency provide satisfactory assurances that it takes into account the views of older persons in developing and administering the plan, and section 307(a)(4) of the Act requires that a State plan provide for the use of methods of administration that are necessary for the proper and efficient administration of the plan. In our view, the lack of standard written procedures, openly developed, has frequently resulted in problems in the administration of Older Americans Act Programs. If a State has its own rulemaking process that satisfies our proposed requirements, it could of course, follow that process. We are also proposing to require area agencies to develop and use written procedures in carrying out their functions.

3. *Hearing requirements.* A significant issue in the development of those proposed regulations has been the implementation of the various hearing requirements specified in the Act. The former Titles III and VII each required notice and opportunity for a hearing before the Commissioner prior to withholding of grants from a State's allotment for failure to meet State agency or State plan requirements. Our present regulations do not specify any procedures for these hearings. Section

307 (c) and (d) of the amended Act retains this pre-termination requirement. Other sections of the Act impose several new hearing requirements. Section 305(b)(1) requires a State agency to give an opportunity for a hearing, on application, to any unit of general purpose local government with a population of 100,000 or more that applies for designation as a planning and service area, and section 305(b)(4) requires the Commissioner to give an opportunity for a hearing to any unit of general purpose local government, region, metropolitan area, or Indian reservation that is denied designation as a planning and service area by the State. Section 307(a)(5) of the Act requires the State plan to provide that the State agency will give an opportunity for a hearing to any area agency, service provider, or service provider applicant.

Section 501(b) of the amendments requires the State agency to provide a hearing prior to defunding nutrition projects that were receiving funds under the former Title VII on September 30, 1978, the day before the effective date of the amended Act.

These proposed regulations set forth four types of hearing procedures to implement these various statutory requirements: (1) general State agency hearing requirements for area agencies, providers, and planning and service area applicants (§ 1321.51); (2) hearing requirements for units of general purpose local governments of 100,000 or more that apply for designation as planning and service area; (§ 1321.51(d)); (3) hearing procedures before the Commissioner for denial of planning and service area designation (§ 1321.55); and (4) hearing procedures before the Commissioner for plan disapproval and compliance actions (§§ 1321.235 to 1321.269). We recognize that it may be confusing to require four types of procedures, but think that the statutory rights created are sufficiently different in nature that different processes are required.

Section 307 (c) and (e) provide for a formal hearing before the Commissioner on plan disapproval and compliance actions, with a right of judicial appeal based on the hearing record before the Commissioner. Since the statute requires a formal hearing record, for purposes of judicial appeal, and termination of all or a portion of a State's funding under its plan would obviously have a major impact, we think that detailed procedural requirements are necessary for these hearings. We are therefore proposing in Subpart J to adopt, with minor modifications, the State plan disapproval and compliance procedures

used by the Department in other State plan programs, including titles IV-A (AFDC), XIX (Medicaid) and XX (Social Services).

In our view, the hearing process before the Commissioner for denial of planning and service area designation should be much less detailed than that required for State plan disapproval. In these designation hearings, the Commissioner would simply be reviewing, on request, designations for which the State agency has statutory responsibility. In § 1321.55 we are proposing to limit the hearing procedures before the Commissioner to an opportunity for the appellant to be represented and to present evidence, and are not providing for an opportunity to cross-examine or present witnesses. We are proposing a limited standard of review under which the State's decision would be upheld if the State followed prescribed hearing procedures and its decision was not manifestly inconsistent with the purposes of the Act.

In § 1321.51 we are proposing a uniform set of hearing procedures for all hearings that the State agency is required to conduct except for those hearings for units of general purpose local government with a population of 100,000 or more, which by statute have a right to hearing on application to be a planning and service area.

We would vary the timing of the hearing (before or after final agency action) according to the type of action being taken and the nature of the rights involved. We are also proposing to limit the State agency hearings requirement to those cases in which the State or area agency proposes to take or has taken an adverse action. While the language of section 307(a)(5) is broad, and might be read to require a State agency hearing to an area agency or provider before any adverse action is contemplated, the Senate report on the Senate bill S. 2850 in which this requirement originated, characterizes this hearing requirement as an "appeal mechanism".⁶ We think, therefore, that the Congressional intent will be carried out if we limit this requirement to actions of an adverse nature.

Because of the significance of the action, we are requiring that the State agency conduct a hearing prior to any final decision regarding area agency designation, area plan disapproval or noncompliance. (See section 1321.131 to 1321.269.)

We are also requiring in § 1321.141(b)(3) a prior hearing, as does section 501 (b) of the amendments, for nutrition projects protected by that

⁶Senate Rept. supra., p. 11.

⁵Senate, Rept. supra., p. 4.

section. The issues raised in the implementation of that section are discussed below under nutrition services.

We particularly solicit comments on whether State agency hearing procedures for service providers which are denied funding by an area agency should be less extensive than hearing procedures for an area agency which is de-designated or whose area plan is disapproved, or a unit of general purpose local government or region whose application for planning and service area designation is denied. (See § 1321.51(a).)

4. Intrastate funding formula. Section 305(a)(2)(C) of the Act imposes a new requirement on State agencies to develop an intrastate formula, in accordance with guidelines issued by the Commissioner, for distribution under area plans within the State of funds received under Title III. The Senate Report on S. 2850, in which this requirement originated,⁷ indicates clearly that Congress intended the Commissioner to prescribe broad criteria for the formula, and review and comment on each State's proposed formula against those criteria, but to allow each State flexibility in developing its formula to meet the particular needs of older persons within the State.

The Act requires that the State take into account the distribution of population age 60 and older in the State in developing its formula. In § 1321.49, we are proposing a series of additional general criteria to be used in developing the formula, including requirements that the formula contain a minimum funding base for each area plan, meet the 105 percent requirement for rural areas, and reflect the distribution of older persons with greatest economic need and the distribution of other resources available to meet the service needs of older persons.

We are proposing a minimum funding requirement for each area agency because we think that a formula based solely on population and the other factors we have specified might not allow an area agency sufficient funds to carry out statutory area agency and area plan requirements. We are not proposing to require that the State agency use the distribution of older persons with greatest social need in developing its formula, because we do not think that States have sufficiently precise data on persons with greatest social need. Since Title III funds are to be used to coordinate, concentrate, and increase services to older people, we

think that any formula for distribution of Title III funds should reflect the distribution of other available resources.

Because the intrastate funding formula is closely tied to the State's resource allocation plan, we are proposing that the State agency submit its formula to the Commissioner for review and comment as an attachment to the State plan. We are not, however, proposing to require the Commissioner's approval for either the resource allocation plan or the intrastate funding formula, provided that the State's formula meets the specified criteria.

We also want States that allocate other Federal and State funds to area agencies to use in funding services that could be funded under Title III, to allocate these funds in a way that will maximize their effectiveness in serving older people. We therefore encourage States to distribute these funds under their intrastate formulas.

5. State plan based on area plans. Section 307(a)(1) of the Act requires that the State plan contain assurances that the State plan "will be based on area plans developed by area agencies on aging within the State." There is no guidance in the legislative history on the meaning of this requirement, or on how Congress intended it to be implemented. In our view, the purpose of this requirement is to assure a close relationship between the provisions in State and area plans for advocacy and services system development. We do not believe that it is the intent of the requirement that State plans be a simple compilation of area plans or that the development of State plans follow in time the development of area plans.

To assume that "based on" means that a State plan should be merely a compilation of area plans would restrict the authority of the State agency in a manner which is inconsistent with the responsibilities assigned to the State agency in the Act for statewide management of the Title III program. Since the State agency designates area agencies, approves and funds area plans; the authority of the State agency for the State plan could not be controlled by the content of the area plans.

In our view, it would also not be feasible to interpret "based on" to require the State agency to develop the State plan after area plans are developed unless we specified uniform planning cycles in these regulations for State and area plans. We would prefer to allow State and area agencies the flexibility of continuing to set their own planning cycles.

The proposed regulations provide at § 1321.29(a) that the State agency must carry out the "based on" requirement of section 307(a)(1) by giving all area agencies in the State adequate opportunity to participate in the development of the State plan in order to ensure that the objectives established in State and area plans are consistent. We think this provision satisfies the intent of the Act and avoids the problems of interpretation mentioned above.

6. Comprehensive and coordinated services delivery systems. Section 306(a)(1) of the Act requires that each area plan must provide, through a comprehensive and coordinated system, for social services, nutrition services, and, where appropriate, for the establishment, maintenance, or construction of multipurpose senior centers within the planning and service area covered by the plan. Section 302(1) of the Act states that the purpose of a comprehensive and coordinated system is to provide all necessary social and nutrition services to older persons in a planning and service area. The system, according to the Act: (1) must be designed to facilitate access to and use of all services; and (2) must develop and use services effectively and efficiently, with a minimum of duplication.

We believe that the Act places on each area agency the responsibility to develop a comprehensive and coordinated system over time, that is, there is an evolutionary meaning to the word "develop." We also believe that the Act intends the "system" to include all social and nutritional services in the planning and service area, not just Title III funded services. We have based § 1321.75(a) of the proposed regulations which sets forth the components of an ideal system on these two assumptions.

Section 321(a) of the Act specifies a large number of social services that may be funded under Title III. We believe that the services and those services funded under other programs which are included in the comprehensive and coordinated system can be grouped into four major categories. The first category includes those services which facilitate access to other services. The remaining three categories are based on the point at which the service is delivered: in the community, in the home, in care providing facilities.

Section 1321.75(b) of the proposed regulations uses these four categories as unifying concepts and lists the individual services mentioned in each service under one of the categories. We recognize that in some instances a service listed in one of the latter three

categories may also be provided under other categories. For example, "legal services" appears as a service provided in the community; but, depending on circumstances, "legal services" may be provided in the home or in a care providing facility. To avoid repetition, we usually chose to list each service only once, in the category in which it would most often be provided.

7. Community focal point. Section 306(a)(3) of the Act requires each area plan to designate, where feasible, a focal point for comprehensive service delivery in each community to encourage the maximum collocation and coordination of services for older persons. The Act requires area agencies to give special consideration to designating multipurpose senior centers as focal points.

Section 1321.3 of the proposed regulations contains a definition of community focal point which is based on section 306(a)(3) of the Act. The proposed definition provides that a community focal point may be a mobile facility. Section 321(b)(1) of the Act allows mobile units to serve as multipurpose senior centers. Since the Act also directs area agencies to give special consideration to designating multipurpose senior centers as focal points, we believe it is logical to include mobile facilities in the definition of community focal point.

The Senate report indicates that Congress intended that there be a renewed emphasis on the concept of a single focal point for service delivery within each community.⁸ The legislative history does not provide further guidance on how this requirement should be implemented. The proposed regulations set up a process for the implementation of the focal point requirement. As a first step, all area agencies would be required to divide the entire planning and service area into "community service areas" in order to decide in which communities to designate focal points.

We have intentionally chosen not to define the term community. We decided to leave to each area agency the responsibility of defining "community" for its own planning and service area. We reached this decision for two reasons. First, we reviewed a significant number of commonly used definitions of "community" but did not find a definition which we thought had general validity for Title III programs. Second, we believe that each area agency is in the best position to know the composition and appropriate subdivisions of its own planning and

service area. The proposed regulations at § 1321.95(b)(1) specify a set of criteria which the area agency must consider in designating community service areas. These criteria are similar to those specified in § 1321.53 for the designation of planning and service areas. The proposed regulations however, leave to the discretion of the area agency the manner in which it applies these criteria.

We believe the Act intends that a community focal point be a unique type of place within the community, a place which has broader and more responsible functions than other service agencies or multipurpose senior centers. For this reason, we are proposing that the area agency designate one community focal point in each community and are prescribing a series of minimum functions for a community focal point in § 1321.95.

8. Continuity of services in a planning and service area. Section (307)(d) of the Act prescribes the methods by which the Commissioner may provide for the continuity of services in a State that has had grants from its allotment withheld for failure to meet State agency or State plan requirements. The Act does not contain a comparable provision for continuity of services in a planning and service area when the State agency must terminate an area agency. Section 307(a)(5) of the Act gives an area agency the right to a hearing before the State agency, and § 1321.51 of the proposed regulations prescribes the procedures for such a hearing. However, our present regulations do not provide a method for States to assure that services to older persons in a planning and service area are not disrupted when a State terminates funding to an area agency.

We believe there are sound programmatic reasons to specify in these proposed regulations procedures for States to follow when they terminate area agency funding. Section 1321.85 (b) and (c) of the proposed regulations specifies a three-step process: a State must notify the Commissioner in writing of its actions; provide a plan for the continuity of services in the affected planning and service area; and act in a timely manner to designate a new area agency.

We believe that the termination of funding of an area agency by the State agency is a drastic action which should take place only after extended efforts by the State to assist the area agency, including providing the area agency's statutory advocacy and service delivery hearing required in § 1321.51. When a State agency foresees the possibility of termination, it should identify a potential successor agency that could be

designated to immediately assume the responsibilities of the terminated area agency. We recognize that there are circumstances in which there may be a delay in designating a successor area agency. For this reason § 1321.85(c) of the proposed regulations allows the State agency, for a period of 180 days after it withdraws designation of an area agency, to perform the responsibilities of the area agency directly or assign them to another agency in the planning and service area.

9. Direct services. A major issue in the development of these regulations has been determining the circumstances under which State and area agencies may directly provide services. Section 305(a)(8) of the former Title III contained a prohibition on direct provision of social services by a State or area agency unless the State agency determined that direct provision was necessary to assure an adequate supply of the service. Our implementing regulations at 45 CFR 1321.67 divided social services into two groups: (1) information and referral and coordination; and (2) all other services. Under these regulations, State agency approval is required for the first category of services, but no test for an adequate supply is imposed. For the second category of services, direct provision is prohibited unless it is necessary to assure an adequate supply and no other agency can or will effectively provide the service. Area agencies which were providing services directly prior to their designation are exempted from the requirements of this section. The former Title VII did not contain this direct services prohibition, and it is our understanding that some area agencies were providing nutrition services directly. Section 307(a)(10) of the Act, as amended, extends the prohibition to nutrition services as well.

We have reviewed this prohibition carefully together with our proposal to remove the single organizational unit requirement for both State and area agencies. After thorough review, we have concluded that the statute requires that all direct service provision by all State and area agencies, including provision of coordination and information and referral, be subject to some test for adequate supply. We recognize that there is a clear difference in the kinds of services provided under State and area plans. Some of these services, such as information and referral, advocacy, and outreach, are directly related to an area agency's statutory advocacy and service delivery responsibilities—responsibilities that must be carried out consistently throughout the planning and service

⁷ Senate Rept. *supra*, p. 8.

⁸ Senate Rept., *supra*, p. 7.

area, and for which a less stringent test for adequate supply seems appropriate. We are therefore proposing that an area agency be allowed to provide these services directly if the State agency determines that the area agency can provide them more effectively and efficiently.

Other social and nutrition services should, in our view, not be provided directly except in unusual circumstances. The conference report on the 1978 amendments characterizes section 307(a)(10) as a requirement that direct services not be provided "except as a last resort."⁹ For these services, our proposed regulations retain the test in the present regulations, and would require the area agency to subgrant or contract for the services unless the State agency determined that no other agency could or would effectively provide the service. We would also allow an area agency that was providing a direct service prior to its designation to continue to provide the service if requiring it to stop would result in disruption of the service.

Since section 304(d)(1)(B) provides that all of a States allotment, with the exception of administrative funds, be used for social and nutrition services under parts B and C of the Act, provided under approved area plans,¹⁰ we think that a single planning and service area State, in which the State agency also functions like the area agency, is the only type of State in which the State agency would now have the authority to provide services directly. These proposed regulations would apply the same tests for direct service provision to single planning and service area States as are applied to area agencies.

A final issue arises whether the direct service restriction applies to all funds administered by the area agency or only services funded under Title III. This is particularly important issue for multipurpose agencies that might choose not to designate a single organizational unit. We are proposing to limit this restriction to services funded under Title III only. We recognize that this distinction may well result in a multipurpose agency being required to make an award for home health services, for example, under Title III, but use its own staff nurse to provide the services directly under Title XX. We particularly solicit comment on problems that may be raised by this requirement, and possible solutions for those problems.

⁹ House. Rept. No. 95-1618, *supra*, p. 71.

¹⁰ The ombudsman program is the only exception to this requirement.

10. *Greatest economic or social need.*
a. *Economic or social need and minority status.*—Sections 305(a)(2)(E) and 306(a)(5) of the Act require respectively that State and area agencies assure that preference will be given to providing services under their plans to older persons with the greatest economic or social needs. This is a new provision in the Act, and the legislative history does not indicate Congressional intent concerning the definitions of "greatest economic or social need."

Section 705(a)(4) of the former Title VII required that preference be given to serving primarily low-income older persons. The former Title III required only that the State and area agency include the number of older persons with low incomes in determining the incidence of need for social services. (Sec. 304(a)(1)(E) and (c)(1)) Existing Title III regulations at § 1321.48(c) define "low income" as below the current Department of Commerce, Bureau of Census poverty threshold.

In section 1321.3 of the proposed regulations, we have proposed three options for the definition of "greatest economic need". Based on our review of the comments received, we will select one definition for the final regulations. Option 1 defines greatest economic need as the income level below the poverty threshold established by the Department of Commerce, Bureau of Census. This is the same definition that is in § 1321.48(a) of our present regulations.

This is the lowest income level of the level of three proposed. Bureau of Census data indicate that in 1975, 31% of unrelated individuals age 65 and older, had incomes below below \$2,572 and 8.9% of families with the head of household age 65 and older, had incomes below this level.

Option 2 defines greatest economic need as the income level below the "near poverty" threshold established by the Bureau of Census. These income levels are somewhat higher than the "poverty" threshold. In 1975, 48.2% of unrelated individuals age 65 and older and 15.8% of families with the head of household age 65 and older had incomes below this level.

Under option 3 greatest economic need is defined as the income level that falls below the maximum income level for eligibility under Title XX of the Social Security Act in each State. Under Title XX, all recipients of Supplemental Security Income benefits are eligible for services. Otherwise, the family's gross monthly income must be less than 115% (or less at State option) of the median income for a family of four in the State. This income level is adjusted for family

size. The median income for a family of four in each State is set annually by the Secretary of Health, Education, and Welfare.

The Title XX definition of greatest economic need represents the highest income levels of the three proposed definitions. When the Title XX definition is applied in eight sample States (Cal., Fla., Ga., Mass., Neb., Pa., Tx., and W. Va.), over two thirds of all elderly families and unrelated individuals would be in greatest economic need. Also, the Title XX definition of greatest economic need varies significantly by State. These variations are due not only to variations in median income levels but to service eligibility standards established by States.

We considered at great length how to define greatest social need. The legislative history does not indicate the specific meaning with which the Congress used the term. Section 1321.3 of the proposed regulations defines "greatest social need" as meaning isolation, physical or mental limitations, racial or cultural obstacles, or other non-economic factors which restrict individual ability to carry out normal activities of daily living and which threaten an individual's capacity to live an independent life.

This definition is one which we developed based on our own program experience. We have included in the definition of those in greatest social need those older minority population groups who experience cultural and social barriers to opportunities for participation in and access to assistance and services. We particularly invite comments on this definition.

Prior to the 1978 amendments, section 705(a)(4) of the Act required that, to the extent feasible, grants be awarded to projects operated by and serving the needs of minority, Indian and limited English-speaking eligible individuals in proportion to their numbers in the State. This provision was included in program regulations issued prior to the 1978 amendments for nutrition and, with some modification, for social services. The 1978 amendments do not contain any explicit requirements relative to serving minorities in proportion to their relative numbers in the population, although all programs under the Act must, of course, comply with the requirements of Title VI of the Civil Rights Act. Rather, the specific emphasis in the Older Americans Act is now on those older persons with the greatest economic or social need. We believe, however, that there is considerable evidence that a high proportion of minority older persons are among those

in greatest need, and that State and area agencies on aging should therefore continue to emphasize services to minorities and to assure full participation of minorities in programs supported under the Act.

b. *Means test.*—The legislative history of the Act has consistently stressed that means testing was prohibited under the Act. The Senate Report on the 1973 amendments, for example, stated: "the Older Americans Act was never intended to operate as a welfare program in the sense that it does not contain a means test and its services are not restricted to those with incomes below the poverty line."¹¹

The 1978 Conference Report in several places emphasizes that inclusion of a preference for those with the greatest economic or social needs is not to be interpreted as a first step toward requiring a means test for programs under the Act.¹²

We have consistently advised States and area agencies that they could not use income screening to determine the eligibility of an older person to receive services under the Act. However, because we did not specifically prohibit means testing in our program regulations and because the Act does not contain a specific prohibition, we have received reports that some providers may be using types of means testing. Therefore, § 1321.25(g)(4)(ii) and 1321.77(e)(6)(ii) of the proposed regulations provide that in determining how to give preference to older persons with the greatest economic need, State and area agencies may not use a means test. The proposed regulations define a means test as the use of an older person's income or resources to deny or limit that person's receipt of services under Title III. We recognize that this is a strict definition of means testing and particularly encourage comments on it.

c. *Potential conflict.*—Some may feel that the proposed regulations present a conflict by requiring, on the one hand, emphasis on serving those with the greatest economic need and prohibiting, on the other hand, the use of a means test. We recognize that there is a tension between these two requirements but believe that State and area agencies and service providers can implement both requirements by using methods similar to those suggested by the conferees with respect to legal services. The conferees stated:

Concentration on the elderly with the greatest need should be effectuated through such means as location of offices, referral of

¹¹ 93rd Cong. 1st Sess. Senate. Rept. No. 93-19, p. 5.

¹² House Rept. 95-1618, *supra*, pp. 65, 66, 69.

ineligible applicants from Legal Services Corporation projects, development of expertise in certain areas of the law, or general guidelines which the project post or give to an applicant providing information on the nature of the clientele usually served there and those eligible for services at the Legal Services Corporation project.¹³

11. *Contributions.* Section 307(a)(13)(C)(i) of the Act provides that each nutrition project will permit recipients of grants or contracts to charge participating individuals for meals furnished in accordance with guidelines established by the Commissioner, taking into consideration the income ranges of eligible individuals in local communities and other sources of income of the recipients of a grant or contract. This provision is carried over from section 705(a)(2)(A)(ii) of the former Title VII.

Program regulations at § 1321.44 interpreted the former section 705(a)(2)(A)(ii) as permitting only voluntary contributions by older persons receiving nutrition services. The regulations prohibited mandatory charges for meals and provided that no individual could be denied participation in the nutrition program because of an inability to pay all or part of the cost of the meals served. The legislative history indicates that Congress was aware of our interpretation of charges. The House Report on the 1978 amendments states:

Participants may pay for meals based on what they can afford. A suggested fee schedule usually is developed locally, but each participant decides whether and how much to pay.¹⁴

The Act has never specifically provided for contributions for services other than nutrition services. Regulations for the former Title III at § 1321.142 provided that older persons who received social services must be given an opportunity to contribute to all or part of the cost of the service.

We are proposing to continue our present policy of permitting only voluntary contributions, but not mandatory charges for all services under Title III. The proposed regulation also prescribes procedures which are intended to protect the privacy of each older person and to assure proper handling of contributions.

Section 1321.111(a)(7) of the proposed regulations requires as a general rule that all contributions received be used to expand the services of the provider for older persons. We believe this proposed rule is consistent with the requirement in section 302(1)(B) of the Act that the comprehensive and

coordinated system use available resources efficiently. This section of the proposed regulations also requires, as does section 307(a)(13)(C)(ii) of the Act, that nutrition service providers use all contributions solely to increase the number of meals served.

12. *Definition of Rural.* Section 307(a)(3)(B) of the Act provides that each State agency must spend in each fiscal year, for services to older persons in rural areas, at least 105 percent of the amount spent for services in rural areas in fiscal year 1978 under the former Titles III, V, and VII.

The Act does not define "rural area" and the legislative history does not indicate what is meant by the term. Section 1321.193 of the proposed regulations sets forth three possible options for the definition of "rural area".

Option 1 is based on a planning and service area definition of rural area.

Option 2 is based on a county definition of rural area.

Option 3 is based on geographic areas defined by State criteria which are approved in the State plan.

We sought to develop a definition of rural area which was widely accepted and which met the particular requirements of section 307(a)(3)(B) of the Act. In order to compute the required 105 percent we believe it is necessary to define rural area in a manner that fits with the service funding patterns under Title III, which are usually on either a planning and service area or a county basis.

We also believe that to define rural area using the single criterion of population might work to the disadvantage of an area which is close to a densely populated area. For this reason, in both the planning and service area and county based definitions of a rural area, we would require that only two out of three proposed criteria be met. We included option 3 because we think there may be factors we have not considered. We would prefer, if possible, to have a standard national definition. We, therefore, particularly solicit comments on options 1 and 2.

13. *Priority Services.* Section 306(a)(2) of the Act provides that each area plan shall provide assurances that at least 50 percent of the amount allotted for Part B to the planning and service area will be expended for the delivery of—

(a) services associated with access to services (transportation, outreach and information referral);

(b) in-home services (homemaker and home health aide, visiting and telephone reassurance, and chore maintenance); and

¹³ House. Rept. 95-1618, *supra*, p. 65.

¹⁴ House Rept. No. 95-1150, *supra*, p. 8.

(c) legal services; and that some funds will be expended for each category of services.

Section 306(b)(2) provides that the State agency may waive this requirement if it determines that the need for any category of services is being met.

This provision of the 1978 amendments replaced the priority services provisions introduced into the Act with the 1975 amendments. In commenting on the reasons for including a revised priority services provision in the 1978 amendments, the Senate committee report indicated concern that despite the 1975 priority programs, very few services are provided in-depth in local communities.¹⁵

The proposed regulations address access, in-home and legal services in two sections. Section 1321.75 of the proposed regulations prescribes the components of a comprehensive and coordinated services delivery system. Section 1321.195 of the proposed regulations prescribes the rules for the fifty percent requirement. Only those services specified in the Act and listed in § 1321.195(a) may satisfy the 50 percent requirement. Additional services listed as access services (e.g., service management), or in-home services (e.g., casework) under § 1321.75 of the proposed regulations may not count toward meeting the 50 percent requirement. We believe that in listing specific services under section 306(a)(2) of the Act, Congress intended to prescribe a limited number of services to which it wished to target title III social service funds. We also believe, however, that there are a number of other services which from a program perspective, are access or in-home services. We have included these as components of the comprehensive and coordinated service delivery system described in section 1321.75 of the proposed regulations.

14. *Legal Services.* Several issues arise with respect to the delivery of legal services.

a. *Which legal services should be funded under Title III, and how should the State agency determine whether the need for those services is being met.*—Section 302(4) of the Act specifically defines legal services as services provided "to older individuals with economic or social needs." Section 307(a)(15)(A)(iii) requires area agencies to attempt to involve the private bar in legal services funded under Title III, and section 307(a)(15)(B) requires coordination with Legal Services Corporation (LSC) grantees in order to

concentrate provision of Title III legal services to those older persons with greatest needs who are not eligible under the Legal Services Corporation Act (LSCA). The issue arises how Title III legal services providers can coordinate their services with the services available from the private bar to those older persons who can pay for them, and with those services available to persons who are eligible under the LSCA. We want States, area agencies and providers to select methods of carrying out this concentration requirement that will respect the sensitivity and dignity of older people.

The Conference Report on the legal services provision indicates clearly that Congress did not intend to allow a legal services provider to carry out the requirement of concentration either through means testing or through requiring an older person to first apply for LSC assistance.¹⁶ Our proposed regulations at § 1321.25 would explicitly prohibit the use of means testing for any Title III service. The Conference Report suggested that the targeting requirement be implemented by such means as location of offices or selection of the types of legal services provided. In our view, concentration on those types of services that poorer or vulnerable older people are most likely to require is probably the best way of targeting the use of Title III funds on those individuals who are not having their legal services needs met through either the private bar or LSC assistance.¹⁷

Section 306(a)(2) requires each area agency to spend "some funds" in each of three categories: Legal services, in-home services, and access services, unless the State agency determines that the need for any category of services is being met. The issue arises with respect to legal services, particularly, whether we should prescribe some minimum funding level. The legislative history of this requirement makes clear that the percentage of funds to be spent on each category should be left to each area agency, and does not indicate what factors State agencies should consider in determining whether the need for a service is being met.¹⁸ We are therefore not proposing to require any minimum funding percentages for these priority services.

We have also decided not to propose any standards for determining whether the need for legal services is being met,

because we have been unable to identify standards of need that would effectively measure the special legal needs of older persons. We also considered requiring State agencies to evaluate only publicly or charitably funded legal services provided on the same income basis as Title III services when determining whether the need for legal services was being met. We decided, however, to leave the determination of need to the discretion of the State agency. We particularly solicit comment on whether we should attempt to specify standards for determining the need for legal services, or for other categories of priority services.

b. *What criteria should we prescribe for the provision of legal services?*—Section 307(a)(15)(B) provides that no legal services may be furnished unless the area agency makes a finding after assessment, "pursuant to standards for service promulgated by the Commissioner, that any grantee selected is the entity best able to provide the particular services." We considered trying to prescribe special criteria to measure the quality of legal services under Title III, but decided that it was not feasible to prescribe these specialized criteria, and that it would be sufficient to set a series of general requirements for all service providers, which area agencies could apply to potential legal services providers. Those proposed requirements, which include requirements for out-reach, training, use of elderly volunteers, and coordination with other service providers, are contained in §§ 321.105 through 321.113. We invite comment on whether we should prescribe more detailed Federal regulatory requirements for legal services, and if so, what additional Federal requirements should be prescribed.

c. *Should there be a special means testing requirement for legal services?*—These proposed regulations at § 1321.25(g)(4)(ii) set a strict prohibition on the use of a means test to "deny or limit" services under the part. We think that the legislative history cited above fully supports such a strict requirement, but are concerned that this prohibition might be too restrictive for legal services. Legal representation can at times be very expensive, and a single client, who may well need extensive legal services may also be able to pay, at least in part, for those services. We invite comment on whether it would be feasible or appropriate to allow legal services providers to consider an older person's income and resources in

deciding the extent of legal representation to provide that person.

d. *Legal Services Corporation restrictions and regulations.*—Section 307(a)(15)(A)(ii) provides that legal services providers must comply with whatever restrictions and regulations the Commissioner decides are appropriate. We have selected for inclusion in section 1321.161 of the proposed regulations four requirements that we think are clearly appropriate: those restricting outside employment and partisan political activity, and those requiring special language skills, and disclosure of operating policies and other general information. We solicit comments on these proposed requirements and, in general, on the appropriateness of including any additional LSC regulations in these regulations.

e. *Legal Services and Advocacy.*—A final issue is the extent to which these regulations should include advocacy in the definition of legal services, or require legal services providers to carry out advocacy functions. We think that the proposed definition of legal services as "legal representation to those with economic or social needs" is broad enough to include both ombudsman and advocacy responsibilities, and we encourage area agencies to use legal services providers to help carry out the agencies' ombudsman and advocacy responsibilities.

15. *Ombudsman Program.* A number of issues arise with respect to the implementation of this new program. Section 307(a)(12) of the Act sets forth minimum statutory requirements for a new mandatory nursing home ombudsman program that each State agency must operate in long term care facilities throughout the State. The program must include complaint investigation, legislative monitoring, and data collection. Section 307(a)(18) prescribes minimum funding requirements for the program. The legislative history of this new requirement indicates that Congress was impressed with the work of model projects ombudsman programs and felt that such programs should be required in each State under Title III.¹⁹

The statutory requirements for the new program are very extensive and raise a number of implementation issues on which the legislative history provides little guidance. The new requirements, particularly in the area of data collection and complaint resolution, generally go far beyond the scope of existing model project programs. Our experience in those programs has been

helpful in focusing the issues that are raised by the new statutory requirements. However, we do not think that we have sufficient experience to enable us to propose additional regulatory requirements now. Therefore, these proposed regulations at § 1321.43 restate and clarify, but do not generally go beyond, the minimum statutory requirements.

We are raising a number of issues now on which we invite public comment. We are presenting these issues to an Ombudsman Task Force, which is meeting from time to time throughout the comment period. We will consider all comments from the Task Force and others on the issues discussed below, and will incorporate in the final regulations any further requirements on these issues that appear necessary. We particularly invite comment on the extent to which resolution of the issues raised should be left to individual States.

a. *Definition of Long Term Care Facility.*—The first issue that arises concerns the kinds of facilities which the program should be required to cover. Section 302(3) of the Act defines long term care facility as any skilled nursing facility, as defined in Section 1861(j) of the Social Security Act, intermediate care facility, as defined in Section 1905(c) of the Social Security Act, any nursing home, as defined in Section 1908(e) of the Social Security Act, and "any other similar adult care home." We are proposing three options for the definition of "any other similar adult care home" those that are (1) defined by State law or regulations, (2) licensed by the State and providing health related or supportive services to at least four older persons, or (3) defined by the State agency in the State plan and approved by the Commissioner. We will select one of these options in the final regulation. We particularly solicit comment on these options, and on whether another definition would be more appropriate. We want to adopt a definition of "adult care home" that will ensure that those institutionalized older persons in need of assistance receive it, but do not want to impose on a State agency coverage requirements which are overly burdensome. For example, our experience with the model projects programs indicates that ombudsman programs will be called on to investigate complaints in many unlicensed boarding homes. However, we have not included these homes in either the first or second of the proposed definitions because we are concerned that State agencies, at least in the beginning phase of the program, might not be able to implement

it in these homes as well. In the third option, of course, a State might choose to include unlicensed boarding homes if it had the capacity to provide ombudsman services to residents of such facilities.

b. *Access to facilities and patients.*—Section 307(a)(12)(B) requires a State agency to "establish procedures for appropriate access by the ombudsman to long-term care facilities and patients' records."

The issue arises how a State agency on aging, which is not responsible for licensing or certifying long term care facilities, can require access to facilities. The Health Care Financing Administration is considering proposing regulations that would require skilled nursing facilities and intermediate care facilities participating in the Federal Medicare and Medicaid programs to allow access at all times to representatives of the ombudsman program. If these regulations are issued, access to facilities and patients in the Federal programs would be assured. However, there are many facilities that would be covered by the ombudsman program that do not participate in Medicaid and Medicare. We solicit comment on how States can ensure access to these facilities, and whether we should do anything further through Federal regulations to ensure implementation of this requirement.

The issue also arises of what is "appropriate access." For example, should State procedures differentiate between paid and volunteer ombudsman staff in specifying access requirements? We have added the requirement that access to patients be provided, as well as to facilities and records. Should Federal regulations specify limits on that access?

c. *Confidentiality.*—Section 307(a)(12)(B) also requires that the State agency establish procedures to protect the confidentiality of patient records and the identity of patients and complainants. The Federal Privacy Act, 5 USC 552a does not cover these State records. Should we attempt to specify other Federal procedures in this area?

d. *Complaint investigation and resolution.*—Section 307(a)(12)(A)(i) requires the ombudsman program to "investigate and resolve complaints . . . relating to administrative action which may adversely affect the health, safety, welfare, and rights" of residents of long term care facilities. Issues raised by this requirement include:

- (1) What is meant by investigation and resolution of complaints?
- (2) What types of possible complaints would not be related to administrative

¹⁵ House Rept. No. 95-1618, *supra*, p. 65.

¹⁷ House Rept. No. 95-1150 *supra*, p. 16, lists public benefits programs, consumer fraud, special tax issues, guardianship, institutionalization, and probate matters as examples of issues particularly affecting the elderly in greatest need.

¹⁸ Senate Rept., *supra*, p. 10.

¹⁹ Senate Rept., *supra*, p. 10.

¹⁹ Senate Rept., *supra*, p. 11.

action and what procedures should be followed when such complaints are received?

e. *Data collection and reports.*—Section 307(a)(12)(C) requires the State agency to establish a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long term care facilities and to submit reports to the Commissioner. Issues raised by this requirement include:

- (1) What types of information should be collected?
- (2) What procedures should be specified for the handling of information?; and
- (3) What should be the frequency and content of reports submitted to the Commissioner?

We also solicit comment on any other issues and problems that commenters may identify in the implementation of this new program.

16. *Nutrition services.*—a. *Special needs.*—Section 307(a)(13)(G) of the Act provides that each nutrition services provider will provide special menus where feasible and appropriate to meet the particular dietary needs arising from the health requirements, religious requirements, or ethnic backgrounds of eligible individuals. This provision is substantively the same as section 706(a)(5) of the former Title VII.

We find that there are differences of opinion in the field as to what is meant by the words "where feasible and appropriate." Some area agencies or nutrition services providers have been reluctant to implement this requirement, and have argued that it is not feasible or appropriate to provide special diets if they are more expensive, unless the increased costs are absorbed by non-Title III funds. In our view, the clear intent of the Title III nutrition service program is that nutrition services be provided without distinction to all eligible individuals in a provider's target population. Therefore, we are proposing that a nutrition service provider provide special diets to all nutrition service participants even when special diets are more expensive than other meals. The only exception to this requirement would be when either the food or skills necessary to prepare the special diets is unavailable in the planning and service area.

b. *Home delivered meals.*—Under the former Title VII, a number of States had home-delivered meals programs, in which a limited number of meals were provided on an as-needed basis by congregate nutrition providers. The Act now explicitly authorizes provision of home-delivered meals, but retains

primary emphasis on congregate nutrition services. Section 307(a)(13)(B) of the Act provides that each nutrition project must provide meals in a congregate setting, "except that each such project may provide home-delivered meals based upon a determination of need made by the recipient of a grant or contract entered into under this title." The conference report makes clear that Title III funds for home-delivered meals may only be awarded to a provider that serves congregate meals, and emphasizes that every effort be made for nutrition service participants to participate in a congregate setting, unless home bound by reasons of illness, an incapacitating disability, or extreme transportation problems.²⁰

Our proposed regulations at § 1321.141(b) implement this requirement by providing that the area agency may only award funds for home delivered meals to a service provider that also provides congregate meals. The proposed regulations at § 1321.147 also prescribe criteria for eligibility to receive home delivered meals. These regulations also would require that the nutrition service provider conduct initial and subsequent assessments of an older person's need for home delivered meals using these criteria, in order to ensure that home delivered meals are provided only when necessary.

Section 307(a)(13)(H) of the Act provides that each area agency must give consideration, where feasible, in the furnishing of home delivered meals to using organizations which have demonstrated ability in this area, and which agree to continue to solicit voluntary support and not use Title III funds to supplant non-Federal funds. Section 1321.147(c) of the proposed regulations provides that the nutrition services provider must give first preference in purchasing home delivered meals to an existing provider of home-delivered meals which has the capacity and willingness to provide additional home-delivered meals funded under Title III. A nutrition services provider would be able to provide home-delivered meals directly only when there is no capable and willing home-delivered meals provider in the area.

Section 337 of the Act provides that the Commissioner, in consultation with a number of agencies and organizations named in the Act, develop minimum criteria for the furnishing of home delivered meals. We consulted with the agencies and organizations in question and developed the initial minimum criteria which appear in § 1321.143 of

the proposed regulations. While our original intent was to develop criteria only for home-delivered meals, we decided that the criteria were also applicable to congregate nutrition services and therefore propose to apply the criteria to all nutrition services.

We particularly solicit comment on whether these criteria are sufficient, or whether we should impose additional criteria, and if so, what those criteria should be.

c. *Consolidation of nutrition projects under area agencies.*—A major issue is the required consolidation under area agency administration of existing nutrition projects which had been funded under Title VII directly by the State agency. During the congressional debate preceding the enactment of the amendments, there was considerable concern expressed that existing projects performing effectively not be adversely affected by the change in administration. Section 106(b) of the House bill, H.R. 12255, would have required that all existing projects continue to be funded, provided they meet the requirements of the amended Title III. The Senate bill, S. 2850, did not contain this automatic protection, but the Senate Report accompanying the bill emphasized that consolidation should not adversely affect existing service providers, and that area agencies should give special attention to existing Title VII providers.²¹ The conference committee retained the special protection provided by the House bill, but modified that to allow area agencies some flexibility in making nutrition services awards. Section 501(b) of the Amendments provides that:

(b) Any project receiving funds under title VII of the Older Americans Act of 1965, as in effect on the day before the effective date of this Act, shall continue to receive funds under part C of title III of such Act, as amended by this Act, if such project meets the requirements and criteria established in such title III, as amended by this Act, except that a State, pursuant to regulations prescribed by the Commissioner on Aging, shall not discontinue the payment of such funds to a project unless such State, after a hearing (if requested by the person responsible for administering such project), determines that such project has not carried out activities supported by such funds with demonstrated effectiveness.

We notified States in Program Instruction 79-10, that States and area agencies could not terminate projects protected by this section, except under 45 CFR Part 74, Subpart M, for material failure to comply with the terms of their awards, until we issued regulations implementing this section.

²¹ Senate. Rept., *supra*, p. 11.

Two major issues arise in the implementation of this section. The first is the definition of a project. We are proposing to define a nutrition project for purposes of section 501(b) as a recipient of a subgrant or contract, other than an area agency, to provide nutrition services that meet our regulatory requirements specified for nutrition projects in 45 CFR Part 1324. Under our proposed definition, all projects that had been directly funded by State agencies outside the area agency network would be protected but these programs that had been consolidated under area agency administration and no longer met all our regulatory requirements for nutrition projects would not be. We believe that our proposed definition would implement the congressional intent to protect any project that had been directly funded by the State agency and might therefore be threatened by consolidation under area agency administration.

The second major issue is the setting of the criteria the State agency uses to determine that a project has not performed with "demonstrated effectiveness." We considered trying to propose criteria for demonstrated effectiveness, but decided that State agencies responsible for nutrition programs within their States and knowledgeable about local standards of performance, would be better able to specify criteria that were more detailed than those required in the Act, implementing regulations, and guidelines. We are therefore proposing in § 1321.141(b)(3)(ii)(B) to require that State agencies develop criteria to measure the effectiveness of these protected projects. A State agency would not be able to apply any performance criteria that the project had not been required to meet during the term of its award.

d. *Contracting in nutrition awards.*—We are also concerned that, to the extent consistent with other requirements of the Act and these proposed regulations, nutrition funds be used as efficiently as possible. We solicit comments on whether we could improve efficiency and increase the number of meals served if we required area agencies to subcontract—thereby increasing competitive bidding—in making all nutrition awards.

17. *Multi-purpose Senior Centers.*—The 1978 amendments consolidated under area agency administration funding for multipurpose senior centers, which was formerly provided under Title V, through direct grants from the Commissioner. Area agencies are not

required to award any funds for senior centers, although the legislative history indicates that Congress intended that area agencies continue to place emphasis on the development and expansion of the multipurpose senior centers as an integral part of the comprehensive and coordinated service delivery system in each planning and service area.²² In addition, the amendments provided expanded authority for construction and staffing of centers, and require that they be given preference as designated focal points.

Since multipurpose senior centers now have an expanded role in service delivery within the planning and service area, and funds may be used for construction and staffing of the centers, we believe it is appropriate to propose minimum standards that a senior center funded under Title III must meet.

The requirements that we have proposed for senior centers in § 1321.121 are consistent with the senior center standards developed by the National Institute of Senior Centers and the Task Force on Senior Center Development. However, our proposed requirements are not as extensive as the standards proposed by the Institute or Task Force. Some of the criteria proposed by these groups are too general, or are not regulatory in nature. The criteria that we are proposing focus on the areas most critical to effective senior center operations: (1) the target group of individuals to be served; (2) the service program of the center; (3) essential coordination with other community services and programs, and (4) the physical facility from which the center program will operate.

The requirements proposed in § 1321.121(c)(2)(i) would establish, as a basic requirement, that the senior center program be a program open to all older persons of the community, with an emphasis on serving those in greatest economic or social need. Senior centers are too frequently designed for, and primarily serve, the active and mobile elderly. Senior center programs can and should significantly benefit isolated, frail and institutionalized older persons, but the programs must be designed and operated specifically to include such individuals.

Section 1321.121(c)(2) would require a senior center funded under Title III to operate a range of group activities, individual services and community services opportunities. These are generally accepted minimum services and activities for effective senior center programs. Centers would be required to provide some services in each of the

four categories specified in § 1321.75, in order to ensure that a comprehensive and coordinated service delivery program is developed in each senior center receiving funds under Title III.

The requirement proposed in § 1321.121(c)(2)(iii) for coordination with other community services and programs is basic to the effective operation of a senior center program, particularly for senior centers which are community focal points. We expect that senior centers will arrange to have a variety of service and staff resources financed by other programs operate from the facility.

The general requirements proposed for the physical structure of a multipurpose senior center are designed primarily to assure that senior center programs will be readily accessible to older individuals. Centers must also meet the minimum safety and construction requirements proposed in § 1321.123, as well as the requirements of 45 CFR Part 84: Nondiscrimination on the Basis of Handicap.

Our proposal in § 1321.121(c)(2)(iii) for a minimum number of 45 hours of operation is designed to ensure that each center will be open for services beyond the normal 40 hour week. Our intent is to require senior centers to have at least some evening and weekend hours. We have left discretion to each State to determine the minimum operation hours for centers in rural areas of the State.

18. *Transportation agreements.*—Section 306(c) of the Act provides that, subject to regulations prescribed by the Commissioner, an area agency, or in areas of a State where no area agency has been designated, the State agency, may pool funds appropriated under Title III to enter into transportation agreements with agencies administering programs under the Rehabilitation Act of 1973, and titles XIX and XX of the Social Security Act. The language of this section is carried over from section 304(d) of the former Act.

Under the former Title III a State agency could make awards for social services directly in certain portions of the State without designating an area agency and funding these services through an area plan. Under section 304(d)(1)(B) of the amended Act, funds for social services may only be awarded through area agencies under approved area plans. Our proposed regulations at section 1321.181 would therefore provide that only State agencies in single planning and service area States could enter into transportation agreements using social service funds. In these States, the State agencies are performing the functions of an area agency. In all

²⁰ House. Rept. No. 95-818, *supra*, p. 82.

²² House Rept. 95-1818, *supra*, p. 64.

other States, only area agencies could enter into these agreements.

Section 306(c)(2) of the Act provides that funds under Title III may be used for these agreements. Our proposed regulations would provide that only social service funds, and not nutrition funds could be used. We are proposing this limitation because, except for a transition through fiscal year 1980, section 307(a)(13)(I) of the Act as amended, prohibits the use of nutrition service funds for supporting services.

19. *Allotments and Reallotments.* A number of issues arise concerning the allotment and reallotment of funds under the Act.

a. *Area agency administration.*—Under section 303(e)(1) of the former Act, a State could use not more than 15 percent of its social services allotment for area plan administration. The present section 304(d)(1) provides that: "From any State's allotment under this section for any fiscal year—

(A) Such amount as the State agency determines but not more than 8.5 percent thereof, shall be available for paying such percentage as the agency determines, but not more than 75 percent, of the cost of administration of area plans; and

Since our practice is to make separate allotments for social and nutrition services, an issue arises whether a State would be required to apply the 8.5 percent to each of these allotments, thus spreading administrative costs proportionately across social services and nutrition services. We think that administrative costs should be distributed proportionately, to ensure that the fair share of these costs is borne by each type of service. We recognize that States may want flexibility in distributing administrative costs. A State might choose to charge more administrative costs to its nutrition allotment in order to allow more funds for priority social services. Alternatively, a State might choose to charge more administrative costs to its social services allotment if, for example, it decided to place priority on increasing the number of meals served. On balance, however, we believe that the problems and potential abuse of allowing a State to distribute its administrative costs disproportionately are considerable, and have decided not to allow States this flexibility. (See § 321.207(b)).

We are also proposing to allow an area agency to deduct up to 8.5 percent of its administrative allotment before applying the 50 percent priority service requirement.

b. *Nutrition reallotment.*—Section 308(b)(5) provides that a State may elect in its plan under section 307(a)(13) to transfer funds between its home delivered and congregate allotments, "for use as the State considers appropriate to meet the needs of the area served." The Act provides that the Commissioner "shall approve any such transfers unless he determines that such transfer is not consistent with the purpose of this Act." The statute could be read to require the Commissioner's advance approval for any transfer, no matter how small. We believe, however, that States should be allowed the flexibility, if possible, to transfer small amounts of funds between home delivered and congregate without needing to obtain prior approval from the Commissioner. In our view, automatic transfer of small percentages of funds will not have significant impact on a State's nutrition plans, and would enable a State to respond to emergency situations. We do not foresee instances in which we would question these small transfers as inconsistent with the purpose of the Act. We therefore are proposing § 1321.199 to allow a State to transfer automatically 15 percent or less of each of its allotments. Transfers in excess of 15 percent may well involve a significant change in the manner in which nutrition services are provided, and we propose to require advance approval of each such transfer. We are particularly concerned to ensure that States carefully monitor the use of home delivered meals.

c. *Mandatory reallotment by the Commissioner.*—We have been deeply concerned over the last several years by the failure of many State and area agencies promptly to liquidate funds obligated under State and area plans. We believe that this funding backup interferes with delivery of needed services to older persons. We are considering a number of proposals for dealing with this problem. At least one of these proposals would require regulations.

Under section 304(b) of the Act, the Commissioner is authorized to reallot funds that he determines will not be used by one State to a State that he determines will use the funds. In the past, we have asked States to indicate voluntarily that portion of their allotment that they decide they will not need, and we have then reallotted that money to other States. We are considering using this reallotment authority to reallocate earlier in the fiscal year unobligated portions of the allotments of those States which have significant amounts of unliquidated

obligations from prior fiscal years. We would then reallocate those amounts to States that had liquidated their obligations more promptly and that had therefore shown that they could efficiently manage their resources. We are aware that this involuntary reallotment process has significant programmatic implications, and would require careful analysis to specify criteria for deciding the levels of unliquidated obligations that would justify reallotting some portion of the State's remaining unobligated allotment. We particularly invite comment on this problem and the solution we are considering, as well as on other solutions that may be preferable. A similar problem exists at the area level, and we solicit also comments on how to require all agencies to liquidate more quickly.

Explanatory Note

We propose that all the regulations now appearing in Subchapter C of 45 CFR Chapter XIII be replaced by the proposed Part 1321—Grants for State and Community Programs on Aging. Part 1320—General; Part 1324—Nutrition Programs for the elderly; and Part 1326—Multipurpose senior centers would be vacated and reserved, and Part 1321 would be completely revised. (Part 1322—Research and development projects; Part 1323—Training projects; and Part 1325—Model projects on aging of 45 CFR Chapter XIII were withdrawn on February 21, 1979—see 44 FR 10504.)

Authority: Title III of the Older Americans Act (42 U.S.C. 3021-3030g). (Catalog of Federal Domestic Assistance Program Numbers: 13.633 Special Programs for Aging Title III Parts A and B—Grants on Aging; 13.635 Special Programs for Aging Title III Part C—Nutrition Service.)

Dated: June 19, 1979.

Robert Benedict,
Commissioner on Aging.

Approved: July 3, 1979.

Arabella Martinez,
Assistant Secretary for Human Development.

Approved: July 23, 1979.

Joseph A. Califano, Jr.,
Secretary of Health, Education, and Welfare.

45 CFR Chapter XIII Subchapter C is amended as follows:

PARTS 1320, 1324, and 1326 [Reserved].

1. Parts 1320, 1324, and 1326 are vacated and reserved.
2. Part 1321 is revised to read as follows:

PART 1321—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

Subpart A—Introduction

- Sec.
1321.1 Basis and purpose of part.
1321.3 Definitions.
1321.5 Applicability of other regulations.

Subpart B—State Agency Designation, Organization, and Functions

- 1321.11 Designation and Functions of the State Agency.
1321.13 Organization of State agency.
1321.15 State agency administration.
1321.17 Staffing.
1321.19 Confidentiality and disclosure of State agency information.

Subpart C—State Plan

- 1321.21 What a State plan is.
1321.23 Duration and format of the State plan.
1321.25 Content of the State plan.
1321.27 Amendments to the State plan.
1321.29 Development and review of the State plan and plan amendments.
1321.31 Submission of the State plan and plan amendments to the Commissioner for approval.
1321.33 Approval or disapproval of a State plan and plan amendments.
1321.35 How a State agency is notified.
1321.37 Effective date and expenditures under an approved State plan or amendment.

Subpart D—State Agency Responsibility

- 1321.41 Advocacy responsibilities: general.
1321.43 Long-term care ombudsman program.
1321.45 Service delivery systems responsibilities: general.
1321.47 State advisory council on aging.
1321.49 Intrastate funding formula.
1321.51 State agency hearing procedures.
1321.53 Designation of planning and service areas.
1321.55 Appeal to the Commissioner.
1321.57 Interstate planning and service area.
1321.59 Single State planning and service area.

Subpart E—Area Agency Designation, Organization, Functions

- 1321.61 Designation and functions of area agencies.
1321.63 Types of agencies that may be an area agency.
1321.65 Organization of the area agency.
1321.67 Staffing.
1321.69 Area agency procedures.

Subpart F—Area Plan

- 1321.71 What is an area plan.
1321.73 Duration and format of the area plan and plan amendments.
1321.75 Comprehensive and coordinated service delivery systems.
1321.77 Content of the area plan.
1321.79 Amendments to the area plan.
1321.81 Development and review of the area plan and plan amendments.

- Sec.
1321.83 Approval or disapproval of an area plan and plan amendments.
1321.85 Termination of funds and continuity of services.

Subpart G—Area Agency Responsibilities

- 1321.91 Advocacy responsibilities of the area agency.
1321.93 Area agency general planning and management responsibilities.
1321.95 Designation of community focal points.
1321.97 Area agency advisory council.
1321.99 Coordination with other programs.

Subpart H—Service Requirements

General Requirements Applicable to all Services

- 1321.101 State agency approval of area agency subgrants or contracts.
1321.103 Direct provision of services by State and area agencies.
1321.105 Licensure requirements.
1321.107 Training, outreach and coordination.
1321.109 Preference for those with greatest economic or social need.
1321.111 Contributions for services under the area plan.
1321.113 Maintenance of non-Federal support for services.
1321.115 Advisory role to service providers of older persons.

Multipurpose Senior Centers

- 1321.121 Multipurpose senior centers.
1321.123 Compliance with health and safety, and construction requirements.
1321.125 Compliance with Federal labor standards.
1321.129 Length of use of an acquired or constructed facility.
1321.131 Special conditions for approval of an award for acquisition or construction.
1321.133 Compliance with prohibition on sectarian use of a facility.
1321.135 Funding and use requirements.
1321.137 Recapture of payments for acquired or constructed facilities.

Nutrition Services

- 1321.141 Nutrition services.
1321.143 Food requirements for all nutrition services providers.
1321.145 Special requirements: congregate nutrition services.
1321.147 Special requirements: home delivered nutrition services.

Legal Services

- 1321.161 Legal services.

Information and Referral Services

- 1321.171 Information and referral services.

Transportation Services

- 1321.181 Transportation agreements.

Subpart I—Fiscal Requirements

- 1321.191 Allotments and grants to States.

Service Funding Requirements

- 1321.192 Area agency allotments.
1321.193 Expenditures in rural areas.
1321.195 Fifty percent priority service requirements.

- Sec.
1321.197 Long term care ombudsman program.
1321.199 Transfer between congregate and home-delivered nutrition services funds under the State plan.
1321.201 Allowable use of funds for State and area plan administration.
1321.203 Additional funds for State plan administration.
1321.205 Obligations and reallotment.
1321.207 Federal financial participation.
1321.209 Non-federal share requirements.
1321.211 State agency maintenance of effort.

Federal Reviews and Audits in General

- 1321.213 Federal reviews and audits.
1321.215 Types and effects of reviews and audits.

Program and Financial Reviews

- 1321.217 Programs and financial reviews in general.
1321.219 Issues of compliance after review.

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Subpart A—Introduction

- § 1321.1 Basis and purpose of part.

(a) This part prescribes requirements State agencies must meet to receive grants to develop comprehensive and coordinated systems for the delivery of

social and nutrition services under title III of the Older Americans Act (Act). These requirements include:

- (1) Designation and responsibilities of State and area agencies;
- (2) State and area plans and amendments;
- (3) Services delivery;
- (4) Grant awards to State agencies; and
- (5) Hearing procedures for State and area agencies, applicants for planning and service area designation, and service providers.

(b) The requirements of this part are based on title III of the Act. Title III provides for formula grants to State agencies on aging under approved State plans for the development of comprehensive and coordinated systems for the delivery to older persons of social services, including multipurpose senior centers, and nutrition services. Each State agency designates planning and service areas in the State, and makes a subgrant under an approved area plan to one area agency in each planning and service area. Area agencies in turn make subgrants or contracts to service providers.

§ 1321.3 Definitions.

"Act" means the Older Americans Act of 1965, as amended (42 U.S.C. 3001 et. seq.).

"Area Agency" means the agency designated by the State agency in a planning and service area to develop and administer the area plan for a comprehensive and coordinated system of services for older persons.

"Administration on Aging" means the agency established in the Office of the Secretary, Department of Health, Education, and Welfare as part of the Office of Human Development Services; and which is charged with the responsibility of administering the provisions of the Act, except for title V.

"Commissioner" means the Commissioner on Aging of the Administration on Aging.

"Community focal point" means a place or mobile unit in a community or neighborhood designated by the area agency for the collocation and coordination of services to older persons.

"Comprehensive and coordinated system" means a program of interrelated social and nutrition services designed to meet the needs of older persons in a planning and service area.

"Department" means the Department of Health, Education, and Welfare.

"Fiscal year" means the Federal fiscal year.

"Greatest economic need" means

Option 1: the income level that falls at or below the poverty threshold established by the Bureau of the Census;

Option 2: the income level that falls at or below the near property level established by the Bureau of the Census;

Option 3: the income level that falls at or below the maximum income level for eligibility in the State under title XX of the Social Security Act.

"Greatest social need" means those non-economic factors such as isolation, physical or mental limitations, racial or cultural obstacles; or other non-economic factors which restrict individual ability to carry out normal activities of daily living and which threaten an individual's capacity to live an independent life.

"Human services" means social, health or welfare services.

"Indian tribal organization" means the recognized governing body of any Indian tribe, or any legally established organization of Indians which is controlled, sanctioned or chartered by the governing body.

"Indian tribe" means any tribe, band, nation, or other organized group or community of Indians (including any Alaska Native Village or regional village corporation as defined in or established under the Alaska Native Claims Settlement Act, P.L. 92-203, 85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or, is located on, or in proximity to a Federal or State reservation or rancheria.

"Multipurpose senior center" (senior center) means a community or neighborhood facility for the organization and provision of a broad spectrum of services including health, social, nutritional, educational services; and facilities for recreational and group activities for older persons.

"Nonprofit" as applied to any agency, institution or organization means an agency, institution or organization which is owned and operated by one or more corporations or associations with no part of the net earnings benefiting any private share holder or individual.

"Planning and service area" means a geographic area of a State that is designated for purposes of planning, development, delivery and overall administration of services under an area plan.

"Service provider" means an entity that is awarded a subgrant or contract from an area agency to provide services under the area plan.

"State" means each of the fifty States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto

Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands and the Northern Mariana Islands.

"State Agency" means the single State agency designated to develop and administer the State plan and to be the focal point on aging in the State.

"Unit of general purpose local government" means a political subdivision of the State whose authority is general and not limited to only one function or combination or related functions; or an Indian tribal organization.

§ 1321.5 Applicability of other regulations.

The provisions of the following regulations apply to all activities under this part:

(a) Title 45 of the Code of Federal Regulations:

Part 74—Administration of Grants, except Subpart N;

Part 80—Nondiscrimination under Programs Receiving Federal Assistance through the Department of Health, Education, and Welfare; Effectuation of Title VI of the Civil Rights Act of 1964;

Part 81—Practice and Procedure for Hearings under Part 80 of this Title;

Part 84—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Participation; and

(b) Title 5 of the Code of Federal Regulations, Part 900, subpart F, Standards for a Merit System of Personnel Administration.

Subpart B—State Agency Designation, Organization, and Functions

§ 1321.11 Designation and functions of the State agency.

In order to be eligible to receive grants under this part, a State must designate a single State agency to:

(a) Develop and administer the State plan;

(b) Be primarily responsible for coordinating all activities in the State relating to the purposes of the Act;

(c) Serve as the effective and visible advocate for all older persons in the State; and

(d) Direct area agencies in the development of comprehensive and coordinated service delivery systems throughout the State.

§ 1321.13 Organization of the State agency.

The State agency may be either:

(a) An agency whose single purpose is to administer programs in the field of aging; or

(b) A multipurpose agency that administers human services programs in the State. A multipurpose agency may

delegate all authority and responsibility under this part to a designated organizational unit in the agency.

§ 1321.15 State agency administration.

(a) *General rule.* The State plan must provide for the use of methods of administration which are necessary for the proper and efficient administration of the plan. The State agency must administer the plan in accordance with all applicable Federal laws and regulations, including all requirements of this part.

(b) *State agency procedures.* (1) The State agency must have and follow written procedures in carrying out all of its functions under this part that are adopted in accordance with paragraph (2) of this section.

(2) The State agency must:

(i) Develop proposed procedures;

(ii) Publish the proposed procedures in a manner that allows area agencies, providers, and older persons within the State adequate opportunity to comment on the procedures;

(iii) Consider all comments in establishing final procedures;

(iv) Have final procedures in effect no later than September 30, 1980; and

(v) Keep its procedures current, and revise them as necessary.

(c) *Functional statement.* The State agency must have on file for review a functional statement of the manner in which the State agency performs all of its responsibilities under this part.

(d) *Reports.* The State agency must submit to the Commissioner any reports that the Commissioner requires.

§ 1321.17 Staffing.

(a) *Preference.* Subject to merit system requirements, the State and area agencies must give preference in hiring for full or part time positions to persons age 60 or older.

(b) *Staffing plan.* The State agency must have on file for review a staffing plan that identifies the numbers and types of staff assigned to carry out State agency responsibilities and functions under this part.

§ 1321.19 Confidentiality and disclosure of State agency information.

(a) *Confidentiality.* (1) The State agency must have procedures to ensure that no information about, or obtained from an older person by an agency providing service under the plan, is disclosed in a form that identifies the person without his or her informed consent.

(2) The State agency must ensure that lists of older persons compiled under § 1321.171 are used solely for the

purpose of providing services authorized under this part, and only with the informed consent of each individual on the list.

(b) *Disclosure.* Subject to the confidentiality requirements in paragraph (a) of this section, the State agency must make available at reasonable times and places to all interested parties the written procedures required under § 1321.15, and all other information and documents developed or received by the agency in carrying out its responsibilities under this part.

Subpart C—State Plan

§ 1321.21 What a State plan is.

A State plan is the document submitted by a State in order to receive grants from its allotments under this part. It contains provisions required by section 307 of the Act and implementing regulations and commitments that the State agency will administer or supervise the administration of activities funded under this part in accordance with all Federal requirements. A State may receive grants under this part only under an approved State plan. A State may use its grants under this part only for activities under its approved plan.

§ 1321.23 Duration and format of the State plan.

The State plan must be in effect for the three year period specified by the Commissioner. A State agency must submit a State plan or plan amendment to the Commissioner in accordance with the Commissioner's instructions concerning the format, content, time limits, transmittal forms, and procedures.

§ 1321.25 Content of the State plan.

(a) *Based on area plans.* A State plan must be based on area plans.

(b) *State agency function requirements.* A State plan must provide that the State agency function requirements are met for:

(1) Proper and efficient methods of administration, as provided in § 1321.15;

(2) Confidentiality and disclosure of State agency information, as provided in § 1321.19;

(3) State agency advocacy responsibilities, as provided in § 1321.41;

(4) State agency evaluation of service needs, as provided in § 1321.45(a)(8);

(5) Evaluation of activities and projects under the plan, as provided in § 1321.45(a)(9);

(6) Development and distribution of a uniform area plan format, as provided in § 1321.45(a)(10);

(7) Coordination of legal services as provided in § 1321.45(a)(13);

(8) Commodity distribution agreements, as provided in § 1321.143;

(9) State advisory council on aging, as provided in § 1321.47;

(10) State agency hearings for area agencies, providers, and planning and service area applicants, as provided in § 1321.51;

(11) The requirements for area plan approval and disapproval, as provided in §§ 1321.81 and 1321.83.

(c) *Area agency and area plan requirements.* A State plan must provide that the area agency and area plan requirements are met for area agency designation, and development and submission to the State agency of an area plan which complies with the requirements of section 306 of the Act and this part, as provided in §§ 1321.61, 1321.69, 1321.71, 1321.73, 1321.75, 1321.77 and 1321.79.

(d) *Service delivery requirements.* A State plan must provide that the service delivery requirements are met for:

(1) A long-term care ombudsman program, as provided in § 1321.43;

(2) Restricting direct provision of services, as provided in § 1321.103;

(3) All service providers concerning licensure, training, outreach, coordination, preference to those with greatest economic or social need, contributions, maintenance of non-Federal support for services, and advisory role for older persons, as provided in §§ 1321.105 through 1321.115.

(4) Multipurpose senior center activities, as provided in §§ 1321.121 through 1321.137;

(5) Nutrition services, as provided in §§ 1321.141 through 1321.147;

(6) Legal services, as provided in § 1321.161; and

(7) Information and referral, as provided in § 1321.171.

(e) *Fiscal requirements.* A State plan must provide that the following fiscal requirements are met for:

(1) Expenditures in each fiscal year in rural areas of 105 percent of FY 1978 expenditures, as provided in § 1321.193; and

(2) Minimum expenditures for the long term care ombudsman program, as provided in § 1321.197.

(f) *Directory of community focal points.* A State plan must assure that the State agency keeps a directory of focal points in the State.

(g) *Information requirements.* The State plan must specify:

(1) Program objectives to implement the service delivery requirements of paragraphs (d)(1), and (d)(4) through

(d)(7) of this section, which are consistent with the requirements of this part, objectives established by the Commissioner, and objectives established in area plans in the State;

(2) Documentation of the designation of the State agency;

(3) A resource allocation plan indicating the proposed use of all funds directly administered by the State agency;

(4) Proposed methods for giving preference to those with greatest economic or social need in the provision of services under the plan. These methods—

(i) Must include, but are not limited to:

(A) Consideration of older persons with greatest economic need in the division of the State into planning and service areas, as provided in § 1321.53, and

(B) Consideration of older persons with greatest economic need in the development of the intrastate funding formula, as provided in § 1321.49.

(ii) May not include use of a means test. A means test is the use of an older person's income or resources to deny or limit that person's receipt of services under this part.

(5) A resource inventory of State and Federal funds spent by other agencies in the State for services to older persons; and

(6) An identification of all planning and service areas and all area agencies in the State.

§ 1321.27 Amendments to the State plan.

The State agency must amend its plan if:

(a) A new or amended Federal statute or regulation requires a new plan provision, or conflicts with any existing plan provision;

(b) A U.S. Supreme Court decision changes the interpretation of a statute or regulation;

(c) State law, organization, policy, or agency operation changes and is not accurately reflected in the plan;

(d) The State agency proposes to add, change or delete any plan provision;

(e) The State agency has changed the designation of any planning and service area or any area agency; or

(f) The Commissioner requires further annual amendments.

§ 1321.29 Development and review of the State plan and plan amendments.

(a) *State plan based on area plans.* The State agency must carry out the requirement of § 1321.25(a) that a State plan must be based on area plans by giving all area agencies in the State adequate opportunity to participate in

the development of the State plan in order to ensure that the objectives established in State and area plans are consistent.

(b) *Public Hearings.* The State agency must:

(1) Hold public hearings on the State plan and on all amendments to the State plan.

(2) Give adequate notice to older persons, public officials and other interested parties of the time, dates and locations of the public hearings.

(3) Hold public hearings throughout the State at times and locations which permit older persons, public officials, and other interested parties reasonable opportunity to participate.

(c) *Review by State Advisory Council and State A-95 Clearinghouse.* The State agency must submit the State plan or amendments for review and comment, first to the State advisory council, and then to the State A-95 clearinghouse.

(d) *Review by the Governor.* The State agency must submit the State plan or plan amendments to the Governor for review and signature.

§ 1321.31 Submission of the State plan and plan amendments to the Commissioner for approval.

The State agency must submit the State plan or plan amendments signed by the Governor to the Commissioner at least 90 calendar days before the proposed effective date of the plan, or plan amendments. The Commissioner does not consider a State plan or amendment for approval unless it is signed by the Governor.

§ 1321.33 Approval or disapproval of a State plan and plan amendments.

(a) The Commissioner approves any State plan or amendment that fully meets all Federal requirements including the requirements of this part.

(b) If the Commissioner finds that any required provision of the plan is unapprovable, he or she follows the procedures in Subpart J to disapprove the plan and withhold further payments to the State.

§ 1321.35 How a State agency is notified.

(a) *Approval.* When the Commissioner approves a State plan or amendment, the Commissioner notifies the State agency in writing.

(b) *Disapproval.* When the Commissioner proposes to disapprove a State plan or amendment, the Commissioner notifies the State agency in writing. The notice gives the reasons for proposed disapproval and informs the agency that it has 60 days to request a hearing on the proposed disapproval,

following the procedures specified in Subpart J.

§ 1321.37 Effective dates and expenditures under an approved State plan or amendment.

(a) *When a State plan or amendment becomes effective.* An approved State plan or amendment become effective on the date of approval by the Commissioner.

(b) *When an agency may make expenditures under a new plan or amendment.* An agency may not make expenditures under a new plan or amendment until it is approved.

Subpart D—State Agency Responsibilities

§ 1321.41 Advocacy responsibilities: general.

The State agency must:

(a) Review and comment on all State plans, budgets, and policies which affect older persons;

(b) Conduct public hearings on the needs of older persons;

(c) Coordinate statewide planning and development of activities related to the purposes of the Act and assure that each area agency has effective procedures to coordinate programs related to the purposes of the Act within the planning and service area;

(d) Represent the interests of older persons before legislative, executive and regulatory bodies in the State;

(e) Provide technical assistance to any public or private nonprofit agency, organization, or association, or individual representing older persons;

(f) Establish and operate the long-term care ombudsman program required by § 1321.43; and

(g) Review and comment, on request, on applications to State and Federal agencies for assistance relating to meeting the needs of older persons.

§ 1321.43 Long-term care ombudsman program.

(a) *General rule.* The State agency must establish and operate a statewide long-term care ombudsman program that meets the requirements of paragraphs (c) through (e) of this section. The State agency may operate the ombudsman program directly, or by contract or other arrangement, with any public agency or private nonprofit organization, except one that is—

(1) Responsible for licensing or certifying long-term care facilities or other residential facilities for older persons, or

(2) An association, or an affiliate of an association, of long-term care facilities for older persons.

(b) *Definition.* For purposes of this section, "long-term care facility" means any:

1) Skilled nursing facility as defined in Section 1861(j) of the Social Security Act.

2) Intermediate care facility as defined in Section 1905(c) of the Social Security Act.

3) Nursing home as defined in Section 1908(e) of the Social Security Act, or

4) Any other similar adult care home: *Option 1:* as defined by State law or regulations; or

Option 2: licensed by the State which provides health related or supportive social services and domicile to at least four older persons; or

Option 3: as defined by the State agency in the State plan and approved by the Commissioner.

(c) *Functions of ombudsman program.* The ombudsman program must—

(1) Investigate and resolve complaints made by or for older persons in long-term care facilities about administrative actions that may adversely affect their health, safety, welfare or rights.

(2) Monitor the development and implementation of Federal, State and local laws, regulations and policies that relate to long-term care facilities in the State;

(3) Provide information to public agencies about the problems of older persons in long-term care facilities;

(4) Train volunteers and assist in the development of citizens organizations to participate in the ombudsman program; and

(5) Carry out other activities consistent with the requirements of this section which the Commissioner determines appropriate.

(d) *Access requirements.* The State agency must establish procedures to ensure that the ombudsman program:

(i) Is given appropriate access to long-term care facilities, patients, and patients' records; and

(ii) Does not obtain access to a patient's records without the written consent of the patient, or unless a court orders the disclosure.

(e) *Confidentiality and disclosure requirements.* The State agency must establish procedures for confidentiality, maintenance and disclosure of records and information by the ombudsman program that protect the confidentiality of patients' records and files and meet the following requirements:

(1) No information or records maintained by the ombudsman program are disclosed unless the director of the program authorizes the disclosure;

(2) The director of the program does not disclose the identity of any complainant or resident unless—

(i) The complainant or resident, or a legal representative or either, consents in writing to the disclosure; or

(ii) A court orders the disclosure.

(3) The State agency establishes a statewide uniform reporting system to collect and analyze information on complaints and conditions in long-term care facilities, including information provided under paragraph (1) of this section, for the purpose of identifying and resolving significant problems. The State agency must submit this information to the agency of the State responsible for licensing or certifying long-term care facilities in the State and to the Commissioner in the manner prescribed by the Commissioner.

§ 1321.45 Service delivery systems responsibilities: general.

(a) The State agency must:

(1) Develop and administer the State plan;

(2) Divide the State into planning and service areas, as provided in § 1321.53;

(3) Designate area agencies in those planning and service areas for which the State decides to have an area plan developed;

(4) Approve and supervise the administration of area plans;

(5) Provide adequate and effective opportunities for older persons to express their views to the State agency on policy development and program implementation under the plan;

(6) Give preference to older persons with the greatest economic or social need in the delivery of services under the State plan;

(7) Develop an intrastate funding formula, as provided in § 1321.49;

(8) Evaluate the need for social and nutritional services in the State, and determine the extent to which other public and private programs meet the needs;

(9) Conduct periodic evaluations of activities and projects carried out under the State plan;

(10) Develop and distribute a uniform plan format and guidance for area plans that meet the requirements specified in Subpart F;

(11) Provide technical assistance to and regularly assess the performance of area agencies and programs under area plans;

(12) Establish an advisory council on aging, as provided in § 1321.47;

(13) Coordinate legal services for older persons in the State, give technical assistance, advice, and training in the provision of legal services to older

persons; and make reasonable efforts to maintain existing levels of those services;

(14) Have an agreement with the U.S.D.A. State Distributing Agency, as provided in § 1321.143;

(15) Provide administrative and hearing procedures, as required under §§ 1321.15 and 1321.51;

(16) Ensure that all older persons in the State have reasonably convenient access to information and referral services; and

(17) Maintain a directory of community focal points in the State.

(b) The State agency may:

(1) Carry out training and development programs for personnel involved in implementing this part; and

(2) Enter into contracts to carry out demonstration projects of statewide significance relating to the initiation, expansion, or improvement of services provided under this part.

§ 1321.47 State advisory council on aging.

(a) *Functions of the council.* The State agency must establish a State advisory council in accordance with paragraphs (b) through (d) in this section to advise and help the agency to—

(1) Develop and implement the State plan;

(2) Conduct public hearings;

(3) Represent the interests of older persons; and

(4) Review and comment on State plans, budgets and policies which affect older persons.

(b) *Composition of the Council.* More than fifty percent of the persons appointed to the State advisory council must be at least 60 years of age.

(c) *Frequency of meetings.* The State advisory council must meet at least quarterly.

(d) *Support.* The State agency must provide staff and assistance to the State advisory council.

§ 1321.49 Intrastate funding formula.

(a) The State agency, after consultation with all area agencies in the State, must develop and use an intrastate funding formula in accordance with paragraphs (b) through (e) of this section, for the distribution of funds to area agencies under this part.

(b) The formula must:

(1) Include a minimum funding base for each area plan in the State;

(2) Assure that rural areas in the State receive at least 105 percent of the amount spent under the Act for services in rural areas in fiscal year 1978, as provided in § 1321.193;

(3) Reflect the distribution throughout the State of persons aged 60 and over with the greatest economic need; and

(4) Reflect the availability of other State and Federal funds for service authorized under this part.

(c) The State agency must publish the formula for review and comment.

(d) The State agency must submit its formula and any proposed revisions to the Commissioner for review and comment as an attachment to the State plan. The State agency must submit with the formula a summary of comments received on it.

(e) The State agency must review and update its formula at least every three years.

§ 1321.51 State agency hearing procedures.

(a) *General rule.* If requested by the person responsible for the organization, the State agency must provide a hearing in accordance with paragraphs (b) and (c) to—

(1) A designated area agency when the State agency proposes to—

(i) Initially disapprove the plan or plan amendment submitted by the agency;

(ii) Disapprove an area plan for failure to comply substantially with the requirements of this part; or

(iii) Withdraw the agency's designation;

(2) Any unit of general purpose local government, or region, that is denied designation as a planning and service area;

(3) Any service provider whose application to provide services under an area plan is denied, or whose subgrant or contract is terminated or not renewed, except as provided in part 74, subpart M of this title.

(b) *Timing of the hearing.* The hearing must be completed within 120 days of request.

(c) *Hearing procedures.* The hearing at a minimum must include—

(1) Timely written notice to the appellant of the basis for the decision or proposed decision, and disclosure of the evidence on which the decision is taken;

(2) An opportunity for the appellant to appear before an impartial decision maker to refute the basis for the decision;

(3) An opportunity for the appellant to be represented by counsel or other representative;

(4) An opportunity for the appellant or its representatives to be heard in person, to call witnesses, and to present documentary evidence;

(5) An opportunity for the appellant to cross-examine witnesses; and

(6) A written decision by the impartial decision maker, setting forth the reasons for the decision and the evidence upon which the decision is based.

(d) *Special rule for units of general purpose local government applying for planning and service area designation.* If requested by the person responsible for the unit, the State agency must provide a hearing on application to any unit of general purpose local government that applies to be designated as a planning and service area. In conducting the hearing, the State agency may use any procedures developed in accordance with § 1321.15 that give adequate notice and opportunity to participate to the unit and to other interested persons.

§ 1321.53 Designation of planning and service areas.

(a) *General rule.* The State agency must divide the State into planning and service areas.

(b) *Areas that may be designated as a planning and service area.*

(1) The State agency may designate as a planning and service area—

(i) Any unit of general purpose local government;

(ii) Any regional planning area, if the State decides that designation of a regional planning and service area is necessary for the effective administration of programs under this part; or

(iii) Any Indian reservation.

(2) The State agency may include in the planning and service area any areas adjacent to those specified in paragraphs (b)(1)(i) and (ii) of this section, if it decides that including the additional areas is necessary for the effective administration of programs under this part.

(3) The State agency is encouraged to include all portions of an economic development district or an Indian reservation within a single planning and service area.

(c) *Factors to be used in designation.* In dividing the State into planning and service areas, the State agency must consider:

(1) The distribution in the State of persons 60 and older with the greatest economic need;

(2) The boundaries of units of general purpose local government, regions, Indian reservations, existing economic development districts, and areas within the State established for the planning and administration of human services;

(3) The views of public officials of the units of general purpose local government; and

(4) The incidence of need for services provided under this part, and the resources available to meet those needs.

(d) *Application for designation.* The State agency must provide an opportunity to apply to be designated as a planning and service area to any unit of general purpose local government or region, or to any Indian reservation. The application for an Indian reservation must be made by its tribal organization, which is its unit of general purpose local government.

(e) *Decision.* The State agency must document the basis for its designation of each planning and service area.

(f) *Hearing.* The State agency must provide a hearing following the procedures specified in § 1321.51 to any unit of general purpose local government with a population of 100,000 or more which applies for designation as a planning and service area, and to any other unit of general purpose local government, region, or Indian tribal reorganization whose application is denied.

(g) *Timetable for designation.* The State agency must designate planning and service areas in accordance with the criteria specified in paragraph (c) of this section within 90 days after the effective date of these regulations, or July 1, 1980 whichever is later.

1321.55 Appeal to the Commissioner.

(a) *General rule.* A unit of general purpose local government, region or Indian reservation whose application for designation as a planning and service area is denied by the State agency may appeal the denial to the Commissioner under the procedures specified in paragraphs (b) through (d) of this section. The appeal for an Indian reservation must be made by its tribal organization which is its unit of general purpose local government.

(b) *State agency appeal.* The appellant must first appeal to the State agency, following the procedures specified in § 1321.51.

(c) *Time for appeal to Commissioner.* If the hearing decision by the State agency is unfavorable to the appellant, the appellant may appeal to the Commissioner within 30 calendar days of the decision.

(d) *Review by the Commissioner.* When the Commissioner receives an appeal, the Commissioner requests the State agency to submit:

(1) A copy of the appellant's application for designation as a planning and service area;

(2) A copy of the written decision of the State; and

(3) Any other relevant information the Commissioner may require.

(e) *Procedures for appeal.* The procedures for the appeal consist of:

(1) Prior written notice to the appellant and the State agency of the time and location of the hearing;

(2) The required attendance of the head of the State agency or designated representatives;

(3) An opportunity for the appellant to be represented by counsel or other representative; and

(4) An opportunity for the appellant to be heard in person and to present documentary evidence.

(f) *Decision by the Commissioner.*

(1) The Commissioner issues a written decision.

(2) The Commission may—

(i) Deny the appeal and uphold the decision of the State agency;

(ii) Uphold the appeal and require the State agency to designate the appellant as a planning and service area; or

(iii) Take other appropriate action, including negotiating between the parties or remanding the appeal to the State agency after initial findings.

(3) The Commissioner upholds the decision of the State agency if the agency followed the procedures specified in §§ 1321.51 and 1321.53, and its decision was not manifestly inconsistent with the purposes of this part.

§ 1321.57 Interstate planning and service area.

(a) The Governor of each State in which a proposed planning and service area crosses State boundaries may request the permission of the Commissioner to designate an interstate planning and service area.

(b) Each Governor who requests this permission must submit the request as part of the State plan or as an amendment to the State plan.

(c) Each Governor must identify in the request the State agency proposed to have lead responsibility for administering programs within the interstate planning and service area and must list the conditions agreed to by each State governing formation, administration, and dissolution of the interstate planning and service area.

(d) If the Commissioner approves the request for designation of an interstate planning and service area, the Commissioner reduces the allotment(s) of the State(s) without lead responsibility for the administration of programs within the area in proportion to the number of individuals 60 and older in the State(s) portion of the area, and adds the amount(s) to the allotment of the State with lead responsibility.

§ 1321.59 Single State planning and service area.

(a) *Application for designation.* A State may apply to the Commissioner for approval to designate the entire State as a single planning and service area.

(b) *Criteria for approval.* The Commissioner may approve the designation of the State as a single planning and service area if:

(1) No jurisdiction successfully applied for designation as a planning and service area under the procedures specified in §§ 1321.51, 1321.53, and 1321.55, and

(2) The State agency demonstrates that:

(i) The State is not already divided for purposes of planning and administering human services; or

(ii) The State is so small or rural that the purposes of this part would be frustrated if the State was divided into planning and service areas; and

(iii) The State agency has the capacity to carry out the responsibilities of the area agency specified in Subparts E, F, and G for the entire State.

(c) *Approval by the Commissioner.* If the Commissioner approves the application—

(1) The Commissioner notifies the State agency to develop a Single State-Planning and Service Area Plan;

(2) The State agency must meet all the State and area agency function requirements specified in Subparts B, D, E, and G; and

(3) The approval does not extend beyond three years.

(d) *Denial by the Commissioner.* If the Commissioner denies the application, the Commissioner notifies the State to follow the procedures specified in § 1321.53 to divide the State into planning and service areas.

Subpart E—Area Agency Designation, Organization, Functions

§ 1321.61 Designation and functions of area agencies.

(a) *General rule.* The State agency must designate an area agency in each planning and service area in which the State agency decides to allocate funds under this part.

(b) *Purpose of designation.* The area agency must:

(1) Develop and administer the area plan for a comprehensive and coordinated system of services; and

(2) Serve as the advocate and focal point for older persons in the planning and service area.

(c) *Procedures before designation.* Before designating or redesignating an

area agency, the State agency must—

(1) Determine, through an on-site assessment, the capacity of the agency to carry out all the functions of an area agency specified in this part; and

(2) Consider the views of the unit or units of general purpose local government within the planning and service area.

(d) *Timetable for designation.* The State agency must make any initial designations or redesignation of area agencies within 150 days after the effective date of these regulations, or by September 30, 1980, whichever is later.

§ 1321.63 Types of agencies that may be an area agency.

(a) The State agency may designate as an area agency any one of the following types of agencies that has the authority and the capacity to carry out the functions of an area agency:

(1) An established office on aging which operates within the planning and service area;

(2) Any office or agency of a unit of general purpose local government that is proposed by the chief elected official of the unit;

(3) Any office or agency proposed by the chief elected officials of a combination of units of general purpose local government; or

(4) Any other public or private nonprofit agency, except any regional or local agency of the State.

(b) In designating or redesignating an area agency, the agency must give preference to:

(1) An established office on aging; or

(2) An Indian tribal organization in any planning and service area whose boundaries are essentially the same as those of an Indian reservation.

§ 1321.65 Organization of the area agency.

An area agency may be either—

(a) An agency whose single purpose is to administer programs in the field of aging; or

(b) A multipurpose agency established to administer human services in the area. A multipurpose agency may delegate all its authority under this part to a designated organizational unit in the agency.

§ 1321.67 Staffing.

Subject to merit system requirements, the area agency must give preference in hiring for full or part time positions to persons age 60 or older.

§ 1321.69 Area agency procedures.

The area agency must have written procedures for carrying out all its functions under this part that meet procedural requirements specified by the State agency.

Subpart F—Area Plan**§ 1321.71 What is an area plan.**

An area plan is the document submitted by an area agency to the State agency in order to receive subgrants from the State agency's grants under this part. The area plan contains provisions required by the Act and this part and commitments that the area agency will administer activities funded under this part in accordance with all Federal requirements. The area plan also contains a detailed statement of the manner in which the area agency is developing a comprehensive and coordinated system throughout the planning and service area for all services authorized under this part. An area agency may receive subgrants under this part only under an approved area plan. An area agency may use its subgrants under this part only for activities under its approved plan.

§ 1321.73 Duration and format of the area plan and plan amendments.

(a) The area plan must be for the three year period specified by the State agency.

(b) The area agency must submit an area plan or amendment to the State agency in accordance with the uniform area plan format and other instructions issued by the State agency.

§ 1321.75 Comprehensive and coordinated service delivery system.

(a) *General rule.* The area plan must provide for the development of a comprehensive and coordinated service delivery system for all social and nutrition services needed by older persons in the planning and service area through which the area agency enters into new cooperative arrangements with other service planners and providers to—

(1) Facilitate access to and utilization of all existing services; and

(2) Develop social and nutrition services effectively and efficiently to meet the needs of older persons.

(b) *Service components of a comprehensive and coordinated service delivery system that may be funded under this part are:*

(1) Services which facilitate access, such as transportation, outreach, information and referral, escort, individual needs assessment and service management;

(2) Services provided in the community, such as congregate meals, continuing education, health, legal services, program development and coordination activities, advocacy, information and referral, individual needs assessment and service management, casework, counseling (concerning financial problems, welfare, the use of facilities and services, pre-

retirement or second career), day care, protective services, health screening, services designed for the unique needs of the disabled, emergency services, including disaster relief services, residential repair and renovation, physical fitness, and recreation services, services in helping to obtain adequate housing. Alteration, renovation, acquisition and, where permitted according to the provisions of § 1321.131, construction of facilities for use as multipurpose senior centers, are community services for purposes of this part;

(3) Services provided in the home such as: home health, homemaker services, home health aide services, preinstitutional evaluation, casework, counseling, chore maintenance, visiting, shopping, readers, letter writing, and telephone reassurance; and may include home delivered meals and nutrition education; and

(4) Services provided to residents of care providing facilities, such as casework, counseling, placement and relocation assistance, group services, complaint and grievance resolution and visiting. Care providing facilities include long term care facilities, as defined in § 1321.43(b), emergency shelters, and other congregate living arrangements.

§ 1321.77 Content of the area plan.

(a) *Comprehensive and coordinated system.* An area plan must provide for the comprehensive and coordinated service delivery system specified in § 1321.75.

(b) *Area agency function requirements.* An area plan must provide that the area agency function requirements are met for:

(1) Monitoring, evaluation, and commenting on policies and programs affecting the elderly, as provided in § 1321.91(a);

(2) Arrangements with children's day care organizations as provided in § 1321.93(1);

(3) Arrangements with educational institutions, as provided in § 1321.93(m);

(4) Assessment of need for services in the planning and service area, and evaluation of effectiveness of services being provided, as provided in § 1321.93(b);

(5) Entering into subgrants or contracts for the provision of services under the plan, as provided in § 1321.93(c);

(6) Technical assistance and evaluation of all providers, as provided in § 1321.93(d);

(7) Taking into account the views of older participants, as provided in § 1321.93(i);

(8) Outreach efforts, as provided in § 1321.93(k);

(9) Designation of community focal points, as provided in § 1321.95; and

(10) Coordination with other Federal programs serving older persons, as provided in § 1321.99.

(c) *Service delivery requirements.* An area plan must provide that the service delivery requirements are met for:

(1) Preference to older persons with greatest economic or social need, as provided in § 1321.93(g);

(2) Restricting direct provision of services, as provided in § 1321.103;

(3) All service providers concerning licensure, training, outreach, coordination, preference to those with greatest economic or social need, contributions, maintenance of non-Federal support for services, and advisory role for older persons, as provided in §§ 1321.105 through 1321.115;

(4) Multipurpose senior centers activities, as provide in §§ 1321.121 through 1321.137;

(5) Nutrition services, as provided in §§ 1321.141 through 1321.147;

(6) Legal services, as provided in §§ 1321.161;

(7) Information and referral services, as provided in § 1321.171; and

(8) Transportation services, as provided in § 1321.181.

(d) *Fiscal requirements.* An area plan must provide that the requirement of § 1321.195 is met for expenditure of 50 percent of its social services allotment for priority services.

(e) *Informational requirements.* The area plan must specify:

(1) Program objectives to implement the service delivery requirements specified in paragraphs (c)(1), and (c)(4) through (c)(7) of this section, that are consistent with the requirements of this part and objectives established by the State agency;

(2) A resource allocation plan indicating the proposed use of all funds directly administered by the area agency;

(3) An inventory of programs operated by other agencies in the planning and service area for services to older persons;

(4) A description of community services areas and an identification of designated community focal points;

(5) Methods the area agency uses to set services priorities under the plan, particularly those services specified in § 1321.195; and

(6) Proposed methods for giving preference to those with greatest economic or social need in the provision of services under the plan. These methods—

(i) Must include, but are not limited to, consideration of older persons with

greatest economic need in the designation of community service areas and community focal points, as provided in § 1321.95; and

(ii) May not include use of a means test. A means test is the use of an older person's income or resources to deny or limit that person's receipt of services under this part.

§ 1321.79 Amendments to the area plan.

The area agency must amend the plan if:

(a) A new or amended State or Federal statute or regulation requires a new provision, or conflicts with any existing plan provision;

(b) A U.S. Supreme Court decision changes the interpretation of a statute or regulation;

(c) Local law, organization, policy, or agency operation changes and is no longer accurately reflected in the area plan;

(d) The area agency proposes to add, change, or delete any area plan provision; or

(e) The State agency requires further annual amendments.

§ 1321.81 Development and review of the area plan and plan amendments.

(a) *Public hearing.*

(1) The area agency must hold at least one public hearing on the area plan and on all amendments to the area plan.

(2) The area agency must give adequate notice to older persons, public officials, and other interested parties of the times, dates, and locations of the public hearing(s).

(3) The area agency must hold the public hearing(s) at a time and location which permit older persons, public officials, and other interested parties reasonable opportunity to participate.

(b) *Review and comments by advisory council and A-95 clearinghouse.* The area agency must submit the area plan and amendments for review and comment, first to the area advisory council and then to the State A-95 clearinghouse.

(c) *State agency approval.* The area agency must submit the area plan or amendments to the State agency for approval, following procedures specified by the State agency.

§ 1321.83 Approval or disapproval of an area plan and plan amendments.

(a) The State agency must approve an area plan or amendment which meets the requirements of this part.

(b) If the State finds that a plan is unapprovable, or if the State agency proposes to terminate the designation of an area agency, or to find that the provisions or administration of an approved area plan no longer substantially comply with the

requirements of this part, the State agency must follow the procedures specified in § 1321.51 to terminate the plan or the agency designation.

§ 1321.85 Termination of funds and continuity of services.

(a) The State agency must withhold further payments to an area agency whenever the State agency, after reasonable notice and opportunity for a hearing, as provided in § 1321.51, finds that—

(1) The area agency does not meet the requirements of this part,

(2) The plan or plan amendment is not approvable; or

(3) There is substantial failure in the provisions or administration of an approved area plan to comply with any provision of this part.

(b) If the State agency terminates funds under paragraph (a) of this section, it must notify the Commissioner in writing of its action; provide a plan for the continuity of services in the affected planning and service area, and designate a new area agency in the planning and service area in a timely manner.

(c) If necessary to ensure continuity of services in a planning and service area, the State agency may, for a period of up to 180 days after its final decision to withdraw designation of an area agency—

(1) Perform the responsibilities of the area agency; or

(2) Assign the responsibilities of the area agency to another agency in the planning and service area.

Subpart G—Area Agency Responsibilities**§ 1321.91 Advocacy responsibilities of the area agency.**

The area agency must—

(a) Monitor, evaluate, and comment on all policies, programs, hearings, levies, and community actions which affect older persons;

(b) Conduct public hearings on the needs of older persons;

(c) Represent the interests of older persons to public officials, public and private agencies or organizations;

(d) Coordinate activities in support of the statewide long-term care ombudsman program; and

(e) Coordinate planning with other agencies and organizations to promote new or expanded benefits and opportunities for older persons.

§ 1321.93 Area agency general planning and management responsibilities.

The area agency must:

(a) Develop and administer an area plan for a comprehensive and coordinated service delivery system in

the planning and service area, in compliance with all applicable laws and regulations, including all requirements of this part;

(b) Assess the kinds and levels of services needed by older persons in the planning and service area, and the effectiveness of other public or private programs serving those needs;

(c) Except as provided in § 1321.103, enter into subgrants or contracts to provide all services under the plan;

(d) Provide technical assistance, monitor, and periodically evaluate the performance of all service providers under the plan;

(e) Coordinate the administration of its plan with the Federal programs specified in § 1321.99, and with other Federal, State and local resources in order to develop the comprehensive and coordinated service system required by § 1321.75;

(f) Establish an advisory council as required by § 1321.97;

(g) Give preference in the delivery of services under the area plan to older persons with the greatest economic or social need;

(h) Assure that older persons in the planning and service area have reasonably convenient access to information and referral services;

(i) Provide adequate and effective opportunities for older persons to express their views to the area agency on policy development and program implementation under the plan;

(j) Divide the entire planning and service area into community service areas and designate community focal points, as required by § 1321.95;

(k) Have outreach efforts, with special emphasis on the rural elderly, to identify older individuals with greatest economic or social needs and inform them of the availability of services under the plan;

(l) If possible, have arrangements with children's day care organizations under which older persons can volunteer to help provide the day care;

(m) If possible, have arrangements with local educational agencies, institutions of higher education, and nonprofit private organizations, to use the services provided older individuals under the community schools program of the Elementary and Secondary Education Act of 1965.

(n) Develop and publish the methods that the agency uses to establish priorities for services, particularly those specified in § 1321.195.

§ 1321.95 Designation of community focal points.

(a) *Purpose.* The area agency, where feasible, must designate one community

focal point in each community service area to provide a place for ready access to services furnished under the plan.

(b) *Procedures for designating community focal point.* The area agency must use the following procedures in designating community focal points.

(1) In order to decide in which communities to designate a focal point, the area agency must divide the entire planning and service area into community service areas, after considering:

(i) The incidence of older persons with the greatest economic need;

(ii) The delivery pattern of services funded under this part;

(iii) The delivery pattern of services funded from other sources;

(iv) The geographic boundaries of communities and natural neighborhoods; and

(v) The location of agencies or organizations with the capacity and willingness to carry out the functions of a community focal point.

(2) The area agency may designate as a community focal point only an organization that is able and willing to make some provision for:

(i) Individual needs assessment;

(ii) Information and referral;

(iii) Access to emergency services, twenty-four hours a day, seven days a week; and

(iv) Collocation of services.

(3) The area agency must give special consideration in designating community focal points to multipurpose senior centers; and

(4) If the area agency decides it is not feasible to designate a focal point in any community service area, it must keep a written record of the basis for its decision.

§ 1321.97 Area agency advisory council.

(a) *Functions of council.* The area agency must establish an advisory council in accordance with paragraphs (b) through (d) of this section to advise the agency to:

(1) Develop and administer the area plan;

(2) Conduct public hearings;

(3) Represent the interests of older persons; and

(4) Review and comment on all community policies, programs and actions which affect older persons.

(b) *Composition of the council.* The advisory council must be made up of:

(1) More than 50 percent older persons;

(2) Representatives of older persons;

(3) Local elected officials; and

(4) The general public.

(c) The agency may use the advisory

council to assist it in carrying out any of its functions.

(d) The area agency must provide staff and assistance to the advisory council.

§ 1321.99 Coordination with other programs.

In carrying out its responsibilities for the development of a comprehensive and coordinated system, the area agency must establish effective and efficient procedures for coordinating programs funded under this part with the following programs:

(1) Health systems agencies designated under Title XV of the Public Health Services Act;

(2) The Comprehensive Employment and Training Act of 1973;

(3) Title II of the Domestic Volunteer Act of 1973;

(4) Titles II, XVI, XVIII, XIX, and XX of the Social Security Act;

(5) Sections 231 and 232 of the National Housing Act;

(6) The United States Housing Act of 1937;

(7) Section 202 of the Housing Act of 1959;

(8) Title I of the Housing and Community Development Act of 1974;

(9) Section 222(a)(8) of the Economic Opportunity Act of 1964;

(10) The community schools program under the Elementary and Secondary Education Act of 1964; and

(11) Sections 3, 5, 9 and 16 of the Urban Mass Transportation Act of 1964.

Subpart H—Service Requirements

General Requirements Applicable to All Services

§ 1321.101 State agency approval of area agency subgrants or contracts.

(a) The State agency may not require the area agency to submit for prior review or approval any proposed subgrants or contracts with public or private nonprofit agencies or organizations.

(b) The area agency must submit to the State agency for prior approval any proposed contracts with profit making organizations for services under the area plan. The State agency may approve the contracts only if the area agency demonstrates that the profit making organization would provide services in a manner clearly superior to other available public or private nonprofit providers.

§ 1321.103 Direct provision of services by State and area agencies.

(a) *General rule.* A State or area agency must use subgrants or contracts with service providers to provide all services under this part unless the State agency decides that direct provision of a service by the State or area agency is

necessary to assure an adequate supply of the service. A State agency may only provide direct services when the State has been designated as a single planning and service area, as provided in § 1321.59.

(b) Test for adequate supply for services related to area agency statutory functions.

(1) For any of the services directly related to an area agency's statutory functions, direct provision is necessary to assure an adequate supply if the State agency decides that the area agency (or the State agency in a single planning and service area State) can perform the services more effectively and efficiently than any other agency.

(2) Services directly related to the statutory advocacy and service delivery functions of the area agency are those which must be performed in a consistent manner throughout the agency's jurisdiction. These services are: information and referral, outreach, advocacy, program development, coordination, individual needs assessment and case management.

(c) Test for adequate supply for other services.

(1) For any other service funded under this part, direct provision is necessary to assure an adequate supply if:

(i) The area agency was providing the service before the agency's initial designation after the effective date of these regulations and requiring it to stop providing the service would result in a disruption of the service; or

(ii) No other agency can and will effectively provide the service.

(2) These services include all other services funded under the area plan, such as nutrition, homemaker, transportation, and legal services. They do not include any ombudsman services provided by the State agency under § 1321.43.

(d) *Services not under this part.* The area agency may plan, coordinate, and provide services funded under other programs, if it does not use funds under this part for those services; and if it continues to meet all its area agency responsibilities.

§ 1321.105 Licensure requirement.

All services provided under this part must meet any existing State and local licensure requirements for the provision of those services.

§ 1321.107 Training, outreach, and coordination.

All service providers under this part must have procedures for:

(a) Outreach activities to ensure

participation of eligible older persons;

(b) Training and use of elderly volunteers and paid personnel; and

(c) Coordination with other service providers in the planning and service area.

§ 1321.109 Preference for those with greatest economic or social need.

All service providers under this part must give preference to those with greatest economic or social need. Service providers may use methods such as location of services and specialization in the types of services most needed by these groups to meet this requirement. No service provider may use a means test.

§ 1321.111 Contributions for services under the area plan.

(a) *Opportunity to contribute.* Each service provider under the area plan must—

(1) Give each older person who receives a service information about the cost of the service;

(2) Give each older person an opportunity to contribute to part or all of the cost of the service;

(3) Tell each older person that he or she may decide freely whether or not to contribute and how much;

(4) Avoid the appearance of pressure to contribute;

(5) Protect the privacy of each older person with respect to his or her contribution;

(6) Have appropriate procedures to safeguard and account for all contributions; and

(7) Use all contributions to expand the services of the provider under this part. Nutrition services providers must use all contributions to increase the number of meals served.

(b) *Contribution schedules.* The area agency must permit each service provider to develop a suggested contribution schedule for services provided under this part. In developing a contribution schedule the provider must consider the income ranges of older persons in the community and the provider's other sources of income.

(c) *Failure to contribute.* The area agency may not allow any service provider to deny an older person a service because the older person would not contribute for the service.

§ 1321.113 Maintenance of non-Federal support for services.

Each service provider under the area plan must—

(a) Assure that funds under this part are not used to replace funds from non-Federal organizational sources; and

(b) Agree to continue or initiate efforts to obtain private and other public organizational support for services funded under this part.

§ 1321.115 Advisory role to service providers of older persons.

Each service provider under the area plan must have procedures for obtaining the views of participants on the services they receive.

Multipurpose Senior Centers

§ 1321.121 Multipurpose senior centers.

(a) *Purpose of making awards.* The area agency may award social service funds under this part for the following senior center activities:

(1) Alteration, leasing for at least 10 years, or renovation of a facility including a mobile facility, for use as a senior center;

(2) Subject to the provisions of § 1321.131, the acquisition or construction of a facility including a mobile facility for use as a senior center; or

(3) The costs of professional and technical personnel required for the operation of multipurpose senior centers.

(b) *Definitions.* For purposes of this subpart,

(1) "Acquiring" means purchasing or obtaining ownership of an existing facility for use as a senior center.

(2) "Altering" or "renovating" means making modifications to an existing facility which are necessary for its effective use as a senior center. This includes restoration, repair, expansion which is not more than twice the square footage of the original facility, and all related physical improvements.

(3) "Construction" means the building of a new facility, including the costs of land acquisition and architectural and engineering fees.

(4) "Structural change" means any change to the load bearing members of a building.

(c) *General requirements for senior center awards.*

(1) *Type of agency.* The area agency may award multipurpose senior center funds to either a public or private nonprofit agency or organization.

(2) *Minimum service requirements for funding.* Funds may be awarded for the purposes specified in paragraph (a) of this section only for a senior center which—

(i) Serves a cross section of all segments of the older population of its service area, with special emphasis on those in greatest economic or social need;

(ii) Operates a program of group activities, individual services and community service opportunities in each

of the following categories of service: (a) access service; (b) community services; (c) in-home services; and (d) services in care providing facilities;

(iii) Provides for necessary coordination with other services and programs in the service area, by collocating staff and services of other programs at the senior center or referring individuals needing services to other service providers; and

(iv) Operates its service program from a safe and physically accessible structure. Access to the service program must be available to older persons at least 45 hours per week, except that the State agency may set shorter access hours for centers in rural areas.

(3) *Preference for community focal points.* The area agency must give preference in making awards to agencies or organizations which have been or will be designated as community focal points in communities and neighborhoods with the greatest social or economic needs.

§ 1321.123 Compliance with health, safety, and construction requirements.

(a) *General.* A recipient of any award for senior center activities must comply with all applicable State and local health, fire, safety, building, zoning and sanitation laws, ordinances or codes.

(b) *Life Safety.* A recipient of any multipurpose senior center award must:

(1) Comply with the provisions of the National Fire Protection Association 101 Life Safety Code, applicable building occupancy classification, or State or local codes, whichever is most stringent;

(i) These regulations incorporate by reference the "Life Safety Code." (NFPA No. 101, 1976 edition). This code is available from the National Fire Protection Association, 470 Atlantic Avenue, Boston, Ma. 02210 at a cost of \$5.00 per copy.

(ii) A copy of the "Life Safety Code" is available for inspection at the Administration on Aging, Public Inquiries, Room 4146, 330 Independence Avenue, S.W., Washington, D.C. 20201, and at the Office of the Federal Register library, Room 8401, 1100 L Street N.W., Washington, D.C. 20408.

(2) Install an adequate number of smoke detectors in the senior center; and

(3) Have a plan for assuring the safety of older persons in a natural disaster or other safety threatening situation.

(b) *Architectural Barriers.* A recipient of an award for construction of a senior center must assure that plans and specifications for the facility comply with regulations relating to minimum standards of construction, particularly with the requirements of the Architectural Barriers Act of 1968.

(c) *HUD Consultation.* The State agency must assure that it will consult with the Secretary of Housing and Urban Development with respect to the technical adequacy of any proposed alteration or renovation of a senior center assisted under this part.

§ 1321.125 Compliance with Federal labor standards.

A recipient of an award for alteration, renovation, or construction of a facility for use as a multipurpose senior center must comply with the requirements of the Davis-Bacon Act and other mandatory Federal labor standards.

§ 1321.129 Length of use of an acquired or constructed facility.

(a) A recipient of an award for the acquisition of a facility to be used as a senior center must assure that the facility will be used for that purpose for at least ten years from the date of acquisition.

(b) A recipient of an award for the construction of a facility to be used as a senior center must assure the facility will be used for that purpose for at least twenty years after completion of construction.

(c) The Commissioner may waive the requirements specified in paragraphs (a) and (b) of this section in unusual circumstances.

§ 1321.131 Special conditions for approval of an award for acquisition or construction.

(a) The area agency must obtain the approval of the State agency before making an award for the construction of a facility.

(b) The State agency may approve the construction of the facility after considering the views of the area agency if it finds that there are no other suitable facilities available to serve as a focal point in the community.

(c) The area agency may make an award for the acquisition of a facility if there are no suitable facilities for leasing.

§ 1321.133 Compliance with prohibition on sectarian use of a facility.

A recipient of an award for acquisition or construction of a facility must assure that the facility will not be used for sectarian instruction or religious worship.

§ 1321.135 Funding and use requirements.

A recipient of an award for alteration, renovation, acquisition or construction of a facility must assure that:

(a) Sufficient funds will be available to meet the non-Federal share of the award;

(b) Sufficient funds will be available to effectively use the facility as a multipurpose senior center; and

(c) In a facility that is shared with other age groups, funds received under this part support only—

(1) That part of the facility used by older persons; or

(2) A proportionate share of the costs based on the extent of use of the facility by older persons.

§ 1321.137 Recapture of payments for acquired or constructed facilities

(a) The United States government is entitled to recapture a portion of Federal funds from the owner of a facility if within 10 years after acquisition or 20 years after completion of construction—

(1) The owner of the facility ceases to be a public or non-profit agency; or

(2) The facility is no longer used for senior center activities.

(b) The amount recovered under paragraph (a) of this section is that proportion of the current value of the facility equal to the proportion of Federal funds contributed to the original cost. The current value of the facility is determined by an agreement between the owner of the facility and the Federal government; or by an action in the Federal district court in which the facility is located.

Nutrition Services

§ 1321.141 Nutrition services.

(a) *Purpose of making awards.* Except as provided in § 1321.101(b), the area agency may award nutrition services funds received under this part to a public or private non-profit agency or organization to provide meals and other nutrition services, including nutrition education, to older persons.

(b) *Selection of nutrition services providers.*

(1) The area agency may award nutrition services funds only to a nutrition services provider that—(i) Provides congregate nutrition services and, depending on an assessment of need by the area agency or the provider, provides home delivered nutrition services either by contract or directly;

(ii) If it is not the designated community focal point, agrees to coordinate its activities with, and provide some meals at the focal point; and

(iii) Meets the requirements specified in §§ 1321.143 through 1321.147.

(2) The area agency must award funds to a nutrition services provider that:

(i) Was a nutrition project receiving funds under the former Title VII of the Act on September 30, 1978. For purposes of this requirement, "nutrition project"

means the recipient of a subgrant or contract to provide nutrition services, other than the area agency, which met the requirements for a project specified in the former Title VII regulations.

(ii) Meets the requirements of this subpart; and

(iii) Has carried out its nutrition services activities with demonstrated effectiveness.

(3) Except as provided in 45 CFR part 74, Subpart M, the area agency may not discontinue funding a nutrition project unless the State agency—(i) Has given the project an opportunity for a hearing, in accordance with § 1321.51, if a hearing is requested by the project director; and

(ii) Has determined that the project:

(A) Does not meet the requirements of this subpart; or

(B) Has not carried out nutrition services activities with demonstrated effectiveness. The State agency may not set criteria for demonstrated effectiveness that are different from the requirements imposed on projects during the period for which their performance is being measured.

§ 1321.143 Food requirements for all nutrition services providers.

(a) In purchasing and preparing food, and delivering meals, the nutrition services provider must follow appropriate procedures to preserve nutritional value and food safety;

(b) The nutrition services provider must serve special meals to meet the particular health, religious, or ethnic dietary needs of individual participants even when special diets are more expensive than other meals. The area agency may exempt a nutrition service provider from this requirement only when the food or skills necessary to prepare the special diets are unavailable in the planning and service area.

(c) The nutrition services provider must use appropriate food containers and utensils for blind and handicapped participants.

(d) Each meal served by the nutrition services provider must contain at least one-third of the current Recommended Dietary Allowances as established by the Food and Nutrition Board of the National Academy of Sciences—National Research Council.

(e) U.S.D.A. food assistance programs.

(1) Direct assistance for nutrition services.

(i) The State agency must have an agreement with the U.S.D.A. State Distributing Agency to assure the availability to nutrition services providers under this part of food, cash, or a combination of food and cash.

(ii) The State agency must distribute all food, cash or the combination of food and cash received from U.S.D.A. through area agencies to nutrition services providers based on each provider's proportion of the total number of meals served in the State.

(iii) The State agency must comply with the requirements of 7 CFR Part 250 for participation in the U.S.D.A. program.

(iv) A nutrition services provider must accept and use any U.S.D.A. food made available by the State agency, and must assure appropriate and cost effective arrangements for the transportation, storage and use of the food.

(v) If a nutrition service provider receives cash instead of food, the provider must spend the cash only for buying United States agricultural commodities and other food.

(2) Food stamp program. (i) The nutrition services provider must assist participants in taking advantage of benefits available to them under the food stamp program.

(ii) The nutrition services provider must coordinate its activities with agencies responsible for administering the food stamp program to facilitate participation of eligible older persons in the program.

§ 1321.145 Special requirements: congregate nutrition services.

(a) *Eligibility.* A person aged 60 or older, and the spouse of the person regardless of age, are eligible to participate in congregate nutrition services under this part.

(b) *Type and frequency of meals served.* The nutrition services provider must provide a hot or other appropriate meal in a congregate setting at least once a day, five or more days a week.

(c) *Location of congregate nutrition services.* The nutrition services provider must (i) locate congregate nutrition services as close as possible, preferably within walking distance, to the majority of eligible older persons, and (ii) give preference to community facilities.

§ 1321.147 Special requirements: home delivered nutrition services.

(a) *Eligibility.* A person aged 60 or over, and the spouse of the person regardless of age or condition, are eligible to receive home delivered meals if one or the other is homebound by reason of illness, incapacitating disability or is otherwise isolated.

(b) *Determination of need for home delivered nutrition services.*

(1) The nutrition services provider must conduct initial and subsequent periodic assessments of the eligible

individual's need for home delivered meals, unless the assessment is otherwise provided for by the area agency.

(2) If feasible the nutrition services provider must promptly meet an eligible individual's request for home delivered meals, and must continue to provide home delivered meals as long as the older person needs them.

(3) If the older person consents, the nutrition services provider must bring to the attention of the area agency any condition or circumstances which place the older person or the household in jeopardy.

(c) *Criteria for selecting providers of home delivered nutrition services.* (1) The area agency may only award funds for home delivered meals to a service provider that also provides congregate meals.

(2) The nutrition services provider must purchase home delivered meals from an organization, where one exists, that (i) Demonstrates proven ability to provide home delivered meals effectively and at reasonable costs;

(ii) Agrees to comply with regulations under this part when providing meals funded under this part; and

(iii) Has the capacity to deliver meals during a weather related emergency.

(2) Only when there is no existing organization which meets the criteria specified in paragraph (1) of this section may the nutrition services provider furnish home delivered meals directly.

(d) *Type and frequency of meals served.* The provider of home delivered meals must assure the availability to participants of at least one meal a day, seven days a week. Meals may be hot, cold, frozen, dried, canned, or supplemental foods with a satisfactory storage life.

Legal Services

§ 1361.161 Legal services.

(a) *Purpose of the award.* The area agency may award social service funds under this part for legal services. These legal services must be in addition to any legal services already being provided to older persons in the planning and service area.

(b) *Definition.* Legal services means legal advice and representation to those with economic or social needs, provided by a lawyer or non-lawyer where permitted by law. Legal services may also include counseling and other appropriate assistance by a paralegal or law student under the supervision of a lawyer.

(c) *Conditions legal service providers must meet.*

(1) A legal service provider must be either—(i) An organization that receives funds under the Legal Services Corporation Act; or

(ii) An organization that has a program or the capacity to develop a legal services program.

(2) Each legal service provider must—(i) Make efforts to involve the private bar in legal services provided under this part, including groups within the private bar that furnish legal services to older persons on a pro bono and reduced fee basis;

(ii) Ensure that no attorney of the provider engages in any outside practice of law if the director of the provider has determined that such practice is inconsistent with the attorney's full time responsibilities;

(iii) Ensure that while employed under this part, no employee and no staff attorney of the provider shall, at any time,

(A) Use official authority or influence for the purpose of interfering with or affecting the results of an election or nomination for office, whether partisan or nonpartisan;

(B) Directly or indirectly coerce, attempt to coerce, command or advise an employee of any provider to pay, lend, or contribute anything of value to a political party, or committee, organization, agency or person for political purposes; or

(C) Be a candidate for partisan elective public office.

(iv) In areas where a significant number of clients speak a language other than English as their principal language, adopt employment policies that ensure that legal assistance will be provided in the language spoken by those clients; and

(v) Adopt a procedure for affording the public appropriate access to the Act, regulations and guidelines under this part, the provider's written policies, procedures, and guidelines, the names and addresses of the members of its governing body, and other materials that the provider determines should be disclosed. The procedure adopted must be subject to approval by the area agency.

(3) Each legal services provider that is not a Legal Services Corporation grantee must agree to coordinate its services with Legal Services Corporation grantees in order to concentrate legal services funded under this part on older persons with the greatest economic or social need who are not eligible for services under the Legal Services Corporation Act. In carrying out this requirement, legal services providers may not use means testing or require

older persons initially to apply for services through a Legal Services Corporation grantee.

(4) Each legal services provider to which the area agency awards funds must meet the requirements of § 1321.105 through § 1321.115 more fully than other applicants.

Information and referral services

§ 1321.171 Information and Referral Services.

(a) The area plan must provide for information and referral services sufficient to assure that older persons within the planning and service area have reasonably convenient access to the service. In areas in which a significant number of older persons speak a language other than English as their principal language, reasonably convenient access includes the provision of information and referral services in the language spoken by the older persons.

(b) "Information and referral service" means a location at which the service provider:

(1) Develops and maintains information about services and opportunities available to older persons;

(2) Has a trained paid and volunteer staff to inform older persons about those opportunities and services and help older persons take advantage of them; and

(3) Maintains current records of older persons needing or requesting services. These records may be maintained and disclosed by name with the consent of the older person or a family member.

(c) The State plan must provide for information and referral services for all older persons not furnished the service under paragraph (a) of this section.

Transportation Services

§ 1321.181 Transportation agreements.

(a) The area agency or the State agency in a single planning and service area State may enter into transportation agreements with agencies which administer programs under the Rehabilitation Act of 1973 and titles XIX and XX of the Social Security Act to meet the common need for transportation of service participants under the separate programs.

(b) The area agency may pool social service funds received under this part with funds available to other parties to the agreement to share expenses related to a common transportation service.

Subpart I—Fiscal Requirements

§ 1321.191 Allotments and grants to States.

(a) *General rule.* The Commissioner makes annual allotments to each State for paying part of the costs of administration and services under the State plan.

(b) *Types of allotments.* Each State receives separate allotments for—(1) State agency administration;

(2) Social services including senior center services;

(3) Congregate nutrition services; and

(4) Home delivered nutrition services.

(c) *Amounts allotted for social and nutrition services.* From the sums appropriated each fiscal year for social and nutrition services, each State is allotted an amount based on the ratio of its population aged 60 and older to the national population aged 60 and older except that—(1) Each State is allotted at least one-half of one percent;

(2) Guam, the Virgin Islands, and the Trust Territory of the Pacific Islands are each allotted one-fourth of one percent;

(3) American Samoa and the Northern Mariana Islands are each allotted one-sixteenth of one percent; and

(4) No State is allotted less than the State received for Fiscal Year 1978.

(d) *Amounts allotted for State administration.* From the sums appropriated each fiscal year for State agency administration, each State is allotted an amount based on the ratio of its population aged 60 or over to the national population age 60 and older, except that—

(1) Each State is allotted at least one-half of one percent of the sum appropriated, or \$300,000, whichever is greater.

(2) Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands and the Northern Mariana Islands are each allotted at least one-fourth of one percent or \$75,000, whichever is greater.

(e) *Grants.* The Commissioner makes grants to States from their allotments.

(f) *Limitation on use.* (1) Except as provided in §§ 1321.199, § 1321.203, § 1321.205, and paragraph (f)(2) of this section, a State must use each allotment for the purpose for which it was made.

(2) A State may use not more than 20 percent of its fiscal year 1979 and 1980 nutrition allotments for social services directly related to the delivery of nutrition services. The Commissioner may approve the use of up to 50 percent in a State with unusually high supportive costs.

(g) *Limitation on meaning of "State".* For purpose of paragraphs (c)(1) and

(d)(1) of this section, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands and the Trust Territory of the Pacific Islands.

Service Funding Requirements

§ 1321.192 Area agency allotments.

(a) *General rule.* Except as provided in §§ 1321.59, 1321.197, and 1321.203, a State agency must reallocate its entire social and nutrition services allotments to area agencies under approved area plans. The area agency must use each allotment for the purpose for which it was made.

§ 1321.193 Expenditures in rural areas.

(a) *General rule.* The State agency must spend in each fiscal year for services to older persons in rural areas under this part at least 105 percent of the amount spent under the Act in rural areas during Fiscal Year 1978 for social and nutrition services and multipurpose senior centers.

(b) *Definition of rural area.* For purposes of this section, "rural area" means—

Option 1: A planning and service area that meets at least two of the following criteria:

(1) Less than 50 percent of the total population lives in an urban area as defined in the most recent census by the Bureau of the Census.

(2) The total population density of each county, according to the State's most recent population data, is less than 100 persons per square mile of land area. (In States where planning and service area boundaries are not the same as county boundaries, the portion of each county within a planning and service area is treated as a separate county.)

(3) In a multi-county planning and service area no more than two urban places or minor civil divisions, such as a township or district, have a total population that exceeds 20,000 persons. In a single county planning and service area, no more than one urban place or minor civil division has a total population that exceeds 20,000 persons; or

Option 2: A county that meets at least two of the following criteria:

(1) Less than 50 percent of the total population lives in an urban area as defined in the most recent census by the Bureau of the Census.

(2) The total population density of the county according to the State's most recent population data is less than 100 persons per square mile of land area.

(3) The county area includes no more than one urban place or minor civil

division with a total population that exceeds 20,000 persons; or

Option 3: Geographic areas of a State defined by the State agency as rural according to criteria established by the State agency and approved in the State plan.

(c) *Waiver.* The Commissioner, in approving a State plan, or plan amendment may waive the requirement of paragraph (a) of this section if the State agency demonstrates that—(1) The service needs of older persons in rural areas are being met; or

(2) The number of older individuals residing in rural areas is not sufficient to require the State agency to comply with the requirement of paragraph (a) of this section.

§ 1321.195 Fifty percent priority service requirement.

(a) *General rule.* An area agency must spend at least 50 percent of its social services allotment, excluding amounts used for administration under § 1321.201(c) for the following categories of services, with at least some funds spent in each category:

(1) Services associated with access to other services: transportation, outreach, and information and referral;

(2) In-home services: homemaker and home health aide, visiting and telephone reassurance, and chore maintenance; and

(3) Legal services.

(b) *Waiver.* The State agency, in approving the area plan or a plan amendment, may waive the requirement of paragraph (a) of this section for any category of service for which the area agency demonstrates to the State agency that the services provided from other sources meet the needs of older persons in the planning and service area for that category of service.

(c) *Revised priority expenditures.* If the area agency receives a waiver for any category of service, it must continue to spend for the remaining categories of services a percentage of the area agency's social service funds agreed on by the State and area agency.

§ 1321.197 Long-term care ombudsman program.

(a) The State agency must use annually at least 1 percent of the State's allotment for social services or \$20,000, whichever is greater, to operate the long-term care ombudsman program required under § 1321.43.

(b) The requirement of this section does not apply in any fiscal year in which the State spends from State or local funds an amount equal to the

amount required in paragraph (a) of this section.

(c) American Samoa, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands are not subject to the requirement of paragraph (a) of this section.

§ 1321.199 Transfer between congregate and home-delivered nutrition service funds under the State plan.

(a) A State agency may transfer 15 percent or less of the State's separate allotments for congregate and home delivered meals from one allotment to the other without the approval of the Commissioner.

(b) A State agency may apply to the Commissioner to transfer more than 15 percent of the State's separate allotments for a fiscal year for congregate and home-delivered nutrition services from one allotment to the other. The State agency must—(1) Specify the percent and the projected amount which the State agency proposed to transfer from one allotment to the other; and

(2) Specify whether the proposed transfer is for the entire period of the State plan or a portion of the three year period.

(c) The Commissioner approves the State agency's request by approving the State plan or plan amendment. The Commissioner does not deny the transfer unless the Commissioner decides that the transfer is not consistent with the purposes of this part.

§ 1321.201 Allowable use of funds for State and area plan administration.

(a) *State plan administration.* (1) Except as provided in § 1321.205(b)(3), the State agency must use its allotment for State plan administration only to carry out the State agency responsibilities specified in subparts B and D.

(2) The State agency may use any part of its State plan administration allotment which it determines is not needed for that purpose to pay part of the cost of the administration of area plans.

(3) The State agency in a State which is a single planning and service area may use not more than 8.5 percent of its allotments for social and nutrition services for State plan administration instead of the State's allotment for State plan administration. The State agency may not use both allotments for this purpose.

(b) *Cost of Developing State Plan.* The Commissioner may pay to a State without an approved State plan any part of its allotment for State plan

administration for the purpose of developing an approvable State plan.

(c) *Area plan administration.* The State agency may use not more than 8.5 percent of each of its total allotments for social and nutrition services for area plan administration.

§ 1321.203 Additional funds for State plan administration.

(a) *General rule.* If the State agency needs additional funds for State plan administration, the State agency may apply to the Commissioner for permission to use not more than three-fourths of 1 percent of the total amount allotted to it for social and nutrition services.

(b) *Application procedures.* The State agency must submit an application for additional administrative funds in accordance with procedures specified by the Commissioner. The application must demonstrate that:

(1) The State agency needs the additional amount requested to fully and effectively administer its State plan;

(2) The State agency makes full and effective use of its State administration allotment and of the personnel of the State and area agencies; and

(3) The State and area agencies are carrying out, on a full time basis, programs and activities which support the purposes of this part.

(c) *Approval.* The Commissioner approves any application that meets the requirements specified in paragraph (b) of this section.

(d) *Restriction on employee salaries.* A State agency must assure that no funds approved under paragraph (c) of this section will be used to fund a vacancy created by terminating an employee funded from other sources.

§ 1321.205 Obligation and reallocation.

(a) *General rule.* Except as provided in paragraph (b) of this section, the State agency must obligate any funds received under this part during the fiscal year in which they were allotted.

(b) *Reallocation.* (1) If the Commissioner decides that a State will not use any amount allotted under this part for the purpose for which the allotment was made, the Commissioner reallocates the unused funds to one or more other States according to their needs. The State agency receiving these reallocated funds must obligate them by the end of the fiscal year following the one in which they were reallocated.

(2) If an Indian tribal organization in a State receives a grant under Title VI of the Act, the Commissioner withholds a portion of the State's allotments for administration, social, and nutrition

services. The amount the Commissioner withholds is based on the number of older Indians who are counted both for purposes of the State's allotment under this part and the grant under Title VI. The Commissioner reallocates the withheld amount in accordance with paragraph (b)(1) of this section.

(3) If the Commissioner decides that a State does not need for State plan administration any portion of the State's allotment for State plan administration the State agency may use the amount for social or nutrition services.

§ 1321.207 Federal financial participation.

(a) *State plan administration.* A State agency may use its allotment for State plan administration to pay not more than 75 percent of the costs of administering the State plan.

(b) *Area plan administration.* A State agency may use up to 8.5 percent of each of its allotments for social and nutrition services to pay not more than 75 percent of the costs of administering area plans.

(c) *Social and nutrition services.* (1) In Fiscal Years 1979 and 1980, a State agency may use its allotments for social and nutritional services to pay not more than 90 percent of the costs of these activities.

(2) After Fiscal Year 1980, a State agency may use its allotments for social and nutrition services to pay not more than 85 percent of the costs of these activities.

§ 1321.209 Non-Federal share requirements.

The non-Federal share may be met either by allowable cost or third-party in-kind contributions, except that—(a) At least 25 percent of the non-Federal share in each fiscal year must be provided by State or local public sources; and

(b) The 5 percent increased non-Federal share required by § 1321.207(c)(2) may be provided only by the State.

§ 1321.211 State agency maintenance of effort.

Each fiscal year the State agency must spend under the State plan at least the same amount of State funds it spent under the plan in the previous fiscal year. If the State agency spends less than this amount, the Commissioner reduces the State's allotments under this part by a percentage equal to the percentage by which the State reduced its expenditures.

Federal Reviews and Audits in General

§ 1321.213 Federal reviews and audits.

A Federal review or audit is performed to determine if a State plan is still approvable, and if the State agency operations and expenditures are proper under Federal requirements, and the approved State plan. A review or audit may cover any aspect of the Title III program and may be performed by HEW, General Accounting Office, or by another authorized agency.

§ 1321.215 Types and effects of reviews and audits.

(a) *Types.* The types of Federal reviews and audits most often conducted are:

(1) Program and financial reviews described in § 1321.217; and

(2) HEW Audit Agency audits, described in §§ 1321.221 and 1321.223.

(b) *Effects.* Any review or audit may lead to a disallowance, formal compliance action, recommendations on how a State agency may improve the administration of its program, or offers of technical assistance.

Program and Financial Reviews

§ 1321.217 Program and financial reviews in general.

(a) *Responsibility for review.* The Regional Aging Program Director conducts program and financial reviews when he or she considers them appropriate. When conducting a review, the Regional Aging Program Director uses any procedures (including onsite review) or specialized assistance needed.

(b) *Review findings.* The Regional Aging Program Director makes all review findings available in writing to the State agency so that it can correct any unacceptable policy or practice. If a review results in disallowance of a cost, the Commissioner will reduce the State's allotment by the amount disallowed.

§ 1321.219 Issues of compliance or conformity after review.

(a) *Regional Aging Program Director tries to resolve.* A compliance issue may arise if the State fails to substantially carry out what is required by Federal requirements and pertinent court decisions and contained in the approved State plan. A compliance issue arises if a previously approved plan provision no longer meets Federal requirements or was approved in error. If the Regional Aging Program Director believes there is a compliance issue, he or she tries to obtain needed changes in the agency's operating practice or the State plan, through negotiation with the State.

(b) *Issues not resolved.* If the State agency does not make the changes necessary to bring about compliance, the Regional Aging Program Director, with concurrence of the Commissioner, will notify the agency in writing that there is an issue of compliance and advise it of its opportunity for a hearing under Subpart J.

HEW Audit Agency Reviews and Audits

§ 1321.221 Audit Agency reports.

After an audit or review, the Audit Agency releases its final report. The report contains the Audit Agency's findings and recommendations on the practices reviewed and the allowability of expenditures audited.

§ 1321.223 Action after Audit Agency reports.

If the Audit Agency questions an expenditure, the Commissioner may disallow the expenditure and reduce the State's allotment by the amount disallowed. If the Audit Agency finds a compliance issue, the Commissioner, after discussions with the State agency, decides whether to take compliance action and notifies the State agency accordingly.

Subpart J—Hearing Procedures for State Agencies

General Provisions

§ 1321.231 Scope.

(a) *General procedures.* Hearing procedures described in this subpart apply to notice and opportunity for a hearing on:

(1) Disapproval of a State plan or amendment;

(2) Determination that a State agency does not meet the requirements of this part;

(3) Determination that there is a failure in the provisions on the administration of an approved plan to substantially comply with Federal requirements.

(b) *Negotiations.* Nothing in this subpart limits negotiations between the Department and the State. Negotiations on hearing issues are not part of the hearing and are not subject to the rules in this subpart unless there is a specific indication to the contrary.

§ 1321.233 General rules.

(a) *How to get records.* Papers filed in connection with a hearing may be inspected and copied in the office of the HDS Hearing Clerk. Individuals may direct inquiries to the HDS Hearing Clerk, Department of Health, Education, and Welfare, 200 Independence Avenue, SW., Washington, D.C. 20201.

(b) How to file and serve papers.

(1) Anyone who wishes to submit papers for the docket shall file with the HDS Hearing Clerk an original and two copies except that only originals of exhibits and testimony transcripts need be submitted.

(2) Anyone who wishes papers to be part of the record shall also serve copies on the parties by personal delivery or by mail, and file proof of this service with the HDS Hearing Clerk. Service on a party's designated attorney is the same as service on the party.

(c) *When rules are suspended.* After notifying the parties the Commissioner or the presiding officer may modify or waive any rule in §§ 1321.233–1321.261, if the Commissioner or the presiding officer decides the action is equitable and does not unduly prejudice the rights of any party.

Arrangements for Hearing

§ 1321.235 How to request a hearing.

(a) *General rule.* A State agency has 60 days from receipt of the Commissioner's written notice of proposed disapproval of a State plan, plan amendment, determination that a State agency does not meet the requirements of this part or intended compliance action to request a hearing. The agency shall make its request in writing to the Commissioner with a copy to the Regional Aging Program Director.

(b) *What happens if a State agency does not request a hearing.* If the State agency does not request a hearing within the time allowed by paragraph (a) of this section, the Commissioner makes a final determination and notifies the agency by letter whether AoA will withhold all further payments under the plan or only payments for those portions of the plan affected by the failure.

§ 1321.237 How request is acknowledged.

(a) *Notice of hearing.* Within 30 days of receiving a hearing request, the Commissioner notifies the State agency in writing of the date, time, and place of the hearing and of the issues to be considered. The Commissioner publishes the hearing notice in the Federal Register.

(b) *When hearing is held.* The date set for a hearing is 20 to 60 days from the date the agency receives the hearing notice. However, the State agency and the Commissioner may agree in writing to a different date.

§ 1321.239 What the hearing issues are.

(a) *General rule.* The issues at a hearing are those included in the notice to the State agency specified in § 1321.237.

(b) *How the Commissioner may add issues.* At least 20 days before a hearing, the Commissioner notifies the agency by letter of any additional issues to be considered. The Commissioner publishes this notice in the Federal Register. If the agency does not receive its notice of additional issues in the required time, any party may request that the Commissioner postpone the hearing. If a request is made, the Commissioner sets a new hearing date that is 20 to 60 days from the date the agency received the notice of additional issues.

(c) *How actions by the State may cause the Commissioner to add, modify, or remove issues.* The Commissioner may add, modify, or remove issues if the State agency:

(1) Changes its practices or organization to comply with Federal requirements and its State plan; or

(2) Conforms its plan to Federal requirements and pertinent court decisions.

(d) *What happens if State action causes the Commissioner to add, modify, or remove issues.*

(1) If the Commissioner specifies new or modified issues, the hearing proceeds on these issues.

(2)(i) If the Commissioner removes an issue, the hearing proceeds on the remaining issues. If the Commissioner removes all issues, the Commissioner terminates the hearing proceedings. The Commissioner may terminate hearing proceedings or remove issues before, during, or after the hearing.

(ii) Before removing an issue, the Commissioner notifies the parties other than the Department and the agency of the issue and the reasons for removing the issue. Within 20 days of the date of this notice, the parties may submit comments in writing on the merits of the proposed removal. The Commissioner considers these comments and they become part of the record.

§ 1321.241 What the purpose of a hearing is.

The purpose of the hearing is to receive factual evidence and testimony, including expert opinion testimony, related to the issues. The presiding officer may not allow argument as evidence.

§ 1321.243 Who presides.

The presiding officer at a hearing is the Commissioner or a person the Commissioner appoints. If the Commissioner appoints a presiding officer, the Commissioner sends copies of the appointment notice to the parties.

§ 1321.245 How to be a party or an amicus curiae to a hearing.

(a) *HEW and State agency.* HEW and the State agency are parties to a hearing without having to request participation.

(b) *Other parties or amicus curiae.* An individual or group wishing to be a party or amicus curiae to a hearing may file a petition with the HDS Hearing Clerk no more than 15 days following publication of the hearing notice in the Federal Register. A petitioner who wishes to be a party must also provide a copy of the petition to each party of record at that time.

(c) *What must be in a petition.* A petition must state concisely:

(1) Whether the petitioner wishes to be a party or an amicus curiae;

(2) The petitioner's interest in the proceedings;

(3) Who will appear for the petitioner;

(4) The issue on which the petitioner wishes to participate; and

(5) Whether the petitioner intends to present witnesses, if the petitioner wishes to be a party.

§ 1321.247 What happens to a petition.

(a) *Petitions to be a party.*

(1) The presiding officer determines if the issues to be considered at the hearing have caused the petitioner injury and if the petitioner's interest is within the zone of interest protected by the governing Federal statute. The presiding officer permits or denies the petition accordingly and promptly sends the petitioner a written notice of the decision. If the presiding officer denies the petition, the officer states the reasons in the notice.

(2) Before making this determination, the presiding officer will allow any party to file comments on the petition to be a party. Any party who wishes to file comments must do so within 5 days of receiving the petition.

(3) If the presiding officer decides that parties by petition have common interest, the officer may require that they designate a single representative, or may recognize two or more of these parties to represent all of them.

(b) *Petitions to be an amicus curiae.* The presiding officer determines if the petitioner has a legitimate interest in the proceedings and may contribute materially to the proper settlement of the issues. The officer also determines if the petitioner's participation would unduly delay the proceedings. The presiding officer permits or denies the petition accordingly and promptly sends the petitioner a written notice of the decision. If the presiding officer denies the petition, the officer states the reason in this notice.

§ 1321.249 Rights of parties and amicus curiae.

(a) *What rights parties have.* A party may:

- (1) Appear by counsel or other authorized representative in all hearing proceedings;
- (2) Participate in any prehearing conference held by the presiding officer;
- (3) Stipulate facts that, if uncontested, become part of the record;
- (4) Make opening statements;
- (5) Present relevant evidence;
- (6) Present witnesses who must be available for cross-examination;
- (7) Present oral arguments at the hearing; and
- (8) Submit written briefs, proposed findings of fact, and proposed conclusions of law, after the hearing.

(b) *What rights amicus curiae have.* An amicus curiae may:

- (1) Present an oral statement at the hearing at the time specified by the presiding officer;
- (2) Submit a written statement of position to the presiding officer before the hearing begins; and
- (3) Submit a brief or written statement at the same time the parties submit briefs.

If an amicus curiae submits a written statement or brief, the amicus shall serve a copy on each party.

Conduct of Hearing**§ 1321.251 Authority of presiding officer.**

(a) *General rule.* The presiding officer conducts a fair hearing, avoids delay, maintains order and makes a record of the proceedings. In so doing, he or she has authority that includes:

- (1) Regulating the course of the hearing;
- (2) Regulating the participation and conduct of parties, amici curiae, and other at the hearings;
- (3) Ruling on procedural matters and, if necessary, issuing protective orders or other relief to a party against whom discovery is sought;
- (4) Taking any action authorized by the rules in this subpart;
- (5) Making a final decision, if the Commissioner is the presiding officer;
- (6) Administering oaths and affirmations;
- (7) Examining witnesses;
- (8) Receiving or excluding evidence; and
- (9) Ruling on or limiting evidence or discovery.

(b) *What the presiding officer may not do.* The presiding officer may not compel by subpoena the production of witnesses, papers, or other evidence.

(c) *When the presiding officer's authority is limited.* If the presiding officer is not the Commissioner, the officer certifies the entire record to the Commissioner, including a recommended decision on each issue in the hearing, but may not:

- (1) Make a final decision; or
- (2) Recommend reduction or withholding of payments.

§ 1321.253 Discovery.

A party has the right to conduct discovery against other parties. These discovery proceedings are subject to Rules 26-37, Federal Rules of Civil Procedure. The presiding officer promptly rules on any written objection to discovery and may restrict or control discovery to prevent undue delay in the hearing. If a party fails to respond to discovery procedures, the presiding officer may issue any order and impose any sanction (other than contempt orders) authorized by Rule 37 of the Federal Rules of Civil Procedure.

§ 1321.255 How evidence is handled.

(a) *Testimony.* Witnesses, under oath or affirmation, give oral testimony at a hearing. Witnesses must be available at the hearing for cross-examination by the parties.

(b) *Rules of evidence.* Technical rules of evidence do not apply to hearings described in this subpart. The presiding officer applies any rules or principles necessary to ensure disclosure of the most credible evidence available and to subject testimony to cross-examination. Cross-examination may be on any material matter, regardless of the scope of direct examination.

§ 1321.257 What happens to unsponsored written material.

Letters and other written material regarding matters at issue, if not submitted specifically on behalf of a party, become part of the correspondence section of the docket. This material is not part of the evidence or the record.

§ 1321.259 What the record is.

(a) *Official transcript.* HEW designates the official reporter for a hearing. The HDS Hearing Clerk has the official transcript of testimony, and any other material submitted with the official transcript. The parties and the public may obtain transcripts of testimony from the official reporter at rates that do not exceed the maximum fixed by contract between the reporter and HEW. Upon notice to the parties, the presiding officer may authorize transcript corrections that involve matters of substance.

(b) *Record.* The record for the hearing decision is the transcript of testimony, exhibits, and all other papers and requests filed in the proceedings except for the correspondence section of the docket. The record includes rulings and any recommended decision.

After the Hearing**§ 1321.261 Posthearing briefs.**

The presiding officer fixes the time for filing posthearing briefs. They may contain proposed findings of fact and conclusions of law. The presiding officer may permit filing of reply briefs.

§ 1321.263 Decisions.

(a) *If the Commissioner is presiding officer.* If the Commissioner is the presiding officer, the Commissioner issues a final decision within 60 days after the time allowed for filing posthearing or reply brief ends.

(b) *If the Commissioner appoints a presiding officer.*

(1) After the time for filing posthearings or reply briefs ends, the presiding officer certifies the entire record, including his or her recommended decision, to the Commissioner.

(2) The Commissioner provides a copy of the recommended decision to the parties and any amici curiae. Within 20 days, a party may file with the Commissioner, exceptions to the recommended decision. The party must file a supporting brief or statement with the exceptions.

(3) The Commissioner reviews the record and, within 60 days of the date of receipt of the presiding officer's recommended decision, the Commissioner issues a final decision. The Commissioner provides copies of the decision to all parties and any amici curiae.

(c) If the Commissioner decides, after a hearing, that the plan or plan amendment is not approvable, that substantial noncompliance exists, or that the State agency does not meet the requirements of this part, the final decision states whether AoA will withhold all further payments or only payments under portions of the plan affected by the failure. This also applies if the hearing terminates prior to completion.

§ 1321.265 When a decision is effective.

(a) The Commissioner's decision specifies the effective date for AoA's reduction and withholding of the State's grant. This effective date may not be earlier than the date of the Commissioner's decision or later than

the first day of the next calendar quarter.

(b) The decision remains in effect unless reversed or stayed on judicial appeal, or until the agency or the plan is changed to meet all Federal requirements except that the Commissioner may modify or set aside his or her decision before the record of the proceedings under this subpart is filed in court.

§ 1321.267 How the State may appeal.

A State may appeal to the U.S. Court of Appeals which has jurisdiction in the State, the final decision of the Commissioner disapproving the State plan or plan amendment, finding noncompliance, or finding that a State agency does not meet the requirements of this part. The State must file the appeal within 30 days of the Commissioner's final decision.

§ 1321.269 How the Commissioner may disburse the State's withheld payments.

The Commissioner disburses funds withheld from the State directly to any public or nonprofit private organization or agency, or political subdivision of the State, that has the authority and capacity to carry out the functions of the State agency and submits a State plan which meets the requirements of this part.

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Part III

Environmental Protection Agency

**Guidelines for Development and
Implementation of State Solid Waste
Management Plans**

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 256

[FRL 1224-8]

Guidelines for Development and Implementation of State Solid Waste Management Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule contains guidelines for the development and implementation of State solid waste management plans (the guidelines). These guidelines are required by section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (the Act). States are eligible to receive financial assistance under subtitle D of the Act if the State plan has been approved by EPA. This rule establishes the requirements for State plans and recommends methods and procedures to meet those requirements. As set forth in the Act, the State plan must provide for the identification of State, local, and regional responsibilities for solid waste management, the encouragement of resource recovery and conservation and the application and enforcement of environmentally sound disposal practices.

EFFECTIVE DATE: August 30, 1979.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Absher, Office of Solid Waste (WH-504), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 202/755-9145.

SUPPLEMENTARY INFORMATION: On August 28, 1978, EPA published a proposed rule (43 FR 38534) containing guidelines for State solid waste management plans. Ten public meetings and a public hearing were held during the public comment period. This rule responds to comments made at the public meetings and hearing, as well as to the written comments received. This preamble addresses the major comments raised in the public comment period. All other comments are addressed in a document entitled "Public Comment on Proposed Guidelines for the Development and Implementation of State Solid Waste Management Plans" which may be obtained at Docket 4002(b), Room 2107, EPA (WH-564), 401 M St., S.W., Washington, D.C. 20460. The docket is available for viewing from 9 a.m. to 4 p.m., Monday through Friday, excluding holidays.

Overview of Subtitle D

The objectives of the Act are to promote the protection of health and the environment and to conserve valuable material and energy resources. In order to accomplish this, the Act sets forth a national program to improve solid waste management including control of hazardous wastes, resource conservation, resource recovery, and establishment of environmentally sound disposal practices. This is to be carried out through a cooperative effort among Federal, State, and substate governments and private enterprise.

Subtitle D of the Act fosters this cooperative effort by providing for the development of State and regional solid waste management plans that involve all three levels of government. As the Federal partner in this process, EPA seeks, through guidelines and financial assistance, to aid State initiatives in the formulation and implementation of such plans.

Section 4002(b) of the Act requires the Administrator to promulgate guidelines for the development and implementation of State solid waste management plans (the guidelines). While these guidelines are to consider a broad range of topics, section 4003 identifies the minimum requirements which State plans must address. EPA provides financial assistance to help the States develop and implement their plans. Under section 4007, EPA reviews and approves State plans which satisfy the minimum requirements of section 4003.

It is clear from the statutory language and legislative history of subtitle D that the Congress intended States and localities to retain overall responsibility for the planning and actual operation of solid waste management programs. (This is in contrast to subtitle C which directs EPA to administer and enforce the hazardous waste program in lieu of authorized State programs.)

Several commentators raised the question of whether Federal guidelines and standards developed under subtitle D would pre-empt State requirements concerning solid wastes. The Act does not specifically address this issue. However, EPA believes that subtitle D is meant to encourage, not preclude, State initiatives. EPA establishes only "minimum" requirements under this portion of the Act which should not prevent States from developing broader programs or stricter standards under authority of State law. In discussing the subtitle D scheme the House Report (H.R. Rep. No. 94-1491, 94th Cong., 2nd Sess. 33 (1976)) specifically stated:

It is the Committee's intention that federal assistance should be an incentive for state and local authorities to act to solve the discarded materials problem. At this time federal preemption of this problem is undesirable, inefficient and damaging to local initiative.

Therefore EPA concludes that as long as Federal requirements are satisfied by State programs, subtitle D does not limit State power concerning solid waste management.

Role of State Plan

The State solid waste management plan is the centerpiece of the subtitle D system. Through the plan the State identifies a general strategy for protecting public health and the environment from adverse effects associated with solid waste disposal, for encouraging resource recovery and resource conservation, for providing adequate disposal capacity in the State, and for dealing with other issues relevant to solid waste management. The plan must also set forth the institutional arrangements that the State will use to implement this strategy. These arrangements include identifying State, regional and local responsibilities for solid waste management, as well as providing for the establishment of the regulatory powers needed under State law to enforce the plan's provisions. Thus, the State plan is the organizing mechanism in the subtitle D system which ties the goals and requirements of the Act to State priorities and institutional arrangements.

The other components of the subtitle D system (the open dump inventory, the annual work program and Federal financial assistance) are designed to support the State plan.

The Open Dump Inventory

Under section 4004(a) of the Act the Administrator is to promulgate "regulations containing criteria for determining which facilities shall be classified as sanitary landfills and which shall be classified as open dumps . . .". The criteria establish the level of protection necessary to assure that "no reasonable probability of adverse effects on health or the environment" will result from operation of the site. In setting these criteria EPA is providing a general definition of "sanitary landfill" and "open dump". Under section 4005(b) EPA is to publish an inventory of open dumps; i.e., a listing of those facilities which violate the criteria. Because the Act does not give EPA authority to enter private property to conduct such a survey, and because the States have the prime role

in the implementation of subtitle D (including appropriate enforcement actions), EPA has concluded that the State should be responsible for conducting the inventory.

The inventory of "open dumps" performs two major functions. First it informs the Congress and the public about the extent of the problem presented by disposal facilities which do not adequately protect public health and the environment. Second, it provides an agenda for action by identifying a set of problem sites, routinely used for disposal, which should be addressed by State solid waste management plans.

Essentially the inventory is a planning tool which supports the State planning effort. The States must know where the problem facilities are in order to satisfy section 4003(3) which requires that the plan "provide for the closing or upgrading of all existing open dumps within the State . . .". In order to accommodate that purpose and to facilitate prompt compliance with section 4005(b), EPA has given the inventory high priority in the State planning effort.

Annual Work Program

The annual work program, submitted with a State's application for financial assistance under section 4008(a)(1) of the Act, will provide a basis for determining whether the State plan continues to be eligible for approval and is being implemented by the State. The annual work program (which is described in the grant regulations (40 CFR Part 35)) summarizes the current year's program and sets forth activities for the coming year. Each year, a State's priorities and activities should be examined to ensure that the program is directed at achieving the desired health, environmental, and resource conservation results.

The annual work program represents a joint agreement between EPA and the State and presents a mutually satisfactory statement of reasonable progress in meeting the requirements of the Act as expressed in these guidelines. It represents a State's obligation incurred by acceptance of financial assistance and must be developed in consultation with local elected officials and with public participation. As explained below, the work programs under the Resource Conservation and Recovery Act, as amended, the Clean Water Act, as amended (33 U.S.C. 466 et seq.), and the Safe Drinking Water Act (42 U.S.C. 300f et seq.) are being integrated through the State/EPA Agreement mechanism.

Financial Assistance

Sections 4008 and 4009 of the Act provide for financial assistance under subtitle D (funding of authorized State hazardous waste regulatory programs is provided under section 3011 of subtitle C of the Act). Section 4008 (a)(1) authorizes financial assistance for the development and implementation of State plans. The Act states that for this purpose, implementation does not include the acquisition, leasing, construction or modification of equipment or facilities, or the acquisition, leasing, or improvement of land. Funds appropriated under this section are to be allotted to the States in proportion to population and are to be distributed by States to State and substate agencies based upon the responsibilities of the respective parties for development and implementation of the State plan.

Section 4008 (a)(2) authorizes financial assistance to public solid waste management agencies and authorities for implementation of programs to provide solid waste management, resource recovery and resource conservation services, and planning for hazardous waste management activities. Financial assistance under section 4008(a)(2) may only be provided for programs certified by the State as consistent with the State or substate solid waste management plan. This assistance does not cover construction, equipment or land. Assistance is authorized for items such as facility planning and feasibility studies, consultation, surveys, and analyses, technology assessments, legal expenses, construction feasibility studies, and economic studies. These grants may be provided either directly to substate agencies or through the State.

Section 4008(e) authorizes financial assistance for improvement, conversion or construction of disposal facilities in which more than 75 percent of the solid waste disposal is from areas outside the jurisdiction of the community. The Act limits this assistance to not more than one community in every State. Section 4009 authorizes grants to certain rural communities which cannot feasibly be included in a regional solid waste management system. Such grants may be used for construction of solid waste management facilities which the State certifies as consistent with the State plan.

The Act provides no funding for acquisition of land or for operation or maintenance of facilities. Funding for construction of facilities is quite limited.

This means that such costs will have to be borne directly by State and substate governments and by solid waste generators and facility users. The State should explore funding sources at all levels of government and should consider means of increasing its financial base through such methods as user charges.

The Guidelines

Section 4003 of the Act identifies the minimum requirements for approval of State plans. Under section 4002(b) the Administrator is authorized to issue these Guidelines for the Development and Implementation of State Solid Waste Management Plans. Section 4002(c) identifies a broad set of considerations for the guidelines. While the requirements of section 4003 clearly fall within the scope of the section 4002(b) guidelines, such guidelines are to address a range of issues broader than those found in section 4003. However, only the requirements identified in section 4003 may be the basis for disapproval of a State plan. They include:

- (1) The identification of the responsibilities of State, local, and regional authorities in the development and implementation of the State plan;
- (2) The prohibition of new open dumps, and the requirement that all solid waste be utilized for resource recovery or disposed of in an environmentally sound manner;
- (3) The closing or upgrading of existing open dumps;
- (4) The establishment of State regulatory powers necessary to implement the State plan;
- (5) The elimination of State or local prohibitions of long-term contracts for the supply of solid waste to resource recovery facilities; and
- (6) The provision of resource conservation, resource recovery or environmentally sound disposal practices.

EPA believes that the best way to honor Congressional intent is to draw a distinction between requirements and recommendations. Each of the subparts in the guidelines lists the overall requirements for plan approval, which are based upon section 4003 of the Act. The requirements sections are followed by a discussion of recommended procedures, which expand on the requirements and involve a consideration of the factors listed in section 4002(c). The requirements use the term "shall". The recommendations, which are advisory, use the term "should".

While failure to comply with a requirement is grounds for denying a grant, failure to comply with a recommendation will not affect grant eligibility. The recommendations are provided to assist the States in developing and implementing the State plan. Any process which complies with requirements of these guidelines will be acceptable to EPA for purposes of approval of the State plan.

The guidelines contain seven subparts (A-G). Subpart A presents the purpose and scope of the guidelines and the State plan. It also contains the procedures for State adoption and revision and EPA approval of the State plan. In addition, important terms are defined.

Subparts B, C, D, and E discuss, respectively, (1) the identification of State, local, and regional responsibilities, (2) the development of the State disposal program, (3) the development of the State resource conservation and recovery program, and (4) facility planning and development.

Subpart F discusses coordination with other programs. The broad definitions of solid waste and disposal make this coordination especially important. Subpart F emphasizes coordination with planning for residuals management under section 208 of the Clean Water Act, as amended (33 U.S.C. 1288), with the National Pollutant Discharge Elimination System (NPDES) under section 402 of that Act (33 U.S.C. 1342), with the surface impoundments assessment and State underground injection control program under the Safe Drinking Water Act (42 U.S.C. 300(f) et seq.), and with State implementation plans under the Clean Air Act (42 U.S.C. 7401 et seq.).

Subpart G lists the requirements for public participation in the development and implementation of State and substate plans.

Subpart A—Purpose, General Requirement, Definitions

These guidelines assist in the development of State solid waste plans. They include the minimum requirements for approval of State plans identified in section 4003 of the Act. They also address the portion of section 4005(c) which requires a mechanism in the State plan to allow "any entity" to protect itself from citizen suit by obtaining a compliance schedule which phases out those acts which violate the prohibition of open dumping.

Scope of the State Plan

These guidelines require the State plan to address all solid wastes in the State that pose potential adverse effects on health or the environment or provide opportunity for resource conservation or recovery. The plan should address residential, commercial, and institutional solid waste, hazardous, industrial, mining, and agricultural waste, waste treatment sludges, septic tank pumpings, and other pollution control residues. It should explore the nature and severity of these categories of solid wastes and establish priorities for their management.

State plans developed under these guidelines apply to Federal agencies, Federal lands and facilities on leased Federal lands in accord with section 6001 of the Act. Therefore, States should consult with appropriate Federal agencies and facilities during the development and implementation of the plan.

The range of activities included in the plan should be as broad as the Act's definition of "solid waste management." Accordingly, the plan should contain provisions concerning collection, source separation, storage, transportation, transfer, processing, treatment and disposal of solid waste.

Subtitle C of the Act provides for the authorization of State programs to regulate hazardous waste management and for financial assistance for such programs. Under section 3006 of the Act EPA will promulgate guidelines to assist States in the development of hazardous waste programs. Therefore, the guidelines proposed in this rulemaking defer to the section 3006 guidelines for the requirements for authorized State hazardous waste regulatory programs. However, there are a number of hazardous waste management activities that are not regulatory in nature and, thus, not covered by the section 3006 guidelines. Such activities are to be carried out under the authorities of subtitle D and are subject to these guidelines for State plans. In general, the State plan is to describe how hazardous wastes will be managed in the State, including identification of responsibilities for that management and provision of necessary hazardous waste treatment, storage, and disposal facilities.

The proposed subtitle C standards for generators of hazardous waste (40 CFR Part 250.29) would exempt persons who produce and dispose of 100 kilograms or less a month of hazardous wastes; and, these wastes could be disposed of in a facility certified by the State as meeting

the section 4004 criteria. If the final subtitle C standards retain this or a similar exemption, the State should identify these exempted generators so that the State may gain control over the types and amounts of hazardous waste being disposed of at any one facility. These guidelines may be amended to require certain State actions after the final subtitle C regulations are promulgated.

State Plan Submission, Adoption and Revision

The plan must be developed in accord with public participation requirements discussed in subpart G of these guidelines. States are to adopt the plans in accord with State administrative procedures. In the proposed regulation EPA invited comment on whether it should require plan approval by the Governor or State legislature. The majority of the comments favored maintaining the flexibility inherent in allowing each State to follow its own State procedures. EPA is satisfied that as long as the public participation specified in subpart G is part of the approval process, the Act's objectives will be accomplished. Moreover, EPA believes that allowing such flexibility is consistent with subtitle D's reliance on State discretion in solid waste management planning.

These guidelines require that the State plan be developed within 18 months, that it cover a minimum of a five-year time period, and that it be adopted by the State. The State is to review the plan and, where necessary, revise and readopt it at least every three years. EPA is to approve or disapprove State plans and to provide financial assistance to States if the State plan has been approved, continues to be eligible for approval, and is being implemented by the State.

Several commentors stated that 18 months is inadequate time to develop a State plan of the broad scope required by these guidelines. While all required elements must be addressed in the State plan, EPA recognizes that certain lower priority areas will not be described in great detail in the State's initial plan submission. Therefore, EPA may approve a State plan which provides for time-phasing of activities, and which proposes less than full development of State planning and implementation activities over the five-year period, providing satisfactory justification is included in the State plan.

The plan may postpone planning and implementation activities for certain waste categories due to the need to focus resources on higher priority

categories. As indicated in § 256.02 of the guidelines, the State should determine which waste categories and activities have high priority based on the current level of management planning and implementation within the State, the extent of the solid waste management problem, the known health, environmental, and economic impacts, and the resources and management approaches available. While State priorities differ, EPA encourages States to emphasize planning and implementation activities for those waste categories with serious environmental impact and over which the State may have inadequate control, such as onsite industrial wastes.

State Plan Approval

Under section 4007 of the Act the Administrator shall approve plans which meet the requirements of paragraphs (1) (2) (3) and (5) of section 4003 and which contain provisions for revision. The State must revise its plan if the Administrator revises the minimum requirements of section 4003, if the Administrator determines that the plan is inadequate or if the Administrator determines that "such revision is otherwise necessary". Notice and public hearing must accompany such plan revision. In addition, the Administrator shall review approved plans from "time to time" and may withdraw approval of a plan if he determines that revision or correction is necessary "to bring such plan into compliance with the minimum requirements promulgated under section 4003 (including new or revised requirements) . . .".

EPA believes that sections 4007 and 4003 envision a scheme in which EPA grants initial plan approval on the basis of paragraphs (1) (2) (3) and (5) of section 4003 but reviews State plans on the basis of all the minimum requirements in section 4003, including paragraphs (4) and (6). This interpretation allows EPA to honor the Congressional intent expressed in section 4007 (that paragraphs 1, 2, 3 and 5 be the basis for initial approval) while maintaining section 4003's status as the list of "minimum requirements for approval of State plans".

This interpretation is a logical one because both paragraphs (4) and (6) involve assessments which are best made after the States have had some experience with plan implementation. For example, both EPA and a State will have a better sense of what regulations are necessary under State law to implement the plan, and thus of compliance with paragraph (4), once the

state has attempted to implement plan provisions. Also, judicial interpretation of those efforts may provide insight into the adequacy of the State's regulatory scheme. Likewise a determination of what combination of practices "may be necessary to use or dispose of such waste in a manner that is environmentally sound," as required by paragraph (6) of section 4003, is best made after the State plan is in operation and there has been some experience with its implementation.

The proposed guidelines requested comment on the State/EPA Agreement concept. Under such an agreement, State work program submissions for various environmental programs would be integrated in an attempt to determine environmental priorities and develop effective and efficient solutions to environmental problems. Half of the commentors to these proposed guidelines opposed the State/EPA Agreement concept. The rest were divided between qualified and unqualified support. Some States were concerned that their existing institutional arrangements would make it difficult to integrate work programs; others were concerned that solid waste programs would lose visibility and possibly funding if combined with larger and better established programs.

In response to these and other comments, EPA issued a guidance document on March 21, 1979 (44 FR 17294) for State/EPA Agreements. The guidance does not require integrated work programs, nor does it intend to force reorganization and consolidation of State agency structures or changes to existing grantor-grantee relationships. The State/EPA Agreement process, however, is designed to bring together Federal, State and local entities to determine environmental priorities, define intermedia problems and develop creative, efficient and effective solutions. Integrated work programs are encouraged where feasible.

Beginning in fiscal year 1980, the State/EPA Agreement will present a practical and comprehensive mechanism by which the States and EPA can integrate and manage the technical and financial assistance programs to States under the Resource Conservation and Recovery Act, as amended, the Clean Water Act, as amended (33 U.S.C. 1251 et seq.), and the Safe Drinking Water Act (42 U.S.C. § 300f et seq.). States are encouraged to integrate other environmental programs into the State/EPA Agreement if possible.

Definitions.

The guidelines define certain key terms including "criteria," "facility," "implementation," "inactive facility," "inventory of open dumps," "operator," "permit," "planning," "provide for" and "substate." Commentors raised questions concerning the following definitions:

1. **Planning.** Some commentors said that there was a need to clearly distinguish between planning and implementation. Planning is defined in these guidelines as the process of "identifying problems, defining objectives, collecting information, analyzing alternatives, and determining the necessary activities and courses of action." This includes analysis of solid waste generation rates and assessment of the adequacy of existing resource recovery and disposal facilities and the need for new or expanded facilities. It also includes setting priorities for the management of different wastes, identifying responsibilities, developing the necessary legislation and administrative powers to implement the plan, and planning for State resource conservation, recovery, and disposal programs.

2. **Implementation.** Implementation is defined in these guidelines as "putting the plan into practice by carrying out planned activities or ensuring such activities are carried out." One aspect of implementation is carrying out the necessary regulatory activities to ensure that solid wastes are managed and disposed of in a manner that protects the public health and the environment. This includes applying health or environmental standards to facilities, assessing and inspecting facilities, conducting a permit or registration program, and carrying out the necessary enforcement activities.

3. **Inactive Facility.** An "inactive facility" is one which no longer accepts waste. This definition was not contained in the proposed regulation. It is included in this final regulation because some commentors were confused about the terms "closed facility" and "abandoned facility" in the proposed regulation. Those terms are no longer included in the guidelines.

These guidelines no longer treat "closed facility" as a term of art that means a properly closed facility. An operator may close a facility properly or improperly, but this does not change the fact that such a facility is closed. The operator's liability, if any, is based on his failure to close a facility in accord with environmental standards developed pursuant to the State plan.

The term "abandoned facility" has been dropped because it connotes the non-existence of a human agent responsible for the site. The concern over the environmental impact of so-called "abandoned" facilities is the same whether or not a party is available who may be legally liable for the damage. The concern is that a site which no longer receives wastes is creating an environmental problem due to such ongoing effects as the leaching of contaminants into groundwater. Therefore EPA addresses itself here to the broader set of "inactive" sites which may or may not be abandoned. This preamble discusses the relationship of the guidelines to inactive facilities in more detail later.

Subpart B—Identification of Responsibilities; Distribution of Funding

The guidelines require that the State plans identify the responsibilities of States and substate agencies to satisfy the requirement in section 4003(1). EPA believes that this allocation of responsibilities must be a matter for the State to work out with the other general and special purpose governments in the State. EPA does not attempt to stipulate any particular institutional arrangement because there will necessarily be circumstances where differing schemes are more appropriate.

State agencies will be responsible for planning activities. However, substate agencies may need to conduct specific types of planning concerning the number and kinds of facilities needed in particular areas and the different institutions needed (e.g., solid waste authorities or districts) for managing solid wastes. Substate planning may also be necessary for establishing coordinating management of different waste streams (e.g., incineration of residential solid waste and municipal sewage sludge) or for establishing disposal or recovery facilities for new waste streams (e.g., industrial pretreatment residues).

Likewise there will be a need under the plan for developing health or environmental standards for facilities, assessing and inspecting facilities, conducting a permit or registration program, and carrying out the necessary enforcement activities. For the most part, such programs have been conducted by State agencies, although certain responsibilities (such as inspections) may be delegated to local public health agencies.

EPA's major concern in the process of allocating responsibility is that the

institutional arrangement devised by the State aid the achievement of the substantive goals of the Act.

Subpart C—Solid Waste Disposal Programs

This subpart addresses the requirements contained in sections 4003(2) and 4003(3) of the Act. Under section 4003(2) the plan is to prohibit the establishment of new open dumps in the State and contain requirements that all solid waste be utilized for resource recovery, disposed of in sanitary landfills or otherwise disposed of in an environmentally sound manner. Under section 4003(3) the plan is to provide for the closing or upgrading of all existing open dumps within the State. The subpart has four general sets of requirements: (1) those affecting overall legal authority; (2) those involving regulatory powers; (3) those concerning closure or upgrading of existing open dumps; and (4) those involving compliance schedules for complying with the prohibition of open dumping.

Legal Authority and Regulatory Powers

Under section 4003(4) the plan shall provide for the establishment of State regulatory powers as may be necessary to implement the plan. As discussed earlier this provision is not a basis, under section 4007, for initial approval of a State plan but rather is relevant to later review of progress under the plan. The States must make a reasonable effort to develop the powers necessary for plan implementation in order to remain eligible for Federal funding.

Although the proposed version of the guidelines did not distinguish between regulatory powers and legal authority, EPA has decided to make this distinction to give meaning to the distinction made in section 4007 between the requirements of sections 4003 (2) or (3) and those of section 4003(4). EPA believes that section 4007 contemplates a scheme that would allow a State with a general statutory or common law authority to take action against new or existing open dumps to have an approved State plan while it developed the companion regulatory mechanisms necessary to fully implement the plan. At the same time EPA does not believe that a State which does not have legal authority (according to statute or common law) to take action against disposal facilities for the general categories of environmental effects covered by the criteria can be in compliance with sections 4003 (2) and (3) of the Act. Therefore, EPA requires in these guidelines that the States have

adequate legal authority to prohibit new open dumps and close or upgrade all existing open dumps. States will be allowed to develop regulations and administrative systems to implement that general authority after initial approval of the State plan. However the failure to provide for the establishment of State regulatory powers, as outlined in § 256.21, could constitute noncompliance with section 4003(4) and thus be the basis for withdrawal of approval for a State plan.

In the proposed guidelines EPA suggested that the States could wait until after approval of the State plan to prohibit establishment of new open dumps. The language of the Act, particularly that found in section 4004(c), does not allow for such flexibility. Therefore, EPA has changed that requirement to be consistent with the Act's intent. The prohibition of the establishment of new open dumps shall take effect no later than six months after the date of promulgation of the criteria or on the date of approval of the State plan, whichever is later.

In establishing legal authority the States must include some type of permitting mechanism to ensure that the establishment of new open dumps is prohibited. Some commenters expressed concern that EPA's concept of a permit was too narrow and beyond the authority of subtitle D. EPA meant to give a broad interpretation of that term and the guidelines define permit to reflect that broader concept. EPA believes that effective regulations must include a mechanism for translating generally applicable standards into specific requirements for individual facilities. Some kind of a certificate of permission issued to particular parties is the best means of achieving that end. Such a certificate also performs an important informational role because it provides a clear statement of the terms to which parties will be held. This is certainly advantageous to the permittee, but it also gives EPA, the State and the public information on how this part of the solid waste management plan is being implemented.

As long as the States can devise a scheme that achieves these goals, EPA will be flexible on what constitutes a permit. With this flexibility, there can be little doubt that such a permit requirement is within the Act's purview. A State program that does not have the capacity to translate generally applicable standards into site specific requirements or to adequately inform interested parties of those requirements cannot provide adequate assurance that the Act's objective will be met.

Closure or Upgrading of Existing Open Dumps

The Guidelines require the State to classify existing solid waste disposal facilities according to the criteria. The State is to establish priorities for the classification effort after considering potential health and environmental impact of facilities, the availability of regulatory powers to address the problems presented by these facilities and the availability of financial resources in the State solid waste management program. The State submits a list of the facilities that fail to satisfy the criteria to EPA for publication in the Federal Register. The States are to take steps to close or upgrade open dumps.

1. *The Open Dump Inventory.* One of the principal issues concerning State solid waste management planning is the role of the inventory of open dumps in subtitle D. EPA has received many inquiries and comments concerning the inventory, particularly on the issue of whether notice and a hearing must precede inclusion of a facility in the inventory published in the Federal Register. The "notice and hearing" issue, however, is merely part of a broader question concerning the purpose of the inventory in the program contemplated by the Act. The issue is whether inclusion of a facility in the inventory constitutes a determination that an identifiable party is engaging in the prohibited act of open dumping.

After considering public comment on this issue and after further analysis of the issue, EPA has concluded that the Act intended the inventory to be a planning tool which provides information to the States and the public. The act of listing does not constitute a legal determination which subjects a particular party to legal sanctions for violation of the Act.

EPA reached this conclusion after substantial public discussion of the issue. Early in the development of these guidelines EPA indicated that the States would conduct the inventory as part of their solid waste management planning, and many of the comments on the guidelines addressed the role of the inventory. On April 24, 1979, the National Solid Wastes Management Association (NSWMA) petitioned EPA, seeking regulations providing a notice and hearing opportunity prior to a facility's inclusion in the inventory list. Since the inventory would be part of the State planning effort, NSWMA's petition directly affected the content of these guidelines. In fact, the relief NSWMA sought would logically be a part of these

guidelines. At the same time EPA was under court order from the U.S. District Court for the District of Columbia to promulgate these Guidelines by June 30, 1979. In order to air the notice and hearing issue and still make a reasonable effort to comply with that court order, EPA issued on May 15, 1979, a Supplemental Notice of Proposed Rulemaking (44 FR 28344) which invited public comment for 30 days on whether the guidelines should require notice and a hearing opportunity before a disposal facility is included in the inventory. The Notice explained EPA's tentative conclusion on the issue and included a copy of the NSWMA petition.

Several commenters argued that EPA's position on this issue, as stated in the Notice, differed from previous EPA statements about the inventory. EPA had a different view of the inventory when these guidelines were at an earlier stage of development. After further analysis of the Act, however, EPA changed its view. In issuing the Supplemental Notice, EPA sought to alleviate any confusion resulting from this reassessment of the issue and to provide the public with an opportunity to focus on the inventory's role.

The fact that EPA's interpretation of the Act, as set forth in this final regulation, differs from the viewpoints expressed in the proposal and in statements by Agency personnel does not undermine the legitimacy of that interpretation. EPA is not bound to legal interpretations advanced in earlier stages of a regulation's development. The role of the inventory in the subtitle D program is a complicated issue which necessarily involves an analysis of several parts of the Act. To hold the Agency to early viewpoints on such complex questions hinders responsible decision making and discourages the Agency from engaging in open public discussion on these matters. Ultimately, questions surrounding the role of the open dump inventory must be resolved after a substantive analysis of the Act, its legislative history and other applicable Federal law.

Under section 4005(b) EPA is required to publish an inventory of "open dumps" (those facilities which do not satisfy the criteria promulgated under section 4004). Section 4005(c) prohibits "any solid waste management practice or disposal of solid waste or hazardous waste which constitutes the open dumping of solid waste or hazardous waste." The essential problem presented by the Act is to determine the relationship between these two provisions. The task is complicated by the fact that sections 4005(b) and 4005(c) originated in

differing House and Senate bills and that there is no conference report to resolve the problem presented by these incongruous provisions.

In the effort to reconcile the differences between the Senate and House approaches to this issue, EPA sought an interpretation of the Act that retained as much of the original intent of the two bills as possible. In doing so EPA believes that it has devised a sound program that best achieves the overall objectives of the Act.

The inventory of open dumps was part of the House bill which relied totally on the States to regulate the problems associated with these facilities. The inventory was designed to be an informational tool that would give a comprehensive picture, based on a uniform definition of unacceptable environmental effects, of the problem presented by these "open dumps". This list was also to aid the States in directing their efforts for the closing and upgrading of existing open dumps.

The Act indicates that Congress meant to maintain the inventory's status as an informational tool and not as a regulatory mechanism. For example, there is no requirement for a "hearing on the record" or a public hearing in conjunction with the inventory. Likewise, the Congress required publication within one year of promulgation of the criteria. Knowing that the volume of problem sites could run into the thousands, it is doubtful that the Congress could have envisioned the inventory as a series of individual adjudications with all the attendant delays involved in preparing and documenting every part of the case. Also, the Congress could not have viewed the inventory as anything but informational in terms of EPA's involvement. The Act does not give EPA the authority to enter on private property to take samples or to require reporting on the facility's environmental effects. The absence of these necessities of a viable regulatory program indicates that the inventory can only be an informational tool. (The absence of EPA authority to conduct a proper inventory evaluation of facilities also suggests that the States must conduct the evaluations under authority of State law.)

The Senate bill prohibited the act of open dumping and allowed for Federal, State and citizen enforcement of that prohibition. There was no facility classification scheme. In the final version of the Act, the Federal enforcement provision was deleted, but States and the public were allowed to use the citizen suit provision (section 7003) to enforce the prohibition. In

prohibiting open dumping the Act does not specify who shall be deemed responsible. The legal liability of particular individuals is a matter for the courts to resolve on a case by case basis.

EPA does not believe that the inventory was designed to implement the prohibition of open dumping. Certain flaws in statutory interpretation and basic logic appear in any attempt to link the two provisions. For example, section 4005(c) requires each State plan to assure that all open dumps listed in the inventory "comply with such measures as may be promulgated by the Administrator to eliminate health hazards and minimize potential health hazards". As section 1002(b)(4) indicates, the Act is concerned with environmental as well as health effects in prohibiting open dumping. Section 4005(c) also requires State plans to provide a mechanism for giving compliance schedules to parties engaged in open dumping. Such schedules are to lead to "compliance with the prohibition on open dumping" and are only available to entities which have no other "private or public alternative" to open dumping.

If inclusion on the inventory of open dumps also constitutes a determination of liability for open dumping, it is unclear which steps follow listing. Is the State to focus on the present or potential health hazards associated with the facility, or is it to address the full range of health and environmental concerns implicit in the open dumping concept? Also, is the State required to examine "public or private alternatives" for all listed facilities? Since the Act creates two differing approaches to handling listed open dumps and entities which could violate the open dumping prohibition, EPA believes that the dichotomy between the Senate and House approaches to the solid waste management program should be maintained.

EPA's interpretation avoids the conceptual problems involved in using the inventory to implement the open dumping ban. Fundamental to any determination of legal liability for an offense is a clear definition of *who* is responsible and of the *acts* which constitute the offense. The inventory is not well-suited to establishing either of those. In conducting the inventory, site inspectors will be evaluating the environmental impact of particular sites on particular days. They will not be investigating the relative responsibilities of the various parties involved in disposal activity (e.g. facility owner, facility operator, parent companies,

users of the facility). Likewise, inspectors will not be focusing on the particular acts which lead to the environmental damage (e.g. facility selection, design, and management; the bringing of particular wastes to the facility). Moreover, the inventory is not well-suited to defining the duration of a violation. The inventory is, after all, a picture of conditions at the facility at a particular time. The inventory does not in itself determine whether those conditions are due to ongoing practices at the facility or are the result of temporary problems at the time the evaluation occurred. Thus the inventory is not designed to establish several of the key elements necessary for placing legal liability on responsible parties and should not, therefore, be treated as an EPA determination that particular parties are open dumping.

An interpretation of the Act linking the inventory to the open dumping prohibition undermines the Act's objective of leaving principal responsibility for implementing solid waste management programs to the States. The language of subtitle D and its supporting legislative history clearly indicate that the Federal Government was to facilitate the development of State initiatives in this area. The removal of the Senate provisions for Federal enforcement of the open dumping prohibition in the final version of the Act underscores this point. Were EPA's publication of the inventory to constitute an Agency decision that each listed site is in violation of Federal law, EPA would be heavily involved in the administration of solid waste programs. EPA would have to carefully supervise the States in the conduct of the inventory. Were EPA to be ultimately responsible for the decision to list, it would have to carefully review State decision making, overruling decisions where appropriate. EPA does not believe that the Congress intended that EPA have such a central role in State solid waste management.

EPA concludes, therefore, that the inventory was not designed to be a decision on the open dumping issue. The inventory is an adjunct to the State planning process. It provides information to the public and helps the States in identifying their priorities. In publishing the inventory EPA is reporting on the first phase of the State planning effort and thus will include all facilities identified by the State. EPA will not add or remove facilities from the inventory. The open dumping prohibition is a provision of Federal law which stands on its own, separate from the State planning program. In

conjunction with the citizen suit provision, the open dumping prohibition creates a Federal cause of action allowing citizens and States to seek relief in Federal Court for damaging solid waste management practices.

Information generated during the inventory could be available to parties seeking to bring an open dumping action. That data would be made available in accord with applicable Federal and State law concerning the release of such information. Questions concerning the admissibility and weight of the information as evidence are for the courts to resolve. The ultimate issue of whether particular parties are guilty of open dumping would be for the court to decide after *de novo* review of the particular facts in each case. The point, however, is that while data generated in the inventory may be evidence relevant to an open dumping suit, the act of listing a site does not constitute an EPA decision on the open dumping issue which deserves judicial deference as a matter of law.

The public comments on the inventory suggested varying interpretations of the inventory. Some called it a rule; others called it a series of adjudications. A few commentators argued that the inventory was part of a *de facto* licensing program that implied permission to operate for those facilities not included on the list. None of these characterizations are appropriate because they imply that EPA has decided something concerning the facility. The inventory is only an informational tool. It does not adjudicate the rights of any persons or provide official approval for facilities not included. Likewise it is not a rule setting EPA policy, but rather is a tool to aid the States in defining their own priorities.

2. Notice and Hearing Implications of the Inventory. The Supplemental Notice of Proposed Rulemaking focused public attention on the question of whether notice and a hearing opportunity must accompany the inventory of open dumps. The NSWMA petition, which was incorporated into the Supplemental Notice, argued that a notice and hearing opportunity was required by the Act, the Administrative Procedures Act and the U.S. Constitution. The Act does not require hearing proceedings for the inventory. No hearing or notice requirement is found in section 4005(b). Some commentators argued that section 7004(b) requires public participation before publication of the inventory. These guidelines provide for public participation at several key stages in the State planning process, including review of the plan's priorities for conducting the

facility classifications. Those requirements provide an ample opportunity for public input on this aspect of the subtitle D program without direct public participation in the inventory list.

An added round of public participation on the inventory is particularly inappropriate because EPA will not be rendering a decision. In publishing the list EPA is merely reporting to the public on the progress of one important phase of the State planning program. Some commentators challenged this interpretation of EPA's role arguing that conduct of the inventory was EPA's responsibility and that the States are merely acting as EPA's agents in carrying out the inventory. EPA rejects this view. Section 4005(b) only requires EPA to publish the inventory. More importantly, the Act does not give EPA authority to enter private property to evaluate facilities for possible inclusion in the inventory. EPA's obvious lack of necessary authority, coupled with subtitle D's clear reliance on State initiatives for implementation functions, leads EPA to conclude that the inventory should be handled by the States.

In considering the applicability of the Administrative Procedures Act (APA) (5 U.S.C. 51 et seq.), several commentators argued that the inventory was an adjudication, licensing or rulemaking proceeding for purposes of the APA. After analyzing these comments EPA concluded that none of these characterizations properly describes the inventory. As discussed earlier the inventory is only an informational tool; and, therefore, its publication in the Federal Register is not the kind of agency action meant to be covered by the Administrative Procedures Act's notice and hearing provisions.

Several commentators argued that publication of the inventory without a formal notice and hearing opportunity constituted a denial of property without due process of law, violating the Fifth Amendment of the Constitution. EPA certainly does not seek to deny the due process rights of individuals in performing its part of the subtitle D program. It must be recognized, however, that not every government action which may affect an individual's property interests requires formal notice and hearing procedures. Generally some legal sanctions must be brought to bear on an individual before the due process right arises.

The issue in considering subtitle D's implications for due process rights is not a question of whether those rights exist at all, but rather when those rights are

properly invoked. Individuals involved in solid waste disposal will have an opportunity to be heard before government sanctions are permanently imposed. As indicated earlier, however, the inventory is not an EPA determination resulting in legal sanctions. By including a site on the inventory, EPA has not ordered any identifiable individuals to do anything.

Several of the key questions for legal liability—namely *who* is responsible for which *acts*—are not necessarily resolved by the inventory process. Under these circumstances it would be premature to hold a hearing because it is unclear who has the right to a hearing and what the accusations are. Once States have completed further investigations and are ready to direct their enforcement efforts at particular actions by particular individuals, the people in question will have an opportunity to be heard in either an administrative or judicial forum. States will be bound under their own laws and the U.S. Constitution to assure that there will be no denial of property without due process of law. Several comments from States showed an awareness of that obligation and indicated that existing State procedures would require various opportunities to be heard prior to the imposition of sanctions.

In arguing for a notice and hearing opportunity prior to publication of the inventory, commentators identified a variety of bases for that right. Some saw the right growing out of the link between the inventory and the open dumping prohibition. As indicated previously, there is no such link and therefore no such hearing right.

Others argued that the bad publicity associated with a facility's inclusion on the list would unfairly affect the operator's business. In particular, commentators noted that the inventory would encourage citizen actions (including suits brought under the Act) or responses by local governments which could interfere with the continued operation of listed sites.

It is not clear that the inventory will result in unfair criticism. In publishing the inventory, EPA will make every effort to clarify the status of the inventory as an informational exercise which does not imply legal liability on the part of any particular party. Such clarification may need to be given on a State by State basis in order to reflect the way the inventory is being used by each State solid waste program.

EPA cannot completely eliminate the possibility that some parties will improperly characterize the meaning of the inventory. EPA will, however, assure

that the inventory clearly states the purpose, basis and significance of the information provided. Parties affected by bad publicity will have an opportunity, in an administrative or judicial forum, to present their case prior to the imposition of legal sanctions against them.

Several commentators expressed particular concern that the inventory would lead to citizen suits against listed facilities. Under some circumstances inclusion of a facility on the inventory may increase the likelihood that some party may sue some other party concerning conditions at the facility. In marginally increasing the chances of suit, however, EPA is not denying property without due process of law. A civil suit in Federal court is hardly a summary proceeding in which the defendant has little opportunity to be heard. In fact the judicial forum probably affords the ultimate in due process of law.

Some commentators suggested that inclusion on the inventory was a prerequisite to the establishment of legal liability for open dumping. That conclusion reflects a misunderstanding of the Act. Citizen suits against acts of open dumping may be initiated regardless of the inventory process. Only a compliance schedule issued to specific parties, as contemplated by section 4005(c), insulates these parties from suit.

At least one commentator suggested that a citizen suit is just one of several "hindrances" to the solid waste industry, and that EPA should not be providing information that encourages such suits until the facility operator has had a formal notice and hearing opportunity. While some people may attempt to abuse the legal system, EPA does not believe that citizen suits are merely hindrances to the industry. Citizen suits may be legitimate expressions of genuine public concern that seek relief for actions that seriously threaten public health and the environment. Such suits will provide all parties, including those accused of open dumping, their day in court.

This leads to a general point about the notice and comment issue which should not be ignored. While EPA does not seek to deny legitimate due process rights, there is a countervailing interest that must be considered—the public's right to be informed of the dangers to their health and environment. The Act intended the open dump inventory to inform the public about the dangers associated with various disposal facilities. This would allow the public and the States to take protective action.

An enforcement action against responsible parties would be only one of several available options.

Since the inventory is not an accusation of wrongdoing against specific parties and since notice and hearing opportunities will precede the imposition of legal sanctions, EPA believes that it is inconsistent with the Act and contrary to the public interest to withhold this information from the public.

EPA's interpretation of the inventory means that it is up to the States to assure protection of the due process rights of parties affected by State regulatory activities. Several State agencies indicated that various formal or informal procedures for receiving comments (including hearing opportunities) would be conducted in conjunction with the inventory as a matter of State law. EPA approves of those efforts.

EPA does not believe, however, that it should be requiring the States to inform any particular parties according to any particular procedures. There are many different ways to assure that the system is not unfair to affected parties, and EPA believes that the States should be allowed to fashion a response appropriate to the circumstances. If EPA attempted to impose particular "notice" requirements, it might be unnecessarily intruding in matters of State law. For example, inclusion of a facility on the list does not establish the legal liability of any particular person as a matter of Federal law. Therefore, it is impossible to determine under the Act who is the appropriate recipient of notice. However, depending on the use of the inventory under State law, there may be clear legal requirements for who shall receive notice.

In order to avoid this potential problem EPA has removed any reference to notice and comment procedures in the requirements of subpart C. However, to indicate EPA's general preference for full disclosure of inventory information the guidelines recommend in subpart G that the States inform all affected parties of site classification results.

In response to the Supplemental Notice, EPA received comments supporting and opposing EPA's general position. Several commentors expressed concern that the interpretation suggested by NSWMA would increase administrative expenditures per facility and greatly reduce the number of facilities that could be evaluated with the limited funding available under subtitle D.

Such an outcome is possible and would be incompatible with Congressional intent that the inventory be completed promptly. This suggests that EPA's interpretation, which avoids the need for hearings while respecting individual rights, best accords with Congressional intent.

3. *Closure or Upgrading Procedures.* Section 4003(3) requires the plan to provide for the closing or upgrading of all existing open dumps. States may achieve this through a variety of mechanisms (e.g., permits, administrative orders, general regulations). Establishment of compliance schedules for each facility may be the best mechanism to achieve compliance with section 4003(3), but EPA does not wish to exclude the use of other approaches as long as the State can show that some effective action will be taken to close or upgrade open dumps.

The plan must, however, provide some means for assuring EPA and the public that steps are being taken to deal with the problem presented by existing open dumps. The guidelines, therefore, require that the plan reference some evidence that steps have or are being taken to close or upgrade each facility. By "evidence" EPA does not imply that the States must have a document, legally admissible in court, for each facility on the inventory. EPA is merely seeking documentation which indicates that some steps have been or are being taken to eliminate the problems associated with each site. Evidence of action could include an administrative order, a permit, or even a report on the site which indicates that problems identified during the inventory have been remedied.

4. *Inactive Facilities.* The proposed guidelines required that inactive disposal facilities (referred to as "abandoned facilities" in the proposed guidelines) which continue to produce adverse health or environmental effects be subject to classification according to the criteria and publication in the open dump inventory. Most commentors agreed that inactive disposal facilities can and do cause severe adverse health and environmental problems and that these facilities should not be ignored. A number of commentors, however, questioned EPA's authority to require State plans to include such facilities in the open dump inventory process. They were also concerned about what enforcement action the State might reasonably take, especially where a facility has been abandoned or ownership has been transferred or relinquished, and legal liability and

financial responsibility are difficult to establish.

It is important to note that since these guidelines were proposed, there has been an influx of reports of inactive sites posing substantial endangerment to public health and the environment. It is, therefore, incumbent upon the States to learn as much about problem sites in their jurisdictions as possible. The guidelines recommend that inactive facilities be evaluated for current or potential problems and that the State take steps to minimize or eliminate adverse health or environmental effects, particularly in emergency situations. If corrective actions by facility owners or operators cannot be brought about, public agencies should take the necessary measures to protect public health and safety. This should include, as a minimum, notification of adjacent residents and other affected parties of the potential health or environmental hazards.

EPA recognizes that there is some question about whether the environmental problems associated with inactive facilities fall within the scope of "disposal" as defined in the Act. Section 1004(3) defines disposal as "the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or waters so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground water". Taken literally this definition could encompass some aspects of pollution found at inactive facilities.

A second crucial question, however, is whether the particular regulatory programs created by the Act can be meaningfully applied to inactive sites. The hazardous waste program, under Subtitle C of the Act, calls for the issuance of permits (setting performance standards and operational controls) to owners and operators of facilities for the disposal of hazardous waste. Such a scheme is inappropriate for inactive facilities and, therefore, EPA has concluded that Subtitle C does not apply to inactive facilities.

In examining the open dump inventory under subtitle D, a slightly different problem arises. There is no reason to avoid collecting information on inactive facilities as it could be useful in the development of the State plan. At the same time EPA recognizes that inactive facilities present unique management problems that will require different kinds of responses by the States. Thus the plan may not be able to establish routine procedures for the closing and

upgrading of such facilities in the same way that such procedures will be possible for active facilities.

EPA has decided that there is no basis to exclude all inactive facilities from the scope of the open dump inventory. Yet EPA also believes that active facilities were intended to be the focus of the subtitle D program. The question of how the inventory addresses inactive facilities is one to be resolved in the establishment of State priorities for the inventory. In negotiating this question EPA and the State will be able to consider the magnitude of the environmental problem presented by inactive facilities and the State's ability to close or upgrade such facilities.

In writing the Guidelines EPA has included a specific set of recommendations on inactive facilities that should be part of the State plan. In applying the Guidelines' requirements for the inventory to inactive facilities, EPA recognizes that the meaning of "closing or upgrading open dumps" may have to be flexible to accommodate the unique problems involved in addressing inactive facilities.

The agency may use Section 7003 (Imminent Hazard) of the Act to bring suit against inactive facilities which pose human health and environment problems. This section is designed to prevent any imminent and substantial endangerment to human health or the environment from the improper disposal of solid waste. Under this procedure, the Agency can seek whatever remedy may be necessary to control the problem.

Compliance Schedules Affecting the Prohibition of Open Dumping

Section 4005(c) requires the plan to provide for compliance schedules for each entity that can show that it has no "public or private alternatives for solid waste management to comply with the prohibition on open dumping". The compliance schedule is to set forth "an enforceable sequence of actions or operations, leading to compliance with the prohibition on open dumping within a reasonable time". The meaning of reasonable time is a matter for the State to decide, but no compliance schedule may allow open dumping to continue five years beyond publication of the inventory. By that time, the proper implementation of the plan should assure that adequate, environmentally acceptable disposal capacity is available in the State.

In determining whether other "public or private alternatives" exist the States should examine a range of factors concerning the State's overall solid waste management problem. EPA

recommends that the State consider the availability of processing and disposal at other facilities, cost constraints, existing contractual agreements, the likelihood of incremental environmental damage and other pertinent factors. A compliance schedule for owners and operators of facilities may involve steps to close or upgrade the facility. Upgrading is, however, the objective of the compliance schedule and not a "public or private alternative" for purposes of determining whether a compliance schedule is justified.

It should be made clear that the type of compliance schedule contemplated by section 4005(c), which includes an examination of public or private alternatives, is the only kind of compliance schedule that protects a party from the open dumping prohibition. The section 4005(c) compliance schedule is issued to particular parties, not sites. It can be issued to operators of disposal facilities but could also be issued to those parties that generate or transport wastes. The section 4005(c) compliance schedule may be coordinated with any schedule for closing or upgrading of a facility developed to comply with section 4003(3). Only those individuals bound by the compliance schedule, however, may be insulated from an open dumping action.

Subpart D—Resource Conservation and Recovery

One of the major objectives of the Act is to encourage resource recovery and resource conservation. As defined in the Act, resource recovery is the recovery of material and energy from solid waste, while resource conservation includes the reduction of the amounts of solid waste that are generated, the reduction of overall resource consumption and the utilization of recovered resources.

These guidelines establish several requirements for State plans to achieve this objective. The guidelines require the State plan to provide for the development of a policy and strategy to encourage resource recovery and resource conservation. This strategy should focus on removing existing technical, economic, and institutional constraints that impede increased resource recovery and conservation. State activities in this area could include technical assistance, training, information development and dissemination, financial support programs, and programs to develop markets for recovered materials and energy.

Several commentors suggested that the guidelines provide more detailed advice on the elements of a State strategy and on methods to implement this strategy. Such advice can be found in "Developing a State Resource Conservation and Recovery Program," a guidance document available from EPA.

The Act and these guidelines require State plans to ensure that local governments are not prohibited under State or local law from entering into long-term contracts for supplying solid waste to resource recovery facilities. This requirement reflects the concern that the development of resource recovery facilities has been hindered by not having a guaranteed long-term supply of solid waste. The guidelines recommend that the State plan provide for State agency review of pertinent State and local statutes, and for the development of a strategy for eliminating the long-term contracting restrictions on the supply of waste to resource recovery facilities.

Several States raised concerns about their ability to comply with this requirement. They cited State constitutional provisions for home rule as restricting their influence on local laws of this type. It is recognized that States and State agencies may have limited ability to modify local procurement laws. The guidelines contain a recommended procedure for the State to pursue, in conjunction with local governments, to change local laws violating this requirement. The Act envisions a cooperative State-local effort in meeting its goals, within the framework of the State constitution and laws.

One commentor pointed out that long-term contract restrictions have been enacted for sound reasons, such as to discourage corruption. It should be noted, however, that the Act only requires elimination of restrictions impacting resource recovery facilities; and, even where these restrictions are eliminated, there are other methods which may be employed to safeguard the contracting process (such as split bidding and acceptance of the lowest bid.)

Finally, several commentors asked what is meant by "long-term". This refers to a contract length sufficient to repay the capital costs of the resource recovery project. It is usually a 20 year period.

Under section 6002 of the Act each "procuring agency" is required to procure "items composed of the highest percentage of recovered materials practicable consistent with maintaining a satisfactory level of competition".

As defined by the Act a "procuring agency" includes "any State agency or agency of a political subdivision of a State which is using appropriated Federal funds for such procurement * * *". The proposed guidelines contained a provision requiring compliance with section 6002 as a condition for approval of a State solid waste management plan. After analyzing the comments received on that provision and reassessing the relationship between sections 6002 and 4003, EPA has decided to discuss section 6002 in the "recommendations" and not the "requirements" portion of these guidelines.

Section 6002 applies to State agencies by its own terms and does not require final guidelines under section 4002 before it is applicable to State procurement. States should be addressing the requirement of section 6002 in handling all of their Federal funds regardless of whether they develop State solid waste management plans that satisfy the requirements of section 4003. EPA has deleted any reference to section 6002 in the requirements portion of subpart D to avoid any suggestion that the procurement requirements of the Act are only enforceable in the context of State solid waste management planning.

A number of States commented that the State solid waste agency can have only limited impact on the State procurement process. EPA recognizes that State solid waste management agencies are generally not involved in procurement practices and policies. However, these guidelines recommend that the State solid waste agency provide information and guidance on recovered materials to the State procurement agency and encourage that agency to develop procurement procedures in line with the section 6002 requirements. State solid waste management agencies should also seek to implement the section 6002 provisions wherever possible in their procurement activities and thereby set an example for other State agencies.

The guidelines recommend resource recovery and resource conservation as the preferred methods of solid waste management whenever technically and economically feasible. While resource recovery and conservation may reduce land disposal needs, however, these methods will not eliminate the need for land disposal. It is expected that in the near term, resource recovery and conservation will have only a limited impact on the solid waste generated nationwide. Therefore, there will continue to be a need for

environmentally sound land disposal facilities in order to meet the objectives of the Act.

Subpart E—Facility Planning and Implementation

These guidelines require that the State plan provide for adequate resource conservation, recovery, storage, treatment, and disposal facilities and practices necessary to use or dispose of solid and hazardous waste in an environmentally sound manner. These guidelines also recommend a number of actions that could be undertaken to help assure that the necessary facilities and services are in fact provided for.

Several commentors emphasized that in complying with this requirement, it is important to strike an appropriate balance between public and private sector activities. These guidelines do not favor one over the other. In some parts of the country, private sector initiatives may be sufficient to ensure that the needed facilities are available. However, in other instances, there may be a need for greater involvement of State or substate governments. This involvement should include an awareness of private sector activities in order to determine whether public sector involvement in facility planning and implementation is necessary.

EPA recognizes that there is an established solid waste management industry offering a wide range of services, including the design, construction, and operation of processing, storage, treatment, transport, disposal, and recovery facilities. It is not the intent of these guidelines that the public sector needlessly supplant or duplicate activities of the private sector. State and substate agencies are encouraged to establish policies for free and unrestricted movement of solid and hazardous waste across jurisdictional boundaries and procedures for sharing information useful to prospective and established entrepreneurs, as well as to provide relevant planning information to industry regarding population and waste generation trends, environmental conditions and other topics that would assist in the establishment of financially and environmentally sound facilities.

The guidelines recommend a statewide assessment of the adequacy of existing facilities and an evaluation of the need for new or expanded facilities. The guidelines purposely leave it up to State discretion whether this needs assessment is to be conducted by State or substate agencies or by a

combination of the two. One commentor pointed out that the needs assessment should consider the amount and extent of interstate transportation of solid wastes. A recommendation was added to include such considerations in assessing the need for facilities.

Where facilities and practices are found to be inadequate, actions should be taken to help ensure that needed facilities are developed by State or substate agencies or by the private sector. For areas found to have five or fewer years of capacity remaining, more detailed planning should be carried out, including evaluation of technologies and site locations. Implementation schedules also should be developed. It is widely accepted that facility siting is one of the most difficult solid waste management problems. Many commentors stressed that it is preferable for facility acquisition activities to remain the responsibility of local and regional governments. However, recent experience indicates that it is becoming more and more difficult for substate governments to obtain sites for solid waste disposal facilities. This is especially true for facilities that store, treat, or dispose of hazardous wastes.

These guidelines recommend that where there is less than two years projected capacity, the State should have the authority to acquire facilities or cause facilities to be acquired. The majority of the States responding to this recommendation agreed that it is important for the State plan to explore options for more direct State control over siting and facility development if local government and private sector initiatives fail.

Several commentors emphasized that due to the diversity in State constitutional provisions and legislative and regulatory authorities, EPA should not dictate specific methods for the State to obtain greater control over facility acquisition. EPA is not requiring any particular strategy for the States, but suggests that the States investigate the following methods recommended by commentors for acquiring more direct control over siting and facility development: obtaining the authority to override local zoning laws or to contract directly for facilities and services; using condemnation or eminent domain procedures; arbitrating siting disputes; establishing site locations at the invitation of local governments; requiring facility permits to conform to regional plans developed under the State plan; and, instituting a public utility agency to regulate the supply of services.

With regard to hazardous waste facility planning, there are certain special factors to be considered. Most hazardous waste recovery, treatment, storage, and disposal facilities are privately operated. Hazardous waste generators are often large industries with heavy capital investments in plants and equipment into which onsite hazardous waste management facilities have been integrated. In addition, there are over 100 private offsite hazardous waste management facilities which provide service to many industries.

The State plan should provide for adequate hazardous waste recovery, treatment, storage, and disposal facilities, including public facilities where necessary. States should develop implementation schedules which will insure siting of the necessary hazardous waste management facilities. State plans should also encourage waste exchanges and other waste utilization practices for hazardous wastes.

Subpart F—Coordination With Other Programs

Section 4003(1) requires the State solid waste management plan to identify means for coordinating regional planning and implementation under the State plan. Section 1006 requires the Administrator to integrate all provisions of this Act (including approval of State plans) with other Acts that grant regulatory authority to the Administrator in order to prevent duplication of administrative and enforcement efforts. To satisfy these general objectives the guidelines require that the State plan provide for coordination with Federal programs that affect State solid waste management.

Several commentors asked what the guidelines mean by coordination. Generally the goal of coordination is a balancing and sharing of responsibilities among programs with the aim of avoiding duplication of effort and gaps in program coverage. That goal may be achieved through the use of a wide range of administrative techniques, depending on the particular institutional arrangements in a State government. It is impossible to specify in these guidelines a general set of coordination steps which will be applicable to all States. Therefore, these guidelines identify several Federal programs that are relevant to solid waste management and require that the States examine the relationship between those programs and the State plan. The particular steps necessary to accommodate sound administration of solid waste programs to the objectives of other Federal

programs must be developed on a State-by-State basis through negotiations between EPA, the States and other Federal agencies.

Coordination With Guidelines and Regulations Under the Act

Certain guidelines and regulations developed under the Act which should be considered in conjunction with these guidelines for State plans include:

(1) Interim regulations to implement the Resource Conservation and Recovery Act of 1976 (40 CFR Part 35), as amended. These regulations establish procedures and policies for grants and financial assistance programs.

(2) Identification of regions and agencies for solid waste management, interim guidelines (40 CFR Part 255). Identifications should be made following the criteria and procedures in the Part 255 guidelines. Completed identifications should be reviewed to determine whether new or revised identifications must be made to comply with these planning guidelines.

(3) Solid waste disposal facilities, proposed criteria for classification (40 CFR Part 257). This regulation proposes minimum criteria for determining which solid waste land disposal facilities shall be classified as posing no reasonable probability of adverse effects on health or the environment.

(4) State hazardous waste program guidelines. These were proposed as 40 CFR Part 123, subparts A and B (44 FR 34298-34307, 8/14/79); Part 123 integrates the State hazardous waste program requirements with similar State regulations under the Clean Water Act, as amended (33 U.S.C. 1251 et seq.), and the Safe Drinking Water Act (42 U.S.C. 300f et seq.). Part 123 describes the various provisions and capabilities a State hazardous waste program must have in order to qualify for full or interim authorization under the Act. Other regulations for hazardous waste management developed under subtitle C of the Act which should be considered are:

Section 3001: Identification and Listing—40 CFR 250 Subpart A (43 FR 58954-58968, 12/18/78).

Section 3002: Generator Standards—40 CFR 250 Subpart B (43 FR 58969-58975, 12/18/78).

Section 3003: Transporter Standards—40 CFR 250 Subpart C (43 FR 18506-18512, 4/28/78; see also the DOT proposal, 43 FR 22626-22634, 5/25/78).

Section 3004: Facility Standards—40 CFR 250 Subpart D (43 FR 58994-59022, 12/18/78).

Section 3005: Permits—40 CFR 122 and 124 Subparts A and B (44 FR 34267-34282, 34321-34328, 6/14/79).

Section 3010: Notification—40 CFR 250 Subpart G (43 FR 29908-29918, 7/11/78).

Section 3011: Grants—40 CFR 35 (42 FR 56050, 10/20/77; amended by 43 FR 43424, 9/25/78).

(5) Resource recovery facility guidelines (40 CFR Part 245). These guidelines apply to Federal agencies' planning and establishment of resource recovery facilities.

Coordination With Other Environmental Programs

Plans developed under these guidelines should be coordinated with guidelines, regulations and programs developed under other Federal environmental acts:

(1) *Water Quality Management*. Subpart F of these guidelines addresses the requirements for coordinating the State plan with programs under section 208 of the Clean Water Act, as amended (33 U.S.C. 1288). Section 208 provides for the identification of complex water quality problem areas and for the designation of areawide agencies in those areas to conduct water quality management planning. The State is responsible for such planning in all areas of the State for which an areawide agency has not been identified and for coordination of all water quality management activities within the State. As part of this effort, State and areawide agencies are to identify a process to control the disposition of all residuals (solid) waste which affects water quality. After completion of such planning, the governor is to designate agencies to implement various elements of the plan.

Subpart F discusses the need to consider water quality management agencies when making agency identifications for solid waste planning and implementation. It also discusses the need to establish coordination procedures when separate agencies are identified. The following types of coordination should take place:

(a) Use of a common data base (e.g. demographic and population projections and geographic boundaries);

(b) Use of compatible report formats, maps, scales, legends, and so forth;

(c) Formulation of consistent policies for sludge and residuals management;

(d) Coordinated identification of State legislative changes needed for implementation; and

(e) Coordination of program development, implementation strategies, and public participation programs.

(2) *Surface Impoundment Studies.* Section 1442(a)(8)(C) of the Safe Drinking Water Act, as amended (SDWA) (42 U.S.C. 300j-1) requires a study of the nature and extent of the impact on underground water of ponds, pools, lagoons, pits, or other surface disposal of contaminants in underground water recharge areas. In partial fulfillment of this requirements, EPA is conducting through grants to State agencies, an assessment of surface impoundments and their effects on ground water. Those impoundments which are identified as having the greatest potential for serious impact on ground water quality should be considered high priority for development of the open dump inventory to be conducted under the State solid waste plan. Such impoundments which are found to violate the disposal criteria issued under section 4004 should be listed in the inventory and be liable for closure or upgrading. Those surface impoundments that receive hazardous wastes are subject to the regulations for hazardous waste disposal facilities promulgated under subtitle C of the Act.

(3) *The National Pollutant Discharge Elimination System (NPDES).* Section 402 of the Clean Water Act, as amended (33 U.S.C. 1342) establishes the National Pollutant Discharge Elimination System (NPDES) governing discharge of pollutants into navigable waters. Permits issued under section 402 should be coordinated with hazardous waste and solid waste management permits, where applicable. Specifically, the plan should provide for necessary coordination with:

(a) State or Federal issuance of NPDES permits for facilities disposing or utilizing municipal waste water treatment sludge, including new facility permits and compliance schedules under existing permits.

(b) State or Federal issuance of NPDES permits for facilities disposing or utilizing industrial pollution control sludges, including new and existing facilities.

(c) State or Federal supervision of pretreatment programs requiring facilities to comply with requirements and compliance schedules before discharging into municipal sewer systems.

Several commentors incorrectly interpreted the proposed Guidelines to imply that all disposal facilities are to be covered by an NPDES permit. The NPDES program is only applicable to disposal facilities where operation of the facility involves the discharge of a pollutant to waters of the United States. The proposed guidelines required

coordination of the open dump inventory with the NPDES permit program. While such coordination is advisable where possible, coordination with a planning tool such as the inventory is not as important as coordination between parallel regulatory activities. Therefore, these guidelines only require coordination between the State solid waste permitting activity (including the establishment of compliance schedules) and the NPDES program.

(4) *State Implementation Plans.* Several commentors stated that coordination with State Implementation Plans under the Clean Air Act should receive greater emphasis in these guidelines. Coordination with State Implementation Plans has been changed to a "requirement" from "a requirement, where practicable." Commentors also stated that the guidelines should emphasize the need for full and timely coordination of plans for resource recovery systems with the requirements of State Implementation Plans. This change has been made.

(5) *Coordination With Mining Regulatory Agencies.* Title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) provides for the establishment of a fund for reclamation of abandoned mining lands. To be eligible to receive this funding, States must first develop an enforcement program for wastes from active mines, subject to the Department of the Interior and EPA approval (title V). All mine wastes must be disposed in accordance with performance standards to be promulgated by the Office of Surface Mining, Department of the Interior. Coordination between these EPA and Department of the Interior programs will facilitate the inventory of mining wastes and may increase the beneficial use of sludge as a soil conditioner in reclamation of abandoned lands.

(6) *Endangered and Threatened Species.* The proposed regulation required "coordination, where practicable" with programs administered by the Office of Endangered Species, Department of the Interior. In examining the Act and section 7 of the Endangered Species Act (16 U.S.C. 1530 et seq.), EPA concluded that these guidelines should address this issue more specifically. Sound solid waste management should include a sensitivity to the impact of solid waste collection, source separation, storage, transportation, transfer, processing, treatment and disposal on endangered and threatened species. Therefore, these guidelines require that the State plan

provide for coordination with the Office of Endangered Species in order to ensure that solid waste management activities not jeopardize the continued existence of an endangered or threatened species nor result in the destruction or adverse modification of a critical habitat. The Office of Endangered Species has identified the species and habitats of concern in its regulations (50 CFR Part 17) implementing the Endangered Species Act.

EPA does not believe that it is appropriate to require more than coordination with endangered species programs in these guidelines. The States may need to employ differing administrative tools, from general policy statements to site-specific permit conditions, to provide protection of endangered species within their borders. EPA believes that the States must have the flexibility to determine, after consultation with Federal agencies concerned with this issue, the appropriate role of the State solid waste management plan in dealing with these issues. Such an approach is consistent with subtitle D, which relies heavily on State initiative, and which ultimately provides the greatest assurance of devising a solid waste management program which will be effective in protecting endangered and threatened species.

(7) *Dredge and Fill Permit Program.* Under section 404 of the Clean Water Act, as amended (CWA), the United States Army Corps of Engineers is responsible for the issuance of permits for the discharge of dredged or fill material into the Waters of the United States. States may assume responsibility for the issuance of permits if they have a program which satisfies requirements specified in section 404 of the CWA. States should attempt to coordinate the State plan with the dredge and fill permit program, particularly in regard to the siting of disposal facilities. To emphasize the importance of this program these guidelines require coordination with the Corps of Engineers (or the appropriate State agency) concerning the dredge and fill permit program.

(8) *Programs Affecting Indian Reservations.* Suggestions were received for coordination with areas not listed in these guidelines. Several commentors were particularly concerned about coordination with programs affecting Indian tribes and lands. EPA recognizes that improper disposal of solid waste on Indian lands can cause pollution both on and off the reservation. States with Indian lands should therefore address

solid waste management on these lands in accord with treaties and State policy. A provision has been added to subpart F to encourage coordination with tribal solid waste management programs. General wording has also added to subpart F to encourage the State to coordinate with any other Act or program area the State deems appropriate.

Subpart G—Public Participation

Under authority of section 7004(b) of the Act EPA is defining in these guidelines requirements for public participation in the development and implementation of State and substate plans. The requirements in these guidelines are supplemented by the requirements in 40 CFR Part 35 for solid waste program grants and by requirements in 40 CFR Part 25. Part 25 contains general public participation requirements for programs under the Solid Waste Disposal Act, as amended by RCRA, as well as for the programs under the Clean Water Act, as amended (33 U.S.C. 1251 et seq.) and the Safe Drinking Water Act, as amended (42 U.S.C. 300f et seq.).

The guidelines consider public participation for plan development, annual work program development, regulation development, and permitting of facilities. The guidelines require the greatest public participation in development of the State plan. The State must hold a public hearing on the plan in addition to other general efforts at publicizing the content of the plan. The State also is to prepare a responsiveness summary describing how it responded to public comment on the plan. The guidelines require that the draft annual State work program be made available to the public and that the work program include a public participation work plan. In the development of State regulations the guidelines allow the States to choose between a public hearing as described in 40 CFR Part 25 or the applicable portions of State law or administrative procedures. The guidelines require a public hearing on a facility permit if the State finds that there is a significant degree of public interest on the proposed permit.

Many comments were received on the requirement in these guidelines for an advisory group to assist with plan development and implementation. Several commentors stated that informal meetings or committees are a better means of obtaining public input on a solid waste management plan than formal advisory groups. Some States with formal advisory groups felt that the

way their advisory groups are currently structured is more suitable than the way proposed by Part 25.

EPA recognizes these concerns and has deleted both the requirement for an advisory group and the requirement that existing groups conform to the Part 25 provisions. EPA does believe, however, that advisory groups can be an important aspect of the public consultation process and that their use should be encouraged in those States where they are effective. Therefore, these guidelines recommend the use of advisory groups. States considering the establishment of an advisory group are encouraged to examine the guidance for advisory group membership and responsibilities contained in Part 25.

On a related issue, several commentors felt the guidelines should encourage public education programs that inform the public about and encourage their interest in planning for solid waste management. EPA agrees, and a recommendation for public education programs has been included.

The requirement to hold a public hearing before approving a permit for a resource recovery or disposal facility generated more comments than any other issue. Commentors cited the high cost of holding hearings and the lack of public interest in many permits. A majority of States responding suggested providing an opportunity for a hearing, while some felt hearings should not be required for permit renewals. Some commentors felt that a hearing at the local level should suffice, and a few commentors stated that there should be no requirements for hearings on permits in these guidelines.

After considering these comments, EPA has revised this section to require a hearing when the State finds a significant degree of public interest on the proposed permit. This change will avoid burdening the State with the cost of a hearing where there is no public interest in a permit, while providing an opportunity for public participation in this important facet of the solid waste management process. EPA decided that permit renewals should not be exempt from this requirement because a revised permit may result in a significantly different environmental impact. The hearing or the decision on the need for such a hearing may be a State or local function depending on how the plan identifies responsibilities within the State.

It should be made clear that the guidelines only address public hearing requirements in permit proceedings. Under State or Constitutional law there may be a right to an adjudicatory, or "on

the record", hearing prior to the imposition of legal sanctions. The guidelines do not address that issue.

Economic Impact

EPA has determined that this document does not require an economic impact analysis statement under Executive Order 12044 and OMB Circular A-107. The major economic impact of these guidelines is associated with the closure and upgrading of facilities in violation of the criteria for classification of solid waste disposal facilities (the Criteria, 40 CFR Part 257). The environmental impact statement prepared for the Criteria contains analysis of the cost of bringing facilities into compliance with the Criteria.

Dated: July 25, 1979.

Barbara Blum,
Acting Administrator.

Title 40 CFR is amended to add a new part 256 reading as follows:

PART 256—GUIDELINES FOR DEVELOPMENT AND IMPLEMENTATION OF STATE SOLID WASTE MANAGEMENT PLANS

Subpart A—Purposes, General Requirements, Definitions

- Sec. 256.01 Purpose and scope of the guidelines.
- 256.02 Scope of the State solid waste management plan.
- 256.03 State plan submission, adoption, and revision.
- 256.04 State plan approval, financial assistance.
- 256.05 Annual work program
- 256.06 Definitions.

Subpart B—Identification of Responsibilities; Distribution of Funding

- 256.10 Requirements.
- 256.11 Recommendations.

Subpart C—Solid Waste Disposal Programs

- 256.20 Requirements for State legal authority.
- 256.21 Requirements for State regulatory powers.
- 256.22 Recommendations for State regulatory powers.
- 256.23 Requirements for closing or upgrading open dumps.
- 256.24 Recommendations for closing or upgrading open dumps.
- 256.25 Recommendation for inactive facilities.
- 256.26 Requirement for schedules leading to compliance with the prohibition of open dumping.
- 256.27 Recommendation for schedules leading to compliance with the prohibition of open dumping.

Subpart D—Resource Conservation and Resource Recovery Programs

- 256.30 Requirements.

Sec.

256.31 Recommendations for developing and implementing resource conservation and recovery programs.

Subpart E—Facility Planning and Implementation

256.40 Requirements.

256.41 Recommendations for assessing the need for facilities.

256.42 Recommendations for assuring facility development.

Subpart F—Coordination With Other Programs

256.50 Requirements.

Subpart G—Public Participation

256.60 Requirements for public participation in State and substate plans.

256.61 Requirements for public participation in the annual State work program.

256.62 Requirements for public participation in State regulatory development.

256.63 Requirements for public participation in the permitting of facilities.

256.64 Recommendations for public participation.

Authority: Sections 4002(b) and 4003 of the Solid Waste Disposal Act, as amended, Pub. L. 94-580; 90 Stat. 2813, 2814; 42 U.S.C. 6942(b), 6943.

Subpart A—Purpose, General Requirements, Definitions

§ 256.01 Purpose and scope of the guidelines.

(a) The purpose of these guidelines is to assist in the development and implementation of State solid waste management plans, in accordance with section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6942(b)) (the "Act"). These guidelines contain methods for achieving the objectives of environmentally sound management and disposal of solid and hazardous waste, resource conservation, and maximum utilization of valuable resources.

(b) These guidelines address the minimum requirements for approval of State plans as set forth in section 4003 of the Act. These are:

(1) The plan shall identify, in accordance with section 4006(b), (i) the responsibilities of State, local, and regional authorities in the implementation of the State plan, (ii) the distribution of Federal funds to the authorities responsible for development and implementation of the State plan, and (iii) the means for coordinating regional planning and implementation under the State plan.

(2) The plan shall, in accordance with section 4005(c), prohibit the establishment of new open dumps within the State, and contain requirements that all solid waste

(including solid waste originating in other States, but not including hazardous waste) shall be (i) utilized for resource recovery or (ii) disposed of in sanitary landfills (within the meaning of section 4004(a)) or otherwise disposed of in an environmentally sound manner.

(3) The plan shall provide for the closing or upgrading of all existing open dumps within the State pursuant to the requirements of section 4005.

(4) The plan shall provide for the establishment of such State regulatory powers as may be necessary to implement the plan.

(5) The plan shall provide that no local government within the State shall be prohibited under State or local law from entering into long-term contracts for the supply of solid waste to resource recovery facilities.

(6) The plan shall provide for resource conservation or recovery and for the disposal of solid waste in sanitary landfills or for any combination of practices so as may be necessary to use or dispose of such waste in a manner that is environmentally sound.

(c) These guidelines address the requirement of section 4005(c) that a State plan:

Shall establish, for any entity which demonstrates that it has considered other public or private alternatives for solid waste management to comply with the prohibition on open dumping and is unable to utilize such alternatives to so comply, a timetable or schedule of compliance for such practice or disposal of solid waste which specifies a schedule of remedial measures, including an enforceable sequence of actions or operations leading to compliance with the prohibition on open dumping of solid waste within a reasonable time (not to exceed five years from the date of publication of the inventory).

§ 256.02 Scope of the State solid waste management plan.

(a)(1) The State plan shall address all solid waste in the State that poses potential adverse effects on health or the environment or provides opportunity for resource conservation or resource recovery. The plan shall consider:

- (i) Hazardous wastes;
- (ii) Residential, commercial and institutional solid waste;
- (iii) Wastewater treatment sludge;
- (iv) Pollution control residuals;
- (v) Industrial wastes;
- (vi) Mining wastes;
- (vii) Agricultural wastes;
- (viii) Water treatment sludge; and
- (ix) Septic tank pumpings.

(2) The State plan shall consider the following aspects of solid waste management:

- (i) Resource conservation;

(ii) Source separation;

(iii) Collection;

(iv) Transportation;

(v) Storage;

(vi) Transfer;

(vii) Processing (including resource recovery);

(viii) Treatment; and

(ix) Disposal.

(b) The State Plan shall establish and justify priorities and timing for actions. These priorities shall be based on the current level of solid waste management planning and implementation within the State, the extent of the solid waste management problem, the health, environmental and economic impacts of the problem, and the resources and management approaches available.

(c) The State plan shall set forth an orderly and manageable process for achieving the objectives of the Act and meeting the requirements of these guidelines. This process shall describe as specifically as possible the activities to be undertaken, including detailed schedules and milestones.

(d) The State plan shall cover a minimum of a five year time period from the date submitted to EPA for approval.

(e) The State plan shall identify existing State legal authority for solid waste management and shall identify modifications to regulations necessary to meet the requirements of these guidelines.

§ 256.03 State plan submission, adoption, and revision.

(a) To be considered for approval, the State plan shall be submitted to EPA within eighteen months after final promulgation of these guidelines.

(b) Prior to submission to EPA, the plan shall be adopted by the State pursuant to State administrative procedures.

(c) The plan shall be developed in accord with public participation procedures required by subpart G of this part.

(d) The plan shall contain procedures for revision. The State plan shall be revised by the State, after notice and public hearings, when the Administrator, by regulation, or the State determines, that:

(1) The State plan is not in compliance with the requirements of these guidelines;

(2) Information has become available which demonstrates the inadequacy of the plan; or

(3) Such revision is otherwise necessary.

(e) The State plan shall be reviewed by the State and, where necessary,

revised and readopted not less frequently than every three years.

§ 256.04 State plan approval, financial assistance.

(a) The Administrator shall, within six months after a State plan has been submitted for approval, approve or disapprove the plan. The Administrator shall approve a plan if he determines that:

(1) It meets the requirements of these guidelines which address sections 4003(1), (2), (3), and (5), and

(2) It contains provisions for revision pursuant to § 256.03.

(b) The Administrator shall review approved plans from time to time, and if he determines that revisions or corrections are necessary to bring such plan into compliance with all of the requirements of these guidelines, including the requirements which address sections 4003(4) and (6) and any new or revised requirement established by amendment to this part, he shall notify the State and provide an opportunity for such revisions and corrections and for an appeal and public hearing. If the plan continues to remain out of compliance, he shall withdraw his approval of such plan.

(c) Such withdrawal of approval shall cease to be effective upon the Administrator's determination that the State plan complies with the requirements of these guidelines.

(d) The Administrator shall approve a State application for financial assistance under subtitle D of the Act, and make grants to such State, if the Administrator determines that the State plan continues to be eligible for approval and is being implemented by the State.

(e) Upon withdrawal of approval of a State plan, the Administrator shall withhold Federal financial and technical assistance under subtitle D (other than such technical assistance as may be necessary to assist in obtaining reinstatement of approval) until such time as approval is reinstated. (Procedures for termination of financial assistance and for settlement of disputes are contained in 40 CFR 30, appendix A, articles 7 and 8.)

§ 256.05 Annual work program.

(a) The annual work program submitted for financial assistance under section 4008(a)(1) and described in the grant regulations (40 CFR Part 35) shall be reviewed by the Administrator in order to determine whether the State plan is being implemented by the State.

(b) The Administrator and the State shall agree on the contents of the annual

work program. The Administrator will consider State initiatives and priorities, in light of the goals of the Act, in determining annual work programs for each State. The annual work program represents a State's obligation incurred by acceptance of financial assistance.

(c) Annual guidance for the development of State work programs will be issued by EPA. While this guidance will establish annual national priorities, flexibility will be provided in order to accommodate differing State priorities.

(d) The following documents developed under the State plan shall be included by reference in the annual work program:

(1) Substate solid waste management plans.

(2) Plans for the development of facilities and services, including hazardous waste management facilities and services.

(3) Evidence of actions or steps taken to close or upgrade open dumps.

(e) The annual work program shall allocate the distribution of Federal funds to agencies responsible for the development and implementation of the State plan.

§ 256.06 Definitions.

Terms not defined below have the meanings assigned them by section 1004 of the Act.

"The Act" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.).

"Criteria" means the "Criteria for Classification of Solid Waste Disposal Facilities", 40 CFR Part 257, promulgated under section 4004(a) of the Act.

"Facility" refers to any resource recovery system or component thereof, any system, program or facility for resource conservation, and any facility for collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste, including hazardous waste, whether such facility is associated with facilities generating such wastes or not. "Implementation" means putting the plan into practice by carrying out planned activities, including compliance and enforcement activities, or ensuring such activities are carried out.

"Inactive facility" means a facility which no longer receives solid waste.

"Inventory of open dumps" means the inventory required under section 4005(b) and is defined as the list published by EPA of those disposal facilities which do not meet the criteria.

"Operator" includes facility owners and operators.

A "permit" is an entitlement to commence and continue operation of a facility as long as both procedural and performance standards are met. The term "permit" includes any functional equivalent such as a registration or license.

"Planning" includes identifying problems, defining objectives, collecting information, analyzing alternatives and determining necessary activities and courses of action.

"Provide for" in the phrase "the plan shall (should) provide for" means explain, establish or set forth steps or courses of action.

The term "shall" denotes requirements for the development and implementation of the State plan.

The term "should" denotes recommendations for the development and implementation of the State plan.

"Substate" refers to any public regional, local, county, municipal, or intermunicipal agency, or regional or local public (including interstate) solid or hazardous waste management authority, or other public agency below the State level.

Subpart B—Identification of Responsibilities; Distribution of Funding

§ 256.10 Requirements.

(a) In accordance with sections 4003(1) and 4006 and the interim guidelines for identification of regions and agencies for solid waste management (40 CFR Part 255), the State plan shall provide for:

- (1) The identification of the responsibilities of State and substate (regional, local and interstate) authorities in the development and implementation of the State plan;
- (2) The means of distribution of Federal funds to the authorities responsible for development and implementation of the State plan; and
- (3) The means for coordinating substate planning and implementation.

(b) Responsibilities shall be identified for the classification of disposal facilities for the inventory of open dumps.

(c) Responsibilities shall be identified for development and implementation of the State regulatory program described in subpart C of this part.

(d) Responsibilities shall be identified for the development and implementation of the State resource conservation and resource recovery program described in subpart D of this part.

(e) State, substate and private sector responsibilities shall be identified for the planning and implementation of

solid and hazardous waste management facilities and services.

(f) Financial assistance under sections 4008(a) (1) and (2) shall be allocated by the State to State and substate authorities carrying out development and implementation of the State plan. Such allocation shall be based on the responsibilities of the respective parties as determined under section 4003(b).

§ 256.11 Recommendations.

(a) Responsibilities should be identified for each of the solid waste types listed in § 256.02(a)(1).

(b) Responsibilities should be identified for each of the aspects of solid waste management listed in § 256.02(a)(2).

(c) Responsibilities should be identified for planning and designating ground water use with respect to design and operation of solid waste disposal facilities.

(d) Responsibilities should be identified for the development and implementation of the authorized State hazardous waste management program under subtitle C of the Act.

(e) The State plan should include a schedule and procedure for the continuing review, reassessment and reassignment of responsibilities.

Subpart C—Solid Waste Disposal Programs

§ 256.20 Requirements for State legal authority.

In order to comply with sections 4003 (2) and (3), the State plan shall assure that the State has adequate legal authority to prohibit the establishment of new open dumps and to close or upgrade existing open dumps. The prohibition of the establishment of new open dumps shall take effect no later than six months after the date of promulgation of the criteria or on the date of approval of the State plan, whichever is later.

§ 256.21 Requirements for State regulatory powers.

In order to comply with section 4003(4), the State plan shall provide for the establishment of State regulatory powers. These powers:

(a) Shall be adequate to enforce solid waste disposal standards which are equivalent to or more stringent than the criteria for classification of solid waste disposal facilities (40 CFR Part 257). Such authority shall be as definitive as possible and clearly establish the means for compliance.

(b) Shall include surveillance capabilities necessary to detect adverse environmental effects from solid waste

disposal facilities. Such capabilities shall include access for inspection and monitoring by regulatory officials and the authority to establish operator monitoring and reporting requirements.

(c) Shall make use of a permit program which ensures that the establishment of new open dumps is prohibited.

(d) Shall have administrative and judicial enforcement capabilities, including enforceable orders, fines or other administrative procedures, as necessary to ensure compliance.

§ 256.22 Recommendations for State regulatory powers.

In order to assist compliance with section 4003(4), the following are recommendations for State regulatory powers as may be necessary to prohibit new open dumps and close or upgrade all existing open dumps.

(a) Solid waste disposal standards:

(1) Should be based on the health and environmental impacts of disposal facilities.

(2) Should specify design and operational standards.

(3) Should take into account the climatic, geologic, and other relevant characteristics of the State.

(b) Surveillance systems should establish monitoring requirements for facilities.

(1) Every facility should be evaluated for potential adverse health and environmental effects. Based on this evaluation, instrumentation, sampling, monitoring, and inspection requirements should be established.

(2) Every facility which produces leachate in quantities and concentrations that could contaminate ground water in an aquifer should be required to monitor to detect and predict contamination.

(3) Inspectors should be trained and provided detailed instructions for checking on the procedures and conditions that are specified in the engineering plan and site permit. Provisions should be made to ensure chain of custody for evidence.

(c) Facility assessment and prescription of remedial measures should be carried out by adequately trained or experienced professional staff, including engineers and geologists.

(d) The State permit system should provide the administrative control to prohibit the establishment of new open dumps and to assist in meeting the requirement that all wastes be used or disposed in an environmentally sound manner.

(1) Permitting procedures for new facilities should require applicants to

demonstrate that the facility will comply with the criteria.

(2) The permit system should specify, for the facility operator, the location, design, construction, operational, monitoring, reporting, completion and maintenance requirements.

(3) Permit procedures should include provisions to ensure that future use of the property on which the facility is located is compatible with that property's use as a solid waste disposal facility. These procedures should include identification of future land use or the inclusion of a stipulation in the property deed which notifies future purchasers of precautions necessitated by the use of the property as a solid waste disposal facility.

(4) Permits should only be issued to facilities that are consistent with the State plan, or with substate plans developed under the State plan.

(e) The enforcement system should be designed to include both administrative procedures and judicial remedies to enforce the compliance schedules and closure procedures for open dumps.

(1) Permits, surveillance, and enforcement system capabilities should be designed for supporting court action.

(2) Detection capabilities and penalties for false reporting should be provided for.

§ 256.23 Requirements for closing or upgrading open dumps.

In meeting the requirement of section 4003(3) for closing or upgrading open dumps:

(a) The State plan shall provide for the classification of existing solid waste disposal facilities according to the criteria. This classification shall be submitted to EPA, and facilities classified as open dumps shall be published in the inventory of open dumps.

(b) The State plan shall provide for an orderly time-phasing of the disposal facility classifications described in paragraph (a) of this section. The determination of priorities for the classification of disposal facilities shall be based upon:

(1) The potential health and environmental impact of the solid waste disposal facility;

(2) The availability of State regulatory and enforcement powers; and

(3) The availability of Federal and State resources for this purpose.

(c) For each facility classified as an open dump the State shall take steps to close or upgrade the facility. Evidence of that action shall be incorporated by reference into the annual work program and be made publicly available. When

the State's actions concerning open dumps are modified, the changes shall be referenced in subsequent annual work programs.

(d) In providing for the closure of open dumps the State shall take steps necessary to eliminate health hazards and minimize potential health hazards. These steps shall include requirements for long-term monitoring or contingency plans where necessary.

§ 256.24 Recommendations for closing or upgrading open dumps.

(a) All sources of information available to the State should be used to aid in the classification of facilities. Records of previous inspections and monitoring, as well as new inspections and new monitoring, should be considered.

(b) The steps to close or upgrade open dumps established under § 256.23(c) should be coordinated with the facility needs assessment described in § 256.41.

(c) A determination should be made of the feasibility of resource recovery or resource conservation to reduce the solid waste volume entering a facility classified as an open dump; and feasible measures to achieve that reduction should be implemented.

§ 256.25 Recommendation for inactive facilities.

Inactive facilities that continue to produce adverse health or environmental effects should be evaluated according to the criteria. The State plan should provide for measures to ensure that adverse health or environmental effects from inactive facilities are minimized or eliminated. Such measures may include actions by disposal facility owners and operators, notification of the general public, adjacent residents and other affected parties and notification of agencies responsible for public health and safety.

§ 256.26 Requirement for schedules leading to compliance with the prohibition of open dumping.

In implementing the section 4005(c) prohibition on open dumping, the State plan shall provide that any entity which demonstrates that it has considered other public or private alternatives to comply with the prohibition on open dumping and is unable to utilize such alternatives to so comply, may obtain a timetable or schedule for compliance which specifies a schedule of remedial measures, and an enforceable sequence of actions, leading to compliance within a reasonable time (not to exceed 5 years from the date of publication of the inventory).

§ 256.27 Recommendation for schedules leading to compliance with the prohibition of open dumping.

In reviewing applications for compliance schedules under § 256.26, the State should consider the availability of processing and disposal facilities, the likelihood of environmental damage from disposal at available facilities, the existence of State or substate requirements (including other compliance schedules) applicable to available facilities, cost constraints, existing contractual agreements and other pertinent factors.

Subpart D—Resource Conservation and Resource Recovery Programs

§ 256.30 Requirements.

(a) In order to comply with sections 4003(2) and (6) as they pertain to resource conservation and recovery, the State plan shall provide for a policy and strategy for encouragement of resource recovery and conservation activities.

(b) In order to comply with section 4003(5), the State plan shall provide that no local government within the State is prohibited under State or local law from entering into long-term contracts for the supply of solid waste to resource recovery facilities.

§ 256.31 Recommendations for developing and implementing resource conservation and recovery programs.

(a) In order to encourage resource recovery and conservation, the State plan should provide for technical assistance, training, information development and dissemination, financial support programs, market studies and market development programs.

(b) In order to comply with the requirement of § 256.30(b) regarding long-term contract prohibitions, the State plan should provide for:

(1) Review of existing State and local laws and regulations pertinent to contracting for resource recovery services or facilities.

(2) Reporting of all laws and regulations found to be in violation of this requirement to the executive officer of the administrative agency responsible for the statute.

(3) Development of an administrative order or a revised law or regulation or any other preliminary step for the removal or amending of a law or regulation in violation of this requirement.

(4) Development of a strategy for the consideration of the legislature to prohibit and/or remove from State or local law provisions in violation of this requirement.

(c) The State plan should aid and encourage State procurement of products containing recovered materials in accord with section 6002 of the Act. To assist this effort, the State plan should provide for:

(1) The development of a policy statement encouraging the procurement of recovered materials, wherever feasible;

(2) The identification of the key purchasing agencies of the State, along with potential uses of recovered materials by these agencies; and,

(3) The development of a plan of action to promote the use of recovered materials through executive order, legislative initiative, or other action that the State deems necessary.

(d) In order to encourage resource recovery and conservation, the State plan should provide for the elimination, to the extent possible, of restrictions on the purchase of goods or services, especially negotiated procurements, for resource recovery facilities. This should include:

(1) Review of existing State and local laws pertinent to the procurement of equipment and services for the design, construction and operation of resource recovery facilities;

(2) Listing of all laws that limit the ability of localities to negotiate for the procurement of the design, construction, or operation of resource recovery facilities;

(3) Development of administrative orders or legislation or other action that would eliminate these restrictions; and

(4) Development of a strategy and plan of action for the consideration of the legislature for execution of administrative orders or other action that would eliminate these restrictions.

(e) The State plan should encourage the development of resource recovery and resource conservation facilities and practices as the preferred means of solid waste management whenever technically and economically feasible. The State plan should provide for the following activities:

(1) The composition of wastes should be analyzed with particular emphasis on recovery potential for material and energy, including fuel value, percentages of recoverable industrial wastes, grades of wastepaper, glass, and non-ferrous and ferrous metals.

(2) Available and potential markets for recovered materials and energy should be identified, including markets for recoverable industrial wastes; wastepapers; ferrous and non-ferrous metals; glass; solid, liquid, or gaseous fuels; sludges; and tires. The following should be evaluated: location and

transportation requirements, materials and energy specifications of user industries, minimum quantity requirements, pricing mechanisms and long-term contract availability.

(3) Resource recovery feasibility studies should be conducted in regions of the State in which uses or markets for recovered materials or energy are identified. These studies should review various technological approaches, environmental considerations, institutional and financial constraints, and economic feasibility.

(4) Source separation, recycling and resource conservation should be utilized whenever technically and economically feasible.

(5) Mixed waste processing facilities for the recovery of energy and materials should be utilized whenever technically and economically feasible.

(6) Source separation, resource conservation and mixed waste processing capacity should be combined to achieve the most effective resource conservation and economic balance.

Subpart E—Facility Planning and Implementation

§ 256.40 Requirements.

In order to comply with section 4003(6), the State plan shall provide for adequate resource conservation, recovery, storage, treatment and disposal facilities and practices necessary to use or dispose of solid and hazardous waste in an environmentally sound manner.

§ 256.41 Recommendations for assessing the need for facilities.

(a) In meeting the requirement for adequate resource conservation, recovery, storage, treatment and disposal facilities and practices, the State plan should provide for an assessment of the adequacy of existing facilities and practices and the need for new or expanded facilities and practices.

(1) The needs assessment should be based on current and projected waste generation rates and on the capacities of presently operating and planned facilities.

(2) Existing and planned resource conservation and recovery practices and their impact on facility needs should be assessed.

(3) Current and projected movement of solid and hazardous waste across State and local boundaries should be assessed.

(4) Special handling needs should be determined for all solid waste categories.

(5) Impact on facility capacities due to predictable changes in waste quantities and characteristics should be estimated.

(6) Environmental, economic, and other constraints on continued operation of facilities should be assessed.

(7) Diversion of wastes due to closure of open dumps should be anticipated.

(8) Facilities and practices planned or provided for by the private sector should be assessed.

(b) The State plan should provide for the identification of areas which require new capacity development, based on the needs assessment.

§ 256.42 Recommendations for assuring facility development.

(a) The State plan should address facility planning and acquisition for all areas which are determined to have insufficient recovery, storage, treatment and disposal capacity in the assessment of facility needs.

(b) Where facilities and practices are found to be inadequate, the State plan should provide for the necessary facilities and practices to be developed by responsible State and substate agencies or by the private sector.

(c) For all areas found to have five or fewer years of capacity remaining, the State plan should provide for:

(1) The development of estimates of waste generation by type and characteristic.

(2) The evaluation and selection of resource recovery, conservation or disposal methods.

(3) Selection of sites for facilities, and

(4) Development of schedules of implementation.

(d) The State plan should encourage private sector initiatives in order to meet the identified facility needs.

(e) In any area having fewer than 2 years of projected capacity, the State plan should provide for the State to take action such as acquiring facilities or causing facilities to be acquired.

(f) The State plan should provide for the initiation and development of environmentally sound facilities as soon as practicable to replace all open dumps.

(g) The State plan should provide for the State, in cooperation with substate agencies, to establish procedures for choosing which facilities will get priority for technical or financial assistance or other emphasis. Highest priority should be given to facilities developed to replace or upgrade open dumps.

(h) The State plan should provide for substate cooperation and policies for free and unrestricted movement of solid and hazardous waste across State and local boundaries.

Subpart F—Coordination With Other Programs

§ 256.50 Requirements.

Section 4003(1) requires the State solid waste management plan to identify means for coordinating regional planning and implementation under the State plan. Section 1006 requires the Administrator to integrate all provisions of this Act (including approval of State plans) with other Acts that grant regulatory authority to the Administrator in order to prevent duplication of administrative and enforcement efforts. In order to meet these requirements:

(a) The State solid waste management plan shall be developed in coordination with Federal, State, and substate programs for air quality, water quality, water supply, waste water treatment, pesticides, ocean protection, toxic substances control, noise control, and radiation control.

(b) The State plan shall provide for coordination with programs under section 208 of the Clean Water Act, as amended (33 U.S.C. 1288). In identifying agencies for solid waste management planning and implementation, the State shall review the solid waste management activities being conducted by water quality planning and management agencies designated under section 208 of the Clean Water Act. Where feasible, identification of such agencies should be considered during the identification of responsibilities under subpart B of this part. Where solid waste management and water quality agencies are separate entities, necessary coordination procedures shall be established.

(c) The State plan shall provide for coordination with the National Pollutant Discharge Elimination System (NPDES) established under section 402 of the Clean Water Act, as amended (33 U.S.C. 1342). The issuance of State facility permits and actions taken to close or upgrade open dumps shall be timed, where practicable, to coordinate closely with the issuance of a new or revised NPDES permit for such facility.

(d) The State plan shall provide for coordination with activities for municipal sewage sludge disposal and utilization conducted under the authority of section 405 of the Clean Water Act, as amended (33 U.S.C. 1345), and with the program for construction grants for publicly owned treatment works under section 201 of the Clean Water Act, as amended (33 U.S.C. 1281).

(e) The State plan shall provide for coordination with State pretreatment

activities under section 307 of the Clean Water Act, as amended (33 U.S.C. 1317).

(f) The State plan shall provide for coordination with agencies conducting assessments of the impact of surface impoundments on underground sources of drinking water under the authority of section 1442(a)(8)(C) of the Safe Drinking Water Act (42 U.S.C. 300j-1).

(g) The State plan shall provide for coordination with State underground injection control programs (40 CFR Parts 122, 123, 124, and 146) carried out under the authority of the Safe Drinking Water Act (42 U.S.C. 300f et seq.) and with the designation of sole source aquifers under section 1424 of that Act.

(h) The State plan shall provide for coordination with State implementation plans developed under the Clean Air Act (42 U.S.C. 7401 et seq.; incineration and open burning limitations; and, State implementation plan requirements impacting resource recovery systems).

(i) The State plan shall provide for coordination with the Army Corps of Engineers permit program (or authorized State program) under section 404 of the Clean Water Act, as amended (33 U.S.C. 1344) for dredge and fill activities in waters of the United States.

(j) The State plan shall provide for coordination with the Office of Endangered Species, Department of the Interior, to ensure that solid waste management activities, especially the siting of disposal facilities, do not jeopardize the continued existence of an endangered or threatened species nor result in the destruction or adverse modification of a critical habitat.

(k) The State plan shall provide for coordination, where practicable, with programs under:

(1) The Toxic Substances Control Act (15 U.S.C. 2601 et seq.; disposal of chemical substances and mixtures).

(2) The Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 1362 et seq.; disposal and storage of pesticides and pesticide containers).

(3) The Marine Protection, Research and Sanctuaries Act (33 U.S.C. 1420 et seq.; disposal in ocean waters).

(l) The State plan shall provide for coordination, where practicable, with programs of other Federal agencies, including:

(i) Department of the Interior.

(ii) Fish and Wildlife Service (wetlands).

(iii) Bureau of Mines and Office of Surface Mining (mining waste disposal and use of sludge in reclamation).

(iv) U.S. Geological Survey (wetlands, floodplains, ground water);

(v) Department of Commerce,

National Oceanic and Atmospheric

Administration (coastal zone management plans);

(3) Water Resources Council (floodplains, surface and ground waters);

(4) Department of Agriculture, including Soil Conservation Service (land spreading solid waste on food chain croplands);

(5) Federal Aviation Administration (locating disposal facilities on or near airport property);

(6) Department of Housing and Urban Development (701 comprehensive planning program, flood plains mapping);

(7) Department of Defense (development and implementation of State and substate plans with regard to resource recovery and solid waste disposal programs at various installations);

(8) Department of Energy (State energy conservation plans under the Energy Policy and Conservation Act (42 U.S.C. 6321)); and

(9) Other programs.

(m) The State plan shall provide for coordination, where practicable, with solid waste management plans in neighboring States and with plans for Indian reservations in the State.

Subpart G—Public Participation

§ 256.60 Requirements for public participation in State and substate plans.

(a) State and substate planning agencies shall:

(1) Maintain a current list of agencies, organizations, and individuals affected by or interested in the plan;

(2) Provide depositories of relevant information in one or more convenient locations; and

(3) Prepare a responsiveness summary, in accord with 40 CFR Part 25.8, where required by this subpart or by an approved public participation work plan, which describes matters on which the public was consulted, summarizes the public's views, and sets forth the agency's response to the public input.

(b) State and substate planning agencies shall provide information and consult with the public on plan development and implementation.

Provision of information and consultation shall occur both early in the planning process (including the preparation and distribution of a summary of the proposed plan) and on major policy decisions made during the course of plan development, revision and implementation. To meet this requirement, planning agencies shall:

(1) Publicize information in news media having broad audiences in the geographic area;

(2) Place information in depositories maintained under paragraph (a)(2) of this section;

(3) Send information directly to agencies, organizations and individuals on the list maintained under paragraph (a)(1) of this section; and

(4) Prepare and make available to the public a responsiveness summary in accord with 40 CFR Part 25.8.

(c) State and substate planning agencies shall conduct public hearings (and public meetings, where the agency determines there is sufficient interest) in accord with 40 CFR Parts 25.5 and 25.6. The purpose of the hearings and meetings is to solicit reactions and recommendations from interested or affected parties and to explain major issues within the proposed plan. Following the public hearings, a responsiveness summary shall be prepared and made available to the public in accord with 40 CFR Part 25.8.

§ 256.61 Requirements for public participation in the annual State work program.

(a) A public participation work plan in accord with 40 CFR Part 25.11 shall be included in the annual State work program.

(b) The State shall consult with the public in the development of the annual work program. One month prior to submission of the draft work program to the Regional Administrator, as required by 40 CFR Part 35, the draft work program shall be made available to the public at the State information depositories maintained under § 256.60(a)(2). The public shall be notified of the availability of the draft work program, and a public meeting shall be held if the planning agency determines there is sufficient interest.

(c) The State shall comply with the requirements of Office of Management and Budget Circular No. A-95.

(d) Copies of the final work program shall be placed in the State information depositories maintained under § 256.60(a)(2).

§ 256.62 Requirements for public participation in State regulatory development.

(a) The State shall conduct public hearings (and public meetings where the State determines there is sufficient interest) on State legislation and regulations, in accord with the State administrative procedures act, to solicit reactions and recommendations. Following the public hearings, a

responsiveness summary shall be prepared and made available to the public in accord with 40 CFR Part 25.8.

(b) In advance of the hearings and meetings required by paragraph (a) of this section, the State shall prepare a fact sheet on proposed regulations or legislation, mail the fact sheet to agencies, organizations and individuals on the list maintained under § 256.60(a)(1) and place the fact sheet in the State information depositories maintained under § 256.60(a)(2).

§ 256.63 Requirements for public participation in the permitting of facilities.

(a) Before approving a permit application (or renewal of a permit) for a resource recovery or solid waste disposal facility the State shall hold a public hearing to solicit public reaction and recommendations on the proposed permit application if the State determines there is a significant degree of public interest in the proposed permit.

(b) This hearing shall be held in accord with 40 CFR Part 25.5.

§ 256.64 Recommendations for public participation.

(a) State and substate planning agencies should establish an advisory group, or utilize an existing group, to provide recommendations on major policy and program decisions. The advisory group's membership should reflect a balanced viewpoint in accord with 40 CFR Part 25.7(c).

(b) State and substate planning agencies should develop public education programs designed to encourage informed public participation in the development and implementation of solid waste management plans.

(c) The State should inform all affected parties of the classification of a facility as an open dump, in accord with § 256.22(a), prior to publication of that facility by EPA on the open dump inventory.

[FR Doc. 79-23471 Filed 7-30-79; 8:45 am]

BILLING CODE 6560-01-M

Tuesday
July 31, 1979

Part IV

**Department of
Health, Education,
and Welfare**

National Institutes of Health

Recombinant DNA Research; Meeting and
Actions Under Guidelines

Registered Federal Patent

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DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE

National Institutes of Health

Recombinant DNA Advisory
Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee at the National Institutes of Health, Conference Room 10, Building 31C, Bethesda, Maryland 20205, on September 6-7, 1979, from 9:00 a.m. to 5:00 p.m. This meeting will be open to the public on September 6 from 9 a.m. to 5 p.m., and September 7, from 9 a.m. to 3 p.m., to discuss:

Proposed procedures for the Recombinant DNA Advisory Committee

Proposed procedures for approval of large-scale experiments
Prokaryote host-vectors other than *E. coli* K-12

Large-scale experiments

Amendment of Guidelines

Proposed exemption under I-E-5 for *E. coli* K-12 host-vector systems

Exemptions for organisms that exchange genetic information (I-E-4)

E. coli host-vector Systems

NIH risk-assessment plan

Reports of Plasmid and Phage Subcommittees

Review of protocols for required containment levels

Other matters requiring necessary action by the Committee.

Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(4), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on September 7 from 3 p.m. to 5 p.m. for the review, discussion and evaluation of a proposal from a commercial concern for scale-up of recombinant DNA experiments. This proposal and the discussions could reveal confidential trade secrets or commercial property such as patentable material.

Dr. William J. Gartland, Jr., Executive Secretary, Recombinant DNA Advisory Committee, National Institutes of Health, Building 31, Room 4A52, telephone 301-496-6051, will provide materials to be discussed at the meeting, rosters of committee members and substantive program information. A summary of the meeting will be available at a later date.

Dated: July 25, 1979.

Suzanne L. Freneau,

Committee Management Officer, NIH.

[FR Doc. 79-23549 Filed 7-30-79; 8:45 am]

BILLING CODE 4110-08-M

Recombinant DNA Research;
Proposed Actions Under Guidelines

AGENCY: National Institutes of Health, PHS, DHEW.

ACTION: Notice of proposed actions under NIH Guidelines for Research Involving Recombinant DNA Molecules.

SUMMARY: This notice sets forth the proposals for actions to be taken under the 1978 NIH Guidelines for Research Involving Recombinant DNA Molecules [Federal Register of December 22, 1978 (43 FR 60108)]. Interested parties are invited to submit comments concerning these proposals. After consideration of these proposals and comments by the NIH Recombinant DNA Advisory Committee (RAC) at its September 6-7, 1979, meeting, the Director of the National Institutes of Health will issue decisions on these proposals in accord with the Guidelines.

DATE: Comments must be received by August 30, 1979.

ADDRESS: Written comments and recommendations should be submitted to the Director, Office of Recombinant DNA Activities, Building 31, Room 4A52, National Institutes of Health, Bethesda, Maryland 20205. All comments received in timely responses to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Additional information can be obtained from Drs. Michael Resnick or Stanley Barban, Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-6051.

SUPPLEMENTARY INFORMATION: The National Institutes of Health will consider the following changes and amendments under the Guidelines for Research Involving Recombinant DNA Molecules (43 FR 60108), as well as actions under these Guidelines.

1. *Proposed Exemption for E. coli* K-12 Host-Vector Systems. The RCA Working Group on *E. coli* K-12 host-vector systems will report to the full committee for discussion/action documentation for a proposed exemption under I-E-5 of the Guidelines for experiments involving EK1 and EK2 host-vector systems. This proposed action would exempt certain categories

of recombinant DNA molecules in addition to those already stated in Sections I-E-1 to -4. The proposed exemption is as follows:

Those recombinant DNA molecules that are propagated in *E. coli* K-12 hosts not containing conjugation-proficient plasmids or generalized transducing phages, when lambda or lambdoid bacteriophages or non-conjugative plasmids are used as vectors, can be handled at P1 and are exempted from the Guidelines.

2. *Use of Agrobacterium tumefaciens as a Host-Vector System.* At its May 21-23, 1979 meeting, the RAC recommended approval, at the P3 level of physical containment, of specific experiments involving introduction of well-characterized fragments of eukaryotic DNA into *Agrobacterium tumefaciens* carrying a Ti plasmid, using an EK2 plasmid vector coupled to a fragment of the Ti plasmid and/or the origin of replication of a cryptic *A. tumefaciens* plasmid, and introduction of these bacteria into plant parts or cells in culture under P3 conditions. Approval is now requested by Dr. M. D. Chilton for modification of the experimental procedure as follows:

Cloned desired fragments from any non-prohibited source may be transferred into *Agrobacterium tumefaciens* containing a Ti plasmid (or derivatives thereof), using a nonconjugative *E. coli* plasmid vector coupled to a fragment of the Ti plasmid and/or the origin of replication of an *Agrobacterium* plasmid, under containment conditions one step higher than would be required for the desired DNA in EK1 or HV1 systems. Transfer into plant parts or cells in culture would be permitted at the same containment level (one step higher).

The modification involves two changes: (1) it would extend the range of desired DNA fragments to be studied, including prokaryotic DNA, synthetic DNA, and eukaryotic DNA, that are not yet judged to be "well-characterized"; (2) it would make the containment level variable, depending upon the nature of the desired DNA to be studied. The requirement of P3 containment conditions for all experiments in this category seems inconsistent and arbitrary.

3. *Proposed Exemption for Pseudomonas putida and Pseudomonas fluorescens under Section I-E-4.* Dr. N. Ornston of Yale University has proposed, in accord with Section I-E-4 of the Guidelines, that *Pseudomonas putida* and *Pseudomonas fluorescens* be added to the exempt list in Appendix A of gram-negative organisms that

exchange DNA by known physiological processes. Further information documenting the exchange of genetic information between these two species and those in Appendix A is available from the Office of Recombinant DNA Activities.

4. *Cloning in Bacillus subtilis on Streptomyces coelicolor.* Dr. Stanley Cohen of Stanford University has proposed the following actions:

(a) *Bacillus subtilis* strains that do not carry an asporogenic mutation can be used as hosts specifically for the cloning of DNA derived from *E. coli* K-12 and *Streptomyces coelicolor* using NIH-approved *Staphylococcus aureus* plasmids as vectors under P2 conditions.

(b) *Streptomyces coelicolor* can be used as a host for the cloning of DNA derived from *B. subtilis*, *E. coli* K-12, or from *S. aureus* vectors that have been approved for use in *B. subtilis* under P2 conditions.

5. *Proposed Amendment of Sections II-D-1-a-(1) and III-A-1-b-(1).* Dr. Nickolas Panopoulos of the University of California, Berkeley has proposed amendments of sections II-D-1-a-(1) and III-A-1-b-(1).

The proposed revised sections are as follows (new text appears in italics):

II-D-1-a. *HV1.* A host-vector system which provides a moderate level of containment. *Specific systems:*

II-D-1-a-(1). *EK1.* The host is always *E. coli* K-12 or a derivative thereof, and the vectors include non-conjugative plasmids (e.g., pSC101, ColE1, or derivatives thereof [21-27] and variants of bacteriophage, such as λ [28-33]). The *E. coli* K-12 hosts shall not contain conjugation-proficient plasmids, whether autonomous or integrated, or generalized transducing phages *except as specified under Section III-A-1-b-(1).*

III-A-1-b. *Prokaryotic DNA Recombinants.*

III-A-1-b-(1). *Prokaryotes That Exchange Genetic Information* [35] with *E. coli*. Those prokaryotes that exchange genetic information with *E. coli* by known physiological processes will be exempted from these Guidelines if they appear on the "list of exchangers" set forth in Appendix A (see Section I-E-4).

For those not on the list, the containment levels are P1 physical containment + and EK1 host-vector.

In fact, experiments in this category may be performed with any *E. coli* K-12 vector (e.g., conjugative plasmids). However, for prokaryotes that are classified [1] as Class 2, the containment levels are P2 + EK1.

When a non-conjugative vector is used, the *E. coli* K-12 host may contain

conjugative proficient plasmids, either autonomous or integrated, or generalized transducing phages. In general, for experiments in this category, the *E. coli* K-12 host may contain such plasmids or phages provided that the physical containment level is raised one step.

Additional major actions will appear in a subsequent issue of the Federal Register.

Dated: July 24, 1979.

Donald S. Fredrickson,

Director, National Institutes of Health.

[FR Doc. 79-23550 Filed 7-30-79; 8:45 am]

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federal register

Tuesday
July 31, 1979

Part V

**Department of the
Interior**

Bureau of Indian Affairs

Indian Child Welfare Provisions

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 13

Tribal Reassumption of Jurisdiction Over Child Custody Proceedings

July 24, 1979.

AGENCY: Bureau of Indian Affairs.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is adding a new part to its regulations to establish procedures by which an Indian tribe may reassume jurisdiction over Indian child custody proceedings as authorized by the Indian Child Welfare Act, Pub. L. 95-608, 92 Stat. 3069, 25 U.S.C. 1918.

DATE: This rule becomes effective August 30, 1979.

FOR FURTHER INFORMATION CONTACT: David Etheridge, Office of the Solicitor, Division of Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240; (202) 343-6967.

SUPPLEMENTARY INFORMATION: The authority for issuing these regulations is contained in 25 U.S.C. 1952 and 209 DM 8. This new part was published as proposed rules on April 23, 1979, 44 FR 23992. The comment period on the proposed rules closed on May 23, 1979. Comments were reviewed and considered and changes were made where appropriate.

A. Changes made due to comments received

(1) Section 13.1 has been modified in response to comments urging additional clarification to assure that tribes may reassume jurisdiction without relinquishing their legal arguments that they already had such jurisdiction. One federal district court has ruled that Public Law 83-280 did not deprive tribes of jurisdiction, but merely conferred concurrent jurisdiction on the state. *Confederated Tribes of the Colville Reservation vs. Beck*, C-78-76 (E. D. Wash., December 13, 1978). Additionally, disputes continue to exist over whether particular statutes authorizing the sale of certain tribal lands had the effect of transferring to the state jurisdiction over those lands that are sold. See e.g., *United States vs. Juvenile*, 453 F. Supp. 1171 (D. S. D. 1978).

(2) Section 13.1 has also been modified to reflect the variety of jurisdictional arrangements authorized by the Indian Child Welfare Act. Where both the tribe and the state currently assert or exercise jurisdiction over the

same Indian child custody disputes, the tribe may obtain exclusive jurisdiction. If a state is asserting exclusive jurisdiction, the tribe may take over all jurisdiction or simply obtain jurisdiction concurrent with the state. Additionally, a tribe may reassume partial jurisdiction limited to only certain types of cases. For example, it could take jurisdiction over only a portion of its former reservation area or only over cases referred to it by state courts as authorized under 25 U.S.C. 1918(2).

(3) In response to a comment, specific reference is made to Oklahoma to reflect the intent of Congress, which is clearly stated in the legislative history, that the right to reassume jurisdiction be available to Oklahoma tribes.

(4) A comment that a specific provision be included to authorize groups of tribes to join together so they can pool resources to develop a feasible plan for reassumption of jurisdiction has been adopted as subsection (c). The Act places no restrictions on how tribes organize to assume jurisdiction so long as the final result is a feasible plan. The consortium approach has already been successfully used by tribes in the Northwest and in Nevada. Under such an approach a single court may be designated by several tribes as their tribal court.

(5) In response to a comment, provision has been made for land or communities that acquire reservation status after reassumption of jurisdiction. New subsection (e) states that such land or communities automatically become subject to tribal jurisdiction unless the petition for reassumption specifically states that it does not apply to lands or communities that subsequently acquire reservation status.

(6) Section 13.11 has been modified to delete requirements for information concerning the reservation when a tribe wishes to assume only referral jurisdiction under 25 U.S.C. 1911(b). Such information is not needed for referral jurisdiction since that jurisdiction is not dependent on residence or domicile on a reservation.

(7) A comment that the phrase "clear and definite" be substituted for the word "legal" in referring to the description of the reservation has been adopted. Commenters objected that some tribes may have difficulty meeting the requirements of preparing a "legal description" of the boundaries. The purpose of this requirement is simply to inform the public and government officials what territory is subject to tribal jurisdiction so that uncertainty over this issue will not delay the resolution of child custody matters by

the proper court. A "clear and definite" description of the boundaries will suffice for that purpose.

(8) Several commenters objected to the use of the term "judicial system" because it could be construed to be not as broad as the definition of "tribal court" in 25 U.S.C. 1903(12), which includes any "administrative body of a tribe which is vested with authority over child custody proceedings." The use of the term "adjudicate" was considered objectionable for the same reason. The final rules have been revised in light of these comments by referring to a "tribal court as defined in 25 U.S.C. 1903(12)" rather than a "judicial system" and replacing the phrase "adjudicate child custody disputes" with "exercise jurisdiction over Indian child custody matters."

(9) Some commenters said they thought the phrase "persons with a legitimate interest in a child custody proceeding," which was used to describe those persons who would be able to ascertain from the tribe whether a particular child is a member or eligible for membership, is too vague. Accordingly, that phrase has been changed to "a participant in an Indian child custody proceeding."

(10) One commenter pointed out that some tribes operate without any constitution or other form of governing document. Accordingly, the words "if any" have been added after the phrase "constitution or other governing document."

(11) Comments were also made regarding the requirement that the plan provide information concerning court funding. These objections were based on concern that an impasse might develop in which funding would be contingent on reassumption of jurisdiction and reassumption of jurisdiction contingent on funding. If funds will become available when the tribe reassumes jurisdiction, those funds may be listed in the plan. This provision has been modified to make it clear that such funds may be included. This requirement has been retained because availability of funding to implement the reassumption plan is an essential element of feasibility.

(12) Some commenters also objected to the requirement that the plan state how many tribal members there are and how many Indians live on the affected territory. In part, these objections arise due to difficulty some tribes may have in arriving at precise figures. Accordingly, these provisions have been modified to permit estimates where necessary.

(13) One commenter pointed out that the number residing on a tribe's

reservation is irrelevant if the tribe is petitioning only for referral jurisdiction. Therefore, the requirement for that information, for referral jurisdiction only, has been deleted. The requirement that information be provided concerning the number of persons that will become subject to the tribe's jurisdiction and the number of child custody cases expected, has been retained because it is needed to evaluate whether the plan is adequate. Population is one of the specific factors listed by Congress as appropriate for consideration in making a feasibility determination. See 25 U.S.C. 1918(b)(iii).

(14) Many commenters objected to the requirement for a description of support services that will be available to the tribe or tribes when jurisdiction is reassumed. Some feared that the Bureau would only consider those resources normally employed by traditional social service agencies and would not consider special non-institutional resources available uniquely to the tribe. This provision has been modified to make it clear that such a narrow construction of "support services" is not intended. There was also concern expressed that this provision might effectively preclude poorer tribes from reassuming jurisdiction. The listing of support services may include any services available to the tribe regardless of who funds or operates them. The section has been revised to make this point clearer. States, of course, continue to have the same obligations towards Indians residing within their borders as they have to other citizens under the Fourteenth Amendment to the United States Constitution. Some state services, however, may become less available after reassumption of jurisdiction simply because tribal courts lack the jurisdiction that many state courts have to compel state agencies to provide support services. If reassumption of jurisdiction creates a problem in this regard, the tribal plan should state how the tribe plans to deal with it.

(15) A number of comments were received concerning the requirement in § 13.12 that the affected territory must have been previously subject to tribal jurisdiction. Commenters pointed out that such a requirement would exclude lands and communities that acquired reservation status after passage of legislation giving the state jurisdiction. This subsection has been revised to require only that the land be a reservation as defined in the Act and that it be presently occupied by the tribe.

(16) Paragraph (a)(4) has been modified by using the term "tribal court,

as defined in 25 U.S.C. 1903(12)," to assure that tribes have as much freedom as possible in establishing procedures.

(17) One commenter objected to paragraph (a)(5) requiring a tribe to have available support services for any child who must be removed from the parents as it imposes a heavy burden on tribes since just one severely handicapped child may require extraordinary assistance, the availability of which the tribe may not be able to establish in advance. This provision has been modified to require only that support services be available for most children. Tribes, like states, can make special arrangements when especially difficult cases arise. There will be no requirement for an advance showing that facilities are available for the most severe problems. Also, in response to comments, paragraph (a)(5) has been revised to require only that services be in place by the time of reassumption. They need not be in place before that time.

(18) Paragraph (a)(6) has been modified to require only that a procedure be established for identifying persons who will be subject to the tribe's jurisdiction rather than for identifying all tribal members. The Act contemplates that jurisdiction may be reassumed, if the tribe wishes, only over a portion of the total membership of the tribe. Where the reassumption of jurisdiction is so limited, a procedure is needed only to identify those members or persons eligible for membership who will become subject to tribal jurisdiction.

(19) Upon the recommendation of one commenter, a new subsection (b) has been added specifically providing for assistance by the Department to a tribe that may wish to reassume partial jurisdiction if it is unable to develop a feasible plan for total reassumption of jurisdiction. The subsection also provides for Departmental assistance in negotiating agreements with the state under 25 U.S.C. 1919.

(20) In response to comments on § 13.14(b) copies of the notice of reassumption of jurisdiction will be sent to the governor and the highest court in the state as well as the attorney general of the affected state or states to improve the likelihood that all affected state agencies are informed of the change in jurisdiction.

(21) In response to comments on § 13.15 responsibility for the initial decision has been shifted from the Secretary to the Assistant Secretary—Indian Affairs. This change has been made to provide for an administrative appeal before a decision is made that is

final for the Department and reviewable in the federal court.

B. Changes not adopted

(1) Some commenters objected to requiring the citation of the statute or statutes which have provided the basis for state assertion of jurisdiction. The objection is based on concern that citation of such a statute might be construed as an admission that state assertion of jurisdiction was legally authorized. The language of this requirement has been modified to make it more clear that it is the state—not necessarily the tribe—which asserts that a particular statute granted the state jurisdiction. This requirement has been retained because it is good legislative practice to know what statutes may be affected when taking action that may result in their effective repeal.

(2) One commenter recommended language to the effect that these regulations establish the right of tribes to reassume jurisdiction. This recommendation has not been adopted because it is the statute—not these regulations—which establishes that right. The regulations merely provide a procedure by which a tribe can exercise the right established in the statute.

(3) A comment recommending use of the term "assertion of exclusive jurisdiction" instead of "reassumption of jurisdiction" has not been adopted. "Reassumption of jurisdiction" is the term used by the Act and it would be unnecessarily confusing to use a different term in the regulations. The concern of the commenter that the term "reassumption" might implicitly concede that the reservation of a petitioning tribe has ever been subject to exclusive state jurisdiction is effectively answered by the explicit language of the section. A tribe need not admit that a state actually has jurisdiction. A petition may be filed if a state has been asserting jurisdiction, regardless of whether such assertion is valid.

(4) A comment that the regulations provide that tribes may regain jurisdiction lost because of a federal adjudication has not been adopted. Section 108 of the Act authorizes reassumption only when jurisdiction has been conferred on a state pursuant to a law. Strictly speaking, jurisdiction is not conferred on a state through court decisions. The decisions simply conclude that a certain law has caused a transfer in jurisdiction.

(5) A comment that reassumption include jurisdiction over child welfare services and investigative and preventive interventions in the homes of Indian children has also not been

adopted. The Act only authorizes reassumption over child custody proceedings. It is not the intent of the Act to exclude anyone from providing services to Indian families. It is only when such services may involve placing the child with someone other than his or her parents or Indian custodian that the Act becomes involved. Where jurisdiction is reassumed, social service agencies must comply with the requirements of a tribal court—not a state court—when placing a child.

(6) One commenter objected generally to the amount of information requested on the ground that it discriminates against tribes that have been subjected to state jurisdiction since those tribes already exercising jurisdiction are not required to provide similar information. Most of the information requirements have been retained because such "discrimination" is mandated by the statute. Under 25 U.S.C. 1918 those tribes that wish to reassume jurisdiction are required to submit a "suitable plan to exercise such jurisdiction" and the Secretary is to determine the "feasibility" of the plan. Congress has imposed no similar requirements on tribes already exercising Indian child custody jurisdiction.

(7) One commenter asked that the regulations be more specific as to which entity is the "governing body" of a tribe. The regulations cannot be more specific because the internal organization differs from tribe to tribe.

(8) One commenter objected to the requirement that the tribe establish a procedure for determining who is a member of a tribe on the grounds that it is the obligation of the parties and the court to make that determination. This recommendation has not been adopted. A method of determining membership was one of the items specifically listed in 25 U.S.C. 1918(b) as a factor the Secretary may consider in determining the feasibility of a plan. It is true that the legal burden for determining whether the Act applies to a particular child is on the parties and the court. This provision does not change that burden. It merely asks that the tribe have a procedure for cooperating with the court or the parties in meeting their burden. Since the tribe is in the best position to know who its own members are, it seems reasonable to ask it to cooperate in that respect. Because of the special needs of children, promptness and certainty are more important in child custody proceedings than they are in most other litigation. Tribal cooperation in this respect will help assure that its members receive the

benefits of the Act and will impose only a minimal burden on the tribe.

(9) Some commenters recommended that the Bureau accept without question a tribal governing body's conclusion that the tribe has authorized it to exercise jurisdiction over Indian child custody matters. Under 25 U.S.C. 1918, the Secretary is to determine whether the exercise of jurisdiction is feasible. The exercise of such jurisdiction by an entity that has not been authorized by the tribe to exercise it is clearly not feasible. It has been a longstanding general principle on the part of the Department of the Interior that the Indian tribes are empowered to interpret their own governing documents. Consequently, when this Department is called upon to decide an issue that requires the interpretation of tribal governing documents, it will give great weight to any interpretation of those documents made by an appropriate tribal forum. However, the Department is not necessarily bound thereby. The Secretary cannot accept or acquiesce to a tribal interpretation which is so arbitrary or unreasonable that its application would constitute a violation of the right to due process. See Letter decision of Forrest J. Gerard, Assistant Secretary for Indian Affairs, dated August 28, 1978, 5 Indian Law Reporter H-17, 18 (1978). Exercise of jurisdiction by an entity not authorized to exercise it would constitute a violation of the right to due process. Accordingly, the requirement of a citation to the provision in the tribal constitution or other governing document, if any, that authorizes the governing body to exercise jurisdiction over Indian child custody matters has been retained so the Department will have the information it needs in order to make the determination of feasibility. The tribal governing body's conclusion on that point will be given great weight and will be upheld if its interpretation is not arbitrary or unreasonable. If the tribal electorate wishes its governing body to exercise such authority despite the Department's conclusion that its constitution or governing document does not authorize the governing body to do so, the constitution or governing document can be amended. Non-tribal courts are sometimes called upon to interpret tribal laws. See e.g., *Quechan Tribe of Indians vs. Rowe*, 531 F. 2d 408 (9th Cir. 1976); *Confederated Tribes of the Colville Indian Reservation vs. Washington*, 591 F. 2d 89 (9th Cir. 1979). Clarification of the governing body's authority prior to reassumption of jurisdiction will avoid delays later on

when the custody of specific Indian children is being decided by the court.

(10) Some commenters also objected to requesting a copy of any tribal ordinances or court rules establishing procedures for exercising child custody jurisdiction. Exercise of jurisdiction by a tribe that has not thought through how it is going to handle the cases that come to it cannot be said to be feasible. The most basic element of due process is the existence of a procedure on which the parties to a dispute can rely as the basis for their rights. Accordingly this requirement has been retained.

(11) A number of commenters objected to the requirement that the tribal court that is established be capable of deciding child custody matters in a manner that meets the requirements of the Indian Civil Rights Act. One commenter argued that after the Supreme Court's decision in *Santa Clara Pueblo vs. Martinez*, 436 U.S. 49 (1978), the question of how the Indian Civil Rights Act applies to tribal government activities should be left exclusively to the tribe. In footnote 22 the Court in *Martinez* specifically noted that it may be appropriate to consider Indian Civil Rights Act issues when the Department exercises its approval authority. This Department will not exercise its approval power in a manner that authorizes violations of civil rights. A plan that does not provide for exercise of jurisdiction in a manner that protects rights guaranteed under the Indian Civil Rights Act is not a feasible plan as required by the Indian Child Welfare Act.

(12) One commenter recommended that a tribe only be required to show that it is able to establish the necessary support services. This recommendation has not been adopted. Services should be available at least by the time reassumption occurs. Such services need not be organized in the same fashion as services from traditional social services agencies. Such services need not be funded or controlled by the tribe. All that is necessary is that they be available.

(13) One commenter recommended that reassumption of jurisdiction not be approved unless the tribe could show that it is in "the best interests of children" that jurisdiction would be reassumed. Such a standard is not authorized by the Act. The Act only requires that tribal jurisdiction be "feasible"—not that it necessarily be shown to be better for the children than state jurisdiction. Although the findings in the Act indicate that Congress believes tribal jurisdiction will, in most cases, be better for Indian children, it

did not require that each tribe reassuming jurisdiction prove that point. States are not denied jurisdiction over child custody matters relating to their residents simply because a neighboring state could handle the cases better. Tribes should not be required to compete with neighboring jurisdictions any more than states are.

(14) A recommendation that paragraph (a)(4) be modified to define in precise terms what is meant by "the requirements of the Indian Civil Rights Act" has not been adopted because it would be virtually impossible to do so in sufficiently complete fashion. The most important requirement of that Act in this context is the due process provision, which requires that disputes be handled in a manner that is fair. An effort to define "fairness" in detail would tend to unnecessarily restrict tribal options. The Department will look for guidance on that issue to the existing body of caselaw defining what "due process" or "fairness" means in specific situations.

(15) One commenter objected to the requirement in § 13.14 for Federal Register publication of the fact that a petition has been received prior to taking action on the petition. The commenter argued that publication would place on tribes an undue burden of having to respond to adverse comments on their petitions. The purpose of publication is not to solicit comments but to give the public and affected officials and agencies some advance notice that a change in jurisdiction may be coming. Although comments will not be solicited, any that are volunteered will be considered and made available to the petitioning tribe or tribes. The primary author of this document is David Etheridge, Office of the Solicitor, Department of the Interior; (202) 343-6967.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Subchapter B, Chapter 1, of title 25 of the Code of Federal Regulations is amended by adding a new Part 13, reading as follows:

PART 13—TRIBAL REASSUMPTION OF JURISDICTION OVER CHILD CUSTODY PROCEEDINGS

Subpart A—Purpose

Sec.
13.1 Purpose.

Subpart B—Reassumption

13.11 Contents of reassumption petitions.

Sec.
13.12 Criteria for approval of reassumption petitions.
13.16 Technical assistance prior to petitioning.
13.14 Secretarial review procedure.
13.15 Administrative appeals.
13.16 Technical assistance after disapproval.
Authority: 25 U.S.C. 1952.

Subpart A—Purpose

§ 13.1 Purpose.

(a) The regulations of this part establish the procedures by which an Indian tribe that occupies a reservation as defined in 25 U.S.C. § 1903(10) over which a state asserts any jurisdiction pursuant to the provisions of the Act of August 15, 1953 (67 Stat. 588) Pub. L. 83-280, or pursuant to any other federal law (including any special federal law applicable only to a tribe or tribes in Oklahoma), may reassume jurisdiction over Indian child custody proceedings as authorized by the Indian Child Welfare Act, Pub. L. 95-608, 92 Stat. 3069, 25 U.S.C. § 1918.

(b) On some reservations there are disputes concerning whether certain federal statutes have subjected Indian child custody proceedings to state jurisdiction or whether any such jurisdiction conferred on a state is exclusive of tribal jurisdiction. Tribes located on those reservations may wish to exercise exclusive jurisdiction or other jurisdiction currently exercised by the state without the necessity of engaging in protracted litigation. The procedures in this part also permit such tribes to secure unquestioned exclusive, concurrent or partial jurisdiction over Indian child custody matters without relinquishing their claim that no federal statute had ever deprived them of that jurisdiction.

(c) Some tribes may wish to join together in a consortium to establish a single entity that will exercise jurisdiction over all their members located on the reservations of tribes participating in the consortium. These regulations also provide a procedure by which tribes may reassume jurisdiction through such a consortium.

(d) These regulations also provide for limited reassumptions including jurisdiction restricted to cases transferred from state courts under 25 U.S.C. § 1911(b) and jurisdiction over limited geographical areas.

(e) Unless the petition for reassumption specifically states otherwise, where a tribe reassumes jurisdiction over the reservation it occupies, any land or community occupied by that tribe which subsequently acquires the status of

reservation as defined in 25 U.S.C. § 1903(10) also becomes subject to tribal jurisdiction over Indian child custody matters.

Subpart B—Reassumption

§ 13.11 Contents of reassumption petitions.

(a) Each petition to reassume jurisdiction over Indian child custody proceedings and the accompanying plan shall contain, where available, the following information in sufficient detail to permit the Secretary to determine whether reassumption is feasible:

(1) Full name, address and telephone number of the petitioning tribe or tribes.

(2) A resolution by the tribal governing body supporting the petition and plan. If the territory involved is occupied by more than one tribe and jurisdiction is to be reassumed over all Indians residing in the territory, the governing body of each tribe involved must adopt such a resolution. A tribe that shares territory with another tribe or tribes may reassume jurisdiction only over its own members without obtaining the consent of the other tribe or tribes. Where a group of tribes form a consortium to reassume jurisdiction, the governing body of each participating tribe must submit a resolution.

(3) The proposed date on which jurisdiction would be reassumed.

(4) Estimated total number of members in the petitioning tribe or tribes, together with an explanation of how the number was estimated.

(5) Current criteria for membership in the tribe or tribes.

(6) Explanation of procedure by which a participant in an Indian child custody proceeding may determine whether a particular individual is a member of a petitioning tribe.

(7) Citation to provision in tribal constitution or similar governing document, if any, that authorizes the tribal governing body to exercise jurisdiction over Indian child custody matters.

(8) Description of the tribal court as defined in 25 U.S.C. § 1903(12) that has been or will be established to exercise jurisdiction over Indian child custody matters. The description shall include an organization chart and budget for the court. The source and amount of non-tribal funds that will be used to fund the court shall be identified. Funds that will become available only when the tribe reassumes jurisdiction may be included.

(9) Copy of any tribal ordinances or tribal court rules establishing procedures or rules for the exercise of jurisdiction over child custody matters.

(10) Description of child and family support services that will be available to the tribe or tribes when jurisdiction is reassumed. Such services include any resource to maintain family stability or provide support for an Indian child in the absence of a family—regardless of whether or not they are the type of services traditionally employed by social services agencies. The description shall include not only those resources of the tribe itself, but also any state or federal resources that will continue to be available after reassumption of jurisdiction.

(11) Estimate of the number of child custody cases expected during a year together with an explanation of how the number was estimated.

(12) Copy of any tribal agreements with states, other tribes or non-Indian local governments relating to child custody matters.

(b) If the petition is for jurisdiction other than transferral jurisdiction under 25 U.S.C. 1911(b), the following information shall also be included in the petition and plan:

(1) Citation of the statute or statutes upon which the state has based its assertion of jurisdiction over Indian child custody matters.

(2) Clear and definite description of the territory over which jurisdiction will be reassumed together with a statement of the size of the territory in square miles.

(3) If a statute upon which the state bases its assertion of jurisdiction is a surplus land statute, a clear and definite description of the reservation boundaries that will be reestablished for purposes of the Indian Child Welfare Act.

(4) Estimated total number of Indian children residing in the affected territory together with an explanation of how the number was estimated.

§ 13.12 Criteria for approval of reassumption petitions.

(a) The Assistant Secretary—Indian Affairs shall approve a tribal petition to reassume jurisdiction over Indian child custody matters if:

(1) Any reservation, as defined in 25 U.S.C. 1903(10), presently affected by the petition is presently occupied by the petitioning tribe or tribes;

(2) The constitution or other governing document, if any, of the petitioning tribe or tribes authorizes the tribal governing body or bodies to exercise jurisdiction over Indian child custody matters;

(3) The information and documents required by § 13.11 of this part have been provided;

(4) A tribal court, as defined in 25 U.S.C. 1903(12), has been established or will be established before reassumption and that tribal court will be able to exercise jurisdiction over Indian child custody matters in a manner that meets the requirements of the Indian Civil Rights Act, 25 U.S.C. 1302;

(5) Child care services sufficient to meet the needs of most children the tribal court finds must be removed from parental custody are available or will be available at the time of reassumption of jurisdiction; and

(6) The tribe or tribes have established a procedure for clearly identifying persons who will be subject to the jurisdiction of the tribe or tribes upon reassumption of jurisdiction.

(b) If the technical assistance provided by the Bureau to the tribe to correct any deficiency which the Assistant Secretary—Indian Affairs has identified as a basis for disapproving a petition for reassumption of exclusive jurisdiction has proved unsuccessful in eliminating entirely such problem, the Bureau, at the request of the tribe, shall assist the tribe to assert whatever partial jurisdiction as provided in 25 U.S.C. 1918(b) that is feasible and desired by the tribe. In the alternative, the Bureau, if requested by the concerned tribe, shall assist the tribe to enter into agreements with a state or states regarding the care and custody of Indian children and jurisdiction over Indian child custody proceedings, including agreements which may provide for the orderly transfer of jurisdiction to the tribe on a case-by-case basis or agreements which provide for concurrent jurisdiction between the state and the Indian tribe.

§ 13.13 Technical assistance prior to petitioning.

(a) Upon the request of a tribe desiring to reassume jurisdiction over Indian child custody matters, Bureau agency and Area Offices shall provide technical assistance and make available any pertinent documents, records, maps or reports in the Bureau's possession to enable the tribe to meet the requirements for Secretarial approval of the petition.

(b) Upon the request of such a tribe, to the extent funds are available, the Bureau may provide funding under the procedures established under 25 CFR 23.22 to assist the tribe in developing the tribal court and child care services that will be needed when jurisdiction is reassumed.

§ 13.14 Secretarial review procedure.

(a) Upon receipt of the petition, the Assistant Secretary—Indian Affairs shall cause to be published in the *Federal Register* a notice stating that the petition has been received and is under review and that it may be inspected and copied at the Bureau agency office that serves the petitioning tribe or tribes.

(1) No final action shall be taken until 45 days after the petition has been received.

(2) Notice that a petition has been disapproved shall be published in the *Federal Register* no later than 75 days after the petition has been received.

(3) Notice that a petition has been approved shall be published on a date requested by the petitioning tribe or within 75 days after the petition has been received—whichever is later.

(b) Notice of approval shall include a clear and definite description of the territory presently subject to the reassumption of jurisdiction and shall state the date on which the reassumption becomes effective. A copy of the notice shall immediately be sent to the petitioning tribe and to the attorney general, governor and highest court of the affected state or states.

(c) Reasons for disapproval of a petition shall be sent immediately to the petitioning tribe or tribes.

(d) When a petition has been disapproved a tribe or tribes may repetition after taking action to overcome the deficiencies of the first petition.

§ 13.15 Administrative appeals.

The decision of the Assistant Secretary—Indian Affairs may be appealed under procedures established in 43 CFR 4.350-4.369.

§ 13.16 Technical assistance after disapproval.

If a petition is disapproved, the Bureau shall immediately offer technical assistance to the tribal governing body for the purpose of overcoming the defect in the petition or plan that resulted in the disapproval.

Forrest J. Gerard,
Assistant Secretary—Indian Affairs.

[FR Doc. 79-23480 Filed 7-30-79; 8:45 am]

BILLING CODE 4310-02-M

25 CFR Part 23

Indian Child Welfare Act; Implementation

July 24, 1979.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs hereby adds a new part to its regulations to implement the provisions of the Indian Child Welfare Act of 1978 (Pub. L. 95-608). The Indian Child Welfare Act seeks to protect the best interest of Indian children by promoting the stability and security of Indian families and tribes by preventing the unwarranted and arbitrary removal of Indian children from their Indian homes; establishing procedures for transferring Indian child custody proceedings from state courts to the appropriate tribal courts; setting forth criteria for placement of children voluntarily or involuntarily removed from their parents, guardians, or custodians; providing a system of intervention in state court proceedings by the child's parents, relatives or the child's tribe in involuntary removal and adoption matters of Indian children, and providing grants to Indian tribes and organizations on or "near" reservations or off-reservations to plan, establish, operate and manage child placement and family service programs to carry out the intent of the Act. It is intended that these regulations will complement those related procedures published in 25 CFR 13, "Tribal Reassumption of Jurisdiction Over Child Custody Proceedings," and will also complement "Guidelines for State Courts" relative to Indian child custody proceedings to be published as a *Federal Register* Notice.

EFFECTIVE DATE: These new regulations will become effective August 30, 1979.

FOR FURTHER INFORMATION CONTACT: Raymond V. Butler, Chief, Division of Social Services, Bureau of Indian Affairs, 1951 Constitution Avenue, N.W., Washington, D.C. 20245 (703-235-2756).

SUPPLEMENTARY INFORMATION: On April 23, 1979 there were published in the *Federal Register* (44 FR 23993) proposed regulations for the Indian Child Welfare Act. Interested persons were given 30 days in which to submit written comments regarding the proposed regulations. Thorough and careful consideration was given to all comments received during this period. Many comments were subsequently adopted but certain others were not.

The function of regulations is to provide rules that the issuing agency will follow in carrying out the responsibilities assigned to it by an Act of Congress. Under the Indian Child Welfare Act, responsibility for the conduct of most aspects of Indian child custody proceedings remains with state and tribal courts. Where the responsibility lies with the state or the tribe, it is the state or tribe that has both

the authority and the responsibility to establish rules or procedures to carry out those responsibilities.

The simple fact that a statute deals with Indians does not authorize this Department to promulgate rules governing all aspects of its implementation. For example, 25 U.S.C. 194 governs the burden of proof in certain cases involving Indians, but does not authorize the Department to regulate the courts in such cases. An agency may not promulgate binding rules if the ultimate power to determine the content of the law covered by the rules is in the courts. See generally, Davis, *Administrative Law Treatise* § 5.03 (1958). By leaving with courts the jurisdiction to decide Indian child custody matters, Congress left to those courts the responsibility of determining how the Act applies to the cases before them.

Some portions of the Act do assign the Interior Department certain responsibilities related to child custody proceedings. For example, the Department is to pay for appointed counsel in some cases, and is to be notified of child custody proceedings in certain instances. Regulations implementing those Departmental responsibilities can and do have some impact on court procedures.

Some commenters objected to publication of the guidelines for state courts as a notice rather than as a proposed rule. They fear that the guidelines will be invalidated by a court for failure to follow the rule-making procedures of the Administrative Procedures Act. The guidelines by themselves are not intended to have the force of law; consequently, no court should have occasion to rule on their validity. The guidelines will have the force of law only as they are adopted by individual states as legislation, regulations, or court rules. So long as proper state procedures are followed in adopting them, they will not be subject to challenge on procedural grounds.

A number of commenters apparently assume that all language in the statute must be repeated in the regulations if it is to have the force of law. The statute is fully effective without reference to the regulations. The purpose of the regulations is merely to provide rules for the Department to follow in carrying out its responsibilities under the Act. Statutory language is included at some points in the regulations to explain the context of the rules and to reduce the need to refer to the statute in order to understand the regulations. Repeating or omitting statutory language in the

regulations has no effect on the validity of that statutory language.

A number of commenters also recommended that the regulations "correct" what they regarded as loopholes, mistakes, or bad policy contained in the statute. This Department does not have the authority to "correct" alleged mistakes of Congress through regulations. Where statutory language is either vague or ambiguous and an interpretation of that language is necessary for this Department to carry out its responsibilities, regulations may properly provide such an interpretation. Such interpretations, however, cannot be contrary to the plain meaning of the Act itself.

A. Changes Made Due to Comments Received

(1) Section 23.2(b)(5) is revised to read "a crime in the jurisdiction where the act occurred."

This additional language has been added to clarify that an offense allegedly committed by a child must be a crime if committed by an adult at the same place in order to exempt a child custody proceeding from the provisions of the Act. A new sentence has also been added stating that "status offenses" such as truancy and incorrigibility (which are not crimes adults can commit) are covered by the Act. This sentence simply states in positive terms the legal effect of the Act in excluding from coverage under the Act only those offenses which an adult can commit.

(2) Section 23.2(d) is revised to include subtitles after each subsection in order to highlight the variances in definitions. These subtitles are: (1) Jurisdictional Purposes; (2) Service Eligibility for Children and Family Service Programs On or Near Reservations; and (3) Service Eligibility for Off Reservation Children and Family Service Programs. In part (2) the Secretary of Health, Education, and Welfare is delineated for further clarification. An additional sentence is included to explain that tribal membership is based on tribal law, ordinance, or custom.

(3) Section 23.2(f), a cross reference to the "guidelines for State Courts" is made for further clarification.

(4) Section 23.2(g), an (s) is added to person to refer to the situation where more than one person is the custodian.

(5) Section 23.2(k), the definition of reservation is added as written in the Act for the purpose of clarification. Reference is frequently made to "the reservation," therefore the inclusion of

this definition in the regulations is necessary.

(6) Section 23.2(l), a definition of "state court" is added for clarification because of the frequent reference to this term.

The definition includes the District of Columbia and any territory or possession of the United States because this Department believes that definition to be consistent with the intent of Congress. Whether the term "state" includes the District of Columbia, territories and possessions depends on the purposes of Congress in enacting the specific legislation and the circumstances under which the words were employed. See e.g., *Examining Board vs. Flores de Otero*, 426 U.S. 572 (1976). In 25 U.S.C. 1902 Congress stated that its intent in passing the Indian Child Welfare Act was to establish minimum federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes. In 25 U.S.C. 1901(4) Congress expressed its concern over the alarmingly high percentage of Indian families broken up by the removal of their children by non-tribal public and private agencies. The District of Columbia, U.S. possessions and territories also have non-tribal public agencies that place children within their jurisdiction. It seems unlikely that Congress intended to exclude any non-tribal government from the minimum federal standards.

The definition also includes government agencies authorized by law to make any placements covered by the Act regardless of whether they are called courts. This definition parallels the statutory definition of tribal court. 25 U.S.C. 1903(12).

(7) Section 23.2 (m) and (n) are renumbered due to the addition of the two previous definitions.

(8) Section 23.3 Policy, "preventative measures" is changed to "measures to prevent the breakup of Indian families" for the purposes of clarification.

(9) The addresses for sending notice to the Secretary are listed in § 23.11(b). The contents of the notice to the Secretary are set out in § 23.11(c). Additional information concerning rights under the Act that the Bureau will include in its notice to the tribes, parents and Indian custodians is listed in § 23.11(d). In response to a comment, this subsection also provides for asking tribal officials to handle in a confidential manner the information they receive concerning individual cases.

(10) Section 23.11(d). Notice may also be given by "personal service." This

type of service is included to give an alternative form of service or "higher standard of protection to the rights of the parent," custodian or tribe as authorized in Section 111 of the Act.

(11) Several commenters expressed concern that the proposed rules in Section 23.11 could be construed as authorizing BIA officials to halt their efforts to identify a child's tribe or to locate the child's parents or Indian custodians after only 15 days of effort. The deadline was included in the proposed regulations to assure prompt action by Bureau officials. Prompt action is needed since the court is free to begin its proceedings only 10 days after notice to the Secretary. Even if the court is willing to continue the case pending Bureau action, a long delay could be prejudicial to the child and other parties to the proceedings. There may be many instances, however, in which 15 days is simply not enough time to complete the search.

Two changes have been made in the regulations to resolve this problem. First, the Bureau is to attempt to complete the search and give notice within 10 days in order to conform with Section 102 of the Act, and so that those who are notified will be able to participate in a timely manner in the proceedings. Second, if the Bureau has not been able to complete its efforts in that time, it is to inform the court of that fact and let the court know how much more time will be needed. The court can then use that information to decide whether the proceedings should be further delayed. Regardless of what action the court takes, the BIA will complete its search efforts.

(12) One commenter suggested that the time problem could be alleviated to some extent if the BIA would be willing to undertake searches before a case is actually filed when asked to do so by someone who is contemplating filing such an action. This suggestion has been adopted in § 23.11(f).

(13) In Section 23.11(e) the terminology "has a relationship with an Indian tribe" is changed to "meets the criteria of an Indian child as defined in section (4) of the Act" for further clarification and to relate back to the legislative language.

(14) Section 23.12 is changed to enable any tribe to designate by resolution "or by such form as the tribal constitution or current practice requires" an agent for service of notice.

This change expands the methods by which an agent for notice may be designated. Some tribes do not issue resolutions, but grant authority for action by other methods.

(15) In Section 23.12 the sentence, "The Secretary shall publish the name and address of the designated agent for service of notice in the Federal Register," is changed by adding the following, "on an annual basis." A current listing of such agents will be maintained by the Secretary, and will be available through the Area Offices. These changes are made to more adequately handle the requests for information regarding agents for service, many of whom could change on a frequent basis.

(16) Section 23.21 is changed to delete the word "non-profit" from grant eligibility criteria. Profit-making Indian organizations otherwise eligible for grants under this part may apply for said grants for non-profit-making programs. Comments suggested that there are several Indian organizations which have both profit and non-profit component programs. Section 23.21 is also changed to make clear that applicants may apply for a grant individually or as a consortium.

(17) Section 23.22 is changed to make clear that the examples of Indian child and family service programs provided therein are, in fact, just examples and do not limit or restrict the kinds of child and family service programs for which grants may be provided. Some renumbering of subsections is also done to make the overall section more readable.

(18) Section 23.25(a) is changed to recognize that statistical and other precise quantitative data are not always available to evaluate the need for Indian child and family service programs. Such data may henceforth be considered only insofar as practicable and may include estimated data as well as actual data. Section 23.25(a) is also changed to ensure that quality and relevance of service to Indian clientele be considered when determining Indian accessibility to existing child and family service programs.

(19) Section 23.25(b) is changed to emphasize that the governing body of a tribe may subgrant or subcontract its grant to an Indian organization if it desires to do so.

(20) Section 23.25(c) is changed to give preference for selection for off-reservation grants to off-reservation Indian organizations showing substantial rather than majority support from the community to be served. Section 23.25(c) is also changed to waive the substantial community support requirement for certain existing Indian organizations.

(21) Section 23.27(c)(1) is changed to delete reference to distribution of grant

funds based upon ratio of number of Indian children under age 18 to be served under a proposal to number of Indian children under 18 nationally.

(22) Section 23.35(a). To facilitate administration of grants pursuant to 23.27(a), a change was made transferring the administration of grants from the Central Office to the Area Office level.

(23) Section 23.43(a) is changed to specifically reference funds under Titles IVB and XX of the Social Security Act as appropriate matching shares for grant funds provided under this part, because they were specifically referenced in the Act.

(24) Section 23.43(b) is changed to (c), and a new (b) is added to reference agreements between the Department of the Interior and the Department of Health, Education, and Welfare for use of funds under this part.

(25) Section 23.43(b) was added to emphasize section 203(a) of the Act. That section was not addressed in the proposed regulations.

(26) Many recommendations were received concerning design of a funding formula to ensure that all approved grant applicants receive a proportionately equitable share of funds and that small tribes and Indian organizations do not lose out to large tribes and Indian organizations when funds are distributed. These recommendations will be utilized insofar as possible in the formula design. The formula itself will be published at a later date as a Federal Register Notice.

(27) In Section 23.81(a), the address for transmittal of information to the Secretary shall be sent to the Chief Justice of the highest court of Appeal, "the Attorney General, and Governor" of each state. The Governor was added to insure wider distribution of this material among state agencies.

(28) Section 23.81(a)(1) is changed to "Name of the child, the tribal affiliation, and the quantum of Indian blood," to secure more information for the adult Indian individual who is adopted.

(29) Section 23.81(b), or, is inserted between "adoptive or foster parents" who may request information for an adopted Indian individual to correct an error, and comply with the language of the Act.

(30) Section 23.81(b), additional wording has been added to clarify what information will be disclosed for enrollment purposes, for determining rights or benefits and to whom it may be released. These limitations were added to stress not only the confidential nature of this information, but also the importance of enrollment.

(31) Sections 23.91, 23.92, and 23.93 were added to assist the tribes and courts in carrying out the purposes of the Act.

B. Changes Not Adopted

Certain other comments were received and duly considered, but have not been incorporated into the regulations. The following suggested changes were not adopted for the reasons given:

(1) A number of very forceful comments were received to the effect that the Bureau of Indian Affairs had disclaimed its responsibility insofar as would apply to proceedings in the state courts by publishing proposed "Guidelines for State Courts" rather than proposed regulations in Part 23. As many comments indicated, it was initially administratively planned to write the guidelines as regulations. Also, as a result of the public hearings, the National Congress of American Indians and the National Indian Court Judges Association proposed these guidelines as regulations. It is not administrative policy, but rather the strong legal position of the Office of the Solicitor, Department of the Interior, that the material be published as "Guidelines for State Courts." The Office of the Solicitor's legal position is set out at the beginning of this "Supplementary Information" section. Therefore, the "Guidelines for State Courts" are not included as regulations in Part 23 but will be published as a Federal Register Notice.

(2) Section 23.2. Comments were received in each of the following instances regarding the language employed in certain of the definitions of this section:

a (b) The phrase "child custody proceeding" was objected to as being too restrictive and as not encompassing juvenile delinquency proceedings:

b (b)(1) "Foster care placement" as defined was viewed as being too narrow in scope, and as not relating to institutional placements, voluntary placements, and to special circumstances which might be imposed as a result of divorce proceedings.

One commenter recommended that Section 23.2(b)(5) be changed to reflect the statement in the Senate Report on the Act at Page 16 that the definition of child placement includes "juveniles charged with minor misdemeanor behavior who would be covered by prohibitions against incarceration in secure facilities by the Juvenile Justice and Delinquency Prevention Act of 1974." The General Counsel's Office of the Law Enforcement Assistance

Administration, however, has informed this Department that incarceration of juveniles charged with minor misdemeanors is permitted under that Act. For that reason, the definition has not been modified to include placements based on such offenses.

c (d) A respondent requested revision in this subsection to expand the definition of "Indian" to include non-Indian children of Indian parents;

d (d & e) Comment called for a more clearly-drawn division between the definitions of "Indian" and "Indian child." (A numbering and a title change were made, with no change being made in content.)

e (f) It was suggested that the proposed definition of "Indian child's tribe" should be reworded so as to deal more explicitly with those cases in which an Indian child is eligible for membership in more than one tribe. Further comment asked that this definition be expanded to make direct reference to Alaska Natives.

f (g) It was suggested that the definition of the term "Indian custodian" be expanded to include Indian social services agencies;

g (g) Usage of the term "transferred" was objected to;

h (i) Request was made that an expansion of the definition of "Indian tribe" be made to include Canadian tribes;

The language was not changed in any of the foregoing definitions because each of the definitions was taken directly from the Act. It cannot be the function of regulations to expand upon or to subtract from legislation as enacted by the Congress.

i (j) One commenter expressed doubt concerning the constitutionality of the definition of "parent" in both the regulations and the statute based on the recent Supreme Court decision in *Caban vs. Mohammed*, 47 U.S.L.W. 4462 (April 24, 1979). The court in that case held unconstitutional a statute permitting an unwed mother, but not an unwed father, to block an adoption by denying consent. Unlike the statute involved in that case, however, the Indian Child Welfare Act does not require a father to be married to have all the rights of a parent. The father need merely acknowledge paternity. This requirement imposes even less of a burden on the father than the "legitimation" requirement imposed by another statute that was upheld by the Supreme Court the same day it decided *Caban*; *Parham vs. Hughes*, 47 U.S.L.W. 4457 (April 24, 1979). Unlike marriage, neither legitimation nor acknowledgement requires the consent

of the mother. The reason such a requirement is permissible is well expressed in Justice Powell's concurring opinion in *Parham*: "The marginally greater burden placed upon fathers is no more severe than is required by the marked difference between proving paternity and proving maternity." *Id.* at 4460.

(3) Two comments were received which requested that a definition for "tribal law or custom" be included in the regulations. Such a definition was written into the proposed guidelines, and it was deemed more appropriate for it to remain therein.

(4) Comments were received asking for definitions of "domicile" and "residence." Ultimate definition of the terminology in question must be in accordance with case law.

(5) Comment was received regarding the proposed definition of the term "parent" relative to its application to the unwed father and the minor unwed parent. No changes were made because (a) the existing definition is not in conflict with the Supreme Court decision rendered in the *Stanley vs. Illinois*, 405 U.S. 645 (1972) decision, and (b) the minority of an individual does not affect her or his relationship as a parent.

(6) One comment asserted that there was a need to define the standards of evidence addressed in Section 102 (e and f) of the Act. As these standards have been developed through case law, it was considered impractical to attempt to formulate definitions in connection with this particular Act.

(7) Another group of public comments requested that the designations "extended family" and "member of a tribe" be defined. Both of these terms are defined either by tribal law or by tribal custom. Consequently, no definitions are offered in the regulations.

(8) Section 23.11(5). One comment sought the inclusion of terminology relating to termination proceedings resulting from juvenile delinquency court actions. No additional wording was added to this section because under 25 U.S.C. 1903(1) only placements—not terminations—based on acts of delinquency are excluded from coverage of the Act.

(9) Section 23.11. A comment was received which asked that notice be made to the tribe in all voluntary proceedings. This suggested change was not adopted because the legislation does not, in regard to voluntary proceedings, authorize notice to the tribe; therefore, inclusion of such a regulation would be beyond the scope of the Act.

(10) Section 23.11. An additional comment contended that state courts

should be required to give notice "with due diligence." A regulation was not developed for this purpose due to the fact that the Secretary of the Department of the Interior does not have the authority to promulgate regulations governing the conduct of state courts.

(11) Section 23.11. Two comments posed questions relating to the protection of the civil rights of Indian children, and identified a felt need for the imposition of a specified time limitation restricting the required notice procedure. Approval of changes regarding these issues was not warranted because (a) the Indian Civil Rights Act provides the necessary protections, and (b) due to exigencies of individual cases, a rigid and restrictive time limitation would be impossible to structure.

(12) Section 23.11. One comment called for the insertion in the notice provision of the phrase "reasonable cause to believe that the child was an Indian child." Such an addition is not acceptable because it is not within the scope of the Act as written in the legislation.

(13) Section 23.12. One comment proposed that the regulations be modified to allow tribal organizations to act as designated agents, or as coordinators of the duties and services associated with designated agents, for the serving of notice. No regulatory change was made in this instance, as doing so would expand the substance of this section beyond the scope of the Act.

(14) Section 23.12. A single comment was received requesting that membership criteria be published for each of the various tribes. This request will not be complied with because the details of membership requirements are readily available through tribal headquarters offices and Bureau Area Offices. Secondly, the body of information requested is so extensive as to make its publication within the regulations unfeasible.

(15) A large number of comments received suggested a variety of changes to be made in § 23.12. These suggestions and the reasons they were not adopted are summarized as follows:

A number of comments were received urging that the Department pay any voucher certified to it by a state court without examining it to determine whether the court was correct in concluding that the Bureau should pay. Except with respect to the determination of indigency, this recommendation has not been adopted. Congress has directed that these payments be made from funds managed by the Interior Department. As manager of these funds, this Department

is charged by Congress with the responsibility of assuring they are spent only for a Congressionally-authorized purpose. Since this Department is held accountable for the use of these funds, it must retain ultimate authority to refuse payment requests if it believes payment is not authorized by the statute.

Under 25 U.S.C. 1912(b), however, Congress has authorized payment when "the court determines indigency." Since the Congress has left this determination to the courts, this Department will not make its own determination of that issue. Consequently, the provision authorizing the Area Director to refuse payment if the court has abused its discretion in determining indigency has been deleted.

One commenter objected to the use of state standards and procedures for payment of counsel in juvenile delinquency proceedings as the criteria for reasonable fees to be paid counsel under the Indian Child Welfare Act. The Department did consider having vouchers submitted directly to the Department by the attorneys without requiring prior approval by the state court. If that approach had been adopted, the Department would have developed procedures and criteria based on those employed by states where appointed counsel is paid in non-juvenile delinquency child custody cases. Since state courts already have substantial experience in paying appointed counsel in juvenile proceedings (because appointed counsel is clearly required by the U.S. Constitution), the Department concluded the courts were better prepared to make the initial determination as to the reasonableness of the fees requested by appointed attorneys. For that reason, the regulations provide for vouchers to be approved first by the state court. Under the regulations the Department will pay the amount approved by the court unless the Department is prepared to say that the court abused its discretion.

The regulations could have asked the state courts to apply procedures and criteria relating specifically to dependency proceedings. Those procedures and criteria, of course, would have been new to the states involved since the Department is not authorized by Congress to make payments in states where state law authorizes payment in dependency proceedings. The Department concluded administration of the program would be more orderly if states could use the procedures and criteria they are already using in other cases rather than having to apply new rules. There are, of course, differences between juvenile

delinquency proceedings and dependency proceedings. But since delinquency proceedings more closely resemble the type of proceedings covered by the Act than do the proceedings for any other cases where all states pay appointed counsel, they were regarded as the best model.

Some commenters recommended that the deadline for the Area Director to act on the notice be reduced from 15 days to five days. The deadline has been reduced to ten days. This decision was based on a balancing of the need of attorneys to know promptly whether they are eligible to be paid and the Department's need for time to conduct a review to determine eligibility.

Some commenters recommended that income from Indian claims, trust funds and certain other sources not be considered in determining indigency. Since this determination is the responsibility of the state court rather than the Department, that recommendation has not been adopted. For the same reason, the requirements in the proposed rules that indigency be determined on the same basis as is used in juvenile delinquency proceedings has been deleted. These issues may be dealt with in the guidelines, however.

Some commenters recommended that the regulations provide for tribal involvement in the appointment of counsel. This recommendation has not been adopted because under 25 U.S.C. 1912(b) it is the responsibility of the court to appoint counsel. This responsibility has not been assigned to either the Department or to tribes. The courts may, however, wish to seek the assistance of either the Department or the tribe in identifying attorneys with suitable expertise to take these cases. This matter may also be included in the guidelines.

In response to comments, the Bureau Area Office to which notices of appointments are sent has been changed from the office serving the Indian child's tribe to the office designated in § 23.11 for receipt of other notices. A particular Area Office is designated for each state (exceptions noted below). This approach will mean that, in most instances, a state court can send all materials to the same Bureau address. (Arizona, New Mexico, Oklahoma and Utah are exceptions noted in the regulations.)

One comment made the request that a provision be written into the regulations obligating the Bureau to pay an attorney who is found to be ineligible if the Bureau should fail to disapprove payment before the deadline. This comment has not been adopted. Congress has authorized payments only

in certain types of cases for certain types of representation. The Bureau is not authorized to pay money merely as compensation for its slowness. A new subsection (g) has been added stating that a person aggrieved by the failure of the Area Director to act promptly may treat that failure as a denial for purposes of administrative appeal.

Another comment was that the Bureau pay for work done by an attorney on a case he or she, in good faith, believed was an eligible Indian child welfare case up to the time that the attorney is notified that he or she is not eligible for Bureau payments. This comment was also rejected because the Act does not authorize payments based on the good faith of the attorney. If the case is not one covered by the Act, the Bureau is not authorized to pay the attorney regardless of that attorney's good faith beliefs.

(16) Section 23.81. Two additional comments maintained that state courts should be mandated to share with tribal courts all information on final adoptive orders for Indian children. This suggestion could not be incorporated into the regulations because, again, it calls for expansion of the content of the legislation beyond its intended scope.

(17) A comment was made that a central register be established under § 23.81(a) for the purpose of immediate collection and disclosure of information on adoptions. This suggestion extends beyond the scope of the intent of the Act.

(18) A comment was made calling for the identification of the tribal court involved with the child under section 23.81(a). This additional information appeared unnecessary considering the information already provided by the state court to the Secretary.

(19) One comment was made that the Bureau insure the provision of the remedial or rehabilitative services required under section 102(d) of the Act. For families located off-reservation, this can be interpreted as being beyond the authority of the Bureau in its provision of services to off-reservation Indians and is unrealistic due to staff and financial limitations.

(20) One comment was made that the Secretary conduct outreach activity to locate and identify prospective foster and adoptive homes in order to assist states in their efforts to comply with section 105(a) and (b) of the Act. This proposed change was not incorporated into the regulations, as doing so would constitute a duplication of services in that a number of special projects are already engaged in the active recruitment of Indian foster and

adoptive families. Moreover, it should be noted that this issue is a responsibility of the states and must be met to fulfill the requirements of the Act.

(21) One comment was made that the Bureau publish in the *Federal Register* the various tribal placement preferences (refer to section 105(c) of the Act). This recommendation was not accepted because the *Federal Register* is not readily available to the population at large, and it is important that the tribes be contacted directly on these matters.

(22) Comments were received containing specific objections to Bureau of Indian Affairs involvement in regulating grants to be provided under Title II of Pub. L. 95-608. The responsibility for regulating these grants was given by the Act to the Secretary of the Interior who in turn has lawfully delegated that responsibility to the Assistant Secretary—Indian Affairs.

(23) A number of comments questioned use of the basic Pub. L. 93-638 Indian Self-Determination grant regulation format in relation to these Indian Child Welfare Act grant regulations. Related comments also questioned the various grant application review levels and time frames for Bureau action which generally conform to the Pub. L. 93-638 format. No changes were made in this regard since the Pub. L. 93-638 format, and its application review levels and time frames for Bureau applicant actions, has proven administratively feasible for both Bureau and grant applicants.

(24) Some comments received from Tribal governing bodies recommended that tribes be routinely given a proportionately higher ratio of available grant funds than that given Indian organizations. This recommendation was not adopted as the Act does not provide for such an advantage to tribes.

(25) Some comments objected to § 23.22, Purpose of grants, in its entirety. The rationale presented was that a sovereign tribal entity should not be restricted in any way in its decision as to how Federal grant funds will be utilized. The recommendation that § 23.22 be entirely deleted was not adopted. The Act is specific in its direction that grants will be made for the establishment and operation of Indian Child and family service programs with the objective being the prevention of the breakup of Indian families. Section 23.22 attempts to make that basic point and provides examples of such programs without restricting applicants to those examples.

(26) A few comments pertained to the application selection criteria in § 23.25 and recommended that Indian

organizations which are not tribal governing bodies be able to apply for grants for on or "near" reservation programs. This change was not adopted as this Bureau is committed to working in a government-to-government relationship directly with and through tribal government relative to Bureau-funded programs on or "near" reservations. It is also noted that a tribal governing body may subgrant or subcontract its grant under this part to any Indian organization it wishes.

(27) A few comments pertained to funding available for grants under this part. One comment pointed out that subsidy programs for adopted children should take into account that adoptions are for life and that the grant regulations § 23.22(a)(5) should provide for subsidies until the adopted child reaches majority. Another comment recommended that § 23.27(c) should delete reference to grant approvals being subject to availability of funds. No changes were made in this overall regard since the Bureau's appropriations are received from the Congress on an annual basis and the Bureau subsequently may only fund programs on a year-to-year basis dependent entirely upon funds appropriated by the Congress.

(28) One comment recommended that adoption subsidy grant programs, § 23.22(a)(5), be extended to legal guardians as well as to adoptive parents. This recommendation was not adopted as legal guardians can receive payments for foster care from established resources.

(29) One commenter suggested that § 23.81(b) be further clarified and expanded regarding the release of information and method of enrollment for eligible Indian adopted children. It was decided that the Chief Tribal Enrollment Officer only will certify to the tribe information necessary for enrollment where the parent has filed an affidavit of confidentiality. The reason for this change is to limit the number of people who might have access to this information, and to protect its confidential nature, as the Secretary is mandated to do under section 301 of this Act.

(30) Some comments recommended that grants for off reservation programs be provided only to governing bodies of Federally-recognized tribes. This recommendation was not adopted since it would unduly limit the specific role of off-reservation Indian organizations relative to implementation of the Act which specifically authorizes grants for these Indian Organizations.

(31) A comment was made pursuant to section 103(c) of the Act that the Bureau give notice to a parent that any adoption of a child for which the parent had voluntarily terminated parental rights can be invalidated within two years after the adoption if the parent can prove fraud or duress. This recommendation was not adopted because it was felt that this practice, on a general basis, would not be in the best interest of the children involved. If cases arise that warrant this type of assistance, such assistance may be provided on a case-by-case basis.

(32) A comment was made that under Section 105(e) of the Act, requirements should be established regarding the content of Indian child placement records maintained by the states. This recommended change was not adopted because the regulation of state social service agencies does not fall within the authority granted to the Secretary of the Interior.

The authority for issuing these regulations is contained in 5 U.S.C. 301 and sections 463 and 465 of the revised statutes (25 U.S.C. 2 and 9), and 209 DM 8. The primary authors of this document are Raymond V. Butler, Chief, Division of Social Services, Bureau of Indian Affairs, and David Etheridge, Office of the Solicitor, Department of the Interior.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Subchapter D, Chapter I, Title 25 of the Code of Federal Regulations is amended by adding a new Part 23, reading as follows:

PART 23—INDIAN CHILD WELFARE ACT

Subpart A—Purpose, Definitions and Policy

Sec.

- 23.1 Purpose.
- 23.2 Definitions.
- 23.3 Policy.

Subpart B—Notice of Involuntary Child Custody Proceedings and Payment for Appointed Counsel

- 23.11 Notice.
- 23.12 Designated tribal agent for service of notice.
- 23.13 Payment for appointed counsel in state Indian child custody proceedings.

Subpart C—Grants to Indian Tribes and Indian Organizations for Indian Child and Family Programs

- 23.21 Eligibility requirements.
- 23.22 Purpose of grants.
- 23.23 Obtaining application instructions and materials.
- 23.24 Content of application.

Sec.

- 23.25 Application selection criteria.
- 23.26 Request from tribal governing body or Indian organization.
- 23.27 Grant approval limitation.
- 23.28 Submitting application.
- 23.29 Agency Office review and recommendation.
- 23.30 Deadline for Agency Office action.
- 23.31 Area Office review and action.
- 23.32 Deadline for Area Office action.
- 23.33 Central Office review and decision.
- 23.34 Deadline for Central Office action.
- 23.35 Grant execution and administration.
- 23.36 Subgrants and subcontracts.

Subpart D—General Grant Requirements

- 23.41 Applicability.
- 23.42 Reports and availability of information to Indians.
- 23.43 Matching share.
- 23.44 Performing personal services.
- 23.45 Penalties.
- 23.46 Fair and uniform services.

Subpart E—Grant Revision, Cancellation or Assumption

- 23.51 Revisions or amendments of grants.
- 23.52 Assumption.

Subpart F—Hearings and Appeals

- 23.61 Hearings.
- 23.62 Appeals from decision or action by Superintendent.
- 23.63 Appeals from decision or action by Area Director.
- 23.64 Appeals from decision or action by Commissioner.
- 23.65 Failure of Agency or Area Office to act.

Subpart G—Administrative Requirements

- 23.71 Uniform administrative requirements for grants.

Subpart H—Administrative Provisions

- 23.81 Recordkeeping and information availability.

Subpart I—Assistance to State Courts

- 23.91 Assistance in identifying witnesses.
- 23.92 Assistance in identifying interpreters.
- 23.93 Assistance in locating biological parents of Indian child after termination of adoption.

Authority: 5 U.S.C. 301; secs. 463 and 465 of the revised statutes (25 U.S.C. 2 and 9).

Subpart A—Purpose, Definitions, and Policy

§ 23.1 Purpose.

The purpose of the regulations in this Part is to govern the provision of administration and funding of the Indian Child Welfare Act of 1978 (Pub. L. 95-608, 92 Stat. 3069, 25 U.S.C. 1901-1952).

§ 23.2 Definitions.

- (a) "Act" means the Indian Child Welfare Act, Pub. L. 95-608 (92 Stat. 3073), 25 U.S.C. 1901 *et seq.*
- (b) "Child custody proceeding," which shall mean and include:

(1) "Foster care placement"—any action removing an Indian child from its parent or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;

(2) "Termination of parental rights"—an action resulting in the termination of the parent-child relationship;

(3) "Preadoptive placement"—the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement; and

(4) "Adoptive placement"—the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

(5) Such term or terms shall not include a placement based upon an act which, if committed by an adult, would be deemed a crime in the jurisdiction where the act occurred or upon an award, in a divorce proceeding, of custody to one of the parents. It does include status offenses, such as truancy, incorrigibility etc.

(c) "Extended family member" shall be as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.

(d) "Indian" means: (1) *Jurisdictional Purposes:* For purposes of matters related to child custody proceedings any person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation as defined in section 7 or the Alaska Native Claims Settlement Act (85 Stat. 688, 689).

(2) *Service eligibility for on or "near" reservation Children and Family Service Programs:* For purposes of Indian child and family service programs under section 201 of the Indian Child Welfare Act (92 Stat. 3075), any person who is a member, or a one-fourth degree or more blood quantum descendant of a member of any Indian tribe.

(3) *Service eligibility for off-reservation Children and Family Service Programs:* For the purpose of Indian child and family programs under section 202 of the Indian Child Welfare Act (92 Stat. 3073) any person who is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups

terminated since 1940 and those recognized now or in the future by the state in which they reside, or who is a descendant, in the first or second degree, of any such member, or is an Eskimo or Aleut or other Alaska Native, or is considered by the Secretary of the Interior to be an Indian for any purpose, or is determined to be an Indian under regulations promulgated by the Secretary of Health, Education, and Welfare. Membership status is to be determined by the tribal law, ordinance, or custom.

(e) "Indian child" means any unmarried person who is under age eighteen and is either (1) a member of an Indian tribe, or (2) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

(f) "Indian child's tribe" means (1) the Indian tribe in which an Indian child is a member or is eligible for membership or (2) in the case of an Indian child who is a member of or is eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts. (Refer to Guidelines for State Courts-Indian Child Custody Proceedings.)

(g) "Indian custodian" means any Indian person(s) who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control has been transferred by the parent of such child.

(h) "Indian organization" means any group, association, partnership, corporation, or other legal entity owned or controlled by Indians, or a majority of whose members are Indians.

(i) "Indian tribe" means any Indian tribe, band, nation or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in section 3(c) of the Alaska Native Claims Settlement Act (85 Stat. 688, 689), as amended.

(j) "Parent" means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include the unwed father where paternity has not been acknowledged or established.

(k) "Reservation" means Indian country as defined in section 1151 of Title 18, United States Code, and any lands not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual subject to

a restriction by the United States against alienation.

(1) "State Court" means any agent or agency of a State including the District of Columbia or any territory or possession of the United States or any political subdivisions empowered by law to terminate parental rights or to make foster care placements, preadoptive placements, or adoptive placements.

(m) "Tribal court" means a court with jurisdiction over child custody proceedings and which is either a court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings.

(n) For other applicable definitions refer to 25 CFR 20.1 and 271.2.

§ 23.3 Policy.

The policy of the Act and of these regulations is to protect Indian children from arbitrary removal from their families and tribal affiliations by establishing procedures to insure that measures to prevent the breakup of Indian families are followed in child custody proceedings. This will insure protection of the best interests of Indian children and Indian families by providing assistance and funding to Indian tribes and Indian organizations in the operation of child and family service programs which reflect the unique values of Indian culture and promote the stability and security of Indian families. In administering the grant authority for Indian Child and Family Programs it shall be Bureau policy to emphasize the design and funding of programs to promote the stability of Indian families.

Subpart B—Notice of Involuntary Child Custody Proceedings and Payment for Appointed Counsel

§ 23.11 Notice.

(a) If the identity or location of the parents, Indian custodians or the Indian child's tribe cannot be determined, notice of the pendency of any involuntary child custody proceeding involving an Indian child in a state court shall be sent by registered mail with return receipt requested to the appropriate address listed in paragraph (b) of this section.

(b)(1) For proceedings in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York,

North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia or any territory or possession of the United States, notice should be sent to the following address: Eastern Area Director, Bureau of Indian Affairs, 1951 Constitution Avenue NW., Washington, D.C. 20245.

(2) For proceedings in Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio or Wisconsin, notice should be sent to the following address: Minneapolis Area Director, Bureau of Indian Affairs, 831-2nd Avenue, S., Minneapolis, Minnesota 55402.

(3) For proceedings in Nebraska, North Dakota, or South Dakota, notice should be sent to the following address: Aberdeen Area Director, Bureau of Indian Affairs, 115-4th Avenue, SE., Aberdeen, South Dakota 57401.

(4) For proceedings in Kansas, Texas, and the western Oklahoma counties of Alfalfa, Beaver, Beckman, Blain, Bryan, Caddo, Canadian, Cimarron, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis, Garfield, Grant, Greer, Harmon, Harper, Jackson, Kay, Kingfisher, Kiowa, Lincoln, Logan, Major, Noble, Oklahoma, Pawnee, Payne, Pottawatomie, Roger Mills, Texas, Tillman, Washita, Woods, and Woodward, notice should be sent to the following address: Anadarko Area Director, Bureau of Indian Affairs, P.O. Box 368, Anadarko, Oklahoma 73005.

(5) For proceedings in Montana or Wyoming notice should be sent to the following address: Billings Area Director, Bureau of Indian Affairs, 316 N. 26th Street, Billings, Montana 59101.

(6) For proceedings in Colorado or New Mexico, (exclusive of those New Mexico counties listed in paragraph (b)(9) below), notice should be sent to the following address: Albuquerque Area Director, Bureau of Indian Affairs, 5301 Central Avenue, NE., P.O. Box 8327, Albuquerque, New Mexico 87108.

(7) For proceedings in Alaska notice should be sent to the following address: Juneau Area Director, Bureau of Indian Affairs, P.O. Box 3-8000, Juneau, Alaska 99801.

(8) For proceedings in Arkansas, Missouri, and all Oklahoma counties not listed under paragraph (b)(4) above, notice should be sent to the following address: Muskogee Area Director, Bureau of Indian Affairs, Federal Building, Muskogee, Oklahoma 74401.

(9) For proceedings in the Arizona counties of Apache, Coconino, and Navajo; the New Mexico counties of McKinley, San Juan, and Socorro; and the Utah county of San Juan, notice should be sent to the following address:

Navajo Area Director, Bureau of Indian Affairs, Window Rock, Arizona 86515.

(10) For proceedings in Arizona (exclusive of those counties listed in paragraph (b)(9) above), Nevada, or Utah (exclusive of that county listed in paragraph (b)(9) above), notice should be sent to the following address: Phoenix Area Director, Bureau of Indian Affairs, P.O. Box 7007, Phoenix, Arizona 85011.

(11) For proceedings in Idaho, Oregon or Washington, notice should be sent to the following address: Portland Area Director, Bureau of Indian Affairs, 1425 N.E. Irving Street, Portland, Oregon 97208.

(12) For proceedings in California or Hawaii, notice should be sent to the following address: Sacramento Area Director, Bureau of Indian Affairs, Federal Office Building, 2800 Cottage Way, Sacramento, California 95811.

(c) Notice shall include the following information if known:

(1) Name of the Indian child, birthdate, birthplace.

(2) Indian child's tribal affiliation.

(3) Names of Indian child's parents or Indian custodians, including birthdate, birthplace, and mother's maiden name, and

(4) A copy of the petition, complaint or other document by which the proceeding was initiated.

(d) Upon receipt of the notice, the Bureau shall make a diligent effort to locate and notify the Indian child's tribe and the Indian child's parents or Indian custodians. Such notice may be by registered mail with return receipt requested or by personal service and shall include the information provided under subsection (c) of this section in addition to the following:

(1) A statement of the right of the biological parents, Indian custodians and the Indian tribe to intervene in the proceedings.

(2) A statement that if the parent(s) or Indian custodian(s) is unable to afford counsel, counsel will be appointed to represent them.

(3) A statement of the right of the parents, the Indian custodians and the child's tribe to have, upon request, up to twenty additional days to prepare for the proceedings.

(4) The location, mailing address and telephone number of the court.

(5) A statement of the right of the parents, Indian custodians and the Indian child's tribe to petition the court for transfer of the proceeding to the child's tribal court, and their right to refuse to permit the case to be transferred.

(6) A statement of the potential legal consequences of the proceedings on the future custodial and parental rights of the parents or Indian custodians.

(7) A statement that, since child custody proceedings are usually conducted on a confidential basis, tribal officials should keep confidential the information contained in the notice concerning the particular proceeding and not reveal it to anyone who does not need the information in order to exercise the tribe's rights under the Act.

(e) The Bureau shall have ten days, after receipt of the notice from the persons initiating the proceedings, to notify the child's tribe and parents or Indian custodians and send a copy of the notice to the court. If within the ten-day time period the Bureau is unable to verify that the child is in fact an Indian, or meets the criteria of an Indian child as defined in section (4) of the Act, or is unable to locate the parents or Indian custodians, the Bureau shall so inform the court prior to initiation of the proceedings and state how much more time, if any, it will need to complete the search. The Bureau shall complete its search efforts even if those efforts cannot be completed before the child custody proceeding begins.

(f) Upon request from a potential participant in an anticipated Indian child custody proceeding, the Bureau shall attempt to identify and locate the Indian child's tribe, parents or Indian custodians for the person making the request.

§ 23.12 Designated tribal agent for service of notice.

Any Indian tribe entitled to notice may designate by resolution, or by such other form as the tribal constitution or current practice requires, an agent for service of such notice other than the tribal chairman and send a copy of the designation to the Secretary. The Secretary shall publish the name and address of the designated agent in the *Federal Register* on an annual basis. A current listing of such agents will be maintained by the Secretary and will be available through the Area Offices.

§ 23.13 Payment for appointed counsel in state Indian child custody proceedings.

(a) When a state court appoints counsel for an indigent party in an Indian child custody proceeding, for which the appointment of counsel is not authorized under state law, the court shall send written notice of the appointment to the Bureau of Indian Affairs Area office designated for that state in § 23.11 of this part. The notice shall include the following:

(1) Name, address and telephone number of attorney who has been appointed.

(2) Name and address of client for whom counsel is appointed.

(3) Relationship of client to child.

(4) Name of Indian child's tribe.

(5) Copy of the petition or complaint.

(6) Certification by the court that state law makes no provision for appointment of counsel in such proceedings.

(7) Certification by the court that the client is indigent.

(b) The Area Director shall certify that the client is eligible to have his or her appointed counsel compensated by the Bureau of Indian Affairs unless:

(1) The litigation does not involve a child custody proceeding as defined in 25 U.S.C. 1903(1);

(2) The child who is the subject of the litigation is not an Indian child as defined in 25 U.S.C. 1903(4);

(3) The client is neither the Indian child who is the subject of the litigation, the Indian child's parent as defined in 25 U.S.C. 1903(9), or the child's Indian custodian as defined in 25 U.S.C. 1903(6);

(4) State law provides for appointment of counsel in such proceedings;

(5) The notice of the Area Director of appointment of counsel is incomplete; or

(6) No funds are available for such payments.

(c) No later than 10 days after receipt of the notice of appointment of counsel, the Area Director shall notify the court, the client and the attorney in writing whether the client has been certified as eligible to have his or her attorney fees and expenses paid by the Bureau of Indian Affairs. In the event that certification is denied, the notice shall include written reasons for that decision together with a statement that the Area Director's decision may be appealed to the Commissioner of Indian Affairs under the provisions of the 25 CFR Part 2.

(d) When determining attorney fees and expenses the court shall:

(1) Determine the amount of payments due appointed counsel by the same procedures and criteria it uses in determining the fees and expenses to be paid appointed counsel in juvenile delinquency proceedings.

(2) Submit approved vouchers to the Area Director who certified eligibility for Bureau payment together with the court's certification that the amount requested is reasonable under the state standards and considering the work actually performed in light of the criteria that apply in determining fees and expenses for appointed counsel in juvenile delinquency proceedings.

(e) The Area Director shall authorize the payment of attorney fees and expenses in the amount requested in the voucher approved by the court unless:

(1) The court has abused its discretion under state law in determining the amount of the fees and expenses; or

(2) The client has not been previously certified as eligible under paragraph (c) of this section.

(f) No later than 15 days after receipt of a payment voucher the Area Director shall send written notice to the court, the client and the attorney stating the amount of payment, if any, that has been authorized. If the payment has been denied or the amount authorized is less than the amount requested in the voucher approved by the court, the notice shall include a written statement of the reasons for the decision together with a statement that the decision of the Area Director may be appealed to the Commissioner under the procedures of 25 CFR Part 2.

(g) Failure of the Area Director to meet the deadlines specified in paragraphs (c) and (f) of this section may be treated as a denial for purposes of appeal under paragraphs (f) of this section.

Supart C—Grants to Indian Tribes and Indian Organizations for Indian Child and Family Programs

§ 23.21 Eligibility requirements.

The governing body of any tribe or tribes, or any Indian organization, including multi-service Indian centers, may apply individually or as a consortium for a grant under this part.

§ 23.22 Purpose of grants.

Grants are for the purpose of:

(a) Establishment and operation of Indian child and family service programs. Examples of such programs may include but are not limited to:

(1) Operation and maintenance of facilities for the counseling and treatment of Indian families and for the temporary custody of Indian children.

(2) Family assistance (including homemaker and home counselors), day care, afterschool care recreational activities, respite care, and employment.

(3) Employment of professional and other trained personnel to assist the tribal court in the disposition of domestic relations and child welfare matters.

(4) Education and training of Indians (including tribal court judges and staff) in skills relating to child and family assistance and service programs.

(5) Subsidy programs under which Indian adoptive children may be

provided support comparable to that for which they would be eligible as foster children, taking into account the appropriate state standards of support for maintenance and medical needs.

(6) Guidance, legal representation, and advice to Indian families involved in tribal, state, or Federal child custody proceedings.

(7) Home improvements programs.

(8) Preparation and implementation of child welfare codes. An example in this regard is establishment of a system for licensing or otherwise regulating Indian foster and adoptive homes.

(b) Providing matching shares for other Federal or non-Federal grant programs as prescribed in § 23.43.

§ 23.23 Obtaining application instructions and materials.

Application instructions and related application materials may be obtained from Superintendents, Area Directors or the Commissioner.

§ 23.24 Content of application.

Application for a grant under this part shall include:

(a) Name and address of Indian tribal governing body(s) or Indian organization applying for a grant.

(b) Descriptive name of project.

(c) Federal funding needed.

(d) Population directly benefiting from the project.

(e) Length of project.

(f) Beginning date.

(g) Project budget categories or items.

(h) Program narrative statement.

(i) Certification or evidence of request by Indian tribe or board of Indian organization.

(j) Name and address of Bureau office to which application is submitted.

(k) Date application is submitted to Bureau, and

(l) Additional information pertaining to grant applications for funds to be used as matching shares will be requested as prescribed in § 23.43.

§ 23.25 Application selection criteria.

(a) The Commissioner or designated representative shall select for grants under this part those proposals which will in his or her judgment best promote the purposes of title II of the Act taking into consideration insofar as practicable the following factors:

(1) The number of actual or estimated Indian child placements outside the home, the number of actual or estimated Indian family breakups, and the need for directly-related preventive programs, all as determined by analysis of relevant statistical and other data available from tribal and public court records and from

the records of tribal, Bureau, public and private social services agencies serving Indian children and their families.

(2) The relative accessibility which the Indian population to be served under a specific proposal already has to existing child and family service programs emphasizing prevention of Indian family breakup. Factors to be considered in determining relative accessibility include:

- (i) Cultural barriers;
- (ii) Discrimination against Indians;
- (iii) Inability of potential Indian clientele to pay for services;
- (iv) Lack of programs which provide free service to indigent families;
- (v) Technical barriers created by existing public or private programs;
- (vi) Availability of Transportation to existing programs;
- (vii) Distance between the Indian community to be served under the proposal and the nearest existing program;
- (viii) Quality of service provided to Indian clientele; and
- (ix) Relevance of service provided to specific needs of Indian clientele.

(3) The extent to which the proposed program would duplicate any existing child and family service program emphasizing prevention of Indian family breakup, taking into consideration all factors listed in paragraphs (a) (1) and (2) above.

(b) Selection for grants under this part for on or "near" reservation programs shall be limited to the governing body of the tribe to be served by the grant. However, the governing body of the tribe may make a subgrant or subcontract with another organizational entity including but not limited to an Indian organization, subject to the provisions of § 23.36.

(c) Preference for selection for grants under this part for off-reservation programs shall be given to those off-reservation Indian organizations which show evidence of substantial support from the Indian community or communities to be served by the grant. However, the Indian organization may make a subgrant or subcontract subject to the provisions of § 23.36. Factors to be considered in determining substantial support include:

- (1) Letters of support from individuals and families to be served;
- (2) Local Indian community representation in and control over the Indian entity requesting the grant.
- (3) The requirements of this subsection do not apply in the case of an existing multi-service Indian center or an off-reservation Indian organization of demonstrated ability which has

operated and continues to operate an Indian child welfare or family assistance program.

§ 23.26 Request from tribal governing body or Indian organization.

(a) The Bureau shall only make a grant under this part for an on or "near" reservation program when officially requested to do so by a tribal governing body. This request may be in the form of a tribal resolution, an endorsement included in the grant application or such other forms as the tribal constitution or current practice requires.

(b) The Bureau shall only make a grant under this part for an off-reservation program when officially requested to do so by the governing body of an Indian organization. This request may be in one of the forms prescribed in (a) above and shall be further subject to the provisions of § 23.25(c) (1), (2), and (3) above.

§ 23.27 Grant approval limitation.

(a) *Area Office approval.* Authority for approval of a grant application under this part shall be with the Area Director when the intent, purpose and scope of the grant proposal pertains solely to an Indian tribe or tribes, or to an Indian organization representing an off-reservation community, located within that Area Director's administrative jurisdiction.

(b) *Central Office approval.* Authority for approval of a grant application under this part shall be with the Commissioner when the intent, purpose and scope of the grant proposal pertains to Indian tribes, off-reservation communities or Indian organizations representing different Area Office administrative jurisdictions but located within the Commissioner's overall jurisdiction.

(c) Grant approvals under this section shall be subject to availability of funds. These funds will include those which are:

- (1) Directly appropriated for implementation of this Act. Distribution to approved applicants of these appropriated and available funds will be based upon a formula designed to ensure insofar as possible that all approved applicants receive a proportionately equitable share sufficient to fund an effective program. This formula will be published as a Federal Register Notice.
- (2) Appropriated under other Acts for Bureau programs which are related to the purposes prescribed in § 23.22.

(3) The requirements of this subsection do not apply in the case of an existing multi-service Indian center or an off-reservation Indian organization of demonstrated ability which has

§ 23.28 Submitting application.

(a) *Agency Office.* An application for a grant under this part for an on or

"near" reservation program shall be initially submitted to the appropriate Superintendent for review and recommendation as prescribed in § 23.29.

(b) *Area Office.* An application for a grant under this part for an off-reservation program shall be initially submitted to the appropriate Area Director for review and action as prescribed in § 23.31.

§ 23.29 Agency Office review and recommendation.

(a) Recommendation for approval or disapproval of a grant under this part shall be made by the Superintendent when the intent, purpose and scope of the grant proposal pertains to or involves an Indian tribe or tribes located within that Superintendent's administrative jurisdiction.

(b) Upon receipt of an application for a grant under this part, the Superintendent shall:

- (1) Acknowledge receipt of the application in writing within 10 days of its arrival at the Agency Office.
- (2) Review the application for completeness of information and promptly request any additional information which may be required to make a recommendation.
- (3) Assess the completed application for appropriateness of purpose as prescribed in § 23.22, and for overall feasibility.
- (4) Inform the applicant, in writing and before any final recommendation, of any special problems or impediments which may result in a recommendation for disapproval; offer any available technical assistance required to overcome such problems or impediments; and solicit the applicant's written response.

(5) Recommend approval or disapproval following full assessment of the completed application and forward the application and recommendation to the Area Director for further action.

(6) Promptly notify the applicant in writing as to the final recommendation. If the final recommendation is for disapproval, the Superintendent will include in the written notice to the applicant the specific reasons therefor.

(7) In instances where a joint application is made by tribes representing more than one Agency Office administrative jurisdiction, copies of the application shall be provided by the applicants to each involved Superintendent for review and recommendation as prescribed in this section.

§ 23.30 Deadline for agency office action.

Within 30 days of an application for a grant under this part, the Superintendent shall take action as prescribed in § 23.29. Extension of this deadline will require consultation with, and written consent of, the applicant.

§ 23.31 Area office review and action.

(a) Upon receipt of an application for a grant requiring Area Office approval, the Area Director shall:

- (1) Review the application following applicable review procedures prescribed in § 23.29.
- (2) Review the Superintendent's recommendation as it pertains to the application.
- (3) Approve or disapprove the application.

(b) In instances where a joint application is made by tribes representing more than one Area Office administrative jurisdiction, the Area Director shall add his or her recommendation for approval or disapproval to that of the Superintendent and shall forward the application and recommendations to the Commissioner for further action.

(c) Upon taking action as prescribed in paragraphs (a) and (b) of this section, the Area Director shall promptly notify the applicant in writing as to the action taken. If the action taken is disapproval or recommendation for disapproval of the application, the Area Director will include in the written notice the specific reasons therefor.

(d) Promptly notify the applicant in writing as to the approval or disapproval of the application. If the application is disapproved, the Commissioner will include in the written notice the specific reasons therefor.

§ 23.32 Deadline for Area Office action.

Within 30 days of receipt of an application for a grant under this part, the Area Director shall take action as prescribed in § 23.31. Extension of this deadline will require consultation with, and written consent of, the applicant.

§ 23.33 Central Office review and decision.

Upon receipt of an application for a grant requiring Central Office approval, the Commissioner shall:

- (a) Review the application following the applicable review procedures prescribed in § 23.29.
- (b) Review Agency and Area Office recommendations as they pertain to the application.
- (c) Approve or disapprove the application.
- (d) Promptly notify the applicant in writing as to the approval or disapproval of the application. If the application is disapproved, the Commissioner will include in the written notice the specific reasons therefor.

§ 23.34 Deadline for Central Office action.

Within 30 days of receipt of an application for a grant under this part the Commissioner shall take action as prescribed in § 23.23. Extension of this deadline will require consultation with a written consent of the applicant.

§ 23.35 Grant execution and administration.

(a) Grant approved pursuant to § 23.27(a) shall be executed and administered at the Area Office level.

(b) Grants approved pursuant to § 23.27(b) shall be executed and administered at the Central Office level provided that the Commissioner may designate an Area Office to execute or administer such a grant.

§ 23.36 Subgrants and subcontracts.

The grantee may make subgrants or subcontracts under this part provided that such subgrants or subcontracts are for the purpose for which the grant was made and that the grantee retains administrative and financial responsibility over the activity and the funds.

Subpart D—General Grant Requirements

§ 23.41 Applicability.

The general requirements for grant administration in this part are applicable to all Bureau grants provided to tribal governing bodies and to Indian organizations under this part, except to the extent inconsistent with an applicable Federal statute or regulation.

§ 23.42 Reports and availability of information to Indians.

Any tribal governing body or Indian organization receiving a grant under this part shall make information and reports concerning that grant available to the Indian people which it serves or represents. Access to these data shall be requested in writing and shall be made available within 10 days of receipt of that request, subject to any exceptions provided for in the Freedom of Information Act (5 U.S.C. 552), as amended by the Act of November 21, 1974 (Pub. L. 93-502; 88 Stat. 1561).

§ 23.43 Matching share.

(a) Specific Federal laws notwithstanding, grant funds provided under this part for on or "near" reservation programs may be used as non-Federal matching share in connection with funds provided under Titles IVB and XX of the Social Security Act or under any other Federal or non-Federal programs which contribute to the purposes specified in § 23.22.

(b) In the establishing, operating and funding of Indian child and family service programs both on, "near" or off-reservation, the Secretary of the Interior may enter into agreements with the Secretary of Health, Education, and Welfare for the use of funds appropriated for similar programs of the Department of Health, Education, and Welfare.

(c) Superintendents, Area Directors, and their designated representatives will, upon tribal or Indian organization request, assist in obtaining information concerning other Federal agencies with matching fund programs and will, upon request, provide technical assistance in developing applications for submission to those Federal agencies.

§ 23.44 Performing personal services.

Any grant provided under this part may include provisions for the performance of personal services which would otherwise be performed by Federal employees.

§ 23.45 Penalties.

If any officer, director, agent, employee of, or anyone connected with any recipient of a grant, subgrant, contract or subcontract under this part, does embezzle, willfully misapply, steal, or obtain by fraud any of the money, funds, assets, or property which are the subject of such a grant, subgrant, contract or subcontract, he or she may be subject to penalties as provided in 18 U.S.C. 1001.

§ 23.46 Fair and uniform services.

Any grant provided under this part shall include provisions to assure the fair and uniform provision by the grantee of services and assistance to all Indians included within or affected by the intent, purpose and scope of that grant.

Subpart E—Grant Revision, Cancellation or Assumption

§ 23.51 Revisions or amendments of grants.

(a) Request for budget revisions or amendments to grants awarded under this part shall be made as provided in § 276.14 of this Chapter.

(b) Requests for revisions or amendments to grants provided under this part, other than budget revisions referred to in paragraph (a) of this section, shall be made to the Bureau officer responsible for approving the grant in its original form. Upon receipt of a request for revisions or amendments to grants, the responsible Bureau officer shall follow precisely the same review procedures and time specified in § 23.29.

§ 23.52 Assumption.

(a) When the Bureau cancels a grant for cause as specified in § 276.15 of this Chapter, the Bureau may assume control or operation of the grant program, activity or service. However, the Bureau shall not assume a grant program, activity or service that it did not administer before tribal grantee control unless the tribal grantee and the Bureau agree to the assumption.

(b) When the Bureau assumes control or operation of a grant program cancelled for cause, the Bureau may decline to enter into a new grant agreement until satisfied that the cause for cancellation has been corrected.

Subpart F—Hearings and Appeals**§ 23.61 Hearings.**

Hearings referred to in § 276.15 of this Chapter shall be conducted as follows:

(a) The grantee and the Indian tribe(s) affected shall be notified in writing, at least 10 days before the hearing. The notice should give the date, time, places, and purpose of the hearing.

(b) A written record of the hearing shall be made. The record shall include written statements submitted at the hearing or within 5 days following the hearing.

(c) The hearing will be conducted on as informal a basis as possible.

§ 23.62 Appeals from decision or action by Superintendent.

(a) A grantee may appeal any decision made or action taken by a Superintendent under this part. Such appeal shall be made to the Area Director as provided in Part 2 of this Chapter.

(b) The appellant shall provide its own attorney or other advocates to represent it during the appeal process.

§ 23.63 Appeals from decision or action by Area Director.

(a) A grantee may appeal any decision made or action taken by an Area Director under this part. Such appeal shall be made to the Commissioner as provided in Part 2 of this Chapter.

(b) The appellant shall provide its own attorney or other advocates to represent it during the appeal process.

§ 23.64 Appeals from decision or action by Commissioner.

(a) A grantee may appeal any decision made or action taken by the Commissioner under this part only as provided in Part 2 of this Chapter.

(b) The appellant shall provide its own attorney or other advocates to represent it during the appeal process.

§ 23.65 Failure of Agency or Area Office to act.

Whenever a Superintendent or Area

Director fails to take action on a grant application within the time limits established in this part, the applicant may at its option, request action by the next higher Bureau official who has approval authority as prescribed in this part. In such instances, the Superintendent or Area Director who failed to act shall immediately forward the application and all related materials to that next higher Bureau official.

Subpart G—Administrative Requirements**§ 23.71 Uniform administrative requirements for grants.**

Administrative requirements for all grants provided under this part shall be those prescribed in Part 276 of this Chapter.

Subpart H—Administrative Provisions**§ 23.81 Recordkeeping and information availability.**

(a) Any state court entering a final decree or adoptive order for any Indian child shall provide the Secretary of the Interior within 30 days a copy of said decree or order, together with any information necessary to show:

(1) Name of the child, the tribal affiliation of the child, and the Indian blood quantum of the child;

(2) Names and addresses of the biological parents and the adoptive parents;

(3) Identity of any agency having relevant information relating to said adoption placement.

To assure and maintain confidentiality where the biological parent(s) have by affidavit requested their identity remain confidential, a copy of such affidavit shall be provided the Secretary.

Such information, pursuant to Section 301(a) of the Act, shall not be subject to the Freedom of Information Act (5 U.S.C. 552) as amended. The Secretary shall insure that the confidentiality of such information is maintained.

The proper address for transmittal of information required by Section 301(a) of the Act is: Chief, Division of Social Services, Bureau of Indian Affairs, 1951 Constitution Avenue, N.W., Washington, D.C. 20245. The envelope containing all such information should be marked "Confidential." This address shall be sent to the highest court of Appeal, the Attorney General and Governor of each state. In some states, a state agency has been designated to be repository for all state court adoption information. Where such a system is operative, there is no objection to that agency assuming reporting responsibilities for the purpose of this Act.

(b) The Division of Social Services, Bureau of Indian Affairs is authorized to

receive all information and to maintain a central file on all state Indian adoptions. This file shall be confidential and only designated persons shall have access to it. Upon the request of the adopted Indian individual over the age of eighteen, the adoptive or foster parents of an Indian child, or an Indian tribe, the Division of Social Services shall disclose such information as may be necessary for enrollment or determining any rights or benefits associated with membership, except the name of the biological parents where an affidavit of confidentiality has been filed, to those persons eligible to request such information under the Act. The Chief Tribal Enrollment officer of the Bureau of Indian Affairs is authorized to disclose enrollment information relating to an adopted Indian child where the biological parents have by affidavit requested anonymity. In such cases, the Chief Tribal Enrollment Officer shall certify to the child's tribe, where the information warrants, that the child's parentage and other circumstances entitle the child to enrollment consideration under the criteria established by said tribe.

Subpart I—Assistance to State Courts**§ 23.91 Assistance in identifying witnesses.**

Upon the request of a party in an involuntary child custody proceeding or of a court the Secretary shall assist in identifying qualified expert witnesses. Such requests for assistance should be sent to the Area Director in the Area where the court proceedings are initiated. Refer to § 23.11(b).

§ 23.92 Assistance in identifying interpreters.

Upon the request of a party in any Indian child custody proceeding or of a court the Secretary shall assist in identifying interpreters. Such requests for assistance should be sent to the Area Director in the Area where the court proceedings are initiated. Refer to § 23.11(b).

§ 23.93 Assistance in locating biological parents of Indian child after termination of adoption.

Upon the request of a child placement agency, the court or an Indian tribe, the Secretary shall assist in locating the biological parents or prior Indian custodian of an Indian adopted child whose adoption has been terminated. Such requests for assistance should be sent to the Area Director in the Area where the court proceedings occur. Refer to § 23.11(b).

Forrest J. Gerard,
Assistant Secretary, Indian Affairs.

[FR Doc. 79-23481 Filed 7-30-79; 8:45 am]

BILLING CODE 4310-02-M

Tuesday
July 31, 1979

Part VI

Department of Housing and Urban Development

Office of Assistant Secretary for
Community Planning and Development

Block Grants Program Provisions

federal register

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development

[24 CFR Part 570]

[Docket No. R-79-678]

Community Development Block Grants, Program Requirements for Administration of Block Grant Funds by Subrecipients and Program Requirements for Disposition of Real Property Under the Block Grant Program.

AGENCY: Department of Housing and Urban Development.

ACTION: Proposed rulemaking.

SUMMARY: HUD is soliciting comments on this proposed rulemaking which adds to Subpart K of the regulations governing the community development block grant program under Title I of the Housing and Community Development Act of 1974, as amended. Section 570.612 sets forth program requirements governing the administration of block grant funds provided by HUD recipients directly to certain private entities as subrecipients for the undertaking of approved block grant program activities. Certain of the areas covered by the amendment include written agreements, compliance with OMB Circular A-102, audits and inspections, nondiscriminations, and conflict of interest.

In addition, § 570.613 sets forth requirements governing the disposition of real property acquired by any entity, public or private, with block grant assistance.

DATE: Comments due: September 1, 1979.

ADDRESS: Comments should be addressed to: Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, Room 5218, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: William Thomas, Office of Block Grant Assistance, Department of Housing and Urban Development, Washington, D.C. 20410, 202/755-6322.

SUPPLEMENTARY INFORMATION:

Background

Sections 570.204 authorized the provision of block grant funds by HUD recipients to certain eligible entities for activities designed to implement the

recipient's strategies for economic development and neighborhood revitalization. Eligible entities under § 570.204 are private nonprofit entities, neighborhood-based nonprofit organizations, Small Business Companies and local development corporations. In addition, § 570.202(c)(i) authorizes block grant assistance to profit and nonprofit private entities for acquisition of property for rehabilitation and for the rehabilitation of such property. Section 570.612 of this proposed rule sets forth standards and guidelines for the use and administration of block grant funds by these subrecipients. Section 570.613 sets forth guidelines for the disposition of real property under the block grant program.

Written Agreements

Paragraph (b) provides that subrecipients are required to execute a written agreement with the HUD recipient from which they receive funds. The paragraph sets forth the provisions that must be included in the agreement.

OMB Circular A-102

The Office of Management and Budget has issued Circular A-102, which contains uniform administrative requirements for grants-in-aid to State and local governments. Paragraph (c) provides that all subrecipients must comply with the requirements of Attachments A (Cash Deposits), B (Bonding and Insurance), C (Retention and Custodial Requirements for Records), E (Program Income), G (Standards for Grantee Financial Management Systems), N (Property Management Standards) and O (Procurement Standards) of OMB Circular A-102.

Reports and Information

Paragraph (d) requires that the subrecipients are to furnish HUD or the recipient, as requested, with various reports and information relating to the matters covered by this section.

Audits and Inspections

Paragraph (e) of § 570.612 requires that subrecipients make all records relating to block grant matters available to HUD, the Comptroller General, and the recipient.

HUD recipients are required by § 570.509 to schedule audits in connection with its own audit. Such audits shall include an audit relating to block grant funded activities carried out by subrecipients in conformance with the requirements of § 570.509 and the HUD audit guide.

Unearned Payments

Paragraph (f) of § 570.612 provides that unearned payments in the form of monetary advances to subrecipients may be suspended, terminated, or recaptured, if conditions or administrative requirements for the use of block grant funds imposed by HUD or the recipient are not accepted or not met.

Nondiscrimination

Paragraph (g) of § 570.612 states that all activities conducted with block grant funds by subrecipients are subject to requirements of the block grant program prohibiting discrimination.

Requirements of Other Laws

Paragraph (h)(1) of § 570.612 sets forth that block grant funded activities conducted by subrecipients are subject to other Federal statutes which are applicable to the block grant program.

Lobbying Prohibited

Paragraph (h)(2) of § 570.612 prohibits the use of block grant funds by subrecipients for publicity or propaganda purposes designed to support or defeat legislation pending before local, State or Federal governments.

Use of Property and Ownership of Facilities

Paragraphs (h)(3) and (h)(4) of § 570.612 establish standards for the use of real property acquired with block grant funds and the ownership of facilities purchased with block grant funds by subrecipients.

Unless real property is acquired expressly for disposition purposes, it shall be used only for the purposes of the block grant program and may not be transferred without the concurrence of the recipient and HUD.

Facilities purchased or constructed with block grant funds must be operated in a nondiscriminatory manner for use by the general public. The charging of excessive fees for use of the facility which would have the effect of limiting use by lower-income persons is not permitted. If a facility is to be sold or transferred, the block grant investment shall be reimbursed to the recipient as program income to be used for eligible community development activities.

Disposition

Paragraph (h)(5) of § 570.612 specifies that subrecipients must follow the requirements of § 570.613 regarding the disposition of real property with block grant assistance.

Conflict of Interest

Section 570.612(h)(6) requires recipients to establish safeguards to prohibit individuals associated with subrecipients from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties. In some instances, persons who are subject to the conflict of interest provisions are members of subrecipients. Paragraph (h)(6) of § 570.612 provides that such persons may retain their membership in such entities provided that they do not have a direct financial interest in the entity or, if they advise or assist the entity in the use of block grant funds, that they may not receive compensation for the services provided.

Monitoring

Paragraph (i) of § 570.612 establishes requirements for the monitoring of subrecipients by the recipient. The recipient shall make an annual determination as to whether each subrecipient has complied with the requirements and conditions of the required written agreement and has a capacity to continue to use block grant funds.

HUD reserves the right, as a corrective and remedial action under § 570.910, to order the termination of block grant assistance to a subrecipient whenever it is determined that it has failed to meet its obligations under the written agreement, or the block grant regulations. Recipients must establish similar provisions governing termination or suspension which must be included as a part of the written agreement.

Disposition Requirements

Section 570.613 sets forth the program requirements relating to disposition of real property by grant recipients, their designated public agencies, and subrecipients under § 570.612. Paragraph (a) relates to the applicability and scope of the section. Proceeds from the disposition of real property shall be returned to the grant recipient as program income, for eligible community development activities.

Determination of Fair Value

Paragraph (b) of § 570.613 requires that the recipient determine the fair market value of any property to be disposed of pursuant to § 570.201(b). Real property may be disposed of at less than the fair market value if a written policy has been adopted by the recipient or subrecipient which describes the

circumstances under which such dispositions will take place.

Prevention of Speculation

Paragraph (d) of § 570.613 is intended to prevent speculation in the disposition of real property under the block grant program, especially where disposition has occurred at less than fair market value. Policies shall be adopted to provide the length of time real property must be used for the stated community development purpose and adequate controls established to preclude speculation in the resale or reuse of such properties.

Special Information

With respect to all of the above, interested persons are invited to participate in the making of the final rule by submitting written comments or views on these proposed amendments. To facilitate HUD's consideration and review of written comments, reviewers are requested to clearly identify the paragraph to which the comments are addressed. Comments should be filed with the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. All relevant comments received on or before the date specified above will be considered before adoption of the final rule. Copies of comments will be available for examination during regular business hours at the above address.

Finding of Inapplicability with respect to Environmental Impact have been prepared in accordance with the National Environmental Policy Act of 1969. Copies of this Finding are available for inspection and copying during regular business hours in the Office of the Rules Docket Clerk at the above address.

Accordingly, 24 CFR Part 570, is amended by revising the index and inserting §§ 570.612 and 570.613.

1. the Table of Contents to 24 CFR Part 570, is revised as follows:

Sec.
570.612 Program requirements for subrecipients.

570.613 Disposition of real property.

Authority: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301, et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95-128); and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); (Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978.)

2. 24 CFR Part 570 is amended by inserting §§ 570.612 and 570.613 as follows:

§ 570.612 Program requirements for subrecipients.

(a) *Applicability and Scope.* The program requirements of this section apply to the use of block grant funds provided by the recipient directly to subrecipients which are either eligible entities under § 570.204(a)(2) or private entities assisted pursuant to § 570.202(c)(1).

(b) *Written agreement.* A subrecipient is required to execute a written agreement with the HUD recipient pursuant to the requirements of this paragraph. The written agreement shall at a minimum, include the following: (1) the specific activity or activities to be undertaken, (2) identification of the actual entity undertaking the activity or activities, including its officers and directors and the legal authority under which it is established and operates, (3) the cost, time period and deadlines associated with the activities, (4) general operating conditions and requirements with regard to accounting and fiscal matters for the use of block grant funds, (5) a provision providing for the recapture of block grant funds when the subrecipient fails to comply with the terms of the agreement or refuses to accept conditions imposed by HUD, (6) a provision stating that an eligible entity shall not dispose of real or personal property through sale, use, or location without the written permission of the recipient, (7) conflicts of interest, (8) the use of program income, (9) remedies in the event of default or inability to perform on the part of the subrecipient; and (10) other requirements of this section. Block grant funds may only be distributed by the recipient to any subrecipient except pursuant to the written agreement required by this paragraph.

(c) *OMB Circular A-102.* The requirements of Attachments A (Cash Deposits), B (Bonding and Insurance), C (Retention and Custodial Requirements for Records), E (Program Income), G (Standards for Grantee Financial Management Systems), N (Property Management Standards) and O (Procurement Standards) of OMB Circular A-102 (42 FR 45828) shall apply to all activities carried out with block grant funds by a subrecipient.

(d) *Reports and information.* The subrecipients receiving block grant assistance shall furnish HUD or the recipient with such statements, records, data and information, as HUD or the

recipient may request pertaining to matters covered by this section.

(e) *Audits and inspections.* At any time during normal business hours any subrecipient receiving block grant assistance shall make all of its records relating to matters covered by this section available to the recipient, HUD, and/or representatives of the Comptroller General in order to permit examination of any audits, invoices, materials, payrolls, personnel records, conditions of employment and other data relating to all matters covered by this section. The audit requirements set forth in § 570.509 shall be fully applicable.

(f) *Unearned payments.* Unearned payments in the form of monetary advances to subrecipients may be suspended or terminated if conditions imposed by the recipient or HUD are not accepted or if the administrative requirements for the use of block grant funds are not met. A written agreement provision of paragraph (b) provides for the recapture of these funds.

(g) *Nondiscrimination.* The nondiscrimination provisions of §§ 570.601 and 570.912 are applicable to subrecipients. No person in the United States shall on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with community development funds.

(h) *Grant administration.* All activities conducted with block grant funds by subrecipients shall be subject to the following:

(1) *Other program requirements.*—(i) Requirements governing Environment, Historic Preservation, Labor Standards, Architectural Barriers Act of 1968, Hatch Act, National Flood Insurance Program, Clean Air Act and Federal Water Pollution Control Act, and Lead-Based Paint Poisoning Prevention Act set forth in §§ 570.603, 570.604, 570.606, 570.608, 570.609, 570.610, and 570.611, respectively, shall be applicable. (ii) The grantee shall be fully responsible for assuring compliance with the above provisions, and thus may not delegate responsibility for compliance reviews to subrecipients.

(2) *Lobbying prohibited.*—Block grant funds shall not be used by a subrecipient for publicity or propaganda purposes designed to support or defeat legislation pending before Federal, State, or local government.

(3) *Use of real property.*—In addition to the applicable requirements set forth in OMB Circular A-102, whenever block grant funds are used by a subrecipient

for the acquisition or construction in whole or in part (including rehabilitation) of property other than office equipment, supplies, materials and other personal property used for the administration of the activity) and excluding real property acquired pursuant to § 570.201(a) and (b) (expressly for disposition), title to said property shall not be transferred after date of purchase or completion of construction without the approval of the recipient and HUD.

(4) *Ownership of facilities.*—(i) Where subrecipients use block grant funds to acquire title to facilities, including those described in § 570.201(c) or § 570.203(b), they shall be operated so as to be open for use by the general public during all normal hours of operation. Reasonable fees may be charged for the use of facilities acquired by subrecipients, but charges, such as excessive membership fees, which will have the effect of precluding low- and moderate-income persons from using the facilities are not permitted.

(ii) In those instances where, during the first five years of operation, the subrecipient seeks to dispose of such facility under provisions other than § 570.201(a) and (b) where property is not acquired specifically for disposition purposes, the proceeds from the disposition of real property shall be returned to the recipient as program income. Proceeds derived by the recipient as a result of the disposition of real property shall be used by the recipient for eligible community development activities to further the general purposes and objectives of the Act.

(5) *Disposition of real property.*—In those instances where real property acquired, in whole or in part, with block grant funds is to be disposed of by sale, lease, donation, or otherwise by a subrecipient, the program requirements set forth in § 570.613 governing disposition shall apply.

(6) *Conflict of interest requirements.*—Subrecipients must establish safeguards to prohibit individuals associated with such entities from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties. Individuals subject to conflict of interest provisions may nonetheless be members of, or associated with, or provide assistance to such entities so long as such persons do not have any financial interest in the activity or receive compensation for such services.

(i) *Monitoring of block grant funded activities undertaken by eligible entities.* The following policies shall apply to the monitoring of block grant funded activities conducted by subrecipients.

(1) Grantees are responsible for monitoring the compliance of subrecipients with the standards established in this section and in the applicable provisions of OMB Circular A-102.

(2) The recipient shall, on an annual basis, make a determination as to whether the subrecipient has conformed with the written agreement as described in paragraph (b) of this section and the standards and requirements of this section. The recipient must also determine on an annual basis whether the subrecipient has a continuing capacity to carry out block grant assisted activities in a timely manner.

(3) Suspension and termination procedures shall be governed by Subpart O of this Part. HUD reserves the right as a corrective and remedial action pursuant to § 570.910 to order the termination of any grant assistance to a subrecipient when it is determined that the subrecipient has failed to comply with the requirements of this section.

§ 570.613 Disposition of real property.

(a) *Applicability and scope.* The requirements of this section apply to the disposition of real property pursuant to § 570.201(b) by grant recipients, their designated public agencies, and their subrecipients under § 570.612(a). The applicable requirements of OMB Circular A-102, Federal Management Circular 74-4, and this Part apply to such activities. The proceeds from the disposition of real property shall be returned to the grant recipient as program income. Proceeds derived by the grantee as a result of the disposition of real property shall be used by the grantee for eligible community development activities to further the general purposes and objectives of the Act, as set forth in Subpart A.

(b) *Determination of value.* The following policies regarding fair market value apply to the disposition of real property purchased in whole or in part with block grant assistance:

(1) Recipients shall determine the fair market value of any real property acquired and disposed of pursuant to § 570.201 (a) and (b).

(2) If the estimated value of the property exceeds \$2,500, the determination shall be based upon and appraisal prepared by a qualified real estate property appraiser.

(3) Unless prohibited by State or local law, real property may be disposed of at fair market value, or at a price less than or greater than fair market value.

(c) *Disposition of less than fair market value.* In those instances where real property is to be disposed of at less than fair market value as determined by a qualified real property appraiser, the recipient shall develop and adopt a written record which:

(1) Is available to the public; and (2) sets forth and documents the circumstances under which the real property may be disposed of at less than fair market value and how that value is established, (3) states the sales price and fair market value, (4) indicated how the disposition pursuant to § 570.201(b) is consistent with the recipient's community development plan or how the disposition pursuant to § 570.204(c)(4) is consistent with the recipient's neighborhood revitalization or economic development strategy.

(d) *Prevention of speculation.* It is intended that acquisition and subsequent disposition of property acquired in whole or part through the use of block grant assistance will further the objective and purpose of the Act. Disposition of land for speculation purposes alone does not further the objectives and purposes of the Act.

Where disposition occurs for a specified purpose, it is the community's responsibility to implement appropriate policies to ensure that said property is used for that purpose for the specified time period, and that the use of property is consistent with the recipients overall community development plan.

(e) *Unanticipated disposition.* When real property is acquired for other than disposition purposes, and a situation develops where it becomes necessary to dispose of said real property during the first five years of operation, the proceeds from the disposition of the real property shall be returned to the recipient as program income. Proceeds derived by the recipient as a result of the disposition of real property shall be used by the recipient for eligible community development activities for the general purposes and objectives of the Act.

Issued at Washington, D.C., June 25, 1979.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development

[FR Doc. 79-23578 Filed 7-30-79; 8:46 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
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DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

SECURITIES AND EXCHANGE COMMISSION

7870 2-7-79 / Investment adviser requirements concerning disclosure, recordkeeping, applications for registration and annual filings

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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(Revised as of January 1, 1979)

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